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# HOUSE OF REPRESENTATIVES

## TUESDAY, APRIL 21, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Acts 10: 38: *Jesus of Nazareth whom God anointed with the Holy Ghost and with power and who went about doing good.*

Most merciful God, we beseech Thee, we may feel Thee moving among us this day, with Thy gracious presence, anoint us with Thy spirit and with power that we may be drawn together in one solemn and lofty aspiration to know and do Thy will.

Inspire us to offer this noonday prayer in tender solicitude and sincere concern for Thy needy children everywhere.

Vouchsafe Thy love and sympathy unto the lonely and desolate and may they be blessed with Thy companionship.

Grant that all who walk the way of sorrow and whose very thoughts flow in sadness may experience Thy healing ministry.

May the sinful and wayward receive Thy pardoning grace and Thy peace which passeth all understanding.

Give us wisdom and forbearance in our efforts to remove those barriers which divide soul from soul and may Thy spirit of good will grow and be glorified among all the members of the human family.

Hear us in His name who went about doing good. Amen.

### THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 1794) entitled "An act to authorize the acquisition of and the payment for a flowage easement and rights-of-way over lands within the Allegany Indian Reservation in New York, required by the United States for the Allegheny River (Kinzua Dam) project, to provide for the relocation, rehabilitation, social and economic development of the members of the Seneca Nation, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CHURCH, Mr. ANDERSON, Mr. MCGOVERN, Mr. SIMPSON, and Mr. DOMINICK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 80. Concurrent resolution relating to the opening of the New York World's Fair.

The message also announced that the Presiding Officer of the Senate, pursuant to Public Law 115, 78th Congress, entitled "An act to provide for the disposal of certain records of the U.S. Government," had appointed Mr. JOHNSTON and Mr. CARLSON members of the joint select committee on the part of the Senate for the disposition of executive papers referred to in the report of the Archivist of the United States numbered 64–14.

### FOREIGN POLICY

Mr. FRASER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRASER. Mr. Speaker, in his foreign policy speech delivered yesterday in New York, President Johnson took an important step toward a more peaceful and stable world.

The announcement of a cutback in nuclear explosives production is surely a welcome step in bringing the arms race under control. This step is not born of weakness but of strength. It reflects our current strong military capability.

Like the limited nuclear test ban treaty, this cut in production by the United States will be accompanied by a parallel reduction on the part of the Soviet Union. This is not disarmament but instead a slowdown of increasing armaments.

With another battle over foreign aid funds in prospect, the unqualified backing which the President gave the foreign aid program should encourage the Members of this House who support it. President Johnson has made abundantly clear his determination to continue an effective foreign aid program.

I was also pleased that the President reaffirmed this Nation's determination to move toward closer Atlantic unity. Such unity is essential if we are to continue our advances toward stability and freedom in the world.

The President has charted a clear path in foreign policy. The tone of his speech reflects the deep-seated desire of the American people to make steady progress toward peace without abandoning our worldwide responsibility to defend freedom.

### THE 42D ANNIVERSARY CELEBRATION OF THE CARL FOLLEN UNIT NO. 103 OF THE STEUBEN SOCIETY OF AMERICA

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Speaker, on Sunday evening, April 19, 1964, my wife and I had the pleasure and privilege of attending the 42d anniversary celebration of the Carl Follen Unit No. 103 of the Steuben Society of America. This celebration was in the form of a testimonial dinner-dance in honor of Theresa Bosch—Mrs. Albert H. Bosch.

As you know, Judge Albert H. Bosch was my predecessor in the House of Representatives where he served with honor from 1953 through 1960. His has been a successful career and always by his side and lending a helping hand has been his charming wife Tess. However, she has not limited her assistance to her family—she has found the time to give diligent service and devotion to her unit of the Steuben Society, 15 years as its secretary.

On April 19, more than 300 distinguished guests, society members, and friends gathered in tribute to Mrs. Bosch. It is impossible to name them all, much as I would like to do this for fear of missing some, but I think I should mention that the principal speaker of the evening was a former member of this body, Henry J. Latham, who now serves as justice, Supreme Court of the State of New York.

Again, I extend my congratulations to Mrs. Bosch and my best wishes for her and her family's continued good health and happiness. My congratulations also to the Carl Follen Unit and best wishes for continued success and service.

### EAST-WEST TRADE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I would like to take a few minutes to call to the attention of the membership of the House a report on "East-West Trade: Its Strategic Implications," prepared by Samuel F. Clabaugh and Richard V. Allen of the Center for Strategic Studies at Georgetown University.

Mr. Speaker, I am very glad that our colleague, the gentleman from California [Mr. Lipscomb] inserted parts of this report in yesterday's Record, beginning on page 8390. A year and one-half ago, the Subcommittee on Europe of the Committee on Foreign Affairs submitted a report on this very same subject after an extended study. Some of the remarks which appeared in yesterday's Record could have come straight from that report. Also, Mr. Speaker, an article written by Charles Bartlett on Thursday, March 26, on "Russian Oil and the Cold War" repeated a number of facts which appeared in our report made a year and one-half ago.

Mr. Speaker, I bring this to the attention of the Members of the House to show the importance and the timeliness of reports written by the Committee on Foreign Affairs. I hope that my colleagues will read the report to which I have referred—House Report 32, 88th Congress, 1st session—because it is of such vital importance.

Mr. Speaker, my committee's interest in the subject of East-West trade has continued without interruption and we shall submit our further findings on this topic at a later date. Also, at another point in today's Record, I shall include some further comments about the Clabaugh-Allen report.

## PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar.

The Clerk will call the first bill on the calendar.

## DR. AND MRS. ABEL GORFAIN

The Clerk called the bill (H.R. 2706) for the relief of Dr. and Mrs. Abel Gorfain.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

Mr. ALBERT. Mr. Speaker, I reserve the right to object in order to propound a unanimous-consent request with reference to the calling of the Private Calendar.

The SPEAKER. The Chair will state that the gentleman cannot reserve the right to object on the Private Calendar.

Mr. ALBERT. Mr. Speaker, will the gentleman from Iowa withhold his request?

Mr. GROSS. Mr. Speaker, I withdraw the request.

Mr. ALBERT. Mr. Speaker, it is my understanding that all of these bills will either be objected to or requests will be made that they be passed over. In view of that, I ask unanimous consent that the call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The gentleman from Iowa makes the point of order that a quorum is not present. Evidently, a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 115]

Anderson
Ashley
Avery
Bass
Blatnik
Bolling
Bolton, Frances P.
Brademas
Bromwell
Broomfield
Brown, Calif.
Bruce
Buckley
Burleson
Cameron
Celler
Clark
Colmer
Cooley
Davis, Tenn.
Dawson
Delaney
Dorn
Dowdy
Elliott
Everett
Finnegan
Fino
Flynt
Forrester
Gill
Glenn
Grant
Hanna
Harding
Harsha
Hemphill
Henderson
Hoeven
Huddleston
Jones, Ala.
Karth
Kee
King, Calif.
Kluczynski
Knox
Lankford
Lloyd
McLoskey
Martin, Mass.
Meader
Miller, Calif.
Miller, N.Y.
Minish
Morrison
O'Konski
Olsen, Mont.
Osmers
Pilcher
Pool
Powell
Rogers, Tex.
Rooney, Pa.
Schadeberg
Sisk
Taft
Teague, Tex.
Thompson, N.J.
Tuck
Ullman
Utt
Vanik
Wallhauser
Wickersham
Widnall
Willis

The SPEAKER. On this rollcall 354 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1965

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate may proceed for not more than 5 hours and that the time be divided equally between the gentleman from Michigan [Mr. Ford] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill H.R. 10939, with Mr. Keogh in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. MAHON. Mr. Chairman, the fact that we have this bill before us today, which contains a very substantial part of the Federal budget, the sum of $46.7 billion, is indicative of the fact that the Committee on Appropriations, headed by our able and beloved chairman, the gentleman from Missouri [Mr. Cannon] is moving in an expeditious and businesslike way in an attempt to dispose of the public business as promptly as is reasonably possible. I am sure you share with me pleasure in the fact that we are continuing to make headway on appropriation bills.

When Julius Caesar was stabbed to death at the foot of Pompey's statue, one of the persons present prophetically inquired in these words:

> How many ages hence shall this our lofty scene be acted o'er, in states unborn and accents yet unknown?

For many decades that scene has been reenacted in many climes, in many languages, in many areas of the world.

For a long time we have been considering, in this vaulted room, an annual Department of Defense appropriation bill and that appropriation bill has tended to become larger and larger. The scene of today, I suspect, will be acted over many times in the future. Someone will present to the House of Representatives for many years to come the annual defense appropriation requirements of the Government.

I, myself, as a member of the Appropriations Committee, have witnessed in my time here, appropriations for defense exceeding a trillion dollars. The requirements for money to finance programs for defense continue each year to be very large. We on the Committee on Appropriations believe—and I would extend this to include all Members of the House—in a policy of strength for our Government. It is the duty of the House to make sure that the spokesman for our country, our President and our Commander in Chief, when he faces an opponent eyeball-to-eyeball; or when he faces an opponent on a hot line, will be able to speak from a position of unquestioned military strength—indeed, from a position of military superiority.

I call to mind the dramatic days in late October and early November of 1962 when the world held its breath, so to speak, wondering if the moment had arrived for a nuclear exchange and the sudden slaughter of several hundred million people. I think the Members of this House had no qualms about the job they had done in giving the then President the necessary military strength to speak with a voice of assurance at that time of world crisis.

The pending bill continues this policy of strength, this determination to maintain military superiority. So we can say to President Johnson as we said to President Kennedy and as we said to President Eisenhower, the Congress will never let you down when it comes to the security of the United States.

This bill today emphasizes that position and stimulates that atmosphere which, in my judgment, is not an attitude of truculence but an attitude designed to come nearest to promoting peace and avoiding war.

The President is our spokesman in international affairs. We cannot speak for him, but we want him to speak with strength and firmness.

All the witnesses who appeared before the Subcommittee on Defense Appropriations indicated, when we made inquiry of them that they believed the United States to be superior militarily to any other nation.

We all give consideration to the question: Where do we go from here? This is an area of doubt and controversy. Where do we go from here?

Since World War II there have been a couple of gigantic strides forward—only a couple, really. One was the development of the hydrogen bomb. The other was the development of the delivery system, the intercontinental ballistic missile. All the other things have been less vital. In this long period of time, of 20 years, there have been only two major weapons breakthroughs—two spectacular developments.

A study of the bill will reveal that we do not propose to go out of the missile business. Mr. McNamara believes in the reliability of the intercontinental ballistic missile. Upon his recommendations, and on our own volition, we have provided huge sums for the production of hundreds of intercontinental ballistic missiles.

I say also that General LeMay believes in the intercontinental ballistic missile, and he is the Chief of Staff of the Air Force, and is charged with a great deal of responsibility in this area.

It is pretty obvious that Chairman Khrushchev believes in the intercontinental ballistic missile. We possess many hundreds of bombers with which we could strike the Soviet Union, but Mr. Khrushchev has only about 120 heavy intercontinental bombers that he could place over this country on a two-way mission. He could have built hundreds more had he desired to do so, but he had more confidence in the efficiency and reliability of the intercontinental ballistic missiles and of intermediate and medium range ballistic missiles; and he has put his effort in that area. We have put much of our effort in the area of intercontinental ballistic missiles.

Certainly the members of the Committee on Appropriations believe in the power and reliability, generally, of the intercontinental ballistic missile. There is no one who believes that any weapon—or any instrument of man, for that matter—is completely flawless and subject to no error, but certainly the margin of confidence in this weapon is very great.

We are not going out of the missile business and we are not going out of the airplane business. There are those who tend to lose perspective and to conclude that we are going out of the airplane business.

We have had the airplane for some 60 years. It played a major role, of course, in World War II and in the Korean war and to a limited extent in World War I. There is no plan in any quarter to go out of the airplane business.

I believe you will support the pending bill with confidence and pride just as you have supported these bills in the past. To you should go the credit. It has been your action as Members of the House of Representatives which has made possible the funds for the security of the United States during recent decades. I think we can all take some pride in our workmanship in this regard.

We have 30,000 aircraft in our operational inventory—30,000 aircraft. Airplanes are becoming increasingly more expensive. We are financing in this bill before you 2,655 additional aircraft. The authorization for this has been provided by the Committee on Armed Services chaired by the able gentleman from Georgia [Mr. VINSON] who sits here on the front seat. We are providing funds for the purchase of 2,655 additional aircraft in this bill. So in no sense are we going out of the airplane business.

The question arises as to what are we going to do about the fact that in 1962 the last strategic bombers came off the line, that is, the last B–52 and the last B–58. We have spent or we are spending something over $2 billion in modifying and improving the bombers in our existing force. There are many millions of dollars in this bill to modernize and improve the B–52 bomber.

There was a great deal of discussion in the Committee on Armed Services in connection with the authorization of a bomber for the future. There was a great deal of discussion in our Appropriations Committee hearings this year as to where we go from here from the standpoint of a manned strategic system or a manned bomber. It is estimated that we will carry into 1970 more than 600 bombers. Those bombers could be effective for quite a number of years in the 1970 decade. We cannot foresee at this time just how effective they might be.

The budget included a sum of $5 million for initiation of the development of a follow-on manned strategic system, that is, a follow-on strategic bomber. Authorization was granted for additional funds running this figure up to $52 million. This bill carries the sum of $52 million for preliminary work in connection with the follow-on manned bomber which we would hope would have extraordinary capability in both low-level flying and high-level flying. However, we cannot tell at this stage just what the characteristics of the proposed new bomber would be. I think I can say to the House, though, that the members of the Committee on Appropriations believe there should be a follow-on bomber and that we should have the flexibility made possible by the possession of the intercontinental ballistic missile, the Polaris ballistic missile, and airplanes of various types, including a new manned strategic system in the future.

The Air Force has been having a lot of studies done on this subject. The B–70 turned out to be quite a disappointing undertaking. The plane was scheduled to have flown about a year and a half ago, but it has not flown yet. The idea has been abandoned that this aircraft will ever become an operational military weapon. Time has run out on the B–70 concept. It is the dream of 10 years ago and is not the type of weapon we need for operational use now or in the future.

So officials of the Air Force have been working on a proposed aircraft to replace the B–52 and there is on the desk of Mr. Zuckert, the Secretary of the Air Force, a proposal for the expenditure of about $52 million in the forthcoming fiscal year for this work.

But Mr. Zuckert has not completed his studies and reviews and he has not yet made a formal request of the Secretary of Defense for an expansion of the program beyond the $5 million which is in the original budget.

The differences which may have been noted in the press and otherwise between the Secretary and General LeMay in regard to a follow-on bomber may be more apparent than real. The Secretary of Defense has not said, insofar as I know, that he did not believe at all in some sort of follow-on manned system. It remains to be seen during the forthcoming fiscal year just what may be worked out in connection with the proposed acceleration of a system to follow after the B–52.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to my friend from New York.

Mr. STRATTON. Mr. Chairman, did I understand correctly the gentleman to say that the committee was therefore recommending only the $5 million for the study of the follow-on bomber?

Mr. MAHON. The committee is making available in this bill $52 million for the follow-on bomber. Of course, it may be a little premature to provide the funds because the proposed new bomber has not been sufficiently definitized. I personally believe that the plans will be formulated and crystallized within the next few months and prior to the time that we would have a new bill; hence the additional funds in this bill.

Mr. STRATTON. Mr. Chairman, will the gentleman yield further?

Mr. MAHON. I yield to the gentleman.

Mr. STRATTON. Mr. Chairman, the gentleman may recall that I was one who was concerned about this particular question at the time that the authorization bill came up. At that time the testimony before our committee was that while the proposal had been placed on the desk of the Secretary of the Air Force, the Secretary of the Air Force himself had certain questions with regard to exactly what kind of bomber this was going to be; whether it was going to be a low-level bomber, a high-level bomber, a supersonic bomber, a subsonic bomber. The testimony was that the Secretary of the Air Force had not made any determination whether he favored any of these and then after he made his determination it had to go to the Secretary of Defense who then, also, had similar questions to decide.

Mr. Chairman, was there any testimony given to the gentleman's committee that would suggest that the committee made its determination with regard to these additional $47 million on the fact that this process had proceeded beyond the stage to which it had proceeded when the testimony was presented to the committee?

Mr. MAHON. Mr. Chairman, I am not sure how far the matter had proceeded when it was presented to the Committee on Armed Services, but I know we were told during the hearings that the proposal of the Chief of Staff was on the desk of the Secretary of the Air Force. Since the hearings were completed, we have been advised that the Secretary of the Air Force has requested additional information and further exploration of some of the proposals.

I feel that I should add that the Secretary of the Air Force has said unequivocally that he does believe we can and should perfect an additional and improved manned strategic system.

Mr. STRATTON. If the gentleman will yield to me one moment further, and I appreciate his courtesy in yielding to me, I think we all agree that we must have a follow-on bomber, and we want to have a good one. However, the position of the Department of Defense before the Committee on Armed Services was that it would be wasteful of funds if we were to start spending money for a particular aircraft until we knew exactly what kind we wanted.

Would the gentleman from Texas not agree with me that this is indeed a wasteful process, and would he not also agree that he does not feel that the Department of Defense should be required to spend money for some kind of a bomber until we clearly know exactly what the design and purpose of this aircraft would be?

Mr. MAHON. As I understand it, one of the major projects in the $52 million program is to determine what sort of bomber is within the state of the art and what characteristics can and should be obtained. You must spend a considerable sum of money in order to develop ideas and plans and have a definitization of them. So, you are not beginning the construction of an operational aircraft. You are only beginning the design and study and the definitization of the characteristics.

Therefore, it would seem to me perfectly obvious that this money must eventually be spent. I do not think it will be spent until the Secretary of the Air Force and the Secretary of Defense have made a decision on these matters. I do not believe there will be any premature expenditure of these funds, nor should there be.

Mr. STRATTON. If the gentleman would indulge me just another moment at this time, I agree with what the gentleman has said. It was our information that the conceptional stage could be largely taken care of by the $5 million and that the additional money was needed for the definition stage. Until the conceptional stage has been completed we do not really know exactly what the bomber is going to do or what kind of bomber we want. So, it was our feeling—those of us who opposed the additional funds in the Committee on Armed Services and on the floor of the House—that it would be irresponsible and wasteful to spend the money for the additional stages until the first stage had been completed.

I am glad that the gentleman apparently agrees with me on that score.

Mr. MAHON. Well, the fact is that prior to next year when we have under consideration another bill, and long before that time, decisions should be made with future reference to just what may be possible. Therefore, we are giving the Department of Defense the ability to accelerate the program. As we all know, our present bomber inventory is getting older and older. It seems to me that the decision which we are making is wise.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. FORD. I agree with what the gentleman from Texas has said. If we do not have the extra $47 million in the bill, then the Department of Defense could well be delayed an additional 1 year. The extra $47 million is for the purpose of program definition. If this money is not available, then the Defense Department—if they approve what the Air Force has recommended—would either have to wait a year or reprogram from other funds available in the research and development part of the Air Force budget. This I think would represent an unfortunate delay of a year and could be very serious.

We want to be on the cautious side in giving them the money so they can proceed if they get the go-ahead from the Secretary of Defense.

Mr. MAHON. This is one of the high-priority matters before the Government. As I understand it, the President himself has said that he will participate in a major way in the final decision. I do not think we should fear any premature action.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. SIKES. I think it is well to call attention to the fact that both the House and Senate Committees on Armed Services, and the House and Senate respectively, have approved this item for which we are appropriating funds.

There is no reason whatsoever to anticipate that money is going to be spent willy-nilly or that they are not going to know what they are doing before that money is spent. However, no less a person than General LeMay has said that if we put this money in the bill we gain 1 year on the follow-on bomber, and that is why it is in here.

Mr. MAHON. Mr. Chairman, I have not spoken at length about the actual details of the bill. I think the report will be interesting. If Members will turn to page 2 you will note that the bill provides $46.7 billion for the forthcoming fiscal year. To a greater extent than in previous years we have approved almost without major change the budget program.

This bill is $460 million below the budget of last year; so it represents a decrease. If you include in this the approximately $1 billion required during the current fiscal year 1964 to take care of the pay increase, then this bill is about $1.5 billion below the bill of last year.

We did not want to make a sharp downward turn in the defense program. We thought that a sharp downward turn in the defense program would be misunderstood both at home and abroad. On the other hand, we felt we did not want to make a sharp increase in the defense program. It will be recalled that the bill last year and the year before was about $7 billion in appropriations above the bills of the late 1950 period. So while the bill is below last year it is still about $7 billion above the appropriation bill for the fiscal year 1961.

We give a summary of the bill in the report. We provide references to the military strength of the United States and I think we can take some comfort in what we are able to say in that respect. We discuss the question of weapons systems of the future. We point out the ever-increasing threat of the submarine-launched missile against our shoreline. It is perfectly obvious that we continue to live in a very unsettled and dangerous world. This bill is hand-tailored to the conditions which exist in the world at this time.

I believe the House can support this bill with confidence.

Under leave to revise and extend, I include excerpts from the report in explanation of the bill:

### SUMMARY OF THE BILL

The accompanying bill provides the funds required to continue the maintenance of the strongest military establishment in the peacetime history of the United States. The amounts provided will sustain and incrementally increase the military strength of the country. Funds are provided in the bill to feed, clothe, and equip an armed force averaging 2,687,000 men and women in uniform; to support a total of 687 military installations; to maintain about 875 active naval vessels; maintenance of over 30,000 active military aircraft; and the procurement of 2,655 additional military aircraft.

The bill provides funds for the construction of 53 new naval vessels and the conversion of 7 existing naval vessels and over $1.6 billion for the procurement of Army equipment of all types.

The committee considered budget estimates totaling $4,471 million and recommends the appropriation of $46,759,267,000. The amount recommended is $711,733,000 less than the amount requested in the budget and $460,743,000 less than the $47,220,010,000 appropriated to date for fiscal year 1964.

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The reduction, as compared with amounts appropriated and anticipated to be appropriated for 1964, does not represent in any way a decrease in military readiness. The overriding objective of the committee is the maintenance of the country's military strength. The high level of military appropriations maintained over the past few years has provided for overcoming certain deficiencies that had existed, and amounts of appropriations can now safely be somewhat reduced.

In the past 10 years, Congress has appropriated funds in excess of the regular annual Defense budget estimates on five occasions. Increases in a single year have been as much as $815 million. In other years during this period, Congress has appropriated less than the regular annual Defense budgets by as much as $2,368 million in a given year. The accompanying appropriation bill is $7 billion above the level of appropriations in 1960 and 1961.

This year, more so than in many previous years, the committee has adopted, to a large degree, the program presented in the budget. Broadly speaking, the amounts of the budget estimates are, the committee feels, the amounts that are needed. Reductions have been made in amounts and in areas where it was deemed such changes could properly and safely be made. In the operation of an agency as large and far-flung as the Department of Defense, blunders are inevitable and wasteful procedures do occur. However, the committee believes that an increasingly good job of management is being done. The committee does not feel that that management should be penalized by broadside attacks upon budget estimates.

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### MILITARY PERSONNEL

The budget estimates for this title total $14,597 million and propose additional transfers from revolving funds in the amount of $200 million. The accompanying bill provides appropriations of $14,565 million, and transfers from revolving funds in the amount of $240 million. The amounts recommended by the committee are $32 million below the budget estimates for appropriation and $40 million above the budget estimate for transfer from revolving funds. The net effect of the committee action is to make available for the personnel programs $8 million more than was included in the budget estimates.

The accompanying bill contains authority in section 512(c) to provide for increase in the number of military personnel on active duty beyond number for which funds are appropriated should it become necessary, in the opinion of the President, to do so. This continues the authority that had been carried in the current and previous year appropriation acts under the same section number.

Personnel strengths to be supported by the appropriations recommended in the bill are tabulated at page 13 of this report.

The major programs financed from these appropriations are discussed below.

Pay and allowances: Funds are provided for the pay and allowances of active duty officers and enlisted personnel, and cadets at the military academies. Included in these are basic pay; incentive pay; special pay to physicians, dentists, veterinarians, divers, and others; basic allowances for quarters and subsistence; station allowances overseas; uniform and clothing allowances; separation payments; social security contributions; and reenlistment bonuses.

Subsistence of enlisted personnel: Funds are provided for the feeding of enlisted personnel, including both the basic allowance for subsistence and subsistence in kind.

Permanent change-of-station travel: Funding is included to provide for permanent change-of-station travel for military personnel, either as individuals or as organizational units. Transportation, per diem allowances, travel of dependents; transportation of household goods; port handling charges; dislocation allowances; nontemporary storage of household goods; minor supplies and services incident to organizational movement; expenses of separation travel; and temporary duty directly related to permanent change of station are all included in this item.

Other military personnel costs: Funds are also provided for other military personnel costs which include apprehension of military deserters, interest on enlisted personnel deposits, and death gratuities.

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### OPERATION AND MAINTENANCE

Estimates for the operation and maintenance of our military forces total $12,396 million for fiscal year 1965. The committee recommends appropriations totaling $12,280 million. This is a reduction of $116 million below the budget estimates, and is $565,967,000 above the appropriations for fiscal year 1964.

#### *Appropriation coverage*

Operation and maintenance appropriations are directly related to the size, readiness, and deployment of the forces, and the tempo of military operations; to the inventories of weapons and supporting equipment and systems; and to the number and type of military functions to be supported. The availability of these funds also determines the degree of care afforded military personnel and their dependents.

In fiscal year 1965 these funds will support throughout the year an average of approximately 2,687,000 military personnel and their supporting equipment. In the broadest sense, these funds will finance the operating and support requirements of 16 active Army divisions and a number of provisional units associated with tests of air assault concepts, 883 active ships, 3 Marine Corps combat divisions, and an active aircraft inventory of 30,682. In addition, the operation and maintenance accounts cover the expenses of supporting Reserve components with a drill pay strength of almost 1 million men, their training facilities, and their equipment.

### PROCUREMENT

The Budget estimates for the procurement appropriations total $13,756 million. The committee recommends appropriations totaling $13,437,947,000, a reduction of $318,053,000 below the estimates and $2,268,100,000 below the amount appropriated for fiscal year 1964.

#### *General statement*

The majority of the reductions made by the committee relate to specific line items which are described under the procurement appropriations of the various military services.

The committee has effected two general reductions, however, which are substantial and relate to more than one military service. First, a reduction in the amount of $80,844,000 is made in the request for electronics, including avionics, and telecommunications systems and related equipment programs. In the report accompanying the Department of Defense appropriation bill, 1964 (H. Rept. 439, 88th Congress), the committee called attention to the necessity for improved management and procurement practices including concerted analysis, review and improvements. Although much progress has been made, particularly in the Army, much remains to be done. The hearings before the committee are replete with numerous examples of the failure of the military services to adequately perform in this area. The timely preparation of adequate specifications, and the prompt securing of technical data in research and development and early production contracts, are sorely needed so as to permit responsive and responsible competitive procurements early in the procurement cycle for this type of equipment. There is still too much of an attitude on the part of some procurement officials to wait until well into the production cycle before obtaining technical data suitable for competitive procurement. The attention top procurement officials of the military services and the Office of the Secretary of Defense have given this phase of the procurement program is noted. The committee trusts that every effort will be made to see that this sense of responsibility and desire for competitive, rather than costly sole source, procurement is passed on to procurement officials at all levels of responsibility. Until this is accomplished, a proper procurement program in this field is not possible. The committee has no recourse but to reduce the amounts requested for these programs to require better utilization of the dollar resources made available to the several services.

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### RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The fiscal year 1965 budget estimate for the accounts included in this title (research, development, test, and evaluation) of the bill is $6,722 million. The committee recommends the appropriation of $6,476,320,000, which is $245,680,000 less than the amount requested. The sum recommended is $472,910,000 less than the $6,949,230,00 appropriated for these functions for fiscal year 1964. The amount recommended for each of the accounts in this title of the bill is less than the amount authorized for the account by Public Law 88-288.

#### *Level of funding for research and development*

The committee recommends the appropriation of $6,476,320,000 for research, development, test, and evaluation for fiscal year 1965. In only 2 fiscal years, 1963 and 1964, was greater new obligational authority made available to the Department of Defense for R.D.T. & E. The following tabulation shows the new obligational authority for R.D.T. & E. functions in fiscal years 1957 through 1965. Until recent years, much of the funding of development, test, and evaluation was carried in the procurement accounts. The tabulation includes those funds:

*Order of magnitude data on comparative new obligational authority for R.D.T. & E. by appropriation title as if fiscal year 1965 budget structure had been adopted circa 1948*

[Millions of dollars]

| Appropriation title | Fiscal year 1957 | Fiscal year 1958 | Fiscal year 1959 | Fiscal year 1960 | Fiscal year 1961 | Fiscal year 1962 | Fiscal year 1963 | Fiscal year 1964 | Estimate, fiscal year 1965 | Recommended, fiscal year 1965 |
|---|---|---|---|---|---|---|---|---|---|---|
| R.D.T. & E., Army | [1] 454 | [1] 533 | 1,043 | 1,102 | 1,147 | 1,337 | 1,329 | 1,386 | 1,397 | 1,340 |
| R.D.T. & E., Navy | 734 | 758 | 1,173 | 1,312 | 1,367 | 1,309 | 1,511 | 1,541 | 1,461 | 1,369 |
| R.D.T. & E., Air Force | 985 | 937 | 1,375 | 2,872 | 3,321 | 3,565 | 3,698 | 3,481 | 3,205 | 3,118 |
| R.D.T. & E., Defense Agencies | | | | | | | 451 | 440 | 519 | 498 |
| Emergency Fund, Defense | 12 | | 8 | 5 | 4 | (²) | 5 | 101 | 150 | 150 |
| Salaries and expenses, Advanced Research Projects Agency, Department of Defense | | 83 | 178 | 330 | 194 | 192 | | | | |
| U.S. Scientific Satellite | | 84 | | | | | | | | |
| Total, R.D.T. & E. | 2,185 | 2,345 | 3,777 | 5,620 | 6,033 | 6,402 | 6,993 | 6,949 | 6,722 | 6,476 |

[1] No NOA in Army procurement accounts for these years; balances available from prior years were utilized.

[2] Less than $500,000.

NOTE.—Amounts will not necessarily add to totals due to rounding.

The decline in funding for fiscal year 1965 as compared with the previous 2 years is basically the result of the virtual completion of the development of the Polaris, Atlas, and Titan intercontinental ballistic missiles and the nearing of completion of the development of the Minuteman program. This does not indicate that no further perfection of these missiles will be attempted, but that the improvements made will not be nearly as costly as the initial developments. Product improvement can be quite expensive, but will not approach the cost of the initial development of our ICBM's. The following tabulation shows the sums devoted to ICBM development by fiscal years, 1960 through 1965, the total R.D.T. & E. program, and the balance of the program. The annual new obligational authority for the balance of the program; that is, those programs not associated with the development of intercontinental ballistic missiles, has increased by approximately $2 billion in the past 5 years.

| | Fiscal year 1960 | Fiscal year 1961 | Fiscal year 1962 | Fiscal year 1963 | Fiscal year 1964 | Estimate fiscal year 1965 | Recommended fiscal year 1965 |
|---|---|---|---|---|---|---|---|
| Comparative total R.D.T. & E. new obligational authority (comparable to fiscal year 1965 budget basis) | $5,620 | $6,033 | $6,402 | $6,993 | $6,949 | $6,722 | $6,476 |
| Comparable amounts, R.D.T. & E. programed for ICBMS (ATLAS, TITAN, MINUTEMAN, and POLARIS) | 1,452 | 1,822 | 1,434 | 1,067 | 679 | 356 | 356 |
| Balance of R.D.T. & E. | 4,168 | 4,211 | 4,968 | 5,926 | 6,270 | 6,366 | 6,120 |

Seldom is a weapon development so significant that national survival can be said to depend upon its successful accomplishment. The intercontinental ballistic missile and the nuclear device are probably the only two developments in this category since World War II. There have been other effective new weapons created, and extensive and urgently needed improvements made in existing weapons, but none which compare in prominence with the two mentioned above.

The rapid and successful development and deployment of a large force of intercontinental ballistic missiles has been an outstanding national achievement. The scientific and technical knowledge which was applied, the rapid response of industry, the foresight of the executive and legislative branches of the Government in understanding the significance of the situation, and the leadership of the military people who were in charge of executing the programs, are all credits to the Nation. A serious military threat has been turned into a military advantage as the United States has outperformed the Soviet Union in the development, production, and deployment of these weapons.

The fiscal impact of the ICBM development programs was great but was essential, and overall, was money well spent. There is no good reason to continue spending the same or greater sums when the specific need no longer exists. Appropriations must be based on need alone, not on any specific level of funding. To attempt to compare mere annual dollar totals in something as large as the R.D.T. & E. accounts, and not consider the different specific circumstances in each year, would be of little value. If an inflexible attitude toward the level of funding for research and development efforts had prevailed in the past, sufficient funds to develop the ICBM's would not have been available. If insistence is made on maintaining the high levels of these appropriations which were necessitated by the ICBM development programs today, when the funds are not required, both money and scientific talent will be wasted.

As is demonstrated by the tabulation above, research and development programs, other than intercontinental ballistic missile programs, have been increased by $2 billion annually as compared with the amounts allocated just a few years ago. Fifty percent more money is being applied to programs other than intercontinental ballistic missiles now than was the case 4 years ago. This increased funding, when coupled with the better management we now have, clearly indicates the present emphasis on adequacy of funding for research, development, test, and evaluation programs.

In summary, the majority of the members of the committee feel that the decrease in research, development, test, and evaluation funding reflected in the budget estimate and in the committee recommendation, is a normal and proper situation. The funds required are ample to carry out the R.D.T. & E. essential to the future military strength of the Nation.

Mr. FORD. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, the committee brings to you a bill with a minimum of changes on a relative basis. Actually from the dollar point of view we have made changes below the President's budget to the extent of $711,733,000. This is a 1.5 percent reduction in new obligational authority.

The President asked in this bill for $47,471 million. The bill before you calls for new obligational authority to the extent of $46,759,267,000. Of the $711,733,000 of reductions, approximately $208 million was brought about by the authorization bill which was approved by the Congress and signed by the President several weeks ago.

The $208 million reduction imposed by the authorization bill falls totally within the research, development, and test evaluation portion of the bill. In our committee report we have shown where these reductions imposed by the authorization bill are to be found.

Speaking from the minority viewpoint, if I, or we, were to write the bill or the committee report, I am sure we would make some changes in both. Speaking first about the bill, I think it is the unanimous view of the minority that we would include in this bill in Navy shipbuilding funds an additional $126 million to provide nuclear power for the aircraft carrier which was funded originally in the Defense Department Appropriation Act for fiscal year 1963. The $280 million which was made available in fiscal 1963 for an aircraft carrier has been languishing in the Department of Defense for almost 2 years.

At the time the Secretary of Defense came before the Congress in making his presentation for the fiscal 1963 appropriation bill he did not ask for nuclear power for this aircraft carrier. The Congress at that time did not give him the funds for nuclear power. There has been a rather long delay in the award of the contract for this carrier. In the meantime, there have been certain significant developments, technologically speaking, which today make it, in my judgment, even more important that we include nuclear power in the carrier which was previously funded.

In the markup of the bill some of us felt that we ought to include this additional $126 million in order to make the aircraft carrier, which will be built in the next several years, nuclear powered. It has come to my attention in recent weeks that Admiral Rickover has communicated with the Joint Committee on Atomic Energy indicating that developments have taken place, technologically speaking, that would permit the addition of nuclear power at this late date without any slowdown in the plans for the construction of the carrier.

I am a strong advocate of an aircraft carrier program. I have been, and I undoubtedly will be in the future. But based on these new developments that have taken place in research, development, and engineering it is certainly obvious to me that we ought to include additional funds for nuclear power.

The problem is simple—we did not have the votes in the subcommittee. There was also another problem. Due to an authorization limitation on the shipbuilding funds the Committee on Appropriations was precluded from adding the additional $126 million. The limitation imposed by the authorization bill would have made an amendment on the floor of the House adding the funds subject to a point of order.

Therefore, for two reasons—one, we did not have the votes and, two, the additional funds would be subject to a point of order—there is no action in this bill to make this new carrier nuclear powered.

I think the minority would also have made a deletion in the Navy shipbuilding program—I know that I would—for the $18 million which is included here for a new *Comet* ship. The *Comet* ship program is better characterized as a program for the development of what we call roll-on, roll-off ships. The Army feels they ought to have a ship that incorporates the so-called roll-on, roll-off feature.

The Navy has a converted ship that incorporates these features. They also have another ship—new construction—underway.

Included in the budget for fiscal year 1965 is $18 million for the second new roll-on, roll-off ship and the funds are included in this bill.

Last year when this issue was before the House, we did include money for a roll-on, roll-off ship. The bill went over to the other body and the funds were deleted there and finally eliminated in the appropriation bill for fiscal year 1964. The reason for such action was that competitive tests between the *Comet* and *Challenger* were anticipated which did take place. This would be a competition between what we call the *Challenger* class of commercial ships and the *Comet* or roll-on, roll-off type of ship. These tests were held with an east coast port as the point of embarkation. They went to Bremerhaven and came back.

It was a round trip test. The tests proved conclusively that the *Challenger*-class ship overall does a much better job timewise. On the other hand, it is true that the roll-on, roll-off type of ship with a certain type of cargo can load more quickly and can unload more quickly than the *Challenger* class. However, it should be added, this test was conducted under rather ideal conditions for the roll-on, roll-off proponents.

There are many questions in the minds of many people that the so-called roll-on, roll-off concept will not be applicable except in a very limited number of ports throughout the world.

In addition to this, I think the record is clear that for the Federal funds we are spending for a proposed *Comet* or roll-on, roll-off ship, you can get three *Challenger*-class ships.

So when you add up the whole picture, performance and the dollars, in my judgment, we should have knocked out the *Comet* and we should have made available this money—and I would be in favor of it—for three *Challenger*-type ships.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Ohio.

Mr. BOW. The gentleman is covering this question very well it seems to me. I think it should be pointed out that we are attempting to maintain a strong merchant marine in this Nation. The Congress appropriates a great deal of money in the way of subsidies for merchant marine, and with this same amount, as you have said, of $18 million to build one ship—with $18 million of the taxpayers' funds we could, in fact, build three ships of the *Challenger* class which have greater speed.

Considering the dangers of submarine warfare today, the question of the speed of these cargo carriers is important. For the *Challenger* class the speed is much greater, to get the cargo to the point of disembarkation, and the amount which can be carried is almost equal, with some few exceptions. It seems to me it would be well to spend the $18 million to build the merchant marine up, rather than to build one ship for the Navy, when it has been proved those ships are much faster and can get the job done in better time, even though there is an unloading period required.

I should like to ask the gentleman another question. There has been some talk that the *Comet* is necessary in the type of warfare such as is conducted at Saigon. Are there any ports in Vietnam in which the *Comet* could be used?

Mr. FORD. The only evidence before the committee was testimony by a ship captain, who testified as to his own knowledge, to the effect that the port facilities in Saigon are not adequate to take full advantage of the alleged benefits of the so-called roll-on, roll-off concept. I know of no other testimony for or against the use of the roll-on, roll-off type ship, in Saigon, except the testimony by this witness, whose name slips my memory at the moment, who was testifying for the *Challenger* class and against the *Comet* class.

Mr. BOW. If the gentleman will yield further, is it not true that it is necessary to have particular types of port facilities for the use of a roll-on, roll-off or *Comet* class ship, and that this is not true of the *Challenger* class ship?

Mr. FORD. I believe that is a correct statement. Of course, the proponents of the *Comet* class ship say that in those areas where there are not the specialized harbor facilities they can use a barge-type operation. If this be the case it would be necessary to buy the barges. It would be necessary to transport them, to take full advantage of the alleged benefits of the *Comet*.

Mr. BOW. It would require tugs for the barges. We would not know where the places would be, and it would be necessary to have the barges all over the world, under the situations we face today.

Mr. FORD. As I indicated, a number of us on the committee felt that the *Comet* class ship funds should be deleted.

Mr. BOW. I agree with the gentleman.

Mr. TOLLEFSON. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Washington.

Mr. TOLLEFSON. When the Government, via the Defense Department, builds a vessel such as the *Comet*, it pays 100 percent of the cost, does it not?

Mr. FORD. That is correct. The budgeted amount in the bill is $18 million for this ship.

Mr. TOLLEFSON. When the private merchant marine builds a vessel, the Government pays about 50 percent of the cost of the vessel, and the balance is paid by private industry; is that not correct?

Mr. FORD. That is my understanding of the type of financing used for the commercial vessels of the *Challenger* class.

Mr. TOLLEFSON. As the gentleman has said, with the $18 million the Government will be spending for the one ship, it would be possible to help to build three *Challenger*-type vessels. We would then have three military auxiliary vessels instead of only the one roll-off roll-on vessel.

Mr. FORD. On the basis of the Federal dollars involved, there is no doubt about it.

Mr. TOLLEFSON. I have one other point. In the operation of a Government-owned vessel the total operating cost is paid by the Government, whereas in the American merchant marine the private operator pays a portion of the operating cost.

Mr. FORD. Under the MSTS program the Federal Government and the Defense Department finance the total operating cost. In the case of the maritime ships, the Federal Government pays a portion. I do not know the exact portion of the operating cost that is paid.

Mr. TOLLEFSON. From the standpoint of economy, then, would we not be better off not to appropriate $18 million for the *Comet*-type ship, and to make the $18 million available for the construction of three comparable ships of the *Challenger* type? Then we would have three instead of one in the event an emergency should come along.

Mr. FORD. There is no doubt about that. The only answer—and this is the answer of the Defense Department—is that the Comet is always available to them, whereas in the case of commercial vessels these ships are not under their immediate control. However, I can visualize no situation where these ships could not be made available, or at least one or more of them, on almost immediate notice.

Mr. TOLLEFSON. As a matter of fact, in the event of an emergency, the Government has authority to requisition every merchant vessel under the American flag in the length of time that it takes to send a cablegram to the master of that ship. It is just a matter of moments, almost, before that ship is requisitioned, wherever it is in the world. The odds are that three Challengers will not be half way around the world at the same time and there will always be one available in a U.S. port for the needs or requirements of the military.

Mr. Chairman, I want to commend the gentleman for the position that he has taken.

Mr. FORD. Mr. Chairman, I thank the gentleman.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Pennsylvania who I know has a special and continuing interest in this problem. I will be glad to yield to him at this point.

Mr. FLOOD. I will not presume on the gentleman's time. I may say something about this on my own time. However, just to put something in at this point, let me tick off one or two things. I think the gentleman from Florida may develop this later on. You are speaking of speed. If and when the lid goes off and you have a problem where you need speed, this differential pales at once, because without any question you will be in convoy and the $x$ miles difference in your speed fades at once. You are in a convoy and you would be going at a controlled speed. That is the end of that if and when it does become a problem.

Second. I yield to none of my friends on the Committee on Interstate and Foreign Commerce and on the Committee on Merchant Marine and Fisheries or on the Subcommittee on Appropriations for State, Justice, Commerce, and the Judiciary, because I served on that committee for 10 years and there is no better friend of the merchant marine on this floor or one who has spoken for it more than I have been and am. Let us make no mistake about that. There comes a time when I am not enamored entirely by your savings in dollars. This is the Defense Appropriation Subcommittee. Sometimes that is important too vis-a-vis your dollar, and your caution and your concern just for the dollar, although they are commendable and I am in sympathy with it. However, let me say the Army and the Marines, who are aware of these problems, have gone to great lengths in justifying before my subcommittee the specific and important and direct need for this kind of a roll-on, roll-off ship. They know more about it than you do. They know more about it than I do, I hope.

Again let me say this in the same vein. When you are loading tanks, artillery, heavy hardware, the load capacity tailored to tanks, artillery, and heavy hardware is designed for just that purpose. It will take twice as much of it for a specific type of operation. In the test, the *Comet* on the first voyage carried 298 vehicles—the *Challenger* class ship only 187. On test No. 2 the *Comet* carried 336 vehicles and the *Challenger* class only 191.

Finally, if you have a strike on your docks at a time when you do not want it, that is the end of your *Challenger*.

Mr. FORD. May I comment on what the gentleman from Pennsylvania just said. The total *Comet* program is five ships. If we just use a Federal dollar figure instead of 5 *Comet* ships, we could have 15 *Challenger* ships. That is a fairly good sized, effective convoy. We could deliver rather rapidly a great deal more tonnage, and this is important, in a crisis or in an emergency. So, if you are talking dollars and results, at least in my opinion we ought to use the money for the *Challenger* class or something comparable to it rather than the *Comet* class.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. FORD. Yes. I yield to the gentleman from Illinois.

Mr. MICHEL. While the gentleman is on this subject, I would just like to go back to his earlier remarks relative to the atomic-powered carrier versus the conventional powered. I would hope personally that I could see any good reason or sense to funding carriers for the future with conventional power when atomic power appears to be the thing of the future.

Will the gentleman, if he has the time, or if not, in extending his remarks, set out very clearly the advantages or disadvantages of atomic-powered carriers versus conventional power units?

Mr. FORD. I believe in the hearings—I cannot quote the precise page—there is a very good discussion of this issue. If not in the hearings for this year, the information is in the hearings of previous years.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the distinguished chairman.

Mr. MAHON. There is a rather ample discussion of this question in volume 3 of the hearings beginning at page 387.

Mr. FORD. I thank the Chairman.

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. FORD. I yield to the gentleman from New York.

Mr. ROONEY of New York. Mr. Chairman, it is very seldom indeed that I disagree with my distinguished and long-time friend from Pennsylvania [Mr. FLOOD]; but I find myself in total disagreement with him on the *Comet* item today. I am not a military strategist or a high-ranking naval officer, but it seems to me that when you can get three merchant marine *Challenger* ships that can go across the Atlantic and discharge their cargoes at Bremerhaven in faster time than one $18 million roll-on, roll-off *Comet* ship at the same cost, to wit: $18 million; you would then have three ships instead of one in time of emergency on the high seas carrying vitally necessary military cargoes; and if we were to lose one of them to the enemy we would still have two and their cargeos left or if we lost two to the enemy we would have one and its cargo left. Whereas, with the $18 million ship provided in the pending bill, the roll-on, roll-off ship, if we lost that one, that would be the end of our vital military cargo. It seems to me that to do this just does not make good sense. The Department of Defense should not be in this sort of business. Our merchant marine always has carried and should carry the military cargoes in time of emergency. I thank the gentleman from Michigan for yielding to me.

Mr. FORD. Mr. Chairman, I appreciate the comments of the gentleman from New York. He and I see eye-to-eye on this, and I hope that the other body takes action so that in conference we may delete these funds and perhaps come to a better solution in the final version.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Washington.

Mr. WESTLAND. As the gentleman from Michigan is probably well aware I am very much interested in the failure of the Congress—not just the Committee on Appropriations, but the Joint Committee on Atomic Energy, as well as the Committee on Appropriations, and the Committee on Armed Services—to provide for a nuclear-powered carrier in this CVA–67. I think it is only fair to say that the Congress has tried but seems to have run up against a stone wall in the person of the Secretary of Defense, Mr. McNamara, who, as far as I am concerned, unilaterally has decided that a nuclear-powered aircraft carrier will not be built. Will the gentleman in the well tell me whether or not the Subcommittee for the Department of Defense of the Committee on Appropriations has considered this matter?

Mr. FORD. The issue was raised in the markup of the bill. Those of us who feel as I do that we ought to have included funds were outvoted. On the other hand, any effort at this time to add the funds could be forestalled by the limitation imposed by the Authorization Act of 1965.

Mr. WESTLAND. I understand that. I think it is too bad that a parliamentary situation can defy the wishes of the Congress as far as the best defense of the country is concerned.

The impression which I have gained from a reading of the hearings is that the Joint Committee on Atomic Energy had decided—and the vice chairman of this committee is present on the floor, the gentleman from California [Mr. HOLIFIELD], and he can correct me if I am wrong in any respects—or the consensus that we had was that this was a dollars-and-cents item, and that one nuclear-powered aircraft carrier would cost, as it has finally been ascertained, about 3 percent more and that, therefore, this Nation could not afford to have the best there is in this field. In other words, that we had to have a conventionally powered carrier which almost at its initiation becomes obsolete in terms of nuclear propulsion.

It is a very interesting fact, in my opinion, that just in the last couple of days there has appeared in the newspapers the decision of the Department of the Navy to provide a nuclear-powered task group. Why? It seems very obvious to me that the reason for this is because they are so much better than the conventionally powered ships in our fleet, that these actually are the greyhounds of the sea, and that these ships could go around the world several times without refueling. They can also travel at these speeds for whatever length of time is required for them to do so.

Yet the Secretary of Defense has said because this new carrier would cost about 3 percent more than a conventional carrier, then we cannot afford it.

Mr. Chairman, this item is contained in a bill which carries the appropriation of $50 billion for the Department of Defense. It seems to me that, based upon the same sort of logic, we might never have had jet aircraft, and we would still have propeller-driven aircraft.

I only wish there were some way that this Congress could take this matter in its hands and, to that extent, defy the Secretary of Defense and support the military people of this country and the Joint Chiefs of Staff who say that this is a thing this country should have.

Mr. FORD. I agree with what the gentleman from Washington has said, but unfortunately and regrettably we are faced with an authorization ceiling, and, therefore, any effort on the part of someone on the floor today to increase the funds would be faced with a parliamentary point of order.

Mr. LAIRD. Mr. Chairman, will the gentleman yield to me at that point?

Mr. FORD. I yield to the gentleman from Wisconsin.

Mr. LAIRD. I am not at all convinced that a point of order does apply against the inclusion of the cost of nuclear power in the carrier.

First, I think, as the gentleman from Michigan knows, in the committee I offered the amendment providing for nuclear power for this particular carrier. Later this afternoon I shall discuss the application of the cost effectiveness of this formula of the Secretary of Defense in arriving at his decision to build two conventional carriers in the time period from 1965 to 1970 instead of building one modern ship.

This cost effectiveness application of the Secretary of Defense will waste an estimated $300 million of the taxpayers' money of this country. Later on this afternoon I would like to lay this case before my colleagues of the House as to precisely the fallacy of the application of the cost effectiveness as applied to this particular ship.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield further for 1 additional minute?

**Mr. FORD.** Yes, I yield further to the gentleman from Washington.

Mr. WESTLAND. At the time of the discussion of whether or not this should be a nuclear-powered aircraft carrier or conventionally powered, the statement had been made that this would delay the availability of this carrier. Now that argument has been knocked in the head completely. The fact is that this carrier could be available, nuclear powered, just as quickly as it can be made available conventionally powered. Therefore, I can see no argument that is valid among those that have been presented by the Secretary of Defense. I sincerely regret that the Congress has been unable to act in this instance and provide this Nation with the best there is in matters of defense and certainly in our fleet.

Mr. Chairman, I think the gentleman from Michigan for yielding.

Mr. LAIRD. Mr. Chairman, will the gentleman yield further?

Mr. FORD. I yield to the gentleman from Wisconsin.

Mr. LAIRD. I would like to agree with the gentleman from Washington [Mr. WESTLAND]. I shall insert in the RECORD a letter from the AEC which shows that the adoption of nuclear power for this particular carrier would not hold up the construction and the availability of it to the fleet.

My point is, why build two outmoded carriers in the next 5 years? The Navy can get along with one modern carrier instead of the two old-fashioned, outmoded types of ships.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Florida.

Mr. SIKES. I happen to be on the same side of the boat as my distinguished friends on the other side of the aisle insofar as a nuclear carrier is concerned. But should we not clear up the point about cost differential? The figure of 3 percent has been injected into this discussion. It is considerably nearer 30 percent difference in cost. The old nonnuclear carrier will cost $280 million, your nuclear carrier will cost $126 or $127 million more. So there is at least a 30 percent differential. I just want to clear up this idea about the 3 percent differential.

If the gentleman will yield on the roll-on and roll-off discussion, I should like to make a statement.

Mr. FORD. May I say to the gentleman from Florida I am taking too much time on these two issues. I would like to take some time to discuss some other matters.

Mr. SIKES. I shall not go into detail. I do not think I can surpass him in the field of persuasive eloquence. But no one has discussed the cost of an operating subsidy for the *Challenger* type of ship. The gentleman refers to half the cost of operation. The operating subsidy year in and year out will speedily eat up whatever difference there may be in the original cost of the *Comet* class ship.

Mr. LAIRD. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Wisconsin.

Mr. LAIRD. The gentleman from Florida has referred to the 30-percent and 3-percent figure as far as the carrier is concerned. It is 30 percent if you consider it carrier for carrier, but in studying the cost effectiveness of the nuclear carrier, as a carrier, one must also take into consideration the tankers that are required and necessary in order to maintain and support a conventional carrier. You come up with a 3-percent figure on a cost effectiveness basis if you take into consideration the supporting facilities needed.

Mr. FORD. The point the gentleman makes is based on the amortized figure for one ship versus another.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from California.

Mr. HOSMER. I think the figure of the gentleman from Florida should be understood, that in the cost of the initial ship you are also considering fuel and supply, which is a considerable cost that is not incurred by the Government for years. It represents the cost of the ship and supports the 3-percent increase figure for the life of the ship. For that amount you get a 30-percent increase effectiveness in the vessel. Remember the ships that are being built today and being launched are going to have to serve in the defense of the United States for at least 25 or 30 years. Unless we build every single modern attribute into those ships today we are not going to have hulls, engines, and vessels with which to modernize at a later date to meet unanticipated situations. If you want to talk cost effectiveness in that aspect you will throw the entire thing into the trash heap.

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Michigan yield?

Mr. FORD. I yield to the gentleman from New York.

Mr. ROONEY of New York. Since the gentleman wishes to discuss another subject, I should like to refer to the fact that he is aware of my efforts, as is the chairman and all the members of this subcommittee, with reference to employment and additional work for the Brooklyn Navy Yard. In this connection, am I correct when I say the committee has directed that of the funds available for repairs, alterations, and conversions of naval vessels, $411 million-plus shall be for work in Navy shipyards, and that not more than $221 million-plus in privately owned yards? Am I correct in this?

Mr. FORD. Yes. The gentleman from New York refers to section 539 of the bill on page 42. This 35-65 issue in the past has been a very controversial one. It is the so-called dispute over using 35 percent of the repair, alteration, and conversion funds for private yards and 65 percent of such funds for the 11 Navy yards that the Department of Defense operates.

I would say to my distinguished friend from New York that the committee has pinpointed the fact that the Navy yards will have available $411,820,000, whereas private yards will have only $221,750,000. In other words, the Navy yards get almost twice the amount that the private yards get. I think this is a fair distribution.

Mr. ROONEY of New York. Would this be the first step in eliminating the 65-35 proviso?

Mr. FORD. May I, while on the subject, say that I support wholeheartedly section 539. I also support section 540, which gives to the Secretary of Defense flexibility, so that if he wants to, for one reason or another, he can take some extra dollars from the amount for repair, alteration and conversion and make them available to the Navy yards over and above what is allocated here. I think it would be most unfortunate for anybody, particularly those who oppose 35-65, to take the onus, the burden on themselves to deprive the Secretary of Defense of this flexibility.

Mr. HARDY. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Virginia.

Mr. HARDY. I am glad the gentleman is emphasizing flexibility. I wish he would provide a little bit more. If I understood the gentleman correctly, he said that section 540 would give the Secretary the right for one reason or another, I think his words were, to alter the amount that went into the Navy yard and put in a greater amount than the $411 million in the bill. I am glad the gentleman put that construction on the language in the bill because I had not understood it that way before. Do I understand the gentleman to say that the Secretary can find at his own discretion in making such an additional allocation to the Navy yard?

Mr. FORD. It is my understanding from the testimony of the Secretary of Defense that he feels with the inclusion of section 540 that if the Navy asked—and they never have—he could take more dollars from the 35 percent allocated for the private yards and make those funds available for the Navy yards. Of course, he will not do it unless the Navy asks in the first place and makes a good case, but under section 540 he has that power.

Mr. HARDY. If I understand the gentlemon's interpretation, the gentleman would have no objection and probably he would be willing himself to offer an amendment to strike the words "based on urgency of requirement"?

Mr. FORD. I think those words are reasonable. There is nothing wrong with making the Navy yard proponents or the Secretary of the Navy show some basic reason and urgency of requirement. I think that is a very sound and logical phrase as the criterion.

Mr. HARDY. Would the gentleman consider the other language, which requires the finding that it is in the public interest, is adequate and would provide some flexibility, whereas actually the language in here is limiting language?

If the gentleman would agree that a finding in the public interest was an adequate finding, I think he would be on much firmer ground.

Mr. FORD. May I say to my good friend, the gentleman from Virginia, this language in section 540 is the language that was approved 2 years ago by the Secretary of Defense. This is the language he wanted. This is the language that the President requested that the Congress include. This is the language of President Johnson. I do not think we ought to change, in this instance, the President's request and requirement.

Mr. HARDY. If the gentleman will yield further, I do not know whether this is the language of President Johnson. I do understand it came over in the budget submission. But on the idea or the proposition, if it is left in the public interest, I would not have as much disagreement with my friend. But when he limits it to urgency of requirement, you have in effect said that the only time you can do this is when you have an emergency arising.

Mr. FORD. I would rely, I will say to my good friend, the gentleman from Virginia, the judgment of the Secretary of Defense in this matter. I think he, the Secretary of Defense, will not apply the words here arbitrarily and inflexibly. I believe he would use sound judgment when a good case is presented. I would urge them to do just that.

Mr. HARDY. If the gentleman will yield further, I would hope in view of the interpretation that the gentleman has placed on it, that he would initiate action to strike these words because that would leave it clearly requiring a finding of public interest and would let the Secretary determine the nature of the public interest which might be required.

Mr. FORD. I appreciate the suggestion of my friend from Virginia. I think under the circumstances based on the history of the utilization of this section that this language is adequate to meet any problem.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from California.

Mr. GUBSER. I was interested to hear the gentleman say to the gentleman from Washington [Mr. WESTLAND], that there were differences of opinion within the Committee on Appropriations, one example being the nuclear carrier. I would presume since the report was unanimous and was signed by all members that it was signed on balance even though there were still some specific reservations. But in the last few days the press has interpreted the fact that all Republicans signed the report as being a complete vindication of Secretary McNamara's position as opposed to that of General LeMay and as being a complete repudiation of General LeMay. Would the gentleman please tell me whether or not such an intepretation of a unanimous report is justified?

Mr. LAIRD. There is no unanimous report.

Mr. FORD. This report actually is not something that is signed by each member. This is a report prepared primarily by those on the majority side, but in many cases or in most cases, the minority have agreed. I do feel it is inaccurate to read into the report a complete and total agreement by the minority of every phrase in the report and every sentence in the report as a whole.

I think it is fair to say, and there is nothing wrong with this, that the majority has the authority and the majority has the traditional right to control what is included in a report. There are some sentences and there are some phrases in this report that I think should not have been precisely written the way they were. I do not want the RECORD to show, therefore, that I have agreed with every implication or innuendo that one might or might not draw from the words in the committee report on this bill.

Mr. GUBSER. It was therefore accepted on balance and any political implications that can be deduced from the report are not justified.

Mr. LAIRD. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman.

Mr. LAIRD. I would just like to point out to the gentleman from California the interpretation that he states some have placed on this report is certainly in error in many ways. The committee report, although I supported the Secretary of Defense as far as the application of the bomber money is concerned, supports the position of the Chief of Staff of the Air Force, General LeMay. This report is on balance in agreement. But there are differences of opinion within the committee.

On this particular issue, on which the Secretary of Defense and the Chief of Staff of the Air Force have been in disagreement, although I have supported the Secretary of Defense in this area the committee supports the Chief of Staff of the Air Force, General LeMay.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to my distinguished chairman.

Mr. MAHON. In view of the fact the report bears my name, I believe a word from me might be in order at this time.

I believe it is fair to say that the report really supports Mr. McNamara with respect to the bomber and it also supports General LeMay. We provide the $5 million requested in the budget, and in view of additional progress that has been made looking toward the acceleration of the proposed bomber, we put in the additional funds in order that the Secretary may have them available if it develops that sufficient progress is made so that the funds may be spent wisely.

I also wish to say, with respect to the atomic- or nuclear-powered carrier, that in my opinion a perusal of the record will show that the people who are speaking out so convincingly on the need for nuclear power for the carrier, which was appropriated for during the calendar year 1962, did not say in 1962 in House debate that they were enthusiastically in favor of a nuclear-powered carrier. This is apparently a change or a new interpretation of the situation. I am not saying that this would not be justified, in view of some of the more recent developments showing the improvement and increased economy of the nuclear-powered carrier.

Mr. FORD. I believe the chairman is correct. We did not in 1962 take quite the same viewpoint.

However, in the interval—the 2-year period which has transpired—there have been great technological developments, some of which have come to light only recently. For this reason I at least feel we should bring the matter to the attention of the House.

Let me assure the Members that if we had the authority today I would be the first to offer an amendment or to support an amendment to add the funds for a nuclear-powered aircraft carrier.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from California.

Mr. HOSMER. Getting back to the 65–35 business, it is in effect a legislative imposition of a restriction upon the exercise of judgment in the operation of the Defense Department, imposed by the Congress, which says now that we are to take sides between public and private shipyards.

I believe that this particular issue and many others which have been tossed about today must be considered in the context of the time. We are not today preparing for a rerun of World War II with the Russians playing the part of the Nazis. The Defense Department does not expect a long war of attrition in which the mobilization base of this country would be important for victory, as it has been in every past war. The emphasis today is upon the matter of deterrence and making it credible and workable, and also upon a capability, as a matter of day-by-day routine, of maintaining constantly, for the foreseeable future, a local and limited war capability and activity, such as we are doing today in South Vietnam and will be doing tomorrow in some other part of the world.

This means that the U.S. naval forces must be on the sea on patrol at all times for the foreseeable future. No longer will the ships come in to anchor in the harbor and to lay there weeks and months. Today's navy must be continuously operational, and this imposes upon the men who man the ships tremendous burdens.

As a consequence, the question of the 65–35 allocation should not at all be considered in the context of some division of the spoils between private and public shipyards.

We should have the flexibility and, I should say, the wisdom to operate our fleets and their supporting forces, whether they be ships, yards, or otherwise, so that when these ships do come off long patrols the men who man them can be brought back to a place where they can be reunited with their families and be given an opportunity to live a fairly livable existence when they are in the United States of America. That means the great gaping hole in the U.S. Navy's budget will be plugged up by making it more attractive for people to reenlist. You save exactly $7,000 a man in training him when you have a reenlistment. I would hope that your committee would take this into consideration and consider this question in the real context of our time today and not in the context of the times before World War II.

Mr. FORD. Mr. Chairman, I appreciate the comments of my friend from California. I think the committee over the last several years looked at this problem in the broadest possible way, with the broadest possible view, and based on this viewpoint in fiscal 1963, 1964, and now in 1965, we have recommended this provision or something similar to it.

If I might, I would like to turn now to several other questions that I think ought to be mentioned.

In the hearings, part IV, we find the testimony of the Secretary of Defense, of General Taylor, Chairman of the Joint Chiefs of Staff, and testimony by the service Secretaries for the Army, Navy, and Air Force and the Chiefs of Staff for each of the three services. Since this volume has been published and distributed to the public a great many newspaper articles have been written about questions which were asked and answers which were given. There are some controversial answers given in this document. There were some hard questions asked of the witnesses. This is the purpose of the hearing. It is not supposed to be a whitewash. The members of this subcommittee have a serious responsibility to probe into every question involved in the dollars requested, and the military policies and programs. If we do not do it, the 12 of us on this subcommittee, then we do not exercise the responsibilities which we were elected to fulfill.

On the other hand, it is just as serious a responsibility for the witnesses to respond honestly and factually to the questions which are asked by the committee members. Throughout the hearings the military leaders of each service were asked for frank answers. They were asked tough questions, and I believe in every instance they answered honestly and objectively to the best of their knowledge, based on experience and based on the story as they knew it.

Now, a few of the press have tended to castigate some of the finest military leaders we have in this country for answering honestly and objectively the questions which were asked of them. It is very regrettable, for example, that General LeMay, Chief of Staff for the Air Force, has been accused, by innuendo or implication, of being insubordinate to the Secretary of Defense by reason of certain answers that he gave to questions which were asked of him during these hearings. I was present, I think, during all of the time that General LeMay was testifying.

He was answering questions which were asked him and he had the duty, as the senior military officer in the Air Force, to give honest, factual answers. That is all he did; nothing more. He did not solicit questions that to some extent put him on the spot with his superior in the Department of Defense. It is a serious matter that some people have interpreted his answers and the answers of other military leaders as an effort to get around and behind his civilian heads in the Pentagon.

Our military leaders need support. They need understanding. In this committee and elsewhere we want them to give us honest answers to factual questions. If there is ever an attempt to put pressure on them and to limit what they may say, then this country will be in serious trouble. Our military leaders are carrying out the finest tradition of the Armed Forces. We in Congress and the public should support them.

**Mr. MAHON.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Texas.

**Mr. MAHON.** Mr. Chairman, I wish to say that in the Congress we have always encouraged the military people, as well as civilian officials of the Department of Defense, to answer objectively and to the best of their ability, questions which are asked in committee sessions. I think it is to the credit of our military people that they have answered our questions asked in the various committees of Congress objectively and well. Of course, we do not always concur in the views of the witnesses.

I would not want here to be a party to any condemnation of witnesses for their frankness in giving their answers. In my observation military people try to go along with a program once it has been established. But when they are asked by members of committees of Congress what their personal views are, in the past they have seen fit to give that information. I want them to feel that way in the future.

I daresay there are very few hearings that have been published in recent years that are more interesting than the hearings in volume 4 containing the testimony of the Secretary of Defense, the Secretaries of the various services and the members of the Joint Chiefs of Staff. I think an objective reading of these hearings, rather than just a headline consideration of them, will show the objectivity of the witnesses.

Mr. Chairman, I join the gentleman in expressing the view that this condition of frankness will continue to exist.

**Mr. FORD.** Mr. Chairman, may I compliment our chairman on what he has just said. In the years that I have served on this subcommittee, almost all of which have been under his chairmanship, I have never found him at any time cautioning or directing a witness to do anything but give a full disclosure and a frank answer. This is the way the committee should be handled. As a result, witnesses who come before the committee traditionally speak up concerning their full knowledge in response to questions.

**Mr. SIKES.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Florida.

**Mr. SIKES.** Mr. Chairman, I should like to commend both gentlemen on their discussion and their contribution to this question. It is, of course, absolutely essential that the committee have accurate information and complete information and that answers be not limited to whatever the policy of the Executive may be. It is important that we have recommendations of expert witnesses in every field. May I take just a moment to call attention to the fact that section 202(c)(8) of the National Security Act says:

> No provision of this act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to our Department of Defense that he may deem proper.

**Mr. FORD.** I thank the gentleman from Florida. This legislation is, of course, basic. But whatever the legislation we must have an atmosphere that permits witnesses to respond to questions.

That atmosphere does exist in our subcommittee and I hope it continues to exist in the future.

Mr. Chairman, permit me to add one additional comment. If there is an area in this bill where I would most strongly disagree, it would be in the area of research and development on a broad conceptional basis.

Mr. Chairman, what disturbs me is not only the fund problem but what may be an attitude—I underline "may be an attitude"—that tends to exist in the minds of some people in the handling of research and development money and perhaps other funds.

Mr. Chairman, I have in my hand a copy of the proceedings of the International Arms Control Symposium held at Ann Arbor, Mich., on the dates of December 17 through 20, 1962. In this volume there are the remarks made at this symposium by the Honorable John T. McNaughton who, at that time, was the counsel for the Department of Defense. Mr. McNaughton at the present time is the Assistant Secretary of Defense for Internal Security Affairs. Let me quote two portions of Mr. McNaughton's remarks:

> Until quite recently relatively little attention was paid to the possibility of mutual improvement of security through use of nonnegotiated techniques. Yet decisions in this area are not only of crucial importance to our national security, but they are being made today, and every day, to a large extent by the Defense Department in the fields of strategic doctrine, force structure, and research and development.

Mr. Chairman, in the consideration of this bill we had hearings and one of the excellent witnesses before our committee was Dr. Harold Brown who is the Director of Defense Research and Engineering.

I read this paragraph to Dr. Brown and asked him whether there were day-to-day decisions that were being made in the Department of Defense in the area of research and development that to a degree committed us to a nonnegotiated technique for disarmament.

Dr. Brown—and I say without hesitation or qualification he is an outstanding public servant—did indicate on page 57 of part 5 of the hearings that in the area of strategic doctrine he thought such decisions were being made to some extent. On the other hand he stated, or at least inferred, that the decision on the Minuteman program, the decision on the bombs in orbit possibly fell within the context of Mr. McNaughton's statement. I disagree with the techniques espoused by Mr. McNaughton and hope that his views in this regard do not prevail in the Department of Defense.

It would be wise and well for people to read this portion of part 5, starting at page 56, because it is not absolutely clear to me that such decisions are not being made. Frankly, I believe Mr. McNaughton, in his speech, was carried away a bit in this speech when he said these decisions are being made every day in the Defense Department. But those were his words, not my words.

In the area of research and development for the Army, Navy, and Air Force, we must concentrate on our military strength, we must develop weapons, not disarmament plans. The research and development program for the Defense Department should not be intertwined or mixed with disarmament plans and programs. If the Defense Department is doing research and development toward the nonnegotiated techniques for unilateral disarmament, we are heading in the wrong direction.

Mr. Chairman, let me conclude by saying that as of today, April 21, 1964, I have no hesitancy, no qualification about our military strength. This bill continues a posture of strength that we started to maintain since the conclusion of the Korean war. It is a sound basic policy, and it is one we should pursue in the future. Although I have faith about our military circumstance in 1964, I am concerned about what could be the circumstance in the era of the 1970's. In other words, if there is a continual decline in the availability of funds, if there are certain weapons systems that are cut off, canceled, or not pursued in subsequent years, we could find ourselves in a serious situation in the era of the 1970's.

I for one do not intend to agree with any military plan or funding that would fall within the recent recommendations made by the former Deputy Secretary of Defense, the Honorable Roswell Gilpatric. His proposed programs and policies were wrong, and I hope and trust that our defense appropriation bills in subsequent years will not under any circumstances fall within that blueprint.

We have sufficient military power today to deter a war against any rational person. We have sufficient military power in this country today to win any conflict. The enemy knows exactly that.

As I just stated, the enemy knows we have the power. The enemy—and you all know the enemy we speak of—knows that on occasions in the past we have threatened to use this military strength. I believe where we have threatened to use that strength we have prevailed. But the most important thing is that we as a country, 197 million people, must be prepared to use that strength if we believe—Democrats, Republicans, independents, citizens as a whole—that for the protection of our way of life the use of this strength is necessary for us and for our posterity.

Any backing away, any lack of will, any question about our fortitude should be wiped off the books. The enemy ought to know that when the chips are down we will stand up and make use of this power which we have provided for the security of our country and the free world.

Mr. MAHON. Mr. Chairman, I yield 20 minutes to the gentleman from Rhode Island [Mr. FOGARTY].

Mr. FOGARTY. Mr. Chairman, first let me compliment the very able chairman of the subcommittee, the gentleman from Texas [Mr. MAHON], and also the ranking minority member, the gentleman from Michigan [Mr. FORD], for this time so that I might pay tribute to one of the finest men I have ever met in my entire life. In the past 23 years as a Member of the Congress of the United States I have never met a better example of a true gentleman in all aspects of that word than Congressman MICHAEL J. KIRWAN, of Ohio.

When I arrived here in January 1941, the first man I met was MIKE KIRWAN, from Youngstown, Ohio. We had adjoining offices at that time and we have been closely associated ever since. We happen to live in the same place here in Washington, the University Club.

In all these years, over 23 now, I have never met a more honorable person, nor one who has given more of his life not only for his city of Youngstown but the State of Ohio and the country as a whole. In my opinion, no Member of this House has given more of himself to help his constituents. No man in this House has done more to help America than has MIKE KIRWAN, through his activity as chairman of the Appropriations Subcommittee on the Interior Department. Having served in the First World War, certainly no one could have been called upon to give more than MIKE KIRWAN did at that time.

Mr. Chairman, time does not permit the listing in any documented way of the many fine attributes that MIKE KIRWAN possesses. Those of us who have been privileged to know him as a friend realize that we have been given an extraordinary experience. His simplicity, candor, and genuine goodness shows through much as MIKE might try to camouflage it. His honesty of character and above all his great feeling for the downtrodden of this world—for the little guy—are known to all of us who know him.

One of the particular attributes of which I speak has made a great impression on me and that is MIKE KIRWAN's charity. MIKE gets a kick out of giving. He cannot hide it. His charities are usually anonymous but many of us are aware of a few of them. Collectively they must be appreciable and add up to another of the fine qualities we have noticed in our colleague.

In all these years we have been personal friends. I have been in his company many times each week. In or out of Congress, all over the land, I have yet to meet a more honorable man or one who has more influence. He is considered by his colleagues in Congress to be one of the best Members of Congress that we have had. All down the line, from the top to the bottom, MIKE KIRWAN certainly is the epitome of what we would like to call a Member of the Congress of the United States. I know that my own feeling on the matter is that knowing MIKE KIRWAN as a personal and very close friend is one of the most rewarding experiences my service in Congress has brought me.

Mr. Chairman, those of us who know Mr. KIRWAN personally and have worked with him over the years know that he needs no defense for his actions here in Congress. We may not always be in agreement with him, but we admire his honesty of purpose, his frankness of approach, and the understanding with which he deals with those who oppose him as well as those who support him. I speak, therefore, not so much in defense of him as I do in the role of an understanding colleague.

One of the great difficulties that we Members of Congress have here on Capitol Hill is to make known, not only to the people whom we have the honor to serve, but also to those who are responsible for diffusing information throughout the land all the circumstances that surround a piece of legislation and its relationship with other legislation which has been, is being, or will be considered. In the heat of debate, arguments may be presented and words may be said which would not be used at other times and in other places. Those responsible for reporting the news have their problems, as we all know. Personal ambitions are the same, regardless of where they are found and regardless of what prompts them. But those who use the pen to present their position must never forget that their privilege of reporting is not a license to hunt and to destroy those with whom they are in disagreement or even those in whom they have lost confidence.

I have personally found Mr. KIRWAN very easy and enjoyable to work with. He understands the relationship between the authorizing procedure and the appropriating procedure as well as any Member of Congress. He has and bears well the responsibility that comes with being chairman of the subcommittee which appropriates for the programs authorized by the committee of which I am chairman. I have never worked with anyone who is more understanding or more cooperative. This does not mean that we are always in agreement. In fact, we were not in agreement in the matter of adoption of the rule on H.R. 2331, but I understood his position quite clearly and I, then and even more so now, consider his actions on the rule logical and, having been on the losing side, I may say, quite successful.

H.R. 2331, a bill to establish the Chesapeake and Ohio National Historical Park, came out of our Committee on Interior and Insular Affairs on July 16, 1959, after a long hard series of hearings and executive session discussions. It was not until March 23, 1960, that the Rules Committee took the necessary action to allow it to be brought to the floor and it was not until May 19, 1960, that the Rules Committee's resolution was considered on the floor. Then the House denied us a rule. I favored the rule. Mr. KIRWAN was opposed to it. In view of the vote—134 to 227—I can hardly say that he was alone in his fight.

This is not the time or the place to reargue the merits of H.R. 2331, to discuss the question whether the House acted wisely or unwisely in rejecting the rule, or to speculate about all the reasons which may have induced 227 of my colleagues to vote against the advice of their Committee on Interior and Insular Affairs.

Suffice it to say that the gentleman from Ohio [Mr. KIRWAN] played a prominent and effective part in the debate on the rule. Though I disagreed with him at the time, and though I might very well disagree with him again if the matter were here today, the plain fact is that he had certain solid reasons for the action he took and that he deserves respect for voting and persuading others to vote accordingly.

He was concerned with the proposed establishment of the Chesapeake & Ohio Canal area as a national historical park at a time when the Corps of Engineers was busy studying the water supply needs of the Washington area. We in the Interior Committee thought we had worked out a reasonable and acceptable compromise which would enable the park to go forward without precluding water supply development in the future if that became of overwhelming importance. Mr. KIRWAN did not think so and I would be the last to deny that, once a national park or monument is established, it is extremely difficult—well nigh impossible, in fact—for it to be opened up for other badly-needed public works, regardless of what the law may say.

Mr. KIRWAN thought, again, that there were items on the National Park Service agenda which were of higher priority than the C. & O. Canal and that it could well wait awhile. I think the action of our Committee on Interior and Insular Affairs makes clear that we thought otherwise but, once more, I would be the last to say that there is anything wrong or improper in a Member's expressing and voting his convictions here on the floor, even if it means substituting his judgment for that of the committee in charge of a bill. Committees, after all, are supposed to be the servants of the House, not its masters. And Mr. KIRWAN, sitting in the place on the Appropriations Committee on which he does, was and is in a very good position to look over the whole national parks program and to assess the proper place of individual items in it. Certainly, he was in a good position to look over the program in this immediate area of Washington and vicinity and say where, in his judgment, the C. & O. Canal fitted in. We must remember—as he remembered—that there are already 42,000 acres of Federal parklands in active use here, and a thoughtful Member of Congress might well conclude that the addition which the C. & O. Canal would make should be subordinated to needs elsewhere.

Finally, I cannot say that Mr. KIRWAN was unreasonable in insisting that the Park Service should have a better idea of where it wanted to go with the C. & O. Canal than it did at the time. His Appropriations Committee had been told by the Park Service only a month before the Rules Committee acted that it, the Park Service, had made only preliminary studies of the land it needed and this "for the purpose only of ascertaining in general the minimum size needed to achieve the conservation objectives envisioned by that legislation." My lack of agreement with Mr. KIRWAN's vote against the rule on the floor does not and should not be cause for me—or for anyone for that matter—to say that his action was not that of a responsible legislator.

Now, let me mention another matter that keeps cropping up—the land across the Potomac from Mount Vernon that we are all interested in saving for posterity. Our Interior and Insular Affairs Committee authorized appropriations of up to $937,600 for this purpose. The best estimates that we had at the time gave us an average cost of $1,600 an acre, and there were assurances that a substantial acreage would be donated and that many residents would gladly give the Government scenic easements. Moreover, what really triggered the legislation was the threat that a sewage disposal plant would be built on the site. That threat has now been completely dissipated, the scenic easements have not come through as expected, only about one-third of the land that was expected to be donated has in fact been received, and acquisition costs for such land as has been purchased have run more than double what we anticipated at the time the authorizing bill passed the House. The press has from time to time rapped the knuckles of the Appropriations Committee for proceeding as cautiously as it has. Yet, let us bear in mind that Congress has, in fact, appropriated nearly $400,000 for land acquisition and that the key tract, Mockley Point, has been acquired. I would like to see the program completed, but as surely as I stand here I cannot view the action of the Appropriations Committee as being unjustified or irresponsible.

Mr. Chairman, I have said enough, I hope, to indicate my feelings and my thoughts that our great colleague from Ohio [Mr. KIRWAN] deserves credit, not blame, for what he has done. I am sure his shoulders are broad enough to carry the criticism that has been heaped upon him just as they are broad enough to carry the responsibility that his office carries with it. But I think it well that some of us, opposed though we have been at times to his views with respect to specific matters on the floor, make it clear that we understand his position and that we respect him for it.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman from Washington.

Mr. WESTLAND. It may sound a little odd for a Republican to speak in behalf of the Democratic congressional campaign chairman; nevertheless, in the 12 years I have been a Member of Congress I have been privileged to count MIKE KIRWAN as my friend. MIKE and I have discussed many things that have come before this Congress a good many times. We have frequently arrived, outside of politics, at the same conclusions as to what we hoped, at least, was for the best interests of this country. I believe MIKE KIRWAN has been a dedicated Member of Congress.

We have all heard him many times, with his Irish wit, when he appeared on the floor of the House to present his Interior Department appropriations bill, and how he was working for what he believed to be a method of improving the United States, and how we might spend a few dollars for our own benefit as well as for the benefit of the many other nations of the world.

I have attended the St. Patrick's Day parties that MIKE KIRWAN has given. I am half Irish myself; and I have enjoyed that part of it as well. I think MIKE KIRWAN has a reputation second to none of this House of Representatives, and anyone who says to the contrary—the back of my hand to him.

Mr. FOGARTY. I thank the gentleman from the State of Washington—a Republican speaking out for MIKE KIRWAN. But I think the gentleman knows as well as I do, even though MIKE KIRWAN is chairman of the Democratic congressional campaign committee, he never knowingly hurt anyone on either side of the aisle in his work for the past 18 or 20 years in this field. I think every Democrat and every Republican would say the same thing. Before I finish my remarks—I hope to extend them when I get the chance this evening—if there is a lady or a gentleman in the House of Representatives today who has ever been offended by MIKE KIRWAN in his 30 years of service in this body as Member to Member, I wish they would stand up now and say their piece. If there are not any Members of this body today who have ever been offended by MIKE KIRWAN, I think that is one of the greatest tributes that could be paid to anyone on either side of the aisle, and I do not see anyone standing up at this time.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman, the ranking member of this committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD. I want to add with emphasis to the kind and fine words spoken on behalf of MIKE KIRWAN by the gentleman from Rhode Island and by the gentleman from the State of Washington. MIKE KIRWAN is my friend and I am proud of it. He has done an outstanding job and always will because that is the kind of person that he is. MIKE is a real gentleman and always will be. The country would be better off with more MIKE KIRWANS in the Congress and I hope he will remain to continue this excellent contribution to a better America.

Mr. FOGARTY. I thank the gentleman from Michigan very much.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the distinguished majority leader, the gentleman from Oklahoma [Mr. ALBERT].

Mr. ALBERT. Mr. Chairman, I am very happy indeed that the distinguished gentleman from Rhode Island, who himself is one of the outstanding Members of the House of Representatives, has taken this time to pay tribute to one of the most devoted, dedicated, respected, and beloved Members ever to serve in this body. MIKE KIRWAN's devotion to our country is an inspiration to every one who loves America.

We on our side have been especially fortunate that MIKE has been chairman of our congressional campaign committee. He has worked at that job effectively and has worked at it constructively. All of us on both sides of the aisle, however, have been fortunate that this great American has been chairman of the Subcommittee on Interior and one of the ranking Members of the Subcommittee on Public Works of the Committee on Appropriations for many years. The story of his life is the story of America.

Mr. Chairman, the 20th century was a fledgling when, as an Irish youth, Mike Kirwan set out to see his country. Mike's reminiscenses of those early days are well known to his colleagues in the House. We know that as he traveled the United States from prairie to mountain top, across lake and down river to the wide expanses of our coastal oceans, there began his lifelong romance with America.

He was overwhelmed by the richness of his country, marveling at its beauty and the endless variety and extent of its natural resources. He has said many times that no American should receive a passport to go abroad until he has seen his own country. Many decades have passed since those early days of Mike's personal discovery of America, but his appreciation has not waned nor has his zealous pursuit of her development diminished.

Since Mike Kirwan was appointed to the House Committee on Appropriations in January 1943, at the beginning of the 78th Congress, he has vigorously advocated the comprehensive development and protection of our great natural resources. Since 1943 he has served continuously as a member of the subcommittee on the Department of the Interior—13 years as its chairman—and since 1955 as a senior member of the Committee on Public Works.

He has had an important influence upon countless reclamation and public works projects funded during the last two decades. These have run the gamut from power and flood control dams to fish hatcheries and game preserves. Name a project which will make better use of our natural resources, raise the local economy, preserve soil and reserve usable water, to improve navigation, and you can be sure that Mike Kirwan had a hand in its development.

The Committee on Appropriations has given me figures which provide some idea of the great progress which has been made in these fields during this period.

*Bureau of Reclamation*

| Expended: | *Billions* |
|---|---|
| 1903–64 | $5.3 |
| 1944–64 (or 80 percent) | 4.4 |

*Corps of Engineers—Flood control navigation and multiple purpose projects*

| Expended: | *Billions* |
|---|---|
| Total history | $16.5 |
| 1944–64 (or 77 percent) | 12.7 |
| 1956–64 (or 46 percent) | 7.6 |

The funds appropriated to preserve, develop, and maintain our priceless natural resources are impressive, of course, but they do not begin to tell the story of what these projects mean to thousands of people who no longer live in dread of water run wild, thirsting crops dying in the fields, of shortages of water for everyday human and animal use, of the acres and acres of soil and thousands of dollars of property saved from devastating flood. They do not tell the story of our great rivers made navigable nor of our vastly improved harbors. They do not tell the story of the millions of American families who can picnic, fish, swim and play in the recreation areas. They do not tell the story of the preservation of wild life and forest lands so that those who follow us will not have to live in a world denuded of natural beauty and swept clear of birds and animals. The magnificent progress in water development in this country during the past 20 years is a monument to the service of Mike Kirwan.

The gentleman from Ohio [Mr. Kirwan] was one of the first to recognize the urgent need to make more adequate provision for facilities in our national parks to handle the increasing number of visitors. In 1956 he increased the budget of the National Park Service, beginning the accelerated program to provide more visitor centers and camping and picnicking facilities. This was the beginning of Mission 66, a full year in an advance of the date planned by the administration.

The gentleman from Ohio [Mr. Kirwan] has also taken the leadership in the provision for essential increases in recent years for the U.S. Forest Service, Fish and Wildlife Service, Geological Service, Bureau of Mines, Bureau of Land Management, and other agencies charged with the responsibility for preservation and development of our national resources.

Although the gentleman from Ohio [Mr. Kirwan] has vigorously supported increased funds to meet the essential requirements of the agencies financed in the Department of Interior and related agencies appropriation bill, he has just as vigorously fought against waste and extravagance and nonessential expenditures. The 13 annual appropriation bills that have been passed under his chairmanship of the Interior Subcommittee have made reductions in the budget requests totaling $367.7 million, or 5 percent.

*Fiscal years 1950 through 1964, except 83d Congress*

| | |
|---|---|
| Total budget estimates | $7,936,972,000 |
| Total appropriation | 7,569,281,000 |
| Reduction | —367,691,000 |

And as he has fought to protect and preserve America's great natural heritage, to develop and expand her resources of all kinds, he has not been oblivious to the needs of the first Americans who have a special claim on the land he loves. Congressman Kirwan has long been known for his work on behalf of the American Indian. He has been an unfailing friend to the Indian tribes, being always the first to support funds for Indian schools, hospitals, and such other projects as lead to improvement of their environment and opportunities.

In 1951 there were 93,700 Indian children in school but there were still 19,300 out of school.

Each year increases in funds have been provided for additional school facilities and teachers so that the 1965 bill, as passed by the House March 17, 1964, makes provision for educating 131,800 Indian children, and none will be out of school due to lack of facilities.

Just for the 5-year period fiscal year 1960 through fiscal year 1964, a total of $1,111 million has been appropriated in the Interior appropriation bill for education, welfare, health, and resource development of the American Indian. In all our history the original American never had a better friend in or out of Congress than Mike Kirwan.

These statistics are impressive, of course, but figures cannot describe the great Irish heart which has unashamedly promoted his own country and touted her so fervently for more than a quarter century. Mike's youthful infatuation with America has survived the stress of years; for him her charms have not faded nor has his ardor cooled. He continues to be the devoted champion of the United States of America. The country owes Mr. Kirwan a debt of gratitude for his many years of untiring work and for the great progress we have made in developing the vital natural resources of our country. He is truly one of the great Members of this House, one of the great men of our time.

A loyal Democrat, he is also a great American. The most effective chairman of the Democratic congressional campaign committee that I have ever known, he has served his party with great distinction as he has served his Nation and his district with great devotion. I join the distinguished gentleman from Rhode Island [Mr. Fogarty] in paying tribute to this great American.

Mr. FOGARTY. I thank my distinguished leader.

I now yield to a fellow Ohioan [Mr. Brown].

Mr. BROWN of Ohio. Mr. Chairman, it is a pleasure for me to join in the tributes being paid to Mike Kirwan this afternoon. I have probably known Mike Kirwan longer than any other Member of the House. I knew him before he came to Congress 28 years ago. We have served together 26 years in the House. He is my elder in point of service in the House.

If I could criticize or find fault in any way with Mike Kirwan, it would be the fact that he, as fine a man as he is, is a Democrat instead of being a Republican. I would much rather that he belonged to my party.

If I had any complaint to make against Mike, it would be over the fact that he has been chosen, time after time, by the votes of his colleagues on the Democratic side of the House—which shows their respect for him—to head up their congressional campaign committee; and that he has been so successful in keeping a Democratic majority in this House.

Mike has always fought fairly in politics. As a Member of the House he has also rendered great service to his country, to his State, and to this House.

I do not believe there is a Member of the minority in this House who can say

MIKE KIRWAN has ever attempted to play politics in any way in connection with any of his legislative activities. Instead, he has attempted to be helpful, and actually has been just as helpful, to the minority Members of the House, as he has been to majority Members in connection with all his public duties.

So again I pay my tribute to MIKE KIRWAN as a good legislator.

Mr. FOGARTY. I thank the gentleman from Ohio. I agree with him 100 percent. MIKE KIRWAN is always fair.

Mr. Chairman, I shall try to follow his leadership now, and if a Republican wishes to say something, and a Democrat, I will yield from side to side.

I now wish to yield to one of the most distinguished Members this House has ever had—and we are sorry to see him leave—one of the most dedicated and most able Members of Congress since I have had the privilege of serving.

I served my apprenticeship under you, Mr. Chairman, in the old Naval Affairs Committee. I do not know of anyone I respect more than the senior Member of this House, the gentleman from Georgia [Mr. VINSON].

Mr. VINSON. Mr. Chairman, I thank my distinguished friend for his most gracious and kind personal remarks to me.

In the nearly 50 years that I have served in the House of Representatives, I know of no Member who has made a more profound impression upon me than the very distinguished Member from Ohio, MIKE KIRWAN.

He stands out as one of the most efficient, most competent, and most effective legislators with whom it has been my privilege to serve in the House.

Whenever he presents a bill from the Appropriations Committee, as chairman of the Subcommittee on the Department of Interior and Related Agencies, he knows every line of the bill and the Members have implicit confidence in his judgment and in his fairness.

He has earned the high regard and confidence of Members on both sides of the aisle.

It is my proud privilege to call MIKE KIRWAN a personal friend. He is a man who has never lost touch with the common people; who has never forgotten his obligation to his constituents, and to the American people; and who has conducted himself as a Member of the House in such a way as to forever reflect credit upon his integrity and ability.

The people of his district can be proud of the manner in which MIKE KIRWAN has represented them in the Congress of the United States.

Mr. FOGARTY. Mr. Chairman, I thank the gentleman from Georgia. This testimonial coming from the gentleman from Georgia is one of the greatest tributes I have heard given in this House for a fellow Member.

Now, Mr. Chairman, I yield to the gentleman from Washington who has been seeking recognition [Mr. HORAN].

Mr. HORAN. Mr. Chairman, I thank the gentleman for yielding to me. It has been said that an honest man is the noblest work of God, and I think without stretching anything it can be said that this certainly applies to MIKE KIRWAN. He is honest and sincere, and while he plays the game hard and for all it is worth, his cards are always on top of the table. His word is as good as his bond, and it has been a privilege to serve with MIKE KIRWAN in the House of Representatives of the Congress of the United States.

Mr. FOGARTY. I thank the gentleman and now, Mr. Chairman, I yield to the distinguished gentleman from Massachusetts, one of the greatest Speakers this Congress has ever known [Mr. McCORMACK].

Mr. McCORMACK. Mr. Chairman, when we talk about MIKE KIRWAN, we are talking about a real man; we are talking not only about a man's man but, in the legislative branches of our Government and in this Chamber, a legislator's legislator.

The gentleman from Ohio, MIKE KIRWAN represents America and the opportunity that exists to everyone under our form of Government to progress. Starting out in the early days of his life, under great difficulty and economic adversity but having the opportunity under our way of life and under our form of Government, he grasped that opportunity. He possessed honorable ambitions and the determination to progress in the journey of life. MIKE KIRWAN is a man who has a heart of warmth, a man who is always trying to help someone, a man who loves his fellowman, a man who has the confidence and respect of every colleague that he has ever served with.

MIKE KIRWAN is a dedicated man in the service of our Government in this Chamber. He is dedicated to our country. He is a man who has great love for his fellow man without regard to race, color, or creed. So when we talk about MIKE KIRWAN, we are talking about the best, not the second best; we are talking about one who has made good, one who possesses those deep qualities of refinement and those niceties that appeal to all of us and which are an inspiration for all of us to follow.

When we talk about MIKE KIRWAN as a legislator, we talk about one who has added luster and strength to the legislative pages of the history of our country. The best evidence of that is what is happening here today. Members of both political parties are paying tribute to the man, politically a Democrat but over and above that MIKE KIRWAN the man, MIKE KIRWAN the great American, MIKE KIRWAN the outstanding legislator, and MIKE KIRWAN the friend.

If I might make a little personal note here—and I know my Republican friends will not think I am transgressing—MIKE KIRWAN is truly a people's Congressman. I think the greatest contribution that the Democrats of his district can make to our country is to keep MIKE KIRWAN in office and nominate him again. I think the greatest contribution that the people of his district can make to our country's best interests is to reelect MIKE KIRWAN, enabling him to carry on the great service that he has rendered in this body during the past 28 years.

Mr. FOGARTY. I thank our Speaker, and now I yield to the gentleman from Ohio [Mr. BOW], another fellow Ohioan of Mr. KIRWAN.

Mr. BOW. Mr. Chairman, I appreciate the gentleman from Rhode Island yielding to me. It is a little difficult to follow the beautiful tribute paid to MIKE KIRWAN by our distinguished Speaker. I agree with all that he has had to say, because I think that he has spoken honestly of MIKE KIRWAN.

I served for 14 years with MIKE KIRWAN on the Committee on Appropriations, and I have never seen him do anything but the noblest things and only do the highest caliber of work.

He is cooperative. He works with other Members. In addition to that, Mr. Chairman, MIKE KIRWAN is my next-door neighbor. His district adjoins mine. I have seen the fine work he has done for his district, in the dams and the watersheds that he has developed there. He made a great contribution to the industry of his district by the developments for which he has been greatly responsible.

And I might say, Mr. Chairman, that some of those benefits have come over into my district, so that we have also benefited by things he has done here in the Congress.

Mr. Chairman, we could go on for a long time saying these things about MIKE. Let me say that I agree with those who have already spoken and with those things that I know others will say. I hope that MIKE KIRWAN will be with us for a long time.

Mr. Chairman, I appreciate this opportunity to say these few words.

EXTENSION OF REMARKS

Mr. FOGARTY. Mr. Chairman, I ask unanimous consent that all Members have permission to extend their remarks at this point in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. FOGARTY. Mr. Chairman, I yield to my distinguished friend from Louisiana [Mr. BOGGS].

Mr. BOGGS. Mr. Chairman, there is little I can add to the beautiful tributes that have been paid to our distinguished colleague, MIKE KIRWAN. I doubt there is a man on either side of the aisle who does not love MIKE KIRWAN, who does not have a deep affection for him. I do not think a man ever earns that affection unless he deserves it.

MIKE KIRWAN sometimes gives the impression of being a rather gruff man. This he is not. He is one of the kindliest men who has ever served in the House of Representatives. I have never seen him do anything except help his colleagues. He serves as chairman of our congressional campaign committee, charged with responsibility for all of us on this side of the House in our election campaigns and contests. I have never known the opposition to say that he took undue or unfair advantage of them in any situation.

For me it has been a great privilege and a great honor to be associated for many years with MIKE KIRWAN. I hope I will be able to continue to enjoy that privilege for many years to come.

Mr. FOGARTY. Mr. Chairman, I thank my distinguished friend from Louisiana. At this time I yield to my distinguished friend from Iowa [Mr. Jensen], who has served longer than anyone else I know of with Mike Kirwan.

Mr. JENSEN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the frailties of man are many and varied, human nature being what it is. But when on that last great day all of us must leave this vale of tears I am sure that our colleague, Mike Kirwan, will measure up with the best of us.

Mike Kirwan is one of the most kindly, considerate men I have ever known. Well do I know his heart beats, after serving on the same committee with him during the past 20 years, and during which time we have built up a wonderful friendship. All who know Mike Kirwan best will tell you that his word is his bond.

Mike Kirwan is a good and loving husband and father, an honorable and patriotic American, a gentleman of the highest order.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman from Pennsylvania, a member of the Committee on Appropriations and an old friend of Mike Kirwan, the gentleman from Pennsylvania [Mr. Flood].

Mr. FLOOD. Yes, indeed, I am an old friend of Mike Kirwan's.

Mike has been a friend of mine since I wore diapers, and how long ago that is, Mr. Chairman, is none of your business.

Let me say this. Mike was born and raised in my district. His brothers and his sisters who are still alive are there with big families, in the best Irish tradition, beloved and respected.

Mike still has requests every month from the most respected and the most distinguished organizations and societies in my district to come back and talk to them, every month and every year, Catholic, Protestant, Jewish, Republican, Democratic, union, chamber of commerce, and what have you, and will have.

Mike, any time you want to come home you are welcome home, provided you assure me you do not want to run for Congress.

Mr. Chairman, this is an American in the best tradition. This is a diamond in the rough. Perhaps we have become a little too sophisticated here any more, but we do not forget one of nature's noblemen—Mike Kirwan.

Mr. Chairman, this is the week of the 400th anniversary of William Shakespeare. There is considerable doubt as to the authenticity and the integrity of the famous bard as author. But, Mr. Chairman, in Wilkes-Barre, Luzerne County, Pa., and in this House, as is evidenced today, there is no doubt about the love and affection we have for Mike Kirwan, the respect and regard for his integrity, and as far as I am concerned I speak for that home county, his home township of Plains, and his old home State of Pennsylvania, when I say may his shadow never grow less.

Mr. FOGARTY. I thank the gentleman.

Now, Mr. Chairman, I yield to one of the most distinguished Members of the House, the gentleman from Iowa [Mr. Gross].

Mr. GROSS. Mr. Chairman, I commend the gentleman from Rhode Island for taking this time.

I am sure the gentleman from Rhode Island knows, as do the Members of the House, that I have had in the past sharp differences of opinion with the gentleman from Ohio [Mr. Kirwan] regarding certain legislation. But I have respected him at all times as a man of honest conviction, as I am sure he respects me in the same manner. For anyone, anywhere, at any time, to suggest by innuendo or otherwise that the gentleman from Ohio [Mr. Kirwan] is a despised Member of the House is to be completely and utterly careless with the truth. It is untrue and I deeply resent any such effort to besmirch his character.

I thank my friend from Rhode Island for yielding.

Mr. FOGARTY. I thank the gentleman from Iowa.

Now, Mr. Chairman, I yield to one of the most distinguished gentlewomen of the Congress, the gentlewoman from Michigan [Mrs. Griffiths].

Mrs. GRIFFITHS. I would like to thank the gentleman from Rhode Island for yielding.

Mr. Chairman, I have observed that when Mike Kirwan speaks on the floor of the House, the House listens. Also, when he sponsors a bill for passage, he passes it. When he gives one his word, the deed is done.

Mr. Chairman, these are the attributes of leadership, these are the qualities of power. In this century the 19th District of Ohio will never again be represented by a man who has reached the power and is held in such esteem as is Mike Kirwan, of Ohio.

Mr. FOGARTY. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. Laird].

Mr. LAIRD. Mr. Chairman, I thank the gentleman for yielding to me. I should like to join with him in paying tribute to Mike Kirwan. I want to direct my remarks to Mike Kirwan—the man. Mike is a true friend and a great American.

I have had the opportunity of serving with him on the Committee on Appropriations of the House for the past 12 years, and it has been a real opportunity for me as junior member of that committee to have the opportunity to watch Mike Kirwan and to learn from Mike Kirwan. I would like to say to the gentleman from Rhode Island that Mike Kirwan is a good man. Anyone who makes the statement that Mike Kirwan is a mean man knows not of what he speaks. I am happy to salute Mike Kirwan today.

Mr. FOGARTY. Mr. Chairman, I agree with the gentleman and I now yield to one of the most distinguished Members of Congress from New York [Mr. Keogh].

Mr. KEOGH. Mr. Chairman, I wish my head could be coordinated with my heart at this moment, this would be my greatest speech, for of the almost 100 Members who were elected in 1936 Representative Kirwan and I were 2. Of the six who are left, he and I are two. He is the big one of the six.

He and I came together, and we have stayed together all through the years. It has been my good fortune, Mr. Chairman, to have had frequent opportunity to consult and to be with one whose life is the saga of America, of hard and humble beginnings, and onward and up the road to success. The triumphs that have made Mike Kirwan great are embodied in him. His accomplishments have been many and great and good. I am privileged indeed, Mr. Chairman, to call Mike Kirwan my friend.

Mr. FOGARTY. I thank the gentleman.

I now yield to the gentleman from New York [Mr. Halpern].

Mr. HALPERN. Mr. Chairman, I commend the gentleman from Rhode Island for taking this time to pay tribute to our beloved colleague, Mike Kirwan. I rise as a Republican to associate myself with the heartfelt remarks made by so many of our colleagues this afternoon about a truly distinguished Democratic Member of this House.

I have not had the privilege of knowing Mike Kirwan as long as have many of the other Members of the House, but in the several contacts I have had with him I have always found him to be humble, forthright, honest, good, understanding, and a fine gentleman. Knowing this lovable colleague of ours has been one of the truly rewarding experiences I have had as a Member of this House.

Mr. FOGARTY. Mr. Chairman, I thank the gentleman. I now yield to the gentleman from Arkansas [Mr. Harris].

Mr. HARRIS. Mr. Chairman, when the gentleman from Rhode Island, the gentleman from South Carolina [Mr. Rivers], and I came to this Congress almost 24 years ago, one of the first Members we met, for whom we developed a love and affection and admired, was Mike Kirwan of Ohio.

During these nearly 24 years I have had the opportunity of associating with Mike and have observed him as a man, as an American, as a legislator, as a Democrat, and I join with my many colleagues today in paying tribute to a man of great character and integrity.

He is the epitome of a true American. He has been in my district, and he has the affection and the love of the constituents of mine he has met in several places, Hot Springs, Eldorado, Texarkana, and other places.

Mike Kirwan is a true legislator, a hard worker not only for his own district in Ohio, but for the whole of the United States. He is one of our greatest.

Mr. FOGARTY. I thank the gentleman from Arkansas.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. Ayres].

Mr. AYRES. Mr. Chairman, I wish to add my remarks to those that have been made by others today regarding my colleague from Ohio, Mike Kirwan.

When I first ran for Congress 14 years ago, my district adjoined MIKE KIRWAN'S. In fact, MIKE KIRWAN gave the first political speech that I ever heard a Congressman give, in Warren, Ohio, just outside of my district at that time. After MIKE was through talking, I went up and said hello to the gentleman I knew only as Congressman KIRWAN. I shall never forget the advice he gave me. He said, "AYRES, I understand you are the fellow running for Congress in the 14th District. Work hard, tell the truth, and let the people know where you stand, and maybe one day you will be a colleague of mine." His advice was good.

I am proud that MIKE KIRWAN is a friend of mine, and I am even prouder to be a colleague of the gentleman from Ohio whose district adjoined mine and but for whose sound advice 14 years ago I might never have gotten here.

Mr. FOGARTY. I thank the gentleman.

Mr. Chairman, I yield to the distinguished gentleman from South Carolina [Mr. RIVERS], the next chairman of the Committee on Armed Services, and one of the most important Members of Congress.

Mr. RIVERS of South Carolina. Mr. Chairman, if I have had any distinction in the 24 years I have been in Congress it has been the privilege of serving with MIKE KIRWAN. In those 24 years I have never heard such a distinguished, illustrious array of men pay such a tribute to any living Member of this Congress. This is a day that should be well remembered by all of us. Never has such a thing transpired in my memory.

I want to associate myself, Mr. Chairman, with this eloquent group headed by the Speaker and by the dean of the House, the gentleman from Georgia [CARL VINSON], who has served here 50 years, and with those others who have with such unmatched eloquence pointed out the love and respect and affection we hold for MIKE KIRWAN, of Ohio, and that America holds for this man.

His project is America. That is his one interest. His project is to defend the institution known as the Congress of the United States. To one who has looked on his background and his character, it ill becomes anyone, whoever he might be, to speak ill of MIKE KIRWAN.

Might I recall to the House a personal thing MIKE KIRWAN did for me. There are 24 colored families in South Carolina, I can tell you, who love MIKE KIRWAN. I went to see him at one time and told him of a fish hatchery that was built in my district in connection with the construction of a $100 million dam. The water backed up and formed a fish hatchery there, but it isolated about 24 colored families living out on a little manmade cape that extended into this body of water. These people had to go all the way around some 25 or 30 miles to get the 4 or 5 miles to school. The Interior Department fooled around with this and double talked and double talked, and we could not get any help from them. These people were left with an almost impenetrable gap between their home and their school.

I went to MIKE. He gave me the money to bridge this thing. It was not in the budget. It was not questioned on the floor. The people down there think MIKE KIRWAN is the greatest living American. I could not find anybody here today who doubts their love for this man.

I want to associate myself, feeble as I am, with those who pay tribute to this man of America, MIKE KIRWAN, of Ohio.

Mr. FOGARTY. I thank the gentleman.

Mr. Chairman, I yield to the gentleman from South Dakota [Mr. REIFEL].

Mr. REIFEL. Mr. Chairman, I want to thank the distinguished gentleman from Rhode Island in affording this opportunity to the Members to pay tribute to this great colleague of ours. No other Member of this House has been more concerned with the welfare and the improvement of conditions of the Indian Americans in this country than MIKE KIRWAN.

I should like to join those who have taken this occasion to recognize the outstanding services of the distinguished gentleman from Ohio [Mr. KIRWAN].

It has been my real pleasure and distinct honor to be one of the newer members of the subcommittee on appropriations for the Department of the Interior on which the gentleman from Ohio [Mr. KIRWAN] serves as its most distinguished and outstanding chairman. Throughout the 2 years that I have had this great privilege, he has shown great insight and great understanding of the needs of this particular minority group in our country. No one has given more thought or has been more deeply concerned than MIKE KIRWAN about their problems. His concern derives from a truly human interest and recognition of the dignity of man. This has been MIKE KIRWAN throughout the short years that I have come to know him. I hope, if my tenure as a Member of this great body continues, that MIKE KIRWAN'S will go on and on and that I shall have the great privilege of sharing with him his knowledge and his interest and his warm feelings for his brother man.

The gentleman from Ohio [Mr. KIRWAN] is truly one of the architects of America and a great American himself. His approach in committee during my tenure has always been one of unreproachable statesmanship and strict bipartisanship.

Mr. FOGARTY. I thank the gentleman from South Dakota.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman.

Mr. ANDREWS of Alabama. Mr. Chairman, I want to say that I have had the pleasure of serving with MIKE KIRWAN on the Appropriations Committee for the past 20 years. I have never known a more ruggedly honest man than MIKE KIRWAN. MIKE KIRWAN is a Christian gentleman. I see him every Sunday morning, with very few exceptions, on his way to or coming from his church. MIKE KIRWAN is a hard-working man. He is in the House cafeteria every morning having breakfast as soon as it opens at 8 o'clock. He is in his office late at night.

MIKE KIRWAN came up the hard way and he has had one burning desire in his heart and one ambition as a Member of Congress, and that is to try to make America beautiful and to try to make America a better place for our young people to live in than what it was when he came along and grew up.

When MIKE KIRWAN can be singled out for a vicious attack, it makes the whole Congress subject to the same kind of attack. I appreciate the efforts on the part of the gentleman from Rhode Island to give the Members of this House an opportunity to express their opinion of MIKE KIRWAN. There is not a finer man in America than MIKE KIRWAN. I love him. He is ruggedly honest. His word is his bond and I will say there is not a vindictive bone in his body.

Mr. FOGARTY. I thank my distinguished colleague from Alabama.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman.

Mr. TEAGUE of California. I would like to add my tribute but on a slightly different angle, perhaps. As we all know, in addition to his other duties, the gentleman from Ohio [Mr. KIRWAN], holds two very important chairmanships. One is to try to elect Democrats to replace sitting Republicans. The other is as chairman of the Subcommittee on Interior and Insular Affairs of the Committee on Appropriations. My district is such that I have a lot of business with MIKE KIRWAN'S committee. I am sure MIKE KIRWAN being a Democrat would like to see a Democrat replace me. But this has never in any way affected his judgment and his treatment of me with reference to projects that I have brought before his committee. I would like to add special tribute to MIKE KIRWAN for the way he handles these two jobs.

Mr. FOGARTY. I thank the distinguished gentleman from California.

Mr. LANDRUM. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Chairman, for 12 years since I became a Member of this House, I have not known a Member who has had more genuine interest in developing America and all of our resources, human and natural, than MIKE KIRWAN. I learned soon after I came here that MIKE was on the Committee on Appropriations because I commenced to seek some means of improving a resource in northeast Georgia that had not been developed. I went to MIKE and sat down and talked to him about it. He said, "Let me study your problem a little while, young man, and maybe in a few weeks you can come back and I can help you work something out."

So, I went back to see MIKE in 2 or 3 weeks, and he said, "Here is what I believe we ought to do, for you to start a program down there." He actually helped me to launch a program which has been developing through these 12 years, and now there are thousands upon thousands of people who enjoy fishing in the north Georgia mountains when actually there was not enough fish in the streams 12 years ago. This is due in no small part to the enterprising thinking and the dedication of MIKE KIRWAN and his willingness to assist a young Member of Congress develop his district.

I am glad to join his friends in paying this tribute to him today.

Mr. FOGARTY. I thank the gentleman from Georgia.

Mr. Chairman, I now yield to the gentleman from Pennsylvania [Mr. KUNKEL].

Mr. KUNKEL. Mr. Chairman, I thank the gentleman from Rhode Island for yielding to me. I certainly appreciate his taking the floor this afternoon for this fine purpose. When I learned he was going to do this, I came here to the floor immediately. Ever since then I have been sitting on the floor listening to the glowing and well-merited tributes paid to MIKE KIRWAN by Members of the House on both sides of the aisle. I have listened attentively and I have not heard anybody say anything here yet about MIKE KIRWAN with which I would not wholeheartedly agree. So I take this opportunity to join in the tributes and echo the sentiments and statements previously expressed.

Mr. FOGARTY. I thank the gentleman.

Mr. Chairman, I shall yield next to the gentleman from Colorado [Mr. ROGERS], but I make the announcement that I did obtain consent for all Members to revise and extend their remarks in the RECORD.

Mr. ROGERS of Colorado. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I appreciate the fact that the gentleman from Rhode Island has taken this time for this purpose, and I congratulate him for taking a forward step in directing the attention of Members to the great work MIKE KIRWAN has performed as a Member of this body for 28 years.

Our beloved Speaker a moment ago paid tribute to him by saying that he was really and truly a typical American. We realize that he started his life in the coal fields of Pennsylvania, as the gentleman from Pennsylvania [Mr. FLOOD] said a moment ago. He has lived in various parts of the United States. He went to war in World War I and contributed his part, offering his life for his country. He has worked his way up and stood up. He has been a standup man throughout all this time.

When he came to the Congress he was typical of what we like to believe Americans are. When it was necessary for him to make decisions, he studied the problems. As he studied those problems he reached conclusions. When he reached those conclusions and gave his word, then we knew he was a man. That is how I like to think of MIKE KIRWAN.

I thank the gentleman for yielding to me.

Mr. FOGARTY. I thank the gentleman from Colorado.

I now yield to the gentleman from New York [Mr. OSTERTAG].

Mr. OSTERTAG. Mr. Chairman, I wish to join my colleagues today in tribute to a great American, MIKE KIRWAN. Ever since the day I arrived here as a Member of Congress I have regarded MIKE KIRWAN as one of my best and cherished friends. I know of no Member of the House who is held in higher esteem. He is a wholesome gentleman. He is a sincere and dedicated Representative.

As a member of the Appropriations Committee, it has been my privilege to work closely with him and to observe his many achievements in the interests of the people of our Nation. MIKE KIRWAN deserves the best by virtue of his outstanding contribution toward making this country a better place in which to live. I salute him on this occasion.

Mr. FOGARTY. I thank the gentleman from New York.

I now yield to the gentleman from Florida [Mr. SIKES].

Mr. SIKES. Mr. Chairman, this tribute to MIKE KIRWAN by his colleagues, by the men and women who really know him best, is heart warming. It is deserved. He has won many victories at the polls.

More significantly, he has won many legislative victories and he has won the confidence of his colleagues. These are not accidental, but they are a recognition of the work of a great man and a great American. They tell a story of confidence which is seldom bestowed on any man in or out of Government. The Congress is proud of MIKE KIRWAN, proud of his leadership in Congress, and proud of his service to America.

Mr. FOGARTY. Mr. Chairman, I thank the gentleman, and now I yield to the gentleman from Brooklyn, N.Y. [Mr. ROONEY].

Mr. ROONEY of New York. Mr. Chairman, I am grateful to the gentleman from Rhode Island for this opportunity to participate in these glowing and well-deserved tributes to the distinguished gentleman from Ohio, the Honorable MICHAEL J. KIRWAN. In not too many months it will be 20 years ago that the distinguished chairman of the House Committee on Appropriations to which I was then assigned as a new Member, the Honorable CLARENCE CANNON of Missouri, placed me alongside of MIKE KIRWAN on the Subcommittee on Appropriations for the Department of the Interior. Beginning at that time I came to know MIKE KIRWAN quite intimately and, as a matter of fact, toward the end of World War II in 1945 I visited the then territory of Alaska with him, the distinguished gentleman from Iowa [Mr. JENSEN], and two other distinguished Members, now deceased. We spent many weeks inspecting most of the territory of Alaska, and during the course of the trip it became my lot to room on many nights with the distinguished gentleman from Ohio, MIKE KIRWAN. I remember that every night before he went to bed and every morning as he arose his knees went to the floor to commune with his blessed Saviour. That is the kind of man MIKE KIRWAN is. In addition, he is a kindly man who has never lost the common touch, and although MIKE's formal education was limited as a boy, and I do not know whether it has been said here as yet or not, he has many degrees in the humanities from institutions of higher learning in this country. There have been many other well-deserved tributes, too, to MIKE KIRWAN for his great work here in the House of Representatives of the United States and for his work in connection with the conservation of our natural resources for the benefit of all the people of the United States. I thank the gentleman from Rhode Island for yielding to me.

Mr. FOGARTY. I thank the gentleman for his remarks, and I yield now to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I know if the dean of our delegation, the gentleman from California [Mr. SHEPPARD], were on the floor at this time, he would bespeak the admiration and respect which all of the Members, both Republicans and Democrats, in the State of California have for MIKE KIRWAN. As he is not here, I am taking it upon myself to say at this time that the State of California and all of the Western States, and I suppose every State of the Union owes a debt of gratitude to MIKE KIRWAN for his indomitable fight over the years for the preservation of our natural resources. We in the West appreciate the help he has given to recreation and irrigation projects and the great power and water dams of the West, for the work he has done in reforestation as well as the tremendous amount of work he has done to maintain the real riches of America and perpetuate them for uncounted generations.

MIKE KIRWAN lives in a State which has been blessed with plenty of water and great fertility of soil. It is therefore the more remarkable that he understands the problems of irrigation and reclamation in the arid States of the West.

The great growth in population in the West has been made possible by the conservation of water from our few rivers and our mountain watersheds. It has been necessary to have great reservoirs behind large and expensive dams. Federal funds have been used to make these investments in the present and the future of our Nation. MIKE KIRWAN more than any other one man has led the fight for appropriations for these western developments. The people of California, yes, the people of all our Western States, salute their steadfast friend, MIKE KIRWAN, of Ohio.

Mr. FOGARTY. Mr. Chairman, I yield to the gentleman from North Carolina [Mr. BONNER], who has been seeking recognition.

Mr. BONNER. Mr. Chairman, it has been a great pleasure for me to serve in this House with many distinguished men, men of all religious faiths. MIKE KIRWAN set an example to my denomination; that is, to the Protestants. I was off on a fishing trip with the late Speaker of the House, Mr. Rayburn, and several others, and on a Saturday afternoon we were so busy fishing and catching fish that we forgot the time. We were out on an island, and that night after supper Mike Kirwan said, "I have to get to mass tomorrow morning." I said, "I will phone and have a helicopter come over here." So Sunday morning a helicopter came to the island and took Mike Kirwan to mass and brought him back again. That made the greatest impression on the people in that part of my State that they have ever had displayed to them with respect to love, faith, and belief in the Christian way of life. It left an impression on me that I will carry forever. If we Protestants would follow the example that he set, the Protestant churches would come up in the matter of attendance and devotion to the point the Catholics have reached in their church.

Mr. Chairman, Mike Kirwan is a great man. It has been a pleasure to know him. I am proud to associate myself with the other fine gentlemen of this House who have testified to his high character.

Mr. FOGARTY. Mr. Chairman, I thank the gentleman from North Carolina and at this time I yield to the gentleman from Mississippi [Mr. Abernethy].

Mr. ABERNETHY. Mr. Chairman, I thank the gentleman from Rhode Island.

Mr. Chairman, I have been in this House for quite some time—22 years. I have heard tributes paid many who have served in this body. Indeed, I cannot recall that there has ever been a tribute paid any man exceeding or equal to that which has been paid this day to our beloved colleague from Ohio, Mike Kirwan.

In my judgment, Mr. Chairman, the gentleman from Ohio is entitled to all of the good and kind things, and even more, that has been said of him. He is fair. He is generous. He is kind, he is considerate. And above all, he is forthright and ruggedly honest. He is not sectional. I have called on Mike a few times concerning problems of my own State. He has always accorded me a fair hearing and treated me and my people fairly.

Mike Kirwan is one of the most respected men ever to serve in this body. He is one of the great men of our time.

Mr. Chairman, I congratulate the gentleman from Rhode Island [Mr. Fogarty] for taking this time and am happy to join in this deserving tribute to our beloved colleague from Ohio.

Mr. FOGARTY. Mr. Chairman, I thank the gentleman from Mississippi, and at this time I yield to the gentleman from California [Mr. McFall].

Mr. McFALL. Mr. Chairman, it is a privilege to join the gentleman from Rhode Island in his remarks about our good friend, Mike Kirwan. Not only is Mike admired personally by the Members of this House, but also in my opinion history will recognize him as one of those Members who by reason of personal desire and ability and opportunity has been a real builder of America.

During his career in Congress he is probably responsible for as much development of our Nation's natural resources as any other individual in our country's history. His goal has been to build America—its water and power resources, its parks, its fish and wildlife, and all of its great natural resources for the benefit of our people.

Of paramount importance in the projects that he has helped into being are their lifesaving features. Once terrifying torrents are now controlled streams, forest fire dangers have been diminished and other perils have been eliminated because of his efforts. My own State of California is deeply grateful for his assistance in our water projects over the years which have been the lifeblood of California.

Many years ago he saw our State first hand as a self-styled "knight of the road" long before there were many people in the State or much water development. He knows from his own experiences how important the continued development of our natural resources is to California.

Mike Kirwan's entire record in Congress is typified by his high regard for his fellow man, his love for his country, and the development of its great resources for the benefit of our people. It is a source of great pride and great satisfaction that he has many more years of accomplishment remaining so that he can continue to build America and make it great.

Mr. BENNETT of Florida. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman from Florida.

Mr. BENNETT of Florida. Mr. Chairman, the qualities of a statesman, it seems to me, are primarily integrity and courage. They are both found in Mike Kirwan in a superlative degree. In these fundamentals he has no superior.

There are two other qualities of human nature which he exemplifies very richly. They are humor and humility. Certainly every one of us who has served in the House of Representatives with Mike Kirwan has known him as a friend, because he does not have any enemies; he does not know any enemies. He gives love and affection to people wherever he goes. He stands for his religious faith. He is a great American. All over America things exist today for future generations because of the courage of this man, because of his determination, because he is a man of character, a man of perseverance, a man of vision.

It is a pleasure indeed for me to have the chance to say these words about my friend, Mike Kirwan.

Mr. FOGARTY. I thank the gentleman from Florida.

At this time I yield to the gentleman from Virginia [Mr. Gary].

Mr. GARY. Mr. Chairman, it is with pleasure that I join in this well-deserved tribute to Mike Kirwan, a loyal colleague, a dedicated legislator, an outstanding Christian gentleman and a great American. It has been my privilege to be associated with him on the Appropriations Committee for nearly two decades. There I have observed his great ability, his fidelity to the trust his constituents have placed in him and his courage. He enjoys the respect and affection of every Member of this body. And I personally cherish his friendship.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. FOGARTY. I yield to the gentleman from Illinois.

Mr. GRAY. Mr. Chairman, my heart's bells ring with joy today for the privilege of joining our beloved Speaker and my other colleagues in paying tribute to this great American, Mike Kirwan. Mike has been a tremendous help to the congressional district I have the honor to represent. I certainly count it a great privilege to be able to stand here and publicly tell this body and the country that I know of no greater American or greater legislator than Mike Kirwan.

I appreciate very much, Mr. Chairman, the opportunity of making these few remarks.

Mr. FOGARTY. Mr. Chairman, I yield to the gentleman from Illinois [Mr. O'Hara].

Mr. O'HARA of Illinois. Mr. Chairman, Mike Kirwan is one of the great Americans of our time.

Mr. Chairman, the Honorable Michael Joseph Kirwan is one of the great Americans of our times, and we who have been associated and worked with him in this body have felt the fire and the drive and the restless dedication of one of those rare leaders of men who make dreams come true.

Every tree in the forest, every ripple in a sequestered brook, every flower that grows in the wilderness is a monument to Mike Kirwan, who has been coupled with Theodore Roosevelt as the two greatest conservationists in the history of our Republic by no less an authority and lover of Nature than the Chief Justice of the Supreme Court of the United States, Earl Warren.

Americans for countless generations to come will be indebted to Mike Kirwan, and what we say today is only a feeble preface to the final decision and appraisement of history. I am happy and privileged to have the opportunity of joining my colleagues in the remarks on this occasion.

Mr. FOGARTY. Mr. Chairman, as was stated by the gentleman from Mississippi [Mr. Abernethy], I have been here now for 23½ years. I have heard many tributes paid to Members of Congress. However, in my opinion this is the greatest tribute ever paid to any Member of Congress in the past 23 years in my time.

Now, Mr. Chairman, I yield the balance of my time to the distinguished chairman of the Committee on Appropriations the gentleman from Missouri [Mr. Cannon], one of the great legislators in the history of the Congress of the United States.

Mr. CANNON. Mr. Chairman, one of the many compensations for service here in the House is the privilege of association with the noted, distinguished, able, and in numerous instances, unusual and extraordinary men who make up the Congress. They are drawn from every section of the country and from every profession and every walk of life. They are men of varied talents and characteristics and traits of character.

Among the thousands of those who have come here during the last 50 years none have impressed me more profoundly than our own Mike Kirwan. It was my good fortune to serve with him from his first day in the House and his first day on the committee. He has measured up to the most exacting requirements. He has been the ideal representative—of his people, his district, his State, and the Nation.

Here in the House a man is judged for what he is. He rises and exerts an influence in proportion to his ability and his sincerity and innate talent and qualification.

The Congress is a kindly body. It is indulgent. But it is merciless in its judgments. Men reach here because of their knowledge of men and their ability to judge human nature. And their measure of a colleague is unerring.

For that reason the sudden, unpremeditated, and impromptu tribute to Mike Kirwan here on the floor today is particularly significant. You can leaf through the pages of the Congressional Record for the last 50 years and you will not find a single instance of so spontaneous, so heartfelt, and so unanimous a tribute to any man—living or dead—as that unexpectedly paid Mike Kirwan by his colleagues and associates in the midst of debate on a routine bill this afternoon. It is without counterpart or precedent. It is the unqualified decision of the most critical body in the world that today honors Mike Kirwan as a great legislator, a great citizen, a great man, and a great friend.

And so, we all join wholeheartedly in that ancient toast by Rip Van Winkle. Here is to Mike. "May he live long and prosper."

Mr. NATCHER. Mr. Chairman, it is a pleasure serving in the House of Representatives with my friend, Michael J. Kirwan.

He is a kind, considerate, able, industrious, sincere, and courageous Representative. There are times when he believes that every Member of Congress must have the courage of his convictions and the nerve to battle for them if necessary.

Mike Kirwan is the chairman of the Subcommittee on Interior Appropriations of the Committee on Appropriations in the House and has served in this capacity for a great many years. This subcommittee, as you know, is the one which makes the recommendations for the National Park Service and for all of the services of the Department of the Interior. In line with our rapid increase in population and with more of our people retiring at an early age, it is essential that we continue to develop our national parks and all of the facilities under the direct control and operation of the Department of the Interior.

All down through the years, my friend, Mike Kirwan, has believed that our natural resources should be preserved, protected, and fully developed, and that our people should have the opportunity and the right to visit and enjoy the scenic wonders and beauties of our land. From time to time in traveling throughout the 50 States of this country one sees road signs indicating that a certain project under construction is a part of the tremendously successful Mission 66 program sponsored by the Department of the Interior, and I want you to know that our colleague from Youngstown, Ohio, has had as much to do with this program as any Member of Congress.

Moreover, whenever the people in any one of our 50 States are in difficulty as the result of floods, tornadoes, or any other of the numerous disasters that confront our people from time to time no Member of Congress acts more sympathetically or effectively than Mike Kirwan. I have seen him tested on more than one occasion on legislation pertaining to the best interests of our country, and I say to you quite advisedly that he always responds constructively and courageously.

One of the nicer things that has happened to me since I have been a Member of Congress is to be permitted to know, to understand, and to like Mike Kirwan. He is an outstanding Member of Congress and deserves the many tributes which have been paid him today by his colleagues. I subscribe to each of these tributes and especially to those paid him by the members of the Committee on Appropriations.

Mr. ASPINALL. Mr. Chairman, I am happy to join with my colleagues in speaking about the attack on our friend, the gentleman from Ohio [Mr. Kirwan], by Drew Pearson in his recent syndicated column. Those of us who know Mr. Kirwan personally and have worked with him over the years know that he needs no defense for his actions here in Congress. We may not always be in agreement with him but we admire his honesty of purpose, his frankness of approach, and the understanding with which he deals with those who oppose him as well as those who support him. I speak, therefore, not so much in defense of him as in the role of an understanding colleague.

One of the great difficulties that we Members of Congress have here on Capitol Hill is to make known not only to the people whom we have the honor to serve but also to those who are responsible for diffusing information throughout the land all the circumstances that surround a piece of legislation and its relationship with other legislation which has been, is being, or will be considered. In the heat of debate, arguments may be presented and words may be said which would not be used at other times and in other places. Those responsible for reporting the news have their problems, as we all know. Personal ambitions are the same, regardless of where they are found and regardless of what prompts them. But those who use the pen to present their position must never forget that their privilege of reporting is not a license to hunt and to destroy those with whom they are in disagreement or even those in whom they have lost confidence.

I have personally found Mr. Kirwan very easy and enjoyable to work with. He understands the relationship between the authorizing procedure and the appropriating procedure as well as any Member of Congress. He has and bears well the responsibility that comes with being chairman of the subcommittee which appropriates for the programs authorized by the committee of which I am chairman. I have never worked with anyone who is more understanding or more cooperative. This does not mean that we are always in agreement. In fact, we were not in agreement in the matter of adoption of the rule on H.R. 2331, but I understood his position quite clearly and I, then and even more so now, consider his actions on the rule logical and having been on the losing side. I may say, quite successful.

H.R. 2331, a bill to establish the Chesapeake and Ohio National Historical Park, came out of our Committee on Interior and Insular Affairs on July 16, 1959, after a long hard series of hearings and executive session discussions. It was not until March 23, 1960, that the Rules Committee took the necessary action to allow it to be brought to the floor and it was not until May 19, 1960 that the Rules Committee's resolution was considered on the floor. Then the House denied us a rule. I favored the rule. Mr. Kirwan was opposed to it. In view of the vote—134 to 227—I can hardly say that he was alone in his fight.

This is not the time or the place to reargue the merits of H.R. 2331, to discuss the question whether the House acted wisely or unwisely in rejecting the rule, or to speculate about all the reasons which may have induced 227 of my colleagues to vote against the advice of their Committee on Interior and Insular Affairs.

Suffice it to say that the gentleman from Ohio [Mr. Kirwan] played a prominent and effective part in the debate on the rule. Though I disagreed with him at the time, and though I might very well disagree with him again if the matter were here today, the plain fact is that he had certain solid reasons for the action he took and that he deserves respect for voting and persuading others to vote accordingly.

He was concerned with the proposed establishment of the Chesapeake & Ohio Canal area as a national historical park at a time when the Corps of Engineers was busy studying the water supply needs of the Washington area. We in the Interior Committee thought we had worked out a reasonable and acceptable compromise which would enable the park to go forward without precluding water supply development in the future if that became of overwhelming importance. Mr. Kirwan did not think so and I would be the last to deny that, once a national park or monument is established, it is extremely difficult—well-nigh impossible, in fact—for it to be opened up for other badly needed public works, regardless of what the law may say.

Mr. Kirwan thought, again, that there were items on the National Park Service agenda which were of higher priority than the C. & O. Canal and that it could well wait awhile. I think the action of our Committee on Interior and Insular Affairs makes clear that we thought otherwise but, once more, I would be the last to say that there is anything wrong or improper in a Member's expressing and voting his convictions here on the floor, even if it means substituting his judgment for that of the committee in charge of a bill. Committees, after all, are supposed to be the servants of the House, not its masters. And Mr. KIRWAN, sitting in the place on the Appropriations Committee on which he does, was and is in a very good position to look over the whole national parks program and to assess the proper place of individual items in it. Certainly, he was in a good position to look over the program in this immediate area of Washington and vicinity and say where, in his judgment, the C. & O. Canal fitted in. We must remember—as he remembered—that there are already 42,000 acres of Federal parklands in active use here, and a thoughtful Member of Congress might well conclude that the addition which the C. & O. Canal would make should be subordinated to needs elsewhere.

Finally, I cannot say that Mr. KIRWAN was unreasonable in insisting that the Park Service should have a better idea of where it wanted to go with the C. & O. Canal than it did at the time. His Appropriations Committee had been told by the Park Service only a month before the Rules Committee acted that it, the Park Service, had made only preliminary studies of the land it needed and this "for the purpose only of ascertaining in general the minimum size needed to achieve the conservation objectives envisioned by that legislation." My lack of agreement with Mr. KIRWAN's vote against the rule on the floor does not and should not be cause for me—or for anyone for that matter—to say that his action was not that of a responsible legislator.

Now, let me mention another matter that keeps cropping up—the land across the Potomac from Mount Vernon that we are all interested in saving for posterity. Our Interior and Insular Affairs Committee authorized appropriations of up to $937,600 for this purpose. The best estimates that we had at the time gave us an average cost of $1,600 an acre, and there were assurances that a substantial acreage would be donated and that many residents would gladly give the Government scenic easements. Moreover, what really triggered the legislation was the threat that a sewage disposal plant would be built on the site. That threat has now been completely dissipated, the scenic easements have not come through as expected, only about one-third of the land that was expected to be donated has in fact been received, and acquisition costs for such land as has been purchased have run more than double what we anticipated at the time the authorizing bill passed the House. The press has from time to time rapped the knuckles of the Appropriations Committee for proceeding as cautiously as it has. Yet, let us bear in mind that Congress has, in fact, appropriated nearly $400,000 for land acquisition and that the key tract, Mockley Point, has been acquired. I would like to see the program completed, but as surely as I stand here I cannot view the action of the Appropriations Committee as being unjustified or irresponsible.

Mr. Chairman, I have said enough, I hope, to indicate my feelings and my thoughts that our great colleague from Ohio [Mr. KIRWAN] deserves credit, not blame, for what he has done. I am sure his shoulders are broad enough to carry the criticism that has been heaped upon him just as they are broad enough to carry the responsibility that his office carries with it. But I think it well that some of us, opposed though we have been at times to his views with respect to specific matters on the floor, make it clear that we understand his position and that we respect him for it.

Mr. WHITTEN. Mr. Chairman, I have often said there is no more effective man on the floor of this House than MIKE KIRWAN. His effectiveness comes because he is fair, he is informed, he is courageous, honest, and able. Never have I seen him take unfair advantage.

Always he has put his country foremost. To MIKE KIRWAN, a dollar spent on the United States is a dollar invested in the future. Truly he has done his part to leave a rich Nation for coming generations.

You may differ with him, as we all differ on issues from time to time, but never can we question his sincerity or his fair treatment.

He is and has been my friend—and a most effective one for that in which he believes.

Mr. EDMONDSON. Mr. Chairman, it is both a privilege and a pleasure to join in this tribute to a great Congressman and a great American, the Honorable MIKE KIRWAN, of Ohio.

MIKE, as he is affectionately known by all of his colleagues, is a courageous and outspoken advocate of some of the most important programs before us in the Congress—water resources development, conservation, improvement of our rivers and our harbors for navigation, irrigation, and reclamation, to mention only a few.

As the Representative of a district where thousands of Indians live, I have been deeply grateful for his stalwart assistance in the fields of Indian health and education.

I have also seen the leadership which Congressman KIRWAN has supplied to assure financing of programs to assist the miners of America, particularly those who labor in the coal mines and in the lead and zinc mines of the Nation, where some regions have been hard hit by shutdowns in recent years.

MIKE KIRWAN has established a record as the friend and champion of the working man and woman, taking the floor on more than one occasion to urge the passage of legislation in their interest.

Above all, he is a man who believes with all his heart in the strength and future of America; who believes every American has an obligation to leave this land a better place than he found it; and who believes that dollars spent on the conservation and development of the land and its resources are the best investment we can make in the future of our Nation.

No American in the Congress today has made a greater contribution to the development of our country's water resources than MIKE KIRWAN, of Ohio. It is an honor to join in this well-earned tribute to him.

Mr. KYL. Mr. Chairman, my relationship with the gentleman from Ohio has been a legislative business relationship.

As a younger Member, vitally interested in interior matters, I have freqently contacted Mr. KIRWAN for information. I have learned that I can count absolutely on that information. His private word has been so reliable as if the statement had been legally notarized. This honesty is to be honored.

Mr. DUNCAN. Mr. Chairman, I cannot lay claim to having known MIKE KIRWAN for many, many years as have the others who have spoken here today. As a matter of fact, as a freshman, I have stood in a little awe of him as I have of the other veterans of the Congress. So much so that I told a friend in Oregon not long ago that I was beginning to feel that I was finally gaining a little status in the Congress because MIKE KIRWAN had nodded to me twice in one week.

His nods were friendly nods and encouraging to a newcomer. Beyond that no one can listen to him speak on this floor without realizing his devotion to his country and to the Congress which he has served so long and so well. Here is a rare legislator who can and does represent his district well without being parochial. No one can look at the tremendous public works which have added so much to the wealth and prosperity of the Nation and the West without realizing that the mark of MIKE KIRWAN is on many of them.

The people of the Northwest and of Oregon owe much to the understanding which MIKE KIRWAN has of our need for water and power and transportation and for the support which he has given to projects far from his own district. It is my privilege to express here my thanks and the thanks of the people of Oregon's Fourth District; thanks which the people of his own district have and can give at the polls for the splendid representation he has given them.

Mrs. HANSEN. Mr. Chairman, it gives me a great pleasure to join my very distinguished colleagues in the House of Representatives this afternoon who have paid eloquent and moving tribute to our very beloved Member—MIKE KIRWAN.

I would like to thank the distinguished gentleman from Rhode Island for giving us this opportunity.

Although I am not a long-time Member of this body, I have had the privilege of knowing the distinguished gentleman from Ohio by reputation for many years, long before I came to Washington. He is known in the West as the greatest friend of our land. He is known and loved by all segments of our population. Therefore, when I came to Washington it was a privilege to work with him. I have had the pleasure of serving on Mr. KIRWAN's Subcommittee on Interior in the Appropriations Committee where I have been impressed not only with his capable chairmanship and knowledge of our magnificent Nation and its problems, but in his deep and abiding concern for humanity.

There is never an occasion when the lives and future of human beings are involved that Mr. Kirwan does not stand squarely on their side and usually leads the way to a better way of life for them.

An eloquent and moving testimony could be made by our far-off mandated islands where before Mr. Kirwan's interest and work began to bear fruit there was poverty, lack of education, and lack of opportunity for the people there. Through Mr. Kirwan's service these islands now bear testimony to his love of mankind and his desire for the dignity of mankind.

Schools are being built, job opportunities are being sought and housing is going ahead in these far places, serving not only the citizens there, but the image of our home land in the eyes of our Pacific neighbors. Not only have I enjoyed serving with Mike because of his capability, but because he is the kind of human being who creates love and respect—the kind of man who has a deep and abiding love for his God, his family, and his friends. Through the years he has been a devoted and loyal husband and father as well as an outstanding public servant and citizen.

The moving words spoken here today are only part of the tremendous affection all of us hold for this great American and friend of mankind, Mike Kirwan.

Mr. WRIGHT. Mr. Chairman, I join wholeheartedly in this tribute to our colleague, our leader and our friend, Mike Kirwan.

As the gentleman from Ohio [Mr. Brown] has said, Mike Kirwan is a Democrat. But I think of Mike as a democrat, with a little "d"—one who meets and treats everybody on one level—and first of all, as an American.

Once, while visiting with Mike in his office, I noticed two pictures side by side on his wall. I think these two pictures may tell something of the heart and soul of Mike Kirwan.

One picture is labeled, simply, "1900." Taken in those dreary days of child labor, it depicts a line of children against a cold, gray dawn going with picks and pails in their hands into a coal mine.

The other picture is labeled "1950." Taken a half century later, it shows a schoolroom with children at their desks, their faces clean and shining.

Perhaps these two pictures on Mike's wall epitomize what is nearest his heart. The progress this country has made in human opportunities and human values. And in the making of that progress, Mike has had a very important part. He has carved his name in big letters upon the hearts of all who know him.

Mr. DENT. Mr. Chairman, I want to aline myself with the many Members of the House who have preceded me in this testimonial of regards and appreciation for an old, true and tried friend, the Honorable Michael Kirwan, of Ohio.

I have known Mike for the major part of my adult life. We have many mutual friends. We have fought side by side in many common causes.

My memory goes back to better than a generation ago when Mike came to my assistance on one of my first ventures into the field of politics.

Later in a youthful attempt to become our State Lieutenant Governor, my friend came and gave his time, his energy, and his resources in my behalf.

Today's deeds ofttimes go unnoticed or unheralded except perhaps by the detractors and critics. Too often we fail to say the kind words during our lifetime that could be so helpful when adversity assails our friends and contemporaries.

However, history has a way of looking over the pettiness of the past and a proper prospectus builds the monument of memory to suit the deeds and the man.

The monument to Mike will be high, it will be broad and it will be brilliantly lit with the memory of his wit, his fidelity to his friends and his faith in our way of life.

Ofttimes I have been a guest in his congressional district. On more than one occasion it was Mike who took the initiative in making my trips and appearances there both a pleasure and a success.

I can remember how often the Italian-American community turned to Mike for assistance, for leadership and for friendship in their endeavors to participate in and contribute to the life of the community he served so well.

In all his life he knew no lines or barriers of race, color, religion or nationality that barred him from pursuing his way through life on the wide street of equality for all men of all walks of life.

At this late date in our troubled times the return of Mike Kirwan to the Congress of the United States is a must for all Americans.

I wish for him the easiest road, the highest ladder and the longest career in his service to the people of our Nation

Mr. KILBURN. Mr. Chairman, ever since I have been here, Mike Kirwan has been kind and considerate to me. He is my friend and I respect him deeply. He is a great American and his district is fortunate in having him to represent them.

Mr. YOUNG. Mr. Chairman, I desire to associate myself with the commendations and praise that have here been extended by so many distinguished Members of this body with reference to one of the greatest living Americans, the Honorable Mike Kirwan, of Ohio. There are few men of America who have been so dedicated to the interest of our great Nation and making of it the wonderful place that it is than Mike Kirwan. Not only has he given of his time and his energies; in this unending task, but he has done so at the expense of his physical well-being and health as well. No places of public interest are too far or too insignificant for Mike Kirwan to make the physical effort to journey forth and inspect personally the facilities offered if he believes that these remote places are of value to America and the preservation of its assets for the betterment of the future. Our Nation is deeply indebted to this great American and this indebtedness will be enjoyed by generations yet unborn.

The dedication and determination of Mike Kirwan, Mr. Chairman, is an inspiration to us all, and their fruits will be a rich legacy for the American future.

Mr. MAILLIARD. Mr. Chairman, while I have been in Congress less than half the time that Mike Kirwan has, I had heard of Congressman Kirwan, of Ohio, and of his great contribution to the cause of conservation long before I had any notion I would become a colleague of his. A few years ago Mike moved to the office next to mine. I have come to know him well, to admire and respect him and to hold him in warm affection. I am proud to join in his praise and proud to call him friend.

Mr. STRATTON. Mr. Chairman, I rise to join in paying tribute to the gentleman from Ohio [Mr. Kirwan], a member of the great Committee on Appropriations. Mike Kirwan has been an outstanding Member of this House. It has been a pleasure and a privilege to have been able to serve here with him. It is not necessary for a Member of this House to agree on every occasion with every other Member. And there have probably been occasions when I have not fully agreed with Mike Kirwan. But he has been a hard-working and a dedicated Congressman, a devoted American, an effective Representative of the people of his district, and a humble, a friendly, and a sympathetic colleague. I am happy to congratulate him on his service and to wish him well for the future.

Mr. DON H. CLAUSEN. Mr. Chairman, I want to join the gentleman from Rhode Island [Mr. Fogarty] and other distinguished Members of Congress in paying tribute to our colorful colleague, Mike Kirwan. As a freshman Member of this great legislative body, I have been privileged to observe his actions as he leads the debate during presentation of bills heard before his committees.

While I do not know him as a personal friend, he has always acknowledged my presence and extended me a friendly greeting in his own inimitable Irish manner.

My colleagues have been most eloquent in their words of tribute. I am pleased to note the bipartisan theme and I am delighted to see this tribute paid to a man who has literally given his life to the service of his country, during his lifetime. Too often kind remarks are made only after a man passes on. The characteristics that Mike Kirwan possesses are typically American. His Irish brogue, his Irish sense of humor, his outward display of concern for the problems of others, his sincerity of purpose and most important of all his devotion to the principles of Christianity are but a few of the admirable traits we see and think of when observing the actions of Mike Kirwan. His successes throughout his lifetime should serve as a great inspiration to people throughout the Nation and, indeed, the world. His success story should serve as a symbol of the opportunities still available to those with the desire to advance under their own initiative. Further, his story should be told internationally—fully demonstrating how mankind can progress, if living under a form of government that permits the two basic freedoms to flourish—freedom of religious opportunity and freedom of economic opportunity.

Mr. KILGORE. Mr. Chairman, the late beloved Speaker of the House, the Honorable Sam Rayburn, used to say that the greatest jury before which a Member of Congress was finally tried was the jury made up of his colleagues in the House.

If a Member of Congress does not measure up, his colleagues will find him out. The gentleman from Ohio [Mr. Kirwan] has gone to the well of the House on hundreds of occasions in his almost 30 years of service.

He has voted on matters of great import. His service has covered a span of the most significant history of this Nation.

In all this time the judgment of the jury that is the House of Representatives and is made up of his colleagues, is that they have found Mike Kirwan worthy—worthy of their trust, worthy of their confidence, and worthy of the responsibility placed upon him by the people of his congressional district.

It is a pleasure to join my colleagues in the House in paying Mike Kirwan a well-deserved tribute.

Mr. MATSUNAGA. Mr. Chairman, as a freshman Member of this great body, I have been tremendously impressed by the glowing tribute paid our colleague from Ohio, Mr. Michael J. Kirwan. Never have I heard such great compliments paid a living man. What makes it almost incredible is that there were so many Republicans joining the Democrats in superlative praise of the man who had only recently been described as the "meanest" Member of Congress by a columnist.

In the short time that I have served in the Congress, I have found "Mike," as he is affectionately called by all his colleagues, one of the most kindliest and helpful Members of the House. He has always had the time to lend an ear to and to share his wisdom of experience with this neophyte. In the name of Hawaii's people and for myself personally, I wish to associate myself with the tribute paid to a great American, the gentleman from Ohio, Michael J. Kirwan.

Mr. PURCELL. Mr. Chairman, in the 2 short years I have served with the distinguished gentleman from Ohio, Mike Kirwan, it has become apparent to me that no other Member of the House is more respected by his colleagues than this dedicated public servant. Since 1937, Mike Kirwan has served this Nation and his State in an outstanding manner. His plain-spoken honesty is well known to those who have had dealings with him.

His reputation is such that those of us who are relatively new here seek his advice frequently. His opinions, I find, are well informed and founded on a background of knowledge which is most valuable.

Perhaps the thing that has impressed me most about Mike Kirwan in these 2 years has been his willingness to help a new Member find his way around. He is always patient, and always is willing to take as much time as is needed to help a colleague with any kind of problem. I value his friendship, and I hope that future years provide an opportunity for me to know him even better. Thank you, Mr. Chairman.

Mr. DONOHUE. Mr. Chairman, it is indeed a privilege to join with my colleagues in recognition of the great patriotic contribution the distinguished gentleman from Ohio [Mr. Kirwan] has made, through many years of unselfish service, to the welfare and progress of his fellow American citizens.

No one can dwell upon the extraordinary accomplishments of this great legislator without taking renewed pride in our American system that provides the opportunity for the individual to exercise his ability and applauds him on the merit alone, of that ability. Mike Kirwan is an inspiring testimonial of this wonderful democracy in which we live.

He is indeed not a product of our higher, formal, educational institutions; he has, rather, a graduate degree from the college of hard knocks. This is the college that particularly teaches its graduates to give, to every assignment, the best that is in him. This has been the rule and standard by which Mike Kirwan has lived his personal life and performed his public duties. Mike Kirwan is unquestionably one of the outstanding conservationists of human and natural resources in this country and his name is now and will forever remain a legend in these areas of our social, economic, and political history.

The career of Mike Kirwan can well serve as an inspiration to every American youth in this land of the free. He has served this Nation, his State, and his district with increasing distinction and I earnestly join with my colleagues, here, in prayerful hope that his wise counsel and patriotic guidance may be permitted, by the Almighty, to remain with us for many more fruitful years to come.

Mr. PHILBIN. Mr. Chairman, I commend and thank my very esteemed, distinguished and dear friend, the gentleman from Rhode Island [Mr. Fogarty], for providing this opportunity for the House to pay its heartfelt, overwhelming tribute of respect and affection to our valued colleague, and highly regarded and beloved friend, Congressman Mike Kirwan.

After the richly deserved encomiums that have been literally heaped upon him by our illustrious Speaker and so many other Members of the House, I feel that any comments I might make would be indeed like carrying coals to Newcastle. And, perhaps, it might not be inappropriate to refer to coals, because our friend, Mike Kirwan, was born in the coal region of the great State of Pennsylvania, and from his earliest youth performed manual labor, as he struggled and fought his way up the difficult, grudging ladder of success to the Congress of the United States.

Mike Kirwan is at once unique and endowed with the common touch. He is unique, because there is scarcely one in this great body who has struggled against such great odds to reach his high goals. He is endowed with the common touch, because, unlike the early climber to whom the Bard of Avon so aptly referred as "scorning the base degrees by which he doth ascend," Mike Kirwan literally takes greatest pride in his humble origin, and the plain, unvarnished, unpretentious, loyal friends of earlier days that have given joy and direction to his youth, and helped him along the sometimes thorny pathways of life. He never forgets a friend.

Mike Kirwan commands lofty stature in this body. He is esteemed for his great ability. He is lauded and trusted for his high character. He is admired and hailed for the unsurpassed quality of his patriotism and loyalty.

Many and most distinguished have been his achievements here. Outstanding Member of the House, and the important Appropriations Committee, he has played a great part in shaping and directing forward-looking conservation, rehabilitation, development, and protective policies that have done so much throughout the years to build the sinew and strength of our country.

Generous and warmhearted, always willing to help, eager to throw his vigorous support behind worthwhile ideas and objectives, considerate and just, inspired by an ever-present sense of humor, friendly, humane, and compassionate, this great American has made a record here of probity, integrity, dedication, and support of humane causes that will be hard to match, let alone excel.

It is not surprising that so many men on both sides of the aisle of every race, class, and creed should join in this warmhearted, spontaneous expression of affection, confidence, and pride that has poured forth today from the hearts of the Members of this House to a great Christian gentleman, an esteemed colleague, and dear friend, who is so highly thought of in this body.

In his heart and mind, there are just a few simple words that make up the credo of this great man—God, country, humanity, and friends. When one has said these words, he has pretty much encompassed the simplicity, the depth of loyalty and the broad interests and lofty motivations of Mike Kirwan.

Like Mike himself, this tribute is unique, and it is given to one who is most constructively living and working among us—one we hope and pray will continue to live and work among us for many years to come.

Let me say, Mr. Chairman, that I am very proud and happy to join this wonderful, inspiring outpouring of love, honor, and respect for our dear friend, Mike Kirwan. I know of no one who deserves it more.

Mr. EVINS. Mr. Chairman, I want to associate myself with the remarks of our distinguished Speaker—Speaker McCormack—and others in all that has been said regarding our beloved colleague, the gentleman from Ohio, Congressman Michael J. Kirwan, who is one of the finest men ever to serve in this body.

Congressman Kirwan is a great legislator, a great Democrat, truly a people'

Congressman, and indeed a great American.

It has been my pleasure and privilege to serve with Congressman Mike Kirwan as a member of the Committee on Appropriations for a number of years. I know that he is kind in heart, generous in spirit, and a true gentleman. He has helped almost every Member of this body and earned for himself a wide circle of enduring friendships.

No one could be more useful and effective than Mike Kirwan has been in serving his people. He is widely known for his great work as a champion of water resources development, and many great projects existing today stand as a monument to his good work.

Congressman Kirwan has merited and received the confidence, esteem and affection of his colleagues through a long and distinguished period of service in this body. He continues to serve the people of his district, his State and the Nation faithfully and effectively. I am proud to count him as a warm friend, and proud that I have the privilege of working with him. I hope he is overwhelmingly reelected to the Congress.

Mr. MINSHALL. Mr. Chairman, an old Irish proverb says that an Irishman is never at peace except when he's fighting, which makes our good friend Mike Kirwan a thoroughgoing pacifist.

Mike is a fighter of first magnitude. He does not flinch when the going gets heavy, or spare the rough side of his tongue should occasion demand. His heart is big, and his sense of humor is as Irish as turf. Mike is generous, too, making us adopted sons of the Emerald Isle when he observes St. Patrick's Day in his famed and expansive manner.

His one-line biography in the Congressional Directory is typical of his innate modesty, but the whole story deserves to be told, because it is a chronicle of Americana—the boy who started out in the Pennsylvania coal mines and through determination and pluck rose to become one of the most powerful men in the Nation.

We are grateful for Mike's courtesy and efficiency in carrying out his heavy subcommittee assignments on the Committee on Appropriations. We cherish his friendship. We are proud and glad that he is one of us.

Mr. BOLAND. Mr. Chairman, I am delighted to join with my friend from Rhode Island, Congressman Fogarty, and my other colleagues in the House, in these eloquent testimonials to a very distinguished, dedicated, and great American, the gentleman from Youngstown, Ohio, Congressman Mike Kirwan. There is no Member of this House who is held in higher esteem by his colleagues than Mike Kirwan. He has had a distinguished and brilliant career as a public servant, both on the Youngstown City Council and as a Member of this House since 1937.

I have had the honor to serve with Mike Kirwan for 10 years on the Appropriations Committee. During that period we have also sat together as members of the Public Works Appropriations Subcommittee. No member of that committee, nor any Member of this House, has a keener sense of what America stands for, and America's needs than does Mike Kirwan. He is understanding, compassionate and kind and sympathetic to all witnesses who come before our committee. During his 28 years in Congress Mike Kirwan's only motivation has been to do in Congress what is right for his country. He has always been willing to be helpful and give good advice and counsel to the newcomers and junior Members of this body. It is an honor and pleasure to be serving with Mike Kirwan in Congress.

Mr. ZABLOCKI. Mr. Chairman, I am pleased to join my collegaues today in paying tribute to our distinguished colleague from Ohio, the Honorable Michael J. Kirwan.

From my very first term in Congress, I have benefited often from the wise counsel and advice of Mike Kirwan. He is never too busy or preoccupied to listen to the problems and difficulties which beset us, his fellow Members of Congress.

I value his friendship and hold him in high regard for his many abilities and achievements. He has compiled a record second to none during his years in this body. He has championed many an unpopular cause and worked hard for the common people.

For this he richly deserves the many plaudits which have been showered on him today. May his career in the future be equally illustrious as in the past, and may coming years bring him new successes and new sources for happiness.

Mr. THOMAS. Mr. Chairman, I am delighted to join the distinguished gentleman from Rhode Island [Mr. Fogarty] in his tribute to our beloved colleague, Mike Kirwan of Ohio. We can always depend upon John Fogarty to do the nice things.

Mike Kirwan and I came to Congress together some 28 years ago. During this time we have worked together on a great number of problems. Each of us have served on the Appropriations Committee and on the same Subcommittee of the Appropriations Committee for many, many years.

To me, Mike Kirwan is perhaps the finest example of the old American thought, "He represents the people." Mike is truly a son of the people. He has never forgotten the folks who sent him to Congress. They are always uppermost in his mind. Although he renders distinguished and outstanding service to the Nation, his people of the great 19th District of Ohio, which he so ably represents, have the first call on Mike Kirwan's love, affection, abilities, and tireless efforts. He has represented his district with distinction and has brought praise and recognition to his constituents. When Mike Kirwan is lauded and praised nationally for his many outstanding qualifications and accomplishments, it is a reflection of great credit and honor upon his people back home.

To the people of the 19th District I salute you—you have a great Congressman, who for the last 28 years has brought outstanding credit, honor, and distinction to each of you. I know you will keep Mike as your Representative as long as Mike wants the job.

Mr. Chairman, all of us could talk for several hours in praise of Mike and not do the job adequately because he is so well and highly regarded by all of us. I wish him good luck and his constituents the best of everything.

Mr. FISHER. Mr. Chairman, I wish to join in the good things that have been said here today about the distinguished gentleman from Ohio [Mr. Kirwan]. He is a man of deep and sincere honesty who commands universal respect from those who respect and admire that quality. His entire record here is one of statesmanship, of forthrightness, of dedication to high principle. That explains why he is so popular with the membership of this body, and perhaps that explains why he is somewhat unpopular in certain quarters. So I am pleased to join in this deserved eulogy that has been paid to this great American, so spontaneously extended on this occasion.

Mr. GRAY. Mr. Chairman, I could not allow this occasion to pass without joining our beloved Speaker and my colleagues of this House in paying great tribute to a great American, Mike Kirwan.

During my 10 years of service in Congress Mike has been like a father to me. He has always been available for consultation on matters of vital importance to my district in southern Illinois. He is never too busy to visit with his colleagues in an effort to be helpful.

I know the good people of Ohio will recognize the 28 years of outstanding public service Mike has rendered to his district and will return him to this House with an overwhelming victory. To do less would be voting against their own interests and I know the citizens of my neighboring State of Ohio are not going to do everything detrimental to their welfare.

It is a real pleasure for me to salute my esteemed friend, Mike Kirwan.

His life and his service to the Members of this Congress and the citizens of the Nation remind me of the following poem:

The middle-aged man, going a lone highway,
Come to the evening cold and gray,
To a chasm, vast and deep and wide.
The man crossed to the other side.
The sullen stream had no fears for him,
But he stopped when safe on the other side
And built a bridge to span the tide.
"Mister," said a fellow pilgrim near,
"You are wasting your strength with building here.
Your journey will end with the ending day;
You may never again pass this way.
You have crossed the chasm deep and wide,
Why build you this bridge at eventide?"
The builder lifted his weary head.
"Good friend, in the path I have come," he said,
"There follows after me today
A youth whose feet must pass this way.
This chasm, which has been an naught to me,
To that fair-haired youth, might a pitfall be.
He too must cross in the twilight dim.
Good friend, I am building this bridge for him."

Mike Kirwan is always building bridges for other people to cross.

Mr. O'NEILL. Mr. Chairman, ever since I was first elected to the U.S. House of Representatives, it has been my privilege to have been close to the Honorable MICHAEL J. KIRWAN, the very able Congressman from Ohio. MIKE has always gone out of his way to welcome newcomers, and our friendship has grown through the years. He is a kind and thoughtful gentleman of whom we can all be truly proud.

As chairman of the Subcommittee on the Department of Interior, and related agencies, of the House Committee on Appropriations, he has done a magnificent job. We in Massachusetts are particularly grateful to him for the Minute Man National Park and for the Cape Cod Seashore. Cape Cod was rapidly deteriorating into a honky-tonk area, and, through the efforts of MIKE KIRWAN, we have saved 40 beautiful miles of seashore to be preserved for the generations to come.

Only last Monday, through the good offices of Chairman KIRWAN, were we able to enjoy a reenactment of the Lexington-Concord Battle Road, the historic route traversed by the British and used by the Minutemen and the provincial militia on that momentous April day in 1775. The uniforms of those early colonial days added color and excitement to a wonderful and heartfelt tribute to those early patriots.

It is a pleasure for me to join with my colleagues in saluting MIKE KIRWAN for his remarkable foresight, for his kindliness, for his love of country, and most of all for being one of us.

Mr. VAN DEERLIN. Mr. Chairman, as a Representative of an important port district, and as a freshman Congressman, I am keenly aware of and thankful for the helpfulness of Representative MIKE KIRWAN. Both my district and I have benefited tremendously by his cooperation, and I am happy for this opportunity to express my gratitude.

Mr. ULLMAN. Mr. Chairman, MIKE KIRWAN is made of the stuff that built America. He knows practical politics and how the game is played. He also has a great heart, and feels deeply and passionately the dreams and spirit and soul of this wonderful land of ours.

I join in saluting a real American.

Mr. ST GERMAIN. Mr. Chairman, I would like to say a few words in tribute to our esteemed colleague, MICHAEL J. KIRWAN, as one of the newer Members of Congress.

I know Congressman KIRWAN, or "MIKE" as he would much rather be called, as a friend. Over a period of 3½ years I have been constantly amazed and impressed by this self-made, self-educated man. Here is a man who did not have an opportunity, such as many of us were afforded, to gain a formal education. His education, nevertheless, has been a very thorough one, acquired in the school of hard knocks.

No one who has spent any time whatsoever in his company could help but be impressed by the knowledge of our beloved colleague. He is a storehouse of history and factual data on the Congress, its workings, its membership, and its legislation.

He has been a close and intimate confidant of five Presidents. His counsel has been and is sought by all in both high station and low.

Here is my personal reason for holding him in such high esteem. From my first days in Congress he was never too busy to sit down and chat and try to explain the background of legislation and the legislative process to me, as well as to any of the other new Members who sought him out.

I feel that the mark of greatness in this man is the fact that despite the position he has achieved in this country of ours, he has never ever lost the humility which characterized him from his earliest days in Washington.

MIKE, thanks for being with us, and may you remain with us for many years to come.

Mr. CHELF. Mr. Chairman, it is a real privilege, upon this occasion, to add my personal expression of appreciation for the real contribution which has been, and is being, made to our great Nation by the Honorable MICHAEL J. KIRWAN, of Ohio.

His splendid work in the House and on the Appropriations Committee has always been characterized by loyalty, dedication, and steadfastness of purpose. As a friend and colleague, he is admired and respected by all of us for his fine personal attributes.

It is a pleasure to join with his myriad of friends and colleagues in extending the warmest of regards, good wishes for the future, and gratitude for his friendship.

The CHAIRMAN. The time of the gentleman from Rhode Island [Mr. FOGARTY] has again expired. The gentleman from Rhode Island consumed 55 minutes.

Mr. MAHON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, knowing of the enthusiasm and devotion on the part of the Members of the House for our colleague MIKE KIRWAN, I yielded the time during the past hour in 5-minute segments because I felt that we should give as many Members as possible an opportunity to pay at least brief tribute to the record of public service and to the personality and character of this outstanding legislator.

Mr. Chairman, I say that throughout my service in the House of Representatives I have rarely seen a more heartfelt and a more spontaneous, a more deserved tribute than the House has paid today to one of its dearest and finest Members, my friend and yours, MIKE KIRWAN, of Ohio.

Mr. FORD. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. OSTERTAG].

Mr. OSTERTAG. Mr. Chairman, I realize that a large part of the time has been consumed here today in paying tribute to a great American, MIKE KIRWAN. I should like to take one more moment to pay tribute to the chairman of the Subcommittee on Defense Appropriations for his able leadership, for his devotion and for his great contribution to the work of this important subcommittee in dealing with the defense of our great Nation.

Along with Chairman MAHON, we have the gentleman from Michigan [Mr. FORD], the ranking Republican member, and he, too, has ably worked and devoted his efforts toward a strong Defense Establishment.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. OSTERTAG. I yield to the gentleman from Texas.

Mr. MAHON. I can say for myself, for the gentleman from Michigan [Mr. FORD], and for other members of the committee, that we on the committee to whom reference has been made appreciate the gentleman's kind statement. It is most important that at some future date, at some appropriate date, we may have an opportunity to express our affection and respect and commend the record of public service of the gentleman from New York who is now in the well of the House.

The gentleman from New York [Mr. OSTERTAG] through the years has been a tower of strength in building the defenses of this country as a senior member of the Committee on Defense Appropriations. This is not the proper time to pay tribute to him, but I cannot refrain at this moment from making reference to the good work which he has performed, and I especially do this in view of the fact this is the last annual defense appropriation bill to which he will address himself on the floor of the House.

May God bless the Ostertags. They have wrought well for their country.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. OSTERTAG. I yield to the gentleman from Michigan.

Mr. FORD. At some subsequent time when the independent offices appropriation bill comes to the floor of the House for consideration I shall amplify the comment I am about to make at this point.

I say to the gentleman from New York, thank you for all of the valuable aid and assistance which you have given to me and to the other members of this subcommittee over the years in the consideration of this important appropriation bill each year. I am most grateful; we are most grateful. You have done a tremendous job. Our country is stronger because of your day-to-day and year-to-year contributions to the security of this country. We will miss you badly in the years ahead because of your wisdom, your knowledge, your experience, and most of all your wonderful spirit of cooperation.

Mr. OSTERTAG. I thank the gentleman from Michigan.

As I have previously indicated, this is my last year as a Member of this House. This will be the last time that I will be privileged to participate in the work of this Defense Appropriation Subcommittee particularly as it relates to the enactment of this very vital and outstanding appropriation bill.

During my 14 years on the committee, it has been a real privilege and I regard it as an honor to share in the responsibility and the intimate association with the committee and its work in providing the means for our security and our defense. I might add that I have enjoyed this responsibility and, I repeat, I consider it an honor to serve as a member of this important subcommittee.

By virtue of the nature of our national security, our defense appropriation bill for this year of 1965 is regarded and might well be recognized as the most important measure to be considered annually by the House of Representatives and the Congress as a whole.

I might add that during my tenure in Congress as a member of this committee, I have witnessed and recognized many developments and changes, costly changes steeped in obsolescence, and to a certain degree and to a certain extent, it is a bit frustrating. Our weapons systems and all of the requirements of a modern military establishment and our superiority have prompted the Defense Department to place great emphasis on research and development, test and evaluation.

This taxes our resources and our scientific know-how, because the cold war and the challenge that faces us today and tomorrow commands our superior might and capability. Our leadership of the free world likewise places a heavy and added responsibility or burden on our Nation.

And, too, the picture has changed. As the cold war continues, not only must we possess a superior capability to meet an all-out strategic nuclear attack but we must maintain a so-called conventional, or limited war, capability as well.

Our committee report points out that while our requirements for the employment of military force in this fiscal year and in the years ahead are quite unpredictable, we do believe and we so state that we are in favor and support a policy of strength and firmness. I believe the American people support such a position and policy, and we must plan and program accordingly. Mr. Chairman, we must continue to maintain a qualitative and quantitative supremacy at all cost.

As to this defense appropriation bill for 1965, I shall not recite many figures associated with it because that has been or will be covered by other members of the committee. The point remains, however, that the total defense budget request this year has been somewhat reduced as compared with fiscal 1964. By the same token, the committee reductions are comparatively less.

In the overall picture we present a bill embracing expenditures of nearly $46,759 million, which constitutes a reduction of approximately $711 million.

I support these reductions and firmly believe that these adjustments in funding can be achieved without impairing our defense in the slightest degree.

According to Secretary McNamara's testimony before our committee, we are providing for a substantial buildup in our own military strength both for general or limited war which is built on a firm foundation established during previous years.

Among the specifics are:

First. A 100-percent increase in the number of nuclear weapons in the strategic alert forces.

Second. A 45-percent increase in the number of combat-ready Army divisions.

Third. A one-third increase in the number of fighter squadrons.

Fourth. A 60-percent increase in tactical nuclear forces deployed in Western Europe.

Fifth. A 75-percent increase in airlift capability.

Sixth. A 100-percent increase in general ship construction and conversion.

Seventh. A sixfold increase in counterinsurgency forces.

At this point, Mr. Chairman, I want to express hearty agreement with the words of the gentleman from Michigan [Mr. Ford] relative to the issue of nuclear carrier as against a conventional carrier. I believe it would be wise. I believe the programing of a nuclear carrier to be in the best interest of our security. I believe it would be to the best interest of a good military operation, particularly at sea, if we were to depart from the conventional plan to that of nuclear-powered carriers.

I share the committee's concern about antisubmarine warfare and we have again urged the Defense Department and the Navy to move forward with dispatch to provide an adequate antisubmarine program. To my mind, the large number of Soviet submarines in being today constitutes a major threat.

As our report indicates, no new bombers were included in the Defense budget for this year, but we have included, as authorized, funds for the research and development of a new strategic aircraft. The issue involving the future of the manned bomber as an integral part of our strategic force continues to confront us and there is also the issue of missile reliability.

However, we are proud of the fact that we have many Polaris missile submarines in being today and we can point to the fact that the number of ICBM's and Polaris missiles in force just about equals the number of manned bombers.

We are providing for a continuation of a high level in our active military personnel strength estimated for this next year at 2,680,700. In addition, we will continue our Reserve component strength at a level slightly over the 1 million mark.

Military pay increases and retirement allowances weigh heavily in the overall cost of maintaining this outstanding military organization of our Nation and we must meet many other responsibilities such as oversea dependents' education.

Of course, procurement and research, development, test, and evaluation constitute one of the largest areas of defense requirements—both in terms of cost and importance. Perhaps more might be saved if the committee made a deeper cut in the procurement program, but the point remains that improvements have been effected and we hope that we will be the recipient of a better return for our tax dollar. In that regard, your committee did reduce the funding for the overall procurement by over $300 million. And the picture shows a total expenditure of about $13.5 billion which is more than $2 billion less than the amount appropriated last year.

In the important area of R.D.T. & E., the program calls for about $6.5 billion. This is close to the level of last year, despite the reduction of about $245 million.

All in all, I regard this Defense Department appropriation bill for fiscal 1965 to be sound and substantial.

I strongly support it and hope that it will have the wholehearted support and endorsement of the committee and that of the House of Representatives.

Mr. TOLLEFSON. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. TOLLEFSON. Mr. Chairman, the rigid language in earlier bills relative to allocation of naval ship repair and alteration has been of concern to me from the outset. While I am glad that section 540 of H.R. 10939 provides for some flexibility, I am nevertheless of the opinion that the so-called 65–35 formula should be eliminated from the bill altogether. I am aware of the survey made at the request of the Department of Navy which shows that as of recent years private shipyards can build naval vessels cheaper than can naval shipyards. One of the reasons this is so is that private yards have been so hungry for work they frequently bid so low that they lost money, but not so much money as would have been the case if they had not received a contract and had had to hold their nucleus of workers for long periods of time without contracts.

But the survey does not prove that private yards can do ship repair or alterations cheaper than can naval yards. I think the Subcommittee on Appropriations has assumed that repair work could be done cheaper in private yards simply because new construction can be done cheaper. This does not necessarily follow, and I am particularly convinced that in the more efficient naval yards, like the Puget Sound Naval Shipyard, ship repairs can be done cheaper. Furthermore, the quality of work in naval shipyards is higher.

One of the most compelling arguments for the elimination of the 65–35 provision is that naval ship repairs ought to be done in the naval shipyards near which the families of the naval personnel on those vessels live. This is essential for the morale of the personnel. If the ships are taken elsewhere for repairs the personnel and their families are separated at the time when both were looking forward to being together. A continuation of the 65–35 proviso may well be most costly if reenlistments are affected thereby.

Mr. MAHON. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Chairman, like many other Members, I did not realize that we would have enough time to pay tribute to our good friend and colleague, MIKE KIRWAN. I was unaware that the time would be extended. I merely wish to say that while I took advantage of the privilege to extend my remarks, as to my friend and colleague, I would have been most happy to have made them orally if I had known we had the time.

I also wish to join with the statements made by the ranking minority member and my chairman, the gentleman from Texas, GEORGE MAHON, with respect to the services of our good friend and colleague, HAROLD OSTERTAG, of New York.

It has been a great privilege to serve in the Congress, and particularly with the Members with whom I have worked most closely, and none are more close than the members of this subcommittee. I started my work on the appropriations for defense in January 1943, a member of the subcommittee which handled naval appropriations.

At that time we were faced with saving the Elk Hills oil reserve for the people. Later we succeeded in requiring the Navy to use vacated Army facilities instead of building new ones, saving hundreds of millions of dollars. We insisted that Russia could not possibly have everything our people claimed they could have. We followed this up with a visit through the heart of Russia, came back to make the motion that the Central Intelligence Agency report to our committee each year. This they have done.

In later years on this subcommittee our investigations of procurement practices, as against policies, saved billions of dollars. Such investigations must continue as long as the military spending is more than half the budget and as long as we let those working for the Defense Department or serving in the military services quit and become employees of those contracting with the Government.

Mr. Chairman, I served on the committee through World War II when all were afraid we would go bankrupt because of the cost of war. Then, later, I saw the attitude change to the point where many were saying defense spending is essential to prosperity, ignoring the fact that defense spending, however necessary, is almost 100 percent inflationary.

I shall not attempt to cover again the quite detailed statements which have been made here today by my chairman, the gentleman from Texas [Mr. MAHON] and by the ranking minority member, the gentleman from Michigan [Mr. FORD] which will be covered to a considerable degree by other members of the committee. Suffice it to say that when any subcommittee has had before it a request for $46,759 million and has attempted, day after day, month after month, to go into the detailed justifications for the expenditure of that money, the members of the subcommittee have certainly worked unceasingly. I do not know of any finer members or any more able group in the Congress. I do not know of anyone who could be better informed than the members of this subcommittee. It is a privilege to serve as a part of it.

As we bring this defense appropriation bill here today, I am glad to see that Secretary McNamara and the President do not feel that military spending is "good for spending's sake." I feel sure they will not buy $100 million worth of unneeded equipment to "improve the domestic economy" as was done by one of the services a few years ago.

I am glad to see the Secretary of Defense, Mr. McNamara, act after his own study instead of being dependent upon what others told him. I am glad to see him have the courage to act. I would caution him, as the hearings will disclose, that I hope he will guard against what appears to me to be his tendency "to know something is right because he decided it."

I presume it probably is my turn or disposition, or perhaps results from my prior training as a district attorney; perhaps it is because competition on the other side of the street is not so plentiful, or perhaps because it is possible to make a 100-percent effort in trying to change the course of things and be lucky to have 1-percent effectiveness; that I take a somewhat different view from my colleagues and point out several things which I believe, after having served on the committee for defense appropriations for more than 15 years.

I believe there is some serious question as to whether we should have a carrier unless it has atomic power.

I presided for a part of the time when Admiral Rickover testified. The hearings speak for themselves, but to me, at least, it seemed he very carefully refrained from indicating in any way that we needed a carrier.

He said, as I recall it, "If we are to have a carrier, it should have atomic power." Apparently an atomic-powered carrier could go for several years without having to dock to take on fuel, thus showing yourself; and you could carry a much heavier load of planes. If it is worthwhile to have one, of course, you could provide in time for these other atomic ships to convoy the nuclear carrier. The only likely basis for a carrier with regular power in my opinion, is that in 3 to 5 years all carriers would be obsolete. If that be true, the question then arises as to whether you should have a carrier at all.

With regard to many other items in this bill there are differences in point of view, and may I say that I have subscribed to, and signed, and I believe in this report as being a very fine composite of the views of the various members. However, I am one of those who strongly believes that we must maintain and keep up our manned bombers. Now, why do I say that? You can say all you please about atomic bombs and guided missiles, how terrible they are, and that as long as we have atomic bombs and all of our guided missiles we do not need these other things for they will serve as a deterrent. Well, if we are not ever going to use those tremendous weapons because of the destruction that they would bring to the world, both that which we dealt out and that which they returned, then it leads you to believe that future wars will be fought with conventional weapons.

These weapons did not stop Castro from taking over Cuba. They did not prevent the takeover of Laos, of Indo China. They did not prevent the Korean conflict. If I understand history aright, there has been more peace which resulted from a show of force by sending the fleet around than there has ever been because we shot a gun or did something to destroy something. These facts offer an argument for a carrier.

We have all of these weapons now, but how are our men fighting in Vietnam? Why, they do not even have second best weapons. We are over there teaching others and showing them how to do this and moving them from place to place. In Panama, with the difficulty that we had down there, our boys were there without any bullets in the rifles. Our atomic bombs did not stop those things from happening, and they never will as long as it is understood throughout the world that each side is afraid it will cause the destruction of the world if we use these atomic missiles. If that situation prevails, we have to give attention to these other things where we can put on a show of force. It will not help anything to write somebody a letter or tell the press that we have a million atomic bombs, if they know in turn that we cannot afford to use them because if we do we will thereby cause the destruction of the world. No, the main point I would like to discuss is that with all of the things we have before us in this bill, it strikes me that we need to review our positions through the world on foreign policy and everything else, review and change our course—and above all quit destroying ourselves at home.

Through foreign aid we have exhausted ourselves to the tune of $125 billion. It looks like we are in worse shape having done that than we were when we started in. We promoted the European Common Market and now we are trying our best to keep them from freezing us out.

Mr. Chairman, as chairman of the Appropriations Subcommittee for Agriculture, I see us open our doors to foreign competition which we set up in business; and there we endanger not only the beef industry and the textile industry, but our whole economy. I see us dissipate our wealth in nations around the world, even to the point where we must borrow from those we help.

We have violated every lesson of history. We fight wars without any plan or any thought of winning.

I gained the impression—and I will not quote the witnesses before this Committee—that in Vietnam we are trying to get the situation straightened up enough so that we can afford to get out. So it goes around the world.

We insisted upon France and England giving up the Suez Canal; and now we end up with some insisting that we give up our rights to the Panama Canal. Even now we are having to say "pretty please" about every second week. While we have not yet yielded to pressure to the point of setting aside our agreement and increasing our payments, we merely make additional loans which I doubt anyone thinks will ever be repaid.

We opposed Batista in Cuba and end up with Castro; and, as the hearings disclose, Secretary McNamara calls our Cuban situation a great victory. I told him, "May God protect us from many more such victories."

We destroy the right of jury trial here at home, even as to determination of the facts; instead of leading the people of Laos, Vietnam, of Indochina, of Brazil, of Cuba, the Dominican Republic, and all the rest, to see the wisdom of our way of doing, we find ourselves taking to their ways.

We have injected ourselves into the internal affairs of many countries, and in many instances it has gotten to the point where we have not accomplished anything; we are having difficulty and just want to know how to get out of it.

We went around after World War II and wanted to save the world. We were going to teach them the value of our system of government, the value of the right to a trial by jury and of a government of laws and not of men. We were going to teach them that it is unsound to overthrow your government and have mob violence in the streets. What has happened? My friends, instead of converting them to our way, we have taken unto ourselves their way of doing things.

For years we have seen the executive and the judicial branches of our Government form what amounts to a virtual partnership, where the executive asks for a court order and gets it, or the Federal court issues an order and gets the executive to support it, even to the point of using troops in order to carry out the order, though it be not even a final judgment. Pending before us now is the fight to get the legislative branch to pass legislation which, in effect, would approve and condone what the other two branches have already done, contrary to precedent and, in my opinion, in violation of the Constitution.

We have seen the unfortunate and tragic death of an American President, such as would occur in the turbulent nations where we have injected ourselves.

It is in our country where we see the right of jury trial gone. It is in our country where we see a minority group issue dictatorial orders and have the Government back it up with troops. Yes, it is in our country where they have strikes and mob violence, and where property is damaged without restitution or payment. It is in our country where they lie in the streets, block the highways, and where we do not teach them to work, save, and accumulate capital so they may get ahead in the future. We have accepted their way. We took the policy of shortcut, demand, strike, insist upon, divide, and ask for what the other fellow worked for and what he has accumulated. The real tragedy is the new generation is being taught that this is the way to get results.

Mr. Chairman, I think it is high time that we reviewed every single determination of policy that we have followed throughout the world since World War II; reverse our course; read George Washington's Farewell Address, recognize its soundness, and help the world by setting a fine example.

Mr. Chairman, I plead that we may review our situation on all sides and at all points, acknowledge our failures, determine and define our objectives, get out of wars where we have no plan to win, and above all, here at home require a return to orderly government, with each individual held accountable for any breach or threatened breach of the peace, with all entitled to jury trial to determine the facts, and all dependent for change upon orderly legislation of constitutionally adopted amendments to the Constitution.

We must get away from this practice of judge-made law and judge-made constitutional amendments, which can only lead to disaster.

The way for us to influence the world is by setting an example of stable government, supported by a stable and enlightened people here at home. If we would not set our own house in order; if we would not wait for final judgment; if we would not protect the right to jury trial for our people; if we would not maintain the checks and balances of an equal and coordinate three branches of Government, judiciary, legislative, and executive, with the right of local self-government guaranteed to the States, how can we hope to bring about any improvement abroad?

We must return to the faith of our fathers. We must save our Government from a capricious Supreme Court and again become a Nation with freedom of religion and not one of freedom from religion.

I believe we are making some progress in getting these facts over to the American people. From my mail, from the statements of my colleagues here, more and more people are looking beyond the catchy title of "civil rights" and seeing that this legislation is, in reality, a ceding of all power to a handful of men in Government, which in the future can be used to control the business interests and personal life of every American.

Our people are insisting that we keep prayer in our schools and that the Congress show up those un-American leaders who would destroy law and set up mob rule. I pray the Congress will act now to return to a government of law, where the Federal Government is once again a government of limited power, and the right of local self-government is guaranteed, all as provided by the Constitution, for only by recognizing and respecting local differences can this Government long endure.

What we need do is realize that instead of selling the world on our system, we have let them sell us. As a result, our chief need is here at home. We are letting Russia destroy us without firing a gun or dropping a bomb. It is on the homefront that we have the greatest need for national defense.

**Mr. OSTERTAG.** Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. Laird].

**Mr. WESTLAND.** Mr. Chairman, I make the point of order that a quorum is not present.

The **CHAIRMAN** [Mr. Keogh]. The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 116]

Anderson
Ashbrook
Ashley
Auchincloss
Avery
Barrett
Bass
Blatnik
Bolling
Bolton, Frances P.
Broomfield
Brown, Calif.
Bruce
Buckley
Burleson
Carey
Clark
Colmer
Cooley
Davis, Tenn.
Delaney
Derwinski
Diggs
Dorn
Dowdy
Edmondson
Elliott
Everett
Feighan
Finnegan
Fino
Flynt
Forrester
Gallagher
Grant
Harris
Hébert
Hemphill
Henderson
Hoeven
Huddleston
Jones, Ala.
Kee
Kluczynski
Knox
Lankford
Lloyd
McLoskey
Martin, Mass.
Meader
Miller, N.Y.
Minish
Morrison
O'Konski
Olsen, Mont.
Olson, Minn.
Osmers
Pepper
Pilcher
Pool
Powell
Rains
Rooney, Pa.
Selden
Sisk
Smith, Va.
Steed
Thomas
Thompson, N.J.
Tuck
Vanik
Wickersham
Widnall
Willis
Winstead

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Keogh, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10939, and finding itself without a quorum, he had directed the roll to be called, when 355 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The **CHAIRMAN.** The gentleman from Wisconsin [Mr. Laird] is recognized for 10 minutes.

**Mr. LAIRD.** Mr. Chairman, the report which we have before us today on the defense appropriation bill for fiscal year 1965 is basically a sound report. There are, however, certain sections of this report with which I quarrel. I am disturbed about some of the language which I will point out in the remarks which I plan to make. Some of the language has already been referred to by my other colleagues on the committee. I am also disturbed about the area of research and development not just because of the level of the funding in this bill but more specifically because of the application of these funds in this bill.

I think this can be well illustrated by a rather unfortunate incident that happened to me over the past weekend while I was in Wisconsin. Although I apparently was not supposed to be aware of it, the Secretary of Defense released a letter to the press addressed to me at 3:30 in the afternoon on Saturday. This letter was hand delivered throughout the city of Washington by Department of Defense personnel in Department of Defense automobiles. Prior to the time the letter was delivered to the press, public information officers in the Pentagon called newspapermen throughout the city of Washington notifying them that at a given time they would deliver, whether it be at their home or at their office, a letter addressed to me. My copy of the letter was, of course, sent regular mail, so that I did not receive it until Monday morning some 48 hours later. This is the kind of power play the Pentagon uses in order to silence any criticism of the Pentagon. The subject of Secretary McNamara's letter to me was a statement which I had made on the misuse of cost-effectiveness techniques employed by the present Secretary of Defense.

In his letter, Mr. McNamara picked on one example from my statement which I had used to illustrate the misuse of cost effectiveness. I would like to ask the Secretary if this means that he agrees with every one of the other statements which were made by me on April 6 in reference to the cost effectiveness program which the Department of Defense is using at the present time. I ask unanimous consent to include in the RECORD, at this point my statement of April 6 regarding cost effectiveness.

### STATEMENT BY CONGRESSMAN LAIRD

In view of the rapidly rising costs in our economy, it is certainly prudent to be cost conscious. When this cost consciousness becomes unbalanced, however, particularly in regard to our national security, it is time for a reevaluation.

The cost effectiveness criteria of the Department of Defense has been superimposed upon the judgment and experience of the military to an alarming degree. This tends to produce inflexibility in our posture and retards, if it does not completely eliminate, new developments. For example, not a single new major weapons systems has been developed in the last 3 years.

The Secretary of Defense contends that the cost-effectiveness approach is a logical one and I have no quarrel with its reasonable use. In planning our defense program, however, it must be recognized that war is an illogical act; planning, therefore, must be done on that basis.

There is no hard evidence that the Soviet Union is applying cost effectiveness criteria in its planning for future weapons systems. In fact, many knowledgeable students of Soviet thinking believe that the opposite is quite probably the case. We should not take risks with national security by assuming the existence of certain facts without the hard evidence to support these assumptions. The Cuban missile crisis should have taught us that.

If we had credible assurances from our potential enemies that they were using the same criteria in their defense planning, we could perhaps rest easier about our own dominant use of cost-effectiveness criteria. In the absence of these credible assurances, we should not allow cost effectiveness to cost us our effectiveness in national security matters.

One of the outstanding examples of what the misuse of cost effectiveness can produce is the nuclear carrier. The best and most experienced experts in the Navy, the Atomic Energy Commission, and the Congress overwhelmingly endorsed the nuclear configuration. On the basis of cost effectiveness, Secretary McNamara argued that it should be conventional. He agreed with its overall superiority but claimed that the added costs were not warranted.

The congressional committee report, however, showed that even on a cost-effectiveness basis, if the figures were properly applied, the differences were so slight as to make it imprudent to select the conventional carrier. Secretary McNamara is going ahead on plans to build an obsolete carrier. Bids on this outmoded carrier will be opened on April 28. The Secretary, by this action, is in effect wasting $300 million. The much-publicized TFX fiasco is another classic example of misapplied cost-effectiveness criteria.

Still another, though less publicized, example is the X-22 V/STOL contract. This was another case where almost unanimous professional recommendations were reversed and the contract was awarded to a firm other than the lowest bidder. The Senate Preparedness Subcommittee in a report on this aircraft stated that the Department of Defense could have saved a minimum of $350,000 and possibly $1 million of the $20 million contract if the award had been given to the lowest bidder. Quite obviously, factors other than the objective application of cost-effectiveness criteria dictated the awarding of that contract.

The nuclear carrier experience demonstrates that a rigorous application of cost effectiveness with disregard of other factors can have serious implications for national security. The TFX and the X-22 indicate a puzzling disregard of the fundamental precepts of the cost-effectiveness approach. These contradictions strongly suggest that predetermined conclusions dictate the manner in which cost effectiveness is applied.

Congress and the American people should continue to develop a consciousness of economy measures but neither should be swayed by false economy that will undermine our security.

A stable peace with justice and freedom is our goal. To attain this goal for the remainder of the sixties, the decade of the seventies and beyond, we must be prepared for the contingency of war. Adequate preparation for war is the best deterrent against its occurrence. Therefore, we need all of the intelligent experience we have to cope with the unknown emergencies that would arise if war should come. This was proven again and again in the last war, where plans were modified and drastically altered in the face of actual, not theoretical, situations. We were able to do this only because we had a flexibility within our Defense Establishment. By dominant use of cost-effectiveness, we will lose this flexibility and, if our experience in the last war is any criterion, the consequences could be dire.

Mr. Chairman, because the Secretary used language that came from our committee report to rebut my charge I would like to make specific reference to certain points in the Secretary's letter to illustrate the tactics used by the Department of Defense to justify its position—whether that position is objectively justifiable or not. I would first like to state that I had considered introducing an amendment to this bill so that in the future when the Department of Defense directed correspondence to a Member of Congress it should be a requirement that the letter be delivered to the Member to whom it is addressed at the same time that it is delivered to the Washington press corps and not some 48 hours later.

The grossest illustration of the Department of Defense's tactics is its course of action in the R.D.T. & E. area. The Secretary in his letter to me stated:

> I believe the record of the Department of Defense in the past 3 years in pushing the development of new weapons systems should not be subject to question. In fact, our expenditures on research and development since 1961 has averaged well over 50 percent higher than in the 4 preceding years.

This language was extracted—in a somewhat distorted sense, I might add—from page 43 of our Defense Committee report. The wording on page 43 actually states that a 50-percent increase can be claimed only if we remove from our calculations the ICBM portion of the R.D.T. & E. effort.

The chart on page 42 and the language on page 43 makes this quite clear. At this point in the RECORD, I ask unanimous consent to include the chart and the language from our committee report.

| | Fiscal year 1960 | Fiscal year 1961 | Fiscal year 1962 | Fiscal year 1963 | Fiscal year 1964 | Estimate fiscal year 1965 | Recommended, fiscal year 1965 |
|---|---|---|---|---|---|---|---|
| Comparative total, R.D.T. & E. new obligational authority (comparable to fiscal year 1965 budget basis) | $5,620 | $6,033 | $6,402 | $6,993 | $6,949 | $6,722 | $6,476 |
| Comparable amounts, R.D.T. & E. programed for ICBM's (Atlas, Titan, Minuteman, and Polaris) | 1,452 | 1,822 | 1,434 | 1,067 | 679 | 356 | 356 |
| Balance of R.D.T. & E. | 4,168 | 4,211 | 4,968 | 5,926 | 6,270 | 6,366 | 6,120 |

As is demonstrated by the tabulation above, research and development programs, other than intercontinental ballistic missile programs, have been increased by $2 billion annually, as compared with the amounts allocated just a few years ago. Fifty percent more money is being applied to programs other than intercontinental ballistic missiles now than was the case 4 years ago.

I do not understand how the Secretary could make a statement that is so ill-founded in fact.

Even if, however, we accept the 50-percent increase Mr. McNamara claims, the principal issue still to be resolved here is what has the present administration to come up with to justify such an increase in expenditures.

I have compiled for the benefit of my colleagues two charts which summarize all of the new developments in the areas of aircraft and missiles since 1954. At this point I include the tables referred to:

*New guided missile starts and missile types in production, post-Korean period*

[Government fiscal years]

| Type | 1954-57 | | 1958-61 | | 1962-65 | | Programs remaining in production in 1965 |
|---|---|---|---|---|---|---|---|
| | Starts | Production | Starts | Production | Starts | Production | |
| ICBM | 3 | 0 | 1 | 3 | 0 | 4 | 2 |
| Air to air | 0 | 3 | 0 | 3 | 1 | 3 | 1 |
| Air to surface | 3 | 0 | 3 | 3 | 0 | 4 | 2 |
| Surface to air | 1 | 2 | 2 | 7 | 1 | 6 | 3 |
| Surface to surface | 4 | 7 | 2 | 9 | 2 | 11 | 4 |
| ASW | 1 | 0 | 1 | 1 | 0 | 2 | 2 |
| Total | 12 | 12 | 9 | 26 | 4 | 30 | 14 |

NOTE.—Does not include canceled programs or research programs (Skybolt, Typhon), or program definition efforts. Multiple-use weapons are considered 1 program.

*New aircraft starts and aircraft types in production, post-Korean period*

[Government fiscal years]

| | 1954-57 | | 1958-61 | | 1962-65 | | Programs remaining in production in 1965 |
|---|---|---|---|---|---|---|---|
| | Starts | Production | Starts | Production | Starts | Production | |
| Bomber | 0 | 5 | 0 | 4 | 0 | 0 | ------------ |
| Attack | 2 | 2 | 0 | 4 | 1 | 4 | 2 |
| Fighter | 2 | 12 | 1 | 13 | 1 | 3 | 1 |
| Cargo/Transport | 3 | 6 | 3 | 7 | 1 | 7 | 5 |
| ASW/surveillance | 2 | 4 | 2 | 7 | 0 | 4 | 4 |
| Trainer | 3 | 5 | 0 | 5 | 0 | 4 | 3 |
| Utility | 5 | 6 | 3 | 12 | 0 | 16 | 6 |
| Total | 17 | 40 | 9 | 52 | 3 | 38 | 21 |

NOTE.—Does not include canceled or research programs (B-70), or program definition efforts. Multiple-use airframes are considered 1 program.

In brief, these charts show very clearly that the record of new starts in the last 3 years is a very inadequate record in itself. It is much more inadequate, however, when compared with the two Eisenhower terms. As the charts show in the "starts" column, the first Eisenhower term of 4 years produced a total of 29 and his second term, a total of 18. The Kennedy-Johnson administration, on the other hand, started a grand total of seven new programs in its first full term, all of which are nonstrategic systems.

Therefore, to repeat my charge, no new major strategic weapons systems have been introduced into the inventory by this administration.

I do not mean to imply by this that we should expect or be able to predict a given number of major new breakthroughs each year. I do mean to imply, however, that with the rapid advances in technology, a great number of which the committee is and has been aware of, it is disturbing and perplexing that a greater number of new starts have not been inaugurated by this administration. This brings us back to the main charge of my statement of April 6, of which Secretary McNamara chose to attack only one aspect: There is not a greater number of new starts because of the misuse of cost-effectiveness techniques.

This chart also shows in the last two columns that programs that have been in production during this administration have been drastically reduced. In other words, in the areas of missile and aircraft programs, there have been a total of 68 systems in production. By the start of next year, the number of these programs will have been reduced by approximately 50 percent. Mr. Chairman, when you combine these two facts, namely, that only seven nonstrategic systems have been inaugurated by this administration and that those systems that have been in production have been cut in half, one is given good reason to wonder about our defense posture in the 1970's and beyond.

Mr. Chairman, the Secretary of Defense quarrels with my statement that not a single major new strategic weapons system has been started in the last 3 years. As I have said, I stand on that statement. The chairman of our subcommittee, in his opening remarks, used only two examples of major breakthroughs since World War II. I think there are many more than that. To cite an additional two: I would mention jet aircraft and nuclear power for surface ships and submarines.

Mr. Chairman, I might add that none of these breakthroughs that either you or I have mentioned were started during this administration.

The Secretary of Defense, in his letter, used the Minuteman II as a new system when it is only an improvement. He uses the Nike X, which is a follow-on of the Nike-Zeus, as a new system. The only two strategic systems pointed out in his letter of rebuttal to me are these two. Each one of them is a modification of an existing system and an existing development which was in existence at the time he became Secretary of Defense.

Mr. Chairman, it is like saying that you have a brandnew weapons system every time you change the model numbers. That is exactly what he is trying to do in this particular case.

A casual reading of this letter shows that the "new" weapons systems Defense Secretary McNamara claims his administration has developed are obviously called "major" because of the price tag that is on them. In practically every example Secretary McNamara cites, he uses dollar amounts to justify the classification of each program as "major." Using this criteria, perhaps we should classify the war on poverty as a major new weapons system. After all, the requirements of a new weapons system all seem to have been met in this program. The cost is certainly high enough. And the war on poverty, like the weapons systems Secretary McNamara claims as new, is obviously a combination of already existing programs. And, of course, the program has been give a new name.

At this point in the RECORD I insert the Secretary's letter to me and my statement concerning it:

THE SECRETARY OF DEFENSE,
*Washington, D.C.*

Hon. MELVIN R. LAIRD,
*House of Representatives.*

DEAR MR. LAIRD: I was concerned to notice that as reported by the Associated Press on April 6 you stated that "* * * not a single new major weapons system has been developed in the last 3 years." Although I had believed that the testimony which I gave to the Defense Appropriations Subcommittee on February 17, 1964, and that Dr. Brown gave on May 6, 1963, and on March 11, 1964, made it clear that the statement attributed to you is incorrect, it may be helpful to set forth the situation in more detail.

Altogether our examination indicates 208 new projects, some small, some large, but all important. Seventy-seven of these new projects each have total development costs exceeding $10 million. I believe it will be instructive to describe some of the major ones among these in more detail.

Although the full development cycle on major programs in the strategic and general purpose areas averages about 6 years, we have carried several through from inauguration to completion. We have moved some of the developmental programs which existed 3 years ago along through that cycle to the stage of procurement. Most important, we have begun a number of new ones, in all areas. We have initiated the most promising and important among the myriad of new ideas and suggestions.

In the strategic area, two new weapons systems are the Minuteman II and the Nike X. These are so different in capability from their predecessors as to provide major changes in our offensive and defensive capacities. Minuteman II will have an accuracy twice that of Minuteman I; this produces the same improvement in effectiveness against hard point targets as a yield increase of eightfold. Minuteman II also will increase the payload available by 30 percent. The total development cost will be over $850 million, of which $700 million is included through the end of fiscal year 1965. In therms of destruction capability, Minuteman II is as different from Minuteman I as the B-52 is from the B-47.

Nike X, whose total development cost will exceed $1.5 billion, is to be an almost completely new system with many times the effectiveness of Nike-Zeus.

One of the first actions of this administration was to double the size of the critical penetration aids program. Annual expenditures on this program have grown from about $20 million in 1961 to $200 million requested for fiscal year 1965. These have produced a variety of hardware which has already entered the inventory. (This is one of the few exceptions to the 6-year rule.)

In general purpose forces, the major new full-scale developments initiated in the past 3 years include:

1. The F-111A, which will provide the Air Force with a tactical bomber of more than double the range and several times the payload previously available, and the F-111B, which will give the Navy an air-superiority fighter with a greatly advanced fire control/missile system (the Phoenix system) and extended loiter time. It is also potentially usable for air defense of the continental United States and for strategic offense. The F-111 will be funded at over $315 million this year and close to $425 million in fiscal year 1965.

2. The Lance missile, which will replace the Honest John at an accuracy improvement of fivefold, giving us an effective high-explosive as well as a nuclear capability at that range for the first time. The expected total development cost is about $175 million, of which some $50 million is funded in fiscal year 1964 and some $60 million planned in fiscal year 1965.

3. The mobile medium range ballistic missile, which the Congress has not yet been willing to fund into the stage of full development. This would provide a mobile capability untargetable by the enemy, which could be deployed anywhere in the world by air in a few days. The MMRBM will be funded at over $70 million this year, and we asked $110 million for fiscal year 1965.

4. The A7A (VAL) aircraft, which will give the Navy superior attack capability at more than double the range of the A4E which it will replace, at a development cost of about $75 million.

5. The Main Battle Tank, under joint development with the Federal Republic of Germany, is expected to reach a deployed status in 1970. It will provide our forces

with better cross-country maneuver capability, weigh less, and incorporate greater firepower with a higher first round hit probability than the M–60. It is being supported at close to $10 million each in fiscal year 1964 and fiscal year 1965.

6. The Sea Hawk, which is to be a new surface ship for antisubmarine warfare, incorporating improved sonar, propulsion, and data-processing capability that can be operational in the 1970's. Research and development for it will be some $20 million each in fiscal year 1964 and in fiscal year 1965.

7. The EX–10, a heavy, new type of torpedo for use against deep-diving, fast nuclear submarines, which will replace the Mark 37–1; $13 million was programed for fiscal year 1964, and $17 million for fiscal year 1965.

8. The Walleye air-to-surface guided missile, which will hit targets at ranges up to 25 miles away from the launching aircraft with an accuracy of a few feet—a vast improvement.

9. The TOW heavy assault weapon, a wire-guided advanced antitank missile system accurate both at short and very long ranges, and suitable for infantry use—a much more effective weapon than we currently possess in our inventory.

And many others.

The nine new developments listed above in the general-purpose area are funded at a total of $530 million in fiscal year 1964 and $709 million in fiscal year 1965.

In the military space program, we have:

1. Begun and are halfway through the development of the Titan III standardized space booster at a cost of over $320 million in fiscal year 1964 and some $200 million in fiscal year 1965. This will permit a threefold increase in the payload which can be put in orbit by existing boosters.

2. Initiated a standardized space guidance system.

3. Developed numerous special payloads.

4. Started the manned orbital laboratory, a space-station program which could amount in scope to hundreds of millions of dollars.

In counterinsurgency development, the new hardware items are measured in the hundreds, and can in many cases be made available to troops in a short time. We have a list of 157 such tasks, almost all of which were initiated in 1961 or later, but a simple measure of our activity here is the fact that funding on this area has increased from less than $10 million per year in 1960 to the $103.4 million requested for fiscal year 1965.

In addition to the programs whose development has been initiated since the beginning of 1961, we have successfully completed the development of a number of others, and committed them to procurement and deployment. Some of them, such as Shillelagh, had been in development difficulty and there was some doubt as to whether they could successfully reach inventory, but were reassessed, redirected, and successfully completed. Examples of additions to the inventory following completion of development begun before 1961 include the F–4B, the Polaris A–2, the Shrike, the HU–1B, and the Pershing.

I hope that this partial listing of the new development programs begun and development programs successfully carried through to production will serve to lay to rest the unaccountable concern about an alleged absence of new systems. I believe the record of the Department of Defense in the past 3 years in pushing the development of new weapons systems should not be subject to question. In fact, our expenditures on research and development since 1961 have averaged well over 50 percent higher than in the 4 preceding years.

Sincerely,

ROBERT S. MCNAMARA.

### STATEMENT BY REPRESENTATIVE MELVIN R. LAIRD

Secretary McNamara, twice in the past few days, has used statistics and his own special definition to avoid answering serious charges against his administration of the Department of Defense.

Mr. McNamara answered only one narrow aspect of my charge which really dealt in the main with the misuse of cost-effectiveness techniques. Even in this narrow selection, which clearly referred to the fact that this administration has not introduced a single new major strategic weapons system, Mr. McNamara lumps together as new, systems that are modifications of existing systems, improvements, versions, and so forth.

It's like saying that you have a brandnew weapons system every time you change the model numbers.

Earlier, he authorized the use of hitherto classified figures in order to make what is essentially a political case on his behalf. But, for all of that, he did not answer the Air Force Chief of Staff's two major comments. First, that we have lagged in the development of high yield nuclear weapons, such as those tested by the Soviet. Second, that the reliability and flexibility of our intercontinental guided missiles is not great enough to permit scrapping our manned bomber force.

In talking to Secretary McNamara about this, I very deliberately used the word "major" in reference to new weapons systems. He knows what that means. He just chooses to change the subject. As a member of the Defense Appropriations Committee, I am certainly aware of and familiar with the specific programs mentioned in Mr. McNamara's letter. Specifically in the strategic area Mr. McNamara only mentions two "new" systems: Minuteman II, which is an improved modification; and the Nike X, which is significantly based upon already existing systems. I might add that the Secretary has given strong indications of placing the TFX (F–111A) into the strategic category and even here we are only in the early stages of its development and the Navy is already having significant problems particularly in weight. Again, I find it indicative that the Secretary, in his letter to me, uses dollar figures as his criterion for "major."

When I talk about major new weapons, I mean the sort of advances we had in the Eisenhower years, when the intercontinental ballistic missile itself was introduced.

What can this administration come up with to match that? Nothing.

Mr. McNamara has been getting away with this sort of figure-juggling and word-playing for 3 years now. It would be very constructive, I feel, if our committee were to call him back a few more times to get this matter straightened out—without excessive use of the Pentagon's censorship. At any rate, his feeble attempt to answer my charges, by mail, has added exactly nothing to this very serious matter.

Incidentally, I find it interesting to note that this letter to me comes close on the heels of Mr. Sylvester's memorandum on the TFX (F–111A) in which the policy he spelled out clearly dictated that the decisions of the Secretary were to be justified at all costs. Is this another example of that same policy?

The weakness in Secretary McNamara's statements in justifying his cost effectiveness formula is very well illustrated when we come to the consideration of the nuclear-powered aircraft carrier.

The chairman of our subcommittee, the gentleman from Texas [Mr. MAHON], made some allusion to certain members of the committee to the effect that they perhaps had not voiced support of the nuclear aircraft carrier at an earlier date. I would like to point so that the RECORD is very clear that when the *Enterprise* was built, the vote was a tie vote. I was a new member of the committee and had been on the committee for just a short period of time. When the roll was called on the nuclear propulsion system for that particular carrier, it was my vote that decided that that carrier would be built and that it would have nuclear power in it.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. FORD. Mr. Chairman, I yield an additional 10 minutes to the gentleman from Wisconsin.

Mr. LAIRD. When the conventional-type carrier was up for consideration just 2 years ago I supported the nuclear configuration and members of our committee made the argument that the *Enterprise* had not proved itself out and we could not go forward with nuclear power at this time. But I supported nuclear power at that particular time even though the chairman of our committee had asked me to speak in opposition to it. I opposed conventional-type power believing that it would be proved out as indeed it was.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I would be happy to yield to the gentleman from Texas.

Mr. MAHON. I note here in the CONGRESSIONAL RECORD, volume 108, part 5, page 6835, the following:

> Mr. MAHON. I had hoped my colleague would defer that discussion until later.
>
> Mr. LAIRD. I would like to have that point clarified at some point in the gentleman's remarks.
>
> Mr. MAHON. I yield to my colleague, a member of the committee.
>
> Mr. LAIRD. With reference to this particular action of the committee I offered an amendment to limit the cost of the carrier to $280 million. That particular amendment was adopted.

Now, at the top of page 39 there is this sentence in House Report No. 1607 of the 87th Congress:

> Should additional funds be required for the construction of the carrier they can be reprogramed from prior-year funds presently available and through the competitive assignment of other ships to private yards——

Mr. LAIRD. I realize what the chairman is referring to and of course the gentleman knows that the amendment which was offered was an amendment introduced after the defeat of the nuclear-powered carrier. My amendment provided for the funding of the conventional carrier at a private yard. That particular amendment which was offered after the committee had voted for a conventional-powered carrier was designed to cut down the amount of money to the amount that was needed to construct a conventional carrier. I supported the committee report and I offered an amendment so that it would be constructed in a private yard. That is the amendment to which the gentleman refers. But the gentleman knows very well that on an earlier date, when we were voting on nuclear propulsion for this particular carrier my position was, as it is now, that we should be building modern ships. I am sure the gentleman recalls that.

Mr. MAHON. I would trust the gentleman's memory as to his own position. I would not question his position in regard to the matter. But in checking the record I did note that the gentleman offered the amendment to reduce the money for the carrier.

Mr. LAIRD. To reduce the money on the conventional carrier, is that correct?

Mr. MAHON. That is right. But, as the gentleman well knows, the subcommittee did not fight for, or urge on the House floor, in 1962 that the carrier be made nuclear powered, and I do not think the gentleman himself spoke on that subject in debate.

Mr. LAIRD. The gentleman knows the reason the committee did not make a big issue at that time. The gentleman from Texas made this argument in committee that the *Enterprise* had not proven itself by that particular time, but that same argument cannot be made today because the *Enterprise* has proven itself to be a very effective ship.

The Secretary of Defense in using his cost effectiveness formula has decided to go forward and build two conventional type carriers during this 5-year period. He testified he would allow the Navy Department to let a contract for a conventional type carrier some time this summer, in June, I believe the testimony was, and that he would also allow the Navy to go forward and would recommend or had approved in his 5-year program another carrier in the 1968 time period. This recommendation is based on the fact that, on a cost effectiveness study, with the carrier using nuclear propulsion it would cost an additional $120 million, but that this cost cannot be justified to develop this kind of a weapons system. It seems to me that the Navy would be much better off and the security of our country would be much better off if we junk the two-carrier proposition for the next 5 years and build one modern nuclear carrier.

This position is supported by the top witnesses as far as nuclear propulsion is concerned—Admiral Rickover, the Navy Bureau of Weapons, the Atomic Energy Commission, the Joint Committee on Atomic Energy, and many other leading authorities in this particular field.

The problem here is that Mr. McNamara has made the conventional carrier a personal sort of crusade, and some people in the Navy Department are willing to go along with him because they want two carriers and they have some sort of commitment that that is the only way they can get two carriers during the next 5-year period. This is a mistake. If you go down the road in the next 4 or 5 years into the 1970 time period, you are going to look back and say that this Congress made a great mistake by going along with a two-carrier program. By going along with the conventional power in this year 1964, we have been a party to pouring $300 million down a rathole.

Mr. Chairman, it seems to me that this matter needs very careful and thorough evaluation by this Congress, and it is my hope that the Secretary of Defense will delay awarding this particular contract and come back here and ask for an authorization so that we can move forward on a realistic construction program for nuclear carriers.

I am willing to support the Secretary of Defense when I think he is right, but I see no reason why we should blindly follow the Secretary of Defense when we think he is wrong. I think he was right, for example, in expressing concern over the authorization committee's cut in research and development funds and I will support the Secretary any time I think he is right.

But when we get ourselves into a position of blindly following his judgment rather than the judgment of the Congress of the United States and the judgment of our committee and responsible military judgment, I think that is, indeed, a dangerous tack for us to follow.

I have served on this committee for a number of years, and we have never had partisan differences within the committee. We have had many Secretaries of Defense who have come up before this committee to testify. When we found that the decision of one Secretary was wrong, this committee did not blindly follow his particular leadership when we knew, deep in our hearts, that a decision which was about to be made was the wrong decision.

In the area of antisubmarine warfare, the United States faces one of its severest threats. The Soviet submarine fleet has been building up to an ever-increasing number, and now is in a position where it far outnumbers the submarine fleet of the United States.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I yield to the gentleman from Texas.

Mr. MAHON. The gentleman makes a very interesting and provocative speech. I should have asked him to yield further in connection with the proposal to provide nuclear power now for the carrier which we funded in 1962. The gentleman knows that, technically, the Secretary of Defense has no authority to provide nuclear power for a carrier. Congress has not specifically authorized nuclear power for a carrier. Congress could have, if it had so desired, provided the specific authorization this year for nuclear propulsion for that carrier, and then an amendment would be in order now to provide additional funds of $126 million for the nuclear powerplant for the carrier.

Mr. LAIRD. I thank the chairman of the subcommittee.

I should like to say to the gentleman from Texas that I did not want the RECORD to show that Congress is at fault in this particular area. I am very jealous of the position that the Congress occupies. Personally, I believe that the authorization bill, if read carefully, will show that a carrier was authorized, and not necessarily a conventional or a nuclear carrier. The question involved here is not on nuclear propulsion nor conventional; the question is, How much money is allowable under the authorization for ship construction in 1965? That is where the problem is. This has been cut back some—I believe it is $5 million. So we have only that much leeway in that particular question.

My position, so there can be no misunderstanding about my position, is that I have written the Secretary of Defense, asking him to delay the award of this contract, to come up here to this Congress again, and to ask for additional funds. At this point I would like to include a copy of my letter to the Secretary on this matter:

APRIL 16, 1964.

Hon. ROBERT S. MCNAMARA,
*Secretary of Defense,*
*The Pentagon, Washington, D.C.*

DEAR MR. SECRETARY: The subject of the nuclear versus the conventional carrier has been given a great deal of attention in recent months. As you know, your decision to go ahead with the development of a conventional carrier is at variance with the judgment of a large number of men who are recognized experts in this field.

Admiral Rickover, in testimony before our Defense Appropriations Committee, testified that a nuclear-powered carrier would cost $126 million more than a conventional carrier. He said that if he were a member of Congress, he "would not like to have my record go down with a statement that in 1964 I helped save money by authorizing an obsolescent warship which was intended to be operating up to the 21st century."

He is not alone in his feelings. The best and most experienced experts in the Navy, the Atomic Energy Commission, and the Congress overwhelmingly endorsed the nuclear configuration. You have stated that your decision to make the carrier conventional was based on cost-effectiveness criteria. I believe you agreed with the overall superiority of the nuclear carrier but felt that the added costs were not warranted.

Yet, the report of the Joint Committee on Atomic Energy demonstrated that even on a cost-effectiveness basis, the differences were so slight as to make it imprudent to select the conventional carrier.

You have also testified before our committee that you plan not only this carrier but another one in your 5-year program (1968). This too, you have indicated, will be a conventional carrier.

The purpose of this letter, Mr. Secretary, is to suggest most strongly that you seriously reconsider your decision to let a contract for another outmoded conventional carrier. In my judgment, it would be far better to postpone plans for the second conventional carrier that is now planned for 1968 and go ahead with the construction of one modern nuclear carrier during this time period. This is, of course, a hard decision but I am convinced that construction of an outmoded conventional carrier at this time instead of a nuclear carrier would amount to a waste of $300 million of the taxpayers hard-earned cash.

With best wishes and kindest personal regards, I am,

Sincerely yours,

MELVIN R. LAIRD.

I realize it would not do us any good to provide additional funds if he does not see fit to extend them and to use them. But I believe this needs study. The Atomic Energy Commission has said it will not delay the construction of this ship to shift over to nuclear propulsion. My point is that if we are going to build this conventional carrier and again another one in 1968, I would like to combine these two carriers in this program into one nuclear carrier.

Mr. MAHON. I think the issue being described here is one about which reasonable men may have a difference of opinion. I also think it is correct to say that the authorization and appropriation history of this carrier shows clearly that the intent was that it would be conventionally powered. The Budget requested and the Congress provided for a conventionally powered carrier.

Mr. LAIRD. I certainly agree with the gentleman and he has stated the situation correctly, but will the gentleman not also admit that this decision was made on the basis of facts that were developed at a time when we had not proven out the *Enterprise*?

Mr. MAHON. Yes, we did not have adequate operational experience with a nuclear-powered carrier.

Mr. LAIRD. And the *Enterprise* has been a very successful ship.

Mr. MAHON. Apparently so; and we have made, as time goes by, marked strides in the development of nuclear propulsion. This does tend to alter one's views, or could alter one's views in regard to the whole problem.

Mr. LAIRD. Does the gentleman from Texas believe that this 5-year program is a good program with two conventional carriers in this time period—1965-70? We have in our records a 5-year program and we have another one projected for the 1967-68 time of a conventional carrier.

Mr. MAHON. I would not want to commit myself to a 5-year program involving two new large attack aircraft carriers at this time. I do not think that issue is before us. I do not think we should place the House in the position of committing itself now, by any action, on the proposed 5-year program for carriers.

Mr. LAIRD. I am just giving the program that the Secretary of Defense has worked out under the formula of his 5-year program.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I am happy to yield to the gentleman from Iowa.

Mr. JENSEN. I agree perfectly with the gentleman relative to this question of these ships. I have made some study of the problem and the issues. I know, of course, that the authorization limits funds to certain amounts. But I must say in all sincerity, Mr. Chairman, that to build other than an atomic-powered carrier at this time seems to be penny-wise and pound foolish. Certainly, we must stay ahead of the game in this construction of our military equipment and a carrier is certainly one of the most valuable instruments that we will use in case of a shooting war, which I hope and pray will not come again. But we must be ready and we must have the up-to-date equipment to carry on in any conflict with any enemy and have superiority of firepower and superiority in the things that are essential in getting this superior firepower and in making that superior firepower really effective. I am sure that almost every member of the Committee on Appropriations and this House will agree with the gentleman from Wisconsin who now has the floor that we should by all means build this atomic-powered carrier in preference to the conventional carrier.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I yield to the gentleman from California.

Mr. GUBSER. I believe the gentleman will recall that in 1961 I offered an amendment to authorize six additional Polaris submarines; and that that was opposed by Secretary of Defense McNamara, and the amendment was defeated. I believe the gentleman will also recall that in the same fiscal year the submarines were funded by a reprograming action requested by the Secretary of Defense.

If it was not necessary for a specific authorization for those Polaris submarines, why must we have a specific authorization for a nuclear-powered carrier?

Mr. LAIRD. The question raised by the chairman, I believe, had to do with the funding level on ship construction.

Mr. GUBSER. Which was the question involved in regard to the Polaris submarines.

Mr. LAIRD. It had to do with the maximum level of funding under ship construction. The carrier is authorized as a carrier. The question has to do with the funding level on ship construction authorized for fiscal year 1965.

The nuclear configuration could be carried on by the Department of Defense under the present authorization, I believe, by reprograming within the ship construction program with ship construction money that is available and will be made available under the bill. I do not want anyone to believe that this cannot be done under a reprograming action in the Department of Defense within the ship construction program. I do not believe the gentleman from Texas wanted to give that impression. Is that not correct?

Mr. MAHON. I believe that through the reprograming process it would be possible, without further formal authorization, to make the carrier nuclear powered.

Mr. LAIRD. Mr. Chairman, I should like to refer to one or two other items.

Secretary of Defense McNamara in his Saturday letter to me referred to the TFX or the F-111 as a new system. Yet, we know that the TFX has not even been fully developed. We should not give the impression to the American people that the "bugs" are all ironed out so far as the TFX is concerned, when the Secretary of Defense knows perfectly well that in the Navy version of this plane they are heading for serious trouble. They have a serious weight problem.

Regardless of the kind of statement which has been issued, I have a confidential memorandum from Arthur Sylvester, dated March 5, 1964, in which he dictates policy in the Department of Defense regarding the TFX and I am going to put this in the RECORD. He dictates what the Navy, the Air Force and their contractors must say about the TFX and its development. This is quite revealing. For example under the heading of policy, the memorandum states that "the aircraft will be described," and so forth—pages 3-4 of memo, paragraph 409.

At the conclusion of my remarks I will insert the entire memo in the RECORD.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I am happy to yield to the gentleman from Illinois.

Mr. ARENDS. In other words, is the gentleman saying that the American public are to be given exactly the kind of information Mr. Sylvester is willing to put out? Is this not controlled news at its best?

Mr. LAIRD. That is correct. I am going to put the whole memorandum in the RECORD of today's proceedings because I believe everyone should read this revealing set of instructions.

The Secretary has implied before our committee and elsewhere that he contemplates using the TFX as a strategic weapons system.

The people who devised the TFX or F-111 at no time contemplated the use of this particular ship as a strategic weapons system. The Secretary of Defense, in trying to confuse the matter here, I believe is misleading the American people. I am not concerned about our posture in this year 1965 or the 1965 to 1970 time period, but I am concerned about the posture of the United States from a military standpoint in the time period of 1970 and beyond.

The whole question has to do with the rate of penetration of the striking forces of the United States and the will of this Government of ours to use the power which we have. As we go through into the 1970 time period and beyond with our slowdown in the development of major new systems, with the breakthroughs which can be made by the Soviet Union in order to cut down on our penetration rate, we in the United States must be putting more and more effort into research and development so that we will have something coming forward in the time period of the 1970's and beyond. It seems to me that if we are going to maintain our position of world leadership, if we are going to maintain peace in our time, the time period of the 1970's and beyond is the period that we should be concerned with here today. I do not believe that today we are expressing the concern and making the decisions needed.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. Yes. I will be happy to yield to the gentleman.

Mr. MAHON. In reading page 2 of the press release by the Secretary, I wish to call attention to the reference made to the TFX. I do not believe, in fairness to the Secretary, that he said that the TFX was a strategic bomber.

Mr. LAIRD. No. But as the gentleman from Texas knows, I was talking about major strategic systems.

Mr. MAHON. Yes.

Mr. LAIRD. And he brings in the TFX in his letter.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman 1 additional minute.

In the Secretary's statement he says:

> In general purpose forces, the major new full-scale developments initiated in the past 3 years include:
>
> 1. The F-111A, which will provide the Air Force with a tactical bomber of more than double the range and several times the payload previously available, and the F-111B, which will give the Navy an air-superiority fighter with a greatly advanced fire control/missile system (the Phoenix system) and extended loiter time. It is also potentially usable for air defense of the continental United States and for strategic offense. The F-111 will be funded at over $315 million this year and close to $425 million in fiscal year 1965.

Mr. LAIRD. I agree with that statement of the Secretary, but I do not call that a major new strategic system.

Mr. MAHON. It is not a major new strategic system. The gentleman knows that in the Far East and elsewhere we do have fighter-bombers now which are capable of delivering nuclear weapons on an opponent.

Mr. LAIRD. Mr. Chairman, I would like to direct the attention of the gentleman from Texas to the testimony of General LeMay on this very point. General LeMay in his testimony before our committee certainly popped this balloon as far as the TFX being used as a strategic bomber system to deliver bombs. That is not the purpose of the TFX. By bringing this into the letter this is another attempt to confuse this whole area. The only point I make here is—and I say it with all respect to my chairman—that I think it is rather confusing to bring the TFX or the F-111 into a discussion of major strategic systems.

Mr. Chairman, I would like to make one final, brief comment on the issue of Army personnel.

Let us get this in perspective. We can reduce the size of our Army. We should reduce the number of personnel. We should increase pay in order to retain competent men. And we should increase proficiency pay to provide incentives. These measures would create significant savings in the budget.

President Johnson's proposal to reduce the draft does not get at the heart of the problem, it seems to me. The problem would be solved much faster and better and more permanently if the above recommendations were implemented.

MEMORANDUM FOR THE SECRETARY OF THE NAVY AND THE SECRETARY OF THE AIR FORCE, MARCH 5, 1964

Subject: Public affairs plan for F-111 program 17/1.

(The attached public affairs plan 17/1, subject as above, is approved for immediate implementation of public affairs activities throughout the development and test program for the F-111 tactical fighter aircraft.)

ARTHUR SYLVESTER.

### 1. PURPOSE

To provide guidance and coordinating instructions for information actions by the Department of the Air Force and the Department of the Navy throughout the development and test program for the F-111 tactical fighter aircraft.

### 2. OBJECTIVES

To insure that all information, consistent with military security, concerning the F-111 is prepared and released internally and to the public on a continuing basis throughout the development and test program.

### 3. RESPONSIBILITIES

(a) The Department of Defense (OASD/PA) will be responsible for the clearance of all information related to this program that is intended for initial public release.

(b) The Department of the Air Force having specific cognizance for the F-111 development and test program, will be primarily responsible for the preparation and coordination of information for public release. The Department of the Navy will prepare and coordinate directly with Safoi information affecting its interests in the program. Where interservice interests are reflected Safoi and Chinfo are responsible for interdepartment coordination of all material proposed for public release. The coordination will be accomplished prior to submission to OASD/PA for review and clearance. This includes material submitted by contractors.

(c) Subordinate commands and the agencies of the three services may issue initial public releases after approval by OASD/PA, unless the releases are of such importance as to warrant release by OASD/PA as a spokesman for the Department of Defense. The subordinate commands and the agencies of the services may unilaterally issue followon releases provided they are in consonance with releases previously cleared by OASD/PA.

(d) The Air Force, the Navy, and Marine Corps may issue internal information releases within the framework of material that has been previously cleared by OASD/PA and may delegate responsibility to subordinate commands and agencies for the conduct of detailed information actions in accordance with the provisions of this plan, including the development of supporting plans and information materials.

(e) For the Department of the Air Force (Safoi), the Commander, Air Force Systems Command, is delegated responsibility to implement the F-111 information program and initiate information actions according to this plan.

(f) The Air Force Systems Command and the Tactical Air Command will be responsible for providing Safoi, on a continuing basis, information materials on the F-111 pertaining to their areas of interest.

(g) The Air Pictorial and Charting Service (MATS) will be responsible for pictorial documentation, both still and motion picture, of Air Force aspects of the F-111 development and test program, for use in the Air Force internal and public information programs.

(h) For the Department of the Navy (Chinfo), the Bureau of Naval Weapons is delegated responsibility to implement the F-111 information actions, including film documentation, according to this plan, that pertains to the Navy's area of interest in the F-111 development and test program. The Department of the Navy (Chinfo) and the Bureau of Naval Weapons will insure coordination with the Commandant, U.S. Marine Corps (Drinfo) on matters of interest to the Marine Corps.

### 4. POLICY

In preparing information proposed for release concerning the development and test program for the F-111 tactical fighter, the Departments of the Air Force and Navy and their contractors will adhere to the following guidelines:

(a) Information materials, including pictorial and audiovisual, will clearly state that the F-111 development and test program is a joint project of the Air Force, Navy, and Marine Corps.

(b) The aircraft will be described in such a manner as to make it clear that the advanced fighter will meet the requirements of the Air Force's tactical air mission, the Navy's carrier-based fighter mission, and the fighter mission of the Marine Corps. Discussion of that mission, in context with the service doctrine and concepts of employment, may be included. The fact that a saving of significant amounts of money will be achieved by development of the F-111 for all three services as compared to the cost of developing separate aircraft for each service, will be emphasized.

(c) Appropriate recognition will be given all commands, organizations and personnel of the military departments and civilian industries participating in the F-111 development and test program for the significant roles they play in the acquisition of this advanced fighter for the operational inventories of the Air Force, the Navy, and the Marine Corps.

(d) Maximum use will be made of the key milestone events in the F-111 development and test program to achieve recognition of the actions undertaken by the Department of Defense, the Air Force, and the Navy to fully utilize advancements in technology in building more effective aerospace forces for the Nation's security. The following are some of the key milestone events:

1. Completion of full-scale mockup.
2. Major engineering accomplishments with test aircraft such as successful operation of variable sweep wings and control surfaces.
3. Rollout of test aircraft for taxi and related tests.
4. First flight of test aircraft.
5. First flight of test aircraft during which wing configuration is changed in flight.
6. Special training arrangements for pilots to learn new techniques for flying the F-111.
7. Special training courses for maintenance personnel in the F-111 program.
8. First operational aircraft accepted by the Air Force and Navy.
9. First tactical air operations tests against ground and air targets to demonstrate effectiveness.
10. First aircraft carrier operations.
11. Transition from extended to folded wing configuration during formation flying.
12. First F-111 equipped fighter unit.
13. Delivery of the F-111 to the Australian Air Force.

### 5. RELEASES

(a) Information including pictorial and audiovisual materials planned or proposed for release concerning the development and testing of the F-111 will be handled as follows:

1. Commands and agencies of the Department of the Air Force and their contractors will submit such material through appropriate channels to the Director of Information (Safoi). Safoi will effect coordination with the Navy Chief of Information (Chinfo) on those items that constitute initial release; those that concern items and events of major importance to the program; or those that directly relate to Navy interests or participation, prior to submission to OASD/PA for clearance and release.

2. Commands and agencies of the Department of the Navy and their contractors will submit such material through appropriate channels to the Chief of Information (Chinfo). Marine Corps commands will submit such material through appropriate channels to the Commandant of the Marine Corps (Dirinfo) for further forwarding to Chinfo. Chinfo will effect coordination with the Air Force Director of Information (Safoi) on those items that constitute initial release or concern items or events of major importance

to the program or items that directly relate to Air Force interests or executive agency responsibilities, prior to submission to OASD/PA for clearance and release.

3. Releases based on previously cleared material will be processed through appropriate Service channels and issued with the concurrence of their respective information agencies.

(b) The military departments will insure that all material submitted is carefullly evaluated for consistency with the objectives and policies of this plan prior to submission to OASD/PA.

### 6. SECURITY

(a) Within the scope of its authority as executive agent for the F-111 development and test, the Air Force has established Air Force Regulations 205-4 (OPNAV INST 5540.8B) and 205-49 as the primary sources of security guidance for the conduct of the F-111 information program by both the Air Force and the Navy. The provisions of DOD directive 5200.1 apply as appropriate for both Services.

(b) Requests for downgrading and declassification, public showings and public release of technical data as outlined in AFR 205-49, will be processed in sufficient time in advance of the date of the milestone events listed in paragraph 4d of this plan to obtain OASD/PA approved material and authorizations for release prior to the event.

### 7. COMMUNICATIONS

(a) All Services, commands and organizations participating in the F-111 information program are encouraged to contact each other directly on information matters.

(b) Material generated as a result of such contacts and/or information of value to Safoi and Chinfo planning and execution of the program, will be provided to them in the form of information copies of memorandums or other correspondence.

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## APPENDIX A—DOD PUBLIC AFFAIRS PLAN FOR F-111 PROGRAM

### GENERAL FACT SHEET

A. Background: The Air Force and Navy have long recognized the desirability of having a fighter aircraft capable of performing varied combat missions with optimal performance in each. Fixed-wing fighter aircraft cannot perform all missions with optimal performance because of varying requirements for lift at all speeds. This results from a simple aerodynamic fact that the faster an aircraft flies the less wing surface it needs to sustain flight.

The F-111 solves this problem by full-wing extension for slow, high-lift flight—like that involved with takeoff and landing operations and by using a swept-wing configuration for extremely high-speed flight at certain altitudes. The variable swept wing is an old idea but its realization has depended on major design and engineering developments. Those developments have enabled the Air Force and Navy to go ahead with joint plans for development of a variable wing tactical fighter aircraft.

The Air Force was designated executive agent for the F-111 development program by DOD on September 1, 1961. The Department of Defense, on November 24, 1962, announced selection of General Dynamics Corp. as prime contractor for development of the F-111.

The F-111 will be a multibillion-dollar program and is expected to surpass any fighter program since World War II, in both numbers and dollars.

The two-man tactical fighter will reduce weapon systems cost by maximum use of common equipment and structures in both the Navy and Air Force versions; utilization of conventional materials; structural design; and size of the aircraft. The first of these will be delivered by January 1965.

B. General characteristics:

1. The F-111, a two-man tactical fighter, will be an advanced aircraft powered by two Pratt & Whitney TF-30 turbofan engines. Engine development is a responsibility of the Navy.

2. The aircraft's variable-sweep wing, which will sweep forward and aft in flight, will provide maximum lift throughout its speed range.

3. Performance characteristics include a top speed of about 2½ times the speed of sound; supersonic speed at sea level, and short take-off and landing operations from rough runways in combat area.

4. The Air Force version of the F-111 will be able to fly anywhere in the world in 1 day and will carry all conventional and nuclear weapons including the latest air-to-surface and air-to-air tactical weapons.

5. The Navy version, in addition to carrying conventional and nuclear weapons, will be equipped with a long range air-to-air missile control system and will carry six of the Phoenix-type missiles being developed by the Hughes Aircraft Co. The Navy version will be capable of operating from aircraft carriers with the primary mission of maintaining air superiority.

C. References: The following references contain appropriate background information:

1. "Statement by Secretary of Defense Robert S. McNamara to the Permanent Subcommittee on Investigations of the Committee on Government Operations, U.S. Senate" dated March 13, 1963. Secretary McNamara presents his views on the development of the TFX concept and on the selection of General Dynamics Corp. as prime contractor for the F-111 aircraft.

2. "Statement by Secretary of the Air Force Eugene M. Zuckert to the Permanent Subcommittee on Investigations of the Committee on Government Operations, U.S. Senate" dated July 25, 1963.

Mr. Zuckert discusses the bases of his recommendation to Secretary McNamara that General Dynamics be selected as the source for the development of the TFX. This statement includes the early history of Air Force and Navy requirements, source selection, final evaluations and bases of decision.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. MAHON. Mr. Chairman, I yield 20 minutes to the gentleman from Florida [Mr. SIKES], a member of the committee.

Mr. SIKES. Mr. Chairman, this is a $46.7 billion bill. It appropriates nearly half the money in the budget. This bill will make it possible for America to continue to have the strongest military establishment in our peacetime history. That is a far-reaching statement, but I make it without qualification. We do have a powerful, effective military force, and we are not the only ones who realize it. The Communist dictators know as much about our military power as we do, and I am certain they respect military power more than they respect the arguments, or the pleas, as the case sometimes appear to be, which our diplomats advance at the conference table.

In recent days, there has been criticism that military costs outweigh civilian appropriations, and that deemphasis of commercial and cultural pursuits have resulted. I would remind you that never have commercial and cultural pursuits flourished as now, and never have appropriations for these activities been higher. It is difficult to see them as being neglected. I see little choice in the world we live in but to continue to maintain the position of military superiority we now enjoy lest we find ourselves without commercial and cultural advantages as well.

Instead of degrading America and America's institutions, military expenditures have in fact permitted and encouraged great improvements in nearly every field of endeavor.

From the same source, there is criticism of our reliance upon the Military Establishment and our confidence in its leaders. I can see no danger that this can lead to a military takeover. It is not the military which is seeking the enactment of police-state bills in Congress, or which is asking that more and more power be delegated to the executive branch of Government, or which is usurping the legislative prerogative of Congress through court edicts and decisions. The only professional military leader in this century who became President did so through the orderly processes of the elective system, and he made no effort to perpetuate himself in office beyond the prescribed two terms.

Defense budgets enjoy the confidence of the Congress because the American people want security in a troubled world. It is like a shotgun behind a farmhouse door. Prowlers respect it. Those who would depend upon logic and the United Nations for our protection are indulging in wishful thinking.

The impressive undertaking for the defense of America and the free world set forth in this bill is being done at less cost than in fiscal year 1964. This again is a striking and unusual situation. In nearly every agency of Government, we have grown accustomed to mounting costs and appropriations which constantly creep upward. Every department head wants to be an empire builder. It is the temper of the American people to demand more and more from Government. This plays into the hands of empire builders and while Congress generally cuts back a little, the net result year after year is a constantly growing Federal establishment. Not so the military. In this year we have the finest product in peacetime history, and we can say the job is being done for less money than the year before.

The Defense Subcommittee has not made a fetish of budget cutting. There have been frequent occasions when we have gone above the budget for specific reason. Notably, to expedite the development of Polaris submarines, to increase the number of nuclear submarines, and to expedite the missile program. In every case, I think we were right. Once or twice we followed the other body on increases which subsequently didn't seem to make much sense. The billion for bombers incident is a case in point. Otherwise, circumstances have proved us right. This year we provide money for a followon bomber substantially in excess of that requested in the budget. However, we have it on top authority that to do so means that we will gain a year in this most important area. The B-52, now our principal defense in manned bombers, is aging. Defense against bombers is improving. But missile defense also is improving. We must not place all our dependence on missiles. We must continue to have a bomber capability, and the new bomber will need characteristics hitherto not developed in aircraft.

The budget before us is the tightest in years. Secretary McNamara has kept a tight rein on the Department of Defense. He has insisted on economies in operation, upon consolidations, upon base closures, and whatever the occupants of the Pentagon may think of him for these tight-fisted policies they respect him for his ability. But even after the budget had been completed within the Department of Defense, a further review was promoted by the White House. The occupant of the White House is wise in congressional procedure. Upon his urging further cuts of $1 billion were made. Historically, that is about the amount this committee has cut in addition to the amount being cut this year. In other words, the President made our cut before we had a chance at the bill.

Even as the McNamara budgets have been tightening, our own staff work has been improving. This subcommittee has a skilled, experienced, knowledgeable staff who are professional in their experience in dealing with defense budgets. I think it would be well if we had a larger staff because our staff members are overworked. I have great appreciation for their accomplishments.

This is not a time for drastic or wholesale budget slashes in defense. A look around at the trouble spots of the world will show without question that American diplomacy has not equaled the effectiveness of the Armed Forces in accomplishing or preserving peace. Although storm clouds appear to be dispersing in some areas, brighter promises of peace cannot be considered either general, certain, or permanent. As a matter of fact, any step which points to lessened tensions on today appears certain to be followed on tomorrow by subversion or aggression somewhere in the world. On yesterday Mr. Khrushchev ordered cuts in the production of nuclear explosive materials. On tomorrow there may be another senseless shooting down of an American plane, or the takeover of another bit of territory in Laos. This much is certain. American military forces have not lost territory to the Reds. For them there have been no Cubas, no Zanzibars, no gradual eating away of the independence of little nations.

There is no way to determine when the tenuous peace which now exists will disrupt into armed conflict or to know what type of conflict it will be. We must be prepared for every eventuality and every emergency from the smallest conflagration in the Canal Zone to the holocaust of a global war. Even now in Vietnam we are as surely engaged in war as ever in our history. True, it is on a limited scale insofar as personnel is concerned. But, those who bear the marks of battle and the families of those who are brought home for burial know that is not play-acting. American servicemen are dying there nearly every day. And, without American equipment and dollars, another part of the world would speedily be engulfed by communism and with it would soon go all of southeast Asia.

So, it is reassuring to know that we are superior in military strength today to any other nation in the world. This has not long been true. There was a gap following the dismemberment of our forces after World War II, and except for a short costly almost hysterical buildup during the Korean conflict, there was serious imbalance in our forces. The U.S. Army particularly had been badly neglected in procurement and in modernization, and its organization was geared to tactics of the past. Our military forces possessed great power in terms of massive nuclear strikes for general war. But we were badly short of modern airlift, modern sealift, even modern equipment which would enable ground forces to hold territory and to seize the initiative and advance against an enemy. We had only slight capability for the effective conduct of limited war.

Now that situation is vastly changed. Even though there remains room for improvement, there has been great improvement in very recent years. This bill will continue both the improvement and the superiority of our forces in every respect.

In fact, we have passed the peak of planned procurement of most of our modern weapons. We are approaching the end of nuclear submarine procurement. We are starting to equip the Polaris fleet with the third generation Polaris missile with its longer range and improved accuracy. The dependable old B-52 bomber has progressed from model A to model H in modernization. Once our principal dependence in the field of intercontinental ballistic missiles was the soft configured, vulnerable Atlas. We have progressed in improvement of Atlas to the D squadrons, but already we are phasing out the Atlas in favor of the new hardened, dependable, fast-reacting Minuteman which is in its second model.

Yes; amazing progress has been made in the development of new, complicated, and, incidentally, very costly, but very effective military equipment. Now, there is danger that this situation will lead to complacency. Possibly, already this is happening. We face an alert, capable, and determined foe. A decade ago few were willing to concede the Russians were capable of the progress in weaponry and in space they have demonstrated. They may have, and they probably will have, equally great surprises in store for us in the future. It is always unwise to underestimate an opponent.

For this reason, the committee made exhaustive inquiry into the progress and pattern of the weapons systems which our defense forces plan for the future. We want to be sure we will not be taken by surprise as we were when the Russians exploded their first nuclear device, or outdistanced as we were when they placed the first satellite in orbit. The delicate balance of world power and world leadership can shift with the announcement of weapons for which there is no counterpart or defense on the other side.

Frankly, there may be weaknesses in our design for the future. There is little to indicate a really significant breakthrough in weaponry in the years immediately ahead. Our plans appear largely concerned with follow-on models of present equipment. There are exceptions. Studies such as Laser, the use of light beams as death rays, may show results. But, I see a need for greater emphasis in this general field.

Today our weapons are good. Some are the best in the world. So the committee is not unduly disturbed by some developments which have captured headlines. I refer to the controversy over reliability of missiles. Not all of our missiles will hit the target, but most of them will. They are constantly being improved and we have a steadily growing number. Bullets from carefully loaded ammunition, fired from weapons on a benchrest, will not impact at exactly the same point. Nor will missiles. But, those rifle bullets, if properly aimed, will kill an enemy and our missiles, if properly directed, are adequate to destroy a target.

Nor has the committee been overdisturbed by statements that the Russians may be closing the megatonnage gap. I refer primarily to capability for delivery of megatons of nuclear devices on targets. As the B-47's, which are now antiquated, are phased out, we lose some capability to deliver nuclear bombs. A bomber carries a larger payload of nuclear weapons than does an ICBM. But, the number of B-47's which will reach a target against present-day air defense systems is rapidly being downgraded. By cost comparison, they are too ineffective to compete with newer weapons. The fact that the Russians boast of a 100-megaton nuclear weapon, which in reality is nearer to a 50-megaton weapon, makes their side of the story look more impressive. But, there is not enough justification for 100-megaton weapons, or even 50-megaton weapons, for us to enter into competition in this area. We do not need to kill an enemy but once. And, may God help us that we do not have to kill once.

Apprehension has been created in some areas by Mr. Khrushchev's boasts that he can shoot down attacking ICBM's. So can we—in limited numbers and under anticipated conditions. There is no evidence to show that he has significantly bypassed our developments in this field. We are pushing the development of the Nike-X and its follow-on, Sprint, and other devices. But there is doubt their effectiveness will ever justify the cost of a complete system. Very serious and careful tests now in progress, and continued by this bill, will tell us much more than we know now.

We are building a conventional carrier. The last one was a nuclear carrier. This looks like a backward step. Many people in and out of the Navy would have preferred a nuclear carrier. I consider that we need a carrier too badly to quibble at this point. We have not been able to get an agreement that a nuclear carrier will be built even if funded, and it is a fact that another conventional carrier will be an important adjunct to the fleet.

The followon bomber for which we provide $47 million above the budget request may be one of the most important items in this bill. The $5 million request carried in the budget would provide only a minuscule start. The appropriation which we made is the same as that recommended by the House Committee on Armed Services under the gentleman from Georgia [Mr. VINSON]. General LeMay said this amount will cut a year from the development time contemplated for the followon bomber. A year can be extremely important. It is to be an entirely new concept of aircraft by which we will attempt to insure that we have an effective, 2,000-mile-an-hour, manned bomber fleet in the 1970's.

Some of you will ask why the B-70 or the RS-70 now under development cannot be altered or converted to this requirement just as the A-11 is being converted from its initial mission to that of interceptor. I wish the RS-70 could be so utilized. It has cost a billion and a half dollars. It has not even flown. The Air Force now has little hope of significant use for this plane in future years, but all of the cost of development has not been lost. From it we have gained much knowledge about metals, stress, fuels, and design problems associated with a plane which will fly at three times the speed of sound. The Air Force feels that flight testing the RS-70 presently under development will provide additional highly valuable information about the aircraft of the future. The facts are that time has bypassed the B-70 and even before it flies it is not modern enough for the requirements of the followon bomber.

Some of the strongest criticism of the Defense Department has been directed at sole source noncompetitive contracts, and in much of this I concur. But with the modernization presently required, sole source contracts cannot be avoided. Please bear in mind we are constantly developing new or greatly changed weapons systems. They require very complex operating parts, backup systems, and communications facilities. A competitive bid on a rifle already in the hands of troops presents no problems. But a competitive bid on a communications system for an aircraft which has not even been built presents an entirely different situation. There are few guidelines by which manufacturers can estimate costs. They simply will not bid competitively.

There are a number of situations of this nature in this bill. And the fact is the agencies of government like to deal in noncompetitive, sole source bids. It is simplier and easier. So, sometimes contracting officers will continue sole source, noncompetitive procurement longer than is necessary. To try to stop this sort of thing and to force competitive buying wherever possible, the committee has cut $80 million from requests totaling some $2 billion for electronics, aircraft, and telecommunications procurement. It is the highest cut percentagewise in the bill. There are some who would have us cut deeper. A deeper cut could be ruinous to reliability and to modernization. Remember, in this field we are getting to the very heart of present-day defense programs. We are talking about aircraft, missiles, antimissile developments; the new Red-Eye with which a footsoldier can knock down an airplane; even Polaris, one of the most important weapons systems in our arsenal.

I want to say a word about the Reserve components. For years we fought efforts from the Pentagon to reduce the paid drill strength of the Army Reserve and the Army National Guard below 700,000. Well, it now is below 700,000. Not by virtue of a deficit in congressional appropriations or even by reason of Pentagon desires. The programs for modernization set forth for the Reserve components are now so exacting that their units are in many cases little different from the Regular forces. It is intended that they be prepared for immediate or early utilization in times of emergency. The standards have been raised and the Reserve components have taken these exacting new requirements in their stride, but recruitment has been more difficult and the number of participants fell off. Now strength figures are increasing. Both the Reserve and the Guard are optimistic about regaining lost strength. The committee has been assured and reassured that the Defense Department will support efforts to increase the numbers of reservists and will support the necessary funding.

For the first time the committee is providing funds above the budget level to deal with a problem which exists in Navy Reserves and in Air Force Reserves. One involves deteriorations in numbers of personnel and the other a limitation in drill pay periods. Our action should correct both and make it possible for the Reserve program of both services to operate more effectively than in the past.

I have indicated very general support of this bill and that is my attitude. I would have changed some of its language. I question the wisdom of cutting procurement of the new Redeye weapon which very definitely is needed by modern ground forces as a defense against low-flying, strafing and bombing enemy aircraft. I would have written differently the language on the 65-35 item on repair, alteration, and conversion of naval vessels, because I do not want to cripple the effectiveness and to diminish the know-how possessed by personnel of naval shipyards. I would have placed greater emphasis on chemical and biological studies. These are carried in the bill at budget level, but I say today as I have said many times before that our capability in these fields is too largely a laboratory capability, and a sudden surge of interest in this area by the Russians could leave us seriously jeopardized. Of particular significance is the advance in the nondestructive, nonlethal effects of chemical and biological weapons.

This bill slows Army modernization just as it was reaching full stride, and before modernization of the Army was completed. The saving thus obtained is not as important as the risk to our forces. In that connection I note that there is at long last a cooperative undertaking between Germany and the United States to develop a new battle tank. This is commendable. The Germans historically have been expert in weapons development. Their weapons have been among the best. We can gain from a pooling of knowledge with the Germans and other allies. There are indications the whole thing may become bogged down in redtape and legalism. This must be avoided under all circumstances.

One word of caution. A recent newspaper release stated that a flourishing numbers racket had been exposed in the Pentagon. No one has denied it. I am concerned about the security in the Nation's military nerve center if a numbers racket can develop and operate there without detection.

I am not certain there is sufficient progress in upgrading the Army and Navy Academies. In national ratings both the Air Force Academy far outshines both. Nor am I certain there is in the Army and Navy Academies sufficient urge to stay abreast of the forward trend in education. Now all three Academies are being expanded and costly improvements in facilities are being requested. There is equal or greater reason to improve educational standards concurrently with improvement of facilities.

Now, I shall add this final word. All of my discussion has been about weapons and military strength. I would not have us forget the people who serve in the military forces or the civilians who work beside them. Military effectiveness cannot be entirely based on weapons. Weapons alone will win no battles and gain no victories. Those who man the weapons, who service them, and those who design them are the essential forces which lead the way to victory. For their esprit de corps, their dedication, their know-how, we should be very grateful indeed. I salute them for a job well done.

Mr. FORD. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. MINSHALL].

Mr. MINSHALL. Mr. Chairman, in past years I have applauded the bipartisan efforts of the Department of Defense Appropriations Subcommittee, in producing bills engineered to give this country the best possible military protection. This we have always done and have done again in this bill.

This year more than 3,000 pages—5 volumes—of printed testimony have been released. But, examining the original typewritten transcripts, which are locked in subcommittee safes, I was too often disturbed by the excessive number of deletions made under the guise of national security. More times than not the only security involved was the political security of the present administration.

It was political censorship, not national security, that was the guideline in determining what should be left for you to read in the final printed copies of the hearings. If partisanship had not put a false security stamp on much of the hearings, the five volumes would have been doubled in number.

By striking off the record questions and answers not pertaining to genuine security matters, much of the five volumes is rendered meaningless. The public record has been transformed into a document designed to nurture the myth of the infallibility of top Pentagon civilians.

The printed hearings only hint at what Secretary McNamara actually said about the interlocking of our defense and foreign policies.

His comments on foreign policy were almost entirely erased from the record. But, within days, he issued similar statements to the daily press, with the emphasis carefully shifted. The testimony on Vietnam and Cuba covered many, many hours of committee work. In the printed hearings, political censorship makes it appear that we glossed over those two vital areas of concern in a matter of minutes.

Intelligence estimates, which I agree should be classified, were made use of just last week by the Secretary of Defense, but were blanked out of the printed hearings made available to this House.

Certainly all that we hear in Defense Subcommittee sessions should not be published as general information. But the test of whether specific information is of aid and comfort to an enemy must be applied without any taint of selfish partisan advantage attached to it.

More than half of General LeMay's testimony was stricken by the blue pencil. Much of what he told us was his own opinion as a military expert and did not contain either figures or technical security data. His remarks did not happen to agree with Secretary McNamara's views, and so they were eliminated from the printed hearings.

I protest and will continue to protest withholding essential information if this Congress is to make intelligent and knowledgeable decisions regarding our military program and a correct evaluation of the conduct of our foreign affairs.

I do not protest the proper deletion of classified information by the Defense or State Departments for bona fide national security reasons. I do protest the abuse of the "Top secret" stamp to block out honest dissenting opinions if they reflect adversely against the administration. I protest this "political censorship."

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. ANDREWS], a member of the committee.

Mr. ANDREWS of Alabama. Mr. Chairman and members of the committee, in my opinion this is a good bill. It will add to the military strength of this Nation. The most important question before the American people today is the ability of the military forces of the country to preserve peace in the world.

The potential enemies, the Communist community, still have the ultimate objective of extending the sway of communism over the rest of the world. The alleged dispute between the leadership of Communist Russia and the leadership of Communist China is not over the ultimate objective, but how it is to be achieved and who is to control the worldwide Communist movement.

Our potential enemies respect one thing and one thing only—that is strength and military power. In my opinion, we have the necessary strength and military power to command their respect.

Having served on this subcommittee for the past 12 years, I have had the opportunity of seeing our military strength grow.

I have seen our missile program grow from a mere idea in a scientist's mind to the great arsenal of efficient and reliable intercontinental ballistic missiles that we have today. Our subcommittee has had the responsibility of determining the amount of money spent for the buildup of our military partnership. According to the testimony of all military experts who appeared before the committee, we have today a retaliatory capability which is sufficient to prevent a major attack on us. Such capability consists of our bombers, missiles, and bomber systems.

During the past 3 years we have had a substantial buildup in our military strength both for a general and limited war. Here are a few specifics: A 100-percent increase in the number of nuclear weapons available in the strategic alert forces; a 45-percent increase in the number of combat ready Army divisions; a one-third increase in the number of tactical fighter squadrons; a 60-percent increase in the tactical nuclear forces deployed in Western Europe; a 75-percent increase in our airlift capability; a 100-percent increase in general ship construction and conversion; a sixfold increase in our counterinsurgency forces. Our troops are being issued the most modern and sophisticated weapons. I am convinced that we have today the best equipped army in the world.

This bill provides an Army of 974,000 officers and men, a Navy of 677,900 officers and men, a Marine Corps of 190,100 officers and men and an Air Force of 838,800 officers and men, for a total of 2,680,700 officers and men in the Regular military services. Our military men are well trained. They have excellent weapons. We have an abundant supply of atomic weapons and an accurate delivery system.

In short, we are better prepared today than ever before in history, and this should be comforting to the peaceloving people of the free world.

Mr. Chairman, each year that I come from our committee room after hearing testimony for several months, I am convinced of two things: First, that our potential enemy has the capability, regardless of what we do, of inflicting severe damage on our Nation. I am also convinced that we have the capability of immediate retaliation if an attack is launched upon us, regardless of the size of the attack, regardless of the effect of the attack. I am convinced we have the retaliatory capability of absolutely destroying our potential enemy as civilization is known today.

So, Mr. Chairman, I have the prayerful hope that these two great, powerful nations, standing opposite each other with opposite ideologies, opposite concepts of human life, will wind up like two men that I heard about years ago here in Washington who started to have a duel. One was a bloodthirsty killer. The other had never fired a gun. The killer challenged the peaceful, quiet, law-abiding man to a duel, and under the rules of the game of dueling, the challenged man had the right to select the weapons to be used and the circumstances under which the duel would be fought. He chose a sawed-off shotgun to be used at a distance of 2 feet. The bully canceled the duel. Figuratively speaking that is the position we are in today, Mr. Chairman. We stand 2 feet apart with sawed-off shotguns. If the triggers are pulled nobody will win. Let us hope and pray that the duel will be canceled. And I say again that it is comforting to know today that we are better prepared than ever before.

Mr. LIBONATI. Mr. Chairman, H.R. 10939 reported favorably by the Committee on Appropriations for the funds required by the Department of Defense for 1965. It provides for the regular military functions of the Department excluding military construction, family housing and civil defense levels considered, under other bills.

The various items in summary classification were considered and approved: Military personnel, $14,565,000; operation and maintenance, $12,280,000; procurement, $13,437,947,000; research, development and evaluation, $6,476,320,000—totaling $46,759,267,000—divided as follows to the various services and agencies: Army, $11,346,125,000; Navy, $14,263,528,000; Air Force, $18,489,333,000; defense agencies, $2,660,231,000.

The importance of this bill is that it makes more secure the progressive advance and incremental increase of the military strength of our Nation. The financial costs of equipping, feeding, and clothing our armed forces of $2,687,000 on active duty. Also provides for 687 military installations and 875 naval vessels, 30,000 aircraft, and the addition of 2,655 military aircraft. Also the construction of 53 vessels and 7 vessels for conversion purposes and over $1.6 billion for procurement of equipment.

The strategic retaliatory forces are the striking force in a nuclear war—long-range bombers, air-to-ground and decoy missiles, aerial refueling tankers, land-based and submarine-based strategic missiles and systems for their command and control. The increase in missiles, weapons and their megaton quantity and quality in 3 years are doubled and trebled. The bill provides for 50 Minuteman silos, retrofit of others with Minuteman II missiles. Also retrofit of Polaris A1 missiles range 2,500 nautical miles A-3. Also research moneys for study of bombers. The cost of the strategic retaliatory forces supported by the bill approaches $5.2 billion.

The Continental Air and Missile Defense Forces equipment needed to detect, identify, track, and destroy unfriendly forces approaching the North American Continent. Its main problem to survive a missile attack requires research effort in the direction of reaching significant improvements in satellite detection and tracking capabilities. There are appropriated $1.7 million to this end.

The General Purpose Forces include the Army combat units, Navy units, Marine Corps units, and the Air Force.

Certain reductions were made, as for instance pay and allowances of military personnel, because of former deficiencies having been reduced by the 1964 appropriations. The regular defense budget has varied with the years in accordance with the needs. This bill is $7 billion above that level. Management has been good and the need for the increase is obvious. The committee's desire to maintain the military strength of the United States superior to that of any other power in order that its voice and power as a deterrent to war would be respected by friend and foe alike. In international matters, firmness of position is guaranteed by superiority of an adequate military striking power. Thus, President Lyndon Johnson cannot only give strong talk but also enjoys a flexibility in dealing with the world's problems.

The funds provided under the bill are adequate to insure the development of a realistic continuing research leading toward a future new weapons system. Also the committee recommends the coordination of antisubmarine warfare effort on the part of the Navy. The protection of the coastal United States—both against ballistic- and marine-launched missiles; of merchant shipping; and the naval fleet. The question of research and operational tactics are thus the forces designed to perform the entire range of combat operations short of nuclear war. This group cost some $13.5 billion—$18.3 billion requested, 1965—and preclude the military personnel of 1.3 million men.

Airlift forces are the Military Air Transport Service transport aircraft; the Air Force Tactical Air Command troop carrier aircraft, the Air Force Tactical Air Command troop carrier aircraft; the troopships, cargo ships, and tankers operated by the Military Sea Transportation Service and forward floating bases—its costs $1.4 billion for the accounts covered in this bill.

The Reserve and National Guard forces—1,065,000, 1965—at the cost of $2 billion for research and development, appropriated, $5.4 billion; retired pay appropriated, $1.5—supporting 466,100 retirees, an increase of $53,700 for 1965.

Thus, the committee throughout its work kept in mind the question of the military superiority of our Nation in order to protect and lead the freedom nations of the world and to also perfect as a deterrent force against these enemies who would seek to destroy God-fearing men. Chairman GEORGE MAHON, of Texas, and his committee are to be congratulated in guaranteeing by adequate appropriations the military integrity of our forces to defend the peoples of the world who worship God, and whose symbol of freedom give guidance and hope to the hearts of these patriots of the captive nations who live to die in their fight for deliverance by us from our common enemies.

**Mr. DADDARIO.** Mr. Chairman, I am pleased to support the recommendations of the subcommittee chaired by the distinguished gentleman from Texas [Mr. MAHON]. No subject that comes before the House is more important than the security of the Nation, and I believe that this bill can provide the funds that can be used to continue our preeminent position in military affairs.

One portion of the bill, and of the report, has drawn my attention, however, in my capacity as chairman of the Subcommittee on Research and Development of the Committee on Science and Astronautics. The Committee on Appropriations has continued its concern with a limitation upon the indirect costs of research. In this instance, the committee again proposes a 20-percent limitation on indirect costs which can be paid to any recipient of a grant for the conduct of a research project.

We on the committee on Science and Astronautics have been involved with this issue for some time. We have examined it in some detail with respect to research carried on for the National Aeronautics and Space Administration. There are obvious inequities which develop from a flat limitation upon expenses, and yet, I am sure, the Committee on Appropriations, in the face of existing testimony and evidence on wide variations in such indirect costs, has felt obliged in many instances to seek some solution.

In our hearings on the relations of Government and science, we have received a great deal of testimony that inadequate recompense for indirect costs has become a thorny issue. It has tended to drain the resources of universities where great talents exist that can contribute to our security, and our future. Just recently, the Committee on Science and Public Policy of the National Academy of Sciences, after a thoughtful and thorough study, concluded that this is one of the most serious fiscal problems to develop in the operation of the project system. The committee noted that if administrators found that the Federal grant for some researcher's work did not cover expenses, he would be tempted to divert funds from other necessary work, or from teaching, or from specific areas of study that did not benefit by Federal support.

One of our national goals is proper education, no less because it is the single most identifiable element in the strength of our skilled and talented people on which our security rests. The question of indirect costs, while it poses fiscal and budgetary problems, deserves resolution. I would like to remind the House, that our Subcommittee on Science, Research, and Development, will begin hearings on May 5 which will take up problems of indirect cost and allowable overhead in basic research grants and contracts.

Our universities, are, of course, one of our great natural resources for the conduct of basic research on which all scientific advance rests. This question of indirect costs, which has often confronted committees in a piecemeal sense, should be the object of penetrating and sincere study, and it is in that sense that we will approach it.

**Mr. SHRIVER.** Mr. Chairman, I rise in support of H.R. 10939 which appropriates nearly $47 billion in fiscal 1965 for the defense and security of the United States. Generally, I concur with the Committee on Appropriations and the Defense Subcommittee that this bill provides the necessary funds to continue the maintenance of the strongest Military Establishment in the peacetime history of the United States.

There is a difference of opinion, however, in regard to the long-range direction of the Defense Establishment, particularly as it pertains to weapons systems.

On the one hand, we have the expert opinion of the Air Force Chief of Staff warning that while at the present time our military strength is superior to the Soviet Union, that gap of superiority is narrowing.

The Secretary of Defense, on the other hand, has declared that U.S. military strength has been increasing. He has released previously classified data concerning comparative United States-Russian power.

One of the key areas of difference between our military experts and the civilian leadership in the Department of Defense is the continued maintenance of a manned weapons system into the 1970's as part of our strategic forces.

General LeMay, in testimony before the Subcommittee on Defense Appropriations, stated:

> I firmly believe that the best defense lies in a mixture of weapons, what we call a mix of manned and unmanned systems. All our war gaming and all our experience indicates that you get a more efficient campaign if you fight with a mixture of unmanned systems and manned systems. You then can use the unmanned systems to do the things they do better and you use the manned systems to do the things they do better. Therefore, your overall results are much more efficient than if you only had one system that would do one thing well.
>
> Now, that is after the fighting starts. I think the biggest advantage, however, occurs before the fighting starts. This is our primary purpose for being, to prevent a war. With the flexibility you have in the manned system, the things you can do with them, you have a greater opportunity for preventing a war than you have with a missile system where you only have two operations, you either fire it or you do not fire it.

Mr. Chairman, we can be sure that the Secretary of Defense and the President will have the last word in this continuing controversy.

The Congress again is meeting its responsibility for the defense of our Nation by heeding the counsel of the Air Force Chief of Staff, and the other members of the Joint Chiefs of Staff. We are appropriating $52 million for research and development on a proposed manned weapons system to follow the B-52 strategic jet bomber.

We also are providing in this bill over $296 million in 1965 for continued modification of the B-52 fleet to insure its safety and prepare it for its important missions in the Strategic Air Command. The B-52 is a proven deterrent to Communist aggression.

Classified information released by the Secretary of Defense on April 14, 1964, revealed that the United States has 540 strategic bombers on 15-minute alert while Russia has no more than 120 heavy and about 150 medium bombers capable of reaching U.S. targets and returning.

These figures would seem to confirm the United States probably has superiority in the air in the 1960's. What about the next decade? The B-52 fleet will range in age from 7 to 15 years.

In 1960 we heard a great deal about a missile gap. Although the Eisenhower administration did not release classified information to dispel that myth, the present Secretary of Defense in 1961 confirmed there was no missile gap.

On the basis of statistics which have been made public, it is highly possible that our Nation could experience a "manned weapons system gap" in the 1970's, unless we move ahead in the planning and development of a new system. I believe the intent of the Congress is clearly expressed in this appropriations bill and the armed services authorization bill which preceded it.

Mr. BROOMFIELD. Mr. Chairman, may I congratulate the House Committee on Appropriations for the economical and efficient military budget which has been placed before us today.

Despite the reduction of $711,733,000 in the amount requested for the Department of Defense by the administration, this amount will permit the United States to continue and increase its military strength in every important category.

The committee has emphasized that we are—and have been since World War II—superior in military strength to any other nation in the world.

In essence, this budget will maintain this superior military position without robbing the rest of our economy. Our strength will grow solidly and sanely, based upon need rather than a crash program which can lead to tremendous waste and misdirection of effort.

Mr. HECHLER. Mr. Chairman, I am very pleased to have the chance to speak out in favor of the retention of the 65 to 35 ratio on Government and private conversion, repair, and alteration of naval vessels. The operation of this provision in the law has saved money for the taxpayers, and I believe it has worked to the best interests of the country. I commend the committee for the language contained in section 539 of the bill, and wish to point out that section 540 provides the necessary flexibility for the Secretary of Defense to adjust the ratio when in the public interest. I hope that the excellent language contained in the committee bill will be retained.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes, had come to no resolution thereon.

## GENERAL LEAVE TO EXTEND

Mr. ANDREWS of Alabama. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks in the RECORD on the general debate today; and that all Members who spoke on the bill have permission to include tables and appropriate extraneous matter in connection with their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

## NEW YORK WORLD'S FAIR

Mr. KEOGH. Mr. Speaker, on behalf of the gentleman from New York [Mr. DELANEY], I ask unanimous consent for the immediate consideration of the concurrent resolution, Senate Concurrent Resolution 80.

The Clerk read as follows:

> Whereas the people of the United States as well as the people of New York will be the hosts to those who will be traveling from many other countries to visit and participate in the New York World's Fair during 1964 and 1965; and
>
> Whereas the United States itself will be an active participant and exhibitor in the New York World's Fair: Now, therefore, be it
>
> *Resolved by the Senate (the House of Representatives concurring)*, That the President is hereby requested, in the name of the people of the United States, to welcome all who come to the United States to visit the New York World's Fair; to extend official recognition, in such ways as he may deem proper, to the New York World's Fair; and to call upon officials and agencies of the Government to lend such cooperation as may be appropriate for these purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Mr. HALPERN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HALPERN. Mr. Speaker, we will be witnessing tomorrow the opening of the New York World's Fair, which shall remain as one of the most enlightening attractions to all Americans and foreign visitors for the next 2 years.

We wish the fair success in realizing all of its great promise. What it holds out to all peoples is a better world in which to live, man's continuing achievements in an expanding universe.

I join in hoping that the resolution of today will be fulfilled. We extend to the President of the United States on his visit tomorrow a most cordial and hearty welcome. We express the wish that our Government will take all appropriate steps to assist in making this World's Fair a pleasure and delight to foreign guests.

It has been diligent, hard work and intelligent planning which shall guarantee the success of this venture, and to all who played a part, we owe a deep appreciation. For New York and the United States, the World's Fair will symbolize the great and exciting challenges which lie still ahead. I congratulate the people of the fair for what they have done for us, and I know that the underlying purposes of their work shall be realized as this great exhibition proceeds through the years.

## DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND THE JUDICIARY APPROPRIATION BILL, 1965

Mr. ROONEY of New York. Mr. Speaker, I have a unanimous-consent request which I have cleared with the leadership on both sides.

Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, May 6, to call up the bill making appropriations for the Departments of State, Justice, and Commerce, and the judiciary and related agencies.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## NEED FOR ALLIED UNITY IN TRADE POLICIES STRESSED ANEW

Mrs. KELLY. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I would like to take a few minutes today to call to the attention of the membership of the House a report on "East-West Trade: Its Strategic Implications" prepared by Samuel F. Clabaugh and Richard V. Allen, of the Center for Strategic Studies at Georgetown University. I believe this report warrants careful consideration by the membership of this body.

A year and a half ago, in a report on "The Soviet Economic Offensive in Western Europe," my subcommittee—the Subcommittee on Europe of the Committee on Foreign Affairs—warned:

> The industrialized nations of the West are not facing up to the challenge of the Soviet economic offensive. They lack a coordinated policy which would marshal the economic resources of the West for strategic economic defense and initiative in the cold war.

Our report went on to say:

> The absence of such a policy is playing into the hands of the Communists: it enables them to obtain Western goods and materials which contribute substantially to the bloc's industrial and military potential, and which strengthen the bloc's capability to wage a politicoeconomic offensive in the less developed areas of the world.

After reviewing the situation in Europe with respect to trade with the Soviet bloc—particularly in oil and other strategic goods—my subcommittee concluded:

> The time is also ripe for a thorough review of the structure and the capabilities of NATO in order to ascertain to what extent this organization can be expected to aid in the collective defense and in the cold war strategy of the Atlantic alliance.

Two months after the issuance of our report, another group of members of the Subcommittee on Europe, working under the chairmanship of Hon. JOHN S. MONA-

GAN, of Connecticut, prepared a report entitled, "Conditions Behind the Iron Curtain and in Selected Countries of Western Europe." In this second report, the group, comprised of Representative JOHN S MONAGAN, of Connecticut; Representative HARRIS B. MCDOWELL, Jr., of Delaware; and Hon. WILLIAM S. BROOMFIELD, of Michigan, concentrated on the process of change taking place within the Soviet bloc and its implications for U.S. foreign policy. They concluded that "present attitudes on the part of the U.S. Government must change if we are to take advantage of the opportunities for significant gains presented by these changing conditions," and pointed out that "carefully designed use of the instruments of our foreign policy—including trade and other relations—with respect to these countries is appropriate and, in the long run, may produce results beneficial to the United States."

Mr. Speaker, I have quoted from the two reports submitted last year by my subcommittee for two reasons: first, because they are referred to and quoted by the report of the Center for Strategic Studies; and, second, because the conclusions which we reached almost a year and a half ago are in large part reiterated by Messrs. Clabaugh and Allen.

I believe that the report of the Center for Strategic Studies performs a very useful function. The report contains an inventory of congressional documents of the period 1959–63 which deal with the subject of East-West trade. These documents stem from the work of some 15 congressional committees and subcommittees.

Anyone reading the report of the Center for Strategic Studies cannot fail to be impressed by the urgent need for achieving Western unity in dealing with the issue of East-West trade. As this report points out:

> The longer the delay in securing Allied unity in trade policies, the more difficult the problem will become. Failure to act, it has been demonstrated, will result in a worsening of the problem and consequent disarray in the alliance.

Mr. Speaker, during my earlier remarks at the beginning of today's session, I referred to an article by Charles Bartlett on "Russian Oil and the Cold War," which appeared in the March 26, 1964, edition of the Washington Evening Star. Under unanimous consent I include the text of this article in the RECORD at this point:

### RUSSIAN OIL AND THE COLD WAR—SALES HOLD LESSON THAT INDIGNATION WON'T CURB FORCES OF WORLD TRADE

(By Charles Bartlett)

The lesson that righteous indignation alone will not stem the natural forces of world trade is brought home by new statistics on the expansion of Soviet oil exports to the non-Communist world.

The Communist bloc is securing one-fourth of its free world currency earnings through the sale of oil. The bloc supplies 6 percent of the free world demand for oil and receives in return machinery and metal goods that it badly needs.

The domestic oil industry, anxious to stimulate sympathy for its tax concessions has talked repeatedly of an oil war. The aggressive sales compaign by the Communists is less of a war than a determined effort to capitalize upon the one commodity that Russia can produce and sell in quantity abroad.

West Germany, Italy, Japan, and Sweden sold over 1 million tons of 40-inch pipe to the Soviet bloc between 1959 and 1963. These sales provided 40 percent of the pipe necessary to lay down the Comecon gas and oil pipelines that will reach from the wells in the Ural-Volga region into most of Eastern Europe.

As recently as 1961, the Soviet Union's shortage of tankers was regarded as a key weakness in its oil offensive. The Russians were vulnerable to the willingness of the free world shipowners to continue to carry their oil and at discriminatory shipping rates.

But the Soviet tanker fleet has been quadrupled under the 7-year plan, largely as the result of ship purchases from Japan, Italy, and Finland. By 1965 the Communist bloc is expected to be independent of free world charters for the transportation of its oil.

Industrialized nations like Japan and Italy, with limited oil supplies of their own, have many reasons to look favorably upon the Communists as an alternate source. The Soviets buy the Italians' synthetic rubber, fertilizer and machinery in exchange for oil sold at a price well below the cost of non-Communist oil from the Middle East.

The Japanese imports have taken the form of barters in which the Russians buy tankers and pay for them with crude oil. The deal has pleased the Japanese by filling the idle capacity in their shipyards. The two countries have hinted repeatedly that they are considering a more significant arrangement, in which the Japanese would supply the material for a 2,740-mile pipeline from the Urals to the Pacific. This would give Japan a readier access to Soviet oil.

The increased reliance of these Western nations upon Communist oil has raised obvious political and strategic problems. But all these problems would not disappear if the industrialized nations allied with the West were induced to unite in boycotting Communist petroleum supplies.

The Russians would lose some of their trading access to the industrial countries, but they would gain an opportunity to concentrate their oil exports upon the underdeveloped countries. The experience in Cuba, where Russian oil was employed in 1960 to hasten Fidel Castro's break with the United States, illustrated the disruptive technique of oil diplomacy.

The Russians have gained footholds for their oil in Western markets by undercutting established prices. Consequently the non-Communist customers are paying less than half the price that the Russians charge the satellites. Yet when they try to raise prices on these new customers, as they have done in India and West Germany, they meet unbending resistance. The inequities in their price structure are bound to trouble the Russians in the future.

Their oil offensive will be increasingly resisted by the producer nations and constantly limited by their own productive capacity. But the Russians do have huge reserves of oil and the intense will to develop them as a source of foreign currency.

Their success has been sufficient to alert the Western governments and the private oil companies to the challenge at hand. It has also served to underline the fact that ideological considerations rank after the laws of supply and demand in the world market-place. This is a valuable point for the United States to remember at a time when its own trade policies are up for debate.

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## MILITARY COMMISSARIES

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. VAN DEERLIN. Mr. Speaker, along with many other Members, I was greatly disturbed yesterday to learn of a new assault on our military commissaries. A report by the General Accounting Office looks toward the possible closing of about half the commissaries now available to families of U.S. servicemen.

The Comptroller General rubs his hands over prospects for saving a good share of the $150 million which he gives as the cost of operating 269 food commissaries. He would retain only those at "remote military bases where families of servicemen are unable to obtain food at reasonable prices or without traveling long distances."

I am not concerned about a difference of opinion which reportedly divides the GAO and the Pentagon—a difference over defining the word "reasonable." Quite clearly, the urban area I represent, San Diego, Calif., would lie "out of bounds" from the Comptroller's approved list.

I learned long ago not to question even my wife's cost-accounting procedures, let alone the Government's. I will not dispute GAO figures on the commissaries, beyond noting that the Navy disagrees sharply with most of them. But the balance sheet of Government accounting makes no provision for factors that just do not show up on the slide rules. Among these is the responsibility we hold toward the men who have undertaken to serve this Nation in uniform.

Opponents of the commissary system tell us blandly that to make matters right with service families, we can raise their pay to make up the difference between commissary prices and what they would pay in commercial stores.

Let us answer them with some hard facts.

Eighty percent of commissary customers are the families of enlisted men. These families enjoy an annual saving of up to $400 at the commissary. Does anyone suggest that a pay raise of this size is politically attainable? And would it be wise to raise the pay of family men without matching increases for their unmarried fellow servicemen?

It happens that almost exactly one-half of Navy men—49.8 percent—are married. This group, obviously, are the ones on whom the Navy depends most heavily. They are the career men. The commissary privilege was one of the "fringe benefits" which prompted them to choose a military career in the first place.

By the GAO's own figures, these families each year buy commissary items for $730 million which would total about a billion dollars in commercial stores. Their saving is therefore about $270 million. A little simple arithmetic shows us that even the $150 million cost of operating the commissaries is a real taxpayers' bargain if it buys the equivalent of a $270 million military pay raise.

Mr. Speaker, the Comptroller General and certain Members of this body can prepare for a fight. I will play no part in reducing the supply of meat, milk, and bread on the tables of America's service families.

## MANPOWER POLICIES

Mr. CONTE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, I am pleased to join with a number of distinguished colleagues of my party in a continuing discussion of U.S. manpower policies.

Many of these colleagues have been studying the policy and purpose of the Selective Service System for some time, and the recent interest created by the statements made by President Johnson last weekend are, undoubtedly, a reaction to this strong Republican interest.

Although President Johnson managed to capture the newspaper headlines of the Nation this past Sunday, it is best to remember that four Republican Senators, headed by Senator KEATING, of New York, called for a sweeping review of the draft by a special commission, as far back as January 16 of this year.

Our legislation, which is being cosponsored by Republicans from various sections of the country, will set up a Joint Congressional Committee on American Manpower and National Security.

This committee, once established, could greatly add to the dialog which our party has begun on this most important issue.

It would make a comprehensive study of the present and future importance of our manpower and its relation to military and national security needs.

The committee would determine the number and skills of persons in the United States qualified for gainful employment and then look at our military manpower needs, on both a qualitative and quantitative basis.

It would examine and investigate the present methods of military procurement and look at alternate methods of procurement of manpower for the Military Establishment. The committee would also attempt to come to certain conclusions regarding the effectiveness of the present training, the uses to which our national human resources are put in the military and the morale of the military insofar as it relates to the Military Establishment.

It would look at the cost of the present program and the estimates of an alternative program and it would compare our program with those of other nations.

There is widespread agreement, Mr. Speaker, on the need for a committee of this kind.

Experts such as Eli Ginsberg and others have stressed the inequities of the system and the widespread need for revision. As Professor Ginsburg has said, the "Pentagon should be encouraged to study anew the possibility of getting along without the draft." He added, however, that he felt the "draft is too basic to be studied by military officials. It is a basic issue that affects Congress and the public even more than the Defense Department. In fact, it affects every American."

Because it does affect every American, and because it is an issue of great importance to the future of America, I am grateful that many of my colleagues are participating in the discussion this afternoon.

What we do here in the Congress may be the most necessary and vital action undertaken in some time.

Herman Melville has said of youth:

> We are the pioneers of the world; the advance guard sent on through the wilderness of untried things to break a new path in the new world that is ours. In our youth is our strength; in our inexperience, our wisdom.

It is in keeping with the special responsibilities of the youth of America that we in Congress have decided the necessity for an examination and investigation of a system which, more than any other, has made a lasting indentation on the future hopes and dreams of our younger citizens. For, in the final analysis, this study is designed to emphasize the necessity of both the strength and wisdom of America's young men.

## NEW WHEAT RULES ARE BREACH OF FAITH

Mr. FINDLEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Speaker, today I have made an urgent plea to President Johnson to keep faith with American wheat farmers by not changing rules in the middle of the game. Rule changes for price-support eligibility announced last week by Agriculture Secretary Orville L. Freeman under the newly enacted wheat law amount to a breach of faith with farmers. They force farmers to undertake a gigantic plowdown or lose the price support they rightly deserve.

Over a million farmers accepted as gospel the price-support rules announced last August by the USDA for the 1964 crop and planted their wheat accordingly. They were told explicitly they did not need to be in wheat-program compliance in other farms in which they have an interest. All they had to do, to be eligible for price support, was to be within their allotment. No mention was made of idling cropland. No rule was listed about conserving practices.

Now, on the eve of harvest, these farmers are told the rules have been changed. With only one inning left in the 1964 game, the Department of Agriculture has torn up the old rulebook.

They are told they must meet three new requirements or forfeit price support. All three new rules are especially burdensome this late in the game and impose severe hardship on farmers.

Under the new rules, farmers must be in wheat-program compliance in other farms in which they have an interest—reversing USDA's announcement of last August. They must plant in conserving crops, an acreage equal to approximately 11 percent of their wheat allotment. In addition, they must maintain a normal acreage in conserving practices.

As a matter of fairplay and good faith with farmers who are trying to cooperate with Government programs, these rules should be set aside for the 1964 crop.

This can be done, I believe, without additional legislation. The cross-compliance rule can be set aside under discretionary authority granted in section 107(6) of the Agriculture Act of 1949 as amended by Public Law 88-297—1964 cotton-wheat law. The subsection reads as follows:

> A "cooperator," with respect to any crop of wheat produced on a farm, shall be a producer who (i) does not knowingly exceed (A) the farm acreage allotment for wheat on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat and (ii) complies with the land-use requirements of section 339 of the Agricultural Adjustment Act of 1938, as amended, to the extent prescribed by the Secretary.

The phrase, "except as the Secretary may by regulation prescribe," grants the necessary authority.

The diversion and conservation rules can be set aside under discretionary authority conveyed by section 326 of the Food and Agriculture Act of 1962. This section reads as follows:

> Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of subsections (c), (d), and (g) of section 16 of the Soil Conservation and Domestic Allotment Act, as amended, or of section 307 of the Food and Agriculture Act of 1962, section 339 of the Agricultural Act of 1938, as amended, or of section 124 of the Agricultural Act of 1961, and payment may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.

The planting of 1964 crop wheat was made "in good faith in reliance upon action or advice of an authorized representative of the Secretary."

In support of this contention, I call your attention to the text of announcements issued by the Illinois ASCS State office last August, which follow my remarks.

These rule changes will hurt farm income which has already been depressed by extremely low livestock prices.

I sincerely hope the President will act promptly to lift this unfair burden.

The text of the Illinois ASCS documents follows:

### NOTICE 1, WHEAT (64), 32

### WHEAT PROGRAM PROVISIONS

1. Purpose: To furnish material prepared by the Department for use in informing wheatgrowers and others of program provisions in effect for 1963 and 1964 crops of wheat.

2. Exhibit 1—Letter to wheatgrowers: The attached exhibit 1 letter is to be reproduced substantially in this form in county offices and sent immediately to each wheat producer on the records in the county office. We believe the letter is self-explanatory and will eliminate widespread misunderstanding of the provisions discussed.

The exhibit 1 letter is to be used even though the letter suggested in Notice 1—Wheat (64)—31 was recently issued to wheat producers. Inasmuch as items 1, 2, and 4 of the letter will apply to only a small number of farms, it is suggested these items be omitted from the general mailing and a separate letter including these items prepared and mailed to applicable farms.

3. Exhibit 2—Effect of overplanting in 1964: This attached exhibit was prepared because of reports we have received which indicate that there may be deliberate efforts to confuse growers in heavy wheat producing areas with reference to these matters. Every county and community committeeman should be furnished a copy and a supply shall be made available in the county office in the major wheat producing areas. It is imperative that when a producer comes to the office relative to these matters that they be discussed with him by the office manager or a committeeman. We feel this problem is of such importance it should not be left in the hands of a clerk.

4. Provisions of law: The present law leaves the Department with no alternative but to reduce the future allotments of producers who overplant their 1964 wheat allotments, when 1964 is one of the years in the base period.

SUGGESTED NOTICE TO PRODUCERS

1. Purpose: To furnish a notice for use in advising producers of 1964 wheat program provisions.

2. General: Comments from the field indicate numerous inquiries are being received on the status of the 1964 wheat program; therefore, to eliminate any confusion that may exist, it is suggested that producers be reminded of 1964 program provisions.

The notice on the reverse has been prepared for this purpose and it may be reproduced on a card or letter and sent to all producers or to wheat producers, as deemed appropriate.

DEAR PRODUCER: This is to remind you of the current provisions in effect for 1964 crop wheat:

1. There will be no restrictions on the planting or marketing of 1964 crop wheat; however, allotments remain in effect for price support purposes and for determining history credit for use in establishing future years allotments.

2. To be eligible for price support at about $1.25, your acreage must be within the farm allotment. Premeasurement of the allotment acreage to assure compliance is available upon request at a nominal fee.

3. Overplanting the allotment will reduce the farm's wheat history credit, which may result in a smaller allotment in future years if allotments are required.

If you have any questions, please call at the county ASCS office.

——— ———.

*County ASC Committee.*

(The State office sent this to each county as a suggested form for the county to use in writing to wheat farmers. I would guess the idea came down from the Washington office.)

DEAR WHEATGROWER, or DEAR SIR: There are several wheat program provisions relating to marketing quotas and acreage allotments that continue in effect for the wheat crops of 1963 and 1964. We are calling these provisions to your attention because we feel that you will want to take them into consideration in planning your crop operations.

The following program provisions relating to wheat marketing quotas and acreage allotments are specific provisions of law and are, therefore, not subject to decision by the Secretary of Agriculture. Although these provisions were freely discussed prior to the marketing quota referendum for the 1964 crop, their signficance may have been overlooked by many wheatgrowers.

1. Release of stored wheat after July 1, 1964: Since marketing quotas will not be in effect for the 1964 wheat crop, wheat that was grown in excess of marketing quotas in 1963 or previous years will be subject to the original penalty provisions until July 1, 1964. After that date, stored excess wheat may be released without penalty and with no loss of acreage history on the farm where the wheat was produced.

2. Release of stored wheat before July 1, 1964: If the 1963 wheat crop from a farm is small enough, because of underplanting or underproduction, application may be made to the ASC county committee for the early release of part or all of the farm's stored excess wheat from previous crops without payment of the penalty and with no loss of wheat acreage history. Loss of wheat acreage history results where a marketing quota penalty is paid or becomes due on excess wheat. Therefore, if the producer pays the penalty on stored excess wheat in order to release it before July 1, 1964, his farm's wheat acreage history will be affected.

3. No 1964 marketing quotas: There will be no marketing quota penalties for planting in excess of acreage allotments for the 1964 wheat crop. However, producers who overplant their 1964 allotments will receive history credit only in the amount of their allotments. Producers who comply with their allotment will receive 1964 acreage history credit equal to the farm wheat base from which the allotment was determined. The base acreage is about 1½ times the farm allotment.

4. Overplanting cuts off soil bank payments: Farmers with conservation reserve contracts agreed to plant within their farm acreage allotments or in the case of wheat, 15 acres, whichever is larger, and this means that the 1964 conservation reserve payments for the farm is dependent on keeping within the 1964 wheat acreage allotment or 15 acres, whichever is larger.

5. Compliance with the farm allotment: Provisions have been made to continue in effect the opportunity for those producers who overplant their 1964 wheat allotment to dispose of such excess acreage 30 days before harvest. They will then benefit by being eligible for price support and receiving the base acreage as 1964 history credit in the determination of future allotments. The disposal dates for 1964 crop will be the same dates that were in effect for the 1963 crop.

6. Compliance with wheat allotments on other farms: A producer complying with the wheat allotment on one farm will not have to be in compliance with the wheat allotments on other farms in which he has an interest in order to be eligible for price support on the farm that is within its allotment.

In addition to the above provisions, price support averaging 50 percent of parity nationally will be available only to producers who stay within the farm wheat acreage allotments established for the 1964 wheat crop. (The parity price for July 1963 was $2.51 a bushel.)

If you have questions about how these provisions would affect your operations, feel free to come to the office and we will make every effort to answer them.

Sincerely yours,

——— ———,

*County Committee.*

EFFECT OF OVERPLANTING A FARM WHEAT ALLOTMENT IN 1964 UNDER LAW NOW IN EFFECT

Apparently, there is wide misunderstanding about the provision of the wheat program under which the farm wheat allotment will be reduced in future years if the allotment is overplanted in 1964. Here are the facts.

Under present provisions of law, a farm wheat acreage allotment will be reduced starting with the 1966 allotment if the allotment is overplanted in 1964 because the wheat acreage history for the farm for 1964 will be established at a figure equal to the 1964 farm acreage allotment (instead of the higher base acreage). This provision was passed by the Congress and was signed into law by President Eisenhower on April 4, 1958. It reads as follows:

Agricultural Adjustment Act of 1938, as amended (Public Law 85-366, April 4, 1959): "SEC. 334(c)(1). The allotment to the county shall be apportioned by the Secretary through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, types of soil and topography. * * * For the purpose of establishing farm acreage allotments * * * the past acreage of wheat for 1959 and any subsequent year shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case of any farm which is in compliance with its farm wheat acreage allotment, the acreage diverted under such wheat allotment program."

Thus the use of the acreage history in cases where a wheat allotment is overplanted is directed by law. It has been in effect since April 4, 1958.

The quoted section of law concerns acreage allotments; it applies to the operation of the wheat allotment program whether or not marketing quotas are in effect for the wheat crop. In regard to storage of excess production, when quotas are in effect, the same section provides:

"SEC. 334(c)(1). Provided, that for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year."

"SEC. 334(d). For the purposes of subsections (a), (b) and (c) of this section, any farm—

"(1) to which a wheat marketing quota is applicable; and

"(2) on which the acreage planted to wheat exceeds the farm wheat acreage allotment; and

"(3) on which the farm marketing excess is zero shall be regarded as a farm on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone the payment of the penalty. This subsection shall be applicable in establishing the acreage seeded and diverted and the past acreage of wheat for 1959 and subsequent years in the apportionment of allotments beginning with the 1961 crop of wheat."

The only difference so far as the future allotment is concerned—under quotas or not under quotas—is that the producer has an opportunity under quotas to avoid the loss of history credit for his "overplanted" farm. Since the exceptions to the rule (for reducing future wheat allotments when a farm allotment is overplanted) have to do with the "farm marketing excess," the exceptions cannot apply, when marketing quotas are not in effect—as for the 1964 wheat crop—since no farm marketing excess can be determined for any farm.

Under the present provisions of law and regulations, noncompliance with the 1964 farm wheat allotment will have an adverse effect on the 1966 and future wheat allotments. It will not have any effect on the 1965 allotment since the 1964 wheat acreage will not be available when such allotments are determined.

Complying farms (with allotments of 15 acres or more) will receive their base acreage as history for future allotments. Excess farms (with allotments of 15 acres or more) will receive their 1964 allotted acres as history. Since the 1964 farm allotment is approximately 60 percent of the farm base, this could have the net effect of having the farm allotment on such noncomplying farm reduced 6 to 7 percent beginning with the 1966 allotment.

For your further information, citations of law governing various provisions of the 1964 wheat allotment and price support programs are as follows:

Food and Agriculture Act of 1962:

"Sec. 107(4). The level of price support for any crop of wheat for which a national marketing quota is not proclaimed or for which marketing quotas have been disapproved by producers shall be as provided in section 101."

Agricultural Act of 1949:

"Sec. 101(d)(3). The level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity." (In the case of tobacco no price support is available when marketing quotas are voted out.)

Food and Agriculture Act of 1962:

"Sec. 107(5). If marketing quotas are not in effect for the crop of wheat, a "cooperator" with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat."

## INSISTENCE ON CONVENTIONAL POWER OVER NUCLEAR POWER

Mr. HALLECK. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. Anderson] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I want to call the attention of the membership of the House of Representatives to the fact that there is also a feeling within the very important Appropriations Committee that Secretary of Defense McNamara is very wrong in insisting that the next aircraft carrier, the CVA-67, which was funded in fiscal 1963, be powered by conventional means rather than by nuclear propulsion. I refer to the report filed by the committee on this bill which provides some $46 billion for the armed services for fiscal year 1965 which is supposed to provide everything necessary to maintain our military strength and insure the cause of freedom around the world. On page 37, that report states:

> A number of the members of the committee are sympathetic toward the appropriation of the necessary additional funds in the accompanying bill to provide nuclear propulsion for the previously funded ship, however, in the absence of a request from the Department of Defense for funds, and specific authorization, no action was taken.

These enlightened members of the House Appropriations Committee are following the dictates of good commonsense in recommending nuclear propulsion for the next aircraft carrier. It is difficult to see how anybody who has examined this problem objectively could arrive at any other conclusion.

How ironic that, at the very moment we consider this bill, which is intended to provide our fighting men with the best equipment and weapons in the world, our Secretary of Defense sits over in the Pentagon adamant in his stand against a modern Navy.

As a member of the Joint Committee on Atomic Energy and as a sponsor of a bill that would require that this new attack carrier be propelled by nuclear means, I can state that I am pleased to note from the comments in the report accompanying the bill that there is such a feeling among the membership of the committee. I know that this feeling is shared by myself and a number of my colleagues on the Joint Committee on Atomic Energy.

It becomes rather clear that only the obstinacy of the Secretary of Defense and his refusal to be entirely realistic about the advent of nuclear propulsion stand in the way of equipping this carrier with the kind of a powerplant that not only the Navy, but the Atomic Energy Commission and the Joint Committee on Atomic Energy say it should have.

It seems that only because of the adamant position Secretary McNamara has taken with respect to this carrier which is to be commissioned in 1967 that our Nation is being thrust into a defense program of preplanned obsolescence.

It becomes all too apparent here that the present Secretary of Defense in formulating guidelines for military and naval hardware that is supposed to take care of our future needs has abandoned our traditional concept of planning for the future and endeavoring to stay ahead of defense hardware obsolescence which has been so costly to the American taxpayer.

If this is a typical example of his judgment in such important policy matters in the area of our national defense, then it is high time for us to become concerned over the direction in which he is pointing our defense program. We can ill afford to build a second-class carrier, particularly when sustained freedom of action is the basic principle of naval warfare today and which only nuclear propulsion can provide.

Let us not permit the Secretary of Defense to continue on his merry way of making the expensive mistakes of the past. It has, all too often, happened in prior years that billions of dollars were spent for military and naval hardware in the interest of our defense that turned out to be obsolete by the time it was ready for delivery to and for acceptance by the armed services. Mr. McNamara has just as great a responsibility with public funds as he has with those of his own or of a private firm. An abundance of information dictates a need for going ahead with nuclear propulsion for the CVA-67.

The Joint Committee on Atomic Energy, of which I am a member, held hearings last year and issued a report on the subject of "Nuclear Propulsion for Naval Surface Vessels." Without dissent, our committee recommended that nuclear propulsion be installed in CVA-67 and, indeed, in all future first line warships. Now, why did the committee make such a strong recommendation? It was our conclusion, based on the testimony of experts, that nuclear propulsion would permit our warships to go anywhere in the world, to deliver their combat load, and to return; all without logistic support. In effect, nuclear propulsion permits the striking forces of our Navy to move freely, without reliance on a worldwide system of fuel distribution.

The Joint Committee stated:

> We must plan for a time of crisis. It is precisely in such situations that the superior mobility, maneuverability and reliability of nuclear warships will give the United States an unequaled naval striking force.

There is no doubt that we pay slightly more for a nuclear carrier than its conventional counterpart. But these additional costs are minor in relation to the significant advantages of nuclear power. Moreover, in evaluating the extra cost of nuclear power, we cannot fail to consider the incalculable waste that will result if we fail to use the naval nuclear propulsion technology that has been perfected through a major scientific and engineering effort over the last 17 years.

Mr. Speaker, these are not the views of amateur armchair strategists. Every responsible naval official, including the men who command our three existing nuclear surface ships, testified before the Joint Committee as to the overwhelming military advantages of nuclear propulsion.

The future of the modern Navy is at stake and nuclear propulsion is the key to that future. Mr. Speaker, if the Secretary of Defense will not be moved, then the Congress must act. I urge the Members of the House to provide the necessary authorization and appropriations so that nuclear power may be installed in CVA-67. I am confident in the final analysis that such action will prove to be more prudent and more economical in the long run than the course of action that Secretary McNamara has embarked upon in connection with this carrier.

## CELEBRATION OF THE BATTLE OF SAN JACINTO

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Gonzalez] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, today the ground around the confluence of Buffalo Bayou and the San Jacinto River is a park. A 128 years ago today, it was a battleground.

On the afternoon of April 21, 1836, the small, ill-equipped army of Sam Houston attacked the army of Gen. Santa Ana, the Mexican President, and self-styled Napoleon of the West.

Houston's Texans had been retreating before Santa Ana's superior forces for weeks. The revolutionary forces of Texas had been annihilated at the Alamo and at Goliad. But suddenly on April 21 the Texans attacked. It was a complete surprise and a complete rout.

Santa Ana himself fell prisoner, his army was destroyed, and Texas gained her independence.

In San Antonio, the week of April 21 is devoted to a celebration of the battle of San Jacinto. Once called the Fiesta San Jacinto, it is now called the Fiesta San Antonio.

Today the wounds of the past are healed. No one forgets the revolution, but the celebration is more than a reminder of the victory at San Jacinto. It has become a celebration of friendship rather than enmity and an occasion of joy and color.

Fiesta week recalls frontier life. There is a small section of San Antonio, La Villita, whose buildings are preserved now as they were in 1836. Every night of the fiesta, La Villita is thronged with celebrants. There is dancing in the streets, there are mariachis, and there are cowboys.

The fiesta is a week filled with parades, no less than three of them. The first is a parade held on the San Antonio River, in which the floats are set on barges and float slowly down the famous river that winds throught downtown San Antonio.

The famous Battle of Flowers, a floral parade, annually draws well over a quarter of a million spectators.

Finally, there is the biggest illuminated night parade in the country—Fiesta Flambeau.

There is a king, there is a queen, and there are other dignitaries.

These are warm days and nights in San Antonio, and the celebrations fit the weather.

You might think that San Antonio's people are going a little too far, but I would disagree with that. Nothing could be finer than to recall the battle that won Texas independence. In many ways, it is one of the most remarkable events in American history. Further, it is fitting that the fiesta celebrates international friendship. It is a happy ending to a revolution that almost failed, a remembrance that courage and audacity in the face of overwhelming odds often turns the course of history.

Mr. Speaker, I am proud to be taking part in this year's fiesta. It is always a glad occasion, and I think that you and my colleagues would enjoy participating in it. San Antonio will welcome you this week—or any week of April 21.

## OFFICIAL TAX INFORMATION RETURNS

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. FASCELL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FASCELL. Mr. Speaker, in the Internal Revenue Act of 1962, there was included language to require persons paying interest or dividends in excess of $10 per annum to furnish a statement of the amount paid to the payee and the U.S. Treasury. This information must be computed, typed on Internal Revenue Form 1099 and mailed to the recipient of the interest or dividends, and a copy to the Internal Revenue Service. The cost of preparing these forms varies according to the accounting system that the payer uses. It can run from a few cents up to 20 or 30 cents.

This information return is primarily for the benefit of the tax collecting agency. Its principal purpose is to assist in the collection of revenue. Part of the cost of furnishing this information is the postage involved. In view of the fact that the principal beneficiary of this information is the Federal Government, it is only proper that the Federal Government bear at least part of the cost.

At the present time, the Internal Revenue Service receives approximately 60 million form 1099's containing information on the payment of interest or dividends. First-class postage on this amounts to $3 million. The law also requires that the Treasury receive copies of the form 1099. The copies to the Treasury, however, are mailed in bulk and contain several thousand per package. It is estimated that the additional postage for sending the forms to the Internal Revenue in bulk would certainly not be more than $500,000.

While it is obvious that the cost of postage is a substantial amount, even if the postage were to be free, the major portion of the cost would still be born by the taxpayer. For this reason, it seems only fair and equitable that the Federal Government pay the postage on these tax information returns which accrue to the benefit of the Federal Government and indirectly to all taxpayers. Accordingly, I am introducing H.R. 10967 which would permit the free use of mails for the sole purpose of mailing these information returns to the recipients of interest or dividends and to the Internal Revenue Service.

The bill also would require the Secretary of the Treasury to pay the Postmaster General a sum equal to the cost of the mailings as determined by the Postmaster General. The reason for this is simply that the cost properly should be charged against the operation of the Treasury Department and not the Post Office Department.

## FINAL REPORT ON SIGNUP FOR 1964 FEED GRAIN PROGRAM GIVES IT A RECORDBREAKING ENDORSEMENT BY OUR NATION'S FARMERS

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SMITH] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, the final report on the signup for the 1964 feed grain program gives it a recordbreaking endorsement by our Nation's farmers.

More than 1,300,000 farms are enrolled in the program, and they will divert an alltime high of 34.3 million acres from production of corn, grain, sorghum, and barley.

The heavy participation of feed grains farmers in the program is of particular importance this year because of the current stage of the livestock cycle.

It means, too, that weather and growing conditions favorable to high per-acre yields will not be reflected in growing costs associated with the pileup of grain in Government storage.

The 1.3 million farms participating in the 1964 program will be eligible for diversion payments totaling $923 million, plus price-support payments. These payments are made by selling grain that otherwise would have been kept in Government storage at a total greater cost than the value of the grain. The market for this grain is created by producing less than is needed to be consumed. In this way, the feed grain-livestock economy can be kept in better balance.

This program represents a major contribution to stability—and in many cases actual growth—for the Nation's rural economy. Rural business and professional men, and their employees share the benefits with farm families.

The feed grain program has proved itself by far the most popular program ever offered to Midwest farmers as a means for bringing their corn, barley, and grain sorghum production into better balance with the Nation's need for those grains. The reason they are participating in such record numbers is they see a future in it for themselves, and for consumers, and taxpayers of the country.

The problems the feed grain program was designed to solve will not, of course, entirely disappear this year and next. It will be up to the Congress to act on renewal in 1965 of a program approved by only a 5-vote margin alst year. It will, of course, have to be revised in the light of conditions which face us in the future. But this revision can be accomplished on a foundation that has proved itself solid and meaningful.

Mr. Speaker, I congratulate the farmers of my native State of Iowa for their effective and constructive utilization of this program. Of the 190,000 feed grains farms in Iowa, there are 120,000 enrolled in this year's feed grain program. Iowa is contributing well over 3.6 million of the 34.3 million acres being moved out of feed grain production.

It is an instance in which what is good for Iowa is good for the Nation.

What we have is one of the outstanding success stories in the entire history of farmer-Government cooperation in a voluntary supply management program. And the Congress, I believe, can take satisfaction in its own contributions to this significant area of agricultural progress.

## OUTSTANDING TRIBUTE TO PRESIDENT KENNEDY BY THE MALAD, IDAHO, HIGH SCHOOL

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from

Idaho [Mr. HARDING] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HARDING. Mr. Speaker, nothing in recent years has so shaken our Nation as the tragic death of our beloved President, John F. Kennedy.

In every city and small community in our Nation there still remains a sense of great loss for the young President whose trademark of youth, vigor, and idealism brought to the White House admiration and respect for the high office that he held.

As his brother, the Attorney General, said:

> He restored the confidence of the people in their energy and their ability and their ideals and their future—particularly perhaps the younger people.

It is not surprising, therefore, that students in our high schools should be among those deeply affected by his assassination.

I would like to call the attention of my colleagues in the House of Representatives to the outstanding tribute to President Kennedy prepared by the Malad, Idaho, High School which just recently reached my office:

### MALAD HIGH SCHOOL'S TRIBUTE TO PRESIDENT JOHN FITZGERALD KENNEDY

### PRESIDENT KENNEDY

(By Linda Sue Evans)

"Ask not what your country can do for you; ask what you can do for your country." The simple yet startling meaning behind these words strike all with a deadly arrow aimed directly at our reality. The man who wrote them knew; the man who wrote them understood.

President Kennedy has done much for us. Civil rights, the Alliance for Progress, the test ban treaty, and more, were all furthered by him. He was truly a man of great intelligence and good works.

He was a man of love for his wife, children, and country. We should be thankful for the short time we were able to have him here with us. Caroline and John, Jr. will miss their daddy, and Jackie will miss her husband, but life goes on.

His memory will live on in the hearts of the people forever, and the Government will continue. President Johnson will give his whole in running and carrying out the duties of the Nation's highest office.

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### MRS. KENNEDY

(By Susan Steed)

As I stop and think of what has happened over the past few weeks, I wonder how many of us would be able to walk with our heads erect and have the poise our First Lady had? She never once lifted her hand to her pale drawn face to wipe away a tear. She never took the arm of her brother-in-law for support. I wonder, do you think we could do the same?

Mrs. Jacqueline Bouvier Kennedy is a lady. She alone held a nation of mourning people together by her courage as a wife, mother, and soldier. Her charm turned into valor when a black shadow crept over her life.

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### A TRIBUTE

(By Roland Evans)

Mrs. Jacqueline Kennedy, we all realize how deeply sad you are; and we know that we have not only lost a great President and a great leader, but we have lost a friend to all men.

After the first news of the assassination was heard, the Nation was shocked and stunned over this least-expected tragedy. And when the news of the President's death became a reality, countless Americans realized that the Nation could not go on mourning, but must carry on in a united effort—its drive for world improvement that it might bring hope to other nations, and that nothing, not even the "cheap punk with the mail-order gun" who killed the President could halt our mission.

When our country was threatened by the Civil War, we were sent Lincoln who came forth and saved our splitting Nation and freed the slaves. And I believe that if Lincoln could have saved the Nation by freeing half of the slaves, he would have done it; or if he could have saved the Nation by freeing none of the slaves he would have done it. But he freed all of the slaves and saved the country.

Then many years later, Kennedy wrote another chapter in Lincoln's books with his civil rights program, and he carried on the drive for equality of all men.

When President John F. Kennedy was sworn into office as President of the United States, he gave the greatest inauguration speech ever heard, and in it he stated his views about the equality of men; and he pursued his convictions as told to the Nation on that January day in 1961. "Ask not what your country can do for you, but ask what you can do for your country."

When the Cuban situation called America to "attention," President Kennedy stood firm as a leader of his Nation and calling the Communist bluff with demands for removal of troops and missiles from this small country so near our shores.

John F. Kennedy's message lies in the life that he lived, a life that stood for all the good for today and all the tomorrows.

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### A SALUTE

(By David Evans)

November 22, 1963, will be a date that all Americans will long remember as a day of infamy and tragedy. For it was on this day that President John F. Kennedy was shot with a mail-order gun. And it was on this day that all Americans felt a great loss in their hearts. They had lost one of the greatest men in the history of the United States of America.

When the terrible news first came to the American people, they were stunned and there was great disbelief that their President had been shot. A few moments later which seemed like days, they announced that President John F. Kennedy was dead. People asked themselves, "Is our President really dead? Why is he dead? Did he serve his country well?" Yes; President Kennedy served his country as well as any man could. People everywhere were filled with sorrow and disbelief.

President John F. Kennedy was looked on as an important man by his American people. People all over the world loved him as if he was a member of their own family. Truly he was a great, heroic man.

President Kennedy not only served his country as President, but when the call of duty came in World War II—he went to enlist and became one of the more famous heroes of the war. Kennedy served his State in the legislature and was one of the youngest politicians. Other great political leaders learned to respect Kennedy and they soon knew how great a man he was going to become.

All through President Kennedy's administration, he served his country well and he never did once shirk his responsibilities. He saved his country many times from terrible disaster which might have led to war. His American people knew he was doing the best any man could do in this time of crisis. And even if they all didn't agree politically with him, they loved and respected the great man that did so much for his country.

President Kennedy had a wonderful family. His wife, Jackie, helped throughout his political life by leaving in the American's heart a warm feeling of love for her. She will be remembered as the greatest first lady in the history of our country. The joyful cries of John Jr. and Caroline will be missed in the White House. But the world can never forget J.F.K., his spirit, his family, nor his love. His memory will live on forever.

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(By Ann Hargrave)

President Kennedy need not have died. Even now, after he's been buried, he seems alive to us. It's a comfort to know that, although he be dead, his spirit is alive and breathing.

When I first heard of the assassination, I remember thinking, "Oh, he'll be all right. The doctors will take care of everything." But they couldn't. It was then that a nightmare became an inexplicable reality.

We will never again see his face. We will never again hear his Bostonian accent. We will, however, see his understanding and hear his words.

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(By Gail Jones)

The death of our Chief Executive, an inspiring man, who tried to lead the American people in the right way of truth and happiness for both Negro and white, was a great loss.

Some of the important governmental achievements which he accomplished during his time of office were: Adoption of a Trade Expansion Act, the Nuclear Test Ban Treaty, and the proposed tax cut.

President Kennedy was a friend to all the people who he came in contact with on his business affairs and in campaigning. He would ride through the towns in an open top convertible so he could wave to the people who to him were all friends. President Kennedy would go out past the barriers shaking hands with the people.

His life was one of service to his fellow man and to his country. He was a kind and honorable man.

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(By John Masefield)

All generous hearts lament the leader killed,
The young Chief with the smile, the radiant face,
The winning way that turned a wondrous race into pathways leading on.
Grant to us life that though the man be gone,
The promise of his spirit be fulfilled.

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### HERE WAS A MAN

(By Ann Byrd)

Our utmost respect should go to the late John Fitzgerald Kennedy. The life he led exemplified those special attributes that make up a man's real character.

Kennedy's superb intelligence was evidenced by his work in school and college. His Pulitzer prize winning book, "Profiles in Courage," will always stand as a monument to his education.

Lt. John F. Kennedy's naval career showed his unparalleled courage and bravery. For example, a Japanese destroyer rammed and sank the torpedo boat, PT-109, Kennedy commanded. Gathering his crew on a segment of floating wreckage, he led them to safety. He became a war hero by towing one injured sailor 3 miles through the water, holding the man's lifebelt strap between his teeth.

The extensive public services of this man have included time as a Representative and later as a U.S. Senator. Finally he reached the ultimate goal in public service when he became the President of the United States.

John Kennedy will be remembered for his wisdom, humor, patriotism, compassion, vitality, and his integrity. All these and more make up the sterling character of the man we knew and loved. Yes, indeed, here was a man.

### AN AMERICAN IDEAL

(By Annabelle Evans)

John F. Kennedy, a man who dared do everything that becomes a man. John Fitzgerald Kennedy, a President who existed on an undying love for his country and the entire free world. John Kennedy, a friend who seemed related closer than by blood to his fellow Americans. Jack Kennedy, a father and husband whose crowded schedule invariably found time for a family. He is bereaved by his family; a family including all the freedom-loving peoples of the world. And he will be remembered in history as a person of solid character whose trust in God and foresight of the future added an extra chapter to the destiny of the United States and a sparkle to her image abroad.

All the flowery words and phrases cannot express the feeling, for be he Democrat, Republican, black, or white, he mourned. For 3 days the world stood still in unreality, grief, and shock. The weak cried; the strong were empty.

The youth, smile, waving hair, and magnetic personality were symbols which held the world in awe. He was liked and respected by all who knew him whether personally or through a 10-cent newspaper. And so, with a little girl in one hand and a little boy in the other his image will be remembered.

His dauntless statesmanship during the Cuban crisis, his stand on civil rights, and his unrelenting strength in the cold war truly reflect the American ideal in every phase. "Ask not what your country can do for you; ask what you can do for your country," are his words never to be forgotten. Although brief was his stay, what he stood for, said, and did will remind Americans that there is always achievement, hope, and pride in this great country.

There is an eternal flame at the head of his grave, but the real flame glows in the hearts of the American people.

### AS I SAW HIM

(By Duel Wuthrich)

Receiving the news that President Kennedy had been shot was like watching a man fire a gun in the distance. You can see the man rear back from the recoil of the gun and you see a line of smoke streaming from the barrel. Upon seeing these things you know the gun has been fired, yet you don't really believe it until you hear the sound of the shot itself.

When I first heard that President Kennedy had been shot, I knew it must be true, but I couldn't bring myself to believe a tragedy like this could happen in the United States.

Yes, this terrible thing did happen, and we lost a great man and leader. But still, life must go on.

Although we were without a leader for 1 hour and 38 minutes, a sound Government pushed on and swore in Lyndon Baines Johnson as the new President. Amidst grief and sorrow the United States did not falter; amidst turmoil and pain the United States did not stumble.

President Kennedy's death was mourned, not only by Americans, but by the whole world. Every country, except Cuba and Red China, was represented at President Kennedy's funeral. This is a tribute in itself. Although many of the leaders of foreign countries did not always agree with the President's views, they all respected him as a leader and as a fine man.

### AT MALAD HIGH SCHOOL

(By Fairlene John)

John F. Kennedy, the name known to all, is no longer with our Nation. This great President was loved by people everywhere, at home and abroad.

On that fatal day of November 22, 1963, Lee H. Oswald assassinated the President of the United States. When the flash came that President Kennedy was dead, each of us died, in a sense, with him. The entire world was shocked to the point of panic.

The death of John F. Kennedy was a loss to the whole world and not just to the people of the United States. We will see him no longer, but his spirit and what he stands for will be with us always. He was a great father, President, and man.

Malad High School mourned the death of President Kennedy in many different ways. There was a sudden quietness which crept instantly through the halls. No longer were there smiling faces. No longer did the day seem bright and carefree. The words, "Ask not what your country can do for you; ask what you can do for your country," rested deep within each student's saddened heart.

### FROM LA QUINTA HIGH SCHOOL, GARDEN GROVE, CALIF.

Sorry I had to leave right away—
I look down and smile at you everyday.
Little Patrick says to say "Hi"
I love you, I'm happy,
So please don't cry.

And Caroline I'd like to say,
How proud Daddy was of you that day,
When you stood like a lady and watched me go by:
And doing as Mommy, you tried not to cry.

Little John-John, now you're the Big Man
Take care of Mommy the best that you can.
You were just like a soldier;
That salute was so brave,
Thanks for the flag you put on my grave.

And Jackie, I had not time for goodbyes,
But I'm sure you read the farewell in my eyes,
Watch over the children and love them for me;
I'll treasure your love for eternity.

So please carry on as you did before;
Till all of us meet on Heaven's bright shore.
Remember I love you; Remember I care.
I'll always be with you, though you don't see me there.
Love,
JACK.

### THE CHOICE IS OURS

(By Susan Sweeten)

"Ask not what your country can do for you; ask what you can do for your country," are the words that state John F. Kennedy's character in one short sentence.

All of his life John Kennedy has put his country before his own personal wishes. He served us in war as a PT commander and in peace as a President. Now in his death, his life given in service for his country, he may serve us still.

He is to us a warning to look deeply into our own hearts, rebuild our lives, and forget the selfishness and prejudices that create an atmosphere for fanatical deeds.

Could this be the first step in the downfall of a great nation? What will history say? Will this man have died in vain, or will we take courage from him and pride in the right? Will we pay tribute to President John F. Kennedy by rebuilding our Nation on the foundation of freedom and trust in God?

The choice is ours: the time is now.

(By Suzanne Bowen)

The whole Nation was in an uproar after announcement of the death and assassination of our beloved President John F. Kennedy.

While President Kennedy and his wife Mrs. Jacqueline Kennedy were visiting in Dallas, Tex., President Kennedy was shot by Lee H. Oswald.

Mr. Oswald was picked up as a suspect and taken in for questioning. He denied that he had killed the President. While he was being moved from the county jail to the city, he was also shot down. Lee H. Oswald died about 24 hours after he had killed the President.

President Kennedy's funeral was held Monday, November 25, after he had been in state for 2½ days.

The Nation has lost a great leader and friend and there has been a 30-day mourning period proclaimed in which the flags will remain at half-mast.

### THE NEW FRONTIER

(By Kathy Gilgen)

President John Fitzgerald Kennedy's death was a tragic event for the world as well as for the United States. The loss of one of the greatest men the world has known was a sorrowful experience for all mankind. His chief concern was a free democracy and a better life for all American citizens.

All people looked up to and respected President Kennedy for all he stood for. His genuine traits and ideas will go down in history as something that cannot be copied or replaced.

As the 35th President of the United States, Kennedy followed in the footsteps of many great Presidents, yet he established his own principles and ideas to make a better country in which to live.

An era of a "New Frontier" took place during his short and abruptly ended term. Even though he was required to do much in such a short time, he accomplished most of his main objectives to make a better world, where everyone could live and reach his highest goals if he put forth the necessary effort to obtain this goal. As President Kennedy said, "Ask not what your country can do for you; ask what you can do for your country."

(By Linda Bolingbroke)

A personality of unlimitable effervescence, a patriotic sense of infinite endurance, a mind of lucid thought, and a heart of love and compassion portray John F. Kennedy, the Lincoln of 1963. Respected by all, he led a Nation of people in the struggle for peaceful coexistence and freedom of choice.

President Kennedy, his wife and two children symbolized a youthful, forward-looking land of opportunity and progress. From his family Americans took pride, and from its strength Americans took consolation.

### NOVEMBER 22, 1963

(By Peter Thomas)

Friday, November 22, 1963, will go down in history books and in the minds of men as one of the blackest Fridays in history. For on that day, President John F. Kennedy, the 35th President of the United States, was assassinated while visiting Dallas, Tex. The news of his death went out to the world, struck it bluntly, and left it speechless, dazed, and mournful.

His death was a partial blow to the dreams of all people throughout the world. During his 3 years in office, President Kennedy had represented the ideal American, not only through his ideas of government and world relations, but also through his appearance and family life.

To Americans, President Kennedy had become a part of every home. Almost every day, news of his actions reached them either through television or radio. So upon his death, a personal loss was felt by everyone.

Harassment was about all he received for his feelings and actions on civil rights. He felt that men had not given their lives 100 years ago to go down in history as men who fought and won for a lost cause. Maybe his death will help people realize our country's faults and will bring about a change that has been long needed.

"Ask not what your country can do for you; ask what you can do for your country," was one of the President's famous quotations. I believe he gave all he possessed for our country, and our country gave us one of the greatest leaders of all time.

(By Kathy Christofferson)

The burial of President Kennedy in Arlington National Cemetery focused additional public attention on one of the most visited places in the Nation. Mr. Kennedy is the second President to be buried there.

President Kennedy, a loved and honored man, gave our Nation strength and the feeling of security. During his short term, he accomplished important advancements that will remain with the people of our Nation. The council and guidance he gave should not be forgotten.

(By Mrs. Joan Owens)

November 22 in the year 1963 will go down in American history as a day of infamy, a day that rocked a city, shocked a nation and the world, brought forth grief and repercussions as each tragedy unfurled. For on this black, black Friday on a crisp Texas morn, a man was lost to this earthly life but in the heavens a star was born. His passing from this world of ours was swift without goodbys but the memory he left behind was as endless as the skies.

He could not know as he went forth with his lady by his side that this day he'd leave a legacy to a world that sat and cried. For was not this day to be one of joyful celebration, welcomed by a city who typified a nation? Who was to know among that throng who praised and hailed our chief, that there for reasons of his own was a Judas and a thief, who with a vile and sinful act would rob the Nation of its chief and plunge its people and the world into a stunned and silent grief?

He was one who would betray a city, so proud, so patriotic bringing to its own history a day full of horror and chaos, a day to be remembered by the people of this land as the day our leader was struck down by a cowardly assassin's hand. It was just a second out of endless time their paths crossed, we know not why, but that second was to last a lifetime and blacken the Texas sky, for one great life was taken, only God can tell why, a man so full of promise had to die.

## PHOSPHATE PROCESSING RAPIDLY GROWING IN IDAHO

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Idaho [Mr. HARDING] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HARDING. Mr. Speaker, phosphate processing is a rapidly growing industry in Idaho as it is in other Western States. A vast majority of our total phosphate deposits in the States of Idaho, Montana, Wyoming, and Utah are owned by the Federal Government.

There appears to be a sufficient demand for phosphate and phosphate products that we can expect a healthy expansion in our phosphate industry. In fact, just last week Monsanto Chemical Co., who has been operating a phosphate processing plant in Soda Springs, Idaho, for some years, announced their plans to increase their operation greatly.

There does appear to be one limiting factor in the phosphate industry. Companies planning to expand or begin operations in the Western States must have a great deal of investment capital. We in the Western States have had great difficulty in obtaining this capital for our industries.

In order that companies might justify to their stockholders that they have a sufficient chance to return the huge investment needed, they must be able to operate for an extended period of time to assure those investing in these ventures of a reasonable chance of returning the investment capital. Plans for new expanded facilities have been thwarted in the past by the Minerals Leasing Act of 1920 which has limited the amount of acreage that one company could hold.

The acreage of phosphate deposits is not always a realistic limitation, as there is great variation in the density of phosphoric minerals. Illustrating the tremendous difference in tonnage that may be available in equal acreages, the depth of a vein may run from 2 to 40 feet.

Since that limitation was established, a terrific change has taken place, too, in the processing technique, and investment needs have increased greatly, therefore the limitation established in 1920 is now an obsolete one.

Originally the limitation was established to prevent any one company from maintaining a monopoly in this field. Mr. Speaker, the Idaho phosphate industry and phosphate companies in other States are very much in favor of this bill. I submit that if there were any chance of one company gaining a monopolistic advantage, I do not think all of these competing companies would favor removing this limitation.

Therefore, Mr. Speaker, I am introducing a bill to amend the Minerals Leasing Act of February 25, 1920, which would double the present allowable phosphate lease acreage.

## MOMENTUM BUILDING FOR FTC ACTION ON OIL MARKETING

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. ROOSEVELT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, on March 12 I called the attention of the House to the chaotic conditions that existed in the marketing sector of the U.S. petroleum industry. I further pointed out that an industry group, the Midcontinent Independent Refineries Association, had petitioned the Federal Trade Commission for the promulgation of trade regulation rules interpretive of the antitrust statutes for the marketing of petroleum products. At that time, I also urged all segments of the petroleum industry to participate in the proposed trade regulation proceeding before the FTC by submitting their own petition and proposed rules.

Since that time, there have been a number of developments to indicate that sentiment is growing throughout the oil industry for some form of trade regulation rule to deal with gasoline marketing problems. As the influential industry journal, the Oil Daily, recently pointed out in an editorial:

> The big news in the petroleum industry is the momentum building up in oil marketing for strong trade practice regulations by the Federal Trade Commission directed against destructive practices resulting in ruinous price wars. A proposal for a specific trade regulation rule approach is attracting widespread interest.
>
> In the light of renewed grave and disturbing deterioration in markets and marketing conditions recently, it seems logical that any specific and well thought out plan, such as this one recently presented by the MIRA group of refiners, be given serious and pertinent consideration, and that such attention not be delayed, but be prompt and current.

The filing of the MIRA petition has stimulated the following developments:

First. The National Congress of Petroleum Retailers has announced plans to file its own petition with the FTC. Its objective would be to obtain a binding code of regulations for gasoline distribution.

Second. The International Service Station Association has filed a petition supporting adoption by the FTC of trade regulation rules and suggesting a number of specific rules.

Third. The National Oil Jobbers Council is giving the proposal "serious consideration" and will make it a main subject of discussion at its annual convention here next month.

Fourth. A number of individual companies and State associations have advised the FTC of their support for the concept of an industry trade regulation conference.

Fifth. Among the major oil companies, the American Oil Co. has expressed "strong disapproval" of the MIRA proposal, although admitting its concern with what it called "the severe gasoline price wars occurring in many parts of the country resulting in ridiculously low prices."

Sixth. Chairman Paul Rand Dixon of the FTC has assured me that industry participants in a trade regulation proceeding before the FTC will not incur the danger of antitrust liabilities. I have also received similar assurances from the Honorable William H. Orrick, Jr., Assistant Attorney General in charge of the Antitrust Division. In view of some concern in the industry regarding this point, the statements of Chairman Dixon and Mr. Orrick should be reassuring.

Seventh. The principal editorial opposition has come from two business-oriented publications, the NAM News and Wall Street Journal. These journals are opposing the MITA petition because they feel such action would lead to de facto price control of gasoline. This contention fails to distinguish between the old NRA-type code and the present proposal by which the FTC would merely issue its own interpretation of the price discrimination law as applied to the marketing of gasoline.

Both the general and trade press have given this issue widespread coverage. Because of the growing interest in this matter, I hereby request unanimous consent to include in the RECORD immediately following my remarks a representative sampling of articles and editorials on both sides of the issue. These include excerpts from the Amarillo (Tex.) Star, the Denver Post, the Oil Daily, the Oil and Gas Journal, the Washington Bulletin of National Petroleum Refiners Association, and the Wall Street Journal.

[From the Amarillo (Tex.) Star]

### Roosevelt Backs Refiners in Action on Price Wars

WASHINGTON.—Representative JAMES ROOSEVELT, Democrat, of California, Thursday, urged the entire petroleum industry to back an effort by 13 independent refiners to end gasoline price wars.

ROOSEVELT, a member of the House Small Business Committee, backed a request by the refiners that the Federal Trade Commission issue a trade regulation rule.

Such a rule would, in effect, set a floor under gasoline prices and thus reduce the possibility of price wars which the independent refiners contended might force them out of business.

The petition for a trade regulation rule for the marketing of gasoline was filed by the Mid-Continent Independent Refiners Association, which represents refiners in Texas, Oklahoma, Wisconsin, Missouri, Kansas, Minnesota, and Colorado.

ROOSEVELT, in supporting the move, said consumers would not be hurt in the long run despite what he termed the belief that price wars were a "holiday" for motorists.

"The holiday is of short duration," he said, "and in the long run the consumer pays."

Admitting that the association was interested only in setting a floor under gasoline prices, ROOSEVELT said the FTC and an industry conference on the proposed regulations presumably would take up the question of protecting the public against price increases.

ROOSEVELT discussed the move at a news conference and later made similar comments in a House speech.

The California Democrat termed the association's move a "landmark and said it could serve as a model for other industries as well as the petroleum industry."

He said hearings on gasoline marketing held by his subcommittee had convinced him there was "broad industry support" for the proposals. In the past, he told newsmen, the industry had been reluctant to get together to seek a solution to price wars for fear of violating antitrust laws.

ROOSEVELT said the Department of Justice would be represented at any industry conference resulting from the petition to the FTC.

The petition said the question was "one of survival" to the independent refiners. It noted that "price wars of unprecedented severity" were raging in such Mid-Continent markets as Kansas City, St. Louis, Des Moines, Wichita, Dallas, and Fort Worth.

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[From the Denver Post, Mar. 12, 1964]

### Representative Roosevelt Asks Gas Price War Curb

WASHINGTON.—Representative JAMES ROOSEVELT, Democrat, of California, Thursday, called for an end to petroleum price warfare through Federal Trade Commission action.

"Over $1 billion per year is being spent by suppliers to subsidize price wars," he charged on the House floor.

"Consumers in some areas pay over twice as much for gasoline as is paid by customers in areas undergoing price wars. Thus, some consumers are involuntarily subsidizing their fellow motorists," he said.

(Gas price wars have flared intermittently for years in Denver. The present gas war has been carried on almost unbroken since October 2. Attempts by some retailers to hike prices 5 and 6 cents a gallon briefly in early January fizzled when most firms refused to follow suit.)

Monday, Conoco, regarded as a gasoline price setter in the area, announced an increase of 4 cents a gallon in an effort "to strengthen the market." (Response on the part of most Denver gas station operators, however, is still uncertain.)

ROOSEVELT, a member of the House Small Business Committee, backed a request by 13 independent refiners that the FTC issue a trade regulation rule.

Such a rule would, in effect, set a floor under gasoline prices and thus reduce the possibility of price wars which the independent refiners contend might force them out of business.

#### PETITION FILED

The petition for a trade regulation rule for the marketing of gasoline was filed Wednesday by the Mid-Continent Independent Refiners Association, which represents refiners in Texas, Oklahoma, Wisconsin, Missouri, Kansas, Minnesota, and Colorado.

Admitting that the association was interested only in setting a floor under gasoline prices, ROOSEVELT said the FTC and an industry conference on the proposed regulations presumably would take up the question of protecting the public against price increases.

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[From the Oil Daily, Mar. 24, 1964]

### The FTC Proposal

The big news in the petroleum industry is the momentum building up in oil marketing for strong trade practice regulation by the Federal Trade Commission directed against destructive practices resulting in ruinous price wars. A proposal for a specific trade regulation rule approach is attracting widespread interest. Readers have noted the outstanding, extensive coverage given it in the news columns of the Oil Daily.

In the light of renewed grave and disturbing deterioration in markets and marketing conditions recently, it seems logical that any specific and well thought out plan, such as this one recently presented by the MIRA group of refiners, be given serious and pertinent consideration, and that such attention not be delayed, but be prompt and current.

This is a key and telling period in petroleum, critical and changing times for all, in which industrial and economic history is being written. Change is in the air. The industry is in the thick of changing times. Such a plan as is being discussed would be one more element of such change.

The position of the Oil Daily on one important aspect of this general subject has not changed, however, from that we expressed on this matter several times before filing of the MIRA petition. It deserves another restatement: For the benefit of all concerned, it is urgent that there be complete and adequate assurance of legal protection, from the standpoint of possible antitrust law liability. Given such positive assurance, from appropriate source, we believe the proposal rates early exploration.

In these days of chaotic markets and bad competitive practices, anything legal, safe and sound ought to have full and sincere discussion.

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[From the Oil and Gas Journal]

### Small Refiners Ask Government Help: FTC Asked To Adopt "Trade-Regulation Rule" Making It Illegal To Dump Distress Gasoline at Cut Prices or Sell to Unbrandeds Below "Historical" Differential

The Federal Trade Commission is being asked to adopt a rule aimed at discouraging gasoline price wars.

The rule was outlined in a petition filed with the FTC last week by Mid-Continent Independent Refiners Association, an organization of small refiners primarily from the Midwest.

Basically the proposed rule would have these two results:

Price differences in sales to branded and unbranded dealers would be limited to actual cost savings. The aim: to prevent "dumping" of excess stocks at greatly reduced prices to unbranded outlets.

A major company would be presumed guilty of injury to competition if it reduced or eliminated the "historical" retail price differential between its brand and a nonmajor brand in a given area. The major would, however, be given an opportunity to disprove this.

The aim of the second provision would be to prevent a major from driving unbranded competition out of a given market area.

#### PROCEDURE

The FTC's trade regulation rule staff will consider the association's proposal and make a recommendation to the Commission.

If the Commission should approve, it would then publish a proposed rule and set a public hearing. After the hearing it would decide finally whether to adopt the rule, revise it, or drop it completely.

Just how binding such a trade-regulation rule would be has not yet been determined.

The procedure is relatively new, having been adopted by the Commission about 2 years ago. Thus far, only one such trade-regulation rule has been put into effect, and it is still untested. The rule proposed last week by the independent refiners is the first step in that direction in the petroleum field.

The trade-regulation rule is similar in many respects to the trade-practice conference in which representatives of an industry meet with FTC to work out rules to serve as guidelines for industry practices.

The new approach presumably would be stronger because, theoretically, the FTC could simply charge a company with violating the rule rather than filing against it for violation of a particular antitrust law.

The real value of the trade-practice rule, its proponents say, is that it tailors broad antitrust law to a specific industry. By doing so, it enables a member of the industry to know more clearly whether a specific action he is taking is legal or illegal.

#### DUAL MARKETING

The petition filed by Mid-Continent Independent Refiners Association last week hits at the wide price differences it contends often arise between branded and unbranded sales.

The association maintains that many price wars start when a major supplier with excess gasoline stocks "dumps" the excess on the unbranded market at 5 cents or more below the supplier's price to his branded retailers.

Such price wars hurt the independent most of all, the association insists, because he is forced to meet the lower price even if it means selling below cost and, unlike the major, he is not able to offset the losses in other markets.

Under the proposed rule, the major supplier would have to prove that any lower price to unbranded outlets was justified on a cost basis.

The association explains its stand in this fashion:

"We are not contending for a rule that would compel refiners to sell gasoline to major branded outlets at the same price as they sell to independent brand dealers. But we do feel that such differences should be limited to a saving in costs between the two types of sales. This would include cost savings on credit cards, advertising, maps, etc."

The association estimates that such cost savings would seldom amount to more than 1 cent per gallon.

### HISTORICAL MARGINS

Under the rule advocated by the association, majors would be put on the legal defensive if they narrowed the "historical" margin between their branded gasoline and an unbranded competitor.

The major would be forced to prove that such action was justified.

The association said that major refiners and major brand dealers are unquestionably free to charge any price they choose. But it says this right is abused when a price in a particular market area is deliberately reduced to undercut an unbranded competitor.

The association concedes that in some situations the major would be justified in reducing the margin. For instance, if he could establish that in a particular market consumer acceptance of independent brand gasoline was so high that, operating under the traditional differential, the independent was growing at his expense, he would be justified in narrowing the margin.

### NO NEW LAW

The association stresses that the rule it is proposing be based on existing law.

The purpose, therefore, would be to establish clear-cut interpretations of legal practices and to provide a date upon which the new rule would go into effect.

Members of Mid-Continent Independent Refiners Association are American Petroleum Co. of Texas, Dallas; Apco Oil Corp., Oklahoma City; Bell Oil & Gas Co., Tulsa; Champion Oil & Refining Co., Fort Worth; Clark Oil & Refining Corp., Milwaukee; Consumers Cooperative Association, Kansas City; Derby Refining Co., Wichita; Farmers Union Central Exchange, Inc., St. Paul, Minn.; Kerr-McGee Oil Industries, Inc., Oklahoma City; Midland Cooperative, Inc., Minneapolis; National Cooperative Refining Association, McPherson, Kans.; Northwestern Refining Co., St. Paul Park, Minn., and Vickers Petroleum Co., Inc., Denver.

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### Roosevelt Asks for Other Petitions

Representative James Roosevelt, Democrat, of California, last week urged all segments of the petroleum industry to participate in the proposed FTC trade-regulation proceeding concerning gasoline marketing practices.

He said it was an opportunity for the industry to work together to reduce or eliminate price wars.

Roosevelt told a press conference that other segments should file similar petitions proposing marketing practice standards, thereby giving FTC a full range of alternatives to consider.

He said retail and jobber associations and others have already indicated they will file petitions of their own.

Roosevelt got into the picture because the House Small Business Subcommittee which he heads has long delved into price wars and other marketing problems.

He said it was obvious to him as a result of these probes that the case-by-case approach to eliminate illegal marketing prices is not effective because ruinous price wars are still frequent and widespread. Even the consumer suffers in the long run, he said.

Therefore, he said, he feels an industry attack on the problem under FTC supervision is worth an earnest attempt.

He said oilmen have been reluctant to discuss pricing and marketing problems for fear of being charged with antitrust violations.

He said through the trade-regulation rule approach the industry could use Government services to work out its own solution.

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[From the Oil Daily, Mar. 23, 1964]

### NCPR To File at FTC for Code on Gasoline: Petition Is Seen Covering 14 Key Antitrust Recommendations Adopted at Group's Meetings

(By Jim Collins)

Washington.—The National Congress of Petroleum Retailers plans to file its own petition with the Federal Trade Commission soon for a new trade regulation rule to deal with gasoline marketing practices, the Oil Daily learned at weekend.

NCPR headquarters several days ago sent out letters to all of its affiliates throughout the country notifying them that the national organization planned to file a far-reaching petition with FTC as soon as possible—in the next few days.

They were told that the objective would be to obtain a binding code of regulations for gasoline distribution—an objective that seemed to have widespread support among independents in all segments of the petroleum industry.

The petition, it is understood, would cover 14 key antitrust recommendations adopted by the national dealer organization at its annual conventions since 1955 for embodiment in a new "code" for gasoline marketing to be promulgated by the FTC.

The affiliates were told also that in the 8 years since NCPR first sought a voluntary code on gasoline marketing in 1956, there have been a number of important court decisions dealing with gasoline marketing whose principles could be incorporated in a new FTC code. Cited were rulings in the Sun-Jacksonville and Sinclair-Osborn cases.

NCPR's general counsel, William Snow, also told the affiliates that he understood other independent refiner groups would support industrywide action at FTC as well as half a dozen important oil jobber associations.

Meanwhile, an official at the Federal Trade Commission said that the petition filed by the Mid-Continent Independent Refiners Association is now under review.

He would not rule out the possibility that there might be fairly fast action on it.

It has been assigned to an attorney for checkout, he said, before a recommendation is made to the full commission for its action.

Normally, he said, the review of such petitions is time consuming, and this normally would be the case involving gasoline marketing.

Provisions of the law involved, past litigation, and pending cases, all have to be checked, the FTC official said, adding that the file on gasoline is rather bulky.

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[From the Washington Bulletin, Mar. 14, 1964]

### FTC Trade Regulation Rule

The pages of history were turned back when Congressman James Roosevelt called a press conference to urge the oil industry to support a plan which was suggested by Herbert Hoover when he was Secretary of Commerce during the Coolidge administration. On February 11, 1929, the Federal Trade Commission held a Trade Practice Conference to consider a solution to the marketing problems of the petroleum industry, and on July 25, 1929, shortly after the inauguration of Hoover as President, the Commission published a "National Code of Practices for Marketing Refined Petroleum Products."

Roosevelt said on Thursday that the Mid-Continent Independent Refiners Association had filed a petition with the FTC urging that it call another such conference and publish a trade regulation rule to eliminate some undesirable practices in the marketing of gasoline. MIRA said in its petition that: "To the independent refiner the issue is one of survival; to endure he must be protected from the anticompetitive effect of discriminatory pricing in violation of law."

The 1929 FTC Code was superseded by the "Code of Fair Competition for the Petroleum Industry" approved by President Roosevelt under the National Industrial Recovery Act on August 19, 1933. After the blue eagle was shot down by the Supreme Court, another attempt was made to reinstate the code under the sponsorship of the Federal Trade Commission. This attempt was interrupted by the indictment in the Madison case. In the case, a number of individuals and companies were convicted in a criminal proceeding of having kept alive a program originally instituted under the NRA, which was intended to provide a market for distress gasoline from independent refiners in the midcontinent area.

This ended by attempts to deal with petroleum marketing practices by a code until this week. It also illustrated that the key to success of any such undertaking is the approval of the Justice Department. Congressman Roosevelt said in response to a question at his press conference that the pending proposal had been discussed with the Justice Department but the Department had not indicated whether or not it would approve any plan adopted in this manner.

The proposed rule is a rule of evidence and not a rule of law. The publishing of a trade practice rule (or the Trade Practice Conference procedure which preceded it) by the FTC does not add to the jurisdiction of the Commission. It cannot make illegal any practice which is not already illegal under existing statutes. The Commission can enforce one of its rules only by a proceeding against an individual marketer, charging it with violation of a statute, as it is now doing with a number of pending cases charging violations of the Robinson-Patman Act.

The trade regulation rule procedure is a new form of the Trade Practice Conference which preceded it. The advantages claimed for it by its sponsors are that it makes it possible to deal with problems by an industrywide approach without requiring the concurrence of all within the industry. It also is believed that it will expedite the processing of individual cases because, if a practice is proscribed as unfair by a trade regulation rule, it would simplify the proof in an individual case. This hope, however, is based on speculation. The Commission has never attempted to enforce a trade regulation rule. In fact, only one has ever been published—dealing with the marketing of sleeping bags. In this case, and in the other pending current rule cases, such as the one dealing with cigarette advertising, the Commission has dealt only with definitions and advertising claims and not with pricing questions. Therefore, if the Commission should attempt to enforce a rule adopted under this procedure, it would be blazing a new legal trail and the proceedings, including the court reviews, might take many years.

The trade regulation rule proposed by MIRA includes a restatement of the Robinson-Patman Act provision prohibiting discrimination in price between competing purchasers, and it adds to that several provisions intended to clarify some of the doubtful areas of interpretation. For example, it would provide that where the Robinson-Patman Act refers to discrimination between competing purchasers of gasoline "of like grade and quality," unbranded gasoline should be treated as being of like grade and quality with branded gasoline if it met the same specifications. (The supporting brief indicated that "the cost savings on credit cards, advertising, maps, etc. may amount to a cent a gallon.")

The rule also would make it prima facie evidence of discrimination when "a major brand retail station receiving the lower price, directly, or indirectly by reason of the discrimination, reduces or eliminates the customary retail differential between his gasoline and gasoline sold other than under a major brand name."

It is interesting to compare this with some of the rules in the preceding codes. For example, rule 7 of the 1929 code provided: "The selling of refined petroleum products below cost for the purpose of injuring a competitor, and with the effect of lessening competition, is an unfair trade practice." Rule 17 provided, among other things, that: "No seller shall make any deviation from his posted prices (whether wholesale or retail) by means of rebates, allowances, bonuses, concessions, benefits, unusual credits, scrip books, or any plan, device or other scheme which may directly or indirectly permit the buyer to obtain gasoline or kerosene at a lower net cost to him."

The Code of Fair Competition, adopted under the NRA in 1933, provided: "Rule 3. No one shall make any deviation from his posted price by means of rebates, allowances, concessions, benefits, scrip books, or any other device, whereby any buyer obtains any naphtha, gasoline, motor fuel, lubricating oil, grease, kerosene, or heating oil, at a net lower cost than the applicable posted price * * * the provision of all previously executed then existing contracts regarding price will be available for inspection upon the direct request of any competitor * * * rule 4. Refiners, distributors, jobbers, wholesalers, retailers, and other engaged in the sale of petroleum shall not sell any such refined petroleum products below cost of manufacturing or importation into the State where offered for sale, plus reasonable expenses in the cost of marketing as observed under prudent management, fixed taxes, and inspection fees by the Federal or State Government."

Since the Madison case, oil men have been wary of plans sponsored by other Government departments without the approval of the Justice Department. As Justice Douglas said in handing down the Supreme Court's ruling in the Madison case (*U.S.* v. *Socony Vacuum*, 310 U.S. 150):

"As to knowledge or acquiescence of officers of the Federal Government little need be said. The fact that Congress, through utilization of the precise methods here employed, could seek to reach the same objectives sought by respondents does not mean that respondents or any other group may do so without specific congressional authority. Admittedly no approval of the buying programs was obtained under the National Industrial Recovery Act prior to its termination on June 16, 1935, which would give immunity to respondents from prosecution under the Sherman Act. Though employees of the Government may have known of these programs and winked at them, no immunity would have been obtained. For Congress had specified the precise manner and method of securing immunity."

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[From the Wall Street Journal]

### STEPPING ON THE GAS

Free competition is a simple concept; and yet many people cling to odd ideas about it. Some of them argue that it is somehow compatible with Government price-fixing. And not everyone seems to see where this usually leads.

As a case in point, take the group of Midwestern independent petroleum refiners which is seeking some way to end price wars in retail gasoline sales. At the root of the problem, as the group concedes, is excess capacity and overproduction.

But the group's proposed solution to the periodic price wars, in which gasoline is sometimes sold below cost, is not aimed at the problem's root; it is instead aimed at the retail end of the business. Specifically, the refiners are urging the Federal Trade Commission to issue rules for the industry which would have the effect of setting minimum prices at the gasoline pump. Contending that "this industry is sick" and that "action must be taken to preserve competition," California Representative JAMES ROOSEVELT is endorsing the refiners' petition. An FTC rule on pricing, adopted after all refiners have had an opportunity to present their views on marketing problems, would represent "democracy in action," he maintains. The minimum price control machinery resulting, he adds, could serve as a model for other industries as well.

To be sure, Mr. ROOSEVELT further asserts, if the FTC rule works to protect refiners against price wars, then the agency and refiners should also take up the question of protecting consumers from unreasonable price increases. In other words, if there's a price floor there also should be a ceiling. The upshot would be full-scale Federal control of retail gasoline prices.

The refiners really don't want to go that far; they would like to be free to increase prices. But they should know that it's hard to reverse direction when you start down the road to controls. More often, the Government steps on the gas.

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[From the NAM News]

### PRICE CONTROLS AT THE BACKDOOR

Is the Federal Trade Commission about to become a price control agency, without benefit of legislation? Representative JAMES ROOSEVELT, Democrat, of California, a member of the Small Business Subcommittee is encouraging it to do so, and the situation will bear watching.

Mr. ROOSEVELT is backing the appeal of an independent oil producers association for an FTC code which would put a floor under gasoline prices at the filling station. The producers, of course, didn't ask for a price ceiling, but they could get one. Mr. ROOSEVELT says that he expects the FTC to protect the public from price increases. If so, there will be a price floor and a price ceiling on gasoline, and that's price control.

You aren't in the oil business? Just wait. The Congressman declares that this should be the model for other industries, too.

On another front, the President is reported to have asked his new Consumer Affairs Assistant, Esther Peterson, to see what she can do to roll back retail prices in depressed areas.

All this concern about the consumer would be more convincing if the administration were not pushing the bill to ratify an international coffee agreement designed to raise the price, and a wheat bill which has been described as a "bread tax."

While there seems to be confusion about objectives, there is no mistaking the force of the drive to impose piecemeal price controls. The consumer is to get a break whenever the producer has no special claim to Government favor, and he is to be forgotten when high prices may be used to gain votes from a group or lukewarm support from foreign nations.

We could wake up to find ourselves living under a complete patchwork price control scheme that Congress never even had a chance to consider.

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## REVIEW OF MILITARY MANPOWER PROCUREMENT SYSTEM BASED ON THE DRAFT

The SPEAKER. Under previous order of the House, the gentleman from Missouri [Mr. CURTIS] is recognized for 60 minutes.

Mr. CURTIS. Mr. Speaker, a group of Republican Congressmen have been conducting a rather complete and comprehensive review of the military manpower procurement system based on the draft over a period of years, certainly in recent weeks, and we are taking the floor today to advance some of our thoughts on this subject.

Mr. Speaker, I ask unanimous consent that all Members participating may have permission to revise and extend their remarks and include extraneous matter, also that I may have permission to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CURTIS. Mr. Speaker, I ask unanimous consent that the following Members may be permitted to insert their remarks in the RECORD at this point:

Messrs. LINDSAY, BRAY, OSTERTAG, FINDLEY, MORSE, HALPERN, QUIE, TAFT, ELLSWORTH, SCHWENGEL, WILSON of California, CLEVELAND, DEL CLAWSON and FORD.

The SPEAKER pro tempore (Mr. LIBONATI). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CURTIS. Mr. Speaker, I am going to make some introductory remarks, and the agenda for this special order follows:

Mr. LINDSAY will discuss the question of invasion of liberty, Messrs. BRAY, OSTERTAG, and FINDLEY on the effects on national security, with the gentleman from Illinois [Mr. FINDLEY'S] special comments on our military and its relation to NATO, and myself on; first, high cost due to turnover; second, civilians can now do the job given to draftees; and third, the matching of skills.

The inequitable aspects of the draft will be discussed by Mr. CONTE and Mr. HALPERN, "Economic and Social Side Effects" by Mr. QUIE, Mr. GOODELL, and Mr. TAFT, "Evasion Mentality" by Mr. ELLSWORTH and Mr. MORSE. The problem of "Administrative Circumvention" by Mr. SCHWENGEL, "The Requirements of a Good Military Manpower System" by Mr. BOB WILSON, and "Alternatives to the Draft" by Mr. CLEVELAND and Mr. DEL CLAWSON, "The Need for a Study by Congress" will be discussed by Mr. FORD, and conclusions by myself.

### I. INTRODUCTION

Mr. Speaker, on March 11, I introduced a bill, H.R. 10395, to establish a joint congressional Committee on Manpower and National Security. Similar bills have been introduced in the other body, and companion bills to those have been introduced in the House.

I am very happy if possibly we might add to the list of those who are anxious to review this matter, President Johnson. In his press release of over the weekend he pointed out the need for a complete review of the military manpower procurement system. I know those of us who have been looking into this matter and who have been very concerned about it for some time, are most pleased that President Johnson feels this way. This should certainly remove any question that may have existed on the part of leaders of both the House and Senate and the chairman of the Committee on Armed Services to go forward and to move into this field with a full discussion.

I personally think a special congressional committee to review this matter would be best because it is not just a question of the Military Establishment. That is the important thing, of course. We are trying to get manpower for the Military Establishment. But this has tremendous implications to the civilian society, and economic consequences, and it becomes very important that the committees that are concerned with such things as education and labor, committees concerned with this very problem of employment, and this so-called war on poverty, be included. Therefore, a broader committee than just the military, it seems to me, would be advantageous in discussing this study.

Mr. Speaker, at this point I would like to place in the Record again, because of its pertinency, the remarks I made on March 11 in regard to this proposed study.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. Curtis. Mr. Speaker, I have introduced legislation that would establish a Joint Congressional Committee on Military Manpower and National Security. It was my purpose in introducing this legislation that the committee would make a full study and reevaluation of the peacetime draft law, which goes under the guise of the Universal Military Training and Service Act.

For many years I have advocated that an intensive analysis of this law be made to see if the needs of the Military Establishment might not be better satisfied at lower cost by some other method of manpower procurement. There is little question that the high incidence of personnel turnover in the Military Establishment results in higher costs and inferior personnel quality. It has been clear also for some time that the inequities in the present law and the great increase in the draft age population, plus technological changes in the Armed Forces, require a major reexamination of how to select, recruit, and retain the numbers of men that are needed annually.

### IS IT UNIVERSAL?

The Universal Military Training Act had a difficult birth and its life has indeed been a strange one. If anyone doubts it, let him ponder over the title of the act. It is neither universal, military, nor training. It is essentially a draft act, pure and simple. Recently, I inserted in the daily Congressional Record, on January 13, 1964, at page A87, an article from the New York Times in which it was stated:

"There is much that is wrong with the present draft law. It is in no sense universal; only about 58 percent of the men reaching 26 (the upper induction level) ever serve. There are all sorts of exemptions. Aside from the inequities the draft per se (except when applied en masse in wartime) is a wasteful system. Shocking too are the high percentages of those rejected for mental or physical defects or illnesses.

On November 13, 1963, at page A7042 of the daily Congressional Record, I inserted an article by John C. Esty, Jr., which tends to illuminate the magnitude of the shocking high percentage of rejections to which the New York Times article referred. Of the 1,300,000 men who will reach 23—the usual age when a young man is drafted—almost 35 percent of those eligible for the draft will be rejected on physical or mental grounds. This figure equals about 50 percent of those called for the preinduction physical, or about 455,000 men. Of course, there is another way of looking at this statistic on rejections. Perhaps the military criteria for physical and mental fitness is unrelated to the job specifications and is simply a more convenient way for them to eliminate the numbers subject to the draft which is excess to their needs.

On February 14, 1963, President Kennedy sent Congress a message dealing with the problems of American youth. In his message at that time, the President referred to the youth of America as our most important resource of the future, and suggested a number of Federal programs to put it to work. It is almost unbelievable, but in that message, the President failed to mention, let alone discuss, the question of the draft as it bears on this youth problem. In his discussion, however, he did accurately discern that the underlying cause pointed to the unsettled and unsettling prospects which confront young Americans after graduation. Yet for some reason, he entirely ignored the biggest disruptive force in the lives of young Americans today—the draft.

I feel that there is no single force which causes more disruption in the education, training, employment, and personal lives of our youth today, than is set in motion by the Universal Military Training Act.

It is imperative that we know whether the penalties that our society pays as a result of this disruption are penalties that we must pay in order to provide for the defense of our country.

### IS IT MILITARY TRAINING?

Probably the largest sums of money being spent in the field of training and retraining in our society today are spent by the Military Establishment. The Military Establishment runs the largest single vocational educational system in the world, to a large degree in direct competition with the civilian society, for pupils, teachers, and facilities. These systems are largely uncoordinated with the civilian sector, although the job description—if they were written up—of the military needs for skills would find their counterpart in the civilian sector in about 90 percent of the cases. Therefore, they are redundant as well as unnecessary competition. They also tend to be costly and inefficient as compared to the training programs in the civilian sector. This is understandable. After all our military officers are not trained to be professional educators as are our leaders of education in the civilian sector. The armed services make the complaint that they seem to be training people only to have them enticed away by the civilian sector. Recently I saw an article which points up this problem in the March 1964 issue of the Navy magazine entitled, "A Man That's Too Good To Be Lost to You," by Randy Forrestal, from which I quote:

"Perhaps the most complex and costly problem in the Navy today stems from our inability to retain expensively trained young officers and men beyond their periods of obligated service.

"As a result, about one-fifth of our Navy must be replaced each year—some 130,000 people."

The needs of the military for manpower are primarily needs of quality, not quantity, needs for skills, not numbers. Our technology has considerably advanced from the period of the early fifties, where I was one of a group of those opposed to the establishment of the universal military training, not on the basis necessarily of ideology, but on the grounds of inefficiency. A second point I sought to make in the debate in 1951 and 1952 on this matter was that a high proportion of the skills the military needed have their counterparts in the civilian economy.

This second point suggests that we should be doing a careful job of coordinating the civilian skill needs with the military skill needs. Moreover, procurement and training policies must look not only to today's needs, but also to the needs of the future. If we need a force of technically proficient men, then I believe that under the present system we are proceeding in the wrong direction altogether when we pluck a man out of civilian life, train him and work him in a skill he will most likely never use again, and then turn him back to civilian life with no assurance that his skills will be kept current. This lack of coordination of the skills between the military and the civilian sectors can be corrected by the proper revision of the military skill classifications. Under the Manpower Training Act of 1962, the Department of Labor is required to keep a dictionary of skills, and by the proper implementation and updating, as well as anticipation of the skills that will be needed by the military of the future, intelligent decisions can be made on specific points where the civilian sector or the military sector is best suited to maintain and operate the institutions of learning needed to develop these skills.

In my testimony before the Education and Labor Committee on its version of the National Defense Education Act of 1958, I stated that the need in modern warfare for technical skills, as opposed to close-order military drill skills, indicates that we should be utilizing the educational facilities that exist in the society in the field of vocational and other education instead of having the Military Establishment duplicate them at the cost of billions of dollars.

We achieve at least three things by following a program based upon utilization of the educational plant already in existence, to wit: First, we get better trained technicians; second, we get these technicians at one-tenth of the cost; and third, we work with rather than compete with the civilian educational system and so cause less disruption in the individual lives and private institutions of our people.

There is no question in my mind about the great penalty we are paying in the civilian sector in inferior education and training resulting from the disruption of the plans of our youth in entering the labor market and embarking upon their life's endeavor.

Lastly we must look at the Ready Reserve as a means whereby these skills are kept current. At the present time they are incapable of this basic function. The most recent recall of reservists made this fact abundantly clear. A joint committee such as I am proposing could well look into this aspect of the military and ask some very pointed questions. I am of the opinion that the Military Establishment has not really tried to make the Ready Reserve system work. One good test of this would be to ask them whether they are in the position to testify in detail why the Ready Reserve system has not worked up to this time.

On March 4, 1963, I inserted in the Congressional Record, volume 109, part 3, page 3414, my testimony that I gave before the Armed Services Committee on the subject of the extension of the Universal Military Training Act. In that insert, I also included my testimony before that same committee in 1959 on the same subject. In my 1959 testimony, after having made extensive comment, I summarized my remarks in a series of points. Unfortunately those points are still valid today. They are as follows:

### "THE POINTS

"1. An enlistee is considerably more valuable than a draftee. Enlistees are obtained by making the military service as attractive as possible.

"2. Draft laws are necessary if there are insufficient volunteers. Yet relying on the draft law to meet personnel needs tends to weaken the efforts to attract volunteers. It is like getting used to relying on a crutch.

"Therefore, drafting as a basis for getting personnel should be abandoned just as soon as possible. Indeed, it should be abandoned on a trial basis—just as a crutch should be abandoned—to see if a system of attracting volunteers will not work. And to test different methods of attracting volunteers.

"3. To defend our way of life without having the very defense we set up destroy our way of life we must rely on a small standing military force backed by Ready Reserves:

"(a) To make a Reserve system work the regular Military Establishment must try to make it work. One good test of whether they have tried to make it work is whether they are in a position to testify in detail as to why it does not work. The testimony of the leaders of our Military Establishment over a period of years on the inadequacies of the Reserve and National Guard systems demonstrate beyond much doubt to one who looks a little beneath the surface that they have not tried to make either system work.

"(4) Modern warfare (even the World War II variety) requires 90-percent noncombatant skills and of these noncombatant skills an increasing proportion are technical skills:

"(a) Most of these skills have their civilian counterparts and these civilian-type skills are readily adaptable to their military counterparts.

"(b) The civilian educational system, including the vocational, trade, industry, etc., schools, has the specialists in the field of education and training.

"(c) The leaders of the Military Establishment are specialists in the field of military science. Military science is a different field from education and training.

"Therefore, the 90-percent noncombatant skills needed by the Military Establishment should be taught through the civilian educational system. The 10-percent combatant skills should be taught by the Military Establishment.

"Corollary: The 10 percent needed for combatant duties could undoubtedly be procured through volunteer enlistment, particularly if the bright uniforms, medals, honors, and veterans' benefits were reserved for this group.

"Corollary: The 90-percent noncombatant skills could be procured through voluntary enlistment inasmuch as the men would be moved by the greatest incentive there is to be employed in skills they know and like.

"5. A–1 physical specimens are not needed for noncombatant skills. A one-legged man can be a stock clerk; a midget an airplane mechanic. Only one thing seems to serve as a check on utilization of personnel with physical limitations: The cost of veterans' benefits. But if veterans' benefits are reserved for combatants this problem is eliminated.

"6. Military law and discipline is required for combat and those who might be in combat. It is not the best or most efficacious system for utilizing noncombatant skills.

"The Code of Military Justice of World War II evolved from centuries of battle experience was found to be inadequate when applied to the 90-percent noncombatant personnel. Without appreciating the fact that the error lay in trying to apply a system of discipline and law in an area where it was inappropriate we junked this time-tested code for a watered-down code which is no longer effective for combatant activity and doesn't do very well in the noncombatant area.

"We should take a new look at the Code of Military Justice. Set it up for combatant activities and combatants and withdraw it from noncombatant activities."

In other words, there is no sense in putting a military uniform on a Pentagon clerk. In fact, we cut down on the ability to recruit good clerks by subjecting them to military law.

"7. A thorough job analysis of the technical skills needed by the Military Establishment should be done. At the same time an inventory of the civilian counterpart skills should be taken. Match the two groups to determine what may be lacking and set up an incentive system to encourage the training and enlistment for training through the civilian educational system in those areas where there are skill shortages. Have a reserve system set up geared to receive these skills to keep them from becoming rusty and to keep them up to date with the needs of the military. Have a stepped-up civilian-type law during war or emergency to deal with absenteeism and malingering and I believe we will have a strong defense system."

### PROVISIONS OF THE CURTIS BILL

In the bill that I am introducing, I propose that an ad hoc joint congressional committee be set up to study, in detail, this problem of military manpower and the national security. The committee would be composed of 12 Members, 6 from the House and 6 from the Senate. The bill provides that the Speaker of the House shall appoint three majority Members and three minority Members: One each from the House Committee on Armed Services and House Committee on Education and Labor, and two other Members at large. The same balance is to be attained in the Senate, by providing that the President pro tempore appoint Senators from the Senate Committee on Armed Services and the Senate Committee on Labor and Public Welfare, as well as two at-large Members.

The duties of the committee would be to make a comprehensive study and investigation of the present and future importance of manpower to the military and would look into the following nine points:

First. The number and skills of persons in the United States qualified for gainful employment.

Second. The Nation's military manpower needs, both in quality and quantity.

Third. The present methods of procurement of manpower for the Military Establishment and their administration.

Fourth. Alternate methods of procurement of manpower for the Military Establishment.

Fifth. The amount, nature, and effectiveness of the training now offered by the armed services.

Sixth. The uses to which the Nation's human resources are put within the Military Establishment.

Seventh. The morale of members of the Military Establishment, insofar as it relates to the present system of procurement, training, and occupation within the Military Establishment.

Eighth. The cost of the present and alternative methods of procurement, training, and employment of members of the Military Establishment.

Ninth. A comparison of our military manpower programs to those of other nations.

Among the powers of the committee, my bill would allow it to issue subpenas and hold hearings or investigations as well as hire a professional staff. My bill does, however, terminate the committee after 2 years, and requires that it file its final report before that time.

### SUMMARY

It is my view that in these times of increasing needs of the military for high quality rather than quantity in personnel procurement, our basic emphasis should be on strong recruitment programs backed by a topnotch system of pay schedules, promotions, retirement, and fringe benefits.

If we do not do these things, we may well have to harken back to the poem of Rudyard Kipling, "Back to the Army Again" in which he stated:

"Oo' there?
A man that's too good to be lost to you
A man that is 'andled an' made—
A man that will pay what 'e cost you
In learnin' the others their trade—parade.
You're droppin' the pick o' the Army
Because you don't 'elp 'em remain."

**Mr. CURTIS.** At this time, I would like to proceed with the agenda that I announced earlier and explore with some of the Members, the effect of the peacetime draft on our American way of life.

### II. INVASION OF LIBERTY

**Mr. LINDSAY.** Mr. Speaker, there is much talk these days about old myths and new realities. While it is always refreshing to have fresh perspectives, it is curious that there has been so little debate, and so little fresh perspective on one subject that strikes closer to home than many, and that is the assumption that our system of compulsory military training in its present complex and expensive form is both necessary and desirable. President Johnson is, of course, to be commended for now ordering a new manpower review that will seek alternatives to the present draft selection system. But the President's proposal is a limited one; it does not, for example, include a review of the many complex and often unhappy side effects of the system of conscription that we now have.

Mr. Speaker, the study of the draft selection system is a congressional obligation, and I urge the House to undertake a review of this country's manpower policies. I call the House's attention to a bill which I introduced early last month—H.R. 10227—to create a Commission on the Administration of the Universal Military Training and Service Act. Two other Members have introduced my bill and the gentleman from Missouri [Mr. Curtis] has his own.

There are many reasons, it seems to me, why the present system should come under review. These reasons are linked to the great technological changes that are sweeping all phases of American life—including the military. For one thing, the present system is wasteful. For each young American drafted into the military who is taught some specialized skill, there are others who are not. Among those who are taught skills, many find they cannot use their skills on the outside. The military thus loses the services of a man in whom it has had a large investment, and the economy suffers because an opportunity has been lost.

My concern here today goes beyond the particular problems of efficiency and economy. Today I wish to concentrate on the impact of compulsory military training on the quality of our society. More precisely, I should like to examine the relationship of the draft to our historic system of individual liberties. The two, of course, can be equated. But they can only be equated if the draft is organized properly both in concept and practical application.

The preservation of democracy often—too often—requires constriction of personal choice and personal freedom. One form of constriction may be conscription.

> It has long been a grave question—

Said Lincoln—

> whether any government, not too strong for the liberties of its people, can be strong enough to maintain its own existence in great emergencies.

The draft necessarily uses the power of the state to conscript young men into the service of the state. Compulsory military training is alien to basic notions of free personal choice. Hence, it is to be approached warily and not renewed automatically, almost blindly. In addition, the compulsory draft comes at the most important time of a young man's life—it comes during that period of self-discovery when a young man is in search of his future. It is expected that the compulsory draft will disrupt his education, employment, and personal life. But this disruption should not take place without considering the modern needs of our Defense Establishment and the growing problems that we face because of population growth, automation, and the need for new skills.

The military has a very key role to play in this dangerous age. No nation which wishes to remain free can be ill prepared to defend freedom against those who would destroy freedom. We do what has to be done. But it is important that we know what we do and review our procedures on a regular basis. The chief danger of increasing centralism, in my opinion, lies in the threat to individual liberties that stems from great concentrations of military, police, or economic power. An indiscriminate continuation of the peacetime draft is one of the factors that contributes to such a concentration of central power. Senator Arthur Vandenberg, a great Senator and distinguished and constructive Republican, once said:

> Peacetime conscription is repugnant to the spirit of democracy and the soul of republican institutions.

Another great Republican Senator, Robert A. Taft, Sr., had this to say during the course of the great debate on peacetime conscription in 1940:

> By handing boys over to the arbitrary and complete domination of the Government, we put it in the power of the Government to indoctrinate them with the political doctrines then popular with the Government. * * * In wartime it is bad enough; in peacetime it would be intolerable.

If Senators Vandenberg and Taft are to be heeded, we need from time to time to examine our position; to review the balance between defense needs on the one hand, and free choice on the other.

Finally, compulsory military training allows the Federal Government consciously to exert an influence over the individual's choice of profession or occupation. The military tends to influence young men into jobs that relate to the cold war, that enhance the position of the military in our society. One way this is done is through deferments from the draft. General Hershey last year remarked that "the deferment is that carrot that we have used to try to get individuals into occupations and professions that are said by those in charge of Government to be the necessary ones." Deferments, then, are extended to nuclear scientists, but not to classicists, sociologists, or political scientists, who, says the Government, are less essential to national security. Thus, in the name of "national security" and "Government interest," the future course of emphasis in our society may be changed by the state, indeed by military apparatus. Again, this may be an unavoidable byproduct of the semigarrison state. But let us know and review what we do.

What is the alternative? Last year, when the 4-year extension of the draft was being debated, I voted for an amendment that would reduce the draft to 2 years. I did this in order to force a review of where we stand on the draft. We have not had such a review. We have automatically continued the system, with all of its inconsistencies and inadequacies, without full debate and study. We have permitted massive waste to occur year after year by allowing a few to avail themselves of the 6-month program, by inconsistent standards of selection, by not sufficiently coordinating the Reserve program with the draft, by thoughtless use of Army manpower, by not modernizing and specializing, and by underpaying to such an extent that a costly turnover exists and the draft becomes necessary.

I look and hope for excellence in all things. There is no reason why we cannot have it in this area of our society as in others.

Mr. CURTIS. I want to thank the gentleman from New York [Mr. LINDSAY] for his pertinent and penetrating remarks. No Member of this body has spoken up more ably and consistently for the right of the individual to be free from unjustified governmental invasion of his liberties than has the gentleman from New York.

Mr. Speaker, I would like to move on to the second major section of our analysis of the present military manpower procurement system, that of its effect on our national security.

### III. THE EFFECT ON NATIONAL SECURITY

Mr. BRAY. Mr. Speaker, I want to congratulate the gentleman from Missouri [Mr. CURTIS] on his leadership in initiating this discussion and in proposing some time ago that our national manpower situation be investigated by a Joint Committee To Study the Facts Relating to the Draft.

As a member of the Committee on Armed Services, which has periodically recommended the extension of the peacetime draft since I have been in the House, as former Reserve officer of more than 30 years' duty and as a commanding officer of thousands of draftees during World War II, I have had a long and continuing interest in military conscription.

At the outset I would grant that conscription is not popular; it is something we tolerate during times of emergency. In times of peace, even a cold war peace, if it is more distasteful to require military service of our young men.

Yet we have recognized the necessity of such service because of the continuing threat of Communist aggression. I for one believe that our determination to remain strong and prepared has done much to prevent aggression and hostilities since the end of World War II.

We have come now to the point where we are suggesting that it is time that our whole concept of the draft be reviewed. We need not make any prejudgments as to what such a study will show. It is enough to recognize that the present system is far from ideal. It may be the best we can do, but in the national interest a thorough review is worthwhile.

This session was planned weeks ago, as you may imagine. It was heartening to those of us who have had this subject on our minds for some time to hear the President's statement over the weekend, for it indicates that he, too, has realized the need for a review of our manpower utilization problems.

Looking at the present draft system strictly in terms of national security, many questions arise:

Does this system provide the services with the skilled technicians they require?

Does it help or hinder the services in keeping skilled men?

Does the morale and motivation of men who have been drafted or who have volunteered under the pressure of the draft suffer to a significant degree?

Do the present regulations allow some needed men to escape service?

Are there more equitable ways of distributing the burdens of service which would eliminate some of the present feelings of resentment caused by seeming favoritism?

Do the short terms of service and the constant turnover in personnel substantially effect service strength and efficiency?

Are most draftees brought into service at an age higher than the services would prefer?

Is the time of the men while in service used intelligently?

What would be the effect on the enlistment rate of the services if the threat of draft induction were completely removed from our young men?

How can other factors which affect our overall national well-being—such as education, family stability, career planning, and training—be weighed against the direct needs of the services?

There are many, many such questions and we would do well to set about seeking answers to them.

By increasing efficiency in the services, and by making them more attractive to voluntary enlistment, we have succeeded in greatly reducing the draft needs. I am not at all certain that the draft can be done away with in the foreseeable future; but I believe it is incumbent upon us to improve its operation, its standards and regulations so as to give maximum benefit to our national security, and to safeguard maximum freedom and opportunity to our young men.

It is with this in mind that I urge this study be authorized as soon as possible.

Mr. OSTERTAG. Mr. Speaker, I am glad that there is serious consideration being given at this time to a reexamination of the effect and application of the universal military training program, more commonly referred to as the draft or Selective Service System. This program is highly important to the Nation for it is the means for assuring that our military services have the manpower which they need to fulfill their responsibilities for national security. At the same time it greatly affects all our manpower policies and programs.

The Selective Service System has been going along with few basic changes since the Korean war, but conditions and requirements have changed tremendously during that period. Our national manpower and military personnel policies must be adjusted to these changes, just as surely as our military weapons and facilities are adjusted and modernized to remain abreast of new developments.

There are many serious questions being raised today about the military draft: Is it adequate for today's conditions, or does it need redirection; is it economical or wasteful of people, time and money; is it universal and equitable or haphazard and discriminatory? In other words, does it fill the national security needs of our military forces in a manner which also serves the best overall interests of the Nation?

I am glad to see that so many Members of Congress believe these problems deserve our serious attention and consideration at this time, and I welcome this opportunity to discuss this issue today. Just in the past few days we have noted that President Johnson has also indicated an awareness of the increasing public concern about this issue, and has revealed that he has asked the Secretary of Defense to review the operation of the Selective Service System. While I welcome this step, I believe it is too limited and improperly focused.

Because of the wide ranging effects of the military draft and its relations to the training and preparation of all the Nation's manpower, I believe this study should be carried out by a joint committee of Congress. For that purpose I am introducing a bill to provide for the establishment of a Joint Committee on National Manpower and the Universal Military Training. The committee would be comprised of 12 Members of Congress, 6 from each body, and would include members of both the Armed Services Committees and the Labor Committees of each body. The committee could conduct public hearings to obtain the opinions of both military and civilian experts on all the effects and ramifications of our national manpower programs.

As an indication of the impact of these programs on the lives of young Americans and their families, let me point out that more than 1.5 million young men attain age 18 each year and for the next 8 years their important personal decisions are influenced by their military service obligations. If a young man waits for the selective service call, he will probably be 23 before being called upon to serve. Most young men would prefer to fulfill their obligation earlier—at 18 or 19; but if they all tried to do this, the Armed Forces would be unable to absorb them under present conditions. Then, too, the many exemptions and disqualifications which take place today result in 50 percent of the young men reaching the upper age limit of 26 without being required to serve at all. And this percentage will continue to grow as standards are changed and the draft pools grow larger with the population.

The draft now supplies men only for the Army and provides only 15 percent of the annual manpower replacement needs. Other services are manned by voluntary enlistment. Training for today's highly complicated military service is concentrated on enlistees and Regulars, rather than draftees; less than 20 percent of draftees extend their service. Another factor to be considered is that much of today's military training is in technical skills rather than for purely combat purposes.

Clearly, the role of the military man has greatly changed in the past decade. The manpower requirements and training programs of the military services have greatly changed. Congress should carefully examine the changed relationship of the military and civilian manpower policies in our country, so that we may revise our programs to meet today's needs realistically and economically.

Mr. FINDLEY. Mr. Speaker, the day when the United States could design military policies independent of those of our allies has long since passed. One of the chief elements of a military policy is the manpower procurement program, and here the schemes used by the NATO nations are drastically different.

The French have a system which conscripts practically every young man at 19—but they have a serious problem maintaining a ready reserve. The Germans use an arbitrary system of selection. The British recently discontinued conscription after years of protests by top military experts like B. H. Liddell-Hart, who said as long ago as 1950 that:

> Conscription is a millstone around our neck threatening to sink us both militarily and economically. The sooner we scrap conscription the better for the efficiency of our security. (Defense of the West, pp. 190, 222.)

Each nation's situation is different, to be sure; but might we not learn how to improve our own security and enhance that of NATO as a whole, if we undertook a thorough study of all these alternatives? Might we not be able to extract the best of each of them to incorporate, along with our own national experience, into a far preferable system?

Mr. CURTIS. I want to thank the gentleman from Indiana [Mr. BRAY], the gentleman from New York [Mr. OSTERTAG], and the gentleman from Illinois [Mr. FINDLEY] for their contribution to our discussion here today.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. TAFT].

### IV. ECONOMIC AND SOCIAL SIDE EFFECTS OF THE DRAFT

Mr. TAFT. Mr. Speaker and Members of the House, I thank the gentleman from Missouri for yielding to me briefly on this important subject.

Mr. Speaker, I have long been concerned with the whole concept of a military draft although certainly the testimony we have had seems to indicate up to now at least, it has been a vital part of our whole defense setup and this may well continue to be true. However, the factor I would like to call to the attention of the Members is the effect that the draft at the present time has on the entire employment situation of the country. We have found in our studies on manpower and employment in the Committee on Education and Labor in various hearings that we have had on measures before us in this season of the Congress, that the rate of unemployment of those under the age of 22 in this country is double the rate of unemployment of those over the age of 22, or indeed of the entire unemployed labor force.

The rate is now, I believe, somewhere in the neighborhood of 10 or 11 percent. Certainly, without doubt, one of the contributing causes for the unemployment rate has been and continues to be the fact that the average induction age under the draft is now about 22 years of age. This means that many employers or potential employers, who seek someone for a particular job in existence today, must give careful consideration to any young man who perhaps is out of high school—who may or may not be a dropout—or who may have completed his high school training. Employers are faced with a problem. Employers know that if they hire this young man, within a year or two he may have to leave his employment and go elsewere, and he will return with employment rights—which he should have. Nevertheless, the employer is faced with that possibility, and the employment of older men under these circumstances is far more likely, with the rejection of the younger man, who has not yet completed his military obligation.

Secretary McNamara recently commented on this problem. It is interesting to note that Secretary McNamara, in his testimony on the antipoverty bill, presently being heard in the Committee on Education and Labor, made certain statements with regard to the present draft, which I believe might well be called to our attention. I quote from page 159 of the record, the comment of Secretary McNamara, discussing whether the draft age might be moved back to 18, the Secretary stated:

> There is a problem of equity involved, however, as well. We could fill all of the draft positions with 18-year-olds from among those who are eligible at 18 who are not exempt for schooling or for other reasons, with the result that those who do proceed through advanced schooling would automatically be eliminated from any draft obligation. I doubt that that would be a desirable policy. So that, we are caught between two extremes here.
>
> We are trying to develop a delicate balance between them.

I wish to quote another comment by Mr. McNamara. The gentleman from New York [Mr. GOODELL] asked the specific question:

> Do you have a specific comment you can make about the advisability or the possibility of taking these youngsters at the age of 18, at least a great many more of them at age 18?

And Secretary McNamara replied:

> I think that we will be moving in that direction over the years. We have made one move toward that by eliminating fathers from the draft which, in turn, forced down the induction age, as was mentioned a short time ago. I think other moves will be made which will have this same end result.

In summary, the draft most certainly contributes to the high unemployment rate found among young men in their late teens and early twenties. A way must be found through which our military manpower procurement policies cease to conflict with our efforts to reduce unemployment. This means that if conscription is maintained, it will have to be designed to deliver young men to the service at age 18, or close to age 18, rather than at age 22, as is presently the case. This should be done without inequity, certainly, to those who have put off their obligation or to those being called up at a younger age. Our Selective Service System should expedite the induction of young men as soon as possible after they leave high school, not wasted years later, as is often the case today.

I thank the gentleman for yielding to me.

Mr. CURTIS. I thank the gentleman from Ohio.

Mr. Speaker, I would like to insert at this point, the following memorandum that has been prepared for the use of the Members who have joined in this study group:

## Military Manpower and the Draft

### I. BACKGROUND OF SELECTIVE SERVICE

A. Early American.

1. Revolutionary War era: A total of 658 militia acts passed by the Colonies have been discovered. "The general pattern was: A vigorous and reiterated assertion of the duty of all citizens to give military service at the demand of the authorities; a requirement that all citizens, usually specified as white males between the ages of 16 and 50 or 60, be mustered and trained in arms; and provision for punishment of those disobeying the ordinances." (Devan, 1951.) The ordinances themselves have been collected and analyzed, with the conclusion that "peacetime conscription is compatible with the American tradition." But this contention is frequently disputed by historians, who point out that the early militia was quite different from present-day conscription and that the colonists had strong distaste for standing armies.

2. Under the Constitution: The Militia Act of May 8, 1792 "prescribed the enrollment of every free, able-bodied white male citizen between the ages of 18 and 45 in the militia of the several States." (Fitzpatrick, 1940.) "The Militia Act of 1792 affirmed the citizen's obligation for military service, and the Government's power to compel such service." (Devan, 27.)

3. Civil War: Both the Union and the Confederacy resorted to conscription after the initial wave of volunteers tapered off. The practice of buying a substitute and other abuses led to several severe draft riots during the war. (Kelly and Harbison, 421.)

B. World War I: The draft procedure, with notable improvements, was followed in the act of May 18, 1917. In the following year the Supreme Court, ruling on the draft for the first time, found it a constitutional exercise of the war power.

C. World War II: On September 16, 1940, the first peacetime Federal draft law was enacted and in 1941 it was extended by a one vote margin in the House. All males between the ages of 21 and 35 were required to register, those with dependents exempted, and the remainder assigned numbers. In November 1940, a national drawing was held to select the conscripts. They were to serve for 1 year, later extended to 18 months. The main argument against the draft was that it was an unjustified invasion of individual liberty, alien to American tradition. When the war came, the draft was greatly expanded. The World War II draft law was allowed to expire on March 31, 1947, survived only by the Office of Selective Service Records. (Graham, 1958.)

D. Post World War II: Following the expiration of the draft law and the reversion to peacetime status, the size of the Armed Forces dropped sharply. In 1948 the Army was 600,000 below what was considered to be its desired strength. Congress then passed the Selective Service Act on June 24, 1948. This imposed a 21-month period of service on nonveterans between 19 and 26.

Due to the outbreak of the Korean war, Congress extended the 1948 draft law until mid-1951. At that time it was incorporated in the Universal Military Training and Service Act, enacted June 19, 1951. This is essentially the act on the books today.

E. The present draft law.

1. The Universal Military Training and Service Act provides that:

(a) All males register at 18.

(b) Age of susceptibility is from 18½ to 26.

(c) Those deferred remain susceptible until age 35, regardless of the length of time they were deferred.

(d) There are statutory deferments for students, and exemptions for ministers, conscientious objectors, and sole surviving sons.

(e) The President may defer men because of occupation, dependents, and hardships.

(f) Induction is for 2 years.

(g) After active duty the inductee is supposed to serve 3 years in the Ready Reserve.

2. A variety of programs, totaling around 60, is available to the potential inductee; these include Army, Air Force, Navy, Marines, and Coast Guard. But once a man has received his orders for induction, he may not enlist in any other program.

3. At present draft calls are running around 90,000 per year (all Army). This is about 9 percent of the present Army strength and about 15 percent of the annual replacement quota. The remaining replacements come from new enlistments and reenlistments.

4. On August 9, 1955, Congress added to the draft law the Reserve Forces Act, which:

(a) prescribed a drilling Reserve obligation for those enlisting thereafter.

(b) authorized the 6-month program, by which men 17–18½ could enter the Ready Reserve, train for 6 months, then resume civilian life with Reserve meetings and duties for 7½ years (later shortened to 5½ years).

This last provision was labeled a "control factor" over the manpower pool by the House Armed Services Committee report.

5. In January 1956, the President issued an Executive order placing still liable men over 26 well down on the induction priority list, effectively terminating their susceptibility. On September 10, 1963, the President rearranged the order of induction priorities by putting married men without children one class lower than single men. At present the order of induction is:

(a) Draft delinquents over 19, oldest first.

(b) Volunteers for induction under 26, oldest first.

(c) Single men, 19 to 26, oldest first.

(d) Married men without dependents, 19 to 26, oldest first.

(e) Married men with dependents, 19 to 26, oldest first.

(f) Men over 26, youngest first.

(g) Men under 19, oldest first.

It is possible to be refused for enlistment in the Army and still be drafted. This is because although the physical standards are the same, the mental standards for enlistment are higher.

### II. ARGUMENTS OFFERED FOR THE PRESENT SYSTEM

A. The draft is necessary to maintain required force levels.

1. The 90,000 annual draftees would not be available without it.

2. The annual enlistment rate would drop drastically without the "spur" of the draft.

"The absence of the induction authority would drastically affect the recruitment programs that are now being conducted by the services, both in the enlisted and the officer area." (Paul, 1963.)

"Many arguments have been advanced for universal military training * * * but all those that have any validity reduce themselves to a single word—necessity." (Fletcher Pratt, 1951.)

B. The draft is needed to provide future trained reserves.

"Universal military training is needed to provide future trained reserves for the armed services. This is not only the main reason for adopting UMT, it is essentially the only reason. (Devan, 1951.)

C. Without the draft our potential enemies and our allies would question our national resolve and determination.

"Any indication that we are pursuing a less than 4 year continuation of this important authority might suggest to some people a certain lack of resolve or uncertainty as to where we might be going in the future, as far as our national defense is concerned." (Paul, 1963.)

D. The draft provides a method whereby the Federal Government, by means of the exemption and deferment system, can channel young men into the fields it considers vital to national defense.

"The law makes possible the channeling of our registrants into training for and participation in professions and occupations which contribute to the measures taken for our common defense by segments of our manpower in civilian activities." (Gen. Lewis Hershey, 1963.)

"For the last 20 years the selective service system has been what we call a channeler. That is, we have channeled people into training for professions and occupations that were said to be very necessary for national life, and once they had finished it, we have continued to defer them if they are engaged with contractors and other people who are producing things for the Armed Forces." (Hershey, 1963.)

E. Proper military training saves lives, when large numbers of soldiers are sent into battle.

"I should say that the trained combat soldier has at least three times the chances of the untrained to live to become a veteran." (General Eisenhower, quoted in Devan, 1951.)

F. UMT enables the military, before hostilities, carefully to assess the abilities of each soldier and assign him to the place he can be the most effective in war.

G. UMT "improves the efficiency, quality, and alertness of regular forces."

H. UMT fosters our national spiritual and moral ideals.

I. UMT results in personality gains for the trainees:

1. Reasonable discipline.
2. Physical examinations discovering remediable ailments.
3. Educational opportunities.
4. Opportunity to meet young men from all over the country.
5. Increased sense of responsibility.
6. Sense of citizenship and belonging.

J. UMT is democratic. It does not favor the rich over the poor, white over black, etc.

K. UMT could help solve the problem of developing trained civil defense forces.

L. UMT provides useful vocational training to many young men.

M. UMT, by bringing men together from all over the country, promotes a sense of national unity.

### III. ARGUMENTS OFFERED AGAINST THE PRESENT SYSTEM

A. The draft impairs national security.

1. The modern Army requires skilled technicians, but the draft produces little more than cannon fodder.

2. Men who join the military voluntarily make better soldiers than those who are forced into the military against their preference.

3. The Army would prefer draftees at 18 or 19 instead of at 23. Older men are not as easy to fit into the Army organization and needs.

"The tax upon the time of the citizen for service with the Armed Forces should occur at the earliest possible time. This is to the advantage of the Government and of the citizen as well."—Gen. LEWIS HERSHEY, 1951.

"The Army holds that 18- to 19-year-olds train better than 23-year-olds.—EVERS, 1962.

B. The draft is a serious invasion of individual liberty.

1. It disrupts the lives of thousands of young Americans. Some, who join the Reserves, must attend military functions for 6 years. For many others, careers are interrupted or postponed. The uncertainty and anxiety of the draft often force ill-advised decisions.

2. It leads to regimentation and militarism.

3. It enables the Federal Government consciously to exert an influence over the individual's choice of profession or occupation.

"The deferment is the carrot that we have used to try to get individuals into occupations and professions that are said by those in charge of Government to be the necessary ones."—General HERSHEY, 1963.

"Peacetime conscription is repugnant to the spirit of democracy and the soul of republican institutions and leads to the regimentation of society."—Senator ARTHUR VANDENBERG, 1940.

The compulsory draft "is far more typical of totalitarian nations than of democratic nations. The theory behind it leads directly to totalitarianism. It is absolutely opposed to the principles of individual liberty which have always been considered a part of American democracy * * *. The principle of the compulsory draft is basically wrong."—Senator ROBERT A. TAFT, 1940.

"Peacetime conscription is the greatest step toward regimentation and militarism ever undertaken by the Congress of the United States."—Senator BURTON K. WHEELER, 1940.

C. The draft is inefficient.

1. The Nation wastes money on draftees, 80 percent of whom do not reenlist.

"If we need a force of technically proficient men we are proceeding in the wrong direction altogether when we pluck a man out of civilian life, train him and work him in a skill he'll most likely never use again, and then turn him back to civilian life with no assurance that his skills will be kept current. This in capsule form is what the draft-centered procurement system does today." (Representative THOMAS B. CURTIS, 1963.)

2. Many of the draftees perform services that civilians could perform cheaper and easier, notwithstanding Department of Defense policy:

"Civilian personnel will be used in positions which do not require military incumbents, for reasons of law, training, security, discipline, rotation or combat readiness; which do not require a military background for successful performance of the duties involved; and which do not entail unusual hours not normally associated with civilian employment." (DOD Directive 1100.4, August 20, 1954.)

D. The draft is unnecessary.

1. The Armed Forces are more likely to remain constant or even decrease in the years ahead.

(a) The trend is toward automated systems, missiles instead of manned bombers, and so forth.

(b) The Soviet Union has recently (1963) cut its Armed Forces.

(c) Civilians could take over a large percentage of jobs currently performed by soldiers, leaving soldiers for combat purposes.

2. The labor pool in the 19–25 age group is growing rapidly; hence more men are available to fill the same or fewer positions. This is due to the coming of age of the postwar baby boom.

*Total males, 19 to 25*

| Date: | *Millions* |
|---|---|
| June 1964 | 9.093 |
| June 1965 | 9.357 |
| June 1966 | 10.104 |
| June 1967 | 10.679 |
| June 1968 | 11.143 |
| June 1969 | 11,433 |
| June 1970 | 11.852 |

3. Unemployment, heavier among young workers, is a spur to enlistments; the chances of virtually ending structural unemployment are very slim.

E. The draft is inequitable.

1. It favors those who can afford to stay in school until age 26.

2. It favors those who marry early.

3. It favors criminals, perverts, and the morally unfit. Some men feign homosexuality to avoid induction.

4. It favors the mentally and physically inferior.

5. It favors farmers and those whose employer can obtain a deferment for them on grounds that they are "essential" to the industry or to national security. Factoryworkers and the self-employed, for example, are discriminated against.

"It is clear that there is enormous scope for politics and indeed graft; local industries and local interests can bargain with the local men on the draft boards about the indispensability to the national economy of men they want to keep on the home front."—FOOT, 1961.

"Universal service cannot be applied fairly without yielding far more manpower than the armed services need or want. Less than half the young men in the draft age are actually seeing military service under the present universal service laws."—LEWIS CASSELLS, 1958.

By June, 1964, 50 percent of men turning 26 will never have served in the Armed Forces. Since the standards for the present 25-year-olds were lower before 1958, and since married men are now virtually exempt, and since the labor pool is growing while draft quotas remain the same, this percentage will almost certainly rise in the next few years.

F. The draft, far from encouraging a sense of patriotism and responsibility, creates instead the evasion mentality.

1. Young men consider the draft a penalty and a burden, and actively seek ways to avoid it.

2. Preoccupation with avoiding the draft carries over into preoccupation with avoiding any kind of responsibility to the country.

3. Conscription brings civilian scorn upon the enlisted men of the Army.

"The social reputation of the Army is so low that thousands of people, sooner than spend 2 years as active soldiers, volunteer to serve for 4 as sailors, airmen, or marines. This naturally seems odd to foreigners, but is taken for granted by Americans, who have been familiar from childhood with the view of the Army as the force with the lowest social prestige." —FOOT, 1961.

G. The existence of the draft lulls the Nation into a false sense of security.

"The great expense of any such training program, its probable concentration in training large numbers of men and methods certain to be obsolete before the next war, and the resultant overemphasis on the creation of a large semitrained reserve might—and probably would—hamper the development of far more important security measures, an adequate intelligence system, a comprehensive research program, industrial mobilization, finely trained services of professional soldiers, sailors, and airmen ready for instant action, and capable leaders." —HANSON BALDWIN, 1946.

H. The social effects of the draft are harmful.

1. Deferments to married men encourages early marriages (which are more likely to break up) and a high birth rate; this leads to a burgeoning population, which is unfortunate for our automating society, and personal distress for the victims of an unsuccessful early marriage.

2. The present high age of draft liability (around 23) makes it difficult for a young man to get a career job until he has satisfied his service requirement.

3. The draft, by taking some men away from productive jobs, has an adverse effect on the functioning of the economy.

I. The impossibilities of the present draft system, coupled with congressional reluctance to modify or abolish it, lead to administrative bypassing of the Universal Military Training Act.

1. One example are the Executive orders virtually exempting married men and men over 26. (Sec. 6–h of the draft law prohibits deferment based on marriage alone, but the recent Executive order has exactly the same effect.)

2. The policy of liberal deferments for occupational and other reasons operates against the spirit if not the letter of the act.

"The purpose of the draft law is not only to supply the military with manpower but to see that it is done in an equitable and nondiscriminatory manner. If changing times make the latter impossible, the laws should be openly amended and not perverted sub silentio by administrative action. Traditional American principles demand this."—GRAHAM, 1958.

3. The Army used performance potential tests in 1957–58 to weed out low performers, in spite of the fact that Congress failed to act on a 1957 proposal by the Defense Department to permit this weeding out by statute. (In 1958 Congress made this legal by amending the law.)

J. The draft, along with the military service generally, has a deleterious effect on the individual's personality.

"The perfectly trained soldier is one who has had his civilian initiative reduced to zero. In the process the self becomes identified with the institution and dependent upon it for direction and stimulation. The ideally adjusted soldier would be a military dependent who looked to the institution for all his personal, social, and emotional satisfactions. In short, the military is designed to produce soldiers—men conditioned to institutional requirements, defined situations, and explicit expectancies who will never think for themselves nor make demands on the institution for needs that are not identified with the institutional ends—HOLLINGSHEAD, 1946.

E. The draft, along with military service generally, promotes immorality. Military bases are generally surrounded by inequitous establishments—bars, houses of prostitution, gambling joints, etc.

### IV. INTERESTING SIDELIGHTS

A. American opinion toward the draft.

1. February 1950: "The Selective Service draft law ends in June. Do you think Congress should or should not continue the draft law for another 3 years? (Gallup poll, May 10, 1950): Should: 57 percent; should not: 33 percent; undecided: 10 percent.

2. May 1951: "Do you think college students, eligible for the draft, who pass a test of general ability should or should not be allowed to complete their college work before being called into the Armed Forces?" (Gallup poll, May 27, 1951): Should: 55 percent; should not: 36 percent; undecided 9 percent.

3. June 1955: "Soon there will be more young men than the army needs for the draft. If this is the case, which of these two plans do you think the Government should follow?" (Gallup poll, July 1, 1955): Draft some men for 2 years and excuse the others: 16 percent; draft all able bodied young men for 18 months: 74 percent; no opinion: 10 percent.

4. September 1956: "Do you think the time has come when this country should do away with the draft, or not?" (Gallup poll, Oct. 5, 1956): No, 74 percent; yes, 13 percent; no opinion, 13 percent.

(NOTE.—This question was prompted by Adlai Stevenson's casually made campaign remark that we should try to abolish the draft, which Eisenhower immediately and forcefully repudiated.)

5. November 1963: "If you had a son who had to spend 2 years in the military service, at what age would you like to have him begin this service?" (Gallup poll, Dec. 4, 1963):

| | *Percent* |
|---|---|
| 16 to 17 | 6 |
| 18 | 48 |
| 19 | 9 |
| 20 | 11 |
| 21 | 18 |
| 22 to 26 | 8 |

B. The military are afraid to ask for changes in the draft law for fear public opinion will force changes they disapprove of.

"There are many things that we would like to change in our present law. There are many things we would like to change in its operation. The question is whether, if you start changing them, you may not open up many other problems, and if we are going to have a democracy everybody must have their chance for a change. What the thing is going to look like when we get through many times impels us to go ahead with the evils that we face, so we live in some sort of accommodation with them rather than to jump into those we cannot foretell because, smart as we think we are, we haven't been able to forecast the future so that we could be quite 100 percent accurate * * *.

"I think the bill that went over (to Congress) was a straight-out extension of 4 years. There will probably be an argument whether it is 4, 2, or 1, and some of us who have perhaps a little ability to do a little more than hope will at least hope, pray, or what not that the thing expires on a year that is not divisible by 2. There are several reasons that I need not explain to you why this is so."—Gen. LEWIS B. HERSHEY, 1955.

"It was not by accident that Congress chose to set a nonelection year for the next bubbling up of the controversial issue." (Newsweek, Apr. 4, 1960.)

C. Two problems that arise in connection with the draft should be noted in passing:

1. The problem of obtaining enough doctor and dentists.

2. The problem of conscientious objectors who base their objections on moral and philosophical grounds, rather than on belief in a Supreme Being.

On January 20, 1964, a U.S. Court of Appeals unanimously held that the portion of the draft law requiring belief in a Supreme Being as a basis for conscientious objection was in violation of the due process clause of the fifth amendment and thus unconstitutional. (New York Herald Tribune, Jan. 24, 1964.)

D. One source within the executive branch claims that the services are forbidden to accept voluntary enlistments beyond a point which the military feels would threaten the draft law. Unfortunately there is probably no way to prove or document this assertion.

E. Congressman TOM CURTIS has made the point that the American educational system could do a far better job of training men for some military tasks than the Armed Forces themselves. By removing some technical training of bakers, radar operators, linguists, etc. from the military, the military could be reduced in size while at the same time the strength of our national preparedness and our educational system would be increased. While not strictly a question of procurement, this concept deserves serious exploration. It does, however, operate against a professional army system by removing a prime incentive for enlistment.

### V. REQUIREMENTS OF A GOOD MILITARY MANPOWER SYSTEM

A. It must strengthen national security.

1. It must make available an adequate quantity of military personnel.

2. It must provide quality personnel who can efficiently and reliably handle the modern technical equipment of the Armed Forces and who can assume leadership responsibilities.

B. It should be a minimum infringement of individual liberty.

1. It should be a minimum disruption of the individual's life.

2. It should minimize the amount of Federal power over the economy and our national life.

C. It should attempt to eliminate the "evasion mentality" by making national service respectable and honorable.

D. It should be equitable. The military obligation, if compulsory, should be shared as widely as possible; or else the system should operate by voluntary choice.

E. It should be economical, consistent with the requirements of national security.

1. It should encourage a high reenlistment rate, which reduces the costs of "wasted training."

2. It should assign nonmilitary duties to civilians by contracting with private enterprise.

F. It should be flexible and administratively workable.

### VI. DISCUSSION AND CONCLUSION

It is reasonably clear that changing conditions in the world and at home have called into serious question the premises of the original Universal Military and Training Service Act. The universality premise which appears in the title of the act was not in fact written into the text at all. Instead, the President was "authorized, from time to time * * * to select and induct * * * such number of persons as may be required to provide and maintain the strength of the Armed Forces."

This hoax of universality was not always apparent, when the ratio of draftees to the labor pool in the 18½–26 bracket was low. But today, with the war babies moving into the 18½–26 bracket, the ratio is high and increasing. The result, as mentioned earlier, is that by June 1964 over 50 percent of the men turning 26 will not have served in any way in the Armed Forces.

In order to avoid the induction of man far beyond military needs the Executive has been forced to liberalize deferments, shuffle induction priorities, and stiffen mental and physical standards. The result has been an "escape rate" which now is passing the 50 percent mark. It is not surprising that the hapless draftee feels bitter about "universal" service where the exception is the rule.

The Universal Military Training and Service Act has proven inadequate in another respect. The services as presently constituted must spend a great deal of money training new servicemen in the complex technological skills of the modern armed forces. When 80 percent of the draftees and 73 percent of the first term enlistees leave the service after their first tour of duty, the American taxpayer is out a great deal of money. There are certainly a number of reasons why these men leave, but a major one must certainly be the fact that they were forced into the service against their will—either by conscription or the threat of it.

This same attitude manifests itself in the "evasion mentality," the chief tenet of which is to avoid as much responsibility as humanly possible. The consequences of wide acceptance of the evasion mentality on our national character, both in service and in private life, cannot contribute to the sense of civic responsibility so urgently needed in America today.

Here then is an example of a law which has outlived its original premises and is inadequate in present day conditions. To make it fit its new surroundings, it has been patched up and reglued. The time has come not for more patches and more glue, but for a complete inquiry into the problem of military manpower procurement and training.

It would be foolish to make a decision on the ideal method of solving this problem on the basis of this memorandum alone. All the pertinent information is not readily available and all the relevant points of view have not been heard. But it is necessary to initiate a depth study of the problem and to act in the light of its findings.

The requirements of such a study should include these:

(a) an investigating group whether a commission or a congressional committee, sincerely interested in finding better ways of dealing with present problems;

(b) a broad mandate, not one restricted specifically to the Universal Military Training and Service Act;

(c) an extremely competent staff, unburdened with preconceived notions and foreordained conclusions;

(d) public testimony from people with a wide range of opinion.

It is clearly possible to design a military manpower system which increases national security per unit cost while at the same time eliminating most if not all of the undesirable features of the present legislation. Should such a result come as a sequel to the work of the committee, the Nation would stand to benefit in several important ways.

Mr. TAFT. I thank the gentleman for yielding to me.

Mr. CURTIS. I thank the gentleman from Ohio.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman from Missouri. I commend him for the work he is doing here in studying the draft, and for the proposals he has made. I also thank the gentleman from Ohio, who just preceded me.

This is a Federal program which certainly needs studying and needs revision. We have seen that until the change in the regulations by President Kennedy, to exempt married people, the average age of the inductee or the draftee was 23 years. Now, because of the change in regulations, it is 22 years of age. This is extremely unfortunate, that when a person comes to the age of 18 he does not know whether he should enlist and he does not know whether he will actually be caught in the draft or not. This confusion and uncertainty is certainly unfortunate. We also see an unfairness in the draft when by delaying to later years, to as late as 26 years of age, their induction, some people do escape the draft. It is this feeling of unfairness that I have heard when I have talked to constituents of mine, and it is the same feeling that I have received in the letters which I receive.

We see the difficulty of hiring young men who have not fulfilled their military obligation. Industries are reluctant to train this person because they do not know whether he will be coming back to that industry or not, and whether he will have to fulfill his draft or military obligations. We see the deplorable circumstances where in some States like South Carolina, 52 percent of the young men are rejected because they cannot pass a mental examination. When this comes at 22 years of age, there is not anything that the community can really do about it. Too high a rejection rate occurs for physical reasons, and when they do not find this out until they are 22 years of age, it is also too late to do anything about it.

I am glad to see that the preinduction examinations beginning July 1 will be made at 18 years of age. However, I believe it would be worthwhile if the preinduction examinations were given at 16 years of age. This would be an indication to the young man himself that he must take corrective action when he does not meet the qualifications for military service. This would be good for the schools, also. If a high percentage of their students are rejected on a mental test or even for physical reasons, then they know that remedial programs should be instituted.

Let us look at the study which was made in the booklet entitled "One-Third of the Nation," where the high rate of rejection that occurs was shown. The book indicates that 40 percent of those who are rejected for mental reasons have not finished elementary school. However, the most astounding fact is that 60 percent have gone beyond elementary school and finished elementary school or have gone even beyond this. Even more astounding than this is the fact that 20 percent of the young men rejected have had 4 years of high school or more. When you find this out at 22 years of age, it is too late for the school really to take remedial action. However, if they found this out at 16 years of age, I think that corrective action could occur. I believe the draft age itself should be reduced to 18 years of age. Any young man when he reaches that age should fulfill his military obligation at that time.

There is a great deal of talk in the President's war on poverty program of bringing young men to camps in order to train and teach them the basic skills and how to read and write and correct work habits. What is going to be missing in those programs, as they are proposed, is the discipline which is necessary for the young men whom I have seen in the ghettos of the cities; the young men who I doubt will voluntarily take part in any job training program but who could be brought into the military service through a draft at 18 years of age. I think in this case they ought to reduce the physical and mental requirements, because this would be an outstanding program in which to teach the young men through discipline and through training how to take care of themselves after they get out of the military service. I think this is a way in which military training could be administered in a much more fair program than it is today, and it will meet the needs of our young people and greatly increase their physical fitness and mental capabilities. They will be coming to the years when they would go on to the job market or receive further training from a much more mature point of view than they have at the present time. I appreciate the work that the gentleman is doing. Out of this I certainly hope revisions in our military training program will come about so that it will actually increase the strength of the United States. It will be an advantage for the young men and their families; it will strengthen the young people of our country and improve the strength and the position of the United States.

Again I wish to say that I appreciate the position taken by the gentleman from Missouri.

### V. THE DRAFT IS INEFFICIENT AND WASTEFUL

**Mr. CURTIS.** I thank the gentleman from Minnesota. I would like to make a couple of comments at this time. When President Kennedy presented his message to the Congress on youth opportunities and the problem we have with our youth, I made some remarks on the floor that I was distressed that no mention in that message to the Congress was made of the impact of the draft on the youth of our country. This is probably the biggest single thing that pertains to youth opportunities. It disrupts the education and training of our youth and, as the gentleman from Minnesota and the gentleman from Ohio have pointed out, unsettles their situation as far as getting employment is concerned.

But more important, if there is anything more important, is the fact that our society today is being slowed down because we have so many jobs requiring high skills that are unfilled; actually there are more jobs going begging than there are unemployed. And this whole business of training and retraining, the upgrading of our skills, is interwoven in this manpower program of the Military Establishment.

Another point, in order to drive this matter home: There are more dollars being spent today in the field of vocational training by the Federal Government than anywhere else. We have not identified it because it has been under the uniform. But if we look into the training and vocational programs of the Military Establishment we will find that these are no different—in many instances, probably 80 percent or more—than the very same vocational education programs that are going on in our apprenticeship programs, in our vocational education programs. And at least in my judgment a study will reveal that the Military Establishment is not doing a very adequate job of training. That is understandable. These men have been trained in military science, not in the field of education and training. And if we would utilize these dollars—and we are talking in terms of billions—if we would utilize these dollars in a more efficient manner I am sure that we would be matching the skills that we need in our military system, with those available in the private sector.

Mr. Speaker, I would like to call the attention of the House to the manpower report of the President, which is required under the Manpower Training Act. This is dated March 1964. The title is "Manpower Report of the President and a Report on Manpower Requirements, Resources, Utilization, and Training, by the U.S. Department of Labor." This, in my judgment, is one of the finest reports as far as the data in it are concerned, and the questions it raises, that I have seen in some time.

On page 69 of this report is an interesting comment under the term "Use of formal training." I shall read it:

> Four-fifths of the women's training programs had been used, either on the present job or on a past job, but not quite three-fourths of the men's training had been put to use in the civilian labor force.
>
> Among men workers, the types of training which had the least carryover into civilian employment were for such occupations as baker, medical or dental technican, and airplane mechanic—for which many men received training during military service.

I think if we follow through on this we will find that the greatest incidence of lack of carryover of the training that our people have is when they receive that training in the military services. On this same page is a table, table 17, headed "Source of Training Programs Taken Previously or in Process, April 1963."

That table shows the sources of training such as high school, special schools, Armed Forces, apprenticeship training, company schools, correspondence schools, technical institutes, junior colleges, and others.

But this shows the high impact of Armed Forces training of 11.4 percent. This is a very sizable and the single most sizable item in training today.

Mr. Speaker, I believe it behooves us to review this matter from an educational and training standpoint, particularly as it has the impact on the youth, and then when we get over into this area of the dollars that are being spent today by the Federal Government in training and vocational education, how much better those dollars could be spent if utilized in the civilian sector.

Another basic question that must be asked is "What is the attitude of our youth today toward their military obligations?" It is with this question in mind that I would like to move on in our discussion.

### VI. THE EVASION MENTALITY

**Mr. ELLSWORTH.** Mr. Speaker, the rise of the evasion mentality is the concern of all of us in this body.

The evasion mentality is the mentality of the man who seeks to advance his own interests while evading his responsibilities.

It is the philosophy of the buckpasser and of the man who cheats on his income tax. It is the mentality of "Let somebody else worry about it." It is the morality of "something for nothing." It is the attitude which President Kennedy sought to change when he said the famous words, "Ask not what your country can do for you; ask what you can do for your country."

There are many factors contributing to the rise of the evasion mentality in America today. One certainly is the increasing control of the individual's life by the myriad regulations and rules of the countless local, State, and Federal agencies and their faceless bureaucrats. Another is the increasing diffusion of responsibility in big organization—business, labor, and government. Yet another is the decline of the Puritan ethics of individual self-reliance and personal responsibility, exemplified by Emerson's famous admonition, "Do not let another do for you what you can do for yourself."

A fourth major factor in the growth of the evasion mentality is the present system of military manpower procurement based on the draft.

If every young man, regardless of his occupation, physical and mental condition, or marital status, were called upon to spend some part of his life in his country's service, this would not be much of a problem. If our Armed Forces could find a way to maintain the required force levels by attracting enough high caliber volunteers, there would be no problem at all. But the present system, under which every other young man of those turning 26 this year will never have served in the Armed Forces, leaves the door wide open to every draft dodging scheme ever conceived by the fertile mind of man.

One way to beat the draft is to flunk the physical. Methods of doing so are the subject of discussion among predraft men, and successful evasion is greeted with approval. A recent newspaper article quotes a young machinist who said to the reporter:

> I managed to fail my hearing test by sitting where I could see the dials.

Flat feet, trick knees, punctured eardrums, dizzy spells, and overweight are common dodges. I understand that "recurrent migraine headaches" and "bad back" are the current favorites because they are so difficult to expose.

Flunking the mental test is another device. Over the years Army personnel have learned to catch the clumsier would-be flunkers, but a sharp-witted cheater can still flunk successfully. Recently Lt. Gen. Lewis Hershey, Director of the Selective Service System, was quoted in a magazine as saying:

> We have had trouble with people with master's degrees getting turned down.

Feigning homosexuality is far from unknown.

Another way to beat the draft is to finagle a deferment for being essential to the industry. Farm youths stand a good chance of such a deferment if they can convince the draft board that they are essential to the family farm. One large corporation has a standard form letter to draft boards, stating in glowing terms the contributions made by its draft-age employees. The letter goes on to assert that despite its vigorous efforts to recruit only young men who have fulfilled their draft obligation, the company has been unable to meet its needs in that way. One young man of my acquaintance was so impressed by this unexpected company testimonial to his indispensibility that he gave serious thought to using it as the basis of his demand for a substantial raise.

Staying in college to age 26 is another well-known way to avoid military service. I am convinced that there are in graduate schools today a large number of young men who would not be there were it not a sanctuary from the draft. This avenue of escape also introduces a class distinction: it favors those who can afford to stay in college 6, 7, 8 or more years.

Understandably, the Selective Service System looks with sympathy upon hardship cases. A recent article in Parade, "Are We Becoming a Nation of Draft Dodgers?"—January 19, 1964—cites two interesting attempts to feign hardship as an escape from the draft:

> A middleweighter boxer, who had deserted his family, raced home to Louisiana when the draft board got on his tail and begged his wife to let him take the children on a trip. He then put them in school and claimed them as dependents. His wife, with her own score to settle, put him down for a count of 2 years by giving him away.
>
> Another dodger claimed he was the sole support of a widowed mother. He got away with it until his board discovered that she had her own home, a new automobile, paid-up insurance, and $30,000 in cash.

Yet another way to get out is to obtain a minor criminal record. Prof. Eli Ginzburg, of Columbia, in a recent interview with U.S. News & World Report, January 27, 1964, had this to say:

> Recently I was very disturbed to have one of my students tell me that three young men working for his father in Pennsylvania had deliberately committed minor infractions of the law in order to be sent to the workhouse, so as to avoid military service.

Professor Ginzburg points out that a great many Negro youths who have criminal convictions arising from civil rights demonstrations may now be virtually immune from the draft, though otherwise qualified.

Perhaps the most attractive loophole to open up recently was the President's Executive order of September 10, 1963, which for all practical purposes exempted married men, whether fathers or not, from the draft. And what was the justification for letting these 340,000 men go scot free of our so-called universal military obligation? I quote from the Washington Star:

> The White House said that there is an ample pool of single men to provide sufficient manpower for the military forces short of heavy mobilization.

In plain English, these men were exempt for no reasons except the glut of men in the draft-eligible brackets and the added expense of dependent allowances for married men.

In the Parade article I have already cited appears this interesting observation, attributed to Lt. Col. Harry O. Smith, the director of the draft in Georgia. Colonel Smith said:

> In 1 week we had 46 men who had been ordered to report for induction suddenly get married.

One Capitol Hill secretary told a member of my staff that during her last semester of college, just after the married men exemption, she had five sudden offers of marriage.

Mr. Speaker, what is the effect of these many ways of avoiding the draft obligation? The effect is the inexorable spread of the evasion mentality among America's young men. By this misdirected and ill-designed system of military manpower procurement, the U.S. Government is unavoidably encouraging our young men to devise ways to avoid service to their country.

Unhappily, the evasion mentality does not end when the draft call comes. Those who are unwillingly forced into the armed services—knowing as they do that their buddies on each side will not have to serve—can be expected to adopt evasion as a way of life. Throughout their military career they continually seek newer and more ingenious ways of shirking their responsibilities. And when they return to civilian life, should we be surprised when they fail to shoulder the burdens of citizenship and of active participation in endeavors for the common good?

Mr. Speaker, a system that permits every other man to escape must inevitably produce the evasion mentality. Such a system may in the short run provide the warm bodies required by the Army. But we must look ahead at the long-term implications. Necessarily this system is unfair. Necessarily it must be detrimental to the cherished American tradition of duty to country.

I am unhappy with this system. So, I am sure, are a majority of the Members of this Congress. So is the military. So is the President. So are the American people. But in view of the critical nature of this subject, so close to our national security, we are reluctant to make any changes unless we can be reasonably sure what the effect of those changes will be.

We cannot know those effects until we get the facts. We are not going to get those facts until a special committee or commission with a talented and unbiased staff gets them for us and lays them out for the people and their Representatives in Congress to judge.

It is still 3 years before the present draft law expires. It is now high time to set in motion the machinery for getting these facts in plenty of time for full public discussion and decision. I urge every Member of this body to lend his or her support to a bill which will make this possible.

Mr. MORSE. Mr. Speaker, the history of our country shows beyond any shadow of a doubt that when the Republic stands in imminent danger, its able bodied men will forego their private concerns to risk their lives in defense of American liberty. Such was the case in the first battle for independence, which took place in Lexington, in my congressional district, on April 19, 1775, just 189 years ago last Sunday. Such has been the case in every war this Nation has fought since.

The cold war, in which we have been engaged since the end of World War II, is a different kind of war from our Revolution or from any of the other wars we have fought. It is different because it is subtle and silent; it is being fought at many levels with diplomacy, economic penetration, propaganda and guerrilla warfare. But it is not being fought with battalions and artillery and landing craft. No screaming headlines announce a new enemy thrust or an allied drive. We no longer see on the front pages of our papers the battle maps of Guadalcanal or Normandy or Pork Chop Hill.

To deter, and if necessary to fight, a real military war in this dangerous age, America must maintain a strong Military Establishment that can, to the maximum extent possible, prevent another war or protect the United States should it occur. But because we are not actually shooting at the enemy, the spirit of devotion to country which has served us so well in previous national emergencies cannot be counted on to produce all the men the Military Establishment needs, given its present levels of benefits and opportunities.

To resolve this problem we have resorted to a military manpower procurement system based on the draft. What patriotism produces when the Nation is obviously in danger, we have determined will be provided by the draft when the danger is less apparent.

Now it is well known that there are far too many young men in the 18- to 35-year age bracket for the armed services to handle. To induct all these men into the armed services, as required by a truly universal military service system, would swamp the military with unneeded and unwanted personnel. And it would pose a staggering burden for the taxpayer.

To cope with this problem over the years, we have resorted to various devices to cut down the proportion of the manpower pool which is classified as eligible for military service. At the same time the services have neglected to prune some of the excess personnel from their rolls.

On the pool shrinking side we have seen the following:

First. A virtual exemption for anyone over 26 who has not previously served because of a deferment.

Second. A raising of both physical and mental standards.

Third. An increasingly liberalized policy of deferments for students, hardship cases, fathers, and men with certain occupational skills.

Fourth. A virtual exemption for men with minor police records.

Fifth. Most recently, a virtual exemption for married men.

Sixth. A continuation of the requirement that every member of the armed services meet combat standards, even though more than 80 percent of them will never see combat.

On the roster padding side we have seen:

First. The reluctance of the services to turn over jobs that do not require military personnel—such as some clerical, supply, and commissary jobs—to civilians, despite Defense Department policy prescribing such action.

Second. Lax performance standards, which result in two or three men doing the same job which one man could do in the same time.

Third. The 6-month Reserve program, which is barren of military justification, but which does soak up part of the embarrassingly large pool.

Now looking at all this from the point of view of a young American man, he might reason something like this: "If this country were at war, I would be glad to risk my life in its defense; but I cannot see that we are really at war. I know I am supposed to serve under the universal military training and service laws, but half of my buddies are not going to serve for one reason or another. If it were a rewarding experience to serve, I wouldn't mind so much; but devoting 2 or 3 years to picking up cigarette butts, washing dishes, standing guard duty, and goofing off half the time without it making the least bit of difference looks like a waste of time. Would the country not be better off if I spent those years preparing myself for a career in which I could really contribute something to the Nation in the years to come? Why should I waste my time when the chances are 50-50 that I can beat the draft?"

So the result is this: The draft-centered procurement system begins to make a loyal American boy into a corner-cutter. It begins to produce the evasion mentality—the attitude that looks for opportunities to avoid responsibility.

This is not the fault of our young men; it is the fault of the draft system itself, which operates on the human nature common to us all.

Mr. Speaker, I am sure that every Member of this body shares my concern with the growth of the evasion mentality in America. Is it not time we realized that our Government has unwittingly produced a system that encourages this mentality? Can a representative government of freemen long survive when it encourages the destruction of one of the individual character traits that make democracy possible—the sense of responsibility for the conduct of our national affairs? Indeed, this sense of responsibility can be evidenced by numerous other civil acts, but the draft system which is the law of the land today, inviting avoidance as it does, invites as surely an erosion of this central element in our democratic system—the responsibility of the individual to carry his share of the load.

There was a time when there was no realistic alternative to the present draft system. That time is now long past. The present draft law will not expire until 1967. Congress has ample time to give deep and serious thought to this problem. To consider whether, in fact, we need a draft system, what improvements can be made in existing procedures. We owe it to the American people to devise a military manpower procurement system which will bolster our national security, minimize the harmful social side effects of the present system, hold the Government's invasion of individual liberty to a minimum, spread the burden fairly among our young men, and eliminate the encouragement of the evasion mentality present in our current system.

Mr. CURTIS. I want to thank the gentleman from Kansas [Mr. ELLSWORTH] and the gentleman from Massachusetts [Mr. MORSE] for their remarks on this important aspect.

### VII. THE INEQUITIES OF THE DRAFT

Mr. HALPERN. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from New York.

Mr. HALPERN. Mr. Speaker, I wish to commend the gentleman from Missouri for taking the floor today to discuss this vital subject of military training. I join him and I rise once again to call for the elimination of the widespread inequities and inconsistencies which currently punctuate the military training processes of our country.

I was pleased to read that the President has exerted some new initiative in this regard. But I do not feel that his 1-year study, undertaken solely by the Department of Defense, preempts completely the content of the proposed legislation now before the Congress.

I am pleased to have sponsored one of the measures, my bill being H.R. 10211. It is identical with a bill in the other body sponsored by the distinguished Senator from New York, Mr. KEATING. This legislation calls for the establishment of a commission which shall make a thorough investigation of the operations of compulsory military training, and report its findings and recommendations to the President within 2 years. This approach holds greater promise than a Defense Department study, for everyone will agree that the draft affects many areas of our social-economic structure which are not of a purely military character. For this reason, the commission would consist of members appointed by both the executive and legislative branches.

Beyond the fact that the draft system functions inequitably, I think we also need to investigate whether the various services are benefiting properly in proportion to the sacrifices which are made by many of our young men. I think we need a thorough and many-sided analysis as to whether our military manpower requirements of the future must necessarily depend upon peacetime conscription. In the end, what we need is an examination as to how the draft is fulfilling national security goals, both now and in the years ahead.

It must now be clear to all that the ideals of universal military training are no longer being realized in this country. I continue to think that if the need for men in uniform still remains, and that if it is seen after review that this need must be partially met by involuntary service, then we must create a system which is both equitable to young eligibles and in the best interests of the services.

On March 17, after inserting in the RECORD the thorough study of the draft undertaken by the New York World-Telegram, I said that a comprehensive review of present practices would play a crucial role in streamlining and modernizing our defense posture. The Defense Department has concentrated in depth upon providing this Nation with the most advanced supersonic aircraft, sophisticated missile systems, and nuclear submarines. The only gap in the system, as I view it, is that the Pentagon has carelessly disregarded the manpower situation. It is high time that the present outmoded, unrealistic draft, which has become a dangerous joke, is remedied.

The application of our draft laws are so riddled by loopholes, favoritism, and preferences that the recruitment under these conditions is totally obsolete for a modern military power.

The facts and figures are here for everyone to see. Because the services do not need all the men which the draft could make available, 50 different and confusing alternatives have been created to splinter the eligibles. Because of deferments and backlogs in many areas, young men are made to face military service at age 22 or 23, instead of a younger age when they could more easily manage this obligation. Selective Service practices vary from one end of the country to the next. One local board, to meet its set quota, applies different procedures than another board; if you live in New York City, your eligibility under the draft may amount to something far different than someone else residing in a county in, say, Iowa.

What I am essentially saying is that the duty for the defense of our country must be shared fairly and equitably by all our young men. We can understand that there must be some exemptions, for instance in the medical sphere; but what we must cure is the unjustified diversity in applying the system which has brought military training down to the lowest depths of morale.

In expressing our everlasting gratitude to the young civilian soldiers who have served the country already, we must dedicate ourselves to guaranteeing the fairest possible treatment to those who will still be asked to set aside their private lives to serve us in the future. In rectifying the widespread inadequacies of the present system's operation, we can rid the system of the evasion mentality and the low motivation which now generally characterize it. And, at the same time, we will be insuring for the military service a more potent fighting force.

Mr. CURTIS. I thank the gentleman from New York for his contribution here today. I understand that the gentleman from Massachusetts [Mr. CONTE] has previously inserted his remarks on this subject elsewhere in the RECORD.

We now need to move on into the problem of how the present law is being administered.

### VIII. ADMINISTRATIVE CIRCUMVENTION

Mr. SCHWENGEL. Mr. Speaker, I want to commend the gentleman from Missouri [Mr. CURTIS] for the leadership he has taken in this matter, and say that it has been a revealing experience for me to make some investigation on the subject and give thought to some of the aspects that in my mind are not altogether serving the public interest, or the national interest, or add greatly to our national defense.

If we continue our present policy, it may prove to be the deterioration of our national defense. So, I repeat, I am glad to see that there are those in the Congress who have an interest in this and are working to explore this matter and make available to the Members of the Congress in this way, and we hope to the public, some information that all of us need to think about.

I had hoped today to advance some questions to some of the leading Members of Congress who deal with the defense bill that is under discussion now, but I did not have a chance to do that. I shall participate tomorrow and ask some questions that are not exactly unrelated to this total question.

The area that I have explored deals with administrative bypasses and circumvention of the statutes that are now on the books.

Military manpower is an indispensable prerequisite to the security of the free world, to our liberty, and to our Constitution. To provide this manpower we have had to resort to conscription for some years. At one time we could not afford to bid competitively in the labor market for the military manpower which was needed. In the past we have felt that some form of a draft was the only method by which we could maintain an adequate armed force.

After the draft was allowed to expire in 1947, the total strength of the armed Forces declined below that which we considered essential. Coupled with the Communist activity throughout the world, the Congress was compelled to take some action to strengthen our defenses. The draft seemed plausible. Though scheduled to expire on June 30, 1950, the invasion of South Korea caused the Congress to extend it again to July 9, 1951, when it was incorporated into the Universal Military Training and Service Act.

We cannot deny that this title has been a misnomer. Never has it established "universal military training."

The draft was intended not only to supply the military with needed manpower, but was a method by which it could be done in an equitable and nondiscriminatory manner. The burdens to preserve our democratic institutions had to be shared fairly and equally by our citizens. If changing times make this impossible, the laws should be openly amended and not circumvented by administrative action. Our traditional American principles demand no less.

Presently there are about 60 ways in which a young man may fulfill a military obligation—an obligation supposedly to be shared by all. The 61st way is to avoid it. We cannot discuss conscription in the United States without examining its universality—or lack of it. Since the 1951 act, it has been accepted canan that compulsory peacetime service could be permanently accepted only if it were universal and nondiscriminatory. Total mobilization of World War II made this possible—but even then there were inevitable exemptions and deferments. Today these have been so greatly inflated that more than one-half of all our young men will never see any military service under the present application of the laws. Under Selective Service, only those men who are classified in category 1–A are drafted. Because of the relatively small number of men actually being drafted from the enormous 1–A pool, it has continued to swell and the age of induction rose. To preserve the draft, some action was needed to reduce the number of eligible men. In November 1962, Selective Service Director Lewis B. Hershey admitted "there is no question that the present pool—of examined 1–A men—is far too large to meet the present calls." At that time there were 127,000 such men waiting to be called up and another 1,416,597 men in 1–A waiting to be examined. As the days pass, the pool of theoretically eligible men becomes even greater. Under no pretense could all these men be used by the Armed Forces. An estimated 450,000 more men will register with Selective Service in 1965 than in preceding years—1,800,000 in all. In its present form, Selective Service cannot and will not induct all these men. Neither can they permit an undeferred man to escape military training. Were this to happen the draft would be a flop. Rather than face up to the problem, we have chosen an easy way out. Ways have been found to limit the number of men who will fall into the 1–A category or those that will actually be called. Sometimes the Congress has been a party to these moves.

The Reserve Forces Act of 1955 provided for the reception of up to 250,000 men a year between the ages of 17 and 18½ directly into the Federal Reserve where they would be given 6 months of active duty training and then serve out seven and a half additional years on terms comparable to those of the National Guardists. The provision was barren of any justification in military necessity; if in fact the House committee report on this bill labeled it a "control factor" over the manpower pool. It was no more than an open attempt to soak up the manpower surplus already beginning to build and to ensure the universality of the military obligation. Nonetheless, other steps were necessary.

By Executive order promulgated in January, 1956 men 26 and over, still technically liable because of past deferments were insulated from the draft by the provision that they would be inducted only after the entire manpower pool down to age 19 had been exhausted. This administrative provision was partly a result of the military concern with the rising age of the average inductee. It was probably a military necessity but it presented a particularly fertile opportunity for draft evasion through continuance in a draft-deferred status.

Men with dependents—other than wives—were likewise deferred. Of course, draft exemption for fathers had no firmer foundation in social policy than the 4–F exemption had in military necessity. Induction might work a greater hardship on men with children, especially since the lower ranks could not take their families with them.

Though the pool of potential eligibles has been drastically curtailed, the actual number of men available continued to increase far out of proportion to those actually needed.

Educational and mental standards set for draftees were raised in 1959 and were raised still further in 1963 to the highest level in the military history of any country. How clear it is that all the attempts to limit the potential 1–A's is a deliberate attempt to maintain a justification to continue the draft.

Faced with this rising pool of manpower, President Kennedy signed Executive Order 11119 on September 10, 1963, suspending indefinitely the drafting of married men who "maintained bona fide family relationships in their homes." Presumably living at the same address would be considered sufficient evidence. It has been said that this was an effort to end discrimination—end discrimination that is against those who preferred a planned parenthood. It reduced the number actually liable in 1–A by about 30 percent. And now we only discriminate against those who prefer their bachelorhood.

It seems clear that this effective exemption is clearly against the intent of the law. Congress gave the President, under section 6H of the Universal Military Service and Training Act the power to defer those men with dependents—other than wives alone, except in cases of extreme hardship. Clearly Congress had no intention to exempt married men.

The Peace Corps has served to reduce the number of men available. In a lead article in the April 1961 issue of Selective Service, Hershey stated that the operation of the Peace Corps is in the national interest and draft boards already had the power to defer registrants for work in the national interest. After service in the Peace Corps many would be deferred for other reasons. Many Peace Corps returnees are going to graduate school—thus being further deferred. In practice, Peace Corps returnees will probably not be drafted regardless of their status.

Selective Service encourages liberal deferments for those employed in occupations in the national interest. Hershey has called the deferment "the carrot that we have used to try to get individuals into occupations and professions that are said by those in charge of the Government to be the necessary ones—House Armed Services Committee, March 1, 1963, page 92. This is a nice and not so subtle way to eliminate some of the free choice in our society. A look into those deferred for work in the national interest might also raise some eyebrows as to what can constitute work in the national interest.

These administrative bypasses by liberal deferments operate against the spirit of the law if not the letter of the law.

Selective Service has apparently run out of ideas for new deferment classifications—but men continue to pour into the 1–A manpower pool. Strong arguments are made for all the present exemptions. But this is not the point. The cumulative effect of these exemptions and deferments, regardless of their individual merits, is to undermine completely the universal basis of the draft.

Even more dangerous to our freedom than these deferments are some of the suggestions which we are now hearing. There are those who, determined to continue the draft, advocate utilization of the draft to solve other serious national problems—utterly divorced from real or emergency military needs. This concept is doubly dangerous for it distorts rather than resolves the problems which we as a nation face. At the same time it would move us further in the direction of a highly centralized state under increased military control. President Johnson's war on poverty might mean the uplifting of our underprivileged citizens—or—it could mean a thoroughly regimented social order.

Today the military must be more selective. Only a minority can be absorbed and used productively by the Armed Forces. The obligation to serve is neither universal in scope nor uniform in application and I believe that the present system, with the heavy civil and financial restrictions it imposes, must be changed.

Mr. CURTIS. I want to thank the gentleman from Iowa [Mr. SCHWENGEL]. To all of us who are interested in positive alternatives to the draft, we know that we must first have in mind a set of guidelines by which we can judge our system with those of other nations and thereby devise one that is more suited to our needs.

### REQUIREMENTS FOR A GOOD MILITARY MANPOWER SYSTEM

Mr. BOB WILSON. Mr. Speaker, as a member of the committee most closely concerned with the military aspects of the draft, I have been giving some thought to setting forth some standards, some criteria, by which a truly effective and just military manpower system can be measured.

It seems to be our national style to want to patch up the old model T one more year, instead of trading it in for a new model. This is what we have tried to do to the present draft system for over a decade now. The patching has generally not been done by Congress, but by the administration. What has happened is that the military comes down to the Hill about 3 months before the draft is to expire, and they tell us that they have found ways to make the system work, and they would like us to renew the draft authority for 4 more years. And since the military seems to have done a pretty good job so far of protecting us from communism—at least within the framework in which they are allowed to operate—we have always been willing to go along.

But there comes a time when the necessities of flexible administration have so changed the original ideas embodied in a statute, that Congress has the responsibility to reevaluate the whole system. If it is found wanting, if it does not make the contribution to our security that it might, if it has side effects that are socially undesirable, I think we ought to go back to fundamentals and redesign the system to make it as good as possible.

Now the primary criterion for a military manpower system is this: It must insure and, if possible, enhance our national security. No other consideration can take preference over this. The system must be able to provide, by the carrot or the stick or both, the number of men the armed services must have to maintain their optimum strength. But mere numbers of men do not measure their overall effectiveness to the Armed Services. The men must have quality. They must meet basic educational standards. They must have the intelligence to profit from training to handle the complex military equipment we have today. And they must have, enlisted man and officer alike, a sense of duty and the capacity for leadership.

The belief that the Government should interfere as little as possible in the lives of its people leads us to a second criterion: The military manpower system must be a minimum infringement of individual liberty. It is abundantly clear that in a dangerous and hostile world, we must be prepared to infringe upon the individual liberty of our citizens in order to preserve the remainder from forces that would destroy it. Every time we spend a dollar on national defense, we infringe on the liberty of the taxpayer to spend his income as he sees fit. Every time we wrench a young man away from his civilian pursuits and put him into the armed services, we infringe—radically—upon his liberty. That infringement must be kept as low as possible, consistent with the overriding criterion of national security.

A third criterion is that to the extent we must use coercive power to fill the ranks, the burden should be shared as equitably as possible. When the first peacetime conscription bill in American history was passed in 1940, equitable treatment was guaranteed by a system based on pure chance. Each registrant was assigned a number. Master numbers were drawn by lot in Washington, and the men holding the corresponding digits were inducted.

When the present system was devised in 1951, the rationale for equitability was the idea of universal training in a National Security Training Corps. The Corps idea proved unworkable, but the rationale remains, even though the system has drastically departed from it today. The present inequity in the application of the system leads to some of the most serious criticisms against it. When revisions are made, we must make sure that the system is made as just and fair as possible.

Related to the criticism of equitability is another one: The system should hold to a minimum the evasion mentality so ably described by the gentlemen from Kansas and Massachusetts [Mr. ELLSWORTH and Mr. MORSE]. I will not dwell on this point, but will only say that I share their deep concern over the long-range effects to our society of a generation of men habituated to avoiding their responsibilities as citizens.

A fifth criterion for a good manpower system is that it is economical. Now I would be the last to suggest that we skimp on appropriations for our defense machine. But clearly we are responsible for devising programs that get the maximum national security for every dollar spent. A good military manpower system, using this criterion, should be designed to produce a high reenlistment rate, which reduces the waste associated with the training of military personnel who leave the services after their first hitch.

Sixth, a good military manpower system must hold to a minimum harmful social side effects. A system which provides an incentive to early marriages, with their higher chances of failure and their raising of the birth rate, is not the best possible system. A system which makes it difficult for young men to get a decent job before being drafted is not the best possible system. Seventh, and last, the military manpower procurement system must be flexible enough to accommodate our defense needs and so designed as to be administratively workable. This we owe to those dedicated officers of our Armed Forces who have the operational responsibilities of national defense.

Mr. Speaker, I think that evaluated by these criteria, our present draft system does not rate as high as we would like. I believe it is time we began to evaluate this system and possible alternative systems to see if something better can be devised. The time is ripe for a thorough study, not only in the executive branch, as announced by the President on Saturday, but here in Congress, where the ultimate responsibility lies for shaping national policy in this area in the future.

Mr. CURTIS. I thank the gentleman from California [Mr. Bob Wilson] for his remarks today. I think that the criteria that he has advanced for consideration should prove to be most useful. We can now direct our attention to some of the possible alternatives to our present military manpower procurement system.

### ALTERNATIVE TO THE DRAFT

Mr. CLEVELAND. Mr. Speaker, I too am deeply concerned with the present system of military manpower procurement.

For a long time I have felt strongly that every young American man ought to devote at least a part of his early life to the service of his country. We must remember that corresponding to the right of individual liberty, the right to be free from unreasonable interference on the part of the government, there is a related duty—the duty of preserving the political system which has, for nearly 2 centuries, preserved our individual rights from attacks both foreign and domestic.

Certainly no one will say that this duty is any less pressing today. We may not be torn by rebellion at home or fighting and all-out war on foreign soil, but nevertheless, so long as the Communist rulers pursue their ambitions of world conquest, America must stand prepared for any eventuality, including conventional warfare in which infantry is still the queen of battle.

In this state of preparedness it is necessary for some to serve as members of our Armed Forces, and it is right that this burden of preserving a free society should fall equally and fairly upon our able-bodied young men.

In 1940, when our first peacetime draft was enacted, the burden was shared fairly through the use of a number drawing system: whether a man was called to serve was determined by blind chance. When the peacetime draft was reinstituted in 1948, however, that system was abandoned in favor of supposedly "universal" service. But the "universality" of that system, on which rested its entire claim to fair treatment, was never achieved. Indeed, the concept itself was rejected in the final language of the Universal Military Training and Service Act of 1951, which authorized the President "to select and induct such number of persons as may be required to provide and maintain the strength of the Armed Forces." This is a far cry from stating that every able-bodied young man must serve his country by joining the Armed Forces.

In principle, a true universal military training system is fair and effective. It would provide the Nation with a large, trained reserve for future contingencies; help to build up many of our young men both mentally and physically; end many of the inequities we have in the system in effect today; and, if properly handled, could contribute to an appreciation of patriotism and badly needed discipline for American youth.

But the present system, from which almost half of our young men can and do escape, clearly needs revision. The system isn't entirely fair. It is uncertain. It is outdated.

One possible revision would be merely to accept for military training every young man in the vicinity of his 18th birthday. Everyone would undergo an initial period of training—from 3 to 6 months—and then face several options: Enlistment in the service of his choice, ROTC in college, entrance into a service academy, or Active Reserve. Even young men who for one reason or another do not now meet combat standards could be put to some use under such a system. This is very similar to the plan outlined by our distinguished colleague from Texas, Olin Teague, at the Conference on Military Manpower in 1955.

Another possible revision which would guarantee practical universality, while at the same time not flooding the armed services with men they have little need for under current requirements, is a system of Universal National Service.

Under the UNS system every young man would be required to serve, but his options would be more numerous and varied. Among the options could be service in the Army, Navy, Air Force, Marines, and Coast Guard; service in such necessary Federal agencies as the Coast and Geodetic Survey, and Public Health Service; service in the Peace Corps or Foreign Service; elementary and secondary school teaching; conservation projects in State and Federal parks and forests, including firefighting brigades; civil defense work and disaster relief; and State and local projects to eradicate pockets of poverty. In order to prevent any particular option from becoming a "draft haven," terms of enlistment and salaries would be set so as to make a tour of duty in the military an attractive alternative.

A third possible system might be a 3-month universal training system, coupled with voluntary Armed Forces that could attract the needed manpower in competition with the private sector of the economy.

No doubt it would be easy to devise a multitude of such systems which would be more truly universal than the present one. But there remains the question of their feasibility. In the past decade Congress has abdicated its responsibility to investigate alternatives to the present military manpower procurement system. We do not know if a truly universal system is feasible. It may be that a universal system would be such an administrative monstrosity and so costly as to be out of the question. I do not know. But I think it is time Congress got busy and found out.

Mr. Speaker, the bill introduced by Congressmen Lindsay, Barry, and Halpern would create a presidential commission to look into the present administration of the Universal Military Training System Act. Presumably this Commission would have the power to recommend changes to make the system truly universal, if such a system proves feasible.

The bill introduced by Congressman Curtis would create a special joint committee of Congress to explore the question. Section 3:4 of the Curtis bill directs the committee to make a comprehensive study of "alternate methods of procurement of manpower for the Military Establishment." This would clearly direct the committee to consider a truly universal system.

I do not now intend to choose between these two bills or to speak in favor of any particular system of military manpower procurement. But I do feel very strongly that Congress has swept this problem under the rug long enough. It is time for us to get busy and search for a positive solution which will enhance our national security while removing the defects of the present system.

Mr. DEL CLAWSON. Mr. Speaker, my distinguished colleague from New Hampshire [Mr. Cleveland] has discussed several revisions of the present military manpower system which would make it more nearly universal. May I take a few minutes to discuss another kind of military manpower procurement system which makes no pretense of universality—the professional army system.

There are many among us who share the opinion of the gentleman from New Hampshire that, in principle, universal military training is a good thing. But suppose its cost is excessively high, and its administration is the excuse for the creation of a huge new Federal bureaucracy? In such case there are essentially three choices: A lottery system like that of 1940, a patchwork system that uses administrative devices to cut down the pool of eligibles, while all the time operating under the pretext of universality; or a professional army system composed entirely of volunteers. We have tried the first and are now following the second of these choices. It is time we took a hard look at the third.

The fundamental argument for a draft law is that the Armed Forces could not fill their ranks without it. Why not? Because the career opportunities in the Armed Forces apparently are not as attractive as those in the private sector of our economy.

It is clear that increases in salary, improved living conditions, effective training, better retirement benefits, more opportunities for travel, and higher social status would make military service more attractive to the young man of today. It is also clear that at some level of expenditure the armed services can attract all the men with the skills they feel they need to keep our fighting machine in top shape. What is not clear is the cost of this kind of system.

There is another side of the coin to consider. The creation of a truly professional army would undoubtedly result in areas of substantial savings. Today we are accepting 2-year draftees and 3-year enlistees in the military, spending millions of dollars to train them to handle the complex modern equipment, and witnessing better than three out of four head straight back to civilian life after only one hitch. When they leave, what does the military do? It goes through the cycle all over again with another crop of young men who have been coerced by the draft into entering the services, and who are counting the days until they can thumb their noses at Uncle Sam as they leave his employment.

Not only is this high turnover rate fantastically expensive for the taxpayer, but those who are forced into the services by the draft, or the threat of it, do not make the most efficient soldiers. Shorn of any feeling of patriotism and responsibility to their country, they featherbed, they goldbrick, they ghost the hours away, using every trick in the lengthy book. The resulting inefficiency would be significantly reduced in a professional army, thus helping to offset the increased costs.

Another item on the plus side of this ledger has to do with the utilization of manpower in the armed services. For 10 years it has been Department of Defense policy to use civilians for jobs which do not require military incumbents for reasons of law, training, security, discipline, rotation, or combat readiness, or which do not require a military background for successful performance of the duties involved, and which do not entail unusual hours not normally associated with civilian employment. Congress has been strongly in accord with this policy.

There is a strong suspicion today that the Defense Department does not turn over many functions to private enterprise, not because the functions are unsuitable, but because the resulting drop in manpower requirements might cause Congress to reevaluate the military draft. If this suspicion is well founded, it would mean that a number of functions now performed by military personnel could be contracted out to private enterprise which is inevitably more efficient and economical at a given task. This would mean a further saving.

Even in such a professional army system it would probably be necessary to maintain a standby draft authority. But it very well might be possible to achieve substantial savings by putting the selective service system on a standby status. Here again would be a savings over the present system.

Now, making the military more attractive will cost more money, but the result of adopting a professional military system will mean savings in the areas I have just mentioned. The paramount question, of course, is, What is the net result? Would the professional army, with the same operational ability, cost the same, or more, or less, than the present system?

The answer to this question is not immediately available, because Congress has never done the necessary research.

I am not prepared at this time to advocate a professional system or a truly universal military system or any other specific system. However, I am convinced that the present excuse for a system is rapidly becoming a laughing stock, and that it may well be harmful to our national security and to the morale of our young men. I want to join with my colleagues and urge that a thorough investigation of the present system be undertaken, by a commission or a special committee of Congress. One of the principal duties of the investigative body would be to develop an actual balance sheet of figures on the professional army. With these figures on hand, Congress will be in a position to exercise its responsibility to the Nation while in full possession of the facts. We have shirked our responsibility in this area long enough. Let us not do so any longer.

Mr. CURTIS. I thank the gentleman from California [Mr. Del Clawson] and the gentleman from New Hampshire [Mr. Cleveland].

### THE NEED FOR A STUDY BY CONGRESS

Mr. FORD. Mr. Speaker, I am delighted to join with these distinguished Members to call for a thorough and complete study of the problems of military manpower procurement, training, and utilization.

Everyone who has listened to the remarks made here today must realize that the present military manpower system, based on the so-called "universal" peacetime draft, is open to serious criticism on many counts. The only thing that can be said for the present system, in fact, is that it does produce the number of new men required by the armed services.

But the question remains: Could some alternative system produce not only the required number of men, but also meet the grave criticisms now being leveled at the present system? The answer may well be yes; but we will never know until a thorough study is undertaken to illuminate all the aspects of this involved question.

My colleagues who have spoken here today have pointed out how inextricably interwoven the draft is with our national defense posture, economic well-being, social system, and way of life. For this reason I believe this problem, cutting as it does across the traditional lines of jurisdiction, must be met by a committee or commission composed of experts in the fields affected. Only in doing so can the Congress discharge its responsibility to the young men and women of America by achieving a system which protects their liberty most efficiently while sharing the costs and burdens on a just basis.

I welcome this important initiative on the part of my colleagues and hope that many others from both sides of the aisle will join in to help solve a problem which is of such major importance to the Nation.

Mr. CURTIS. I want to thank the gentleman from Michigan [Mr. Ford] for pointing to the need for congressional study of the present law. At this time, I thank my colleagues who have participated in this discussion and have prepared and delivered remarks.

I hope that other Members of Congress will avail themselves of the opportunity to comment upon this very important matter.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Henderson (at the request of Mr. Kornegay), for today and the balance of the week; on account of illness.

Mr. Tuck (at the request of Mr. Mahon), for the remainder of the week, on account of illness in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Fisher, for 1 hour, on Wednesday, April 29.

Mr. Fulton of Tennessee (at the request of Mr. Moss), for 15 minutes, April 27, 1964; and to revise and extend his remarks.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Albert and to include the address delivered by President Johnson in New York on April 20.

Mr. Conte.

(The following Members (at the request of Mr. HALLECK) and to include extraneous matter:)

Mr. ABELE.

Mr. HOSMER.

Mr. WYDLER.

(The following Members (at the request of Mr. MOSS) and to include extraneous matter:)

Mr. BURTON of California.

Mr. GATHINGS.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1565. An act to amend the act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 406, 407), with respect to the sale of Indian timber;

S. 1931. An act to provide that the United States shall hold certain land in trust for the members of the Alamo Band of Puertocito Navajo Indians; and

S. 2279. An act to authorize the transfer of the Piegan unit of the Blackfeet Indian irrigation project, Montana, to the landowners within the unit.

## BILL PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on April 20, 1964, present to the President, for his approval, a bill of the House of the following title:

H.R. 8465. An act to amend the act entitled "An act to organize and microfilm the papers of Presidents of the United States in the collections of the Library of Congress."

## ADJOURNMENT

Mr. BURKHALTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Wednesday, April 22, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

1973. Under clause 2 of rule XXIV, a letter from the Comptroller General of the United States, transmitting a report on a review of the improper utilization of trained enlisted personnel, Department of the Army was taken from the Speaker's table and referred to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Joint Committee on Atomic Energy. H.R. 10945. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; without amendment (Rept. No. 1332). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROCK:

H.R. 10961. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for expenses of higher education; to the Committee on Ways and Means.

By Mr. BURKE:

H.R. 10962. A bill to establish a National Economic Conversion Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10963. A bill to amend the Federal Employees Health Benefits Act of 1959 to permit until December 31, 1964, certain additional health benefits plans to come within the purview of such act; to the Committee on Post Office and Civil Service.

By Mr. CONTE:

H.R. 10964. A bill to establish a Joint Congressional Committee on American Manpower and National Security; to the Committee on Rules.

By Mr. CORMAN:

H.R. 10965. A bill to authorize a 5-year program of grants for construction of veterinary medical education facilities, and for other purposes; to the Committe on Interstate and Foreign Commerce.

By Mr. ELLSWORTH (by request):

H.R. 10966. A bill to amend the Civil Service Retirement Act, as amended, to provide annuities for surviving spouses without deduction from original annuities, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FASCELL:

H.R. 10967. A bill to amend chapter 57 of title 39, United States Code, so as to authorize the free use of the mails in making reports required by law of certain payments to others; to the Committee on Post Office and Civil Service.

By Mr. GIBBONS:

H.R. 10968. A bill to amend the Internal Revenue Code of 1954 and the Social Security Amendments of 1960 to extend the retroactive period for which certain tax-exempt organizations may elect social security coverage for their employees, and to validate certain social security wage reports submitted for employees of such organizations; to the Committee on Ways and Means.

By Mr. HARDING:

H.R. 10969. A bill to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of phosphate on the public domain; to the Committee on Interior and Insular Affairs.

By Mr. HEALEY:

H.R. 10970. A bill to amend chapter 15 of title 38, United States Code, to revise the pension program for World War I, World War II, and Korean conflict veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HÉBERT:

H.R. 10971. A bill to permit the United States to host the 39th World Shooting Championships in 1966; to the Commitee on Armed Services.

By Mr. HECHLER:

H.R. 10972. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. HORAN:

H.R. 10973. A bill to provide for the disposition of judgment funds on deposit to the credit of the Lower Pend D'Oreille or Kalispel Tribe of Indians; to the Committee on Interior and Insular Affairs.

By Mr. JOELSON:

H.R. 10974. A bill to amend title 39, United States Code, to permit the delivery of all unstamped newspapers in rural mail boxes; to the Committee on Post Office and Civil Service.

By Mr. LEGGETT:

H.R. 10975. A bill to amend title II of the Social Security Act to provide for the payment of child's insurance benefits to disabled children of an insured individual even though such individual has not himself become entitled to benefits or died; to the Committee on Ways and Means.

H.R. 10976. A bill to amend title XIV and XVI of the Social Security Act to provide that permanently and totally disabled individuals under age 18, as well as those over 18, shall be eligible for aid thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. McMILLAN:

H.R. 10977. A bill to provide for the establishment of a National Council on the Arts and a National Arts Foundation to assist in the growth and development of the arts in the United States; to the Committee on Education and Labor.

H.R. 10978. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. MARTIN of California:

H.R. 10979. A bill to provide for the presentation by the United States to the people of Mexico of a monument commemorating the independence of Mexico, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MORSE:

H.R. 10980. A bill to amend the Federal Employees Health Benefits Act of 1959 to permit until December 31, 1964, certain additional health benefits plans to come within the purview of such act; to the Committee on Post Office and Civil Service.

H.R. 10981. A bill to amend the Internal Revenue Code of 1954 to provide that the cost of maintaining a retarded child in a professionally qualified custodial institution shall be deductible as a medical expense; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 10982. A bill to authorize grants to assist the States in strengthening professional nurse education, in order to relieve the shortage of well-trained professional nurses and to meet the requirements of Federal, State, and local governmental hospitals and health agencies, as well as of nongovernmental hospitals and other employees; to the Committee on Interstate and Foreign Commerce.

By Mr. SENNER:

H.R. 10983. A bill to amend the act of August 9, 1955, to authorize longer term leases of Indian lands on the Hualapai Reservation in Arizona; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE of Texas:

H.R. 10984. A bill to amend the Foreign Assistance Act of 1961 to provide that, to the maximum extent consistent with the national interest, U.S. firms shall be engaged to furnish engineering, procurement, and construction services for certain capital improvement projects abroad financed by the United States; to the Committee on Foreign Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 10985. A bill to establish a National Economic Conversion Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TOLLEFSON:

H.R. 10986. A bill to aid in the protection of the rights of vessels of the United States engaged in the fisheries and related activities in international waters, and for other purposes; to the Committee on Ways and Means.

By Mr. WATSON:

H.R. 10987. A bill to amend the National Labor Relations Act; to the Committee on Education and Labor.

By Mr. DENT:

H.R. 10988. A bill to establish a Commission on Automation, Technology, and Employment; to the Committee on Education and Labor.

By Mr. MILLER of California:

H.R. 10989. A bill to provide for the presentation by the United States to the people of Mexico of a monument commemorating the independence of Mexico, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MONAGAN:

H.R. 10990. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SICKLES:

H.R. 10991. A bill to mobilize the human and financial resources of the Nation to combat poverty in the United States; to the Committee on Education and Labor.

By Mr. STAGGERS:

H.R. 10992. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. OSTERTAG:

H.R. 10993. A bill to provide for the establishment of a joint congressional committee to study and investigate the adequacy of the present system of compulsory military training under the Universal Military Training and Services Act and its relation to the Nation's overall manpower needs, and for other purposes; to the Committee on Rules.

By Mr. ELLSWORTH:

H.J. Res. 1005. Joint resolution to provide for the issuance of a special postage stamp in commemoration of the establishment of the Agricultural Hall of Fame and National Center in Bonner Springs, Kans.; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS:

H.J. Res. 1006. Joint resolution proposing an amendment to the Constitution of the United States relating to certain activities of a religious nature conducted in educational institutions supported by public funds; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

H. Con. Res. 289. Concurrent resolution to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, Latvia, and other Communist-controlled countries; to the Committee on Foreign Affairs.

By Mr. LINDSAY:

H. Con. Res. 290. Concurrent resolution relating to the opening of the New York World's Fair; to the Committee on Foreign Affairs.

By Mr. CORMAN:

H. Res. 696. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

By Mr. O'HARA of Michigan:

H. Res. 697. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H. Res. 698. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H. Res. 699. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

By Mr. FARBSTEIN:

H. Res. 700. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By Mr. MARTIN of Massachusetts: Memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to enact legislation providing for more defense work in this area; to the Committee on Armed Services.

Also, memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to continue the public housing program at a minimum of the levels authorized in the Housing Act of 1949; to the Committee on Banking and Currency.

Also, memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to enact legislation generally referred to as the urban mass transportation bill; to the Committee on Banking and Currency.

Also, memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to enact legislation making Columbus Day a legal holiday; to the Committee on the Judiciary.

Also, memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to enact legislation providing that sums deducted for retirement purposes from salaries of State employees and pensions paid retired State employees shall be exempt from Federal income taxation; to the Committee on Ways and Means.

By the SPEAKER: Memorial of the Legislature of the State of Alaska, memorializing the President and the Congress of the United States relative to requesting the expansion of Federal programs to meet the effects of the natural disaster on the State school system; to the Committee on Education and Labor.

Also, memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States relative to Federal regulation of boxing; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 10994. A bill to provide for the conveyance of certain real property of the United States situated in the State of Virginia; to the Committee on Armed Services.

By Mr. CAREY:

H.R. 10995. A bill for the relief of John Carassale; to the Committee on the Judiciary.

By Mr. EDWARDS:

H.R. 10996. A bill for the relief of Miss Prescilla E. Mora; to the Committee on the Judiciary.

By Mr. HOSMER:

H.R. 10997. A bill for the relief of Rene Hugo Heimann; to the Committee on the Judiciary.

By Mr. MARTIN of California:

H.R. 10998. A bill to authorize and direct the Secretary of the Interior to quitclaim to Kaiser Steel Corp. the remaining interest of the United States in and to certain public lands in Riverside County, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. PATTEN:

H.R. 10999. A bill for the relief of Rahel Shukri Chelico; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 11000. A bill for the relief of Merickston L. Nicholson; to the Committee on the Judiciary.

By Mr. TOLLEFSON:

H.R. 11001. A bill for the relief of Andrew J. Metcalf; to the Committee on the Judiciary.

By Mr. WYMAN:

H.R. 11002. A bill for the relief of Mesrop Berberian; to the Committee on the Judiciary.

By Mr. WHALLEY:

H.R. 11003. A bill for the relief of Stanley J. Shepherd; to the Committee on the Judiciary.

By Mr. MILLER of California:

H.J. Res. 1007. Joint resolution authorizing the expression of appreciation and the issuance of a gold medal to Henry J. Kaiser; to the Committee on Banking and Currency.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

857. By Mr. ROONEY of New York: Petition of Raphael P. Powell, Brooklyn, N.Y., relative to social security payments to him; to the Committee on Ways and Means.

858. By the SPEAKER: Petition of James J. McCulloch, West Hempstead, N.Y., relative to amending the Spanish-American War Veterans Act, to include the Mexican Expeditionary Force of 1915–16, and the World War I veterans of 1917–18, and give the same benefits accorded to the Spanish-American War veterans; to the Committee on Veterans' Affairs.

859. Also, petition of Juei Miyajima, Koza City Assembly, Koza, Okinawa, requesting recession of administrative power adopted by Koza City Assembly, Okinawa; to the Committee on Foreign Affairs.

860. Also, petition of Heiryo Chibana, Yomitan-son, Okinawa, requesting early solution of the problem of pretreaty claims; to the Committee on Foreign Affairs.

# SENATE

TUESDAY, APRIL 21, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. INOUYE).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

God of all grace, Thou hast taught us that even in the midst of a clamorous world, in quietness and in confidence shall be our strength.

We bow at this high altar of the Nation's service, praying that in us may be maintained the fidelity of those to whom much has been given, and from whom much will be required.

Give us honesty in dealing with our besetting sins, humility in confessing them, and resolution in overcoming them.

Thou hast committed into our keeping a national heritage luminous with

**freedom's glorious light. For all that is America at its best, we bless Thy name; for borders without guns, for unity in diversity, and for the equality which beckons all to the summit, we lift our Te Deum of gratitude.**

We pray, and we vow to work as we pray, for good government and just laws, for sound education and for a clean and fair press, for sincerity and honesty in our relations with one another and with all the peoples of the world, and for the success of the crusade to abolish pride of place in a human brotherhood without any frowning frontiers.

We ask it in the dear Redeemer's name. Amen.

## CALL OF THE ROLL

Mr. WALTERS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 154 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gore
Gruening
Hart
Hayden
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Morse
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Walters
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Florida [Mr. Holland], the Senator from Louisiana [Mr. Long], the Senator from Oklahoma [Mr. Monroney], the Senator from Virginia [Mr. Robertson], the Senator from Georgia [Mr. Russell], the Senator from South Carolina [Mr. Thurmond], and the Senator from New Jersey [Mr. Williams] are absent on official business.

I also announce that the Senator from Maryland [Mr. Brewster], the Senator from West Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Oklahoma [Mr. Edmondson], the Senator from Louisiana [Mr. Ellender], the Senator from California [Mr. Engle], the Senator from Indiana [Mr. Hartke], the Senator from Alabama [Mr. Hill], the Senator from North Carolina [Mr. Jordan], the Senator from Arkansas [Mr. McClellan], the Senator from Montana [Mr. Metcalf], the Senator from Maine [Mr. Muskie], and the Senator from Georgia [Mr. Talmadge] are necessarily absent.

I further announce that the Senator from West Virginia [Mr. Randolph] is absent during convalescence from an illness.

I further announce that the Senator from Indiana [Mr. Bayh] is absent because of a death in the family.

Mr. DIRKSEN. I announce that the Senator from Iowa [Mr. Hickenlooper] is absent on official business.

The Senator from Kansas [Mr. Carlson], the Senator from Arizona [Mr. Goldwater], the Senator from California [Mr. Kuchel], and the Senator from Texas [Mr. Tower] are detained on official business.

The Senator from New Mexico [Mr. Mechem] is necessarily absent.

The Senator from Iowa [Mr. Miller] is absent by leave of the Senate.

The ACTING PRESIDENT pro tempore. A quorum is present.

## TRANSACTION OF ROUTINE BUSINESS

Mr. HUMPHREY. Mr. President——

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate——

Mr. HUMPHREY. Mr. President, before the Chair does that——

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. HUMPHREY. Last evening we were attempting to work out an accommodation in the Senate relating to the introduction of petitions, resolutions, bills, and other material into the Record, with brief statements. We arrived for the moment at some accommodation, but today I should like to propose a further unanimous-consent request which I feel will facilitate the business of the Senate.

I state the request as follows:

I ask unanimous consent that there be a morning hour wherein statements thereon will be limited to 3 minutes, and that the morning hour will be in operation for 1 hour, but that that period may be further extended by the majority and/or minority leader at the end of 1 hour if other Senators are waiting at that time to be heard for morning business; provided, further, that the morning hour period will not authorize the meeting of committees under rule XXV.

I have consulted with our friends who are the opponents of the civil rights bill, and I have consulted with the minority leader. This particular unanimous-consent request is made only for today, and will have to be renewed each day. I believe it will accommodate the needs of our colleagues.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MORSE. Mr. President, reserving the right to object, I wish to make a brief statement so that Senators may understand my position. I have never objected to yielding for insertions in the Record and the introduction of bills. All I am objecting to is committees meeting after the Senate convenes. For example, this morning at 10 o'clock I raised a point of order in the Foreign Relations Committee that ended that meeting. I do not think we are going to move along with the civil rights bill as rapidly as we can if committees can be meeting while the Senate is actually in session.

The protection of my point is set forth in the unanimous-consent request—that the insertion of material in the Record for the 1-hour period will not constitute an official morning hour under rule XXV.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—all this is to occur before the pending business is laid before the Senate. Is is that correct?

Mr. HUMPHREY. The Senator is correct.

Mr. STENNIS. Does the request represent a firm understanding without exception? Are there exceptions?

Mr. HUMPHREY. There is no exception. Instead of having the pending business laid before the Senate and having one Senator obtain the floor and yield to others, as has been done, prior to laying down the unfinished business Senators will be able to conduct morning business within the 3-minute limitation.

Mr. STENNIS. Of course, since the Senate has recessed instead of adjourned, consideration of the pending business cannot be resumed until it is laid before the Senate.

Mr. HUMPHREY. The Senator is correct. I am glad the Senator brought up the point.

Mr. STENNIS. The request is for this calendar day; is that correct?

Mr. HUMPHREY. The Senator is correct. The request would have to be renewed each day. In light of the circumstances, that would be appropriate.

Mr. STENNIS. Mr. President, I have no objection to the request.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PASTORE. I realize that for good reason and for good cause the Senator has requested a limitation of 3 minutes. Sometimes it may be necessary for a Senator to speak 4 or 5 minutes. Will the limitation of 3 minutes be a hard-and-fast rule, or will there be some way to extend the time?

Mr. HUMPHREY. The statements will have to be confined to 3 minutes for the hour provided. In the request there is a provision that if additional Senators have not been heard, the majority or minority leader may yield for an additional 3 minutes. But for the first hour, the 3-minute limitation will apply.

Mr. CLARK. Mr. President, will the Senator from Minnesota yield so I may propound a parliamentary inquiry?

Mr. HUMPHREY. I yield for that purpose.

Mr. CLARK. I ask whether under the unanimous-consent agreement the rule of germaneness would not take effect until after the hour of 3-minute business had been used up.

The ACTING PRESIDENT pro tempore. The rule of germaneness will not take effect until the unfinished business is laid before the Senate.

Mr. CLARK. Will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. CLARK. I urge the acting majority leader—also with the minority leader present, who once made the comment about the germaneness rule "Ho ho hum, and Ha ha ha"—that the rule of germaneness be enforced at the end of the morning hour. If I am unable to persuade other Members of the Senate as to the reasonableness of enforcing the rule, I shall do so myself.

**Mr. DIRKSEN.** Mr. President, reserving the right to object, and in response to what our distinguished and scholarly Senator from Pennsylvania has said, if I had to make that comment again, I think it would be louder and much longer, because I think it still obtains.

**Mr. CLARK.** But probably it is not so funny.

**Mr. MUNDT.** Mr. President, I should like to have a word of reassurance from the majority leader concerning the 3-minute speeches after 1 hour, because on this side of the aisle Senators sometimes have difficulty obtaining recognition in the morning hour. I should like to have the assurance that if the hour runs out and Senators on this side have not had an opportunity to be heard, we may have that opportunity, and that Senators will be recognized.

**Mr. HUMPHREY.** That is the reason why there was included in the request the stipulation that at the end of the hour the majority leader or minority leader may yield to Senators who have not been accommodated and who are seeking to transact morning business. They would be given the privilege of speaking 3 minutes by either the majority leader or minority leader.

**Mr. MUNDT.** With that explanation, I have no objection.

**The ACTING PRESIDENT pro tempore.** Is there objection to the unanimous-consent request? Without objection——

**Mr. GRUENING.** Mr. President, reserving the right to object, I wonder if the acting majority leader would not give us the comfort of being able to have 4 or 5 minutes instead of 3? Occasionally Senators may have statements that take a little longer. We are precluded from bringing up matters now before the Senate. I think it would be desirable to permit a little flexibility in this matter. It would not be abused.

**Mr. HUMPHREY.** For the first hour the rule would have to be rigidly applied. If other Senators have not been recognized in that time, they will be entitled to 3 minutes. After that, if Senators wish to be recognized, they can ask the Senator who has the floor to yield under a unanimous-consent request. I am sure we will be reasonably flexible, so long as there are not extended speeches. But this business of continuing for hours with nongermane items must be brought to a halt.

**Mr. GRUENING.** I thank the Senator.

**The ACTING PRESIDENT pro tempore.** Is there objection? The Chair hears none, and it is so ordered. Morning business is in order.

## THE JOURNAL

On request of Mr. HUMPHREY, and by unanimous consent, the reading of the Journal of the proceedings of Monday, April 20, 1964, was dispensed with.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 71) to appoint a joint committee to make arrangements for the inauguration of the President-elect and Vice-President-elect on January 20, 1965; and that, pursuant to the provisions of the concurrent resolution, the Speaker had appointed Mr. McCORMACK, Mr. ALBERT, and Mr. HALLECK as members of the Joint Committee, on the part of the House.

The message also announced that the House had passed, without amendment, the following bills of the Senate:

S. 1565. An act to amend the act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 406, 407), with respect to the sale of Indian timber;

S. 1931. An act to provide that the United States shall hold certain land in trust for the members of the Alamo Band of Puertocito Navajo Indians;

S. 2111. An act to fix the beneficial ownership of the Colorado River Indian Reservation located in the States of Arizona and California; and

S. 2279. An act to authorize the transfer of the Piegan unit of the Blackfeet Indian irrigation project, Montana, to the landowners within the unit.

The message further announced that the House had passed the bill (S. 793) to promote the conservation of the Nation's wildlife resources on the Pacific flyway in the Tule Lake, Lower Klamath, Upper Klamath, and Clear Lake National Wildlife Refuges in Oregon and California and to aid in the administration of the Klamath reclamation project, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5837. An act to amend the act entitled "An act to authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes," approved July 28, 1955;

H.R. 7833. An act to amend the act entitled "An act to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes," approved August 18, 1958 (72 Stat. 619);

H.R. 8834. An act to provide for the disposition of the funds arising from a judgment in favor of the Shawnee Tribe or Nation of Indians;

H.R. 9521. An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior; and

H.R. 10787. An act to designate a bridge over the Mississippi River in the vicinity of Memphis, Tenn., as the "Clifford Davis Bridge."

## HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 5837. An act to amend the act entitled "An act to authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes," approved July 28, 1955;

H.R. 7833. An act to amend the act entitled "An act to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes," approved August 18, 1958 (72 Stat. 619);

H.R. 8834. An act to provide for the disposition of the funds arising from a judgment in favor of the Shawnee Tribe or Nation of Indians; and

H.R. 9521. An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

H.R. 10787. An act to designate a bridge over the Mississippi River in the vicinity of Memphis, Tenn., as the "Clifford Davis Bridge"; to the Committee on Public Works.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### REPORT ON NATIONAL FORESTRY RESEARCH PROGRAM

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report on a national forestry research program, dated July 1963 (with an accompanying report); to the Committee on Agriculture and Forestry.

### REPORT ON IMPROPER UTILIZATION OF TRAINED ENLISTED PERSONNEL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the improper utilization of trained enlisted personnel, Department of the Army, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

## PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

The petitions of Heiryo Chibana, chairman, Municipal Assembly of Yomitan-Son, and the Assembly of Sashiki Son, both of the island of Okinawa, praying for a quick solution of the prepeace treaty compensation issue; to the Committee on Armed Services.

The petition of Koza City Assembly, Okinawa, praying for the restoration of the sovereign powers to Okinawa; to the Committee on Foreign Relations.

The petition of the Municipal Assembly of Kadena-son, Okinawa, relating to the return of the administrative authority of Okinawa to Japan; to the Committee on Foreign Relations.

The petition of Charles R. Mead, of Westport, Conn., relating to the citizens oath and subversion in the United States; to the Committee on the Judiciary.

A letter in the nature of a petition from the Interdenominational Ministerial Alliance of Wilmington and vicinity, Wilmington, N.C., signed by H. Clarence, president, and J. Ray Butler, secretary, praying for the enactment of the civil rights bill; ordered to lie on the table.

## APPROPRIATION FOR ATOMIC ENERGY COMMISSION—REPORT OF A COMMITTEE (S. REPT. NO. 987)

Mr. PASTORE, from the Joint Committee on Atomic Energy, reported an original bill (S. 2755) to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes, and submitted a report thereon; which bill was placed on the calendar, and the report was ordered to be printed.

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. JOHNSTON, from the Committee on Post Office and Civil Service:

One hundred and forty-nine postmaster nominations.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JOHNSTON (by request):

S. 2754. A bill to permit variation of the 40-hour workweek of Federal employees for educational purposes; to the Committee on Post Office and Civil Service.

(See the remarks of Mr. JOHNSTON when he introduced the above bill, which appear under a separate heading.)

By Mr. PASTORE:

S. 2755. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; placed on the calendar.

(See the reference to the above bill when it was reported by Mr. PASTORE, which appears under a separate heading.)

By Mr. YARBOROUGH (for himself, Mr. MORSE, and Mr. MCCARTHY):

S. 2756. A bill to establish a presumption of service connection for diseases contracted by certain veterans who were held as prisoners of war; to the Committee on Finance.

(See the remarks of Mr. YARBOROUGH when he introduced the above bill, which appear under a separate heading.)

By Mr. CURTIS:

S. 2757. A bill for the relief of Evanglia Moshou Kantas; to the Committee on the Judiciary.

## CONCURRENT RESOLUTION—OPENING OF NEW YORK WORLD'S FAIR

Mr. JAVITS. Mr. President, on behalf of myself and my distinguished colleague [Mr. KEATING], I submit a concurrent resolution relative to the opening of the New York World's Fair, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The concurrent resolution submitted by the Senator from New York will be stated.

The Chief Clerk read the concurrent resolution (S. Con. Res. 80) as follows:

Whereas the people of the United States as well as the people of New York will be the hosts to those who will be traveling from many other countries to visit and participate in the New York World's Fair during 1964 and 1965; and

Whereas the United States itself will be an active participant and exhibitor in the New York World's Fair: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the President is hereby requested, in the name of the people of the United States, to welcome all who come to the United States to visit the New York World's Fair; to extend official recognition, in such ways as he may deem proper, to the New York World's Fair; and to call upon officials and agencies of the Government to lend such cooperation as may be appropriate for these purposes.

Mr. JAVITS. Mr. President, I have cleared the concurrent resolution with the minority leader and the majority leader.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 80) was considered and agreed to.

The preamble was agreed.

Mr. JAVITS. Mr. President, I am grateful to the majority leader, the minority leader, and other Senators for their prompt consideration of the concurrent resolution submitted on behalf of myself and my colleague [Mr. KEATING].

## VARIATION OF 40-HOUR WORKWEEK OF FEDERAL EMPLOYEES FOR EDUCATIONAL PURPOSES

Mr. JOHNSTON. Mr. President, by request, I introduce, for appropriate reference, a bill to permit variation of the 40-hour workweek of Federal employees for educational purposes. I ask unanimous consent that a letter from the Secretary of the Interior explaining the necessity for the bill, be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 2754) to permit variation of the 40-hour workweek of Federal employees for educational purposes, introduced by Mr. JOHNSTON, by request, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

The letter presented by Mr. JOHNSTON is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., March 30, 1964.*

Hon. CARL HAYDEN,
*President pro tempore, U.S. Senate, Washington, D.C.*

DEAR MR. PRESIDENT PRO TEMPORE: There is enclosed a draft of a proposed bill, "to permit variation of the 40-hour workweek of Federal employees for educational purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

Section 210 of the act of September 1, 1954 (68 Stat. 1112; 5 U.S.C. 944(a)(2)), amended section 604(a) of the Federal Employees Pay Act of 1945 to provide that Government agencies shall provide with respect to all their officers and employees: "(A) that assignments to tours of duty shall be scheduled in advance over periods of not less than 1 week, (B) that the basic 40-hour workweek shall be scheduled on 5 days, which shall be Monday through Friday wherever possible, and the 2 days outside the basic workweek shall be consecutive, (C) that the working hours in each day in the basic workweek shall be the same, (D) that the basic nonovertime workday shall not exceed 8 hours, (E) that the occurrence of holidays shall not affect the designation of the basic workweek, and (F) that breaks in working hours of more than 1 hour shall not be scheduled in any basic workday." Certain exceptions are made, but these exceptions are too narrow to give the Department the flexibility deemed necessary. The purpose of the 1954 amendment was apparently to prevent indiscriminate assignment of employees to uncommon or inconvenient tours of duty. The Department is fully in accord with such a legislative aim. However, if rigidly construed, it would unfavorably affect a certain class of employees—namely, those needing a variation in tours of duty for educational purposes.

Before the enactment of the 1954 amendment it was the common practice for the Bureau of Mines to vary the 40-hour workweek to permit some of its technical employees to complete requirements for technical degrees or for other educational purposes of direct or indirect benefit to both the Bureau and the employee. Many of the installations of that Bureau are on or near college or university campuses and the aid given to the Bureau employees in working hour arrangements had excellent results in recruitment and development programs.

In general, the Government Employees Training Act of July 7, 1958, as amended (5 U.S.C. 2301 et seq.), provides for payment of training expenses for training deemed essential to an agency's programs. Such training during official duty hours is considered as official duty status.

However, training which is not considered essential to an agency's activities, but which is desirable because it increases the employee's efficiency and effectiveness, is not covered. If this type of training occurs during official duty hours, the employee must use leave or arrange to take leave without pay. Obviously, this is not practical for regularly scheduled courses. In these cases, the employee bears the expense of training.

The Bureau of Mines is vitally interested in encouraging employee self-development involving scientific and professional disciplines. Because of the wording of the 1954 amendment, we cannot vary tours of duty to encourage an employee to acquire higher education of benefit to both the Bureau and the employee. We believe that this inequity is contrary to an important principle contained in the 1958 Government Employees Training Act. The Declaration of Policy of the latter act states that it "is necessary and desirable in the public interest that self-education, self-improvement, and self-training by such employees be supplemented and extended by Government-sponsored programs * * * for the training of such employees in the performance of official duties, and for the development of skills, knowledges, and abilities which will best qualify them for the performance of official duties;" Unless the wording of the Federal Employees Pay Act of 1945 is further amended, it will continue to be an unnecessary handicap restricting rather than encouraging employees to better themselves through higher education.

The Government is already at a disadvantage in competing with industry for professional and scientific personnel in pay and opportunities for advancement. Industry encourages outside education; many companies permit work schedule adjustments to permit their employees to further their education, and in many cases the companies provide the opportunities for this outside study free to their employees and often on company time. Approval of the proposed legislation would aid materially in increasing the supply and caliber of scientists and engineers that are so urgently needed in the present critical times. Such legislation would not only benefit the Bureau of Mines but also other bureaus of the Department and other Government agencies as well.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the administration's program.

Sincerely yours,

D. Otis Beasley,

*Assistant Secretary of the Interior.*

## AN ACT FOR THE RELIEF OF VETERANS WHO SUFFER DISABILITIES FROM DISEASES DEVELOPED AS A RESULT OF BEING HELD PRISONER OF WAR

**Mr. YARBOROUGH.** Mr. President, I introduce for appropriate reference, a bill establishing a presumption that any veteran who was held as a prisoner of war, suffered illness, and developed a chronic disease which became manifest within 5 years after his discharge from the service, shall be considered to have service-connected disability.

Under existing law prisoners of war are given special consideration under the laws that are administered by the Veterans' Administration. For example, present law requires that in the adjudication of disabilities due to service connection, special consideration shall be given to the places, types, and circumstances of service. Another law provides liberalized criteria for determining service connection of any disease or disability for those veterans who engaged in combat with the enemy.

The law also provides for presumptions relating to certain diseases, the majority having to become manifest to a degree of 10 percent or more within 1 year from the separation from service. Notable exceptions are for Hansen's disease or leprosy, and tuberculosis, which have a 3-year presumption of service connection and multiple sclerosis, which has a 7-year presumption.

The bill I am introducing would liberalize the presumptions and criteria for determining service connection to 5 years for disabilities incurred by a very small group of combat veterans who became prisoners of war early in World War II. Despite the present liberalization in determining service connection for this group, there are some who have developed diseases in later years which do not come within the provisions of existing statutes or regulations. This bill has a reasonable limitation, inasmuch as the disease must manifest itself within 5 years of the veteran's discharge and the diseases generally are associated with and the direct result of the imprisonment and deprivation suffered by these veterans.

Mr. President, I ask unanimous consent that the distinguished senior Senator from Oregon [Mr. Morse] and the distinguished junior Senator from Minnesota [Mr. McCarthy] be listed as cosponsors of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the bill will be received and appropriately referred.

The bill (S. 2756) to establish a presumption of service connection for diseases contracted by certain veterans who were held as prisoners of war, introduced by Mr. Yarborough (for himself, Mr. Morse, and Mr. McCarthy), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

## CIVIL RIGHTS—AMENDMENT (AMENDMENT NO. 511)

**Mr. DIRKSEN.** Mr. President, last week, I presented 10 amendments dealing with the fair employment practices title of House bill 7152. At that time, I said I might have one more amendment, of considerable consequence, with respect to that title.

I now present the 11th amendment, which deals entirely with enforcement under that title.

At this time I shall not attempt to state an explanation of the amendment; that will come later, when I call it up.

But I submit the amendment, and ask unanimous consent that, under the rule, it be considered as having been presented and read, for the purposes of compliance with the cloture rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the amendment will be received, printed, and lie on the table.

The amendment (No. 511) is as follows:

On page 40, beginning with line 17, strike out all through line 7, on page 41, and insert the following:

"(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting unlawful employment practices of the type alleged, no charge may be filed under subsection (a) before the expiration of 90 days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such 90-day period shall be extended to 180 days during the first year after the effective date of such State or local law.

"(c) A charge under subsection (a) shall be filed within 30 days after the alleged unlawful employment practice occurred, except that in the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law described in subsection (b), such charge shall be filed within 120 days (plus the extension provided by subsection (b) when applicable) after the alleged unlawful employment practice occurred, or within 30 days after the State or local agency terminates the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed with the State or local agency.

"(d) If within 90 days after a charge is filed, the Commission has been unable to obtain voluntary compliance with this title, a civil action may, within 30 days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon request, the court may, in its discretion, stay further proceedings pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance."

On page 41, line 14, strike all beginning with "No" through the end of line 21.

On page 43, between lines 7 and 8, insert the following:

"(i) If the person claiming to be aggrieved is prevented by reason of service in the Armed Forces from filing a charge with the Commission or from bringing a civil action within the times prescribed in this section, the period of such service shall not be included in computing the time within which such charge must be filed or such action must be commenced.

"(j) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (d), the Commission may commence proceedings to compel compliance with such order.

"(k) Any civil action brought under subsection (d) and any proceedings brought under subsection (j) shall be subject to appeal as provided in 28 U.S.C. 1291."

Reletter subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (l), respectively.

On page 43, line 12, strike out "(a)".

On page 43, beginning with line 19, strike out all through line 7 on page 44.

## SUCCESSION TO THE PRESIDENCY AND VICE PRESIDENCY IN CERTAIN CASES—ADDITIONAL COSPONSOR OF JOINT RESOLUTION

**Mr. PEARSON.** Mr. President, at its next printing, I ask unanimous consent that my name be added as a cosponsor of the joint resolution (S.J. Res. 139) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE NEW YORK WORLD'S FAIR "STALL-IN"

**Mr. JAVITS.** Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

**Mr. JAVITS.** Mr. President, the authorities of the city of New York and the leaders of the World's Fair stall-in are embarked on a collision course; it can only result in endangering the safety and certainly greatly inconveniencing millions of New Yorkers.

Also, tomorrow will be the day that the President of the United States will be in New York to open the World's Fair, so that it would be utterly disrespectful to engage in such a stall-in.

Perhaps its worst fallout—if actually carried through—will be its effect upon the civil rights cause, which while it will not, I hope, be decisive, is certainly unpredictable. For, even if we may somehow overcome the resentment which will be engendered by the stall-in—a resentment based, also, upon the way in which it would hold New York up to disgrace in the eyes of the country, when the fact is that we lead the country in affording equal opportunity in every phase of public and private life—it could also engender a chain reaction with the gravest consequences. For, civil disobedience, once embarked on, breeds civil disobedience, and what will the demonstrators do if their leaders should be cited for contempt of a court order now outstanding and be punished for it? What civil disobedience would that engender, and where would such a mad course end?

This is a unique situation, completely unlike the literally hundreds of peaceful demonstrations to protest racial injustices which have been carried on with the support of the people of New York, and so unlike the repression enforced in certain parts of the South. That is why it is so wrong to go through with this stall-in on one of New York's greatest days—the opening of the 1964 World's Fair.

I have before, and I do again, state my opposition to the civil disobedience of the stall-in which, no matter how deep the grievances when compared with what is happening in the rest of the country, the city does not deserve. I believe that under these serious circumstances, and when those like myself see so clearly how the leaders of the stall-in by persisting in their actions, will jeopardize the very objectives for which the stall-in is carried on, I appeal to them—basing their action on obedience to the order of the court—to obey this order and not to carry out the stall-in.

I also appeal to the mayor within the framework of the national organization in the civil rights field and at their invitation to sit down with all parties to hear the grievances and at least to acquaint them with the city's timetable with respect to meeting these grievances. For we all know that there is work on the "drawing boards" in respect of the four major items of grievance—racial imbalance in schools, rat-infested slum housing, racial discrimination in employment in the construction industry, and procedures to deal with alleged excessive police action. As measures are going to be taken anyhow, it would be just as well for the parties to know about it, and it may materially influence their actions in the stall-in. With full respect for the mayor's position of support of the order of the court—in which respect I join—I do not believe he would be compromising this in any way by meeting with all the parties, within the framework of the national organizations concerned, in an effort to head off this dire eventuality for our city.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks editorials from today's New York Times and Herald Tribune on this subject.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 21, 1964]

THE STALL-IN

Despite the pleadings and admonitions of the best friends of civil rights, white and Negro alike, the youthful firebrands of three local chapters of the Congress of Racial Equality seem determined to launch an attack on the safety and welfare of the community tomorrow. Unless the injunction issued yesterday by the State supreme court restrains them from their madness, which at the moment does not seem likely, they will do incalculable harm to their own cause.

Such acts as the deliberate stalling of cars on the public highways, sitdowns and lie-ins on key bridges and tunnels, and the pulling of emergency cords and brakes on the subways and the trains of the Long Island Railroad would constitute not civil but criminal disobedience, in violation of sections 580 and 1532 of the Penal Code of New York State, which prohibit acts injurious to the public health, or the commission of a public nuisance.

The promoters of this harebrained scheme have been disregarding the warning of such Negro leaders as Roy Wilkins, Whitney Young, Jr., and James Farmer that their proposals are essentially revolutionary. If they plow ahead despite the injunction, they will be defying their own national organization, as well as ignoring the advice of such proved friends of civil rights as President Johnson, Senator Javits, and Mayor Wagner, all of whom have warned that such irresponsible actions threaten the prospects of the civil rights bill now before the Senate. They will be flagrantly disrespectful of the honor due the President of the United States, who will be New York City's guest tomorrow, and may possibly even endanger his safety.

If they disregard the injunction: They will, by their use of children, teenagers and college students, be implanting their own disregard for law in a younger generation, whose best hope for the future lies in the reign of law;

They will be seeking the ruin of a community enterprise, the New York World's Fair, with which they have no quarrel, and in the success of which the city has a substantial stake;

They will arouse the hostility of millions of persons, most of whom are normally well disposed toward racial equality and friendship, but some of whom may be permanently antagonized by this contempt for the rights of others.

In his tardy statement yesterday, Mayor Wagner at last stressed his determination that "the law will be enforced." We still think, however, that the mayor should call in the leaders of this attempted disruption in the life of the community and try face to face to convince them of the folly of their proposal. But if all else fails, it is his sworn responsibility to enforce the law.

We hope that the militants will be dissuaded from their self-defeating plans. If they are not, however, we count on the good sense, the tolerance, and the understanding of New Yorkers not to allow the acts of a handful of extremists to alienate them from a just and right cause. Like the crimes committed in the name of liberty, the crimes committed in the name of civil rights do not alter its fundamental morality.

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[From the New York Herald Tribune, Apr. 21, 1964]

WHO SPEAKS FOR THE NEGRO?

What the Negro extremists hope to accomplish by the World's Fair stall-in remains a mystery.

The stated objective is to rouse public opinion against injustice by dramatizing the cause of civil rights. And this is to be done through attempting a program which at mildest is supposed to result in mass inconvenience. Certainly it is a foolish way of trying to persuade people.

Of course, the extremists' argument goes that all the Negroes have been frustrated for a long time and that a moderate approach toward getting rights in schools, jobs, and housing is no longer sufficient. So they would use drastic and illogical means to assert leadership.

It comes down to a question of who speaks for the Negro. Their responsible leaders have already repudiated the stall-in, and such, as dangerous maneuvers from which nothing is to be gained. For these stunts can only be calculated to create deeper divisions.

But if such leaders are to speak authentically for their people, it must be evident that they need support from all citizens in making progress for the Negroes. The challenge is to remove these specifics of injustice on which the extremists seek to build personal power.

There is no need to fear about one day's events at Flushing Meadow. The real concern is about recognizing that responsible leadership of the oppressed requires that it be backed up by earnest action on civil rights. That's the way to avoid trouble.

Mr. KEATING subsequently said: Mr. President, I join my colleague from New York [Mr. JAVITS] in the statement that the leaders of the proposed stall-in are trying to disrupt the World's Fair by an act which would hurt the cause of civil rights far more than it would help.

This splinter group has threatened to embarrass America in the eyes of the world, and to create disorder.

The most distressing part of their action is that it can only have the effect of alienating men and women of good will from supporting the passage of effective civil rights legislation.

What the true civil rights leaders are trying to do is to set up an orderly means by which legitimate grievances can be handled in the courts, not by violence in the streets. Therefore, it would be only a great disservice to the cause for the proposed stall-in to continue. It would simply be an invitation to violence and disorder, and a threat to the welfare and the safety of innocent persons.

I hope very much that the proponents of this plan will obey the court order which has been obtained; and I urge the utmost restraint on their part. If these individuals show their good will by abandoning their plan to resort to civil disorder and violence and presenting their grievances in a peaceful manner, I would urge the mayor to meet with the various groups concerned, and with the leaders of national civil rights organizations so that the situation can be corrected in an orderly manner.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island [Mr. PASTORE] is recognized.

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## CUTBACKS IN THE PRODUCTION OF NUCLEAR EXPLOSIVE MATERIAL

Mr. PASTORE. Mr. President, as chairman of the Joint Committee on Atomic Energy—the committee which has historically been responsible to the Congress for closely following the production of special nuclear materials for weapons purposes—I wholeheartedly support the decision announced yesterday by the President to make substantial further reductions in the production of enriched uranium.

This decision—when coupled with the previously announced cutback—is concrete evidence of the sincere desire of the United States to do everything within its power to relieve world tensions and ease the threat of nuclear war. The world will certainly acclaim the initiative shown by the United States. Moreover, if, as indicated by Chairman Khrushchev, the Soviet Union will also take positive steps to cut back its planned nuclear weapons material production, the world will move another step away from nuclear war.

The Atomic Energy Act states that all our efforts in the field of atomic energy shall be subject to one overriding objective—in the words of the Atomic Energy Act, "the paramount objective of making the maximum contribution to the common defense and security."

The Atomic Energy Commission has done everything to implement this stated national policy. Through its efforts, the United States has created a nuclear weapons stockpile second to none in the entire world. Today, we count our nuclear weapons in tens of thousands. Today, we have the capacity to inflict irreparable damage on any enemy with the temerity to attack us.

The very success of our enormous effort to create stockpiles of fissionable material and nuclear weapons is the basis for the decision announced by the President yesterday. This decision was not made on the spur of the moment. The President, after a long and careful analysis of the advice rendered by the Defense Department and the Atomic Energy Commission, has arrived at a responsible and logical decision.

I am proud to say that the Joint Committee on Atomic Energy had a part to play in this decision. For a number of years, members of the Joint Committee have been critical of the methods employed by the Defense Department and the AEC in developing requirements and production schedules for special nuclear material.

Mr. President, on my own initiative as chairman of this committee, during the lifetime of our beloved late President John F. Kennedy, I took it upon myself to go to the White House, at his invitation, and discuss this matter with him fully.

I am happy to say that the thinking of President Johnson along this line is exactly the same as it was on the part of President Kennedy.

Only last year, in its report on the AEC authorization bill, the Joint Committee stated:

> The committee wishes to strongly reiterate its past and continuing concern with the method of establishing requirements for weapons material.

The studies which originated in requests from the Joint Committee have now resulted in the recommendation that reductions be made in our production of special nuclear materials. I believe we are now beginning to see the end of the old "tin cup" approach where the Defense Department merely based its requirements on the AEC's ability to produce weapons materials.

President Johnson's decision is sound in terms of economy and sounder in terms of national security. It is another step on the long path to peace. I hail it; I support it.

Mr. President, subsequent to the President's announcement yesterday, Dr. Glenn T. Seaborg, Chairman of the U.S. Atomic Energy Commission, released a statement explaining how the cutbacks will be effected. I ask unanimous consent to insert in the RECORD at this point that statement and a letter dated February 13, 1964, from Dr. Seaborg to the President of the United States which—in accordance with the projected military requirements of the Defense Department—recommended this further cutback.

There being no objection the statement and letter were ordered to be printed in the RECORD, as follows:

### STATEMENT BY GLENN T. SEABORG, CHAIRMAN OF THE U.S. ATOMIC ENERGY COMMISSION, APRIL 20, 1964

In accordance with a decision of the President, the Atomic Energy Commission will, over the next 4 years, put into effect further reductions in the rate of production of enriched uranium, beyond the 25 percent curtailment announced in the state of the Union message on January 8, 1964.

To accomplish the additional curtailments, the AEC will reduce, by an additional 25 percent, the electric power usage in its gaseous diffusion plants. These power cutbacks are expected to take effect gradually, beginning in 1966; final scheduling has not yet been completed. The new power reductions will total 945 megawatts and will be made at the plants at Portsmouth, Ohio, and Oak Ridge, Tenn. Operations at the Paducah, Ky., diffusion plant will not be affected.

The power reduction at Portsmouth will be 500 megawatts and at Oak Ridge 445 megawatts. After the reductions have been made, the three-plant power level will be 2,970 megawatts. The 945-megawatt power cutback, when fully in effect, will reduce annual power costs by approximately $33 million.

The electric power to the Oak Ridge facilities is supplied by Tennessee Valley Authority and to the Portsmouth facilities by the Ohio Valley Electric Corp. The power is supplied under long-term contracts which will be modified to reflect these power changes.

The employment level at Portsmouth and Oak Ridge is expected to be affected by a total of about 125 positions as a result of the new reductions.

The AEC earlier announced that fiscal year 1965 power reductions will affect 180 of the 2,600 positions at the Oak Ridge gaseous diffusion plant and 150 of 1,367 positions at Portsmouth. The Oak Ridge facility is operated by Union Carbide Corp. and the Portsmouth plant is operated by Goodyear Atomic Corp.

The power curtailment will not affect existing AEC commitments for the purchase of uranium concentrates, nor will it result in further cutbacks in the AEC uranium feed processing plants.

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U.S. ATOMIC ENERGY COMMISSION,
*Washington, D.C., February 13, 1964.*
THE PRESIDENT,
*The White House.*

DEAR MR. PRESIDENT: As you know, we have been taking steps to implement your decision to reduce the rate of production of enriched uranium by 25 percent at the Atomic Energy Commission's gaseous diffusion plants. We have also been exploring the possibility of additional reductions in keeping with the projected requirements of the Department of Defense.

We have concluded that a further reduction in the power levels of the diffusion plants could now be initiated which would still assure the Nation of adequate supplies of enriched uranium for both military and peaceful uses. In addition, a decision now would give the utilities, both public and private, advance notice of changes in power level to permit an orderly redistribution of power and to minimize the impact on particular geographical regions.

The Atomic Energy Commission, therefore, recommends a further reduction of 25 percent in power level below that set forth in your fiscal year 1965 budget. This further reduction would begin in fiscal year 1966 and would be completed during fiscal year 1968. It would result in an estimated additional saving of $55 million.

The Department of Defense concurs in these reductions in enriched uranium production and states that they can be carried out without reducing our military strength.

Respectfully yours,
GLENN T. SEABORG.

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Mr. PASTORE. Mr. President, in his announcement of April 20, President Johnson reaffirmed his support of the safeguards the Joint Chiefs of Staff had requested and which our late President Kennedy had established in connection with the limited test ban treaty of last year. Briefly stated, these safeguards are:

First. The maintenance of vigorous weapons laboratories.

Second. The conduct of comprehensive and continuing underground nuclear weapons tests.

I may say at this juncture that since that time 20 underground tests have been announced.

Third. The maintenance of a readiness capability to resume atmospheric testing should this be deemed essential to national security.

Fourth. The improvement of our capability to monitor the terms of the treaty and the maintenance of our knowledge of Sino-Soviet nuclear activities, capabilities, and achievements.

For more than 6 weeks, the Joint Committee on Atomic Energy held detailed hearings on the 1965 fiscal year authorization requests of the Atomic Energy Commission. After detailed review of the Commission's planned program, the Joint Committee, without dissent, recommended the authorization of an appropriation of over $2.6 billion for the Atomic Energy Commission during fiscal year 1965. As chairman of the Joint Committee, I have reported today the committee supported bill. Included in this bill is an authorization for appropriation of over $1 billion for operating expenses of just two programs—the special nuclear materials program and the weapons program. Funds for the development, production, and storage of atomic weapons will go up from $574 million in this year to $583 million in fiscal year 1965. Funds for underground testing—as I mentioned we have announced a total of 20 underground detonations since the signing of the nuclear weapons test ban—will go up from $107 million to $117 million.

I am reciting these figures merely to indicate and prove to the Members of the Senate, the Congress, and the people of the United States that we mean to implement the safeguards, and that we have been doing precisely that.

In order to be prepared for resumption of atmospheric testing in the event of a sudden abrogation of the treaty, the United States this year is spending over $73 million for off-continent test readiness. An additional $44 million planned for next year will give us assurance that the United States will be able to commence full scale atmospheric tests if the limited nuclear weapons test ban treaty is violated.

Several months ago the Joint Committee, with the full cooperation of President Kennedy, made a tour of our detection sites throughout the entire world. We left Andrews Airfield on a Saturday at 11 o'clock and returned the next Friday. We traveled 22,000 miles. I assure the people of this country that we are implementing, to the best of our technological knowledge, all our detection sites throughout the world. I cannot name them, because that is classified information.

Mr. President, at this point, because Senators are confined to the 3-minute rule, I ask unanimous consent that the remainder of my statement may be included in the RECORD in the same boldface type as though I had read it.

The ACTING PRESIDENT pro tempore. Is there objection?

The time of the Senator from Rhode Island has expired.

Mr. RUSSELL. Mr. President, I ask unanimous consent that the Senator from Rhode Island may be permitted to finish the reading of his statement. The Chair ruled so rapidly that I did not have an opportunity to object.

I do not approve of the practice of having speeches printed in the RECORD, in boldface type when they have not been delivered. I would be perfectly willing for the Senator to read the rest of his statement.

Mr. PASTORE. If I could get that permission, I would consider it a privilege and an honor.

Mr. RUSSELL. Mr. President, I ask unanimous consent that the Senator from Rhode Island may finish reading his statement, and then that he be permitted to yield to the Senator from New Mexico [Mr. ANDERSON].

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. I appreciate that cooperative gesture on the part of the distinguished Senator from Georgia. I might say that I believe that this is quite an important statement, especially in view of the action of the President. I therefore continue reading my statement.

**In addition to the funds to be expended by the Atomic Energy Commission, the Defense Department also will spend an estimated $277 million in support of the safeguards. Of the Defense Department contribution, $127 million will be for the operation and improvement of our test detection capabilities.**

**Let there be no mistake about it. Our nuclear weapons strength is second to none. Let there be no mistake about it. We are not for one second letting down our guard. However, at the same time, there is no need to expend money for material we do not need. During the discussion of the limited test ban treaty last year, I pointed out that all the explosive power used in World War II was equivalent to less than one 3-megaton bomb. The fire power of one 20-megaton weapon has the equivalent of all the TNT that could fill a freight train extending across the United States diagonally from New England to lower California. That is only one bomb.**

**President Johnson is to be commended for the sane and logical step he is initiating and which, as indicated, Premier Khrushchev and others may follow.**

**No matter what Khrushchev does, by this decision of the President of the United States we are not interfering with, we are not diminishing, and we are not sacrificing one iota of the military posture of the United States. This was a wise decision on the part of the President. I am happy and privileged to be able to rise on the floor of the Senate to support it.**

**Mr. President, I assure the Members of the Senate and the American people that this decision on the part of the President does not detract or diminish one iota the military power and the military posture of the United States of America—whether Khrushchev goes along with it or not.**

Mr. ANDERSON. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am glad to yield to the Senator from New Mexico.

Mr. ANDERSON. Mr. President, I merely wish to affirm the Senator's statement. It is an important statement. The Joint Committee, of which the Senator from Rhode Island is the chairman, has made a study to find out how much of this material was needed, and whether or not we had a sufficiency of it. I am glad that the able chairman of the committee has made his statement. I add my personal word of testimony to what he has said. As a former chairman of the Joint Committee, I fully agree with the chairman's conclusions.

Mr PASTORE. Mr. President, one of the highlights, and one of the jewels in the crown of our atomic energy development, is the fact that several times the distinguished Senator from New Mexico served as chairman of the Joint Committee.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. GORE. I have listened to the able and eloquent speech of the Senator from Rhode Island. I wonder if it should not be called to the attention of the American people and the world that we have a stockpile not only of weapon grade material but, what is even more important to mankind in the future, we have the greatest stockpile of energy that mankind has ever conceived. As one possible application, the scientists in the Atomic Energy Commission have developed a concept whereby the enriched uranium could be used simultaneously to generate electricity and to desalinate water in huge quantities at fantastically low cost for both.

Mr. PASTORE. The Senator is absolutely correct.

Mr. GORE. I wonder if the Senator, as chairman of the Joint Committee, would be willing to hold a meeting of the Joint Committee to explore the possibilities of utilizing this great storehouse of energy for this twin purpose, which might not only be useful to vast areas in the United States, but which would be invaluable to vast areas of the world.

Mr. PASTORE. The Senator is absolutely correct. That has been the continuing responsibility of the Joint Committee. The subject was discussed at considerable length in the hearings on the authorization bill. Several months ago, together with Joint Committee staff members, I undertook to go to Oak Ridge, where we had a meeting with Dr. Hammond. It has been concluded that, if we can build reactors big enough and powerful enough, we can economically desalinate water. There is no question about it.

Mr. GORE. And generate electricity.

Mr. PASTORE. And generate electricity at the same time. We are going about this development with all speed, but we are keeping it within the context of prudence, which we must always do; and we are exercising the necessary frugality. At the same time, we are venturesome enough to explore every possibility in the development of the peaceful atom.

Mr. GORE. Mr. President, will the Senator yield further?

Mr. PASTORE. I yield.

Mr. GORE. As I read about the impending and continuing controversy to use the relatively small amounts of water in the Jordan River in an effort to bring life and sustenance to that parched desert area of the world, I am reminded that only a very small, minute percentage of our stockpile—for which we hope there will be no military usage—plus the know-how of this country, could bring a source of supply of water and energy to the Middle East that would make the pleasant waters of the Jordan infinitesimally small in comparison.

Mr. PASTORE. The Senator is absolutely correct. The United States under our Atoms for Peace program has been willing to share with the world the potential blessings and advantages of atomic energy.

Mr. GORE. I hope the Senator will take the leadership in having the committee look into that subject.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MAGNUSON. I wish the Senator, as chairman of the committee, would place in the RECORD the names of what other countries, if any, are producing the war material, the uranium 235. I think it has never been made clear. Are there any other countries involved? We talk about Russia, and we talk about the United States.

Mr. PASTORE. As you know, Great Britain has a gaseous diffusion plant and produces U–235. We know positively that Russia also has the capability to produce uranium 235. We know that France is building a diffusion plant.

Mr. MAGNUSON. I read that the British had adopted a program of cutting their production percentagewise.

Mr. PASTORE. That is correct. I read that in the press. I do not know that officially, but I assume that it is so.

Mr. MAGNUSON. But there are other countries attempting it. I notice that the Senator from Rhode Island uses the words, "Attempting to do what we are doing here."

Mr. PASTORE. That is correct. I cannot give any assurance to the Senator today whether or not Khrushchev will do it.

Mr. MAGNUSON. I refer to manufacturing an article and producing it. I am talking about other countries, such as France, Red China, and other countries.

Mr. PASTORE. I doubt very much that we can get France to become part of any such agreement at this time. I know that we cannot get Red China to become part of any such agreement.

Mr. MAGNUSON. The point I am attempting to make is that they are trying to work on this project.

Mr. PASTORE. That is correct.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. RUSSELL. Mr. President, I desire to associate myself with the statement made by the distinguished Senator from Rhode Island as to the amount of atomic material which is now available in our arsenal. I think we have about reached the saturation point in producing atomic material. Without undertaking to pass judgment on the nature and size of the weapons we might utilize, we do have tremendous quantities of this material which is capable of being prepared in any form of tactical or strategic weapon with a yield of up to 50 or 60 megatons.

I am disturbed by the general tenor of the newspaper accounts of the almost simultaneous release of the President's address with the statement by Secretary Khrushchev and also the Prime Minister of England indicating some understanding for simultaneous reductions. I am concerned as to just how much reliance this country is placing upon Khrushchev's vague and uncertain proposal.

These statements could not have been released on the same day without some agreement or understanding. I have only been able to scan one newspaper this morning and, therefore, have had no opportunity to get a consensus of newspaper opinion on this vital subject. The one newspaper I did see this morning seems to imply that there has been some kind of agreement between the President of the United States and Mr. Khrushchev that should be accepted by the American people as a real contribution to world peace. My principal fears are generated by this apparent acceptance of Soviet good faith and compliance without the slightest agreement for any on-site inspection or confirmation of any kind. Let me read the vague promises made by Khrushchev as reported in the press this morning.

He says that they have adopted the following decision:

> 1. To discontinue now the construction of two new big atomic reactors for the production of plutonium, used in nuclear weapons.

From this statement, Mr. Khrushchev would have us believe that he is either tearing up blueprints or is abandoning plans for two plants which he says he will not now construct.

> 2. In the next several years to reduce substantially the production of uranium 235 for nuclear weapons.

This statement is very vague, both as to time and substance as compared with the definite and specific statement by the President of the United States as to our program of reduction.

The third phase of Khrushchev's statement is that the Soviet Union has decided:

> 3. Accordingly to allocate more fissionable materials for peaceful uses.

Mr. President, we have repeatedly offered to open the doors of every one of our atomic installations not only to the representatives of international organizations, but to officials of the Soviet Union in order that they may see for themselves that we are actually reducing the production of nuclear material if they would do the same. In fact, Mr. President, I think that we have already made some unilateral offers for them to inspect some of our atomic installations to prove we are reducing production of fissionable material.

I do not yet accept, nor will I rely, on any statement made by any spokesman of the Soviet Union that is calculated to lead us into any form of unilateral reduction of arms. I will accept their good faith when they agree to the same form of on-site inspections that we have repeatedly offered.

Last year, during the hearings and debate on the test ban treaty, we were constantly reminded of the danger of a state of euphoria enveloping our country. We shall certainly have succumbed to euphoria in this country if we accept Khrushchev's statement as to his intentions as if it were a pronouncement from on high while he still refuses to agree to any mutual inspection.

We know that we will faithfully observe our promises, and I cannot conceive of a greater tragedy than for the American people to be so deceived by Khrushchev's statement as to let down our guard and proceed to further disarmament without any inspection. Such a course is certain eventually to seal our doom.

Mr. PASTORE. Will the Senator admit there is nothing contained in the President's statement of yesterday which indicates that his action is predicated on any pledge or promise made by Mr. Khrushchev? I made it clear in my statement that the new announcement or pronouncement by the President of the United States of this program, which is not to begin until the fiscal year 1966, is purely an American decision.

Mr. RUSSELL. That is true. But the President did state, or is quoted as saying:

> I am happy to say that Chairman Khrushchev has now indicated to me that he intends to make a move in this same direction.

Mr. PASTORE. That is correct.

Mr. RUSSELL. I would have felt somewhat better if that statement had been followed by some statement, such as the late President Kennedy made in presenting the nuclear test ban, that this can be made safely because we have the means to protect ourselves and not because of reliance to the slightest degree on the Russian word without onsite inspection.

We are depending upon our own method of detection. I am not speaking critically of the President's decision to reduce production. I think the decision is eminently correct. However, I do not wish the American people to be led into trusting Russia's word in any degree. There is nothing in their past history that gives us any reason to wholly accept the good faith of Khrushchev's statement. We will keep any promises we may make. I am thinking we can do so in this case with safety.

But I do not want the American people to be lulled into a sense of lassitude and euphoria by this announcement which will be accepted by some people as evidence that we can now agree on substantial reductions of armament without inspection.

I do not regard the Communist spokesmen as being any more trustworthy today than they were 1 year, 2 years, or 3 years ago. I do not think that they have come to love us or that they will make any concessions on account of affection for any of our leaders or for the American people. Russia is now in great difficulties with Red China who, until recently, was its closest ally. I hope that we will not be deceived into an unrealistic course. It will be extremely foolish if we take any action whatever in the field of disarmament or make any material reduction in our military power on anything so lacking in substance as a Communist statement unsupported by any other evidence.

## PRESIDENT'S ANNOUNCEMENT OF FISSIONABLE MATERIALS PRODUCTION CUTBACK

Mr. HUMPHREY. Mr. President, yesterday, in addressing the Associated Press luncheon in New York, President Johnson gave the American people a concise and thoughtful review of the course of U.S. foreign policy and the principles upon which that policy is based.

The President also announced two important actions bearing primarily upon our relationship with the Soviet Union. These actions, in the President's words, "reflect both our desire to reduce tensions, and our unwillingness to risk weakness."

First, the President announced that he had ordered further substantial reductions in the production of enriched uranium over a 4-year period. This reduction is in addition to previous cutbacks in the production of fissionable materials for use in nuclear weapons. It means that plutonium production will be cut back by 20 percent and production of enriched uranium by 40 percent.

I commend the President for this action.

The general philosophy behind President Johnson's action is unquestionably sound. He succinctly expounded that philosophy in his state of the Union message of January 8, 1964. At that time the President said:

> Even in the absence of agreement we must not stockpile arms beyond our needs or seek an excess of military power that could be provocative as well as wasteful.

The savings from the first action announced by the President yesterday will be considerable. When fully effective the increased cutback just announced will reduce annual power costs for making enriched uranium by $33 million annually.

The cutoff of production of fissionable materials for use in nuclear weapons has long been a U.S. proposal in the field of arms control. It has been the subject of negotiations at the Geneva Disarmament Conference since March of 1962. This year the President sent an important message to the Disarmament Conference when it resumed its work on January 21. Among the points contained in the message the proposal for an agreement to halt all production of fissionable materials for nuclear weapons was reaffirmed.

The Johnson message also contained a related element. While continuing to seek agreement on satisfactory terms for a complete production cutoff, the United States indicated its willingness to achieve prompt reduction through a plant-by-plant shut down on both sides.

Mr. Foster, the Director of the Arms Control and Disarmament Agency, emphasized the plant-by-plant approach in addressing the conference on February 13. He also called upon the Soviet Union to join us in taking practical steps which would restrict the availability of fissionable material for use in nuclear weapons.

Chairman Khrushchev yesterday stated the intention of his Government to move in the direction of limiting its own production of nuclear materials for weapons. He has announced plans to discontinue construction of two large plutonium production reactors, and to reduce substantially production of uranium for nuclear weapons in the next several years.

I understand that Prime Minister Home is making an announcement today about Britain's plans for future production of fissionable material.

These are small but significant steps down the difficult pathway to peace. As President Johnson observed in his speech yesterday:

> Peace will not come suddenly. It will be advanced by concrete and limited accommodations.

The action by President Johnson and the responses by Chairman Khrushchev and Prime Minister Home have been taken in this spirit.

The second action announced by President Johnson had to do with maintaining our nuclear strength and readiness so that we will be fully prepared for any eventuality.

During our debate on the test ban treaty, President Kennedy sent a letter to the Senate, a letter which was read to us by the distinguished minority leader. That letter listed four principal safeguards designed to keep our nuclear guard up. They were:

> Underground nuclear testing, which is permitted under the treaty, will be vigorously and diligently carried forward, and the equipment, facilities, personnel, and funds necessary for that purpose will be provided.
>
> The United States will maintain a posture of readiness to resume testing in the environments prohibited by the present treaty—in the event there should be an abrogation or violation of any treaty provision.
>
> Our facilities for the detection of possible violations of this treaty will be expanded and improved * * * against clandestine violations by others.
>
> This Government will maintain strong weapons laboratories in a vigorous program of weapons development in order to insure * * * a strength fully adequate for an effective national defense.

In his speech yesterday, President Johnson reaffirmed all of the safeguards against weakening our nuclear strength which were adopted during consideration of the test ban treaty.

This action shows President Johnson's determination to keep our defenses strong while we explore ways to halt the arms race.

We must not risk weakness as we seek to reduce tensions.

We must keep our guard up as we take the first steps down the pathway to a less perilous peace.

### STATEMENT ON INSPECTION

Some have said President Johnson should not have cut back fissionable material production without an agreement by the Soviets that they would permit international inspection of their cut back.

This argument misses the whole point. We are cutting back production because we do not want to produce more than we need. As President Johnson said yesterday:

> We must not operate a WPA nuclear project just to provide employment when our needs are met.

Chairman Seaborg said last night that our cutback was not based on the Soviet cutback. His letter to the President of February 13, 1964, says that a further reduction of 25 percent over that announced in the state of the Union message "could now be initiated which would still assure the Nation of adequate supplies of enriched uranium for both military and peaceful uses."

This is without regard to any Soviet cutback.

Thus, we were going to cut back anyway. There was and is no deal. Our reduction is not conditioned on their reduction.

Under the circumstances, are we to reject their offer to cut back? Are we not better off for it even if it is not as much as they say it is?

Of course we would like inspection of their cutback. At Geneva, we have repeatedly asked for inspection of arms control measures completed pursuant to agreement. I am advised that we will continue to do so.

But here there was no agreement. We can hardly insist on inspection as a condition of an action we were going to take anyway.

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## TRIBUTE TO REPRESENTATIVE WILLIAM M. McCULLOCH

Mr. KEATING. Mr. President, a tribute is certainly very much in order to one of the outstanding Members of the other body.

All of us who are working for the passage of the civil rights bill owe a debt of gratitude to Representative WILLIAM M. McCULLOCH, who is the Republican most responsible for the passage of a good civil rights bill in the House. As ranking Republican on the House Judiciary Committee, Representative McCULLOCH played a vital role in hammering out an excellent bill and in forging the overwhelming bipartisan coalition which supported the measure. Perhaps as much as any other person, Representative McCULLOCH was responsible for the passage of the bill in the House, where he worked in great harmony with Representative CELLER. Representative McCULLOCH sat next to me for years on the House Judiciary Committee. He is an able, experienced, and dedicated worker, particularly in this cause; and he played a most important part in the work on the bill in the House of Representatives.

An editorial in the April 18 edition of the Saturday Evening Post emphasizes the necessity of Senate passage of the bill without weakening amendments, and praises Representative McCULLOCH for his part in the House victory. I ask unanimous consent that the text of this editorial be printed in the RECORD at this point; and I remind Senators that Mr. McCULLOCH and scores of his colleagues in the House who do not have a large civil rights minded constituency, supported this moderate bill.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### THE GREAT QUESTION BEFORE THE SENATE

Before the Senate embarked upon its great filibuster, Senator HUBERT HUMPHREY, of Minnesota, said on "Meet the Press" that passage of the civil rights bill would be "looked upon as the greatest achievement in the field of human rights since the Emancipation Proclamation." That may have sounded like hyperbole, but it is actually not an exaggeration. The current filibuster may be the last great legislative battle of the civil rights struggle.

The bill before the Senate now is the most comprehensive civil rights measure to come before that body. Its major provisions would go a long way toward eliminating what Senator HUMPHREY calls "the citizenship gap" in the United States. The bill would implement Negro voting rights, eliminate discrimination in public accommodations, authorize the Attorney General under certain circumstances to bring suit to desegregate public schools, terminate Federal assistance to State and local programs involving discrimination, and authorize the establishment of a Federal Equal Employment Opportunities Commission.

In recent weeks southern Senators have belabored the bill as a mortal threat to States rights and constitutional liberties. For all the oratory, however, two simple facts stand out. First, if the States are to maintain a responsible role in our system, they must behave responsibly themselves. Some 32 States have enacted public accommodations laws, but Southern States have simply failed to discharge their responsibilities to Negro citizens.

Congressman WILLIAM MCCULLOCH, Republican, of Ohio, put the problem of State versus Federal action in the civil rights field succinctly and eloquently when the House debated the civil rights bill. "I believe in the effective separation of powers and in a workable Federal system whereby State authority is not needlessly usurped by a centralized government," Mr. MCCULLOCH said. "But I also believe that an obligation rests with the National Government to see that the citizens of every State are treated equally without regard to their race or color. Where, then, individuals or governmental authorities fail to shoulder their obligations, and only stress their rights, it is the duty of the Congress, under constitutional authority, to correct that wrong. To do otherwise would be to forgo our responsibility as national legislators and as human beings who honor the principles of liberty and justice."

The second basic fact of the civil rights debate is that, for all the crocodile tears that have been shed over constitutional rights, the current bill only attempts to insure to certain American citizens rights and opportunities that others have long enjoyed. How a decent, humane society can do less, and how people who call themselves Christians can settle for less, cannot be answered by any amount of filibustering.

Before the filibuster, both sides—southern conservatives and civil rights advocates—pledged that there would be no compromise. President Johnson, to his great credit, has repeatedly promised that his administration will not weaken the bill. We do not say the bill is perfect. There may be changes, but there should be no compromise on its basic objectives. The bill is not a radical measure. The House passed it by a vote of 290 to 130 after an exemplary debate. The bill, in essence, is an affirmation of elementary principles of fairness and decency, a test of whether our society in its 188th year can conform to its orginial promise.

## SENECA INDIAN AWARD

Mr. KEATING. Mr. President, I ask unanimous consent that the text of a resolution, adopted by the Cattaraugus County Board of Supervisors, concerning the Seneca Indian compensation award, be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

### RESOLUTION 114

Resolution memorializing Congress to investigate awards for Kinzua Dam project land taking

Whereas in connection with the Kinzua Dam project, thousands of acres of land, subject to treaty, have been taken from the Seneca Nation of Indians; and

Whereas the awards proposed to be made for such lands have been highly controversial, and every effort has been made to minimize such awards to the Seneca Indians; and

Whereas this project also required the taking of certain lands of the Pennsylvania Railroad Co., which railroad lands were actually a detriment to the Pennsylvania Railroad Co. inasmuch as the line involved was practically abandoned; and

Whereas the Pennsylvania Railroad Co. was awarded a sum in excess of $20 million for such railroad line; and

Whereas there is an obvious discrimination of substantial proportions accorded the respective interests of individuals as compared with the railroad company: Now, therefore, be it

*Resolved,* That the Cattaraugus County Board of Supervisors does hereby respectfully request a congressional investigation to disclose the basis upon which the award for land taking was made in the case of the lands of the Pennsylvania Railroad Co. involved in the Kinzua Dam project; and be it further

*Resolved,* That the clerk of the board be, and he hereby is, authorized and directed to forward certified copies of this resolution to President Johnson, Senators JAVITS and KEATING, and to Congressman GOODELL, urging them to initiate appropriate procedures to cause an investigation of this matter.

Adopted April 10, 1964.

Attest:

C. W. BAKER,
*Clerk, Board of Supervisors, Cattaraugus County.*

## CIVIL RIGHTS BILL: A CONSERVATIVE MEASURE SUPPORTED BY CONSERVATIVES

Mr. PROXMIRE. Mr. President, I rise to endorse and to stress the view—in line with the remarks made just now by the Senator from New York [Mr. KEATING]—that the pending civil rights bill is a conservative measure, as well as a bipartisan bill.

An article, published today in the Washington Post, and written by Evans and Novak, stresses the very conservative—and I stress the word "conservative"—role that Members of the House of Representatives are playing at this time in the effort to keep the bill strong.

The Senator from New York [Mr. KEATING] is entirely correct in his statement that Representative MCCULLOCH is playing a key role in maintaining the strength of the bill; and, as I have said before, I believe we should emphasize the fact that the bill is not only a Humphrey-Kuchel bill, but also is an Arends-Halleck bill. It is a bill which conservatives supported in the House and will in the Senate, because it is based on conciliation, the slow, sure but just judicial approach in the courts with the burden of proof on complainants, and finally on directives or administration to the States. The bill avoids Federal dictation. It won the support of the strongest conservatives in the House of Representatives and properly so. The bill has been badly misrepresented as a liberal, Federal intervention's measure. It is nothing of the sort.

I ask unanimous consent that the interesting and revealing article by Evans and Novak on the vital role of moderates and conservatives in working for enactment of the bill be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### BEHIND THE CHARADE

(By Rowland Evans and Robert Novak)

Contrary to all the gloomy speculation about civil rights filibuster in the Senate, the battle is going far better for President Johnson today than seemed possible when it started.

The reason for this unusually optimistic forecast won't be found in the Senate debate. It lies in the elaborate and unprecedented system of check and cross-check between Senate and House Republicans that now control the principal actors in the congressional drama.

For example, consider the well-publicized move of Senator EVERETT M. DIRKSEN, of Illinois, the Republican leader, to water down the fair employment section of the bill. Some amendment is essential to win over enough Republicans so that if cloture (the forcible ending of debate) becomes necessary, a two-thirds majority of the Senate will vote for it.

Behind the scenes, DIRKSEN shrewdly is exploiting the system of check and cross-check to hedge in those who want a very tough FEPC and those who don't want any at all. To the businessmen who have swarmed into his office the past few weeks to lobby against the FEPC section, he patiently explains that this particular provision was written not by wild-eyed Democrats in the administration but by moderate Republicans in the House, led by self-effacing Representative WILLIAM MCCULLOCH, of Ohio.

Thus every change that Senator DIRKSEN would like to make, under pressure from conservative Republicans, he cross-checks with MCCULLOCH, the ranking Republican of the House Judiciary Committee. MCCULLOCH in turn checks with Representative CHARLES GOODELL, the New York Republican who helped draft the original language of the FEPC section in the House Labor Committee. Changes that would gut the section are rejected by MCCULLOCH and company, and their veto gives DIRKSEN just the leverage he needs to withstand the conservatives.

The important restraints on DIRKSEN, in other words, do not come only from the White House or the liberal Democrats and Republicans in the Senate, but from a handful of moderate Republicans in the House.

None of these vital restraints would be operating today if the bill as it passed the House had not been truly bipartisan. The origin of this bipartisanship goes back to last fall when President Kennedy, confronted with a runaway liberal coalition in the House Judiciary Committee, appealed to MCCULLOCH and Representative CHARLES HALLECK, the Republican leader, for help. HALLECK and MCCULLOCH delivered.

As a result, these middle-of-the-road Republicans, who have never been civil rights zealots, have almost as much at stake in the Senate version of the bill as the all-out civil rights partisans. Perhaps never before in Senate history has a handful of minority party Congressmen in the House held such a whip hand over the Senate.

A year ago DIRKSEN might have been far less willing to cooperate with his House colleagues.

It was only last summer that DIRKSEN extracted the heart from a Republican statement of principles on civil rights that Senator JACOB K. JAVITS, the New York liberal, tried to push through the conference of all-Republican Senators.

But today, as the Negro revolution moves on an ever-ascending scale from one crisis to another, DIRKSEN knows that a strong bill is essential. And there is only a handful of

Senators in either party, north of the Mason-Dixon line, who haven't been driven by the force of events to the same conclusion. As a result, practically every objective in Javits' statement of principles last summer is found in the House-passed civil rights bill.

Accordingly, the long and windy talk in the Senate is a charade that should not be confused with reality. The first major break may come late this week when Dirksen, McCulloch, Halleck, Goodell, Javits, and Senator Hubert H. Humphrey, of Minnesota, the Democratic master strategist in the Senate, agree on the FEPC provision.

## TRIBUTE TO DAVID FELLMAN, UNIVERSITY OF WISCONSIN POLITICAL SCIENCE PROFESSOR

Mr. PROXMIRE. Mr. President, a distinguished professor at the University of Wisconsin, David Fellman, who has been in the front rank of scholars in this country in delineating civil liberties, has been selected as president of the American Association of University Professors. This is a great honor for Wisconsin, for the University of Wisconsin, and for this outstanding man, who not only is a great professor, but also is a remarkably warmhearted human being.

I ask unanimous consent that an article reporting Fellman's election from the Milwaukee Journal be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### AAUP Picks UW Teacher—University Association Names Fellman as Its President

St. Louis, Mo.—David Fellman, University of Wisconsin political science professor, has been elected president of the American Association of University Professors (AAUP), at the association's convention here. Fellman, 57, was elected without opposition on a ballot mailed to association members. He has been at UW since 1947, and now is a Vilas research professor.

He served on the national council of the AAUP from 1958 to 1961, and is chairman of its committee on academic freedom and tenure. He is past president of the Wisconsin chapter.

He was appointed to the executive committee on the Wisconsin Governor's commission on human rights in 1959, and was a member of the Governor's commission on constitutional revision in 1963.

Other positions held included vice president of the American Political Science Association in 1959–60 and president of the Midwest Conference of Political Scientists in 1955.

The AAUP frequently gets into the news in disputes with universities over academic freedom.

## THE AMERICAN PEOPLE OPPOSE THE U.S. UNILATERAL PARTICIPATION IN SOUTH VIETNAM'S CIVIL WAR

Mr. GRUENING. Mr. President, while I find myself in total disagreement with the past and inherited policy of the U.S. involvement in the civil war in South Vietnam, which President Johnson now feels must for a time be continued, I find one element of hopefulness in his first public declaration of policy thereon. In his speech to the Associated Press yesterday, after stating that he had "ordered measures to step up the fighting capacity of the South Vietnamese forces," he added that "no negotiated settlement is possible as long as the Communists hope to achieve victory by force," but that—and this is the significant and hopeful statement—"once war seems hopeless, then peace may be possible."

The fact is that the United States is seeking "to achieve victory by force." Doubtless this is true of both sides. The hopeful and significant aspect of President Johnson's remark is that "once war seems hopeless, then peace may be possible."

It is my conviction that this particular war is hopeless, and has always been hopeless, and that therefore peace not only may be possible, but will be possible. It is clear to me that the President is allowing for a negotiated settlement as soon as the reality of which he speaks—namely, that once the "war seems hopeless" which means a realization that the war in South Vietnam cannot be won by the United States—becomes apparent. It is apparent to me now, and history—the history of the past decades—demonstrates it incontrovertibly.

I ask unanimous consent to have printed in the Record at the conclusion of my remarks the paragraphs from President Johnson's speech to the Associated Press dealing with South Vietnam.

The PRESIDING OFFICER (Mr. Morton in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRUENING. Mr. President, President Johnson speaks of reality. Let us contrast the optimistic forecast which Secretary Rusk made after his brief visit to South Vietnam, and Ike repeated similarly optimistic forecasts of Secretary McNamara, with the realistic statements by our American "advisers" who have been on the scene for months. Secretary Rusk, in praising Nguyen Khanh, South Vietnam's self-imposed—with our help—ruler, said, "He is making progress." But a special dispatch to the New York Times, published in it on Monday, April 20, is headed "U.S. Advisers Say Inertia Besets Vietnamese Army." The opening paragraph of the article refers to the "inertia and low motivation of the South Vietnamese Army." This is the opinion of our American military "advisers"; and they have been there much longer than Secretary Rusk and Secretary McNamara.

Our military "advisers" there further express the belief that no amount of social and economic planning can inspire an army to do its job against highly purposeful insurgents, unless there is a will to win, or at least a will to fight. It has long been clear that there has not been, and is not now, a will to win or a will to fight in the South Vietnamese forces.

Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks the article entitled "Rusk Lauds Progress of Khanh in Reporting on Trip to Vietnam." The article was published in the Washington Post of April 21—as well as an article entitled "U.S. Advisers Say Inertia Besets Vietnamese Army," which was published on April 20 in the New York Times.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

The PRESIDING OFFICER. Under the 3-minute limitation, the time of the Senator from Alaska has expired.

Mr. GRUENING. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRUENING. Mr. President, support of the view of these "advisers" and of the position which the Senator from Oregon [Mr. Morse] and I have taken in regard to U.S. military engagement in South Vietnam, is found in an article written by Walter Lippmann, and published on April 21 in the Washington Post.

After properly taking Richard Nixon to task for his proposal to carry the war into North Vietnam, Mr. Lippmann points out that "the South Vietnamese have very little fighting morale." Mr. Lippmann also gives us a reality when he says the problem in South Vietnam is to prevent the collapse of a weak government which is losing the civil war.

That is precisely correct, Mr. President; it is a civil war, it is a losing civil war. The sooner the United States faces those two realities, the better.

I ask unanimous consent to have printed in the Record at the conclusion of my remarks the article by Walter Lippmann, which is entitled "Foreign Policy Debate."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. GRUENING. Mr. President, in a dispatch from Washington, published today in the New York Times, Secretary Rusk is reported as having encouraged the new government of Maj. Gen. Nguyen Khanh to improve its "international image." Just what is meant by that, I do not know. But, more important, I believe he should improve his image among the South Vietnamese people, who have had such lack of enthusiasm in their support of the two preceding regimes, as well as his, because of the repressive actions of their own governments.

I ask unanimous consent that there be printed in the Record at the conclusion of my remarks the New York Times article entitled "Rusk Says Saigon May Ask for Non-U.S. Military Advisers."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. GRUENING. Mr. President, the American people want no part in the unilateral war in which our American boys are being sacrificed. They cannot but wonder why our SEATO allies, while urging us to keep on, are not sending their boys into the firing line there. Only American boys, in addition to the Vietnamese, are being sacrificed. I consider this a needless tragedy which should be stopped. I have asked before, and I ask again, where are the boys of our British, French, Australian, New Zealand, Philippine, Pakistan, and Thai allies in SEATO? Why are there no British boys, French boys, Australian boys, New Zealand boys, Philippine boys, Pakistan boys, and Thai boys on the firing line?

Mr. President, I have received some 400 letters since my speech on March 10, urging that the United States get out of Vietnam. They run in a ratio of 100 to 1 in favor of my position. They reveal unmistakably that the American people oppose our unilateral military participation in South Vietnam's civil war.

I ask unanimous consent that portions of some of these letters be printed at the conclusion of my remarks.

The **PRESIDING OFICER**. Without objection, it is so ordered.

(See exhibit 5.)

### Exhibit 1

[From the New York Times, Apr. 21, 1964]

### Excerpt From President Johnson's Speech Before the Associated Press

In Korea we proved the futility of direct aggression. In Vietnam the Communists today try the more insidious, but the equally dangerous, methods of subversion and terror and guerrilla warfare.

They conduct a campaign organized, directed, supplied, and supported from Hanoi. This, too, we will prove futile.

Armed Communist attack on Vietnam is today a reality. The fighting spirit of South Vietnam, as Secretary Rusk told us from there yesterday, is a reality. The request of a friend and an ally for our help in this terrible moment is a reality.

The statement of the SEATO allies that Communist defeat is essential is a reality. To fail to respond to these realities would reflect on our honor as a Nation, would undermine worldwide confidence in our courage, would convince every nation in south Asia that it must now bow to Communist terms to survive.

The situation in Vietnam is difficult, but there is an old American saying that "when the going gets tough, the tough gets going."

So let no one doubt that we are in this battle as long as South Vietnam wants our support and needs our assistance to protect its freedom.

#### MORE AID FOR VIETNAMESE

I have already ordered measures to step up the fighting capacity of the South Vietnamese forces, to help improve the welfare and the morale of their civilian population, to keep our forces at whatever level continued independence and freedom require.

No negotiated settlement in Vietnam is possible as long as the Communists hope to achieve victory by force. Once war seems hopeless, then peace may be possible. The door is always open to any settlement which assures the independence of South Vietnam and its freedom to seek help for its protection.

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### Exhibit 2

### Rusk Lauds Progress of Khanh in Reporting on Trip to Vietnam

(By Warren Unna)

Secretary of State Dean Rusk returned late yesterday from an on-the-spot inspection trip to South Vietnam and immediately reported to President Johnson how struck he was with the new Vietnamese ruler, Maj. Gen. Nguyen Khanh.

Khanh is an impressive man * * * great vigor and understanding. He's on the right track and he's making progress," Rusk told reporters after emerging from his White House conference with the President.

He indicated that he found "a number of Provinces" where pacification measures against the Vietcong Communist infiltration movement are "going ahead."

In a statement at Saigon just before boarding his plane for Washington, Rusk had given Khanh all-out U.S. support: "We shall remain at your side until the aggression from the North has been defeated—until it has been completely rooted out and this land enjoys the peace which it deserves," Rusk declared.

In talking with reporters at the White House, Rusk noticeably abstained from all remarks about Laos where a military coup had made that country the subject of the moment.

But earlier in the day, President Johnson told an Associated Press luncheon in New York that he had dispatched William P. Bundy, Assistant Secretary of State for Far Eastern Affairs, to Laos "for a firsthand examination of the developments."

The President reaffirmed American support for the 1962 Geneva agreement for a neutral Laos under neutralist Premier Prince Souvanna Phouma, explaining such an arrangement offers "the best hope of peace and independence for that strife-torn land."

The State Department, meanwhile, indicated that the outcome of Sunday's military coup was far from clear.

U.S. officials were heartened by the fact that the coup leaders had released Prince Souvanna from his house arrest and accompanied him on a trip to the royal capital of Luang Prabang for a conference with Laos King.

But State Department officials were still not sure how far the military leaders had backed away from their abrupt takeover. Nor were they sure what demands Laos Communist-oriented Pathet-Lao might now make because of the military's breach of faith in trying to scrap the coalition government.

It was also not clear whether the military coup leaders now would be disciplined for their action, or allowed to remain at their posts in a new government.

On Capitol Hill, Senate Majority Leader MIKE MANSFIELD, Democrat, of Montana, said the original report of the coup and the arrest of Souvanna "was mad news for Laos, for the United States, and for all of southeast Asia.

"He [Souvanna] was, and is, the only man who could have been successful in keeping his country from being fragmented," MANSFIELD added.

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[From the New York Times, Apr. 20, 1964]

### U.S. Advisers Say Inertia Besets Vietnamese Army

(By Peter Grose)

SAIGON, SOUTH VIETNAM, April 19.—Pursuit of the war against the Communist Vietcong appears to face the basic obstruction of inertia and low motivation of the South Vietnamese Army, in the judgment of American military advisers.

These advisers believe that no amount of aid or social and economic planning can inspire an army to do its job against highly purposeful insurgents unless there is a will to win, or at least a will to fight.

(Vietcong guerrillas launched a bold series of attacks Sunday, one within 14 miles of Saigon, the Associated Press reported. It said American advisers there were pleased with the way the South Vietnamese had met them.)

#### FIELD ADVISERS INTERVIEWED

Dozens of American advisers to Vietnamese field units were interviewed in recent weeks in different parts of South Vietnam. Theirs is the view of the war as it is actually being fought.

They report isolated improvements of morale where the Government has implemented reforms, such as pay raises for certain units, new uniforms for paramilitary forces.

But old abuses—promotions too often granted for political reasons, discipline and punishment applied erratically—remain to sap the army's spirit.

These criticisms find echoes in high official quarters, both American and Vietnamese. In his 2½ months in power the Premier, Maj. Gen. Nguyen Khanh, has shown that he is fully aware of the problem.

Remedies, however, are found to be not only elusive but dangerous when army elements, if pressed too hard, are fully capable of turning against their own government by plotting coups d'etats or defecting to the Communist Vietcong.

"All the talk in Saigon about gaining the support of the population to win this war is fine," said one American in the field. "But it would also be a good idea to try to gain the support of the army. This may be a political war, but it is still a war."

To most Americans, repeated Vietcong successes derive less insurgents than from the apathy and ineptness of the Government forces. Success feeds on success, and with each Vietcong victory the Government troops morale drops further.

American policy, underlined in the visits to Vietnam of Secretary of Defense Robert S. McNamara and Secretary of State Dean Rusk, is that active leadership from the top can still overcome the inertia of the war effort.

U.S. sources said Mr. Rusk, in his meeting yesterday with General Khanh, had reviewed means of improving U.S. military, economic and diplomatic assistance to Saigon.

Mr. Rusk was said to be satisfied that General Khanh would not be victim of a coup, as has been rumored recently. The general himself came to power through a coup on January 30.

#### RUSK REPORTED ENCOURAGED

The Secretary was said to be encouraged by the Khanh government's recent steps in both the military and civilian fields. While difficulties remain, Mr. Rusk was said to feel that for the first time since when the President Ngo Dinh Diem was ousted, "things are beginning to move."

This was Mr. Rusk's first visit to Saigon since he became Secretary of State. The Rusk party came here from Manila, where the Secretary attended a meeting of the Southeast Asia Treaty Organization's Council of Ministers. En route to Saigon Mr. Rusk stopped for a day in Taipei, Taiwan, and his plane is scheduled to stop there again for refueling tomorrow on his return to Washington.

Official American optimism notwithstanding, the view from the field headquarters in South Vietnam is that it is taking all too long for the new energy in Saigon to filter down.

Many U.S. advisers feel that increased military aid is not the answer and may only compound the army's sluggishness.

"This is supposed to be a counterinsurgency effort fought with guerrilla tactics," said one high adviser in the central lowlands. "When we urge the Vietnamese to fight like guerrillas, they just call for air strikes and heavy artillery."

Some Americans also speak of the ambiguity of their advisory position. They cannot command troops. Their advice, if given on the spot, may cause a Vietnamese commander to lose face with his men. Advice given later in private may come too late.

Anything money can buy Premier Khanh is in the process of providing. He has announced, for instance, pay increases for both the regular army and the paramilitary forces, the civil guard and the self-defense corps, which bear the brunt of Vietcong attacks. Discrepancies between the pay and privileges of the army and those of the paramilitary forces have been a major subject of complaints.

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EXHIBIT 3

[From the Washington Post, Apr. 21, 1964]

### FOREIGN POLICY DEBATE

(By Walter Lippmann)

After spending a few days in Saigon, Mr. Nixon has come home with a formula for winning the war in southeast Asia. The reason we are not winning it now is, he says, that we believe in "Yalu River concepts of private sanctuaries," and for that reason we are preventing the South Vietnamese, who presumably are raring to go, from taking the offensive, from carrying the war into Laos and to the North, and of winning the war there.

Mr. Nixon ought to know better, and perhaps he does know better, than to say that the reason why South Vietnam does not win the war in North Vietnam is that the United States won't let it. The undubitable fact is that South Vietnam is quite incapable of carrying the war successfully into North Vietnam. That is not because we will not give it arms. We do give it arms. It is because the South Vietnamese have very little fighting morale and are well aware from experiments that have already been made that raiding in North Vietnam means almost certain death. Let us hope that Mr. Nixon is not going to revive at this late date the old chestnut which we used to hear about "unleashing Chiang Kai-shek," and ask us to believe that victory can be had by unleashing General Khanh.

General Khanh is leashed by the unwillingness of the large majority of the South Vietnamese to fight on in the civil war. "Hot pursuit" indeed: where are the South Vietnamese soldiers who are hot about pursuing the Vietcong into the clutches of General Giap? The truth, which is being obscured for the American people, is that the Saigon government has the allegiance of probably no more than 30 percent of the people and controls (even in daylight) not much more than a quarter of the territory.

The real and immediate problem in South Vietnam is to prevent a collapse of a weak government which is losing the civil war. That is the paramount objective of the Johnson-McNamara policy—to prevent a bad situation from becoming impossible. It is certainly not a glorious policy, or even a promising one, and it has led high officials of the administration into making commitments that had better been left unmade. But the policy is at least concerned with the reality of the situation, which is the need to prevent a collapse and surrender before there is an opportunity to work out a political solution in the area.

Any other plan for winning the war in southeast Asia must be, if the speaker is being candid and not tricky, a plan for the intervention of the United States with large forces prepared to overwhelm the whole of Indochina and to confront mainland China itself. All schemes for "interdicting" outside help to the Vietcong can be carried out only by the U.S. Air Force. The South Vietnamese Government does not have the bombers and could not fly them if they had them in any such enterprise. The enterprise should never be undertaken unless we are prepared to have a large war with China.

In his review of foreign policy on Monday, the President was, in effect, saying that there has been no material change since the death of President Kennedy. Our relations with Russia, which took a decided turn for the better between the Cuban crisis and the test ban treaty, have continued to improve, slowly, to be sure, but to improve.

On the other hand, in the areas where President Kennedy had not been succeeding, things are about as they were. This is true of Europe, of Asia, and of South America. There is a pause in Europe and perhaps also in Latin America. This may be in part because new developments have not gone far enough to show what is going to happen, in part because of the coming elections—here and in Britain and in Chile this year, in Germany and France and Brazil next year. There is a pause in the Far East because the war plans of Messrs. Nixon and GOLDWATER are unworkable and undesirable, and any other kind of plan is, as Senator FULBRIGHT would say, still unthinkable.

This pause permits President Johnson to devote himself primarily to our too long postponed and too much neglected internal problems.

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EXHIBIT 4

[From the New York Times, Apr. 21, 1964]

### RUSK SAYS SAIGON MAY ASK FOR NON-U.S. MILITARY ADVISERS

WASHINGTON, April 20.—Secretary of State Dean Rusk said today that South Vietnam could use the help of more military advisers from other countries than the United States in its war against Communist guerrillas.

Mr. Rusk, who just returned from an 11-day trip to Asia, including his first visit to South Vietnam, reported on his findings to President Johnson at the White House this evening.

Afterward, Mr. Rusk said that several of this country's allies had expressed their willingness to help South Vietnam combat the guerrillas of the Vietnamese Communists, or Vietcong.

Mr. Rusk said he did not expect that any organized military units would be sent to Vietnam "at this time" to bolster the efforts of 15,500 U.S. servicemen there.

But he said that Saigon might be asking for some military advisers from other countries and could make good use of them. At present, Australia has a 30-man military advisory mission in Vietnam and Britain has about 10 officers.

#### AID OFFERS REPORTED

In the field of economic and technical assistance, the Secretary reported that the Philippines and Nationalist China had offered to help South Vietnam meet its current shortage of fertilizer. South Vietnam is about to enter its spring planting season.

Mr. Rusk said he had made several recommendations in the political field in his report to the President, but he declined to discuss them in detail.

He indicated that he had encouraged the new government of Maj. Gen. Nguyen Khanh to improve its international image and "in explaining its situation to the rest of the world." During the political upheavals of the last 6 months in South Vietnam, he said, the Government had allowed its diplomacy to slip.

Although he acknowledged on his arrival that the situation in South Vietnam was critical, Mr. Rusk said he thought that General Khanh was "on the right track" and that the situation had shown "steady improvement."

Present to hear his report at the White House were Secretary of Defense Robert S. McNamara, Under Secretary of State George W. Ball and McGeorge Bundy, the President's Special Assistant for National Security Affairs.

#### PEIPING INTERVENTION DOUBTED

In a separate development, another Government official said he doubted that Communist China would intervene militarily if South Vietnam, with American support, undertook military strikes against North Vietnam provided the strikes were limited.

"Red China's attitude would be of some reluctance to getting themselves too much involved," this official said. "At the same time, they would scream and yell to try to intimidate us and South Vietnam."

Although some officials have declared that no such offensive action against North Vietnam is being contemplated, qualified sources said these moves are under study by the administration.

In his comments today, one Government official close to the situation said the Communist Chinese response would depend on Peiping's estimate of which South Vietnam and the United States were up to.

If China thought the aim was limited and directed merely at ending the war in South Vietnam, rather than taking North Vietnam, he said, "the chances of their coming into the war in any major way would seem to be limited."

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### VIETNAM RAID COSTLY TO REDS

SAIGON, April 20.—Government troops, counterattacking in Kien Hoa province 50 miles south of Saigon, inflicted heavy losses on Vietcong guerrillas in one of the war's most successful operations of the kind U.S. military officials reported today.

The engagement began before dawn yesterday when two companies of Vietcong insurgents overran the Huong Hoa Ha outpost near Ba Tri. The Communists seized as hostages the wives and children of the members of the self-defense corps who manned the outpost.

The corpsmen regrouped and recaptured the post in what the Americans called an "excellent counterattack carried out quickly and efficiently." Government losses were listed as 14 killed and 26 missing. The guerrilla losses were estimate as much higher. A Defense Ministry communique estimated Vietcong losses at 100 killed and wounded. U.S. military advisers counted 15 dead on the battlefield and said aerial reconnaissance indicated that at least 67 killed or wounded were carried away by their comrades.

Americans said they were impressed with the action of the self-defense corpsmen because it reflected a determination to defend their homes in one of the most critical parts of the guerrilla-infested Mekong River delta.

In another action, the Vietcong derailed the Saigon-Hué train for the 10th time in 20 days. The train, moving on one of South Vietnam's most vital communication links, was derailed in Phuyen province 250 miles north of Saigon, midway between Hué and Saigon.

Vietnamese military authorities said only two cars were damaged, but traffic was delayed for 12 hours.

The U.S. Army announced the death of WO David E. Muller of Olney, Ill., who suffered burns 10 days ago in the crash of an unarmed helicopter 125 miles south of Saigon. Three other Americans and seven Vietnamese soldiers were killed in the crash.

The South Vietnamese, meanwhile, were reported heartened by Secretary of State Dean Rusk's pledge that American forces would remain until the Vietcong forces are defeated.

Mr. Rusk, who left early today, had warm praise for the Premier, Maj. Gen. Nguyen Khanh, who seized power in January. Mr. Rusk expressed confidence in General Khanh's ability to lead the country to victory over the Communists.

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KETCHIKAN, ALASKA,
*March 23, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: You are to be congratulated for your courageous stand on the South Vietnam mess. We can only hope that more and more of our legislators will eventually see the light. Maybe then we can finally let those people in Asia determine their own destiny without sacrificing any more of our GI's.

Hats off to you, Senator.

Sincerely,

PHILIP C. HOFFMANN.

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MOUNT VERNON, MO.,
*March 30, 1964.*

Senator GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: Thank you for having enough courage to speak out against this shameful and unnecessary intervention in the war in South Vietnam. * * * It is quite clear that our support is on the side of the people's oppressors. No wonder the national army of South Vietnam is not in touch with the people. And no wonder there is such low morale among its soldiers and no wonder so many defect to the other side. They have little desire for killing their own people to keep cruel and vicious dictators in power. There is no national interest there for which our boys should die, and the longer we stay in this struggle, the closer we come to the brink of nuclear war and world holocaust. Our boys are fighting, not just teaching the South Vietnamese how to fight. That is why so many are being killed. * * * If the South Vietnamese must win their war and must be closer in touch with the people to do it, why don't we let them do this? It is pretty certain that we are hastening the day for communism to take over, as long as we continue to support the wrong side. Keep up the good work. You are speaking for millions of Americans.

Sincerely,

Mr. and Mrs. STEPHEN B. CRUMPLEY.

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BROOKLINE, MASS.,
*March 23, 1964.*

DEAR SENATOR GRUENING: My husband and I are delighted to read, in the New York Times of March 21, that you are asking for the withdrawal of U.S. forces from the frightful war in South Vietnam.

We congratulate you not only for taking this intelligent position, but also for having the courage to give leadership on this issue in the Senate. We need more Senators like you.

Thank you.

Sincerely yours,

ETHEL and BEN ALPER.

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BROOKLYN, N.Y.,
*April 5, 1964.*

Senator ERNEST GRUENING.

DEAR SENATOR: We wish to express our heartfelt agreement and gratitude for the expression of your views on our foreign policy vis-a-vis South Vietnam. We also have long felt the wrongness of our position in South Vietnam.

We ought indeed to withdraw our armed forces from such gross interference in the affairs of other countries; and always supporting reactionary, tyrannical regimes. In pattern, our foreign policies have not much changed from the times in the thirties when in the name of "anticommunism" we always had support to give to "anti-Communists" like Mussolini, Franco, Hitler, etc., through loans, direct aid, and appeasement generally.

Thank you.

Yours truly,

Mr. and Mrs. SAMUEL KAMEN.

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NEW YORK CITY, N.Y.

Hon. Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: You must be congratulated upon your stand on Vietnam. As a veteran of the Second World War (WAAC and WAC), as a woman, a citizen, and also a member of the Women's International League for Peace and Freedom, I agree with you.

Please keep up the good fight.

Cordially,

VERNA ALTMAN.

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LONG ISLAND, N.Y.,
*March 23, 1964.*

DEAR SENATOR GRUENING: I was gratified to read of your outspoken remarks re our policy on Vietnam. Certainly, the public must come to realize that we do not belong there, and that we will no more succeed there than did the French before us.

We should get out of Vietnam.

Sincerely,

CHARLES ECKSTAT.

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BERKLEY, MICH.,
*April 8, 1964.*

Senator GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: We were happy to hear your comments on South Vietnam. The involvement of our country in this war is a disgrace and cannot be rationally justified in view of events there. We hope the United States can successfully withdraw before it becomes another Korean war.

Yours truly,

LAWRENCE D. FAVRO.
RUTH G. FAVRO.

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CHICAGO, ILL.,
*March 21, 1964.*

Senator ERNEST GRUENING,
*Washington, D.C.*

HONORABLE SIR: I read your statement recently regarding South Vietnam. I am in full accord with you.

There must be a stop at once of all this unnecessary bloodshed.

For God's sake let us pull out our troops and let South Vietnam settle their own differences.

Wishing you good health and happiness, I remain,

Faithfully yours,

MRS. MILDRED FALK.

P.S. I admire your courage and fortitude on this issue. Thank you.

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NEW YORK, N.Y.,
*March 23, 1964.*

DEAR SENATOR GRUENING: Congratulations on your brave stand on South Vietnam. Reading the Times on your encounter is most heartening and makes me feel we at last have men in the Senate. Can you send me your speech on the issue?

We must stop this cruel and senseless war. We must stop all war.

Thank you.

RUBIN FALK.

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PORTLAND, OREG.,
*March 30, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I have read with great interest your recent remarks in Congress with respect to withdrawing military aid to the Vietnam Government. It is shocking to me that the United States should be in the position of supplying the means for the people in Vietnam to kill one another. I hope your statements will give courage to others in Congress to reexamine our position there for I firmly believe the sooner we withdraw all military aid to Vietnam the sooner a peaceful settlement to affairs there will be achieved.

Sincerely yours,

HELEN F. GROSSMAN.

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NEW YORK UNIVERSITY,
*New York, N.Y., March 21, 1964.*

Hon. SENATOR GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I wish to commend you upon your forthright declaration urging the end of the Vietnam war, as reported in the New York Times of Saturday, March 21. It is imperative that individuals in positions of authority act, as you have. That is the only way to prevail over the counsels of those who would not only continue a full-scale war, but escalate it, with risk of a nuclear conflict.

I would appreciate receiving a copy of your statement.

Respectfully yours,

EDWIN S. CAMPBELL,
*Associate Professor of Chemistry.*

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WALLINGFORD, PA.,
*April 4, 1964.*

SENATOR GRUENING: I am grateful for your earnest and arduous effort to convince the Senate that the only right course for the United States to take in Vietnam is to withdraw our military forces. I should be glad if our legislators based their decision of every social question primarily on the moral law.

MARGARET E. DUNGAN.

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ALGONAC, MICH.,
*March 30, 1964.*

DEAR SENATOR GRUENING: How right you are that our "adventure" in Vietnam is doomed to failure and disgrace for us as a nation.

We are supporting a brutal Fascist dictatorship there. General Khanh is little better than his predecessor, despite our attempt to whitewash him.

To the Vietnamese people we are the hated foreigners who have come from across the seas to kill them and destroy their homes and crops and animals.

This is really something to be proud of, isn't it; and there is not one valid excuse for our being there.

We shall live to rue the day of this vicious policy.

Please continue your opposition to this madness. You will find plenty of support, I assure you.

More power to you, Senator. You are a sane and courageous voice in a conglomeration of mediocrity and cowardice.

I surely sympathize with your people in Alaska—now let us demand that foreign aid millions be diverted to Alaska.

Sincerely,

D. FLORENCE FAGG.

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CONCORD, CALIF.,
*March 22, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senator, Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I recently heard a brief news report which indicated that you favored a greater exploration of the possibility of withdrawing U.S. forces from Vietnam. News reports of this type are often scanty of detail, and of doubtful authenticity. However, if this one is correctly reflecting your feelings please permit me, as a former Alaskan, to commend you for your position.

For too long a time, U.S. foreign policy decisions have been in the hands of a small group of people too well insulated from the scrutiny of the Congress. Much greater questioning of critical decisions is long overdue. Our policy in Vietnam is not only irrational, but from the long range viewpoint, of doubtful value to the United States, the Vietnamese, or the world. Such ill-conceived policies, I believe, result largely from too great a removal of the decision making process from public participation. If I am correctly interpreting your position in this matter, let me urge you to join with Senator MANSFIELD and others to explore more fully the possibilities of a neutralist solution to the southeast Asia question.

From a nostalgic ex-Alaskan, my congratulations for a commendable record in the Senate. Best wishes for continued success.

Very truly yours,

ROLAND F. GRAY.

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PORTLAND, OREG.,
*March 13, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: Permit a resident of the "lower 48" to congratulate you on your calling for the withdrawal of our troops from South Vietnam, as reported by the Associated Press today.

My husband, child, and I visited your State this past summer, and fell in love with it. We look forward to returning for further travel in its vast reaches as soon as possible. Because of this I felt a kind of special pride in reading of your statements in the Senate, and felt that I must let you know of my support, along with my support of your colleague, our own good Senator MORSE.

We—my husband and I—have a great respect for the strong feelings of freedom and true democracy which we sensed in Alaska, and we are happy to note that in your assessment of the situation in South Vietnam you are further expressing these basic democratic beliefs.

Sincerely yours,

PHOEBE L. FRIEDMAN
Mrs. Phoebe L. Friedman.
RALPH FRIEDMAN.

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LA JOLLA, CALIF., *March 21, 1964.*

Hon. ERNEST GRUENING,
*Senate of the United States,*
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: As an old sourdough from Cordova, now living in La Jolla, I wish to commend you on your stand re Vietnam as quoted in the enclosed clipping. I am sending this clipping along to see if you are honestly quoted, and asking that it be returned for my file.

Thanking you for doing a statesmanlike job for Alaska and the United States.

Very sincerely yours,

HOWARD Z. DUDLEY.

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SPARTA, N.J.,
*March 30, 1964.*

Senator GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: * * * I wish, also, to take this opportunity to applaud most heartily your recent stand, together with Senator MORSE, regarding our stupid involvement in South Vietnam, than which I cannot imagine any asininity more calculated to guarantee frustration and disillusionment.

Sincerely,

P. D. BOOTHROYD.

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METHODIST FEDERATION
FOR SOCIAL ACTION,
*Ardsley, N.Y., April 9, 1964.*

DEAR SENATOR GRUENING: We praise your calling for an end to our hideous, futile, and meaningless war in South Vietnam.

We hope other Senators will support you.

Sincerely,

LEE H. BALL.

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NEWARK, N.J.,
*March 21, 1964.*

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I stayed out of the controversy over Vietnam until I read the New York Times this morning. Now I take pen in hand.

I want you to know that I am writing President Johnson and my own Senators (CASE and WILLIAMS) urging the modification of our policy to the point of seeking a multinational agreement on a settlement, and that there be no expansion of the sanguine conflict.

The governing regime in Saigon, like its predecessors, lacks majority popular support; and no essential American interests are at stake there. The frightful logic of our remaining there leads either to defeat or wilful expansion of the war—which means ultimate final defeat for mankind.

For the true notes you sound, my heartfelt thanks.

Respectfully yours,

ROBERT LOWENSTEIN.

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ST. LOUIS, MO.,
*March 18, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am writing to voice my wholehearted support of your call for the United States to get out of South Vietnam. Our involvement is utterly irrational and is causing unnecessary bloodshed on both sides. More power to you.

Sincerely yours,

SOL LONDE.

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SANTA MONICA, CALIF.,
*March 26, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I learned that you recently joined the small handful of Senators who have begun to question the war and our involvement in South Vietnam and that you called outright for our withdrawal from this unhappy country. I want you to know how much I appreciate hearing of one more courageous and sane voice. It is a relief to know that at least some of those who represent us in Washington begin to advocate a more rational and sensible course before disaster in South Vietnam takes on ever more alarming forms (it is alarming enough as of now). I have also repeatedly written President Johnson (and before him President Kennedy) pleading that no such insane course as extending the war into North Vietnam be followed and that neutralization be negotiated, and I have also written to my own Senators and to Senator FULBRIGHT. I have been very much disturbed over this entire war for many years, over the inexcusable way we have treated the Vietnamese people (or contributed to) in herding them into strategic hamlets (so-called), forcing them to leave behind their possessions, destroying their country with napalm bombing and destroying or poisoning their soil and plants, and forcing them to fight a war they don't want to fight—and I have been disturbed also over the fact that our involvement in South Vietnam is in clear violation of the provisions with which the Indo-Chinese war was ended. The only way out, I feel, is to negotiate together with the other nations which worked out the original Geneva agreements neutralization of both parts of Vietnam (and among the negotiating nations obviously must be included mainland China). I feel with Senator MANSFIELD and others that for us there is no national interest involved in Vietnam and therefore the sooner we abandon this futile, costly, dangerous, and unwarranted and unjustified enterprise, the better it will be.

Thank you again for associating yourself with the few voices of sanity.

Sincerely,

IRMGARD LENEL.

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STATE COLLEGE, PA.,
*March 12, 1964.*

Hon. ERNEST GRUENING,
*Washington, D.C.*

DEAR SENATOR GRUENING: I think I am not alone in the growing feeling that we need to reexamine what we have been doing in Vietnam. For this reason, I am sending you the enclosed editorial page from our local newspaper.

For over 10 years, we have been supporting a war in Vietnam. And there is no evidence that the people of Vietnam want us there, that our enormous aid is effective, that this does anything but damage our reputation in Asia and the rest of the world.

It is my hope that you will support Senator MANSFIELD and press for an honorable and peaceful solution.

Sincerely,

DOROTHY LEEPER
Mrs. Robert Leeper.

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WINNETKA, ILL.,
*April 2, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: I wish to commend you on your remarks on Vietnam. The people of that war-torn country are the last ones to be considered in official discussions of political and military solutions to the problem. Recent pictures in newspapers have for the first time shown the burned bodies of small children which result from the untenable position in which our country finds itself. Those are our weapons which burn children.

If the Government cannot realize that here again we are on the wrong side of a struggle—let them at least not threaten to involve us in a world holocaust by extending their illegal interference into another country: North Vietnam.

I am enclosing a brochure sponsored by several groups which tries to clarify some of the issues.

Again, the thanks of interested citizens are due you for your courageous stand.

Respectfully yours,

LILA LEDERMAN.

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## VIETNAM: WAR OR PEACE?

### THIS IS THE ROAD TO WAR

Expansion of the war, and its extension into North Vietnam could mean:

1. More American soldiers and money in Vietnam. The 15,000 men we now have there will not be enough. The $1,500,000 we now spend there each day will be greatly increased.

Senator MANSFIELD has said that the intensification of the war "could involve an expenditure of American lives and resources on a scale that would bear little relationship to the interests of the United States or, indeed to the interests of the people of Vietnam."

2. Retaliation by the North Vietnam Army. Their modern fully equipped army could drive below the 17th parallel into South Vietnam.

3. Intervention by China and Russia and peril of escalation into nuclear war.

John S. Knight of the Chicago Daily News said (March 7) that to carry the war into North Vietnam and risk another Korea "would surely lead to Chinese intervention and could precipitate a nuclear war between the United States and the Soviet Union."

4. Isolation of the United States from her allies. Most of our allies do not want an extension of the Vietnam war. In fact, most agree with De Gaulle that North and South Vietnam should be neutralized and protected from interference from East and West.

Write or wire President Johnson now.

### THIS IS THE ROAD TO PEACE

An immediate conference should be called of all nations involved in the dispute for the purpose of achieving a settlement.

The United States must work for a peaceful solution in South Vietnam, as opposed to a military solution.

This will eliminate the danger of a nuclear war and, at the same time, assist an underdeveloped country to achieve a decent life for its people.

It would end the continuing loss of American and Vietnamese lives.

The people of South Vietnam have the right to choose the kind of government they want.

Chinese domination can be resisted by a strong, independent Vietnam. Up to the present time, North Vietnam has retained its independence.

Therefore, we urge you to write or wire President Johnson now. Ask for peaceful solution to Vietnam crisis.

### HISTORICAL BACKGROUND OF THE VIETNAM CRISIS

Vietnam, populated centuries ago by migrants from southern China, won independence from China in the 10th century, fought Chinese domination for 1,000 years.

In 1885 France colonized the territory now known as North and South Vietnam, Laos, and Cambodia, called Indochina. After 85 years of exploitation, France gave Indochina to Japan without a shot being fired.

During World War II Vietnamese formed National Liberation Movement called Vietminh, now called Vietcong. Vietnamese freed themselves from foreign domination briefly in 1945. France attempted to regain their colony—bloody war ensued until 1954—France defeated—Geneva Conference convened.

Geneva Conference decisions:

1. Recognized independence of all Vietnam. Signatory powers were France, Britain, Canada, India, Russia, et al.
2. Vietnam divided at 17th parallel with free elections to be held by 1956 to reunify country. France was to turn over power to Vietminh in north and to Emperor Bao Dai in south.
3. All foreign troops to be withdrawn by 1956.

United States verbally agreed to Geneva agreement but intervened in South Vietnam to help Ngo Dhin Diem form a pro-Western dictatorship—overthrown in November 1963.

Terror and suffering still stalk this war-ravaged land. We are now faced with expanding war in Vietnam, or finding peaceful solutions.

These organizations cooperated in issuing this leaflet:

Chicago Council Emma Lazarus Clubs.

Chicago Women for Peace.

Niles Township Women for Peace.

North Shore Women for Peace.

Rogers Park Committee for a Sane Nuclear Policy.

Skokie Liberal Democratic Club.

Skokie Valley Committee for a Sane Nuclear Policy.

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BROOKLINE, MASS.,
*March 23, 1964.*

DEAR SENATOR GRUENING: My husband and I are delighted to read (in the New York Times of March 21) that you are asking for the withdrawal of U.S. forces from the frightful war in South Vietnam.

We congratulate you not only for taking this intelligent position, but also for having the courage to give leadership on this issue in the Senate. We need more Senators like you.

Thank you.

Sincerely yours,
ETHEL and BEN ALPER.

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WESLEYAN UNIVERSITY,
*Middletown, Conn., March 21, 1964.*

DEAR SENATOR GRUENING: May I express my agreement with your words on Vietnam as reported in the New York Times of today. I not only regret the loss of the lives of Americans killed, but also of Vietnamese peasant families burned by napalm bombs, etc. The French feared that Algeria would become Communist if the French ceased to fight. Algeria is not Communist and French prestige has grown after their "abandonment" of Algeria.

Sincerely yours,
HANS KOHN.

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DEAR SENATOR: Please accept my sincere thanks for your very fine speech criticising our interference in the internal affairs of South Vietnam.

It seems obvious to me that the puppet governments of South Vietnam have no support from the people in that country, in their fight against the Vietcong.

The French have tried it for 8 years and were finally defeated with the debacle at Dienbienphu.

It is time we reappraised our foreign policy vis-a-vis southeast Asia, where the people are on the move to remove their discredited and bankrupt puppets and set up a democratic form of government.

Thanking you again for your very fine effort in bringing our boys home 7,000 miles from our shores in a futile furtive frustrating war.

I remain.

Sincerely yours,
HERMAN KATZEN.

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RESEDA, CALIF.,
*March 24, 1964.*

Senator ERNEST GRUENING.

DEAR SIR: Please add my name to the list of those who urge that America withdraw her troops from Vietnam now.

Most sincerely,
PHYLLIS F. HERNBERGER.

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NEW YORK, N.Y.,
*March 29, 1964.*

DEAR SENATOR: I am heartily in accord with your view that we should get out of South Vietnam. It is indeed their war and not ours. We have no business fighting the cold war on their territory and it is quite obvious that there is no will or incentive to fight.

Thank you and keep up your courageous stand.

Sincerely,
PAULA KLINGHOFFER.

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FOREST HILLS, N.Y.,
*March 25, 1964.*

Senator GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am writing to let you know that you have our support on your stand on Vietnam. We have no right to send your boys to be killed. Let the people there decide what kind of government they want. Let's use the billions of dollars spent in Vietnam to better the conditions of our people at home.

Very truly yours,
BELLA KAPLOW.

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SHONTO BOARDING SCHOOL,
*Tonalea, Ariz., March 31, 1964.*

Hon. Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: We read with much interest your fiery and timely speech which you delivered in the U.S. Senate on March 13, 1964. We admire your courage in coming out publicly to inform the people of this country about our inevitable futile cause in South Vietnam.

We wholeheartedly support you and we know many of our fellow Americans share your convictions, that the fight in South Vietnam can be won only by Vietnamese themselves. They need to make greater sacrifices and assume broader responsibility in a struggle that is legitimately theirs. We further agree that this is a fight that is not our fight and we need to get our young men out of South Vietnam before more young American lives are lost.

We do hope that President Johnson will give the crucial situation in South Vietnam his immediate attention. Many parents are looking to him to take the necessary action that will bring our boys back to this country.

We share with other parents much anxiety and concern over the safety of their sons who are assigned to military duty in South Vietnam. Our youngest son, Archie, is serving in a helicopter unit. He was hit by shrapnel in the face last December and, thank God, it was not too serious. He did not want to us to know that he came close to getting killed; we learned about it from a letter he wrote recently to his brother. We worry about him constantly.

It is most gratifying to know that a fellow Alaskan and a great Congressman has the courage and who feels it his duty to expound on the southeast Asia issue, urging our Congressmen to take a hard look at our position in South Vietnam. We agree, let us supply them with arms but not our men. Our troops should be withdrawn immediately.

We wish you much success in your great fight to save our young men from risking their lives in a country so reluctant to fight its own fight.

Sincerely yours,
JOSEPH M. KAHKLEN,
VIVIAN M. KAHKLEN.

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BALTIMORE, MD.,
*March 21, 1964.*

Senator ERNEST GRUENING,
*Democrat from Alaska, Senate Office Building, Washington, D.C.*

DEAR SENATOR: Allow me to say that I am in full agreement with your analysis of the U.S. position in Vietnam. I think it would be a good thing if your recent Senate speech on the matter could get as wide circulation as possible. In this regard could forward to me copies for distribution in Baltimore. I believe I could make use of 500 copies, which I would mail out from here. I would be glad to stand the cost of the mailing myself.

Very truly yours,
HERMAN M. HEYN.

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WELLESLEY COLLEGE,
*Wellesley, Mass., March 22, 1964.*

DEAR SENATOR GRUENING: I want to tell you how completely I agree with your remarks about our policy in South Vietnam, as reported yesterday in the New York Times.

The sooner we get out of there the better. And if it falls to the Communists, they themselves are at war with one another, and in any case, I simply cannot believe the loss would have any great effect on the United States.

Keep fighting.

Sincerely yours,
WALTER E. HOUGHTON,
*Hart Professor of English.*

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DELAWANNA, CLIFTON, N.J.,
*March 21, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: It was not until today, when I read in the New York Times about your speech on March 10, that I became aware of your criticisms of administration policy in Vietnam.

I want to thank you for your forthright denunciation of the bloodletting in Vietnam. For a long time it has seemed as if everyone in Washington was resigned to our sliding helplessly into a deeper and deeper commitment to war. Senator **Mansfield** was an exception—last month he spoke out with great courage and pointed out that any moral obligation we may have to defend the previous government in South Vietnam does not require us to shed American blood in defense of General Khanh who overthrew it and jailed its leaders—but it was disheartening to see how little support he received from his colleagues.

* * * * *

For that reason I am especially grateful for your warning against sacrificing American lives in a country on the other side of the world, that we cannot hold indefinitely any more than the Communists can hold Cuba. You deserve the gratitude of the thousands of men whose lives may be lost if your advice is disregarded, and of their families.

* * * * *

Sincerely yours,

T. S. Holman.

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Silver Spring, Md.,
*March 16, 1964.*

Senator Ernest Gruening,
*Senator from Alaska,*
*Senate Office Building, Washington, D.C.*

Dear Sir: Congratulations on your wise and needed speech on Vietnam. It is badly needed, a discussion of what we are doing and why, in Vietnam.

I agree entirely that we ought to stop trying to impose our will and way on people obviously unwilling to accept it.

Sincerely,

H. David Hammond, Ph. D.

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Kansas City, Mo.

Dear Senator Gruening: I just read of your speech of March 10, 1964, and I want to say that I support your dissent on the United States-Vietnam policy.

Yours truly,

Richard B. Hill, Jr.

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University of Pennsylvania,
Department of Economics,
*March 21, 1964.*

Hon. Ernest Gruening,
*U.S. Senate,*
*Washington, D.C.*

Sir: I have just read your Senate remarks on U.S. policy in Vietnam (delivered March 10). Even though I am not one of your constituents, I want to express my admiration and appreciation for your stand. In these days of cover stories and blind policies pushed in the name of anticommunism, your remarks give hope to those who are striving for peace, and for a return to a rational foreign policy.

Please keep up the good work.

Sincerely,

Richard B. Du Boff.

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Colorado Springs, Colo.,
*April 6, 1964.*

Hon. Ernest Gruening,
*U.S. Senate,*
*Washington, D.C.*

Dear Mr. Gruening: Even though I am not one of your constituents, I should like to let you know that I support your stand on the question of Vietnam.

I have followed with no small degree of interest the rather tragic developments in South Vietnam, and come to the conclusion that the withdrawal of U.S. military forces from South Vietnam is the best course of action we can take there. All are deplorable: The indiscriminate bombing of native villages, the great number of deaths of Vietnamese and Americans, the utterly stupendous amount of money wasted on this futile war operation. And its not over yet!

Some people tell us this war can be won. I should like to know just exactly on what these people base these optimistic predictions. I do not think there is anything to confirm such opinions.

I commend you for your reasoned, just, and courageous stand. Thank you.

Sincerely,

John M. Hyder.

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Washington, D.C.,
*April 5, 1964.*

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: Congratulations on your splendid and courageous stand in favor of U.S. withdrawal from military involvement in South Vietnam. You deserve the gratitude of all people in this country who are hoping, working, and praying that peace on earth can be achieved.

Sincerely yours,

Mrs. Catherine R. Harris.

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Ann Arbor, Mich.,
*April 4, 1964.*

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: As a mother, as a housewife, and as a Christian, I protest our military involvement in Vietnam. As a mother because I do not want our sons to take part in senseless slaughter nor be the victims of native vengeance—as a budget-minded housewife because the U.S.A. cannot police the whole world by itself without going broke—and as a Christian because it is hypocritical to preach universal brotherhood when we are willing to accept as brothers only those who are politically amenable.

I write to you because I understand that you are one of the few men in public life courageous enough to call for a withdrawal of the American troops who are engaged in an undeclared war in Vietnam. What, may I ask, is the function of the United Nations if not to settle international disputes such as this? The millions of dollars which we are pouring out for weapons could be better spent in President Johnson's war on poverty right here at home. And if we are going to spend money on foreign aid, let it be for plowshares, not napalm bombs.

Sincerely,

Mrs. Hugh Henshaw.

P.S.—Another use for military savings would be help for disaster victims such as those in your own home State.

H.H.

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Baltimore, Md.,
*April 3, 1964.*

Senator Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Sir: My wife and I are so happy to hear that we do have some Senators in our Congress who do have good levelheaded judgment in a plan to stop this needless killing in South Vietnam.

This present civil war is possible to start a huge world war. Most every human being is in favor of world peace. This present action of burning and bombing is only retarding the people to enjoy better living.

Our country would do much better to work and fight disease, river floods and possible earthquakes—plus civil rights here at home.

Foreign aid entanglements will retard our national welfare and has already caused much hatred toward the U.S.A.

We congratulate you, Senator, on your wonderful courage.

Sincerely yours.

Fred and Kirsten Hallengren.

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Philadelphia, Pa.,
*March 23, 1964.*

Senator Gruening,
*U.S. Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: I want you to know that, as a young mother very much worried about the possible outgrowths of the war in Vietnam, I appreciate deeply your courage for raising the question of withdrawal of our forces. For so long it has seemed that the only question has been, How shall we win this war at all costs? With no one willing to consider whether we should be there at all or not.

I believe the United States could, by no-strings economic aid to developing Asian countries, maintain both its prestige and influence in the area. In fact, the undeveloped countries would, I believe, think better of us for ending this bloody war than pursuing it.

Sincerely,

Mrs. June S. Ackerman.

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Freeport, Maine,
*March 23, 1964.*

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: Warmest congratulations on your denunciation of the war in South Vietnam. Even if we were winning the war, we would have no business there. It is a folly, a delusion, and a scandal compounded daily. Yet only you, your colleague from Alaska, and Senator **Morse** have had the courage and wisdom to speak out. What fatal passivity, what deadly apathy has befallen the American people to tolerate this outrage.

I am enclosing a piece I did for the Brunswick (Maine) Record on this subject. With best regards and profoundest thanks.

Sincerely,

David L. Graham.

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[From the Brunswick (Maine) Record, Mar. 19, 1964]

### On the Contrary

(By David L. Graham)

If wishes were horses, beggars might ride. For more than 2 years we in the West have been riding the fulfillment of our fondest wish—dissension in the Communist camp. The wish was born of the cold war's long and, at times, nerve-racking ordeal. The Suez crisis, the Berlin crisis, the Cuban crisis—each has darkened our skies with the thunderhead of war, total destruction one lightning flash away. Accordingly, if there was one event we could have wished for, that event was a split between our enemies, Russia and Red China. The split developed and the imminence of war has abated as the split has deepened.

#### BACK TO THE BRINK

But now comes the Johnson administration with its talk of invading Communist North Vietnam and threatens to toss aside our greatest gain in the cold war. For what could be more likely to reunite Russia and Red China than an American assault on their Asiatic protege, North Vietnam? China would come in automatically, even as the United States would respond to an invasion of Mexico, and Russia would have to come in or forfeit forever her leadership in the Communist world.

#### INCORRIGIBLE OPTIMISM

Once again Secretary of Defense McNamara has returned from South Vietnam, grim but optimistic, prophesying eventual victory for General Khanh's forces and recommending increased American aid. Fifty million dollars is the immediate prescription—in addition, of course, to the $1½ million daily injection of American funds. This is Mr.

McNamara's fourth visit to South Vietnam and the third Vietnamese leader he has urged us to put our money on.

And we mean money. Roughly $5 billion in American money has gone to fight the Communist guerrillas in South Vietnam and the administration speaks daringly of spending one-half billion dollars to fight poverty in the United States. We donated $2 billion to the doomed French effort in the area, and since 1954 we ourselves have squandered $3 billion there.

So how are things today, $5 billion later? Of all France's Asian empire, only South Vietnam, we have to say, remains in friendly hands, partially in friendly hands. Whole sections of South Vietnam, particularly in the fertile Mekong delta, are under the control of the Communist guerrillas. Hence the irony of the slogan "We want to march north," with which General Khanh's Vietnamese feted Secretary McNamara. In 10 years of fighting, the armies we support have been unable to clean up their own country. In fact, the situation has never been worse. As 200,000 French soldiers learned from their 9 years of defeats, Vietnam is a quicksand for money and a quicksand for men.

### ELECTION COMING UP

During the last 6 months two South Vietnam regimes have caved in under the weight, so to speak, of American support. Secretary McNamara's faith in his third man, General Khanh, who has climbed out of the wreckages of both previous regimes, seems therefore, oddly optimistic. Is the administration letting this futile war drag on because it is fearful of ordering a withdrawal until after the November elections?

With our characteristic disinclination to face unpleasant realities, we have shut our eyes to the basic facts of the war, namely: (1) That we can settle nothing in this part of the world without Red China's consent—symbolic of our willful blindness is our refusal even to recognize Red China; and (2) that the people of South Vietnam have no heart for this fight. The Communist guerrillas could not survive if they were not, in large part, able to move as freely among the Vietnamese peasants as fish in water. These peasants we have rounded up in concentration camps (politely called "fortified villages") and we have bombed them with fire bombs, but still they don't like us.

Sinking into this morass deeper and deeper, we are too proud to admit our blunder and withdraw. For reasons of his own, De Gaulle has thrown us a life-preserver by urging the neutralization of Vietnam. This we have angrily repulsed. Neutralization would, of course, be difficult; its success doubtful. But our present policy holds out no hope whatever. Come home, McNamara. What is an American Secretary of Defense doing so far from Washington? That the defense of the United States begins in Asia we cannot believe.

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Austin, Tex.,
*March 28, 1964.*

Hon. Ernest Gruening,
*Senator from the Great State of Alaska,*
*Senate Office Building,*
*Washington, D.C.*

Dear Senator: My heartfelt congratulations I offer you for your courageous, wise, forthright stand on our peril in South Vietnam. I am confident this Nation made a grave mistake when we involved ourselves with Asian mainland dictators. This administration should openly admit our ghastly mistake and pull out lock, stock, and barrel. We can't win. Three billions and more of U.S. taxpayers' dollars have gone down the drain. Many American boys have needlessly, senselessly sacrificed their lives. And still Johnson says he is sending in more soldiers—more deadly arms. We've accomplished nothing so far. We can very well be guilty of provoking an all-out nuclear war. It's unthinkable.

Alaska and the Nation are proud of you Senator. Your stature is unimpeachable. We've overburdened with politicians. We sorely need statesmen in this deeply troubled, apprehensive, imperilled Nation. I have a very low opinion of the military in general. We have high moral standards, for example, our military won't use atomic weapons on the civilian populace or Vietcong. Instead we use the next best weapon napalm. We burn up alive whole villages of old men, women, the sick, little children with this liquid gasoline. Savagery is overtaking mankind. Nuclear war through vast conflagrations and poisons can very well devastate this fair earth we love and literally annihilate mankind. We fear. We hope. We pray. These monstrous evil sinister stockpiles of nuclear instruments of death we must destroy lest we ourselves die. It's almost midnight. Our security is gone. Keep up the good work, Senator. God knows we need you.

Sincerely,

M. A. Green.

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Schenectady, N.Y.,
*March 22, 1964.*

Senator Ernest Gruening,
*Washington, D.C.*

Dear Senator: May I write to congratulate you on your fine statements you have made in opposition to the stepping up of the assistance our administration is making towards the war in South Vietnam? It is a truly dangerous policy if we wish to work out any peace in that part of the world.

Very truly yours,

M. G. Coffin.

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Brooklyn, N.Y.,
*March 21, 1964.*

Dear Senator Gruening: I and all my family want to congratulate you on your stand against insanity in Vietnam. It's good to know that some of our representatives have the guts and moral fortitude to stand against the pack. We offer you our sympathy our support and best wishes.

Sincerely yours,

M. Colow.

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Ann Arbor, Mich.,
*March 21, 1964.*

Senator Ernest Gruening,
*U.S. Senate.*

Dear Sir: I have been following with interest and hope your several speeches on the U.S. involvement in Vietnam. Let me say right off that your enlightened views are a welcome relief to the distorted and jingoistic interpretations that Rusk and all too many others have placed on events there and the U.S. role in them.

History, unless it is written by Americans of a certain mental cast, will not look with kindness and moral forbearance upon the present period of American foreign policy, nor in particular, the brutal and unjustified war it is waging against an essentially indigenous popular movement which is comparatively unarmed and defenseless in the face of U.S. military might.

I only wish that I could translate my appreciation of your stand into an active support for you, or other Senators who are of like minds on this matter. I am, however, a Canadian and after several years of study in the United States am returning to Canada and to an academic position at the University of Manitoba. In going back it will be with the distinct impression that it could have been Canada and not Vietnam.

Second to that wish I would like to be able to report that there exists widespread support for your views here at the University of Michigan. There are, indeed, some who are reasonably knowledgeable about the social and political conditions in South Vietnam, and who consequently recognize the validity of your position. The Ann Arbor Women for Peace is such an organization which does share your concern. But I find most Americans, either within or without the academic community, to be pitifully informed about the war there and immune in their conviction that the United States is always right.

Let me say in closing that I welcomed above all your statements in which you squarely accepted that the consequences of an American withdrawal would probably be the formation of a new Communist state. Indeed, their administrative apparatus has been functioning in the countryside for years. For a liberal to do less would be to fall victim to the embarrassing charges of being naive and defeatist. Sometime someone will have to bring home to the American electorate that not every revolutionary movement which gets labeled Communist is intrinsically evil and that a threat to American security does not exist in every corner of the world.

Again, let me convey my appreciation for your efforts and my hopes for their success.

Sincerely,

Grant Cosby.

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March 22, 1964.

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: I am glad to see that at least one Senator is aware of the wasteful situation in South Vietnam. I hope that you and your colleagues will also take note of other areas in the world that are in the very same situation.

You have pointed out the case in South Vietnam and Cambodia, among other Asiatic countries, now what is to be done about it? Will it take many more wasteful years before our aid is reduced or better administered? How long does it take these obvious facts to sink into the heads of our leaders? We seem to be afraid of what these tiny countries will think or say about us, not the immediate damage being done, such as the 100-plus dead American men in South Vietnam.

Prompt and firm action is needed. Please do your best.

Sincerely yours,

Lawrence J. Barstow.

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Princeton, N.J.,
*March 18, 1964.*

Dear Senator Gruening: We applaud your statement concerning Vietnam, and the urgent need to get us out as soon as possible.

Please keep up the courageous work, and try to encourage others to speak out on this outrageous war.

Sincerely,

Mrs. Louise Brillings.

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Lake Side, Calif.,
*March 23, 1964.*

Dear Sir: Bring our troops home from South Vietnam at once.

End the persecution and concentration camps.

Encourage the assistance of the United Nations to supervise free elections.

Yours truly,

Lillian Allen.

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Northampton, Mass.,
*March 21, 1964.*

Dear Senator Gruening: I was delighted with the courageous position you've assumed toward American intervention in South Vietnam. When will we learn that what is good for the United States is not necessarily good for the world? War is something hideous and men dying can certainly not be justified in this context of affairs.

Yours,

PAUL AARON.

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BROOKLYN, N.Y.,
*March 13, 1964.*

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR MR. SENATOR: I support your stand in regard to South Vietnam. I would go even further and urge immediate negotiations looking toward peace. Further help to Khanh and his gang will lead toward escalation of the war and danger of its involving North Vietnam and even China.

I am writing Senator MORSE congratulating him on his joining forces with you in efforts to stop this criminal adventure of ours.

Respectfully yours,

MOE BRAGIN.

Mr. MORSE subsequently said: Mr. President, I rise once again to commend the Senator from Alaska [Mr. GRUENING] for his courage, foresight, and statesmanship in opposing McNamara's war in South Vietnam. Once again he has pointed out that unilateral American military action in South Vietnam is not justified.

I am greatly disappointed in two statements of the President of the United States in recent hours. One statement he made yesterday to the editors in New York on the war in South Vietnam when he said:

> The situation in Vietnam is difficult, but there is an old American saying that when the going gets tough, the tough get going.

I do not think that is very good imagery to present to the world as the image of the United States. I continue the quotation:

> Let no one doubt that we are in this battle as long as South Vietnam wants our support and needs our assistance to protect its freedom.

What freedom is there in South Vietnam which is involved in the civil war? We are supporting a military tyrant—a military fascist—who is denying freedom to the people of South Vietnam. Both sides in the civil war are totalitarian. One is the military fascist, the other Communist. Therefore, both are police states opposed to human rights.

I say to my President that I believe the tough position for the United States to take is to ask the United Nations to come in and organize a peacekeeping corps in South Vietnam under the charter. I say most respectfully to my President that we ought to stay within the charter of the United Nations. U.S. action in South Vietnam is outside the charter. We shall hear about being outside the charter, in my judgment, from a good many quarters of the world in the months ahead.

So I plead with my President again to take our country back inside the provisions of the United Nations charter and ask the United Nations to come in and maintain the peace in South Vietnam. We are cooperating with the United Nations in such a program in the Congo, in the Middle East, and in Cyprus. We have a duty to do so under the United Nations charter. I repeat again on the floor of the Senate that the United States of America in South Vietnam is acting outside the charter of the United Nations. I regret very much that my President took the position that he took in New York yesterday on South Vietnam.

Mr. President, I think the American people are entitled to know what is underway in regard to any expansion of the war against another country, namely, North Vietnam. This morning Drew Pearson had a very disturbing column on the danger of extending the war into North Vietnam. I ask unanimous consent that it be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### LODGE "BOMBSHELL" SEEN PLANNED

(By Drew Pearson)

Reports from Saigon indicate that Ambassador Henry Cabot Lodge may be preparing to disassociate himself from the South Vietnamese policies of the Johnson administration.

There is also a report that Lodge may do so in the same spectacular manner in which Gen. Douglas MacArthur courted removal by President Truman—namely, a showdown over U.S. bombing of Chinese Communist territory.

The blueblood Bostonian is not unaware of the Republican fire he is drawing for serving a Democratic administration in this Asian hotspot.

Indeed, the reliable Louis Harris survey which shows Lodge far out in front in the Oregon presidential primary, also registers strong criticism of his role in South Vietnam. An overwhelming 84 percent of the Republican voters, though they liked Lodge, held him partly responsible for Vietnam.

Lodge has made clear to his backers that he has no intention of passing up the opportunity to become President. He has told them that it not only was his duty to accept the call, but that he consulted with top Republicans before accepting the ambassadorship.

One who agreed he couldn't turn it down, according to Lodge, was former President Eisenhower.

Far more significant, however, are hints that Lodge may be planning a dramatic break with the Johnson administration over South Vietnam.

The Ambassador has written a private letter to his old friend, former Speaker Joe Martin, of Massachusetts, telling of his desire to carry the war into North Vietnam.

It was precisely such a letter over a decade ago that stirred up the great controversy over expanding the Korean war into Manchuria. The circumstances are startlingly similar.

At that time Gen. Douglas MacArthur wrote to the same Joe Martin, complaining about President Truman's failure to carry the war into Manchuria. The letter was released; Truman fired MacArthur; the general came home in a blaze of publicity.

It may be that the Ambassador, as impressive if less spectacular than MacArthur, had this episode in mind when he wrote to Martin.

Will history repeat itself?

(NOTE.—Though maintaining a discreet diplomatic silence, Lodge has also taken issue with the Johnson administration over the prohibition against U.S. helicopters flying closer than 3 miles to Cambodia. Red guerrillas have the habit of hitting targets in South Vietnam, then running for cover into Cambodia. Lodge has argued that helicopters should be permitted to pursue them all the way to the border.)

### ACHESON AND MAC ARTHUR

Former Secretary of State Dean Acheson, his memory pricked by the renewed controversy over Gen. Douglas MacArthur, has told friends about the reaction inside President Truman's Cabinet the day after MacArthur was fired.

The headlines were aflame with the news of the great hero's sacking, and public indignation was bursting over Mr. Truman's head.

He strode into the Cabinet meeting and, without formality, brought up what was on everyone's mind.

"Well," he demanded, "what do you think of it?"

Truman turned first to his Secretary of State and asked for Acheson's comment.

"I am reminded," said Acheson, "of the story of the Army couple who brought up a beautiful daughter in a succession of Army camps. She was always surrounded by soldier boys who swarmed about her like bees around honey.

"Her parents naturally were concerned about her in such an environment. One day, when the husband returned from his duties, he was greeted at the gate by his distressed wife who announced that their daughter was pregnant.

"The man reached into his pocket, pulled a handkerchief, wiped his brow, and said, 'Thank God that's over.'

"That," said Acheson, "is how I feel about the firing of MacArthur."

### JITTERY CONGRESSMAN

MIKE KIRWAN, the Ohio Democrat who has pushed his congressional colleagues around for a long time, has started pushing his chief opponent around in Youngstown. The 77-year-old KIRWAN seems so worried about his reelection that his henchman recently barred KIRWAN's opponent from a dinner honoring Msgr. Joseph Koch.

When Robert Hagan, chairman of the Trumbull County Commissioners, who is running against KIRWAN, turned up at the dinner he was blocked at the door and told he couldn't come in.

"You're not wanted here. Here's your money back," said big hulking Al Shipka, who works for the United Steel Workers District 26, whose boss, James Griffen, is KIRWAN's No. 1 backer.

"But I was invited by the guest of honor," protested Hagan.

"He didn't mention it," replied Shipka, "you'd better go before there's trouble."

Rather than cause trouble, Hagan departed.

Mr. MORSE. Also Mr. Lippmann is quite right in the column he wrote this morning which was referred to by the Senator from Alaska and inserted in the RECORD by him.

I close by commenting on the second statement of the President, which I deeply regret. It is the statement, which appeared in the press this morning, in which he clearly implies that if he does not get the foreign aid bill in the amount he wants, he will send to Congress a supplemental request. Of course, that clearly implies that he will see to it that the amount he does receive is spent before the fiscal year is over, and then ask for a supplemental amount. He has the clear power and right to do that if he wants to. I question his wisdom in trying to do it.

As I said at the public hearing of the Foreign Relations Committee this morning, I regret that statement, because if the President thinks that is the way to establish a spirit of cooperation between the two ends of Pennsylvania Avenue, he could not be more wrong. In my judgment, when Congress is through exercising its right, under the separation of powers doctrine, to check the Executive in reference to the amount of money that should be appropriated for foreign aid in a given fiscal year, it is the clear obligation of the President to cut his spending accordingly, and not spend himself into a deficit.

As I announced in the Foreign Relations Committee this morning, if that is the strategy the President wants to adopt, I will be more opposed to a supplemental request than I am to the aid bill which is pending. I am doing my best in the Foreign Relations Committee to see if a common ground cannot be reached for a foreign aid bill that can be justified on the facts. In my judgment the request of the President for $3.4 billion cannot be justified on the facts. I shall continue to draw out the facts from AID, the State Department, and the Pentagon, so the American people can form a judgment as to what the final amount should be. I think it probably should be in the neighborhood of $2.5 billion.

I hope we shall not hear any more suggestions that if we do not give the President what he wants, he will ask for a supplemental amount, which clearly implies to me that he will spend himself into a deficit and then ask for more money. That is not the way to encourage teamwork on the part of Congress.

The PRESIDING OFFICER. Is there further morning business?

## VISIT OF FORMER PRESIDENT BETANCOURT OF VENEZUELA

**Mr. HUMPHREY.** Mr. President, it is a great privilege to welcome to the Senate today one of the great champions of freedom, constitutional government, social justice, and economic progress in this hemisphere, former President Romulo Betancourt, of Venezuela. I am privileged today to be host at a luncheon at the Senate Foreign Relations Committee for President Betancourt.

Less than 6 weeks ago a new government was inaugurated in Venezuela, headed by President Raul Leoni. President Leoni is the first constitutional President in Venezuelan history to succeed another constitutional President. He was chosen in a free election in December, an election held despite continuous violent harassment by Communist and Castroite groups. His victory, together with the impressive showing of COPEI, the partner of Action Democratic in the Betancourt coalition, is assurance that Venezuela will continue the same enlightened progressive domestic policy and pro-Western foreign policy that characterized the Betancourt government.

The successful peaceful transition from one freely chosen government to another is a triumph for the principles underlying the Alliance for Progress, a triumph for the American policy in Latin America. No one would have been more pleased to witness this triumph of Venezuelan democracy than our late President John F. Kennedy. And no one is more responsible for this triumph than the man we have chosen to honor today, President Betancourt.

The election was a triumph because it showed that the people of a wealthy, rapidly developing country like Veneuela support the political parties whose programs and objectives are virtually identical to the aims of the Alliance for Progress.

President Betancourt's government was rightly considered a model to be copied by other members of the Alliance for Progress. Although each Latin American Republic is unique in many respects and must be considered accordingly, the Betancourt record illustrates certain truths of general applicability—which should be heeded by all members of the Alliance for Progress, including the United States.

President Betancourt's record merits emulation because it reveals a profound understanding of the political, social, and economic problems of the hemisphere that the Alliance for Progress was designed to solve. This profound understanding included three principal facets:

First. A clear perception of the revolutionary fervor sweeping the continent resulting from the perpetuation of shocking social and economic injustice.

Second. An appreciation of the necessity for economic and social progress to be achieved within a framework of democratic constitutional government.

Third. A correct assessment of the nature of the Communist threat in the Western Hemisphere.

Several years before President Kennedy launched the Alliance for Progress, the Betancourt government had already begun to grapple with the problem of widespread poverty of the many amidst the opulence of the few. It had already initiated programs designed to accelerate the economic development of Venezuela and to spread the benefits of this economic development to the masses of the people.

The Betancourt government, which included both his own Accion Democratica Party and the Social Christian Party—COPEI—did not solve all the social and economic problems of Venezuela—nor will its successor. But it did in many ways illustrate the validity of President Kennedy's understanding of the Alliance for Progress. President Kennedy realized that though we face grave economic problems in Latin America, these must be seen within a broader political context. It is not just a matter of satisfying physical needs and raising material standards of living. What is more important is the problem of inspiring hope, of commanding the intellectual and emotional allegiance of those who will shape the society which includes both the elite groups and the popular classes. He realized that the hopes and expectations aroused could not all be satisfied in the immediate future—nor need they be. What can be accomplished in a material sense in a very limited period of time will always fall short of expectations. This should not discourage us. What is important is that a government be prepared to give some evidence that progress is being made, that material betterment is on the way, and that there is sound reason for believing that the unmet material problems of society will be solved in the future. This means, of course, that one must have both short-range socially oriented projects to give visible evidence of immediate progress, and long-range development projects which are essential to improving the condition of the society.

President Betancourt's government succeeded because it did inspire hope and confidence, because it did present concrete evidence that progress was being made, because it did combine short-range socially oriented projects with long-range economic development programs.

**Mr. GRUENING.** Mr. President, will the Senator yield at that point?

**Mr. HUMPHREY.** May I continue under the rule?

Turning now to a second strand of the Alliance for Progress program, I am happy to note that despite Communist harassment at home and abroad, despite attacks on him by the Trujillo dictatorship, despite the continued opposition of certain right wing groups in his own country, President Betancourt never wavered in his belief that constitutional government must be preserved, that democratic political institutions must not be sacrificed, that social and economic development must take place within a democratic, constitutional framework. Although he appreciated the contribution which the military has made to his own country and to others, he resolutely opposed military intervention in the operation of the government. And he will be remembered by many as a stanch foe of military juntas and their efforts to overthrow or undermine elected constitutional governments. He favored defense of constitutional governments—and was willing to use all diplomatic, political, and economic tools to implement his policy. For him the Estrada doctrine—of treating all de facto governments alike—was incompatible with the principles of the Alliance for Progress. And it is interesting to note that the country where that doctrine had its origin now seems to have moved away from it. Today Mexico has not recognized the Governments of the Dominican Republic and Honduras—and there are more recent indications too of this change in the traditional policy. And so President Betancourt can take some considerable satisfaction that although his policy on military juntas was not effective in every case, it has at least influenced the policies of some in the right direction and alerted all to the threat posed by military dictators in the hemisphere.

Third and finally, President Betancourt's record merits our attention because it revealed rare insight into the nature of the Communist threat in the Western Hemisphere. In confronting the Communist problem it has kept in mind the distinction between two of the salient strands of the Communist threat in Latin America: First, the appeal of the Communist economic model as a solution to the economic needs of impoverished people; second, the attempt of a Communist regime; for example, Cuba and Communist groups within Latin American countries to subvert non-Communist governments through armed attack, internal terror and sabotage, propaganda, or through quiet infiltration and popular front movements.

One cannot meet the appeal of the first with solutions appropriate only for the second. The economic threat cannot be met by military solutions—but rather by the programs which fall under the Alliance—effective mobilization of resources and accomplishment of reforms by local governments, combined with U.S. help in the form of foreign aid loans, food for peace, the Peace Corps, and technical assistance. The security problem cannot be met alone by the above economic programs, but by measures which are primarily paramilitary, political, and propagandistic. This requires men trained in riot control, counterguerrilla operations and tactics, intelligence and counterintelligence, public information, psychological warfare, and counterinsurgency units.

The Betancourt government realized that terrorism and subversion cannot be defeated by relying wholly on programs designed to eliminate hunger, poverty, and disease. It also realized that no amount of military hardware or trained guerrillas will solve the long-range economic and social problems of the country.

I would not, of course, wish to leave the impression that the face of the Communist threat in Latin America is always the same. It is not. The approach and tactics of Communist parties vary from country to country. A popular front approach in Chile or Brazil may operate through established constitutional patterns—quite differently than in Venezuela. Methods of combating Communist infiltration in these circumstances must be quite different.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to proceed for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. HUMPHREY. Nor would I want to leave unmentioned another strand in the Communist threat in this hemisphere—the ideological strand. As I noted on the occasion of the third anniversary of the Alliance for Progress, in the revolutionary atmosphere prevailing in Latin American countries today, ideological factors are often as important as straight economic or military programs. I am impressed, for example, with the fact that the governments which accomplished the greatest political stability and economic progress in the last decade were the strongly ideological democratic progressive parties led by Betancourt, Pepe Figueres, and Munoz Marin. For example, I am impressed with the fact that two growing political movements in the larger countries of South America today are also intensely ideological movements—the Marxist and the Christian Democratic movements.

President Betancourt, I believe, would agree that one reason why his own Accion Democratica movement flourished in the past two decades, and why the Christian Democratic parties are flourishing today among the impatient, idealistic younger groups is because they offer an ideological alternative to Marxism, an integrated approach to the political, economic, and social problems of society. I know that we pragmatic North Americans find it difficult to understand why a Latin American considers the philosophy and ideology of a party as important as the specific practical measures recommended by the party. We are only now coming to realize that the ideological basis of communism is its principal attraction for students and educated groups in Latin America, not its economic critique. It is for that reason that communism captures the university before the slum.

Because the Betancourt government accurately diagnosed the precise nature of the Communist threat in Venezuela, constitutional government and free political institutions survive. To meet this threat required extraordinary measures—at times similar to those applied during wartime. Today, now that the internal threat is less immediate, these tight security measures have been relaxed, as is appropriate.

The external threat however has not vanished.

For Venezuela today, as for many of her Latin American neighbors, the Castro government in Cuba is not a nuisance to be ignored but a menace to be eliminated. Communist subversion from Cuba is not a "myth" to be exposed but an ever-present reality to be faced. It is because President Betancourt never flinched from facing the harsh realities of the Communist assault on the elected constitutional government of Venezuela that constitutional government survives and flourishes in Venezuela today.

The report issued in February of this year by the OAS makes it indisputably clear that Cuba has smuggled arms to terrorists in Venezuela. It has presented photographic evidence of the plan and the plot to subvert the Betancourt government at the time of the election in December of 1963.

I wish my position on this subject to be crystal clear. Our national policy should be one of clear, unequivocal support for taking the necessary steps to cut off arms shipments from Cuba to Venezuela or any other Latin American nation. Cuba must not be permitted to be an arsenal for terrorism, revolution, and chaos. Instead of merely worrying about governments of friendly countries being able to stay in power and resist violence, we should choke off the source of that violence.

I would hope that my remarks on United States-Cuban policy would not lend themselves to misinterpretation. I do not favor a military invasion of Cuba. Even less do I favor so great a preoccupation with Cuba that all other hemispheric issues are ignored. But so long as the stated purpose of the Castro regime is to export its Communist revolution, it will remain a threat to many Latin American governments. So long as it remains a threat to them, it remains much more than a nuisance to the United States. For our own interests are inextricably bound up with those of our neighbors in the hemisphere.

If at some point the Cuban Government should change its policy and be content to confine itself to its own borders and its own problems, then this might call for a reevaluation of U.S. policy toward Cuba, indeed, of hemispheric policy toward Cuba. I have seen no signs that the Cuban Government has reversed its policy.

We have stated before that we will not permit the Castro regime to subvert the democratic governments of its neighbors through armed aggression, whether covert or open. We have repeatedly stated this as our policy. Today we have a clear, carefully documented case of arms shipments into Venezuela. The Venezuelan Government has presented convincing photographic evidence of the smuggled arms shipments. The OAS report has confirmed the accuracy of the Government's allegations.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota is recognized for 1 additional minute.

Mr. HUMPHREY. Mr. President, the Venezuelan Government has asked for support and assistance in the OAS. We should provide it.

I suggest that we energetically, wholeheartedly, and determinedly support the position of the Venezuelan Government in the Organization of American States. I would hope that the required action can be accomplished within the framework of the OAS. But if it cannot, this should not mean that we will permit friendly governments like that in Venezuela to remain defenseless because of the inaction of its neighbors. The existing machinery of the OAS should not be permitted to impede the successful handling of problems of this sort.

If I have dwelt at some length on the Cuba problem, it is because it remains a serious problem not only for the new government which succeeded Betancourt but for all Latin American nations.

In reflecting on the legacy of President Betancourt in relation to present and future policy in the hemisphere, we might draw from it four conclusions worth remembering:

First. Although threatened by Cuban terrorism and propaganda far beyond that of any other Latin country, the Venezuelan Government did not become so mesmerized by the Cuban problem that it ignored the social and economic revolution required in the country.

Second. Faced with a threat from the Communist left, the government did not retreat to the slogans and policies of the status quo. It did not abandon the original Alliance for Progress emphasis on radical social and economic reform, and retreat to less venturesome, more conventional goals. So in the future, members of the Alliance for Progress, when confronted with a Communist threat, must resist the temptation to place less emphasis on reform and change in Latin American societies, and more on working with established groups to minimize political instability. There will be those who will advocate a return to the old conventional goals, to a reliance on cautious professional diplomatic methods in dealing with the problems of the hemisphere. But careful scrutiny of these proposals reveals that their chief distinction lies in their similarity to the bankrupt policies of the Eisenhower era, policies that brought only failure in the last decade, policies that would bring disaster in this decade—and prepare the way for catastrophe in the next. What are required to meet the crises in Latin America today are the bold measures of the Alliance for Progress as originally conceived by President Kennedy and implemented by President Betancourt. We would do well to remember what they knew so well: that the alternative in Latin America today is between peaceful revolution leading to progress and violent revolution leading to tyranny.

Third. We would do well to remember that although extraordinary measures may sometimes be required to meet a Communist threat or to uproot Communist infiltration that has progressed under the protection of democratic institutions, this should not be a pretext for circumvention of constitutional procedures or for maintaining military juntas in power in violation of the Constitution. In those extraordinary situations, certainly an established government should be reluctant to embrace a new government before waiting to discover whether purges, military decrees, censorship, revocation of political rights and mass arrests represent a monetary aberration or a permanent characteristic of a regime. Similarly, pledges of economic assistance under the Alliance for Progress should naturally await evidence that a new government will meet the standards for economic assistance specified in the Alliance charter.

Fourth. Finally, we would do well to remember that the United States, though it has no choice but to work with many governments, should reserve its strong support for those governments and those political parties that are truly committed to achieving the aims of the Alliance for Progress. This means that if we are to lend our support to effecting fundamental changes in the structure of society and of the economy, we must give our strongest support to democratic reform governments, to governments intent on altering the status quo. Governments and parties of the status quo may be tolerated, not supported. It is by reserving our strong support for governments pursuing policies like those which yielded success in Venezuela under President Betancourt that we can contribute most to the success of the Alliance for Progress in this hemisphere.

Mr. President, I have made this speech today because I believe it is an appropriate time when a fine and great man who represents democratic government in Latin America visits our shores.

America must once again reiterate its policy toward Latin America and toward constitutional and democratic governments.

Mr. GRUENING. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. GRUENING. I wish to associate myself——

The PRESIDING OFFICER. The hour of 11:30 having arrived, morning business is closed.

Mr. GRUENING. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Alaska for 5 additional minutes?

Mr. HUMPHREY. I am glad to yield to the Senator from Alaska.

Mr. GRUENING. Mr. President, I should like to have the attention of the majority whip. I desire to associate myself unreservedly with the fine and deserved tribute which our majority whip, the senior Senator from Minnesota, has paid that great Latin American statesman, Romulo Betancourt, ex-President and now Senator of Venezuela.

I believe it might be said advisedly that if every Latin American country were so fortunate as to possess such a statesman as Romulo Betancourt at this time of world crisis, the Alliance for Progress would have fared and would fare very much better. In his 6 years as President of Venezuela, he has given us a model of the type of leadership concerned with social and economic reform, and with a realistic conduct of affairs in the face of attempted Communist subversion, and its efforts to destroy representative and legally constituted government. His full understanding of the need of social and economic reforms made under a free and democratic regime should be a model for other Latin American countries to follow.

It is a great pity that all our sister republics do not have such leaders. I have long been convinced that it has become a truism that democracy does not function well without leadership. That is true not only in Latin America, but it is true in the United States, in the Nation, in the State, and in the municipality.

In Romulo Betancourt we have a striking demonstration of what leadership can accomplish. He has carried his country through great crises, through all kinds of hostile activities and he has steadily lead it forward.

I am grateful to the majority whip for making his fine and deserved tribute to Romulo Betancourt. His speech will receive the wide appreciation it deserves.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MORSE. I rise to congratulate the Senator from Minnesota on his speech, not only for the deserved tribute that he paid to one of the greatest democrats of Latin America in our time, former President Betancourt, but for the United States-Latin American policy that he enunciated at the end of his speech.

I believe that is a fitting tribute to former President Betancourt, too, but I would have the Senate take note of it. I would have the whole Government take note of it, because I wish to stress the fact that the Senator from Minnesota has laid down a policy for our relationships with Latin America which I believe everyone in our administration should heed. I completely endorse it. I endorse it because there is much confusion in Latin America. Let us face it, our Latin American friends are not too sure about what our policy is. If we can only announce a policy that assures that the democratic governments in Latin America can count on us and that we are going to give them the support they need, we will do much to strengthen the possibility of success for the Alliance for Progress program.

Let us face the fact that our recognition of the Dominican Republic, our recognition of Honduras, both present governments being controlled by military juntas, created a great deal of confusion among our democratic friends in Latin America. I shall not discuss that subject now except with a broad brush stroke, to point out my concern about it.

I am very much concerned about the present trend in Brazil. I agree that Goulart should have been replaced, and that when he fled his country, then under the Constitution, a vacancy existed, because he could not be out of the country and remain President. I had hoped that there would be a greater evidence of constitutionalism reigning in Brazil. I believe that was the objective at the time of the overthrow of Goulart, but I have some doubts now because of what the military, which has taken over, is doing to the constitutional system in Brazil.

I urge on the floor of the Senate today that Brazil return to the framework of constitutionalism quickly; because if it does not, I believe that the policy which the Senator from Minnesota has just outlined cannot be reconciled with the trends in Brazil.

Mr. MAGNUSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Washington [Mr. MAGNUSON]?

Mr. HUMPHREY. I yield to the Senator from Washington; and I ask that the pending business be laid before the Senate.

Mr. JAVITS. Mr. President, before the Senator does that, will he give those of us on this side of the aisle an opportunity to say a few words in support of former President Romulo Betancourt?

Mr. MAGNUSON. I am glad to yield to the Senator from New York for that purpose.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, first I yield to my colleague from New York [Mr. KEATING].

Mr. KEATING. Mr. President, I commend wholeheartedly the Senator from Minnesota, not only for the very fine remarks he has made about President Betancourt, which are well deserved, but also explicitly with regard to the policy which our Government should follow in the Caribbean.

Six months ago proof was produced of the existence of a cache of arms and ammunition by Castro Communists in

Venezuela in their efforts to interfere with the free election in Venezuela. The OAS filed its complaint and the facts were found, but to date the Organization of American States has not acted.

I believe that the United States should take the leadership, as the Senator has indicated, in seeing to it that action is taken in the Organization of American States. I could not—if I had been stating it myself—have better stated what I personally feel should be our policy with reference to Castro's Cuba.

I share the view that it is more than a nuisance, it is a serious threat to the Western Hemisphere. I believe that the acting majority leader has served a great purpose in making his remarks today.

Mr. JAVITS. Mr. President, will the Senator from Washington yield to me briefly?

Mr. MAGNUSON. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I too, join other Senators in applauding what the acting majority leader has said. It is extremely pertinent in other places such as Chile, where there is grave danger of a constitutional takeover by a Communist-oriented political candidate, Salvador Allende.

Tomorrow, because the time today is so limited, I shall analyze that situation in some detail, but I join other Senators in praising the example that former President Betancourt has laid before us; namely, the example of courage which he has given to the whole hemisphere in this field. I support wholeheartedly the fine policy statement of the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator for his comments.

Mr. GRUENING. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield to the Senator from Alaska.

## END THE DOUBLE STANDARD OF LOANS AT THREE-FOURTHS OF 1 PERCENT ABROAD AND 3 PERCENT AT HOME

Mr. GRUENING. Mr. President, in the unprecedented disaster which struck Alaska on Good Friday, the private sector of Alaska's economy suffered great damage. The destruction runs into hundreds of millions of dollars in the private sector alone. If the economy of Alaska is to be rebuilt into a strong taxpaying base sufficient to support the continued growth of the 49th State, that sector will need aid from the Federal Government.

The able Administrator of the Small Business Administration, Mr. Eugene Foley, with wise foresight immediately after the earthquake, saw the need for such economic assistance to the private sector and quickly went to Alaska for an on-the-scene inspection of Alaska's needs from his program. Upon his return he issued instructions for liberal disaster loans on terms which can be of great assistance to the industrial and business sectors of Alaska. Those loans permit disaster-struck Alaska businessmen and industrialists to borrow funds from the Small Business Administration at 3 percent interest per annum with a repayment period of up to 30 years, with a moratorium on principal and interest for the first year and a moratorium on principal for the next 4 years.

At the time I pointed out to Mr. Foley that he had the power under the law to lower the interest rate—for the act makes 3 percent the maximum and specifies no minimum—and that he should do so since many of the borrowers not only had to finance new capital borrowings but also refinance past borrowings for goods, equipment, and buildings which were wiped out in the earthquake. I indicated to Mr. Foley that the terms for Alaska disaster borrowers should at least be as generous as those given to borrowers under our foreign aid program where there was no disaster. Many of our foreign aid loans are made at the rate of three-fourths of 1 percent interest per annum with repayment terms of 40 years and a moratorium on repayment of principal up to 10 years.

Yesterday I addressed a letter to Mr. Foley specifically requesting the lowering of the interest rates on domestic borrowing under the small business program for our own domestic disaster victims to the lower rate charged foreign borrowers. In my letter to Mr. Foley I cited many instances abroad where this was done including the $100 million loaned to Chile in the case of a similar disaster where the loan was repayable in 40 years with a 10-year moratorium on the repayment of the principal and where the interest rate was three-fourths of 1 percent. I did not—although I could have—cited in addition to billions of dollars in grants—outright gifts—for budget support, the more than $700 million loaned in foreign countries at these same rates for budget support—loans for making up a country's deficit.

I ask unanimous consent that the letter I sent to Mr. Foley be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 20, 1964.

Mr. EUGENE P. FOLEY,
*Administrator, Small Business Administration, Washington, D.C.*

DEAR MR. ADMINISTRATOR: Thank you for your letter of April 15, 1964, setting forth your actions and recommendations to utilize fully the resources of the Small Business Administration to help out the private sector of the Alaska economy which has been badly hurt as a result of recent earthquakes and tidal waves.

I know that the people of Alaska, as I do, appreciate greatly your tireless efforts on their behalf. Your promptness in clarifying the aid available under your program, as exemplified by your letter of April 15, 1964, is but another example of your interest and concern.

As I have said, the magnitude of the destruction in Alaska must be seen to be understood, and even then cannot be fully comprehended. Your initiative and zeal in flying to Alaska immediately after the disaster to survey the situation at first hand show a real dedication to your responsibilities and a desire to assist in every way possible.

In that connection I notice that you have established the interest rate for small business loans in Alaska disaster areas at the maximum permitted by law, namely 3 percent per annum. As I have indicated to you orally, I strongly urge that you exercise the authority you have under the law to establish these interest rates at three-fourths of 1 percent per annum—the same rate as is charged for the vast majority of our loans under our foreign aid program.

Such a decrease in interest rates even then would not equal our generosity in the field of foreign aid where not only is the interest rate established at three-fourths of 1 percent per annum but also where repayment is over a term of 40 years with a moratorium on the repayment of principal for the first 10 years.

As you know, I have strongly recommended that outright grants of Federal funds be made to rebuild the private sector of the Alaska economy. We have done as much abroad. We cannot afford to do less at home. Over the years, outright grants totaling more than $28 billion have been made to 92 foreign countries. Much of our grant money has been given to develop the industrial and business sectors of those foreign countries.

As you know, now prosperous European countries such as England, France, Austria, Belgium, and others were rebuilt under the Marshall plan with $12,469.3 million in U.S. grants—not loans—none of which will be returned even though these countries are now financially well able to repay.

However, until outright grants for these purposes have been authorized for use in Alaska, it will be necessary, in order to insure the speediest possible recovery of the economy of the State of Alaska, to utilize as fully and on as liberal terms as possible the lending facilities of the Small Business Administration. When outright grants are ultimately made available the grants can be utilized to repay the loans.

Hence my request to you to exercise fully your legal authority to place the citizens of Alaska who have suffered in this disaster on as close a level of equality to the people in foreign countries to whom the United States makes loans not alone in times of disaster but in normal times as well.

Through fiscal year 1963 the United States has made loans in the principal sum of $1,626,198,369 to 38 foreign countries on terms of three-fourths of 1 percent interest per annum repayable in 40 years with a 10-year moratorium on the repayment of principal. These loans have been made, in most instances, to rebuild or develop the industrial and business sectors of those foreign countries just as loans made by the Small Business Administration to Alaska businessmen because of the disaster would be used to rebuild the Alaska economy.

But there are extra benefits which would accrue to the people of the United States through such low rate interest loans which do not accrue when loans are made to people in foreign countries.

Since the United States must borrow money at slightly over 4 percent interest, each loan at less than that amount of interest is also a grant.

Thus the loan of $100 million made to Chile—after an initial outright grant of $20 million—on August 3, 1961, for earthquake reconstruction bore interest at the rate of three-fourths of 1 percent repayable in 40 years with a moratorium of 10 years on the repayment of principal. This money could be used for rebuilding both the public and private sectors of the Chilean economy. Because of the low interest rate, this loan represents a grant—an outright grant—to Chile of over $75 million. In the light of the general experience of the United States over the years with respect to the repayment to it of foreign indebtedness, there is always the possibility—indeed the probability—that Chile either will not repay the debt or will be forced years from now to refinance it This loan will mean no enrichment of the economy of the United States. It may even possibly mean, depending on the use to which the loan is put, the establishment of industries which will compete either in the United States or in world markets with U.S. industries.

Compare the difference if loans were made in the same amount and on the same terms to rebuild the private sector of the Alaska economy similarily damaged by an earthquake.

The loans would still include a grant but unless the loans were repayable in 40 years with a moratorium on the repayment of principal for 10 years the amount of the grant would be much less. But there would occur side benefits to the economy of the United States which would be of benefit to the taxpayers here. By stimulating the economy of Alaska, tax revenues would increase not only for the State of Alaska but for the United States as well. These additional tax revenues could well mean, over the years, the repayment of the grant—and then some. It would also save the Federal Government and the government of the State of Alaska considerable tax dollars which would have to be spent in welfare and unemployment compensation payments. Those payments would not have to be made to unemployed men and women in Alaska who would, because of these loans, become taxpayers instead of tax consumers.

The same comparisons between the effects of loans on easy terms made to other foreign countries and to the private sector of the Alaska economy. Such comparisons could be made, for example, with respect to the three-fourths of 1 percent interest, 40 year repayment, 10 year moratorium loans which have been made to the following:

| | |
|---|---|
| India: | |
| Patherdik coal washery | $4,200,000 |
| Fourth Railways | 43,000,000 |
| Pakistan: Fourth railway project | 31,000,000 |
| Egypt: Power project | 30,600,000 |
| Afghanistan: Ariana Afghan Airways | 2,625,000 |
| Syria: Grain storage | 14,700,000 |
| Turkey: Thermal power project | 31,300,000 |
| Egypt: Cellophane plant | 3,000,000 |
| Brazil: Carbon black plant | 2,000,000 |
| Chile: Development Bank | 40,000,000 |
| Mexico: Supervised agriculture credit | 20,000,000 |
| Uruguay: Home construction | 6,000,000 |
| Venezuela: Supervised agriculture credit | 10,000,000 |

This is only a sampling of this type of loan to foreign countries. We cannot afford to do less for our own disaster struck citizens in Alaska.

I urge you to provide—as you have the legal authority to do—that small business disaster loans in Alaska will bear three-fourths of 1 percent interest annually with a moratorium on the repayment of principal for up to the first 10 years.

Your earliest possible reply would be greatly appreciated.

With all best wishes, I am

Cordially yours,

ERNEST GRUENING.

## CIVIL RIGHTS ACT OF 1963

The **PRESIDING OFFICER.** The Chair lays before the Senate the unfinished business, H.R. 7152.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in pubic accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. **MAGNUSON.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 155 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Goldwater
Gore
Gruening
Hart
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Monroney
Morse
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The **PRESIDING OFFICER** (Mr. PEARSON in the chair). A quorum is present.

Mr. **SPARKMAN.** Mr. President——

The **PRESIDING OFFICER.** The Senator from Alabama is recognized.

## CUTBACK IN PRODUCTION OF NUCLEAR MATERIALS

Mr. **SCOTT.** Mr. President, will the Senator from Virginia yield to me, with the same understanding that in yielding to me he will not lose his right to the floor, and so forth?

Mr. **ROBERTSON.** I shall be glad to do so.

The **PRESIDING OFFICER** (Mr. HART in the chair). Is there objection? Without objection, it is so ordered.

Mr. **ROBERTSON.** Very well; I yield.

Mr. **SCOTT.** Mr. President, although it would be easy politics to seize an occasion to make adverse comments on a foreign policy issue, I think the role of "the loyal opposition" is to speak up when we agree with some action taken, so that on other occasions, when we disagree, we shall have earned credence for our sincerity when we feel compelled to object.

The President of the United States has announced a substantial cutback in the amounts of nuclear explosive materials to be accumulated under our defense program. The Governments of Great Britain and of the Soviet Union have agreed on similar cutbacks.

I have usually been most skeptical as to whether the word of the Russian Premier could be accepted; but I support the action taken by President Johnson. I believe he is doing the correct thing. In my opinion, the determination of the proper steps to be taken to ease the tensions of the cold war is the responsibility of the President. He alone can make these decisions. He alone knows best what the security of the United States requires. He alone knows—from sources available only to him—the degree to which there will be cooperation by the Soviet Government.

But there are ways by means of which the American people can be informed as to whether in this instance the Russians may keep their word, and thus may be willing to indulge themselves in a substantial cutback in the production of nuclear explosive materials. I believe we shall learn this by finding whether Nikita Khrushchev decides to devote appreciably larger portions of the Russian economic capability to improvement of the standard of living and the welfare of the people of Russia, and therefore diverts substantial sums of money for that purpose. If steps taken thereafter indicated that more money is being spent on the Russian civilian economy—and in our country the total Russian national production is well known—I believe we would then have some very reliable indication as to whether the Russians were keeping their promise.

Another element is involved. There is presently the appearance of a wide split between the Russians and the Red Chinese. Naturally we continue to be skeptical about internal party quarrels, because it may be a family quarrel, and those two nations could well join quickly against the capitalist world. But if in fact Russia keeps her promise and reduces her supply of nuclear materials, then it certainly would follow that there would be less Russian materials available to the Red Chinese should an ultimate reapproachment be achieved.

Moreover, my information, which is imperfect, but information which comes to us in the Senate, would indicate that we have a vast supply—and quite possibly an oversupply—of nuclear materials. We cannot destroy another nation but once. If we have sufficient power to destroy a nation three times over, the second and third times would hardly count.

Therefore, with some remaining skepticism, with great concern as to any movement which involves an exchange of mutual trust and confidence with a nation which has not by its record deserved it, I am nevertheless bound in my conscience to say that I support the decision of the President. I hope that it is one step to be followed by others to enable the nations of the world to follow, as the Bible says, the ways that lead to peace.

Therefore, as a matter of conscience, I feel impelled to make the statement I have made.

I thank the Senator from Alabama.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. SPARKMAN. Mr. President, I have previously spoken on the bill, starting with the idea of discussing the bill title by title. As I have said before, the bill is actually a compilation of 11 different bills in an omnibus bill. The bill consists of 11 titles. In my previous presentation I discussed titles I, II, III, and VI. Today I hope to be able to finish the others by discussing briefly each of the remaining titles together with some additional remarks about title VI.

I am in opposition to the bill. I have so stated previously, and have announced my reasons. I spoke twice when the Senate was considering the motion to take up the bill. In those speeches, I protested the efforts of those favoring the bill to bring it up for Senate floor consideration without the benefit of hearings before the Senate Judiciary Committee. In the course of my argument, I expressed, in outline form, my opposition to titles I through III of the bill.

After a majority of Senators voted against us to make the bill the pending Senate business, I spoke at some length against title VI of the bill. If the bill is not to be considered in committee, then it must be thoroughly examined on the floor of the Senate. Today I intend to continue a preliminary examination of some of the faults of other titles of the bill.

I point out again, as I have said before, that if the bill had been referred to a committee, it would have been examined page by page, section by section, the line by line. Unfortunately the bill was not referred to a committee. No opportunity was given to a committee to make such an examination. So it has become necessary for the Senate to discharge the duties of a committee by examining and analyzing the bill most carefully and discussing it line by line. I do not believe that Senators can discharge their duty without doing so.

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

I should like to take up title IV, which relates to the desegregation of public education.

Title IV of H.R. 7152 has two essential purposes. Both of these purposes are antagonistic to our Federal scheme and subversive of the State's power to control the educational system within its borders.

First. Title IV would provide financial and technical assistance to local educational bodies for purposes of facilitating public school desegregation. This is a form of bribery that should be repugnant to all. This is nothing more than a little sugar coating designed to cover yet another intrusion by the Federal Government into an area which the Constitution has given the States exclusive jurisdiction.

Second. Title IV would authorize the Attorney General to institute civil actions to force desegregation in public schools and colleges.

This second provision is sinister. It constitutes a renewed demand for power to initiate civil actions to force desegregation of the public schools. This proposal, a hardy perennial since its rejection in 1957, would make the Attorney General a virtual national superintendent of public schools in this country. Do we want this? I certainly do not. I am sure my Senate colleagues would not want it, if they really considered the full implications of it.

We should remember that there is nothing in the Constitution which delegates to the Federal Government any role, however minor, in the area of education. The Federal Government, neither executive, judiciary, nor legislative, can exercise any power not granted to it by the Constitution. The 10th amendment provides that "the powers"—and this by necessary implication includes the powers over education—"not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." The enactment of title IV would be a clear extension of Federal power into an area exclusively vested in the several States.

This proposal would convert the Department of Justice into the legal arm of the NAACP, CORE, SNCC, and similar unofficial groups. It should be manifest to all that this unwarranted use of public funds cannot be sustained under even the broadest concept of general welfare.

Mr. President, with that brief statement I shall leave for the time being title IV and proceed to a brief statement on title V, the proposal to extend the life of the U.S. Civil Rights Commission.

TITLE V—COMMISSION ON CIVIL RIGHTS

Mr. President, among the many ill-advised provisions of the omnibus civil rights bill, H.R. 7152, is a provision to extend the life of the U.S. Civil Rights Commission for 4 years. This is proposed under title V. This makes the third time during the 88th Congress that I have spoken against the Commission. Furthermore, in past years I have opposed extensions of the Commission each time that such extensions have come before the Senate for consideration.

Unfortunately, the Civil Rights Commission has been extended at the end of each 2 years since its establishment. A number of my colleagues and I opposed establishing this Commission at the start. We did so basically because of grave misgivings as to the Commission's ability to offer anything useful in the civil rights field.

We predicted in 1957 that the Commission was but one of many weapons being brought to bear on the South. The Commission's primary contribution so far has been to agitate, to inflame, and to slant its findings to fit its preconceived notions on race relations. Advocacy of sociological theories rather than factfinding has been the Civil Rights Commission's outstanding characteristic.

Each Commission report has strengthened its reputation for advocacy and weakened its reputation for accuracy. Later in this debate I expect to cite specific instances of advocacy and inaccuracy.

The Commission's penchant for toying with truth and speculating in sociology has convinced me that it serves no worthwhile purpose and that it should be buried alongside its carpetbagging ancestors.

About 6 years ago, at President Eisenhower's recommendation, and over my strong objections, the so-called Civil Rights Act of 1957 was enacted.

In the Civil Rights Act of 1957, the Commission was set up to investigate civil rights for 2 years, make a report to Congress, and cease to exist. But instead of allowing the Commission to expire, Congress has three times extended its life. Now we are asked for 4 more years.

I think that this eagerness to extend the Commission indicates a failure really to think things through. However, now, we in the Senate do have an opportunity to think things through. I hope my colleagues can be convinced that a body of sociological advocates fanning out from Washington and snooping into every conceivable facet of community life cannot possibly hope to accomplish anything in the field of race relations. Racial problems are community problems. It is only in the community that they will be settled.

I have reminded Senators several times that before we ever had a Civil Rights Commission, the Department of Justice had already been given the authority to act in the field of race relations. The Justice Department still has this authority.

The Attorney General has in the Department of Justice a Civil Rights Division. This Division is functioning today. Part of the Division's functions fall under four titles of the United States Code enacted to protect the civil rights of all citizens without reference to race.

We have these protections now on our law books. Yet, there are those who want to heap statute upon statute, bureau upon bureau, and agitation upon agitation. They want more laws. They want more agencies to get into the race relations act. Yet, racial conflict is on the rise. And, as we can see, the rise in racial strife has been somewhat proportional to the rise in court decisions, executive orders, establishment of agencies, and the enactment of new laws. There may not be much we of the Senate can do about court decisions and executive orders, but there is something we can do about maintaining useless agencies and enacting new laws.

In ancient times the Locrians had a policy relating to the offering of new laws. Any Locrian offering a new law had to come to the place of legislation with a rope around his neck. If the law was unacceptable, he was hanged. This system was drastic, but history records that "the number of silly and mischievous statutes was kept to a minimum."

Certainly, I would never advocate such a procedure. I merely bring this ancient practice to the attention of the Senate in the hope that this body will think carefully before extending the life of the Civil Rights Commission—a body which has dreamed up a whole batch of proposed new laws—proposals which in many instances would take away more freedom than they give.

The Commission keeps advocating laws with teeth in them. Someone once said that not all the teeth put in laws are wisdom teeth. The Commission should heed this advice from a nameless philosopher. Certainly, the Commission is a faulty tooth in the law that we in the Senate should extract.

The Civil Rights Commission should know that sociological problems cannot be solved by law. It should also know that more than enough laws are already on the books to deal with civil rights. I know that agencies already established have more than enough power to work in the area of race relations. These laws and accompanying enforcement agencies provide adequate punishment for any person who denies the civil rights of any U.S. citizen, regardless of race or color.

Is this big push for more laws, more agencies, and more agitation being made a political football?

Do the proponents of these bills really want the things the bills provide?

Do the constituents of those favoring these bills want what the bills provide?

In view of the bad record established by the Civil Rights Commission, does the Congress really want to extend it 4 more years?

I urge Senators to face these questions objectively. Study them carefully. The answers to them may cause some changing of attitude, at least on some provisions of this bill and especially on the Civil Rights Commission.

In a later speech, I propose to examine the Commission's performance. I am deeply concerned about its performance.

It is necessary that we not let political considerations prevent our taking adequate time in this debate to determine whether the performance of this Commission really warrants its continuation. I think the Commission's record mitigates against its continuation. This record has, to my way of thinking, nullified any political gain some may have felt that establishment of the Commission achieved.

In summing up my convictions about title V, I want to urge Senators to remember what the Civil Rights Commission, purported to be an objective fact-finding agency, has done. Since its creation, the Commission has been anything but objective in performing its prescribed duties. Rather, it has demonstrated a marked disposition toward bias, prejudice, distortion, and vindictiveness. Its recommendations have been so patently unconstitutional that many of its erstwhile supporters have been forced to reject them. The Commission's reports premised on little more than hostility to constitutional norms and processes, have, if anything, served to worsen rather than improve race relations. The Commission should be allowed to die as scheduled in 1964 after what has been an overly prolonged terminal existence.

### TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Turning now to title VI, I should like to state that on April 10, I discussed certain aspects of this title, as will be found on pages 7557–7574 in the CONGRESSIONAL RECORD of that date. My central theme then was that if title VI is passed over my vote, which I shall most certainly cast against it, the ultimate legal effect of its passage would be to nullify the Executive order on housing, certainly as to FHA and VA insurance and guarantee programs. I expressed also my belief that the Executive order is invalid.

At this time I wish to turn to other aspects of the title and in a preliminary way express some of my reasons for opposing the enactment into law of this sweeping and ill-considered part of the bill.

Mr. President, my opposition to title VI grows from two firm convictions that I have, one about people, the other about government.

I have always felt that in our Nation, people are the most important element in our way of life. By the same token, I feel that government should be the servant, not the master of the people.

Title VI tends toward placing people in the position of pawns in a massive life-size chess game, with the government in control of the chess moves, sacrificing pawns for the sake of political expediency.

States attempting to protect their rights would have their people sacrificed by depriving them of the benefits of Federal programs.

This terrifying possibility causes me to attack title VI with considerable relish.

Let us examine for a moment section 601. It provides:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Following this broad statement of policy, comes a provision which, to some extent limits the first section. The first sentence of section 602 provides:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

It should be noted that the House of Representatives amended the bill as reported by the House Judiciary Committee in order specifically to exclude contracts other than contracts of insurance or guaranty. Chairman CELLER of the House Judiciary Committee, who was, of course, managing the bill in the House, offered this amendment. He says that he offered this amendment in order to insure that title VI would have no effect on guarantees or insurance contracts. Apparently, many Members had expressed to him their fears that the word "contract" might be construed to cover insurance or guarantee. Chairman CELLER wanted to allay all fears that actions under the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Housing Administration insurance programs might be included under this title.

Of course, all these exclusions are extremely interesting to me because of my membership on the Senate Banking and Currency Committee and my Chairmanship of the Subcommittee on Housing.

Let us now look at some of the areas which will be covered as direct loans or grants in my particular field. Public Housing is included. Most of our urban renewal programs are subject to this title. Likewise, college dormitories, and nursing homes, the non-profit corporation type, are included.

Thus, these programs, generally speaking, which benefit the poor people in our society are subject to this title and thus, to the possibility of being deprived of their funds.

Other direct loan programs include housing—normally classed as low- or middle-income housing—direct loans to veterans in rural areas and in small towns, and the direct loan which are made to farmers under the farm housing program. All of these would be covered by sections 601 and 602.

It is rather noticeable, and I have called attention to it at various times, that not only here, but in other places in the bill, there are specially protected groups. I am not protesting the FHA and VA exclusion—I believe it is right for them to be excluded, and I would oppose it if they were included in title VI, but I do protest against bringing in these people who, because of lack of sufficient income or wealth or standing, are not eligible for the higher grade, higher cost housing that we are excepting, but who must depend upon what they can get, public or low-income housing, low-rent housing of different types, and the various types which I named as being left within the coverage, which makes certain that the banks, the insurance companies, and the savings and loan associations—and the FHA, which does a tremendous job of insuring better class housing for higher income people, and the VA guarantee program, which is a generous program for veterans and veterans only—are excluded, while the other groups that are not in a position to help themselves or to lift themselves economically into the type of housing which is provided in the guarded or exclusive sanctuary are included.

The banks, savings and loan associations, and FHA, the great underwriter of private enterprise, are excluded. These excluded areas are those which benefit the middle and upper income classes the most.

It is interesting to note at this point that the so-called public accommodations provision exempts bona fide private clubs. As we all know, such clubs normally have upper class affluent memberships. Thus, this bill attacks the poor and leaves the rich to their own devices.

We all know that normally such clubs have upper class, affluent memberships. Yes, the bill attacks the poor and leaves the rich to their own devices.

Mr. President, it has been difficult for me to understand why people who really believe in equalizing rights and opportunities should sponsor a provision into title IV against "busing" students in order to break up an imbalance. I have stated this before on the floor of the Senate, but it seems to me that the practical result of that amendment has been to protect those who can move out into the suburbs, those who can move out into Westchester County, those who can move out into the areas where ghettos and mass segregation are not to be found, and in that way make certain that Harlem will continue to be segregated. The same thing applies to Cleveland, where a protest was made only a few days ago. Those ghettos will be permitted to continue, by having de facto segregated schools. Five new schools were being built in Cleveland, and the people were protesting their construction, saying that they knew they would be segregated schools, because they were being built in areas where only Negroes lived. The bill would preserve and make permanent such segregation.

The bill hits schools in our area of the country, because unlike the great ghettos of Harlem and Chicago, the most segregated city in the United States, and to some extent Cleveland, Pittsburgh, Detroit, and many others that I could name, there are no ghettos in our areas. Generally, we find whites and Negroes living in the same general neighborhoods, and it would be impossible to draw school district lines with any degree of regularity which would include wholly Negro or wholly white groups.

The bill makes certain that those areas will be desegregated, but that the ghetto areas in Harlem and the great segregated areas of Chicago will continue to exist as they are.

Mr. President, I mentioned Chicago as being a segregated area. I do not see either of the Senators from Illinois on the floor at the present time. A few minutes ago I was speaking about the Civil Rights Commission. I am not calling Chicago the most segregated city in America. It was the Civil Rights Commission that did so. That was the one time it made a factual statement. It said that Cihcago was the most segregated city in the United States. The pending bill, which has been presented to the country as a bill that would equalize conditions all over the United States, is shot through with discrimination. The bill that purports to put an end to discrimination is shot through with discrimination. It is rather noticeable that the bill will hit the poor people, but protect the people who are in an upper stratum of society.

Mr. STENNIS. Mr. President, will the Senator yield for a moment?

Mr. SPARKMAN. I yield for a question.

Mr. STENNIS. For a question; yes.

Mr. SPARKMAN. I yield.

Mr. STENNIS. Mr. President, does the Senator from Alabama recall that originally the bill contained several provisions which would enable local authorities to have a more balanced school, or a better balance as between white and colored children, by following a certain pattern supported by the Civil Rights Commission?

Mr. SPARKMAN. Yes.

Mr. STENNIS. That was included in the bill.

Mr. SPARKMAN. Yes.

Mr. STENNIS. Does the Senator from Alabama recall what happened to that provision, where it happened, and why?

Mr. SPARKMAN. It happened in a good many areas. There are two or three that are outstanding. One of them is Chicago. Probably it is not the most outstanding. The Senator may remember that the superintendent of schools there resigned his office because of a dispute over the question of moving students so as to break up an imbalance.

Perhaps the place where the outstanding demonstrations have been held is in New York, where students were moved from one area to another. If I recall correctly, some of the Negroes in the ghettoes of Harlem objected to having desegregated schools in some parts of the city, while their own schools were completely segregated. The school board began to make certain changes. It began to haul students from one area to another. Then the white mothers—I believe there were some 15,000 of them—protested against it. The first thing we knew, the school board had a terrible job on its hands. I do not know what the final outcome was, but I do know that that situation is taken care of in the bill.

Mr. STENNIS. I should like to ask the Senator another question. Does the Senator remember also that in Boston there was a real contest over this issue. A lady member of the school board declined to join in an order providing that children should be hauled from one area to another area of the city, to go to school. The children from one area would be taken away from the area where they attended church and Sunday school and had their local playgrounds, and hauled into another area. She stood her ground. Does the Senator recall that she led the ticket for reelection?

Mr. SPARKMAN. Yes. I am glad the Senator has reminded me of that situation. The Senator is correct. There have been remonstrances all over the country. A few moments ago—I believe the Senator was in conference at the time—I referred to Cleveland. Of course, Cleveland was the place of a most unfortunate happening. That is where a man was killed in the demonstration. The protest there was against the building of five new schools.

Mr. STENNIS. They were new schools.

Mr. SPARKMAN. Oh, yes; of the very finest type. There was no question about the type of schools. They were the most up to date and the very finest. However, they were being built in areas where Negroes were heavily concentrated. Heavily segregated areas were involved.

Often people get the idea that there is no such thing as segregation in the North. The most segregated areas in the United States are in the North. The Civil Rights Commission has said that Chicago is the most highly segregated city in the United States. I had always thought that it was New York. Harlem, with its dense segregation, always was pictured to me as the most segregated area in the whole United States. Be that as it may, they are protected, they are allowed to keep their segregated areas, so as to make it possible to pack them still tighter. Negroes are moving; they are shifting. As agriculture in the South changes, Negroes have the tendency to spread out generally into industrial areas of the United States. They spread out when they go to Chicago. They will be packed into the same segregated areas. When they go to New York, they will be packed into the same Harlem area. Harlem will gradually spread out, as old sections of a city have a custom of doing, until Harlem will embrace still more miles of densely segregated Negro areas, where the schools will be completely segregated. It will not be against the law. This bill has in it, as I am sure the Senator recalls, a provision that we cannot disturb. That provision relates to the prohibition against "busing" students.

Mr. STENNIS. If I understand the Senator correctly—and I shall ask him if this is not correct—after the reaction occurred in Chicago, Cleveland, New York, New Jersey, and Boston, against moving the children out of their communities, taking them across the city and bringing other children across the city, did not the proponents of this measure then fail and refuse to make a fight for the provision in the bill? Did they not throw it overboard and yield to the pressure from their areas of the country? Did they not remove the provision from the bill?

Mr. SPARKMAN. Not only did they take it out of the bill, but they wrote an insurance provision into the bill at page 14, lines 1 and 2, that it will not in any instance be construed as requiring the "busing" of students.

Mr. STENNIS. Instead of giving the Attorney General power to intervene and take over, they wrote a provision that would prohibit him from going in.

Mr. SPARKMAN. Complete insurance is written in the bill.

Mr. STENNIS. The Senator is our expert in the Senate on housing. Is it not true that when opposition arose to the Executive orders on open housing, which placed a limitation upon what the owner of a home could do if he wanted to lease a room, or a part of the house, or if he wanted to sell it, as well as a limitation upon the builder, did not the proponents also throw that overboard or put a proviso in the bill with reference to insurance and guarantees? Will the Senator develop that point?

Mr. SPARKMAN. I remind the Senator that they did throw it overboard. Actually, the amendment was written into the bill on the floor of the House. It was offered by none other than the chairman of the Committee on the Judiciary, Congressman CELLER, of New York, a veteran in the Congress, and a very able committee chairman and Member of the House. Mr. CELLER said at the time that he was induced to do it because of the many protests that had arisen. He wanted to allay the fears of all of those concerned that insurance and guarantee contracts might be included in title VI. Such a provision is written into the bill. I am glad it is there. I support it. I never did believe that the President's open housing order was legal. I thought it was invalid. I still think so. Incidentally, I read into the RECORD on April 10, as the Senator may remember, extracts from the article of the very distinguished and learned Judge Sterling Hutcheson, the chief district judge of the eastern district of Virginia—I believe now he is retired—in which article he discussed the constitutionality of the order and said that the order itself was clearly unconstitutional.

Mr. STENNIS. That is the Executive order. Is the Senator speaking about the President's Executive order?

Mr. SPARKMAN. Yes; the order with reference to open housing. No. 11063 of November 20, 1962. Not only have we the constitutional basis on which to resist that order, but now we have a legislative enactment that specifically rules against it. It is section 602.

Mr. STENNIS. I refer to section 602 on page 26 of H.R. 7152. Will the Senator give us his opinion—and I believe his opinion is entitled to extraordinary weight on this subject—as to the effect of this House amendment upon the President's present Executive order on housing, particularly with reference to the words, "other than a contract of insurance or guaranty."

Mr. SPARKMAN. I think it repeals the order. Moreover, I do not believe the order was ever valid. But even assuming the possibility of its validity, this legislative provision excluding contracts of "insurance or guaranty" in section 602 completely repeal it. Not only does it repeal it for the present, but it repeals it for the future, for the reason that Congress moves in and preempts the authority to rule on that question. The doctrine of preemption is well known. Any change that is made in the future must be made by Congress and not the President.

I remind the Senator that about 2 weeks ago, I was making some points about title VI—I believe it was when the Senator was speaking—and I quoted Professor Bickel, a distinguished professor of law at Yale University, as saying that regardless of the fact that two or three House Members said that this provision did not affect the President's order, that they were not clarifying the record, but were expressing a legal opinion, and that they were wrong. He said that they were trying to have their cake and eat it, too, and it could not be done. He said that they were wrong, and that this provision repealed the order; furthermore, he said that it was made impossible to issue another order, because Congress had taken over or preempted the field.

Mr. STENNIS. The Senator is speaking of the limitation which was placed in section 602 by the House of Representatives.

Mr. SPARKMAN. Yes. I am discussing that language.

Mr. STENNIS. The language that kills the Executive order, which was put in by the proponents of the bill, and not the opposition?

Mr. SPARKMAN. It was put in by the chairman of the committee which handled the bill.

Mr. STENNIS. Is it not another illustration that when real opposition to a particular part of the bill has come from other points of the country—outside the South—the proponents have surrendered and thrown that part of the bill overboard? Is that not a fair statement?

Mr. SPARKMAN. The Senator is correct—not only when the opposition has come from other sections of the country, but when it has come from the rich and the mighty throughout the country. This can be illustrated at every point. In this section, who were those who were protesting? They were the banks of the country, and goodness knows, I am for the banks; they were the insurance companies, and I am for the insurance companies; they were the savings and loan associations, and I am for them; they were the people who finance homes, and who build any buy homes under the FHA program, which is the upper level of housing. I have brought out the point that under this provision the higher strata are exempted. As I said a few minutes ago, those who can live in Westchester County, those who can live in the suburbs, those who can live in some areas which I could name around Washington, and around every other large city in the country, those who can move out and get away from it all, are protected against forced housing racial integration. But the poor family which has to live in public housing, or the poor elderly people who have to depend upon Government-subsidized or elderly housing programs, under direct loans, the farm family that barely makes enough to support the family, but is able to borrow from the Farmers Home Administration, are still subject to these provisions. The veterans who live in the rural towns and who borrow directly from the Veterans' Administration are subject to sections 601 and 602.

Mr. STENNIS. Section 601 is the section that pertains to a situation in which Federal financial assistance is involved and the Federal agency can make the rules, regulations, and conditions?

Mr. SPARKMAN. That is correct.

Mr. STENNIS. It can rule that the project must be integrated, that there must be equality, and so forth.

Mr. SPARKMAN. That is correct.

While we are speaking of discrimination, I point out that country clubs and private clubs are not covered by the bill. I am not in favor of having them covered by the bill, for I think private clubs and the others are entitled to operate in the way they wish. But does not the Senator from Mississippi see the same trend throughout the bill—protection of those in the upper strata? In other words, I ask Senators whether they will agree that the bill is shot through with discrimination, although it poses to the country as being a measure to do away with the thing called, in the bill, discrimination, although the bill does not even describe or define that term.

Mr. STENNIS. The Senator from Alabama is eminently correct.

Another illustration of the discrimination within the bill itself is title VII, on the FEPC. If there is a right to obtain a job, why does not the bill provide protection for employees of firms or organizations which have less than 25 employees? Why draw the line at a factory which employs 25 persons, and make a distinction between it and a factory which employs 20 or 22 persons? If all have a right to get a job, why discriminate against those who work in the small factories? Can that be justified?

Mr. SPARKMAN. Of course it cannot. I repeat that I am not opposed to having the bill exclude such small businesses; but certainly such a provision is discriminatory. If anyone wishes to argue against discrimination, certainly he cannot justify that provision.

Furthermore, if a person has a right to a job, what about those who already have jobs, and who might have to be fired, in order to make room for those who wish to get jobs in such organizations? Is not the holding of a job worth something?

Mr. STENNIS. Of course it is. Now the Senator from Alabama is getting down to the nub of this proposal.

Is it not true that if the bill were to be enacted, the next logical step with reference to jobs would be a demand for the enactment of a law which simply would state that employment must be on the basis of quotas—in other words, that if 20 percent of the people in a certain community were Catholics, then 20 percent of the employees in that community must also be Catholics—and similar requirements based on color lines, and so forth, and so on?

Mr. SPARKMAN. Yes; but I do not think that would happen. Does the Senator from Mississippi wish me to state why?

Mr. STENNIS. I hope the Senator from Alabama will do so.

Mr. SPARKMAN. The reason is that in that event the bill would step on the toes of the rich and the mighty. In that connection, I am reminded of a statement made by Representative CELLER, at the time when he offered an amendment to the bill in the House of Representatives. He said that he offered this amendment because there had been so many protests.

Mr. STENNIS. Furthermore, when the bill was first introduced, its proponents were very quick to point out—in response to complaints published in the New York Times, as the Senator from Alabama will recall—that the bill did not require quotas.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. In other words, even though quotas would be logical in connection with certain of the provisions of the bill, it does not go to the ultimate of requiring quotas.

Mr. SPARKMAN. That is correct, and I do not think quotas will be required.

Of course, much discretion is proposed to be lodged in the Attorney General, and others in connection with enforcement of the provisions of the bill. My guess is that if the Civil Rights Commission had the authority to enforce the bill, we would soon see quotas. In fact, I think in some areas of enforcement of the bill, although the term "quotas" would not be used, that would actually be the practice.

Mr. STENNIS. Yes.

Let me ask this question: In the application of the bill as now written, insofar as employers would be concerned, employers who wished to "play safe" would almost have to adopt the quota system at the very beginning, and continue with it. Is that not correct?

Mr. SPARKMAN. That is correct. In fact, when the Federal agents—I was about to call them "snoopers"; but I have great respect and admiration for the Federal Government and also for those who work for it—began to make inquiries of those in the communities, the "persons in the field," they would be regarded as snoopers, I am afraid.

Mr. STENNIS. Yes.

Mr. SPARKMAN. At any rate, when the Government agent came to interview an employer who had 100 persons in his employ, the first question would be, "How many Negroes are you employing?" Suppose the population of that area was 20 percent Negro. Immediately the agent would say, "You should have at least 20 Negroes in your employ, and they should be distributed among your supervisory personnel and in all the other categories"; and the agent would insist that that be done immediately.

Mr. STENNIS. Yes.

Mr. SPARKMAN. How would the businessman be able to do that? He could not simply create 20 new positions out of the air. Would he then discharge 20 of his regular employees? If so, would he not be taking away from them something which the Supreme Court has said is property and is entitled to protection?

Mr. STENNIS. Yes; and it is one of the greatest rights of all.

The Senator from Alabama has made very clear his point about employment on the quota basis. Would not the same basis be applied to promotions?

Mr. SPARKMAN. Certainly it would. As I have said, when the Federal agents came to check on the situation in a small business which had 100 employees, and when the agents said to the employer, "You must hire 20 Negroes, and some of them must be employed in supervisory capacities," and so forth, and so on, the agents would also say, "And you must promote the Negroes, too, in order to distribute them evenly among the various ranks of your employees."

Certainly that would happen. We saw some instances of it in connection with the Post Office Department, for we know that only a year or two ago, the Civil Service Commission or the Post Office Department required that special arrangements be made in order to make certain that Negroes would be promoted.

Mr. STENNIS. Yes.

The Senator from Alabama has made his points very clearly. I thank him for yielding to me.

Mr. SPARKMAN. In further reference to the job situation, I wonder whether the Senator from Mississippi read in yesterday's issue of the Washington Star the article by David Lawrence, in which Mr. Lawrence quoted an article written by a most distinguished lawyer and law professor. The article, which was published in the current issue—for the winter of 1964—of the Cornell Law Quarterly, was written by Alfred Avins, former assistant attorney general of New York, and it is entitled "Antidiscrimination Legislation and Personal Services."

If the Senator from Mississippi has not read the article, I recommend that he do so. I hope later to be able to discuss the article further. The author brings out quite clearly the proposition that a job is property, and has been so held by the Supreme Court, and one who has a job has been held to be entitled to protection; and he asks how jobs are to be taken away from some, in order to be made available to others.

I should like to mention another point in connection with the question of antidiscrimination. The bill contains a provision with respect to sex. Employers could not discriminate on account of sex. A small company might be constructing high-voltage powerlines out through the Rocky Mountain area of Montana in the snow, ice, and blizzards. Yet a certain percentage of women would have to be employed on such a job under the terms of the bill.

I do not know whether there are any foreign nationals living in Montana or not, but we know that they live in other areas of the country. For example, an employer in the State of my distinguished friend from New York would have to employ a certain percentage of Puerto Ricans who may not even be able to speak English.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield for a question.

Mr. KEATING. Have not the Senator from Alabama and the Senator from Mississippi already stated that the bill does not provide in any way for quotas of any kind?

Mr. SPARKMAN. Yes. Perhaps the Senator did not hear what I said. My statement was concurred in by the Senator from Mississippi. The bill does not provide for quotas. But most likely, as the agents of the Equal Employment Opportunity Commission contact employers, questions will arise.

Suppose there is a small business with 100 employees. The Commission may ask the employer, "How many Negroes are employed in your plant?"

Perhaps the employer would not have any. Perhaps 10 Negroes would be employed. Suppose he had 10 Negroes out of the 100 employees working for him. But the percentage of the Negro population to the whole population might be 20 percent. In application, then, it is almost certain that the agent would say: "You ought to have 20 Negro employees, and those 20 ought to be spread throughout the organization at various levels and at different types of jobs."

There would have to be so many women employed in that plant, because in the bill there is a provision relating to sex. I really do not mean that there would have to be that number employed. I am assuming that in the application of the provision—and I think my assumption is proper—almost invariably there would be a movement toward a kind of quota system. Such a tendency has already been observed under the President's voluntary employment opportunities program. Employers have been threatened with the loss of their Government contracts if they did not comply.

Mr. KEATING. Of course, improper administration of the law is a question that may be encountered at any time. I was speaking about the provisions of the bill.

Mr. SPARKMAN. The Senator is correct.

Mr. KEATING. Is the Senator aware that despite his assertion, and despite the recognition that quotas are not provided in the bill, literature is going out all over the country representing that the bill lays down quotas for employers?

Mr. SPARKMAN. No; I have not seen any of that literature. I have heard a great deal about literature. I point out to the Senator from New York that I have enough work to do trying to prepare my own talks on the subject. I do not have time to read the literature I receive from either side of the issue. It is circulated in great volume. The Senator knows what I am talking about. It comes across our desks in such volume that I do not have time to read it.

The Senator from New York is absolutely correct. Both the Senator from Mississippi and I have previously made that statement. We premised our statements on the fact that quotas would not be required under the proposed legislation.

For example, I was referring to what was done in the Post Office Department. I was going by what was done under the President's voluntary advisory program on equal employment opportunities. The Senator knows the program of which I speak. I was going by the recommendations that the Civil Rights Commission has made.

So I say that in practical application the procedure would not be called a quota system, but it would represent virtually that to me. Certainly the suggestion will be made to a small business that may have a small Government contract—perhaps a $25,000 or $30,000 Government contract—that if it does not carry out the suggestion that has been made to the company by an inspector, its Government contract will not be renewed. It will not get another contract.

Mr. STENNIS. Mr. President, will the Senator yield so that I may question him a little further along that line?

Mr. SPARKMAN. I yield.

Mr. STENNIS. The Senator has referred to Government contracts. Is it not already true that one who gets a Government contract must agree in writing to all the provisions of the contract, and that the contract provides that if the employer does not live up to the terms of that contract, he goes on a blacklist and would not even be eligible to bid for the next contract? Is that not correct?

Mr. SPARKMAN. That is clearly my understanding.

Mr. STENNIS. That is an illustration of the power of the purse.

Mr. SPARKMAN. I know it to be a fact that under the so-called voluntary program Federal agents went into a certain plant of which I am thinking and wanted to know how many Negroes the plant employed. I suppose the plant has perhaps 5,000 or 6,000 employees. The president of the plant replied to the agent, "I do not know. I cannot tell you. We don't list our employees by color." He said, "But I will tell you what I will do. I will take you out in the plant. We will walk around, and I will let you see them."

They did so. When the agent returned after his trip, on which he kept score, he was satisfied. That plant was really a practical application of a quota system.

I know of another plant in which it was insisted that percentages be computed. The employment was based upon a quota system. A few years ago it was a small business, but it has been fortunate and has entered into the big business field now. But the plant is not really large.

The agents insisted on a distribution of Negro workers throughout the plant on the basis of population. I know that to be true. That is the reason I have said that when it comes to the practical application of the program, even though quotas are not required, some kind of quota system will be used.

Mr. STENNIS. It would be almost essential if the law were to be properly administered. Is that not correct?

Mr. SPARKMAN. Yes. While I am not worried, I am quizzical about what will be done in places where there are many minority groups. After all, Negroes do not comprise the only minority group. In the population of western areas of our country there are to be found Mexicans, Negroes, Japanese, Chinese, and perhaps nationals of other countries, closely grouped together. Will employers in those areas be required to compute the percentage of each of the different groups that should be employed, to be sure that proportionate representation would be achieved?

The bill provides that there shall be no discrimination on account of sex. An employer would have to see that perhaps half of his employees were women. It may be said that there ought to be an equal number of women employed, regardless of the kind of job involved.

Mr. STENNIS. The Senator would not overlook one of the most cruel discriminations that we observe, and that is discrimination on account of age. Is not age one of the great questions before our country?

Mr. SPARKMAN. I would join the Senator from Mississippi in helping to write into the bill a provision that there shall be no discrimination because of age, and that the provision should be applicable to the Federal Government as well as to private industry. If we are to have such a bill as the one before the Senate, let us include in it a provision which would eliminate discrimination on account of age.

Mr. STENNIS. Regardless of color or any other factor, age controls in many instances.

Mr. SPARKMAN. Yes. A person 45 years of age—or perhaps even 40 years of age—finds it almost impossible to get a job. That is true not only in private industry; it is true in the Government of the United States. Of all the employers, the Government should be a good example.

I wonder how the proponents of the bill would accept the idea of having language in the bill providing for no discrimination because of age.

Mr. STENNIS. Mr. President, will the Senator yield for a further question?

Mr. SPARKMAN. I am glad to yield, because the Senator is quite analytical in his questions.

Mr. STENNIS. The Senator from Alabama has referred to the fact that discrimination can be based on factors other than color. I direct his attention to one of the most sensitive aspects of American life, in a way. I refer to the provision that there shall be no discrimination because of religion.

Of course, the first amendment to the Constitution provides that Congress shall not make any law regarding the establishment of religion. That amendment has been given such a strong interpretation that the Court will not allow a prayer session to be held, much less be required, in public schools. Would not the proposal require every industry in America to establish definite religious lines and ask the question: "Are you a Protestant? A Catholic? A Christian? A Jew? A member of any other group?"

That would be a mandate of the law. The question would be asked on every application for a job: "To what church do you belong?"

Mr. SPARKMAN. Was the Senator asking me the question?

Mr. STENNIS. Yes.

Mr. SPARKMAN. I am a Methodist. If I went to an employer and tried to get a job—no, I could not do it, because I am over 45.

Mr. STENNIS. Does the Senator believe there should be such a provision, even if there is to be a bill on this subject?

Mr. SPARKMAN. I do not think there should be such a provision; but if there is to be one, there should not be a test of religion, regardless of the terminology in which the provision is wrapped, because it would be violative of the first amendment to the Constitution.

Mr. STENNIS. I thank the Senator for making that point. I appreciate his yielding to me.

Mr. SPARKMAN. A little while ago, the Senator was asking me questions in relation to segregation. We were talking about the protection of segregated schools. I mentioned New York, Chicago, and some of the other most highly segregated cities in the United States —all of which, by the way, are north of Mason and Dixon's line. Every city that is designated as being extremely bad in its massive segregation is in the North, Chicago being the worst of all. I am quoting the Civil Rights Commission's report. That is certainly an acceptable quotation for the proponents of the bill.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. SPARKMAN. For a question only.

Mr. McCARTHY. I think it is clear that the bill is not directed solely against the South.

Mr. SPARKMAN. I earnestly hope the Senator from Minnesota, with his fluency and his logic, will take the floor and speak on that subject, because I need reassurance. I cannot see how that statement can stand up. I should like very much to hear the Senator from Minnesota reassure us.

Mr. McCARTHY. The Senator has just cited facts contained in the report of the Civil Rights Commission which indicate that there is discrimination in the North. A fair employment practices provision would probably have more bearing and its application would be more serious in the North than in the South.

Mr. SPARKMAN. Except for one thing: There is a provision that throws some degree of security or exemption around States that have FEPC laws. Most of them are in the North.

If we started from scratch, that provision would have a greater impact in the North, for the simple reason, as has been demonstrated in the course of the debate, that the heavy differential in unemployment as between white and nonwhite is in the States that have FEPC laws, rather than in the Southern States. That fact has been amply demonstrated in the course of the debate. So what the Senator from Minnesota has stated would be correct if it were not for the protective mantle thrown around the States that have FEPC laws.

Mr. McCARTHY. They are not really protected unless the State FEPC laws are fairly administered.

Mr. SPARKMAN. Who passes upon that question?

Mr. McCARTHY. Who passes upon the problem in the South? The Government of the United States. At least since the Civil War it has been clear that the South is a part of the United States.

I am not in a position to make a forecast as to how the law will be administered. I hope it would be administered fairly and equitably in all sections of the country. The problem is one that exists in the North as well as the South. The recent election in Wisconsin, and the election expected in Indiana show that quite clearly. Senators and Representatives from the North do not have a free run on this issue. It has been frequently said that there is no political danger in their voting for these bills. The fact is that the election returns show that 25 or 30 perecnt or perhaps as high as 40 percent, of the people who vote on the question are unhappy with civil rights legislation. Nevertheless, we are standing up on it and acting on it, and are saying that it is not a question of whether 25 or 35 or 40 percent of the people are for it; it is a question of what is good for the country.

Mr. SPARKMAN. Coming from the Senator from Minnesota, I can fully understand that statement, because I presume that in his State the percentage of nonwhites is very low. I have seen the figure. I know it is below 10 percent. It is something like 2 percent or 2.5 percent or 2.9 percent. It is very low.

Mr. McCARTHY. Yes.

Mr. SPARKMAN. There are not in the Senator's State large segregated areas such as exist in Harlem, or the area in Cleveland about which we have been reading, or the great segregated ghettos in Chicago, Detroit, Pittsburgh, and other northern cities, every one of which would be protected under the proposed law because of the little clause someone put in the bill.

The Senator from Minnesota did not put that provision in the bill, because the Senate had nothing to do with writing the bill. One of the objections I have had to the bill's consideration by the Senate is that a committee has not gone over the bill line by line and corrected it.

The Senator from Minnesota had nothing to do with writing the bill. Somebody did. Whoever did, wrote a little provision in the bill to the effect that the provision shall not be construed to require the moving of students from one school to another in order to make up for an imbalance. If that provision does not preserve, for forever and a day, the segregated schools in Harlem as they now exist and the five new schools being built in Cleveland, against which the Negroes were protesting the other day, and if it does not protect forever the segregated schools in Chicago and the other cities that have large segregated areas, I do not understand the English language.

As I pointed out while the Senator was probably out of the Chamber, that is not the situation in the South. There are no heavily impacted segregated areas. The whites and the Negroes live in the same general neighborhood. One does not draw a line that separates a school district in that way. Certainly that is one indication and one way that the bill is pointing at the South; at least, it would have an effect on the South which it would not have on other areas, such as Harlem.

Mr. McCARTHY. I agree with the Senator that there are some areas in which it would have greater effect on the South than on the North; certainly with reference to voting, and possibly in a temporary way, over the short range, with reference to a particular school problem. I am not so sure that the Senator is correct in his judgment in the area of fair employment practices. If State laws are not adequate, or are not being enforced, I believe it would clearly have much more serious effect on many northern cities than in the South. In my judgment, there is less real discrimination on the basis of race and employment in the South than in the genuine and designed discrimination against Negroes in many northern cities.

Mr. SPARKMAN. A few minutes ago we were discussing the effectiveness of the FEPC laws. I believe I am correct in saying that it will be the Equal Employment Civil Rights Opportunities Commission which will have the authority. Based upon the actions of the Civil Rights Commission in the past, I anticipate discriminatory application of that provision in the bill.

I was about to ask the Senator from Mississippi, a question a few minutes ago, as to the protection of the ghetto areas. I mentioned New York, Pittsburgh, Detroit, Chicago, Cleveland, and other areas, which would be continued under the provision prohibiting the transportation of students by bus. I invite his attention to some figures published in the Charleston (S.C.) News & Courier. I am not sure, but I am of the opinion that these figures have already been placed in the RECORD; but, in connection with the segregated areas, I believe it would be fitting to put them in once more.

All Senators know that since 1954, Washington, D.C., has become a city of heavily segregated areas and is becoming more and more so. We know that certain parts of Washington and certain suburbs of metropolitan Washington are wholly segregated. But I wonder whether we ever consider that there are great portions of the old city which have become almost completed segregated—all Negro—since 1954.

Here are some figures on some of the high schools in Washington. I will give this to the reporter that he may place it in the RECORD, but first I should like to read them.

Mr. STENNIS. Mr. President, will the Senator from Alabama yield for a question?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I believe the Senator should make a preliminary statement before giving the figures. When the Senator says "segregated," he means, does he not——

Mr. SPARKMAN. I said all Negro.

Mr. STENNIS. Yes—does not the Senator mean——

Mr. SPARKMAN. I said all Negro.

Mr. STENNIS. Yes. They were not so much of one color, until——

Mr. SPARKMAN. I said since 1954.

Mr. STENNIS. Yes.

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. Until the Supreme Court decision changed the picture.

Mr. SPARKMAN. That is correct. The figures will give that picture. The Senator is correct.

Mr. STENNIS. Yes.

Mr. SPARKMAN. A few years ago, those sections were more or less like our sections down South, where Negroes and whites live in the same general neighborhood, but since 1954 there has been a great exodus of those who were able to get out, by and large—not altogether—but by and large.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Eastern High School is not far from the Capitol. The Senator knows where it is, at the end of East Capitol Street, on the way to the stadium. In 1955, the first year of desegregation, when the District of Columbia put in the system, there were 510 white students and 688 Negro students. In 1963, it had changed to the point where there were 5 white students and 2,381 Negro students.

That is what I mean when I say virtually segregated—all Negro—only five white students in the whole school.

Mr. STENNIS. Mr. President, will the Senator yield? I am afraid I did not get the year.

Mr. SPARKMAN. 1955.

Mr. STENNIS. 1955, the first year after——

Mr. SPARKMAN. In 1955 there were 510 white students and 688 Negro students.

Mr. STENNIS. That was the first year after the Supreme Court decision?

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. I thank the Senator.

Mr. SPARKMAN. In 1963 there were 5 white students, coming down from 510 to 5, and the Negroes going up from 688 to 2,381. That is not absolutely representative, but by and large that represents the change in the community as a result.

Mr. McCARTHY. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. McCARTHY. I know the Senator does not mean to make the argument that this happened because of the Supreme Court decision.

Mr. SPARKMAN. Well, well, well——

Mr. McCARTHY. Many other things happened in Southeast Washington at that time. There was the urban renewal program which leveled large areas in that section——

Mr. SPARKMAN. I believe the Senator has the wrong area in mind. He is thinking of the Southwest part of Washington.

Mr. McCARTHY. This area was leveled and people had to move somewhere.

Mr. SPARKMAN. No, no, no——

Mr. McCARTHY. I know it is a different area, but this happened over in the other area and people had to move somewhere.

Mr. SPARKMAN. Why did so many whites move out and Negroes move in?

Mr. McCARTHY. If the high school had about 50 percent of each kind, why would those people suddenly be shocked by the Supreme Court decision? I do not understand that.

Mr. SPARKMAN. No, no. If the Senator remembers, I believe the District of Columbia was the first large city in America to institute a desegregation plan. I wish to make it clear in the beginning, that I know nothing about the authenticity of these figures. However, they were printed by a responsible newspaper.

Mr. McCARTHY. The figure may be correct. I do not question the figures. I just merely question the Senator's application of why this happened.

Mr. SPARKMAN. I had not made that statement. I only cited what had happened.

Mr. McCARTHY. The Senator juxtaposed the two. He does not say there is necessarily a question of relationship, then?

Mr. SPARKMAN. I do not believe I applied——

Mr. McCARTHY. It could be coincidental. I would not argue that.

Mr. SPARKMAN. I did not refer to the Supreme Court decision; I did refer to the District of Columbia segregation plan.

Mr. McCARTHY. I believe the Senator mentioned the Supreme Court decision.

Mr. SPARKMAN. McKinley High School, in 1955, had 521 whites and 659 Negroes. Now it has 13 whites and 1,774 Negroes.

Mr. STENNIS. Mr. President, will the Senator from Alabama yield, so that we may get the figures straight? Will the Senator yield to me for a question on that point?

Mr. SPARKMAN. I yield.

Mr. STENNIS. The Senator recalls that the Supreme Court decision on the desegregation of schools was rendered in May of 1954; is that not correct?

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. Then in the District of Columbia, the ruling authority, President Eisenhower at that time, said that this must be a model city. Was it not immediately ordered that the schools must integrate the next year? Is that not correct? They put it in very soon thereafter. I do not know whether it was immediately.

It was applied for the next session, however.

Mr. SPARKMAN. Yes.

Mr. STENNIS. The figure the Senator is quoting for 1955 shows the integrated schools.

Mr. SPARKMAN. That is what these figures represent. I do not vouch for their authenticity. Representative GROSS, of Iowa, used the figures.

Mr. STENNIS. The Senator shows that 9 years later the migration of the white children was away from the integrated schools.

Mr. SPARKMAN. Seven schools are listed. The Senator is correct.

Mr. STENNIS. Will the Senator enlighten us by giving us the other seven coincidental situations?

Mr. SPARKMAN. The next school is Roosevelt High School. That is located——

Mr. STENNIS. On 13th Street.

Mr. SPARKMAN. In 1955, there were 634 whites and 519 Negroes. That was fairly well balanced. Now there are 19 whites and 1,319 Negroes.

Macfarland Junior High School: In 1955, there were 646 whites and 641 Negroes. That was almost exactly even. Today there are 13 whites and 1,324 Negroes. That is almost 100 to 1 Negro.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. McCARTHY. Has the Senator the figures for the earlier years—1950, 1949, and so on?

Mr. SPARKMAN. No; I do not have those figures.

Mr. McCARTHY. We could probably see the trend even before the school decision.

Mr. STENNIS. The schools were not integrated before 1955.

Mr. McCARTHY. What was the ratio of whites to Negroes in the schools before 1954, before the Supreme Court decision?

Mr. SPARKMAN. Eastern High School was 100-percent white. So was Roosevelt High School. I cannot speak for all the others. I do not know as to Roosevelt High School. Some of these may have been all white and some of them all colored. However, there was no mixing. There was no integration in the District of Columbia.

Mr. McCARTHY. In 1953 Eastern High School was all white. In 1954 it was 50–50.

Mr. SPARKMAN. In 1955.

Mr. McCARTHY. 1955. Where did the white school children go?

Mr. SPARKMAN. Most of them have moved out.

Mr. McCARTHY. Does the Senator think they moved out because of the school ruling?

Mr. SPARKMAN. I did not say that.

Mr. McCARTHY. That is what I should like to know.

Mr. SPARKMAN. I am citing the facts. I can give the Senator a little review of the facts.

Mr. McCARTHY. I am not denying the facts the Senator is stating.

Mr. SPARKMAN. I am talking about cities in the various parts of the country. I am talking about cities like Detroit and Chicago. Chicago is the most highly segregated city in the United States. New York has the terrifically impacted Harlem area. Segregation exists there, and it always will. There will be no breaking down of it there.

I could name other cities with ghettos. The point I was making was that they are protected under the bill. They are insured in futurity against segregation. "Busing" cannot be required in those instances.

I spoke about Cleveland, where a terrible accident happened the other day, because new schools were being built. Five new, very fine schools were being built. They were to be very efficient schools. However, they were being built in Negro areas, and people were protesting their construction because, they said, they knew their construction would perpetuate segregation there.

The bill does just that.

Then I said I had not named Washington. I invite attention to the fact that Washington is fast becoming a city in the same category. It is fast becoming a strongly segregated area throughout what is called the old town of Washington. Whites have moved out into the suburbs. The people from an area around Eastern High School moved a little over the hill into Maryland, where their children now go to schools of their own choice.

All over the city white people have moved out into the suburbs, until very small numbers of them are left in the various school districts. Two years ago the Superintendent of Education of the District of Columbia made a speech in Nashville, Tenn. If I remember he said, in effect—and this was quoted in newspapers—that there was a segregated school system in Washington; that Washington immediately complied with the Supreme Court decision; that it now had an integrated system; that today it has what amounts to practically a segregated system of all-Negro schools instead of all-white schools.

Mr. STENNIS. Mr. President, will the Senator yield at that point?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I know the great sincerity of our friend the Senator from Minnesota [Mr. MCCARTHY]. Perhaps he has not had the contact with this picture that some of us have had. In 1955 I was chairman of the Subcommittee on the District of Columbia Appropriations. I thought it was my duty to visit various public works and public schools in the District. I remember going through one of those schools. It was already integrated. That was in 1955. It was about 50–50 white and colored. One of the teachers there told me then that the white children were moving out and the colored children were coming in. She told me that when a white family moves out, usually two colored families move into the same apartment. In that way the school attendance was doubling up and becoming overcrowded.

I have not been back there, because I am no longer chairman of that subcommittee. I have had some contact with the steadily rising tide in the distribution of the races. The Senator is rendering a service in bringing the real picture to our attention.

Mr. SPARKMAN. I believe the figures present an amazing picture in the Nation's Capital. The Senator, I believe, quoted President Eisenhower saying, in effect, that Washington should be a model city. He said that it would be a model city. What has happened? It is fast establishing ghetto conditions. I have already referred to Macfarland Junior High School. I shall run rapidly through the others. Macfarland Junior High School had 646 whites in 1955, and 641 Negroes. In 1963 there were 13 whites and 1,324 Negroes. Sousa Junior High School: In 1955 there were 730 white and 171 Negroes. That was a ratio of 4 to 1 white. Today there are 30 whites and 1,034 Negroes. That is a ratio of 35 to 1 Negro.

Davis Elementary School: In 1955, there were 432 whites and 315 Negroes. Today there are 12 whites and 492 Negroes.

Keene Elementary School: In 1955, there were 1,003 whites and 9 Negroes. Today there are 69 whites and 803 Negroes.

These figures present a most interesting picture. It is a rather amazing picture of what has been happening in the District of Columbia.

If I recall the figures correctly, the present population of the District of Columbia is 54 percent Negro, but the school population is 83 percent Negro. As the Negro areas close in on them, the white school population moves out. This sets the Negroes off to themselves, and this bill makes certain that they will always be segregated.

That does not happen in any town in Mississippi that the Senator from Mississippi can think of, for the simple reason that I understand there are no ghettos there.

Mr. STENNIS. That is correct.

**Mr. SPARKMAN.** Big areas that are totally segregated are not to be found there. Instead, we find Negroes and whites living generally in the same community, and throughout the community.

Mr. President, at the time the Senator from Mississippi commenced his very illuminating and very fine questions seeking to analyze the bill in many of its aspects, I was speaking about the housing programs generally, and how they were affected by this provision in section 602. FHA insurance contracts and VA guarantee contracts are exempted. I pointed out that they protect the banks, the savings and loan associations, the FHA—the great underwriter of private enterprise—and insurance companies. But they make it possible, by the provisions in sections 601 and 602 to leave covered, public housing, certain types of subsidized housing in urban renewal programs, housing for the elderly, the various housing programs that are conducted on a loan basis. The would-be homeowners who do not have sufficient income or sufficient credit available to make it possible for them to borrow the money from private enterprise and who therefore must obtain it under a special Government loan program, would still be subject to the provisions of the act under title VI.

I was calling attention to the fact that this marked a division as between the higher class, the wealthier, the more powerful, and the poor, who had to live where they could live, and the less powerful and less influential. I mentioned the fact that the bill was shot through with discriminatory provisions. I observed that it is interesting to note that the so-called public accommodations provision exempts bona fide private clubs.

I am in favor of private clubs being exempt. I think they ought to be exempt. I do not think we have any right to go into that field at all. We all know that private clubs normally have upper class, affluent members. When the wealthier, powerful people are affected, they protest, and they get an exemption. As Representative CELLER said, the exemption was applied to FHA, VA insurance and guaranty contracts because there were so many protests.

We know from whom the protests were coming. They were coming from the banks. They were coming from the insurance companies. They were coming from the savings and loans associations. They were coming from those who would be effected because they were lending the money. That provision is contained in section 602, on page 26, lines 3 and 4 of the bill.

**Mr. ELLENDER.** Mr. President, will the Senator yield for a question?

**Mr. SPARKMAN.** I yield.

**Mr. ELLENDER.** Are the private clubs really exempt?

**Mr. SPARKMAN.** It appears that they are in title II. That presents an interesting point. There are many things in the bill that are not what they seem to be. However, private clubs seem to be exempt. Apparently there are controlling powers in those groups who are pretty well convinced that they are exempt. They are satisfied, I presume.

It is my understanding that if there were a connection with a hotel or a motel, they would not be exempt, because they are tied to the part of the bill that covers them, and therefore they are covered. But if the Senator refers to the country club outside Houma, Louisiana, it is protected.

**Mr. ELLENDER.** The club is within the city limits now.

**Mr. SPARKMAN.** It is protected.

**Mr. ELLENDER.** Mr. President, will the Senator yield further?

**Mr. SPARKMAN.** I yield for a question.

**Mr. ELLENDER.** Is the Senator aware of the fact that throughout the Nation there are quite a number of privately owned and operated clubs?

**Mr. SPARKMAN.** Yes.

**Mr. ELLENDER.** Frequently in order to maintain themselves, they give little parties to which they invite nonmembers. In this way, they sell more food and make more money to finance the club operations.

**Mr. SPARKMAN.** That is correct.

**Mr. ELLENDER.** Would such a club be exempt under the bill?

**Mr. SPARKMAN.** I am not an authority on that point. I should say offhand—and this is completely offhand—that if the club goes into that type of business to the extent that it becomes a business, and it is operating, not a catering service, but a professional entertaining service, I think it would become a business rather than a club. It would depend perhaps on the degree of activity.

**Mr. ELLENDER.** The section of the bill which has to do with private clubs reads:

> The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

If we read subsection (b), what do we find? One of the private clubs might find it advisable once or twice a week, or perhaps once or twice a month, to permit people other than club members to come in and participate—not in any activity of the club—but in a dinner or dance so that the club might make a little more money on the food that is provided. In that way, it could keep going financially, although it would not be in the nature of a restaurant or motel or anything of that sort. I know of many small private clubs which could not possibly maintain themselves except for finding various ways to raise additional funds—from the public, on occasion—with which to help pay their expenses.

**Mr. SPARKMAN.** In reply, let me state that from a casual reading I am of the opinion that if a private clubs did very much of the kind of entertaining to which the Senator from Louisiana has referred, it would run the risk of being included, and no longer exempt, because section (b) has four different items. A while ago I said that if the club were connected with a hotel or motel or inn, it would not be exempt. That is the first provision.

The second provision is that if it were connected with a restaurant, cafeteria, lunchroom, or lunch counter, it would not be exempt. In other words, if a country club did not have its own food service, but, instead, bought its food from a restaurant or lunchroom or lunch counter, as a regular source of supply, day in and day out, probably the country club would no longer be exempt. The same would be true of motion picture houses.

So I should think such a club would have to be very careful. In order to be sure of continuing to have the exemption, I believe a private club would have to conduct its business wholly within its own field of operations.

**Mr. ELLENDER.** Mr. President, will the Senator from Alabama yield further to me?

**Mr. SPARKMAN.** I yield.

**Mr. ELLENDER.** In other words, it would have to deal only with its own members, as customers?

**Mr. SPARKMAN.** Yes.

**Mr. ELLENDER.** And if perchance it invited outsiders to eat there——

**Mr. SPARKMAN.** Not if a member of the club brought a guest with him; but if the club made a practice of serving food to outside groups or meetings, and so forth, I believe it would then lose the exemption.

**Mr. ELLENDER.** Many small clubs are located in relatively rural areas, and are unable—because of an insufficient number of members—to have sufficient business to enable it to pay all its expenses. And if, because of that situation, the club engaged in any kind or sort of entertainment for the benefit of outsiders or served food to outsiders, merely in order to make a little more money, so as to be able to pay its expenses, is it not true that the club no longer would be considered a private club, under the provisions of the bill?

**Mr. SPARKMAN.** I think that is true. In my opinion, the decision in that connection would depend on the amount of other business the club did; but if it did such business to any appreciable extent, no doubt it would lose the exemption.

Again I point out that the bill would result in damage and injury to the small clubs; they would be the ones which would be hurt. I do not attribute any particular intention in that connection; but the fact is that, under the provisions of the bill, only the small clubs, which have to struggle to get along, would be placed under the coverage of the bill, whereas the large clubs which serve the powerful and the mighty would not be adversely affected by the bill.

Only recently the President sent to Congress his program for launching a war on poverty. I feel that title VI, rather than launching a war on poverty, would set the stage for a double-barreled attack on the poor. Let us now examine the dual aspects of this attack.

The Honorable ALBERT RAINS, a distinguished Representative from my own State of Alabama, and the chairman of the House Subcommittee on Housing, has stated that enactment of title VI will cut off and eliminate the type of legislation, which in the past he has presented to the House of Representatives, for the benefit of the poor people of America.

Representative RAINS is retiring from Congress at the end of this session. His departure will be a great loss to Congress.

I have presented a similar program to the Senate. As I have stated, Representative RAINS is chairman of the House Subcommittee on Housing; and I am chairman of the Senate Subcommittee on Housing. Over the years, we have sponsored proposed legislation of very much the same type. Representative RAINS pointed out that the 1961 housing bill passed the House of Representatives by 18 votes. He asked, in effect, how Congress could be expected to pass a bill that would say to any city in the United States which happened to have a mayor who disagreed with the viewpoint expressed in this proposed legislation, that the people of that city could not have the benefit of programs which Congress establishes for the benefit of all the people of the country.

The enactment of title VI would make it much more difficult to pass proposed legislation for the benefit of the poor people. Furthermore, in the event title VI were passed and were enacted into law, it would be almost certain that such action would hurt the poor people of this country, both the blacks and the whites, without discrimination because of race, color, or national origin.

Title VI could have a direct bearing on the health of the Nation—even an adverse bearing. Consider such programs as the Health Facilities Act, the Child Health Institute Act, the Medical Education Assistance Act, the Mental Health and Mental Retardation Act. Would children helped under some of these acts be deprived of benefits because adults refused to integrate the programs sponsoring these benefits?

What has the Senate come to? Here we are considering proposed legislation which would seek to cut off funds that are going to mentally retarded children, blind and deaf children, handicapped children, emotionally disturbed children, crippled and physically defective children. It is simply hard to conceive that we are actually considering on the floor of the Senate, the greatest deliberative body in the world, proposed legislation so potentially harmful to segments of our society which are most in need of assistance.

So I address this question to the Senator from Louisiana [Mr. ELLENDER], the chairman of the Senate Committee on Agriculture and Forestry, and the Member of the Senate who probably knows more about agriculture than does any other Senator; certainly I would not rank any other Member of the Senate ahead of him: Shall we stop the school lunch program in the South? Would it make the proponents of this bill happy if the many children who now receive their only decent meal of the day at school, no longer had a single decent meal? Yet, Mr. President, under the provisions of the bill, that could happen.

I hope the Senator from Louisiana will correct me if I am in error, but I am under the impression that the Senator from Georgia [Mr. RUSSELL] and the Senator from Louisiana were the two great leaders in the origination of the school lunch program. At that time as I recall, the Senator from Georgia was chairman of the Agricultural Subcommittee of the Appropriations Committee, and the Senator from Louisiana was chairman of the Agriculture Committee; and the two of them together were responsible for starting the program, and they have been responsible for pushing it forward; and children all over the Nation have enjoyed its benefits.

I have known of situations in which the school lunch program was in effect. I remember standing in the lunchroom of a school in which most of the students were from families of good living, but a small percentage of the children were from families of very low income. Perhaps there had been a misfortune in the family. Perhaps the father was no longer living. Anyway, the child could not hope to get a decent meal save for the school lunch program.

I remember standing with the teacher who was in charge. As the children went through the line, from time to time she would point out certain individuals. She would whisper to me, "See the little girl in blue? See the little boy in the gray suit?"

That child would receive a free lunch, but the other children in the line would not know it. The pride of the student was protected by having been given a ticket, the same kind of ticket that the other children had. They simply did not have to pay for it.

I felt good to see the relish with which those children ate their lunches, and at the same time maintained their prideful standing among their fellow students.

The school lunch program has been one of the great programs of our country. The program originated, was pushed, kept alive, extended, and expanded under the leadership of two of our great southern Senators. Yet, under the proposed legislation, the school lunch program might be closed down because of an infraction that would have no connection with the school lunch program at all. Perhaps something might happen which would displease the Civil Rights Commission. The Civil Rights Commission might come forth with a recommendation that funds for the program be cut off. The Civil Rights Commission would be empowered to look into such cases and make recommendations. It might not be the agency which would enforce the law, but it would make recommendations. Some other agency, bureau, or department of the Government would have the enforcing power, and merely because of a refusal by some officials—perhaps the mayor of the city, the board of commissioners of the county, or someone at a State level—so that the order could be blanketed all over the State—as a result of such a refusal, these warm, wholesome, and nutritious meals—the only ones that many of the children might get—would be snatched from them. That action would occur because of a law which was passed in the name of being equitable to everyone in the United States.

Again I point out that it would be the little helpless and hungry child who would be adversely affected. Under a program that purports to be the great giver of things to people without discrimination, a helpless child might be affected. The bill is full of discrimination all the way through. The further we go into it, the more and more discrimination we find.

Suppose that the distribution of surplus food should be ended. That is one of the programs that could be ended. Again I point out that the leadership of the two Senators whom I mentioned a few moments ago largely provided for the surplus food disposal program along with the school lunch program. Suppose that the distribution of surplus food should be ended, as it could be under the vicious title VI. I ask Senators what good would be accomplished. Perhaps some people in our country would say it would be good to end the program, so that people who were starving would put forth more effort.

Mr. President, statements are made to the effect that the poor ought not to be fed. Not long ago, if I remember correctly, some national figure made the statement that the poor ought to be made to work. With unemployment figures such as we observe today, where would the jobs come from for those who are out of work and for the poor who need better jobs and higher paying jobs?

There are families without sufficient income from the earnings of the breadwinner of the family to provide proper meals. Wherever the program is in effect, there is an opportunity to share the surplus foods that are available. Under the provisions of the bill, food would be snatched away from those hungry families. It might happen not because of anything that they might have done, they would receive the punishment. The penalty would be imposed on them, when, perhaps, the breach of a provision under the bill would be by some mayor or other official who might hold to the belief that the poor should not be fed, and that they should be forced to work when there is no work.

While I should like to think that the proponents of the bill would not do so without having thought it through, they would punish little children and deprive them of warm, hot lunches in their schools, or they would deprive hungry families of surplus food because of something that someone else had done contrary to what it was felt ought to be done.

Mr. President, I cannot conceive of any law that could have such an effect being good. I point out that, generally speaking, throughout the South the colored people are the greatest beneficiaries of both State and Federal welfare programs. I, for one, will fight with all the means at my command to see that they are not deprived of this needed assistance. When I speak of welfare programs, I include the school lunch program and the surplus food distribution program. Those who claim that they are helping the Negroes actually would deny to the Negroes benefits which they are now receiving. Certainly that is true in the South; and I believe it is true throughout the country as a whole. They would deny to such people the real benefits they are receiving. Yet they hold the bill out as one that would do great good for the Negroes of our country. It is not written to work that way. If the bill is enacted into law, I believe we shall see that the Negroes will be most heavily punished.

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## VISIT TO THE SENATE BY HON. ROMULO BETANCOURT, FORMER PRESIDENT OF THE REPUBLIC OF VENEZUELA

Mr. HUMPHREY. Mr. President, will the Senator from Alabama yield to me without in any way jeopardizing his right to the floor or in any way jeopardizing his privileges of the rules?

Mr. SPARKMAN. I was about to say I yield for a question, but I know the Senator has something broader than a mere question.

Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Minnesota for such purposes as may be required to carry out what he has in mind, without being penalized in any way whatsoever.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

Mr. HUMPHREY. The Senator from Alabama will not be penalized in any way. He will indeed be honored for what he has just done. I know the Senator will be interested in knowing that we are privileged in the U.S. Senate, and in the United States of America, to have, as our guest and visitor, one of the truly great leaders of the modern world.

I refer to the former President of the Republic of Venezuela, President Romulo Betancourt.

President Betancourt is visiting the United States after having served his term of office as President of Venezuela. As we recall, he was succeeded in office by an associate and friend, Dr. Leoni, Venezuela having conducted a free election and a President having been elected under the terms of the Constitution of that country.

Under the terms of the Constitution of Venezuela, President Betancourt is a Senator of the Republic of Venezuela. As he has indicated to some of us, he has a distinct advantage over Senators of the United States. His senatorship runs for life. There is no need of campaigning for reelection. Former Presidents of the Republic of Venezuela are entitled to all the privileges and responsibilities of the office of Senator in the Venezuelan Congress.

Earlier today I addressed the Senate with reference to the work, the program, the philosophy, and the leadership of our honored guest.

I take this opportunity to welcome him to the Chamber of the U.S. Senate; to tell him that he has honored us by his presence; and, through him, to tell the people of Venezuela of our sincere affection and friendship for their country and for the achievements of the people of that country. We welcome him to the Senate.

Mr. AIKEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield to the Senator from Vermont.

Mr. AIKEN. In order that the RECORD may show that no one political party in the United States has a monopoly on its admiration for our distinguished visitor from Venezuela, I wish to add a word of welcome for Senators on this side of the aisle.

For years we have been watching and admiring the great courage exhibited by President Betancourt, who at times seemed to be fighting against almost insurmountable odds. We are very proud, with him, that he came through his term of office with flying colors and that he established a sound representative government in the nation of Venezuela.

We are equally proud of the people of Venezuela, who, at the time of the last election, were told that they would encounter violence if they attempted to vote. Yet, if I am correctly informed, something like 90 percent of those qualified to vote did vote, defied the threats made against them, and elected a new President, whom we shall be happy to meet at some time in the future.

I only wish the people of the United States would turn out and vote on election day in the same proportion that the people of Venezuela did, even though they were threatened with bodily harm if they attempted to do so.

We are all happy that President Betancourt has elected to visit us at this time and, I understand, to take a vacation in the United States for some time. We wish him all good luck in the future.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Alabama.

Mr. SPARKMAN. I join my colleagues in extending a welcome to the distinguished former President of Venezuela and to say that we are delighted that he is here. We hope he has a very enjoyable and profitable stay in the United States for as long as he desires to stay here.

During the winter of 1961 I had the pleasure of visiting Venezuela. I had the privilege of talking at that time with the President and discussing with him some of his programs and problems, and of driving to various parts of the country and seeing what was being done.

I agree with the Senator from Vermont that he had problems that at times seemed to be insurmountable, but he never gave up. Those who would try to subdue him by threat, terrorism, and in every other way, soon discovered that he was a man who would not give up.

We have seen a wonderful development in Venezuela. I believe we shall see even greater developments as time passes. I am sure that freedom-loving people everywhere will always be grateful to this distinguished man, who showed that he could resist and could overcome trouble and develop his own country.

I say to you, sir, we are delighted to have you with us.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Idaho.

Mr. CHURCH. In 1957 I had occasion to visit Venezuela. At that time Venezuela was a sad country, gripped with fear, and dominated by a ruthless tryant, Perez Jimenez. We are highly privileged today to welcome the great public servant who, more than any other, personifies the victory of the Venezuelan people in overcoming that tyranny, in establishing constitutional government, and restoring liberty to what had been a most unfortunate and unhappy land.

Constitutional government lives now in Venezuela by virtue of Romulo Betancourt; and in a very real sense the reforms he accomplished during his term as President constitute the hopes and aspirations of countless millions of people in Latin America who look forward to the day when their countries can also enjoy constitutional government and liberal programs to better spread the national wealth to the many rather than the few, as Mr. Betancourt undertook to do in Venezuela during the course of his tenure.

So I am honored to add my voice to the expressions which have already been made here in the Senate Chamber in bidding our distinguished visitor welcome.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I met President Betancourt at the inauguration of Dr. Juan Bosch as President of the Dominican Republic, a country which had obtained its freedom after over 30 years of tyranny, which many visitors, including our visitor, had come to honor. The tyranny in Venezuela did not last long, but it illustrated what has made Mr. Betancourt a champion.

He understood that we not only had to have honorable aspirations but we also had to have a clear program of action and effective administration to translate those aspirations into reality, and that we had to win the support of all the people for the reforms to which one aspired.

So, I hail him today, along with other Senators, as the antithesis of Castro—as a man who has been able to satisfy the great aspirations of his people because he knows that the ways of freedom are the truest ways, not only to the achievement of well-being but also to self-realization and dignity, which is probably the highest expression anyone can use about one of our brother Americans.

I join all Senators in greeting him. It is a great honor for the Senate to have him with us.

Mr. GRUENING. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I am glad to yield.

Mr. GRUENING. It is a great pleasure and a privilege to join my colleagues in greeting this great statesman, the former President, and now a life Senator, of our sister republic of Venezuela, whose achievement transcends the boundaries of his republic—a model which may well be followed by our sister republics.

I said this morning on the floor of the Senate, in joining the distinguished acting majority leader, the senior Senator from Minnesota [Mr. HUMPHREY], in paying tribute to our distinguished visitor, that if all the other countries in Latin America could be gifted with the type of leadership which he has shown, the Alliance for Progress would have fared and would continue to fare much better than it has.

One of the things we learn in our own country, after nearly two centuries of our form of government, is the fact that we still must realize that all forms of government—even our own—are experiments and subject to continual trial and error, and that leadership is absolutely essential if the democratic process is to function well.

During the luncheon today, our distinguished visitor paid a just and eloquent tribute to his own people who, he said, were the real heroes of the success that had been achieved in Venezuela in the last 6 years—a success marked by continuing social and economic progress carried out, at the same time, under a democratic regime.

The transition from one administration to another was made without violence, in the face of subversive attempts to destroy that effort, to create violence and nullify the election. I assure him that while we are largely concerned with our own domestic elections in city, State, and Nation, I doubt whether in recent years there has been any election that was watched with so much solicitude and anxiety and hopefulness as the one which marked the first transition in many years—not merely in Venezuela, but among many Latin American Republics—from one democratically elected regime to another likewise democratically elected.

The fact that profound social and economic reforms can be achieved satisfactory to the desires, ambitions, and hopes of a people under a democratic method is a demonstration of incalculable and historic value.

So we are happy to welcome President and Senator Betancourt here to the Senate of the United States. We hope that he will enjoy his stay in the United States, that he will long be a visitor here, and that he will long continue—as I know he will—to serve his country in the Senate of Venezuela as effectively, as devotedly and as enlighteningly as he has done in the past.

**Mr. CLARK.** Mr. President, will the Senator from Minnesota yield?

**Mr. HUMPHREY.** I am glad to yield to the Senator from Pennsylvania.

**Mr. CLARK.** Mr. President, tomorrow, the words of admiration and praise which have just been spoken on the floor of the Senate with respect to the people of Venezuela and its gallant former President, now a senator for life, will appear in the pages of the CONGRESSIONAL RECORD.

I hope, Mr. President, that you and the able Ambassador of your country will convey to the leaders of your country, through the pages of the CONGRESSIONAL RECORD, the encomiums which have been uttered about you and your country in the Senate today. For those are true expressions from our hearts, spoken with deep sincerity.

A short while ago, a few of the Members of this body had the opportunity to have luncheon with you in the rooms of the Senate Committee on Foreign Relations. During the course of that luncheon, you made—in your native language, Spanish—what to me was a most eloquent, although brief, exposition of your views for the future of your country and of this hemisphere. You spoke with eloquence about the desirability of confining communism in our hemisphere to Cuba—and if possible, and as soon as may be, to eliminate it there.

You also spoke of your great hopes for the spread of democracy throughout Latin America.

Mr. President, I ask unanimous consent that the remarks of former President Betancourt, which were translated at the time by an interpreter who accompanied him, may be printed in full in the RECORD, in order that all Senators may have the benefit of the eloquent and sound comments of former President Betancourt which were made to the luncheon group in the Foreign Relations Committee.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS BY PRESIDENT BETANCOURT AT A LUNCHEON GIVEN IN HIS HONOR BY SENATOR HUMPHREY AND THE SENATE FOREIGN RELATIONS COMMITTEE, APRIL 21, 1964

Senators, in the past few days I have been able to reread, with more leisure, the book written by President John F. Kennedy, "Profiles in Courage," and to thus appreciate the great significance for the United States of the Senators from the two historical parties of this country, the Republicans and the Democrats. This great tradition has been continued in the Senate Foreign Relations Committee, which is without a doubt one of the bodies of the U.S. Congress that is most respected, both in and out of the United States.

It was very flattering for me to hear the remarks by Senators FULBRIGHT, HUMPHREY, and MORSE about what has been achieved in my country during the administration that ended barely 2 months ago. I would like to say that these achievements are not the work of one man. They would not have been possible without the cooperation of the Democratic Action Party and of the Social Christian (COPEI) Party. They would not have been possible without the support of the strong labor movement of Venezuela, which has 1,200,000 members devoted to freedom and democracy. They would not have been possible without the support of all circles in my country, including management. They would not have been possible without the support of the armed forces, devoted as they are to constitutionalism and institutionalism. The great heroes of this period have been the Venezuelan people themselves. I want to stress this fact, because outside of Venezuela, both in the United States and in Europe, there are those who believe that democracy is an Anglo-Saxon institution and that it is not meant for us in Latin America. I want to assure you that our people have a deeply rooted love of freedom, and that they can live under democracy.

I cannot let this opportunity go by without commenting briefly on three matters.

Some time in the future there will be held two meetings of consultation of Ministers of Foreign Affairs of the American Republics, as provided in the Charter of the OAS. The first will be devoted to discussions on measures that might be taken against the Cuban regime, the Communist regime in Havana. This is a regime that shipped four tons of arms, of bazookas, of mortars, of recoilless rifles, of NATO-type rifles to Venezuela, in an attempt to prevent our elections. I hope that it might be possible to obtain even the bare 13-vote majority necessary to impose sanctions on Cuba, without taking into account the example of the meeting of Punta del Este, where Communist Cuba was excluded from the OAS without the support of the so-called large countries of Latin America and by uniting the efforts of Colombia, Venezuela, Peru, and the small countries of Central America to achieve the minimum number of votes required by the regulations of the OAS.

The second meeting of consultation will deal with the problem of maintaining democracy in the Americas. I do not wish to conceal the alarm with which I view the development once again in Latin America of a process similar to the one which took place around 1948, and which led to the ominous fifties. We see now that elected governments in this area are becoming a minority, and that there are many governments, self-elected and maintained by force. This is bad for our hemisphere, since these types of government provide a breeding ground for the increase of communism.

In all of the Latin American countries that have been ruled by dictatorships, and I refer especially to Venezuela, Colombia, and Peru, when the dictatorships ended around 1958, it was found that communism had increased alarmingly. At this table is my old friend Thomas Mann, who was First Secretary of the American Embassy in Venezuela in 1946, when I was provisional President of my country. At that time, communism in Venezuela was weak. In 1959, however, when I took office after having been elected, I found large numbers of Communists in the press, radio, television, universities and schools. In other words, the media for shaping public opinion had been infiltrated by Communists during the dictatorship.

I hope that the democratic governments of the Americas will give their support at this meeting of consultation to means of maintaining democracy in the Americas.

The third of my comments is that Venezuela has achieved a great deal of success in effecting social reforms and initiating long-range development programs. This has been possible because our Government has a large income from oil. In Venezuela, it has not been necessary to count on grants from the United States or from the American contribution to the Social Trust Fund of the Inter-American Development Bank. However, the situation is very different in some of the other countries that are desperately poor. These countries need the prompt support and cooperation of the United States.

In other words, I am not speaking on behalf of Venezuela, but of the poor countries of Central America, and of South American countries like Bolivia, Ecuador, and others. You must remember that poverty is a breeding ground for the development of extreme ideas, be they Fascist or Communist.

I want to tell you how happy I am to be once again in the United States. I lived here as a political exile in the 1950's, and have always remembered the warm hospitality offered to me by the American people, a people that I love. I am happy to be here again.

In conclusion, I want to say that I feel a little sorry for you Senators, because of the privilege that I have, which is like the divine right of kings, of being a lifetime Senator. I do not have to worry about reelection every few years, as you do.

Thank you very much.

**Mr. CLARK.** Mr. President, I thank the Senator from Minnesota for yielding to me.

Mr. HUMPHREY. Mr. President, I believe we should give our distinguished guest from the Republic of Venezuela a typical enthusiastic American welcome.

[Applause, Senators rising.]

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER (Mr. Church in the chair). The Senator from Alabama [Mr. Sparkman] has the floor.

Mr. SPARKMAN. Mr. President, I had just been speaking, before this slight break occurred, as to what might be the effect on two items which I named of the penalty imposed under what I call the vicious title VI.

A few days ago, the Senator from Mississippi [Mr. Eastland], if I recall correctly, placed in the Record a long list of various programs which could be affected by title VI. I suppose the Senator knows more about it than I do, because he has studied it more fully; and I suppose every one of the programs could be affected by it in the imposition of a single penalty.

However, I did not deal with it on such a broad scale as that. I dealt with only two small items, one of which was the school lunch program, in which I said that hungry children would be denied the only warm meal in the day that they could hope for. I also further mentioned the distribution of surplus food, and I pointed out that it was the poor and often hungry people who receive the benefits of surplus food; and yet, because some mayor, or county official, or a higher State agency official might decline to carry out certain things the way the Civil Rights Commission or enforcing agencies wanted them carried out, the penalty might be involved, whereby those who would actually suffer the punishment would be the innocent, the helpless, and the hungry.

I invite the attention of the Senator from Minnesota [Mr. Humphrey] to the fact that we have before us a bill which is held out to the American people—and I do not believe there is any question about it being so held out—as a bill which, if enacted, would do great good for the Negroes. It is designed to help all minorities, as I understand, but, if I understand correctly, the general picture that is being presented is that it would be of special benefit to the Negroes.

Yet anyone who is familiar with the situation in the South knows that a higher percentage of Negro children get the hot lunches than white children, and that a higher percentage of Negro needy families get surplus foods than white families.

Even though the offense were committed by an official of a State, county, city, or school district, or whatever it is, it would be the helpless, innocent people who would suffer the penalty. It would not hurt the county judge or the mayor of the city, or any other high official. It would hurt the children. It would hurt hungry stomachs. It would hurt hungry people who need the food, who need the help from these programs, some of which the Senator has been highly instrumental in instigating.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. SPARKMAN. I yield for a question.

Mr. HUMPHREY. Does not the Senator agree with me that if the public official who is responsible for the program were to abide by the law, innocent people would not have to suffer the consequences of enforcement?

Mr. SPARKMAN. It is rather unusual, under our system of justice, to require that the innocent pay the penalty for something that is done by someone who is not connected with them. It is bad enough when the head of a family commits a crime and must go to prison, and thereby make his family suffer. At least in such a case the suffering is not caused by someone who is not directly a part of the family.

We are talking about a mayor, whom some of these people have never heard of or even seen. The Senator has served as mayor of his city. Of course he did not have many Negro children in his city. There were not very many hungry Negro children in his city, because not many Negroes live in his city.

However, the mayor of the city of Montgomery, Ala., or of Mobile, Ala., or of Tuskegee, Ala., or of Hayneville, Ala., or of Letohatchee, Ala., has a great many Negroes living in his jurisdiction. A considerable percentage of those people will be in want and in need.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SPARKMAN. Some of them will be in poverty. I yield to the Senator from Minnesota.

Mr. HUMPHREY. The Senator is aware of the fact, is he not, that under the Highway Construction Act, for example, if there is a misuse of funds by a State official, the Federal Government may cut off the funds, and thereby, obviously, injure the people who would like to travel on the highway? Is that not a fact?

Mr. SPARKMAN. But it is not taking food away from hungry stomachs.

Mr. HUMPHREY. It is an official act that works injury upon the innocent.

Mr. SPARKMAN. It is an injury done to a State program, because the State is responsible.

Mr. HUMPHREY. The State does not drive on the highway, does it?

Mr. SPARKMAN. The State itself does not. Frankly, while there is some analogy in what the Senator says, the connection is what we might call farfetched. I say that with the greatest respect for the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. HUMPHREY. Would it not be a little fairer if we stopped talking about Negro children and other kinds of children, and just spoke about children?

Mr. SPARKMAN. Oh, yes. I spoke about children. I did talk about children. Probably the Senator did not hear me say it, but down our way, the injury would fall more heavily upon the Negro segment of the population than it would on the white, because their need for these things is heavier. I discussed this problem from the standpoint of children.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. HUMPHREY. Would not the Senator feel that if every Negro adult were given an opportunity to register and to vote, there might be a little less desire on the part of some public officials to violate the established law of the land?

Mr. SPARKMAN. I cannot speak for other States, but in my State there may be one or two counties which have not done a good job of registering Negroes. However the great majority of the counties in my State do register Negroes, just as they register whites.

In my State there is a requirement that someone accompany a prospective registrant, whether he be white or black. A new voter must be recommended to the board by a voter. I have gone with Negroes to recommend them. I have never experienced any difficulty whatever in the registration of Negroes in my own county. It varies from county to county, because human beings vary from county to county. I cannot speak for other States, but in my State any qualified Negro who wishes to vote is, with very rare exceptions, allowed to do so.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. HUMPHREY. I am sure the Senator, in discussing title VI, has placed in the Record the full text of section 602. I ask the Senator if the section does not provide that whatever action is taken to fulfill the stated purpose, namely, that no person in the United States shall, "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance," such action may be taken, "by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken."

Then the section provides that there shall be conferences and voluntary compliance; that no rule or regulation may be issued until approved by the President; that there must be a hearing; and that before any disciplinary action is taken, there must be 30-day notice, and so forth.

It seems to me that all kinds of protective devices have been written into this section so that there will be no precipitate action and no bureaucratic action, in order that the objectives of the statute, such as the school lunch program, for example, may be realized and fulfilled. Is that not a fair explanation?

Mr. SPARKMAN. I think title VI is bad. But if it is going to be thrust upon us, I would be glad to see certain protective clauses in it. Judging from some of the things that have been done before—particularly by the Civil Rights Commission, and even under the President's program of equal employment opportunity—I hope that this provision will be set forth as meticulously as it is provided for in section 602.

I admit that there are certain protective clauses. But it is so easy to rely upon the Civil Rights Commission. It is easy to adopt the attitude of saying that the Civil Rights Commission investigates the situation and makes its findings. We accept its recommendations, and we adopt this shortcut or that shortcut.

I prefer the statement which President Kennedy made. I think it was really a good statement. The President made it at his news conference immediately after the Civil Rights Commission suggested cutting off funds. When President Kennedy was asked about it, he said, as I recall, "The President of the United States does not have the power to do those things. And I do not think he ought to have the power." That is not the exact language, but that is the essence of it. I think he was right when he said that.

Mr. HUMPHREY. Mr. President, will the Senator yield on that point?

Mr. SPARKMAN. I yield.

Mr. HUMPHREY. There has been some discussion on that statement prior to today. As the Senator will recall, I read into the RECORD that what President Kennedy was referring to was the cutting off of all aid where there was discrimination. I would oppose that, too.

Mr. SPARKMAN. I believe the recommendation had to do with the State of Mississippi.

Mr. HUMPHREY. That is correct.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. The recommendation of the Civil Rights Commission was a general, cover-all recommendation. That is true in that particular case, but I have seen the Civil Rights Commission operate. I have said in the Senate many times that I do not think it does a good job. At times it takes things into its own hands and becomes rather headstrong. I do not want the recommendations of the Civil Rights Commission to have the strength or backing that they would be given in this provision.

Mr. HUMPHREY. I can well understand the Senator's concern over any general broad-scale control or enforcement power by any agency. I want the Senator to know that I am sympathetic toward that attitude.

What the late President Kennedy was referring to can best be explained—because I am sure we want the RECORD clear—by reading into the RECORD exactly what the President said. I have it here.

Mr. SPARKMAN. I was giving the substance.

Mr. HUMPHREY. The Senator gave the substance of it.

Mr. SPARKMAN. Yes.

Mr. HUMPHREY. President Kennedy made the statement in response to a question by a Mr. Hill. This occurred at a press conference on April 19, 1963, following the President's speech at the American Society of Newspaper Editors.

Mr. Hill said:

> Mr. President, will you attempt to cut off Federal aid to the State of Mississippi as proposed by your Civil Rights Commission?

The President replied:

> I don't have the power to cut off the aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another it might be moved to another State which was not measuring up as the President would like to see it measure up in one way or another. I don't think that we should extend Federal programs in a way which encourages or really permits discrimination. That is very clear. But what was suggested was something else and that was a general wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent, as a disciplinary action on the State of Mississippi. I think that is another question, and I couldn't accept that view.

It is my view that title VI is consistent with the opinion of the late President, because it would not authorize a general wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent. It would authorize action, including cutoff of funds where necessary, to end racial discrimination against the participants and beneficiaries of specific programs of Federal financial assistance by way of grant, loan, or contract.

I would oppose the recommendation of the Civil Rights Commission for a general wholesale cutoff. That would be very poor judgment, and poor application of principle, or law. If title VI is enacted so that the RECORD may be clear on this point—I hope that the provisions which prescribe enforcement procedures will be kept intact. Those provisions are designed to facilitate voluntary compliance. They are designed to prevent any Federal agency from quickly applying any rule. Those provisions are designed to provide for hearings to see to it that any rule or regulation must be personally approved by the President, to see that the appropriate committees of Congress are forewarned. Thirty days are allowed in which to take whatever action might be desirable.

I sympathize with the point of view the Senator from Alabama expresses. I do not want to see school lunches cut off. I do not want to see innocent adults or children injured. If I thought that title VI would have that result, I could not support it.

I say to the Senator from Alabama that I believe the restraints which are written in title VI are designed to insure that every possible effort will be made to seek voluntary compliance, to adjust difficulties, to allow plenty of time to the local government or State officials to comply with the Federal policies. There is no doubt as to the Federal policy. The only question is with regard to the implementation of the policy. I have no basic disagreement with the Senator from Alabama. There is disagreement over the means. I do not like to get into a discussion with Senators who are opposed to the bill and have that discussion indicate in any way that the Senator who opposes me has any less interest in the welfare of human beings than I do.

The Senator from Alabama is one of the most generous, most kindhearted, sympathetic, and compassionate men in this body. I would not want my discussion with the Senator to indicate anything to the contrary.

Mr. SPARKMAN. I thank the Senator from Minnesota. I wish to make clear one thing. The Senator from Minnesota quoted from President Kennedy's news conference. What conference was that?

Mr. HUMPHREY. That was following a speech at the American Society of Newspaper Editors on April 19, 1963. Following the speech, there was a question-and-answer period.

Mr. SPARKMAN. Was there not an earlier statement which he had made at the White House in a news conference?

Mr. HUMPHREY. That may have been.

Mr. SPARKMAN. I believe so. I believe this is an elaboration of the other. As I recall, the other statement did not have all this material in it.

Mr. HUMPHREY. The Senator may be correct.

Mr. SPARKMAN. That statement is almost exactly what I stated a while ago.

Mr. HUMPHREY. I am not familiar with the other one.

Mr. BYRD of Virginia. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Alabama has the floor.

Mr. BYRD of Virginia. Mr. President, will the Senator from Alabama yield briefly to me, if it is understood that in doing so, he will not lose his right to the floor?

Mr. SPARKMAN. Mr. President, under the same conditions stated a moment ago, I ask unanimous consent that at this time I may yield briefly to the Senator from Virginia.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. SPARKMAN. Very well, Mr. President, I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, we have been hearing much about what people who are referred to as religious leaders are saying about the so-called civil rights bill now pending in the Senate.

If there has been spread abroad the impression that all religious leaders are advocating enactment of this bill as it stands, a false impression has been broadcast.

The Virginia Methodist Advocate is the publication of the Virginia Methodist Conference. Its editor, Dr. George S. Reamey, is one of the finest Christian gentlemen I know.

I ask unanimous consent to have published in the Congressional Record an editorial from the March 26, 1964, edition of the Virginia Methodist Advocate. The editorial is entitled "Labels and Contents."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Labels and Contents

Picture for yourself a situation something like this: When the housewife in your home makes her periodic visits to the neighborhood grocery store, let us suppose that she is unwise enough to select her purchases entirely by the attractive labels on the cans or boxes she sees. Her concern is only incidentally with the quality of merchandise inside, so enticed is she with the labels.

Let us suppose further that only in rare instances do these containers hold what she thinks she is buying. If she thinks she is getting a can of coffee, she goes home, opens the container and finds tea, not coffee, on the inside. She buys a can with a most attractive label reading "tomatoes" and showing a picture of several specimens thereon, but when she opens the can at home, behold the contents are string beans or succotash.

Unless such a housewife is in serious need of medical attention herself, it will not be long before she finds other ways of selecting her purchases.

The above picture is so extreme that, of course it is ridiculous; yet, it does portray without much exaggeration what is constantly going on in the religious, political, and social realms. Just find a popular label for some real or fancied "cause," place behind that label almost any kind of contents you desire, and there will be multitudes of uncritical folks who will eagerly "buy" the label and pay scant heed to what lies behind it. If the label is acceptable, the whole product must be good. That seems to be their motto.

Specifically, what we have in mind at the moment is the so-called civil rights bill now before the U.S. Senate. Because of the label on this bill, there seem to be multitudes of persons who stand eager and ready to give this bill all-out support, and to urge others to do likewise. But one wonders whether they have read the bill. Do they know just what this proposal actually contains?

On the other hand, the bill has merit. It recognizes that there are minority groups—including Negroes, Puerto Ricans, Mexicans on this side of the Rio Grande—who do not receive certain rights to which they are and should be entitled. Voting rights are a case in point. Better educational opportunities are another.

But, there are other provisions in this bill that make one wonder whether he is in America or in Moscow or Havana. If this bill is passed in its present form—i.e., without substantial amendment—the United States will be perilously near a dictatorship. Such absolute powers will be given to the Attorney General in Washington that any difference that may exist between personal freedom and totalitarianism in this country will be purely coincidental. Well, let's see the record; but, before we do, let this point be made perfectly clear: What we are about to say has no direct bearing on civil rights, as such. We are talking about procedures of coercion and arbitrary power which will reduce citizens of the United States—of whatever race or religion—to a state of near tyranny. We ask, is this the best way that supposedly sensible men can find to achieve social changes which they hold to be desirable?

Title II of the civil rights bill now before the U.S. Senate is the public accommodations section. It applies to operators of inns, hotels, motels, roominghouses which have more than five rooms to rent; also to restaurants, cafeterias, lunchrooms, lunchcounters, soda fountains; also picture houses, theaters, concert halls, sports arenas, and the like, although the bill specifically excludes what are called bona fide private clubs, including the swank country clubs of the wealthy and pretentious.

This section 203 reads in part: "No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person (the use of privately owned public accommodations); or (b) intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege (at these places of public accommodation); or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege."

Then there is this statement (sec. 204): "(a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted (1) by the person aggrieved, or, (2) by the Attorney General * * *."

Thus, as Charles McWilliams says in his series of articles in a Richmond newspaper, "anyone who pickets a hotel, restaurant, or theater for serving Negroes, or of whom there are reasonable grounds to believe that he is about to picket such a place may find himself enjoined, and thereafter subject to imprisonment for contempt * * * without trial by jury or right of appeal."

The civil rights bill (which the Advocate editor has read with care) makes it clear that the person who brings a charge against a tax-paying private property owner, accusing him of having violated some portion of this bill, does not himself have to sign his complaint. This means the taxpayer can be hailed into court, without knowing the identity of his accuser; can be tried before a Federal judge selected by the Attorney General (and favorable to the latter's views); can be sentenced to prison without trial by jury, and can make no appeal to a higher court to review the case. And this, Advocate readers, is not Moscow or Peiping or Havana; it is Washington, U.S.A.

Furthermore, as U.S. Senator A. Willis Robertson, of Virginia, said 2 weeks ago in Washington, D.C., Federal funds going to the States for highway construction, social security, and child welfare could be cut off by the complaint of one individual under the proposed civil rights bill.

We have never heard of a surgeon who claimed that, in order to remove a patient's appendix, it was necessary first to cut out his heart and throw it away. Yet, these politically minded legislators in Washington are trying to do just this to the American people. Let it be said with emphasis and gratitude that Virginia's 10 Representatives in the House all voted against this iniquitous bill, and our two Senators are now fighting it. Strength to them.

This bill does not need to be scuttled, but it would seem that Negro leaders as well as whites would realize the folly of attempting to promote justice by first taking away vast areas of human liberty which do not need to be removed in order to promote racial justice, or justice of any other variety.

As the House has already passed this legislation, despite the opposition of Virginia's courageous Representatives, the battle is now in the Senate. Letters of encouragement to our two Senators will help, and the prayers of all right-minded people are needed in this crisis.

Mr. BYRD of Virginia. I thank the Senator from Alabama.

Mr. SPARKMAN. Mr. President, in the coming days we may see the beginning of the stepped-up war on poverty.

This war, as proposed, will involve the use of substantial amounts of Federal resources. This seems to be the only way that it can be won. Yet title VI could have the effect of depriving the South of the possibility of obtaining the wherewithal to move ahead in this fight.

We may have a war on Eastern poverty or Western poverty or Northern poverty; but if this title were enacted, in the South we would have a war on the poor.

There is one further point which I should like to call to the attention of Senators during my brief comments on title VI. I remind them of the words of our late President John Fitzgerald Kennedy when he commented on the recommendations of the Civil Rights Commission which seemed to indicate cutting off Federal financial aid for the States under certain conditions. He said:

> I don't have the power to cut off aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another might be moved to another State which has not measured up as the President would like to see it measure up in one way or another. Another difficulty is that in many instances the withholding of funds would serve to further disadvantage those that I know the Commission would want to aid. For example, hundreds of thousands of Negroes in Mississippi receive social security, veterans, welfare, school lunch, and other benefits from Federal programs. Any elimination or reduction of such programs obviously would fall alike on all within the State and in some programs perhaps even more heavily upon Negroes.

Mr. President, a moment ago, in colloquy with the Senator from Minnesota [Mr. Humphrey], I referred to that statement by the late President Kennedy.

I do not believe that anyone here will deny the feeling which the President had for minority groups. Yet, he did not feel that the Federal Government should have the kind of power that is proposed by this title. Mr. President, we must fight the war against poverty, not against the poor. We must not pass title VI.

Mr. President, thus far in my attack on title VI, I have expressed my concern about using the poor, the blind, the deaf, and children as pawns in a game of political chess, as title VI proposes to do. I wish to turn now from the pawns to the player in this macabre game—the Federal Government. It would have alarming controls over the people, because of one simple fact; that is, title VI would give the executive branch of the Government direct authority to withhold funds. That would be a serious, drastic, and unwarranted change in the great body of laws dealing with financial assistance programs that have been passed by Congress. These laws were passed in each case after careful study and serious deliberation by committees and after floor debate as to the needs of the Nation in the various fields of financial assistance and the best ways in which these needs could be met. The number of Federal programs that could be affected by this title is quite large.

In my remarks, I have already touched on some of these. Others will receive my attention later in the debate.

My first reaction on reading this title was the one which I still hold after full study of its original and presently amended provisions—namely, that it would be extremely unsound and unfortunate to enact into law, under the impulse of accomplishing something in the name of civil rights, a title of a bill which would change so many laws and which would accomplish little, if anything, toward improving racial relations. It is a proposal which would give the executive branch of the Government an enormous amount of power to regulate and limit the progress of, if not destroy, the many fine programs which we have established in the field of financial assistance—programs that have meant so much to the welfare and economy of the Nation.

Title VI would pronounce by law a forced racial integration policy in programs of Federal financial assistance. It would have a definite effect on the field of housing where loans directly from the Federal Government are involved and in the field of grants relating to housing. It might be said by some that this would be rather small, due to the President's Executive Order No. 11063, issued November 20, 1962—which, as I have already stated, I regard as being invalid from the beginning; and in the event this bill were to be enacted into law, certainly I would regard that Executive order as having been repealed by an Act of Congress.

Title VI by precedent might also pave the way for further enactments which might perhaps, in the distant future, involve the conventional housing market.

I asked President Kennedy not to issue the housing order, as is shown in the CONGRESSIONAL RECORD, volume 108, part 17, pages 22908–22914. I felt then, as I feel now, that the executive branch should not tread on the legislative authority of Congress, and at the same time jeopardize the national economy in the housing field, a very important field in the total national economy.

The issuance of the housing order has done the field of housing much harm. Moreover it has opened up a Pandora's box relating to the powers of the President. Its issuance assumes that the Constitution does not provide, in article I, that "All legislative powers herein granted shall be vested in a Congress."

All Members of Congress should consider the possible consequences of title VI. By its passage we could be starting a process of throwing the racial integration issue into our financial assistance programs and some of these programs are connected with private enterprise.

Mr. President, by that statement, I mean that the bill might be interpreted as beginning a process which eventually might cause a greater demand to have the Federal Government go into further fields. I believe that in the past I have made amply clear that in my opinion the provisions of the bill exempting FHA and Veterans' Administration insured and guaranteed contracts from the provisions of the bill would protect the conventional housing market and would have the effect of repealing the President's Executive order. It would also make clear that in the future the President would not have that power to go further—or, in other words, that Congress had preempted that power, and that in the future that only Congress could change the coverage of the policy of section 601.

Why has not Congress heretofore written racial integration into the laws establishing the scores of activities covered by title VI? The answer is simple. It is because Congress wanted the programs to accomplish the maximum possible good in line with State laws and local customs. Congress also had in mind the fact that racial fomentations can easily defeat otherwise sound purposes. Why should we now in the heat of racial feelings take action to change the fundamental operations of most, if not all, of these programs? My answer to the question is that we should not do it.

The issue is one of freedom of individual and business effort versus Federal dictation and authority.

It is foolish to yield always to the politically tempting suggestion of turning to the Federal Government for increased control. Reliance on the Federal Government for the solution of racial discrimination problems only tends to weaken the capacity of our institutions of a free economy that serves democratic values. In our free economy lies our greatness. Title VI would strike at its very foundations.

I could not close this discussion of title VI, however, without alluding to a few more pertinent and inherently bad features of the title, and to the fact that the Attorney General apparently was so fearful of the unconstitutionality of the President's first proposal of June 19, that he proposed an amendment in the nature of a revised draft on August 23 to the Judiciary Committee of the Senate, and shortly thereafter to the House Judiciary Committee. The House committee altered the language but the same basic policy issues and the power to withhold funds are still in the bill, subject to some limitations.

The authority for the executive branch to withhold funds is dangerous. It is possibly arbitrary. In many instances these funds might be general taxpayers' funds that come from the very area involved in the withholding.

Congress and Congress alone should make these decisions or establish definite and unmistakable standards governing executive action. Otherwise, it is an unconstitutional delegation of power. Suffice it to say here that no attempt is made in any draft of title VI submitted by the President or the Attorney General or as revised by a committee to define what constitutes "discrimination." This appears to me to be a fatal omission in proposed legislation of such magnitude as the instant bill.

A bad feature of title VI is that its language constitutes a mandate to departments and agencies of the Government to enforce the policy of the bill. As though to mitigate this effect, the bill proposes that the Administrative Procedures Act shall apply in determining individual grievances. Despite this feature, the overall implication of the proposed title is that Congress would expect the enforcing departments and agencies to crack down and act swiftly in placing these extreme and all encompassing provisions into effect. Moreover, they are empowered to proceed by rules and regulations approved by the President without legislative guidelines. I would predict that misunderstanding, and a retarding effect on the progress of the Federal programs involved, could result.

Our best way to avoid this is to defeat title VI altogether.

Mr. President, I should like to mention another point with reference to the enforcement of these provisions. A while ago the distinguished Senator from Minnesota [Mr. HUMPHREY], who unfortunately has been detained and is not in the Chamber at the present moment, engaged in a colloquy with me in which he stated that many safeguards have been thrown up. I hope that later before I finish my presentation he will return, and I may be able to ask him a question about the hearing to which he referred. There would have to be a hearing. However, I do not find a single guideline laid down in the bill as to provision for the hearing, the holding of the hearing, or anything about it. From a reading of the provision on page 26, line 12, I cannot tell under what conditions and how the hearing would be organized. That is one of the weaknesses of the bill. It is not confined to the particular title which I am discussing. All throughout the bill there is a deafening silence when it comes to the setting of standards or guidelines.

Every legislator and every lawyer knows that the setting of standards is a legislative function. On numerous occasions I believe the Supreme Court has stated that the setting of such standards was a legislative function that could not be delegated. Many of the decisions that have been handed down in the past 20 or 25 years—certainly during the New Deal days—were based upon that very question as to whether or not Congress could delegate to an agency, bureau, or department the function of laying down standards and guidelines.

The Senator from Mississippi [Mr. STENNIS] is a distinguished lawyer and judge. I pointed out that under title VI, and the provision with respect to the enforcement of the title, which is on page 26 of the bill, I do not find anywhere in section 602 or elsewhere in title VI any language that provides how the hearing, which is referred to on line 12, would be organized, by whom it would be held, and what its guidelines should be as to the right of counsel, due process of law, or the preponderance of the evidence.

I have asked the question. If I am in error, I would be glad to be corrected by the Senator from Mississippi. It is my understanding that the Supreme Court has many times held that the setting of standards or guidelines is a legislative function that cannot be delegated. Can the Senator suggest to me whether I am correct in my statement? If I am not correct, I should like to be corrected, because I do not desire to leave something in the RECORD which is incorrect.

Mr. STENNIS. If the Senator will yield to me, I should like to say that he is eminently correct. First, the responsibility about which he speaks is a congressional responsibility. We are supposed to be laying the ground rules for the provisions.

Mr. SPARKMAN. During the last quarter of a century—certainly back in the New Deal days when changes were taking place fast—were not many Supreme Court decisions handed down striking down legislation on the ground that Congress had not laid down the proper standards?

Mr. STENNIS. The Senator is correct. That point constituted a substantial part of the decisions in that period. Interested parties were left without knowledge and guidelines to go by. A person might be condemned with a penalty of some kind when he did not have the guidelines and proper regulations. The Senator is correct.

Mr. SPARKMAN. I referred to that as being one of the so-called safeguards to which the Senator from Minnesota [Mr. HUMPHREY] referred a while ago. Yet, in checking the language, I find nothing to support that statement. Further, if I read correctly, someone apparently will report after the hearing. An appeal by an aggrieved person could be taken to the court under section 603, but that appeal would be under the Administrative Procedure Act.

Mr. STENNIS. If the Senator will yield further, the phrase "after a hearing" sounds like an amendment or language that has not been fully developed.

Mr. SPARKMAN. That is one of the weaknesses. We find unfinished provisions that a Senate committee would have found and corrected. Senators are having to do committee work on the floor of the Senate. Is that not correct?

Mr. STENNIS. With a bill of this magnitude, with 11 titles, it is an impossible task to perform on the floor. We can only do the best we can. When a hearing is had, there should be notice to adverse parties. There should be ground rules in that area. It should be stated how much time will be allowed to elapse. This provision could technically be complied with without notice. The notice could be 1 hour, or 2 hours, or 1 day, which, under the circumstances, might be unreasonable. As the Senator has pointed out, a grave error has crept into this section. The Senator from Mississippi had not observed it, but I heartily agree with the Senator from Alabama.

Mr. SPARKMAN. There should be some statement in the provision about the rules of evidence or what rules should apply.

Mr. STENNIS. Absolutely. There should be some reference to standards.

Mr. SPARKMAN. Section 603 begins:

> Any department or agency action—

This is another instance of an effort to give an agency or department the right to act—

> taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds.

I do not know how that sounds to the Senator from Mississippi, but it does not seem to be too good draftsmanship. Moreover, the issue is discrimination and that is not defined. Further in the section it is provided that the procedure shall be in keeping with the Administrative Procedure Act. If there were a hearing—if the word "hearing" can be particularized—it would be difficult to get word of the hearing, because we do not know who would hold the hearing. Assuming there was a hearing, the decision could be appealed under the Administrative Procedure Act, which means the case could be taken to the U.S. court of appeals. The aggrieved person would not have the right to go into the Federal district court, but would have to go to the circuit court of appeals, where the presumption would be that what had been done below was correct.

Mr. STENNIS. The same as if a court had already heard the matter.

Mr. SPARKMAN. Yes. There would be almost three strikes against the aggrieved party.

Mr. STENNIS. A department could comply with the words "after a hearing" merely by having a clerk hear the matter and arrive at a conclusion; and that conclusion would carry the weight of a determination by a district court.

Mr. SPARKMAN. That could happen. We do not know. The procedure is left dangling, more or less.

Mr. STENNIS. The Senator has pointed out an important defect. What he has said about it is correct.

Mr. SPARKMAN. Mr. President, I have a few more specific points to bring out about title VI.

I am opposed to title VI also for the following reasons:

First. The essence of title VI is to state a policy and then to give the President and department and agency heads the power to withhold funds in financial assistance programs. This is too dangerous a weapon to place in their hands. It could be used by a misinformed and tyrannical government as a weapon to attempt to bring the South, or any region, or State, to its knees.

Second. The title has not been properly or thoroughly considered. Its language as now amended is at the same time broad, technically ill considered, deceptive, and confusing. It would permit arbitrary government by agency regulations of Executive orders in the most emotional and controversial field of racial relations. The procedures authorized are devoid of legal clarity.

Third. The title, if enacted, could prove to be the end of many otherwise fine and beneficial programs. Appropriations for these programs can well be diminished or even deleted by the likelihood of racial tension resulting from them and by the fear that funds for a particular State or region will be cut off. These factors can also make inroads on programs dependent upon authorizations for Treasury borrowing.

Fourth. Congress should not pass on to departments and agencies the power to make regulations in this delicate field. The recently added requirement that the President approve these regulations is confusing as to whether an executive order is intended, which raises constitutional law questions. If action is to be taken it is the responsibility of Congress to spell out the law. Entirely too much will be left to the discretion of Federal bureaucrats. Congress would be shunning its primary responsibility.

Fifth. "Discrimination" under the title is to be the basis for wielding a vast amount of power against a State, community, or individual. Yet in no manner does the bill attempt to define discrimination or to give a single illustration of what constitutes such discrimination, large or small, that could set in motion the power of title VI. A matter of this importance should not be left to the imagination of men who administer programs. Therefore, the proposal could properly be called "ghost legislation." It can lead the Nation for racial reasons directly in a state of acrimony.

Sixth. To allow the President and officials under him the power to determine when funds for programs should be withheld is to pass on to him the power of appropriating funds. Only Congress can, and should, appropriate general taxpayers' public funds.

Seventh. Title VI is a request for an unconstitutional delegation of power. This applies both to the doctrine of an illegal delegation of legislative authority and to the doctrine of the delegation of powers to perform both ministerial and discretionary acts without proscribing the proper standards.

### TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

Mr. President, H.R. 7152, the so-called Civil Rights Act of 1963 is a compendium of pernicious invasions of the rights and duties of the States. The bill is all-embracing, a veritable hodgepodge or omniumgatherum of nostrums to cure every aspect of real or fancied discrimination. It covers voting rights, the invasions of private business in the public accommodations title, a title on public education, on public facilities, a commission on civil rights, registration and voting statistics, et cetera. As one can see, nothing was omitted in putting together this ominous omnibus measure.

The bill in its entirely is objectionable, attempting as it does to accomplish by force, and hastily, those things which this Nation has discovered are best accomplished by education, by persuasion, and through economy-boosting programs.

But of all of the dangerous provisions which have been written into H.R. 7152, none is more pernicious than title VII—equal employment opportunity—a snare and a delusion.

The alleged reason for the provisions of title VII is outlined as the necessity:

First. To remove obstructions to the free flow of commerce among the States and with foreign nations.

Second. To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

I assume that the first of these so-called necessities may have been introduced in a transparent attempt to give some color of constitutionality to the proposed title VII by tying it to interstate commerce—a tenuous and doubtful effort and, in my opinion, a spurious one.

As for the second of these necessities, it is the avowed purpose of all the bills ever proposed in this whole category—to make people run their businesses and select their associates by mandate.

The various sections of title VII would make unlawful a great many acts and will in fact do away with the normal and necessary selectivity which is part and parcel of the hiring process. Without any thought of discriminating against anyone, an employer does and must choose from among the various candidates.

This title VII idea is all very odd. I can remember when discrimination was a virtue, and lack of it was a fault. One said that Mr. X was not very discriminating because Mr. X did not exercise judgment and seemed unable to evaluate choices. Now this title would take away his right to make necessary evaluations.

Title VII will also create a new Fair Employment Practices Commission under a new and fancy name, the Equal Employment Opportunity Commission. This Commission would ride herd on the discrimination-segregation problem as it relates to employment, and on the employers, the employment agencies, labor unions, labor-management committees, and all who have to do with the selection of workers in any capacity in the private sector of the economy.

This is the most radically dangerous of all of the provisions of title VII, for in the creation of the so-called Equal Employment Opportunity Commission, the bill could severely hurt the capitalistic system in which we have been so successful.

Title VII would foist upon the Nation a permanent supervisory body empowered and instructed to snoop into the affairs of individuals and businesses, small and large, in a manner which would shock the framers of the Constitution.

These gentlemen—those Founding Fathers of the Republic—would be dumfounded at the ideas being attributed to them by some of the proponents of the various measures in the area of so-called civil rights, and would, if they could, be quick to disclaim many of the ideas with which they are being credited.

I think, in the beginning, that we might note that the FEPC, as originally conceived and issued, was merely a wartime expedient and a temporary measure. It had little to recommend it, even as an emergency order for a brief period, but I do not think that anybody at that time contemplated it as something which would be given all the aura of permanence by the Congress.

I recall the first order which President Roosevelt issued as we were preparing for World War II and before we actually got into the war. I was a Member of the House of Representatives at that time, serving on a committee which had done a great deal of studying of the facts about the needs of our warworkers, particularly in the shipbuilding plants—German-Americans and Italian-Americans who lived in this country, who were striking to prevent being discriminated against. They were good workers, but the shipbuilding plants would not employ them because we were confronted with a war on democracy by the fatherlands of those two nationalities. Negroes were not involved. As a matter of fact, in my part of the country everyone was being put to work whom we could find—even housewives.

Mr. STENNIS. As welders.

Mr. SPARKMAN. Yes; they became welders. They were some of the best in that field. I was a member of the Military Affairs Committee of the House of Representatives at the time. I visited various plants around the country. I remember visiting a small plant, located in the basement of a building. I do not believe more than 20 or 30 people worked in the plant. One man was operating it. It was performing some function or other. I have forgotten what it was. As I remember, at one machine two people were working. One of them had his left arm off, and the other had his right arm off. The two of them were working together on that machine. I saw blind people doing intricate work. I saw people who were handicapped in every way. There was never a time when we came so close to scraping the bottom of the barrel of our employment availability. That was really the reason for setting up the earlier FEPC law. It was a war measure. It was aimed primarily at getting the Italian and German-American workers to take those jobs.

They were descended from Germans or Italians, or had come to this country with their parents. They were being discriminated against. The order had been issued for that purpose, not for any other purpose. It was not issued to meet the purpose of the drafters of the present bill. I do not believe it involved any political implications at all. I have not seen an FEPC bill since then that has not been strongly impressed with the political stamp. I believe that is true with respect to the pending bill.

It is unfortunate that the great political parties of the country, with equal force—with each one trying to outdo the other, but winding up by balancing each other—make a political football of civil rights. I have said this many times. FEPC is one of the principal parts of the whole civil rights program.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield for a question.

Mr. STENNIS. The Senator has made reference to the political aspects of this subject. If the Senator will permit me to do so, I should like to lay a predicate for my question. Whence comes the demand for title VII? From whom does the demand come? I should like to read the names of the States which have FEPC laws: Alaska, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, West Virginia, and Wisconsin.

My question is, if those laws already accomplish so very much, why is there such a demand for title VII? Those States already have similar laws, although I understand they vary greatly from State to State, and some of them are not very vigorously enforced. However, those States include most of the great industrial States of the Nation; do they not?

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. Where does the demand for the proposed law come from?

Mr. SPARKMAN. If the Senator is asking me for my opinion, I intimated a few moments ago that a great political surge is behind it. I do not know where it comes from. In the earlier FEPC order, before the beginning of World War II, the order was designed to bring skilled Italian and German workers into the shipyards. There was a real demand for such labor then.

Since that time, I believe, the issue has been largely political. The Senator correctly brings out the fact that most of the industrial States have FEPC laws.

Mr. STENNIS. But they——

Mr. SPARKMAN. I may be anticipating the Senator. They have not really been effective, judging from the unemployment figures.

Mr. STENNIS. If the Senator has the figures available, it might be well to put them in the Record now.

Mr. SPARKMAN. I believe they have been placed in the Record before. It might be well to put them in the Record again. I shall see if I can obtain the figures. If I obtain the figures, I will ask permission to insert them in the Record. I believe it is one of the most telling tables of figures that I have ever seen.

Mr. SPARKMAN subsequently said: Mr. President, if I may have the attention of the Senator from Mississippi [Mr. Stennis] for a moment, I now have obtained the part of the Congressional Record that contains the FEPC table which we were discussing. It was placed in the Record on April 8 by the Senator from Louisiana [Mr. Ellender]. I think it is a very telling table.

I believe the Senator from Mississippi suggested that it would be well to place the table in the Record again.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Therefore, Mr. President, I ask unanimous consent that the table which appears on page 7249 of the Record for April 8, 1964, may be reprinted in the Record at the point at which the Senator from Mississippi and I had the colloquy regarding the State FEPC laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

*Unemployment as percent of civilian labor force, by color, by States, April 1960*

| State | Total | White | Nonwhite |
|---|---|---|---|
| United States | 5.1 | 4.7 | 8.7 |
| Alabama [1] | 5.7 | 4.7 | 8.4 |
| Alaska [2] | 12.8 | 10.5 | 25.4 |
| Arizona | 5.3 | 4.7 | 13.2 |
| Arkansas [1] | 6.0 | 5.3 | 9.1 |
| California [2] [3] | 6.1 | 5.8 | 10.0 |
| Colorado [2] [3] | 4.0 | 3.9 | 6.6 |
| Connecticut [2] [3] | 4.6 | 4.4 | 8.9 |
| Delaware [3] | 4.6 | 3.8 | 9.2 |
| District of Columbia | 4.1 | 2.5 | 5.7 |
| Florida [1] | 5.0 | 4.6 | 6.7 |
| Georgia [1] | 4.5 | 3.8 | 6.3 |
| Hawaii | 4.2 | 4.8 | 4.0 |
| Idaho [3] | 5.7 | 5.6 | 8.6 |
| Illinois [3] | 4.5 | 3.8 | 11.5 |
| Indiana [3] | 4.2 | 4.0 | 8.5 |
| Iowa | 3.2 | 3.1 | 9.3 |
| Kansas [3] | 3.7 | 3.4 | 8.5 |
| Kentucky [1] | 6.0 | 5.9 | 8.1 |
| Louisiana [1] | 6.1 | 4.7 | 9.5 |
| Maine | 6.5 | 6.4 | 17.8 |
| Maryland | 4.8 | 3.8 | 9.5 |
| Massachusetts [2] [3] | 4.2 | 4.1 | 7.8 |
| Michigan [2] [3] | 6.9 | 6.0 | 16.3 |
| Minnesota [2] | 5.0 | 5.0 | 12.8 |
| Mississippi [1] | 5.4 | 4.5 | 7.1 |
| Missouri [3] | 4.1 | 3.7 | 8.6 |
| Montana | 6.8 | 6.4 | 24.8 |
| Nebraska | 3.1 | 3.0 | 7.7 |
| Nevada [3] | 6.2 | 5.9 | 10.1 |
| New Hampshire | 4.3 | 4.2 | 10.2 |
| New Jersey [2] [3] | 4.6 | 4.1 | 9.5 |
| New Mexico [2] [3] | 5.9 | 5.5 | 13.6 |
| New York [2] [3] | 5.2 | 4.9 | 7.4 |
| North Carolina [1] | 4.5 | 3.6 | 7.4 |
| North Dakota | 5.6 | 5.4 | 25.2 |
| Ohio [2] [3] | 5.5 | 4.9 | 11.9 |
| Oklahoma [3] | 4.4 | 4.0 | 9.0 |
| Oregon [2] [3] | 6.0 | 5.9 | 9.5 |
| Pennsylvania [2] [3] | 6.2 | 5.8 | 11.3 |
| Rhode Island [2] [3] | 5.3 | 5.2 | 10.0 |
| South Carolina [1] | 4.1 | 3.4 | 5.7 |
| South Dakota | 4.1 | 3.7 | 23.8 |
| Tennessee [1] | 5.2 | 5.0 | 6.5 |
| Texas [1] | 4.5 | 4.1 | 7.1 |
| Utah | 4.1 | 4.1 | 5.7 |
| Vermont [3] | 4.5 | 4.5 | 10.6 |
| Virginia [1] | 4.2 | 3.5 | 7.1 |
| Washington [3] | 6.6 | 6.4 | 13.4 |
| West Virginia [3] | 8.3 | 8.2 | 11.4 |
| Wisconsin [2] [3] | 3.9 | 3.7 | 11.4 |
| Wyoming | 5.1 | 5.0 | 10.1 |

[1] Southern States.

[2] States with effective fair employment practice commission laws in 1960, as classified by the U.S. Department of Labor.

[3] States with FEPC laws.

Source: U.S. Bureau of the Census, 1960 Census of Population, PC(1)C series table 53, 83.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. I yield.

Mr. STENNIS. First, I wish to thank the Senator. The table is very impressive. The figures are taken from the U.S. Department of Commerce's figures concerning unemployment?

Mr. SPARKMAN. That is correct. As I understand, the figures came from the Bureau of the Census, 1950 census of population.

Mr. STENNIS. Mr. President, will the Senator yield further to me on that point?

Mr. SPARKMAN. I yield.

Mr. STENNIS. If the Senator from Alabama wishes to discuss the table further now, I shall defer my questions.

Mr. SPARKMAN. No. The Senator from Mississippi may have some questions to ask about the table. I think the Senator from Mississippi brought out, in a question he asked previously, that the poorer record, so far as the employment of nonwhites is concerned, is with the States that have FEPC laws.

Mr. STENNIS. The Senator is correct.

Will the Senator yield to me, so that I may put these facts in the form of a question?

Mr. SPARKMAN. Yes.

Mr. STENNIS. Is the Senator from Alabama surprised now——

Mr. SPARKMAN. No; I am not surprised now.

Mr. STENNIS. Is the Senator from Alabama surprised to know that the unemployment rate in the State of Mississippi among nonwhites was 7.1 percent of the civilian labor force, while for New York in the same year—and New York was the first State to have an FEPC law—the nonwhite employment rate was 7.4 percent? The unemployment rate was larger there than it was in Mississippi.

The average national rate for that same period of time for nonwhite was 8.7 percent, which was also higher than it was in Mississippi.

In Minnesota, the unemployment rate for nonwhites was 12.8 percent.

In California, another FEPC State, it was 10 percent.

In Montana, it was 24.8 percent.

In Pennsylvania, it was 11.3 percent.

In Rhode Island, it was 10 percent.

All the States I have mentioned, except Montana, have some type of FEPC law.

If I may sum up, is the Senator surprised to learn that 24 States which have FEPC laws had a higher percentage of unemployment among nonwhites in 1960 than did the State of Mississippi? In other words, 24 out of 25 of the FEPC States had a larger unemployment for nonwhites than did Mississippi, but still, at the same time, Mississippi has a larger percentage of nonwhite population than any State of the Union.

Mr. SPARKMAN. Mr. President, I was about to suggest to the Senator from Mississippi that he look at something else which I believe is even more taletelling—not merely the level of nonwhite unemployment, but the comparison between white and nonwhite. I believe the Senator will find that there is a smaller differential between Mississippi for instance, and almost any of the FEPC States. There is a column which shows the total, one which shows white, one which shows nonwhite.

Mr. STENNIS. The Senator is correct. There is a much smaller differential than in the case of many other States. I am glad the Senator has placed the table in the RECORD for his comparison, because it certainly raises more than one point.

Does it not prove that passage of FEPC laws is not the remedy, and time has proved it is not the remedy, with reference to nonwhite employment and unemployment?

Mr. SPARKMAN. I believe the Senator is absolutely correct.

Mr. STENNIS. Does it not also prove that even though there is a larger colored population in our part of the country, there is also the lowest percentage of unemployment among them?

Mr. SPARKMAN. The Senator is correct. Has it not always been our desire and our practice to use Negro workers in the South?

Mr. STENNIS. The Senator is correct. Many of them are very fine workers, too.

Mr. SPARKMAN. They are among the best.

Mr. STENNIS. They are skilled, and semiskilled. Many have their own small businesses, their own little factories or their own shops. They also have automobile repair shops with plenty of customers.

Mr. SPARKMAN. The professions are also represented.

Mr. STENNIS. Yes, lawyers, doctors, dentists, teachers—there are a great number of teachers in Mississippi. More than 8,800 colored schoolteachers are employed in Mississippi.

Mr. SPARKMAN. It is well known that Southern States employ a great many more teachers than do the Northern States. I am basing that statement on the percentage of population. I realize that there is not as large a population of Negroes in the North as in the South. Negro teachers in many of the northern cities and States are more or less a rarity. But down our way, teaching is one of the best professions for the Negro to enter.

A few days ago, in colloquy with the distinguished Senator from Mississippi, I mentioned the fact that in my own State, the average pay last year—and I assume it is still true—for our Negro teachers exceeds the average pay for white teachers. That is largely due to the fact that so many Negroes make a profession and a career out of teaching, whereas many of the white teachers go into it for a few years, and then quit or move on to some other profession.

Mr. STENNIS. They do not have longevity pay.

Mr. SPARKMAN. The Senator is correct. In our State as in Mississippi, we pay an equal rate based entirely on training and longevity.

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. And the experience that they have had in the teaching profession.

Mr. STENNIS. The Senator is correct. There is an absolute equality of payment schedule from State funds.

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. It is based upon the very idea which the Senator from Alabama mentioned a moment ago, on the basis of longevity, their tenure in the profession, the number of degrees they hold, and related matters. There are supplemental funds at the county level that do not follow that exact pattern.

Mr. SPARKMAN. I am not sure that that is true in our State. I am rather of the opinion that teachers must receive the same pay based on a scale, regardless of how they are paid. Furthermore, in Alabama there is a very fine tenure system. After a person has been a teacher for so many years, he can be discharged only through certain procedures which must be followed. There are also retirement benefits.

Mr. STENNIS. I intended to ask about retirement benefits. Are there retirement benefits in the State of Alabama?

Mr. SPARKMAN. Yes. They are very good. If I may boast a little, let me remind the Senator from Mississippi that I was the author of the amendment which made it possible for teachers to come under social security. So there is a combination of social security and retirement benefits, which is very good for the teachers.

Mr. STENNIS. It is a substantial, solid law.

Mr. SPARKMAN. Negro teachers receive exactly the same benefits as white teachers.

Mr. STENNIS. In that connection, to fill out the picture, I am familiar with the Senator's schools in Alabama on the western side. We also have bus transportation, as does the State of Alabama, and free transportation and excellent buildings; and in addition, free schoolbooks.

Mr. SPARKMAN. Yes; we also have free schoolbooks.

Mr. STENNIS. I do not like to make comparisons, but I notice that the great State of New York has not yet seen fit to supply its children with free schoolbooks. We have free schoolbooks for our children from the primary grades on through senior high school. Of course, this applies across the board to everyone.

I thank the Senator for yielding to me. I still wish to ask him some questions on title IV when the Senator gets around to it.

Mr. SPARKMAN. On title IV?

Mr. STENNIS. Yes.

Mr. SPARKMAN. I thought it was title III?

Mr. STENNIS. Title III, I believe it is, yes; title III.

Does the Senator know whether the demand for the proposed law comes from the States which have FEPC laws already, so that the blessings of the law may be brought to the other States, particularly the blessings of a law that would be more effective? Does the Senator from Alabama think that is one of the major purposes of the proposed law? If that is it, why do the proponents take themselves from under the law in a proviso which states that the State law shall prevail after an agreement has been reached with the Federal authorities?

Mr. SPARKMAN. I do not know. I would not like to surmise that there was such a motive as that. I can understand the great political parties making an appeal to minorities of every kind. This is one of the appeals that would be very effective with minorities.

It could very well produce that effect. I would dislike very much to think that that was the motivation.

Mr. STENNIS. Of course I must put my comment in the form of a question.

Mr. SPARKMAN. We are not in a very good position to know, because no Senator had anything to do with writing the bill.

Mr. STENNIS. Yes. Particularly with reference to the provision that the Senator is discussing, is it not true that that title was not even recommended originally or at any time by the late President Kennedy, and was put in the bill in the House of Representatives at the last minute. Not even the subcommittee held hearings on it. Is that not correct?

Mr. SPARKMAN. I believe the Senator is correct. Again I say that we have not had the privilege on the Senate side of being able to closely scrutinize the bill except on the floor of the Senate. We have not had the opportunity for a small, compact committee, consisting of experts in this type of legislation to study this compendium of bills, this omnibus bill or, as I referred to it a few minutes ago, this ominous omnibus bill, and to go over it line by line and word for word, to eliminate its difficulties. We must do it on the floor of the Senate, because we had nothing to do with drafting the bill.

Mr. STENNIS. I thank the Senator again for yielding to me. When he comes to a discussion of title III, if he comes to a discussion of it, I shall ask the Senator to yield to me again. I thank him very much for yielding.

Mr. SPARKMAN. I thank the Senator.

Earlier I referred to the column written by Mr. David Lawrence, which appeared in yesterday's Washington Evening Star. When I saw the title, I was a little shocked. I thought, "Surely it does not go that far."

The title of his article is "Threat of Slavery in Rights Bill."

Mr. Lawrence deals with an article which appeared in the Cornell Law Quarterly, the current issue, by a law professor, Prof. Alfred Avins. Professor Avins is a former assistant attorney general of the State of New York. He has held many distinguished assignments.

The article in the Cornell Law Quarterly, winter 1964 issue, page 228, is entitled "Freedom of Choice in Personal Service Occupations: 13th Amendment Limitations on Antidiscrimination Legislation."

I have not had an opportunity to read this article in full, but I was rather intrigued by the article written about slavery by Mr. David Lawrence, an eminent newspaperman and columnist. I was rather puzzled by it until I found the article by Mr. Avins which was mentioned by Mr. Lawrence. Mr. Avins writes about this bill in the context of the 13th amendment.

He writes that much has been said about the application of the 14th and 15th amendments. But he thinks that several things ought to be considered in relation to the 13th amendment, which provides, of course, against involuntary servitude, or as it has been construed by the courts, involuntary work, or being held against a person's will. Mr. Avins, whom I imagine the distinguished Senator from New York knows, was an assistant attorney general of the State of New York. Mr. Avins says this:

> That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt.

That seems a pretty strong statement, coming from this eminent lawyer. Let me read it again:

> That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt. However, most judges before whom such cases have come have acted as if they never heard of the 13th amendment. But one perceptive jurist, Judge Joseph H. Mallery of the Washington State Supreme Court, recently recognized the conflict between such legislation and the U.S. Constitution. To this author, his dissenting opinion in *Browning* v. *Slenderella Systems* "hits the nail on the head" and should be required reading for all sit-ins claiming "constitutional rights." The opinion is well worth quoting. As Judge Mallery declared:
>
> "All persons familiar with the rights of English speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties."

Let me say to the Senator from Mississippi that while this discussion arises primarily over the question of the FEPC, I think it applies to title II also, in which persons are required to render services with their own private property, to people who may not be of their own choosing.

I think the language of the judge in the State of Washington is most persuasive. The judge said:

> Discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.
>
> Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.
>
> * * * * *
>
> The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, inter alia: "Neither slavery nor involuntary servitude * * * shall exist within the United States."
>
> Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude.
>
> Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision. Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This Court has now swung to the opposite extreme in its opinion subjecting white people to "involuntary servitude" to Negroes.

That was the dissenting opinion by a judge of the Washington State Supreme Court. This distinguished legal authority from New York, the former assistant attorney general of New York, is discussing the legality of forced service within the purview of the 13th amendment. It is about that subject that Mr. David Lawrence was writing last night.

Mr. President, I ask unanimous consent that I may have printed at this point in the Record the article by David Lawrence which appeared in the Washington Evening Star of April 20, 1964.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Threat of Slavery in Rights Bill—Law Professor Detects Danger to Whites in Certain Jobs Under New Proposals

(By David Lawrence)

Strange as it may seem, "involuntary servitude"—as slavery is defined in the 13th amendment of the Constitution—may again be an issue in America, though this time it could mostly concern white persons.

Such is the conclusion reached by Alfred Avins, formerly special deputy attorney general of the State of New York and a well-known professor of constitutional law, who has just presented his argument in a comprehensive article in the "Law Quarterly" of Cornell University.

If the pending civil rights bill is adopted, serious questions will be raised in the courts as to whether persons working in barbershops or beauty parlors, or even in restaurants, may be forced out of their jobs against their will because they do not choose to serve certain kinds of customers.

Supporters of the civil rights legislation contend that only those barbershops or beauty parlors which are part of a hotel or motel establishment will be affected. Thus, a barbershop in a hotel would be required to serve Negroes, but a barbershop across the street could lawfully refuse to do so. But if there are no jobs available across the street or elsewhere, the worker could argue that he was being deprived of an employment opportunity because of his beliefs. Mr. Alvins writes:

"Although there are a number of cases which have held antidiscrimination legislation constitutional under the 14th amendment, no decision has dealt with this matter under the far more specific provisions of the 13th amendment. Yet the 13th amendment would seem to apply far more directly to antidiscrimination legislation in the rendition of personal services.

"Making and serving someone else a hamburger is not work for the Government, for one's family, or for a party one has injured. Nor is cutting another's hair, carrying his luggage, shining his shoes, or performing other personal services for him. The 13th amendment gives every person the right to refrain from working for any other person. It protects barbers, hotel clerks, shoeshine men, sales clerks, waiters, and waitresses, just as much as it protects cottonpickers, fieldhands or farm laborers.

"The 13th amendment guarantees the right to refrain from work, from all work, from some work, or from work for some people. To coerce personal service is to impose involuntary servitude."

Mr. Avins discusses also a case in a State court dealing with a barber who declined to serve a Negro, and says:

"An argument may be made that the barber, for example, is free to cease barbering at any time. Hence, it may be contended, that as long as he voluntarily continues to be a barber, he is not subjected to involuntary servitude if he is forced to serve all who apply."

Mr. Avins declares, however, that "such an argument overlooks the right to work," and he quotes the Supreme Court of the United States as saying that the "liberty" mentioned in the 14th amendment includes the right to "work * * * to earn his livelihood by any lawful calling; to pursue any livelihood or avocation * * * [and] the right to follow any of the common occupations of life is an inalienable right." Mr. Avins adds:

"Even leaving aside the 14th amendment right to work, antidiscrimination laws which provide in effect that a person must serve another on pain of leaving his chosen occupation is involuntary servitude since the alternative to the servitude is punishment."

The Supreme Court has several times pointed out, according to Mr. Avins' article, that exclusion from one's occupation is punishment and has declared that to disqualify a man from the pursuit of a lawful job "may also, and often has been, imposed as punishment." The Law Quarterly article continues:

"Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is being punished for refusing service. The exclusion from his calling is a particularly severe sort of punishment. To force him to serve on pain of such exclusion constitutes involuntary servitude.

"Even, however, were the alternative to serving everyone without discrimination of going out of business or leaving one's occupation not deemed, strictly speaking, punishment, nevertheless, this alternative constitutes such a degree of coercion as to make the service involuntary."

Mr. STENNIS. Mr. President, will the Senator from Alabama yield for a question?

Mr. SPARKMAN. I am glad to yield.

Mr. STENNIS. In both logic and practical commonsense, there is no difference in principle or in the fundamentals of government between telling an employer that he must hire someone and telling an employee that he must work for someone; is that correct?

Mr. SPARKMAN. That is correct.

Mr. STENNIS. In either case, that amounts to involuntary servitude; does it not?

Mr. SPARKMAN. Yes.

Mr. STENNIS. Does not the Senator from Alabama agree that the principle would be the same, regardless of whether a man were forced to work for someone for whom he did not wish to work or whether an employer were forced to hire someone whom he did not wish to hire?

Mr. SPARKMAN. Yes. In that connection, I point out again, as I did some time ago, that if a barber who worked in a hotel barbershop—and, of course, a hotel barbershop would definitely come under the provisions of the pending bill—was required to render personal services against his will, and if he refused to do so, the owner would either have to give up the shop or would have to discharge the barber; and in the latter case the barber would be told, "You can no longer work here. You are fired; but you can work in the barbershop across the street."

But if it happened that there was no opening for him in the barbershop across the street, the result would be that he would be deprived of a job; in that way, it would have been taken away from him.

In the article, I believe Mr. Lawrence points out that such action would amount to taking from the barber a property right which he definitely had.

Mr. STENNIS. Yes; something of value that was his.

Mr. SPARKMAN. Yes; but in that way it would be taken from him by means of a legal enactment.

Mr. STENNIS. Is it not true that at times the Government must take private property for public use?

Mr. SPARKMAN. Yes; but the requirements in that connection are set forth in the fifth amendment to the Constitution.

Mr. STENNIS. Yes. Is it not also true that that constitutional provision also specifies that the owner will be entitled to just compensation, and that just compensation to him must be provided?

Mr. SPARKMAN. Yes. That constitutional amendment provides and now I quote from the fifth amendment:

> Nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Mr. STENNIS. Yes. However, the bill would take private property without compensation, would it not?

Mr. SPARKMAN. Yes. Furthermore, I cannot learn, from a study of the bill, that due process of law would have been provided in several of the titles—neither procedural nor substantive due process is provided.

Mr. STENNIS. Yes. So the bill would violate those fundamental principles which are part of the very foundation of our society, would it not?

Mr. SPARKMAN. Yes; and they are basic rights of our people, under the Constitution. After all, is there any right more fundamental than those provided in the first 10 amendments to the Constitution—in other words, in the Bill of Rights?

Mr. STENNIS. Certainly not. They are fundamental to our society; are they not?

Mr. SPARKMAN. Indeed they are. The Founding Fathers insisted upon the explicit provision of those rights in the first 10 amendments to the Constitution. They did so because they had learned, from the experience in other countries, what a government could do if it wished to be tyrannical.

Mr. STENNIS. Yes, and not only what a government could do, but also what governments had done.

Mr. SPARKMAN. Yes.

Mr. STENNIS. I am glad the Senator from Alabama has stressed that point.

Is it not true that sometimes when we refer to the bill as misguided or as a "civil wrongs bill," some persons criticize us because they do not realize all the evils the bill would bring about?

Mr. SPARKMAN. Yes. I have called it either a misguided civil rights bill or a so-called civil rights bill, because I am sure it would not do what its proponents claim it would.

Mr. STENNIS. Yes, indeed.

I thank the Senator from Alabama for yielding to me.

Mr. SPARKMAN. I thank the Senator from Mississippi for his questions.

Mr. President, previously I stated that the FEPC was conceived and was provided for as a temporary, wartime measure and expedient. After the war ended, and even before it ended, efforts were made to have Congress make the FEPC permanent. But Congress very sensibly refused—and refused not only once, but time and time again—to make the FEPC permanent. Instead, Congress arranged to have the FEPC cease its operations immediately after the war ended.

The original FEPC order was an Executive order by the President—a wartime measure designed to increase the participation in the national defense program by all citizens of the United States, regardless of their national origin. As I have stated, the ones with whom the most difficulty was then being experienced were the Italian-Americans and German-Americans who wished to work in the shipyards; but the shipyards refused to employ them. So that order was issued, in order to make possible their employment there.

The Executive order affirmed the belief that "the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders."

This wartime measure ran its course quickly and the old FEPC liquidated its affairs and retired from the scene back in 1946—18 years ago.

But bills to create a permanent Government agency to have surveillance over every activity, however minute, of the American economy, ostensibly in the interest of minority groups, have been coming before the Congress for at least 22 years. They will continue to plague us, with continuing damage to the business of the Nation—the important business of moving ahead in all of those legitimate areas of progress in which so much remains to be done.

It is indeed deplorable that the Senate is once more wasting precious time on a highly unnecessary piece of legislation when so much remains to be done in other and far more important areas of American life. There is much that can be done to help those who are supposed to be the beneficiaries of so-called civil rights legislation.

When I think of the attention to useful and urgent projects—to education measures, to retraining programs, to full employment considerations, the affairs of the aged, and much other legislation important to veterans, farmers, small business, and to every segment of the Nation, which could be occupying the time and utilizing the effort now being thrown away on these useless proposals, I almost sympathize with those critics of the Congress who complain that we fritter away our time.

There is so much to be done.

As for the present legislation, experts in the area of alleged job discrimination are coming more and more to realize that bills such as the measure now before us are not the answer. At best, such a bill, if enacted, would be a mere palliative, and, of course, an irritant in those many places, North and South, where people of different races are trying to work out mutually satisfactory arrangements. This proposed legislation will destroy these efforts at mutual understanding and mutual respect. It will delay—not hasten—the solutions it pretends to seek.

The answer to jobs for Negroes—and not only for Negroes, but for women, for young people just entering the labor market, for men and women and young people in depressed areas, for Jews and gentiles and for all people—is to get the economy moving in such a way that there will be job opportunities for all those with the requisite skills to fill them, without regard to any other measure than that of one's competence to do the job.

This is the crux of the matter, and at that point, you have a program to which I am fully committed, a going, growing American economy with room in it for everyone to work and earn and live at peace.

An employed person, regardless of sex or race or creed or color or any other condition, is a more valuable citizen, more valuable to himself and his family, to his community, and to his Nation, than a person who is unemployed and whose family is subsisting on the charity of his neighbors, the assistance of his Government, or the rewards of his crime.

It is this attempt to introduce force into the economy, into the hiring process, to police the employment markets and to force employment by groups that I find intolerable. A year or so ago, when some of the advocates of radical action wanted to force the employment of people on a racial basis by establishing quotas—a sort of racial discrimination in reverse—they were rebuffed by the then President of the United States, John F. Kennedy.

They had suggested that quota systems be set up, requiring firms to hire fixed percentages of nonwhites. President Kennedy saw the absurdity of this proposal, and told them bluntly:

> I think it's a mistake to begin to assign quotas on the basis of religion, or race, color, nationality.

The President recognized that the setting up of quotas would simply establish a different pattern of racial segregation and discrimination.

Neither force nor quotas are answers to this problem, and neither will ever succeed, even with all of the proposed police powers of the Federal Government behind them.

Mr. President (Mr. KENNEDY in the chair), I have a great deal more to say, but I wish to bring my speech to a conclusion before too long, because other Senators wish to speak. There is a great deal that I could say. Since this is my second speech on the bill, I feel a rather strong temptation to continue and fill out the night in order to get it all into the RECORD.

When I made my first speech on the motion to take up the bill, I expressed the hope that I would have the opportunity to analyze all sections of the bill, one by one. The Senator from Mississippi knows that it is a big task in the limited time we have to speak.

Mr. STENNIS. The Senator is speaking under one of the harsh and rigid rules now being applied. It is the last time he will have an opportunity to speak on this voluminous bill in its present form; and I hope he will not omit title III from the discussion.

Mr. SPARKMAN. I have in mind title III. I thought I had a speech on title IV, but apparently it is not in my folder at the present time. So I shall take up title III and probably shall have to allow a good part of my speech to go unfinished in order that other Senators may be accommodated.

Mr. President, title III of H.R. 7152 proposes to deal with discrimination relative to so-called public facilities. The bill includes any facility owned, operated, or managed by or on behalf of any State or subdivision thereof. Title III expressly exempts public schools and colleges.

Senators should note that the Federal courts in a series of cases have held such facilities subject to the prohibitions of the 14th amendment. Accordingly, this provision adds little to existing law in this respect.

But let us look now to the real object of this title. The real object is to vest elaborate powers in the Attorney General of the United States. Supporters of this bill want the Attorney General to be able to bring civil actions to desegregate so-called public facilities.

Section 302 of title III needs some close scrutiny. Although this title, as already noted, deals with public facilities, and expressly excludes educational institutions, section 302 would grant the Attorney General leave to intervene in "any court of the United States" in cases seeking relief "from the denial of equal protection of the laws." This phrase, of course, encompasses much more than public facilities, specifically school desegregation cases which are eschewed by the immediately preceding section. In effect, section 302 is a modified part III which was rejected in 1957. When this power is coupled with that he already possesses in the area of voting and that which is authorized in Title II: Public Accommodations; Title III: Public Facilities; Title IV: Schools, it becomes apparent that the Congress is being asked to legislate indirectly the discredited part III.

The Senator from Mississippi will recall that part 3 was taken up in 1957. It was submitted by President Eisenhower, but was later disowned by the President and voted down on two different occasions. In other words, it was rejected. Even the President himself, who had submitted it, disowned it.

In brief, the sole purpose of this title is to augment further the powers of the Attorney General. This would enable him to make available to any litigious person the full force of the Nation's legal arm at public expense. Here again, an accused might eventually be subject to criminal penalties without benefit of jury trial.

I wonder if the Senator from Mississippi has read the dissenting opinion in a recent Supreme Court case. I believe I spoke to him about it, but I do not remember his answer. I refer to a trial by jury case recently decided by the Supreme Court.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I have certainly read the dissenting opinion.

Mr. SPARKMAN. In a newspaper editorial I note two significant sections. The dissenting opinion, by the way, was written by Justice Hugo L. Black. He wrote the principal dissenting opinion. By the way, it was a 5-to-4 decision.

Mr. STENNIS. There was a 4-to-4 division in the circuit court of appeals. That is an 8-to-9 decision altogether.

Mr. SPARKMAN. Yes. There was a 5-to-4 decision in the Supreme Court.

Mr. STENNIS. Yes.

Mr. SPARKMAN. I realize that the Senator should be asking me a question, instead of my asking him a question. However, my time is almost running out. I am sure the Senator noted that the four dissenting justices were of what we usually call the liberal bloc. Is that correct?

Mr. STENNIS. The Senator is correct. They were looking with the greatest concern on the question of jury trials.

Mr. SPARKMAN. I have always felt that the liberals, among all people, are the ones who should be looking out for the unusual grants of power that go toward centralization, because it is the minority, the few, the person who perhaps is not thoroughly in step with the great crowd who are usually hurt by amassing power at a central point. Is that not true?

Mr. STENNIS. The Senator is correct. Even the majority of the justices, in a footnote, issued a word of warning, of caution, and more or less of direction to the lower court, that if a heavy punishment were to be imposed, in that event a jury trial should be provided.

Mr. SPARKMAN. I have the footnote here. The majority opinion was written by Mr. Justice Clark, I believe. In that footnote the majority stated:

> Some members of the Court are of the view that without regard to the seriousness of the offense, punishment by summary trial—

That is what should be underscored, because that is what it is, is it not?

Mr. STENNIS. Yes.

Mr. SPARKMAN. When a judge decides what the penalty shall be, it is a summary court, a summary decision. The footnote states:

> Some members of the Court are of the view that without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

The editorial comments on the word of warning that has been thrown to the Fifth Circuit Court, that the penalty would have to be light if the court were to be expected to pass it.

I notice in the dissenting opinion, written by Mr. Justice Hugo Black, that minority held that the majority ruling means that "one person has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty."

It seems to me that Justice Black has compacted that thought into a very good statement. It ought to be a warning to those who are in the minority and those who call themselves liberals. It is certainly a warning against concentrating power in one man. It is always dangerous to do that. We can assume that a man with terrific power will wield it properly, but we cannot guarantee it. We never know who will get that power.

I should like to give one more quotation from the editorial:

> The minority argued in essence that the power of summary trials was a "judge-invented and judge-maintained notion" contrary to the Constitution and rejected the argument that it weakened the power of the courts. It explained that this was a consequence of a system designed to protect the rights of the defendant, who is judged innocent until proven guilty.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. STENNIS. The development in the common law of the power to punish without a jury trial resulted from the practice of contempt, with punishments limited almost exclusively to punishments for acts which had been committed in the court, or from a refusal to obey a direct order of the judge.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. That is the history behind it.

Mr. SPARKMAN. Yes; it had to be in the presence of the court or in a way that affected the court in that proceeding.

Mr. STENNIS. Whereas now we are attempting to apply the practice of no jury trial to all the titles except two.

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. This bill which contains all the employment rights provisions, all the provisions dealing with relations between employer and employee, and all the relations that could grow out of the various requirements of the bill—in particular, section 302 of title III to which the Senator has just referred—is about as broad language as it is possible to frame under our jurisprudence, is it not?

Mr. SPARKMAN. That is correct.

Mr. STENNIS. Is any jury trial required in title III?

Mr. SPARKMAN. No jury trial is required. I suppose we can say that none is allowable.

Mr. STENNIS. Can the Senator conceive of any broader language that could be used in conferring power on any official—and this time, it is on the Attorney General of the United States—than is written in five lines plus one word on page 13? Is there any way to conceive of any larger grant of authority that Congress could possibly make?

Mr. SPARKMAN. It is about the broadest provision that could be written into a bill.

Mr. STENNIS. After covering the entire field of civil law, does not the bill go over into the field of criminal law, and not only lay the basis for prosecution, but even for conviction and for punishment without a jury trial?

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. That illustrates how broad it is.

Mr. SPARKMAN. The Senator is correct. My belief is based on a study which I made several years ago; I believe it was in 1957. I made quite a study of the jury system, trials by jury, and trials without a jury.

I am convinced that it was the intention of the writers of our Constitution—just as it was the intention of the barons back in 1215 when they wrested the Magna Carta from King John at Runnymede—that when a person was to be subjected to criminal penalty, he was entitled to be tried by a jury of his peers. That is what the Magna Carta provided.

Mr. STENNIS. Is it not true that that is what we have practiced since then, except for what was once a small field, direct contempt of court?

Mr. SPARKMAN. That is correct. And that is what the Constitution provides. Then we got into the field where the judge, in order to control his court, was given the right to impose sentences for contempt. That is done without a trial by jury; but even then the judge must act within the bounds of discretion. His decision is subject to review. The Senator is absolutely correct, that under this title, and particularly under section 302, broad powers are granted to the Attorney General of the United States to take action. All the powers of the United States, which are paid for by the taxpayers, would be thrown into action against the defendant. In other sections of the bill it is provided that when any case is brought against a defendant, if he is found guilty, or if the case goes against him—in either a civil or criminal action—he must pay all the costs. The tremendous costs could break him.

Mr. STENNIS. They could break an ordinary man.

Mr. SPARKMAN. Yes.

Mr. STENNIS. As a general rule, in the State courts the costs go with the penalty, if a person is found guilty, or in the wrong.

Mr. SPARKMAN. Yes.

Mr. STENNIS. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I shall not pursue this inquiry to the exhaustion of the Senator's time. However, a few minutes ago, the Senator mentioned the old title III in the Civil Rights Act of 1957.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. I believe the Senator said that section 302 was almost a duplicate of the title III of the act on which we voted in 1957.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. Does the Senator remember that we voted to eliminate that provision from the bill on a yea-and-nay vote in the Senate?

Mr. SPARKMAN. Yes—twice.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. I do not recall why the Senate voted on it twice, but it did.

Mr. STENNIS. It was defeated by a rather decided majority.

Mr. SPARKMAN. Yes. Some time ago, when the Senator was speaking, I asked him some questions along this line. I was under the impression at that time that the provision was rejected by a unanimous vote. That was the old section, enacted after the Civil War, which permitted the President to call out troops to carry out the court orders.

President Eisenhower withdrew his support from the old title III, and Congress voted it out. My recollection is that the vote was approximately 56 to 38.

Mr. STENNIS. It was somewhere in the neighborhood of 60 to 40.

Mr. SPARKMAN. That is approximately correct.

Mr. STENNIS. There were two yea-and-nay votes on separate days.

Mr. SPARKMAN. And they were almost identical.

Mr. STENNIS. The Senate voted to take title III out.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. Does the Senator remember how the present President of the United States voted as a Member of the Senate in 1957?

Mr. SPARKMAN. I think he voted with us.

Mr. STENNIS. The Senator is correct. As a Member of the Senate, he voted to take title III out of the bill.

Mr. SPARKMAN. That is correct. Of course, one must remember that that was the recommendation of the President of the United States at that time. He had sent it here, but he had become convinced during the course of the debate and during the course of our explanation of the various features, that the title was wrong; and he asked us to delete it.

Mr. STENNIS. We often hear about a filibuster. In the instance referred to after the provision was debated for 2 or 3 weeks in the Senate, the then President of the United States changed his mind and withdrew his support from title III. He was opposed to it. And 60 percent of the Senate membership voted against it. Is that correct?

Mr. SPARKMAN. The Senator is absolutely correct.

Mr. STENNIS. Virtually the same title III is now before the Senate, in section 302.

Mr. SPARKMAN. That is correct. I do not know how it got in the bill. Of course, we had nothing to do with placing it in the bill. The Senate had nothing to do with inserting it in the bill.

Mr. STENNIS. Does the Senator recall that it was not in the original bill?

Mr. SPARKMAN. It was not in the original bill. If I understand correctly, the Attorney General asked that it not be placed in the bill. It was a subcommittee of the House Committee on the Judiciary that injected it into the bill; and after the subcommittee reported the bill, the present Attorney General of the United States asked permission to appear before the subcommittee. He asked the subcommittee to leave it out, saying that, for one thing, it would throw an impossible task on him. He said that it was unnecessary, that it had already been discredited, and so forth.

Now the Senate is being asked to accept it. Not a single Senator who advocates this legislation had anything to do with writing that provision into the bill. Yet we are asked blindly to accept something which the Attorney General of the United States does not want. He said so in testimony before a subcommittee of the House Committee on the Judiciary.

Mr. STENNIS. The argument is made by some Senators that this bill will not be changed, even by one comma, or one semicolon.

Mr. SPARKMAN. They are trying to avoid a conference between the two Houses. I cannot believe that the Senate will accept the monstrosity that this compendium of bills represents at the present time.

The Senator mentioned something about filibusters. I noticed in the press, either last night or this morning, that a filibuster is now in progress.

I wondered how they decided about that and where the point of division came. Someone, I believe, compiled figures in that connection, and decided that at last the opponents of the bill had used as much time as the proponents previously had used. I am sure the Senator from Mississippi recalls that, until recently, the proponents of the bill had taken more time than the opponents had; and it was only when the time used by the opponents finally equaled the amount of time already used by the proponents, that some persons concluded that a filibuster had begun; and then statements about the commencement of a filibuster were published in the newspapers.

The tearing apart of the other bill, as a result of the extensive debate in 1957, and the showing at that time of just what that part of that bill amounted to, caused increasing understanding in the country of the meaning of title III, and caused President Eisenhower to disown the provisions of title III.

In this case, I believe the people of the country are now beginning to realize what the pending bill provides. I believe that during this debate the proponents of the bill have studied it more than I have ever known the proponents of any other bill to study it during a debate. During the debate we have pointed out this defect of the bill and that defect of the bill—a great many of its defects; and I believe that in many cases the proponents have been surprised at what we have found in the bill.

So I have no objection to extended debate, so long as the bill contains provisions which should be exposed, and for which we should obtain explanations.

For example, the Seantor from Mississippi asked me when a hearing would be held, under the provisions of title VI; but I have not heard one of the proponents state—although I have asked about that point—what kind of hearing that would be, or what would be the standards, or what would be the guidelines, or who would hold the hearing, and other details in that connection. I have not been able to learn about those essential points. How am I to learn the answers to those questions, Mr. President? Nothing in the bill tells us, and every proponent of the bill who has spoken here on the floor has remained mute insofar as those items are concerned. So I have not been able to obtain replies to those questions.

Mr. STENNIS. Mr. President——

Mr. SPARKMAN. Mr. President, if the Senator from Mississippi will supply an explanation, I shall welcome it.

Mr. STENNIS. I am sorry that I cannot accommodate the Senator from Alabama.

Mr. SPARKMAN. Does the Senator from Mississippi agree with what I have said about the way in which those essential points are left dangling, unexplained?

Mr. STENNIS. I fully agree. In such circumstances, silence is an admission of error and is an admission of fault in the bill.

The Senator from Alabama said he had been encouraged by the attention given to the bill and the study made of it by the proponents, since the debate began. I agree with him about that; and I know that at least some of the proponents have been surprised at what we have pointed out and what they have found.

On the other hand, I have been discouraged to find that none of them has come forward with a proposal to strike out section 302, so as to eliminate it entirely from the bill. Certainly it would be an abomination, and certainly it should be eliminated; but none of them has come forward with such a proposal.

After all, that part of the bill would create many new offenses, and clearly there should be provision for a jury trial. So I believe we should debate this point and should thresh it out.

Mr. SPARKMAN. I agree with the Senator from Mississippi. I was encouraged by the study the proponents had begun to make of the bill; but, on the other hand, I was discouraged by their continuing attitude that no changes—not even a change of a comma—should be made. They took that position on the ground that any change would require a conference with the House; so they have insisted that we accept the bill exactly as it is, without any change whatever—not even the dotting of an "i" or the crossing of a "t" or the changing of a comma, or any other change, no matter how small. I certainly do not think that is the best way to legislate.

Mr. President, when we begin to study this bill and the sweeping and disasteful measures that make up its various titles, it is almost impossible not to be repetitive. In reading the House debate, I noted that the proponents of the bill indulged in much repetition and much reiteration. They insisted repeatedly that the changes proposed were not substantive. They said that title III, for example, would confer no new powers on the President or the Attorney General, and would not make any substantive change in the law of the land. But that is simply not so, for title III would give the Attorney General new powers and new duties. Title III would saddle the Attorney General with the responsibility to involve his office into all manner of local matters.

We should remember that this title was not in the original Kennedy bill.

A few minutes ago that point was referred to by the Senator from Mississippi.

We should recall that a similar title III was rejected by the Senate in 1957. I did not want it then. I certainly do not want it now. Furthermore, the Attorney General does not want it. It is significant that the present Attorney General of the United States—and no one can accuse him of being "soft" on this issue—has said that he does not want title III. The Attorney General urged the full House committee to throw out title III.

The Attorney General's reasons were good. He said the broad provisions of title III might involve him in State criminal proceedings, in censorship proceedings against movies, plays or books, in church-State relations cases, and in cases concerning alleged violations of freedom to worship, free speech, or the freedom of the press. The Attorney General cited other matters which title III might invite the Attorney General to enter; and he by no means exhausted the list of possibilities.

Under title III the Attorney General would be empowered to intervene in suits of many types, far exceeding the limits of this so-called civil rights area. To do the job with any degree of success, the Attorney General's staff would have to be augmented until it had mushroomed into a gigantic Federal agency.

Although I could not help but feel a little sorry for the Attorney General if the burden of title III were placed upon him, my real sympathies lie with the American people. These vast additional powers proposed to be given to the Attorney General represent a departure from the system of government we have enjoyed in this country.

Thoughtful persons will have misgivings about this proposed addition of powers to the Attorney General, powers which would enable him not only to intervene in suits, but also to initiate suits in several areas. These would be in addition to his present right to initiate suits in voting cases—a power which was granted by the 1957 Civil Rights Act. This title would permit him to institute suits in public accommodations, in public facilities, with regard to public education, and under the employment practices title.

Someone has said this title would make the Attorney General of the United States a commissar of justice, with vast autocratic powers.

No wonder the present Attorney General, sympathetic though he may be with the general purposes of this bill, asked the House committee to remove this title as of doubtful value and because it would place onerous new burdens on the Attorney General.

My opposition to title III is based on different grounds. I do not want the Attorney General burdened with additional duties in this area, either; but I take this position because he already possesses dangerously great powers to invade the rights of the States, and this title would serve only to increase and enlarge those powers.

So, in the case of title III, I urge upon the Senate that it take the advice of the Attorney General and throw out this title in its entirety.

I have read the statements of proponents, of witnesses, of the opposition, and, thus far, I find that there is pretty general agreement among them all that, first, title III is either needed or not needed as a part of this civil rights package; and, second, title III either gives the Attorney General additional powers or it does not give him additional powers.

With regard to the first of these certainties, our late, great President, during whose administration the bill first came forth as an administration measure, evidently felt that title III was unnecessary, because he did not have it in the bill.

The Attorney General agreed that it was not necessary, because he stated that he did not want the additional powers and responsibilities which it gives to the Attorney General.

I am in agreement with both of those great witnesses. I feel that title III is completely unnecessary.

However, certain people have subsequently decided that the bill would not be worth anything without this precious title.

In such an area of conflict and confusion, I say we should throw the title away as a useless appendage to a useless bill.

As for the second proposition, that the title does or does not give the Attorney General additional powers, the Attorney General thinks that it does.

On the other hand, several proponents of the title insist that it gives the Attorney General no powers that he does not already possess.

Here, again, I am inclined to agree with the Attorney General. I oppose title III because the Attorney General already has all of the powers he needs, and I do not wish to be a party to conferring additional powers on the Attorney General—any Attorney General, whether he holds office under a Republican administration, or a Democratic administration. Power is dangerous, regardless of party affiliation.

But, if those who say the title does not confer additional powers are correct, then I am nonetheless opposed to title III as entirely unnecessary.

There are many who are saying that any foot dragging in legal actions in this area has been due to failure to enter cases, not lack of legal authority. The authority is already in the law, they say.

I am inclined to agree that there is adequate authority—more than adequate—excessive may be a better word—under existing law.

That statement is true not only as it relates to the title which I have been discussing but as it relates to many other provisions of the bill. For example, in a colloquy with my friend, the Senator from Mississippi [Mr. STENNIS], not so long ago we discussed title I of the bill, which relates to voting rights. I believe that colloquy occurred during the first speech that I made on the motion to consider the bill. I brought out the fact that there are more laws on the statute books relating to voting than have ever been made use of. I believe that some Senator stated that there were 15 different laws on the subject. One was enacted in 1957; another in 1960. There are general statutes prescribing what the Attorney General may do and how a person may be prosecuted and sentenced for violating a person's voting rights.

The trouble with the bill is that a great deal of its contents is window dressing. It is made to look good. It promises everything. It seeks additional powers where such powers are not needed.

In the case of voting rights, the proponents of the measure seek additional legislation with reference to voting rights when they are not using all the laws that are now available.

In any event, I ask Senators to read title III carefully and thoughtfully, and ask themselves if this is the vital, essential bit of this fabric that proponents of the bill say it is.

I cannot see it.

I am against the whole bill—lock, stock, and barrel.

Title III is a useless barnacle on the body of our law. It adds little—nothing which will be helpful to the submerged or downtrodden people it is designed to assist—and, when passed, will create endless difficulties of enforcement, and vast and widespread resentments as the various sections are implemented. These resentments will be aroused without regard to geography, incidentally, for the ramifications of H.R. 7152 will be felt by employers, contractors, unions—locals and internationals—restaurateurs, hotelkeepers, employment agencies, city and county officials, State governments—in fact, almost everyone in every area of America.

And all to so little avail. As one advocate of the bill wrote recently, it will not be easy to enforce the bill even if passed. That is a masterpiece of understatement. This writer went on to say that the civil rights bills passed in 1866—98 years ago—remain unenforced.

I do not know how that statement strikes the Senator from Mississippi [Mr. STENNIS]. Until that person had made that statement, I had not thought of it. I am not urging that the laws be trotted out and enforced. In fact, my guess is that the reason they have not been enforced is that it was determined at the time of their enactment that they were impractical. But it does seem to me rather strange that those who propose the measure seek to pile up additional powers. That is what the bill would do. The bill would not necessarily clear up, guarantee and insure rights. It would grant powers.

It is so difficult to legislate love and brotherhood, and so impossible to erase prejudice and habit by legislation. Yet, the proponents of the measure keep trying, and in the course of these efforts they increase the central powers of the government and whittle away the rights of the States.

I deplore this tendency. It is dangerous. It is not American. There are many things that government must do in the world of the sixties, but every effort must be made to keep government out of the private areas of life, so that we may live as individuals, free to act and think for ourselves.

I have just read a provocative article on this subject in the February 1964, issue of the American Bar Association Journal, published in Chicago. The article is written by Edward F. Cummerford, a member of the New York City Bar. Its title is "Civil Rights and Civil Wrongs."

Mr. Cummerford likens this kind of legislation—H.R. 7152 and other bills of its kind—to the trend which created that monolithic tyranny which had come to power in George Orwell's 1984. In Orwell's terrible book "Big Brother," the absolute and brutal dictator, had reduced all—men and women, young and old—to the level of dehumanized automatons—not permitted to act or to think for themselves.

Is this what we are about as we devise such legislation as H.R. 7152?

In the Orwell novel, as Cummerford reminds us in his article, rational thought processes were gone. Basic privacy had been eliminated. Spying by the agents of "Big Brother" was so extensive that everyone knew that his smallest act—however trivial and wherever its occurrence—was seen and noted down.

Senators say that such things could not happen here. Yet the Senate would pass legislation designed to take account of our smallest private actions and to record them to be used against us.

Mr. Cummerford believes that it can happen here, through the subtle and insidious—if slow and gradual—evolution by way of measures such as H.R. 7152, the so-called civil rights bill we are now considering. He writes:

> Freedom is chipped away * * * so gradually that few are aware of the real meaning of the process until it is, perhaps, too late.

And note this—and I quote further from Mr. Cummerford:

> As each little bit of freedom is taken away, the highest and noblest motives are given and the "best people" in the land give their wholehearted approval.

Certainly in this instance the noble, the good, and the religious are united in support of vicious new inroads on the rights of citizens everywhere.

Bringing his discussion directly to bear on the civil rights issue, Mr. Cummerford writes:

> In recent years this country has been subjected to an onslaught of so-called civil rights activity. These modern conceptions of civil rights do not refer to the basic freedoms enumerated in the Bill of Rights of our Federal Constitution such as freedom of religion or freedom of the press, but are concerned rather with a relentless drive to wipe out "discrimination" and "bias" [Mr. Cummerford very properly sets out the words "discrimination" and "bias" in quotes, for they have come to have a special meaning for the extremists who thrive on emphasizing them] based on race and religion, mainly the former. While no decent person will defend racial or religious hate, it does not follow that every possible action taken to eliminate them is either good or necessary.

In his article, Mr. Cummerford recalls prohibition, that "noble experiment," and states that the same basic error which doomed prohibition to failure permeates much of the civil rights activity now in vogue.

> To condemn these activities—

Says Mr. Cummerford—

> no more makes one a proponent of bias than to oppose prohibition made one a bootlegger or a drunkard.

Prohibition, as most of us now realize, sought to legislate morals and to force people, under penalty of law, to change habits and customs they were determined to maintain. The old preaching and teaching to encourage temperance and to inculcate temperate habits in the young were, it developed, much more effective ways to deal with the problem of drink than legislation and enforcement agents.

How soon will we learn that the only way to promote harmony between people is through persuasion and teaching? Meanwhile, here is this bill to create new commissions, empower new agents, add powers to those already possessed by the Attorney General, and to generate 10,000 new difficulties of enforcement in another area only tenuously related to law.

Having cited this relationship of the civil rights drive to the prohibition movement, Mr. Cummerford goes on to discuss the drive to eliminate discrimination as it has developed in court actions, marches, sit-ins, stall-ins—one of which is set for tomorrow—et cetera, and then turns to the legislative pattern—and I again quote from his article in the American Bar Association Journal for February 1964:

> In the legislative field, the typical pattern has been the enactment of a statute with an enforcing agency. Although these "antibias" laws vary in detail from one jurisdiction to another, they usually declare illegal "discrimination" in such areas as employment, housing, public accommodation and resorts, public transportation and sometimes education. About half of the States, and some municipalities, now have such laws, many with enforcing agencies.
>
> Invariably these agencies begin their work in an unobtrusive manner but with the passage of time, they often become increasingly aggressive, seeking more powers, asking broader areas in which to operate and harsher punitive measures for alleged offenders.

How well we know that pattern. Here, in this very bill we are studying, is ample evidence of this tendency—as in title after title—and I am at the moment thinking mainly of title III—the legislation would grant new powers, more power, in broader areas, with harsher punitive measures for the alleged offenders.

Of these agencies, Mr. Cummerford says:

> Some have stated very candidly that if enough complaints are not filed to keep them busy, they will go out searching for examples of bias. Frequently, they query employers as to the proportions of races and creeds in their employ. They scrutinize employment applications to see if there are any questions deemed discriminatory.

Among questions deemed discriminatory by some of these agencies is a question as to the applicant's birthplace, for example. If this constitutes discrimination, then the U.S. Civil Service Commission is one of the worst offenders, for every form 57—the blank so well known to every Government employee or candidate for Federal employment—wants to know one's birthplace as one of the basic facts.

I suggest that it is done not merely because the Civil Service Commission wants that information. I do not know how the practice started originally, but I would guess that, if Congress had ever manifested its will, it would have required the obtaining of such information. If the State Department employed a person, and that person proved to be defective in some way, or unreliable, and the question arose, and it was found that he had been born in a country of whose citizens we would naturally be suspicious, I can imagine the condemnation the State Department would receive for its carelessness in hiring a person from that country. Yet in the pending bill, according to Mr. Cummerford, it would be discriminatory to ask the birthplace of a person.

It also wants to know where one went to school and for how long, and many other things, some of which might be considered discriminatory. I understand that some agencies discriminate in favor of stenos with speed, and that some note carefully the degrees garnered by an applicant for a scientific position, and that some jobs require library experience. This, of course, constitutes gross discrimination against those who have had to state on Form 57 that they do not have the special qualifications that some personnel officer demands.

In any event, I have it on very good authority that the Civil Service Commission does ask where one was born, and Mr. Cummerford states that this has been ruled to be discriminatory in some States.

Returning to Mr. Cummerford and these agencies created by so-called civil rights legislation—he writes:

> They scan advertising by hotels and resorts to ferret out language that might be a subtle cloak for bias.

Sometimes, as one reads the article and the book Mr. Cummerford refers to, he is almost inclined to believe that those who drew the pending bill obtained their material from the suggestions contained in the book.

These commissions, these agencies, seek constantly to widen their scope and extend their operations. As one report of such a commission in New York State said:

> While no complaint has been too minor, no objective has been too large.

The objective is to gain more and more power to enter into more and more areas of life—and this is the purpose of H.R. 7152 and title III of H.R. 7152.

To return to Mr. Cummerford—and I commend the entire article for your reading—I quote further from his discussion:

> The activities of the antidiscrimination agencies are more ominous than amusing. In 1961, the press reported that the Philadelphia Commission on Human Rights has warned 17,000 employers in that city that

> they must not follow merely the letter of the antibias statutes, but be prepared to show that they really believed in the spirit of such laws.

I confess that this is difficult to believe, but in this Alice-in-Wonderland world of erasing bias, nothing is incredible, even legislating thought and beliefs.

Mr. Cummerford also reports certain words and phrases which are forbidden to schoolteachers in New York City schools. For example, teachers should not use the term "low socioeconomic." Even use of the expression "dedicated teacher" was forbidden. Big Brother is indeed watching in many areas.

Mr. President, I could continue indefinitely. I have plenty of material to finsh the day. Since the rule has been invoked as to the number of speeches, I feel almost tempted to do it because I am certain the Senator who will succeed me the Senator from Georgia [Mr. TALMADGE] could easily speak for a full day.

However, I had an understanding that I would stop speaking at about this time, and certainly before 6 o'clock. It was hoped that we might stop in time to have a live quorum call by 6 o'clock.

I turn in the remainder of the material on this particular title.

I have a great deal of material before me which has not yet been used. It may very well be that in the course of discussing amendments some of this material will be usable.

I feel very strongly about the bill. I feel that a bad mistake has been made in not having a committee study the bill, line by line, as a committee would; and in throwing the burden on the Senate of the United States to have to dissect the bill and to go into it, word for word and provision by provision. I feel that the time and the opportunity given are wholly inadequate to accomplished end, because there are many defects in the bill. I believe they have been pointed out in the course of debate.

A few weeks ago, the distinguished Senator from Illinois made a short talk on the floor of the Senate, and put out a statement in which he pointed out the defects all through the bill. A committee could have straightened them out. I shall not linger on the committee idea because we are past that stage—we are too far gone. But I do believe it should have been done. A great deal of the work on the floor of the Senate will be necessary in order to get the bill into any kind of shape to be constitutional and practical in its enforcement.

Much work remains to be done, and I hope that opportunity will be given to discuss the various provisions before the books are closed on it.

But I shall conclude at this time.

Mr. STENNIS. Mr. President, before the Senator concludes, will he yield to me briefly?

Mr. SPARKMAN. I yield to the Senator from Mississippi.

Mr. STENNIS. I highly commend the Senator from Alabama. He has made one of the finest speeches I have ever heard on many of the highly important sections and areas of this vast and complicated bill. He has spoken with clarity, with knowledge of the subject matter, and with special authority on several of the provisions, including the law and the Executive orders with reference to housing and related matters.

I not only commend him and thank him, but I express sincere regret that there has not been better attendance in the Chamber to hear his remarks.

The bill cuts across the social, educational, and economic phases of life of every person in the United States. With no report to explain the bill, no pros or cons from any committee, without the benefit of expert staff workmanship which always goes along with study by a committee, and with no definite guidelines, what the Senator from Alabama has to say about the bill is, therefore, highly important.

I have never been more impressed with the unjustness and shortness of rule XIX, which cuts a Senator off from speaking more than twice on a bill in the same legislative day, when a bare majority can continue a legislative day for a whole year, if it wishes.

Mr. SPARKMAN. Does the Senator know what legislative day this is?

Mr. STENNIS. I believe it is March 9, or March 30?

Mr. SPARKMAN. March 30. March 9, I believe, was the beginning of the motion to take up the bill.

Mr. STENNIS. A bare majority could stretch a legislative day into 365 calendar days. It could stretch it into 2 years if it wished to do so. When such a bill as this is thrown at us, and a rule is invoked which does not have to be invoked, it is not only unfortunate, but I say, with all deference, that it is doing a disservice to the country. The Senator's remarks today in the Chamber prove it.

I particularly commend him, too, for his remarks on section 602—which I have already mentioned—when he called attention to the word "hearing" on line 12, page 26 of the bill. I believe it involves an implication, and a complication, because it is not defined.

The remarks of the Senator from Alabama on section 302, of title IV, particularly with reference to the lack of a jury trial, were excellent. I hope there can be some debate in the Chamber yet on the bill, and that the principle of a jury trial will not be brushed aside.

I was also pleased with the fine discussion all the way through on title VII—the FEPC provisions. The Senator spoke with authority on that section. Many Senators are highly dissatisfied with the FEPC provision which has been thrown into the bill. No one knows where it came from. Everyone knows that it means a great deal of trouble. Many Senators believe it is not justified.

I thank the Senator again, and commend him highly. I believe that his speech is extraordinarily good, and will prove to be a landmark in the consideration of the bill.

Mr. SPARKMAN. I appreciate the comments of the Senator from Mississippi. Earlier, the Senator from Mississippi said that he wished to ask me a question about title IV, I believe it was. Is there some special question he wishes to ask me?

Mr. STENNIS. Not now; that was covered in the Senator's discussion on the jury trial section and the broadness of the title.

Mr. SPARKMAN. I understand.

The Senator from Minnesota [Mr. HUMPHREY] has just entered the Chamber.

Mr. STENNIS. I am sorry the Senator missed the debate which took place this afternoon.

Mr. SPARKMAN. Perhaps the Senator from Minnesota can answer my question. I posed the question shortly after he had left the Chamber, but no proponent gave me any explanation.

At page 26, line 12, of the bill, it is provided:

> After a hearing, compliance with any requirement—

How is that hearing to be held? Who will call it? Who will preside? Who will be the hearing examiner? What are the rules? What are the standards? What are the guidelines? The hearing seems to me to be dangling and undefined.

Mr. HUMPHREY. I can answer all those questions if the Senator will yield to me.

Mr. SPARKMAN. I am glad to yield to the Senator from Minnesota. I was hoping that he would answer those questions. I really desire this information, or I would not have discussed the subject. This point was discussed earlier in the afternoon.

Mr. HUMPHREY. My distinguished colleague, the Senator from Minnesota [Mr. MCCARTHY], says that perhaps an air of mystery should surround the subject.

Mr. SPARKMAN. Frankly, it looks as though it is already shrouded in mystery.

Mr. HUMPHREY. Perhaps we can remove the veil.

Mr. SPARKMAN. I hope the Senator can do so, because it is important. This is a hearing to which a person can be brought. Where are any rules or standards or guidelines laid down in the proposed legislation?

Mr. HUMPHREY. Mr. President, will the Senator from Alabama yield to me?

Mr. SPARKMAN. I am glad to yield.

Mr. HUMPHREY. Section 602, which is the section under discussion, provides as follows:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

Then we come down to the language:

> Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President.

The hearing is to be conducted by each Federal department or agency which is empowered to extend Federal assistance, because that is the Federal department or agency which will prepare the rule or regulation. However, such rule or regulation shall not become effective until approved by the President.

Then, further down, the language explains how the procedure is to operate.

**Mr. SPARKMAN.** Is it not true that some departments and agencies have no provision for hearings?

**Mr. HUMPHREY.** I know of none.

**Mr. SPARKMAN.** I hope the Senator will check into that point.

**Mr. HUMPHREY.** I shall be happy to check into it.

**Mr. SPARKMAN.** I believe there are some such departments and agencies.

**Mr. HUMPHREY.** The word "hearing" relates to a hearing by a department or agency which is empowered to promulgate rules or regulations.

**Mr. SPARKMAN.** I appreciate the explanation of the Senator from Minnesota. I hope he will pursue this matter further. I believe the Senator will find that some departments and agencies do not hold formal hearings. He will find further that an appeal from a decision of this kind would go to a circuit court and would bypass the district court under the Administrative Procedure Act. Whatever finding was made at the hearing would go with full presumption of correctness. It would be sustained unless it were clearly wrong. It seems to me that everything is set up against the defendant, whoever the defendant may be. Furthermore, the question that bothers me is that not only are no standards or guidelines laid down, but if there is any rulemaking anywhere, apparently it is by the President of the United States. It seems to me it is up to Congress to lay down standards and guidelines.

**Mr. HUMPHREY.** The purpose of including the phrase "after a hearing" is to make it crystal clear that there must be a hearing; that all agencies which at any time promulgate any rules or regulations which would effectuate section 601 of title VI of the bill, and all agencies or departments which are excluded presently from hearing procedures under current law, are now covered by this reference and by this express provision.

I agree with the Senator that there may be some doubt. Tomorrow, at the Senator's suggestion, I shall provide a statement relating to the phrase "after a hearing."

**Mr. SPARKMAN.** It would be good to have a memorandum on it.

**Mr. HUMPHREY.** I shall ask the Justice Department for a memorandum on it. I shall attempt to do some research on it myself, with the staff. Then we may find it necessary to have a further discussion on this point.

I, too, would like to know what is meant by the phrase "after a hearing." We can have further discusison of it, if it is necessary.

Will the Senator yield further?

**Mr. SPARKMAN.** I yield.

**Mr. HUMPHREY.** I had a discussion this afternoon with Members of the House of Representatives who acted on title VI, as well as with attorneys from the Department of Justice who aided the committee in the other body in the preparation of the title. It is the consensus of those with whom I spoke that the language in section 601 is what would be called protective language, language of guidelines and of procedural methods and, indeed, almost language of limitation upon section 601.

Section 601 codifies what the current policy is. Section 602 was added to the bill at the insistence of a number of Members of the other body, to make sure that no precipitate or capricious action would be taken on the part of any agency head or any person within the jurisdiction of any agency in the promulgation of rules and regulations.

I wish to make it clear to the Senator from Alabama, who always discusses subjects in an intelligent and informative manner, that if there is any reason to doubt that the procedures outlined in section 602 are adequate, that there will be proper hearing, that there will be proper notice to the person who will be the subject of disciplinary action, and that there will be proper review by the courts, we should amend the section.

I do not believe there is any doubt about it, but I do not intend to be dogmatic about it. The purpose of a discussion of the bill is to make it as good a bill as possible. I entered the discussion in that spirit. I will not be put in the position of saying that this is the final bill, even though I personally believe it is a good bill. I have never yet found a piece of legislation that some Senator could not find a way of improving. If we find that it is necessary to improve it, the Senator from Alabama will have the cooperation of the Senator from Minnesota.

**Mr. SPARKMAN.** I appreciate the assurances of the Senator from Minnesota. In an earlier exchange it was pointed out that the various provisions in the section were inserted in order to lend protection to what was in the bill. I said that under section 603 Administrative Procedures Act review would be by the circuit court of appeals, that there would be no appearance in the district court, and that it was my understanding that the report of the hearing would be presumed to be correct. It seems to me that a decision at the hearing might very well rest on the preponderance of the evidence, or that at least some rules of evidence should apply. I am wondering what would be the situation with reference to those things that touch upon rights and due process of law. I would appreciate it if all that could be covered in the memorandum.

**Mr. HUMPHREY.** I shall examine the record early in the morning and inform the Senator from Alabama as soon as I have the information that I believe the discussion requires. At that time we may be able to have one of our colleagues yield to us so that we can have further exploration of the meaning of these particular words.

**Mr. SPARKMAN.** Very well.

I yield to the Senator from Vermont.

**Mr. AIKEN.** I should like to get a little information on two points. It is entirely possible that the explanation has already been made, but I did not hear it.

The first question is, Why, under title VI should the State be deprived of Federal assistance if there was discrimination on the ground of race, color, or national origin, but if there was discrimination on account of religion, it would not be punished?

As I understand, the word "religion" was taken out in the House. Is there any explanation as to why a State should be denied Federal benefits if it discriminates because of race, color, or national origin, but the bill was left wide open in the event of discrimination against a person because of his religion?

**Mr. SPARKMAN.** There is a provision which protects the atheist. That is in section 7.

**Mr. HUMPHREY.** That is section 7.

**Mr. AIKEN.** There is one section which outlaws the atheist.

**Mr. HUMPHREY.** It does not give him much protection.

**Mr. SPARKMAN.** I cannot answer the question. I shall be glad to yield to the Senator from Minnesota for that purpose.

**Mr. AIKEN.** Under title VII, the atheist is outlawed. Is this conflicting?

**Mr. HUMPHREY.** Mr. President, does the Senator yield?

**Mr. SPARKMAN.** I yield.

**Mr. HUMPHREY.** The reason the word "religion" was not included was that there is no complaint or problem with respect to discriminatory practices by public bodies to religious institutions; this area of activity is restricted by the constitutional prohibition of the merger of church and state.

**Mr. AIKEN.** We would not want to exempt everything in the name of religion.

**Mr. HUMPHREY.** No. But the use of public funds with reference to certain institutions and activities is denied by the interpretation of constitutional law.

**Mr. AIKEN.** I have one more equally simple question. If the officials of a single county in a State should violate the provisions of this bill when it becomes law, would the penalty be imposed against the whole State, or against the county whose officials violated the law?

**Mr. HUMPHREY.** Mr. President, will the Senator yield?

**Mr. SPARKMAN.** Yes. But may I present my opinion first?

**Mr. HUMPHREY.** I wish the Senator would do so.

**Mr. SPARKMAN.** I believe that under the provisions of the bill, it could be either. I think I know what the proponents will say, of course—that the provision is discretionary and would not be administered in that way. But I believe that under the bill the entire benefit could be withheld.

I yield to the Senator from Minnesota.

**Mr. AIKEN.** I should like to hear what both sides have to say. If the officials of a single county violated all the provisions of the bill when it became an act, would the Federal agency be required after due hearing, and 30 days' time, or so, be required to withhold benefits from the entire State, or would they withhold benefits from the single county?

Mr. HUMPHREY. I believe the answer is clear and unmistakable. It would be only from the area that is affected—the county in this instance. As pointed out, starting on line 19, under section 602, we have to read down through these lines:

> That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the Committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action.

It is the parties involved; it is the local, administrative authorities.

In the State of Minnesota there are 87 counties. Suppose that 86 counties were complying with section 6, but 1 of the 87 counties refused to do so. Let us further assume that it is a hospital program, a Federal relief program, a Federal assistance program, or something of that nature. The funds would be terminated if there were no voluntary compliance or agreement. They would be terminated not for the State or for the entire program, but for the area affected, and for the officers involved.

Mr. AIKEN. Does the Senator from Minnesota feel that he could obtain written agreement by the executive branch of the Government as to this interpretation? It would be well to have it. The Senator may recall that when an amendment was offered to a certain bill last year, it was contended that if a single county in the State—I believe the State was mentioned, but I am not sure—violated the law, Federal funds would be withheld from the whole State.

It is important that we do not enact legislation which would punish a large number of innocent people because a few public officials commit a crime.

Mr. HUMPHREY. Mr. President, does the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. HUMPHREY. I assure the Senator that such a statement will be forthcoming.

The report of the Committee on the Judiciary of the House of Representatives, on page 26, reads as follows:

> If voluntary action fails, however, and assistance must be terminated, the termination shall be "pinpoint(ed) * * * to the situation where discriminatory practices prevail" as Secretary Celebrezze has stated in his testimony. By this means, the effect upon cutting off funds will be limited to the county or immediate area where racial inequality exists. An unfair burden will not be placed upon those who do not deserve it and innocent recipients will not be punished for the wrongs of others. Moreover, upon the insistence of the gentleman from Ohio [Mr. McCulloch] and other members of the committee, any recipient who has had financial assistance terminated may obtain judicial review of such action.

This is pinned down in the committee report of the other body. But I agree with the Senator from Vermont that there should be included in this Record a statement from the appropriate agency of the Government, so that there may not be any doubt as to the exact meaning of title VI, relating to the cutting off of funds.

Mr. AIKEN. The quotation from the House report is very encouraging. I had difficulty in understanding why the House insisted on different wording—which left discretion in the hands of a Federal agency—than that which was requested by President Kennedy.

Mr. STENNIS. Mr. President, does the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I want to have the attention of the Senator from Minnesota, if I may. I do not believe it is possible to have a more dramatic or plainer illustration of the grave error committed by cutting off debate under the two-speech rule than is presented by the questions of the Senator from Vermont—which, with all due deference to the Senator from Minnesota—have not been answered by one word or syllable taken from the act itself. The language is about as broad as one can make language. There is no limitation in it whatsoever as to area or anything else. There is no language in the bill that would permit a court to make any such limitation whatever, with reference to cutting off the entire State, even though one county officer may be an offender. This illustrates completely the lack of knowledge on this floor as to what the language means, and the tragic error of cutting off discussion under the two-speech rule, which it was not necessary to invoke. I say with great deference to the Senator from Minnesota that it is a grave error in the interest of justice and right to cut off debate on the bill in this way.

I make the point that the illustration from Mr. Celebrezze does not have one iota of law in it. It is not binding on anyone. I do not see how one could draw such an interpretation from this language as he does.

Mr. SPARKMAN. The tragic thing is that we must formulate a bill on the Senate floor instead of in committee. The committee was the place to handle those matters. I wished to repeat that statement.

Mr. HUMPHREY. Mr. President——

Mr. SPARKMAN. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator from Alabama.

Let me say that I did not write rule XIX, and I have great doubt about attempting to have it applied, for I have no desire to invoke the two-speech rule on any Senator.

Instead, I like the kind of helpful and open discussion that has occurred in the Chamber this afternoon; and I hope the further debate will proceed along that line.

One of the purposes of the debate is to develop the legislative history of the bill—legislative history which is particularly useful to the courts.

During the debate, the proponents have placed in the Record—by means of statements made by the Senator from Rhode Island [Mr. Pastore], the Senator from Connecticut [Mr. Ribicoff], and another distinguished Senator—a great deal of information in regard to the application of title VI. I recall that those statements were based on careful research, and they could very well be considered to be about as complete in their detailed explanation, pursuant to that research, as to the meaning of title VI, as any other contributions made here.

Perhaps the Senator from Rhode Island [Mr. Pastore] would enlighten us further in that connection.

Mr. PASTORE. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. I had not expected to engage in the debate at this time; but let me say that the Senator from Mississippi will recall that I did speak on this subject, and spoke at quite some length; and the Senator asked me some very penetrating and provocative questions on this subject.

It is true that it can be argued that this language is rather general in scope. On the other hand, in view of what we are attempting to accomplish, I do not believe the bill could be restricted further, without destroying it.

We have included in the bill various safeguards; one of which would require that before Federal financial assistance can be shut off, the department or agency concerned must file a written report with the respective committees in the House and Senate having legislative jurisdiction over the particular program involved.

This is to enable Congress to express its judgment before financial assistance is terminated. That is why these safeguards have been included in the bill.

But even before we reach the point where financial aid might be terminated, we have other safeguards.

In the first place, the department or agency concerned would have to formulate rules and regulations. It is clear that, under the provisions of the bill, such rules or regulations could not be narrowly confined in their application—for example, they could not be drafted so as to apply to only one State. They must be of general applicability.

Moreover, after the rules and regulations had been drawn up, they would have to be approved by the President of the United States before becoming effective.

Thereafter, if question arose as to whether there had been a violation of one of the rules or regulations, the department concerned would have, more or less, to give a bill of particulars to the persons concerned, and they would be entitled to a hearing. After hearing, if a decision to cut off aid were reached, even then, action could not be taken summarily. First, the agency would be required to attempt to obtain voluntary compliance.

But if it proved impossible to obtain voluntary compliance, then a report in writing would have to be made to the appropriate committees of the House and Senate. Even after that was done, there would have to be a waiting period of 30 days—which would provide ample time for Congress to express its judgment.

However, in reply to the legal question raised by the Senator from Alabama, I state that he is absolutely correct. It is true that if someone wished to be capricious or arbitrary, he could try to have such a rule applied against an entire State. However, as I have said, the rule would first have to be approved by the President; and if thereafter there arose a question as to whether there had been a violation of the rule, the department or agency concerned would be required to draw up, more or less, a bill of particulars, and the persons affected would be entitled to a hearing; and after the hearing had been consummated, if a decision then were made to cut off the aid, it could not be cut off summarily. Instead, first, the agency would be required to attempt to obtain voluntary compliance. If voluntary compliance proved impossible to obtain, an appropriate report would then have to be made to the appropriate committees of the House and Senate. Even then, there would have to be a waiting period of 30 days before aid could be terminated.

The Senator from Alabama will recall that I clearly explained that there might be situations under programs statewide in scope, programs administered by a State agency, programs in which discrimination is practiced, which would require termination of aid throughout the State. But in such a case, the State, through the State agency administering the program, would be participating in the act of discrimination.

We wish to make it abundantly clear that title VI is not to be applied in a punitive or vindictive manner. That is why emphasis is placed on voluntary compliance. Even if voluntary compliance proves to be impossible to obtain, the bill provides protection against capricious action.

I do not know how we could draft better procedural safeguards.

As for specific cases, we have made it abundantly clear, in connection with establishing the legislative history, that the procedure called for by the bill is not punitive in any way.

Mr. SPARKMAN. I thank the Senator from Rhode Island for his statement. I believe it to be quite helpful.

Mr. President, I now yield the floor.

## CONTRACTS FOR THE McDONNELL F-4 AIRCRAFT

During the delivery of Mr. SPARKMAN's speech,

Mr. SYMINGTON. Mr. President, in a recent hearing before the House Defense Appropriations Subcommittee, the statement was made that McDonnell Aircraft Corp., of St. Louis, Mo., could earn 13 percent before income taxes on its fiscal year 1964 F-4 Phantom contract with the Navy. As the Navy itself pointed out, however, such an earnings rate, although possible, is unlikely.

The straight fixed price contract in question calls for production of aircraft for the Navy, Air Force, and Marines through the calendar year 1965—and it will be many months after production is completed before any actual earnings can be determined. Even then, the contract is subject to renegotiation.

Most of McDonnell's business is with the Government. For the fiscal year 1963 its earnings, after taxes, were 3.01 percent.

In discussing how to determine a fair profit, the regulations of the Department of Defense state in part:

> It is the policy of the Department of Defense to utilize profit to stimulate efficient contract performance. Profit generally is the basic motive of business enterprise. The Government and defense contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance (ASPR, 3-808.1(a)).

In negotiating the Phantom contract, McDonnell and the Navy did their best to project accurately the costs which will be incurred in building the aircraft; and after said cost estimates were made, an earnings rate, based on the Department of Defense weighted guidelines plan, was negotiated.

McDonnell estimates earnings on this contract will be less than 10 percent before income taxes; and that estimate is based on no unusual difficulties being encountered.

A statement was also made in this hearing that more of the equipment used in the Phantom should be supplied to McDonnell by the Government, on the ground that McDonnell would realize a profit on these subcontracted items. Under the weighted guidelines profit concept, however, it should be emphasized that each cost element is subject to individual profit analysis. Profit on engineering may range from 9 percent to 15 percent of estimated costs, while profit on subcontracted items is 1 percent to 5 percent of estimated costs.

Increasing the amount of equipment furnished by the Government does not automatically reduce the Government's cost. The Government may save the contractor's relatively small profit, but it will expend at least part, if not all, of that saving on its own procurement expense. More important, if he does not have control of key equipment items, the contractor cannot do nearly as effective a job of integrating all of the components in order to provide the best overall weapon system.

In addition, if any of the many hundreds of suppliers of equipment for this airplane run into difficulties which result in increased costs, these costs must be borne by McDonnell, not by the Navy.

It should be clear to everyone that, in the interest of the taxpayer, a straight fixed-price contract represents the best method for the Navy to acquire its equipment—best for the Navy because its costs are definite and McDonnell assumes the risks; best for McDonnell because the latter has maximum incentive to do the most efficient job possible.

If the final costs turn out to be lower than the estimates, and McDonnell does realize the higher earnings in future years, the Navy and Air Force will benefit by being able to procure more aircraft at lower prices. But let me again emphasize that, although profit as a reward for efficiency is the essence of free enterprise, these fixed-price contracts are nevertheless subject to price renegotiation.

Mr. President, let me also emphasize that I do not, naturally, want to see this Government purchase one single airplane, or any other piece of military equipment, that is not considered by both the administration and the Congress as essential to our national security.

If and when some equipment is needed, however, then, provided they are competitive in quality and value, the people in my State should have a share of this business. That statement is especially true in that tens of thousands of Missourians are currently unemployed.

Also it is universally agreed that no one in this country can build such technical equipment as airplanes and space capsules more efficiently than can the people at McDonnell Aircraft.

Some of my good friends in the other body twice have in recent weeks criticized the efficiency of operation of several Missouri firms. I am sure they would not have done so if they had been presented with all the facts.

## THE NEW CHESAPEAKE BAY BRIDGE-TUNNEL

During the delivery of Mr. SPARKMAN's speech,

Mr. BYRD of Virginia. Mr. President, the new Chesapeake Bridge-Tunnel over and under the Chesapeake Bay, where it meets the Atlantic Ocean, was opened on April 15, 1964.

This $200 million project is remarkable in many ways, and particularly in two respects: It is regarded as one of the great engineering feats of the world; and it was built without the appropriation of a single dollar of public funds—Federal, State, or local.

The 17½-mile bridge-tunnel connects the Eastern Shore and the mainland of Virginia. It closes the last water gap on the coastal highway from Boston to Miami. It tunnels one of the busiest channels in the world, leading from the ports on Hampton Roads to the ocean.

I spoke at the dinner, in Norfolk, given in celebration of the opening. I ask unanimous consent that the speech I prepared for delivery on that occasion be printed in the RECORD as part of these remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### SPEECH BY SENATOR HARRY F. BYRD, DEMOCRAT, OF VIRGINIA, BEFORE THE CHESAPEAKE BAY BRIDGE TUNNEL DINNER, NORFOLK, VA., WEDNESDAY, APRIL 15, 1964

It is with deep satisfaction—as well as great pleasure—that I am participating with you in this occasion marking the opening of the Chesapeake Bay Bridge-Tunnel.

I should like to express my appreciation for the invitation from the Chesapeake Bay

Bridge-Tunnel Commission through its exceedingly able chairman, Lucius Kellam.

I should like to extend my greetings to all members of the commission, and to all of my other warm friends of this great tidewater area who have done so much to make this memorable meeting possible.

I should like to pay my compliments to the great companies—representing the best in American industry—which, through their scientific, engineering and industrial skills, have made this dream come true.

All of you know your sources of inspiration and assistance—and when I say to you, and to them: we are grateful—I am sure that I speak for your communities, your State and your Nation.

After attending a ceremonial session of the general assembly at Williamsburg it was my privilege to come here on February 2, this year, and traverse the Chesapeake Bay Bridge Tunnel system.

I was amazed. I was amazed at the engineering and construction proficiency that was evident. And I was amazed at the economic potential inherent in this great addition to our national transportation net.

I was reminded of an overnight steamer trip down the bay before World War II to witness an Air Corps demonstration at Langley Field. Going back, we were only a few minutes away from the dock at Old Point when the full fury of a northeaster hit us broadside.

We were having dinner. It suffices to say there was a lot of soup on the deck and a lot of seasick Congressmen. The water was so high, even at Washington, we could not get the car ashore when we got back.

I recalled that incident in the simple realization of the force of the elements here where the Atlantic Ocean and the Chesapeake Bay meet, and where this 17½ miles of modern highway have been built over, and under, and through the resistance of the sea.

With its causeways, manmade islands, tunnels and bridges, I can understand why the engineers call this bridge-tunnel system one of the wonders of the world. And the wonders of its usefulness are now to begin.

I am reminded of another historic date in April, and the events at nearby Cape Henry. It was April 26, 1607. The courageous men in three storm-driven little ships—the *Sara Constant, Godspeed,* and *Discovery*—landed there.

And there they knelt and gave thanks for their arrival, and opened their sealed orders. They were to found the first permanent English settlement in the new world at Jamestown in the following month, on May 13.

They came through the Virginia Capes—Henry and Charles—357 years ago to begin the settlement and development of an empty continent. Think of what you have done to this area today.

The Chesapeake Bay Bridge-Tunnel closes the last water gap on the coastal highway from Boston to Miami—an artery serving the economy and pleasure of tens of millions of Americans.

It connects the beauty, the production and the recreational facilities of Virginia's Eastern Shore and, in fact, the whole Delaware-Maryland-Virginia peninsula, with the port facilities, the industrial complex, the resorts, and the historic sites of the Hampton Roads area.

The Eastern Shore of Virginia is blessed with some of the most fertile soil and favorable growing weather to be found anywhere, and its contributions to the great eastern markets are invaluable.

Its seafood and sport fishing are known and enjoyed by those near and far throughout the Nation. The sturdiness, the industry, the gentility and the hospitality of Eastern Shore people are unsurpassed.

To connect this great region with the mainland of Virginia by convenient highway transportation is not only a remarkable engineering achievement; it is solid progress from which sound economic development is bound to flow.

Since I was Governor, I have always regarded Hampton Roads and its foreign and domestic trade as one of Virginia's greatest assets, and I have spared no effort that I could make for its development.

It is one of the greatest harbors in the world. It has the people, the resources, the climate and the geography—all of the elements—for sound development and profitable enterprise.

And grow and develop you have. Norfolk is the largest city in the State. And with Richmond—the State capital—Portsmouth and Newport News, you have the four largest cities of Virginia within a 100-mile radius.

And within the short distance of 50 miles from where I stand there are more than a million people—nearly 30 percent of all of us who live in Virginia.

There are more than 800,000 people in the communities, the cities and counties, which touch on Hampton Roads itself. These are the teeming shores on which those few brave men landed in 1607.

They had great courage and great vision, but they could not, of course, have imagined the modern day Virginia as it is represented in this metropolitan area.

We honor their memory with the historic sites which dot the whole of Tidewater Virginia, where people from around the country and around the world come for inspiration from the stalwart determination of these men, and the great system of government and enterprise which was to be founded here.

And from this solid Hampton Roads base of maritime, industrial and economic activity, our communities, our State and our Nation are making untold contributions to what we pray will be a better world.

The advantages of Tidewater Virginia are noted by the Federal Government of the United States, no less than by us. With the possible exception of the Nation's Capital, I doubt if there is a greater concentration of Federal activity anywhere than there is in this immediate area.

Your contributions to the development and protection of the United States are beyond estimate. Tidewater Virginia has been a nerve center of every major war since the Revolution, and its part in peacetime pursuits is of vast significance.

I could pay no higher tribute to your richly deserved prominence than did the late Gen. Douglas MacArthur, the greatest commander and hero of World War II, who, long before he died, chose a spot not far from here for his last resting place. We honor his memory.

And, under the leadership of Fred Duckworth, you honored General MacArthur with a suitable memorial to his mother and for his tomb. You have given a place of safe deposit for the historic papers and documents which came into his possession during the great military career of his patriotic lifetime.

Students of history, and admirers of his character, his courage, and his military genius, in years to come will find here a wealth of information to enlighten tumultuous events which he influenced, and in which he was a participant.

His beloved Army has headquarters establishments at Fort Monroe and Fort Eustis; the Air Force is at Langley Field; the Coast Guard is at Norfolk and throughout the area; and the Marines are wherever the Navy is.

For the Navy we build and repair its ships with the facilities of Hampton Roads, and we provide it with one of the Nation's best harbors for the rendezvous of its Atlantic Fleet; and the Navy has established here the largest naval base in the world.

The fact that the area is internationally known is documented by the facts that the NATO headquarters is here, and the exports and imports of foreign flag ships as well as our own merchant marine are profitable evidence.

When you built the Chesapeake Bay Bridge-Tunnel, you went deep under the Thimble Shoals Channel to allow the safe passage to and from the harbor for the world's greatest naval and merchant ships.

More export tonnage went through this channel in 1962 than from any other North Atlantic port—more than 38 million tons. With imports running in excess of 14 million tons, Hampton Roads commerce totaled 53½ million tons.

Scheduled steamship services from Hampton Roads reach more than 350 world ports. Nearly 6,000 ships of all nations sail annually from here to every major destination in the free world.

From your 30 miles of waterfront, shipping is served by some of the most modern facilities and equipment in the world—including 26 general cargo piers, great coal piers, grain elevators, bulk oil facilities, cold storage plants, warehouses, heavy cranes of every size and description, and other services too numerous to mention.

The area is served by 50 motor freight carriers, operating over six major highways, three commercial airlines, eight railroads and the Norfolk-Portsmouth Belt Line. And freight rates are on a competitive basis.

Here we find not only the transport but the other elements meeting the most modern industrial, scientific, and commercial requirements. This newest bridge-tunnel is a transport link unsurpassed anywhere in the world.

You have had tunnel connections under the Elizabeth River between Norfolk and Portsmouth for years. Then came the bridge tunnel connection between Willoughby and Old Point. Now you have the Chesapeake system; and from this there will be a spur to the Hampton-Newport News shore.

The areas linked by the Chesapeake system are highly diversified—from the fertile farming lands of the Eastern Shore to the industrial complex of Hampton Roads. And while the industry here is in a measure maritime-oriented, it also is well diversified.

This is good. It is the basis for our sound progress. It is the basis for well-rounded and well-supplied development. This is in the character of our great Commonwealth.

We do not forget that Virginia spreads from Tidewater, to Piedmont, to the Blue Ridge, to the Valley, to the Alleghanies. Our industrial interests range from seafood to mining. It is nearly 500 miles from the Eastern Shore to Cumberland Gap.

Highways across the rivers and bays in the east, and over and through mountains in the west, are difficult and expensive. I think we have done well. We wish it were better, but we shall build more and more.

We hear a great deal these days about the Government doing things for people that people cannot do for themselves. You have, here, today, proved the contrary with the Chesapeake Bay Bridge-Tunnel.

You have achieved the successful completion of this $200 million project from cape-to-cape across the gateway to the Atlantic without the appropriation of a dollar of public money—Federal, State, city, or county.

I am aware of no enterprise which deserves higher praise. My purpose this evening is to compliment as highly as I can those whose vision, initiative, work, and money have made this possible.

It should be held up for recognition and emulation throughout the length and breadth of this Nation, and—considering some of our foreign aid projects—around the world.

Most of the public-spirited people who are responsible for this fine undertaking are here, or represented, in this gathering. Your civic patriotism, combined with the engineering accomplishments of this project, make it indeed a remarkable achievement.

I am proud of this project as an outstanding example of how a State, its farsighted citizens, engineers, scientists, and capital, with the management and labor of industry, can combine and coordinate their resources and talent without Government control.

It was only 10 years ago that the State chartered the Chesapeake Bay Ferry District. And it was after that that the Bridge and Tunnel District came into being. What has been done here in 3 or 4 years is tremendous.

I venture the assertion that the Federal Government, with all of its power, resources, and money, could not have brought this project to reality with the perfection and expedition that has been accomplished here.

I am pleased at the recognition your achievement has received in the better publications of the country. I took the liberty of inserting the National Geographic article in the CONGRESSIONAL RECORD, which has a circulation of more than 8 million.

The National Geographic Society is one of the greatest scientific institutions in the world. Mr. Melville Bell Grosvenor is president of the society and editor of the magazine. Less than a week ago, on April 9, Mr. Grosvenor wrote me in part as follows: "Just back from a visit to Williamsburg, and the new Chesapeake Bay Bridge-Tunnel which I found fascinating. In my opinion it is one of the engineering marvels of our day, but I imagine the average motorist who scoots across at 60 miles per hour will have no appreciation of the difficulties of building those islands and of putting the tunnels down in the mouth of the Chesapeake Bay."

All of us have seen the signs that the Federal Government places on the interstate highway projects extolling its contributions to the development. I received a letter the other day from a lady in Philadelphia suggesting that you place a sign on the Tunnel Bridge saying no Government money was used in this fine contribution to local, State, and National welfare.

You know of my interest in roads and my belief that they are one of the principal factors in sound domestic development. I am doubly interested when a project is so soundly conceived as this.

I have been advised as to the local developments already completed, underway, and planned in anticipation of the opening of the Chesapeake system which we mark today. I predict much more. You have experts who can estimate the development far more accurately than I can guess it.

And the experts say the system will shorten the crossing time—shore to shore—by nearly 1½ hours, and that the traffic will be increased from 2,000 to 5,000 vehicles a day in the first year of operation.

As Chairman Kellam says, "You can't go from 2,000 cars a day to 5,000 without creating a great deal of additional business." And Fred Duckworth reminds me that it has been predicted that the growth of population in Tidewater, Va., would exceed that in all but two comparable areas in the Nation between 1960 and 1975.

My faith in this country lies in the belief that solid progress follows sound development. You have conceived and accomplished sound development. Sound progress is sure to come.

With the most efficient arterial link that engineers can conceive and construct, and that money can buy, you have provided a high-speed economical connection between the industrial East and the rapidly developing South.

For passenger traffic you have provided an interesting and scenic highway innovation to make the sunny clime of the South far more inviting to the inhabitants of the frostbitten North.

You are situated on the first harbor of the new world. You are here where the first battle of iron clads was fought. You are here where aviation was pioneered at Kitty Hawk, you are here where aerial warfare was pioneered. You are where first the NACA, and now the NASA, pioneered in rockets and space.

You are here in the pivotal position of the eastern seaboard. You have one of the most dynamic and rapidly developing areas in the country, which also encompasses some of the finest tourist and resort areas in the Nation.

I have confidence in your future, as I believed in you in the past. You have made a constructive contribution to the convenience and benefit of your fellowmen in the achievement which we mark today.

It is your commendable purpose to finance the Chesapeake Bridge-Tunnel system, and ultimately to turn it over to your State, free of debt, for free use. The people who use this highway across bay and ocean are indebted to you.

You have my congratulations, my gratitude and my very best wishes.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 80) relative to the opening of the New York World's Fair.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore:

S. 1565. An act to amend the act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 406, 407), with respect to the sale of Indian timber;

S. 1931. An act to provide that the United States shall hold certain land in trust for the members of the Alamo Band of Puertocito Navajo Indians; and

S. 2279. An act to authorize the transfer of the Piegan unit of the Blackfeet Indian irrigation project, Montana, to the landowners within the unit.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 156 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Douglas
Fong
Goldwater
Gore
Hart
Hartke
Hayden
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Keating
Kennedy
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
Monroney
Morse
Morton
Moss
Mundt
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. YOUNG of Ohio in the chair). A quorum is present.

## JACK MacNAIR'S FARM OPERATION AT JETMORE, KANS.

Mr. TALMADGE obtained the floor.

Mr. PEARSON. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. Mr. President, I ask unanimous consent that I may yield for interrogation by other Senators and for insertions in the RECORD, without it appearing as a second speech on my behalf or affecting my privileges in any way whatsoever.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, agriculture has always been a cornerstone of our economic and social system. Those who depend upon the soil, nurture it, and reap its produce, have played a great role in the building of our country, advancing its institutions, and steadying its economy.

Agriculture is changing, as is every other sector of our society. A successful farm is a business of major proportions. A successful farmer is no less than a businessman, an investor, a scientist, and an active citizen.

I was very pleased that the Wall Street Journal chose today to write the story of Jack MacNair of Jetmore, Kans., and his fine 1,440-acre farm operation as representative of one of the diverse segments of this great Nation. Here is a young man who is typical of the new breed of agricultural leaders. I am proud that we have families like the Jack MacNairs as Kansas citizens. I commend this article to my colleagues. It is interesting, informative, and inspiring.

Mr. President, I ask unanimous consent that the article entitled "Meet the MacNairs" may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### MEET THE MacNAIRS—KANSAN RUNS BIG FARM EFFICIENTLY BUT INCOME STILL FLUCTUATES SHARPLY—JACK BRACES FOR A DECLINE IN 1964 WHEAT, CATTLE RECEIPTS; POOL, TRAVEL BRIGHTEN LIFE—GRAIN GROWING AND GOVERNMENT

(By James P. Gannon)

JETMORE, KANS.—Farmer Jack MacNair and his family live in the house in which he was raised. It's a fortresslike stone structure set on a windswept knoll outside this small western Kansas town. Carved in the cornerstone is "1916," the year the house was built.

But the 18-inch thick outer walls of the MacNair home, it quickly becomes apparent to a visitor, are one of the few vestiges of 1916 remaining about the farm. In the house a Magnavox stereo phonograph is likely to be playing anything from Spike Jones to Tchaikovsky. There are four air-conditioning units to provide relief from blistering Kansas summers. The compact kitchen boasts a dishwasher and a garbage disposal.

A big quonset-type metal building not far from the house shelters $40,000 worth of modern farm machinery and vehicles, including three tractors, two trucks, two combines to harvest wheat, and a variety of other equipment. Nearby are plank-fenced cattle pens where Jack can often be found at midmorning doctoring sick steers with big blue sulfa pills and shots of penicillin from an outsized hypodermic needle.

The size of the MacNair homestead has changed since 1916, too, thanks to the periodic addition of neighboring parcels of land.

It now embraces 1,440 rolling acres. Jack, a ruddy-faced 37-year-old who wears cowboy boots and jeans, currently values the farm and its equipment at $210,000. The farm's sales amounted to $141,713 last year.

John Andrew MacNair obviously isn't a typical American farmer. The size of the average U.S. farm is 332 acres. In 1963, sales of the average farm were $10,617.

All the same, the changes at the MacNair farm reflect the direction in which U.S. agriculture generally is moving today. For the trend is clearly toward big, efficient operations that require major capital investments. In 1950 the typical American farm contained 211 acres, 121 acres under the present average size. The value of the assets of the average American farm in 1950 was $17,236, compared with $51,472 now.

Jack MacNair shares the basic concerns of many other U.S. farmers. He frets at the Government's involvement in agriculture, while at the same time he worries about how Washington can extricate itself from farming without creating havoc. He wonders if he can ever even out the wide swings in income stemming from fluctuating prices and the vagaries of nature. Since he and his wife, Bobbie, a city girl from Philadelphia, took over the farm when Jack's father retired in 1953, the results of farming operations have ranged from a loss of $6,642 in 1956, a year in which drought shriveled the wheat, to a profit of $12,207 in 1962.

"It's a penthouse-to-poorhouse sort of thing," observes Jack.

DIVERSIFICATION ON THE FARM

Seeking a steadier farm income, Jack has turned to diversification. At one time he was strictly a wheatgrower. Wheat is still one of the farm's major products. Winter wheat planted last September now carpets 540 acres with green. Churning up a cloud of dust as he rides his red $6,300 International Harvester tractor, Jack has recently been plowing wheat acreage that has lain fallow for the past year and will be seeded next fall.

But in 1958 Jack also began buying calves and fattening them for market. "We need something in this part of the country to provide a balance to our wheat income, which can go from boom to bust," he explains. "We went into cattle so we can ride out some of these poor years in wheat." To assure a supply of feed at reasonable cost in dry years, he spent $6,200 to expand a limited irrigated area created by his father into 160 watered acres on which he grows forage sorghum. Cattle now account for almost 75 percent of the farm's sales.

Jack's efforts to stabilize his income have not been completely successful. This year a drop in wheat prices and continuing low prices for cattle appear certain to keep profits down. Still, it's unlikely that both Jack's principal sources of farm income will collapse completely in the same year and leave him as deep in the red as dry spells or hail storms sometimes did when he relied on wheat alone.

TAX MANEUVER

Last year Jack's farm profit, on paper, was $6,815, but this isn't what it seems. His receipts from the sale of wheat and cattle actually topped 1962, when he reported his biggest farm profit so far. But to take advantage of the lower tax rates that were in prospect for 1964, he shifted some purchases that otherwise would have been made this year into the last month of 1963, buying $8,000 worth of fertilizer and high-protein cattle feed supplement. This move cut the amount of profit taxable at the higher 1963 rates and increased the amount that would be taxed at this year's lower rates.

Wheat and cattle profits are not the MacNairs' only income. Last year they had $10,008 from other sources. A large part of this—$4,511—was dividends from stocks given Jack by his father years ago. Jack, who pays no attention to the stock market, doesn't know the current value of his portfolio, which includes 703 shares of Standard Oil Co. (New Jersey), 200 shares of Swift & Co. and sizable blocks of several other stocks; the last time he totaled up his holdings was in November 1961, when they were worth $78,000.

The MacNairs received $2,110 in rent for 160 acres Jack owns but does not farm and another $1,280 in $1-an-acre payments for oil exploration rights. Their savings accounts—including one $17,000 account created largely with money Bobbie inherited from her late father and a smaller account earmarked for their two young sons' college educations—earned $904 last year.

Rounding out the family's 1963 income was the $1,203 cash value of a trip to Hawaii for two that Jack won as a prize in a contest for amateur outdoor chefs sponsored by the makers of Kaiser aluminum foil; Jack, a skillful hand around a charcoal grill, won by submitting his recipe for "luscious launchible lamb cones," a sort of barbecued lamburger.

Though Jack grew up on the farm he now runs, he originally planned to become a businessman. After a 20-month hitch as an enlisted man in the Army Air Force, he enrolled at Grinnell College in Iowa in 1947 to study business administration. He was graduated in 1951, and shortly thereafter he married Bobbie, a Grinnell classmate.

TAKING OVER THE FARM

He went to work in a lumberyard store at Forest City, Iowa. After 6 months he became manager at a salary of $215 a month. Then, in late 1952, came the proposal that Jack take over the farm from his parents, who now live in Topeka.

"The whole question," recalls Jack, "was whether this Philadelphia girl would move to a farm 15 miles away from the nearest grocery store." Bobbie, now a slim, smartly dressed blonde of 36, was agreeable, and today she says she has no regrets.

The farm, located northwest of Jetmore, the town with "the nearest grocery store," is 4 miles down a gravel road off U.S. Highway 283. Giant trees shade the house. The knoll on which the house stands overlooks Pawnee Creek, where the boys, 9-year-old Mickey and 7-year-old Scott, occasionally turn up buried arrowheads. At the back of the house is a pool built of rock and cement by Jack's father some 30 years ago; Jack and the boys swim there most noons and evenings in the summer.

Jack and Bobbie have spent $16,000—mostly from Bobbie's inheritance—to remodel the 12-room, 2-story house. They started with the downstairs in 1953, moving walls and rooms, in Bobbie's words, "like you move furniture." Later they turned the attic-like upstairs into bright bedrooms and a playroom. Most recently, they enclosed the front porch and added a red brick fireplace—decorated with the coat of arms of Jack's Scottish forebears—in the living room, a pleasant room filled with maple furniture and colorful print fabrics.

Jack says his business training has proved useful on the farm. College courses in such subjects as accounting and statistics "make me feel at home with my books," he says.

AN ADDING MACHINE FROM SEARS

With the help of a small adding machine from Sears, Roebuck & Co., he keeps precise records of all income and expenses. He can quickly come up with the information that last year's food bills—the MacNairs buy all their food except for some beef—totaled $1,671.01, or that 1963 labor costs for the farm were $6,713. The labor figure includes the $250-a-month wages of full-time hired hand Don Martin, who also gets free beef and the use of a three-bedroom brick bungalow near the MacNair house, and the pay of part-time help during the wheat harvest in June.

The Government has considerable say in the wheat-growing end of Jack's operations. In return for supporting the price of wheat, the Agriculture Department limits a farmer's wheat acreage. Jack planted 600 acres of wheat last fall, his acreage allotment for the previous crop, but he had to plow under 60 acres when his allotment was cut 10 percent this year.

The support program works this way: When Jack is ready to sell his wheat, he compares the price the local grain elevator is paying for wheat with the Government support price. If the elevator, or open market, price is equivalent to or above the Government figure, as has been the case the past couple of years, he sells his wheat to the elevator. If the open-market price is significantly less than the support level, however, he obtains a Government loan equal to the value of his crop at the support price. After a specified period, if he still has not disposed of his wheat on the open market, he simply defaults on the loan—which means, in effect, that the Government buys his crop and takes it over.

The 1963 wheat support price averaged $1.82 a bushel. It dropped to around $1.30 this year after a majority of wheat farmers, including Jack, voted against a Government plan for tighter acreage controls and higher price supports in a referendum held a year ago.

CONGRESS VOTES EXTRA PAYMENTS

But earlier this month, with elections looming in November, the administration pushed through Congress a bill that will provide supplementary Government payments atop the basic wheat support rate. The measure should result in a price of at least $1.60 a bushel for the 10,000 bushels of wheat Jack expects to harvest this year.

Jack's 1964 wheat income will still trail last year's, but the extra payments will give him about $3,000 of receipts he wouldn't have had otherwise. Even while conceding he was pleased by this unexpected help from Washington, he clings to the view that "in the long run" he and his fellow wheat farmers would be better off if the Government left them to their own resources.

For one thing, he feels farmers should learn to get along without price props because he believes that farmers have "a lot less political influence coming up than we have been used to." This development, he suggests, could eventually spell the end to special Government solicitude for farmers' economic welfare.

The ultimate effect of the Government's accumulation of surplus wheat also disturbs Jack. These stocks have been declining, but they still amount to 810 million bushels, more than half a year's supply of wheat for both domestic use and export.

DISPOSING OF THE SURPLUS

"The big fear of all the people in the wheat business is what will be done with the Government's wheat surplus," says Jack. Quick disposal of the surplus would collapse wheat prices and ruin wheat farmers, he fears. So he favors an "orderly" disposal of Uncle Sam's wheat, except for strategic reserves, over a period of perhaps 5 years.

"Then I'd like to see the free market govern wheat prices without this big Government surplus hanging over its head," he declares. "We should produce for the consuming market rather than a Government grain bin."

The absence of Government restraints on beef production was one of the reasons Jack went into cattle feeding when he decided to diversify. He buys cattle in the fall, borrowing as much as $90,000 from Farmers State Bank in Jetmore to pay for them and to buy feed to supplement the sorghum, or "milo," that he grows. He sells the fattened cattle to meatpackers in the spring.

Not always at a profit, however. Prices received by cattle raisers have been sagging for some time, and this year Jack is sure to lose money on beef. He bought 480-pound calves last fall at an average price of $23.60 per hundred pounds and intends to market the animals by May 15, when each will weigh around 725 pounds. After feed costs and other expenses, he stands to lose $7 to $10 a head on his 509 steers, possibly resulting in a total loss in the neighborhood of $5,000.

IN THE DRIVER'S SEAT

He nevertheless continues to look upon cattle as insurance for a year when his wheat crop fails. Drought is usually the cause of such a failure, and in drought years, says Jack, his irrigated sorghum fields would put him "in the driver's seat."

He reasons this way: A drought would send feed prices soaring. Cattle raisers without their own feed supply from watered fields would be forced to unload their animals at distress prices. But he would be able to hang on to his cattle until the market was no longer glutted. Then, as one of the few feeders with cattle left to sell, he would be able to obtain good prices.

There is still enough uncertainty in the MacNairs' income to make them highly conservative in their finances. Jack's only borrowing is the once-a-year loan for cattle, and he never buys either farm equipment or personal needs on the installment plan.

The MacNairs generally hold off decisions on major purchases until July or August, when the final results on both cattle and wheat for the year are known. One major outlay late last year was for a cream-colored 1964 Ford Country Squire station wagon; they traded in their 1962 Chevrolet Impala station wagon, which had already passed 50,000 miles, and paid $1,400 in cash. This year Bobbie would like a new refrigerator, and Jack is thinking of riding horses for the boys. For the farm, a new grain drill may be needed.

SHOPPING AT THE CO-OP

The MacNairs do most of their shopping in Jetmore, which has a population of 1,100, though they sometimes drive south 45 miles to Dodge City. Jack buys farm supplies at the Jetmore Farmers' Cooperative. The co-op charges regular prices but returns its profits to customers in the form of patronage dividends. By shopping at the co-op, Jack figures he saves at least 10 percent on tractor fuel, bottled gas, fertilizer and feed.

Jack takes an active part in community affairs. "He's my right-hand man," says Rev. Harry O. Blackburn, pastor of the Jetmore Methodist Church, where Jack is serving his fourth term as elected lay leader. He is also treasurer of the local high school board, past master of the Masonic lodge and township Republican committeeman. He generally spends two nights a week attending meetings and working on civic and church matters.

For relaxation the MacNairs play cards with farm neighbors or with friends in Jetmore. Though they have a television set, they seldom turn it on, preferring instead to read when they have a free evening at home. Jack's favorite reading is the Drover's Telegram, a daily paper for cattlemen, and articles on agricultural research in such publications as the Farm Quarterly.

Even when they don't win free holidays in Hawaii, the MacNairs try to take a vacation trip every year. They usually travel in July or August, when the wheat is harvested, the cattle sold and there's a breather before planting the next year's wheat crop.

"The one thing we spend a little extra for is traveling," says Bobbie. "We don't have any liquor or cigarette bill, and besides we think traveling is educational for the children." The MacNairs are currently planning a vacation that seems a bit unusual for a farmer-cattleman—a visit to a dude ranch in Colorado.

## AGE OF AUTOMATION

Mr. BOGGS. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. Mr. President, with the same understanding as before, I am glad to yield to the Senator from Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, it is likely that in the near future historians will be trying to settle on what to call this period of technological change we are now undergoing. Perhaps it will be termed the "age of automation." All of us are aware of the fact that automation is changing our lives and economy, but because the changes are coming thick and fast, we have not been able to gage accurately either the extent of its blessings or its burdens.

The blessings are likely to affect the country generally, and at the same time, in the form of lower prices for goods or improved quality.

But the burdens will more likely be felt unevenly and at different times in various sections of the country as the move to machinery displaces human workers.

The more we know about this blossoming age the better able we will be to deal with it, both individually and from a government point of view. For this reason, I am glad to support all responsible efforts to study the impact of automation.

But in particular I support the idea of studying a problem as big as automation on as broad a national base as possible. For this reason, I have introduced a bill, S. 185, to provide for a White House Conference on Automation. The White House study approach has been used successfully in recent years concerning other nationwide problems.

The point I wish to make about the White House conference method is that it involves a report by the people to Washington. Study sessions in towns, cities, counties, regions, and States culminate in a sifting of the best ideas and suggestions at the windup sessions in Washington. Besides the recommendations for coping effectively with automation, this people-to-Washington method has the considerable additional benefit of creating greater understanding of automation along the way. I am especially concerned that young people starting out in their work lives have the opportunity to learn more about automation and how it will affect their jobs and lives, so that they can plan their future careers more confidently.

The Christian Science Monitor of Monday, April 20, publishes a thoughtful editorial on this subject, Mr. President, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SAD WORDS FROM A WORKINGMAN

"I'm glad I'm near the end instead of the beginning," said a senior skilled worker we know the other day. He was talking about how difficult it was going to be for his son to get into an increasingly automated industry.

They were sad words from a vigorous man. We wished we could have said something encouraging.

But, despite the present and planned studies of the impact of automation, the general public doesn't seem to know enough about it to feel urgently involved. Perhaps it needs something like the White House conference proposed by Senator BOGGS. He would solicit citizen interest at local levels and build up a consensus until "the Nation speaks to Washington."

One trouble is that estimates of jobs erased through technology have varied widely. The public impression has become one of vague threat and vaguer promise. White-collar workers thought it was strictly a blue-collar problem, until they began saying goodbye to their colleagues. Executives thought that they at least would be immune, until the predictions of management by computer began here and there to come true.

Now a detailed Government study of employment trends provides what seems a conservative suggestion of the likely dislocation. Conducted by the Departments of Labor and Commerce, it estimates that 18 industries (such as food, clothing, and oil refining) will show a decline in the employment by 1970. Meanwhile, 14 other industries (such as retailing, banking, and electronics) will have increased employment.

It would be comforting to think that the workers from jobs closed in one industry could simply move over to an industry where new jobs are opening. Or that young first-job people could simply apply to the latter industries rather than the former. But a comparison of the two groups in the Government report suggests that the required skills would not be easily interchangeable. And in many cases even a first job will have a threshold of skill too high for young people without specific training.

The information and the means for meeting such circumstances should be concerning all of us. Imagine the man—he may be in your family—who has to try a new kind of job because the old one has vanished. It won't be enough to turn away, settle in, and be glad one already has seniority.

## TESTING AND DISCRIMINATION—THE MOTOROLA CASE

Mr. HART. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. Mr. President, with the same understanding as before, I yield to the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, several times in the course of debate on title VII of the pending bill (H.R. 7152), much has been made of the case which arose in the State of Illinois involving Leon Myart, in the Motorola case.

The Wall Street Journal of April 21, under the byline of Todd E. Fandell, has reported in some depth the background of the case and its present status.

Because it is a matter of concern and interest to many Senators, I ask unanimous consent to have the article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Testing and Discrimination—Issue in Motorola Case: Do Job Tests Penalize Negroes?

(By Todd E. Fandell)

Chicago.—On a cool, clear day last July, Leon Myart, a 27-year-old Negro, strolled into the employment office at Motorola, Inc.'s huge manufacturing plant in suburban Franklin Park. He filled out an application, took a 5-minute general ability test and left.

Today, 9 months later, the seemingly innocuous test Mr. Myart took at Motorola has evolved into a controversy of national import, becoming enmeshed in the great civil rights debate in the U.S. Senate.

The controversy grew out of a March 5 decision of a hearing examiner for the Illinois Fair Employment Practices Commission. The examiner, Negro attorney Robert E. Bryant, ordered Motorola to stop using the general ability job test because it discriminated against "the hitherto culturally deprived and the disadvantaged groups." The ruling was the first on record in which any of the more than 30 State FEPC's had asserted authority over tests a company may use in screening job applicants. True, the ruling still may be overturned by the full commission or the courts, but opponents are fighting it on the presumption it at least will be upheld by the Commission.

#### REACTION EXTENDS TO CONGRESS

The ruling has raised the obvious question whether a Government agency should have the power to regulate employment standards of a private company. Judging from the reactions, coming fast and at times furious, the Motorola case has been swept up in broader considerations of civil rights. Congressional foes of civil rights, some business groups, and editorial writers are citing the ruling as an example of dictatorial powers and harrassment the Federal Government would exercise in telling employers whom they may hire if the civil rights bill now being debated in the Senate is passed in its present form.

Such powers, it's argued, would flow from the proposed authority for the Federal Commission on Equal Employment Opportunities provided under title VII of the bill. This section has emerged as a central point of the debate, with Senate minority leader Dirksen leading attempts to amend it. Voting on the amendments is due to take place this week. The Motorola case has had no small part in spurring this effort to amend the bill. It also is somewhat embarrassing to civil rights advocates, to whom the timing of the case may seem a bit unfortunate.

To understand the Motorola case, a brief review is necessary. Mr. Myart was responding to a newspaper ad for troubleshooters who check radio, television, and stereo sets for defects as they come off the production line. Motorola says Mr. Myart scored a 4 on the test, two points below its minimum to qualify for further testing and acceptance. But the company couldn't produce the answer sheet to prove he had flunked. Mr. Myart insists he passed and did, in fact, do so on several subsequent occasions during the course of State and Federal investigations of his complaint.

The examiner, largely on the basis of Mr. Myart's background in electronic work and Motorola's inability to prove his score, ordered the company to employ Mr. Myart. After disposing of the case on these grounds, Mr. Bryant went on to ban the test, devised in 1949 and not revised since, as discriminatory and obsolete "in the light of today's knowledge" of intelligence testing.

Motorola vigorously denies the test discriminates in any way against Negroes and contends it has every right to use it. "This test was not developed to exclude Negroes," says Dr. Phillip Shurrager, author of the test and chairman of the psychology department at Illinois Institute of Technology. "It is a test designed to help evaluate the trainability of a prospective employee," Dr. Shurrager adds. "I know of no way to evaluate if a test in itself is discriminatory toward any group."

The Employers' Association of Greater Chicago jumped to Motorola's defense, claiming surveys conducted by Dr. Shurrager and his associates proved the Motorola test was race free and the FEPC ruling did not reflect the thinking of experts in the field. Robert V. Nystrom, Motorola attorney, maintains the issue is whether an employer in Illinois is going to be permitted to set standards for its employees or whether the State will dictate the standards. And in the U.S. Senate, Senator John Stennis, Democrat, of Mississippi, warned that if the proposed Federal Commission can "go to the extent of determining what must be in a test given by an employer, it can set the educational, moral and aptitude standards for all employers." On the other hand, a number of academic authorities and civil rights groups contend the real issue goes deeper to what they term the discriminatory nature of even the most sophisticated intelligence tests.

Indeed, this issue is not new. It has troubled social scientists and educators for a number of years. The discrimination that Mr. Bryant found in the testing process also last month led the New York City Board of Education to abolish use of intelligence tests in the Nation's largest public school system. The move was in response to increasing charges that such tests are middle class-oriented and slanted against slum children, especially Negroes and Puerto Ricans.

#### SCHOOL TESTING DROPPED

Many psychologists today are disillusioned with the validity of intelligence test scores as measures of native intelligence unaffected by experience and environment.

Testing experts conclude that, because all answers to intelligence test questions are learned responses, such tests are inherently discriminatory against persons educated in inferior schools and coming from poor home environments. A number of research efforts in recent years indicate that test scores of Negroes and whites become more nearly equal as background factors, such as socioeconomic status and schooling, are equalized.

Intelligence tests fail to reflect the ability of the disadvantaged, the argument runs, because they ask questions using words and situations which may not be a part of a culturally deprived person's personal experience, regardless of his natural ability. A question from the Motorola test illustrates how this works on an elementary level.

One question is to choose which of the following is always present at a desert: Sun, sand, palm trees or camels. Most persons would have little difficulty answering sand. But someone who has never seen a desert and whose grade school geography class failed to cover the topic might have difficulty though, in the words of FEPC examiner Bryant, "he may be an expert at repairing television sets."

#### A QUESTION OF RELEVANCY

But if employers don't use general tests in screening applicants, how can they establish standards of selection? "There are two important considerations involved here," says Dr. Philip Ash, president of the Illinois Psychological Association. "First, is the test relevant to the job—does it help predict whether the applicant will be successful?"

If so, then the discriminatory nature of the test, if any, must be determined, according to Dr. Ash. "This can be verified only through careful sampling on comparable groups as nearly alike in background as possible for no test is on its face discriminatory."

Mr. Bryant contends, "There's absolutely nothing in my ruling which would preclude an employer from testing applicants in a way pertinent to the job they're seeking. Use of intelligence tests of this sort is a tool serving to discriminate between whites and Negroes, whether done deliberately or not."

On this latter point, Mr. Bryant gains considerable support among some sociologists. "Although not designed for the purpose, intelligence tests have for years been used by many employers to separate Negroes from whites in setting hiring standards," declares Dr. Raymond Mack of Northwestern University.

"It's a barrier that must be broken down," argues Mr. Bryant. He ascribes claims that his ruling would open the door to excessive Government interference to persons ignorant of the weight of scientific evidence. Mr. Bryant wryly observes that several Chicago companies have quietly dropped use of job tests since his ruling. "They're probably motivated by a fear of adverse publicity, but at least it's a start," he asserts.

About the only thing certain concerning the outcome of the issue is that it will get a thorough airing before it is resolved. Motorola, which has promised to appeal, "all the way to the U.S. Supreme Court, if necessary," to preserve an employer's right to set testing standards, has been granted permission by the full State commission to introduce further testimony. Hearings opened Saturday and were continued to May 25.

Whatever the outcome of the Motorola case, the FEPC examiner has raised an issue which likely will be argued by employers and advocates of fair employment practices legislation for years to come.

Mr. HART. Mr. President, I thank the Senator from Georgia very much for yielding to me.

Mr. TALMADGE. Mr. President with the same understanding as before, I yield to the Senator from Wisconsin.

## A BOOK REVIEW ON THE BOOK "POWER AT THE PENTAGON" WRITTEN BY JACK RAYMOND

Mr. PROXMIRE. Mr. President, Jack Raymond, of the New York Times, is one of the finest reporters in the country. He is an expert on military affairs. His articles are always clear and perceptive in the puzzling, complex field he covers. His is one of the toughest assignments in Washington; namely, our immense National Defense Establishment which he reports for the New York Times.

His book, entitled "Power at the Pentagon," has just been published. It was reviewed in the New York Times today.

This is a fine review of an outstanding book. I hope all Senators will read Jack Raymond's book, because it deals expertly with the extremely important subject, the big question: Can democracy work effectively with the fantastically powerful Military Establishment the United States must have in order to keep the peace?

As Charles Poore writes:

> Mr. Raymond has written a wonderfully informing story of a peaceful people's undying interest in war. Somehow he miraculously avoids the usual hortatory what-we-must-do-to-be-saved manner, while pointing out all the briar patches that beset a government seeking allies for its policies—allies I should add in Congress, in the Nation at large, as well as overseas.

I ask unanimous consent to have the book review printed in the RECORD.

There being no objection, the book review was ordered to be printed in the RECORD, as follows:

### IS THE PENTAGON THREATENED BY CIVILIANS ON HORSEBACK?

(By Charles Poore)

(Review of book entitled "Power at the Pentagon," by Jack Raymond; 363 pages; Harpers, $6.50. Also "The Pentagon," a pictorial story, by Gene Gurney, with more than 200 illustrations; Crown, $3.95)

Mr. Gurney's bright picture book seldom leaves the Pentagon. Mr. Raymond's far-ranging story of American armed power returns only periodically to those pretzelled corridors to show us who's currently running our most expensive enterprise. Or who wants to run it.

That enterprise is the defense—or loss—of libery. And it is, of course, considerably older than its present headquarters in what Mr. Gurney likes to call the largest office building in the world, the bustling five-sided palace of bureaucracy that becomes an odd and awesome home to us before we are finished with these books.

Indeed, as Mr. Raymond, tireless courier for this paper in the Pentagon, reminds us, the defense—or loss—of liberty is at least as ancient as European colonization on the New World's once-Indian-owned shores. The Old World people who came here seeking freedom somehow managed to suppress quite a lot of indigenous freedom before they achieved tenure for democracy. Thus it is that the problems we are shown facing the Pentagon and those who maintain it are seldom without parallels in history's embattled aisles.

Mr. Raymond's beautifully printed but thriftily unillustrated book needs Mr. Gurney's pictoral review as a supplement. True, Mr. Gurney, who flew Liberators in World War II combat and is now deputy chief sachem of the Air Force's book and magazine warriors, goes in rather too generously for the maintenance and recreation side of the Pentagon. It's as if he were producing an album about a big university. Which is fair, since, as Mr. Raymond shows, the universities are brimming with defense projects and saying no, no, no to further Federal grants out of one side of there mouths—and, out of the other, yes, yes, yes.

But if Mr. Gurney tried to show pictorially how a visiting lecturer or a poet in residence found time to write that obligatory novel about college life, he'd encounter difficulties. The word does have its advantages over the picture. Making the most of it, Mr. Raymond has written a wonderfully informing story of a peaceful people's undying interest in war. Somehow, he miraculously avoids the usual hortatory what-we-must-do-to-be-saved manner while pointing out all the briar patches that beset a government seeking allies for its policies. Allies, I should add in Congress, in the Nation at large, as well as overseas.

Naturally, the big decisions must be made by the President. Serenely aware of that, President Kennedy, who had been damned for the Bay of Pigs sortie and acclaimed for the missile showdown with the Soviets in Cuba, liked to quote Robert Graves' translation of Domingo Ortega's quatrain:

Bullfight critics ranked in rows
  Crowd the enormous plaza full;
But only one man is there who knows,
  And he's the man who fights the bull.

A thousand and one lesser decisions are made at the Pentagon. And millions are made by millions every day in the enormous complex of the American military-civilian establishment. In fact, every American knows how his country's power can best be used. Trouble is, not every American agrees with every other American on much of anything. In recent decades, for example, Mr. Raymond's book reminds us, we have heard that (a) we armed against the totalitarians too slowly, (b) we disarmed after the last big war too fast, (c) we should never have got mixed in at all. We have had clamor for isolation followed by howls for a second front.

And so it goes. Meantime, as you will see in Mr. Raymond's book, the search for the ultimate weapon has a hard time keeping up with the search for ultimate peace. And the Pentagon swarms with civilian men of destiny, technicians, strategists, computers, admirals, generals, private empire builders in close pursuit of Government contracts—and button pushers facing those ominously glittering panels that are now supplanting westerns in the cinema's basic good guys versus bad guys epics.

Mr. Raymond facetiously gives us a hippic link between the present and the past. Some Pentagonogolists, he says, find the military-mind set becoming more and more nervous about the advent of the civilian on horseback.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

### AMENDMENT NO. 512

Mr. TALMADGE. Mr. President, for and on behalf of myself, the senior Senator from North Carolina [Mr. ERVIN], the junior Senator from Virginia [Mr. ROBERTSON], the junior Senator from South Carolina [Mr. THURMOND], and the junior Senator from Mississippi [Mr. STENNIS], I send to the desk an amendment and ask that it be read and printed in the RECORD and lie on the table until called up.

Mr. ROBERTSON. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. ROBERTSON. Will the Senator ask that it be read in accordance with rule XXII?

Mr. TALMADGE. That is the intention of the Senator from Georgia. My understanding is that if it is read and printed in the RECORD and lies on the table, it will be in compliance with rule XXII.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

The amendment will be read.

The CHIEF CLERK. On page 5, after line 24, it is proposed to insert the following new section:

> SEC. 102. Section 151 of the Civil Rights Act of 1957 (71 Stat. 638) is amended by striking out the second and third provisos to the first paragraph thereof, and inserting in lieu thereof the following: "*Provided further*, That in any such proceeding for criminal contempt, the accused, upon demand therefor, shall be entitled to a trial before a jury, which shall conform as near as may be to the practice in other criminal cases."

On page 11, strike out lines 15 through 17.

On page 55, after line 4, insert the following:

> SEC. 1105. In any proceeding for criminal contempt arising under any title of this Act, the accused, upon demand therefor, shall be entitled to a trial before a jury, which shall conform as near as may be to the practice in other criminal cases, except that this provision shall not (1) apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court, or (2) be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

### AMENDMENT NO. 513

Mr. TALMADGE. Mr. President, on behalf of myself, the senior Senator from North Carolina [Mr. ERVIN], the junior Senator from Virginia [Mr. ROBERTSON], the junior Senator from South Carolina [Mr. THURMOND], and the junior Senator from Mississippi [Mr. STENNIS], I send an amendment to the desk and ask that it be read and made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 54, between lines 7 and 8, insert the following new title:

> TITLE XI—AMENDMENT TO THE FEDERAL CRIMINAL CODE TO PROVIDE TRIAL BY JURY FOR PROCEEDINGS TO PUNISH CRIMINAL CONTEMPTS IN CASES IN FEDERAL COURTS
>
> SEC. 1101. Section 402 of title 18 of the United States Code is hereby amended to read as follows:
>
> "SEC. 402. CRIMINAL CONTEMPTS
>
> "Any person, corporation or association willfully disobeying or obstructing any lawful writ, process, order, rule, decree or command of any court of the United States or any court of the District of Columbia shall be prosecuted for criminal contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both: *Provided, however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall such imprisonment exceed the term of 6 months.
>
> "This section shall not be construed to apply to contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any

officer of the court in respect to writs, orders or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree or command of the court in accordance with the prevailing usages of law and equity, including the power of detention."

Sec. 1102. Section 3691 of title 18 of the United States Code is hereby amended to read as follows:

"Sec. 3691. Jury Trial of Criminal Contempt.

"In any proceeding for criminal contempt for willful disobedience of or obstruction to any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in criminal case.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administraion of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree or command of the court in accordance with the prevailing usages of law and equity, including the power of detention."

Sec. 1103. Sec. 151 of Part V of the Civil Rights Act of 1957 (71 Stat. 638, 42 U.S.C. 1995) is hereby repealed.

On lines 15, 16, and 17 of page 11, strike out subsection (c) of section 205.

On line 8 of page 54, change the designation of title XI to title XII.

On lines 9, 14, 22, and 24 of page 54, change the designations of sections 1101, 1102, 1103, and 1104, to sections 1201, 1202, 1203, and 1204, respectively.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 513 offered by the junior Senator from Georgia, for himself and other Senators.

Mr. KEATING. Mr. President, will the Senator yield for a question?

Mr. TALMADGE. I yield to the Senator from New York.

Mr. KEATING. Inasmuch as I have the responsibility, momentarily, for this side of the aisle, I should like to inquire of the distinguished Senator from Georgia whether he intends to press for a vote on his amendment tonight.

Mr. TALMADGE. I doubt that the amendment will come to a vote this evening.

Mr. KEATING. I wished to alert my colleagues if there was any intention on the part of the Senator from Georgia to have a vote on the amendment this evening.

Mr. TALMADGE. The Senator would be safe if he reported to his colleagues that the amendment will not be voted on this evening.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to my able friend from Virginia, who has made two magnificent speeches in recent weeks on the right of trial by jury, has inserted various documents in the Record, and has offered two amendments that are now pending at the desk which would accomplish the same thing.

Mr. ROBERTSON. Naturally I appreciate the high tribute the Senator has paid me. I am very proud to be associated with the ablest constitutional lawyer in the Senate, the senior Senator from North Carolina [Mr. Ervin]—I do not believe there is any question about that—and the other very able and distinguished lawyer from Georgia [Mr. Talmadge], in the offering of the amendment. It is a vital amendment. It goes to the very heart of what the bill proposes, namely, to take away from the citizens of this Nation one of the most precious rights which has come down to us from the earliest days of Magna Charta, back to 1215, and all the way down, trial by jury of criminal cases.

The distinguished Senator from Georgia has mentioned the fact that I have made several speeches on the issue of trial by jury, and that I have offered an amendment dealing with title VII.

He was well advised when he told the distinguished Senator from New York [Mr. Keating] that there would be no vote on the amendment tonight. I believe the Senate can reasonably look forward to a considerable elucidation of what is involved. When the appropriate time comes, the junior Senator from Virginia proposes to show that the cases cited last week by the distinguished Senator from Illinois [Mr. Douglas] have no bearing whatever upon this issue.

They were all State cases. The majority of them were offenses committed in the presence of the judge, which this amendment would eliminate. We are dealing now with criminal procedures in Federal court.

Everyone knows that the Federal courts were created either in the Constitution itself—that is the Supreme Court—or authorized by the Constitution to be created by Congress. Consequently, Federal courts must of necessity operate under the Constitution. We shall point out that under the Constitution all actions by the Crown against an individual in the nature of criminal contempt were considered criminal. Therefore, when the Constitution provided that every man should be entitled to a jury trial in criminal cases, it contemplated exactly what we are proposing to do now.

We do not have a King George to operate on us. But we do have the necessity for the counterpart of a King George, which is our Federal Government. Therefore I say that we are proposing to preserve a very precious constitutional right to the individuals of this Nation. Neither the distinguished Senator from Georgia, the Senator from North Carolina, the Senator from Virginia, nor any of us who want to preserve a constitutional privilege can tell any Senator how to vote. But before this debate is over, we shall make it crystal clear that Senators who vote to deprive their constituents of their constitutional right in criminal contempt cases to a jury trial might as well admit that they are doing it because the NAACP is demanding that only Federal judges shall pass on such criminal cases. It is claimed that Southern juries will not convict.

We intend to make that issue crystal clear. It would be useless for any Senator to try to dodge that issue. The issue will be that simple—either a Senator will vote with the NAACP to take away from our citizens the right of a jury trial, or they will vote to preserve a cherished right of all Americans which has come down to us from the Magna Carta.

Mr. President, I appreciate the kindness of the Senator from Georgia.

Mr. TALMADGE. Mr. President, I am grateful indeed for the personal reference and the words of great wisdom that have been given us by the junior Senator from Virginia.

With reference to his personal reference, the Supreme Court of the United States has repealed a high percentage of the law that I learned in law school and that I have studied since that time. So I am not as familiar with the new cases as I was with the old ones.

As the Senator from Virginia has pointed out, it is indeed a basic and fundamental civil right that we have proposed in the pending amendment. It was wrested by our British forebears from King John at Runnymede in 1215. Since that time, the right of trial by jury in all Anglo-Saxon jurisdictions has been held to be a sacred privilege of personal liberty.

The denial of the right of a trial by jury to our forebears in the original Colonies was one of the reasons why our forebears instituted a revolution and made the Declaration of Independence.

One of the charges in the Declaration of Independence was the charge against King George III that he had denied them the right of a trial by jury by writing the admiralty law which denied them the right of a fair and just jury trial.

In order that Senators and others who read the Record may know the legal problem, and the full distinction between criminal contempt and civil contempt, I wish to read into the Record at this point a legal brief that gives the distinction between the two terms, so that Senators will know what they are referring to when they speak of criminal contempt and when they speak of civil contempt. The brief is as follows:

### MEMORANDUM: CIVIL AND CRIMINAL CONTEMPT IN THE FEDERAL COURTS

#### 1. IN GENERAL

In a proper case where a court of equity has commanded the defendant to perform a certain act or to refrain therefrom, the court has the power to enforce such command by contempt proceedings. This power of Anglo-Saxon jurisprudence grew out of the concept of contempt of the King's authority.

The contempt can be direct (arising out of acts committed in the physical presence of the court) or constructive (arising out of acts committed out of the physical presence of the court).

There are two types of contempt proceedings—civil and criminal. The distinction is based on the character and purpose of the suit. If remedial, it is civil contempt. If punitive, it is criminal contempt. The following rules generally apply:

Criminal: (1) Punitive punishment, (2) plaintiff is U.S. Government, (3) imprisonment for fixed period, (4) fine paid into court, (5) proved guilty beyond a reasonable doubt, (6) defendant cannot be compelled to testify against himself, (7) case cannot be settled out of court.

Civil: (1) Remedial, (2) plaintiff is the original plaintiff in the injunction suit, (3) imprisonment only to coerce, (4) fine is paid to plaintiff, (5) proved guilty by a preponderance of the evidence, (6) case can be settled out of court.

When a defendant refuses to perform or refrain from an order of the court, he is guilty of both civil and criminal contempt. The former suit filed by the original plaintiff; the latter suit by the United States through the district attorney.

### II. THE PERTINENT FEDERAL STATUTES AND RULES

A substantial number of Federal statutes relate, in one way or another, to contempt and contempt proceedings. However, the basic statutory provisions are relatively simple. Section 401 of title 18 of the United States Code Annotated, "Crimes and Criminal Procedure", provides:

"§ 401. Power of court:

"A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

"(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) Misbehavior of any of its officers in their official transactions;

"(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command. June 25, 1948, c. 645, 62 Stat. 701."

Section 402 of the same title requires that contempts involving willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court which are of such a such character as to constitute also a criminal offense shall be prosecuted as provided in section 3691 of the same title. The latter section requires trial by jury conforming as nearly as may be to the practice in other criminal cases, except in certain specified instances. Section 3692 of the same title contains a provision for jury trial in cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute.

Section 402 also contains a provision that fines assessed pursuant to its provisions may be paid either to the United States or to the complainant or other party injured and includes a provision for apportionment where more than one party is damaged. The section also specifically excludes from its coverage direct contempts and contempts in disobedience of any lawful order in a suit brought or prosecuted in the name or on behalf of the United States and provides that all other cases of contempt including the two specifically excepted may be punished in conformity with the prevailing usages at law.

Rule 42 of the Federal Rules of Criminal Procedure, 18 U.S.C.A., deals with the subject of criminal contempt providing for summary punishment if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court and apparently requiring specific notice at the commencement of the contempt proceedings of the criminal nature of the proceedings in all other cases of criminal contempt.

### III. DIFFERENCES IN PROCEDURE DURING TRIAL

Right to trial by jury: There is no right to trial by jury in summary contempt actions, even though such acts also constitute indictable offenses. As far as criminal contempt actions are concerned, there is a right to trial by jury (1) in all cases in which acts of Congress so provide; (2) where the acts charged also constitute a criminal offense under any act of Congress or under laws of any State, 18 U.S.C.A. 3691. However, in instances (1) and (2) no right to trial by jury is given where the contemptuous act consisted of disobedience to an order, rule, or decree entered in an action brought or prosecuted in the name of or on behalf of the United States, 18 U.S.C.A. 402. (3) In contempt actions arising out of violation of injunctions or restraining orders issued under Federal Labor Laws, 18 U.S.C.A. 3692. Situation 3, supra, is the only one in which the right to trial by jury exists in civil contempt actions since 18 U.S.C.A. 3691, referring to contempt proceedings brought to punish acts which also constitute criminal offenses, does not apply to civil contempt actions. *United States* v. *Onan*, 8 Cir., 1951, 190 F. 2d 1, certiorari denied 342 U.S. 869, 72 S. Ct. 112, 96 L. Ed. 654. In addition to having the safeguard of a jury trial, where applicable, the defendant in a criminal contempt proceeding is surrounded by a presumption of innocence. *United States* v. *Fleischman*, 1950, 339 U.S. 349, 70 S. Ct. 739, 94 L. Ed. 906, and is protected by the fact that the acts complained of must be established beyond a reasonable doubt. The defendant in a civil contempt proceeding on the other hand is confronted by a plaintiff who must establish the acts complained of only by clear and convincing evidence. *Fox* v. *Capital Co.*, 3 Cir., 1938, 96 F. 2d 684.

Again, while the privilege against self-incrimination may successfully be asserted to avoid disclosure of acts constituting or relating to criminal contempt (see *Parker* v. *United States, supra*, 153 F. 2d at p. 70), no such claim is possible where the acts,. if disclosed, would show civil contempt only. On the other hand, greater safeguards are provided in a civil contempt proceeding by the requirement that facts must be found specially, Fed. R. Civ. P. 52, than are provided in a criminal contempt proceeding, where only general findings of fact are required unless a party requests otherwise, Fed. R. Crim. P. 23(c). The limitation period within which actions for criminal contempt must be commenced is 3 years. 18 U.S.C.A. 3282, for constructive as well as for summary contempt (*Pendergast* v. *U.S.*, 317 U.S. 412 (1943)); but where the contempt also constitutes a crime and does not consist of disobedience to an order entered in any suit prosecuted by the United States the period is 1 year, 18 U.S.C.A. 3285. There seems to be no general Federal limitation statute applicable to civil contempt actions.

Judgments, amount of: The theory which underlies a criminal contempt proceeding is that the action is punitive; such contempt is sanctioned by a fine payable to the Government or by the imprisonment, 18 U.S.C.A. 401, of contemnor for a definite time, *Gompers* v. *Buck's Stove & Range Co.*, 1911, 221 U.S. 418, 31 S. Ct. 492, 55 L. Ed. 797. The amount of the punishment which may be imposed in criminal contempt actions where the act complained of also constitutes a crime is limited in cases where the accused is a natural person to 6 months confinement and/or a fine of $1,000 if the fine is payable to the United States, 18 U.S.C.A. 402. This limitation is, however, inapplicable to proceedings for summary contempt and to proceedings for contempt of orders which were issued in suits brought or prosecuted in the name of or on behalf of the United States. The award in civil contempt proceedings is meant to be compensatory or coercive, and not punitive. The measure of the court's power in civil contempt proceedings is determined by the requirements of full remedial relief including costs and reasonable counsel fees, *Eustace* v. *Lynch*, 9 Cir., 1935, 80 F. 2d 652; *Norstrom* v. *Wahl*, 9 Cir., 1930, 41 F. 2d 910; *McComb* v. *Jacksonville Paper Co.*, 1949, 336 U.S. 187, 69 S. Ct. 497, 93 L. Ed. 599. Also, in a civil contempt proceding the time of imprisonment cannot be for a definite time, *Gompers* v. *Buck's Stove & Range Co.*, 221 U.S. at page 443, 31 S. Ct. at page 498; *Parker* v. *United States*, 153 F. 2d at page 70, since the object is not to punish defendant but to compel his obedience to the court's decree. Unlike the situation in a criminal contempt proceeding where the court in its discretion can withhold punishment, in a civil proceeding the prevailing party is entitled to its remedial order as of right, *Parker* v. *United States*, supra. While death of a party, pending review, abates a criminal contempt proceeding, *McGovern* v. *United States*, 7 Cir., 1922, 280 F. 73, certiorari denied 259 U.S. 580, 42 S. Ct. 464, 66 L. Ed. 1073, a civil contempt action is not abated and the fine is assessable against defendant's estate, *Wasserman* v. *United States*, 8 Cir., 1908, 161 F. 722, reversed by stipulation on other grounds, 8 Cir., 1909, 166 F. 1022.

Yet another difference between the punishment which can be imposed in these two classes of proceedings is that, where the proceeding is of a criminal nature, accused may be relieved from the punishment imposed by exercise of the executive pardon, U.S. Constitution, article II, section 2, provides for Presidential pardon of sentences imposed for "offenses against the United States."

Mr. President, I have briefly summarized the distinction between criminal contempt and civil contempt. I hope readers of the Record and my colleagues in the Senate will familiarize themselves with the distinction, because criminal contempt involves punishment for a crime, and the Constitution of the United States provides that cases involving crimes must be tried by jury. That right has been inherent in Anglo-Saxon jurisprudence from 1215, the date of the Magna Carta, up to the present time. We have been encroaching upon that right by various provisions—for example, by holding that, if the Federal Government brings an action for criminal contempt, a citizen is not entitled to a jury trial.

I hold that there is an even greater reason why a citizen should have the right of a trial by jury. When the power, the might, the wealth, and the legal talent of the entire U.S. Government are arrayed against a citizen, there is an even greater reason why he should have the right of trial by jury than would be the case if John Smith or Sam Jones had brought a proceeding against him. To begin with, when the might and power of the U.S. Government are arrayed against a citizen, the contest is unequal. It ought to be equalized through the traditional right of trial by jury provided in the Constitution.

The late President Kennedy, and our present President, Mr. Johnson, and our distinguished majority leader, the Senator from Montana, exercised great wisdom when they voted for the jury trial amendment in 1957, which provides for jury trials in all criminal contempt cases. That amendment passed the Senate by an overwhelming majority, but when it reached a conference with the House of Representatives it was in some respects emasculated and mutilated.

We are now being asked to vest in the U.S. Government and its appointed officials powers far more vast than have ever been vested in any official of the U.S. Government.

If the pending bill passes in substantially its present form, the Attorney General will become, at one fell swoop, the most powerful officer of the U.S. Government. He will possess more power, if the bill is enacted into law, than the President of the United States has ever possessed in the entire history of our country.

If we are to clothe these Federal officials with such vast powers, the least we can do is perform our duty under the Constitution of the United States to uphold and protect the right of trial by jury in matters of this nature.

Mr. President, this bill purports to confer upon certain classes of citizens, certain rights, but the truth of the matter is that in the process, the American people would lose most of their fundamental liberties which has made ours the greatest and freest nation on the face of the earth.

I submit, Mr. President, that we cannot make certain constitutional rights more secure by taking away or qualifying another right.

To contend otherwise is to deny the inalienability of the rights guaranteed to the American people by the Constitution and the Bill of Rights.

To legislate otherwise would be to reverse the clear intent of our Founding Fathers in emphatically and unequivocally prohibiting any infringement upon the constitutional liberties they enumerated.

The constitutional rights of the citizens of this Nation are not sometimes things to be alternately enjoyed and denied to the tune of whatever siren song of political expediency may tempt those who transiently occupy the seats of this Congress.

Rather they are rights which are perpetual and all inclusive, unchanging and unqualified and without exceptions or loopholes. They are the chains which bind our Government, like Ulysses, to the mast to keep it from steering our ship of state onto the dangerous rocks of governmental interference with or denial of individual freedom.

The sponsors of this monstrous legislation presently before the Senate have not made a case for the broad new power they seek for the U.S. Attorney General to enforce criminal laws through injunctive relief in Federal courts of chancery. Neither have they been able to reconcile to the satisfaction of the American public the inconsistency of their position of advocating the denial of jury trials in civil rights cases with their characterization of themselves as liberals crusading in the name of civil rights.

No true liberal would advocate the qualification or denial of any right—most assuredly not the right of trial by jury. As my authority for that statement, I cite the words of one of the greatest liberals ever to sit in this body or to speak out in defense of the rights of the American people, the late Senator George W. Norris, of Nebraska.

In advocating the adoption of the Norris-LaGuardia Act, Senator Norris declared in this Chamber on March 18, 1932:

> I agree, that any man charged with contempt in any court of the United States, * * * in any case, no matter what it is, ought to have a jury trial. * * * It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits in court and heard jury trials, knows that juries make mistakes, as all other human beings do, and they sometimes render verdicts which seem almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray I am confirmed in my opinion that after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender. I like to have trial by jury preserved in all kinds of cases where there is a dispute of facts.

Let me reiterate his statment that "it is no answer to say that there will sometimes be juries which will not convict." That has been the burden of the theme of the proponents of this bill as written—that southern juries would not convict officials or plain citizens accused of civil rights violations.

I seriously doubt, Mr. President, that those who are so vocal in their advocacy of denying jury trials to persons accused of civil rights violations would dare propose applying the same yardstick to persons accused of conspiring to interfere with the investigative processes of committees of the U.S. Senate.

To keep the record straight, Mr. President, let me emphasize that should such a proposal be made I would oppose it as vigorously as I now advocate the adoption of this amendment to guarantee jury trials in civil rights cases.

Not only do I agree with the views of that great liberal, the late Senator Norris, that "any man charged with contempt in any court of the United States, in any case, no matter what it is, ought to have a jury trial," but also I would give my wholehearted support to legislation to guarantee trial by jury in all cases in which there are facts to be determined with the one exception of cases of direct contempt committed in the presence of the court.

I feel that I have demonstrated my sincerity on this point by repeatedly urging legislation providing for a speedy and public trial by an impartial jury in all cases of contempt arising from the disobedience of any injunction or restraining order and specifying that no person could be bound by an injunction unless he is a party to the proceeding, is named in and served with a true copy of the injunction, or has the provisions of the injunction read and explained in his presence by a judge in open court.

It is my firm conviction that the enactment of such legislation would constitute a really effective means of protecting and preserving the civil rights of the American people and would constitute the most significant civil rights legislation to be passed by Congress since it wrote and submitted the Bill of Rights to the States for ratification.

One of the most basic of our civil rights as Americans is the right of trial by jury. My amendment would protect that right from abuse through misuse of the judicial power of contempt and, in so doing, would help to eliminate the grave danger of governmental regimentation and dictation through court edict.

Those who would deny jury trials in civil rights cases have sought by glib legalisms and semantic legerdemain to establish the false premise that such denial already is the law. They would have the people believe that that is true because we now have a statute codified as 18 U.S.C. 3691 which provides that in cases of contempt arising out of any action brought in the name of the United States there is no jury trial.

What they do not say, however, is that H.R. 7152 would authorize the Attorney General of the United States to enforce existing criminal statutes under which trial by jury is inherent by bringing injunctive proceedings in the name of the United States under which trial by jury is denied. Thus by the adroit legal maneuver of enforcing present criminal statutes through injunctive proceedings brought in the name of the United States, defendants in civil rights cases would be denied a jury trial.

In 1957, the late Senator from Wyoming, Mr. O'Mahoney, spoke strongly and forcefully for the preservation of the right to a trial by jury. This brilliant and distinguished Senator eloquently exposed the evils of legislation such as that now pending before us. For the sake of emphasis, I wish to repeat some of his words here. Speaking on the floor of the Senate on July 16, 1957, he declared:

> The question which every Senator must ask himself when the time comes to vote upon this measure is whether he wants to take away the right of jury trial from American citizens, not whether he wants to give it in circumstances where it does not now exist.
>
> Trial by jury has been a fundamental shield of liberty against the power of government and those who sit in the seats of authority since long before our Constitution was drafted. This was the concept of the framers of our Government when they drafted the Constitution and wrote into that instrument the guarantee that "The trial of all crimes, except in cases of impeachment shall be by jury" (art. III, sec. 2, clause 3).
>
> The misconception which has entered into the public mind by reason of the initial discussion of this measure is that it involves only the matter of voting rights. Of course, the overwhelming belief of Americans in all sections of the country is that voting rights shall not be denied to any citizen of the United States by reason of race, creed, color, or former condition of servitude. To this belief I adhere without reservation.
>
> It is now clear, however, that this bill goes far beyond voting rights and attempts to place in the hands of the Attorney General of the United States the power to try citizens of the United States by the injunctive process for crimes for which they are now punishable only when convicted by a jury. Let the Senator who has any doubt on this matter turn to title 18, United States Code, dealing with the Criminal Code and Criminal Procedure. Here it will be found that section 241 makes it a crime for two or more persons to "injure, oppress, threaten or intimidate any citizen" in the free exercise of rights under the Constitution and the laws and that the punishment for such a crime is a fine not to exceed more than $5,000 or imprisonment for not more than 10 years or both. Con-

spiracy of this kind is a criminal offense and can now be punished only by trial by jury.

The next section of title 18, United States Criminal Code—namely, section 242—makes it a crime for any person under color of law or of custom to deprive any inhabitant of any State, Territory or the District of Columbia of his rights, privileges, or immunities under the Constitution and the laws by reason of his color. That is a crime punishable by fine of not more than $1,000 or imprisonment for not more than a year, or both. No citizen of the United States can be convicted now of this crime or of the crime mentioned in section 241 without a trial by jury.

Section 243 makes it a crime punishable by a fine of not more than $5,000 for any person charged with the responsibility of selecting members of a jury to exclude any qualified person "on account of race, color, or previous condition of servitude."

The right of trial by jury will be taken away under this bill from all persons charged with such crimes unless it is amended to preserve that right, because the bill attempts to clothe the Attorney General with the authority to bring about the punishment of persons so charged without a trial by jury. In every instance the section authorizing the Attorney General to bring a civil action includes as defendants not only persons whom the Attorney General believes are about to commit these offenses but any persons who are alleged to have already engaged in the prohibited acts or practices.

The argument in support of these attempts to take away the right of trial by jury is based upon the contention that Congress has already authorized government by injunction without a right of trial by jury in many other statutes. We are told that there are 28 such laws. An examination of these statutes reveals the important fact that without exception they seem to deal with the regulation of commerce and with the activities not of natural persons but of artificial persons known as corporations.

No corporation can exist unless it has been brought into being by the act of some government. Governments like corporations are the creatures of men, but men are the creatures of God. And here we come directly to the old, in fact, the eternal issue of human rights versus property rights.

The Constitution of the United States was drafted for the protection of human rights. The drafters were thinking of individuals, of living human persons, when they provided for trial by jury. They made an exception in cases of impeachment because impeachment involves not crime but failure of an officer properly to discharge the duties of office. The framers of the Constitution were so careful to protect the human person against conviction for crime except by jury that even in providing for the trial of treason they wrote it down that "No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or in confession in open court."

Shall we now, under color of a civil action on the equity side of the court, break down this shield which for centuries has been the only protection of living persons against the authority or the pretended authority of government? Everybody knows that whenever we attempt by law to violate the Constitution we imperil free government itself because we set a precedent which can easily be followed by future Congresses and future administrations.

Oh, but the opponents of jury trial under this measure say that Congress has frequently given the Attorney General power to sue on behalf of the United States for relief by injunction. Such persons, I am persuaded, overlook the distinction between offenses which are classified as malum per se or malum prohibita, offenses which are in themselves evil or offenses which are wrong only because they happen to be prohibited by law.

In the former category are the criminal offenses for which no man can be punished unless tried and convicted by a jury. The latter offenses which arise only because some regulatory law prohibits them do not have the same significance as the crimes of force and violence which are evil in themselves and are committed by men. It is precisely because they are evil in themselves that our system of government has always insisted that the person charged shall always be entitled to a trial by jury. No man can, under the American system of government, be punished for an infamous crime merely by the ipse dixit of an appointed Attorney General or an appointed judge. The whole history of the jury trial is the development of the resistance of free men against arbitrary judicial and executive power.

It is said that judges have the power to punish by fine and imprisonment in cases of criminal conduct without the intervention of a jury to find the facts. This argument I think was disposed of conclusively by the Supreme Court in *United States* v. *Goldman*, 277 U.S. 229, 235, when in quoting from ex parte Grossman, 267 U.S. 87, 115, it said:

"In Gompers against United States, supra, 610, this Court said, in language which was quoted with approval in ex parte Grossman, supra, 116: 'It is urged * * * that contempts cannot be crimes, because, although punishable by imprisonment and therefore, if crimes, infamous, they are not within the protection of the Constitution and the amendments giving a right to trial by jury etc., to persons charged with such crimes. * * * It does not follow that contempts of the class under consideration are not crimes, or rather, in the language of the statute, offenses, because trial by jury as it has been gradually worked out and fought out has been thought not to extend to them as a matter of constitutional right. These contempts are infractions of the law, visited with punishment as such. If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech. So truly are they crimes that it seems to be proved that in the early law they were punished only by the usual criminal procedure * * * and that at least in England it seems that they still may be and preferably are tried in that way.' And we think it clear that informations brought by the United States for the punishment of criminal contempts constituting offenses against the United States are 'criminal cases' within the meaning of the Criminal Appeals Act, in as real and substantial a sense as ordinary criminal prosecutions for the punishment of crimes."

That was a speech by the distinguished Senator from Wyoming, the late Senator O'Mahoney, a great liberal and one of the greatest constitutional lawyers who ever served in this body. He offered an amendment identical with the one which I now have pending at the desk, which at that time won the approval of the Senate. His amendment was quoted by the late President Kennedy—who was then a Senator—by the present President Johnson—who is now President of the United States—and by the present majority leader of the Senate, Mr. MANSFIELD, of Montana.

It is fundamental, indeed, that if we are to preserve freedom in our country, we must preserve the right of trial by jury for a crime. The bill is so broad in its scope and its ramifications that it would authorize the Attorney General of the United States to file suit in the name of the Government of the United States in virtually any activity that man may be engaged in from the cradle to the grave.

To turn the Attorney General loose with complete power to sue at will any one of the 190 million American people of the United States before a federally appointed judge who was selected by him, appointed for life, and who could only be removed by impeachment, without the right of a trial by jury to me is unthinkable, if we are to preserve our liberty in America.

I yield now to the distinguished and able junior Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the able Senator.

Mr. President, I ask unanimous consent that the Senator from Georgia may not lose his right to the floor, and that upon his resuming, such resumption shall not constitute another appearance.

The PRESIDING OFFICER (Mr. BOGGS in the chair). Without objection, it is so ordered.

Mr. THURMOND. Is it not true that when the 13 Colonies back in 1776 decided to declare their independence and prepared what is known as the Declaration of Independence, one of the chief provisions which they embodied in the Declaration of Independence was a grievance that reads this way:

> For depriving us in many cases of the benefits of Trial by Jury.

Mr. TALMADGE. That is quite true.

Mr. THURMOND. The Declaration of Independence contains the grievances of the Colonies. Other grievances were:

> For cutting off our Trade with all parts of the world. * * * For suspending our own Legislatures, and declaring themselves vested with power to legislate for us in all cases whatsoever.

In the list of grievances, the matter of denial of the right to trial by jury was considered one of the most severe and oppressive grievances that the Colonies had suffered. That was one of the reasons that the Colonies declared their independence. They were being denied the right of a trial by jury.

Mr. TALMADGE. That is entirely correct. The Senator from South Carolina is an able student of history. He was a former outstanding judge in his own right, in his own State. The Senator knows that one of the most fundamental things in freedom that can possibly exist is the right of a trial by a jury of one's peers. King George, in order to obtain convictions, probably because he wanted convictions in courts where he appointed the judge, would create admiralty courts. They would haul citizens in before the admiralty courts, which denied them the right of a trial by jury. The forebears of the Senator and myself were liberty-loving, dedicated people. That was one of the causes of the Revolutionary War.

Mr. THURMOND. Then after the Colonies fought, and won, the Revolutionary War, which lasted about 6 years, there passed another 5 years from about 1782 until 1787, before the Constitutional Convention was held in Philadelphia.

The Constitution was written at this Convention. At the Convention the Constitution was presented to the delegates, or deputies as they were called. All of the 13 Colonies were represented at the Convention, except Rhode Island, which was in the hands of the radicals and which sent no deputies.

Some members refused to sign the Constitution on the ground that there was no Bill of Rights, or provision guaranteeing freedom from the same type of oppressive governmental action which had been inflicted upon them by the government of the Crown. There were no provisions similar to what are now the first 10 amendments to the Constitution. The deputies were induced to sign the Constitution. George Washington was the President of the Convention; he presided over the Convention and encouraged them to sign on the basis that a Bill of Rights which guaranteed their individual freedoms—such as freedom of speech, freedom of the press, freedom of religion, the right of a trial by jury, the right of preventing the quartering of troops in one's home, the right of petitioning the Government, and the rest of the rights contained in the first 10 amendments—would be submitted by Congress to the States.

On that basis, they were able to get enough deputies to sign the Constitution. That gave us that great document which we have today.

Mr. TALMADGE. The Senator is entirely correct. As I recall that particular period of history, one of the foremost opponents of the adoption of the Constitution was Patrick Henry of Virginia. He was opposed to the adoption of the Constitution, and he rallied tremendous support among the people of all the Colonies. There was much opposition to the adoption of the Constitution.

Finally it was resolved by Thomas Jefferson, among others—and perhaps George Washington, as the Senator says—pointing out that this weakness in the Constitution was obvious and apparent, and that Patrick Henry and others who opposed the adoption of the Constitution were willing if there should be a Bill of Rights—which is really the embodiment of our civil rights now, as the Senator knows. And contrary to the civil rights bills which are pending in Congress, the 10 amendments are prohibitions against the Government. Every time they bring in a civil rights bill now it proposes an expansion of Federal power. As the Senator knows, the history of the liberty of the people has been a constant struggle, throughout human existence, of people against their Government. That was the reason for the first 10 amendments to the Constitution, as the Senator has pointed out. Those are the safeguards, the bulwarks of our liberty today. Every one of them, like the Ten Commandments, declare: "Thou shalt not."

Our 10 commandments did not present some scheme to give our Attorney General more power to haul the people in and put them in jail without a trial by jury. They said, "Thou shalt not."

When we start talking about civil rights, I remind Senators that the State of New York has more civil rights laws on the statute books than any other State in the Union. Apparently they have the greatest difficulty, and the greatest trouble. There are more unemployed Negroes in proportion to the population of their race in the State of New York than virtually any other State in the Union.

The same is true of Pennsylvania. Yet, it has all kinds of civil rights laws, including the fair employment practices commission. Yet, there are strikes in the schools; and in New York the "stall-in" is threatened for tomorrow.

In the Soviet Union, where no citizen has any right or liberty to do anything, there are more civil rights than even some Senators can dream of. But when we expand our government over the lives of the people that make up the country, instead of freeing the citizens, the very opposite happens. They all become prisoners of the state, subject to control by the state. We cannot expand the freedom of some of our people by limiting the freedom of all of our people. And that is all that the bill, H.R. 7152, seeks to do.

Mr. THURMOND. In order to meet the obligation and commitment to the Constitutional Convention of 1787, Congress submitted to the States the first 10 amendments to the Constitution; and in 1791 those 10 amendments were adopted, and became integral parts of the Constitution.

The sixth amendment reads as follows:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed—

And so forth.

So this amendment provides a jury trial for all criminal prosecutions—all of them, not merely some of them. This amendment is not a provision which includes the word "except" or the words "in some"; instead, the words of the sixth amendment are, in part:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury—

And so forth.

Could that language have been made any plainer? Is not that amendment set forth in perfectly distinct and plain English which any fifth-grade student could understand?

Mr. TALMADGE. That is correct; and today it is a vital part of the Constitution. The Senate should seek to preserve it, because it is a fundamental protection in a land where liberty is preserved.

However, if, instead, we were to seek to do away with the right of trial by jury, and if we were to seek to invest in a bureaucrat the right to do as he might see fit, the liberty of the people of this country would vanish. That is as certain as it is sure that the night follows the day.

Mr. THURMOND. However, by means of the provisions of this so-called civil rights bill—although I dislike using the words "civil rights" in connection with the bill——

Mr. TALMADGE. In fact, it is a bill to regulate 190 million American people.

Mr. THURMOND. It certainly is. But instead of regulating them in any way of that sort, I believe in true civil rights; and I am convinced that all our people do so, too.

Instead of true civil rights, this bill would amount to a power grab. In this bill, many attempts are made to shift the constitutional power given to the States and to the individual citizens from the place where those who wrote our great fundamental doctrine, the Constitution of the United States, reposed the power, to the National Government in Washington. Is not that true?

Mr. TALMADGE. It certainly is true. Under the bill, not only would all that power be vested in the National Government, but, in addition, it would be vested in the hands of appointed officials—even though heretofore such power has never been even proposed to be vested in the President of the United States himself.

The proposal to deprive the counties and the States of funds voted for them by Congress is, to me, almost inconceivable. Under such extreme power, if two persons applied for the job of mowing the weeds along an interstate highway in Arizona, if citizen A received the job, instead of citizen B, citizen B could claim that he had been discriminated against; and every dime of Federal highway funds could be cut off from the State of Arizona. To my mind, such power would be utterly and completely repugnant to a republican form of government; and it is inconceivable to me that such power would be proposed.

Mr. THURMOND. Is not that the kind of power that one usually associates with an emperor or a king or a dictator or a potentate—someone with complete power over the people and over their very lives?

Mr. TALMADGE. That is correct.

One of the most fascinating books I ever read is "The Rise and Fall of the Third Reich," by William Shirer. It is really the story of the death of republican rule and democratic government in German, under Adolf Hitler. The part of the book that made the most profound impression on me was its recital of the situation when the German legislative body was meeting in Bonn, and when there was pending before the Reichstag a bill called the Enabling Act. By means of that act, the Reichstag conferred upon Adolf Hitler the power to levy and to spend all taxes.

Of course, that is one of the powers which, in effect, would be given by the pending bill—namely, the power to cut off or withhold appropriated tax funds.

The German Reichstag also conferred on Adolf Hitler the power to amend or modify or rewrite the laws, at will, the power to make treaties with other countries, and the power to amend the German Constitution itself. The German Reichstag voted for that bill by a substantial majority. But if there had been freedom of debate in that legislative body, such as exists in the U.S. Senate, that proposal might have been defeated, because a vigorous, alert, forceful, and determined minority might then have spoken at some length and might have alerted the people of German. But they did not. So the bill was passed, with the result that the power Hitler sought was conferred on him by two legal means. One of them was his appointment to be Chancellor of Germany. He was appointed by Von Hindenburg, who had the right to appoint him. The second was the vast power which was conferred on Hitler by that parliamentary process.

Once those two powers were conferred on Adolf Hitler, freedom in Germany was ended. We know the result. Not only did that power destroy all the rights of the people of Germany, but it also precipitated the most awful and cruel war in history; and even at the present time we are still troubled by the results of that war.

That recital made a profound impression on my mind; and I mention it now in the hope that those who read the CONGRESSIONAL RECORD will think seriously of the danger inherent in conferring such awesome power on any man.

Mr. THURMOND. Is it not clear that it never should be given to any man?

Mr. TALMADGE. Precisely so.

Thomas Jefferson said:

> Trust no man, but bind all men by the chains of the Constitution.

I believe in those words; and Congress should proceed on that basis. We should spell out in detail the necessary restrictions on Government officials, who otherwise might exercise every power over the lives of the American people, every day.

Mr. THURMOND. Is not the history of mankind the history of the suffering of peoples?

Mr. TALMADGE. It certainly is.

Mr. THURMOND. Has not that suffering been brought about by the concentration or centralization of too much power in one person or in a very small group of persons?

Mr. TALMADGE. The Senator from South Carolina is entirely correct. Being the able student of history that he is, he knows that the liberties of a people have never been lost as a result of the attempts of one group of citizens in a State to impose on another group. Instead, the liberties of peoples have always been lost as a result of the activities of tyrannical and oppressive governments. When a government has the power to determine the rights of the people, the people always lose their liberties. That has been true of every Fascist State, every Communist State, every dictatorial state, and every empire, throughout the history of mankind, whenever the word of a king or a dictator became the law and the final authority.

The entire history of the struggles of peoples to obtain and to maintain their liberty has been the story of their struggles against the tyranny and oppression of governments.

So it is clear that if Congress ever were to grant the power to exercise tyranny and oppression over the people of the United States, they would lose their liberty, too; they would not be an exception. Instead, their situation would be much like that of the oppressed people described in the book "1984," written by the Englishman, George Orwell. In it, he described a development in which the Government regulated the lives of all the English people. The result was an "anthill" society.

Mr. THURMOND. Is it not true that the Communist tyranny existing today in Russia is a typical example of what we have been discussing, in that in Soviet Russia only 4 percent of the people are members of the Communist Party, but the Communist Party controls the government, and the government controls the other 96 percent of the people?

Mr. TALMADGE. That is quite true, and it has been true for approximately 50 years.

Mr. THURMOND. In other words, only a small percentage of the people control the predominant number of the population in Russia today.

Mr. TALMADGE. That is quite true. As the Senator knows, the Communist Party controls the government and the people. My recollection is that the membership of the Communist Party consists of approximately 3 or 4 percent of the people.

Mr. THURMOND. The way the party is able to control the people is through a tight police security system, through the army, and through use of other forms of rigid governmental control.

Mr. TALMADGE. The Senator is correct.

Mr. THURMOND. The people do not have freedom or liberty. When a child is 3 years of age, he is taken from his parents and placed in a state orphanage, in many cases. There the child is reared in the ideology of communism. The parents are allowed to visit the child only a few times a month. From that time on every decision of any importance concerning that child's life is made by the government. The government will decide whether the child may go to grammar school, and how long he will remain in grammar school. The government will determine whether the child may go to high school. The government will determine whether the child may go to college. The government will determine what courses the child will take in school or college, as the case may be.

The government will determine where a person will live. The government will determine what pay a person will receive. The government will determine when that person shall be moved to another place. Under the dictatorial system that exists under communism, the government makes every major decision of a person's life.

I believe I have stated a typical example of how the liberties and freedoms of people are taken away from them if too much power is concentrated in any one person or in a small group of individuals.

Mr. TALMADGE. The Senator is correct. He has described the Communist system ably and well. Yet people in our own country believe that we, who are enjoying the advantages of a higher degree of liberty for all of us, should emulate the Communist system by bringing forth some of their procedures and imposing them upon our own people. I do not understand why they should think in that way.

Mr. THURMOND. Is it not true that years ago a true liberal was a person who objected to government regulation, regimentation, and control of people's lives?

Mr. TALMADGE. That is entirely true.

Mr. THURMOND. Is it not true that today the situation is about reversed, and that the so-called liberal of today is a person who favors regulation, regimentation, and control of the lives of people?

Mr. TALMADGE. They call themselves liberals, but to my mind they are extreme reactionaries. Anyone who wishes the government to regulate people instead of the people regulating the government cannot be a liberal. But as the Senator has pointed out, those who desire more and more government controls and more and more Federal regulation are the loudest self-proclaimed liberals that we could possibly have. But the truth is that they are the very antithesis of liberals.

Mr. THURMOND. The distinguished Senator from Georgia is one of the ablest lawyers in the Senate. I ask him if he does not feel that the bill is vague and unclear on many points. The various points that are not clear should be clarified by amendments. Would not bureaucrats interpret the bill in such a way as to give them the most power? The typical bureaucrat seems to have a lust for power.

Mr. TALMADGE. I thank the Senator for his generous personal reference. To answer his question, I would say "Yes." The bill is extremely vague in many areas. Perhaps it was purposely drawn in that way so that Congress would be confused as to its real intent. I have been studying the bill for several months. Other lawyers have been studying it. The more I study it, the more I realize the far-reaching import that it will have over every aspect of the daily private lives of every American citizen throughout our land.

Mr. THURMOND. Is it not true that even able lawyers feel that the bill needs clarification before the Senate should even consider passing it, because, as it stands now, very questionable interpretations could be made by bureaucrats, and it would be very dangerous for them to interpret the bill in the way that most of us feel they would interpret it?

Mr. TALMADGE. I do not believe that I have talked in recent days with a single individual, including Senators, who does not feel that the bill requires legislative correction.

The Washington Evening Star, one of the leading daily newspapers in the District of Columbia, is a firm advocate of what are called civil rights bills. That newspaper declared the bill to be, in effect, a legislative nightmare. I share that view. In all of its aspects the bill is a nightmare. If it were passed in its present form, the Supreme Court and other courts of our land would be determining for many years the significance of some of the provisions which are incorporated in the bill. But, in the final analysis, it will really come down to whatever the Attorney General wishes to do under the power that he and other officials of the Government would be given in the bill. They could starve cities and counties by withholding Federal funds, loans, or grants at any time they might determine that something which they call discrimination had occurred, no matter how remote it may be.

The Attorney General of the United States would be given carte blanche authority to bankrupt virtually every business in America by the filing of lawsuits in the name of the U.S. Government with relation to their various policies, employment or otherwise. In the bill, every possible opportunity for harassment is provided that could be given to any government in the regulation of the lives of all of its people.

If the bill is passed, I believe that we can look for some horrible times to occur when suits are filed against people. The mere threat of a suit would bankrupt some of them. They would not be able to go into court against the power, might, wealth, and talent, legal and otherwise, of the U.S. Government. We shall see more and more people in our country who will lose their will to preserve freedom. We shall see more and more Government regulation such as we have seen in Eastern Europe and in many other countries of the world today that do not have the spark of liberty, for it has died in those countries.

Mr. THURMOND. Is it not true that the bill is so skillfully drawn that a layman or the average person in the street—an intelligent person—could read the bill and possibly not see some of the greatest dangers in the bill?

Mr. TALMADGE. The Senator is entirely correct. The only way that able lawyers could have any idea of the significance of the bill would be to go to a law library and spend weeks on end checking some of the acts to which the bill refers by reference only. They would be required to check some of the previous code sections and some of the decisions of the courts. A competent lawyer would have to spend weeks and months on end to study the far-reaching implications of the bill. It would cover about every activity in the United States.

Mr. THURMOND. I can cite an example of what the Senator has said. I made an address in which I said that the bill would deny the right of trial by jury under title I, title II, title III, title IV, and title VII.

Later a person wrote me and requested a copy of the bill. After he read the bill, he said he did not see where it denied the right of trial by jury. I had to explain the situation to him in detail.

In title I, for example, on page 2 of the bill, section 101 reads as follows:

> Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

Then it goes on and sets out the various provisions contained in title I. It does not mention trial by jury.

Mr. TALMADGE. Oh, no.

Mr. THURMOND. One could read the entire title, and he would not see that it refers to jury trial. Yet this title denies a man the right of trial by jury in this way: When the 1957 Civil Rights bill was enacted into law that year, the statute provided that if one is cited for contempt, and if the punishment is a $300 fine or less, or if the sentence is 45 days or less, he will not get a jury trial.

Mr. TALMADGE. That is correct.

Mr. THURMOND. Only if the punishment is a fine of more than $300 or the sentence is more than 45 days, will he get a jury trial.

That is not clear in the bill as it is presently drafted. In other words, as the Senator from Georgia said a few moments ago, by reference, the provision incorporates the punishment provided in the 1957 Civil Rights Act, which the average person would not catch when he read the pending bill.

Mr. TALMADGE. The only way one could have the slightest understanding of title I would be to go to the law library and dig out section 2004 of the Revised Statutes—42 U.S.C. 1971—as amended by section 131 of the Civil Rights Act of 1957—71 Stat. 637—and as further amended by section 601 of the Civil Rights Act of 1960—74 Stat. 90. He would have to dig up all of those, and he would have to fit the new insertions in, and run down the decisions of the Federal courts construing those statutes in order to have the slightest idea or understanding of what title I was about. Otherwise he would be like the small child who had not been through the sixth grade in studying the English language trying to learn Greek by having a Greek book handed to him. He would merely see some words that would have no significance.

That is true of the bill in its entirety, unless someone spends weeks and months in the law library pursuing it and seeing what it means.

Mr. THURMOND. So when we say this bill denies the right of trial by jury under the provisions of title I, we mean just what we say.

Mr. TALMADGE. That is correct.

Mr. THURMOND. The section refers to the 1957 Civil Rights Act. That act, in my judgment, was unconstitutional. That is the very act against which I spoke for 24 hours and 18 minutes. I felt that it was unconstitutional. I felt very strongly about it. It was not a case of integration or segregation. Just as is true of this bill, it ought not to be a case of whether one is white or black, or whether one is a segregationist or an integrationist. Every freedom-loving person, everyone who believes in the right of trial by jury, everyone who believes in the Constitution of the United States, everyone who believes in the American system of government and the American free enterprise system, should oppose the bill.

Mr. TALMADGE. The Senator is correct. The rights for a few of our people cannot be expanded by denying the rights of all our people. That is axiomatic and fundamental.

Mr. THURMOND. The 1957 act made exceptions to explicit provisions of the Constitution of the United States. The sixth amendment to the Constitution provides that in all criminal prosecutions the accused shall enjoy the right of trial by jury. It makes no exceptions. It does not state that if the punishment is 45 days or less, the accused will not get a jury trial. It states that the accused shall get a jury trial. It makes no exceptions. I do not think Congress could constitutionally adopt an act that would tend to vary the provisions contained in the sixth amendment to the Constitution.

Mr. TALMADGE. I agree with the Senator. I think that is fundamental.

Mr. THURMOND. On page 11, under title II, we find that section 205 reads as follows:

> Proceedings for contempt arising under the provisions of this title shall be subject to the provisions of section 151 of the Civil Rights Act of 1957.

Here again the words "jury trial" are not mentioned. There is no mention of denying a person of the right of trial by jury. Yet the proceedings would be the same as were provided for in the 1957 act, which means that the accused would be denied the right of trial by jury if the punishment were $300 or less or 45 days' imprisonment or less.

Mr. TALMADGE. The Senator is entirely correct.

Mr. THURMOND. I now refer to title III, page 12, starting on line 9. Someone has said that he did not see where there was denial of jury trial under title III. If he will read beginning on line 9 of page 12, he will find this language:

> The Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section.

It continues further as follows:

> The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

It gives the Attorney General complete power to implead anybody he desires.

Mr. TALMADGE. That provision would deny every one of those defendants, regardless of how many there were, the right of trial by jury.

Mr. THURMOND. It would deny them all the right of trial by jury.

Mr. TALMADGE. Yes.

Mr. THURMOND. That is the provision of title III that denies defendants the right of trial by jury. The defendants would be up for contempt, and under the law governing contempt proceedings, a judge would punish them without giving them a jury trial.

Under title IV, on page 17, beginning on line 18, we find the following language:

> The Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section.

Then is added the section similar to the one I just read:

> The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

Here again, a man, or a set of men, or a thousand men, or 10,000 men, can be made parties to a suit by the Attorney General and hauled into court and held for contempt and punished by the judge without a jury trial.

Mr. TALMADGE. Mr. President (Mr. McGee in the chair), the Senator is correct. He has stated the language there which would effectively deny every defendant involved the right to a trial by jury.

Mr. THURMOND. Under title VII, page 41, line 22, section 707(e), it states:

> If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and shall order the respondent to take such affirmative action, * * *.

Here again a man or a group of men, or 10,000, may be made parties to the suit, hauled into court and made defendants, tried before the court without a jury, and sentenced to jail or sentenced to a fine, or both, at the discretion of the court.

Mr. TALMADGE. The Senator is entirely correct.

Mr. THURMOND. So it takes rather close scrutiny and study of the bill to ascertain the broadness of the provisions and just what they mean; but when that is done, it is absolutely clear that titles I, II, III, IV, and VII deny a man the right to a trial by jury.

Mr. TALMADGE. The Senator is entirely correct. I might point out, as the Senator well knows, that it takes careful research, even for a lawyer, to discover those concealed matters in the bill; because, as he points out, one has to go to a law library and dig out the statutes to which it refers, to get a complete understanding of what the law itself reads, and then one has to determine the decisions construing those particular acts. So when an ordinary layman reads the bill, all of that escapes his mind completely, of course, and he would have just as little knowledge of the bill as a child would have of learning Greek by trying to read a book written in Greek.

Mr. THURMOND. Can the Senator imagine a right that is more precious to a citizen than the right of a trial by jury? If a man is charged with simple assault and battery, or if he is charged with murder, is it not most important that he have the right to be tried by his fellow countrymen rather than to be tried by some military dictator, or some king, or queen, or some potentate, or a judge even, right here in the United States?

Mr. TALMADGE. If I had to name the one most outstanding fundamental right of human liberty and freedom throughout the annals of history, I should say that it was the right of trial by jury, because that is the defense of an individual to save his life, his property, his reputation, his fortune, his fame. Without that right, his liberty can be stricken from him in a moment by any dictator, emperor, king, czar, or Federal judge—whoever it may be. But the right of selecting his neighbors, his peers, 12 of them, who will sit in judgment on the facts of a particular case, in my judgment, is the greatest freedom that we have devised in all the annals of human liberty. When we strike down that right, oppression, tyranny, dictatorship, will follow.

Mr. THURMOND. If a study were made of the court systems of the countries of the world, of the jurisprudence in the various nations, it would be found that in most of them, when a man is charged with a crime, he is presumed to be guilty and he has to prove that he is not guilty; and he is usually tried by either one judge, or two or three who call themselves judges.

Mr. TALMADGE. The Senator is correct.

Mr. THURMOND. In this country, under the Anglo-Saxon system of jurisprudence, it is the opposite. A man is presumed, under the law, to be innocent. The law must prove him guilty beyond a reasonable doubt before he can be convicted. Under the Anglo-Saxon system of jurisprudence, a jury has been the safeguard of people's lives and of their property, and has made this system of jurisprudence the most outstanding the world has ever known.

Mr. TALMADGE. The Senator is entirely correct.

Mr. THURMOND. I wish to commend the distinguished Senator from Georgia for offering this amendment.

Mr. President, it is a very important amendment. I cannot imagine a more important civil right that anyone could wish to have than the right of trial by jury. It would be hard for me to conceive that there would be any Member of this body who would wish to oppose the right of trial by jury to any citizen of this country whether black, white, or any other color. As the able Senator has said, the bill will take rights away from all. The bill, in an attempt to provide certain preferential rights to a few, will destroy the rights of all people.

I wish to associate myself with the splendid analysis which the Senator has made, and with the excellent presentation he is making. I am proud to have joined him as a coauthor of the amendment. I believe he is rendering our country a great service in the outstanding address he is delivering tonight.

Mr. TALMADGE. I thank my friend the Senator from South Carolina for his contributions on this matter, not only for his questions to illustrate some of the points, particularly the sections in the bill which strike down the liberties of people instead of creating them, but also for his helpful and enlightening comments. He has made a great contribution to the point I am trying to establish, and I am grateful indeed to him for it.

Mr. MORSE. Mr. President, will the Senator from Georgia yield for a question?

Mr. TALMADGE. I am delighted to yield to the Senator from Oregon.

Mr. MORSE. I have not had an opportunity to study and analyze the recent decision of the U.S. Supreme Court, which I believe was a 5 to 4 decision in dealing with the matter of jury trials. I read only the news accounts of it. I did call for an advance sheet, and I believe it has been sent to my office, but I have not had time to study it yet. I had intended to study that decision when the jury trial amendment came up on the floor of the Senate; but I say to the Senator from Georgia that it took me a little bit by surprise, bringing it up as early as he has.

I knew it was going to be the subject of debate on the civil rights bill, but I wonder if the Senator from Georgia had analyzed that decision and could advise me as to what relevancy it has, if any, to the issue of a jury trial as it is involved in the bill. I shall be delighted to hear the Senator on the subject, because I believe he knows that I have great admiration for his legal ability and have always considered his legal views very carefully.

Mr. TALMADGE. I am grateful to the Senator for his comments. The amendment I have submitted would grant to any defendant, under all conditions, the right to a trial by jury in criminal contempt cases. It would not grant that right in civil contempt cases. It would not grant that right if the contempt were committed in the presence of a judge. But I am of the opinion that a crime should be a jury trial proposition. I believe that it is fundamental to the liberty and the preservation of liberty of the American people. The amendment I have offered would grant that jury trial right in all criminal contempt cases, under all conditions.

The amendment is the same amendment that the late Senator O'Mahoney proposed in 1957, which was approved by the Senate by a very substantial vote, received the support of the late President Kennedy, who was then a Member of the Senate, received the support of President Johnson, who was then a Member of the Senate, and received the support of the majority leader, the Senator from Montana [Mr. Mansfield]. I do not recall how the senior Senator from Oregon voted on that issue. I trust he voted for the amendment. I know his zeal for freedom of all people under all conditions under every circumstance. I hope he will study it carefully. I hope he will see fit to lend his support to the adoption of the amendment, because I believe it is fundamental to have commissions of crimes tried by juries, and not by judges. We ought to take some positive corrective action. As the Senator knows, there has been an increasingly long list of situations in which the Attorney General could bring a suit in the name of the U.S. Government against an individual and effectively estop the right of trial by jury. This has grown into a tremendous abuse. I believe in one situation a judge sentenced a man to 4 years in prison without a jury trial.

What kind of constitutional justice is it, when the Constitution specifically provides that all persons accused of crimes shall have the right of trial by jury?

The Senator from Oregon has been a great professor of law. He has studied the history of the freedom of mankind. He knows what a problem it was for the nobles to wrest the Magna Carta from King John at Runnymede. He knows how fundamental and axiomatic it is to the preservation of the liberties of all our people.

I hope he will give it the greatest study and careful consideration and that he will help us in what I believe to be the greatest civil rights issue which will be voted on by the Senate this year.

Many able men have taken the floor of the Senate to warn of the dangers inherent in bypassing the right of trial by jury through the injunctive process. Among them were Senators William E. Borah, of Idaho, and James A. Reed, of Missouri.

In previous speeches in the Senate, I have referred to excerpts of their remarks and today, Mr. President—in order that Members of this body might have the benefit of their wise counsel in evaluating the present issue, I shall at this time read to the Senate portions of their addresses as taken from the CONGRESSIONAL RECORD.

Said Senator Reed:

> I have for a long time believed that one of the misfortunes or obstacles confronting the courts in the administration of justice is found in the fact that the violation of an order of a court must be tried, or is ordinarily tried, at least, by the judge whose order or mandate has been disobeyed. I think there is great strength in the argument that by submitting the question of fact to a jury we relieve the court from the charge, so frequently made, that the judge who has been offended has sought to punish the man who offended him, and hence cannot be impartial.
>
> We had a striking illustration of that in my own State. The case was referred to by the Senator from Montana (Mr. Walsh) in his very able exposition of the question of the right of trial by jury in contempt cases. I have ever since the decision mentioned been impressed with the fact that courts will not lose their real and proper power by submitting the question of fact in contempt proceedings to an impartial tribunal. In the case I refer to a very offensive and libelous editorial was written of the Supreme Court with reference to a case which was still before the Court on a petition for rehearing. The attack was without justification. Our Supreme Court had always been held in the high respect to which it was justly entitled. A great wave of indignation against this editor followed the publication of his attack.
>
> The Supreme Court, feeling that it must protect its dignity, summoned the editor before it for contempt and proceeded to inflict a very moderate penalty. At once the wave of indignation which had been created against the editor immediately changed into one of sympathy for him and against the Court. It was said that a Court that had been attacked was now engaged in using its great power to punish the very man with which it had a personal controversy. If the question of fact could have been submitted to an impartial tribunal, to some court and some jury other than the Court that had been attacked, I have not the slightest doubt but that the editor would have received a very severe punishment and the Court would have been saved from very great criticism.
>
> I know of other cases somewhat similar. I am perfectly satisfied that if the questions of fact in all contempt cases, save where the contempt is committed in the immediate presence of the court or so near thereto as to be in effect in its presence, the juries will not fail to uphold the dignity of the court and the majesty of the law.
>
> I believe that if it is right to submit questions involving the right of life to a jury it is not dangerous to submit to a jury a mere question of contempt. If we can safely repose in a jury the power to try all questions of property, all questions affecting the honor of the citizen, all questions affecting the liberty of the citizen—to a jury of 12 men—there is nothing unsafe in submitting to the same kind of a tribunal, summoned in the same way, the simple question of fact, Has this corporation or that individual violated the order of the court? I do not believe that such a procedure will result in lawlessness. I do not believe that it means disrespect for courts. I do not believe that it will drag down our courts. If I did so believe I would certainly not be found advocating the proposition, for I hold to this: The legislative branch of a government may make grievous errors, the executive may even undertake the exercise of tyrannical power, but so long as the temple of justice stands open, as long as courts have the courage to declare the rights of the citizen as they are preserved in the law, and so long as a man has the right to be tried by a jury of his peers, no nation will ever be really enslaved.
>
> So, Mr. President, I feel that it is safe, that it is proper, to support the amendment offered by the Senator from Idaho. I believe the dignity and authority of the courts will remain unimpaired. At the same time judges inclined to tyrannical practices or who are influenced by prejudice or passion will find a wholesome check has been placed upon unjust and arbitrary punishments.

I have quoted a portion of the speech made by the late Jim Reed. I believe it is one of the most eloquent and persuasive speeches that I have read on the right of trial by jury.

Now I should like to quote from the late, great Senator Borah, of Idaho, as follows:

> Mr. President, I do not rise to confute the able argument of the Senator from Montana (Mr. Walsh) as to the right of trial by jury in contempt cases. He has perhaps stated it as clearly and as ably as the cause is capable of being stated; but every argument which the Senator has made in favor of the right of trial by jury upon the part of one citizen of the United States is equally applicable to the right of trial by jury upon the part of every other citizen of the United States. I am wondering whether, after this clear and logical statement appealing to the sense of justice of the American people and their conception of right, if we will apply the principle to one class of people. I am perfectly aware that no particular class is mentioned, but in the practical operation of the laws we are about to pass, the result will be that one class will be tried by one rule and another class by another rule.
>
> I am perfectly willing to go as far as the wisdom of the particular time will suggest in extending rights or in providing measures which would seem to prevent any act of so-called tyranny upon the part of our courts; but I am not willing to single out a class of people and extend to them a fundamental right, and deny to another very large class of people the same right. It offends every sense of justice of which I have any conception, and it offends against every principle of free institutions and equal rights. The laboring man is anxious for a trial by jury in contempt cases, but you cannot convince me that he wants to deprive his neighbor or his fellow countrymen of this right.
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> Mr. President, a few days ago we passed what is known as a trade commission bill, which, I presume, is soon to become a law. Under that bill and under that law, if it becomes a law, we have provided for practically the control of the business of this country through injunctions; we have put the businessmen of the country under the surveillance of the courts through the injunctive process; and if they violate the law they are not given a right of trial by jury, but must be tried by the court and punished by the court. These suits will be suits by the Government, and are expected from the operation of the law under section 22 of this bill.
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> Upon what possible theory do we single out the businessmen of the country, unless we assume in the beginning that they are all criminals and so dishonest and unworthy as to be placed in an ostracized class denied even the fundamental rights which we are prepared to grant to others? Upon what theory do we single them out, put them under the surveillance of the injunctive process of the court, and affirmatively deny them the right of a hearing by a jury?
>
> Is the businessman of this country who employs the laborer any different in his position under the laws of the United States than the laborer who is employed by him? Is one class of citizens to be placed in one category and another class in another? Will the Congress of the United States adjourn with such an inconsistent and incongruous contradiction as that in the law? Will we deny to any man the right of trial by jury where punishment is to follow judgment if we do not deny it to all?
>
> Let me call your attention to what the author of the trade commission bill said about trial by jury when it relates to businessmen. He said:
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> "Then there is the power to punish by contempt for disobedience to the mandate of the law, which is much more effective than the criminal prosecution of individuals, bringing them before grand juries and petit juries and submitting all these questions to the varying influences, passions, and prejudices of the hour. I believe that in this way a complete system of administrative law can be built up much more securely than by the eccentric action of grand juries and trial juries. I believe that it is not always necessary to administer the law with the aid of grand and trial juries. The vast body of our law is civil law. The parties have their remedy either in damages or by the summary processes of a court of equity, which can seize hold of a recalcitrant and bring him into subjection to the law, and the administrative tribunal will aid and accelerate the administration of the civil law."
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> When you are dealing with the vast body of men who give employment to labor upon whose prosperity depends the prosperity of labor—when you are dealing with him juries are "eccentric" and passion-moved bodies, impractical and worthless. When you deal with those who have a different kind of a suit brought, juries are the "palladium" of American liberty, one of the pillars of free government.
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> Mr. President, if the trade commission should come to the conclusion that a certain practice was unfair competition, and should go into court to have it enforced against the objection of the man against whom the order was issued, and if perchance that businessman should violate the injunction, the complex and multiplied affairs of the business world, if his conception of obeying the order should be slightly different from that of the court, he would be called before the court and given a trial by court. I am not speaking now of instances where the act also constitutes a crime; but as I understand the bill, even if the act be also a crime, yet if it is in a Government suit no trial by jury can be had.
>
> Mr. President, if you give the right of trial by jury in your trade commission case against the business men of this country, if the Congress of the United States is prepared to give those men a right of trial by jury,

there will be a reconsideration of the trade commission bill before it becomes a law, in my judgment. Yet, Mr. President, the argument of the Senator from Montana, which I repeat was so able and clearly presented, must inevitably apply, if it applies at all, to every man who comes under the inhibition of an injunction. I do not see how you can, under any theory of justice, deny to a man a jury trial because of the business he happens to be engaged in.

What is the situation? Suppose we bring a suit under the trade commission bill against the fruit raisers and fruit marketers of my State, who may be engaged in competition with the fruit raisers just across the river in Oregon, or in the State of Washington. These fruit raisers are all men engaged, as a matter of fact, in actual labor. They are small farmers. Suppose an order is issued against them, and they do not comply with the order, and the Government brings an action to enjoin them. Suppose we see the Federal court of the United States performing the high function of an executive clerk for a trade commission, and they issue an injunction, and those 50 or 100 men in the Payette Valley in the State of Idaho violate the injunction, and they are brought before the court for trial. What kind of a hearing do they get? Why, they get a hearing before the court. If, perchance, every employee that they had or that any of them had, were brought into a court under an injunction between employer and employee, the employer would be tried in the same court by the court, and the employee in the same court by a jury.

It is not the fact that we extend these rules that I complain of, because I think there is much to be said in support of the argument of the Senator that it will increase confidence in the courts in the minds of the people of this country; but it is the fact that we are unwilling to extend it to all our people.

"Government by injunction" originated in the Debs case. After the Debs case the cry of "Government by injunction" became quite general in this country among a great class of people, and was condemned very generally. Let us look at that case for a moment:

"On July 2, 1894, the United States, by Thomas E. Milchrist, district attorney for the northern district of Illinois, under the direction of Richard Olney, Attorney General, filed their bill of complaint in the Circuit Court of the United States for the Northern District of Illinois against these petitioners and others.

* * * * *

"The bill further averred that four of the defendants, naming them, were officers of an association known as the American Railway Union; that in the month of May 1894, there arose a difference or dispute between the Pullman Palace Car Co., and its employees, as the result of which a considerable portion of the latter left the service of the car company."

Then it sets forth the things they were charged with having done, and further says:

"On presentation of it to the court an injunction was ordered commanding the defendants 'and all persons combining and conspiring with them, and all other persons whomsoever, absolutely to desist and refrain from in any way or manner interfering with, hindering, obstructing, or stopping any of the business of any of the following named railroads' (specifically naming the various roads named in the bill) 'as common carriers of passengers and freight between or among any States of the United States, and from in any way or manner interfering with, hindering, obstructing, or stopping any mail trains, express trains, or other trains, whether freight or passenger, engaged in interstate commerce or carrying passengers or freight between or among the States; and from carrying the mail; and from in any manner interfering with, hindering, obstructing, or stopping any engines, cars, or rolling stock of any of said companies engaged in interstate commerce or in connection with the carriage of passengers or freight, between or among the States.'

"This injunction was served upon the defendants—at least upon those who are here as petitioners. On July 17 the district attorney filed in the office of the clerk of said court an information for an attachment against the four defendants, officers of the railway union, and on August 1, a similar information against the other petitioners. A hearing was held before the circuit court, and on December 14 these petitioners were found guilty of contempt."

Mr. President, that was the original case which really gave rise to the earnest discussion in this country of what we call government by injunction. It was a case in which the Government itself went all over the United States and restrained a vast body of employes from doing certain things, and when they refused to obey the injunction brought them into court and punished with contempt upon trial by the court alone.

Mr. Justice Brewer says:

"The case presented by the bill is this: The United States, finding that the interstate transportation of persons and property, as well as the carriage of the mails, is forcibly obstructed, and that a combination and conspiracy exists to subject the control of such transportation to the will of the conspirators, applied to one of their courts, sitting as a court of equity, for an injunction to restrain such obstruction and prevent carrying into effect such conspiracy."

Again, on page 594 of the opinion, the court says:

"If any criminal prosecution be brought against them for the criminal offenses alleged in the bill of complaint, of derailing and wrecking engines and trains, assaulting and disabling employees of the railroad companies, it will be no defense to such prosecution that they disobeyed the orders of injunctions served upon them and have been punished for such disobedience."

Now, the principles and procedure of the Debs case, which gave rise to this demand for a jury trial in contempt cases, are left untouched and wholly intact. The right of the court in all such cases to try the party charged with contempt is carefully protected. In fact, all that class of cases which gave birth to this demand for jury trial are wholly excepted from the operation of this law. So we have, when the trade commission bill and this bill are in their practical workings taken together, a discrimination as to citizens engaged in different occupations; but we have also a discrimination based on the mere question of who is the planitiff as to labor itself."

This bill provides:

"That nothing herein contained shall be construed to relate to contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice."

Under the decision of the courts I do not know how far a thing would have to be away in order not to obstruct the administration of justice, because under the decisions anything that interferes with the decree or the carrying out of the decree interferes with the administration of justice. But we pass that over for the present time.

"Nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same and all other cases of contempt not specifically embraced within section 19 of this act, may be punished in conformity to the usages at law and in equity now prevailing."

Mr. President, how does any man defend that discrimination? It is not only a discrimination between the businessman and the employee, but take another illustration.

Suppose any large employer of men brings a suit in equity and enjoins his men from doing certain things, and they violate it. Suppose at the same time the Government conceives the act of those employees to be interfering with interstate commerce, and the Government brings an action at the same time to enjoin them from interfering with interstate commerce. They violate the injunction which their employer had issued and they violate the injunction which the Government had issued. The laboring man comes into court under one injunction and he is tried by the court. He sits there until the next case is called, and he is tried by a jury. Will it be any particular consolation to this laboring man to know that a jury has acquitted him if the court has convicted him?

It is, in my judgment, an incongruous and indefensible position for us to take because it does not even protect the men whom it is designed to protect.

Now let us look at section 19, Mr. President:

"SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt as hereinafter provided."

That is in case his act chances to be a criminal act also, but it does not necessarily follow that it will be a criminal act. These things were general restraints for which the parties were punished in the Debs case. The multitude of their acts were not criminal acts. They were simply distinct violations of the order of the court not to interfere with the running of the train. The vast multitude of things which are restrained in these instances would not necessarily be a criminal act. So the instances in which parties would be restrained under the Trade Commission Act very often would simply be a violation of the order of the court relating to the ordinary business affairs of life, to the things which the business world conceive to be legal and proper.

Mr. President, I appeal to the Senate not to let these two bills go out with this clear, distinct, manifest classification of our citizens into two different classes of people so far as their rights in the case are concerned. If the right of trial by jury in contempt cases is calculated to educate the people, is a great public school in which they can get a clearer and a broader conception of the duties of citizenship, if the right of trial by jury is essential in one instance to see that judicial tyranny does not oppress the citizen, tell me upon what constitutional argument or basis of reasoning we can deny to another man simply because he has engaged in a different line of business?

**Mr. MORSE.** Mr. President, will the Senator yield for a question?

**Mr. TALMADGE.** I am delighted to yield to my friend the Senator from Oregon.

**Mr. MORSE.** The Senator from Georgia may very well cover elsewhere in his manuscript the point I am about to make. I have been following his remarks very carefully, keeping in mind the various arguments that have been advanced by the proponents of the particular title of the bill to which the Senator from Georgia takes exception. I kept saying to myself that at the opportune time, I shall ask the Senator from Georgia to comment, if he cares to, out of order, if it is out of order in relation to his manuscript. If he would prefer to wait until he reaches the subject in his manuscript, if it is in his manuscript, that is satisfactory with me.

As the Senator knows, a very delicate subject is involved. Yet the Senator from Georgia never hesitates, any more than does the senior Senator from Oregon, to face the delicate and so-called ugly implications and connotations involved in proposed legislation.

It is my understanding that at least some of the proponents of this provision of the bill claim that if the civil rights of Negroes are really going to be protected when acts of contempt against a court take place, enforcement could not be turned over to a jury because the jury would be all white and would be biased and prejudiced against the Negroes. Therefore, it is said, the alleged protection that we would give the Negro by making a course of conduct subject to prosecution for contempt would become meaningless because convictions could not be obtained. I believe the Senator knows the spirit in which I have asked the question.

Mr. TALMADGE. Certainly.

Mr. MORSE. I believe there should be a discussion of the subject on the record. I know of no one better able to give a reply to that allegation than the distinguished Senator from Georgia. I assure the Senator that I have raised the question objectively and impersonally. It is a common argument.

I believe it must be faced in the debate, and that a record should be made.

The condition applies to some parts of the country. I do not mean to imply that it is only in the South, though, as the Senator knows, the South is cited constantly as an alleged horrible example of the problem. I believe the Senator owes it to the RECORD to give us the benefit of his judgment as to whether or not, if a jury trial were allowed, in accordance with his amendment, the Negroes in areas in which alleged prejudice exists could expect to be protected by a jury.

Mr. TALMADGE. I appreciate the concern of the able Senator from Oregon in bringing that point before the Senate. I would be the last person to say that every jury in every section of the country under all conditions and under all circumstances had rendered the fairest, wisest, and most just verdict.

On the other hand, I say that the jury system is by far the wisest and most just of any system that could possibly be conceived. In the final analysis, if we did not have juries to make determinations, determinations would have to be made by one man. Which one man would it be? What man could be trusted with the power of life and death sentences better than 12 men in the community who are honest, upright, and just, as laws always provide?

In considering the question of a contempt decision by a Federal judge, one might wish to indict a particular section of the country. Of course, the Senator has made no charge against any section of our country.

As the Senator from Oregon knows, some Senators did make charges against our section of the country. In cases which might arise under the act either a jury would make the decision or a Federal judge would make the decision.

Federal judges are recommended by Senators from the States concerned. Any Senator who is worth his salt, knows that if a man whom he recommends for a Federal judgeship is not wanted by the White House, on the recommendation of the Attorney General his confirmation will be blocked, either in the Judiciary Committee or on the floor of the Senate. So in the final analysis we are talking about the following questions: Whom would we prefer to trust? A Federal judge who has been recommended by Senators from Southern States or a jury of upright and honorable citizens in the Southern States? For my part, I will take a jury at any time, anywhere, and under any circumstances. That statement would be true whether I were in the North, South, East, or West.

If the Senator has studied the record of the courts in our State, he has found that the courts at the local, State, and Federal levels have come as near as any other courts in our country toward upholding justice, whatever the law may be, and whatever the decisions of the court may require.

I have seen many judges who have rendered decisions that to my mind were somewhat obnoxious to them. But the Supreme Court had laid down certain principles. They felt bound by the court of last resort, which is the Supreme Court. I know of many juries that have brought in verdicts that have been unexpected by some people, but not unexpected by me. I know that the people who live in my State and in my section of the country, who are pointed to with scorn and ridiculed by some citizens who do not know any better, and who are themselves intolerant and prejudiced, never shirk their responsibility. They perform their duty in a highly honorable manner when the chips are down and when they are confronted with such problems.

In that connection, I point out to my friend, the Senator from Oregon, that it has always been a matter of surprise and amazement to me that so many people who declare themselves to be so liberal in their views, in their outlook, and in their philosophy, could be so completely intolerant of other people, other Senators, other points of view, and other sections of the country.

I regard the Senator from Oregon as a great liberal. But he is not one of the liberals who goes around with a card on his chest proclaiming that he is a liberal. He is not a liberal who wears the label on his sleeve. I have never in my life known him to be intolerant of another Senator, another point of view, or another section of the country. Again I thank the Senator for bringing up that question.

We are being asked to enact H.R. 7152 which, as now written, denies jury trials to all persons accused of violating the civil rights of another, to turn our Federal courts into an arm of the Justice Department to be used as an instrument of intimidation in cases where the criminal law will not suffice.

We are being asked to make every election—local, State and Federal—and every local governmental controversy of any significance subject to Federal jurisdiction, Federal interference, Federal scrutiny, and ultimate Federal control.

We are being asked, in effect, to take the unconstitutional step of seeking to amend by legislation the clear provision of the Constitution that qualifications for voting are to be determined solely by the individual States. The only limitations which the Constitution places on that provision of article I are the provisos of the 15th and 19th amendments prohibiting the denial or abridgment of the right to vote on account of race, color, previous condition of servitude, or sex.

I repeat my previous assertion, Mr. President, that not one bit of evidence has been produced during the course of this debate to show that any person has been refused protection in the enjoyment of his right of franchise by our State or Federal courts. Furthermore, no one has shown that anyone qualified not now exercising his right to vote will be denied it if he seeks it.

After all, Mr. President, the rights guaranteed to Americans by the Constitution and the Bill of Rights are like coins—each has two sides. The obvious side is the guarantee of freedom in exercising those rights. But equally true is the freedom to choose not to exercise them.

That is one of the fundamental defects in H.R. 7152—that it robs American citizens of their right not to exercise their rights if they so choose. That is true because it empowers the Attorney General to bring actions to enforce the exercise of individual rights whether the individuals concerned desire to exercise those rights or not.

To my mind, Mr. President, the right to choose not to go to court is no less inalienable than the right to go. Both rights must be upheld if our constitutional government by law, as opposed to government by man, is to be protected and preserved.

To my mind, Mr. President, the right to be left alone is inherent in our American way of life. Or, as one of my constituents recently expressed it to me:

> Under the Bill of Rights, the other fellow has the right to shake his fist at me all he wants, but his right ends where my nose begins.

Besides infringing upon the right to be left alone, H.R. 7152 constitutes an arrogant demand upon us to so rig our laws that Federal prosecuting attorneys—on direction of the Attorney General—can convict any citizen of this Nation under circumstances where the evidence is insufficient to warrant such a conviction by his peers.

It is a settled principle of equity jurisdiction that a court of chancery will not interfere where criminal prosecutions have been unsuccessful because of the reluctance of local juries to convict particular defendants.

This, the courts have held, is no ground for affording injunctive relief against criminal acts by such defendants.

The remedy is criminal prosecution as now provided by law.

The remedy is an indictment for breaches of the criminal law in criminal courts as guaranteed by the Bill of Rights.

The remedy is the trial and adjudication of alleged abuses by jury as provided for not once, but four times, in the Constitution.

To seek to interpose the U.S. Government between the individual and those remedies is to take the position that persons accused of violating civil rights are not entitled to the same constitutional safeguards as thieves, rapists, murderers, traitors, and—to refer to a recent decision of the Supreme Court—Kingsley Books, Inc. et al. against Peter Campbell Brown—the purveyors of obscene literature and "dirty" books.

The cavalier manner in which the proponents of this legislation treat their proposed denial of the right of trial by jury is shocking to me. I can but assume that they entertain the same attitude toward the Magna Carta and the Declaration of Independence from which that right stems.

Because those who wish to deny this basic right seem to be impressed only by the legal argument, I wish to read for the benefit of the Senate the conclusions of one of Georgia's foremost attorneys, Hon. Hal Lindsay, of Atlanta, who has provided me with a comprehensive legal analysis of this question. He states:

> The Federal appellate courts, including the Supreme Court of the United States, regard the right of trial by jury as of prime importance.
>
> *In re Michael* (326 U.S. 224; 66 Sup. Ct. 78), decided November 5, 1945, will serve to illustrate the traditional regard in which the right of trial by jury is held. From it we quote:
>
> "Not very long ago we had occasion to point out that the act of 1831, 4 Stat. 487, from which section 268 of the Judicial Code derives, represented a deliberate congressional purpose drastically to curtail the range of conduct which courts could punish as contempt (*Nye* v. *United States*, 313 U.S. 33, 44–48, 61 S. Ct. 810, 813–81(, 85 L. Ed. 1172). True, the act of 1831 carries upon its face the purpose to leave the courts ample power to protect the administration of justice against immediate interruption of its business. But the references to that act's history in the Nye case, supra, reveal a congressional intent to safeguard constitutional procedures by limiting courts, as Congress is limited in contempt cases, to 'the least possible power adequate to the end proposed' (*Anderson* v. *Dunn*, 6 Wheat, 204, 231, 5 L. Ed. 242). The exercise by Federal courts of any broader contempt power than this would permit too great inroads on the procedural safeguards of the Bill of Rights, since contempts are summary in their nature, and leave determination of guilt to a judge rather than a jury. It is in this constitutional setting that we must resolve the issues here raised."
>
> Another case in point is *Nye* v. *U.S.* (313 U.S. 33, 61 S. Ct. 810), which to every liberty-loving American should be a familiar text. From that decision I quote as follows:
>
> "If petitioners can be punished for their misconduct, it must be under Criminal Code where they will be afforded the normal safeguards surrounding criminal prosecutions. Accordingly, the judgment below is reversed."
>
> To what normal safeguard was the Court referring? Obviously the right of trial by jury which is now being treated lightly in disregard of existing law.

From that point, Mr. Lindsay then proceeds to quote rule 42 of Federal Rules of Criminal Procedure which treats on the procedures to be followed by Federal courts in the disposition of criminal contempt cases. I refer Members of the Senate to this rule.

I wish to call the attention of the Senate, Mr. President, to the fact that rule 42 requires the judge to see or hear the conduct constituting the contempt if there is to be summary disposition of it. Otherwise, it provides for a hearing and trial by jury where "Congress so provides."

Mr. Lindsay then continues in his analysis as follows:

> A recent decision by the U.S. Court of Appeals for the First Circuit is that of *Farese* v. *United States* (209 Fed. 2d 312); from which the following is quoted:
>
> "Notwithstanding the potential elasticity of the metaphorical expression 'in its [the court's] presence' as used in 18 U.S.C. 401, we ought not to give that statutory language an application beyond the clear requirements of the controlling Supreme Court cases. In accordance with the admonitions in *Nye* v. *United States*, and *In re Michael*, supra, our disposition should be to restrict narrowly the instances where an accused may be summarily punished by the court without a right to a jury trial."
>
> The basic Federal law is embraced within the provisions of section 401 of title 18 of the United States Code.

Mr. Lindsay then proceeds to state:

> It is stated glibly that judges have always had the right to sentence to jail for contempt without a jury trial.
>
> It is true that in some, but not in all instances this may be done, but these must come within section 401 above quoted. As illustrative of the fact that they do not always have such power, other pertinent code sections are title 18, sections 3691 and 3692.

I quote further from Mr. Lindsay's analysis of this question:

> It will thus be seen that if anything done in the willfull disobedience of any decree of any district court would also constitute a criminal offense under any act of Congress or under the laws of the State in which it was done, the accused would be entitled to trial by jury. This would embrace substantially every case contemplated as a potential violation of the proposed legislation, hence the effort to nullify the present law.
>
> By reference to section 3692, it will be seen that in labor dispute cases the accused would have the right to a speedy and public trial by jury.
>
> Would one not think that a person accused of violation of one of the provisions of the proposed civil rights legislation would be less entitled to a jury trial than a member of a labor union charged with violation of a court injunction?
>
> Other instances in which the right of trial by jury is specifically provided are cases arising under the Norris-LaGuardia Act and the Clayton Act.
>
> If the denial of the right to trial by jury were not very necessary in accomplishing the purposes of those advocating this so-called civil rights legislation, there would be no such strenuous efforts as those we are witnessing to so write the act as to deprive the citizen of this fundamental safeguard.

Let me reiterate and emphasize the conclusions of this eminent attorney that the present laws governing criminal contempts "would embrace substantially every case contemplated as a potential violation of the proposed legislation" and that the denial of the right to trial by jury in cases is "very necessary in accomplishing the purposes of those advocating this so-called civil rights legislation."

Mr. President, the 11 titles in this 55-page bill are so all inclusive that they encompass virtually every aspect of all 190 million Americans' private activities and private human conduct from the cradle to the grave. The bill would regulate where we live, where we sleep, where we eat, where we work, our rights of promotion, our rights of employment, and our rights of seniority in our work. Yet, in every one of those vital areas, 190 million American people could be deprived of the right of a trial by jury.

The amendment which I have offered is intended to preserve and protect the fundamental, real liberties of all our people. Which brings us back to the bedrock fact that, for political advantage, those exploiting this issue would be willing to exchange one right for another, which I submit cannot be done without placing in grave jeopardy every constitutional right which we, as Americans, cherish.

There is no way in which we can expand the rights of some American citizens by denying the fundamental rights of all American citizens. That cannot be done. A study of the bill reveals that only one new right is granted to any American citizen. It is a new right conferred upon citizens to invade private property against the wishes of the owner of the property. That is the only new right conferred—if it be considered a right. But that particular section undertakes to enlarge the privilege which a prospective customer who goes into a place of business enjoys as a licensee. His privilege of coming onto that property can be revoked at any time by the owner of that property. The bill would convert that privilege into a higher right than the fundamental right of the property owner who historically, under Anglo-Saxon jurisprudence, has had complete freedom, use, and enjoyment of his property, just so long as he did not create a nuisance, or harm his neighbor in the operation of his property. That is the only right created by the bill except the right of Federal officials and Federal bureaucrats to expand their power. All 55 pages of the bill, every section, every paragraph, and every sentence, expand Federal authority. The bill would confer Federal authority upon Federal officials to withhold funds from entire States, whole counties, entire cities, to starve them out of the Federal Treasury and make them knuckle under to comply with their will and their philosophy of what is or is not discrimination.

Mr. President, the term "discrimination" is not even described in the bill. All of private human conduct, in the final analysis, is discrimination. Every American citizen has an equal right under American law, but every American citizen does not have the right not to be discriminated against.

I cannot take offense at the distinguished Presiding Officer, the Senator from Wyoming [Mr. McGEE], if he does not invite me to his home to dinner, if he invites one of my colleagues to his home to dinner instead and does not invite me. I might complain that I was being discriminated against, but the Senator from Wyoming has that right. That is his privilege. That is freedom in our country.

The distinguished Presiding Officer discriminated when he chose the suit he is wearing today, instead of some other suit. That is his right and his privilege. If we deny the Presiding Officer the right to select his own suit, the Presiding Officer will no longer enjoy freedom. The Senator from Wyoming discriminated when he selected his shirt and necktie. He discriminated when he chose his college. He discriminated when he chose his profession. That is freedom, and that is liberty. That is private human conduct. If we deny 190 million American citizens the right to discriminate in their private human conduct, liberty will die with that same right of discrimination.

That is the difficulty with so-called civil rights bills. Every one of them restricts liberties of all of our citizens on the ground that they are guaranteeing the rights and liberties of some of our citizens. That is the fallacy of all such bills.

For it takes no great logician to see, Mr. President, that if one right can be sacrificed for expediency today then other rights can be sacrificed by application of the same precedent tomorrow.

There is no motive so pure and no goal so hallowed that can justify the compromise of principle—particularly when that principle has so great bearing upon the rights and freedoms which have enabled us to develop here on this continent the greatest and freest civilization mankind has ever known.

It would be well for the Senate to recall in this connection how noble was the purpose of the Court of the Star Chamber when it was established apart from the regular courts of England as the "protector of the weak against the strong, of the commonalty against aristocratic oppressors." But because it was divorced from the strict rules of common law and the guarantee of trial by jury it degenerated into an oppressive instrument of monarchic tyranny from which nothing escaped its power. One of its prime purposes was to try cases in which it was thought juries would not convict.

This court used torture to obtain evidence and pronounced convictions on hearsay evidence. Its methods of enforcing submission grew in terror with the reign of each succeeding kind under which it operated. At its zenith it used its limitless powers to punish jurors of the regular courts for handing down decisions contrary to the council's wishes and lawyers for giving advice contrary to the interests of the court.

Mr. President, before acting on a matter of such fundamental importance to the future of all the citizens of our Nation, it is incumbent upon this Senate to evaluate fully the implications of this proposed departure from our constitutional foundations in the light of the lessons of history.

It would be well for the Senate to remember in this connection how noble were the purposes of the Court of the Star Chamber and the Courts of Admiralty of Great Britain and how shameful were their records of tyrannical suppression, confiscation, intimidation, and punishment.

It was the Court of the Star Chamber which convicted and beheaded both Sir Walter Raleigh and Sir Thomas More on evidence which no court today would even admit. It was the tyranny of the Courts of Admiralty which was one of the prime causes of the Revolutionary War.

Let us consider the history and records of these tribunals of terror and tyranny:

When the Court of Star Chamber was formally abolished in 1641, because of the infamous use of it by the Stuart kings, it was officially referred to as having been established under the Tudors, specifically by an act under Henry VII, in 1487. The confusion as to its establishment which prevailed for generations, has still been only partially cleared. Extensive scholarly research has pointed to the sittings of the King's Council in a similar capacity for about three centuries before Henry VII's time. The conclusion was drawn that a committee of the council was established by the statute of Henry VII and was identified with the "starred" chamber at Westminster, where it sat.

What the statute in the third year of the reign of Henry VII did do was to designate that certain members of the council—including the Lord Chancellor and two judges—should constitute a law enforcement committee; and to confirm its jurisdiction in the type of case that came before it. This statute also—though only in the margin—identified the Star Chamber with the sittings of this council or portion of the King's Council. The marginal note read: "Pro Camera Stellata"; but in the text of the Star Chamber was not mentioned.

The opprobrium which came to be attached to the Star Chamber proceedings was earned only in the last years of its existence as a court. Originally "the Court of Star Chamber, like the Court of Requests, was invoked as the protector of the weak against the strong, of the commalty against aristocratic oppressors. As an outgrowth of—or part of—the King's Council, it handled cases not remedied by the common law; and operated outside its rules of procedure:

> The strict rules of the common law, as well as the unalterable rules of Chancery were found to produce injustice; and suitors who were aggrieved, had in this case, as in the other, no remedy except by petition to the King for his extraordinary interference.

The Star Chamber was, up to the time of Elizabeth I "an open council" or public court. For a time it was constituted as provided for in the statute of Henry VII. Then, as the numbers varied, the two judges required were at times the only members present; then instances came to be recorded of hearings before only one judge, or before the secretary alone. In Elizabeth's time cases were heard in private.

The jurisdiction of the Court of Star Chamber has been defined thus:

> The Star Chamber took notice of such offences as riot, forgery, maintenance, perjury, fraud, slander, and conspiracy, crimes which were for the most part unknown to the early common law.

However, as its procedure, too, was apart from the common law, therein lay to a large extent the seeds for the abuse that later developed. It dispensed with juries. It applied torture and inflicted any punishment except death. In the century before its abolition it became the weapon of royal displeasure against political opponents.

At the time of Henry VII there had been need of some instrument to repress the lawlessness which followed the War of the Roses, the civil war, and to increase the power of the central government to curb offenses against the public order. However, as the country improved in peacefulness, the tribunal referred to in the Star Chamber Act "having successfully asserted its authority to put down violence [sought] employment for its energies elsewhere. There were further reasons why resort was had to the star chamber, in only trumpery personal issues. The star chamber maintained its tradition. [The] offence was against public policy, and of public policy the star chamber was the recognized exponent."

In the course of time "the meshes of the net were contracted, and nothing escaped the power of the court. Usurped jurisdiction was the principal grievance under the Tudors; but the methods of enforcing submission grew in terror with succeeding reigns. An attorney was sued for giving advice contrary to the interests of the court. Jurors were punished for handing down decisions contrary to council's wishes. Hearsay evidence became a frequent basis of conviction."

The cases were a source of revenue to the crown. Fines were appropriated by Henry VII and the Stuart kings for their own benefit. Among the greatest injustices of the court was the hearsay evidence and the encouragement of volunteer witnesses who could not be examined by the accused lest a discrediting of them might be discouraging to their testifying. Nor could witnesses be compelled to incriminate themselves.

Ruthless severity accompanied the illegal and arbitrary jurisdiction exercised by the council and associated with its star chamber sittings.

According to a treatise upon the Star Chamber, written by William Hudson, a barrister of considerable practice in that court, and presented by his son to the Lord Keeper in 1635—the year in which Hudson died—the proceedings before the Council originated either in private, and probably secret information, given to the Council; or "by the curious eye of the state and King's Council prying into the inconveniences and mischiefs which abound in the Commonwealth."

The letter transmitting this quotation goes on to say:

> The person accused or suspected was immediately apprehended, and privately examined. If he confessed any offense, or if the cunning of his examiners drew from him, or his own simplicity let fall, any expressions which suited their purpose, he was at once brought to the bar, his confession or examination was read, he was convicted, ex oro suo, and judgment was finally pronounced against him. Imagination can scarcely conceive a more terrible judicature.

To obtain evidence the Court of Star Chamber could send out commissions to collect hearsay reports from the countryside or to obtain witnesses. If the examination of a party took place before the commissioners in the country, the court placed restrictions upon the method of examination, but witnesses could be compelled to testify on pain of imprisonment.

The commissions thus constituted were apparently only some among the many commissions established for special purposes by the Crown. But the Court of Star Chamber itself apparently furnished the Crown with its chief source of arbitrary conduct.

As Holdsworth has put it:

> It was clear * * * that, even after the passing of the Petition of Right, the powers of the King to commit his subjects to prison, and to keep them in prison were very large. In fact so long as he had a court, like the Court of Star Chamber, which he could count upon to obey his commands, opposition on the part of the judges could, to a large extent be disregarded. * * *
>
> When the act (of 1641) abolished the Court of Star Chamber * * * the most formidable rivals to the common law courts were removed, and the common law finally asserted its supremacy not only over the private, but also over the public law of the state.

The Court of the Star Chamber was still a court of true justice when Sir Thomas More was Lord Chancellor. At the time of his apprehension by the Crown, in 1535—for not swearing to the oath accompanying the Act of Succession—it was still so highly thought of that the King's advisers were convinced that he would there be deemed "far worthier of praise than reproof." He was therefore arrigned before a commission at Lambeth, which condemned him.

The commission before which Sir Thomas More was first summoned was made up of only four men: Audley, Norfolk, Crammer, and Cromwell; Thomas, later secretary to the King's Privy Council.

In his capacity as Lord Chancellor, Sir Thomas More would himself have served on the King's Council. Yet he was soon to be indicted by a commission constituted from it, because of his power to resist its demands, though it cost him his life. Protesting his loyalty to the King, he might even have been willing to countenance Henry VIII's marital acrobatics—though he did not approve—had they not involved an oath naming Henry as head of the church. To this he could not consent.

When Sir Thomas More was first arraigned before the four-man commission, he was treated with a show of courtesy until his refusal to take the oath demanded of him. The commission asked him to add his approval to that of Parliament, the universities, and bishops concerning Henry VIII's divorce and marriage to Ann Boleyn. The oath involved recognition of Henry VII as head of the church in place of the Pope. Even after their mood changed, the members of this commission apparently were sufficiently impressed with More's arguments and his indomitable conscience to allow him to return home.

More himself knew, however, that his was only a temporary respite from the displeasure of the all-powerful Crown, which could constitute commissions to secure its ends. Within the space of a few weeks he was served notice that he must appear before the commissioners at Lambeth Palace.

This Commission, named apparently from the King's Council, consisted of the archbishop of Canterbury, Thomas Crammer, the Lord Chancellor, Sir Thomas Audley—later Baron of Balden—Thomas Cromwell, Secretary to the Privy Council, and Benson, the abbot of Westminster. The Dukes of Norfolk and Suffolk were also members of the Commission for taking the oath, but whether or not they were present is a question.

An account of Sir Thomas More's arraignment—as well as of his strength of character coupled with a delightful personality—was given by his son-in-law, Roper, and incorporated in one biography.

Mr. THURMOND rose.

Mr. TALMADGE. Does the distinguished Senator from South Carolina desire that I yield to him?

Mr. THURMOND. Mr. President, I congratulate the able and distinguished Senator from Georgia for the excellent address he has delivered today.

He has spoken on one of the most precious rights of mankind in civilized society. That is the right of a trial by jury.

The able Senator has gone into the history of the right of a trial by jury. He has quoted from famous men on this topic. He has quoted from Senator Borah, Senator Reed, Senator O'Mahoney, and other able Senators who have served in the Senate in the past.

I hope that Senators will take the time to read the outstanding address which the Senator from Georgia is delivering on this occasion. The address will be a historic document. It is entirely in keeping with the excellent record and the high quality that characterizes the service of the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, I am grateful indeed for the generosity of the remarks made by the distinguished Senator from South Carolina. The Senator himself has been an outstanding judge. He has been an outstanding soldier. He has been an outstanding Governor. He is now an outstanding Senator. That comment from the Senator—knowing his great legal ability—is deeply appreciated.

Mr. President, I have tried to point out that the pending bill is not a bill to expand the rights and liberties of the American people. I have tried to point out that it is a bill to regulate the American people by means of increasing the power of government. I have offered an amendment designed to conserve and protect the dearest and most fundamental human liberty that the human race has ever known, and that is the right of a trial by a jury of their peers.

If this bill were passed without that amendment, the right of trial by jury would be denied in virtually every area of private human conduct, from the cradle to the grave, and the power to deny that right would be conferred upon officials of the executive branch of the Government, who could file suits against anyone and everyone, at will, after such officials had satisfied only themselves, by whatever whim or caprice they might have.

Mr. President, I believe it is fundamental that we preserve and protect the right of trial by jury. I have gone into some detail in quoting speeches from giants who have served in the Senate, and also in referring to the history of the courts in England, to show how corrupt men sometimes become when they are not required to grant the right of trial by jury.

Mr. President, I am about to conclude my remarks; but before I do so, I wish to refer to a recent tragedy.

Mr. President, all of us of course were saddened by the unfortunate death recently of a young white minister who was crushed under a heavy piece of construction equipment, while taking part in a demonstration to purportedly correct an alleged civil rights grievance in the city of Cleveland, Ohio.

It was a useless and senseless death.

Millard Grimes, the editor of the Columbus (Ga.) Enquirer, pondered this tragic incident in a column in his paper on April 12. His thoughtful views should be read by everyone who shares my concern over lawless racial agitation in the streets, wherever it may take place. Mr. Grimes expressed great concern, as all of us feel, over the present course of events.

I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### THE REAL TRAGEDY—A MARTYR AGAINST SCHOOLS?

(By Millard Grimes)

In Cleveland, Ohio, last Tuesday, Rev. Bruce Klunder, a young white minister, lay down behind a moving tractor and was crushed to death. We weep for him, of course, as we weep for any young man who loses his life in an accident.

But some tears should be saved for the driver of the tractor. He was innocently going about the job which earns daily bread for him and his family. For all we know, he was no part of the issue which the young minister was protesting.

The driver suddenly found his vehicle surrounded by persons seemingly intent on getting themselves killed. He tried to avoid three who were stationed in front of the tractor, and in doing so, he backed up over the minister who lay behind him, out of view.

Thus, the driver was also a victim. He must now live with the horror of that experience. The other demonstrators pulled him from the vehicle and began to beat him.

The minister and the tractor driver are dramatic examples of the growing tragedy facing this Nation as it strives mightily in the year 1964 to decide what are the legitimate "civil rights" of its citizens.

In my own mind, I can only judge that the Cleveland minister and his friends were misguided and confused on what "rights" are.

The Reverend Mr. Klunder's wife said after his death: "He died doing what he believed in. He died loving everyone. He died hoping that what he was doing might bring love of all people for each other."

He died also, while breaking the law, and deliberately exposing himself to possible harm.

And what was his cause? Equality? The right to vote? The right to better jobs?

No, the Reverend Mr. Klunder died while trying to stop construction of a school.

To those of us not familiar with Cleveland, this seems the oddest aspect of the case. The Cleveland Board of Education had approved building of a school in one of the city's crowded Negro neighborhoods.

It is generally acknowledged that more and better schools are the most necessary tion in American society.
ingredients for improving the Negro's posi-

But the protest group to which the Reverend Mr. Klunder belonged had decided that a new school building should not be built in a predominantly Negro neighborhood. They claimed it would simply prolong segregation in the Cleveland system.

So the group began protest demonstrations, picketing the site first, and then last Monday, throwing themselves in front of the cranes and mechanized shovels in an effort to halt the work.

The Reverend Mr. Klunder died trying to halt the building of a school which was designed to improve educational opportunities for Cleveland Negroes.

He died not for equality—but for enforced integration in classrooms, without regard to neighborhood composition, or the inconvenience and unnecessary expense of transportation.

This is the real tragedy of the Cleveland demonstrations; of the New York and Chicago boycotts; and of the Reverend Mr. Klunder.

Education has become secondary to integration in the minds of these leaders. Law and order and legal procedure have become of less importance than attaining their private objectives.

Good race relations have been sacrified on the altar of a forced and artificial fusion of white and colored children into a single school building, as if this would magically cure the Negro's frustrations.

In death, the Reverend Mr. Klunder was partly successful in his venture. Construction has been suspended on the school.

Later, the president of the Cleveland NAACP urged Negroes to oppose a school-operations levy which will be voted on in a May 5 referendum.

"If we cannot get what we want, we will not participate in the welfare of the city," he said.

This attitude is not only shortsighted and callous, it foreshadows great tragedy for the Negroes of Cleveland.

In the face of illogical resistance, how long will the established authority continue to insist on building schools and spending excessive amounts of money in the areas where education is of the most vital necessity?

Every American has the civil right to an education, and now, even to an education in whatever public school his or her family chooses. But the right does not extend to a contrived arrangement that abridges the long-established system of neighborhood schools, and of constructing schools where the population density warrants.

The time is late for national leaders—and State leaders in the non-Southern States—to speak out clearly and compellingly against violence and disobedience of the law, no matter on which side of the rights issue it occurs.

A "double standard" has been followed, with defiance of the law in behalf of segregation properly berated by all respected authority, but only a hesitant hand-slapping for the other side.

Now, the harvest is at hand, and the tide of civil disobedience will not be easy to stem. The wrong notions will not be easy to correct.

But the effort must be begun. Authority must be upheld. That is the very first and most vital of American civil rights.

Mr. TALMADGE. Mr. President, I yield the floor.

Mr. MORSE. Mr. President, before I move that the Senate take a recess, I wish to state to the Senator from Georgia that I have listened with a great deal of interest to the notable address he has delivered to the Senate tonight. His speech demonstrates a great deal more research than was evident in connection with any speech to which I ever listened when I was a student, and no doubt more research than was made in connection with many lectures which I delivered when I was a professor.

Mr. TALMADGE. I hope my speech sounded more like one of the lectures given by the Senator from Oregon when he was a professor.

Mr. MORSE. The Senator from Georgia has enriched the RECORD by his able speech of this evening.

Mr. TALMADGE. Mr. President, I desire to express my appreciation for the generosity of the remarks of the Senator from Oregon. I have great respect for him. He is most persuasive in connection with the causes he supports; and he is an outstanding lawyer and a warm personal friend of mine. So, I cherish his remarks.

Mr. MORSE. Mr. President, I appreciate the kind words of the Senator from Georgia. He knows that during our service in the Senate, he and I have been in agreement more often than not.

During the delivery of Mr. TALMADGE's remarks,

Mr. RUSSELL. Mr. President, will my colleague yield to me?

Mr. TALMADGE. I yield to my distinguished colleague.

Mr. RUSSELL. I should like to make a brief statement, if my colleague will be willing to have consent for that purpose requested and given.

Mr. TALMADGE. Certainly, Mr. President, I ask unanimous consent that my colleague may now make whatever statement he may see fit to make, with the understanding that my subsequent remarks will not be charged as constituting a second speech by me, and also with the understanding that in yielding for this purpose, I shall not in any way whatsoever lose my rights to the floor or my other rights in this connection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RUSSELL. Mr. President, I wish my remarks to be printed in the RECORD following the reading by my colleague of the excellent memorandum to which he has been referring.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL. Mr. President, I desire to commend the authors of the memorandum my colleague has been reading; and I also commend my colleague for bringing the memorandum to the attention of the Senate at this time.

This amendment is one of the most important in connection with the various aspects of the bill. The amendment will go far—in fact, further than any other single factor—toward preserving our people from the tyranny which would flow from the imbalance of power which the bill as it now stands would bring about.

The other day I was amused by the statements of two or three Senators—although I do not know how word got around to that many—that even in the time of Chaucer, an innkeeper had to accept any person who presented himself at the inn, requested accommodations there, and had the wherewithal to pay for the accommodations he requested.

In that connection, I began to think of some aspects of the common law which existed in England at the time of Chaucer.

In the first place, under the then existing common law in England, a person could be jailed for debt; and until he paid the debt, he had to remain in jail—even until he rotted away and lost his life. Death was the only means by which he could release himself, once he had been convicted of nonpayment of debt.

That was also the time when people were punished by being put in stocks and displayed in public places, with their heads in a wooden yoke, their feet in irons, and their arms spread-eagled, and thus displayed in public for long periods of time, after they had been convicted of certain offenses.

There also were some nice little punishments for the distaff side of the population, in those days. One of them was, I believe, the treatment on the so-called ducking stool. If a woman had been convicted of being nothing worse than a scold, she was made to sit in a so-called ducking stool, and ducked under water a number of times. After each ducking, she would be brought up long enough to have a chance to catch her breath; then she would be ducked under water again. That was part of the common law punishment at the time of Chaucer. Fortunately, we have made some progress since then.

Of course, at that time there were a number of other peculiar aspects of the common law; but we have outgrown them.

I shall never forget the indelible impression which a steel engraving of "Bedlam" made on my mind when I was a small boy. "Bedlam" was the name given to an asylum, in England, in which people who had lost their minds were put. In other words, those who today are called insane or those who were mentally ill or were regarded as mental cases were put there. After they were put there, they had to stay for the remainder of their lives; there was no way for them to escape except through death; but death came all too frequently under the perfectly horrible conditions there. I do not recall who made that old steel engraving of "Bedlam." The name "Bedlam" was really an abbreviation of the name "Bethlehem Hospital"; but "bedlam" has come down to us as a word in the English language which now is in common usage as meaning complete chaos and hopeless confusion—bedlam.

Mr. TALMADGE. Mr. President, will my colleague yield?

Mr. RUSSELL. I yield.

Mr. TALMADGE. Senators who try to regard some rule of common law in England in the old days, perhaps in the days of Chaucer, as constituting authority for some of the provisions of the pending bill, which in this instance is proposed to be enacted into law, totally ignore the fact that the Constitution of the United States prescribes the power of Congress and limits and regulates the authority of Congress to make the laws. Regardless of what may have been the common law in England or the common law of Georgia or the common law of Virginia or the common law of Rhode Island or the common law anywhere else on the face of the earth, it would not have the slightest thing to do with the pending bill, unless the Constitution of the United States authorized Congress to legislate in that field.

Mr. RUSSELL. Of course, my colleague is eminently correct.

The first thing taught to us when we were in law school was that the Constitution is the supreme law of our land.

However, I must say that recently, since we have had a Federal judiciary which apparently is not too familiar with the Constitution, some of its distortions have apparently come to be regarded by some as almost the law of the land.

But in the old days, including the days of Chaucer, when such archaic laws and conditions existed, or perhaps 100 years later, during the time of the infamous Judge Jeffreys, and the Bloody Assizes, people were executed without trial, and there were star-chamber proceedings and trials—all under the common law of England. Under those conditions men were tried in private, and had no rights whatever. They lost their property and lost their lives, all as a result of secret hearings which were kept from the sight of others, so that they could not know the great injustices being perpetrated. All of that relates to the same illustration which some Senators have given when they have referred to the common law in England at the time of Chaucer.

Thank heaven that under Anglo Saxon jurisprudence we have outgrown all that. Our improved system of Anglo Saxon jurisprudence has developed and flowered and has, over the long period of years since the days of Chaucer, brought to us far more enlightened laws than the ones which existed at that distant time.

Furthermore, the best and most valuable development in connection with the growth of the Anglo Saxon system of jurisprudence has been the law which provides for a public trial before a jury of one's peers. As my colleague has said, provision for a public trial by a jury of one's peers was made in the Bill of Rights, even though it was not included in the original Constitution.

That provision was included in the first 10 amendments to the Constitution—the famous Bill of Rights—in order to provide complete protection for the people, by means of their constitutional protection by means of the provision for a jury trial.

Therefore, it seems quite futile for anyone today to cite the ancient, long-outmoded—thanks heaven—laws which existed under the common law in England in the days of Chaucer—including laws which resulted in jailings for debt, punishment with the ducking stool, the confinement of prisoners in stocks, trials in secret, and procedures under which persons were committed to places of inconceivable filth, turmoil, and confusion, such as the conditions depicted in the steel engraving which portrayed what took place in the Bedlam asylum, in England.

Mr. President, when I was a boy, after I had seen that steel engraving of the indescribable horror which existed in the Bedlam asylum, I would sometimes wake up at night in a cold sweat, horrified to think of what had happened to people there.

Those bestial conditions existed under the application, in the days of Chaucer, of the common law which existed at that time—the ancient common law of Chaucer's day, which some persons today would, it seems, have provided for Americans at this time.

Mr. President, all Americans are thankful—or should be—that they are protected by the Constitution of the United States, which was carefully drawn up by the Founding Fathers, and is based on the experience of nations over a period of 1,200 years, in connection with the slow, painstaking, long-drawn-out formulation of the Anglo-Saxon system of jurisprudence. One of the foundation stones of that system is the right of public trial before a jury of one's peers; another is the requirement that one must be informed of the charges placed against him and of the acts of which he is accused.

Nevertheless, there seem to be some who would attempt to use the ancient practice in England, under the common law which existed at the time of Chaucer, as justification for an attempt to wipe out all the rights of American citizens under the Constitution of the United States, including the right to have a jury trial—rights of the most fundamental importance, which have finally, slowly, and painfully been developed over the period of the hundreds of years since the days of Chaucer.

Among the cherished constitutional rights of the American people, the right of public trial by a jury of one's peers, has been the last refuge of those who seek justice, and it is one of the proudest claims of our civilization.

It is true that under our constitutional system, mistakes may be made. Nevertheless, our present system has been the greatest protection of the people of the United States; and that system, which provides such important protections, includes provision for a public trial by a jury of one's peers. The Constitution provides that basic protection for the people of the United States, notwithstanding some archaic, cruel, long outmoded, and perhaps quite uncivilized law which may have existed in the days of Chaucer.

Nevertheless, we find that today there are some who propose to wipe out the constitutional protection of jury trials; and the pending bill would not even define the crime with which one might be charged.

Mr. TALMADGE. Mr. President, will my colleague yield?

Mr. RUSSELL. I yield.

Mr. TALMADGE. Certain provisions in the bill state that the Attorney General need satisfy only himself.

Mr. RUSSELL. That is correct.

Mr. TALMADGE. The Attorney General need satisfy only himself that suits ought to be filed. Under those conditions, if the Attorney General should satisfy himself, for whatever reasons he may desire to satisfy himself, he could file suit in the name of the U.S. Government, and a federally appointed judge, appointed for life, who could only be removed by impeachment by the Senate, would have sole power to punish the poor unfortunate individual against whom the Attorney General had filed suit. Is that correct?

Mr. RUSSELL. He would have no more chance than would a man prosecuted for debt at the time of Chaucer, since we have been taken back to the time of Chaucer.

Unfortunately, the Attorney General is satisfying himself—has his private set of scales. He could place on the scales a small chunk of justice and a whole shovelful of political advantage.

Unfortunately, we have had Attorneys General who have measured many of their cases and their appointments by political yardsticks. A man might be found guilty when he goes before a judge who has been the beneficiary of the Attorney General's recommendation to a Federal judgeship.

Mr. President, the amendment offered by my colleague is vital. It is one which the Senate must face in all of its aspects, because without it, the bill would strike down the progress that has been made in formulating a fair system of jurisprudence by the English-speaking people over a period of more than a thousand years. It began initially in the Saxon days, before William the Conqueror landed on the shores of England and defeated King Harold at the Battle of Hastings in 1066. That system of jurisprudence would all be wiped out in one fell swoop by the pending bill under the pretense that it would be of benefit to someone.

No citizen, of any race, creed, philosophy, or place of national origin, in our country, could be benefited by striking down the vital safeguards that are guaranteed to us by the Constitution.

I hope that Senators will not tell us to leave the question to the Supreme Court and let it decide. We are not sworn to submit constitutional issues to the Supreme Court of the United States. We are sworn as Senators, on our own responsibility, to uphold and defend the Constitution, and not to "pass the buck" to any court. If we ever do so, I hope that the Court will be a little better trained in constitutional law than the one we have at the present time.

I appreciate the Senator's giving me this opportunity to say a few words about that fallacy in relation to Chaucer. A few days ago I read in the RECORD a reference to Chaucer, and since then I have been looking for an opportunity to refer to it. This is the first opportunity I have had.

I thank the Senator for yielding to me.

Mr. TALMADGE. I thank my distinguished colleague for his very helpful contribution. I agree with him entirely. I would like to point out, before the Senator leaves the floor, that the amendment to which we have referred was offered by the Senator from Wyoming, Mr. O'Mahoney, in 1957. It received an overwhelmingly affirmative vote of the Senate, and received the favorable report of the late President Kennedy, the present President Johnson, and also the present majority leader of the Senate, the distinguished Senator from Montana [Mr. MANSFIELD]. I hope that Senators will look into the question carefully and fully, and conserve and preserve what is really the most fundamental civil right that our people know, which is the right of trial by jury.

## RECESS TO TOMORROW, AT 10 A.M.

Mr. MORSE. Mr. President, in accordance with the order previously entered, I move that the Senate stand in recess until tomorrow, at 10 o'clock a.m.

The motion was agreed to; and (at 10 o'clock and 3 minutes p.m.) the Senate took a recess, under the order entered on Friday, April 17, 1964, until tomorrow, Wednesday, April 22, 1964, at 10 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate April 21 (legislative day of March 30), 1964:

### U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

*To be lieutenant general*

Lt. Gen. Paul Wyatt Caraway, O17659, Army of the United States (major general, U.S. Army).

### U.S. NAVY

Vice Adm. Roy A. Gano, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to title 10, United States Code, section 5233.

Capt. John K. Leydon, U.S. Navy, to be Chief of Naval Research in the Department of the Navy for a term of 3 years with the rank of rear admiral.

Capt. Robert H. Hare, U.S. Navy, for temporary promotion to the grade of rear admiral pursuant to title 10, United States Code, section 5787 while serving as Deputy and Assistant Judge Advocate General of the Navy.

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# EXTENSIONS OF REMARKS

## Military Commissaries

EXTENSION OF REMARKS

OF

## HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. HOSMER. Mr. Speaker, yesterday the Comptroller General fired a blast at military commissaries, charging they are costing the taxpayers about $150 million annually. This is an example of the kind of so-called economic analysis, rampant since the civilian whiz-kid types stormed the Pentagon's walls, captured control of its E-ring and installed a decisionmaking system which ignores people and morale as a factor of a nation's military strength.

They are out to cut military spending and get things cheap. Things are all, people are nothing, according to their way of thinking. Barricaded behind account books and computers, they are immune to the historical truth that the spirit of America's men in uniform and their families has been just as essential an ingredient to our victories on the battlefields as equipment. In fact it was that spirit which held the line during the first 2 years of World War II until our factories could turn out the things needed for them to go on the offensive and start winning the war.

There are over 2½ million people wearing U.S. uniforms. Thus the $150 million cost of the commissaries amounts to about $60 per serviceman. Yet that $60 investment gives him something which encourages him to stay in the service and make it a career. Every man that is given this stimulus to reenlist means the Government is saved $7,000 to equip and put through basic training a replacement. Only a one-tenth of 1 percent boost in reenlistment rates need be gained by the maintenance of the commissaries in order to wipe out the entire $150 million gain the Comptroller claims would be made by closing them.

Does the fact mean nothing that for decades and decades the services have maintained these commissaries for the very reason that they do, in fact, make service life more attractive, encourage reenlistments, and thus save countless millions to the services?

Surely, giving the serviceman's wife the small status symbol her commissary card implies—this wife who lives next door to a civilian housewife whose husband's paycheck is far greater than her's—is much more than a one-tenth of 1 percent factor in reenlistment rates.

It is time to stop throwing the account books at our military personnel and get down to the job of restoring service morale which lately has been so unmercifully kicked around.

## The Massachusetts Review

EXTENSION OF REMARKS

OF

## HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. CONTE. Mr. Speaker, this Nation is fortunate in having a number of distinguished literary quarterlies and so-called little magazines devoted to poetry, short story, and the critical essay.

Publications such as the Kenyon Review, the Prairie Schooner, the Sewanee Review have consistently maintained high quality throughout the years. And there are many others of similar distinction throughout the land.

Until the publication of the Massachusetts Review, which is published independently with the support and cooperation of Amherst College, Mount Holyoke College, Smith College, and the University of Massachusetts, it did not seem possible that one single magazine could, in a sense, make us forget about all of the others.

And yet it is true that the Massachusetts Review, beginning in 1959 and to the present day, has established such an outstanding record that it is difficult to imagine a finer publication of its kind in the Nation, proving anew that excellence will always have a place in our national life.

My remarks, Mr. Speaker, are occasioned by the most recent Massachusetts Review, which is dedicated to the late John Fitzgerald Kennedy, and which includes by way of high tribute, a selection of previously unpublished items of W. B. Yeats, J. M. Synge, Sean O'Casey, Thomas Kinsella, and G. B. Shaw, to name a few.

It also included an address the late President gave at Amherst titled "On Poetry and National Power," a most moving statement. It was after this address that I saw the late President for the last time, and talked with him at some length of his legislative program in Congress, and the future possibilities of that program.

I have a feeling that he would be proud of this particular dedication to him.

In concluding, it would be almost impossible to sum up the many qualities of the Massachusetts Review.

It is being read and discussed in all parts of the United States, and throughout the world.

Past contributors have included the late Poets E. E. Cummings, Robert Frost, and William Carlos Williams, and also W. H. Auden, Richard Wilbur, and others; Artists Leonard Baskin, Rico Lebrun and on and on—the writers, the printing, and the layout have been superb from the beginning.

Distinguished Editors Jules Chametzky, and John Hicks deserve a great deal of credit for continuing to produce what Ben Shahn has called "one of the outstanding magazines in the country." This great artist has also said:

> I find it the best reading that comes into my home.

Mr. Speaker, I am pleased to have this opportunity to bring to the attention of my colleagues in this and in the other body some facts regarding this distinguished publication. Additional information may be obtained by writing to the Editors, Memorial Hall, the University of Massachusetts, Amherst, Mass. It is my impression that the Massachusetts Review deserves the widest possible reading.

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## Welcome to the Building Service Employees' International Union Convention Being Held for the First Time in California

EXTENSION OF REMARKS

OF

### HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. BURTON of California. Mr. Speaker, I would like to call the attention of the Members of the House to an important convention that will take place in California, in the city of Los Angeles during the first week of May. I refer to the 13th Annual Convention of the Building Service Employees' International Union—a large and influential organization which includes some 400 local unions and which represents the economic interest of approximately a third of a million Americans and their families.

California is pleased to welcome this first national convention held by the BSEIU in our State.

DAVID SULLIVAN, PRESIDENT, BUILDING SERVICE EMPLOYEES' INTERNATIONAL UNION

The Building Service Employees' International Union is a growing, militant, and effective labor organization of 325,000 members led by able and distinguished David Sullivan, of New York City. Many of my distinguished colleagues in the House will undoubtedly remember Mr. Sullivan from his appearances before various congressional committees in support of legislation designed to eliminate economic injustice and racial and religious discrimination in our country.

In this period of continuing high level of unemployment and the increasing decimation of jobs by automation, especially in manufacturing, mining, and transportation, the expanding job opportunities in the service industries underscores the increasing future importance of the Building Service Employees' International Union.

GEORGE HARDY, VICE PRESIDENT, BSEIU

In the State of California, this union functions under the leadership of its very able and highly respected vice president, George Hardy. Apart from our close personal friendship, I believe few men in the leadership ranks of organized labor have a record to match the dedication and self-sacrifice of George Hardy.

Other officers include Secretary-Treasurer George E. Fairchild and Vice Presidents Thomas J. Burke, Thomas Shortman, Albert G. Hearn, Charles C. Levey, and Henry A. Kruse.

I believe that this distinguished body should take note of the convention in Los Angeles because of the great work this union and others are doing for our country, both on behalf of the members and on behalf of democracy—since the labor union is often the one way in which the wage earner can speak effectively in his own behalf—to his community and his government, as well as to his employer.

This country is fortunate in having unions like the Building Service Employees to speak for those who would otherwise be unheard, and to remind us in the Congress of the continual need to concern ourselves with the multiple problems of the wage earner and his family.

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## Results of a Poll of Citizens of the First District of Arkansas

EXTENSION OF REMARKS

OF

### HON. E. C. GATHINGS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. GATHINGS. Mr. Speaker, for the past several years it has been my custom, early in the session, to send questionnaires to the citizens of the First Arkansas District seeking their views on national problems and matters of current interest.

The tabulation of the latest poll has been completed and it is my wish to share with other Members the information contained in it. I would like to point out that the response to this effort was highly gratifying and the poll gives an excellent cross-section of opinion in eastern Arkansas. Farmers, bankers, wage earners, housewives, and people in all walks of life favored me with their replies to these questions and—in a great number of cases—added to the response by writing detailed letters as to why they favored or did not favor certain questions raised. Nor was the tabulation confined to merely the questionnaires mailed from my office. Arkansas newspapers printed copies of the questionnaire which many people clipped, answered, and mailed to me. Area radio stations publicized the questions and cooperated in the effort. The interest in their Government and in the problems that face our Nation by Arkansas citizens has resulted in a definitive and a significant expression of opinion.

Under leave to extend my remarks in the RECORD I include the results of the poll taken in the First Arkansas District:

| | Percent— | | |
|---|---|---|---|
| | Yes | No | No opinion |
| Do you favor— | | | |
| 1. Cotton subsidy legislation which would permit our mills to buy cotton at a competitive price with synthetics and remove the inequities caused by foreign mills being able to buy our cotton at a much lower price? | 76 | 14 | 10 |
| 2. Increasing the price support on soybeans at this time? | 21 | 70 | 9 |
| 3. The food stamp program which would take the place of the present system of distributing surplus commodities? | 42 | 41 | 17 |
| 4. Increased authorizations and appropriations for ARA? | 9 | 43 | 48 |
| 5. The recent decision of the Supreme Court that held that congressional districts should be as nearly equal in population "as practicable"? | 51 | 36 | 13 |
| 6. Prayer and the reading of the Bible in the public schools? | 90 | 6 | 4 |
| 7. Developing a new manned bomber to be made available when the present planes become antiquated or worn out (Secretary McNamara opposes this plan)? | 73 | 12 | 15 |
| 8. Civil defense shelters even though the cost would run into billions of dollars? | 15 | 74 | 11 |
| 9. The quality stabilization bill (by HARRIS of Arkansas) (this bill has been called fair trade legislation)? | 37 | 34 | 29 |
| 10. The efforts our country is making to keep South Vietnam out of Communist control? | 55 | 31 | 14 |
| 11. Economic sanctions being taken against nations who carry on trade with Cuba? | 72 | 20 | 8 |
| 12. Continuing strong U.S. financial support of the U.N.? | 45 | 45 | 10 |
| 13. The manner in which Congress performs its work? | 49 | 23 | 28 |
| 14. The job being done by President Lyndon B. Johnson? | 51 | 32 | 17 |
| 15. President Johnson for a new 4-year term? | 45 | 33 | 22 |
| If answer is "No," who is your choice? | | | |

| | *Percent* |
|---|---|
| Barry Goldwater | 52 |
| Henry Cabot Lodge | 9 |
| Richard Nixon | 8 |
| John McClellan | 7 |
| Richard Russell | 5 |
| Governor Wallace | 4 |
| Harry Byrd | 3 |
| Nelson Rockefeller | 2 |

NOTE.—Receiving the remaining 10 percent were Governor Clements, Governor Scranton, Henry M. "Scoop" Jackson, Wilbur Mills, Governor Faubus, J. William Fulbright, Hubert Humphrey, David Lawrence, Martin Luther King, Adlai Stevenson, John Stennis, Strom Thurmond, and E. C. Gathings.

## Domestic Aid Plan for Long Island

EXTENSION OF REMARKS
OF

### HON. JOHN W. WYDLER

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, April 21, 1964*

Mr. WYDLER. Mr. Speaker, last week Senator KENNETH B. KEATING delivered an important address before the Tri-County Long Island Labor-Management Institute's conference on the aerospace industry. The institute is sponsored jointly by the Long Island Press and the National Conference of Christians and Jews. Its efforts to stimulate community discussion of the problems Long Island will be facing in days to come is a highly commendable operation and deserves the support of all Long Islanders.

The New York Senator called for systematic local planning by Long Islanders to meet the impact of cutbacks of defense and space spending. As a member of the House Committee on Science and Astronautics, I am very familiar with the problems faced by Government contractors in electronics and other fields who can expect increasing difficulty in maintaining full orderbooks and keeping jobs available.

In my view, Long Island has unique assets. Long Islanders have initiative, special skills, and economic know-how to plan for the future and to adjust to changing business patterns with a minimum of dislocation and unemployment for everyone. An areawide economic group would be a wonderful way to put the area's needs and prospects into an effective plan for economic growth.

It was only a few weeks ago, on March 12, 1964, that I stated my firm belief that we on Long Island have the historic background and experience to produce what the Government wants and needs. As I said then, and repeat: "our Long Island industries must stop competing against themselves and unite to compete with the rest of the country. There are many recent, encouraging indications that they are starting to do this.

"As a local Congressman I will fight to neutralize any political influences in the awarding of contracts. This is why I have led the yearlong fight to stop the Electronics Research Center from being located in Boston. As a member of the Space Committee, I know there is no room for complacency in the space age.

"I will also fight to see that there is more competition allowed in the awarding of contracts in defense and space industries. Congress has passed bills proposing that this be done and although there has been some improvement over 87 percent of the contracts are still negotiated. If more were let on competition, New York would get a larger share, for we are in a position to compete successfully.

"I do not rule out conversion, which should proceed on an experimental basis, but it is a long-range solution and a prerogative of the industry involved.

"Conversion and retraining can be useful to an extent, but what we really need is a cooperative effort of our industrial, labor, and governmental forces to fight shoulder to shoulder to see that Long Island retains its rightful place in the defense and space programs."

I therefore endorse Senator KEATING's suggestion and only add that this Commission's first and foremost task should be to see that Long Island's capacity to compete successfully for existing defense and space business be developed, coordinated, and pushed, and that Long Island develop a consciousness of itself as a producing unit; ready, willing, and fully able to meet competition from any sector of our country.

Senator KEATING has posed a great and meaningful challenge to the leaders of Long Island communities, labor, and industry, and I am confident that Long Island will be able to meet the challenge of a changing economy ably and effectively. Mr. Speaker, under the unanimous consent, I include in the RECORD following my remarks the text of Senator KEATING's address and an editorial from the Long Island Press:

#### ADDRESS BY SENATOR KENNETH B. KEATING

It is a pleasure to be here with you today to discuss a subject of increasing national importance, and a subject of very acute local interest here on Long Island.

First of all, let me make it very clear that I do not appear before you today as an expert in the field of procurement and contracting as many of you are. But after 18 years in Congress, I am something of an expert in the ways of the Federal Government. There are a lot of pitfalls in the path of those who depend on Government contracts and Government decisions for a livelihood and I'd like to explore some of them with you today.

Unfortunately, a number of Long Island's oldest, most experienced, and most capable defense contractors and their workers are beginning to find that times are hard as far as defense work is concerned.

Either the big competition, that has provided hundreds of engineering jobs for years, has been won by someone else, or the proposal that was going to open the way for a big new advance in the state of the art was turned down at the 11th hour because the Department of Defense didn't want to go that fast after all, or maybe the Department of Defense just decided that it didn't need quite so many of that particular line, or else two different services got into a scrap over the problem and the Department of Defense held up the whole procurement for restudy.

#### DEFENSE WORK CUTBACK

As you all know, from painful experience, there are hundreds of different ways to lose contracts and find a company looking into an empty order book and its workers out of a job. And today on Long Island, as well as all over the country, a lot of firms are beginning to take a very worried look at their future workloads.

Almost every day I receive letters, a lot from Long Island, that go something like this—incidentally most of them are from women:

"DEAR SENATOR: My husband is an engineer (or draftsman or a skilled technician). He has had a good job and been working hard for the last 10 years. We have a nice little house and three wonderful children. But last month he was laid off. He cannot find a job anywhere. We cannot live on unemployment insurance and we don't want to. What can we do? Can you help us?"

It's a terrible picture, of an anxious wife, sitting at home, keeping the house together, taking care of the kids, and desperately asking for help while her husband roams the employment agencies and then comes home at night with bad news.

What can we do about it? Both as officials with community responsibilities and as individuals with some experience of the problem, we have got to do something, and the sooner the better.

First, we must face the facts realistically. We are certainly not on the verge of disarmament, in which all our arms industries are simply going to wither away. Far from it. In fact, disarmament is rather like a cocktail party. Nobody wants to arrive until everyone else is there.

The Federal Government is going to keep on spending billions and billions of dollars a year on weapons systems and equipment, and no doubt even as the spending on weapons declines there will be new spending on electronic devices to keep a check on what the rest of the world is doing, and to backstop any kind of international arms control agreement.

But I think we all see the handwriting on the wall as far as mass production of many kinds of defense equipment is concerned. There is a real squeeze underway in the defense industries. I don't have to tell you what would happen if all the cars on Long Island tried to fight their way through the Midtown tunnel together. That's pretty close to what is happening as far as a good part of defense work is concerned. The doors of the Pentagon are getting narrower. Thousands of contractors are going to continue to get in, because they are going to fight just as hard as they can. But thousands of others are not going to make it.

Frankly, I don't think anyone would want to see the Defense Department or any other part of the Federal Government buying equipment that it didn't want or didn't need with our tax dollars.

#### SPACE AGENCY CONTRACTS

NASA, the Space Agency, thinks that it can take up some of the slack. To some extent it can, especially among the experienced engineers and skilled technicians and as a member of the Senate Space Committee, I appreciate it. But let's face it, NASA will never need the mass production that provides thousands of assemblyline jobs. There simply are not going to be enough people traveling to the moon in the next 20 years to keep all Long Island busy turning out moon bugs. What's more, when you are working for NASA, the better job you do, the finer equipment you come up with, the fewer models they'll need for testing before they move on to the next step and the faster you'll be working yourself out of job.

Of course, you can try for the astronaut program and launch yourselves into politics that way—but watch out for those slippery bathtubs.

Basically, we face two different kinds of problems. On the one hand, we all want to be just as alert as possible and do everything we can to make sure that Long Island firms don't get squeezed out, where they can do the job and have the capability. And we want to fight, together, just as hard as we can to keep the Defense Department from moving out of the Northeast altogether and concentrating in California, Georgia, and Texas.

At the same time, we want to be prepared to help, to advise, to encourage, and sometimes even temporarily to prop up the firms that may be in a squeeze until they can diversify or find other outlets for their talents and products.

#### DEFENSE INDUSTRY TODAY SPECIALIZED

Basically, defense and Government-oriented industries are becoming a more and more specialized field, with very highly developed selling as well as producing skills. It's harder and harder for the same outfit to work simultaneously for private consumers and for the Government. First you need a special kind of intelligence and know-how, like a private CIA or NKVD, to get the job in the first place. Then you need facilities that are unique and altogether different from those needed for civilian production. For instance, during World War I nearly four-fifths of the Army equipment could be produced in ordinary civilian factories. By World War II, about half of the military equipment could be produced by civilian factories that needed only partial retooling. But today, only 10 percent of defense needs can be easily produced while the other 90 depercent have to come out of especially designed facilities that are simply unable to turn around and produce consumer goods on a moment's notice.

As a result, seven major industrial groups, firms and subsidiaries get close to two-thirds of all the military prime contracts. Although a great deal less is known about subcontracting, much of that also goes to very specialized outfits, big and small, that look to the Government for a livelihood.

For most of the firms that are heavily involved in the defense business today, then, the immediate response to the defense squeeze, is going to be tough competition, hard times when they lose a contract, better opportunities when they get another contract. The best thing we can do for them, the best way we can help them is to provide the intelligence and skills they need to stay on the top in a highly competitive area.

But for a lot of the firms that are half in and half out of the defense picture, the current situation provides an invitation to sit down and evaluate the future. The old advice "Don't put all your eggs in one basket" can be very appropriate at this point. And if it's one missile or one airplane, that advice counts double. Certainly I could not recommend that any firm tool up now for defense work if there are other alternatives or other directions for expansion.

### HELPING THE PEOPLE WHO LOSE OUT

But the biggest problem of all, and the problem that we, as community leaders, have to think hardest about, is how we can help the firms that don't get through those Pentagon doors, the firms that don't get the defense contracts. Or if we really break the issue down to the common denominator that underlies it all, how can we help the individuals—the people—from the top management to the lowest unskilled workers in the firms that don't get the contract they had been counting on?

This is not simply a personal problem for the guy who gets laid off and his wife and kids; it is not simply a management problem for the firm which has to decide how to stay out of the red. And it's not simply a labor problem to figure out who has the least seniority. It is a full-fledged community problem.

This meeting here today, as well as others that have been held and are planned for the future, represent, to my way of thinking, a responsible and mature recognition of the issue. As the title of your last session suggested, we have to meet tomorrow's crises today, and in no field is that more true than defense work today.

What can we do? The first step that we make in our foreign aid programs is to map out the available resources of a given country and try to draw up some sort of country plan for development, so that we're not operating at cross purposes. It is high time for island leaders from Montauk to Manhattan to think about the island's future, its special resource, its advantages and its drawbacks and chart a domestic aid plan for Long Island.

### VALUE OF ECONOMIC COMMISSION

One of the first steps I could recommend would be the establishment of a Long Island Economic Commission, to work with labor and industry, and draw up a balance sheet of what you have to offer. You don't, I am sure, want a government bureaucracy, ordering everyone around, but the island could only benefit from a hardheaded regional body that could speak to the area and for the area in its changing economic needs.

It's ironic to think that Long Island already has its natural resources under central control in the Long Island Park Commission. But the economic resources, that provide the livelihood for the people who enjoy the parks, are still uncharted.

I know a lot of Long Island organizations are concerned about economic growth and are moving in this general direction. That's fine. We cannot afford to wait much longer.

### PURPOSE OF WASHINGTON CONFERENCE

That's one reason I have called a State, Municipal, and Industrial Action Conference in Washington, April 27 for local and Federal Government officials to explore the programs currently available along these lines. We have to plan now and use available resources to meet the problems of military installation closings and defense contract cutbacks in a timely way.

A regional economic commission could pursue this effort consistently and effectively on Long Island. Let me give you an idea of the kind of programs and prospects such a commission could explore.

### LONG ISLAND'S ASSETS

Long Island's industries, already very heavily slanted toward electronics, have a head start in contributing toward the world of tomorrow and the needs of tomorrow's consumers. Maybe my imagination is running away from me, but I have always felt that electronics could make a tremendous contribution to safety in all kinds of fields that have not yet been touched. It was more than just ironic that the astronaut who circled the globe got hurt in his own bathroom. Our homes and our cars, where we spend most of our time, are unsafe places by any standards. Electronic surveillance of all kinds of mechanical devices in the home or automobiles might cut down thousands of accidents. Why we might even reach the point of having electronic babysitters! And think of the consumer's market for such an invention on Long Island.

Another field that offers tremendous promise for the future is water desalinization. As the Western States face a grave shortage of water, the east coast would be able to offer industry a tremendously important attraction if adequate pure free water were available. If atomic power could be harnessed to do the job, the heat byproducts might be used to warm our beaches and shores and extend the tourist season by several months. Long Island might not be fully able to compete with Bermuda, but the prospect is an enticing one.

These are areas a regional economic commission could explore and develop.

There have been other important initiatives which can add to the long term assets of Long Island. The Long Island-New England Bridge, for instance, is going to be the subject of a full scale feasibility study by the State. That would bring Long Island producers closer to big consumer markets, but a regional council should be ready to plan for such a breakthrough.

Another major step, which we must not underestimate, is the extension of educational institutions all over the island. For the future this kind of growth is golden.

For the present, and for the guys who have been laid off, the first step may be a retraining program, long or short, that would fit him into the immediate job opportunities in the area. The faster the community responds to this kind of need, the faster the community mobilizes its effort to find satisfactory jobs on Long Island for those who seek them, the faster we can look forward to stepping up the rate of growth and meeting the challenges before us.

### IMPORTANCE OF LOCAL INITIATIVES

A full-fledged economic commission to coordinate declining defense production with booming civilian needs and to coordinate the men with the jobs, would boost Long Island today, tomorrow and 10 years from now.

What's more, instead of waiting around for Washington to come up with Federal programs and legislation to accelerate growth, such a commission could draw up its own proposals and bring them down to Washington for action. What kind of tax changes could we use to help defense industries convert to consumer ones? What kind of Government efforts could promote increased sales of U.S. goods overseas? What kind of Federal assistance could really do the best job in pepping up areas of high unemployment?

Instead of meekly taking what some official in Washington proposed, such a regional commission could be an important initiator of valuable efforts. It could speak, in Albany and in Washington, with a voice of authority, that came not from theory, but from practice.

We live in a changing world. And no Long Islander would want it any other way. Our problem is how we can make the best of the changes so that the changes can make the best for us. Long Island is in a unique position of opportunity and advancement. The shadow of defense curtailment may be just the push that is needed to make Long Island a pacesetter for the State and for the entire Nation. We face a great opportunity and a challenge that all of us can—and must—meet.

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[From the Long Island Press, Apr. 12, 1964]

### DOMESTIC AID PLAN FOR LONG ISLAND

Senator KENNETH B. KEATING's speech yesterday before the Tri-County Long Island Labor-Management Institute's conference on the aerospace industry was a statement of major importance to everyone on this island of ours.

The Senator suggested that a local economic commission be set up to chart a domestic aid plan for Long Island to meet the inevitable impact of severe cutbacks in defense work.

Senator KEATING's thesis is simple: Although we are still a long way from disarmament, the squeeze is on our defense industries. As important as it is to keep fighting for as many of the dwindling contracts as we can get, it is even more imperative to plan reasonable alternatives.

This was no fuzzy-minded visionary speaking; this was a hardheaded, realistic Republican who has been in Congress for 18 years. He doesn't see this as a simple matter of presenting a convert button and presto, a new economy. Quite the contrary. Precisely because there are no easy buttons to push we must think and plan together to meet the coming economic crisis. As Senator KEATING pointed out, "the first step we make in our foreign aid programs is to map out the available resources of a given country and try to draw up some sort of country plan for development, so that we're not operating at cross purposes. It is high time for Island leaders, from Montauk to Manhattan, to think about the Island's future, its special resources, its advantages and its drawbacks, and chart a domestic aid plan for Long Island."

To do this, he suggested the establishment of a Long Island economic commission, "to work with labor and industry and draw up a balance sheet of what you have to offer. You don't, I am sure, want a government bureaucracy, ordering everyone around, but the Island could only benefit from a hardheaded regional body that could speak to the area and for the area in its changing economic needs.

"Such a commission could draw up its own proposals and bring them down to Washington for action. What kind of tax changes could we use to help defense industries convert to consumer ones? What kind of Government efforts could promote increased sales of U.S. goods overseas? What kind of Federal assistance could really do the best job in pepping up areas of high unemployment?"

Too often, those unwilling to adjust to new situations throw up their hands and cry "socialism" whenever that ugly word "planning" comes up. Yet they eagerly embrace Federal controls and Federal funds involving defense work.

Or, as Senator Keating pointed out, it is ironic that we have careful planning and central control, through the Long Island State Park Commission, of our natural resources for play, yet the resources that provide our livelihood remain uncharted.

The press is proud to sponsor the Tri-County Long Island Labor-Management Institute, together with the National Conference of Christians and Jews. It is the only agency on Long Island in which labor, management and public can get together to solve crises before they get out of hand. The overdependence of our local economy on defense contracts is just the kind of crisis which can be cushioned, if not averted, by proper thinking.

The kind of planning Senator Keating is urging is quite different from the heavy hand of Federal control; it is a do it ourselves approach that gives the local community the opportunity to better determine its own future. This is neither waiting for a Federal blueprint nor for the turn of a wheel of fortune—or misfortune—but accepting and meeting new realities head on. Refusing to plan for a foreseeable crisis no longer makes sense. For once, let's not be surprised by the future.

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## Current Legislation

EXTENSION OF REMARKS

OF

### HON. HOMER E. ABELE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. ABELE. Mr. Speaker, during the last few months several actions have been taken by the Congress which were of the utmost importance to not only the people of my district, but of the Nation. Under unanimous consent, I include my recent newsletter—"Your Congressman, Pete Abele, Reports to You"—Summarizing my statements in regard to these significant actions in the Record.

The newsletter follows:

#### Your Congressman, Pete Abele, Reports to You

(By Hon. Homer E. Abele)

Several important bills have been acted on by Congress since my last newsletter to you. Although you may have read or heard some of the comments on these issues from the newspapers and radio commentators, as your Congressman, I feel that I have an obligation to state my views on these matters.

PAY RAISE BILL

For several months the administration has been pushing the plan for a pay increase for all Federal employees, department heads, Federal judges, and Congressmen.

When the pay raise bill was discussed in the House of Representatives several arguments were presented in favor of it. I am aware of the obligation of the Government to adequately compensate its employees, and there are no doubt cases in which increased pay can be justified. However, the arguments in opposition to this measure were more persuasive, and it was defeated by a vote of 222 to 184 in the House. If this bill had been passed it would have increased the salary of every Congressman by $10,000. I voted against the increase in salary because I believe that Congressmen should be willing to make a sacrifice in the interest of financial solvency for the Nation and the taxpayers have a right to expect this of their Congressmen. Since the end of World War II, 1945 to 1964, the national debt has increased from $258 billion to $311 billion. To pay off the national debt it would require a contribution of approximately $1,600 from every man, woman, and child in the United States. The national debt continues to rise and the end does not seem to be in sight. Presently, it is costing the taxpayers $11 billion just to pay the interest on the debt. In view of these circumstances, I did not think it was wise at this time to vote in favor of the pay raise bill which would have added an additional annual burden of $500 million to the overburdened taxpayers.

CIVIL RIGHTS LEGISLATION

One of the most controversial issues considered by the House this session was the civil rights bill. As you may recall, this measure was approved by the House on February 8, 1964. Presently, it is being considered by the Senate. The big question is how long the southern Senators will filibuster in an effort to block its enactment into law.

The major sections of this bill provide protection for the voting rights of minorities, prohibits discrimination in the use of public facilities and bans discrimination in employment on the basis of race or color by unions or management.

Insofar as Ohio is concerned there is little new in the Federal civil rights bill. Ohio has had for many years laws protecting the rights of minority groups. However, it should be kept in mind that there are many areas in the United States in which the educational, political, and economic rights of our citizens are not protected. After considering all the issues involved, I voted for the bill because I could not, in good conscience, oppose a bill which is aimed at protecting the constitutional rights of minority groups. It does not sound very convincing for us to talk about justice and equality for people of foreign countries and yet refuse to show concern about the welfare of some of our own citizens.

FLOOD CONTROL

Since the recent flooding of the Hocking River and its tributaries, I have had discussions with several persons in the areas affected about the status of the plans of the Army Corps of Engineers for dealing with these floods. From personal observation I am aware of the great amount of damage done to private homes, farmlands, schools, Ohio University, roads and highways, and of the hardships caused to many individuals, families, and business concerns. I have kept in close contact with the Washington office of the Army Engineers and the District office in Huntington in an effort to speed up the completion of the study of the Hocking River Valley. I have been assured that flood control plans will be ready for presentation to Congress by June of this year. Upon the completion of these plans, Congress will appropriate the necessary funds to build a series of dams and levies to control these frequent floods. In the meantime, I want to assure you that I will do all I can to get this project started.

TAX REDUCTION

Last year when the proposal to reduce taxes came before the House of Representatives the Republicans took the position that they would vote to reduce taxes if the administration would agree to hold Federal spending down to $98 billion. The logic of this position was that it would be unwise to increase spending and at the same time reduce the income of the Government. Since the Democrats would not agree to a provision to hold down Federal spending, I voted against the bill. Shortly, after taking office, President Johnson sent to Congress a budget of slightly less than $98 billion. In view of the promise of the President to hold down spending, I voted to reduce taxes when the conference report of the tax bill was presented to the House. I have no doubt in my mind but that individuals and business concerns deserve a tax reduction, but unless the administration is willing to make a greater effort to eliminate some of the unnecessary expenditures it will be exceedingly difficult to reduce taxes.

WHERE YOUR MONEY GOES

Here are some more examples of the way in which your tax dollars are spent. As long as the Government continues to underwrite these programs, we cannot expect to arrive at a balanced budget.

1. Frog spotting patterns, $14,700.
2. Eye and brain development in the mosquito, $119,000.
3. Tagalog Social Organization, $35,000.
4. Family functions in contemporary China, $54,700.

VISITING WASHINGTON?

With the arrival of spring and the tourist season many groups and individuals will be visiting places of interest in Washington and the surrounding area. If you will contact me by telephone or letter, I shall be glad to do whatever I can to make your visit an interesting and pleasant occasion.

Very sincerely yours,

Homer E. Abele.

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## Text of President's Address to the Associated Press

EXTENSION OF REMARKS

OF

### HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 21, 1964*

Mr. ALBERT. Mr. Speaker, under leave to extend my remarks, I include in the Record the text of President Lyndon B. Johnson's address to newspaper executives and their guests on April 20, 1964, to open the annual celebration of Publishers' Week in New York City. The President, speaking at a luncheon meeting of the Associated Press in the Waldorf Astoria Hotel, took the occasion to announce that the United States and the Soviet Union would both make substantial reductions in the production of uranium and plutonium for nuclear weapons. By any standards this was one of the President's finest speeches and certainly was one of the greatest speeches of this year. The text in its entirety follows:

[From the Washington (D.C.) Post, Apr. 21, 1964]

### TEXT OF PRESIDENT'S ADDRESS TO THE ASSOCIATED PRESS

The world has changed many times since General Washington counseled his new and weak country to "observe good faith and justice toward all nations." Great empires have risen and dissolved. Great heroes have made their entrances and left the stage. And America has slowly, often reluctantly, grown to be a great power and a leading member of world society.

We seek today, as we did in Washington's time, to protect the life of our Nation, preserve the liberty of our citizens, and pursue the happiness of our people. This is the touchstone of our world policy.

Thus we seek to add no territory to our dominion, no satellites to our orbit, no slavish followers to our policies. The most impressive witness to this restraint is that for a century our own frontiers have stood quiet and unarmed.

But we have also learned in this century, at painful and bloody cost, that our own freedom depends on the freedom of others—that our own protection requires that we help protect others—that we draw increased strength from the strength of others.

Thus to allies we are the most dependable and enduring of friends, for our own safety depends upon the strength of that friendship. To enemies we are the most steadfast and determined of foes, for we know that surrender anywhere threatens defeat everywhere.

#### GENERATION OF UNITY

For a generation—without regard to party or region or class—our country has been united in a basic foreign policy that grows from this inescapable teaching.

The principles of this foreign policy have been shaped in battle, tested in danger, sustained in achievement. They have endured under four Presidents of the United States because they reflect the realities of our world and the aims of our country.

Particular actions must change as events change conditions. We must be alert to shifting realities, to emerging opportunities and fresh dangers. But we must not mistake day-to-day changes for fundamental movements in the course of history. It often requires greater courage and resolution to maintain a policy which time has tested than to change it in the face of the moment's pressures.

Our foreign policy rests on tested principles.

First, since Korea we have labored to build a military strength of unmatched might. We have succeeded. If the threat of war has lessened, it is largely because our opponents realize attack would bring destruction. This effort has been costly. But the costs of weakness are far greater than the costs of strength, and the payment far more painful. That is why, in the last 3 years, your Government has strengthened the whole range of America's defenses—increasing defense spending by $17 billion.

Second, we have resisted Communist efforts to extend their dominion and expand their power. We have taken the risks and used the power which this principle demanded. We have avoided purposeless provocation and needless adventure.

#### PROVE DETERMINATION

The Berlin airlift, the Korean war, the defense of Formosa, the Cuba crisis, the struggle in Vietnam, prove our determination to resist aggression and our ability to adapt particular response to particular challenge.

Third, we have worked for the revival of strength among our allies: initially, to oppose Communist encroachment on war-weakened nations; in the long run, because our own future rests on the vitality and unity of the Western society to which we belong.

Fourth, we have encouraged the independence and progress of developing countries—both old friends and new nations. We are safer and more comfortable in a world where all people can govern themselves in their own way, and all nations have the inner strength to resist external domination.

Fifth, we have pursued every hope of a lasting peace. From the Baruch plan to the test ban treaty we have sought and welcomed agreements which decrease danger without decreasing security. In that pursuit, for 20 years we have been the leading power in support of the United Nations. In that pursuit, this year as in every year, we will work to reach agreement on measures to reduce armament and lessen the chance of war.

Today we apply these same principles to a world much changed since 1945. Europe seeks a new role for strength rather than protection for weakness. The unity of communism is being eroded by the insistent forces of nationalism and diverging interest. A whole new group of societies is painfully struggling toward the modern world.

#### PRINCIPLES ADEQUATE

Our basic principles are adequate to this shifting world. But foreign policy is more than a set of general principles. It is the changing application of those principles to specific dangers and opportunities. It involves knowledge of strengths and awareness of limitations in each new situation. The presence of offensive missiles in Cuba was a fact. The presence of fallout in the atmosphere has been a fact. The presence of guerrillas in Vietnam is a fact. Such facts cannot be dealt with simply by historical judgments or general precepts. They require concrete acts of courage, wisdom, and restraint.

These qualities of endurance and innovation, continuity and change are at work in at least six major areas of continuing concern.

First, is our relationship with the Soviet Union—the center of our concern for peace.

The Communists, using force and intrigue, seek to bring about a Communist-dominated world. Our convictions, our interests, our life as a nation, demand that we resolutely oppose that effort. This activity and this alone, is the cause of the cold war between us.

For the United States has nothing to fear from peaceful competition. We welcome it and we will win it. It is our system which flourishes and grows stronger in a world free from the threat of war. And in such a competition all people, everywhere, will gain.

Today there are new pressures, new realities, which make it permissible to hope that the pursuit of peace is in the interests of the Soviet Union as it is in ours.

And our own restraint may be convincing the Soviet leaders of the reality that we seek neither war, nor the destruction of the Soviet Union.

Thus, I am hopeful that we can take important steps toward the day when in the words of the Book of Micah, "nation shall not lift up sword against nation, neither shall they learn war anymore."

We must remember that peace will not come suddenly. It will not emerge dramatically from a single agreement or a single meeting. It will be advanced by concrete and the gradual growth of common interests, by increased awareness of shifting dangers and alinements, by the development of trust in a good faith securely based on a reasoned view of the world.

#### POSITION IS CLEAR

Our own position is clear. We will discuss any problem, listen to any proposal, pursue any agreement, take any action which might lessen the chance of war without sacrificing the interests of our allies or our own ability to defend the alliance against attack.

I am taking two actions which reflect both our desire to reduce tensions, and our unwillingness to risk weakness.

I have ordered a further substantial reduction in our production of enriched uranium, to be carried out over a 4-year period. When added to previous reductions, this will mean an overall decrease in the production of plutonium by 20 percent and of enriched uranium by 40 percent. By bringing production in line with need, we reduce tension while maintaining all necessary power. In reaching these decisions I have been in close consultation with Prime Minister Douglas-Home.

I am happy to say that Chairman Khrushchev has now indicated to me that he intends to make a move in this same direction.

At the same time, I have reaffirmed all the safeguards against weakening our nuclear strength which we adopted at the time of the test ban treaty.

The second area of continuing effort is the development of Atlantic partnership with a stronger and more unified Europe.

Having begun this policy when peril was great we will not abandon it as success moves closer.

We worked for a stronger and more prosperous Europe, and Europe is strong and prosperous beyond expectation.

We have supported a close partnership with a more unified Europe. In the past 15 years more peaceful steps have been taken in this direction than at any time in history.

The pursuit of this goal, like the pursuit of any large and worthy cause, will not be easy or untroubled. But the realities of the modern world teach that increased greatness and prosperity demand increasing unity and partnership.

#### OLD BARRIERS ERODE

The underlying forces of European life are eroding old barriers and dissolving old suspicions. Common institutions are expanding common interest. National boundaries continue to fade under the impact of travel and commerce and communication. A new generation is coming of age, unscarred by old hostilities or old ambitions, thinking of themselves as Europeans, their values shaped by a common Western culture.

These forces and the steadfast effort of all who share common goals, will shape the future. And unity based on hope will ultimately prove stronger than unity based on fear.

We realize that sharing the burden of leadership requires us to share the responsibilities of power. As a step in this direction we support the establishment of a multilateral nuclear force composed of those nations which wish to participate. We also welcome agreed new mechanisms for political consultation on mutual interests throughout the world—with whatever changes in organization are necessary to make such consultation rapid and effective.

The experiences of two World Wars have taught us that the fundamental security interests of the United States and the interests of Europe are the same. What we learned in time of war, we will not forget in time of peace.

For more than a decade we have sought to enlarge the independence and ease the rigors of the people of Eastern Europe. We have used the tools of peaceful exchange—in goods, in persons and in ideas—to open up communication with these restless nations. We have used limited direct assistance where the needs of our security have allowed us to follow the demands of our compassion. In that spirit within the last month I have exercised the power granted me by the Congress, and reaffirmed the right of open trade with Poland and Yugoslavia.

In the third area of continuing concern—Latin America—we have renewed our commitment to the Alliance for Progress, sought peaceful settlement of disputes among the American nations, and supported the OAS effort to isolate Communist-controlled Cuba.

### IS CENTRAL TASK

The Alliance for Progress is the central task of this hemisphere. That task is going ahead. But that Alliance means more than economic assistance or investment. It requires us to encourage and support those democratic political forces which seek essential change with the framework of constitutional government. It means preference for rapid evolution as the only real alternative to violent revolution. To struggle to stand still in Latin America is to "throw the sand against the wind."

We must, of course, be on guard against Communist subversion. But anti-communism alone will not suffice to insure our liberty or fulfill our dreams. That will take leadership dedicated to economic progress without uneconomic privilege—to social change which enhances social justice—to political reform which widens human freedom.

The resumption of relations with Panama proves once again the unmatched ability of our inter-American system to resolve disputes among good neighbors. At the outset of that dispute we stated our willingness to seek a solution to all problems without conditions to any kind. We never departed from that willingness. On that basis the dispute was settled.

We now move toward solution with the generosity of friends who realize, as Woodrow Wilson said, "You cannot be friends on any other terms than upon the terms of equality."

The use of Cuba as a base for subversion and terror is an obstacle to our hopes for the hemisphere. Our first task must be, as it has been, to isolate Cuba from the inter-American system, frustrate its efforts to destroy free governments, and expose for all to see the ugliness of communism. That policy is working. The problems of this hemisphere would be far more serious if Castro fought the councils of the OAS; disrupting debate and blocking decision—if he had open channels of trade and communication along which subversion and terror could flow—if his economy had been a successful model rather than a dismal warning. The effectiveness of our policy is more than a matter of trade statistics. It has increased awareness of difference and danger, revealed the brutal nature of the Cuban regime, lessened opportunities for subversion, reduced the number of Castro's followers, and drained the resources of our adversaries.

We will continue this policy with every peaceful means at our command.

A fourth area of continuity and change is the battle for freedom in the Far East.

### WILL NOT WEAKEN

In the last 20 years, in two wars, millions of Americans have fought to prevent the armed conquest of free Asia. Having invested so heavily in the past, we will not weaken in the present.

The first American diplomatic mission to the Far East was instructed to inform all countries that we never make conquests, or ask any nation to let us establish ourselves in their countries.

That was our policy in 1832. That is our policy today. Our conquering forces left Asia after World War II with less territory under our flag than before. But if we have desired no conquest for ourselves, we have steadfastly opposed it for others. The independence of Asian nations is a link in our own freedom.

In Korea we proved the futility of direct aggression. In Vietnam the Communists now try the more insidious, but equally dangerous, methods of subversion, terror, and guerrilla warfare. They conduct a campaign organized, directed, supplied, and supported from Hanoi.

Armed Communist attack on Vietnam is a reality. The fighting spirit of South Vietnam is a reality. The request of a friend for our help is a reality. The statement of the SEATO allies that Communist defeat is "essential" is a reality. To fail to respond to these realities would reflect on our honor as a Nation, undermine worldwide confidence in our courage, and convince every nation in south Asia that it must bow to Communist terms to survive.

The situation in Vietnam is difficult. But there is an old American saying that "when the going gets tough, the tough get going." Let no one doubt that we are in this battle as long as South Vietnam wants our support and needs our assistance to protect its freedom.

I have already ordered measures to help step up the fighting capacity of South Vietnamese forces, to help improve the welfare and morale of the civilian population, and to keep our forces at whatever level continued independence requires.

No negotiated settlement in Vietnam is possible as long as the Communists hope to achieve victory by force. Once war seems hopeless, then peace may be possible. The door is always open to any settlement which assures the independence of South Vietnam, and its freedom to seek help for its protection.

In Laos we continue to support the Geneva agreements which offer the best hope for peace and independence for that strife-torn land. At my instruction Assistant Secretary William Bundy has already arrived in Laos for a first-hand examination of the developments of the last 48 hours.

### ACT ON REALITIES

As for China itself, so long as the Communist Chinese pursue conflict and preach violence, there can be no easing of relationships. There are some who prophesy that these policies will change. But we must base our acts on present realities, not future hopes. It is not we who must reexamine our view of China, it is the Chinese Communists who must reexamine their view of the world. Nor can anyone doubt our unalterable commitment to the defense and liberty of Free China. Meanwhile, we say to our historic friends, the talented and courageous Chinese people on the mainland, that, just as we opposed aggression against them, we must oppose aggression by their rulers—and for the same reasons.

Fifth is our concern with the new nations of Africa and Asia. We welcome their emergence; for their goals flow from hopes like our own. We began the revolt from colonial rule which is now reshaping continents and creating new nations. Our mastery of technology has helped men to learn that poverty is not inevitable, that disease and hunger are not laws of nature. Having helped create hopes, we must help satisfy them, or witness a rising discontent which may ultimately menace our own welfare.

What we desire for the developing nations is that we desire for ourselves—economic progress which will permit them to shape their own institutions, and the independence which will allow them to take a dignified place in the world community.

Let there be no mistake about our intention to win the war against poverty at home, and to help fight it around the world. This battle will not be easy or swift. It takes time to educate young minds, and shape the structure of a modern economy. But the world must not be divided into rich nations and poor nations, white nations and colored nations. In such division are the seeds of terrible discord and danger in decades to come.

### A WALL OF GLASS

For the wall between rich and poor is a wall of glass through which all can see.

We recognize the need for more stable prices for raw materials, and broader opportunity for trade. We are ready to help meet these claims, as we have already done, for example, with the negotiation of the international coffee agreement, and as we will do in the Kennedy round.

We will continue with the direct economic assistance which has been a vital part of our policy for 20 years.

Last year the Congress reduced foreign aid from a requested $4.5 billion to a total of $3.4 billion. This year I ordered that our request be cut to the absolute minimum consistent with our commitments and our security. That was done.

Every dollar cut from that request will directly diminish the security of the United States. If in spite of this clear need and this clear warning, substantial cuts are made again this year—in either military or economic funds—it will be my solemn duty as President to submit supplemental requests for additional amounts until the necessary funds are appropriated.

In these areas, and in other areas of concern we remain faithful to tested principle and deep conviction while shaping our actions to shifting danger and fresh opportunity.

This year is an election year in the United States. In this year let neither friend nor enemy abroad mistake growing discussion for growing dissension, conflict over programs for conflict over principle, political division for political paralysis.

Let those at home who share in the great democratic struggle remember that the world is their audience, that attack on old policies requires responsible presentation of new choices; that in the protection of our security, partisan politics must yield to national need.

I recognize that those who seek to discuss great public issues must be informed on those issues. Therefore, I have instructed the Departments of State and Defense, and the Central Intelligence Agency to be ready to provide major candidates for the Office of President with all possible information helpful to their discussion of American policy. I hope candidates will accept this offer in the spirit in which it is made—the encouragement of the responsible discussion which is the touchstone of the democratic process.

### FOREVER BOUND UP

In the past 20 years we have gradually become aware that America is forever bound up in the affairs of the world; that our own future is linked to the future of all. In great capitals and in tiny villages, in the councils of great powers and in the rooms of unknown planners, events are being set in motion which will continually call upon our attention and our resources.

Prophecy is always unsure. But if anything is certain it is that this Nation can never again retreat from world responsibility. We will be involved in the world for the rest of our history. We must accustom ourselves to working for liberty in the community of nations as we have pursued it in our community of States.

The struggle is not merely long. It is unending. For it is part of man's ancient effort to master the passions of his mind, the demands of his spirit, and the cruelties of nature. We have entered a new arena. The door has closed behind us. And the old stage has passed into history.

Dangers will replace dangers; challenges will take the place of challenges, new hopes will come as old hopes fade. There is no turning from a course which will require wisdom and endurance so long as the name of America still sounds on this earth.

# SENATE

## WEDNESDAY, APRIL 22, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. INOUYE).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our father's God and ours, our help in ages past, our hope for years to come: In the whelming waters of tribulation which this day flood the earth, Thou art a shelter from the storm, a covert from the wind, and the shadow of a great rock in a weary land.

Give us to realize that Thou art our challenge, as well as our refuge; and that in the crises of these days, Thy voice to us is calling, in all the want and woe, in all the hunger and misery of our fellows, Thy children, in all the continents and islands of the sea.

In all that concerns mankind, may our hearts be moved with compassion that will fit us to be the dedicated heralds of Thy healing.

Teach us so to labor on while it is called day, that we may so play our part in this age on ages telling that we may face with clear conscience the gaze of our contemporaries and the judgment of posterity; and, when the fever of this life is over, at the last hear Thy "Well done; thou hast been faithful."

We ask it in the Redeemer's name. Amen.

### CALL OF THE ROLL

**Mr. BURDICK.** Mr. President, I suggest the absence of a quorum.

**The ACTING PRESIDENT** pro tempore. The Clerk will call the roll.

The Chief Clerk called the roll and the following Senators answered to their names:

[No. 157 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Bible
Boggs
Burdick
Carlson
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Eastland
Ellender
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
Metcalf
Monroney
Morse
Morton
Moss
Mundt
Muskie
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

**Mr. HUMPHREY.** I announce that the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from North Carolina [Mr. ERVIN], the Senator from Florida [Mr. HOLLAND], the Senator from Louisiana [Mr. LONG], the Senator from Michigan [Mr. McNAMARA], the Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. THURMOND] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from West Virginia [Mr. BYRD], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from California [Mr. ENGLE], the Senator from Alabama [Mr. HILL], the Senator from North Carolina [Mr. JORDAN], the Senator from Arkansas [Mr. McCLELLAN], the Senator from Wisconsin [Mr. NELSON], the Senator from Florida [Mr. SMATHERS], the Senator from Georgia [Mr. TALMADGE], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from West Virginia [Mr. RANDOLPH] is absent during convalescence from an illness.

I further announce that the Senator from Indiana [Mr. BAYH] is absent because of a death in the family.

**Mr. KUCHEL.** I announce that the Senator from Nebraska [Mr. CURTIS] and the Senator from New Mexico [Mr. MECHEM] are necessarily absent.

The Senator from Texas [Mr. TOWER] is detained on official business.

The Senator from Iowa [Mr. HICKENLOOPER] and the Senators from New York [Mr. JAVITS and Mr. KEATING] are absent on official business.

The Senator from Iowa [Mr. MILLER] is absent by leave of the Senate.

**The ACTING PRESIDENT** pro tempore. A quorum is present.

### TRANSACTION OF ROUTINE BUSINESS

**Mr. HUMPHREY.** Mr. President, I ask unanimous consent that there be a morning hour wherein statements will be limited to 3 minutes, and that the morning hour will be in operation for 1 hour, but that that period may be further extended by the majority leader or minority leader at the end of 1 hour, if other Senators are waiting at that time to be heard for morning business; provided, further, that the morning hour period will not authorize the meeting of committees under rule XXV.

**The ACTING PRESIDENT** pro tempore. Is there objection? The Chair hears none, and it is so ordered.

### MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2111) to fix the beneficial ownership of the Colorado River Indian Reservation located in the States of Arizona and California, and it was signed by the Acting President pro tempore (Mr. INOUYE).

### AMENDMENT OF SECTION 2072, TITLE 28, UNITED STATES CODE, RELATING TO SCOPE OF FEDERAL RULES OF CIVIL PROCEDURE

**The ACTING PRESIDENT** pro tempore laid before the Senate a letter from the Acting Director, Administrative Office of the U.S. Courts, Washington, D.C., transmitting a draft of proposed legislation to amend section 2072 of title 28, United States Code, with respect to the scope of the Federal Rules of Civil Procedure, which, with the accompanying paper, was referred to the Committee on the Judiciary.

### PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the **ACTING PRESIDENT** pro tempore:

A concurrent resolution of the Legislature of the State of South Carolina; to the Committee on Finance:

"CONCURRENT RESOLUTION RECOMMENDING TO THE U.S. CONGRESS, THE U.S. STATE DEPARTMENT, AND THE U.S. DEPARTMENT OF AGRICULTURE THAT CONSIDERATION BE GIVEN TO LIMITING THE QUOTAS ON IMPORTS OF BEEF AND BEEF PRODUCTS

"Whereas the South Carolina Cattlemen's Association has reported that on February 17, 1964, an agreement was announced which allows Australia and New Zealand beef imports into this country during the years 1964 through 1966 of 773, 801, and 830 million pounds and that this agreement more than doubles the rate of imports from these countries during the period 1948 to 1962 and that these heavy imports are seriously depressing our cattle market; and

"Whereas the association further reports that a portion of these imports is of primal cuts which will severely damage our domestic price structure; that the American producers and feeders are obligated to pay high fixed costs associated with labor, land, local and Federal taxes and other expenses over which they have no control and which are higher than those of their foreign counterpart; and

"Whereas the stability of the American beef industry is essential to the growth and welfare of the entire American economy in all States; and

"Whereas continued price depression will inevitably result in removal of capital from the United States to foreign points with concurrent employment losses; and

"Whereas such large import quotas may be disastrous to the American producers and feeders and unacceptable to the American public and may well set into motion restrictive forces which in the long run will have unfavorable impact upon importing countries; and

"Whereas the members of the general assembly feel that such conditions should be thoroughly considered by the U.S. Congress, the U.S. State Department and U.S. Department of Agriculture: Now, therefore, be it

*"Resolved by the senate (the house of representatives concurring)*, That the members of the general assembly recommend to the U.S. Congress, the U.S. State Department, and the U.S. Department of Agriculture that a new study be made relative to the quotas on imports of beef and beef products into the United States, that in such study a composition of imports be considered so as to embrace in future quotas cooked and cured meats, a sharp reduction in imports of primal cuts and should a growth factor be involved in any negotiation it be at much less than the full amount; and be it further

*"Resolved*, That copies of this resolution be sent to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, each member of the congressional delegation from South Carolina, the Secretary of State, and the Secretary of the U.S. Department of Agriculture."

A resolution adopted by the Auditors' & Treasurers' Association, Spartanburg, S.C., praying for the enactment of legislation to require members of the Armed Forces to furnish proof to the States where they are stationed that they have paid current taxes on their personal property to the State where they claim domicile; to the Committee on Armed Services.

A letter, in the nature of a petition, from Lee Jung-Guk, principal, Taejon High School, Taejon, Korea, praying for the enactment of legislation to pay for damages sustained by that institution; to the Committee on Armed Services.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ELLENDER (by request):

S. 2758. A bill to amend section 374(a) of the Agricultural Adjustment Act of 1938, as amended, relating to measurement of farms; to the Committee on Agriculture and Forestry.

By Mr. PROXMIRE:

S. 2759. A bill for the relief of Kim Sook Hee and Kim Lou; to the Committee on the Judiciary.

By Mr. KUCHEL:

S. 2760. A bill to authorize the coordinated development of the water resources of the Pacific Southwest, and for other purposes; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. Kuchel when he introduced the above bill, which appear under a separate heading.)

## MEETING THE CHALLENGE OF WATER NEEDS OF THE WEST

Mr. KUCHEL. Mr. President, on April 7, 1964, I proposed an amendment to the pending central Arizona project bill, S. 1658, sponsored by our colleagues from Arizona, Senators Hayden and Goldwater. I then also announced that I would introduce a similar amendment to any bill which might be introduced to implement Secretary of the Interior Udall's Pacific Southwest water plan of January 1964. The aim of my amendment is to protect existing water projects in Arizona, Nevada, and California, as against any new uses, with California limited to 4,400,000 acre-feet per year of the first 7,500,000 acre-feet available. I point out that California's existing uses are 5.1 million acre-feet annually. I think Congress should protect existing users in all lower basin States as against the proposed new demands on the water of the Colorado River which would be imposed by the central Arizona project when the time arrives that there is not enough to serve everyone. This is simply in confirmation of historic principles of western water law, State and Federal.

Hearings have been held by my Senate Interior Committee's Subcommittee on Irrigation and Reclamation for the past several days, prior to the daily session of the Senate itself, on the Hayden-Goldwater bill and the Udall plan. It was apparent from the first day that neither of those proposals should advance at this time. The Executive Office of the President, Bureau of the Budget, which had earlier refused to clear a report on the Hayden-Goldwater bill, rendered to our committee a report saying that it was "unable at this time to recommend authorization of S. 1658 or of the Pacific Southwest water plan." In other words, there is no Budget Bureau approval to either of these.

Secretary Udall has recommended a regional approach, rather than the single project approach as envisioned in the Hayden-Goldwater bill. Yet he reported to our subcommittee that he was not prepared to present a recommendation as to a specific plan for two reasons: First, "there are several major issues still under study by the administration which need further analysis," and second, "uncertainty whether the people of the Pacific Southwest and their representatives in the Congress are prepared to support and work for a specific regional plan." He continued by saying:

> Many voices have been heard in the region during recent months. A general consensus has developed in favor of a regional approach but no broad agreement has been evident as to a specific type of regional plan. The administration needs to know—before the final decisions are made on the plan itself—whether there is sufficient support in the region for a particular regional plan.

From my own State, the Governor presented a statement opposing the Hayden-Goldwater bill, endorsing the regional approach, but failing to endorse the specific Pacific Southwest water plan as it now stands. Specific disapproval of the January plan of Secretary Udall has been forthcoming from various public agencies in California.

Our hearings have shown many grave problems would exist under either the Hayden-Goldwater bill or the Udall plan. Basic is that each would presently authorize benefit for one State while not protecting another against harm. Neither would assure protection for existing users of Colorado River water, as my amendment would, and as Congress should.

A most significant statement was given last Friday by the junior Senator from Idaho [Mr. Jordan], a Columbia River basin Senator who happens to sit on the same side of the aisle as I. Senator Jordan identified the size of the problems facing the Southwest as being too big to be solved with the amount of water being talked about even in the Udall plan. He spoke for solutions to meet those problems. He showed where those solutions might lie—in importing water in sufficient quantities to the Colorado River from the Columbia River without hurting people in the Pacific Northwest. Surely, the Senator's views merit great consideration by our committee.

On Monday there was presented to the subcommittee by the noted water lawyer, Mr. Northcutt Ely, speaking on behalf of the six public agencies in California who own the rights to all Colorado River water used in my State, with the exception of Federal uses, a draft bill of a bill approved by those six agencies as the proper regional approach to water problems of the Colorado River basin as a whole. The present problems of the river have significant consequences for our friends in the Upper Colorado Basin and our neighbors in Mexico, too.

Today, I introduce the bill presented by Mr. Ely with the hope that it may prove to be the framework within which the Colorado River States, areas of surplus water, and the Nation as a whole, might work to solve problems that are national and international—not just one State or even three States—in scope.

This bill should commend itself to Senators. It authorizes now the means to help the lower basin with their immediate needs. It incorporates my provision protecting existing uses at the same time we are helping new users. It directs a study of all possible sources of surplus water for import to the Colorado River basin and a prompt report thereon. I think it provides the basis for the consensus asked for by Secretary Udall and yearned for by all of us.

I ask consent that my bill lie at the desk, until the close of business Saturday next, in the event other Senators wish to join me as cosponsors.

I also ask consent that the text of my bill be printed at this point in my remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk and be printed in the Record, as requested by the Senator from California.

The bill (S. 2760) to authorize the coordinated development of the water resources of the Pacific Southwest, and for other purposes, introduced by Mr. Kuchel, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I. THE PACIFIC SOUTHWEST PROJECT: OBJECTIVES OF THE PROJECT AND DESCRIPTION OF ITS COMPONENTS

Sec. 101. Objectives.—The purpose of this Act is to initiate the execution of a regional plan to meet in full the deficiencies in water supply, present and anticipated, in both the Upper and Lower Basins of the Colorado River, to authorize the construction of certain projects within the Lower Basin to transport water to areas of deficiency, and to authorize the coordinated development of the power resources of the Lower Basin in order to furnish power for pumping water into and in conveyance works, and for sale as a means of financial assistance to the projects herein authorized and to those which the Congress may hereafter authorize for the importation of water into the Colorado River Basin.

Sec. 102. Components of the Pacific Southwest Project.—The Pacific Southwest project shall consist of the following components:

(1) The transmountain division, to consist of such projects as the Congress may hereafter authorize for construction, pursuant to the investigation and report authorized by title III, to import water into the Colorado River Basin.

(2) The main stream reservoir division, to consist of Bridge Canyon Dam and Marble Canyon Dam, their powerplants, transmission lines, and related facilities, authorized for construction in title IV. To these shall be added Hoover Dam, Davis Dam, and Parker

Dam, their powerplants, Government-owned transmission lines associated therewith, and related facilities, after existing statutory amortization requirements with respect to each of them have been satisfied, all as provided in title IV.

(3) The central Arizona aqueduct division, in Arizona and New Mexico, authorized for construction in title V.

(4) The Dixie division, in Utah, authorized for construction in title VI.

(5) The southern Nevada division, authorized for construction in title VII.

(6) The conservation division, comprising salvage and other operations for which provision is made in title VIII.

(7) The fish and wildlife and recreation division, comprising undertakings for which provision is made in title IX.

(8) The works to be constructed for the benefit of main stream Indian reservations, referred to in title X.

### *Short title*

Sec. 103. This Act may be cited as the Pacific Southwest Project Act.

### TITLE II. THE PACIFIC SOUTHWEST DEVELOPMENT FUND; ALLOCATION AND REPAYMENT OF COSTS

Sec. 201. Pacific Southwest Development Fund Established.—There is hereby established a separate fund in the Treasury of the United States to be known as the Pacific Southwest Development Fund (hereinafter referred to as the "Development Fund") which shall be available only for carrying out the provisions of this Act.

Sec. 202. Authorization for Appropriations.—There is hereby authorized to be appropriated from the General Fund to the Development Fund from time to time a total of not to exceed $1,478,000,000 to carry out the purposes of this Act, of which the amounts available to carry out the purposes of the respective titles shall be limited to the amounts which those titles severally authorize to be appropriated from the development fund.

Sec. 203. Cost Allocations.—(a) Upon completion of each division or separable feature thereof, the Secretary shall report to the Congress the total costs of constructing the same, together with his allocations of such costs among commercial power, irrigation, municipal and industrial water supply (all of which shall be reimbursable in the manner provided in this Act), and flood control, navigation, area redevelopment, recreation, and fish and wildlife (all of which shall be nonreimbursable).

(b) The Secretary shall include in costs allocated to power, but to be returned without interest, such portion of the costs properly allocable to irrigation as are in excess of the irrigators' ability to repay, and all of the costs allocated to the transmountain division.

(c) The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance of those portions of the reimbursable costs which are properly allocable to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which this Act becomes effective, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue. If the interest rate so computed is not a multiple of one-eighth of 1 per centum, the rate of interest to be used for these purposes shall be the multiple of one-eighth of 1 per centum next lower than the rate so computed.

Sec. 204. Repayment of Reimbursable Cost Allocations.—(a) The costs of each feature allocated to commercial power or municipal and industrial water supply shall be repaid from the Development Fund to the General Fund of the Treasury within a period not exceeding 50 years from the date of completion of each such feature, with interest.

(b) The costs of each feature allocated to irrigation shall be repaid from the development fund to the general fund within a period not exceeding fifty years from the completion of each such feature, exclusive of any development periods authorized by the reclamation law, without interest.

(c) The costs allocated to the transmountain division shall be repaid from the development fund to the general fund, without interest, as rapidly as revenues accrue in the transmountain account after the costs referred to in paragraphs (a) and (b) have been repaid, and within such period of time as the Congress may specify in the authorization of construction of the transmountain division works.

Sec. 205. Rates and Charges for Services.—(a) The Secretary shall determine charges for the storage and delivery of water for irrigation, within the capacity of the irrigators' ability to pay, in accordance with the Reclamation Project Act of 1939, with proper adjustments for the repayment periods authorized by section 204.

(b) The Secretary shall determine rates and charges for electric power and energy, and for the storage and delivery of water for municipal and industrial use, in accordance with the Reclamation Project Act of 1939, with proper adjustments for the repayment periods authorized by section 204. Rates and charges for electric power and energy shall include such increments as are required, in the Secretary's judgment, to recover, without interest, costs allocated under section 203(b) to irrigation to the extent that such costs exceed the irrigators' ability to pay, and further increments, consistent with the fair value of the services, to be accumulated in the transmountain account in accordance with section 207(d) for repayment of the cost of construction of works that the Congress may hereafter authorize to import additional supplies of water into the Colorado River Basin.

Sec. 206. Contracts.—(a) The Secretary is authorized to enter into contracts for the storage and delivery of water, and repayment of the cost of works allocated to irrigation and municipal and industrial water supply, meeting the revenue requirements of section 205, in accordance with the Reclamation Project Act of 1939: *Provided*, That contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194; U.S.C. 485h(c)): *Provided further*, That contracts for the storage and delivery of water originating in the Colorado River system and diverted from the main stream of the Colorado River in the Lower Basin shall conform to section 5 of the Boulder Canyon Project Act.

(b) The Secretary is authorized to enter into contracts for the sale of electric power and energy, meeting the revenue requirements of section 205 in accordance with the Reclamation Project Act of 1939 as amended: *Provided*, That the period thereof, in the Secretary's discretion, may extend to fifty years, and may be accompanied by a right of renewal.

Sec. 207. Revenues To Be Credited to Development Fund; Disposition.—(a) There shall be paid into the development fund currently (1) all revenues collected in connection with the operation of facilities constructed under the authority of this Act (except entrance, admission, and other recreation user fees or charges and proceeds received from recreation concessionaires) and (2) all revenues from power operations at Hoover Dam and Parker-Davis projects which, after completion of capital repayments required by statute (which shall exclude allocations to flood control), are surplus to the operation, maintenance, and replacement requirements of those projects and not needed to reimburse the Upper Colorado River Basin fund (70 Stat. 105, 107) as provided in the Glen Canyon filling criteria (27 Fed. Reg. 6851) for any expenditures made from that fund to meet deficiencies in generation at Hoover Dam during the filling period of reservoirs of storage units of the Colorado River storage project.

(b) Revenues accruing to the development fund shall be available for annual appropriations for the operation, maintenance, and provision for replacement of the projects the construction of which is authorized by this Act.

(c) There shall be transferred from the development fund to the general fund of the Treasury, as of the close of each fiscal year, without further appropriation, that year's component of principal and interest, conforming to the payout schedule last reported by the Secretary to the Congress in conformity with section 208.

(d) Any balance remaining in the development fund at the end of a fiscal year, after satisfying the requirements of paragraphs (b) and (c), shall be transferred to the transmountain account in the development fund, to be accumulated and made available only for repayment of the cost of construction of projects that the Congress may hereafter authorize for the importation of supplemental water supplies into the Colorado River Basin. Balances in the transmountain account shall be invested in United States Government bonds, and the interest thereon shall be deposited in the transmountain account.

Sec. 208. Payout Schedules; Reports; Budgets.—(a) The Secretary of the Interior shall furnish to the Congress, not less frequently than once each fiscal year, a report on his operations under this Act, which shall include a payout schedule which shall show, with respect to each division, and cumulatively with respect to all divisions, (1) the capital invested, the amounts repaid, and the unrecovered balance thereof; (2) gross revenues to the development fund, received and anticipated for each year of the repayment period of each division and of each separable unit thereof, from power, from storage and delivery of water for municipal and industrial use, and for irrigation use, and gross revenues from other sources; (3) amounts received from increments to power rates and charges which have been credited to the repayment of capital allocated to irrigation, and credited to the transmountain account; (4) annual costs, historic and anticipated, of operation, maintenance, and replacements; (5) historic and anticipated net revenues; (6) installments paid and to be paid, of interest and of principal, from the development fund to the Treasury; (7) unpaid balances; and (8) sums in the transmountain account available for repayment of the cost of construction of projects to import supplemental water supplies into the Colorado River Basin.

(b) Business-type budgets shall be submitted to the Congress annually for all operations financed by the development fund.

### TITLE III. THE TRANSMOUNTAIN DIVISION

Sec. 301. Secretary of Interior Authorized to Investigate and Report.—(a) The Secretary of the Interior is authorized and directed to report to the Congress not later than three years after the effective date of this Act—

(1) his estimate of the long-range water supply available for consumptive use in the Upper and Lower Basins of the Colorado River, respectively;

(2) the water requirements in the upper and lower basins, at present and as estimated for the years anno Domini 1975, 2000, 2030, and under ultimate anticipated conditions;

(3) the present and anticipated deficiencies in water supply;

(4) the quantities of water which, imported into the Colorado River Basin, would eliminate the said deficiencies;

(5) the quantities of water which, imported into the Colorado River Basin, would make possible the consumptive use of 7.5 million acre-feet per annum in the upper basin, and eliminate present and anticipated deficiencies in the lower basin; and

(6) alternative sources from which water might be imported into the Colorado River Basin in the quantities found required under paragraphs 4 and 5, with preliminary plans of projects which would accomplish such importations, their capital and annual costs per acre-foot of water at stated points of delivery; recommendations for the construction of such projects in stages or phases related in size and time to the projected deficiencies, recommendations as to State participation in construction and operation; recommendations of methods for repayment of the costs of construction, operation, and maintenance of such projects; and recommendations, conforming to paragraph (b), for development of the water resources of the river basins from which such water would be imported, adequate to supply the ultimate requirements of the areas of origin of such water, in addition to supplying the quantities proposed to be imported into the Colorado River Basin.

(b) The planning of all such importation work shall be subject to the following conditions: (i) diversions shall be subordinate to all existing and anticipated future needs within the watersheds of origin, including the retention of water in the watersheds of origin if estimates of future needs prove insufficient; (ii) financial assistance from the development fund shall be available for the construction of any future projects in the watersheds of origin if such assistance is not otherwise provided; and (iii) additional costs of future projects, caused by the preemption of lower cost water sources which otherwise would benefit the areas of origin, shall be offset by assistance from the development fund to the extent that the costs chargeable to such projects would be no greater than if there had been no export to the Colorado River Basin.

(c) The Secretary shall consult the Pacific Southwest Regional Water Commission, created by title XI, and shall submit his report to the affected States, in the basins of origin as well as in the Colorado River Basin, for comment in accordance with the procedure required by section 1(b) of the Flood Control Act of 1944, prior to submission to the Congress.

Sec. 302. Authorization for Appropriations for the Investigation Authorized by Section 301.—The appropriation of not to exceed $5,000 000 is hereby authorized from the Development Fund for the purposes stated in section 301. This amount shall be nonreimbursable.

Sec. 303. Construction To Be Preceded by Further Authorization.—Construction of the works referred to in section 301 shall not be commenced unless and until the Congress shall authorize such construction and appropriate funds therefor. Such appropriations, if made, shall be in addition to the amounts authorized to be appropriated in this Act.

### TITLE IV—THE MAIN STREAM RESERVOIR DIVISION

Sec. 401. Authorization for Construction.—The Secretary of the Interior is authorized to construct, operate, and maintain:

(1) A dam in Bridge Canyon, on the main stream of the Colorado River in Arizona, more particularly described in the Bureau of Reclamation's "Supplemental Information Report of Bridge Canyon Project, Arizona, January 1964", adequate to impound water at a normal surface elevation of approximately one thousand eight hundred and sixty-six feet above sea level.

(2) A dam in Marble Canyon, on the main stream of the Colorado River in Arizona, more particularly described in "Supplemental Information Report on Marble Canyon Project, Arizona, January 1964", adequate to impound water at a normal surface elevation approximately three thousand one hundred and forty-three feet above sea level.

(3) Powerplants and appurtenant transforming, switching, and other facilities at each of such dams, of such characteristics and capacity as, in the Secretary's judgment, are best adapted to the comprehensive development of the power resources of the river.

(4) Transmission lines interconnecting Marble Canyon powerplant and Bridge Canyon powerplant with Hoover, Davis, Parker, Glen, and other Federal powerplants or systems, now in existence or hereafter authorized, of characteristics and capacity best adapted, in the judgment of the Secretary, to realize the optimum values of the interconnected powerplants on the Colorado River.

(5) Transmission lines to deliver power from the aforesaid interconnected Colorado River power system to project pumping plants and to major load centers.

Sec. 402. Disposition of Power.—(a) Power and energy generated at Bridge and Marble Canyon powerplants shall be made available, at cost, for pumping water into and in the central Arizona aqueduct, referred to in title V and into and in such aqueducts for the importation of water into the Colorado River Basin as the Congress may hereafter authorize as part of the transmountain division, referred to in title III. The project accounts shall show, as costs associated with the storage and delivery of water transported by each such aqueduct, respectively, the cost of production and delivery of power and energy so made available to that aqueduct, including appropriate pro rata shares of amortization, operation, and maintenance expense.

(b) Power and energy generated at Bridge and Marble Canyon powerplants in excess of the requirements of paragraph (a) shall be sold or exchanged by the Secretary of the Interior in accordance with the criteria stated in title II, at such points on the transmission system referred to in section 401 as may be agreed upon. The revenues therefrom shall be paid into the development fund.

Sec. 403. Authorization for Appropriation.—The appropriation of not to exceed $750,000,000 from the development fund is hereby authorized for the construction of the works authorized by this title.

### TITLE V—THE CENTRAL ARIZONA AQUEDUCT DIVISION

Sec. 501. Authorization for Construction.—The Secretary of the Interior is authorized to construct the central Arizona aqueduct and related facilities in Arizona and Nevada, as described more particularly in the Bureau of Reclamation's "Supplemental Information Report on Central Arizona Project, Arizona, January 1964," to divert not to exceed one million two hundred thousand acre-feet annually from Havasu Lake on the Colorado River, and consisting of the following principal elements:

(1) Pumping facilities on the main stream with a diversion capacity not to exceed one thousand eight hundred and ninety cubic feet per second.

(2) Granite Reef aqueduct, with a capacity not to exceed one thousand eight hundred cubic feet per second, from the vicinity of Havasu Lake on the Colorado River to the vicinity of Granite Reef Dam in the Salt River in Arizona, together with powerplants thereon.

(3) The Salt-Gila aqueduct, with a capacity not to exceed one thousand two hundred and seventy-five cubic feet per second, connecting the Granite Reef aqueduct with points in the Gila Valley, Arizona, and necessary pumping plants on that aqueduct.

(4) Maxwell Dam and Reservoir, with a capacity of approximately eight hundred and sixty thousand acre-feet, on the Salt River below its confluence with the Verde River, Arizona.

(5) Maxwell power and pumping plant, equipped to operate both as a power generating plant and as a pumping plant to pump water from Granite Reef into storage in Maxwell Reservoir.

(6) Tucson aqueduct, with powerplants thereon, to deliver not to exceed one hundred thousand acre-feet of Colorado River water from a point on the Salt-Gila aqueduct to the vicinity of Tucson, Arizona.

(7) Buttes Dam and Reservoir, with a capacity of approximately three hundred and sixty-six thousand acre-feet, on the Gila River in Arizona.

(8) Charleston Dam and Reservoir, with a capacity of approximately two hundred and thirty-eight thousand acre-feet, on the San Pedro River, Arizona.

(9) An aqueduct, with a capacity of approximately twelve thousand acre-feet annually, from San Pedro River and Charleston Dam and Reservoir to Tucson.

(10) Hooker Dam and Reservoir, with a capacity of approximately ninety-eight thousand acre-feet, on the Gila River in New Mexico.

(11) Transmission lines, connecting the Bridge-Marble powerplants with major pumping plants, on the central Arizona aqueduct.

(12) Transmission lines connecting power generating plants on the central Arizona aqueduct with major load centers.

Sec. 502. Seniority of Existing Water Rights Recognized.—(a) In the administration of article II(B)(3) of the decree of the United States Supreme Court in Arizona against California, all rights to the consumptive use of water to be diverted by or for the central Arizona aqueduct from the main stream of the Colorado River shall be junior to all of the following senior existing rights to waters of the main stream, including all present perfected rights: Rights of water users served under contracts with the United States by diversion works heretofore constructed, and decreed rights of Federal reservations, in Arizona and Nevada; and such rights in California to the aggregate annual consumptive use of four million four hundred thousand acre-feet of water of the main stream of the Colorado River.

(b) Shortages shall be first borne by the junior rights of users in Arizona served by the central Arizona aqueduct before any shortages shall be borne by any of the senior existing rights recognized above: *Provided*, That this section shall not affect the relative priorities, among themselves, of water rights in Arizona, California, and Nevada which are senior to rights served by the central Arizona aqueduct, or amend any provision of the decree of the Supreme Court of the United States in Arizona against California.

(c) All contracts entered into by the United States for the storage and delivery of water from the main stream to users in Arizona by means of the central Arizona aqueduct, and all regulations promulgated therefor, shall incorporate the provisions of this section.

Sec. 503. Imported Water.—(a) In the event that the Congress shall hereafter authorize the importation of water from other river basins into the Colorado River Basin, the United States shall have the right to satisfy any right to the use of water from the main stream of the Colorado River in the lower basin, in whole or in part, by the delivery of water so imported, in conformity with the conditions stated in paragraph (b) of this section. To the extent that rights senior to those served by the central Arizona aqueduct are thus satisfied, the Secretary may deliver water to or through that aqueduct which section 502 would otherwise require to be withheld and delivered to the holders of senior rights.

(b) The United States may satisfy any right to the use of water from the main stream of the Colorado River by the delivery of water not originating in the natural drainage basin of the Colorado River so long as, but only so long as, such imported water is delivered in conformity with each and all of the following conditions:

(1) Quantities of Colorado River water, and of imported water, in the aggregate, supplied to the water user shall be not less than the quantities of Colorado River water which that user is entitled to receive from the main stream under its contract with the United States, as defined or limited in the decree of the Supreme Court of the United States in Arizona against California;

(2) Cost of imported water to the water user shall not exceed cost of a like quantity of water to that user, if available and supplied from waters of the Colorado River main stream;

(3) Quality of imported water supplied to the water user shall not be inferior to that of water available to that user from waters of the Colorado River main stream;

(4) Point of delivery of imported water to the water user shall be at the point or points of delivery for Colorado River main stream water specified in the water user's contract with the United States, or at the water user's points of use; and

(5) Times of delivery of imported water shall be the same as those at which water would have been delivered to the user if supplied from waters of the Colorado River main stream under the water user's contract with the United States.

(c) If the importation of water into the Colorado River Basin makes available for release, as determined by the Secretary, sufficient water to satisfy annual consumptive use in Arizona, California, and Nevada in excess of seven million and five hundred thousand acre-feet, by means of diversions from the main stream, such excess shall be apportioned in like manner as is provided in article II(B)(2) of the decree of the Supreme Court in Arizona against California (373 U.S. 546 (1964)), notwithstanding that all or a portion of the waters constituting such excess may have originated outside the Colorado River Basin; but the restrictions stated in paragraph (b) shall not apply to such excess.

SEC. 504. LIMITATIONS ON SERVICE AREAS.—(a) Each contract under which water is furnished through the central Arizona aqueduct shall include provisions, adequate in the judgment of the Secretary, (1) to restrict the delivery of water to farms or ranches having a history of substantial irrigation prior to June 3, 1963, (2) to limit the total service area of projects to which such water is delivered, and (3) to prevent expansion of areas irrigated from aquifers replenished by projects receiving water from the central Arizona aqueduct.

(b) The Secretary is authorized to require as a condition in any contract under which water is provided through the central Arizona aqueduct that the contractor agrees to accept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream, but no such exchange or replacement shall require a contractor to bear any cost of said exchange or replacement water in excess of the costs that would have been incurred in connection with the continued use by the contractor of its existing supply, nor shall such exchange or replacement otherwise result in economic injury to the contractor.

SEC. 505. AUTHORIZATION FOR APPROPRIATIONS.—The appropriation of not to exceed $527,000,000 from the Development Fund is authorized for the construction of the central Arizona aqueduct and related facilities (including Hooker Dam project in New Mexico) as described in this title.

### TITLE VI—DIXIE DIVISION

SEC. 601. AUTHORIZATION FOR CONSTRUCTION.—The Secretary of the Interior is authorized to construct, operate, and maintain the Dixie project, Utah, herein referred to as the Dixie division. The division shall consist of the Virgin City Dam and Reservoir, tunnels, canals, siphons, pumping plants, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Virgin River; a dam on the Santa Clara River near Gunlock, Utah, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Santa Clara River and on Ivins Bench; and hydroelectric plants and transmission facilities at the Virgin City Dam and at such other points as are desirable. The area of lands not having a previous history of irrigation to be included in the division shall not exceed twelve thousand acres. The Dixie division shall be coordinated with the Cedar City water development program which includes the diversion of the waters of Crystal Creek into the Kolob Reservoir, and after completion of the Dixie division said waters of Crystal Creek and of the natural watershed of said Kolob Reservoir shall be exported for use of Cedar City and vicinity in accordance with an agreement entered by Cedar City and Iron County, Utah, on the 26th day of August 1953, with Kolob Reservoir and Storage Association, Incorporated, and Washington County, Utah.

SEC. 602. SALINE WATERS.—The Dixie division shall include such facilities for the disposition of saline waters of La Verkin Springs as are necessary in the opinion of the Secretary to insure the delivery of water at downstream points along the Virgin River for water users in the States of Arizona and Nevada of suitable quality for irrigation, or provision shall be made to indemnify such water users for any impairment of water quality for irrigation purposes directly attributable to Dixie division operations.

SEC. 603. REQUIREMENT FOR CONSERVANCY DISTRICT.—Construction of the Dixie division shall not be commenced until there shall be established a conservancy district or similar organization with such powers as may be required by the Secretary, these to include powers to tax both real and personal property within the boundary of the district and to enter into contracts with the United States for the repayment of reimbursable costs.

SEC. 604. AUTHORIZATION FOR APPROPRIATIONS.—There is hereby authorized to be appropriated not to exceed $45,000,000 for the construction of the works authorized by this title.

### TITLE VII.—SOUTHERN NEVADA DIVISION

SEC. 701. SOUTHERN NEVADA WATER SUPPLY PROJECT AUTHORIZED.—The Secretary of the Interior is authorized to construct the southern Nevada water supply project, Nevada, substantially as described in the Bureau of Reclamation's "Supplemental Information Report on Southern Nevada Water Supply Project, Nevada, January 1964", subject to additions the cost of which shall not exceed $9,000,000.

SEC. 702. CONTRACT WITH COLORADO COMMISSION OF NEVADA REQUIRED.—The Secretary is authorized to enter into a contract or contracts with the Colorado River Commission of Nevada, acting for the State of Nevada, whereby the United States will store and deliver water to the commission pursuant to section 5 of the Boulder Canyon Project Act for use by the southern Nevada water supply project, and that commission will operate and maintain the project, and obligate itself to repay to the United States the reimbursable portion of the construction cost thereof. Such contract shall recognize such priorities among users as are provided for in the laws of Nevada. Construction shall not commence until the contract or contracts authorized by this section have been executed.

SEC. 703. AUTHORIZATION FOR APPROPRIATIONS FOR CONSTRUCTION OF SOUTHERN NEVADA WATER SUPPLY PROJECT.—The appropriation of not to exceed $81,000,000 is hereby authorized for the construction of the southern Nevada water supply project.

SEC. 704. MOAPA VALLEY PUMPING PROJECT AUTHORIZED.—The Secretary of the Interior is authorized to construct, operate, and maintain the Moapa Valley pumping project, Nevada, substantially as described in the Bureau of Reclamation's "Supplemental Information Report on Moapa Valley Pumping Project, Nevada, January 1964". The area of lands not having a previous history of irrigation to be included in the project shall not exceed six thousand acres.

SEC. 705. AUTHORIZATION FOR APPROPRIATIONS FOR CONSTRUCTION OF MOAPA VALLEY PUMPING PROJECT.—The appropriation of not to exceed $12,000,000 for construction of the Moapa Valley pumping project is hereby authorized: *Provided*, That no money, other than for completion of investigations and preparation of a feasibility report, shall be expended for the construction of the project until sixty days after the Secretary shall have submitted to the Congress a report showing that the project is feasible from an engineering and economic viewpoint, and that the reimbursable costs, in his judgment, will be repaid to the United States in conformity with this Act.

### TITLE VIII—CONSERVATION DIVISION

SEC. 801. AUTHORIZATION FOR CONSTRUCTION, OPERATION, AND MAINTENANCE.—The Secretary of the Interior is authorized to construct, operate, and maintain necessary facilities for the salvage of water on the main stream in the lower basin, including, but not limited to, river channelization, the Senator Wash Reservoir, ground water recovery facilities, and phreatophyte eradication and control, substantially as described in the Bureau of Reclamation's "Supplemental Information Report on Water Salvage Projects—Lower Colorado River, Arizona-California-Nevada, January 1964".

SEC. 802. AUTHORIZATION FOR APPROPRIATIONS.—The appropriation of not to exceed $42,000,000 is hereby authorized from the development fund for the construction of the ground water recovery facilities, and for phreatophyte eradication and control, authorized by section 801. This sum is in addition to authorizations heretofore enacted for the appropriation of approximately $35,000,000 for river channelization and of approximately $8,700,000 for construction of Senator Wash Reservoir.

SEC. 803. CANAL LINING.—The Secretary is authorized to enter into contracts with water users served by canals heretofore constructed, to finance from the development fund the lining of such canals and the installation of other water conservation works, on terms mutually satisfactory to the Secretary and the water users affected with respect to the disposition of the conserved water, and for reimbursement of the cost thereof in accordance with the criteria stated in this Act.

SEC. 804. STUDY AND RESEARCH.—It is the intention of the Congress that accelerated and coordinated programs of investigation, study, research, and planning shall be undertaken to further the purposes of this Act, including, but not limited to, potential sources of additional imported supplies of water, conversion of saline and brackish waters, canal sealants, evaporation reduction, weather modification, waste water renovation, general hydrology, water quality and waste management, water salvage, and fish and wildlife research. The Secretary, in cooperation with the States and with the Pacific Southwest Regional Water Commission, shall maintain a continuing review of the hydrology of the Colorado River, ground water pumping, and projections of future water supply and demand in the region, and report annually thereon to the Congress.

### TITLE IX—FISH AND WILDLIFE AND RECREATION DIVISION

Sec. 901. Consumptive Use of Water for Protection of Fish and Wildlife.—The Secretary of the Interior is authorized to construct, operate, and maintain facilities for the utilization by the Havasu Wildlife Refuge and the Imperial National Wildlife Refuge, in accordance with article II(D) (8) and (9) of the decree of the United States Supreme Court in Arizona against California (373 U.S. 546 (1964)), of the quantities of water therein authorized to be diverted or consumed, whichever is less, upon the lands therein identified, and for the purposes stated in Executive orders creating or regulating those refuges issued prior to June 3, 1963.

Sec. 902. Additional Fish and Wildlife Facilities.—The Secretary is authorized and directed to submit to the Congress his report and recommendation for further fish and wildlife conservation measures in the lower basin of the Colorado River, to be undertaken either by the United States or agencies of the States, with proposed methods of financing them, and a statement of the quantities of consumptive use of water involved by each, and methods of supplying such water.

Sec. 903. Recreation Facilities.—The Secretary is authorized to construct, operate, and maintain, as part of the projects authorized by this Act, public recreation facilities, including access roads; to acquire or to withdraw from entry or other disposition under the public land laws such adjacent lands or interests therein as are necessary for present and future public recreation use; and to provide for public use and enjoyment of the same and of the water areas of the project. All of these undertakings shall be coordinated with the other project purposes. The Secretary is authorized to enter into agreements with State or local public agencies or other public entities for the operation, maintenance, or additional development of project lands or facilities or to dispose of project lands or facilities to State or local agencies or other public entities by lease, transfer, exchange, or conveyance, upon such terms and conditions as will best promote their development and operation in the public interest for recreation purposes.

Sec. 904. Authorization for Appropriation.—The appropriation of not to exceed $6,000,000 is hereby authorized for acquisition of lands and water rights, and construction of works, authorized by this title. Annual appropriations for operation, maintenance, and provision for replacements of such works, are hereby authorized. The amounts so expended, together with an appropriate share of joint costs of projects in which works authorized by this title are included, shall be nonreimbursable.

### TITLE X—MAIN STREAM INDIAN RESERVATIONS

Sec. 1001. Declaration of Policy.—The Congress declares its intention to make water available when and as needed by those Indians who reside or may hereafter reside on the Chemehuevi, Cocopah, Yuma, Colorado River, and Fort Mohave Indian Reservations, in the quantities which article II(D) of the decree of the United States Supreme Court in Arizona against California (373 U.S. 546 (1964)), directs shall be released for use on those reservations. The availability of water for use by non-Indians for the reclamation of lands on said reservation not having a history of substantial irrigation prior to June 3, 1963, shall be subject to the conditions stated in sections 1002 and 1003.

Sec. 1002. Further Leases to Non-Indians for the Irrigation of Desert Lands Prohibited Until Supplemental Water Is Imported Into the Colorado River Basin; Compensation to Indians.—(a) The Secretary of the Interior shall postpone the execution of further leases which would result in the reclamation or irrigation of lands on the Chemehuevi, Colorado River, or Fort Mohave Indian Reservations which do not have a history of substantial irrigation prior to June 3, 1963 (except lands to be occupied by Indians), until such time as he shall determine that works have been constructed to import into the Colorado River Basin, and are delivering, sufficient water to enable the release of main stream water, thus augmented, to satisfy on a permanent basis not less than the seven million five hundred thousand acre-feet of annual consumptive use in the States of Arizona, California, and Nevada, which is apportioned by articles II(B)(1) of the decree of the United States Supreme Court in Arizona against California (373 U.S. 546 (1964)).

(b) During such time as paragraph (a) is operative, the Secretary of the Interior shall pay currently out of the development fund into the Indian funds in the Treasury into which the postponed lease rentals would be payable, amounts equal to the sum of—

(i) the fair annual rental value of all lands on the reservation in his opinion reasonably capable of irrigation, but which he is prevented from leasing by the operation of paragraph (a), including the value of the use of water thereon, to the full extent of the decreed quantities of consumptive use as if works had been constructed to put such water to use, plus

(ii) appropriate annual installments of the cost of reclaiming said lands and preparing them for irrigation, including the cost of distribution works, plus

(iii) $1 per acre-foot of the decreed quantities of consumptive use.

Sec. 1003. Payments for the Benefit of Indians for Interim Use by Others of Water Decreed to Indian Reservations.—(a) Until such time as main stream water, decree for use on Indian reservations, is determined by the Secretary to be needed for use by Indians residing on those reservations, the Secretary is authorized to temporarily lease to holders of Federal water storage and delivery contracts in the same State the use of so much water as is surplus to the requirements of the Indians, on the following conditions:

(1) The lease shall be subject to termination, without compensation to the lessee, on twelve months' notice, and

(2) The compensation payable by the lessee shall be whichever of the following amounts is determined by the Secretary to be the greater: (i) an amount determined in accordance with section 1002(b), or (ii) the annual value of the consumptive use of that same quantity of water at the place of actual use, plus $1 per acre-foot of consumptive use. Amounts so collected by the Secretary shall be paid into the same funds into which the rentals of lands on the several reservations are payable, and credited against the payments required by section 1002(b).

(b) The Secretary is authorized to enter into supplemental agreements with the non-Indian holders of existing leases on the Indian reservations named in section 1001, whereby the Secretary is empowered to suspend, on twelve months' notice, the right of such lessees to use water for the irrigation of lands not having a history of substantial irrigation before June 3, 1963, until the condition stated in section 1002(a) has been met, paying agreed compensation to the lessees.

(c) In the event of suspension as provided in paragraph (b), the Secretary shall pay into the same funds into which the revenues of the canceled leases were payable for the benefit of the Indians, amounts equal to those revenues, plus the amounts, if any, which the lessees were required by their leases to expend in the reclamation of the leased land, including construction of distribution works during the period of suspension, plus $1 per acre-foot of consumptive use. Such payments shall not be diminished by the amounts that the Secretary may be required to pay the lessees under paragraph (b) of this section.

(d) Payments into Indian funds made under sections 1002(b) and 1003(c) shall be available for expenditure by the Secretary for the reclamation of lands on the respective reservations, including construction of distribution works, without further appropriation, as soon as the condition stated in section 1002(a) has been met.

Sec. 1004. Review of Secretary's Determination of Amounts by the Court of Claims; Accounting for Payments Made for the Benefit of Indians.—(a) If the governing body of the Indians resident on any such reservation is dissatisfied with the revenues to accrue for the benefit of said Indians pursuant to any detremination made by the Secretary under this title, it may sue in the Court of Claims for the determination of the proper amounts, and jurisdiction is hereby conferred upon the Court of Claims to hear and adjudicate such suits.

(b) Payments made pursuant to this title shall be accounted for as costs which are allocated to irrigation but are to be repaid out of power revenues, as provided in section 203(b).

Sec. 1005. Authorization for Appropriations.—The appropriation from the development fund of not to exceed $10,000,000 is hereby authorized for the purpose of this title.

### TITLE XI—PACIFIC SOUTHWEST REGIONAL WATER COMMISSION

Sec. 1101. Commission Created.—(a) There is hereby created the Pacific Southwest Regional Water Commission (hereinafter referred to as the "Commission") composed of members to be appointed as follows:

(1) The Secretary of the Interior, or a deputy appointed by him, who shall serve as Chairman.

(2) One member representing each of the seven States of the Colorado River Basin and each State in each river basin from which water would be imported into the Colorado River Basin under any plan for importation reported by the Secretary to Congress under title III, each member to be appointed by the Governor of the State.

(3) One member appointed by and representing each of the Secretaries of State; Agriculture; the Army; Health, Education, and Welfare; and the Federal Power Commission.

The compensation of each member shall be paid by the entity appointing him.

(b) The functions of the Commission shall be to—

(1) serve as the principal agency for the coordination of further Federal, State, interstate, and local plans for the conservation, augmentation, and beneficial utilization of the water and related land resources of the Pacific Southwest;

(2) coordinate with State and Federal agencies the preparation of a comprehensive, coordinated, joint plan for the further Federal, State, interstate, and local development of the water and related land resources of the region: *Provided*, That the plan may include alternatives and it may be prepared and submitted in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) advise and counsel the appropriate Federal and State agencies on such studies of water resources and related land resources in the region as are necessary in the preparation of the plan prescribed in clause (2) of this subsection.

(c) In carrying out the provisions of this Act, the Commission may—

(1) employ and compensate such personnel as it deems advisable;

(2) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(3) acquire, furnish, and equip such office space as is necessary;

(4) accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and services from any State or the United States or any subdivision or agency thereof, or intergovernmental agency, and receive, utilize, and dispose of the same; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this section.

(d) The Commission shall determine the proportionate share of its expense which shall be borne by the Federal Government and each of the States. The Commission shall prepare a budget annually and transmit it to the Federal departments and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Secretary of the Interior under the Budgeting and Accounting Act of 1921, as amended, and may include an amount for advance to the Commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated or otherwise received by the Commission shall be credited to the Commission's account in the Treasury of the United States.

Sec. 1102. Authorization for Appropriations.—The appropriation of not to exceed $500,000 annually as the Federal contribution to the operating expenses of the Commission is hereby authorized. Sums so appropriated shall not be reimbursable.

### TITLE XII—GENERAL PROVISIONS APPLICABLE TO THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF ALL WORKS AUTHORIZED BY THIS ACT

Sec. 1201. Reclamation Laws.—This Act shall be deemed a supplement to the reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), which shall govern the construction, operation, and maintenance of all works authorized by this Act, except as otherwise specifically provided.

Sec. 1202. Definitions.—As used in this Act:

(a) "Pacific Southwest" and "region" shall mean the drainage basin of the Colorado River in the United States from Lee Ferry to the lower Mexican border, plus California counties (i) in which Colorado River waters are presently used and (ii) from which waters may be exported by works constructed under title III.

(b) "User" or "water user" in relation to Colorado River main stream water means a person or legal entity having a right pursuant to the Boulder Canyon Project Act or other applicable Federal law to use main stream water when available under the decree of the Supreme Court of the United States in Arizona against California (373 U.S. 546 (1964)).

(c) All terms defined in article I of the said decree of the United States Supreme Court shall have the meanings there defined when used in this Act.

Sec. 1203. Secretary Required To Conform to Law of the River; Consent to Suit.—(a) In the storage and delivery of water originating in the Colorado River Basin, the Secretary is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the treaty with the United Mexican States, and the decree of the United States Supreme Court in Arizona against California (373 U.S. 546 (1964)), and to comply with the laws of the States in which water is distributed insofar as the laws of these States respectively relate to use and distribution of water therein, including intrastate priorities. In the event of the failure of the Secretary of the Interior to so comply, any affected State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section and consent is given to the joinder of the United States as a party in such suits, as a defendant or otherwise.

(b) Nothing in this Act shall be construed to alter, amend, interpret, or modify any provisions of the laws, treaty, compacts, or the decree referred to in paragraph (a).

## ESTABLISHMENT OF NATIONAL ECONOMIC CONVERSION COMMISSION—ADDITIONAL COSPONSOR OF BILL

Mr. McGOVERN. Mr. President, President Johnson's announcement on Monday of a 40-percent cutback in the production of nuclear weapons material should be welcome news to all Americans concerned over the excessive cost of the cold war.

Without weakening the military strength of the Nation in any way, the cutback announced by the President will save the taxpayers several hundred million dollars. Perhaps even more significant, it may mean a further reduction in the tensions that threaten the peace of the world.

Last August 2, I suggested to the Senate that our nuclear stockpile was then so large that we could place a 10-ton bomb at the head of every man, woman, and child in the world. I asked how we could justify spending more money to add to this stockpile, while postponing action on other urgent needs.

The reduction in nuclear production announced by the President on Monday may possibly mean hardship for some of the workers and communities that depend on weapons production for their income.

It was in recognition of that possibility that I introduced the bill on October 31 (S. 2274) to establish a National Economic Conversion Commission, and for other purposes. Such a commission would lessen the fear of reductions in the production of weapons that are not necessary to our national security.

Mr. President, 10 Senators have joined in cosponsoring that legislation. Some 25 Members of the House of Representatives have since introduced identical bills. I ask unanimous consent that at the next printing of the bill (S. 2274) the name of the junior Senator from Maryland [Mr. Brewster] be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COLLEGE STUDENT ASSISTANCE—ADDITIONAL COSPONSOR OF BILL

Mr. HARTKE. Mr. President, 20 Senators have joined with me since its introduction, on February 3, in cosponsoring the Hartke college student assistance bill, S. 2490. I am most pleased to make a request for unanimous consent that 1 more name, that of the Senator from California [Mr. Engle] be added to bring the list to 21, and I ask unanimous consent that his name be added at the next printing of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## AMENDMENT OF INTERNAL REVENUE CODE RELATING TO DEDUCTION BY TEACHERS OF CERTAIN EDUCATIONAL EXPENSES—ADDITIONAL COSPONSOR OF BILL

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of Senator Burdick may be added at the next printing of my bill S. 2609, which provides a uniform method of entitlement for tax deductibility on educational expense incurred by teachers in continuing educational programs for professional skills.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, April 22, 1964, he presented to the President of the United States the following enrolled bills:

S. 1565. An act to amend the act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 406, 407), with respect to the sale of Indian timber;

S. 1931. An act to provide that the United States shall hold certain land in trust for the members of the Alamo Band of Puertocito Navajo Indians;

S. 2111. An act to fix the beneficial ownership of the Colorado River Indian Reservation located in the States of Arizona and California; and

S. 2279. An act to authorize the transfer of the Piegan unit of the Blackfeet Indian irrigation project, Montana, to the landowners within the unit.

## I REPEAT: SHALL WE DISCRIMINATE AGAINST OUR FELLOW AMERICANS? — THREE-PERCENT LOANS AT HOME VERSUS THREE-QUARTERS OF 1 PERCENT ABROAD

Mr. GRUENING. Mr. President, one question which will greatly interest and concern all Americans is whether the "double standard"—the difference between the treatment accorded the people in foreign lands and that accorded our fellow Americans, to the disadvantage of our own people—will prevail. The issue is brought into sharp relief by the unprecedented and unequaled disaster which has struck our citizens in Alaska. In the current discussion of what Federal assistance may be rendered to the victims of "one of the great earthquakes of all time," the question of grants and loans to the victims is under consideration. In our U.S. foreign aid program, now in excess of $100 billion since its inception we have been lavish with grants—outright gifts.

These outright grants to both the public and private sector exceed tens of billions of dollars. They have gone to the people of Europe, Central America, South

America, Asia, Africa, and Oceania. In the matter of loans, we have granted them to farflung peoples all over the globe to the tune of over $1½ billion on a 40-year basis, with a 10-year postponement of principal and interest payments, and then an interest rate of three-quarters of 1 percent for the next 30 years. When the question of these generous terms to foreign borrowers came up in the Congress during last year's debate on our AID program the administration insisted these terms were absolutely essential and they were retained.

Yet in the discussion about the rehabilitation of the canneries, fishing boats, stores, warehouses, and so forth, destroyed in Alaska by earthquake and tidal wave, we are told by administration spokesmen that far less generous terms are in order.

I placed in the CONGRESSIONAL RECORD yesterday a letter which I have written to Hon. Eugene Foley, able Administrator of the Small Business Administration. The Disaster Loan Act makes it possible to make loans "at not to exceed 3 percent." Mr. Foley has proposed to make disaster loans to Alaskans ruined by the quake at that maximum figure. As a concession, he has been willing to stipulate that there shall be no payment of principal for 5 years and no payment of interest for the 1st year. However, note the contrast between these terms for our own people and what we have been doing and continue to do abroad.

I have requested Mr. Foley to make loans to the victims of the Alaska earthquake and subsequent tidal waves on the terms we have accorded the people of foreign countries. He has the power to do so under the Disaster Loan Act. Nothing in the act prohibits his fixing the interest rate at three-quarters of 1 percent.

I shall continue to raise the question of why the people of a hundred foreign lands who have suffered no disaster such as has befallen our fellow citizens in Alaska can receive grants and loans at a rate much lower than our own citizens are afforded.

Earlier I referred to the Alaska disaster as "one of the greatest earthquakes of all times." This is not my definition of this unprecedented calamity. It is that of scientists—seismologists, geodesists, and geologists—now meeting in Washington. Their views are reported in an article which appears in today's New York Times. This definition of the Alaskan disaster as "one of the greatest earthquakes of all times" comes from Dr. Frank Press, director of the seismological laboratory of the California Institute of Technology.

The article points out that various areas of Alaska have been lifted several feet, and that other areas have been lowered by that amount. The diverse destructive consequences to the areas so affected are far reaching, disastrous.

Yet we are here haggling and niggling over the terms of our Federal assistance to our stricken fellow Americans. No such attitude prevails in connection with our foreign aid program. It is high time to abolish this double standard.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRUENING. I ask unanimous consent to continue for 1 minute.

Mr. HUMPHREY. Mr. President, I must object. We will have to adhere to the 3-minute rule. I have had some complaints about the extension of time for the first hour.

Mr. GRUENING. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

Mr. HUMPHREY. I must object.

The ACTING PRESIDENT pro tempore. Objection has been heard.

Mr. GRUENING. Mr. President, I regret very much that when we are dealing with a calamity that has befallen our own people a Member of this body is denied 1 minute to finish his statement.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STENNIS. Would not the rule primarily apply to taking 3 minutes for the second time?

Mr. GRUENING. I am merely asking unanimous consent for 1 additional minute.

Mr. HUMPHREY. I do not like to object, but I must.

Mr. GRUENING. Mr. President, I ask unanimous consent that the article headed "Alaska Coastline Shifted by Quake," with the subhead "One Area Was Lifted While Another Was Depressed," from the New York Times of today, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 22, 1964]

### ALASKA COASTLINE SHIFTED BY QUAKE—ONE AREA WAS LIFTED WHILE ANOTHER WAS DEPRESSED

(By Walter Sullivan)

WASHINGTON, April 21.—As much as 12,000 square miles of the earth's surface appears to have been lifted from 3 to 8 feet by last month's Alaskan earthquake, it was reported today.

A comparable area, to the northwest of a "hinge line," subsided, permanently altering parts of the coast.

Wavelike motions of the earth were so farflung that, in Texas, the city of Houston bobbed up and down almost 5 inches. Water slopped out of swimming pools and swished back and forth in harbors, breaking ship moorings.

Furthermore, the piston-like motion of the earth, up and down, created atmospheric waves that were detected in many parts of the world. In Georgia, water levels in wells pumped up and down 10 to 20 feet.

These effects of the March 27 quake were described at the annual meeting of the American Geophysical Union, being held here this week.

Dr. Frank Press, director of the seismological laboratory of the California Institute of Technology, called it "one of the great earthquakes of all time."

Dr. Press recently returned from a tour of the quake area. He confirmed the dramatic uplift of a vast region, reported to the meeting by Arthur Grantz of the U.S. Geological Survey. The remarkable thing, they said, was that communities suffering the most radical uplift were little damaged.

Thus the town of Cordova is 6 to 8 feet higher than it was before the quake. Yet its buildings suffered comparatively little.

Middletown Island, well out to sea, was similarly lifted out of the water. On the other hand the coastal areas of the island have subsided about the same amount.

Dr. Jean Claude de Bremaeck of Rice University in Houston said little damage had been done by the bobbing motion there because it had been so slow. The wave crests passed at 15-second intervals.

However, in Corpus Christi, he said, a 650-ton foundation was reportedly moved 4 inches.

Early reports of "tidal waves" in the Gulf of Mexico were dismissed by some scientists as unlikely. What actually ocurred appears to have been a series of seiches.

These are slopping motions set up in an enclosed body of water. They occur where there is a resonant relationship between some subtle wave stimulus—in the air or in the earth—and the size of the water body. The effect is comparable to that whereby small shoves, property timed, can set a swing into motion.

Participants in today's session pointed out that the great earthquake that occurred in Assam, India, in 1950 produced seiches in the North Sea area of Europe.

Mr. Grantz said the chief damage occurred were homes and installations that had been built on unstable ground. He noted that much of the Alaskan coast was precipitous, and that ports therefore had been built, in many cases, on river deltas. In some cases the ocean floor off the deltas slopes at a 30° angle.

Consequently, when the quake occurred, entire waterfronts slipped out to sea in gigantic submarine landslides.

This was what occurred to about a mile of shoreline in Seward and a large part of Valdez. The waterfront of Whittier apparently sank as though on an elevator.

The heaviest damage was in that part of Anchorage built on a formation known as "Bootlegger Cove clay," which is 400 feet thick. When jostled by long-period waves, it compacted, dropping the surface level abruptly.

The cleavage of the earth's crustal rocks is thought to have begun at a point near the head of Prince William Sound, almost midway between Anchorage and Valdez. The crack then raced southwest at lightning speed.

Mr. Grantz said specialists from the Geological Survey would make recommendations for relocation of the harbors that were swept out to sea in an effort to avert a repetition.

No evidence of the crack itself has been found on land, possibly because snow fell before a thorough search could be made.

However, the California Institute of Technology and others have set up seismic stations to record the continuing aftershocks in an effort to pin down the line of cleavage.

Its offshore segment seems to lie between the Aleutian Trench, a deep cleft in the ocean floor paralleling the coast, and the mountainous zone extending from the Chugach Mountains, through the Kenai Peninsula and Kodiak Island.

An aerial survey showed that ice in frozen lakes over a region of 100,000 square miles was cracked and buckled by the quake. However, no change in Alaska's many volcanoes has been reported.

Photographs were shown illustrating how "swashes" of water, produced by seiches and seismic water waves, swept up shorelines to heights as much as 200 feet above sea level, doing extensive damage.

One member of the audience noted that, even as far away as Iran the surface of the earth moved up and down a third of an inch as the Alaskan waves passed.

## THE INTERFACE OF LAW AND THE BEHAVIORAL SCIENCES

Mrs. NEUBERGER. Mr. President, the relationship between mental illness and crime has evoked much discussion recently among members of the medical and legal professions. One of the most thoughtful participants in this dialog is the distinguished Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit, the Honorable David L. Bazelon. Some of the questions which face lawyers and psychiatrists in dealing with mentally sick or retarded criminals were discussed by Judge Bazelon when he delivered the Lowell Institute lecture at Massachusetts General Hospital in Boston, on February 26, 1964.

Even though it is longer than usual, I ask unanimous consent that this analysis of an acute problem of American society be printed in the RECORD.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

### THE INTERFACE OF LAW AND THE BEHAVORIAL SCIENCES

(The Lowell Institute lecture by David L. Bazelon, Chief Judge, U.S. Court of Appeals for the District of Columbia Circuit, Massachusetts General Hospital, Boston, Mass., February 26, 1964)

In recent years I have been invited a number of times to talk with behavioral scientists in a variety of specializations. I sometimes wonder why they want to hear from a judge. Behavioral scientists are generally thought to have a rather stereotyped picture of the law, particularly the criminal law. They tend to see it as an arid, inhuman discipline, fully justifying the castigation of Jonathan Swift when he said: "It is a maxim among these lawyers that whatever has been done before may legally be done again; and therefore they take special care to record all the decisions formerly made against common justice and the general reason of mankind. These, under the name of precedents, they produce as authorities."

I suppose the invitations I receive have something to do with the fact that my name appears on an opinion which did break with precedent. I refer, of course, to the decision of our court in *Durham* v. *United States* regarding the instruction to the jury upon the defense of insanity in criminal cases. In that case we substituted for the archaic, but still widely accepted M'Naghten rules, a test of criminal responsibility which is at once broader and simpler. For present purposes, we may say that under M'Naghten a defendant may not be acquitted by reason of insanity unless a mental disorder precluded his knowing right from wrong. Durham held that an accused person is not criminally responsible if his act was the product of a mental disease or defect.

It seems that many psychiatrists, social workers, and other behavioral scientists believe that the Durham decision was a fine thing, and that it has either solved the problem or is about to. I do not see it this way. It seems to me that the favorable attitude of psychiatry toward the Durham decision reflects a deep, even traditional, distaste for the M'Naghten rules—a distaste perhaps stemming in part from psychiatrists' feeling that the rules are administered against them in their infrequent appearances in court as expert witnesses. But it is not enough to be against M'Naghten. I had hoped that with a new test psychiatrists would help to develop a better understanding. I am convinced that one of the real benefits of the Durham decision is that it brought to the surface—it exposed—deep and perplexing problems in the administration of criminal justice. It sparked a degree of awareness of, and interest in, a vast range of subtle and complex issues which have long been hidden from view. After a decade of experience with Durham the pervasive scope and difficulty of what may be called the post-M'Naghten problems remain, they remain in psychiatry as well as law—and at both pragmatic and moral levels.

I gladly note that the unwarranted expectations of Durham are undergoing modification, even by psychiatrists. This is evidenced by a stimulating letter I received from a psychiatrist who asked me to consider the effect that a general acceptance of Durham would have on society. He thus recognized that this formulation of the insanity defense has to date been largely rejected outside the District of Columbia. Significantly, he did not ask me to consider the effect acceptance of Durham will have on society. He revealed a measure of judiciousness which I found attractive. He wanted to know how a general acceptance of Durham would affect society, and I wanted to know how an all-out effort at treatment of offenders would affect both the offenders and society.

It was apparent that we were both under the spell of the interdisciplinary cult, for he, a doctor, was interested in the legal-philosophical issue—while I, a judge, was concerned with the medical-practical aspects of the matter. This is the kind of thing so often encountered at the "interface of law and the behavioral sciences."

The recurrent problem at the interface, the one we rarely get beyond in the courtroom, can be put this way: Which of us, lawyer or psychiatrist, has primary responsibility for determining the issue of responsibility? Who is responsible for responsibility? I call this the "football question"—we make a football of the question of criminal responsibility, and kick it back and forth between our professions, without either side making much "yardage." The medical witness says to the lawyer, "What do you mean, 'responsible'; what does Durham mean by 'product'; what does 'knowing right from wrong' mean in M'Naghten? I am not a moral philosopher, I am a doctor." The lawyer, appearing to be insulted, then says, "But doctor, all I want to know is whether the man is sick or not; and if he is, how sick. And incidentally, I am not a moral philosopher either—I am just a lawyer."

All this despite the fact that, on the face of it, the so-called insanity defense would seem a simple thing: The law merely inquires whether or not the accused was legally "insane" at the time of the alleged criminal act. If he was, he cannot be convicted, though he pulled the trigger, or took the money. The difficulty is that "insane" is not a medical term. It is a conclusory legal term. Though doctors do not use it out of court—and, parenthetically, should refuse to use it in court—lawyers seldom use it without reference to a medical opinion.

Though the law wants a medical opinion, it requires something more. Too many doctors have undertaken to supply this "something more," and so have compounded the confusion between the role of the psychiatrist and that of the judge and jury. They have gone beyond their professional competence without admitting it to themselves or anyone else.

All formulations of the insanity defense, all the various ritualistic wordings of the instruction to the jury—whether M'Naghten, Durham, the suggested rule of the American Law Institute, or the test formulated by Chief Judge Biggs in the Currens case—require a response to one basic question: Is the defendant mentally ill, and is there a connection between the state of mind and the commission of the act? The differences among these various rules are largely in the "help" they seek to offer the jury in digesting medical testimony—in deciding how sick is sick enough, how close a causal connection is close enough. Durham is the simplest of the rules in that it asks only whether the defendant was mentally ill or defective, and whether there was a substantial causal relation between the mental disorder and the doing of the act. It leaves the expert testimony on the issue, along with the factor X of responsibility, for decision by the jury. The jury is thus both the trier of fact and the moral philosopher. Having kicked the ball to the laymen, the professionals are pleasantly at rest.

Durham not only provides the broadest possible vehicle for expert testimony; it also allows the jury a correspondingly wide latitude in making a decision which involves both the fact of illness and the factor of responsibility—and it has been criticized for doing exactly this. Yet in our society the facts which show illness are not enough to excuse a man, that is, to insure him treatment for illness instead of punishment. They are not enough even for many doctors, including those who are genuinely perplexed when asked about the relation between a particular state of illness and a particular act.

How many times have I asked myself, Why is mental illness not enough to insure treatment instead of punishment, and what is the factor X that must be added to it to exempt a man from punishment?

I think the key to the problem lies in the definition of illness. It seems to me that responsibility is usually a statement of what we expect from the individual. In a criminal case, this statement is always made at the point where we realize that our expectation has not been met and we have some light from expert testimony as to why it was not met.

But that is not enough for us. It seems that we cannot abandon the expectation merely because of the facts. That is partly because we often cannot define illness, particularly mental illness, satisfactorily. We define illness by relation to a norm of health. There is no absolute illness and no absolute health. There is, instead, a norm of health—a range—and illness is merely a failure to attain or maintain the norm. This norm of health which carried with it expectation of normal conduct, usually results from a social decision. It is essentially cultural. It is based on historical consensus, rather than rational deduction. The standard of mental disorder is a socially accepted, one might almost say statistical, compromise between ineluctable expectations and inescapable facts.

One of the deeper objections to Durham—as to any serious thought about an insanity defense and criminal responsibility—is the fear or belief that "all offenders are sick." It is said that if you accept Durham, or if you think "in that way," the purpose of the criminal law is undermined, for all criminals are sick and none are guilty. This statement, which I have heard many times in various forms, seems to imply that adoption of Durham, or any prescription broader than the M'Naghten rules, will make the defendant sick. And we are back once more to the conflict between society's expectations of future behavior, and the facts accounting for actual past behavior.

Are all criminals sick? Or at least most of them? Perhaps not within the usual medical diagnoses. But in terms of our norms of healthy behavior—our expectations—they are sick by definition. Even those offenders who have an identifiable mental illness have probably failed to achieve the norm of behavior for persons so afflicted—if one can imagine such a thing. Given an appropriate milieu—and I do not, of course, mean one which is bolted and barred—even the severely disordered may not become involved with the criminal law. On the other hand, in a hostile or vicious environment even the mildly disordered person will be vulnerable.

I am reminded of a case decided by my court a year ago in which we held that the jury should consider the fact that the defendant was mentally retarded in assessing his responsibility for aiding in a homicide. McDonald, the defendant, described the events as follows: Earlier in the day three men had held him up, robbed him of his wages, and struck him over the eyes. He had run, weeping, to the home of his employer, Davis, recounted the incident and asked for money for a doctor or a ride to the hospital. While he and Davis were on the way to the hospital, he saw two of the men he thought had robbed him, and identified them to Davis, who challenged them with the facts of the holdup. There was a conflict in the testimony at this point: prosecution witnesses claimed McDonald was holding the man when Davis shot him; McDonald said he never touched him. In any event McDonald was present during a tussle in which Davis shot and killed one of the men.

Medical testimony showed that McDonald, the defendant, had an IQ of 68 and was mildly retarded, though without identifiable brain damage. Reared in southern rural communities, his schooling stopped before he finished the sixth grade. He was 24 years old and had been in Washington only a few months. During this time he had been working for Davis, the man he was charged with aiding in the homicide. Davis had befriended McDonald and seemed "like a father." The defense psychiatrist indicated that McDonald's defect was a factor in his close and dependent relationship with Davis. He testified that because of the defect and the resulting relationship, McDonald was not "as able as the person of average or normal intelligence to assess and evaluate that situation and to know the consequence of whatever action he took."

So here is a person whose mental disorder significantly impaired his ability to cope with the environment in which he found himself, and particularly with the personality of the individual on whom he was emotionally as well as financially dependent. Of course, McDonald's 68 IQ was not the sole cause of his involvement in homicide. But it was a major thread in a web of social, personal, and economic factors.

The point I am getting at is that crime is caused. All crime is caused, and it does not become uncaused by virtue of our cultural expectations, our norms of behavior. When we ask whether an individual was mentally ill at the time of an alleged crime, we are assuming that if he was, the illness is enough to defeat our normative expectations.

But what if we have no neat psychiatric category to stamp on a defendant's record, and can only point out that he acted from abysmal ignorance; that is, because of a failure of our educational system? Or that his reduced and constricted conditions of life created a wildness of frustration that led to joyriding in somebody else's car or to narcotics addiction—another creation of our failure as a society? May we extend the concept of individual mental disorder to such cases, or do we need a new discipline of "social psychiatry" to deal with the social condition as it related to mental life? Or is this really the business of psychiatry at all? Is there not in such cases a collective, human responsibility in which we all share, and in which medical opinion provides but a segment of the evidence?

I come back to the point that behavior, including criminal behavior, is caused. It is caused despite my expectations, in the face of my expectations, and—I sometimes suspect—even as a bottom-dog response to my superior upper-middle class expectations. But there is, there always remains, a distinctly moral problem. No social creature can dispense with his expectations of others. I am not attempting to do a conjuring trick with the issue of morality. But I think we must all identify it more specifically, approach it more realistically, especially where it so disturbs and confuses us at the interface of law and behavioral science. I said that in the courtroom only the jury is a moral philosopher. Perhaps I should rather say that we are all moral philosophers, in that we all suffer from and speculate about normative expectations. But we are divisive in these matters. We put our expectations in one compartment and our learned sense of reality in another. There is little communications between the two compartments. Crime is caused only in our factual perception of the world. In the grandiose mansion of our expectations, that gorgeous dreamhouse where lives an ideal humanity, crime is not caused because it does not exist, and if it nevertheless occurs, we have a word, thankfully, to cover this unique and impossible conjunction: We call it "bad" or "wrong." These terms do not analyze our expectations; they merely identify them.

The state has extensive power, much of it unexercised in a pluralistic democracy like ours, to establish certain expectations as matters of policy. One might say that the purpose of the criminal law is to administer the effects of our disappointed expectations. But though the state might establish an objective criminal liability—that is, don't do this, whether or not you are responsible—it generally insists that it has not done so. This is a very human failing of the law—insisting that the "bad" and only the "bad" be punished. The law is not God. It is merely a very demanding parent, and without the help of the behavioral sciences and other cultural resources, it is a half-educated demanding parent.

Recognition that there is a gulf between our expectations of human beings and the realities of their behavior does not deny that expectations affect behavior. But our distaste for the rigid, moralistic frame of mind which insists that expectations are always the sole effective cause and blinds itself to other factors—this distaste, I suggest, should not force us into an untenable reactive position. We must throw society's expectations along with all the other factors into the hopper of social causation of behavior.

Most of our feeling and philosophizing about responsibility occurs, unfortunately, as a tempest in the teapot of individuality. The deepest sources of our ideas about responsibility are the fantasies, beliefs and prejudices that we find essential to our self-conception and continuation as individuals. The majority of our notions about responsibility are defensive. They relate to self-control rather than to a genuine—and generous—conception of social responsibility.

The law has traditionally reduced the gap between society's expectations and the incapacity of some to fulfill them, by minimizing recognition of this incapacity. To those of us lawyers who are troubled by this nearsighted aspect of the law, it is a comfort to know that psychiatry has a similar problem: A psychiatrist friend recently said to me: "We deal with the patient as if he could do things differently, though as physicians we assume that he does what he does because he is sick. The paradox is even greater if one reflects on our lack of knowledge of etiology. Suppose, for example, schizophrenia is due to chemical $x$ which causes the deranged thinking. Here we are, so far unable to identify $x$, treating the patient as though it were up to him to cooperate with the doctor by entering psychotherapy on our terms. But if $x$ is really jamming the machinery, what can the poor patient do about it by will power?"

My friend pointed out that "although many psychiatrists suspect there is an $x$ in schizophrenia—it is nonetheless clear that the schizophrenic patient behaves at a more acceptable social level when he is treated as if he can be expected to so behave and he may be able to do so although he remains as schizophrenic as ever in his thinking. The 'as if' or 'as though' on the part of the therapist or the social group engenders in the patient some enhanced capacity to respond in the expected fashion."

The doctor and I agreed that the psychiatrist is no more successful as a moral philosopher than the jurist. Neither of us is able to resolve the philosophic issue in determinism versus free will. As a pragmatist, the psychiatrist finds the assumption that the patient had a choice, a useful device, in furthering the behavior he wants to see. This is, in fact, the same assumption that the law employs and it is basic to all social systems. Thus, whatever the philosophic "truth," the empiric psychologic one is that treating people as though they were free is an effective piece of social engineering.

Being only an amateur philosopher, moral or otherwise, I am reluctant to get into the free-will determinism debate. I conceive responsibility in social, or at least reciprocal, rather than exclusively individual terms.

If a juvenile car thief is to be held responsible for "choosing" to steal a car, thus transgressing our expectations of proper behavior toward personal property, the rest of us must also accept our responsibility for distributing property, education, and culture so poorly, for offering to adolescent vitality so few alternatives. Responsibility for an event, even if that event is conceived to be an individual's act, cannot be limited to that individual. We are a community, no matter how distorted. When I talk about responsibility, I do not limit myself to what I like or what I want—I do not merely define or identify my expectations. Instead, I attempt to deal as a limited rational human being with expectations as an external social factor. I think this is an essential part of the effort to come to terms with the issue of responsibility.

As a judge I know that crimes of violence are overwhelmingly associated with poverty. From Hollingshead and Redlich, among others, one learns that serious mental illness is associated with poverty; and from my year's work with the President's Panel on Mental Retardation, I understand that mental retardation is in like measure poverty linked.

Arthur Schlesinger, Jr., has said that President Kennedy would have made the platform of his 1964 campaign a massive onslaught on the problem of poverty, and its 50 million victims. President Johnson has strongly indicated his intention to advance this legislative program to alleviate poverty.

To help those of the poor who are also mentally disabled and who fail to achieve the standards of conduct which a wealthy society requires of them, is not to condone the injustices of society. It is merely to shoulder our part of their burden. This is also a contribution to the solution of the problem of responsibility and perhaps even to that of crime itself.

If we are prepared to be fair about sharing responsibility for the society in which criminals regularly occur, then I think we have an infinitely better chance to deal more effectively with criminals by helping them to meet our expectations and—almost in passing—to adjust the work of our several professions more appropriately. As to expectation and causation, or free will and determinism, if you prefer, I would put the matter this way: If criminals nominate themselves, we elect them. Criminality is a joint failing of the nominee and the electorate. Take, for example, the question of the overly secure moralist—"Why does one member of a slum family become a criminal and another a priest—or even a successful accountant?" I agree that one became "A" and the other became "B" because they were different, but I urgently add that this does not relieve us of our responsibility. Our society is supposed to be realistic and humane enough so that we expect people to be different. They could not possibly all be good. If everybody were perfect, nobody would be different. It is the totalitarian who does not accept differences. It is the social Darwinist who believes that no differences except his own superiority need be noticed. He forgets that Darwinism dealt with the slow evolution of slight differences in populations, and not large differences in individuals. But large differences exist. In a humane democratic order diversity is an advantage in the process of natural selection—and uniformity a decided biological disadvantage.

Morality and social evolution are so profoundly linked that morality must reflect change as well as induce it.

The moral imperative for all our disciplines should be: modern society must be reordered as well as adjusted to. Morality requires that society and its components reflect and assimilate advances in knowledge bearing on the observed character of human conduct.

The law is committed almost as much as religion to official and ceremonial morality. Yet even in the law we have begun the immediately arduous and distantly oriented task of justifying or dispensing with our moral pretensions. And not only in connection with the insanity defense. Take, for instance, our new approaches—in all branches of lawmaking—to civil rights and civil liberties. Reflecting both a changed morality and the insights of the behavioral sciences, the law 10 years ago rejected the established doctrine that "separate" facilities could be "equal." We are now faced with issues that confront the traditional protection of private property with the demand for individual human rights to equal accommodations. In the field of civil liberties we are giving increasing recognition to the fact—long apparent to the social worker—that a constitutional right is worthless if one is too poor to enforce it. Therefore the indigent defendant must be assigned counsel at public expense if his right to counsel is to have any meaning.

I would like now to shift gears and return to the mainstream of the criminal law. The basic decision required of the criminal law is whether the accused shall be held responsible for his alleged criminal conduct. This requires, first, identification of the defendant as the actor involved—and the behavioral sciences have traditionally contributed little at this stage. But their information becomes vital when the jury has to appraise the accused's responsibility for his act. Then, the practical nature of the criminal law becomes apparent. Abstract debate over free will and determinism banks down into the thoroughly practical question why this defendant failed to fulfill the expectations that society, through the criminal code, applies to all men. In the courtroom, the psychiatrist's personal philosophical views regarding responsibility are significant only as they may color his description of the accused's functioning up to the point of and including the criminal act.

What background does the psychiatrist need if he is to offer useful testimony to the jury? Presumably more than can be gained from the customary brief interview with the defendant in a prison cell. If one were to speculate as to the raw material a jury requires for a proper decision on responsibility, one might well turn to other disciplines besides psychiatry. An imaginative defense counsel, in an appropriate case, might select expert witnesses from the fields of social work, psychology, anthropology, neurology, physiology, biochemistry, and so on. Information from all of these disciplines and more is fundamental to a genuine science of behavior. Or possibly the psychiatrist would act as a generalist as he sometimes does in the clinic, and base his testimony on a roundtable conference concerning the defendant. at which many disciplines were represented.

Whether or not this development ever takes place, the issue of the accused's responsibility must be taken far more seriously than at present—and by all the participants in the courtroom drama. Psychiatrists testifying in the courts of the District of Columbia have generally failed to live up to the challenge presented by Durham.

The hundreds of transcripts of trial proceedings I have read over the last 10 years force me to the conclusion that they have been unwilling, or unable, to convey to the layman an understanding of why the accused acted as he did. Their testimony is frequently phrased in technical, stereotyped language which is not only unintelligible to the jury, but a substitute for hard thinking about the dynamics of the defendant's personality and his life history. Doctors often explain to me in private that they simply did not have the time to do an adequate study of the defendant, even in the case of patients who have been committed for 90 days to a mental hospital for examination before trial. I do not doubt the devotion or sincerity of these practitioners. I do question the system of values of a profession and a society which can allow public hospitals to be so overburdened that a 90-day commitment produces only superficial information.

Many psychiatrists respond to such criticism by asking why their profession should devote a sizable part of its admittedly scarce resources to assist in making a merely abstract determination, a moral judgment, concerning the accused's responsibility. And they add, Why should they undertake this in the face of a possibly hostile judge and prosecutor, an apathetic defense counsel, and an uncomprehending jury? But I fear that the problem of interesting psychiatrists in offenders has deeper roots than the hostility they may encounter in the courtroom. The behavioral scientist is subject to the same prejudices as the rest of us. Most criminals are, after all, not very attractive people. And it takes more than the ability to pin an appropriate diagnostic label on an offender to understand him and wish to help him.

To a large extent modern psychiatry grew out of pity rather than out of knowledge. Yet in the pity and compassion and humanity of Pinel, of Tuke, of Connolly, Benjamin Rush, Isaac Ray, Dorothea Dix, Clifford Beers, and Albert Deutsch there was great knowledge, much of it strangely modern, intuitive, instinctive, unproven, but often true. The moral issues of psychiatry were first faced in psychiatric hospitals. But the compassion which the founders of the mental health movement brought to the treatment of the mentally disordered is too often lacking when we turn to that small proportion of the mentally disabled who have been charged with a crime.

Although the majority of these offenders are convicted and punished as if they were normal, a small proportion of the most severely disabled do end up in a mental hospital. Detailed information on treatment in these institutions is difficult to obtain. The Pennsylvania Law Review made a study of two institutions for mentally ill offenders, one in Pennsylvania, and one in New Jersey. The grim conclusions of this study as to the "availability" of treatment and the quantity and caliber of staffing are depressingly well documented. But the most disturbing revelation was that many of the doctors felt that most of their patients should be in prison. At one hospital the proportion of patients so designated was said to be 30 percent; at another, 80 percent. The authors suggest as "one possible explanation" of the latter figure that "the general atmosphere created by barred cells is such that in the absence of active psychiatric treatment the patients are in practically the same situation as they would be at the State prison." One would have thought that the bars, not the patients were in need of removal.

Medical practice cannot advance by ignoring the illness of a whole segment of its patients. Society cannot advance when its leading professions abandon their proper relation to legal and moral institutions. Indeed, a society suffering the parochialism of its elites may retrogress. I do not by any means intend to indict only the medical profession. My own profession—the law—has been equally derelict in its responsibility toward crime. Very few of our best lawyers devote themselves to the criminal law.

The criminal law may be approaching a decision as to whether it wants to do more than make a moral judgment. Some urge that the issue of responsibility should give way to the question of what is to be done—actually done—with the offender. Thus, it has been suggested that the insanity issue be eliminated from the trial stage, and that the question of the defendant's mental condition be reserved to the sentencing or dispositive stage of the proceedings. Personally, I do not see responsibility and disposition as exclusive alternatives. I agree that considerably more thought, time, and resources must be devoted to the question of disposition. But an important catalyst to fulfilling this need may prove to be the information disclosed at the public trial in the courtroom.

The traditional dispositions—capital punishment, imprisonment, indefinite commitment to the maximum security ward of the oldtime State mental hospital, and even poorly supervised probation—each of these may appear less than an acceptable solution once judge and jury—and through them, society—understand the factors which give rise to antisocial conduct.

The law's demands on psychiatry may seem less onerous if the expert witness sees that his purpose is not merely to testify, but to educate—that he cannot really accomplish the one without the other; and if he sees that the information he makes available to those who have to pronounce a moral judgment is also to be used in later rehabilitative efforts.

Besides this high order of education, the project of full-scale rehabilitation can expect great help from the new mental health program—and the accompanying change in outlook on the part of the psychiatric hospitals. No longer should judges dealing with disturbed offenders be faced with the bleak and unpromising alternatives of imprisonment, release, hospitalization. There should be greater opportunity to tailor a program to the offender's needs which, if he is to cease being an offender, are society's needs as well. We all understand the futility of locking a psychiatric patient in a maximum security ward of the usual bulging, understaffed hospital. It is at least as futile to lock a seriously disturbed aggressive offender in a maximum security prison. If public safety were one's only criterion, one might regard it as even more futile. Unlike our forgotten patient, the law says that the prisoner must be returned to society when he has "served his time." With increased understanding there may be increased social responsibility manifested in the community treatment of the mentally disordered; the convenient forgetting of the mentally ill who are in prison may thus also be overcome. Let us hope so.

But the dangerous and the aggressive are not the only types of mentally disordered people in our jails. James Bennett, Director of the Federal Bureau of Prisons, has said our prisons are a dump for "the vagrant, the dumb, the narcotic addict, the seriously neurotic, the sex deviate, the senile, and the social misfit thrown into jail on some disorderly conduct charge." With characteristic insight, he points out that these people have not committed a crime in any real sense: rather "they are locked up and punished because they are a certain kind of person or have been adjudged to be in a status which has been declared harmful to the social order."

Medical and social workers are needed but they are virtually unavailable in prison. In the rare cases where there is, say, a group therapy session every other week, the therapist will tell you that any good he may accomplish is erased by the prisoner's return to the punitive routine of his daily life. With the establishment of the new psychiatric centers, we will have the beginning of a mechanism through which such people may receive essential treatment in the community—and from the community: and community centers will mean communication, the scarcest item of all. It remains scarce despite the languages we use, and continue to invent.

We shall soon have the operational framework for a far better mental health program than we have ever known. A crucial issue will then become how we use it. More precisely, for whom we use it and for whom we use which parts of it. Because of rejection by the law, psychiatry has been largely indifferent to the moral dilemma which the law raises in the courtroom. We know that psychiatric services are essentially unavailable in prison and that prison milieu thwarts the efficacy of treatment. Will psychiatry find a similar rationale for excluding offenders from the new mental health facilities? Will it discourage their referral by a series of arguments such as "these people are untreatable * * * don't keep appointments * * * won't help themselves * * * involve social, not psychiatric problems * * * are incorrigible," and so on. There may well be an element of truth in each of these objections. But are they not also devices by which psychiatrists make life easier for themselves and defer their social responsibility? It is pleasanter, after all, to treat the wealthy neurotic in the suitable privacy of one's own office, than to confront the abuse of the indigent juvenile delinquent in a reformatory. But is this an acceptable criterion? It is an interesting phenomenon that many psychiatrists face the really gigantic problems of their careers as residents on the backward of a State hospital and are totally unprepared for this onslaught. They later retreat to smaller and more manageable problems as they grow older and more experienced.

Although some people argue that psychiatry has a social obligation to undertake the more challenging work, I do not want to be so self-righteous as to suggest that psychiatrists may not devote themselves to the practice in which they are most comfortable. I have to protest, however, if the comfortable feeling rests on the illusion that all mental disorder can in fact be explained without entering—mentally if not physically—into the disturbing areas of social and economic deprivation. In the courtroom and probably in the State hospital, too, the psychiatrist views the indigent offender's sickness as an individual matter; at best it is put in a family context. Only in private, off-the-record conversation will the admission come through that, though the psychiatrist may be able to diagnose the offender's malady, it requires much more than he alone can offer to cure and to prevent like cases. Though it may challenge his aura of omnipotence, the psychiatrist should say publicly that we must draw on all the behavioral sciences to explain the conditions which breed the sick, indigent offender, and that we shall have to look to broader political and educational processes to rectify those conditions.

## ADDRESS BY SENATOR BYRD, OF VIRGINIA, BEFORE DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. SIMPSON. Mr. President, in an address destined to take its place among the great declamations of history, the venerable Senator from Virginia, Harry F. Byrd, has spelled out with clarity and precision the challenges which face America in the 1960's and the alternatives with which we must meet them.

Senator Byrd spoke Monday night before the 73d Continental Congress of the National Society of the Daughters of the American Revolution at Constitution Hall. The title of his address, "Today's Challenge," was quickly changed to the plural, "Challenges," as a preface to the truly remarkable speech which followed.

Little that I could say on the floor of the Senate would add luster to the luminous career of the gentleman from Virginia. His place in history, as a Senator and a statesman, is secure—just as his place in the hearts of his audience is secure because of his eloquence of Monday night.

In reading the Senator's speech, I was struck by his clarity and candor, his incisiveness, and his trenchant thinking. But, manifestly, I was impressed by the saliency and the credibility of the Senator's concern over the future of our Republic as we continue to adhere to the specious philosophies of government that have prevailed in recent years.

The Senator spoke on the separation of branches of our tripartite Government, of the relationship of Federal and State Governments, of the difference between liberty and freedom, and of the continued validity of the basic truths and principles on which our Republic is founded. He said:

> They are not deterrents to progress; they are the basis for it. We fought the Revolution to be free of the tyranny of remote central government, and we divided authority to prevent its return; but we restrained our freedom by assuming the responsibility of self-government.

Speaking on domestic spending, Senator Byrd told his DAR audience:

> The Federal Government does not become a party to expensive projects and programs involving expenditures of so-called Federal funds without, at some time or another, assuming its share and especially more than its share of control.

Senator Byrd points out that the dollar on the 1939 index has dropped from 51.7 cents in 1954 to 44.9 cents as of a month ago, and he warns that we have lost more than three-fourths of our free gold—$500 million lost in gold last year due largely to our policy of giving foreign governments the option of taking gold or dollars in payment of deficits. And, says Senator Byrd:

> Billions of dollars in our domestic deficits are attributable to the never-ending foreign aid programs.

In the summation of the Senator's unforgettable speech—which I ask to have printed in the Congressional Record at the conclusion of my remarks—is an optimistic warning that should be heeded by all Americans:

> With responsible citizenship, responsible government, fiscal soundness, and adherence to the principles of our system, there should be no fear for the future. Without these, there will be neither solid progress nor security with military preparedness.
>
> These are our alternatives as we face the challenges of today. It is our responsibility to choose. And we may still choose so long as the Government of this country must have the consent of the governed. May that never change.

I recommend this talk to all students of government and especially all those purveyors of the false doctrine that the United States of America can spend its way to solvency and prosperity.

I ask unanimous consent, Mr. President, that the speech by Senator Byrd may be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### Today's Challenge

(Address by Senator Harry F. Byrd)

I am honored by your invitation to participate in this meeting of so many fine citizens who—through such a great and patriotic organization as the national society, Daughters of the American Revolution—are dedicated to preservation of the principles on which this Nation was founded, and has become the greatest of all nations.

I had the great privilege of speaking to you 13 years ago—in 1951. I am pleased that you would have me back, especially while Mrs. Robert Duncan is your president general. We are proud of her as a Virginian. And I am privileged to count her, and her husband, and her family, as my warm friends.

You, of course, know the patriotic devotion which characterizes her life. I mention it here because it symbolizes the reason for the high esteem in which I hold the DAR and all of its members. There is deep and continuing need for the invaluable service that the Daughters of the American Revolution render as guardians of the American way of life.

I think it is appropriate that I should acknowledge with pride and appreciation the honor of being chosen to receive the first Thomas Nelson, Jr., Award. It was bestowed upon me in February by the Virginia chapter, Sons of the American Revolution, which bears the name of that great patriot.

Mrs. Robert B. Smith, Virginia regent of the DAR, was a member of the selection committee for that award. She is here, and I want her and you, and all of your associates, to know how much I cherish the significance of being chosen for that meaningful presentation.

The epitaph on Nelson's tomb at Yorktown simply say, "He gave all for liberty." The preamble to our Constitution—for which you named this great hall—says a basic purpose for the formation of the United States of America was to secure the blessings of liberty to ourselves and our posterity.

By your invitation I am to talk about "Today's Challenge." With your permission, I shall make the challenge plural. There are more than one. The security of our liberty is being challenged from within and from without, at home and abroad, openly and surreptitiously.

First and briefly, note that word "liberty," which we find in the preamble to the Constitution. Before that, the second sentence in the Declaration of Independence holds that "Life, Liberty and the pursuit of Happiness" are among the unalienable rights of man. And patriots like Nelson gave all for liberty.

We hear much these days about "freedom"—and I am afraid there is more talk about it than there is thought. But, we hear little about liberty. There is good authority for the belief that the Founding Fathers deliberately chose the word "liberty" as distinguished from "freedom" for use in the basic documents of this Nation.

They understood the word "freedom" to carry the connotation of unrestrained. They understood the word "liberty" to mean freedom restrained by the responsibilities of citizenship and orderly self-government, under law. There is an interesting distinction between these words in the Episcopal "Book of Common Prayer."

After we won our independence from England in the Revolution, it was necessary to revise the preface to the prayer book for use in this country—now independent of England. Changes made by representatives of the church at that time included this significant language: "Liberty wherewith Christ hath made us free."

The restraint imposed by responsible self-government was clearly foreseen in our Declaration of Independence. It says to secure the unalienable rights of Life, Liberty and the pursuit of Happiness, Governments are instituted among Men, deriving their just powers from the consent of the governed.

We, the people, are the governed. And under the Constitution all power in this country flows from us. And under our system the States are the basic units. The powers of the Federal Government are those ceded to it by the States. Our Bill of Rights says:

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

And I continue quoting the Bill of Rights. It says:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respecively, or to the people."

This is the constitutional basis for our adherence to States rights. As you know, when the Federal Government was formed, Thomas Jefferson counseled, "Make the States one as to everything connected with foreign relations, and keep them the several States as to everything purely domestic."

Jefferson feared the concentration of power in the Federal Government and advocated retention of governmental power in the States where it was closer to the people. As late as 1821, in his autobiography, he still said, and I quote:

"It is not by consolidation, or concentration of powers but by their distribution that good government is effected."

Ours is not a pure democracy, but as a republic it is a brilliant and practical variation of it. We fought the Revolution to be free of the tyranny of remote central government, and we divided authority to prevent its return; but we restrained our freedom by assuming the responsibility of self-government.

To insure against concentrated power, the framers of our system not only decentralized it as between the Federal and State Governments; they also took precaution against usurpation of power by providing for three separate branches of government at each level.

Adhering to these fundamental principles, we became the greatest world power in relatively few generations. These principles are a source of our strength at home and our prestige abroad. They are not deterrents to progress. They are the basis for it. But we are allowing dangerous departures to accumulate.

Listen again to Jefferson, who said there was no danger he apprehended "so much as the consolidation of our Government by the noiseless and, therefore, unalarming instrumentality of the Supreme Court."

We have now a Federal Supreme Court which is following a line of decisions which have invaded homes, handicapped police protection, disregarded State sovereignty, interfered with executive authority, usurped the powers of Congress, and tampered with our religious practices and the right to trial by jury.

In a letter to Samuel Kerchival, in 1816, regarding fiscal soundness, Thomas Jefferson said, and I quote:

"Departure from principle in one instance becomes a precedent for a second; and the second for a third; and so on til the bulk of society is reduced to misery without sensibilities, except for sin and suffering.

"The forehorse of this frightful situation," according to Thomas Jefferson, "is public debt, and in its train there is wretchedness and oppression."

Now we have a Federal Government which has been in the red 28 of the past 34 years. There will be more deficits next year and the year after. Deficits last year and this year will total $16.3 billion—the largest 2-year, peacetime deficit in history, and in this condition taxes will be cut $11.6 billion.

When I came to the Senate the Federal debt stood at $19½ billion. It now stands at $311 billion. It has been increased $40 billion since the Korean war. It will reach $320 billion within the next 2 years. There seems to be no inclination to reduce it, and certainly no plans have been announced.

Federal expenditures are running at the rate of practically $100 billion a year. And, as may be expected, we find massive Federal spending and centralization of power feeding on each other. We are changing our system of government—but not by amendment to the Constitution as provided in our basic law.

We are changing it by means far more subtle, but equally as effective. The changes are being made not only in Federal court decrees, but also through the power that is being centralized through so-called Federal grants, subsidies, and other tools of Central Government intimidation and force.

Make no mistake; the Federal Government does not become a party to expensive projects and programs involving expenditure of so-called Federal funds without, at some time or another, assuming its share—and usually more than its share—of control.

I often wonder whether people, institutions, businesses, localities, and States—when they apply for these Federal subsidies—stop to realize that the principal source of the Central Government's income is the taxes and other levies it imposes upon us, as taxpayers.

I wonder how much people, businesses, institutions, localities, and States think about the fact that, when they ask for Federal subsidies, they are asking the Federal Government to limit the very choice of action for which this Nation was founded.

The facts are: we are being enticed into contralized government by Federal paternalism, forced into centralization by Federal usurpation of power, and driven to centralization under the burden of public debt. I wish the trend were abating. It is not. There are more such proposals pending at this moment.

And the ever-widening usurpation of power by the Warren Supreme Court continues. At this time it is undertaking to dictate and influence the formation of political districts within States from which members of State legislatures are elected. Nothing could be further outside of Federal jurisdiction.

Gerrymander by the Federal judiciary in State elections is something new and dangerous in our form of government. It could be used to destroy the effectiveness of our two-party system, as well as the fundamental safeguards of our dual system of government under the Constitution.

I regard this steady increase in reliance on central government, and tolerance of its usurpation, as weakness—not strength. It is undermining our fundamental principles. It is departure from the vigorous initiative and enterprise which made us great. It is a tendency toward state socialism which is not in the character of the American system.

It is becoming more and more difficult to square the tendencies in the country today with the principles on which this Nation and our liberty were based—responsible self-government safeguarded against concentration of power in a remote central government.

As we observe world events, there is reason to question whether the Federal Government has been paying too much attention to usurping power over our own people, and not enough attention to its primary constitutional responsibilities in matters concerning us in international affairs.

In both domestic and foreign affairs, this government leaves much improvement to be desired. There seem to be deficits everywhere. Look at three examples:

First, there is the United Nations deficit, with the United States expected to take the lead in efforts to keep the organization solvent. The U.N. deficit has been accumulating for years from nonpayment of assessments for peace-keeping operations and arrearages in regular assessments.

To date the deficit has been financed by bond issue, with the United States the heavy purchaser. The deficit was increased by nearly $5 million last year. As of February 29, 1964, the United Nations organization was $126½ million in the red and the United States was holding $75½ million of the bonds. The United Nations should collect these assessments. Other nations are able to pay and we should not be called upon to finance their defalcations.

Second, there is the NATO deficit—and here the deficit is in the fulfillment of troop quota commitments. I learned of this first hand as a delegate to a Paris NATO conference in November 1962. The precise situation as of this time is withheld for security reasons.

But at the time, in response to my questioning, it was disclosed that, of all 15 NATO nations, only the United States and Canada were meeting their assigned "goals" qualitatively and quantitatively with respect to furnishing troops.

Third, there is the balance-of-payments deficit. We spent $2.7 billion more in foreign countries in calendar year 1963 than we took in from foreign transactions. We have run deficits in these accounts for 13 of the past 14 years, and despite first quarter reports, I predict another deficit this year.

We give foreign governments the option of taking gold or dollars in payment of these deficits, and, over this period of deficits, we have lost more than three-fourths of our free gold. We lost $500 million in gold last year. Gold backs the dollar, and we cannot afford to lose much more; this situation must be corrected.

These deficits in international accounts are, of course, in addition to the chronic deficits and rising debt at home. And together they pose a serious threat of inflation which constantly hangs over our head.

The value of the dollar at home has dropped every year since 1954. It dropped a half cent last year. In the past 9 years the purchasing power of the dollar in terms of the 100-cent dollars of 1939 has dropped nearly 7 cents, from 51.7 cents in 1954 to 44.9 cents as of a month ago.

Billions of dollars in our domestic deficits are attributable to the never-ending foreign aid programs. This so-called foreign aid money has been going out for 19 years, and our total expenditures are approaching $115 billion, gross.

After all of this expenditure, $4.1 billion in new appropriations for all foreign aid programs is requested in the new budget now pending before Congress. This is in addition to $19½ billion being carried over in unexpended balances in authorizations enacted in prior years. If these new authorizations are enacted, there would be a total of $23½ billion available for expenditure in foreign aid programs.

Foreign aid expenditures have gone to more than 100 countries around the globe, including 30-odd countries in Africa, and nearly $1 billion to Sukarno's Indonesia. Some $5 billion has actually gone into eight countries now behind the Iron Curtain, including $20 million to Red China's friend Albania.

Tremendous sums have gone into countries which are now not only fully recovered, but are competing with us in both domestic and foreign markets. And in this competition they have used the advantage of the capital, machines, and know-how which we gave them. Japanese, German, and Italian competition has dragged heavily on our balance-of-payments deficits.

In the beginning foreign aid was used to provide food and shelter for war-devastated countries. Now it is being used as a tool in our modern version of foreign relations. I have consistently opposed the foreign aid program, except at the beginning when it was to provide food and shelter for the devastated nations. And I am especially opposed to foreign aid going to Communist countries.

If we need further proof that we can't buy friends in international relations, we have it. We are having difficulty keeping Red China out of the United Nations. Some countries we have helped persist in trading in strategic items behind the Iron Curtain—even with Castro's Cuba.

Sometimes the question arises as to whether our Federal foreign affairs experts are working in behalf of our own national interest, or in the interest of other nations. As chairman of the Senate Finance Committee, I see particularly the results of their work in trade and tariffs.

The Government has undertaken to participate in the so-called GATT—General Agreement on Tariffs and Trade—without congressional authorization. Actions by those representing us in this group also have raised questions as to whether they are dedicated to the removal of all protection for our industry, without regard to the effect on business and employment at home.

I am no isolationist. I advocate international trade. My maiden speech in the Senate was in behalf of the Reciprocal Trade Agreements Act as proposed by Cordell Hull. I have worked hard for 30 years for reciprocal trade legislation. But I want the benefits of trade to be reciprocal. This is not an unreasonable objective in intelligent foreign relations.

Teddy Roosevelt, an illustrious member of the Sons of the American Revolution, said, "Speak softly, and carry a big stick." Our policy seems to have been modified. Now we speak softly—if at all, and pass out a soft loan—or an outright foreign aid giveaway.

The time has come for reevaluation of our foreign policies to tighten them in protection of our own national interest. Drastic reduction in the pending foreign aid appropriations is one of the places to start, and I hope this will be done effectively.

We have been policeman, banker, and Santa Claus to the free world for 20 years—and our Federal debt shows it. We cannot keep this up forever. Other nations are able to assume their fair share of the burden where there is justifiable requirement for foreign assistance—and they should do so.

I fully realize the responsibilities of our position as a leader in the Western World. I hope that other nations—which do not enjoy the liberties which our system is designed to provide—will join our company. By now there should be no doubt as to our high purposes in world affairs.

But the paramount responsibility of the Federal Government of the United States is the protection of our national integrity and welfare among the world states. I abhor war as I despise appeasement. I love my country, and we must not relax our guard or our vigilance.

We are still faced in cold war by a ruthless adversary who has served notice that he intends to bury us. He may have difficulties at home, and with his Communist allies, but he has not withdrawn that vow. We are aware, by experience, of his cunning and his techniques.

The Soviets turn the pressures on and off—now in East Germany, then in Cuba, and so on. It would be a mistake to think that the Communists will relax. Of course Khrushchev wants no part of nuclear war. He would far prefer for us to kill ourselves with our own profligacy.

He wants us to bankrupt ourselves with our spending at home and abroad. He relies on our impatience with austerity, and herein lies today's challenges from within and without, at home and abroad, openly and surreptitiously.

The challenges we face today were well summarized earlier in this century—and I shall quote Teddy Roosevelt again. He said:

"The things that will destroy America are prosperity at any price, safety first instead of duty first, the love of soft living, and the get-rich-quick theory of life."

I have confidence in this Nation and its people. We have the elements for sound moral leadership in the world. We have the people, the resources, the climate, and the geography. And our system is designed for liberty and profitable enterprise.

We are in a new era of atomic energy, rockets and space. We have the capacity and know-how for development. Where there is a will, there is nothing to prevent our people from starting at the bottom and rising to the top. We are a God-fearing people who have demonstrated our courage.

With responsible citizenship, responsible government, fiscal soundness, and adherence to the principles of our system, there should be no fear for the future. Without these, there will be neither solid progress nor security with military preparedness.

These are our alternatives as we face the challenges of today. It is our responsibility to choose. And we may still choose so long as the Government of this country must have the consent of the governed. May that never change.

## FEDERAL CREDIT CONTROL BILL

Mr. SIMPSON. Mr. President, my friend, the distinguished Senator from Utah [Mr. Bennett], in a letter written to the Federal Bar Journal, called attention to three statements dealing with the legal aspects of S. 750, the Federal credit control bill. The trio of statements was presented last January by Mr. Walter D. Malcolm, president of the National Conference of Commissioners of Uniform State Laws, and by Profs. Arthur E. Sutherland and Robert Braucher of the faculty of the Harvard Law School at public hearings on S. 750 in Boston, Mass.

The statements, beginning on pages 1045, 1033, and 1038, respectively, of the hearing record, are among the most trenchant of the hearings. They are vital to an understanding of S. 750. I shall not ask that the statements be printed in the Record, as they already appear in the public print of the hearing records. However, I request unanimous consent that the letter of the Senator from Utah [Mr. Bennett] to the Federal Bar Journal may be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
*Washington, D.C., December 19, 1963.*

Mr. Paul G. Dembling,
*Editor in Chief, Federal Bar Journal,*
*Washington, D.C.*

Dear Mr. Dembling: My attention has been called to the article in your spring 1963 edition by Mr. Scott Hodes and Mr. Richard N. Flint entitled, "Full Disclosure of Credit Charges."

The article strongly supports Senator Douglas' bill, S. 750. In the interest of objectivity, it seems appropriate to call to the attention of your readers, by printing in an early issue, three statements dealing with legal aspects of this bill, which were prepared for presentation at hearings on this bill in Boston in November of 1963 by Mr. Walter D. Malcolm, president of the National Conference of Commissioners on Uniform State Laws, and by Profs. Arthur E. Sutherland and Robert Braucher of the faculty of the Harvard Law School, both of whom have also had extensive experience with the National Conference of Commissioners on Uniform State Laws, especially in matters relating with the Uniform Commercial Code and other uniform laws relating to commercial transactions.

In addition to the work of the National Conference in the field of uniform laws, the American Bar Foundation has undertaken an extensive and thorough study of the problems connected with consumer credit legislation, which the National Conference considers indispensable to the preparation of sound legislation in this field.

I should like to make a few comments with respect to the article on the basis of the hearings held on S. 750 and its predecessors in 1960, 1961, 1962 and 1963. The comments of the Government departments and agencies during these hearings cast grave doubts on the conclusions reached by the authors.

The authors found a constitutional basis for S. 750 in the money power. They cite the preamble of the bill which states that it is designed to curb cyclical fluctuations in the national economy by revealing credit charges. The authors point out, of course, that Congress will have to decide whether this preamble is valid. The Department of Justice in 1962 also advised the committee that the Constitutional basis for the bill, which might be found in the money power, depended on the presentation of evidence to support the statements made in the preamble.

The Federal Reserve Board, however, took the position that the facts do not support the preamble. Mr. Martin, Chairman of the Federal Reserve Board (which would administer the bill as drafted) said in 1962:

"If consumer finance charges actually did fluctuate with economic cycles, knowledge of the total cost of consumer credit itself would tend to have contracyclical effects. However, finance charges on consumer installment credit, a major area that would be covered by the bill, have not shown much fluctuation in response to cyclical changes in the availability of credit during the postwar period. Also, it is hard to find evidence as to consumer responsiveness to the changes in charges that have occurred."

The discussion of the strictly constitutional issues involved in the bill differs somewhat, of course, from the question of the desirability of the Federal Government entering into a complex field already covered by scores, perhaps hundreds, of State statutes. The problems which would be raised by the enactment of S. 750 are pointed out in the enclosed statements.

Messrs. Hodes and Flint refer to the probability that the bill will result in a tremendous flood of litigation, particularly in Federal courts, but they counter this by arguing for an increase in courts. Both the Federal Trade Commission and the Department of Labor recommend that the bill be amended so that it can be administered and enforced by agency proceedings in order to prevent this flood of litigation in the Federal courts. The volume of administrative proceedings and lawsuits carried on by the Office of Price Administration during World War II may give some idea of the burdens which this kind of legislation may create.

The authors conclude by saying that, "the bill in its present form may not be perfect." This is an understatement. Almost every department and agency of the Government, which commented on the bill, suggested amendments to it, thus failing to endorse the bill in its present form. Among others, the Federal Reserve Board took the position that administration of the bill would be extremely difficult and would not constitute an appropriate activity for the Federal Reserve System because the bill is essentially a trade practice statute and not a monetary and credit regulation. Instead, the executive branch recommended delegation to the Federal Trade Commission.

The Federal Trade Commission agreed to handle the legislation but said administration of the program would be tremendous and would require a large staff. The Federal Home Loan Bank Board took the position that it would be impossible to apply the bill to construction loans and variable interest loans.

In short, the minor defects in the bill as presently drafted are, in fact, major barriers to its acceptance.

The record of the hearings on this bill and its predecessors, now mounting to about 3,500 pages, discloses many practical difficulties in applying the simple annual interest formula in real life. However, these accounting and mathematical problems would undoubtedly be of less interest to your readers than the basic legal issues raised by the bill, and it therefore seems unnecessary to discuss them here.

Sincerely yours,

WALLACE F. BENNETT,
*Member of Congress.*

## GOP GOVERNORS AND BOBBY BAKER

Mr. SIMPSON. Mr. President, the Association of Republican Governors met in Washington early this month in a political atmosphere still pungent from the investigation of the antics of the former secretary to the Senate majority.

From their meeting emanated a statement of less than 200 words, which deserves to be a part of the official RECORD of this body. Two sentences, which in my mind are conspicuous, are the observation that—

> The handling of the Bobby Baker case is an affront to the Nation.

And—

> The conscience of the Nation will not be satisfied until there has been a full investigation of facts from which the Senate majority has backed away.

Therein lies the tale, because the entire Nation knows that there has not, in fact, been a full investigation of the facts "from which the Senate majority has backed away."

I remand the statement of the Republican Governors drafted April 10 to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT FROM THE REPUBLICAN GOVERNORS ASSOCIATION, SHERATON-PARK HOTEL, WASHINGTON, D.C., APRIL 10, 1964

The handling of the Bobby Baker case is an affront to the Nation. It reflects no credit on Democratic Senators or on the White House.

The conscience of the Nation will not be satisfied until there has been a full investigation of facts from which the Senate majority has backed away.

It is clear that some Government officials have shamefully misused the influence of responsible positions. This has happened before under both Republican and Democratic administrations.

A difficult test comes for free government when the Nation is confronted with evidence of wrongdoing by trusted personnel. In these circumstances moral leadership requires vigorous inquiry to bring all relevant facts to light and prompt adoption of corrective action. This test of moral leadership has not been met in the Baker case.

There is a precedent which we respectfully call to the attention of the Senate and the administration. Forty years ago when the Teapot Dome scandal was brought to light, a Senator from the minority was selected to conduct the investigation. The result of a thorough and impartial probe was the conviction of several individuals—including one for contempt of the Senate for refusal to testify before a Senate committee.

We specifically recommend that the Senate renew and vigorously pursue its inquiry into the Baker case, using all powers at its disposal.

## THE JOURNAL

On request of Mr. HUMPHREY, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, April 21, 1964, was dispensed with.

## EXECUTIVE SESSION

Mr. HUMPHREY. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nominations on the Executive Calendar will be stated.

## POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and without objection, they are confirmed.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

## LEGISLATIVE SESSION

On motion of Mr. HUMPHREY, and by unanimous consent, the Senate resumed the consideration of legislative business.

## KINZUA DAM AND THE SENECA INDIANS

Mr. DOUGLAS. Mr. President, on past occasions I have expressed concern and disappointment that the Federal Government is taking lands within the Allegany Indian Reservation for operation of the Kinzua Dam and Reservoir project, notwithstanding the treaty of 1794, under which we promised the Seneca Nation the peaceful use and enjoyment of that reservation forever. There has been a clear breach of that treaty.

Unfortunately, the deed is done. Construction of the Kinzua project by the Army Corps of Engineers has been authorized, the United States is proceeding to condemn the required easements over tribal lands, and the courts have refused to interfere. What remains is for Congress to pay generous reparations to the Seneca Indians for the loss of their property and, in particular, for the destruction of their community.

Our national honor will allow no less. Indeed, at the time the Kinzua Dam was authorized, the Senecas were assured of sympathetic treatment from the Government in meeting the problems of resettlement. In a letter to the president of the Seneca Nation, dated August 9, 1961, our late President John F. Kennedy declared:

> Even though construction of Kinzua must proceed, I have directed the departments and agencies of the Federal Government to take every action within their authority to assist the Seneca Nation and its members who must be relocated in adjusting to the new situation. * * * In the event legislation is required to achieve these objectives, I have asked that recommendations be prepared.

The Committee on Appropriations, while providing funds for the authorized project, further observed in its report on the public works appropriations bill for fiscal 1962:

> The committee is deeply concerned that the Seneca Nation be given the utmost consideration and that all possibilities be explored for the amelioration of the difficulties and hardships which the construction of the reservoir will impose upon its members (S. Rept. No. 1097, 87th Cong., 1st sess., p. 22).

Our legal and moral responsibilities to the Seneca Indians are clear. I speak today, therefore, to express my increasing concern and disappointment that we still are far from meeting these obligations. Instead of giving the Indians "the utmost consideration," as the Appropriations Committee recommended, the Senate has passed a truncated reparations bill which would provide the Seneca Nation less than half the loaf necessary to sustain its future economy.

Specifically, after 12 days of hearings, the House Committee on Interior and Insular Affairs unanimously reported H.R. 1794, section 4 of which would authorize the appropriation of $16,931,000 in rehabilitation funds to assist the Seneca Indians in relocating their homes and establishing a new and self-sufficient way of life. The proposed legislation passed the House of Representatives without a dissenting vote on February 7, 1964, and, according to my understanding, has the endorsement not only of the Senecas, but also of all the executive agencies involved. In the Senate Committee on Interior and Insular Affairs, however, the fund provided in section 4 of H.R. 1794 was slashed to $6,116,000, a cut of almost 65 percent, and a new section 18 was added to the bill, calling for the termination of the special relationship between the Seneca Nation and the United States. Although I oppose these amendments, I did not object to approval of H.R. 1794 by the Senate on March 30, because of the need for legislation immediately to provide the Senecas funds for resettlement housing.

I firmly believe that the Senate version of H.R. 1794 does not provide adequate financing for the rehabilitation of the Seneca Indians, and, moreover, is immoral to the extent it provides for abrogation of the remaining treaty guarantees from the United States to the Seneca Indians. As evidenced from the hundreds of letters, telegrams, and petitions I have received, the people of the State of Illinois agree. I hope, therefore, that the House version of H.R. 1794 will be accepted by the Senate conferees and reported favorably back to this body.

## THE BIBLE—THE WORD OF GOD; ADDRESS BY SENATOR THURMOND BEFORE SENATE PRAYER BREAKFAST GROUP

Mr. STENNIS. Mr. President, recently the Senator from South Carolina [Mr. Thurmond] delivered an excellent address, entitled "The Bible—The Word of God," before the Senate breakfast group.

As always, the address of the Senator from South Carolina was forceful and worthy. I believe it should be preserved and given wide circulation.

I ask unanimous consent that the address may be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

### The Bible—The Word of God

(Address by Senator Strom Thurmond, Democrat, of South Carolina, before Senate prayer breakfast group, April 15, 1964)

Upon the presentation to Abraham Lincoln of a Bible in August 1864, this great American President declared: "This great book is the best gift God has given to man." This is one opinion to which we can all subscribe. Likewise, we can agree with similar appraisals of the Bible by more recent leaders of our Nation. Herbert Hoover has described the Bible as being "so full of concentrated wisdom." Harry Truman has expressed gratitude that "the Bible remains the world's best seller." General Eisenhower has stated that "in no other book is there such a collection of inspired wisdom, reality, and hope." And the late President Kennedy took pride in the fact that "the moral precepts and phrases of the Bible are woven into the fabric of our national life."

Thus, we can see that the Bible must indeed be a most remarkable book to draw such lavish praise from outstanding men of history. It is, in fact, the greatest book in the world—the greatest alltime bestseller the world has ever known. It is the most important book in the English language and is the chief glory of English literature. It has had a more profound influence on mankind than all other forces put together. It is the most magnificent literary work existing in the world because it excels in beauty, power, dignity, and depth of contents.

The Bible is a living book, inseparable from the lives of men and nations, because it is mankind's noblest record of faith and man's quest of God and the good life. No book has been read more widely, more carefully, more sympathetically, more critically. How many ages and generations have pondered and wept over this great book. What untellable joys and ecstasies have come from it. Under all the uproar and amid all the haste and excitement of our vast modern age this solemn and beautiful book has been rolling on and on, just as applicable, appropriate, and appealing in the complex space age as in the simple days of antiquity. The Bible is applicable to all ages because it brims over with valid, immutable and enduring principles. No tyrant has been able to consume it, no dictator has been able to choke it, no Communist has been able to corrupt it. It stands today amid the wreck of all that is human, without the alteration of one sentence so as to change the lesson of love and faith which it teaches with such eloquence and simplicity.

The Bible is a small book, and yet all the libraries of America would hardly be large enough to hold all the books which have been inspired by this one volume. In this book are infinite wisdom and infinite love. Between its covers are the mind and heart of God—the revelation of God with increasing clarity and light from Genesis through Revelation—for man's good, for his guidance and his spiritual nourishment. It is a book of faith, and a book of morals—the greatest code of morals the world has ever known, bottomed on the 10 Commandments and the Sermon on the Mount. The Bible is a book of religion, but it is also a book which teaches man his own individual responsibility and dignity. It is inextricably mingled with all that is greatest in human history and individual life. Its influence on humanity has been invaluable and supreme. It has exercised an incalculable influence in the formation of our modern civilized minds, and exerted a powerful weight in quickening and inspiring humanity in its great forward movements toward individual, religious, and political freedom.

Although the Bible is such a powerful book, it is still an ignored book by too many, even here in America where all our ideals are based on the basic teachings and revelations of the Bible. In some homes the Bible serves as a gatherer of dust, or a showpiece, or a recorder of family histories. In other homes, the Bible is well used and thus well worn. Even in such homes as the latter, however, there is need for additional and continuous study of the Bible, because it is such a vast storehouse of knowledge, wisdom, moral concepts, inspiration, and personal comfort. In fact, I am confident that there is no one in the world who has ever learned all there is to gain from this great and Good Book, because it is a book of infinite and incalculable value.

This morning I want us to take a closer look at some salient facts and features of this book, upon which we base our faith, our moral and civil laws, and our hope of eternal salvation.

First of all—a dictionary fact. We think of the Bible as a book, in fact, as the book. Actually, the word itself, when you look into the origin of it in the unabridged Webster edition, the definition tells something important about the history and nature of the Bible. Because the word is not singular, but plural, in the original Greek, it is Biblia, plural of the Greek word "biblion," the diminutive of the word "biblos," which means books. Thus this term, equivalent to calling it "little book," reflects the fact that it is a compilation of the numerous and separate little books that make up the Old and New Testaments. The word tells us, too, of the material of which the little books were chiefly composed, because the term "biblas" originally meant papyrus, being taken from the name of the Phoenician city, Byblos, from where papyrus was exported.

In the Bible we find 39 books grouped under the Old Testament and 27 books under the New Testament, making 66 in all. Many of these books are not really books at all in the usual meaning of the word. Some are merely letters, while others are messages so short that they could be copied on two or three typewritten pages. As to the difference between the two major Testaments, we can say that the Old was written before Christ, and the New was written after Christ. Approximately 400 years elapsed between the writing of the last book of the Old Testament—Malachi—and the writing of Matthew, the first book of the New Testament. Then, too, the Old Testament was written in Hebrew and the New Testament in Greek. Actually, some scholars estimate the Bible was for sixteen hundred years in preparation.

Moses is credited with writing all of the first five books; namely, Genesis, Exodus, Leviticus, Numbers, and Deuteronomy, probably around 1500 B.C. John finished his contributions to the Scriptures in the last decade of the first century after the crucifixion of Christ. The 66 books, pamphlets, letters, and messages were the work of some 35 authors, the two most prolific being Moses in the Old Testament and Paul in the New Testament. It is not known when Job was written or how many contributed to it, but it is one of the more important books of the Old Testament. Paul, the learned and converted Pharisee, wrote all 13 epistles or letters from the Romans through to Philemon. Other prominent writers were King David, who wrote most of the Psalms, and King Solomon, to whom are credited Proverbs, Ecclesiastes, and the Song of Solomon; Luke, the physician, who wrote both the books of Luke and Acts; and John, the fisherman, who wrote the Gospel that bears his name, three epistles, and the Book of Revelation. Other great Biblical authors include Joshua, the valiant army captain; Daniel, who served for many years as prime minister of Babylon; Amos, the herdsman; Matthew, the tax collector; Peter, the giant fisherman; James, the brother of Jesus; and many more such varied and distinguished witnesses for God. These men recorded the Word of God as revealed to them by God in various ways, particularly in the New Testament by the life and teachings of

Jesus Christ. It is a unique marvel that the words that all of these great men wrote blended together so perfectly that they have stayed together more than 2,000 years.

Now let us consider where the Bible was written. It was not written in a comfortable office such as we are accustomed to here in the Senate, with modern lights and efficient writing instruments. Parts of the Bible were written in the wilderness of Sinai, others in Jerusalem, and some in Babylon while the Jews were in captivity there. A few of the books were composed in a prison cell in Rome, and one was written on a little island in the Mediterranean. Most all of the books were written under difficult conditions, as the authors, having no typewriters and smooth white paper, had to use pens of quill or bone and write on parchment or papyrus, often with no light other than a candle or a primitive oil lamp.

The original writings do not exist today as all these priceless documents were lost ages ago. Fortunately, however, good men sensed their importance at that time and manuscript copies were painstakingly made. As the centuries rolled by, they were copied so often that today there are many of these early documents in the great museums and libraries of the world. Approximately 700 years after the death of Christ, a group of Jewish scholars called Masoretes decided to insure the accurate transmission of the Old Testament to future generations and therefore undertook the copying of the entire Old Testament.

They established strict rules to be followed, and no word or letter could be written from memory. The scribe had to look attentively at each word and pronounce it before writing it down. Even the words and letters of each section were counted, and if they did not tally with the newly made copy, the work was discarded and the task begun anew. Due to the eagerness of the scholars to find the perfect text—the one most nearly like the original—each Biblical manuscript discovered was studied with patience and skill, hence the extraordinary excitement in 1948 when it became known that a considerable number of very ancient manuscripts had come to light in a cave near the Dead Sea. The interest was enhanced a thousandfold when scholars declared that these copies of the manuscripts of Isaiah and other Old Testament writers were hundreds of years older than any yet found, dating back possibly to the second century before Christ.

Intensive study by some of the greatest Hebrew authorities on the Bible has revealed only a slight difference between the Masoretic text and that of the Dead Sea Scrolls, a great tribute to the faithfulness of the copiers. Consequently, although there do not exist today any of the actual writings of Moses, David, Isaiah, Matthew, Mark, Luke, John, or Paul, it can nevertheless be truthfully said that the present Hebrew text of the Old Testament and the Greek text of the New Testament are as accurate as men of the highest skill, integrity, and devotion can make them.

Many might ask why there are various versions of the Bible. The problem of versions goes back a long, long way into a very distant and troubled period of history. As Christianity spread, the need arose for translation of the Bible into various languages and eventually there was felt a need for a Latin Bible to present teachings to the large numbers in the Roman Empire who used this language.

Around the middle of the second century, A.D., the first Latin version appeared, followed by many others. Then came Jerome, who revised the Latin versions of the New Testament from Hebrew into Latin. His version became known as the Vulgate, which throughout the Middle Ages was the standard Bible of the church. It was copied over and over again, and there are said to be more than 8,000 copies of it in Europe today. It has been the official Bible of the Roman Catholic Church since the Council of Trent in the 14th century.

The first translation into English came in 1382 and was accomplished by John Wycliffe. His translation was handwritten and was then copied and distributed by his followers, but the authorities of that period did all they could to stop the use of this English Bible, by forbidding its use, and in 1428 Wycliffe's body was dug up and burned. On the other hand, one of the most significant triumphs of this period was the production of Gutenberg's printed Latin Bible in 1455.

In 1525, William Tyndale published the first printed English New Testament, and almost 90 percent of the King James Version is believed to be Tyndale's wording. Other English versions began to appear in rapid succession. First there was the Cloverdale Bible, followed by Matthew's Bible, and then Taverner's Bible, all in the mid-1500's. Cloverdale's translation was the first authorized version under a license from King Henry VIII. In 1560 the Geneva Bible was printed in Switzerland and was the first to be divided into verses. This was followed by the King James version in 1611 which soon became known as the authorized version because the work of translation was encouraged and sponsored by King James I of England. Another important translation of the period was that into German by Martin Luther.

Constant efforts have been made by scholars to prepare translations more nearly in harmony with the original text. During the past 50 years more than 30 new translations and revisions of the New Testament have been made, bringing the total number of English translations to more than 200. Of these recent versions, the most notable are the English Revised Version, the Phillips Modern English, the American Revised Version, the Revised Standard Version, and the New English Bible.

It is rumored almost annually, and frequently even stated apparently authoritatively, that some Communist publication, such as Marx's "Das Kapital," or the works of Lenin, has surpassed the Bible as the world's most translated book, at least for some particular year. At present, however, despite the vast publishing and propoganda activities of the Soviet Union and other Communist organizations, the Bible, which has been translated into more than 1,000 different languages, still is, each year, newly translated and published in more versions, and more languages, than any other work.

The King James Bible is as yet unrivaled in its eloquence, in its salutary influence upon writers and speakers of the English language, and in its hold on the hearts of the American people. Our Founding Fathers were men steeped in the knowledge of the King James Bible, and echoes of its phraseology are detectable in the public speeches of our great men, from Washington and Jefferson and Adams, through Lincoln and Woodrow Wilson, and down to the present day.

Still more evident than this English phraseology, however, is the influence of Biblical ideas upon those who made our country what it is today. Through any English translation, we might have learned that devotion to liberty, that love of fellow man, that combination of a reverence for lawful authority with a spirit of rebellion against injustice, have always marked our people and our institutions. Our Colonial Charters, the Declaration of Independence, the U.S. Constitution, and our State constitutions, owe as much to the history and doctrine taught in the Bible as they do to the English phrases of the King James version. And that, indeed, is a substantial debt.

Like all works and concepts of value, the Bible has been subjected to ridicule, abuse, and innumerable attempts to discredit its teachings and revelations in whole and in part. It has been criticized from one end of the world to the other. At times even stanch believers in the word of God have been concerned about some of the questions raised by the enemies of the Bible as to its infallibility and as to its divine authority.

In recent years, however, archeological discoveries have served to bolster the weak faith of some Bible readers. Archeologists have dug into the tombs of ancient Egypt and the long-buried cities of Palestine and Babylonia. They have brought forth amazing evidence in confirmation of even the smallest details of the Bible story. Likewise, biologists, geologists, paleontologists, nuclear scientists, and astronomers have enumerated discoveries which further attest to the basic facts set forth in God's Holy Word.

Many years ago, long before the results of modern scientific research were available, H. L. Hastings wrote: "The Bible is a book which has been refuted, demolished, overthrown, and exploded more times than any other book you ever heard of. Every little while somebody starts up and upsets this book; but it is like upsetting a solid cube of granite. It is just as big one way as the other; and when you have upset it, it is right side up, and when you overturn it again, it is right side up still. Every little while somebody blows up the Bible; but when it comes down, it always lights on its feet, and runs faster than ever through the world. They overthrew the Bible a century ago, in Voltaire's time—entirely demolished the whole thing. In less than a hundred years, said Voltaire, Christianity will have been swept from existence, and will have passed into history. But the word of God 'liveth and abideth forever.'"

Jesus said 1,900 years ago: "Heaven and earth shall pass away, but my words shall not pass away." At that moment nothing seemed more improbable. Yet time has proved the accuracy of His prediction. The synagogue in which He so often preached crumbled into ruin with the passing centuries; of the Jerusalem in which He walked, not one stone is left upon another; but His words remain to this day in the Holy Scriptures. As one commentator has written: "His words have passed into laws, they have passed into doctrines, they have passed into proverbs, they have passed into consolations, but they have never 'passed away.'"—and they never will because the Bible is the inspired word of God.

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## PETROLEUM'S ROLE IN DEFENSE

Mr. MONRONEY. Mr. President, recently in San Antonio, Tex., Lt. Gen. W. O. Senter, Director of Petroleum Logistics Policy of the Department of Defense, made a most provocative speech, calling attention to the vital role which petroleum has played and its important place in the defense of our Nation.

He pointed out that practically all of our great weapons systems are dependent upon reliable and continuing supplies of petroleum in great volume, that even in peacetime our petroleum needs exceed some 300 million barrels a year. In time of war, almost our entire military defense would be based on an adequate, acceptable and continuing supply of petroleum.

I ask unanimous consent that Lieutenant General Senter's speech may be printed in the Record.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### PETROLEUM'S ROLE IN DEFENSE

(Address by Lt. Gen. W. O. Senter, Director of Petroleum Logistics Policy, OASD (I & L), before the National Petroleum Refiners Association annual convention, San Antonio, Tex., April 6, 1964)

It is with a great deal of pride and genuine enthusiasm that I accepted this invitation today. It's always a pleasure to get back to Texas. My permanent home is 300 miles north, in Abilene, and I learned to fly here at Randolph and Kelly. Furthermore, this is my first opportunity to get together with a large representation of the industry with which I will be working so closely during the next 2 or 3 years.

Certainly you, of all people, need not be reminded of the importance of petroleum to our defense efforts. Do not assume, however, that others need no reminder. Modern military history, dating from 1940, shows that the vast majority of military people and civilians do not comprehend the day-to-day complexity of petroleum logistics.

You yourselves are to blame in large part; for the petroleum industry, through its research, its refineries, and its marketing organizations, has made the supply of petroleum products seem too easy. These products have always been available in ample volume where and when they have been required, even in the most remote places. This fact has tended to lull most users into thinking this would also be true in wartime. Such thinking is not only fallacious, but also very dangerous.

Maybe it isn't necessary to tell such things to you gentlemen who represent an industry which supplied the energy needs during two World Wars, the Korean conflict, and the Suez crisis, and met the civilian requirements as well. Those were outstanding records.

Today, however, we face a new challenge. Rapidly changing, highly complex conditions serve to make our job increasingly more difficult. For example, we are vitally concerned today in remote areas throughout the world which were just places of casual interest as recently as a decade ago. We cannot try to stand on our past accomplishment, no matter how illustrious.

Any future conflict will be more demanding than ever before. In addition, we must be prepared to meet any situation—anywhere in the world. This could range from a cold war—to a Korean-type limited war—to a general war encompassing nuclear exchange with its resultant devastation to our industrial base and civilian population.

Our very chance of success or failure in any future conflict hinges on oil. As a matter of fact, the most striking point of commonality between our major weapons systems is the thirst for oil. Let me cite a few examples:

Our modern Air Force jet bombers will use over 1,000 gallons of fuel per hour.

An Army tank will burn 600 gallons of fuel in moving 100 miles.

An aircraft carrier of the *Forrestal* class, under peacetime operating conditions with normal schedules, will utilize on the order of 70,000 gallons of fuel per day.

Now think of this in terms of a field army, an Air Force bomber command, or a naval fleet.

With our continuing global commitments and the absolute dependence of our complex weapons systems on petroleum—in staggering quantities—we reaffirm the vital role of petroleum in the defense effort. Because of this vital role, petroleum is subject to much more management attention at all levels of Government than other consumer items.

As the military petroleum staff man of the Department of Defense, I am responsible for providing advice and assistance to the Secretary and the military departments on petroleum policy and mobilization planning. This means simply we must insure that our military forces have adequate petroleum products both in peacetime and wartime. This availability must satisfy the quality as well as the quantity requirements of our fighter forces. At the same time, we fully recognize that an extended emergency demands adequate petroleum products for the civilian economy if the military war effort is to be industrially supported. To insure this availability, we must be concerned with logistics problems which are characterized as more costly, more complex, and certainly more unique, than those concerning other consumable supplies used by the Defense Establishment.

Petroleum logistics is costly due primarily to the very magnitude of the requirements. In peacetime alone, the national defense requirement for oil approximates 300 million barrels a year, or about 800,000 barrels a day, and the trend which began after World War II continues upward. Information available today indicates that, with few exceptions, military equipment will continue to derive energy from liquid petroleum and its products for some time to come. In fact, mechanization of our forces is accelerating. The Defense Department's oil bill for fiscal year 1963 was roughly $1.2 billion, which makes it, indeed, the world's largest single oil purchaser. I might hasten to add, however, that because of the large volumes and economy of lifting, the Defense Department also enjoys some of the lowest prices in the world.

The second characteristic of the petroleum logistics system, its complexity, is derived from the fact that a number of different techniques and systems are used to supply Armed Forces throughout the world with petroleum products. For example, the system of delivering petroleum products ranges from the standard method of an organization requisitioning packaged product from a military depot, to direct contractor delivery (from a contract awarded in Washington, D.C.) to combat areas. The tremendous network of refineries, pipelines, tanker cars, tank trucks, and ocean tankers with which you are familiar, attests to the complex nature of our logistics problems. If our military effort under varying emergency conditions is to be effective, the petroleum supply system from the refinery to the combat zone must remain immediately responsive to the needs of the military forces. We are indeed fortunate that industry itself has developed a responsive and reliable distribution system available for our requirements and adaptable to our needs—all without active management participation by the military in its vast complex of distribution and transportation facilities.

In addition to specialized equipment for movement of products and the other items I have discussed, there are certain factors that make petroleum unique as a military commodity. No other commodity is so sensitive to international events as is petroleum. Not only are we a substantial consumer in all parts of the free world, but specification product is also available for purchase on a worldwide basis. This makes the product, its use, and management subject to all of the political and economic pressures that could be expected. Politically, there are many aspects with which we are concerned and with which you are all vitally aware. The oil import program in which we, the Department of Defense, participate as a consumer; the balance-of-payments or gold flow problem as it affects the petroleum industry; the support of oil programs, and diplomatic relations with major oil-producing nations—all are factors which bear on the logistic system of the Department of Defense.

Naturally, we are not alone within the Government in the management of this very complex commodity. As a matter of fact, we are highly dependent on other sources for much of our information and assistance.

The Department of Interior, by virtue of the President's Executive order of 1962, has the responsibility for preparing national emergency plans and developing preparedness programs covering petroleum and gas. However, basic assumptions, military requirements, and other necessary information must still be developed by my office to cover a theoretical war emergency. After the Office of Oil and Gas has developed worldwide supply and demand studies, again it is our responsibility to issue long-range logistic guidance on petroleum for the Department of Defense.

Of course, the State Department, General Services Administration, Federal Power Commission, Office of Emergency Planning, National Security Council, and the Department of Commerce also get into the oil act in a varying degree.

A recent example—which was in most of the trade journals—was the action taken by the Department of Commerce on applications to build a refinery for the Soviet Union. The Defense Department is a member of the Government team which works with the Commerce Department on determining actions to be taken on export applications. As a matter of interest, the Defense Department's position in such instances normally is against approval of the export application. We are opposed to the licensing of refinery processes or equipment, to the Soviet Union or bloc countries, which involve advanced technology over which the United States possesses a significant degree of control and which would enhance their military capability. The Defense position on applications involving units of well-known technology and available from sources outside the United States would be determined on a case-by-case basis, under more lenient criteria.

To perform these many tasks I am currently authorized a staff of eight people. When you look back to 1950 when my office was still known as the Munitions Board Petroleum Division and compare its staff of 50 with my present staff, I'm sure you will agree that we are certainly attuned to both the song and lyrics of Mr. McNamara's cost reduction program. As further evidence of the savings that can be effected under this program, we are this summer replacing five stars with three when I assume as additional duty retiring Admiral Becknell's job as the commander of the Defense Fuel Supply Center.

My responsibilities for the establishment of petroleum logistic policy for the Department of Defense will continue, while under my new hat I will be answerable to the Director, Defense Supply Agency for the actual procurement of all petroleum and other fuels, as well as the operation of the Department of Defense oil supply and distribution program for packaged petroleum products.

I would like to discuss now, for just a few minutes, two recent actions we have taken to increase our petroleum readiness posture; Supply Simplification and Emergency Procedure Simplification.

The objective of our petroleum supply simplification program is to increase the responsiveness of the supply system by reducing to a practical minimum the number of large volume fuels in the system. It reflects continuing efforts to limit the military departments to the use of petroleum fuels, from a quality and end use standpoint, that will be economically competitive in peacetime and readily available in adequate quantities in wartime. The current proposed simplification program lists eight fuels to satisfy the bulk wartime emergency requirements of the three military departments. The remaining 16 bulk fuels will be retained in the system for peacetime use only as long as their retention is economically feasible.

As a result of lessons learned during recent joint civil-military exercises, it was evident that our immediate postattack petroleum procedures must be simplified, agreed to, and tested in peacetime, if we expect them to be effective under the stress and confusion of a nuclear environment. Such simplified procedures were recently developed and published. They delineate areas of responsibilities and prescribe step-by-step procedures and actions to be taken during periods of international tension and during limited war, as well as a nuclear and general war, to eliminate any timelag in the supply of petroleum. We are not throwing out our present tried and proven procedures for a set of new ones. As a matter of fact, we feel, and not without considerable experience, that our present procedures are satisfactory as is for periods of international tension or in limited war. We are, however, strengthening our present procedures so as to have closer and more effective control in the event of a general war—and by a general war I mean a direct conflict with the Sino-Soviet bloc and a nuclear attack on this country. The military forces have the petroleum capabilities and assets to take care of their early needs in a general war with backup procedures to handle spot shortages and deficiencies on a crash basis. There won't be one plane, tank, or ship immobilized for lack of adequate petroleum logistics planning during the early—and critical—and perhaps decisive—phase of a nuclear war.

Our methods and procedures and our degree of preparedness received a realistic workout during the Cuban crisis. The emergency was a real object lesson to the fact that petroleum continues to be the critical item of supply which concerns every commander. The explanation is obvious—petroleum availability is the limiting factor to the capacity to wage modern war.

All things considered, the emergency did demonstrate that the petroleum supply organization was in a high state of readiness.

This leads me to an essential point, which is: the credit for our ability to meet the tremendous demands of our forces does not belong to the military alone. We are heavily dependent upon you of the petroleum industry. The industry is our producer, our wholesaler, and in many cases, our distributor and our transporter. That the system works in the outstanding manner it does is a tribute to the flexibility, ingenuity, responsiveness, and managerial ability of all levels of the oil industry.

The Army, Navy, Air Force, and Marine Corps place a great reliance upon you and your industry.

I believe it is a trust well placed.

## THE WORLD'S FAIR AND THE AIR—REMARKS OF ROBERT MOSES, PRESIDENT OF THE NEW YORK WORLD'S FAIR

**Mr. MORSE.** Mr. President, on April 13, 1964, Robert Moses, president of the New York World's Fair, addressed the newsmaker luncheon of the International Radio & TV Society, at the Waldorf-Astoria Hotel in New York, on the subject of "The Fair and the Air."

The speech is a fascinating account of the development of the various media of news communication in our history. I believe it is such a brilliant, valuable, and historical account that I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### THE FAIR AND THE AIR

(Remarks of Robert Moses, president of the New York World's Fair, 1964–5, at the newsmaker luncheon of the International Radio & TV Society, New York City, April 13, 1964)

The 1939–40 New York World's Fair heralded the birth of commercial nationwide television. The first public broadcast was made by President Roosevelt. We hoped that world color television by star or cable would begin this month. We expected that Pope John XXIII's address in breaking ground for the Vatican Pavilion to house the Pietà would come to us by Telestar. We still anticipate a big breakthrough in 1965. Meanwhile, other inventions and discoveries will be dramatized by us and broadcast by you so that he who runs may indeed hear, see, read, and inwardly digest. Some of these wonders will remain in the permanent Hall of Science after the fair.

We shall have, among other things, a history of research, exploration and exploitation in the field of communication. $E=mc^2$ in all its implications has become the flashing symbol of half of the fair. We shall exploit every faculty and branch of human knowledge and look to you to broadcast what we show. We hope you will feature among other things our gadgets illustrating the explorations of space and the uses of energy stored in tubes and atoms which will generate light, heat, and power, reclaim the desert and feed the starving. We depend on you to spread the news of future peaceful abundant atomic energy through fusion. We count on you confidently to put the fair on the air.

The dumbest bunny learns something at a great international exposition. Running a fair is a lonesome business. There used to be a job in public works called foreman with truck. The foreman did just about every chore and was at once a driver and a drudge. In any event, he got around, saw a lot, and became more tolerant about things which had previously been beyond him.

Our fair aims at peace through mutual understanding. We have established a university in action where our small capacity to grasp startling advances can be vastly increased. Every visitor is by definition a Greek philosopher with a laboratory no Athenian, dependent on mind alone, could have dreamed of. Our partnership at the fair, which marks the union of the exhibitor and the reporter or recorder, can tell mankind that we are actually living a gigantic mystery story. Jules Verne is dated. Painting fiction toils after fact in vain.

When Edmund Burke in the House of Commons pointed to the Reporters' Gallery and said that up there was a fourth estate far more important than the three long accepted as the nation's rulers, he referred of course to the press and to communication. Had he lived to witness communication by air he might well have defined this calling as the first estate in influence if not in rank, dwarfing the other three. You are today the ministers without portfolio who literally and figuratively make and unmake the rulers of the world.

You are already dwarfing your older brothers, the printing press, the movie and photography, which seem cribb'd, cabin'd and confined by comparison. The modern fourth estate in all of its manifestations has an awesome responsibility affected with an overriding public purpose. Your independence will last just as long as your realization of this simple fact. Freedom of speech in all of its manifestations is the most precious of all the freedoms guaranteed in the Bill of Rights. Its operation is a stewardship, not an ordinary private enterprise in which the profit motive prevails. You must be practical to survive, but you cannot run your giant business today as if it were the old Hollywood, nor imitate the motion picture pioneers who graduated too fast from penny arcade operators and drummers to literary authorities, dictators of taste, and paragons of absurdity.

I suppose that even outside of physics, water cannot rise much above its own level and that finding the public level by current polls and rating tests will continue to be a big factor in giving the public what at the moment it seems to want. Has communication by air lived up to your hopes and expectations? Hardly, but progress has been prodigious. Every sentient American man, woman and child marveled at the vivid, instantaneous presentation of the news of President Kennedy's chilling assassination and appreciated your dramatic demonstration of poignant tragedy and of the recuperative capacity of the democratic process. Current comments, interviews, and discussions have widened our horizons, as have the hours devoted increasingly to education, public affairs, culture and music, theater, and the other arts.

Those who were old and gray and full of sleep, cloudy in mind, sunk in reverie, lonely and full of self-pity, are no longer without stimulating companions. No indeed. Television and radio have become their companions, their main sources of interest and entertainment—in fact their saviors, especially where elderly folk are kept indoors by the northern chill, where there is no place for neighborhood gossip in the tropical sun. Nothing the new so-called science of geriatrics can dream up can remotely approach in therapeutic value these quaint devices of wireless communication which carry voices, pictures, personalities, news and drama to the bedsides, rocking chairs and family circles of those no longer able to be active in the streets, the forum and the marketplace. I shall concede without cavil that if you of the air business do nothing more than give to the mentally alert but physically infirm a new grip on life, your existence will be justified and your mission will have been performed.

If I may be permitted a broad generalization, and assuming your audience to be a third young, a third middle-aged, and a third elderly, I would say that your influence on the first group has as yet been negligible, on the second improving and on the third admirable. If this be treason—well, you hardly expected a Niagara of molasses from one moving closer to the pool of Bethesda. I hear tales, perhaps apocryphal, but with the ring of truth, of air programing based on haphazard night telephone calls by rating services, sample sausage machine ballots, applause meters, noiseless Univacs, all accepted substitutes for good judgment and courage. No doubt the most conscientious juries of award of Nobel and other great prizes also make occasional mistakes, but they are at least aiming at excellence without artificial aids. A ribald friend of mine bet that he could buy Phi Beta Kappa keys at pawnshops on the Bowery. He picked up 18 in an hour and had the same success with foreign decorations. Picking winners seems always to have been a difficult business.

Man's recent inventions have far outstripped man. Pandora's box let fly many problems. Prometheus had no notion of the number who would be singed by his fire. It is easy to give counsels of perfection to those who must function in a confusing, highly competitive and risky field. I have no idea of the proper division of air time between culture and commerce. You can discount business, but a diet of unrelieved culture would be stale and unprofitable. Anyway, no such choice need be made.

There are minutes enough for the entire range of human interests.

As to commercials, I suppose the lads who pay the piper are entitled to call the incidental tunes, and they naturally go for what is catchy. Anyway, if the main dish is good, it doesn't matter how many tomatoes there are in that little bitty can. If a station irritates the viewer and listener with too many jingles and ads, a man may turn from beauty aids to sports or the weather or take a walk, and a lady may decide that what she needs does not come out of a bottle or container. I suppose we all have our pet grouches. I don't like to wake to syncopation. I don't like the news in ragtime with offkey clowning. The Gilbert and Sullivan patter is hard to imitate. Even the singing waiter spares us at breakfast.

In your efforts to impress childish minds with trade names you can find to a decibel precisely when repetition becomes so annoying as to be intolerable. It's a dubious and dangerous game. In time the victims may not swallow it. They may throw up. Gentlemen, beware. The worm may turn. The victim, if you irritate him enough, has a deadly weapon against you. He can simply tune you out.

The critics have an easy time broadcasting from their small ivory towers, amplifying catcalls and Bronx cheers with exuberant spite, or muttering in their beards and damning with faint praise. They build nothing. They are the jeering section at the great games, the eunuchs of our battered caravanserai. They go with the wind. As the quaint phrase goes, pay them no mind.

When a critic takes to the air and discovers that his best stock in trade is controversy and sensation, why expect anything else of him? It is at least an easy, surefire substitute for fairness and hard work, a substitute which has served him well. It is nice to think that Scrooge may get the holiday spirit, become generous and friendly and change his entire outlook. There has been only one Saul of Tarsus in 2,000 years. Gossip and rumor have taken wings. They fly through the air. Their influence is prodigious and grows greater day by day.

To those in so-called public life, which I suppose includes the lesser government officials and bureaucrats, radio and television are at once a curse and a blessing, a challenge to fame and notoriety and a free ticket to suicide and oblivion. It has been said that Richard Nixon lost the Presidency in the very first debate with his more appealing opponent. It may well be so. The year 1964 is a big year in politics and you are making tremendous preparations for it. I am not convinced that such appearances are always wise from the point of view of the debaters or necessarily as revealing of essentials and the might of truth as your stations would have us believe. I wish I could subscribe without reservation to the claim that television guides the unerring instinct of the average onlooker to appraise shrewdly and justly the hero of the hour, warts, stutter, smile and all.

Much of the so-called documentary TV interviewing by skilled interlocutors is aimed not at news nor at a candid view of a personality, nor yet at answers to legitimate questions, but at "angles", traps for the unwary, inadvertent indiscretion, controversy, and malapropism. If the person interviewed is shrewd, cautious and protects himself, he will be accused of cuteness, fencing, evasion, suavity, sophistry, adroitness, the Machiavellian mind and the Chesterfieldian manner. The game is not without its fascination, but is hardly likely to produce either a close resemblance or an accurate impression of character.

Is it not likely that the Madison Avenue technique of projecting a favorable image, dramatic coaching, and more and more of the tradition of Shakespeare's advice to the players will make the amateur performer a professional, and cause him to act less in his own native character than in that of the Hamlet he is taught to impersonate? This is something of a rhetorical question, and I do not press it. In broadcasting, there are no Marquis of Queensberry rules to guarantee a fair fight. The area is too restricted. The controls are too freakish, capricious, and undependable. Accidents are too frequent. The tricks of the stage and charm schools are too important a factor, and the solid, substantial qualities too hard to bring out and easily overcome by what the Italians call bravura, the French elan, the Germans schmaltz, and our own public, sex appeal.

Radio and television can make a man much better or much worse than he is, and compound the felony by charging him with the deception. The public is supposed to see through the veneer of sham to the substance underneath. I often wonder about that. It is a little like attempting to discover qualities of executive ability and other imponderables by examination. It is no secret that the monarchs of the air are going the limit in competing to exploit the coming national conventions and the campaign. Their quaint devices are as secret as models of new cars. Nothing, as Mr. DeCasseres roguishly remarked, exceeds like excess. The hope of the political scientist is that the public in a democracy will see and hear through all this blarney to the ultimate verities.

Come hell or high water, you must vindicate the principle of equal time for all contenders. The candidate of the vegetarian party must have his spot to stew, strut, and fret. Who knows, you may be able at once to achieve absolute fairness and fill the witching hours between 3 and 5 a.m.

The screen added a second dimension to the printed word, radio and television a third, photography a fourth. The press is for breakfast and the rides in and out of town, radio and television are for the quick view, the screen is for tomorrow, and photography for posterity. You hold the mirror up to nature. Your images should be honest and truthful as well as arresting and dramatic. Millions of newly emancipated people, poor, inexperienced, but full of pride and ambition, who have launched new republics in the remote veldts and jungles are watching to see what you offer as the image of America. Show them a distorted one and you sow dragon's teeth which will leap up armed men. We have our failings. Play them down, not up.

It is not so much the image of the ugly American we need to worry about as of that of the stumblebum in global affairs, caught between conflicting ideologies at home which make his noble pretensions just a little hard to explain abroad. Perhaps the best picture to present is that of a homespun Grover Cleveland who, you may remember, said he tried so hard to do the right thing.

The success of what we call the democratic process is largely in your hands. We pause now and then to reflect that however crude, feeble, slow, halting, illogical, disappointing, and undependable it often is, our brand of democracy is thus far the best in operation. You must help find the way somewhere between what we have, such as it is, and the concept of the Greek city-states. Ideal republics and utopias have been the dreams of seers since men stopped wandering and settled down.

You lay great store by slogans. Among the absurd cliches of our time is the one which heralds that the cure for all the ills of democracy is more democracy. Freedom is a heady wine whether consumed on the Potomac, the Danube, the Mekong, Ganges, or the Nile, and whether it involves the press, the forum, or the airwaves. It seems to affect quite differently the children of light and the sons of Belial.

You have become the residuary legatees of great wads of public time. The laborer today bears the heat and burden of a shorter day. He has had leisure thrust upon him but has little notion of what to do with it. You are expected to distribute most of the 168 hours of the week as day unto day uttereth speech and night unto night showeth knowledge. The Biblical 6-day week has become 5 and there is talk of 4. How will you amend the fourth commandment? Will you do it with brackets and italics in the manner of legislative practice? How will you cultivate harmless leisure? With stimulants or narcotics? With fife or with drum? Every Sears has his Roebuck, but you can't give the masses the whole mail order catalog. The wind is up all over the world and you have inherited it. It is an awesome responsibility. My heart goes out to those who have assumed it.

Well, in the words of Lady Godiva at the end of her ride, "I am approaching my close." These postprandial talks mystify me. Why should you busy tycoons, in a business which is revolutionized twice a day, pause at high noon to regard as a major prophet some aging pundit who sits in an Irish mist and casts a rheumy eye on the rapidly receding past? There must be some sort of penance involved, but it's a hell of a way to expiate your sins.

I hope I have not usurped too much of your afternoon. South of the border they are smart. They have a siesta after lunch.

## OUR FOREIGN POLICY

Mr. YOUNG of Ohio. Mr. President, the learned and distinguished chairman of the Foreign Relations Committee of the Senate, Mr. FULBRIGHT, spoke out in the Senate recently, questioning what he termed "myths" on which much of our foreign policy is based, and criticizing our failure to face certain realities in our relations with other nations. His speech aroused a storm of controversy.

Although I may hold different opinions on some of the arguments made by my colleague, and some of my conclusions might differ from his, the Senator really performed a needed public service. I feel I agree with many of his statements.

Too often, Americans fail to ask questions regarding our foreign policy. Too often, they are afraid to voice unpopular opinions, or what the Senator from Arkansas [Mr. FULBRIGHT] referred to as "unthinkable thoughts."

There are alternatives to any course of action which should be debated and discussed. We live in a grim period of international anarchy. It is vital that we seek to move ahead in this fast moving world of change, challenge, and space exploration.

For example, many Americans still cling to the notion that the Communist bloc is a unified whole, dedicated to the destruction of the free world. The truth is, there is every indication that the rift between the Soviet Union and Red China is deep and wide. The animosity between the Russian and Red Chinese leaders seems bitter, and open hostility along the border of Red China and Siberia may erupt. The Communist world is no longer a monolithic bloc—Poland and Yugoslavia for example are becoming increasingly independent of Russia. In fact, a feeling of hostility has developed on the part of some nations behind the Iron Curtain toward Khrushchev and other dictators in the Kremlin.

There are serious differences between Communist governments. Our policies should recognize and exploit those differences. It is important to reexamine and reappraise our foreign policy. We must weed out the myths. Then, deal more effectively with the realities. No policy, idea, or program should become a sacred cow—not to be touched, questioned or challenged. To permit this would be a disservice tc the citizens of our Nation and to fredom and democracy throughout the world.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. YOUNG of Ohio. I yield.

Mr. FULBRIGHT. I express my appreciation for the Senator's kind remarks.

Mr. YOUNG of Ohio. I thank the Senator.

## SWORDS INTO PLOWSHARES—CURTAILMENT IN PRODUCTION OF URANIUM AND PLUTONIUM

Mr. McGOVERN. Mr. President, I ask unanimous consent that an editorial published in today's Washington Post entitled "Swords Into Plowshares" be printed at this point in the RECORD. It deals with President Johnson's decision to curtail sharply the production of uranium and plutonium.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### SWORDS INTO PLOWSHARES

President Johnson's decision to curtail sharply the production of uranium and plutonium and the announcement by the Russians that they will move in the same direction are most welcome contributions to the relaxation of world tensions. But as the threat of nuclear annihilation recedes, new economic problems are created. And while they do not pose issues of life and death, their solution, which fall well within the boundaries of our knowledge and experience, is essential to a healthy American economy.

Although national defense absorbs nearly 10 percent of our gross national product, there is scandalously little knowledge about how many jobs are involved or exactly how changes in the level and composition of defense expenditures affect the level of employment. But when individual programs are "phased out" or when the overall level of defense expenditures declines, unemployment rises sharply in areas where defense production activities are concentrated.

There is no accurate measure of the number of persons idled by defense cutbacks or the number likely to lose their jobs when defense expenditures decline $1.3 billion in fiscal 1965. But it is obvious that the problem will grow more acute as the possibilities of a genuine detente are enhanced. Former Deputy Defense Secretary Roswell L. Gilpatric writes in the April issue of Foreign Affairs that a further improvement of relations with the Soviet Union could lead to the elimination of strategic bombers and a 25-percent reduction in the defense budget by 1970.

In the event of a sharp reduction of defense outlays, a way should be found for the orderly conversion of defense industries to civilian use. A massive conversion was easily effected after the Second World War, but the path was then cleared, as it would not be now, by a huge backlog of unsatisfied consumers' demands and an equally huge pool of liquid savings.

Without the pressure of consumer demand, there are no obvious or simple formulas for converting the military airframe industry or firms engaged in producing electronic equipment. The affected companies, many of whose managements have grown lethargic as a result of dealing with one sure customer, must find civilian products and open civilian product markets.

Last December President Johnson appointed a Committee on the Economic Impact of Defense and Disarmament. But that body has no staff, no budget, and as yet, precious little information about the dimensions of a problem which is likely to grow more acute. An organizational framework is required, and it would be most swiftly provided by Senator GEORGE MCGOVERN's bill (S. 2274) to establish a National Economic Conversion Commission. Only intelligent forward planning will prevent the blessing of disarmament from being transformed to an economic nightmare.

## CIVIL DISOBEDIENCE—WORLD'S FAIR

Mr. RUSSELL. Mr. President, I have just read some very disturbing news on the news ticker for today. This item is datelined New York. It reads as follows:

> Militant civil rights demonstrators lay down on subway tracks in Queens today in their first move to tie up the opening of the New York World's Fair.
>
> Police arrested 20 demonstrators. The heads and faces of some of the men were bloody as they were taken to the Elmhurst police station.
>
> The police said that somebody, presumably a demonstrator, pulled the emergency cord, stopping the train.
>
> Two men jumped out and lay on the tracks while others obstructed operation of the doors.

I am a profound believer in States rights, and I am in favor of each State controlling its own affairs. But when people are beaten up, and their heads are bloodied for stopping a subway train by pulling the cord, I think it is time for some of the Federal agencies that have been created and are supported at great expense to the taxpayers to investigate charges of violations of civil rights to look into these matters. They should at least investigate and make a report.

I therefore demand that the Civil Rights Commission pull some of its army of investigators, agents, advocates, and crusaders out of the Southern States and send them to New York to investigate this incident. If the Attorney General of the United States has any pretense of fairness in the enforcement of any Federal laws for the infringement of civil rights, he will investigate this incident in which a number of people have been beaten and bloodied for the commission of a crime of civil disobedience, a minor offense such as pulling the cord on a subway train.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. EASTLAND. If an incident like that had happened in the South, would not the headlines all over the country be, "Police Brutality"?

Mr. RUSSELL. Of course. But I will not prejudge the press in this case until it has had a chance to report the incident in all of its hideous nature. This is a minor offense of civil disobedience, in connection with which a large number of people were carted away with their heads and faces bloodied. They must have been struck with some instrument. It was more than a mere laying on of hands politely to effect their arrest.

If there is to be any pretense of fairness in this country, I hope that the members of the Civil Rights Commission and the Attorney General of the United States will direct their attention to this incident and to others that may arise in which people are attacked and beaten by police in effecting an arrest for what can only be a violation of a city ordinance.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

## THE GIFT OF TIME

Mr. FULBRIGHT. Mr. President, last evening's Washington Evening Star contained an excellent article by Eric Sevareid which I believe sets forth in very concise fashion some of the problems and matters of interest which concern our Nation.

I commend it to my colleagues.

I ask unanimous consent that Mr. Sevareid's column entitled "Time: History's Gift to United States," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### TIME: HISTORY'S GIFT TO UNITED STATES—FUTURE GENERATION SEEN CURSED IF WE DON'T RECOGNIZE THIS BENEFIT

(By Eric Sevareid)

It is beginning to appear that history may be offering to this generation of Americans a precious gift, and that if we do not recognize and use this gift we will lay a curse on the generation to come. The gift is time.

For 25 years of the great war and the cold war—perhaps for 35 years of fighting depression, hot war, and cold war—we have not enjoyed this precious benefit. Our nerve ends and our very speech have adjusted to the emotional state of hurry and combat. We are unable to think of anything—ignorance, poverty, discrimination, cancer, mental illness, cold war, or space—save in terms of conquest or race.

If it truly be so that we are now offered time for readjusting both our thinking and our actions, this has not been brought about by our common sense; events have forced this upon our unready selves.

Only the very hasty will now say that the cold war is over and the world is going to leave us alone. The cold war continues in a hundred subterranean ways and places, but not in the massive, frightening fashion we knew. The many movements for subversion in Latin America, Asia, and Africa hold danger for us, in their totality, and in the long run, but this form of cold war is not a form that can command our full energies or the attention of our whole society. This is a fragmentized, very specialized confrontation.

What seems almost everywhere evident is a forced slowing down of great expectations, indeed, of practical timetables. Red China is not able to expand either her economy or her territories at anything like the pace her leaders seemed confidently to expect 10 years ago; the best estimate is that she has had to put off her nuclear power expectations by several years at least. Khrushchev obviously has no realistic hope, anymore, of "catching up with America" either in industry or agriculture in his own time. Russia has failed to outmatch us in weaponry and she has, pretty surely, been forced to abandon the race for the moon.

We, on our part, have had to extend radically our own timetables for reaching the moon, for putting manned platforms into space and for achieving the much talked about anti-missile. We have come to understand that it is simple not within our power to make the poor countries economically viable on anything like the schedules we had set for ourselves. What we said we would do, with help, in Latin America in 10 years we obviously cannot do in less than a generation, if then.

The relationship of time to resources, financial and otherwise is a direct one. As timetables are lengthened, yearly budgets can be revised downward, since we are learning that money cannot force the pace of these projects as much as we once thought.

But a great people must have great enterprises always in hand. Since our enterprises abroad have lost their drama and their pace (even the Peace Corps becomes a chore, not a crusade) we must look inward. The tasks ahead are immense and challenging, if not dramatic. They are not so exciting as settling the wilderness or creating an industrial base. What we have to do now is not to move mountains—the mountains have been moved—but something much more on the order of cultivating a garden. The American garden is overgrown with weeds, riddled with bare spots and becoming ugly to look upon. We have to rebuild our educational system, fill up again the many pockets of sheer poverty, rationalize city life and transportation, make civilized existence possible for our Negroes, save what natural beauties and graceful old buildings remain and take back every inch of our natural heritage that we can get back from the concrete spreaders, the billboard erectors, the builders of raffish motels and all the other get-rich-quick vulgarians who are turning America into what Senator Fulbright foresees as a "honky tonk of continental proportions."

We have lived on easy space and easy resources; we have been devouring our heritage. With this generation we have reached the point that smaller, older European countries reached long ago. Unless we learn now that civilized progress does not mean only "more," "bigger," "higher," "louder"; unless we learn that the operative verbs for our lives must also include "to conserve" and "to refrain," we shall never achieve what our ancestors never doubted—a distinctly American civilization of a high order. The "air-conditioned nightmare" will have become inescapable reality. America, in truth, will have failed.

## PROPOSAL TO HAUL MOON ROCKET IN HUGE BRITISH PLANE

**Mr. FULBRIGHT.** Mr. President, an article appeared in last Friday's Wall Street Journal which exemplifies quite well the folly of the crash program to place a man on the moon by 1970. It recounts the plans of a NASA contract air hauler to convert three 12-year-old British flying boats at a cost of perhaps $3 million per plane to carry the upper sections of the Saturn V rocket from California to Huntsville and then to Cape Kennedy. Only one of the flying boats has ever flown, and that for only 100 hours of test time.

It is difficult for me to believe that a proposal of this nature would ever be considered by a rational Government official if we pursued this program at a more orderly pace free from the pressures of an unrealistic target date.

I need say nothing further. The article makes the point, quite unintentionally I am sure, far better than I could do. I profoundly regret that this is but one example among many which are reported in the daily press. In fact, there is so much waste in this program I am ashamed to try to include all of them in the Record.

I ask unanimous consent to have the article printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### California Firm Hopes To Haul Moon Rocket in Huge British Plane—Flights From Plants to Launch Pad Would Save Weeks Over Sea Trip, Might Avoid Risks

(By Robert E. Dallos)

London.—When the upper two stages of America's giant Saturn moon rocket first become airborne, they may be inside a vintage British airplane that had its own troubles getting off the ground.

A Van Nuys, Calif., firm, Aero Spacelines, Inc., proposes to convert three 12-year-old British flying boats into what it claims would be the biggest cargo carriers aloft. If the National Aeronautics and Space Administration (NASA) approves the plan, the company would fly the huge upper two stages of the Saturn V rocket from California to Huntsville, Ala., where they would be assembled for tests with the first stage, built in Mississippi. Afterward, the upper stages would be flown to Cape Kennedy while the even larger first stage would go by barge.

No plane now flying is big enough to carry the upper sections of the Saturn V, the rocket being developed to power the first manned U.S. moonship, Project Apollo. The upper stages are being built by North American Aviation, Inc., and Douglas Aircraft Co. They're too big to clear railroad tunnels, bridges, and adjoining tracks so, unless some means is found to fly them, the upper stages will have to be transported by sea via the Panama Canal.

Two of the British flying boats have never flown and the third has a mere 100 hours of test time in the air. Dubbed the Princess Flying Boats, the planes cost the British Government about $30 million in 1952. But they proved too costly and underpowered for either civilian or military use and they were put in mothballs.

#### NEW LEASE ON LIFE

Their new lease on life came recently when Cargo Sales, Ltd., a firm registered in the Bahamas, bought them from the British Government. Cargo Sales, in turn, granted options on the planes to Aero Spacelines. Terms weren't disclosed but conversion costs alone may total $3 million per plane.

To avoid the power problems of the craft Aero Spacelines plans to replace the presen 10 conventional propeller engines with 8 jets. To accommodate the rocket sections, it would install a much broader fuselage on the existing airframe, extending it to a 40-foot diameter. The plane also would be converted to a land-based craft. The conversion might take 20 months, enabling the planes to be ready well before the moon shot, hopefully set for before 1970.

The finished plane, resembling a winged whale, would dwarf most present aircraft. The biggest U.S. transport now, Boeing's jet cargoliner, lifts an 80,000-pound payload. The proposed rocket transport would lift 200,000 pounds and its gross weight would be 450,000 pounds, or one-third more than the Boeing jet. The pilot would sit nearly 60 feet off the ground, or as high as a 6 story building.

Aero Spacelines claims its big airplane, cruising at 350 miles an hour, could deliver the rocket sections in 8 hours or so, compared to 4 or 5 weeks by boat, and at the same cost. "We figure we could save 300 days' time transporting hardware in the Apollo program alone," claims J. H. Overholser, chairman. He adds that air shipment would eliminate potential damage from such sea hazards as salt spray, humidity, violent pitching, and the like. And if a section has to be returned to the factory for reworking, it can be done by air in a single day.

#### NASA WILL GET PROPOSAL

Preliminary engineering studies and wind tunnel tests have been completed on the proposed converted airplane. The results, according to the company, are "more than satisfactory." Engineering evaluation is continuing and a proposal is being drafted to submit to NASA. The space agency, of course, can't commit itself on the idea until a proposal is submited.

NASA already pays Aero Spacelines about $100,000 monthly to fly smaller Saturn rocket components to Cape Kennedy. For this job, the company uses specially enlarged versions of the Boeing Stratocruiser, a propeller-driven plane. Its swollen fuselage has earned it the nickname, "Pregnant Guppy." It's 20 feet in diameter, or about half the size of the proposed Princess rocket carrier.

## ASSAULTS ON OUR CONSTITUTIONAL SYSTEM OF GOVERNMENT

**Mr. TALMADGE.** Mr. President, I have just had the privilege of reading one of the most incisive and forceful discussions of the continuing assaults on our constitutional system of government that has come to my attention in some time.

I refer to a recent address by the Honorable Charles J. Bloch, a distinguished member of the bar from my State and one of the Nation's foremost constitutional authorities, before the Northern Judicial Circuit Bar Association of Georgia.

Mr. Bloch has appeared many times as an eloquent witness on the side of constitutional government before various committees of the Congress, and he is well known to many Members of this body.

In his carefully documented address, Mr. Bloch cites chapter and verse of how the present Supreme Court, in decision after decision, has undertaken to change the Constitution of the United States to make it conform to the Court's peculiar notions and ideas. Mr. Bloch also had some highly pertinent comments on the fatal constitutional flaws involved in the so-called civil rights bill now pending in the Senate.

Mr. President, I believe Mr. Bloch's timely and significant remarks should become a part of the record of the current debate, and I therefore ask unanimous consent to have it printed in the body of the Record at this point.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Address of Charles J. Bloch to Northern Judicial Circuit, Elberton, Ga., April 10, 1964

I know of no section, no people, who truly represent what the United States of America were than those counties which comprise the Northern Judicial Circuit of the State of Georgia, and those who live in those counties.

Your ancestry, your customs, your character, your traditions, your society, your way of life, if you please, are all representative of the sturdiness, integrity, intelligence and intellect which were the traits of your English ancestors, and typical of that which made the United States of America honored, feared and respected among the peoples of the world.

In 1818[1] the State of Georgia was laid off into six judicial circuits—southern, eastern, middle, northern, western, and Ocmulgee.

The counties which then comprised the northern circuit were Elbert, Lincoln, Columbia, Warren, Hancock, Oglethorpe and Wilkes.

A year later[2] Columbia County was placed in the middle circuit, Madison in the northern. Franklin was then in the western circuit.

By the time the Supreme Court of Georgia was established a generation later, five additional circuits had been created, Flint, Coweta, Chattahoochee, Cherokee, and southwestern.

In 1850, the circuits were known as districts, and the northern district was comprised of the counties of Elbert, Hancock, Lincoln, Madison, Oglethorpe, Talliaferro, Warren and Wilkes.[3]

In 1853, Hart was created from Franklin and Elbert, and attached to the northern circuit.

By the act of 1911, the northern circuit attained its present constituency, Elbert, Franklin, Hart, Madison and Oglethorpe.[4]

Elbert was created from Wilkes in 1790, Franklin was an original county of 1784, Hart was created from Franklin and Elbert; Madison was created from Oglethorpe, Jackson, Clark, Franklin and Elbert in 1811; Oglethorpe was an original county of 1793.

So, you see, you are a homogenous people, and an ancient one.

The very names of your counties are illustrative of the United States which were. Elbert—for Samuel Elbert, captain (1774); colonel, general, elected Governor in 1785 by almost a unanimous vote.

Franklin for Benjamin Franklin, signer of the Declaration of Independence, a delegate to the Constitutional Convention of 1787, as a deputy for the State of Pennsylvania, he signed the Constitution for her, Postmaster General of the Colonies, Envoy to France, Georgia's agent in Great Britain in colonial days.

Hart for Nancy Hart—Nancy Morgan Hart—Georgia's war queen, perhaps the most striking heroine of the Revolutionary War. Legend says that War Woman's Creek is named for her. Like many pioneer women, she was deprived of educational advantages, but she was dauntless in her efforts to save her country. She fought with her husband and her oldest son in the battle of Kettle Creek, February 14, 1779. Perhaps the deed which gives her greatest renown is the capture of a group of six Tories who had invaded her house.

Madison—for James Madison, fourth President of the United States. He had been chief recorder at the Constitutional Convention, and, as a deputy from Virginia, signed the Constitution for her. He was Secretary of State under his fellow Virginian—Thomas Jefferson. He was a "strict constructionist" opposed to the free interpretation of the Constitution by the Federalists.

Oglethorpe—for Gen. James Oglethorpe, founder of the Colony of Georgia.

I daresay that there are not five contiguous counties in these United States whose roots are more firmly planted in the soil from which sprang constitutional government. I daresay that there are not five contiguous counties in these United States which have given birth to an equal number of men and women dedicated to the founding and preservation of constitutional government.

So, it is most eminently fitting that I should talk to you about what has happened to that Government which was founded by those glorious people of whom Mrs. Hart, Generals Elbert and Oglethorpe, Dr. Franklin, and President Madison are outstanding examples.

To you, and to those of us whose forebears came a little later, a torch was thrown—an everlasting light which symbolized a government of laws under a written compact—the Constitution of the United States.

We are permitting that light to be extinguished, and chaotic darkness to threaten.

We are permitting a government of laws to be supplanted by a government of men.

We are permitting law and order to be supplanted by demonstrations, and rank demagoguery.

1. How has it come about?

2. What are we going to do about it?

How has it come about?

"Imagine yourself standing on what you had always considered solid ground and seeing it crackle and fissure in a kind of unearthly silence that was suddenly dispelled by the sharp explosion of a bursting water main."

That quotation is from the account of the earthquake in Alaska last Good Friday.

As I read it, my first feeling was one of deepest sympathy for the anxieties which afflicted the author of it, and so many others who similarly suffered.

Then, I thought, how well that sentence describes the feelings of those of us lawyers who thought we, and our loved ones, and our friends, and associates, and clients were standing on the solid ground of constitutional law and living under a rule of law based on legal, constitutional precedents.

So we, too, thought.

But, we saw that seemingly solid ground crackle and fissure under the assaults of psychologists and sociologists and power-seeking politicos and revengeful writers and others with the resulting earthquake of lawlessness—demonstrations, sit-ins, stand-ins, pray-ins, walkathons and talkathons, assaults and murders.

And we see the resulting cracks, crevices, and chasms into which all rights thought to be secure under the law are falling to be crushed into oblivion.

When we were licensed to practice law, we took an oath: "I will justly and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and I will support and defend the Constitution of the United States and the constitution of the State of Georgia. So help me God."

All Senators and Representatives, all executive and judicial officers both of the United States and of the several States, take an oath—to support the Constitution.

Each justice or judge of the United States shall take the following oath: "I solemnly swear or affirm that I will administer justice without respect to persons, and do equal right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me according to the best of my abilities and understanding agreeably to the Constitution and laws of the United States."

Each one of us, sworn to uphold and defend the Constitution of the United States, justly and uprightly demeaning ourselves has not only the right but the duty to inquire:

1. Are the officers of the United States, executive, legislative, and judicial supporting the Constitution of the United States?

2. Is justice being administered without respect to persons?

3. Is equal right being done to rich and poor?

4. Are official duties being performed and discharged impartially according to the best of the abilities and understanding of the officeholders?

If these questions may be truthfully answered affirmatively, it is most difficult to understand what has been happening in these United States during the last 20 years.

Bear in mind: The written Constitution and the amendments thereto are the same in 1964 as they were in 1944 except:

(a) the 22d amendment limits presidential terms of office (1951).

(b) the 23d amendment provides a presidential vote for the District of Columbia (1961).

(c) The 24th amendment bars the poll tax as a requisite for voting in Federal elections (1963).

Regardless of the merits or demerits of these amendments, they were adopted as prescribed by the Constitution. We may not like them, or some of them. That is not the question. They were adopted in the manner set out in the Constitution.

But what about the changes in the fundamental law which have been wrought in the last 20 years, not by valid amendment, but by judicial construction?

What about the legislative changes which are being sought in utter disregard of the constitutional validity of such legislation?

It is a consideration of these questions which causes the seismograph inherent in every real lawyer's mind, body and spirit to oscillate to the point of bursting.

On February 18, 1963, Mr. Justice Goldberg writing for himself and Chief Justice Warren, and Associate Justices Black, Douglas, and Brennan wrote:

"The Federal Constitution is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances" (372 U.S. 165).

He was quoting from an opinion written in 1866 by Mr. Justice Davis.

Would that the Court in the past 20 years had heeded the words quoted. And would that the Court had in the past 20 years heeded the words which immediately preceded, and those which immediately followed the words quoted.

Preceding the quotation are these words:

"Those great and good men (the Founding Fathers) foresaw that troublesome times would arise, when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril, unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future."

Then followed the words Justice Goldberg quoted, and, then came these: "No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its (the Constitution's) provisions can be suspended during any of the great exigencies of government" (4 Wallace 120–121).

The last 20 years have constituted an era which might be called "troublesome times."

The principles of constitutional liberty have been, are, and continue to be in peril. They are in peril despite the fact that they are established by irrepealable law. They are in peril because the Court has not applied the very doctrine embodied in the words it quoted on February 18, 1963.

They are in peril because the courts sometimes have not applied the quoted principle that the Constitution of the United States "covers with the shield of its protection all classes of men, at all times, and under all circumstances."

With all the respect due from bench to bar, we ask that those words be compared to what the Court wrote on May 17, 1954: "In approaching this problem, we cannot turn the clock back to 1868 when the amendment was adopted, or even to 1896 when *Plessy* v. *Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation."

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[1] Georgia Laws, 1818, p. 361.

[2] Georgia Laws, 1819, p. 362.

[3] Cobb's Digest, 1851, p. 458.

[4] Acts 1911, p. 87.

In one breath we are told that the Constitution protects all classes of men, at all times, under all circumstances.

In another breath, we are told that the Court can't turn the clock back, but must consider the problem in the light of the present.

With all the respect due Congress, whose motives we must not impugn, we ask that the principle established by those words be compared to the urgings that a bill be passed although it is directly contrary to the decision of the Supreme Court in the *Civil Rights Cases* decided in 1883 (109 U.S. 1).

Oh, that's 80 years ago, they say—the Court won't hold that now.

But they overlook that principle established in 1866, followed a century later. The Constitution protects all classes of men, at all times, under all circumstances.

In all fairness to the Senators and Representatives who urge that the Court will change its mind, they have the knowledge that the Court has changed its mind.

Even in the past 4 years, there are examples.

The Court has changed its mind, and decided that it would supervise legislative reapportionment, congressional apportionment. These are areas which it had previously avoided as being a "political thicket." (Compare *Baker* v. *Carr*, 369 U.S. 186 with *Colegrove* v. *Green*, 328 U.S. 549.)

On March 18, 1963, the Court decided to overturn Georgia's county unit system, although it had several times before declared that the problem was not within its jurisdiction.

The Court now (374 U.S. 203) bans required Bible reading and the utterance of the Lord's Prayer in the public schools. In 1962, it had banned (370 U.S. 421) the required utterance of a prescribed prayer in the public schools. It had decided 2 or 3 years before that a public officer could not be compelled to declare his belief in God (367 U.S. 488).

In 1949, the Court solemnly declared that the rights guaranteed by the Bill of Rights, comprising the first eight amendments to the Federal Constitution, are not applicable to the administration of criminal justice in State courts. Therefore it had nothing to do with evidence obtained by illegal searches and seizures, admitted in a State court trial (338 U.S. 25).

Without a word of the Constitution pertinent to the question having been changed, the Court on June 19, 1961, decided directly to the contrary. Bitterly did Mr. Justice Harlan dissent, amonishing the Court that it had forgotten the sense of judicial restraint which in his opinion should enter into deciding whether a past decision of the Court should be overruled (367 U.S. 643, 672).

June 1, 1942, the Court held that nothing in the Constitution obligated the States in criminal cases in State courts to afford assistance of counsel for the accused (316 U.S. 455, *Betts* v. *Brady*.) In so holding it merely repeated what the Court had held in 1884 (Hurtado, 110 U.S. 516).

Without a pertinent word of the Constitution having been changed, the Court on March 18, 1963, decided directly to the contrary (372 U.S. 335, *Gideon* v. *Wainwright*).

These of us who might immodestly deem themselves judicial seismographists were not particularly surprised at these decisons. Ever snce we heard argued in January of 1960, the case of *Thompson* v. *City of Louisville*, the loitering and disorderly conduct case, and read the decision in it (362 U.S. 199, Mar. 21, 1960), we thought there was a well planned and organized campaign by which State courts and their procedures would be made subservient to the Federal judiciary.

Sam Thompson, a Negro, was convicted in Louisville police court for loitering and disorderly conduct. He had been arrested 54 times previously. The Supreme Court reversed his conviction (362 U.S. 199).

The reason for the Sam Thompson case appeared a year and a half later. On December 11, 1961, the Court applied it in holding that certain Negroes, sitting in at lunch counters in Louisiana, were not guilty of "disturbing the peace" (*Garner et al.* v. *Louisiana*, 368 U.S. 157).

Twenty years ago democratic white primaries were constitutionally legal and valid. Today they are not.

Twenty years ago a property owner could agree with other property owners that they would not sell their respective properties to certain people. If the agreement was broken, he could enforce it in the courts of the land. It was a property right, protected by the law. Today, he can contract, but he cannot seek the protection of the law to enforce his rights.

Ten years ago, the separate but equal doctrine was an established principle of constitutional law, established and followed and applied for 80 years. It was within the discretion of the State whether the races should be separated in its schools, its colleges, universities, its hospitals, its parks, swimming pools, bathing beaches, golf courses.

On May 17, 1954, the Supreme Court nullified that right of the State with respect to its schools. It promulgated an opinion giving its reasons. Today, the State may not separate the races in its hospitals, parks, swimming pools, bathing beaches. But the Court has never told us how its reasoning in the school cases applied to a golf course or a bathing beach. It simply decrees that such separation violates the equal protection clause of the 14th amendment. That clause was adopted in 1868. It has not changed a syllable since—men have, times have, circumstances have. So, they say, the law has.

This equal protection clause is: "No State shall deny to any person within its jurisdiction the equal protection of the laws."

Without State action there is no violation of this amendment. But—what is "State action?" Aye, there's the rub.

Whatever the Supreme Court says is State action is State action.

Time was when State action was by established principle declared to be only such action as was performed by a State officer misusing the authority of the State with which he is clothed (1913, 227 U.S. 278).

Alas, no more is that an established principle.

It was swept aside and crushed in a tremor of May 20, 1963 (373 U.S. 267).

Three Negro "students" and one white "student" (I often wonder what and when such students study) entered a store in New Orleans, La., seeking service at a lunch counter reserved for white people. They refused to leave when requested. They were convicted of violating the Louisiana criminal mischief statute. No State statute or city ordinance required racial segregation in restaurants; "but both the mayor and the superintendent of police had announced publicly that such sit-in demonstrations would not be permitted." That statement was treated by Chief Justice Warren and the majority of his colleagues as if it were an ordinance or statute prohibiting such conduct.

When sworn officials disregard established principles, disregard precedent, disregard prescribed guidelines, disregard the words they quote, disregard landmarks of the law, and seek only to accomplish a result they desire, it is easy for them to stretch and distort the meaning of words, especially when there is no one to correct them.

As a result of such cases as the New Orleans case, we are threatened with more and more demonstrations, with violence, with chaos, with anarchy.

The same Bill of Rights which is invoked to protect lawbreakers is supposed to protect law-abiding citizens. Lawbreakers no longer seek equal protection of the laws. They no longer even seek protection of the laws. They seek only the protection of the Federal Government in their breaking of and disregard for the laws. They seek license to do as they please. They do seek to make that license legal by threats of what they will do and won't do.

Right now in Washington there is being debated in the Senate of the United States the so-called civil rights bill.

The executive branch of the Government urges its passage. The Attorney General and his staff coach and instruct certain Senators as to the content of the bill. The judicial branch awaits its opportunity to declare it constitutional—in the face of established principles.

It is being solemnly urged that "discriminations" affect interstate commerce. It is solemnly stated in the bill that its passage is necessary "to remove obstructions to the free flow of commerce among the States and with foreign nations" (sec. 701(b)(2)).

Leading south through Georgia into Florida is an interstate highway, built with Federal funds, under congressional authority, so that there might be a freer flow of commerce between the States. That highway, No. 75, connects in north Florida with another such Interstate Highway No. 10, similarly built for similar purposes and use. No. 10 leads into Jacksonville, Fla. Within the city limits of Jacksonville are several exits from the interstate highway whereby interstate travelers emerge from the highway into the city of Jacksonville. On March 23, 1964, several of those exits were blocked, sealed off by local police officers. Motorists could not use them to leave the highway. Why? Because certain demonstrators were hurling missiles at innocent drivers and their vehicles as they used those exits. So, these interstate travelers had to travel considerable distances out of their way in order to leave the highway and reach their destination.

Can you imagine a more flagrant interference with the flow of interstate commerce? I cannot—except as a matter of degree. But, has there been any punishment or attempted punishment of those acts by the Federal Government? Has the Federal Government attempted in any manner to insure the free flow of commerce over that highway?

That same bill of rights provides that no person shall be deprived of life, liberty, or property without due process of law. Protection to person and property is the paramount duty of government and should be impartial and complete.

Not in Florida, but in our own State, what is happening? State courts, at least one State judge, seek to enforce State laws preventing unlawful trespass and destruction of private property. Prosecutions are legally instituted, and legally carried on against those accused of violating the statutes of the State. The accused seek the aid of the Federal courts. The cases are transferred to the Federal courts for trial. What statute of the United States authorizes such transfer? I know of none. But suppose there is one. Will such transfers nullify the prosecutions, or will the prosecutions continue in the Federal courts before judge and jury of the vicinage?

That is not merely a rhetorical question. It is a question which vitally concerns you and yours, mine and me—our lives, our liberty, our property. Are the courts of a State to be made powerless to prevent riot, assaults, depradations upon property—even murders, rapes, and robberies—upon the assertion of the accused that he can't get a fair trial?

Are marauders to be permitted to pillage and destroy without fear of punishment by any authority?

Those are questions which vitally concern all of us. They most particularly concern us as lawyers—because it is to us lawyers the people must look for guidance and direction under law.

If we, we lawyers, are too busy or too ignorant or too unconcerned or too cowardly to aid in solving the problem, who will solve it? Will it ever be solved? Or will we drift into more and more disregard of law, violence, anarchy.

We should not permit votes to be bought with the liberty, security, and property of the good citizens of America—North, South, East, or West—white, black, yellow, or red—Protestant, Catholic, or Jewish.

As I write this, the so-called Civil Rights Act is being debated in the Senate. Senator Richard B. Russell, of Georgia, has just talked to the county commissioners of Georgia in session at Jekyll Island. He said in part: "This bill is one of the most far-reaching pieces of force legislation ever submitted. It's really 11 bills in 1—you can find a little civil rights in it but about 90 percent of it is vote bait and civil wrongs instead of civil rights—the most concerted assault upon the system of constitutional government."

What the people of Wisconsin think of it is demonstrated by 300,000 of them voting for Governor Wallace last Tuesday. "Oh, now," say the civil righters, "The Republicans crossed over, and voted for Wallace." Maybe so—I don't know.

I do know that those who believe in constitutional government, whatever their race, color, creed, nationality, or place of residence, ought to be eternally grateful to Senator Russell, Senator Talmadge, Senator Thurmond, Senator Ervin, and the other Senators aiding them in the fight they're making. At long last, the people of the North, East, and West are beginning to see that it isn't the South alone which faces a problem.

When anarchy is preached and practiced, when illegal conduct goes unpunished in the courts, and the executive branch of the Government not only takes no action to prevent such anarchy, but remains strangely, ominously silent—it is not a regional problem, it is a national problem.

What are you going to do about it?

Sometimes I ask that question and, in turn, am asked a question, "What can we do?"

When I am asked I think of the man who went to a throat doctor with a cocklebur in his throat. The doctor took a steel instrument, thrust it into the patient's mouth, disloged the cocklebur so that it slipped down into his stomach. A little later the patient came back complaining of stomach pains. The throat doctor replied: "Go see a stomach doctor."

But I think I can do a little better than that.

What you lack is realization, determination, and organization.

You lack a realization of the enormity of the wrongs which are being done to the American people.

You lack a realization of the destruction of constitutional government being wrought by usurpations of power.

Some of you may have those realizations.

If you have, you lack the determination to do something toward a restoration of real government.

You lack the determination possessed by Elbert and Oglethorpe, Franklin and Madison, and Mrs. Hart.

Some of you may even have the determination as well as the realization.

Those lack organization.

I read a great deal. And I read that adjacent to the Capitol Building in Washington now are headquarters of many organizations organized and located to send delegations into the galleries of the Senate, and lobby with the various Senators.

How many organizations are there to plead the cause of constitutional government—to represent people who believe as you and I do—only one that I know of.

"Demonstrations" is a much used word these days.

"Dick" Russell demonstrates every day now what courage and determination will do in the battle which is being waged.

George Wallace with the nerve and fortitude to go into the State of Wisconsin, and plead your cause and mine, demonstrated courage and determination.

What are you doing—as citizens and lawyers?

You can do—you can help organize if you but will.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

## CIVIL RIGHTS ACT OF 1963

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 158 Leg.]

Allott
Anderson
Bartlett
Beall
Bible
Boggs
Burdick
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Ellender
Fong
Fulbright
Gruening
Hart
Hartke
Hayden
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
Metcalf
Monroney
Morse
Morton
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

The question is on agreeing to the amendments listed as No. 513, proposed by the Senator from Georgia [Mr. Talmadge] for himself and other Senators, to amend the language on page 54, line 7, by adding a new title. Without objection, the amendments will be considered en bloc.

Mr. FULBRIGHT. Mr. President, it is unfortunate that the Senate appears to be dividing into two armed camps with very few neutrals left to provide sanctuary for those seeking escape from the verbal shot and shell of this debate. The debate on the monumental bill before us has brought forth some extremely interesting and well prepared discussions.

Since I see the distinguished junior Senator from Georgia [Mr. Talmadge] in the Chamber, I wish to take this opportunity to compliment him on one of the most thorough and rational explanations of the history and significance of the right of trial by jury that I have heard in this or any other debate. He said all that really need be said on such a subject. If people would pay attention to his remarks and read them, they would discover that his arguments and the historical precedents which he cited are unanswerable.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. FULBRIGHT. I yield.

Mr. TALMADGE. I desire to express to the able Senator from Arkansas my deep gratitude for the generosity of his remarks. I have handed the Senator some material. I point out that the pending amendment is identical, word for word, with the amendment which was approved by the Senate by a vote of 51 to 42 on August 1, 1957. At that time the amendment was offered by the late Senator from Wyoming, Mr. O'Mahoney. The amendment as later amended was cosponsored by the Senators from Washington [Mr. Jackson and Mr. Magnuson], the Senator from Montana [Mr. Mansfield], the late Senator Murray of Montana, the Senator from Nevada [Mr. Bible], the late President Kennedy, who was then a Senator, the Senator from Rhode Island [Mr. Pastore], the Senator from Ohio [Mr. Lausche], the late Senator Malone, and the Senator from North Dakota [Mr. Young]. It was approved by the Senate by a vote of 51 yeas to 42 nays. At that time the bill under discussion was very limited in its scope. As the able Senator knows, the bill before the Senate covers every effort and every walk of private human life from the cradle to the grave. The scope of its delegation of power is almost beyond belief, unless lawyers would study it for weeks on end.

I hope that the Senator will ask to have printed in the Record at this point the vote in the Senate in 1957 on the issue.

Mr. FULBRIGHT. Indeed I shall. Mr. President, I ask unanimous consent that the vote of the Senate as reflected in the Congressional Record, volume 103, part 10, page 13356, be printed at this point in the Record.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

The result was announced—yeas 51, nays 42, as follows:

Yeas, 51: Anderson, Bible, Butler, Byrd, Capehart, Case of South Dakota, Chavez, Church, Curtis, Eastland, Ellender, Ervin, Frear, Fulbright, Goldwater, Gore, Green, Hayden, Hill, Holland, Jackson, Johnson of Texas, Johnston of South Carolina, Kefauver, Kennedy, Kerr, Lausche, Long, Magnuson, Malone, Mansfield, McClellan, Monroney, Mundt, Murray, O'Mahoney, Pastore, Revercomb, Robertson, Russell, Schoeppel, Scott, Smathers, Smith of Maine, Sparkman, Stennis, Talmadge, Thurmond, Williams, Yarborough, Young.

Nays, 42: Aiken, Allott, Barrett, Beall, Bennett, Bricker, Bush, Carlson, Carroll, Case of New Jersey, Clark, Cooper, Cotton, Dirksen, Douglas, Dworshak, Flanders, Hennings, Hickenlooper, Hruska, Humphrey, Ives, Javits, Jenner, Knowland, Kuchel, Langer, Martin of Iowa, Martin of Pennsylvania, McNamara, Morse, Morton, Neuberger, Payne, Potter, Purtell, Saltonstall, Smith of New Jersey, Symington, Thye, Watkins, Wiley.

Not voting, 2: Bridges, Neely.

Mr. FULBRIGHT. I am very pleased that the Senator from Georgia has shown the resourcefulness to bring to the attention of the Senate this vote, and particularly his drawing attention to the names of the sponsors of the amendment. Of course, I am proud to have been one of those who voted for the bill. But it is interesting to note the character and the wide diversity of Senators who voted for the bill at that time. It is incredible to me that at this time, only some 7 years later, with a bill that is much broader, as the Senator from Georgia has pointed out, the Senate should not likewise support the requirement for a trial by jury in these cases.

I shall, of course, have much more to say about this particular subject later in my remarks.

Mr. President, it is to be fervently hoped that these exchanges do more than fill pages in the CONGRESSIONAL RECORD. There is a real need for open discussion of this legislation and as the Senate has seen fit to hold the bill here on the floor rather than send it to committee for appropriate study the Senate as a whole is charged with a responsibility for the form and substance of the bill.

The matter of taking the bill up without its having received the attention of a committee has been thoroughly discussed. It so happened that at that stage in the proceedings I did not have an opportunity to say very much, but I would add at this time that I consider it to be a very bad precedent to bring up such a complex bill without hearings, which would develop the meaning of some of its phrases and reveal its intention.

One of the reasons why there is such difficulty in the debate and why so long a time is required to develop the points in the bill is that there have been no hearings by a committee of the Senate.

I often think of what happens in a complex bill such as the foreign aid bill. We spend some 2 or 3 months, meeting 4 or 5 days a week, preparing a foreign aid bill before it ever reaches the floor of the Senate. We did that last year. The Senate still spent more than 3 weeks in discussing the bill on the floor, although 3 months had been spent in hearings in the preceding spring on the same bill.

I have the disconcerting impression that opinions on this legislation are hardening into immutable forms not only in this body but throughout the country. This complex bill, with its many facets and implications, is viewed as a single public question which is to be answered with a simple "Yes" or "No." It is the function of this body and of this debate to reveal this assumption for the fallacy it is and to call to the attention of the country and of one another the deficiencies of this legislation and its inappropriateness in our present circumstances. When this debate is concluded, by whatever means, the country should know what we have been about and why, and, Mr. President, the Senate should be more cognizant of its function.

Earlier in this debate I referred to a passage in the Federalist, by Madison, which defined the purpose of the Senate. At this point, when the trees of fatigue and repetition may be beginning to obscure the woods of purpose, I would like to recall for the Senate a story related by former Congressman T. V. Smith in his book "The Legislative Way of Life." Under the caption, "The Tolerant Person Meets the Trying Problem," he wrote:

> I met some time ago the wife of a man who once had been a member of a middle western legislature. Being always curious as to the attitude of idealistic people toward their legislative bodies, I engaged her in conversation regarding her husband's experiences in politics. She said that she had been originally worried about her husband's getting into politics at all. She had thought politics rotten, you see, calculated to corrupt whomever it touches.
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> Her husband must have been a very wise man, or at least a very lucky one, seeing how he handled the situation. She said that when he first went off to the capital city, she told him that she asked only two things: that he would keep personally decent and that he would do his duty by voting his convictions on each bill. Presently he invited her to go with him to the legislature. Being himself very busy, he asked her now and then to read certain bills that he had no time to read, and to advise him how to vote upon the bills.
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> This she undertook to do. The first bill he gave her she read with great care and told him how to vote. But then, she said, there developed a curious situation.
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> After she had advised her husband how to vote, she would go to the committee meetings or hear the debates on the floor. She said that the people on each side would put up such good arguments that after listening to the debates she did not know whether her advice to her husband had been sound or not. This discovery was to her something of a surprise—the double discovery, you see, that each side was reasonable and that both groups were honest. After having this upsetting experience a few times, she said that she told her husband that he would just have to read the bills for himself thereafter, that she did not know anything more about what was right to do than he.
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> It is a great discovery for the self-righteous to make. It marks the first crack in the shell of elemental egoism. It is a crack which the Hitlers of life never suffer, nor permit others to enjoy. It is a great day when anyone is brought to suspect that he is no wiser than others, and that others are as honest as he. The beginning of collective wisdom is for each man to discover that he is not God. To discover that is to see why legislatures are necessary and to learn how they can be fruitful. For that is a discovery calculated to emancipate one from his natural narrowness and to start him upon the pilgrimage whose mecca is the full-fledged legislative way of life.

I know of no more poignant reminder of the need for ever-fresh resolve on the part of this body to inquire and examine in the course of the legislative process. There are no yes-and-no answers in matters of public policy which, as in this case, affect not only people's livelihood and education but also intimate personal relationships. I would ask the Senate to put aside any inclination which it may have to assume that to be for civil rights is to be for this bill or that this harsh and far-reaching legislation is the only pathway open to social progress.

With this admonition, I would like to proceed to a brief discussion of the issues involved in the amendment offered by the junior Senator from Georgia [Mr. TALMADGE].

As I have just said, I think the junior Senator from Georgia rendered a great service by offering the amendment.

Mr. President, I should like briefly to recall some of the circumstances and some of the reasons which accompanied the foundation of our country. I believe it may give all of us a little better perspective on the question involved in this amendment if for a moment we refresh our memories about the origin of our governmental institutions.

The earliest settlers came to this country seeking freedom from oppression by temporal as well as by religious authority. Of course, there were other considerations involved, but the dominant desire of the great majority was that of personal freedom—freedom from being pushed around, told what to think or not to think, and how to act under any and all circumstances. They were sick and tired of self-righteous people who presumed to have a private pipeline to God, who knew how everyone should act and think, and who insisted on conformity in every respect to the way they thought and acted.

Our forefathers wanted to be free from the arbitrary tutelage of the king, or any religious leader, just as the Hungarians, or East Germans, or South Vietnamese want to be free from the domination of any arbitrary power, foreign or domestic, of their political institutions as well as of their thoughts and their views about religion or personal conduct.

One of the principal protections to the freedom which our forefathers wanted, and in search of which they came to this country, was the right of trial by jury. The Constitution is the basic charter of the freedom which our forefathers desired, and which we still retain. The Bill of Rights is the essence of that charter.

These rights were the indispensable ingredients without which there would have been no United States of America, and without which there could have been no Federal Union.

In the Bill of Rights, the sixth and seventh amendments expressly and unequivocally guarantee the right of trial by jury.

The trial by jury, of one's peers, of course, has its origins far back in history, so far back that I shall not attempt to review its history at this time, other than to remind my colleagues that in 1215, when King John was called to account by the barons at Runnymede, a trial by jury was one of the chief items of interest to the barons.

The fact that it was even brought up then clearly indicates that it had been a matter of great interest before that time. The memorandums and the material used by the junior Senator from Georgia [Mr. TALMADGE] last night portrayed the early history of the development of trial by jury in a most admirable manner.

Even at that early date it was considered an important element in the freedom of the individual from oppression by an arbitrary executive.

Since King John's day, a trial by jury has become so well established that most of us have taken it for granted, without appreciating how important it is to our basic freedom from arbitrary governmental oppression.

One trouble with our present generation is that, having taken for granted the trial by jury, when unexpectedly it comes under attack few of us are prepared to defend it—we did not fight for it—we inherited it from our forefathers and many of us do not seem to understand its significance.

The Constitution as originally written, including the Bill of Rights, expressly and in no uncertain terms guarantees the right to a jury.

I wish to read four references in four different places in the Constitution, which I think should be reiterated on every suitable occasion, to draw attention to the significance and importance which the Founding Fathers attached to the right to trial by jury, as contrasted with some of the other rights under consideration here.

The sixth amendment to the Constitution provides as follows:

Mr. President, before I read the amendment, I know that to many Senators who are lawyers this is old material, but I am always amazed that many other Senators preface their remarks with the statement, "I am not a lawyer," as if they were not expected to know or to be familiar with the contents of the Constitution. Yet this is the very heart and core of the issue which is before the Senate today.

Therefore, I believe there is justification in reiterating these amendments to the Constitution, on the chance that they may, on occasion, refresh our memories as to what our basic constitutional law, which is the basis of our Government, provides.

Mr. RUSSELL. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. RUSSELL. The Senator knows that all Members of Congress are sworn to maintain and defend the Constitution of the United States. It therefore seems desirable that whatever one's vocation might be, one should familiarize himself with that document. Of course, I believe that also should apply to the courts, which sometimes seem to forget some provisions of the Constitution. There is certainly no justification for any Member of Congress pleading ignorance of the Constitution of the United States when he is sworn, before he becomes a Member of Congress, to maintain and defend the Constitution.

Mr. FULBRIGHT. I appreciate the Senator's comments. Perhaps all Members of Congress have read the Constitution. But to read the Constitution without a thorough understanding of the circumstances under which it was written, and the precedents which go back into English history, back certainly as far as King John at Runnymede and even beyond that, back to the days of the Angles and the Saxons. The Constitution does not have quite the same impact upon them as it does when it is read and understood in relation to why and how it originally came into existence.

Some Senators have not studied law and have not read the cases in which the Constitution has been interpreted. I am not trying to criticize them, because many Senators come into the Senate from business, the medical profession, and other professions, and they have not had the opportunity, prior to coming to the Senate, to study and understand the Constitution. I am not really trying to criticize these Senators, I am only commenting that it is unfortunate that they have not had such an experience.

The Senator from Georgia [Mr. RUSSELL] grew up in government, and he absorbed a knowledge of the Constitution and the laws from a very early age, as a leader of the legislature of his State, as Governor of the State of Georgia, and I suppose he feels that everyone should know the Constitution by instinct.

Mr. RUSSELL. My purpose was to commend the Senator from Arkansas for going back and giving us the historical background of the Constitution, and the reason for its importance. I have the greatest admiration for the distinguished Senator from Arkansas. He is, perhaps, the greatest scholar in the Senate today.

Mr. FULBRIGHT. I would not say that.

Mr. RUSSELL. There are many outstanding scholars in the Senate. I regret that the Senator goes back only to Magna Carta in 1215 in his discussion. I hope that on a subsequent occasion he will go back even earlier to the era of the trial by fire, and show how the various steps in our system of justice were developed and how the system has been improved as the human family has progressed.

However, we all know that at one time some poor devil was made to run over hot coals, or red hot irons, as a test of his guilt or innocence. We have come a long way since those days. I do not wish to return to them.

This bill, in a way, could be the beginning of turning back to that kind of trial—ordeal by fire—because it would deny the right to a jury trial.

I heartily commend the Senator from Arkansas for reciting the history of this great keystone in the administration of justice wherever the English language is spoken—the right of trial by jury.

I am delighted that he has given us some of its background. As I say, I hope that on a later date he will go back further and show the hundreds of years of sacrifice made by the human family to establish the right of trial by jury, which the pending bill so cavalierly seeks to abolish.

Mr. FULBRIGHT. I certainly appreciate the Senator's comments. I did not quite understand the import of his first remarks. I appreciate very much what he has said. There is no question, as he has indicated in his brief comments, that as we go far beyond King John and back into the earlier days, not only in England but on back into the days of Greece, the gradual development of the idea that one should be judged by what we call today a jury of his peers—it has been called different names—has had a very slow and difficult growth, and has taken place only in a few of the most advanced societies.

Even today, there are few countries in the world in which one can be assured of a trial by jury as we know it. Today, the right of trial by jury is one of the basic distinctions between our society and what we call authoritarian governments, some of which are Communist dominated, but some of which are not Communist dominated. They do not provide for trial by jury. They are too impatient to allow such procedures for the protection of the individual. All of the rights of the individual are considered subsidiary and secondary to the rights of the state.

This was one of the principal ways, and one of the most important ways, to give some balance between the great power represented by a king—what today we would call a dictator, in some cases—and the individual's rights.

I believe one of the greatest accomplishments of the Anglo-Saxon world was the development of the right of trial by jury. It was not easy, in that case, as has been pointed out on other occasions. There were lapses. Every time some move was made toward trial by jury as guaranteed, say, in Magna Charta, a king would come along who was impatient with these processes who would resort to the star chamber or admiralty courts, to get around the requirement of trial by jury.

Mr. RUSSELL. As was the case in the Bloody Assizes.

Mr. FULBRIGHT. Exactly. That appears to be what is sought in this case. Some people are so imbued with the idea that they know the answer to the difficult problem of race relations that they are impatient with our established principles. What they are trying to do is to short circuit them because they are convinced that they are right in their particular view as to how to solve one of the most difficult problems which has confronted not only this country, but also many other countries in the world.

To illustrate the point, the other day, by pure accident, in the course of a small informal interview, I was asked a question about the general problem of civil rights, and I said that it was a difficult problem which afflicted many people. For example, I was not aware that a minor problem of this kind exists in a country like Norway. Only a few days ago I had a conversation with a prominent public servant from Norway, and he told me about some of their difficulties, of a minor nature, of course, because Norway has very few nonwhite and has a very high degree of homogeneity in its population. But they have some Lapps who come down from the Arctic Circle. They have a different social background. They look a little different from the average Norwegian. They have not had any riots that attracted national or international attention. But the only point is that even those people, who are a very small percentage of the population, have difficulty in adjusting.

This is a difficult problem. The proponents of this legislation make the problem that we are dealing with most difficult. They want to short circuit the procedures which have been established throughout the centuries to deal with basic human rights. This is where the idea that they are liberals breaks down.

There are other ways to help people. The Senator from Georgia knows that sometimes we have differed as to those other ways. But I have always thought since I came to the Senate that the first thing to do with this, or any other minority that feels it is not participating to the fullest in the society in which it is a member, is to give them opportunities to receive as good an education as anyone, and to receive as good health opportunities as anyone.

I have always supported education, even though my constituents were very dubious about it and on the whole did not support me. This is one reason why I supported Federal aid to education as one way to contribute to progress. It is a long, hard way, not a short-circuit way. I believe it is a much more promising way than that proposed.

Mr. RUSSELL. I heartily agree with the Senator. I think if we could provide better educational opportunities for all our people, white as well as colored, it would have a very salutary effect in these Halls when we consider legislation of this character. If we made clear to all the people of any race or color—whether black, white, yellow, or red—the nature of the sacrifices, and the length and intensity of the struggle that was required to establish the right of an accused person to be tried by a jury of his peers, and to be informed of the nature of the offense charged against him, all people of all races would hesitate before they would contribute in any degree to any curtailment of that great privilege. The right of trial by jury undoubtedly represents the final flowering of the long effort to establish a fair system of jurisprudence by the Anglo-Saxon people from the time that the Saxons came from the woods of Germany and invaded England and combined with the Angles. It is the final flowering of hundreds of years of effort.

The Magna Carta did not give the universal right of a trial by a jury of one's peers. It applied only to the nobility at the outset. It was a long time before the average man obtained the right of a trial by jury and received equal opportunity before the law.

If we can assure equal opportunity before the law in this country, and educate our people to all that this entails, as the Senator has said, it will go much further toward correcting imbalances and injustices which the bill seeks to achieve by violent action. And it would do so without leaving any scars. It would contribute to a peaceful, final, and permanent solution of these problems, which action such as is proposed in the pending bill can only accentuate.

Mr. FULBRIGHT. I think the Senator is exactly correct. Assuming that this bill were passed, there would be a most terrible disappointment with the results. We cannot bring about the objectives that I think all of us have in mind by legislative fiat. Our forebears did not bring about the right of a trial by a jury of one's peers by legislative fiat, either. That was a long, hard struggle that gradually came about through conflicts between the nobility and the king in the first instance, and later between the people and the king. All those various elements entered into it.

Mr. RUSSELL. And the religious element also entered into it.

Mr. FULBRIGHT. That is correct. But one of the basic troubles of the bill, while it looks like a short circuit to perfection or a panacea to all our illnesses, is that it is no such thing.

As of today, I think we are dealing with one of the most important aspects of the bill. That is its attempt, as it is now presented, to deprive our citizens in many cases of a trial by jury by the procedure of injunction.

Mr. President, the sixth amendment to the Constitution reads as follows:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

I do not think there is any amendment or section of the whole Constitution more important to the rights of individuals in this great country. All great countries, small and large, for that matter, have always been and are still confronted with the problem of reconciling an organization of the State as such, and the giving of sufficient power to maintain its integrity with the preservation of the right of the individual. This is at the heart of the difficulties of every country and every society.

This particular amendment has been one of the principal reasons why this country, large as it is, and diverse as it is, has done such a good job throughout its history in preserving personal liberty and personal freedom, together with a government strong enough to maintain its integrity and its national security.

These two elements are in a sense always more or less in conflict. And while we have suffered some difficulties, when we compare our achievements with those of other countries—certainly other countries of any great size—our record has been very good.

The sixth amendment has contributed as much as anything I know of in the Constitution to the achievement of a reasonably satisfactory result.

I ask Senators, does anyone believe that that amendment should be lightly set aside by a play on words which amounts to saying that we now should give jurisdiction to a court of equity to enjoin all crime? If that be true, this amendment means nothing. If, as the bill attempts to do to a limited degree, we can turn the acts which have traditionally been considered crimes—and were considered crimes when this provision was written—into acts which may be enjoined, as the bill attempts to do, we shall have effectively negated the sixth amendment.

This to me is a very deceptive concept. I noticed a few days ago that an attempt was made to cite precedents in State courts in which the power of injunctions—particularly injunctions for contempt of court—were cited as precedents for the provisions in the bill.

I think they were effectively demolished last night. They were effectively demolished in the dissent of the Supreme Court in its most recent case on the subject of jury trial involving a former Governor of Mississippi. I shall discuss that subject a little later in my comments.

The seventh amendment to the Constitution provides as follows:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

It will be noted that that is the common law procedure governing civil cases, as contrasted with criminal prosecutions referred to in the sixth amendment. But it is quite remarkable to me that even down to the amount of $20 the Constitution provides for the right of trial by jury. In other words, in a suit for $21 or $25, provision is made for the right of trial by jury. Of course, at the time this amendment was written, the dollar was worth much more than it is today. Nevertheless, the seventh amendment shows that even in civil actions involving matters as small as $21, the Founding Fathers thought it important to provide the right of trial by jury.

The fifth amendment to the Constitution provides as follows:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same

> offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Here again, the fifth amendment, which is so often cited as the source of individual rights in many cases, provides specifically for a grand jury, which, in a sense, is quite similar. It provides that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury." So we can see in another part of the Constitution how concerned the Founding Fathers were with the protection of the individual through the devices of the petit jury and the grand jury.

Article III, section 2, of the Constitution provides as follows:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

We might well ask, Why was it that the provision, "The trial of all crimes, except in cases of impeachment, shall be by jury," was included? The Founding Fathers were still so concerned about the protection of individual rights that they reiterated, in effect, the provisions of the sixth and seventh amendments. It shows again how extremely important, how fundamental to our liberties, the Founding Fathers—some of the wisest men it has ever been our good fortune to have in this country—considered trial by jury to be.

Thus, in four different places in the Constitution and the Bill of Rights we find a specific guaranty of the right to trial by jury. In four places in the Constitution the Founding Fathers sought to insure and retain the right to trial by jury, which right would most certainly be impaired in the most drastic way if the proposed legislation now before the Senate were not amended by the pending proposal offered by the junior Senator from Georgia [Mr. TALMADGE].

We seem to be at another cross roads of our jurisprudence, a cross roads which during our history has been encountered on numerous occasions. Most often we have taken the right road; sadly, at times, the wrong road.

On the right road we have found the preservation of our Government and contrariwise on the wrong road we have shouldered the miseries of loss of life, property, war, and devastation.

One road is a government by laws, the other, a government by men.

It can be said in many ways but the result and choice are the same. Shall our liberty of person be decided by the law with a jury trial, or shall one man, a judge—however competent that judge may be—decide for us our right to freedom or the necessity of going to jail?

It becomes a tragic error and a travesty of justice to attempt the protection of civil rights for any one group through a process which denies a liberty equally precious—that of trial by jury. The administration's civil rights proposals will do just simply this.

These proposals eliminate trial by jury by making the U.S. Government a party to private suits brought under present civil rights statutes and substituting an equitable remedy; that is, the injunction—for common law proceedings.

The evils of government by injunction, I am happy to say, have become well known. It is not primarily these evils I wish to discuss today, but rather the very imminent danger that equity is fast substituting its summary processes and peremptory punishments for the common law proceedings of indictment by grand jury and trial by petty jury.

This encroachment of the equity process into the enforcement of our criminal laws and the usurpation of the State's police powers have been gradual for many years but lately the pace has accelerated at an alarming rate.

The most frightening aspect of the civil rights proposals is the power of the court to punish disobedience to the injunction by summary proceedings for contempt, without jury trial. Under present Federal laws, when an individual is subject to contempt proceedings, for acts allegedly in violation of State or Federal laws, he has the right to jury trial on request.

This guaranty arose out of labor's experience with injunctions and judges. But it does not apply to injunction cases wherein the United States is a party to the suit.

The administration asks that the U.S. Government become a party to private suits under civil rights statutes, thus negating completely trial by jury except upon election of a judge and empowering a single judge to issue the injunction, make its initial interpretation, determine who has violated it, and punish him for contempt.

The injunction and contempt process subjects an individual to the same jeopardy he suffers in criminal proceedings. Two men could be cellmates in the same jail for committing identical acts, one having been convicted by a jury, the other remanded by a judge for violating a court decree. Where is our equal justice before equal laws if, because of doubt on the facts, the jury above released the defendant and the judge, because of personal passions of the moment, jailed his defendant?

Where, I ask, will this lead us?

There is not one particle less liberty involved in punishment for contempt and in punishment for violation of a State or Federal law.

The real difference is that under common law proceedings an accused's guilt or innocence and his liability to damages, are determined by a jury while in contempt proceedings his fate rests with a single judge. One held in contempt, whether it be criminal or civil contempt, is subject to fine or imprisonment.

The advocates of these civil rights measures say that the injunction provides a quick, tailormade remedy in this area. It is true that constitutional safeguards provided in jury trials make the punishment of an act as a crime a slower, less sure process.

Constitutional guarantees do render action in the democratic process slower, more cumbersome than actions by totalitarian States. Yet, should any constitutional guarantee be surrendered for the sake of quickness and ease?

We should remember that the Founding Fathers established constitutional guarantees because they loathed bureaucratic and judicial tyranny more than they loved bureaucratic and judicial haste.

The proponents of these measures also say that the injunctive remedy will be free of prejudice and bias sometimes shown by local juries. But they fail to take into account the situation and possible prejudice of the judge.

The jury trial was not created; it grew out of the usages of the immemorial past. We find it in the Roman Empire shortly after the death of Christ. We find it in the reign of Alfred the Great—871–901. We find its essence in the Magna Carta, as I have said. We see it abused and abrogated in the English Star Chamber, and the extension of the Admiralty Courts by the British Crown against the Colonies of America. We see it listed as an abuse by the Crown in the Declaration of Independence; and it seems to gather almost with a vengeance in the Constitution:

> The trial of all crimes, except in cases of impeachment, shall be by jury.
>
> No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger.
>
> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.
>
> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

Here, again, as I have previously stated, the drafters of the Constitution repeated, four different times, their reference to the trial by jury as being one of the essential elements of a freeman in a free country.

At the time of the drafting of the Constitution, equity was in its true, pure historical context. Chancery or equity professed to act as a court only when the other courts could give no relief or inadequate relief and property or property rights must be in question. Knowing the jurisdiction of equity the framers and Founding Fathers knew of no need to protect the people by jury trial in contempt cases arising out of injunctions.

But the modern writ of injunction is used for purposes which bear no more resemblance to the uses of the ancient writ of that name than the milky way bears to the sun. Formerly it was used to conserve the property in dispute between private litigants; but in modern times it has taken the place of the police powers of the State and Nation. It enforces and restrains with equal facility the criminal laws of the State and Nation.

With it, the judge not only restrains and punishes the commission of crimes defined by statute; he also proceeds to frame a criminal code of his own, extended as he sees proper, by which various acts, innocent in law and morals, are made criminal; such as standing, walking, or marching on the public highway, or talking, speaking or preaching, and other like acts.

In proceedings for contempt for an alleged violation of the injunction the judge is the lawmaker, the injured party, the prosecutor, the judge and the jury, all at the same time. It is not surprising that, when uniting in himself all these characters, he is commonly able to obtain a conviction.

Nor would it be surprising to see the Founding Fathers, with today's knowledge, include contempts of injunctions under the protection of jury trials. They would have specifically written in the protection with a fiendish detail, smarting as they were from the abuses of the Crown.

The proponents of our present civil rights bills, in defending the increased use of the injunctive process with the inevitable contempt trials, claim that the assumption of this jurisdiction by the Federal courts is a swifter and speedier mode of dealing with those who violate or threaten to violate the laws, than by the prescribed and customary method of proceeding in courts of law; that it is a short cut to the accomplishment of the desired object; that it avoids the delay and uncertainty incident to a jury trial, occasions less expense, and insures speedier judgment and punishment.

All this may be conceded to be true. But the logical difficulty with this reasoning is that it confers jurisdiction on the mob equally with the chancellor.

Those who justify or excuse mob law do it upon the ground that the administration of criminal justice in the courts is slow and expensive, and the results sometimes unsatisfactory.

It can make little difference to the victims of legal shortcuts whether it is the mob or the chancellor that deprives them of their constitutional rights. Regardless of whether they are hung to the nearest tree by a mob or are sentenced to the electric chair by the chancellor, the result is very similar.

Distrust of the jury is in a very clear sense, I think, distrust of the people; and a distrust of the people means the overthrow of the Government our fathers founded.

Against the exercise of this jurisdiction, the Constitution of the United States interposes—in my opinion—an insurmountable barrier. In that masterly statement of the grievances of our forefathers against the government of King George, and which they esteemed sufficient to justify armed revolution, are these words:

> He has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws, and
>
> For depriving us in many cases of the benefit of trial by jury.

Smarting under these grievances, the people of the United States, under the lead of Mr. Jefferson, were extremely careful to place it beyond the power of any department of the government to subject any citizen "to a jurisdiction foreign to our Constitution and unacknowledged by our laws," or to deprive any citizen "of the benefit of trial by jury."

This was accomplished by inserting in the Constitution of the United States these plain and unambiguous provisions.

But, notwithstanding the Constitution expressly enumerates the only exceptions to the right of trial by jury, and positively limits those exceptions to the cases mentioned, those who favor government by injunction propose to ingraft upon that instrument numerous other exceptions which would deprive the great body of the citizens of the Republic of their constitutional right of trial by jury. With the interpolations essential to support government by injunction, the Constitution would contain the following further exceptions to the right of trial by jury:

> And except when many persons are associated together for a common purpose, and except in the case of members of trades unions, and other labor organizations, and except in cases of all persons of small means.

Undoubtedly, it is the right of the people to alter or abolish their existing government, "and," in the language of the Declaration of Independence, "to institute a new government, laying its foundations on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness." It is competent for the people of this country to abolish trial by jury, and confer the entire police powers of the State "upon Federal judges, to be administered through the agency of injunctions and punishment for contempts"; but the power to do this resides with the whole people, and it is to be exercised in the mode provided by the Constitution. It cannot be done by the insidious encroachments of any department of the Government.

Our ancestors, admonished by the lessons taught by English history, saw plainly that the right of trial by jury was absolutely essential to preserve the rights and liberties of the people, and it was the knowledge of this fact that caused them to insert in the Constitution the peremptory and mandatory provisions on the subject which we have quoted.

Mr. President, in order to place the amendment under discussion in proper context, I believe it would be helpful to the Senate to consider the Federal statutes now on the books relating to criminal contempt proceedings. Section 401 of title 18 of the United States Code provides:

> A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—
>
> 1. Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;
>
> 2. Misbehavior of any of its officers in their official transactions;
>
> 3. Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

Section 402 reads as follows:

> Any person, corporation or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.
>
> Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of 6 months.
>
> This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

Section 3691 of the same title, referred to in section 402, provides:

> Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.
>
> This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

And section 3692, which has come down through several recodifications from the Norris-La Guardia Act provides for jury trials in all cases of contempt arising from the laws of the United States relating to injunctions or restraining orders in labor disputes. The Congress, I believe, showed great wisdom in adopting this approach to the question of criminal contempt in labor cases in the first of the major labor relations acts passed in the past 35 years.

A man's livelihood is certainly a dear thing to him and likely to arouse deep emotion when threatened. It was contemplated, I am sure, when the Norris-La Guardia Act was passed that some ill feeling would inevitably arise over Federal court orders. The right of trial by jury in these circumstances was considered essential for the protection of labor union members. I can see no difference in kind between this recognition of the need for jury trials in contempt cases arising out of labor disputes when men's livelihood is involved and contempt cases which may arise under the several titles of this bill where again the right of a man to use his property and to run his business as he sees fit are threatened.

We have a good precedent in the Norris-La Guardia Act which should be followed in this legislation and, indeed, by the Talmadge amendment, extended to cover all Federal criminal contempt cases.

It should be borne in mind that section 3691 of title 18 provides that jury trials should not be available as a matter of right to those held in contempt of any "lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States."

This provision should be considered by the Senate in conjunction with those titles in H.R. 7152 which would vest unprecedented authority in the Attorney General of the United States to obtain court orders in the name of the United States. Under titles 2, 3, or 4 cases may be prosecuted in the name of the United States of America and any poor soul thereafter found in contempt of an order thus obtained would, under present law, have no right to trial by jury no matter what the nature of his offense.

In addition, under title 7 of H.R. 7152 the Equal Employment Opportunity Commission may seek judicial mandates to back up its findings of discrimination in employment. These orders too, if violated, would carry no right of jury trial under section 3691.

Mr. President, many of my colleagues are attorneys who are well aware of the importance of precedents established by judicial decision. While not as closely tied to this concept, the Congress is certainly attuned to it, and I believe a very bad precedent will be established if the broad injunctive powers included in this bill are enacted into law without adequate guarantee of the right of trial by jury for those held in violation of such injunctions.

There is no mistaking the fact that this bill is viewed by its supporters as a means of correcting the sins of the South. The pain and turmoil which it may cause is of little consequence—the world must be made right, at least by their definition—and if a great many people whose mores are suddenly in conflict with Federal law do not respond immediately to this vision of utopia, the Federal courts, under the bill as it is now drawn, will have the power to dispense punishment to them summarily.

Those who are advocating that white southerners be deprived of the right to a jury trial are opening up dangerous grounds. They are stating, in effect, that a murderer, rapist, pederast, narcotics peddler, kidnaper, or traitor is entitled to a basic right which will be withheld from a southerner. This is a difficult position to defend.

Furthermore, there is no assurance that the right withheld from the South today will be maintained for other sections of the country tomorrow. If such a precedent had been on the statute books there would have been a wild clamor to withhold jury trials:

First. From the Middle West, during the depression, when farmers were banding together to prevent fully legal foreclosures on farms by eastern banking and insurance interests.

Second. From Illinois, during the period when Al Capone—vice lord and beer baron—allegedly had complete control over Burnham, Stickney, and Cicero, and partial control over Chicago itself.

Third. From Michigan, during the depression period when labor unions were staging sitdown strikes and physically occupying factories.

If in those instances there had been in effect the law which is here proposed, I have no doubt that there would have been a great clamor for the adoption of similar procedures in those areas.

The sitdown strike analogy also raises an interesting point. The basic thesis of the Norris-La Guardia Act, hailed as the measure which brought freedom to labor, was that workingmen were entitled to trial by jury rather than coercion by injunction. Now the Senate is told that freedom for minorities requires that trial by jury be abolished. Those sponsoring this legislation cannot have it both ways. If the jury trial is a charter of freedom—as in the Norris-La Guardia Act—it cannot now be condemned as the stumbling block to freedom in the South, or elsewhere in the Nation.

Mr. President, there are compelling reasons for the enactment of a Federal statute to guarantee the right of trial by jury in all cases of criminal contempt arising in the Federal district courts of the United States. There are overwhelming reasons for the guarantee of this right by statute in cases which may arise under the provisions of H.R. 7152, if it is enacted.

No one will deny that the scope of this bill is extremely broad—far broader than any so-called civil rights bill yet brought before this body. It envisions a revolution in social and personal relationships. It seeks to remake our society overnight by legislative act. I believe its proponents fail to comprehend the realities of the Nation's racial problems.

The changes to be effected by this legislation are, by their nature, more given to evolution than to the harsh remedies contained in this bill, and the reaction to its compulsions may not be forecasted as philosophic or placid.

Under this bill the Federal Government will be made not only the protectors of alleged rights of individuals under the laws of the several States, but will also be charged with the responsibility and given the authority to seek compliance with far-reaching Federal laws governing purely private enterprise.

The proponents of this bill have said repeatedly that one of its great virtues lies in the fact that it does not contain criminal sanctions. In every instance where a violation of its terms is alleged to occur, Federal officials, it is said, will seek from those involved voluntary compliance. For instance, should an employer be charged with failing to hire an individual because of his race, sex, religion, or national origin, and the charge is found to be of substance by the Equal Employment Opportunities Commission, consultation will take place between Federal officials and the businessmen involved. If this consultation does not produce the capitulation of the businessman to the demands of the Commission, only then will he be haled into court to contest the Commission's application for an enforcement order from a Federal district court.

Mr. EASTLAND. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield for a question.

Mr. EASTLAND. If the accused were to be found in violation, what would happen in the courts? What would the courts do?

Mr. FULBRIGHT. If a person were found to be in violation, the court, under the statute, as I understand, without the provision here offered, could incarcerate him in jail or fine him any amount it thought appropriate, without a jury trial.

Mr. EASTLAND. Does not the Senator believe that that procedure—and I agree with the Senator—was the intention of those who wrote the Constitution of the United States and who adopted the Bill of Rights. The sixth amendment provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

It is claimed that a contempt citation is not a criminal prosecution, but yet the following provision of the seventh amendment of the Constitution throws great meaning on what our Founding Fathers meant:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

In other words, they provided that in a civil suit where the amount in controversy was in excess of $20 a trial by jury was required. Would there not be all the more reason, why in a contempt citation, under which a man could be put in jail for criminal contempt, he should be entitled to a trial by jury? Does that not speak for itself as to what the Constitution of the United States provides?

Mr. FULBRIGHT. I believe the Senator is correct. The Senator, of course, as the chairman of the Judiciary Committee, is better qualified than most of us to interpret the meaning of the fundamental documents of our Government. I believe the Senator is correct and that the language he has just mentioned leaves no alternative to the conclusion that in criminal contempt cases, for all practical purposes, as distinguished from civil contempt, which is punishable by a writ of the court, the Founding Fathers clearly expected the procedure to be accomplished by a trial by jury.

Mr. EASTLAND. Is it not even more pertinent, when the Founding Fathers provided that when more than $20 was in controversy——

Mr. FULBRIGHT. If it were $21, one must have a trial by jury.

Mr. EASTLAND. Does that not throw light on what our Founding Fathers meant?

Mr. FULBRIGHT. It very clearly does. If the amendments and the Constitution are read together, there is hardly any part of the Constitution that the Founding Fathers were more concerned about than the protection of the individual's right to a trial by jury. It was included in the Constitution in four different places, two of which the Senator from Mississippi mentioned.

Mr. EASTLAND. Of course. Does not the Senator agree that a trial by jury is a basic liberty?

Mr. FULBRIGHT. It most certainly is.

Mr. EASTLAND. Every dictatorship in the history of the world has been founded upon courts whose judges were controlled by the dictator, who then confined people to jail and deprived them of their rights. A trial by jury is basic to human liberty.

Mr. FULBRIGHT. The Senator is correct.

Mr. EASTLAND. So long as we have it, there can be no dictatorship in this country.

Mr. FULBRIGHT. The Senator is correct. I believe this is a disturbing aspect of the bill, which is brought to us under the guise of being a liberal bill and in the interest of the rights of individuals; yet at the same time it goes further—if it should be enacted in its present form—to deprive an individual of one of the principal rights guaranteed under the Constitution than any proposal I have ever seen come before the Senate. It is utterly inconsistent with its professed purpose as applied to everyone. Of course, these provisions apply not merely to a special group, but to everyone in the United States. There are no exceptions.

Mr. EASTLAND. North and South.

Mr. FULBRIGHT. North and South; East and West.

Mr. EASTLAND. In fact, the bill contains the trimmings of dictatorship, does it not?

Mr. FULBRIGHT. It leans in that direction. One of the first things dictators usually do, if a country has had the trial-by-jury right, is to abolish that right and to set up administrative courts—we commonly call them star chambers.

Mr. EASTLAND. The next step would be to control the press.

Mr. FULBRIGHT. The Senator is correct. That is one of the protections in the Bill of Rights with which the Senator is familiar. While we have often said that freedom of the press is a basic foundation of a free government, it is mentioned only once, I believe, in the Constitution. The right to a jury trial is mentioned four times in the Constitution.

Mr. EASTLAND. A jury trial is a very basic factor to a freeman, is it not?

Mr. FULBRIGHT. I believe it is.

Mr. EASTLAND. The right to be tried by a jury of one's peers in the district court in which the alleged offense occurred.

Mr. FULBRIGHT. The fact that it exists is restraint in itself upon arbitrary action by an executive, I believe, in most cases.

Mr. COOPER. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I am glad to yield to the Senator from Kentucky.

Mr. COOPER. I should like to preface my question by making a statement. I do not question the power of Congress to prescribe a jury trial in a contempt proceeding. But what I do question is the implication that there is a constitutional right to have a trial by jury for contempt.

If the Congress attempted to enact a law depriving a person of the constitutional right to trial by jury, of course it would have no effect. We could not pass such a law and have it sustained as constitutional.

I believe we must agree that the Constitution, in its references to the right of trial by jury, is directed toward criminal proceedings in the judicial sense, those in which a person is charged by indictment or warrant or information, with a crime statutorily deferred, and not to proceedings where a person has violated an order of the court.

I am not questioning the power and right of Congress, to authorize, by statute, a jury trial in a contempt proceeding. But I do challenge the statement that there is any such constitutional right.

Mr. EASTLAND. Mr. President, I ask unanimous consent to reply to the distinguished Senator from Kentucky without impairing in any way the rights of the Senator from Arkansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. And that it will not count as one speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. It is perfectly obvious what the Founding Fathers meant. If they take the position that man has a right to a jury trial when the amount in controversy is in excess of $20, what would they mean when a man was placed in jail for 6 months, a year, or 2 years? What would that mean?

I believe that the seventh amendment makes it plain that our Founding Fathers were zealous enough of the right of the individual that he cannot be put in jail unless he had been tried by a jury of his peers. That is especially true in a case of criminal contempt. He must be tried by a jury of his peers in a district court where the crime is alleged to be committed.

Now I know that the Senator from Kentucky says that that is in all criminal prosecutions, which is provided for in the sixth amendment. But the whole point in the seventh amendment throws light on what is meant there, because when an amount in excess of $20 is involved you have to have a trial by jury.

Mr. COOPER. Mr. President, will the Senator yield without losing his rights to the floor?

Mr. FULBRIGHT. I am glad to yield to the Senator from Kentucky, under the same conditions stipulated before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. We can debate for hours on this issue. All I can say is—and I think it is correct—that the sixth amendment applies to criminal prosecutions. The seventh amendment applies to suits at common law.

Mr. EASTLAND. That is what I said.

Mr. COOPER. The Senator is one of our great lawyers. He knows what a suit at common law is. It is not a criminal action.

Mr. EASTLAND. That is correct. But what is the point? The point is that our forefathers said that when a matter involved more than $20, a man was entitled to a trial by jury. They certainly meant he had a right to a trial by jury in a prosecution for any offense for which he could be put in jail for any length of time.

Mr. COOPER. All I can say is that the Constitution does not so provide as interpreted by the courts.

Mr. EASTLAND. It does say it. And that is the meaning of it.

Mr. COOPER. The courts have passed on this question again and again. This very question was in issue before the Supreme Court a few weeks ago in a case arising from the Senator's State of Mississippi.

Mr. EASTLAND. There was a 5-to-4 decision. The Senator knows well that one case decided by a 5-to-4 decision determines nothing.

Mr. COOPER. It does; a majority decision does represent the law of the land.

Mr EASTLAND. No. It does not.

Mr. COOPER. There have been other cases in the past in which the same holding was made by the Supreme Court.

Mr. EASTLAND. I am not a disciple who holds that a Federal judge can do no wrong. I know the Federal courts have been grasping and reaching out to obtain additional power all the time.

Mr. COOPER. That is not the point I am arguing. I think the Senator knows that at common law, and throughout our history it has always been held that a court, acting as a court of equity when it issues its decrees, can enforce such decrees without referring such matters to a jury.

Certain exceptions do exist. Congress made an exception in the case of labor unions. A partial exception was made in the case of voting rights under the Civil Rights Act of 1957.

Congress can make an exception as it chooses in this bill.

Mr. EASTLAND. I know what the Senator is talking about. I disagree with the Senator. I think the seventh amendment throws light on the meaning of the entire matter.

Mr. COOPER. It can provide light to the Congress, as to what it will decide to do.

Mr. EASTLAND. It throws light on what the men who wrote the Constitution meant when they adopted the Constitution.

Mr. COOPER. I wish the Senator would produce a case to support his position.

Mr. EASTLAND. I can produce some cases, but regardless of that, the point I make—and I think it is very valid—is that if a man is entitled to a jury trial when more than $20 is involved, he should be entitled to a jury trial when he can be placed in jail for a year.

Mr. COOPER. I do not think that is the point the Senator is making .

Mr. EASTLAND. It is the point I am making.

Mr. COOPER. The Senator started with the proposition that this is a constitutional right. Does the Senator claim it is a constitutional right?

Mr. EASTLAND. It is. It is a constitutional right. I claim that the seventh amendment proves it.

Mr. COOPER. There is no holding of the Supreme Court—past or present—which the Senator can produce to support his position. But the absence of such Court decisions has nothing to do with the authority of the Congress to exercise its judgment.

Mr. EASTLAND. It is my position. And I think it is a logical position.

Mr. FULBRIGHT. Mr. President, I know how fair and judicially minded the Senator from Kentucky is. He has been a judge, and he is one of the most objective men in the Senate.

I recommend to the Senator from Kentucky—and perhaps he has already done it—a careful reading not only of the dissent written by Justice Goldberg in the Barnett case, but also the dissent written by Justice Black. I think the language the Senator has just read with regard to the sixth and seventh amendments bears on this question, and I think as interpreted—and the Constitution must be interpreted, as it has been throughout its life, by the courts—it was read in connection with article III, which reads:

> The trial of all crimes, except in cases of impeachment, shall be by jury—

I do not know how much more inclusive it could be—

> and such trial shall be held in the State where the said crimes shall have been committed.

It seems to me that that is very broad—"with reference to all crimes." I shall dwell on this point a little later.

The case the Senator mentioned is the most recent case in which the Supreme Court of the United States has dealt with this matter. As the Senator has already pointed out, it was a 5-to-4 decision. In his dissent Mr. Justice Goldberg points out that civil contempt—which involves merely persuading the person to abide by the decision of the Court—is not covered. It is not a crime. I think he makes a very reasonable distinction as between what is crime and what is not.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. EASTLAND. The defendant could purge himself by submitting to the order of the court in a case of civil contempt.

Mr. FULBRIGHT. Yes.

Mr. EASTLAND. But a case of criminal contempt is a case in which he is punished.

Mr. FULBRIGHT. Yes.

Mr. EASTLAND. Punished for an illegal action.

Mr. FULBRIGHT. Yes. The sixth and seventh amendments should be read in connection with article III of the Constitution itself, which contains the language, "the trial of all crimes." It does not say, "crimes that are committed in defiance of a court of equity," or anything else. It says, "all crimes." How can we say that the defiance of a court order, to such an extent that it would involve the imprisonment of a man, is not a crime? I do not know what it is if it is not a crime. It is referred to as criminal contempt by all the law books. It is merely a different kind of crime.

I submit to the Senator from Kentucky that I do not see how he can in all honesty get around the arguments of Justice Goldberg and Justice Black. They both placed the issue on a statutory basis, as well as a constitutional basis.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. COOPER. We could continue to haggle over this point for hours. Again, I want to say that Congress may provide for a jury trial in contempt cases which might arise under this bill if it desires so. But that is not the question to which the argument has been directed. The Senator from Mississippi is claiming that there is a constitutional right to a jury trial in contempt proceedings.

Mr. FULBRIGHT. That is what four Supreme Court Justices said.

Mr. COOPER. That is so. But the majority position of the Supreme Court, time and again has been that there is no constitutional right to a trial by jury in contempt proceedings.

I quote from *Green* v. *United States*, 356 U.S. 165, 183. This case was decided in 1958. Justice Harlan stated :

> The statements of this Court in a long and unbroken line of decisions involving contempts ranging from misbehavior in court to disobedience of court orders established beyond peradventure that criminal contempts are not subject to jury trial as a matter of constitutional right.

That has been the holding of the courts as Justice Harlan said "in a long and unbroken line of decisions."

Mr. FULBRIGHT. The Senator says that we can discuss this question at length; but I know the Senator is not a hairsplitter, and is not being technical. He is interested in the essential wisdom of the interpretation of the Court.

Strangely enough, the four dissenters in this case have in the past been considered liberals. I do not like to attach labels, but they are said by some of the members of the press to be more concerned with individual liberties than other members of the Court might be inclined to be. For example, Justice Black has been praised throughout the land in that respect; so have Justice Douglas, Justice Goldberg, and the Chief Justice. They were the four dissenters. They said there is a constitutional right.

There is a distinction. The Senator speaks about an unbroken line of decisions. But contempt involving minor offenses and trivial punishments cannot really be considered as criminal contempt. It might be said that in some cases the crimes were de minimis. But when a case involves a fine of $10,000 and the incarceration of the Governor of a State for a substantial period of time, that is an important case and gets into the field of a crime. If it is a crime in the usual meaning of that term, as is pointed out in some of the earlier statutes of the States before there was a United States, which provided for one guilty of criminal contempt a fine of as much as 50 cents or perhaps putting the person in the stocks for an hour and a half, that was not considered a crime in the sense that we consider it. It was a kind of slap on the wrist, and there was no jury trial. The offense was de minimis. It was too unimportant to warrant a jury trial.

The commonsense in the discussion of the recent decision rests on the side of Justices Goldberg and Black in their arguments. If an act is serious enough to warrant a substantial fine and imprisonment, it is a crime. If it is a crime, it comes under the Constitution itself. This is a distinction that occurs throughout our legal system. It is a distinction based on commonsense.

The Senator from Kentucky can say all he wishes about the technical side and the line of unbroken decisions. I will read the dissenting opinion. I believe it makes an extremely persuasive case. The majority of the Court, as are the majority of Senators—at least, the sponsors of the bill—are so impatient with the subject of protection of individuals that they are ready to rush in and give to the court the power to imprison a person for an unlimited period and fine him an unlimited amount without a jury trial.

The Senator from Kentucky says he is not arguing about the merits; that he is not committing himself either for or against jury trials. If my memory serves me correctly, he voted against the inclusion of a provision for jury trials in 1957, although the clear majority of the Senate, by a vote of 51 to 42, voted for jury trials.

It has always surprised me that a man of the great humanitarian instincts of the Senator from Kentucky, in a case which does not involve constitutional right, in 1957 was against including a provision for jury trial in that bill. That has puzzled me, because the Senator from Kentucky is known as one of the most forward-looking, enlightened, liberal, and progressive Members of the Senate. But he is against a jury trial even when there is an opportunity to vote for it. Perhaps that influences his interpretation of the Constitution. But at that time he was not being called upon to interpret what is a constitutional right.

Mr. COOPER. First, I shall say again—I do not know how many times it needs to be said—that what I have tried to make clear is the distinction between what Congress may do in providing for a jury trial in a contempt proceeding and what belongs to the people as a constitutional right.

Mr. FULBRIGHT. I understand that. I was trying to respond to that argument in the words of Justice Goldberg.

Mr. COOPER. The burden of the Senator's argument is that, looking at the latest dissenting opinion——

Mr. FULBRIGHT. It is a very powerful opinion.

Mr. COOPER. The Senator believes the Court is moving toward a reversal of its decisions, and that the Court may require a jury trial in certain contempt cases, depending on the nature of the offense.

**Mr. FULBRIGHT.** What I really said was that the Court is not reversing those decisions; but in the past no court has presumed upon the principle of trivial offenses being punishable summarily, as contrasted with the punishment of individuals in serious matters that are equivalent to what is normally called a crime. I do not believe the Court has tried to do that.

What is happening is that the Government is seeking to have serious actions, such as actions against Governors of States, tried by courts and to have the courts impose heavy fines for crimes. Therefore, I believe the Supreme Court is taking a new look at this question. I doubt whether anything quite so serious as this has been dealt with.

I know that this is one of the main points that concern Mr. Justice Goldberg, who is no mean lawyer. He is one member of the Court who has had some previous legal experience and can read. He is a highly intelligent man. I have great respect for his judgment. I believe he was exercising the rule of reason in the way he interpreted the Constitution under these particular facts. I am not at all certain that this could be called a genuine reversal of previous cases, because there is a great difference in the facts.

**Mr. COOPER.** In 1946, the United Mine Workers of America was fined by a district court as the result of a contempt proceeding. As I recall, the organization was held in contempt of a court order and was fined more than $3 million. The Supreme Court upheld the authority of the court, but modified the fine.

**Mr. FULBRIGHT.** What organization was it?

**Mr. COOPER.** The United Mine Workers of America. I am sure the Senator recalls the case. The case was tried to the Court, even though the Court, on its own motion, offered to provide an advisory jury.

**Mr. FULBRIGHT.** Was it a fine for civil contempt?

**Mr. COOPER.** It was criminal contempt. When we get into distinctions between criminal and civil contempt, the problem becomes more difficult to understand. There is a distinction in, but there is no distinction between the two so far as trial by jury is concerned. I can discuss that point with the Senator, if he wishes me to.

**Mr. FULBRIGHT.** I think there is a distinction.

**Mr. COOPER.** In civil contempt, the court issues an order, and there is an opportunity for the respondent to obey the order and thereby purge himself of the contempt. But if the respondent fails to obey the order of the court, he is in criminal contempt of the court, and the court may punish for that offense without a jury trial. This is an oversimplified explanation.

**Mr. FULBRIGHT.** I understand. But if there is a crime, there is a distinction between the constitutional language and the statutory language as related to the crime.

**Mr. COOPER.** In all these cases the court discusses what crime is. In a criminal proceeding a person is charged with a statutory offense, made so by the legislature or Congress. In some cases, it might be an offense known at common law, and an indictment is handed down or a warrant issued. Then there is a right to trial by jury.

That is what the Constitution provides.

**Mr. FULBRIGHT.** But the Constitution does not so provide.

**Mr. COOPER.** The Constitution does so provide.

**Mr. FULBRIGHT.** The Constitution says "the trial of all crimes"; it does not say "all statutory crimes" or "all crimes brought as the result of an indictment." The Constitution says, "all crimes."

**Mr. COOPER.** The Senator from Arkansas knows that, finally, someone has to interpret the Constitution and the law.

**Mr. FULBRIGHT.** Exactly.

**Mr. COOPER.** And the courts, including the Supreme Court, interpret the law and interpret the Constitution, whether or not one likes all its decisions.

**Mr. FULBRIGHT.** Exactly.

**Mr. COOPER.** The Supreme Court has held that both in cases of civil contempt and in cases of criminal contempt, there is no constitutional right of trial by jury.

**Mr. FULBRIGHT.** Of course, we differ on that issue.

I hope the Senator from Kentucky is not growing impatient; I do not wish to impose on his good nature. I should like to point out that on page 25 of the final report of the opinion of the U.S. Supreme Court in the case of United States against Barnett, we find the following footnote to a passage by Mr. Justice Goldberg; and I quote from it:

> The imposition of serious penalties for criminal contempts is a relatively recent phenomenon. From the foundation of the Republic until 1957—

That is quite a long period of time—

> I am aware of only two isolated instances of imprisonment for longer than 6 months for criminal contempt brought to the attention of this Court.

Think of that. From the beginning of the country until 1957—

> *In re Savin*, 131 U.S. 267 (1 year); *Hill* v. *United States ex rel. Weiner*, 300 U.S. 105 (2 years). Since 1957, however, our attention has been called to at least six instances where imprisonment of a year or more was imposed. *Nilva* v. *United States*, 352 U.S. 385 (1 year and 1 day); *Yates* v. *United States*, 355 U.S. 66 (1 year); *Green* v. *United States*, 356 U.S. 165 (3 years); *Brown* v. *United States*, 359 U.S. 41 (15 months); *Levine* v. *United States*, 362 U.S. 507 (1 year); *Piemonte* v. *United States*, 367 U.S. 556 (18 months). By holding that no nontrivial penalty may be imposed for criminal contempt without a trial by jury, we would be correcting a fundamental, but only recently manifested, historical error.

I believe that sums up the situation.

In other words, from 1789 until 1957 there were only two cases—and I am sure that either Associate Justice Goldberg or his law clerk searched the records—only two instances of such punishment for what would be called more than trivial consequences.

It was under this situation that there grew up the idea that criminal contempt of court was not a crime. In my opinion, in the citation I have just read, Associate Justice Goldberg very persuasively points out that the development since 1957 of the imposition by the courts of heavy penalties makes all the difference in the world, and comes in conflict with the constitutional requirement that "The trial of all crimes, except in cases of impeachment, shall be by jury."

If the Senator from Kentucky does not believe in jury trials—as he said he did not, in 1957—that is a different matter; and that is his privilege. I am not saying that he does not have a right to say that.

But I am saying that the opinion of Mr. Justice Goldberg in that short decision is a reasonable interpretation of what the Founding Fathers meant. If they had anticipated that a court in equity would go so far beyond its traditional functions as to become a criminal court and put people in jail for 3 years, certainly they would have spelled out the necessary protection. I think they did spell it out. However, as the Senator from Kentucky says, the Constitution has always had to be interpreted, and the Court has interpreted it. I venture to say that it will not be long—if the courts continue to put people in jail for any substantial length of time—before the Supreme Court will follow the opinion of the dissent in that case, as it has done so often in the past.

**Mr. COOPER.** Mr. President, will the Senator from Arkansas yield again?

**Mr. FULBRIGHT.** Surely.

**Mr. COOPER.** I think it possible that at some time the Court may modify its position.

The reason I have spoken, when arguments of this type were made—and I have done so several times—is that with all due deference to the Senator from Arkansas, who certainly has a right to argue what he thinks the rule should be, so many arguments have been made in the course of this debate to convince people throughout the country that Congress, by this bill, is attempting to take away from them a right of trial by jury. Such arguments create opposition to the bill, but I believe it misleading. Regardless of what the distinguished Senator from Arkansas argues as to what he thinks the rule of law should be, and regardless of whatever others, including myself, may argue, I return to the holdings of the Supreme Court, at least to this time, that a trial by jury, in contempt cases, is not a constitutionally protected right. Under the Consitution, the Congress can make it available by statute.

**Mr. FULBRIGHT.** But I am not standing alone when I have Associate Justice Goldberg, the Chief Justice, Associate Justice Black, and Associate Justice Douglas of the U.S. Supreme Court all saying that I am right; I am not being wholly frivolous in my argument, because they say that such a right exists. I am not saying that Congress is trying to take away a right; but even the division of opinion which is evidenced by our argument is clear and very persuasive proof, to me, that the Talmadge amendment is needed.

Mr. COOPER. The Senator has made his argument.

Mr. FULBRIGHT. Certainly. What I am arguing is that the Senate should adopt the Talmadge amendment. The other is background.

Mr. COOPER. Now the Senator from Arkansas is arguing that Congress should adopt the amendment as a matter of policy.

Mr. FULBRIGHT. Yes, I am arguing that; and Congress certainly should adopt the amendment.

If the Court is so blind that it will not follow the Constitution, and if we can correct that situation by means of a bill, we should do so.

Mr. COOPER. That is an entirely different argument.

Mr. EASTLAND. What in the world is the difference between saying that Congress has this right and saying that Congress is going to spell it out in the law? What is the difference?

Mr. FULBRIGHT. Especially when we have a Court that will not follow the Constitution.

Mr. EASTLAND. The Senator from Kentucky has insisted on a distinction which is without a difference, in my judgment.

Mr. COOPER. It is simple: If there is a constitutional right, Congress cannot take it away from the people.

Mr. FULBRIGHT. Four of the Judges of the U.S. Supreme Court say there is such a constitutional right; five of them say there is not. It is evident that not all human beings agree; but this is a perfect example—a decision on which there was a split decision—of a case in which Congress should solve the problem. The Senator from Kentucky has already said that he does not dispute the right of Congress to enter into this field and to say whether that is so. I believe he said that, did he not?

Mr. COOPER. The Senator is correct.

Mr. FULBRIGHT. So the Senator from Kentucky does not raise any question or does not charge that we are not quite within our proper function when we offer an amendment on this subject.

I regret—and I hope the Senator from Kentucky will change his view from what it was in 1957—that he took that view at that time. I hope he will vote to give the poor individual a break and will agree to vote to allow him the right to have a jury trial. I am appealing to the Senator from Kentucky to change his mind. I do not want to put the Senator on a spot.

Mr. COOPER. The Senator is not putting me on the spot. I am happy to state my position.

Mr. EASTLAND. Mr. President, I ask unanimous consent that the Senator from Arkansas may yield to the Senator from Kentucky [Mr. COOPER] so that he may make a statement, without the Senator from Arkansas losing his right to the floor, and without the resumption of his speech counting as an additional speech on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. The Senator from Arkansas has commented on my vote in 1957. I did vote against the amendment to which the Senator has referred at that time. The amendment would have provided a jury trial in contempt proceeding.

I should like to recall to the Senator's mind what was at issue in the 1957 bill. It was a voting rights bill. It turned out to be a voting rights bill, although the jury trial issue was debated in connection with some school desegregation cases in Arkansas and Tennessee, where the cases had been tried, and where the courts had entered orders. Local school boards, notably the school board in the city of Little Rock, Ark., and another in Tennessee were trying to obey the orders of the Court and were prevented from doing so. In the case of Arkansas, they were prevented by the Governor of Arkansas and the State militia.

The Senator will remember that President Eisenhower, in an effort to carry out the mandate of the court, was obliged to send troops into Arkansas.

I voted against the proposal to provide a right of jury trial, not required by the Constitution, or by law to the Governor of a State or other officials of a State who were in open defiance of the Supreme Court of the United States, the President of the United States, and the orders of a court.

As to the 1957 voting rights bill the officials of States know what the laws relating to voting rights are. There is no excuse for the Governor or any other official of a State to disobey the law respecting voting rights when he knows the law and when he has been ordered by a court to obey the law.

If officials of government will not obey the law, who in our country will obey the law?

I am not in favor of providing government officials to the trial by a jury in a contempt proceeding, when the Court has found that the official flaunts the law and the orders of a court. He is presumed to know the law. There should not be any exception made for him from the general constitutional rule that applies to other individuals.

I am inclined to vote to provide a jury trial in titles of the bill involving private individuals who may not know the law, to be sure that they too have full protection.

But that is a different case than that of 1957 providing jury trial to public officials who are in contempt of the courts. When a Governor of a State or officials of a State have been found in violation of law, which it is their duty to enforce, and in contempt of courts, and in doing so, are defying the Constitution and the courts, I do not see why they should be accorded the privilege of trial by jury, different than other persons who defy court orders, and who have no right of trial by jury in contempt proceedings in any event.

Mr. FULBRIGHT. Mr. President, I suppose that we have differences. I remind the Senator that he voted against the measure, which would have provided a right of jury trial, in July of 1957. The Little Rock incident did not occur until September 1957. That incident could not have influenced his vote. It must have been something else.

The Senator has correctly said that the school board was attempting to abide by the directions of the court, but that incident occurred some 3 months after the Senator voted against the amendment which would have provided the right of trial by jury. Perhaps other incidents came to his mind.

I believe it would be a dangerous principle to bring into the law a provision that, merely because we may not, perhaps, like someone—for example, a Governor, a registrar of voters, or someone else—such an individual should be denied the right to a jury trial. If we decide to provide jury trials in all cases, the principle ought to apply to all. I do not say that such language should be inserted in provisions regarding the trial of all crimes. I believe the difference hinges on the question of whether a contempt or defiance is trivial or whether the defiance of a court's order is something that is substantial and would affect the public interest. If it is substantial, it is a crime within the meaning of the Constitution. I believe that is what four of the nine Justices said. A person charged with a crime is entitled to a jury trial under the provisons of the Constitution.

That leads me to the next point.

Mr. EASTLAND. Mr. President, before the Senator proceeds to his next point, will he yield?

Mr. FULBRIGHT. I yield.

Mr. EASTLAND. Does not the point which the distinguished Senator from Arkansas made illustrate that the two articles to which he referred show the meaning of the Founding Fathers when they wrote the Bill of Rights?

Mr. FULBRIGHT. The Senator is quite correct.

Mr. EASTLAND. Is that not the point which the Senator made?

Mr. FULBRIGHT. Exactly. Not only in two, but in four places in the Constitution the Founding Fathers saw fit to reiterate a reference to jury trials and how important such trials are, particularly if some important right would be affected.

I believe that Mr. Justice Goldberg has much the better of the argument when he says that the right is important when the charge amounts to something that would normally be a crime entailing something in the way of substantial and severe punishment. The provision would then cover such a case, and the individuals would be entitled to a jury trial. I believe that is a sound way to interpret the language.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. EASTLAND. When we go further and increase the powers of the Federal Government, is it not true that, in the Senator's judgment, ultimately the court would hold that in a criminal contempt case a man would be entitled under the Constitution to the right of trial by jury, and that the court would recognize what the Founding Fathers sought to do?

Mr. FULBRIGHT. Yes. As I said a moment ago, I predict that the dissent in the case which we have discussed will become the law.

Mr. EASTLAND. And the time will not be far off.

Mr. FULBRIGHT. Since 1957 there has been a tendency on the part of courts to impose severe penalties. I believe the Senator is quite correct in respect to the point I was about to make. What the Senator has said makes even more persuasive the arguments for the adoption by the Senate of the Talmadge amendments to clear this matter up and not leave it any longer at the point at which even five and four judges can disagree. We should clear the whole matter up. The argument of the Senator from Kentucky is almost unanswerable, that we ought to adopt the Talmadge amendment.

I appreciate the action of the Senator from Kentucky in raising the question and highlighting the subject. What he has said has given a little background to what I have prepared and intended to say with regard to the most recent decision which we have discussed. Some days ago I believe that the Senator from Kentucky, in the course of the debate, raised the question that he thought there was a false impression being spread that the bill would take away constitutional rights. I am quite prepared to say that he has some authority on his side in the sense that five Justices have agreed. I am saying that I have only four on my side, but in the case which we are discussing, they have reason on their side in addition to their votes. The question is one for Congress to determine.

I need not point out that consultation in this case, or in the case of alleged violations of title II, or other sections leaves no latitude for bargaining. Whole surrender is required, and if it is not forthcoming judicial proceedings will be instituted.

Thus far, we have a procedure designed to achieve compliance and not to penalize litigants. However, should an order issue under any section of this bill as passed by the House of Representatives with the exception of titles I and II, and thereafter be in any way violated by those subject to its command, the Court may summarily mete out punishment to effectuate its order.

The pending amendment to establish a statutory right to trial by jury in all Federal criminal contempt cases would rectify not only a grave deficiency in this bill, but also plug a very wide gap in the framework of Federal, constitutional, and statutory law relating to this subject. I support the amendment offered by the junior Senator from Georgia and other Senators, and I hope the Senate, as a whole, and particularly those who are billed by the press and their supporters as "liberals," will look to the substance of this amendment with acute appreciation of its implications for individual liberty. The Senate will recall, I am sure, that this subject was debated extensively during the consideration by this body of the civil rights bill of 1957. At that time the Senate showed great wisdom, I believe, in providing for jury trials for those charged with contempt of court under the provisions of that act in all cases where the summary punishment amounted to 45 days confinement or a fine of over $300.

In 1957, this amendment was proposed by the late Senator O'Mahoney. Many of the younger Members of the Senate perhaps do not remember Senator O'Mahoney. He was one of the outstanding Members of this body when I first came to the Senate nearly 20 years ago. He was a most literate and highly educated man. He came originally from the Northeast, moved out west, to Wyoming, and had long experience in Government. He was generally considered to be one of the great constitutional lawyers of the United States Senate.

He was the principal proponent of the amendment, and he was joined by Senator Kefauver, from Tennessee, who, as most of us know, died prematurely last year; the Senator from Idaho, Mr. Church; the Senator from Washington, Mr. Jackson; the senior Senator from Washington, Mr. Magnuson; our majority leader, Mr. Mansfield; Senator Murray, who was a noted liberal from Montana; the Senator from Nevada, Mr. Bible; and, interestingly enough, Senator Kennedy—I refer to the then Senator from Massachusetts, John Fitzgerald Kennedy, our late, lamented President—the Senator from Rhode Island, Mr. Pastore; the Senator from Ohio, Mr. Lausche; Senator Malone, from Nevada; and the Senator from North Dakota, Mr. Young.

So the amendment in 1957 had some very powerful and enlightened leadership and sponsorship. It was adopted on August 1, 1957, by a vote of 51 to 42.

Mr. President, I ask unanimous consent that, for the benefit of the Record, this amendment be inserted at this point, in order that the Record may be complete.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

### Amendment to the Federal Criminal Code To Provide Trial by Jury for Proceedings To Punish Criminal Contempts in Cases in Federal Courts

(Amendment proposed by Mr. O'Mahoney (for himself, Mr. Kefauver, Mr. Church, Mr. Jackson, Mr. Magnuson, Mr. Mansfield, Mr. Murray, Mr. Bible, Mr. Kennedy, Mr. Pastore, Mr. Lausche, Mr. Malone, and Mr. Young) to H.R. 6127 in 1957. Adopted by Senate on August 1, 1957, by vote of 51 to 42)

Section —. Section 402 of title 18 of the United States Code is hereby amended to read as follows:

"§ 402. Criminal contempts

"Any person, corporation, or association willfully disobeying or obstructing any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia shall be prosecuted for criminal contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both: *Provided, however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"This section shall not be construed to apply to contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention."

Sec. —. Section 3691 of title 18 of the United States Code is hereby amended to read as follows:

"§ 3691. Jury trial of criminal contempt

"In any proceeding for criminal contempt for willful disobedience of or obstruction to any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in criminal cases.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention."

Mr. FULBRIGHT. Mr. President, I think it is very interesting that, here again, the theory of that proposal was that there should be a jury trial when the summary punishment amounted to more than 45 days' confinement or a fine of more than $300. The thought of the O'Mahoney amendment is consistent with the interpretation of the right to trial by jury as provided in the Constitution. In other words, the Senate, by its vote, and Senator O'Mahoney, in sponsoring the amendment, were in effect saying, "These little things that do not mean anything"—the "trival things," in the words of Justice Goldberg—"we do not bother with," but for punishments involving over 45 days' imprisonment or a fine of over $300, the accused is to have a jury trial. The present proposal is in dissent with the reason then given. In one case the Senate majority agreed with four of the Justices of the Supreme Court.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. RUSSELL. In my own view, the constitutional right of an individual cannot be measured by dollars. He either has a right or he does not have a right. The original amendment that was adopted by the Senate in 1957 correctly expressed the spirit and intention of the

Constitution which provided that in all criminal contempts not committed in the presence of the court, or so near thereto as to amount to obstruction of justice, the defendant should have notice of the charge and should have a trial by a jury of his peers.

Of course, at that time, the Senator will recall, the present majority leader—I believe I am correct—was one of the sponsors of the amendment——

**Mr. FULBRIGHT.** He was; so was Senator Kennedy, who later became President.

**Mr. RUSSELL.** So was Senator Kennedy. President Johnson, then majority leader in the Senate, was at that time very active in support of the amendment. Practically all of the Democratic Senators and a number of Republican Senators voted in favor of preserving this great landmark of Anglo-Saxon jurisprudence—the right of trial by jury.

When the measure reached the other body, there were those who undertook to split that constitutional right. It would require more finesse to split that constitutional right than it would to split a hair with a razor. They did not measure it by the nature of the offense. They did not say that a criminal contempt that caused great loss, which violated the rights of a number of people or which brought about economic damage to someone should subject the offender to a fine of so much or to imprisonment for so many days. They did not say that it would be measured in terms by which we ordinarily measure offenses. But they said, all the offenses being the same, if a judge is to fine the defendant a certain number of dollars or imprison him for a certain number of days, he can do so without a jury trial; but if the judge should fine the accused $301 or imprison him for more than 45 days, the case should be submitted to a jury. In other words, the judge had to predetermine the guilt of the accused before the accused was entitled to a jury trial. What a travesty. What a travesty on justice it is to have a situation of that kind.

**Mr. FULBRIGHT.** But it is better than to have no jury trial at all.

**Mr. RUSSELL.** Yet, indeed; so long as we can retain enough of the jury system for the people to see its efficacy in comparison with the tyranny that can prevail when a judge has unlimited power.

Thomas Jefferson said that even if the Constitution were abandoned, even if it were forgotten temporarily, let those who believe in liberty strive to preserve it so as to provide a rallying place for men who see the error of their ways after they have experienced the loss of their liberty. That is not a literal quotation, but my interpretation of what Thomas Jefferson said.

I completely agree with the Senator from Arkansas that it is better to have the right to a jury trial recognized, even under these conditions, than to abolish it altogether. But the amendment which was approved by the Senate, dealing with all the cases of criminal contempt, provided that if the charge were that of criminal contempt, a man had the same right, if charged with a violation of the penal code, to demand a jury trial. That interpretation was transformed into permitting a judge to pass judgment on a man.

**Mr. FULBRIGHT.** That was in conference?

**Mr. RUSSELL.** No. The House adopted an amendment on the floor, and it was sent over to the Senate, and finally approved by the Senate.

**Mr. FULBRIGHT.** The Senate approved it.

**Mr. RUSSELL.** I do not believe the bill ever went to conference. My recollection is that it was a floor amendment that was approved in the House.

**Mr. FULBRIGHT.** I appreciate the Senator's straightening out the record. I recall that it was mentioned. I am sure that the memory of the Senator from Georgia is accurate on that point.

Let me say to the Senator that the point I was trying to make with the Senator from Kentucky [Mr. COOPER] as to the validity of the constitutional right to trial by jury in criminal contempt, was that I was trying to support the point made by dissenting Justice Goldberg in particular. The reason why, prior to 1957, this had not really been important or firmly decided in a line of cases, was that the punishment was of such a trivial nature that they had accepted, sort of by acquiescence, the imposition of a certain punishment of a trivial nature without requiring a trial by jury. I thought Justice Goldberg's reasoning was sound in the way he applied it.

**Mr. RUSSELL.** I believe, generally speaking, that is true. I have not studied or analyzed the decision. It was handed down about 10 days ago. I have been so preoccupied with other matters that I have not had an opportunity to study it. I could be in error about the 1957 bill not going to conference. I could have it confused with the civil rights bill of 1960.

**Mr. FULBRIGHT.** It is rather difficult to keep an accurate record as to what Congress did in 1957 and 1960. I find the argument of Justice Goldberg and Justice Black extremely pertinent to the argument in support of the Talmadge amendment. I believe the very fact there is this 5-to-4 division in the Court, as to whether there is a constitutional right, in itself seems to be justification for this amendment. I would hope, in view of the vote in the 1957 civil rights bill, that the Senate would clearly support the Talmadge amendment.

**Mr. RUSSELL.** I hold in my hand a calendar of the House of Representatives, history of legislation, final edition, 85th Congress. I find that my statement is correct, that the 1957 civil rights bill did not go to conference. It was taken upon the floor of the House, pursuant to a resolution agreeing to a number of Senate amendments. The House amended the jury trial provision, and later the Senate agreed to the House amendments which were principally jury trial amendments.

**Mr. FULBRIGHT.** Without a conference.

**Mr. RUSSELL.** Without a conference.

**Mr. FULBRIGHT.** I am glad to have that in the RECORD. I believe, regardless of its merits, and with what the Senator from Georgia said about criminal contempt, that it is certainly in order and properly taken. I believe, therefore, that in the action by Congress in recognizing at least the distinction between a trivial offense and a major one lends some support to the position taken by Justice Goldberg in his dissent. We may differ as to what is trivial, but the theory at least is there. I believe the Court decision is extremely pertinent to the argument as to the need for a jury trial.

Mr. President, this $300, 45-day provision is, however, only a partial remedy to a basic defect in our legal structure, and even this slight guarantee against arbitrary judicial acts would only be incorporated by reference in title II of H.R. 7152. I have yet to fathom why those found in contempt of Federal court orders compelling private businessmen to open their doors to all comers should be entitled to jury trials while employers directed by Federal courts to hire applicants obnoxious to them should not be. Particularly, is this situation anomalous, in view of what should be the great difficulty in proving "discrimination" in hiring under title VII of this bill.

I believe it would be helpful to examine the context in which contempt citations under the terms of this bill might arise.

Mr. President, as Senators are aware, title I adds to the already large body of Federal statute law on voting rights. In this connection, at least as far as my own State is concerned, I do not believe there is any difficulty; in fact, the Commission found no complaints. It is not really a problem at all in my State.

As I have noted, the penalties which may be incurred under these statutes are subject to trial de novo in all cases where the punishment for contempt exceeds $300, or 45 days confinement. I believe this should be expanded to cover all criminal contempt cases as would be provided by the Talmadge amendment. The principle of the right to trial by jury is no less sacred when the punishment is slight than when it is severe.

This bill is alleged to center on civil rights. I know of no rights more highly cherished by our legal tradition than that of trial by jury where criminal sanctions are involved. It is no less meritorious when the judge is lenient than when he is harsh.

Title II of the pending bill which would provide for injunctive relief against discrimination in places of public accommodation would extend Federal authority into an area far less susceptible to Government intervention than even voting cases. Proprietors of inns, hotels, motels, restaurants, cafeterias, lunchrooms, and a host of other facilities enumerated in the bill will be subject to Federal court orders to serve in their establishments all comers. The Senate is aware that this provision stands to wreak great change in the patterns of society and commerce of the country. There is question of its constitutionality and, in fact, a similar Federal statute enacted during the Reconstruction period was struck down by the Supreme Court. Whatever the legality of this title, and I do not discuss it here today for fear of being nongermane, there is no question of its far-reaching implications and it may be foreseen to be the basis for contempt of court proceedings, if enacted. The right of jury trial which is inviolate for those charged with murder, rape, or treason might, however, be denied to upright taxpaying businessmen who run afoul of court orders obtained under title II. Lest my comment be distorted, let me hasten to add that I am aware that proceedings for contempt arising under this title would be subject to the jury trial provisions of the 1957 Civil Rights Act. As I have pointed out, however, only those subject to relatively severe punishment in the first instance would be afforded this protection. If the Talmadge amendment is adopted, as it should be, there would be no question about the protection of proprietors subject to contempt citations.

Under titles III and IV court orders may be anticipated to run against all manner of public officials from county judges to school superintendents. In most cases the plaintiff will not be the aggrieved party who may have a right of action under the Brown case and those which have flowed from it. Rather the Attorney General of the United States with the infinite resources of the Justice Department and the investigative agencies of the Federal Government at his command will institute suits for anonymous persons. Surely where the contest is so unequal in terms of financial resources the Federal Government can afford to grant a defendant who runs afoul of a court order the opportunity to submit the evidence in his case to a jury for its determination of the facts relevant to his alleged contempt.

While different in kind from the extension of Federal authority over private businessmen these sections deal with volatile human emotions and with an area of the law which is notably imprecise. To make one man judge, jury, and prosecutor over those charged with violation of orders in which he may have pride of ownership is to deny the most sacred traditions of common law jurisprudence.

And, nowhere is the right of trial by jury for cases in criminal contempt more needed than in title VII which would establish an Equal Employment Opportunity Commission to prevent "discrimination," as it is termed by the bill, in hiring and promotion.

A great deal has been said during the course of the debate on this bill about the word "discrimination." It is liberally sprinkled through title VII, but without definition, and it must be admitted by every Member of this body that this title must rise or fall according to the interpretation placed on this vague term by the Equal Employment Opportunities Commission and the courts called on to enforce its orders. If this title is enacted without substantial modification employers will be subject to complaints of discrimination in employment filed not only by the one alleging a grievance but also members of the Commission on their own motion and, for that matter, practically anyone else.

I also fear, Mr. President, that as a practical matter the burden of proof in these cases will be shifted to the defendant employer who in effect will be called upon to prove to the "prosecutor" that his motives are pure and his hands are clean. This is to me an impossible task and I hope to devote some time to the lopsidedness of this section of the bill at some point in the debate. Suffice it to say at this point that when an employer is harassed from pillar to post by a Federal commission for doing something or failing to do something which should be his prerogative to do or fail to do in the first place, the facts of his case should be placed alongside the statute by a jury if he is subjected to punishment for contempt.

Perhaps it will be said that juries—and particularly southern juries—are not competent to pass on these difficult questions. This assertion is to me a denial of the virtue and merit of the jury system in total and an affront to the character of the citizens of the States in the South. Moreover, juries in our jurisprudential system are called upon to determine the facts which constitute very complex statutory and common law concepts. I can think of no word in either its lay or legal meaning more difficult of definition than "negligence" and yet every day in thousands of trial courts across the country juries determine whether it is present in a certain set of facts. Certainly the facts of a case which would sustain a citation for criminal contempt would be more readily susceptible to determination by a jury.

This section in effect creates a new crime of discrimination. True, the criminal sanctions are once removed from the initial day in court but a jail sentence or a fine for whatever cause are punishments of a criminal character and should not be dispensed at the discretion of one man, albeit a Federal district judge.

Mr. President, I have spoken of the historical evolution of the jury as a means of protecting individual citizens from arbitrary judicial acts. This facet of our jurisprudential system is one which should be jealously guarded and which, in this case, should be given statutory sanction.

It would be helpful, I believe, to review the constitutional, statutory, and judicial context in which the Talmadge amendment is offered. The Senate is particularly fortunate in this regard for the Supreme Court has recently passed on a case presenting precisely the issue which I have endeavored to draw here today. In the case of *U.S.* v. *Ross R. Barnett et al.* which came to the Supreme Court on certificate from the U.S. Court of Appeals for the Fifth Circuit the majority, it is true, held that the former Governor of Mississippi is not entitled to a jury trial on the contempt citation issued against him in connection with the entrance of James Meredith into the University of Mississippi. It is evident, however, that the issues in this case were finely drawn, for there were four dissenting Justices who, in opinions by Mr. Justice Goldberg and Mr. Justice Black, reached the conclusion that the defendants in this case were entitled to have their case heard by a jury both by Federal statute and by the U.S. Constitution. The fact that this position was taken by the minority makes doubly important this debate in the Senate for we are in a position to adopt by legislation the views of Mr. Justice Goldberg, the Chief Justice, Mr. Justice Douglas, and Mr. Justice Black. I would point out that these distinguished jurisits are noted for their opinions on the Court in the field of civil rights and their views in the past have been applauded by many in the Senate who support this bill.

I would like to quote from the dissenting opinion in United States against Barnett for I feel it is a very concise and helpful treatment of the issue before us.

Because of the merit of Mr. Justice Black's dissent and its economy of language, I would like to proceed to it at this point.

It is the most recent pronouncement of the Supreme Court in this field:

> SUPREME COURT OF THE UNITED STATES—UNITED STATES *v.* ROSS R. BARNETT ET AL.—ON CERTIFICATE FROM THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT; APRIL 6, 1964—No. 107.—OCTOBER TERM, 1963
>
> Mr. Justice Black, with whom Mr. Justice Douglas joins, dissenting.
>
> For many reasons I cannot agree with the Court's opinion. In the first place, Congress has never expressly given the Federal Courts of Appeals jurisdiction to try and punish people for criminal contempt of court, and I am unwilling to hold that such a power exists in these courts in the absence of a clear and unequivocal congressional grant.

That is a positive, clear statement.

I continue to read:

> The business of trial courts is to try cases. That of appellate courts is to review the records of cases coming from trial courts below. In my judgment it is bad for appellate courts to be compelled to interrupt and delay their pressing appellate duties in order to hear and adjudicate cases which trial courts have been specially created to handle as a part of their daily work.[1] And in particular, I believe that it is highly disruptive and downright injurious to appellate courts for them to attempt to take over and try criminal contempt cases, surcharged as these cases almost always are with highly emotional quarrels. Compare, e.g., cases cited in *Green* v. *United States*, 356 U.S. 165, 199, n. 8 (dissenting opinion). Appellate courts are too useful a part of our judicial system to be subjected to such unnecessary ordeals. I say unnecessary because trial courts are as qualified and capable to try criminal contempt cases as they are to try others.
>
> Assuming, however, that a U.S. Court of Appeals does have jurisdiction to try criminal contempt cases, I agree for the reasons set out in part A of my Brother Goldberg's dissenting opinion that Congress has commanded that defendants in those cases be accorded a right to trial by jury. His powerful arguments on this point stand unanswered by the court. Even in construing statutes governing civil cases we have taken pains to resolve all doubts in favor of trial by jury as guaranteed by the seventh amend-

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[1] What I have said above, of course, has no application whatever to the useful practice, authorized by statute, by which circuit judges sometimes sit on district courts and district judges sometimes sit on courts of appeals. See 28 U.S.C. 2284, 291, 292.

> ment.[2] We should certainly be equally alert to construe statutes governing trials for criminal contempt so as to protect the right of jury trial guaranteed for the "Trial of all crimes" by section 3 of article III of the original Constitution and for "all criminal prosecutions" by the sixth amendment.
>
> I think that in denying a jury trial here the Court flies in the face of these two constitutional commands. My reasons for this belief were stated in *Green* v. *United States,* 356 U.S. 165, 193 (dissenting opinion), and in other opinions cited in the margin which I have written or to which I have agreed.[3] No provisions of the Constitution and the Bill of Rights were more widely approved throughout the new Nation than those guaranteeing a right to trial by jury in all criminal prosecutions. Subsequent experience has confirmed the wisdom of their approval. They were adopted in part, I think, because many people knew about and disapproved of the type of colonial happenings which the Court sets out in its appendix—cases in which, as reported by the Court, people had been sentenced to be fined, thrown in jail, humiliated in stocks, whipped, and even nailed by the ear to a pillory, all punishments imposed by judges without jury trials. Unfortunately, as the Court's opinion points out, judges in the past despite these constitutional safeguards have claimed for themselves inherent power, acting without a jury and without other Bill of Rights safeguards, to punish for criminal contempt of court people whose conduct they find offensive. This means that one person has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty. I do not agree that any such inherent power exists.[4] Certainly no language in the Constitution permits it; in fact, it is expressly forbidden by the two constitutional commands for trial by jury. And of course the idea that persons charged with criminal offenses such as criminal contempt are not charged with crimes is a judicial fiction.

I emphasize that. I believe it is pertinent to our previous discussion on this subject.

I continue to read:

> As I said in Green, I think that this doctrine that a judge has inherent power to make himself prosecutor, judge and jury seriously encroaches upon the constitutional right to trial by jury and should be repudiated.
>
> In Green the Court affirmed a 3-year sentence imposed for criminal contempt. But now in vote 11 of its opinion in the present case the Court has inserted an ambiguous statement which intimates that if a sentence of sufficient severity had already been imposed on these defendants, a majority of the Court would now overrule Green in part, by holding that if a criminal contempt charge is tried without allowing the defendent a jury trial, punishment is constitutionally limited to that customarily meted out for "petty offenses."[5] I welcome this as a halting but hopeful step in the direction of ultimate judicial obedience to the doubly proclaimed constitutional command that all people charged with a crime, including those charged with criminal contempt must be given a trial with all the safeguards of the Bill of Rights, including indictment by grand jury and trial by jury.
>
> Whatever is included within the scope of "petty offenses," certainly if the present defendants committed the acts with which they are charged, their crimes cannot be classified as "petty," but are grave indeed. These defendants nevertheless, like other charged with crimes, should have their cases heard according to constitutional due process, including indictment and trial by jury. Nothing less can measure up to the kind of trials which article III and our Bill of Rights guarantee. It is high time, in my judgment, to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury.[6] It will be a fine day for the constitutional liberty of individuals in this country when that at last is done.

Mr. President, I think that argument of the Court, plus the other precedents we have cited, constitute an unanswerable argument for the adoption of the amendment offered by the distinguished junior Senator from Georgia [Mr. TALMADGE]; and I hope the Senate will support it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. McNAMARA in the chair). The clerk will call the roll.

The legislative clerk called the roll; and the following Senators answered to their names:

[No. 159 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bible
Boggs
Burdick
Byrd, W. Va.
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Ellender
Ervin
Fong
Fulbright
Gore

Gruening
Hart
Hartke
Holland
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morton
Moss
Mundt

Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smith
Sparkman
Symington
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. McGEE in the chair). A quorum is present.

The question is on agreeing to the amendments proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, to insert on page 54, after line 7, a new title.

Mr. ELLENDER obtained the floor.

## PLANNING TO SHIFT U.S. PRODUCTION FROM A DEFENSE TO A CIVILIAN BASIS

Mr. LONG of Missouri. Mr. President, will the Senator from Louisiana yield for an insertion?

Mr. ELLENDER. Mr. President, I ask unanimous consent that I may yield without losing any of my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Missouri. Mr. President, President Johnson's recent announcement that the United States is cutting back production of uranium and plutonium has called our attention once more to the increasing relaxation of cold war tensions. All Americans hope fervently for a secure and lasting peace. But these hopes for an end to the cold war around the globe must not make us heedless of the problems that it would entail here at home.

Careful and farsighted planning by American industry must accompany any moves toward putting our economy on a full peacetime basis. The Government, which has so long provided much of our heavy industry with a defense orientation, should not shirk its responsibilities to aid in changing that orientation as changes in our defense requirements warrant.

In my own State, for example, more than 5 percent of our total wages and salaries, some $528 million annually, goes to workers in defense industries, defense agencies, and the military services. We must not forget these people when we curtail even slightly our defense efforts.

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[2] See *Simler* v. *Conner,* 372 U.S. 221; *Dairy Queen, Inc.,* v. *Wood,* 369 U.S. 469; *Beacon Theatres, Inc.,* v. *Westover,* 359 U.S. 500.

The seventh amendment provides: "In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, then according to the rules of the common law."

[3] See also, e.g., *In re McConnell,* 370 U.S. 230; *In re Murchison,* 349 U.S. 133; *Offutt* v. *United States,* 348 U.S. 11; *In re Oliver,* 333 U.S. 257; *Ungar* v. *Sarafite,* 376 U.S. ——, —— (Douglas, J., dissenting); *Piemonte* v. *United States,* 367 U.S. 556, 565 (Douglas, J., dissenting); *Levine* v. *United States,* 362 U.S. 610, 620 (dissenting opinion); *Brown* v. *United States,* 359 U.S. 41, 53 (Warren, C.J., dissenting); *Yates* v. *United States,* 355 U.S. 66, 76 (Douglas, J., dissenting); *Nilva* v. *United States,* 352 U.S. 385, 396 (dissenting opinion); *United States* v. *United Mine Workers,* 330 U.S. 258, 328 (opinion of Black and Douglas, JJ.).

[4] See *Green* v. *United States,* 356 U.S. 165, 193 (dissenting opinion), and opinions cited, supra, n. 3.

[5] Some members of the Court are of the view that without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for "petty offenses." Ante, p. 14.

[6] Of course, "it should be emphasized that we are not at all concerned with the power of courts to impose conditional imprisonment for the purpose of compelling a person to obey a valid order. Such coercion, where the defendant carries the keys to freedom in his willingness to comply with the court's directive, is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decreases." *Green* v. *United States,* 356 U.S. 165, 197 (dissenting opinion). It was this kind of conditional imprisonment for the purpose of compelling obedience to a valid court order that was involved in *Watson v. Williams,* 36 Miss. 331, which the Court stresses so heavily at the concluding part of its opinion. In that Mississippi case Watson refused to deliver property to minor children whose guardian he had been. The court entered an order "committing the plaintiff to the jail of Lowndes County for safe keeping, until he comply with the order of the court." Id., at 340. As I said in *Sacher* v. *United States,* 343 U.S. 1, 22 (dissenting opinion), with respect to this kind of conditional civil contempt order, I agree with this statement of Mr. Justice Holmes: "I would go as far as any man in favor of the sharpest and most summary enforcement of order in Court and obedience to decrees, but when there is no need for immediate action, contempts are like any other breach of law and should be dealt with as the law deals with other illegal acts." *Toledo Newspaper Co. v. United States,* 247 U.S. 402, 425–426 (dissenting opinion).

A recent article in the St. Louis Post-Dispatch discusses very competently one of the best proposals made thus far to deal with this vital national problem. I refer to the bill introduced by the Senator from South Dakota [Mr. McGovern] to establish a national economic conversion commission. As a cosponsor of this measure, and a firm believer in the planning it calls for, I ask unanimous consent to have this excellent article on the bill of the Senator from South Dakota printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the St. Louis Post-Dispatch, April 19, 1964]

Senator McGovern Takes Lead To Help United States Shift Production From Defense to Civilian Basis—Emphasis on Arms Costing Many Industries the Capacity To Compete at Home and Abroad, He Declares

(By William K. Wyant, Jr.)

Washington, April 18.—The prophet Isaiah may have been right when he said the feet of a messenger bringing peace are beautiful upon the mountains, but in Isaiah's day it was a simple matter to beat a sword into a plowshare, or vice versa.

In the 20th century American economy, nothing brings greater chill to the hearts of peaceloving citizens, or the politicians who represent them, than the threat that a military base or defense plant with a fat payroll may be shut down.

This week Defense Secretary Robert S. McNamara hinted that more shutdowns might be in the offing, to save a dollar here and there. At this news, few hats were thrown into the air on Capitol Hill, for conversion to peace is a painful national problem, and at the local level it can be an agonizing one.

Both in Congress and in the administrative hierarchy of President Lyndon B. Johnson, moves are afoot to help the United States plan for a shift from defense to civilian production and to minimize the disruption and unemployment a major shift would entail.

In Congress the move is being led by South Dakota's personable young Democratic Senator George McGovern. He is in an excellent psychological position to criticize armaments spending, for he won the Distinguished Flying Cross as a bomber pilot based in Italy in World War II. He flew 35 B–24 missions.

Last August in a Senate speech McGovern quoted Secretary McNamara's estimate that one quick nuclear strike would kill 100 million Americans, an equal number of Russians, and nearly as many West Europeans. McGovern said the United States had enough nuclear weapons and ought to divert more of its substance to peaceful purposes at home and abroad.

There is a tendency to believe that arms spending stimulates the economy, McGovern said, but actually the consequence of devoting half the national budget and a heavy proportion of trained manpower to defense has been to distort the economy.

"Many U.S. industries are losing their capacity to compete not only in world trade but also in the United States," he warned. "The concentration of capital and technical skill in arms production is a basic cause of our declining competitive ability."

In September, he tried unsuccessfully to persuade the Senate to cut the $50 billion-plus 1964 defense budget which, as he pointed out, was 5½ times the size of the entire budget of the Federal Government in 1940.

Then about a month later, on October 31, McGovern introduced his bill for establishment of a national economic conversion commission. Its purpose would be "to develop plans for economic adjustments to changes or reductions in our defense expenditures."

The proposed commission would be set up in the executive office of the President. It would be headed by the Secretary of Commerce, and would include the Secretaries of Defense Agriculture, Labor, and Interior, along with the chairmen of the Atomic Energy Commission and the Council of Economic Advisers.

Among other things, the commission would draft a blueprint for Federal action, call a national conference to focus national attention on conversion problems, and confer with Governors of States. In addition, defense plants would be required to set up their own committees to plan for possible changeover to civilian work.

Nine other Democratic Senators, including Missouri's Edward V. Long, joined McGovern in sponsoring the bill, and two others have identified themselves with it since. Identical legislation has bipartisan support in the House of Representatives.

In his concern about arms spending and the task of conversion, McGovern was able to quote such conservative sources as former President Dwight D. Eisenhower and the Mortgage Guaranty Trust Co. of New York.

The Eisenhower warning against putting too much of the national strength into defense is well known. Mortgage Guaranty, in a monthly survey last summer, saw a break in the arms outlay and suggested it was high time for individuals, companies, and communities to be giving the matter some thought.

Outside Congress, President Johnson on December 21 created an interagency committee on the economic impact of defense and disarmament. The action gave formal and permanent status to a committee set up July 10 in the President's Council of Economic Advisers.

The Johnson committee is headed by Gardner Ackley, a member of the Council of Economic Advisers. On it are represented the Departments of Defense, Commerce, and Labor, the Arms Control and Disarmament Agency, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, the Office of Emergency Planning, and the Bureau of the Budget.

The committee is high level, but its functions are not so broad as would be undertaken by McGovern's commission. It is expected to make sure the Government has the analytical capacity to assess the impact of the arms program, and will make reports to the President from time to time.

Walter Heller, Chairman of the Council of Economic Advisers, is said to believe that Congress ought to defer action until the Johnson committee has explored the situation, but Senator McGovern is pressing for action on his bill.

It was thought earlier that the Senate Commerce Committee, under Chairman Warren G. Magnuson, Democrat, of Washington, might hold hearings this month. The civil rights bill intervened. McGovern has been pressing Magnuson since December, and the chairman has said hearings will be scheduled.

"We're getting a lot of mail, largely from States other than my own," McGovern told the Post-Dispatch. He said he had received 2,500 to 3,000 letters, almost uniformly favorably. Some business concerns do not like the idea of setting up in-plant committees.

In view of McGovern's impressive Air Force record, he is no more likely to be charged with lack of patriotism or interest in adequate defense than is his fellow airman, Air Force Chief of Staff Curtis E. LeMay, who has been complaining that the American lead over Russia is narrowing.

But there has been fear in South Dakota that the Army may close the Black Hills ordnance depot in the southwest part of the State, and some of the Senator's political opponents are circulating a report that McGovern's attitude is to blame, the Post-Dispatch was told.

South Dakota has no defense industry to speak of, but it has some $100 million a year in defense spending. A vital part of this is the Strategic Air Command's Ellsworth Air Force Base near Rapid City, which has an annual payroll of about $25 million.

In addition to its manned aircraft the Ellsworth base is center for a cluster of ballistic missiles oriented toward the Soviet Union. Nine Titan sites have been completed and 150 Minuteman ICBM sites are being built within a 50-mile radius, so the base should be fairly safe against vicissitudes of change.

Senator McGovern told the Post-Dispatch a great many thoughtful people are worried about the conversion problem, but he detected thus far no great drive toward alternative planning.

"I think," he said, "we have consciously or unconsciously come to the conclusion that defense spending is almost a way of life. I think we have been operating on the theory that defense spending is a good way to stimulate the economy.

"But you can't allocate two-thirds to three-fourths of the Nation's best scientific brains to armaments without paying a heavy price. You can't drain off half the Federal budget into arms without interfering with other public programs."

Like Senator J. William Fulbright, Democrat, of Arkansas, Senator McGovern is concerned that since the Korean war Congress has been approving astronomically large defense budgets virtually without debate.

"My own conviction," McGovern told a San Francisco audience in February, "is that we cannot afford this policy economically, politically or morally, and that if we persist in following it we will weaken our Nation both at home and abroad."

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## THE GREAT QUESTION BEFORE THE SENATE

Mr. NELSON. Mr. President, will the Senator from Louisiana yield to me for an insertion in the Record?

Mr. ELLENDER. Mr. President, I yield to the Senator from Wisconsin under the conditions previously announced.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, there appeared in the Saturday Evening Post for April 18, 1964, an editorial on the legislation pending in the Senate. In that editorial there is mention of the distinguished Senator from Minnesota [Mr. Humphrey] and his leadership, and of the distinguished Representative William McCulloch, of Ohio, who was instrumental in the passage of the bill in the House.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Saturday Evening Post, Apr. 18, 1964]

The Great Question Before the Senate

Before the Senate embarked upon its great filibuster, Senator Hubert Humphrey, of

Minnesota, said on "Meet the Press" that passage of the civil rights bill would be "looked upon as the greatest achievement in the field of human rights since the Emancipation Proclamation." That may have sounded like hyperbole, but it is actually not an exaggeration. The current filibuster may be the last great legislative battle of the civil rights struggle.

The bill before the Senate now is the most comprehensive civil rights measure to come before that body. Its major provisions would go a long way toward eliminating what Senator HUMPHREY calls "the citizenship gap" in the United States. The bill would implement Negro voting rights, eliminate discrimination in public accommodations, authorize the Attorney General under certain circumstances to bring suit to desegregate public schools, terminate Federal assistance to State and local programs involving discrimination, and authorize the establishment of a Federal Equal Employment Opportunities Commission.

In recent weeks southern Senators have belabored the bill as a mortal threat to States rights and constitutional liberties. For all the oratory, however, two simple facts stand out. First, if the States are to maintain a responsible role in our system, they must behave responsibly themselves. Some 32 States have enacted public accommodations laws, but Southern States have simply failed to discharge their responsibilities to Negro citizens.

Congressman WILLIAM McCULLOCH, Republican, of Ohio, put the problem of State versus Federal action in the civil rights field succinctly and eloquently when the House debated the civil rights bill. "I believe in the effective separation of powers and in a workable Federal system whereby State authority is not needlessly usurped by a centralized government," Mr. McCULLOCH said. "But I also believe that an obligation rests with the National Government to see that the citizens of every State are treated equally without regard to their race or color. Where, then, individuals or governmental authorities fail to shoulder their obligations, and only stress their rights, it is the duty of the Congress, under constitutional authority, to correct that wrong. To do otherwise would be to forgo our responsibility as national legislators and as human beings who honor the principles of liberty and justice."

The second basic fact of the civil rights "debate" is that for all the crocodile tears that have been shed over "constitutional rights," the current bill only attempts to insure to certain American citizens rights and opportunities that others have long enjoyed. How a decent, humane society can do less, and how people who call themselves Christians can settle for less, cannot be answered by any amount of filibustering.

Before the filibuster, both sides—southern conservatives and civil rights advocates—pledged that there would be no compromise. President Johnson to his great credit, has repeatedly promised that his administration will not weaken the bill. We do not say the bill is perfect. There may be changes, but there should be no compromise on its basic objectives. The bill is not a radical measure. The House passed it by a vote of 290 to 130 after an exemplary debate. The bill, in essence, is an affirmation of elementary principles of fairness and decency, a test of whether our society in its 188th year can conform to its original promise.

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## THE AREA REDEVELOPMENT ACT

Mr. NELSON. Mr. President, in the April issue of Challenge, there appears an article by a distinguished economist, Sar A. Levitan, research professor of economics at George Washington University, on the Area Redevelopment Act. I think it is a perceptive and penetrating article. I ask unanimous consent that it be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Challenger, Apr. 16, 1964]

### AREA REDEVELOPMENT ACT: A VALIANT ATTEMPT TO DO TOO MUCH

(By Sar A. Levitan)

(The Area Redevelopment Act is due to expire next year unless it is extended by Congress. Although the Area Redevelopment Act has encountered strong opposition and its future perpetuation seems in doubt, the program of aiding depressed areas is essentially sound, says Sar A. Levitan, research professor of economics at George Washington University and a consultant to the Upjohn Institute for Employment Research. By trying to do too much with its limited resources, Area Redevelopment Act's accomplishments have thus far fallen short of expectations. To be effective the program should be limited to the most afflicted areas instead of being dissipated among 1,000 counties eligible under present law. The accompanying article is based on Professor Levitan's forthcoming book, "Federal Aid to Depressed Areas," to be published by the Johns Hopkins Press. The study was financed by the Ford Foundation.)

The Area Redevelopment Act was the first major piece of legislation John F. Kennedy signed after assuming the Presidency in 1961. Prolonged congressional debate over Federal aid to depressed areas prior to the bill's enactment touched upon several crucial economic and philosophical issues regarding the proper role of government in stimulating economic activity. The controversy continues, and the scope and the future of the program remain in doubt though almost 3 years have passed since the legislation was signed on May 1, 1961.

Briefly, ARA authorizes the expenditure of $375 million to stimulate economic activity and to construct needed public facilities in areas of high chronic unemployment. The bulk of the funds ($300 million) is earmarked for long-term loans, and the balance can be distributed in the form of grants to communities. In addition, ARA provides for a modest training program to teach unemployed workers in depressed areas new skills and authorizes annual expenditures of $4.5 million for technical assistance. The purpose of the latter program is to help communities plan for the optimal utilization of their economic potential.

The Area Redevelopment Administration, the agency entrusted with the execution of the depressed areas program, had committed by the end of 1963 more than $200 million to help areas of chronic unemployment. The agency claims that the funds have already helped create 20,000 new jobs and will eventually expand employment in the depressed areas by 60,000.

ARA, established on a trial basis, is due to expire on June 30, 1965, unless Congress acts to extend its life. Last summer, however, Congress refused to authorize additional funds for the program and its entire future is now in doubt. As a result, authority to expend funds for public facility grants was terminated as of July 1, 1963, and the agency is due to run out of all loan funds before the end of the current fiscal year. The infant area redevelopment program is therefore confronting a serious crisis. If ARA is to be saved, Congress will have to take another hard look at the program before this fiscal year ends.

The ARA program, as formulated by Congress, provides only limited means to combat unemployment in depressed areas. Based on the assumption that there is inadequate venture capital in these areas, ARA has authorized $200 million in loans to help the construction of new plants or expand existing ones. The loans are offered at the relatively low rate of interest of 4 percent a year. The availability of long-term capital at low rates of interest may be crucial to the survival of struggling businesses or to the establishment of new ones. There is nothing, however, in the act which offers any real incentive for established corporations to move into depressed areas. The act specifically restricts loans to enterprises which cannot secure credit in the open market. Few, if any, successful companies fall into this category and in most cases corporate reserves are adequate to finance expansion. In effect, therefore, the law limits ARA assistance to new or marginal firms which cannot obtain credit from private lending institutions. But the bulk of U.S. economic expansion and growth during recent years has been generated by large, well-established corporations.

As for ARA's training program, it might have become a significant factor in attracting industry to chronic labor surplus areas. A Government-supported training program might have provided sufficient inducement for prospective employers to locate large new plants in ARA areas. However, the passage of the Manpower Development and Training Act, within a year after the area redevelopment program, made training programs available throughout the United States and thus eliminated the special attractiveness of ARA.

The dilution of the program of aid to depressed areas has possibly been ARA's most serious defect. When Senator PAUL H. DOUGLAS, Democrat, of Illinois, chief architect of the program, first proposed a bill to aid depressed areas in 1955, he envisaged that only a few score communities would be eligible to receive assistance. As the program went through the legislative mill, more and more communities claimed eligibility and their wishes were honored. When the law was passed, Area Redevelopment Administration officials succumbed further to pressure from Congressmen, State and community officials, and others to enlarge the program's geographic scope. As a result, more than a third of all counties in the United States, comprising a fifth of the Nation's population, are eligible for ARA assistance.

The basic justification for ARA is that depressed economic conditions in an area force people to migrate from their communities in search of livelihood, and this creates pressures on prosperous communities to provide adequate housing, schools, recreational and religious facilities for the migrants. At the same time the social facilities in depressed areas, poor as they are, go to waste and contribute further to the deterioration of the Nation's economic fabric.

There are no precise data on the total social capital invested in communities, but it may conceivably equal corporate outlays for plant and equipment. According to Census Bureau estimates, capital outlays for schools, roads, hospitals, water supply, and related public facilities by State and local governments alone amounted to $16.7 billion for the year 1962, or nearly half as much as total corporate investments in plant and equipment. The amounts invested in community social capital by the Federal Government, private organizations, churches, fraternal organizations, utilities, and others is not known, but may well exceed investments of State and local governments.

A decline in the population of a community involves significant waste, and sound conservation of resources requires that social capital should not be abandoned when it can be saved. A Federal program to aid depressed areas should therefore focus on the needs of declining communities. But more than one of every four urban areas eligible for ARA assistance had actually experienced a larger than average population growth between 1950 and 1960.

The argument in favor of sharply restricting the communities eligible to receive assistance under the Federal depressed areas program does not suggest indifference for the lot of the unemployed; it only recognizes the limitations of the program, particularly when the economy is operating at less than full employment. Forced idleness is deplorable wherever it exists, and national policy, as enunciated in the 1946 Employment Act, recognizes the responsibility of Government to promote maximum production and employment.

But it can hardly be claimed that the unemployed in a depressed area have greater claim on Federal resources than the unemployed in a growing community. The Government properly provides direct assistance to both groups. Training, unemployment benefits, relief and other forms of assistance are provided the unemployed wherever they reside. The disturbingly high general level of unemployment which has prevailed in the United States during the past few years requires the strengthening of these programs as well as monetary and fiscal policies which would stimulate demand.

In contrast to direct programs aimed at reducing unemployment and alleviating its devastating impact upon individuals, the depressed areas program focuses on community needs, and its aid to the unemployed is based on a "trickle down" process—by inducing businessmen to expand existing facilities or locate new enterprises in designated areas, and by bolstering capital investments to make these communities more attractive to business. By bringing new jobs to depressed areas, the program attempts to deter the waste of social capital and reduces pressures for new investments in growing and more prosperous areas, where the unemployed from depressed areas would otherwise be forced to migrate.

Clearly, the present modest program of Federal assistance to depressed areas has been excessively diluted. Congress may therefore determine that more far-reaching legislation than ARA is needed to cure the ills of depressed areas. A variety of approaches that Western European countries have used to help their own depressed regions offers noteworthy precedents.

While the United States provides only carrots to attract new economic activity to depressed areas, Britain, for example, has also used a club to determine the location of new businesses and the expansion of existing ones. Under British law, a business must receive a permit from the Board of Trade to build a new plant. The board may deny a permit to a business desiring to locate in a congested area where there is already a shortage of manpower.

While coercion may have been used successfully in other countries to determine location of new plants, such an approach would not be acceptable to Congress, nor is it desirable. More practical measures might include extending preferential treatment to businesses in depressed areas in securing government procurement contracts, special tax incentives, special provisions in various current matching programs financed by the Federal Government, and the subsidization of worker relocation from depressed areas.

At present, the Defense Department is prohibited by law from awarding defense contracts to businesses in depressed areas if the contract can be filled at lower cost by producers from more prosperous communities. Some have argued that the present calculation of "cost" is unrealistic, since it does not take into account the social costs of unemployment. They have therefore suggested that efficient utilization of resources would dictate giving special preference to plants in depressed areas. West Germany and other countries give such special treatment in awarding government contracts. It is highly doubtful, however, that such an approach would be accepted by Congress under existing circumstances. But under conditions of full employment, effective aid might be extended to depressed areas by an energetic attempt on the part of procurement officials to seek out suitable productive capacity and award contracts to firms in depressed areas without price differentials.

Another effective tool would be to offer firms locating in depressed areas accelerated tax amortization. The Committee for Economic Development, consisting of leading businessmen, favored the granting of rapid tax amortization on investments in plant and equipment to firms locating in depressed areas and suggested that such a program would constitute a major potential aid to these areas. A number of other industrial countries, including West Germany, have used rapid tax amortization to aid their depressed areas.

The use of the investment tax credit has also been suggested as a supplementary or alternative device to rapid tax amortization in aiding depressed areas. According to this proposal, new or expanding businesses in depressed areas would be permitted a higher investment tax credit than the 7 percent provided under existing Federal legislation. Under this proposal, firms investing in depressed areas would receive either a flat or flexible tax credit differential. A flat differential would be simpler to administer; but a flexible differential would permit the Treasury Department to consider the national need for expanded capacity in a given product or service as a criterion in administering the program.

Some economists would object to any adjustment of tax rates to aid depressed areas on the ground that tampering with the Federal tax structure is undesirable and would damage the equity and efficiency of the Federal tax system. According to this argument, if assistance is to be given to new or expanding firms in depressed areas, it would be preferable to extend direct subsidies rather than attempt to accomplish the same purpose through tax gimmicks.

The adaptation of current Federal grants to aid depressed areas has also been suggested. The Federal Government is currently spending about $10 billion annually on various grant programs. Subsidy programs include diverse activities: highways, public assistance, education, hospital and airport construction, the post office, and others. Without arguing the merits of each of the subsidy programs, it is generally recognized that some have helped poorer States by giving them proportionately higher subsidies than those received by States with higher than average per capita income. Normally, however, subsidy programs do not take into account the needs of individual communities.

An effective and comprehensive area redevelopment program might take into consideration the special needs of depressed areas. This would require recognition of the fact that chronically depressed areas cannot benefit from Federal grant programs because they cannot contribute their share of total costs, and that special provisions must be made for these areas if they are to partake of the benefits offered by the Government. It has therefore been proposed that depressed areas should receive preference as locations for Federal projects.

Finally, Congress may also consider the payment of relocation allowances to unemployed workers living in depressed areas. It must be recognized that in some cases a retrained worker may not be able to find employment in the depressed area. Relocation assistance to workers should be used only sparingly and with considerable flexibility, lest it speed up the deterioration of human resources in depressed areas and thus further impede their rehabilitation. However, the redevelopment tools, even if they should be broadened will be of little help to some depressed areas whose economic base has vanished. In some cases, the interest of individuals cannot be ignored and their only hope may lie in moving elsewhere.

It would make little economic sense to strengthen ARA's tools if the program is to remain as thinly spread as it is now. Given the limited resources allocated to the program, a choice of priorities must be made. If too many areas become eligible to receive special assistance, it is not likely that truly depressed areas will be the real beneficiaries; areas which are economically more viable but still classified as "depressed" are likely to reap the benefits of the program, and the economic gains that might be derived from Federal aid would thus be reduced and minimized. Moreover, serious inequities would occur if a thousand counties in the United States were eligible to receive the benefits of an expanded program.

A rehabilitation program can be effective only when the number of depressed areas is reduced to manageable proportions, and only when communities with a potential for development at a reasonable economic cost are made eligible to participate. In short, the program must recognize that some areas are more equal than others.

Finally, a rehabilitation program can have only very limited success so long as high levels of unemployment prevail throughout the Nation. Only under conditions of relatively high general employment will the special measures to aid depressed areas be effective.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. ELLENDER. Mr. President, our Founding Fathers were confronted with a most serious obstacle before the Constitution was finally adopted.

As I shall try to show in a few moments, one of those obstacles was the fact that the Constitution which was then being debated did not contain any provision protecting the individual rights—the civil liberties—of the citizens of this country.

The second obstacle was the fact that all the States desired to retain the right to define the qualification of voters. I have gone into this before, and will no doubt go into it again, from time to time.

Since the start of the debate I have discussed most of the provisions contained in the 11 titles of the so-called civil rights bill. I discussed title I on voting rights at length, and argued how this title attempts to clothe the Federal Government with the right to provide and prescribe qualifications of voters.

I pointed out how the provisions of section 101 are in direct violation of the Constitution, namely, article I, section 2, which reserves the right to prescribe voter qualifications to the States. The provisions of this section would be an attempt by the Federal Government to determine voter qualifications in regard to material errors on registration applications, the requirement of a written test, and the establishment of a presumption of literacy where the applicant has a sixth-grade education.

As I pointed out previously, the debates which were held at Philadelphia indicate that, except for the fact that the Convention members agreed to place in the Constitution a specific provision in regard to fixing voter qualifications, our Constitution would never have been adopted.

I also discussed the provisions contained in title II on public accommodations and the fact that the executive department of the Government is attempting to control purely local business establishments through the commerce clause and the equal protection clause of the 14th amendment. This represents the most flagrant example of an attempt to control the most personal social relations of American citizens on no better authority than the alleged assertion that these social relations affect interstate commerce.

If we are to believe that the Constitution means what it says, we cannot accept, under any condition, the declaration contained in section 201(d) of title II that custom and usage is the same as State action. The Supreme Court has uniformly held that the requirement of State action under the 14th amendment must exist, and that acts of a purely private nature are not included, and specifically that the custom and usage of the community does not constitute State action.

It is a fundamental principle of constitutional law that Congress cannot expand or enlarge the Constitution. In other words, a mere statement by the Congress that public accommodations come within the purview of the commerce clause or under the equal protection clause of the 14th amendment does not make it so.

I have discussed these and other provisions of the pending bill in my speeches and now I wish to discuss the individual and States rights which are guaranteed in the first 10 amendments and the 13th, 14th, and 15th amendments to the Constitution. The rights guaranteed by these amendments to the Constitution are the true civil rights which U.S. citizens enjoy. I believe that they cover every aspect of personal, civil, political, and religious liberty which are necessary for a democratic society. These rights are deep enough and broad enough to cover every facet of legitimate human endeavor. There is no doubt that these rights far surpass any guaranteed by any other nation on earth.

Mr. President, I wish to point out to some extent the rights which American citizens have enjoyed to this day and how the enactment of this misnamed civil rights bill would not add any new or additional rights, but, on the contrary, as I have previously shown, would only take away from those already guaranteed by the Constitution.

Mr. President, almost two centuries ago a group of dedicated men met as delegates to a Constitutional Convention in Philadelphia, for the purpose of creating a union of the Thirteen Original Colonies.

As a result, the Colonies were bound together by a Constitution which has endured without substantial change to this day.

The objective of our Founding Fathers was the formation of a Union of States for the protection and defense of their newly found independence. They sought to create a National Government strong enough to defend the Nation, and with sufficient power to speak with one voice on strictly national problems.

Mr. President, our Federal system is founded upon a simple and yet basic principle, dual sovereignty—the sovereignty of States, and the sovereignty of the National Government. Each State fought to retain its own sovereignty insofar as local problems were concerned.

During the deliberations at the Convention sharp differences of opinion developed on the question of representation in the Congress.

Should representation be based on proportionate population, or should each State enjoy equal representation? On that issue the convention almost disintegrated. Small States zealously guarded their own sovereignty and were unwilling to permit larger States to have control. They were fearful of a powerful centralized government.

A compromise was reached, whereby the Members of the House of Representatives were to be elected directly by the people of each State, with the membership to be fixed in proportion to its population. The Members of the Senate, two from each State, were to be selected by the legislatures of the various States.

In reaching this compromise the members of the convention refused to follow the lead of those who, like Alexander Hamilton of New York, argued:

> The general power, whatever its form, if it preserves itself, must swallow up the State powers—two sovereignties cannot coexist within the same limits. * * * They are necessary for any of the great purposes of commerce, revenue, or agriculture.

The convention was determined to preserve the States. The convention realized there was indeed substance to the fear of an overpowering national government, a fear well expressed by James Wilson, from Pennsylvania, who said:

> Will the Members of the General Legislature be competent judges? Will a gentleman from Georgia be a judge of the expediency of a law which is to operate in New Hampshire? Such a negative—speaking of the proposal to permit the Congress to veto State laws—would be more injurious than that of Great Britain heretofore was. * * * If this influence is to be attained the States must be entirely abolished. Will anyone say this would ever be agreed to?

Here is what South Carolina's Charles Pinckney had to say:

> No position appears to me more true than this: that the General Government cannot effectively exist without reserving to the States the possession of their local rights. They are the instruments upon which the Union must frequently depend for the support and execution of their powers, however immediately operating upon the people and not upon the States:

Mr. President, here is the heart of our system—the creation of sovereign States, local governments close to the people—to act as a buffer between the people and their National Government. It is State governments which hold back the tide of all-engulfing centralism; it is the State governments which tell a national government to yield not to temptation lest, in its effort to impose uniformity, it stifles freedom.

Wipe out these State governments, destroy this buffer, demolish the bulwark of States, lay the people bare before the impersonal hands of a powerful central government, Mr. President, and we are not a nation of freemen; we might as well drape our Goddess of Freedom with black crepe.

Although there was general agreement among the delegates to the convention for adoption of the Constitution, there developed within the States much skepticism as to the meaning of many of the provisions of the Constitution.

Although there was assurance that the Federal Government was limited in its powers by the provisions of the Constitution, some desired to have spelled out the powers of the States. Many argued that the rights of citizens were not mentioned nor protected, and that ratification of the Constitution by three-fourths of the States could only be achieved on condition that a Bill of Rights be immediately made a part of the Constitution by way of amendments. This was the reason and the basis for the first 10 amendments to the Constitution.

Mr. President, that presented the second serious stumbling block to the adoption of the Constitution.

The sole reason for these objections was based on the fact that in no part of the original Constitution were the rights of individuals, or the rights of the States, definitely spelled out.

I quote a few excerpts from a book entitled "Birth of the Bill of Rights," by Robert Allen Rutland. The first excerpt is from page 112.

> The delegates who met in Philadelphia came to draft the blueprint for a strong central government. Missing from the assemblage of notables that included the first men of each state was Jefferson. After his discouraging experiences as governor of Virginia, he had taken the ministerial post to France, and from his diplomatic headquarters Jefferson sent forth volumes of letters that were to influence the course of ratification. The fact that the debates were secret and the element of time involved in ocean communication prevented Jefferson from being abreast of the situation. Jefferson's absence conceivably left a responsibility on George Mason's shoulders, for both were devoted, experienced champions of personal freedom.
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> Of course, there was nothing unusual in the fact that the personal rights of citizens were not a topic of discussion in the preliminary debates. Under the Confederation, these rights had been under state protection. There was no reason to assume that this protection had been lifted as long as the nature of the new government was unknown.

This is from page 118:

> As the general frame of the constitution became more clearly discernible, the enormous powers of the national government

caused a small band of delegates to call for guarantees of personal liberty. Charles Pinckney submitted to the Committee of Detail on August 20 a list of propositions which amounted to **a bill of rights.**

This is from page 122.

When the Convention drew to a close on the final day of debate before the engrossed copy of the Constitution was to be signed, Mason voiced his fear that the powerful federal government being created would become oppressive. Mason's position as a leader seeking a bill of rights was shaken during these concluding moments when he saved a futile, 11th-hour effort not for personal liberty, but for a notion which would have prevented the passage of navigation acts before 1808 unless approved by a two-thirds majority in Congress. As a Virginia planter, this was a natural suggestion, but it was this move which echoed in the delegates' minds as they turned homeward—not the pleas for a bill of rights.

This is from page 124.

Before the Convention adjourned, the lines of opposition were forming, not only in Philadelphia, but in New York, Richmond, and other communities where leads of information had gained friends or created enemies for the Constitution. Only when lifelong friends suddenly came to a parting of ways was it clear that certain issues—such as a bill of rights—had deserved much more attention than the Convention chose to give them.

Randolph led the move to call for another Federal Convention, and he was supported by Mason, who expressed his willingness to sign the Constitution only if provision were made for a second convention to receive amendments from the states. Mason, before leaving Philadelphia following the Convention, had spelled out his objections to the Constitution, opening with the following statement from "Birth of the Bill of Rights, 1776–1791," by Robert Allen Rutland, page 124:

There is no Declaration of Rights, and the laws of the general government being paramount to the laws and constitution of the several States, the Declaration of Rights in the separate States are no security.

Mason's objections included a particular mention that the Constitution failed to mention anything about preserving the liberty of the press, trial by jury, or the danger of standing armies in time of peace, and contained much criticism on the powers it conferred on the Federal Government. Mason refused to sign the Constitution.

Mason was joined in his opposition by a fellow Virginian, Richard Henry Lee, who drafted proposed amendments calling for a bill of rights, making guarantees of such things as freedom of religion and of the press, trial by jury in both criminal and civil cases, proposing a ban on standing armies in peacetime, on excessive bail or fines, and so forth.

A number of Protestant religious bodies joined the Antifederalist move, although through no political intent, and only indirectly. Protestant elements were fearful of church-state connection and that the Constitution did not present sufficient safeguards for complete religious freedom. Delaware ratified quickly and unanimously. Pennsylvania was next to hold a convention.

Further quoting from "The Birth of the Bill of Rights, 1776–1791," by Rutland, pages 139–140:

The Pennsylvania convention had been summoned to meet on November 20. The Antifederalists considered the early call a bit of strategy designed to stifle full discussion. They viewed it as a Federalist plot which had to be met with vigorous opposition, and the press was their chief method of resistance. In this campaign the Antifederalist strategy was directed along the lines suggested earlier by Mason and Lee. Was the Constitution "to be so hastily adopted or rejected, that it cannot admit of a revision?" asked an "Old Whig." If the state conventions did not approve it, their objections could be forwarded to the Continental Congress, he suggested, and another convention called. A second convention could form a federal government by carefully avoiding the mistakes made by the first meeting. Then the Old Whig added, "It will not be done without a careful attention to the framing of a bill of rights."

Mr. President, I read these excerpts merely to show how jealous the States were of the right to enjoy their own local States rights. We are confronted today with a so-called civil rights bill that would center too much power in Washington, which is something our forefathers tried their best to protect against.

As can be clearly seen from these excerpts, only a few of which I am reading, the Constitution itself would have never been adopted without the promise that a bill of rights would be presented to the States for ratification.

I now read from page 142:

While the call for a bill of rights grew louder in Pennsylvania, Lee had published the first of his letters over the signature of a "Federal Farmer." These pamphlets had been broadcast throughout the areas where strong Antifederalist sentiment existed. Lee hammered away at the Federalist argument that a bill of rights was impractical. There were certain fundamental rights which should form the groundwork of every constitution, Lee declared, and he believed "a complete federal bill of rights to be very practicable." Lee went on to point out the danger of a standing army, and the limitation on jury trials. The few allusions to personal rights in the Constitution as it stood were a half-hearted attempt to form a bill of rights, Lee explained, but a full catalog of personal liberties was required. Freedom of religion, jury trials, a prohibition on unreasonable warrants of search and seizure, freedom of the press—all were necessary in a national compact that would serve "for ages and millions yet unborn." Lee urged the people to appraise the Constitution with caution, and recommended the calling of "state conventions some months hence, which shall examine cooly every article, clause, and word in the system proposed, and to adopt it with such amendments as they shall think fit."

The Constitution was ratified by the Pennsylvania convention by a vote of 46 to 23, but the Antifederalists called a "rump convention," then published their objections, based on the absence of a bill of rights.

New Jersey then ratified unanimously. Georgia also ratified unanimously. Connecticut, after considerable discussion, ratified by 128 to 40.

In Massachusetts, debate went on for almost a month, at which time it appeared the Constitution would be rejected in that State. Later a number of amendments were proposed, and the Constitution was finally ratified by a vote of 187 to 168. I shall now quote from "The Birth of the Bill of Rights, 1778–1791," by Rutland, page 151:

As the first state to send along recommendatory amendments with ratification, Massachusetts established a precedent which remaining states could follow unless they approved the Constitution as it stood. These nine articles included proposals that all powers not delegated by the Constitution be reserved for the state, enjoined Congress not to use its powers in regulating elections unless the circumstances were unusual, and asked that Congress be prohibited from levying direct taxes and creating monopolies. The necessity for grand jury indictment was upheld, along with the need for jury trials in civil actions between citizens of different states. Freedom of conscience, freedom of speech, and liberty of the press—so frequently mentioned by the Antifederalist minority—were overlooked. The door was opened, however, for other states to add suggestions as they ratified the Constitution.

Jefferson had been writing letters and making statements to the effect that a bill of rights was an absolute necessity, and following the Massachusetts ratification he had this to say, in part, as quoted from Rutland, "The Birth of the Bill of Rights, 1776–1791," page 152:

If the states which were to decide after her should all do the same, it is impossible but they must obtain the essential amendments. It will be more difficult if we lost this instrument, to recover what it is good in it, than to correct what is bad after we shall have adopted it.

From Rutland, "The Birth of the Bill of Rights, 1776–1791" pages 192–193, I read as follows:

During the period when the transition to a new form of government was taking place Americans had time to reflect on the momentous events which had recently absorbed their attention. Nearly all agreed that Washington's known role in drafting the Constitution, his support of it, and the presumption that he would be the first president had assured the Constitution a trial. Practical politicians saw too that the issue had been resolved by a dangerously close margin in the key states. That Washington's stature was sufficient to overcome the objections raised by the omission of a bill of rights is doubtful. With Washington in line as the first president, however, and with the adoption of a federal bill of rights conceded by all but the most hardened Federalists, a fair test for the new government seemed assured.

Mr. President, I do not wish to take up any more of the Senate's time by reading these excerpts, but many Senators should find them very interesting. I ask unanimous consent that a few more passages showing the feeling of the country at this point in our history be included at this point in my remarks.

There being no objection, the excerpts are ordered to be printed in the RECORD, as follows:

The committee on amendments (New Hampshire convention on ratification) borrowed the nine articles drafted by Theophilus Parsons for Massachusetts, but it did go a few steps further than the Essex County conservative in their recommendations. The committee asked for a three-fourths majority in Congress for the support of a standing army, a ban on the public quartering of soldiers, an assurance that Congress would make "no laws touching religion, or to infringe the rights of conscience," and for the right of citizens to bear arms. These amendments, adopted to allay the suspicions expressed in town meetings, materially assisted the cause of the Constitution. It was ratified by the New Hampshire convention by a 10-vote majority on June 21.

Patrick Henry did not share Lee's conciliatory attitude. He served warning that he would carry his opposition to the Constitution beyond what the Federalists considered the limits of decency. Jealous of the rights of the Southern States, Henry was doubly suspicious of a consolidated government. He had turned down a proffered place on the Virginia delegation to the Federal Convention, frankly declaring that he declined the appointment because he "smelt a rat." Henry was second only to Washington in prestige with the people of Virginia, and his well-known opposition to the Constitution was sufficient reason for pessimism in the Federalist ranks. Madison believed Henry capable of an attempt to disrupt the Union if the Constitution were ratified. This estimate of Henry's opposition seemed justified after he arose in the Convention and shouted, "I declare, that if 12 States and an half had adopted it, I would with manly firmness, and in spite of an erring world, reject it." Without amendments, Henry said, the Constitution was unpalatable. Neither Lee, who was unable to attend the convention but still exerted considerable influence, nor Mason was believed to be so intransigent in their opposition.

Other forces which the Federalists found arrayed against them were the ministers and congregations of some of the dissenting religions. The unanimous disapproval of ratification by the Virginia General Baptist Committee in March 1788, reflected the attitude of thousands of communicants spread over the entire State. A friend warned Madison that the Antifederalists numbered as allies, "in a General way the Baptus's, the Prechers of that society are much alarm'd fearing Religious liberty is not sufficiently secur'd thay pretend to other objections but that I think is the principle objection, could that be Removed by sum one Caperble of the Task, I think thay would become friends to it, that body of people has become very formible in pint of Elections."

The writer, Joseph Spencer, also enclosed the objections of Rev. John Leland, a powerful Baptist leader, which were headed by a complaint over the lack of a bill of rights. Leland mentioned liberty of the press but most grievous of all, he thought, was the insufficient security of religious freedom. No religious oath was required of officeholders, and a national church might be established at any time. Leland concluded that "if Oppression does not ensue, it will be owing to the Mildness of administration & not to any Constitutional defence, & if the Manners of People are so far Corrupted, that they cannot live by republican principles, it is very Dangerous leaving Religious Liberty at their Marcy."

Whatever hopes the Federalists might have harbored regarding a hurried ratification gradually gave way to a genuine fear that the whole scheme might fail. To save their plan a bold strategy was required, and like many strokes of political wisdom before and since it was applied to give the desired object all the aspects of a sugar-coated pill. Over four decades later, John Marshall was able to review the events leading up to this compromise on a bill of rights without the partisan bias he held in 1788. Then Marshall conceded that during the political battles of 1787-88, "Serious fears were extensively entertained that those powers which the patriot statesmen * * * deemed essential to union, and to the attainment of those invaluable objects for which union was sought, might be exercised in a manner dangerous to liberty. * * * In almost every convention by which the Constitution was adopted, amendments to guard the abuse of power were recommended. * * * In compliance with a sentiment thus generally expressed, to quiet fears thus extensively entertained, amendments were proposed by the required majority in Congress, and adopted by the States."

Thus did the Chief Justice in 1833 recall the offering made by Federalists in 1788 to win over those who lumped most of their objections under the phrase: "There is no bill of rights."

Mr. ERVIN. Mr. President, will the Senator from Louisiana yield for several questions directed to George Washington's part in the Convention which drafted the Constitution, and the advice he gave us in his Farewell Address?

Mr. ELLENDER. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina for the propounding of such questions and the making of such statements as he may wish, and that my resumption will not be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask the Senator if George Washington was not the President or Presiding Officer of the Constitutional Convention of 1787, which drafted the Constitution?

Mr. ELLENDER. He was.

Mr. ERVIN. Did not George Washington leave to the American people a document which is familiarly known as his Farewell Address?

Mr. ELLENDER. Yes. I had occasion to read it from the rostrum of the Senate at one time.

Mr. ERVIN. Did not George Washington state in his Farewell Address to the American people that if the people ever became dissatisfied with the distribution of powers made by the Constitution, they should change those powers by amendment, conforming with the procedure set forth in the Constitution; and did he not also warn the people, in that connection, that they should never permit the Constitution to be changed by usurpation, because usurpation is a weapon customarily used to destroy free governments?

Mr. ELLENDER. Yes; I well remember that.

Mr. ERVIN. Can the Senator from Louisiana think of anything more dangerous to the continued existence of this country under the Constitution than to change the provisions of the Constitution by a usurpation of power?

Mr. ELLENDER. I do not know of anything that could be more dangerous.

Mr. ERVIN. Does not the Senator from Louisiana recall that George Washington also said in his Farewell Address to the American people that it was just as important to preserve the principles set forth in the Constitution as it was to initiate them originally?

Mr. ELLENDER. That is exactly so.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that the bill now before the Senate contains many provisions that are absolutely inconsistent with the provisions of the Constitution of the United States?

Mr. ELLENDER. There is no doubt about it. Before I take my seat, I shall point out many proposals in the so-called "bill of rights" that do not establish new rights at all, but take away rights that were granted not by the Constitution, but by the 10 amendments to which I shall address myself in a few moments.

Mr. President, I emphasize again that, except for the fact that the people in the 13 Original States were promised by the politicians that the Constitution would be amended so as to provide for the rights of the individual as well as for the rights of the States, the noble document of which we are all so proud, and which we call the Constitution, would never have been adopted.

It was not very long after the Congress first met, during the Presidency of George Washington, that the Bill of Rights, as it is now appended to the Constitution, was adopted. I repeat that except for the addition of the Bill of Rights, the original Constitution would never have been ratified by the States. All the States were quite jealous of their prerogatives. They had exercised their right of sovereignty after the American Revolution and they hoped to continue to exercise it after they became States—and rightly so, Mr. President.

What made our country great was the fact that the people of the States enacted laws peculiar to their own conditions, and the enforcement of those laws was carried out by sheriffs or other officers elected by the people. We can imagine what would have happened in Georgia, let us say, or in New Hampshire if local laws had been enacted in Washington and if their enforcement had been left to a Washington-appointed marshal, instead of to a person in New Hampshire or in Georgia.

The fact that the States retained their local sovereignty, their self-government, without interference by the Federal Government in the exercise of their own prerogatives, provided they did not conflict with the Constitution, is, above all, what made our country great.

Therefore, Mr. President, at this time I am not willing to vote to make a change in the Constitution. It is my belief that if the pending bill were to be enacted, a great and far-reaching constitutional change would have taken place without our people realizing it.

It is a great pity that many of those who now are demanding the passage of the pending bill are basing their reason for that position strictly on emotion. They are willing to trample upon every article of the Constitution, all of the Bill of Rights, and all the other amendments which have been adopted as parts of the Constitution, in order to give so-called civil rights to Negroes.

Mr. President, I come from the South. I was raised among colored people. At one time, Negroes represented more than 40 percent of Louisiana's population. It is a great pity that those who are advocating the passage of this bill do not stop to consider all the difficulties involved in forcing social relationships between the whites and the colored, which is sought by means of the pending bill.

Mr. President, I am quite certain that many of those who would be affected by the bill, and many of those who expect to obtain certain rights overnight, would be sadly disappointed when they learned that such rights would not flow to them merely because the bill had been enacted into law. First, each of these provisions will have to be tested in the courts.

Mr. President, if the bill were to be enacted, it would cause much more trouble than any being experienced now in various parts of the Nation. There has been a little trouble in Louisiana; and there has been much trouble in Alabama—where the difficulty really started. But, Mr. President, when efforts are made to force integration in the Northern States, where already there is supposed to be integration, in my judgment that is when the trouble will really begin.

In the past, the South has been made more or less a whipping boy in connection with this great issue. We in the South have openly carried out a sensible policy of segregation. But in the North, where some were led to believe integration was practiced, it was soon found that when efforts were made to enforce it, trouble started. I predict that more of it will come—particularly if efforts are made by those in charge of the Government to enforce the proposed law as it is now written.

Mr. President, I repeat that the pending bill would destroy many more rights to the people of our Nation than it would give to those who are seeking the proposed assistance. The tragedy of it all is, that those who would eventually suffer the most are the ones whom the proponents of the bill are trying to protect—namely, the Negroes.

Today, the great difficulty in connection with the problem in the South, as well as in many other parts of the Nation, is an economic one. We in the South were more or less colonies of the North, soon after the War Between the States. We grew the raw materials, and shipped them to the North, where the people were protected in the manufacture of cotton goods, woolens, and so forth; and thereafter the goods were shipped back to the South, at a tremendous markup.

For a long time the South remained poor. Last year I was called upon to deliver an address in the place where I was born, which is the fifth ward of the parish of Terrebonne. The occasion was the celebration of the 50th anniversary of the construction of the first public schoolhouse in that ward.

That school building was constructed only 50 years ago. In the place where I was born there were no public schoolhouses. Our public schools were conducted in rented buildings—barns, in some cases. As time went on, and as our economy developed, we provided more and better schools for everyone.

In 1924, when I was a member of the Louisiana Legislature, the amount of money appropriated for Negro and white schools at that time was about what we now appropriate for the colored only. Much progress is being made. I need not argue here that education of anyone, be he white, black, or any other color, cannot be accomplished overnight. Time is required. Now that we in the South have grown economically more strong, I have no doubt that the efforts that have been made in the past 5 to 10 years, for both white and colored, will be accelerated to the point to which both the whites and the Negroes will become better educated, better citizens, and will be able to acquire more and more economically.

Our present problem is more or less economic. If anyone thinks that we can settle all of our problems, particularly social problems, overnight by enacting legislation of the kind proposed, and which we are now considering, he is in for a surprise. It cannot be done.

Mr. ERVIN. Mr. President, will the Senator from Louisiana yield for some questions with the understanding that he will not have his rights to the floor impaired in any way by so doing?

Mr. ELLENDER. And without the resumption of my remarks being counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that one of the most precious rights of all Americans is that of selecting their own associates and the associates of their immature children?

Mr. ELLENDER. There is no doubt about that.

Mr. ERVIN. Has not the Senator from Louisiana observed that wherever people are free to select their own associates, they virtually always select as their associates members of their own race?

Mr. ELLENDER. It is true everywhere.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that the tendency of people to select as associates for themselves and as associates for their children of immature years members of their own race is in accordance with natural law?

Mr. ELLENDER. Exactly.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that when a government attempts to compel involuntary associations between people of different races, the government is attempting to bring about an artificial rather than a natural condition?

Mr. ELLENDER. There is no doubt about that. As I have said, the proposed legislation will bring on trouble, because we cannot force such association.

Mr. ERVIN. A moment ago the Senator from Louisiana spoke about economic problems. Does not the Senator from Louisiana recall that the Department of Labor has issued statistics showing that in the month of February of this year 895,000 Negroes were unemployed and 3,650,000 white were unemployed?

Mr. ELLENDER. Yes.

Mr. ERVIN. Does the Senator from Louisiana feel that there is any economic way in which persons acting under the bill could obtain jobs for 895,000 Negroes, or any substantial part of that number, unless the economic conditions of the country would also permit the employment of the 3,650,000 whites who are out of employment?

Mr. ELLENDER. The problem involves both Negroes and whites. There is no question about that.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that Congress cannot create the 4,545,000 jobs that would be necessary to furnish employment to all the unemployed people merely by enacting an FEPC law for only a fraction of them?

Mr. ELLENDER. As I pointed out during the debate on several different occasions, more than 30 States have FEPC laws. The State of New York has such a law. California and Michigan also have similar laws.

The State of Michigan has had an FEPC law for a long time. In 1960 the percentage of unemployed throughout that State was 6.9 percent. The white unemployment rate was 6 percent while the colored rate was 16.3. I emphasize that the State of Michigan has on its statute books an FEPC law; and yet 16.3 percent of the unemployed were colored, as against 6 percent of the whites.

The total unemployed in the State of Illinois was 4.5 percent. Of that number, 3.8 percent of the unemployed were whites, and 11.5 percent were Negroes. Why was not the FEPC made to work in those States in order to provide more employment for Negroes?

The proponents of the bill wish to place the program on a national basis. Why? I presume that they wish to get after the South. But I ask Senators to look at the similar percentages that are found in the South. The total percentage of unemployment in the State of Mississippi is 5.4 percent. Among the whites, 4.5 percent are unemployed; the Negroes, 7.1 percent. I ask Senators to consider those percentages in contrast to the 11.5 percent rate of Negro unemployment in Illinois, the 9.5 percent in New Jersey, which also has an FEPC law, and the 13.4 percent of the colored unemployed in the State of Washington, which also has an FEPC law. Those percentages would indicate to me that there must be something wrong with the FEPC laws in those States. Either they are unpopular and are not enforced, or something else is happening.

The State of Wisconsin, for example, had a total unemployment rate of 3.9 percent. Among the whites, the rate was 3.7 percent. Among the Negroes, it was 11.4 percent.

In contrast, the State of Virginia had a total unemployment rate of 4.2 percent. Among the whites, the unemployment rate was 3.5 percent. Among the colored, it was 7.1 percent.

In other words, not one State in the South had a percentage of unemployment among the nonwhites as great as that in most of the States that have FEPC laws.

Mr. ERVIN. Do not those figures indicate that more Negroes are unemployed in States where the State governments undertake to compel employers to hire them than there are in States where the freedom to select one's employees is left to the employers?

Mr. ELLENDER. There is no doubt about it. There must be something wrong with those laws. They are either not enforced, or they are not obeyed.

Let me mention another State, the State of Ohio. The total rate of unemployment in that State was 5.5 percent of the employable people. The rate of unemployment for whites was 4.9 percent; for Negroes it was 11.9 percent. In that State there has been an FEPC law for a long time.

If the States themselves cannot make the FEPC laws work, how in the name of commonsense can it be expected to be done through the Federal Government? That is something I cannot understand. If the Senator can shed any light on that question, I will appreciate it.

Mr. ERVIN. Does the Senator think it is possible that when there is a resort to coercion, resistance rather than cooperation is brought about; and when the matter is left to the free enterprise system, uncoerced and uncontrolled by the Government, cooperation is obtained?

Mr. ELLENDER. No doubt that is the way the process operates. I could cite many instances in my own State to show that, as the Negro improves himself and is able to acquire skills in mechanical work, he obtains a job. There is no doubt about it.

As I have often said, if the Negro is to get along and get ahead, he must try to educate himself and make himself capable of taking jobs at hand.

Consider the District of Columbia. Many times I have been told—and I have been here now some 28 years—that Negroes have applied for jobs they were incapable of holding, and have then said, "I was refused the job because of my color." They were then examined by the Civil Service Commission. Some had applied for electrical engineering jobs. After being examined, it was found that they did not know anything about electrical engineering. Yet they used the color of their skin as the reason why they were refused jobs. That has happened many times.

It seems to me that a greater service could be performed by the rabble rousers if, instead of going about the country creating trouble, they would advocate the better preparation of the Negroes. I am sure there are in the Senator's State, as is true in my own State, many Negroes who are doctors, lawyers, and prominent in business.

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senator from Louisiana may permit me to make an observation in that connection without losing his right to the floor and without having his subsequent remarks counted as a second speech on the pending business.

The PRESIDING OFFICER (Mr. McGovern in the chair). Without objection, it is so ordered.

Mr. ERVIN. I take great pride in the fact that in Durham, N.C., there is the North Carolina Mutual Life Insurance Co., which is the largest insurance company on earth owned, controlled, and managed by members of the Negro race.

I also take great pride in the fact that in Durham, N.C., there is the Merchants & Farmers Bank, which is one of the strongest banks in this Nation owned, operated, and controlled by members of the Negro race.

I also take pride in the fact that in the city of Winston-Salem in my State a transportation franchise has been granted to a firm owned, controlled, and operated by members of the Negro race.

As a consequence of these facts, I am satisfied that whenever a man of any race qualifies himself to be a success in the economic field, he will be a success in the economic field, provided that, in addition to his qualifications, he is willing to work.

I ask the Senator from Louisiana if he does not agree with the Senator from North Carolina that no men of any race can legislate their way to a more abundant life, but, on the contrary, they must earn such a life by their own achievements, sacrifices, and exertions.

Mr. ELLENDER. There is no doubt about it. I can illustrate the truth of that statement by turning to my own family. My grandfather came from Ohio in 1842. He floated down the Mississippi on a barge and stepped off at Baton Rouge. He stayed in that area with his mother. Soon he married an Irish girl, and from that union nine boys and one girl were born. My father was one of those boys. All of my uncles, as well as my aunt, married, and my presence here today is the result of one of those marriages. I am proud to say that I was the first of the Ellender descendants ever to walk out of college with a degree.

The children of several of my cousins never graduated from high school. As a result, they are working on farms, operating tractors, or are engaged in similar occupations.

The situation we are now discussing is not peculiar to the Negroes. It applies also to many white people. I am not ashamed to illustrate that point by referring to my own family. The answer to this question is to be found in education and economics, but not in legislation of the type now before us.

One of my parents was a fourth grader and the other was a fifth grader. An ambition of my father was to see to it that his children—there were five of us in the family—graduated from college. My father lived to see four of us do so. The last thing he said on his deathbed was, "Allen, you take care of Will." He was the youngest boy. Today that boy is as fine a surgeon as there is in this country.

There were others who were not able to get an education, or did not have the ambition, and who did not attain Will's success.

I can well remember that as a boy I was directed to drive a schoolbus. At that time we had no automobiles, but did have what we called surreys, little vehicles with two or three seats. I was directed to drive my cousins to a school located 4 or 5 miles from where I lived. That went on for 3 or 4 months. At the end of that time I was the only one to continue to school. So I unhitched the mule that pulled the surrey and rode the mule to school. I continued to do so for several years.

While I was in preparatory school, I worked on a farm for the food I ate, in order to go to school. If I had not done so, I might not be here today.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that no man and no race of men can legislate a way to economic or social heavens?

Mr. ELLENDER. There is no doubt that it requires a great deal of sweat and work, which cannot be furnished by the Government.

Mr. ERVIN. Does the Senator from Louisiana agree with the Senator from North Carolina that whoever maintains that men can legislate their way to a more abundant life is either fooling himself or trying to fool someone else?

Mr. ELLENDER. Principally, he is fooling himself.

Mr. President, returning to the subject which I was discussing, the necessity for the adoption of the first 10 amendments, I wish to read those 10 amendments, and to state briefly what occurred under them to preserve them, and to cite the necessity for having them.

I could have read many more passages to show that the Constitution would never have been adopted except for promises elicited from the politicians of those days, that one of the first duties of the First Congress would be to adopt these 10 amendments. I hope Senators will note those excerpts I have read and inserted in the Record.

The first amendment reads:

AMENDMENT I

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The first amendment has been called the freedom of expression amendment, and includes freedom of religion, freedom of speech, freedom of the press, peaceable assembly, and the right to petition the Government for redress of grievances. Some are prone to believe that the freedoms expressed in this amendment have long since ceased to be a controversy, and that in this enlightened time, there is little chance that the

Congress or the courts will abridge these freedoms.

But I point out to the Senate that the rights conferred by this first amendment would be abridged if this so-called civil rights bill is passed. The fair employment—FEPC—provisions of title VII would abridge freedom of speech and of the press in that it is declared in section 705(b), that:

> It shall be an unlawful employment practice for an employer, labor organization or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex or national origin.

This means, without doubt, that those persons and companies named cannot publish any request or preference for employees without being in violation of title VII. There is no question but that this provision would traditionally be considered as an unconstitutional law, but if the present members of the Supreme Court found that this provision did not violate the Constitution, it would in effect take away existing rights and confer no new ones upon anyone.

Section 704(f) provides that it is an unlawful employment practice to refuse to hire a person who has no religion. Of course, I believe that an employer should have the right to refuse to hire anyone he wants, but if this bill is intended to assure equal treatment of all persons by private citizens, there is no reason to abridge a person's freedom of religion because, surely, there is a right not to be religious.

It should be borne in mind that the rights we are discussing—that is the Bill of Rights, which embraces all those human rights which citizens of our country have enjoyed, are in reality just an enumeration of a broader concept of liberty and freedom which English-speaking people have always enjoyed. As Blackstone states in his Commentaries, volume 4, page 51:

> The liberty of the press is indeed essential to the nature of a free State; but this consists in laying no previous restraints upon publications. Every free man has an undoubted right to lay what sentiment he pleases before the public; to forbid this is to destroy the freedom of the press.

The first amendment presents questions today. The House of Representatives is now holding hearings in relation to certain decisions made by the Supreme Court in regard to cases dealing with the establishment of religion. I shall cite a few cases which deal with the religious issue; particularly the "establishment clause" of the first amendment.

*Everson* v. *Board of Education,* 330 U.S. 15, 1946; *McCollum* v. *Board of Education,* 333 U.S. 203, 1948; *Zorach, et al.,* v. *Clauson, et al.,* 343 U.S. 306, 1951.

There are quite a number of others which deal with the guarantee of free exercise of religion: *Reynolds* v. *U.S.,* 98 U.S. 145 (1878); *Davis* v. *Beason,* 133 U.S. 333 (1890); *Hamilton* v. *Regents of the University of California,* 293 U.S. 245 (1934). I shall quote from only two of the cases that I have cited in my presentation. The first is *Reynolds* v. *United States,* 98 U.S. 145, decided in 1878.

Section 308 of the revised statutes of the United States made bigamy a crime in the Territories. The defendant was charged under this law, and he offered as his defense his right to the free exercise of religion as guaranteed by the first amendment.

The Court held the law to be constitutional. In passing on the issue, the Court declared:

> Congress cannot pass a law for the government of the Territories which shall prohibit the free exercise of religion. The first amendment to the Constitution expressly forbids such legislation. Religious freedom is guaranteed everywhere throughout the United States, so far as congressional interference is concerned. The question to be determined is, whether the law now under consideration comes within this prohibition.
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> The word "religion" is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its meaning, and nowhere more appropriately, we think, than to the history of the times in the midst of which the provision was adopted. The precise point of the inquiry is, what is the religious freedom which has been guaranteed.
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> Before the adoption of the Constitution, attempts were made in some of the colonies and States to legislate not only in respect to the establishment of religion, but in respect to its doctrines and precepts as well. The people were taxed, against their will, for the support of religion, and sometimes for the support of particular sects to whose tenets they could not and did not subscribe. Punishments were prescribed for a failure to attend upon public worship, and sometimes for entertaining heretical opinions. The controversy upon this general subject was animated in many of the States, but seemed at last to culminate in Virginia. In 1784, the House of Delegates of that State having under consideration "a bill establishing provision for teachers of the Christian religion," postponed it until the next session, and directed that the bill should be published and distributed, and that the people be requested "to signify their opinion respecting the adoption of such a bill at the next session of assembly."
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> This brought out a determined opposition. Amongst others, Mr. Madison prepared a "Memorial and Remonstrance," which was widely circulated and signed, and in which he demonstrated "that religion, or the duty we owe the Creator," was not within the cognizance of civil government. Semple's Virginia Baptists, Appendix. At the next session the proposed bill was not only defeated, but another, "for establishing religious freedom," drafted by Mr. Jefferson, was passed. (1 Jeff. Works, 45; 2 Howison, Hist. of Va. 298.) In the preamble of this act (12 Hening's Stat. 84) religious freedom is defined; and after a recital "that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy which at once destroys all religious liberty," it is declared "that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order." In these two sentences is found the true distinction between what properly belongs to the church and what to the State.
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> In a little more than a year after the passage of this statute the Convention met which prepared the Constitution of the United States. Of this Convention Mr. Jefferson was not a member, he being then absent as Minister to France. As soon as he saw the draft of the Constitution proposed for adoption, he, in a letter to a friend, expressed his disappointment at the absence of an express declaration insuring the freedom of religion (2 Jeff. Works, 355), but was willing to accept it as it was, trusting that the good sense and honest intentions of the people would bring about the necessary alterations. (1 Jeff. Works, 79.) Five of the States, while adopting the Constitution, proposed amendments. Three—New Hampshire, New York, and Virginia—included in one form or another a declaration of religious freedom in the changes they desired to have made, as did also North Carolina, where the Convention at first declined to ratify the Constitution until the proposed amendments were acted upon. Accordingly, at the first session of the First Congress the amendment now under consideration was proposed with others by Mr. Madison. It met the views of the advocates of religious freedom, and was adopted.
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> Mr. Jefferson afterward, in reply to an address to him by a committee of the Danbury Baptist Association (8 id. 113), took occasion to say: "Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the Government reach actions only, and not opinions—I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion or prohibiting the free exercise thereof,' thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the Nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore man to all his natural rights, convinced he has no natural right in opposition to his social duties." Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order.
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> Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people. At common law, the second marriage was always void (2 Kent, Com. 79), and from the earliest history of England polygamy has been treated as an offense against society. After the establishment of the ecclesiastical courts, and until the time of James I, it was punished through the instrumentality of those tribunals, not merely because ecclesiastical rights had been violated, but because upon the separation of the ecclesiastical courts from the civil the ecclesiastical were supposed to be the most appropriate for the trial of matrimonial causes and offenses against the rights of marriage, just as they were for testamentary causes and the settlement of the estates of deceased persons.
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> By the statute of 1 James I (c. 11), the offense, if committed in England or Wales, was made punishable in the civil courts, and the penalty was death. As this statute was limited in its operation to England and Wales, it was at a very early period reenacted, generally with some modifications, in all the colonies. In connection with the case we are now considering, it is a significant fact that on the 8th of December 1788, after the passage of the act establishing religious freedom, and after the convention of Virginia had recommended as an amendment to the Constitution of the United States the declaration in a bill of rights that "all men have an equal, natural, and unalienable right to the free exercise of religion, ac-

> cording to the dictates of consciences," the legislature of that State substantially enacted the statute of James I, death penalty included, because, as recited in the preamble, "it hath been doubted whether bigamy or polygamy be punishable by the laws of this Commonwealth." (12 Hening's Stat. 691.) From that day to this we think it may safely be said there never has been a time in any State of the Union when polygamy has not been an offense against society, cognizable by the civil courts and punishable with more or less severity. In the face of all this evidence, it is impossible to believe that the constitutional guaranty of religious freedom was intended to prohibit legislation in respect to this most important feature of social life. Marriage, while from its very nature a sacred obligation, is nevertheless, in most civilized nations, a civil contract, and usually regulated by law. Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal. In fact, according as monogamous or polygamous marriages are allowed, do we find the principles on which the government of the people, to a greater or less extent, rests. Professor Lieber says, polygamy leads to the patriarchal principle, and which, when applied to large communities, fetters the people in stationary despotism, while that principle cannot long exist in connection with monogamy. Chancellor Kent observes that this remark is equally striking and profound. (2 Kent, Com. 81, note (*e*).) An exceptional colony of polygamists under an exceptional leadership may sometimes exist for a time without appearing to disturb the social condition of the people who surround it; but there cannot be a doubt that, unless restricted by some form of constitution, it is within the legitimate scope of the power of every civil government to determine whether polygamy or monogamy shall be the law of social life under its dominion.
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> In our opinion, the statute immediately under consideration is within the legislative power of Congress. It is constitutional and valid as prescribing a rule of action for all those residing in the territories, and in places over which the United States has exclusive control. This being so, the only question which remains is, whether those who make polygamy a part of their religion are excepted from the operation of the statute. If they are, then those who do not make polygamy a part of their religious belief may be found guilty and punished, while those who do, must be acquitted and go free. This would be introducing a new element into criminal law. Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice?
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> So here, as a law of the organization of society under the exclusive dominion of the United States, it is provided that plural marriages shall not be allowed. Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.
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> A criminal intent is generally an element of crime, but every man is presumed to intend the necessary and legitimate consequences of what he knowingly does. Here the accused knew he had been once married, and that his first wife was living. He also knew that his second marriage was forbidden by law. When, therefore, he married the second time, he is presumed to have intended to break the law. And the breaking of the law is the crime. Every act necessary to constitute the crime was knowingly done, and the crime was therefore knowingly committed. Ignorance of a fact may sometimes be taken as evidence of a want of criminal intent, but not ignorance of the law. The only defense of the accused in this case is his belief that the law ought not to have been enacted. It matters not that his belief was a part of his professed religion; it was still belief, and belief only.
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> In *Regina* v. *Wagstaff* (10 Cox Crim. Cases, 531), the parents of a sick child, who omitted to call in medical attendance because of their religious belief that what they did for its cure would be effective, were held not to be guilty of manslaughter, while it was said the contrary would have been the result if the child had actually been starved to death by the parents, under the notion that it was their religious duty to abstain from giving it food. But when the offense consists of a positive act which is knowingly done, it would be dangerous to hold that the offender might escape punishment because he religiously believed the law which he had broken ought never to have been made. No case, we believe, can be found that has gone so far.
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> 6. As to that part of the charge which directed the attention of the jury to the consequences of polygamy.
>
> The passage complained of is as follows: "I think it not improper, in the discharge of your duties in this case, that you should consider what are to be the consequences to the innocent victims of this delusion. As this contest goes on, they multiply, and there are pure-minded women and there are innocent children—innocent in a sense even beyond the degree of the innocence of childhood itself. These are to be the sufferers; and as jurors fail to do their duty, and as these cases come up in the Territory of Utah, just so do these victims multiply and spread themselves over the land."
>
> While every appeal by the court to the passions or the prejudices of a jury should be promptly rebuked, and while it is the imperative duty of a reviewing court to take care that wrong is not done in this way, we see no just cause for complaint in this case. Congress, in 1862 (12 Stat. 501), saw fit to make bigamy a crime in the Territories. This was done because of the evil consequences that were supposed to flow from plural marriages. All the court did was to call the attention of the jury to the peculiar character of the crime for which the accused was on trial, and to remind them of the duty they had to perform. There was no appeal to the passions, no instigation of prejudice. Upon the showing made by the accused himself, he was guilty of a violation of the law under which he had been indicted; and the effort of the court seems to have been not to withdraw the minds of the jury from the issue to be tried, but to bring them to it; not to make them partial, but to keep them impartial.

Mr. President, today we have more modern jurisprudence, and I presume that Congress will soon be called upon to enact a constitutional amendment affecting the first of the 10 amendments adopted by the people. This situation was brought about, as all of us know, by a case decided in 1962, *Engel* v. *Vitale*, 370 U.S. 421. The State Board of Regents of New York, which is the governing body of the public school system of the State of New York, prescribed the following prayer to be said aloud in the classrooms of each school:

> Almighty God, we acknowledge our dependence upon Thee and we beg Thy blessings upon us, our parents, our teachers, and our country.

Children who did not wish to participate in this prayer were permitted to remain silent or to be excused from the classrooms.

Ten pupils and their parents brought this action in a New York State court, claiming that the required public recitation of this prayer violated the "establishment" clause of the Constitution. The court declared the required prayer unconstitutional.

Needless to say, quite a commotion was created, and the differences of opinion are still raging. I would not doubt that the issue may be with us for some time. I do not know what the House of Representatives will do with the bills now before it, but hearings started yesterday, as I understand, on a constitutional amendment which would permit the reading of a prayer to the Almighty and also quoting from the Bible. Even that, I presume, will be met with much opposition from many sources. My mail is piling up both for a change and against a change. Many persons think that the amendment as written should remain as written, and that no exceptions should be made.

I feel confident that the proposed amendment probably will be in the news and before Congress for some time before the issue is settled.

In this connection, I wish to read a few excerpts from Engel against Vitale:

> We think that by using its public school system to encourage recitation of the regents' prayer, the State of New York has adopted a practice wholly inconsistent with the establishment clause. There can, of course, be no doubt that New York's program of daily classroom invocation of God's blessings as prescribed in the regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious, none of the respondents has denied this and the trial court expressly so found:
>
> "The religious nature of prayer was recognized by Jefferson and has been concurred in by theological writers, the U.S. Supreme Court and State courts and administrative officials, including New York's commissioner of education. A committee of the New York Legislature has agreed.
>
> "The board of regents as amicus curiae, the respondents and intervenors all concede the religious nature of prayer, but seek to distinguish this prayer because it is based on our spiritual heritage."
>
> The petitioners contend among other things that the State laws requiring or permitting use of the regents' prayer must be struck down as a violation of the establishment clause because that prayer was composed by governmental officials as a part of a governmental program to further religious beliefs. For this reason, petitioners argue, the State's use of the regents' prayer in its public school system breaches the constitutional wall of separation between church and state. We agree with that contention since we think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as

a part of a religious program carried on by government.

It is a matter of history that this very practice of establishing governmentally composed prayers for religious services was one of the reasons which caused many of our early colonists to leave England and seek religious freedom in America. The Book of Common Prayer, which was created under governmental direction and which was approved by acts of Parliament in 1548 and 1549, set out in minute detail the accepted form and content of prayer and other religious ceremonies to be used in the established, tax-supported Church of England. The controversies over the book and what should be its content repeatedly threatened to disrupt the peace of that country as the accepted forms of prayer in the established church changed with the views of the particular ruler that happened to be in control at the time. Powerful groups representing some of the varying religious views of the people struggled among themselves to impress their particular views upon the Government and obtain amendments of the book more suitable to their respective notions of how religious services should be conducted in order that the official religious establishment would advance their particular religious beliefs. Other groups, lacking the necessary political power to influence the Government on the matter, decided to leave England and its established church and seek freedom in America from England's governmentally ordained and supported religion.

It is an unfortunate fact of history that when some of the very groups which had most strenuously opposed the established Church of England found themselves sufficiently in control of colonial governments in this country to write their own prayers into law, they passed laws making their own religion the official religion of the respective Colonies. Indeed, as late as the time of the Revolutionary War, there were established churches in at least 8 of the 13 former Colonies and established religions in at least 4 of the other 5. But the successful revolution against English political domination was shortly followed by intense opposition to the practice of establishing religion by law. This opposition crystalized rapidly into an effective political force in Virginia where the minority religious groups such as Presbyterians, Lutherans, Quakers, and Baptists had gained such strength that the adherents to the established Episcopal Church were actually a minority themselves. In 1785–86, those opposed to the established church, led by James Madison and Thomas Jefferson, who, though themselves not members of any of these dissenting religious groups, opposed all religious establishments by law on grounds of principle, obtained the enactment of the famous "Virginia Bill for Religious Liberty" by which all religious groups were placed on an equal footing so far as the State was concerned. Similar though less far-reaching legislation was being considered and passed in other States.

By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of church and state. These people knew, some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services. They knew the anguish, hardship and bitter strife that could come when zealous religious groups struggled with one another to obtain the Government's stamp of approval from each King, Queen, or Protector that came to temporary power. The Constitution was intended to avert a part of this danger by leaving the Government of this country in the hands of the people rather than in the hands of any monarch. But this safeguard was not enough. Our founders were no more willing to let the content of their prayers and their privilege of praying whenever they pleased be influenced by the ballot box than they were to let these vital matters of personal conscience depend upon the succession of monarchs. The first amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of Government for change each time a new political administration is elected to office. Under that amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the 14th amendment, government in this country, be it State or Federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.

There can be no doubt that New York's State prayer program officially establishes the religious beliefs embodied in the regents' prayer. The respondents' argument to the contrary, which is largely based upon the contention that the regents' prayer is nondenominational and the fact that the program, as modified and approved by State courts, does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects. Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the establishment clause, as it might from the free exercise clause, of the 1st amendment, both of which are operative against the States by virtue of the 14th amendment. Although these two clauses may in certain instances overlap, they forbid two quite different kinds of governmental encroachment upon religious freedom. The establishment clause, unlike the free exercise clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. This is not to say, of course, that laws officially prescribing a particular form of religious worship do not involve coercion of such individuals. When the power, prestige, and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain. But the purposes underlying the establishment clause go much further than that. Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion. The history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable result had been that it had incurred the hatred, disrespect, and even contempt of those who held contrary beliefs. That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith.

The establishment clause thus stands as an expression of principle on the part of the founders of our Constitution that religion is too personal, too sacred, too holy, to permit its unhallowed perversion by a civil magistrate. Another purpose of the establishment clause rested upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand. The founders knew that only a few years after the Book of Common Prayer became the only accepted form of religious services in the established Church of England, an act of uniformity was passed to compel all Englishmen to attend those services and to make it a criminal offense to conduct or attend religious gatherings of any other kind, a law which was consistently flouted by dissenting religious groups in England and which contributed to widespread persecutions of people like John Bunyan who persisted in holding "unlawful [religious] meetings * * * to the great disturbance and distraction of the good subjects of this kingdom." And they know that similar persecutions had received the sanction of law in several of the Colonies in this country soon after the establishment of official religions in those Colonies. It was in large part to get completely away from this sort of systematic religious persecution that the founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion. The New York laws officially prescribing the regents' prayer are inconsistent both with the purposes of the establishment clause and with the establishment clause itself.

It has been argued that to apply the Constitution in such a way as to prohibit State laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or toward prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion. And perhaps it is not too much to say that since the beginning of that history many people have devoutly believed that "More things are wrought by prayer than this world dreams of." It was doubtless largely due to men who believed this that there grew up a sentiment that caused men to leave the crosscurrents of officially established state religions and religious persecution in Europe and come to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose. And there were men of the same faith in the power of prayer who led the fight for adoption of our Constitution and also for our Bill of Rights with the very guarantees of religious freedom that forbid the sort of governmental activity which New York has attempted here. These men knew that the first amendment, which tried to put an end to governmental control of religion and of prayer, was not written to destroy either. They knew rather that it was writen to quiet well-justified fears which nearly all of them felt arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to. It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance.

It is true that New York's establishment of its regents' prayer as an officially approved religious doctrine of that State does not amount to a total establishment of one particular religious sect to the exclusion of all others—that, indeed, the governmental endorsement of that prayer seems relatively insignificant when compared to the governmental encroachments upon religion which were commonplace 200 years ago. To those who may subscribe to the view that because the regents' official prayer is so brief and general there can be no danger to religious

> freedom in its governmental establishment, however, it may be appropriate to say in the words of James Madison, the author of the first amendment:
>
> "[I]t is proper to take alarm at the first experiment on our liberties. Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects? That the same authority which can force a citizen to contribute 3 pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?"
>
> The judgment of the Court of Appeals of New York is reversed and the cause remanded for further proceedings not inconsistent with this opinion.
>
> Reversed and remanded.

Mr. President, I wish to proceed to speak about the first amendment to the Constitution, which deals with free speech, freedom of the press, freedom of peaceable assembly, and freedom of petition. I wish to refer to a brief opinion in a case merely to show the wisdom of our forefathers in establishing the Bill of Rights. As I proceed, I hope to be able to place in the RECORD the import of the first 10 amendments to the Constitution.

As I indicated previously, those were rights that our Founding Fathers desired to retain in our Constitution by way of amendments to the Constitution. There are many cases on the subject of freedom of speech, but I should like to cite only one and read a few extracts from that case. The case is *Thomas* v. *Collins*, 323 U.S. 516. The case was decided in 1945.

A Texas law required labor organizers to register and secure an organizer's card from a designated State official before soliciting memberships in labor unions.

Thomas was an official of the United Auto Workers' Union and went to Texas for the purpose of making a speech to nonunion workers in an attempt to get them to join the union.

An injunction had been issued against his making the proposed speech and upon violation of the injunction, he appealed to the Supreme Court. The Court declared the law unconstitutional.

I should like to quote a few paragraphs from that decision:

> For these reasons any attempt to restrict those liberties must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger. The rational connection between the remedy provided and the evil to be curbed, which in other contexts might support legislation against attack on due process grounds, will not suffice. These rights rest on firmer foundation. Accordingly, whatever occasion should restrain orderly discussion and persuasion, at appropriate time and place, must have clear support in public danger, actual or impending. Only the gravest abuses, endangering paramount interests, give occasion for permissible limitation. It is therefore in our tradition to allow the widest room for discussion, the narrowest range for its restriction, particularly when this right is exercised in conjunction with peaceable assembly. It was not by accident or coincidence that the rights to freedom in speech and press were coupled in a single guaranty with the rights of the people peaceably to assemble and to petition for redress of grievances. All these, though not identical, are inseparable. They are cognate rights, cf. *De Jonge* v. *Oregon*, 299 U.S. 353, 364, and therefore are united in the First Article's assurance. Cf. 1 Annals of Congress 759–760.
>
> This conjunction of liberties is not peculiar to religious activity and institutions alone. The first amendment gives freedom of mind the same security as freedom of conscience. Cf. *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Meyer* v. *Nebraska*, 262 U.S. 390; *Prince* v. *Massachusetts*, 321 U.S. 158. Great secular causes, with small ones, are guarded. The grievances for redress of which the right of petition was insured, and with it the right of assembly, are not solely religious or political ones. And the rights of free speech and a free press are not confined to any field of human interest.
>
> The idea is not sound therefore that the first amendment's safeguards are wholly inapplicable to business or economic activity. And it does not resolve where the line shall be drawn in a particular case merely to urge, as Texas does, that an organization for which the rights of free speech and free assembly are claimed is one "engaged in business activities" or that the individual who leads it in exercising these rights receives compensation for doing so. Nor, on the other hand, is the answer given, whether what is done is an exercise of those rights and the restriction a forbidden impairment, by ignoring the organization's economic function, because those interests of workingmen are involved or because they have the general liberties of the citizen, as appellant would do.
>
> These comparisons are at once too simple, too general, and too inaccurate to be determinative. Where the line shall be placed in a particular application rests, not on such generalities, but on the concrete clash of particular interests and the community's relative evaluation both of them and of how the one will be affected by the specific restriction, the other by its absence. That judgment in the first instance is for the legislative body. But in our system where the line can constitutionally be placed presents a question this court cannot escape answering independently, whatever the legislative judgment, in the light of our constitutional tradition. *Schneider* v. *State*, 308 U.S. 147, 161. And the answer, under that tradition, can be affirmative, to support an intrusion upon this domain, only if grave and impending public danger requires this.
>
> That the State has power to regulate labor unions with a view to protecting the public interest is, as the Texas court said, hardly to be doubted. They cannot claim special immunity from regulation. Such regulation, however, whether aimed at fraud or other abuses, must not trespass upon the domains set apart for free speech and free assembly. This court has recognized that "in the circumstances of our times the dissemination of information concerning the facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution. Free discussion concerning the conditions in industry and the causes of labor disputes appears to us indispensable to the effective and intelligent use of the processes of popular government to shape the destiny of modern industrial society." *Thornhill* v. *Alabama*, 310 U.S. 88, 102–103; *Senn* v. *Tile Layers Protective Union*, 301 U.S. 468, 478. The right thus to discuss, and inform people concerning, the advantages and disadvantages of unions and joining them is protected not only as part of free speech, but as part of free assembly. *Hague* v. *CIO*, 307 U.S. 496. The Texas court, in its disposition of the cause, did not give sufficient weight to this consideration, more particularly by its failure to take account of the blanketing effect of the prohibition's present application upon public discussion and also of the bearing of the clear and present danger test in these circumstances.

### AMENDMENT II

I come now to the second amendment:

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

This amendment guarantees the rights of citizens to own and possess firearms and cannot be abridged by Congress.

I am sure that in the past few months many Senators have been deluged with letters concerning certain bills that have been introduced which would limit the possession of arms in some way. It is surprising how many of them refer to this as a more or less obsolete amendment. Whenever efforts are made to infringe on any of these amendments, which are referred to as the Bill of Rights, we hear many people complain about such efforts.

### AMENDMENT III

I read the third amendment:

> No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner prescribed by law.

This amendment is largely obsolete, but it does stand for the important principle of civil authority being superior to the military.

### AMENDMENT IV

I come now to the fourth amendment, which reads:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Section 709(c) of title VII requires that every employer keep records relevant to the determination of whether unlawful employment practices have been or are being committed; preserving such records and making periodic reports as the Commission shall prescribe.

The provisions of this section violate amendment 4 of the Constitution in that they require a man to produce records of his business which would incriminate him in a court of law should the court find that he was engaged in an unlawful employment practice. Amendment 4 is similar to the provisions of the fifth amendment in regard to self-incrimination, and no man should be required to produce evidence of his own guilt.

In the case of *Boyd* v. *U.S.*, 116 U.S. 616 (1886), the Supreme Court held:

> Any forcible or compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is forbidden (by the fourth amendment).

The following cases were decided by the Supreme Court upholding civil rights under the fourth amendment: *Feldman* v. *United States*, 322 U.S. 487 (1943); *Nardone* v. *United States*, 302 U.S. 379 (1937) (restricts tapping of telephone wires); *Ex parte Jackson*, 96 U.S. 727 (1877) (includes letters, books accounts, packages); *United States* v. *Jeffers,* 342 U.S. 48 (1951) (relevant test for a reasonab'e search); *Harris* v. *United States,* 331 U.S. 145 (1946); *United States* v. *Rabinowitz,* 339 U.S. 56 (1949) (search and arrest).

Yet, as I have pointed out, under title VII of the bill an employer would be forced to keep an account of all the employees he hired, to show whether or not he had followed the law in employing them. If, perchance, he had not, he could be forced to keep records, which in the future could be used to convict him of crime.

There is no question that this particular section is in violation of the provisions of the fourth amendment, which I have just read.

I wish to read an excerpt from the case of *United States* v. *Jeffers,* 342 U.S. 48. In this case the defendant had stored some narcotics in a hotel room occupied by his aunts in the District of Columbia. Police entered the hotel room while the defendant and his aunts were absent and, without either a search warrant or an arrest warrant, they conducted a detailed search of the room.

On discovery of the narcotics, the defendant was later arrested and convicted of the illegal possession of such drugs. His conviction was reversed in the court of appeals, and the U.S. Supreme Court in affirming that reversal stated that:

> We agree with the court of appeals that the seizure was made in violation of the fourth amendment and on motion of respondent its fruits should have been excluded as evidence on his trial.
>
> The fourth amendment prohibits both unreasonable searches and unreasonable seizures, and its protection extends to both houses and effects. Over and again this Court has emphasized that the mandate of the amendment requires adherence to judicial processes. See *Weeks* v. *United States,* 232 U.S. 383 (1914); *Agnello* v. *United States,* 269 U.S. 20 (1925). Only where incident to a valid arrest, *United States* v. *Rabinowitz,* 339 U.S. 56 (1950), or in "exceptional circumstances," *Johnson* v. *United States,* 333 U.S. 10 (1948), may an exemption lie, and then the burden is on those seeking the exemption to show the need for it, *McDonald* v. *United States,* 335 U.S. 451, 456 (1948). In so doing the amendment does not place an unduly oppressive weight on law enforcement officers but merely interposes an orderly procedure under the aegis of judicial impartiality that is necessary to attain the beneficent purposes intended. *Johnson* v. *United States, supra.* Officers instead of obeying this mandate have too often, as shown by the numerous cases in this Court, taken matters into their own hands and invaded the security of the people against unreasonable search and seizure.
>
> The law does not prohibit every entry, without a warrant, into a hotel room. Circumstances might make exceptions and certainly implied or express permission is given to such persons as maids, janitors or repairmen in the performance of their duties. But here the Government admits that the search of the hotel room, as to the Misses Jeffries, was unlawful. They were not even present when the entry, search and seizure were conducted; nor were exceptional circumstances present to justify the action of the officers. There was no question of violence, no movable vehicle was involved, nor was there an arrest or imminent destruction, removal, or concealment of the property intended to be seized. In fact, the officers admit they could have easily prevented any such destruction or removal by merely guarding the door. Instead, in entering the room and making the search for the sole purpose of seizing respondent's narcotics, the officers not only proceeded without a warrant or other legal authority, but their intrusion was conducted surreptitiously and by means denounced as criminal.
>
> The Government argues, however, that the search did not invade respondent's privacy and that he, therefore, lacked the necessary standing to suppress the evidence seized. The significant act, it says, is the seizure of the goods of the respondent without a warrant. We do not believe the events are so easily isolable. Rather they are bound together by one sole purpose—to locate and seize the narcotics of respondent. The search and seizure are, therefore, incapable of being untied. To hold that this search and seizure were lawful as to the respondent would permit a quibbling distinction to overturn a principle which was designed to protect a fundamental right. The respondent unquestionably had standing to object to the seizure made without warrant or arrest unless the contraband nature of the narcotics seized precluded his assertion, for purposes of the exclusionary rule, of a property interest therein.
>
> It is urgently contended by the Government that no property rights within the meaning of the fourth amendment exist in the narcotics seized here, because they are contraband goods in which Congress has declared that "no property rights shall exist." The Government made the same contention in *Trupiano* v. *United States,* 334 U.S. 699 (1948). See brief for the United States, pages 24–45. This Court disposed of the contention saying:
>
> "It follows that it was error to refuse petitioners' motion to exclude and suppress the property which was improperly seized. But since this property was contraband, they have no right to have it returned to them." 334 U.S. at 710.
>
> The same section declaring that "no property rights shall exist" in contraband goods provides for the issuance of search warrants "for the seizure" of such property. The Government's view in Trupiano was that the latter provision applies "when the entry must be made to seize"; but not "where, after a lawful entry for another purpose, the contraband property is before the eyes of the enforcing officers." This construction would make it necessary for the officers to have a search warrant here. We are of the opinion that Congress, in abrogating property rights in such goods, merely intended to aid in their forfeiture and thereby prevent the spread of the traffic in drugs rather than to abolish the exclusionary rule formulated by the courts in furtherance of the high purposes of the fourth amendment. (See *In re Fried,* 161 F. 2d 453 (1947).)
>
> Since the evidence illegally seized was contraband the respondent was not entitled to have it returned to him. It being his property, for purposes of the exclusionary rule, he was entitled on motion to have it suppressed as evidence on his trial.

Madam President (Mrs. NEUBERGER in the chair), citing these cases may sound trivial, but it shows the extent to which our Founding Fathers insisted that property rights should be protected and made a part of the Bill of Rights, and the necessity to guarantee freedom from unreasonable searches and seizures.

I come now to the much discussed amendment in recent months—the fifth amendment. I believe my good friend the distinguished Senator from North Carolina [Mr. ERVIN] was present on many occasions when the fifth amendment was invoked by witnesses who appeared before committees of Congress. I wish to read the extent to which the Founding Fathers sought to protect the individual.

> AMENDMENT V
>
> No person shall be held to answer for a caiptal, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall and person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

Title II, the public accommodations section of the so-called civil rights bill, probably takes away more civil rights from American citizens as guaranteed to them by the fifth amendment to the Constitution than any other section of the bill. The right of a person to own property, to use property, and to restrict its use is infringed upon and abridged by the public accommodations section because it would take away these rights of ownership and enjoyment of property without due process of law and without compensation. Ironically, it violates the 14th amendment too, and it is this 14th amendment in which Congress is asked to confer additional rights.

Whose rights would be taken away under section 201 of title II? Some of the persons are listed in the bill itself and they are: motel owners, hotel owners, roominghouse owners—except Mrs. Murphy—restaurant owners, cafeteria owners, lunchroom owners, soda fountain owners, retail establishment owners, gas station owners, movie house owners, theater owners, amusement park owners, concert hall owners, stadium owners, sports arena owners, and owners of places of exhibition and entertainment.

Many cases have been decided on this very important amendment. I point out only a few. The following cases, which uphold civil rights as guaranteed by the fifth amendment, have been decided by the Supreme Court: *Hurtado* v. *California,* 110 U.S. 516; *Palko* v. *Connecticut,* 302 U.S. 319; *Twining* v. *New Jersey,* 211 U.S.; *Adamson* v. *California,* 332 U.S. 46; *Ullman* v. *United States,* 350 U.S. 422; *Berman* v. *Parker,* 348 U.S. 26; and *Kimball Laundry Company* v. *U.S.,* 338 U.S. 1.

There are many more cases from which quotations could be made to indicate the extent to which the fifth amendment to the Constitution has been brought before the Court for adjudication.

Mr. ERVIN. Madam President, will the able and distinguished Senator from Louisiana yield for a question which has some reference to title II which the Senator has been discussing?

Mr. ELLENDER. I yield with the understanding that I do not lose my right to the floor, and provided that the resumption of my remarks will not constitute a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

**Mr. ERVIN.** Does not article XIII of the Constitution provide as follows:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

**Mr. ELLENDER.** That is correct.

**Mr. ERVIN.** Does not the Senator from Louisiana agree with the Senator from North Carolina that notwithstanding the fact that the 13th amendment was adopted for the purpose of granting freedom to Negro slaves, it nevertheless has been held by the Supreme Court to apply to men of all races residing anywhere under the American flag?

**Mr. ELLENDER.** That is correct.

**Mr. ERVIN.** Has not the Supreme Court of the United States decided in many cases that the provision of the 13th amendment prohibiting involuntary servitude applies to every case in which one man is compelled against his will to perform manual or personal services for another?

**Mr. ELLENDER.** That is correct.

**Mr. ERVIN.** If title II of the bill were enacted into law in its present form, would it not impose an obligation upon the operator of a restaurant to cook and serve a meal to another man, regardless of whether he desired to do so or not?

**Mr. ELLENDER.** I have no doubt about it.

**Mr. ERVIN.** If the bill were enacted into law with a requirement of that nature, would it not be imposing involuntary servitude within the meaning of the 13th amendment as it has been interpreted by the Supreme Court?

**Mr. ELLENDER.** Without any question. There was an excellent article written by Alfred Avins, which was published in the Cornell Law Quarterly. The article is entitled "Freedom of Choice in Personal Service Occupations: 13th Amendment Limitations on Antidiscrimination Legislation."

The article substantiates the contention that the forcing of a person to render a personal service violates the involuntary servitude provision of the 13th amendment.

**Mr. ERVIN.** I ask the Senator from Louisiana if under this bill the public accommodations title would not be enforced through the use of the injunctive power of the courts.

**Mr. ELLENDER.** Yes.

**Mr. ERVIN.** If the Federal court were to issue an injunction which would require a restaurant owner to cook and serve a meal to a particular person against his will, would not that injunction be an imposition of involuntary servitude on the restaurant owner in violation of the 13th amendment?

**Mr. ELLENDER.** In my opinion, there is no doubt about it. I was more convinced of that after I read this article.

Madam President, I ask unanimous consent that the article by Alfred Avins, entitled "Freedom of Choice in Personal Service Occupations: 13th Amendment Limitations on Antidiscrimination Legislation," published in the Cornell Law Quarterly, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

## FREEDOM OF CHOICE IN PERSONAL SERVICE OCCUPATIONS: 13TH AMENDMENT LIMITATIONS ON ANTIDISCRIMINATION LEGISLATION

(By Alfred Avins†)

### ANTIDISCRIMINATION LEGISLATION IN PERSONAL SERVICES

A majority of the States now have laws forbidding discrimination based on race, creed, color, or national origin in "places of public accommodation."[1] While statutory definitions vary widely, most States include in the definition of "places of public accommodation" one or more forms of personal service occupations. Probably the personal service most often singled out is barbering,[2] although a number of statutes have been broadened to include almost every service imaginable.[3]

Cases in the courts involving antidiscrimination legislation as applied to personal service occupations have been few and far between. Several cases have exempted such occupations from the scope of the statute by strict construction,[4] but others have included them within the ambit of the law.[5] However, as already noted, the lengthening statutory lists of occupations or the sweeping statutory terminology no doubt includes such occupations in an increasing number of States.

*State Comm'n Against Discrimination* v. *Mustachio*[6] is a typical case involving a barbershop. There, the Commission found that respondent had attempted to discourage Negro patronage of his barbershop by posting a sign saying: "Kinky Haircut—$5," and by attempting to charge a Negro that price, which the Commission found was a "prohibitive price far in excess of respondent's usual charge for cutting a white person's hair." It ordered inter alia, that the respondent barber write to the complainant "offering to cut her son's hair at the regular rate charged by respondent for cutting a white person's hair." It also ordered him to "furnish to Negro customers services of the same quality as those furnished to white customers and at the same rates."

The intent of this order is clear. It requires the respondent, a barber, to work for a person and a group of persons whom he clearly does not want to work for, upon pain of imprisonment if he refuses to do so.[7] He is thus required to serve, involuntarily, the complainant and other Negro applicants.

A statute which requires one person to render involuntary service to another immediately raises the question of its constitutionality under the 13th amendment. Surprisingly, with the exception of one brief discussion in a dissenting opinion,[8] no case has ever discussed this question. Although there are a number of cases which have held antidiscrimination legislation constitutional under the 14th amendment,[9] no decision has dealt with this matter under the far more specific provisions of the 13th amendment.

Yet the 13th amendment would seem to apply far more directly to antidiscrimination legislation in the rendition of personal services. Whatever the vague contours of the phrase "nor shall any State deprive any person of * * * liberty or property, without due process of law" as found in the 14th amendment may mean, the 13th amendment is quite specific: "Neither slavery nor involuntary servitude * * * shall exist within the United States. * * *" This article will explore the meaning of the term "involuntary servitude," and its application to personal service occupations.

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[1] Alaska Stat. § 11.60.230 (Supp. 1962); Cal. Civ. Code § 51; Colo. Rev. Stat. Ann. § 25–1–1 (1953); Conn. Gen. Stat. Rev. § 53–35 (1958); Idaho Code Ann. § 18–7301 (Supp. 1963); Ill. Rev. Stat. ch. 38, § 125 (1961); Ind. Ann. Stat. § 10–901 (1956); Iowa Code § 735.1 (1962); Kan. Gen. Stat. Ann. 21–2424 (Supp. 1961); Me. Rev. Stat. Ann. ch. 137, § 50 (1954); Mass. Gen. Laws Ann. ch. 272, § 92A (1956); Mich. Comp. Laws § 28.343 (Supp. 1962); Minn. Stat. § 327.09 (1961); Mont. Rev. Codes Ann. § 64–211 (1947); Neb. Rev. Stat. § 20–101 (1962); N.H. Rev. Stat. Ann. § 354:1 (1961); N.J. Rev. Stat. §§ 10:1–5, 18:25–5 (Supp. 1960); N.M. Stat. Ann. § 49–8–1 (1962); N.Y. Civ. Rights Law § 40; N.Y. Executive Law § 296; N.D. Cent. Code § 12–22–30 (Supp. 1963); Ohio Rev. Code Ann. § 2901.35 (Page 1961); Ore. Rev. Stat. § 30.670 (1961); Pa. Stat. Ann. tit. 18, § 4654 (1961); Pa. Stat. Ann. tit. 43, § 951 (Supp. 1963); R.I. Gen. Laws Ann. § 11–24–1 (1956); Vt. Stat. Ann. tit. 13, § 1451 (1959); Wash. Rev. Code § 9.91.010 (1961); Wisc. Stat. § 942.04 (1961); Wyo. Stat. Ann. § 6–83.1 (1961). In addition, Nev. Rev. Stat. § 233.010 (1961) and W. Va. Code Ann. § 265(156) (1961) have hortatory, but noncoercive, provisions.

[2] Alaska, California, Colorado, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, and Wisconsin mention barbershops specifically.

[3] California, Connecticut, Idaho, Massachusetts, New York, Oregon, Vermont, and Washington have very broad statutes which include almost every conceivable personal service occupation. See, for example, *Burks* v. *Poppy Constr. Co.*, 57 Cal. 2d 463, 320 P. 2d 313, 20 Cal. Rpt. 609 (1962). In addition, a New York State Board of Regents rule now requires the various medical and other professions licensed by it not to discriminate in serving patients on pain of loss of license to practice. N.Y. Times, Oct. 29, 1962, p. 29, col. 2; id., Oct. 27, 1962, p. 27, col. 1.

[4] *Coleman* v. *Middlestaff*, 147 Cal. App. 2d 833, 305 P. 2d 1020 (Super. Ct. 1957) (dentist); *Faulkner* v. *Solazzi*, 79 Conn. 541, 65 Atl. 947 (1907) (barber); *Burks* v. *Bosso*, 180 N.Y. 341, 73 N.E. 58 (1905) (bootblack); *Rice* v. *Rinaldo*, 119 N.E. 2d 657 (Ohio Ct. App. 1951).

[5] *Darius* v. *Apostolos*, 68 Colo. 323, 190 Pac. 510 (1919) (bootblack); *Messenger* v. *State*, 25 Neb. 674, 41 N.W. 638 (1889) (barber); *Browning* v. *Slenderella Systems*, 54 Wash, 2d 440, 341 P. 2d 859 (1959) (beauty salon); *Washington State Bd. Against Discrimination* v. *Interlake Realty, Inc.*, 7 Race Rel. L. Rep. 555 (Wash. Super Ct. 1962) (real estate broker).

[6] Race Rel. L. Rep. 355 (1961), enforced, Index No. 4452–1961, Sup. Ct. Nassau County, May 16, 1961.

[7] Note, 74 Harv. L. Rev. 526, 555 (1961); see *People ex rel. N.Y. State Comm'n Against Discrimination* v. *Ackley-Maynes Co.*, 4 Race Rel. L. Rep. 358 (N.Y. Sup. Ct. Albany County 1959) where refusal to obey a court order enforcing the Commission's order was punished by fine and imprisonment.

[8] *Browning* v. *Slenderella Systems*, supra note 5; see *State* v. *Banwari*, [1951] All India Rep. All. 615 (Div. Ct.).

[9] Annot., 49 A.L.R. 505 (1927).

### PRE-CIVIL WAR PROVISIONS IN THE NORTHWEST

The words "involuntary servitude" first appear in the Northwest Ordinance of 1787. The relevant provision is as follows: "There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted."[10]

As each of the areas of the territory emerged into a State, it copied this provision into its State constitution in very similar language. Thus the provision is found in the pre-Civil War constitutions of Ohio,[11] Indiana,[12] Illinois,[13] and Michigan.[14]

The Ohio constitution of 1802 contained an additional provision immediately beneath the wording from the Northwest Ordinance. It stated: "Nor shall any person, arrived at the age of 21 years, or female person arrived at the age of 18 years, be held to serve any person as a servant, under the pretense of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on a condition of a bona fide consideration received or to be received for their service, except as before excepted. Nor shall any indenture of any Negro or mulatto hereafter made and executed out of the State, or if made in the State where the term of service exceeds 1 year, be of the least validity, except those given in the case of apprenticeships."[15]

This provision, copied into the Illinois constitution is almost identical language,[16] is of considerable significance. Not only does this provision contain the typical requirement that contracts of service be by indenture to bind the servant,[17] but in addition it requires that contracts of service be voluntarily entered into and for a valuable consideration. As further protection for Negroes, except in the case of minors whose apprenticeship was automatically longer than 1 year, the maximum period permitted for contracts of personal service was a year. Thus, the provision sought to assure, by a variety of safeguards, that labor contracts were made in a perfectly voluntary fashion and without coercion or imposition of any kind.

Two decisions interpreting the foregoing provisions are of particular note. In *Phoebe* v. *Jay*[18] the Illinois Supreme Court had before it a statute which permitted the owner of a slave over 15 years old to bring the slave into Illinois, upon condition that he and the slave should come before the court clerk and agree upon the term of years which the Negro or mulatto would work for him. However, the statute also provided that if the Negro or mulatto refused to agree to work for his owner, the latter may take him back into slave territory. The court held that this statute violated the Northwest Ordinance. It said: "Nothing can be conceived farther from the truth, than the idea that there could be a voluntary contract between the Negro and his master. The law authorizes his master to bring his slave here, and take him before the clerk, and if the Negro will not agree to the terms proposed by the master, he is authorized to remove him to his original place of servitude. I conceive that it would be an insult to commonsense to contend that the Negro, under the circumstances in which he was placed, had any free agency. The only choice given him was a choice of evils. On either hand, servitude was to be his lot. The terms proposed were, slavery for a period of years, generally extending beyond the probable duration of his life, or a return to perpetual slavery in the place from whence he was brought. The indenturing was in effect an involuntary servitude for a period of years, and was void, being in violation of the ordinance."[19]

*Matter of Clark*[20] is even stronger. In that case, it was undisputed that the petitioner had freely and voluntarily entered into a contract to serve her master as a housemaid. Later, she changed her mind, and brought an action for habeas corpus to free herself from her master's service. Notwithstanding the clear fact that she had initially entered into the contract voluntarily, the Indiana Supreme Court held that "the appellant is in a state of involuntary servitude; and we are bound by the Constitution, the supreme law of the land, to discharge her therefrom."[21]

First, it might be noted that the court disregarded the fact that the petitioner was colored, and decided the case on general principles. It went on to point out that compulsion by law for the performance of personal service was degrading. It stated: "Many covenants, the breaches of which are only remunerated in damages, might be specifically performed, either by a third person at a distance from the adversary, or in a short space of time. But a covenant for service if performed at all, must be performed under the eye of the master; and might, as in the case before us, require a number of years. Such a performance, if enforced by law, would produce a state of servitude as degrading and demoralizing in its consequences, as a state of absolute slavery; and if enforced under a Government like ours, which acknowledges a personal equality, would be productive of a state of feeling more discordant and irritating than slavery itself.[22]

Moreover, the court pointed out that whenever a court compelled a person to perform service, "the losing party feels mortified and degraded in being compelled to perform for the other what he had previously refused, and the more especially if that performance will place him frequently in the presence or under the direction of his adversary."[23] Thus, "If any man, contracting to labor for another a day, a month, a year, or a series of years, were * * * compelled to perform the labor, it would * * * produce in their performance a state of domination in the one party, and abject humiliation in the other. A state of servitude thus produced, either by direct or permissive coercion, would not be considered voluntary either in fact or in law."[24]

From the above two cases, it can be seen that the words "involuntary servitude," as found in the Northwest Ordinance, and incorporated into the State constitutions of Illinois, Indiana, Michigan, and Ohio, have their ordinary and natural meaning. They mean service or labor which is not, at all times, performed voluntarily, and without any legal or other compulsion. The agreement to serve must be entered into without coercion, and must be completed without coercion. The provision, in short, banned any sanctions which compelled one person to work for another, for however short a period of time.

### THE PASSAGE OF THE 13TH AMENDMENT

The earliest bill to abolish "involuntary servitude," passed by Congress during the Civil War period, was an act relating to the District of Columbia,[25] which abolished slavery in the District.[26] This bill provided that "neither slavery nor involuntary servitude, except for crime, whereof the party shall have been duly convicted, shall hereafter exist in said District."[27] These words were substituted for "subjection to service or labor proceeding from such cause [i.e., by reason of African descent] shall not hereafter exist in said District."[28]

Senator Ira Harris, of New York, offered the criticism that the bill provided that " 'neither slavery nor involuntary servitude' shall exist here, as though they were two distinct things. I suppose, but I am not sure about it, that up to this time the term 'slavery' has not been introduced into the legislation of the country." Senator Lot M. Morrill, the Maine Republican who drafted the substitution for the Committee on the District of Columbia, replied that "this is the exact language of the Ordinance of 1787." Senator Harris renewed his objection. He argued: "I have a further suggestion to make, and that is that the term 'involuntary servitude' will embrace the condition of apprentices, unless the phrase

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[10] Northwest Ordinance of 1787, art. 6. It might be noted that the common-law roots against involuntary servitude in England long antedated the Northwest Ordinance, and even *Sommersett's* case, 20 How. St. Tri. 1 (Eng. K.B. 1772) which held slavery to be illegal in England. As early as *Foster* v. *Jackson*, 1 Hob. 52, 80 Eng. Rep. 201 (K.B. 1615) it was said that a free person could not contract away his liberty. See *Shanley* v. *Harvey*, 2 Eden 126, 28 Eng. Rep. 844 (Ch. 1762); *Smith* v. *Brown*, 2 Salk. 666, 91 Eng. Rep. 566 (K.B. 1705); *Chamberlain* v. *Harvey*, 1 Ld. Raym. 140, 91 Eng. Rep. 994 (K.B. 1694). But see *Pearne* v. *Lisle*, 1 Amb. 75, 27 Eng. Rep. 47 (Ch. 1749). See also *King* v. *Inhabitants of Stowmarket*, 9 East 211, 103 Eng. Rep. 553 (K.B. 1808).

[11] Ohio Const. art. VIII, § 2 (1802); Ohio Const. art. I, § 6 (1851).

[12] Ind. Const. art. 11, § 7 (1816); Ind. Const. art. 1, § 37 (1857).

[13] Ill. Const. art. VI, § 1 (1818); Ill. Const. art. XIII, § 16 (1848).

[14] Mich. Const. art. XI, § 1 (1835); Mich. Const. art. XVIII, § 11 (1850); accord, Iowa Const. art. I, § 23 (1846, 1857); Minn. Const. art. I, § 2 (1857); Wis. Const. art. I, § 2 (1848) contain similar provisions.

[15] Ohio Const. art. VIII, § 2 (1802).

[16] Ill. Const. art. VI, § 1 (1818).

[17] *Overseers of Poor of Hopewell Township* v. *Overseers of Poor of Amwell Township*, 6 N.J.L. 169, 175 (Sup. Ct. 1822); *Commonwealth ex rel. Ruggles* v. *Wilbank*, 10 S. & R. 416–17 (Pa. Sup. Ct. 1823). This provision was designed to add solemnity to the obligation of service and thereby to protect the servant against hasty agreements to serve.

[18] 1 Ill. 268 (1828).

[19] Id. at 270.

[20] 1 Blackf. 134 (Ind. Sup. Ct. 1821).

[21] Id. at 126.

[22] Id. at 124–25. In England also, specific performance cannot be obtained to compel an employee to work, although the older cases do not rely on freedom of choice concepts. See, e.g., *Whitwood Chemical Co.* v. *Hardman*, [1891] 2 Ch. 416. However, Kahn-Freund, Legal Framework 46–47 in "The System of Industrial Relations in Great Britain" (Flanders & Clegg ed. 1954) declares: "It goes without saying that this freedom of choice is often set at nought by economic facts. Even so, it is one of the essential civil liberties of this country. One secondary but important rule resulting from the principle against compulsory labour is that a contract of employment cannot be enforced by what is known as a decree of specific performance. If the employee absents himself or purports to terminate the employment without the requisite notice, the employer may from the court obtain a judgment for damages, but he cannot, through an order of the court, compel the worker to work for him. Nor can the employee compel the employer to employ him. No one has the legal power to compel another man to work for him or to employ him."

[23] Kahn-Freund, supra note 22, at 124.

[24] Id. at 125.

[25] Congressional Globe, 37th Cong., 2d sess. 89 (1862).

[26] Act of April 16, 1862, ch. 54, § 1, 12 Stat. 376.

[27] Congressional Globe, 37th Cong., 2d sess. 1191 (1862).

[28] Ibid.

'by reason of African descent' in the beginning of the section shall control, as perhaps it will."[29]

Senator Jacob Collomer of Vermont, replied to this: "The phrase 'slavery or involuntary servitude' has received a construction under the Ordinance of 1787."[30] Aside from another comment that this bill enacted the Northwest Ordinance[31] in the Senate, and a futile plea to extend the bill to cover "white persons who are enslaved" in the Territories,[32] nothing more was said which was relevant.

Section 9 of the confiscation bill,[33] as enacted into law, declared that slaves of rebels "shall be forever free of their servitude and not again held as slaves."[34] Here again, the Northwest Ordinance was considered a model. Congressman Samuel S. Blair, of Pennsylvania, stated: "The ordinance of 1787 was, indeed, great, for it preserved freedom; this is greater, for it restores freedom. That kept slavery out; this put it out."[35]

The 13th amendment was introduced as a joint resolution (S. J. Res. 16, 38th Cong., 1st sess. (1864)) in the Senate on January 13, 1864, by Senator John B. Henderson, of Missouri,[36] and was reported back from the Committee on the Judiciary, changed in wording to its present form, by Senator Lyman Trumbull, of Illinois.[37] The amendment of the Judiciary Committe was agreed to by the Senate.[38]

Senator Charles Sumner, of Massachusetts, the equalitarian radical, criticized the committee for adhering to "the Jeffersonian ordinance." He proposed to amend their draft by striking out the words of the ordinance and substituting: "All persons are equal before the law, so that no person can hold another as a slave."[39] He declared: "I do not know that I shall have the concurrence of other Senators in the criticism which I make upon it; but I understand that it starts with the idea of reproducing the Jeffersonian ordinance. I doubt the expediency of reproducing that ordinance. It performed an excellent work in its day; but there are words in it which are entirely inapplicable to our time."[40]

Sumner's main objection was to the words "nor involuntary servitude otherwise than in the punishment of crimes whereof the party shall have been duly convicted." He commented that at one time it was the custom to doom criminals as slaves for life as a punishment, but that "slavery in our day is something distinct, perfectly well known, requiring no words of distinction outside of itself." He contended that the discussion of involuntary servitude was surplusage and would "introduce a doubt."

Sumner also had some grammatical quibbles which he argued were not to be found in the Northwest Ordinance. These did not appeal to the other members.[41] Trumbull showed his irritation at Sumner's rejection of the committee language, saying: "I do not know that I should have adopted these precise words, but a majority of the committee thought they were the best words; they accomplish the object; and I cannot see why the Senator from Massachusetts should be so pertinacious about particular words. The words that we have adopted will accomplish the object. If every Member of the Senate is to select the precise words in which a law shall be clothed, and will be satisfied with none other, we shall have very little legislation."[42]

Trumbull sneered at Sumner's attempt to copy language from the French Revolution, and declined to alter the committee's version which it had agreed on. Senator Jacob M. Howard, of Michigan, joined the barrage against Sumner by declaring that the language was legally meaningless, and inapplicable as well. After noting that the French Constitution was meant only to equalize political rights, he declared: "Now, sir, I wish as much as the Senator from Massachusetts in making this amendment to use significant language, language that cannot be mistaken or misunderstood; but I prefer to dismiss all reference to French constitutions or French codes, and go back to the good old Anglo-Saxon language employed by our fathers in the ordinance of 1787, an expression which has been adjudicated upon repeatedly, which is perfectly well understood both by the public and by judicial tribunals, a phrase, I may say further, which is peculiarly near and dear to the people of the Northwestern Territory, from whose soil slavery was excluded by it. I think it is well understood, well comprehended by the people of the United States, and that no court of justice, no magistrate, no person, old or young, can misapprehend the meaning and effect of that clear, brief, and comprehensive clause. I hope we shall stand by the report of the committee."[43]

Upon this, Sumner withdrew his amendment, and the joint resolution passed the Senate on April 8, 1864.[44]

The joint resolution had a more difficult time in the House. There it was introduced by Congressman James F. Wilson, of Iowa, chairman of the House Judiciary Committee, on December 14, 1863.[45] When it came to a final vote on June 15, 1864, it received only 93 yeas to 65 nays, and failed for want of a two-thirds majority.[46] However, after the November elections in which Lincoln was reelected and the Republicans were victorious, the 2d session of the 38th Congress met in the winter of that year. At that time, Congressman James M. Ashley, of Ohio, who had originally voted in the negative, moved to reconsider the vote.[47] On January 31, 1865, almost at the close of the war, the measure passed the House by 119 yeas to 56 nays.[48]

Debates in the House were largely confined to generalities on the evils of slavery by those who proposed to abolish it, and States' rights by those who opposed the amendment. There were only passing references to the word "servitude."[49] One opponent of the amendment declared that there could be property in the service of others, if State law so provided, a position rejected by a proponent.[50] Another declared that "in any form of civilization resembling our own, servitude will always exist." He stated that servitudes merely differed in degree, and that the poor English factoryworkers were in "bondage" and had "little to boast of [their] freedom." Stating that the "freedom of a British working man consists in a limited liberty to change his employer," he went on to proclaim that such a condition was little better than slavery.[51] However, no one seems to have paid much attention to this line of argument on the other side.

It is clear from the foregoing materials that Congress intended to enact the provisions of the Northwest Ordinance, familiar to so many Senators as part of the constitutions of their own States, into the 13th amendment. It is equally clear that the judicial interpretations of that ordinance, discussed above, were intended to be carried along with the language of the ordinance itself into the U.S. Constitution. Senator Sumner proposed to declare all men equal, but Congress rejected this. Instead of enacting equality, it enacted liberty.

### THE RIGHT TO REFRAIN FROM WORK

The "involuntary servitude" forbidden by the 13th amendment applies only to the rendition of personal labor.[52] The performance of impersonal acts, such as giving instructions to a subordinate agent to take certain action, does not fall within the ambit of the amendment.[53] While labor enforced as a punishment "is in the strongest sense of the words, 'involuntary servitude,'"[54] the term includes enforced labor which is not intended for punitive purposes,[55] and which may even be intended as a benefit.[56]

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[29] Ibid.

[30] Ibid.

[31] Senator Samuel C. Pomeroy of Kansas said: "the first section of the bill extends over this District the ordinance of 1787; and I think there is no doubt as to the effect of that." He further noted: "I think passing the ordinance of 1787 as provided in the first section of this bill will set the matter at rest." Id. at 1285.

[32] Id. at 1643.

[33] Id. at 3275.

[34] Act of July 16, 1862, ch. 195, § 9, 12 Stat. 589.

[35] CONGRESSIONAL GLOBE, 37th Cong., 2d sess. 2298 (1862).

[36] CONGRESSIONAL GLOBE, 38th Cong., 1st sess. 245 (1864).

[37] Id. at 553.

[38] Id. at 1447.

[39] Id. at 1483, 1487.

[40] Id. at 1488.

[41] At one point Senator James R. Doolittle of Wisconsin contradicted him and declared: "they are both in the Jeffersonian ordinance." Ibid.

[42] Ibid.

[43] Id. at 1489.

[44] Id. at 1490.

[45] Id. at 21.

[46] Id. at 2995.

[47] Cong. Globe, 38th Cong., 2d Sess. 53 (1864).

[48] Id. at 531.

[49] For example, Congressman Thomas T. Davis of New York declared that "this war sprang from the aristocracy of the South in an effort to maintain a system of servitude on which alone that aristocracy could be perpetuated." Id. at 154. Congressman George H. Yeaman of Kentucky stated that "slavery is the idea of the right of one to claim, and the duty of another to render, involuntary service." Id. at 171; see id. at 190, 200.

[50] Id. at 214–15 (exchange between Congressman Chilton A. White of Ohio and Congressman John F. Farnsworth of Illinois).

[51] Id. at 177–78 (Congressman Elijah Ward of New York).

[52] *Slaughter House Cases*, 83 U.S. (16 Wall.) 36, 69 (1873).

[53] In *Marcus Brown Holding Co.* v. *Feldman*, 256 U.S. 170, 199 (1921) Mr. Justice Holmes said: "It is objected finally that c. 951, above stated, in so far as it required active services to be rendered to the tenants, is void on the rather singular ground that it infringes the Thirteenth Amendment. It is true that the traditions of our law are opposed to compelling a man to perform strictly personal services against his will even when he has contracted to render them. But the services in question although involving some activities are so far from personal that they constitute the universal and necessary incidents of modern apartment houses. They are analogous to the services that in the old law might issue out of or be attached to land. We perceive no additional difficulties in this statute, if applicable as assumed."

[54] *Ex parte Wilson*, 114 U.S. 417, 429 (1885); accord, *Flannagan* v. *Jopson*, 177 Iowa 393, 158 N.W. 641 (1916); *Smolcyzk* v. *Gaston*, 147 Neb. 681, 24 N.W. 2d 862 (1946); see *Thompson* v. *Bunton*, 117 Mo. 83, 22 S.W. 863 (1893) where a person's services were sold to the highest bidder.

[55] *United States* v. *McClellan*, 127 Fed. 971 (S.D. Ga. 1904); Matter of Chung Fat, 96 Fed. 202 (D. Wash. 1899).

[56] Matter of Turner, 24 Fed. Cas. 337 (No. 14247) (C.C. Md. 1867).

Nor does it matter whether a person is compensated for his labor. One case held: "Whether appellant was to be paid much, or little, or nothing, is not the question. It is not uncompensated service, but involuntary servitude which is prohibited by the 13th amendment. Compensation for service may cause consent, but unless it does it is no justification for forced labor."[57]

Thus, the term "involuntary servitude" has been defined as "the condition of one who is compelled by force, coercion or imprisonment and against his will to labor for another whether he is paid or not."[58] The constitutional provision accordingly gives every person the right to refrain from performing services for every other person.

To the right to refrain from work there is one well-recognized exception. Government may command the services of everyone in the performance of its essential tasks. In *Butler* v. *Perry*[59] the U.S. Supreme Court said the following about the 13th amendment: "It introduced no novel doctrine with respect of services always treated as exceptional, and certainly was not intended to interdict enforcement of those duties which individuals owe to the State, such as service in the army, militia, on the jury, etc. The great purpose in view was liberty under the protection of effective government, not the destruction of the latter by depriving it of essential services."[60]

The most common example of involuntary service for the Government is military service[61] in all of its aspects.[62] In lieu of actual military service, Congress has required that conscientious objectors do work of national importance, and the courts have found this to be constitutionally unobjectionable.[63] Often, such work of national importance includes activities not directly beneficial to any particular individual, and under the direct jurisdiction of the Federal Government, such as soil conservation, forestry, tree planting, construction of fire towers and roads, and similar public activities.[64] Such work, however, may fall under the jurisdiction of a State or local government agency, on the theory that they also perform activities of national concern.[65]

One activity, which may be questioned, is work in hospitals, which the courts have upheld for conscientious objectors in lieu of military service.[66] This has even been extended as far as work in private, nonsectarian university hospitals ministering to the public.[67] Here, some of the work might be said to confer some direct benefits on individuals, as distinguished from the community as a whole. If a person were required to work for the benefit of particular individuals, as distinguished from the community, then such work would constitute involuntary servitude.

The cases, however, carefully limit such work to service for community benefit only. As one case held: "It is of no moment under whose direction the work is done. If it aids in our preparedness, civilian service is not open to challenge as involuntary servitude. We need only state the analogy sought to be drawn between the work to which these defendants were assigned and assignment to Macy's basement to demonstrate that the analogy in fact does not exist."[68]

Moreover, civilian service by conscientious objectors is designed to free others for military service, and to protect morale and preserve discipline in the Armed Forces.[69] If persons could escape any form of service by claiming conscientious objection, many would be found to do so who in fact had no such scruples. As a result, dissatisfaction among military personnel would become rife. However, even such service must be designed to benefit the community as a whole or it will constitute involuntary servitude.

Certain other civilian work for the Government has been upheld, even in time of peace. Labor on the public highways is not "involuntary servitude,"[70] nor is jury duty, nor the requirement that abutting owners remove snow and ice from sidewalks and gutters.[71] Government may impose the duty of making reports to public authorities,[72] including tax reporting.[73] It may require individuals to collect taxes for it,[74] and to perform other occasional duties.[75]

Nongovernmental duties may be imposed only in the most exceptional circumstances. One case held that involuntary servitude was not imposed by the requirement that a man work to support his family.[76] Noting that these were "services always treated as exceptional," the Court held that "the obligation of a husband and father to maintain his family, if in any way able to do so, is one of the primary responsibilities established by human nature and by civilized society."[77]

Of course, this case does not hold that the husband is required to perform any particular kind of work to support his family. He may choose any work and any employer, if able. But if nothing else presents itself, he must work at what he can get. This requirement is based on two special circumstances. Firstly, he has voluntarily undertaken the obligation of raising a family. Secondly, no one else exists who can support his family. Thus, there is a special condition and obligation which imposes on him the duty of working.

In *Ule* v. *State*[78] the Indiana Supreme Court held that a State may require a motorist who has struck and injured another person on the highway with his automobile to stop and render assistance to the injured party. The Court declared that this was not involuntary servitude because it is a duty owed to the State and because an automobile is a dangerous instrumentality, and since a State may prohibit it, it may annex reasonable conditions to its use.

The first reason is unsatisfactory, since every duty imposed by a State does not become a duty owed to the State. The duty is clearly owed to the injured motorist or pedestrian. The second reason is more persuasive since a State may undertake to lessen the hazards of driving by imposing upon the driver the duty to assist one injured by his actions.

In terms of the constitutional prohibition against involuntary servitude, the most persuasive rationale for this exception is the special connection between the injured party and the one who has injured him. In an isolated area, no other assistance may be available. The State may reasonably act to save the lives and protect the health of its citizens, and where it cannot otherwise do so, it may impose this duty on one who, by his voluntary act in driving, has been the cause of the injury. Involuntary servitude is not imposed by requiring one to repair a wrong he has inflicted. He is the most appropriate person for the duty, performance of which is vital to life or health. While his service may not be willing, he is simply required to preserve that which he has jeopardized.

Two other cases are worthy of note. A lower Delaware court has held that a State may, as a war measure, mobilize its entire population to raise food and produce supplies.[79] However, the authority of this case is somewhat doubtful in the light of a decision of the Supreme Court of West Virginia holding that a statute which provided that anyone who did not work for 36 hours a week at a recognized occupation during World War I and for 6 months thereafter was guilty of a misdemeanor, was violative of the 13th amendment and hence unconstitutional.[80]

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[57] *Heflin* v. *Sanford*, 142 F. 2d 798, 799 (5th Cir. 1944); accord, [1953] All India Rep. H.P. 18.

[58] *Crews* v. *Lundquist*, 361 Ill. 193, 200, 197 N.E. 768, 772 (1935).

[59] 240 U.S. 328 (1916).

[60] Id. at 333, India followed this view in drafting Article 23(2) of the 1949 constitution. See *Budhia* v. *State of Bihar*, [1952] All Indian Rep. Pat. 359, 31 Indian L.R. Pat. Ser. 493.

[61] Selective Draft Law Cases, 245 U.S. 366 (1918); *United States* v. *Sugar*, 243 Fed. 423 (E.D. Mich. 1917).

[62] *Bertelsen* v. *Cooney*, 213 F. 2d 275 (5th Cir. 1954).

[63] *Reese* v. *United States*, 225 F. 2d 766 (9th Cir. 1955); *Atherton* v. *United States*, 176 F. 2d 835 (9th Cir. 1949); *Hopper* v. *United States*, 142 F. 2d 181 (9th Cir. 1943); *United States* v. *Brooks*, 54 F. Supp. 995 (S.D.N.Y. 1944), aff'd, 147 F. 2d 134 (2d Cir.), cert. denied, 324 U.S. 878 (1945); *United States ex rel. Zucker* v. *Osborne*, 54 F. Supp. 984 (W.D.N.Y. 1944), aff'd, 147 F. 2d 135 (2d Cir.), cert. denied, 325 U.S. 881 (1945).

[64] *Wolfe* v. *United States*, 149 F. 2d 391 (6th Cir. 1945); *United States* v. *Smith*, 124 F. Supp. 406 (E.D. Ill. 1954).

[65] *Klubnikin* v. *United States*, 227 F. 2d 87 (9th Cir. 1955); see *United States* v. *Niles*, 122 F. Supp. 382, 384 (N.D. Calif. 1954), aff'd, 220 F. 2d 278 (9th Cir.), cert. denied, 349 U.S. 939 (1955) where the lower court said: "A health program conducted by any political subdivision of this nation contributes to the general welfare of the nation as a whole. The mere fact that such activities are carried out in the name of a political subdivision of the state or county rather than in the name of the United States itself, does not diminish the importance of the work, or cause it to lose its contributory relationship to the national health.

"Certainly national defense and preparedness is accomplished by more than the strength of arms alone."

[66] *Klubnikin* v. *United States*, supra note 65; see *United States* v. *Lebherz*, 129 F. Supp. 444 (D.N.J. 1955); *United States* v. *Sutter*, 127 F. Supp. 109 (S.D. Calif. 1954).

[67] *United States* v. *Hoepker*, 223 F. 2d 921, 922–23 (7th Cir.), cert. denied, 350 U.S. 841 (1955) where the court said: "Congress has declared that maintenance of the mental and physical health of our population is a subject of vital federal concern in times of emergency. * * * The protection of the public health is no less work of national importance whether it is done in an institution controlled by federal or by state authorities or by a private charitable corporation.

"The evidence is conclusive that the University of Chicago is a nonsectarian, nonprofit corporation, and that its clinics, to which Thomas was ordered to report for work, minister, on a charitable basis, indiscriminately, to alleviate the physical ills of the general public. In addition to that activity, these clinics, aided by grants of federal funds, carry on extensive research in cancer and other diseases. We hold that this is work of 'national' importance which the Act authorized."

[68] *United States* v. *Hoepker*, supra note 67, at 923.

[69] *Howze* v. *United States*, 272 F. 2d 146 (9th Cir. 1959); *United States* v. *Smith*, supra note 64.

[70] *Butler* v. *Perry*, 240 U.S. 328 (1916); Matter of Dassler, 35 Kan. 684, 12 Pac. 130 (1886).

[71] *State ex rel. Curtis* v. *City of Topeka*, 36 Kan. 76, 12 Pac. 310 (1886).

[72] *Schick* v. *City of New Orleans*, 49 F. 2d 870 (5th Cir.) cert. denied, 284 U.S. 656 (1931).

[73] *Porth* v. *Broderick*, 214 F. 2d 925 (10th Cir. 1954).

[74] *State ex rel. Arn* v. *State Comm'n of Revenue & Taxation*, 163 Kan. 240, 181 P. 2d 532 (1947); see *Budhia* v. *State of Bihar*, [1952] All India Rep. Pat. 359, 31 Indian L.R. Pat. Ser. 493.

[75] *Crews* v. *Lundquist*, 361 Ill. 193, 197 N.E. 768 (1935).

[76] *Commonwealth* v. *Pouliot*, 292 Mass. 229, 198 N.E. 256 (1935).

[77] Id. at 231–32, 198 N.E. at 257.

[78] 208 Ind. 255, 194 N.E. 140 (1935).

Making and serving someone else a hamburger is not work for the Government, for one's family, or for a party one has injured. Nor is cutting another's hair, carrying his luggage, shining his shoes, or performing other personal services for him. The 13th amendment gives every person the right to refrain from working for any other person. It protects barbers, hotel clerks, shoeshine men, salesclerks, waiters, and waitresses, just as much as it protects cottonpickers, field hands, or farm laborers. A waitress can no more be required to wait on all persons who come into her shop without discrimination than can a cottonpicker be required to pick cotton for all who want to hire him, without discrimination. The 13th amendment guarantees the right to refrain from work, from all work, from some work, or from work for some people. To coerce personal service is to impose involuntary servitude.

### THE RIGHT TO DISCONTINUE WORK

The compulsory fulfillment of a contract for personal service, once voluntarily made, would not necessarily seem, on principle, to constitute involuntary servitude. This was, in fact, the rule in the Kingdom of Hawaii, and later the Republic of Hawaii, before joining the Union.[81] The performance of labor contracts, especially on agricultural plantations, was enforced by fine and imprisonment, notwithstanding the prohibition in the Hawaiian Constitution against "involuntary servitude." The rationale of this position was stated as follows: "A fair and honest contract to work for another, willingly and freely made with a knowledge of the circumstances, cannot be said to have created a condition of involuntary servitude. The contract which creates the state or condition of service, if it is voluntary when made and the conditions and circumstances remain unchanged, except that the mind of the one who serves is now unwilling to fulfill it, is not by that fact changed into a contract of involuntary servitude forbidden by law. If the contract is lawful and constitutional in its inception, it does not become illegal or unconstitutional at the option of one of the parties to it."[82]

Even in Hawaii, however, it was held that an employer could not assign a labor contract without the consent of the worker,[83] on the theory that the new employer might have a less agreeable personality.[84] Considering the fact that the employer might change his ways during the term of the contract, this reasoning would also support the right of the employee to quit at any time.

This is, in fact, the rule in the United States. Federal statutes have abolished involuntary servitude in liquidation of any debt or obligation, or for any other reason,[85] and have made keeping a person in peonage a crime.[86]

The hallmark of peonage was compulsory service in the payment of a debt.[87] Under this system, "the citizen could sell his own services, and could contract with another for the exercise of dominion thereafter over his person and liberty, so that he could be held or subjected, against his will, to the performance of his 'obligation.'"[88] This practice was most prevalent in the South during the turn of the 20th century, where several State cases held that farm laborers could not be forced to work out advances.[89]

Since the 13th amendment, unlike the 14th amendment, is not directed exclusively at State action, but applies as well to private action, compulsory labor is unconstitutional even when exacted without benefit of State law.[90] In *Clyatt* v. *United States*[91] *the* Supreme Court pointed out why compulsory service was unconstitutional. It stated: "But peonage, however created, is compulsory service, involuntary servitude. The peon can release himself therefrom, it is true, by the payment of the debt, but otherwise the service is enforced. A clear distinction exists between peonage and the voluntary performance of labor or rendering of services in payment of a debt. In the latter case the debtor, though contracting to pay his indebtedness by labor or service, and subject like any other contractor to an action for damages for breach of that contract, can elect at any time to break it, and no law or force compels performance or a continuance of the service."[92]

The sweeping scope of the right to cease work is apparent even in labor dispute cases, where the courts frequently enjoin strikes when they are illegal. The theory here is that the cessation of work itself is not being enjoined, but that the illegal combination or conspiracy is the object of the injunction.[93] Thus, the courts enjoin the strike as the means by which the unlawful plan is carried into execution.[94]

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[79] *State* v. *McClure*, 30 Del. (7 Boyce) 265, 105 Atl. 712 (Gen. Sess. 1919).

[80] *Ex parte Hudgins*, 86 W. Va. 526, 103 S.E. 327 (1920).

[81] *J. Nott & Co.* v. *Kanahele*, 4 Hawaii 14 (1877). This was also the rule in Scotland, a civil law country. The view there was that "the contract [to serve] must be willingly entered into; otherwise it is slavery." Fraser, Master and Servant 3 (3d ed. 1882). Under Roman civil law, which prevails in Scotland, it was generally considered "inconsistent with civil liberty that they [personal service contracts] should be specifically enforced" when not actually begun. Id. at 102. An exception was made, however, in the case of certain workers. In *Clerk* v. *Murchison*, Sess. Cas. 9186 (Scot. Sess. Ct. 3d Ser. 1799) it was held that "if a servant enlist after being hired, but before entering to his service, the contract remain in nudis finibus; and being a personal one, the rule prior tempore potior jure will not apply. The master's only remedy is an action of damages against the servant. But after the servant has entered into his employment, the master can enforce the completion of his engagement, remediis pretoriis." In the leading case of *Raeburn* v. *Reid*, 3 Sess. Cas. 69 (Scot. Sess. Ct. 1st Ser. 1824) a coal miner deserted, and his employer had him imprisoned. A divided Court of Session held this legal. Lord Gillies, however, dissented, saying that a contract to serve was like any other civil contract, which would only be enforced by damages, and that if a defaulting servant could be imprisoned; so could a defaulting tenant, landlord, or other party to a contract.

The authority of *Raeburn* v. *Reid* was reinforced by statute, 4 Geo. 4, c. 34 (1823) (repealed), which was passed while this case was pending and which was enacted as a consequence of discussions arising out of the case. Fraser, supra at 382. The rationale of this rule was that "this, though sometimes a harsh proceeding, is sanctioned [because] . . . a workman, by deserting, may do great injury to his master, and such as he has not the means of repairing." *Anderson* v. *Moon*, 15 Sess. Cas. 412, 414 (Scot. Sess. Ct. 1st Ser. 1837); see *Paterson* v. *Edington*, Fac. Coll. 757, 761 (Scot. Sess. Ct. 1830). This rule was followed for a number of years. See *Cameron* v. *Murray*, 4 Sess. Cas. 547 (Scot. Sess. Ct., 3d Ser. 1866); *Hamilton* v. *Outram*, 17 Sess. Cas. 798 (Scot. Sess. Ct., 2d Ser. 1855); *Lees* v. *Grangemouth Coal Co.*, 18 Jur. 273 (Scot. Sess. Ct. 1846); *Anderson* v. *Moon*, supra; *Bookless* v. *Normand*, 11 Sess. Cas. 50 (Scot. Sess. Ct., 1st Ser. 1832); *Stewart* v. *Stewart*, 10 Sess. Cas. 674 (Scot. Sess. Ct., 1st Ser. 1832); *Paterson* v. *Edington*, supra; *Campbell* v. *Anderson*, 4 Sess. Cas. 476 (Scot. Sess. Ct., 1st Ser. 1826); *Gentle* v. *M'Lellan*, 4 Sess. Cas. 165 (Scot. Sess. Ct., 1st Ser. 1825). Even so, the rule was questioned by Lord Fullerton in *Tulkley & Co.* v. *Anderson*, 5 Sess. Cas. 1096 (Scot. Sess. Ct., 2d Ser. 1843) and by Lord Jeffrey in *Lees* v. *Grangemouth Coal Co.*, supra. Moreover, it was never applied by the Sheriff Courts to professional men or domestic servants. Fraser, supra at 107. The remedy of imprisonment was greatly modified by the Master & Servant Act of 1867, 30 & 31 Vict. c. 141, § 9 (repealed) and abolished by the Employers & Workmen Act of 1875, 38 & 39 Vict., c. 90, § 9.

[82] *Hilo Sugar Co.* v. *Mioshi*, 8 Hawaii 201, 205 (1891); see *Madan Mohan Biswas* v. *Queen-Empress*, 19 Indian L.R. Cal. Ser. 572 (1892).

[83] *Dreier* v. *Kuaa*, 4 Hawaii 534 (1882); *Owners of the Waihee Plantation* v. *Kalapu*, 3 Hawaii 760 (1877), See *King* v. *Inhabitants of Stowmarket*, 9 East 211, 103 Eng. Rep. 553 (Eng. K.B. 1808). And in *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.*, [1940] A.C. 1014, 1020 (Eng.) Viscount Simon, Lord High Chancellor, said: "It will be readily conceded that the result contended for by the respondents in this case would be at complete variance with a fundamental principle of our common law—the principle, namely, that a free citizen, in the exercise of his freedom, is entitled to choose the employer whom he promises to serve."

[84] See Judd, J., dissenting in *J. Knott & Co.* v. *Kanahele*, supra note 81, at 21–22:

"It is no answer to say that one master is as good as another for the laborer, providing he fulfill all the written conditions of his contract, and observe whatever the law commands, doing nothing that is forbidden by it. Men are not cast in the same mold, and so long as differences of disposition and character exist, just so long some masters will be preferred to others, and the laborer, if he is a free man, ought to be allowed to exercise his right of choice."

[85] 14 Stat. 546 (1867), 42 U.S.C. § 1994 (1958).

[86] 18 U.S.C. § 1581 (1958).

[87] *Jaremillo* v. *Romero*, 1 N.M. 190, 194 (1857) stated as follows: "One fact existed universally: all were indebted to their masters. This was the cord by which they seemed bound to their masters' service. * * * He could not abandon the service; and if he did, his master pursued, reclaimed and reduced him to obedience and labor again."

[88] *Peonage Cases*, 123 Fed. 671, 679 (M.D. Ala. 1903).

[89] *Holland* v. *State*, 29 Ala. App. 181, 194 So. 412 (1940); *Goode* v. *Nelson*, 73 Fla. 29, 74 So. 17 (1917) (statute making refusal to perform a labor contract a crime held to impose involuntary servitude); *Ex parte Hollman*, 79 S.C. 9, S.E. 19 (1908) (same). See *State ex rel. Hobbs* v. *Murrell*, 170 Tenn. 152, 93 S.W. 2d 628 (1936) holding that a person cannot be confined to work out costs even if he had agreed to do so.

[90] *United States* v. *Gaskin*, 320 U.S. 527 (1944). See *Taylor* v. *Georgia*, 315 U.S. 25 (1942).

[91] 197 U.S. 207 (1905).

[92] Id. at 215–16. See *Bailey* v. *Alabama*, 219 U.S. 219, 242 (1911) where the court added:

"The fact that the debtor contracted to perform the labor which is sought to be compelled does not withdraw the attempted enforcement from the condemnation of the statute. . . . It is the compulsion of the service that the statute inhibits, for when that occurs the condition of servitude is created, which would not be less involuntary because of the original agreement to work out the indebtedness. The contract exposes the debtor to liability for the loss due to the breach, but not to enforced labor."

Even in labor dispute cases, however, the courts have been careful to refrain from preventing any employee from quitting work of his own volition for any reason. Indeed, the U.S. Supreme Court appears to have sanctioned the constitutional right of employees to leave work in concert. Thus, in one case in which the Wisconsin Supreme Court proceeded on the "conspiracy theory,"[95] the U.S. Supreme Court, in affirming its decree, narrowed the basis for the injunction still further. It said: "The Union contends that the statute as thus applied violates the 13th amendment in that it imposes a form of compulsory service or involuntary servitude. However, nothing in the statute or the order makes it a crime to abandon work individually * * * or collectively. Nor does either undertake to prohibit or restrict any employee from leaving the service of the employer, either for reason or without reason, either with or without notice. The facts afford no foundation for the contention that any action of the State has the purpose or effect of imposing any form of involuntary servitude.[96]

From this case, it can be seen that employees have a constitutional right to leave work in concert, as long as such concerted action is not in furtherance of an illegal plan, and in any case, a right to leave work singly. As one court put it: "It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude."[97]

The right to leave the employ of another does not include the right to engage in action which is likely to result in injury to persons or property damage. When once an employee undertakes a job, he cannot leave at such a point that injury or damage is a natural consequence of his cessation at work. Where there is no such threat, he may leave at any time, but where such a possibility exists, he must either give such notice as will enable the employer to avert the danger, or delay his departure until the danger has passed. One case illustrated this point quite well, as follows: "It is not contended that leaving the service cannot under any circumstances be made a criminal offense. Doubtless it is competent for legislation to make it a criminal offense for an employee, without giving reasonable notice, to suddenly quit duties the continued performance of which, for the time being, under the conditions of the particular calling, is necessary to prevent the endangering of life, health, or limb, or inflicting other grievous inconvenience and sacrifice upon the public. Surely a train dispatcher, indicted for suddenly leaving the service without giving orders necessary to prevent the clash of opposing trains upon a railroad, could not successfully plead, when destruction of life and property were brought about by his sudden leaving, that he could not be punished, because he did no more than breach a contract of service. In these and like cases, the criminal law would be exerted not to compel performance, or to prevent quitting the service in a reasonable way, but because, by abandoning it in an unreasonable way, the employee has created a condition of affairs, the natural, direct, and known result of which is to endanger life, health, or limb, or to inflict grievous public injury."[98]

*Robertson* v. *Baldwin*[99] can best be explained on this rationale. In that case, a majority of the U.S. Supreme Court held that a sailor was bound to fulfill his contract of service even though, during his term, he desired to quit. After pointing out the danger to be anticipated to the ship, its passengers, crew, and cargo, from indiscriminate quitting by seamen, the Court held that the service was exceptional, and hence that restrictions on cessation of work did not constitute "involuntary servitude."[100]

Mr. Justice Harlan dissented. He took an absolutist position on the other side. He said that "the condition of one who contracts to render personal services in connection with the private business of another becomes a condition of involuntary servitude from the moment he is compelled against his will to continue in such service."[101] Thus the majority of the Court declared that a seaman could be forced to serve his full term; the dissent declared that he could not be required to serve any of it.[102]

Between these two extremes there is a middle ground. A sailor might be required to serve until he could be conveniently replaced. To compel him not to abandon ship in the middle of the ocean or even in a strange port seems like a logical method of assuring the safe return of the vessel. To require him to continue serving after the vessel has reached an American port and a replacement can be secured is to nullify the freedom of a sailor to change jobs by an exception to the general rule not warranted by the actual facts of the case. Insofar as *Robertson* v. *Baldwin* extends to such service, it stands on a very shaky foundation.

The implications of the right to cease work for antidiscrimination legislation are clear. Since personal service is compelled in the first place, it is obvious that to permit the cessation of work before completion would frustrate the purposes of the law. It would hardly do to permit the unwilling barber to cut one side of his customer's head of hair or shave one side of his face, and then announce that he was unwilling to go any further. Obviously, antidiscrimination legislation in personal services infringes on the right to cease work as well as the right not to start it.

### VOLUNTARINESS OF SERVICE

That antidiscrimination legislation in personal services requires "servitude" has already been demonstrated beyond doubt. A question may be raised, however, as to whether such service to a Negro would be "involuntary." An argument may be made that the barber, for example, is free to cease barbering at any time. Hence, it may be contended, that as long as he voluntarily continues to be a barber, he is not subjected to involuntary servitude if he is forced to serve all who apply.

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[93] In *State* v. *Local 8–6, Oil Workers Union,* 317 S.W. 2d 309, 325 (Mo. 1958) the court said: "the section under attack is directed against a strike or concerted refusal to work and has nothing to do with one or more quitting work of their own volition. The section does not have the purpose or effect of imposing involuntary servitude in violation of the Thirteenth Amendment." See Local 134, *International Bhd. of Elec. Workers* v. *Western Union Tel. Co.,* 46 F. 2d 736 (7th Cir. 1931).

[94] This was clearly pointed out in *Western Union Tel. Co.* v. *Local 134, International Bhd. of Elec. Workers,* 2 F. 2d 993, 994–95 (N.D. Ill. 1924) where the court said:

"As to clause 1 of the prayer for a temporary injunction it is said that it prevents employees from ceasing to work, and therefore imposes involuntary servitude upon them. The right to cease work is no more an absolute right than is any other right protected by the Constitution. Broadly speaking, of course, one has the right to work for whom he will, to cease work when he wishes, and to be answerable to no one unless he has been guilty of a breach of contract. But the cessation of work may be an affirmative step in an unlawful plan. One may not accept employment intending thereby to quit work when that act will enable him to perform one step in a criminal conspiracy. The real wrong is the acceptance of the employment, with intent to make use of it for a criminal purpose.

"That no excuse for misrepresenting the true scope of this injunction may remain, the following should be added: "Nothing herein shall be construed to prohibit any employee from voluntarily ceasing work unless said act is in furtherance of the conspiracy charged in the bill herein to prevent plaintiff from performing its contracts with its customers and to compel plaintiff to discharge employees who are not members of labor unions which are affiliated with said defendant."

[95] *Local 232, UAW* v. *Wisconsin Employment Relations Bd.,* 250 Wis. 550, 562–63, 27 N.W. 2d 375, 881 (1947), aff'd, 336 U.S. 245 (1949) said:

"The quitting and remaining from work in the instant cases was done pursuant to a conspiracy to carry out an unlawful plan. There are many cases to the point that a conspiracy to commit a criminal act may be enjoined.

"For two or more persons to conspire to do an act to the injury of another which one person acting alone might lawfully do constitutes in this State a legal wrong. * * * If a conspiracy to do a criminal act may be enjoined so may conspiracy to do an illegal act not criminal."

[96] *Local 232, UAW* v. *Wisconsin Employment Relations Bd.,* 336 U.S. 245, 251 (1949).

[97] *Arthur* v. *Oakes,* 63 Fed. 310, 317–18 (7th Cir. 1894).

[98] *Peonage Cases,* 123 Fed. 671, 685–86 (M.D. Ala. 1903). The rule is the same in England. See Electricity (Supply) Act, 1919, 9 & 10 Geo. 5, c. 100, § 31; Conspiracy and Protection of Property Act, 1875, 38 & 39 Vict., c. 86, § 4. Section 5 of the latter statute makes it a criminal offense wilfully and maliciously to break a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequence will be "to endanger human life, or cause serious bodily injury, or to expose valuable property * * * to destruction or serious injury."

[99] 165 U.S. 275 (1897).

[100] Id. at 282 where the Court said: "It is clear, however, that the amendment was not intended to introduce any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional; such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards. The amendment, however, makes no distinction between a public and a private service. To say that persons engaged in a public service are not within the amendment is to admit that there are exceptions to its general language, and the further question is at once presented, where shall the line be drawn? We know of no better answer to make than to say that services which have from time immemorial been treated as exceptional shall not be regarded as within its purview."

The rule is the same in England. See Merchant Shipping Act, 1894, 57 & 58 Vict., c. 60, §§ 221–24.

[101] *Robertson* v. *Baldwin,* supra note 99, at 301.

[102] See *Elman* v. *Moller,* 11 F. 2d 55 (4th Cir. 1926) holding that it would be involuntary servitude to require a sailor to fulfill his contract to serve on board ship but, curiously enough, not citing or discussing *Robertson* v. *Baldwin,* supra note 99.

Preliminarily, such an argument overlooks the right to work. The "liberty" mentioned in the 14th amendment includes the right to "work * * * to earn his livelihood by any lawful calling; to pursue any livelihood or avocation. * * * [And] the right to follow any of the common occupations of life is an inalienable right."[103] The Supreme Court has held that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [14th amendment] * * * to secure."[104] Indeed, the Court pointed out that to deny persons the right to work to earn a living is tantamount to excluding them from the State, since "in ordinary cases they cannot live where they cannot work."[105]

To say that a person must either work for everyone involuntarily or not work at all is to require him to choose between his 13th amendment rights and his 14th amendment rights. Such a rule conditions the exercise of his 14th amendment rights to work at his chosen occupation with an unconstitutional condition, the surrender of his right to be free from involuntary servitude. Unconstitutional conditions may not even be annexed to the exercise of a privilege.[106] It is all the more certain that they cannot be used to limit the exercise of a constitutional right.

Even leaving aside the 14th amendment right to work, antidiscrimination laws which provide in effect that a person must serve another on pain of leaving his chosen occupation is involuntary servitude since the alternative to the servitude is punishment. It is well settled that the 13th amendment encompasses more than physical compulsion to labor. Punishment for refusal to work is also within its scope.[107]

The Supreme Court has several times pointed out that exclusion from one's occupation is punishment. In *Cummings* v. *Missouri*[108] the Court held that deprivation of the right to engage in a lawful occupation is punishment,[109] and further stated: "Disqualification from the pursuits of a lawful avocation * * * may also, and often has been, imposed as punishment."[110] When this disqualification stems "not from any notion that the several acts designated unfitness for the callings, but because it was thought that the several acts deserved punishment,"[111] then the punitive nature of the disqualification is clear.

*Ex parte Garland*[112] is to the same effect. The Court there held that "an exclusion from any of the professions or any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct."[113] Likewise, the Court said: "The legislature may * * * prescribe qualifications for the pursuit of any of the ordinary avocations of life. The question, in this case, is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment, against the prohibition of the Constitution * * * this result cannot be effected indirectly by a State under the form of creating qualifications."[114]

Finally, in the more recent case of *United States* v. *Lovett*[115] the Court was concerned with "'a legislative decree of perpetual exclusion' from a chosen vocation." Mr. Justice Black held that "this permanent proscription from any opportunity to serve the Government is punishment, and of a most severe type."[116]

Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is being punished for refusing service. The exclusion from his calling is a particularly severe sort of punishment. To force him to serve on pain of such exclusion constitutes involuntary servitude.

Even, however, were the alternative to serving everyone without discrimination of going out of business or leaving one's occupation not deemed, strictly speaking, punishment, nevertheless, this alternative constitutes such a degree of coercion as to make the service involuntary. It is well settled that the method of coercion which compels the labor is immaterial,[117] and that coercion is equally forbidden although exercised under the forms of law.[118]

That the loss of the right to serve others, and thereby earn one's living, is coercion of the most potent sort for all but the wealthy few, can hardly be gainsaid. It has been held that a statute which tends to prevent a worker who has broken a contract of service from making a second contract of service with a new employer during the term of the first contract is unconstitutional under the 13th amendment as imposing involuntary servitude.[119] One court said:

"If no one else could have employed Carver during the term of his contract with plaintiff, after he had elected to break that contract, without incurring liability to plaintiff for damages, the result would have been to coerce him to perform the labor required by the contract; for he had to work or starve. The compulsion would have been scarcely less effectual than if it had been induced by the fear of punishment under a criminal statute for breach of his contract * * *. The prohibition is as effective against indirect as it is against direct actions and laws—statutes or decisions—which, in operation and effect, produce the condition prohibited. The validity of the law is determined by its operation and effect.[120]

However, the opinion most closely on point is that in the *Peonage Cases*.[121] The court there first noted: "What is this but declaring, if a man breaks his contract with his creditor without just excuse, he shall not work at his accustomed vocation for others without permission of the creditor? What is this but a coercive weapon placed by the law in the hands of the employer to compel the debtor to pay a debt, to perform the contract?"[122]

The court then spoke of the right to work. It said: "This statute practically attaints the debtor and makes him a legal pariah if he attempts to exercise his right to labor without another man's consent, and that man his creditor. One of the most valuable liberties of man is to work where he pleases, and to quit one employment and go to another, subject, of course, to civil liability for breach of contract obligations. These laws attempt to take this right away and destroy his liberty."[123]

The coercion inherent in limiting the right to work was then set forth. The opinion states: "The leaving of the service, whether with or without just excuse, puts insuperable obstacles in the way of earning a livelihood, by the sweat of his brow, elsewhere than with the first employer or on the rented premises. He must stay there, or else, leaving, must starve, or go to work elsewhere, which in most instances he cannot do except by violating this statute and running the risk of conviction for crime, by not informing the new employer. Practically, the law places the laborer or renter at the mercy of his first employer, because of the broken civil contract. An employer with such power over the sustenance and liberty of another is master of his destiny and liberty, and the laborer or renter in such a condition is a serf in all but name."[124]

It concludes: "The whole scheme and purpose and the inevitable effect of these statutes are to coerce the laborer or renter to pay a debt, return to a personal service, by stress of penal enactments leveled at his person in the one instance, and against his right to work in the other. * * * The debtor cannot be compelled to put himself upon the blacklist that he may be prevented from getting work without an employer's consent, in order to coerce him to the performance of a contract of personal service."[125]

The coercion inherent in barring a person from any other employment is quite different in degree or kind from an action for breach of contract, which may lie if an employee breaches an agreement to render personal services. In such cases, the employee may become liable for actual damages sustained by his employer, if any. This is true of any contractor. He is not, however, disabled from earning money entirely. The extraordinary compulsion inherent in such a disability is far different from a requirement that the aggrieved employer be compensated for his actual loss.[126]

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[103] *Allgeyer* v. *Louisiana*, 165 U.S. 578, 589 (1897). See the statement of Representative John A. Bingham of Ohio, who drafted the first section of the 14th amendment, that liberty "is the liberty * * * to work in an honest calling and contribute by your toil in some sort to the support of yourself * * *." Cong. Globe, 42d Cong., 1st Sess. app. 86 (1871).

[104] *Truax* v. *Raich*, 239 U.S. 33, 41 (1915).

[105] Id. at 42.

[106] *Speiser* v. *Randall*, 357 U.S. 513 (1958); *Western Union Tel. Co.* v. *Kansas*, 216 U.S. 1 (1910).

[107] *United States* v. *Clement*, 171 Fed. 974 (D.S.C. 1909). See *United States* v. *Reynolds*, 235 U.S. 133, 146 (1914) where the Court said: "This labor is performed under the constant coercion and threat of another possible arrest and prosecution in case he violates the labor contract which he has made with the surety, and this form of coercion is as potent as it would have been had the law provided for the seizure and compulsory service of the convict. Compulsion of such service by the constant fear of imprisonment under criminal laws renders the work compulsory, as much so as authority to arrest and hold this person would be if the law authorized that to be done."

[108] 71 U.S. (4 Wall.) 277 (1866).

[109] Id. at 321–22.

[110] Id. at 320.

[111] Ibid.

[112] 71 U.S. (4 Wall.) 333 (1866).

[113] Id. at 377.

[114] Id. at 379–80.

[115] 328 U.S. 303 (1946).

[116] Id. at 316.

[117] *Pierce* v. *United States*, 146 F. 2d 84 (5th Cir. 1944), cert. denied, 324 U.S. 873 (1945). See *Bernal* v. *United States*, 241 Fed. 339 (5th Cir. 1917).

[118] *Matter of Peonage Charge*, 138 Fed. 686 (N.D. Fla. 1905).

[119] *Hill* v. *Duckworth*, 155 Miss. 484, 124 So. 641 (1929); *State* v. *Armstead*, 103 Miss. 790, 60 So. 778 (1913). In *Whitwood Chemical Co.* v. *Hardman*, [1891] 2 Ch. 416 (Eng.) it was held that an employee may not be enjoined from going to work for another after he breaches his contract of employment without express agreement.

[120] *Shaw* v. *Fisher*, 113 S.C. 287, 292, 102 S.E. 325, 327 (1920).

[121] 123 Fed. 671 (M.D. Ala. 1903).

[122] Id. at 685.

[123] Id. at 686.

[124] Id. at 687.

[125] Ibid. See id. at 691 where the court declared: "When the statutes declare that no one shall give croppers or laborers employment, if they break, without sufficient excuse, contracts of personal service with former employers, without their consent, what is this but declaring, because a person in a certain calling or occupation has broken a contract, that he shall not avail himself, no matter what his necessities, of the usual means, open to all other men, to obtain food or raiment, except by consent of a former employer?"

Even less is the compulsion, if it can be called that, inherent in the withdrawal of wages or other benefits from an individual who will not work. Such individual is free to substitute other work. He can work for whomever he pleases. The pay he receives is a benefit which he may take or not by working or not, but if he declines one job, he may still earn his living at another. Hence, his decision to work at a particular job is voluntary even if he is motivated by the desire for the compensation it offers.[127] This is a far cry from the case of an individual who loses all right to work for anyone by declining one job or type of service.

It must be remembered that, however compelling the need may seem that individuals serve others in particular situations, such a requirement flies in the face of the strong and clear policy of the 13th amendment. It has been truly observed that to compel one person to labor for another against his will is legalized thralldom.[128] And the Supreme Court has declared that "the undoubted aim of the 13th amendment * * * was not merely to end slavery but to maintain a system of completely free and voluntary labor throughout the United States."[129] The clear words of this amendment cannot be frittered away by subtle subterfuge or refined legal language.

Nor does the fact that the worker's refusal to work for a particular patron or client may be based on arbitrary grounds alter the legal effect of the amendment. Indeed, even peons could leave their masters for adequate cause.[130] The worker's right to discriminate on arbitrary grounds against serving particular clients or customers is perhaps most strongly illustrated by *Delorme* v. *Local 624, International Bartenders' Union*.[131]

In this case, the plaintiff tavern owner found himself caught in a jurisdictional dispute between the Teamsters Union and the Brewery Workers Union. Because he bought beer brewed by the brewery workers, teamsters picketed his tavern and collectively refused to deliver supplies purchased by plaintiff from their employers. The plaintiff sued for an injunction, and the trial court found that the drivers were part of a conspiracy to drive the plaintiff out of business by withholding supplies and refusing to deliver them. The trial court then enjoined the teamsters from interfering with the plaintiff's business. Later, upon a proceeding for contempt, the trial court further found that with knowledge of the decree and with intent to violate it, the Teamsters Union and drivers conspired not to deliver supplies to the plaintiff. The court thereupon decreed that:

"[The drivers] be, and they are hereby directed in the future while employed as drivers delivering products and commodities [to refrain] from making any discrimination against plaintiff, Leo Delorme, until further order of the court or until such time as this order may be modified.

"It is further ordered that respondents be, and they are hereby directed to forthwith purge themselves of said contempt by refraining in the future from refusing to make deliveries of products and commodities to Leo Delorme on the same terms and conditions as to any other person and when directed by their employer to do so until such time as this order is modified or reversed."[132]

The drivers appealed to the Washington State Supreme Court, contending that the order requiring them to deliver products to plaintiff and not to discriminate against him constituted involuntary servitude. That court held that while a mandatory injunction in a proper case did not violate the 13th amendment, "the portion of the decree entered by the trial court containing a mandatory injunction requiring appellants to deliver products and commodities from their respective employers' establishments to the respondent, Leo Delorme, appears to be subject to valid objection."[133] The State supreme court thereupon modified the decree to make it permissive for the drivers to purge themselves of contempt by delivering products to plaintiff instead of mandatory, as the trial court had done, and further provided that if the drivers failed to so purge themselves of their prior contempt, the court might punish them in an appropriate fashion.

This case is, of course, highly significant, and a strong one indeed for a mandatory injunction. The drivers have conspired to ruin the plaintiff by not delivering the products he needs. As previously noted, such a conspiracy is illegal, even though the individual drivers could, on their own, refuse to deliver products to the plaintiff. The trial court has ordered the drivers to repair the damage from their unlawful conspiracy by ceasing the object of the conspiracy, and by engaging in the deliveries. Even in such a case, however, the State supreme court is unwilling to require the drivers to refrain from discrimination. Not even a contempt of a prior decree whose validity is unchallenged can result in an affirmative mandate not to discriminate to alleviate the effects of the conspiracy. So strong is the policy of the law against involuntary servitude that not even a conspiracy not to serve can result in a decree requiring service. Antidiscrimination legislation can hardly justify a different result.

### CONCLUSION

It is one of the most compelling ironies of history to find that in 1964, Negroes are demanding laws to compel whites to serve them in the very same occupations which they themselves were freed from serving whites in 1863, and demanding this under the name of "freedom." For the fact is that a century ago, Negroes had a near monopoly of the service occupations now engaged in by employees of so-called places of public accommodation.[134]

For example, New York has one of the most stringent set of antidiscrimination laws. Yet these laws cover the occupations in which Negroes were compelled to serve a century ago. Thus, we are told: "For generations the New York Negroes had had an almost uncontested field in many of the gainful occupations. They were * * * bootblacks * * * barbers, hotel waiters * * * ladies' hairdressers * * * caterers, coachmen. (At that time a black coachman was almost as sure a guarantee of aristocracy for a northern white family as a black mammy for a family of the South.) The U.S. Census of 1850 lists New York Negroes in 14 trades. * * * [A]s caterers—a number of individuals actually grew wealthy.[135]

In a number of northern localities, it was not until the great wave of European immigration during the 1840's and 1850's that the Negro monopoly on these service occupations was terminated. In 1853, Frederick Douglass complained: "Every hour sees the black man [in the North] elbowed out of employment by some newly arrived immigrant whose hunger and whose color are thought to give him a better title to the place; and so we believe it will continue to be until the last prop is leveled beneath us—white men are becoming house servants, cooks, and stewards on vessels; at hotels, they are becoming porters * * * and barbers—a few years ago a white barber would have been a curiosity. Now their poles stand on every street."[136]

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[126] In *Shaw* v. *Fisher*, 113 S.C. 287, 292–93, 102 S.E. 325, 327 (1920) the court declared: "Of course, the sanction of the obligation of the contract, and the liability to pay damages for breach thereof, inhere in every contract, and those alone do not amount to that compulsion which is prohibited so long as the employee has the liberty at any time to elect to break the contract, subject only to the legal consequences—an action for damages—just like any other contractor. But if the law should penalize all who give him employment, after he has breached his contract, the effect would be to deny to him the same freedom that every other contractor enjoys, to wit, that of electing at any time to break his contract, subject only to his liability for damages. To that extent, liberty of action and freedom of contract is guaranteed by the fourteenth amendment."

[127] In *Tyler* v. *Heidorn*, 46 Barb. 439, 458–59 (N.Y. Sup. Ct. Albany County 1866) the court made this distinction, saying: "The term involuntary servitude, in my opinion [embraces] * * * everything under the name of servitude, though not denominated slavery, which gives to one person the control and ownership of the involuntary and compulsory services of another against his will and consent."

3. The amendment in question was never intended to, and in my opinion does not, embrace contract service of any description, or such as flows from contracts made by a party, or grows out of a contract made by another person in regard to property and connected with its enjoyment, which property such party derives from such other person and personally enjoys. Such service is never involuntary. The party may at any time renounce it. It is connected with the enjoyment of property, and by refusing to accept or to enjoy the property, the party may at all times escape the personal servitude. These contracts are always either voluntarily entered into by the party himself, or else they embrace a subject, or property, by relinquishing which the party always relieves himself from the obligation attached to it. * * * "By taking the benefit of the grant he voluntarily assumed the liabilities of the original grantee, in respect to the subject of the grant." The servitude, therefore * * * was not involuntary.

See *Dubar Goala* v. *Union of India*, [1952] All India Rep. Cal. 496. See also *Sreenwasa Iyer* v. *Govinda Kandiyar*, [1945] All India Rep. Mad. 50, [1945] Indian L.R. Mad. Ser. 319, not following *Ram Sarup Bhagat* v. *Bansi Mandar*, 42 Indian L.R. Cal. Ser. 742 (1915).

[128] *Ex parte Drayton*, 153 Fed. 986, 991 (D.S.C. 1907). And in *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.*, (1940) A.C. 1014, 1026 (Eng.) Lord Atkin said: "ingrained in the personal status of a citizen under our laws was the right to choose for himself whom he would serve; and this right of choice constituted the main difference between a servant and a serf."

[129] *Pollock* v. *Williams*, 322 U.S. 4, 17 (1944).

[130] *Peonage Cases*, 123 Fed. 671, 674 (M.D. Ala. 1903) where the court stated that the peon could abandon his status "by some sufficient motive given by one party to another, such as having grievously injured him, or where the master kept the accounts in an ambiguous manner, so that the servant could not understand them."

[131] 18 Wash. 2d 444, 139 P. 2d 619 (1943).

[132] Id. at 448, 139 P. 2d at 621.

[133] Id. at 455–56, 139 P. 2d at 625.

[134] Myrdal, An American Dilemma 293 (1944) notes that up to 1910, Negroes in the North were concentrated in service occupations, especially as waiters and barbers.

[135] Id. at 1256.

[136] Id. at 291–92.

In the South, Negroes predominated in the service occupations well into the 20th century. As late as 1930, 40 percent of the workers in southern hotels, restaurants, and similar establishments were Negro; in 1940, 32 percent were Negro. Myrdal observed that the "loss of the Negro male waiters was largely the gain of the white waitresses." He further noted that "travelers in the South often have occasion to observe that, nowadays, the most modern and busiest hotels and restaurants tend to have white bellboys and white waitresses, whereas the old-fashioned places tend to have Negro servants."[137] Thus, a century ago, the Emancipation Proclamation decreed that Negro waiters and waitresses would no longer have to serve white college students; now, a hundred years later, Negro college students are demanding laws to compel white waiters and waitresses to serve them.

Negro barbers in the South likewise had a monopoly of this form of involuntary servitude before the Civil War. Myrdal notes: "In the old South, after the passing of wigs and elaborate hair dressing for men, the barber business fell largely into the hands of blacks. An old southern gentleman once told me that on his first visit to the North he experienced a kind of shame for the white man who cut his hair and the white girls who waited on him at table."[138]

Thus, we now find, a century after Negroes were freed from the involuntary servitude of cutting the hair of whites, a demand from their descendants that whites be forced by law to cut their hair. Perhaps Negroes who say that the Emancipation Proclamation's first century is being celebrated a hundred years too soon are right. Perhaps the problem with that document is that it discriminated on racial grounds, and included only Negroes within its terms.

The 13th amendment, however, contained no such limitation. Instead, "the generality of its language makes its prohibition apply to slavery of white men as well as that of black men; and also to * * * every other form of compulsory labor to minister to the pleasure, caprice, vanity, or power of others."[139] The 13th amendment makes no distinction as to who enforces the labor;[140] nor does it distinguish from whom compulsory service is extracted. Rather the amendment "reaches every race and every individual * * *. Slavery or involuntary servitude of the Chinese, of the Italian, of the Anglo-Saxon are as much within its compass as slavery or involuntary servitude of the African."[141] As the Supreme Court has so eloquently declared:

"The language of the 13th amendment was not new. It reproduced the historic words of the Ordinance of 1787 for the government of the Northwest Territory and gave them unrestricted application within the United States and all places subject to their jurisdiction. While the immediate concern was with African slavery, the amendment was not limited to that. It was a charter of universal freedom for all persons, of whatever race, color, or estate, under the flag.

"The plain intention was * * * to make labor free, by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit which is the essence of involuntary servitude."[142]

The fact that Negroes, or those who sympathize with their aspirations, may believe that white persons who refuse to serve them are being arbitrary or capricious, does not alter in any way the legal effect of the 13th amendment. This provision bans absolutely, and in the most express terms, the claim of any person to force any other person to serve him, for any reason whatsoever. Correspondingly, it confers on every person the absolute and unfettered right to refuse, for any reason or none at all, to serve any other person. The constitutionally protected right cannot be abridged or fettered on any pretext or for any reason whatever, as it is the cornerstone of personal freedom and liberty in the United States. Those Negro college students and their white sympathizers who so loudly chant a demand for freedom and their constitutional rights, and who so vociferously demand that whites serve them,[143] would do well to first examine the Constitution themselves, and find out where their freedom and constitutional rights end, and those of others they would in fact violate, begin. As one case unequivocally stated: "We are not advised of any rule of law under which any man in this country will be forced to serve with his labor any other man whom he does not wish to serve.

* * * * *

"If the injunctive order be construed to mean that the officers and members of the Longshoremen Association Local No. 1416 were thereby required to load or unload the trucks of "Collins" although there was no contractual relation between the local and Collins, then such construction would violate the constitutional provision above referred to. We think it will not be contended that any member of the local could be committed to jail for refusing to load or unload the "Collins" trucks. That service required the performance of manual labor and it is beyond the power of courts to punish one by imprisonment for failure to engage in involuntary servitude."[144]

That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt. However, most judges before whom such cases have come have acted as if they never heard of the 13th amendment. But one perceptive jurist, Judge Joseph H. Mallery of the Washington State Supreme Court, recently recognized the conflict between such legislation and the U.S. Constitution. To this author, his dissenting opinion in *Browning* v. *Slenderella Systems*[145] "hits the nail on the head" and should be required reading for all sit-ins claiming "constitutional rights." The opinion is well worth quoting. As Judge Mallery declared: "All persons familiar with the rights of English speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties.

* * * * *

"[D]iscrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

"Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

* * * * *

"The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, inter alia: 'Neither slavery nor involuntary servitude * * * shall exist within the United States.'

"Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude.

"Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision. Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This court has now swung to the opposite extreme in its opinion subjecting white people to 'involuntary servitude' to Negroes."[146]

Mr. ERVIN. I ask the Senator from Louisiana if the article from the Cornell Law Quarterly does not cite two cases in which courts issued injunctions requiring strikers or pickets to perform personal services for specific persons, and if the courts in the State of Washington and in the State of Florida did not hold that those injunctions were void, in that they violated the provision in the 13th amendment, which prohibited involuntary servitude.

Mr. ELLENDER. Exactly.

Mr. ERVIN. Did not one of those cases involve an injunction which ordered members of the Teamsters Union to unload brewery products in a brewery operated by a named individual?

Mr. ELLENDER. Yes.

Mr. ERVIN. Did not the court hold in that case that an injunction which required members of the Teamsters Union to perform the manual service of unloading trucks for a specific individual against their will constituted an imposition of involuntary servitude in violation of the 13th amendment, and that that injunction was void for that reason?

Mr. ELLENDER. There is no doubt about it. As I said, it is made plain that instances of the kind which the Senator is now talking about would constitute involuntary servitude in violation of the 13th amendment.

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[137] Id. at 1088. He also notes, at 282, that "in * * * a few old cities on the Atlantic Coast the observer meets an old Negro barber, catering to a passing generation of southern gentlemen. Negro waiters are still common, but not so common as even 10 years ago. White waitresses are gradually being substituted for them."

[138] Id. at 1255 quoting Wertenbaker, "The Old South," 229–32 (1942). See Myrdal's remarks at 1088–89 where he declares: "The Negro barber has lost most of his white business in the South. His gains have been restricted to the segregated Negro neighborhoods."

[139] *Railroad Tax Cases,* 13 Fed. 722, 740 (C.C.D. Cal., 1882).

[140] See, for example, *United States* v. *Choctaw Nation,* 38 Ct. Cl. 558 (1903), aff'd, 193 U.S. 115 (1904) holding that the slaves of Indian tribes within the United States were freed by the amendment.

[141] *Hodges* v. *United States,* 203 U.S. 1, 17 (1906).

[142] *Bailey* v. *Alabama,* 219 U.S. 219 240–41 (1911).

[143] See N.Y. Times, July 7, 1963, p. 1, col. 2.

[144] *Henderson* v. *Coleman,* 150 Fla. 185, 196–97, 7 So. 2d 117, 121 (1942).

[145] 54 Wash. 2d 440, 341 P. 2d 859 (1959).

[146] Id. at 454–57, 341 P. 2d at 868–69.

Mr. ERVIN. Can the Senator from Louisiana see any reasonable distinction between the injunction which required the members of the Teamsters Union to perform the personal service of unloading trucks for the benefit of a particular businessman, and an injunction which might issue under the terms of the bill, requiring a restaurant owner to cook and serve meals to members of a particular race if he did not wish to do so?

Mr. ELLENDER. I can see no distinction.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that the same observation would apply to the part of title II which deals with lodging places for transients if a court issued an injunction requiring the operator of one of such places to make up a bed and let someone sleep in it when he did not desire that person to sleep there?

Mr. ELLENDER. I can see no difference between that and the cases to which reference has been made. It would be a violation of the 13th amendment, without question.

Mr. ERVIN. I ask the Senator from Louisiana if the bill does not contain provisions requiring the rendition of personal services by one person to another person to whom he does not desire to render those services, and if those provisions of the bill are not in direct conflict with the provision of the 13th amendment which prohibits involuntary servitude anywhere under the American flag.

Mr. ELLENDER. There is no doubt about it.

Madam President, it is my hope that Senators will read this article which, as I said, was taken from the Cornell Law Quarterly. It is most informative, and cites many cases which would be parallel to some of the situations that might develop under the bill now being considered. I am hopeful that Senators will read the article. It could serve as a fine reference for many cases on the subject.

Mr. ERVIN. Madam President, will the Senator from Louisiana yield for another question, with the understanding that he will not lose the privilege of the floor and that his subsequent remarks will not be counted as a second speech?

Mr. ELLENDER. I yield under those conditions.

Mr. ERVIN. Was not the article which the Senator from Louisiana mentioned as having been published in the Cornell Law Quarterly written by a distinguished New York lawyer, who received his education in schools north of Mason and Dixon's line, and who was himself for a time professor of law in Kent College, in the city of Chicago?

Mr. ELLENDER. I do not know where he taught, but I know that he is a distinguished lawyer practicing in the State of New York and law professor.

Mr. ERVIN. Does not his article state in the plainest language that, in his judgment as a lawyer, the provisions of a public accommodations law, which require the rendition of personal services by a cook, waitress, or any other person to another person against his will, constitute a violation of the 13th amendment?

Mr. ELLENDER. He points that out succinctly and cites cases in support of his contention.

To continue with the fifth amendment: It has been contended by some of the proponents of the pending bill that title II, which deals with public accommodations, has its legal roots in our common law heritage. The proponents of title II have cited Blackstone and an anonymous English case in an attempt to substantiate the claim that it was a criminal offense at common law to refuse service to the general public in all places of public accommodation.

The fact of the matter is that the common law of England recognized the right of persons to go into only three public facilities, which are first, inns; second, public utilities; and third, common carriers. These three types of services were narrowly construed and never expanded beyond the narrow confines of the inn itself, the common carrier itself, or the public utility. The common law duty of public utilities rests upon the theory that their right to business was derived from a franchise in the form of a monopoly granted by the State. All other places of public accommodation have been specifically excluded from the common law by court decision.

In an early English decision *Wood* v. *Ledbitter,* 153 Eng. Rep. 351, (Feb. 22, 1845) the right of the proprietor to exclude persons he does not want is firmly established and has been consistently followed by the U.S. courts.

In this case, the plaintiff brought a suit alleging that he had been assaulted and falsely imprisoned when the defendant ejected him from the grandstand of a racetrack. He was turned out of the racetrack by authority of the owner, even though he had purchased a ticket giving him permission to be there. The plaintiff contended that his right to be on the property rested on the ground that he had purchased a ticket to a place open to the public.

The court rejected this contention and stated:

> Now, in the present case, the right claimed by the plaintiff is a right, during a portion of each day, for a limited number of days, to pass into and through and to remain in a certain close belonging to Lord Eglintoun; to go and remain where if he went and remained, he would, but for the ticket, be a trespasser. This is a right affecting land at least as obviously and extensively as a right of way over the land—it is a right of way and something more; and if we had to decide this case on general principles only, and independently of authority, it would appear to us perfectly clear that no such right can be created otherwise than by deed. The plaintiff, however, in this case argues, that he is not driven to claim the right in question strictly as grantee. He contends that, without any grant from Lord Eglintoun, he had license from him to be in the close in question at the time when he was turned out, and that such license was, under the circumstances, irrevocable.
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> But where there is a license by parol, coupled with a parol grant, or pretended grant, of something which is incapable of being granted otherwise than by deed, there the license is a mere license; it is not an incident to a valid grant, and it is therefore revocable.

The right of the owner of a public facility to exclude whom he pleases is supported by the common law. The rule commonly accepted in this country from the English cases is that a ticket to a place of entertainment does not create any right of a person to either go there or to remain there. Justice Holmes affirmed this doctrine in the case of *Marrone* v. *Washington Jockey Club,* 227 U.S. 633 (1913). In this case, Justice Holmes said that the petitioner's argument hardly went beyond an attempt to overthrow the rule commonly accepted in this country from the English cases and adopted below, that such tickets do not create a right in rem; that is, they do not create a right against all others to remain in such public places. He specifically cites Wood against Ledbitter, which I have discussed before. Justice Holmes went on to say:

> We see no reason for declining to follow the commonly accepted rule. The fact that the purchaser of the ticket made a contract is not enough. A contract binds the person of the maker, but does not create an interest in the property that it may concern unless it also operates as a conveyance.

The reasoning behind these decisions is that a person has no right to be in any place where he is specifically excluded unless he has some real or property right in that place.

Legislation in the field of public accommodations made its appearance shortly after the War Between the States. Massachusetts was one of the first States to prohibit discrimination based on race and color in places of amusement. Most of this type of legislation, however, came from the Reconstruction or carpetbag governments of the South. When the Civil Rights Act of 1875 was declared unconstitutional, many of the State legislatures enacted civil rights statutes closely modeled after the Federal statutes.

Of all of these statutes, only a few had been retained by the turn of the century. The reason for this was that for the most part, they found little public acceptance, and also due to the fact that they were opposed to the common law. It is a fundamental legal principle that statutes which are in derogation of the common law are to be strictly construed. This point is well illustrated by a number of cases from which I cite:

In the case of *Rhome* v. *Loomis*—a case from the Supreme Court of Minnesota—77 N.W. 31 (1898), the plaintiff, a colored man, brought an action against the defendant, who was a legally licensed saloonkeeper, to recover damages for his refusal, solely because of his race and color, to furnish him a glass of beer when called for in the defendant's place of business. At that time, Minnesota had a public accommodations law which provided that it was a criminal offense for a person to exclude any other person within the jurisdiction of the State of Minnesota on account of race, color, or previous condition of servitude from the full and equal enjoyment of accommodations furnished by innkeepers, hotelkeepers, common carriers, theaters, or other places of amusement, or public conveyances on land or water, restaurants, barbershops, eatinghouses, other places of public resort, refreshment accommodations or entertainment, or any privileges offered by any hotel, inn, tavern, restaurant, eatinghouse, sodawater fountain, ice cream parlor and other places of public refreshment.

In dismissing the Negro's suit, the Supreme Court of Minnesota declared:

> It being a civil rights act, the object of which was to secure to all citizens equal accommodation, without unjust discrimination, in certain places of entertainment, amusement, etc., the legislature might have thought that the right to be furnished intoxicating drink would be of doubtful benefit to any class of people, and for that reason excluded saloons from the operation of the act. It is a well-known fact that, owing to an unreasonable race prejudice which still exists to some extent, the promiscuous entertainment of persons of different races in places where intoxicating drinks are sold not infrequently results in personal conflicts, especially when the passions of men are inflamed by liquor. Hence the legislature might have omitted saloons for that reason. But, whatever the reason may have been, we are of the opinion that, under the established canons of construction, it must be held that the legislature has excluded them, and that the general words do not, and were not intended to include them.

So it can be seen that the Minnesota court did not consider a saloon to be either a tavern or a place of public refreshment.

That case, of course, goes afar; yet it shows that in deciding cases involving public accommodations, the law enacted by the State was strictly construed, and nothing was included in the statute by the court which was not explicitly stated. In that case, merely because saloons were not mentioned in the legislative act, it was held that the suit brought by the Negro could not be sustained, because, as the court said, if the Legislature of Minnesota had intended to include saloons, it should have mentioned saloons; but it did not mention them. That shows how strictly the courts have construed the public accommodations laws.

In the case of *Commonwealth* v. *David Sylvester*, 95 Mass. 247 (1866), the defendant was convicted of refusing to permit a Negro to play billiards in a poolroom in violation of Massachusetts public accommodations statute. The statute provided that:

> No distinction, discrimination or restriction on account of color or race shall be lawful in any licensed inn, in any public place of amusement, public conveyance or public meeting in this Commonwealth.

The Supreme Court of Massachusetts in reversing the conviction held that the evidence did not show that any offense had been committed by the defendant. The court further said that the statute was intended to apply only to places so licensed and that there was no showing that the poolroom was licensed. The only conclusion that can be drawn from this case is that the court did not consider a billiard room to be a place of public amusement.

I should like to repeat that these cases are cited to illustrate the proposition that statutes such as these public accommodations acts are in derogation of the common law, in that they are to be strictly construed.

In the case of *Brown* v. *Mayer Sanitary Milk Company*, 96 Pac. (2d) 651 (1940), the Supreme Court of Kansas reversed the conviction of the defendant who was charged with violating Kansas public accommodations law, which provided that it was a crime for the owner of any place of entertainment or amusement to refuse to serve any persons on account of race, color, or previous condition of servitude. The defendant had refused service in his ice cream parlor to a Negro. The Supreme Court of Kansas declared that:

> We are unable to distinguish the ice cream parlor as described in this case from an ordinary restaurant or a lunch room as described in the case of *State* v. *Brown*. What is meant by the words "place of entertainment or amusement" is in the ordinary use of those terms, places people resort to for the purpose primarily of being entertained or amused. The fact that a radio is maintained in an ice cream parlor does not constitute it a place of entertainment or amusement within the meaning of this statute.

Again, that is cited merely to show how strict the courts are in construction, and that is due to the common-law rule that statutes in derogation of the common law are to be strictly construed.

In the case of *Cecil* v. *Green*, 43 N. E. 1105 (1896), the Supreme Court of Illinois affirmed the defendant's right to refuse service to a Negro in the soda fountain of his drugstore.

He had been charged with violating the Illinois public accommodations law which provided:

> All persons within the jurisdiction of said State shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, restaurants, eating houses, barbershops, public conveyances on land or water, theaters and all other places of accommodation and amusement.

The Illinois court held that a soda fountain did not come within the provisions of the law and further found:

> No construction can be adopted by which an individual's right of action may be included as controlling within a legislative enactment unless clearly expressed in such enactment and satisfactorily included within the constitutional limitation on the power of the legislature. The general provision does not include the business of the defendant, nor is it included within the terms especially named.

In the case of *Independence* v. *Richardson*, 232 Pac. 1044, the Supreme Court of Kansas reversed the conviction of Richardson who had been charged with violating the city ordinance on licensing of boardinghouses.

The Kansas court held that a roominghouse was not a boardinghouse and was, therefore, not a place of public accommodations. The court declared:

> A roominghouse is merely a house or building where there are one or more bedrooms which the proprietor can spare for the purpose of giving lodgings for such persons as he chooses.
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> * * * * *
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> The keeper of a roominghouse may receive whom he will, reject whom he will and usually he makes special contracts with each of his guests concerning compensation and length of stay. The term "roominghouse" is new because the existence of such places is recent.

In the case of *Alsberg* v. *Lucerne Hotel Company*, 92 N.Y. Supp. 851 (1905), the hotel company was sued for violation of New York's public accommodations act which stipulated damages for the refusal to furnish equal accommodations to all persons.

The Lucerne Hotel was an apartment or family hotel containing small suites of rooms like those ordinarily found in an apartment house and rented by annual leases. Transient guests were not solicited. The Supreme Court of New York declared that the Lucerne was not a hotel and that it had the right to refuse to lease rooms and apartments to anyone it wishes.

In the case of *State* v. *Brown*, 212 Pac. 663, (1923), the Supreme Court of Kansas affirmed an order quashing the information against the defendant Brown. He had been charged with violating Kansas' public accommodations law which made it unlawful for the owner of any inn, hotel or boardinghouse, or any place of entertainment or amusement to discriminate against any persons on account of race, color, or previous condition of servitude. He had refused to serve a Negro in his restaurant. The Supreme Court of Kansas held that a restaurant or lunchroom was not an inn, hotel or boardinghouse, or a place of entertainment or amusement within the public accommodations act. The court quite properly gave a narrow construction to the statute, which was penal in nature and in derogation of the common law.

In the case of *Faulkner* v. *Solazzi*, 65 Atl. 947 (1907), a suit was brought to recover damages stipulated by the Connecticut public accommodations act. The defendant had refused service in his barbership to the plaintiff, who was a Negro. A Connecticut statute made it unlawful for any owner of a public accommodations facility to refuse service to anyone on account of race or color.

The Supreme Court of Errors of Connecticut declared that a barbershop was not within the meaning of public accommodations. The court further stated that the barber is in no different position from the physician or the dentist and he should not be deprived of his right of selection of patrons.

All of these cases are cited to illustrate how the Supreme Court of the United States and the highest courts of the States have interpreted their public accommodations acts. In these cases, the courts have decided that saloons, billiard rooms, ice cream parlors, soda fountains, boardinghouses, apartment buildings, restaurants, and barbershops, among other places, are not places of public accommodation, amusement, or resort.

If the common law had made it unlawful for owners of such public places to discriminate or refuse to serve anyone, these court decisions would have been to the contrary. It is because the common law recognized a proprietor's right to refuse service that the public accommodations statutes were necessary in the first instance.

It is in recognition of the common law decisions that the drafters of title II went to great pains to enumerate all of the public facilities which were to be included within the act. Section 201 of title II states that the following establishments are places of public accommodations and then it lists them. Included are inns, hotels, motels, other establishments that provide lodging, restaurants, cafeterias, lunch counters, soda fountains, other facilities selling food, gasoline stations, motion picture houses, theaters, concert halls, sports arenas, any stadium, or other place of exhibition or entertainment.

Madam President, I now come to a consideration of title VI of the bill, which was ably discussed by my good friend the Senator from Arkansas [Mr. FULBRIGHT], but I believe the title would bear some further discussion in order again to demonstrate the extent to which our Founding Fathers went in order to protect and preserve the rights of individuals in the Bill of Rights.

Mr. ERVIN. Madam President, before the Senator leaves his discussion of title II of the bill and proceeds to another matter, I wonder if he would yield to me for some questions with the understanding that he will not lose his right to the floor or have his rights to the floor jeopardized in any way, or have his subsequent remarks count as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. I yield under those conditions.

Mr. ERVIN. I should like to ask the Senator if title VI of the bill does not undertake to confer upon all departments and agencies of the executive branch of the Federal Government concerned with the administration of Federal assistance programs the power to make regulations to prohibit racial discrimination, without even defining what racial discrimination is?

Mr. ELLENDER. Yes. That point has been argued all along by many of the opponents of the bill.

Mr. ERVIN. Is there not a Federal Housing Administration which administers the housing programs authorized by acts of Congress?

Mr. ELLENDER. Yes.

Mr. ERVIN. I ask the Senator from Louisiana if, in his opinion title VI would not permit the Federal housing authorities to establish regulations which would require every American citizen participating in any of the Federal housing programs to surrender to the housing administration his power to determine to whom his property can be sold or rented.

Mr. ELLENDER. There is no doubt about it. That is true not alone with respect to the housing administration, but to practically every other Government agency that deals with distribution of funds to the States. As the Senator well knows, the section is not written so that uniformity can be achieved by the various agencies dealing with the funds, but each agency would have power to draft its own rules and regulations as it sees fit.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that in times past one of the most precious characteristics or elements of the right of ownership of private property has been the power to determine to whom property may be sold or rented?

Mr. ELLENDER. That is an elemental right, and always has been.

Mr. ERVIN. Does not the Senator from Louisiana agree that President Kennedy attempted to exercise power in this field by a Federal directive which undertook to confer upon the housing authorities the power to prevent what they called discrimination in housing after Congress, on some six occasions, had refused to insert such a provision in the housing acts?

Mr. ELLENDER. Yes.

Mr. ERVIN. Does the Senator from Louisiana agree with the Senator from North Carolina that the Constitution of the United States vests all the legislative power given to the U.S. Government by the Constitution in the Congress alone, and none whatsoever in the President?

Mr. ELLENDER. The Senator is correct, without question, but, unfortunately, both the executive department and the judiciary department have at times assumed powers which I consider to be legislative rather than executive or judicial.

Mr. ERVIN. Does the Senator from Louisiana agree with the Senator from North Carolina that one of the tragedies in this country today is that the movement which calls itself a civil rights movement undertakes to rob all American citizens of some of their most precious rights upon the strange theory that that is the only way anything can be done to benefit one segment of our population?

Mr. ELLENDER. Yes. In my opinion, it is done in strict violation of many decisions formerly rendered by the Supreme Court, as well as in strict violation of many of the amendments to the Constitution, as well as the Constitution itself, which I have been discussing since 2 o'clock.

Mr. ERVIN. Does not the Senator from Louisiana recall that in one of the decisions of the Supreme Court of the United States it was held that any State law or municipal ordinance which undertook to deprive a white man of the power to sell his residential property to a Negro was unconstitutional under the 14th amendment?

Mr. ELLENDER. Yes.

Mr. ERVIN. Does the Senator know that in the city of Washington, the Capital of this Republic, there are now regulations which undertake to prevent white men from selling their property to members of the white race in preference to members of the Negro race?

Mr. ELLENDER. Yes.

Mr. ERVIN. Does the Senator from Louisiana agree with the Senator from North Carolina that one of the great boasts of this Nation has been that Americans may speak their honest thoughts concerning all things under the sun, regardless of whether their thoughts conform to governmental desires or not?

Mr. ELLENDER. Yes.

Mr. ERVIN. Does the Senator from Louisiana know that under regulations adopted by the Board of Commissioners of the District of Columbia there is a provision which would send a man of any race to jail for as much as 10 days and subject him to a fine of as much as $300 if he exercised the right of freedom of speech to try to persuade a person to sell property to a person of the race of the speaker rather than to a person of another race?

Mr. ELLENDER. The Senator is correct.

Mr. ERVIN. Does not the Senator from Louisiana believe that that regulation is a direct violation of the provisions of the first amendment giving Americans the right of freedom of speech?

Mr. ELLENDER. There is no doubt about it. I presented instances that were similar, but not exactly the same, when I discussed the first amendment. I cited quite a number of cases showing how certain provisions of the proposed act would violate that amendment.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that the pending bill represents the most drastic assault upon the freedom of individuals ever embodied in any legislative proposal presented to any American Congress?

Mr. ELLENDER. I have been in Congress for 28 years. Every session of Congress during that time has been confronted with so-called civil rights bills. Never has one been presented that is so drastic as the one we are now considering. There is no doubt in my own mind that if a bill of this character is enacted we may as well dress the Goddess of Freedom that stands on the Capitol dome in a black crape, because it will mean the loss of liberty for the people of this country.

Mr. ERVIN. Does not the Senator from Louisiana believe that if this bill should be enacted into law, this country would be more accurately described as "the land of the regimented and the home of the coerced," than it is now described in "The Star Spangled Banner"—that is, as "the land of the free and the home of the brave"? Does not the Senator think such designation would be more in harmony with the provisions of the bill?

Mr. ELLENDER. I am sure that description would apply in many cases. I do not believe the bill has received the attention it should have had by the House of Representatives, and should have by the Senate. The proponents of the bill did all they could to prevent the bill from going to a committee so it could be studied there. What is before the Senate today is a bill that was drafted more or less in secrecy. It was presented to the Judiciary Committee of the House of Representatives. No member of the committee was permitted to debate it or even to offer an amendment to the bill. It did not receive the consideration that is usual for proposals to be enacted by the Congress.

That is why today we from the South are trying to pinpoint some of the provisions which would deny to American citizens of all races rights guaranteed by the

Constitution and the amendments to the Constitution.

The bill would make a farce of freedom. As has often been stated during the debate, some of the proponents of the bill are so anxious to try to assist the minority race, the Negroes, that they are willing to run roughshod over our Constitution and the laws passed in pursuance of it.

No adequate consideration has been given to the bill. That is why it has been my belief that the bill should be debated, so that the people of the country might know what is in it. If the bill passes and efforts are made by the Civil Rights Commission, which it would continue in existence and create new agencies, the long arm of the Federal Government would extend into North Carolina, South Carolina, New York, California, and other States.

As I pointed out a while ago, many misguided Negroes say, "Give us this bill, and everything will be fine." But the Senator from North Carolina well knows that before the bill is put into effect, it will have to go to court, and that will take a great deal of time. I venture to say that if the bill is enacted, there will be more Negroes doing what was done today in New York, namely, placing themselves on the subway tracks, in order to show the world that they need this law, that Congress is slow in acting on it, and that the State of New York is slow in giving them the rights which they deserve. If, as, and when the bill is enacted into law as written, and signed by the President, if enforcement is tried, it will soon be found that it is not what it is supposed to be. Those who advocate the bill, including many preachers who believe that Congress is under a moral obligation to enact it, will soon wake up in time to realize the implications involved in the passage of such legislation.

The bill has not been given enough thought. The proponents believe that only a moral right is involved.

As I have stated on many occasions, if we continue to trample on the sacred rights provided in the Constitution and the Bill of Rights all citizens will soon be dictated to from Washington; and in time a strong, centralized government will be empowered to do many things which will take away their cherished liberties, which were provided and protected by the Founding Fathers.

Mr. ERVIN. Does not the Senator from Louisiana agree with the Senator from North Carolina that many people who advocate passage of the bill overlook entirely the fact that Congress is not authorized to legislate morals, but is authorized only to enact such legislation as the Constitution of the United States authorizes it to enact?

Mr. ELLENDER. There is no doubt about that. I believe that is the position taken by the people who are parading all around—especially church people—rabbies, priests, and clergymen. If they would only sit down and seriously study the bill and have someone explain to them what its implications are, they might not be so eager to have such a bill enacted into law. But the trouble is, they do not fully understand the implications of this bill, nor the legal system under which our Government functions.

Mr. ERVIN. Was it not supposed to be a moral duty that induced Abraham to take his son Isaac out into the wilderness and attempt to offer him as a human sacrifice?

Mr. ELLENDER. The Senator is correct.

Mr. ERVIN. Does not the Senator from Louisiana agree with me that what these people, in effect, are asking as a supposed moral duty is for the Congress to sacrifice the Constitution of the United States, which is the only security we have for the rights of all our citizens?

Mr. ELLENDER. There is no doubt about it. In my opinion, many Senators who are advocating and may vote for the bill will rue the day they did so.

We now come to amendment VI, which was ably debated today by the Senator from Arkansas [Mr. FULBRIGHT], and last night by the distinguished Senator from Georgia [Mr. TALMADGE].

### AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The right to a trial by jury and to be confronted by accusing witnesses is taken away from American citizens by section 204 of title II which states:

> Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order or other order may be instituted by the person aggrieved, or by the Attorney General for or in the name of the United States.

This provision of title II is government by injunction and takes away the rights of citizens in criminal cases. By the device of an injunction a citizen can be arrested and placed in prison for violation of the injunction without having ever been tried by a jury or confronted by his accusers.

Section 204 states that this injunction can be obtained whenever there is "reasonable grounds to believe that any person is about to engaged in any act" of discrimination. How can you determine when someone is about to engage in an act of discrimination? In criminal law, there are standards which have developed for over 200 years in determining when a person is guilty of an "attempted crime," but here, there is no indication of what would constitute "reasonable grounds to believe" that a person is about to engage in an act of discrimination.

Section 707 of the title VII—equal employment—also violates the sixth amendment to the Constitution in that it denies the right of employers who are accused of discrimination in hiring, firing, and promotion to a trial by jury.

The equity powers of the U.S. courts have been expanded in recent years to far too great a scope. Originally equity jurisdiction was given to courts because of the unnatural restrictions upon the common law caused by the old English writs. In 17th century England, there was sufficient reason to create extralegal remedies, but in this day and age, there is no such justification. Even today, the rule normally is that a person must show that he will suffer an irreparable injury before he is entitled to injunctive relief. But under the provisions of the so-called civil rights bill, injunctions can be obtained merely on information and belief and without any showing that irreparable injury will be sustained. In fact, title II states that if a person thinks he is about to be discriminated against, he can obtain an injunction against his fellow citizen.

We have always attempted in this country to make law and justice coextensive, but this unwarranted extension of injunctive power of the court is neither law nor justice.

Many cases which have been decided by the Supreme Court acknowledge the witness' right to a trial by jury in criminal cases.

It is not my purpose to read from many of these cases, but I would like to quote from a few. It might be pertinent at this point to define trial by jury.

In the case of *Patton* v. *United States*, 281 U.S. ——, the Court said:

> We first inquire what is embraced by the phrase "trial by jury." That it means a trial by jury as understood and applied at common law, and includes all the essential elements as they were recognized in this country and England when the Constitution was adopted, is not open to question. Those elements were (1) that the jury should consist of 12 men, neither more nor less; (2) that the trial should be in the presence and under the superintendence of a judge having power to instruct them as to the law and advise them in respect of the facts; and (3) that the verdict should be unanimous.

I shall read extracts from a few cases in order to supplement in a measure what was done by the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Georgia [Mr. TALMADGE]. In the case of *In re Oliver*, 333 U.S. 257, decided in 1948, Oliver was called as a witness to testify before a one-man grand jury, which was conducting its secret investigation. The judge constituted the whole grand jury and in the midst of Oliver's testimony, the proceedings abruptly changed and the investigation became a trial. Oliver was accused of perjury because of some testimony that had been given by a previous witness, all in secret. He was immediately placed in jail for contempt of court and on his appeal to the Supreme Court, the decision was reversed and the Court said in part:

> We further hold that failure to afford the petitioner a reasonable opportunity to defend himself against the charge of false and evasive swearing was a denial of due process of law. A person's right to reasonable notice of a charge against him, and an opportunity to be heard in his defense—a right to his day in court—are basic in our system of jurisprudence; and these rights include, as a minimum, a right to examine the witnesses

> against him, to offer testimony, and to be represented by counsel. Michigan, not denying the existence of these rights in criminal cases generally, apparently concedes that the summary conviction here would have been a denial of procedural due process but for the nature of the charge, namely, a contempt of court, committed, the State urges, in the court's actual presence.
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> It is true that courts have long exercised a power summarily to punish certain conduct committed in open court without notice, testimony or hearing. *Ex parte Terry*, 128 U.S. 289, was such a case. There Terry committed assault on the marshal who was at the moment removing a heckler from the courtroom. The "violence and misconduct" of both the heckler and the marshal's assailant occurred within the "personal view" of the judge, "under his own eye," and actually interrupted the trial of a cause then underway. This Court held that under such circumstances a judge has power to punish an offender at once, without notice and without hearing, although his conduct may also be punishable as a criminal offense. This Court reached its conclusion because it believed that a court's business could not be conducted unless it could suppress disturbances within the courtroom by immediate punishment. However, this Court recognized that such departure from the accepted standards of due process was capable of grave abuses, and for that reason gave no encouragement to its expansion beyond the suppression and punishment of the court-disrupting misconduct which alone justified its exercise. Indeed in the Terry case the Court cited with approval its decision in *Anderson* v. *Dunn*, 6 Wheat. 204, which had marked the limits of contempt authority in general as being "the least possible power adequate to the end proposed." Id. at 231. And see *In re Michael*, 326 U.S. 224, 227.
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> That the holding in the Terry case is not to be considered as an unlimited abandonment of the basic due process procedural safeguards, even in contempt cases, was spelled out with emphatic language in *Cooke* v. *United States*, 267 U.S. 517, a contempt case arising in a Federal district court. There it was pointed out that for a court to exercise the extraordinary but narrowly limited power to punish for contempt without adequate notice and opportunity to be heard, the court-disturbing misconduct must not only occur in the court's immediate presence, but that the judge must have personal knowledge of it acquired by his own observation of the contemptuous conduct. This court said that knowledge acquired from the testimony of others, or even from the confession of the accused, would not justify conviction without a trial in which there was an opportunity for defense. Furthermore, the court explained the Terry rule as reaching only such conduct as created "an open threat to the orderly procedure of the court and such a flagrant defiance of the person and presence of the judge before the public" that, if "not instantly suppressed and punished, demoralization of the court's authority will follow." Id. at 536.
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> Except for a narrowly limited category of contempts, due process of law as explained in the Cooke case requires that one charged with contempt of court be advised of the charges against him, have a reasonable opportunity to meet them by way of defense or explanation, have the right to be represented by counsel, and have a chance to testify and call other witnesses in his behalf, either by way of defense or explanation. The narrow exception to these due process requirements includes only charges of misconduct, in open court, in the presence of the judge, which disturbs the court's business, where all of the essential elements of the misconduct are under the eye of the court, are actually observed by the court, and where immediate punishment is essential to prevent "demoralization of the court's authority" before the public. If some essential elements of the offense are not personally observed by the judge, so that he must depend upon statements made by others for his knowledge about these essential elements, due process requires, according to the Cooke case, that the accused be accorded notice and a fair hearing as above set out.
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> The facts shown by this record put this case outside the narrow category of cases that can be punished as contempt without notice, hearing, and counsel. Since the petitioner's alleged misconduct all occurred in secret, there could be no possibility of a demoralization of the court's authority before the public. Furthermore, the answer of the judge-grand jury to the petition for habeas corpus showed that his conclusion that the petitioner had testified falsely was based, at lease in part, upon the testimony given before him by one or more witnesses other than petitioner. Petitioner and one Hartley both testified the same day; both were pinball machine operators; both had bought or had in their possession certain so-called bonds purchased from one Mitchell; both were sent to jail for contempt the same day. *In re Hartley* (317 Mich. 441, 27 N.W. 2d 48). The judge-grand jury pressed both petitioner and Hartley to state why they bought bonds which were patently worthless. The petitioner was also repeatedly asked what he had done with the worthless bonds. He answered every question asked him, according to the fragmentary portions of his testimony reported to the Michigan Supreme Court, most of which is included in that court's opinion. He steadfastly denied that he knew precisely what he had done with the worthless bonds, but made several different statements as to how he might have disposed of them, such as that he might have thrown them into the wastebasket, or trash can, or might have burned them.
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> In upholding the judge-grand jury's conclusion that petitioner had testified falsely and evasively, the majority of the Michigan Supreme Court gave as one reason a statement in the judge-grand jury's answer "that the grand jury, after investigation, is satisfied that the bonds sold by the said Carman A. Mitchell to the said William D. Oliver are the same as those sold by the said Carman A. Mitchell to Leo Thomas Hartley." Nothing in the petitioner's testimony as reported could have remotely justified the judge-jury in drawing such a conclusion. The judge-jury was obviously appraising the truth of Oliver's testimony in light of testimony given the same day in petitioner's absence by Hartley and possibly by other witnesses. The Terry case and others like it provide no support for sustaining petitioner's conviction of contempt of court upon testimony given in petitioner's absence. This case would be like the Terry case only if the judge there had not personally witnessed Terry's assault upon the marshal but had nevertheless sent him to jail for contempt of court after hearing the testimony of witnesses against Terry in Terry's absence. It may be conceivable, as is here urged, that a judge can under some circumstances correctly detect falsity and evasiveness from simply listening to a witness testify. But this is plainly not a case in which the finding of falsity rested on an exercise of this alleged power. For this reason we need not pass on the question argued in the briefs whether a judge can, consistently with procedural due process, convict a witness of testifying falsely and evasively solely on the judge's ability to detect it from merely observing a witness and hearing him testify.
>
> Nor is there any reason suggested why "demoralization of the court's authority" would have resulted from giving the petitioner a reasonable opportunity to appear and offer a defense in open court to a charge of perjury or to the charge of contempt. The traditional grand juries have never punished contempts. The practice that has always been followed with recalcitrant grand jury witnesses is to take them into open court, and that practice, consistent with due process, has not demoralized the authority of courts. Reported cases reveal no instances in which witnesses believed by grand juries on the basis of other testimony to be perjurers have been convicted for contempt, or for perjury, without notice of the specific charges against them, and opportunity to prepare a defense, to obtain counsel, to cross-examine the witnesses against them and to offer evidence in their own defense. The right to be heard in open court before one is condemned is too valuable to be whittled away under the guise of "demoralization of the court's authority."
>
> It is "the law of the land" that no man's life, liberty, or property be forfeited as a punishment until there has been a charge fairly made and fairly tried in a public tribunal. See *Chambers* v. *Florida*, 309 U.S. 227, 236–237. The petitioner was convicted without that kind of trial.
>
> The judgment of the Supreme Court of Michigan is reversed and the cause is remanded to it for disposition not inconsistent with this opinion.

Madam President, that is a clear case which is still the law. The bill before the Senate would do violence to that case as well as to the amendment I have just cited.

> AMENDMENT VII
>
> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

If the framers of the Constitution felt that a controversy which amounted to $20 or more entitled a citizen to a trial by jury, how can Congress be asked to deny this same trial by jury to a citizen who could be imprisoned if found guilty of violating the so-called civil rights bill?

I should like to read a few paragraphs from the case of *Dimick* v. *Schiedt*, 293 U.S. 474. This was a civil suit in which the plaintiff got an award for damages in a personal injury case. The award made by the jury was considered insufficient and the Federal district judge entered an order raising the amount with the consent of the defendant, which amount was still considered inadequate by the plaintiff.

The issue involved the right of a jury trial to determine the amount of the damages as expressed in the seventh amendment.

The court in upholding Dimick's right to a jury determination of this issue, stated in part:

> The controlling distinction between the power of the court and that of the jury is that the former is the power to determine the law and the latter to determine the facts. In dealing with questions like the one now under consideration, that distinction must be borne steadily in mind. Where the verdict returned by a jury is palpably and grossly inadequate or excessive, it should not be permitted to stand; but, in that event, both parties remain entitled, as they were entitled in the first instance, to have a jury properly determine the question of liability and the extent of the injury by an assessment of damages. Both are questions of fact. Where the verdict is excessive, the practice of substituting a remission of the excess for a new trial is not without plausible support in the view that what remains is included in the verdict along with the

> unlawful excess—in that sense that it has been found by the jury—and that the remittitur has the effect of merely lopping off an excrescence. But where the verdict is too small, an increase by the court is a bald addition of something which in no sense can be said to be included in the verdict. When, therefore, the trial court here found that the damages awarded by the jury were so inadequate as to entitle plaintiff to a new trial, how can it be held, with any semblance of reason, that that court, with the consent of the defendant only, may, by assessing an additional amount of damages, bring the constitutional right of the plaintiff to a jury trial to an end in respect of a matter of fact which no jury has ever passed upon either explicitly or by implication? To so hold is obviously to compel the plaintiff to forgo his constitutional right to the verdict of a jury and accept "an assessment partly made by a jury which has acted improperly, and partly by a tribunal which has no power to assess."
>
> It is said that the common law is susceptible of growth and adaptation to new circumstances and situations, and that the courts have power to declare and effectuate what is the present rule in respect of a given subject without regard to the old rule; and some attempt is made to apply that principle here. The common law is not immutable, but flexible, and upon its own principles adapts itself to varying conditions. We are dealing with a constitutional provision which has in effect adopted the rules of the common law, in respect of trial by jury, as these rules existed in 1791. To effectuate any change in these rules is not to deal with the common law, qua common law, but to alter the Constitution. The distinction is fundamental, and has been clearly pointed out by Judge Cooley in 1 Const. Limitations, 8th ed., 124.

### AMENDMENT VIII

Mr. President (Mr. WALTERS in the chair), we now come to the eighth amendment:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

This amendment of the Bill of Rights would appear to have no direct relation to the so-called "civil rights" bill; however, I do think that it expresses the fine legal traditions and spirit of American law which are violated by titles II and VII of the bill. The requirements in those titles of compulsion by injunction and the requirement of maintaining voluminous records by employers, labor unions, and employment agencies cuts into the spirit of the eighth amendment which is in reality a pronouncement against governmental excess.

The following cases decided by the Supreme Court relate to the true civil rights of American citizens, as defined by this amendment:

*Stack* v. *Boyle,* 342 U.S. 1 (1951) (bail). See also *Carlson* v. *Landon,* 342 U.S. 529 (1952). *Louisiana ex rel. Francis* v. *Resweber,* 329 U.S. 459 (1947); *Wilkerson* v. *Utah,* 99 U.S. 130 (1879); *Weems* v. *United States,* 217 U.S. 349 (1910) (cruel and unusual punishment).

### AMENDMENT IX

We now come to the more or less forgotten ninth amendment:

> The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

This amendment to the Constitution has been regarded as a policy statement to forestall the possibility of misinterpretation of the rest of the Constitution. It has been sadly neglected by the Federal Government. The so-called "civil rights" bill is in direct contravention of the ninth amendment. This bill does, without doubt, disparage the other rights of citizens of the United States which are not enumerated, as well as those which I have already discussed. The potentials of this amendment are fully discussed in the book entitled "The Forgotten Ninth Amendment," a treatise by Bennett B. Patterson, of the Texas bar. I mention this book because the civil rights of American citizens are more numerous than those listed in the first 10 amendments to the Constitution.

I wish to quote a few paragraphs from the treatise by Mr. Patterson:

> Our thesis is that human rights which are not enumerated in the Constitution will be revealed and become apparent in the future, and it is within the spirit of the Constitution, and the letter of the ninth amendment, that these rights should be recognized and protected.
>
> Some of the rights may now be making their appearance.
>
> The right of privacy may be such a right. If there is such a right, it is difficult to classify it under any right that is enumerated in the Constitution. This is a right which is of comparatively recent recognition. Some courts call it a fundamental right. While the courts seem to feel that it should exist, there is a great timidity and lack of forthrightness in the protection of this right, because its existence is not to be found in the written and enumerated law.
>
> There are many questions surrounding our labor problems that might appropriately come under the classification of rights of natural endowment. Do men have a natural or inherent right to strike? Does an employer have the right or privilege to choose those whom he desires as employees, or can such employer be forced to employ against his will? Is there a fundamental right to work?
>
> Such rights are not discussed in any clause of the Constitution, but if such rights exist, shall they be denied simply because they are not enumerated?
>
> Another possible inherent right is the right to participate in government. This includes the right to have votes counted. The clause insuring to the States a republican form of government has not been effectively interpreted so as to save our States or the various subdivisions and municipalities in our States from virtual dictatorships in matters of franchise and elections, and even the operation and management of government on a few occasions. It may be possible that the ninth amendment is a means of insuring the voters in any subdivision of government against the virtual destruction of his franchise and right to participate in government, through fraudulent elections and the usurpation of dictatorial powers by the executive branch of the Government.
>
> There are, no doubt, many other rights of natural endowment that have already become apparent to those who possess a richer experience than the writer. We are content if we have established the ninth amendment as embodying a living philosophy, and helped the law of human rights to be given an opportunity to grow as other sciences have grown.
>
> We believe that the law should grow, and our Constitution should be interpreted in the light of current history, as was stated by one of the eminent courts of last resort of one of the States:
>
> "The law should be construed in reference to the habits of business prevalent in the country at the time it was enacted. The law was not made to create or shape the habits of business, but to regulate them, as then known to exist."
>
> There must be some unenumerated rights. The amendment must be given some meaning. Its value and meaning should not be lost through disuse. This amendment can only be saved by our courts.
>
> #### CHAPTER 8—THIS AMENDMENT PROTECTS PERSONAL RIGHTS AND LIBERTIES RATHER THAN PUBLIC OR COLLECTIVE RIGHTS
>
> In any republican form of government each citizen possesses a dual investiture of rights. The citizen, in fact, possesses a dual civic nature. First, he possesses his fundamental or inherent rights of natural endowment. Secondly, as a member of the public, he possesses public rights which he holds collectively with other citizens. He thus has a private self as well as a public self. Or, we might otherwise say he consists of a private and a governmental self. There is, of course, a conflict between these dual personalities. This conflict is because of the fact that any form of government must necessarily be a restraint on individual liberty.
>
> Therefore, any democratic form of government must have dual systems of restraints which protect the public interest, and at the same time preserve the liberty of the individual.
>
> As we have heretofore pointed out, the ever-present danger in a democracy is the power of the majority to overemphasize the importance of our collective rights and security, and thus permit our individual selves to become the captives of our public selves.
>
> The "general welfare" clause in the preamble to the Constitution is a provision of general meaning and inclusiveness. This clause is a guarantee of the protection of our public rights and interests whether they are specifically enumerated in the Constitution or not. The enumeration in the Constitution of certain public rights and interests shall not be construed to deny or disparage other unenumerated public rights and interests. This is the guarantee of the "general welfare" clause.
>
> The ninth amendment in the Constitution is the counterpart of the "general welfare" clause. It protects the individual in the same manner that the general welfare clause protects the public.
>
> The entire context of the ninth amendment, and its historic background, definitely prove that it was intended solely as a protection of our unenumerated personal rights as individuals as distinguished from our public or collective rights. This concept is necessary to maintain an even balance in the Constitution.
>
> We can conceive that there is a possibility that this great declaration of individual liberty might be distorted into support for the advocacy of extreme socialism, such as the right to food, housing, medicine, etc. If, however, the amendment should be used by either the legislative or judicial branches of our Government as the basis of such a public right, then it would be taken out of its natural meaning and setting. The individual Bill of Rights would be distorted into a public Bill of Rights.
>
> It is well for us to review, and keep before us, the proper relationship between Government and individual liberty. This Nation began with the cardinal principle that individual liberty is paramount, and can only be limited by public necessity. The burden was upon those who claimed public necessity to establish it. In some manner or other, the rule now seems to be changed, and in conflicts between the individual and Government, there is a presumption in favor of public necessity when weighed in the balances with individual liberty. Government has grown immense, and the national planning covers immense projects with collective social results as the final goal. We

have in a large measure lost sight of the individual except as he is carried along as a part of mass projects.

This is not what individual freedom means in the least, and we seem to somewhat have lost the identity of the religious, spiritual, and noble principles upon which this Government was founded.

The founders of this Government understood to a greater degree the distinction between sovereignty and government that we understand it today. In 1789 most men were political scientists. They were political scientists because they lived in an age when political science was one of the great cultures of the time. It was an age of unselfish giants among whom patriotism was taken for granted.

The attitude of the Founding Fathers is well expressed by Dr. C. Edward Merriam in his treatise entitled "American Political Theories" (1906) from which we quote as follows:

"In the formation of State governments, the doctrine of delegated powers was everywhere prevalent. Assuming that the people were, originally, and continue to be the only source of political power, it follows that all governmental authority is only delegated by the people and is held in trust for them. Governmental authority has no inherent force in itself; it is not the creator, but the creature; it is not the master, nor even the partner of the people, but their agent or servant; it acts in the name of and in behalf of some one else and not for itself. Not only is government the servant of the people, but it is an untrustworthy and unreliable servant. It cannot be given a free hand in caring for the affairs of its master; on the contrary, it must be limited in many ways; it must be checked at every possible point; it must be at all times under suspicion. Otherwise, it will cease to be servant and take the place of master. Too much emphasis cannot well be laid upon the fear which the 'Fathers' had of government. To them the great lesson of history was, that government always tends to become oppressive, and that is the greatest foe of individual liberty." (Pages 76 and 77.)

In *Poindexter* v. *Greenhow* (1885), 114 U.S. 270, 29 Law Ed. 185, the Supreme Court of the United States speaking through Mr. Justice Matthews again reaffirmed these great principles in the following language:

"The State itself is an ideal person, intangible, invisible, immutable. The government is an agent, and, within the sphere of the agency, a perfect representative; but outside of that it is lawless usurpation. The Constitution of the State is the limit of the authority of its government, and both government and State are subject to the supremacy of the Constitution of the United States and of the laws made in pursuance thereof. So that, while it is true in respect to the government of a State, as was said in *Langford* v. *U.S.*, 101 U.S. 341 (Bk. 25 L. Ed. 1010), that the maxim that the King can do no wrong has no place in our system of government; yet it is also true, in respect to the State itself, that whatever wrong is attempted in its name is imputable to its government and not to the State, for, as it can speak and act only by law, whatever it does say and do must be lawful. That which, therefore, is unlawful because made so by the supreme law, the Constitution of the United States, is not the word or deed of the State, but is the mere wrong and trespass of those individual persons who falsely speak and act in its name.

"This distinction is essential to the idea of constitutional government. To deny it or blot it out obliterates the line of demarcation that separates constitutional government from absolutism, free self-government based on the sovereignty of the people, from that despotism, whether of the one or the many, which enables the agent of the State to declare and decree that he is the State—to say 'L'Etat, c'est moi.' Of what avail are written constitutions, whose bills of right for the security of individual liberty have been written, too often, with the blood of martyrs shed upon the battlefield and the scaffold, if their limitations and restraints upon power may be overpassed with impunity by the very agencies created and appointed to guard, defend and enforce them; and that, too, with the sacred authority of law, not only compelling obedience, but entitled to respect? And how else can these principles of individual liberty and right be maintained, if, when violated, the judicial tribunals are forbidden to visit penalties upon individual offenders, who are the instruments of wrong, whenever they interpose the shield of the State? The doctrine is not to be tolerated. The whole frame and scheme of the political institutions of this country, State and Federal, protest against it. Their continued existence is not compatible with it. It is the doctrine of absolutism, pure, simple and naked; and of communism, which is the twin; the double progeny of the same evil birth."

However, beginning about the date of this decision, or shortly thereafter, there has been a great change in the thinking of our people with respect to the proper relation of government to the individual. Our people, our executives, our legislators, and in many instances our courts, have often come to the point where liberty means the lack of restraint upon the masses of our people, to the extent that any proposal which purports to advance the welfare of the public, or a part of the public, is paramount and justifiable, even though it may impose upon individual liberty. The results which are sought to be accomplished have frequently been used to justify the means of accomplishment. Our individual liberties are in danger of being overwhelmed by public necessities. The trend is now toward expediency, and our executives, administrative bodies, legislatures, and even our courts have been able to rationalize and justify almost any measure which the general public demands, under the theory that it is for the general welfare and common good. This has in a large measure been to the disparagement of private rights and individual genius.

After almost two centuries under our form of government, we are reaching its greatest test. Can we preserve our individual genius and freedom against the demands of our public selves? Will we lose entirely the line of demarcation between private rights and public necessity? Will we ultimately destroy the Constitution and our form of government through the process of gradual attrition without even a constitutional amendment? The question is best stated by Everett Dean Martin in his volume entitled "Liberty" (1930) as follows:

"One hundred years ago the struggle for liberty was a struggle of the average individual against the tyranny of a nobility, a monarchy, a priesthood. Now the enemy of liberty seems to be the crowd itself, operating through the instrumentalities of the Machine Age and its social organization. If this view is correct, then the problem of liberty must be recast in new terms of social psychology. It becomes a challenge to men to understand themselves and to master themselves in new ways in order that they may retain some vestige of their inherited freedom.

"The psychological fact is that to the mass of men, acting as a whole, liberty is primarily the removal of restraint on crowd behavior, and what crowds call liberty is not liberty for the individual; it is liberty for the crowd to act without considering the results of its behavior on other people.

"The old struggle for liberty was, as has been pointed out, a struggle of common men against a sovereign. For several hundreds of years that struggle went on. Every clause in our Bill of Rights, every right that we enjoy was wrung from an unwilling sovereign who sought to impose his will upon the people. When the sovereign is no longer a king but the sovereign people itself, the situation is entirely changed. When the mass becomes sovereign it immediately announces: The voice of the people is the voice of God; and, The people can do no wrong! There is no longer the same reason for protecting the individual against the sovereign when the sovereign happens to be ourselves acting as Mass. The question is, how are we going to protect the personal self of ourselves against the public self of everybody?" (Pp. 9 and 10.)

Whenever we lose the distinction between individual liberty and the necessities of the general welfare, the virtue of our form of government is lost, and we have nothing but the worst form of tyranny, which is a despotism imposed by the force of and under the name of the people themselves. We will have, then, nothing that is preferable to any other form of tyranny or despotism elsewhere.

It would be a wise thing now for all of the people of the United States, and particularly those who serve as our representatives in a legislative capacity, to again at this time reexamine the real meaning of liberty, and to reexamine their philosophy of government, and see whether or not we have departed substantially from the basic principles of the democratic process given to us by the founders of this Government.

That is a good admonition which should be followed by many Senators.

It is now time for the people of our generation to again become political scientists. It is now a proper time for a widespread revival of interest in representative and constitutional government, and to learn that individual freedom is the basis of democracy, and that individualism is of equal importance with the public welfare.

We should realize the danger in a public bill of rights, because a public bill of rights implies that there is a duty and obligation upon others, or upon the public, to fulfill the demands and necessities included. This is just another way of advocating collectivism, which is the complete opposite of anything which our individual Bill of Rights advocates.

We believe with Woodrow Wilson that "Liberty has never come from the Government. * * * The history of liberty is the history of the limitation of governmental power, not the increase of it."

We believe that a careful study and analysis of the meaning of the ninth amendment will be helpful when the time comes for the casting of our ballots in appraising the issues of the day and in determining whether any proposal is in keeping with the true principles of a republican form of government.

I advise my colleagues to read these excerpts from "The Forgotten Ninth Amendment," by Mr. Patterson, a lawyer from the great State of Texas. I am sure that it will do much good if the advice he gives us in the few paragraphs which I have read is followed.

Mr. President, we now come to the 10th amendment. This amendment was demanded by the Thirteen Original States. It provides that the powers granted to the Federal Government in the Constitution should be the only powers of the Central Government, and that all other powers should be retained by the States and by the people.

The amendment reads as follows:

### AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The so-called civil rights bill unquestionably abridges and infringes upon the 10th amendment. Almost every title of that bill invades the residual powers of the States and causes the erosion of our Federal system to a greater degree probably than any other single piece of legislation. Since the War Between the States, the 10th amendment has been treated as the stepchild of the Constitution and in its place has been inserted the foundling doctrine of abject equality.

Title I of the so-called civil rights bill would take away the right of the States to determine voter qualifications, the right of the States to determine literacy requirements, and the right of the States to conduct their own voter registration and elections.

Title II of the pending bill would take away the police power of the State to regulate local business and commerce.

Title 3 of the bill would take away from the States all their rights to regulate and control their own public facilities and leave them nothing but the bare responsibility and burden of operating such facilities.

Title 4 would take away from the States the right to operate their own educational systems, and place agents of the Federal bureaus as overseers of such systems of education. The States would be left with nothing but the burden of expense and responsibility for the bare operation of the school system. This title of the bill would, by way of grants, induce schoolteachers and school personnel to conform to the dictates of Federal commissioners.

Title 5 of the bill would take away from the States the trust and confidence in their ability to treat their citizens with dignity and fairness.

Title 6 would take away from the States badly needed funds necessary to operate the many services required by American citizens.

The Federal Government soaks up most of the taxes in the United States and this title would permit a department or bureau head to cut off that part of the taxes which are returned to the States.

Title 7 would take away the police power of the State to regulate employment relations of citizens of the State.

As badly as these provisions affect and abridge the 10th amendment, I sincerely believe that the personal rights of American citizens are affected more. The true civil rights of individuals in this country would not merely be eroded but would be twisted and distorted beyond recognition.

It has been a long way from the 12 Tables, the Institutes of Justinian, the Magna Charta of Runnymede, and the adoption of the Bill of Rights. If the so-called civil rights bill is adopted, it will go a long way toward destroying this legal heritage.

As I previously stated, before I began to discuss the first 10 amendments, I indicated why the States were so anxious to retain their own sovereignty. As times goes on, this sovereignty is becoming more and more eroded by the Federal Government. We in Congress are responsible for much of the erosion. I am hopeful that the quotation that I read from the book by Mr. Patterson on the "Forgotten Ninth Amendment" will be read by Senators, and that the views expressed by him will impress them. If Senators do that, it is my belief that they may have a change of heart.

I shall now discuss another very important amendment, one that has been passed upon by the courts on many occasions, and one which, it was stated, was not legally adopted under the Constitution. But I shall not discuss that phase of the 14th amendment at this time.

### FOURTEENTH AMENDMENT

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

### I. CITIZENSHIP

The first part of section I provides that persons born or naturalized in the United States are citizens of the United States and of the State where they live. This was included in the constitutional amendment to get around the ruling by the Supreme Court in the famous Dred Scott decision (*Scott* v. *Sanford*, 19 How. 393, 1857) which had ruled that the Negro was ineligible to attain U.S. citizenship either from a State or by virtue of birth in the United States, even as a freeman descended from a Negro residing as a freeman in one of the States at the date of ratification of the Constitution. That basic document did not contemplate the possibility of Negro citizenship, according to Chief Justice Taney.

With the ratification of the 14th amendment a distinction between citizenship of the United States and citizenship of a State was clearly recognized and established. In the *Slaughter-House* cases (16 Wall. 36, 74, 1873) the Court held:

Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union. It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.

National citizenship was not created by this amendment, but was made "paramount and dominant."

### II. PRIVILEGES AND IMMUNITIES

The "privileges and immunities" clause of the 14th amendment was given a limited interpretation by the Supreme Court, and rightly so, in the *Slaughter-House* cases (16 Wall. 36, 1873).

The facts of the case were that the carpetbag legislature of Louisiana granted a monopoly on the operation of slaughterhouses in the Parishes of Orleans, Jefferson, and St. Bernard to a corporation created by it.

Various members of the Butchers' Association brought these suits to have the act of the legislature creating this monopoly declared unconstitutional on the grounds that it violated the due process clause of the 14th amendment and the privilege and immunities clause of the same amendment. The Supreme Court upheld the State statute and made comments about the 14th amendent which I shall read in a moment.

I shall not try to discuss the validity of the Slaughter-House cases, but if such cases were again to come before the Supreme Court no doubt a different view would be taken by the Court on the merits. I do not like to say this, but it was my judgment, after reading the cases many times, even when I was studying law at college, that the decision was wrong. In my judgment, it was doubtless made because the law had been enacted by the carpetbaggers. I will not say that there was direct collusion between the carpetbaggers and the Supreme Court, but there may have been some connection. This decision, to my way of thinking, was completely erroneous on the merits, but does adequately define the "equal protection" clause of the 14th amendment. I read from the opinion of the Supreme Court in the Slaughter-House cases:

Having shown that the privileges and immunities relied on in the argument are those which belong to citizens of the States as such, and that they are left to the State governments for security and protection, and not by this article placed under the special care of the Federal government, we may hold ourselves excused from defining the privileges and immunities of citizens of the United States which no State can abridge, until some case involving those privileges may make it necessary to do so.

But lest it should be said that no such privileges and immunities are to be found if those we have been considering are excluded, we venture to suggest some which owe their existence to the Federal government, its National character, its Constitution, or its laws.

> One of these is well described in the case of *Crandall* v. *Nevada*. It is said to be the right of the citizen of this great country, protected by implied guarantees of its Constitution, "to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions. He has the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the subtreasuries, land offices, and courts of justice in the several States."
>
> Unquestionably this has given great force to the argument, and added largely to the number of those who believe in the necessity of a strong National government.
>
> But, however pervading this sentiment, and however it may have contributed to the adoption of the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war, our statesmen have still believed that the existence of the States with powers for domestic and local government, including the regulation of civil rights—the rights of person and of property—was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States, and to confer additional power on that of the Nation.
>
> But whatever fluctuations may be seen in the history of public opinion on this subject during the period of our national existence, we think it will be found that this court, so far as its functions required, has always held with a steady and an even hand the balance between State and Federal power, and we trust that such may continue to be the history of its relation to that subject so long as it shall have duties to perform which demand of it a construction of the Constitution, or of any of its parts.

Mr. President, the Court frustrated the aims of the most aggressive sponsors of this clause, to whom was attributed an intention to centralize in the hands of the Federal Government large powers hitherto exercised by the States.

This expansive alteration of the Federal system was to have been achieved by converting the rights of the citizens of each State as of the date of the adoption of the 14th amendment into privileges and immunities of U.S. citizenship and thereafter perpetuating this newly defined status quo through judicial condemnation of any State law challenged as "abridging" any one of the latter privileges.

To have fostered such intentions, the Court declared, would have been "to transfer the security and protection of all the civil rights to the Federal Government, to bring within the power of the Congress the entire domain of civil rights heretofore belonging to the States exclusively," and to "constitute this Court a perpetual censor upon all legislation of the States, on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights, as they existed at the time of the adoption of this amendment—the effect of—so great a departure from the structure and spirit of our institutions is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character. We are convinced that no such results were intended by the Congress, nor by the legislatures, which ratified" this amendment and that the sole "pervading purpose" of this and the other war amendments was the "freedom of the slave race." This is what the Court had to say in the Slaughter-House cases.

It went on further to state to the New Orleans butchers that the Louisiana statute conferring on a single corporation a monopoly of the business of slaughtering cattle abrogated no rights possessed by them as U.S. citizens and that insofar as that law interfered with their claimed privilege of pursuing the lawful calling of butchering animals, the privilege thus terminated was merely one of "those which belong to the citizens of the States as such, and that these had been left to the State governments for security and protection and had not been by this clause placed under the special care of the Federal Government." The only privileges which the latter clause expressly protected against State encroachment were declared to be those "which owe their existence to the Federal Government, its national character, its Constitution, or its laws."

The Court has been reluctant to say what are privileges and immunities of U.S. citizens but in the Slaughter-House cases it did enumerate some; to wit, the right of access to the seat of government, and to the seaports, subtreasuries, land offices, and courts of justice in the several States; right to demand protection of the Federal Government on the high seas, or abroad; right of assembly and privilege of the writ of habeas corpus, right to use the navigable waters of the United States, and rights secured by treaty.

Mr. President, there were many cases, on various subjects. I shall not take time to read from too many of the decisions; but I shall point out some of them, as follows:

In *Twining* v. *New Jersey* (211 U.S. 78, 1908), the Court listed "among the rights and privileges" of national citizenship the following:

First. The right to pass freely from State to State (*Crandall* v. *Nevada*, 6 Wall. 35, 1868). I shall refer again to this case in a few moments.

Second. The right to petition Congress for a redress of grievances (*U.S.* v. *Cruikshank*, 92 U.S. 542, 1876).

Third. The right to vote for national officers (*Ex parte Yarbrought*, 110 U.S. 651, 1884).

Fourth. The right to enter public lands (*United States* v. *Waddell*, 112 U.S. 76 (1884)).

Fifth. The right to be protected against violence while in the lawful custody of a U.S. marshal (*Logan* v. *United States* 144 U.S. 263 (1892)).

Sixth. The right to inform the United States of violations of its laws (*Re Quarles*, 158 U.S. 532, 1895).

In the case of *Crutcher* v. *Kentucky* (141 U.S. 47, 1891) the Court held:

Seventh. That the carrying on of interstate commerce is "a right which every citizen of the United States is entitled to exercise."

Eighth. In *Hague* v. *C.I.O.* (307 U.S. 496, —), the Court upheld the right to use public streets and parks to assemble and disseminate information about a Federal statute and its opportunities, as a privilege and immunity of U.S. citizens. The case of *Crandall* v. *Nevada* (6 Wall. 35, 1867) was decided before the 14th amendment was ratified. In this case the State of Nevada levied a capitation tax of $1 upon every person leaving the State by railroad or stagecoach and every person passing through the State.

The Court declared the Nevada law unconstitutional on the ground that citizens have a right to go to and from the seat of Government and all other Federal offices in the Nation whether they be revenue officers, land officers, ports of entry, and so forth, and that the States have no power to interfere with this right.

The States could not prevent anyone from going in or out of the State, and citing *McCulloch* v. *Maryland* (4 Wheaton 316) the Court said that if the State could legally tax this sort of thing then it could prevent it. Clearly, the State could not do this.

The majority opinion declined to base the decision on the commerce clause of the Constitution because it did not wish to consider people as "imports." The dissenting opinion agreed that the Nevada law was unconstitutional but thought it should be decided under the commerce clause.

In the case of *Twining* v. *New Jersey* (211 U.S. 78) the Court stated that the Crandall case held that the right to pass freely from State to State was a right and privilege of national citizenship, but in *Helson and Randolph* v. *Kentucky* (279 U.S. 245, 1929), the Court resolved the issue in favor of the commerce clause, and not under the privileges of national citizenship.

In the case of *Edwards* v. *California* (314 U.S. 160, 1941), the defendant had brought his brother-in-law from Texas into California in violation of a California law prohibiting the bringing of indigent persons into the State.

The majority opinion of the Supreme Court held the law to violate the commerce clause of the Constitution. The purpose of the statute was to prevent injury to California's economy by the influx of great numbers of indigent persons who could inflate the State's welfare rolls. The Court held that this country is one economic unit and that State action could not be permitted to harm the Nation's economy by proscribing the free flow of goods and persons in interstate commerce. A minority of the judges attempted to have the case decided on the "privileges and immunities" clause of the 14th amendment.

Most attempts to enlarge the scope of the "privileges and immunities" clause of the amendment have been resisted by the Court. It has been felt that the fundamental rights of Americans can best be protected by the State rather than the Federal Government. An extreme liberal element of the Supreme Court constantly attempts to get a majority of the Court to open this one remaining floodgate and make the Federal Government responsible for all civil rights; a duty which clearly belongs to the States of the Union.

The Department of Justice is an eager supporter of this radical minority on the Court and constantly urges enlargement of Federal powers through judicial interpretation.

### III. EQUAL PROTECTION OF THE LAWS AND STATE ACTION

The 14th amendment declares, in part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Since its enactment the 14th amendment has been interpreted in the light of "State action" in its relation to the "equal protection" of State laws. For many years the Court required a showing that a State law prevented "equal protection" of the laws. In recent years the requirement that there must be State action, as it has come to be called, has been greatly watered down. Today, the bare formality has been retained; hardly more than a "nodding to the east."

The zealous advocates of so-called civil rights on the Supreme Court are not satisfied with the continued existence of even the hollow shell of constitutional law called State action. These people wish to ascribe to every private act which meets with their disapproval the appellation of "State action" so that they may strike it down under color of law. This violence done to the Constitution and its amendments continues from one term of Court to the next. Included are acts of commission and omission. If the State government or its agents does anything with which the Supreme Court does not agree it is "State action." If the State governments do not do what that Court thinks they should do, then it says that is "State action" in failing to act. The twisting of this concept has reached such proportions that the grotesque result may make it necessary to enact a "bill of rights" for the State governments. Instead of the States retaining all the powers not delegated to the Federal Government, we are, in reality, faced with the situation where it may be necessary to enumerate what State powers are.

In its self-appointed role of St. George, the Court has not slain the dragons of evil, but, on the contrary, has cut into the very vitals of our organic law and left the Federal system in shambles.

The erosion of the constitutional principle began in a big way with the case of *Shelley* v. *Kraemer* (334 U.S. 1, 1948) in which the Court held that covenants running with the land could not be enforced in a State court. The Court declared this to be "State action" since the State permitted its judicial machinery to be used by private litigants to enforce such covenants. In 1953, the Court went further in *Barrows* v. *Jackson* (346 U.S. 249, 1953) and held that a person who was a party to such covenant could invoke, as her defense to an action for damages instituted by other signers, the constitutional right of the Negro purchases who was not a party to such action. This case was decided in this way in spite of the fact that the person whose constitutional right was enforced was not even a party to such suit.

In this case—*Shelley* v. *Kraemer* (334 U.S. 1, 1947)—certain real estate in the city of St. Louis, Mo., had recorded in the property records a racial restriction prohibiting the owners from selling the affected property to persons not of the Caucasian race for a period of 50 years.

Shelley was a Negro who had purchased a part of this property and suit had been filed by Kraemer, an adjoining landowner covered by the same racial covenant. The Supreme Court of Missouri had ordered the sale of the property to the Negro to be rescinded in conformity with the racial restrictions. The Supreme Court of the United States reversed the decision and held that private agreements excluding persons of certain races do not violate the 14th amendment. But in this case, the equal protection clause of the 14th amendment was violated when the State of Missouri's judicial system was used to enforce the racial restriction. In fact, this constituted State action.

Mr. President, I ask unanimous consent that there be printed in the Record excerpts from the decision, which discussed the question fully.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

> Since the decision of this Court in the *Civil Rights Cases*, 109 U.S. 3 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful.
>
> We conclude, therefore, that the restrictive agreements standing alone cannot be regarded as violative of any rights guaranteed to petitioners by the 14th amendment. So long as the purposes of those agreements are effectuated by voluntary adherence to their terms, it would appear clear that there has been no action by the State and the provisions of the amendment have not been violated. (Cf. *Corrigan* v. *Buckley*, *supra*.)
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> But here there was more. These are cases in which the purposes of the agreements were secured only by judicial enforcement by State courts of the restrictive terms of the agreements. The respondents urge that judicial enforcement of private agreements does not amount to State action; or, in any event, the participation of the State is so attenuated in character as not to amount to State action within the meaning of the 14th amendment. Finally, it is suggested, even if the States in these cases may be deemed to have acted in the constitutional sense, their action did not deprive petitioners of rights guaranteed by the 14th amendment. We move to a consideration of these matters.
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> II
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> That the action of State courts and judicial officers in their official capacities is to be regarded as action of the State within the meaning of the 14th amendment, is a proposition which has long been established by decisions of this Court. That principle was given expression in the earliest cases involving the construction of the terms of the 14th amendment. Thus, in *Virginia* v. *Rives*, 100 U.S. 313, 318 (1880), this Court stated: "It is doubtless true that a State may act through different agencies—either by its legislative, its executive, or its judicial authorities; and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another." In *Ex parte Virginia*, 100 U.S. 339, 347 (1880), the Court observed: "A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way." In the *Civil Rights Cases*, 109 U.S. 3, 11, 17 (1883), this Court pointed out that the amendment makes void "State action of every kind" which is inconsistent with the guaranties therein contained, and extends to manifestations of "State authority in the shape of laws, customs, or judicial or executive proceedings." Language to like effect is employed no less than 18 times during the course of that opinion.
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> Similar expressions, giving specific recognition to the fact that judicial action is to be regarded as action of the State for the purposes of the 14th amendment, are to be found in numerous cases which have been more recently decided. In *Twining* v. *New Jersey*, 211 U.S. 78, 90–91 (1908), the Court said: "The judicial act of the highest court of the State, in authoritatively construing and enforcing its laws, is the act of the State." In *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill*, 281 U.S. 673, 680 (1930), the Court, through Mr. Justice Brandeis, stated: "The Federal guaranty of due process extends to State action through its judicial as well as through its legislative, executive, or administrative branch of government." Further examples of such declarations in the opinions of this Court are not lacking.
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> One of the earliest applications of the prohibitions contained in the 14th amendment to action of State judicial officials occurred in cases in which Negroes had been excluded from jury service in criminal prosecutions by reason of their race or color. These cases demonstrate, also, the early recognition by this Court that State action in violation of the amendment's provisions is equally repugnant to the constitutional commands whether directed by State statute or taken by a judicial official in the absence of statute. Thus, in *Strauder* v. *West Virginia*, 100 U.S. 303 (1880), this Court declared invalid a State statute restricting jury service to white persons as amounting to a denial of the equal protection of the laws to the colored defendant in that case. In the same volume of the reports, the Court in *Ex parte Virginia*, *supra*, held that a similar discrimination imposed by the action of a State judge denied rights protected by the amendment, despite the fact that the language of the State statute relating to jury service contained no such restrictions.
>
> The action of State courts in imposing penalties or depriving parties of other substantive rights without providing adequate notice and opportunity to defend, has, of course, long been regarded as a denial of the due process of law guaranteed by the 14th amendment. *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill*, *supra*. Cf. *Pennoyer* v. *Neff*, 95 U.S. 714 (1878).
>
> In numerous cases, this Court has reversed criminal convictions in State courts for failure of those courts to provide the essential ingredients of a fair hearing. Thus it has been held that convictions obtained in State courts under the domination of a mob are void. (*Moore* v. *Dempsey*, 261 U.S. (1923). And see *Frank* v. *Mangum*, 237 U.S. 309 (1915).) Convictions obtained by coerced confessions, by the use of perjured testimony known by the prosecution to be such, or without the effective assistance of counsel, have also been held to be exertions of State authority in conflict with the fundamental rights protected by the 14th amendment.

But the examples of State judicial action which have been held by this Court to violate the amendment's commands are not restricted to situations in which the judicial proceedings were found in some manner to be procedurally unfair. It has been recognized that the action of State courts in enforcing a substantive common-law rule formulated by those courts, may result in the denial of rights guaranteed by the 14th amendment, even though the judicial proceedings in such cases may have been in complete accord with the most rigorous conceptions of procedural due process. Thus, in *American Federation of Labor* v. *Swing,* 312 U.S. 321 (1941), enforcement by State courts of the common-law policy of the State, which resulted in the restraining of peaceful picketing, was held to be State action of the sort prohibited by the amendment's guaranties of freedom of discussion. In *Cantwell* v. *Connecticut,* 310 U.S. 296 (1940), a conviction in a State court of the common-law crime of breach of the peace was, under the circumstances of the case, found to be a violation of the amendment's commands relating to freedom of religion. In *Bridges* v. *California,* 314 U.S. 252 (1941), enforcement of the State's common-law rule relating to contempts by publication was held to be State action inconsistent with the prohibitions of the 14th amendment. (And cf. *Chicago, Burlington and Quincy R. Co.* v. *Chicago,* 166 U.S. 226 (1897).)

The short of the matter is that from the time of the adoption of the 14th amendment until the present, it has been the consistent ruling of this Court that the action of the States to which the amendment has reference includes action of State courts and State judicial officials. Although, in construing the terms of the 14th amendment, differences have from time to time been expressed as to whether particular types of State action may be said to offend the amendment's prohibitory provisions, it has never been suggested that State court action is immunized from the operation of those provisions simply because the act is that of the judicial branch of the State government.

### III

Against this background of judicial construction, extending over a period of some three-quarters of a century, we are called upon to consider whether enforcement by State courts of the restrictive agreements in these cases may be deemed to be the acts of those States; and, if so, whether that action has denied these petitioners the equal protection of the laws which the amendment was intended to insure.

We have no doubt that there has been State action in these cases in the full and complete sense of the phrase. The undisputed facts disclose that petitioners were willing purchasers of properties upon which they desired to establish homes. The owners of the properties were willing sellers; and contracts of sale were accordingly consummated. It is clear that but for the active intervention of the State courts, supported by the full panoply of State power, petitioners would have been free to occupy the properties in question without restraint.

These are not cases, as has been suggested, in which the States have merely abstained from action, leaving private individuals free to impose such discriminations as they see fit. Rather, these are cases in which the States have made available to such individuals the full coercive power of government to deny to petitioners, on the grounds of race or color, the enjoyment of property rights in premises which petitioners are willing and financially able to acquire and which the grantors are willing to sell. The difference between judicial enforcement and nonenforcement of the restrictive covenants is the difference to petitioners between being denied rights of property available to other members of the community and being accorded full enjoyment of those rights on an equal footing.

The enforcement of the restrictive agreements by the State courts in these cases was directed pursuant to the common-law policy of the States as formulated by those courts in earlier decisions. In the Missouri case, enforcement of the covenant was directed in the first instance by the highest court of the State after the trial court had determined the agreement to be invalid for want of the requisite number of signatures. In the Michigan case, the order of enforcement by the trial court was affirmed by the highest State court. The judicial action in each case bears the clear and unmistakable imprimatur of the State. We have noted that previous decisions of this Court have established the proposition that judicial action is not immunized from the operation of the 14th amendment simply because it is taken pursuant to the State's common-law policy. Nor is the amendment ineffective simply because the particular pattern of discrimination, which the State has enforced, was defined initially by the terms of a private agreement. State action, as that phrase is understood for the purposes of the 14th amendment, refers to exertions of State power in all forms. And when the effect of that action is to deny rights subject to the protection of the 14th amendment, it is the obligation of this Court to enforce the constitutional commands.

We hold that in granting judicial enforcement of the restrictive agreements in these cases, the States have denied petitioners the equal protection of the laws and that, therefore, the action of the State courts cannot stand. We have noted that freedom from discrimination by the States in the enjoyment of property rights was among the basic objectives sought to be effectuated by the framers of the 14th amendment. That such discrimination has occurred in these cases is clear. Because of race or color of these petitioners they have been denied rights of ownership or occupancy enjoyed as a matter of course by other citizens of different race or color. The 14th amendment declares "that all persons, whether colored or white, shall stand equal before the laws of the States, and, in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color." (*Strauder* v. *West Virginia, supra* at 307.) Only recently this Court had occasion to declare that a State law which denied equal enjoyment of property rights to a designated class of citizens of specified race and ancestry, was not a legitimate exercise of the State's police power but violated the guaranty of the equal protection of the laws. (*Oyama* v. *California,* 332 U.S. 633 (1948).) Nor may the discriminations imposed by the State courts in these cases be justified as proper exertions of State police power. (Cf. *Buchanan* v. *Warley, supra.*)

Respondents urge, however, that since the State courts stand ready to enforce restrictive covenants excluding white persons from the ownership or occupancy of property covered by such agreements, enforcement of covenants excluding colored persons may not be deemed a denial of equal protection of the laws to the colored persons who are thereby affected. This contention does not bear scrutiny. The parties have directed our attention to no case in which a court, State or Federal, has been called upon to enforce a covenant excluding members of the white majority from ownership or occupancy of real property on grounds of race or color. But there are more fundamental considerations. The rights created by the 1st section of the 14th amendment are, by its terms, guaranteed to the individual. The rights established are personal rights. It is, therefore, no answer to these petitioners to say that the courts may also be induced to deny white persons rights of ownership and occupancy on grounds of race or color. Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.

Nor do we find merit in the suggestion that property owners who are parties to these agreements are denied equal protection of the laws if denied access to the courts to enforce the terms of restrictive covenants and to assert property rights which the State courts have held to be created by such agreements. The Constitution confers upon no individual the right to demand action by the State which results in the denial of equal protection of the laws to other individuals. And it would appear beyond question that the power of the State to create and enforce property interests must be exercised within the boundaries defined by the 14th amendment. (Cf. *Marsh* v. *Alabama,* 326 U.S. 501 (1946).)

The problem of defining the scope of the restrictions which the Federal Constitution imposes upon exertions of power by the States has given rise to many of the most persistent and fundamental issues which this court has been called upon to consider. That problem was foremost in the minds of the framers of the Constitution, and, since that early day, has arisen in a multitude of forms. The task of determining whether the action of a State offends constitutional provisions is one which may not be undertaken lightly. Where, however, it is clear that the action of the State violates the terms of the fundamental charter, it is the obligation of this Court so to declare.

This historical context in which the 14th amendment became a part of the Constitution should not be forgotten. Whatever else the framers sought to achieve, it is clear that the matter of primary concern was the establishment of equality in the enjoyment of basic civil and political rights and the preservation of those rights from discriminatory action on the part of the States based on considerations of race or color. Seventy-five years ago this Court announced that the provisions of the amendment are to be construed with this fundamental purpose in mind. Upon full consideration, we have concluded that in these cases the States have acted to deny petitioners the equal protection of the laws guaranteed by the 14th amendment. Having so decided, we find it unnecessary to consider whether petitioners have also been deprived of property without due process of law or denied privileges and immunities of citizens of the United States.

For the reasons stated, the judgment of the Supreme Court of Missouri and the judgment of the Supreme Court of Michigan must be reversed.

## ABSORPTION OF THE BILL OF RIGHTS INTO THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT

**Mr. ELLENDER.** Mr. President, in 1925, the Supreme Court ventured the tentative assumption that the "freedom" of speech protected by the 1st amendment was included in the "liberty" which the 14th amendment required the States to respect—*Gitlow* v. *New York,* 286 U.S. 652 (1925)—was the first case in which the Supreme Court assumed that any part of the Bill of Rights was applicable against the States.

As time went on, every aspect of first amendment freedoms was made available against the States under this "incorporationist" philosophy. This doctrine first appeared in the Gitlow case. A recent leading case is *W. Va. State Bd. of Educ.* v. *Barnette,* 319 U.S. 624, 633 (1943).

Religion (*Cantwell* v. *Connecticut,* 310 U.S. 296 (1940)); speech (Gitlow against New York, supra); press (*Near* v. *Minnesota,* 283 U.S. 697 (1931), *Time Film Corp.* v. *Chicago,* 365 U.S. 43 (1960)); assembly (*DeJonge* v. *Oregon,* 299 U.S. 353 (1937)); and petition *Bridges* v. *California,* 314 U.S. 252 (1941); also *Beauharnais* v. *Illinois,* 343 U.S. 250 (1952), were all given protection against State action violative of the first amendment.

The second amendment, regarding the right to bear arms, does not bind the States. *Presser* v. *Illinois,* 116 U.S. 252, 265 (1886). No case can be found under the third amendment (relating to quartering troops), an obsolete provision which has apparently given rise to no litigation of any sort. This amendment now really stands for the proposition of civil authority over the military.

In the case of *Mapp* v. *Ohio,* 367 U.S. 643 (1961), the Supreme Court for the first time caused the complete absorption into the due process clause of the 14th amendment of the guarantee against unreasonable searches and seizures as set forth in the 4th amendment. Also *Wong Sun* v. *United States,* 371 U.S. 471 (1963). The Mapp against Ohio case reversed the cases of *Wolf* v. *Colorado,* 338 U.S. 25 (1949) and *Irvine* v. *California,* 347 U.S. 218 (1954). In the latter two cases, the Court ruled that acquisition of incriminating evidence by an improper search and seizure could not be reconciled with due process; but in these cited cases the Court refused to hold that observance of the exclusionary evidence rule, as developed by Federal courts and applied in Federal criminal proceedings, was constitutionally required by the due process clause of the 14th amendment.

Mapp against Ohio reversed the aforementioned and held that a defendant in a State criminal prosecution, when confronted with incriminating evidence obtained by an improper search and seizure, is constitutionally entitled to the grant of a motion to exclude such evidence. Prior to this holding, many States had applied the "collateral evidence" rule, whereunder issues as to the impropriety of the means employed by State officers to obtain incriminating evidence were deemed to be collateral and subordinate to the primary issue; namely, whether, notwithstanding such improper means of acquisition, such evidence had probative value and on the later ground alone was admissible against a defendant.

The provisions of the fifth amendment which deal with the requirement of grand jury indictment (*Hurtado* v. *California,* 110 U.S. 516, 538 (1884)); double jeopardy (*Palko* v. *Connecticut,* 302 U.S. 319, 326 (1937)); and self-incrimination (*Twining* v. *New Jersey,* 211 U.S. 78, 102 (1908); *Adamson* v. *California,* 332 U.S. 46, 52–54 (1947)) have been held not applicable to the States by the "incorporation" method. The "just compensation clause" does not bind the States according to the most recent Supreme Court decision on the subject—*C.B. & Q.R.R. Co.* v. *Chicago,* 166 U.S. 226, 241 (1897). In that decision, the ruling was based on a direct interpretation of the 14th amendment in the light of "natural law" concepts of inherent and immutable principles of justice rather than upon the notion that the 5th amendment had become applicable to the States.

There is a difference between the two schools of "incorporationists" on the Court. The "whole Bill of Rights" theory, held by Justices Black and Douglas, maintains that all the prohibitions contained in the Bill of Rights are literally obligatory upon the States.

Justice Black first expounded this theory of incorporation in *Adamson* v. *California,* 332 U.S. 46, 71–72, 75 (1947).

The "ordered liberty" theory, of which Justice Frankfurter was perhaps the chief expounder, rests upon the principle that the 14th amendment does not incorporate by reference the Bill of Rights in toto, but that by direct operation of the 14th amendment's due process requirements, any State action is stricken down which does not measure up to the basic principles of justice and fairplay which lie at the foundation of a free society and are "implicit in the concept of ordered liberty." This phrase, from Justice Cardoza's opinion in *Palko* v. *Connecticut,* 302 U.S. 319, 323, 325 (1937), sums up a principle laid down earlier in *Twining* v. *New Jersey,* 211 U.S. 78, 101–102 (1908). The "ordered liberty" theory seemingly is akin to the natural law notions expressed in such cases as *Loan Assn.* v. *Topeka,* 29 Wall. 655, 663 (1874).

Thus, seemingly, whenever any particular right enumerated in the Bill of Rights is claimed as constitutionally protected against State infringement, the Court must determine whether that right is sufficiently basic and important to be essential to the concept of ordered liberty. In sum, the 5th amendment is made effective against the States by the direct terms of the 14th amendment in the light of principles of justice.

The 6th amendment has been partially absorbed in the 14th amendment. This amendment concerns itself with various protections in criminal prosecutions. Unquestionably, notice and hearing are fundamental requisites of fairness in exercising a State's jurisdiction. *Twining* v. *New Jersey,* 211 U.S. 78, 110–111 (1908). But trial by a jury of 12, as at common law, and as required by the sixth amendment, is not. A State may authorize trial and conviction by a smaller number of jurors without inflicting an injury shocking to one's sense of justice. *Maxwell* v. *Dow,* 176 U.S. 581, 587 (1900). State jury trials and cases of indictment by a grand jury may be governed by the several States.

Presumably, the right of a defendant "to be informed of the nature and cause of the accusation" would be, like notice and hearing, a fundamental requirement with which State procedure must comply, although there seem to be no cases dealing with the applicability of this portion of the sixth amendment. See the rule set forth in *Morgan* v. *United States,* 304 U.S. 1, 18–19 (1938).

The right "to be confronted with the witnesses against him—the defendant"—has been held not to be absorbed in the 14th amendment. *West* v. *Louisiana,* 194 U.S. 258, 262 (1904). In this case, the Court recognized that the procedure of taking testimony by deposition in writing, which Louisiana inherited from the French law, might well serve a useful method by obtaining probative and trustworthy evidence. Oral testimony subject to cross examination was held not to be indispensable to the due administration of justice.

There is no decision by the Supreme Court relative to the defendant's right "to have compulsory process for obtaining witnesses" in his favor. The question is whether or not this should be regarded as a fundamental feature of a fair trial.

The right "to have the assistance of counsel was absorbed by the case of *Powell* v. *Alabama,* 287 U.S. 45 (1932). See also *Gideon* v. *Wainwright,* 372 U.S. 335 (1962)—overruling the case of *Betts* v. *Brady,* 316 U.S. 455 (1942).

The requirement of public trials has been incorporated in the 14th amendment. *In re Oliver,* 333 U.S. 257 (1948). In this case the Supreme Court held that a secret trial in Michigan violated the due process clause of the 14th amendment. An interesting unanswered question raised under the sixth amendment is whether the requirement of a "public trial" prevents the courts from excluding curious spectators from the courtroom when scandalous matters are being aired and this is incorporated in the 14th amendment. (See *U.S.* v. *Kobli,* 172 F. 2d 919 (C.C.A. 3, 1949); *People* v. *Jelke,* 130 N.Y.S. 2d 662 (1948), aff'd 308 N.Y. 56 (1954)).

The provisions of the seventh amendment regarding jury trials in civil cases are not applicable to the States. *Walker* v. *Sauvinet,* 92 U.S. 90 (1875); *Hawkins* v. *Bleakly,* 243 U.S. 210 (1917).

The 8th amendment has been partially absorbed into the 14th amendment. In 1962, in *Robinson* v. *California,* 370 U.S. 660 (1962), the Court acknowledged that the due process clause of the 14th amendment embraced the prohibition against infliction of "cruel and unusual punishments" contained in the 5th amendment. In this recent decision the Court condemned as a cruel and unjust punishment the imposition of a sentence authorized by a California statute making narcotics addiction a criminal offense, and providing for incarceration of a person thus afflicted. This was held "cruel and unusual" notwithstanding absence of proof as to his use, purchase, or possession of narcotics within the State, or of any need of medical treatment or of antisocial behavior attributable to such use.

However, no authoritative ruling thus far has been rendered expressly holding that the prohibition against excessive bail set forth in the eighth amendment is now applicable to the States. Nevertheless, in a civil suit, a U.S. district court judge asserted his belief, by way of dictum, that "failure to allow reasonable bail" is a violation of a "fundamental right, protected by—the 14th—amendment from State invasion"—*International Union, etc.* v. *Tennessee Copper Co.,* 31 F. Supp. 1015 (1940), District Judge Leslie R. Darr.

The 9th and 10th amendments, being reservations for the benefit of the States, of course, give no occasion for raising the question whether they are made applicable against the States by the 14th amendment.

Mr. President, I cited many cases to demonstrate the extent to which the rights of the States have been, and are still being, eroded by the Supreme Court of the United States. I am very hopeful that Senators will take the time and trouble to read some of those decisions to ascertain the extent to which the rights of the States have been trampled upon. I again wish to state that if the Senate of the United States should make the mistake of enacting the bill as written, there will be further erosion of the rights of the States. In my judgment, it will take away from our people much of the liberties they now enjoy.

In the time to come I am sure that the people of this Republic will realize that their personal rights and those of the State governments have been and will continue to be better protected by the Bill of Rights than any bill carrying the name "civil rights" which is advocated today. The social changes in our country have been, in a large sense, responsible for the conditions which some believe to necessitate this bill. But I say that the long-term gains which we enjoy under the Bill of Rights will long endure and outlast those short-term advantages which may come from such a bill as the pending business of the Senate. Real rights should not be sacrificed in a vain effort to achieve equality.

## SETTLEMENT REACHED IN THREATENED RAILROAD STRIKE

During the delivery of Mr. ELLENDER'S speech,

Mr. MAGNUSON. Mr. President, will the Senator yield for a short statement, without losing his right to the floor?

Mr. ELLENDER. And without its being considered a second speech.

Mr. MAGNUSON. Yes; without it being counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I take this occasion to express gratification, not only on behalf of particular members of the Senate Commerce Committee, but also on behalf of the Senate and Congress as a whole, for the fact that apparently the President of the United States has been able to use his good offices, together with Secretary of Labor Mr. Wirtz, who has labored long and hard to bring about an equitable solution of the threatened railroad strike.

Congress has never felt that a threatened railroad strike should be a matter for legislation. I believe all Senators are devoted to the proposition of honest collective bargaining. It was with great reluctance last year that we had to step in when everyone seemed to have his feet in concrete and enact a bill to relieve the situation. We were hopeful that we would not have to do it again when we passed that bill, that the other matters would be subject to collective bargaining and could therefore be solved.

It is my understanding that the President of the United States will speak on this subject in about 15 minutes, and that he will tell the American people that both sides, management and labor, have considered the public interest and have reached an equitable settlement of the threatened railroad strike.

We are all grateful to the President of the United States and to Secretary of Labor Wirtz, for their part in bringing this about.

Mr. COOPER. Mr. President, will the Senator from Louisiana yield to me, on the same conditions under which he yielded to the Senator from Washington?

Mr. ELLENDER. I am glad to yield to the Senator from Kentucky, under the same conditions as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. In my judgment, management and labor did the right thing in this matter.

Mr. COOPER. Mr. President, as a Senator speaking on this side of the aisle, I am very happy to hear the news. Senators remember that last year it was necessary to enact legislation, although we do not favor compulsory arbitration.

Mr. MAGNUSON. The Senator is correct.

Mr. COOPER. We wish the role of collective bargaining to be maintained. It is always difficult in the case of the railroad unions, because although they have theoretically the right to strike, it can hardly ever be exercised. They deserve great commendation because of their dedication to the public interest. I congratulate also the railroad. And the President is due great respect for his constructive leadership.

Mr. MAGNUSON. I am not familiar with the terms of the settlement, or whether some of the issues might be postponed for a little while. The carriers are in a most difficult situation, because they are dealing with workers who are losing jobs, and dealing with automation problems which will plague them for a long time.

I believe both sides have acted remarkably well. I congratulate them, because we in Congress did not wish to have that issue come before us again. I do not believe there is one Senator who does not adhere to the principle of collective bargaining, which usually results in better economic relations between management and labor.

Mr. KEATING. Mr. President, will the Senator from Louisiana yield under the same conditions as before?

Mr. ELLENDER. I am glad to yield to the Senator from New York, under the same conditions as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEATING. Mr. President, I join the distinguished Senator from Washington [Mr. MAGNUSON] in his expression of gratitude at the news of settlement of the threatened railroad strike. I had the pleasure of being with the President today when he went to New York to open the World's Fair officially, and deliver a gracious address to all those assembled. It was a wonderful occasion. But in conversing with him on the way up and back, I realized that the prospect of the threatened rail strike was very much on his mind.

He told me a little about what had taken place. He had met early this morning with the negotiators, and was expecting to meet with them again when he returned to the White House.

We are all indebted to the President for the constructive work which he has done, and the perseverance which he has shown. As he has stated, he found both management and labor quite reasonable.

Both management and labor certainly are to be commended for this constructive move in the public interest.

Like the Senator from Washington, I am not familiar with the terms of the settlement.

Mr. MAGNUSON. I do not know. There may be some issues still to be dealt with.

Mr. KEATING. That is true. Most of such settlements fail to satisfy everyone.

I join in the comments expressed by the Senator from Washington with respect to the labors of the President, which I am sure were one of the effective features in bringing about the settlement. I agree with the Senator from Washington that it would have been most unfortunate if the situation had continued to the point where Congress would have been forced, in an emergency situation, to enact legislation in this field which might not stand the test of time.

As the Senator from Kentucky has stated, very few of us like compulsory arbitration. We wish the forces of collective bargaining to prevail—which result has been accomplished in this case under Presidential guidance.

I am sure that it will be a great relief to the country when this announcement is made by our President.

Mr. MAGNUSON. Railway labor, of course, has sacrificed a great deal in the public interest in this matter, because it is a serious matter when a person loses his job.

Mr. KEATING. The Senator is correct. Concessions were required on both sides. The President indicated that they would be necessary. That is why I commend all the participants in the negotiations.

Mr. MAGNUSON. I thank the Senator.

I also thank the Senator from Louisiana for yielding to me.

## A PART OF A DAY IN THE LIFE OF A PRESIDENT: 8:30 A.M. to 10:37 A.M.

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield without losing the floor.

Mr. MANSFIELD. Mr. President, I should like to discuss a part of a day in the life of a President. I do so because of the announcement made by the distinguished Senator from Washington [Mr. MAGNUSON], chairman of the Committee on Commerce, the distinguished Senator from New York [Mr. KEATING], and other Senators. I note the presence in the Chamber of the distinguished

Senator from Rhode Island [Mr. PASTORE], who had such an important part in bringing about a better understanding of this matter. In these circumstances it might be worthwhile for me to make a statement.

The President called a meeting of the joint leadership of both Houses to discuss the situation in Vietnam, Laos, and his announcement that we would reduce production of plutonium and uranium. The meeting lasted 90 minutes and in attendance were Secretaries Rusk and McNamara, and John McCone, Director of the CIA.

It was brought out very definitely that the reduction in production of plutonium and uranium was an American initiative, originally suggested by the Atomic Energy Commission several years ago and some months ago, by the Joint Committee on Atomic Energy which suggested looking into the possibilities of such a reduction, and also by the President, who made an announcement to this effect in the state of the Union message this year. This reduction is an American initiative entirely and is not the result of an agreement of any kind, executive or otherwise, with the Soviet Union. Furthermore, there is no fine print to be found anywhere to question the validity of the announcement but only the fact that we had so much of a surplus of these materials that this was considered the most advisable way to cope with it. This does not in the slightest minimize our defense effectiveness or research and development in which these vital elements are needed.

The situation in Vietnam was discussed in detail and the choices outlined to the leadership especially in relation to the Geneva Accords of 1954.

The Laotian situation was explained in some detail and an explanation given as to why we are standing solidly behind the government of Prince Souvanna Phouma in relation to the Geneva Accords of 1962.

The President left the meeting to attend another meeting on the railroad situation and from there he departed the White House—37 minutes late—to open the World's Fair in New York City.

This is only a part of a day in the life of a President, the part of the day from 8:30 to 10:37 this morning, the 2 hours in which the President met with the leadership of both Houses to discuss vital elements of foreign policy and a significant foreign policy statement made by him before the newspaper editors of the Nation, and also the hours during which he found time to meet with the negotiators considering the rail negotiations at the White House, in which he has taken such a deep personal interest, and to emplane for New York.

I repeat, this is only a small part of a day in the life of a President, the President being Lyndon B. Johnson. By nightfall he had returned from New York to Washington and once again he performed the impossible and, in my opinion, came up with what amounts to a miracle in bringing about the settlement between railroad labor and management, which has plagued both sides of the dispute and the country, for 4½ years. In so doing, he has made it possible to avoid referring this matter once again to the Congress. This achievement calls for a vote of thanks so far as Congress is concerned. It takes a great load off our shoulders and off the shoulders of the people of the Nation as a whole.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield without losing the floor.

Mr. PASTORE. I join my majority leader in applauding the President of the United States; and I thank him for his kind comments about me. As chairman of the Joint Committee on Atomic Energy, I rose on the floor of the Senate yesterday to applaud the President of the United States for his proposal to cut back enriched uranium production in this country. It was my fortunate experience to be looking at television this evening, when I saw and heard the President of the United States, who was joined by the representatives of the management of the railroads, and representatives of the workers of the railroads, announce settlement of the threatened strike.

Only a few days ago I rose on the floor of the Senate to say it was my fervent hope that the matter would not have to come before the Congress. The President of the United States has today proved it does not have to come here. It is a great victory for collective bargaining, as the President pointed out.

I think every American has every right to rejoice in the settlement and in the fact that the country has at its helm a man of the character of President Lyndon B. Johnson.

Mr. ELLENDER. Mr. President, I wish also to add a word of praise for President Johnson.

This dispute has been going on for 4½ years now. I am very glad it fell in the hands of our very aggressive President. No doubt the fact that he got both sides to come to the White House and work more or less under his direction and with his assistance, had a great deal to do with their being able to decide the issue around the table—that is, through collective bargaining.

I am hopeful that the settlement was such as not to take away too much from either side.

I now yield to my good friend the distinguished Senator from Alaska [Mr. BARTLETT].

Mr. BARTLETT. Mr. President, I share in the opinions expressed and the conclusions reached by the majority leader, by the Senator from Rhode Island [Mr. PASTORE], and by the Senator from Louisiana [Mr. ELLENDER].

The settlement of the railroad strike is meaningful in a way that even yet we do not realize. Had this issue necessarily been returned to Congress to solve, it might well have destroyed collective bargaining forever in the railroad industry. I say that as a member of the Committee on Commerce, as is the Senator from Rhode Island. We know the difficulties inherent in bringing a proposition of this kind to Congress, as was done once before.

It is well that the issue does not return to Congress.

I also applaud the President of the United States for his masterly settlement.

Mr. HARTKE. Mr. President, the railroad labor dispute has now been settled and terminated. I believe it is time to recognize the uncanny ability of the President of the United States to see his way clear in troubled times to bring people together and have them reason together and reach an understanding. This demonstrates two things, in my opinion: first, the President knows how to get things done; second, he realizes the value of the private enterprise system, free unionism, and free collective bargaining.

I had occasion to be very close to this situation as it applied to the crisis last fall.

There was wide divergence of opinion in this case. But bringing the parties together voluntarily—not by force—and having them sit down together until they negotiated, brought about a very happy situation. This is much better than to have had a settlement reached by means of compulsory arbitration and the other procedures applicable under such conditions, which could bring about bad results.

I congratulate President Johnson and all who participated in this historic labor agreement.

## THE IMPORTANCE OF THE CALIFORNIA CANNING INDUSTRY

During the delivery of Mr. ELLENDER's speech,

Mr. KUCHEL. Mr. President, the great importance of the canning industry of California to the economic well-being, as well as the nutritional health of the citizens of my State and the entire Nation has been clearly shown for the first time in a study made by Dr. Ben French of the University of California.

It gives me a great deal of pride to inform the Senate that California provides more than half the canned fruit, approximately one-quarter the canned vegetables, and about half the canned seafood produced in the United States. As this indicates, canning is a big industry in California. It is a billion-dollar industry, and one that has grown enormously, particularly in the past two decades, though the acreage under cultivation has remained virtually the same. This has been accomplished by ingenious genetic research, by a system of contract farming which assures the grower of a market for his products at an agreed-upon price, and by the continued advancement of canning technology, without which this great market for perishable farm commodities could not exist.

It should also be of interest to all the citizens of this Nation that this industry has registered these accomplishments without Federal subsidy or Federal controls. Apparently, the canning industry, dependent upon its own ingenuity, initiative, and free enterprise, has something to teach us all.

It is instructive to trace the flow of goods, services, and money from this industry into all segments of the economy, since it illustrates clearly the manner in which industry, farm, and community are mutually interdependent. For example, during the typical year studied, California's canning industry provided a market for $225 million in farm commodities, $86 million in fish, accounted for $150 million in wages and salaries, spent $250 million on packaging materials, paid $43 million for local services and $28 million in Federal, State, and local taxes, and provided employment for more than 89,000 full-time and seasonal cannery workers. Our canners paid approximately $200 million in cash to growers during the year and contributed another $15 million in additional services such as hauling and harvesting. The value of these additional and usually unrecognized services represented 8 percent of the farm value of the canning crop. These payments and services enabled the growers to pay $85 million in wages and salaries, nearly $6 million in taxes, and to spend approximately $55 million for goods, materials, services, equipment, land, and buildings.

This study has given the State of California and its citizens a great deal of interesting and highly useful information. I offer my compliments to the author, Dr. Ben French; to the National Canners Association, which sponsored the study; and to the canners of California, who are making a significant contribution to the health and prosperity of our great State.

## U.S. FOREIGN POLICY AND CHILE

During the delivery of Mr. ELLENDER's speech,

Mr. JAVITS. Mr. President, I was not present during the morning hour, due to the need to attend the opening of the World's Fair. I have a prepared statement that I wish to make with relation to foreign policy. I am grateful to the Senator from Louisiana for yielding to me for that purpose.

The President's foreign policy speech before the Associated Press will be widely hailed as an answer to some serious questions raised by the "Old Myths and New Realities" speech of the Senator from Arkansas [Mr. FULBRIGHT], as well as an authoritative statement of U.S. foreign policy. Indeed, it was critically important that the President should make it clear that the United States was not about to radically revise its foreign policy to give first priority to efforts to come to agreement with the Soviet Union on the major causes of East-West tension, at the expense of our present first priority—freedom in the world, brought about by the integration of the free world, specifically and foremost of the Atlantic Community. These objectives are not mutually exclusive, but the order of their priority is extremely important, and the speech of the Senator from Arkansas [Mr. FULBRIGHT]—I am sure unwittingly—created doubts in certain key areas of the world as to our intentions.

I hasten to add that the Senator from Arkansas rendered a real service by opening the door to debate and reexamination of the role of the United States in the world, and for this we must be grateful to him. But to review our policy does not mean we must change it in all respects. It was very important that this be made clear to the world so that Senator FULBRIGHT's speech could be properly understood and evaluated.

I wish to address myself today particularly to Chile, as I have been in that country quite recently and have some familiarity with the situation. There is real danger that the Communist-Socialist Front (FRAP) may be victorious in Chile's September presidential election, giving that nation the first constitutionally elected Communist-oriented government in the Western Hemisphere—indeed in the world.

Let us remember, too, the local by-election which took place when I was in Chile a few weeks ago. The candidate of the principal middle-of-the-road party withdrew, leaving the Christian Democratic candidate facing a Communist Socialist candidate; hence, this is a real problem in that country.

The problem is that the thesis of the Senator from Arkansas [Mr. FULBRIGHT] could be used in Chile to misrepresent the intentions of the United States. Friends in Chile told me that his speech raised such questions as: Will the United States and its people turn against and deny aid to a Communist-oriented government if one should be elected, or will the United States make an accommodation with it? If Castro is to be considered a nuisance under the thesis of the Senator from Arkansas [Mr. FULBRIGHT], then what would be our policy toward an elected body of government, who would likely be responsible for a Castroite government in Chile? Would he nonetheless be given aid to prevent him from becoming a nuisance? This is the type of question which would sap the strength and spirit of the non-Communist forces in Chile.

The President has now put these anxieties to rest completely.

He made it clear that in the eyes of our Government, Communist Cuba and Castro are grave threats to peace, security, and freedom in the Western Hemisphere—not just nuisances—that Castro's Cuba is an obstacle to the progress of the hemisphere. Secondly, on the affirmative side, he made it clear that anticommunism alone will not be the basis of our policy in Latin America. The President said that we shall seek "economic progress without economic privilege—social change which enhances social justice—political reform which widens human freedom." He said that the United States will not condone dictatorships or Castroite-type governments and will insist on just progress under freedom as the basis for its cooperation and support. The President said the Alliance for Progress "requires us to encourage and support those democratic political forces which seek essential change within the framework of constitutional government."

I believe that this represents the view of the overwhelming majority of the American people—written large upon the wall for all to read—and should settle any doubts or questions which may have been raised in sensitive places like Chile.

The situation in Chile exemplifies what we can do in Latin America while pursuing consistently the policy we have developed. There is great interest there in a Western Hemisphere free trade area for raw materials, since Chile is an important copper producer. Chile is also congenial to the large-scale introduction of private enterprise in development work. The entire business community there has welcomed the Atlantic Community Development Group for Latin America, a multinational, private investment project for middle level business and industry, with which the Senator from Minnesota [Mr. HUMPHREY] and I have been closely associated. The people of Chile are also interested in people-to-people programs on a broader scale in education and technical assistance, as well as in culture and sports. Finally, there is in Chile a great devotion to our love of freedom, our fidelity to it, our willingness to sacrifice, for it. There is great admiration for the pledge, made in the United Nations by Presidents Eisenhower and Kennedy, that we will use all our resources to sustain freedom in the world, and to oppose tyranny in any form.

Mr. President, I therefore thought it essential to set out, as another Senator did, my views as to what American foreign policy means as stated by the highest authority on that policy, the President of the United States, and to invite all who are interested in our policy to regard the President as being the voice of the American foreign policy.

Each of us has his own opinion, and his own ideas. I respect those of the Senator from Arkansas fully, but I think there is some danger of their being misconstrued, or their purpose being misconstrued in Chile.

The President has made it very clear as to what our policy is, and what the democratic forces in Chile might look to as our policy. I thought it was very important to underline and emphasize that fact at this time.

## FURTHER RESULTS OF ALASKA EARTHQUAKE DISCLOSED

Mr. BARTLETT. Mr. President, an article published in today's New York Times, written by Walter Sullivan, discloses some of the far-reaching effects of the March 27 Alaska earthquake.

Mr. Sullivan, covering the annual meeting of the American Geophysical Union, being held in Washington this week, learned that an area of 12,000 square miles was uplifted from 8 to 12 feet and a corresponding area was caused to subside by the force of the quake.

Houston, Tex., recorded a 5-inch movement, up and down, during the Alaska quake.

In Georgia, the height of water in wells rose and dropped 10 to 20 feet.

As far away as Iran, the surface of the earth moved up and down approximately a third of an inch.

Mr. President, I ask unanimous consent that this interesting report indicating in detail the magnitude of the Alaska quake and its far-reaching effects may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Alaska Coastline Shifted by Quake—One Area Was Lifted While Another Was Depressed

(By Walter Sullivan)

Washington, April 21.—As much as 12,000 square miles of the earth's surface appears to have been lifted from 3 to 8 feet by last month's Alaska's earthquake, it was reported today.

A comparable area, to the northwest of a "hinge line," subsided, permanently altering parts of the coast.

Wavelike motions of the earth were so farflung that, in Texas, the city of Houston bobbed up and down almost 5 inches. Water slopped out of swimming pools and swished back and forth in harbors, breaking ship moorings.

Furthermore, the pistonlike motion of the earth, up and down, created atmospheric waves that were detected in many parts of the world. In Georgia, water levels in wells pumped up and down 10 to 20 feet.

These effects of the March 27 quake were described at the annual meeting of the American Geophysical Union, being held here this week.

Dr. Frank Press, director of the seismological laboratory of the California Institute of Technology, called it one of the great earthquakes of all time.

Dr. Press recently returned from a tour of the quake area. He confirmed the dramatic uplift of a vast region, reported to the meeting by Arthur Grantz of the U.S. Geological Survey. The remarkable thing, they said, was that communities suffering the most radical uplift were little damaged.

Thus the town of Cordova is 6 to 8 feet higher than it was before the quake. Yet its buildings suffered comparatively little.

Middletown Island, well out to sea, was similarly lifted out of the water. On the other hand the coastal areas of the island have subsided about the same amount.

Dr. Jean Claude de Bremaeck of Rice University in Houston said little damage had been done by the bobbing motion there because it had been so slow. The wave crests passed at 15-second intervals.

However, in Corpus Christi, he said, a 650-ton foundation was reportedly moved 4 inches.

Early reports of tidal waves in the Gulf of Mexico were dismissed by some scientists as unlikely. What actually occurred appears to have been a series of seiches.

These are slopping motions set up in an enclosed body of water. They occur where there is a resonant relationship between some subtle wave stimulus—in the air or in the earth—and the size of the water body. The effect is comparable to that whereby small shoves, properly timed, can set a swing into motion.

Participants in today's session pointed out that the great earthquake that occurred in Assam, India, in 1950 produced seiches in the North Sea area of Europe.

Mr. Grantz said the chief damage occurred where homes and installations had been built on unstable ground. He noted that much of the Alaskan coast was precipitous, and that ports therefore had been built, in many cases, on river deltas. In some cases the ocean floor off these deltas slopes at a 30-degree angle.

Consequently, when the quake occurred, entire waterfronts slipped out to sea in gigantic submarine landslides.

This was what occurred to about a mile of shoreline in Seward and a large part of Valdez. The waterfront of Whittier apparently sank as though on an elevator.

The heaviest damage was in that part of Anchorage built on a formation known as "Bootlegger Cove clay," which is 400 feet thick. When jostled by long-period waves, it compacted, dropping the surface level abruptly.

The cleavage of the earth's crustal rocks is thought to have begun at a point near the head of Prince William Sound, almost midway between Anchorage and Valdez. The crack then raced southwest at lightning speed.

Mr. Grantz said specialists from the Geological Survey would make recommendations for relocation of the harbors that were swept out to sea in an effort to avert a repetition.

No evidence of the crack itself has been found on land, possibly because snow fell before a thorough search could be made.

However, the California Institute of Technology and others have set up seismic stations to record the continuing aftershocks in an effort to pin down the line of cleavage.

Its offshore segment seems to lie between the Aleutian Trench, a deep cleft in the ocean floor paralleling the coast, and the mountainous zone extending from the Chugach Mountains, through the Kenai Peninsula on Kodiak Island.

An aerial survey showed that ice in frozen lakes over a region of 100,000 square miles was cracked and buckled by the quake. However, no change in Alaska's many volcanoes has been reported.

Photographs were shown illustrating how "swashes" of water, produced by seiches and seismic water waves, swept up shorelines to heights as much as 200 feet above sea level, doing extensive damage.

One member of the audience noted that, even as far away as Iran the surface of the earth moved up and down a third of an inch as the Alaskan waves passed.

## AGRICULTURAL SUBSIDY PROGRAM—THE BAYH BILL, A GOOD BILL

Mr. BARTLETT. Mr. President, one of the most sensible and comprehensive agricultural proposals presented to the Congress in recent years is that advanced by the junior Senator from Indiana [Mr. Bayh].

The Senator has suggested that our agricultural subsidy program should no longer be subject to the haphazard crop-by-crop, year-by-year, legislative approach. Instead, he proposes the permanent retirement of from 50 to 60 million acres of cropland, in conjunction with a gradual reduction of subsidy payments, so that in time agricultural prices would be returned to the marketplace and the agricultural product would be brought down to a manageable and profitable size.

No doubt there are many details to be worked out in the Senator's proposal. No doubt there are numerous objections which could be raised. However, this bill is a constructive, thoughtful, suggestion, and I am proud to be a cosponsor of it. In his short time in the Senate, the junior Senator from Indiana has made many useful and valuable contributions. None is more valuable than the Senator's bill, S. 2637.

Mr. President, I ask unanimous consent to have printed in the Record a commentary on this bill by Norman Kraeft of ABC radio.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

### American Farm Daily

(By Norman Kraeft)

For the past 2 days on this program you have heard Democratic Senator Birch Bayh, of Indiana, outline a farm program he is proposing. Basically, it would feature permanent retirement over a 3-year period of 50 to 60 million acres of cropland now under cultivation, and rather than a 3-price wheat subsidy, as in the new law, a one-price wheat subsidy of 40 cents a bushel the first year, to be reduced over a 3-year period and then withdrawn.

The cropland retirement phase, said Senator Bayh, would dovetail with the wheat program, the feed-grain program, and the conservation reserve during the 3-year transition period. In this way, said Bayh, we can stop our haphazard, crop-by-crop, year-by-year approach to what are fundamentally long-range, comprehensive issues. We would also be permitting maximum freedom to the farmer, he said, to select the kind and amount of crops he prefers to raise on acreage available for cultivation, without individual crop acreage controls. This program, concluded the freshman Indiana Senator, also would bring about an income to farmers above minimum Government support prices by doing away with surpluses and bringing into play the natural economic forces of supply and demand. Chairman Ellender, of the Senate Agriculture Committee, has promised to hold hearings on the Bayh proposal.

Senator Bayh, if we may speak frankly, has two bulls by the tail. In one hand he has Farm Bureau President Shuman's land retirement approach, and in the other a price support program not too far removed from administration-supported levels. We hope that Senator Bayh would keep an open mind on the transitional subsidies, as to whether they should be in the form of price supports, direct payments, or certificate payments. The Bayh proposal has, it seems to us, special interest because, for the first time in our knowledge, it offers what would appear to be a means of braiding the best of what major farm policy opponents have to offer and knitting these elements into a workable farm program.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 160 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Boggs
Burdick
Cannon
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Douglas
Eastland
Ellender
Ervin
Fong
Gore
Hart
Hartke
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Keating
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McIntyre
McNamara
Metcalf
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Scott
Smith
Symington
Walters
Williams, N.J.
Williams, Del.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). A quorum is present.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. EASTLAND. Mr. President, I am in favor of the pending amendment to give an unqualified right to trial by jury to individuals charged with criminal contempt of court. It must be understood that this amendment is much wider and broader than the proposed act to which it would be added as an amendment. This language goes to the basis of the presently existing criminal statutes on contempt of court, and is designed to rectify a situation that has been crying for correction from the time when the first judge arbitrarily incarcerated an individual in jail for criminal contempt, without the benefit of a jury trial. The language of this amendment is identical with that which was adopted on August 1, 1957, when the Senate incorporated it into what later became the Civil Rights Act of 1957. When the Senate version of the bill went to conference, the language was changed to conform with the language which now appears in the Civil Rights Act of 1957. I was unalterably opposed to the compromise provision that was agreed upon by the Senate-House conference and was then adopted by the Senate, which reads as follows:

> In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however*, That in the case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of $300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

I am unalterably opposed to the inclusion of such a provision in the presently pending bill. I do not believe there is any constitutional authority, under existing constitutional and statutory law, for a judge to sentence an individual to prison for criminal contempt, without a trial by jury. I will not be a party to any compromise that would give to a defendant in a case of criminal contempt any less right than I feel he is now entitled to under the U.S. Constitution, and which will be insured by the presently pending amendment—an absolute right of a trial by jury. This issue of a trial by jury is one that is leading us to the precipice involved in choosing between a constitutional republic and a totalitarian dictatorship.

It is ironical that the presently constituted U.S. Supreme Court is now divided—by a division of five judges to four judges—on the basic issue as to whether an individual has a constitutional right to a trial by jury in a case of criminal contempt. Justice Brennan, who held with the majority, to make five in the recently decided Barnett case, was one of the dissenting judges in the case of *Green, et al.* v. *U.S.*, 356 U.S. 165, which, prior to the Barnett case, was the leading decision of the U.S. Supreme Court on the subject of criminal contempt. Had either the former Governor Ross Barnett, of the State of Mississippi, or the present Governor Paul Johnson, of the State of Mississippi, been a member of the Communist Party, it is entirely possible that Justice Brennan would have seen fit to maintain consistency. Seldom in his judicial career has he failed to join with his brethren, Justices Black, Douglas, Warren, and Goldberg, on issues that are said to involve what is called "civil liberties." At a later point in my discourse, I propose to lay bare to the fullest degree the issue that was decided in the Barnett case. I also intend to offer to the pending amendment an amendment that will deny to an appellate court the power to try an individual for criminal contempt in a case arising in a court of original jurisdiction, either with or without a jury.

Mr. President, I rise for the purpose of defending what I had long supposed needed no defense in this body—the right of trial by jury. I do so because we are witnessing a rare spectacle in the annals of American history. We are witnessing the advocacy of a proposal steeped in retrogression, a measure which would redirect our steps toward the iniquitous star chamber. It is a measure brewed in the kettle of politics and flavored with the condiments of discord. This is an odd day in the Senate, Mr. President—a day when a cornerstone of liberty must be defended from attacks of expediency. We are told that in order to add to the enjoyment of one privilege we must subtract from another. Whether this is sound as a matter of mathematics, I would not attempt to say, but I do say that it is basically and fundamentally unsound in dealing with the freedoms of citizens of the United States from the exercise of arbitrary power by agents of government.

Let us remember that the belief in the principle of trial by jury is not some sudden marriage between the South and its desire to amend a civil rights bill. Some of the greatest statements ever struck off by pen by the intellectual giants of our legal history concern this need of trial by jury.

Blackstone in his commentaries states it succinctly:

> The trial by jury ever has been, and I think ever will be, looked upon as the glory of the English law. And if it has so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases?
>
> It is the most transcendant privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals. (See majority opinion *Reid* v. *Covert*, 1955, where the Court affirms Blackstone's position.)

Winston Churchill, in his work, "English Speaking Peoples," states:

> Trial by jury of equals, only for offenses known to the law, if maintained, makes the difference between bond and free.

Lord Camden, one of the great English jurists, said:

> Trial by jury is the foundation of the British Constitution; take that away and the whole fabric will soon molder into dust.

The eminent French philosopher, De Tocqueville, wrote at pages 282–283 of his treatise, "Democracy in America," as follows:

> The institution of the jury * * * places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the government * * *. He who punishes the criminal is * * * the real master of society * * *. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury.

The Federalist, No. 83, at 141, Bourne edition, 1937, Hamilton, states:

> The strongest argument in its favor is, that it is security against corruption * * *. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury, unless the court could be likewise gained. Here then is a double security; and it will be readily perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either. The temptation to prostitution which the judges might have to surmount, must certainly be much fewer, while cooperation of a jury is necessary, than they might be if they had themselves the exclusive determination of all causes.

As we sit in the Senate in the year 1964, I am amazed to see how we are whittling away, step by step, the liberties which were handed down to us for safekeeping and preservation. It is unnecessary for a Senator today to argue the reason why a provision was included in the Constitution by those great men who had recently come from the tyranny of Great Britain. They cited their reasons. I note that one of the first statements in the Federalist is:

> It would be necessary to corrupt both court and jury.

I note one further fact. Every dictatorship that has arisen in the 20th century has been founded on the denial of the right of trial by jury to a man accused. As Hamilton said, corrupt judges sit in star chamber proceedings. People are arrested and brought before them and sent to jail.

I say that on this day in April 1964 the American Republic is going further in the same process, which would destroy the liberties of its people by destroying the right of trial by jury.

I ask Senators to consider the meaning of the Founding Fathers when they wrote the Constitution. Anyone with commonsense must know that they considered human rights. In the seventh amendment to the Constitution the Founding Fathers provided that when the amount at issue in a case was in excess of $20, the parties involved would have a right of trial by jury. Yet the bill would enable judges to sentence a man to 2 years in jail for criminal contempt without the right of trial by jury.

To an intelligent man such a provision does not make sense. I make that statement tonight to the people of our country because of the pressure groups that have been formed. One man desires to gain the Negro vote; another wishes to gain the vote or support of another group to bring pressure. By such means we can destroy the Government. We can destroy our Republic. We can destroy the liberties of our people.

Judge Joseph Story, writing at a time when the adoption of the Constitution was still in the memory of men then living, speaking of trial by jury said:

> When our more immediate ancestors removed to America, they brought this great privilege with them, as their birthright and inheritance, as a part of that admirable common law which had fenced round and interposed barriers on every side against the approaches of arbitrary power. It is now incorporated into all our State constitutions as a fundamental right, and the Constitution of the United States would have been just obnoxious to the most conclusive objection if it had not recognized and confirmed it in the most solemn terms (2 Story on the Constitution, sec. 1779).

The First Congress of the American Colonies in the Declaration of Rights, on October 19, 1765, declared:

> That trial by jury is the inherent and invaluable right of every British subject in these colonies. (Declaration of Rights of the Stamp Act Congress, Oct. 19, 1765.)

There could not be a finer statement than that; and there could not be a finer argument than that against the pending bill.

The First Continental Congress, in the Declaration of Rights, adopted October 14, 1774, unanimously resolved that—

> The respective Colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law (1 Journal of Congress, 28).

In volume 1 of Churchill's "A History of the English-Speaking Peoples," 1956, the following observation is made:

> The jury system has come to stand for all we mean by English justice, because so long as a case has to be scrutinized by 72 honest men, defendant and plaintiff alike have a safeguard from arbitrary perversion of the law. It is this which distinguished the law administered in English courts from Continental legal systems based on Roman law. Thus amidst the great process of centralization the old principle was preserved, and endures to this day, that law flows from the people (p. 219).

Associate Justice Jack Pope, Texas Court of Civil Appeals, Fourth District, in an article entitled "The Jury" (39 Texas Law Review 426, 447 (1961)), states:

> The centuries have poured content and meaning into the simple word "jury," that was incorporated into the Constitution * * *. Assembled under the term "jury" are these received ideas: (1) Citizens may participate in the administration of justice; (2) the administration of justice is a specialized branch of government; (3) there is a difference between an accusing and a trial jury; (4) jurors are selected by the public authority; (5) perform their services under the sanction of an oath; (6) they must possess certain qualifications and be from the vicinity of the dispute; (7) and their qualifications may be challenged by the litigants; (8) some persons are entitled to an exemption; (9) historically, 12 persons composed a jury; (10) jurors are not witnesses or investigators, but (11) evidence must be presented before them in open court; (12) the judge may instruct and charge the jury (13) before they withdraw to deliberate (14) in private; (15) the jury's function is to decide the facts—not the law, and (16) in that sphere, it is independent of the judge; (17) the jury may return a special verdict, but (18) verdicts must be unanimous, and (19) returned in open court; (20) judges may exercise corrective control over juries in cases of misconduct or corruption.

He continues at page 448:

> This story of people's interest and participation in the administration of justice through a system of trial by jury is truly the epic of our law.

Mr. David F. Maxwell, former president of the American Bar Association, was quoted in a newspaper published in Columbia, S.C., on Friday, July 5, 1957, as saying:

> Too many persons today are prone to view trial by jury solely as a factfinding device, and hence expendable, if as good or better a method can be devised * * *. So let us in the country take a warning. The jury alone is able to function as the thin wedge of reserved power that separates our system of law from the monolithic, totalitarian despotism behind the Iron and Bamboo Curtains.

Mr. David Lawrence, newspaperman, in an article in the Washington Evening Star of March 15, 1957, stated:

> The right of trial by jury is such an integral part of the Constitution of the United States that, when someone in the law-enforcement branch of the Government begins to tamper with it, there is naturally grave concern * * *. But the means (trial by the court alone) happens to be a denial of rights granted in the Constitution, itself.

From DeTocqueville's "Democracy in America," written after visiting America in the 1830's, it is observed:

> The jury contributes powerfully to form the judgment and to increase the natural intelligence of a people; and this, in my opinion, is its greatest advantage * * *. And I look upon it (jury trials) as one of the most efficacious means for the education of the people which society can employ.

Mr. President, the late President Kennedy, when he was a Member of this body, favored the O'Mahoney amendment in the debates on the 1957 civil rights bill. The O'Mahoney amendment is for all intents and purposes the same as the instant Ervin proposal. I quote from the former President in the CONGRESSIONAL RECORD, volume 103, part 10, page 13306:

> Rather the weight of history and tradition falls in favor of a citizen having a trial by jury when he faces prison as a result of a crime.

Mr. ERVIN. Mr. President, will the Senator yield for a question at this point, with the understanding that he will not lose his right to the floor?

Mr. EASTLAND. I yield with that understanding.

Mr. ERVIN. I ask the Senator from Mississippi if President Kennedy, then a Senator, did not vote in 1957 for the very jury trial amendment that we are presenting.

Mr. EASTLAND. He was one of the coauthors, as I recall.

Mr. ERVIN. I ask the Senator if the able and distinguished majority leader [Mr. MANSFIELD] did not also vote for this very amendment when it was offered in 1957.

Mr. EASTLAND. That is my recollection. The present President of the United States was one of the supporters of it.

Mr. ERVIN. I ask the Senator from Mississippi if he does not agree with the Senator from North Carolina that the most eloquent speech which the present President of the United States ever made——

Mr. EASTLAND. I ask the Senator to call his name.

Mr. ERVIN. I ask the Senator from Mississippi if he does not agree with the Senator from North Carolina that the most eloquent speech ever made on the floor of the Senate by President Lyndon B. Johnson while he was serving as a Member of this body was the speech in which he urged Senators in 1957 to vote for the very amendment which is now before the Senate.

Mr. EASTLAND. That is my recollection.

Mr. ERVIN. I ask the Senator from Mississippi if he does not recall that the then Senator Johnson, now President Johnson, made the final speech in support of the amendment before the Senate and in his final summation urged all Members of the Senate to support this particular amendment.

Mr. EASTLAND. That is my recollection. I believe he feels that way tonight. I do not know.

Mr. ERVIN. I ask the Senator from Mississippi if the then Senator, now President, did not quote statements of distinguished Americans about the sacredness of the right of trial by jury.

Mr. EASTLAND. Certainly; and it is an important right to every American citizen.

Mr. ERVIN. I ask the Senator from Mississippi if, when Thomas Jefferson penned the Declaration of Independence, he did not insert the statement in the Declaration of Independence that one of the reasons for the Thirteen Colonies severing their bonds from the mother country, England, was that the British had denied the Colonies the right of trial by jury in many cases.

Mr. EASTLAND. The Senator is correct. One of the principal reasons why the Colonies rebelled against Great Britain was that the people in the American Colonies were denied the right of trial by jury.

Mr. ERVIN. I ask the Senator from Mississippi if in making that declaration Thomas Jefferson was not moved by the fact that the British Parliament had increased the jurisdiction of the courts of admiralty, where there were no jury trials, the same kind of procedure as is proposed in the pending bill, to circumvent the right of jury trial as defined in the Constitution. Is not Congress attempting to do likewise by increasing the jurisdiction of courts of equity in this country so that the people will have no right of trial by jury?

Mr. EASTLAND. The Senator is correct. I do not see how equity jurisdiction can be extended to criminal contempt. Knowing as little as I do about the law, I see no basis for it.

Mr. ERVIN. The process by which the proposed law would be enforced would be by bringing an equity suit for an injunction.

Mr. EASTLAND. Equity and the commission of a crime under the law are abhorrent to each other. Here we have an attempt to hold the two together. Any competent lawyer knows there is no sense in it. They do not belong together.

Mr. ERVIN. Since under the Federal system there is no right to trial by jury in equity proceedings, the first trial on the merits in these cases will be without a jury.

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. In enforcing the injunction against those who are reluctant to obey, resort would be had to criminal contempt proceedings; is that not correct?

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. I ask the Senator whether in criminal contempt proceedings the courts have held, for reasons passing strange, in many cases, that the provision of the third article of the original Constitution and the provisions of the Bill of Rights guaranteeing the right to a trial by jury in all criminal cases, do not extend to the proceedings for criminal contempt?

Mr. EASTLAND. Will the Senator please repeat that?

Mr. ERVIN. I ask the Senator if I am correct in saying that the courts have denied the right of trial by jury to defendants in criminal contempt proceedings?

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. I ask the Senator if they also have not denied the constitutional right to be first indicted by a grand jury before one can be tried for criminal contempt?

Mr. EASTLAND. The Senator is correct. I believe it is in violation of the Constitution.

Mr. ERVIN. If it were not for the Bill of Rights fixing the venue in criminal prosecutions, a man could be denied a trial in the district where the offense is alleged to have been committed.

Mr. EASTLAND. The Senator is correct. A man in a civil suit involving more than $20 is entitled to a jury trial. Under the proposed law a man would face the prospect of a year in the penitentiary. The point is to determine what was in the mind of the Founding Fathers; is it not?

Mr. ERVIN. That is what I believe. Justice Holmes said, in a case in which the United States brought criminal contempt proceedings against the great labor leader Samuel Gompers, that the charge of criminal contempt was a crime, but, nevertheless, the Supreme Court holds that although it is a crime, it does not fall within the two provisions of the Constitution which guarantee the right to a trial by jury in all criminal cases. It is held that an indictment by a grand jury is not required, and that there is no limit to the punishment, except the nebulous limitation of the eighth amendment. In one case it was held that a man could be sentenced to prison for 4 years in a trial by a judge without a jury in a criminal contempt proceeding.

Mr. EASTLAND. The distinguished Senator well knows that it is all a grasp of power by the Federal judiciary.

Does not the Senator know that?

Mr. ERVIN. It is judge-made law. It has been held that the double jeopardy provision does not apply. Does not the Senator from Mississippi agree with me that the most outrageous judicial procedure permitted by our law is the procedure which prevails in criminal contempt cases?

Mr. EASTLAND. Of course; it is outrageous. I believe it is in violation of the Constitution of the United States.

I would not like to find myself in agreement with the Chief Justice, or Justice Black or Justice Douglas——

Mr. ERVIN. I believe I can find one statement of Justice Black's that the Senator will agree with. He said that procedures in criminal contempt proceedings represented autocratic omnipotence on the part of courts.

Mr. EASTLAND. Mr. President, I ask unanimous consent that, without losing my right to the floor or having it count as a speech on the amendment, I may ask the distinguished Senator from North Carolina a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. Does not the distinguished Senator believe that the power of the appellate court to try men and sentence them for contempt is beyond the law, and is foolish?

Mr. ERVIN. I have never heard of any criminal contempt trial ever being held in an appellate court.

Mr. EASTLAND. The fifth circuit has tried to do it.

Mr. ERVIN. I believe that a judge whose orders should prevail should not sit in a criminal contempt case, because he would be a judge in his own case.

Mr. EASTLAND. The Senator is correct; but that involves the question of honesty and integrity. It does not appear that it prevails in a majority of the fifth circuit.

Mr. President, Prof. Paul A. Freund, Harvard Law School, in a letter to former President Kennedy dated July 26, 1957, stated on the O'Mahoney jury trial amendment:

> The upshot is that there would be some sacrifice of effectiveness in limiting the power of the judge alone to cases of civil contempt. Against this loss must be weighed the value of a more receptive sentiment on the part of the original opponents of the bill, a sentiment which presumably would filter down to the press and populace of the South. In the long run that state of mind may be more important than the partial sacrifice of legal procedures involved in the compromise. This is a matter of judgment on which your own wisdom will yield a better answer than any I might venture. I can only say that to accept the jury trial for criminal contempt would not in my view constitute a betrayal of principle.

And Prof. Mark DeW. Howe, professor of law, Harvard Law School, in an abstract of telephone conversation with the late Mr. Kennedy on July 31, 1957, stated:

> I do think there is some merit in the jury trial position. From the standpoint of enforcement and getting acceptance in the South, a good deal is gained by the amendment. Certainly the O'Mahoney amendment constitutes no betrayal of principle or of fundamental justice.

Those who propose the bill might ponder these words of Samuel Gompers before Senate hearings of the 62d Congress:

> If ever the time shall come (and let us hope and work that it never shall come) when government by dynamite shall be attempted, it will have as its main cause the theory and policy upon which is based government by injunction—personal government foisted upon our people instead of a government by law.

There, Mr. President, is the voice of the greatest labor leader in the history of our country.

In the debates on the 1957 civil rights bill, David Lawrence pointed out in an article in the Washington Star that the so-called civil rights bills are "designed to avoid trial by jury."

Mr. President, quotes such as these permeate the great documents of our jurisprudence. They are the lodestones to which our liberties are anchored. I do not quote more, for there is no Member of this body who is unaware of their existence and prevalence.

The framers of our Constitution were zealous in their efforts to protect the rights of all citizens. Part and parcel within this protective framework was woven the right to trial by jury. Of course, it cannot be said that trial by jury is infallible in all respects, as it does have its imperfections. This much can be said, however, that our judicial history has proved it is the best protection for the innocent and likewise has been the surest method of punishing the guilty yet devised.

It has borne the test of a longer experience, and borne it better, than any other legal institution that ever existed among men. It has had the approbation not only of those who have lived under it, but of legal scholars who have looked at it calmly from a distance and judged it impartially. Changing times and events have not dulled the vision of our forefathers who farsightedly declared that the rights of individual freedom can best be protected by public trial before an impartial jury. This is as true and necessary today as it was in 1789.

Mr. President, there can be no proper discussion of jury trial unless the question is first put into its historical pattern. Jury trial is not a new right or something that came lightly into our jurisprudence. It finds its roots in immemorial usages. It strikes back through all our great documents, including the Magna Carta, to the reign of Alfred the Great. We find it in Roman law, we find it in Mosaic law, and perhaps more important, we find it wherever people congregate for democratic government.

I do not care to utter words that strike sparks in history. I will leave that to others, but I will always believe that the finest system yet devised to protect the innocent and yet punish the guilty is the system of jury trial. I believe that should apply to civil rights cases and the voting provisions of this bill as well as it applies to others, just as it applies to a labor dispute

Our Founding Fathers, while drafting the Constitution, took a long keen look at Anglo-Saxon history and jurisprudence. In their wisdom they knew that tyranny often masks itself under law to crush those who would oppose its will.

They had fresh in their minds the recent tyranny of the English King. When by life tenure a caste system of judges is set up, no matter how learned, able and honest they may be, the liberties and security of the people are jeopardized unless there is erected against the inevitable tyranny proper safeguards. Of this they were well aware.

The example of the Stamp and Sugar Acts passed by the English Parliament stood before them as a usurpation of their rights to trial by jury. By the simple expedient of expanding the historic jurisdiction of the admiralty courts and placing violations of the Stamp and Sugar Acts before these courts, the English Parliament withdrew from the colonists their right to be tried by their peers. How like these acts is H.R. 7152. The procedure in both instances is almost identical, because here we expand the action of the chancery courts.

The first Continental Congress denounced the British Parliament by stating that the colonists were "entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage according to the course of that law."

One of the great accusations in the Declaration of Independence was that the colonists had been deprived "in many cases of the benefits of trial by jury." To the colonists this was one of the "injuries and usurpations" requiring that the political bands be dissolved.

Always what has been done in the past will be attempted in the future. Usurpations are not unique to any age or period.

Tranquillity cannot always be anticipated in a government which permits the liberties of a democracy. Strife is to be expected and troublesome times are always to be expected.

A democracy means strife; and so it should be. People have the right and the power to make their own decisions. But they must be made on the great fundamental bedrock of human liberty, which is guaranteed in the Constitution of the United States, and which has been handed down to us, as a result of generations of experience extending back into the mist of history, by the great men who wrote the Constitution of the United States.

The principles of constitutional liberty are ever in peril unless established by irrepealable law. The greatest heritage of the colonists from English law was the right of trial by jury in criminal cases and in suits at common law.

With their great wisdom and foresight the Founding Fathers intended to engrave the right of a jury trial on the greatest shrine we possess—the Constitution.

Article III, section 2 provides that:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

The fifth amendment to the Constitution provides that:

> No person shall be held to answer for a capital, or otherwise infamous offense, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger.

Trial by jury is mentioned four times in the Constitution of the United States.

Next, I quote from the sixth amendment, which provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed * * * and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The seventh amendment provides that:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

What person in his right mind can say that the Founding Fathers would say that a Federal judge, appointed for life, should have power to sentence a man to 6 months, a year, or 2 years in jail without a trial by jury, when it is said that anybody is entitled to a jury trial when the amount in controversy is over $20 in a civil suit? The argument that is made does not make sense to the Senator from Mississippi.

Mr. President, one of the first acts of the Congress was the Judiciary Act of 1789, which gave the Federal courts the power to punish by fine or imprisonment at the discretion of those courts all contempts of authority in any cause or hearing before them.

But equity then was not the equity of today, when H.R. 7152 is thrust upon us. Equity was in its historical context. The basis of jurisdiction in equity, which historically functioned without juries, was the protection of private rights of property. Equity was not available unless there was a showing that there was no adequate remedy at law. If property was damaged or threatened with damage there was no adequate remedy at law, because property is unique and money damages obtainable at law were not considered adequate relief or recompense.

This was the type of equity which faced the Founding Fathers. The Founding Fathers saw no need of placing constitutional safeguard of jury trial in equity for equity was not then used to punish acts which were otherwise criminal. So the Founding Fathers applied their safeguards to law from which they had come to expect abuses.

In the years to come, as the powers of equity grew, it became necessary to circumscribe this broad grant of authority which had been given in the Judiciary Act of 1789. The incident which, more than any other, focused attention on this broad grant of authority, occurred in 1831. In that year a Federal judge by the name of Peck imprisoned and disbarred a lawyer for publishing a detailed criticism of an opinion by the judge while an appeal from the judge's ruling was pending. The alleged contemptuous act of the lawyer took place at some distance from the courtroom of Judge Peck, and his use of the arbitrary power conferred on him by the statute shocked the whole country. It shocked Congress to the extent that impeachment proceedings were brought against him in the House of Representatives and the judge was ultimately tried in the Senate. Although he was not convicted, an immediate legislative revision of the law relating to contempts was undertaken in the House and the Senate by Mr. Buchanan and Mr. Webster. The result was that in 1831 an amendment was adopted consisting of a proviso which read as follows:

> *Provided*, That such power to punish contempt shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said court in their official transactions, and the disobedience or resistance by any officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree or command of the said court. (4 Stat. 487.)

This provision with only slight revisions, primarily revisions of form, has been included in the laws of the United States ever since. It now appears in the Criminal Code as section 401.

History records that though other proposals were made in the intervening years to limit the arbitrary power of the courts to punish for contempts, it was not until the enactment of the Clayton Act in 1914 that the abuses of the power conferred on the courts became so pronounced that legislative notice was taken of it. But the provisions of the Clayton Act were limited in the grant of a jury trial in contempt cases to those instances in which private parties were involved in litigation. An exclusion was given in those instances in which the United States was a party. Twenty years later Congress found it necessary to carve an exception from this area where trial by jury was denied in cases of contempt. In 1932, largely as a result of the efforts of the then chairman of the Committee on the Judiciary, Senator Norris, trial by jury was granted in contempt cases arising out of injunctions issued in labor disputes, even though the United States was a party.

The whole development of the law has been toward the restriction of arbitrary power and this is true with respect to the judiciary as it is to other areas of Government. We started with the broadest grant of authority in the courts to punish for contempts. In 1831 the Congress narrowed that authority. In 1914 it was further limited. In 1932 more exceptions were made.

I recite all of this by way of showing that what is here proposed by H.R. 7152 is really a step backward in the law as it relates to the contempt powers of the court.

Mr. President, I have been interested in the reasons for this development of the law, and I have taken the trouble to examine the reasons for its development. These reasons, which I shall present in a moment, are as applicable today as they were when they were given. They are as applicable in the consideration of the pending proposal as they were to the proposals to which they were addressed. People in those days were about the same as they are today. There were those who, in the name of expediency, sought to deny a jury trial in contempt proceedings, but there were those also who asserted that the right of trial by jury was fundamental and should not be foresaken for any reason of expediency. Among these persons certainly was the Senator from Montana, Mr. Walsh. In arguing for enactment of the provisions of the Clayton Act to which I have already referred, Senator Walsh pointed out that provisions for trial by jury in contempt cases, far from interfering with the power of the courts and rendering them ineffective, actually rendered them more effective by creating more respect for the courts through the mechanism of permitting the sharing of the court's power and prerogatives with its creators, the people.

The same reasoning was followed in House Report 613 of the 62d Congress. There the House Judiciary Committee wrote:

> The bill is an evolution from prolonged and varied discussion, by no means limited to a recent date or to the present Congress. Every feature and provision of it has been subjected to attack and defense, but the whole controversy appears to have at length converged upon the issue of whether or not the policy and practice of jury trial in contempt cases shall be admitted in the Federal jurisprudence at all.
>
> That complaints have been made and irritation has arisen out of the trial of persons charged with contempt in the Federal courts is a matter of general and common knowledge. The charge most commonly made is that the courts, under the equity power, have invaded the criminal domain, and under the guise of trials for contempt have really convicted persons of substantive crimes for which, if indicted, they would have had a constitutional right to be tried by jury. It has been the purpose of your committee in this bill to meet this complaint, believing it to be a sound public policy so to adjust the processes of the courts as to disarm any legitimate criticism; and your committee confidently believes that, so far from weakening the power and effectiveness of Federal courts, this bill will remove a cause of just complaint and promote that popular affection and respect which is in the last resolve the true support of every form of governmental activity.

Mr. President, I digress to say, as chairman of the Committee on the Judiciary, that a proposal was made on the floor of the Senate to refer H.R. 7152 to the Committee on the Judiciary for 10 days, without the right to report or without the right to make recommendations.

The senior Senator from Mississippi has always thought that the bill is so laden with dynamite that its sponsors do not want the American people to know what they are doing; and that, therefore, they were afraid to have the bill referred to committee in a normal manner, to give the committee days in which to report, to offer amendments, and to point out the vices in the bill. Since when has the vote of any group become so important that we must destroy our liberty and our system of government so as to pass a bill?

Senator Walsh also argued that trial by jury in contempt actions was necessary to protect the stature of the courts from public defamation or disrepute in emotional situations. No better illustration of this principle could be found, in my judgment, than by reference to the *Carter case,* 96 Va. 791. In that case, one Carter had made an attack upon a judge of one of the courts in the State of Virginia. The attack was so flagrant that immediately the people in the community and the State rallied to the support of the judge; but then the judge, in the exercise of his authority, called Carter before him, and punished him for contempt. Public opinion switched; and the sympathy that was once with the judge, went instead to the contemnor. The people reacted by authorizing a revision of the law relating to contempts.

Mr. President, I have mentioned these two reasons which were assigned by Senator Walsh in his advocacy of jury trial in contempt cases, not because they are the only arguments that were presented, but because they refute so eloquently the arguments which have been made on the floor of the Senate—that a proposal to include the right of trial by jury in this bill is an attack upon the ability of the court to defend itself and its processes.

During the course of this debate, Senator Walsh very cogently observed that:

> There is not an argument that can be advanced or thought of in opposition to trial by jury in contempt cases that is not equally an argument against the jury system as we now know it (51 CONGRESSIONAL RECORD 14369, 63d Cong., 2d sess.).

Mr. President, Senator Walsh was one of the most outstanding men ever to sit in the Senate of the United States; and his judgment is worth careful consideration by this body.

Mr. METCALF. Mr. President, will the Senator from Mississippi yield?

Mr. EASTLAND. I yield for a question.

Mr. METCALF. I cannot refrain from commenting on the statements the Senator from Mississippi has made about a former outstanding Senator——

Mr. EASTLAND. I ask the Senator to wait just a moment, please.

Mr. President, the distinguished Senator from Montana wishes to make a comment. I ask unanimous consent that I may yield to him for that purpose, without jeopardizing my right to the floor, or without having my subsequent remarks count as a second speech by me on this amendment, or without jeopardizing in any other way my rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. I do not wish to interfere with or jeopardize the rights of the Senator from Mississippi.

Mr. EASTLAND. I know the Senator from Montana would not wish to do so. I have great respect for him.

Mr. METCALF. But, Mr. President, I could not refrain from commenting on the tribute the great Senator from Mississippi has paid to a distinguished Montanan—Senator Walsh, one of the great Senators from Montana—a great lawyer, a great constitutional lawyer, and an outstanding Senator.

Mr. EASTLAND. He was one of the greatest.

Mr. METCALF. His stature as a Senator was such that I believe his portrait should appear on one of the walls of the foyer of this Chamber—instead of some of the other portraits there—as a tribute to him.

In the quotations the Senator from Mississippi has given, Senator Walsh was referring to the rights of labor, and I would refer to them, too. Senator Walsh was referring to certain basic rights that accrue in connection with judicial contempt.

Under this bill, there is to be, first, the making of a charge; then there is to be a trial before a judge——

Mr. EASTLAND. Yes, before a judge; and that, Mr. President, is the trail to dictatorship. So often have many men trod that path, to their regret.

Mr. METCALF. As I was saying, under the bill, a charge would have to be made, and there would have to be a trial before a judge, and a decision would have to be handed down——

Mr. EASTLAND. The same could be said about every court Stalin ever had, and the same sermon could be preached over every man Stalin had assassinated—Stalin, the greatest murderer in all history.

Mr. METCALF. And after that process, if the person involved refused to comply with the order of the court, there would have to be another trial, and another decision, and then another trial before a judge——

Mr. EASTLAND. I appeal from the judgment of my distinguished friend, the Senator from Montana, to the judgment of the great constitutional lawyer from Montana, Senator Walsh, who preceded him, and let the country make its own judgment.

Furthermore, I have not concluded quoting from Senator Walsh.

Mr. METCALF. I know the Senator from Mississippi has not.

Mr. EASTLAND. I wish the Senator from Montana would study the words of Senator Walsh and would learn something from them. The Senator from Montana has a lesson to learn.

Mr. METCALF. Yes, I have; all lawyers have a lesson to learn; we never cease learning lessons.

For 6 years, I served on a court in Montana——

Mr. EASTLAND. Then let me tell the Senator from Montana that he should know better than to come here and advocate the establishment of a system similar to the one Stalin set up in Russia—a system for trial by judges, a system for star chamber proceedings. The Senator from Montana says there would be a right to appeal to another judge. But who appointed the other judge in Russia? Stalin did. Who controlled both of the judges? Stalin did. What did a defendant get out of it? He got his throat cut. That is what we are trying to protect the people from Montana from, I say to the Senator from Montana.

Mr. METCALF. No; that is what we are trying to protect the people of Mississippi from.

Mr. EASTLAND. The people of Mississippi?

Mr. METCALF. Yes.

Mr. EASTLAND. We stand on the right of trial by jury, which is the foundation of Anglo-Saxon justice. I am an Irishman who is standing on the principles of Anglo-Saxon justice.

Mr. METCALF. Senator Walsh would have said that all the good Irish would have admired the attitude of the Senator from Mississippi.

But we stand on a basic principle——

Mr. EASTLAND. But Senator Walsh never took the position the Senator from Montana is taking.

Mr. METCALF. Wait a moment.

Mr. EASTLAND. Yes, I will wait; I want to hear what the Senator from Montana has to say. I am sure it will be good.

Mr. METCALF. I served on the Supreme Court of Montana. I have examined and analyzed many of the arguments Senator Walsh made before the Supreme Court.

Of course, as the Senator from Mississippi has said, I have much to learn—as has the Senator from Mississippi, too.

Mr. EASTLAND. Of course.

Mr. METCALF. We all have much to learn as we explore the mysteries of the law.

Mr. EASTLAND. Certainly. But I wish the Senator from Montana would keep his ears open, instead of closing them.

Mr. METCALF. I have listened with great attentiveness to the masterly presentation the Senator from Mississippi has been making; but I could not refrain from stating that I am sure my distinguished predecessor on the floor of the Senate, Senator Walsh, would have concurred in my view that a court has a right to enforce a decree it makes.

Mr. EASTLAND. If the Senator from Montana would only listen to what I have been reading, he would find that Senator Walsh——

Mr. METCALF. I have listened attentively.

Mr. EASTLAND. No; for if the Senator from Montana had been listening attentively to the quotations I have been reading, he would know that Senator Walsh said just the opposite of what the Senator from Montana has said.

I wish the Senator from Montana would benefit from Senator Walsh's wisdom. The Senator from Montana is a great man. Senator Walsh was a great man and a great judge; and the Senator from Montana was also a great judge. But he should learn something from Senator Walsh, rather than follow the system of Joseph Stalin.

Mr. METCALF. Under this bill there would be, first, one judicial decision, and then another judicial decision.

Mr. EASTLAND. Yes; but who would appoint both of the judges? The Senator from Montana says "one judicial decision, and then another judicial decision." But who would appoint both of the judges? I want the Senator from Montana to tell me that. I want him to answer my question.

Mr. METCALF. I have great confidence——

Mr. EASTLAND. Will the Senator from Montana answer my question?

Mr. METCALF. Wait a moment. I believe in the system by which the President of the United States makes such appointments.

Mr. EASTLAND. Very well; but the same man would appoint both of the judges, and that would mean that they would answer "no" in both cases, if the defendant were opposed to the judges' will.

Mr. METCALF. The distinguished Senator from Mississippi, as chairman of the Judiciary Committee, has had control over the confirmation of the nomination of every one of those judges.

Mr. EASTLAND. No, I did not control anything.

Mr. METCALF. Oh, yes; the Senator did.

Mr. EASTLAND. Oh, no; that is a mistake.

Mr. METCALF. Oh, yes; the Senator from Mississippi does control those appointments.

Mr. EASTLAND. I know some who——

Mr. METCALF. Oh, yes; the Senator does control them.

Mr. EASTLAND. Let me tell the Senator from Montana that if I could control some of the appointments, we would not have the Supreme Court we have now.

Mr. METCALF. But the Senator from Mississippi has control of appointments. That, I know about.

Mr. EASTLAND. I do not control any of them.

Mr. METCALF. And I believe that the Senator from Mississippi——

Mr. EASTLAND. I am the errand boy of my friend, the Senator from Montana——

Mr. METCALF. I thank the Senator from Mississippi very much.

Mr. EASTLAND. I wish the Senator from Montana would listen to the words of his distinguished predecessor, former Senator Walsh, a man of great wisdom.

Mr. METCALF. The only reason I rose to respond to the Senator was that I had to say that my distinguished predecessor from Montana, the late Senator Walsh, would have confirmed the position that the majority leader [Mr. MANSFIELD] and I will take, that, after rendering a decision, a judge has a right to carry out the order of the court.

Mr. EASTLAND. Will the Senator repeat what he said?

Mr. METCALF. Suppose the Senator from Mississippi should come into court with some litigation. The judge would have to make a decision. The judge would decide the case, and if the court's order were not carried out, the aggrieved party could return to the court.

Mr. EASTLAND. To the judge.

Mr. METCALF. Yes; the judge. The aggrieved party would return to the court. A hearing would be required. The question would be asked, "Has the decision of the court been carried out?"

If the response were in the negative, the judge would say, "The decision of the court must be confirmed."

Mr. EASTLAND. Without a trial by jury.

Mr. METCALF. There would never be a trial by jury in such cases. That is a historical situation.

Mr. EASTLAND. I ask the Senator to listen to what Senator Walsh said on the subject:

> There is not an argument that can be advanced or thought of in opposition of the right of trial by jury in contempt cases that is not equally an argument against the jury system as we know it in America.

What a sweeping statement that is. The Senator conflicts with what Senator Walsh said of the American system of government.

I ask the Senator to listen once more to what Senator Walsh said. He said:

> There is not an argument that can be advanced or thought of in opposition of the right to trial by jury in contempt cases that is not equally an argument against the jury system as we know it in America.

The successor to Senator Walsh, as he stands on the floor of the Senate, argues against one of the very basic principles of Anglo-Saxon jurisprudence concerning the right of trial by jury.

Mr. METCALF. A basic principle of Anglo-Saxon jurisprudence is the right of the court to carry out the decision of the court, and to commit for contempt if the decision of the court is not carried out. If a decision of the court is not the most sacred decision——

Mr. EASTLAND. Of course it is not. Judges can be fixed.

Mr. METCALF. District judges are not fixed. The Senator, as chairman of the Committee on the Judiciary, knows that.

Mr. EASTLAND. I would not be a party to the fixing of a judge, of course. But I should like to tell the Senator something. A man in the Justice Department once told me something. I told him that he was not going to get by with it. I shall not state any names. If I told the Senator who it was, he would be surprised. He said, "I will not recommend confirmation of the appointment of a district judge to be a circuit court judge, or the confirmation of the nomination of a circuit court judge to be a Supreme Court Justice."

I asked him why. He said, "Because they become Government judges. To obtain promotions they will decide cases the way we want them decided, and that is not right."

I had never thought of it in that way; but that man was right. I was seeking the promotion of a district judge.

I suggested the name of the district judge who would be appointed to the circuit court of appeals, and he said, "No; I would not have him."

But the Senator would not take issue with that statement.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. EASTLAND. In a moment. I know of many men who, the very moment that they are appointed to one office, are candidates for promotion. They will decide any case in the way that the U.S. Government wishes it decided in order to gain promotion.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. EASTLAND. I wish to tell the Senator something else, and then I shall yield.

Not long ago I was with a friend in the office of a lawyer. We spoke of an appointment to the Supreme Court.

The man in question said, "Yes; I will take the appeals court if it would mean that I could go to the Supreme Court."

That is the trouble with Federal judgeships. That is one of the troubles in having trials by a judge. The average man does not get a square deal when his rights conflict with the ambition of a particular judge. I could name them by the dozen.

Now I yield.

Mr. METCALF. I am very grateful to the Senator for yielding. I cannot believe that the Senator from Mississippi is making an attack on the Federal judiciary.

Mr. EASTLAND. Now, listen——

Mr. METCALF. Wait a moment.

Mr. EASTLAND. I am not attacking anyone.

I have been chairman of the Committee on the Judiciary for 8 years.

Mr. METCALF. And the Senator has been in charge of recommendations for the confirmation of the nomination of judges.

Mr. EASTLAND. I have approved many candidates for Federal judgeships. I have talked with many Federal judges. I have talked with people who have recommended the nomination of Federal judges. If I have not learned something in the time in which I have been on that committee, I do not have any sense. Perhaps I do not have any sense. But what I am telling the Senator is the result of my experience.

Mr. METCALF. Is the Senator convinced that Federal judges, whose nominations the Senator from Mississippi has helped to confirm, are as venal as he would indicate?

Mr. EASTLAND. I say that the Senator can find anything he wishes in the Federal judiciary.

Mr. METCALF. I wish to find decency, honor, and respect.

Mr. EASTLAND. The Senator will find that.

Mr. METCALF. And integrity.

Mr. EASTLAND. The Senator will find that.

It has been my experience in life that the most dangerous man is the man whose ambitions control him. The Senator will also find such men on the Federal bench.

Recently a circuit judge sent some friends to see me about being appointed to the Supreme Court. I noticed that whenever he was asked to decide a case in which the Department of Justice or one of the other executive branches of the Government was a party, he decided in favor of the Government. Why? He wanted to receive an appointment to the Supreme Court. I hope I am not a fool, but I know what motivates men. I shall not put a halo around the head of a man when he is not entitled to it.

Mr. METCALF. I have served on a court; and I do not agree that the ambition of which the Senator speaks motivates.

Mr. EASTLAND. Let me tell the Senator something.

Mr. METCALF. Ambition does not motivate members of the judiciary.

Mr. EASTLAND. Every man who has ever been on the court has taken issue with what I am saying. My friend the Senator from North Carolina [Mr. ERVIN], who is now in the Chamber, probably will take issue with me in connection with that statement.

Mr. METCALF. He is a great judge and a great lawyer.

Mr. EASTLAND. Of course he is. But are we not freemen?

Mr. METCALF. I do not believe that the Senator from Mississippi would vote to confirm the nomination of a judge that had been motivated in the way that he has suggested.

Mr. EASTLAND. One does not catch on until after it is over. That is the point. And I have caught on plenty.

Mr. METCALF. The Senator from Mississippi has voted to confirm the nomination of many judges.

Mr. EASTLAND. Has not the Senator from Montana nominated judges for appointment?

Mr. METCALF. Yes; and I stand behind the judges whose nominations have come before the Judiciary Committee, of which the Senator is chairman, for consideration.

Mr. EASTLAND. I am bound to say that they are good judges.

Mr. METCALF. They are.

Mr. EASTLAND. Those whom I have nominated are good judges.

Mr. METCALF. The Senator is correct.

Mr. EASTLAND. But the Senator can find anything that he desires in the Federal judiciary.

Mr. METCALF. I do not wish to find anything but decency, integrity, and honor.

Mr. EASTLAND. Then the Senator would close his eyes to the facts, and that is the worst thing a man could do, because one can find any kind of man in the Federal judiciary.

Also in the Clayton Act debate, Senator Reed, in discussing jury trial, stated:

> The legislative branch of a government may make grievous errors, the Executive may even undertake the exercise of tyrannical power, but so long as the temple of justice stands open, as long as courts have the courage to declare the rights of the citizen as they are preserved in the law, and so long as a man has the right to be tried by a jury of his peers, no nation will ever be really enslaved (51 CONGRESSIONAL RECORD 14415, 63d Cong., 2d sess.).

These comments made in 1914 by Senator Walsh and Senator Reed, arguing in favor of jury trial, are equally applicable to the situation facing the Senate of the United States today.

In the debates on the Norris-La Guardia Act, additional arguments were made in support of trial by jury in contempt cases. Senator Norris, of Nebraska, pointed out the indiscriminate use of injunctive processes and the abuses which had resulted. He referred specifically to one instance in which the then Attorney General applied for, and the judge issued, an injunction which applied to thousands of railroad employees—75 CONGRESSIONAL RECORD 4509, 72d Cong., 1st session. He saw in trial by jury the opportunity to reduce abuses. He made another point, Mr. President, which I consider well nigh unanswerable. He pointed out that for violations of statute law, individuals were accorded the right of trial by jury and he saw in the jury trial amendment of his day opportunity to provide equal protection for defendants for the violations of judge-made law as were already given by statute for violations of statute law.

Running through the debates on the Clayton and Norris-La Guardia Acts, as it has run throughout this debate, was the manifest desire to achieve government by law by separating the maker of a judicial order from the determination of its infraction.

This is the background, Mr. President, for this debate. In these brief moments we have traced the developments from 1789 to 1831, to 1914, and to 1932. We come now to 1964 and the proposal which is before us.

Today, as before, we are discussing the right of the people to enjoy the undeniable benefit of trial by jury.

Let me ask the acting majority leading at this time if he is ready to recess for the night.

Mr. METCALF. If the Senator will yield the floor, we are ready to recess for the night.

Mr. EASTLAND took his seat.

Mr. METCALF. Does the Senator yield the floor?

Mr. EASTLAND. With that understanding, Mr. President.

## "WATER QUALITY AND THE NATIONAL INTEREST"—ADDRESS BY SENATOR MUSKIE

Mr. METCALF. Mr. President, still pending before the House of Representatives is the water pollution control bill which the Senate passed by an overwhelming margin last October. During consideration of this legislation in the Senate, and again in the House hearings, concern has been focused primarily on two aspects of the bill: First, the establishment of a Federal Water Pollution Control Administration within the Department of Health, Education, and Welfare; and second, the establishment of water quality standards on interstate waters.

Recently, the Senator from Maine [Mr. MUSKIE] author of the bill, addressed the 13th Southern Municipal and Industrial Waste Conference at Duke University on the subject of "Water Quality and the National Interest." In that address, he discussed these two aspects of S. 649 in detail. I ask unanimous consent that a copy of that address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### WATER QUALITY AND THE NATIONAL INTEREST

(Address by Senator EDMUND S. MUSKIE, Democrat, of Maine, chairman, Special Subcommittee on Air and Water Pollution, Duke University, Durham, N.C., April 16, 1964)

Dr. Cole, Dean Meriam, Dr. Bryan, and members of the conference, if I have any regret, this morning, it is that I cannot remain with you throughout your sessions. I have much to learn about the intricacies of water pollution control and abatement, and I know I could learn much from you.

Your 13-year program is one of the outstanding contributions to our national effort to improve the quality of our available water supplies. Your professional approach, the breadth of your interests, and the constructive suggestions you have developed are worthy of emulation in many areas of the United States.

Fortunately, more and more citizens, businessmen, and public officials are sharing your awareness of the extent and seriousness of water pollution in the United States. They recognize that water pollution is a threat to health, to industrial production, and to recreation.

Many once glistening streams of our country have been fouled by our own neglect and by the increasing demands of a burgeoning population in a complex technological society. Those demands are building almost faster than our ability to repair the damages of the past.

#### THE PROBLEM

We now have a population of about 180 million with a daily fresh water demand of 355 billion gallons. By 1980 our population will be about 250 million and our daily fresh water demand will be about 600 billion gallons. Our total supply at that time will be 515 billion gallons, requiring the reuse of at least 85 billion gallons a day.

By the year 2000—a mere generation from now—our daily demand for fresh water will have reached 1,000 billion gallons. The maximum volume we can make available, by the construction of engineering works, is 650 billion gallons a day.

Under these circumstances, to insure an adequate supply of the right quality water at the right place at the right time will tax our technical skills, our ingenuity, and our capital resources—public and private. There is no easy, simple, or cheap solution to the problem of water pollution control and abatement.

I have been encouraged in the past year by the more realistic approach to the water pollution control and abatement question by several segments of industry. This results, I think, from the realization that high quality water is necessary for industry as well as for fish, for factories, as well as for people.

The magnitude of the economic problem of improving our water quality has stimulated more support for the Federal sewage treatment grant-in-aid programs and Federal research. There is far less unanimity on the appropriate role of the Federal Government in enforcement. That lack of unanimity has been reflected in the debate over S. 649, which passed the Senate, 69 to 11, last October 16 and is now pending before the House Committee on Public Works.

In a sense, we are on the threshold of new directions in water pollution control and abatement. We have resolved the question of Federal responsibility in financing and the basic authority for enforcement procedures. We have agreed that on interstate and navigable rivers the Federal Government must be authorized to help the States stop gross pollution. Now, the question is: Do we use the Federal program to stimulate, encourage and enforce upgrading of the quality of the Nation's rivers?

A fruitful way to begin a discussion of the Federal role in enhancing the quality of our water supplies is to review and analyze the highlights of S. 649.

#### GUIDELINES

In developing that legislation the committee was guided by the following considerations:

First, the problem of water pollution is a national problem, affecting the physical and economic health of the entire country;

Second, the Federal Government has a substantial role to play in research, in the encouragement of cooperative programs, in the stimulation and support of interstate, State and local water pollution control programs, in the encouragement of compliance with water quality standards, and in enforcement of interstate and navigable streams where there has been a refusal to accept public responsibility at a lower level;

Third, the water pollution control problem covers a wide scope of public concerns, including health, economic welfare, recreation and the conservation of fish and wildlife;

Fourth, the administration of such a vital program must be upgraded and accorded proper emphasis within the Federal structure in order to insure adequate attention and progress in meeting our national water pollution problems;

Fifth, the primary emphasis in corrective action, in planning for future uses, and in long-range programs must remain and, under the bill, will remain at the local and State level where the ultimate responsibility rests; and

Sixth, we must be alert to the problems created by our rapidly advancing technology, particularly in the development of organic chemicals which pose special and complex pollution problems.

#### NATIONAL POLICY

These were the guidelines. The specific provisions of the legislation fell into four categories: Administration, financial assistance, enforcement, and the resolution of complex chemical pollution. The committee also developed a new statement of purpose for the Water Pollution Control Act which indicates the broadened concern of Congress for improved water quality. In the words of the bill:

"The purpose of this Act is to enhance the quality and value of our water resources, and to establish a national policy for the prevention, control, and abatement of water pollution."

This statement of purpose defines our goals and sets the tone for the administration of the Water Pollution Control Act. We recognize that there are many uses for water, that all water need not be of the same quality, and that judgments have to be made on our specific water need and requirements. We also realize that only through the enhancement of water quality can we assure maximum utilization of this resource. This is, we believe, a reasonable goal to which all reasonable men can subscribe.

#### FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

The first step in implementing this goal is the upgrading of the administrative status and capability of the Federal water pollution control program. In S. 649 we provided for an additional assistant secretary of Health, Education, and Welfare who would supervise the program. In addition, the bill authorizes the establishment of a Federal Water Pollution Control Administration which would have specific responsibility for—

1. Comprehensive programs;
2. Interstate cooperation and uniform laws;
3. Enforcement measures to abate pollution;
4. To establish and maintain compliance with standards of water quality; and
5. The control of pollution from Federal installations.

Other functions related to water pollution are retained within the Secretary's discretion. He may assign those functions to the new Administration or to other sectors within the Department.

The proposal to establish a new Water Pollution Control Administration is one of the most controversial sections of S. 649. Some have opposed it on the simple grounds of dislike for any new agency within the Federal Government. Others have attacked it because of the traditional role of the Public Health Service and the potential impact of such a change on the Service and its personnel. Others have claimed that removal of major functions from the Public Health Service will remove some of the glamour of the program and will reduce the appropriations potential.

These arguments were considered in the development of the bill. In the end the members of the subcommittee agreed that the points raised by the opponents either were not applicable or were not of sufficient moment to outweigh the advantages of the new Administration. The new Administration would not involve a substantial increase in personnel, but it would involve an upgrading of the status of the program.

The problem of water pollution is much broader than health, and much more important than its position in the organizational structure of the Public Health Service now implies. We are aware of the contributions the Public Health Service has made in the field of water pollution control. We respect this time-honored agency for its high tradition of service to the Nation. We believe it has an important role to play in water pollution control as it affects environmental health.

As the committee said in its report to the Senate:

"The Public Health Service has a primary interest in the protection of health. In the field of water pollution it has made a major contribution to our understanding of the nature of water pollution, its effect on individuals, and appropriate measures of pollution control. The basic orientation of the Public Health Service, however, is toward cooperative health programs with the States. It is not oriented toward the broader problems of public welfare, including the economic, and technical problems of industrial pollution.

"The Public Health Service should be free to concentrate on its primary concern with health, in the water pollution field, as it is in other areas. It should be in a position to speak with an independent voice on such matters, unhampered by the problems which arise from enforcement proceedings.

"On the other hand, the administration of the water pollution control program should not be subordinated to considerations which are important to the Public Health Service, but are not directly related to the sound application of this act."

It is my firm conviction that both the Public Health Service and the water pollution control program would be better off under the arrangement proposed in S. 649.

#### FEDERAL AID PROGRAMS

The second major category of proposals in S. 649 is that relating to Federal aid programs. This was one of the least controversial elements of the bill. Briefly, it would provide a 4-year, $80 million matching grant program for research and development of improved methods for meeting the combined storm and sanitary sewer problem, an increase in maximum sewage treatment grants to larger communities from $600,000 to $1 million, and from $2,400,000 to $4 million for combined projects involving several communities; and, finally, a 10-percent incentive for communities developing sewage treatment plants as part of a comprehensive metropolitan planning program.

Each of these provisions is designed to provide more flexibility and greater utility in the sewage treatment construction program.

### WATER QUALITY STANDARDS

On several occasions in this talk I have mentioned the "enhancement of water quality" as one of the principal goals of this legislation. The provision of S. 649 dealing directly with this question is also one of the critical areas of debate on the bill. This is the section authorizing the Secretary of Health, Education, and Welfare to establish water quality standards on interstate water or portions thereof.

This provision has drawn the fire of the opponents of Federal enforcement and the suspicion of those who look to the Federal Government for more vigorous antipollution action. The "anti-Feds" look on the quality standards section as an encroachment of States rights. The conservationists see the standards section as a potential classification device where waters would be maintained at the lowest possible level of quality.

Neither aim motivated the committee. We believe that the authority to establish water quality standards would have two beneficial results:

1. It would lead to the clear and objective statement of water quality criteria, available for application to particular situations; and

2. It would encourage the orderly improvement of water supplies through compliance rather than enforcement.

Under the bill the standards would be formulated in accordance with accepted administrative procedures, calling for notice, public hearing, and consultation with affected Federal, State, interstate, and local interests. The Secretary is directed to encourage the establishment of State and interstate standards which carry out the purposes of the act. The committee did not intend that the Secretary should classify or establish rigid quality standards on every interstate water in the Nation, but rather that he should use this tool selectively as a device to reduce the need for abatement and enforcement proceedings.

Under present law, in enforcement cases, the Secretary applies ad hoc water standards in determining whether the water in question is harmful to the health or welfare of persons and in determining what specific steps must be taken to abate pollution. We believe it more appropriate to set objective standards in advance of such proceedings, wherever possible.

Every day we make more demands on our water supplies. We must use many rivers for multiple purposes, including industrial, agricultural, recreational, public water supply and fish and wildlife uses. In other cases, the uses of a given river or portion of a river will be more limited, depending on the nature of the waterway, the intensity and history of use, and alternative sources of water in the area. As the committee noted in its report: "Economic, health, esthetic, and conservation values which contributes to the social and economic welfare of an area must be taken into account in determining the most appropriate use or uses of a stream."

We are convinced, also that there are positive economic advantages to communities and industries in the establishment of standards as the report points out:

"Water quality standards would provide an engineering base for design or treatment works by municipalities and industries. Such standards would enable municipalities and industries to develop realistic plans for new plants or expanded facilities, without uncertainties about waste disposal requirements on interstate waters."

There is another point which should be noted here. The bill provides that the discharge of matter which reduces the quality of water below the established standards, either at the State or Federal level, is subject to abatement under the present enforcement procedures. Should such enforcement procedures result in court action, the court, in receiving evidence, is to give due consideration to the practicability of complying with the applicable standards. The bill clearly states that the authority to establish standards does not extend the jurisdiction of the Secretary over waters not covered in the basic act.

The committee did not intend that the standards section should interfere with State responsibilities in water pollution control. We regard this as another tool to be used cooperatively for the benefit of particular areas and for the Nation.

### DETERGENTS

If our pollution control problems were limited to the traditional sources of industrial, municipal and agricultural wastes, dealing with pollution control and abatement would be a relatively simple and straightforward matter of applying known techniques and of improving them whenever possible.

Unfortunately, however, modern chemistry and technology bring many problems along with the blessings we enjoy. This problem was brought forcefully to the attention of the committee on the detergent question.

Testimony presented to the committee indicated that although modern detergents have eased our problems of cleaning in homes, farms, factories, and commercial buildings, they have complicated the problem of pollution abatement and control. Because the synthetic detergents are not biodegradable, present-day water and sewage treatment processes are incapable of breaking the compounds.

Public officials, private individuals and industry representatives all agreed that something had to be done. Industry representatives assured the committee that soft detergents will be available in the latter part of 1965. We accepted these assurances.

We considered the detergent problem in the context of the general question of modern organic chemicals, which are in widespread use and cannot be controlled at the site of discharge as can chemicals being used in an industrial plant.

We did not think we would be justified in singling out a particular industry as a culprit in pollution control. Neither did we think we would be justified in ignoring the problem or in not establishing sound procedures for a solution to this problem. The result is a proposal which may form a pattern for possible solutions to the waste discharge problem as it concerns other industries producing similar products for general use—including pesticides, fungicides and herbicides.

Briefly, the bill accepts the industry-set target date of December 31, 1965, for the development of biodegradable detergents. It authorizes a technical committee, composed of industry and public representatives, to evaluate progress in the development of biodegradable detergents and to recommend standards of biodegradability.

When the technical committee has recommended standards of decomposability and certified to the Secretary that detergents meeting such standards are generally available to manufacturers of detergents, the Secretary may establish rules and regulations prohibiting the transportation and sales in interstate commerce of detergents not meeting the standards. He is also directed, in conjunction with the Secretary of the Treasury, to issue rules and regulations prohibiting the importation of detergents not meeting the standards of decomposability. The rules and regulations would take effect December 31, 1964, or 6 months after the issuance of the regulations, whichever is later.

Since the Senate passed S. 649 one company has announced the development of what it calls a biodegradable detergent. During the course of hearings we hope to schedule later this year, the subcommittee will examine this product and the claim made with reference to it. At present there is no indication that this development has reduced the need for legislation. The House Committee on Public Works has completed its hearings on S. 649 and related legislation. It is my hope that executive sessions on the bill will be held in the near future and that favorable action will be taken by the committee and the House.

The legislation we have approved and sent to the House is designed to bring our water pollution control program up to date. We continue to emphasize primary responsibility at the State and local level. At the same time we recognize the national interest in insuring an adequate supply of water to meet the demands of a modern, expanding society. That national interest must be matched with effective legislation at the Federal and State level.

More than 100 years ago the young French political scientist, De Tochqueville, made some penetrating observations about our system of government. At one point he wrote:

"The end of good government is to ensure the welfare of the people, not merely to establish order in the midst of their misery."

I can think of no more important area to apply that maxim than in the conservation of our natural resources. Man cannot live without clean water, society cannot grow without it. If we do not move to improve the quality of our water, we should condemn ourselves to establishing order in the midst of our misery.

## TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

## BILL AND JOINT RESOLUTION INTRODUCED

A bill and joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. METCALF:

S. 2761. A bill to provide for the establishment of the Boothill Cemetery Historical Site in the State of Montana; to the Committee on Interior and Insular Affairs.

By Mr. METCALF (for himself and Mrs. NEUBERGER):

S.J. Res. 173. Joint resolution to authorize printing of publication entitled "Smoking and Health"; to the Committee on Rules and Administration.

(See the remarks of Mr. METCALF when he introduced the above joint resolution, which appear under a separate heading.)

## SMOKING AND HEALTH

Mr. METCALF. Mr. President, on behalf of the junior Senator from Oregon [Mrs. NEUBERGER] and myself, I introduce, for appropriate reference, a joint resolution to authorize and direct the Secretary of Health, Education, and Welfare to cause to be printed 30,000 copies of Public Health Service Publication No. 1103, "Smoking and Health." This is the report of the Advisory Committee to the Surgeon General of the Public Health Service.

The joint resolution would also authorize and direct the Secretary to distribute the report to high schools throughout the country, which number approximately 30,000.

This comprehensive report has been sent to physicians and osteopaths, medical and dental schools, advertising organizations, and news media. It should also be available to youth, and would be a valuable reference in each high school library.

At present the document is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., for $1.25.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD, and that this joint resolution lay on the table for 7 days, so that any Senator who wishes to cosponsor may do so.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will lie on the desk and be printed in the RECORD, as requested by the Senator from Montana.

The joint resolution (S.J. Res. 173) to authorize printing of publication entitled "Smoking and Health," introduced by Mr. METCALF (for himself and Mrs. NEUBERGER), was received, read twice by its title, referred to the Committee on Rules and Administration, and ordered to be printed in the RECORD, as follows:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Health, Education, and Welfare is authorized and directed to cause to be printed thirty thousand copies of Public Health Service Publication No. 1103, "Smoking and Health," the report of the Advisory Committee to the Surgeon General of the Public Health Service, and to distribute same to high schools throughout the country.
>
> Appropriation of such sums as are necessary to carry out the purposes of this Act are hereby authorized.

### RECESS TO 10 A.M. TOMORROW

Mr. METCALF. Mr. President, if there is no further business to come before the Senate, I move, under the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and (at 9 o'clock and 26 minutes p.m.), under the order entered on Friday, April 17, 1964, the Senate took a recess until tomorrow, Thursday, April 23, 1964, at 10 o'clock a.m.

### CONFIRMATIONS

Executive nominations confirmed by the Senate April 22 (legislative day of Mar. 30), 1964:

#### POSTMASTERS

##### ALABAMA

John R. Sparks, Cullman.
Kathryn W. Goff, Maplesville.
Anna B. Neal, Town Creek.

##### ARKANSAS

Herbert L. Kent, Arkinda.
Dolores W. Neal, Keo.
Bernie S. Hargis, Jr., Warren.
Mable L. Harris, Wilmar.
Burl King, Yellville.

##### CALIFORNIA

Jack L. Freeman, Bell.
George B. Kohler, Jr., Berkeley.
Phyllis Z. Watkins, Bieber.
Wanda M. Simpson, Big Bear City.
Kenneth L. Toney, Capistrano Beach.
Beula B. Scates, Clements.
Orville K. Jolly, Corning.
Alvin R. Carter, Cupertino.
Elvery F. Lott, Douglas City.
Wilbert K. Ross, Hemet.
Stanley N. Carkeek, Hesperia.
Donald K. Miller, Saugus.

##### CONNECTICUT

Kenneth B. Rutledge, Canaan.

##### DELAWARE

Melvin R. Hearn, Georgetown.
Gertrude W. Davidson, St. Georges.

##### FLORIDA

Edna B. Hunter, Hastings.
Kenneth H. Hall, Ormond Beach.
Thomas C. Hazen, Jr., Starke.

##### GEORGIA

Royce H. Braselton, Braselton.
Lewis T. Lindsey, Silver Creek.

##### HAWAII

Masayo K. Kokame, Hanapepe.

##### ILLINOIS

Emerson M. Chapman, Atwood.
Orlin H. Nuernberger, Barrington.
R. Kent Billingsley, Buncombe.
James D. Lacey, Centralia.
Elmer C. Kerley, Colp.
William T. Pleasant, Cornell.
Vincent A. Lawniczak, Depue.
Harold H. Westendorf, Dieterich.
Bennett V. Dickmann, Edwardsville.
Carol C. Wolwode, Forest City.
George S. Molton, Glen Ellyn.
Albert Mecozzi, Hennepin.
Darlene H. Shidaker, Kenilworth.
Richard W. Kemster, London Mills.
William A. Loy, Murphysboro.
Joseph B. Reichard, Jr., Prophetstown.
Ernest W. Bradley, Jr., Raleigh.
Edward E. Howe, Robinson.
Alice L. Williams, Rockbridge.
William E. Manley, Sherman.
Harry K. Hughes, Table Grove.
Anna Mae Droit, Thompsonville.
Wallace B. Rice, Williamsfield.

##### INDIANA

William E. Hollar, New Paris.
Robert F. Meltzer, Shelbyville.
Donald L. Misch, Wheatfield.

##### IOWA

Vivian G. Nissen, Dunkerton.
Maxine A. Kucera, Garden Grove.
Maurice W. German, Weldon.

##### KANSAS

Clarence E. Zarnowski, Halstead.
Lola E. Brighton, Milford.
Carroll E. Kerley, Peck.
Carl R. Meek, Windom.
Charles G. Meadows, Yoder.

##### KENTUCKY

John S. Humphrey, Jr., Jeffersontown.
John P. Samuels, Lebanon Junction.

##### LOUISIANA

Edith E. Fairchild, Greenwell Springs.
Roy J. Montz, Laplace.
Virgil L. Dixon, Shreveport.
Marcellus A. Thompson, Ville Platte.

##### MAINE

Richard E. Carr, Harmony.

##### MARYLAND

Evelyn B. Haywood, Cardiff.
Mildred I. Mauck, Clarksville.
Irene E. Cannon, Glen Echo.
Emory A. Harman, Greenbelt.
Mildred B. Jurovaty, St. Marys City.

##### MASSACHUSETTS

Raymond A. Perron, Auburn.

##### MICHIGAN

James F. Schweitzer, Comstock Park.
Mark A. Wernette, Remus.
Francis G. Trombly, Rock.

##### MINNESOTA

Alton H. Osgood, Cloverton.
Donald L. Ice, Excelsior.
Jack R. Maddy, McGregor.
Norbert H. Colhoff, Redlake.
EuGene C. Wolfe, Silver Bay.

##### MISSISSIPPI

Mary E. Meteer, Union Church.

##### MISSOURI

Ivan L. Kenney, Appleton City.
Alvin M. Townley, Chamois.
L. Kelly Wyss, Jamestown.
Robert F. Collins, Shelbina.
Martin B. Winger, Stewartsville.
Warren E. King, Union Star.
Leslie A. Phillips, Wheaton.

##### MONTANA

Leslie O. Smith, Victor.

##### NEBRASKA

Myron A. Christensen, Oakland.
Edward E. Tomek, Table Rock.

##### NEW HAMPSHIRE

Henry J. Hatch, North Conway.

##### NEW YORK

Hazel M. Carr, Lisbon.
George D. Foley, Lowville.
Charles F. Herse, New Haven.
Elizabeth I. Bruso, Ray Brook.

##### NORTH CAROLINA

William P. Walker, Andrews.
Neil W. Walton, Ash.
Frank E. Copeland, Jr., Burlington.
E. Wade Ledbetter, Gibsonville.
Mary A. Austin, Rhodhiss.

##### NORTH DAKOTA

Kenneth I. Jones, Parshall.

##### OHIO

Margaret S. Bennett, Alexandria.
Richard H. Stegner, Malta.
William O. Lightfritz, New Marshfield.
Wallace D. Starr, New Straitsville.
Robert E. Agner, Ottawa.

##### OKLAHOMA

Ward W. Newport, Cushing.
Fannie M. Martin, Langley.
Frank H. Hall, Seminole.
John P. Morgan, Weleetka.

##### PENNSYLVANIA

William L. Dennis, Drexel Hill.
Robert M. Kellerman, Irvine.
Alfred Goldberg, Marysville.

##### SOUTH CAROLINA

Eugenia C. Williams, Heath Springs.
Wilford C. Hoffman, Patrick.

##### SOUTH DAKOTA

George F. Sasges, Hartford.

##### TENNESSEE

Delmer C. Norman, Kelso.
Ralph N. Rogers, Martin.
Mary K. Roberts, Whitesburg.

##### TEXAS

Robert M. Gring, Freer.
Jo Harry De Ramus, Hillister.
Jessie Richardson, Kennedale.
W. Carroll Alexander, Lockhart.
H. Green Stoker, Mineral Wells.

Everett A. Bierds, Sr., Rosebud.
Archie V. Boyd, Trent.

UTAH

Newel D. Day, Fillmore.

VIRGINIA

James H. Collier, Big Stone Gap.
Freeman H. Stewart, Crewe.
Mitchell T. Twyford, Onancock.
Laura P. Strong, Rapidan.
Earl R. Loughborough, Upperville.

WASHINGTON

Samuel Manus, Everett.
Bessie L. Van Slyke, Nespelem.

WEST VIRGINIA

Howard W. Smith, Barrackville.
Creda B. Morris, Burnsville.
Thomas K. Cole, Grafton.
Virginia S. Everhart, Kearneysville.
Ralph M. Gibson, Smithville.

WISCONSIN

Clifford J. Pfeifer, Allenton.
John M. Bradley, Belmont.
Samuel F. Kuykendall, Fort Atkinson.
Quintin B. Collins, Kendall.
Ruth A. McDougall, Wilmot.

# HOUSE OF REPRESENTATIVES

## WEDNESDAY, APRIL 22, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Revelation 2: 10: *Be thou faithful unto death.*

Almighty God, it is Thy love which constrains us and our own many needs which daily compel us to come unto Thee in the fellowship of prayer.

May there be nothing in this day's work of which we shall be ashamed when the sun has set or at the eventide of life when Thou shalt call us to Thyself.

We thank Thee and rejoice that the Members of the Congress have the respect and acclaim and the witness of their colleagues that they are seeking and striving to serve our country and their constituents conscientiously, faithfully, and ably.

Grant that life's problems and difficulties may never eclipse our faith, lest the vision of a better and brighter world fade from our minds and the way grow dim, leaving us to walk and wander in the darkness.

In Christ's name we pray. Amen.

### THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

### MIKE KIRWAN

Mr. TRIMBLE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. TRIMBLE. Mr. Speaker, I want to join other friends of MIKE KIRWAN in this House in praising him as one of the most loyal Americans I have ever known. He is a true friend, a fine public servant. His integrity is golden. May all his years be happy years.

### CIVIL RIGHTS

Mr. ROUSH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Speaker, despite the fact some civil rights proponents resent warnings from other proponents, I feel I must again raise my voice in disapproval. This time I refer to such tactics as the stall-in plan being attempted today in New York City. As of this moment the incidents have been few and separated. It is my sincere hope this will be the peak of such irresponsible acts which deeply hurt—not help—the cause of civil rights.

There are in these United States vast numbers of people who, for various reasons, have not been concerned about this subject. Civil rights is not a burning issue with them mainly because they have not been directly involved. I feel certain if you singled out one of these and asked him his views on the subject his answer would be one supporting the principle no American should be deprived of his rights because of his color or creed.

But involve this man in a direct experience, an experience with such a negative theme as the stall-in, involve him in this trespass upon his patience and then seek his reaction. This negative action by a small group has given birth to negative action. The neutral individual is transferred into an opponent. It is possible doubts are experienced by the proponent.

It is my hope that reason will prevail, that irresponsibility will be held in check. If this is not to be the case, then, like the ancient mariner, an albatross shall be draped on the cause of civil rights.

### CLOSING OF FLIGHT SERVICE STATIONS

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WILLIAMS. Mr. Speaker, in February the Administrator of the Federal Aviation Agency announced plans to discontinue some 42 flight service stations throughout the country. It has recently been learned that additional stations are scheduled to be closed. This announcement on the part of the Administrator has caused considerable concern on the part of the general aviation community in particular, and from Members of Congress representing those areas in which stations are being closed. In view of the great interest and concern, the Subcommittee on Transportation and Aeronautics of the Committee on Interstate and Foreign Commerce has scheduled hearings on this subject beginning on May 12. The subcommittee plans to study the present, past, and future role of the flight service station and their relation to safety and efficiency in our air transportation system, as well as the effects of the action proposed to be taken by the Administrator.

My purpose in taking the floor today is to announce the scheduling of these hearings, and to invite any Members who may be interested in this subject to advise the committee of their desire to submit testimony.

The stations proposed for conversion and their locations follows: Toledo, Wash.; Ely, Nev.; Sault Ste. Marie, Mich.; Elizabeth City, N.C.; Goodland, Kans.; Zuni, N. Mex.; Sheridan, Wyo., Dodge City, Kans.; Jackson, Mich.; Rochester, Minn.; Manhattan, Kans.; Valdosta, Ga.; Scottsbluff, Nebr.; Ephrata, Wash.; Palacios, Tex.; Russell, Kans.; Utica, N.Y.; Zanesville, Ohio; Montpelier, Vt.; Arcata, Calif.; Yuma, Ariz.; Marysville, Calif.; Elmira, N.Y.; Poughkeepsie, N.Y.; Brunswick, Ga.; Fayetteville, Ark.; Anderson, S.C.; Tuscaloosa, Ala.; Dyersburg, Tenn.; Melbourne, Fla.; Pensacola, Fla.; Myrtle Beach, S.C.; Millville, N.J.; Mineral Wells, Tex.; Bluefield, W. Va.; Albany, Ga.; Huntington, W. Va.; Galveston, Tex.; Meridian, Miss.; Monroe, La.; College Station, Tex.; and Imperial, Nebr.

### SUBCOMMITTEE ON PUBLIC HEALTH AND SAFETY

Mr. ROBERTS of Alabama. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Health and Safety may sit during general debate this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I do not like to object, but we do have a $48 billion bill on the floor of the House. May I ask the gentleman if any of the witnesses to be heard by the committee are from outside the District of Columbia?

Mr. ROBERTS of Alabama. They are from out of the District and we only expect to consume about an hour.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS of Alabama. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

### COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may sit while the House is in session today, and during the balance of the week, during general debate.

Mr. HALLECK. Mr. Speaker, reserving the right to object, what particular bill is under consideration?

Mr. ALBERT. It is on the prayer bills, the Becker bill, and other proposals.

Mr. HALLECK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## BRINGING THE WORLD CLOSER TOGETHER

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. TALCOTT. Mr. Speaker, this year, San Luis Obispo, Calif., will become a key terminal on a gigantic communications network stretching halfway around the world.

Two multimillion-dollar projects—one an underground cable across the United States and the other an underseas cable across the Pacific Ocean—will be linked together at San Luis Obispo.

The underground cable, reaching westward from the Atlantic coast, is part of a heavy capacity buried coaxial system designed to resist nuclear blast. Construction on the $200 million Bell Telephone System network started in 1960.

With a capacity of 9,000 voice circuits, the new transcontinental cable will provide facilities for both military and civilian communications. It will interconnect with existing microwave and coaxial express routes which already crisscross the Nation.

At various intervals along the cable, communications centers, such as the one now going in near San Luis Obispo, will be buried one to two stories deep under the earth cover. They will have reinforced concrete floors, ceilings, and outer walls 18 to 24 inches thick.

The underseas cable, which will be the first cable system linking East and West, will stretch from San Luis Obispo to the Hawaiian Islands and from there to Japan by way of Midway, Wake, and Guam Islands. It will be laid by the Bell System cable ship *Long Lines*, which will be anchored off the coast near Baywood Park later this summer.

Employing a new type of cable, the transpacific system will provide two-way simultaneous transmission of 128 conversations over a single cable. This is more than double the number of conversations that can be transmitted over other underseas cable systems.

## CALL OF THE HOUSE

Mr. KYL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 117]

Abbitt
Addabbo
Avery
Bass
Bell
Blatnik
Bolton, Frances P.
Bray
Brock
Broomfield
Brown, Calif.
Bruce
Buckley
Burleson
Carey
Cederberg
Clark
Colmer
Davis, Tenn.
Dawson
Delaney
Diggs
Dorn
Dowdy
Dulski
Elliott
Everett
Farbstein
Feighan
Finnegan
Fino
Flynt
Forrester
Fulton, Pa.
Gallagher
Grant
Griffin
Halpern
Hawkins
Hays
Healey
Henderson
Hoeven
Holifield
Huddleston
Jarman
Johnson, Pa.
Jones, Ala.
Kee
Kelly
Keogh
Kluczynski
Knox
Lankford
Lesinski
Lloyd
McLoskey
Martin, Mass.
Miller, Calif.
Miller, N.Y.
Montoya
Morrison
Multer
Murphy, N.Y.
O'Konski
Olsen, Mont.
O'Neill
Pepper
Pilcher
Pool
Powell
Rains
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Saylor
Schadeberg
Scott
Selden
Sheppard
Sisk
Stratton
Thompson, N.J.
Toll
Tuck
Ullman
Wickersham
Widnall
Willis
Winstead

The SPEAKER. On this rollcall 341 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1965

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union, with Mr. Price, Acting Chairman, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday the gentleman from Texas [Mr. Mahon] had 23 minutes remaining and the gentleman from Michigan [Mr. Ford] had 23 minutes remaining.

The Chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. Flood].

Mr. FLOOD. Mr. Chairman, for a great many years I have had the privilege of standing in this well at about this time on this appropriations bill for the Department of Defense. Down through these many years, as you know, I have been pretty much of a maverick on the subcommittee, and I have found time to quarrel with five Presidents, all kinds of Secretaries of Defense and Assistant Secretaries and Deputy Assistant Secretaries that come and go out of the Pentagon like Greyhound buses in the last 20 years, admirals and generals and whatnot.

The very, very happy thing about it, Mr. Chairman, is that most of the time I have been right. Now how do you like that for a change? Nobody believed me at the time, including the House, but I find out in this business all you have to do is live long enough and get reelected enough and stay on the same subcommittee long enough and, if you do live that long—it takes about 20 years—you wind up being right 7 out of 10 times. I think the people who go to Bowie, if they find out they could be right 7 out of 10 times, would be very happy in the long run.

Now what about this bill? Is this a good bill? Should you vote for it? Yes. This is a good bill, and there is absolutely no reasonable, intelligent reason why every Member of this House should not vote for it.

Now is there anything the matter with it? Oh—indeed, there is—indeed, there is. This bill is for $46,700 million—"and that ain't hay"—at Bowie or any place else.

So you can be sure there is something the matter with the bill.

Do I like everything in it? Not by a farmer's mile, I do not. Why could I not get the things in it that I wanted? Well, you who are politicians know—and, of course, I know most of you are statesmen—but the politicians here know I did not have the votes in the subcommittee. Now what is the matter with that? In this business you pay off on votes—I did not have them. I came awfully close—how close I am not allowed to tell you, but I came awfully close on three or four very big items.

What about the cuts in the bill? Well, we have had a practice for a number of years of averaging a cut of about $1 billion. This year President Johnson outsmarted us. He got a shot at it first with a cut of more than $1 billion. Now I do not think the taxpayer cares one way or another who does the chopping, just so it is chopped. So it is chopped. We took some more out of it here and there, but by and large there is not much more you can do about chopping this one, unless you want to get your name in some weekly newspaper back home about an amendment you offered and about what a great economizer you are—and this is for God and country and Yale or something like that. All right—go ahead—that is par for the course here sometimes. But seriously you cannot do it—not on this bill—if you want to keep what you have and hang on to it.

There are a lot of cuts in this bill that I do not like. Do I agree with McNamara all the time? Who—me? I am the first man in this House who took off on McNamara—not you—you are Johnnies-come-lately. And I think I did a better job on him a couple of years ago than all of you put together since. I intend to keep it up. Like my distinguished friend from Wisconsin says and like my distinguished friend the gentleman from Michigan [Mr. Ford] said—When McNamara is right, I am for him: When he is wrong, I am against him. What is the matter with that?

One good thing about this subcommittee is in the many years I have been on it, politics is not a game we play. Now put that in your pipe and smoke it—not on the Appropriations Subcommittee for the Department of Defense. I have sat on it for many, many years; and most of the men who are on it were on it at that time.

There is no monkey business. There is no politics there, in the "gut" sense of politics. No. No. No.

I am telling you. I would not lie to you.

Oh, in a presidential campaign year, such as perhaps this year, you get a little itsy-bitsy hanky-panky here and there, but it is no "murder case."

We have my friend the gentleman from Michigan [Mr. FORD]. He is one of the "young Turk" leaders. This Members will be the Speaker of the House some day. Of course, a little bit of this and a little bit of that in this year is perfectly within the rule of reason.

The gentleman from Wisconsin [Mr. LAIRD] is chairman of the Republican Platform Committee, and in the past couple of days there has been a little bit of itsy-bitsy hanky-panky going on.

Well, the American people understand that. I understand it. I do not believe anybody is going to pay much attention to it one way or the other; but it is not immoral, nor is it illegitimate.

You know what I am talking about. So far as the welfare of this country is concerned, in both parties all of that is out. It has never been in. It will not be. Thank God.

I want to make another statement. I do not care what you have been reading or hearing from anybody, any place, any time, anywhere—this is the fact. It will make you feel better. You will enjoy your dinner tonight, or your supper, or whatever you call it—from where I come it is called supper—much better. I want you to believe this. The United States of America is the most powerful nation on the face of this earth today, any way you want to take it—period.

Make no mistake about that. The United States of America is the leading nation in the world today—period.

We did not ask for this job. We certainly did not ask for it, but that is the way it is, and that is the way it is going to be from now on, whether anybody in the world or in this country likes it or not.

It is that simple.

There is only one thing for a leader to do. If you are a leader, you lead. Or else you quit and get out. You lead or get out. You take a couple of laps around the track, hand in your uniform, and go to the showers—then you are out.

Mr. Chairman, the people of this Nation will demand and insist that the United States of America lead. Make no mistake about that.

What about some of the specifics in the bill What would I like in there that is not in there?

I have been trying to convert some of these friends of mine on this subcommittee for 15 years to my thinking. Boy, how they can resist. They have a built-in resistance.

I have some converts now. From the very beginning, with the exception of my friend the gentleman from Alabama [Mr. ANDREWS] who has agreed with me, I have been making the motions and I have been the guy who has been for nuclear carriers—nuclear carriers. I do not want any part of conventional carriers. Well, this is one of the cases where you were all out of step but JIM. I had no support. Well, we got the *Enterprise*, and of course now I have support from the gentleman from Michigan [Mr. FORD] who is now standing—and I will yield to him in a second—and the gentleman from Wisconsin [Mr. LAIRD] and the gentleman from Ohio [Mr. MINSHALL], I am sure, and as a matter of fact, I believe the whole Republican side of the subcommittee is now in agreement with me. There is an exhibition of intelligence, which I like to publicize. They are right. They are a little late, but they are right.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman. Yes.

Mr. FORD. The gentleman's statement is correct to the effect that he has always advocated nuclear power for aircraft carriers and, I believe, for other capital ships.

Mr. FLOOD. That is right.

Mr. FORD. Some of us followed the recommendations of people in the executive branch of the Government in 1962.

Mr. FLOOD. That is right.

Mr. FORD. Mr. McNamara requested conventional power in 1962.

Mr. FLOOD. That does not impress me. He has been wrong before. You are right.

Mr. FORD. I agree that he has been wrong before, but in 1962 I think he was right on this particular weapons system. Now these have been technological developments that have converted me to the long-standing viewpoint of my good friend from Pennsylvania. May I add this footnote: we expect another carrier in the 1967 fiscal year. Based on the technical information which we now have, I want to assure my friend from Pennsylvania that I will not vote for a conventional carrier in the fiscal year 1967 budget. I will only vote for a nuclear-powered carrier at that time.

Mr. FLOOD. The only thing wrong with your position here is that you are not sitting at our table instead of that one. That is the problem. Now, of course, that is the nuclear carrier situation. Well, we will not go into that, since there is a procedural problem and an authorizational problem that has developed on this project. If the procedural situation is solved, I can get my carrier, I think. If I were in a position to make my amendment here, I think I would have a nuclear carrier voted in this House overwhelmingly on a rollcall vote in the next 30 minutes. That is what I think. It should have been that way a long time ago and it was not, but that is the way it is this afternoon.

Now, what else makes me unhappy? As my friends on the subcommittee know, I have been a lone voice in the wilderness against everybody in the Pentagon and in this House on MMRBM's—mobile medium range ballistic missiles. Yes, I have been talking about that for 10 years. They sent up a $100 million budget request. The Defense level cut it to $70 million and they have a number of reasons for this. Now, I know the Russians have had MMRBM's from 200 and 300 and up to 1,000 miles to cover our bases in Spain for several years. The money is in this bill this year for us to do it. I wanted to develop the funds to $100 million. They cut it out because they say operationally the plans are not there. This is the fault of the uniformed personnel. It is not the fault of Mr. McNamara and these whiz kids. This time the uniformed jokers are wrong, because they have not come up with proper operational plans.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. FLOOD. There is the problem of ASW warfare. Let me rush through this rapidly now. If it had not been for this subcommittee under the leadership of the distinguished gentleman from Texas [Mr. MAHON] and the support of everybody on the subcommittee on both sides of the aisle in the last 6 years you would not have an antisubmarine warfare program worthy of the name. We have taken the Navy by the heels and stood them upside down and shoved this ASW program down their throat. They said 2 years ago they would reorganize it under the command of a rear admiral. They did; and it did not work out. They did not carry it through. This year they tell us they are going to give us a three-star admiral and are going to do a job. I have my doubts, but let us see, and next year, with the help of God, we will talk about that.

Mr. Chairman, I have had a problem since World War II on airlift. You remember the fight about airlift that I had on this floor. You were pretty good about that and you went along with that pretty much. We seem to be home free on that. What I do not like is that they cut two squadrons of C-130's this year—transport. They tell me they will make it up with the old transports which need bases in the Azores and someplace else. I do not agree with that. I think that is a mistake.

Mr. Chairman, we talked about oceanography. We were low man on the totem pole on oceanography for years and years, in the Navy. This subcommittee, every man on it, made them do oceanography. Now they have agreed to coordinate it. I think they will. I think they are doing a pretty good job. The bottleneck on the hardware is broken. And do not listen to this slick magazine nonsense that the Russians are doing oceanography with every outboard motorboat and every fishing scow that they have on our coasts. That is nonsense. Their hardware is not any better than ours. The sophistication of hardware is the big thing in oceanography and ours is as good as, if not better than, anybody else's. The oceanography problem is important. And the problem is important for Polaris. And do not forget the *Thresher*. We want to know what is down there. We want to know what is under all that water and what it looks like, and a lot of things like that.

So I say, Mr. Chairman, this is a good bill. I cannot imagine any Member of this House who, under all the circumstances, would vote against this bill. Please do not.

Mr. FORD. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. LIPSCOMB].

Mr. LIPSCOMB. Mr. Chairman, essentially I support H.R. 10939, the Department of Defense appropriation bill for fiscal year 1965.

There are certain appropriation items in the bill which could well be increased, and others that could be decreased. Overall however this bill should provide the funds required to maintain the strongest Military Establishment in peacetime history.

As a minority member of the committee I would have preferred certain sections of the report to have been written differently. My overriding concern however is in the area of our defense policies which are being pursued or are under consideration and which are affected by this bill.

Mr. Chairman, as a member of both the Defense Appropriations Subcommittee and the subcommittee which handles State Department appropriations, I believe that the close interrelationships of defense and foreign policy cannot be overemphasized in today's world. This would include activities relating to both national and international affairs.

Certainly our defense and foreign policies must be compatible to insure a solid foundation in our defense posture. In view of this belief, I note with serious concern some of the statements made during the course of the hearings and the thinking they suggest. The following will serve to show some of the reasons for my concern.

On page 6 of part 4 of the hearings, Secretary McNamara, in explaining why there are changes in the Soviet bloc, states that the Soviet Union and Communist China are encountering economic difficulties, particularly in the field of their agricultural programs. He believes these failures have influenced the reduction in the Soviet defense budget. After making such a statement, in further testimony he states that he is in agreement with the recent wheat sale to the Soviet Union. He apparently was asked his opinion and concurred in this transaction. His reasoning is that the Soviet had to give up gold which he believed would hurt them in the long run and assist our balance of payments during the present period. The facts, I believe, do not support such reasoning and the military implications seem to have been downgraded by the Secretary's thinking on this matter.

In another exchange, found on page 40, the Secretary was asked by the gentleman from Texas [Mr. MAHON] our distinguished chairman, about the situation in the world outside of NATO countries. Mr. MAHON stated:

> As I say, I am rather encouraged by what you say as to Western Europe, but from what you say, and from what I read, I am discouraged about the situation generally in the rest of the world. I am trying to get some statement from you as to the situation outside the NATO alliance.

Secretary McNamara answered:

> I think the situation outside the basic alliance is affected by independent national states seeking to adjust their political and economic institutions very rapidly in order to raise the standard of living of their people. We are going through a particular period in the world's history when large numbers of new states are being born and large numbers of states are seeking to effect very rapid transitions from the conditions of the past to the conditions of the present. In this period there is no question but that we are going to be faced with continuing instability in political and economic institutions as these changes are forced, and as they are debated by the people concerned.
>
> This is natural and desirable, even though it leads to controversy and crisis. But at the same time the situation is also influenced by the position of our opponents, as I have outlined, is one that has weakened compared to what it was, vis-a-vis the West, a few years ago.

It is particularly disturbing to have our Secretary of Defense, who also has a great deal of influence in foreign affairs, state that the crises in the world are "natural and desirable." I do not see where Cuba, Vietnam, Zanzibar, or any other crises are desirable to the United States or any member of the free world, or natural, for they are surely being promoted by the Communists as part of their "wars of liberation." The only group benefiting from such crisis is the Communist bloc.

Later on page 55, the Secretary is asked by our chairman the gentleman from Texas [Mr. MAHON]:

> I would like, Mr. Secretary, in connection with the question I asked you earlier about maintaining stability around the world, especially outside the NATO area, if there is any practical, feasible way for us to prevent the exportation of communism into the so-called new nations of the world, in Africa and even in Latin America.
>
> Is there a military answer to this?
>
> Secretary McNamara: I don't believe there is a military answer in the broad sense, Mr. Chairman. I think the fundamental action that must be taken is to educate the people of the newly developing nations to recognize that their political and economic salvation lies in adopting non-Communist institutions.

Mr. Chairman, does this mean that we will take no action, no military action that is, when one of the South American countries, for example, is threatened by communism? If so, why have we been spending billions of dollars on building up our so-called conventional and guerrilla warfare forces. Do we plan to use them when the situation demands?

Perhaps we have a partial answer already when we reflect on what has happened in Cuba. I do not believe, Mr. Chairman, that education will solve the Cuban problem. Nor am I indicating that we should use military action when a lower order of force could do just as well, and perhaps better. But I am suggesting that there must be a clear appreciation of the value and position of military force or we will have problems properly employing that force when it should be employed.

On page 56 there is also an interesting colloquy between my colleague Mr. SIKES and the Secretary. The gentleman from Florida [Mr. SIKES] states:

> There is a different situation in Zanzibar. What I have seen indicates the new Government of Zanzibar has Communist leanings and is working more closely with the Communists than with us. This could lead directly to a loss of territory.
>
> Secretary McNAMARA. I would go so far as to say there are Communists associated with the situation there, but it is far from a loss in territory.

Mr. Chairman, this exchange took place no more than a few weeks ago, February 17, 1964, and I certainly think the Secretary should have been aware of the Communist strength and influence in this situation. Apparently the only conclusion is that our intelligence is weak or that the orientation of the Department of Defense is such that it does not recognize such a situation when it is happening. In either case, it does not promote confidence.

Without going into extensive detail, from page 80 of these hearings on for the next few pages, there is a particularly interesting exchange between my colleagues the gentleman from Mississippi, Mr. Whitten, and the gentleman from Ohio, Mr. Minshall, with Mr. McNamara over the Cuban situation. I believe the conclusions of the Secretary can be paraphrased by stating that he believed the Cuban situation to be a victory on our part. This appears to parallel the State Department position as well. Granted we did stand firm enough to have the Communists remove missiles, but we did allow the Cuban situation to deteriorate into Communist hands. This is certainly not a victory by any definition I know of. It is summed up nicely by the gentleman from Mississippi [Mr. WHITTEN] who said on page 86:

> In conclusion, I would only say if Cuba today represents an American victory in the cold war, God pity us around the world. We cannot stand many more such victories.

I should like to echo the gentleman from Mississippi [Mr. WHITTEN'S] conclusions and ask my colleagues to question this sort of thinking and the consequent actions that have brought about this strange state of affairs in our defense and foreign policy.

Can we truly continue these policies based upon this type reasoning and expect to remain a free people?

The other area that I would like to comment upon is relative to arms control and disarmament.

Being familiar with the activities of the Arms Control and Disarmament Agency, I am aware that certain of these activities are being performed in conjunction with the Department of Defense. One specific program that was acknowledged as being performed by the DOD is Project Cloud Gap, a cooperative effort by the Department of Defense and the U.S. Arms Control and Disarmament Agency. Two million dollars has been requested in the Air Force research, development, test, and evaluation budget to perform this test program, and another million dollars in the Advanced Research Projects Agency budget.

The Defense Department has indicated that there is also approximately $275,000 in its R.D.T. & E. budget for arms control. In addition, organizations such as the Institute for Defense Analysis under continuing contracts perform studies for the Department relating to arms control. However, it is difficult to get a clear idea as to what these moneys would be used for or the effect this area would have upon our defense posture.

Earlier my colleague, the gentleman from Michigan [Mr. FORD] questioned Dr. Harold Brown, Director of Defense

Research and Engineering, relative to this same area. He was able to elicit the general statement that arms control decisions are being implemented within the Department of Defense, but in my view the response was vague and relatively unsatisfying.

It is this area of unilateral action on our part that I find particularly disturbing. We have individuals within the Department of State, the Arms Control and Disarmament Agency, and now presumably within the Department of Defense, who seem to believe we can take unilateral action which in turn will elicit comparable reaction in the Soviets.

We have not seen any actions on the part of the Soviets which would suggest that they have changed their goal of world domination. For years their tactics have been altered to fit new situations. It is my belief that they will make use of our desire to promote arms control and disarmament for their own purposes. For us to take steps that would tend to weaken the security of our Nation without concrete assurances that the Soviets will take similar steps is a risk that I believe is not warranted by the facts on hand.

I believe this is an area that deserves the utmost scrutiny on the part of Members of Congress. We have been called the watchdog of our Government and I believe we have that responsibility to fulfill.

Through all the pages of testimony the Secretary of Defense has portrayed a position that may be summed up as follows:

First. A nuclear war is unthinkable to both sides. It is necessary, however, to maintain a nuclear capability as a deterrent.

Second. Since our position is to deter a nuclear war, our posture is one of response, rather than initiative. We have assumed a "second strike position" on the basis of a "damage limiting" posture. We have shown by word, deed, and the select emphasis on weapons that we will accept a first strike and all the terror, damage, destruction, and deaths it involves.

Third. Under this "Nuclear Umbrella" we must be capable of fighting "limited wars" but we will not fight unless:

First. We are asked by the country or countries involved; or second, it directly threatens our own or our allies national security. Further, our response must not be at a greater level than the nature of the provocation in order to present escalation—the Cuba water crisis is a good example.

Fourth. As a further illustration of this thinking and its consequent implementation, our weapons are "nonprovocative." We, therefore, will not create weapons or situations that will be construed as "provocative" to prevent escalation or start another "spiral" in the arms race. Our objective, therefore, is to maintain the present "balance" of power between the United States and the Soviet. This can be seen in the nature of our responses to various situations throughout the world—Cuba, Berlin, Vietnam—in our emphasis and selections of weapons—elimination of the bomber, nuclear carrier, and so forth. The most significant concern in this area has been the lack of new weapon systems whose impact will not be felt until the 1970's. However, at that time, if we have not maintained our technological lead, it will be too late to recapture that lead, with the natural consequences being an inability to defend ourselves adequately. This assumes, and reasonably so, that the Communist bloc will continue to strive for technical superiority. Once it is achieved, their creed and practice leaves no doubt as to their intent.

Fifth. Our view is that the potential areas of conflict throughout the world that we might react to in some fashion are entirely in the free world zone. We do not have any intention of either developing or, if a situation should develop spontaneously in the Communist bloc, taking advantage of it.

Sixth. Further, and equally important, we have redefined the word "win." An outstanding example of this redefinition is Laos, which illustrated that win did not mean, in the historic sense, the elimination of an aggressor, but rather, their "neutralization." Now in Vietnam, we are not saying that "we want the South Vietnamese to win," but rather, "we do not want the Communists to win." There is a big difference.

Seventh. As a further illustration of our attempt to "freeze" technology and the balance in the world, we have eliminated the possibility of nuclear weapons in space through our agreement at the U.N. We accomplished this despite the fact that we have no concrete assurances that the Soviets are not pursuing this vital, and possibly crucial field.

Eighth. During the present period of time, when tensions seem to be so grave, we will unilaterally assume certain postures reflecting arms control and disarmament measures so that we may stimulate, by example, what cannot be accomplished formally in the present national and international environment. It is expected this condition will last until the seventies at which time sufficient conditioning will have taken place to allow for more formal and concrete steps in arms control and disarmament.

As I indicated in my opening comments, basically I support this defense appropriation bill which is before the House of Representatives today. However, I have felt compelled to discuss certain matters bearing on our overall defense policies which in my view are cause for deep concern. Patterns and policies established in the areas I have discussed are highly significant to our security and welfare from a long-range point of view. There is no question in my mind but that these matters and others must receive thorough and critical reevaluation in the period ahead.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. LIPSCOMB. I yield to the gentleman from Florida.

Mr. SIKES. May I state to my distinquished friend this exchange disturbed me considerably at the time it took place. It has continued to disturb me since that time. It does appear some highly placed people in our Government who should be apprised of what is taking place are not receiving full information on these matters, or there is no such information available. Either situation is unfortunate and in fact intolerable.

Mr. LIPSCOMB. I commend the gentleman from Florida because he was on top of this right from the start.

Mr. FORD. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. Bow].

Mr. BOW. Mr. Chairman, there are in this bill appropriated funds for the Department of the Navy Inspector of Navy Materiel, and the equal-employment provision of that division.

I was shocked and disturbed by a directive from that division received by a constituent company that is a defense contractor, and I should like to call to the attention of the membership the provisions of that directive.

May I first say that I voted for a civil rights bill. I believe in civil rights, but I do not believe in rank discrimination, whichever way it may be. May I read to you the directive to my constituent.

First, may I say they first direct them to use the USES for employment. I have been discussing that on the floor some time before, to force them to go in there, and they give them the names and telephone numbers of people they must check with, with the USES. That is the first one. Now let me read you the second one. This is (b):

By contacting Mr. Blank, attorney, in such-and-such a building—I am deleting the names for the protection of my constituent—the NAACP representative for all vacancies in the so-and-so plant.

(c) By contacting Mr. So-and-So of the Urban League, with the address and telephone number, for recruiting in such-and-such a plant.

(d) By contacting Mr. So-and-So, of such-and-such an address and such-and-such a telephone number, local NAACP representative, for all vacancies in such-and-such a plant.

(e) By contacting Mr. So-and-So, at such-and-such a street, local NAACP representative, for all vacancies in such-and-such a plant.

Then let me read this to you, Mr. Chairman. If these vacancies are not filled in this manner, then the directive provides, (f), by contacting other companies who have employees on layoff and requesting Negro applicants for all vacancies.

Then the contractor is told to establish a feedback system reporting monthly listing the number of job openings during the period covered in the report, the number of job applicants by race, the name and race of each person selected in each case, together with the reasons for such selection, and the list of promotions by race.

This directive directly violates the laws of the State of Ohio. Under our FEPC laws in the State of Ohio, we are forbidden to ask the race of an applicant.

It seems to me if we are really interested in the question of discrimination, the materiel division of the Department of the Navy, Inspector of Materiel, should not under any circumstances give a directive to an employer that he must employ only Negroes and do his recruiting through the NAACP and the Urban League. That, in my opinion, is discrimination.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Would the gentleman mind telling the House the date of this particular directive?

Mr. BOW. January 29, 1964.

Mr. WAGGONNER. I would call to the gentleman's attention that this was prior even to the passage of the legislation here in the House.

Mr. BOW. I agree with the gentleman. This is true. This violates the laws of Ohio and forces an employer to violate the laws of Ohio.

Mr. WAGGONNER. I would say this not only violates the laws of the State of Ohio but it violates the individual and property rights of every individual in the United States. It is discrimination against the white man enforced or brought about by utilization of the economic might of the Federal Government. It is the sad result of improper use of the Executive order.

Mr. BOW. I would say to the gentleman, I know of no constitutional right for a directive of this kind and I know of no legislation for directives of this kind. I think it is rank discrimination whichever way you may look at it. I am opposed to discrimination. But when the Navy can tell a contractor the sources from which he may employ people or else run the risk of losing his contract, it seems to me when you talk about freedom and liberty and we are considering here a $46 billion appropriation bill to defend our liberties and our freedoms, here is a situation where those liberties and freedoms and the rights of free enterprises are being done away with.

Mr. WAGGONNER. I will only say that it is never a pleasure to say, I told you so—but if this Congress and the people of this country do not wake up, you have not seen anything yet.

Mr. BOW. I would say to the gentleman, I have never seen anything like this. I would hope our taxpayers' dollars would not be used for the continuation of practices of this kind.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman.

Mr. GROSS. The gentleman from Ohio said he was shocked by this directive. This is indeed a shocking thing and I commend him for bringing it to the attention of the House. It is in line with the infamous Gesell report. I do not know how far that has been implemented, but the gentleman will recall that report deals in highhanded fashion with alleged discrimination on and off military bases in the country.

Mr. BOW. I remember it very well. I would say again to the gentleman, as he knows, I voted for the civil rights bill. I believe in it, but I do not believe this is civil rights. I believe this is a civil wrong—to be able to say you can only have one race of people employed to fill vacancies in these plants. I say to you, I do not believe this helps civil rights. I think this kind of thing going on throughout the country is affecting the attempt to bring about a proper civil rights bill in this country and the more this is done, the more danger there is going to be.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the distinguished chairman of the subcommittee, the gentleman from Texas.

Mr. MAHON. I think the gentleman should be commended for calling the attention of the House to this intolerable situation. I, for one, expect in my capacity as chairman of the subcommittee to look into the matter and see what can be done.

Mr. BOW. I appreciate the gentleman's remarks and I thank the gentleman.

The CHAIRMAN pro tempore. The gentleman has consumed 7 minutes.

Mr. FORD. Mr. Chairman, so far as I know we have no additional requests for time at this time, and I yield back the 3 minutes remaining.

Mr. MAHON. Mr. Chairman, I yield such time as he may require to the gentleman from Louisiana [Mr. WAGGONNER].

Mr. WAGGONNER. Mr. Chairman, I rise in support of H.R. 10939, the Department of Defense appropriations bill for fiscal year 1965.

I think there are several specific points, in addition to the general ones, on which the committee deserves praise.

First of all, they have brought us a bill requesting less but substantially the same as was asked last year and in these days of ever-spiraling budgets, this is a considerable accomplishment. They have done this without, in any way I can see, jeopardizing our needs in national defense capability. It is evident that the budget is based on what we have to have and cannot do without if we are to maintain the superior posture we have. For this, I am sure all Members join me in expressing our appreciation.

I believe a commendation is due, too, for including $52 million for the development of advanced manned strategic aircraft. I think this will prove to be one of the wisest items contained in the budget. It is a must in my opinion.

There are still grave doubts and questions in my mind about the feasibility of building a conventionally powered carrier rather than an atomic one, but, then, I did not expect this to be a perfect bill without any area of disagreement or difference of opinion.

I can only wish that the highly classified segments of the budget dealing with the research and development leading toward future weapons systems were such that the public could know all that is involved here. But, national security will not permit it, of course. This budget and prior planning give us, I believe, the technological base and the level of funding which will enable us to stay ahead in all vital research and development areas. On such a basis rests our future safety and we seem to be on good solid ground.

Mr. MAHON. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SIKES], one of the ranking members of the committee.

Mr. SIKES. Mr. Chairman, I have requested this time in order that I may ask unanimous consent that the distinguished gentleman from California [Mr. HOLIFIELD] may extend his remarks in the RECORD on the subject of the procurement of commercial transportation service from carriers participating in the civil reserve air fleet program.

The gentleman from California is seriously concerned lest smaller air carriers be eliminated from consideration and participation in this important work. I share his concern. I think it essential that smaller air carriers not be eliminated from such participation, and I am sure my sentiments are those of the entire subcommittee.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. HOLIFIELD. Mr. Chairman, I note that the defense appropriations bill under consideration continues, in section 530, the provision for procurement of commercial transportation service from carriers participating in the Civil Reserve Air Fleet program. The Secretary of Defense is directed to utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable, although he is unable to specify, by the terms of the section, the aircraft performance characteristics. The purpose of this proviso is to encourage the acquisition of new equipment and the upgrading of the civil air fleet.

The amount earmarked in section 530 for the aforesaid purpose is $80 million which is, I believe, the same amount carried in last year's bill. The Defense Department actually spends considerably more than this earmarked amount. For example, the estimated procurement bill for civil augmentation airlift during fiscal year 1964 totals $230.8 million, composed of $190.3 million for international airlift and $40.5 million for domestic airlift.

However, the citation of a specific dollar amount in the yearly appropriation bill signifies a continuing concern by the Congress that the Defense Department utilize civil carriers in meeting its requirements for the transportation of military goods and passengers. In fact, this earmarking of a specific dollar amount was first recommended in a report on military air transportation made under my direction by the Military Operations Subcommittee of the House Committee on Government Operations. See House Report No. 2011—85th Congress, 2d session—page 8. The purpose of this recommendation was to eliminate ambiguity in the congressional intent and to avoid the guerrilla warfare between industry and the military over the yearly procurement programs. When our subcommittee first began its comprehensive studies in this troublesome area, there was cutthroat competition among the carriers, a great deal of short-term or "call" contracting by the military which added to the chaotic conditions, and a lack of sound working relationships between the military and the industry.

As a direct result of our committee investigations and reports, the situation has been considerably improved over the past few years. The Defense Department and the industry have worked out, on a "live and let live" basis, some ground rules for procurement, with minimum rates now set by the Civil Aeronautics Board. Our subcommittee has kept watch of the situation. In our most recent report we recommended that, because of the new jet equipment being acquired by civil air carriers, partly due to the improved military procurement program, the CAB minimum rates should be adjusted downward. See House report No. 559—88th Congress, 1st session—page 9. The CAB accordingly made a downward adjustment of rates and it is estimated that savings of $10 million a year to the Government will result.

The policies and problems confronting air carriers in their attempts to pay for their new equipment, to upgrade their fleets, to survive economically, and to participate in the Civil Reserve Air Fleet program as a backup or reserve to the military in case of emergencies, will continue to receive attention by our committee. At this time I want to advise the Congress that Secretary McNamara has instituted a review of the Defense Department procurement program for civil airlift, presumably in order to determine whether greater economies can be achieved. Our committee will examine the results of the Secretary's study when it is finished, but I take this opportunity to remind this House, and the Secretary of Defense as well, that there has been a long and painful effort to work out some reasonable rules to guide the Defense Department in using civil carriers to meet its airlift needs.

The Congress is interested in helping the small- and medium-sized carriers as well as the big ones. It does not want the military augmentation business to be monopolized by a handful of the largest carriers. It wants a broad mobilization base. It believes that the civil carriers have a part to play as a reserve airlift in case of emergencies, as demonstrated by the role of civil carriers in past crises. This backup civil air fleet represents potentially large savings, since every civil carrier committed to the Civil Reserve Air Fleet programs saves the capital cost to the Government of equivalent military capacity.

The Congress also wants carriers which specialize in cargo to survive and grow and not be run out of business by the big combination carriers. There are indications that the large combination carriers have used their profitable passenger trade and some lucrative Government mail contract business to depress commercial cargo rates in an attempt to squeeze out the all-cargo carriers.

By the several hundred million dollars that it spends each year for civil augmentation airlift, the Defense Department has great leverage in determining the economic fate of various carriers and the future of the civil segments of the industry. We have urged and recommended the Defense Department to work toward the objectives of a broader based industry, with consideration to small business and with fair pricing practices—fair both to the Government and to the carriers.

The CAB, as the regulatory arm of the Congress, also has responsibilities of a similar sort in executing or carrying out the laws we have enacted relating to the air carrier industry.

It is in this context that the Secretary of Defense would be well advised to read our committee reports, to consider the developments of recent years, and to refrain from any decisions which would cut the ground out from carriers now serving the Department of Defense. These carriers have done a good job for the Defense Department, they have bought new equipment and upgraded their fleets, and they have fulfilled in other aspects their defense contract obligations. The Defense Department has a moral as well as a legal commitment to keep faith with these carriers and to deal with them on a continuing basis.

Mr. SIKES. Mr. Chairman, I further request that the remarks of the distinguished gentleman from Illinois [Mr. PRICE], the present occupant of the Chair, be extended at this point in the RECORD. The gentleman from Illinois has presented an extremely clear, concise, and valuable discussion on the nuclear carrier. I share the gentleman's interest and commend him for his efforts in this matter.

I ask unanimous consent that the gentleman's remarks be extended in the RECORD, Mr. Chairman.

The CHAIRMAN pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. PRICE. Mr. Chairman, I have spent the greater part of my time in Congress in close association with both the defense and atomic energy fields. In my committee assignments with both the Armed Services Committee and the Joint Committee on Atomic Energy, I have been witness to a remarkable explosion of technology.

I know of no more dramatic and successful development than the marriage of nuclear power and the modern Navy. I have seen the phenomenal progress in this work under the firm direction of Admiral Rickover. I am proud to say that I have had some modest role in encouraging the development of the nuclear submarine and the nuclear surface ship.

Today, this country is stronger because of the nuclear submarine. Today, the nuclear submarine, armed with the Polaris missile, is one of the principal elements of our national defense. Today, the United States stands preeminent in the field of nuclear power for naval propulsion. This is a proud accomplishment.

Despite our preeminent position in the field of naval nuclear propulsion, the Department of Defense now refuses to install nuclear power in the next aircraft carrier, CVA-67. What a paradox. On the one hand, the DOD urges the Atomic Energy Commission to develop such plants on a high priority basis to meet an urgent requirement of the Navy. The AEC responded, and through a major scientific and engineering effort involving millions of dollars and years of effort, it has developed an improved four-reactor nuclear propulsion plant to meet the DOD's "urgent requirement."

Yet now the Department of Defense refuses to utilize the result of this development program and persists in a decision to build a conventional aircraft carrier which will be obsolete before it hits the water.

Last year, the Joint Committee on Atomic Energy held extensive hearings on nuclear propulsion for surface vessels. We issued an unclassified record of our hearings and published a report on this subject in December. I participated in the preparation of that report and I strongly agree with its principal conclusions that:

First. Nuclear propulsion for surface warships has significant military advantages which have been underestimated by the Department of Defense; and

Second. The additional cost for nuclear propelled surface ships is minor in relation to their significant military advantages.

There is no point at this time in getting involved in a debate as to the technical and military advantages of nuclear propelled carriers. Let me put it this way. A nuclear carrier has virtually unlimited endurance at high sustained speeds. It can go anywhere in the world without dependence upon logistic support—support which may be nonexistent in a time of crisis. It will carry 60 percent more aviation fuel and ammunition than the conventional carrier. In short, the nuclear carrier will be able to stay in combat without replenishment at least 60 percent longer than the conventional carrier. These are the facts, Mr. Chairman.

Now, a word about the price for these advantages. It has been estimated that additional appropriations of up to $126 million will be required to make this carrier nuclear powered. This includes a 7-year nuclear fuel supply. Considering total lifetime costs for a carrier and its aircraft, the difference has been estimated to be 3 percent or less.

Of course, we can argue dollars until "the cows come home." I do not think there is any point in a debate with the computer jockeys over the cost of nuclear power. To me, this decision against the use of nuclear power—and I have said this before—is just like the Board of Directors of the Union Pacific Railroad deciding to buy a steam engine despite the proven experience with diesels.

I said earlier that the Joint Committee on Atomic Energy, after thoroughly studying this matter, strongly endorsed the installation of nuclear power in CVA-67. That report was issued in December of last year. Since that time, we have been informed that new data indicates that nuclear power has even greater military advantages. Since the time of our December 1963 report, technical developments have assured that the four-reactor propulsion plant can provide the same propulsion power as the eight-reactor plant which is now in the *Enterprise*. This increase in power has been used in the design of the ship.

not only to provide a higher speed, but to substantially increase the aviation fuel and ammunition capacity.

We have also been informed that no significant delay would be incurred in the delivery date of the next aircraft carrier if a decision were made now to go nuclear.

Mr. Chairman, after having spent years in the Congress in close association with the defense and atomic energy programs, I know that the Congress can play a crucial and creative role in helping to shape national defense policy. The Congress was instrumental in pushing the development of the hydrogen bomb. The Congress saved the development of the nuclear submarine. And indeed, it was our own House Armed Services Committee which, in 1962, directed that the destroyer leader, *Truxtun*, should be nuclear powered. We stated in our report at that time:

> The advantages of nuclear power are * * * apparent to everyone even remotely familiar with the subject of naval vessels.

The question, gentlemen, is simply this: Shall we have a modern Navy—an effective Navy—a nuclear Navy?

A nuclear carrier, even with conventional escorts, will be superior to a conventional carrier. If, in the future, it is accompanied by nuclear escorts, its superiority will be even greater. But one thing is clear—a conventional carrier will be an inferior ship from the day it is launched until the day it is deactivated.

The Congress now has the facts and the facts squarely point up our responsibility. We should authorize and appropriate the funds necessary to make our next aircraft carrier, CVA-67, nuclear powered. I would like to be in a position to predict that this Congress will be remembered as the Congress which saved the U.S. Navy from a future of planned obsolescence.

I do, however, understand the facts of life, and I know the obstacles in changing an authorization made 2 years ago.

Mr. MAHON. Mr. Chairman, I ask that the Clerk read.

The Clerk read as follows:

### MILITARY PERSONNEL, NAVY

> For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), expenses of temporary duty travel between permanent duty stations, for members of the Navy, on active duty (except those undergoing reserve training), midshipmen and aviation cadets; $3,045,000,000, and, in addition $60,000,000 which shall be derived by transfer from the Navy stock fund and the Defense stock fund.

(By unanimous consent, Mr. JOHANSEN was given permission to proceed out of order for 5 minutes, and to revise and extend his remarks.)

Mr. JOHANSEN. Mr. Chairman, at the moment it is a cloud no larger than a man's hand. But it is a warning we will disregard at our own peril.

I refer to statements by the knowledgeable Jerry Kluttz in his "Federal Diary" column appearing in this morning's Washington Post. I quote:

> It's a long-shot possibility, but the Federal courts could conceivably direct Uncle Sam to carry out his promise to Federal employees to pay them salaries which are comparable with rates in private industry.

Mr. Kluttz further states:

> There is talk of these classified and [postal] employees appealing to the courts to force Congress to follow through on the 1962 law that extended the comparability principle to their salaries.

I urge my colleagues not to lightly brush aside this warning.

There is abundant reason for believing that the Federal Judiciary would undertake to assume this authority, given the opportunity. It conforms to the pattern of Judicial usurpation already well established.

Under the aegis of the U.S. Supreme Court decision in Brown against Board of Education the judiciary has assumed legislative powers in the educational field to the point that it is now virtually a super board of education.

The judiciary is currently dictating redistricting policies and procedures relating to election of Members of this House and of the State legislatures and creating havoc in this area of legislative responsibility.

The judiciary, by its meddling reversal of precedent, has created a first amendment crisis in the delicate area of church and state relationships to the point of making the Federal Government an ally of antireligion.

Who is to suppose therefore that it is beyond the realm of possibility that the Supreme Court could become a super wage board for Federal personnel?

I cannot believe that even advocates of the 1962 pay comparability principle imagined that this law would bestow authority upon the judiciary to compel congressional enactment of salary schedules in implementation of a broad policy declaration.

If there is the remotest possibility that the Federal judiciary will so construe that act or assume such power the Congress should repeal the comparability provision of the 1962 act forthwith.

I remind the Supreme Court of the warning of Mr. Justice Frankfurter in his dissent in Baker against Carr that the Court is "possessed neither of the purse nor the sword."

And I also remind the Court of the further eloquent and timely statement of Mr. Justice Frankfurter:

> There is not under our Constitution a judicial remedy for every political mischief, for every undesirable exercise of legislative power. The framers carefully and with deliberate forethought refused so to enthrone the judiciary.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### MILITARY PERSONNEL, AIR FORCE

> For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except those undergoing reserve training), cadets and aviation cadets; $4,383,000,000, and, in addition $81,000,000 which shall be derived by transfer from the Air Force stock fund and the Defense stock fund.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, let me see if I have the figures in this bill straight in my mind. It is $46,759 million, and that is supposedly a decrease of $460,743,000 as compared with last year, that is, as compared with the spending for the same general purposes last year.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Texas.

Mr. MAHON. As compared with appropriations for the same purposes last year. Of course, there are additional costs for the current fiscal year, 1964, growing out of the fact that several months ago we approved a pay increase for the military, and that will be over $1 billion. So actually this bill, if we consider this additional fund, which is mandatory, is about $1.5 billion below the figure for fiscal 1964.

Mr. GROSS. Then, if the chairman of the subcommittee will bear with me, on page 8 of the report, what is the meaning of the item listed as program decreases, $169 million? Am I right or wrong that that is the actual cut in this bill as compared with last year? You have $543 million, do you not, for deferments?

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I will be glad to yield to the gentleman.

Mr. FORD. I believe the answer to that is that we eliminated programs to the extent of $169 million. The other figure, financing decreases, to the extent of $543 million, involves only dollars; a percentage reduction or some other reduction just involving dollars and not a specific program.

Mr. GROSS. What I am trying to get at, if the gentleman will help me, Is the $46,759 million and the reduction of $460 million a realistic figure? Is the cut of $460 million really realistic?

Mr. FORD. I think it is a very honest reduction of $460,743,000 below the fiscal year 1964 appropriation.

Mr. GROSS. How about supplementals? Will there be some supplementals?

Mr. FORD. We do not consider supplementals. Of course, the supplemental we have now is mandatory for fiscal year 1964 under legislation enacted by the Congress in the last session.

Mr. GROSS. While it is not the responsibility of this committee, we could very well add another $1 billion to this for military assistance in the bill coming out of the Committee on Foreign Affairs and the appropriations Subcommittee on Foreign Operations.

Mr. FORD. Let me give you a more specific illustration. It is my understanding that the President recommended another pay increase for military personnel in the magnitude of about

$180 million during any one fiscal year. If the Congress enacts that legislation, to that extent there would be a supplemental or a deficiency requested of this committee by the President.

Mr. GROSS. And there is already a tidy amount in this bill for the last pay raise, is there not?

Mr. FORD. Oh, yes; in the military pay account in this bill for fiscal 1965 we are financing all of the military pay raise which the Congress approved last year.

Mr. GROSS. Mr. Chairman, let me ask the gentleman from Texas where the spending for entertainment is to be found in this bill? Does the gentleman mean to tell me that the military services do not have any so-called representation allowances?

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GROSS] has expired.

Mr. GROSS. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection?

Mr. MAHON. Mr. Chairman, in the Operation and Maintenance Accounts there are funds for entertainment. The total fund across the board for use at home and overseas, is $1,149,500. That is the entertainment fund for all the armed services. As the gentleman knows, our officers as a rule are not wealthy, and when they are entertained in various posts or ports throughout the world they have to reciprocate.

Mr. GROSS. Mr. Chairman, I would appreciate it if this committee would do as is done in connection with most of the other bills, include line items in this bill dealing with entertainment expenditures. I think we ought to know who is getting the entertainment money and the amount of it. Why not have some line items in this bill?

Mr. MAHON. In a bill of this magnitude, those funds would not be a line item in the bill itself. The total for the Office of the Secretary, for example, is $60,000. This covers a huge responsibility in connection with hundreds of people at home and abroad, foreign visitors and many others——

Mr. GROSS. Mr. Chairman, I do not want to take the time of the Committee now, but I would hope that in the bill next year there will be line items to tell us how much the Secretary of Defense is being allowed for entertainment purposes, as well as the Secretaries of the other branches of the service. I think we are entitled to know. It would be interesting to know whether the State Department has caught up with the military or whether the military has caught up with the State Department in the matter of spending on entertainment.

Mr. MAHON. As the gentleman knows, the services sometimes entertain our constituents. They invite them on cruises, for example.

Mr. GROSS. That is one of the things I would like to know more about, the operation of those yachts up and down the Potomac River; and the uses to which they have been put in the past, especially in connection with the TFX contract. And I hope to get a little more time later on in which to ask a question or two about the TFX deal.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to my colleague.

Mr. SCHWENGEL. Mr. Chairman, in connection with that or related to that, I should like to ask the chairman of the subcommittee concerning another item that has been called to my attention.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GROSS] has again expired.

Mr. SCHWENGEL. Mr. Chairman, I move to strike out the requisite number of words.

The CHAIRMAN. The gentleman is recognized.

Mr. SCHWENGEL. Mr. Chairman, is it true that there are 707 so-called plush administrative airplanes in the Air Force in this bill?

Mr. MAHON. Is the question whether there are 707 plush airplanes in the Air Force?

Mr. SCHWENGEL. So-called administrative planes.

Mr. MAHON. That is a most fuzzy and unsubstantiated statement, I would say.

We have in Washington, as the gentleman knows, the MATS Special Air Missions Service. Their planes are provided for the use of the President and other officials of the Government, but 707 plush military planes does not ring a bell with me at all.

Mr. SCHWENGEL. How many helicopters do we have, for instance?

Mr. MAHON. We have more than 30,000 aircraft, including helicopters, in the active inventory. I do not have the figure immediately before me on the number of helicopters, but we do have a number of helicopters. I believe that figure is probably in the report but I cannot turn to it on the spur of the moment.

Mr. SCHWENGEL. I believe this is of sufficient importance that the chairman of the committee ought to get the information on these questions and have it available as a part of the RECORD. I have some information from people who are presumably well posted on this question and they tell me that there are hundreds of planes performing work for the Government which work could be performed by private industry and by the private sector of our economy and thereby save a considerable amount of money.

Mr. MAHON. As the gentleman knows, a lot of helicopters are in use in South Vietnam. Of course, there are a certain number of helicopters assigned to various other areas. I will put in the RECORD at this point any unclassified figures in regard to the total number of helicopters in the Army, in the Marines, and in the Navy, as well as the Air Force.

I would say that the Army has more of the helicopter-type aircraft than any other of the Services.

| Service: | *Helicopters* |
|---|---|
| Army | 3,408 |
| Navy (including Marine Corps) | 1,274 |
| Air Force | 417 |
| Total | 5,099 |

Mr. SCHWENGEL. I of course would be interested in having that particular information, but I am more interested in the so-called administrative planes that the Air Force now has in use. I am told that there are over 700 of them.

Mr. MAHON. The Department of the Air Force and the other services are using many outmoded noncombat planes. They have not been able to get the so-called mission-support planes which they have sought for years. Some of the planes which they are using are as old as 15 or 20 years. Some are the old so-called DC-3's or C-47's. There is a great need, really, for modernizing most of the noncombat military aircraft in all of the services in my opinion.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. Yes; I yield to the gentleman from Iowa.

Mr. GROSS. How many Lockheed Jetstars do they have?

Mr. MAHON. If the gentleman will yield, I think we have about 15 of the Jetstars. Some of them are in the fleet that serves Washington.

Mr. GROSS. Well, that is a pretty good array of Jetstars.

Mr. MAHON. I would not say that that is a very large number.

Mr. GROSS. That is a pretty good array of Jetstars for the use of the VIP's I would say, even 15.

Mr. MAHON. I would not say that this is too many. The Jetstar is a very fine plane. It is fast and it gets people to their points of destination in good time.

Mr. GROSS. I do not question that. It is luxury personified, however.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman from Michigan.

Mr. FORD. I believe a number of those Jetstars are used by the Air Force for navigation checking. There are six of them according to my best recollection. The rest, however, are for the purposes as the gentleman from Iowa indicated.

In defense of the subcommittee on the question of helicopters, a year or two ago a request was made for more helicopters. I cannot recall the exact number. We cut the request approximately in half. I believe this was a proper decision on the part of the committee.

Mr. MAHON. As the gentleman will recall, there was at one time a request made for additional Jetstar aircraft which the committee failed to fund, feeling that the number which had been previously provided was sufficient.

I do not want the U.S. Air Force or the Navy or the Army or our Embassies overseas to be served by unsafe crates that are belittling to the people of the United States.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. SCHWENGEL] has expired.

**Mr. FORD.** Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I would like to supplement what the chairman has said. Last year in the budget, as I recall, there was a request for $15 million for new mission-type aircraft. They did not label the request in that way, but the intent was obvious as far as the committee was concerned. This involved a version of the Gulfstream aircraft produced by Grumman.

Our subcommittee deleted that money.

The bill went over to the other body, and they put the money back in. In a very controversial conference on this particular item the House prevailed, and the Senate receded. So I think this subcommittee is particularly alert, and is doing its utmost in this area of the mission-type aircraft.

**Mr. FLOOD.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Pennsylvania.

**Mr. FLOOD.** I would like to say with reference to the gentleman's comment about civil aircraft: As I remember over many years I led the fight on this military air transport matter in the committee and on the floor year after year to make them do exactly what the gentleman wants them to do. For the last 3 years we have had over $80 million in this budget for the private lines. This year Budget asked for $100 million, but everybody agreed to leave it at $80 million. There is no dispute about that.

If there ever was a subcommittee that took care of this matter in the budget, this committee did, and the people who would be likely to make a squawk did not. There was not a word from the civil about the military air transport. If they did, they are wrong. I am their friend.

**Mr. SIKES.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Florida.

**Mr. SIKES.** I would like to get back to the original question as to whether there are 700-odd administrative aircraft in the Air Force. I am inclined to say that probably there are that many administrative aircraft. But please bear in mind there are in the armed services 2,680,000 men and women, that they are scattered all around the world. Of this number 848,000 are in the Air Force. There are 687 major operating military installations. Of these 205 are major Air Force installations. It is customary to assign one or more of this type of aircraft to nearly all of military installations in order that the commanding officer and the administrative personnel can move quickly from one area to another in their duty. Air Force installations normally would have a higher number. That does not mean these are plush aircraft, and I think it is unfortunate to refer to them as such. They include everything from the C–47, which has been in inventory for a generation or more, to the C–54, and on to the Jetstar, which was mentioned a moment ago, and other really modern aircraft. Most of these are workhorses. They perform a very useful function. Without them, the work of the services would be limited and retarded. It is a perfectly normal situation, and one not to get unduly alarmed about. Of course, we know that at times there are abuses in the use of aircraft.

**Mr. SCHWENGEL.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Iowa.

**Mr. SCHWENGEL.** I would like to have placed in the RECORD a statement, whether it is true or not, that there are over 700 administrative planes in the Air Force. I would like to ask the chairman of the subcommittee to place in the RECORD the number of planes that the Army and Navy have of the same type—that is, military planes.

I would like to know also, if the gentleman can find the answer later, what are the guidelines you use in designating the administrative planes, that you have recommended here. What is the rule?

**Mr. MAHON.** Mr. Chairman, will the gentleman yield?

**Mr. FORD.** I yield to the gentleman from Texas.

**Mr. MAHON.** This information will be provided for the RECORD. I believe this magic number of 707 plush aircraft has to do with the four 707 Boeing aircraft that are available to the MATS fleet. I think that is where the figure comes from. I know nothing about the 707 figure otherwise. There are four of the 707 aircraft in the MATS fleet for the public use, two of them more or less are assigned to the President and Vice President.

The total number of administrative aircraft in inventory follows:

| | Fixed wing | Helicopters | Total |
|---|---|---|---|
| Army | 237 | 75 | 312 |
| Navy | 28 | | 28 |
| Marine Corps | 4 | 8 | 12 |
| Air Force, including special air mission | 145 | 4 | 149 |
| Total | 414 | 87 | 501 |

### ADMINISTRATIVE AIRCRAFT

Those aircraft assigned to support command administrative, executive, and inspection activities (including 1254th Air Transport Wing, Special Air Missions unit) as contrasted to those aircraft assigned to or supporting combat, strategic and assault transport support, rescue, training, flight proficiency, and test functions.

Specific terminology applicable to the military departments follows:

#### ARMY

Aircraft provided for the purpose of command and executive transport for high departmental officials and key staff officials in the pursuance of priority command and control functions of the headquarters they represent. For example, support of major Army headquarters (Department of Army and major oversea headquarters), Continental U.S. and oversea Armies and Corps, including Reserve Corps XVII Airborne Corps (Strategic Army Corps), and other selected major subordinate agencies (Materiel Command, Combat Developments Command, Strike Command).

#### NAVY/MARINE CORPS

Aircraft assigned primarily for nonscheduled transport of civilian executives and officers of the Department of Navy for administrative purposes, such as staff administration, special official business, courier service, and special missions. For example, support of major Fleet and Air Commands, active and Reserve Training Commands, and selected unified commands (Pacific Command, Atlantic Command).

#### AIR FORCE

Aircraft assigned to support command administrative, executive and inspection functions. For example, support of major Air Commands, numbered Air Forces, Air Materiel Areas, selected unified commands (Alaskan Command, Continental Air Defense Command/North American Air Defense Command, Strike Command) and selected defense activities.

**Mr. SCHWENGEL.** I am talking about the administrative planes, so called.

**Mr. GUBSER.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes, and to revise and extend my remarks.

**The CHAIRMAN.** Is there objection to the request of the gentleman from California?

There was no objection.

**Mr. GUBSER.** Mr. Chairman, I support this bill because taken on balance it is overwhelmingly good, with very little in it which is bad. But as we pass it, let us not fail to mention that it contains some far-reaching policy decisions which could signal serious danger to our national security near the end of this decade. One of these decisions was to build a conventionally powered aircraft carrier instead of one which is nuclear powered. Another is to allow what I believe will be a serious degradation of our manned bomber force because of insufficient emphasis on a new manned strategic system. The result will be to paint ourselves into a strategic missile corner and to deny our Air Force the mixture of weapons which it should have to respond to a potential attack by an enemy who has the choice of the kind of war he will fight.

What concerns me, Mr. Chairman, is that the Secretary of Defense, through manipulation of classified information, through his release of data favorable to his point of view and his suppression of that which is unfavorable, is actually brainwashing the American people. Until February of this year I had only great admiration for Secretary McNamara, but several events since then have shaken my confidence.

During the missile versus bomber reliability controversy earlier this year, Secretary McNamara released part of a chart which, by comparison, made missiles look better than bombers. It was not until General LeMay testified before our committee a few days later that we learned that the Secretary had neglected to mention two complete categories of that same chart. These categories showed that bombers could deliver more megatonnage on target and more warheads on target. This placed an entirely different light on the controversy.

The recent Pentagon directive to favorably publicize the TFX is another example of the effort to show that Secretary McNamara is 100 percent right

110 percent of the time, and that there is no side to the argument but his own. Yet this TFX is such a shaky concept at this very moment due to weight problems that they have not even executed a contract. General Dynamics at this moment is spending millions of dollars solely on the authority of a letter of intent.

In his recent response to General LeMay's testimony before the Appropriations Committee and in his release of previously secret figures about our strength as compared with Russia, the Secretary's facts were so incomplete as to actually constitute misrepresentation. Let me give you two examples.

The Secretary mentioned that we had 540 strategic bombers on 15-minute alert. Why did not the Secretary tell the people that at this very minute he is phasing out the B-47 bomber? Instead of doing so he included every B-47 in his figures. Was that telling the complete truth to the American people? If the truth were known, in less than 1 year the figure will be considerably less than the 540 which he quoted.

The Secretary told the American people that we had 750 ICBM's as compared with 187 or 188 for the Soviet Union. This is a true fact, but the conclusion that the people will draw from it is not the true situation. The Secretary neglected to tell the American people that European targets which will certainly be involved in any future war are within range from Russia of an intermediate range ballistic missile, and that these Russian IRBM's can accomplish the same mission and carry the same warheads to targets as our ICBM's.

Yet, the lowest published figure I have seen—and I say published—is that Russia has more than 700 intermediate range ballistic missiles on launcher.

Had the Secretary told the full truth to the American people, he would have compared the number of Russian IRBM's and ICBM's with our number of ICBM's.

I contend that this is major brainwashing.

Now such manipulation of information that is released makes me wonder if in the operation of the Secretary's cost effectiveness technique—if he does not regulate the input in his computer so as to get the answer which he desires.

Admiral Rickover and General LeMay have both stated that the cost effectiveness technique is only reliable when you can predict the exact type of war that an enemy may impose upon you. We all know that since we have assumed a second strike posture that such a prediction is impossible and an enemy, as the aggressor, will have the choice of weapons.

If the truth were known, there are many other points in this bomber versus missile controversy that the Secretary of Defense has not seen fit to give to the American people. For example, it is well known that only the bomber can successfully attack certain hardened sites. The Secretary of Defense himself says on page 28 of these hearings:

> Although most of the aiming points in the Soviet target system can be best attacked by missiles, the long-range bombers will continue to be used in the followup attack, particularly against hard missile sites.

Second, we know the missile is a one-shot weapon but a bomber can seek an alternate target.

We know that a bomber can drop more megatonnage. We know that a bomber can drop more warheads.

Mr. McNamara never told the American public, first of all, with bombers we can upgrade our deterrent posture and we can show greater will by putting it on alert or airborne.

General LeMay said, and I quote him:

> Sole or principal reliance on missiles would deny future national leadership the ability to respond in a flexible yet unambiguous manner to a wide range of lesser provocations * * * to the extent that it would not be credible for the United States to employ a total ballistic missile response to peripheral aggression. * * * Such aggressions could result in Communist domination of major segments of the free world.

At another point, General LeMay said:

> I firmly believe the right answer is to have a mix of weapons and not depend on one.

At still another point he said:

> If you were President of the United States and only had missiles to fire, when are you going to press the button? I say you are going to think a long time before you do it.

I say our negotiators at some future conference table can have their hands strengthened by the existence of alerted bombers which are airborne. They will have an alternative to waiting for the point of no return when the button is pushed and the missile cannot be called back.

Mr. Chairman, I think these facts ought to be made known to the American people.

It was a self-assumed mantle of invincibility and an overwhelming ego which led Napoleon Bonaparte to Waterloo. I fear and I sincerely feel that the aura of infallibility which Secretary McNamara has assumed for himself may well lead this Nation to an equally disastrous fate.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. I am sure the gentleman realizes that the $52 billion that General LeMay asked for is in the budget for the Air Force to handle if and when they get around to it. I am sure the gentleman is not quarreling about that. He has no quarrel with the subcommittee on the mix of bombers and missiles.

Mr. GUBSER. I fully realize that. The point I have been trying to make is that we have delayed so long in bringing about this follow-on bomber, and leadtimes being what they are and obsolescence being what it is, in the early 1970's we are going to face a potential enemy without a meaningful manned strategic bomber force.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the debate yesterday the gentleman from Wisconsin [Mr. LAIRD] mentioned the fact that under the 3 years of Mr. McNamara's term in office not one single new major weapons system had been developed and placed into inventory. I wish to suggest that one of the principal reasons why no new weapons systems have been developed and placed into inventory is because of the large number of cancellations of various weapons systems which Mr. NcNamara has accomplished.

I wish to make a comparison in dollar amounts of weapons cancellation under Mr. McNamara in his 3 years of office and those under the Secretaries of Defense under Mr. Eisenhower.

I also wish to point out that undoubtedly many of the cancellations of weapons systems have been necessary because of obsolescence or because of the development of a competing weapons system developed parallel with the one which was canceled. But the cancellations of some systems by Mr. McNamara are highly questionable.

Since Mr. McNamara has come into office he has canceled approximately $4,548 million worth of weapons which were in development but before they became operational. This was in a period of 3 years.

In a period of 8 years under the Eisenhower administration approximately $3,145 million worth of weapons systems were canceled before they became operational.

This list is possibly not complete but I have exhausted all sources of information readily available.

I also point out that during the 3-year period under President Eisenhower, when the most weapons systems were canceled—1958, 1959, and 1960—only $1,758 million worth of weapons systems were canceled. That compares with the $4,548 million worth of weapons systems canceled under Mr. McNamara in the same period of time:

*Eisenhower administration—Weapons cancellations*

[In millions of dollars]

| | |
|---|---|
| 1953: Navy, Rigel, S-S missile | [1] $38 |
| 1954: | |
| Navy, Meteor, A-A missile | 52 |
| Navy, subpropulsion system | 25 |
| Air Force, H-16, helicopter | 23 |
| Total | [1] 100 |
| 1955: Navy, Dove, A-S missile | [1] 33 |
| 1956: Air Force missile, Crossbow, A-S missile | [1] 74 |
| 1957: | |
| Navy, Petrel, missile | 87 |
| Air Force, XF-103, fighter | 104 |
| Air Force, F-107, fighter-bomber | 100 |
| Air Force, C-132, transport | 54 |
| Air Force missile, Navajo, S-S missile | 679 |
| Air Force missile Talos, S-A missile | 118 |
| Total | [1] 1,142 |
| 1958: | |
| Army, Dart, S-S antitank missile | 44 |
| Navy, Regulus II, S-S missile | 144 |
| Air Force missile, Rascal, A-S missile | 448 |
| Air Force missile, Goose, decoy missile | 78 |
| Total | [1] 714 |

See footnote at end of table.

*Eisenhower administration—Weapons cancellations*—Continued

[In millions of dollars]

| | |
|---|---|
| 1959: | |
| Air Force, J-83, engine | $55 |
| Air Force, T-61, engine | 37 |
| Air Force missile, Q-4 Drone, turbojet drone | 84 |
| Other, AN/ALQ-27, countermeasures system | 142 |
| Other, Hi-energy Boron fuel | 135 |
| Total | [1]924 |
| 1960: | |
| Army, AN/USD 4 Drone, surveillance drone | 40 |
| Navy, Corvus, A-S missile | 80 |
| Total | [1]120 |
| Grand total | 3,145 |

[1] Subtotal by year.

Compare this with what has happened since Mr. McNamara took office in 1961.

*McNamara weapons cancellations*

[In millions of dollars]

| | |
|---|---|
| 1961 | |
| Army Vigilante, automatic AA gun | $32 |
| Navy Eagle, air-to-air missile | 53 |
| Air Force ANP, nuclear-powered bomber | 1,040 |
| Total | 1,125 |
| 1962 | |
| Army AN/USD 5, surveillance drone | 103 |
| Navy NRRS, Sugar Grove, rototable radio antenna | 70 |
| Air Force Snark, surface-to-surface missile | 677 |
| Air Force mobile Minuteman, railroad-carried Minuteman | 108 |
| Total | 958 |
| 1963 | |
| Navy Typhon, surface-to-air missile | 230 |
| Air Force Skybolt, air-to-surface missile | 440 |
| Air Force B-70, bomber | 1,380 |
| Air Force Dyna-Soar, manned reentry vehicle | 415 |
| Total | 2,465 |
| Total weapon cancellation in 3 years under McNamara | 4,548 |

That is a grand total in a 3-year period of $4,548 million.

This perhaps answers the query as to why we do not have any new major weapons systems developed and placed into inventory since McNamara took office.

The CHAIRMAN. The time of the gentleman from Washington has expired.

The Clerk will read.

The Clerk read as follows:

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty while undergoing reserve training, or while performing drills or equivalent duty, regular and contract enrollees in the Naval Reserve Officers' Training Corps, and retainer pay, as authorized by law; $99,200,000, and, in addition $3,400,000 which shall be derived by transfer from the Defense stock fund.

Mr. WRIGHT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise prompted by some of the remarks that were made a moment ago by the gentleman from California [Mr. GUBSER], and some that were made by the gentleman who followed him, the gentleman from Washington [Mr. STINSON].

Let me say at the outset that I do not take issue with the basic tenets advanced by the gentleman from California [Mr. GUBSER], with respect to the need for a mixed force concept in our defense structure. I honor the subcommittee and the committee for having come before us with a mixed force concept proposal. I think they have done a good job in winnowing the essential facts from all this volume of testimony and bringing to this Congress and to this House a bill which will preserve the strength of the United States of America in the years ahead. I want to congratulate the committee. I think they have done an excellent job.

Some of the Members will recall that, in 1961 when the Defense Department came before the Congress with a proposed appropriation that left out any provision for additional bombers, I appeared before the Committee on Armed Services and again before the Committee on Appropriations and then appeared before this House at the time both the authorization bill and the appropriation bill were before us asking that additional moneys be appropriated for manned bombers. The Congress did so. I did not then believe and I do not now believe that we had reached the point where we could put all our eggs in the missile basket. To that extent I want to say I do agree with much that the gentleman from California [Mr. GUBSER] said.

Yet through all of this I think I can detect a rather conscious attempt to denigrate and disparage the work of Secretary Robert S. McNamara. I am convinced, in spite of the occasions on which I find myself in slight disagreement with his decisions, that Secretary McNamara is one of the strongest, one of the most forceful, one of the most efficient and one of the best Secretaries of Defense this Nation has ever had. Secretary McNamara has not waited to make decisions. Secretary McNamara has not been afraid to take the bull by the horns and make the hard choices and then face up to the responsibility of those choices and to assume that responsibility on his own shoulders. He has not vacillated. He has not hesitated. He has not passed the buck.

As to the remark concerning the TFX or F-111, I am convinced and I believe I have every reason to be convinced that there is no problem and no trouble with the development of the TFX. I almost think this fact disappoints a few of the Members. It is moving ahead and on schedule and is going to fly on schedule. There is no major weight problem. If there is any weight problem, it is brought about by the Navy version and the Navy's insistence on the addition of several new weighty devices not incorporated in the original design, and yet insisting that the original weight limit be kept to the pound. It will be kept, because those people who are designing and building that plane have been down the road. They built the B-58, which is the only supersonic bomber we have in the free world arsenal. It is the fastest bomber in the world. It has broken six world speed records previously held by Soviet aircraft. It is proving itself in operational dependability. I wish we had three more fleets of them instead of having only the two wings we do have. General Power wishes we had more, and if the truth were known, I expect both General LeMay and Secretary McNamara today wish we had more.

If the gentlemen on my left will recall, it was I who stood before you in 1961 and said we should have more of them. The Congress agreed, and Secretary McNamara at that time disagreed. But I want to say this in behalf of Secretary McNamara. This man has made many hard decisions. On one recent occasion he ordered the phasing out of 36 bases, one of them in my district. I did not like that, but I have to honor him for having the courage of his conviction. I honor him for being interested in saving the taxpayers' money. It strikes me as rather strange that those who are criticizing him for his curtailment of expense are for the most part some of the same people who are always insisting that we save money in the Government.

Here is the first man who has proven he is the Secretary of Defense. I think rather than bombers versus missiles, there is even a more fundamental issue at stake here. That issue is: Who is going to run the Defense Department, the civilians or the military?

The preeminence of civilian over military authority is a great American tradition. Those who attack Secretary McNamara seem to proceed from the impression that the Secretary of Defense and his service Secretaries are supposed to perform only a meaningless ceremonial function and leave all the decisions to the men in uniform.

If this were our policy, there would be no need for a man of the capabilities of Mr. McNamara in that crucial position. If he were not to perform the ultimate decisionmaking function, then indeed we would need no Secretary of Defense. Unless the civilian heads of our Defense Department are to have the authority that goes with their enormous responsibility, they will be of no value whatever to the Nation.

I concede that the average colonel in the Air Force probably knows more about the physical job of flying an airplane than does Secretary McNamara. But even his critics will have to agree that Secretary McNamara knows infinitely more about the tools, techniques, technicalities, and requirements of manufacturing and production than any career military person in the country. With so great a share of the total budget devoted to military procurement, surely his knowledge, skill, and experience is one of our country's greatest assets.

But above and beyond the question of personalities is the broader, more fundamental question of just who is going to run this country—the military or the civilian. Countries dominated by an all-powerful military clique had sent many of our forefathers to this land. They were determined that there should be no repetition of that situation here. And this basically is the issue at stake in the concerted effort to smear Secretary McNamara. The public is beginning to understand the issue at stake—and in this the public backs Mr. McNamara.

There is evidence, for one thing, of a growing if belated realization that the TFX probe in the McClellan committee has been used as a sounding board by certain elements in the military along with a few disgruntled politicians to carry on a vendetta against Secretary McNamara, the first Secretary of Defense since Forrestal to make a real effort to run the establishment instead of just letting it run itself.

If it had not been the TFX, it would have been something else. A certain group in the military, riding high since World War II, had been accustomed to having its own way. They are out to "get" Mr. McNamara on one pretext or another. He is equally determined to make the traditional rule of civilian control stick.

The issue in the present instance is McNamara's unyielding vow to make unification a reality in areas where total savings could run into billions. Senior officers in the various military arms, accustomed to going their separate ways and promoting ever-expanding tables of organization with ever-broader opportunities for promotion in the several services, have been crossed for the first time, and they do not like it.

But the deeper issue is whether civilian control of the military, a cardinal pillar of the American system, can continue to be a fact in this day of sophisticated weaponry, and not just an outworn theory. In spite of harassments, Mr. McNamara is proving that it can. He is toughminded and durable. The President stands unflinchingly behind him. And in spite of the calculated barrage of criticism, the public is behind him.

Several of the country's most respected journalists have rallied to the support of Secretary McNamara in the controversy.

Walter Lippmann, interviewed on "CBS Reports" last year, said Secretary McNamara has "got an absolutely first-class mind."

"There's nobody who knows more about what he's talking about than he does," Mr. Lippmann said:

> Up to now, almost always—there have been maybe some exceptions—the admirals and the generals knew more about the equipment than the civilian, and he bowed to them. That is no longer true.
>
> McNamara is quite capable of debating anywhere with any of these generals and admirals about the value of these planes. In fact, his whole argument, as far as I can make out, with the McClellan committee, is whether they will give him a chance to argue it. They're putting off the examination of McNamara.

In his column, "Matter of Fact," Columnist Joseph Alsop has taken the same position. Recently he wrote:

> The TFX controversy turns upon technicalities which outsiders, conspicuously including Senate investigating committees, are by no means well qualified to weigh. Secretary McNamara, who had to fight hard to get even one brief hearing from the committee, has had no real chance to tell his side of the story.
>
> But the rights and wrongs of the TFX affair are very much less important, in any case, than the rights and wrongs of the attack on McNamara, for which the TFX affair is merely the vehicle. If this vehicle had not been served, another one would have been made to serve. That was inevitable, in view of McNamara's effort.

Mr. Alsop went on to say that we have had both bad and good Secretaries of Defense. When the good ones tried conscientiously to hold our staggering defense budget within reason, the generals and the admirals often refused to help. He cited how the military brass declined to aid the budget-cutting efforts of the late Defense Secretary James Forrestal in 1948.

> Forrestal then worked almost from dawn until late at night, day after day, week after week, through all that summer and autumn, making his own line-by-line cuts to reduce the defense budget. The strain of that unaided effort was what, in fact, killed Jim Forrestal.

Alsop wrote:

> Despite that warning, McNamara has set out to accomplish more than Forrestal ever attempted. He is just as defense-minded as Forrestal was, and his first requirement is a fully adequate national defense program, but he has also been trying to reduce the unit cost of national defense, which has risen continually and remorselessly.

It is heartening indeed to know that some of the Nation's most respected journalists are beginning to see the attacks on Secretary McNamara in proper perspective.

Like an economy-minded housewife keeping a wary eye on the butcher as he grinds the hamburger, Mr. McNamara has tried to keep as much fat as possible out of our defense programs, while at the same time streamlining and modernizing our fighting forces.

And what have been Mr. McNamara's rewards for all this? Except for public appreciation, his rewards have been ironic indeed.

He has seen his judgment, if not his very integrity, questioned by an investigating committee in the other body.

He has seen his good name dragged across acres of big, black newspaper headlines from coast to coast.

He has seen himself branded by a Member of this body as "I've-got-all-the-answers McNamara."

He has seen himself dragged into such a disgusting inquisition that his 12-year-old son felt compelled to ask his mother how long it was going to take for his father to prove his honesty.

Mr. Chairman, this is shameful. It is worse than shameful.

What has Secretary McNamara done? He has obeyed the two instructions given to him by President Kennedy and renewed by President Johnson—to develop the forces to meet our military requirements, and to procure and operate these forces at the lowest possible cost.

Secretary McNamara has instituted steps that within 5 years will cut the Defense Department's logistical operations by at least $3 billion a year. Many of these steps already have been taken and are saving us money now—this very day. By the end of the current fiscal year, $750 million will have been saved. Thus 25 percent of his 5-year goal already has been reached.

As Mr. McNamara pointed out in a memorandum to the President dated July 5, 1962, the Defense Department, by reevaluating inventory levels, was able to cancel orders for $150 million in spare parts in fiscal 1962, and even bigger savings have accrued since. This was done partly by transferring unused stocks from one branch of service to the other.

For one minute example, the Navy found that it had an excess of 328 new silverplated roller bearings which cost $79 each. The Air Force developed a need for some of these bearings, which are used in repairing aircraft engines. Thus the transfer of these bearings saved $26,000. This was one of about 4,500 such transfers that are now being made each month within the Department of Defense.

At the same time, stocks being sold as surplus are now bringing a better return to the Treasury as a result of more efficient merchandising.

For examples of even more significant savings effected by Mr. McNamara, let me cite just a few:

First. Shifting from noncompetitive to competitive bids, which can save 25 cents on each dollar. By fiscal 1965 competitive bids will cover $1.9 billion of defense purchases, as compared with $760 million 2 years ago, with savings estimated at $500 million annually.

Second. Reduction in cost-plus-fixed-fee contracts from 23.3 percent 2 years ago to 12 percent by fiscal 1965, with eventual savings of $700 million.

Third. Arbitrary cuts in Department of Defense civilian 1-million-man employment on the basis of estimated gains in Department productivity. Reductions of 10,000 are being made in fiscal 1964.

Fourth. Closing of some 258 military installations in the United States and 58 overseas and release of 45,000 employes. Good progress has been made to date on the program scheduled to save $440 million annually by fiscal 1965.

Fifth. Consolidation of military communications, headquarters intelligence operations, real estate management, and equipment maintenance. The latter alone is expected to save $300 million a year by 1965.

Sixth. Joint supply and service purchasing—including eliminating such wasteful buying as 18 different types of butcher smocks—which has reduced inventories by some $232 million.

Seventh. Joint equipment, such as the TFX fighter, that over the life cycle of the aircraft will save $1 billion in development, production, and operating costs.

All of these savings have been achieved without in any way weakening our forces. Since Mr. McNamara became Secretary of Defense, we have added the strength of two divisions. We have beefed up our antiguerrilla warfare forces. We have increased by half again the portion of our bomber force that is on 15-minute alert.

Under Secretary McNamara's leadership, we have added to our Polaris submarine force by a full 50 percent. We have doubled our capacity to produce

Minuteman missiles. Our modern, long-range airlift has been substantially increased. The combat-readiness of our units has been measurably improved. The Strike Command has been created to make combat unification truly possible.

In short, we have more muscle and less fat in our defense structure.

It is a difficult task for any man to go in as Secretary of Defense and actually run that Department. Secretary McNamara is doing it. When he announced the phasing out of these 36 bases, one of them in my district, I felt that I had to honor him and respect what he is trying to do because by this means he will save us $400 million a year. And I honor him for his other decisions, with some of which I personally have disagreed. I honor him for his decisive judgment. I honor him for working with all his might and main, all his skill and dedication, to give us a lean, hard-hitting Military Establishment without fat or waste.

Rather than attack him or criticize him, I think all of us in the House of Representatives ought to be glad that we have a decisive man, a man who is ready to take the bull by the horns, a man who is ready to make hard decisions, whether they are politically popular or not, and a man who is willing to be in fact the Secretary of Defense.

Mr. LAIRD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to respond to the gentleman from Texas [Mr. WRIGHT].

Our committee has had some disagreements with the Secretary of Defense on various defense policy positions. In this appropriation bill we have honest disagreements with the Secretary. We have also supported him on many decisions.

I can well understand why the gentleman from Texas is loud in his praise of the TFX R & D contract. And, perhaps, if I were a resident of, and a Representative from, the State of Texas I would have the same type of praise for TFX award of the Secretary of Defense and might voice the same kind of strong support for the TFX that he has. I am sure I would if I represented the Fort Worth area.

The TFX has not been developed. The statements made here would indicate that the TFX was a developed system. This is not the case. As a matter of fact, the award of this letter contract was made on a basis that we were developing a single airplane system for two services, one for the Navy and one for the Air Force. We were told that in production we would save a lot of money by this development contract. There has not even been a definitive contract drawn under this R & D award. We are still operating under a letter contract. It is in research and development. There are no firm cost figures for development as far as the TFX is concerned other than a letter contract. There is no binding formal contract covering this TFX research and development.

If anybody wants to push the TFX problems under the rug and say there are no problems, that individual is following too closely the directive of Arthur Sylvester in the memorandum which I put in the RECORD yesterday and quoted in my speech.

Too often we try to push these development problems under the rug so that someone may look good. The Department of Defense and other witnesses in testimony before our committee, some of which has now been deleted, indicated that there were problems, particularly as far as the Navy version was concerned.

No one should give the impression to this House that the TFX or F-111 has been developed. It has not been developed. We do not even have a formal contract for the development of it at this time.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I yield to the gentleman.

Mr. GUBSER. Mr. Chairman, I would like to add that if the logic of the gentleman from Texas [Mr. WRIGHT] were followed to its obvious conclusion, and the advice of men who have devoted their lifetime to becoming expert in the field of military science is to be ignored by civilian authorities we might as well save some real money. Abolish West Point, abolish Annapolis, abolish the Air Force Academy; let us turn the training of our generals over to the Ford Motor Co. and let them fight the war with Edsels.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. Mr. Chairman, I regret that the gentleman did not yield to me, but I am glad to yield to him at this time.

Mr. WRIGHT. Mr. Chairman, I am sorry that I ran out of time; otherwise I would have been happy to yield to the gentleman from Wisconsin. I thank the gentleman for yielding.

I would like to say that there are always some problems in the development of any sophisticated new weapons system. I know of none that has not had some problems, some bugs that had to be worked out.

Mr. LAIRD. I would like to predict to the gentleman from Texas [Mr. WRIGHT] that the present concept of the TFX will never be put into production.

Mr. WRIGHT. Well, predictions of that kind were made with respect to many other weapons systems. Some of them have not been put into production. But if there are people willing to look at it from an unprejudiced, unbiased point of view as I am sure there are, I think our country needs this system and I believe it is being developed. In fact, I know that it is being developed with the best skill, the best engineering talent available. I further believe that it is being developed with the best devotion that is possible to give to it. These people have been over this course before.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. LAIRD. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. LAIRD. I yield to the gentleman from Texas.

Mr. WRIGHT. With respect to the other question, I think the Supreme Court has held that a letter of intent is as binding as a contract and is the equivalent of a contract.

For that matter, I do not think there has been any question on the part of the contractor as to this.

Mr. LAIRD. Would the gentleman give me that case that he quoted from the Supreme Court? I do not think the total R. & D. costs are binding, but if the gentleman has such a citation, I would be happy to have it.

Mr. WRIGHT. It was a case I believe which was decided about 2 years ago. I forget the style of the case and, of course, I am not prepared at this moment to give the gentleman the citation of the case in which it was held that a letter of intent, a bona fide letter of intent, is binding.

Mr. LAIRD. This case had to do with procurement contracts. I am talking about research and development contracts, an entirely different matter. I am sure that the gentleman from Texas understands this difference.

Mr. WRIGHT. If the gentleman will yield further, it really does not make a whole lot of difference. I know the gentleman from Wisconsin joins me in the earnest hope that this plane with its revolutionary wing design, with its hope of saving money for the two services through unification will be a success; does he not?

Mr. LAIRD. Our committee has looked at this objectively. We have placed funds in this bill to carry on further research and development on the TFX only through 1965. We have put in this bill every penny that the Secretary of Defense has asked for research and development on this particular system in fiscal year 1965 only. This system, Navy or Air Force, has not been developed. It is a long way from being developed at the present time as a joint system for both services. I do not think we should mislead the American people on this particular point.

Mr. WRIGHT. If the gentleman will yield further, I get the rather uneasy impression that there are some people who are hoping that it will not succeed.

Mr. LAIRD. No; I believe that we can move on beyond the TFX version now. We are in a position where we have made major breakthroughs. I do not believe for one example that the speed of the TFX, when you go from the F-4 series with its speed of mach 2.4 to the TFX with its speed of mach 2.5, you are not getting the improvement which is now possible. We can now go to at least a mach 3 system. The TFX is not in this ball park. We are in a position to go beyond the TFX. That is the reason I do not believe that this particular system will ever go into production.

Mr. WRIGHT. I would like to respectfully disagree with the gentleman from Wisconsin. I do hope and believe that it will prove successful.

Mr. LAIRD. This plane does not give us the advantage that we need in the time period of 1968 to 1975 and beyond.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been discussion here about the so-called TFX airplane. In this bill, there is $349 million for research and development on this plane, and there is another $161 million provided toward production. So this is one of the tremendous items in this bill.

It must be admitted that the development of any weapons system or any highly complex piece of equipment will involve trouble. Problems will eventually occur, as they have always in the perfecting of airplanes.

In the old days, when fighting was relatively simple, the civilian did not have the place in the military scheme of things that he has now. Those who are best able to advise and make decisions on highly complicated electronic matters are not necessarily the men in uniform who fight wars. You need scientists, technicians, physicists, and others. Under these circumstances, it is quite often the case that a civilian is far better able to make certain technical decisions than is a man in uniform. This is no criticism of the man in uniform. The final function of the man in uniform is to be able to use the weapons that are provided for him, and to use the proper tactics which will enable him to achieve success. Of course, the men in uniform are becoming more and more sophisticated, more and more informed, and more and more knowledgeable in these areas. Some of our finest technological experts are officers in the services. I respect them highly. We need to keep them and acquire more.

I say, Mr. Chairman, we have a good balance between the military and the civilian. There is good teamwork between the military and civilian officials in the Pentagon, the best I believe that we have ever had. The areas of disagreement are rather sharp in a few places, but actually they are less this year than they have been in many years in the past.

It is true that Mr. McNamara is Secretary of Defense and this imposes a great responsibility on him. He is discharging his responsibilities and he is doing, on the whole, a magnificent job. He is a man of extraordinary ability. I have seen a lot of people come and go in the Pentagon, but none has been superior to Mr. McNamara. He, like any other man is subject to human frailty and error, but he is a man of tremendous ability. He has not become a captive of the admirals and the generals, though he recognizes their responsibilities, and he works closely with them. He frequently agrees with them and accepts their advice. He is a strong Secretary of Defense, and that is what we want.

Mr. Gates, one of his predecessors, did an excellent job in many ways, particularly in providing closer coordination between the Secretary and the Joint Chiefs of Staff. That work has been carried on under Mr. McNamara. It must be admitted that war, and particularly preparation for war, in the nuclear and electronic age, is entirely too technical and difficult to be left wholly and solely to the men in uniform. We need men in uniform, in industry, in a wide variety professions and areas of endeavor. I think the Members of the House will agree with that view.

Mr. LAIRD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Wisconsin.

Mr. LAIRD. I trust the gentleman from Texas did not mean to imply that our first Secretary of Defense, Mr. Forrestal, or many of the other Secretaries of Defense, were captives of the admirals and generals, because since I have served on this committee I have seen no Secretary of Defense who has been a captive of the admirals and generals or anyone else in the military. I just wanted to make it clear Mr. Gates or Mr. Forrestal—I can name many others—could not be classified as captives of the admirals and generals. Mr. McElroy was also Secretary of Defense, and he came before our committee many times and exercised independent judgment.

Although I agree with the Secretary of Defense on many points, and the chairman of our committee agrees with him on many points, certainly we have disagreed, as we have with other Secretaries. The only problem, as I see it, in this case, is there is such a violent, strong position which the Secretary takes as soon as one does disagree.

Mr. MAHON. Will the gentleman let me proceed a moment? It is true that Mr. McNamara is a very strong-minded man and certainly he fights for his opinions, and he is usually well fortified to support his position. I do not believe there is a man in the House who knows anything about this matter who will not agree that he is an exceptionally able and well informed Secretary of Defense. I mean in no way to cast any aspersion on Secretary Forrestal and others. They performed a real service to their country. They were not captives but they did not always have at their fingertips the detailed facts and the broad understanding of Defense programs which Mr. McNamara has, and has had.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield.

Mr. ANDREWS of Alabama. I want to confirm what the gentleman has said about Secretary McNamara. I think he is one of the best-informed Secretaries we have ever had. What I like best about him is that when he makes up his mind he sticks by his statement. Of course, when he has to make as many decisions as he does, he is not going to agree with all members of our committee or all Members of Congress, but he does have the courage of his convictions.

It has been pointed out here that he stopped development of approximately $4 billion worth of weapons. I do not know whether the figure is correct or not, but I know he terminated quite a number of weapons systems, and most of those were unsound weapons systems which were started by previous administrations.

Mr. MAHON. Too often we have pursued a defense weapon prior to the time we were sufficiently informed as to whether or not its production would be a success. Now that we have achieved great military superiority, we can be more deliberate and make more certain that the weapons systems initiated can be pursued until they become a part of our operating setup.

Mr. GROSS. Mr. Chairman, I move to strike out the requisite number of words and ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. GROSS. Mr. Chairman, I have been interested in the remarks of the gentleman from Texas on how well informed the Secretary of Defense is on various matters. I recall that with General Taylor he appeared before a committee of which I am a member and told us how well the war in Vietnam was progressing, and I remember that we were told at that time that American troops would be out of Vietnam by the end of 1965.

I also remember that without any hint at all from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, a few days after that appearance before the committee, the coup was carried out, Diem and Nhu were assassinated, and their government overthrown. We had not the slightest hint from either of these gentlemen that this was about to take place. I do not believe anybody here today thinks that American troops are going to be withdrawn from Vietnam by the end of 1965.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. MAHON. I think we must admit this, that all people have feet of clay and their judgments are not always perfect and that all are subject to error. I am just simply saying that Mr. McNamara is a remarkably able man, but he makes mistakes along with Mr. GROSS and Mr. MAHON and others.

Mr. GROSS. In connection with the remarks that have been made concerning the production of the TFX fighter plane at Fort Worth, Tex., that if Secretary of Defense McNamara closed a comparatively small installation in my district and at the same time handed out a $6 to $8 billion contract to my district, I do not think I would protest very much either. I think I would be satisfied with that kind of deal, and I am not surprised that the gentleman from Texas lauds the Secretary of Defense. The gentleman from Wisconsin [Mr. LAIRD] a few moments ago, spoke of the lack of firm figures in this TFX deal. If there are any figures that are meaningful, I assume Secretary McNamara is still carrying them around in his head. That was his response to the General Accounting Office when the Comptroller General went to him and tried to get the firm figures on which the Secretary based his award of the TFX fighter plane production to General Dynamics at Fort Worth, Tex. He was carrying the figures around in his head. No, I am not as enthusiastic as the gentleman from Texas about the operation of the Secretary of Defense.

Now I call attention to something else that has been swept under the rug that this subcommittee went into it last year. That is the Bay of Pigs fiasco. As I remember reading last year's hearings, you had General Taylor before you, and the gentleman from Ohio [Mr. MINSHALL], the gentleman from California [Mr. LIPSCOMB] and the gentleman from Michigan [Mr. FORD] tried their level best to get from General Taylor some information as to what happened. General Taylor, it will be remembered, was a member of the special board created by President Kennedy in 1961 to make an investigation of the Bay of Pigs fiasco. Members of the subcommittee, particularly those on the minority side of the aisle, tried hard to elicit some information with respect to the findings of the special board in a matter that involved millions of dollars expended for military purposes. That report has never been made public so far as I know. Perhaps that is the reason the subcommittee apparently did not go into it again this year. As I say, the committee members, particularly on the minority side of the aisle, were told in effect to go jump in the lake. General Taylor would tell them nothing about the investigation. This despite the fact that Attorney General Robert Kennedy, a member of the same special investigating board, submitted to an interview which was published in the U.S. News & World Report, and provided some information on it. General Taylor, who is supposed to be a military expert, would give this committee and the Congress—this subcommittee that is here with this bill today, dealing with the spending of nearly $50 billion, no information whatever, either on or off the record.

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. MINSHALL. I would like to inform the gentleman, the subcommittee on defense appropriations again this year tried to get through the iron curtain on the Bay of Pigs fiasco. Again we were unsuccessful.

Mr. STINSON. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. STINSON. I think the gentleman is doing a very good job in exploding the myth of the invincibility of the Secretary of Defense. Some would have us believe that he is always steadfast in his decisions. The gentleman has pointed out the situation in South Vietnam and he has pointed out the Bay of Pigs fiasco. I would also like to throw in one other, and that is the fact that the Secretary was going to close several naval shipyards just before the end of last year, and for some reason seems to have reversed the decision.

Mr. GROSS. I thank the gentleman. What is happening with respect to the Bay of Pigs failure is that it is being swept under the rug in about the same way the Bobby Baker scandals are being swept under the rug.

Apparently neither the public nor the elected representatives of the citizens of this country are entitled to the facts. Who is responsible for these coverups?

Mr. MAHON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, this is 1964, and the appropriation bill is for 1965. The Bay of Pigs operation was gone into on many previous occasions.

If we wish to refresh our minds on that period, we should remember that this operation was originally conceived in the previous administration. An arrangement was set up whereby it was believed that through an invasion by Cuban refugees the island could be liberated. It turned out that the plan which was developed initially in a previous administration and later implemented by the Kennedy administration proved to be a failure. It proved to be an embarrassment. I believe most of us would now agree it was a mistake ever to condone it.

There is no desire to sweep that incident under the rug, but the American people have made their great gains by going forward, not looking backward. We all believe in a strong and firm policy in dealing with Cuba. We regret that the effort in 1961 did not turn out successfully. Many of our efforts have turned out successfully. This one did not. It was the fault of many people resulting from many circumstances. I do not believe it was a partisan matter.

It is true that General Taylor was on a committee which made a special study for the executive branch, and this was considered to be a privileged study for the Executive. Congress has a right to make all the studies it wishes to make. General Taylor did not see fit to give us the papers involved in that study, and probably, considering the matter of comity between the executive and legislative branches, he was correct.

Mr. WILSON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, permit me to compliment the Subcommittee on Appropriations for Defense for the fine job it has done and to express my personal appreciation for the splendid cooperation it has given me. Without such cooperation, the comprehensive study on the procurement of electronics by the Defense Department that I have made for the past 3 years would not have been possible.

The entire procurement request in this bill is for $13.7 billion. Of that figure, the electronics budget request amounts to about $2.1 billion. Therefore, the electronics procurement program is only a small part of the tremendous task of the subcommittee.

I think it is proper at this time to commend the subcommittee for the time and attention it has given to my citations of overfunding. I shall deal with that matter specifically a little later.

### THE $80,840,000 ELECTRONICS CUT

Mr. Chairman, there was an $80,840,000 cut in the electronics section of this bill approved last Friday by the full Committee on Appropriations. That was the biggest single cut made in the procurement section of this bill. It represented 27 percent of the total cut in procurement. Thus, the cuts made for electronics equipment amounted to more than twice the cuts for items such as airplanes, trucks, and even boats. The electronics section specifically was cut twice as much as were sections for all other equipment to be bought.

While I had hoped we could bring about a little bigger cut and thereby tighten up this electronics budget even more, I, for one, am grateful for the $80,840,000 slash. I think it shows that the field of electronics is being examined more closely than other procurement areas.

Mr. Chairman, the $80,840,000 that has been saved on electronics in this bill will, in itself, pay for the operation of the Congress for a period of 1½ years. Yet we in Congress are daily assaulted for spending too much money on our operations.

### A $300 MILLION REDUCTION IN BUDGET

This $80,840,000 does not in any sense of the word encompass the total savings being made in the purchase of electronics equipment. To begin with, the military requested $300 million less for electronics for fiscal year 1965 than it did for fiscal year 1964. Much of that reduction can be traced to the fact that there is more competition being introduced into electronics and less money is needed. Some of it is due to the fact that the military knows Congress is taking its hardest look at electronics requests in many a year.

This $80,840,000 cut means that the military will spend, for fiscal 1965, less money for electronics than it did for fiscal year 1963, the last budget that sailed through without being cut in the electronics section.

You might think this means the military submitted skintight requests for electronics. Just the opposite is the truth, and overfunding has been found in many items.

Therefore, I say that many, many more millions of dollars of savings can be made in the future just as they have made in the last 3 years—that is by further improvements in procurement policies.

For one thing, we here in Congress must constantly emphasize and demand more and more competitive bidding as opposed to sole-source methods of purchase. We must make sure that plans and specifications and drawings are received when ordered, are valid and reliable, and are used for competitive bidding purposes. We must maintain a constant surveillance over the military to make sure delivery schedules are realistic and not artificially drawn to favor any company. And, Mr. Chairman, we in Congress must breathe down the military necks every step of the way and, in that manner, bring about an atmosphere of caution on the part of procurement officers charged with the responsibility of obligating tax dollars.

### IMPROVEMENTS CITED

Merely stating that the handling of electronics procurement and inventories has been sloppy would be the understatement of the year. In many respects, nothing could have been sloppier. However, as I shall document today, improvements have been made. Statements and letters will be included here that will show marked changes in procurement policies and rules.

Mr. Chairman, permit me to cite one example that proves beyond a shadow of doubt the sloppy procurement work that is going on and the way a responsible, responsive competitive bidding situation can, first, save the taxpayers' money; second, give the military what it wants when it needs it; and, third, provide an opportunity for American industry to compete for national defense business.

In the CONGRESSIONAL RECORD, volume 109, part 8, on page 11042, you will find a speech I made on the purchase of the AN/VRC-12 vehicular radio. There is also a speech on page 24300 of the CONGRESSIONAL RECORD, volume 109, part 18, on the same topic. Briefly, here is its history: It was developed by the Avco Corp. under terms of a Government contract. Avco was paid $4.5 million to develop the radio. The completion of the development contract was followed by a sole-source, noncompetitive production contract with Avco for over $35 million.

### JOHNSON AND IGNATIUS

It was stipulated in the determinations and findings that justified this no-competition award that competitive bidding data would be secured on this first buy to allow competition the next time around.

In that interim, there was a change of administrations. The Assistant Secretary of the Army for Installations and Logistics, Courtney Johnson, was let go as a result of this change. Some time later he was hired back to train his successor, Paul R. Ignatius.

He completed this work in May 1961. Less than 2 months later, Avco submitted a proposal that it be given another sole-source contract for this radio. Shortly thereafter the competitive plans were scrapped and a $65 million contract for the radio was given sole source to Avco.

Imagine my shock, Mr. Chairman, when I found that Courtney Johnson, former Assistant Secretary of the Army and the man who trained Ignatius, had gone to work for Avco a short time before the $65 million contract was signed.

### VRC-12 PRICE FALLS

My efforts to force this radio into competition continued—and succeeded. In April of 1963 a competitive procurement opened and the low bidder was a firm that underbid Avco's first contract price by more than 50 percent and underbid its second contract price by 27.6 percent.

Here was a firm, not blessed with the knowledge gained during $4.5 million worth of Government-paid-for development and $100 million worth of production, which said it could build the radio and save the Government money. In fact, if this firm performed, it would prove that the Army poured at least $17 million, and possibly twice that much, down the drain in resisting efforts to secure competitive bidding for this radio.

I was visited in my office by Mr. Johnson and Mr. Earl "Red" Blaik of Avco. They told me that the contractor could not build this radio at the price quoted and "could not live with the contract." If it did, they said, Avco certainly had some soul searching to do.

Mr. Chairman, I read the hearings on this bill closely, and I noticed where one of the subcommittee members questioned Army officials closely about this contract.

### WRONG QUESTIONS

However, he was not questioning them about the propriety of the Army's actions. He was questioning to see if the contractor was performing and if the price had been adjusted.

He found out what I have known all along and what the Army has been finding out. The contractor is on schedule. As a matter of fact, he is ahead of schedule. The Army is happy with the contract. The contractor is happy with the contract. Deliveries and quality are excellent. And, Mr. Chairman, the contractor now has another competitive contract at a price lower than he quoted when he first won the business.

### WHO WAS RESPONSIBLE?

Mr. Chairman, industry is performing. It is a good contract and everyone is happy.

Now, let us find out the other answers. Who was responsible for the $35 million wasted on this radio under sole-source purchases? Who has been taken to task for wasting these funds? Someone should be seriously reprimanded or fired.

If this happened in your home county, Mr. Chairman, or in your State highway commission, those responsible would have been called to task, tarred and feathered and run out of the State. Yet I can find no point in the hearings where there was any mention of the terrific waste on this radio.

### THE ID-999 CASE

Now, let us examine a case where sloppy procurement is more easily understood. This case involves the purchase of an attitude indicator known as the ID-999. It was to be an Army buy for 421 units, without competition because, as was stated in the bid papers, "drawings and manufacturing data are not available."

The other supporting material on the bid papers I studied indicated to me that drawings should be available. I called Brig. Gen. Alen T. Stanwix-Hay and asked for a thorough check.

Not only were drawings available for this equipment, but General Stanwix-Hay found that the Air Force had 9,101 of the equipments on hand at Wright-Patterson Field. The Navy Aviation Supply Office had 520 on hand, and the Army itself had 1,600 in its Transportation Command. Over 9,000 of these units were new and many more were serviceable.

To make matters worse, the Army discovered the Navy was in the process of finishing up the development of a new equipment that was going to make the ID-999 obsolete. It was to be junked, and yet the Army was going to buy them at the front door while the Navy, Air Force, and the same Army threw them out the back as junk.

Sloppy procurement is too kind a word for this.

### STATEMENT FROM GENERAL LOTZ

As a result of my questions on this matter, the Army decided to do something about it. Brig. Gen. Walter E. Lotz, Jr., wrote me August 6, 1963, to state that a complete review and cross-check was being made of these equipments to prevent any recurrence of such a situation as existed with the ID-999. This letter came after a July 17, 1963, letter from Maj. Gen. Stuart Hoff. His letter said, in part:

> Your inquiry into a previous solicitation dealing with the ID-999 concentrated our attention on a group of items which had been incorrectly identified as new logistic responsibilities of the Electronics Command. These and other items are being intensively reviewed to fix their logistic responsibility and thereby avert unnecessary procurement by the Government. Mindful of this goal and guided by your inquiries, all procurement actions have been canceled.

### OVERALL REVIEW STARTED

General Lotz' letter which followed stated:

> The review is being made in the field of electrical/electronic aircraft instrumentation. It encompasses the examination of items which appear to fit into this category to determine the most appropriate organization for future logistics management. The purpose of this review is to preclude the possibility of any such occurrences (such as the ID-999) in the future.

General Lotz enclosed a list of 20 equipments being reviewed including temperature indicators, temperature control devices, oil temperature indicators, temperature transmitters, test sets, fuel-measuring devices, and fire-detection devices.

Mr. Chairman, who can estimate how much sloppy procurement was avoided and how many tax dollars were saved by this review and its effects?

Here are just two examples of the way waste can be stopped: one, by driving contracts out for open, responsible, responsive competition, and, two, by having the services police their faulty methods of inventorying.

There are others, Mr. Chairman, and I will deal with them as I proceed.

### GENERAL STANWIX-HAY'S STATEMENT

Mr. Chairman, on May 28, 1963, on the floor of the House I criticized the Army's proposed sole source procurement of a test set for a gyrocompass on the grounds of their statement of "no drawings available." Brig. Gen. Allen T. Stanwix-Hay, then commanding officer of the Army's Electronics Materiel Support Agency, checked into my facts and found them to be correct. He canceled the procurement and wired me:

> Your interest in this matter is personally appreciated by the Army and I personally thank you.

General Stanwix-Hay also told me he was ordering a full and unbiased investigation of the entire matter of drawings and technical data by the Army's Inspector General.

In a letter dated October 25, 1963, Maj. Gen. Frank Moorman, commander of the Army's Electronics Materiel Command, reported to me on the investigation. His report confirmed my facts and also confirmed that as a result of the one case I exposed, the Army Materiel Command made sweeping changes in its procurement regulations.

### GENERAL MOORMAN REPORTS

General Moorman stated to me that following the investigation and at his specific direction:

> 1. All interested agencies are taking all possible steps to eliminate the problem of getting data sufficient to allow future competitive bidding.
>
> 2. Directives have been issued to everyone concerned with the acceptance of such data to insure receipt of a complete and accurate set of data, together with a contractor's statement that what he submits as drawings are fully accurate.
>
> 3. Invitations for bid (IFB's) and requests for proposals (RFQ's) have been expanded to fully inform prospective bidders as to the extent of all manufacturing data.
>
> 4. Formal acceptance of drawings and payment for them is now contingent upon clearance by engineers of the Army Electronics Materiel Support Agency.

### GENERAL BOYE ADMITS ARMY ERRORS

Later I heard from Brig. Gen. F. W. Boye, Jr., on the same matter. He said of the case of the gyrocompass and other procurements:

> The investigation indicates that faulty procedures were employed. These old procedures have been brought to light and corrective action has been taken.

Another service which has made all too little use of competitive bidding data has been the Navy. Most members are familiar with my remarks concerning many of their practices. They are worse than the Army, and more corrective action is needed.

### NAVY CREATES SIMILAR GROUP

It was with pride that I learned that during the past year the Navy has recognized the validity of many of my criticisms of its policies and has created what it calls its Electronics Equipment Procurement Control Board, which will accomplish about the same thing the Army set up after the gyrocompass investigation.

Mr. Chairman, another focal point of my attack on sloppy procurement has been the Armed Services Procurement Regulations, the Bible of defense purchasing.

### ASPR IS CHANGED

In 1962, in hearings before the Armed Services Special Investigating Subcommittee, requested by me, it was learned that a policy of open and free disclosure of bidding information had been secretly scrapped by the Navy.

No one was told about it. Only Navy people knew it. But a bidder could not get information to bid if the Navy wanted it withheld.

As a result of those hearings, ASPR was changed so that now it is required that a manufacturer be given a bid set for an equipment even though he may be cautioned that no competition is planned.

This one ASPR change has meant as much to competitive bidding as any other single thing.

### ANOTHER ASPR SWITCH

Later, another ASPR section was changed to make public posting of bid information mandatory. This further carried out my recommendations of more disclosure of information to stimulate competition.

Mr. Chairman, any Member of this Congress may now get prebid information if he wishes to study the efficiency of the military purchasing system in the field of electronics.

This is due to the hard work done by my colleague, the Honorable JOHN MOSS, of California, and his Freedom of Information Subcommittee, who took up the fight in my behalf.

### INFORMATION RELEASED BY M'NAMARA

As many will remember, Secretary McNamara was a little embarrassed at some of the rocks I was turning over 2 years ago, so he cut me off from all information which I had been getting. The Freedom of Information Committee took up the fight and was later assisted by the gentleman from Texas [Mr. MAHON] and his Defense Appropriations Subcommittee. As a result, prebid information that is unclassified may now be secured by any Congressman in this House.

Mr. Chairman, in case after case, I have noted where the various services plan to buy something noncompetitive by sole source because "drawings and manufacturing data are not available."

### GENERAL STANWIX-HAY'S WORD ON DRAWINGS

In case after case I have attacked this stipulation, and in case after case I have been told as I was in a letter from Brigadier General Stanwix-Hay August 7, 1963:

> As a result of your inquiry, the Navy was queried as to the availability of drawings. An affirmative response was achieved and drawings are being obtained for competitive procurement.

Throughout this entire study, I have had the valuable assistance of the General Accounting Office and Comptroller General Joseph Campbell. With the aid of that office, sole source procurements have been overturned and competitive buys have been forced on the military.

### GAO ORDERS COMPETITION

One such sole-source equipment was an airborne radio. It took 2 years of study and hard work by both me and the GAO, but at the end of the fight the Comptroller General wrote the Secretary of Defense and on September 27, 1963, said:

> Every effort should be made to effect procurement of the radio sets (ARC-54) for the balance of the fiscal year 1964 on a competitive basis at the earliest possible date.

Every time this happens, Mr. Chairman, every time a procurement is changed from sole source to competitive or every time a regulation is changed that makes it easier for industry to compete, the real winners are the taxpayers and the American system of private enterprise.

### CONGRESSMAN SIKES' STATEMENT

As my colleague, the gentleman from Florida [Mr. SIKES] said here yesterday:

> The fact is the agencies of Government like to deal in noncompetitive, sole-source bids. It is simpler and easier.

He could have added the words, "and more expensive," to that statement.

It is up to Congress to keep the feet of the procurement people to the fire and to make sure that they get the maximum degree of competition in their purchases—that they, in fact, get a dollar's worth of defense for a dollar's worth of expense.

There are other changes and regulations that have been forced upon the military in the past few years, Mr. Chairman, and it might be well to mention just one more.

### ASPR REGULATION CHANGED

On October 1, 1962, I suggested to the Defense Department that it change the ASPR regulation regarding so-called two-step procurements. These are procurements whereby you first offer a technical proposal and then are allowed to bid if your proposal is among those acceptable.

Under the old ASPR rules part of the process was, in effect, hidden from public view. My suggestion was to advertise the offers from step one in the Commerce Business Daily as a part of step two.

That change was written into ASPR and is now section 1.1003.3(a)(2) dated March 1, 1963. It further promotes the policy of free dissemination of information and will make it possible for subcontractors and small industry to compete for portions of the business.

These are but a few citations of changes in procurement policies, regulations and practices which have come about in the past few years. There are many more that have not bobbed to the surface yet. Sole source contracts are becoming something of a luxury in some electronics classifications, but in others there is still entirely too much noncompetitive buying.

Mr. McNamara would have us believe that he is Alpha and Omega when it comes to changing procurement policies and getting more competition into the picture. Is it not a bit strange, though, that this did not start until Congress and individual Congressmen started bearing down on specific instances of waste?

### THE LOW-BIDDER MATTER

There has been some talk in the subcommittee about low bidders, responsive bidders and responsible bidders. The comment has been made that the low bidder is not always the best bidder, and I agree.

That is exactly what I have said for years. But, Mr. Chairman, the lowest, responsive, responsible bidder can save this Government money when he is allowed to bid against a sole source producer, and I have documented this time and again in the past 3 years. The VRC-12 case alone proves my point.

In closing, I should like to point out that of the 22 cases I submitted to the Defense Subcommittee a week ago, the committee found I was right on almost all of them. In case after case it backed up my findings. In some cases, the military tried to throw in new equipment, accessory equipment or spares, but in most cases, particularly the Army and the Navy, the services admitted the overfunding.

### REPORT ON OVERFUNDING CHARGES

I would like to insert information here that backs up these statements. This data harks back to my speech of last week when I charged gross overfunding in electronics procurement requests for fiscal year 1965.

Here is what happened on 12 of the most flagrant examples:

Case No. 1: Radio, Air Force: Under three previous Navy contracts, a unit price of from $14,000 to $19,000 was paid. The Air Force requested $80,000 each for the same unit. When questioned, the Air Force said the equipment it plans to buy is a bigger, more highly sophisticated version of the same equipment. Yet it did not submit a revised nomenclature. The Air Force was in error by attempting to justify a request for a newer equipment under an old nomenclature.

Case No. 2: Shelter, Army: The congressional committee position is that the Army has overfunded its fiscal year 1965 request by $676,080, thus substantiating my contention. The Army position is that it will cost more than twice as much to put this equipment to work as it costs to buy the equipment. This, to me, is like saying oranges cost $5 a bushel, but telling you after you buy them that it costs an extra $10 for the crate. The Army position will not wash, and, in my opinion, the committee position of a $676,080 overfund is solid.

Case No. 3: Radio, Navy: The committee position is that the Navy should reflect a savings of $895,000, thus substantiating my contention. When I called the Navy to get information on this radio, I was told it is a standard, off-the-shelf item that sells for $7,054. In its report, the Navy contends what it really plans to buy is a new version that is still under study. This, as can be documented, is standard practice. When you are caught with your hand in the cookie jar, try to change the facts.

Case No. 4: Image metascope, Marine Corps: The committee position is that this item is $422,000 overfunded, and the Marine Corps agrees. I charged $400,000 overfunding, and the Marines admitted it.

Case No. 5: Radio, Marine Corps: The committee position is that the radio is overfunded $1,365,200, backing up my evidence as submitted. The Marine Corps rationalization is that remote control equipment is to be added to this radio. It also quotes a contractor-offered price for the radio of $27,500 each, when this same contractor is now making the same radio in the same quantity range for $16,400 each. Thus, even using the facts most favorable to the Marine Corps, there is considerable overfunding here.

Case No. 6: Countermeasures, Navy: The committee position supports my contention that there is an overfund here of $1,033,200. The Navy admits to an overfund of $700,000 in its report but lumps in some extra equipment to try and cover some of its embarrassment.

Case No. 7: Telephone, Navy: The committee position is that this item is overfunded $184,000. The Navy admits this overfund.

Case No. 8: Multimeter, Air Force: The committee position is that this item is overfunded $122,680. The Air Force admits this overfund.

Case No. 9: Radio, Army: The committee position is that this radio is overfunded by $3,960,000, thus supporting my evidence as submitted. The Army, in rationalizing the case, said it planned to charge off other equipment used with this radio. The facts are, the equipment it listed does not configurate with and will not work on the radio. This is the second straight year the Army tried to overfund this radio and has been caught.

Case No. 10: Radio, Navy: The committee position supports my stand that this radio is overfunded by $414,000. The Navy position is that it has to lump in some accessory kits and other items which raise the costs. Even taking the Navy's figures, the radio is still overfunded $770 each, or a total of $145,000. Here, as with case No. 7, the Navy tried to powder its red face a bit, but could not account for all the fat itself.

Case No. 11: Countermeasures, Marine Corps: The committee position is that the Navy has overfunded by $225,333. The Navy admits to an overfunding of at least $113,000 and then tries to explain that away.

Case No. 12: Radio Marine Corps: The committee position is that this radio is overfunded by $181,597. The Marine Corps, in attempting to explain, uses a high-dollar-per-unit figure. The same contract contains the low figure that proves the overfunding of $181,597.

### SMALLER CASES OF OVERFUNDING

Mr. Chairman, on an accompanying page with those 12 cases, I listed 12 cases of smaller overfunding. Here is a case-by-case report on that overfunding:

Case No. 1: Radio, Army: I charged overfunding of $79,000. The Army admitted overfunding of $100,000.

Case No. 2: Radio, Navy: I charged overfunding of $166,000, and the Navy admitted overfunding of $77,000.

Case No. 3: Radiosonde, Air Force: I charged overfunding of $155,272. Air Force represented that it had an estimated higher price for future procurements, but investigation determined its price was strictly a guess. When this equipment is purchased, the overfunding will be more than proven.

Case No. 4: Navy, radar: Overfunding of $38,345 charged. Navy says this is caused by rounding of figures and that is accepted.

Case No. 5: Radio, Navy: I charged overfunding of $168,000, and the Navy admits overfunding of $122,000.

Case No. 6: Teletypewriter, Navy: I charged overfunding of $247,000 and the Navy admits overfunding of $227,000.

Case No. 7: Oscilloscope, Marine Corps: Marine Corps says overfund of $33,380 could be produced by rounding of figures and this is accepted.

Case No. 8: Radio, Navy: I charged overfunding of $23,000 and the Navy admits overfunding of $136,000.

Case No. 9: Radio, Navy: I charged overfunding of $59,000 and the Navy admits overfunding of $82,000.

### REASONS FOR SLOPPY PROCUREMENT

Mr. Chairman, the subcommittee has supported my position strongly and I support this bill just as strongly and with just as much vigor. The gentleman from Texas [Mr. MAHON] and his subcommittee and, indeed, the entire Appropriations Committee are to be congratulated for their fine work.

I believe there are root causes for the sloppy procurement work that are causing this overfunding, this waste of tax dollars and this inefficiency in our Military Establishment.

### LETTER TO PRESIDENT

In that connection, I wish to insert at this point in my remarks a letter I wrote to President Johnson on December 4, 1963, in which I pointed out many of these causes. To those who feel criticism should be tempered with remedial measures, I commend this letter. The suggestions are the results of 3 years' study.

DECEMBER 4, 1963.

The PRESIDENT OF THE UNITED STATES,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Your statement to the Joint Chiefs of Staff that you expect a dollar's value for a dollar spent on defense is, indeed, commendable. I can support it 100 percent since it is exactly what I have been striving to achieve, especially the last 3 years as I have conducted a detailed and in-depth study of military purchasing.

Your order to Defense Secretary McNamara to effect cuts in procurement costs merits just as much support. I pledge you that without reservation I shall work diligently to help effect this laudable goal.

There are many reasons for the waste of our tax dollars in military procurement. I have detailed most of them time after time in over 115 speeches on the floor of the House in the past 3 years. I shall be happy to discuss any one or all of these examples of waste with you at your convenience.

Basically, much of the waste and inefficiency in procurement stems from about ten separate causes which restrict competition or eliminate it altogether. Based on my findings in hundreds of cases I have studied, here are the major reasons for defense purchasing waste:

1. Drawings essential for competitive bidding, paid for and not delivered by the producer, or delivered in an incomplete or inaccurate form, or, drawings paid for, delivered, but not used for future procurement purposes.

2. Permitting the developer of an equipment, paid in whole or in part by the Government for work involved, to claim the developed item as a patented and thereby proprietary item. The failure of the military to challenge unjust claims of proprietary rights is also a contributing factor.

3. Withholding of pertinent information regarding plans, specifications, production test procedures, etc., from all except a preferred firm, usually the former producer.

4. Establishment of arbitrary and unrealistic delivery schedules in order to shut out all competition and later relaxing these schedules.

5. Inadequate cross-checking of inventories between service branches. This leads to wasteful overbuys and improper sole source purchases of many kinds of equipment.

6. Allotting to a sole source procurement more units than required by a particular emergency instead of obtaining nonemergency requirements through competitive bidding at a consequent saving to the taxpayer.

7. Rigging of specifications and conditions surrounding a procurement so as to, in effect, eliminate competition and guarantee that a particular producer will receive a contract under what is supposedly a competitive procurement but is that in name only.

8. An almost inevitable emergency that requires immediate production of a new equipment on the heels of a successful development contract. An emergency seems to almost always occur on the heels of such a development, requiring a wasteful sole source purchase from the developer.

9. Hiring of defense manufacturers of former civilian and military personnel of the Armed Forces for the express purpose of creating a climate conducive to doing business with the Government on a favored basis.

10. The use of extraordinary and questionable qualification standards as a basis for doing business with the Government, such as the qualified products list, which channels purchases to certain firms and prevents buying of these same items or better equipment at lower prices from competitive bidding firms.

Mr. President, there are several of the above causes mentioned in a speech which I shall make on the floor of the House on December 12, 1963. I have attached a copy of this speech for your convenience and information, and it is requested that the contents be kept in confidence until it is delivered. I hope you find time to have the contents of the speech analyzed.

This presentation details a 2-year long study into procurement of a three-radio communications complex by the Army. It is one of the most damnable examples of inefficiency, waste, and withholding of information I have uncovered in the thousands of cases I have studied in the past 3 years.

I shall be more than happy to discuss this case and any other case I have spoken about on the floor of the House with you or a member of your staff. At present I am in process of presenting my findings on 10 cases which are now complete. These can also be made available for any discussions.

All these cases—plus the over 100 I have spoken about before them—go to prove that remedies and corrections of the above abuses are needed if we are to cut the cost of our national defense. We can cut our procurement costs by 30 percent at no sacrifice to defense posture if only a few meaningful remedies are put to work now.

I am particularly gratified to see you personally step into this battle, because those of use who have been fighting the battle right along have often faced an uphill pull. Resistance from the Pentagon, which has sometimes made our going so difficult, should be more readily overcome when the Chief Executive brings his personal prestige and power to bear on the problem and seeks remedies for it.

One of these remedies is a bill I introduced in the House early this year. It is H.R. 4409, a bill that would set up a blue-ribbon watchdog committee of the House and Senate to ride herd on noncompetitive military purchasing. A copy of that bill is attached for your information. Support of this bill from the White House will speed its enactment and will help achieve what we both want—more bang for a buck.

There is an even more immediate remedy available on a temporary basis until H.R. 4409 becomes a law, and I urge you to take this step at once. Secretary of Defense McNamara should be instructed to set up a function within the Department of Defense similar to that outlined by H.R. 4409. For want of a better phrase, this group could be called a "Devil's advocate committee" to screen all sole source and negotiated purchases. Just such a process has been taken in the Army Materiel Command by Lt. Gen. Frank Besson, at my repeated urging.

In conclusion, I want you to know that I especially endorse your view that promotions, demotions and performance evaluation in the procurement sections will, in the future, be based on performance, with cost consciousness one of the prime criteria. It has long been my view that until we in Government who are charged with the stewardship of the tax dollar demand and get full compliance from those who serve with us, we will not begin to win the war on waste. Boring in to the man responsible for waste and requiring him to answer for his actions will, in a short time, bring about more efficiency in the purchasing sections of the military.

Mr. President, I repeat myself only to reiterate that I stand ready to discuss any of the findings of my military procurement study with you or a member of your staff at any time. In the near future, when I have completed the present series of presentations of cases of waste, it shall be my intention to write you again, to elaborate on the facts I have set before you today.

In conclusion, I think that the procurement budget of our armed forces can be cut up to 30 percent with no sacrifice to our defense posture. This can be done if the changes I have suggested are implemented at the earliest possible moment.

Your comments and suggestions will be well taken.

Kindest personal regards and best wishes.

EARL WILSON,
*Member of Congress.*

### WHITE HOUSE REACTION

I wish I could tell you I was greeted with open arms by the President. Actually, the letter was routinely sent to the Defense Department from which area I received a totally unsatisfactory reply that attempted to whitewash the whole mess and make Secretary McNamara look like the infallible wizard he evidently believes himself to be.

Mr. Chairman, if the White House were to insist that the Defense Department follow these suggestions and adhere to them, at least three-fourths of our procurement problems could be eliminated and at a tremendous savings to the taxpayers. At any rate, I feel that the various procurement sections of the military can take a lesson from the way in which their activities are being studied and take appropriate action.

### A $141,040,000 SAVINGS

This has been a long and time-consuming study, Mr. Chairman. Last year it netted cuts of $60.2 million for electronics from the defense appropriations bill. This year the cut totals $80,840,000 in a budget request that was $300 million less to start with.

We are making headway in this one section and winning victories that must be called dramatic. In these victories lie lessons for the future on how to stop the waste. The only way to save money is to go where it is spent and deal in specifics. The truth of that advice is evident in the bill before us today.

Mr. WHITTEN. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I have listened with interest to the statement of the gentleman from Indiana [Mr. WILSON]. Certainly there is plenty of room and much necessity for the Congress always to look very closely at any program which spends much more than 50 percent of the entire national budget.

I first went on the Appropriations Subcommittee for the Navy in 1943. At that time the Secretary of the Navy, on behalf of the Navy, had entered into a contract regarding the Elk Hills Oil Reserve in California. Under that contract the Standard Oil Co. received a far larger percentage of the oil than they had of the land. They received all of the oil for 5 years and would have paid the Government back at a rate much less than the interest on the value of the Government's share of the oil which would have gone to the corporation during the first 5 years.

At that time I made the point that we could not enter into a contract in perpetuity with a private concern and the contract was illegal for other reasons. The contract was set aside and many, many hundreds of millions of dollars of oil were saved. Subsequently the Navy wanted to build a number of airfields and other facilities. To support their proposal they had a statement from the Army that the Army had abandoned no facilities. But our investigation disclosed that inadvertently we had used the word "abandoned"; that as long as the Army had caretakers they were merely "vacating" those facilities. As a result of our findings the Navy used some $400 million worth of such facilities.

Just a few years ago this subcommittee investigated the procurement practices of the Department of Defense and the findings showed that on one occasion a delay had been caused because nobody knew how to draw a cowhide which was incidental to certain procurement in the Air Force. In other instances contractors turned back money that they had been overpaid, and did that on their own initiative. In many, many instances we found that there was waste almost beyond belief and the Secretary of Defense said it made him "mad and sad" to know his Department had such a record. All the facts and instances we placed in the record. The point I make, Mr. Chairman, is that our Subcommittee on Appropriations does have an investigating staff. It is, it has been, and must continue to be, the regular practice of that staff to look into all these procurement practices because it is mighty easy to say that you have competitive bidding, but if the specifications are drawn so as to fit only one bidder, then for all practical purposes you do not have competitive bidding.

I want to make this statement here so that the Congress may know and the country may know that this is not a subject that is ignored by the Committee on Appropriations, but one that this subcommittee, I am sure, will follow through upon and one on which it should follow through with.

### THE SECRETARY

Now, Mr. Chairman, one other comment which I would like to make is this. I believe I have as high regard for the present Secretary of Defense as most anyone else, but it would be a bad mistake for the Congress to pass or defeat the defense appropriation bill based upon whether we like the Secretary of Defense or whether we do not like him.

Mr. Chairman, I served with Secretary of Navy Knox, I served with Secretary of Defense Forrestal, I served with Secretary of Defense Wilson, Secretary of Defense Gates, and on down the line.

I do not know of any Secretary of Defense that ever learned for himself more about what he was dealing with than the present Secretary of Defense. But I would remind the members of the committee that you cannot fully memorize experience.

I am glad to see that under Secretary McNamara we have a change in policy, as I see it. No longer is it thought to be good for sound economy to spend, and the more you spend the more prosperous we are. It looks to me that the present Secretary of Defense and the President are looking to see whether we need what we are buying and whether it is going to do what we want, and are trying to save money. I repeat—and my statement of yesterday indicates it—a man who studies and decides and has the courage to back up his judgment as does the Secretary of Defense, quite frequently is unwilling to look back and reconsider, because once he decides it, he is sure it is bound to be right "because he decided it."

Mr. Chairman, there is much in the hearings that would indicate that in several instances that could be the case here. Anyone reading the hearings will see that last year the Congress made substantial cuts in certain items. The Secretary of Defense said that he did not appeal these cuts to the Senate because he knew he could not get the money back. He also stated that he came very close to cutting out several other worthwhile programs because the Congress had cut him to this extent. However, this year he recommends a greater cut than we did, but he said that was all right. These matters are contained in the hearings.

Mr. Chairman, the point I want to make is I do not know where you would find anyone who would make as good a Secretary of Defense as we have now. But let us look behind his statements just as he looks behind the statements of the military officers. Let us pass this bill on our own study and our own judgment, giving due consideration to the Secretary's views, recognizing that we have a most able Secretary of Defense with courage and determination, but a Secretary who is human and therefore fallible like the rest of us.

### ON THE HOMEFRONT

Mr. Chairman, while we debate here the appropriation for the Department of Defense, we perhaps should look around us and see if we should not get busy in defense of the Nation.

If we do that, Mr. Chairman, we will see that it is here at home where the Nation is in the greatest danger and may I say, it is being destroyed.

### THE PRAYER DECISION

I visited the Judiciary Committee this morning where I am presenting testimony on the Becker amendment which would in effect repeal the Supreme Court decision outlawing a prayer in the public schools. I know, Mr. Chairman, the technical argument that the decision does not mean what many think it does. What I do know is that the decision does nothing to return us to the right road.

I left that hearing room fully convinced that we must return to the faith of our fathers. We must save our Government from a capricious Supreme Court and again become a nation with freedom of religion and not one of freedom from religion.

### THE BLOCKADE OF NEW YORK CITY

The news wires today are full of the blockade of the city of New York by those who take the law into their own hands.

Mr. Chairman, I plead that we may review our situation on all sides and at all points, acknowledge our failures, determine and define our objectives, get out of wars where we have no plan to win, and above all, here at home require a return to orderly government, with each individual held accountable for any breach or threatened breach of the peace, with all entitled to jury trial to determine the facts, and all dependent for change upon orderly legislation of constitutionally adopted amendments to the Constitution.

We must get away from this practice of judge-made law and judge-made constitutional amendments, which can only lead to disaster.

The way for us to influence the world is by setting an example of stable government, supported by a stable and enlightened people here at home. If we will not set our own house in order; if we will not wait for final judgment; if we will not protect the right to jury trial for our people; if we will not maintain the checks and balances of an equal and coordinate three branches of government, judiciary, legislative, and executive, with the right of local self-government guaranteed to the States, how can we hope to bring about any improvement abroad?

We destroy the right of jury trial here at home, even as to determination of the facts; instead of leading the people of Laos, Vietnam, of Indochina, of Brazil, of Cuba, the Dominican Republic, and all the rest, to see the wisdom of our way of doing, we find ourselves taking to their ways.

Yes, here for years we have seen the executive and the judiciary branches of our Government form what amounts to virtual partnership, where the Executive asks for a court order and gets it, or the Federal court issues an order and gets the Executive to support it, even to the point of using troops in order to carry out the order, though it be not even a final judgment. Pending before us now is the fight to get the legislative branch to pass legislation which, in effect, would approve and condone what the other two branches have already done, contrary to precedent and, in my opinion, in violation of the Constitution.

We have seen the unfortunate and tragic death of an American President, such as would occur in the turbulent nations where we have injected ourselves. All around us we see American youth being taught to go to the streets, invade private business establishments, and to resort to mob action to get what irresponsible leaders say they should want. American property and property rights are being destroyed without compensation. On every hand we see national politics leading to appeasement on the home front, which doesn't appease; to promoting actions which can only result in violence. No longer do our leaders teach that to work and save is the way to get ahead. Now they promote the shortcut: demand, strike, lie in the streets, and confiscate and divide that for which others worked and saved.

Mr. Chairman, this bill does a good job of taking care of the Defense Department—and of our defense abroad.

We set out to remake the world. Instead we are about to let the world remake us.

It is here at home where we need to defend the Nation.

Mr. FORD. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, my comments at this time are prompted by comments which have been made here before by others in reference to the attempted Cuban Bay of Pigs invasion which failed miserably in April 1961.

First, let me clarify, if I may, the testimony which was taken a year ago before this subcommittee at a time when Gen. Maxwell Taylor, Chairman of the Joint Chiefs of Staff, was testifying. Prior to that time he had been a member of the Special Committee appointed by our late President to investigate all aspects of the Bay of Pigs.

When General Taylor came before the committee, along with Secretary of Defense McNamara, I thought it was quite appropriate for this subcommittee to ask not only General Taylor as Chairman of the Joint Chiefs of Staff questions about Cuba, but also to inquire of him what he learned about, what transpired at the time of the Bay of Pigs. Unfortunately, General Taylor exercised the right not to tell us anything about what this Presidential Committee had found out in their investigation.

I believe it is wrong for General Taylor in either capacity to refuse to tell the members of this subcommittee all that he knew about the Bay of Pigs fiasco. This is the committee that handles all the money for our national security. It should have known the facts and General Taylor should have responded. I believe he was wrong.

Now, Mr. Chairman, let me pass on to the second question. It is my best recollection that the concept of the Bay of Pigs operations was formulated some time in late 1960.

From the concept to its dismal failure our Government played a part in the planning, in the recruiting, in the equipping and in the transporting of Cubans who wanted to get rid of Castro. Unfortunately, when the time came to either win or lose, we, the United States, did not carry through. That unfortunate decision was made that fateful night in the White House in April 1961 and we all know what party was in power.

I happened to have attended a meeting a few weeks ago where one of the individuals who was closely associated with the late President was participating. Somebody in the group asked him "What about the Bay of Pigs?" He said, "That fiasco?"—which it was.

Mr. PELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, reference has been made earlier this afternoon by several speakers to the closing of military bases in congressional districts. Three years ago, Mr. Chairman, in the report that accompanied the defense appropriation bill, there was a reference to the closing of Fort Lawton, a military establishment in my congressional district.

The reference in the report described this Fort Lawton as a somnolent vestige of coast artillery days. It was given as a good example of where economy could be effected by its closing.

After the publication of that report, I went out and investigated this old fort, which is in the city of Seattle in my congressional district, and I found there were a number of costly facilities at Fort Lawton, including a new missile master base. I came to the conclusion in all honesty after that investigation that although I thought the people of my district would like to see Fort Lawton closed, it would be a costly mistake to try to move all these facilities. Therefore I wrote a report to the distinguished gentleman from Texas and asked him to file it with the committee in opposition to the closing of that base. That was 3 years ago.

About 2 months ago I read in my newspaper that Fort Lawton was going to be closed. Again I went out, and I asked to be shown through this base. I found they were going to close the missile master base, and this time I came to the conclusion that economy could be effected by declaring a part of this old fort surplus. I communicated with the Secretary of Defense and asked him for information that would allow me to justify to my constituents the closing of this fort, feeling I was both a guardian of their interests, as well as a guardian of the Federal Treasury, and that I should have all the facts. I wanted the facts.

What did I get? I got a two-page letter, and I was told this whole matter was in abeyance, being studied and in time I would be given the facts. It so happened when I was out in my district I found on the contrary there was a definite plan in effect for its closure. I know it is going to be closed. All I wanted were the facts. I know that there are Members of another party than mine who have been given these facts, and I felt as though I am a sort of second-class citizen as a Republican. I think if Mr. McNamara were a better politician than possibly he is as Secretary of Defense, he would see that some of us have the facts and are able to properly interpret them to our constituents so that we can sustain in all honesty the economy measures that are necessary from time to time.

I just mention this to indicate that I have not been able to get the true facts with regard to the closure of Fort Lawton, though I do know from being on the spot that a program is in effect to close it. So I indicate to the Defense Subcommittee that 3 years ago I thought them wrong but the situation has changed now. I will support this or any other closure of unneeded bases if it is in the interest of economy.

As a Republican, however, I should not be treated as a second-class Member of Congress. I should be given the facts to justify the closing of unnecessary military establishments in order to properly inform my constituents before, not after, the decision is announced.

Mr. KEOGH assumed the chair.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personal services in the National Guard Bureau and services of personnel of the National Guard employed as civilians without regard to their military rank, and the number of caretakers authorized to be employed under provisions of law (32 U.S.C. 709), and those necessary to provide reimbursable services for the military departments, may be such as is deemed necessary by the Secretary of the Army; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard of the several States, Commonwealth of Puerto Rico, and the District of Columbia, as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $188,000,000, of which not less than $1,900,000 shall be available only for the maintenance of real property facilities: *Provided*, That obligations may be incurred under this appropriation without regard to section 107 of title 32, United States Code.

Mr. GROSS. Mr. Chairman, I move to strike out the necessary number of words.

Mr. Chairman, I should like to ask the chairman of the subcommittee, the gentleman from Texas [Mr. MAHON], if this is the provision in the bill, dealing with the operation and maintenance of the Air Force, which has provided money for the transportation of United Nations troops to the Congo? Would this be where the money is contained for such purposes, and if it is, can the gentleman tell me how much the United Nations has reimbursed this Government for the transportation of troops to the Congo?

Mr. MAHON. Mr. Chairman, will the gentleman yield so that I may read a statement?

Mr. GROSS. I yield.

Mr. MAHON. This is a statement of the Department of Defense support provided in the Congo operation with breakout between the Department of State and the United Nations, as of March 31, 1964.

Department of State, total billed, $11,244,000. Payments received, $11,244,000. Unpaid billings, none.

United Nations, total billed, $49,649,000. Payments received, $31,375,000. The unpaid balance out of the total of $49 million-plus is now $18,274,000.

Mr. GROSS. So the United Nations still has not paid this Government for the transportation.

Mr. MAHON. That is right. The United Nations has not completely reimbursed the United States for transportation of these troops to the Congo.

Mr. GROSS. I ask that question because we are presently confronted in the foreign giveaway bill before the House Foreign Affairs Committee with another U.N. transportation situation. We are now transporting foreign troops into Cyprus. We are told that the U.S. Government is not to be reimbursed, so I assume that eventually this committee will be getting a bill for the transportation of so-called United Nations troops into Cyprus.

Mr. MAHON. This matter has arisen since we finished our hearings. I do not know what the final determination will be. It is, of course, gratifying that war between Greece and Turkey has been prevented at least for the time being. This bill should be presented to the United Nations for payment.

Mr. GROSS. I would like to see the United States collect the remainder of what the U.N. owes, for it is a legitimate debt, before undertaking services for the United Nations that will cost more millions. I would like to see the taxpayers of this country gratified once in a while by the rest of the nations over the world reimbursing us for the services we perform for them. I am getting tired of this business of the American taxpayers paying for everything.

Mr. MAHON. We have urged the Department of Defense to use every proper means to collect these funds that are owed to us. I agree with the gentleman that these reimbursements should be made to the United States and anything that we can do to secure reimbursement certainly will be done.

Mr. LIPSCOMB. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. LIPSCOMB. I want to commend the gentleman for calling this to the attention of the committee. As you know, the Department of Defense furnished $11,509,203 million of services to the peacekeeping operations of the U.N. I certainly hope the Department of State and the Department of Defense do not get into the Cyprus-U.N. operation and assume all of the liability. I hope our Government is making arrangements that the United Nations will assume the responsibility and pay for these services.

Mr. GROSS. As usual, they are preparing to load just as much of the Cyprus expense on our backs as they think we will be gullible enough to absorb.

Mr. LIPSCOMB. They did that at the start of the other peacekeeping operation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament therefor, plant equipment, appliances, and machine tools, and installation thereof in public or private plants; procurement of critical long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such land, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title by the Attorney General as required by section 355, Revised Statutes, as amended; $1,961,176,000, to remain available until expended.

### AMENDMENT OFFERED BY MR. TOLLEFSON

**Mr. TOLLEFSON.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. TOLLEFSON: On page 17, line 9, after the word "expended", strike the period and add a colon and insert "*Provided,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel."

**Mr. MAHON.** Mr. Chairman, it seems to me this amendment is different from what I had anticipated, and the amendment is subject to a point of order. It is legislation on an appropriation bill and, Mr. Chairman, I make the point of order against the amendment on that ground.

**Mr. TOLLEFSON.** Mr. Chairman, will the gentleman reserve the point of order.

**Mr. MAHON.** I will reserve the point of order, Mr. Chairman.

**Mr. TOLLEFSON.** Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Washington?

There was no objection.

**Mr. TOLLEFSON.** Mr. Chairman, if the gentleman from Texas will give me his attention as well as the gentleman from Michigan, this is a slightly different worded amendment from the one I showed to the committee on yesterday. But at the outset of debate on the bill today, I did discuss the new amendment with Members on this side and suggested that I would offer it because I thought it would more nearly accomplish the purpose which I sought to accomplish. I think it will do a better job than the amendment I had previously presented.

What I am trying to do is this. This amendment is similar to the one I offered last year to this bill. A point of order was made to it. I did not resist the point of order because I had an assurance from the committee that the amendment would not be necessary and that the Department of the Navy would make certain that the practice, which I shall describe in a moment, would not take place. In fact, overnight a letter was obtained from the Under Secretary of the Navy to that effect.

On the basis of that letter and of that assurance, I did not press my amendment. But what happened? It happened first in connection with construction of commercial ships in this country.

As most of you know, if an American vessel wants to carry an American flag, it must be built in an American shipyard; otherwise it cannot carry an American flag. Somebody discovered a loophole in the law and found that there could be built the entire hull of the vessel, leaving off only the bow and the stern, in a foreign shipyard, in Europe. This was done on a number of occasions before it was brought to the attention of our committee. They sought to get around the provision of the law that ships must be built in American shipyards in order to fly the American flag.

On two occasions our committee propounded legislation which finally closed that loophole, but that legislation applied only to commercial ships and could not apply to naval vessels.

These shipyard operators are intelligent. They found a similar loophole in the laws governing the construction and conversion of naval vessels, and one of the shipyards bid on two vessels about a year ago and submitted a low bid because they had in mind following the practice of some of the yards that had midsections of commercial vessels built in foreign shipyards. So two of these midsections of naval vessels actually were built in a Japanese shipyard and towed across the Pacific Ocean and finished in a shipyard on the west coast.

It was this sort of practice which I sought to prevent last year by my amendment. As I say, because of the assurance given by the committee and the Department of the Navy that it would not happen again, I did nothing.

About a month ago I heard a rumor to the effect that the same thing was going to take place with respect to an invitation to bid submitted by the Navy Bureau of Ships. I called the Navy Bureau of Ships and asked them if they knew anything about it, and they said, "No," so far as they knew, there was nothing to the rumor. But the next morning I got a call from the Chief of the Bureau of Ships, and he said, "Congressman TOLLEFSON, there is something to this. One of the yards, we understand, is now preparing to submit a bid under which the mid-body sections, as we call them, will be built in a foreign shipyard."

So they are ready to take advantage of this loophole again.

I am aware of the fact that the Navy, on some occasions, for good reasons, wishes to build ships in foreign yards. This they did last year in a Scandinavian yard. My amendment would not prevent that.

I am aware of the fact that emergency repairs must be made in foreign shipyards at times. My amendment would not prevent that.

The only thing my amendment would do is to prevent the construction of what we call these midbody sections in foreign shipyards. That is all it would do.

I hope that the chairman of the subcommittee will not make a point of order against the amendment. I believe he is in accord with what I am trying to do. I am trying to put the provision into the law so that the Bureau of Ships will not commit the same error it almost committed a few weeks ago. I must say that the Bureau of Ships is in accord with what I am trying to do. They have told me so. They only neglected to bear in mind the admonition or the assurance of the Under Secretary of the Navy last year that it would not happen again. When they put out invitations to bids, their specifications were such that the shipyard operator saw the loophole. They are perfectly willing, so they tell me, to have this kind of prohibition in the legislation, so that the midbody sections will not be built in foreign yards at the expense of our private yards that might wish to bid on the work.

We should consider our economic situation. There is unemployment. Our shipyards are "hungry." They have been for several years. It seems to me that all the shipyard construction we can possibly keep at home we ought to keep at home.

I trust that the chairman will not press his point of order. As a matter of fact, I do not think it is subject to a point of order, and I will be glad to argue that point, because this language is practically identical with the language contained in the Merchant Marine Act, which prohibits the same kind of activity in connection with the construction of midbody sections abroad.

Mr. Chairman, I yield back the balance of my time.

The **CHAIRMAN** (Mr. KEOGH). Does the gentleman from Texas, [Mr. MAHON], insist on his point of order?

**Mr. MAHON.** Mr. Chairman, I do not insist on the point of order, but I move to strike out the last word.

The **CHAIRMAN.** The gentleman from Texas withdraws his point of order and is recognized for 5 minutes.

**Mr. MAHON.** The gentleman from Washington [Mr. TOLLEFSON], showed me a proposed amendment yesterday which I believe read as follows:

> Provided that not more than 10 percent of the funds expended in the construction or conversion of any naval vessel shall be expended in foreign countries.

This proposal was submitted to the Navy, and the impression we got from officials of the Department of the Navy was that the provision would have no adverse budgetary effect. It would have permitted a 10-percent leeway in foreign ports for the construction or conversion of naval vessels in foreign countries. This new amendment has no reference to 10 percent. It just prohibits the construction in foreign ports of any major component or any part thereof or any portion of the superstructure, as I understand it. So I am not sure what it means. I certainly believe in the "Buy American" Act, and I want to see ship construction and conversion take place in our own yards rather than overseas.

I do realize that at times oversea construction is mandatory, particularly when a ship gets into serious difficulty in faraway waters.

**Mr. TOLLEFSON.** Mr. Chairman, will the gentleman yield?

**Mr. MAHON.** I yield to the gentleman from Washington.

**Mr. TOLLEFSON.** At the time I was trying to explain the amendment I noticed the gentleman from Texas was engaged in conversation with somebody and did not hear my full explanation.

This amendment, as I said a moment ago, will not prohibit the Navy from building ships in foreign yards if for good reason it thinks it ought to, and I agree with them in some cases they should. This will not preclude them from repairing ships abroad. Originally I limited it to 10 percent, but I understood in conversation with people on this side that that amendment was subject to a point of order, and it was for that reason I changed the wording.

Let me say again to the gentleman all it does is it applies only to the midbody section. That is all. It has nothing to do with repair of ships abroad or construction there. It affects only, as does the language of the Merchant Marine Act, the construction of what we call midbodies or midsections in foreign lands and towing them across the ocean and finishing them in our yards.

If I could ask unanimous consent, I would like to have the amendment reread so the gentleman can have it before him again.

The CHAIRMAN. Without objection, the Clerk will re-report the amendment of the gentleman from Washington [Mr. TOLLEFSON].

There was no objection.

The Clerk reread the amendment offered by the gentleman from Washington [Mr. TOLLEFSON].

Mr. SIKES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Texas yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. SIKES. May I inquire, does the gentleman from Washington want to withdraw his previous amendment and to offer the amendment just read?

Mr. TOLLEFSON. If the gentleman will yield, I just offered the amendment yesterday by leaving it with the Clerk, so it has never been formally offered. The only amendment I offered was the one which was just read.

Mr. MAHON. Mr. Chairman, would the gentleman be satisfied with a substitute amendment; namely, the one that was presented to the committee yesterday and which has been discussed by members of the staff with the Navy?

Mr. TOLLEFSON. I had thought yesterday that that amendment would take care of the problem, but upon further consideration, I am convinced it will not, because the 10-percent figure I had mentioned in the original intended amendment would not cover the ship-by-ship contracts of construction but would only apply to the overall figure. In other words, in my original amendment I referred to 10 percent of the total amount, or 10 percent of $1.9 billion. That would result in an item of $190 million-plus which could be used abroad in any way whatsoever. That would not prevent the construction of these midbody sections in foreign lands. All I am trying to get at is the midsection practice which has been followed in the last several years.

Mr. MAHON. Mr. Chairman, it seems to me that this is a rather far-reaching legislative provision. I agree that it is in the form of a limitation but since we have not held any hearings on it and I am not aware of the full implications of it, I think it would be well not to accept this amendment but instead to pursue the idea and the principle thereof and undertake to do so without the limitation. In that way, we would at least accomplish the objective sought.

Mr. TOLLEFSON. Mr. Chairman, if the gentleman will yield to me, this matter is rather urgent. I mentioned when I was in the well that only within the last few weeks we almost had another contract involving two ships and we would have had had I not called it to the attention of the Bureau of Ships. The Bureau of Ships is in full accord with this kind of provision and had I known that this problem was going to arise I would have taken it up with the committee while it was holding hearings. But I only knew of it after the committee had practically completed its hearings.

Mr. Chairman, I would hope that the Committee will accept my amendment and before the other body gets to act on it, it can be cleared with the Bureau of Ships to make certain that I was stating the fact. I would rather the committee did that because in the meantime additional invitations to bid might be issued through an error or oversight and bids could be offered and if offered perhaps the Navy would be stuck with them.

Mr. MAHON. Mr. Chairman, would the gentleman permit me as the subcommittee chairman to present this language to the Navy for comment? If the Navy will then present all of the facts and circumstances, and if it then seems proper I shall take the responsibility of referring it to the other body. I do not feel that we should accept an amendment now that may be too far reaching. We can ask the Navy not to make any plans for the letting of a contract with a foreign company pending determination of this and by that means I think the gentleman would achieve his short-range purpose and perhaps even his long-range purpose. We ought not to approve language that has not been sufficiently studied. I wonder if the gentleman from Michigan [Mr. FORD] would go along with that.

The CHAIRMAN. The time of the gentleman from Texas [Mr. MAHON], has expired.

Mr. FORD. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, let me ask the gentleman from Washington if he would agree to an amendment to the amendment to provide the 10-percent limitation that he originally proposed on yesterday.

Mr. TOLLEFSON. If it could be properly worded so that the 10-percent limitation would be applied ship by ship, that would be acceptable. But in a short time I would not be able to draft language accordingly and that is why I offered the amendment that I did offer.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman.

Mr. MAHON. Mr. Chairman, it does seem to me that we have a very able and conscientious legislator who is concerned about this matter. But we are asked to take action here when we do not know the full impact of the proposal. If we cooperate with him, if we agree to take this up with the Navy and undertake to arrive at some solution of the problem, I believe that would be the safest way to do it and we would not be putting the Committee and the Members of the House in the position of doing something which perhaps later would turn out not to be wise.

If the gentleman will withdraw his amendment he would have my fullest cooperation, and I believe that of the subcommittee, in trying to work out any fair resolution of this problem.

Mr. TOLLEFSON. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman.

Mr. TOLLEFSON. The gentleman knows that I have the greatest respect for him and confidence in him, as I do with respect to the gentleman from Michigan. But as a practical matter, I think the best way to do it would be for the Committee to accept the amendment and then work it out in conference.

By the time you get to conference with the other body, a couple of months will have elapsed.

Mr. MAHON. If matters like this are presented to the other body and the House has taken a different action, we can work these matters out in conference. But we cannot tell what will happen when, the House having passed this matter and having incorporated it into the bill, it gets to the other body.

Mr. Chairman, it does not seem to me that we should proceed in this fashion at this time. If we had had some hearings on the amendment and had gone into this matter in an effort to achieve the very good objective which the gentleman is seeking, then it would be a different matter.

Mr. TOLLEFSON. If the gentleman will yield further, this is what happened the last year. I had the assurance of the subcommittee that this thing would not happen again. The subcommittee obtained a letter from the Under Secretary of Navy assuring that it would not happen again. It would have happened if I had not called it to the attention of the Bureau of Ships of the Navy.

Mr. FORD. Let me just say this. If the Department of the Navy representatives read what has transpired here today—and sometimes I do not think they either read the committee reports or what goes on on the floor of the House or the other body—but if they did read it, they ought to understand that there is a very serious attitude on the part of the membership here as a whole and particularly on the part of the gentleman from Texas [Mr. MAHON] and myself about this practice.

As the gentleman from Washington said earlier, we were assured that they were not going to do it in the future. The gentleman from Washington now tells us that it almost took place rather recently.

Speaking as one member of the committee, I am opposed to this.

I do have some reservations, however, about the desirability of accepting an amendment that I, speaking for myself, just do not know how far reaching it is.

On the other hand, the committee could accept the amendment and let the Navy present its case to the other body. If the Navy does not like it, they could reclama and seek to strike it out.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Florida.

Mr. SIKES. I do not believe there is anyone on the floor of the House who has a greater knowledge of this field than does the distinguished gentleman from Washington [Mr. TOLLEFSON].

The committee generally is in sympathy with what he is attempting to achieve. However, I believe that the language which he proposes may be dangerous in that there could be emergency situations which would require work to be done which could not be done under his amendment. At any rate the language has not been considered as it should be and we have not had an opportunity to discuss its effect with the Navy.

We were generally disposed to accept the 10-percent limitation which was discussed on yesterday and which the Navy representatives have indicated they could live with.

I do not believe the House should take language which may be dangerous and may be entirely too limiting in its effect. We should not depend upon the other body to do our work. That is not a sound or proper way to legislate. It is not a proper discharge of our responsibility. I do feel if the gentleman will not withdraw the language which he has offered, pending further study and consultation with the Navy, that it is better that the 10-percent limitation which he proposed on yesterday be offered. Again I state, however, we are sympathetic toward what the gentleman is trying to accomplish.

Mr. TOLLEFSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. FORD. Mr. Speaker, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD. Let me make this suggestion to the gentleman from Washington. If the gentleman will withdraw his amendment at this time and give us an opportunity to look at the language and to perhaps call representatives of the Department of the Navy and see what their reaction is, by the time we get to the general provisions, he would have the right to reoffer his amendment and by that time, perhaps, the situation would be clarified to some extent.

Mr. TOLLEFSON. If the gentleman will yield, does the gentleman mean to withdraw the amendment at this time?

Mr. FORD. Yes; withdraw it at this time with the understanding that when we get to the reading of the general provisions of the bill, the gentleman will have the right to offer it again. In the meantime we might try to obtain some additional information and try to clarify the language.

Mr. SIKES. I believe that would be a good solution.

Mr. TOLLEFSON. Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment and submit it at a later point during the reading of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read as follows:

SEC. 506. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) except as authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for primary and secondary schooling for minor dependents of military and civilian personnel of the Department of Defense residing on military or naval installations or stationed in foreign countries, as authorized for the Navy by section 7204 of title 10, United States Code, in amounts not exceeding an average of $285 per student, when the Secretary of the Department concerned finds that schools, if any, available in the locality, are unable to provide adequately for the education of such dependents; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government and, in the conduct of field exercises and maneuvers or, in administering the provisions of 43 U.S.C. 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year.

### AMENDMENT OFFERED BY MR. BALDWIN

Mr. BALDWIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BALDWIN: On page 26, line 11, replace the figure "$285" with the figure "$295".

Mr. BALDWIN. Mr. Chairman, this pertains to the allowance per student that is permissible under this bill for the teaching of students in oversea dependent schools. I might say that the figure of $295, which is the amount of my amendment, is the amount which was recommended by the Defense Department and approved by the Budget Bureau, and thereafter transmitted to the Congress with a favorable recommendation by the President in the budget this year.

There are a considerable number of Members of this House who have individual teachers from their districts who have gone overseas and volunteered to participate in the oversea dependents educational program. In my own personal case, I have received a number of letters from teachers who were former constituents of mine stating it was their clear understanding that in the original program the intention of the Congress and the intention of the Defense Department was that the salaries of teachers in the oversea dependents schools would be kept on a comparable basis with the salaries of teachers here in the United States.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. BALDWIN. I yield to the gentleman from Michigan.

Mr. FORD. About 5 years ago there was a bill on the Consent Calendar and, as the gentleman knows, I am one of the three objectors on the Consent Calendar, which bill sought to straighten out the administrative problems as far as the oversea dependents schoolteacher program was concerned. One of the problems was that schoolteachers were at that time under civil service with a 12-month pay setup. Traditionally, as the gentleman knows, teachers are paid on a 9-months-a-year basis. This created some administrative problems for the DOD, and this proposed bill was to remedy that problem.

There was another provision in the bill which some people alleged, and I underline and emphasize "some," if this bill was passed the oversea dependents teachers would have pay scales comparable to the pay scales in the District of Columbia. When this bill was on the Consent Calendar, and it was on there about 6 weeks or 2 months, I objected to having it considered. Somebody from the DOD came to me and talked to me about it.

I said:

> I understand the desire to get away from the administrative problem, but could not agree that oversea dependents' school teachers should be paid the same salaries that teachers do in the District of Columbia.

I was categorically assured by the people that talked to me from the Defense Department that the passage of that legislation would not bring teachers' salaries overseas up to the level of the District of Columbia. So I permitted the bill to go through on the Consent Calendar. Now I find that this other interpretation is being placed on the law. I know from the legislative history and I think I made a comment at the time the bill went through on the Consent Calendar that they should not construe it so that their salaries should be comparable to those teachers salaries in the District of Columbia. I want to get that clear because the record is absolute and clear about that fact.

Mr. BALDWIN. If I may proceed, I have had correspondence on a number of occasions in the last several years with the Defense Department on this issue. The Defense Department has indicated that the Defense Department had endeavored to set up a program that would mean there would be a comparable incentive from a financial standpoint for teachers to go overseas to serve the oversea dependents' schools as there is in the schools in this country. The Defense Department in carrying out this obligation has made a recommendation to the Congress that the sum per pupil should be $295. This has been approved by the Budget Bureau, this has been approved by the President and submitted to the Congress in his budget. It seems to me we should at least provide a comparable incentive to teachers who participate in this oversea program, because they do make a sacrifice, particularly if they are people who have to make a serious adjustment in their own plan of living to do it. It seems to me we should make it possible for them to have the same incentive to serve in the oversea dependents' schools as they would have here.

This is not an appropriation section of the bill, it is simply a limitation section, so my amendment would simply put in a limitation of $295 per pupil, rather than $285 per pupil, and the amount appropriated as a lump sum in this bill remains the same.

As I say, the Defense Department has recommended this, the Budget Bureau approved it, the President has put it in his budget and recommended this. I believe we should be fair to the people who have accepted this challenge and gone overseas to teach the children of our military personnel. We should make it possible for them to have the same financial incentive over there as they have here.

**Mr. SIKES.** Mr. Chairman, I rise in opposition to the amendment.

The distinguished gentleman from California is to be commended for wanting teachers to receive every reasonable advantage. However, I want to point out that the committee has given a great deal of thought to the proposal now before us. We have felt that teachers are receiving fair and proper consideration.

A suit has been brought in the courts of this country by the teachers to force this additional compensation. The committee felt it would be entirely proper to await the outcome of that suit before taking the action recommended here.

Then I would point further to the fact that this amendment comes too late in the bill to really be helpful to the people the amendment seeks to help. We have already passed the section of the bill which carries the appropriation from whence teachers pay would come. We are now in the general provisions of the bill. Just to raise the limit per pupil by $10, as this amendment would do, is not going to affect the appropriation contained in the bill. It could have no beneficial effect whatever.

Too, I think it would be entirely unwise for us to consider this amendment seriously without looking at the fact that there are important fringe benefits which are available to the teachers and which are not reflected in the salaries which they are paid.

For instance, they get a living quarters allowance abroad. There is no such provision for teachers in this country. They get a post allowance. And again there is no such provision for teachers in this country. They get a separate maintenance allowance. Again that is not allowed in this country. There is medical care, commissary and post exchanges, transportation to and from the United States. In the summer they can register at a foreign university if they desire and obtain credit for advanced degrees. There are other privileges which they would not have otherwise. All of these things should not be disregarded, Mr. Chairman, for they amount to very considerable benefits; possibly much more than the difference in pay which the gentleman's amendment seeks to provide. I am not unsympathetic with their desire to improve their lot. It just happens there are two sides to the question and the committee has considered both. We think the bill is adequate.

**Mr. ANDREWS of Alabama.** Mr. Chairman, will the gentleman yield?

**Mr. SIKES.** I yield to the gentleman.

**Mr. ANDREWS of Alabama.** I might point out too, Dr. Katzenbach testified when he was before our committee that they still had about 10 applicants for each job available.

**Mr. SIKES.** Yes, there are about 10 applicants for each job available. There are many teachers who want to get into the oversea dependents teaching program and few vacancies.

**Mr. ANDREWS of Alabama.** And further, Dr. Katzenbach said they have very few complaints from teachers.

**Mr. FORD.** Mr. Chairman, will the gentleman yield?

**Mr. SIKES.** I yield to the gentleman from Michigan.

**Mr. FORD.** I was just going to mention, but perhaps in a little different way, the point raised by the gentleman from Alabama. We all know from our own experience that we are always getting requests from good teachers, in fact, from some of the best teachers at home, who want to know how they can spend a period of time overseas in this program. Unfortunately, all of them cannot get jobs because some of these people have become professional teachers overseas in this program. I think a little turnover is a good idea and we would benefit by getting some of our best teachers from home into the oversea program. We do not want career professional people living overseas in teaching positions year after year after year. This could be bad for them and for the school system.

**Mr. SIKES.** Mr. Chairman, I respectfully submit that the committee has looked into this matter very carefully. I feel the amendment is not necessary at this time and should be defeated.

**Mr. ANDREWS of Alabama.** Mr. Chairman, will the gentleman yield?

**Mr. SIKES.** I yield to the gentleman.

**Mr. ANDREWS of Alabama.** My information is that the Coast Guard in providing salaries for their oversea teachers put a similar limitation of $285 in their bill; and that bill has passed the House.

**Mr. SIKES.** That is in the Treasury and Post Office bill. That bill has passed the House. Those teachers would be differentiated against if this amendment were adopted. Their problems are no different than those provided for in this bill.

**The CHAIRMAN.** The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from California [Mr. BALDWIN].

The amendment was rejected.

**The CHAIRMAN.** The Clerk will read.

The Clerk read as follows:

SEC. 509. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned: *Provided*, That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less than $2.50 per day: *Provided further*, That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deductions from the pay of civilian employees: *Provided further*, That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

**Mr. COLLIER.** Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time, and perhaps it would have been more apropos at an earlier point in the discussion of the bill; but that fact notwithstanding, I do so because I frequently face a problem which prompts this inquiry and one I am sure most of the Members of this House do. I would like to know at this time from any member of the committee, just what, if anything, was done in reviewing the administrative practices and policies applied to the Reserve program in the hearings this year. I know this was done in the past, and I would like to know if any review has been made to cope with some of the different situations which have developed relative to Reserve duty.

**Mr. SIKES.** Mr. Chairman, will the distinguished gentleman yield to me?

**Mr. COLLIER.** I am happy to yield to the gentleman from Florida.

**Mr. SIKES.** I do not know what phase of the Reserve program my friend is disturbed about, but if he will clarify his statement, I shall be glad to attempt to provide an answer.

First I wish to say that the committee did allow exactly the amount of money requested in the budget for the National Guard and for the Army Reserves. We have received assurance from the Department of Defense that it supports the efforts to build up the Reserve component strength levels and that there will be either a request for additional funds for reprograming if additional strength levels can be achieved in either the National Guard or the Reserves.

For the first time, the committee added money in two categories above the budget estimates, to correct situations we felt should have additional consideration.

One was in respect to the Navy Reserve program. It was felt that the budget figure was too restrictive for the proper functioning of the program and would force deserving naval reservists out of the program. We placed in the bill additional money recommended by the Reserve Officers Association and others, intended to correct that particular problem.

We also allowed additional money above the budget estimate, for Air Force reservists, to provide for additional drill pay periods. As the committee will recall, we have had this problem before us previously. Heretofore additional funds have not been allowed. Now money is carried in the bill in an amount which would permit a full program of paid drill periods for the Air Force reservists.

We feel that we have taken care of the Reserve program possibly better than we have ever done before. I believe the committee is in full accord that this is the proper procedure. I do not know of any weakness which at this time should disturb the gentleman.

Mr. COLLIER. I am not concerned with respect to any inadequacy of funds. I rely upon the wisdom of the members of the committee, who are far more familiar with this whole picture in this area than am I.

However, I point out that there is a specific inconsistency which constantly creates a problem, about which I have some reservations as to whether there might be some savings involved.

When the late President Kennedy issued the order which made it no longer necessary for young married men to perform a military obligation, there were at that time—and there still are, as the gentleman knows—many young men who had in fact fulfilled their 2 years of obligation, but who are required, if they live in the proximity of a military installation, to perform a further obligation in the reserves regardless of the fact that they may be married men, or may have a business or may in fact have dependents.

Mr. SIKES. The gentleman is correct.

Mr. COLLIER. It seems to me a review is long past due, so that we may be consistent in this area when a man has already served his 2 years for his country. There is an existing order—and I have no quarrel with that order—waiving any military responsibility or obligation for some married men.

Mr. SIKES. If the gentleman will yield further, I believe he has made a valid point, and that there should be a further review of the question. I respectfully suggest that this is not a matter before the appropriations committee. If there is to be a change in the laws which govern Reserve obligations, it should come from the legislative committee.

Mr. COLLIER. I understand that, but I presume, since a request is made for funds to operate the Reserve program, that possibly some consideration or evaluation was given to this, particularly in the light of the fact that the Department of the Army, according to my understanding, is proposing to increase the figure for the Reserves next year from the present 285,000 to 300,000. It is my opinion that before there is any increase made there ought to be some review of the policies, to at least make them consistent and equitable so far as many young men in the country are concerned.

Mr. SIKES. I think it would be unfortunate if a buildup of Reserve components were not permitted pending a review or revision of Reserve obligations. If corrections are needed they can be explored in detail by the proper committees of Congress and agencies of Government and recommendations laid before the House later.

Mr. EDMONDSON. Mr. Chairman, I move to strike the requisite number of words.

I do so for the purpose of continuing along the line of the questioning of the gentleman who just had the time.

I am pleased to hear from the able gentleman from Florida the assurance that there is no requirement within this appropriation bill for a cutback in the Reserves and the Air National Guard operations and activities.

I am sure the gentleman from Florida heard about a survey now underway which headquarters U.S. Air Force is conducting to investigate the feasibility of consolidating a number of Reserve units and Guard units and moving some of them into central locations where one unit will serve a much larger area than it does at the present time. I have always had the impression personally that one of the strong points of the Guard and the Reserve was the fact that they have bases located strategically all across the States and it would be disadvantageous to have consolidations of this type occurring. I wonder if there is any kind of mandate from the House Committee on Appropriations calling for consolidation of this kind.

Mr. SIKES. Mr. Chairman, will the distinguished gentleman yield?

Mr. EDMONDSON. I am glad to yield to the gentleman.

Mr. SIKES. I want to commend my friend from Oklahoma for his long interest in the Reserve programs. It is not a new interest. He has consistently been a strong and active supporter of the Reserves. As he well knows, there are many studies and many surveys now taking place within the Pentagon which could affect all phases of military activity. That includes studies on Reserve and National Guard activities. I share the gentleman's concern about any directive which might bring about consolidation which would limit the ability of Reservists to participate because of problems of distances or lack of units. No such plan has been presented to the committee. I should think that such a reorganization would be submitted to the Congress for consideration of it to receive the endorsement of the Department of Defense and in fact I think we should insist that this be done. The Reserves provide a valuable part of our defense program and we should resist any steps which might limit their effectiveness.

Mr. EDMONDSON. I thank the gentleman for that assurance. I know the gentleman is stating the facts and stating the position of the Committee on Appropriations when he informs the House that there is no requirement in the bill as it has been brought to the floor for consolidations or cutbacks in the activities of the Reserve and Guard.

Mr. SIKES. If the gentleman will yield further, we have, on the contrary, urged expansion of the Guard and Reserve programs and we feel from the testimony presented there will be continued improvement and growth in the Reserve components. We have provided all the funds requested for that purpose.

Mr. EDMONDSON. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

Page 39, line 6:

The Clerk read as follows:

SEC. 530. Of the funds made available by this Act for the services of the Military Air Transport Service, $80,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil air fleet.

Mr. HOLIFIELD. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I ask unanimous consent to proceed for an additional 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOLIFIELD. Mr. Chairman, some 8 to 10 years ago the procurement of civilian airlift services by MATS was in a chaotic condition in our country. Not only were the military services not receiving the kind of services that they need in the military program but the chaotic condition of dog-eat-dog, cutthroat competition among small- and medium-sized businesses engaged in the airlift services was bankrupting many of these people and driving them out of business.

Several committees of the other body and of the House became interested in this matter because of the plight of small- and medium-sized airlift business and held hearings on this subject. Among those committees in the House that held hearings was the subcommittee under the chairmanship of the gentleman from South Carolina [Mr. RIVERS], of the Armed Services Committee and a Subcommittee on Military Operations of the House Government Operations Committee under my chairmanship. We held extensive hearings on this problem and heard from the people in the industry as well as the people in the military services. We submitted certain reports and recommendations after these hearings.

Surprisingly, the recommendations of both the Senate committees and the House committees ran along the same line of thinking and were almost parallel in their nature. The solution that was worked out was this, that the Military Air Transport Service adopt a formula for procurement which would recognize the civil reserve air fleet as being a desirable organization in the United States, to build up from the standpoint of its craft and personnel capability, so that in the event of a national calamity these aircraft and personnel could be immediately worked into the military program.

In order to obtain what we thought was a reasonable responsiveness on the part of these companies there was a requirement set up that each one of these companies upgrade its equipment. Heretofore the equipment that was used was junk equipment, junk planes picked up here and there, and which frequently failed to render the service that was necessary. We required an upgrading of the equipment so that as nearly as possible we could provide services to the military by private enterprise carriers, that would be the best kind of service. We also required that the personnel of these privately owned companies sign contracts that in the event of war they would continue to work. In other words, you could not draft them. They were not military personnel, but were under contracts which we could get them to sign that they would continue work. We had a greater surety than otherwise that these aircraft and these personnel would be available to the Nation and would supplement the Government-owned aircraft and personnel in the event of an emergency.

This arrangement had worked out fine in the Berlin airlift, it had worked fine in Vietnam, and it had worked fine in Korea.

These civilian airlift companies had rendered tremendous service because we were caught short of planes.

Now, Mr. Chairman, in addition to upgrading the aircraft and getting a commitment from the personnel, we required the Military Air Transport Service of the Department of the Air Force to make certain allocations of contracts to small and medium airlift civilian carriers. Under section 530 which the Clerk has just read we see a continuation of this very fine arrangement. Although it speaks of some $80 million as a floor, it will interest the members of the committee who do believe in building up our free enterprise carriers, to know that in the last fiscal year, 1964, there was expended some $230 million in this field of civilian services for the military departments.

Now, Mr. Chairman, this is not strictly on a competitive basis, but I can assure the members of the committee that the Government is getting a very good bargain in the type of service that it is receiving from these companies—quick and dependable service. Also, the backlog of these very fine upgraded planes is standing there ready in the case of an emergency. This civilian owned backlog of high-grade aircraft represents hundreds of millions of dollars capital investment.

Mr. Chairman, of late I have heard some very disquieting rumors, some rumors that would nullify what this committee has recommended, and which the Congress in many instances heretofore, and will again today approve. I do not know whether these rumors are valid or not. But I would say this: If through some edict in the Pentagon, this very careful arrangement which has been approved by this highly respected committee and by the Congress is upset—and for the sake of claimed economy this procurement is again based on a strictly competitive basis without regard to these other factors that I have explained—if that approach is adopted, and if as a result of a change in this formula, this business will go into the hands of one or two of the Big Four airline companies, they will become a chosen instrument. This will jeopardize many millions of dollars which these companies have invested on the basis of a moral commitment on the part of the Department of Defense and the Department of the Air Force to continue to give them business, then I say it is going to be of great interest to me and to my subcommittee and I am sure it will be of great interest to the gentleman from South Carolina and his subcommittee, because the gentleman knows whereof I speak.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. I should like to say, Mr. Chairman, to the gentleman from California that it would be very unwise indeed if we should be a conscious party to the liquidation of these small supplemental carriers and nonskeds who fall into this category of the craft contractors who are making such a fine contribution. If they should be eliminated, we would not be able to expand the base which is so necessary in time of emergency.

As the gentleman from California [Mr. Holifield] has said, and said well, these contractors have obligated themselves to the extent of many millions of dollars to procure modern aircraft. To deny them the contracts which they have been led to believe they would receive, would be not only a detriment to the country and to the Air Force but could well prove injurious to our total defense effort.

Mr. HOLIFIELD. I thank the gentleman from South Carolina for his contribution. I know of his great interest in this matter.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent (at the request of Mr. Sikes) Mr. Holifield was given permission to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to congratulate the gentleman from California [Mr. Holifield] on the statement which he has made and I wish to join him in that statement.

This would, as the gentleman from South Carolina [Mr. Rivers] has said, be a great detriment to national defense. It would also put the Government in the incongruous position of having recommended to these people that they expend money to modernize their fleets and when they have done it, then deny them this right. It strikes right at the heart of Government contracts.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Florida.

Mr. SIKES. As I stated earlier, it would be most unfortunate, indeed, if new regulations were put into effect which would take the small air carriers out of this program. They are essential to a sound aviation industry in the United States and I consider them an essential part of this program.

I compliment the gentleman for his statement.

Mr. HOLIFIELD. I thank the gentleman.

In conclusion I wish to congratulate the chairman of this committee, the gentleman from Texas [Mr. Mahon], and the members of this committee who have supported this program so that it will continue as it has in the past.

The Clerk read as follows:

> Sec. 539. Of the funds made available in this Act for repair, alteration, and conversion of naval vessels, not more than $411,820,000 shall be available for such repair, alteration, and conversion in Navy shipyards, and not more than $221,750,000 shall be available for such repair, alteration, and conversion in privately owned shipyards.

Mr. RIVERS of South Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Rivers of South Carolina: On page 42, strike out lines 13 through 24.

### AMENDMENT OFFERED BY MR. RIVERS OF SOUTH CAROLINA

Mr. RIVERS of South Carolina. Mr. Chairman, the committee will remember that last year I took the floor to call the attention of the committee that the 65–35 amendment sponsored by the distinguished gentleman from Michigan [Mr. Ford], and changed so that it would not be legislation on an appropriation bill and subject to a point of order, has been inserted in the bill in round figures in the total overall budget, and the allocation of funds for the Department of the Navy for repairs and conversion.

I said then, Mr. Chairman, and I reiterate now, that the committee is unwittingly a conscious party to the destruction of certain naval shipyards in the United States and its possessions overseas, to wit, Hawaii.

I might say, Mr. Chairman, my amendment is to leave the figures in the bill, and cut out this philosophy of allegedly assisting private industry by destroying Navy yards. I prophesied then that the time would come when you could not justify Navy yards under this concept.

We have a law on the books of this land known as the Vinson-Trammell law. In substance and in effect this law says that in the construction of combatant ships there shall be one for one, one for private yards and one for naval shipyards. That is done for many reasons. The obvious one is to keep track of the yardstick costs on what construction is carried on and, second, to keep up the state of the art.

In repair and conversion naval shipyards were constructed primarily for repair and conversion. This is obvious. A Navy yard is an insurance policy, it is a fire department, it is a luxury which we have to have in this country so that America may survive.

A private yard could not operate a Navy yard, so we are compelled to operate the Navy yard for the obvious reason that a ship suffering battle damage could come into the Navy yard; the drydocks and buildingways would be cleared, and you would have your skilled personnel on hand to do the job immediately, and the combatant ship returned to the fleet.

You would have the auxiliary services in the naval shipyards to take care of the crew, the hospitalization, the commissaries, the ships service stores, the recreation, places to take care of their dependents, housing, and the like. A private shipyard could not afford these things. This philosophy has been carried out since the country began.

Under the Ford concept, taking into consideration that the naval shipyards have suffered the same calamity as the private yards, to wit, that there has not been much private construction over the years, the Navy has suspended the Vinson-Trammell Act. Last year the Navy yards did something like 18 percent of the new construction, the private yards about 81 percent of the new construction. Why? Because the private yards needed it. Under the Ford concept, giving the private yards 35 percent of the conversion, this can mean that with 89 percent of the work they get over 65 percent of the money.

Then what happens? Every Navy yard today could be closed under the McNamara concept supported by Arthur Andersen & Co. as being too expensive. The McNamara concept is based entirely on efficiency. Under the Ford concept every Navy yard is expendable, because it does not take into effect its capacity to service the fleet. They could not cover the cost because they do not have enough to get any. Before the Ford concept the Navy had this work where we had 50–50. We recognized the fact they had to have private yards, and they are doing it with the Electric Boat Co., the Bath Iron Works, and Newport News. These companies are great and needed. But we should not destroy the Navy shipyards and destroy our capacity to give service to the fleet under the pretext of keeping private shipyards going. This can be done with the work on ships of a smaller category.

We want to get this thing straightened out and get back on a sensible basis, upon which we have operated over the years, and keep the capacity to give service to the fleet and at the same time retain our shipbuilding industry. We do not owe it to the private shipyard building industry that the Navy alone should provide for the shipbuilding industry. What about the Maritime Commission? We should have a shipbuilding provision there. But the Ford concept is the final consideration which will destroy in your lifetime the naval shipyards of this country, because they cannot stand the comparison with the private yards.

The state of the art will be destroyed and the will of the Congress to keep this capacity for the service of the fleet and the naval shipyards will be lost and will be lost forever. That is what my amendment does.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. Of course, I yield to the gentleman.

Mr. FORD. I hardly think this proviso has caused the destruction in the past or will in the future cause the destruction of the naval shipyards. Let me just quote you a few figures.

Mr. RIVERS of South Carolina. You quoted me some figures last year.

Mr. FORD. I am certain that the figures would prove that the Navy shipyards have not had to fade away. In 1965 by this bill we say that the Navy shipyards will have for repair, alterations, and conversion $411,820,000 and that the private yards shall have only $221,750,000. In other words, the Navy shipyards get $411 million and the private yards get $221 million.

Mr. RIVERS of South Carolina. What do the poor private yards get on new construction? Let us follow the dog and the bone at the same time.

Mr. FORD. The Vinson-Trammell Act covers that.

Mr. RIVERS of South Carolina. Will the gentleman please answer my question? It is under the budget. Last year the gentleman and I had a little colloquy. Do you remember that?

Mr. FORD. I surely do.

Mr. RIVERS of South Carolina. Well, you should remember it.

Mr. FORD. And I have been looking forward to it again this year.

Mr. RIVERS of South Carolina. I always look forward to an engagement on an equal basis—something that you have not given the Navy.

Mr. FORD. I have given the Navy a 2 to 1 advantage.

Mr. RIVERS of South Carolina. When they walk into your committee, the fear of God falls upon them.

Mr. FORD. I did not know that 12 elected Members of the House of Representatives could put the fear of God in all this brass that we have over in the Navy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIVERS of South Carolina. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. RIVERS of South Carolina. I will say this to the gentleman. I would not take a million dollars for this confrontation. I asked permission to testify before the gentleman's committee. But let me tell you this. Let me say this to the gentleman. At my Navy yard at Charleston, S.C., they have gone on a one-way ticket. But we have had other work to help them—and not in naval shipyard construction—and the gentleman knows it, as a result of this. Now look at your figures for the entire Navy budget. Out of the budget you have in this bill, the Navy gets 35 percent of the total budget.

Mr. FORD. May I quote the figures for the Charleston Navy Yard according to a document prepared by the Navy? According to this document prepared by the Navy for the fiscal year 1962, Charleston Navy Yard had 7,369 employees. In 1963, according to the Navy figures, they had 7,336.

Mr. RIVERS of South Carolina. This has nothing to do with the Navy shipyard.

Mr. FORD. In 1964 they had 7,278 employees. They have gone down less than 100 in a period of 3 years. That is a terrible drop.

Mr. RIVERS of South Carolina. Listen; I know something about the Charleston Navy Yard.

Mr. FORD. I am sure you do. These figures are the figures that the Navy has supplied.

Mr. RIVERS of South Carolina. I am talking about the Navy shipyards. We have six commands there. This has nothing to do with the repairs in private yards and the personnel in my Navy yard dropped by about 30 percent. In Philadelphia they are hanging on the brink. You would be surprised at what is happening in New York, Philadelphia, and Boston as a result of this. Let me tell you this. In this bill you are giving the private yards 81 percent of your budget on new construction. Now do you deny that?

Mr. FORD. I do deny it. Yes, I do deny it.

Mr. RIVERS of South Carolina. And that is on new construction.

Mr. FORD. This bill allocates 65 percent of repair, alteration, and conversion funds to the Navy shipyards and only 35 percent to private yards. There is no allocation of original construction—not 1 penny is allocated.

Mr. RIVERS of South Carolina. Let me tell the gentleman this: This bill will give 81 percent of the new construction to the private yards.

Mr. FORD. In this bill there is not 1 penny to be allocated to the private yards under the new ship construction. If the gentleman can find the provision in the bill, I will be glad to recognize it.

Mr. RIVERS of South Carolina. Let us not get excited.

Mr. FORD. I am not excited.

Mr. RIVERS of South Carolina. You are just destroying the naval shipyards; that is all you are doing.

They are getting $1,379 million for the private yards, and $321 million for the public yards. That is new construction, out of the $1.7 billion.

On the repair and conversion, out of the total of $924 million in 1963, $598 million went to the Navy yards and $326 million went to the private yards. Let me say something else to the gentleman.

Mr. FORD. May I ask the gentleman a question first? Will the gentleman show me in the bill where there is any mandatory allocation of dollars for new ship construction?

Mr. RIVERS of South Carolina. I will show the gentleman this——

Mr. FORD. I asked a simple question. If there is any language in the bill that allocates new funds for private yards for new construction in Navy shipbuilding I would be glad to see it.

Mr. RIVERS of South Carolina. I am telling you what they are getting out of the budget.

Mr. HARDY. Mr. Chairman, will the gentleman yield to me on that point?

Mr. RIVERS of South Carolina. Let me answer the point. I will answer it. I am perfectly capable of doing so.

What has been put in for repair and conversion, in addition to what is allocated, are the figures I have given, and they are not being changed.

Will the gentleman answer a question for me? Would the gentleman be willing to put the new construction in the private and Navy shipyards on a 50–50 basis across the board?

Mr. FORD. Under the Vinson-Trammell Act the President himself has that authority.

Mr. RIVERS of South Carolina. I ask the gentleman if he would be willing to do that, under this bill.

Mr. FORD. The President has that authority, under the present law.

Mr. RIVERS of South Carolina. Would the gentleman be willing to put it in for the new construction, in the same way, on the figures?

Mr. FORD. I would not want to change anything——

Mr. RIVERS of South Carolina. Of course the gentleman would not want it changed.

Mr. FORD. In this bill.

Mr. RIVERS of South Carolina. What the gentleman wants is fair advantage and that he has.

Mr. FORD. I do not have a shipyard in my district.

Mr. RIVERS of South Carolina. There are many, all over the country. The gentleman does not want to destroy them.

I do not say that the gentleman has consciously tried to destroy the Navy yards, but if he had tried he could not have done a better job.

Mr. FORD. Let me respond to that, if I may. I have before me a forecast for the Navy shipyard employment.

Mr. RIVERS of South Carolina. A 10,000 decrease this year.

Mr. FORD. If the gentleman will permit me to respond, I will read from a Navy document. The Navy shipyard employees in the next fiscal year will be somewhere between 85,846 and 91,859. That is a sizable work force.

Mr. RIVERS of South Carolina. What will that be after they cut off 10,000?

Mr. FORD. These are the figures for 1965.

Mr. RIVERS of South Carolina. I have additional witnesses I am going to parade before this rostrum, to substantiate this situation, much more eloquently.

Mr. BATES. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman from Massachusetts.

Mr. BATES. Will the gentleman yield for a favorable comment?

Mr. RIVERS of South Carolina. That is what I need right now.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. BATES. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 10 additional minutes.

Mr. RIVERS of South Carolina. I will need only 1 or 2 minutes.

Mr. BATES. I change the request to 5 minutes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BATES. Mr. Chairman, I wish to congratulate the gentleman from South Carolina. The amendment that we put in last year's bill and the amendment which is contemplated for this bill has created more redtape than has been witnessed since Parkinson's Law.

Mr. RIVERS of South Carolina. Certainly it has. I am against Parkinson, too.

Mr. BATES. Mr. Chairman, I have a second point.

The Committee on Armed Services has passed all kinds of legislation to try to improve the morale of the Armed Forces. We have provided for building homes for the servicemen. We believe that the bill will deny the opportunity of a naval vessel to visit at its own home yard and home port, where the families of the individuals reside.

Mr. RIVERS of South Carolina. We have spending millions and hundreds of millions of dollars for housing for these servicemen. We cannot do this and have efficiency.

Mr. BATES. From the point of view of the private yards, as the gentleman has well said, instead of getting 50 percent of new construction, as contemplated by the Vinson-Trammell Act, they are getting 80 to 89 percent.

Mr. RIVERS of South Carolina. That is correct.

Mr. BATES. The trouble is not the allocation; the trouble is we do not have enough ships being built or being repaired. That is the problem, and everyone tries to get a part of the small pie. That is really the problem.

Mr. HARDY. Mr. Chairman, will the gentleman yield to me for an observation in connection with the reservation by the gentleman from Michigan?

Mr. RIVERS of South Carolina. I yield to the gentleman.

Mr. HARDY. He wanted to know whether the bill had any restriction in here with respect to the amount of new construction to go to Navy yards. Of course, it does not. The only thing we want is to put the same thing in with respect to conversions and repairs and treat them all alike and then let the Navy make the distribution as its best judgment indicates.

Mr. FORD. Mr. Chairman, will the gentleman yield? Will the gentleman agree to a 50–50 split in repairs and alterations?

Mr. HARDY. If we had a 50–50 split on new construction, we could do it.

Mr. FORD. You could have it if the President will dictate it.

Mr. RIVERS of South Carolina. This is a classic example of what happens when the Committee on Appropriations gets into the legislative field. The legislative field is our domain and the Committee on Appropriations has no business in it. With all deference to them, this thing slipped up on the Committee on Appropriations. They did not realize what was being done to this country. I am sure if you realized it, you would not have done it. You had no reason to change new construction. You have 81 percent now. You would be silly if you put this in.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman from California.

Mr. HOSMER. I am in total support of the gentleman's amendment for all of the reasons he has given and many of my own.

Mr. Speaker, I rise in support of the amendment. The cost of maintaining a naval vessel is the sum of the ship costs and the crew costs.

Savings on ship costs which increase crew costs by a greater sum result in a net loss to the Government.

Today's Navy is a married man's navy—75 percent of its 72,000 officers and 39 percent of its 581,000 enlisted men are married. Naval wives and children number approximately 750,000.

Today's peacetime Navy keeps much of its fleet deployed overseas for protracted periods, averaging 7 months, during which naval families are necessarily separated.

Even when back in the States, ships often are away from the home port where families reside and children are in school—approximately 7 of each 10 ship repairs presently are carried on away from home ports.

Maximizing stateside time in home port obviously will make Navy life more attractive and encourage reenlistment. The cost of replacing a man who fails to reenlist is $7,000.

In the context of the foregoing, it is meaningful to look at reenlistment rates in relation to ship repair costs in private yards away from home ports.

Arthur Andersen & Co.'s report on 247 selected ship repairs over a 3-year period showed a hypothetical $437,703 savings to the Department of Defense from utilization of private shipyards in preference to naval shipyards.

Assume these ships averaged 100 enlisted crewmen, a total of 24,700 3-year enlistment men. The Navy's average overall 36.2-percent reenlistment rate for fiscal year 1964 should bring a total of 8,941 enlistments from this group.

Yet, during this same statistical period, for the 78 ships home ported at San Diego and Long Beach, which are frequently sent elsewhere for repairs and spend only from 10 percent to 15 percent of their time in home port, the average reenlistment rate was only 21.7 percent—or just 5,360 reenlistments for the group. This is 3,581 short of the overall Navy norm.

The cost for replacement of these 3,581 who failed to reenlist at $7,000 each, totals $25,067,000, not even considering the additional cost of training them in many special skills such as engineering, electronics, and so forth, which runs to more millions of dollars.

If, under this hypothesis, keeping ships at home in naval complexes for repairs at naval shipyards would have reunited families sufficiently to encourage only 63 more reenlistments, out of the group of 24,700 enlisted men, the saving indicated by the Andersen report from dispersing ships away from home port for private shipyard repair would be wiped out entirely.

If home yard repairs at naval shipyards boosted reenlistments to the overall Navy average, the net saving to the Department of Defense would amount to $24½ million.

The spillover effect of ship repair policies here noted is far too large to be ignored when making Department of Defense decisions on cost effectiveness of public and private shipyards as they relate to ships in commission with crews aboard.

This factor also must be considered by Congress in its decisions stipulating a legal requirement for contracting 35 percent of ship repair, alteration, and conversion to private shipyards.

I therefore urge that the Rivers amendment be accepted and this arbitrary requirement be eliminated and that the Navy not only be permitted the flexibility it needs in assigning ships to yards to achieve minimum costs when both ship costs and crew costs are taken into account, but that the Navy be directed in the operation of its ships, to maximize time in home port in order that the staggering costs of replacing crewmen who fail to reenlist may be reduced drastically.

Mr. RIVERS of South Carolina. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, my very distinguished and versatile friend from South Carolina should be congratulated and I congratulate him on this the 400th anniversary of the birth of Shakespeare for so eloquently quoting the bard. He does as usual a very good job. He is a fine man, and I love him for his talents. However, I do not agree with him in this particular case. I think the gentleman from Massachusetts [Mr. BATES] hit the nail on the head. There is not enough ship construction in this country, so everyone is scrambling for the crumbs that are left. May I point out to you that the private yards in time of war performed a great and indispensable service for the country. Are you going to lose the know-how now in these yards? This is the thing that disturbs me. I have three small shipyards in my district, none of which are capable of building ships because none of them have shipways. They do a very great service in repair and maintenance of ships. They are on their way out if the language of the bill is stricken.

Now, do you mean to tell me in time of war you do not need this type of yard? That you do not need the knowledge that the shipyard workers have and the competence of leaders and managers? Certainly you do.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. In just a minute.

Mr. RIVERS of South Carolina. You are talking to me.

Mr. MILLER of California. I complimented you. I did not do anything else. However, I will be very happy to yield to the gentleman who so eloquently quotes the poet, if he wants me to.

I served on the House Committee on Merchant Marine and Fisheries for about 8 years, and I know something of this problem. I served on the Committee on Armed Services under the distinguished leadership of the gentleman from Georgia [Mr. VINSON], and I think I know some of the problems there. Of course there is a grab for the limited amount of work now provided for.

I would like to see more shipbuilding, not less. We have lost the initiative in our merchant marine. The British have taken it away from us in the Pacific. They have four boats of over 32,000 tons. We do not have one of them. The *America* is obsolescent. If you wanted to replace the *United States* you would have to start now. Yet these ships are just as much a part of our defense as are battleships or carriers. In every war that we have gotten into we were delayed until we could build up ships to do the logistics work.

Now you are going to pull out from the private yards, and lose the experience that they have, of know-how to build ships and start all over again.

Mr. Chairman, I think the gentleman's amendment should be defeated.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, as I understand the position of the gentleman from California, he is opposed to the amendment. He believes that 35 percent of this type of work should go to the private yards and 65 percent to the public yards. He does not support the amendment which has been offered by the gentleman from South Carolina?

Mr. MILLER of California. That is correct.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. Mr. Chairman, the gentleman wants to have 81 percent of the Navy's new construction allocated as it is so that the Navy will wind up with 35 percent of the budget. It jeopardizes the naval shipyards in the San Francisco area. Is this the gentleman's position?

Mr. MILLER of California. It is not my position.

Mr. RIVERS of South Carolina. This is exactly what is happening.

Mr. MILLER of California. This is not what is happening.

Mr. RIVERS of South Carolina. If this is not the gentleman's position then I do not understand what the gentleman has said, because he is going to lose a shipyard in his area if he does not watch out.

Mr. MILLER of California. Is that a threat of the gentleman?

Mr. RIVERS of South Carolina. It is no threat. I am just telling the gentleman the facts of life. I just read in the morning paper that a naval shipyard in the San Francisco area would close and I should think the gentleman would resist that. The gentleman cannot have his cake and eat it, too.

Mr. MILLER of California. We are talking about repair and maintenance.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. VINSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not know whether I can add anything to this debate but I rise to support wholeheartedly the amendment offered by the distinguished gentleman from South Carolina [Mr. RIVERS].

About 3 years ago, when the appropriation bill was before the committee, this same question was raised. I opposed it at that time. I thought it was wrong. I think it has been very destructive to a healthy condition in the Navy yards since it has been on the statute books.

As a matter of fact, when this amendment was first put in the appropriation bill it was considered during the markup of the bill. No hearings were ever had on it when it was first written into the bill. The distinguished gentleman from Michigan offered the amendment and it was accepted. When it came in the bill and was brought to the floor of the House I was very much opposed to it because I felt it would have a very unwholesome effect on the Navy yards.

Now, how is the business being run? Under a law that was passed some 35 years ago, that carries my name and that of the chairman of the Naval Affairs Committee of the other body, Senator Trammell of Florida, we had a fair and equitable law, that in ship construction approximately 50 percent would go to the private yards and 50 percent to the Navy yards.

Mr. Chairman, I have been intensely interested in the building up of private yards throughout the United States. As a matter of fact, I am the one who offered an amendment to grant a guarantee of the allocation of 7 percent to build up the shipbuilding industry back on the west coast. I did this because I felt we must have a healthy shipbuilding program throughout the length and breadth of the United States.

Mr. Chairman, the Department of the Navy under the authority of the Vinson-Trammell Act was allocating it, bearing in mind the capacity of the Navy yards and the desire of private industry to get into shipbuilding.

Mr. Chairman, it is absolutely essential for the defense of this country to have private yards and Navy yards. That formula continued until the gentleman from Michigan [Mr. FORD] offered his amendment. Since that time the Department of the Navy has been giving far more than it ever was contemplated in new construction to the industrial yards.

Mr. FORD. Mr. Chairman, will the gentleman from Georgia yield?

Mr. VINSON. With pleasure.

**Mr. FORD.** I vividly recall the colloquy that the distinguished gentleman from Georgia and I had 2 years ago when this matter first came up. At the time the discussion took place on the House floor in 1962 there was an arbitrary allocation of 35–65, 65 to the public yards and 35 to the private yards.

The gentleman from Georgia made a very eloquent plea at that time, saying that this was too rigid, too inflexible a provision.

**Mr. VINSON.** It is.

**Mr. FORD.** The gentleman said when he drafted the Vinson-Trammell Act that he had an escape clause included.

**Mr. VINSON.** That is right.

**Mr. FORD.** Under the rules of the House we could not put such a proviso in the bill at that time. However, when the bill went to the other body, under their rules they added an escape clause and in conference we agreed with them. However, in the last 2 years we have had an escape clause. I approved of that provision and I hope no one will knock it out of the bill that is on the floor for consideration today. We provided in sections 539 and 540 exactly what the gentleman from Georgia wanted.

**Mr. VINSON.** Here is what I tried to point out to the gentleman 2 or 3 years ago. The gentleman's philosophy is wrong. The discretion should be in the Department of the Navy. It should be vested where we placed it in the Vinson-Trammell Act. In other words, if the Navy yards have more repair than the facts and circumstances warrant, it should be given to the industrial yards. If industrial yards have more work than they should have, without hurting the Navy yards, it should go to the Navy yards. But here is what you have. You have a firm rule. You say $411 million is the total amount that can be spent in a Navy yard and $211 million for repair in the industrial yards. Now, the gentleman is wrong on both ends of it. What is going to be the result? Here is what is going to be the result. I ask the members of the committee to listen to this. I do not have a single Navy yard in my State. However, here is what is going to happen. Before this calendar year is out you will probably see at least three big Navy yards closed up. Where are they going to be? They are going to be in New York, they are going to be in Philadelphia, and they are going to be in Boston.

**Mr. BURKE.** Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

**Mr. BURKE.** Mr. Chairman, in my opinion there is nothing to justify the closing of the Boston Naval Shipyard. The defeat or passage of the suggested amendment should have no bearing whatsoever on what happens to the Boston Navy Shipyard. I am shocked to hear that any substance or credit should be given to this suggestion. The entire New England delegation will oppose any action by the Defense Department to close this yard.

**Mr. GARMATZ.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I propose that the Congress once again approve the 65–35 proposition for the distribution of alteration, conversion, and repair work between the naval and private shipyards for the following reasons:

During the Cuban crisis, the effectiveness of the naval fleet was unmarred by a 65–35 percent distribution of repair, alteration, and conversion work between the naval and private yards. And, there is considerable expert opinion to demonstrate that a greater percentage of awards to the private shipyard industry has resulted in greater monetary savings to the Government.

Two independent studies by reputable accounting firms—Ernst & Ernst and Arthur Andersen & Co.—have confirmed that costs to the Government are much higher in the naval shipyards than in the commercial yards. Both of these studies present conclusive proof that this differential ranges from 8 to 32 percent depending on the type of work involved.

Reliable estimates show that better than $1 billion tax dollars have been needlessly spent—and lost—in the last decade by utilizing the Government yards rather than the private yards.

The still prevalent obsolescence problem with respect to the naval fleet, whether functional or numerical, dictates the continuing need for economies wherever possible and provides further incentives for greater use of private shipyards—where the Navy dollar buys far more work.

The Secretary of Defense, in a press conference at the Pentagon on December 12, 1963, said "I think it is quite clear, that we have excess capacity in our naval shipyard system today." When asked if he believed there might be too many naval shipyards, Secretary McNamara said: "I do."

The action of the President of the United States in requesting a continuation of the 65–35 rule through the inclusion of this item in the budget for fiscal year 1965, indicates a considerable body of option within the administration favorable to this ratio.

The Congress of the United States, despite strenuous complaints from naval shipyard supporters, has seen fit to approve the 65–35 formula on two previous occasions—in connection with fiscal year 1963 and fiscal year 1964 appropriations.

I hope that my colleagues will recognize that this ratio of distribution is in the public interest, and that it has served to strengthen both our national defense posture and the national economy.

**Mrs. GREEN of Oregon.** Mr. Chairman, will the gentleman yield?

**Mr. GARMATZ.** I yield to the gentlewoman from Oregon.

**Mrs. GREEN of Oregon.** Is it not true that the Anderson study was made for the Navy itself?

**Mr. GARMATZ.** That is correct.

**Mrs. GREEN of Oregon.** Is it true it did show that the average costs were considerably larger in the Navy yards than in the private yards?

**Mr. GARMATZ.** Yes. There was a differential of between 8 and 30 percent.

**Mrs. GREEN of Oregon.** Is it not true there was no official opposition to the 35–65 arrangement by the Navy Department itself or by the Defense Department?

**Mr. GARMATZ.** That is correct.

**Mrs. GREEN of Oregon.** Is it not true the White House included the 35–65 in the bill for next year?

**Mr. GARMATZ.** Yes.

**Mrs. GREEN of Oregon.** Is it not true the Secretary of Defense approves of the 35–65 as long as the escape clause is in the bill, and it is in this bill?

**Mr. GARMATZ.** That is correct.

**Mrs. GREEN of Oregon.** I do not understand the claims that are made that if the 35–65 stays in the bill we are going to destroy the Navy yard.

**Mr. GARMATZ.** Yes.

**Mrs. GREEN of Oregon.** It is very seldom I join the gentleman from Michigan on the floor, but in this connection I admire the Ford mentality and Ford philosophy. If we adopt the Rivers philosophy the private yards will be the ones that will be destroyed.

**Mr. GARMATZ.** Yes. I thank the gentlewoman for her comments.

**Mr. ROONEY of New York.** Mr. Chairman, will the distinguished gentleman yield?

**Mr. GARMATZ.** I yield to the gentleman from New York.

**Mr. ROONEY of New York.** I should like to make an observation, if I may. If I had been the gentleman from Maryland now in the well of the House, to each of the questions propounded by the distinguished gentlewoman from Oregon [Mrs. GREEN] to which he gave "Yes" or "Correct" answers, had I been in the well, my answers would have been "No." The Anderson survey referred to never has been proven to be correct. But it has been used by the Navy as justification for unfairly laying off navy yard employees since the survey was made. Further, that Andersen survey had nothing at all to do with reconversions, repairs, or alterations, to which sections 339 and 540 of the pending bill apply.

**Mr. GARMATZ.** This was made by the Navy, and I do not know of anyone else who could make it any better.

Mr. Chairman, I ask unanimous consent that the gentleman from Maryland [Mr. SICKLES] may extend his remarks at this point in the RECORD.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Maryland?

There was no objection.

**Mr. SICKLES.** Mr. Chairman, one of the most important provisions in the appropriations bill we are considering today stipulates that "of the funds made available in this act for repair, alteration, and conversion of naval vessels, at least 35 percent shall be available for such repair, alteration, and conversion in privately owned shipyards." This is a desirable provision which I fully support. Although recent studies indicate considerable savings in private yards, I do not intend to rehash the arguments of whether costs are lower in the private shipyards or in Government shipyards. It seems to me that we have a basic responsibility to channel a fair proportion of our shipbuilding and repair work to the private yards so that they can operate at a level which will enable them to expand production should our national defense posture require this expansion.

At the present time, however, the direction of the cold war seems to indicate that there will be a reduction in our military spending. This reduction will of course be felt in both the Government owned and privately owned shipyards. If the reduced defense expenditures are to be divided among both our private and Government shipyards, the current 65–35 ratio, it may necessary to curtail production in the least efficient of the Navy yards. At the same time, it is my hope that the Government will take steps to expand and modernize our civilian merchant marine and that this work will keep our private shipbuilding yards operating at a desirable level.

We cannot afford to let our merchant fleet fall behind that of other nations nor find ourselves in a position at some future point in time of being unable to expand our military shipbuilding quickly for national defense purposes.

Mr. GARMATZ. Mr. Chairman, I ask unanimous consent that the gentleman from Maryland [Mr. FALLON] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. FALLON. Mr. Chairman, at the turn of the 19th century—in 1799 to be exact—the Federal Government authorized the establishment of the first naval shipyard to be financed and maintained with taxpayers' funds. Though the rationale of that early policy is obscure, presumably it stemmed from the absence of commercial facilities to repair and service vessels of the U.S. Navy. But, from those obscure beginnings, the naval shipyard complex—composed of 11 shipyards and one ship repair facility—has proliferated to the point that the Navy points with pride to this Government-owned and operated activity as an industrial giant. Only four of America's biggest defense industrial companies have assets larger than the Navy's shipyards: General Motors, Ford, United States Steel, and du Pont. These Government-owned industrial-type assets are, in fact, many times greater than—and duplicate—those of the entire private shipyard industry combined—an oddity indeed in our private enterprise society.

Of equal eccentricity are these additional facts: The size of the United States naval shipyard complex is equal to, or greater than, the whole state-owned shipyard activity in all of Communist Russia; independent studies by two leading public accounting firms have demonstrated that costs in the naval shipyards range from 8 to 32 percent higher than in private shipyards; wages and fringe benefits are also greater in the Navy yards; the Government shipyards employ roughly twice as many people as the private shipyards, in total, have engaged on naval shipwork; and though the naval fleet has decreased from 10,000 to 860 vessels since World War II, there has in the same period been no diminution in the tax-supported naval shipyard complex—the same 11 shipyards and one ship repair facility have expanded and continued to operate at fairly stable work levels—at taxpayers' expense. Meanwhile, more than 20 privately owned tax-producing shipyards have been forced out of business in the last 15 years, and idle capacity has always been available in the remaining commercial facilities.

Obviously, there are good and sound reasons for support of a continuation of the 65–35 rule.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEGGETT. Mr. Chairman, for the third successive year this Congress is called upon in appropriating funds for naval procurement to determine whether a provision should be included with respect to naval ship repairs and conversions only, which would guarantee 35 percent of this business to private shipyards.

Your reasoning and findings to approve the limitation in past years will not be valid and binding as precedent for the fiscal year 1965. There are a number of reasons for the change in circumstances which I would ask you to consider.

As you recall, last year I presented this House an elaborate brief of information which set forth a number of facts which I will not repeat here in detail. In my Fourth Congressional District of California there is located the Mare Island Naval Shipyard. This yard, once the prime manager of our naval defenses on the central west coast during World War II with 45,000 civilian employees, maintained 10,600 employees at the time of the hearing last year. As a result, partly because of this House's action, this yard's personnel over the last year has shrunk to 9,701. Certainly if the naval budget is shrinking so also should personnel numbers; however, the last five naval budgets have been the largest in our history.

Many Members have stated annually on the House floor that this 35–65 provision would not affect the Navy civil service complement. The falsity of these representations is manifested month by month as naval shipyard attrition is affected.

You might ask yourselves the question, "What does it profit the United States to terminate the employment of a loyal 20-year veteran shipyard civil servant on the chance that a private shipyard in another part of the country will offer some other inexperienced employee lesser nonunion wages to produce a product of admitted lesser quality?

This is one of the questions we frankly ask on the west coast.

Last year public shipyard employment stood at 97,800. This year total employment stands at 88,731 and there are those who would attempt to cut this figure in half notwithstanding the claim that they are supporting the Navy and our national defense.

The suggestion has been made that four of our naval shipyards are surplus, notwithstanding the fact that we will spend next year better than $2 billion, the fifth largest naval ship procurement budget in our history.

This House, the Navy Department, and the Department of Defense have supported this budget item in past years; however, I wish to point out the material changes prevalent for fiscal 1965. The repair, alteration, and conversion budget has steadily increased since 1960. I have prepared the following table showing the historical division of naval work between public and private yards, as the same has been affected by the 35–65 doctrine.

*Apportionment of Navy shipwork, 1953–64*

[Dollar amounts in millions]

| Fiscal | Repair, alteration, and conversion | | | | New construction | | | | Gross construction—Repair, alteration, and conversion | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Navy | | Private yards | | Navy | | Private yards | | Navy | | Private yards | |
| | Amount | Percent | Amount | Percent | Amount | Percent | Amount | Percent | Amount | Percent | Amount | Percent |
| 1953 | $434 | 93.0 | $33 | 7.0 | $256 | 45 | $303 | 55 | $690 | 67 | $336 | 33 |
| 1954 | 279 | 83.0 | 56 | 17.0 | 0 | 0 | 427 | 100 | 279 | 36 | 483 | 64 |
| 1955 | 404 | 84.0 | 76 | 16.0 | 320 | 43 | 415 | 57 | 724 | 59 | 491 | 41 |
| 1956 | 419 | 85.0 | 88 | 15.0 | 388 | 31 | 861 | 69 | 907 | 49 | 949 | 51 |
| 1957 | 684 | 72.0 | 259 | 28.0 | 550 | 35 | 1,010 | 65 | 1,234 | 49 | 1,269 | 51 |
| 1958 | 523 | 88.0 | 68 | 12.0 | 303 | 20 | 1,282 | 80 | 826 | 40 | 1,235 | 60 |
| 1959 | 612 | 86.0 | 96 | 14.0 | 474 | 25 | 1,376 | 75 | 1,086 | 42 | 1,472 | 58 |
| 1960 | 444 | 85.0 | 75 | 15.0 | 86 | 15 | 430 | 85 | 530 | 51 | 505 | 49 |
| 1961 | 489 | 86.0 | 80 | 14.0 | 484 | 33 | 1,489 | 67 | 973 | 38 | 1,569 | 62 |
| 1962 | 600 | 78.0 | 166 | 22.0 | 772 | 32 | 1,621 | 68 | 1,372 | 42 | 1,787 | 58 |
| 1963 | 599 | 64.6 | 327 | 35.4 | 274 | 13 | 1,888 | 87 | 873 | 29 | 2,215 | 71 |
| 1964 | 625 | 65.0 | 335 | 35.0 | 309 | 18 | 1,413 | 82 | 934 | 35 | 1,748 | 65 |
| 1965 [1] | 412 | 65.0 | 221 | 35.0 | 377 | 20 | 1,509 | 80 | 789 | 31 | 1,730 | 69 |

[1] Estimate.

It is obvious that repairs and conversions in naval yards have been on a steady increase for a number of years in spite of the arbitrary doctrine, with the exception of projected fiscal 1965. In the latter fiscal year you will observe the naval share of repairs is diminished by $213 million over 1964. The repair limitation will, therefore, wreak havoc in public yards next year. The ironic and inequitable correlative consideration is that while the naval share of repairs will diminish by 33⅓ percent, private yards will probably realize nearly $100 million of additional new construction over 1965.

The net composite result is shown where private yards will maintain a steady workload into 1965, while public yards suffer a net reduction of about $150 million.

To clarify this situation I have had the Library of Congress prepare a chart which shows: First, the steady increase in our total naval ship repair and construction budget over the past 10 years, second, the gigantic participation of the private yards in this increase and, thirdly the steady decline in both personnel and budget in naval shipyards.

At this point in the RECORD I would like to record the actual personnel reductions effected at each naval shipyard in the country over the past 2 years.

| | July 31, 1962 | June 30, 1963 | On board—All naval shipyards | |
|---|---|---|---|---|
| | | | March 31, 1964 | Projected June 30, 1964 |
| Portsmouth | 9,549 | 8,933 | 8,563 | 7,900- 8,400 |
| Boston | 8,959 | 8,429 | 8,239 | 7,600- 8,100 |
| New York | 12,449 | 12,094 | 10,593 | 10,300-10,800 |
| Philadelphia | 9,555 | 9,293 | 8,708 | 7,900- 8,400 |
| Norfolk | 10,628 | 10,214 | 10,036 | 9,400- 9,900 |
| Charleston | 7,380 | 7,192 | 6,008 | 5,600- 6,100 |
| Long Beach | 6,722 | 6,362 | 6,118 | 4,900- 5,400 |
| San Francisco | 7,527 | 7,178 | 6,592 | 6,400- 6,900 |
| Mare Island | 10,857 | 10,291 | 9,656 | 9,400- 9,900 |
| Puget Sound | 9,745 | 9,184 | 8,908 | 8,800- 9,300 |
| Pearl Harbor | 4,919 | 4,793 | 4,889 | 4,500- 5,000 |
| Total | 98,290 | 93,963 | 88,310 | [1] 85,000 |

[1] Estimated.

The 35–65 provision became effective August 9, 1962.

Is it reasonable to press for another 10,000-man reduction at this time?

With these factors in mind and with some persons alluding to excess public yard capability, it does not appear to me to be realistic that the Navy Department should sit idly by and merely repeat the Department of Defense in the current budget hearings "that the enactment of the '65–35 doctrine' will have no substantial detrimental effect on the Navy in 1965."

I am pleased to note that the Navy is reviewing this matter very closely at the present time. I would like to incorporate a letter I received a few weeks ago from the Secretary of the Navy Paul Nitze on this matter.

DEPARTMENT OF THE NAVY,
*Washington, D.C., March 27, 1964.*

The Honorable ROBERT L. LEGGETT,
*House of Representatives,*
*Washington, D.C.*

MY DEAR MR. LEGGETT: The Navy has carefully considered your letter of March 5, 1964, in which you commented upon the division of naval shipwork between naval and private shipyards since 1953 and urged that a major effort be made to eliminate section 539 from the proposed Department of Defense Appropriations Act, 1965. You pointed out that this section, requiring that at least 35 percent of the Navy's repair, alteration, and conversion work be made available to private yards, will have a particularly adverse effect upon naval shipyard operations during fiscal 1965.

The Navy does not question the accuracy of the statistics and reasoning in your letter. It is true that because of lower budget estimates for ship conversion, alteration, and repair work for fiscal 1965, as compared to fiscal 1964, the naval shipyards' portion of such work, in dollars, will diminish by about one-third. The private shipyards' portion of such work will also decrease, in dollars, by approximately the same percentage. With regard to new ship construction, fiscal 1965 budget estimates are higher than those of fiscal 1964. If it is decided to place the same percentage of new construction in private yards in fiscal 1965 as in fiscal 1964, these yards will receive a considerably larger volume of such work during the next fiscal year. The net result is that the volume of all types of naval shipwork in the private yards will remain substantially constant, while the overall naval shipyard workload will decline appreciably. It should be noted that dollar volume is not a direct reflection of shipyard manpower requirements because of the different funding and spending patterns in the work segments of repair, alteration, conversion, and new construction.

Firm decisions as to the division of naval ship construction for fiscal 1965 between naval and private shipyards will not, of course, be made until after enactment of the Department of Defense Appropriations Act, 1965, but your estimate of 80 percent to the private shipyards is reasonable. As you indicated, the division of warship construction between naval and private shipyards is governed by the Vinson-Trammell Act (48 Stat. 504). Of the 53 ships in the 1965 SCN budget, Vinson-Trammell will apply only to the 6 SS(N)s. As in the past, the Navy will recommend assignments of new construction work considered to be in the best interests of national defense.

The Navy is mindful of your keen interest in the outlook for the naval shipyards. In the event that the "35-percent proviso," or some similar provision, is enacted as part of the pending Department of Defense appropriations bill for fiscal 1965, the Navy must, of course, comply with such requirement.

Your thoughtful analysis, together with similar information recently presented to the Shipyards Policy Board which I chair, indicates the desirability for review of the 65–35 proviso in light of changing conditions. I intend to take this matter up with appropriate officials of the Department of Defense in the near future.

Sincerely yours,

PAUL H. NITZE.

If the doctrine is enacted and if navy yards receive only $789 million of naval work in 1965, the Navy will have experienced 1 of its 3 worst years in the past 10 years. Private yards, on the other hand, will be enjoying one of their four best years. It would seem that in the year that we are judging public yard excess capability, the Navy Department should have a relatively free hand in deploying its workload. As I recall, 35–65 was intended to equalize and equitabalize, not to hamstring and destroy the Navy Department.

From the preceding discussion it is obvious that if the newly created unnatural apportionment of work is enforced on the Navy, that 1 year hence we will be dealing with a further attrition of Navy civilian personnel, I am advised only recently of multithousand proportions.

The following is a chart of shipyard employment levels over the past 10 years. The disastrous effect of the 35–65 provision is patent, but will only be fully realized in 1965.

*Bureau of Ships figures—Naval shipyard employees*

| | |
|---|---|
| Fiscal year: | |
| 1953 | 129,725 |
| 1954 | 113,721 |
| 1955 | 111,847 |
| 1956 | 105,058 |
| 1957 | 102,149 |
| 1958 | 98,087 |
| 1959 | 96,681 |
| 1960 | 95,821 |
| 1961 | 97,467 |
| 1962 (enactment, 35 to 65) | 98,589 |
| 1963 | 93,963 |
| March: | |
| 1964 (estimated) | 85,000 |
| 1965 (estimated) | 76,500 |

If this House chooses to act in disregard of the economies and the relative healths of private and public yards, then you also must assume responsibility for the consequences. The unemployment that will occur is clearly needless and I believe makes a farce of the retraining legislation that we have on the books. How does it help our economy to remove a highly trained, skilled mechanic from our defense effort in a shotgun attempt to bolster private enterprise.

If we want a balanced naval defense effort, let us let the Navy do the job without being handicapped by unreasonable policy limitations.

The House should be aware of the new competitiveness that is everywhere apparent in our naval shipbuilding effort. At the Mare Island Naval Shipyard in the last 3 years we have actually produced for fleet service more nuclear submarines than any other public or private yard in the country. We know in the West that costs can only escalate when ship completion dates are not met or accelerated. The last two Polaris submarines, the *Andrew Jackson* and *Woodrow Wilson* were, in fact, constructed each in 150,000 man-days less than other yards and delivered ahead of schedule. By purchase of public power from the Central Valley project this one shipyard saves on power better than $500,000 per year; under a new SMART—Shipyard Management and Review Technique—Bureau of Ships program this yard will save $1 million in the current fiscal year. We also have a cost-reduction program far more ambitious than the Defense Department which anticipates a $2 million saving in fiscal 1964.

I would like to say a few words about morale.

Private industry has an addage that you can always find someone to sell for a little less price and produce a product of a little less quality.

The principle here applies. Obviously a private plant without large berthing facilities, crews' quarters, or gate security that operates on leased premises, that can hire and fire at will, that gives no lipservice to the annual or many times even union wages, can bid a job cheaper pursuant to the Arthur Andersen report than can a naval shipyard.

This committee, however, should not be mesmerised by the figures which are produced. At the Mare Island Yard we have quarters and barracks for better than 5,000 personnel. Our dispensary treated 49,200 persons last year; our athletic program served 274,500 persons; our schools, exchanges, and religious facilities served thousands. Men like Mare Island—officers and enlisted personnel—they are proud to be part of this Navy team, even though they are away from home for extended periods and work for fractional civilian wages.

Private industry also states that "you never get something for nothing." How can you get young men to make a naval career operating $137 million submarines, when you treat them like statistics instead of humans. Colleague CRAIG HOSMER presented a wealth of material on this subject in the CONGRESSIONAL RECORD of January 22 last. Mr. HOSMER's figures indicated that the reenlistment rate for Navy personnel from ships seldom homeported dropped from the Navy average of 36.2 to 21.7 percent at an estimated loss to the Navy of $25,067,000. While the figures are perhaps debatable, the principles are not. Navy personnel, like anyone else, like to be around their families as much as possible. When families, frequently housed near or on naval shipyards, are ignored, then Navy personnel will ignore their naval careers.

In this respect Assistant Secretary of the Navy Kenneth BeLieu stated to my office his comments last year as follows:

> A naval base complex, of which the naval shipyard is part, generally has adequate messing, recreation and housing facilities for crews of ships coming in for overhaul or unscheduled emergency work. These facilities are, of course, highly important in maintaining the morale of ships' forces and in minimizing the impact upon the surrounding community. Moreover, crew members are conveniently available to receive training. Most private yards competing for naval ship repair and conversion work do not maintain facilities of this kind within the shipyard confines. Ships' forces often must be billeted in hotels or other accommodations far removed from the yard. In cases where the work is of such nature where the ships' forces may remain berthed on the ship, appropriate messing, recreational, medical and dental facilities are often not conveniently accessible. Private yards may be located in remote waterfront areas where transportation is difficult.
>
> It is true that the naval ships of today, especially nuclear powered ships, have far greater endurance and range than conventionally powered ships of World War II. In the interest of maintaining health and morale, the Navy tries to insure that shipboard personnel have the opportunity at regular intervals for stateside reunions with families and friends. As you know, families usually settle at or near the ship's home port or home yard in order that crew members may spend maximum time at home during regular overhauls. When overhaul of a ship is to be awarded competitively to a private yard, crew members do not know in advance where the ship will be assigned.
>
> In actual practice a ship may be overhauled at a considerable distance from the home port or home yard. This makes family reunions difficult and costly and lowers morale. To the extent that section 541 has increased the number of overhauls awarded to private yards, this situation has been aggravated.

Finally, on the subject of costs, this House should appreciate that there is generally an obligation on the part of the Government to expend tax dollars in the areas that generate the taxes. The very cheapest construction could be accomplished by utilizing exclusively one nonunion yard in a low-wage area, or better yet, we could build our warships cheapest in Japan.

This Congress, however, over a period of years, has enacted hundreds of bills which indicate an intention that public civil servants, who are deprived of the right to strike, the right to participate in Federal and State elections, should be adequately provided for.

I would like to include at this point in the RECORD a portion of a Civil Service Commission staff paper which indicates the adequacy provided by the Congress.

### STAFF PAPER ON MAJOR FEDERAL EMPLOYEE PROVISIONS

(Program Planning Division, Bureau of Programs and Standards, U.S. Civil Service Commission, May 1963)

### MAJOR FEDERAL EMPLOYEE PROVISIONS

This staff paper lists, in chart form, information on some of the major provisions granted to Federal employees as a condition of their employment. This paper lists those provisions which are available to nearly all Federal employees.

The Federal personnel system provides, in addition to the types of provisions covered by the charts, certain other rights and protections. The charts do not list those practices and features of the Federal personnel system which include such day-to-day provisions[1] as:

(a) General appointment, promotion, reassignment, transfer, and reemployment provisions.

(b) Guarantees against discrimination, political activity, etc.

(c) Protections given employees in adverse actions and grievance matters.

(d) Preference for specific groups such as veterans.

Because this paper is limited in detail as indicated above, it should be used only for general informational purposes rather than as a basic reference document.

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[1] Information on many of these day-to-day provisions can be found in a separate Program Planning Division document entitled "Staff Paper on the Roles of the U.S. Civil Service Commission and the Federal Agencies in Personnel Management Activities."

*Major Federal employees provisions*

| Title and description | Authority | Administered by— | Employee applicability | Remarks |
|---|---|---|---|---|
| RETIREMENT | | | | |
| Contributory retirement system providing (1) annuities based on age, service, and disability, and (2) survivorship annuities and death benefits. | Civil Service Retirement Act, as amended (5 U.S.C. 2251 et seq.). | Civil Service Commission | Over 90 percent of all Federal civilian employees. | There are several other retirement systems affecting comparatively small groups of civilian employees such as the TVA and the Foreign Service systems. In addition, old-age and survivor benefits under the Social Security Act are provided for most civilian employees not eligible for benefits under the various Government retirement systems. |
| GROUP LIFE INSURANCE | | | | |
| Low-cost life insurance; additional payment for accidental death; payment for accidental loss of eyesight or limbs—Government assumes part of cost—employee participation is optional. | Federal Employees Group Life Insurance Act of 1954, as amended (5 U.S.C. 2091 et seq.). | Civil Service Commission. (Claims are settled by the Office of Federal Employees' Group Life Insurance, which represents the private companies through which the insurance is obtained.) | All Federal civilian employees with a few exceptions are eligible (95 percent of eligibles elected coverage). | |
| EMPLOYEE COMPENSATION | | | | |
| Compensation to Federal employees injured in performance of duty: (1) medical services, (2) monthly payments for total or partial disability, (3) indemnity for loss or loss of use of a member or function of the body, and (4) death benefits. | Federal Employees Compensation Act, as amended (5 U.S.C. 751 et seq.). | Department of Labor, Bureau of Employees' Compensation with appeal to Employee's Compensation Board. | All civilian officers and employees of all branches of the Government of the United States, commissioned officers of the regular corps and reserve of the Public Health Service; and persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any agency thereof. | |

*Major Federal employees provisions*—Continued

| Title and description | Authority | Administered by— | Employee applicability | Remarks |
|---|---|---|---|---|
| INCENTIVE AWARDS | | | | |
| A Government-wide program for the purpose of improving Government operations and recognizing employees through the medium of incentive awards. | Government Employees' Incentive Awards Act (5 U.S.C. 2121 et seq.). | Civil Service Commission | Civilian employees of all executive agencies and certain other agencies (such as GPO, District of Columbia government, etc.) but excludes TVA. | Cash awards in fiscal year 1962 amounted to over $10,000,000. |
| UNIFORM ALLOWANCES | | | | |
| Uniforms or allowances therefor at a cost not to exceed $100 per annum to employees required by law or regulation to wear a prescribed uniform at work. Applies to such employees as letter carriers, guards, elevator operators, nurses, hospital attendants, etc. | Federal Uniform Allowance Act of 1954, as amended (5 U.S.C. 2131 et seq.). | Each department or agency receiving appropriations therefor under regulations of the Bureau of the Budget. | Employees of all agencies in the U.S. Government and District of Columbia government who are required by law or regulation to wear a prescribed uniform provided funds are appropriated on a showing of desirability or necessity. | Agency heads in their discretion may continue to furnish uniforms or allowance therefor from funds appropriated in accordance with previously existing laws or regulations. |
| UNEMPLOYMENT COMPENSATION | | | | |
| Benefits similar to those available to workers in private industry provided for Federal employees through the existing unemployment compensation system under conditions set by the States in which they work. | Social Security Act, as amended (42 U.S.C. 1361 et seq.). | Individual States under guidance of Department of Labor. | All Federal civilian employees with a few exceptions (for example, elective officers and certain Foreign Service personnel). | Foreign Service personnel excepted are those entitled to separation pay under the Foreign Service Act. |
| HEALTH SERVICES | | | | |
| Federal employee health service programs may provide 4 types of services:<br>(1) Treatments of on-the-job illness and dental conditions requiring emergency attention;<br>(2) Preemployment and other examinations;<br>(3) Referral of employees to private physicians and dentists; and<br>(4) Preventive programs relating to health.<br>These health services may be provided either by contract or by use of agency's own facilities. | The Federal Employees' Health Act, as amended (5 U.S.C. 3001 et seq.). | Heads of agencies. The U.S. Public Health Service consults with and advises agencies in the development of employee health service programs. | Employees of agencies, including Government owned and controlled corporations. | A special, separate health and medical program is established (under authority of Public Health Service Act, as amended) for commissioned officers of the Public Health Service and for civilian employees in the field service of the Public Health Service who are injured or become sick in line of duty. This program involves the use of Public Health Service hospitals and facilities. |
| HEALTH INSURANCE | | | | |
| Low cost health insurance under a variety of plans and options. | Federal Employees Health Benefits Act of 1959, as amended (5 U.S.C. 3001 et seq.). | By contract with private insurance companies CSC and GAO issues regulations and makes reports. | In 1962 about 90 percent of those eligible participated. | Medical care and treatment; hospital care; surgical benefits; other health services according to plan elected. Government pays part of costs. |
| TRAINING | | | | |
| Intra-agency, interagency and in non-Government institutions. | Government Employees Training Act of 1958 and Executive Order 10800 (5 U.S.C. 2301 et seq.). | Each department and agency. Civil Service Commission issues regulations on training. Bureau of Budget issues regulations on payments. | All employees unless specifically excepted by law. | A wide variety of seminars and courses of all kinds to improve employee performance. Training in non-Government institutions limited to 1 year in 10. |
| PAYMENT FOR TRAVEL EXPENSES | | | | |
| Payment or reimbursement for the cost of transportation and personal sustenance and comfort of an employee traveling on official business. | Travel Expense Act of 1949, as amended (5 U.S.C. 837). | Each agency in accordance with regulations prescribed by Bureau of the Budget. | All Federal employees. (Members of Congress and offices and committees of the Senate and House of Representatives are not covered by the Travel Expense Act of 1949.) | Appointees to positions certified as being shortage category occupations in certain geographical areas may have the cost of their travel and transportation to 1st post of duty reimbursed. |
| Reimbursement for travel by personally owned conveyance may be on an actual expense basis or on a mileage basis. In the latter instance, the rate per mile may not exceed 10 cents for automobiles and 6 cents for motorcycles. | | | | |
| A per diem allowance of not to exceed $16 may be authorized in lieu of subsistence expenses. (Higher per diem rates for travel outside the United States may be set by the Bureau of the Budget.) In unusual circumstances, reimbursement may be made for subsistence expenses up to $30 per day on an actual expense basis. | 5 U.S.C. 836 | | | |
| PAYMENT FOR TRAVEL EXPENSE INCURRED AS A RESULT OF TRANSFER | | | | |
| An employee transferred from 1 duty station to another in the interest of the Government is paid at prescribed rates for the expenses of travel of himself and his immediate family and the expenses of transportation, packing, crating, temporary storage, and unpacking of his household goods and personal effects. Also applies to new appointees accepting oversea assignment. | Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-1). | Each agency under regulations of the Bureau of the Budget (for certain oversea employees, the Secretary of State). | All Federal employees. (Members of Congress and offices and committees of the Senate and House of Representatives are not covered by the Administrative Expenses Act of 1946.) | |

*Major Federal employees provisions*—Continued

| Title and description | Authority | Administered by— | Employee applicability | Remarks |
|---|---|---|---|---|
| PAYMENT FOR SURETY BONDS | | | | |
| Costs of surety bonds for all civilian and military personnel who are required to be bonded are borne by the employing agency. | Act of Aug. 9, 1955 (Public Law 323, 84th Cong.) (6 U.S.C. 14). | Agencies obtain bonds under regulations issued by the Secretary of the Treasury. | All departments and independent establishments in the executive branch. | |
| PAID TIME OFF FROM OFFICIAL DUTIES [1] | | | | |
| ANNUAL LEAVE | | | | |
| Granted for vacation and personal needs. Earned on a graduated basis determined by length of service (½, ¾, or 1 day per biweekly pay period). Unused leave generally may accumulate to a maximum of 30 days for employees in the United States and 45 days for certain oversea employees. | Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.). | Each agency under regulations prescribed by the Civil Service Commission. | All civilian officers and employees of the Government with limited exceptions. | Within statutory limitations, an employee may be paid a lump sum for unused annual leave upon separation from service. |
| SICK LEAVE | | | | |
| Granted to employees incapacitated because of sickness, injury, pregnancy or confinement or for medical, dental, or optical treatment, or because of exposure to a contagious disease. Employees earn ½ day for each biweekly pay period. Unused leave may accumulate without limit. | do | do | do | |
| COURT LEAVE | | | | |
| Granted to allow employees to attend court as a Government witness or for jury duty. | Jury duty, act of June 29, 1940 (5 U.S.C. 30 n); service as a witness, act of June 25, 1948, as amended (28 U.S.C. 1823). | Each agency | All Federal employees with certain exceptions (i.e., temporary employees and substitute postal employees, etc., are not eligible). | Any fees or allowances due an employee for court service are credited against the salary he receives during the period of court leave. |
| MILITARY LEAVE | | | | |
| Granted to employees who are members of military Reserve organizations primarily for the purpose of receiving military training. Military leave for training purposes is limited to 15 calendar days a year. | Act of Aug. 10, 1956, as amended (5 U.S.C. 30 r). | do | All Federal employees | Employee receives his full regular salary plus any military pay he may receive during the period of military leave. |
| PAID HOLIDAYS | | | | |
| Paid holidays are: New Year's Day, George Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas, and any other day that may be designated a holiday by Federal statute or Executive order. | The 8 annual holidays have been designated as such by various Federal statutes (Executive Order 10358 provides for the observance of holidays by Government agencies in the executive branch) (5 U.S.C. 87c). | do | do | The general rule contained in Executive Order 10358 is that a holiday falling on Sunday will be observed on the following Monday; when a holiday falls on Saturday, it is celebrated on Friday. Executive Order 10358 also makes special provision for the observance of holidays by employees assigned irregular workweeks. |
| BASIC PAY | | | | |
| A basic uniform pay policy established the principles of comparability with private enterprise pay and internal alinement. Other provisions include recognition of the President's role in pay administration, including annual recommendations to Congress on Federal pay and pay policy; special adjustments in pay rates and ranges; and coordination among statutory pay systems. | Federal Salary Reform Act of 1962 (5 U.S.C. 1171 et seq.). | Civil Service Commission | Positions under Federal statutory salary systems. | Special provisions applicable only to Classification Act positions include improvements in the pay structure, within-grade increases policy, salary retention, and promotion increases. |
| PREMIUM PAY [2] | | | | |
| OVERTIME PAY [3] | | | | |
| Federal Employees Pay Act | | | | |
| Time and one-half on such part of salary as does not exceed minimum of GS-9 (or compensatory time off for occasional overtime) for work in excess of 40 hours a week. | Federal Employees Pay Act of 1945, as amended (5 U.S.C. 911). | Each agency, under Civil Service Commission regulations. | Most salaried (white-collar) employees outside postal field service. | Aggregate pay (base pay plus overtime, night, and holiday) may not exceed maximum of GS-15 for a pay period. |
| Wage Board | | | | |
| Time and one-half for work in excess of 8 hours per day or in excess of 40 hours per week. | Act of Mar. 28, 1934, as amended (5 U.S.C. 673c, 913). | Each agency | Most employees in trades, crafts, and labor occupations outside postal field service. | |
| PAY FOR NONOVERTIME HOLIDAY WORK | | | | |
| (For overtime work performed on a holiday, see "Overtime Pay" above.) | | | | |

**See footnotes at end of table.**

*Major Federal employees provisions*—Continued

| Title and description | Authority | Administered by— | Employee applicability | Remarks |
|---|---|---|---|---|
| Federal Employees Pay Act | | | | |
| Additional pay at straight time rates. | Federal Employees Pay Act of 1945, as amended (5 U.S.C. 922). | Each agency, under Civil Service Commission regulations. | Most salaried (white-collar) employees outside postal field service. | Aggregate pay (base plus overtime, night, and holiday pay) may not exceed maximum of GS-15 for a pay period. |
| Wage Board | | | | |
| Agencies generally provide straight time additional pay. | General authority of heads of agencies to fix compensation (5 U.S.C. 1082(7)). | Each agency electing to pay | Most employees in trades, crafts, and labor occupations outside postal field service. | |
| CALL-BACK PAY (MINIMUM GUARANTEE) | | | | |
| Federal Employees Pay Act | | | | |
| When employee is required to return to work on a day off or after a regular day's work, he is guaranteed 2 hours pay at overtime rate for overtime duty or straight time rate for nonovertime holiday duty. | Federal Employees Pay Act of 1945, as amended (5 U.S.C. 912a). | Each agency under Civil Service Commission regulations. | Most salaried (white-collar) employees outside postal field service. | |
| Wage Board | | | | |
| Some agencies provide callback guarantee similar to Federal Employees Pay Act callback provision. | General authority of heads of agencies to fix compensation (5 U.S.C. 1082(7)). | Each agency electing to pay | Many employees in trades, crafts, and labor occupations outside postal field service. | |
| NIGHT PAY | | | | |
| Federal Employees Pay Act | | | | |
| 10 percent salary differential for regularly scheduled work between 6 p.m. and 6 a.m. | Federal Employees Pay Act of 1945, as amended (5 U.S.C. 921). | Each agency under Civil Service Commission regulations. | Most salaried (white-collar) employees outside postal field service. | Aggregate pay (base pay plus overtime, night, and holiday pay) may not exceed maximum of GS-15 for a pay period. |
| Wage Board | | | | |
| Most agencies pay differentials in accordance with local prevailing practice. | General authority of heads of agencies to fix compensation (5 U.S.C. 1082(7)). | Each agency electing to pay | Most employees in trades, crafts, and labor occupations outside postal field service. | |

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[1] Under certain conditions, employees who are relieved or prevented from working solely because of Executive or administrative orders may be paid for the time off without charge to annual leave.

[2] In addition to benefits cited, a number of agencies have general pay-fixing authority which enables them to pay similar benefits or develop their own systems (e.g., Tennessee Valley Authority premium pay system for salaried employees). There are also specific statutes authorizing benefits for certain small groups of employees (e.g., special premium pay statutes for certain inspectors and increased minimum pay for hard-to-fill positions).

[3] Includes overtime performed on holidays.

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**Payment of Federal blue-collar workers in accord with prevailing local wages was established as a principle as early as 1861 (12 Stat. 587, 34 U.S.C. 505).**

**As an example let us compare wage rates between San Francisco and New Hampshire:**

NAVY DEPARTMENT

*Schedule of wages—General wage service, nonsupervisory schedule*

PORTSMOUTH, N.H., AREA

| | Level | Step rates | | |
|---|---|---|---|---|
| | | 1st | 2d | 3d |
| Laborer (cleaner) | 1 | $2.01 | $2.09 | $2.17 |
| Laborer | 2 | 2.06 | 2.15 | 2.24 |
| | 3 | 2.13 | 2.22 | 2.31 |
| | 4 | 2.19 | 2.28 | 2.37 |
| Helper | 5 | 2.26 | 2.35 | 2.44 |
| | 6 | 2.34 | 2.44 | 2.54 |
| | 7 | 2.43 | 2.53 | 2.63 |
| Machine operator | 8 | 2.52 | 2.63 | 2.74 |
| | 9 | 2.61 | 2.72 | 2.83 |
| | 10 | 2.70 | 2.81 | 2.92 |
| Benchmark trade | 11 | 2.78 | 2.90 | 3.02 |
| Electrical mechanic | 12 | 2.84 | 2.96 | 3.08 |
| | 13 | 2.90 | 3.02 | 3.14 |
| Toolmaker | 14 | 2.96 | 3.08 | 3.20 |
| Loftsman | 15 | 3.01 | 3.14 | 3.27 |
| Forger (heavy) | 16 | 3.07 | 3.20 | 3.33 |

SAN FRANCISCO BAY, CALIF., AREA

| | Level | 1st | 2d | 3d |
|---|---|---|---|---|
| Laborer (cleaner) | 1 | $2.43 | $2.52 | $2.62 |
| Laborer | 2 | 2.48 | 2.58 | 2.68 |
| | 3 | 2.53 | 2.64 | 2.75 |
| | 4 | 2.59 | 2.70 | 2.81 |
| Helper | 5 | 2.65 | 2.76 | 2.87 |
| | 6 | 2.74 | 2.85 | 2.96 |
| | 7 | 2.81 | 2.93 | 3.05 |
| Machine operator | 8 | 2.90 | 3.02 | 3.14 |
| | 9 | 2.99 | 3.11 | 3.23 |
| | 10 | 3.06 | 3.19 | 3.32 |
| Benchmark trade | 11 | 3.15 | 3.28 | 3.41 |
| Electrical mechanic | 12 | 3.31 | 3.45 | 3.59 |
| | 13 | 3.48 | 3.63 | 3.78 |
| Toolmaker | 14 | 3.65 | 3.80 | 3.95 |
| Loftsman | 15 | 3.81 | 3.97 | 4.13 |
| Forger (heavy) | 16 | 3.98 | 4.15 | 4.32 |

**These wage rates indicate clearly an intention on the part of the Congress to pay not a uniform national wage but prevailing local wages. The San Francisco wage pattern is controlling, not only in bay area shipyards, but also in 35 other Navy establishments in the 12th Naval District.**

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. LEGGETT. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEGGETT. Mr. Chairman, the gentleman from Michigan was courteous when he asked the gentleman from South Carolina—Is it not a fact that the Navy shipyards are going to participate to the total extent of $412 million for repairs, alterations, and conversions through the charity of this bill?—although that was not your exact terminology. Is it not a fact that if we get a total amount of $412 million——

Mr. FORD. You are using round figures, of course.

Mr. LEGGETT. Yes, you used a figure of 411 million and some odd hundred thousand dollars—that this will be the third least amount that naval shipyards have had in the past 11 years in spite of the fact that we have the fourth largest budget in the history of the United States of America?

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman.

Mr. FORD. I will be very glad to respond to that. I believe what the gentleman says is correct. But on the other hand, the record ought to show that this is a very substantially reduced budget for repair, alteration, and conversion. As a matter of fact, the conversion funds requested by the President for this fiscal 1965 are only $96 million. In the current fiscal year they were $500 million.

Mr. LEGGETT. Is not the whole point and is not the fact here that now you want to impose this restriction on the very share of the budget where the Navy has substantial participation and the share of the budget where we are increasing the budget in the construction phase where the Navy does not share as lavishly as they do on the repair phase, there you do not ask for any limitation whatsoever?

Mr. FORD. Is it not true under the basic law, the Vinson-Trammell Act, there is supposed to be a practice followed of one ship in a navy yard and one ship in a private yard unless the President sets it aside?

Mr. LEGGETT. The gentleman knows very well this only applies to capital ships. In the current budget, I think there are only six capital ships, six SSN's. This is a very small part of the construction budget that the Vinson-Trammell Act is going to have any application to whatsoever.

Mr. FORD. Is that not true under existing law?

Mr. LEGGETT. The Vinson-Trammell Act will apply.

Mr. FORD. It will apply. The President has authority to set it aside.

Mr. LEGGETT. He does have that authority but only as to capital ships and that is a small part of the construction budget. I have a letter here from the Secretary of the Navy. I have reviewed very carefully the testimony before the Defense Appropriations Subcommittee, and in no place do I find any testimony where the Navy Department was asked—Do you agree with the 65–35 provision?

The Navy was operating at a $700 million level 10 years ago. It is still operating at a $700 million level. The value of the dollar has gone down. It is really operating with less. We are in severe trouble.

I ask that we strike out this provision. I ask that we affirm the amendment offered by the gentleman from South Carolina. I believe it is reasonable, prudent, and in the interest of the economy of this country.

Mr. MAHON. Mr. Chairman, I rise for the purpose of undertaking to fix a time limit on debate on the amendment. I ask unanimous consent that all debate on this amendment close in 15 minutes.

Mr. HARDY. Mr. Chairman, reserving the right to object, I believe we ought to know how much time that will allow each of us. I should like to have not less than 3 or 4 minutes. I would prefer to have 5 minutes.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that debate on the amendment be limited to 20 minutes.

Mr. HARDY. Mr. Chairman, further reserving the right to object, I should like to have cleared up the number of Members standing. If I am correct in my estimate, this would result in about 1 minute each. I should like to have a little more time than that, so I would have to object to that limitation.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on the amendment close in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon [Mrs. GREEN].

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment that would reverse the carefully considered decision of the committee to reserve 35 percent of funds for conversion, alteration, and repair of naval vessels to private shipyards. This provision in varying forms has been contained in the last two Defense Department appropriation measures. Despite efforts to remove it, the provision was upheld by substantial voting margins. There is every reason to carry the stipulation into the fiscal 1965 DOD money bill.

My understanding is that Secretary of Defense McNamara has no objection to the provision as long as there is an emergency escape clause accompanying it. There is such a clause in section 540. Neither the Navy nor the Defense Department has made any official objection to the 35–65 provision.

It should be pointed out that two recent studies illustrate decisively that costs to the Government are higher in naval shipyards than in the commercial yard. The differential ranges from 8 to 32 percent depending on type of work involved. One of these studies, the Andersen study, was done on behalf of the Navy itself. I urge the defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. ROOSEVELT].

Mr. ROOSEVELT. Mr. Chairman, I take this time to ask my colleague from California [Mr. LEGGETT], if he can give me some figures with respect to the Long Beach Naval Shipyard, Calif.

Mr. LEGGETT. I am pleased to advise that since the enactment of the 35–65 provision the Long Beach Naval Shipyard lost about 500 personnel as a direct result of reductions in force and terminations. One thousand one hundred people from the Long Beach Naval Shipyard have been forced to transfer to other jobs out of shipping, taking jobs from other personnel. The best estimate is that private shipping in the Long Beach area has only picked up a few hundred personnel. The Long Beach Naval Shipyard lost $23 million worth of work. Private yards have gained about $6 million worth of work, and there has been a net deficit loss in the Los Angeles area of about 1,300 to 1,500 personnel over a period of 2 years.

Mr. ROOSEVELT. I would ask the gentleman if he would explain to me how the work which has to be done obviously in that area is being done with so many fewer additions in the private yards than it seems the navy yard has to use to do the same work.

Mr. LEGGETT. The answer to that question is very simple. On the west coast we have a wage rate in the Mare Island Naval Shipyard of $4.17 an hour. When you reduce work there or at Long Beach, you do not pick it up at the San Pedro Machine Works but at Pascagoula or Newport News or some place else where they have a lesser wage rate. You do not pick it up in the private sector when you lose it on the west coast.

Mr. ROOSEVELT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from California has expired.

The Chair recognizes the gentleman from Pennsylvania [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I rise in support of the amendment. I also rise to ask the gentleman from Michigan [Mr. FORD] whether or not this bill would indicate that after the Secretary of Defense makes a study of the naval shipyards, would he be permitted to close down the yards mentioned by the gentleman from Georgia.

Mr. FORD. I would say to my friend this provision, section 539 and section 540, has nothing to do with the closing or possible closing of shipyards. It has nothing whatsoever to do with it. As a matter of fact, it allocates $411 million solely for the public yards. That money cannot go to the private yards.

Mr. BARRETT. I thank the gentleman.

Mr. Chairman, I want to relate a few factors relative to the Philadelphia Naval Base. The gentleman from Georgia indicated that the yard would be closed down if this amendment were defeated. We now have less than 9,000 employees at the Philadelphia Naval Yard, men who are capable and men who have given the best years of their lives to the Philadelphia Naval Yard and to the Federal Government. These men would be thrown on the unemployment rolls unable to get employment because they are no longer employable.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The Chair recognizes the gentleman from California [Mr. HOSMER].

Mr. HOSMER. Mr. Chairman, this Congress appropriated hundreds of millions of dollars for military housing on the theory that we have to give our people in the military services a decent chance at family life. What does it mean when we arbitrarily legislate that so much of the work must go to private shipyards? It means a ship coming back home from 7 to 17 months or longer on foreign station cannot necessarily be assigned back to its home yard where the family housing exists and a man's family lives. Why? Because this work is bid upon by private shipyards. The ship must go where the low bidder's yard is located. Thus the ship goes not to its home yard and it does not reunite the man with his family, but it may go some hundreds of miles away. The men on those ships most certainly become disgusted and discouraged. They can hardly be expected to reenlist. If they do not reenlist, they must be replaced, and it costs $7,000 a man to get a replacement through boot school and in uniform. What kind of money are you saving if you save a mere $35,000 on repair costs by sending a ship to a private shipyard, then turn around and lose $70,000 because 10 men fail to reenlist and 10 new men must be trained as replacements? That is just what has happened and what will continue to happen because this Congress persists in legislating away the Navy's ability to send ships back to home yards when they come back from overseas. It is costly foolishness and I urge passage of this amendment in order to stop it.

The CHAIRMAN. The time of the gentleman from California has expired.

The Chair recognizes the gentleman from New York [Mr. ROONEY].

Mr. ROONEY of New York. Mr. Chairman, with the possible exception of that great American and Irish immigrant, the father of the American Navy, who came here from County Wexford, Ireland, Commodore John Barry, no one has done more for the American Navy than the distinguished dean of this House, my friend, the gentleman from Georgia [Mr. VINSON].

The distinguished gentleman from Georgia was the author, at least 35 or 40 years ago, of the perfectly fair Vinson-Trammell Act. The gentleman from Georgia is the man who, as chairman of the then House Committee on Naval Affairs, saw to it that our American Navy was in the shape it should have been at the time of the crisis in World War II. Over all the many years his great interest has been the U.S. Navy.

I respectfully submit that all of us here might very well follow his judgment on the pending question, to be fair both to the navy yards and to the private shipyards. Let us follow the leadership of the gentleman from Georgia and vote for the pending amendment offered by the distinguished gentleman from South Carolina [Mr. Rivers].

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. Don H. Clausen].

Mr. DON H. CLAUSEN. Mr. Chairman, I rise to again express my deep concern over cutbacks in repairs and conversions by the naval shipyards, including Mare Island Shipyard in Vallejo, Calif.

With the current problems relating to the Panama Canal, plus the continuing flareups in Vietnam, Indonesia, and potentially Red China, it is mandatory that we maintain a proper balance of the mobilization base of our operating shipyards. This, of course, requires active operation of our naval shipyards in order to retain the skilled personnel so vital to successful and efficient operation.

The continual uprisings taking place throughout the various developing countries of the world certainly point out the need for a maximum flexibility that only naval operations can provide.

This past year, during debate on the Defense Department appropriation bill, the chairman of this fine committee and the ranking member both acknowledged this need by stating "We should have a balance of mobilization reserve appropriately distributed in the various shipbuilding areas of our coastlines."

If I see the coming world events in the proper perspective, I sincerely believe the major attention of our defense effort will be associated with potential conflicts in southeast Asia and the Pacific theater. It is for this reason I vigorously request you acknowledge the facility and manpower resources currently available at Mare Island and do everything possible to avoid further depletion of this valuable asset to our naval defense arm.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. Hardy].

Mr. HARDY. Mr. Chairman, I cannot discuss this fully in a minute and a half but there are a few things I do want to make clear. In my district I have both private shipyards and a Government shipyard. The finest in the country. I am interested in protecting them both. It is my firm opinion that both new construction and repair should be treated exactly the same in this bill. They should be left to the Department of the Navy to decide what should go where. The Navy can do this best when it has complete flexibility.

The Navy has historically awarded to private yards a substantial amount of repair work in addition to new construction work. To show you what is happening in my area let me point out specifically the impact that 65-35 has had during the past 2 years of its operation. In the fiscal year 1962 we lost about 350 people from naval shipyard employment. During the fiscal year 1963 we lost about 400. During the first half of fiscal year 1964 our naval shipyard personnel fell about 200, and almost 600 more are scheduled to be dropped by June 30.

The navy yard is the major industry in Portsmouth and such a large drop in its personnel during so short a period of time has a tremendous impact on our local economy. This would not have occurred had it not been for the 65-35 ratio.

Mr. Chairman, there is no economy in this thing. The principle is wrong. It is not providing benefits to private yards in proportion to the damage being done to Navy yards, and it is not saving the taxpayers any money. The Arthur Andersen report has been referred to time and again today as supporting the mandatory 65-35 split in repair work. That is not the way I read and interpret the report. It does produce evidence that new ship construction can be accomplished at lower cost in private yards than in Government yards, but the report indicates that there is little, if any, cost differential between Government and private yards with respect to ship repair.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. Tollefson].

Mr. TOLLEFSON. Mr. Chairman, what happened in connection with this 65-35 provision is a good illustration of what happens when opinions are based on pure assumption. The pure assumption in this case is that private shipyards can do a repair and alteration job cheaper than it can be done in naval shipyards. This simply is not so.

Mr. Chairman, it is true that the Andersen report reveals that new construction possibly could be done cheaper in private yards than in naval yards, but the Andersen report does not show that repair work can be done cheaper in private yards than in naval yards. In fact, if any conclusions can be drawn from the Andersen report with respect to repair, alteration, and conversion costs is that we would be better off to do that work in naval shipyards.

Earlier in the debate I spoke on this subject and I shall not repeat my arguments. I only urge the Members to support the Rivers amendment to eliminate the 65-35 provision.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia [Mr. Hechler].

Mr. HECHLER. Mr. Chairman, I believe the provisions in sections 539 and 540 of the bill as submitted by the committee have been very carefully drawn. I hope that this language is retained in the bill, and that the Rivers amendment is defeated. Here is a golden opportunity to save money and to voice our confidence in the effectiveness of the free enterprise system.

Mr. FORD. Mr. Chairman, will the gentleman from West Virginia yield?

Mr. HECHLER. I yield to the gentleman from Michigan.

Mr. FORD. I know the gentleman from West Virginia is interested in cost figures. It is particularly pertinent to bear in mind the recent comment of Admiral James who was formerly head of the Bureau of Ships, when he said in the consideration of the fiscal year 1962 appropriation bill for the Department of Defense that "there is an estimated 8- to 15-percent savings if the work is done on repair, alteration, and conversion in private yards."

I have in my hand also a copy of the Andersen report. The Andersen report says on page 6 thereof that there is an estimated savings of 5 to 10 percent on repair work in private yards.

Mr. HECHLER. I thank the gentleman from Michigan. He has presented effective and convincing arguments for retention of the 65-35 ratio. I hope the amendment is defeated, and that the language as written in the bill presented by the committee will be retained.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, notwithstanding the cost figures as given by Admiral James, I know that he is personally, violently opposed to this 65-35 provision.

Mr. HECHLER. I yield further to the gentleman from Michigan.

Mr. FORD. He never so testified, if I can respond to that. He never testified to that effect to our committee. As a matter of fact, the last time he testified when he was a naval officer, he endorsed the provision.

Mr. HECHLER. Mr. Chairman, I think that this colloquy further demonstrates that the committee language should remain and the Rivers amendment should be voted down.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. Byrne].

Mr. BYRNE of Pennsylvania. Mr. Chairman, as a member of the Committee on Armed Services, the members of that committee heard me complain, argue, and debate with all the representatives of the Department of the Navy with reference to naval shipyards. The repair costs in the private shipyards are supposed to be cheaper. This is not so.

Mr. Chairman, we had a meeting one time with the Secretary of the Navy and representatives from the Joint Committee for Yard Development when Admiral James broke down the figures and proved that the Navy was wrong when they said private yards could do the work cheaper.

Mr. Chairman, I ask all of my friends here to support this amendment. It means so much to the economy of Philadelphia and to the district that I represent. And, of course, it vitally affects the employees of the Philadelphia Naval Base.

Mr. Chairman, 9,100 people will be out of work, people with 30 years' experience. Where are they going to go to obtain employment since their only skill is shipbuilding?

Mr. Chairman, we spent a lot of money building Capehart housing for the Department of the Navy. Let us not have this go to waste. Please vote for this amendment.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. BYRNE of Pennsylvania. I yield to the gentleman from California.

Mr. LEGGETT. Is it not a fact that the Navy's analysis of the Andersen report eliminates the difference between the fringe benefits and the difference in nonunion and union public yards and private yards and shows that the Navy, in fact, saves 1.1 percent in repairs by having the repair work performed in public yards?

Mr. BYRNE of Pennsylvania. That was proven as a result of compilation on ships which were built in private yards. It is an exaggerated figure.

The CHAIRMAN. The Chair recognizes the gentleman from Hawaii [Mr. Gill].

Mr. GILL. Mr. Chairman, we have had the Bard quoted here today; we have had scripture quoted also. The scripture, of course, is the Andersen report. I have never heard scripture so misquoted.

Mr. Chairman, I call attention to page 5 of the Andersen report where the following is stated in relation to conversions in public and private yards:

> We can reach no conclusion with respect to the relative costs of these conversions.

The Anderson report on page 5 states in relation to repairs:

> We found in our study that it was not possible to establish reasonably comparable work performed on specific ships for either total ship overall or specific work items.

And in relation to alterations the report on page 7 states:

> Based on comparisons for 149 occurrences of 28 different ship alterations, it appears that there were no significant differences between naval and private shipyard costs.

What we are saying is the Andersen report supports the position of those who would eliminate the 35–65 provision from the bill.

I would like to point out that what is going on here is a calculated erosion of the naval shipyards; this formula results in a drop in the Navy yard payroll, which in turn results in inefficiency and high unit costs, which is then used as an argument against the efficiency of the Navy yards.

This formula is not a support for private enterprise. This is merely another private raid on the Public Treasury.

I hope that the Department of Defense investigates the Navy yards. I hope it also investigates the private yards on the comparative cost of alteration, conversion and repairs. I am sure what they will find will be helpful to us.

In Hawaii we have no fear for the efficiency of Pearl Harbor. I do not expect it to be closed. Pearl Harbor was first in 1963 in public yard safety; our yard saved close to half a million dollars in the first 8 months of fiscal year 1964.

We will hold our own on any objective test; but I am worried about erosion of our work force. This danger grows even in our State.

The CHAIRMAN. The Chair recognizes the gentleman from Hawaii [Mr. Matsunaga].

Mr. MATSUNAGA. Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Carolina [Mr. Rivers] to strike sections 539 and 540 from H.R. 10939. The gentleman from South Carolina and others who have spoken in support of the amendment have presented a very convincing case, and nothing I have to say can add much to their arguments. However, there are certain highly important considerations which I believe ought to be emphasized.

We can readily agree that our Navy exists for one purpose, that is, to meet emergencies arising from armed conflicts and to deter other nations from hostile acts, and that our naval shipyards, such as that which is located at Pearl Harbor, Hawaii, are maintained to keep the Navy at the optimum operational level to meet any of these emergencies. Anything which detracts from this proposition would not be in our national interest and should be discontinued. The so-called 65–35 formula for the division of work between Naval shipyards and private shipyards does exactly this and should therefore be terminated.

The biggest argument offered by proponents of the 65–35 formula is that it costs less to have the work done in private shipyards. So let us analyze this contention.

In an analysis of the Andersen report, the Bureau of Ships showed that ships repaired and overhauled by naval shipyards could operate for a period of 21.3 months before having to be repaired and overhauled again, as compared with 20.1 months for ships repaired and overhauled in private shipyards. On an overall basis, this would mean that the cost factor would be about 5 percent less when the work is done in naval shipyards, for the simple reason that their services prolong the period of serviceability.

Furthermore, the study showed that specifications given for private shipyards differ from those given naval shipyards. For one thing, while private shipyards are merely required to produce a minimum acceptable level of work, the latter is required to restore to new condition. This perhaps accounts for the better quality of work done in the naval shipyards and the consequent longer period of operability mentioned earlier.

In the meeting of national emergencies, such as that assigned to the Navy, speed in repair and maintenance and constant operability should be our primary concern. By keeping less and less ships in drydock by reducing the repair time, it has been determined that we will be able to increase our operational strength without increasing our total number of ships. The Army and Air Force too have found this to be true, and have been able to increase their equipment in actual use without any purchase of additional equipment, by merely reducing the time in which such equipment is tied up in repairs. Our naval shipyards have demonstrated their ability for speedier production.

The Pearl Harbor Naval Shipyard performed a miracle in setting our Navy afloat again after the December 7 attack at Pearl Harbor in 1941. It was able to do this, however, only after a considerable lapse of precious time because the necessary personnel had to be assembled and integrated into a working team.

We do have such a working team at Pearl Harbor and at other naval shipyards now, and it is highly essential to our national security that we maintain these working teams. The existence of the 65–35 formula, however, poses a continuous threat to the maintenance of these essential working teams in our naval shipyards. It has been estimated that its practical application has already resulted in the reduction of about 4,000 employees in Government-operated shipyards. The application of the 65–35 formula to Pearl Harbor will prove especially disastrous, for it will surely mean the reduction of its work force. Because there are no other large shipyards within 2,000 miles of Pearl Harbor, skilled workers, when discharged, leave Hawaii for the mainland United States or go into other fields of employment and become unavailable for rehiring at Pearl Harbor. This could certainly develop into a costly situation, in more ways than one.

It has become abundantly evident that both the Soviet Union and Red China envision any Pacific or Asian hostilities as nonnuclear. The Red Chinese naval forces are composed of an unlimited number of civilian junks which could serve as landing crafts and transport facilities, a large number of motor torpedo boats, a few destroyers and patrol craft, and about 20 submarines.

Nikita Khrushchev, in July 1961, ordered a substantial increase in Soviet military expenditures, with the bulk of the increase devoted to conventional arms, with emphasis on submarines and conventional aircrafts. An analytical article entitled "Renewed Soviet Emphasis on Conventional Arms" which appeared in the July 10, 1961, issue of the Times—London—noted the increasing importance of the submarine in the Russian Navy.

Our Navy will assume a position of critical importance in the event of hostilities conducted with conventional weapons—in both the Atlantic and the Pacific Oceans, both as a deterrent force and as a ready combat force. The ready condition of naval facilities at shipyards is as important a factor as any other in the enemy's assessment of our readiness to meet it in a conventional, limited type of war.

The restrictive formula contained in section 539 of the bill before us tends to reduce our naval shipyards to a point of ineffectiveness to meet any emergency. It is not in the best interest of our own national security. It should be removed by adoption of the Rivers amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. Murphy].

Mr. MURPHY of New York. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York [Mr. Rooney], and the gentleman from Georgia [Mr. Vinson].

Mr. Chairman, yesterday in title II of H.R. 10300, a bill to authorize certain construction at military installations, which have already passed the House, certain Bureau of Ships facilities, particularly Navy shipyards, received appropriations. I will just mention three. The naval shipyard at Charleston, S.C., facilities and utilities in the amount of $1,675,000, the Navy shipyard at Pearl Harbor, $1,171,000, the naval shipyard at Portsmouth, N.H., $4,760,000.

I note that the New York Naval Shipyard was not included in any of those new appropriations. I think the fact that they were not included for new appropriations raises in the minds of some of the New York Representatives, the question that this yard may be phased out or started on a reduced mission.

Information I received last year indicated that the New York Naval Shipyard would receive no new ship construction projects in the foreseeable future, and with this information the New York congressional delegation petitioned the Bureau of Ships and the Secretary of Defense to properly explain why this great industrial complex is denied new ship construction. Of course, we can look at ship conversion and repair. We know that under the provisions of the Vinson-Trammell Act a ratio of 65–35 was established to insure that a balance was created between ship repair in private shipyards as well as for the U.S. naval facilities. Properly adhered to, this ratio could solve the dilemma facing this industry in New York.

As a member of the House Committee on Merchant Marine and Fisheries, I have studied the problems causing the deterioration of our private shipbuilding industry in this country. Without our Federal subsidy program it is doubtful that we would have any shipbuilding industry at all in this country today. It is clear to me that if this happened, our defense potential would be seriously affected in that in time of emergency we would not be able to cope with accelerating construction of new ships.

I feel a solution of the problem is to properly distribute new construction between private and Government yards. I do not think in doing this that Governments yards should be classified on a per-dollar cost basis with the private yards. To prorate labor costs in Government complexes, which include many more facilities, not particularly necessary to shipbuilding, causes the unit cost in the Government yards at first glance to appear much higher than private costs in private yards. Many factors, including know-how and of course the pilot construction of vessels—many times the Navy shipyard will get the first of a prototype vessel to do. They will work out the bugs in construction and then private shipbuilders can bid on it, knowing the pitfalls that the Navy yards have experienced; the types of plant and equipment and of course, the security of these Navy yards are other considerations which raise and increase the costs in the Navy yard in comparison with the private yards.

Last year I wrote to the Bureau of Ships asking them why they did not train people in the New York Naval Shipyard and in New York's private sector in nuclear ship repair, and to me I received a very unsatisfactory answer. The reason was they have several yards nationwide that they felt were capable of doing that type of repair on a limited basis and the number of ships they have today. I think in the future nuclear ship repair is going to have to be performed in almost any naval shipyard. I think a program should be established at the New York Naval Shipyard as in other Navy shipyards to insure that they have the capability of nuclear ship repair.

I feel the Defense Establishment has the obligation to maintain new ship construction as well as ship repair at the New York Naval Shipyard. In order to maintain this facility properly, the same amount of work allocated certainly should be maintained in the next year and in future years.

The reason for that is that you hit a certain level of employment and to drop it below the present level would cause a complete new study and aspect in the capabilities of the yard.

In other words, the New York Naval Shipyard has hit about a breaking point on employment. I think the same level of new construction as well as repair and conversion that has been performed there on an average of the last 5 years should certainly be continued in the coming and future years.

I was alarmed when I heard the gentleman from Georgia [Mr. VINSON], say that without favorable approval of the amendment of the gentleman from South Carolina [Mr. RIVERS] that the naval shipyards at Boston, Philadelphia, and New York would be closed. I do not feel that there can be any question of the defense need for the capability and potential of these yards. I want to assure the House, as well as the Department of the Navy, that I will do everything to insure the proper allocation of work, not only to the New York area private yards and New York area Government yards, but also to convince the Navy that new ship construction must also be allocated to the naval shipyards, particularly in capital ships.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. LAIRD].

Mr. LAIRD. Mr. Chairman, I rise in opposition to the pending amendment. We have heard talk here today that the adoption of this amendment will remove the necessity of closing some of our naval shipyards. This is not the case.

At least three naval shipyards will be closed this December.

A study is currently underway, undertaken by the Secretary of Defense. These naval shipyards will be closed in accordance with a decision which was made last December by the Secretary of Defense, but because of the pressures put upon him he postponed the day of reckoning until after the November elections.

I support the language of this bill because it is recommended by the Secretary of Defense. When I agree with the Secretary I shall support him, and when I disagree with him I will not. I am glad to support him in this case.

In connection with another matter discussed this afternoon I disagreed with the Secretary of Defense. This language is requested by the administration and supported by the Secretary of Defense. I think it is good language, and that we should support the Department of Defense in its request.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama [Mr. ANDREWS].

Mr. ANDREWS of Alabama. Mr. Chairman, I rise in opposition to the amendment.

I should like to read a letter from the Secretary of Defense to the chairman of our subcommittee. It is as follows:

THE SECRETARY OF DEFENSE,
*Washington, D.C., April 15, 1964.*

Hon. GEORGE H. MAHON,
*Chairman, Department of Defense Subcommittee, Committee on Appropriations, House of Representatives.*

DEAR MR. CHAIRMAN: A restatement of my position concerning the 35–65 shipyard provision contained as section 538 in the pending defense appropriation bill 1965 has been requested by your staff.

As I have stated to your committee, the private and public shipyard capacity in this country today is far in excess of the Nation's needs for national defense. We are in the process of determining the amount and location of this excess capacity, and the actions which should be taken to eliminate it. We will not know the precise solution to this problem until our studies have been completed later this year. When this determination is made, I then believe that economy and fleet readiness considerations should be the basic guidelines for distribution of ship construction, repair, alteration, and conversion, rather than a statutory assignment ratio.

Until a decision is made as to the proper composition of the shipyard industrial base requirement, both public and private, I support the general principle that at least 35 percent of ship repair, alteration, and conversion work should be placed with the private yards, provided that flexibility is continued to permit me to change this ratio if it is determined to be inconsistent with the public interest.

Sincerely,

ROBERT S. MCNAMARA.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD. Mr. Chairman, these two sections, 539 and 540, will not destroy the naval yards, because for repair, alteration, and conversion they are guaranteed $411,820,000. As the gentleman from Alabama has just indicated, the concept of 35–65 is fully supported by the Secretary of Defense. It is in the President's budget document, which I have here.

This provision we have in this bill includes an escape clause, which the gentleman from Georgia so ardently and effectively argued for 2 years ago. Under the bill the Secretary of Defense does have under this escape clause the right to make changes in the allocations for private and public yards if he finds it in the public interest based on urgency of requirement.

When you get right down to the basic reason we need this provision in the bill, it is that the Navy wants about $663 million for repair, alteration, and conversion. They say this is the minimum amount they can get along with. If they put more than 65 percent of the fund into the Navy yards, where the costs are higher, then their whole program will be in jeopardy because the private yards can do it cheaper.

I hope the amendment will be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. Mahon], to close debate on the pending amendment.

Mr. MAHON. Mr. Chairman, this is no new issue. You voted on it last year and you voted on the amendment which is pending in approximately this form. Two years ago you voted on this amendment and you voted then to sustain the committee. You did it last year and the previous year.

The President is trying to effect some economies. Those of us who support free enterprise, and we are all concerned, are very much in favor of the provision in the bill. We do hope you will be able to support the committee. It is the principle of the proposal in the President's budget, it is the recommendation, in principle, of the Department of Defense.

It is not here recommended that any Navy yard be closed. A few people might lose their jobs in some areas of the United States. A few people on the Federal payroll have lost their jobs in the district I represent. But I think we must put the country first and not purely local interests. We support economy and free enterprise and what is best, in the long run, for our country.

I just do not think the amendment makes sense. As of this moment the entire $600 million plus can be spent in the public yards, if the Secretary of the Navy and the Secretary of Defense hold that an emergency requirement exists which makes it desirable that the work be done in public yards. I know that Members who have Navy yards in their districts and who feel they might lose 1 or 2 percent of their employees want to speak out for them. That is all right. But most of us who can look at this thing with complete objectivity feel that this amendment is not sound. I do hope and trust that the committee will be supported in this matter.

The CHAIRMAN. The time of the gentleman from Texas has expired.

All time has expired.

The question is on the amendment offered by the gentleman from South Carolina [Mr. Rivers].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROONEY. Mr. Chairman, I ask for a division.

Mr. RIVERS of South Carolina. Mr. Chairman, I ask for a division.

The question was taken; and on a division there were—ayes 77, noes 108.

Mr. RIVERS of South Carolina. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Rivers of South Carolina and Mr. Mahon.

The Committee again divided, and the tellers reported that there were—ayes 82, noes 130.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. HOSMER

Mr. HOSMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hosmer: On page 42, line 18, after line 18 insert a new section 540—and renumber the following sections—to read as follows:
>
> "None of the funds appropriated herein shall be available for paying the cost of a conventional powerplant for CVA-67."

Mr. MAHON. Mr. Chairman, I make the point of order that there are no funds in this bill for an aircraft carrier.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. HOSMER. Yes, I do.

The CHAIRMAN. The Chair will be pleased to hear him.

Mr. HOSMER. My point is, It is irrelevant whether or not there are any funds in this bill. An amendment of this nature will lie irrespective.

The CHAIRMAN. The Chair is ready to rule.

The gentleman from California offers an amendment to provide for a new section which in turn would provide that none of the funds appropriated in the pending bill shall be available for paying the costs of a conventional powerplant for a CVA-67 to which the gentleman from Texas [Mr. Mahon] makes a point of order. Apparently the only basis for that point of order is that there are no funds in the pending bill to accomplish that which is sought to be accomplished by the amendment. As futile, therefore, as the amendment might be, it is in fact a limitation of the funds herein appropriated and the Chair therefore overrules the point of order and recognizes the gentleman from California for 5 minutes.

Mr. HOSMER. Mr. Chairman, I well recognize that there is not any money in this bill for CVA-67. That aircraft carrier was fully funded in the year that the appropriation bill for it was passed. Yet all day yesterday through the debate was an understrumming relative to the unwisdom of building this aircraft carrier, CVA-67, which has not yet been started, with a conventional powerplant rather than a nuclear powerplant. What then would this amendment do if there are not any funds in the bill? It will be a notice by this Congress to the man who does control whether or not there will be a nuclear powerplant in that ship to reevaluate his decision and again consider the advantages, the very substantial advantages, I might say, the overwhelming advantages, of a nuclear powerplant for this ship.

Now let me say this: I think each one of us wants to have the best possible equipment for the fighting men of our Nation. We have been notified by the Chief of the Bureau of Ships and by Admiral Rickover himself that conversion or a change in the powerplant from conventional to nuclear will not delay at all the completion of this ship. She will still be delivered in the final third of calendar year 1968. If you feel that this question should be looked into once more without delaying the ship and without expressing other than your belief that, even at this last possible moment, we should in fact have another look taken by the Secretary of Defense, then I urge you to vote for this amendment. It does not say, "Build a carrier," but it says, "Mr. Secretary of Defense, there are many of us in Congress who believe that this is such a close question that you should take another look at it before this ship is started to be built on the ways."

Mr. LAIRD. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Wisconsin.

Mr. LAIRD. Mr. Chairman, I would like to say to the gentleman that I realize what he is trying to accomplish, but there are ship construction funds carried over from prior fiscal years. So if the costs of the new carrier, the conventional carrier that the Secretary of Defense talks about, exceed the amount we made available some 2 years ago, he could go into 1963 and 1964 money and would not even have to touch any 1965 money. I believe that the language of our committee report on page 37 makes very clear the attitude of our committee. I would like to state that this is the attitude I feel of a majority of the members of our committee, that we should proceed with nuclear propulsion and the Secretary should hold up this conventional type of construction. He can come back to the Congress at any time through a reprograming procedure. It would not take any action of the Congress itself but could be done through a reprograming procedure using 1963, 1964, or 1965 funds.

I would like to direct the attention of the gentleman from California, who is a member of this Joint Committee on Atomic Energy—and I know of his interest in this—to the expression of the committee's interest in going forward with nuclear propulsion in this new carrier.

Mr. HOSMER. I thank the gentleman. Mr. Chairman, all that I am asking the Members to do is to have the Secretary take another look at the wisdom of having this very, very expensive piece of weaponry which must serve the national defense interests for at least 25 to 30 years after it is built, and make sure concerning the kind of powerplant it should have. As the gentleman from Wisconsin points out, Mr. McNamara has the power of decision on this matter and the complete freedom to shift to nuclear power if he will only do so. The amendment I have offered costs nothing. It is a reasonable request. It is the same type of thing you and I would do before committing ourselves finally, at the last moment of a big decision involving heavy expense. I ask you, Is this not the course of wisdom? Of course it is. The only answer can be yes. I hope that your vote will be "yea" on this amendment.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HOLIFIELD. Mr. Chairman, reserving the right to object, I should like to have 2 or 3 minutes to speak on this amendment.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 8 minutes, the first 3 minutes of which shall be reserved to the gentleman from California [Mr. HOLIFIELD], and the last 5 minutes to the committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I do not like to legislate in this way. However my conscience would hurt me if I did not bring to the attention of the House the fact that the Joint Committee on Atomic Energy studied this very carefully. We held hearings. I hold in my hand a unanimous report which we issued stating we should have nuclear propulsion in an aircraft carrier if we are going to have an aircraft carrier. We did not pass judgment on whether we should have a carrier or not, but if we are going to have one, we should have it on the basis of expert testimony.

We had before us Secretary of the Navy Korth; we had Chief of Naval Operations Admiral McDonald; we had Admiral Heyward, who is one of the most respected research and development men in the Navy—most of us know him. All the Navy witnesses testified that we should have nuclear propulsion in this aircraft carrier.

I do not have the time to go into the economics of it, but our committee came up with the conclusion that this would only cost about 3 percent more over the lifetime of the carrier. A part of that determination was made on the basis that the nuclear fuel was included in the cost of the aircraft carrier, that it would propel the vessel for 7 years, and probably the second nuclear fuel installation would propel it for another 12 years, which would be almost the life of the carrier.

If we are going to have a carrier I firmly believe it should be nuclear powered. After the *Enterprise's* demonstration in the Cuban episode the testimony of its commander was that the responsiveness of the nuclear-propelled aircraft carrier put his operation in a class all by itself, an advanced class such as no other aircraft carrier could possibly have.

My conscience causes me to say that while I do not like this type of an amendment, while I do not like to legislate in this way, I favor this amendment if it will cause the Secretary of Defense to take another look at this, and if he does make a determination, I think it should be to have a nuclear-propelled engine in this aircraft carrier that we are planning to build. Otherwise, we are going into the next two decades with an obsolete piece of equipment that will run into a cost of several hundred millions of dollars.

The CHAIRMAN. Under the unanimous-consent request agreement the gentleman from Texas [Mr. MAHON] is recognized for 5 minutes to close debate on this amendment.

Mr. MAHON. Mr. Chairman, the gentleman from California has asked us to participate in what appears to be an exercise in futility.

We appropriated in 1962 funds for a conventionally powered carrier. As the members of the Committee know, most of our carriers and most of our surface ships are conventionally powered. It could be argued that unless a great majority are nuclear powered, it does not make a tremendous difference about whether a carrier is nuclear powered. However, there are two schools of thought on this subject. Of course, the members of the Committee would have expected that I would talk in great detail with the Secretary of Defense about this matter and with the officers and officials of the Navy.

Mr. Chairman, the Department of the Navy very much wants the ship. The Navy is reasonably happy with the situation as it is. The Navy feels that there would be further delay if nuclear power is now sought for the carrier. Without doubt many of the people in the Department of the Navy would prefer nuclear power, but what they want is the carrier. They have been delayed for 2 years. If I understand them correctly they do not want to take a chance on further complications and further delay.

Mr. Chairman, we all like to support the President when we can. If he had wanted a nuclear-powered carrier—and he is pretty defense minded, very defense minded—he would have sent up a request for the additional $126 million to finance the nuclear-powered carrier. However, he did not do this. I believe that the adoption of this amendment would appear to be an indirect slap in the face of the President of the United States in the area of defense. He has made his decision. I, for one, expect to support him in this decision.

Mr. Chairman, to say that none of the funds in this bill can be used toward the construction of a carrier that is not nuclear powered means that, while the money for construction was appropriated several years ago, the pay of personnel, civilian and military, enter into the picture in the pending bill and this could very well bring about a much longer delay in the building of a carrier which the Navy wants to get under construction as soon as reasonably possible.

Mr. SHEPPARD. Mr. Chairman, will my chairman permit me to ask him a question at this point?

Mr. MAHON. I yield to the distinguished gentleman from California, my friend and colleague on the Defense Appropriations Subcommittee.

Mr. SHEPPARD. Thank you. I would like to know by what process or means we can make Mr. McNamara spend money which he does not want to spend. If the gentleman has that knowledge, I would greatly appreciate it if he would please tell me about it.

Mr. MAHON. My friend is correct. The Chief of Naval Operations, I know wants to proceed with a carrier. He believes that the best hope is to proceed with the conventionally powered carrier. I do not think he wants to muddy up the water. However, there are differences of opinion about the problem.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Personally, Mr. Chairman, I had rather see us have an atomic-powered carrier. But if we cannot get it, I am for anything that has a larger deck than the deck on the *Essex*-class carrier. The accident rate is 3 or 4 times on the *Essex*-type carrier what it is on the bigger type. This carrier will have a larger deck.

Mr. Chairman, it is criminal to ask these young naval aviators to take off and land on a deck the size of the *Essex*-class carrier. We need a new carrier quickly.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. SIKES. Let us not forget that the carrier which is proposed is going to be a very good carrier and a very important adjunct to the fleet even though it is a conventional carrier. It will be very valuable to the fleet.

Mr. MAHON. There is no doubt about it. I do hope that we will not further muddy up the water and probably precipitate months of additional delay of the efforts of the Navy to get a carrier.

Mr. HOSMER. Mr. Chairman, will the gentleman yield to me for a correction of his previous statement?

Mr. MAHON. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I believe the gentleman inadvertently advised the members of the committee that there would be a 2-year delay. Admiral Rickover has advised the Joint Committee on Atomic Energy, in writing, that he and the Chief of the Bureau of Ships concur that whether the ship is conventional or nuclear powered, it will be delivered in the last one-third of calendar year 1968. So, the delay argument is in error. I hope the gentleman will not persist in it.

Mr. MAHON. This amendment possibly delays the building of a carrier, it opposes the position of the President, it repudiates our leadership, and I hope it will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. HOSMER].

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 80, noes 100.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. TOLLEFSON

Mr. TOLLEFSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. TOLLEFSON: Page 17, line 9, after the word "expended" strike the period and add a colon, and insert: "*Provided*, that none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel."

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. TOLLEFSON. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, this matter was discussed earlier in the afternoon. We have had an opportunity to confer briefly with officials of the Navy about it. We are convinced that the amendment is appropriate. I have no objection to it, and I do not believe anyone on this side has.

Mr. TOLLEFSON. May I ask the gentleman from Michigan if the amendment is acceptable to this side?

Mr. FORD. Mr. Chairman, I concur in the observations of the gentleman from Texas [Mr. MAHON] on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. TOLLEFSON].

The amendment was agreed to.

The Clerk read as follows:

SEC. 540. During the current fiscal year, if determined by the Secretary of Defense to be inconsistent with the public interest based on urgency of requirement to have naval vessels repaired, altered, or converted as required by section 539 hereof, such work may be done in Navy or private shipyards as he may direct.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Page 42, after line 24, insert:

"SEC. 541. None of the funds appropriated in this Act shall be used to conduct or assist in conducting any program (including but not limited to the payment of salaries, administrative expenses, and the conduct of research activities) related directly or indirectly to the establishment of a national service corps or similar domestic peace corps type of program."

Mr. MAHON. Mr. Chairman, this is an amendment I accepted last year. There are no funds in this bill for a domestic peace corps. So far as I am concerned, I am glad to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

Mr. BROMWELL. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. BELL] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BELL. Mr. Chairman, I would like to voice my support for H.R. 10939. As the committee report indicates, we are nearing the completion point in the development of several major defense projects, such as the Polaris submarine and the Minuteman ICBM.

This is not to say that we may rest easy. On the contrary, it is my hope that the sums appropriated under title IV for research and evaluation will provide for a constant awareness of potential weaknesses. They should enable us to reassess our defense concepts from year to year in a rational manner without periodic resort to the alarming cry of a "defense gap."

But passage of the bill before us will, in effect, put the finishing touches on vitally important programs of concern to the American people. It is on this basis that I am happy to join with so many of my colleagues and to express the view of my constituents by supporting the legislation before us.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en bloc.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 365, nays 0, not voting 67, as follows:

[Roll No. 118]

YEAS—365

Abele
Abernethy
Adair
Addabbo
Albert
Alger
Anderson
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashbrook
Ashley
Ashmore
Aspinall
Auchincloss
Ayres
Baker
Baldwin
Baring
Barrett
Barry
Bates
Battin
Beckworth
Beermann
Belcher
Bennett, Fla.
Bennett, Mich.
Berry
Betts
Blatnik
Boland
Bolton, Oliver P.
Bonner
Bow
Brademas
Bromwell
Brooks
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Bruce
Burke
Burkhalter
Burton, Calif.
Burton, Utah
Byrne, Pa.
Byrnes, Wis.
Cahill
Cameron
Cannon
Celler
Chamberlain
Chelf
Chenoweth
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohelan
Collier
Conte
Cooley
Corbett
Corman
Cramer
Cunningham
Curtin
Curtis
Daddario
Dague
Daniels
Davis, Ga.
Dent
Denton
Derounian
Derwinski
Devine
Diggs
Dingell
Dole
Donohue
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards
Ellsworth
Everett
Evins
Fallon
Farbstein
Fascell
Findley
Fisher
Flood
Fogarty
Ford
Foreman
Fountain
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Garmatz
Gary
Gathings
Giaimo
Gibbons
Gilbert
Gill
Glenn
Gonzalez
Goodell
Goodling
Grabowski
Gray
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Gubser
Gurney
Hagan, Ga.
Hagen, Calif.
Haley
Hall
Halleck
Halpern
Hanna
Hansen
Harding
Hardy
Harris
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Hawkins
Healey
Hébert
Hechler
Herlong
Hoffman
Holifield
Holland
Horan
Horton
Hosmer
Hull
Hutchinson
Ichord
Jarman
Jennings
Jensen
Joelson
Johansen
Johnson, Calif.
Johnson, Wis.
Jonas
Jones, Mo.
Karsten
Karth
Kastenmeier
Keith
Kelly
Keogh
Kilburn
Kilgore
King, Calif.
King, N.Y.
Kirwan
Kornegay
Kunkel
Kyl
Laird
Landrum
Langen
Latta
Leggett
Lennon
Lesinski
Libonati
Lindsay
Lipscomb
Long, La.
Long, Md.
McClory
McCulloch
McDade
McDowell
McFall
McIntire
McMillan
Macdonald
MacGregor
Madden
Mahon
Mailliard
Marsh
Martin, Calif.
Martin, Nebr.
Mathias
Matsunaga
Matthews
May
Meader
Michel
Miller, Calif.
Milliken
Mills
Minish
Minshall
Monagan
Montoya
Moore
Moorhead
Morgan
Morris
Morrison
Morse
Morton
Mosher
Moss
Multer
Murphy, Ill.
Murphy, N.Y.
Murray
Natcher
Nedzi
Nelsen
Nix
Norblad
O'Brien, N.Y.
O'Hara, Ill.
O'Hara, Mich.
Olson, Minn.
Osmers
Ostertag
Passman
Patman
Patten
Pelly
Perkins
Philbin
Pickle
Pike
Pillion
Pirnie
Poage
Poff
Powell
Price
Pucinski
Purcell
Quie
Quillen
Randall
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rhodes, Ariz.
Rhodes, Pa.
Rich
Rielhman
Rivers, Alaska
Rivers, S.C.
Roberts, Ala.
Roberts, Tex.
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rogers, Tex.
Rooney, N.Y.
Roosevelt
Rosenthal
Rostenkowski
Roudebush
Roush
Roybal
Rumsfeld
Ryan, Mich.
Ryan, N.Y.
St. George
St Germain
St. Onge
Saylor
Schenck
Schneebeli
Schweiker
Schwengel
Secrest
Senner
Sheppard
Short
Shriver
Sibal
Sickles
Sikes
Siler
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, Va.
Snyder
Springer
Staebler
Stafford
Staggers
Steed
Stephens
Stinson
Stratton
Stubblefield
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thomas
Thompson, La.
Thompson, N.J.
Thompson, Tex.
Thomson, Wis.
Tollefson
Trimble
Tupper
Tuten
Udall
Ullman
Utt
Van Deerlin
Vanik
Van Pelt
Vinson
Waggonner
Wallhauser
Watson
Watts
Weaver
Weltner
Westland
Wharton
White
Whitener
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Wilson, Ind.
Wright
Wydler
Wyman
Young
Younger
Zablocki

NAYS—0

NOT VOTING—67

Abbitt
Avery
Bass
Becker
Bell
Boggs
Bolling
Bolton, Frances P.
Bray
Brock
Broomfield
Brown, Calif.
Buckley
Burleson
Carey
Casey
Cederberg
Clark
Colmer
Davis, Tenn.
Dawson
Delaney
Dorn
Dowdy
Elliott
Feighan
Finnegan
Fino
Flynt
Forrester
Gallagher
Grant
Hays
Hemphill
Henderson
Hoeven
Huddleston
Johnson, Pa.
Jones, Ala.
Kee
Kluczynski
Knox
Lankford
Lloyd
McLoskey
Martin, Mass.
Miller, N.Y.
O'Konski
Olsen, Mont.
O'Neill
Pepper
Pilcher
Pool
Rains
Rooney, Pa.
Schadeberg
Scott
Selden
Shipley

Sisk
Sullivan
Toll
Tuck
Whalley
Wickersham
Willis
Winstead

So the bill was passed.

The Clerk announced the following pairs.

Mr. Buckley with Mr. Fino.
Mr. Wickersham with Mr. Avery.
Mr. Scott with Mr. Becker.
Mr. Dowdy with Mr. Hoeven.
Mr. Toll with Mr. Whalley.
Mr. Delaney with Mr. Broomfield.
Mr. Carey with Mr. Bell.
Mr. Casey with Mr. O'Konski.
Mr. Hays with Mrs. Frances P. Bolton.
Mr. Kluczynski with Mr. Cederberg.
Mr. Shipley with Mr. McLoskey.
Mrs. Sullivan with Mr. Martin of Massachusetts.
Mr. Pepper with Mr. Schadeberg.
Mr. Colmer with Mr. Brock.
Mr. Elliott with Mr. Bray.
Mr. Davis of Tennessee with Mr. Miller of New York.
Mr. Henderson with Mr. Knox.
Mr. Flynt with Mr. Johnson of Pennsylvania.
Mr. Boggs with Mrs. Kee.
Mr. Sisk with Mr. Lankford.
Mr. Feighan with Mr. Dawson.
Mr. Gallagher with Mr. Hemphill.
Mr. Willis with Mr. Tuck.
Mr. Abbitt with Mr. Bass.
Mr. Jones of Alabama with Mr. Brown of California.
Mr. Dorn with Mr. Finnegan.
Mr. Huddleston with Mr. Olsen of Montana.
Mr. O'Neill with Mr. Winstead.
Mr. Rains with Mr. Rooney of Pennsylvania.
Mr. Pilcher with Mr. Grant.
Mr. Selden with Mr. Forrester.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### GENERAL LEAVE TO EXTEND

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members who took part in the debate today have permission to extend their remarks in the RECORD and include pertinent tables, and so forth.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

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## PRESIDENT SAYS FOREIGN AID IS OUR CHRISTIAN DUTY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a newspaper article.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, twice in as many days President Johnson has spoken strongly on behalf of our foreign aid program. Yesterday the President made a moving statement about our responsibility as Christians and as Americans for helping our less fortunate fellow human beings in other lands.

The President's statement is a great affirmation of the humanitarian and altruistic reasons for foreign aid. But it is also a great declaration of the importance of foreign aid for our national welfare, and for the future of the free world.

I wish to include this statement in the RECORD for the benefit of all Members:

### PARTIAL TEXT OF JOHNSON NEWS PARLEY

(NOTE.—Following is a transcript of the central portions of President Johnson's remarks to a group of editors and broadcasters in the White House rose garden yesterday. The President also replied to several questions dealing with areas he had covered in recent speeches and news conferences.)

I would like to talk to you about one area in which we can see with some certainty the shape of things to come. That is the fight against poverty around the world. We are waging an all-out war against poverty here at home. We are committed to pursue that war to final victory. But we are are also engaged in that same battle on 100 different fronts around the world, in 100 or more nations.

We do this for two reasons: First, for the first time in history, man has the real power to overcome poverty. We have proved that by the wise application of modern technology. The determined labor of skilled men and women can ultimately produce enough food and clothing and shelter for all mankind. The possession of new abilities gives us new responsibilities and we want to live up to those responsibilities. That is our Christian duty.

Second, we now know that the progress which others make in satisfying their own desire for a better life will ultimately affect our own future and our own prospects, for we are now a part of a single world community, and you no longer can confine your activities or your influence to your local county seat. Names such as Saigon, Rio, and the Congo once stirred only thoughts of romantic adventure and great, mysterious distance, but today, as we meet here, we follow the events of those capitals with a close concern based on the knowledge that what happens there today will surely affect our action and our hopes here tomorrow.

### STRUGGLE TO EXIST

That is why you and I have a special responsibility to explain the problems of the developing world abroad to the American people at home. We must do better than we have done in explaining why our children's welfare and the welfare of our country may well depend on the wisdom and the foresight that we show in working with the people of other lands. To do this, we must first understand clearly how most of the people of the world live.

On three continents, in dozens of countries, hundreds of millions of people struggle to exist on incomes of little more than a dollar a week. In the 112 or more nations, only 6 of them have an income of as much as $80 a month: Sweden and Switzerland, Australia and New Zealand, Canada and the United States. Here we ought to get down on our knees every night and thank the good Lord for our blessings, that our income can be more than $200 a month, when more than two-thirds of the people of the world have less than $8 a month. These people have less to spend each day on food and on shelter and on clothing, medicine, on all of their needs, than the average American spends at his corner drugstore for a package of cigarettes. They live in rundown country shacks of tar paper. They live in city slums. They live without heat, water, or sanitation of any kind.

Their children have no schools to go to. They have no doctors or hospitals to attend. Their life expectancy is somewhere between 35 and 40 years of age. Worst of all, many of them live without any hope at all. They see no escape from the ancient cycle of misery and despair.

These are not new conditions. Poverty, hunger, and disease are afflictions as old as man himself. But in our time and in this age there has been a change. The change is not so much in the realities of life, but in the hopes and the expectations of the future. If a peaceful revolution in these areas is impossible, a violent revolution is inevitable.

### TOOLS OF REVOLUTION

We who stand here in peace and security, and prosperity, must realize that we are greatly outnumbered in this world, more than 17 to 1 in population, in area, in race, in religion, in color. You take any criteria and measure youself by that standard, and you will find that we are in a very small minority. * * *

I stood in an African hut on another continent not many months ago, and I saw a mother with a baby on her breast, one in her stomach, and one on her back, and eight on the floor, in this adobe hut. I thought of my own mother and the trials that she had raising her family. As I looked into this African mother's eyes, I saw the same look in that mother's eyes that I saw in my own mother's eyes when she was determined that her children would have food, clothes, and an education.

You hear me when I tell you that in the world we are outnumbered 17 to 1, but these numbers, these masses of humanity, are either going to make a peaceful revolution possible or they are going to make a violent revolution inevitable. All you have to do is turn on the television and see the young student riots in nation after nation. So the television and the radio sets, the wonders of communication to use are delightful instruments of pleasure, and to some of us they are important aids to business. But they have become the instruments of revolution in the rest of the world.

### WORLDWIDE BOOM

The shrinking of distances, the ready access to information about other countries and other people, have made these folks aware that a better life may be within their grasp, and a better life is possible. They now know that the condition that their fathers accepted with weary resignation are no longer inevitable. They now know that depression and despair are not the ordained lot of man.

This knowledge has helped to create the worldwide boom of vast portent which we know as the revolution of rising expectations. The meaning of this revolution is very simple: It means that people in the rest of the world want for themselves the same things that you and I want for our loved ones, for our friends, and for our children, and that most of us already have. They intend that their families shall live a decent life and that they have a job that gives them survival and dignity. They intend that their children shall be taught to read and to write. They intend that the hungry shall be fed and the sick shall be treated. They intend to take their place in the great movement of modern society, to take their share in the benefits of that society.

These just desires, once unleashed, can never again be stifled. The people of the developing world are on the march, and we want to be beside them on that march. I can think of nothing that would give me more satisfaction than the knowledge that I could believe that you wielders of the pen and you molders of opinion, you leaders in public life, could take your stand this morning on the idea of preserving humanity and uplifting it throughout the world.

### KNOCK ON THE DOOR

Our gross national product in this, the richest of all nations, this quarter, is running at the rate of $608.5 billion, $608 billion. We are asking to distribute in the form of help, aid, and military assistance to all the nations who want to have freedom less than one-half of 1 percent of that amount—$3 billion, 400 million. But because of what we call it, and because of how it has been administered, and because it is far away, we don't realize that this investment is not only one of the most Christian acts that this great powerful, rich country could do, but it is an act of necessity if we are to preserve our image in the world and our leadership in the world and, most of all, our society.

If I can leave one hope and one wish with you, it would be as a result of your visit here and of your study and application of what you have learned in your discussions, that upon your return home you could put the spotlight of your own community on the spotlight of other communities in the world, and somewhere out yonder, you could lend a helping hand to lift up and to lead a people who are not as fortunate as we are. I believe that that would give you and your community a satisfaction that will never come from a paycheck.

I think that if you can provide that leadership, America will not only continue to be the leader of the world, but we will be justified in being the leader of the world. But if we sit here just enjoying our material resources, if we are content to become fat and flabby at 50, and let the rest of the world go by, the time will not be far away when we will be hearing a knock on our door in the middle of the night, and we will be hearing voices clamoring for freedom, independence, food, and shelter, just as our revolutionary forefathers clamored for it. Somehow, in some way, the Lord in His Heaven will see that it is provided.

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## COAL RESEARCH: A KEY FACTOR IN WEST VIRGINIA'S INDUSTRIAL DEVELOPMENT

**Mr. HECHLER.** Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include a newspaper editorial.

**The SPEAKER.** Is there objection to the request of the gentleman from West Virginia?

There was no objection.

**Mr. HECHLER.** Mr. Speaker, the April 20 issue of the Huntington (W. Va.) Advertiser contained an excellent guest editorial by one of West Virginia's outstanding citizens, Carlton R. Mabley, Jr., president of the Island Creek Coal Sales Co. Mr. Mabley gives an excellent review of the current progress and future prospects for coal research in this article.

The State of West Virginia ranks first in the Nation in the production of coal. There has been a lot of talk about how to recapture the markets and restore employment to the levels once enjoyed in the coal industry. I believe that coal research holds the key to much of the progress which can be made in this area, as Mr. Mabley has well documented in his editorial. In our efforts to do something for the Appalachian area, we should not overlook the fact that the soundest and most firmly based progress is always made through the stimulation of activity in the private sector of the economy. In supporting additional research in new uses for coal, we are furnishing the impetus for an expanding economy in West Virginia and throughout the Nation.

Under unanimous consent, I include the complete text of Mr. Mabley's editorial to be printed at this point in the RECORD:

### INDUSTRY AND GOVERNMENT RESEARCH LOOKING TO BROADENING MARKETS FOR COAL

(A guest editorial by Carlton R. Mabley, Jr., President, Island Creek Coal Sales Co.)

Research conducted by and for the coal industry has been a dominant factor in the productivity records which the coal industry has established; attention is now being turned to coal-use research.

"Any appraisal of the benefits derived from coal research must arrive at the conclusion that few areas of industrial activity have made productive strides which can compare with those made by the coal industry during the past decade," according to J. W. Leonard and O. B. Bucklen, director and assistant to the director of coal research, School of Mines, West Virginia University, in a review of coal research for the American Mining Congress.

### COAL BASIC TO U.S. ECONOMY

Federal and State governments realize that coal is, and will continue to be, a significant factor in our energy-use pattern. Coal is basic to the economy of the United States. It is a prime source of fuel for generating power and is a major export commodity.

The striking achievements in coal mining, transportation, and safety were achieved by individual coal companies working with manufacturers of mining equipment, by basic work by the Bureau of Mines, by Federal and State geological and university groups, and by the willingness of coal companies, power companies, railroads, and equipment companies, to invest substantial capital.

The awareness of the role research and development have played in this progress is now being turned toward the development of new markets and regaining markets lost to competing industries.

### SIGNIFICANT RESEARCH EVENTS

Speaking before the Eastern States Blast Furnace & Coke Oven Association in February, James R. Garvey, president of Bituminous Coal Research, Inc., the coal industry's research organization, said that several related developments occurring in the last few years show this awareness. A new centralized research laboratory has been established and the research program has been enlarged; research activities of individual coal companies have been increased; research by the electric power industry has expanded; the U.S. Department of the Interior has established an Office of Coal Research with responsibility and funds for financing coal research in nongovernmental laboratories. The U.S. Bureau of Mines, historically concerned primarily with coal resources, safety, mining, and related problems, is now engaged in major and significant coal-use research as well. Industries such as the gas industry, realizing its ultimate dependence on coal, is also engaged in coal research.

### COOPERATIVE INDUSTRY EFFORT

It is impossible to catalog briefly all the coal-use research underway. The work and some resulting advancements of Bituminous Coal Research, Inc., will indicate the range of cooperative research being financed by the coal, railroad, power generating, and equipment industries.

The industry's coal research program involves five general areas:

1. The development of automatic equipment for handling, storage, and use of coal in bulk form for commercial and industrial plants. As a result of this work, automatic binning of coal has been made possible and gravity flow problems connected with storage of coal in bins have been reduced.

2. The effort to increase the use of coal in manufacturing processes which use heat directly has provided a coal pump which is being used in the Koppers process for injecting coal into blast furnaces as a replacement for natural gas.

3. Air and water pollution control research is aiding in the development of a process for eliminating pollutants resulting from coal's sulfur content.

4. The use of microscopic methods of analyzing coal have made it possible to provide tailormade blends of coal more cheaply for the manufacture of coke.

5. The study of the effect of basic chemical and physical properties on coal use has permitted the development of a device for continually measuring moisture in coal moving at a high speed on a continuous belt. Such an advancement assists in controlling the amount of drying necessary and helps to reduce the cost of coal transport and use by the consumer.

### NEW FEDERAL PROGRAM

The Office of Coal Research, begun in 1960 by the Federal Government, has already become a major force in coal research. OCR began its work with an analysis of coal's market potential in the United States and abroad. As a result, OCR has contracted for research over a wide range of subjects, many of which are related to an integrated research concept with each project feeding information to the others. These projects range from coal preparation and coal transport to development of equipment and processes for conversion of coal to pipeline gas and gasoline. Another indication of the range of government interest in coal-use research is shown by OCR sponsorship at West Virginia University of a project investigating coal-associated materials.

### FUTURE PROJECTS TO COST MORE

Projects similar in size to the coal-to-gasoline project sponsored by OCR and the development of a coal-burning gas turbine at BCR by the railroad and coal industries are typical of the types of projects to be expected. The coal-burning gas turbine results and the test plant were recently made available and put into operation at the Morgantown, W. Va., station of the U.S. Bureau of Mines. The objective is to adapt the coal-burning gas turbine to stationary plant power generation.

Research programs now being initiated under Government and private sponsorship and those which will be undertaken in the immediate future in the search for new coal markets will be substantially more costly than those undertaken in the past. They will be necessary, however, if the new uses and the new markets for coal are to be developed.

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## THE MATHIAS AMENDMENT—THE STATES RIGHTS CLAUSE IN THE CIVIL RIGHTS BILL

**Mr. MATHIAS.** Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Maryland?

There was no objection.

**Mr. MATHIAS.** Mr. Speaker, in recent weeks I have made a number of trips to various parts of the country at the request of the Republican National Committee and the Republican Congressional Campaign Committee. During the course of these travels I have attended meetings and rallies in large metropolitan centers, small towns, and rural areas. Practically everywhere there is a desire among thoughtful Americans for more factual information about the specific provisions of the civil rights bill recently passed by the House of Representatives. The strong bipartisan support provided by the leadership of both our great parties is, of course, only a proper preface to public acceptance and approval.

A considerable body of misinformation is being actively circulated with respect to all titles of the bill. In no area, however, is there greater misapprehension than on the question of the arbitrary expansion of the powers of the Federal Government, a question answered by the Mathias amendment.

One of the issues most often raised at these meetings is relative to the impact of the civil rights bill on the vigorous and successful programs conducted by many States to resolve problems on a level of local responsibility. There is great interest in the Mathias substitute for the Meader amendment to preserve the validity of State laws on civil rights and to affirmatively assert that Congress does not intend to preempt this field of legislation. It is a State's rights amendment.

In order that the provisions of the Mathias amendment may be more fully and generally known, I ask unanimous consent to include an excerpt from the CONGRESSIONAL RECORD which reports the colloquy relative to the amendment, the text of the amendment, and the record of action by the House.

### SUBSTITUTE AMENDMENT OFFERED BY MR. MATHIAS

Mr. MATHIAS. Mr. Chairman, I offer a substitute for the amendment.

The Clerk read as follows:

"Amendment offered by Mr. MATHIAS as a substitute for the amendment offered by Mr. MEADER: Page 87, after line 6, insert the following new section 1102 and renumber the following section:

" 'SEC. 1102. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.' "

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield to the gentleman from New York.

Mr. CELLER. I am opposed to the amendment offered by the gentleman from Michigan [Mr. MEADER] and am heartily in favor of the substitute offered by the gentleman from Maryland.

Mr. MATHIAS. I thank the gentleman.

Mr. MCCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield to the gentleman from Ohio.

Mr. MCCULLOCH. Mr. Chairman, the Meader amendment was a good one. The substitute makes it even better. The legislation will be improved by the adoption of the substitute. I hope it is unanimously agreed to.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Maryland to the amendment offered by the gentleman from Michigan.

The substitute amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Michigan [Mr. MEADER], as amended by the substitute amendment offered by the gentleman from Maryland [Mr. MATHIAS].

The amendment, as amended, was agreed to.

It will be noted that there was unanimous agreement to the Mathias amendment. Before it was offered I had obtained its approval by the Republican managers of the bill. Obviously the Democratic leadership concurred and the administration and the leadership conference on civil rights offered no objection.

I am grateful that my colleagues saw fit to adopt this amendment which implements one of the principles that I consider fundamental to our constitutional system. It is also consonant with the philosophy of the Republican Party. The decisions of government should be made, and the activities of government should be conducted, at levels as close to the people as circumstances will permit. The Mathias amendment recognizes that the sensitive area of civil rights legislation is a local responsibility and accords to the States of the Union the first opportunity to meet the challenge without Federal intervention.

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## MILITARY DRAFT POLICIES

Mr. BARRY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BARRY. Mr. Speaker, I would like to join my distinguished colleagues, who have been conducting a study of the present military service program, in supporting a commission to review the draft system. In March of this year, I introduced a similar bill to those which have been presented in the Senate and this body: H.R. 10223 which provides for a comprehensive investigation of our compulsory military training program.

My colleagues have presented an extensive analysis of the inadequacies of our present draft law. To summarize their findings, I can think of no better illustration of the effects of the present, outmoded system than a letter which I recently received from a constituent. The impact and complete frustration felt by many families throughout the Nation because of our draft laws are capsulized in these six paragraphs:

DEAR CONGRESSMAN BARRY: I am aware that this letter will not help my son but it may help another young man from being placed in a similar situation.

In a few months, my son will be 25 years old and within a month, he will be in the Armed Forces. He is a college graduate with a year of engineering and 4 years of teacher education. Last year he taught school in Long Island and at the end of the year he took a leave of absence so he could complete his military obligations. When he tried to join the Air National Guard he was turned down because of an allergy. This made it impossible for him to return to teaching for the rest of that year since school had already officially opened. He was told by various authorities that he would probably no longer be called because of his age and his allergy. However, he wanted only to take a substitute teaching position so that if he were called, he would be able to leave. For the past few years, he has not known how he could plan a future with the suspense of the draft hovering above.

In December 1963, he was told to report to active duty in the service for January 1964. While this was to take place, a school in Spring Valley, N.Y., offered him a full-time teaching position. He told them he was being drafted but they wanted to appeal. They contacted the local board as well as other officials but they were denied.

When he gets out of the service, he will be 29 years old for he was accepted as an officer in the Air Force. He accepted the 4-year enlistment over the 2-year draft because he could at least use his education. His ambitions are practically ruined and his hopes for returning to graduate school for a master's degree are stifled for at least a number of years to come.

My husband, who is 65 years old, is very close to our son, and 4 years will be a long time for both of them.

If something can be done for another young man to prevent a similar situation, then it will be easier for me to understand. I certainly hope so.

Many similar family situations have come to my attention during my years in Congress. There must be alternate approaches to meet our national defense manpower requirements than the inadequate law we have today. The draft has been extended in the Congress without reform since 1951. Therefore, it is inevitable that, with our continually changing military needs, there are inequities and inefficiencies in the law which warrant reexamination.

How can the draft be considered universal when an increasing number of young men are coming of draft age and only a small percentage of these youths will be needed or called? A recent study showed that 17 percent of the young men of service age are being drafted. Young men reach the draft age at 18, but probably will not be called until they are at least 22. During this time they have four or more long years of uncertainty, which could not be more aptly illustrated than my constituent's letter.

In view of the changing needs of our national defense, other immediate issues should be reexamined in addition to defining predictable standards which would eliminate the uncertainty of draft callup. We should know what type of trained forces and how many are needed to meet the challenge of the cold war. We should define our service policies in regard to educational and training opportunities, as well as determine the effect of the draft on the lives and careers of our youth. We should develop comparability of service pay to civil service and civilian pay scales, including fringe benefits. It has been pointed out to me that in the three lowest military grades, a married man with two children receives $3,000 a year, including food and housing allowances. This is, compared to the national average poverty level for a family of this size.

The commission proposed would submit to the President and to the Congress a final, objective report with respect to its findings and with recommendations to these and other issues which are of great concern to the youth of the country, their families, and to the security and well-being of this Nation.

## ISRAEL'S ANNIVERSARY

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LINDSAY. Mr. Speaker, last week marked the 16th anniversary of the creation of the State of Israel. The story of Israel, however, is more than the story of a country which, in the short space of 15 years, has joined the family of nations as one of its most responsible members. It also is a great human story, and I wish to join my colleagues in the House in commemorating the anniversary of the creation of this new and vital country.

Since its formation in 1948, Israel has emerged as that rare country in the underdeveloped part of the world—a stable democracy on the road to economic independence. During this period the growth and development of Israel have been dramatic. A few figures suggest the story. In 1948, Israel had a total population of 805,600 people. It had no more than 1,350 schools and 5,900 teachers. Per capita income was less than $300. During this 15-year period Israel had to do more than upgrade the standard of living for its 1948 population; it had to do so for more than 1 million new immigrants to the country.

Today Israel is a country of roughly 2,326,600 people. It has increased its schools to 4,350 and its teachers to 32,000. Per capita income now is at $750. Further, Israel's exports have increased to $343 million, up 26 percent from $272.2 million in 1962; imports have increased to $643 million, up 5.3 percent from $610.5 million in 1962; and the deficit decreased to $300 million, down nearly $40 million from 1962.

In growing, Israel, of course, has had help—economic aid from friendly countries such as the United States. Between 1949 and 1962 the United States extended to Israel $879.7 million in various forms of economic assistance. Our investment in Israel has turned out to be worthwhile. Israel is one of the few governments in the Middle East which, since 1948, has maintained political stability. Political change in Israel has been peaceful, not violent. After the death of Izhak Ben-Zvi in April of 1963, Zalman Shazar was elected third President. And Levi Eshkol succeeded David Ben-Gurion as Prime Minister when the latter resigned in June of 1963.

Israel also has contributed much beyond its borders. The country has sent her teachers and scholars over much of the world. It has developed a technical assistance program, which now reaches 83 states and territories on 4 continents. Israel attempts to help countries at the starting point, although once they begin to grow they need credit and capital far beyond Israel's capacity.

Despite Israel's progress, the country is still plagued by great troubles. Israel exists in a hostile region which requires it to divert scarce resources to defense. While Israel's production continues to grow, so does her consumption. Imposing austerity on people who want a higher standard of living after years of privation is not easy. Finally, Israel suffers lost markets and increased transportation costs due to the Arab boycott.

Yet there can be little doubt that Israel will continue to develop economically and politically. The United States has an important stake in this brave and rapidly emerging country. I invite Members of the House to extend sympathetic and close attention to this country—which offers new proof that a free society works and offers the fullest opportunity for the individual.

## CENTENNIAL TRIBUTE TO THE SHARON HERALD

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. WEAVER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. WEAVER. Mr. Speaker, journalism has always been a speculative enterprise dependent upon public support, but the pioneer publishers on the western Pennsylvania frontier had to do a tough job exceptionally well. In those days circulation was so meager as to make western Pennsylvania a graveyard for newspapers.

It was to this austere clime that the Frey brothers brought forth on an old Washington press their first issue of the Sharon Herald on April 11, 1964.

During the early settlement of western Pennsylvania the fourth estate cooperated with the clergy and the educators in the advancement of knowledge, fostering of good citizenship, and promotion of the community's best interests. So it was with the Sharon Herald as the Rev. John Winter participated as a partner in the enterprise until 1869, along with Calvin W. Fay.

In January 1869, John L. Morrison, son of the editor of the now weekly Greenville Record-Argus, purchased a large interest in the Sharon Herald. For more than 30 years thereafter, his steadfast courage and practical ability made the Herald the most influential newspaper in Mercer County.

Within the last few decades we have developed the unfortunate tendency in this country to measure a newspaper's contribution preponderantly on the basis of its national and international news coverage. The distortion of this standard of judgment is multiplied because of the physical and economic exigencies that have forced most U.S. newspapers to abdicate their responsibilities for coverage in national and international arenas to the wire services for news, and to the syndicated columnists for analysis and opinion.

Apparently, we have forgotten that the proper province of the press in the United States follows the unique pattern of our decentralized Federal system. We fail to recognize that today, as well as historically, the American press is strongest and most admirable in its own backyard, where journalism arises out of a face-to-face confrontation with State and local affairs.

It is at the State and local level of coverage that the journalistic performance of a paper can be justly appraised for its dedication, resourcefulness, and achievement.

Too seldom we publicly acclaim the good newspaper that is prominent only in its own community for the competent and faithful informing of readers; for the conscientious mediating between citizen groups along every conceivable alinement—politicians and voters, employers and employees, merchants and consumers—and for the relentless and uncompromising disclosure of injustice and need for reform.

That the Sharon Herald has survived the difficult conditions of its frontier beginning suggests the worth of the initial inspiration and the hard work of the founders. That it has served its readership continuously for a hundred years firmly attests to the integrity and effectiveness of its contribution to the community throughout its long life. In its present circulation of over 22,000 and its devoted and very able staff of editors and reporters, we see the strongest indication of another hundred years of performance in the best traditions of American journalism for the Sharon Herald.

The leadership shown by Mr. G. A. Harshman is evident through his service to the community and the high quality and standards of this newspaper. The Sharon Herald has truly been the clarion voice of the valley of decision, the Shenango Valley. My congratulations to Mr. Harshman and the members of his staff.

## LOSS OF TEMPORARY LABOR FORCE WILL ADVERSELY AFFECT ENTIRE NATION

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TALCOTT. Mr. Speaker, the loss of the bracero program—10 percent of California agriculture's total and 33 percent of its temporary labor force in 1962—will adversely affect the entire economy of California and the adverse effects will spread across the entire Nation. Of over 200 crops grown in California, 10 of them represent between 50 and

100 percent of the Nation's total production:

| | Percent |
|---|---|
| Almonds | 100.0 |
| Artichokes | 100.0 |
| Brussels sprouts | 92.4 |
| Apricots | 92.0 |
| Avocados | 81.0 |
| Broccoli | 70.0 |
| Bushberries | 65.1 |
| Boysenberries | 65.1 |
| Youngberries | 65.1 |
| Cauliflower | 55.3 |
| Asparagus | 53.6 |
| Celery | 52.5 |

Leading bracero-user crops, their 1962 value, peak employment and percentage of braceros are as follows:

| Crop | Amount (millions) | Peak employment | Percent braceros |
|---|---|---|---|
| Tomatoes | $130 | 43,700 | 80.0 |
| Strawberries | 36 | 17,000 | 61.0 |
| Asparagus | 27 | 9,250 | 50.0 |
| Melons | 37 | 9,100 | 44.0 |
| Lettuce | 87 | 7,600 | 82.5 |
| Sugarbeets | 54 | 7,000 | 50.0 |
| Lemons | 33 | 6,250 | 67.0 |
| Celery | 31 | 2,350 | 28.0 |

The canning tomato industry is one, of many, good examples of the effect that one California crop has upon the economy of other industries throughout the United States:

*Value estimated for 1962, tomato pack*

| Item required by other industry: | |
|---|---|
| Cost of tin | $70,359,000 |
| Cost of glass bottles and containers | 11,091,000 |
| Cost of caps for bottles and containers | 1,868,000 |
| Cost of cartons | 12,616,000 |
| Cost of labels | 6,275,000 |
| Trucking raw produce to plants at $4.00 per ton average | 12,872,000 |
| Canning payroll (3 7-hour shifts, 50,000 workmen, average 45 days per year at $1,001,600 per day) | 45,000,000 |

Other estimates indicate that California tomato growers spend each year:

| Item: | *Millions* |
|---|---|
| For labor | $130.0 |
| For seeds and plants | 5.5 |
| For fertilizers | 3.5 |
| For insecticides | 3.0 |
| For fuel and machinery repairs | 4.0 |

These do not include water, transportation and other necessary crop production costs.

California farmers:

First. Use enough rubber each year to put tires on more than 6 million automobiles.

Second. Paid over one-half billion dollars to hired workers in wages last year.

Third. Own more than 60,000 home freezers, 75,000 television sets, 160,000 tractors, 127,000 automobiles, 131,000 motor trucks, 9,200 grain combines, 11,500 milking machines, 9,200 pickup balers, 6,000 cotton picking machines, 1,000 corn pickers.

Fourth. Spend $100 million a year on gasoline and petroleum products.

Fifth. Use about 1.1 million tons of fertilizer and minerals each year, costing nearly $100 million.

Sixth. Directly or indirectly, account for nearly one-third of the total railroad shipments in the State, and more than one-half billion dollars are spent each year for shipping the State's farm products.

Seventh. Directly and indirectly account for the use of over a million miles of food labels each year for which purpose over 22,000 tons of paper are required at an annual cost of nearly $6.5 million.

Eighth. Nonreal estate agricultural loans outstanding by member banks of the Federal Reserve System in California averaged $620 million in 1962, and is estimated as being $653 million in March of 1963. In addition, California's total farm mortgage debt as of June 1, 1963, is estimated to be $1.7 billion.

Continuation of some form of a supplementary farm labor program beyond the present termination date—December 31, 1963—of Public Law 78 is essential to maintaining the present level of economy in California and the entire Nation. Congress has recognized this over the years, first by providing legal authority for the program—Public Law 78—in 1951, and subsequently granting extensions through 1955, 1959, 1961, and 1963. Thousands upon thousands of U.S. citizens in every State and almost every category will continue to be benefited, and no one will be injured by continuance of the program because of built-in legal, social, and economic safeguards; the enabling law protects the use of domestic labor by specifying that braceros cannot be used if domestic workers are available; braceros are not underpaid because the law requires that they be paid the prevailing wage rate in the area of employment—and California agricultural wage rates are among the highest in the Nation—and as only adult males are included in the program, there is no question of neglected families as sometimes is claimed. Of added importance: Mexican authorities have repeatedly described Public Law 78 as being one of the best programs ever devised to foster improved relations with our neighbor to the south.

Serious and immediate thought should be given to an alternative program which will meet the needs of those involved.

## CURRENT MILITARY PLANNING FOR NATIONAL SECURITY

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. MORSE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. MORSE. Mr. Speaker, our colleague, the gentleman from Kansas [Mr. ELLSWORTH] has made a real contribution to current thinking and discussion on national security. Last Saturday, April 18, 1964, Congressman ELLSWORTH was the principal speaker at the Kansas-Missouri Methodist Church Conference on Peace and World Order, held at the Old Mission Methodist Church, at Shawnee Mission, Kansas. His scholarly, penetrating, and constructive remarks deserve the attention of every Member of the Congress. I am glad to include them at this point in the RECORD:

> In that fateful August of 1945, two terrible explosions brought an end to the bloodiest war in all human history. Barely 2 months later, 51 nations of the world joined together in a new organization—the United Nations—which all mankind fervently hoped would remove forever the blight of war from the face of the earth.
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> In the year that followed America dismantled the mightiest war machine ever assembled. The boys were brought home; the factories converted to the production of consumer goods. Americans looked forward eagerly to a peaceful, prosperous world where their children could grow up free from fear and want.
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> But as you all know, this vision did not come to pass. It did not come to pass because the leaders of world communism saw an opportunity to expand their empire while the free nations of Western Europe were economically prostrate and the United States was neither physically nor psychologically prepared to put a stop to their ambitions.
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> It did not take long for the United States to learn this lesson. By 1948 this country had decided that the economic strength of our wartime European allies was an essential factor in preventing their communization—and so we began the Marshall plan to put them back on their feet. We decided that Greece and Turkey should not go the way of Czechoslovakia, swallowed up behind the Iron Curtain—and so we proclaimed the Truman Doctrine. To make sure our Armed Forces were maintained at the necessary levels we reestablished the peacetime draft, after it had been allowed to lapse in 1947. And in a momentous decision, the United States decided to press ahead with the construction of a weapon destined to become a thousand times more powerful than the bombs that flattened Hiroshima and Nagasaki.
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> This early postwar period was characterized by two main trends, one political and one technological. On the political side, the United States came to realize the menace to freedom and self-government posed by communism, and took the first steps to contain it. On the technological side, modern science revolutionized the art of war. These twin realities have given the shape and substance to the present cold war and arms race.
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> It is not my purpose today to trace out the various political and technological developments of the past 15 years. That is a story you all know. What I do intend to do today is to describe our current military posture in some detail, and then discuss one crucial question that must shortly be answered by the President, the Secretary of Defense, and the Congress.
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> Our present strategic theory for a general war has been dubbed the "Damage-limiting strategy." In January, Secretary McNamara described it to the House Armed Services Committee as follows:
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> "To serve as a maximum deterrent to nuclear war, our strategic retaliatory forces must be visibly capable of fully destroying the Soviet society under all conditions of retaliation. In addition, in the event such a war is forced upon us, they should have the power to limit the destruction of our own cities and population to the maximum extent practicable" (p. 6919).
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> This strategy is something of a compromise between two other theories—the overkill theory and the full first strike theory.

According to the overkill theory, the United States now has enough nuclear weapons to incinerate the Soviet Union perhaps a hundred times over, even after we absorb a first strike by the Soviets. The proponents of the overkill theory would reduce our strategic retaliatory forces until there were just enough to destroy the principal enemy cities. This would be enough, say the overkill theory people, to deter the Soviets from initiating any nuclear war.

The Air Force has recently taken strong issue with the assumptions behind the calculations of the overkill theory as advanced by one of its leading champions, Prof. Seymour Melman of Columbia University. But leaving aside the question of whether his calculation gave sufficient and realistic weight to such factors as the mechanical reliability of the missiles, their launch readiness in case of emergency, their ability to survive a first Soviet strike, and their chances of penetrating to their targets, the overkill theory is vulnerable at one vital point: What happens if, despite all our best efforts, war does break out?

Secretary McNamara's answer to this question is worth quoting in full:

"It is quite likely that the Soviet Union, in an attack upon the United States and Western Europe would not fire all of its strategic nuclear weapons in a salvo launch. Regardless of whether the Soviets struck first at our cities or first at our military installations or at both simultaneously, it is probable that the launching of their bombers and missiles would extend over a sufficient period of time for us to receive the first blow, to strike back not only at Soviet cities, if that be our choice, but also at the elements of their forces that had not yet been launched. To achieve this capability, we must have a force considerably larger than that which might be needed simply to destroy Soviet cities."

In other words, as far as deterrence goes, the strategic nuclear forces prescribed by the overkill theory would be enough to inhibit any rational man from initiating a nuclear exchange. But when deterrence fails, for whatever reason, the question becomes one of defense—of limiting the damage to the United States and her allies and their peoples.

At the other extreme is the full first strike theory. According to this theory, a tremendously superior strategic force would be an almost perfect deterrent to nuclear war. But if, for one reason or another, or for no reason at all, a general nuclear exchange seemed imminent, America could solve the defense problem by a full first strike which would reduce the Soviet retaliatory capacity to the level at which the damages it could inflict upon the United States and her allies would be "acceptable."

Objections to this theory are even more numerous and fundamental than those to the overkill theory. For one thing, it runs directly counter to a deep-seated national tradition which I believe stems from our underlying religious faith. America will not consider a first nuclear strike. When one stops to consider the awesome and terrible power of the weapons we possess today, and the calamitous consequences of their use, this simple moral injunction seems to me to be absolutely binding.

But aside from the moral question, there are other knotty problems. Who is to decide when the international situation has deteriorated to the point where America must unleash her nuclear might to avoid becoming the victim of a Russian sneak attack? What if our intelligence estimates are wrong, and we slaughter a hundred million people by mistake? And what is an "acceptable" level of damage to our own country and its people? Ten million dead? Twenty million?

Fortunately these questions do not demand serious attention because of one overpowering fact: It has now become impossible to achieve a full first-strike capability, regardless of the level of casualties anyone is willing to accept. This is so because the Russian retaliatory systems, while not as satisfactory as our own, are today so numerous, so dispersed, and so protected that to destroy practically all of them in a first strike is not technologically possible.

Thus, we are left with an in-between course. According to the damage-limiting theory, the war scenario would go something like this:

The Soviet Union launches an attack. It would be foolish for the Russians to strike at our cities for that would leave our own strategic nuclear power almost intact. So the Russian first strike would almost certainly be aimed at our forces.

But the American retaliatory forces are designed with one prime goal in mind: The ability to ride out a concentrated enemy attack and still maintain the ability to strike back. The enemy strike would doubtless incapacitate a part of our retaliatory forces, but the remainder would be in a position to return the blow.

It is extremely unlikely that the Russians, given their reliance on delivery systems as diverse as the manned bomber, ICBM, and the submarine would be able to deliver their entire strike all at once, even if they wanted to. Thus, as soon as we are aware that an attack is underway, we have an option to attempt to limit the damage to ourselves and our allies by striking back immediately at the enemy's forces which have not yet been fired. Our targets would therefore be his missile sites, airfields, and submarines.

If our intelligence system is good enough to tell us which of the enemy's targets is still "live"—and this is a big if—our second strike, following closely on the heels of his first wave, would knock out a substantial portion of his remaining damage-inflicting capacity.

Then, after he has fired his first round and seen his subsequent rounds and reserves destroyed by our counterattack, the United States can use her own Reserve Forces to blackmail the Russians into accepting American terms.

If this scenario seems surrealistic, like one of those weird Dali paintings or a Kafka novel, remember that nobody really expects this sort of thing to happen. Although Soviet military theorists are still encumbered by a lot of Communist dogma, they have become shrewd and sophisticated enough to realize that there is practically no conceivable set of circumstances which would force a sane man to initiate a general thermonuclear war. This scenario is what results from making all the pessimistic assumptions and then trying to devise a way in which the United States will come out, if not ahead, then at least less far behind.

The adequacy of our forces in being is now generally accepted.

On the basis of the latest estimates of Soviet strategic forces, Secretary McNamara has assured Congress that "There is no question but that today our strategic retaliatory forces are fully capable of destroying the Soviet target system, even after absorbing an initial surprise attack."

Just last Wednesday, April 15, the Pentagon disclosed the following information, which I quote from the Washington Post of that date:

"The United States today has about 750 ICBM's on launchers—66 more than previously disclosed—while Russia 'has less than one-fourth of that number in operation.' There are 540 U.S. strategic jet bombers and perhaps 150 medium-range bombers capable of reaching U.S. targets on two-way missions.

"The U.S. Navy has 192 Polaris missiles deployed on nuclear submarines, that can fire submerged at targets 1,500 miles away, while Russia has 'substantially fewer' sub-launched missiles with less than one-third the range and they must be fired from the surface."

This is obviously not a complete tabulation, because it leaves out our B–57 bombers, now being phased out, and about 1,400 Russian equivalents which can carry out one-way suicide missions to the United States. Nor does the tabulation take into account the nuclear firepower of our carrier-based attack bombers and our tactical air units deployed all around the Communist bloc. There is also the British V-bomber fleet and an as yet rudimentary French nuclear capacity. Our total forces are still growing. Last November Secretary McNamara told the Economic Club of New York that the United States expects to have over 1,700 operational long-range ballistic missiles by 1966. Barring new and destabilizing developments, this is probably as many as the present strategy can justify.

Last January over 400 military and arms control experts gathered at the University of Michigan to discuss questions relating to the arms race and the present military picture. Their discussions lasted 4 days and filled hundreds of pages. Obviously this field is an immense and complex one, and it is clearly not possible to take up and consider every aspect of every problem in our brief hour this morning or even this whole weekend. So rather than going on to dissect our strategic theory in a thorough and professional manner, I want to raise just one question here which seems to me to be one of the most crucial in determining the size and composition of our second strike forces.

Now, if we are going to design a system which can knock out only enemy cities, and not hardened missile sites, we are reducing the enemy's incentive to attempt a preemptive or anticipatory strike in a time of crisis. This is so because no rational person would advocate a premeditated first strike against cities, leaving the enemy forces intact to retaliate on our own cities.

But if we are going to design a system which we say will be used only after an enemy first strike, to hit back at his remaining forces instead of his cities (or as well as his cities), what is to keep the enemy from suspecting that the real purpose of our forces is not to retaliate, but to achieve the capability to deliver a full first strike?

Thus we have the dilemma. If we design a system aimed at his cities, he has little reason to fear a first strike; but if deterrence fails and war does break out, we have no way to limit the damage our country would suffer because we cannot hit the enemy's second-line forces. This is the trouble with the overkill theory.

On the other hand, if we design a system which we admit is designed to hit enemy forces—even though we specify that this would be done only in retaliation—what is to keep the prudent strategist on the other side from jumping at once to the conclusion that even though we say we would only use those forces to retaliate, we might have the capability to deliver a devastating first strike? Trusted as he is with the safety of his own land and people, could he in good conscience accept our professions at face value, when we had the capability suddenly to wipe him off the map? From the potential adversary's point of view, the damage limiting strategy, with its capability of striking at enemy forces, is much more provocative than the plain cities only strategy.

I regret to say that at this time I do not have the solution to this dilemma. I can only hope that I have explained the basic problem clearly enough that you, as informed, and intelligent, and concerned citizens, can apply your own ability to it and perhaps come up with some fresh and ingenious contributions to the question.

I have talked at some length about our strategic retaliatory force posture, which would determine the nature of an all-out nuclear war. Let me turn now for a moment to another aspect of current military planning—the problem of a more localized confrontation of East and West, most likely in central Europe.

When President Kennedy came to the White House in January of 1961, an important departure from the Eisenhower policy toward deterring and, if necessary fighting localized or limited wars was inaugurated. Charles J. V. Murphy, in a very able article in the January 1964 issue of Fortune, described it thusly:

"The Kennedy proposition, in simplified terms, went something like this: The emergence of Soviet Russia as a nuclear power, well equipped with warheads for both general and limited wars, had produced a nuclear stalemate or, in any event, a balance in the capacity for thermonuclear retaliation so close that one side could not rationally expect to introduce such weapons without inviting from the other a catastrophic blow to which it could respond only by extending catastrophy. An exchange of nuclear rockets between the United States and the U.S.S.R. had therefore ceased to be a 'credible' assumption in the planning of forces. Concurrently, as the Kennedy advisers saw it, the Eisenhower plan for the nuclear defense of Europe had lost validity, inasmuch as even a relatively small-scale nuclear action there would in all probability escalate controllably into full-scale war. On this reasoning then, the Kennedy men concluded that a major Soviet military aggression, if and when undertaken, would revert to conventional warfare of the World War II standard, utilizing masses of infantry, armor, and tactical aircraft."

Now this interpretation differed from the Eisenhower interpretation in this way: Eisenhower and his advisers developed a strategy based on the use of small, tactical nuclear weapons to counter the Communists' supposed advantage in manpower. There were two versions to this theory. One held that since NATO was outmanned in Europe, any concerted Russian thrust should be met at once with nuclear firepower, and our intention of so doing, explicitly announced in advance, would be sufficient to cause the Russians to abandon any such plans. The other version avoided the immediate use of nuclear weapons; if the NATO line could absorb the Soviet thrust and hold, the war might proceed conventionally. But if the Russians were about to break through and race to the channel, NATO—meaning in fact the United States—would use tactical nuclear weapons to halt the Russian drive.

For our present purposes it matters little which of these two versions gained the upper hand. Suffice it only to say that the Eisenhower strategy relied on tactical nuclear weapons and a profound hope that the use of such weapons would not produce an escalation to the level of all-out global war. Many of you will recall that Gen. Maxwell Taylor resigned from the Eisenhower administration precisely because of his disagreement with this policy. But President Kennedy called General Taylor from retirement to become Chairman of the Joint Chiefs of Staff.

Now the nuclear doctrine which caused his retirement has been downgraded to the point where our tactical nuclear weapons in Europe serve only the purposes of deterrence of Russian use of similar weapons, and of second-strike retaliation following Russian use. Our policy in that great arena of confrontation is now to maintain a "capability to participate with our allies in a large-scale war in Europe, both with and without nuclear weapons." The emphasis here is on the "with." Secretary McNamara has vigorously pursued the policy by bolstering our conventional forces to the point where they can stop a Soviet thrust without resorting to the use of nuclear weapons. Now, in his words, "in central Europe, NATO has more men, and more combat troops, on the ground than does the (Communist) bloc. It has more men on the ground in West Germany than the bloc does in East Germany. It has more and better tactical aircraft, and these planes on the average can carry twice the payload twice as far as the Soviet counterparts." (Economic Club, Nov. 18, 1963.)

A third and very different area of military planning today is that related to antiguerrilla operations. The example that springs to mind, of course, is Vietnam.

As the decade of the fifties drew to a close, most observers agreed that a major Soviet push across Europe was becoming more and more unlikely. Instead, the Soviets began to place increased emphasis on guerrilla operations, undoubtedly reflecting the successful tactics of Mao Tse-tung in China and Ho Chi Minh in Indochina. The Communist revolution in Cuba, as well as the non-Communist war of liberation in Algeria, provided valuable new lessons.

Out of these Communist triumphs the West has learned a few lessons too. We recognize that anti-Communist successes against guerrillas in Greece, Malaya, and the Philippines were immeasurably expedited by one key factor—each of those areas had a sealed border that restricted the guerrillas' freedom of motion. In Greece, it was the Yugoslav border, closed at the time of the Tito-Stalin split. In Malaya, it was the narrow neck of the Malay peninsula. In the Philippines it was the sea, patrolled by the U.S. Navy.

In the last 3 years the Defense Department has more than doubled the number of special forces groups—groups especially trained for counterinsurgency operations—and their overall personnel strength quadrupled.

We have yet to record a clear success in antiguerrilla operations against a foe who has free rein to move about the territory and receive supplies unmolested across national boundaries. Vietnam in particular is a difficult and complex question of the first magnitude. I know everyone here today joins me in my fervent hope that a way may be found by which the people of South Vietnam can preserve their liberty and independence against the full-scale Communist attempt to incorporate that unhappy land into the Red empire.

I have purposely left the question of missile defense until last. I have done so because it is an area in which a fundamental policy decision must soon be made—a policy decision which will have a tremendous influence on the shape of the arms race and on international tension in the decades to come. If nothing else I have said here this morning is worth remembering, I hope this brief portion of my remarks will stick in your mind and prompt the kind of serious and intelligent discussion that must take place if this Nation is to act wisely to protect the best interests of its citizens.

Let me first explain how an antiballistic missile (ABM) system operates. Five thousand or more miles away a giant ICBM is fired from its silo. It quickly uses up its fuel load, and then continues in a ballistic trajectory toward its target. As it heads down on its target, rushing along at the near orbital speed of 17,000 miles an hour, the defense radar system detects it and plots its trajectory. The missile must stay on that path, for it has no fuel left to maneuver.

Near the target is an ABM site. As the ICBM homes in, the ABM fires and quickly accelerates on a path calculated to intercept the incoming ICBM. If all goes well for the defenders, the ABM's nuclear warhead explodes close enough to the ICBM either to destroy it entirely or at least to render its nuclear warhead inoperable.

This ABM system is called a terminal intercept system, because it intercepts the attacking missile as that missile nears the end of its long trajectory. When the ABM explodes, then, it does so not over the territory of the aggressor nation, but over the territory of the defender. Despite the progress that has been made toward clean nuclear weapons, the ABM explosion produces fallout. That fallout will come to earth to contaminate everything with which it comes in contact.

This leads to the first important fact: Any terminal intercept ABM system absolutely requires a vast system of fallout shelters. Secretary McNamara has vowed that he will never request Congress to approve the deployment of a terminal intercept ABM system without an extensive national fallout shelter program.

Another major reason why an ABM defense requires a comprehensive fallout shelter program is related to the enemy's alternative strategy. If the enemy knows our cities are well protected by ABM's he can still explode a high-yield weapon in a ground burst. His target in this case would not be the city itself, but a spot upwind from the city and beyond the protective ring of ABM. Thus the city would have to have fallout shelter to protect its population.

Now for some time this country had under way a research and development program on a terminal intercept ABM system called the Nike-Zeus. Combined with this research, logically enough, was research aimed at devising ways of thwarting the enemy's ABM system. These thwarting methods included such things as electronic jamming of the ABM tracking and guidance systems and the introduction of various decoys and penetration aids. Finally the decision was made not to deploy the Nike-Zeus system because—and this is the second important point I want to make—we have found conclusively that for the same amount of money expended, the offense can always beat the defense.

Speaking to the House Armed Services Committee, Secretary McNamara stated "it should be borne in mind that the cost to the Soviets of adding additional missiles to their force augmenting their missiles with penetration aids would probably be but a fraction of the cost to us of offsetting those additional missiles or increased penetration capability with additional defensive measures." Nor is this fact unknown to the Russians. The authoritative book "Military Strategy," edited by Red Army Marshal V. D. Sokolovski and published last year, says "one must recognize that the present instrumentalities of nuclear attack are undoubtedly superior to the instrumentalities of defense against them." (p. 307)

The Defense Department is presently at work on a successor to the Nike-Zeus system, called Nike X. It is designed to provide three improvements over the earlier system:

1. A high acceleration ABM, named Sprint, which would be fast enough to allow the tracking system extra time to determine which blips are missiles and which are decoys.

2. A multifunctional array radar (MAR), which could track a large number of missiles simultaneously with minimum risk of saturation.

3. Hardened components, which would discourage direct attack on the ABM system.

Currently the department is spending $400 million a year to bring this system to the point where the decision to deploy must be made. This point is now estimated to be the end of 1964.

Needless to say, the protection of our cities, or our retaliatory forces, or both, by an integrated, hardened Nike-X system will be fabulously expensive. Secretary McNamara has stated that the remaining research and development, plus the investment cost of "one possible Nike-X defense program"—he didn't furnish any details about which one—would run about $16 million. But, Prof. Freeman Dyson, one of the Nation's top theoretical physicists and military experts, said in a January statement published by the Federation of American Scientists that "a system which tries to protect a big country is likely to cost $100 billion by the time it is finished." The real figure probably lies somewhere in between; but if we include the immense cost of a truly effective national fallout shelter program, which is an indispensable part of the ABM system—we come to the third fact: the cost of producing and deploying an ABM system, together with its fallout shelters, will stagger the imaginations even of those people who have learned to rest easy with the present Federal budget.

Let us look at just one final aspect of the question. Suppose one or the other great power decides to go all out to procure and deploy an effective ABM system. (Incidentally, we have good intelligence to the effect that the Russians have not done so, despite some occasional propaganda boasts to the contrary.) Would public opinion allow the other great power not to match the effort? And if it had to counter, in view of the second fact above, would not a nation, instead of building its own expensive ABM system, choose to increase its offensive capabilities, which it could do at much lower cost?

Carry this reasoning further, step by step, and you will come to a fourth important fact: The deployment of a full-scale ABM system by any major power will, barring a self-restraint not heretofore evident, inevitably lead to an acceleration of the arms race. At a time when we are just beginning to have a few hopes about leveling off the arms race while we still can, this could well be the impetus which would put a solution out of reach.

Now one final remark. As the Murphy article I mentioned earlier says, it is almost a certainty that the defense budget will level off and perhaps drop in the years immediately ahead. This is primarily because the changes ordered by the Kennedy-Johnson-McNamara administration have for the most part been accomplished or are nearing their final phases. Now there is a certain amount of nervousness on the part of the public concerning possible economic dislocations resulting from cuts in defense spending. It is not inconceivable that the ABM system could be offered as a means of taking up the slack occasioned by cuts in other defense spending. I am not willing to go out on a limb right now and make up my mind about how to vote on ABM funds in next year's budget. But I do think it would be extremely unfortunate if the public were led to accept this new program, not on the grounds of the contribution it might make to our national security, but as a cushion for the defense sector of our economy. One way to avoid this possibility would be to establish a top level economic conversion commission which would be able to plan in advance a smooth transition to an economy less oriented to military contracts and expenditures. Thirteen Democrats and six Republicans in the House have introduced legislation to create such a commission.

You have gathered here today to try to make some sense out of the complex and dangerous world we live in. I hope that in these few minutes I have been able to at least clarify some of the pressing issues for you. They are not easy issues or easy decisions; your representatives in Congress need your help in reaching the right answers. I am sure that all of you, after this weekend, will be better able to do your part to help him work toward a saner, more peaceful world.

## THE ECONOMIC IMPACT OF DEBT

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. Curtis] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. CURTIS. Mr. Speaker, recently I had the opportunity to speak to the 30th annual convention of the Independent Bankers Association in Minneapolis, Minn. At this event on April 10, I discussed a subject which is of great concern to many of us, the relationship between our national debt and the economic health of the country. I am requesting unanimous consent to place the text of that speech in the Record at this point.

### The Economic Impact of Debt

(By Hon. Thomas B. Curtis, of Missouri)

At a period in the history of the United States when the Federal debt is approximately $312 billion and still increasing, interest payments run over 10 percent of the annual budget, and the ratio of debt to gross national product still remains above 50 percent, in spite of the elapse of 18 years since World War II and the massive dollar devaluation which accounted for two-thirds of the decline which did occur in this ratio, there remains a reluctance on the part of the Federal administration to make a thorough and critical examination into Federal debt policy. There is a blithe ignoring of the dangers involved in continued deficit financing as a way of Federal Government fiscal life.

Indeed, the Federal Government officials responsible for this head-in-the-sand fiscal philosophy take a fierce defensive posture when anyone raises the question of whether the size of the Federal debt has a deleterious bearing upon our balance-of-payments problem, our problem of inadequate return of private investment, our problem of persistent high unemployment, our problem of creeping inflation, and the symptoms which the officials identify erroneously as our problem of inadequate economic growth.

At long last, these officials responsible for our fiscal policy publicly recognized and agreed that our Federal tax structure was impeding healthy economic progress and well-being, and recommended that its rates be revised downward. However, this was only a partial retreat on their part from their theories of new economics. They remain unconcerned, at least in their public statements and actions, about the economic impact of debt. They were unwilling even to discuss the economic implications of passing the problems we were experiencing as the result of our tax policy over to what is possibly even more overburdened, the field of debt management. So under Executive pressure Congress proceeded to correct some of the tax problems by piling more problems onto our debt structure.

Federal debt in essence is simply deferred Federal taxation, and so the relief given to the tax policy by the tax cut is only buying time. If we do not use this time wisely we will end up worse off than we were before. Federal debt today has become inextricably woven into our monetary policy and is creating serious problems here as a consequence. These points should be cause enough to examine into the full economic implications of Federal debt policy, even if the impact of managing a $312 billion public debt on the investment market were to be disregarded.

The defensive tactics employed by the deficit financiers to ward off discussion or study of Federal debt policy range from haughty disdain to downright misrepresentation of what their critics are saying. The haughty disdain is evidenced by the attempt to categorize all criticism as an adherence to an outmoded Puritan ethic and the need for the public to be educated in modern economics.

The critics of the current theory of deficit financing are accused of maintaining the theory that debt is bad. This is a deliberate overstatement of what the critics are maintaining when they raise the appropriate questions—what are the limits to which debt can be employed by government as an economic tool and what guidelines should be employed in its use within this ceiling.

Further misrepresentation is evidenced in the use by the proponents of deficit financing of statistics out of context which confuse rather than elucidate the problem. They say, "do not be alarmed, the Federal debt as a percentage of GNP is less than it was in 1946. The Federal debt has not gone up as much as local and State debt or private debt since 1946." The fallacy of these statements is exposed by asking the simple question, Is 1946 the year we wish to select as our optimum upon which to base our debt policy? Of course it is not. It is probably the worst year that could be selected as a criterion, being the zenith resulting from the massive deficit financing employed to pay for World War II. The proper reference point should be the periods when our society was experiencing its best record of economic well-being and sustainable economic growth. Judged by these standards, the ratios of Federal debt to GNP, to State and local governmental debt, and to private debt are very precarious in 1964. Our shift from the wartime fiscal picture to a peacetime picture has been dangerously slow and inadequate and has gained us insufficient resiliency in the event that war or extreme economic adjustment should require us to use massive deficit financing to get over the emergencies.

Further misrepresentation is evidenced by the manner in which the theory accepted by many, but not by all, economists that Federal deficits are justified during periods of cyclical downturns to be recouped in period of cyclical upturns, has been abandoned. The neo-Federalists have gone to an entirely new economic theory that deficits are justified until the economy reaches a period of "full employment." There is no question of the abandonment. Here we are in 1964 in a cyclical upturn now reaching record proportions in its time period and yet the administration is projecting a sizable deficit, not a surplus for fiscal year 1965. The only question is whether the deficit is $5 billion, as the President's budget specifies, or whether the more realistic estimate is not $10 billion.

I specified that the misrepresentation lay in the manner in which economic theories were switched. The switch was made while protesting that no switch was being made. When the administration spokesmen were caught in the switch they made a pretense that having surpluses in prosperous years did not refer to cyclical upturn or prosperous years but rather referred to years of "full employment." They predicated their theory upon a speculative economic model expounded by a young professor of economics at Harvard, Otto Eckstein, as recently as 1958, when he was acting as Staff Director of a special project for the Joint Economic Committee. This economic model sought to prove that since 1953 there had been a gap between our economic achievements and our economic potential. The model was based upon two sets of economic statistics measuring aggregates, GNP, and unemployment. However, the economic gap model has not been accepted as a sustainable economic theory and was refuted in the same document (the report of the JEC) in which it was first advanced. It still remains unaccepted (aside from its inherent fallacies), because its authors and promoters have never stayed around to defend it against the criticisms it has engendered. Yet the administration spokesmen continue to present it as an accepted theory and it has been made the base of the administration's fiscal and economic policies. This is some of the "modern economics" in which the public must be "educated."

This school of economic thought deserves the epithet "Lysenkoism" (Lysenko being the Russian biologist who was willing to subject the science of biology to political ideology). From this school of economic Lysenkoism comes the constant charge which all of us read about in the popular press that our economy is tired, lethargic, and needs a shot in the arm. The public is supposed to cast aside its commonsense which reveals in so many ways that our economy has been growing so rapidly we have growing pains and accept on faith that the king is not naked. The professional economists have recognized this rapid economic growth to the extent that they found it necessary to coin a new name to describe it, automation.

There is another line of misrepresentation employed by those who are molding our national fiscal policy to ward off objective criticism. This misrepresentation operates in half truths. Attention is directed to the fact that the Federal Government does not have a capital budget or an inventory of capital assets. Attention is directed to the fact that private debt can create wealth and can create larger income. From these facts an unwarranted conclusion is reached that, therefore, Federal debt creates wealth and creates increased GNP from which new tax revenues will be derived to pay off the deficits. Federal debt may increase wealth and it may increase Federal revenues, just as any debt may do this. The determining question is: Has it? The answer to this question lies in examining into how the money realized from the debt is spent.

The facts are accurate, but incomplete. Let's look at specific Federal expenditures and the present Federal debt to see just how much new wealth has been created and how much new wealth is available as security for the debt and as a source of new revenue for paying it off. In other words, let's construct a Federal capital budget and capital inventory and look at them. Without going into any depth at all, we know that the bulk of Federal expenditures are and have been for the national defense which creates little real wealth and little additional earning power. Spending for national defense is necessary, of course, to protect the wealth and revenues we have. Military hardware and installations must go on the books as current expenditures, not capital expenditures. Their book value is $1.

We also know that the bulk of the present Federal debt is a carryover from the deficit financing necessarily employed to win World War II. However, it created little wealth and little new earning power.

The gist of the study of Federal debt is a study of Federal expenditures. Where we create real wealth through Federal expenditure policy we tend to prohibit Federal debt from being created. The $47 billion Federal highway program is a specific example. These expenditures are being financed on a pay-as-you-go basis through the device of a Federal trust fund. Federal public works expenditures likewise create wealth, but these are the very programs where cost benefit ratios have been developed with some sophistication and are increasingly being tied in with user fees and special taxes of various types. Indeed, one of the encouraging signs in the development of Federal fiscal policy is the utilization of the user fee technique more and more wherever it is possible. Conversely, where Federal expenditures are for welfare, current expenditures, as in social security, we find vast unfunded obligations amounting to over $330 billion which is not reflected in the $312 billion of outstanding Federal debt.

I recently received a letter from Dr. Bell, the head of AID, in response to an inquiry I made about AID expenditure polices. Dr. Bell expounded upon the theory that debt can create wealth and increased earning power. I did not need the lecture, as Dr. Bell well knew. He was employing the typical diversionary tactics of his economic school to keep the dialog from moving forward. The issue was, and Dr. Bell well knows it, has the AID money been spent by the undeveloped countries to create new wealth and to increase their earning capacity in foreign exchange?

Let me quote from the remarks I made on the floor of the House recently in urging, successfully, I am happy to say, the House to vote against the doubling of the IDA program first established in 1960, with my vote and support.

"Mr. Chairman, this is like so many measures and programs. When they are first put on the books they look good and there is a lot of merit to them, apparently, but after we have gone a little bit, then comes in requests for the enlargement. The issue right now is over the enlargement of this IDA program, and it behooves us to look over the 5-year record. I say this because I voted for this measure back in 1960. However, let me point out a matter that is not very clear in the committee report. This statement is found on page 3 of the report. It says, 'This program was designed to supplement the U.S. Development Loan Fund.' Let me read the statement of the gentleman from New York [Mr. MULTER] in debate on June 28, 1960:

" 'It means that if we put $320 million into this program over a 5-year period and thus eliminate the Development Loan Fund which up to the present time has cost us I think about $1.4 billion, I think IDA will have done a very good job.'

"Of course, this did not happen, and that is one of the things we can look to. The other thing is this, and this goes into the field of debt. When we create debt, whether it is a private individual or a corporation or whether it is a municipality, a county, a State, or the Federal Government, the purpose of creating debt—and there can be a good purpose for it—usually is to create wealth and to increase income. A good banker knows that makes one basis for a good loan. So we look to see what has happened to the proceeds realized from these IDA loans and other foreign loans; how the money has been spent for which the debt has been created. Note the committee's report on page 4 says:

" 'Moreover, the ability of developing countries to incur conventional debt service burdens has steadily diminished.'

"Over this period of time we apparently have not been creating wealth with the expenditure of these funds.

" 'Between 1955 and 1961, the external debt of developing countries more than doubled, without a comparable increase in their foreign exchange earnings.'

"So this money was not spent fruitfully to further their earnings, either. Let us see what has happened in many instances with these expenditures. They have been made to create status symbols—steel mills that were not necessary and were not economically sound, jet airbases, and other symbols. The point is that the committee, particularly this fine Committee on Banking and Currency, which is supposed to go into this business of what loans have been made, evidently feels that the results of this prove rather than having created the wealth it is supposed to create, they have not done this or increased the income of these people.

"The reason I am against expanding the program at this time is so that we may get further information through the committee on how the loan money has been spent. I would much prefer a loan program, a real loan program, even a soft loan program than a grant program. But, indeed, as we look at IDA in 5 years we find a limited committee hearing on this subject and limited information in the committee report on the question of whether we should go ahead to expand it. We need to know how well have we spent the money that has been lent, or rather how well the countries have spent it. We find from the record and from the report that just the reverse of what we hoped has happened. If this be the case then we are not doing these countries any favor by lending them money that puts them further in the hole and more certain of their never getting out. It has not put them on a viable economic base."

I think we might profitably discuss the Alliance for Progress on the basis of what the debt money has been and will be spent for. Is it being spent to create new wealth and increased purchasing power of the debtor nations, or is it to be spent upon daily living and status symbols? I would also raise the important question, unraised to date, of whether the private sector is not better suited to provide and to operate under the guidelines necessary to insure that debt money will be spent to create wealth and increase purchasing power, rather than the governmental sector. Furthermore, we should consider the syllogism of whether private lending guidelines disintegrate when softer Government lending intervenes. What happens to the expenditure of the money realized from debt when it is obtained from the soft lender, as far as its being spent the most economically?

I ran into another argument in pursuing the syllogism I have been advancing, that the criteria must center on what the debt money is spent for. It was to the effect that private money would not be spent to build infrastructure—infrastructure being the Government gobbledygook word for schools, roads, communications, sewers, and other community facilities. The answer to this argument is that it is nonsense. It can only be advanced out of ignorance and a disregard of what actually occurs. Private enterprise builds roads, schools, sewers, communication systems all over the world, whatever it needs, including new communities, lock, stock, and barrel, in order to implement its basic economic purpose. Who built the infrastructure in Venezuela, roads, railroads, communications, yes, educational facilities, including the school buildings, in order to extract the oil and now the iron deposits? I have examined the school system set up and paid for by Creole Oil Co. I have examined the infrastructure built by Aramco in Arabia in order to obtain, train and retain the kind of skilled employees (native Arabs) they need to accomplish the economic task they have set their minds to.

I believe the basic problem we face in trying to debate the issue of proper fiscal policy is one of getting people to understand and properly criticize (which means criticism in context) capitalism, the private enterprise system. It is important that people understand what debt is. It is important that they understand the distinction between good debt and bad debt. The banking community containing the most knowledgeable people in our society on this subject needs to get into this educational process. The basic distinction is clear. Good debt creates wealth and increased purchasing power; bad debt tends to destroy wealth and to decrease purchasing power. The test of the good or bad lies in the expenditure policy, private or public.

I conclude these remarks with a brief exposition of a political philosophy I have been trying to drive home for some time. I believe Federal tax policy should be neutral. Taxes should be used to raise the revenues to pay for our legitimate Government expenditures. In the pursuit of this legitimate purpose, how we set up our tax structure will have economic impact, willy-nilly.

However, it should be the objective of tax policy to make this economic impact as neutral as possible.

This is not a matter of semantics or of mere academic discussion. There is a school of thought which dominates our Federal Government today which seeks to use tax policy affirmatively, to deliberately bring about economic results, not to minimize them. It believes that tax policy should be used affirmatively and that tax policy is an important economic tool that should be used by Government to attain social, as well as economic, goals. The power to tax is a powerful economic force and, indeed, it can be quite effective in bringing about social and economic results. There is no gainsaying this point. The point of dispute is not over the efficacy of the power to tax to effect economic decisions, but the wisdom of using it for these purposes.

Likewise, I believe that monetary policy should be neutral. The purpose of monetary policy should be to establish and maintain money as, as accurate as possible, a weight and measure to measure economic phenomena; in effect, to provide an equitable medium of exchange between goods, services, labor, and savings. In the pursuit of this objective, the amount of money made extant by Government must relate to the amount and nature of the economic activity within the society at the given time. This is as much an art as it is a science. In pursuing a neutral policy, economic impact will still result, but the objective of the policy is to minimize the economic impact, not to maximize it.

This, also, is not a matter of mere semantics and academic discussion. There is a school of thought, the same school not yet dominant in this area, as it is in tax policy, I am happy to say, because it has not yet breached the walls of the independent Federal Reserve System, which holds that monetary policy should be used affirmatively to bring about specific and immediate economic objectives apart from the maintenance of a reliable weight and measure. Indeed, the purpose of this school is to provide a false weight and measure, one that fluctuates at the will of the political officials.

I also believe debt policy should be neutral. It should be used as an adjunct of tax policy. It is deferred taxation. Its purpose is to spread the payment for capital expenditures more evenly over the useful lifetime of the capital asset so that those who benefit from the capital item more equally bear the cost of it. It may also be used for current expenditures in times of emergencies so that too great a burden not be placed upon the tax structure, such as in time of war or possibly in periods of serious economic downturns.

The one area where Government policy should be openly affirmative is in the field of expenditures. Here the objectives sought should be openly and fully debated so that the wisest decisions possible can be reached. The debate will revolve around (1) the merits of the objectives; (2) the efficiency with which these objectives will be attained through the use of Federal governmental mechanism vis-a-vis the other mechanisms available in our society; (3) the balancing off of the benefits to be derived from the specific expenditure among the groups within the current society, as well as among the groups in the society of the future.

## THE ROBERT G. BAKER CASE

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. OLIVER P. BOLTON] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. OLIVER P. BOLTON. Mr. Speaker, under leave to extend my remarks, I would like to bring the following information to the attention of my colleagues.

In connection with the now well-publicized opening of Robert G. Baker's Carousel Motel on July 22, 1962, disturbing facts have been brought to my attention.

I have been told by company officials of the D.C. Transit System, Inc., that the charges for the use of six passenger coaches used to transport several hundred celebrants from the Mayflower Hotel to the Carousel Motel have not as yet been collected. In compliance with various Interstate Commerce regulations, a bill for $1,324.48 was sent to Mr. Baker, presumably for later payment.

On the surface this might appear to be an oversight and merely another case of a relatively small unpaid bill. However, after inquiring with the D.C. Transit officials, I was advised that these facts were already well known, inasmuch as the books surrounding the billings for use of the busses in connection with the Carousel opening had been already investigated by officials of the Interstate Commerce Committee and the Justice Department, as well as by staff members of the Senate Rules Committee. Yet, in the printed hearings of the Rules Committee investigation of Mr. Baker, there is no indication that this fact ever became known to any members of the committee

After this service was rendered to Mr. Baker by the D.C. Transit System, on September 26, 1963, an untold number of letters were sent out by the District of Columbia Committee for Balanced Transportation, over the signature of F. Joseph Donohue, chairman, soliciting donations to a $100-plate dinner in honor of Mr. and Mrs. O. Roy Chalk, president and chairman of the D.C. Transit System, Inc. On the letterhead were listed a number of leading citizens, apparently affiliated with this committee. Among those listed were Robert G. Baker, Thomas Webb, and others who have been actively engaged in pursuing transit legislation before the House and Senate. There was only a vague indication as to what the disposition would be of any funds raised by this solicitation. However, it is safe to assume that it had to do with various legislation then being considered by both the Senate and House. I have in mind both the mass transit and District of Columbia rapid transit bills.

Mr. Morris Fox, executive vice president of the D.C. Transit System, advised me that there was never any indication on the part of Mr. Baker that the $1,324.48 would not be considered a business debt and eventually paid. However, on pages 371–374, part 4 of the Senate Rules Committee hearings on the "Financial or Business Interests of Officers or Employees of the Senate," there appears an audit of the Carousel Motel for the fiscal year ending December 31, 1962, prepared by the firm of Horwath & Horwath, accountants and auditors. Under due bills payable there is no evidence of any outstanding bill to the D.C. Transit System. Moreover, on page 366 of the same printed hearings, witness Gertrude C. Novack, under questioning by Senator CURTIS, testified that there was never any intention on the part of Mr. Baker to pay this bill.

It might be of more than passing interest that the urban mass transit bill currently pending before the House was not opposed in either Senate or House committees by counsel for D.C. Transit System. However, in 1962 and earlier, counsel for the D.C. Transit System bitterly opposed various sections of the mass transit bill when it was before the Senate Banking and Currency Committee. Sometime between 1962 and 1963, amendments favorable to the D.C. Transit System were written into the Senate bill.

Frankly, Mr. Speaker, I think there is far more involved here than the mere nonpayment of a $1,324.48 bill. If this bill was never intended to be paid, then what services were rendered by Mr. Baker and his associates in lieu of payment? How many other such unpaid bills were there? To what extent and why was Mr. Baker involved with the District of Columbia Committee for Balanced Transportation and precisely what was this committee's legislative interest? These are just a few of the unanswered questions surrounding an incident that was apparently overlooked by the Senate Rules Committee. As a member of the House Banking and Currency Committee which has jurisdiction over mass transit legislation I, for one, would like to have the answers.

## REALISM IN TARIFFS AND TRADE

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. DAGUE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. DAGUE. Mr. Speaker, it is almost universally accepted that foreign trade should be a two-way street and that tariff rates should be based on agreements that are wholly and completely reciprocal.

In any study of tariffs it becomes immediately apparent that this Nation in the last 30 years has steadily reduced its imports on most of the goods coming into the country and in a surprising number of instances has completely removed all such levies, some say on as many as 40 percent of all items received from foreign sources.

There are two threats with which the American producer is confronted today; namely, the imposition of use taxes and currency controls by recipient nations to the disadvantage of American products that have been landed on their shores, and the tendency of our State Department to use foreign trade as a gimmick in international exchange whereby our economic interests are traded off for some nebulous diplomatic advantage. Most of us have no quarrel with our Tariff Commission which usually bases its decisions on a realistic appraisal of the impact cheaply produced oversea goods may have on our domestic economy. What we do find fault with is the tendency of our diplomats to give priority to an appearance of amity with other peoples to the detriment of our domestic economy which has so much to do with the welfare of American citizens.

In my congressional district we are feeling the impact of foreign imports in three areas; namely, mushrooms, tobacco, and steel.

In the case of mushrooms, a wholly unsubsidized domestic industry located largely within the confines of Chester County, Pa., we are currently faced with competition from Taiwan which runs into millions of dollars annually. The Formosan production has been largely stimulated by American dollars going to that country in the form of aid and our producers are again faced with the spectacle of having their tax dollars used to subsidize their competitors. Understandably, our growers would like a realistic adjustment in tariffs in their favor but from a pessimism born of experience the best that they can pray for is that existing duties will not be lowered.

In any reference to cigar leaf tobacco, I like to emphasize that we grow more tobacco in Lancaster County, Pa., than in any other county in the United States. Ours is a $12 million annual crop and, typical of our district, is wholly unsubsidized. Currently, certain importers of tobacco leaf are proposing a reduction in the tariff on scrap tobacco but the growers point out that this would result in ruinous competition. At present the import levy applying to stemmed, or processed, leaf is set at 23 cents per pound, whereas unstemmed leaf carries a duty of only 16 cents. Our growers insist, and I agree with them, that all leaf stemmed or processed while stored under bond, should bear the higher rate unless we are to see our local growers put out of business.

In the case of steel, and especially steel plates which are a specialty of Lukens Steel Co. of Coatesville, Pa., we have done our best to make a good case before the Tariff Commission looking to a more realistic evaluation of the importation of cheaply produced plates produced overseas. Our local steel industry has always been closely geared to the defense of the Nation and it is unthinkable that we should allow our domestic production to be undercut by foreign steel, produced in plants erected with American taxpayer dollars and often put down on our shores at a delivered price less than charged to citizens of the producing nation.

To sum up, Mr. Speaker, we are willing to meet honest competition whether it is in steel, tobacco, or mushrooms. What we do object to is having our own producers traded off to make a diplomatic holiday and we especially resent competition that stems from oversea bidders who are flourishing because of American help. Naturally, we would hope that our competitive position might be enhanced rather than weakened, and while we would like to see a modest increase in import duties we certainly are vigorously opposed to any reduction in existing tariffs.

## TRAGIC DEATH OF HARLAN PARKINSON IN LIMA, PERU

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Kansas [Mr. SHRIVER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SHRIVER. Mr. Speaker, it was with deepest personal regret that I learned of the tragic death of Harlan Parkinson, a young and able Kansan, in Lima, Peru, on Thursday, April 16. He was performing a valuable service for agriculture, for Kansas, and for our Nation. Mr. Parkinson was stationed in Lima and directed the South American program of Great Plains Wheat, Inc.

I was personally acquainted with Harlan. He had visited my office on several occasions and discussed with me his interest in Latin America and the importance of marketing American wheat in those countries. He was a good ambassador for the U.S. wheat farmer and for his country. He possessed a deep interest in people, and he exercised concern for their welfare.

Harlan Parkinson was decorated in 1962 by the Peruvian Government with the Knight of Corrian Order, the highest award which it can confer on a foreign citizen. Last year, the Government of Chile awarded the Bernardo O'Higgins Grand Order of Merit to him for his service to the people of Chile.

This distinguished American was born in Scott City, Kans., on August 27, 1933. He is survived by his wife and a 2-year-old daughter. His parents, Mr. and Mrs. Henry Parkinson, Sr., reside in Scott City.

I join in extending deepest sympathy on behalf of Mrs. Shriver and myself, and the citizens of my congressional district, to the family.

## THE NEED FOR MINORITY STAFFING

Mr. BROMWELL. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, the Honorable Alf M. Landon, 1936 Republican presidential candidate, still maintains a watchful eye over economic and political conditions in America and the world.

In a speech for the Kansas Council for the Social Studies, in Russell, Kans., April 4, 1964, the former Governor of Kansas discussed three basic problems in politics today—international policies that are being shaped now by our President and the Congress; domestic problems particularly relating to agriculture; and control of news by the executive side of our Government.

All of these problems, I might add, could be alleviated to a great extent if the minority membership of congressional committees had sufficient staff responsible to it. We all know what a basic tool adequate research is to good thinking and sound policies, and the minority in Congress deserves the right to have that basic tool.

The problem of minority staffing is made much clearer in relation to the three problems previously mentioned in the full text of Governor Landon's forceful address, and I am, therefore, inserting it in the RECORD.

### POLITICS IN 1964

By politics, I mean questions covering Government, domestic and international policies.

I cannot, of course, cover the whole field of issues involved in the coming election that are now being shaped by our President—by the Congress—and by economic and political conditions in America and the world.

I will attempt to discuss briefly three basic bipartisan problems—control of news by the executive side of our Government—international policies that are being shaped now by our President and the Congress—and domestic problems particularly relating to agriculture.

First. As to news—we are living not only in an era of great and rapid change. We are also in an era of great volumes of news. Our American news media are to be complimented for a good job done in keeping up with that change and with its multiplicity of news.

While there has never been—by and large—better news coverage than we have today—there are still highly important unanswered political questions lost today in that heavy day-to-day volume and multiplicity of news that are not followed up as they should be by good reporting.

Frequently two different and contradictory sources of information exist in the national executive branch—one handed out for the public—the other for administration officials. That is not good. That involves more than the customary management of news by every administration. It means downright deception.

Today's increase in the channels of communication has given Government propaganda a big edge over objective thinking because Americans are not able to digest all the mass of information that floods them. Taking advantage of that situation, our Government is holding back certain vital information and parts of the news for political as well as military reasons and, in the torrent of world news, these critical omissions are not noticed.

Even more important is for the Congress once more to vigorously assert its rights of punishing officials of the executive branch that deliberately withhold pertinent information, misrepresent and even lie to congressional committees to cover up the mistakes of the executive branch. A song, "It is Classified," ought to be written to the tune of "Old Man River."

I call attention to—and urge support of—the U.S. Senate Judiciary Subcommittee's proposal:

"There is, of course, a certain right to privacy and a need for confidentiality in some aspects of Government operations. But outside these limited areas, all citizens have a right to know."

Government is more rigid in its structure in management of its affairs than private business. Yet this era of great change—particularly in science affecting military weapons—has forced a policy of cost-plus, instead of contracts to the lowest bidders in the field of military equipment.

Models of guided missiles—manned aircraft—are started and then must be changed constantly as experiments reveal defects or bring improvements in the original design.

Undoubtedly, with the vast spending that is taking place in our Defense Establishment—that method of cost-plus has encouraged fraud by those seeking special advantages by manipulation of the regulations and specifications by corrupt public officials or in return for political favors.

All that demands the most rigid ethical standards and attention by public officials.

The TFX General Dynamics contract is a case in point. Senator JOHN F. McCLELLAN, of Arkansas, chairman of the Senate Investigation Committee of this contract, point-blank accused Under Secretary of Defense Gilpatric of a conflict of interest in this case in favoring the Texas firm, which was neither the lowest bidder, nor had the approval of its design by top military experts in the Pentagon. That being true and known, Mr. Gilpatric's connection with the Pentagon should have been terminated either before that contract came up for discussion or immediately it was discovered.

It is not Bobby Baker that is on trial in the Senate investigation. It is the Senators themselves. Senator HUGH SCOTT, of Pennsylvania, in the AP report of March 13, said he "reluctantly had concluded that U.S. Senators would not investigate themselves."

During the past year, I have read and listened to statements that a public official's private life is separate and distinct from his public life. That's pure baloney. As William Allen White once put it, he wears a plug hat to bed and lives in a goldfish bowl. A public official's private life and affairs are and ought to be a part and parcel of his public record.

A public official who nourishes in his ethical and moral obligations easy and loose attitudes in efforts to influence favorable or special action involving critical decisions of Government funds lays the foundation for a growing menace to Government in America.

Interpretations of what constitutes conflicts of interests widely differ and cannot and must not be ignored by the press and by American people. The burden of proof rests on all public officials in a vulnerable position. Even where there is no bribery involved—either directly or indirectly—the public should demand the simple question of those officials—is their conduct and attitude proper and ethical.

There is a bill by Senator CASE and Senator NEUBERGER pending in the U.S. Senate that will solve that for the voters and all public officials. That bill requires that all Members of the Congress and high appointed public officials and staff disclose their sources of income annually.

I do not believe the bill goes far enough. I would make their income tax returns a public record. Let the light of day fall on all their transactions. Then the fog of conflict of interests will be dispersed, clearing the voters' vision. It can be safely left to them to conclude the matter properly.

That, in turn, will encourage States to set the same standards. Why wait for the Congress? I hope Kansas gubernatorial candidates will support a declaration in both party platforms for such legislation.

In this extremely dangerous period, neither Republicans nor Democrats should ignore factors threatening to undermine our strength of character at home and our position in the world at large.

Control of news is not confined to these few illustrations I have mentioned. This evil is present in the following subjects that I will discuss.

Second. In the field of international relations—the official label of "training and support," applying to our military force in South Vietnam, is a deliberate misrepresentation of a material fact with intent to deceive. The cold facts are that our American soldiers are involved in daily combat. According to a recent Associated Press story, in our fighting planes, "the Vietnamese who sometimes rides along is normally an ordinary soldier—his rifle between his legs—sitting between two gunners. He seldom can speak English."

There is the host of unanswered questions in our foreign policy—particularly relating to South Vietnam. We've had inconsistent and contradictory statements from the Secretary of State, the Secretary of Defense, the Democrat majority leader in the U.S. Senate, Senator MIKE MANSFIELD, of Montana, and our President himself.

It was obvious for many months that our situation there was going from bad to worse. Secretary McNamara said, on his return from South Vietnam in December 1963, that we would have our troops out of there by 1965. That meant only one thing to the South Vietnamese and the whole world—that we were licked. To the American people that meant we had won the war. Everyone else but the American people knew that we were losing a war in which American soldiers were directly involved and fighting.

Secretary McNamara completely reversed his position of taking our troops out of South Vietnam in 1965, on March 18—saying we would send all military and economic supplies necessary to South Vietnam's victory. Two Democrat Senators immediately jumped on him for that, demanding we bring our military force home.

As for Secretary of Defense McNamara, I think it can be said that he had the simple direction of a man of action in his first statement and his second statement.

If the South Vietnamese were not willing to do more to save themselves from Communist imperialism, then he would bring our combat army home. When, as, and if they did, he would finish the job.

In his last statement, he evidently reflected his confidence in the ability and the determination of the present Government of South Vietnam to unify an all-out effort by the South Vietnamese in defense of their liberty and freedom from Communist imperialism.

It has been two weeks since Secretary McNamara's return with General Taylor and we still do not have his report and recommendations, except in piecemeal that is simply a rehash of what he already had previously said. Even of greater importance, the administration has not formulated its policy on South Vietnam except the general White House statement on March 17 of continued military and economic aid. Why this delay in all the aspects of Secretary of Defense McNamara's report?

Still unsettled is what are we going to do that we have not been doing to establish the security of the South Vietnamese and then get our American combat forces out of there for home.

The most accurate answer at this time has to be that neither the State Department nor the President knows exactly what our new policy ought to be and is to be in Vietnam. I say that in full appreciation that there are many imponderable factors that surprise us—including the position of other great friendly powers who are involved in any actions we take.

South Vietnam is a key country to the free world and America. If we withdraw our combat troops and that country follows the course of action of its neighbors and lines up with China—Formosa, South Korea, Japan, and the budding Malaysian nation are all outflanked. The pressure then is on the Philippines and Australia—and America is backed up against Pearl Harbor.

It can be—by and large—a correct foreign policy for our Government to be flexible in this kind of a world. That should not mean conflicting and vacillating day-to-day decisions. For example, the President's statement relating to Panama. That was, according to a spokesman for the Organization of American States, such a "shock and surprise" that that organization withdrew from any further negotiations. Later the President felt it necessary to attempt to rectify that previous statement.

When our late President established his Cuban quarantine, our embassies received the customary long cablegrams of explanations to make to the other embassies. One of our foreign ambassadors told me that, when he started explaining his cablegram to another ambassador, he was stopped with just one question: "Do you intend to go through with it?"

Cuba today is not only a base of great military value to Russia—with a submarine base 90 miles from our shares; Cuba also has great value as a training camp for Communists in the western hemisphere, instructed in the technique of murder, sabotage, guerrilla warfare, and propaganda.

Our policy is a voluntary economic blockade. I have always favored trading with all countries. As I said some 15 years ago, if it is true that trade followed the flag—by the same taken it was true that the flag followed trade. Honest and fair dealing with even native tribes has always been the way to make friends. Yet we never learned that lesson out of the early days in our country's racial relations.

What I am saying is that we were juvenile in breaking our own policy of voluntary economic blockade of the Communist countries with the Russian wheat deal—and not expecting our friends to do likewise. When we suspended our foreign aid in retaliation, they did not get mad—they laughed at us. The rush is on among them to get into the Communist market.

The point I'm making is that the American people are entitled to know what our policies are in that Communist beachhead on our shores—as well as in South Vietnam or anywhere else in the world—if we really have one. We are entitled to know the story—not from some Government handout—but from free unshackled news media.

In 1936, I said the Neutrality Act was not a way to appease. It would lead a foreign aggressor to believe the American people would not fight a war under any circumstances—and that was not true.

Our foreign policy has been purely defensive under both Democrat and Republican administrations. That is unhappily reminiscent of the 1935 Neutrality Act—a purely defensive policy.

If the United Nations is not to go the way of the League of Nations, the indifference and lip service of many of its membership must change to positive support. Come fall, some 17 nations in default of their dues must put their money where their mouth is—as the old saying goes—or lose their vote.

A week ago, Senator FULBRIGHT, chairman of the Senate Foreign Relations Committee, directed the attention of our country to our unrealistic foreign policies and called for basic changes that I have long advocated.

I agree with the Senator's general proposals—his reasoning—and his flat statement that our Cuban policy is a failure. I do not agree with him when he says Castro is a "distasteful menace but not an intolerable danger to the United States."

I do agree with Secretary of State Rusk, who promptly contradicted Senator FULBRIGHT, saying, "Castro is more than a nuisance. He is a menace to this hemisphere."

I emphatically believe that Senator FULBRIGHT's position—that it is high time that we reappraise our international economic policies, in the light of drastically altered international political relations—is sound and calls for thorough consideration by all Americans.

Quoting "Research Institute Recommendations" of February 21:

"Khrushchev took another battering from the party in Moscow, last week. He's still on his feet, but looking shakier than ever. In fact there's real question now how much authority he has left.

"The setting for this latest round was unusual in itself; another Plenum (full meeting) of the Party Central Committee—just 2 months after the last, instead of the customary 6 months. Its topic: Agriculture, worst item in the whole Soviet mess. Its real subject: A free swinging battle over everything from ideology to the weather, so violent much of it is still secret."

Khrushchev's situation at home is a key factor in all foreign offices and state department decisions throughout the entire world. He is manifesting once again his clever skill of personally surviving awesome political hazards.

We are in some respects an isolated nation and getting more so every day. Whatever difficulties we American face and whatever breakdown we see in NATO—our problems are compartively small when contrasted with the situation of the Soviet Union.

Its agriculture is an abysmal mess—and it will not be much different next year. Communism the world over is turning gradually to the profit incentive of capitalism in both agriculture and industry in order to get its essential production. The Soviet Union's capability of enforcing discipline and unanimity in its central European colonies is now much less than has ever been the case. The Sino-Soviet conflict is proving both dangerous and costly to the Soviet Union.

Not only are countries like Indonesia, Cambodia and North Vietnam getting off the fence on the side of China; the Communist Party in every country in the world is splitting between Russia and China.

Khrushchev has said that he would bury us. Mao now is saying he will bury both of us. If Mao is right, that will make two in the same grave.

Khrushchev evidently was building his support against Mao and the Chinese militancy in Budapest this week. After all, China is camped right on Russia's long border—not ours and, to some extent, we may be fighting the Soviet Union's battles in Asia. That might make a lot of difference in international relations this year.

Third. On our domestic policies—Our national administration has the definite Keynesian theory of planned deficits—big government expenditures—big capital investments—being tried for the first time in any country—with its own addition of lower Federal taxes.

By and large—the conception of farm policies by Democrat administrations since the days of Secretary of Agriculture Henry Wallace, has been to balance output with consumption by eliminating hundreds of thousands of farmers. As it is now—farm producers are being sucked into the political quicksand of Government control and Government help.

Among other reasons I advocated the late President Kennedy's trade legislation was that it was the only way the American Government could handle trade negotiations with growing Common Market countries. As I said at the time, how efficiently it would be administered was another question.

When you get a perishable commodity that is walking around on four legs—what are you going to do with it? You can't hold it off the market indefinitely or put it in surplus storage like wheat.

I believe that farm organizations should be considering how they are going to meet their problems with their own marketing devices and plans. Therefore, what I am suggesting in the way of marketing controls is by the farmers themselves through their cooperative associations—not the National Government.

Basically, the problem is one of control by farmers as they move in unison on long range planning through better marketing organizations.

The livestock people in Kansas are going through the same difficulties and problems our wheat producers have been going through these past years. Both have improved their production—more calves are saved now than was true 20 or 30 years ago, and the whole business of feeding has improved the production of livestock.

While consumption of beef, pork, and mutton has gone up, the production of livestock has gone up faster because of improved technical processes.

Just as in wheat production, techniques have steadily improved—in the livestock industry black blizzards do not affect High Plains wheat areas today like they did years ago, because of soil conservation practices and the machinery we have to deal with them.

We are on the verge of hybrid wheat which they predict will increase the production of wheat another 20 or 30 percent. The wheat people have not been able to solve their problem with all the legislation we've had—and the cattle people are now facing the same basic situation.

The trouble has been that all farm legislation has been written and administered with an eye on the next election instead of the basic problems confronting the wheat producer, corn producer and cattle producer.

Take the fruitgrowers in Florida and California. Fruitgrowers have never asked for market controls of production. They have been able to impose marketing contracts through their growers' associations. That effort in California began in 1916.

I don't know whether it can be made to work, as I've said, for the wheat and the corn and the livestock producers, but at least there is a successful program that's been worked by the fruitgrowers that might have some basis for consideration through a national cooperative marketing setup of some kind.

A prime illustration of that is the SunKist orange. I remember a conversation I had with an American Ambassador about 30 years ago. Oranges were being marketed in the country in which he represented America, in Africa, under a label that was so close to "SunKist" that the consumer did not notice the difference. Yet our Agricultural Department and our Commerce Department were entirely indifferent to his reports of what was going on in encroaching on this SunKist orange brand. Yet this is just where the National Government could and should function.

In livestock markets, by the same token, we find the U.S. Department of Commerce ignores the plain wording of a Federal statute on labeling imports by not stamping the country or origin on imported meat for the ultimate consumer. The Commerce Department calls the ultimate consumer a packinghouse. A sensible reference to any dictionary will settle that question. "Ultimate" means "last—final."

Along with the basic factor of improved production, there is still continued the haphazard marketing of the farmers' products without a facility of some kind that can meet this fundamental problem. The farmer and the cattleman are dealing with mass purchasing power of the wholesalers and retailers who use it, as would be expected, to take advantage of the farm surplus.

I believe there should be an immediate inventory by the Agricultural Department of wheat storage in America to determine how much is actually in good market condition for human consumption. I also believe a congressional probe into basic changes of magnitude and actual marketing conditions will be helpful.

All that could tie in with my previous proposal that the whole farm problem needs to be studied and pulled together in a committee set up by the Congress and made by the land-grant colleges on the many basic factors relating to land use.

I have raised three questions of domestic and world problems briefly today that are obviously nonpartisan. Because of rapid and fundamental changes that are taking place that can turn the world upside down, we must seek balance in our thinking, based on fuller information and thoughtful discussion and debate.

In Brazil, not only the issue of a Communist Party takeover occupies the attention of every nation in the world. Of paramount importance are the divergencies in the Brazilian Communist Party itself. Which has the greatest strength—the Chinese faction or the Russian faction—is also a dominating question.

## THE LATE TOMAS GUARDIA, JR., OF PANAMA

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Maryland [Mr. FALLON] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FALLON. Mr. Speaker, on March 12, 1964, one of the finest human beings I have ever met and one of the great figures in the international road program left us. On that date, Tomas Guardia, Jr., of Panama, died.

It has been my privilege for these many years to be closely associated with the development of our great highway program in the United States. I have also had the opportunity to study at close hand the road systems of many other nations. During that period of time, I have met many dedicated individuals in the highway program but no man impressed me more than Tomas Guardia.

He was the son of a great road pioneer—he followed in his father's footsteps. He became one of the leaders in the highway program in the Western Hemisphere. At the time of his death he had already traveled many times through the Darien Gap which is a veritable jungleland. He was the leader of a survey group trying to bring about the first step in the final linkup between North and South America.

Last year when the Ninth Annual Pan American Highway Congress met here in Washington, he appeared before that historic joint session of the Senate and House Public Works Committees and gave a stirring and detailed report of highway progress in Central and South America. As he spoke, the disease that was to kill him was moving through his bloodstream, but one would never have suspected it from his gallant appearance and wonderful disposition.

The work that Tomas Guardia so well began will continue and on the date when the great continents of North and South America are linked by one continuous roadway, that will be a lasting tribute to his memory.

The world is better for the fact that men like Tomas Guardia have lived. I am proud to have known him and to have called him friend.

## PEACE CORPS DIRECTOR JOINS IN MEMORIAL SERVICE ON 21ST ANNIVERSARY OF WARSAW UPRISING

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. Multer] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MULTER. Mr. Speaker, I commend to the attention of our colleagues the following remarks made by Sargent Shriver, Director of the Peace Corps and special assistant to the President, at a memorial service held by the Council of Organizations of the United Jewish Appeal of Greater New York on April 19, 1964.

This service—to commemorate the 21st anniversary of the Warsaw ghetto uprising against the Germans and the deaths of the 6 million Jews—coincided with the 26th Annual Mass Conference of the United Jewish Appeal.

This moving statement of the philosophy of hope, by a man dedicated to peace, should be read by all:

Remarks by Sargent Shriver, Director, Peace Corps, and Special Assistant to the President, 26th Annual Mass Conference of United Jewish Appeal of Greater New York, Statler Hilton Hotel, April 19, 1964

> We are here to commemorate death—and to advance life.
>
> It is difficult for the human mind to comprehend death, any death, the death of one human being we know and love. A senseless, needless death—a murder—is almost beyond comprehension.
>
> We have just suffered one such loss in the American family. The whole world seems to have been moved by the death of John Kennedy.
>
> But what can we say of the murder of 6 million Jews?
>
> What can we say of the loss of one Anne Frank?
>
> She has said all that can be said.
>
> "It's really a wonder that I haven't dropped all my ideals," Anne Frank said before her death. "Yet I keep them, because in spite of everything I still believe that people are really good at heart."
>
> In spite of everything, she was able to say that.
>
> "I see the world gradually being turned into a wilderness," she wrote in her diary a month before she was taken. "I hear the ever approaching thunder, which will destroy us, too. I can feel the sufferings of millions and yet, if I look up into the heavens, I think it will all come right. In the meantime, I must uphold my ideals, for perhaps the time will come when I shall be able to carry them out."
>
> Those are words that help—that help in days like last November—that helped me understand what I saw last January in Jerusalem and in the Galilee as I visited the living memorial to Anne Frank—they are words that can help us now. Let us look up into the heavens to keep our vision—but let us also keep working in the world. For the time has come when we are able to carry out those ideals.
>
> "Man holds in his mortal hands," as Kennedy said in his inaugural address, "the power to abolish all forms of human poverty and all forms of human life." So, as Kennedy said, the time has come for us "to convert our good words into good deeds."
>
> You are doing just that. For 26 years, you have been doing it. It is a privilege to pay tribute to your good deeds in 31 countries around the world.
>
> You have accepted the terrible lessons of the 1930's and the 1940's, the lessons of dictators and war. You know that these tragedies rise out of earlier failures, out of conditions that should not have been permitted to exist, out of poverty and discrimination. You bear witness, as John Kennedy said of the birth of the State of Israel, "to humanity betrayed, 'plundered, profaned, and disinherited.' "
>
> The lesson is to put an end to poverty, to discrimination, to the betrayal of human dignity.
>
> Standing before the Lincoln Memorial on Lincoln's birthday, President Johnson stated our duty today. "The American promise will be unfulfilled, Lincoln's work—our work—will be unfinished," he said "so long as there is a child without a school, a school without a teacher, a man without a job, a family without a home; so long as there are sick Americans without medical care or aging Americans without hope; so long as there are any Americans, of any race or color, who are denied their full human rights; so long as there are any Americans, of any place or region, who are denied their human dignity."
>
> You are doing this work, the work of America, here at home, and around the world.
>
> If we all keep on with this work, if you continue to do your part, if State and local and national governments do their part, if together we keep this vision, then the wilderness of the world can become, like Israel today, a garden—a garden from which no one will be expelled, in which no one will be hungry, in which people can find peace.

## INDUSTRIAL AND WATER DEVELOPMENT IN EAST TEXAS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Beckworth] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. BECKWORTH. Mr. Speaker, I have cooperated with all people who have tried to bring to East Texas more industry. I worked with the officials of Longview to help bring the LeTourneau operations to East Texas. Without exception I have cooperated with every individual and city and county and organization official who has called on me to assist with reference to obtaining of holding industries. I have sent information to localities which might constitute leads to industrial developmental possibilities. No one ever called on me and failed to get my 100 percent cooperation in this connection. Everybody knows this. One of the genuine essentials for many industries is water. Soon after I returned to Congress in 1957 after being out 4 years, I went to work to help get surveys continued on the Sabine and Neches Rivers. These vital surveys are scheduled to be completed by the Department of Army—a part of the Defense Department—in 1966. We obtained Department of Army money for both in 1959, for the Neches in 1960, for both in 1961, 1962, and 1963. I quote the pertinent part of a letter that was written me on January 22, 1964, by General Graham, of the Army Department, which is a part of the Defense Department:

> For fiscal year 1964, the sums of $115,000 and $110,000 have been appropriated for general investigations on the Sabine River and Neches River, respectively. From these funds $95,000 has been allocated to the Sabine River survey and $70,000 to the Neches River survey.

Officials of the Army Department, which is a part of the Defense Department, have budget recommendations of $175,000 for the Neches River next fiscal year and $132,000 for the Sabine River. Hon. Verne Clements, Longview; Hon. Jimmie Hudnall, Tyler; and Hon. A. M. Willis, of Longview, Tex., are aware of my efforts to get this money. They have appeared with me at hearings before the House and Senate Appropriations Subcommittees.

There are people who come from Henderson, Cherokee, and Harrison Counties, all outside of the Third Congressional District, to work in the Longview and Tyler plants.

Incidentally, Mr. John Ben Sheppherd, Mr. Robert Hayes, of the Dallas News, and I worked diligently to stimulate interest in the development of the Sabine River as is evidenced by several pages in the Congressional Record of January 26, 1950. Mr. John Simmons, of the Texas Sabine River Authority, knows about this work on our part. Mr. Sheppherd and I flew once to Orange to confer with Mr. Simmons and others. Also I attended a meeting with Louisiana and Texas and Army officials several years ago at Shreveport, La. Mr. Sheppherd and I grew up near the Sabine River not far from Gladewater.

### POULTRY, BEEF, OIL

I quote the pertinent part of a letter written to me March 16, 1964, by Mr. Harold Williams, president of the Institute of American Poultry Industries:

> Your interest and understanding have often been of help to our industry and we are grateful for it.

Also I quote the pertinent part of a letter of March 20, 1964, written to me by Mr. Williams:

> We are most appreciative of the help you have given the poultry industry.

Mr. Joe Parker, of the Broiler Council is aware of my interest and my efforts in trying to help our broiler people. A number of poultry people in and out of our district have called on me from time to time and I have never failed to try to help them. The U.S. Government has pursued a policy of using considerable poultry in the school-lunch program. Incidentally, I introduced H.R. 10671 April 6, 1964, to reduce imports of beef into this country. I served on the Oil and Gas Subcommittee of the House Interstate and Foreign Commerce Committee and always have tried to help these industries. I quote a letter to me from Mr. Dan Jones, general council, Independent Petroleum Association, dated April 16, 1964. It reads:

> The discussion yesterday on the floor of the House of the plight of natural gas producers was most helpful in revealing the intolerable situation facing the industry under Federal Power Commission regulation and in pointing up the need for corrective legislation. We appreciate very much your interest in this matter and the contribution you made in the discussion.

### STUDENTS

As a former teacher who has five children in school, I have always tried to help our students. I quote the pertinent part of a letter written April 1, 1964, by President Howard C. Bennett, of East Texas Baptist College, in connection with my efforts to help our young people:

> It is good to know that men like Congressman BECKWORTH are interested in young people. If there is any way we may be in position to serve you further, we would be pleased to hear from you.

Ted Mauritzen, route 1, Carthage, Tex., wrote the following sentences to me January 23, 1964:

> Thanks for the information on Robert E. Lee. I made an A on it, which would not have been possible without your help.

My bill, H.R. 10, passed the House December 2, 1962, on a record rollcall 301 for to 18 against. Very similar legislation, my bill H.R. 5698, had passed the Congress on a record rollcall the session of Congress before. The vote was 309 for to 19 against. I know of no department of Government which favored either bill but the House of Representatives supported my bills. The legislation would enable more Texas boys and girls to come to Washington to work for the Government in the summertime so that they could learn more about our Government. Hon. John Stevens, the assistant to the president of Abilene Christian College, visited my office in Washington April 17 and complimented the legislation.

## PANAMANIANS INSULT GENERAL MacARTHUR'S MEMORY: PRESIDENT CHIARI'S PUSILLANIMITY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FLOOD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FLOOD. Mr. Speaker, in its relations with foreign nations, the Government of the United States has usually been punctilious in matters of protocol even when dealing with governments not recognized. For example, in 1922 when a U.S. naval squadron visited Rio de Janeiro, the question arose as to whether this squadron should follow warships of other nations in full dressing ships with a rainbow of flags on the occasion of the anniversary of the independence of Mexico, a government not then recognized by the United States.

The senior U.S. naval officer, on his own responsibility decided to do so, but in honor of the U.S. flag rather than the Mexican and was commended for diplomatic initiative.

On April 8, 1964, in the Canal Zone, where the flag of Panama is now illegally displayed at various points in the zone alongside the flag of the United States, the question arose as to whether the Panama flag should be lowered to half mast with the flag of the United States in honor of the late General MacArthur, who, by the way, was once stationed in the Canal Zone and was well known among older Panamanians.

At first, both were lowered to half mast. Red students at the university protested this honoring of General MacArthur to President Chiari, who, intimidated by threats of more violence of the January 1964 type, requested that the flag of Panama be raised to full height. Referred to the State Department for decision, the request of President Chiari was approved and the Canal Zone Government complied. We then had a situation on which the Panama flag was displayed superior to that of the United States.

Mr. Speaker, as soon as I learned about this affront to our flag, I protested this decision directly to the Department of State by telephone and found that it was made by some underling. Moreover, such display was in clear violation of approved regulations for display of the flag, the pertinent section of which reads: "No other flag may be flown above the U.S. flag."

This incident, Mr. Speaker, was properly condemned on the floor of the House by my distinguished colleague from Alabama [Mr. SELDEN], and I am sure that an overwhelming majority of this body heartily concur with his remarks. The Panama flag has no more right in the Canal Zone than that of France over the Louisiana Purchase.

A news story on the latest insult to the U.S. flag and an accompanying editorial in the April 9, 1964, issue of the Washington Daily News follows:

[From the Washington (D.C.) Daily News, Apr. 9, 1964]

### "SENSELESS, INSENSITIVE, PETTY MALICE"—REPRESENTATIVE SELDEN IS OUTRAGED BY "AFFRONT" IN PANAMA

(By Don Branning)

Panama's refusal to lower its flag in the Canal Zone for the memory of General MacArthur was labeled an "insensitive, contemptible affront" today by Representative ARMISTEAD SELDEN, Democrat, of Alabama, chairman of the House Subcommittee on Inter-American Affairs.

The Panamanian and United States flags are on separate flagpoles in front of the Tivoli Hotel in downtown Canal Zone. Both flags were lowered to half-staff when the general died. But the Panamanian flag was run up to the top of the pole after a group of Panamanian students called on President Roberto Chiari and reportedly threated him with a repetition of last January's rioting.

### ANGRY

"The Government in Panama is guilty of a contemptible affront," said Representative SELDEN, "not only to the memory of General MacArthur, but to the free people of the hemisphere and the world.

"The Panamanian action is as senseless as it is insensitive. It reflects a degree of petty malice that could cast a dark cloud over the United States-Panamanian relations. Our own Government should never have acceded to this.

"Either the Panamanian flag should be flown at half-mast in the Canal Zone during the period of mourning for General MacArthur, or it should not be flown at all."

### PRETEXT

The dual flagpoles in the Canal Zone's Shaler Triangle were ordered by President Eisenhower. The sovereignty of the Panamanian flag was the pretext for student riots last January which led to the break in United States-Panamanian relations.

Both flags flew at half-staff for several hours after word of General MacArthur's death was received.

The first official communication in the matter came from President Chiari through the Panamanian Embassy here and the U.S. chargé d'affaire in Panama City.

The State Department in Washington received a teletype on it, and it was at the State Department that the matter was handled. The request of the Panamanian Government was honored and Panama's flag went up the pole above the U.S. flag, which will be at half staff until Saturday.

### DECISION

"It was a low level decision," said a State Department spokesman. "The Panamanian Government said that they were not in mourning for General MacArthur. The U.S. flag is not flown at half mast for deaths in foreign countries, and we decided that the Panamanian request should be honored.

"Japan and the Philippines are the only other countries which are officially in mourning for General MacArthur."

The Panama Star and Herald, an English language newspaper, reported that a delegation of student leaders called on President Chiari and threatened him with a renewal of rioting if the Panamanian flag was not raised.

Victor Avila, a Panamanian youth who is secretary-general of the Student Federation, issued a statement charging that President Chiari had capitulated when he agreed to resume relations with the United States. A meeting of the students was called for yesterday afternoon at Panama University. It was Mr. Avila who coined the slogan, "Sovereignty or Death" during last January's riots.

A spokesman for the Panama Canal Company, which operates the Panama Canal, said it has been customary in the Canal Zone for both flags to be lowered to half staff on days of official mourning for either country.

In Washington yesterday, the Panamanian Embassy did not fly its flag. Panama's Ambassador, M. J. Moreno, was not at the Embassy. A secretary said he had gone to General MacArthur's funeral parade.

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[From the Washington (D.C.) Daily News, Apr. 9, 1964]

### LET'S GO SLOWLY

As an example of transcendental pusillanimity in high place, we give you today the behavior of Sr. Roberto Chiari, President of the Republic of Panama, a man whose living also includes income from selling milk to the U.S. Canal Zone.

Yesterday, over the world, the American flag flew at half staff in mourning for Gen. Douglas MacArthur. It flew at half staff in the U.S. Canal Zone, Panama.

In the Zone, the Panamanian flag beside the Stars and Stripes was also lowered to half staff because of the regulation which requires that no flag be flown above the national emblem on American soil and at U.S. military installations. The treaty with Panama grants the United States effective "sovereignty" in the Zone and it is also a U.S. military installation.

A group of Panamanian "students" and Communists (probably the same miserable lot that started the dishonest January 9 mess) then called on President Chiari and demanded that Panama refuse to honor General MacArthur in death. Instead they demanded that the Panamanian flag fly at full staff in the Zone and, according to the Panama Star and Herald, threatened to stage another riot if this wasn't done.

President Chiari chickened out and demanded of the U.S. State Department that the Panamanian flag be hoisted full staff.

Dean Rusk, Secretary of State, was out of town. Tom Mann, Assistant Secretary of State in charge of Latin American Affairs, was ill with pleurisy. And so somebody down the line at State chickened out in turn to President Chiari and countermanded the original regular order and told our zone people to raise the Panamanian flag full staff, over the U.S. flag.

That somebody should be fired, of course, but won't be. Civil service regulations will see to that. But whether he is or is not fired is not our point.

Discounting, also, the peanut triumph of the Commies and their sleazy Panmanian patriot pals who have nothing better to do than to try to create trouble out of little incidents like this, it demonstrates how completely correct has been the policy of the Johnson administration since the January 9 riots and the subsequent attempt to blackmail the United States which, of course, backfired.

Panama is governed by a selfish pack of opportunistic political ingrates. It has been called—correctly—the Tangiers of the Western Hemisphere.

Its very existence is by courtesy of the U.S. Navy which protected the Panamanians when they broke off from the Republic of Colombia. There would never have been a Panama without the United States. The canal does not exist because of Panama; Panama exists because of the canal.

If the United States had lost World War I, or more particularly, World War II, Panama's title to any part of the canal or its operation wouldn't be worth a discarded banana skin.

That we won both, and that during the last war, Panama was kept safe from attack, is due in large measure to the military virtue of the late Gen. Douglas MacArthur, in respect of whose death little President Chiari and his political delinquents refused to dip their flag, flying beside ours.

And so, today, Panama's banner is at the top of the flagpole and is in the mud at the feet of every freeman in the world over who knows the meaning of propriety, gallantry and respect for honorable death.

Our point is merely this: Let this little incident be instructive to anyone who expects, behind the facade of phony, posturing "dignidad" of Panama's present administration, anything but the cheapest sort of opportunism in the forthcoming talks about the treaty governing the operation of the Panama Canal.

Let's go slowly. There are, of course, Panamanians of high character and honor. Maybe they can win Panama's next election.

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## NECESSITY FOR DOMESTIC FARM LABOR LEGISLATION

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. ROOSEVELT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, the necessity for domestic farm labor legislation has become most urgent and must be given top priority by every Member of Congress who intends to vote against extension of Public Law 78, commonly known as the "bracero" program.

A recent publication of the National Advisory Committee on Farm Labor entitled "Agribusiness and Its Workers," clearly sets forth the deplorable plight of farmworkers and migrants. They have neither economic nor political power. They are unorganized and most often are disenfranchised, by race, by lack of permanent residence, by poverty and by ignorance.

As the NACFL reminds us, "the most surprising aspect of farmworkers' deprivation is the deliberate way in which they have been excluded from the legal protections that Americans have agreed other workers need: a minimum wage, a ban on child labor, a guarantee of the right to organize in unions and bargain collectively, disability insurance, and compulsory workmen's compensation."

Specific programs must be undertaken immediately by the Federal Government to achieve a realistic solution to these problems.

The general Subcommittee on Labor held hearings and reported to the full Committee on Education and Labor a bill which would provide standards and compulsory registration of labor contractors of migrant agricultural workers. On June 4, 1963, it was reported from the full committee and a rule was requested. No action by the Rules Committee has been taken as of this date.

But this is just one of several programs which are absolutely necessary if, upon the expiration of Public Law 78, domestic farm labor is to be available to work the farms of our Nation, and to work under conditions which do not affront the moral responsibility of the Congress and the American people.

Under Secretary of Labor John F. Henning, in response to my inquiry, has written under date of March 30, 1964, concerning the Department's plans for maximum utilization of domestic labor in anticipation of the expiration of Public Law 78. My letter and the reply from Mr. Henning are attached for the information of my colleagues.

As his letter points out:

> The National Farm Labor Conference * * * which was attended by many growers, emphasized the urgency for grower action this year as a preparation for 1965. State employment security agencies are now urging growers to improve housing and working conditions so that they will be able to attract larger numbers of domestic workers for seasonal employment.

Mr. Henning's letter also indicates the necessity for legislation which would utilize existing farmworkers and attract unemployed persons into the agricultural labor force. These recruits must be trained, transported, and distributed to areas of work. My bill H.R. 6900 and identical bills would go far toward meeting this need.

But crew leader registration and regulation, and voluntary farm employment recruitment are not the full answer. As I have indicated, the Fair Labor Standards Act and unemployment compensation must be made applicable to agricultural employment. Adequate housing must be provided and relates closely and is a necessary part of any recruitment program. Even such an enlightened State as California, in providing housing for migratory labor, has failed to provide any but barrackslike accommodations for single men, with no provision for families. It is important that rest stops be provided for overnight use of migrants while in transit from their homes to distant places of employment.

My concern with this very pressing and important national problem is shared by many of you, my colleagues, and many of our friends in the Senate. Indeed, Senator HARRISON WILLIAMS of New Jersey and others have introduced and supported favorable action by the Senate on no less than five bills which have been referred to the Committee on Education and Labor. These bills provide for financial assistance to the States to improve educational opportunities for migrant agricultural employees and their children; assisting States, through the Children's Bureau, in providing for day-care services for children of migrant agricultural workers; establishment of a National Advisory Council on Migratory Labor; amendment to the Fair Labor Standards Act to extend the child labor provisions of the act to certain children employed in agriculture; providing for registration of contractors of migrant agricultural workers.

Eminent Members of this body have introduced in this session no less than 25 bills, some being identical with others, which are pending before various of our committees, which correspond with the above Senate bills, and further provide for the establishment of a minimum wage rate for migrant agricultural workers under the Fair Labor Standards Act, and authorize the Secretary of Labor to develop and maintain a voluntary farm labor recruitment program.

I cannot stress too strongly our responsibility to enact effective legislation to provide adequate wages, housing, and allied working incentives for the migrant laborers, and to assist the agriculture industry by providing labor pools to harvest and process their products. This Congress is considering, under the leadership of one of its most able committees, the President's war on poverty. Let us not forget that the substandard living and working conditions of the migratory farmworker represents one of the most infamous and deep-seated stigmas on our affluent society.

As part of the war on poverty which presently engages this administration and our Congress, we must not fail in the battle for decency and dignity for our farm laborers. We have skirmished to futility too often. We must now, in this session, commit all the forces available to this great Nation, both economic and creative, to meet and conquer poverty wherever it appears, and particularly where it attacks a group so poorly armed to defend itself as our fellow Americans—the migratory farm laborers.

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### THE LEAD-ZINC ACT OF 1964

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. ICHORD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ICHORD. Mr. Speaker, I have today joined with Congressman WAYNE ASPINALL and others in sponsoring the Lead-Zinc Act of 1964. As a Representative of the State of Missouri, where more lead is produced than in any other State and, in fact, almost one-third of the Nation's lead is produced, I am understandably familiar and concerned with this act. Lead and zinc are vital commodities in both consumer products and national defense machinery and, so, very closely concern the national welfare.

It is imperative, therefore, that steps be taken to protect and save the lead and zinc industries. We must not make ourselves excessively or unnecessarily dependent upon foreign sources for such crucial minerals. To this end, the passage of this legislation is a must if we are to continue to have a domestic lead- and zinc-mining industry.

Since 1950, the domestic lead-zinc mining and smelting industry has been subject to sharp fluctuations in metal prices that have been most detrimental to the economics of the industry. The present lead-zinc import quota system established by Presidential proclamation, effective October 1, 1958, is outmoded and not properly working. According to the Bureau of Mines, Missouri regained first place among the States in lead production in 1963. Total production in Missouri for 1963 was 80,100 short tons of recoverable lead, compared with the U.S. total of 250,791 short tons. Missouri briefly fell to second place in lead production in 1962, because of strikes, after 54 consecutive years of being first. Lead, in 1963, had a market price of 13 cents per pound as compared with a price of 10½ cents in 1962. This is a fairly reasonable price.

Much of this increase is in accord with the general progress of the economy and directly attributable to rapid increases in steel and automobile construction and consumption. This has led to recent announcements of increased lead mine and smelter production in Missouri and increased zinc mine production in Tennessee; however, the present fixed quota is inadequate to prevent harm to the lead and zinc industries from any sharp cutbacks in price or consumption. If these industries are to prosper and remain sound, such cutbacks must be guarded against. It is incumbent upon the Congress to create and guarantee a climate of fiscal security, assuring these industries a fair share of the domestic market, subject only to the normal dangers of a free enterprise system in which these industries might reasonable plan and invest in the future.

Considering that the recent history of our lead-zinc industry is one of recurring cycles of short periods of prosperity and long periods of depression and with the presently improved position of metal price and stocks, it is imperative that legislation be enacted to stabilize the industry for the domestic producer and consumer. A combination of studies and experience in the industry indicates the more practical and preferable import controls are a flexible import quota system that will adjust directly with the level of metal stocks, reflecting our needs, based on the supply of lead and zinc from domestic and foreign sources and domestic consumption of lead and zinc in the United States.

This legislation fulfills the needed requirement for a flexible quota system. It provides that an import quota be determined quarterly for lead and zinc ores and metal based on experience of supply and demand in previous quarters, with quotas directly related to the current stocks that reflect consumer needs. It realistically allows the Secretary of the Interior to examine three types of quotas: First, based on the difference between domestic production and domestic consumption; second, based upon a percentage of consumption for the 2 previous years; and third, based upon a minimum amount guaranteed to the importing nations, and every quarter arrive at a reasonable quota. This bill additionally allows for emergency quotas to meet sharp drops in metal stocks. It further closes a serious loophole concerning import of these metals in the form of selected manufactured articles.

I would point out that the support this bill has received is of significant importance. The bill itself is the result of a concentrated study of previous lead legislation during the last 4 months conducted by the domestic mining industry and the custom smelting industry. Both industries now jointly support this bill. Additionally, 23 Congressmen have jointly cosponsored the bill with the gentleman from Colorado [Mr. ASPINALL] and the Senate Interior Committee has approved a bill with a similar flexible quota system.

I do not believe that controlled tariff measures as this represents in the type of industry so affected was at all meant to be seriously curtailed by the Trade Expansion Act of 1962. Thus, as this bill would enable the lead-zinc mining industry to maintain a reasonable level of output and to even expand output, provided it could be done on a competitive basis, and as it does not contradict the general tariff policies of this country, most Members should find it very easy to support this bill. I hope we have favorable action in the near future.

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### TAKE IT EASY, MR. HERTER

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Connecticut [Mr. MONAGAN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MONAGAN. Mr. Speaker, in connection with the recent hearings of the Tariff Commission and the prospective negotiations of our Special Representative for Trade Negotiations under the General Agreement on Trade and Tariffs, I have sent to the Honorable Christian A. Herter, who is such representative, the following letter expressing the concern of many of my manufacturing constituents in Connecticut about the possible tendency of these negotiations and the danger of widespread arbitrary reductions in our tariffs.

It is my hope that Mr. Herter will give serious consideration to the problems of our domestic industries and that he will enter and carry on these negotiations while bearing in mind the significance of our manufacturing enterprises in our economy and the degree to which they are threatened by low-wage foreign competition.

My letter follows:

APRIL 13, 1964.

Hon. CHRISTIAN A. HERTER,
*Special Representative for Trade Negotiations, Executive Office of the President,*
*Washington, D.C.*

DEAR MR. HERTER: I am writing this letter to you in connection with the current hearings of the Tariff Commission and the prospective negotiations under the general agreement on trade and tariffs.

I have had numerous communications from representatives of industries in my district who are apprehensive about the effect upon our domestic production of possible broadscale reductions in tariffs on foreign-produced products which compete in the United States with the products of our domestic concerns. These communications have come from copper companies, brass mills, producers of corrugated containers, suppliers of clocks and components, plate glass specialists, machine companies, box companies, zinc rolling companies, and manufacturers of needles and components of timepieces.

Some of these companies manufacture clocks themselves. Others are dependent upon clock manufacturers whom they supply with component parts, packages or other services or materials. Others, of course, are independent manufacturers.

I am sure that you are aware of the extent to which employment in western Connecticut (and, in fact, in other parts of Connecticut) is dependent upon the clock industry. It is really a tribute to the ingenuity of the management of this particular industry that it is today in a position to give employment, purchase goods, and pay taxes because our national policies of recent years gradually eliminated many of the manufacturing processes that formerly were performed by American labor and have transferred them abroad where labor rates and costs are low.

I was particularly apprehensive about the section of the Trade Expansion Act which eliminated the peril point provision, even though I knew that, in practice, relief granted by the Tariff Commission was largely vitiated by Executive action. Under this act, the responsibility for the negotiation of tariffs is reposed in your agency and with this comes the obligation to act in such a way as to maintain protection for workers in our industries in the form of reasonable resistance to floods of low wage imports.

I urge you to examine the position of these industries with the greatest care and to take the steps necessary to keep them healthy and productive. We do have areas in our highly industrialized section of the country which are classified as labor surplus areas. Our domestic markets in rubber footwear, needles, pins, and brass goods are daily subjected to an increased volume of foreign manufacturers. Were it not for the existence of our massive defense program, we should indeed be in a disastrous plight.

I trust that you will bear these problems and considerations in mind in the negotiations you are about to undertake. I am particularly hopeful that you will consider the possibility of removing some of the industries mentioned from the list of those products which are to be the subject of bargaining under GATT.

Sincerely yours,

JOHN S. MONAGAN,
*Member of Congress.*

## RELEASE OF ZINC FROM NATIONAL STOCKPILE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. ASHLEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ASHLEY. Mr. Speaker, I am introducing today a bill to effect an emergency release of 75,000 tons of zinc from the national stockpile, with a waiver of the statutory 6 months' notice, to ease the present critical shortage of special high grade zinc used by the diecasting industry.

The continuing deterioration of the supply of special high grade zinc in the face of increasing demand for diecastings has reached a crucial point: Demand for special high grade zinc to meet customer requirements for zinc diecastings is at the highest level in history; domestic mine production is at the highest level in history; imports are restricted by quotas but have fallen below the permissible level because of the world shortage of zinc; stocks of special high grade slab zinc in the hands of domestic producers on March 31, 1964, were only 12,000 tons or approximately 10 days' supply; diecasting plants are working from day to day and some are on the verge of shutting down zinc production.

Approximately 60 percent of all zinc diecastings are used in automobiles. In view of the current high rate of automobile production, and subnormal zinc inventory position of the diecasters, the possibility of a parts delivery failure from any one diecaster, and consequent interruption of automobile production, is frighteningly real. I need not dwell on the implications to the economy of interrupted deliveries of parts to the automotive, appliance, builders hardware, office equipment and other industries.

Diecasting consumes about 42 percent of all slab zinc, and the ups and downs of diecasting demands are the primary factor in the overall health of the zinc industry—affecting both mining and smelting. An undersupply of zinc leads to price increases. Four such increases in price, and a fifth on the premium since June 1963, have not helped to improve supply, but rather have succeeded in causing the switching of a number of new parts from zinc to plastic.

With 1,600,000 tons of zinc in the national stockpile—all ruled surplus—it is difficult to explain to idled workers, to owners of shutdown diecasting plants, to customers forced to interrupt production and lay off workers, that the Government cannot effectively remedy this situation. Therefore, Mr. Speaker, I ask for prompt and favorable action on the legislation I have introduced.

## PROGRAM FOR THE BALANCE OF THE WEEK

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, I take this time to advise the Members that tomorrow we will euologize our late beloved colleague, Tom O'Brien. We will have no legislative business tomorrow and the balance of the week.

## THREATENED CLOSING OF NAVAL SHIPYARD AT BOSTON

Mr. BURKE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

Mr. BURKE. Mr. Speaker, I was shocked today to hear the statement of the chairman of the Committee on Armed Services, the gentleman from Georgia [Mr. VINSON], predicting that 3 Navy yards, New York, Philadelphia, and Boston, might be closed by the end of this year.

Mr. Speaker, I do not think there was anything in the legislation that came before this House today which would justify the closing of the Boston Naval Shipyard.

Mr. Speaker, I want to serve notice that I intend to fight with every weapon at my command—and I know that I will be joined by the entire New England delegation—in opposing any steps by the Secretary of Defense and any efforts that he might make to close this shipyard.

Mr. Speaker, this shipyard is part and parcel of the U.S. Navy. It has as much tradition connected with our country and is as great a part of our Navy as any other operation of the Navy.

We object strenuously to the attempts of those who would try to scuttle this Navy yard. I serve notice on the Secretary of Defense that I will not take this fight lying down. We intend to go all the way, and all the way, Mr. Speaker, is all the way. If we have to go to the White House, we shall go in order to prevent this from happening.

## IMPORTED RESIDUAL OIL—A MAJOR CAUSE OF UNEMPLOYMENT—IS IGNORED BY ANOTHER SPECIAL WHITE HOUSE STUDY GROUP

The SPEAKER. Under previous order of the House the gentleman from Pennsylvania [Mr. SAYLOR] is recognized for 15 minutes.

Mr. SAYLOR. Mr. Speaker, last week's report of the President's Appalachian Regional Commission constitutes another official brushoff for the mining communities of Pennsylvania and other eastern coal-producing States. In its 90-plus pages of statistics, illustrations, and polished profundity, there is not a single mention of the obvious evil responsible for progressive unemployment since the conclusion of World War II.

The report dutifully points out that coal markets were impaired when long-distance oil and natural gas pipelines began threading their way into fuel consuming centers, and when steam locomotives were replaced with diesel engines; yet the mounting tide of alien residual oil flooding east coast markets is completely ignored. Since the impact of foreign residual oil on the economies of Pennsylvania, West Virginia, Virginia, and eastern Kentucky is recognized by every knowledgeable person who has spent any time whatsoever in affected parts of these States over the past 15 years, it must be assumed that the President's Commission was on order to disregard the effects of foreign competition on American jobs. Certainly the armies of Federal and State officials delegated to undertake the study could not have unconsciously overlooked an issue of this proportion in the 8 months which the undertaking required.

Somehow, no matter which section of the Federal Government engages in the unemployment problems of coal States, the foreign-competition angle is automatically dismissed, thus giving substantiation to the popular suspicion that the will and the whims of the State Department still prevail over whatever considerations might otherwise be given to the needs of U.S. citizenry. Evidence of this unholy power asserted itself just 14 days ago when another increase in residual oil import levels went into effect despite the administration's newly announced plan to utilize every conceivable weapon necessary to reduce poverty in this country.

Mr. Speaker, that decision to admit more foreign residual oil was made by the Secretary of the Interior, but I cannot believe that he would have taken such a step had not his authority been superceded by an insistent Department of State. The Secretary of the Interior was always most sympathetic to the plight of the unemployed throughout his 6 years' service in the House beginning in 1955. One of his first field trips following his appointment as Secretary was to West Virginia, where he toured a coal mine and learned at firsthand the conditions that bring despair to a community when jobs available are far fewer than men in want of employment.

The Secretary understands perfectly that the residual oil imports issue has no political implications. Demands for cutbacks have come from both sides of the aisle, and our complaints have not been restricted to any particular administration. When President Truman was in office in 1950, I was one of the many Members of Congress who sought and fought to dam the flow from alien refineries.

I have continued this crusade in behalf of American miners through the administrations of President Eisenhower and his successors, and I promise that one day this unfair policy of sacrificing American jobs for the sake of diplomatic maneuverings will be checkmated despite the State Department's exalted attitude. Members of Congress are becoming more and more conscious of foreign competition since so many constituencies are detrimentally affected by the growing volumes of commodities from abroad, and the time is approaching when Congress will reclaim its constitutionally designated power to regulate international commerce.

Fourteen years ago, in attacking the policy that subordinates American economic consideration to demands of foreign politicians, I pointed out that a total of 74.7 million barrels of residual had entered east coast markets from abroad the preceding year. That was in 1949, when mines in Pennsylvania began closing as their customers on the eastern seaboard were enticed by bargain rates from the international oil merchants. Since that time shipments have risen more than threefold, and the levels are being boosted to new highs year after year. In 1963, there was some hope that our Secretary of Interior would hold the line, but apparently he had no alternative but to grant an increase following the President of Venezuela's visit to the White House. Early this year the Secretary took a trip to Venezuela, and it was only a short time after his return that he announced another increase.

Ironically, the Appalachian report recommends Federal expenditures of $218 million in fiscal 1965, whereas a prohibition against residual oil imports competitive with coal would prime the economy of eastern mining States by $243 million through the sale of coal alone. To move the coal to market would stimulate another $180 million in railroad traffic, and many more additional millions in business would be generated through allied industries. Yet the Commission has wholly overlooked this logical expediency which involves no Federal expenditures whatsoever.

Mr. Speaker, despite the grave omission in the Commission's report, it is incumbent upon every Member of Congress to study carefully the recommendations as they are submitted for legislative action. It is at least of benefit for the Federal Government to take new notice of the joblessness and deprivation that persist in various regions of our country. Meanwhile, recognizing that the executive department is set against corrective action in the residual oil matter, Congress can make a distinct contribution toward creating more jobs merely by enacting the legislation that I have introduced—along with the gentleman from my neighboring constituency, the gentleman from Pennsylvania [Mr. DENT] and other Members of both parties—for the purpose of cutting back residual oil imports and opening thousands of jobs to miners and employees of other industries who have been out of work entirely too long.

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## REPORT ON EAST-WEST TRADE

The SPEAKER. Under previous order of the House the gentleman from Delaware [Mr. McDOWELL] is recognized for 5 minutes.

Mr. McDOWELL. Mr. Speaker, I want to associate myself with the remarks of the able chairman of the Subcommittee on Europe, the gentlewoman from New York [Mrs. KELLY], about the report on East-West Trade by the Center for Strategic Studies.

I had the pleasure of participating last year in the study mission chaired by Representative KELLY which produced the report on "The Soviet Economic Offensive in Western Europe." I think it is significant that the report of the Center for Strategic Studies quoted at length from our document and that its conclusions parallel those which we reached a year and a half ago. I think it is equally significant that both of the documents on East-West trade issued by the Committee on Foreign Affairs which were covered at length in the report of the Center for Strategic Studies were produced by the Subcommittee on Europe.

I think it would be of interest to Members of Congress to know exactly what the reports of the Center for Strategic Studies had to say about our findings. In a section entitled "Congressional Opinion" the report contains this passage:

> The special study mission to Europe of the House Foreign Affairs in 1963 found that: "the industrialized nations of the West are not facing up to the challenge of the Soviet economic offensive. They lack a coordinated policy which would marshal the economic resources of the West for strategic economic defense and initiative in the cold war."
>
> The report complained of the limited controls on a narrowly defined list of materials and pointed out the danger from the Soviet oil offensive and the willingness of certain Western governments to sanction and participate in the sale and barter of Western industrial goods for attractively priced Soviet oil. The mission's final conclusion was that: "the time is ripe for a thorough review of the structure and capabilities of NATO in order to ascertain to what extent this organization can be expected to aid in the collective defense and in the cold war strategy of the Atlantic Alliance."

After surveying the range of congressional views on the subject of East-West trade, the report of the Center for Strategic Studies concluded as follows:

> While there are varying shades of opinion with respect both to the basic issues and to the range of proposed solutions and possible alternative strategies, the following views are rather clearly revealed in the collected documents:
>
> 1. The time has come for a thorough review of trade policy as an integral part of the military and economic defense plans of the free world.
>
> 2. The West has not used and is not now using effectively its inherent and preponderant economic strength in the conventional and unconventional conflicts which threaten the free world,
>
> 3. The growing disparity between the policies of the United States and its principal allies is divisive and injurious to the cause of the free world and should be resolved
>
> 4. The United States must assume the responsibility for leadership in bringing about the coordination of the trade policies of the major free-world industrial nations, as well as for the creation of an allied organization to implement a unified policy.

Mr. Speaker, these findings, as I have already stated, correspond very closely to the findings and recommendations of the report on "The Soviet Economic Offensive in Western Europe" issued by the subcommittee on Europe early last year. The situation which we described in that report is still in existence. The need for remedial action is still present. I sincerely hope that such action will come promptly.

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## WASHINGTON EMERGENCY CONFERENCE ON SOVIET JEWRY

The SPEAKER. Under previous order of the House the gentleman from New York [Mr. HALPERN] is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, Washington was host on April 5 and 6 to a Conference on Soviet Jewry which drew 500 delegates from all parts of the country to review and deliberate upon the serious anti-Semitism which still festers alarmingly in Soviet Russia.

We owe these distinguished gentlemen a great debt of gratitude for drawing attention to this despicable situation. Associate Justice Arthur Goldberg, Senators Jacob K. Javits and Abraham A. Ribicoff, spoke impressively to the assembly, which also appointed a delegation to visit with Secretary of State Rusk and the President.

My purpose is to record here the excellent resolution of the conference that challenges the Soviet Government, in the name of humanity and justice, to eliminate the overt and covert practice of anti-Semitism in their country.

The 18 points of the resolution call upon the Soviet leadership to:

> 1. Eradicate anti-Semitism by a vigorous educational effort conducted by Government and party.
>
> 2. Permit the free functioning of synagogues and private prayer meetings.
>
> 3. Remove hindrances to the observance of sacred rites such as religious burial and circumcision.
>
> 4. Permit production and distribution of religious articles and calendars.
>
> 5. Restore facilities and permission to produce and distribute matzohs and kosher food.
>
> 6. Grant the right to publish Hebrew Bibles, prayer books, and other religious texts.
>
> 7. Permit synagogues in the U.S.S.R. to organize a nationwide federation.

8. Sanction the association of such a federation with organizations of their coreligionists abroad.

9. Permit Jews to make religious pilgrimages to Israel.

10. Allow all qualified applicants to attend Moscow Holy Places and rabbinical seminaries, and to permit rabbinical students to study at seminaries abroad.

11. Provide schools and other facilities for the study of the Yiddish and Hebrew languages, and Jewish history and culture.

12. Permit Jewish writers, artists and other intellectuals to create their own institutions for the encouragement of Jewish cultural and artistic life.

13. Reestablish a Yiddish publishing house to publish books in Yiddish by classical and contemporary Jewish writers.

14. Reestablish Yiddish state theaters and permit publication of a Yiddish-language newspaper with nationwide circulation.

15. Eliminate discrimination against Jews in all areas of Soviet public life.

16. End the anti-Semitic campaign in the press.

17. End the discriminatory application of the death penalty and other severe sentences imposed against Jews for economic crimes against the state.

18. Make it possible for Soviet Jews separated from their families as a result of Nazism to be reunited with their relatives, on humanitarian grounds.

In addition, the delegates passed a resolution to designate a national day of prayer in every synagogue in the United States to dramatize their sympathy with the oppressed plight of Russian Jewry. The exact day will be announced at a later date.

The conference urged localities throughout the Nation to hold similar assemblies as a means of concentrating support for the Russian brethren.

The resolutions are the minimum that must be realized in eradicating the terrible anti-Semitism in the Soviet Union. The 18 points are essentially a summation of what our Government must work for in the fight against all forms of racial and religious intolerance in the world.

Twenty-four leading organizations sponsored the conference together; their mutual dedication to the cause of world religious and race tolerance has led to the 18-point resolution in which all Americans share an abiding interest.

Mr. Speaker, we can and will press forward in achieving the objectives of this conference, which has succeeded in making clear to all the work that remains undone.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ASPINALL, for Thursday, April 23 after 2 p.m., and Friday, April 24, 1964, on account of official business.

Mr. TOLL (at the request of Mr. NIX), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PUCINSKI, for 1 hour, on April 30, to commemorate Polish Constitution Day.

Mr. SAYLOR, for 15 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. MATHIAS (at the request of Mr. BROMWELL), for 30 minutes, April 29, 1964; to revise and extend his remarks and include extraneous matter.

Mr. HALPERN (at the request of Mr. BROMWELL), for 10 minutes, today; to revise and extend his remarks and include extraneous matter.

Mr. McDOWELL (at the request of Mr. ALBERT), for 5 minutes, today; to revise and extend his remarks and to include extraneous matter.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mrs. GRIFFITHS and to include extraneous matter.

Mr. TALCOTT.

Mr. BRADEMAS.

Mr. STINSON to include extraneous matter in his remarks on H.R. 10939.

Mr. WILSON of Indiana to include extraneous matter in his remarks on H.R. 10939.

Mr. LINDSAY in two instances, and to include extraneous matter.

(The following Members (at the request of Mr. BROMWELL) and to include extraneous matter:)

Mr. HOSMER.

Mr. MATHIAS.

(The following Members (at the request of Mr. ALBERT) and to include extraneous matter:)

Mr. HEALEY.

Mr. FRASER.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2111. An act to fix the beneficial ownership of the Colorado River Indian Reservation located in the States of Arizona and California.

## ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p.m.) the House adjourned until tomorrow, Thursday, April 23, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1974. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the report on backlog of pending applications and hearing cases in the Federal Communications Commission as of February 29, 1964, pursuant to Public Law 554, 82d Congress; to the Committee on Interstate and Foreign Commerce.

1975. A letter from the president, National Safety Council, transmitting a report of the audit of the financial transactions of the National Safety Council for the year 1963, pursuant to Public Law 259, 83d Congress; to the Committee on the Judiciary.

1976. A letter from the Acting Director, Administrative Office of the U.S. Courts, transmitting a draft of a proposed bill entitled "A bill to amend section 2072 of title 28, United States Code, with respect to the scope of the Federal Rules of Civil Procedure"; to the Committee on the Judiciary.

1977. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated March 16, 1964, submitting a report, together with accompanying papers and illustrations, on a review of the report on East Pass Channel from the Gulf of Mexico into Choctawhatchee Bay, Fla., requested by resolutions of the committees on public works, U.S. Senate and House of Representatives, adopted January 15, 1960 and May 19, 1960 (H. Doc. No. 194); to the Committee on Public Works and ordered to be printed with two illustrations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 7267. A bill to amend the Internal Revenue Code of 1954 to authorize partial refunds of gasoline taxes directly to aerial applicators with respect to gasoline used by them in providing services to farmers in farming operations; with amendment (Rept. No. 1336). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CHELF: Committee on the Judiciary. H.R. 1880. A bill for the relief of Mrs. Lucine Broussalian; without amendment (Rept. No. 1333). Referred to the Committee of the Whole House.

Mr. MOORE: Committee on the Judiciary. H.R. 2737. A bill for the relief of Pedro Aguinaldo; without amendment (Rept. No. 1334). Referred to the Committee of the Whole House.

Mr. FEIGHAN: Committee on the Judiciary. H.R. 5501. A bill for the relief of Wieslawa Marianna Borczon; with amendment (Rept. No. 1335). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY:

H.R. 11004. A bill to authorize the sale, without regard to the 6-month waiting period prescribed, of zinc proposed to be disposed of pursuant to the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

By Mr. BYRNE of Pennsylvania:

H.R. 11005. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. ICHORD:

H.R. 11006. A bill to protect the domestic economy, to promote the general welfare, and to assist in the national defense by providing for an adequate supply of lead and zinc for consumption in the United States from foreign and domestic sources, and for other purposes; to the Committee on Ways and Means.

By Mr. MOORE:

H.R. 11007. A bill to amend titles I and XVI of the Social Security Act to enable the States to extend medical assistance for the aged to persons between 50 and 65 years of age if they are permanently and totally disabled; to the Committee on Ways and Means.

By Mr. THOMPSON of Louisiana:

H.R. 11008. A bill to increase the participation by counties in revenues from the national wildlife refuge system by amending the act of June 15, 1935, relating to such participation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SICKLES:

H.R. 11009. A bill to establish a National Commission on Automation and Technological Progress; to the Committee on Education and Labor.

By Mr. HARVEY of Michigan:

H.R. 11010. A bill to increase the amount of domestic beet sugar and mainland cane sugar which may be marketed during 1964, 1965, and 1966; to the Committee on Agriculture.

By Mr. SKUBITZ:

H.R. 11011. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. BURTON of California:

H.J. Res. 1008. Joint resolution with respect to the proposed location of a nuclear powerplant at Bodega Head, Calif.; to the Joint Committee on Atomic Energy.

By Mrs. HANSEN:

H. Con. Res. 291. Concurrent resolution requesting the President to proclaim the 6-day period beginning May 18, 1964, and ending May 23, 1964, as National Halibut Week; to the Committee on the Judiciary.

By Mr. MULTER:

H. Con. Res. 292. Concurrent resolution expressing the sense of the Congress with respect to the adoption by the United Nations of a universal declaration opposing religious intolerance and discriminatory practices; to the Committee on Foreign Affairs.

By Mr. MONAGAN:

H. Con. Res. 293. Concurrent resolution to request the President of the United States to wage certain actions in behalf of Lithuania, Estonia, and Latvia; to the Committee on Foreign Affairs.

By Mr. PELLY:

H. Res. 701. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

By Mr. DANIELS:

H. Res. 702. Resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of South Carolina, memorializing the President and the Congress of the United States relative to recommending to the U.S. Congress, the U.S. State Department, and the U.S. Department of Agriculture that consideration be given to limiting the quotas on imports of beef and beef products, which was referred to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 11012. A bill for the relief of Remedios Ocampo; to the Committee on the Judiciary.

By Mr. DADDARIO:

H.R. 11013. A bill for the relief of Nicolina Coppola; to the Committee on the Judiciary.

By Mr. LESINSKI:

H.R. 11014. A bill for the relief of Henryka Lyska; to the Committee on the Judiciary.

H.R. 11015. A bill for the relief of Americo Mauti; to the Committee on the Judiciary.

By Mr. O'BRIEN of New York:

H.R. 11016. A bill to provide for the free entry of certain stained glass and cement windows for Our Lady of the Angels Seminary of Glenmont, N.Y.; to the Committee on Ways and Means.

By Mr. POWELL:

H.R. 11017. A bill for the relief of Mabel Generva Hayes (Wilson); to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

861. By Mr. CAMERON: Petition of Glenn M. Anderson, Lieutenant Governor of the State of California, urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

862. Also, petition of Bill Dwyer, national senior vice commander of the Disabled American Veterans, urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

863. Also, petition of Harvey Johnson, Assemblyman from the 58th District, State of California, urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

864. Also, petition of the City Council of the City of Hawthorne, Calif., urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

865. Also, petition of the Disabled American Veterans, Department of Michigan, State Executive Committee, urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

866. Also, petition of American Legion Post No. 30 of Pomona, Calif., urging Congress to posthumously award the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on the Judiciary.

867. By Mr. CUNNINGHAM: Petition of the Brewery and Soft Drink Workers Local Union No. 94 of Omaha, Nebr., representing 380 workers and members, favoring reduction of excise taxes imposed as a temporary measure during the Korean war; to the Committee on Ways and Means.

868. By the SPEAKER: Petition of John J. Polakowski and others, Milwaukee, Wis., relative to requesting certain adjustments in the social security law; to the Committee on Ways and Means.

# EXTENSIONS OF REMARKS

## Test Ban Treaty Safeguard Promises Are One-tenth Kept

EXTENSION OF REMARKS

OF

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. HOSMER. Mr. Speaker, apparently President Johnson detects some public apprehension regarding whether the administration's promised safeguards are being taken to reduce the admitted hazards and risks to the national security inherent in last year's test ban treaty with Russia. It was necessary to get a self-serving letter, dated April 16, out of Defense Secretary Robert McNamara and AEC Chairman Glenn T. Seaborg containing ambiguous and sirupy assurances on the subject. The White House released it to the public on April 20.

The promised safeguards are: First, continuing underground test programs; second, maintenance of our nuclear laboratories; third, maintenance of readiness to resume atmospheric testing; and, fourth, improvement of facilities to detect test ban cheating.

Apprehension over the safeguards is well taken and can hardly be set to rest by biased self-assessments from McNamara and Seaborg on how well they are doing their jobs. If they are doing a lousy job, would anyone expect them to write a letter to the President admitting it?

What the public is left with, of an unclassified nature, that can be used to estimate the extent of their work is basically the amount of money cold budget figures indicate they are devoting to it. This record not only generates apprehension, it supports downright alarm.

These figures do not separate out precisely the expenditures of the DOD and AEC on either capital items or operational costs. It is necessary to deal with a combination of both and, necessarily, their totals. Even so, what was being spent on items bearing on the safeguards before the treaty and after the treaty should give some hint as to the vigor or lack of vigor with which the safeguards are being pursued. Here is the record:

The AEC's before test ban fiscal year 1964 budget for underground testing; readiness for testing; common laboratory test items; detection; development, production and storage of atomic weapons; and weapons plant and capital equipment items was $941 million.

Right after the test ban treaty, in late 1963, it got a supplemental authorization of $18 million for safeguards items and for fiscal 1965 has asked for $891 million for the above-listed test-related items. Added together, $18 million and $891 million makes $909 million after the test ban—$32 million less than the $941 million before the test ban. These are not reassuring figures by which to judge the AEC's alleged zeal on the subject of safeguards.

Mr. McNamara has done a little better. On February 3 he told the House Armed Services Committee the DOD spent $224 million on safeguards items before the test ban and now wants to spend $280 million, a $54 million increase. But, when the DOD increase is whittled away by the AEC decrease, total increased spending on items involving the safeguards is only $41 million—a minuscle 3½-percent boost in spending between pre-test ban treaty circumstances, and post-test ban treaty circumstances, despite all the admissions of risks and hazards and all the promises, made with such fanfare, to safeguard against them.

On September 24 of last year, I wrote the late President Kennedy that it would cost at least $1 billion to buy the equipment and build the facilities necessary to implement the safeguards adequately and cost roughly one-fourth billion dollars annually to operate them. These figures were for new and additional expenditures, over and above expenditures then being incurred and which should continue. If only one-fifth the necessary capital expenditures were made this year, $200 million, and the estimated operating expenditures for the safeguards, $250 million, the total safeguards expenditures increase this year should have amounted to $450 million. Yet, according to the above calculations, it actually amounts to only $41 million—a shortage of $409 million, or less than 10 percent of the spending estimated as necessary to carry out the safeguards adequately and protect the national security with assurance.

Inasmuch as the McNamara-Seaborg pat-ourselves-on-the-back letter was released yesterday and pushed out by the headlines of Premier Khrushchev's uninspected promise to be good and not finish some plutonium reactors that are not yet built, the White House probably will make another run on trying to get some safeguards publicity. Those interested might tuck away the foregoing facts somewhere for future reference at that undeterminable time.

## Eighty-eighth Congress Rollcall Record of Congressman Charles McC. Mathias, Jr.

EXTENSION OF REMARKS

OF

### HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. MATHIAS. Mr. Speaker, individual responsibility of elected legislators is one of the requisites of successful representative government. The record of rollcall votes, which becomes a public document, plays an essential part in our governmental system under which Members of the House of Representatives render regular accounts to their constituents at the close of each Congress.

I am appending herewith a short résumé of my rollcall record of the 1st session of the 88th Congress and the 2d session through rollcall No. 54. The rollcalls omitted from this brief summary are, of course, the quorum calls:

*Rollcall record of* CHARLES *McC.* MATHIAS, *Jr., House of Representatives*

1ST SESS., 88TH CONG.

| Rollcall No. | Legislation | Explanation of action or title of the bill | MATHIAS' vote |
|---|---|---|---|
| 2 | | Election of Speaker | Halleck. |
| 3 | H. Res. 5 | Relating to rules of the House | Nay. |
| 4 | H. Res. 5 | Relating to rules of the House. On agreeing to resolution | Yea. |
| 6 | H. Res. 249 | Authorize expenditure for Committee on Un-American Activities | Yea. |
| 8 | H.R. 2438 | Extend provision of the Universal Military Training and Service Act | Yea. |
| 9 | H.R. 4374 | To proclaim Sir Winston Churchill an honorary citizen of the United States | Yea. |
| 12 | H.R. 2440 | Appropriations for the Armed Forces. On amendment No. 2 | Yea. |
| 13 | H.R. 2440 | Appropriations for the Armed Forces. On motion to recommit | Yea. |
| 14 | H.R. 2440 | Appropriations for the Armed Forces | Yea. |
| 16 | H.R. 5366 | Appropriations for Treasury and Post Office and related agencies | Yea. |
| 19 | H.R. 5517 | Supplemental appropriations | Yea. |
| 20 | H.R. 5389 | Repeal certain legislation relating to purchase of silver | Yea. |
| 23 | H.R. 12 | Motion to recommit: Increase opportunities for training of physicians, dentists, and professional public health personnel | Nay. |
| 24 | H.R. 12 | Increase opportunities for training of physicians, dentists, and professional public health personnel | Yea. |
| 29 | H.R. 4997 | To extend feed grain program. To recommit | Yea. |
| 30 | H.R. 4997 | To extend the feed grain program | Nay. |
| 38 | H.R. 40 | Provide additional facilities at State agricultural experiment stations | Yea. |
| 40 | H.J. Res. 245 | To provide that Members of Congress be limited to costs of travel outside United States | Yea. |
| 41 | H.R. 5517 | Supplemental appropriations | Yea. |
| 45 | H.R. 5517 | do | Yea. |
| 46 | H.R. 5517 | do | Nay. |
| 48 | H. Res. 340 | Granting additional travel authority to Committee on Education and Labor | Yea. |
| 51 | H.R. 6009 | Provide temporary increase in public debt limit. To recommit | Yea. |
| 52 | H.R. 6009 | Provide temporary increases in public debt limit | Nay. |
| 54 | H. Res. 362 | Providing for consideration of H.R. 6060 | Yea. |
| 58 | H. Res. 368 | Authorizing appointment of delegates to International Labor Organization Conference | Yea. |
| 59 | H.R. 5497 | To amend Agricultural Act | Nay. |
| 61 | H.R. 3496 | To amend the Reorganization Act | Yea. |
| 72 | H.R. 6754 | Appropriations for Department of Agriculture and related agencies | Yea. |
| 74 | H.R. 6868 | Appropriations for legislative branch | Yea. |
| 79 | H.R. 4996 | To amend Area Redevelopment Act | Nay. |
| 81 | H.R. 6755 | Extension of existing corporate normal tax rate and of certain excise tax rates | Yea. |
| 83 | H.R. 7063 | Appropriations for Departments of State, Justice, Commerce, judiciary, and related agencies | Yea. |
| 85 | H.J. Res. 247 | To suspend equal opportunity requirements of Communications Act of 1934 | Yea. |
| 87 | H.R. 6177 | To amend the District of Columbia Revenue Act. On motion to recommit | Yea. |
| 91 | H.R. 7179 | Appropriations for Defense Department | Yea. |
| 93 | H.R. 3179 | To provide that judges of the U.S. Court of Military Appeals shall hold office during good behavior | Yea. |
| 95 | H.R. 4897 | To repeal subsec. (d) of sec. 2388 of title 18 of United States Code | Yea. |
| 96 | H.R. 5279 | Appropriations for Department of the Interior and related agencies. Conference report on motion to recommit | Yea. |
| 97 | H.R. 5279 | Appropriations for Department of the Interior and related agencies | Yea. |
| 102 | H.R. 6518 | Programs for prevention and abatement of air pollution | Yea. |
| 104 | H.R. 4638 | To promote transfer of Executive power. On motion to recommit | Nay. |
| 106 | H.R. 3872 | To increase lending authority of the Export-Import Bank. Conference report. Further conference | Yea. |
| 108 | H. Res. 453 | Providing for consideration of H.R. 5207 to amend Foreign Service Buildings Act | Yea. |
| 110 | H. Res. 467 | Providing for consideration of H.R. 7500 | Yea. |
| 111 | H.R. 7500 | Appropriations to National Aeronautics and Space Administration | Yea. |
| 113 | S. 1652 | To amend National Culture Center Act | Yea. |
| 115 | H.R. 4955 | To expand the vocational education opportunities. To recommit | Yea. |
| 116 | H.R. 4955 | To expand the vocational education opportunities. On passage | Yea. |
| 118 | H. Res. 477 | Providing for consideration of H.R. 7824 | Yea. |
| 121 | H.R. 7824 | Motion to recommit bill to continue existing temporary increase in public debt limit | Yea. |
| 122 | H.R. 7824 | To continue the existing temporary increase in the public debt limit | Nay. |
| 124 | H.R. 7525 | Motion to recommit District of Columbia crime bill | Yea. |
| 126 | H.R. 6143 | To authorize assistance to public and other nonprofit institutions of higher education | Yea. |
| 132 | H.R. 7885 | Motion to recommit a bill to amend the Foreign Assistance Act of 1961 | Nay. |
| 133 | H.R. 7885 | To amend further the Foreign Assistance Act of 1961 | Yea. |

*Rollcall record of* CHARLES McC. MATHIAS, *Jr., House of Representatives*—Continued

| Roll-call No. | Legislation | | Explanation of action or title of the bill | MATHIAS' vote |
|---|---|---|---|---|
| 139 | H.R. | 7500 | To authorize appropriations to the National Aeronautics and Space Administration | Paired for. |
| 146 | H. Res. | 504 | To create a select committee to investigate research programs conducted by Federal Government | Yea. |
| 151 | H. Res. | 527 | To amend the Internal Revenue Code of 1954 | Yea. |
| 156 | H.R. | 8363 | Motion to recommit bill to amend the Internal Revenue Code of 1954 | Yea. |
| 157 | H.R. | 8363 | To amend the Internal Revenue Code of 1954 | Nay. |
| 160 | H.R. | 5555 | To increase rates of basic pay for members of the uniformed services | Yea. |
| 167 | H.R. | 7179 | Defense Department appropriations | Yea. |
| 170 | H.R. | 8747 | Motion to recommit bill making appropriations for sundry independent executive bureaus | Yea. |
| 171 | H.R. | 8747 | Appropriations for sundry independent executive bureaus | Yea. |
| 172 | H.R. | 5871 | Retirement benefits of judges | Yea. |
| 174 | H.R. | 6237 | Grants for collection, reproduction, and publication of material for history of the United States | Nay. |
| 176 | S. | 1576 | To provide assistance in combating mental retardation | Yea. |
| 178 | H.R. | 8821 | Methods by which amounts available to the States are restored to the Treasury | Yea. |
| 180 | H.R. | 5945 | To settle political status of Puerto Rico | Yea. |
| 183 | H.J. Res. | 782 | Appropriations for fiscal year 1964 | Yea. |
| 184 | H. Res. | 314 | To grant additional travel authority to Education and Labor Committee | Yea. |
| 188 | H.R. | 6500 | Construction at military installations | Yea. |
| 189 | H.R. | 8195 | To amend Agricultural Act of 1949 | Nay. |
| 191 | H.R. | 6143 | Conference report on bill to authorize assistance to institutions of higher education | Yea. |
| 192 | H.R. | 8920 | To revise the District of Columbia Alcoholic Beverage Control Act. Motion to recommit | Yea. |
| 194 | H. Res. | 564 | For temporary increases in public debt limit | Yea. |
| 195 | H.R. | 8969 | Motion to recommit bill for temporary increases in the public debt limit | Yea. |
| 196 | H.R. | 8969 | For temporary increases in the public debt limit | Nay. |
| 200 | H.R. | 8864 | International Coffee Agreement, 1962 | Nay. |
| 205 | H.R. | 9139 | For military construction | Yea. |
| 207 | H.R. | 9140 | Appropriations for certain civil functions administered by certain Government agencies | Yea. |
| 209 | S. | 777 | To amend the Arms Control and Disarmament Act | Yea. |
| 211 | H.R. | 9124 | To amend title 10, United States Code | Nay. |
| 213 | H.R. | 10 | To extend the apportionment requirement in the Civil Service Act | Nay. |
| 219 | H.R. | 6196 | Motion to recommit bill to encourage increased consumption of cotton | Yea. |
| 220 | H.R. | 6196 | To encourage increased consumption of cotton | Nay. |
| 224 | H.R. | 7885 | Conference report on bill to amend the Foreign Assistance Act of 1961 | Yea. |
| 226 | H.R. | 8929 | Motion to recommit bill to authorize prosecution of a transit development program for the National Capital region | Nay. |
| 227 | H.R. | 8747 | Conference report on bill for sundry appropriations | Yea. |
| 228 | H.R. | 8747 | Appropriations for sundry independent executive bureaus | Yea. |
| 230 | H.R. | 6518 | For prevention and abatement of air polution; conference report | Yea. |
| 233 | H. Res. | 579 | To provide legal assistance for indigent defendants in criminal cases in U.S. courts | Yea. |
| 235 | H.R. | 9140 | Conference report for appropriations for certain civil functions administered by certain Government agencies | Yea. |
| 237 | H.R. | 4955 | Conference report on vocational education bill on motion to recommit | Nay. |
| 238 | H.R. | 4955 | Conference report on vocational education | Yea. |
| 240 | H.R. | 9139 | Conference report on appropriations for military construction | Yea. |
| 242 | H.R. | 9499 | Motion to recommit bill for appropriations for foreign aid | Nay. |
| 243 | H.R. | 9499 | Appropriations for foreign aid | Yea. |
| 245 | H.R. | 8667 | Appropriations for the prosecution of comprehensive plans for certain river basins | Yea. |
| 246 | H.R. | 9413 | For coinage of 50-cent pieces bearing the likeness of John Fitzgerald Kennedy | Yea. |
| 248 | H.J.Res. | 875 | Supplemental appropriations for fiscal year ending June 30, 1964 | Yea. |
| 251 | H. Res. | 598 | To waive points of order against conference report on H.R. 9499 | Yea. |
| 255 | H. Res. | 600 | do | Yea. |
| 256 | H.R. | 9499 | Conference report on appropriations for foreign aid and related agencies for fiscal year ending June 30, 1964 | Paired for. |
| | | | 2D SESS., 88TH CONG. | |
| 11 | H.R. | 4879 | To amend the Library Services Act. On amendment | Yea. |
| 12 | H.R. | 4879 | Motion to recommit the Library Services Act | Yea. |
| 13 | H.R. | 4879 | To amend the Library Services Act | Yea. |
| 17 | H. Res. | 582 | Providing for consideration of H.R. 6041 | Yea. |
| 19 | H.R. | 6041 | To amend the Davis-Bacon Act | Yea. |
| 32 | H.R. | 7152 | To enforce the constitutional right to vote | Yea. |
| 35 | H.R. | 7381 | Relating to employment of civilians in more than one position | Nay. |
| 39 | H.R. | 9637 | Appropriations for the Armed Forces | Yea. |
| 43 | H.R. | 8363 | To amend Internal Revenue Code | Yea. |
| 48 | H.R. | 9022 | To amend the International Development Association Act. To recommit | Nay. |
| 51 | H.R. | 8316 | To amend the Communications Act | Yea. |

## Academy of American Poets

EXTENSION OF REMARKS

OF

### HON. JOHN V. LINDSAY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. LINDSAY. Mr. Speaker, the Academy of American Poets is an organization that does much to advance the cause of American poetry. It is worthy of much wider notice.

In many other countries much is done by society to promote young poets and to spread the richness of poetry among all the citizens. In the United States poetry has never been given proper recognition. In 1934 the Academy of American Poets was established in order to rectify this situation. Its founder is Mrs. Hugh Bullock who, born in France of American parents, was struck by American poets' lack of recognition and recurring financial crises. With the aid of the late Edwin Arlington Robinson and Louis Ledoux, poets themselves, and a great many others who were interested, Mrs. Bullock began developing plans to help poets, out of which finally evolved the idea for the Academy of American Poets. The five founder members were Mr. and Mrs. Joseph Auslander, Mrs. Bullock, Messrs. Ridgely Torrence and Charles Hanson Towne.

The purpose of the academy is stated in article II of the charter as follows:

> To encourage, stimulate and foster the production of American poetry by providing fellowships for poets of proven merit, by granting scholarships, awards and prizes for poetic achievement, and by such other means as the board of director with the approval of the board of chancellors may from time to time devise and determine.

The academy has been of very specific and practical help to poets and poetry. In the years between 1946 and 1963, $5,000 poetry fellowships were awarded to the following:

Edgar Lee Masters, 1946; Ridgely Torrence, 1947; Percy MacKaye, 1948; Frost, 1953; Louise Townsend Nicholl, 1954; Dr. Oliver St. John Gogarty, 1954; Rolfe Humphries, 1955; Dr. William Carlos Williams, 1956; Conrad Aiken, 1957; Robinson Jeffers, 1958; Louise Bogan, 1959; Leonie Adams, 1959; Jesse Stuart, 1960; Horace Gregory, 1961; John Crowe Ransom, 1962; Ezra Pound, 1963; Allen Tate, 1963.

In addition, the academy insures publication of winning manuscripts of poetry by contracting to purchase a thousand copies of what is known as Lamont Poetry Selection. This was made possible by a bequest by the late Mrs. Thomas W. Lamont.

In the last 10 years the Lamont poetry selections have been the following:

Constance Carrier, "The Middle Voice," Alan Swallow, 1954; Donald Hall, "Exiles and Marriages," the Viking Press, 1955; Philip Booth, "Letter from a Distant Land," the Viking Press, 1956; Daniel Berrigan, S. J., "Time Without Number," the Macmillan Co., 1957; Ned O'Gorman, "The Night of the Hammer," Harcourt, Brace & Co., 1958; Donald

Justice, "The Summer Anniversaries," Wesleyan Universay Press, 1959; Robert Mezey, "The Lovemaker," the Cummington Press, 1959; X. J. Kennedy, "Nude Descending a Staircase," Doubleday & Co., Inc., 1961; Edward Field, "Stand Up, Friend, With Me," Grove Press, Inc., 1962; no award, 1963.

In addition to all of this, the academy has been sponsoring other kinds of awards, made possible by the bequests of interested persons and through these bequests various colleges and universities have been the beneficiaries. Poetry readings have been sponsored. Most recently an interesting poetry reading took place at the Guggenheim Museum in New York.

The Academy of American Poets is an organization worthy of support, and I am delighted that it is founded and chiefly sponsored by many of my constituents and friends. I salute them for their contribution to the American scene and for the advancement of a most important cause in the United States. A vote of thanks is owed most especially to Mrs. Hugh Bullock, the driving force behind the whole adventure.

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## May Is Salad Month

EXTENSION OF REMARKS

OF

### HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. TALCOTT. Mr. Speaker, the people of America, especially, are becoming more and more "nutrition conscious." All persons should pay more attention to their diets.

Schools, governmental agencies, nutritionists, doctors, and dietitians are making special and energetic efforts to inform and educate youth, mothers, and institutional supervisors in improved food selection and preparation methods and practices.

Operators of restaurants, cafeterias, and institutional food dispensing businesses are improving their food preparation and service to better satisfy the nutritional needs of their patrons.

Farmers, processors, and grocers are making extraordinary advances which contribute enormously to the nutritional and enjoyment values of food.

Salads have earned a favored place on the American table. Salads can be prepared easily, are attractive, nutritional, delicious, and inexpensive. Fresh fruit and vegetable salads are universally enjoyed during any season. Fresh fruit and vegetable salads are especially delectable during the spring.

May is a very good month for salads.

The growers of western iceberg lettuce of California and Arizona have declared "May Is Salad Month" and plan a national observance this May to bring public attention to the salad producing industries.

California and Arizona provide our Nation with 80 percent of its iceberg-head—lettuce supply. The per capita consumption of lettuce is less than nine heads per year. For health's sake, it should be twice that. The fresh fruit and vegetable industries account for approximately one-third of the total farm income in California.

Lettuce and many other fresh salad vegetables will be coming to market in plentiful supply in May.

The State governments of Arizona and California are expected to proclaim that "May Is Salad Month." Through wide publicity in grocery store displays, national magazines and newspapers, the people of America will be encouraged to eat more salads and to enjoy their nutritional, artistic, taste, and economic advantages.

Other salad vegetables and fruits will be featured—tomatoes, asparagus, avocados, cucumbers, radishes, onions, cauliflower, artichokes, oranges, apples, grapefruit, carrots, celery, strawberries. Also, dairy products and other salad ingredients will benefit from this first annual national observance.

For a healthful treat, experiment with a fresh fruit or vegetable salad.

Delicious, nutritious. "May Is Salad Month."

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## Urban Renewal and Tax Revenue: Detroit's Success Story

EXTENSION OF REMARKS

OF

### HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mrs. GRIFFITHS. Mr. Speaker, I recently received a booklet entitled "Urban Renewal and Tax Revenue: Detroit's Success Story," sent to me by Mayor Cavanaugh of Detroit. I have read the publication thoroughly, and it is a success story, indeed. I would like to insert a summary of the Detroit story in the RECORD so that both friends and critics of the urban renewal program can see what it has done for one of the country's most important cities.

In 1950, Detroit pioneered the first residential redevelopment project under the Housing Act of 1949 that set up the original federally assisted slum clearance and redevelopment program. This was the 129-acre Gratiot project. When the program was undertaken, 7,500 people were crowded into some 2,000 badly substandard dwelling units. Violations of housing and sanitation codes were common; no hazard insurance was available in the area. The Gratiot area suffered from all the ills of slums—high rates of disease and delinquency—and all the other problems that are present when people are poorly housed and overcrowded. The 2,000 families were relocated into decent housing. The area has been redeveloped with 1,700 new dwelling units in beautiful high-rise apartments and townhouses. Churches, schools, and a shopping center round out a well-planned neighborhood, replacing the previous blighted conditions.

But, besides improving the living conditions of these families, there is another important benefit—the city gains in dollars and cents. One new building—Pavillion Apartments—pays more taxes than the entire 51 acres of residential property paid before redevelopment. For the entire Gratiot area, the assessed value before redevelopment was $2,884,000; the new assessed value is now estimated to be $15 million.

There are also other benefits. An area that once had nothing higher than a ramshackle smokestack, now boasts twin 22-story apartment houses, which dominates a fine, attractive landscape. These buildings were designed by Mies van de Rohe, one of the greatest living architects, and have won international praise and acclaim for their fine design. Still another benefit to Detroit, the new apartments provide the kind of in-town living that was not previously available and has attracted back to the city many families that had earlier moved to the suburbs.

Another development is a cooperative apartment house that provides low-cost living for teachers past 50 and sponsored by a teachers' association. This building is in a beautiful setting, adjacent to an 18-acre park. The old assessment on the parcel was $71,000, as compared to $446,000 today.

And this is but one of Detroit's projects. Another, the west side industrial project fulfills the vital need for land for new and relocated light industry. The project includes 169 acres, and dozens of new structures have replaced the former substandard housing that occupied the area. Using dollars again as an indicator, where previously the assessed value of the property in the project area was $2.5 million, the new valuation in the same area will be $16 million.

Then there is Elmwood, a 460-acre area to be redeveloped in three stages. Upon completion it will provide middle-income housing, schools, churches, recreation areas, and shopping centers. The area formerly consisted of shabby frame dwellings, most of them unfit for human habitation. When complete, the assessed valuation will have increased from $2.735 million to $8.250 million.

The Medical Center project will give Detroit one of the finest medical complexes in the United States. The 236-acre blighted and slum environment will become instead a real asset to the city. New and improved medical facilities, including a new site for the Wayne State University College of Medicine, a $25 million complex of office and commercial buildings, and the building for the Rehabilitation Institute will occupy the site. The first section of the Medical Center will increase the tax base from less than $3 million to a new assessed value of $13 million.

The final urban renewal project covered in the report is the Central Business District No. 1. This area was formerly occupied by dingy pawnshops, rooming houses, and pool rooms—the "skid-row" section of Detroit; but was also the home of Detroit's Chinese community, some excellent restaurants, and interesting curio shops. Replacing this will be new commercial and industrial structures, but most dramatic will be "International Village." This new complex of shops, restaurants, and night spots will re-create the charm and warmth of other continents in the heart of Detroit. Featured attractions will include the Paris sidewalk cafe, the Arabian Bazaar, the Gay Nineties nightclub, the oriental teahouse, and many others. This will also enhance the Detroit financial picture—an estimated $40 million of assessments will replace the old assessed value of less than $4 million.

This is but a brief description of Detroit's urban renewal program. It will result in many important improvements, which are tremendously important to the citizens of the city, but are hard to measure in exact terms. The dollar value can be measured, however, as assessments in the six areas rise from $16,368,000 before redevelopment to $104,250,000 after. This, plus all the better housing that is being enjoyed by thousands of former slum dwellers makes this a pretty impressive record.

## Veterans Pensions—A Bill To Provide Certain Increases and Improvements

EXTENSION OF REMARKS

OF

### HON. JAMES C. HEALEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. HEALEY. Mr. Speaker, my bill, H.R. 10970, proposes certain changes and improvements in the non-service-connected pension program for veterans.

This bill represents a comprehensive review, on my part, of the pension program for veterans which has commanded much of my attention during this Congress. This bill incorporates many changes and improvements which will help those veterans who are in the greatest need.

My introduction of this bill will in no way preclude my favorable consideration of any equitable proposal which is now before the House Committee on Veterans' Affairs. I certainly will give consideration at the proper time to any and all proposals which are designed to improve and make more liberal non-service-connected benefits for veterans of all wars.

The major provisions of my bill are as follows:

First. Increases the minimum and intermediate income limitations for both single and married veterans thereby allowing a large number of veterans to obtain larger rates of pension.

Second. Increases the monthly rates of pension from the present maximum of $85 for a single veteran or $90 for a veteran who is married or has a dependent to $100 a month. There are corresponding increases in the minimum and intermediate steps with raises being about $10 to $15 a month, or a low of $50 to a high of $110 per month depending upon income and the number of dependents.

Third. Presumes any veteran who is 65 years of age or over shall be totally disabled for pension purposes. This eliminates the disability requirement for a veteran 65 or older.

Fourth. Increases by 10 percent the pension payments provided in the bill where the veteran served outside the United States. This recognizes the type of service rendered by the veteran and provides an honorarium for oversea combat service.

Fifth. Provides a new pension rate for veterans who, in addition to being totally disabled, are found to be housebound but do not qualify for the additional aid and attendance allowance. This group would receive $35 a month in their pension payments in addition to their basic rates.

Sixth. Increases the aid and attendance rate for veterans who are so helpless or blind they need the aid and attendance of another person from the present $70 to $85 a month.

In determining income the following liberalizations are provided in my bill by excluding the following:

First. Earned income of the veteran's spouse. This provides relief in the case of the wife who is forced to work, and maintains integrity of the family.

Second. The amounts equal to the amounts paid by the veteran for the expenses of burial for his wife or child. This recognizes there are unavoidable and unanticipated expenses beyond normal needs of veterans which should be excluded.

Third. Any profit realized from the sale or disposition of any real estate other than in the course of a trade or business. Sale of home by veteran is not income but a change in the form of assets.

Fourth. Amounts equal to the amount paid by the veteran or by his wife for medical, dental, or hospital expenses of the veteran, his wife, or children. This expense recognizes the increasing high cost of drugs and medical care for a veteran and his family.

Fifth. Any payments received for discharge of any obligated civic duties such as jury duty.

Lastly, my bill also would repeal the resources report requirement for children of certain veterans.

This proposal if enacted would provide many desirable changes in the Veterans' Pension Act of 1959, which is referred to as Public Law 86–211 and has been the governing statute respecting veterans' pensions since July 1, 1960, when it went into effect. World War I veterans now constitute about 90 percent of all those on the pension rolls. Obviously the provisions of this bill will help the veterans of World War I more than any other single group and will eliminate many of the complaints and inequities which have become manifest since Public Law 86–211 has been in operation.

As I stated at the beginning of my remarks this bill should not be construed as meaning that I will not give favorable consideration to the many equitable proposals now pending before the House. It is hoped that my bill will receive early and favorable consideration by the committee and the House.

## An Interview With Senator Hubert H. Humphrey on the Civil Rights Bill by Congressman John Brademas of Indiana and Ben Cole of the Indianapolis Star, WSBT–TV, South Bend, Ind., April 22, 1964

EXTENSION OF REMARKS

OF

### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the CONGRESSIONAL RECORD the transcript of a television interview which I was privileged to conduct with the distinguished majority whip of the U.S. Senate, the Honorable HUBERT H. HUMPHREY, of Minnesota, on the civil rights bill now under discussion in the other body.

Joining me in questioning Senator HUMPHREY on this program was the able and respected Washington correspondent of the Indianapolis Star, Ben Cole.

The program, "Washington Report," was shown on Station WSBT–TV, South Bend, Ind., on April 22, 1964.

In my judgment, Senator HUMPHREY's answers to questions about the civil rights bill constitute one of the most useful examinations of what this measure provides, and what it does not provide, that I have seen.

The text of the transcript follows:

TRANSCRIPT OF TELEVISION INTERVIEW ON CIVIL RIGHTS: SENATOR HUBERT H. HUMPHREY INTERVIEWED BY CONGRESSMAN JOHN BRADEMAS AND BEN COLE OF THE INDIANAPOLIS STAR, WSBT–TV, SOUTH BEND, IND., APRIL 22, 1964

Congressman BRADEMAS. Civil rights is the issue most under discussion here in Washington these days as the Senate continues debate on the civil rights bill. It's an issue under considerable discussion in the State of Indiana as well. The spread of civil rights demonstrations into the North, the attention focused on the historic debate now underway in the Senate, and the entrance of a self-proclaimed segregationist southern Governor into Indiana's presidential primary—all these factors have brought interest in the civil rights bill to new heights in our State of Indiana. Because of the great importance of this legislation, it is essential that we should know just what the civil rights bill does provide and, by the way, what it does not provide.

I am delighted to have with me here today the American best qualified to explain and discuss this legislation, Senator HUBERT H. HUMPHREY, Democrat, of Minnesota. A U.S. Senator for 15 years, the majority whip of the U.S. Senate, and the floor manager for the civil rights bill, that is to say, the man charged with the responsibility for guiding this bill through the Senate.

And here to interview Senator HUMPHREY with me is the well-known Washington correspondent of the Indianapolis Star, a distinguished Washington reporter and an old

Hoosier hand, Ben Cole. Senator, we're delighted to have you here and Ben Cole as well.

Senator Humphrey. Thank you, Congressman.

Congressman Brademas. To begin with, I think it might be wise if we were to review the major provisions of the civil rights bill. Senator, just what does the bill provide?

Senator Humphrey. This bill represents a general treatment of the problems that have arisen in the field of race relations. It includes 11 titles, the first 7 of those titles being the most important. One, protecting voting rights in Federal elections; title II, on public accommodations; title III, access to public facilities, such as parks, playgrounds and libraries, without discrimination; title IV, to accelerate and aid in the process of school desegregation; title V, the extension of the life of the Civil Rights Commission, with some additional responsibility; title VI, to make sure that Federal funds are not utilized to promote or to encourage or foster discrimination and segregation; and title VII, the title that relates to fair employment practices.

Now, those are the key provisions. There is title X which establishes the community relations bureau—this is to facilitate the voluntary approach to the solution of these problems. And then we have one other title—VIII—that authorizes the Department of Commerce to make statistical studies relating to voting and registration so as to facilitate the voting rights of the people.

Mr. Cole. Senator, I'm sure you must have seen advertisements like this one which have raised questions which have alarmed a great many people about the secondary effect of the civil rights bill—that it would establish a Federal dictatorship that would somehow order the whole lives of our citizenry quite apart from the effort to redress an old wrong. Could you comment on that?

Senator Humphrey. Could I just see that ad once again because it isn't often that you ought to give the opposition free publicity, so to speak, but this is an ad that says, "One-Hundred-Billion-Dollar Blackjack—The Civil Rights Bill." The very title of this ad, of course, shows its irresponsibility and its misrepresentation. I have had some rather terse comment to make about this ad and, as a matter of fact, many other Senators have, because it does misrepresent the bill.

As a matter of fact, Congressman Brademas, this ad doesn't even take into consideration the many amendments that were added on the civil rights bill in the House of Representatives. It is unrelated, in other words, to the bill that is before the Senate as it came from the House. Actually, I think the ad is an insult to American intelligence and I doubt it will have very much effect, but it does sometimes tend to irritate.

You've asked about whether or not this bill places undue power in the hands of Federal officials and the charge has even been made, as it does in this ad, that it promotes dictatorship, gives tyrannical power. I think the answer to this charge was best made by the Republican manager of the bill in the House of Representatives, Congressman McCulloch of Ohio, who is the ranking Republican Member of the House Judiciary Committee. The Congressman is not known as a radical. He's a very reasonable man and he surely did attempt to be prudent and restrained in his comment relating to this bill. I have a quotation here that I think is somewhat indicative of what this bill does.

Congressman McCulloch said this bill was "moderate," he says the measure "actually is reasonable, a quite moderate proposal designed to meet only the most serious and pressing injustices."

### LIMITATION OF POWERS

And speaking about the charge that the Attorney General would be given dictatorial powers, the Congressman said, "Rather than giving the Attorney General wide powers, it carefully spells out his authority. The power to issue enforcement orders on public accommodations, employment, and voting is limited to Federal judges." There is no administrative power in other words and voluntary compliance rather than compulsion is stressed, and where State civil rights laws exist—such as in my State, or in your State, or in Pennsylvania and New Jersey—and are being effectively administered, the Federal Government will not step in.

So this bill, gentlemen, is tailored to the needs; this isn't based upon any theory; this doesn't add any new authority to the Constitution. This bill seeks to make the Constitution a living document for every American citizen instead of just some American citizens.

Congressman Brademas. Senator, let me ask you this question because it's another fear that I have heard expressed about the civil rights bill with respect to the suggestion that the bill would empower Federal inspectors to require employers to hire people on grounds of race. I wonder if you could say a word about the Equal Employment Opportunity Commission and also speak to the issue of whether union seniority rights would be violated by this title of the bill.

Senator Humphrey. Let me take the latter part of your question first. Union seniority rights are in no way affected by this bill and no responsible person has ever been able to say so and still look his adversary in the eye.

Second, the bill does not require that you hire on the basis of race. What it does require is that in hiring you do not deny a fellow citizen a job because of his race or because of his religion or his national origin. This legislation could have been of great help years ago—we had people in America a hundred years ago that were immigrants that were denied jobs because they were Irish or because they were Swedish. We've had waves of immigration where the immigrant has suffered discrimination. In this instance we see a good deal of suffering and injustice because of discrimination due to race for the Negro. What this bill says is that race shall not be a factor in hiring, that you shall hire people on the basis of their ability, that you shall hire them on the basis of their citizenship—a citizen of the United States—not an Irish citizen or a Norwegian citizen or an oriental American citizen or a Negro American, but an American citizen. We want only one qualification in this Nation—that's ability, excellence, competence.

And this particular section of the bill, title VII, doesn't give the Fair Employment Practices Commission any authority to enforce anything. It doesn't give them any authority to run in pellmell and investigate. It can, however, receive a complaint from a citizen, it will analyze that complaint and, if two or more Commissioners decide that there is some merit to the complaint, then the Commission can hold a hearing and, if it feels after this hearing that there is considerable merit to the complaint, it may or it may not go to a Federal district court, to a Federal judge, and place this evidence before the judge, just like a new case of law and ask the judge for a remedy.

You don't have any dictatorial powers by the Commission. All the Commission can do is represent the citizen. The citizen says, "I've been the victim of discrimination." The Commission says, "We'll take a look at it, we'll screen it; let's see whether you have." If there is considerable evidence that there has been discrimination, the Commission then can go to a Federal judge and to a Federal court and can say, "Here are the facts as we see them, Mr. Judge; you analyze these facts, and see if we have a court case." If the judge finds that there has been discrimination, then the judge, not the Commissioners but a Federal judge, prescribes the remedy.

### PUPIL TRANSFERS NOT AUTHORIZED

Mr. Cole. Senator, there's another question that I think troubles a great many people and I'm sure your mail must indicate it. Many white parents who live in suburban neighborhoods and large cities will write and say, "We are concerned because this bill would require that our child be taken by bus away from the school where she attended and hauled across town to be integrated into a school that has a shortage of white children in order that we might have a balanced integration." Could you address yourself to that problem—whether it exists in the bill and how it would operate if it does?

Senator Humphrey. As I recall, Mr. Cole, that particular argument was debated at some length in the House of Representatives and it surely has been debated here in the Senate. As a result of committee hearings, as a result of amendments in the House of Representatives, and as a result of determination here in the Senate, there is a provision in the bill that specifically outlaws that. It says there shall be none of this what you call racial balance by forced bussing back and forth across the city. This is excluded from the purview of this bill but yet the ad that I referred to a moment ago continues to say that there'll be a kind of racial balance provided in schools and that your children will be hauled 10 or 12 miles across cities in buses in order to give racial balance. That is denied, that is excluded in the bill, it is prohibited in the bill, and frankly I would be opposed to it myself.

Congressman Brademas. I think I recall that the late President Kennedy in a news conference once indicated that he also did not favor such a provision, if I'm not mistaken.

Senator Humphrey. That is correct.

Mr. Cole. I also seem to recall, now that the question has come up, did not some of the educators who originally thought this might be a good idea, afterwards reverse themselves and say we have reconsidered this and as professional educators and psychologists we have decided this is the wrong thing to do?

Senator Humphrey. Yes. Let me just quote you here—the bill specifically withholds from the U.S. Education Commissioner "the authority to transfer pupils from one school to another to overcome racial imbalance." So there you are.

Congressman Brademas. We've disposed of that one. Let's turn to another section of the bill, Senator, that has developed a great deal of discussion in the country. I refer to the public accommodations title of the bill. Could you give us some examples of what kinds of businesses would be covered by the measure now under consideration, which was passed by the House, and those kinds of businesses or services that would not be covered?

Senator Humphrey. Can we take the not-to-be-covered first? For example, as a general rule doctors and lawyers and real estate men and other professionals are not covered by the bill. Nor are the small retail stores or beauty parlors, barber shops, private clubs, bars, and taverns, and night clubs of a private nature. Nor small, owner-occupied lodging houses of five or fewer persons, grocery stores or general department stores—they're not covered. However, you do have coverage where there are businesses that are directly related to interstate commerce. For example, hotels and motels—this is for transient trade—they are covered; restaurants, lunch counters, soda fountains, other places dealing mainly in food eaten on the premises. For example, if you had a department store with a large cafeteria or lunch counter, then it is covered. Or if you have a hotel with a barbershop in it, the barbershop is covered, because it's in the hotel, primarily because it is related to this interstate business service.

One of the features in this bill that is often distorted is this matter of private clubs. I've heard many people say, "Oh, you can't even have a private club; the Federal Government is going to force you to take in people you don't want." That's just a lot of bunkum; the simple truth is that private clubs are excluded if they are really private clubs. But if you have some sort of a phony operation where it's not private at all except that you come in and pay an extra $2 to do business there, and anybody can come in, then it's a public place. But your country club, for example, your own private club that you may belong to, is private, and no Federal law is going to interfere with it.

Mr. Cole. I think that you might be interested to know that the National Press Club, which is about the only club I belong to, has been integrated for a good number of years.

Senator Humphrey. Yes, and you ladies and gentlemen seem to get along well up there.

### FEDERAL AID

Mr. Cole. Senator, this is a tricky question. A great many advocates of civil rights have very strenuously urged that where States failed to enforce the civil rights of their people that they be cut off from Federal aid on the theory that these taxes are collected from Negro wage earners in the North and now they are being used to sustain segregation in the South; whereas, on the other hand, some of the States say this is a coercion thing, cutting off Federal aid is a use of the great Federal power to force us to do things that we would not otherwise do. How does the bill handle this rather delicate dispute between two points of view?

Senator Humphrey. This is one of the most touchy and difficult problems that this bill seeks to relate itself to. Here's the situation—you collect money for the Federal Treasury from all people—you know there isn't any special income tax form for the colored people and not one for the white. We don't have a rate, for example, that we charge white folks 25 percent of their earned income and colored only 15 percent. It's a strange thing when the Government starts to collect taxes, they're really out after you and for some reason or other the Government is very colorblind when it starts to collect.

Mr. Cole. So Willy Mays' baseball salary goes right in with——

Senator Humphrey. Absolutely, Willie Mays' salary that he earns—because he's a tremendous ballplayer—goes in with salaries of other people who aren't half as good, let's put it that way. But nevertheless, they all have to pay taxes. It is the view of those who have sponsored this bill and support it that the Federal revenues should not be used to encourage segregation or discrimination, and should not be used to establish segregation or discrimination.

For example, Federal funds are utilized today to sponsor schools for the dependents of servicemen or in areas that are heavily affected by defense industry—those funds have in the past often been used for segregated schools. This bill would say, in substance, that that can't be any more.

If you're going to get Federal funds for this particular activity, you must integrate those schools because that is the law as laid down by the Supreme Court in the Brown decision.

The cutoff of Federal funds is related only to the particular service, it isn't a total cutoff. You don't cut off all funds from Mississippi, for example. You cut off funds in an area where there seems to be discrimination, but you don't even do that in a hurry. The first thing that this bill requires is that there be every effort made for voluntary compliance, you really plead with people, "please get your house in order and don't have discrimination here and segregation, try to work it out so that this doesn't take place."

Secondly, if a bureau lays down some rules and regulations to implement this business of denying Federal funds to activities in State or local governments that practice discrimination or segregation, those rules and regulations cannot be issued by any Cabinet officer or bureau chief. They must be issued by the President of the United States himself. This is another check.

Furthermore, there must be hearings; you can't just go around issuing rules and regulations, there must actually be a hearing. There must be notice and even before any action can take place, you have to notify the appropriate committees of the Congress. Take for example, if there was to be a cutoff in funds on some medical type program—Public Health Service, let's say—before that could ever be done, the House Labor and Education Committee, the Senate Labor and Public Welfare Committee would have to have 30 days' notice, each of them, before any such cutoff ever took place and then after that, if a cut did take place, it's still subject, may I say, to court review.

### HOUSING

Congressman Brademas. What about the question of housing which is perhaps related to this, because I know a number of persons I've talked to are much upset about what they think the bill may do with respect to integration in the housing field.

Senator Humphrey. There's been much to-do about this, Congressman, and here again is an example of how you really frighten people and how you distort the facts and the truths. The answer to this question is so clear that all I need to do is read it to you: "FHA and GI mortgage guarantees, as well as veterans life insurance, Federal Deposit Insurance Corporation activities"—all of these Federal monetary activities "or contracts of insurance or guarantees"—any form of contractive insurance or guarantees—"are excluded from coverage." So this bill doesn't apply to them, Congressman.

I wish that somehow or other those who are attacking this measure would quit trying to build up these falsehoods because there are honest differences as to how we approach the question of civil rights. I'm not saying that the man who disagrees with me is necessarily wrong; we have a different point of view, but when it comes down to something like housing and Federal Deposit Insurance, for example, I have heard one opponent of this bill say, "Why you won't even get your insurance on your deposit under this bill, the coverage will be excluded, you'll be denied this insurance." Of course, the bill specifically states in title VI that all contracts of insurance and other guarantees are excluded from coverage, so let's just get that clear.

Mr. Cole. Senator, you were quoting Congressman McCulloch a moment ago and I observed that you and Senator Dirksen have worked closely on this problem, perhaps sometimes with differences in detail, but it's interesting to me the comity of the parties in working on this problem. Would you care to comment on that for us?—how the two parties are working and, by the way, seeming to eliminate from a campaign what ordinarily might be a political issue?

Senator Humphrey. I hope it is eliminated from the campaign because it ought not to be a political issue, because it isn't what we call a normal political issue. This whole question of civil rights is a great moral issue affecting the very heart of our Nation, the very life of it, and it isn't sectional, may I say, either. It's national because there is bigotry and discrimination and intolerance regrettably in many parts of our Nation, and it isn't all racial, as I said. Sometimes it's religious and ethnic.

We approached this bill not on a partisan basis. The House of Representatives in passing the bill by a vote of 290 to 130—a little over 2 to 1, that's an amazing vote on such a controversial issue—had 152 Democrats and 138 Republicans. That's about as bipartisan as you can get it.

Over here in the Senate, my coleader, the man who works with me—or I'm privileged to work with—is Senator Thomas Kuchel, the minority whip, the Republican leader from the State of California. We work together on every aspect of this bill. We meet together, we have so-called team captains of the Republicans and of the Democrats, we meet together every morning, we get together every evening, there is no partisanship in this, there are some Republicans that are against this bill, and there are some Democrats obviously that are against the bill. One of the happiest experiences of my public life is to work in such close harmony on this great moral and national issue with some of what I consider to be the best men of our public life and I'm delighted to be able to tell people, as I do, that this is a great national effort that's being undertaken by all of us.

### INDIANA DELEGATION SUPPORTS BILL

Congressman Brademas. I'd like to add, Senator Humphrey, because I think it's of great importance to the people in our State that everyone should know that of the 11 Representatives in Congress from the State of Indiana, 7 Republicans and 4 Democrats, that every one of them voted for that bill. Here are their names: Ray Madden, in the First District; Charles Halleck, who is the leader of the Republican Party in the House, and I take my hat off to Charlie—and I rarely agree with him.

Senator Humphrey. May I do it, too; he was a great help.

Congressman Brademas. He did a good job on this. John Brademas, in the Third District.

Senator Humphrey. I take my hat off to him.

Congressman Brademas. Congressman Ross Adair of the 4th District; Congressman J. Edward Roush of the 5th; Dick Roudebush of the 6th; Bill Bray of the 7th; Winfield Denton of the 8th; Earl Wilson of the 9th; Ralph Harvey of the 10th; and Congressman Donald Bruce of the 11th. Seven Republican, four Democrats. Though I disapprove of perhaps the ratio, I approve of the fact that they all voted the same—all for the civil rights bill.

Senator Humphrey. May I say that both of the Senators, Senator Bayh and Senator Hartke, approve of this bill. They both have been working very closely with me. In fact, I've had to keep Senator Hartke in Washington to be one of our floor leaders on the bill, and Senator Bayh is one of our floor leaders. We've asked both Indiana Senators to take a heavy load of responsibility on this. And in Illinois, every Congressman in Illinois supported this bill—Republican and Democrat alike. Senator Dirksen, the Republican leader in the Senate, has a solid phalanx of support for the civil rights bill amongst all the Congressmen from the State of Illinois. In Minnesota, since I do represent our State, I'm happy to say that both Senators are strongly for this measure and every Member of our House delegation, Republican and Democrat, voted for this measure; that's about as nonpartisan as you can get it.

Mr. Cole. Senator, the clock is racing and there's a point I think needs to be covered before we end this fascinating discussion and that is that what is going on in our country today is called a racial revolution, and I know you, as a student of history, must have observed that throughout history when an aggrieved minority has reached the point where they come to what we call a revolutionary turn, oftentimes violence is the only means of redress. Now, my question is, Can we avoid this in this country? Are the things that are going on taking this direction, and can this bill prevent that sort of thing?

### CIVIL RIGHTS DEMONSTRATIONS

Senator HUMPHREY. I do believe, Mr. Cole, that this bill can prevent it, that is, if we pass this bill in time. I also must say to you that there is a rising tide of tension that everyone knows. It's growing and it will continue to grow unless we take some affirmative action to remedy these injustices. This Negro revolution, as some people call it, is not based on theory or fantasy. The Negro has suffered indignities far too long. He is tired of it.

Many of our Negroes today are educated. The Negro is unwilling to be treated like a slave; he's unwilling to be a second-class citizen; he wants his full citizenship; he wants that citizenship gap closed, and there is this rising tide of tension, and sometimes it bursts out into violence and disorder. I can't condone that. I can understand it, but I can't condone it. I must say that it doesn't really help our efforts here in the Congress when it becomes disorderly like we saw in San Francisco and Cleveland, and the threats that we've heard of in New York about the World's Fair. This doesn't really help. I think I can understand it, but it doesn't help.

But then I want to say this. The Senate of the United States had better do its business, too. Just as we complain of these demonstrations that get out of hand, I think the Senate has a demonstration that's been out of hand, the filibuster. If we're going to sit in in the Senate, we can expect some people to be sitting in some place else. If we're going to refuse to act here in the Senate like responsible legislators and come to grips with this problem and try to legislate, you can expect people to take things in their own hands.

What this bill does is to provide a legal framework within which we can attempt to work out our problems. It takes this fight of civil rights off the streets and out of the alleys and puts it into the courts and the legislative halls. That's where I think it belongs.

And I think that those that come into Indiana, Wisconsin and Maryland and other places to stir up this bias and this emotion, this prejudice, are doing this country a great disservice. They're not helping at all; in fact, they're really asking the people to repudiate the Constitution; they're actually preaching a doctrine of nullification. I can't buy that and support it and I don't think decent people are going to.

Congressman BRADEMAS. Senator, let me make one observation because we only have a moment left and there's one important point I think people should be aware of and then I want to ask you one final question. The fact of the matter is, which a lot of people who are opposed to the civil rights bill we're considering do not realize, that in many States of the Union there are much stiffer State civil rights laws than there are now under consideration here in Congress. For example, our own State of Indiana has a fair employment practices law and an equal accommodations law, in some respects much more stringent than the Federal measure.

### A MORAL ISSUE

I'd like to ask you to say a final word about our discussion, perhaps addressing yourself to the role of the churches and religious organizations of our country, and you have about 30 seconds to a minute.

Senator HUMPHREY. As I said, this is a great moral issue and when a moral issue is before us the spiritual leaders of the Nation have a special role and a special responsibility and I think they're fulfilling that because this program is supported by Catholic, Protestant, and Jewish spiritual leaders and laymen. I'm convinced that the margin here of strength that we need for the passage of this legislation is in the hands of these great spiritual leaders.

You're so right about the States—many States do have very good laws, and they've set the pattern. We're not talking now about theory again, we're talking about the experience of American government at local levels and we're transferring that experience now to the Federal level. I think it's good, sound, constructive public policy.

Congressman BRADEMAS. Thank you very much, Senator HUMPHREY, and thank you, Ben Cole. Good night.

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## Foreign Aid: War on Poverty Throughout the World

EXTENSION OF REMARKS

OF

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. FRASER. Mr. Speaker, in his remarks to the editors and broadcasters yesterday in the White House Rose Garden President Johnson eloquently spelled out the real reasons for our foreign aid programs.

The President compared our foreign aid programs to his declared war on poverty here in the United States. He said it was part of the same struggle to provide all people of the world with a decent way of life.

The foreign aid program is vital to our national interest, the President went on to say, because it is necessary for the continuance of world peace. This is not only a moral and humanitarian program—but one increasingly necessary to the preservation of peace in the world.

I commend the President's eloquent and moving remarks to all my colleagues in the House.

### EXCERPTS FROM PRESIDENT JOHNSON'S TALK TO EDITORS

(Following are excerpts from a transcript of President Johnson's remarks and replies to questions put to him today at a meeting in the White House Rose Garden with editors and broadcasters attending a national foreign policy conference.)

I am glad you could come here before you went home to let me have a very brief visit with you. You occupy a very important place in American life. The destiny of our children is going to depend on the leadership of the present. What is written in your papers and the way in which you conduct your business helps millions of Americans in America's cities and towns in shaping the kind of world that we are going to live in.

Every night when I go to bed I ask myself, "What did we do today that we can point to for generations to come, to say that we laid the foundation for a better and more peaceful and more prosperous world?"

I would like to talk to you about one area in which we can see with some certainty the shape of things to come. That is the fight against poverty around the world.

We are waging an all-out war against poverty here at home. We are committed to pursue that war to final victory. But we are also engaged in that same battle on 100 different fronts around the world, in 100 or more nations.

On three continents, in dozens of countries, hundreds of millions of people struggle to exist on incomes of little more than a dollar a week. In the 112 or more nations, only 6 of them have an income of as much as $80 a month, Sweden and Switzerland, Australia and New Zealand, Canada and the United States.

Here we ought to get down on our knees every night and thank the Good Lord for our blessings, that our income can be more than $200 a month, when more than two-thirds of the people of the world have less than $8 a month.

These people have less to spend each day on food and on shelter and on clothing, on medicine, on all of their needs, than the average American spends at his corner drugstore for a package of cigarettes. They live in rundown country shacks of tar paper. They live in city slums. They live without heat, water, or sanitation of any kind.

Their children have no schools to go to. They have no doctors or hospitals to attend. Their life expectancy is somewhere between 35 and 40 years of age. Worst of all, many of them live without any hope at all. They see no escape from the ancient cycle of misery and despair.

### POVERTY AS OLD AS MAN

These are not new conditions. Poverty, hunger, and disease are afflictions as old as man himself. But in our time and in this age there has been a change. The change is not so much in the realities of life, but in the hopes and the expectations of the future. If a peaceful revolution in these areas is impossible a violent revolution is inevitable.

We who stand here in peace and security and prosperity must realize that we are greatly outnumbered in this world, more than 17 to 1 in population, in area, in race, in religion, in color. You take any criteria and measure yourself by that standard, and you will find that we are in a very small minority.

This knowledge has helped create the worldwide boom of vast portent which we know as the revolution of rising expectations. The meaning of this revolution is very simple.

It means that people in the rest of the world want for themselves the same things that you and I want for our loved ones, for our friends, and for our children, and that most of us already have.

They intend that their families shall live a decent life and that they have a job that gives them survival and dignity. They intend that their children shall be taught to read and to write. They intend that the hungry shall be fed and the sick shall be treated. They intend to take their place in the great movement of modern society, to take their share in the benefits of that society.

These just desires, once unleashed, can never again be stifled. The people of the developing world are on the march, and we want to be beside them on that march. I can think of nothing that would give me more satisfaction than the knowledge that I could believe that you wielders of the pen and you molders of opinion, you leaders in public life, could take your stand this morning on the side of preserving humanity and uplifting it throughout the world.

### AN ACT OF NECESSITY

Our gross national product in this, the richest of all nations, this quarter, is running at the rate of $608.6 billion. We are asking to distribute in the form of help, aid, and military assistance to all the nations who want to have freedom less than one-half of 1 percent of that amount—$3,400 million.

But because of what we call it, and because of how it has been administered, and because it is far away, we don't realize that this investment is not only one of the most Christian acts that this great, powerful rich country could do, but it is an act of necessity if we are to preserve our image in the world and our leadership in the world, and most of all, our society.

We must help developing countries because our own welfare demands it. It takes no great gift of foresight to realize that unless there is progress and unless there is growing satisfaction of just desires, there will be discontent and there will be restlessness.

The developing world would soon become a cauldron of violence, hatred, and revolution without some assistance. How would you feel if you were a member of a family whose total income was less than $80 per year? Yet a majority of the people of the world have incomes of less than $80 a year.

Under such conditions, communism, with its false and easy promises of a magic formula, might well be able to transform these popular desires into an instrument of revolution. That is why every American who is concerned about the future of his country must also be concerned about the future of Africa, Asia, and our old friends in Latin America.

No President who looks beyond the immediate problems which crowd his desk can fail to extend the hand and the heart of this country to those who are struggling elsewhere. We help these countries in many ways, through trade and raw materials and manufactures, with the Peace Corps now working in more than 40 of them, through programs of economic assistance, and through the exchange of scholars and students and ideas.

So I hope you will make this one of your first orders of business when you return to your homes. You can do this in many ways. Your communities can establish direct contact with communities in other countries. You can arrange for exchange of visits. You can arrange for help to schools and hospitals in a similar community, in a sister country, in a developing land.

You can try and establish scholarships to bring deserving students to your local college or to your local high school for education. You can arrange programs of study and discussion about the problems of these other countries that a good many of your folks have not read about or studied about. You can conduct exhibits or performances of the arts and music folklore of others.

If the results of your endeavors here in Washington are to gain enough inspiration to return to your desks and ask the people of our own land to lead the others in ignorance and darkness and disease and all the ancient enemies of mankind that are fighting in other parts of the world, that you are going to take up your shield and try to help them strike them down, it would be a great day in America when we met in the rose garden and launched this kind of an effort.

Thank you and God bless you.

I don't know what your engagements are, but someone suggested that those of you who are from out of town, who don't have an opportunity every day to come here to the White House, you might want to ask some questions of your President. I will be glad to take some time, if you can take it. If any of you have any questions that you would like to ask, I will be glad to attempt to answer them.

## Setting the Record Straight on the Civil Rights Bill

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EXTENSION OF REMARKS

OF

## HON. JOHN V. LINDSAY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1964*

Mr. LINDSAY. Mr. Speaker, our distinguished colleague on the Committee on the Judiciary, the gentleman from Ohio [Mr. McCULLOCH], has supervised the preparation of a memorandum which sets the record straight on the civil rights bill passed by the House of Representatives by a vote of 290 to 130. Neither the gentleman from Ohio, who is the ranking minority member of the Judiciary Committee, nor 289 other Members of the House would have voted for this bill if any of the things that are being said about the bill were true. We welcome fair debate and honest disagreement; but we will not abide deliberate distortions.

It is because of these distortions that this memorandum became necessary. I should like to thank my distinguished friend and colleague the gentleman from Ohio, for his continuing leadership and moderation in this field and for the preparation of this memorandum—urge all to read it:

THE TRUTH ABOUT THE CIVIL RIGHTS BILL (H.R. 7152), A SUMMARY PREPARED AT THE REQUEST AND UNDER THE SUPERVISION OF WILLIAM M. McCULLOCH, REPRESENTATIVE TO CONGRESS, FOURTH DISTRICT, OHIO, APRIL 23, 1964

False and misleading charges are being directed at the civil rights bill now in the Senate.

To those people who believe in equality under the law, who support the Constitution, and who love liberty for themselves and for others, the civil rights bill is moderate in scope, and in accordance with the best traditions of America.

Here is what the civil rights bill does and does not do.

### EDUCATION

The bill does not permit the Federal Government to transfer students among schools to create "racial balancing."

The bill does not permit the Federal Government to dictate to schools or teachers as to what they must teach.

The bill does not permit the Federal Government to force religious schools to hire teachers they do not want.

The bill does not permit the Federal Government to interfere with the course content or day-to-day operations of public or private schools.

The bill does not permit the Federal Government to interfere with the job or seniority rights of schoolteachers.

The bill does authorize the Attorney General to bring civil suits to desegregate public schools where individual citizens are too poor or are afraid to bring their own suits.

Only at and after the request of a school board, the bill would authorize the Commissioner of Education to furnish limited technical and financial assistance to those public schools which need assistance in desegregating.

### HOUSING

The bill does not permit the Federal Government to tell any home or apartment owner or real estate operator to whom he must sell, rent, lease, or otherwise use his real estate.

### BANK LOANS

The bill does not permit the Federal Government to tell a bank, savings and loan company, or other such financial institution to whom it may or may not make a loan.

### EMPLOYMENT AND UNIONS

The bill does not permit the Federal Government to interfere with the day-to-day operations of a business or labor organization.

The bill does not permit the Federal Government to require an employer or union to hire or accept for membership a quota of employees from any particular minority group.

The bill does not permit the Federal Government to destroy the job seniority rights of either union or nonunion employees.

The bill does authorize a bipartisan commission to investigate charges that an employer has refused to hire or that a union has refused to accept for membership an individual solely because of his race, sex, color, religion, or national origin. If the Commission cannot dispose of the charge through the voluntary cooperation of the employer or union, the Commission must either drop the charge or bring a civil suit in a United States district court. In court the Commission must prove its charge by a preponderance of the evidence.

This authority is weaker than that granted to 25 State commissions under State law. And, where a State commission is doing its job, the Federal Commission may not interfere.

### FARMERS

The bill does not permit the Federal Government to interfere with a farmer's operation of his farm.

The bill does not permit the Federal Government to impose minority quotas upon a farmer's farmhands or tenants.

The bill does not permit the Federal Government to interfere with membership in farm organizations.

The bill only requires that a farmer, having 25 or more employees, may not refuse to hire an employee solely because of the color of his skin or his religion

### SOCIAL SECURITY AND VETERANS BENEFITS

The bill does not permit the Federal Government to deny or interfere with an individual's right to receive social security or veteran's benefits.

### VOTING

The bill neither authorizes nor permits the Federal Government to interfere in a State's right to fix voter qualifications.

The bill does not permit the Federal Government to practice "judge shopping," or otherwise interfere with the local Federal judiciary.

The bill does provide limited procedural safeguards to assure that citizens are not denied the right to vote because of their race, color, religion, or national origin.

### HOTELS AND RESTAURANTS

The bill does not permit the Federal Government to tell general retail establishments, bars, private clubs, country clubs, or service establishments whom they must serve.

The bill does not permit the Federal Government to interfere with or destroy the private property rights of individual businessmen.

The bill does not permit the Federal Government to tell a lawyer, doctor, banker, or other professional man whom he must serve.

The bill does not permit the Federal Government to tell a barbershop or beauty shop owner whom he must serve, except that such establishment, if located in a hotel, must serve all patrons of that hotel.

All the bill does is to require that the owners of places of lodging (having five or more rooms for rent), eating establishments, gasoline stations, and places of entertainment are to serve all customers who are well-behaved and who are able to pay.

This requirement is weaker than the public accommodation laws of 32 States. And, where these States properly enforce their laws, there is no reason for the Federal Government to interfere.

### RIGHT TO JURY TRIAL

The civil rights bill contains no primary criminal penalties. Only civil actions are authorized, to prevent an individual from continuing to violate provisions of the bill. Historically and according to the Constitution, jury trials are not authorized in these types of cases. The laws of the 50 States are the same in this regard.

### FREEDOM OF THE PRESS AND FREEDOM OF SPEECH

The bill does not permit the Federal Government in any way to interfere with freedom of the press and freedom of speech.

### GRANT OF DICTATORIAL POWERS TO FEDERAL GOVERNMENT

A majority of the States have enacted legislation which is as strong or stronger than the major provisions of the civil rights bill. Nothing in the bill interferes with the effective enforcement of these State laws. And, where these laws are being effectively enforced, there is no reason for the Federal Government to interfere in States' rights.

In each title of the bill, effective administrative and judicial safeguards are provided. Federal officials are granted no final authority to withhold Federal financial assistance or impose penalties upon citizens. Every citizen is guaranteed his day in court with all the judicial safeguards that the Bill of Rights guarantees.

### STATE CIVIL RIGHTS LAWS

A majority of States have strong civil rights legislation which is effectively enforced. The Federal civil rights bill specifically provides that the Federal law will in no way interfere with the right of those States to continue enforcing their laws. And, where the States do so, the Federal Government will have no cause to enforce the Federal civil rights law in those States. Thus, for the Americans who do not discriminate against their fellow citizens because of race, color, or religion, the Federal civil rights bill will have no effect on their daily lives.

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## HOUSE OF REPRESENTATIVES

THURSDAY, APRIL 23, 1964

The House met at 12 o'clock noon.

The Reverend G. Earl Daniels, rector of Christ Episcopal Church, Hyde Park, Mass., offered the following prayer:

We thank Thee, O Lord, for the priceless gift of a new day. This fragment of eternity is our whole life in miniature; and no matter what were the failures of yesterday, or what may be the hopes of tomorrow—we have only today.

May we do honor to the name of this place—the House of Representatives. May we truly represent the folks back home, but not at the expense of the Nation's welfare, and not in unconcern for the world's needs.

But most of all, we would not forget that "among those present" this day is "One greater than this temple," One "unto whom all hearts are open, all desires known," and One, whom we believe will one day be our judge—even Thyself, O Lord God of our Fathers, and so:

"Not for the eyes of men
May this day's work be done,
But unto Thee, O Lord,
That with the setting sun,
Our hearts may know the glad surprise
Of sure approval in Thine eyes."

Amen.

### THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

### SETTLEMENT OF THE RAILROAD DISPUTE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, all Americans acclaim the leadership of President Johnson in connection with the settlement yesterday of the 5-year-old railroad dispute. His role in the negotiations of the last 13 days was indispensable to their success.

All those involved in this matter, including the Secretary of Labor, the Assistant Secretary of Labor, and various others deserve the commendation of the country. Railroad management and the five operating brotherhoods displayed industrial statesmanship of the highest order. They have proved once again the viability of collective bargaining.

Industrial peace has been preserved. I congratulate all who gave their efforts to this success for the American people.

### LEGISLATIVE PROGRAM FOR NEXT WEEK

Mr. ARENDS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ARENDS. Mr. Speaker, I take this time to inquire of the majority leader if he can advise us as to the legislative program for next week.

Mr. ALBERT. Mr. Speaker, the program for next week is as follows:

Monday is District day. There is no District business.

On Tuesday, H.R. 1997, limitation of diversity jurisdiction of Federal courts under direct action statutes will be called up for consideration.

On Wednesday, H. R. 10669, to extend the Renegotiation Act of 1951 will be called up for consideration.

On Thursday and the balance of the week, the following bills and concurrent resolution will be called up. These bills went over from last week.

These bills and concurrent resolution are as follows:

H.R. 287. Including Nevada among States permitted to divide their retirement systems into two parts for OASDI coverage purposes;

H.R. 1608. Providing that aircraft engines and propellers may be exported as working parts of aircraft;

H.R. 2330. Providing that antiques may be imported free of duty if they exceed 100 years of age;

H.R. 2652. Duty-free importation of certain wools for use in manufacturing of polishing felts;

H.R. 3348. Extending time for teachers in Maine to be treated as covered by separate retirement systems for OASDI purposes, and permitting Texas to obtain coverage for State and local policemen;

H.R. 4198. Free importation of soluble and instant coffee;

H.R. 4364. Free entry of mass spectrometer for Oregon State Univeristy and spectrometer for Wayne State University;

H.R. 6455. Amending the Internal Revenue Code of 1954 with respect to unrelated business taxable income;

H.R. 7480. Temporarily suspending the import duty on manganese ore (including ferruginous ore) and related products;

H.R. 8268. To prevent double taxation of certain tobacco products exported and returned unchanged to United States and subsequently reprocessed;

H.R. 8975. Providing for the tariff classification of certain particleboard;

H.R. 9311. Suspension of duty on alumina and bauxite;

H.R. 9393. Extending time for ministers to elect coverage under OASDI, providing full retroactivity for disability determinations, and for other purposes; and

S. Con. Res. 19. Designating "bourbon whiskey" as a distinctive product of the United States.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time, and any further program will be announced later.

### ADJOURNMENT UNTIL MONDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

### CALENDAR WEDNESDAY BUSINESS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## SETTLEMENT OF THE RAILROAD DISPUTE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Speaker, I want to join in expressing great delight, and I think the delight of all Members of Congress and I am sure the people of the United States, in the settlement of the issues between railroad management and the brotherhood employees.

For almost 5 years the country has been plagued with one of the sharpest controversies that has developed in this country in the field of management and labor relations. President Eisenhower wrestled with this problem extensively and tried to help resolve it. President Kennedy had the matter come to a head, and he was really put to the test, as were we in the Congress, in trying to resolve the issues, and you are familiar with what we did. We had a right to rely on the assurances that these additional issues could be settled.

President Johnson has done, in my judgment, one of the most magnificent jobs. I have the highest commendation for the President, Mr. Wirtz, the Secretary of Labor, and for all those who have worked with them in their untiring efforts to resolve these highly controversial and important issues in this field. It is one of the finest jobs that I have seen accomplished in my experience in the Congress.

I want to pay tribute to the management in the railroad industry and my compliments to the brotherhood for their efforts in really joining together for the first time in some 5 years with hard bargaining, as it was intended under the law, in joining the issues and arriving at a settlement.

I think we all owe them, and certainly President Johnson, and his associates, our thanks for their untiring efforts and the accomplishment brought about in the settlement of this most controversial problem, and therefore relieving us of the responsibility, which would have been a very nasty thing. I commend all of those involved with this very worthy accomplishment.

The American people have been relieved of a very real threat that would have had dire consequences and caused suffering and hardship throughout the country.

I am sure we can look forward to cooperation and harmony within the railroad industry in the years to come.

## COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight Saturday night to file a report on H.R. 10041, the hospital construction bill, which was reported on yesterday by the committee.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

## SETTLEMENT OF THE RAILROAD DISPUTE

Mr. PRICE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Speaker, representing as I do an area into which over 20 of the Nation's railroads operate, I want to join the majority leader and the chairman of the Committee on Interstate and Foreign Commerce in the remarks they have made complimenting the President of the United States, the Secretary of Labor, Mr. Wirtz, the representatives of management, and the representatives of the railroad brotherhoods, who, as the chairman of the Committee on Interstate and Foreign Commerce has said, accomplished such a magnificent success in the settlement of the dispute that has plagued the Nation and the railroad industry of the Nation for the past 5 years. Three Presidents have wrestled with this problem. It remained for the incumbent to find a way to bring the negotiators together and develop a settlement that, for the time being, at least, and we hope for a long time in the future, has brought a settlement to the problem.

It is a great accomplishment and the President, Government, management, and the brotherhoods are certainly deserving of the compliments of this House and of the people of the Nation in accomplishing this great victory through collective bargaining.

## POSTAL SERVICE

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DULSKI. Mr. Speaker, it is one of the most disturbing phenomena of our national life that the postal service—the bulwark and foundation of our social and economic existence—should be constantly on the decline.

Everything else in the United States moves forward. Our science, our industry, our business, our gross national product, our standard of living—all these things advance steadily and swiftly with each passing generation. But the postal service deteriorates. Postmaster General after Postmaster General has announced, with nauseating regularity, that his administration is going to balance the postal budget by getting rid of services which he terms "unnecessary."

Almost every time this is done the Postmaster General who happens to be in office at the time announces that costs will be cut without impairing the service. But, somehow, the service is impaired with each cut—and the damage that each Postmaster General does is never repaired by his successors.

As a result—today's postal service, if we disregard certain improvements in the Nation's transportation patterns—for which the Post Office Department can take no credit—is less efficient than it was in the 1890's.

But, evidently the present disgraceful state of the postal service is a challenge to the incumbent in the office of Postmaster General. Mr. Gronouski has come up with a plan—which he intends to put into effect on May 4—which will reduce the postal service of the United States of America to a level which one would expect to find only in the most backward and socially deprived nations of the world.

The plan which Mr. Gronouski, and his deputy, Mr. Frederick C. Belen, are contemplating is not only a massive exercise in postal retrogression, it is—as I shall point out later in these remarks—a direct slap at the authority of the Congress of the United States and a defiance of our wishes.

The major victim of the May 4 holocaust will be the parcel post system.

Parcel post has, for some years now, been the sick man of the postal service. It has been sick—not because of any inherent weakness in itself—but because it has been systematically poisoned by the bumbling doctors in the Post Office Department.

These "doctors" now say that, beginning on May 4, parcel post will be delivered in metropolitan areas on a 5-day week basis, only, instead of the traditional 6-day week. This represents a 16-percent reduction in service.

With typical Post Office Department logic it follows closely on the heels of an average 13-percent increase in parcel post rates, which become effective on April 1.

In the lunatic logic of the Post Office Department, an increase in rates almost always results in a reduction in service.

Parcel post has been losing ground to private enterprise for years, and it has been losing ground in the area in which the losses hurt most. Private enterprise has taken away from the Post Office Department an increasingly large percentage of the profitable short-haul or local package business and left the Department the money-losing dregs, the transportation of parcels to distant, out-of-the-way places where private enterprise does not care to operate.

Now, by cutting another day's service off parcel post, the Department bids fair to lose all its perishable goods business. Who will take the risk of sending perishable goods by fourth-class mail when there is a good chance that such goods will be left to stand in a post office over an entire weekend, in addition to the usual period consumed in transportation?

The elimination of another day of parcel post service may not seem important in the minds of some people. However, I would like to point out that it is within the discretion of the individual postmaster to determine which day of the week he wants to eliminate. Supposing he chooses a day in the middle of the week? What happens to all the educational materials and teaching booklets which our schools have learned to expect, on a regular basis, to arrive in time for distribution and use in the classroom?

And how about the records for the blind? Blind people expect these records, which come to them through parcel post. They count on them to help fill their darkened days, and to help them learn trades which they can practice despite their infirmities? Are we to tell these blind people to possess their souls in patience and wait an extra 24 hours, or another weekend, just because the pennywise pound-foolish postal accountants want to balance their budget?

Last year—on June 24, to be exact—this House debated and approved legislation (H.R. 5795) which granted the Postmaster General a moratorium of 3 years, during which time he could operate the parcel post system without being forced to seek, from the Interstate Commerce Commission, an increase in rates whenever the cost of fourth-class mail exceeded the revenues by more than 4 percent. As the gentleman from Indiana [Mr. MADDEN] said at that time:

> The purpose of H.R. 5795 is to provide for the continuance of essential postal services by granting the Postmaster General temporary relief from existing statutory requirement which can operate to prevent the withdrawal from the Treasury of funds for any postal operation unless such relief is granted.

I call attention to the words:

> Provide for the continuance of essential postal services.

I strongly suggest, Mr. Speaker, that it was the undeniable thinking and desire of this body that this moratorium should be granted only on the understanding that there would be no further reductions in service. But now—just 10 months later—the Post Office Department arrogantly and officiously has chosen to flout our expressed desires.

But, Mr. Speaker, the Postmaster General and his deputy have not been content to cripple parcel post alone. They have gone much further than that. On May 4 the order will become effective which will make Saturday a black day in every post office and rural route in the Nation.

After May 4, window service in post offices will be reduced on Saturdays to just 4 hours. In most post offices, on Saturdays, only one window will be kept open, to handle packages, stamp sales, and every other allowable function and service which the patrons desire.

I say "allowable" function and service, because the Post Office Department's order has arbitrarily forbidden many of the usual functions of the post office to be performed on Saturdays—such as the sale of money orders, the issuance of c.o.d. money orders payable to mailers, all postal savings transactions, all box-rent collections, and many other services which the patron has a right to expect.

There will be no information window open on Saturdays. If you have a simple question to ask—about size and weight allowances, let us say, or the mailing of packages to our boys in uniform in South Vietnam—you must be prepared to stand in the long, weary line and wait your turn. You might have to wait 2 hours to ask a question that can be answered in 2 seconds.

The Post Office Department, Mr. Speaker, forgets that America is filled with working people who can only get to the post office on Saturday. They cannot leave their job to perform their personal postal business on any other day of the week. Are we going to condemn such people to waste their precious holidays by standing in line in their local post office or station?

Even the rural routes will suffer on our black Saturdays. For some reason not quite clear to me, the order which will become effective on May 4 forbids rural letter carriers to sell any money orders, domestic or international, on a Saturday. I cannot for the life of me see how this can save the Department any appreciable amount of money or time. Perhaps, Mr. Speaker, the Department thinks that, in fairness, it should do its best to make misery universal throughout the entire postal system.

The tragedy of this entire bureaucratic mess is that these so-called economies come when they are least necessary. The Postmaster General himself says that the postal deficit is now lower than it has been in years. The President of the United States tells us that our gross national product is the highest in our history. The Federal economists tell us that we are living in an age of unparalleled prosperity.

The postal service—for all its management-imposed faults and inefficiencies—has been largely responsible for the growth of our economy and the sustenance of our prosperity. But it is the postal service which now is made to cry "poor mouth" and which will be reduced to a national and international laughing stock.

Mr. Speaker, I am sick and tired of postal administrations seeking to put a dollar value on the postal service. This is the communications system which is the basis of our social well-being, the cornerstone of our economic and financial strength. We cannot put a dollar value on such a creation, any more than we can put a dollar value on Michelangelo's "Pieta" or Leonardo da Vinci's "Mona Lisa." When a postal executive tries to do such a crass thing, he proves to all the world that he knows the price of everything, and the value of nothing.

Mr. Speaker, I call upon the Postmaster General to rescind this order which is planned to go into effect on May 4.

If he does not accede to this request, I intend to ask the chairman of the Committee on Post Office and Civil Service to conduct hearings on this matter, and I intend to introduce and support legislation which will prohibit and prevent this projected rape of the postal service.

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## SUMMARY OF NET BUDGET RECEIPTS AND EXPENDITURES (THE TRADITIONAL ADMINISTRATIVE BUDGET)—9 MONTHS OF FISCAL 1964 VERSUS 9 MONTHS OF FISCAL 1963, WITH COMPARISONS

Mr. CANNON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include my usual monthly statement.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CANNON. Mr. Speaker, I am submitting herewith the usual monthly tabulation of budget receipts and expenditures for the first 9 months of fiscal year 1964—to March 31—with comparisons with last year and the latest official budget estimates for fiscal 1964.

### BUDGET RECEIPTS

In contrast with budget expenditures which tend to recur more evenly throughout the fiscal year, the more usual pattern of budget receipts shows September, December, March, and June as peak months; receipts in the first half—July–December—of the fiscal year are not usually as high as in the second half—January–June.

Budget revenues for fiscal 1964 were officially estimated by the President in the new budget in January at $88,400,000,000 which, if realized, would exceed actual fiscal 1963 revenues by $2,024,000,000. In the first 9 months of fiscal 1964 actual net budget revenues amounted to $64,313,000,000—some $2,687,000,000 higher than the corresponding 9 months of last year. A reading of the April 15 tax returns will permit more precise judgment as to probable final results, but at first glance, seems to indicate likelihood of collections exceeding the official forecast.

### BUDGET EXPENDITURES

Budget expenditures for fiscal 1964 were officially estimated by the President in the new budget in January at $98,405,000,000 which, if realized, would represent an increase of $5,763,000,000 over the fiscal 1963 actual budget expenditure. The $98,405,000,000 includes a tentative estimate of $1,788,000,000 expenditure in 1964 from fiscal 1964 supplementals submitted to this current session.

On a straight monthly basis, it would mean an average of $8,200,000,000 per month, in contrast to which the expenditures in the first 9 months, July–March, averaged $8,079,000,000 which in turn compares with $7,763,000,000 in the corresponding 9 months last year; the national defense monthly average was virtually the same as a year ago but the monthly average for all other items—nondefense—was $302,000,000 higher. In the first 9 months, defense spending ran below the straight budget average while nondefense ran slightly above the budgeted average. In total, as noted, the monthly average is below what the budget would permit.

As in all past budgets, the revised budget expenditure—disbursements—estimate of $98,405,000,000 for fiscal 1964 represents a composite of estimated disbursements in fiscal 1964; first, from unexpended balances of prior year appropriations; second, from permanent appropriations recurring automatically under prior law; and third, from annual appropriations made currently, including amounts associated with supplemental authority requests submitted in the current session for fiscal 1964.

### EXPENDITURES FOR DEFENSE, SPACE, AND INTEREST—AND ALL OTHER PROGRAMS

Messages and statements associated with the original 1964 budget repeatedly emphasized that expenditure estimates and programs for fiscal 1964 were so planned that total proposed administrative budget expenditures for all programs other than national defense, space, and interest were slightly below the fiscal 1963 level—as then forecast—for such programs. But in the new budget received from the President this past January, updated estimates for fiscal 1964 show expenditures for such other purposes as being above, rather than below, corresponding fiscal 1963 actual spending—$28,007,000,000 now estimated for 1964 compared to $27,355,000,000 actual for 1963, up $652,000,000 from 1963.

And in comparison, for the first 9 months, such other spending was up from the corresponding period of fiscal 1963 by $972,000,000.

### SURPLUS OR DEFICIT

Actual results to date in fiscal 1964, in comparison with last year and the budget estimates, seem clearly to suggest the probability that the deficit for fiscal 1964 will be something less than the January forecast. But whether the deficit turns out to be the $10,005,000,000 foreseen by the President's budget, or some other amount, fiscal 1964 represents the 28th year of budget deficits in the last 34 years—with at least one more, perhaps two more, to follow. In summary, here are the official administrative budget deficit figures for the last 3 years:

| | Administrative budget deficits | |
|---|---|---|
| | From July 1, 1961, to date | For 3 full fiscal years, 1962–64 |
| Fiscal 1962 (from July 1, 1961) | $6,378,000,000 | $6,378,000,000 |
| Fiscal 1963 | 6,266,000,000 | 6,266,000,000 |
| Fiscal 1964 (9 months to Mar. 31, 1964) | 8,079,000,000 | |
| Fiscal 1964 (current estimate in President's 1965 budget) | | [1] 10,005,000,000 |
| Totals, as above | 20,723,000,000 | 22,649,000,000 |

[1] Probability is that it may not go this high.

Total budget expenditures projected by the President in January in the revised budget for the current fiscal year 1964 compare with certain earlier years as follows:

| | Administrative budget spending, 1964 estimate | | |
|---|---|---|---|
| | Over fiscal 1963 | Over fiscal 1961 | Over fiscal 1964 |
| 1964 current official estimate for national defense over | +$2,542,000,000 | +$7,803,000,000 | +$8,311,000,000 |
| 1964 current official estimate for other than national defense over | +3,221,000,000 | +9,087,000,000 | +22,557,000,000 |
| Total, 1964 current estimate over | +5,763,000,000 | +16,890,000,000 | +30,868,000,000 |

### THE PUBLIC DEBT

Mr. Speaker, after 9 months of budget operations in the current fiscal year 1964 the total public debt, both direct and guaranteed, stood at $310,407,793,839.96 and compares with certain earlier dates as shown in the following table:

| | Federal public debt—Direct and guaranteed | | | | |
|---|---|---|---|---|---|
| | Fiscal 1954 | Fiscal 1961 | Fiscal 1962 | Fiscal 1963 | Fiscal 1964 (at Mar. 31, 1964) |
| 1. The debt at end of period (in billions) | $271.3 | $289.2 | $298.6 | $306.5 | $310.4 |
| 2. Amount per capita (in dollars) | 1,670 | 1,575 | 1,600 | 1,619 | 1,622 |
| 3. Average for a family of 4 (in dollars) | 6,680 | 6,300 | 6,400 | 6,476 | 6,488 |

The following table elaborates the receipt and expenditure situation more fully:

*Budget receipts and expenditures (the traditional administrative budget) 9 months of fiscal 1964 versus 9 months of fiscal 1963 and comparisons with full-year estimates*

[In millions of dollars]

| | Actual for 9 months (to Mar. 31, 1964) | | | President's budget estimates (revised) for all of fiscal 1964 compared to actual results for all of fiscal 1963 | | |
|---|---|---|---|---|---|---|
| | Fiscal 1964 (9 months) | Fiscal 1963 (9 months) | 1964 compared to 1963 (9 months) | Revised budget estimate, 1964 (January 1964) | Actual, 1963 | 1964 revised budget estimate compared to actual 1963 |
| 1. Budget receipts (net) | 64,313 | 61,626 | +2,687 | 88,400 | 86,376 | +2,024 |
| 2. Budget expenditures (net): | | | | | | |
| (a) National defense (per official budget classification) | 39,255 | 39,126 | +129 | 55,297 | 52,755 | +2,542 |
| (b) Other than national defense | 33,461 | 30,742 | +2,719 | 43,108 | 39,887 | +3,221 |
| Total budget expenditures, net | 72,716 | 69,868 | +2,848 | 98,405 | 92,642 | +5,763 |
| 3. Net deficit or change | −8,403 | −8,242 | +161 | −10,005 | −6,266 | +3,739 |
| 4. Average monthly expenditure: | | | | | | |
| (a) National defense | 4,361 | 4,347 | +14 | 4,608 | 4,396 | +212 |
| (b) Other than national defense | 3,718 | 3,416 | +302 | 3,592 | 3,324 | +268 |
| Total monthly average | 8,079 | 7,763 | +316 | 8,200 | 7,720 | +480 |
| 5. Dividing net budget expenditures on the basis emphasized in original budget for 1964: | | | | | | |
| (a) National defense | 39,255 | 39,126 | +129 | 55,297 | 52,755 | +2,542 |
| (b) Space | 2,888 | 1,701 | +1,187 | 4,400 | 2,552 | +1,848 |
| (c) Interest on debt | 8,011 | 7,451 | +560 | 10,701 | 9,980 | +721 |
| (d) All other expenditures | 22,562 | 21,590 | +972 | 28,007 | 27,355 | +652 |
| Total budget expenditures, net | 72,716 | 69,868 | +2,848 | 98,405 | 92,642 | +5,763 |

Sources: Budget for 1965 and monthly Treasury statement for Mar. 31, 1964.

## WALTER REUTHER SPEAKS OF A BETTER TOMORROW

**Mr. RYAN of New York.** Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

**Mr. RYAN of New York.** Mr. Speaker, there are few men in this country who are able to articulate the goals of a better tomorrow in eloquent language and concrete detail. It is always a refreshing experience to listen to one of those whose vision of a new America goes beyond the carefully cultivated cliches and pious platitudes that make up too much of our political discourse.

On April 7, 1964, many of my colleagues and I were privileged to hear an address by such a man. At a dinner held by the industrial union department of the AFL–CIO, IUD President Walter Reuther spoke about the "core values of our free society." With great clarity, Mr. Reuther displayed that scope of vision that has made him one of the freshest breezes blowing through our tangled political forest.

Walter Reuther spoke of the goals of the American labor movement. He noted that there are "serious deficits in the quality of American society" and outlined the program of labor to help meet those deficits, a program of which all Americans who value social progress rather than social stagnation and reaction should take note.

Mr. Reuther spoke of the tragic waste of resources in the neglect of our young people and the denial of economic security and human dignity to our older citizens. He spoke of the "great national coalition of conscience" that is working to make civil rights a reality and of the need for "a measure of democratic, rational, responsible public planning for people" to wage an effective war on poverty and unemployment.

I commend Walter Reuther for the following speech which I hope all Americans will take to heart.

### SPEECH BY WALTER REUTHER TO INDUSTRIAL UNION DEPARTMENT, APRIL 7, 1964

Jack Conway, reverend clergy, our many distinguished guests from the executive and the legislative branches of the Government, my colleagues in the IUD and friends: First, I should like to extend to each of our guests here tonight our very heartiest welcome. We appreciate the opportunity of breaking bread with them and having an opportunity to visit with them. Now the purpose of my speech is twofold. First of all, it's a fringe benefit for my colleagues who insist upon hearing me all the time, and, secondly, our lawyer told us that in order to make this dinner within the framework of the Labor-Management Act of 1949, I, as the leader of the IUD, had to make a speech. So those Congressmen who voted for that act must pay the penalty.

It has been said that the genius of a free society is its capability of achieving unity in diversity, and I think that this, the composition of this dinner tonight is living proof of that fact. I should like, if I might, to share with you, those of you from both branches of the Congress and those of you from the executive branch of the Government, some of the thoughts that we in the American labor movement have in this very difficult period in which we live. We have said many times on other occasions that we believe the labor movement is important because it's about people. It's about their problems and their needs and their hopes and their aspirations, and it is about the practical job of men and women joining together to try to bring to practical fulfillment their dreams of a better tomorrow. And while we do what we can at the bargaining table to improve the lot of our membership, we have worked in the knowledge that the labor movement cannot solve the problems of American wage earners and their families if we try to find answers to those problems in a vacuum, that we can really solve our problems only as we work together with men and women of good will in the total community trying to find answers to the problems of all the people. We can truly make progress only as we share in the general progress that the whole of our society makes together. And it is in that spirit that we have tried to formulate our collective-bargaining programs, and it is in that spirit that we act together as citizens to urge upon the Government, both the executive and the legislative branches, to enact those programs and policies that we think reflect the needs of all the people of our great country. Now, we share the view that this is a time of testing, that what is being tested is really the commitment that we have as a people and as a nation to the core values of our free society. And those core values as we understand it is our common belief in the worth and the dignity of each human person. But we share the view that you cannot test our commitment to these values by carefully cultivated cliches or by pious platitudes about the virtues of democracy, that the only real test of our commitments is what we do in a practical way to square our performance with our promise. In the practical job of giving meaning and substance and purpose to these values in terms of the lives of people.

Now, as we all know Mr. Khrushchev has boasted that in due time his system will bury us. We believe he's counting more upon our failures than upon his successes. And I believe, having spent some time with him in the give and take of a rough and tumble debate, that as a Marxist he believes that our kind of free society, being composed in his mind of competing and conflicting and irreconcilable economic pressure groups, is incapable of achieving a sense of national common purpose in the absence of the threat of total war. He understands, as we all know, that when we were faced with the challenge of war, when we were driven by common fears and common hatreds, we were equal to a total effort as a free society. Mr. Khrushchev does not believe that we can achieve the same sense of common motivation because we share common hopes and a common faith and, therefore, he does not believe that we can achieve a comparable effort to deal with the challenge of peace.

Now, we live in a troubled world in which the realities necessitate that we be strong on the military front. But the real contest in the world between our system of freedom and all other forms, all other social systems that would destroy human freedom is a contest that cannot be won no matter how big we make the H-bomb, no matter how strong we may be militarily, that in the long pull this contest can be won only as we demonstrate that our social system can best harness man's creative genius in the field of science and technology and can devise the economic and social instruments necessary to relate the abundance of automation to the basic needs of the human community. That's the contest. And while we need to spend billions of dollars to be strong on the military front, that is but the negative aspect of the total effort that we must make if freedom is to prevail over the forces of tyranny. And in this contest we will be judged in America not by the fact that we have the most productive economy, but by the fact that we perhaps have greater material resources than any other people in the world. The real measurement of the worth and quality of any society is not what it has but what it does with what it has. The real measurement is its capability of taking material wealth and equating that material wealth with human values. Of taking technical progress and reflecting that in human progress. And when you measure what we have to work with in terms of our productive power, in terms of our technological development, in terms of all the economic and material resources that we have at our command, when you measure that based upon what we are doing with what we have, every American who has dared to think about the problem must in all good conscience come to the conclusion that there are serious deficits in the quality of American society. I should like to talk briefly about some of those deficits that disturb us very deeply in the American labor movement.

We are the richest country in the world and yet in the year of 1964 there are between 30 and 50 million Americans, depending upon what yardstick you measure your poverty with, who live in the subbasements of the social structure of our great country. These are the unemployed and the underemployed and the underprivileged. They are the have-not peoples of America and they are denied and disadvantaged and discriminated against. And this must be made a matter of the highest priority. And we salute President Johnson for the courage and the vision that he has put into his program in which he has declared all-out war against human poverty. We hope the Congress will act upon that program but we are under no illusion. That is but the first historic step in the long road that we must travel together before we will have abolished poverty in all of its ugly forms in our country.

I was in Africa last December where I had the privilege of representing our Government at the independent celebration in Kenya. I went to Uganda and Tanganyika. In Tanganyika I met in the villages with many people whose total income for a whole year was $50 a year. There you see ugly naked poverty. But the poverty you find in Africa is not nearly as destructive of human values as the poverty you find in Washington, New York, Detroit, and Chicago. Because in Africa people who live in a community where the overall average is around $50 to $55 per capita income per year, they are poor economically but they are not poor spiritually because they belong to their community. They have a sense of participating and a sense of worth in value in the social context in which they live. But poverty in America not only robs you materially, it robs you of a sense of worth, a sense of dignity because you are shut out, you are isolated from the mainstream of society and you are denied a sense of belonging and a sense of purpose. That's why poverty in America is much more destructive of the values that we believe in than poverty in any place in the world. That is why we need to do something about it. We in the labor movement believe that what we need to do in this country is to make up our minds that there is much work to be done and then work out a list of national priorities in which we put first things first.

And I should like on behalf of my colleagues to suggest to our congressional friends and our friends from the executive branch of the Government some of these priorities. What I am going to say is not new but I am going to try to reemphasize our deep feelings and commitments in respect to these matters. The top priority is what we do about our youth. Because no nation has a future if it continues to neglect its most precious resource and that's the human potential, the potential for maximum growth on the part of our young people. Yet we live in the richest country in the world in which we know that millions of our children are being denied the kind of education that is essential to facilitate their maximum growth and development. When you read that tragic report that Secretary Wirtz had something to do with in his shop, the manpower report, and we learned that 50 percent of our young people are being rejected by the draft board, some for physical reasons, but mostly because of the lack of adequate education, and when the discrepancy in one State in the North where 3 percent are rejected to 67 percent in the South, the young people are not different. The only thing that is different is the kind of education and the kind of opportunities that they are getting. We in the labor movement believe that every American child, regardless of race or creed or color, should have the kind of education that will facilitate the maximum growth and development. Every child. And the right to limit that should be only as God gave each child the capacity to grow. And that right should not be limited by an overcrowded schoolroom and an underpaid schoolteacher. And this is where we are. Now, no one who sits down objectively and tries to understand or to evaluate the dimensions of our educational needs can really believe that those needs can be met within the limited resources of either the State or the local community and, therefore, we believe Federal aid to education on every level is essential if we are to overcome this tragic deficit in education.

The second item that I would like to emphasize—it's been said that the two measurements of whether a society is good, whether it is worthy and whether it is moral is what it does for its children, and what it does for its older people in the autumn of their lives. We are neglecting our old people. We are denying them that measure of economic security and human dignity that every human being ought to have as a matter of right when he is too old to work and too young to die, during the autumn of his life. And yet we are still debating about whether or not we ought to factor in medical care in our social security system. The Wall Street Journal had a story yesterday in which the insurance companies are now recomputing how many older citizens are covered by their insurance program. We know that there are millions of Americans who are denied the kind of medical care they need because when their medical needs are the greatest, their income is the lowest. And good high quality medical care comes high. And so we believe that this ought to be high in our agenda. And look around the world. You will find that we and Canada are the only two highly industrialized nations in the world on either side of the Iron Curtain that have not provided for a more rational and responsible way of meeting the medical care needs of our aged citizens.

And we've got this third item, the question of equal opportunity and first class citizenship. Negro Americans have waited a hundred years and they are growing impatient. We in the labor movement have not achieved perfection and we have to work hard inside the labor movement to end discrimination wherever it may still exist, but while we are doing that we are going to work as citizens in this great democracy of ours to see that America does its homework. We believe civil rights transcends partisan politics. We believe that civil rights relates to a great moral issue which bears upon the relationship of man to man within the framework of a free society. Now, one of the things that we're going to be privileged to do tonight is to honor two of our friends who worked with great dedication and devotion, and with great human compassion to make possible the civil rights bill out of the House. I refer to those great stalwarts, Congressman CELLER and Congressman MCCULLOCH. They gave us a fine and noble demonstration of bipartisanship leadership that puts principle above party, that puts the country ahead of any political advantage. And I am confident that later in the evening after we have heard our two good friends from the Senate, Senator KUCHEL and Senator HUMPHREY, that working together over in the Senate they will repeat what Congressmen CELLER and MCCULLOCH did in the House of Representatives. We are confident that the Senate will enact that bill essentially as the House passed it. But let us be under no illusions that the civil rights bill will solve the civil rights problem. It's not the end of the road that we must travel. It's but the beginning of a new phase. It will give us new tools. But we must use those tools in every State, in every community. And the real challenge before us is to find a way to take that great national coalition of conscience which is now working together, labor and the churches and the civil rights groups and fraternal organizations and civic groups and mobilize the number of people in that great army of conscience. For when we get these new tools, men of good will will need to join together to use these tools in communities all over the country and only as men of good will of every race and creed and color and political persuasion can join together and search for answers in the light of reason in the spirit of brotherhood, can we meet the problem. For if men of good will fail, then the vacuum created by our failure will be filled by the apostles of hatred and they will search for answers in the dark of night. And reason will yield to riots in the streets and brotherhood will yield to bitterness and bloodshed, and we will tear asunder the fabric of our free society. And, therefore, let us work to get the bill through the Senate but let us work that much harder to use the tools that the bill will give us all through this country. But let us also not delude ourselves into believing that you can solve the civil rights problem in a vacuum or that you can solve the question of education in a vacuum, or any of these other serious economic or social problems. We will find the answers to these problems, we in the labor movement believe, only as we achieve full employment, only as we learn better how to harness the great unused economic potential of this country and relate the abundance of automation to the needs of all people.

In the last 10 years we have wasted 25½ million man-years of potential economic production because of chronic and continuing unemployment. And because we had idle workers, idle productive capacity. We have got what we're told is a boom in the automobile industry. We're chewing up millions of tons of steel and yet the steel industry is operating at 75 percent of its capacity. In 1960, it got below 50 percent, and we had more idle steel capacity in America than the Soviet Union had in total steel capacity. So what we've got to do is to get America's economic potential mobilized and relate that abundance to our unmet basic needs and because we had idle workers and idle capacity and because we failed to achieve adequate economic growth we lost in the last 10 years more than $700 billion in our gross national product. And that $700 billion is both the margin of economic progress in terms of civil rights and housing and education and social security and all the other things we need to do. It is also a margin of survival, I believe, in the contest between freedom and tyranny. Now, we in the labor movement believe that the basic problem is that we have not fully comprehended the dimensions of the technological revolution which is changing the world in which we live. We need 41 million new jobs, we are told by the people who know the most about what's happening. We need 8,000 new jobs every week. But we are not creating those new jobs. There are less full-time jobs in the private profit-making sector of our economy today than there were 10 years ago. This is why we are in trouble. And when you look at what's happening in manufacturing where if you compare 1953 with 1962, production went up 28 percent with 12 percent fewer workers. If you look at the automotive industry and you compare 1947 with 1962, in 1962, 54,000 fewer workers made 4,300,000 more complicated cars and trucks than they did in 1947. And this is happening right across our total economy.

Now, we place the major reliance in our free society upon our free economic system. And we in the labor movement, this is the only free labor movement in the whole world that is committed to a free enterprise economic system. There is no other labor movement in the whole free world, in the Scandinavian countries, in France or England, or Germany or Italy that is committed to the free enterprise system. And while we are committed to it, this does not mean we don't recognize some of its practical limitations. And, therefore, we say that we are for giving the private sector of the economy every possible assistance, every possible encouragement, to create as many new jobs as possible. But after that effort has been made and there remains a serious deficit in employment, it is then the responsibility of the Government to take steps and to pursue programs and policies essential to meet the deficit which the private sector has failed to fill. And this is really the crux of where we are. I believe that only an economic moron believes that the blind forces of the marketplace are adequate to cope with the revolutionary kind of technology and, therefore, we need to think in terms of how does a free society supplement, not eliminate, not curtail but supplement the job creating process which the private sector of our economy is unable to meet.

Now in 1946, our friends in Congress enacted what we know to be called the Employment Act of 1946. It commits this country to policies and programs to achieve and maintain production, employment, and purchasing power. I told friends last year that that bill, and it is still true, is as good as new because it's never been used. And our urging cries for the Congress to get this bill out of the mothballs and put some money and muscle behind it so that we can effectively implement its purposes because we are in deep trouble. The tax bill was an important step in the right direction. The enactment of President Johnson's antipoverty program is another step in the right direction. We would like to urge an accelerated and expanded public works program of at least $2 billion. There is a large shelf of local projects waiting for that money on a matching basis. It will put 400,000 people to work directly and between 300,000 and 400,000 to work indirectly in industries where the materials and the supplies will be manufactured. We ought to expand the housing program. You realize how far we've slipped in the wrong direction? In 1949, Senator Taft, Mister Republican himself, proposed a housing bill for public housing of 135,000 public units a year. Our population is much greater. The need is much more pressing and yet, this last year, we built less than 30,000 public housing units. That's how far we've come in lowering our sights. We are told, that the last 74 months, unemployment has exceeded 5 percent for 74 consecutive months but that's an understatement because that doesn't count the partially employed and those people who got lost in the work force because they became so discouraged after wearing out their shoe leather and their thin tires, and we ask a simple question. Why is it that for 74 consecutive months we have in excess of 5 percent unemployment where, in Great Britain, they have 2½ percent, in Sweden, they have 1½ percent, in France, they have 1.9 percent, in West Germany, they have 1 percent? They don't have any economic magic that we don't have. Why is it that they consistently have done better than we do? It is because they are superior men. The answer is "No." It is because they have understood some things that we have not understood.

First, I think that they have understood the purpose and the role of fiscal policy. They have, I think, shed some ancient myths and embraced the new realities in terms of fiscal policy. They have understood that a balanced economy is more important than a balanced budget and they have recognized that a deficit in jobs is more serious than a deficit in budget. And they have understood the sequence of fiscal priority. They have understood that you first balance job budgets, then family budgets and out of a balanced job budget and balanced family budget, you ultimately can get a balanced Federal budget, but when you reverse it, then you are on an impossible economic treadmill and this is why we had recessions and mass unemployment. I think that one of the great tragedies of this country is that we have been hypnotized and paralyzed by fear words of fiscal irresponsibility. When, as a matter of fact, everybody knows that the size of the budget is a relative, not an absolute, thing. It is how big is the budget measured by the size of our gross national product. And when you measure the budget in 1948 by our gross national product you find it was 74 percent in 1948, while in 1962, it was only 38 percent and what we have been doing is progressively starving the public sector. We spend a smaller percentage of our gross national product for the things that relate to the people's general needs than does any other modern democracy in the world. And this is why we are in trouble in education, in housing, and in these other areas. There is one other thing they have done in these countries and they have done it under conservative governments, Mr. Adenauer in Germany, Mr. de Gaulle in France, Mr. Macmillan and when he led the Tory government in Great Britain, he did it. And our labor friends who are in the governments of Sweden and Norway and Denmark, they do it. They have all understood and recognized one simple fact and that is you can't drive an octane jet-propelled automated economy down the highway of the future by using the rear-view mirror as the windshield. You've got to know where you're going. You've got to know what is going to happen tomorrow and 5 years from now. You have got to project some priorities and you've got to begin to develop a rational and responsible system by which you allocate natural resources to meet those priorities. And if you rely upon the blind forces of the marketplace, you are expecting the marketplace forces to perform functions beyond their capabilities.

Now, the conservative governments of Europe have understood that. They are no less committed to freedom than we are. But freedom also requires a measure of economic realism and social responsibility. The other thing that they have done, and this includes MacMillan and Adenauer and De Gaulle, as well as the Prime Minister of Sweden and Prime Ministers of the other Scandinavian countries that have labor governments. Conservative governments and labor governments alike in all of the democratic nations of Europe have recognized that public planning for people can be made compatible with private planning for profits. And yet we haven't understood that very simple truth. And planning is still a scare word. General Motors does their planning and they do it well. That is why they made $3½ billion last year. You can't make that much unless you plan it. And if you can plan privately to make profit, why can't you have a measure of democratic, rational, responsible public planning for people and make them one compatible with the other? You can. And this country had better catch up. You see, we pride ourselves in America on being pragmatic. We pride ourselves in being nondoctrinaire. And yet we are the most rigid doctrinaire people in the world in the areas of these ancient myths. That's why we get in trouble. I say these things because we feel deeply about these problems. We go to the bargaining table and 90 percent of the problems of the bargaining table are the results of the fact that union after union goes there, it represents two workers but there is only one job and you can't find the kind of magic to solve that problem. And, therefore, this is the problem. This whole question of full employment is one that we feel is the crux of all these other related problems.

So I conclude by saying these are the priorities that we hope Congress will give attention to and that the executive branch of Government will give increased attention to. I say these things with the deep personal conviction that in the great capabilities of our free societies and free institutions of freemen I believe that we in our free system are equal to the challenge that we face in the world. But we are equal only if we mobilize our full human and material potential, not if we go on wasting 25½ million man-hours of valued economic production. I quote, to conclude, the words of Woodrow Wilson because he said these at a time of great stress in the world. Back in 1910, he said these words and I quote, "We live in an age disturbed, confused, afraid of its own force. It is our duty to find ourselves." I share the view with one American that each of us has a high responsibility. It doesn't matter what political party you may belong to or support. This transcends that. But each of us has a high responsibility to help America find itself. Help America achieve what I consider to be a matter of great urgency. First, a greater sense of national urgency so that we can get on with the job, and, secondly, a stronger sense of national unity and finally, and perhaps most important of all, a deeper sense of national purpose. What is the purpose of a free society? It is not economic activity, it is not the creation of greater and greater material wealth. It is not breaking through new frontiers of technological progress. These are but tools related to the central purpose of human society, to the enrichment of human life, to build the world community in which every human being can live his life and achieve in his own way and in his own capabilities the maximum sense of self-fulfillment.

## RAILROAD SETTLEMENT

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, I, too, want to join the distinguished majority leader and the chairman of my Committee on Interstate and Foreign Commerce in commending the President for his work in the settlement of the labor dispute with the railroad industry.

Mr. Speaker, President Johnson's announcement of the settlement of the railroad work rules dispute is a milestone in his career of accomplishments. The President's success offers further proof of his skill as a mediator and statesman, a reputation he earned long ago with his distinguished service as majority leader in the Senate.

Evidence of the President's success is seen in the statements made by both union and management representatives praising his handling of the dispute, and signaling a new era of cooperation not only in the rail industry but throughout the free enterprise system.

It is significant to note that the dispute has spanned two previous administrations, and attempts to settle it had not met with the same success as we now have. Thus President Johnson's achievement assumes additional note.

The reaction across the Nation has begun, and I would hope all Members on both sides of the aisle would match statesmanship with statesmanship by joining both sides of the railroad industry in extending congratulations to the President for his fine efforts.

## OUTLAWING PRAYER IN THE PUBLIC SCHOOLS

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to extend my remarks at this point and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, one of the arguments most often heard in support of the Supreme Court decision outlawing prayer in the public schools is that the uplift of religion is best experienced in church and at home. There is merit in the argument. But, unfortunately, in this materialistic age there are too many children whose parents, largely through indifference or laziness, or both, neither instruct them in religion at home nor see to it that they attend church. To these children, the inspiration, the enlightenment, and the comfort of prayer and Bible reading is totally lost now that even a brief exposure to the lessons of religion is denied them by law.

Yet the plight of these children, though tragic, is but one of many arguments in favor of putting God back in the public schools. What principles are threatened by brief exercises that enrich young people spiritually and strengthen their moral values? How can prayer and Bible reading violate the clause concerning the establishment of religion when they are neither sectarian nor compulsory?

It is apparent, too, from our history that the Founding Fathers had no thought of excluding all religious content from public life. If we ban the recitation of the Lord's Prayer and the reading of the Bible, we deny our children their right to share in the spiritual heritage of their country.

To begin each morning on a note of uplift gives our children a brighter, more hopeful outlook on the challenges of the day, and also imparts to them moral lessons which only the Bible holds. A reading each day is a continuous spiritual inspiration.

Further, since the Bible is read without comment, and pupils are given a choice of the King James or Douay version, the simple reading of a passage is not a sectarian exercise and, since students also may be excused for reasons of conscience, religious freedom is preserved. I feel, too, that the vast majority of Americans are firmly in favor of prayer and Bible reading in the public schools, and that in persuading the Supreme Court to ban these traditional exercises, a minority has infringed on the freedom of the majority.

But there is even a more urgent argument. Today, the forces of atheistic communism are on the rise the world over; Christianity is battling for its life in the war of ideas. The word of God is our principal weapon in this mortal struggle; should we not keep it before our children—who will fight this battle—every day?

It is for these reasons that I have introduced House Joint Resolution 534, proposing an amendment to the Constitution of the United States permitting the voluntary offering of prayers and reading of the Bible in public schools of the United States.

### SETTLEMENT OF RAILROAD DISPUTE

Mr. HAYS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, congratulations are in order today to President Johnson, Secretary Wertz, and to railroad management and to the union leadership for their efforts in getting together and solving the threatened railroad strike by collective bargaining. I think everybody in the United States is thankful that this matter was worked out without being referred to the Congress where we would have been asked to legislate rather than arbitrate.

I believe this showed that the American free enterprise system can work and collective bargaining can work when there is good faith on both sides and when they get down to real, hard, tough negotiating.

The President deserves a great deal of credit for his faith in this system and for his part in bringing these two sides together and in helping to achieve a solution after more than 4 years of stalemate.

### SCHOOL PRAYER PROPOSALS

Mr. WHARTON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WHARTON. Mr. Speaker, the Supreme Court has, through the years, ably interpreted the revered words of the Constitution in such fashion as to reflect the crystallization of public opinion at a given point in time. Perhaps this is a tribute to the foresight of our Founding Fathers; perhaps it is a virtue to which the jurists have aspired through attuning their ears to prevailing sentiment. Be that as it may, it would appear that we have arrived at a juncture, a sort of crossroads in history, a point that seems to prevent the Court from interpreting the Constitution in a fashion which reflects public sentiment.

It would be presumptuous of me at this late date to remind the committee of the public furor occasioned by the Court's decision in the Engel case—1962—concerning the New York State Board of Regents' introduction of a voluntary nonsectarian opening for the schoolday; however, it is well to bear in mind that the decision was limited to the prayer quoted in full as follows:

> Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessing upon us, our parents, our teachers and our country.

The opinions of a divided Court turned upon the establishment clause and the free exercise clause of the first amendment of the Constitution of the United States, as adopted in 1789:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

While the Engel prayer decision did not relate to Bible reading, great public concern has arisen that the Court may well have eliminated all reference to religion in our schools and mention of a Supreme Being within the sound of youthful ears.

The observations of participating Justices in the Engel case and subsequent decisions eloquently describe the historical issues involved:

> Justice Brennan: "The use of prayers and Bible readings at the opening of school long antedates the founding of our Republic."
>
> Justice Stewart: "To deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation."
>
> Justice Goldberg: "Government must inevitably take cognizance of the existence of religion, and indeed, under certain circumstances the first amendment may require that it do so."
>
> Justice Clark: "Less than 3 percent profess no religion whatever."
>
> Justice Brennan: "Not every involvement of religion in public life violates the establishment clause."
>
> Justice Stewart: "Accommodation of religious differences on the part of the State, however, is not only permitted but required by that same Constitution. The choice involved, however, is one for each local community."

Are we then to enforce a ban on such vestiges of democracy as the recitation of the Pledge of Allegiance, the Declaration of Independence, the singing of "America," the offering of a benediction at public functions, the opening of court or in Congress itself, merely because dissidents may choose to attack them at some future date?

The Communists' avowal by Soviet Premier Khrushchev that: "If you give me your youth of today, I will conquer you in a single decade," makes it especially difficult for me to follow the suggestion of Justice Brennan: "Legislators, Federal and State, are mature individuals, who may presumably absent themselves from such public and ceremonial exercises without incurring any penalty."

Since its beginning, our Nation's citizenry has been made up of a variety of races and religions. The several crises which history has presented, however, have minimized the differences of systems of worship and proven that the moral strength of our democracy is based on an overall devout faith in a Supreme Being. For these reasons, I believe it imperative that Congress take appropriate action on the several resolutions providing for a constitutional amendment to rectify the present paradox.

### SETTLEMENT OF THE RAILROAD DISPUTE

Mr. DEVINE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DEVINE. Mr. Speaker, I join with some of my colleagues in commenting on the successful negotiation and the final settlement of the railroad dispute which has plagued this Nation for nearly 5 years. The President of course should be complimented for whatever part he has played in this—in lending the good offices of the White House, which belong to the American people, to the settlement of this dispute.

I believe that equal commendation should go to the American Association of Railroads and to the five operating brotherhoods which were involved in settlement of this dispute.

I feel certain that all Americans are happy that this dispute has finally been resolved subject to approval by members of the unions, and I believe that proper credit should go to all parties involved.

There is one disturbing factor in regard to this, however, which I believe should be brought to the attention of the American people. I refer to whether we have seen a precedent set whereby all or almost all of the labor disputes which go on for any period of time ultimately will be expected to be taken to the White House for a final disposition. There are too many disputes of this nature to load down the executive branch and the White House, if that is what is to be expected.

Although we are all in favor of a solution to these problems by free collective bargaining, I hope that no precedent has been set so that management, or the brotherhoods, or labor unions will expect the White House to solve all their differences.

### REPORT TO THE CONGRESS ON URBAN RENEWAL BY THE COMPTROLLER GENERAL

Mr. SHRIVER. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. WIDNALL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. WIDNALL. Mr. Speaker, I strongly commend for consideration by my colleagues on both sides of the aisle the March 3, 1964, compilation of General Accounting Office findings and recommendations for improving Government operations in slum clearance and urban renewal for fiscal year 1963. These should prove very useful in evaluating any housing legislation coming to the floor this year.

It is the feeling of the minority members of the House Special Housing Subcommittee that our bills, H.R. 9771, H.R. 9772, H.R. 9785, and H.R. 10277, will alleviate the problems described by the Comptroller General of the United States. A section-by-section analysis of these measures appears on page 7363 of the CONGRESSIONAL RECORD of April 20, 1964.

I include the findings and recommendations of the Comptroller General of the United States at this point in my remarks:

### REVIEW OF SLUM CLEARANCE AND URBAN RENEWAL ACTIVITIES

During fiscal year 1963, we continued to review selected activities under the slum clearance and urban renewal programs administered by the Housing and Home Finance Agency (HHFA) and by the Urban Renewal Administration (URA), a constitutent unit of the Housing and Home Finance Agency. Local public agencies (LPA's) administer the programs in each locality.

The cost of the slum clearance and urban renewal programs is shared by the Federal and State or local governments. The Federal Government's share is generally two-thirds but, under certain circumstances, is three-fourths. The State or local government may contribute its share of net project cost in the form of cash or noncash local grants-in-aid, such as donations of land, installation of streets and utilities, and construction of schools, recreation areas, and parking facilities. A proper evaluation of local grants-in-aid is important because excessive credits and credits for ineligible grants-in-aid result in additional costs to the Federal Government. Also, excessive costs incurred in acquiring land for a project, in acquiring buildings or residences to be demolished, or in demolishing buildings unnecessarily, adds to the Federal Government's share of the cost.

131. HHFA repeatedly recertified cities' programs for eliminating and preventing slums and blight although no appreciable progress had been made in correcting program deficiencies: A regional office of the Housing and Home Finance Agency repeatedly recommended that the Administrator, HHFA, recertify workable programs for eliminating and preventing slums and blight and such programs were recertified even though they were seriously deficient and the cities had shown no appreciable progress toward correcting the deficiencies. The Housing Act of 1949, as amended, requires that, as a prerequisite to the receipt of Federal financial assistance for certain housing programs, a community must present a workable program to the Administrator, HHFA. These programs must be certified and then be recertified periodically by the Administrator. The programs recommended for recertification contained evidence of uncorrected weaknesses in substance and enforcement of codes and ordinances and in relocating families displaced by governmental action. We also found that regional office officials had neither budgeted funds for nor made visits to the communities whose programs they had reviewed.

In a report issued in December 1962, we expressed the view that recertification of programs under such circumstances was not consistent with the objectives of urban renewal legislation because the cities were not required to provide the means of preventing the spread or recurrence of slums and blight. We suggested that the Administrator, HHFA, require more meaningful evaluations of all elements of the cities' programs and that recertification be withheld if the cities do not make progress in meeting program goals. We suggested also that the Administrator require that field visits be made by the regional office program staff. The Administrator informed us that the Agency endorsed these suggestions and was employing and would continue to employ every means for carrying them out.

132. Need for uniform standards in evaluating communities' housing codes and ordinances: A regional administrator of the Housing and Home Finance Agency accepted a city's housing code as being satisfactory in meeting a condition to a loan and grant contract although the code was ineffective because its provisions were not made applicable to properties existing at the date the code was adopted. Inasmuch as all existing properties were exempt from the provisions of the code, the code did not provide a means of eliminating or preventing slums and blight in neighborhoods in existence when the code was enacted.

In our report issued in December 1962 on our review of selected phases of community programs for eliminating and preventing slums and blight, we expressed the belief that the Congress intended that the problem of slums and blight be approached on a communitywide basis—rather than on a project basis—and that HHFA's approval of housing codes containing recognized significant deficiencies indicated that there was a need for uniform HHFA standards in evaluating communities' codes and ordinances. We expressed the belief also that the intent of the urban renewal legislation necessitates that an HHFA evaluation be made, as a requisite for executing loan and grant contracts, of the extent to which local communities have adopted codes. Accordingly, we recommended that the Administrator establish minimum standards for use by regional officials in evaluating the adequacy of housing codes and that these standards be applied uniformly by all HHFA operating groups.

133. Federal financial assistance should not be extended to cities not making reasonable progress in correcting significant deficiencies in their programs for eliminating and preventing slums and blight: An HHFA regional office executed a planning and survey contract with a city without reevaluating the city's seriously deficient program for eliminating and preventing slums and blight. We expressed the view that the execution of this contract negated HHFA and congressional requirements that Federal financial assistance be extended to only those communities that utilize their own resources to combat, on a communitywide basis, the problem of slums and blight. We proposed that a city's progress in correcting recognized significant deficiencies in its program be considered by HHFA before executing a contract with a city.

The Administrator stated that our suggestion would require an unnecessarily burdensome administrative operation. However, we believe that the adoption of our proposal is essential to an effective administration of the Housing Act of 1949, as amended, and, if applied to only those cities that have recognized any significant program deficiencies, should not unduly burden the HHFA regional office staff. Accordingly, we recommended that, prior to entering into a contract with a city whose program contains recognized significant deficiencies, the Administrator, HHFA, require that an evaluation be made of the city's progress in correcting the deficiencies. We expressed the view that, in the absence of reasonable progress, additional Federal financial assistance should not be extended to the city.

134. Need for improved administration of the relocation phase of programs for eliminating and preventing slums and blight: The Housing and Home Finance Agency's procedures and practices were not adequate to provide reasonable assurance that cities could provide decent, safe, and sanitary housing for displaced families, as intended by section 105(c) of the Housing Act of 1949, as amended. The procedures did not require cities to present specific plans for relocating displaced families. In certain cities whose programs had been certified and recertified as acceptable by the Administrator, HHFA, families displaced by slum clearance projects were relocated permanently into substandard housing.

We found that there was a need for effective coordination between the regional office staff dealing with the relocation of displaced families under the slum clearance and urban renewal program and the staff dealing with the relocation of displaced families under the programs for eliminating and preventing slums and blight. We expressed the belief that a major factor contributing to the lack of coordination was a tendency of HHFA operating officials to consider the requirements of the Housing Act relating to programs for eliminating and preventing slums and blight as being separate and distinct from the urban renewal requirements of the act. As a result, separate objectives and criteria were established for implementing the act, and coordination between operating staffs was deficient.

The Administrator, HHFA, agreed that there was a need for effective coordination, and outlined several actions taken in this regard. He emphasized, however, that he considered the provisions of the act relating to a community's continuing plan to be separate and distinct from the urban renewal provisions of the act. Nevertheless, we believe that these provisions must be applied in a coordinated and consistent manner in order to effectively fulfill the requirements of the entire act.

We recommended that the Administrator require that HHFA procedures be revised to provide that, as a prerequisite to certification and recertification of a city's program, the city must demonstrate that it has determined its need for and the supply of decent, safe, and sanitary relocation housing for displaced families. We recommended also that the Administrator require that certification or recertification of the programs be withheld from cities that have demonstrated an inability to make available such relocation housing.

135. Revisions made to eliminate ineligible and excessive costs from noncash grant-in-aid credits: The Urban Renewal Administration had tentatively allowed noncash grant-in-aid credits amounting to about $4.7 million for five schools to be provided in connection with certain urban renewal projects. We pointed out that four of these schools did not appear to be eligible as noncash grants-in-aid because the urban renewal areas involved were not expected to receive the required minimum of 10 percent benefit from the schools and that the amount of credit for the fifth school was excessive. We recommended that URA reduce the grant-in-aid credits allowed for these five schools by $4.2 million. By December 1962 URA had reduced these credits by about $3.4 million.

136. Regulations for use in evaluating the adequacy of relocation programs submitted by LPA's revised: In June 1961 we pointed out that the Urban Rewal Administration had not received adequate evidence that sufficient standard housing would become available for displaced nonwhite families in an urban renewal project which was estimated to cost the Federal Government $10.6 million. We

pointed out also that, at the time of our review, about 40 percent of the nonwhite families relocated had moved into substandard housing which had been classified by the local public agency as permanent relocation housing, indicating that the LPA considered that it had discharged its responsibilities with respect to the relocation of these families. We expressed the view that inadequate relocations of project families decreased the effectiveness of the projects and was not in conformity with the objectives of the slum clearance and urban renewal program and we proposed that no further projects be authorized by the Commissioner, URA, unless URA receives adequate evidence from the local public agencies that sufficient standard housing will become available for relocating all project families.

In February 1963 the Administrator, HHFA, revised the regulations to provide specific guidelines for use in evaluating the adequacy of relocation programs submitted by LPA's and to provide that no recommendation for approval of a relocation program shall be submitted to the Administrator unless there is reasonable assurance that the relocation requirements will be met.

137. Need for effective review of claims for noncash grant-in-aid credits: We reported in October 1962 that a regional office of the Housing and Home Finance Agency had not effectively reviewed the data submitted by local public agencies in support of claims for noncash grant-in-aid credits. We expressed the opinion that certain cited ineligible and excessive grant-in-aid credits were attributable in considerable part to the lack of effective reviews.

The Commissioner, URA, informed us that he did not consider it necessary to verify data submitted by LPA's in support of claims for tentative grant-in-aid credits and that the development of written procedures for the various types of verifications of noncash grant-in-aid claims is impracticable. Nevertheless, we reaffirmed our belief that the large amounts of excessive noncash grant-in-aid credits cited in our report pointed up the need for effective examinations based on written procedures, and we recommended that the Commissioner, URA, establish such procedures.

138. Need for procedures to preclude the improvement of properties in areas designated for slum clearance: The costs of acquiring certain residential properties in an urban renewal project area were increased because extensive alterations had been made to the properties after the area had been designated as a slum clearance and urban renewal project area. Since the cost of acquiring project land is included in project costs of which the Federal Government generally bears two-thirds, any increases in land prices attributable to such alterations would be largely borne by the Federal Government.

In a report issued in October 1962 we recommended that, in the future, the Commissioner, URA, not approve an LPA's planning application for a project unless the governing body of the locality has made provision to (1) prohibit the issuance of permits, subsequent to the designation of the project area, for the improvement of properties which are to be acquired and demolished and (2) revoke any existing permits authorizing improvements which have not been started and which involve properties intended for acquisition and demolition. Such provision would not preclude normal repair work or minor improvements which are determined to be necessary to avoid undue hardships to owners or occupants of the property, nor would it affect improvements related to the rehabilitation program. We also recommend that, after the preceding recommended procedures become effective, URA disallow any increased land acquisition costs resulting from the issuance of permits or the failure to effect timely revocation of permits for the improvement of properties intended for clearance.

139. Need to establish clearly defined policies, responsibilities, and criteria governing the eligibility of areas for large-scale demolition: The Urban Renewal Administration approved Federal grants of over $10 million and Federal loans of over $33 million for large-scale demolition in an urban renewal project without making an adequate examination of the structural condition of the buildings in the project area to verify that the extent of clearance proposed by the municipality was warranted. We pointed out that URA's approval of the project had been based on building inspection reports, submitted by the city to an HHFA regional office, which classified 71 percent of the existing buildings in the project area as "substandard" because of what the city considered to be serious building deficiencies. The Agencys' records indicated that HHFA regional office personnel had not inspected the interiors of any of the buildings in the project area prior to the time URA authorized Federal assistance for the project. A detailed reinspection made at our request by an HHFA specialist then showed that only about 20 percent of the buildings in the project area were substandard because of building deficiencies which could not be corrected by normal maintenance.

We expressed the belief that since demolition is generally the most expensive form of urban renewal treatment, and the intent of the urban renewal legislation is to encourage less costly forms of urban renewal treatment such as rehabilitation and spot clearance, URA should have fully investigated whether the extent of demolition proposed by the city was warranted. We expressed the view that the basic cause for the premature approval of the project for large-scale demolition was URA's vague criteria for determining whether buildings are substandard to a degree requiring clearance. Under URA's criteria, as applied to the project, a city might, with URA approval, designate any of its buildings as "substandard" and schedule such buildings for demolition, even though far less costly methods of renewal might accomplish the objectives of the urban renewal legislation. In a report issued in June 1963, we recommended that the Administrator, HHFA, and the Commissioner, URA, take the necessary steps to revise the criteria governing the eligibility of areas for large-scale demolition to more clearly define the condition "substandard requiring clearance" and to relate this condition solely to the structural condition of the specific buildings being considered.

We recommend also that steps be taken to clarify the criteria for Federal participation in proposed large-scale demolition to provide that, if an area does not have a significant number of structurally substandard buildings, expenditure of Federal funds shall be limited to other feasible but less costly forms of urban renewal such as rehabilitation and spot clearance. In addition, we recommended that HHFA and URA (1) obtain more effective administration, at all levels, of URA's established policy that the Government will not share in the cost of acquiring and demolishing properties which can be improved and successfully integrated into a project, and (2) require thorough examinations by qualified HHFA personnel of the condition of structures in proposed project areas before such areas are approved for large-scale demolition. With respect to the cited urban renewal project, we recommended that a review be made of the proposed demolition of buildings in the project with the view toward retaining those buildings that could be successfully integrated into the project.

In addition, we proposed that URA advise the city of the desirability for establishing reasonable classifications for the buildings in another project in the same area inasmuch as a large percentage of the buildings in this project also had been classified as substandard and hence are subject to demolition. The Commissioner, URA, agreed that there may be a need for modification of the classification system used by that city and stated that the city would be required to make the necessary modifications with respect to this second project and all future projects.

### REVIEW OF LOW-RENT HOUSING PROGRAM ACTIVITIES

The Public Housing Administration (PHA), a constituent agency of the Housing and Home Finance Agency (HHFA), is responsible under the U.S. Housing Act of 1937 (42 U.S.C. 1401) for administering the low-rent housing program. PHA provides financial and technical assistance to local housing authorities (LHA's) in the planning, construction, and operation of the projects for families of low income. Federal contributions to the LHA's are increased to the extent that the LHA's make unnecessary expenditures or do not realize all possible revenue.

140. Action taken to preclude installation of unnecessary equipment for measuring consumption of electricity and gas: In June 1963 we reported on our review of the installation of unnecessary check-metering equipment for measuring consumption of electricity and gas by tenants in low-rent public housing projects. This review disclosed that, because of a PHA requirement that check-metering equipment be installed at all low-rent public housing projects, such equipment had been installed for thousands of dwelling units in projects where metering and surcharging for excess use of utilities either was prohibited by utility regulations or was opposed by LHA management. After we reported this situation, the PHA Commissioner issued instructions providing that check-metering equipment not be installed in new low-rent housing projects unless there is a reasonable probability the equipment will be used. In addition, check-metering equipment, which was to have been installed, was omitted from about 9,000 dwelling units under development or authorized for future construction in one PHA region. This reduced the development costs of these projects by about $225,000. No estimate is available of the effect of PHA's action on the development costs in areas administered by other PHA regional offices.

141. Limitations established on LHA expenditures for participation in housing organization activities: In December 1962 we reported that the Public Housing Administration had no regulations, guidelines, or limitations on the amounts or types of expenses for participating in the activities of private nonprofit housing organizations that the LHA's could charge to their federally subsidized low-rent housing projects. After reviewing the expenditures of 31 LHA's, we estimated that the total amount charged to the low-rent housing projects for participation in housing organization activities generally execeds $560,000 a year.

We suggested that consideration be given to establishing policies for the LHA's guidance regarding the types and limitations on the amounts of such expenditures that may be charged to the projects. We were informed that in March 1963 PHA established limitations on travel expenses and now requires attendance at conferences to be limited to the number of officials necessary to adequately cover the meetings. HHFA also established consistency between the policies of the Public Housing Administration and the Urban Renewal Administration which also administers federally subsidized programs through local agencies that participate in housing organization activities.

142. Need for regulation to require insurance to be purchased at lowest available cost: Our reviews disclosed that some local

housing authorities had purchased fire and extended coverage insurance at costs in excess of the lowest net costs available with the result that the Federal subsidies may have been increased. These purchases were permitted by Public Housing Administration policies, which allowed the LHA's to negotiate for their insurance coverage provided that the costs obtained through negotiation were reasonably within range (not more than 25 percent in excess) of the lowest net cost known to be available from any other financially sound and responsible insurer licensed to do business in the State.

We believe that insurance in the low-rent housing program should be purchased at the lowest possible net cost and we had recommended that PHA revise its regulations to provide that (1) contracts for insurance be awarded to qualified low bidders and (2) after an LHA receives competitive bids, the negotiation procedure be invoked only when it will result in a lower premium cost. PHA did not revise its regulations, and some LHA's had awarded new contracts for insurance to other than qualified low bidders. Accordingly, in a report issued in August 1962, we restated our opinion that insurance in the low-rent housing program should be purchased at the lowest possible cost in order to reduce the amount of Federal subsidy to the program.

143. Need for guidelines for determining which families are in the lowest income group: In a report issued in April 1963, we pointed out that families with relatively high incomes were occupying units in low-rent housing. This condition was permitted to exist because a number of LHA's, with PHA approval, had established eligibility policies which permitted occupancy by families with total incomes greater than the median family incomes in their communities.

Some of these policies provided for such liberal deductions and exemptions from income that families with total incomes greater than the median family incomes were considered eligible to reside in the projects; others provided for maximum income limits greater than the median family incomes. Since the U.S. Housing Act of 1937 requires that occupancy of low-rent housing be limited to families in the lowest income group, it would seem that, except in unusual circumstances, a family with total income greater than the median family income in the community should not be considered as a family in the lowest income group so as to be eligible to occupy low-rent housing.

The act does not specifically state which families are in the lowest income group, and PHA has not established adequate criteria for the LHA's to use in making a determination. We believe that PHA has a continuing responsibility for providing the LHA's with guidelines for maintaining the low-income character of the projects. Accordingly, we recommended that the PHA Commissioner establish guidelines for use by the LHA's in determining which families are in the lowest income group in order to maintain the low-income character of the projects.

144. Need to eliminate incentive for families with relatively high incomes to remain in low-rent housing: In our April 1963 report, we pointed out that some LHA's had established low-rent ceilings which provided incentives for families with relatively high incomes to continue living in the projects instead of seeking private housing. At several LHA's the rent ceilings were so low that families with relatively high total incomes paid a much smaller proportion of their incomes for rent than other tenants in the project. In one instance, a tenant with total annual income of about $11,000 was charged the ceiling rent of $61.50 a month for his four-bedroom unit.

We pointed out also that some LHA's were charging ceiling rents to families whose income had increased beyond the maximum income limit for continued occupancy. We believe this practice is contrary to the provision of the 1961 amendment to the Housing Act which provides that a family whose income has increased beyond the approved maximum income limit for continued occupancy may be permitted to remain in a project if it pays an increased rent consistent with the family's increased income.

In order to carry out the objectives of the act, one of which is the housing of families in the lowest income group, we recommended that the PHA Commissioner instruct the PHA regional directors to make periodic reviews of LHA rent schedules to assure that the rent ceilings do not provide an incentive for families with relatively high incomes to remain in the low-rent housing projects instead of seeking private housing.

145. Need to consider assets in determining eligibility for occupancy of low-rent housing: In our April 1963 report we also pointed out that some families were permitted to live in low-rent housing projects although they appeared to have sufficient assets to afford private housing. The United States Housing Act of 1937, as amended, does not specifically require that a family's assets be considered in determining eligibility. PHA encourages but does not require the LHA's to place limitations on the assets that applicants and tenants may have and still be considered eligible for occupancy.

In commenting on our report, the PHA Commissioner stated that PHA has not required the LHA's to establish asset limitations because it believes such action would be pointless unless PHA has the right to approve them. Accordingly, we recommended that the Congress consider amending the United States Housing Act of 1937 to provide that PHA require the LHA's to establish limitations, subject to PHA approval, on the amount of assets that may be owned by a family that is to be considered eligible for admission to and continued occupancy of low-rent public housing.

## THE SPECIAL HOUSING SUBCOMMITTEE SHOULD INVESTIGATE JUST WHAT IS GOING ON IN CLEVELAND UNDER URBAN RENEWAL

**Mr. SHRIVER.** Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. WIDNALL] may extend his remarks at this point in the RECORD and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Kansas?

There was no objection.

**Mr. WIDNALL.** Mr. Speaker, this past fall the Special Housing Subcommittee held 2 weeks of hearings on urban renewal, including a review of the criticism by the General Accounting Office of activities surrounding the proposed Erieview project in Cleveland, Ohio. At the time, I urged a trip to Cleveland to look firsthand at the developments in question, and was assured by the chairman that such a trip could and would be undertaken. The fact that this trip has been postponed a number of times from tentative scheduled dates is, I am sure, not due in any way to a lack of interest or sincerity on the part of my good friend, the gentleman from Alabama [Mr. RAINS]. Congressional business has simply not allowed the time for it.

In my opinion, however, the need for such a thorough investigation is even more imperative now than before. Last fall we had no housing bill before us for deliberation; this spring we do, and we need an acquaintance with the facts in the field before, not after, any executive session of the committee on housing legislation. Last fall, we were only concerning ourselves with the criticism of the General Accounting Office with respect to one project, Erieview, which we were assured would still receive the overwhelming support of the citizens of Cleveland in a forthcoming vote on a bond issue for the continuation of the project. This spring, we know that the bond issue not only did not receive the two-thirds support claimed for it, but actually had a majority of the citizenry voting against it.

What is more important, in terms of the needs for a complete investigation, is that there are six other urban renewal projects in Cleveland. These projects, individually, could all use a thorough review. I am convinced, moreover, from even the cursory examination of the facts available to us on paper and in press reports, that the overall urban renewal program of the city of Cleveland must be looked at in the composite, and and needs a complete airing. I believe the committee should hear from those still living in slums, and learn about projects that have defaulted or been salvaged through extraordinary measures. I believe we should know the opinions of local real estate people, office building and apartment owners, tenants in rent strike areas, private developers who have had to sit on the sidelines—in general, the people whose views have been too long neglected in congressional surveys of the urban renewal process. And I think that Cleveland is the place to start.

Mr. Speaker, let me give you an example of what I mean by the need to hear from those people other than the city and Federal officials we have already listened to, and what I mean by the need to go out into the field to see the facts as they really are in their entirety. When Mayor Ralph S. Locher of Cleveland appeared before the Special Housing Subcommittee on October 24, 1963, he told us that Cleveland had attacked the problem of slums first, beginning in 1954. He said:

> From this program came Longwood—Garden Valley—and the St. Vincent charity projects, which have already removed 350 acres of the worst slum conditions in our city and put in these locations, alone, over 1,300 rental apartments financed under section 221(d); offered land for the inclusion of 500 units of public housing so that in these rebuilt portions of the city, families living in public housing are not physically separated from families of higher income—new shopping centers, new churches, sites for new schools, new hospitals, new community colleges to provide greater opportunity for higher education, new community-wide service centers like the Boy Scouts and the Salvation Army.

Mayor Locher then went on to justify the change from emphasis on residential renewal, the principal and priority purpose of the Housing Act of 1949, to urban renewal projects concentrating on commercial and industrial development. He said:

> From 1953 to 1959, Cleveland had sufficiently stemmed the spread of further blight by financial assistance from the Federal Government under title I and unassisted rehabilitation programs—and by 1959 the housing supply had been increased to the point of matching the need—that the city of Cleveland could turn its community attention to its central business district.

Then when the Urban Renewal Commissioner, William L. Slayton, appeared before the Committee on November 21, 1963, he addressed himself to the Cleveland situation. It might be appropriate to note at this point, that although Mr. Slayton severed all ties with his former employers when he became Commissioner in 1961, he was directly involved in the planning of the Erieview project. In answer to one of my questions referring to the apparent emphasis on commercial rather than residential renewal in Cleveland, Mr. Slayton had this to say:

> I think you will have to take a look at the Cleveland program as a whole, and if you go to Cleveland you can take a look at it. The Cleveland program has had considerable to do with housing conditions within the city, and their projects primarily have been concerned with housing conditions.

I am in hearty agreement with Mr. Slayton that we must look at the Cleveland urban renewal program as a whole, and that we could do so if the subcommittee were to go to Cleveland as he suggests. However, I think the record should be set as straight as possible, with the limited facts at our disposal here in Washington, as to the actual nature and condition of the Cleveland urban renewal effort.

Besides Erieview, a massive renewal project for commercial downtown involving 4,700,000 square feet of office space, and 5,500 units of luxury apartments, there are six projects underway or completed in the city of Cleveland. The one completed, Longwood, actually began in the planning stage in September of 1950, contrary to the 1954 date supplied by the mayor as the starting point for renewal efforts in the city. Its plans were completed in 1954, but the project itself was not considered complete until 1961. Within the project lie 828 units of lower middle income housing under the 221(d) program. This is one of the two projects in the country which have been involved in modification agreements in order to save the project, according to information supplied me in a letter from the Housing and Home Finance Administrator dated March 11, 1964. I would think that on our trip to Cleveland we might want to look into the present status of the project, why it was forced to resort to a modification agreement, and why the whole Longwood project took 11 years to complete.

The second project begun in Cleveland was the St. Vincent's Center, involving the displacement of some 1,640 Negro families and 184 white families. This project's planning was begun in September 1953, and only completed 6 years later in 1959, and the project itself is incomplete to date. Apparently the 11-year record of Longwood is about to be broken. At the hearings in November, I asked Mr. Slayton about the status of the project, originally intended as a major residential project, since there had been some controversy in Cleveland itself over the status of the project. He supplied the following reply for the record:

> The city has experienced some difficulty in disposing of the land designated for residential reuse and we understand that it is presently considering changing the plan to permit disposition to a college for development as a campus. Any such change would require official amendment of the plan and approval by the Urban Renewal Administration. No proposed plan amendment has as yet been received by the URA.

I think on our trip to Cleveland, we ought to look into the present status of this project to see what campus is to be located there; why in the space of 11 years no one could find any residential developers; and what has happened to the families forced to move from the cleared areas.

The next project started in Cleveland was the Garden Valley project, in 1955. This involves an area of primarily open space, and a contract was entered into between the city and the Federal Government within a year and a half from the time planning began. Since there were already two other projects underway, for the same residential purpose, it might be interesting to find out why a third was started so quickly and easily. In any event, Garden Valley is the home of another 221(d) project, although that project did not start out that way. Instead, it started out as a normal 220 project, ran into financial difficulties, low rental occupancy rates and was bailed out by switching to the 221(d) program. Unfortunately, it went into default last fall anyway. The project consists of 398 units. I think it is worth the while of the committee to explore the reasons for its default, its low occupancy rate, the bursting of an inadequate sewer, the lack of an access road and other improvements promised by the city, and the problems facing the present tenants and those who were forced to move out due to the conditions of the project.

You will recall that these are the three projects pointed to with such pride by the mayor of the city of Cleveland in testimony to the House Special Housing Subcommittee, and upon which he relied to prove his claim that by 1959 Cleveland had taken care of its housing needs and could move on to commercial renewal in Erieview. None of these were completed in 1959; only one is now. One project is under consideration for a possible switch in status from residential to a college campus because of no takers in the residential development status. As for the other two, you will recall that Mayor Locher specifically mentioned the 1,300 units of 221(d) housing, again as proof that housing needs had been taken care of by 1959. In the first place, the program did not come into existence until the 1961 Housing Act—and from the looks of the program in Cleveland it probably should have been overlooked that year, too. In any event, the 1,314 units now either in default or subject to a modification agreement form the basis for Mayor Locher's statement that Cleveland could move on to the higher and more profitable things like downtown commercial renewal.

The saga of Cleveland, Ohio, is not complete, however. In December of 1956, planning began on the East Woodland project, planning was completed in 1960, and the contract between the city and the Federal Government was signed in that year. East Woodland began as a residential project, despite the warning of the Federal Housing Administration under the Eisenhower Administration that it was a poor environment for new housing. The commercial and industrial land in the area was bought up and cleared, a program still in its final stages today. Some fifty homes in the area were encouraged to stay on if they would rehabilitate themselves, and considerable work has since gone into many of these homes. The city fathers, however, have now decided to change the purpose of this project from residential to commercial, remove the rehabilitated homes, and try to put back the commercial establishments they moved out in the first place. I detailed this whole chaotic mess in the daily Congressional Record of March 26, 1964, on page A1583, through newspaper articles, and an editorial.

Since my comments, officials have admitted their mistake, 8 years later. They are now trying to justify the change and the mistake, however, according to newspaper reports from the Cleveland papers which I will include at the end of my remarks. Cleveland's Urban Renewal Director, James M. Lister, I understand, has prepared an answer to my statement in the Congressional Record at the request of Commissioner Slayton. In it he has written that shortly after the adoption of the East Woodland plan, in June of 1960 "a change in the housing market began to occur in Cleveland, which has become more and more intensified. There is now an ever-increasing supply of housing available at almost any rental level."

He continues:

> It is only logical, therefore, that serious consideration must be given in the East Woodland project to a reevaluation of whether the proposed reuse is in reality a realistic one.

The change in the housing market Mr. Lister refers to, undoubtedly includes the efforts to start Erieview I. According to figures I have received from the Urban Renewal Administration, Erieview I began its planning in December of 1960, finished its planning in January 1961, and signed a contract between the local public agency and the Federal Government on March 3, 1961. Considering the length of time for other projects, and the expectation of 18 months for planning indicated by Federal brochures on the subject, this 3-month period for a project as complex as Erieview I must set some sort of a record. Some planning of a general nature for the commercial downtown section had begun beforehand, and there is a technique used by the Urban Renewal Administration to pay for prior expenditures if there is prior acquiescence to this effort. I would be interested, as I am sure the committee would be, in this strange coincidence of dates between the start of Erieview and the change in the housing market that Mr. Lister now sees in retrospect, forcing the change in the status of East Woodland.

There is another interesting angle to the East Woodland story. By changing the project purpose, Cleveland now gets an industrial and commercial redevelopment project, with the Federal Government paying three-quarters instead of only two-thirds of the cost. This is so because Cleveland has now been declared a high unemployment area under the Area Redevelopment Act, a change in status which itself is an interesting labor market move by the Department of Labor.

Two more interesting developments deserve the attention of the Special Housing Committee:

First. Mr. Lister has discouraged a plan by a local redeveloper to provide housing for at least 70 persons now living in the East Woodland area or who want to move back in on an 8- to 10-acre tract on one edge of the 36.4-acre area.

Second. According to the Cleveland Press of April 4, 1964, there appears little doubt that the change in status will be acceptable to the Housing and Home Finance Agency and the Urban Renewal Administration. The paper states:

> The Federal Government urged the change because of difficulties with similar developments elsewhere.

I think the committee should be informed, as it was not informed at the recent set of hearings on housing legislation, as to what "similar difficulties" have been encountered, where they have been encountered, and why.

Despite the fact that the urban renewal director for the city of Cleveland has told us that housing in all income categories was plentifully supplied by 1960, planning began in July 1961, and a contract was signed between the city and the Federal Government in November of 1962, for the University-Euclid project which is residential in scope. This project was not mentioned by Mayor Locher in his testimony, and I can understand why. The location of one of the two major rent strike areas in the United States is within the project. On December 27, 1963, the Ohio Forum, a weekly newspaper serving the Negro community of Cleveland, published a list of citizen demands on urban renewal in the Hough rent strike area. I will include the full set of demands following my remarks but there are several comments that deserve special attention.

After noting that both clearance and rehabilitation have "lagged behind schedule" in the project area, the citizens state:

> 1. All city codes (including the housing code) should be enforced throughout the entire Hough area. Additional inspectors should be hired to do the job. A record of progress should be available to the public.
>
> * * * * *
>
> 3. We understand that both staff and money are available to do the job in University-Euclid. Why isn't it being speeded up? What are the standards for rehabilitation? How are the staff trained? We understand that only 17 buildings in the past year are completed in phase I. Only 2 of these are multiple dwellings.

These are questions which merit the examination of the Special Housing Subcommittee in an on-the-spot investigation. I would like to hear from the people in the Hough area, many of whom, apparently, have been shoved into this slum area from other areas cleared by the city for commercial projects or high-income apartments. The Hough residents observe:

> 6. A major concern of urban renewal is relocation. We urge the relocation committee to make its primary focus the location of substantial housing which is as good as the housing which people will have in the Hough area when it is renewed. We protest the process of "Negro removal" which has gone on in the other renewal areas creating more slums such as Hough.

I think it might be appropriate at this point for me to observe that the housing amendments offered by the Republican minority on the Special Housing Subcommittee provides for new rehabilitation assistance, new efforts in the area of housing code enforcement, and a whole range of relocation assistance, including relocation, on a nondiscriminatory basis. The relocation aids follow exactly the recommendations of the Connecticut Advisory Committee to the U.S. Civil Rights Commission. Since these provisions will be offered as amendments to the administration housing bill in committee, I think it is absolutely essential for the committee to look into an area such as University-Euclid, and the Cleveland urban renewal program in general, before any decision is made on housing legislation this year.

The latest project in Cleveland emphasizes again the determined trend away from residential renewal to commercial and industrial redevelopment. The Gladstone area, to be entirely industrial-commercial with planning begun in July of 1961, had its contract signed between the city and the Federal agency on November 20, 1963. This contract was signed after the defeat of the Erieview bond issue at the polls, after the great rise of residential development which, as Mr. Lister had noted, made East Woodland's plan obsolete, after the default in Garden Valley on the 221(d) project, after the rent strikes in the Hough section of the University-Euclid project, and after 10 years of futility in the St. Vincent's Center project area.

According to the testimony of Commissioner Slayton on November 20, 1963, the very day the Gladstone contract was signed, the Urban Renewal Administration instituted a new policy in July of 1962. He stated before the Special Housing Subcommittee, while his subordinates were working away in Cleveland:

> In July of 1962, an additional major requirement was instituted to provide as much assurance as possible, even before the planning of an urban renewal project is initiated, that the performance of the local public agency on projects already underway evidences its capacity to undertake an additional project. Now, before the URA reserves capital grant funds for any additional project, it carefully evaluates the performance of the local public agency on its existing projects.

I do not know what kind of "careful" evaluation was done by Mr. Slayton's staff with regard to Cleveland, Ohio, if the Gladstone project for commercial and industrial urban renewal could be signed the very day that Mr. Slayton was proudly telling us of this new "major requirement." The citizens of Cleveland, the taxpayers of the United States, and the Congress which must pass on new urban renewal legislation this year, deserve a full explanation and investigation by the Special Housing Subcommittee.

The trend of the Cleveland projects, as I have observed, is toward commercial and industrial redevelopment, and away from the housing needs of our citizens. Cleveland proves the point that, I am afraid, is equally as true on a national scale, which is the reason for the Republican minority's housing bill provision putting housing needs on a priority basis. Discounting the Longwood project, which was begun in the planning stage at least before 1954, when commercial renewal projects were authorized, Cleveland has received or will receive, an estimated total of $15,814,000 for nonresidential redevelopment out of an estimated total of $27,696,000 for all projects. This is 57.1 percent of the total, in contrast to the requirement in the Housing Act that on a national level, only 30 percent of the funds can go for predominately nonresidential projects.

I think it is about time the Special Housing Subcommittee found out just what is going on in Cleveland under urban renewal.

The newspaper articles I have referred to follow:

[From the Ohio Forum, Dec. 27, 1963]

### CITIZENS' DEMANDS ON URBAN RENEWAL IN HOUGH AREA

There are two major areas of urban renewal—clearance and rehabilitation. The University Euclid urban renewal project has lagged behind schedule in both areas. As residents of the Hough area we are concerned about the entire community and feel that code enforcement and other measures should not be limited only to phase No. 1.

In respect to the phase No. 1 area we demand that the following steps be taken immediately to speed up both clearance and rehabilitation.

#### CLEARANCE

1. Hearings on the purchase of property could be speeded up by waiving the third hearing and setting up a subcommittee of city council to deal with these procedures, possibly the urban renewal committee.

2. Buildings which are vacant on city property should be torn down immediately. (There are several vacant buildings in this area now.)

3. Condemned buildings on private property should be demolished through enforcement of a city ordinance which requires the property owner to do so. Also, city ordinances would be enforced to force absentee landlords to demolish condemned properties and there should be strict enforcement of nuisance ordinances.

4. Efforts should be made to beautify the vacant land after property has been torn down.

#### REHABILITATION

1. All city codes (including the Housing Code) should be enforced throughout the en-

tire Hough area. Additional inspectors should be hired to do the job. A record of progress should be available to the public.

2. The entire Hough area should be declared a rehabilitation area under title 1 of the Housing Act. We strongly urge the reopening of the Superior-Chester urban renewal office.

3. We understand that both staff and money are available to do the job in University Euclid. Why isn't it being speeded up? What are standards for rehabilitation? How are the staff trained? We understand that only 17 buildings in the past year are completed in phase 1.

Only two of these are multiple dwellings.

4. All city services need to be improved including health, sanitation, garbage disposal, police protection, etc.

5. The percentage of deteriorated housing in the Hough area has increased more rapidly in dwellings owned by absentee landlords than those which are owner-occupied. A large scale program to upgrade maintenance of absentee-owned properties would greatly improve the morale of the residents in the area. We deplore the seeming "don't care" attitude of City Hall, and in the face of deterioration of property.

6. A major concern of urban renewal is relocation. We urge the relocation committee to make its primary focus the location of substantial housing which is as good as the housing which people will have in the Hough area when it is renewed. We protest the process of Negro removal which has gone on in the other renewal areas creating more slums such as Hough. We urge the enactment of a fair housing law for the city of Cleveland which could be helpful in the dispersal of Hough residents throughout the entire Cleveland area—west and east, thus eliminating the perpetuation of low-income Negro ghettos. Only as this is consciously avoided will we eliminate the need for a continued urban renewal program for generations to come.

7. We request that urban renewal work more closely with the other community institutions to build the morale of the community. The job of urban renewal is to provide the buildings in which people can have decent housing. There are other institutions in the community which are charged with the responsibility of providing recreation, group work and community organization programs. When such needs arise these agencies should be asked to cooperate in working in areas of rehabilitation so that urban renewal can do its most important work.

8. We reject the planned action for the demonstration area for rehabilitation. We demand that a location in the center of the project Phase 1 be selected.

9. We urge the full use of area residents, particularly semi-skilled and unskilled unemployed workers, to work in all phases of the urban renewal program.

Hough Area Citizens Committee,
Mrs. Chambers, L.R.
Mrs. W. Lewis, *Cochairman*.

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[From the Cleveland (Ohio) Press, Apr. 4, 1964]

### City To Make New Plea for Woodland Fund

The city of Cleveland will reapply for Federal urban renewal funds to rebuild East Woodland as an industrial area.

Because Cleveland has been declared a high unemployment area, the Federal Government now will pay three-quarters instead of two-thirds of the cost, Urban Renewal Director James Lister told the plan commission yesterday.

The plan commission informally approved changing the 46-acre area around Woodland Avenue and East 75th Street from residential to industrial, a change which dooms a 10-year rehabilitation effort.

Commission Chairman Ernest Bohn said: "In retrospect, I suppose we made a mistake. It should have been industrial from the beginning."

Lister said the change was prompted by inability to find financing for residential developments in the triangle, bounded by East 71st Street, Kingsbury Run, and the Pennsylvania Railroad. The Federal Government urged the change because of difficulties with similar developments elsewhere.

Under tentative new plans displayed by Chief City Planner Layton Washburn, only the block southeast of East 75th and Woodland would remain residential. The Second Mount Zion Baptist Church is anxious to stay and wishes to build a 12-unit row house for members, Washburn said.

The city now has acquired 98 percent of the parcels it must buy in the project and has torn down 80 percent of the buildings.

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[From the Cleveland (Ohio) Press, Mar. 31, 1964]

### U.S. Approval Is Seen on Woodland Industry

(By Paul Lilley)

Early Government approval is expected of city plans to convert the East Woodland urban renewal area into a slum clearance project for commercial and industrial redevelopment.

J. B. Williams, city urban renewal commissioner, said details of the plan will be submitted this week to Housing and Home Finance Agency officials in Chicago.

The East Woodland project, in the triangle pocket bounded by East 71st Street and the New York Central and Pennsylvania Railroad tracks, had been intended for residential rehabilitation and new housing.

Original plans called for keeping only 55 of the 234 structures in the area. Of those scheduled to remain, 14 have been rehabilitated to minimum code standards at a total cost of $30,000.

Should the HHFA and city council approve the new industrial use for the 50-acre area, all residential buildings in the area, including those rehabilitated, will be torn down.

The final decision to switch plans for use of the area was revealed yesterday when Williams and Urban Renewal Director James Lister rejected an offer to construct 77 dwelling units in the area.

The offer was made by Walter O'Neal, president of the United Community Development Corp. and Frank O'Brien, representative of National Homes, Inc.

O'Neal said that at least 70 persons who live in the area or who want to move back have indicated an interest in purchasing one of the homes which would cost between $13,000 and $15,000.

Lister said several other sites in the University-Euclid urban renewal area would soon be available for housing redevelopment.

O'Neal and O'Brien said they would explore the new possibilities.

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[From the Cleveland (Ohio) Plain Dealer, Apr. 4, 1964]

### East Woodland Houses Confessed as Error

(By Eugene Segal)

The plan to put housing in the East Woodland urban renewal areas was a mistake, Ernest J. Bohn, chairman of the city planning commission, said yesterday.

"In retrospect we know the area should have been left industrial," he told Urban Renewal Director James M. Lister at a commission meeting.

"This points up the need to be much more careful in the future about urban renewal programs," a commission member, George B. Mayer, said.

A plan to change East Woodland back to industrial use was shown the commission. The commission and ctiy council will have to approve the change before the amended plan can be resubmitted to the U.S. Urban Renewal Administration for its acceptance.

East Woodland extends eastward from East 71st Street to the Pennsylvania Railroad tracks and from Platt Avenue SE. southward to the Nickel Plate Road tracks.

The amended plan proposes to convert all the land between East 71st and East 75th Street to light industrial use.

This will require demoliton of more than 50 homes on streets from East 71st to East 75th, north and south of Woodland Avenue SE. Owners had been told for 8 years that these homes would be allowed to remain if rehabilitated. About $30,000 had been spent on fixing the houses.

The new plan provides a buffer against proposed industry for the Community Apartments at the southwest corner of East 79th and Woodland. It was to provide a protective environment for the apartments that the East Woodland renewal project was devised in the first place.

A tract west of the apartments, at the southeast corner of Woodland and East 75th, will be sold to the neighborhood Mount Sinai Baptist Church, which, Lister said, wants to build a new church and 12 dwelling units.

Lister said the Greater Cleveland Growth Board reported that if East Woodland land was made available at the right price in 6 months, "many small industries" would want it.

Lister gave commissioners copies of a statement explaining reasons for the East Woodland switch, which he prepared at the request of U.S. Urban Renewal Commissioner William Slayton.

Slayton wants it as an answer to Representative William B. Widnall, Republican, of New Jersey, who in a statement inserted in the Congressional Record criticized what has happened in East Woodland.

Shortly after adoption of the East Woodland plan, Lister wrote, "a change in the housing market began to occur in Cleveland, which has become more and more intensified. There is now an ever-increasing supply of housing available all over the city of Cleveland and available at almost any rental level.

"It is only logical, therefore, that serious consideration must be given in the East Woodland project to a reevaluation of whether the proposed reuse is in reality a realistic one."

Lister continued that it was not a waste of money to have purchased dilapidated industry which has been removed or to continue to purchase and remove remaining deteriorated buildings "which would not be good neighboring development to any new industrial investment."

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## RESULTS OF ANNUAL QUESTIONNAIRE

Mr. SHRIVER. Mr. Speaker, I ask unanimous consent that the gentleman from Washington [Mr. Stinson] may extend his remarks at this point in the Record and include a questionnaire.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. STINSON. Mr. Speaker, I would like to bring the results of my annual questionnaire to the attention of my colleagues. Out of over 89,000 questionnaires mailed to my constituents, 10,650 have been returned to date.

The results are as follows:

| | Percent | | |
|---|---|---|---|
| | Yes | No | Undecided |
| 1. Are you in favor of selling wheat to the Soviet Union on credit terms? | 13 | 82 | 5 |
| 2. Do you favor making concessions in Panama? | 19 | 76 | 5 |
| 3. Do you approve of the manner in which the administration is handling the Cuban situation? | 16 | 71 | 13 |
| 4. In general, do you approve of the way the administration is handling our foreign affairs around the world? | 14 | 72 | 14 |
| 5. Do you feel foreign aid spending should be substantially reduced? | 81 | 11 | 8 |
| 6. Do you favor U.S. recognition of Red China? | 11 | 78 | 11 |
| 7. In your opinion, is the United Nations an effective organization? | 39 | 41 | 20 |
| 8. Do you approve of the way President Johnson and McNamara canceled the Dyna-Soar? | 22 | 62 | 16 |
| 9. Do you favor President Johnson's veto of a bill requiring imported Canadian lumber to be labeled as such? | 18 | 65 | 17 |
| 10. Do you approve of the plan to make our low-cost Pacific Northwest power available to California? | 35 | 39 | 26 |
| 11. As a result of the Bobby Baker scandal, do you feel legislation should be passed to prevent "conflict of interest" by Senators as well as their employees? | 74 | 13 | 13 |
| 12. Would you favor a thorough investigation of the U.S. State Department? | 66 | 21 | 13 |
| 13. Do you approve of Federal legislation requiring registration of firearms? | 43 | 49 | 8 |
| 14. Would you favor compulsory medical care for the aged under social security with the cost paid for by increased taxes on employees and employers? | 29 | 59 | 12 |
| 15. Do you approve of Federal aid to education at the high school and elementary levels? | 32 | 59 | 9 |
| 16. Would you favor an amendment to the U.S. Constitution which would reverse the Supreme Court prayer decision? | 55 | 32 | 13 |

## STATEMENT BEFORE HOUSE JUDICIARY COMMITTEE ON PRAYERS IN PUBLIC SCHOOLS

Mr. SHRIVER. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. Harvey] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. HARVEY of Indiana. Mr. Speaker, under unanimous consent, I am inserting in the body of the Congressional Record a copy of my statement before the House Judiciary Committee on April 22, 1964, pertaining to the subject of prayers in public schools:

Mr. Chairman, in the committee's deliberations on the several resolutions introduced pertaining to prayers in public schools, no doubt it will be your privilege to listen to the views of some of the most sincere people ever to appear before this committee.

As I look at a copy of my resolution here before me, I notice the subject matter is brief and the lines are few, as compared to many of the measures we consider each day. Gentlemen, this observation in no way reflects the simplicity of this question or the far-reaching effects this legislation has on present and future generations.

While it is my hope the committee, in its wisdom, will see fit to favorably report this measure, I hope, too, there will be sufficient time to allow all interested parties an opportunity to be heard, so that when all the testimony is in, there will be no doubt in your minds with regard to the proper course of action.

In furtherance to this matter, I think the Supreme Court erred. The hundreds of thousands of communications that have poured into Washington from constituents all over America verify the fact that the American people are downright scared—if this decision is not reversed and prayers are not restored to the classrooms of our public schools.

In all of my years it has been my privilege to serve in the Congress, I know of no other single issue that has received the wide attention that this issue on prayers has received. Gentlemen, we cannot fail the good people of our land that are looking to us for help.

I want to express my appreciation to the committee for this time to register my views on this legislation.

## TRANSPORTATION TO MEET NEEDS OF AN EXPANDING AMERICA

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Virginia [Mr. Gary] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. GARY. Mr. Speaker, it was my pleasure to be present Monday night in my congressional district to hear an outstanding address to the Richmond (Va.) Traffic Club by our distinguished colleague, Representative Oren Harris, the extremely capable chairman of the House Committee on Interstate and Foreign Commerce. This excellent speech by Chairman Harris was enthusiastically received by a large crowd gathered for the club's "Railroad Night" and under permission to extend my remarks I include his remarks in the Record at this point for the benefit of all our Members:

### Transportation To Meet Needs of an Expanding America

Mr. Chairman, distinguished guests, and friends of the Richmond Traffic Club, I am highly honored by your invitation to be with you on this occasion. I am especially glad to be with you this evening in paying tribute to the railroads, one of our basic common carrier modes of transportation. I compliment you for this occasion, and particularly those of other modes, who join in the salute to this great industry.

I am especially pleased to be here since this event coincides with what could very well be a turning point in regulatory law—our consideration of new and modern transportation legislation.

Though your traffic club has arranged special tribute to the railroad industry, I would like to make it abundantly clear that what I have to say is not only applicable to the railroads, but equally so to the airlines, bargelines, motor carriers, and freight forwarders.

In joining you of the transportation industry this evening, in saluting America's great railroad industry, one of our Nation's oldest as well as its biggest single common carrier, on this, their night in Richmond, I would like to give primary attention to proposed legislation which I think is long past due.

I welcome this opportunity to discuss this bill with you which is past due, because it is fair, it is reasonable, it is right, and in the best interest of a sound common carrier system, to more equitably serve the needs of the American people.

Anyone who fails to recognize that the transport industry is now undergoing some of the most far-reaching changes in its history—changes which point toward a future that, despite many current problems, should be no less tremendous than the past—assumes the posture of an ostrich with his head in the sand.

The forward-looking, competitive carriers in this country are resigned to revolutionary endeavors, for in our expanding America there is a vast role to be played by every form of transportation, and a great future for each of you. The Nation needs and must have all of you.

This underscores in my mind the fact that the transportation progress on which every citizen of this country depends is a product not of Government officials or of us legislators, but of you in transportation. We in Government can only draw up the rules of the contest, and blow the whistle against fouls. The rest—the innovations, the new services, the forward moves—is up to you.

That you have done remarkably well is a visible phenomenon of our times. What a fabulous transportation industry you have developed for this Nation. What wouldn't the Soviet Union, for example, give to have such an immense, diversified, and sophisticated nationwide system of land, air, and water transportation. Indeed, it appears that America has a 30- to 40-year lead on the Communists in transportation development, and we intend to stay ahead.

Even as you in transportation are faced with daily challenges to continue these developments in transportation and distribution on which the whole American productive system rests, so, too, are we in government faced with the challenge to keep the rules of the game—our transportation laws and procedures—abreast of the times and the people's needs.

It may seem at times that our laws have a built-in inertia, a resistance to change, and this is true especially in view of the seemingly constant acceleration of technological changes within the industry the laws cover. With a longer look, however, we can see that the laws have been repeatedly broadened and altered in a conscientious effort by Congress to make them fit the growing needs of our expanding Nation and its changing transport industry.

Even in our pioneer days, government took a hand in the development of canals and turnpikes—and then, in time, of the fire-breathing iron horse moving over metal rails. It was recognized in those earlier years that a general common carrier system, making transport services available to all the people at fair rates and charges, was indispensable.

The Interstate Commerce Act, of necessity, passed in 1887, was indeed basically intended to strengthen the essential services of the railroads to the public. This act was followed in subsequent years by numerous amendments which tightened regulatory control in some cases and increased its horizontal reach in others, to include motor transport, then inland waterways carriage, then freight forwarder operations.

These rules of the game, as I said before, were meant to foster the development of a great common carrier system which would serve everyone everywhere in the United States. I submit that this has been done, and with a degree of success that is astounding. Yet we must not be blinded by the pyramiding physical and structural developments in transportation to the grave problems that have simultaneously arisen to plague the industry.

Going back only as far as 1922, when your traffic club was founded, it is startling to note the wide shifts in relative positions of the different forms of transportation. It was in those years of the early twenties that motor trucks and buses really began to take hold in the intercity transport market. And the airplane, having just found its wings in the First World War, began nibbling at intercity travel volume.

I suppose anyone with a good clear crystal ball at that time could have foreseen the ultimate end these developments would spell out for the overriding position of the railroads in nationwide transportation. Yet that crystal ball would have had to be ingenious indeed, for it was not until the decade of the 1930's that the competitive trends then set in motion were to combine with the overall depression of traffic to create a real crisis. Moreover, in that third decade of the 20th century still another development arose which was to portend still more competition in transportation, and this was the great pickup of Government spending as a public works measure on inland waterways so that the inherent advantages of this mode could be available to our people.

And so, now as we stand in the sixth decade of this century, we must ask, how is our common carrier system doing? What is the state of our transportation law? What more can be done to strengthen both?

I said earlier that we may now be at a turning point in regulatory law in transportation. Actually, it may well be that the turning point came with the legislative action of 1958 and that, today, we are trying only to move a little further along the course then set. For the 1958 amendment to the Interstate Commerce Act that concerns us most today sought to set a new standard for the Interstate Commerce Commission to employ in competitive rate cases. We intended thereby to give the forces of competition in transportation more leeway, so that low-cost carriers would get a clear chance to utilize their advantages and pass the lowest possible freight rates on to the shipping public.

Two years ago this very month, the late President Kennedy, in a special message to Congress, admirably summed up many of the current problems besetting transportation and suggested a number of legislative remedies for the inequalities existing in our laws. Among these was a recommendation which sought again to make transport price competition more effective by extending to all carriers, including railroads, those exemptions from regulation now accorded by law to motortrucks when hauling agricultural products and to barge lines when hauling bulk commodities.

Extensive hearings on both sides of the Capitol followed the President's recommendations, both in the last Congress and in the present one. All transportation and affected interests were heard, in some cases repeatedly, or had abundant opportunity to be heard.

After the tragic assassination of last November, President Johnson entered the picture with a letter urging congressional action to equalize the impact of Federal regulation among competing carriers. The President recognized, as has virtually every other impartial spokesman in this field, that the serious inequalities in our regulatory laws and procedures have their greatest impact on our common carriers, and that our equalizing goal becomes increasingly urgent with each passing year.

Simple justice, as well as practical economies, demands we follow through on this task. However, it seems to me that the greatest threat to resilient and expanding common carriers lies not in the competition of other public carriers, but in the skyrocketing growth in this generation of do-it-yourself transportation. Obviously, such private transportation serves many useful purposes and can be expected to remain a large factor in transportation and distribution. However, we in Government must make certain that "own-account transport" does not wax fat on defects in law which penalize and hold back common carriers.

When we weigh the question of whether Government should equalize regulatory treatment of the different forms of transportation either by extending regulation to those carriers now exempt or by reducing it on those carriers already regulated, we should keep in mind the Nation's boom in own-account transportation. Indeed, if regulatory equality is to be our primary aim (and I think we should strive for equality in all Government policies for both the sake of fairness and to avoid waste and distortion in relative rates of carrier development), then we are compelled to move in the direction of ending unnecessary restriction simply because, under tight regulation, no common carrier can ever hope to meet freewheeling own-account transport on anything approaching equal terms. In other words, even if all for-hire carriers were regulated alike, this could prove extremely detrimental if a major result were further inducements to shippers to turn to owning and operating their own vehicles to haul their own products.

Since the economics of own-account transport are judged in terms of direct costs to vehicle buyers and users, it is also crucial that for-hire carriers be allowed so far as practicable to shift more rapidly to charging on the basis of their own costs, and to set rates as low as possible in order to prevent further traffic slippage to shipper-owned vehicles.

I have been astounded how few people who come before our committee seem to realize these elemental facts of economic life. Indeed, I sometimes wonder if there is not some weird malady that makes an otherwise conscientious and devoted public servant somehow acquire a different point of view when he joins a regulatory agency, and ofttimes causes him to see only the virtues of regulation instead of the virtues of competition. Proper regulation is synonymous with preserving a strong transportation system.

The point in all this, I think, is that perhaps all of us—not only the regulators but legislators and you transportation people and users alike—are equally guilty of looking at the regulatory problem in too narrow, too shortsighted terms. Perhaps, we should widen and extend our vision to look at transportation in its truly functional terms of serving people and give it the freedom to change and grow to meet the great diversity of national needs in this era of almost incredible change and challenge. Perhaps we all need something like England reached for when it sought to join the European Common Market—which Prime Minister Macmillan characterized as "taking a cold shower."

We should not change for change's sake any more than we should regulate for regulation's sake. Yet, I cannot escape the feeling that transportation as a whole desperately needs another fresh breath of air and a new look at itself, its ways of applying and interpreting laws, and its problems and potentials.

It was in this climate and with this background that the House Committee on Interstate and Foreign Commerce on February 18 reported out H.R. 9903. I will not go extensively into the provisions of this bill, for you in transportation know fairly well the details. But I would like to discuss generally the major problem areas in which we sought to come up with affirmative, constructive policies.

First of all, we faced up to the problem represented by the exemption from regulation allowed motor trucks but no other carriers in hauling agricultural commodities, by deciding to achieve equality of treatment by completely deregulating all hauling of agricultural commodities. As a practical matter, it seemed to the committee that any attempt to extend regulation to motor carriers in this field was doomed to failure since farm and other groups had indicated they would resist this.

As for the problem posed by the exemption given bargelines, but no other carrier when hauling commodities in bulk, it seemed to us that deregulation in this area was too drastic a step to contemplate—that neither the carriers nor the Nation generally was prepared to take such a step with all the competitive jolts and marketing rearrangements this might entail. So, we decided the more practical present course lay in tightening up the exemption somewhat by subjecting bargelines to regulation if they hauled more than one dry bulk commodity in a barge tow.

As for the commodities clause which prevents railroads but no other carrier from hauling goods they own, we suggested outright repeal since virtually everyone seemed to be in agreement that it was desirable to end this inequity toward rail carriers.

Finally, we recommended a number of changes in law to tighten up rules and enforcement procedures against illegal truck operations, again with the overall aim of strengthening the common carrier truck services on which all shippers rely.

Let me repeat once again that the House Commerce Committee members felt that these were the longest steps the Nation was prepared to take toward regulatory equality and to reduce the trend toward excessive private carriage so-called "gray area" and illegal carriage, taking $12 to $15 billion annually from our common carriage system. We felt that H.R. 9903 was a sound approach as well as a constructive compromise package which should win general backing, with strong likelihood of early congressional passage. Reflecting this was a virtual unanimity among the 33 committee members in reporting the bill to the House.

This action also had the approval of our farm organizations, the railroads, the motor carriers, freight forwarders, the airlines, certain grain companies, substantial shipper groups, the Department of Commerce, with the exception of the treatment of grain—the Interstate Commerce Commission, other Government agencies, and the President of the United States. We thought we had done a fairly good job.

What happened since February 18 is somewhat discouraging. In place of unanimity, a weird fragmentation process set in as disaffected groups, each with perhaps a single objection to the bill, combined into an alliance against change. They named their group the "Antimonopoly Transportation Conference." In reality, the elaborate title covered disparate interests, each fearful of loss in a particular area built up around the inequities and restraints in present law.

Some bargelines complained against the tightened exemption from regulation.

Grain trading interests saw a threat to marketing procedures and profits in the transportation deregulation of agricultural commodities.

The coal industry opposed repeal of the commodities clause.

Then several port interests got into the act because of unfounded fears of a reshuffling of the direction of export traffic.

Even an ICC staff memo was circulated on the subject.

When I went before the Rules Committee asking for clearance for House consideration of the bill, I was requested to accept certain changes which I thought to be appropriate and would meet some of the fears and objections raised by certain Members, but still maintain the concept of the bill.

As an example, in repealing the commodities clause, I agreed to accept an amendment that would continue prohibition against railroads transporting their own coal, resulting in the treatment of this commodity as we provided in the transportation of grain.

I agreed to an amendment that would exempt two bulk commodities a bargeline could haul in a single tow and continue to be exempt from regulation.

Then to add greater stability and certainty in grain marketing, I agreed to an amendment that would require all carriers to file grain rates with the Interstate Commerce Commission 15 days prior to a movement instead of 30 days afterward.

I further agreed to an amendment to completely satisfy the Household Movers Conference, thus meeting their objection and settling the differences with them and the State regulatory agencies.

Any further concessions, except possibly on strengthening discriminatory practices or in the field of increased maximum rates, would, in my opinion, be contrary to the public interest.

There is one source of opposition that we cannot pacify further, however. Nor do I believe it is in the public interest to try to do so. These are the grain market speculators who trade on the difference between the published railroad rates for moving agricultural products and the actual final rates they pay to unregulated or gypsy transport, in order to increase their profit margins. These grain speculators are even taking all taxpayers for a ride since many of the affected grain movements are of U.S.-supported products. They are both directly opposing H.R. 9903 and stirring up others' opposition out across the country. If people would wake up and realize they are being used by these self-seeking interests, there is no question in my mind that this bill would pass.

But on April 9, the House Rules Committee gave these interests temporary comfort by postponing action on clearing the bill for a floor vote.

Gentlemen, this was not the last act in the drama.

I am convinced that the approach embodied in H.R. 9903 is the only sound and possible one to take at this time, and I pledge my most earnest and wholehearted efforts to see it become law. There is no reason why it should not; there is good reason why it should, for we have agreed to the several changes to meet what appear to be the just needs and fears of opponents, without doing violence to the objective sought.

You in the transportation industry, both users and carriers, can and should be helpful in bringing about the passage of this most worthy and desirous legislation. I repeat, it represents a sound approach. I intend to bring about its approval in this Congress if I can appropriately. If not, and the Lord wills that I return in the next Congress, I will continue my efforts toward our final goal.

## SHAKESPEARE'S BIRTHDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. FRASER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FRASER. Mr. Speaker, today is the 400th anniversary of the birthday of William Shakespeare.

This is to be acclaimed as an event of great importance not only for the high standards of expression he set for us all but for the value of communication between people of all nations.

Shakespeare's plays have been translated into many languages making his command of human nature and artistic expression available nearly everywhere on earth.

He is to be honored as one of the best spokesmen for the English speaking people to all people, despite nationality or cultural background. Perhaps it is through the communications of cultural excellence such as this that we will eventually establish a common bond among men where the true sharing of the suffering and delight common to all human beings rises over political and economic differences.

## BUSINESS PEACE CORPS SPARKED BY HARTKE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. BRADEMAS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, American businessmen will have a unique opportunity to make a direct contribution to the development of the less-developed countries through a new Executive Service Corps being established with the help of the U.S. Government. The idea behind this proposal is that the key problem in many less-developed countries is the lack of trained manpower, especially managerial and entrepreneurial personnel, and that American management can make a distinct contribution to development by helping remedy this deficiency.

I think this is one of the best ideas for contributing to the development of less-developed countries which has been devised. I am particularly pleased that the senior Senator from my own State of Indiana has been responsible for initiating this new plan, and for securing action by the U.S. Government. During a trip to Africa in 1962, Senator VANCE HARTKE discovered that the development of Africa was being held back by the lack of trained manpower. It seemed to him that this was a golden opportunity for American business, in cooperation with the U.S. Government, to render technical assistance of a kind which American businessmen are peculiarly well-qualified to give. On his return, Senator HARTKE urged the Department of State to look into the matter. This resulted in a study which was concluded in the fall of 1963. The Agency for International Development then convened a conference of leading businessmen and business organizations to discuss the project. As a result of the conference, David Rockefeller, president of the Chase Manhattan Bank, and Sol Linowitz, head of the Xerox Corp., assumed cochairmanship of a committee to establish the Executive Service Corps as a private, American business enterprise backed up by the U.S. Government.

Other members of the organizing committee are: Mr. C. D. Jackson, vice president, Time, Inc.; Mr. John H. Johnson, president, Johnson Publications; Mr. D. A. Kimball, chairman, Aerojet-General; Mr. William S. Paley, chairman, Columbia Broadcasting System; and Mr. Ray Eppert, president, Burroughs Co.

The basic idea of this program is simple and straightforward. One of the greatest needs in the developing countries is clearly the kind of technical and managerial and entrepreneurial know-how which is essential to the growth of private enterprise. Most of these countries are seriously lacking in this kind of know-how. At the same time, there are in the United States many men of considerable business experience who are either retired or in a position to take some time off and who are more than willing to make their know-how available to help the United States and the free world advance along private enterprise lines.

As currently visualized the Executive Service Corps would seek to make qualified U.S. business personnel available to meet four major needs in developing countries.

First. To provide consultant or actual operating services to medium-sized local private business firms in the developing countries which cannot get needed high-level manpower locally and which cannot afford to employ Americans in any normal commercial way because of the high costs in hard currencies which are normally involved. Such services might include, for example, a production man, or a marketing man, or a financial man, or even a general manager for a local manufacturing, distribution, or similar enterprise.

Second. To provide similar services to smaller local firms on a multiple basis by working as staff members of development banks, development centers, productivity centers, and other similar organizations designed to serve local private enterprise.

Third. To work with local individuals or groups of entrepreneurs who see a good opportunity to develop a new local industry or other commercial facility and have some of or all of the necessary capital, but lack the know-how to develop a full financial and technical plan for the new enterprise and to get the new operation financed and launched.

Fourth. In some cases to provide independent high-level teams which would work out of local development banks or other appropriate institutions in developing countries to make broad surveys of industrial development needs and to identify specific situations in which more specialized U.S. managerial or technical talents might usefully be applied.

The major distinguishing features of the proposed new operation as compared with existing AID technical assistance and Peace Corps programs will be that the personnel will be available to help private enterprises directly and the personnel will be available to do actual operating jobs as distinguished from purely advisory to governments. A third major difference will be that the members of the corps will come as individual volunteers not as U.S. Government representatives in any sense.

An effective Executive Service Corps can fill a major gap in the coverage of existing U.S. public and private activities in relation to the developing countries and can thereby make a highly significant contribution to the U.S. national interest in assisting these countries to develop as orderly free societies.

Mr. Speaker, I ask unanimous consent to insert at this point in the Record an article from the April 4, 1964, New York Times, "Industry Forming a Group Like the Peace Corps":

### Industry Forming a Group Like the Peace Corps: Program Urged by Johnson—Businessmen Will Go to Needy Lands as Advisers

(By McCandlish Phillips)

An oversea business corps modeled on the Peace Corps is being formed by industry at the suggestion of the Johnson administration.

The Executive Service Corps expects to be in operation by late summer. Its central office will probably be in New York.

The corps would draw mostly on newly retired executives who are not ready to be put out to hammock. They would go overseas on special tasks for periods ranging from 3 months to 2 years, or longer.

Volunteers would be assigned to semideveloped countries to assist in the expansion of industries owned there. That would include most of South America and the industrial awakening regions of Africa and Asia.

The program will not include European or other fully developed economies, nor would it take in primitive areas.

An organizing committee has been named, headed by David Rockefeller, president of the Chase Manhattan Bank, and Sol Linowitz, chairman of the Xerox Corp.

The purpose of the Executive Service Corps will be to serve the broad national objective of accelerating the development of other countries along private enterprise lines, which the administration believes will be the quickest, and best for them as well as for the United States.

At the same time, it will provide a challenging outlet for useful service to men who have been put on the retirement lists of American industry. Many men are being retired at the age of 62 or even 60, although they consider themselves at the height of their power.

Mr. Linowitz said that management and technical men would be made available to oversea industries as advisers, supervisors or on-the-job managers, according to local need.

Pay will not be on the scale to which retired businessmen had been accustomed, but most volunteers will presumably have savings and pension incomes.

They would be paid an adequate cost-of-living wage by the concerns for which they worked, in addition to travel and insurance cost. The corps might provide a small additional stipend.

The corps would be a private, nongovernmental corporation. To get it off the ground, the Government stands ready to provide initial funds until, hopefully, the business community underwrites the whole enterprise.

In his foreign-aid message to Congress on March 19, President Johnson declared: "We must do more to utilize private initiative in the United States—and in the developing countries—to promote economic development abroad."

He said then that the Administration was "encouraging the establishment of an Executive Service Corps."

The primary responsibility for getting the organization going has rested with the Agency for International Development (AID), the semiautonomous unit headed by David E. Bell that runs the foreign-aid program within the State Department.

The agency put the organizing committee together. Besides Mr. Rockefeller and Mr. Linowitz, its members are: C. D. Jackson, vice president of Time, Inc.; William S. Paley, chairman of the Columbia Broadcasting System; Daniel A. Kimball, president of Aerojet-General and former Secretary of the Navy; John H. Johnson, president of the Johnson Publishing Co. of Chicago, and Ray Eppert, president of the Burroughs Corp.

An official of the development agency said: "We did the groundwork, and when we asked the private community to take over, they very quickly did and we're now standing in the wings, ready with a little money when they ask for it."

#### TO SEND 1,000 ABROAD

No budget has been drawn. The aim is to get about 1,000 men overseas in the first 30 months, probably at a cost of several million dollars, of which the Government will provide the greater part.

The Development Agency has assigned Thomas O. Thomas, a 37-year-old member of the corps' planning staff, to New York to act as liaison between the Government and the organizing committee.

Mr. Thomas said the idea for the corps "has so many parents it is hard to pin its origins down," but he, and others in the project, credited Senator Vance Hartke, Democrat of Indiana, with having urged the initial study that showed the concept to be potentially workable.

## THE RAYBURN OFFICE BUILDING FOR MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Beckworth] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. BECKWORTH. Mr. Speaker, the act originating the Rayburn Office Building for the Members of the House of Representatives was approved April 22, 1955. I was not a Member of Congress in 1955 and I was not a Member of Congress in 1956. Public Law 24, 84th Congress, H.R. 4903, approved April 22, 1955—69 statute 41–42. Additional House Office Building Act of 1955, $5 million appropriated. Passed House, March 18, 1955, no rollcall vote. Public Law 624, 84th Congress, H.R. 11473, approved June 27, 1956—70 statute 366. Legislative Appropriation Act, 1957, $10 million appropriated. Passed House, May 29, 1956, no rollcall vote. I am for economy in and out of Government. I have never tried to justify waste and extravagance. We have five children.

#### FOREIGN AID

On Wednesday March 25, Gen. Maxwell D. Taylor, the present Chairman of the Joint Chiefs of Staff, appeared before the House Foreign Affairs Committee of which I am a member. He emphasized that in his opinion there currently is being given by the Congress not enough military assistance in the foreign aid program. I quote a portion of his statement:

> As the Joint Chiefs have just completed our exhaustive annual review of requirements, the shortcomings of the current $1 billion MAP program are fresh in my mind. A continuation of military aid at this level indefinitely will offer us but three options: A gradual reduction of indigenous military capability in strategically important areas of the free world; a buildup of U.S. forces at a far greater cost to compensate for the loss in indigenous strength; or, the acceptance of inadequate military strength to support our national interests in some quarters of the world. I can assure you that there are no reserves in the pipeline or elsewhere which can make any substantial contribution to relieving the requirement for the appropriation of substantial new funds by the Congress. I would say that the experience of the current year has demonstrated the inadequacy of the reduced level.
>
> Such comments as these convince me that the fiscal year 1964 program has been inadequate to permit the development of friendly forces which are required in our own national interest. With this experience in mind, the 1965 program of $1 billion can only be regarded as a holding operation of borderline adequacy.
>
> In closing, I wish to state that from my viewpoint as Chairman of the Joint Chiefs of Staff, the sharply reduced fiscal year 1964 MAP program was a significant exception to the strong support the Congress has ordinarily given to our national defense programs. In my opinion, a further reduction of the fiscal year 1965 program below $1 billion would be a tragic emasculation of a program vital to our national security interests. The fiscal year 1965 program before you has the strongest support of the Joint Chiefs of Staff, and on their behalf, I urge the authorization and appropriation of the full program submission.

I wish to say I have confidence in Gen. Maxwell D. Taylor and I have tried to help him and our Secretary of Defense get the amount of military assistance which they have felt is the minimum for the security of our country.

I quote the pertinent portion of a letter which was written to me January 22, 1964, by Col. Clyde M. Dillender, Jr., of the Department of Defense:

> All in all, the foreign assistance programs of the United States are important to our national security and should be continued.
>
> To replace this vital asset for collective security with comparable and similarly deployed American troops would involve a totally unacceptable drain on our manpower and monetary resources. It would send the defense budget soaring and add to the taxpayer's burden an amount many times the cost of military assistance which makes possible the accomplishment of our own forward strategy with minimum expenditure in men and money. Even more significantly, it would require the drafting of many more young men, interrupting their education, disrupting family life and depriving the economy of the fresh manpower essential to vigorous growth.

On April 8, 1963, Hon. Robert McNamara, Secretary of Defense, appeared before the Foreign Affairs Committee of which I am a member. I enclose a portion of the record of the hearing.

> Mr. BECKWORTH. Now, with reference to that foreign aid which is not known as military aid, how would you compare it along this line or what statement would you make about it?
>
> Secretary McNAMARA. Mr. BECKWORTH, I can make the statement I did with respect to other portions of the defense budget because I have reviewed every dollar of the $53½ billion budget in great detail.
>
> I have not reviewed every dollar of the total foreign aid program in equal detail and therefore I cannot properly assess for you the relative importance of a dollar of military assistance versus a dollar of economic assistance. They are both required in my mind.
>
> Mr. BECKWORTH. Would you say the economic aid that you know about is less important, equally as important, or more important than that military assistance that you are talking about?
>
> Secretary McNAMARA. I would make the same statement with respect to the economic aid that I did with respect to military assistance. I believe we are providing economic aid in such a way that it directly relates to our national security. I don't believe that we as a nation with a gross national product of over $550 billion need concern ourselves with our ability to finance actions that we think are directly related to our national security.
>
> I realize that this is not directly responsive to your question, but I am not in a position to respond by comparing a dollar of economic aid with a dollar of military aid.

THE WHITE HOUSE,
*Washington, April 20, 1964.*

Hon. LINDLEY BECKWORTH,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN: For the President, may I acknowledge your letter of April 18 expressing your support of efforts to obtain a full workload for the Ordnance Aerophysics Laboratory at Daingerfield.

We are encouraged by the favorable response from NASA, and you may be assured of our interest in exploring every possibility for the continued use of this facility.

Sincerely yours,
LAWRENCE F. O'BRIEN,
*Special Assistant to the President.*

## SOVIET PERSECUTION OF JEWS CONDEMNED

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MULTER. Mr. Speaker, I have today introduced a resolution, on which I hope the Committee on Foreign Affairs will take immediate action. In the past 24 months it has become abundantly clear that the Soviet Government has singled out its Jewish citizens for persecution. The promises of egalitarianism proclaimed at the time of the October revolution and written into the Soviet constitution were first ignored by the late unlamented dictator, Joseph Stalin. His particular brand of anti-Semitism culminated in the infamous "doctors plot" shortly before his death.

While the excesses of Stalin were condemned by Nikita Khrushchev at the 20th Communist Party Congress in 1956, we now see that a new brand of anti-Semitism has forced its way through the Party line and expressed itself in the persecution of Jewish citizens of the Soviet Union: It takes the form of singling them out for extreme punishment for alleged economic crimes, of confiscating synagogues, of closing Jewish cemeteries, of arresting rabbis and curtailing religious observances, of discriminating against Jews in cultural activities and higher education and of the prohibition against the baking of matzoth during the Passover holiday—and of preventing Jews from living by the traditions of their faith.

It is clear that the Soviet Government and the Communist Party have fostered and encouraged these acts. The Congress should adopt this resolution condemning religious persecution by the Soviet Union and should call upon the Soviet Government, in the name of decency and humanity, to cease executing persons for alleged economic offenses and to permit the free exercise of religion by all within its borders.

## RELIGION AND THE CIVIL RIGHTS BILL

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. LESINSKI] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. LESINSKI. Mr. Speaker, just the racial aspects of the civil rights bill, now pending in the Senate, have all but obscured its religious significance.

And yet, if the bill becomes law, its effects upon an individual because of his religious affiliation may be dramatic.

Opponents of the measure contend the bill carries authority to force employers to hire according to a person's religion.

Its supporters deny this. They say the very essence of the bill is to outlaw that practice.

Which opinions, as can be plainly seen, are about as diametrically opposed as opinions can be.

What is the truth?

It is not easy to find.

Consider parts of two sections of the bill, pertinent parts which seem to bear on this facet of the argument. They are sections 701 and 704.

The first, section 701, reads:

> The Congress hereby declares that the opportunity for employment without discrimination of the types described in section 704 * * * is a right of all persons.

Section 704 reads:

> It shall be an unlawful employment practice to hire or to discharge any individual * * * with respect to his * * * religion.

On the face of it, that seems clear enough. The bill seems to say it shall be an unlawful employment practice to discriminate against a person because of his religion.

Unfortunately, the key word—discriminate—is nowhere defined in the bill. It just is not there. So, a person is left with his own interpretation as to what is, or is not, discrimination.

Were it otherwise, were this word defined, perhaps most of the argument could be resolved.

But it is not so, so we must go with what we have.

Not to discriminate, it would seem to a reasonable person, means fair, equal, and proportionate treatment to all.

To be unfair, to treat people unequally, not to treat them proportionately, it seems, would be to discriminate.

Few Americans, of whatever persuasion would question that definition of the word.

Given that interpretation, then, how shall it be enforced?

How, for instance, does an employer make certain he is not guilty of discrimination? How does he graduate the religious affiliation of his employees so that each is treated fairly, equally, proportionately.

Does he take some standard statistical table and determine what percentage of the American people are Baptists, what percentage are Catholics, what percentage are Seventh-day Adventists? And then hire accordingly?

The bill does not help him. It just says he is not to discriminate.

Consider it from another point of view.

Most employers have little knowledge of the religion professed by the individuals they employ. American employers do not care what is a man's religion, or few do.

With that in mind, assume an employer is told by a Federal inspector he is guilty of discrimination because he has a disproportionate share of, say, Methodists on his payroll.

How shall he go about rectifying the situation?

The bill does not answer that question, either. It says only that the employer is not to discriminate.

Must he, forthwith, discharge a given number of his Methodist employees to enroll those of some other religion, whatever religion the inspector finds underemployed by his firm?

Or will he be given a period of grace? Will he be made to know he is guilty of discrimination but that the Government in its "reasonableness," will forbear immediate enforcement of the law and let the process of attrition work? That hereafter he is not to hire Methodists but hire instead, as openings occur, those of other specified religions, until religious balance has been achieved?

Is that how it is to be?

Suppose, during this grace period, an exceptional workman—the sort the employer needs—makes application for employment. And suppose he professes Methodism. Is that man to be denied the job he would, otherwise, fill?

Those who oppose the civil rights bill say, under its provisions, that is precisely what would happen.

Supporters of the measure contend such hypothetical questions are propounded only to make the bill appear ridiculous.

That may be. But an oblique denial does not answer the question: Does the bill, or does it not, carry that sort of power? That is the question.

The preponderance of evidence seems to indicate it does. What else can nondiscrimination mean unless it be equal and proportionate treatment? Are its supporters prepared to say it does not mean these things? That, since the bill will be "reasonably" enforced, we should have no concern for its power.

If this is so, if the bill is to be "reasonably" enforced—as opposed to strictly enforced—we face a situation even more acute than the bill's detractors claim.

For, then, we would have a law which would permit an agent of the Federal Government to render, on his own, decisions as to the law's enforcement as well as its meaning. And that is tyranny.

Under that circumstance, we would have abrogated the rule by law and would have substituted the rule by man.

Rule by man was the sort of government the Germans knew under Hitler, the sort the Russians know, today, under Khrushchev.

Whatever the good intentions of the sponsors of the civil rights bill, it seems the burden is on them to clarify these perplexing frightening questions.

## THE LATE HONORABLE THOMAS J. O'BRIEN

The SPEAKER. The Chair recognizes the gentleman from Illinois [Mr. Libonati].

Mr. LIBONATI. Mr. Speaker, in evaluating the political career of Congressman Thomas O'Brien, who for 28 years served as a Member of this body from Illinois, one must realize the fact that he dedicated his political career to serving his constituency, many of whom were steeped in poverty and naturally looked to labor and welfare organizations for their social progress and economic protection. The splendid racial traits of his paternal Irish ancestry dominated his character, and he held to the hard, stern rules of loyalty to party and organization. His whole life was devoted to the development of its political strength and labor's unity of purpose. Nothing would upset him more, as dean of the Illinois Democratic delegation, if even one member disagreed with the party's stand on a question, and voted with the opposition.

He believed that loyalty to party and leadership was the only course for him, and he followed it. This was the one characteristic that remained predominant throughout his whole career; he could no more abandon it than to repudiate the tenets of the Roman Catholic Church. He resented anyone who unsuspectingly inquired of him about his attitude on a certain piece of legislation favored by the Democratic administration. In anger he would reply "mind your own business—who said I was against it? Am I not an administration man—get out."

Although physically wasting away from the middle of last term, hospitalized for long periods and returning for a short time in this term, his legislative duties were always uppermost in his mind—not even thoughts of regaining his health were as important to him. Although physically hardly able to walk without support this spring on his return to the House, his clear and alert mind, flashed through the haze of a prolonged illness, and in appearance he seemed vigorous and healthy.

Upon his return to the hospital, and even though complications were progressive, he showed the acuteness of his mental capacity, but as he said in his jocular homely way—"I'm living on borrowed time—old age is getting me." This is so true he succumbed just to Anno Domini.

Mr. O'Brien was liked and respected by his colleagues on both sides throughout the years of his service.

He was strong and wise in party delegation councils and was practical in his support of administration policy.

Mr. O'Brien was forceful in his appeal for action. He had the ability to handle and direct men.

Throughout his long career, Mr. O'Brien could be relied upon to do his duty, to serve his constituency, and to support labor.

He always did what he thought was best, and whatever task he undertook, he did well, and whatever he accomplished for others was appreciated. He was rewarded with a strong feeling of loyalty on the part of the recipient.

He died happy in the thought that from humble beginnings he had left the memory of a loved personality whose service added to the dignity and power of his State and his Nation's prestige for public good.

Mr. O'Brien was a natural leader and had something warm and appealing about him that attracted Congressmen to him, and he instilled in each a sense of confidence—this acceptance made him a leader. Mr. O'Brien never violated his word or promise to anybody. He was sensitive sometimes to newspaper criticism, but never displayed any anger or temper toward his press critics, although in several rare instances he was outspoken and used forceful language in outbursts within the political group.

He pursued a quiet and steady life of activity, accomplishing many things with valuable results to his city and State. Unfortunately, it was only in recent years that his works have come to public notice. But, he did not expect or desire publicity—he was satisfied with the love and admiration of his fellow citizens and colleagues.

Once you crossed Mr. O'Brien, you learned to regret it—he disliked a double dealer. He rarely condemned another, but he never forgave a deep hurt either. He was a rugged individual who was firm, spoke and thought straight through to you, and the sincerity of his words were from his heart. No political trickery—his answer was "Yes" or "No." The great leader of Illinois was a real man in every sense of the word—and his word was law to the leaders of his party at home. Mayor Richard Daley and deceased Democratic leader, Patrick Nash, were his closest friends.

Mr. O'Brien might not be so well known to the Nation, but he certainly held the esteem and admiration of the business, professional, and political leaders of his State interested in national affairs.

By his silence, you would know him—he rarely, if ever, presented himself before his colleagues for a speech, for he was a man of action and wasted no time in voicing empty phrases, or indulging in a show bordering on sensationalism. He was no exhibitionist.

He lived simply with his darling wife, Nettie. They were an ideal couple. His brother-in-law, John, and his secretary, Mr. Miley, were ever at his side. My wife Jeannette, my son Michael, and I extend our heartfelt condolences to Mrs. O'Brien and her brother John. Now that he is gone the Illinois delegation and the Congress do not seem the same.

The people of the Nation, the State of Illinois, and city of Chicago, have lost a distinguished citizen and leader whose whole life was dedicated to the highest service to his fellow man.

I have written these few stanzas as a tribute to his memory:

The sky's cloak many secrets hold
Nor heaven's mansions God unfolds
From earth's mortal eyes.
E'en to souls that cloud its lofty spires.

Its purples, grays, and deep blues
Or slender slivers of tinted golden light
Fading with darkening shadows seal the moon at night
Bringing evening sadness as fleeting stars blend with darkest hues.

Beyond this firmament his soul has passed today
With God's blessing for which many pray
Seeking its sacred way to Kingdom come,
To reap the glory for a life of service done.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from Illinois.

Mr. ARENDS. Mr. Speaker, I ask unanimous consent that my colleague, the distinguished minority leader, the gentleman from Indiana [Mr. Halleck], have permission to extend his remarks at this point in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HALLECK. Mr. Speaker, we have lost a fine colleague in the death of Thomas J. O'Brien, whom I always admired.

He was a good man in every sense of the word, whose friends and supporters would, I am sure, have elected him to any public office he might have sought within their jurisdiction.

Certainly his long public career, both here in the Congress and back in his home area, bespeaks the affection and confidence of his constituents.

One of Tom O'Brien's great qualities was his capacity for loyalty to the cause he served. Let it be said of him that he kept the faith through the years to the party he represented, to his district, and to his State.

While it was not my privilege to work with him on the great Committee on Ways and Means, I can appreciate that the ability he brought to his assignment as an accountant enabled him to make significant contributions to the work of that committee.

Mr. Speaker, a long and useful career as a pubic servant has ended in the passing of Tom O'Brien, but I trust those dear ones he leaves behind will be consoled in their loss by the knowledge that he gave so much of himself to help make this world a better place for all of us.

Mr. ARENDS. Mr. Speaker, after a prolonged illness, God in His wisdom has taken our beloved friend, Tom O'Brien, to his great reward. In our selfishness, not wanting to be denied his presence with us, we mourn his passing. We should not mourn for him. He would tell us, in the noble, kindly, courageous language of one of Dicken's characters: "It is a far, far better rest that I go to, than I have ever known."

Those of us who attended the funeral services held for him in his home city of Chicago were deeply moved by the love and respect with which he was held by the people of Illinois. It may be said that he devoted his entire life to the public service of Illinois. He was a State assemblyman and a State bank examiner. He also served as sheriff of Cook County.

That he served in the Congress for 28 years bespeaks the quality of the man and the high quality of his service to the people he represented in the great city of Chicago. Tom O'Brien and I differed on many legislative questions that came before us. He and I were political opponents. But our political differences and our differences on legislative issues never at any time or in any way disrupted our long-continuing friendship. He respected my views, and I respected his.

With the passing of Tom O'Brien I have lost a good friend, and we have lost an able legislator. We of Illinois have lost a distinguished public servant. He will be greatly missed. He will be long remembered.

To his fine wife and family, I extend my sincere sympathy.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Speaker, members of the Illinois delegation in the Congress, both Democrats and Republicans, join in this memorial this afternoon to Thomas J. O'Brien with a deep sense of sadness and a sincerity that bespeak their love and admiration of a great man.

The sense of affection we Illinois Members had for Tom O'Brien is shared by the entire membership of the House of Representatives. In my own 20 years of service in this body I have never known a man who was more universally respected.

Tom O'Brien's judgment and political sagacity was outstanding and he had foresight in the outcome of political matters which was not short of amazing. His perceptiveness and ability to sense situations gave him many successes in his legislative career. Ever mindful of the welfare of the State and Nation he served, he was vigorous and wise in support of progressive causes.

He was the source of much wisdom and helpful direction to hundreds of younger Members of this body through his 28 years of service here. Only 19 Members of the present membership of the House have served longer than the dean of the Illinois delegation.

He was a kindly man. He was a considerate man. He was a good man. These qualities were evidenced in all his actions. These qualities were quickly recognized by all who knew him. In public life, in private life, they were readily discernible.

I suppose that of his many fine qualities the one which won for him the everlasting respect of all his colleagues in the House of Representatives was that of the reliance which could be put upon his word. It could be truthfully said of Thomas J. O'Brien:

> His words are bonds:
> His oaths are oracles.

His fellow Members on both sides of the aisle, from every section of this great country, will miss him sorely and his place in our hearts will leave an aching void.

To his devoted wife, Nettie, brave and most gracious of ladies, Mrs. Price and I extend our most sincere sympathy.

Mr. GARY. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from Virginia.

Mr. GARY. Mr. Speaker, I wish to join my colleagues in tribute to one of the finest couples that it has ever been my privilege to know. Tom O'Brien was a great legislator. Few Members of this House ever dared to challenge him on a legislative question and those who did always found themselves outvoted. He was a Christian gentleman who entertained a loyal devotion to his friends, his city, his party, his country, and his God.

It was my privilege to serve with Tom O'Brien on the Appropriations Committee, of which he was a member before he was assigned to Ways and Means. Although he seldom made a speech, he was always effective in the subcommittee, the full committee, and on the floor of the House.

Tom was blessed with a long and happy married life. His wife was a charming companion. They were an ideal couple whose tender devotion for one another was beautiful to behold as they journeyed down the pathway of life together.

With the passing of Tom O'Brien, the city of Chicago has lost an able Representative, the Democratic Party has lost a valiant warrior, the United States of America has lost a patriotic and dedicated public servant and we have lost a colleague whose friendship I cherished. I extend my heartfelt sympathy to Mrs. O'Brien and with her and the host of his friends in the House mourn his loss to the Nation.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the distinguished Speaker of the House of Representatives.

Mr. McCORMACK. Mr. Speaker, this Chamber and, indeed, the whole country, which has suffered such severe bereavements in the year of tragedy, was struck one of the severest blows of all with the news yesterday of the passing of our respected and beloved colleague, Thomas J. O'Brien, of Chicago. I sometimes wonder when an American, a legislator, a friend, like Tom O'Brien passes from the scene, whether the hardest hit are those, like the Members of this House, who have been so close to him and worked with him so collaboratively, or whether the greater sufferer is the field of Federal legislation, or the people of his district, or his State, or our country. For me the fact that I shall never again counsel with Tom O'Brien, that I shall never again consult him on politics in Chicago, in Illinois, and in the country, and that this friend, this counselor, this guide, is gone from us forever, is as hard to adjust myself to as any tragedy of the last decade.

If I speak of the death of Representative O'Brien from this personal sense of loss I know that in this House I shall be understood, for I was not alone in my respect and affection for him. For me this great and good man represented the integrity, the wisdom, the understanding of his fellow man, that is so indispensable to genuine success in the politics of our country. The influence of Tom O'Brien on the great events of his time, events which have shaped the history of the United States and the world in the 28 years that he served with us, was effective without being spectacular. In a thousand ways this dean of the Democrats of Illinois was the persuasive voice of sound judgment and good sense that played an important role in final decisions for the good of our country and the free world. For the great leaders of this House and for me in hours of great crisis, to have Tom O'Brien sit in when decisions were to be made, to have him at one's elbow, was a source of comfort and of reassurance, and a bulwark to the massive responsibilities that all of us frequently have to shoulder.

I remember Tom O'Brien well when he was first elected to the 73d Congress and recognized at once an ally and a friend, a legislator who would serve his country indefatigably and diligently and who would always hold close his sense of responsibility to the people of his district. For this loyalty to one's own, this recognition of regard for those who elect one to office, this feeling of mutuality, is the heart of American politics, because loyalty is not divisible and those who are loyal to their district cannot then be disloyal to their country. A man who is honest is honest not merely in some of his dealings but in all of them because that is or is not one's nature. And Tom O'Brien was the soul of political, intellectual, and personal honesty.

It happened, as we all know, that his specialized background in the field of banking and finance, and his intimate and technical knowledge of accounting, made him invaluable in what is perhaps the greatest function this House is called upon to perform, the fiduciary function. For Tom O'Brien understood banking and finance on the prodigious levels of the needs, the revenues, the problems of taxation, social security, and the expenditures of the Government of the United States. He knew it in terms of the crises that afflicted our country and the free world, and he knew it in terms of the critical and pressing situations of war. Again and again, it seemed to me, he risked his physical well-being, indeed, life itself, in his devotion to the needs of his position on the Committee on Ways and Means. Here his service, as we all know, was senior and outstanding, and his counsel translated itself into the vital areas of the history of the United States in his time. His skill and his talent were outstanding on the Joint Committee on Internal Revenue and Taxation. Many of us felt a personal sense of impending doom when Representative O'Brien, back in 1962, suffered a heart attack when he was a guest of President Kennedy and the President's aid, Lawrence F. O'Brien, aboard the Presidential yacht *Sequoia*. This was a desperate hour for us all. And all of us felt an immense relief when he overcame this attack and seemed well on the path to recovery. There were periods of course of diminished activity, but this great and seasoned legislator never lost his zest for life nor his enthusiasm for politics and his devotion to the public interest.

It is impossible under the agony of this moment to make an adequate assessment of the meaning of the life and service of a great American like Tom O'Brien. For more than half a century I have known no other interest than the interest of politics and the safety, the peace, and the prosperity of my country and for me the greatest contributors to that safety, that peace, that prosperity, are men of the depth and stature of Tom O'Brien. He was one of those statesmen, knowledgeable and informed in the problems of the budget and of appropriations, who could from that specialized vantage point see the total needs of the United States and gage its goals and its future accordingly. Yet with all his lofty understanding of the great vistas of modern statesmanship, he appreciated the problems of the grassroots and the home folks, and he knew, as only the choice few knew, how to make democracy work for all the people. I pray to Almighty God that He will send us in this Chamber another American who can with equal dedication and competence fill the place of this most distinguished citizen of Illinois, this statesman, this remarkable servant to the interests of the people.

Further, the beautiful life that he and Mrs. O'Brien led was an inspiration for all others to follow. Mrs. McCormack and I would meet them, while Congress was in session, at Mass each Sunday while Tom and Mrs. O'Brien and Mrs. McCormack and I were attending the Holy Sacrifice of the Mass at St. Patrick's Church. Their life was a beautiful one, traveling the journey of life together, sweethearts always, sweethearts before marriage and sweethearts during the blessed married life that they had. It was a good example for all others to follow.

From a personal angle, I have a great feeling of consolation that will always remain in my mind, because I visited our late friend, Tom O'Brien, at the hospital 2 days before he died, the Sunday before he died. I think I was the last one of his colleagues that served with him that visited him at the hospital prior to his death. At that time I realized the end was coming. While he was not unconscious he was not conscious; he was not aware of my presence in the hospital room. Mrs. O'Brien and her brother were there. It will always be a source of great consolation to me that I visited him 2 days prior to his death.

If we could all take the journey into the great beyond with the confidence in our minds that Tom O'Brien had of reaching that place in eternity that holds for all who lead a good life, we could approach the end of the journey of life with great happiness and satisfaction.

I extend to Mrs. O'Brien in her bereavement the profound sympathy of both Mrs. McCormack and myself.

Mr. LIBONATI. I thank the Speaker.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. O'Hara].

Mr. O'HARA of Illinois. Mr. Speaker, Tom O'Brien was my friend for over half a century. We walked together, as it were, from youth into the gathering years of age. It is hard to accept the truth of his physical passing. Tom O'Brien had always seemed so indestructible. Even on the last day of his life when the report reached us that he was sinking, I refused to believe that the danger in Tom O'Brien's case could be real. To the last I honestly believed he would beat off the ailment that had stricken him and that he would return to execute with faithfulness and vigor his duties in the House, on the Ways and Means Committee, and as our beloved dean in the 89th Congress.

Tom O'Brien had many virtues, but I would say the strongest was that of loyalty. Mr. Speaker, indeed a man may possess all the other virtues, and if he is without the virtue of loyalty he is a pauper in character. That was Tom O'Brien's credo. Tom O'Brien lived a life of loyalty in its finest expression—loyalty to his fine and noble wife, his life's companion, and to his family, loyalty to his State, his city, his Nation, his church, and his party, loyalty to his friends and the causes of labor and of humanity that he championed.

Mr. Speaker, Tom O'Brien never broke his word—never. He was well into the eighties and he never broke his word and he never forgave anyone who he believed had broken his word to him.

Mr. Speaker, Tom O'Brien will be missed in this House. He will be missed in Chicago. I remember him first as a young man in his late twenties. He had run as an independent for the House of Representatives of the General Assembly of the State of Illinois and had beaten Benjamin J. Mitchell, the regular Democratic incumbent. Those were rough days. There were conventions—no primary elections. Young O'Brien's victory was a real upset. He went down to Springfield and served for two terms. Then he called Ben Mitchell in—and this should be remembered—showing the tender heart that beat in Tom O'Brien's bosom—Tom called him in and said, "Now, Ben, you always liked it in Springfield and it sort of broke your heart when I beat you." Ben said, "Yes, Tom, it did." And Tom O'Brien said, "Well, Ben, I am going to quit and give you back your job." And he did. I know of no better story from true life to convey the sweet tenderness of Tom O'Brien. Ben Mitchell had his ups and his downs after that, but Tom O'Brien was in his corner all the way.

Ten years later he returned for three more terms in the State legislature in Illinois. But meanwhile something had happened that was unusual in Illinois. In 1912 we elected a Democratic State administration—the first that we had had in 20 years, and this, thanks to Teddy Roosevelt and his Bull Moose splitting of the Republican Party. A young man who had been a telegraph operator, a handsome, popular, and able young fellow, Jim Brady, was elected State auditor. The first thing Jim Brady did was to call in Tom O'Brien and make Tom O'Brien a bank examiner.

Tom O'Brien performed that function of bank examiner so well that he was retained by the two succeeding Republican State treasurers after the end of the administration of Brady.

I am thinking back a good many years now. Tom O'Brien and I were close friends for over half a century. We had many things in common—peculiar little things. I never eat butter, do not like gravy, keep away from dressings, and have been that way since childhood. Tom O'Brien never ate butter, did not like the sight of it, and with him, too, gravy and dressings were off the reservation.

That is a small thing but when one does not conform even to the usual habits of appetite I suppose the sense of affinity grows with another similar nonconformist and it tends to draw you closer and closer together.

Mr. Speaker, my heart is broken. But, Mr. Speaker, it will mend—as I think of Tom O'Brien and meditate on the years of our warm and close friendship as we traveled together from youth to the advancing years of age and I deny to myself that he is gone and I sit in my chair in this Chamber, hearing the sound in my ears of the living voice of the immortal Tom O'Brien.

Mr. Speaker, to the sweetheart of Tom O'Brien's youth and every day and every moment of his adult life, to Mrs. O'Brien, goes my deepest sympathy. Nor can I forget in this time of deep grief John Kaufer and Jim Milley who worked with Tom O'Brien all these rich years in the service of his constituents.

Mr. LIBONATI. Mr. Speaker, I now yield to the distinguished majority leader, the gentleman from Oklahoma [Mr. Albert].

Mr. ALBERT. Mr. Speaker, I share the sorrow of my beloved Speaker and our beloved colleagues from the great State of Illinois and the city of Chicago over the loss of one of the illustrious men of this body.

As I listened to the eloquent words of the distinguished and venerable gentleman from Chicago, Mr. O'Hara, who has just taken his seat, in describing his lifelong association with Tom O'Brien, I realized how inadequate would be my effort to pay tribute to the inimitable Tom O'Brien.

The passing of our late beloved colleague Tom O'Brien has left a void in this

House that can never be filled. After the Lord made TOM O'BRIEN, He broke the mold. Like Napoleon, he had no model, and no successor.

In many respects TOM O'BRIEN was the most extraordinary man I have ever known. Born in the 19th century, he carried the traditions and wisdom of another era and applied them with great effect to the fulfillment of 20th century human and political aims. While TOM seldom took the well of the House, this Chamber has never known a more successful legislator. He was a man calm and composed, yet with a determination as hard as nails. When he concentrated his efforts on a legislative problem, its solution became a certainty. He balanced these qualities with boundless fidelity in his allegiances. He belonged to the old school which held that loyalty is a two-way street. In a legislative battle he was an ally who inspired confidence in his comrades. When TOM O'BRIEN went with you, he went all the way. His word was better than a bond.

One of the hallmarks of TOM O'BRIEN's personality and character was his legendary loyalty to the Democratic Party. He gave his party unfaltering support. It was perhaps one of the great loves of his life. Yet with all his partisan commitment, he was a kindly man who loved his friends without regard to party affiliation. He respected the views of every human being regardless of whether he agreed with them or not. His long years as a public servant were an unbroken record of achievement on behalf of his fellow man. The leader of the great Chicago delegation, he wielded such influence as has been held by few men who have ever served in this House.

Many of us sought Mr. O'BRIEN's help and counsel over the years. He had our confidence, our trust, and our deep affection. As for me, he was my friend and close adviser from the moment I first came to the House. I treasured his friendship as I respected his wisdom and admired his rare talents.

TOM O'BRIEN's great city of Chicago, throughout many decades an important factor in the political life of this Nation, has lost an irreplaceable son. This House has lost one of its truly distinguished Members. The Nation has lost a great and respected legislator.

I join the gentleman from Illinois in his expression of sorrow and I extend my deepest sympathy to Mrs. O'Brien, the devoted and wonderful helpmate of our late beloved colleague.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from Illinois [Mr. MURPHY].

Mr. MURPHY of Illinois. Mr. Speaker, it is with great sadness that I rise to join my colleagues in paying tribute to the memory of my dear friend, THOMAS J. O'BRIEN.

Mr. O'BRIEN represented the Sixth Congressional District of Illinois since 1932 with the exception of the years 1938 to 1942 when he served as sheriff of Cook County, Ill. He had served in the Illinois Legislature 50 years ago.

During his tenure as a Member of the House of Representatives, he first served as a member of the Committee on Interstate and Foreign Commerce, then chaired by the eminent Sam Rayburn. When he returned to Congress in 1942 he became a member of the important Committee on Ways and Means wherein he was the third ranking majority member and a conferee.

During his service on the Committee on Interstate and Foreign Commerce he became a very close friend of the chairman, Mr. Rayburn, and this friendship was retained until Mr. Rayburn's death. Mr. O'BRIEN was one of the motivating forces that made Sam Rayburn majority leader in 1936 which was the first step toward Mr. Rayburn's elevation to Speaker of the U.S. House of Representatives.

Mr. O'BRIEN was a serious as well as an able and efficient public servant, and during his long service in the House made an imprint that will not soon be forgotten.

I have had the privilege of knowing Mr. O'BRIEN intimately for over a score of years and found him a loyal and true friend. Mrs. Murphy's family have been neighbors of Mr. and Mrs. O'Brien for many years in the Austin community of the city of Chicago.

Mrs. Murphy joins me in extending our sincerest sympathy to his devoted wife Nettie, and to Mr. O'BRIEN's personal family. May God's eternal light shine upon him and may his soul rest in peace.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from Indiana [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, I wish to join the Illinois delegation in paying tribute to a great American.

The passing of our colleague, Congressman THOMAS J. O'BRIEN, not only grieved his numerous friends but it also signified the end of an era. Very few Americans enjoy the privilege of actively serving their city, county, State, and Nation over a period of almost 60 years. TOM O'BRIEN served in one of the city courts of Chicago before he was elected to the Illinois State Legislature in 1905. He was elected to four terms in the Illinois State Legislature beginning in 1905. He was afterward a State bank examiner and held various offices in the city of Chicago and Cook County up until he was first elected to the 74th Congress in the early thirties.

Congressman O'BRIEN was a leader of the Democratic Party not only in Chicago and Cook County but also had great influence in party circles throughout the State of Illinois. He learned his politics and was a student of government at an early age and possessed the extraordinary commensense and personality to win friends and keep them. He possessed that rare quality of loyalty to his political party, his leaders, and his associates both in and out of government. When TOM O'BRIEN made a promise or gave his word, it did not need to be in writing and his reputation was such that his promise was as good as a Government bond. He possessed that keen sense of judgment and understanding of human nature that he shunned contacts and relationships with people who, in his judgment, were not reliable and of the highest character.

Many successful Government officials, business and professional men in Illinois owe their start to the help and recommendations of TOM O'BRIEN. Governors, mayors, and both local and national leaders consulted with him on matters of policy and politics for over a half a century.

Congressman O'BRIEN was a clean living man, enjoyed the best of health up until he was stricken with a heart condition a year ago last August at the age of 84. The older Members of Congress especially will certainly note his absence from the floor of this House. Thousands of longtime friends in Illinois will miss him and all who were fortunate enough to enjoy his acquaintance have lost a true friend.

I wish to extend to Mrs. O'Brien and to his family my deepest sympathy in their bereavement.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

Mr. Speaker, I want to join the Illinois delegation and the rest of my colleagues in paying tribute to TOM O'BRIEN and in expressing my deepest sympathy at his passing.

Politically Mr. O'BRIEN and I were, of course, on the opposite sides of the aisle. TOM O'BRIEN was a partisan and he was me his, because he never let his political differences I always considered him my friend and I believe he always considered me his, because he never let his political partisanship interfere with his friendship and his love of his fellow man. He tried to be of help under all circumstances.

Mr. Speaker, TOM O'BRIEN was a great gentleman. He was a great American. I shall miss him.

Mrs. Byrnes joins me in expressing our deepest sympathy to his wife in this very difficult hour.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from California [Mr. SISK].

Mr. SISK. Mr. Speaker, I wish to join my colleagues in expressing my profound sorrow at the passing of my esteemed friend, Hon. THOMAS J. O'BRIEN, dean of the Illinois congressional delegation. For 29 years he has served his constituents, his State, and the Nation with dedicated devotion and performed his duties and responsibilities in Congress with outstanding effectiveness. His high ideals, leadership, and cooperation have won the respect and regard of all who have been privileged to serve with him in the House. We will all miss this truly great statesman, and I join in extending my sincere condolences to his family.

I will particularly miss the hand of friendship and assistance he has extended to me through my years in the House. I early learned that he was a man whose word could be absolutely relied upon; it was as firm as the Rock of Gibraltar. TOM O'BRIEN, through his leadership of the Illinois delegation, extended his cooperation and help to many of us, and throughout America, the many works, projects, and legislation of local importance which he materially assisted, will remain a monument to his memory.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from Illinois [Mr. McClory].

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to join in paying tribute to our late colleague, Thomas J. O'Brien—an outstanding citizen of Illinois and of the Nation.

While I served with him here in the Congress for only a brief period I came to appreciate and to respect the esteem in which he was held.

Mr. Speaker, the passing of a colleague is always an awesome experience. In the passing of Thomas J. O'Brien, I experienced not only the loss of a colleague in this honorable body, the U.S. House of Representatives, but the passing of a gentleman who was both admired and loved.

When Thomas J. O'Brien was elected sheriff of Cook County, I was aware of his service in this high office. When he was elected to the 78th Congress, I became even more aware of the prominence which this public servant had acquired, for he had been a Member of Congress and had chosen to serve the county of Cook as sheriff at a time when his experience was demanded at home. When he had completed his work there he returned to Congress and has served 11 consecutive terms with distinction since his return.

To his wife, Nettie, and to his brother, Dennis, to his many other relatives and friends, no words of mine—or yours—can soften the blow of his going. No recital of his contributions or his leadership will dull the sense of emptiness which overwhelms those who know today that his seat among us is vacated.

To them and to you, my colleagues, I say the name and memory of Thomas J. O'Brien are inscribed and hallowed in this Chamber, henceforth.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I want to join with my colleagues in paying tribute to our late departed friend, Tom O'Brien. I am so sorry that he is not in this Chamber with us any more.

Mr. Speaker, my acquaintanceship with Tom goes back to some 16 years ago when I first came to Washington fresh out of college, to serve as administrative assistant to my predecessor. We had occasion to talk with one another whenever the Illinois group met. I can recall his having mentioned how good it was for one to get started here in Washington at such an early age and that there was a bright future for those who in his words "played his cards right."

Mr. Speaker, Tom O'Brien was a great one for reminiscing and telling the younger generation what it was like in "the good old days."

His was a varied career in public service, and loyalty was a hallmark with him. He wasn't the most talkative individual, but what he did say was well reasoned and sincere. He was always very kind and considerate of the other fellow's viewpoint as long as he was a gentleman in expressing it. He loved people, and I do not remember how often he told me after being elected to Congress, "Young man, you just keep smiling; it's good for everyone around you."

Mr. Speaker, the sermon at his funeral a few days ago, which was so eloquently delivered, told in capsule form, far better than I can here today, how wonderfully composed this man was with so many fine human qualities. In essence the sermon said that all of us could take a leaf from Tom O'Brien's book of life and that we should strive to emulate those things for which he stood.

Mr. Speaker, I join with my colleagues in paying respects here today to a great man, one whom I shall surely miss seeing in this House and one who has made such a big imprint upon the political life and history of the city of Chicago, and the State of Illinois, and in the Congress of the United States.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, it is with a deep sense of loss that I join with my colleagues in paying tribute to the late Representative Tom O'Brien, of Illinois.

When I first came to the House of Representatives 6 years ago, he was already long established as a senior Member whose counsel was sought and whose advices were heeded. It was my good fortune to make his acquaintance early in my first term. During the intervening years, the benefit of his experience was frequently at my disposal, and from observation of his conduct I learned the full meaning of the phrase "able, courageous, and devoted public servant."

His passing from the roster of the House will be felt with special sorrow by all of us who had reason to know his uncommon generosity of spirit.

I take pride in having known him and in having merited his friendship, and I join in extending to his family and friends my deepest and most sincere sympathy.

Mr. MATSUNAGA. Mr. Speaker, will the gentleman yield?

Mr. LIBONATI. I yield to the gentleman from Hawaii [Mr. Matsunaga].

Mr. MATSUNAGA. I thank the gentleman from Illinois for yielding.

Mr. Speaker, the great tribute which has been paid to the memory of our late colleague, the Honorable Thomas J. O'Brien, by so many of the Members of this House indicates the love and respect which he enjoyed among his fellow legislators. The fact that he was elected and reelected for term after term, even after he had become an octogenarian is proof positive that he had served his people and his State and Nation well.

As a Representative of the youngest State of the Union, I join those who served with him for nearly three decades in the Congress in paying tribute to the late Thomas J. O'Brien. This Nation is richer for having had him as a citizen.

Mr. LIBONATI. Mr. Speaker, I yield to the gentleman from South Carolina [Mr. McMillan].

Mr. McMILLAN. Mr. Speaker, I wish to join my colleagues in expressing my deepest sorrow on the passing of our colleague from Illinois, Mr. O'Brien. When I came to Congress 26 years ago, I met Mr. O'Brien and within a few weeks I learned to love and respect him. In my opinion, he was one of the most effective and solid Members of this body during the 26 years I have had the privilege and opportunity to serve in the House. I do not know of any man who has contributed more to mankind and to our Nation in this legislative body than did Mr. O'Brien of Chicago.

Mr. O'Brien talked to me on numerous occasions during the years we served together in this body concerning legislation he was personally interested in having the House take favorable action upon. I do not remember voting against any bill that my good friend Mr. O'Brien personally requested me to support when he was of the opinion that it would be for the best interest of his people and Illinois.

I know we have had some valuable Members of the House during my lifetime; however, I do not know of anyone that enjoyed more prestige and full confidence of his fellow Members of the House than our good friend, the late Tom O'Brien.

We shall all miss his excellent guidance and his presence in this body during the remainder of the time we are privileged to serve in the Congress of the United States.

I express my heartfelt sympathies to the members of his family.

Mrs. HANSEN. Mr. Speaker, I would like to join my distinguished colleagues in paying a deep and sincere tribute to the memory of our beloved colleague, Congressman O'Brien from Illinois. I will never forget his courtesy to me when I first came to Congress, nor his continuing courtesy ever since.

He was one of the kindest and most thoughtful persons I have ever known and to his widow and family, my deepest sympathy in their loss which is shared by the entire House of Representatives.

Mr. BOLAND. Mr. Speaker, there is a special sense of loss felt in our bereavement at the death of Representative Thomas J. O'Brien, the oldest Member of the House of Representatives.

He was a capable leader of his delegation from Illinois, a valued counselor to his juniors in the House, a loyal member of his party, and a valued friend to all who knew him.

He had a long and successful career of public service. He first came to the House of Representatives in 1933; he served as a member of the Illinois House of Representatives, as a State bar examiner, as a deputy collector of internal revenue, and as the elected sheriff of Cook County.

His was not the oratorical style in public life, but the taciturnity that betokens ability, the silence that commands respect, and the human understanding that gains friendships.

On April 30 he would have been 86 years of age. In those many years he achieved a distinguished record of achievement in every office which he held. He was beloved not only by his colleagues in the House but by his constituents in his district. They were voting in the Illinois primary to return him to his 15th term in Congress at the very time that he passed beyond the reach of their approval and of all earthly rewards. Yet, knowing the veneration in which he held the House, and the store which he set by the approval of the constituents of both parties whom he represented so long and so well, this was the very time that he himself might have chosen to end a career of honest and able service to his country, to his party, and to his district.

Yet his memory will long be with us, and shall serve as an example of the levels of legislative achievement that lie within the range of men who are quiet, dedicated, and sincere. He was all of these things, and embodied these virtues as well as others to the fullest.

He will be missed, but he will not be forgotten.

Mr. KIRWAN. Mr. Speaker, last week brought to a close one of the most distinguished careers in the annals of this body. The death of Tom O'Brien, of Chicago, shocked and saddened us all. It was a particularly heavy loss to those of us who knew Tom well and worked with him for so many years.

Mr. Speaker, anyone at all familiar with the mechanics of the House of Representatives realizes that it is not enough just to be a skilled orator or a parliamentary genius to succeed. Of equal, if not paramount importance, is the ability to earn and maintain the respect of one's colleagues. No one in this Chamber can deny that Tom O'Brien mastered this facet of congressional life. His word was his bond, and, when on those rare occasions he took to the well of the floor to speak, the House listened attentively.

His shrewd judgment was often sought by his colleagues, and his political advice was the envy of Members of this body on both sides of the aisle.

Tom O'Brien was the epitome of public service: dedicated to the people he represented, selfless, honest, and above all, skilled in his chosen career.

The Ways and Means Committee on which he served so long will miss him dearly; the House, which he loved so deeply, will miss him even more.

Mrs. Kirwan and I extend our sincerest sympathies to his belowed widow.

Mr. TRIMBLE. Mr. Speaker, a fine and trusted friend has left us; a gentleman in every sense of that word. His loyalty and devotion to his country was unquestioned. Tom O'Brien will be greatly missed here. Mrs. Trimble joins me in deep sympathy to Mrs. O'Brien and other members of the family.

Mr. SPRINGER. Mr. Speaker, the death of Tom O'Brien came as a terrific shock to me, as I am sure it did to every Member of this House. In his death I have lost a very dear and valued friend.

I can well remember when I first came to the Congress 14 years ago, Tom O'Brien was already a seven-term veteran—a broken 7-year term, I might add, as Tom had taken time out from his duties in the Congress to serve a 4-year term as sheriff of Cook County. When I first came here, even though I was on the other side of the aisle, Tom O'Brien constantly went out of his way to help the freshman from Champaign. His advice and counsel guided me over many a rough road. I believe I am a better Congressman because of his help and guidance.

Tom O'Brien and I disagreed on many issues, but there was never the slightest touch of bitterness in that disagreement. He was not that kind of man. The warmth of his person—his friendliness—his outgoing nature—his love of all mankind—would not permit him to carry a grudge. Tom O'Brien was sincere and steadfast in his beliefs. He was a loyal friend.

Deeply religious, his inner strength gave of itself to those with whom he came in contact. And Tom—dean of the Illinois delegation—gave unstintingly of himself in his service to his district, his State, and his country. His presence will be sorely missed.

I wish to join my colleagues in extending deepest sympathy to his widow in this hour of her bereavement.

Mr. SHIPLEY. Mr. Speaker, only so much can be said on the loss of a wonderful man like Tom O'Brien. You could take all the good words, all the phrases, and all the poems spoken and written when one of our loved ones passes away, compile them all together, and pick out the very best. Only this would be suitable for Tom.

A few years ago, when I came to the Congress as a freshman, I met Tom O'Brien for the first time. His sincerity and dedication to his job were truly superb and caused one of the greatest impressions made upon me by anyone since coming to Washington.

Tom was a Christian, a statesman, and a politician, all rolled into one. I, like many others, will miss him very much for a long time.

Mr. DORN. Mr. Speaker, Tom O'Brien was a great American and a dedicated Congressman. He was outstanding in the tradition of his great State and the Windy City that he loved.

This Congress is a better place because of Tom O'Brien. This Nation is a greater country because of his service to his city, State, and Nation.

Tom O'Brien loved public service. He liked to do things for his fellow citizens. He was genial and affable. Tom O'Brien was a gentleman.

Mrs. Dorn joins me in deepest sympathy to Mrs. O'Brien and to his constituents whom he loved.

Mr. HERLONG. Mr. Speaker, I want to join with my colleagues in paying tribute to our late, beloved colleague, Tom O'Brien. I spent many pleasant hours in discussions with him, but principally listening to his recounting some of the experiences of a long and useful life. Truly, a part of Americana passed from the scene with the passing of Tom O'Brien.

Tom had many good and great qualities, not the least of which was one in which I believe he took greatest personal pride. Early in my work in Washington I learned that when Tom O'Brien said something or gave you his word, you could forget about it because he was very proud of the fact that he had never broken his word once he had given it. This most admirable quality is only one of the many good qualities he had that endeared him to all of us who knew him well. He is truly going to be missed, and Mrs. Herlong and I want to take this opportunity to express our deepest sympathy to his faithful and loving wife in her, our, and the country's great loss.

Mr. JENNINGS. Mr. Speaker, I wish to join in the tributes to my late colleague in the House and on the Committee on Ways and Means, Representative Thomas J. O'Brien, of Illinois.

Representative O'Brien had a most distinguished career of public service in his home county, his district and the Nation. He was respected and revered by his people. He was a leader of his State's delegation in the House. He was beloved by his colleagues.

I, of course, became acquainted with Representative O'Brien when I first came to the House in January 1955. I came to know him better after joining the Committee on Ways and Means in this Congress. My conviction that Representative O'Brien was a most effective legislator grew each year that I observed him at work.

Representative O'Brien inspired everyone with whom he came in contact. The record of his accomplishments will stand as a lasting monument to his memory.

It has been a privilege and honor for me to serve with him, and I share deeply in the sorrow that has befallen his family, his constituents, and his colleagues because of his passing.

Mr. WHITENER. Mr. Speaker, I rise to pay my heartfelt respects to my departed friend and distinguished colleague from Illinois, the Honorable Thomas J. O'Brien.

The people of Illinois have lost a great and dedicated Representative in the Congress. The Nation has lost a splendid American whose record of service in the House of Representatives will be a lasting monument to his name.

I first met our departed friend when I came to the House of Representatives in 1957. I was greatly impressed by his kind and gentle manner and by his desire to be of help in every way possible. Thomas J. O'Brien was a Christian gentleman, whose sterling character and warm personality made him esteemed by all who were privileged to know him.

His many years in the Congress of the United States and his service as sheriff of Cook County, Ill., were performed with a steadfast devotion to duty and a sincere desire to discharge the faith and trust which his constituents had placed in him. He excelled as a Representative, and he made a great record of which his State and Nation may take just pride.

Thomas J. O'Brien has responded to the last rollcall. Though he will not be among us here in the House in the days that lie ahead, his memory and the things for which he stood will long be an inspiration to all of us. I extend to the members of his family my sincere condolences in their great loss. May divine providence comfort all of them in their bereavement.

Mr. BURKE. Mr. Speaker, it is with considerable sorrow and personal grief that I call the attention of the House to the absence of our beloved colleague, Thomas J. O'Brien, of the Illinois Sixth District, who last Tuesday, April 14, passed on, from this world to the next.

The loss of Tom O'Brien is one that we shall find particularly hard to abide, in the troublous times ahead. His leadership, which extended far and beyond his own State delegation, will be missed by all of those with whom he worked, and his friendship, good humor, and generosity will be missed by many hundreds who knew and loved him as a person.

Tom O'Brien was the headman of the Illinois Democratic delegation for many, many years. He was also a high-ranking member of the House Ways and Means Committee, in which capacity his influence reached to extraordinary lengths—partially as the result of political know-how, partially in consequence of personal appeal.

The business of the Ways and Means Committee is, of course, vital to the welfare of the country. To this group falls the task of whipping into shape the various and sundry tax bills, which so deeply affect the economic condition of the American people. As third-ranking Democrat on the Ways and Means Committee, Tom O'Brien was in a position to defend the pocketbook of the consumer and the small businessman against the wishes of wealthier interests. For whenever a tax bill came up for consideration in committee, he was on hand to insist upon justice for the little man, and to prevent the power of wealth from determining the disposal of revenue problems.

So much was Tom O'Brien revered and so great his influence in the matter of taxation, that when he suffered a heart attack 2 years ago, and subsequently was confined a good deal of the time in the Bethesda Naval Hospital, his hospital room became a regular gathering place for a multitude of colleagues.

Slight of build and famous for his quiet demeanor, Tom O'Brien was nonetheless a veritable thunderbolt of a man in political circles. His convictions were firm, his principles impeccable, his knowledge of politics unsurpassed by any Member here today.

Born and reared in Chicago, Tom O'Brien became in time a lawyer, State legislator, and State bank examiner, before his first election to Congress, in the year 1933.

During his service in the House, he had the opportunity to play a major part in numerous legislative battles against the foes of human betterment. That is to say, he was, at one time or another, confronted with a need to engage in conflict with the forces of economic depression, place and privilege, and military assault, all of which he sought, with voice and vote, to put down, as firmly, forcefully, and conclusively as possible.

Tom O'Brien not only talked democracy, he meant it, for himself and everyone else. His labors in behalf of the poor, the minorities, and the sick in spirit, were well known to the people in his district, and throughout the whole of his favorite town of Chicago.

A friend of the late Speaker Rayburn, Tom O'Brien was one of the leaders in the battle of 1961 to help both the Speaker and President Kennedy in their fight to enlarge the House Rules Committee, in the interest of justice.

Prior to that, he joined in promoting the New Deal measures of the early 1930's, the Fair Deal measures of the 1940's, and the New Frontier campaign, launched by President Kennedy and carried on, today, by President Johnson.

In economic matters, Tom O'Brien was always the friend of liberal reform. And when it came to national defense, he again could be found in the forefront of the fight, endorsing the anti-Nazi policies of the Roosevelt administration, supporting the American war cause with everything at his command, then turning to throw his weight, full force, against the Communist menace, at home and abroad.

At his funeral in Chicago, at St. Thomas Aquinas Roman Catholic Church, a great many House Members were on hand, for the sake of paying tribute to a man who did them honor. For he was involved in the great game of professional politics, as are they. And, by the nature of his conduct, he manifested a warm glow in which others of his profession well can bask today, with due thanks to the departed hero—a strong man, a liberal man, a man of great heart and great attainments: The late Thomas J. O'Brien.

Mr. KEOGH. Mr. Speaker, it is with a sense of deep personal sadness that I rise to pay my respects to the memory of our distinguished colleague, Thomas J. O'Brien, of Illinois. As a new Member in the 75th Congress, I felt privileged to count Congressman O'Brien not only as a close friend, but also as a valued mentor, and my sentiments toward him have increased tremendously with the intervening years.

Mr. O'Brien was, in a very real sense, the last of his illustrious kind. He was truly one of God's noblemen. As a dedicated American, he has served his country, his constituents, and his party with great distinction in this body for more than a quarter of a century. In my association with him for 12 years, as a member of the Committee on Ways and Means, it has been my privilege to observe and benefit from his serious application to the many problems that we have faced and to which he brought the wisdom derived from a keen mind and from his earlier experience with the governments of the State of Illinois and its important Cook County. His colleagues could not help but be inspired by his actions and character.

His actions were always of the highest degree of integrity—always direct and always successful to the point to which he was heading. His character was impeccable and, with it, came the qualities that have made him, and the few before him and the fewer afterwards, the greater. He seldom spoke but, having done so, thereafter implemented his few words by the action that meant decisive success for the things that, to him, were paramount—word, bond, and deed—and a better world for his having served it.

The Members of this body have lost a most valued, unique, and irreplaceable colleague and friend. To the members of the Illinois delegation, particularly, I express my condolences upon the passing of the beloved dean of their delegation. His counsel and friendship will be sorely missed. To his bereaved widow and family I extend my most heartfelt sympathy. It is difficult to convey to them by either the spoken or written word the deep feeling of sorrow which I share with them and with Congressman O'Brien's host of friends. The knowledge that it is so shared may to some degree lighten their burden but not mine, for he was always and always will be an inspiration to one, such as I, who always needs a guiding light. His light will always shine, and I, I hope, will always be the better for having served and sat with a great and good man, Thomas J. O'Brien. He will rest in the peace he deserves.

Mr. DERWINSKI. Mr. Speaker, the passing of our beloved colleague, the Honorable Thomas J. O'Brien, is a great loss to all of us in the Illinois delegation. He was a giant in the House, although his work we all know was carried on quietly behind the scenes rather than in a flamboyant, public fashion.

As spokesman for the Democratic members of the Illinois delegation, he worked closely with Members of our side of the aisle whenever important matters affecting Chicago and the State of Illinois required coordination. He was a gentle, kind gentleman, especially helpful to new Members, and always willing to pass on to others the wisdom he had acquired in his years of experience in the Congress.

Tom O'Brien was especially effective in legislative developments leading to the Cal-Sag project. He could always be counted upon to battle effectively for the causes he held to be sound.

Those of us who were fortunate to work with him realized his tremendous, sterling qualities, his stanchness, and his well-earned reputation for keeping his word. His passing is, in effect, a loss to the citizenry of the entire country since we can ill afford to lose such an outstanding leader in this House as was Tom O'Brien.

May I also mention, Mr. Speaker, that his wife was extremely helpful to Mrs. Derwinski when she arrived on the scene as a freshman wife, and Mrs. Derwinski joins me in expressing deepest sympathy to Mrs. O'Brien and the family.

Mr. FINNEGAN. Mr. Speaker, we were all saddened to learn of the death of our venerable dean, the Honorable Thomas J. O'Brien. The news came to me and to the other members of our delegation as we were in our districts on primary day in Illinois. Had he been able, Tom O'Brien would have been "in the precincts" also as he had been all of his life. There was no other life but politics for Tom and his experience and insight gained over the many years was such that he had few rivals in his field.

My recollection of this man who was my friend and political mentor goes back to my youth on the West Side of Chicago. There the name of Tom O'Brien was already one to be reckoned with on the political scene. Some 30-odd years ago I cut my political teeth as a precinct captain in TOM O'BRIEN's own precinct. Much of what I have learned about politics had its basis in my work at the precinct level under his guidance. When I came to the House in 1961, I valued very highly my longtime friendship and association with him; and I then again looked to him in learning my new job.

I treasure the memory of what I later learned was perhaps TOM's longest speech. It was in my behalf before the Democratic caucus shortly after I entered the House. He described me as a "regular fellow" which in his laconic way was quite an accolade and meant more to me than any flowery speech or compliment that has come my way.

He was a very human person and although he held his own counsel, his taciturn manner hid a wonderful sense of humor and a quick mind which were very much in evidence to those of us who were close to him.

The many things he accomplished for his city, State, and country will not be found in the speeches he made nor the legislation he introduced. For he was not one to work in the spotlight but rather he labored quietly and effectively in the legislative councils of the House.

He was respected and his ability to get things done made him a friend and favorite of the late, great Speaker of the House, Sam Rayburn, who possessed the highest regard and confidence in TOM. He was most effective in his key position as a ranking member of the Ways and Means Committee. He performed an invaluable service to Chicago, and the State of Illinois by seeing that our Democratic Members received choice committee assignments which, as we all know, are so important in representing our constituency. He was most proud, in all probability, of O'Brien Locks on the Calumet River, dedicated in his honor for his efforts and assistance in promoting the Illinois Waterway System.

But more than all this, THOMAS J. O'BRIEN epitomized a time and an era that is rapidly disappearing if not already gone forever. He was an "old school" politician whose career ranged back over half a century. He first entered public service in 1907 upon his election to serve in the Illinois State Assembly and, over the years, in many similar capacities culminating with 14 terms as a Representative in Congress from the Sixth District of Illinois.

In retrospect, I somehow feel that he perhaps would have preferred for us to be eulogizing him in a simple and direct manner as a man whose loyalty to his country, party, and friends could never be questioned and as one who could be depended upon to get the job done, no matter how difficult or unpleasant it may have been.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to pay tribute to our departed colleague, THOMAS J. O'BRIEN, a great man who was my very dear friend.

TOM O'BRIEN, dean of our delegation from Illinois, commanded the respect of each one of us, for his greatness was his character. He was a kind and understanding man, whose actions reflect a glory that is achieved by only a chosen few. It might be said that he lived among us as a symbol of what is expected of every human being in his existence on earth, and that the "Maker" of men kept him with us for 85 years so we would benefit from his guidance.

His dedication to public life began at an early age. He was only 20 when he served as a constable, but from that moment on his destiny was continuous service to his fellow men in representing their wishes for good government. His brilliant career saw him serving in the Illinois State Legislature for four terms, and as a State bank examiner, before his election to the U.S. House of Representatives. in 1933. He left this body in the late thirties to successfully serve 4 years as sheriff of Cook County, Ill. He then returned to Congress in 1942 and served faithfully till he received his call to join his Maker.

How can one measure his worth in terms of words? It is too difficult, for his deeds are too outstanding to be fittingly described. TOM was looked upon with high esteem by the people he served so well. The respect he gained is best illustrated by his nomination to serve two congressional districts as representative of the people on Chicago's West Side. He chose the Sixth District where he grew in stature with each passing year, and gained the love of many generations of constituents who recognized his worth and endorsed his actions.

To say that he was an outstanding public servant seems so insignificant, and does not really measure up to this devotion to his tasks. He had that certain extra something that placed him in a class by himself. He was never too busy to listen and he was available to all that sought his advice and help. His one great characteristic, which made him a nobleman, so to speak, was his humble manner in which he conducted himself. He sought no public fame, as such, and expected no rewards for his labors. He was satisfied in knowing that he could help his fellow man in time of need and this became his purpose in life. I am sure that there are many of us here today whom TOM has helped, and it could well be that we would still not be here without his experienced guidance.

We have lost a great leader, but more important we have lost a great friend. The kind of friend that does not happen along but once in any lifetime. We all know that one day we will be called from this earth, and that TOM had a long, rich life, but it is very difficult to accept the fact that he will no longer be with us to guide us with his wisdom in the many important decisions we still must face. For now he is only a memory, but I hope that his memory will give us the strength that we will need to complete our tasks in the same gallant manner that the sheriff displayed in his years of service as a Representative in Congress.

My sympathies go to his family in this, their darkest hours. They shall miss him, but I hope their sorrow will be eased in knowing that their beloved TOM has his own niche in this great country's history. And that without him we may not have enjoyed the greatness with which we have been blessed, for he was truly an outstanding statesman that cannot be replaced.

Mr. KLUCZYNSKI. Mr. Speaker, the passing of THOMAS J. O'BRIEN marks the loss of a great Congressman. We of the Illinois delegation looked up to him as our dean, leader, and mentor. He was always ready to advise and assist on congressional matters, great or small. Always a man of his word, he enjoyed the respect and admiration of every Member of Congress in the House and Senate. His guidance was sought on many occasions by the leaders of our Nation.

Illinois will miss this honored man and his accomplishments in the representation, not only of his district but of his State and country.

I personally suffer the loss of a close and dear friend. We often sat in counsel together, seeking his sage wisdom and deep interest in all of our problems.

THOMAS J. O'BRIEN was one of the few living persons in whose honor a national monument was dedicated—the Thomas J. O'Brien lock and dam on the Calumet River.

In our sadness Mrs. Kluczynski and I express profound condolences to his wonderful wife, Nettie, who spent many devoted and loving years bringing him the comfort and deep affection that made him a good and true public servant.

May his soul rest in the heavenly peace he so richly deserves.

Mr. MARTIN of Massachusetts. Mr. Speaker, I want to join with my colleagues in expressing my sorrow at the death of Congressman THOMAS J. O'BRIEN. He was a gentleman in every sense of the word.

Not only was he the leader of the Illinois delegation in the House, but he was always a very powerful figure in Illinois politics. He was a sheriff there for many years. I was pleased to enjoy his friendship, and mourn his loss.

His services will be missed, and I join in extending my condolences to his family and friends.

Mr. MORGAN. Mr. Speaker, the passing of our dear friend and esteemed colleague, THOMAS J. O'BRIEN, brings to all of us a sense of deep personal loss and grief. If TOM had lived a few more short weeks he would have celebrated his 86th birthday. He lived a long and fruitful life of dedicated public service. As the eldest of our colleagues, he was truly our senior in more than years. TOM was a senior legislator, a senior statesman whose parliamentary skill and whose depth of wisdom made him one of the most valuable Members of this great body.

It is not enough to speak of TOM's skills and abilities without also paying tribute to those other warm and human qualities which had won our affectionate esteem, lasting friendship, and admiration. TOM O'BRIEN was always ready to extend a helping hand to new Members of the House. His great personal integrity won and kept our trust. His innate modesty kept him from taking the lead in debate, but added to his quiet effectiveness in committee and on the floor. He was a tower of strength to his party and to his State delegation, of which he served as dean for so many years with the greatest distinction.

Tom's passing leaves a void in our ranks that will be felt for a very long time. The impact of his unselfish service among us and the warm feeling of friendship we had for him will cause us to cherish the most pleasant memories of our service together in the Congress.

Tom's widow, in her grief on the passing of her dear husband, must find some consolation in the knowledge that her sense of loss and sadness is shared by all his colleagues and the host of his other close friends, both in and out of official life. To Mrs. Thomas J. O'Brien, I extend my deepest personal symathy and condolences in our mutual great loss.

Mr. KARSTEN. Mr. Speaker, the death of Thomas J. O'Brien is a great loss to the Nation and the Congress but his passing is most keenly felt by those of us who served with him on the Committee on Ways and Means.

Tom dedicated his life to public service and during his illustrious career as an Illinois State legislator, sheriff of the city of Chicago, and as a Member of this House, many honors came to him. But I believe the one he cherished most was his membership on the Committee on Ways and Means.

It was my good fortune to know Tom before I became a Member of the House. I recall, after my election in 1946, I went to see him, seeking assistance in securing a committee assignment. We immediately became good friends and through his efforts on the Committee on Committees, I was assigned to the committee of my choice. Some years later, it was my privilege to serve with him on the Committee on Ways and Means, and there I learned that Tom's candidates for committee assignments were generally always successful. The reason for this was that he had the respect and confidence of all of the members of the committee.

I came to know Tom as a courageous man of deep conviction. He was ever mindful of his responsibilities to his beloved district in Chicago and the people of Illinois. Yet he was equally cognizant of his responsibilities to the Nation as a whole. He believed in the fundamental principles of our Government and had a deep faith in the Democratic Party, which he loved.

With his attentive ear and vigilant eye, he acquired knowledge which enabled him to use his words sparingly but with maximum effect. He had a remarkable facility for evaluation and summation of testimony, and a real talent for uniting facts with practical reasoning. He could always be depended upon to apply his vast experience toward the solution of the difficult issues before our committee.

It was an honor to serve with and to know Tom O'Brien. He was a stanch friend, a dedicated public servant, and an outstanding citizen. Mrs. Karsten joins me in extending our deepest sympathy to Mrs. O'Brien and the other members of the family in their great sorrow.

Mr. MILLS. Mr. Speaker, the announcement of the passing of our esteemed colleague, the Honorable Thomas J. O'Brien, of Chicago, Ill., leaves us all with a feeling of profound sadness. He will be sorely missed in his district and in this body. Tom O'Brien has been a senior and stanch Member of the House of Representatives for many years. Those who have been privileged to know him over this period of time have admired and respected his strength of character, his fortitude, his dependability, and his devoted service to the people he represented and to the Nation.

Tom O'Brien first served on the Committee on Ways and Means beginning March 26, 1944. He has served on the committee most of the balance of the years since that date. I have worked with him both as a member of the committee and as chairman of the committee for many years. He was conscientious and diligent in attendance at committee meetings; he was sparing in his use of time of the committee, and he was utterly and completely reliable and dependable when he stated his position on an issue. I will miss him on the Committee on Ways and Means, and I am deeply moved by his passing. I will miss his able and devoted and loyal service.

Those of us who have been privileged to serve with him are aware of the qualities of character and integrity which he possessed, and little we can say here today will add or detract in any way from the enviable record which he has built over the years for his State and Nation. That record will stand as a monument to his devotion to his people and to his friends and to his loved ones.

My deepest sympathy to Mrs. O'Brien and to the surviving members of his family.

Mr. ZABLOCKI. Mr. Speaker, I wish to join my colleagues in paying tribute to the Honorable Thomas J. O'Brien, our esteemed colleague so recently departed.

He was indeed a most distinguished Member of this body, an outstanding American, and a good friend.

Tom O'Brien's life was in the pattern of other great "men of the House," that is, those individuals whose dedication to this legislative body has been so complete and intense that their service here becomes a vocation in the highest sense of the word. Tom O'Brien was such an individual.

He gave unstintingly of himself toward the enhancement of the goals and objectives of the House. His efforts were ever directed toward strengthening this representative democratic organ.

The press has reported that Mr. O'Brien was a powerful Member of this body. And so he was. But it was not power based on coercion or threats, for he was a quiet man and mild in manner. His power was based on respect—the respect of his colleagues for his ability, his honesty, and his wisdom.

But more than just a distinguished Congressman, Tom O'Brien was an outstanding American. Throughout his career, he worked for the progressive legislation that has made both his party and his country great.

Elected to Congress during the great depression, he quickly gained notice as an able proponent of the Roosevelt administration programs which wrought such a vast sociological change in our Nation and brought our greatness to fruition.

In the years that followed, he served well the forward-looking programs of President Truman, President Kennedy, and, most recently, President Johnson. Always a battler for the rights of the common man, Tom O'Brien could take pride in his last years that he had played an important part in opening up economic, educational, and social opportunities for millions of his fellow Americans.

But it is as a friend that I best remember Tom O'Brien. His friendship, his counsel, his assistance in my early days in Congress are an indelible memory. My debt to him, no amount of gratitude can pay.

Yet it was not simply during my first years in Congress that he extended his generous help, but, indeed, until his final illness.

It was my privilege to have been able to serve as an honorary pallbearer at Mr. O'Brien's funeral, along with a number of other colleagues. We who witnessed his requiem services and his burial know how deep and genuine was the regard of the people, of all stations, for this good, generous, and quiet man.

We are richer because of his many years among us, and much the poorer for his passing.

Mr. PUCINSKI. Mr. Speaker, many years ago Teddy Roosevelt was heard to say, "The first requisite of a good citizen in this Republic is that he shall be able to pull his own weight."

America has had a brimming abundance of good citizens—men and women who have devoted years of their lives to public service. Thomas J. O'Brien of Illinois, was such a citizen. He came to Congress in an era when this country needed every available human resource to resurrect its faith in the future.

He came to Washington prepared to give his talents and energies to restoring to America its self-confidence and to lead it to unprecedented prominence among the nations of the world.

His was not a flamboyant personalty. He knew that a higher purpose was served in doing a job well when it needed doing, than by shirking his responsibilities and failing to make difficult decisions when it took an extra measure of courage to make them.

During this time he represented the people of Illinois' Sixth District faithfully, earnestly, and with enormous distinction. As the years passed, his constituents could see reflected in his actions the leadership which was so natural a trait with him. His contemporaries in government on both sides of Capitol Hill recognized this faculty for quiet mastery of trying situations and came to rely upon it. Tom O'Brien was always there in an emergency.

He was here in this Chamber throughout the most trying crises of the past three decades, and always it was his ability to keep perspective on the future which influenced his colleagues and constituents.

He was a great friend to new Members of Congress and his word was trusted and relied on, regardless of politics. He worked throughout his life to improve conditions which needed changing and he was more than an able legislator—he was in every sense a leader.

His convictions were strong; his good causes were legion, and he stood four-square for the United States.

In the dark days of World War II, General MacArthur once said, "There is no security on this earth. Only opportunity." Tom O'Brien lived his life in an effort to expand that opportunity for people everywhere—in every community and State in America. He was quietly, but inevitably, in the forefront during passage of all the great humanitarian legislation of the past three decades.

Chicago will miss him for a good long while to come. And I believe the country, also, will mourn this quiet man who did so much for others in the span of a single lifetime. I am proud to have known him. My life is richer for having served with him in the House of Representatives. I like to think that the legacy of his dedication to the art of statesmanship is a legacy from which all of us can benefit, for the greatest of all arts is the art of giving ourselves in the service of others.

Tom O'Brien followed the code of duty, honor, country. We would not be true to his memory and the memory of the great Americans who have preceded him into history if we failed to do less.

Mrs. Pucinski joins me in extending our deepest condolences to Nettie O'Brien and to his family.

Mr. PHILBIN. Mr. Speaker, I was deeply grieved and greatly saddened to learn of the passing of my dear and valued friend and most esteemed colleague for many years, the Honorable Thomas J. O'Brien, of the great State of Illinois.

He was indeed a dear friend of mine, and I cherished the warmth of his friendship. He was one of the most exceptional, valuable Members of this House as well as an exceptionally popular and beloved colleague, conspicuous for his loyalty to his convictions and his friends.

Tom O'Brien commanded the deep respect of every Member of the House for his ability, for his forthrightness, and his patriotism. His public contributions were many and marked. He was truly unique in his lovable, personal qualities, outstanding in ability and the wide sweep of his interests and his effective service to his district, State, and Nation.

There was an indefinable aspect to Tom O'Brien's greatness. It had to be apprehended rather than described, because it was embodied in the sum total of personal traits, habits, loyalties, and special talents which constituted the ethos, modus operandi, and thought and action patterns of this great leader.

Tom O'Brien carried in his generous, unselfish nature no residue of juvenile frustration, no Freudian complexes, no compulsive emotions, no mean irrelevant prejudices rattling around in the closets of his subconscious. He could well be classified, in the philosophical sense, as an Aristotelian realist, not seeking rockets or spaceships, even as he realized their intrinsic worth to our defense, but with his feet planted squarely on the ground, watching the stars for portents of greater light, judging the world around him with an uncanny eagerness and the studied accuracy of a great man seeking to do good.

Devoted service such as his, steeped in high faith, warm courage, and patriotic zeal, he exemplified in his public and private life the high code by which he lived: God and country, party, family, and friends, with the emphasis on the first, and with the sacred concept of loyalty, permeating every motive, every thought, every objective.

He was a most valuable member of the great Ways and Means Committee and the Joint Committee on Internal Revenue Taxation and enjoyed the confidence of his colleagues and the leadership of the House. He performed many outstanding and special services and supported and advanced many meaningful pieces of legislation.

Tom O'Brien was very dear to me during the years I have been in the Congress. I esteemed and cherished him profoundly. He was beloved, respected, admired wherever he was known. The warmth of his heart, the radiance of his personality, the compassion and generosity of his impulse have been everlastingly impressed upon the annals of this great body and in the hearts of all those of us who were privileged to know and to love this good and noble man.

In his passing, the Nation has lost a great leader and I have lost a noble friend. With very heavy heart, I extend to his beloved and grieving family—his gracious helpmate and wife, Nettie, and all his dear ones, my most heartfelt sympathy for the truly irreparable loss which has come to them. I join his dear ones and a host of others in mourning his passing, and sad of heart, pay tribute to his noble aspirations and illustrious achievements.

The contributions of Tom O'Brien are not measurable by finite standards. They will live and fructify here in the historic precincts of this House, inspiring and guiding the House toward noble goals, exalted ends, and warm human fellowships, as an undying inspiration for others to carry on the bitter fight that must be fought, if in our generation we are to preserve and sustain the glories, benefits, and blessings of free representative government. Such are the treasured bequests of that kind and generous gentleman from Illinois, the Honorable Thomas J. O'Brien.

May the good Lord grant him eternal rest and peace in his heavenly home.

Mr. ULLMAN. Mr. Speaker, I will always remember Tom O'Brien as a kind, gentle man with a great heart and a keen sense of loyality. It was my privilege to sit with him on the Ways and Means Committee and to witness at first hand his personal devotion to the work of the committee and the Congress.

Tom O'Brien loved his job. Politics was his life—but to him, politics meant public service and devotion to the broad social objectives of his party. He attended committee meetings with great loyalty. He never failed to stand up for his friends.

Tom O'Brien had great political power, but he did not use it ruthlessly, rather with restraint and with deep feeling for his fellow men.

Tom O'Brien was my friend. His passing has left an empty place in the hearts of all of us here. To his devoted wife and family, I offer my most sincere condolences.

Mrs. KELLY. Mr. Speaker, with deep sorrow and regret, I join my colleagues in the House of Representatives in paying tribute to the memory of our late colleague, Thomas J. O'Brien. Throughout a long and distinguished career of public service, Thomas O'Brien was notable for his dedication and perseverance. He served his State and Nation well.

I take this opportunity to extend my sincere sympathy to his family and loved ones. May God's blessings sustain them in their loss.

Mr. COLLIER. Mr. Speaker, of the many personalities who appear and disappear with regularity on the American political scene, few leave a mark which time does not obliterate.

Surviving this test of time which is so discriminating on the American political scene requires certain human ingredients which the late Thomas J. O'Brien possessed in depth. He had a way of achieving his goal and purpose without oratorical persuasion, fanfare, or publicity. He was a quiet, soft-spoken man who decided what had to be done and then did it.

My acquaintance with Tom O'Brien goes back 25 years—many years before I became a Member of the House. This acquaintance was renewed when I became a colleague of his in the Illinois congressional delegation in 1956. Later I became a colleague of his on the House Ways and Means Committee but illness befell him shortly after this time.

While we frequently assumed different positions on legislative issues and differed in our political philosophies, I became very fond of Tom O'Brien and treasured a mutual respect and friendship which grew over the past 8 years.

He was kind and helpful wherever it was possible and, above all else, he was a man of his word.

I shall miss Tom O'Brien as will his constituents and colleagues. To his good and devoted widow and members of his family, I offer my heartfelt sympathy.

Mr. DADDARIO. Mr. Speaker, I would like to join our colleagues of the Illinois delegation and the other Members of the House in paying tribute to the late Tom O'Brien. Through his experience in public life, his dedication to the needs and the principles of the people of his home State and of the Nation, he gave of himself in many ways to build a fine record of constructive contributions to the work of the Congress.

It is possible in the House to observe at close hand the men whose integrity and leadership have earned for them a reservoir of power which is critical in the issues which divide our parties. Throughout my years in Congress I learned to respect the ability and experience of the gentleman from Illinois [Mr. O'Brien]. His public service covered almost 60 years. He worked hard for the people he represented and for the State and city he loved so well. Mrs. Daddario and I extend our deepest sympathy to his bereaved family.

**Mr. MONAGAN.** Mr. Speaker, I mourn the passing of our friend and colleague, the gentleman from Illinois [Mr. O'BRIEN]. TOM O'BRIEN was one of the elder statesmen of the House of Representatives. Although he was not widely known outside the Capitol, he was recognized by those who understood the workings of the House of Representatives to be one of the most influential men in this distinguished body.

His way was not the way of the flashy or of the vociferous. He was undemonstrative but he was effective. He was quiet but he was influential. His outstanding qualities were frankness and reliability. One always knew where one stood with TOM O'BRIEN because he minced no words and was candid to a marked degree. Above all, his word was his bond and when he pledged that word, nothing could turn him from his undertaking.

TOM'S success and prestige came the hard way. All his accomplishments were due to his own efforts and people of his district and of the city of Chicago showed their appreciation by consistently supporting him in overwhelming fashion at the polls.

TOM'S memory will always remain with us here in the House of Representatives and that memory will be a pleasant one.

**Mr. REUSS.** Mr. Speaker, the Nation, Congress, and Illinois have suffered a very great loss with the death of our distinguished colleague, THOMAS J. O'BRIEN.

As dean of his State's delegation, he was a good neighbor and a good friend to me and to the State of Wisconsin. He will be sadly missed.

His long life was dedicated to public service. He served on every level of American government with distinction: on the local level as sheriff of Cook County, on the State level as a representative in four general assemblies, and on the Federal level in two periods in this House extending over more than 27 years.

Throughout his career, he displayed a dedication to progressive government. Though TOM O'BRIEN was not noted for his oratory, his wisdom and experience were always a pervasive influence for good in this body and in the Ways and Means Committee.

As a stanch member of his party, he was often a major force in the accomplishment of its programs and policies. His was a proud record of building good government.

The voters of the Sixth District of Illinois knew his mettle well. It was ironic, yet a real tribute, that he was being renominated once again by the people of his constituency when he died Tuesday at Bethesda Naval Hospital.

His achievements in Congress were enhanced by the able assistance he received over the years from his brother-in-law and aid, John Kaufer.

Today, I want to extend my heartfelt sympathy to Mrs. O'Brien and to Mr. Kaufer.

**Mr. BOGGS.** The passing of our beloved friend, TOM O'BRIEN, leaves an aching void in many a heart all over this land. Friends like TOM O'BRIEN are all too rare in this life; they stand out like sierras along our skyline.

Throughout a long, rich life, he walked always with rectitude, honor, and humility. A man of determination and strong will, he had the courage also to be a gentle man, a man with a heart full of love for his fellow men, individually and en masse.

Here is a man to whom service was a joy, a man who reveled in trying to make his generation worthwhile and his country better. For all the long years that I was privileged to claim his as a great friend, I marveled at his sound commonsense, his rocklike convictions, and his unshakable loyalty to his friends. For many years I sat beside him on the Committee on Ways and Means, and as I watched him year after year trying to do justice to all who came to plead before that committee, I learned much from his patience, his tolerance, his sense of fair play.

Oh, how all of us will miss this beloved man—this man whose like we will not soon see again—this devoted husband of a great, lovely lady, Mrs. O'Brien—this fearless servant of his people—this dedicated patriot. TOM O'BRIEN enriched the lives of us all. We all are so much better for his having lived.

To his widow, on behalf of Lindy and myself, I extend our deepest sympathy and our prayers.

**Mr. HORAN.** Mr. Speaker, it is my sad privilege to join my colleagues in paying my tribute and respects to the memory of TOM O'BRIEN.

TOM returned to the House of Representatives and was sworn in when I was in 1943. We became good friends, serving together on the Committee on Appropriations for two terms.

He was a constant friend. It always seemed to me that his contacts with all his colleagues did not hurry to short and poor conclusions—but were the more lasting because they came from the tough fiber of a very human heart. TOM O'BRIEN was a gentle spirit such as we cherish while they live and derive warmth from remembering. All of us will miss him.

To his wonderful wife and constant companion, Nettie, and to John Kaufer, his brother-in-law, and to the rest of his family, Mrs. Horan and I extend our sincere and deepest sympathies.

**Mr. RUMSFELD.** Mr. Speaker, I would like to join my colleagues in paying tribute to the memory of an outstanding Member of this body, THOMAS J. O'BRIEN. Throughout his many years of public service, Congressman O'BRIEN served Illinois and our Nation with faithfulness and devotion. Elected a State representative to the 45th general assembly, he continued as State representative for 8 years. In 1932 he was elected to the 73d Congress and was reelected to two additional terms before returning to Illinois to become sheriff of Cook County. After completing a 4-year term as sheriff, the gentleman from Illinois [Mr. O'BRIEN] again ran for Congress and was elected to the 78th Congress, serving continuously since that time. In the present Congress he was third-ranking majority member of the powerful House Ways and Means Committee. His long service to his district, State, and Nation will long be remembered by Democrats and Republicans alike. I extend to Mrs. O'Brien and to the other members of his family my sincere sympathy. An editorial in Chicago's American of April 7 states well the feelings of the residents of Illinois regarding the loss of Congressman THOMAS J. O'BRIEN.

### REPRESENTATIVE THOMAS J. O'BRIEN

> Representative THOMAS J. O'BRIEN'S death Tuesday deprived Illinois and Chicago of a dedicated, influential champion in Congress. O'BRIEN, at 85, was dean of the Illinois congressional delegation and the oldest Member of the House; he was first elected to Congress in 1933 and had been reelected ever since, except for 4 years as sheriff of Cook County. He was planning to run again—his name was on Tuesday's Democratic primary ballot—and undoubtedly would have been returned to his seat. Representative O'BRIEN was one whose worth did not go unappreciated.
>
> O'BRIEN led and won a battle vital to Chicago—the fight to widen the Cal-Sag Channel, allowing a freer flow of shipping from Lake Michigan through the channel and the Illinois Waterway to the Mississippi River and down to New Orleans. We mourn the loss of a good man who fought well for all of us.

**Mr. RODINO.** Mr. Speaker, it is always with a heavy heart that we rise to speak of a colleague who will no longer join us in this Chamber. It is with a sense of deep loss that we memorialize the passing of one of the true leaders of our body. So it is today, for the gentleman from Illinois [Mr. O'BRIEN] was indeed one of those leaders.

When I first came to the House 16 years ago, TOM O'BRIEN was already a respected and admired Member of the House. Already he had served many terms in the House, as well as in the general assembly of his State.

We all know well the close bond that existed between our late beloved Speaker, Mr. Sam, and TOM O'BRIEN. There was that same dedicated, intensely dedicated, spirit of service to their Nation and to their colleagues, that same indomitable courage that allowed them always to adhere to their principles and beliefs.

TOM O'BRIEN was a quiet man. But his quiet manner could not hide his noble character, his breadth of vision, his courage and his faithful, generously-given service to his constituents. He was always kind and gracious, and wise, in his counsel when we sought him out.

He will no more be among us, this gentleman from Illinois. But his spirit will never leave us. We who have been privileged to serve with him will always be the richer. So long as we continue to enjoy such colleagues as he, the continued greatness of this body is assured.

Mrs. Rodino joins me in extending our sincerest sympathy to his devoted wife, Nettie, and to his family. May he always go with God and his soul rest in peace.

**Mr. SIKES.** Mr. Speaker, TOM O'BRIEN was a friendly, loyal, wonderful man. He was a natural leader and yet one of the kindest of men. There was something warm and personal about him which made him easy to know and which quickly instilled confidence.

I do not believe anyone in the Congress possessed more close and devoted friends or could call on more vigorous support from those friends when the occasion demanded it.

Through a long lifetime of participation in public life he was wise in the ways of government and his counsel was invaluable, yet because of his quiet, self-effacing attitude it was hard to realize that he had given 28 years of valuable service here and that only 19 Members of the present membership of the Congress had served longer than he.

As dean of the House delegation of the great State of Illinois he was their accepted leader and his State has lost an able representative, an effective leader, and a strong patriot.

Many have served here. Few have enjoyed the confidence and the friendship which were given to Tom O'Brien. His record is like a pleasant interlude to be remembered happily and warmly throughout the years to come.

Mr. CHELF. Mr. Speaker, it is my desire to join my colleagues in expressing profound regret at the passing of our esteemed colleague and my dear friend, the Honorable Thomas O'Brien.

His long career here in the House, culminating in serving as dean of the Illinois delegation, was marked by devotion to duty, courage, loyalty, and conscientiousness. He was a leader of men, one who commanded their confidence and respect.

His presence and his leadership, along with his warm friendliness, will be greatly missed in the House.

I pray that God will bless and comfort his wife and family forever and a day.

Mr. SCHNEEBELI. Mr. Speaker, Tom O'Brien was a man of outstanding integrity and loyalty. He was a dependable colleague whose word could be relied upon and who always delivered what he promised. It was these fine qualities of his that enabled him to serve with such distinction in his native county, State, and in the Congress. His public service covered a span of many years, which included 4 terms in the State Assembly of Illinois and a term as sheriff of Cook County in addition to the 14 terms for which he was elected to the U.S. House of Representatives. He was renominated in the Illinois primary for yet another term on the day that he passed away.

Tom O'Brien has been a longtime political leader of his party both in Chicago and in the House of Representatives. He was considered the leader of the Illinois democratic delegation for many years and was respected by Members on both sides of the aisle.

Tom was particularly helpful to me as a newcomer to both Congress and the Ways and Means Committee and as one who was seeking advice. My short friendship with him on the committee was most gratifying, and his suggestions and assistance were both constructive and helpful in my indoctrination.

Tom's many friends will miss his leadership and good judgment, and Illinois has lost a fine native son. I, too, have lost a kind and helpful friend, whose cheery smile I shall miss, and to whose family I extend my deepest sympathy in their sorrow.

Mr. ROOSEVELT. Mr. Speaker, I would like to add my voice to those of my colleagues in paying tribute to the late Thomas J. O'Brien, a good and dutiful public servant. In his continuous and dedicated service to his city, State, and Nation he has set a high example for all of us of a life well lived. We mourn his passing and we shall miss him, and we hope that we shall be able to live up to his high principles of devotion and loyalty to his fellow man. I extend my heartfelt sympathies to his family and loved ones.

Mr. ROONEY of New York. Mr. Speaker, it is with a profound sadness and a heavy heart that I join my colleagues in paying tribute to our departed colleague, the Honorable Thomas J. O'Brien, of Illinois. His passing will be a great loss, not only to his beloved State but to the entire Nation.

He was a wonderful friend, and I shall always remember the many happy occasions I was privileged to be in his company. Tom and I served together on the Subcommittee on Appropriations of which I am presently chairman, and in the year 1947 the distinguished gentleman from Virginia [Mr. Gary], Tom O'Brien and his lovely wife, Nettie, and I visited a number of the countries in Western Europe in connection with our duties as members of the House Appropriations Committee. It was a very pleasant journey and experience that I well enjoyed, and a deeper friendship and a closer relationship resulted with Tom and Nettie O'Brien.

Tom O'Brien was a dedicated legislator who was greatly admired for his honesty, his wisdom and his exceptional ability. He was respected by all the Members of this House, regardless of which side of the aisle they were on.

To his devoted and lovely wife, Nettie, I extend my deepest sympathy and prayers.

## EXTENSION OF REMARKS

Mr. LIBONATI. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks at this point in the Record on the late Thomas O'Brien, and also that they may have 5 legislative days to extend their remarks in the Record, and in both instances to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## ARA AND THE SUGARBEET INDUSTRY

Mr. LANGEN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. LANGEN. Mr. Speaker, the Red River Valley of Minnesota and North Dakota has been left out in the cold again, thanks to another case where the Area Redevelopment Administration has meddled in the domestic sugarbeet industry.

Allocations of sugarbeet acreage have now been made to Aroostook County, Maine, and to the Phoenix area in Arizona. These are the final commitments under the national sugar beet acreage reserve provisions of the Sugar Act.

The 33,000 acres allocated to Aroostook County, Maine, is the second instance this year where sugarbeet allotments have gone to areas where ARA has spent taxpayer money to set up new plants in direct competition with the established beet-growing areas of the country such as our Red River Valley.

ARA granted $50,000 last year for a technical assistance study to investigate the economic and engineering feasibility of establishing a sugarbeet industry in Aroostook County after granting over $118,000 for similar studies in Cayuga County, N.Y. And now both areas have received acreage allotments, which is proof enough of our warning last year that when ARA conducts a study, sugarbeet acreage is bound to follow, no matter what it does to the established growers. It is another case of those who have worked for years on the local level to develop the sugarbeet industry having to pay the consequences of area redevelopment programs.

It also was interesting to note that the other acreage allocation just announced, in the Phoenix area of Arizona, is for 20,000 acres on land developed under a reclamation-irrigation project. This brings to almost 500,000 the number of sugarbeet acres now on irrigated lands, or approximately four times the number of sugarbeet acres in the Red River Valley of Minnesota and North Dakota.

I certainly hope our Red River Valley growers, and other established growers across the Nation, will let the Area Redevelopment Administration and the Department of Agriculture know where they stand on such sugarbeet allocations that are hurting their own potential. This sorry situation has gone on long enough and it is time to show their displeasure.

## NATIONAL FOOD COMMISSION PROPOSED

Mr. FINDLEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Speaker, today I have introduced a resolution to establish a 15-member bipartisan National Commission on Food Marketing to study the food industry from the farm to the consumer.

The Commission would include representatives of general farm organizations, processing and retail industries, and organized labor, as well as Members of Congress.

A thorough, impartial study will bring facts to light and benefit farmers, processors, merchants, and consumers.

Vast changes have occurred in recent years in the U.S. system of producing, processing, and distributing food. Some of these changes are the result of Federal farm programs and other laws. Others are technological.

Other far-reaching changes have occurred in foreign trade. Beef imports are rising rapidly.

We have lost valuable cash markets abroad for U.S. food products, and trade negotiations for better foreign markets so far have been disappointing.

What are the effects of these changes on farm and consumer prices? The farm parity ratio—which measures prices paid against prices received—has dropped each of the last 3 years while consumer food prices have risen.

What are the effects of these changes on our competitive marketplace system and the family-farm structure of agriculture?

Serious charges have been made concerning the influence of chainstores over livestock prices.

What are the effects and influences of specification buying, contract farming, and vertical integration? The public is entitled to the facts, and all segments of our vast food industry will benefit from better public understanding.

## THE UNTOLD STORY OF COAST GUARD'S FLOOD RELIEF IN THE OHIO RIVER VALLEY

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from North Carolina [Mr. BONNER] may extend his remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. BONNER. Mr. Speaker, behind the stories carried by newspapers, radio and TV on the recent floods in the Ohio River Valley, lies another important story which has not been told. It concerns the work of our oldest and most humanitarian armed service, the U.S. Coast Guard, which, by its efforts helped keep down the toll of life and property which would otherwise have resulted from this disaster.

Because I believe that the American people have a right to know of the fine work of the Coast Guard, a report has been prepared at my request summarizing its efforts during the emergency.

In anticipation of recurring annual floods, resulting from the usual heavy spring rains in the Ohio River Valley, the Coast Guard maintains continuous contact with other pertinent agencies in planning a concerted course of action. They are the Corps of Engineers, American Red Cross, State civil defense agencies, National Guard and other relief units.

The planning paid off handsomely when torrential rains began on March 3 in the densely populated Ohio River Valley. On March 9, when flooding appeared imminent, the 2d Coast Guard District with Headquarters in St. Louis, Mo., established flood alerts in the Huntington, W. Va., and Cincinnati, Ohio, areas. Shortly thereafter, disaster control groups were activated from mile 129.1 to Cairo, Ill.

As an emergency measure, the Coast Guard created four separate group commands with jurisdiction over specified areas of the Ohio River and its tributaries within an 852-mile portion of the river.

On March 9, crests above flood stage were predicted by the Corps of Engineers. These remarkably accurate predictions enabled the Coast Guard to deploy its forces with maximum efficiency and greatly facilitated its task of coordinating flood relief activities. In general, these consisted of control of water releases, sandbagging of critical dikes and timely evacuation of persons within the disaster area. Local officials in Louisville, Ky., declared a state of emergency, followed by similar declarations by municipal and State officials in other areas. State civil defense groups, Red Cross, U.S. Army, National Guard and other relief agencies were alerted by the Coast Guard on March 9. Through this highly effective relief network, warnings were disseminated to critical areas.

At the flood alert stage, each Coast Guard group commander had certain forces, consisting of personnel, flood relief boats and available vehicles at his disposal. In each instance, these facilities were made available to civil defense officials, requesting boats for emergency evacuations or for other missions of an urgent nature. Civil defense officials were also informed that additional Coast Guard personnel and equipment would be made available if needed. Through this "backup" action, local groups were assisted in carrying out relief missions.

During the entire operation, Coast Guard group commanders maintained constant communications with such other agencies as were active in the various localities. Situation Reports (SITREPS) were filed periodically with Coast Guard district headquarters.

As a result of all of this fine planning and coordination of which most people are unaware, there was no loss of life in an area which constitutes an important part of the American heartland. In every case, operations were conducted with speed and efficiency and nature's cruel caprice was thwarted. Untold human tragedy was averted, and that, I believe, deserves official commendation.

## PERSONAL FINANCIAL STATUS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. VAN DEERLIN] may extend his remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. VAN DEERLIN. Mr. Speaker, on April 29 of last year, I followed the example of Congresswoman EDITH GREEN of Oregon, and other Members, by inserting in the CONGRESSIONAL RECORD a full disclosure of my personal financial status. I promised then to offer such a statement each year, so long as I remain in Congress.

I remarked last year that by the very nature of his calling, a public official places himself in a status that is different from the ordinary citizen. Having filed recently for reelection, I feel that the voters of my California district are entitled to know that I am free of financial ties that might influence my actions as their Representative.

Under California's community property law, my wife and I jointly own a residential rental property on three acres, zoned commercial, in Poway, Calif.; equity in a family home in San Diego, and in a commercial lot in Imperial County, Calif.

My salary as a Member of Congress represents more than 90 percent of our total income.

As I further promised last year, my personal income tax returns are available for scrutiny, if requested, by the press or any other responsible body.

## URBAN RENEWAL PROGRAM

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee [Mr. FULTON] may extend his remarks at this point in the RECORD and include a resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. FULTON of Tennessee. Mr. Speaker, in view of the position taken by the U.S. Chamber of Commerce on this Nation's very fine urban renewal program I feel it important to note that the U.S. Chamber's views are not necessarily reflected by the local chambers throughout the country.

The urban renewal program has long enjoyed the support and confidence of the Nashville Area Chamber of Commerce in my district of Nashville, Tenn.

And I note, from the following resolution, that the Atlanta Chamber of Commerce shares the view held by the membership of the Nashville Chamber.

I include in my remarks here, a copy of that resolution, and commend it to the attention of my colleagues:

> Whereas Atlanta's urban renewal program has been instrumental in recent years in helping to remove blight from the face of this great city; and
>
> Whereas this cooperative Federal-local program has enhanced the tax digest of the city of Atlanta by making possible the rehabilitation of substandard structures and the construction of millions of dollars worth of new buildings where slums once stood; and
>
> Whereas the availability of urban renewal property has recently provided ideal sites for proposed new multi-million-dollar public facilities such as a new municipal auditorium and a municipal stadium; and
>
> Whereas the Federal Urban Renewal Agency has most recently approved redevelopment of 106 acres of property in the area known as Buttermilk Bottoms where the new municipal auditorium will be constructed: Now, therefore, be it
>
> *Resolved*, That the Atlanta Chamber of Commerce, through its executive committee, does hereby commend the U.S. Congressman from the Fifth District of Georgia, the Honorable CHARLES LONGSTREET WELTNER, and the mayor and aldermen of the city of Atlanta, for their close cooperation in diligently

pursuing this project to fruition; and be it further

*Resolved*, That the Atlanta Chamber of Commerce expresses its appreciation to officials of the Federal Urban Renewal Agency, both at the regional and national level, for their cooperation with local officials.

Rawson Haverty,
*President.*
Opie L. Shelton,
*Executive Vice President.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mrs. May (at the request of Mr. Halleck), beginning today, for an indefinite period, on account of hospitalization.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Derwinski (at the request of Mr. Shriver), for 1 hour, on Monday, April 27, 1964.

Mr. Patman, for 60 minutes, on Monday and Thursday next; and to revise and extend his remarks and include extraneous matter.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Curtis.

Mr. O'Hara of Illinois.

Mr. Martin of Massachusetts and to include extraneous matter.

Mr. Boland and to include extraneous matter.

(The following Members (at the request of Mr. Shriver) and to include extraneous matter:)

Mr. Roudebush.

Mr. Morse.

Mr. Barry.

(The following Members (at the request of Mr. Albert) and to include extraneous matter:)

Mr. Dowdy.

Mr. St. Onge.

Mr. Fraser.

Mr. Hemphill.

Mr. Multer.

## ADJOURNMENT

Mr. MATSUNAGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until Monday, April 27, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1978. A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for 1965 for the Federal Aviation Agency. This amendment would provide appropriations of $75 million each for the fiscal years 1965 and 1966 (H. Doc. No. 195); to the Committee on Appropriations and ordered to be printed.

1979. A letter from the Comptroller General of the United States, transmitting a report on an examination of contracts and excessive costs incurred because of extended contractor-furnished technical services and other deficiencies in administration of contracts for electronic air traffic control simulator systems, Federal Aviation Agency; to the Committee on Government Operations.

1980. A letter from the Chairman, Securities and Exchange Commission, transmitting the 29th Annual Report of the Securities and Exchange Commission covering the fiscal year ending June 30, 1963, pursuant to the Securities and Exchange Act of 1934, approved June 6, 1934; to the Committee on Interstate and Foreign Commerce.

1981. A letter from the Assistant Secretary of the Interior, transmitting a report relating to an amendatory contract for the performance of work on the Florida project, near Durango, Colo., pursuant to 70 Stat. 274; to the Committee on Interior and Insular Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON of New Jersey: Joint Committee on the Disposition of Executive Papers. Report pursuant to 57 Stat. 380; without amendment (Rept. No. 1337). Ordered to be printed.

Mr. DULSKI: Committee on Post Office and Civil Service. H.R. 9653. A bill to extend the authority of the Postmaster General to enter into leases of real property for periods not exceeding 30 years, and for other purposes; without amendment (Rept. No. 1338). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONNER: Committee on Merchant Marine and Fisheries. H.R. 4487. A bill to amend the act of August 1, 1958, in order to prevent or minimize injury to fish and wildlife from the use of insecticides, herbicides, fungicides, and pesticides; with amendment (Rept. No. 1339). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRAMER:

H.R. 11018. A bill to provide for the construction of a Veterans' Administration hospital of 1,500 beds at Bay Pines, Fla.; to the Committee on Veterans' Affairs.

By Mr. ELLIOTT:

H.R. 11019. A bill to provide that the words "In God We Trust" shall be placed on certain Federal buildings; to the Committee on Public Works.

By Mr. JOHANSEN:

H.R. 11020. A bill to repeal the provisions of the Federal Salary Reform Act of 1962 providing pay comparability between employees in the Federal Government and employees in private industry; to the Committee on Post Office and Civil Service.

By Mr. ST. ONGE:

H.R. 11021. A bill to amend the Internal Revenue Code of 1954 to encourage the construction of treatment works to control water and air pollution by permitting the deduction of expenditures for the construction, erection, installation, or acquisition of such treatment works; to the Committee on Ways and Means.

By Mr. WHITENER (by request):

H.R. 11022. A bill to increase the loan authorization for the construction of District of Columbia highways and to increase the District of Columbia motor-vehicle fuel tax; to the Committee on the District of Columbia.

By Mr. FINDLEY:

H.J. Res. 1009. A joint resolution to establish a National Commission on Food Marketing to study the food industry from the farm to the consumer; to the Committee on Agriculture.

By Mr. ELLIOTT:

H. Con Res. 294. A concurrent resolution expressing the sense of Congress with respect to the recitation of nondenominational prayers and Bible reading in the public schools; to the committee on the Judiciary.

By Mr. MULTER:

H. Res. 703. A resolution condemning persecution by the Soviet Union of persons because of their religion; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

Mr. MARTIN of Massachusetts presented a memorial of the General Court of the Commonwealth of Massachusetts memorializing the Congress of the United States to pass legislation granting medical assistance to the aged under the Federal Social Security Act, which was referred to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. TOLLEFSON introduced a resolution (H. Res. 704) providing for sending the bill H.R. 11001 to the Court of Claims, which was referred to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

869. The SPEAKER presented a petition of Helen M. Vise, secretary, office of county auditor, Spartanburg, S.C., to amend section 574 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, so as to require members of the Armed Forces to furnish proof to the State where they are presently stationed that they have paid current taxes on their personal property to the State where they claim domicile, which was referred to the Committee on Armed Services.

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# SENATE

## Thursday, April 23, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Inouye).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

At the Inn of the Morning we would wait for Thee, Thou guide of our pilgrim way.

We thank Thee for this new day, for its new strength and vigor, its new hopes, and its new opportunities. Help us to meet its joys with gratitude, its difficulties with fortitude, its duties with fidelity.

When great ideas whose day has come beckon us to be their servants, save us from giving ourselves to the dead past, rather than to the creative present and to the living future.

In the tangled tragedy in which all human life is caught, help us in these trying days, rising above all that is base and small, to work together in glad and eager harmony for the honor, safety, and welfare of our Nation and of all the peoples of this stricken earth who unite in mutual good will, dedicated to the golden goal of opening the gates of a new life for all mankind.

In the Master's name, we bring our prayer. Amen.

## THE JOURNAL

On request by Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, April 22, 1964, was dispensed with.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Gavin R. Argue, to be postmaster at Apalachia, N.Y., which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 10939) making appropriations for the Department of Defense for the fiscal year ending June 30, 1965, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

## ORDER FOR MORNING BUSINESS

Mr. MANSFIELD. Mr. President, in a moment I shall suggest the absence of a quorum; but, first, I wish to propound a unanimous-consent request: I ask unanimous consent that at the conclusion of the quorum call, there be a morning hour, wherein statements will be limited to 3 minutes; and that the morning hour continue in operation for up to 1 hour, but that that period may be extended by either the majority leader or the minority leader at the conclusion of 1 hour, if needed, and if other Senators are waiting at that time to submit morning business; provided further, that the morning-hour period will not authorize the meeting of committees under rule XXV.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HILL. Mr. President, reserving the right to object, let me ask why the Senator from Montana proposes to limit control of the morning hour, for the benefit of Senators who have insertions to make in the RECORD, to the majority leader and the minority leader. They might not be in the Chamber throughout that period, for they have many pressing demands upon them and many important duties to perform; therefore, it is obvious that they might not be in the Chamber throughout that period.

Mr. MANSFIELD. If I were in the position of the Senator from Alabama, I believe I would raise the same question that he has raised. But he is fairly well aware of the dialog which occurred the other night.

This proposal would apply only to today; and it is based on the proceedings of yesterday.

Mr. HILL. Why have the proposed agreement apply only to today?

Mr. MANSFIELD. Then I would ask that it be applied to the remainder of the week.

Mr. HILL. Then certainly I would have to object to it.

Mr. MANSFIELD. Then I would make the request for today, only.

Mr. HILL. But I do not know why the Senator from Montana proposes to limit the control to the majority leader, for Senators on this side of the aisle. Will he not include in his request a proviso that, in his absence, the control for Senators on this side of the aisle will be allowed to some other Senator who might be acting in his place?

Mr. MANSFIELD. Oh, yes—the majority leader or any other Senator acting for him, in the exercise of that responsibility.

Mr. HILL. Is that definitely understood?

Mr. MANSFIELD. Yes.

The ACTING PRESIDENT pro tempore. Is there objection to the proposed unanimous-consent agreement, as modified? The Chair hears none. Without objection, it is so ordered.

## CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 161 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Case
Church
Cooper
Cotton
Dodd
Dominick
Douglas
Fong
Goldwater
Gore
Gruening
Hart
Hayden
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Symington
Talmadge
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Louisiana [Mr. LONG], the Senator from Oregon [Mr. MORSE], the Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. THURMOND] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Louisiana [Mr. ELLENDER], the Senator from California [Mr. ENGLE], the Senator from Indiana [Mr. HARTKE], the Senator from North Carolina [Mr. JORDAN], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Mississippi [Mr. STENNIS], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from Arkansas [Mr. MCCLELLAN] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. RANDOLPH] is absent during convalescence from an illness.

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business.

The Senator from Nebraska [Mr. CURTIS], the Senator from New Mexico [Mr. MECHEM], the Senator from Kentucky [Mr. MORTON], and the Senator from South Dakota [Mr. MUNDT] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN], the Senators from Iowa [Mr. HICKENLOOPER and Mr. MILLER], and the Senator from Texas [Mr. TOWER] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

The Senator from Montana is recognized.

## AMENDMENT OF ALASKA OMNIBUS ACT

The ACTING PRESIDENT laid before the Senate a communication from the President of the United States transmitting a draft of proposed legislation to amend the Alaska Omnibus Act, which, with the accompanying papers, was referred to the Committee on Interior and Insular Affairs.

## PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

The petition of Alfred C. Bean, of Corona, Calif., relative to appropriations for foreign aid; to the Committee on Foreign Relations.

By Mr. SALTONSTALL (for himself and Mr. KENNEDY):

A resolution of the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION GRANTING MEDICAL ASSISTANCE TO THE AGED UNDER THE FEDERAL SOCIAL SECURITY ACT

"*Resolved*, That the General Court of Massachusetts hereby urges the 88th Congress of the United States to pass legislation granting medical assistance to the aged, funds for such assistance to be raised under the Federal Social Security Act, and eliminating the paupers' oath; and be it further

"*Resolved*, That a copy of these resolutions be sent forthwith by the secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, and to the Members thereof from the Commonwealth.

"House of representatives, adopted, March 30, 1964.

"WILLIAM C. MAIERS,
"*Clerk*.

"Senate, adopted in concurrence, April 2, 1964.

"THOMAS A. CHADWICK,
"*Clerk*.

"Attest:

"KEVIN H. WHITE,
"*Secretary of the Commonwealth*."

## REPORT ON DISPOSITION OF EXECUTIVE PAPERS

Mr. JOHNSTON, from the Joint Select Committee on the Disposition of Executive Papers, to which was referred for examination and recommendation a list of records transmitted to the Senate by the Archivist of the United States that appeared to have no permanent value or historical interest, submitted a report thereon pursuant to law.

## CONCURRENT RESOLUTIONS OF SOUTH CAROLINA LEGISLATURE

Mr. JOHNSTON. Mr. President, I wish to bring to the attention of the Senate a concurrent resolution passed by the General Assembly of South Carolina concerning the retention of the Soil Conservation Service office in Spartanburg, my home city. The Department of Agriculture is currently studying plans to move from Spartanburg to Fort Worth, Tex., the cartographic services now being rendered South Carolina and eight other southeastern States. It is my opinion and the opinion of the General Assembly of South Carolina that adequate service cannot be rendered South Carolina or these other States out of Fort Worth, Tex., and that the plans to move this office are false economy.

Mr. President, I send to the desk this short concurrent resolution passed by the General Assembly of South Carolina and ask that it be printed in the RECORD and appropriately referred.

There being no objection, the concurrent resolution was referred to the Committee on Agriculture and Forestry, and, under the rule, ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION REQUESTING THE HONORABLE ORVILLE L. FREEMAN, SECRETARY OF AGRICULTURE, TO RETAIN THE UNIT OFFICE OF THE SOIL CONSERVATION SERVICE IN SPARTANBURG, S.C.

Whereas it is reported that certain unit offices of the Soil Conservation Service are to be consolidated; and

Whereas the unit located in Spartanburg, S.C., has a Division of Cartography and of Engineering and Watershed Planning which serves seven Southeast States and Puerto Rico; and

Whereas the removal or consolidation of this office would have a disastrous impact upon the agricultural and conservational economy of the entire Southeast: Now, therefore, be it

*Resolved by the senate (the house of representatives concurring)*, That the Honorable Orville L. Freeman, Secretary of Agriculture, is respectfully requested to retain the unit office of the Soil Conservation Service in Spartanburg, S.C.; be it further

*Resolved*, That a copy of this resolution be forwarded to the Secretary of Agriculture, the U.S. Senators from South Carolina, and Members of the U.S. House of Representatives from South Carolina.

Mr. JOHNSTON. Mr. President, there has been forwarded to me by the House of Representatives of South Carolina a concurrent resolution requesting the National Park Service to authorize the South Carolina Confederate War Centennial Commission to erect a flagpole at Fort Sumter honoring the Confederate defenders of the fort, and to provide for the flying of the Confederate flag thereon.

It is my intention to bring this situation to the attention of the National Park Service and ask that it agree to the concurrent resolution request.

Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, together with my remarks, this very brief resolution concerning the flying of the Confederate flag at Fort Sumter, which I send to the desk for appropriate reference.

There being no objection, the concurrent resolution was referred to the Committee on Interior and Insular Affairs, and, under the rule, ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION REQUESTING THE NATIONAL PARK SERVICE TO AUTHORIZE THE SOUTH CAROLINA CONFEDERATE WAR CENTENNIAL COMMISSION TO ERECT A FLAGPOLE AT FORT SUMTER AND TO PROVIDE FOR THE FLYING OF THE CONFEDERATE FLAG THEREON

*Resolved by the House of Representatives (the Senate concurring)*, That the National Park Service is requested to authorize the South Carolina Confederate War Centennial Commission to erect a flagpole at Fort Sumter honoring the Confederate defenders of the fort, and to provide for the flying of the Confederate flag thereon; be it further

*Resolved*, That a copy of this resolution be forwarded to the Director of the National Park Service, Mr. George Hartzog; the Superintendent of the Fort Sumter National Monument, Mr. E. J. Pratt; and to all Members of the Congress from South Carolina.

Attest:

INEZ WATSON,
*Clerk of the House*.

## BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DOUGLAS:

S. 2762. A bill to provide for the establishment of a mint of the United States in the State of Illinois; to the Committee on Banking and Currency.

S. 2763. A bill for the relief of Jakob Blagaich (also known as Jakov Blagaic); to the Committee on the Judiciary.

(See the remarks of Mr. DOUGLAS when he introduced the first above-mentioned bill, which appear under a separate heading.)

By Mr. CANNON:

S. 2764. A bill with respect to the proof of value necessary in the case of certain mining claims located prior to July 23, 1955; and

S. 2765. A bill to amend the act relating to the multiple use of the surface of the same tracts of the public lands in order to provide that certain varieties of sand and gravel shall be considered as valuable mineral deposits under the mining laws of the United States; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. CANNON when he introduced the above bills, which appear under a separate heading.)

By Mr. CHURCH:

S. 2766. A bill to authorize the Secretary of the Army to grant rights of storage and transportation on flood control projects; to the Committee on Public Works.

By Mr. BOGGS:

S. 2767. A bill for the relief of George Tillson Weed; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S.J. Res.174. Joint resolution to authorize and direct the Bureau of Commercial Fisheries to conduct a survey of the marine and fresh-water commercial fishery resources of the United States, its Territories, and possessions; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above joint resolution, which appear under a separate heading.)

## ESTABLISHMENT OF A MINT IN THE STATE OF ILLINOIS

Mr. DOUGLAS. Mr. President, I introduce a bill to provide for the establishment of a mint of the United States in the State of Illinois and ask that it be appropriately referred.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2762) to provide for the establishment of a mint of the United States in the State of Illinois, introduced by Mr. DOUGLAS, was received, read twice by its title, and referred to the Committee on Banking and Currency.

Mr. DOUGLAS. Mr. President, recent studies by the Banking and Currency Committees and a private consulting firm show a tremendous need for the increased minting of U.S. coins; 4.1 billion coins are to be minted during the current fiscal year, but we will need an annual production of at least 5.1 billion by 1970, 7.0 billion by 1975, 9.6 billion by 1980, and 17.8 billion by 1990. Even these estimates may be far too conservative.

To mint the 4.1 billion coins needed this year, the two existing coinage mints at Philadelphia and Denver must operate virtually 24 hours a day, 7 days a week.

Legislation passed last year authorizes appropriations which will be used to expand present facilities or replace inadequate existing ones at the Philadelphia Mint. But it is clear that even with expansion and nearly full-time operation of the Denver and Philadelphia mints we will run far behind the rapidly growing demand for coins. The extraordinary demand for more and more coins is not simply a result of general economic growth and population increase, but is due also to technological developments and cultural changes such as use of coin-operated vending machines and increased leisure time and recreational activities.

Illinois is the center of the great midwestern commercial area, and I have received strong protests from area businessmen that the supply of coins is inadequate. Location of the third mint in Illinois would help to make certain that the Midwest has an adequate supply of coins and would permit economies to be realized by the Federal Government and the taxpayer in distribution costs.

I urge the Public Works Committee and the Treasury Department to plan now for construction in Illinois of the third mint.

## PROPOSED LEGISLATION PERTAINING TO THE MINING LAWS

**Mr. CANNON.** Mr. President, in 1955 Congress enacted Public Law 167 which provided that "common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws."

The principal purpose for this legislation was apparently to remove the possibility of unauthorized and fraudulent locations by speculators who had no interest in developing mining operations, but were only interested in acquiring title to surface land.

I believe sincerely that this is a sound purpose. My concern today, however, is not with the intent of Public Law 167, but with the interpretation given it by the Department of the Interior since its enactment.

The decisions rendered since 1955 have been equally as restricting on bona fide sand and gravel operations as on the fraudulent operators. Regulations have been drawn which have greatly impaired and, in fact, threatened to totally cripple the construction and building industry in Nevada and other Western States.

Section 7 of the 1955 act provides that there be no limit or restrictions on existing rights under valid mining claims. In spite of this, however, the Department of the Interior has consistently ruled that those claims validly located prior to 1955 must meet a marketability test at a date not later than the time of the act. This flatly violates the historical idea that an operator was entitled to locate and protect his reserves even though he did not in fact remove and market them prior to the time he sought patent.

An arbitrary date is set by the Department ruling at which time any operator, no matter how well intentioned, must be able to prove that he could have economically mined the materials located.

In an area expanding at such an accelerated rate as is Nevada, the effect of the Department's ruling is a serious threat. In my State, for example, 86.9 percent of the total area is controlled by the Federal Government. All Western States have a significant, though lesser, amount of land in public domain. It is imperative, therefore, that, to meet the demands of growth, we have access to the materials held in these lands.

I am not proposing that carte blanche permission be given any operator to remove minerals. I am proposing that more reasonable interpretations be given to existing law and that certain clarifications be made in order that valid mining operations can be conducted.

The first bill which I send to the desk, therefore, would simply provide that a "valuable mineral deposit" within the meaning of the mining laws can be proven by establishing that such deposit was marketable at the time application for patent was made. This bill would only apply to claims located prior to July 23, 1955, the date of enactment of Public Law 167.

The second bill deals with the interpretation of the term "common varieties" as applied in the 1955 act. The Department in this case has held that all sand and gravel was of a common variety and therefore not locatable under the Minerals Act.

In my judgment, such interpretation is not realistic and does not take into consideration the type of materials which are needed by the construction industry. The adoption of this position again seems to ignore the intent of Congress at the time it passed Public Law 167, for had the purpose been to eliminate all varieties, the language would have been so worded. Congress, in fact, added the word "common," however, to indicate that only common varieties were excluded leaving all special varieties of building materials subject to the mining laws.

I therefore send to the desk a second bill which would clarify the intent of Congress in this connection.

May I point out that in terms of mine units produced, the sand and gravel industry is the largest member of the mining family. In 1963, according to the U.S. Bureau of Mines, the industry produced 831 million tons valued at $838 million.

The executive director of the American Society of Planning Officials, Mr. Dennis O'Harrow, has pointed out that if the present sand and gravel production should remain static, there would have to be produced 25 billion tons in the next 30 years. With the anticipated increase in population, however, he estimates that it will be necessary to produce 42 billion tons during that time period. By 1993, annual production would have to be approximately 2,100 million tons.

I believe these figures will dispel any erroneous notions that although gravel is commonly found and not regarded as valuable, it is a vital natural resource and an important, essential element to our economy. It is an unrenewable resource that needs to be used with prudence but needs to be available to the honest operators who seek to keep pace with the demands of our growing population.

Mr. President, I ask that these bills be held at the desk for 1 week for additional cosponsors.

**The ACTING PRESIDENT pro tempore.** The bills will be received and appropriately referred; and, without objection, the bills will lie on the desk, as requested by the Senator from Nevada.

The bills, introduced by Mr. CANNON, were received, read twice by their titles, and referred to the Committee on Interior and Insular Affairs, as follows:

S. 2764. A bill with respect to the proof of value necessary in the case of certain mining claims located prior to July 23, 1955; and

S. 2765. A bill to amend the act relating to the multiple use of the surface of the same tracts of the public lands in order to provide that certain varieties of sand and gravel shall be considered as valuable mineral deposits under the mining laws of the United States.

## SURVEY OF THE MARINE AND FRESH WATER COMMERCIAL FISHERY RESOURCES OF THE UNITED STATES

**Mr. MAGNUSON.** Mr. President, I introduce, for appropriate reference, a joint resolution authorizing and directing the Bureau of Commercial Fisheries to conduct a survey of the marine and fresh water commercial fishery resources of the United States and its contiguous waters.

Twenty years ago this month President Franklin D. Roosevelt approved a notable and similar joint resolution sponsored by our late distinguished colleague from North Carolina, the Honorable Josiah Bailey, chairman of the Senate Committee on Commerce.

The survey proposed by Senator Bailey was made and was of material benefit to our fisheries industry during the years immediately following World War II.

Since then many new conditions and circumstances have arisen affecting the living resources of the adjacent seas and the many industries utilizing these resources.

The catch of fish for industrial purposes increased until last year then dropped off half a billion pounds.

The catch of food species has consistently declined. Last year it dropped 11 percent from the previous year.

The depletion of favored food species is occurring not only in waters that are the mainstay of our own fisheries, but around the world.

From 1961 to 1962 the world salmon catch declined 220,000 metric tons, a drop of 29 percent. World catches of halibut, sole, and flounder fell 8 percent.

A few years ago the sardine industry of California was a great and prosperous industry. Now it is gone—disappeared for reasons as yet unknown. Perhaps other ocean species there can replace it.

External pressures also are threatening the fishery resources in many of our adjacent waters. Massive foreign fishing fleets from overseas are penetrating our richest fishing grounds—grounds where Americans have been fishing for more than 300 years.

The survey proposed in the joint resolution would include not only a comprehensive inventory of resources, but studies of production, processing, distribution, transportation, marketing, and storage methods and facilities, and findings on the effects of overfishing by foreign fleets on employment and the national economy.

Should facts warrant, they could lead to international agreements toward conservation of these resources on an optimum sustained yield basis.

The 78th Congress wisely and promptly passed Senator Bailey's joint resolution directing the initial survey of our fishery resources. It is my hope that the joint resolution may be similarly expedited.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 174) to authorize and direct the Bureau of Commercial Fisheries to conduct a survey of the marine and fresh water commercial fishery resources of the United States, its territories, and possessions, introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Commerce.

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## CIVIL RIGHTS — AMENDMENT TO TITLE II AND TITLE X (AMENDMENT NO. 514)

Mr. SALTONSTALL. Mr. President, I submit an amendment intended to be proposed by me at a later time to the bill H.R. 7152. I ask that the amendment be read, ordered to remain at the desk, and to be printed so that it may be eligible for consideration in the event a cloture motion is presented on the bill.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Is there objection? The Chair hears none. The amendment submitted by the Senator from Massachusetts will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SALTONSTALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 514) submitted by Mr. SALTONSTALL is as follows:

On page 9, beginning with line 15, strike out all through line 24 on page 10 (section 204) and in lieu thereof insert the following:

"SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may, subject to the provisions of this section, be instituted (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he receives a written complaint signed by the person aggrieved and if he satisfies himself that the purposes of this title will be materially furthered by the filing of an action.

"(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

"(c) Except as otherwise provided in this section, in the case of any complaint received by the Attorney General alleging a violation or threatened violation of section 203 in a place where State or local laws or regulations forbid the act or practice alleged, the Attorney General shall, prior to referring such complaint under subsection (d), notify the appropriate State or local officials of such complaint and, upon their request, afford them a reasonable time to act under such State or local laws or regulations to prevent, or bring about a discontinuance of, such act or practice.

"(d) Except as otherwise provided in this section, the Attorney General shall refer each complaint received by him alleging a violation or threatened violation of section 203 to the Community Relations service established by title X of this Act. If he has given notice of such complaint to State or local officials under subsection (c) and such officials have requested time to act under State or local laws or regulations, he shall refer such complaint to the Service only if he determines that the prevention or discontinuance of the act or practice alleged has not been secured by such officials within a reasonable time. The Attorney General may institute an action under subsection (a) with respect to any violation or threatened violation of section 203 alleged in a complaint received by him only if (1) after the expiration of the ninety-day period beginning with the referral of such complaint to the Service, he determines that the Service has been unable to bring about a voluntary discontinuance of the act or practice alleged in such complaint, or (2) prior to the expiration of such ninety-day period, the Service certifies to him under section 205(b) that it has been unable to bring about a voluntary discontinuance of such act or practice.

"(e) The Attorney General shall not be required to give notice of any complaint under subsection (c), or to refer any complaint under subsection (d), if he determines that there are no reasonable grounds to believe that there has been a violation, or to believe that there is a threatened violation, of section 203. The Attorney General shall not be required to give notice of a complaint under subsection (c) if he determines that in the particular case the delay consequent thereto would adversely affect the interests of the United States or that such notice would prove ineffective, in which case he shall certify such determination upon referral of such complaint to the Community Relations Service.

"(f) If the person aggrieved has filed a complaint with the Attorney General he may not institute an action under subsection (a) with respect to a violation or threatened violation of section 203 alleged in such complaint before the expiration of the ninety-day period commencing with the referral of such complaint to the Community Relations Service by the Attorney General under subsection (d), unless prior to the expiration of such period the Service certifies to the Attorney General under section 205(b) that it has been unable to bring about a voluntary discontinuance of the act or practice alleged in such complaint.

"SEC. 205. (a) The Community Relations Service shall make an investigation of each complaint referred to it by the Attorney General under section 204(d). If as the result of its investigation of any complaint, the Service finds any act or practice alleged therein which in its judgment constitutes a violation or threatened violation of section 203, it shall endeavor by conciliation and persuasion to bring about a voluntary discontinuance of such act or practice.

"(b) If the Service determines, before the expiration of the ninety-day period commencing on the date on which a complaint is referred to it, that it is unable to bring about a voluntary discontinuance of the act or practice which it has found to constitute a violation or threatened violation of section 203, it shall certify such fact to the Attorney General."

On page 11, line 1, strike out "205" and insert "206".

On page 52, line 11, strike out ", not to exceed six in number,".

Mr. SALTONSTALL. Mr. President, I ask unanimous consent that I may speak for perhaps 3 or 3½ minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, I object. If the Senator's time expires before he has concluded his speech, he might make his request again.

Mr. SALTONSTALL. I thank the Senator.

The purpose of this amendment is to provide a means on the Federal level by which the Attorney General shall attempt to secure voluntary compliance with the provisions of title II prior to instituting court action. It provides an opportunity for the parties concerned in a dispute over an alleged discriminatory practice to try initially to resolve the problem with the assistance of the Community Relations Service. It is certainly hoped that the advantages of using this means to settle a dispute rather than a long and costly court suit will be recognized by the parties involved. If voluntary compliance cannot be obtained through conciliation and persuasion within 90 days, the aggrieved party and the Attorney General are then free to institute civil action.

Mr. President, I support the purpose of title II, but I sincerely believe that it will prove in the best interests of all of our citizens and the communities in which these disputes arise to attempt to secure voluntary compliance with the provisions of this title before initiating court action.

### DETAILED EXPLANATION

My amendment amends section 204 of title II of H.R. 7152 to provide that the Attorney General, prior to instituting an action on a complaint alleging a violation or a threat of violation of section 203, shall refer the complaint to the Community Relations Service established by title X of this act. The Community Relations Service shall have a minimum of 90 days in which to investigate the complaint and to bring about a voluntary discontinuance of the alleged act or practice, unless prior to the expiration of this period the Service certifies to the Attorney General that it has been unable to secure voluntary compliance. If the Attorney General determines that the Service needs additional time at the end of 90 days he may so grant it.

The amendment includes the language in the pending bill which permits the Attorney General to give notice of a complaint received by him to State or local officials and, at their request, give them a reasonable time in which to secure a discontinuance of the act or practice alleged in the complaint. It provides that he shall not be required to give such notice or refer any complaint to the Community Relations Service if he determines that there are no reasonable grounds to the complaint. He is also not required to give such notice to State or local officials if he determines that in the particular case the delay would adversely affect the interests of the United States or would prove ineffective. In such a case, my amendment provides that he shall certify this determination when he refers the complaint directly to the Community Relations Service.

Where a complaint has been filed with the Attorney General, my amendment restrains the aggrieved party as well as the Attorney General from instituting action for preventive relief while the case is pending in the Community Relations Service.

To enable the Community Relations Service to carry out the function described here, the amendment strikes the limitation contained in title X of six permanent employees for the Service. The decision on the size of this Service will be made through its annual appropriations.

Mr. President, Massachusetts, in 1865, became the first State to enact a public accommodations statute. This law, which has been amended several times since its original enactment, is considerably broader in scope than what is pending before us today. The Massachusetts law provides for criminal penalties. However, in addition, in 1950, the provisions of this law were placed under the jurisdiction of the Massachusetts Commission Against Discrimination. This commission has authority to seek voluntary compliance with the provisions of the law. Thus, although the Massachusetts statute provides a criminal penalty, the principle of seeking voluntary compliance in such cases prior to enforcement by the courts was recognized in our State and has worked well.

I believe the amendment has value to title II of the act.

## INCREASE IN AMOUNT OF DOMESTIC BEET SUGAR AND MAINLAND CANE SUGAR WHICH MAY BE MARKETED DURING 1964, 1965, AND 1966—AMENDMENT (AMENDMENT NO. 515)

Mr. BURDICK. Mr. President, I submit, for appropriate reference, an amendment to S. 2657 to increase the amount of domestic beet sugar and mainland cane sugar which may be marketed during 1964, 1965, and 1966.

My proposed amendment would complement S. 2657 by amending the Sugar Act of 1948 to include for calendar years 1965 to 1969 increased quotas for domestic sugar producing areas by one million short tons raw value. Further, section 302(b) of the Sugar Act of 1948 would be amended by striking out 1966 and inserting 1969.

Mr. President, the purpose of these changes in S. 2657 is to permit allocations to be made from the sugar beet acreage reserve from 1967, 1968, and 1969, as well as increasing the marketing quotas for the beet area for 1967, 1968, and 1969. By so doing, this would allow the acreage required to produce 65,000 tons of sugar in each of the 3 years and thereby provide for four new sugar beet factories under the acreage reserve provisions of the Sugar Act.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred.

The amendment (No. 515) was referred to the Committee on Finance.

## INCREASED AMOUNT OF DOMESTIC BEET SUGAR AND MAINLAND CANE SUGAR WHICH MAY BE MARKETED DURING 1964, 1965, AND 1966—ADDITIONAL COSPONSOR OF BILL

Mr. YOUNG of North Dakota. Mr. President, at its next printing, I ask unanimous consent that the name of the Senator from Texas [Mr. TOWER] may be added as a cosponsor of the bill (S. 2657) to increase the amount of domestic beet sugar and mainland cane sugar which may be marketed during 1964, 1965, and 1966, introduced by me on March 19, 1964.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO SECRETARY OF DEFENSE ROBERT S. McNAMARA

Mr. MANSFIELD. Mr. President, Secretary of Defense Robert S. McNamara holds what is one of the most difficult jobs in the country after that of the Presidency itself. It calls for daily decisions which vitally affect the defense of our Nation—the very preservation of peace and our national integrity.

Secretary McNamara has served with great dedication and determination. He has administered the Department of Defense ably and intelligently. He has discharged his responsibilities with great sensitivity to the vital interests of our country. He has acted without partisanship—a Republican in a Democratic administration—in his public responsibility.

Robert McNamara has not been infallible—nor can one expect him to be—but he has always sought to make decisions based on facts and in the light of what he believes to be the public interest.

His actions and his words have sometimes rankled and invited strong opposition. He is not a diplomat. He is not a pawn. He is not a dissimulator.

There are those who question his decisions but none can question his motives. He is a man of integrity and courage.

Mr. President, I ask unanimous consent that an article by Neal Stanford entitled "The Pentagon Boss," which appeared in the Christian Science Monitor of April 21, 1964, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE PENTAGON BOSS

(By Neal Stanford)

The most controversial man in Washington today is Defense Secretary Robert McNamara. It just is not possible to be neutral about him. You either admire him or deplore him.

Here is a Republican (at least he was a Republican) being seriously mentioned as President Johnson's choice for his running mate on the Democratic ticket.

Here is a Phi Beta Kappa Harvard professor running the $50 billion-a-year Pentagon, and running it more efficiently than it has ever been run, and with a firmer hand and keener mind than anyone can recall.

When that proper Bostonian and Beacon Hill Senator from Massachusetts, Republican LEVERETT SALTONSTALL, speaks warmly of a Democratic administration Cabinet member that is news. Yet Senator SALTONSTALL tells the Secretary: "I have been here 18 years now and if you are making those annual savings of billions of dollars you tell us, you have done some job. I congratulate you."

That economy watchdog on defense spending, Senator PAUL DOUGLAS, Democrat, of Illinois, who has been trying for years to get Defense Secretaries to cut waste, says flatly: "It wasn't until McNamara took over in the Pentagon that we've made any progress against military waste."

Secretary McNamara, it is not widely known, talks back to Congressmen on the Hill with a sharpness and abruptness that is unheard of. Just the other day he took on the House Foreign Affairs Committee, asserting: "We are asking for only $1 billion for foreign aid solely because the Congress has made it crystal clear it is unwilling to appropriate a larger amount." When Representative PETER FRELINGHUYSEN, Republican, of New Jersey, broke in to say he didn't like the words "solely" and "crystal clear" and was "appalled by such a statement * * * it is incomprehensible * * * most unwise. I resent it and think it is offensive," the Secretary replied: "That's exactly what I said."

But the Congressman unwisely persisted, arguing that the Secretary had failed in his basic responsibility to inform the Congress, and charging: "You are running from battle before it begins." This brought the sharp retort from the Secretary: "I never run from a fight, and my record before Congress supports that."

Abrupt and sharp as he may be, the Secretary, however, sometimes has Congressmen falling all over themselves to praise him. For a Senator to be at a loss for words is unique, and possibly unethical. But here is Senator RICHARD RUSSELL, Democrat, of Georgia, chairman of the powerful Armed Services Committee, telling the Secretary to his face: "I cannot find words to express my admiration of the administrative efficiency that you have shown." Yet Secretary McNamara is the man that refuses to spend those extra millions the Senator and his colleagues vote for development of various new weapons systems. Possibly the fact that the Senator paid the compliment and made the admission at an executive session explains it. But the Senator is too old a hand in Washington not to know that yesterday's executive comment is today's newspaper headline.

But if Senator RUSSELL was at a loss for words with which to praise the deceptively boyish Secretary of Defense, not so Senator ALLEN ELLENDER, Democrat, of Louisiana, who said unqualifiedly: "It has been my privilege to be in Congress for 27 years and I do not know of any time that I have been confronted with a witness who is more informed than McNamara," and that is a sweeping statement for it includes such greats as John Foster Dulles, George C. Marshall, Dean Acheson, and Robert Lovett. Senator ELLENDER possibly paid Secretary McNamara his greatest compliment, however, by adding: "He kind of disarms you by being so well informed."

But all Senators do not love and admire this wonder-boy emigrant from Detroit's Ford empire, as most any day's comments by GOP presidential aspirant Senator BARRY

GOLDWATER shows. In his dispute with the Secretary over the reliability of U.S. ICBM's, the Arizona Senator calls the Pentagon boss irresponsible, and even charges him with dishonesty. To which the Secretary fires back that it is completely misleading, politically irresponsible, damaging to the national security to talk that way.

Yes, you can't be neutral about Secretary McNamara, you are either for him or against him, all the way. (And with L.B.J., it's all the way.)

Mr. MANSFIELD. Mr. President, the article is indicative of Secretary McNamara's exceptional attributes for public service and of the high esteem in which he is held by the Members of the Senate.

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## MORAL CONDUCT OF THE FUTURE GENERATION

Mr. ROBERTSON. Mr. President, this is the second month in which the Senate has been engaged in debating the civil rights bill. Many say it is the most important measure that has been before the Senate in years.

I do not question the importance of the issue, although personally I feel that there are no constitutional rights, in either State or Federal Constitution that cannot be preserved, regardless of race, color, religion, sex, or any other reason, by enforcing the laws which we now have.

In my opinion, a far greater issue was discussed before our breakfast group by the distinguished junior Senator from Georgia [Mr. TALMADGE]. He opened his discussion by saying:

> My friends, Edmund Burke believed that the character of the next generation can be predicted—and is in fact determined—by the prevailing sentiments and behavior of the youth today.

I see in the galleries those who are engaged in training Catholic youth to grow up into good citizens. But unfortunately, too few of them are in the parochial schools.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the excellent statement made before our breakfast group yesterday by the junior Senator from Georgia [Mr. TALMADGE].

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My friends, Edmund Burke believed that the character of the next generation can be predicted—and is in fact determined—by the prevailing sentiments and behavior of the youth today.

This is more than just the expression of a philosophical principle. It is indeed a warning and a challenge to all who are concerned with the future of young people. And to me it is a reminder of the wisdom that we find in the 22d chapter of Proverbs, the 6th verse:

"Train up a child in the way he should go, and when he is old, he will not depart from it."

My friends, lately I have become increasingly concerned about the morality and discipline of our young people. I wonder if the American people, in the rearing of their children, aren't straying from the teachings of their fathers, if they aren't becoming unmindful of the fact that "children are the heritage of the Lord" and therefore must be instructed according to His word.

Judging from the number of recent national magazine articles and widespread publicity dealing with the moral conduct—or misconduct—of our youngsters, it appears that this is a matter of growing concern throughout the country. And it should be.

The moral fabric of a nation is only as strong as its weakest fibers.

Certainly the situation is not as dismal or hopeless as some would have us believe. I will not endeavor to paint such a picture this morning. However, neither is it all bright and rosy. In my opinion, things are far from what they should be with growing numbers of our children.

I am aware that such a charge as this usually brings an angry outcry proclaiming that "we are not all bad." This, of course, is true. We have in America—in our high schools and colleges—a vast and praiseworthy army of fine young men and women who are the products of good homes and Christian training. We are proud of them, and we place great trust in them. I certainly would not go so far as the California school superintendent who branded a certain class of so-called delinquents as "the cult of the slob."

On the other hand, I cannot subscribe to the theory that errant young people of today are only misunderstood and really act no differently than those of any previous generation. Nor can I believe that boys and girls of today are the unfortunate victims of unhappy circumstances and uncertain times, and therefore not responsible for what they think and do.

Certainly, this is a complex and insecure age in which we live. But, I think the problem which I wish to discuss with you this morning is much more than merely a symptom of this period in our history.

My friends, I fear that standards of morality have been greatly lowered. I see signs that the value of restraint and individual responsibility has fallen to what could be an alltime low. If this is true, it could be a great tragedy, and I contend that it is one for which we have sown the seeds and which is now beginning to bear a bitter fruit in our children.

Somewhere at sometime, something has gone amiss when we see in a respected national magazine a symposium on the merits and demerits of chastity. The matter is treated as though it were no more than the vestige of an outmoded virtue.

Recently, Newsweek magazine devoted its entire cover story to morals on the campus. The article stated, and I quote:

"Chastity remains a virtue for most of today's 4½ million college students; but for a significant—and growing—minority the question has become academic."

No, all is not well with our children when we read of organized gangs of teenagers roaming the streets in search of a fight or a party to crash, or when we see that the final whistle at a football game is often the signal for mayhem.

All is not well when our city streets are unsafe after dark, and when our parks must be vacated at sundown by law-abiding citizens and their families.

The number of crimes and acts of violence perpetrated by persons under 18 years of age increases each time the statistics are compiled.

Somewhere along the line, the training of our youth has gone sour when they think it is great sport to wreck havoc in a cemetery by tipping over tombstones; when the height of pleasure is achieved in the desecration of a church; when policemen are hired for high school dances to see that drinking doesn't lead to disorder; when teenage pregnancy occurs much more frequently than illegitimate birth rates show.

Authority, whether it be in the police, in the school, or in the home, has become the object of ridicule. In many young circles, you are considered a square if you adhere to the rules of established order or acquiesce to the commands of your elders.

Unfortunately, much of today's unruly or abusive conduct by young people is dismissed as only boyish behavior, and in one form or another, such showing off happens all the time. This is true. It does happen over and over again. Yes, these things occur every day, and this is exactly what I am talking about. This is what I am concerned about. It goes directly to the point I wish to make.

When children are not taught respect and obedience, when the doctrine of responsibility is not instilled in them in the home, when despairing and apparently helpless parents allow their offspring to do pretty much as they please, how can they be expected to act responsibly and honorably outside the home?

If children are allowed to disobey their parents with impunity and act in such a belligerent and disrespectful manner as to undermine authority in the home, how can these young people be expected to respect any authority outside the home?

If they can scorn their adults, can they not also thumb their noses at the law and trample on the rights and property of others? They can and they do.

"Boys will be boys," we are told by the apologists. So we forgive and forget. We absolve them of all responsibility because they are young and exuberant and strong-willed. Boys will be boys, but soon they will be men, and all men must learn that ours is an ordered society and all of us might at one time or another bend our will to established authority. Otherwise, there would be chaos and anarchy.

We also hear the explanation that young people today have too much time on their hands, and consequently they are idle because they don't have enough to do. There is idleness all right, and it is true that this certainly can—and often does—lead to waywardness. But this is not because there isn't enough to do. The fact is that too many young people today aren't given enough to do. Virtually everything is done for them, with the car keys and spending money thrown in as a bonus.

Here is what a Prince William County, Va., police chief says about idleness and teenagers:

"Always, we hear the plaintive cry of the teenager: What can we do? Where can we go? The answer is: Go home; hang the screens; paint the woodwork; rake the leaves; mow the lawn; shovel the walk; wash the car; learn to cook; scrub the floors; repair the sink; build a boat; get a job; help the minister, priest, or rabbi, the Red Cross, or the Salvation Army; visit the sick; assist the poor; study your lessons; and then when you are through—and not tired—read a good book.

"Your parents do not owe you entertainment. Your village doesn't owe you recreational facilities. The world doesn't owe you a living. You owe the world something. You owe your time and energy and talents, so that no one will be at war or in poverty, or sick and lonely again. In plain simple words, grow up, get out of your dream world, quit being a crybaby, start acting like a man or a lady."

"An idle soul shall suffer hunger," the Scriptures tell us, and I am of the same mind as the poet who said that "nothing is so certain as that the evils of idleness can be shaken off by hard work."

Perhaps the theory most commonly advanced to explain the unrest of our young people is the fact that these are troubled times and the future is uncertain. This leads to fear and insecurity which for some reason is supposed to be an excuse for rebelliousness and defiance.

If youth is unhappy and afraid and insecure, then I agree with J. Edgar Hoover that the blame must be placed with their elders. Writing recently on the training of children, Mr. Hoover said that they aren't being taught how to live in a free society. Said he:

"These are the unhappy youth. Their arrogant defiance of authority is a pitiful pose that seeks to conceal the tragic fear and insecurity which they feel. This fear, this insecurity exist because we have failed to prepare them to meet the personal demands and responsibilities of life in our American Republic."

What is the key to such preparation? It is self-discipline, and this can be practiced only after discipline is learned from others. Boys and girls must be given standards of acceptable behavior. And, as Mr. Hoover points out, these standards must be enforced to the strictest degree.

Love and affection are not synonymous with indulgence. A well-adjusted and responsible individual is not the product of a weak and inconsistent upbringing, or vacillating enforcement of disciplinary standards.

We naturally look to our churches for moral guidance, but virtue cannot be taught from the pulpit alone. Nor should the burden fall upon our schools. This is the primary duty and responsibility of parents. Moral training must begin in the home. It must continue in the home. It must be strict and unrelenting until the boy becomes a man and goes out to make his own way in the world.

The training of a child is properly based upon the law of God. His law is our law and He has commanded us to make it the law of our children. Let us endeavor to restore to their rightful positions of importance the Christian home and the family altar. I am convinced beyond a doubt that as these institutions decline, so will delinquency, immorality, and irresponsibility increase.

What is needed is a revival of the God-loving and God-fearing spirit which guided the lives of our Founding Fathers. And, when all of us have rededicated ourselves and our teachings to His principles, we will be able to say with certainty and great pride that our children will give only of their best to the future. We will know that our children will be honorable and upright citizens.

My friends, I know of no better expression of the hopes and desires a father has for his son than the prayer of the late General of the Army Douglas MacArthur:

"Build me a son, Oh Lord, who will be strong enough to know when he is weak, and brave enough to face himself when he is afraid; one who will be proud and unbending in honest defeat, and humble and gentle in victory.

"Build me a son whose wishbone will not be where his backbone should be; a son who will know Thee—and who will know that to know himself is the foundation stone of knowledge.

"Build me a son whose heart will be clear, whose goal will be high; a son who will master himself before he seeks to master other men; one who will learn to laugh, yet never forget how to weep; one who will reach into the future, yet never forget the past.

"And after all these things are his, add, I pray, enough of a sense of humor, so that he may always be serious, yet never take himself too seriously. Give him humility, so that he may always remember the simplicity of true greatness, the open mind of true wisdom, the meekness of true strength.

"Then, I, his father, will dare to whisper: 'I have not lived in vain.' "

Mr. ROBERTSON. In this address, Senator TALMADGE made a plea for national recognition of the fact that juvenile delinquency is at an alltime high, that the future generation is composed of boys and girls who do not have the moral concept of previous generations, and who do not give promise of becoming the men and women necessary to fulfill the manifest destiny of this great Nation.

I predict that no Senator can read that appeal to consider the youth in the depression years without being moved.

I actively supported the CCC camps. The first CCC camp in the United States was established in my congressional district. I managed to obtain more of the camps for my State than any other Representative. I knew they were good. I knew the boys needed employment. We needed the trails and recreational areas in Shenandoah National Park, in our 500 acres of national forest. But we did not reach the character of those boys.

We have ample areas in which such camps may be built. We have 23 million to 24 million acres in our national parks, with 73 million to 74 million acres in our national forests.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may be permitted to speak for an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTSON. The issue that now confronts us is: What can we do? We cannot read the Bible in the public schools. We cannot say the Lord's prayer in the public schools. We do not know whether, when the Florida case is completed, the Supreme Court will let us celebrate Christmas—the birth of our Lord and Saviour—or Easter, the occasion on which He was resurrected from the grave and gave us the hope of the immortality of our bodies, as well as our souls.

I propose to introduce a bill to give some aid to the Boy Scout movement. The Boy Scouts train boys in character. Last year there was before Congress a proposal to establish a counterpart of the CCC camps. What was it going to cost? Sixty million dollars for the Federal Government, $60 million for the local governments. How many were expected to be reached? Fifteen thousand, and ultimately 75,000.

Mr. President, there are in the Boy Scout movement 5,300,000 youths and adult Scout leaders. We must send them to the mountain areas in the summertime. I wish all of them could go out to the great parks in the Rockies. There is a population of more than 30 million in this entire area, including the Shenandoah National Park.

I propose that facilities be built which will cost far less than $120 million, for the use of the Boy Scouts. Then we can make a national appeal to the great foundations like Rockefeller, Ford, Mellon, and others.

If we wish to save private enterprise in this country, let us save the boys and girls who will be the future rulers of this country, and donate something out of our reserves to enable boys and girls to go to a summer camp and take this training, which will mean much to their development during their formative years. Let us not wait until they are 19 or 20 years old. A Catholic friend of mine said, "Give me a boy until he is 12 years of age and you may have him after that." That is true. Take him when he is in his formative years, bring up a child a certain way, and he will not thereafter depart from that upbringing.

I appeal for help among Senators for a bill to save the youth of our Nation who are now going down the broad road to destruction.

## SETTLEMENT OF THE THREATENED RAILROAD STRIKE

Mr. MONRONEY. Mr. President, I pay tribute to President Johnson for the exercise of great Presidential leadership. It is through his insistence, and through his confidence that the threatened railroad strike has been avoided within the framework of collective bargaining and free enterprise patterns.

I should also like to pay a well-earned compliment to the leaders of the unions and railroad management for their willingness to sit around the table and bargain out issues which have divided railroad labor and management for many years. It was a difficult and tough adjustment, but it was necessary.

President Johnson's leadership genius is nothing new to the Senate. Over a period of many years, Senators have witnessed many examples of his exceptional ability to get things done.

He saw the threatened economic disaster which could occur from a shutdown of the railroads. He saw the threat which this strike could be to our tradition of free collective bargaining. He brought the total resources of the executive branch of Government to bear on the problem, enlisting and mobilizing an array of talent to gain a remarkable victory.

He brought the opposing groups together when they were about to break up, and he insisted that bargaining should go on day and night until all possible means of coming together in an agreement had been exhausted.

President Johnson, even in the darkest hours of the tedious negotiations, never lost confidence that free collective bargaining between management and labor could be successful.

The President never threatened either side with a takeover of the railroads, or the use of punitive measures of any kind.

He had faith in people. He had faith in the tenets of our society and our free enterprise system. He had faith in freemen working together under collective bargaining agreements—with management and labor striving equally to preserve them, without the authority of law driving men to work, or without the use of the injunctive process.

Mr. President, this is a great victory for democracy. This is a great victory for our President. This is a great victory for responsible railroad management and labor union executives.

Mr. GORE. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I am glad to yield to the Senator from Tennessee.

Mr. GORE. Mr. President, I congratulate the distinguished Senator from Oklahoma upon his statement, which is most appropriate, timely, and well deserved.

I hope the Senator will permit me to associate myself 100 percent with every sentiment he has expressed.

Mr. MONRONEY. I thank the Senator for his comments.

Mr. SMATHERS. Will the Senator from Oklahoma yield?

Mr. MONRONEY. I am glad to yield to the Senator from Florida.

Mr. SMATHERS. Mr. President, I too, should like to associate myself with the remarks made by the able Senator from Oklahoma [Mr. MONRONEY].

What has been accomplished in the settlement of the threatened railroad strike has been well expressed by the Senator from Oklahoma. It is a great victory for the American people. It is a demonstration that the free enterprise system and the forces of freedom on both sides can work, and work intelligently, when really given the opportunity, and when persuasion is exercised by the leader of the United States.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. MONRONEY. Mr. President, I ask unanimous consent for 2 additional minutes in order to yield to other Senators.

The PRESIDING OFFICER. Without objection, the Senator from Oklahoma is recognized for 2 additional minutes.

Mr. SMATHERS. That leadership was provided by the President of the United States. Again I join the Senator in congratulating not alone the President, but also the leadership of the brotherhoods, as well as the leaders of railroad management, who recognized what would be the disastrous results if a strike should occur.

If the Senator will permit me, I should like to associate myself with his remarks.

Mr. MONRONEY. I thank the Senator for his comments.

Mr. GRUENING. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I am glad to yield to the Senator from Alaska.

Mr. GRUENING. I join in commending the Senator from Oklahoma for his very well deserved tribute to President Johnson for his magnificent display of leadership in settling the threatened railroad strike.

This is no small achievement. The threatened railway strike has been hanging over the country for years. It was impossible to settle the dispute previously. It seemed almost impossible to settle now; yet President Johnson has done so. He has again demonstrated great leadership. Those of us who knew him when he was majority leader in the Senate and saw him in action then had become familiar with his leadership and are extremely gratified and heartened to see that great leadership exercised once more.

Mr. JAVITS. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I am glad to yield to the Senator from New York.

Mr. JAVITS. I join other Senators in hailing the settlement of the threatened railroad strike.

I am sure I will be forgiven if I do not heap paeans of praise at the feet of President Johnson, although I believe it is a fine result which has come about.

As a member of the Committee on Labor and Public Welfare, I feel it is a very important development, showing that we must not lose faith in collective bargaining. In the final analysis, the two opposing parties in the dispute had to do the job. It is a great tribute to the statesmanship both of American labor and of American business.

Therefore, we should now direct our thoughts to proposed legislation, on how to deal with the problems of automation, in which the Government can really help—and I know the Senator from Oklahoma is interested in this, as I am—by using procedures to bring about a standstill to protect the Nation's interests, so that the Nation can continue to operate while giving labor and management an opportunity to settle things themselves without national paralysis. That seems to me to be the lesson of this particular event.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I made a statement last night on the floor of the Senate on this subject.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. MONRONEY. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator from Oklahoma is recognized for 2 additional minutes.

Mr. MAGNUSON. The Senator from Kentucky [Mr. COOPER] joined me in my statement, but I wish to reiterate what we both said last night and to add that, in addition to the great influence of commonsense, which the President conveyed, which made possible the solution of a threatened strike, I do not believe we should overlook the fact that Secretary of Labor, Mr. Wirtz, worked long and hard, almost night and day, in this effort, and he had great influence with both management and labor. Second, I wish to commend the brotherhoods involved, because labor made a great sacrifice to achieve this agreement.

Mr. MONRONEY. Mr. President, I thank the Senator from Washington. I appreciate his emphasis on the great part which the Secretary of Labor, Mr. Wirtz, played in helping to effectuate this agreement. Secretary Wirtz has demonstrated tremendous skill and perseverance throughout many months of diligent efforts to resolve this issue. All of us depend very heavily on an efficient railroad system to maintain our economic standards, and all of us are indebted to Secretary Wirtz for his contribution to the settlement which has been attained.

## LEADERSHIP OF PRESIDENT JOHNSON IN FOREIGN POLICY

Mr. GRUENING. Mr. President, another tribute is due the President for his leadership in the field of foreign policy, in lessening cold war tension.

An article published in the New York Times of yesterday, and written by James Reston pays tribute to the President for the way in which he has gained stature in the field of foreign relations, and demonstrates the wide range of President Johnson's ability and leadership.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE NEW SOFT MOOD MUSIC IN THE COLD WAR

(By James Reston)

WASHINGTON, April 21.—The first contacts between a new American President and the Soviets are important, and in President Johnson's case they have gone well.

He started in a skeptical mood. When Fidel Castro returned from Moscow and moved at once to cut off the water from the U.S. base at Guantanamo Bay in Cuba, the President thought he was being challenged by the Communists.

When his worst fears proved to be wrong, the President started a private correspondence with Khrushchev which resulted yesterday in a decision on both sides to make a further reduction in the production of fuel for nuclear and thermonuclear weapons.

Meanwhile, Johnson and Khrushchev have made modest reductions in their military budgets, the Soviets have continued the withdrawal of their troops from Cuba, the President has restrained those in his administration who wanted to expand the war in southeast Asia to North Vietnam, the Russians have turned over the U.S. fliers who strayed into Communist East Germany, and the President has taken new precautions against any future violations of East German or Soviet air space.

The cold war goes on but the mood music is different. It is quieter. At 70, Nikita Khrushchev, preoccupied with problems at home and within the Communist world, is no longer talking about death but about the good life, and President Johnson cries out almost every day against war and poverty.

Other new administrations in Washington since the war had less agreeable beginnings with the Communists. They allowed themselves to be provoked. President Eisenhower started by unleashing Chiang Kai-shek to invade the China mainland—this in his first inaugural speech—though he soon leashed Chiang again and signed a truce in Korea.

President Kennedy started with a clumsy lunge at the Communists in Cuba, and had a most disagreeable first meeting with Khrushchev at Vienna, where they spent much of their time threatening one another over Berlin.

President Truman launched his administration in 1945 with a savage attack on Vyacheslav Molotov, then Soviet Foreign Minister, who left the White House convinced that the cooperative U.S. policy under Roosevelt was over. President Johnson has been more restrained.

He was careful this week to protect himself against political attacks that he was weakening the retaliatory power of the United States, but in recent days he has been displaying an evangelical ardor for peace and the well-being of all peoples.

Scarcely a visitor or a delegation comes to the White House without hearing almost a missionary sermon on the subject. The President not only sent good wishes to Chairman Khrushchev on the latter's 70th birthday but called in the Soviet Ambassador here and poured out his feelings about the obligation of the two countries to work together for a decent order in the world.

It is easy to be cynical about all this. Washington and Moscow still retain enough power to incinerate the human race and they face each other along hostile military lines from central Europe to eastern Asia, but the old shoe-pounding dialog and vicious propaganda of a few years ago have declined, and a more reasonable policy of mutual concessions, however small, has been introduced.

Immediately after the war both sides talked about spectacular agreements that never materialized. They based the United Nations Charter on the preposterous assumption that they could agree on all questions of war and peace. For years they talked about banning all weapons, reorganizing the map and the defenses of Europe, and total disarmament. They are more modest and sensible now.

### MUTUAL EXAMPLE

They are experimenting cautiously with what Khrushchev called last December 30 the "policy of mutual example." This means that, instead of waiting for the other side to reach a formal written agreement, complete with machinery for inspection and control, each will take whatever safe and limited step he can and urge the other to do the same.

This has resulted in what Secretary of State Rusk calls a certain coincidence of policy on cutting arms and reducing the production of enriched uranium for nuclear weapons. It has produced the limited test ban treaty and the United States-Soviet wheat deal, and it has also produced some complaints here that it is eroding the stern American attitudes that produced the detente in the first place.

President Johnson, however, is clearly determined to keep nibbling away at the Iron Curtain. Nobody who has heard him talk about the aims and purposes of his administration is likely to question his sincerity, even if some of them question his judgment.

The policy of mutual example is, therefore, likely to stay unless it is betrayed by the Communists. In terms of power, it changes very little; in terms of atmosphere, it means a great deal; and in terms of diplomacy, it encourages greater freedom of experimental negotiation.

## DRAINING GLEN CANYON'S LAKE POWELL UPSTREAM AREAS

**Mr. DOMINICK.** Mr. President, some days ago, the Senator from Utah [Mr. BENNETT] and I were discussing the action of Secretary of the Interior, Mr. Udall, in draining water from Lake Powell, in order to increase the amount of water in Lake Mead.

In our opinion, this was a violation of the River Compact, and was wholly unnecessary, because it was designed purely to provide enough water in Lake Mead for the minimum power head at Hoover Dam. The power requested could easily be supplied by some of the investor-owned utilities which had made such an offer.

Many meetings have been held on this problem since that time. There was a meeting starting last Thursday in Boulder City, to see if some agreement could be reached.

Recently, the Denver Post published an extremely fine editorial titled "Udall's 'Fast Draw' on Water: Why?" indicating in general the problems which the basin States are having with the Secretary of the Interior concerning the continuous release of water from Lake Powell.

I ask unanimous consent that this editorial, dated April 16, 1964, may be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Apr. 16, 1964]

### UDALL'S "FAST DRAW" ON WATER: WHY?

Floyd Dominy, U.S. Commissioner of Reclamation, appears ready to listen to the Rocky Mountain region's demands concerning the Bureau's refusal to halt its drainage of Glen Canyon's newly filling reservoir.

But he still appears inclined to give the upper Colorado storage project States, including Colorado, the back of his hand. Even if a promised meeting at Phoenix Tuesday does shed new light on the matter, it may be too late.

Dominy, who brought his staff to Denver Wednesday to debate the matter with regional experts, indicated the Bureau could do nothing until May 8, when new snowpack and runoff records will be available.

At the rate Dominy and his boss, Interior Secretary Udall, are draining Glen Canyon's Lake Powell, upstream areas may not have at that time enough water left to make a serious case. Every day of drainage diminishes our argument, as well as the water.

The problem, as Dominy sees it, is this: the new Glen Canyon Dam is supposed to produce power August 1 if it gets 6 million acre-feet of water. But since Hoover Dam's Reservoir, Lake Mead, is low, Dominy does not want to gamble with having two powerplants with insufficient water to produce electricity. So he's grabbed for the bird in the hand. Hoover is to be favored.

The upper basin has counterattacked, pointing our first that other power producers, including private utilities, are ready to supply any power lost at Hoover Dam under a long-term loan arrangement.

Further, the upper basin spokesmen argue that by delaying Glen Canyon's power production, the Interior Department is depriving this region of a start on repayment of the whole upper basin project, including participating projects whose construction cannot even begin until Glen's generators begin turning. The Udall decision means many months of delay.

While the Colorado River compact of 1922 gives the Upper Basin States of Colorado, Wyoming, Utah, and New Mexico about half of the river (whose flow was grossly overestimated in 1922), there upper States must guarantee the lower basin's share first. That is the reason for Glen Canyon: to use the upstream share fully by guaranteeing the lower basin share in good years and bad, by the storage in Lake Powell.

But if we can't fill Glen Canyon, how are we to repay the Lower Basin and how are we to benefit from Glen Canyon's power yield?

Former Gov. Ed C. Johnson, Gov. John Love, and Felix Sparks, Colorado Water Conservation Board director, made good points against the Dominy position Wednesday.

Sparks got the Dominy contingent to admit that the Bureau of Reclamation has no right to withdraw water from Glen Canyon for power use alone. Dominy argued that in withdrawing the water he was keeping up the power head at Hoover Dam with water that will be needed for irrigation and domestic use downstream (these uses have full priority to draw down on Glen Canyon under the Lower Basin share).

We think Sparks won on points. He also ripped the Bureau on its failure to consult the Upper Basin when the filling criterial was drafted. Dominy argued the Lower Basin wasn't consulted either. Sparks replied: "Why should they care? You gave them everything they wanted."

Sparks' further point is well taken: that the Glen Canyon Dam can benefit both basins, upper and lower. There is bound to be some dislocation while Glen Canyon builds up to its power-producing level. But from then on it will benefit everyone.

It's hard to see why Udall and Dominy seem to be impressed by those who want to pretend that Glen Canyon doesn't exist. The argument made by Gov. Clifford Hansen of Wyoming may not be sophisticated enough for the Bureau's engineers, but we thought it was a good one: Glen Canyon's water can't go anyplace else but to Hoover Dam. Why not make the water produce power twice instead of just once?

## AN ALASKAN MOTHER'S EXPERIENCE IN THE GREAT EARTHQUAKE

**Mr. GRUENING.** Mr. President, firsthand accounts of personal experiences in the unprecedented and unequaled Alaska earthquake are of interest. From Charlestown, Ind., a father of a wife and mother living in Anchorage, Alaska, has sent me the report of his daughter. She is married to a physician. Their home was in the residential Turnagain-by-the-Sea section of Alaska. It was from this section that 75 of the most beautiful homes slid over the high bluff, on which they were situated, into Cook Inlet. Their owners lost not only their homes but the lots on which those homes were situated. Still other homes are sliding and will be lost.

I ask unanimous consent that this vivid personal account of her experiences, written 2 weeks after the earthquake by an Alaskan mother, be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ANCHORAGE, ALASKA,
*April 10, 1964.*

OUR DEAR FAMILIES: You will surely forgive receiving carbons, for this way it will be possible for all to get a more complete account at once. I know you are all anxious to know directly from us what this earthquake has done to us and to our friends, as well as the news you get from the State as a whole.

Like most others, we were about to have dinner last Friday (2 weeks, now) when the house began to tremble. Lucy had been listening to records in the living room and I had just gone in and put them away to get her ready for dinner. Charlie had been in his shop in the garage and had stepped into the kitchen. At first we thought it was just another small tremor, such as we've had many times. Then the dining room light, the chandelier, began swinging wildly and one of them shattered on the ceiling. Lamps fell all over the house. Books, vases, bookends danced on the bookshelves and began raining on the floor. We were all in the living room by then and could hear crashes from every part of the house as the same things happened there. Some cabinet doors flew open in the kitchen and the contents smashed to the floor. The deep fat fryer in the cabinet under the sink flew out and mixed its contents with the broken glass and sauces from the condiment shelf. I continued to sit beside Lucy, leaning over her and trying to remain calm to her and protect her from whatever might fall on us. After the longest 3 minutes any of us has ever known the house stopped its convulsive rocking and we started picking up the immediately obvious pieces. The kitchen floor was covered with grease, from the fryer, and tiny fragments of glass. Charlie went outside to check the exterior of the house and heard someone say there were houses down all the way into the inlet on Marston Drive, the next street over, and that there were children screaming. Rescuers had already started from the next door neighbors and Charlie knew he would be needed at the hospital, as soon as we turned on our transistor radio and began to realize, even a very little bit, what had happened. Our paperboy, right on time, making deliveries as usual, said that much of his route was "gone—the houses are gone over the bluff—the Atwoods house is clear out in the inlet." Charlie left and I started giving Lucy her dinner for it was obvious that no one knew when there'd be another hot meal. We were fortunate that our meat had not fallen off the stove, as many suppers did, although everything else did.

Rose had left at 5 and she returned just after 6. She said she knew the doctor would have to leave and she wanted to be with us. Since all utilities had gone with the beginning shock the first thing we wanted to do was start some heat for the night. We brought in firewood and started fires in the living room and kitchen fireplaces. KFQD with their own generator, had become a message center for the CD who had immediately taken charge. Just as we had our fires going and buckets of snow beginning to melt and the kitchen floor safe, a truck with a flashing light appeared on the block and a fireman or CD worker came to the door to say all residents were to go to Northern Lights Boulevard immediately, there was word of a tidal wave. (This rumor persisted for several hours until either the wave or the rumor dissipated.) We threw the snow on the living room fire and Rose carried the log from the kitchen out and buried it in the snow outside. With blankets, Coleman lantern, radio, flashlight and keys to the apartments (fortunately on the other side of Northern Lights Boulevard) we drove that way. There was a line of cars and pedestrians but there was no jam, panic, etc. It moved slowly but quietly and steadily. Two men were the only tenants who had not left the immediate area and we gathered in the smallest apartment—the only unrented one, and were soon joined by several shivering families with small children.

Charles returned for a few minutes and told us that casualties were either extremely light or had not yet been found. He had been in the emergency room when the first two came, a man and a woman, both beyond help. He also brought word that Dr. and Mrs. Martin had gone on to their front porch and just as they stepped out, the house dropped 50 feet down a fissure; they were unhurt. Their children, John and Alice, were at Alyeska with Ted McGinnis, son of the president of the Alaska Methodist University, as were many other teenagers who had gone there to ski that afternoon. Through all of that night the radio broadcast a list of these youngsters, asking everyone who knew where or how they were to call Dr. Martin or Paul Crews (whose family of 3 children were in the group). In the morning the oldest boy in the Crews family had managed to walk into Anchorage over the highway that was too covered with snowslides and avalanches for vehicles to get through. It was the first big relief to hear from him that all was well at Alyeska. None hurt and all sheltered in the lodge. I believe that Asa Martin had sent a helicopter at first daylight to check on them too.

Dr. and Mrs. Perry Mead suffered the most tragic loss in Anchorage. The oldest child, Perry, Jr., 12, went to get the baby, 2, from his crib, where he was napping. Evidently this was on the lower level of their hillside home (new last fall) and the sliding earth took both children; when Wanda went down to hurry them out she found that portion of the house gone, crib, children, and all. She stayed, searching, until the tide came in and neighbors forced her to leave. They're staying in the duplex now with the other three children. Her parents arrived on Monday and Wanda Mead (Mrs. Mead) is holding up too well—everyone who knows her fears that when she lets herself realize what has happened there will be a real crackup.

The Atwoods' lovely log home is completely gone, as is her brother's (Elmer Rasmuson). Mr. Rasmuson had to call the mountain rescue team to remove his 84-year-old mother, long bedridden, from their home, which is now tilted crazily in a crevasse. Mrs. Elmer Rasmuson (formerly a colonel in the WAC, head of it, I think), had remained there with her mother-in-law.

Mrs. Helen and Robert Whaley were in the business district and then at the hospital following the quake, but their home was dropped completely upside down and then crushed between the layers of sliding, splitting earth.

No one who sees the devastation to the huge buildings and to the over 100 homes can imagine how anyone got out of many of them. And yet nearly everyone did, unhurt. Casualties of any kind were so much less than could be believed that there were innumerable rumors of the bodies in the rubble of the Penney store, the Fourth Avenue and L Street areas and the Turnagain homes. But these have been searched and the civil defense and Salvation Army have checked and cross-checked every missing list and the number remains at eight for this city.

Telephone service was returned to our homes with incredible speed—Friday night, for this area. And within 2 days for all but a very few isolated spots. Power was back in nearly all areas within 2 days also, but were without water for about 10 days. Now it is coming in through irrigation pipes laid along the streets and coming into the house through garden hose running from the pipes in the street to the outside faucets. It is a remarkably good system, but thank heavens the weather is warming up—for the first couple of nights it froze the instant the sun went down. Now we know to make sure a faucet is running somewhere in the house and it works pretty well all the time.

There was no panic or scare buying of food. The groceries closed only long enough to pick up the stock from out of the aisles and then began selling again. On the first night they were selling at the door and only emergency needs. But by Sunday morning, when I first went to get fresh milk, etc., all appeared normal and everyone seemed to be trying to underbuy, if anything, so as not to appear out of line.

Our area is guarded to prevent looting of the wrecked homes; a red sticker on the windshield means a proved resident and allows us to pass in and out of the checkpoint. Salvage crews have bulldozed temporary pathways to the ruined homes and are carrying out what men can carry alone—heavy trucks would not dare tread there. And as the ground thaws it becomes more dangerous to go into the area that is immediately along the new bluff line. We are approximately 600 or more feet from the new bluff and about 300 beyond the area declared hazardous. If this changes later we will know immediately.

There are fissures in the ground all about, some through the yard only barely wide enough to see as the snow melts off, the widest is probably about an inch. The shingles on the south wall of the garage are split and some of the nails are sticking out almost their whole length. The slab floor of the garage is pulled away from the walls all the way around and the floor is crisscrossed with cracks. The porch trim is as new and split in places. The door from the kitchen to the hall will not quite close and there is a crack in the plaster over the front door and over the same kitchen door. But all this is very minor, and I didn't even get a chip in my good china, thanks to tight cabinet doors and to the excellent padding of their covers. (Thank you, ladies.)

The office received only minor damage, too. A good bit of glassware breakage, especially in the lab, but not much else. The apartments have some cracks in the concrete slab floor, a new toilet came unseated and one of the doors had to have its hinges changed a bit. Our biggest loss probably was at the one place we least expected it. At the farm everything appeared untouched, but the well appears dry (along with about 75 percent of the wells in the area.) Some have been checked and it may be a matter of cleaning or lowering the pipe, or even just a bigger pump. We'll have to wait for an expert opinion on that.

The military and the native National Guard have been magnificent, in rescue, salvage, guard, furnishing water and in innumerable other ways.

The Salvation Army was out carrying food and coffee within minutes to the rescue workers at the J. C. Penny store—the most dangerous place anywhere until the tall concrete building had the loose pieces pulled down. And from then on they have done all the things that needed doing—food, shelter, a registration center to match the found with the missing lists, and information center, etc. The American Legion turned their building into a shelter and did the same things and by Sunday were collecting candy and Easter eggs for the "bunny" was coloring eggs with crayons, after boiling them in melted snow—the dyes were among the missing kitchen equipment. The Legion and their Auxiliary began the compilation of available housing for those who could not go back to their own homes, before the housing authorities had dug themselves out and organized.

* * * * *

The Spenard Rotary Club took over, with the military, the salvage of personal possessions from the rubble of the homes in Turnagain and worked steadily at it for a week or more, neglecting their own shaken businesses to help.

There is something you can do * * * in your own community let your newspapers or unions or both, know that one thing Alaska does not need is people—the department of labor and the unions are trying very hard to prevent the onrush of the laborer to this cleanup job. We can't house them, we can't feed them, we can't pay them. We have all the men we need. Those from other States have arrived without visible means of support and without even a return ticket. With help like that we wouldn't need enemies.

Lucy remains mostly unperturbed by the quake and by the numerous aftershocks. She is quite interested in the phenomena of "houses shake" and the fact that it appears to scare "mommies". She is no longer a schoolgirl. The nursery school has a cracked wall and most mothers feel, as I definitely do, that this ground will have to be a good bit steadier than it is before we want our tiny chickens out from under our wings. So for this spring we'll just start summer vacation a little early.

**Running to the end, and it's bedtime.**

All our love to all,

CHARLIE, LUCY, AND G.

## SUMMER NONPROFIT WORK CAMPS

Mr. PELL. Mr. President, on March 29, there appeared an article in the New York Times magazine section by Joan Cook, entitled "Summers With Purpose." The article describes the nonprofit work camp, an activity first started by the American Friends Service Committee in 1934, where teenagers, often at their own expense sign up to participate in workcamp projects—rendering service to those in need.

This is a highly commendable program, for it enables youngsters, wealthy and poor alike, to constructively utilize their talents and energies. Too often, we hear of the problem youth, the dropouts and delinquents. Here we find American youngsters as they essentially are, willing and eager to contribute whatever they have.

Recently, at my request, the Legislative Reference Service compiled a report entitled "Profile of Youth—1963." This is a compilation of many of the programs run for youth by Federal, State, and local governments and agencies, and also private organizations. Since that report came out, I have endeavored to stimulate a nationwide "Dialog With Youth," in an attempt to learn firsthand what our young people believe to be the problems that confront them, and what the possible solutions are.

I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SUMMERS WITH PURPOSE

(By Joan Cook)

Too old for the usual camp and too young for most summer jobs, youngsters from 15 to 17 are often hard put to find constructive ways to spend their summer vacations. These boys and girls, who have been aptly characterized as in-between-agers, are in need of a bridge to carry them from adolescence to young man or womanhood.

One solution is the nonprofit work camp. There are some 30-odd denominational and social service groups sponsoring nonprofit work camps in this country. These camps, for the most part, accept youngsters between 15 and 19, charge from $175 to $400 a season and have more applicants than places.

What is a work camp? And what is the lure that has youngsters vying to be accepted? First and foremost, a work camp is a means of rendering service to those in need. Campers may find themselves digging garbage pits, helping with mosquito control projects or sweltering in the city's heat as they supervise vacation play for underprivileged children or help build playgrounds in slum areas.

A work camp offers in-between-agers a chance to do something tangible for others—and this, in turn, meets another need. For it is exactly this age when teenagers are most altruistic and almost desperately in search of something worthwhile with which they can identify.

"One of the most exciting things is to see adolescents identify with causes," says Victor Remmer, director of the University Settlement, the country's oldest neighborhood house, on New York's lower East Side.

The big step from an egocentered world into the concept of responsibilities that transcend oneself and the immediate family is a three-part one for most youngsters, Mr. Remmer believes. It involves the ability to perceive a problem, the desire to do something about it, and the breadth of spirit to understand values other than one's own.

Nineteen years ago, University Settlement established a work camp in Beacon, N.Y., where it had long maintained a summer camp for underprivileged city youngsters. The specific aim was to help teenagers make this giant step. The work camp accepts 32 boys and girls from 15 to 17 each summer.

University settlement is bombarded with many more applications than it can handle each season. As in most work camps, the experience is limited to one summer in order to make room for others who want to pay $400 for an 8-week season and donate a minimum of 4 hours a day to whatever work is necessary. This can range from fixing screens or spraying poison ivy to mowing lawns, raking hay, or scrubbing out a 150,000-gallon swimming pool.

"This is a two-way street for us," Victor Remmer says. "The volunteer help from campers contributes thousands of dollars in working hours each summer, which means that many more underprivileged children can attend our regular camp.

"And, unlike these younger children, work campers may come from Park Avenue or Central Park West, from comfortable middle-class and upper-middle-class homes. It is vitally important for privileged and underprivileged youngsters to meet on common ground if we are to build and maintain a workable democracy."

Summers do not resolve themselves into 8 weeks of all work and no play, however. There is time for swimming and hiking, cookouts and campfire song sessions and talk—especially talk. Campers are encouraged to discuss any topic that interests them, from premarital sex to the morality of the bomb.

Many a parent would be amazed to hear his normally taciturn offspring wax eloquent at a camp bull session. "The difference is that we can speak freely among ourselves," a 17-year-old boy explained. "It is hard to talk to your parents without getting into an argument—or ending up with a lecture."

"We do not try to tell them what to think or what to do," Mr. Remmer says. "We turn the question back to them, make them think about it, examine the alternatives, and make up their own minds."

The first work camp in this country was started in 1934 by the American Friends Service Committee in a Pennsylvania mining town. The Quaker work camps have never had a permanent location. They are set up in spots where there is a need that the people living in the community have been unable to meet themselves—on Indian reservations, in depressed rural areas, and in city slums.

A.F.S.C. work camp programs are divided into work schedules, household duties, educational programs, and group recreation. According to Quaker custom, all differences of opinion are resolved by consent of the group. The camp season is usually 7 weeks long, costs $175 plus transportation and is restricted to youngsters who will be at least 16 before the end of the work camp session. As a rule, the A.F.S.C. maintains 6 camps, each of which accepts 15 to 20 teenagers, in different parts of the country.

Paradoxically, as the demand for work camps grows, there seem to be fewer and fewer feasible projects. Henry Kohn, president of the American Jewish Society for Service, reports a shortage of projects suitable for work campers.

"This is due, in a large part, to a lack of staff to search out projects other than those close to home," Mr. Kohn says. "It is not easy to find work that needs to be done in an area that also has facilities for housing 20 or so boys and girls for an extended period."

The A.J.S.S. runs three work camps every summer for 50 teenagers from 16 to 19. The cost is $300 for a 7-week season. There are always more applicants than places and, interestingly enough, the quota for girls is usually filled earlier than that for boys—perhaps because the boys hope until the last minute to be able to find summer jobs.

Mr. Kohn hopes that a foundation will eventually get interested in work camps and bestow a grant or series of grants to develop more work camps about the country.

"It is a situation which the home cannot possibly duplicate," he says, "and which is essential, especially in an affluent society."

The benefits of a work camp experience are not only the satisfaction of doing things for others, but an increase of self-confidence and a broadening of horizons.

"My husband and I couldn't believe it when we got a letter from our son saying that he had gone to Tanglewood to a concert with his camp friends, and, what's more, had enjoyed it," one mother recalled. "We couldn't have gotten him to give serious music a chance if we'd offered him tickets to the Army-Navy game in exchange."

Another welcome byproduct is that the camper often gets a perspective on his own family situation. A 15-year-old, for example, who had spent the summer working with young children not only blossomed under their unqualified affection, but also took another look at her "loathsome" little sister.

"She's really not so bad," the girl informed her amused mother on her return from camp. "You should see how some of those kids behave."

There are also a number of private work camps, not to be confused with the nonprofit camps. These are essentially activity programs for teenagers from 13 through 17. The 1964 edition of "Choosing a Camp for Your Child" put out by the American Camping Association includes work camps in the northeastern States. The booklet is available from the association at 342 Madison Avenue, New York 17, N.Y., for 35 cents.

## "POWER AT THE PENTAGON," BY JACK RAYMOND; BOOK REVIEW BY RICHARD FRYKLUND.

Mr. PROXMIRE. Mr. President, yesterday I placed in the RECORD an excellent, favorable review of the book "Power at the Pentagon," written by Jack Raymond, which was published in the New York Times.

Yesterday the Washington Star published another interesting review of the same book, this review being by the discerning critic Richard Fryklund. In the course of his review, Mr. Fryklund writes:

> The trouble with most books about the Pentagon is that their authors hate the Military Establishment so intensely that they cannot bear to get close to it. Consequently the authors don't learn much about the Pentagon that's true and cannot tell the readers much that's useful.
>
> Mr. Raymond does not have this trouble. In 1956 the New York Times assigned him to cover the Pentagon, and in the subsequent 7 years, like it or not, Mr. Raymond had to learn a great deal about his beat. The reader of "Power at the Pentagon" benefits from Mr. Raymond's experience, for this is the best book about the Pentagon yet printed for the general public.
>
> * * * * *
>
> If military influence is not a real problem—

And that is one of the conclusions of Mr. Raymond—

> the "enormous range and complexity of our military effort" is. But this, Mr. Raymond says, is a danger of "bureaucratic dominance"

rather than of an uncontrollable military leadership.

A monstrous bureaucracy, tightly run as it is under Secretary of Defense McNamara, can change our world without the public's quite knowing what happened. It is becoming increasingly difficult to know the alternatives that face the decisionmakers and to understand more than isolated details about the Military Establishment, Mr. Raymond says.

Most Pentagon critics offer either no solution to these problems or an impractical but spiteful one: Force the services back into the size and impotency they had in the thirties. Mr. Raymond leaves a more modest recipe for warding off trouble with the Military Establishment: "We ought to raise hell with it constantly, ask questions, demand truthful answers."

"Power at the Pentagon" lays a good foundation for continuing questions.

Mr. President, I ask unanimous consent that the entire review be printed at this point in the Record.

There being no objection, the review was ordered to be printed in the Record, as follows:

### Our Military Establishment

(By Richard Fryklund)

"Power at the Pentagon," by Jack Raymond, Harper & Row, $6.50.

The trouble with most books about the Pentagon is that their authors hate the Military Establishment so intensely that they cannot bear to get close to it. Consequently the authors don't learn much about the Pentagon that's true and cannot tell the readers much that's useful.

Mr. Raymond does not have this trouble. In 1956 the New York Times assigned him to cover the Pentagon, and in the subsequent 7 years, like it or not, Mr. Raymond had to learn a great deal about his beat. The reader of "Power at the Pentagon" benefits from Mr. Raymond's experience, for this is the best book about the Pentagon yet printed for the general public.

The book will not satisfy the scholars, but Mr. Raymond is not writing for them. It will not please "persons who nervously profess an unwillingness to know what is going on in the Pentagon," for Mr. Raymond is not a know-nothing worrier. The book will, however, please persons who want an explanation of the Pentagon by a man who tries to be nothing more than a calm and reasonable reporter.

#### A COMPLETE HISTORY

The book is a history of the Military Establishment, starting from the time just before World War II when it suddenly grew into a large and permanent part of everybody's life. It covers the military-and-politics, the "military-industrial complex," military research, weapons, troop indoctrination, disarmament, the "McNamara monarchy," etc.

Mr. Raymond's own interpretations and comments are confined largely to a final analytical chapter. Here, in brief, is what he says about the problems that seem to be bothering most outsiders today:

"Since the Kennedy administration, civilian experts of great talent have taken over influential positions (in the Pentagon), much to the dismay of the uniformed military. * * * At the same time, the size and complexity of the modern military service have turned the uniformed leaders into bureaucratic managers. The civilians have thus become 'militarized' and the military 'civilianized.'

"The distinctions between the aims of the military and civilian officials have become so blurred as to render meaningless the old-fashioned fears of military usurpation of civilian control.

"By the same token, the argument raised in some quarters that civilian echelons are 'dominating the military' is equally baseless. Under the Constitution, the civilian authority is supposed to dominate the military so long as it remains responsible to the President, and he in turn is subject to the will of the electorate."

#### BUREAUCRATIC ANGLE

If military influence is not a real problem, the "enormous range and complexity of our military effort" is. But this, Mr. Raymond says, is a danger of "bureaucratic dominance" rather than of an uncontrollable military leadership.

A monstrous bureaucracy, tightly run as it is under Secretary of Defense McNamara, can change our world without the public's quite knowing what happened. It is becoming increasingly difficult to know the alternatives that face the decisionmakers and to understand more than isolated details about the Military Establishment, Mr. Raymond says.

Most Pentagon critics offer either no solution to these problems or an impractical but spiteful one: Force the services back into the size and impotency they had in the thirties. Mr. Raymond leaves a more modest recipe for warding off trouble with the Military Establishment: "We ought to raise hell with it constantly, ask questions, demand truthful answers."

"Power at the Pentagon" lays a good foundation for continuing questions.

## DISTURBANCES AT THE NEW YORK WORLD'S FAIR

Mr. JAVITS. Mr. President, New York was fortunate yesterday. It avoided great difficulty. Whatever may have been the entire reason, I believe it was in large part attributable to the fact that people in high authority took a strong position against the need for any such stall-in activity as had been advocated. That result illustrates the striking difference between the situations in New York State and the situations in certain areas of the South, which I have repeatedly emphasized.

The key to what happened in New York is the statement in the lead article on page 1 of the New York Times, which reads:

> A threatened stall-in of 2,000 automobiles failed to materialize yesterday because leaders of the controversial tactic to hamper World's Fair traffic had vastly overestimated their ability to get support.

In short, we in New York are trying to do something about this problem, and have been trying to do so consistently, in keeping with our institutions and the Constitution of the United States. We are making a great deal of progress, even though we are not doing nearly as much as we would like to do. However, we are reaching the point where we are trying to do something even about racial imbalance. If only our friends in the South would try the same approach and cease trying to negate the Constitution, the Constitution could be enforced in their States, as well as in other States.

I do not exclude New York. I have never said, "Stay out of our affairs." We are a part of the United States, too, and we are subject to every one of its laws. We are willing to have the Constitution enforced in our State as well as in other States. In New York we are trying to act in accordance with the Constitution.

I noticed with a great deal of interest the announcement of the Senator from Georgia [Mr. Russell], who is in the Chamber, and who is properly regarded as one of the deans of the Senate, asking that the U.S. Civil Rights Commission be sent to New York to investigate the situation there. We welcome that proposal. We think it is an excellent suggestion. We only hope that the Senator from Georgia and others who feel that way will supply the Commission with the necessary equipment and money so that it can do a good job, not only in respect to New York, but also in respect to Mississippi, Alabama, Georgia, and other States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I ask unanimous consent that I may proceed for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. We hope that the authorities in these other States will not fight the Commission, but let the Commission look at their records, including their voting records; and that those States will be as eager as we are to expose everything to the public gaze, whether through the Civil Rights Commission or through any other legitimate body.

Yesterday was a proud day for New York in many ways. We had had our fears of what might happen. They did not materialize. I sat with the President at the opening ceremonies. They were conducted with the greatest dignity and respect. There was a little discord, but not very much. I attribute this to the fact that in our State we recognize our problems. We have our difficulties, and we do not pretend not to have them. That is the essence of the difference, as I have repeatedly pointed out, between what goes on in the Chamber and what happens in the public domain.

The debate here proceeds as if we were not living in the world, in disregard of the amount of blood and emotion which is at stake. Therefore, when an event like the one I have described occurs, in which New York was fortunate, the two points of view are so sharply juxtaposed as to deserve being called to the attention of the Senate.

Therefore, I repeat, as the senior Senator from New York, we would like to have the U.S. Civil Rights Commission investigate that situation. We also hope that the Commission will be supplied with sufficient money and equipment to do the task that should be done; and also that other States will cooperate to the same extent that New York State will be asked to do.

Mr. RUSSELL. Mr. President, our views are largely colored by local circumstances and conditions and by our interest in what is involved.

Without regard to any amount of sanctimony or holier-than-thou attitude that may be expressed, the pictures which appeared in the Washington Star of yesterday show acts of brutality by policemen against citizens which, if these events had occurred in Southern States, would have provoked editorial comment in all of our great metropolitan newspapers to such an extent as to completely obscure the causes of the incident.

Let me make it clear that I do not condone brutality in any area of the country. In the southern part of the United States there have been so many charges of alleged brutality, amid all the flow of sanctimony, that policemen are afraid to lay their hands harshly on the persons they arrest for fear that they will be haled before a Federal court and charged with violating the civil rights of the individual involved and be denounced over the country by the Civil Rights Commission and the Attorney General.

I have before me a copy of the Washington Star of yesterday. On the front page, next to the picture showing the President greeting the Governor of New York, is a picture which is captioned "Pitched Battle Between Police and Racial Demonstrators in Subway." It shows a man, apparently a civilian, stretched out on the pavement, with either another civilian or a policeman lying across his body. This man has blood flowing from his head onto the sidewalks of New York. Other civilians are shown being treated harshly by policemen, who hold clubs in threatening positions while pulling the men from subway cars directly on top of the prostrate form of the man on the pavement.

That picture, if it had been taken of an incident occurring in the South, would have been sent around the world by the U.S. Information Agency.

On the same page appears a picture of another citizen being savagely beaten and mauled over the head by a club in the hands of one policeman while being held in a recumbent position by another policeman. He apparently is charged with the crime of stopping a subway train and it would seem that the punishment is disproportionate to the offense. This poor victim is trying to get his hands above his head in a desperate effort to protect his head from the blows of the policeman's club. Take note that this picture shows the victim could not possibly get away, for he is being held down by one policeman as well as by the left hand of the policeman who is beating him so mercilessly over the head with a club.

An adjoining picture showing the results of this police action depicts a white man with bloody head and face, the blood still dripping down upon his clothing even after he had apparently been carried from the scene of the arrest to the police station.

Last evening on television, I saw pictures of a number of people being dragged head first down the escalators of what I believe was the New York Pavilion. It would be impossible to handle them more roughly, and even young girls were being dragged bumping from step to step down the escalator while apparently trying to rise and walk.

I recognize that it is often necessary to use force to maintain law and order. I have little sympathy with those who believe that officers of the law should take any insult and physical abuse from demonstrators without retaliating. But this incident points up the hypocrisy of the two standards for the enforcement of the law that the Federal Government and the professional reformers in the East attempt to apply to different sections of the country.

Theoretically, in our Government, people of the South are entitled to as fair treatment from government agencies as those of other sections. In practical application, they do not get fairness. I assert again that in view of the widespread, even international, publicity that the Attorney General and the Civil Rights Commission and the U.S. Information Agency have given to lesser brutality in effecting arrests for the same offenses charged in New York, that it would be demagoguery and hypocrisy in its most contemptible form if they do not include the incidents that took place yesterday in New York City in their reports to the Congress. If the pictures are to be believed, the occurrences in New York are even more serious than the incidents in the South that have been cited and re-cited time and again by biased Federal employees of the Commission and the Department of Justice.

On the day before yesterday, some 17 or 18 Senators who are opposed to the pending bill held a meeting. We did not meet to talk about the racial demonstrations that had been reported as planned to take place in connection with the World's Fair, but at the conclusion of the meeting this matter was mentioned and one Senator said "There may be some trouble even in New York."

I replied that any civil disobedience campaign in New York affecting attendance at the fair would not last long because the financial moneybags and the magnates of New York have large investments in the fair and if anything threatens these investments, they will see that the demonstrators are treated with such relentless brutality that they will be intimidated from any other further acts of civil disobedience until the fair is over. I further said that they would be so handled by the police and by the thousands of Pinkerton men hired to augment them that it might soon be difficult to find anyone who will even admit to ever having heard of CORE.

The ACTING PRESIDENT pro tempore. The time of the Senator from Georgia has expired.

Mr. RUSSELL. Mr. President, I ask for unanimous consent that I may have an additional 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RUSSELL. Mr. President, I stand on that prediction. Those interested in the fair have tremendous influence. They will persuade a number of those who claim to be leaders of groups of Negro citizens to condemn all such demonstrations as that of yesterday at the fair. The press will continue to criticize the agitators.

Please understand I deplore the acts of yesterday that marred the opening of the fair. I would not be understood as encouraging any form of civil disobedience. I do, however, denounce with all vigor the double standards applied to events of a similar kind that take place in Southern States as compared with the whitewash of the same sort of acts in New York and in other States that consistently take a holier-than-thou attitude on these matters.

An amazing editorial in this vein appeared in the Washington Post a few days ago attempting to discourage demonstrations at the fair. I do not have the editorial before me, but in essence it was stated that any citizen has a duty to violate and disobey any law that he regards as unconstitutional; but at the same time the editorial charged that it would be an almost unforgivable offense against the laws of God and man if the demonstrators in New York City carried out their plan to express their protests of conditions and laws in New York City—by stall-ins or otherwise interfering with the fair.

I have heretofore pointed out in condemning various forms of demonstrations that individual citizens do not have the right to choose the laws that they will violate and break them at will. The reasoning of the Post editorial that citizens may violate laws that they regard as being improper is advocating a theory that will lead to anarchy. Perhaps the Post intends for this statement to apply only in the Southern States.

There is an economic aspect to many of these demonstrations. In many instances, the demonstrators have laid down across the main streets in the business centers of towns and thereby prevented the free movement of people for the purpose of transacting business. This and a series of boycotts have injured the economy of a number of communities. They have now reached the largest city that we have—New York. An attempt has been made to dramatize their demands by greatly reducing the attendance at the World's Fair.

If the methods depicted are continued, the Police Department of New York will get this situation in hand within a matter of 3 or 4 days. A great many heads may be cracked in the process but it will not be long until tourists can safely go to the fair to see the great spectacle that we are told awaits them there.

But the methods reported as being employed to silence these protests and terrify the protestors in the city of New York would have been presented to the entire world as evidence of the scenes of one section of our country if they had occurred in a southern city.

It is useless to expect fairness. But I will not let this incident pass without challenging the U.S. Information Agency to give the picture of a black man being held down and beaten with a heavy billy by policemen, while the Negro pathetically attempts to shield his head with his hands, the same distribution throughout the world as was given to the incident of "Bull" Conner's police dogs in Birmingham some time ago.

Mr. JAVITS subsequently said: Mr. President, I ask unanimous consent, notwithstanding the morning hour agreement, to proceed for 2 minutes so that I may reply to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. I said this typified the argument, and it does. What the Senator from Georgia has said only bears that out.

First, I dismiss the remark about the "moneybags" in New York because, while that may have sounded true in the 19th century and perhaps the early 20th century, it is no longer true, nor will the Federal Reserve Bank in Atlanta endorse it. There are many financial centers in this country, and they do not hold second candles to one another. We may have more dollars in New York, but we have no more real power in terms of the community in which we live than do the "moneybags" in Georgia.

But aside from that—because I think it is quite extraneous to the fundamental point, which is the Constitution—we, too, are for one standard. We are for the Constitution. We are not for police dogs and cattle prods to oppress Negroes who want to sing in a town square in order to make their protest.

The CORE pickets at the World's Fair site were not silenced, even during the attendance of the President of the United States, because it was felt—and I think quite properly—that under the Constitution they could protest if they wished, provided they obeyed constitutional law. When I say "constitutional law," I mean the Constitution of the United States. There is a single standard.

But a picture which may show a person engaged in trying to block a subway train or to pull an emergency cord—which is an act of public danger under a perfectly constitutional municipal ordinance which makes such an act unlawful—is very different from a picture showing a person who is being restrained from marching peacefully down a street from church to the city square. Nobody in the world and nobody in the United States will be fooled by the attempt to confuse them.

The fact is that an effort is being made to enforce unconstitutional laws, unconstitutional standards of practice, and unconstitutional ordinances in certain areas of the South. That is what I protest against.

I welcome any commission, any Attorney General, or anyone else who wishes to investigate in New York; and we will vote for the necessary power and funds for that purpose. We hope the same will be true in the case of southern Senators.

Mr. RUSSELL. Mr. President, the statement of the Senator from New York bears out completely my earlier statement. The position of the Senator from New York is that it is unconstitutional to interfere with the entrance to a pavilion of New York State at the World's Fair in New York, but that it is completely constitutional to block the doors to business establishments and governmental buildings in the South—for example, in Atlanta, Ga.—or to stop traffic on the streets of Albany, Ga. That is the position the Senator from New York takes.

The Senator talks about those who came from a church. It may be true, that on one occasion a procession of demonstrators did start from a church; but the determination of whether the laws have been violated depends, not upon where the demonstrators come from but upon the result or the outcome; and I assert that a cattle prod is a much more humane way of moving people than to attempt to convince a man by beating him over the head with a police billy, while another policeman holds the man almost prostrate on the ground; and I would that the Senator from New York would look at the expression of anguish shown in the newspaper photograph of that poor Negro, who is shown holding his hands over his head, doing his best to protect himself from a brutal and inhumane beating by one who, I assume, was a police officer of New York, because the photograph shows that he was wearing a uniform adorned by a badge on his chest.

Mr. President, the attitude of some persons on these matters seems to be based on the question of whose ox is gored; that is obviously the situation in regard to yesterday's incidents of violence in New York. Some would tell us that it is proper and constitutional to stop business and to prevent the flow of traffic in a Southern city, but that it is entirely unconstitutional to do the same thing in New York City, and particularly near the World's Fair.

At this moment another Senator has handed me a copy of the New York Times article which states that those civil disobedience acts in the vicinity of the World's Fair marred the festivities, and that the attendance was greatly cut.

I repeat that if the entire city police force there were allowed full play to deal with the demonstrations, so that they could continue to handle them in the manner as described in the press, obviously there would be no further trouble there, because all participants would be too frightened to move, and would be completely intimidated and thus prevented from protesting in any fashion, for fear that he would be treated in that cruel, brutal, and inhumane manner.

But, Mr. President, such demonstrations which have occurred in many parts of the Nation were nurtured in the city of New York; training schools were conducted there, to teach those who attended how to organize and carry on such demonstrations. They were sent out into the South to demonstrate and were applauded in the press. The chickens have come home to roost and now we are told with straight face that when such demonstrations occur in New York that they are unconstitutional.

I say to those who undertake to draw such a distinction between stopping traffic in Albany, Ga., and similar actions on the subways and at the entrances to the World's Fair, at New York, that the businessman in Albany is entitled to equal protection of the laws just as much as are those who are running the fair in New York City.

I would remind them of what Lord Byron said:

> The thorns which I have reap'd are of the tree
> I planted; they have torn me, and I bleed.
> I should have known what fruit would spring from such a seed.

New York has been the training center for these demonstrations; but when the demonstrations take place in New York, those responsible say, "What our people taught is constitutional everywhere, until it is placed on our doorsteps, here in New York City. Then it is unconstitutional; then the police are to be permitted to use such force and violence as will prevent any interference with the business of the fair."

Mr. JAVITS. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I yield.

Mr. JAVITS. Mr President, I ask unanimous consent that we may proceed for 2 additional minutes, because this is a very important point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. First, I wish to tell the Senator from Georgia that I do not feel emotional about this matter, and I hope he will feel that we are discussing a very important matter which can be very helpful in connection with this debate. He knows the very high regard I have for him, and I would not wish to have any feeling develop between us.

Mr. RUSSELL. I hope the Senator from New York will not pick out the worst case in the South, and compare it with the best case that New York can present. But that is what he did when he talked about people who came from a church. That was just one incident out of perhaps 1,000.

Mr. JAVITS. I should like to discuss this matter with the Senator from Georgia on that basis, because I do not think either of us can condone for a moment excessive police action, whether in New York or in Albany, Ga.; and I would not try to have my statement regarded as authority for the New York police to engage in excessive violence, any more than the Senator from Georgia would, as regards the action of policemen in Georgia. I would want policemen to be held accountable—both those in New York and those in Georgia; and we do that. So I wish to lay aside that question, for I am not trying to defend the degree of force which was used.

But I am trying to make this distinction—which I believe a valid one—between violation of a law which would be constitutional in Albany, Ga., just as elsewhere, if attempts were made to block the entrance to a public building or to block traffic, and unconstitutional suppression of the right of free speech. The Supreme Court itself has held that those who engage in illegal breaches of public safety could be and should be prosecuted and should be restrained by police action appropriate to the wrong and to the amount of resistance they put up. However, I was talking about cases, such as the Edwards case, decided by the Supreme Court, about which the Senator from Georgia knows.

Mr. RUSSELL. Oh, yes——

Mr. JAVITS. In that case 187 young men in South Carolina tried to meet peacefully on the grounds of the State capitol, and they were arrested by the police. The Supreme Court ordered all of them released, on the ground that the effort to restrain their exercise of the right of free speech was obviously unconstitutional because there was no danger to public safety.

I was only trying to state that this depicts very clearly our different attitudes. I am talking about the norm of conduct. What I believe persons such as myself have objected to so strongly have been restraints and efforts to use force in such cases as for example, the attempt to keep a Negro student off the grounds of the University of Mississippi, which resulted in violence and deaths. We have been talking about efforts, including violence, to carry out practices which are contrary to the Constitution.

In addition, I believe it also in a sense bore out what I have mentioned before; namely, that we are really trying in a realistic way to act positively in all these areas. With all honor and respect to the Senator from Georgia, I still find it very hard to understand how men of such intelligence and brilliance, as so many Members of the Senate are, simply will not see what is happening and how it affects the entire Nation, and that it is simply impossible to continue the social order of segregation, a situation which goes right to the heart of what we have been debating here. This is the point I wanted to lay before the Senate.

Mr. RUSSELL. Mr. President, I still say the Senator from New York draws a distinction without there being any fundamental difference, in connection with the question that is involved.

In my opinion, violation of the laws of any city or any county or any State, in a campaign of civil disobedience, is completely unjustified. I think there are other ways of dealing with laws that might be in conflict with the Constitution. But these civil disobedience campaigns have set in motion in this country forces that are going to plague and afflict our society for many years to come.

In the first place, I do not defend the action of policemen who exercise brutality—whether in Georgia or in New York. But I do wish to state that these campaigns of civil disobedience are making it almost impossible for the police departments of the several cities of the country to discharge their duty; and if the Federal courts continue to take the position that the police are always wrong in these areas of the country of which the court disagrees, it will not be too long before it will be impossible to get men of character and ability to serve as policemen, for they will not serve if they are to be spat upon, struck with bottles and with rocks, and otherwise mistreated, and then be told they must restrain themselves, and that they can do nothing whatever to protect themselves or to protect the dignity of the uniform they wear or of the law they are supposed to guard.

Mr. President, I deplore the event which occurred in New York; I deplore such events wherever they may happen. But let me say to the Senator from New York that New York is not the only place that is undertaking to solve its racial problems.

We in Georgia and in the South generally have been wrestling with a racial problem of much greater gravity for a hundred years. Starting in the ashes of desolation and defeat with privation on every hand, the people of the South were presented with a problem unique in history. Those of a different race and almost in equal numbers were transformed from slaves to citizens almost overnight. With the limited resources salvaged from the destruction of our economy, Southern people of good will have been working with patience, sincerity and the utmost good faith to evolve a proper social system from a situation that no other section in this country has every known.

We have made great progress in its solution and we will move along much better and effect a much more permanent understanding if we are spared in the future the periodic invasions by the professional agitators trained in schools in New York and then sent forth into the South to generate hatred between the races and start campaigns of civil disobedience and violence.

No honest man familiar with the facts would decry the progress that we have made. I have noticed in the press where Atlanta is considered almost a model city in its racial relations. Whatever may be one's opinion on the methods employed, Negroes in the city of Atlanta were being elected to public offices and that city had a number of Negro policemen long before the professional agitators commenced their various campaigns of sit-ins, walk-ins, lie-ins, and civil disobedience and violence.

The progress being made in reaching a better understanding between the races has not been helped by the campaigns of civil disobedience.

All of this agitation in New York City—even in the face of additional police and court orders and injunctions—indicates that there are some people there who think that perfection has not been achieved; but let me point out that it is much more difficult to arrive at a satisfactory relationship between the races in the many areas of my State where our Negro citizens constitute a majority of the population than it does in the city of New York.

Our people have made far greater efforts and greater sacrifices for a much longer period of time in the effort to afford equal opportunity to all without regard to race, creed, color, or national origin than have people in the vast centers of population where the minority groups are restricted to certain areas and the problem is not nearly so great as it is in a large number of southern communities.

## HIGHLIGHTS OF 4-H CLUB WORK—VISIT TO THE CAPITAL BY 4-H DELEGATION FROM MONTANA

Mr. MANSFIELD. Mr. President, my distinguished colleague the junior Senator from Montana [Mr. Metcalf], and I have been privileged to have a visit with the 4-H delegation members from the State of Montana who are in the Capital City of the Nation at the present time. It was our pleasure to meet with Mr. C. W. Vaughn, of Bozeman, the 4-H specialist in charge of the group; Mr. Garry Spaeth, of Silesia; Mr. Charles Howard, of Worden; Miss Rosalie Etan, of Bozeman, and Miss Marilyn Farris, of Kalispell.

On behalf of my distinguished colleague and myself I ask unanimous consent that we may have printed in the Record at this point dissertations which two of those young Montanans have written and presented to us this morning.

There being no objection, the statements were ordered to be printed in the Record, as follows:

### 4-H—Its Present and Future

(By Charles Howard, Yellowstone County, Mont.)

One of the duties of a representative of a State 4-H club is to present a report of stewardship in that State. As one of the four selected to represent more than 13,300 4-H club members in Montana, I am happy for the privilege of presenting this report in which I shall try to outline the deeds, accomplishments, successes, failures, and needs of 4-H in our great State of Montana.

While Montana has had many "firsts," they were slow in adopting club work for the youngsters although a few dedicated school superintendents had made attempts to interest their pupils in a phase of club work as early as 1900. The passage of the Smith-Lever Act in 1914 probably marked the advent of concentrated club work in our State.

In the beginning, the projects were confined to corn, potatoes, and other vegetables. Montana, like other States, had become garden conscious through their war efforts to increase the world food supply by their war gardens and it was a natural transition into club projects. It was not until the 1920's that livestock, clothing, and breadmaking were added to the list of projects available for club work.

Though slow in starting, it was not long before Montana was bursting out at the seams in 4-H club activity. In 1920, we had 37 standard 4-H clubs. In 1921, the number of clubs had grown to 165. We are still stretching our resources to the limit. Today we number more than 13,300 members, all busily engaged in projects designed to fulfill the 4-H motto, "To Make the Best Better."

Each of these members is carrying one or more projects in which he, or she, is doing his very best, under supervision, "To Make the Best Better." Each of these 4-H members is not only concentrating on making his project the best possible but he is doing it under conditions which automatically enrich him in character building and good citizenship. He is learning to win and lose, give and take, live and let live, but above all enjoy his work knowing that he is putting his best effort into his project.

These projects vary in size from the baking of a loaf of bread to the raising and marketing of a grand champion bull, but each, in its own way, is equally important. It is his, or her, project with nothing acceptable but the best.

Financially speaking, 4-H club projects have added considerably to the economy of our State. A minimum $25 for the average return of some 25,000 projects represents quite a bit of extra money available to 4-H club members for spending in our State.

Many of these smaller projects develop into larger projects as the years roll by. In my particular case, a motherless lamb, plus almost 10 years of careful supervision by my parents and 4-H leaders, is helping greatly toward paying the expenses of my college education.

Perhaps the least of the benefits of 4-H club work is the dollar-and-cents valuation. Montana 4-H is giving to the Nation some 13,300 useful citizens who, through their club efforts, have learned to live with people as well as themselves. They are learning many lessons in life that will make better communities as well as better individuals. In striving for perfection they attain a sense of character building unconsciously, which will be with them as long as they live.

No one will deny that the youth problem is one of the major factors in the development of our generation. The boy or girl of today is the citizen of tomorrow. On their shoulders will rest the cares of the world.

The time, interest, understanding, and financial support given by our legislative bodies is going a long way toward preparing these young people for the carrying out of the 4-H club pledge, "I pledge my head to clearer thinking, my heart to greater loyalty, my hands to larger service, and my health to better living, for my club, my community, and my country."

Just as we have devoted our efforts to making the best things better, we are asking our friends to continue their efforts toward the same goal. We are faced with the problems of population explosion. Every time that big white bird drops a bundle we add another to the list who will be a potential 4-H club member in 10 years. Our resources are stretched pretty thin now and there are many youngsters in our community that are badly in need of the benefits of 4-H club work. We are deeply grateful for the marvelous support we have received on National, State, and county levels.

We ask for this continued support. It will be the best investment that has been made since Manhattan was bought from the Indians for $24.

### 4-H AND MY FUTURE

(By Charles Howard, Yellowstone County, Mont.)

4-H club work has taught me many lessons which I am sure will help me throughout my lifework. It has taught me to be competitive. I have learned how to lose as well as to win. I have learned to profit through my mistakes as well as through the mistakes of others. I have learned through judging and being judged that the payoff is sometimes more than just being first. The personal satisfaction of having done my best can be rewarding also, even though the blue ribbon went to someone else. I have learned that one must be true to oneself. You may confuse the judges, but you can never fool yourself. I have learned consideration for others, and to credit or discredit them for the way they played the game. These lessons go much farther than just the show ring. They are lessons in life, in human behavior.

I feel that 4-H club work has opened a new horizon for me in choosing my lifework. Our young people are a very important factor in our future civilization. Their potential will only be achieved through competent and able leadership. I would like to be one of these leaders. I feel that I have a well-established background through my 9 years of 4-H club work, but which field I could best fit into is still undetermined. For this reason, I enrolled in agriculture at our own Montana State College, our State's school of agriculture.

Youth leadership is my ultimate goal, but time and the wisdom of others must determine the field. The need is great in all fields and I want to be one of those competent and able leaders. I want to be able to say to myself, whichever field I choose, "You have given your best, your job is well done."

### HIGHLIGHTS OF MY 4-H CAREER AND THEIR ROLE IN MY FUTURE CAREER

(By Marilyn Farris, Flathead County, Mont.)

Many of the highlights of my 4-H career centered around many rewarding values; but yet there have been those highlights with values that have meant a great deal to my role in the future. Perhaps one of the greatest values I learned in my first years as a 4-H member is that of decision making. From judging contests to my own club activities, I found out how to make these decisions and most important, why they were made. Such knowledge from an experience such as this prepared me with valuable knowledge for the future and the larger questions and decisions I would have to answer.

When the year came that I was old enough for the junior leadership project, I soon found that this was going to be one of the most rewarding projects, and one of the greatest highlights I would ever experience in my 4-H work. Of course, at the beginning I had a lot of new tricks to learn but I found that as I learned them, I was also helping someone else. Whether it was projects, record books, demonstrations, or 4-H camp, I knew that each time I helped one of those members I was helping them prepare for the future as well as taking a big step in that direction for myself, too.

Through helping members with demonstrations, I found this to be a great opportunity for teaching younger members the importance of public speaking, and also a chance for me to practice as well as share my knowledge and rewarding experiences with others. With record books, I showed members the importance of record keeping and stressed the importance of their use in the future as well as the present. I know as a member myself this was a great help to me in my future, too.

The greatest of all highlights of my 4-H career was that of being assistant leader and sometimes leader to a local 4-H club. As this club was near rock bottom, and it was my task to get them back on the road to rewards and success, I gained and strengthened my essential values to a great extent. My courage to face the bad with the good grew stronger each day, my values of leadership improved with each helping hand I gave, and the rewarding glows in the members' eyes gave me the want to face each task that presented itself before me.

Achievement awards, demonstration awards, judging awards, 4-H camps, State 4-H congress, and other, all were great highlights and important roles during my 4-H years, but I know I will treasure always the rewards I received in junior leadership greatest of all because it had that "special something" that really prepared me for my career in extension work.

Once more I'm enjoying another year of 4-H work, but there are only a few more of these years left for me. But with the hopes of a career in extension work, I will never be very far away from the organization which has nearly been my career for almost 10 years.

The pages of memories will be full, but the goals of the future will have their sturdy foundation from the highlights and rewards of my 4-H work.

## SETTLEMENT OF THE RAILROAD DISPUTE

**Mr. MANSFIELD.** Mr. President, yesterday, April 22, was a glorious day in the annals of labor-management negotiations. The settlement of the railroad work rules dispute as announced by President Johnson brings to a close 5 years of very difficult negotiations between the five operating brotherhoods and railroad management. Most important of all, it averts a nationwide strike which would have paralyzed the Nation's transportation system.

President Johnson and Secretary of Labor Willard Wirtz are to be highly complimented for their personal work in bringing about a satisfactory solution to these negotiations. The President has done what others have failed to do in resolving one of the most bitter conflicts in the history of labor-management negotiations brought about by automation in the railroad industry.

This agreement prevents a crippling and disastrous strike; it has brought to a close a very delicate situation of national proportions. The announcement also makes one stop and think about the many other labor-management problems in which the President, his Secretary of Labor, and others have intervened. These settlements may have involved only isolated union locals, one industry, or one State, but all are important in the total picture of labor-management relations.

Several weeks ago, the cities of Butte and Anaconda were faced with a shutdown of the Butte, Anaconda & Pacific Railway, a railroad which is essential to the mining operations in Silver Bow and Deer Lodge Counties. This was an extremely difficult situation, because in recent years this area of Montana has had to adjust to many economic difficulties associated with mechanization and automation in copper mining. This strike immediately placed 5,000 men on the unemployment rolls, and the figure would have reached 10,000 had it been prolonged.

During the first several days, strike negotiations between company officials and the Brotherhood of Railroad Trainmen & Firemen were carried on at the local level. By the end of the week, it appeared that there was little success. In the interests of the local economy, I then initiated conversations with Mr. Charles Luna, president of the Brotherhood of Railroad Trainmen and the Anaconda Co. It then appeared that we would have to go to the top to bring about an early settlement. I discussed the Butte-Anaconda situation with President Johnson and the Secretary of Labor on several occasions. They agreed that the matter had to be settled soon. They dispatched Leverett Edwards, member of the National Mediation Board, to Butte to head up the negotiations. Mr. Edwards was assisted by Frank Switzer, staff mediator. Because of their skill and experience during long hours of negotiation, they were to bring about a solution to the differences between the trainmen and firemen and the Anaconda Co. The settlement was announced on Wednesday, April 15. Unfortunately, only several hours later after the settlement was announced, the nonoperating unions went out on strike. Fortunately, Mr. Edwards and his staff were still in the area, and through additional contacts with national union officials and management, this strike was resolved on Friday, April 17.

A potentially disastrous situation was averted, because all forces from the local to the national level were brought together to work out an agreeable settlement. This was an isolated labor-management problem but one of immense concern to the immediate area. The President, the Secretary of Labor, labor officials, and management officials are to be highly complimented for the way in which they took hold of this situation and worked out an agreeable settlement at the earliest possible time. I wish to give special thanks to Mr. Edwards and Mr. Switzer. Their keen knowledge and experience in labor negotiations contributed greatly to the settlement of this dispute.

## CLOSING OF SCHOOLS IN CHESTER, PA.

Mr. STENNIS. Mr. President, I have noted with interest, but with regret, in the New York Times of today of the action taken by the school board of Chester, Pa., on Wednesday.

The news story reported that the 18 public schools in Chester have been ordered by School Superintendent Charles D. Long to close indefinitely.

The order was approved by the school board "to prevent physical harm and violence," the New York Times reported.

Mr. President, that is exactly what many Senators, particularly southern Senators, have repeatedly warned ever since the U.S. Supreme Court decision of May 17, 1954, which ordered school integration.

We of the South have maintained, and with great justification, that we need time and patience, and not laws to deal with problems between the races. We have preached against crime and violence, demonstrations, and disorder.

We have pointed out that such physical harm and violence would result not only from forced school integration, but indeed from other segments of our business and social life, such as integration of restaurants, motels, hotels, theaters, swimming pools, and related activities.

Mr. President, I mention with regret certain events that happened when the school board closed down all the schools in the little city of Chester, Pa., in order to avoid violence and physical harm. That is exactly what we have always maintained would be the situation when people at this level of life are continuously forced against their will to live in close proximity to each other.

I learned that as a child, as a boy, as a man, as an officer, and now as a Senator. It is just as true of nature and the facts of life as the fact that night follows day.

It will not be changed by the passage of laws or by anything that is forced upon people. It is unfortunate for these people in Chester, Pa. I regret the situation. But it is true to life. It will continue to be true. The passage of laws is the wrong way—in fact, the opposite way to go at it. I call this to the attention of the Senate and shall elaborate upon it.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. RUSSELL. Is there any notation there concerning any suit being brought to force them to open the schools? In Prince William County, Va., when the schools were closed to prevent violence, there was a great deal of pressure brought to bear on the school authorities to compel them to open the schools. If I am not mistaken, the Attorney General of the United States intervened. Is there any reference to anything like that?

Mr. STENNIS. No. There is not. This order just went into effect. I shall read some of the details from the article:

> Mr. Long made his recommendation to the school board after 38 persons were arrested today in a renewal of demonstrations.
>
> Forty others took part in the demonstrations, marching outside the school administration building, municipal building, and the Chester Municipal Authority Building.
>
> Two civil rights groups, the Chester branch of the National Association for the Advancement of Colored People, and the Committee for Freedom Now, has been demonstrating almost daily since March 27 to protest alleged segregation.

The schools are already integrated. They were imbalanced.

Mr. President, I ask unanimous consent that the article published in the New York Times of April 23, 1964, entitled, "Schools Closed by Chester, Pa.," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times, Apr. 23, 1964]

### SCHOOLS CLOSED BY CHESTER, PA.—VIOLENCE FEARED BY BOARD—38 HELD IN PROTESTS

CHESTER, PA., April 22.—The 18 public schools in this Delaware River community were closed indefinitely today.

The order by the school superintendent, Charles D. Long, affects 11,000 pupils and 200 teachers. The action, Mr. Long said, was approved by the school board to prevent physical harm and violence.

The schools, he added, will remain closed until there is a "return to normalcy."

Civil rights groups have been protesting what they call de facto segregation. They have asked that pupils be transferred to eliminate all-white and all-Negro institutions.

The school board has rejected the plan.

#### THIRTY-EIGHT HELD IN PROTESTS

Mr. Long made his recommendation to the school board after 38 persons were arrested today in a renewal of demonstrations.

Forty others took part in the demonstrations, marching outside the school administration building, municipal building, and the Chester Municipal Authority Building.

Two civil rights groups, the Chester Branch of the National Association for the Advancement of Colored People and the Committee for Freedom Now, have been demonstrating almost daily since March 27 to protest alleged segregation.

A 3-day moratorium ended last night after the State's human relations commission announced it had been unable to resolve the difference between the school board and the civil rights groups.

## ATTEMPTS OF DEMONSTRATORS AT WORLD'S FAIR TO DROWN OUT PRESIDENT JOHNSON'S SPEECH

Mr. GORE. Mr. President, I am prompted to rise both by the occurrence of the attempt to interfere with the speech of the President of the United States yesterday, and also by a comment of the distinguished and able senior Senator from New York [Mr. JAVITS], which I am sure the Senator would wish to clarify.

The able Senator from New York is one of the most astute, erudite lawyers in this body.

I invite the attention of the Senator to a statement which he made, which some might interpret as condoning this attempted breach of peace.

Much has been said about constitutional rights. Freedom of speech is one of the rights of which we are proud, one of the rights guaranteed under the Constitution. But even freedom of speech has its limits. One of our great Supreme Court Justices said that freedom of speech did not go so far as to give one a right to yell "Fire" in a crowded theater.

All citizens in New York, in Tennessee, or anywhere else in America have the constitutional right of freedom of speech. But just as that right does not extend to a yell of "fire" in a crowded theater, I do not think it goes so far as to give any group a constitutional right to conspire to breach the peace, to conspire by shouts to drown out the President of the United States of America, whoever he might be, whenever and wherever it might occur.

The Presidency is a position which all Americans should hold in the highest regard. The prestige, the dignity, and the power of the Office were insulted yesterday.

The distinguished Senator from New York said, "We did not even attempt to prevent this."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORE. Mr. President, may I have 2 additional minutes?

The PRESIDING OFFICER. The morning hour has expired.

Mr. MANSFIELD. Mr. President, under the agreement, I ask unanimous consent that the Senator may proceed for an additional 3 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

I believe the Senator from Kansas [Mr. PEARSON] also wants to speak.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PEARSON. Yes.

Mr. GORE. Mr. President, I think another constitutional right that is rather definitely fixed in our system is the right of a town, a State, or a county to prevent a breach of the peace, a conspiracy to breach the peace, a concert of action to breach the peace.

When I listened to the President of the United States having to shout to be heard over the roar of shouts in the distance trying to drown him out, I was particularly repulsed. I do not believe that this is a constitutional right. I think there are limits to all rights. That is the essence of law. Indeed, if everyone had complete freedom, complete right in all fields, there would be no society, there would be chaos, there would be anarchy.

I am sure that the distinguished and able Senator from New York will concur with the spirit in which I speak. I am sure the Senator will agree that he did not in any way intend to imply that he condoned the failure of the policemen of the city of New York to preserve peace and order in the presence of the President of the United States as he spoke to the Nation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. JAVITS. I wish to agree with the sentiment of the Senator. I wish to join in it. I agree with the Senator on the law.

Breaches of the peace are qualitative. I was present during the speech. I heard it.

If I could have, as a police chief, I would have required silence.

Mr. GORE. May I congratulate the Senator?

Mr. JAVITS. I would have required silence, if I could—not that the President is above the law. He himself would be the first to rebut that. As to the heckling of political speakers, even for the President, it is something that occasionally must be endured. If I were the judge sitting on a case involving anything of that character the test involved would be whether it were something which might be conducive to violence. But it was not a terribly serious thing, as I think President Johnson will confirm.

The point I was making was as to their picketing, their carrying of signs, their being there in the crowd as it was forming, which was not subject to restraint, and the police did not restrain them.

As to the disrespect to the President of the United States, I am terribly sorry for it. And if it means anything, I will apologize to him for it. Indeed, I did apologize to him for it when we rode back on the plane yesterday.

Mr. GORE. I fully expected a response of that character from the Senator from New York, and I congratulate him and applaud his response.

## EXTENSION OF MORNING HOUR

Mr. PEARSON. Mr. President, on the unanimous-consent agreement providing for a morning hour, I ask unanimous consent, as acting minority leader, to extend the morning hour for a period of 4 additional minutes, in order that I may insert several articles in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BUSINESS POTENTIAL IN THE STATE OF KANSAS

Mr. PEARSON. Mr. President, D. Glenn H. Beck, dean of agriculture at Kansas State University, recently itemized some of the major assets of the State of Kansas for industrial growth.

Dean Beck, I should point out, did not rely on giveaways and artificial incentives as industrial attractions but rather he set forth in cold facts the business potential which exists in Kansas which occupies the geographical center of the Nation.

For those who seek opportunity, I recommend a careful study of Dean Beck's address to the Kansas Bankers' Agricultural School. I ask unanimous consent to have excerpts of this address printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### KANSAS ASSETS? TAKE A LOOK AT THESE

(By D. Glenn H. Beck)

(EDITOR'S NOTE.—This article is a portion of an address by Dr. Beck to the 1964 Kansas Bankers Agricultural School at Kansas State.)

A recent survey by Fortune magazine among executives of the 1,000 largest corporations in the United States seems to indicate that what Kansas has been considering a serious liability is, instead, a great potential asset.

The executives were asked to name the basic requirements that would have to be met before a location would be considered by their companies. Fifty-four percent said availability of workers, 52.6 percent mentioned proximity to customers, and 49.1 percent mentioned proximity to raw materials, supplies, and services.

That workers are available in Kansas is shown by growth in population of 11 Kansas counties from 1950 to 1960. In 94 counties, workers migrated to find jobs to the extent there was no population growth except that accounted for by more births than deaths.

Studies by Kansas State University's agricultural experiment station in Kansas have shown that workers from farms and small towns in Kansas are considered superior by their supervisors.

On proximity to customers, each year migrations put Kansas in a more favorable light. Greatest population growth in the United States is in the West and Southwest. Both are a long way from the industrial East, and Kansas is much closer than other Midwest production centers.

But Kansas' greatest asset is in raw materials, if one considers agribusiness and agri-industry.

Kansas ranks second in the Nation in number of tillable acres.

Thirty percent of the net personal income in Kansas in 1960 was from agriculture. The total was $4.5 billion. Kansas had $500 million from farming and $800 million from processing and distributing products originating on farms and from selling productive goods and services to farmers.

Income from farming in Kansas already is 2.5 times the next largest source of income in the State.

Nearly all Kansans know our State ranks first in the Nation in wheat production. Less well known is that Kansas also ranks first in sorghum silage acres harvested, second in sorghum forage, second in grain sorghum, fourth in beef cattle numbers, and 13th in both sheep and swine.

If Kansas is to compete with other States for industries and businesses, she should have the best success by making agribusinesses aware of the potentials for growth in the State that ranks at the top or near the top in so many agricultural commodities.

Are Kansas agribusinesses and agri-industries getting the most possible from Kansas 18.7 million acres of grass and woodland? Its 30.4 million acres of tillable land? Its 10.3 million acres of wheat, 3.6 million acres of sorghum, 2 million acres of hay, its potential for soybeans, irrigated sugarbeets, vegetables, and fruits?

Use of fertilizers, for example, has expanded tremendously in Kansas, but agribusinesses that should accompany the expansion have lagged. Kansas farmers spent $33 million for commercial fertilizers in 1961, but only one-fourth of that was sold by Kansas firms. There is room for another $25 million nitrogen fixing plant like the one at Lawrence.

There are numerous opportunities in Kansas to establish local fertilizer distribution and service points. In the future many of these small businesses will supply complete fertilizer services to farmers. An area 50 to 75 miles in radius can be served by such a business, so Kansas could support up to 75 or more of them.

Soybean production and soybean processing offer increased opportunities in Kansas. Soybean production should be increased in eastern Kansas and in the irrigated sections of western Kansas. With additional acres of soybeans in western Kansas, a processing plant will be needed in that area. Kansas has room for several more alfalfa dehydrating plants, particularly in the irrigated areas.

There is room for much economic development based only on projected domestic demands for products that Kansas can produce competitively. Except for fresh fruit, beef consumption is expected to make the greatest increase.

In addition to the increase in demand, Kansas' increase in beef production and processing should come partly by Kansas and the Sorghum Belt taking over from the Corn Belt producing for the west coast and the Southwest, where the great population increases continue.

New packing plants, such as the one at Emporia and the one planned at Garden City, are examples of agribusinesses which should accompany future increased beef production. Kansas, by using climatic advantage, its grass, its grain, forage sorghums, and its own packing plants can produce high quality beef competitively. There is no need for Kansas to ship a single critter to the Corn Belt for fattening. The $400 million meat processing and packing industry in Kansas could be doubled by 1980.

Now, more than ever in history, economic advancement is based on the results of research. A few of the States with research programs will produce the lion's share of the food and fiber. In those States, both agriculture and agribusiness will expand their economic activities and reap the benefits of higher employment, bigger tax bases, better schools, and other benefits that accompany such growth.

Kansas farmers have $1 billion invested in farm machinery, and as farms become larger and fewer, the investment in machinery will increase.

I am not optimist enough to visualize Kansas producing tractors, combines, and trucks, but the Hesston Manufacturing Co. has demonstrated the possibilities for economic development in other lines. It now is the 13th largest agricultural equipment manufacturing firm in the Nation.

Elevators for the huge New Idea line of equipment are made in the Viking plant in Manhattan. Our plentiful labor with lower living costs offer economic advantages to us and to large firms for a proliferation of subcontracts like the one between Viking and the New Idea Co.

Kansas agri-industry can expand in materials handling equipment, tillage implements, and harvesting equipment, particularly for horticultural crops, like vegetables, fruits, and nuts. Both adaptations of present machinery and new machines should develop in Kansas with irrigation and with the crops that change irrigated from extensive to intensive agriculture.

Kansas, by using the raw materials and surplus labor she has available and by being closer to the fastest growing area of the United States than her competition, can make longtime economic developments through agriculture and agri-business and agri-industries that will not be dependent upon the whims of our own Government nor crop conditions behind the Iron Curtain.

We have the land, the agricultural production, the climate, the geographic location that all seem to favor economic development in agri-businesses and agri-industries.

## PRIZE-WINNING ESSAY ON EMPLOYMENT OF PHYSICALLY HANDICAPPED

Mr. PEARSON. Mr. President, I received a most welcome report this week advising me that an essay on "Employment of the Physically Handicapped," written by Miss Patricia Howell, of Fredonia, Kans., was selected for third-place honors in a national contest sponsored by the President's Committee on Employment of the Handicapped.

It is most reassuring to me to see our future leaders expressing a full and deep understanding of how to approach such problems.

Miss Howell's essay is a masterpiece of simple, human acceptance of the idea that ability counts more than whether or not a person suffers from a physical handicap of some nature.

Prior to my notification of the national award, our Kansas Governor's Committee on Employment of the Physically Handicapped picked this young high school student's essay for a first-place award in the State.

At this time, Mr. President, I ask unanimous consent that Miss Patricia Howell's theme, entitled "How Handicapped Workers in My Community Are Proving That Ability Counts," may be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

### How Handicapped Workers in My Community Are Proving That Ability Counts

(By Patricia Howell)

I don't recall the first time she appeared in my life. Only sketchy memories come to mind. She spent endless hours in working for and with a group of energetic little fourth-graders. Why was this teacher special? Because she had been stricken with polio, which left her with a stiffened leg longer than the other limb. With an uneven but determined gait, she led us through recesses and classes and, all too quickly, the school year. Her disability might have kept her from some types of work; but her ability made her a teacher, and a good one, too. She has proved to my community that ability counts.

In our small town of 4,000 people, those with handicaps are generally well known and admired. Their attitudes in accepting life's unnatural limits strengthen all who know them. Because of our community's size, we have no full-time rehabilitation program; we have only that which is found in the hearts and minds of our citizens. For us, and for our handicapped, it has been sufficient.

People in my community are anxious to help. The encouragement received by the handicapped has established this. There is a willingness—better still, an eagerness to help those who need help. Businessmen, especially, reflect the general attitude of the public. That attitude is one of reality and hope.

Interviews with leading businessmen made one thing perfectly clear: The handicapped are welcome. My questions were specific. What is the attitude of your company toward the physically handicapped? This reply came from the office of General Portland Cement: "If the person is qualified, his handicap wouldn't make any difference to our company."[1]

This was not the only firm expressing the attitude that ability counts. The personnel director of the Kennedy Printing Co. stated, "There are jobs we could use the handicapped on."[2]

I continued my questions. I sought the opinion of the Archer-Daniel Midland Co. and asked the manager, "Are the physically handicapped fully capable?" He answered, "There's no problem there; they do as good a job as anyone."[3]

If any doubts remained concerning the faith of my community in the physically handicapped, they were erased by the owner of the Midwest Office Supply.[4] His enthusiasm for the impaired worker was apparent as he discussed two of his own employees. Both were women paralyzed by polio; both proved that their ability counted. One was able to walk with crutches, slowly, very slowly. In spite of this, she was employed as a clerk. Her employer commented upon her sharp mind and added that she did a very fine job.

His other employee worked in her home as a typist. I remember her well. The years roll back to a special Christmas and our annual pageant. She was the littlest angel on the second row among the cardboard clouds. Dress rehearsal was filled with excitement and gaiety. But the evening came, and there was no little angel. Polio had struck. I remember her as she went from class to class with only the squeaking of her wheelchair to tell of her coming and going. And I remember the night she crossed the stage in that same wheelchair to receive the diploma she worked so hard to obtain. Her same determined efforts led her employer to praise her highly and deem her very conscientious.

The facts are here in black and white. The handicapped are not impaired when doing the right jobs. A disabled employee often surpasses his unimpaired fellow worker. In all other comparable areas, the handicapped person has proved as fully capable as any worker.[5] Three million employed, classified as handicapped,[6] prove daily that ability counts.

Let us remember that we are speaking of people, people with a full life to live, not just statistics of production, absenteeism, and injury. Because we are concerned with people, join me in my thoughts and memories of the wonderful, courageous citizens of my community.

I have noticed the unnaturally bent, elderly woman. She has served as a country telephone operator for many years; her curved spine does not affect her switchboard accuracy.

I have watched a smiling young man walk briskly to work, swinging his cane jauntily. With a quick and clear "Hello, there," he greets his friends and acquaintances. He is busier and happier than most men who have their sight.

I have entered another office and approached a certain desk. The man sitting there welcomes me. His smile is warm; his sincerity, real; and his help, beneficial. His stiffened leg and uneven gait are seldom seen as he sits behind the desk.

These people are living proof that my community believes in the physically handicapped, and my community is not the exception. All across America the same story repeats itself in the hearts of men. You will find in your community, as in mine, that the handicapped have proved that ability counts.

## DANGERS OF PESTICIDES IN AGRICULTURE

Mr. PEARSON. Mr. President, for more than a year, we have been bombarded in the most dramatic terms with descriptions of the dangers which might result from the continued use of pesticides in agriculture.

I have been privileged to participate as a member of the subcommittee chaired by the junior Senator from Connecticut [Mr. RIBICOFF] in extensive hearings on interagency handling of pesticides and the related problems of use of these chemicals. These hearings have been very revealing.

I have been particularly impressed with how much we do not know about our environment and our efforts to artificially alter it. Much of what has been said about the dangerous effects of the continued use of pesticides is emotional and speculative. That is not to say that there is no potential danger as chemical compounds become more sophisticated and more extensively used. There are, in fact, signs that there may actually be danger ahead, but as of now we have only circumstantial evidence of this and not proof.

On the other hand, we do know that prohibition or even serious restrictions on the use of pesticides in agriculture could be disastrous, not only to the agricultural economy, but also to the consumer.

On April 19, 1964, Wilbur Levering, the very capable farm editor of the Topeka Capitol Journal, wrote an article entitled "Pesticides Vital to Food Quality." This article points to some of the values of pesticides and the importance of their use. This is a side of the discussion about pesticides which needs careful evaluation along with our evaluation of their potential dangers.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### Pesticides Vital to Food Quality

(By Wilbur Levering)

The American public must be prepared to accept a drastic decline in food quality if agriculture is denied the use of persistent pesticides. Quantity of production would also decrease while cost of production and consumer cost would increase to almost completely prohibitive levels, said C. C. Roan, professor of entomology, Kansas State University, speaking at the State Board of Agriculture Convention in Topeka last January.

As Americans we today enjoy an abundance of safe, wholesome food. In fact, our food supply is the safest and most wholesome in the world. One big reason is the remarkable control we have achieved against hoards of destructive insects with modern chemical insecticides.

Rachel Carson died of cancer last week, but her book, "The Silent Spring," has created a controversy over the hazards of insect sprays and other chemicals that may continue for years. TV and radio networks have produced special programs, columns have been written in newspapers, and many people have changed their buying habits and alarmists are having a heyday. In brief, the subject has raised considerable interest and concern across the Nation.

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[1] General Portland Cement Co. representative, Fredonia, Kans., conversation of Jan. 6, 1964.

[2] Kennedy Printing Co., personnel director, Fredonia, Kans., conversation of Jan. 6, 1964.

[3] Archer-Daniel Midland Co., personnel director, Fredonia, Kans., conversation of Jan. 6, 1964.

[4] Midwest Office Supply, owner, Fredonia, Kans., conversation of Jan. 7, 1964.

[5] President's Committee on Employment of the Physically Handicapped, "Build a Better America, Employ the Handicapped," U.S. Government Printing Office, 1960.

[6] Small Business Administration, "Manpower," U.S. Government Printing Office, 1960.

What is the real story? It is reported that insects were responsible for a $4 billion toll in American agriculture in 1962. This is one-third as much as the year's net profit for the country's entire farming industry. Insect damage could be worse in seasons to come if control methods are not available. The endless struggle against man's most numerous and ferocious enemies—insects—is fascinating and sometimes frightening. The issues had been stated simply as "which is to take over at last, man or bugs?" the insects' chief weapon is their remarkable reproductive power—so tremendous that unless held in check, a single species might well overrun all the world's food areas. An example of this capacity to reproduce is the common housefly which under optimum conditions can increase from 2 billion to as many as 5 billion descendants in one season.

Dr. Roan says we must realize that a nation can progress only in relation to the time and effort it must devote to securing its food supply and its health. The level and intensity of pest competition also increases as populations and agriculture become more extensive and at the same time more intensive. The more progressive nations have achieved their status by the efficient utilization of agricultural chemicals, among other things.

Dr. Bernard Oser, with the Food & Drug Research Laboratories, Inc., of New York, says the hazards of pesticides have been exaggerated. He suggests that the public should be reassured that these chemicals are being used safely and he further stated that the illusion has been created that safety is being neglected by Government agencies and industry. This is exactly contrary to fact. We need more information, facts, and education and less emotion, passion, and bias.

There is no question but what agricultural chemicals are poisonous when misused—but so is aspirin when misused. Aspirin alone caused more fatalities than all pesticides put together. We have a big toll from automobiles, medicines, and electrical appliances. These are all modern developments, but they are all dangerous when misused. In the interest of public health and safety, all caution should be used, but let us not let hysteria become widespread and cause us to lose our heads.

Dr. M. R. Clarkson, Associate Administrator of USDA's Agricultural Research Service, say his agency is effectively guarding and advising the public to prevent harm. The law requires registration of pesticides with USDA before they can be sold and he says the Department makes a careful study of each submitted pesticide to determine both its effectiveness and its safety. A thorough study and investigation is made of new pesticides submitted for registration. Once a pesticide is approved for registration, the USDA requires that it be labeled to guide users on proper application.

It has been suggested by some opposing the use of chemicals that man is tampering with nature and that if we would only live in harmony with it, the world's woes would burn off like the morning mist. Nothing could be further from reality. Man who is preeminent on this planet has by necessity and by design changed existing checks and balances and maintained a control in his favor. He has had to in order to survive and prosper.

The farmer knows he must produce more and more food for more and more people. He knows the constant threat of overwhelming numbers of hungry insects and puts his dependence on the dedicated diligence of research entomologists and chemists who provide him with effective pesticides. All great advances in civilization need to be used with care to avoid trouble and this applies to the use of pesticides. This is our responsibility.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

The Chair lays before the Senate the unfinished business.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. SMATHERS obtained the floor.

Mr. MANSFIELD. Mr. President, will the Chair have the unfinished business read?

The PRESIDING OFFICER. The question is on agreeing to the amendments listed as No. 513, proposed by the Senator from Georgia [Mr. Talmadge] for himself and other Senators, to amend the language on page 54, line 7, by adding a new title.

Mr. MANSFIELD. Mr. President, I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 162 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Cannon
Case
Church
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Ellender
Fong
Gore
Gruening
Hart
Hayden
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kuchel
Lausche
Magnuson
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Monroney
Morse
Moss
Nelson
Neuberger
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. Ribicoff in the chair). A quorum is present.

Mr. PASTORE subsequently said: Mr. President, the senior Senator from Rhode Island [Mr. Pastore], the senior Senator from Missouri [Mr. Symington], the junior Senator from Missouri [Mr. Long], and the junior Senator from New Hampshire [Mr. McIntyre] were absent during the call of the last quorum. The reason for their absence is that we were meeting with the President of the United States on questions that had to do with the areas of our country that we represent. The Record ought to show that fact.

## PROMOTION OF CONSERVATION OF WILDLIFE RESOURCES ON THE PACIFIC FLYWAY

Mr. MOSS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 793.

The PRESIDING OFFICER (Mr. Ribicoff in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 793) to promote the conservation of the Nation's wildlife resources on the Pacific flyway in the Tule Lake, Lower Klamath, Upper Klamath, and Clear Lake National Wildlife Refuges in Oregon and California and to aid in the administration of the Klamath reclamation project, which were, on page 2, line 19, strike out all after "wildlife" down through and including "lands" in line 23, and insert "conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith, and"; on page 4, line 3, strike out all after "Secretary:" down through and including "involved." in line 14, and insert "*Provided further*, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulelake Irrigation District or the payments to the Klamath Drainage District as full reimbursement for the construction of irrigation facilities within said district, and that the priority of use of the total net revenues collected from the leasing of the lands described in this section shall be (1) to credit or pay from each revenues to the Tulelake Irrigation District the amounts already committed to such payment or credit; (2) to pay from such revenues to the Klamath Drainage District the sum of $197,315; and (3) to pay from such revenues to the counties the amounts prescribed by this section.", and on page 5, strike out lines 13 through 25, inclusive, and insert:

> Sec. 6. In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters under the control of the Secretary shall be regulated to maintain sump levels in the Tule Lake National Wildlife Refuge that in the judgment of the Secretary are adequate and practicable for waterfowl management, which shall be levels established pursuant to the provisions of the contract between the United States and the Tule Lake Irrigation District dated September 10, 1956, or any amendment thereof, and the regulations issued pursuant thereto.

Mr. MOSS. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Jackson, Mr. ANDERSON, Mr. MOSS, Mr. KUCHEL, and Mr. ALLOTT conferees on the part of the Senate.

## SETTLEMENT OF RAILROAD LABOR DISPUTE

Mr. MORSE. Mr. President, will the Senator from Florida yield without losing his right to the floor and with the understanding that the rule of germaneness will be waived?

Mr. SMATHERS. I yield to the Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Mr. President, I extend my congratulations to the President of the United States; to Mr. Francis A. O'Neill, Jr., Chairman of the National Mediation Board; to Dr. George W. Taylor, of the University of Pennsylvania; to Mr. Ted Kheel, of New York City; to our great Secretary of Labor, Willard Wirtz; and to his very very able Assistant Secretary of Labor, Jim Reynolds, for what I think is the greatest accomplishment in the field of labor mediation, conciliation, and arbitration of our time in the settlement of the railroad labor dispute. I extend my congratulations especially to the greatest mediator of them all, the President of the United States.

I know something about this case from its beginning. What has been accomplished is a remarkable, historic example of the importance of parties to labor disputes resorting to the procedure of voluntarism for the settlement of disputes—for this was a voluntary settlement, notwithstanding any suggestion or comment we may hear to the effect that it was a settlement under some kind of governmental pressure. The fact is that management and labor were free agents from the beginning to the end of the negotiations.

I have complimented the individuals who functioned as mediators for the masterly job they did. They are great mediators. I worked with George Taylor when he was vice chairman of the War Labor Board during the war. No one in the country is his superior in the field of arbitration and mediation. Ted Kheel was on our staff. He is one of the recognized top 10 mediators and arbitrators in the country. Mr. O'Neill, Chairman of the National Mediation Board, has an outstanding record of dedicated public service in the field of labor mediations.

I do not know how we can really express our full appreciation to Secretary of Labor Wirtz not only for the great work he did in this case, but for what he has done as Secretary of Labor from the beginning of his service in that office. Also the incomparable Jim Reynolds, Assistant Secretary of Labor, is not only one of the most able labor dispute negotiators but he is a source of great strength to Secretary Wirtz and President Johnson.

But those who deserve the greatest credit of all for the settlement of this dispute are the leaders of the Railroad Brotherhoods and the leaders of railroad management. The solution of this dispute was not easy for them. There had to be a great deal of give and take and much conscionable compromise, but they did it.

I have just read on the news ticker an account of the industrial statesmanship of the president of the Brotherhood of Railway Trainmen, Mr. Charles Luna. What I read caused me to decide to make these comments at this moment. Mr. Luna is confronted with the danger of a wildcat strike on the New York Central Railroad. He has just issued a statement in which he has made it clear to the local union leaders, who have indicated that there might be a stoppage of work, that they will be subject to the application of the constitution and bylaws of the Brotherhood of Railway Trainmen. The issuance of that statement required great courage. I congratulate and commend Mr. Luna for his fearlessness in rising to his clear responsibilities and duties as president of that great brotherhood.

With respect to the terms of the settlement, I believe it is a remarkable settlement from the standpoint of its fairness to all parties who were disputant; and, of course, it is a remarkable settlement from the standpoint of its fairness to the public. This is an example of a case in which the disputants put their individual, selfish interests secondary to the welfare of the public.

So, Mr. President, both management and labor are entitled to high commendation for the outstanding example of industrial statesmanship they showed in this important case. It is also noteworthy that it did not have to be handled by Congress. Therefore, both railroad management and railroad labor have greatly strengthened the free collective-bargaining function. They have helped justify and preserve economic freedom for American labor and employers. I commend them.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. SMATHERS. Mr. President, the distinguished Senator from Georgia [Mr. TALMADGE] and the distinguished Senator from North Carolina [Mr. ERVIN] have done a great service to the cause of justice and freedom in America in introducing an amendment to the pending civil rights legislation, which would have the effect of providing for trial by jury of anyone accused of criminal contempt.

The Talmadge-Ervin amendment has been submitted as a remedy for a defect in the Civil Rights Acts of 1957 by providing jury trial in criminal contempt proceedings in all cases.

It will be recalled that in 1957, the late and beloved Senator O'Mahoney submitted to the civil rights bill pending at that time before the congress, an amendment providing for a jury trial in criminal contempt proceedings.

While the O'Mahoney amendment was adopted by the Senate, it was unfortunately watered down in the House of Representatives, and the Civil Rights Act of 1957, as placed on the statute books, was devoid of the fundamental protection of trial by jury in all cases, a basic and fundamental protection which history proves so necessary, and which the Founding Fathers believed in so strongly that they made it a cornerstone of our Republic.

Mr. DOUGLAS. Mr. President, will the Senator from Florida yield for a question, with the understanding that in yielding for that purpose, he will not lose his right to the floor, and that his subsequent remarks will not be counted as an additional speech by him?

Mr. SMATHERS. I yield, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Would not it be well, for the sake of the record, to have the precise nature of the jury-trial provision of the final 1957 act made clear; namely, that it applied only when the sentence imposed by the judge was 45 days or more imprisonment or a fine in excess of $300; in such case the convicted person could request and could obtain a jury trial.

Mr. SMATHERS. That is correct.

Mr. DOUGLAS. That basis should be agreed upon at the start.

Mr. HILL. Mr. President, will the Senator from Florida yield briefly to me, for a question?

Mr. SMATHERS. I yield.

Mr. HILL. Is it not true that the Senate, by a very substantial vote, adopted, in connection with the 1957 bill, a strong provision for jury trial, without any 45-day imprisonment or $300 fine limitation, and recognized clearly the broad right of trial by jury?

Mr. SMATHERS. That is also correct.

I have already stated that after the amendment was offered by the scholarly, able, and admitted constitutional authority, the late Senator O'Mahoney—I refer to the amendment which gave the right of trial by jury in all criminal contempt cases arising under the so-called Civil Rights Act of 1957—that amendment was adopted by the Senate; but when it went to the House of Representatives—the House adopted the provision that the Senator from Illinois has recited; and subsequently the Senate accepted the House amendment. That is how that provision came to be in the 1957 act.

The Talmadge-Ervin-Robertson-Thurmond-Stennis amendment provides furthermore, in connection with the bill now pending before the Senate, that the contemner may demand a jury trial, except where the "contempt was committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court."

Mr. President, this limiting language has a long history in the legislation dealing with criminal contempt proceedings in the United States.

As the great constitutional lawyers of this body know far better than I, there was originally in the act of 1789 a rather broad power given to the judiciary to summarily proscute for contempt.

However, in 1831, something happened in the State of Missouri that so aroused the citizens of the Nation that it led to a restriction upon the power of Federal judges to prosecute contempt proceedings without benefit of a jury trial.

It seems that a Federal judge by the name of James S. Peck imprisoned and disbarred a lawyer for publishing a detailed criticism of an opinion by the judge while an appeal from the judge's ruling was pending. Since the contemptuous act took place some distance from the courtroom, the judge's arbitrary and summary punishment shocked the Nation.

Judge Peck was tried and found not guilty in impeachment proceedings, but a young Member of the House of Representatives by the name of James Buchanan, and a Member of this body by the name of Daniel Webster, sponsored legislation which limited the power of the judiciary to punish for contempt except "for the misbehavior of any person in their presence or so near thereto as to obstruct the administration of justice, the misbehavior of any officers of said court in their official transactions, and the disobedience or resistance by any officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said court"—4 Stat. 487.

This legislation has come down through its 133-year history to the present day in substantially the same form as it was originally enacted into law.

The Talmadge-Ervin amendment, reflecting the usual wisdom of its sponsors, wisely limits, in the same manner as the act of 1831, the power of the judiciary to punish for criminal contempt, without the basic protection of a trial by jury.

I think there is little question, Mr. President, that a reading of the history of the cases involving contempt proceedings, as well as the legislation governing the same, leads one to the conclusion that we are constantly moving further and further away from the arbitrary and capricious possibilities that lie whenever one man is given the authority to act as grand jury, prosecutor, judge, and jury over the fate of another man.

In 1914, when the Congress was debating the Clayton Act, this body took further notice of the abuses that had crept into the summary power of judges to punish for contempt proceedings. Provision was written into the Clayton Act guaranteeing a jury trial in contempt cases where private parties were involved in litigation. An exclusion was provided in cases to which the United States was a party.

In 1932, largely as a result of the efforts of the then chairman of the Senate Committee on the Judiciary, Senator Norris, trial by jury was granted in contempt cases arising out of injunctions issued in labor disputes, even though the United States was a party.

The whole development of the law, Mr. President, has, as I said a moment ago, been toward the restriction of arbitrary power, and this is true with respect to the judiciary as it is to the other areas of Government.

Mr. HILL. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield.

Mr. HILL. Is it not true that in what we know as the Landrum-Griffin Act, the act which is officially cited as the Labor-Management Reporting and Disclosure Act of 1959, passed by the Congress in September 1959, title I is captioned "Bill of Rights of Members of Labor Organizations," the following provision appears:

CRIMINAL REPORT

SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary—

That means the Secretary of Labor, of course—

or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

Is that not the law today so far as labor-management relations and programs as provided in the Landrum-Griffin Act are concerned?

Mr. SMATHERS. The Senator is correct. There is no question that there has been a growing tendency on the part of legislative bodies to curtail the rather arbitrary authority which for many years the judiciary has had with respect to punishment for contempt without trial by jury. There has been a steady movement toward the expansion of trial by jury and the protection of the rights of citizens through trial by jury.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. SMATHERS. I am happy to yield.

Mr. HILL. Is it not true that the denial of the right of trial by jury by the British Crown, particularly George III, was one of the grievances proclaimed in the Declaration of Independence and one of the main motivating reasons for the American Revolution?

Mr. SMATHERS. The Senator is correct. There is no question that the right is a basic part of our heritage. It is the cornerstone upon which our whole judicial system should have been and is based.

Mr. DOUGLAS. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Illinois for a question.

Mr. DOUGLAS. I do not know whether the Senator from Florida has had occasion to read the colloquy which I had with the very able Senator from North Carolina [Mr. ERVIN] some 2 weeks ago on the subject under discussion. If he would read the RECORD, he would find that we reached an agreement that at present there is no constitutional right of a jury trial in cases of contempt, whether in Federal court or in State courts, whether for so-called civil contempt or criminal contempt, for acts in contravention to the court's injunction, whether those acts be committed in the presence of the court or outside the presence of the court. The Senator from North Carolina admitted that that was so.

Mr. SMATHERS. I regret to say that I was unable to hear that colloquy. I regret further that I have not read it. I know that I would be beneficially instructed by reading it. There is disagreement among legal scholars, as I am sure there was disagreement between the able Senator from Illinois and the able Senator from North Carolina as to the point he raises.

I should like to ask whether the Senator from Illinois arrived at an agreement with the Senator from North Carolina on that point.

Mr. DOUGLAS. I thought we did, so far as the statement of the existing law is concerned. Furthermore, in the various Southern State courts there is no right of jury trial in contempt cases except in the very curious case in Virginia, in which a jury trial is permitted for acts of contempt committed in the presence of a court. In such cases a jury trial is provided. That is an upside down provision. There is a very minor provision in the law of Georgia. I had printed in the RECORD the decisions of the courts in every one of the 11 States of the Old Confederacy. The question as to whether there should be a statutory provision is another question. Congress does have power to require a jury trial by statute; and it is perfectly proper to raise that issue.

I sympathize with the provision of a jury trial where the sentences might be prolonged, in order to protect individuals against the possible tyranny of a judge. But this is a provision which would have to be made by statute. It does not exist at present.

Mr. SMATHERS. I agree with the latter statement made by the Senator from Illinois. If it is the wisdom of this legislative body to do so by statute, it will grant the right of a trial by jury.

I am happy to say, as I will develop further in my speech today, that there has been a strong tendency, not only in labor-management cases, but also in all other cases, to grant the extension and the protection of the right of a trial by jury in contempt cases. What the Senate did in 1957 in adopting the O'Mahoney amendment was the correct thing to do.

I hope that in the particular proposed legislation which is now before the Senate, the Senate will vote to protect the rights of individual citizens by giving them the right of a trial by jury in criminal contempt cases.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. LAUSCHE. Has the Senator from Florida in his manuscript any recitations of the instances in which by statute a trial by jury has been provided in contempt cases, whether criminal or civil? The Senator from Alabama [Mr. HILL] just mentioned that in the Landrum-Griffin bill we gave the right of a trial by jury.

Mr. SMATHERS. I do not have a recitation of that in my prepared remarks today. But I am informed that the distinguished Senator from Georgia [Mr. TALMADGE] in his remarks, either yesterday or the night before last, placed in the RECORD at least a partial list of statutes in which a trial by jury was granted.

Mr. LAUSCHE. Mr. President, will the Senator yield further?

Mr. SMATHERS. I yield.

Mr. LAUSCHE. I concur in what the Senator from Illinois said, that under the Constitution there is no mandatory or absolute right of a trial by jury in contempt proceedings. The right is acquired when either the State legislature, in State contempt, or the Federal Constitution in Federal contempt, provides for that type of trial.

My recollection is that the real controversy arises in those instances in which legislatures, to obviate the right of a trial by jury in a criminal case, seek to obtain remedy by way of injunctions, which, when violated, are prosecuted as contempts. In other words, we have a statute which declares that certain conduct is a crime. Under that statute, if a violation has occurred, a criminal prosecution can be instituted, and the right of trial by jury is absolute. When a legislature wants to eliminate the right of trial by jury, it converts what is a criminal wrong into a contemptuous act of misconduct toward the court. And that is where the difficulty arises, in my judgment, as to whether it is proper by indirect means to eliminate the right of a trial by jury and convert it into a contempt proceeding where no right of a trial by jury exists unless it has been granted by a legislature.

Mr. SMATHERS. I agree with what I think the Senator is driving at, that we should not permit a State legislature, or even the United States Congress, in effect, to destroy the right of a person to have a trial by jury. As we have seen, in the early days of the labor disputes, there was a tendency to get away from a trial by jury and act by injunction. Then a violation of the injunction would result in contempt, and the contempt would be handled without a trial by jury.

I point out in my remarks the growing, healthy tendency, toward once again guaranteeing the right of a trial by jury to citizens in all kinds of cases, even in contempt cases.

Mr. LAUSCHE. Does the Senator discuss in his paper the meaning of criminal contempt as distinguished from civil contempt?

Mr. SMATHERS. Yes.

Mr. LAUSCHE. I had difficulty in analyzing the difference, if any, in the definition. My difficulty flows from the fact that normally it is declared that criminal contempt exists when the court imposes a penalty and a fine, from which the accused cannot escape. In other words, in a civil contempt proceeding, the court says, "You go to jail until you perform what I direct you to perform." The accused has in his hands the key to the jail door. And he can procure his freedom by complying with the order.

Mr. SMATHERS. The Senator is correct. When I went to law school, and it was explained in those days—even as remote from the present time as they were—it was explained by saying that in civil contempt the man had the key in his own pocket. He could relieve himself of his contempt by complying with the court order.

The same act might also constitute an offense against the court, a criminal contempt, which would be punishable by fine or imprisonment and the defendant could not avoid the particular punishment meted out for the criminal contempt.

As the Senator knows, Justice Goldberg in his dissenting opinion in that case discussed the difficulty in distinguishing between degrees of criminal contempt. There is a very hazy line.

Mr. LAUSCHE. Yes. A distinction cannot be made until after the penalty has been imposed.

Mr. SMATHERS. Exactly.

Mr. LAUSCHE. In civil contempt, the court says, "I commit you to jail, and you shall remain there until you comply with my order." In criminal contempt, the court says, "I fine you $1,000 and sentence you to 90 days in jail." In the latter case, the defendant does not have the means with which to procure his release. In the former case, he has.

That leaves us in the difficult position of not knowing what the court intends to do, unless the court says, "I will not impose upon you a penalty from which you can release yourself, but will give you an absolutely defined monetary fine and a jail sentence."

Mr. SMATHERS. That is the understanding of the Senator from Florida. The question arises frequently in alimony cases, when the man is brought into court and held in contempt for nonpayment of alimony. Some of them do go to jail. Since they go to jail, such a case would appear to involve criminal contempt. But the defendant has it within his power to pay the back alimony and thereby relieve himself of the contempt of court order.

In other instances, as the Senator has pointed out, the court has rendered an opinion that the man had been so contemptuous that there was no way for him to absolve himself of the contempt charge except to pay his fine, or pay his fine and serve his sentence. That is a criminal contempt proceeding.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. DOUGLAS. Is it not true that the overwhelming preponderance of contempt cases which might arise under the civil rights bill would be cases of civil contempt, and not criminal contempt? When an order is issued to desegregate the schools, and it is disobeyed, and the offending official is either given a tentative fine or imprisonment, he can always purge himself of that fine and be freed from jail by compliance. Similarly, in the case of public facilities, and similarly in the case of fair employment practices. In every case, by discontinuing the illegal practice, the person in question can free himself from any penalty. Therefore, I believe that the question of criminal contempt in such cases is a "bogeyman" which has been conjured up to appeal for sympathy in cases which will be largely nonexistent.

Mr. SMATHERS. I do not know the exact situation which would arise if the civil rights law in its present form should be enacted, so at this time it would be difficult for me to say what would happen if a man were brought before a judge and given some kind of order, or accused of having violated an injunction. I do not know of anyone who can foretell with any degree of accuracy what the conditions will be at the time certain injunctions are issued. There may or may not be violations of the injunctions of the court.

It is possible, in some instances, for the same act to involve both civil and criminal contempt. The thrust of what I shall try to say this afternoon is that every citizen in the United States is entitled to a trial by jury. It is a basic and fundamental right. The Senate took that position in 1957. I believe that, rather than restrict the right of trial by jury, we should extend the right of trial by jury. It seems to me that most of the liberal thinking that I have taken note of on this particular subject, and certainly the dissenting opinion by Justice Goldberg in the Barnett case, would support the contention of the liberals—ordinarily, the liberal position—that the right to a trial by jury should not only be protected, but should be extended.

Mr. DOUGLAS. Will the Senator from Florida yield further?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Florida yield further to the Senator from Illinois?

Mr. SMATHERS. I yield.

Mr. DOUGLAS. Would the Senator say that this was true of cases of civil contempt as well as criminal contempt?

Mr. SMATHERS. I believe that is true, except in a case in which contempt has been committed in the presence of the court, such as the exception which has been made in the amendment offered by the able Senator from Georgia [Mr. TALMADGE], and except where there has been direct disregard in the presence of the court. I believe that in other cases, whenever a jury trial could be extended, it should be.

I believe the rights of the citizen are better protected. I believe that is the kind of protection that is needed. I do not believe that the great power and authority of the judiciary would in any way be lessened.

Mr. DOUGLAS. Would the Senator extend that entire principle of Federal law to the full sweep of the Federal courts, in all matters of equity, or merely provide for a jury trial in contempt cases arising under the present bill?

Mr. SMATHERS. I would provide it in all criminal contempt cases except those I mentioned a moment ago.

Mr. HILL. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am glad to yield to the Senator from Alabama.

Mr. HILL. Is it not true that the present President of the United States, and former majority leader in the Senate in 1957, voted for the jury trial amendment?

Mr. SMATHERS. There is no question that the present President of the United States, when he was a Senator, voted for the jury trial amendment.

Mr. HILL. As did his predecessor, at that time a Senator, the late President John F. Kennedy. They both voted for the jury trial amendment; is that not correct?

Mr. SMATHERS. The Senator is correct.

Mr. HILL. Is it not true that the distinguished junior Senator from Virginia [Mr. ROBERTSON] is a coauthor with the Senator from North Carolina [Mr. ERVIN] and the Senator from Georgia [Mr. TALMADGE] of the pending amendment?

Mr. SMATHERS. The Senator is correct. At the outset of my remarks I made that fact known.

Mr. HILL. Is it not true that on Tuesday evening last, April 21, the Senator from Virginia [Mr. ROBERTSON] made this statement on the floor of the Senate:

> Everyone knows that the Federal courts were created either in the Constitution itself—that is the Supreme Court—or authorized by the Constitution to be created by Congress. Consequently, Federal courts must of necessity operate under the Constitution. We shall point out that under the Constitution all actions by the Crown against an individual in the nature of criminal contempt were considered criminal. Therefore, when the Constitution provided that every man should be entitled to a jury trial in criminal cases, it contemplated exactly what we are proposing to do now.

Mr. SMATHERS. The Senator is correct. That is why the sixth amendment to the Constitution was adopted. It refers to all criminal prosecutions, and provides that the accused shall enjoy the right of a trial by jury.

Mr. HILL. Is it not also true that a reading of the debates of the constitutional convention in Philadelphia at the time the Constitution was being written, and also the debates of the State conventions held to ratify the Constitution, definitely and clearly shows that no question was raised more often than the question of the right of a trial by jury? If there had not been agreement that the first 10 amendments would not be omitted from the Constitution, there would not have been any Constitution.

Mr. SMATHERS. The Senator is absolutely correct. Had it not been for the understanding that the so-called Bill of Rights would immediately become a part of the Constitution, there is doubt as to whether there would have been any ratification of the Constitution.

Mr. LAUSCHE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. LAUSCHE. The Senator from Illinois has expressed the view that determination must be made as to which cases will call for a jury trial, and which ones will not. I believe the Senator will agree with me that we should make certain there is equality of treatment under the law. I find myself in the difficult position of trying to decide these issues, not on a fixed principle applicable to all cases but on the basis of providing one type of trial for one group of citizens and another type of trial for another group. For example, in the Landrum-Griffin bill, a jury trial is granted in contempt cases. If it is granted in that instance, by what reasoning do we deny it in other cases of contempt?

In my legal training I have probably excessively adhered to principle instead of trying to decide issues on an ad hoc basis. I should like to know what the Senator has to say about that point.

Mr. SMATHERS. I expect to deal with that situation at some length. I agree with the Senator from Ohio, in that I do not believe anything but justice will be served, and justice should be served, by the extension of the right of trial by jury in cases where an individual is involved and where his liberty can be taken from him. Provision has been made for it in the Landrum-Griffin Act. I believe we should make provision for it in the civil rights bill. The Senate thought so in 1957.

The amendment which has been offered by the Senators from Georgia and North Carolina and other Senators is designed to guarantee certain rights to citizens should they come into a position where they would be considered as having been contemptuous of a court, by reason of failure to comply with certain court orders.

I can conceive of certain situations in which it would be very difficult for the court to maintain proper order if in every instance in which contempt was committed in the presence of the court, in the courtroom or in the machinery of the operation of the court, and a person refused to comply with a court order, the court did not have the authority to carry out its order. The judiciary would be brought into disrepute.

It is a matter of trying to balance out the two areas of how to protect, on the one hand, the rights of citizens, and the basic right of trial by jury, while at the same time not denying the authority of the courts to the point where they cannot enforce their own orders. That is what civil and criminal contempt is all about.

I have some very persuasive quotations from Mr. Goldfarb and others who have recently written a book on contempt, which I believe the Senator from Ohio will find interesting.

Mr. LAUSCHE. Has the Senator attempted in his own mind and conscience to formulate a principle which would procure equal justice for all segments of the economy? If he has done so, has he encountered trouble in trying to reconcile the proposition that in situations A, B, and C, involving contempt of court, there shall be a jury trial, and that in situations D, E, and F, involving contempt of court, there shall not be a jury trial?

Mr. SMATHERS. I have agonized over that problem, as I am certain other Senators have also. Obviously in certain circumstances one could go so far as to make it impossible for the court expeditiously to carry out its orders. That is what this debate is all about.

Mr. LAUSCHE. I concur in what the Senator has said. My problem rises from the fact that equal treatment is not being accorded for similar offenses in all circumstances. In one instance the Senator says an individual is contemptuous of a court and he does not have a trial by jury; in another instance he has been contemptuous of the court and he does have a jury trial. That is where I encounter my difficulty in trying to solve this problem. It is not a simple one.

Mr. SMATHERS. I agree with the Senator. There are differences under the various statutes. The Clayton Act, with respect to trial by jury, is different from the Norris-LaGuardia Act. The Landrum-Griffin Act is different from the Civil Rights Act of 1957, and the proposed act. I agree with the Senator that it is difficult to understand how one can apply a different set of legal principles to what appear to be, generally speaking, similar factual situations. That is what the problem is all about.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. JAVITS. Inherent in this discussion about jury trials is the question whether or not we have any right to expect widespread violations of Federal court orders in the Southern States, which are resisting the pending bill. What does the Senator say? Have we any right to expect widespread violations in the Southern States of orders issued under the bill if it becomes law?

Mr. SMATHERS. The Senator might expect it. I do not expect it. I do not think the Senator has a right to expect it. I believe that people in the Southern States are just as law-abiding as citizens in New York State, in Nebraska, or in any other State.

Mr. JAVITS. When the Senator says, "The Senator might expect it," he is assuming that the Senator from New York is not talking as a lawyer, but that the Senator from Florida is. I do not think so at all. I was asking the question for information. I have said consistently that I refuse to make a judgment based upon whether a jury should convict or acquit. When we reach that point, we cannot make any distinction between southern and other juries.

Mr. SMATHERS. I thank the Senator. I believe that to be a correct assumption.

Mr. JAVITS. Coming to the assumption that anyone may violate a court order—even the so-called stall-inners had the court order in mind, even though they felt very strongly on the subject—I believe it is necessary to have this discussion on record. I am glad the Senator has stated the issue. He is considered a moderate among the group of southern Senators, I believe. By this time I am sure we have reached the point where we can speak more frankly along this line than before.

Mr. SMATHERS. I do not admit it, but some people say I am a moderate extremist.

Mr. JAVITS. I said it. I believe that feeling on the part of the Senator to be important. The other question I should like to ask him is this: The pending Talmadge amendment is a sweeping, across-the-board jury trial amendment provision, which is quite different from the provision in the 1957 law, which many of us did not like but which nonetheless we swallowed, even though it slightly stuck in our throats.

So, I ask the Senator, when he talks about the jury trial amendment, and is making his case for the jury trial amendment, whether he is making a case for the pending amendment, or for the provision in the 1957 act?

Mr. SMATHERS. I believe the Senator is incorrect in referring to the provision with respect to the jury trial as being the original amendment which the Senate adopted. The amendment which has been offered by the Senator from North Carolina and the Senator from Georgia and other Senators is not the same amendment that was offered by the late Senator O'Mahoney, of Wyoming, and which was adopted by the Senate. The House changed the amendment. Subsequently the Senate agreed to the House version. We are operating under the 1957 provisions, which are not the original provisions offered by the Senator from Wyoming; nor are they the provisions which were adopted by the Senate originally.

Mr. JAVITS. I still do not know from the Senator which amendment he is contending for.

Mr. SMATHERS. I am contending for the Talmadge-Ervin amendment, which is substantially the same as the amendment Senator O'Mahoney offered in 1957.

Mr. JAVITS. Will the Senator tell us why he believes a greater jury trial requirement should be placed in this bill, in titles other than title II, than is now contained in the 1957 act, even if his argument were accepted?

Mr. SMATHERS. It is for exactly the same reason I had in 1957. To have these provisions in this civil rights bill as it came over from the House of Representatives would go much further than has ever previously been suggested. Obviously, many more situations will arise in which the question of contempt will be raised, as was suggested in the question asked by the Senator from Illinois, because of the wide, sweeping scope of the present bill. It seems to me that to protect the rights of citizens, it is necessary to extend the right of trial by jury, so that all citizens may be certain that their rights will be protected. One way in which they could be certain that such rights would be protected would be to provide the right of trial by jury.

Mr. JAVITS. Does the Senator expect that if such an amendment should be adopted, it would again be compromised? Or is the Senator opposed to such a compromise?

Mr. SMATHERS. I would be opposed to such a compromise. In 1957, I voted for the civil rights bill as it passed the Senate, because it contained the O'Mahoney amendment. Thereafter, when the bill was amended in the House, to water it down, so to speak, and restrict it in its application, I turned around and voted against the entire 1957 civil rights bill. I stated at the time that the reason I did so was that it did not go as far as I felt it should in providing citizens with the protection of the right of trial by jury.

Mr. JAVITS. So, as I gather, from his present argument, the Senator would find the 1957 amendment unacceptable?

Mr. SMATHERS. The Senator is correct.

Mr. JAVITS. I think that is very important. I should like to bring the Senator back to the first point, the question of the likelihood of widespread violation of Federal court orders and what offenses should be punishable for contempt.

The Senator himself has exploded the theory that all contempt questions should be triable by juries. It seems to me that if the Senator felt that way, he would have to argue the case with respect to existing statutes which provide for nonjury contempt proceedings. Will the Senator tell us why he feels, particularly in civil rights cases, to which the bill applies, that there ought to be no jury trial in the event contempt of a court order is committed? At this point in his argument the Senator must assume the enactment of the bill; otherwise he has no argument. He wants jury trials for contempt orders issued under the bill. Can the Senator give us his rationale of the applicability of a jury trial amendment to contempt orders issued under the bill?

Mr. SMATHERS. It is the same rationale under which the Senator from New York and other Senators voted for jury trial protection to be provided in the Landrum-Griffin bill.

Later on today I expect to draw from the dissenting opinion of Justice Goldberg in the Barnett case. Justice Goldberg argues along the same line I shall try to argue this afternoon; namely, that the right of trial by jury should be extended rather than restricted. We do not extend it for the purpose of negating orders of the court, defeating injunctions of the court, or defeating what the court seeks to do.

On the other hand, we are trying to protect individual citizens in their rights against what might be capricious orders of a judge. That has happened in labor cases in the past. I believe most great liberals would agree that they felt many judges were too tough on certain labor unions. That is why the Landrum-Griffin Act and other labor acts provide for trial by jury.

I do not believe we should adopt trial by jury, however, to defeat a law or to defeat an order of a court. What we are seeking to do is to balance the right of a citizen to be protected in his right against the maintenance in the courts of sufficient authority to carry out their orders. With respect to this balance there are different judgments.

Mr. HILL. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. HILL. The name of the late Senator George W. Norris has been mentioned, and a question was raised about juries and the performance of their duty. Is it not true that the late Senator Norris, with whom I was privileged to serve in this body, was one of the greatest liberals and one of the greatest champions of human rights in the history of our country?

Mr. SMATHERS. The Senator from Alabama is absolutely correct. Every time I hear great self-proclaimed liberals of today—and I give some of them credit for actually being such—I always think about their patron saint, Senator George W. Norris.

Mr. HILL. Is it not true that, standing on the floor of the Senate on March 18, 1932, Senator Norris made this statement?

> I agree, that any man charged with contempt in any court of the United States, * * * in any case, no matter what it is, ought to have a jury trial. * * * It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits in court and heard jury trials, knows that juries make mistakes, as all other human beings do, and they sometimes render verdicts which seem almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray I am confirmed in my opinion that after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender. I like to have trial by jury preserved in all kinds of cases where there is a dispute of facts.

Mr. SMATHERS. I thank the able Senator from Alabama. While in some quarters I am not considered a great liberal, still that was the philosophy I was trying to state a moment ago in my colloquy with the able Senator from Illinois [Mr. DOUGLAS].

I do not believe that any great damage would be done to our judicial system by extending the right of trial by jury. It would guarantee to individual citizens a right which should not be taken away from them. It is a basic, fundamental right to be tried by a jury of one's peers. It is true, as Senator Norris so eloquently said, that sometimes miscarriages of justice will occur. On the other hand, in each instance, we are dealing with the human qualities of jurors—usually 12—as distinguished from the human qualities of 1 judge. Sometimes a judge can be wrong in his order; and it is to protect the freedom of a person with respect to the order of a judge that we are proposing to extend the right of trial by jury.

Mr. HILL. Mr. President, will the Senator from Florida yield further to me?

Mr. SMATHERS. I am happy to yield.

Mr. HILL. When Abraham Lincoln spoke of a "Government of the people, by the people, for the people," was he not speaking in terms of having the people insofar as possible make all the decisions—the small ones as well as the important ones—with reference to the government, rather than to vest that power in the hands of some individual or group who might become autocratic or tyrannical? Does not the entire history of the world show there always is tyranny where there is concentration of power in the hands of an individual or a group of individuals? Is that not true?

Mr. SMATHERS. I entirely agree with the Senator from Alabama.

Mr. HILL. Is it not also true that it was to get away from such tyrannical power that the Founding Fathers went to war, in the Revolution?

Mr. SMATHERS. That is entirely correct.

In a book recently published by the Columbia University Press entitled "The Contempt Power," the author, Ronald L. Goldfarb, of the Department of Justice, makes this point with respect to the trend in jury trials of contempt proceedings:

> There has been, in the past quarter of a century, an increasing inclination to alleviate some of the procedural harshness of standard contempt procedures. Extension of the right to trial by jury has been a foremost example of this trend. This is at least in part reflective of generally changing attitudes toward the value of the jury method of trial.
>
> Like more earthly fashions, the vogue toward the worthwhileness of the jury system has had periods of rising and falling favor. Critics of the jury system in general have been as frequent and as vociferous as have been its advocates.
>
> Rather than digressing to enumerate the arguments, it should be only hastily noted that summary contempt procedures are most obnoxious to those who place faith and importance in the libertarian nature of trials by jury.
>
> It could well be suggested that, most peculiarly, in contempt cases the jury has a valuable role. First, it brings the public's attention and interest to a dispute which is usually an official, governmental one. Public enlightenment, even if only through jury representation, has been characterized as an "indispensable element in the popular vindication of the criminal law." This participation hopefully encourages popular understanding and acceptance of the administration of justice. Second, the jury may serve as an insulation between the alleged offender and the offended party, who is sometimes the judge and sentencer.
>
> This conservative deliberation in an otherwise unlimited, uncontrolled situation allows the jury to function as a wall against possible abuses by governmental powerholders upon individuals. The general public may look with skepticism upon a judicial process which allows one man to be judge, prosecutor, victim, and jury, but as Justice Black aptly pointed out there is inclined to be less false martyrdom where a jury convicts.
>
> Third, there are subtle subversive potentialities in summary criminal proceedings other than the direct issues about who should be the decisionmaker and why.
>
> The review of a cold record by appellate courts, which are sometimes sympathetic to their brethren of the lower trial courts and are often hesitant to reverse in absence of clear and serious error, is to some viewers an impotent or idle ceremony. Therefore, the original denial of a jury trial is not only a danger in itself but is compounded by being carried up through appellant levels in the form of an often "cold," unreviewable record. Judicial self-restraint, like that voiced by Justice Frankfurter in the Green case, compounds the lethargy of appellate judicial scrutiny. This has provoked Justice Black to comment that this offense, which is most inordinately vague and sweeping in substantive scope, is now punished by the harshest procedures known to law and is subject to an unlimited punishing power and a token review.

In *Green* v. *United States,* 356 U.S. 165 (1957), Justice Black made a strong case for restatement of jury protection in criminal contempt cases. His scholarly arguments are the ablest and most complete I have seen on this point. I quote from his opinion:

> The power of a judge to inflict punishment for criminal contempt by means of a summary proceeding stands as an anomaly in the law. In my judgment the time has come for a fundamental and searching reconsideration of the validity of this power which has aptly been characterized by a State supreme court as, "perhaps, nearest akin to despotic power of any power existing under our form of government." Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of not unwilling judges, until it has become a drastic and pervasive mode of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society. Therefore to me this case involves basic questions of the highest importance for transcending its particular facts. But the specific facts do provide a striking example of how the great procedural safeguards erected by the Bill of Rights are now easily evaded by the ever-ready and boundless expedients of a judicial decree and a summary contempt proceeding.

Mr. HILL. Mr. President, will the Senator from Florida yield again to me, for a further question?

Mr. SMATHERS. I am happy to yield.

Mr. HILL. Do not all who attempt to evade, avoid, or strike down the basic safeguards of the Bill of Rights cry out in the name of "human rights, justice, freedom, liberty," and so forth?

Mr. SMATHERS. Exactly so.

Mr. HILL. Are not such slogans, when used in that connection, reminiscent of the last words of Madam Roland, immediately before her guillotining? I refer to her cry from the scaffold, "O Liberty. What crimes are committed in thy name."

Mr. SMATHERS. I agree entirely.

Mr. President, I quote further from the opinion of Mr. Justice Black:

> I would reject those precedents which have held that the Federal courts can punish an alleged violation outside the courtroom of their decrees by means of a summary trial, at least as long as they can punish by severe prison sentences or fines as they now can and do. I would hold that the defendants here were entitled to be tried by a jury after indictment by a grand jury and in full accordance with all the procedural safeguards required by the Constitution for "all criminal prosecutions." I am convinced that the previous cases to the contrary are wrong—wholly wrong for reasons which I shall set out in this opinion.
>
> If ever a group of cases called for reappraisal it seems to me that those approving summary trial of charges of criminal contempt are the ones. The early precedents which laid the groundwork for this line of authorities were decided before the actual history of the procedures used to punish contempt was brought to light, at a time when "wholly unfounded assumptions about 'immemorial usage' acquired a factitious authority and were made the basis of legal decisions." These cases erroneously assumed that courts had always possessed the power to punish all contempts summarily and that it inhered in their very being without supporting their suppositions by authority or reason. Later cases merely cite the earlier ones in a progressive cumulation while uncritically repeating their assumptions about "immemorial usage" and "inherent necessity."
>
> No justified expectations would be destroyed by the course I propose. There has been no heavy investment in reliance on the earlier cases; they do not remotely lay down rules to guide men in their commercial or property affairs. Instead they concern the manner in which persons are to be tried by the Government for their alleged crimes. Certainly in this area there is no excuse for the perpetuation of past errors, particularly errors of great continuing importance with ominous potentialities. Apparently even the majority recognizes the need for some kind of reform by engrafting the requirement that punishment for contempt must be "reasonable"—that irrepressible, vague, and delusive standard which at times threatens to engulf the entire law, including the Constitution itself, in a sea of judicial discretion. But this trifling amelioration does not strike at the heart of the problem and can easily come to nothing, as the majority's very approval of the grossly disproportionate sentences imposed on these defendants portends.
>
> Before going any further, perhaps it should be emphasized that we are not at all concerned with the power of courts to impose conditional imprisonment for the purpose of compelling a person to obey a valid order. Such coercion, where the defendant carries the keys to freedom in his willingness to comply with the court's directive, is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees. See *United States* v. *United Mine Workers of America,* 330 U.S. 258, 330–332 (dissenting and concurring opinion). Instead, at stake here is the validity of a criminal conviction for disobedience of a court order punished by a long, fixed term of imprisonment. In my judgment the distinction between conditional confinement to compel performance and unconditional imprisonment designed to punish past transgressions is crucial, analytically as well as historically, in determining the permissible mode of trial under the Constitution.

Mr. CHURCH. Mr. President, will the Senator yield at that point?

Mr. SMATHERS. I am happy to yield.

Mr. CHURCH. I have been listening with great interest to the Senator's erudite discussion of the distinction that exists between a civil contempt proceeding and a criminal contempt proceeding. It is important to emphasize, is it not, that in a civil contempt proceeding the injunction of the court is conditional, in the sense that if the court imposes a sentence term upon the violator, it is always within the power of the violator to purge himself of the contempt. It is as though the key to the prison were in the hands of the prisoner. When he chooses to comply, he may then go free.

But in a criminal contempt proceeding the question is whether or not the accused willfully violated a court order at a given time in the past. If the accused is found guilty, then a sentence of imprisonment may follow which he cannot in any way avoid.

So the very considerations that led the framers of the Constitution to insist upon the right of jury trial in criminal cases should also be applicable to cases of criminal contempt. Obviously, the purpose was to protect the defendant by having the question of his guilt or innocence decided by a jury of his peers.

The Senator would agree with me on that statement, would he not?

Mr. SMATHERS. I believe the Senator has expressed the point very well. With what he has said I totally agree.

Mr. CHURCH. The Senator knows that in 1957 I joined with Senator O'Mahoney and Senator Estes Kefauver—two very great Senators now deceased—in the sponsorship of the jury trial amendment. I believed then that it was good public policy to give jury trial protection in cases that involve punishment of a grievous kind. I did so out of conviction then. I retain the same conviction now. When that jury trial amendment reached conference, as the Senator knows, an agreement was reached which modified the amendment adopted by the Senate by relating the right to jury trial to the severity of the sentence that the court intended to impose.

I was satisfied with the settlement, and afterward I voted for the bill itself.

One of the reasons I was satisfied is that it seemed to me the settlement conformed in spirit to the constitutional intent with respect to jury trials. Take, for example, the seventh amendment to the Constitution. If the Senator will permit me, I should like to read it into the RECORD:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

By imposing the $20 limitation in that day, which might very well represent several hundred dollars today, the framers of the Bill of Rights intended to preserve trial by jury where the defendant was faced with substantial damages. When the Senate and the House, in conference, provided similar limitations upon the right to a jury trial, at the time that the civil rights bill of 1957 was before the Congress, I believe they undertook to give by statute a comparable kind of guarantee to a jury trial as the framers of the Bill of Rights had in mind in the adoption of the seventh amendment to the Constitution.

So I was satisfied with that provision. I am satisfied with it today. But I wish the distinguished Senator from Florida to know that, on the basic principle that where a man is accused of an offense of such seriousness as might result in his imprisonment for a substantial period of time, or in a sizable fine, he should have the benefit of a jury trial for determining his guilt or innocence. In other words, I merely wish to make clear that my present position is the same as the position I took in 1957, upon the final enactment of the civil rights bill, respecting jury trials.

Mr. SMATHERS. I thank the able Senator from Idaho. I recall that he was one of the authors of the original amendment which the Senate adopted, an amendment which I supported, and I believe many other Senators did also. Certainly a large majority of the Senate supported the amendment. I differ with the Senator only to the effect that I do not agree necessarily with his reasoning that it is the size of the offense—the triviality of the offense, so to speak—that should make some difference. I subscribe to the philosophy expressed by Senator Norris when he said that he felt that in almost every instance, where possible, we should extend the right of trial by jury, so long as it would not bring about a complete negating of the power of the court.

However, that is what makes debate in the Senate interesting, and results in yea and nay votes. Some Senators agree; some do not.

Mr. HILL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield to the distinguished Senator from Alabama.

Mr. HILL. After hearing the Senator's speech, I am reminded of the words of Thomas Jefferson when he said, "Trust no man. Bind all men by the chains of the Constitution."

We might say today, in like spirit, "Give all men the right of trial by jury. Do not delimit the right by saying, 'If you do not send a man to jail for more than 45 days, he is not entitled to the right of trial by jury'." The man would go to jail and suffer the humility and indignation of being sent to jail. The punishment of 45 days in jail is about the same as 46 days in jail.

Mr. SMATHERS. And the $300 fine——

Mr. HILL. It would be virtually the same if the fine were $299 or $301.

Mr. SMATHERS. I completely agree with the Senator on the subject of going to jail. I am sure that a proud individual on being sent to jail for 45 days in certain jails I can think of throughout this entire land—would consider it to be a rather humiliating experience. Before some judge should have the authority, on the judge's own whim, to send a man to jail for 45 days because it was the judge's contention that that person had not carried out an order of the judge, I believe that the man should be permitted to have a trial by jury. The judge under such circumstances, we must remember, is the accuser, the trier, the prosecutor, and the judge. He sends the man to jail for 45 days and he could fine him an amount up to $300.

I believe that if we were to give the defendant a trial by jury, it would be an extension of the concept originally enunciated by Jefferson, Madison, and the people who wrote our Constitution—not a restriction, but a liberalization of the philosophy of protection of the rights of individual citizens.

Quoting further from the opinion of Mr. Justice Black:

> Summary trial of criminal contempt, as now practiced, allows a single functionary of the State, a judge, to lay down the law, to prosecute those who he believes have violated his command (as interpreted by him), to sit in "judgment" on his own charges, and then within the broadest bound to punish as he sees fit. It seems inconsistent with rudimentary principles of our system of criminal justice, a system carefully developed and preserved throughout the centuries to prevent oppressive enforcement of oppressive laws, to concentrate this much power in the hands of any officer of the State. No government official, regardless of his position or the purity and nobleness of his character, should be granted such autocratic omnipotence. Indeed if any other officer were presumptuous enough to claim such power I cannot believe the courts would tolerate it for an instant under the Constitution. Judges are not essentially different from other government officials. Fortunately they remain human even after assuming their judicial duties. Like all the rest of mankind they may be affected from time to time by pride and passion, by pettiness and bruised feelings by improper understanding or by excessive zeal. Frank recognition of these common human characteristics, undoubtedly led to the determination of those who formed our Constitution to fragment power, especially the power to define and enforce the criminal law, among different departments and institutions of government in the hope that each would tend to operate as a check on the activities of the others and a shield against their excesses thereby securing the people's liberty.

Mr. HILL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. HILL. It must be remembered that a Federal judge has an appointment for what amounts to life tenure. We have no referendum in regard to him. We have no recall on him. He does not have to run for office. Once he attains that position, the history of the country shows that he is there for the rest of his days. Is that not correct?

Mr. SMATHERS. The Senator is absolutely correct, except for impeachment proceedings. There has been only one successful impeachment proceeding involving a Federal judge, that I know of, in our history. The man who is appointed as a Federal judge has the position for life. Few have greater authority than he. It is logical to assume that a man of such great independence could become somewhat arbitrary.

Mr. HILL. Is it not true that few if any Federal judges are appointed except on the recommendation of the Department of Justice, and the Attorney General, whoever he may be; and that under the terms of the bill, the Attorney General of the United States is the prosecutor?

Mr. SMATHERS. The Senator is correct.

Mr. HILL. The Federal judges are also promoted only as they have the good favor, the good will, and the recommendation of the Attorney General, whoever he may be, or the prosecutor. Is that correct?

Mr. SMATHERS. The Senator is absolutely correct. There are other provisions in the bill which we are not discussing at the moment, which make it even more obnoxious to those who claim that they wish to be fair and justiciable about these matters.

Mr. HILL. A man would be denied the right of a trial by a jury of his peers.

Mr. SMATHERS. And the defendant would not have the opportunity of protection which would be given to him if he were given the right of a jury trial. Reading further:

> When the responsibilities of lawmaker, prosecutor, judge, jury, and disciplinarian are thrust upon a judge, he is obviously incapable of holding the scales of justice perfectly fair and true and reflecting impartially on the guilt or innocence of the accused.

I do not say that. Justice Black of the Supreme Court of the United States says that.

I continue reading:

> He truly becomes the judge of his own cause. The defendant charged with criminal contempt is thus denied what I had always thought to be an indispensable element of due process of law—an objective, scrupulously impartial tribunal to determine whether he is guilty or innocent of the charges filed against him. In the words of this Court: "A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. * * * Fair trials are too important a part of our free society to let prosecuting judges be trial judges of the charges they prefer," In re *Murchison*, 349 U.S. 133, 136–137. Cf. *Chambers* v. *Florida*, 309 U.S. 227, 236–237; *Tumey* v. *Ohio*, 273 U.S. 510; In re *Oliver* 333 U.S. 257.
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> The vices of a summary trial are only aggravated by the fact that the judge's power to punish criminal contempt is exercised without effective external restraint. First, the substantive scope of the offense of contempt is inordinately sweeping and vague; it has been defined, for example, as "any conduct that tends to bring the authority and administration of the law into disrespect or disregard." It would be no overstatement therefore to say that the offense with the most ill-defined and elastic contours in our law is now punished by the harshest procedures known to that law. Second, a defendant's principal assurance that he will be fairly tried and punished is the largely impotent review of a cold record by an appellate court, another body of judges. Once in a great while a particular appellate tribunal basically hostile to summary proceedings will closely police contempt trials but such supervision is only isolated and fleeting. All too often the reviewing courts stand aside readily with the formal declaration that "the trial judge has not abused his discretion." But even at its rare best appellate review cannot begin to take the place of trial in the first instance by an impartial jury subject to review on the spot by an uncommitted trial judge. Finally, as the law now stands there are no limits on the punishment a judge can impose on a defendant whom he finds guilty of contempt except for whatever remote restrictions exist in the eighth amendment's prohibition against cruel and unusual punishment or in the nebulous requirements of reasonableness now promulgated by the majority.
>
> In my view the power of courts to punish criminal contempt by summary trial, as now exercised, is precisely the kind of arbitrary and dangerous power which our forefathers both here and abroad fought so long, so bitterly, to stamp out. And the paradox of it all is that the courts were established and are maintained to provide impartial tribunals of strictly disinterested arbiters to resolve charges of wrongdoing between citizens and citizen or citizen and state.

Mr. President, the sixth amendment declares in unequivocal terms that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury * * *." Note that there is no exception to that requirement. The fifth amendment provides: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury * * *." Criminal contempt is a crime by every relevant test of reason or history. At common law, it was always a crime and was punishable as a crime in the regular course of the criminal law. It has all of the earmarks of a crime.

Further, along this line, Mr. Justice Black continues:

> A mandate of the Government has allegedly been violated for which severe punishment, including long prison sentences, may be exacted—punishment aimed at chastising the violator for his disobedience. As Mr. Justice Holmes irrefutably observed for the Court in *Gompers* v. *United States*, 233 U.S. 604, at 610–611: "These contempts are infractions of the law, visited with punishment as such. If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech. So truly are they crimes that it seems to be proved that in the early law they were punished only by the usual criminal procedure * * * and that at least in England it seems that they still may be and preferably are tried in that way."
>
> This very case forcefully illustrates the point. After surrendering the defendants were charged with fleeing from justice, convicted, and given lengthy prison sentences designed to punish them for their flight. Identical flight has now been made a statutory crime by the Congress with severe penalties. How can it possibly be any more of a crime to be convicted of disobeying a statute and sent to jail for 3 years than to be found guilty of violating a judicial decree forbidding precisely the same conduct and imprisoned for the same term?
>
> The claim has frequently been advanced that courts have exercised the power to try all criminal contempts summarily since time immemorial and that this mode of trial was so well established and so favorably regarded at the time the Constitution was adopted that it was carried forward intact, by implications, despite the express provisions of the Bill of Rights requiring a completely different and fairer kind of trial for "all crimes." The myth of immemorial usage has been exploded by recent scholarship as a mere fiction. Instead it seems clear that until at least the late 17th or early 18th century the English courts, with the sole exception of the extraordinary and ill-famed Court of Star Chamber whose arbitrary procedures and gross excesses brought forth many of the safeguards included in our Constitution, neither had nor claimed power to punish contempts committed out of court by summary process. Fox, "The History of Contempt of Court"; Frankfurter and Landis, "Power to Regulate Contempts," 37 Harv. L. Rev. 1010, 1042–1052; Beale, "Contempt of Court, Criminal and Civil," 21 Harv. L. Rev. 161. Prior to this period such contempts were tried in the normal and regular course of the criminal law, including trial by jury. After the Star Chamber was abolished in 1641 the summary contempt procedures utilized by that odious instrument of tyranny slowly began to seep into the common law courts where they were embraced by judges not averse to enhancing their own power. Still for decades the instances where such irregular procedures were actually applied remained few and far between and limited to certain special situations.
>
> Then in 1765 Justice Wilmot declared in an opinion prepared for delivery in the Court of King's Bench (but never actually handed down) that courts had exercised the power to try all contempts summarily since their creation in the forgotten past. Although this bald assertion had been wholly discredited by the painstaking research of the eminent authorities referred to above, and even though Wilmot's opinion was not published until some years after our Constitution had been adopted, nor cited as authority by any court until 1821, his views have nevertheless exerted a baleful influence on the law of contempt both in this country and in England. By the middle of the last century the English courts had come to accept fully his thesis that they inherently possessed power to punish all contempts summarily, in or out of court. Yet even then contempts were often punished by the regular criminal procedures so that this Court could report as late as 1913 that they were still preferably tried in that manner. *Gompers* v. *United States*, 233 U.S. 604, 611.
>
> The Government, relying solely on certain obscure passages in some early law review articles by Fox, contends that while the common law courts may not have traditionally possessed power to punish all criminal contempts without a regular trial they had always exercised such authority with respect to disobedience of their decrees. I do not believe that the studies of Fox or of other students of the history of contempt support any such claim. As I understand him, Fox reaches precisely the opposite conclusion. In his authoritative treatise, expressly written to elaborate and further substantiate the opinions formed in his earlier law review comments, he states clearly at the outset: "The first of (this series of earlier articles), entitled The *King* v. *Almon*, was written to show that in former times the offense of contempt committed out of court was tried by a jury in the ordinary course of law and not summarily by the court as at present (1927). The later articles also bear upon the history of the procedure in matters of contempt. Further inquiry confirmed the opinion originally formed with regard to the trial of contempt and brought to light a considerable amount of additional evidence which, with the earlier matter, is embodied in the following chapters."
>
> Then in summarizing he asserts that strangers to court proceedings were never punished except by the ordinary processes of the criminal law for contempts committed out of the court's presence until some time after the dissolution of the star chamber; he immediately follows with the judgment that parties were governed by the same general rules that applied to strangers. Of course he recognizes the antiquity of the jurisdiction of courts to enforce their orders by conditional confinement, but such coercion, as pointed out before, is obviously something quite different from the infliction of purely punitive penalties for criminal contempt when compliance is no longer possible. Professors Frankfurter and Landis in their fine article likewise unequivocally declare: "The Clayton Act (providing for jury trial of certain charges of criminal contempt) does nothing new. It is as old as the best traditions of the common law. * * * Down to the early part of the 18th century cases of contempt even in and about the common-law courts when not committed by persons officially connected with the court were dealt with by the ordinary course of law, i.e., tried by jury, except when the offender confessed or when the offense was committed 'in the actual view of the court'." * * *
>
> Until 1720 there is no instance in the common-law precedents of punishment otherwise than after trial in the ordinary course and not by summary process.

And Professor Beale in his discussion of the matter concludes:

> As early as the time of Richard III it was said that the chancellor of England compels a party against whom an order is issued by imprisonment; and a little later it was said in the chancery that "a decree does not bind the right, but only binds the person to obedience, so that if the party will not obey, then the chancellor may commit him to prison till he obey, and that is all the chancellor can do." This imprisonment was by no means a punishment, but was merely to secure obedience to the writ of the king. Down to within a century (Beale

> was writing ir. 1908) it was very doubtful if the chancellor could under any circumstances inflict punishment for disobedience of a decree. * * * In any case the contempt of a defendant who had violated a decree in chancery could be purged by doing the act commanded and paying costs.
>
> Where the court inflicts a definite term of imprisonment by way of punishment for the violation of its orders, the case does not differ, it would seem, from the case of criminal contempt out of court, and regular process and trial by jury should be required.
>
> In brief the available historical material as reported and analyzed by the recognized authorities in this field squarely refutes the Government's insistence that disobedience of a court order has always been an exception punishable by summary process. Insofar as this particular case is concerned, the Government frankly concedes that it cannot point to a single instance in the entire course of Anglo-American legal history prior to this prosecution and two related contemporary cases where a defendant has been punished for criminal contempt by summary trial after fleeing from court-ordered imprisonment.
>
> Those who claim that the delegates who ratified the Constitution and its contemporaneous amendments intended to exempt the crime of contempt from the procedural safeguards expressly established by those great charters for the trial of "all crimes" carry a heavy burden indeed. There is nothing in the Constitution or any of its amendments which even remotely suggest such an exception. And as the Government points out in its brief, it does not appear that there was a word of discussion in the Constitutional Convention or in any of the State ratifying conventions recognizing or affirming the jurisdiction of courts to punish this crime by summary process, a power which in all particulars is so inherently alien to the methods of punishing other public offenses provided by the Constitution.
>
> In the beginning the contempt power with its essentially arbitrary procedures was a petty, insignificant part of our law involving the use of trivial penalties to preserve order in the courtroom and maintain the authority of the courts. But since the adoption of the Constitution it has undergone an incredible transformation and growth, slowly at first and then with increasing acceleration, until it has become a powerful and pervasive device for enforcement of the criminal law. It is no longer the same comparatively innocuous power that it was. Its summary procedures have been pressed into service for such farflung purposes as to prevent "unlawful" labor practices, to enforce the prohibition laws, to secure civil liberties and now, for the first time in our history, to punish a convict for fleeing from imprisonment. In brief it has become a common device for bypassing the constitutionally prescribed safeguards of the regular criminal law in punishing public wrongs.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the able Senator from Mississippi, provided I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. The Senator is making a very fine exposition of the matter of trial by jury. I invite his attention particularly to title III of the bill, page 13, beginning in line 4, which is designated section 302. For the benefit of having a proper background for my question, I read that one-sentence section:

> SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.

Mr. President, that deals with public facilities. After looking at that grant of power to the Attorney General, assuming a suit had been filed by an individual or some individuals—or it could be purely a stooge or a standby who filed the suit—would that not give the Attorney General the right to come in, whether the suit were filed under this title or under any other title, and give him the absolute right to intervene and become a party to the proceedings?

Mr. SMATHERS. The Senator is absolutely correct.

Mr. STENNIS. There is no limitation, is there? Does the Senator see any limitation whatever?

Mr. SMATHERS. I have not been able to find any limitation whatever. As the able Senator so well knows, it would give to the Attorney General powers which the Attorney General throughout our history has never had, powers the extent of which I am sure even the Attorney General himself does not really yet realize. It would authorize him, apparently, to move into any area into which he wished to move, for any reason, and bring the weight and majesty of the Federal Government to bear on those people.

Mr. STENNIS. I invite the Senator's attention to the word "may" in line 8, page 13, where it states that the Attorney General "may intervene." That makes it mandatory on the judge, does it not? The judge would have no discretion but to allow the Attorney General to come into the suit. Is that not correct?

Mr. SMATHERS. As a distinguished judge for many years, the Senator from Mississippi knows that the word "may" means that the Attorney General would come in and would be recognized as a party to the suit the minute he decided to enter the case.

Mr. STENNIS. There is no provision for any kind of jury trial for those who may be defendants in the case. If there should be an injunction, and any party should violate the injunction, that person would not have the right to trial by jury under the language as it is now written. Is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. Under the provision, after the Attorney General had become a party to the suit, on a showing to the court he could bring in other parties as defendants, could he not?

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. If the party were suing a member of the police force, if the Attorney General came into the case, he could have the police chief brought into the suit. Is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. Under certain conditions he could bring in the board of aldermen and many other police officials. This matter could be enlarged to the point where there could be 100 defendants, if the facts justified it.

Mr. SMATHERS. Even if the facts did not justify it, that could happen.

Mr. STENNIS. If the allegations suggested it. None of them would be entitled to a jury trial if the Attorney General prosecuted them for violations of some injunctions that might have been issued.

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. If a suit were started by one individual against another, the Attorney General, under this grant of power, could come into what would be a private suit; and once in it he could dominate it and bring in whomever else he might please under the allegations; then if he obtained an injunction he could subject all of them to punishment by imprisonment in jail, without any trial by jury. Is that correct?

Mr. SMATHERS. The Senator is absolutely correct. It is this same section, title III, of the old bill which the Senate saw fit to eliminate from the 1957 bill. At that time many prominent Senators expressed an unwillingness to give to the Attorney General this particular authority.

Mr. STENNIS. I know the Senator from Florida was present and took a conspicuous part in the 1957 debate, in which the issue was, Shall title III be stricken from the bill? I am sure the Senator remembers that the vote was in favor of removing title III from the bill, and that that title fell by the wayside.

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. The Senator from Florida stated the vote on that occasion. He also mentioned that the former Senator from Texas, now the President of the United States, voted to eliminate title III. Is not that correct?

Mr. SMATHERS. That is my understanding.

Mr. STENNIS. On the question of jury trial, the late President Kennedy, then a Senator from Massachusetts, voted, as I remember, for the provision for a jury trial, but did not vote to remove title III from the bill.

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. Returning to the question of providing for trial by jury, I ask the Senator whether, as a lawyer, he knows that in former days the field of contempt of court was a very limited field of law. It applied in few cases. Seldom, if ever, was it employed. And almost every time it was employed, it concerned something that happened in the courtroom or the refusal of someone to carry out a direction of the judge himself. Is not that correct?

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. That is the way in which the common law developed. There was no absolute right of trial by jury in those proceedings.

Mr. SMATHERS. The Senator is correct. They were considered trivial matters, and the court was given the authority to have his orders carried out as they pertained to an individual, be he a defendant or another party to a suit, particularly when the person was immediately before the judge.

Mr. STENNIS. Yes. Therefore, it was a natural and legitimate exception. There was not a general right to trial by jury.

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. At the present time, even before the passage of the proposed law, there is a tendency to expand gradually the operation of the injunctive process or to proceed against people through courts that have the power to issue injunctions. Is that not true?

Mr. SMATHERS. The Senator is correct.

Mr. STENNIS. The Senator from Florida has studied the entire bill. Is not the bill without precedent, in all the history of Congress, in granting to the Attorney General and others the right to proceed in court, even in the field of religion and the field of education, so far as an alleged denial of equal protection of the law is concerned? Could not the Attorney General proceed, through the injunctive process, which is made about as broad as human conduct is in the United States, against an industry for alleged discrimination in all the fields of activity that I have mentioned?

Mr. SMATHERS. I totally agree with the Senator from Mississippi.

Mr. STENNIS. Having taken that road to regulate us in all our activities, is it not absolutely irresistible that the right of trial by jury should go along with the injunctive process, because there is really no other way to protect the fundamental rights under this great American principle?

Mr. SMATHERS. I totally agree with the Senator from Mississippi. I do not know whether granting trial by jury would actually protect individual citizens—certainly not in the operation of their businesses—from the Attorney General and agencies of the Government in their actions growing out of the authority provided by the bill.

If the bill should become law—I hope it will not—I should think that the proponents of the bill, who usually call themselves liberals, would at least adhere to the liberal philosophy so eloquently enunciated by the late Senator Norris, the late Senator O'Mahoney, and others; namely, that in cases in which a person could be brought before a judge and found guilty of contempt and be fined or otherwise punished, he should be given the right of trial by jury for his own protection. That is the only way in which individual citizens who might become involved in these particular proceedings under the authority of the bill could be protected.

Mr. STENNIS. The Senator is correct. The Senator from Mississippi is not even suggesting that trial by jury would afford protection against abuse of that theory, which could arise without a trial by jury. Certainly the average person who might be haled before a court would be at a disadvantage that he could not overcome.

Mr. SMATHERS. The Senator is absolutely correct.

Mr. STENNIS. All the way through the bill, unless protective features are written into it, the average person charged with violating any section, with all the odds that would be set against him, would never get into court anyway. He would not have to go to court in most cases, because of the overwhelming power of the Federal Government and the distinct advantage that the proponents of the case would have.

Also, his lawyer would probably tell him that the ordinary rules would not apply; that he could be charged criminally without any indictment by a grand jury, and tried without a jury to pass, pro or con, upon his case. The odds against him would be so overwhelming in those situations that he would be defeated before he ever started.

Mr. SMATHERS. I agree with the Senator from Mississippi. These proposals are so stringent and far reaching that once the Federal Government moved into an area, most competent lawyers would tell their clients—those who might be defendants in such actions—that they might as well avoid them, if they could, because, to use the vernacular, the cards would be stacked against them. They would be told that that they did not have the right of trial by jury; that they did not have the ordinary rights that would be afforded them in other types of litigation.

As the Senator from Mississippi says, the might and majesty of the Federal Government would be arrayed against them. I believe that that would result in a general capitulation on the part of people. They might have rights to be protected, but rather than go into court under circumstances in which a judge could issue an injunction against him, then try him without a jury and then punish him, they would say that capitulation was the better course.

Thereby, such persons would be deprived of rights which they previously enjoyed, but which the bill in effect takes away from them. Basic rights would be eliminated.

Mr. STENNIS. The Senator has expressed the situation well. I thank him.

There is one further question I wish to ask, in order to make the point clear. By proposing the amendment, we are not trying to to strike from the bill the injunctive power of the court. We are not trying to pull the teeth, so to speak, and destroy the power of the court to issue injunctions. The amendment merely provides that a person who is caught in the entanglement of charges following an injunction should at least have the right to have a jury consider his case.

Mr. SMATHERS. The Senator is absolutely correct. Certainly that right should be granted.

Mr. STENNIS. I thank the Senator for his responses and for his fine presentation of this important subject.

Mr. SMATHERS. I thank the Senator from Mississippi. Now, Mr. President, continuing with my prepared speech:

> But even worse, its subversive potential to that end appears to be virtually unlimited. The sentences imposed on those found guilty of contempt have steadily mounted, until now we find that the courts even imprison them for years.
>
> I believe that such an arbitrary power to punish summarily, as is irreconcilable with first principles underlying our Constitution and the system of government it created—principles which were uppermost in the minds of the generation that adopted the Constitution. Above all that generation deeply feared and bitterly abhorred the existence of arbitrary, unchecked power in the hands of any Government official, particularly when it came to punishing alleged offenses against the State. A great concern for protecting individual liberty from even the possibility of irresponsible official action was one of the momentous forces which led to the Bill of Rights.

Mr. MORSE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Oregon, provided it is agreed that I may do so without losing my right to the floor and without losing my other rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. I wish to raise a question. I raised it the other night with the Senator from Georgia [Mr. TALMADGE]. I assure the Senator from Florida that I raise it now only so that a record can be made; and, as the Senator from Florida knows, I raise it quite impersonally and completely professionally:

As the Senator from Florida knows, it is alleged by some that the granting of jury trials in contempt cases arising under prosecution charges for judicial contempt will in some parts of the country—areas not confined to the South, but also in the North, the East, and the West—encounter an inclination of juries not to convict; and that therefore the proper administration of justice conflicts with the existing mores of such communities and the existing biases and possible prejudices of juries. I am not asking the Senator from Florida to agree as to that; I am simply saying that such a situation is alleged to exist; and, therefore, it is said that the courts must have the inherent power to maintain themselves, particularly when a conviction for contempt is subject to appeal, whereas a verdict of acquittal ends the case. It is said that if there were a situation in which a jury acquitted because of bias and prejudice, great wrong would be done to the judicial process, and the sanctity of the courts would be imperiled, and that those who argue for jury trials in contempt cases seldom stress the point that where there is not a jury trial, if a judge is arbitrary and capricious, the defendant is protected by means of his right to appeal.

I thought I should submit that statement for the RECORD, for whatever the Senator from Florida, able lawyer that he is, might wish to make of it.

Mr. SMATHERS. I thank the Senator from Oregon.

First, with reference to the fear that juries in certain areas of the country would not convict in such cases—which is the basis for the argument that there should not be provision for a jury trial—it seems to me that is an indictment of the jury system, and that we should approach it from that viewpoint, rather than from the viewpoint that the jury system will not work in the isolated instance of contempt prosecutions.

It is fundamental that in the early history of jurisprudence trial by jury was a very sacred thing; and it has been only in recent years that we have begun to get away from it—so much so that in the recent Mississippi case, in which Mr. Justice Goldberg rendered a dissenting opinion, and in the Green case, which was decided only a few years ago, and in which Associate Justice Black wrote a splendid dissenting opinion, both of those Justices, who are great spokesmen for the liberal philosophy, disagreed with their associates on the Supreme Court, and said that instead of there being a restriction on the use of trial by jury, there should be an extension of it.

Earlier today, I read from the opinion of Mr. Justice Black in the Green case, in connection with that very point. In that opinion he stated in unequivocal terms that he believed that the philosophy of trial by jury should be extended not only to labor cases, but also to all other cases, because he said he is more fearful of the capriciousness of a judge than of the decisions made by a 12-man jury.

Mr. CHURCH. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield, with the usual protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. It seems to me that the Senator from Oregon has, in his usual incisive way, pointed up the two considerations involved, which have to be weighed in the balance. Those who tend to feel that a jury trial amendment should not be adopted are concerned lest the adoption of such an amendment would result in undermining the capacity of the courts to enforce their own orders. That is a very legitimate concern if we are to preserve the integrity of our judicial system.

Those, like myself, who tend generally to favor the protection of the jury trial, and who have supported jury trial amendments in the past, are concerned primarily about the rights of the accused; and we wish to make certain that any finding of willful guilt which might result in depriving the accused of his liberty or in the imposition of a very substantial fine, should be determined by a jury of his peers, so that no arbitrary exercise of unchecked power through the courts need ever become a danger to a free citizenry.

It seems to me that, in balancing these two considerations, we should not be so much governed by particular decisions or particular statutes as by a consideration of the public welfare—that is to say, by the general pattern.

It seems to me that, if we ask ourselves this question, we find that, in the various jurisdictions, there is a kind of rule of thumb which usually obtains. That rule of thumb is that if the accused is charged with the commission of a major offense, if the result of his being found guilty would be extended imprisonment or the imposition of a heavy fine, then the question of his guilt or innocence should be determined by a jury of his peers.

Every person accused of a criminal offense is not entitled to a jury trial. There are many police courts and municipal courts in which penalties are limited, where the offense itself is minor, in which a defendant, by common practice, is not entitled to a jury trial. But, by and large, in Federal, State, and local jurisdictions, where the charge is not minor in nature, and where a conviction would result in the deprivation of a man's liberty for an extended period of time, or in a heavy financial penalty, we have generally observed the right to trial by jury.

Where the custom of the law has not otherwise provided for it, the Congress has sometimes chosen to extend the right to jury trial by statute. We did so in 1957, when the first civil rights bill was enacted. In the end, we provided for a right to trial by jury in cases in which the penalty exceeded 45 days in prison or $300 in fine, which I think roughly corresponds to the rule of thumb I have previously described. Therefore, I believe this bill ought to contain that kind of jury trial provision. We hammered it out between the Houses of Congress in 1957. We adopted it in 1957. It was sound then; it is sound today. If such an amendment is not offered, I shall offer one. If such an amendment is offered, I intend to cosponsor and vote for it.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield to the Senator from Oregon.

Mr. MORSE. Again the Senator from Idaho, in his usual, brilliant legal analysis, has laid out for us this afternoon the alternatives that confront us. The Senator from Florida spoke about the great battle that was waged on the carpets of this historic Chamber at the time the Norris-La Guardia Act was considered, and at the time of the fight in the Senate to seek to bring to an end government by injunction, particularly in industrial relations. I think it is rather interesting to note that in a way that could be described as this present situation somewhat in reverse, because at that time the great fear and the abuse which was sought to be rectified was the abuse of judges, many of whom had corporate law background. It was alleged that they were biased against free labor, and that they were imposing injunctions in ex parte proceedings.

The cry of the liberals was for jury trial. The jury trial system was established in those cases.

Then the charge was made that the judges were the ones who were biased.

The argument that I made a few moments ago laid out for the discussion of the Senator from Florida the charge that in some parts of the country, but not limited to the South, juries are inclined to be biased and will not render justice.

I desire to add only the following additional comment. If a jury trial system is established, it may very well have a remarkable educational effect in those areas in which it is alleged that there is a danger of bias on the part of juries because, after all, the people of the country know very well whether justice is rendered. I would be inclined to take my chances with the enforcement power of public opinion if it should develop that some area of the country became one in which justice was denied because jurors polluted the stream of justice by not carrying out their oaths.

When I make that statement, it does not mean that I am not going to keep an open mind and render a final decision on the question when the whole case is in. But I think it is well that we discuss the question this afternoon along the lines that the Senator from Idaho and the Senator from Florida have been discussing it, because I think it is a good thing to get before the public what the differences are here, what the areas of disagreement are, and see whether or not there is some common meeting ground that would permit of a procedure that would not deny what we are after, namely, the enforcement of civil rights under any bill that may be passed.

If we should pass the bill and not provide for the enforcement feature that would make it possible for Negroes to have delivered to them the Constitution of the United States, and all the Constitution of the United States, the bill would be but a scrap of paper at the time it was passed.

We are dealing with one of the most muted, and yet one of the most vital, procedural problems that confront us in this historic debate. I appreciate very much the contribution of the Senator from Florida and, as always, I appreciate the contribution of the Senator from Idaho. I see the great former Attorney General of the State of New York, and now senior Senator from New York [Mr. JAVITS], on his feet. I wish him to know that I await his contribution to the subject.

Mr. ERVIN. Mr. President, will the Senator from Florida yield for a question?

Mr. SMATHERS. Mr. President, I ask unanimous consent that I may yield, without losing my right to the floor, or prejudicing my right to the floor, to the former member of the Supreme Court of the State of North Carolina, and now the distinguished Senator from North Carolina [Mr. ERVIN].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask the Senator from Florida if, prior to the Revolutionary War, the British Parliament did not deprive the American colonists of the right of a jury trial by a procedure strangely reminiscent of the one provided in the bill; namely, by giving courts of admiralty, where no right of jury trial existed, jurisdiction of offenses against the revenue laws of England.

Mr. SMATHERS. I do not know that I knew that, but if the Senator states that it is true, I am willing to accept his statement as fact.

Mr. ERVIN. Will the Senator accept my assurance that two unofficial congresses were held to which the colonists sent representatives, and twice those congresses denounced the laws of England and said that every American had an innate right to trial by jury?

Mr. SMATHERS. I am aware that that was one of the major complaints of the colonists, even at the time they finally declared their independence from England.

Mr. ERVIN. I ask the Senator from Florida if, when Thomas Jefferson wrote the Declaration of Independence, he did not give as one of the reasons why the Thirteen Colonies should declare themselves independent of England the fact that the colonists had been denied the right of trial by jury in many cases.

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. I ask the Senator from Florida if the Founding Fathers, when they drew the Constitution, did not include a provision in the third article of the original Constitution declaring that every person charged with crime should be tried by jury?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. I ask the Senator further whether the colonists, when they adopted the Bill of Rights, did not insert as a second declaration in the Bill of Rights that every person charged with crime should have the right of trial by jury?

Mr. SMATHERS. The Senator is correct. That was the sixth amendment.

Mr. ERVIN. Does the Senator from Florida agree with me that it is tyrannical to have a system of justice under which a man could be tried and sent to prison without a trial by jury, regardless of whether his offense were called criminal contempt or a crime?

Mr. SMATHERS. I wholly agree with the Senator from North Carolina on that point.

Mr. ERVIN. Will the Senator from Florida explain to me why it can be maintained that it is tyrannical to deny a man the right of trial by jury when he is to be fined $300 and one cent, but it is not tyrannical to deny him the right of trial by jury when he is to be fined only $300—1 penny less?

Mr. SMATHERS. I cannot explain that.

Mr. ERVIN. Would that not indicate that the adherents of this theory believe that the right of a trial by jury is not worth more than 1 cent?

Mr. SMATHERS. That could be the conclusion.

Mr. ERVIN. Does not the Senator from Florida realize that the Federal courts have held that in cases prosecuted by the United States, there is no limit whatever to the punishment for criminal contempt except the nebulous limitation imposed by the provisions of the eighth amendment, that excessive fines cannot be imposed, or cruel and unusual punishment inflicted?

Mr. SMATHERS. That is the only limitation that I know of. I observe that Justice Black noted in the Green case, in which he was making the same argument, that there was no limitation as to the punishment the judge could inflict on the defendant except the limitation contained in the eighth amendment, plus what he termed the test of "reasonableness," which has now become so unreasonable that no one knows what it means.

So to answer the question, in some cases there is no limitation.

Mr. ERVIN. Does not the Senator from Florida agree with me that the provisions of the 1957 act, to which the Senator from Idaho has reference, are made applicable only to voting right cases and the public accommodations of the bill, and that apart from cases arising under titles I and II of the bill, there would be no limitation whatsoever on the punishment the court could impose under the other titles for criminal contempt?

Mr. SMATHERS. I agree with the Senator.

Mr. ERVIN. Will the Senator accept my assurance that I found one Federal case in which it was held that a man could be sent to jail for 4 years for criminal contempt, without a trial by jury?

Mr. SMATHERS. I did not know about that. If we permit such provisions to be adopted without the right of a trial by jury, it is entirely possible that the example can be repeated over and over again.

Mr. ERVIN. In the Green case, was not the man sentenced to prison for 3 years, without a trial by jury?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does the Senator from Florida agree with the Senator from North Carolina that in addition to having no limitation upon the punishment in criminal contempt cases, it has been held by the Federal courts that the defendant in a criminal contempt case has no right to a trial by jury, and has no right to insist that he be indicted by a grand jury before he can be put on trial?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does the Senator from Florida agree with the Senator from North Carolina that the courts have held not only that a man in a criminal contempt case has no benefit of the limitation of punishment, no benefit of an indictment by a grand jury, and no benefit of a trial by jury, but also, that in addition, he does not even have the benefit of the part of the Constitution which provides that all trials shall be tried in the district in which the crimes are alleged to be committed?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. A man could be dragged all over the United States and tried for criminal contempt, could he not?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does the Senator from Florida not agree with the Senator from North Carolina that the Federal laws on criminal contempt in cases prosecuted by the Government are a disgrace to any legal system which purports to be based upon the administration of justice?

Mr. SMATHERS. I agree with the Senator.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that if the amendment to which the Senator from Idaho referred were adopted, whenever the judge exceeded a $300 fine or 45 days imprisonment virtually all the judicial tyrannies which can now be visited upon criminal contempts in other cases would be applicable?

Mr. SMATHERS. I agree.

On this point which was raised originally by the Senator from Oregon, I wish to quote what Senator Norris declared in the Chamber of the U.S. Senate on March 18, 1932, with reference to the Norris-La Guardia Act, and the injunctive powers granted therein:

> I agree, that any man charged with contempt in any court of the United States, * * * in any case, no matter what it is, ought to have a jury trial. * * * It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits in court and heard jury trials, knows that juries make mistakes, as all other human beings do, and they sometimes render verdicts which seem almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray I am confirmed in my opinion that after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender. I like to have trial by jury preserved in all kinds of cases where there is a dispute of facts.

That was the opinion of the great liberal, George Norris, in respect to this power.

I next quote a very distinguished Senator who himself was in many respects regarded as a liberal. In discussing the Clayton Act, Senator Walsh from Montana said:

> There is not an argument that can be advanced or thought of in opposition to a trial by jury in contempt cases that is not equally an argument against the jury system as we now know it.

In that same debate, Senator Reed in discussing the jury trial stated:

> The legislative branch of the Government may make grievous errors, the executive may even undertake the exercise of tyrannical power, but so long as the temple of justice stands open, as long as courts have the courage to declare the rights of the citizen as they are preserved in the law, and so long as a man has the right to be tried by a jury of his peers, no nation will ever be really enslaved.

I offer that for the edification of the Senate, stating that there are three prominent men whom we recognize as liberal, and who put themselves unequivocably and solidly on record as being in favor of a jury trial for all those accused of crime, including, of course, every accused in criminal contempt proceedings.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. SMATHERS. I yield.

Mr. CHURCH. The distinguished Senator from North Carolina has referred to two criminal contempt trials, one of which resulted in the imposition of imprisonment for a 4-year term, and the other of which, as I recall, resulted in the imposition of a 3-year sentence.

I ask the distinguished Senator from Florida whether, under the Civil Rights Act of 1957, it is true that a judge could not impose a sentence of 3 years or 4 years, or indeed, a sentence of 1 year, or even 6 months, without first permitting the defendant to have the benefit of a trial by jury. Is that correct?

Mr. SMATHERS. The Senator is absolutely correct. In the Civil Rights Act of 1957, the turning point was 45 days and $300. If the judge wanted to put him in jail for more than 45 days, or wanted to fine him more than $300, he had to give him a trial by jury. But I say to the Senator from Idaho that, so far as the Senator from Florida is concerned, I think it is a rather serious punishment to put a man in jail for 45 days.

To put a proud man in some of the jails I have seen for 45 days could destroy his reputation.

Mr. CHURCH. Mr. President, will the Senator from Florida yield for a further question?

Mr. SMATHERS. I yield.

Mr. CHURCH. Is it not true that in our various jurisdictions we have long observed the distinction between major and minor offenses? The distinction between felonies and misdemeanors, for example, is as old as the law itself and is well known to those who practice it.

Mr. SMATHERS. The Senator is correct. There has been a distinction between felonies and misdemeanors for some time; and there still is today.

Mr. CHURCH. Mr. President, will the Senator from Florida yield for a further question?

Mr. ERVIN. Mr. President, will the Senator from Florida yield for a question at that point?

Mr. CHURCH. If I may finish my series of questions——

Mr. ERVIN. I merely wish to point out that there is no distinction when it comes to jury trials.

Mr. CHURCH. Mr. President, will the Senator from Florida yield?

The ACTING PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Idaho?

Mr. SMATHERS. I yield.

Mr. CHURCH. Is it not true that in the case of many minor offenses of a criminal character, in many jurisdictions where the penalty fixed by the law is not large, the defendant is not accorded the right to a trial by jury? I can think of many instances where this is so, as where the case is tried in a police court or a municipal court, where the penalties are strictly limited.

Mr. SMATHERS. Those are not constitutional courts.

Mr. CHURCH. The Senator is correct.

Mr. SMATHERS. Those are courts created by a municipality, sometimes by the county—that type of court.

Mr. CHURCH. But, nevertheless, this is a customary practice.

Mr. SMATHERS. Whenever a man can be put in jail charged with an offense of a serious nature, that man has been basically given the right to a trial by jury by the Constitution.

Mr. CHURCH. I suggest to the Senator that in actual practice, where the offense is minor and the punishment is limited, the defendant is often not granted a jury trial; but the general rule is, where the offense and the penalty is major, the defendant should be granted a jury trial. Congress was striving to recognize this distinction when it finally enacted the jury trial amendment in 1957. I believe it conforms with good public policy.

Mr. SMATHERS. The Senator from Idaho presented an eloquent argument when he offered his amendment in 1957 along with Senator O'Mahoney, of Wyoming, Senator Kefauver, of Tennessee, and other great liberals. The Senator from Idaho made a beautiful, eloquent, and persuasive speech on the floor of the Senate, that jury trials should be granted in all cases in which a person was tried for contempt resulting from violation of an injunction. I agreed with him then, but I agreed with him then more than I agree with him now. I know he is more mature and learned now than he was then; but on this particular point I believe he was more right in 1957 than in 1964.

Mr. ERVIN. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. ERVIN. Does not the Senator from Florida agree with me that under Federal law there is no distinction whatever between a felony and a misdemeanor, except in two respects; first, there must be an indictment in a felony case, whereas a misdemeanor can be tried on information; and second, the difference in punishment?

Mr. SMATHERS. I agree completely with the Senator from North Carolina.

Mr. ERVIN. Does not the Senator from Florida agree with me that under title XVIII, section 1 of the United States Code, a felony is any crime under Federal law punishable by more than 1 year's imprisonment, or by death?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that when there is a system under which a person convicted of a criminal contempt can be sent to prison for at least as much as 4 years, which is four times as much as the minimum punishment for a felony, the crime at least should be considered as serious as a felony?

Mr. SMATHERS. I totally agree with the Senator from North Carolina.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that the constitutions of virtually every State in the Union guarantee a person the right to trial by jury in criminal cases?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that when the constitutions of those States permit a person to be tried without a jury in an inferior court, such as a municipal court or a police court, he has the right to appeal to a court of general jurisdiction and there he gets the constitutional right to a trial by jury?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Can the Senator from Florida tell me of any State in the Union where a man can be denied the right to trial by jury for any crime whatsoever?

Mr. SMATHERS. I know of none.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that one of the greatest men ever to sit in the Senate was the late Senator Borah, of Idaho?

Mr. SMATHERS. I agree; I am sure the Senator from Idaho [Mr. CHURCH], who is sitting in the Chamber at the present moment, would also agree.

Mr. CHURCH. I certainly do agree.

Mr. ERVIN. Does not the Senator from Florida know that Senator Borah himself submitted an amendment to straighten out the provisions in the Clayton Act which deny a man the right to a trial by jury in suits prosecuted by the United States?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Did not Senator Borah say, in support of his amendment, that every litigant should stand on exactly the same footing under the laws of procedure, and that there was no excuse whatever for giving the United States an advantage over other litigants?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida believe that under any system of justice worthy of that name, all litigants, whether they be government or individuals, should stand on exactly the same footing and have their procedural rights determined by laws applying in like manner to all litigants?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida believe that a statute is an instrument of tyranny when it gives to the U.S. Government a procedural advantage not enjoyed by any other litigant of any character in the courts of the United States?

Mr. SMATHERS. I agree with the Senator from North Carolina. I thank the Senator for his observations.

In the Barnett case, recently decided by the Supreme Court, Justice Goldberg pointed out that there have been at least six cases since 1957 in which a defendant was imprisoned for more than a year without benefit of a jury trial. So the danger we are discussing, which will not be eliminated unless the Talmadge amendment is adopted, is a growing one.

Mr. ERVIN. Does the Senator know from his experience as a lawyer in the State of Florida of any incidents which would support the charge that Southern juries will not be true to the oath they take, to try a case according to the law and the evidence?

Mr. SMATHERS. That has not been my observation. I have been a prosecutor, an assistant U.S. attorney, trying cases over a period of 2 years and, therefore, have had a good deal of experience. I found the jury system in the South worthy of all the great things which have been said and written about it.

Defendants were sometimes released who I felt should have been convicted. But during the course of my experience, I was totally convinced that it was the soundest protection of individual liberty that I knew of.

Mr. ERVIN. Does not the Senator from Florida recall the very eloquent statement by Edmund Burke to the effect that one cannot indict a whole people?

Mr. SMATHERS. I recall that statement.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that it is an unjustified indictment of millions of people to charge that southern jurors are of such a low-principled character that they will not decide a case impartially on the facts?

Mr. SMATHERS. That is a totally unjustified assumption.

Mr. ERVIN. I have spent most of my life in the courthouse, either as a trial lawyer or as a trial judge. I have never known of any instance in the courts of North Carolina which would justify the charge that North Carolina jurors are not as honorable people as jurors in any State of the Union.

Mr. SMATHERS. I totally agree with the Senator from North Carolina. While I have no particular knowledge of juries in North Carolina, I must confess that my father was born in North Carolina and practiced law in North Carolina. Therefore, even without having any particular knowledge in this field, I feel constrained to agree with the Senator from North Carolina. I know that jurors there are men of the highest honor in every respect.

Mr. ERVIN. I ask the Senator from Florida if he does not believe that the Members of the U.S. Senate should not only be willing, but ought to welcome an opportunity, to give southerners, even if they happen to be State or local officials, the same kind of procedural protection and safeguard that proponents of civil rights legislation would extend to gangsters and members of the underworld like Al Capone.

Mr. SMATHERS. I should say so.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the Senator from New York, provided I do not lose my right to the floor.

Mr. JAVITS. I thought the Senator made his point very well earlier today. I do not want Senators to lose sight of it now. It has been the law in practically all of the States, including the overwhelming majority of Southern States, that punishment for contempt in the violation of a court order could be imposed by the courts without trial by jury. I understood that to be the essence of the colloquy between the Senator from Florida and the Senator from Illinois this morning. Am I correct?

Mr. SMATHERS. Mr. President, will the Senator repeat his question, please?

Mr. JAVITS. I understood the Senator from Florida and the Senator from Illinois to agree that it was traditional in our law in practically all States, over a long period of time, that the courts do have the power to punish contempt of court without a jury trial. I am speaking generally.

Mr. SMATHERS. Generally, that is correct. At first it was so only for minor infractions of the law or for violations of injunctions committed in the presence of the court or in the immediate surroundings of the court.

Mr. JAVITS. I should like to develop the subject with the Senator from Florida, because I believe I see eye to eye with him on the law. I want to be sure that with respect to the general question of trial by jury for the commission of a crime, which is provided for in the sixth amendment to the Constitution of the United States, the discussion does not take us too far off the point which I intended to develop with the Senator. As the Senator from Idaho and the Senator from Oregon said before, we are trying to design a statute which will not leave the courts powerless to protect their own integrity and their own prerogatives.

To me a very significant aspect of the Barnett case—and I am submitting it to the Senator for his opinion—was found in the footnote on page 14 of the opinion in pamphlet form, in which the majority of the Supreme Court said——

Mr. SMATHERS. Is the Senator quoting from the court's decision?

Mr. JAVITS. I am quoting from the footnote of the court at page 14 of the opinion in the Barnett case. Does the Senator have it before him?

Mr. SMATHERS. Yes.

Mr. JAVITS. The court, in that footnote, said:

> Our cases have indicated that, irrespective of the severity of the offense,—

The comma is very important—

> the severity of the penalty imposed, a matter not raised in this certification, might entitle a defendant to the benefit of a jury trial.

I shall not read the rest of the footnote. It seems to me that the court begins to develop the concept which is apposite to this case.

I would not wish to insult the intelligence of my colleague from North Carolina, who is a distinguished lawyer and former justice of the Supreme Court of North Carolina, by making any such argument as that southern juries will not convict."

After all, who is God among us, to say A is innocent and B is guilty? I appreciate the feeling of the Senator from Florida. Having prosecuted cases myself, I have often thought that some rascals have gotten away. Nevertheless, we understand that this is inherent in the system, but we would not seek to substitute any other system for it.

Consistent with the pattern, when we are trying to devise a system which affects personal rights, we must not lose sight of the fact that courts must have the capability to defend their own decrees within a given factual situation. The Supreme Court has given us in this footnote—a footnote is not a part of the decision, I hasten to add, or stare decisis, but only an expression of a group of judges, not an authoritative judgment by the U.S. Supreme Court—something of the philosophy of a juridical concept toward which the Senator from Idaho was reaching, toward which the Senator from Oregon was reaching, and toward which I am reaching.

Consistent with giving the courts the capability to enforce their own decrees and maintain their dignity and their standing, it is possible, nonetheless, within this kind of philosophy, which they lay out, to find some way, some basis on which we will cut off the absolute right of a court and will bring the jury into the situation, whether the standard be the 1957 act, which the Senator from Florida says he was against, and the Senator from Idaho was for, or some other. But whatever may be the quantitative judgment, I believe it is important—and this is why I asked the Senator whether he was for the pending Talmadge amendment or whether he was for the standard set in the 1957 act—to arrive at a consensus which will implement this footnote, which is in the most authoritative and latest decision on the subject, United States against Barnett. I would appreciate any comment that the Senator might care to make on that point.

Mr. SMATHERS. I shall be very happy to comment, but first I yield to the Senator from North Carolina.

Mr. ERVIN. Did not the Senator understand, as the Senator from North Carolina understood, that the footnote stated "it might"?

Mr. SMATHERS. Yes.

Mr. ERVIN. Does not the Senator from Florida think that when the word "might" is used, it implies also "might not"?

Mr. SMATHERS. "Might" implies "might not."

Mr. ERVIN. Why is it wrong for a man to have a trial by jury in the first case, but all right to have it in the second case, when he is being tried twice for the same offense? Does not the Senator think it is rather foolish to put the public to the expense of a trial and to put the accused to the expense of defending a case when it is not known, until the case is tried and judgment is rendered, whether he will have the right of trial by jury?

Mr. SMATHERS. I agree.

Mr. ERVIN. Does the Senator from Florida know of any other instance in the history of jurisprudence in which a man's right to trial by jury depends on his being tried a second time, and depends on what kind of punishment was imposed the first time?

Mr. SMATHERS. I do not know of any.

Mr. ERVIN. As I understand the Senator from Florida, he is like the Senator from North Carolina, in that he does not want any "might not" business about the right of trial by jury. He wants to make certain that a person shall have a right to trial by jury.

Mr. SMATHERS. The Senator is exactly correct.

It seems to me that the question, to rephrase that which the able Senator from New York has stated, is whether or not we shall take the time and trouble to provide for trial by jury; whether we have enough confidence to believe that that system will work well enough to carry out a court's order.

If a court issues an injunction against a person, and he does not seek to conform to the injunction, and he is cited for contempt, he should have the right of trial by jury, under the bill. To accord him that right might result in a delay. Nevertheless, it would be the safe and proper course, in my judgment.

We should not permit a judge who, in the first instance, was the accuser, to try the person and find him guilty or not guilty. We should give that right, which is a typical Anglo-Saxon-American historic right, to a jury. We should separate the powers. We should give to a jury the determination of the question as to whether the person was guilty or not.

Earlier today, the Senator from New York [Mr. JAVITS] and I debated the need to uphold the dignity of the court. We agreed that the court's injunctions should not be openly flouted.

But many persons, among whom, strangely enough, are some of the best known liberals—and I am not considered to be a great liberal—including Justice Black, Justice Goldberg, Justice Holmes, the great Senator Borah, and the great Senator Norris, advocate and have advocated, as some of us at this particular moment are advocating, trials by jury.

Our judicial system will be more secure if jury trials are provided under the circumstances. We are talking about instances in which injunctions have been violated. Those liberals all favored jury trials. I favor jury trials. It may be that such a provision would prove to be unworkable. I do not think it would. I believe the jury system in South Carolina and Mississippi will work. There might perhaps, in the opinion of some people, be some miscarriage of justice. But over all, greater justice will result if each individual citizen is afforded the basic right of trial by jury. That is what was recommended in 1957. That is what the Senate adopted in 1957. That is what we are trying to reestablish now in this particular bill.

Mr. JAVITS. The real issue, as of today, not in the days of Borah and other days, is this: I have tried to narrow down the area of difference as much as I could in terms of the footnote in the Barnett case, which would seem to accommodate some quantitative rule which is based upon punishment and result in the contempt. I am grateful to the Senator for so frankly expressing his views.

Mr. SMATHERS. Mr. President, from the Barnett case, I wish to read several sentences by the esteemed Justice Goldberg, a brilliant liberal attorney, who formerly was attorney for the AFL-CIO and formerly Secretary of Labor. Besides being an excellent attorney, he is recognized as one of the great liberals in the U.S. Government today. I should like to read from the concluding remarks in his dissenting opinion in the Barnett case:

> In sum, therefore, I conclude that defendants' trial should be by a jury. This would accord with the basic policy of Congress, that contempts which are also crimes should be tried by a jury. And it would accord with the fundamental policy of the Constitution, that contempts which are punishable as crimes must be tried by a jury.
>
> I reject the Government's "necessity" argument, that "the independence of the Federal courts * * * would be seriously undermined if their orders could be nullified by an unsympathetic jury."
>
> That is but another way of putting the oft-rejected assertion against trial by jury, that some guilty men may be acquitted. This possibility, however, is the price we have chosen to pay for our cherished liberties.

That was the point the Senator from New York was making. Justice Goldberg rejects that.

It seems to me that Senators who say they are of a liberal persuasion and believe that indivdual rights should be preserved and individual dignity should be preserved should stand on the floor of the Senate, in connection with the bill, and advocate even more vigorously than those of us who are now advancing it, the preservation of individual liberties, because that is the very essence of the so-called liberal philosophy. Justice Goldberg says:

> The imperative necessity for safeguarding these rights * * * under the gravest of emergencies has existed throughout our constitutional history, for it is then, under the pressing exigencies of crisis, that there is the greatest temptation to dispense with fundamental constitutional guarantees which, it is feared, will inhibit governmental action. *Kennedy* v. *Mendoza-Martinez*, 372 U.S., at 165. "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances." *Ex parte Milligan*, 4 Wall. 2, 120–121.

Mr. President, that is a statement by the man who said there should be trial by jury in these and other cases.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield.

Mr. CHURCH. Does not the Senator from Florida agree that, as a matter of constitutional right, a defendant cannot claim a jury trial in a criminal contempt proceeding unless a statute prescribes a jury trial?

Mr. SMATHERS. I wish the Senator would repeat his question.

Mr. CHURCH. I shall endeavor to repeat it. When a defendant is involved in a criminal contempt proceeding, under existing law and precedent he has no constitutional right to a trial by jury, and cannot claim a trial by jury unless some statute furnishes that right?

Mr. SMATHERS. Under the Constitution, he has a right to trial by jury for any crime.

Mr. CHURCH. But I prefaced my question by saying "in a criminal contempt proceeding."

Mr. SMATHERS. He has a right to trial by jury. The Constitution provides for the right of trial by jury in criminal prosecutions. The sixth amendment provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed——

Mr. CHURCH. However, the Senator knows—and his excellent presentation dwells largely upon the fact—that in injunctive actions, as distinguished from actions at law, the courts have enforced criminal contempt penalties without according to the defendant the right to a jury trial. In fact, most of the Senator's speech has dwelt upon the enlargement of this practice over the years.

Mr. SMATHERS. That is correct.

Mr. CHURCH. Therefore, obviously, it follows that in such cases defendants have not had the constitutional right to a jury trial.

Mr. SMATHERS. The Senator may be correct.

Mr. CHURCH. Does it not follow, then, that if we are to extend by statute, in such cases, the right to a jury trial, we are faced with a public policy question as to how far the right should be extended or withheld?

Mr. SMATHERS. The Senator is correct.

Mr. CHURCH. Now, we have discussed the practice in courts with jurisdiction over petty offenses, in which the right to a jury trial is not customarily extended to the defendant.

Mr. SMATHERS. May I interrupt the Senator? I do not want to be misunderstood, and I am sure he does not want me to be misunderstood, any more than he himself wants to be misunderstood. My own feeling is that the framers of the Constitution, by the very words which they set forth in the Constitution and the Bill of Rights, intended that in all criminal prosecutions that a jury trial be provided.

I agree with the Senator that since the adoption of the amendment, there has grown up a general practice to the effect that when a court has issued an order, particularly in an injunction case, and when the order has been violated—the court has claimed a right—in order to maintain respect for the courts and to maintain integrity of the courts—to fine that person or have him put in jail without benefit of a jury trial. That custom or usage has grown up in the judicial process.

But most of the great legal historians return to the basic proposition that in cases in which a man is accused of what amounts to a crime—even though it might be called "a judge's crime," cases in which the judge says the man has violated the judge's order or has not done what the judge ordered him to do—that person should have the right of trial by jury. That is my position.

Mr. CHURCH. Mr. President, the Senator from Florida states his position exceedingly well; and I think it perfectly clear, from what he has said, that the courts customarily have exercised inherent power to enforce their own orders by punishment for contempt of court; and that, over the years, the practice has been extended, until it is now commonplace, whereas at the time of the original adoption of the Constitution the practice was more limited.

Therefore, the question we face is this: To what extent, as a matter of good public policy, should we by statute impinge upon what has become the customary prerogative of the court to enforce its own orders or to punish for violation of its orders?

I say to the Senator from Florida that inasmuch as this is a delicate question, the thinking of the Supreme Court itself is both noteworthy and significant.

The distinguished Senator from New York has quoted a portion of the footnote, which he previously identified, in the case of United States against Barnett. I shall appreciate it if the Senator from Florida will permit me to read into the RECORD the remainder of the footnote, because I believe it shows that the Supreme Court was thinking in terms of differentiating between minor offenses which call for minor penalties and major offenses which call for major penalties, and was trying to stake out some guideposts on the basis of which this highly important public policy question might be settled.

So, if the Senator from Florida will permit, I will read into the RECORD the remainder of the footnote, as follows:

> However, our cases have indicated that, irrespective of the severity of the offense, the severity of the penalty imposed, a matter not raised in this certification, might entitle a defendant to the benefit of a jury trial. See *District of Columbia* v. *Clawans*, 300 U.S. 617 (1937). There Mr. Justice Stone, later Chief Justice, citing many cases, said that "commonly accepted views of the severity of punishment by imprisonment may become so modified that a penalty once thought to be mild may come to be regarded as so harsh as to call for the jury trial, which the Constitution prescribes, in some cases which were triable without a jury when the Constitution was adopted." At 627. In view of the impending contempt hearing, effective administration of justice requires that this dictum be added: Some members of the Court are of the view that, without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

When we consider the entire footnote, I believe it becomes clear that the Supreme Court of the United States was probing for moorings upon which the right of trial by jury might be extended, out of consideration for the severity of the penalty; and I suggest that is what Congress intended when the two Houses finally agreed to the jury-trial amendment to the Civil Rights Act of 1957—in other words, the striving for just and reasonable limits beyond which a court might not go in punishing for contempt, without furnishing the dependent with a jury trial.

Again I say that such a decision is consistent with our general tradition, and that such an amendment to the pending bill should be adopted.

Mr. THURMOND. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I am happy to yield to the Senator from South Carolina.

However, first I wish to state to the Senator from Idaho that I think we must bear in mind that the decision to which he has referred was a 5-to-4 decision, and that most of the Justices who ordinarily espouse the liberal philosophy to which the Senator from Idaho attaches himself were joined in the dissent in that instance—just as in the other case to which I referred.

I also wish to cite the case of *Toledo Newspaper Company* v. *United States*, 247, U.S. 402, in which the late great Justice Holmes, in dealing with a similar matter, said, on the question of whether there should be jury trials:

> I would go as far as any man in favor of the sharpest and most summary enforcement of order in court and obedience to decrees; but when there is no need for immediate action, contempts are like any other breach of law, and should be dealt with as the law deals with other illegal acts—

Meaning by that, trial by jury, and all the rest.

Mr. THURMOND. Mr. President——

Mr. SMATHERS. Now I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, in the 1957 Civil Rights Act, the provision for punishment for contempt was to the effect that if the fine were more than $300 or if the imprisonment were more than 45 days, the one involved would be able to have a jury trial; otherwise, he would not. In other words, the judge could fine him $300 or less, without a jury trial, or could sentence him to 45 day in prison or less, without a jury trial. I wonder what authority there was for such action. That bill was one of the bills against which I think a great many Members voted in 1957, because under article III, section 2 of the Constitution, the provision is as follows:

> The trial of all crimes—

Not "some crimes," not "minor crimes," not "within the discretion of the judge," but:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

The Constitution does not say "may be by jury." It says "shall be by jury."

And to reaffirm that, the Bill of Rights was written. The Bill of Rights was designed to protect individual rights, the very kind of rights, as the distinguished Senator stated a few minutes ago, that the so-called liberals in this body should be trying to protect, if they are true liberals, although of course I am convinced that today the so-called liberals favor more regimentation and more control of the rights of the people, whereas those who favor the Constitution are also really trying to protect the rights of the people, whereas years ago a liberal stood in the position which today is occupied by those of us who favor the Constitution, insofar as the protection of individual rights was concerned.

At any rate, the sixth amendment to the Constitution follows in practically the same wording. It provides that—

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed—

I wonder if the Senator knows of any basis upon which the Supreme Court or any other body or individual would have a right to rewrite the Constitution and state that at a certain point an accused person may have a jury trial but beyond that point he may not.

Mr. SMATHERS. I do not know of any legal basis. In many instances the Supreme Court has tried to rewrite the Constitution, unfortunately.

Mr. THURMOND. Is not article 3, section 2, of the Constitution, and is not the sixth amendment to the Constitution as clear as crystal? The Constitution states, "In all criminal prosecutions." Certainly, if a man is to be punished, if he can be put into jail for violating an order of the court, "criminal contempt" means contempt accompanied by a crime. The Constitution is clear in the language which states "in all criminal prosecutions." It makes no exceptions whatsoever.

Mr. SMATHERS. I agree with the Senator from South Carolina.

Mr. THURMOND. The idea of a split level jury trial, the kind of provision which was passed in 1957, does not accord with the Constitution. It was against that bill that I spoke for 24 hours and 18 minutes, and I was not speaking against Negroes. I was not speaking against any individual or his rights. I wish to see the rights of everyone protected. But the so-called civil rights bill which we are considering is the kind of bill which anyone ought to oppose, whether he is a white person or a Negro, whether he favors integration or segregation, if he believes in the Constitution of the United States.

Mr. SMATHERS. I totally agree with the Senator. There is a threat to the rights of all citizens, without respect to their race, color, or creed. We are all threatened by the practice of allowing the courts to punish a man for contempt without a trial by jury. The day will come when citizens of every creed, every race, and every color will regret passage of the bill as much as those of us who are trying to defend those rights today will regret it if we do not stop passage.

Mr. THURMOND. I ask the distinguished Senator this question. Which race today commits the most crime, according to statistics compiled by the FBI and by other Government bureaus—the white race or the Negro race?

Mr. SMATHERS. I believe that statistically the percentage is higher among the Negro race.

Mr. THURMOND. So if people are to be punished without a trial by jury, which race would be most affected?

Mr. SMATHERS. I agree that there is more potential danger, in the particular provision about which we are speaking, to the people who customarily call themselves members of minority groups, be they colored, religious, or whatever they are. There is much more threat and danger in the bill to them than there is to the majority of the people. Yet the bill is supposed to be a bill designed to protect the rights of the minority. On the other hand, I am satisfied—and I know that the Senator from South Carolina is also—that rather than protecting the rights of the minority, the bill threatens the rights of the minority. The members of minority groups have not yet seen it in operation. But if it is placed in operation, on that sad day they will rue the fact that they ever supported this bill.

Mr. THURMOND. I ask the distinguished Senator if title I of the bill would not deny the right of trial by jury and provide the same punishment for contempt as was provided in the 1957 Civil Rights Act?

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. I ask the Senator from Florida if title II of the bill, the so-called public accommodations provision, does not provide the same punishment as was provided in the 1957 Civil Rights Act, which states that a defendant has a right to a trial by jury under certain conditions?

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. I ask the distinguished Senator from Florida if title III of the bill, which pertains to public facilities, would not leave to the discretion of the court the punishment of a man without a trial by jury, if the court should see fit to punish him.

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. I ask the distinguished Senator from Florida if title IV of the bill, the title which pertains to education, would not leave to the discretion of the court the question of punishing a man without trial by jury.

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. I ask the distinguished Senator from Florida if title VII, the so-called fair employment practices section, would not leave to the discretion of the court the question of the punishment of a man without a trial by jury.

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. So in the bill there is title I, which would deny to a man the right of trial by jury. The bill contains title II, which would deny to a man the right of trial by jury. The bill contains title III, which would deny to a man the right of trial by jury. The bill contains title IV, which would deny to a man the right of trial by jury. The bill contains title VII, which would deny to a man the right of trial by jury.

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. The first two titles of the bill refer back to the punishment provided under the 1957 Civil Rights Act. If those two titles and the other three titles are retained, under which a man accused could be punished without the right of a trial by jury, would that not set a precedent in the future if the Congress should see fit to go further in regard to the amount of the fine or the number of days set as other criteria?

Mr. SMATHERS. The Senator is correct. If we should give further sanction to what is obviously a bad principle, it could be extended to the point at which it would continue ever more to infringe upon the legal and constitutional rights of our citizens.

Mr. THURMOND. If a man can be denied the right of trial by jury, where imprisonment is limited to 45 days, 90 days, or 6 months, why could he not be denied that right if the punishment were a year's imprisonment?

Mr. SMATHERS. There is no question about that. In fact, I quoted a statement of Justice Goldberg that since 1957 there had been six contempt cases in which a man had been punished and sent to jail for more than a year. This may not seem to be a disturbingly large number of cases. However, Mr. President, Justice Goldberg went on to say that in all the past history of our Republic, until 1957, his research uncovered only two other cases in which the defendant in criminal contempt proceedings was sentenced to prison for a term exceeding 1 year.

Mr. THURMOND. If a man can be denied a right to a trial by jury if the maximum punishment should be a year, why could he not be denied that right if the punishment were for 3 years, 5 years, or 10 years? In other words, would not the proposed legislation establish a precedent under which, if the Congress should see fit to inject itself further into this field, it might go far out and provide such heavy punishment that the provision would practically cover any punishment a judge would ordinarily give in any case?

Mr. SMATHERS. It would obviously and effectively destroy the protections of trial by jury, supposedly given to all citizens in the Constitution.

Mr. THURMOND. Such action would directly, flagrantly, willfully and intentionally violate the Constitution of the United States, which provides that if a man is charged with a crime, he shall be entitled to a trial by jury.

Mr. SMATHERS. The Senator is correct.

Mr. THURMOND. I thank the able Senator and commend him for the fine argument he is making.

Mr. SMATHERS. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield before he leaves that point?

Mr. SMATHERS. I yield.

Mr. JAVITS. There is a point that I do not believe has been covered. It is very important, as it arises in these statements with respect to the commission of a crime and no jury trial is provided.

Section 3691 of title 18 of the United States Code provides that when the act which is alleged to be a contempt is at one and the same time a criminal offense under any act of Congress or under the laws of any State, the accused shall be entitled to a trial by jury, whether the bill is passed or not. In other words, if incident to a contempt citation under an order issued under any title of the bill, we are dealing with any violation of any Federal or even a State law—let us say assault and battery—or if we are dealing even with a conspiracy to deprive a person of a civil right, which within the concept of the Screws case would come under sections 241 and 242 of title 18, United States Code—a person charged could ask for and receive a jury trial. I point that out because there have been general denunciations of the fact that a person, under the guise of being punished for contempt, would be punished for a crime without a jury trial. But there is now a law on the statute books which covers that situation.

Mr. SMATHERS. I thank the Senator.

Mr. President, I have been attempting to make my speech on the proposed jury trial amendment since approximately a quarter to 12. It is now 20 minutes after 3 o'clock. I again have one of those short speeches which I never seem to be able to conclude.

As the chair will recall, I had an 80-page speech which I tried to make with respect to the bill. I was never permitted to get beyond the 52d page, because Senators developed points in which they were interested, and in which I was interested. I believe the debate has been very useful in increasing knowledge with respect to the bill, but I still have not finished that speech.

However, the other night I was halted temporarily on the point of order that I had made three speeches and would not be permitted at the moment to make the fourth on the same subject.

I have yielded to the rules of the Senate with respect to the speeches on the main portion of the bill, but I would like to have it understood that I have not really finished this speech on trial by jury. I am not even halfway through it. But I have been asked many questions, and because of my effort to respond to those questions, I still have much to say which I think might be of great value and great benefit to the Senate.

I should like to make a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. SMATHERS. If I yield the floor on this particular amendment, how many more speeches have I remaining on this amendment?

The ACTING PRESIDENT pro tempore. On the pending amendment, when the Senator concludes his speech, it will be counted as one speech.

Mr. SMATHERS. I will then be entitled to another speech to make on this amendment?

The ACTING PRESIDENT pro tempore. The Senator will be entitled to a second speech in the same legislative day.

Mr. HILL. Mr. President, I heartily congratulate the distinguished Senator from Florida on his exceptionally able speech. It is an excellent speech.

Mr. SMATHERS. I thank the Senator for his generosity. I do not believe I could say that about my own speech. But I appreciate having the Senator say so.

Mr. President, in concluding my remarks today, I express my very sincere hope that at the proper time the Senate will vote in favor of this amendment. I believe that we have already progressed too far down the wrong road with respect to permitting the judiciary to try individual citizens without benefit of a jury. I believe that if we follow this principle, we shall find that the punishment will be increased from 45 days, to 6 months, and then to a year; we shall find that the amount of the fine imposed will be increased.

We shall find that those who cherish their individual rights under the Constitution will see their rights eroded away unless this trial by jury amendment is adopted.

It is significant to me that if we look at the record throughout our history and throughout the history of Great Britain, from which we derived most of our law, those who believed most strongly in preserving the rights of individual citizens were uniform in their belief that trial by jury was a sacred privilege which should not be denied any person.

The U.S. Constitution declares, not once, but three times, the importance of trial by jury.

When we begin to let this privilege float away from us under the plea of convenience of the judiciary, when we begin to let loose its grasp because of the so-called rights, privileges, and pride of the court, I think it is a sad day in jurisprudence insofar as this Nation is concerned. It is a sad day for all those who wish to preserve their individual liberty.

Mr. HILL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. HILL. In other words, the Senator is saying that a fundamental American right guaranteed by the Constitution cannot be bartered or traded away, or denied on the basis of whether the punishment should be 45 days, 46 days, or some other length of time. Is that correct?

Mr. SMATHERS. The Senator is absolutely correct. It is not a matter that can be compromised. It is not a matter that can be traded. It is not a matter of convenience. That is what we are making of it. What is convenient for the court, what is accommodating for the court, or what helps the court is not what we are concerned about. What the founders of our Government were concerned about was not the pride of an individual judge, but the right, the liberty, and the protection of the individual citizen. That is why the provision was written into the Constitution, not once, but three times. And that is why all the writings since then have been so emphatic to the effect that in order to protect individual rights, we must preserve the right of trial by jury.

It is my sincere hope that the Senate, when given the opportunity to vote for the Talmadge-Ervin amendment, will wholeheartedly endorse and adopt it.

## THE CUBAN PROBLEM

During the delivery of Mr. SMATHERS' speech,

Mr. HILL. Mr. President, in the Orlando Sentinel, published in Orlando, Fla., last Wednesday, April 15, there was published an article entitled "SMATHERS Was Right, Expert Says." The article is written by Mr. Don Rider, a member of the Sentinel staff. The article states:

> Florida's Senator GEORGE SMATHERS' advice on Cuba would have kept the United States out of the most serious foreign problem facing us today, Latin affairs expert Robart C. Hill said in Orlando yesterday.
>
> "It is one of the tragedies of our time that they ignored him in Washington," the guest speaker for Rollins College Pan American Day luncheon, stated.
>
> "If they had followed SMATHERS' advice on Cuba before he came to power there would be no Castro today. And I say that as a member of the other party. He was right."

I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SMATHERS WAS RIGHT, EXPERT SAYS

(By Don Rider)

Florida's Senator GEORGE SMATHERS' advice on Cuba would have kept the United States out of the most serious foreign problem facing us today, Latin affairs expert Robart C. Hill said in Orlando yesterday.

"It is one of the tragedies of our time that they ignored him in Washington," the guest speaker for Rollins College Pan American Day luncheon, stated.

"If they had followed SMATHERS' advice on Cuba before he came to power there would be no Castro today. And I say that as a member of the other party. He was right."

But Hill, Ambassador to Mexico during Eisenhower's administration, disagreed completely with another Democrat, "my old friend, Senator (J. W.) FULBRIGHT, the chairman of the Foreign Relations Committee."

Hitting at FULBRIGHT's Senate speech on March 25, Hill asserted, "Cuba is not a nuisance. It is the most serious foreign problem facing us today.

"We will never have stability in Latin America as long as Fidel Castro and his boys are at work."

About 500 attended the luncheon held at the Orlando Country Club. Rollins President Hugh F. McKean conferred on the speaker the George Morgan Ward medal for achievements in Latin American affairs.

## THE ATLANTIC ALLIANCE AND U.S. SECURITY

Mr. JAVITS. Mr. President, yesterday morning the Republican Citizen Committee's Critical Issues Council, headed by Dr. Milton Eisenhower, issued the third in a series of papers on national issues of great importance entitled "The Atlantic Alliance and U.S. Security." Its first two papers, "Panama: A Realistic Appraisal" and "A Free and Prosperous Agriculture," issued during the past 3 weeks, already represent significant contributions to public debate.

The council's "critical issues paper" on the Atlantic alliance is of tremendous importance to bipartisan foreign policy on NATO. At a news conference on the report, Gen. Lauris Norstad, former supreme Allied commander in Europe, chairman of the Atlantic Institute and head of the special task force responsible for this report, made certain additional remarks which are an important supplement to the council's paper.

I ask unanimous consent that the report along with its covering release may be printed in the RECORD at the conclusion of my remarks together with an article from the April 22 issue of the New York Herald Tribune containing General Norstad's comments.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### NEWS RELEASE FROM REPUBLICAN CITIZENS

WASHINGTON, April 21.—In the third of a series of "critical issues papers" the Republican Citizens Committee's Critical Issues Council today warned that NATO's strength is being undermined, and emphasized the importance of this "cornerstone of Western defense" as the potential core of an emerging "Atlantic community." The council cautioned against the trend toward unification limited to Europe alone, and urged the United States to take the initiative in building a broader scale community of all the Atlantic nations.

The paper on "The Atlantic Alliance and United States Security" was released with the joint approval of the council which is chairmaned by Dr. Milton S. Eisenhower, and its special task force headed by Gen. Lauris Norstad, former supreme Allied commander in Europe.

Other members of the task force were: Gen. Alfred M. Gruenther, former Supreme Allied Commander in Europe; Gen. Cortlandt V. R. Schuyler, former Chief of Staff, Supreme Allied Command in Europe; Ambassador Theodore C. Achilles, former U.S. Vice Deputy, North Atlantic Council; W. Randolph Burgess, former Under Secretary of the Treasury and U.S. Permanent Representative to NATO; Dr. Arnold C. Wolfers, Washington Center for Foreign Policy Research; John N. Irwin, II, former Assistant Secretary of Defense; and Mary P. Lord, former delegate to the United Nations.

U.S. leadership was criticized as appearing "fitful and inconsistent; it resorts too much to gadgetry rather than the establishment of sound and enduring relationships, built on a basis of mutual respect among sovereign equals."

"Confidence, on both sides of the Atlantic, is being shaken. Dedication to the goals of allied strength and unity is giving way to a growing disunity and distrust. We must put aside expediency and crude interallied 'arm-twisting' and mobilize within the alliance all its latent resources of will and unity."

"The United States," the paper continues, "did not join the alliance just to save Europe; we returned to Europe, and remain there today, because its defense is essential to our own security. On both sides of the Atlantic, it must be understood that a Communist conquest of even the smallest part of Europe would be a catastrophe for all."

The council argues strongly for the need to maintain adequate conventional forces at NATO's disposal, "if every kind of provocation, especially nuclear blackmail, is to be met with effective countermeasures." The council emphasized that the mere hint of United States troop withdrawals would "add fuel to the doubts that are undercutting NATO's solidarity and deepen the 'crisis of confidence' through which the alliance is now passing."

The council contends, however, that "the United States has failed to convince its allies that the military efforts demanded of them would add substantially to their security."

"We must continue to press our allies, whose economic resources are rapidly rising, to accept a larger share of the common burden of defense. Unless and until these NATO force levels are filled by our allies, the burden falls upon the United States as the inescapable requirement of our own security."

The council also called for a better arrangement to govern NATO's nuclear resources (now under U.S. control), explaining that "even so honorable a Nation as the United States cannot expect to be taken wholly on trust by other honorable nations in matters involving their very existence."

The NATO multilateral force (MLF) concept "has in recent years tended to be used more as a pressure tactic" and has served to heighten "the essential disharmony concerning nuclear control."

While acknowledging that "the alliance is above all a pact of mutual assistance against a Soviet attack," the council points out that NATO is "the natural nucleus for an emerging pattern of Atlantic relationships and an evolving community of shared interests."

In urging that the United States take the lead in building an encompassing Atlantic community the paper questioned "whether the United States has a continuing interest in promoting further advances toward unification limited to European nations—particularly toward European military and political integration."

While emphasizing that this is a matter for Europeans to ultimately decide for themselves, the council declared: "It can no longer be taken for granted that what is good for the narrow circle of countries seeking a powerful political merger will necessarily serve the purposes of those other allies with whom they are alined in the crucial task of collective Atlantic defense."

"The emergence of a strong single Europe—a true superpower for which the resources are indeed available—could present Western unity with thorny problems unless tightly integrated in the Atlantic framework."

"These considerations do not suggest," according to the council statement, "that the United States should reverse its course and start opposing European unification. What they do suggest is that the United States cease to pressure its European allies toward any particular brand of unity and concentrate rather on exploring with them the fields, forms, and degrees of unity with us that would be mutually advantageous."

"The prime goal of future U.S. policy must be to capitalize on and to stimulate every shared interest that unites the free nations of the West and moves them forward toward one Atlantic community. A U.S. policy that made collaboration on an Atlantic scale its guiding standard should * * * be able to take the edge off any inward directed and exclusive 'Europeanism'."

In particular the council cites the following areas on which agreement is of basic importance: "(1) strategic policy, including control of nuclear weapons, (2) trade policy, including agricultural policy, and (3) financial policy, including the strengthening of the West's monetary system."

In pointing out that these objectives can be accomplished without elaborate new institutions, the paper concludes: "The immediate need * * * is * * * the will to use better what we already have. We need a new determination—shown by acts rather than words—to develop greater Atlantic strength and unity. The United States must now show this will and determination, stop the disintegration of NATO, resume the initiative shown by the Truman and Eisenhower administrations, and begin to lead again."

The members of the Critical Issues Council are: Dr. Milton S. Eisenhower, chairman; Elliott V. Bell; Adm. Arleigh A. Burke, U.S. Navy, retired, Arthur F. Burns, Albert L. Cole, James H. Douglas, Marion B. Folsom, Thomas S. Gates, T. Keith Glennan, Oveta Culp Hobby, Walter H. Judd, Mary P. Lord, Clare Boothe Luce, Deane W. Malott, James P. Mitchell, Gen. Lauris Norstad, U.S. Air Force, retired, Don Paarlberg, C. Wrede Petersmeyer, Samuel R. Pierce, Jr., Charles S. Rhyne, Raymond J. Saulnier, Lewis L. Strauss, Walter N. Thayer, Henry C. Wallich.

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## CRITICAL ISSUES PAPER NO. 3

(By the Critical Issues Council, Washington, D.C.)

After the bitter experience of two world wars, followed immediately by the challenge of the cold war, the United States was compelled to make an historic decision: that it could no longer afford to stand aside or go it alone if it was determined to preserve its freedom and independence.

Allowing Eurasia and the adjoining islands to fall under hostile control would, in the end, make America's own position untenable. Thus, aggression against friendly and allied nations has come to be recognized as an attack against the United States. To deter such an attack—if necessary, to defeat it—the power of the United States had to be thrown into the balance.

The task of protecting the free world thus became a United States responsibility, and a United States commitment. The commitment endures. It is an inescapable obligation of leadership. But we cannot discharge our responsibility alone. In the world today we need the closest coordination with our allies in all matters of common concern, if we are to win the future.

### I

### NATO: THE CORNERSTONE OF WESTERN DEFENSE

The North Atlantic alliance is an unparalleled achievement of cooperation for common defense. It had its immediate origins in the crises of 1948–49—the Berlin blockade and the Communist takeover of Czechoslovakia—and the urgent needs of free world security. In meeting these needs, in containing the aggressive thrust of the Soviet Union, the alliance has been a notable success. But the basic requirement continues. NATO's very success has greatly enhanced its potential to cope with broader fields.

The preamble to the North Atlantic Treaty reaffirms the faith of a community now encompassing 15 free nations:

"In the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

"They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty, and the rule of law.

"They seek to promote stability and well-being in the North Atlantic area.

"They are resolved to unite their efforts for collective defense and for the preservation of peace and security."

The alliance has provided both the sword and the shield in whose shelter the nations of Europe have been able to recover from wartime devastation, to preserve their freedom, and to enjoy levels of prosperity unprecedented in history.

For the United States, the alliance represents a genuine triumph of bipartisan foreign policy. Throughout a succession of national administrations, and with consistent congressional and popular support, this Nation has committed itself unreservedly to the interdependence of free-world security. Our willing and massive contributions of men and material have effectively underwritten this commitment.

#### *1. Essential to U.S. security*

The United States did not join the alliance just to save Europe from the imminent menace of communism. We returned to Europe, and we remain there today, because its defense is essential to our own—because the two are indivisible. A sense of interdependence and of community rapidly evolved into an alliance which today embodies the sum of its combined resources, whether military or economic or intellectual, and a potential for peaceful order and orderly growth matched nowhere else.

The alliance has succeeded: its immediate goals have been substantially accomplished. Under NATO, 15 free nations have been able to harmonize their sovereign interests into a common cause, build a powerful force-in-being, establish a supporting complex of bases and logistical networks, and take important steps toward development of a common strategy covering the use of nuclear and other weapons.

But this momentum is not now being maintained. Confidence, on both sides of the Atlantic, is being shaken. Dedication to the goals of allied strength and unity is giving way to a growing disunity and distrust. Seeds of disintegration are now undermining this bulwark of free-world security.

In so critical a situation, the primary burden falls upon the leader—to assess his own shortcomings, to reaffirm clear and consistent policy goals, and thus to take up his full responsibility. U.S. leadership appears fitful and inconsistent; it resorts too much to gadgetry rather than the establishment of sound and enduring relationships, built on a basis of mutual respect among sovereign equals.

Confidence within the alliance must now be restored—on both sides of the Atlantic. This requires that the United States must continue to bear major material burdens. We must put aside expediency and crude interallied "arm-twisting" and mobilize within the alliance all its latent resources of will and unity of purpose. If we are to guarantee our own security, there is no alternative. The costs, however great, are the price we must pay to preserve our future progress in freedom.

#### *2. The continuing Soviet threat*

The alliance is above all a pact of mutual assistance against a Soviet attack on the territory or armed forces of its member nations. Its foremost purpose is to deter, and if necessary to defeat, such an attack. And this must continue to be so, as long as the military threat from the East remains.

As a purely military pact NATO might not survive, should its members ever lose confidence in its ability to enhance their security against attack or come to believe that the threat from the East had ended. But the alliance extends beyond the military field: the treaty itself calls for cooperation in other fields, cooperation which is indispensable if only to assure the essential solidarity required for effective collective defense. NATO, the most vital of our transatlantic institutions, is thus the natural nucleus for an emerging pattern of Atlantic relationships and an evolving community of shared interests.

The military threat from the East is not ended. Thus, the leading question is: Does NATO as it stands adequately insure our security, the security of the United States as well as its Allies? If it does not, we—the United States and its Allies—must now make the necessary changes.

#### *3. The means of deterrence*

Deterrence of attack, against any part of the free world, is indivisible. As the threat is poised against all, so too must the burdens of an effective response be shared by all. Yet the particular situations differ greatly, in North America and in Europe, both as to specific vulnerabilities and the "mix" of forces that must be available to meet a varied range of aggressive acts. Without the projection of North American military might across the Atlantic, the exposed territory and eastern boundaries of the European allies would be in immediate jeopardy.

Even on grounds of sheer national self-interest, the heavy burdens placed on the United States in the defense of both North America and Europe are inescapable. If Communist power in the world is to be held in check—and for America to remain free—all free nations must be able to rely on the strength the United States is able and willing to commit to the commom security.

With world responsibilities of such vast scope, the United States must bear its share, perhaps what appears to be a disproportionate share, of the defense burden required if NATO is to reach its basic objective. The alternative would be to retreat to a Fortress America position. Such a position served U.S. interests, and served them well, only as long as other friendly nations were able to balance or defeat any hostile powers. Today, given the realities of international life, it would mean U.S. isolation and the alienation of like-minded peoples—until, when all others had succumbed, America would find itself facing a Communist-dominated world, superior in resources and in power.

#### *4. The need for supplementary deterrents*

But now, 15 years after NATO's establishment, its task of protecting the freedom and independence of the non-Communist nations of Europe—and of our friends and allies on other continents—has been rendered immensely more arduous. Two new factors have radically changed the context. First, the power of the leading Communist states has grown greatly since the early postwar period. More important still, the acquisition of long-range nuclear striking forces by the Soviet Union has raised questions as to the credibility and thus the deterrent effect of U.S. retaliatory threats to intervene with its strategic forces—the West's most formidable military instrument—against any but massive attacks on oversea members of the Alliance.

Strategic nuclear forces are essential. But, however impressive in themselves, alone they are not sufficient. There is urgent need of supplementary deterrents—specifically, of very sizable forces deployed in Europe and on the oceans adjoining the European Continent, forces with a conventional capacity but supported by short- and medium-range nuclear weapons. Such forces must be on the spot if every kind of provocation, especially nuclear blackmail, is to be met with effective countermeasures. This requires that the threat of their use and, if deterrence should fail, the effectiveness of their use must be credible both to friend and foe.

So demanding is the military task now facing NATO that it must be able to count on all its members for whatever efforts are needed to attain the goals of the alliance. The allies of the United States made substantial commitments at a time when they were struggling to emerge from the devastation of the war. Yet, given their extraordinary economic recovery in recent years and the degree of internal stability they have attained, there remains a painful lag in the exertions of some of them. This fact stands in sharp contradiction to the interests at stake. On both sides of the Atlantic, it must be understood that a Communist conquest of even the smallest part of Europe would be a catastrophe for all.

### *5. The burden must be shared*

This Nation must bear a share of responsibility for the failure of some European nations to meet the force requirements set by NATO. In part, the allies have been lulled into complacency by overreliance on the United States—on our support, our aid, and our deterrent. The words and actions of the United States which exaggerate some new era of "reconciliation" with the Soviet Union have helped foster a sense of "euphoria" and relaxation. The United States has failed to convince its allies that the military efforts demanded of them would add substantially to their security.

Europe sometimes voices a suspicion that any increase in European forces would merely signal the reduction of U.S. forces presently stationed there—forces the Europeans regard as the indispensable mainstay of their security. It is not so much that any specific number of U.S. divisions represents a "sacred" and inflexible commitment. But the overall need has been fixed after long interallied deliberation, and our basic commitment to the indivisible defense of Europe and the United States is indeed sacred. Unless and until these NATO force levels are filled by our allies, the burden falls upon the United States as the inescapable requirement of our own security.

An additional burden is that of a persistent imbalance in our international accounts, to which the costs of maintaining U.S. forces in Europe are a contributing factor. The defense of the dollar is in a very practical sense part of our grand strategy. A weak dollar would weaken the United States politically, and therefore militarily. The United States must seek out, therefore, all possible means to reduce the balance-of-payments cost of our forces abroad, without weakening our military or political posture. We must continue to press our allies, whose economic resources are rapidly rising, to accept a larger share of the burden of common defense. The greater the burden they will bear, the closer we will come to narrowing the payments gap—to the benefit, ultimately, of all the nations of the free world.

If it should be thought that the threat of U.S. troop withdrawals would act as a spur to needed European efforts, the likelihood is that, in the present psychological situation, it might lead to precisely the opposite result. It would tend either to arouse a sense of defeatism or else lend impetus to attempts—wasteful and militarily unpromising though they may be—to substitute independent strategic deterrents for the American nuclear umbrella. The mere hint of U.S. withdrawals, even if falsely interpreted as pointing toward future U.S. disengagement from the Continent, thus adds fuel to the doubts that are undercutting NATO's solidarity and deepens the crisis of confidence through which the alliance is now passing.

### *6. Control of NATO's nuclear capability*

In the perfect alliance—which never has and never will exist—this problem would solve itself. That nation which commands all but a minute fraction of the alliance's aggregate nuclear resources would manage them in the common interest. It would decide when and where and how nuclear power would be used—and whether it would be used at all.

But even so honorable a nation as the United States cannot expect to be taken wholly on trust by other honorable nations in matters involving their very existence. Then, too, for many in Europe—and not just the French—some participation in the control of nuclear weapons has become a symbol of sovereignty.

In this sense, the nuclear question is but the tip of a vast iceberg consisting of unresolved problems of the political control of the totality of NATO's strategic resources. The question is even more one of relationships—the precise terms governing a partnership of sovereign nations, equal in pride and independence if not in direct ownership of major resources. Indeed, this very sense of independence among all the members of the alliance is no mark of failure; it is the inevitable consequence of NATO's profound success.

The practical question remains, however: By what further means shall we implement the formal understanding reached at the NATO heads-of-government meeting in December 1957, to establish nuclear stockpiles in Europe and to equip allied forces with delivery systems—but with the warheads in the custody of the United States, the donor nation. The means of mutual defense, both European and North American, were thus to be shared. While much was done in the years immediately following 1957 to carry out this proposal, the alliance must now decide how and by whom political and military control shall be exercised.

The concept of a NATO nuclear force under NATO command was projected as one possible solution, with the precise working arrangements left to interallied negotiation. Since 1960, this has been presented in the form of a multilateral force, the MLF. This proposal, originally conceived as a working concept for further consultation, has in recent years tended to be used more as a pressure tactic. But the essential disharmony concerning nuclear control remains; and the concept of MLF has, in fact, heightened it, rather than serving as a first step toward an eventual solution around which all the allies might compromise their legitimate differences.

We must now translate the concept of collective defense into a workable solution—into practical terms of how and by whom authority and control are to be exercised, and extended to cover all forces and all weapons, conventional and nuclear. In the last 3 years, there has been no real progress toward this goal. In fact, we have clearly retrogressed.

We cannot believe that either the ingenuity or the will is lacking to perfect workable arrangements in a way that satisfies the interests of all, including Germany and the other nonnuclear members of the alliance. The goal is plain: to make of NATO's nuclear capability the pillar of allied unity it should be, rather than the source of disintegration it has been allowed to become.

### *7. Toward greater unity*

The disarray within NATO must be overcome. What is needed is the restoration of faith in the effectiveness of collective defense as the best road to national security. Such faith and mutual confidence are indispensable bases for solidarity in an age of nuclear weaponry with its unprecedented threat to national survival.

Solidarity can exist side by side with great differences in power. But it requires full respect for the sovereign interests of all. Our allies are demanding more than merely to be kept informed about decisions over which they have no control, more also than "consultation" in which their views carry weight only if they conform with U.S. preconceptions. What they want is real participation, a true share in the process by which decisions vital to all are reached. This is what they have every right to demand.

In turn, the United States can provide the effective leadership and forceful initiative that corresponds to its resources—and which its allies expect and applaud—only if it enjoys a high measure of freedom of action. Allied participation in planning, decisionmaking, and strategy must go hand in hand, therefore, with a clear recognition that the United States must be able to act, swiftly and decisively, in any emergency in which the strategic protection of the entire alliance is at stake. The ultimate decision on the use of nuclear weapons, to the effective, must be almost instantaneous. To be acceptable, it must be based upon close and meaningful consultation with our allies throughout the period leading toward that decision.

Confidence must be restored on both sides of the Atlantic. As in all matters of common concern within the alliance, the primary burden falls up the United States. As the leader, we must show wisdom in approaching all these critical problems—never falling back on the easy extremes of petulance or arrogance. We must show understanding to all the nations of the alliance—a patient recognition that no two have precisely the same background and history, the same interests or ambitions. We must show strength where and when strength is required—based always on conviction and principles, clear to friend and foe alike, and never on mere expediency.

The sum of these qualities of leadership will be a heightened sense of responsibility—to the Alliance, to ourselves, and to the cause of freedom.

## II

## THE UNITED STATES AND ITS INDIVIDUAL ALLIES

A Europe of multiple sovereignties has its apparent drawbacks, particularly when compared with some imagined federal European union patterned on the American model. But it must be accepted as a fact, and dealt with in a spirit of understanding and accommodation.

The United States must not play one European ally off against another—even though the temptation to do so may at times be great. Nothing could be more detrimental to the Alliance than an invidious competition among European nations for special favors from the United States or, worse still, for favored treatment by the Soviet Union. The U.S. strengthens its role of leadership if it convinces all of its allies that they can count on loyal U.S. support whenever their particular interests are consistent with the interests of the Alliance as a whole.

Attempts on the part of any member of the Alliance to gain special favors from the Soviet Union would necessarily lead to grave disunity. The United States can do much to prevent any such "race to Moscow" by setting an example of self-restraint in its own dealings with the Kremlin. While it would be unacceptable to the United States if its allies assumed the right to veto any bilateral Soviet-American negotiations or accords, bilateralism cannot be kept a monopoly of the superpowers. It will always tend to arouse a certain suspicion of special deals at the expense of others. In the interest of interallied confidence, the United States will be well advised, whenever the way is open for accords with the Kremlin that would be advantageous to the West, to make sure that its allies are given full and early insight into the negotiations.

### *1. The United States and Canada*

Our relationship with Canada is probably closer than with any other nation. United States trade with Canada is larger than with the entire Common Market. The two governments are linked by numerous high-level joint boards and committees. Yet, we must take into account Canadian fears of domination, whether political, economic, or cultural, by her larger neighbor. The more we heed her voice in formulating policies on matters of common concern, the better off we both will be. Beginning in 1958, there have been frequent working meetings among cabinet officers of the two countries, bound together less by formal agendas than by an earnest desire to deepen the habits of consultation.

### *2. The United States and Britain*

The special relationship with Britain assumes more importance in French eyes than it does to either Britain or the United States. It is not a matter of formal institutional arrangements, and two allies divided by common language do have their differences. Basically, the cordial relationship between the two countries derives from a deeply rooted similarity of values and approach which is shared by Canada and, to varying degrees, by our other allies. Differences arise when the two governments diverge in such matters as their estimate of the chances of accord with Moscow or in their attitude toward East-West trade.

In dealing with the United Kingdom, we must bear in mind its concern for close ties not only with the Common Market but also with other European countries, with the Commonwealth, and with ourselves. Far better than urging Britain to press for admission to the Common Market—and later, perhaps, to a European political union—would be to explore with her and with the other countries of Europe means of developing an economic association that would take more fully into account the interests of all free nations.

### *3. The United States and France*

In the case of France, it is obvious that the relationship has deteriorated to a point that gravely endangers the alliance itself. This is the more disconcerting because France has agreed with the United States that the Alliance is indispensable for French security, at least for the forseeable future, and has taken the opportunity on several occasions to prove her firm alinement with the United States in resisting Soviet pressures and provocations.

Little is gained by stressing the real or alleged incompatibilities of French and American "grand designs." Instead, it is necessary to examine the practical steps that can be taken to give France and other countries that sense of independence without which De Gaulle claims there can be no genuine partnership.

Nobody can appreciate better than he what it took in the way of national authority, and of determination at the helm, to pull France back from the abyss of anarchy and interminable colonial warfare—and to do so without resorting to Fascist abuses of dictatorial power. Moreover, engaged in restoring French national self-confidence as a prerequisite of domestic stability, he opposes supranationality—which is what integration means to him—and rejects anything implying American or Anglo-Saxon special privileges.

There is a limit beyond which the independence of any member becomes incompatible with common allied action. But Franco-American amity is too precious, in terms of overriding Western interests, to be allowed to become the victim of dogmatic preconceptions or unsubstantiated mutual accusations.

### *4. The United States and Germany*

Relations with Germany have been extraordinarily cordial since her defeat at the hands of the wartime Allies—so consistently cordial, in fact, and so valuable because of Germany's new-won power, wealth, and stability, that a mutually satisfactory German-American relationship should present no difficulty. Yet, such a view errs toward overoptimism even as the view of French hostility toward NATO and the United States errs in the opposite direction.

It is true that no group of influence in Germany today is cool or opposed to Western orientation. All parties are convinced of Germany's need for U.S. protection, preferably within the framework of NATO. The German military effort is becoming ever more substantial. Economically, Germany is doing enviably well.

Yet, when all is said, Germany remains a partitioned country, exposed to grave dangers in West Berlin, strung along the frontier of a Soviet empire both aggressive and superior in strength, and still suffering under the suspicion of neighbors both east and west of any German defense efforts that are reminiscent of her past nationalism and militarism.

Under these circumstances, what Germany needs least of all is to be courted by a United States in competition with France, nor made to bear responsibilities beyond what she feels to be her present capabilities. We must make it plain to the German people that their vital interests are America's vital interest, too, and will be firmly defended. Those interests are the freedom of West Berlin, free access to West Berlin, and the freedom of the people of the Eastern Zone, once they are rid of Communist oppression, to determine for themselves whether they wish to reunite with West Germany. In addition, the United States should help Germany to gain the confidence of her neighbors in the East, and become a magnet drawing them back into Europe instead of a source of apprehension that tightens the Soviet grip.

### *5. The United States and Italy*

Relations with Italy have, on the whole, been excellent since the war. As a democratic country with a succession of governments firmly opposed to communism at home and abroad, she has contributed to the strength of both NATO and the Common Market. Internal difficulties in finding a stable majority to govern the country and in mastering the problems posed by a very large Communist vote persist, however, and make it particularly important that she be assured of sympathetic U.S. understanding and of a respected place in the councils of the West.

Preoccupation with the major Allies should not deflect attention from the many smaller European countries, some allied, some neutral, that exert a far from negligible influence on the course of European political and economic development and on U.S. foreign trade. The United States should take full advantage of the fact that sheer self-interest ranges most of these lesser countries on the side of those who, like the United States, are opposed to exclusive economic or political arrangements.

Moreover, their spiritual alinement with the West is a valuable contribution to the cause of Atlantic unity. Most of these countries have been notably successful in preserving internal stability, free institutions, and a prosperous economy. In an age of ideological warfare, these are assets which make up for the lack of military strength. The United States has much to gain from the reputation, a deserved one, of being a protector of the weak and a champion of freedom and prosperity for all.

## III

## EUROPEAN UNIFICATION

The unification of Europe, let us not forget, is a matter for Europeans to decide among themselves. U.S. interest is natural; but U.S. pressure, toward any particular form of unity will just as naturally be resented and, thus, strain the bonds of the Alliance as a whole.

Throughout the postwar era, successive American governments supported by congressional and public opinion have vigorously promoted European unification, especially favoring efforts pointed toward a federal or supranational political structure. The United States can take a measure of credit for the achievements of the dynamic European movement that set up the European Communities of the Six, the Common Market (EEC) foremost among them.

The question today is not whether the Six are reaping the full benefits they anticipated from such integration. It is, rather, whether the United States has a continuing interest in promoting further advances toward unification limited to European nations, or to some of them, and particularly toward European military and political integration. If it does, a further question arises concerning the extent and the form such integration should take. It can no longer be taken for granted that what is good for the narrow circle of countries seeking a powerful political merger will necessarily serve the purposes of those other allies with whom they are alined in the crucial task of collective Atlantic defense.

The chief original motives behind U.S. enthusiasm for European unity have lost their urgency, and much of their justification. A new European psychological unity, plus advanced weapons technology, have made intra-European wars all but unthinkable. Effective economic unity does not appear, if the Common Market is a fair standard, to depend on prior political integration. And whatever fears we had of the resurgence of Germany's militarism have been allayed by her membership in NATO and her reconciliation with France, the hereditary enemy. We must now reappraise our view of European unity—particularly if achieved along Federal or supranational lines—in terms of America's own interests. And foremost among them is its overriding interest in Western strength and solidarity, within the framework of the Atlantic world.

In the economic sphere, where integration has gone beyond mere speculation and blueprints, we are forewarned of some of the problems that might result from a tightly integrated protectionist Europe. Such an attitude poses dangers to other European nations, as well as to North America and the entire free world. While the United States has been prepared, in theory, to suffer sacrifices on the altar of European unity—a theory hardly confirmed by the harsh facts of the "chicken war"—it agreed to pay the price only in the expectation that economic integration would lead in turn to political integration. No such integration is presently in sight. Even if it were, its own compatibility with U.S. interests, and those of the alliance as a whole, can no longer be taken for granted.

The problem of European military integration also demands searching reappraisal. No one would question that more unification in such fields as standardization of weapons and forces, of logistical support, and the pooling of resources is desirable from the viewpoint of NATO. But U.S. support of a nuclear deterrent, other than NATO's, would be hard to square with our objections to nuclear proliferation, and with our continuing search for arrangements by which all members of the alliance may share in the control of all weapons, both conventional and nuclear.

Despite continued and acknowledged U.S. influence, differences such as those now plaguing United States-French relations might well be reproduced on a still larger scale if a genuine integration of Western Europe along supranational lines were to take place. Such a political structure would have to be based on a surge of European nationalism and on strong leadership at the center. The emergence of a strong single Europe—a true superpower for which the resources are indeed available—could present Western unity with thorny problems unless integrated into the Atlantic framework.

*1. A new standard: Atlantic unity*

Greater unity in Europe is desirable, insofar as it strengthens the Atlantic Community; developments in Europe that weaken Atlantic unity are undesirable. This must be our guiding standard. For example, military unity of the whole or of a part of Europe, independent of NATO, would be clearly undesirable. Political unity, of even a part of Europe, must be carefully planned within a wider framework in order that it strengthen Atlantic unity. Even in the economic field, where regional arrangements can and do prove valuable, economic progress for all should be sought on the widest practical basis.

These considerations do not suggest that the United States should reverse its course and start opposing European unification. This is, in any event, a matter for Europeans to develop in their own way. What they do suggest is that the United States cease to pressure its European allies toward any particular brand of unity and concentrate rather on exploring with them the fields, forms, and degrees of unity with us that would be mutually advantageous.

A U.S. policy that made collaboration on an Atlantic scale its guiding standard should, by that token, be able to take the edge off any inward-directed and exclusive Europeanism. Such a policy would support the deep-seated and welcomed European desire for greater unity in a direction that would strengthen the transatlantic bonds on which the United States and Europe depend for their mutual security and their economic progress. It would assure Europe and the United States alike of success in the competition with their common Communist adversaries, and thus fulfill the rich promise of the alliance, in fields beyond the military and on a base that exploits the broadest possible community of interest.

IV

ATLANTIC UNITY

Today's challenges demand the greatest possible unity of freemen everywhere to meet problems with which no nation, alone, can now deal adequately. But we state it as a major premise that first priority must be put upon maximum unity in the Atlantic world, with respect to political, economic, and military matters alike.

This family of nations—the United States, Canada, and Western Europe, bound together by strong ties of common heritage and history—forms the core of free world unity. The prime goal of future U.S. policy must be to capitalize on and to stimulate every shared interest that unites the free nations of the West and moves them forward toward one Atlantic community.

Since 1945 emphasis on unity for Europe has enabled Americans to sound progressive and alive to the call of the times, without suggesting that the United States itself accept any new ties with others. Behind the enthusiasm for unity confined to Europe there lay both concern and overconfidence—concern that the United States would be pushed around if closely linked with Europe, and overconfidence stemming from the belief that we were so rich and powerful as not to need others. Both sentiments are now out of touch with reality.

The membership, extent, form, pace, and method of any purely European unity is something for Europeans to decide. Attempts by the United States to impose its preferences can only lead to reaction against outside meddling. The chief question for Americans is: how much unity of others with us is in our interest? And we must also ask ourselves: what are to be the respective roles of Europe, united or not, and of the nations of North America within this broader Atlantic world?

The United States is not exclusively an Atlantic nation and cannot become one without neglecting its interests in the Western Hemisphere, in the area of the Pacific, and in other parts of the world. The same holds true, though to a lesser extent at least for Britain and France.

This means that special transatlantic ties should not be exclusive and inward directed. They should give the countries involved a firmer base from which to operate, both against adversaries who need to be held in check, and toward friends—such as Japan, the developing countries, or the American Republics—who need access to and support from the advanced countries of the Atlantic area.

*1. An "evolving" community*

Rather than looking toward the construction of elaborate new "supranational" institutions, the United States must be ready to build upon the foundations of practical, workable interdependence. There is already evolving a free-world community of shared interest which compels us, day-by-day, to deal with urgent problems. In addition to NATO itself, its institutions include the Organization for Economic Cooperation and Development (OECD), the General Agreement on Tariffs and Trade (GATT), the World Bank, and the International Monetary Fund, each with a different membership but with a common core of Atlantic nations.

The term "partnership"—which has been stressed since 1961 to indicate one of the chief characteristics of a workable Atlantic Community—is useful, if it is not made to suggest a partnership of equal powers, or one necessarily limited to two partners only. A partnership of two provides no adequate place for Canada or for those European nations—possibly including the United Kingdom—that may decide to stay out of some future United Europe. While it may be flattering to Europeans to hear American statesmen speak of an impending equal partnership, they know this must remain at best a remote goal.

What the Europeans want today—and have every right to want—is participation of their countries with an equal voice in the formulation of policies that are of vital concern to them, whether they bear on the Atlantic area or on other parts of the globe. This right is reciprocal: If our European partners are to be protected against surprise moves by the United States that could endanger their security, the United States must be consulted, in turn, before European action is taken that could adversely affect its interests.

*2. A broader partnership*

Harmonization of policy must extend beyond foreign policy to all matters of common concern. Three matters on which agreement is of basic importance are: (1) strategic policy, including the control of nuclear weapons; (2) trade policy, including agricultural policy as typified by the Kennedy round of tariff negotiations; and (3) financial policy, including the strengthening of the West's monetary system. These are all problems of great difficulty and complexity. Their solution depends on continuous and patient effort, strengthening the "habit of consultation," and the will to reach agreement in the common interest.

We must not shy away from experimenting with novel organizational devices if and where they can serve to symbolize and strengthen unity. The immediate need, however, is not for new or more elaborate institutions but rather the will to use better what we already have. We need a new determination—shown by acts rather than words—to develop greater Atlantic strength and unity. The United States must now show this will and determination, stop the disintegration of NATO, resume the initiative shown by the Truman and Eisenhower administrations, and begin again to lead.

President Eisenhower well stated the goal in his farewell message to the NATO Council:

"Together we must build a Community which will best safeguard the individual freedom and national values of our various peoples and at the same time provide effective means of dealing with problems with which none of us, alone, can now deal effectively."

A bold new initiative is necessary. Let us proclaim the goal of a true Atlantic Community adequately organized to meet the political, military and economic challenge of this era. Let us invite our allies to explore with us the best means of creating such a Community, beginning with a critical survey of existing institutions and the formulation of proposals for their reform and simplification, and such new institutions, as may be necessary. We have pushed too long for greater unity, for others. Now let us lead toward greater unity of others with us.

(NOTE.—Not every member of the Critical Issues Council, its task force, or Republican Citizen Committee necessarily subscribes in every detail to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.)

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[From the New York Herald Tribune, Apr. 22, 1964]

GOP PANEL'S WORD TO UNITED STATES

WASHINGTON.—A blue ribbon Republican panel called yesterday for bold U.S. leadership to reinvigorate the Atlantic alliance instead of its current policy which "appears fitful and inconsistent."

A harsh report on the U.S. role in the North Atlantic Treaty Organization came from the Critical Issues Council of the National Republican Citizens Committee.

At a news conference on the report, Gen. Lauris Norstad, former NATO commander, said the Atlantic allies were asking questions about the "consistency and obscurity" of U.S. policies.

ATTITUDE

General Norstad, who headed the task force that wrote the report, said the administration sometimes tried to meet problems by resorting to gadgetry, such as a plan for reorganization.

Asked how greater cooperation could be gained from France while President de Gaulle heads that country, he said there was the matter of attitude and sensitivity in the policy of the United States.

He said he disagreed with the French President on a number of issues, but that we can't blame all of our problems on De Gaulle. He added that General de Gaulle spoke for France and reflected European concern about American policies.

The GOP group, headed by Dr. Milton Eisenhower, brother of the former President, and including former NATO commander Gen. Alfred M. Gruenther (retired), said:

"The mere hint of U.S. withdrawals—even if falsely interpreted as pointing toward future U.S. disengagement from the (European) continent—adds fuel to the doubts that are undercutting NATO's solidarity and deepens the 'crisis of confidence' through which the alliance is now passing."

The council, issuing its third critical issues paper, works in cooperation with the Republican National Committee, but its views do not reflect official GOP policy.

In issuing a report on "The Atlantic Alliance and U.S. Security," the panel indicated that additional U.S. troops and naval units armed with short- and medium-range nuclear weapons are urgently needed in Europe.

The extra forces could be ready for conventional warfare or used to offset Soviet nuclear blackmail, the council said. It contended that long-range nuclear missiles are unsuitable for meeting small-scale Communist aggression.

While other NATO members should be urged to do their share, the group said, the United States "must bear a share of responsibility for the failure of some European nations to meet NATO force requirements."

The Republicans charged that the Democratic administration had failed in the last 3 years to convince allies to assume a greater share of the burden to insure the security of all NATO members.

They urged that the United States concentrate on strengthening the Atlantic alliance for mutual security and let European nations work out continental unity.

## PRESIDENT LYNDON B. JOHNSON—SPEECHWRITER

Mr. CHURCH. Mr. President, from time to time in recent weeks there has been speculation in the press about a supposed White House search for a master speechwriter. I suggest that the search need not go on. There is already a speechwriter in the White House—the President himself. The proof lies in the extemporaneous remarks delivered by the President at the White House reception for the American Society of Newspaper Editors. It seemed to me there shone in these remarks of the President the fire and clarity that marked the day-to-day utterances of our majority leader of old. The President who found it in his heart to say, in the rose garden: "These are the stakes: To make a world in which all of God's children can live, or to go into the dark" will find, I am certain, that his efforts to communicate with the American people, and with all people everywhere, will not be in vain.

Mr. President, with pride that it was in this Chamber, by the Members of this body, that the talent in the man who is now our President was most keenly appreciated, I ask that the extemporaneous remarks to which I have referred may be printed in full at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Text of President's Speech to Editors at White House Reception

Ladies and gentlemen, I appreciate your coming here today. The reason I wanted you in the rose garden is simply because if we had gone inside the White House Lady Bird would have insisted that I turn on all the lights.

I want you to know Lady Bird.

Mrs. Johnson. It is such a pleasure to welcome you here today, and I am so glad that Washington is turning its loveliest face to you. It is grand for us to have the opportunity to be with you. Thank you for coming.

The President. Now I would like for you to know my oldest daughter, Lynda Bird.

Miss Lynda Johnson. He said I was on the record, but after coming after my parents, who always make such good speeches, I want to plead the fifth amendment because I am afraid anything I would say would incriminate me.

But we certainly are glad to have you here—we don't think we could have a better setting—people who write the stories about some of us who try to live the things you say about us. As I said before, it is good to have you here.

The President. Luci, my teenager, will be coming along a little later. She is being interviewed by a magazine at the moment. I want you to know her, too.

We are going in shortly to the White House, so you can pick up your candles in a box over there.

We had a preacher back home who dropped his notes just as he was leaving his church one time, and his dog jumped at them and tore them up. When the preacher went in the pulpit, he apologized to his congregation and said, "I am very sorry, today I have no sermon. I will just have to speak as the Lord directs. But I will try to do better next Sunday."

#### DELIVERED SPEECH AS LORD DIRECTED

I don't have a speech today. I just intend to do as George Reedy directed at the press conference this morning—to speak as the Lord directs. I thought I might talk to you about this job which fate has thrust upon me.

I am the President of the United States, the only President you will have, God willing, until January of next year. One of the hardest tasks that a President faces is to keep the time scale of his decisions always in mind and to try to be the President of all the people. He is not simply responsible to an immediate electorate, either. He knows over the long stretch of time how great can be the repercussions of all that he does or that he fails to do, and over that span of time the President always has to think of America as a continuing community.

He has to try to see how his decisions will affect not only today's citizens, but their children and their children's children unto the third and fourth generation. He has to try to peer into the future, and he has to prepare for that future.

If the policies he advocates lack this dimension of depth and this dimension of staying power, he may gain this or that advantage in the short term, but he can set the country on a false course and profit today at the expense of all the world tomorrow. So it is this solemn and this most difficult responsibility, and it is always hard to interpret confidently the future patterns of the world.

There are always critics around imploring the President to stick to the facts and not to go crystal gazing. Some of them tell me to try to keep my feet on the ground, if not my head in the sand.

But this is the point: The facts include today, the overwhelming ability in irresistible forces of change have been unleashed by modern science and technology, and the very facts dissolve and regroup as we look into them. To make no predictions is to be sure to be wrong. Whatever else is or is not that certain in our dynamic world, there is one thing that is very sure: Tomorrow will be drastically different from today. Yet it is in all of these tomorrows that we and our children and our children's children are going to be forced to live. We have to try to see that pattern; we have to try to prepare for it.

#### MUST IGNITE FIRE IN BREAST OF LAND

The President of this country, more than any other single man in the world, must grapple with the course of events and the directions of history. What he must try to do, try to do always, is to build for tomorrow in the immediacy of today, for if we can, the President, and the Congress, and you leaders of the communities throughout the Nation, will have made their mark in history. Somehow, we must ignite a fire in the breast of this land, a flaming spirit of adventure that soars beyond the ordinary and the contented, and really demands greatness from our society, and demands achievement in our Government.

We intend to seek justice because that is what the Nation needs. We intend to create hope because that is what the Nation needs. We intend to build opportunity because that is what the Nation deserves. We intend to pursue peace relentlessly because that is what the world demands.

These are the simple aims of our purpose. These are the forward thrust of our objective. But to start on this adventure, we must begin and we ought to begin today. Justice is a universal beginning for a great society. Justice is undone and untended in too many in our land.

Our Nation will live in tormented ease until the civil rights bill now being considered is written into the book of law. The question is no longer, "Shall it be passed?" The question is "When, when, when will it be passed?" We cannot deny to a group of our own people, our own American citizens, the essential elements of human dignity which a majority of our citizens claim for ourselves. Civil rights are not a luxury to be accorded to many. They are an obligation under our Constitution that is owed to all, for the bill before the Senate is only the validation of our moral, national commitment.

I want to repeat here today again, again, and again for the record what I said at Gettysburg last year: One hundred years ago Lincoln freed the Negro of his chains, but he did not free his country of its bigotry, for until education is blind to color, until employment is unaware of race, emancipation will be a proclamation, but it will not be a fact.

#### TRYING TO PRESERVE HUMANITY RESOURCE

We are trying to preserve our national resource of humanity, also. Some call it, and choose to refer to it, as a war on poverty. Well, it is a war, and poverty is the enemy. But the real objective is the preservation of our most precious asset—over 9 million American families at the bottom of the heap. It is not a program of giveaway. It is not a program of doles. It is a program that is concerned with skills and opportunities, with giving the tools for the job of growth, in making taxpayers out of tax eaters. We are investing in opportunity and giving them the skills to seize it.

For the first time in America's history, poverty is on the run and it is no longer inevitable and its elimination is no longer impossible, because it is right, we are fighting this war because it is wise, we are committed to winning it, and our strategy is to reach deep to the core and to the cause of the poverty. Having confronted it, then destroy it. In every aspect of this program, the cooperation of National, State and local governments is the passkey to action and the channelway for success. The Nation shall be the beneficiary, because by raising the average productivity of 11 million poverty stricken wage earners by only $1,000 a year, we would add $15 billion to the Nation's annual output.

Forty-nine percent—a hideously high figure—49 percent, one out of every two young men that are Americans who are examined for the draft, are found lacking physically, mentally, and morally. It is a senseless act of shameless neglect to ignore this intrusion on our satisfaction as a Nation.

#### ELDERLY CITIZENS NOT TO BE BARRED

But even as we try to invest our youth with the commitment of new opportunity, we are equally determined that elderly citizens are not barred from dignity, are not vacant of hope. There must come from the Congress soon legislation for medical assistance for senior citizens. There is hardly a home in America today where a son, or a daughter, or a relative does not brood over the possible avalanche of medical expenses for their mothers and their fathers, or their uncles or their cousins, or their aunts. The dread of an impossible expense burden burns deep in the consciousness of practically every American home.

Is it a wild unreasonable proposal to ask that out of the average earnings of workers that are now more than $100 per week for over 70 million that they put $1 a month into social security, their employers do the same, making $2 a month? The Government contributes nothing. Is it asking too much for this bountiful country to prepare a law so that older folks can face illness when it inevitably comes and face it without the chill foreboding of an empty purse or an inadequate insurance policy? Under this plan, citizens know they did it for themselves without a Government handout. Because it is just, because it is right, because it is part of the good society to construct prudent programs, with vision, based on common sense and common decency, this bill is high on the agenda of our American purpose.

To build good Government, the first and most urgent need is good people. The pay bill soon to be debated in the Congress reaches into the very essence of urgency if this Government means to retain excellence and quality. On my desk tonight there are now dozens of resignations from some of the most brilliant and able men in the Government. They have run out their financial string. Each year they have gone into debt and each month now compounds their financial agony. They must quit to find higher incomes in private industry, and this Government suffers the harsh and irretrievable loss. To deny this pay bill is to invite mediocrity.

### CAREER OFFICIALS DESERVE PAY RAISE

We cannot do the great things that this great Nation must do to develop a great society unless we, as a Nation, have the men to do them. Congressmen, Members of the House and the Senate, deserve twice what they get. Career officers, appointed officials, all deserve more money for jobs which too often demand long hours and ceaseless work. Don't make them steal or quit or go along borrowing when they are doing the job for you.

There is also in the Congress the legislation to adjust our immigration laws. The quota system is outworn. We want skilled people who can do jobs that need to be done, and we do want families reunited.

These are but a portion of our catalog of aspirations, for in the months and the years ahead, there will be new challenges and greater difficulties. Now we must attend to the duties that demand our attention. Right now, as you know, in the room across the hall, we are engaged in intensive collective bargaining sessions day and night in which we are trying to help railroad labor and railroad management solve their problems themselves in accordance with our free enterprise system.

A strike would cost us the loss of 7 million jobs in a very short time. A strike would cost us a downturn in our gross national product of 10 to 15 percent. A strike would cost us great dangers in health throughout the Nation. A strike would almost paralyze our entire system.

### BARGAINING TEMPO TRIBUTE TO SYSTEM

The tempo of that bargaining that is taking place has stepped up considerably, and I believe this is a tribute to the free enterprise system. Sometimes I feel the free enterprise system is something like the weather—everybody likes to talk about it, and write about it, and we don't do enough about it. We have here in this case an opportunity and a responsibility to do something about it. That opportunity and that responsibility can be discharged, if we cooperate in helping the people on both sides, and not attempting to handcuff them by taking an extreme position which will provoke reactions that would break down the collective bargaining processes.

No group in all this Nation has a greater investment and responsibility than you, the leading editors of this Nation. The wounds of this Nation must be healed. The breaches in this Nation must be closed. And from this unity of this Nation must come the wisdom and the courage to reach beyond the commonplace.

The world is no longer the world that your fathers and mine once knew. Once it was dominated by the balance of power. Today, it is diffused and emergent. But though most of the world struggles fitfully to assert its own initiative, the people of the world look to this land for inspiration. Two-thirds of the teeming masses of humanity, most of them in their tender years under 40, are decreeing that they are not going to take it without food to sustain their body and a roof over their head.

And from our science and our technology, from our compassion and from our tolerance, from our unity and from our heritage, we stand uniquely on the threshold of a high adventure of leadership by example and by precept. "Not by might, nor by power, but by my spirit," saith the Lord. From our Jewish and Christian heritage, we draw the image of the God of all mankind, who will judge his children not by their prayers and by their pretentions, but by their mercy to the poor and their understanding of the weak.

### CANNOT CANCEL THAT STRAIN

We cannot cancel that strain and then claim to speak as a Christian society. To visit the widow and the fatherless in their affliction is still pure religion and undefiled. I tremble for this Nation. I tremble for our people if at the time of our greatest prosperity we turn our back on the moral obligations of our deepest faith. If the face we turn to this aspiring, laboring world is a face of indifference and contempt, it will rightly rise up and strike us down.

Believe me, God is not mocked. We reap as we sow. Our God is still a jealous God, jealous of his rightousness, jealous of his mercy, jealous for the last of the little ones who went unfed while the rich sat down to eat and rose up to play. And unless my administration profits the present and provides the foundation for a better life for all humanity, not just now but for generations to come, I shall have failed.

If there is judgment in history, it rests on us, according to our generosity or our disdain. These are the stakes, to make a world in which all of God's children can live or to go into the dark. For today under the shadows of atomic power it is not rhetoric but it is truth to say that we must either love each other or we must die.

Mr. SMATHERS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 163 Leg.]

Aiken
Allott
Bartlett
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Case
Church
Cooper
Dirksen
Dodd
Dominick
Ellender
Fong
Gruening
Hart
Hickenlooper
Hill
Holland
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Symington
Walters
Williams, N.J.
Williams, Del.
Young, Ohio

The PRESIDING OFFICER (Mr. Inouye in the chair). A quorum is present.

Mr. WILLIAMS of New Jersey obtained the floor.

Mr. McCARTHY. Mr. President, will the Senator yield to me for an insertion in the Record?

Mr. WILLIAMS of New Jersey. I yield to the Senator from Minnesota with the understanding that I do not yield my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## MRS. L.B.J.

Mr. McCARTHY. Mr. President, I ask unanimous consent to insert in the Record the review of Ruth Montgomery's new book, "Mrs. L.B.J." This is a fine biography of Mrs. Johnson and it is, in fact, the first full length book which has been written about the First Lady. The review was written by Oveta Culp Hobby, former Secretary of Health, Education, and Welfare. In her book Ruth Montgomery captures the grace and charm of Mrs. Johnson and presents her as a warm, thoughtful, and talented wife, mother, and now First Lady of the United States. I commend this book to the Members of the Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Chatelaine of the White House

(A review by Oveta Culp Hobby)

"MRS. L.B.J."—BIOGRAPHY BY RUTH MONTGOMERY

Because of the suddenness of her entry into the White House, Mrs. Lyndon Baines Johnson has been the subject of an incredible number of newspaper and magazine articles within a short 4 months—so numerous, in fact, that at first it would seem superfluous to publish a book about her at this time.

But as this book proves, it is all the more necessary, because it is needed to offer an orderly sequence of the events of her life, and to provide a context into which the many interviews and anecdotes can be set.

Lady Bird Johnson is an unusual woman in any time, in any country. Few could have done so well and so warmly in the complex role she has been called upon to fill from the day of her marriage. Old Texas friends and close Washington friends know that and have deep respect and admiration for the woman they call Bird.

As a distinguished Washington correspondent who has known and frequently covered Mrs. Johnson during the last 20 years, Ruth Montgomery was splendidly qualified to write this first book—the first in this new era of White House history.

Because of their long and pleasant association, the author knows, for instance, how deliberately Mrs. Johnson has always held herself to a lifelong regimen of growth. And she is aware of how many old Washington friendships and associations are a part of the new White House existence. Mrs. Montgomery and Mrs. Johnson have shared the

Washington scene, which gives the author insight into her subject.

More remarkable is the author's grasp of Texas. She has seen and understood that though the President and his wife were born and reared in the same State, they came from backgrounds as diverse as though one had been born in Wyoming and the other Mississippi. She has caught the phrasing and the inflection of Mrs. Johnson, and her prose changes style and pace when she shifts from Mrs. Johnson as her subject to the President.

A slim volume, the book reflects many past interviews and experiences with the Johnson family as well as recent research among their family and friends. It includes stories and anecdotes not already familiar to the public, and it gives the familiar events in accurate and official version.

No one can write about Mrs. Johnson without giving way to a few adjectives—warm, thoughtful, gracious, efficient, serene. But as much as possible, the author uses facts and anecdotes to create her portrait.

The author indirectly suggests the link between the ante bellum plantation wife who managed an entire community of people and affairs as a routine part of her housekeeping, and the modern Mrs. Johnson who could expand and manage a ranch in Johnson City, a television network in Austin, a Senator or Vice President's house in Washington—and still be a gentle, soft-voiced, gracious woman to her husband, children, and friends.

More forthrightly, she says that Mrs. Johnson is "perhaps the most experienced chatelaine ever to become First Lady."

The book has all the swift readability of good journalism. Beginning slowly, almost gently, in a nostalgic account of Mrs. Johnson's childhood on the old country place outside Karnack, it picks up speed with the entrance of the tall, lean, compelling Lyndon Johnson; by midbook the reader is riding the self-propelled skyrocket that swept President and Mrs. Johnson to the Nation's highest post.

"Mrs. L.B.J." is a work of candid admiration. Those who know Mrs. Johnson personally, whether closely or casually, will find it valid and colorful.

**Mr. HUMPHREY.** Mr. President, will the Senator yield to me, with the understanding that he does not lose his right to the floor?

**Mr. WILLIAMS** of New Jersey. I yield with that understanding.

## THE JOHNSON MAGIC SCORES AGAIN

**Mr. HUMPHREY.** Mr. President, last week I noted how only one man could have secured a postponement of the threatened rail strike. That man was the President of the United States, Lyndon B. Johnson. And he delivered.

Similarly, there was only one man who could have achieved a settlement of the dispute itself, the President of the United States. And he delivered.

Surely this rail settlement must stand as one of the most remarkable achievements in the field of labor-management relations in this generation. The entire Nation owes a great "thank you" to the President who assumed the leadership in reaching this solution and to the railroads and brotherhoods who bargained and negotiated in good faith until a solution was achieved. This is surely an outstanding testament to the basic soundness of our free enterprise system and to the viability of free collective bargaining. Congratulations are due to all participants.

Mr. President, I ask unanimous consent that an editorial from the New York Times of April 23, 1964, commenting on the successful rail settlement be printed at this point in the RECORD. I also ask unanimous consent that other editorials commenting on the President's activities in foreign aid, the balance of payments, the President's recent press conference, and civil disobedience be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 23, 1964]

### SUCCESS ON THE RAILROADS

Thanks to President Johnson and his special mediators, the most frustrating industrial dispute in the Nation's history has ended on a note of success for labor, management, and the country. The railroad agreement announced at the White House last night did more than avert a costly strike; it kept alive public confidence in the capacity of employers and unions in this key industry to resolve their mutual problems through collective bargaining.

True, an accord made under intense Presidential pressure after 5 years of governmental involvement is something less than a total triumph for free decision-making. Yet it is precisely because the past record was so barren of any sign of capacity for forward movement through voluntary agreement that the pact looms as an enormous achievement for the President and the men whose ingenuity and persistence brought about a contract both sides were prepared to sign.

They hammered into the consciousness of carriers and unions alike a recognition that this was the Rubicon for collective bargaining in an industry whose troubles had already forced Congress to pass the first compulsory arbitration law in the Nation's peacetime history—the law to resolve the conflict over railroad "featherbedding."

The specific terms of last night's peace have not yet been officially announced. Plainly, the unions got a more advantageous deal than they would have if they had accepted the original recommendations of a Presidential panel 2 years ago. In that sense, they are the gainers from their unbroken record of negativism to all Federal settlement proposals. Yet both sides are bound to benefit, in the long haul, from the limited start made toward modernizing work rules and pay practices unchanged since the days of the Iron Horse.

They will benefit, too, from the acceptance of direct responsibility for establishing the standards that will prevail in their industry. For four decades both sides have become so accustomed to relying on the White House to make all the important decisions in their labor-management affairs that another failure would have brought insistent clamor for legislation to put them under permanent Government restriction. In a period of stress for democratic institutions, the proof the railroads and the unions have given of ability to compromise in the public interest represents a meaningful contribution to the defense of free decision-making. It is also a remarkable personal victory for the President in his first big strike test.

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[From the New York Times, Apr. 23, 1964]

### FIGHTING FOR FOREIGN AID

President Johnson has taken the offensive on his foreign aid program. In two separate speeches, he made the point that foreign aid is an "act of necessity" and went on to warn that he will continue to demand supplemental appropriations if Congress fails to provide the $3.4 billion he is requesting. The administration cut out all of the waste and pared all of the frills from the foreign aid package, the President insists, relieving Congress of the necessity of wielding its own economy ax.

Congressional opponents of foreign aid are unlikely to be impressed by these assurances. On the contrary, they will probably make a great show of finding something they can describe as unnecessary expenditure, and then proceed to cut into the bone. In an election year, those who can cut spending on foreign aid have the extra incentive of winning votes, an incentive that unfortunately does not apply to the program's defenders.

But Mr. Johnson says he will not bargain over the program. In taking a firm stand against further cuts, he is fighting for the very principle of foreign aid. For the issue is not whether one program or another deserves support—there will always be disputes over the relative merits of different projects—but whether the United States can afford the cost of foreign aid. On this score, the amount requested by the administration is truly the bare minimum.

When Mr. Johnson first announced his trimmed-down request for foreign aid, we argued that he could only get what he asked for by refusing to compromise. We welcome both the President's determination to rule out any haggling and his threat to keep coming back to Congress if it persists in carrying out false economies. This is the way to preserve the vital role that foreign aid can play.

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[From the Washington Post]

### A BETTER BALANCE-OF-PAYMENTS POSITION

(By Harold B. Dorsey)

NEW YORK, April 19.—There is an intricate, but definite, relationship between these recent developments: (1) the fact that the interest rate on 91-day Treasury bills in last Monday's auction fell below the 3.5 percent Federal Reserve bank rate for the first time since last November, (2) the preliminary evidence of a sharp improvement in the international balance of payments in the first quarter and (3) the efforts that are now being made by the European Common Market countries to formulate a coordinated program to curb inflation pressures.

The current status and the outlook for these matters have a bearing on the outlook for business activity and investment policies. To discuss them intelligently, it is necessary to review briefly, the events of the past 8 months, beginning with the introduction of the administration's interest equalization tax proposal last summer.

In a discussion of this and other germane national policies last August, it was concluded in this space that: "The logic of the situation, therefore, suggests that the course has been set leading to improvement in the balance-of-payments situation."

Last October, Treasury Secretary Douglas Dillon said: "The added incentives for use of capital in the United States (resulting from the tax reductions) will enhance the relative attractiveness of investment here for Americans and foreigners alike. The increased productivity associated with rising investment, together with greater incentives to develop and market new products and to apply more rapidly the fruits of our vast research capabilities, will reinforce the efforts we are making to increase our exports."

The writer emphasized at that time that the official statements of Government policy indicated that the encouragement of investment in the United States was one of the objectives. "It is significant that these policies do not rely on sharply rising Federal Government expenditures and/or persistent inflation as sources of economic growth."

In reporting from Amsterdam last November 25, it was noted that the prosperity in

Europe "contains serious elements of inflation that are now visibly threatening its continuation"—in contrast with relative price stability and a better control of costs in the United States. "I no longer have any doubt that the U.S. international payments deficit is well along the road to elimination—very possibly sooner than any anticipations that I have heard from Washington officials."

Against this background one can more easily understand why the European Common Market countries are now trying to design a coordinated program to curb inflation pressures. We can also find in it part of the explanation for the recent sharp improvement in the U.S. international balance-of-payments position. The recent softening of short-term interest rates in this country is, in part, one of the effects of this improvement.

It has been necessary that our national credit policies be influenced by the international balance-of-payments problem, in addition to the dictates of the domestic situation. The decline in the balance of payments reduces—at least temporarily—the possibility that credit might have to be tightened to cope with that specific problem.

Several valid arguments are being presented to discourage the acceptance of the first quarter improvement in our balance-of-payments figures at face value. It is premature to say that this problem has been solved. The first quarter statistics were helped by the abnormal shipments of grain to the Communist countries. There is also an abnormality in the low level of capital exports insofar as it is being caused by the proposed interest equalization tax.

Nevertheless, we should not overlook the fact that part of the improvement was the tangible result of well-designed policies. Our international trade balance probably has been helped by our relative price stability in contrast with continued inflation in Europe. The improved relative attraction of investment in the United States vis-a-vis Europe must be having a favorable influence on international capital flows. There has been a very distinct improvement in the confidence in the American dollar, which encourages cash balances to build up here instead of in Europe.

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[From the Washington Post]

### Johnson—At Stage Center

(By Douglas Kiker)

Washington.—It was a production that was kept on the straw-hat tryout circuit for a long time, but it opened to good notices when it finally was given its national premiere yesterday.

President Johnson, after meeting reporters in nearly every other conceivable place, held his first press conference yesterday in the State Department auditorium. Just as John F. Kennedy used to do.

"Ladies and gentlemen," he said, kicking it off, "I have come before you today for a regular scheduled, televised, notified-well-in-advance press conference. I did not drive myself over here. But I did have to cancel an informal meeting with some tourists at the [White House] gate."

It was the best attended Presidential press conference in history. There were 512 people there, many of them visiting firemen in Washington for the annual convention of the American Society of Newspaper Editors.

In fact, their presence in town was the big reason why Mr. Johnson chose to hold his first weekday meeting with the press yesterday.

Mr. Kennedy's largest audience came on August 30, 1961, when 437 correspondents showed up to hear his comments on the newly constructed Berlin wall.

Juts about everybody conceded that John F. Kennedy's auditorium stage technique was flawless, and there was speculation that Mr. Johnson was hesitant to appear in contrast.

#### A REAL PRO

The thoroughness of the preparation for his debut made Richard Burton, rehearsing Hamlet up in Toronto, look like an amateur.

Mr. Johnson held a series of unannounced press conferences in his office, in his press secretary's office, in the Cabinet Room, in the White House East Room, in the White House movie theater, and in the front yard of his Texas ranchhouse before he decided he was ready to play the Palace.

The result was a polished performance yesterday that drew favorable comment from nearly everyone who saw him.

Why, he looked right smart up there, blue suit, blue striped tie, wearing his spectacles to read his opening statement, but then slipping them into his pocket later during the session.

That opening statement was crammed with statistics that glittered like stars in the Texas sky, and it was short, to the point, and quickly read.

He fielded some pretty tough questions, answering those he liked, and passing off those he wanted no part of.

He appeared sure and confident, in command of his job and his audience.

He stacked up pretty well—that was the common opinion here.

No more the caretaker President. It's the Johnson administration now—that was the impression he left.

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[From the Washington Post, Apr. 18, 1964]

### Contempt for Law

Violence, lawlessness, and civil disobedience as forms of protest have been roundly and fittingly condemned by President Johnson, by the Democratic and Republican floor leaders of the civil rights cause in the Senate and by the most effective and trusted of the country's Negro leaders. Whether their warnings will be heeded by the restless mass of Negro citizens and by the reckless men striving to propel them into anarchy remains to be seen.

Civil disobedience—the kind of action called for by that irresponsible offshoot of the Congress of Racial Equality in Brooklyn, involving a wanton waste of the city's water supply and the projected disruption of traffic at the opening of the World's Fair—is a tactic which may have utility for majorities in rebellion against the oppressive rule of a minority. It can have no possible utility in a situation like that in America where a minority is striving for majority recognition of rights guaranteed by a Constitution.

It is one thing for people to breach laws which they believe to be unjust and unconstitutional for the purpose of testing their validity in court; but it is a quite different thing to violate reasonable and incontestably valid laws for the purpose of disrupting the normal and lawful life of a whole community. Attempts to inflict wanton and indiscriminate injury on a community cannot be tolerated by responsible governmental authorities. They must be resisted—by whatever degree of force may be required.

It is, nevertheless, incumbent on those who condemn such civil disobedience, to recognize its causation. It grows out of frustration and despair; it grows out of ignorance and a susceptibility to demagogy which are the consequences of segregation and other forms of racial discrimination and deprivation; and it grows out of a helpless fury at the interminable charade on Capitol Hill where another minority is pursuing an obstructionism of its own by its own peculiar brand of civil disobedience.

But none of this can in any degree condone or justify the folly of the Negro threats of violence and disorder. They constitute utter folly because through their invocation of counterforce they are inevitably doomed to defeat. And they constitute utter folly, too, because they reflect a contempt for law on the part of a minority which can enjoy its rights only under a rule of law.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. WILLIAMS of New Jersey. Mr. President, I note by the heading on the Bipartisan Civil Rights Newsletter that today is the 38th day of debate on H.R. 7152, and the 21st day of the filibuster. The debate which has aroused the interest of the citizens of this country, though, has gone on for many thousands of days. In general, I am strongly in favor of debate. When it is directed to the issues and the substance of the matter being examined, it constitutes an important part of the legislative process. However, when the discussion is rambling, dilatory, and designed more to mislead than to educate, then I believe that the time has come to replace fiction with truth and opinion with fact.

As is clear, I am sure, to my distinguished colleagues, there has been much enlightening and extended discourse on constitutional law and the legislative procedure in this Chamber. But, despite the erudite explanations of each title of the civil rights bill, the misconceptions and distortions concerning this legislation are not easily overcome.

Debate on the civil rights bill is not limited to Members of this body. The news media of the country have done an admirable job of bringing to public attention the issues involved in this struggle for human rights. The information thus provided has been eagerly greeted by those who realize that a basic fact of good citizenship is keeping abreast of the issues facing the country.

Nevertheless, rumors and fantastic allegations against the civil rights bill, and those who support it, have been widely disseminated. Shadowy organizations with unrevealed sources of income have financed misleading newspaper advertisements and publications attacking this bill. While we in this Chamber engage in reasoned—if prolonged—debate, others less reasonable are engaged in a guerrilla war against civil rights where propaganda is the chief weapon and the use of half-truths and distortions, the instruments of deceit.

As the article entitled "Rights for Sale" which appeared in the Sunday Washington Post, April 19, 1964, so clearly details, no one really knows how much money is being spent, and by what organizations, to defeat this legislation. Mr. President, I ask unanimous consent that this article be inserted into the Record at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### RIGHTS FOR SALE—MILLIONS GOING INTO LOBBYING

(By Robert E. Baker)

No one really knows how much money is being spent throughout the Nation to support and fight the civil rights bill now before the Senate. But it is safe to say that the total will run into the millions by the time the battle is over.

The biggest apparent single spender is the Coordinating Committee for Fundamental American Freedoms (CCFAF), the headquarters lobby for the attackers, which dealt out $192,000 in the first 3 months of this year.

"Oh, ours is a most modest operation," said John J. Synon, director of CCFAF. "Our spending is nothing compared to the other side."

But Marvin Caplan of the Leadership Conference on Civil Rights disagrees: "I wish we had the money they've got." And Joseph L. Rauh, Jr., vice chairman of Americans for Democratic Action, said the procivil rights forces haven't spent enough money to "put in your eyes," that most of the work is voluntary.

#### ADS AND PAMPHLETS

The CCFAF launched its anticivil rights campaign last July and since has spent more than $325,000, most of it in hundreds of newspaper ads and more than a million pamphlets.

In its latest lobbying report filed with the House of Representatives, the CCFAF said it spent $85,000 for newspaper advertising in the first 3 months of this year and $72,000 for printed matter.

Its thrust was aimed at States where Negroes are few and other States where there are white racial minorities potentially opposed to the bill. One expenditure was $2,428 for ads in a Polish newspaper in Chicago.

Lobbies are required to list the source of contributions of $500 and more. The CCFAF's report for January, February, and March showed that it received $142,581.16 from the Mississippi State Sovereignty Commission, a State agency formed to preserve segregation. At one time it helped finance the White Citizens Councils.

But the commission contends that only $10,000 of its contributions was from State funds and that the rest was from private sources. Reporters in Jackson tried to track down the private sources but were told that the money was in the form of cashiers' checks and that the names of the contributors were not recorded.

Official State commissions in Florida and Alabama also have contributed a total of $13,000 to the CCFAF. The Plaquemines Parish (La.) Council, headed by political boss Leander Perez, who built a stockade in the swamps for arrested racial demonstrators, has appropriated $5,000 in taxpayers' money to the CCFAF.

But all this support of the CCFAF does not give the full picture of the money being spent against the civil rights bill.

The Jackson, Miss., Junior Chamber of Commerce has sent out pamphlets all over the country. In February, founder Robert Welch of the ultra-right-wing John Birch Society urged his units around the country to place newspaper ads opposing the bill under such names as "the Blanktown Committee To Preserve the American Republic," and to write the CCFAF for material.

One such ad popped up in Indiana under the sponsorship of "the Fort Wayne Committee To Preserve the American Republic."

Guessing how much money the pro-civil-rights forces are spending is an almost impossible task, primarily because of the diversification of the organizations involved.

The Leadership Conference on Civil Rights is not a registered lobby. It operates from a small office here with expenses since last summer running less than $50,000. But the success of the CCFAF in stirring opposition to the bill caused the conference to answer with a pamphlet, "Some Questions and Answers on the Civil Rights Bill." It has distributed 250,000 copies at a printing cost of $25,000.

The conference comprises 80-odd organizations ranging from labor unions to fraternal groups interested, at least in part, in civil rights progress. Few of the organizations are registered as lobbies; those that are by no means limit themselves to the civil rights bill.

The NAACP, for instance, lists its Washington bureau as a lobby. Big contributions in the last 3 months of 1963 included $6,000 from the Council for United Civil Rights Leadership and $2,000 from a Philadelphia fraternal club. But less than 2 percent of the NAACP's income is directed to lobbying for the civil rights bill.

#### CONVOCATION OF PREACHERS

Both the pro- and anti-civil-rights forces are trying to inspire letters to Senators from the grassroots. The Leadership Conference on Civil Rights is bringing in State delegations, one at a time, to talk to Senators. Churchmen also are beginning to make their presence felt in favor of the bill, which the CCFAF's Synnon is quick to acknowledge.

"The National Council of Churches is precluded from lobbying by its tax-exempt status," said Synon. "But it is lobbying all right."

The council, however, points out that one-fifth of 1 percent of its budget—$40,000—goes to its Commission on Religion and Race and that only a small portion of that sum can be charged directly to support of the civil rights bill.

Synon said also that the seven civil rights organizations of the Council for United Civil Rights Leadership in New York collected $800,000 in pledges last summer for the civil rights fight. But it turns out that half of that amount actually was pledged by foundations for the support of various programs ranging from voter education to job opportunities for Negroes and that a very small portion of the $800,000 has been spent in support of the civil rights bill.

Said a spokesman for the NAACP, one of the council organizations: "It may seem ironic, but the NAACP ended the year 1963 with $268,000 tied up in bail bonds, most of it in Mississippi, which has so far contributed $260,000 to the anti-civil-rights lobby."

Mr. WILLIAMS of New Jersey. It is no secret that one of the most effective weapons of political warfare is propaganda. For centuries, men have been stirred to action by an inflammatory word, a seditious pamphlet, or a provocative publication. Used as a means of arousing interest, enlightening individuals, and enlisting supporters, propaganda serves a useful and worthwhile function. That species of propaganda, however, which relies on distortion, misrepresentation of facts, and unfounded assertions must be rejected by all those who seek the truth.

Unfortunately, much that has been written against the civil rights bill is intended not to enlighten, but to confuse. Rather than appealing to logic, the propaganda published by those who oppose this legislation appeals to prejudice, since unfounded diatribes often arouse more opposition to a measure than reasoning. The logical and objective statements of fact made in rebuttal seldom dispel completely the fantasies implanted in men's minds by misleading propaganda. In a free society, the reason of men ought to govern their prejudices, but the sad truth is that such is not always the case. The Nation has witnessed recent examples of mob violence and outbursts of racial hatred which testify to the terrible chaos which results when reasoned discourse has been suspended.

In the course of this prolonged debate, several of my colleagues have commented upon the propaganda campaign being waged to defeat this civil rights legislation. Despite their efforts to unmask the vicious hate literature masquerading as reasoned analysis of the bill's provisions, a flood of anticivil rights propaganda—some of it patently false—continues to flow into the North, without having received the point-by-point refutation which might expose to everyone's view its deceptive and fallacious arguments.

However, it is not surprising that the opponents of civil rights have expended so much of their energy in an effort to convince the public that the provisions of the civil rights bill are antagonistic to the beliefs held by a majority of the American people. Lacking popular support, unsuccessful in its attempts to secure the votes necessary to defeat this legislation, the minority has tried to camouflage its weakness in its propaganda.

The American people are not so easily deceived. Neither are the Members of this body. The noise made by those who oppose civil rights legislation bears little relation to their numbers. The impressively large vote in favor of this bill by the House of Representatives makes it unquestionably clear that there is widespread bipartisan support for H.R. 7152. No amount of propaganda can conceal the fact that those in opposition to the bill are in the minority. This is obvious to those who support this bill, but it is a point that deserves to be stated again and again, so that there can be no doubt in anyone's mind that the overwhelming majority of citizens favor this legislation and wish to see it voted upon by the Senate.

A well-financed minority has purchased invidious advertisements in New York newspapers attacking the civil rights bill. The able and distinguished Senators from New York have demonstrated that those anticivil rights ads, paid for by the Mississippi State Legislature, do not represent the views of the vast majority of the voters of their State. I need not comment further on these advertisements because they have already been discussed by my colleagues and have received wide attention from the news media.

Less well known to the general public is the fact that other advertisements, similar in character, have appeared in small newspapers throughout the country. These ads attacking the civil rights bill were paid for by various local chapters of an organization calling itself the Committee To Preserve the American Republic. The ads ask the reader to write for more anticivil rights propaganda, and list two addresses. One address is the Washington headquarters of the Coordinating Committee for Fundamental American Freedom, located across the street from the Senate Office Building. The clandestine operations of this organization have already been discussed by other Members of this body. The other address to which readers are directed to write is American Opinion, Belmont, Mass. American Opinion is the publication of the John Birch Society. What two organizations could better demonstrate that the extremist views of those who oppose civil rights are not shared by the large majority of American citizens?

These advertisements, all of them containing essentially the same copy, have appeared in the Birmingham, Ala., Independent, the Fort Wayne, Ind., Journal-Gazette, the **Summit, Miss., Sun,** the Angeles Mesa, Calif., News Advertiser, and, I am sorry to add, in two newspapers in New Jersey, the Red Bank Register, and the Burlington County Times. Mr. President, I ask unanimous consent that this ad be printed at this point in the RECORD.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

(Ad appearing in Burlington County Times, Feb. 29, 1964)

EVERY VOTE FOR "THE CIVIL RIGHTS ACT OF 1963" IS A NAIL FOR THE COFFIN OF THE AMERICAN REPUBLIC

A recent president of the American Bar Association has solemnly declared: "The proposed extension of Federal executive and administrative control over business, industry, individual citizens and the States by the package of legislation called the Civil Rights Act of 1963 exceeds the sum total of all such extensions by all decisions of the Supreme Court and all acts of Congress from 1787 to June 19, 1963. When future generations look back through the eyes of history at this legislation they will recognize 10 percent of 'civil rights' and 90 percent extension of raw Federal power."

The results of this legislation would be enormous suffering by, and oppression of, both our white citizens and our Negro citizens alike; and such turmoil, rioting, bitterness and chaos as benefits only the Communists—or a Federal Government drunk with its drive for power. For a free copy of a brief analysis of this legislation by highest legal authority, write to Coordinating Committee for Fundamental American Freedom, suite 520, 201 First Street NW., Washington, D.C. For a full understanding of the background, forces, and purposes behind this legislation, send $1 for the civil rights packet to American Opinion, Belmont, Mass.

In the meantime, the last bulwark against this act is the hard-pressed opposition within the U.S. Senate. If you oppose this Civil Rights Act of 1963, make your protest known, emphatically and immediately, by telegrams and letters, not only to your own Senators but to as many other Senators as you can. The address in every case is simply Senate Office Building, Washington, D.C.

This advertisement has been paid for as a public service by the Burlington County Committee To Preserve the American Republic, Post Office Box 105, Riverton, N.J.

Mr. HUMPHREY. Mr. President, will the Senator from New Jersey yield, without in any way jeopardizing his right to the floor or denying to him any of his parliamentary privileges under the rules of the Senate?

Mr. WILLIAMS of New Jersey. I am glad to yield.

Mr. HUMPHREY. I have asked the Senator to yield because he is commenting upon advertisements that have been appearing throughout the Nation, advertisements which have been the subject of discussion in the Senate, and which I feel are grossly unfair, and have so stated.

I believe the Senator from New Jersey would be interested to know that during the time the advertisements first appeared, there was a deluge of mail highly critical of the civil rights bill, mail that reflected the distortions that were evident in the advertisements. But since that time, I assure the Senator from New Jersey, the entire picture has changed, so far as correspondence is concerned. In my office, where the mail was running about 2 or 3 to 1 against the civil rights bill a month ago, it is now running better than 3 to 1 in favor of the bill. I am pleased to note that much of the mail is coming from business leaders or people engaged in business, and from church people.

Today I received a visit from a number of clergymen of different denominations. Next Tuesday, April 28, in Washington, D.C., there will be a meeting at Georgetown University, at which the three great religious faiths of America—Catholic, Protestant, and Jewish—will be represented by their spokesmen. Those spokesmen will be members of the clergy. All of this tells me that some rethinking is taking place and that the time that has been used in the debate has not been to the advantage of the opponents but of the proponents.

I speak for others who have spoken to me of similar developments in their own offices. The Senator from Idaho [Mr. CHURCH], who stepped out of the Chamber a moment ago, spoke to me of his experience with respect to correspondence from his State, as I have spoken of the experience with respect to my State. The whole picture has changed. People are speaking up for the civil rights bill. They understand its provisions, because the newspapers have been publishing excerpts and detailed discussions of those provisions.

I commend the Senator from New Jersey for his statement. I know he has been in the forefront of the battle for human rights and for the enactment of civil rights legislation; and he represents a great State in which the laws are designed to protect human rights and to assure equality of treatment.

I am confident that the pending bill does not contain any provision that is not already the laws in New Jersey. I have also said that about the laws of my own State; and in examining those of other States, we find that a majority of the States of the Union already have laws which are equal to or broader than or more encompassing than the provisions of the pending bill.

So I thank the Senator from New Jersey for his statement. It means a great deal to have him speak out, because he is a respected and recognized leader in the area of civil liberties and civil rights, and his word and his position on this subject are very convincing and very persuasive.

Mr. WILLIAMS of New Jersey. Mr. President, I express my appreciation to the distinguished Senator from Minnesota, who is, in fact, the leader of the proponents in this debate, in which we are attempting to obtain Senate passage of the civil rights bill. I am sure that no one could discharge that responsibility more effectively or more fairly than he.

Later, I shall develop a comparison between the rights and opportunities provided by the laws of New Jersey and the rights and opportunities protected by the pending bill. The Senator from Minnesota is eminently correct: the laws of New Jersey are far more comprehensive, in every department of this subject, in protecting individual rights.

I also wish to commend the Senator from Minnesota for his references to recent expressions of opinions in the States. The advertisement, to which I referred, appeared in the Burlington County Times, in February. The mail I received was then more than 2 to 1 in favor of the civil rights bill; but since the debate has begun, we have found that there is a better understanding of what the bill will do. For example, for the period April 11 through April 17, I received from residents of New Jersey only 98 letters in opposition to the bill, whereas, in the same period of time, I received from New Jersey residents 363 letters in favor of the bill.

I have had a tabulation made in connection with my mail on the civil rights bill; and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

*Incoming civil rights mail*

| | Out of State anti | Out of State pro | New Jersey anti | New Jersey pro |
|---|---|---|---|---|
| Mar. 20–27 | 216 | 6 | 114 | 198 |
| Mar. 28 to Apr. 3 | 153 | 6 | 81 | 146 |
| Apr. 4 to Apr. 10 | 107 | 7 | 80 | 277 |
| Apr. 11–17 | 138 | 7 | 98 | 363 |
| Apr. 18–24 | | | | |

Mr. WILLIAMS of New Jersey. Mr. President, I do not question the right of individuals to place the ads or the right of the newspapers to print them. But I do question the subterfuge which accompanies the conscious attempts by a few people to deceive the American public. Who paid for these ads? What is the role of the John Birch Society in the campaign being waged to defeat this bill? These questions are not likely to be answered, because those opposed to civil rights require the veil of secrecy in order to promote their aims. They shun the spotlight of publicity, because the fantasies and illusions they create appear more frightening when they are seen as grotesque and shadowy images. Mr. President, I ask unanimous consent that a story appearing in the New York Times, on April 21, 1964, which shows the importance of secrecy to the anti-civil rights propagandists, be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 21, 1964]

BIRCH DRIVE SEEKS RIGHTS BILL DEATH—CAMPAIGN BY LETTER AND AD PUSHED—MEMBERS URGED TO TALK AGAINST MEASURE

(By Ben A. Franklin)

WASHINGTON, April 20.—The John Birch Society has called on its members to continue a "massive" letterwriting and advertising campaign against passage by the Senate of the civil rights bill. The campaign is reported to have produced already "half a million messages to Washington."

In the March issue of the John Birch Society bulletin, official monthly magazine of the conservative group, Robert H. W. Welch, Jr., the society president, made his first appeal to members of local chapters. He urged them to organize "the most massive protest—by mail, telegram, by advertising, by the distribution of literature, by personal conversations, and in every practicable way—that we have ever undertaken with regard to any legislation."

Meanwhile, as the Senate entered the 35th day of debate on the civil rights bill, the minority leader, EVERETT MCKINLEY DIRKSEN, of Illinois, said that he would begin calling up his amendments to the fair employment section of the bill in midweek.

Mr. DIRKSEN said that the first amendment to be called up would be one of the less controversial of the 11 he will offer.

Tomorrow, Senator DIRKSEN will make known the text of the only amendment that would greatly weaken the fair enployment practices section. This concerns the procedure to be followed in pressing a complaint against job discrimination. At issue is the question of whether the Fair Employment Commission can file suit for the complainant, or whether the aggrieved must file on his own.

Both the March and April issues of the bulletin include the layout of a suggested three-column newspaper advertisement. The bulletin suggested that the ads be given "scrupulous proofreading (that) eliminates all typesetting chances of errors."

### USE OF NAME SHUNNED

The bulletins also suggest that the ads should not carry a John Birch Society identification. In the sample format, the sponsoring group is "The Blanktown Committee To Preserve the American Republic, 1122 Main Street, Blanktown, Any State."

The suggested headline for the advertisement says:

"Every Vote for the Civil Rights Act of 1963 Is a Nail for the Coffin of the American Republic."

In the bulletin's April issue, Mr. Welch commented on the reaction to his March appeal to the membership by saying that "Washington is gasping at the results" of the letterwriting campaign.

"It is our guess," he went on "that our members are responsible for pouring more than a half a million messages into Washington during the last month and will pour in that many more before this fight is over."

The suggested text of the advertisement contends that "when future generations look back through the eyes of history at this legislation they will recognize 10 percent of 'civil rights' and 90 percent extension of raw Federal power."

The ad urges readers to help block the bill by writing "emphatically and immediately, by telegrams and letters, not only to your own Senators but to as many other Senators as you can."

If the bill passes, the ad went on, its consequences would include "turmoil, rioting, bitterness, and chaos as benefits only the Communists."

The ad also says that "a brief analysis of this legislation by highest legal authority" is available free of charge from the Coordinating Committee for Fundamental American Freedoms, Inc.

The committee is the most active and best financed registered lobby against the civil rights bill.

Mr. WILLIAMS of New Jersey. Mr. President, in addition to newspaper advertisements, anticivil rights letters, editorials, and other forms of propaganda manufactured in the South have been sent to citizens in my State to create an impression that there is widespread opposition to civil rights in New Jersey. In one case, which I regard as particularly shocking, someone decided that one of my constituents could not adequately express his views on the merits of this proposed legislation, and so took the novel—and strictly illegal—step of forging his signature to a communication expressing opposition to civil rights. Happily, my response to the card unmasked this deception. However, I doubt that this is the only instance of this disturbing invasion of privacy. My colleagues may well wish to ascertain, insofar as possible, how many of the letters they receive are truly sent by their constituents. Write in votes are one thing; write-in constituents are quite another.

There is some evidence that this insidious propaganda bombardment has had an effect on the opinion of some voters in New Jersey. Certainly this material may mislead and delude some portion of the electorate, even though there are presently much more effective civil rights regulations in my State than those proposed in this moderate bill.

As evidence of the confusion being created by segregationist propaganda, I point out that I have received a number of letters from individuals who object to provisions which are not even contained in this bill—and, in some cases, they oppose provisions which are specifically excluded by the bill—simply because they have been deceived by the propaganda. The following letter is typical of many I have received:

> DEAR MR. WILLIAMS: Our main objection to the question is the "busing." What sense does it make to force a white or colored pupil, from their neighborhood school, to a school 2 to 3 miles away * * * busing should be forbidden.

That letter was written to me, despite the fact that section 401(b) in title IV of H.R. 7152 specifically prohibits the busing of students across town, in order to achieve racial balance in the public schools. That provision clearly relates to busing, and legislatively prohibits busing in order to achieve racial balance in the public schools. Of course I wrote to that effect to my correspondent, and I hope a reasoned answer to him will clarify his misconception in regard to this area.

The influx of anticivil rights propaganda into my State has led some people to believe that the enactment of this proposed legislation would have some pernicious effect on their way of life. This assertion bears absolutely no relationship to the truth. The fact is that the laws presently on the statute books in New Jersey which bar discrimination in public accommodations, public facilities, education, and employment, are far more comprehensive in their guarantees of equal treatment than is any provision of this bill. The passage of civil rights legislation by Congress would add or detract nothing from the statutes already in effect in New Jersey. Mr. President I ask unanimous consent that a tabulation comparing the provisions of H.R. 7152 with existing New Jersey statutes be inserted in the RECORD at this point.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

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COMPARISON OF CIVIL RIGHTS BILL WITH NEW JERSEY LAW

| CIVIL RIGHTS BILL | NEW JERSEY LAW |
|---|---|
| *Title I—Voting* | |
| No official shall apply different standards in qualifying people to vote in any Federal election. No official shall deny the right to vote to any individual because of immaterial errors or omissions in any step of the voting process. Section 101(2), page 2. | No discrimination practiced in any election. |
| No official shall give a literacy test without putting it in writing and retaining copies of the test for 22 months. Section 101 (a), page 3. | No literacy test required. |
| Establishes a rebuttable presumption that all persons who have completed the sixth grade are literate. Section 101(b), page 3. | |
| Requires expeditious handling of all voting cases and authorizes the Attorney General or the defendant to request a three-judge court to hear the case initially with direct appeal to the U.S. Supreme Court. Section 101(d), page 4. | |
| *Title II—Public Accommodations* | |
| Prohibits discrimination in specific places of public accommodation whose operation affects interstate commerce or whose practices of discrimination are supported by State action. Covers hotels, motels, restaurants, cafeterias, lunch counters, gasoline stations, theaters, stadiums, and all facilities that are part of a covered establishment. Enforcible by civil action brought by Attorney General or persons discriminated against. Page 6. | Includes all of the establishments contained in the bill, but in addition, applies to places of safety or shelter, public conveyance, garage, public bathhouse, public boardwalk, skating rink, hospital, public library, retail stores, swimming pool, and billiard parlor.<br>No person shall publish any notice or advertisement to the effect that the public accommodations of any place are denied to any person on account of race, creed, color, or national origin.<br>Civil suits may be brought and violators are liable to a fine of up to $500. In addition, violation constitutes a misdemeanor and is punishable by a fine of up to $500 or imprisonment of up to 90 days, or both. |
| Private clubs or establishments not open to the public are specifically exempted from coverage. **Page 8.** | Private clubs are exempted. |

| CIVIL RIGHTS BILL | NEW JERSEY LAW |
|---|---|
| *Title III—Public Facilities* | |
| Prohibits discrimination in public facilities owned, operated, or managed by the State or subdivision thereof. | Discrimination in all public facilites prohibited. |
| Authorizes Attorney General to institute or intervene in civil actions whenever he receives a complaint of discrimination.<br>Authorizes the Attorney General to intervene in any case already filed by individuals seeking relief from the denial of equal protection of the laws because of race, color, religion, or national origin. | Criminal penalties are identical to those for violation of public accommodations section above. |
| *Title IV—Education* | |
| Directs Commissioner of Education to conduct a national survey as to the availability of equal educational facilities at all levels of public education. | Prohibits discrimination in all public schools, including academies, colleges, and universities. |
| Authorizes Commissioner of Education to give technical assistance to desegregating school districts that request help. | Prohibits discrimination because of race, religion, or color in private secondary and post-secondary schools. |
| Prohibits the assignment of students to public schools in order to overcome racial imbalance. | |
| Authorizes the Commissioner to set up special training institutes to teach school personnel how to deal with special educational problems occasioned by segregation. | |
| Authorizes Commissioner to make grants to school boards for in-service training or for employing desegregation experts. | |
| Authorizes Attorney General to initiate or intervene in school desegregation cases if he receives a complaint and the injured parties are unable to pursue their legal remedies. | Provides that a member of a school board who votes to exclude an individual from a public school on account of race, creed, color, or national origin, may be fined up to $250 or sentenced to 6 months in jail, or both. |
| *Title V—Civil Rights Commission* | |
| Extends the life of the Commission 3 years and 4 months, and directs the Commission to serve as a national clearinghouse for civil rights information and to investigate general allegations of voting frauds not related to racial discrimination. | Permanent State agency, Division on Civil Rights, with full legal powers to prevent and eliminate discrimination within the State. |
| *Title VI—Federally Assisted Programs* | |
| Directs all Federal agencies to require the elimination of discrimination under all aid programs and negates provisions of any Federal law that is contrary. Authorizes termination of aid to effectuate this directive, with the approval of the President and after 30 days following the filing of a report by the agency with the committee of the House and Senate having legislative jurisdiction over the agency. | All State public works contracts shall contain a nondiscrimination clause.<br>A deduction of five dollars shall be made for each calendar day during which any employee is discriminated against, or intimidated. |
| *Title VII—Fair Employment* | |
| Establishes an Equal Employment Opportunity Commission to receive or to initiate complaints alleging discrimination in industries affecting interstate commerce. | Prohibits discriminatory practices in employment by any employer or labor organization with six or more employees or members. |
| Prohibits employers and labor unions with 25 or more employees or members from discriminating in their hiring and firing policies. | Upon complaint, administrative board may issue an order requiring compliance with law. Violation of board's order is a misdemeanor punishable by a fine of up to $500 or by imprisonment of up to 1 year in jail, or both. |
| Empowers Commission to eliminate discriminatory practices by conciliation and persuasion and to take the case to court if necessary. After a trial de novo, the court may order compliance. | |
| *Title VIII—Voting Census* | |
| Directs the Secretary of Commerce to conduct a survey of registration and voting statistics by race, color, and national origin in such areas as may be designated by the Commission on Civil Rights. | Not applicable. |
| *Title IX—Appeal Procedure* | |
| Provides for appeals from Federal court orders which send civil rights cases back to State courts. | Not applicable. |
| *Title X—Community Relations Service* | |
| Establishes a Community Relations Service in the Department of Commerce to provide informal assistance to individuals or communities requiring help in resolving civil rights problems. | Conciliatory functions performed by Division of Civil Rights. |
| *Title XI—Miscellaneous* | |
| Authorizes money to carry out the act. | Not applicable. |

Mr. WILLIAMS of New Jersey. Mr. President, fortunately, most citizens in my State are aware of these facts. And, having the facts at hand, they have not been fooled by the fictions of others. This is reflected in the mail I receive, which has consistently run more than 3 to 1 in favor of civil rights legislation. This is encouraging, and demonstrates the reliability of an informed and intelligent electorate. Nevertheless, the false accusations and rumors being spread about this bill should not be allowed to go unchallenged.

Frankly, I do not understand the basis for the objections to the bill. There has been no subversion of liberty in New Jersey as a result of our equal opportunity legislation. There has been no invasion of privacy or trampling of property rights because we have equal accommodations laws. There has been no disintegration of the democratic process because the voting regulations in New Jersey apply equally to all citizens. On the contrary, the foundations of democracy have been strengthened, the protection of property and personal rights has been guaranteed, and the two races have established a basis of mutual understanding. The debate on civil rights has been over for a long time in New Jersey. We faced the problems of discrimination, and attempted to settle them in a reasonable fashion.

These laws have not ushered in a utopia, but the experience of New Jersey and the experience of 29 other States with similar laws, provides some reasonable basis for rejecting the claims that chaos and calamity would result if this legislation were enacted. We should rather consider, in all soberness, our obligation to enact legislation that will serve the interest of all citizens, and return to the Negro population the rights which have been too long denied them.

A moment ago I mentioned the Coordinating Committee for Fundamental American Freedom, and the misconceptions which have resulted from that organization's propaganda activities. I would like to address myself specifically to the distortions and unfounded assertions contained in a pamphlet prepared and distributed by the coordinating committee entitled, "Unmasking the Civil Rights Bill." The pamphlet is a compilation of charges and allegations that the civil rights bill will destroy the freedoms, rights, and economic interests of various groups in America—bankers, farmers, the press, businesses, and labor unions. Of course, the bill will do none of these things, but some opponents apparently feel that this approach is more persuasive than a discussion of the merits of the proposed legislation. Perhaps the confusion created by this propaganda can best be removed by an examination of the charges made in this particular pamphlet.

### POINT-BY-POINT EXAMINATION

Charge: The civil rights bill was railroaded through the House Judiciary Committee and has not received the careful consideration and thorough discussion it deserves.

Fact: That statement is erroneous. Senators see piled before me a visible refutation of this ridiculous statement. In fact, as it was placed here on my desk there was a moment when I feared that the data would be visible, but the Presiding Officer would not be able to see me.

The pile would reach higher than I stand behind my desk. I can just about peer over and observe the distinguished Presiding Officer.

A subcommittee of the House Judiciary Committee held 22 days of public hearings on civil rights bills between May 8, 1963 and August 2, 1963. During that time it heard 101 witnesses, including 2 Senators and 26 Congressmen. It received an additional 71 statements from interested parties. The hearings and statement run to some 2,649 pages of printed record. In addition to the public hearings, the subcommittee studied the bill for 17 days in executive session. The full Judiciary Committee considered the bill in executive session for 7 days. The House Rules Committee held 9 days of public hearings and took testimony from 39 witnesses, covering 518 pages of printed record. A subcommittee on the House Labor Committee heard 33 witnesses in 10 days of public hearings, covering 557 pages of the printed record on a bill to prevent discrimination in employment. Title VII of the present bill is in part based upon those hearings. The House of Representatives debated H.R. 7152, when the bill came to the House from the Rules Committee, from January 31, 1964 to February 10, 1964. Each title of the bill was debated separately and thoroughly. One hundred fifty-five amendments were submitted; 34 were adopted.

As for the bill's consideration by the Senate, the Commerce Committee held 22 days of hearings on S. 1732, a bill dealing with discrimination in public accommodations. It heard the testimony of 47 witnesses, took 81 additional statements, and compiled a printed record of over 1,500 pages. The Senate Labor and Public Welfare Committee held 7 days of hearings on S. 1937, a bill to prohibit discrimination in employment, heard 55 witnesses, and compiled a written record of 578 pages.

The Senate Judiciary Committee held hearings for 11 days during July, August, and September of last year on bills identical to H.R. 7152. It heard testimony from 5 witnesses, took additional statements, and compiled a record of 483 printed pages. That committee also held hearings for 6 days in May and June on bills relating to the extension of the Commission on Civil Rights and compiled a record of 467 pages. It heard testimony from 29 witnesses and received 5 additional statements.

Thus, there was a total of 87 days of public hearings, 309 witnesses heard, and 161 statements filed. There are almost 7,000 pages of printed record discussing the provisions of the bill. So as not to add further to these statistics, I have not bothered to compile the number of speakers in the House who have addressed themselves to the bill. The RECORD of the House between the dates of January 31 and February 10 was filled entirely with statements concerning the bill. The RECORD of the Senate has been filled since March 6 almost totally with statements by both sides on this issue.

Mr. President, it took me about 5 minutes to read that impressive log of statistics of the full and complete committee discussion and floor debate on the proposed legislation. I do not know of any measure that has been more completely considered than the civil rights bill that is before the Senate.

For comparison, I ask unanimous consent that two tables showing the number of witnesses, the number of days of hearings, the number of statements and the number of pages of printed record which were compiled during consideration of the 1957 and the 1960 civil rights bills be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

### CIVIL RIGHTS BILL, 1957

1. House Committee on Judiciary: February 4–26, 8 days of hearings, 108 witnesses, 20 statements, 1,299 pages of hearings.
2. House Committee on Rules: May 2–May 17, 9 days of hearings, 25 witnesses, 231 pages.
3. Senate Committee on Judiciary: February 14–March 5, 13 days of hearings (7 days discussed in committee), 68 witnesses, 12 statements, 930 pages.

Total: 57 days, 201 witnesses, 32 statements, 2,460 pages.

### CIVIL RIGHTS BILL, 1960

1. House Judiciary: March 4–May 1, 17 days of public hearings, 95 witnesses, 14 statements, 960 pages.
2. Senate Judiciary: March 28–29, 2 days, 3 witnesses, 1 statement, 178 pages.

Total: 30 days, 18 witnesses, 15 statements, 1,138 pages.

Mr. WILLIAMS of New Jersey. As is plain to see, there is no comparison between the extent of the examination given the bills then and that received by the legislation we are presently considering. In fact, we have expended more than twice as much time on this bill as we did on the other two measures combined.

### PUBLIC ACCOMMODATIONS

I now wish to speak of another charge which has been made in the committee's propaganda to which I have referred. The charge is about as follows:

It is contended that hotels, restaurants, and theaters would lose their right to serve whomever they choose; that they would have to deal with objectionable customers.

Fact: The bill does not require any establishment to serve unkempt, intoxicated, or disorderly persons, whatever their race, religion, or color: Title II of the bill merely requires that business establishments whose operations affect interstate commerce and which presume to serve the public, provide these services without distinction as to race.

The reaction to these provisions is surprising indeed. Not only do 30 States and the District of Columbia already have similar laws on their statute books, but there are precedents for such laws in the South. Southern opponents argue that to open places of public accommodation to Negroes would overturn the longstanding, immutable folkways of southern history.

### A CLOSE LOOK AT SOUTHERN HISTORY

This assertion is contradicted by the fact that the policies of segregation are not immutable folkways which arose during the period of slavery, nor did segregation come into being during or immediately after the Reconstruction period.

I think this is important to point out. I do not believe that aspect of southern history has been brought out in the debate.

This misconception has had the effect of clothing segregation with the sectional pride that grew out of the period when the South emerged from the chaos and bitterness of the Reconstruction. In this manner many of the guardians of segregation have been able to defend their racial views with unusual zeal and clothe them with an appealing, but fictional historical validity.

As a matter of fact, however, at a time when the hardships of slavery and the bitterness of the Reconstruction formed a vivid memory for both races, the race policies in the South were far milder than they later became. There exists convincing historical evidence that the races lived in comparative harmony for almost two decades after the demise of the Reconstruction, and that the South showed little interest in promoting or accepting Jim Crow policies.

When, in 1879, Sir George Campbell, a Member of the British Parliament, scrutinized the South for racial tension, he commented, with some surprise, that Negroes shared public facilities and that—

> The humblest black rides with the proudest white on terms of perfect equality, and without the smallest symptom of malice or dislike on either side.

A writer in the Atlantic Monthly, who signed himself, "A South Carolinian," corroborated Sir George Campbell's observation:

> Negroes are freely admitted to the theater in Columbia and to other exhibitions, lectures, though the whites avoided sitting with them if the hall be not crowded. In Columbia they are also served at the bars, soda fountains, and ice cream saloons.

Thus, those who view the civil rights movement as a radical departure from the past are mistaken. In fact, the sit-ins and other demonstrations at lunch counters and theaters represent an attempt by the Negroes to reclaim lost rights.

In his study of Mississippi, Historian Vernon Warton noted that saloons served whites and Negroes at the same bar and that restaurants served dinner to both races in the same room.

Throughout the State, moreover, cemeteries held both whites and Negroes. Warton indicated, however, that in about 1890 Negroes began to be excluded from saloons, restaurants, parks, and cemeteries.

So there was a period running up to 1890, following the Reconstruction, in the South where the races lived together in these areas of public accommodations.

Unfortunately, the latter-day practice of segregation has been perpetuated rather than the more enlightened customs which characterized earlier decades. Perhaps one of the most interesting bits of evidence of southern resistance to segregation can be seen in an editorial which appeared in 1897 in the Charleston News and Courier, the oldest newspaper in the South.

South Carolina seems to have been one of the most enlightened States in this regard. In opposing a plan for separation of the races on trains, the editorial said:

> As we have got on fairly well for a third of a century, including the period of Reconstruction, without such a measure, we can probably get on as well hereafter without it, and certainly so extreme a measure should not be adopted without added and urgent cause.

The editor then called attention to what he considered the absurd consequences to which such a law might lead once the principle of Jim Crow was conceded:

> If there must be Jim Crow cars on the railroads, there should be Jim Crow cars on the street railways. Also on all passenger boats. * * * If there are to be Jim Crow waiting saloons at all stations, and Jim Crow eating houses * * * there should be Jim Crow sections of the jury box, and separate Jim Crow dock and witness stands in every court. * * * And a Jim Crow Bible for colored witnesses to kiss. It would be advisable also to have a Jim Crow section in county auditors' and treasurers' offices for the accommodation of colored taxpayers. The two races are dreadfully mixed in these offices for weeks every year. There should be a Jim Crow department of making returns and paying for the privileges and blessings of citizenship. Perhaps the best plan would be, after all, to take the short cut to the general end * * * by establishing two or three Jim Crow counties at once, and turning them over to our colored citizens for their special and exclusive accommodation.

In reducing the proposed law to its absurd consequences, back in 1879, in Charleston, S.C., the editor doubtless believed that he had dealt the Jim Crow principle a telling blow. There was, however, another irony in his argument of which the author was unconscious. For what he intended to characterize as the absurd soon became a reality. Apart from the Jim Crow counties and the Jim Crow witness stand, all the other consequences suggested by the editor in derision were put into practice.

By the late 1890's the advocates of Jim Crow began to gain ascendancy in southern society. As late as 1900, the only Jim Crow law that had been adopted by a majority of the Southern States applied to passenger trains. South Carolina did not adopt this law until 1898, North Carolina in 1899, and Virginia in 1900.

Segregation tragically was extended to other areas; North Carolina and Virginia adopted a law requiring segregation on streetcars as late as 1901, Louisiana in 1902, Arkansas, South Carolina, and Tennessee in 1903, Mississippi and Maryland in 1904, and Florida in 1905.

A park law adopted by Georgia in 1905 appears to have been the first venture of a State legislature into segregated parks. Not until 1914 were circuses and tent shows segregated by law; this law required separate entrances, exits, ticket windows, and ticket sellers.

### PUBLIC LAW 78—STRONG PRECEDENT FOR PUBLIC ACCOMMODATIONS

I have gone into this matter at some length in order to clear away the prevailing misconception that segregation is as indigenous to the South as the magnolia blossom and the mint julep. But aside from the historical precedent and refutation that the equal accommodations provision of this bill would have disastrous results on an established way of life, there is other strong proof that no irreparable harm would result from this bill's passage. I refer to a law, already in effect, which extends the same guarantees provided by this bill to foreign nationals and Americans of foreign ancestry.

Mr. President (Mr. McNamara in the chair), paradoxically, many of the Senators who are most strenuously opposed to the public accommodations section of H.R. 7152 have voted 7 times in the last 12 years in favor of a public accommodations provision that is even more comprehensive than title II of this bill.

The public accommodations provision given such strong support for so long by the Congress is contained in Public Law 78, a law establishing a program to import Mexican farmworkers. This provision, known as article 8 of the 1951 migrant labor agreement, is an irrefutable precedent for title II of the pending civil rights bill. Article 8 has been enforced in numerous instances, and is still in effect today.

I wish to read part of the article, to crystallize the conclusions I am making:

> ARTICLE 8—PROHIBITION AGAINST DISCRIMINATION
>
> Mexican workers shall not be assigned to work nor permitted to remain in localities in which Mexicans are discriminated against because of their nationality or ancestry. Within a reasonable time after the effective date of this agreement and from time to time thereafter, the Mexican Ministry for Foreign Relations will furnish the Secretary of Labor a listing of the communities in which it considers that discrimination against Mexicans exists. If there is concurrence by the Secretary of Labor that there is such discrimination in any such area, he will not issue, or where appropriate will withdraw, the authorization provided for in article 10.
>
> If the Secretary of Labor does not concur, the appropriate Mexican Consul may request a statement signed by the chief executive officer or officers or the chief law enforcement officer of the community in which the Mexican workers are to be employed, pledging for the community that:
>
> (a) No discriminatory acts will be perpetrated against Mexicans in that locality; and
>
> (b) In the event that the Mexican Consul reports the existence of acts of discrimination against any Mexican because of ancestry or nationality, the local governmental officers who signed the statement will have such complaints promptly investigated and take such community and individual action as may be necessary to fulfill the community pledge.
>
> The Mexican Government will permit employment in such areas if such pledges are furnished.

Under this provision, an agency of a foreign government, the Mexican Ministry for Foreign Relations, may impose severe economic sanctions against anyone who discriminates against Mexican citizens or Americans of Mexican ancestry. Furthermore, it can also take direct action against a local American community to prevent discrimination against American citizens.

These antidiscrimination provisions have been enforced many times. In Slaton, Tex., in the summer of 1960, for instance, the Labor Department investigated and found that discrimination against Mexicans was being practiced by restaurants, bowling alleys, and by the city officials who refused to desegregate certain public facilities. At that time, the matter was satisfactorily resolved without the necessity of removing the Mexican nationals under contract in the area.

In the summer of 1961, a formal complaint was made by the Mexican Government alleging that the Slaton City swimming pool was being operated on a "white only" basis, and that American schoolchildren of Mexican ancestry were being denied the use of that public facility. Negotiations with city officials were conducted in an effort to eliminate this discrimination. The Mexican Government requested the immediate removal of all Mexicans working in the Slaton area. Through negotiations with Slaton city officials, the situation was eventually resolved in 1962 when the city of Slaton opened its swimming pool to all members of the public.

This is but one instance: Similar nondiscrimination cases have involved restaurants, movie theaters, and barbershops. In fact, a significant number of Texas counties have been declared ineligible for braceros by the Mexican Government.

On the basis of these facts, it would appear that article 8 of Public Law 78 goes far beyond the public accommodation proposals in the civil rights legislation. Unlike the public accommodations provision of the civil rights bill, which only prohibits discrimination by businesses that affect interstate commerce, Public Law 78 prohibits discrimination regardless of whether interstate commerce is involved.

Yet, many of those who now contend that the public accommodations provisions of the civil rights bill will destroy the property rights of businessmen have expressly affirmed the more stringent nondiscrimination provisions of Public Law 78 for more than 12 years. The workability of equal accommodations laws is well demonstrated by these and other examples where the discrimination barriers in the South have been torn down.

If the public accommodations section of H.R. 7152 is unconstitutional, it would seem clear that the nondiscrimination provisions of Public Law 78 are equally unconstitutional. For under both provisions, businessmen would not be allowed to discriminate against a minority without being subject to governmental sanctions—a cutoff of the labor supply or civil suits.

It is simply poor logic to argue that it is unconstitutional to deny public accommodations to a Negro citizen, but that it is constitutional to provide public accommodations to Mexicans. The constitutionality of a public accommodations law cannot turn on the severity of the governmental sanction or on the ancestry or the color of the customer. Yet, that seems to be the argument advanced by those opposed to civil rights legislation.

Mr. HOLLAND. Mr. President, will the Senator from New Jersey yield?

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Does the Senator from New Jersey yield to the Senator from Florida?

Mr. WILLIAMS of New Jersey. I am glad to yield to the Senator from Florida for a question.

Mr. HOLLAND. Does not the Senator know that under the Bracero Act the only thing involved is whether braceros will be allowed to go to that particular community, and that there is no penalty of any sort assessed against the merchant or the community that does not treat Mexicans fairly? The only question is the question of availability of help under the Bracero Act. That is correct, is it not?

Mr. WILLIAMS of New Jersey. That is correct, but I am surprised at the Senator's expression, "The only thing involved." The Senator well knows, coming from one of the greatest agricultural States, that the whole economic life of the growers of fruits and vegetables depends on the supply of labor. In the past, in certain areas, growers have told us that they would fail and go out of business unless they could have the bracero labor supplied under Public Law 78. True, it is "the only thing involved," but it is a very important thing. An available supply of labor is critical when harvest comes along.

Mr. HOLLAND. Mr. President, will the Senator from New Jersey yield further for a question?

Mr. WILLIAMS of New Jersey. I am glad to yield to the Senator from Florida for a further question.

Mr. HOLLAND. Does the Senator know that under the pending bill the penalty which would be imposed for discrimination as to color would go much further following the bringing of an injunction suit, and following the trial for criminal contempt proceedings, without a jury sitting at the trial, and the possibility of grave punishment that exists, whereas no such thing is involved in the bracero legislation.

Mr. WILLIAMS of New Jersey. Mr. President, under the bill before us, if it becomes law, an individual who discriminates can insure that he stays in business by opening his doors to the public. The effect of the Public Law 78 provision against discrimination can be far more harsh than title II because the sanctions under Public Law 78 affect an entire community. A grower having no discriminatory intent, or carrying out no discriminatory act, could be denied needed Mexican workers merely because someone else—another grower or merchant—decided to discriminate against Mexican-Americans. Yet the nondiscriminator could do nothing about it. As an individual, he would be more severely affected and imposed upon by the antidiscrimination sanction than the individual restaurateur, who discriminated, would be. In the pending bill, it is not what is done next door or downtown that justifies a penalty; it is what a man does himself. Under the civil rights bill the businessman controls his own business destiny. That is not so under Public Law 78.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. WILLIAMS of New Jersey. I yield.

Mr. HOLLAND. If the restaurateur felt that the admission of persons of the other color would destroy his business, and he refused to conform, would not he be subject to an injunction and to a criminal contempt proceeding without a jury trial; whereas no such procedure would lie against a merchant, or even a community, which discriminated insofar as braceros were concerned?

Mr. WILLIAMS of New Jersey. In the one case a grower who is in one of these communities may lose his labor supply. Under the pending bill the restaurateur can have his establishment locked up. Either way, we have a governmental sanction being imposed. I find it easier for an individual to control his destiny under the bill than under the other situation.

Of course in terms of business, there is the fear of losing business. Up our way it is good business to have the accommodations open to all orderly persons. One does not turn away a cash customer because he happens to have a different colored skin. His money will buy the same amount of corned beef as the money of anyone else will buy.

Mr. HOLLAND. I see no comparison whatever between the two situations, because under the Bracero case there is no penalty to be visited upon the individual who has a free right to decide whichever way he wishes to go. The Government cannot bring a suit against him, as it would be possible for the Commission to do under the provisions of the pending bill. There is no possibility of punishment by criminal contempt without a jury trial. It seems to me that the two situations are not at all alike. There is certainly no penalty of any kind that the Government threatens to visit against the individual who refuses to conform.

Mr. WILLIAMS of New Jersey. There is another difference between the two provisions. Under the proposed civil rights legislation before the Senate, the American Government brings the action to enjoin a violation in the public accommodations section. Under article 8 of the Public Law 78 agreement, however, the Mexican Government can put an American grower out of business. So far as the triggering authority is concerned, I would rather have it home based. I would not want to put any grower in an area where he must absolutely rely on Mexican labor, and where the Mexican Government could put him out of business for the discriminatory act of a third person.

Mr. HOLLAND. Has not the Senator admitted that several counties in Texas, which do not qualify for braceros, have continued to live and prosper without knuckling under to that provision?

Mr. WILLIAMS of New Jersey. I cannot speak about the prosperity. Both Senators from Texas have stepped out of the Chamber temporarily. Perhaps we could inquire of them. Once in a while, when it serves the advantage of certain parts of the debate, we find that there are areas of Texas that are very hard hit, and not as prosperous as other areas. There may be a ready supply of labor. Perhaps it is labor of Mexican ancestry but of American citizenship, which is close by. Of course there does not have to be any agreement under such a situation, because there is a local supply, and there need not be any import of labor from Mexico. Perhaps all this is becoming academic, because Public Law 78 is in its phaseout period—its last year—and will not be renewed.

In order to relieve any anxiety on the part of growers, particularly in California—I know that people in California are major users of the braceros—I am working on a program which would bring order where growers think there might be chaos, the program would operate through the U.S. Employment Services and would match workers with jobs. It would set up a system allocating the supply of loan to the job demand.

The Senator from Florida and I have discussed this situation. We have cooperated in many programs. Some of the benefits are already being provided in the States. I refer to services like those provided under the Health Migrant Act—Public Law 87-692. I see our employment service stabilization bill—S. 527—as offering the same kind of hope to agricultural communities.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. WILLIAMS of New Jersey. I yield.

Mr. HOLLAND. The Senator has conceded, has he not, that he is trying to take the braceros away from the growers and is not visiting any destruction on them?

Mr. WILLIAMS of New Jersey. On the braceros?

Mr. HOLLAND. No; on the growers. His effort is to take all braceros away, is it not?

Mr. WILLIAMS of New Jersey. Yes; and replace the braceros with qualified American farm workers.

Mr. HOLLAND. There is no destruction in connection with the braceros?

Mr. WILLIAMS of New Jersey. No, when we have the mechanics such as S. 527 which would bring qualified farmworkers to Texas or California, where they are needed. There is a gap that we are trying to fill.

I am happy to have had this exchange with the Senator from Florida. I hope that we may soon be able to get on to other important matters before the 89th Congress convenes.

I should like to deal with one other charge that is being made:

Charge: Banks could not operate under the bill without undue hardship because the Federal Deposit Insurance Corporation, the Federal Housing Administration, and the Veterans' Administration would all cease their dealing with the bank if either the bank or one of its depositors were guilty of discrimination.

That is the wildest charge of them all.

Fact: The provision in the bill forbidding discrimination in programs receiving Federal financial assistance is limited to Federal grants, loans and contracts; it expressly excludes insurance or guaranty contracts. Thus, the charge is refuted. The bill does not affect the Veterans' Administration guarantee program; it does not affect the Federal Deposit Insurance Corporation; it does not affect the Federal Housing Administration insurance program. As to programs which are affected by the bill, only the distributor of Federal funds could be penalized, never the ultimate recipient.

### CUTOFF OF FEDERAL FUNDS

Charge: The bill places arbitrary power in the hands of Federal bureaucrats who can cut off all Federal assistance to State agencies and programs which practice discrimination.

Fact: Far from granting arbitrary power to any branch of the Federal Government, title VI of H.R. 7152 represents an attempt to prevent States which receive Federal funds from using those funds arbitrarily by discriminating against Negroes who would otherwise benefit from State and Federal programs. The cutoff of Federal assistance to State agencies is a last resort, and can be employed only after attempts to secure voluntary compliance with the law have failed. Moreover, the President must give his consent to the agency's proposal to end its assistance to a State, and even then, the aid is not halted until 30 days after a complete report has been filed by the agency with the House and Senate committees having legislative jurisdiction over the agency's activities. With these procedural safeguards written indelibly into the bill, it is difficult to understand how the opposition to this legislation can claim that the Federal Government is exercising arbitrary power when actually what it is attempting to do is to secure compliance with the constitutional guarantees provided for all citizens.

Senators who complain about the arbitrary cutoff of funds should know that more Federal funds are being held up because of this filibuster than are ever likely to be cut off by any Federal agency. It is the conscious obstruction by a few which is preventing the Senate from conducting its business in a normal and orderly manner. Appropriation bills cannot be passed. Other important pieces of legislation cannot even be considered, because the pending unfinished business cannot be brought to a vote.

Public works projects and manpower development and training programs, to name only two examples, have come to a halt across the country because the funds to finance these programs have been exhausted, and no new funds can be authorized. Many unemployed workers who could return to work, if these programs were functioning, remain idle. The plans for accelerated public works projects that would help to revitalize highly depressed areas in New Jersey are not even being reviewed because there is no prospect that funds to finance them will be available in the foreseeable future.

Thousands of workers, unemployed because of the rapid advances of technology and automation, eager to be retrained for new skills, cannot receive that instruction because of the action of a few Members of this body. It is ironic that those who oppose the civil rights bill, and who, by their use of the filibuster, are actually cutting off funds for needed programs, come from those States which would benefit most from these programs.

Charge: Under the bill, veterans' benefits, pensions, unemployment compensation, and social security benefits to individuals may be cut off when individuals engage in racial discrimination.

Fact: Social security benefits are paid directly by the United States to the ultimate beneficiary. The United States does not discriminate in paying social security benefits. For like reasons, title VI will not affect veterans' compensation and pensions, civil service retirement, railroad retirement, and similar programs involving direct payments from the United States to the beneficiary.

Unemployment compensation is administered by State agencies, some of which receive Federal aid. Under the bill, a State agency administering an unemployment compensation program which participates in the Federal unemployment trust fund would be prohibited from denying payments to otherwise eligible beneficiaries because they are Negroes. It is difficult if not impossible, to see how anyone could legitimately object to that.

Another charge that has been made and used by propagandists—these charges have saturated northern New Jersey and have warped the opinion of those who do not know the real facts about the proposed legislation—is that Federal personnel will dictate decisions of homeowners and realtors concerning the building, occupancy, renting, leasing, and sales of homes.

Fact: The principal sources of Federal assistance to private homeowners and realtors are the FHA and VA insurance and guarantee programs—both of which are specifically exempted from coverage in this bill. It is as straight, clear, and simple, as that.

### FREEDOM OF THE PRESS

Charge: The bill impairs freedom of speech and of the press because it prohibits editorial opposition to desegregation.

Fact: Nothing in the bill prohibits opposition to desegregation or criticism of it. In its original form, the bill would have prohibited inciting, aiding, or abetting violations of the act—a type of provision that is found in many statutes, and which has nothing to do with criticism or opposition to a law, but only to the manner in which that opposition is demonstrated—that provision was eliminated by amendment by the House of Representatives.

Certain opponents of this bill have also contended that its passage would lead to the restriction of free speech and freedom of the press, which are guaranteed by the first amendment. Fears are expressed that persons and newspapers who urge the maintenance of segregation would be subject to fine and imprisonment. Nothing, of course, could be farther from the truth. It should be clear that the Civil Rights Act and other Federal legislation is subject to the commands of the first amendment. No word in H.R. 7152 even suggests that freedom of speech or of the press will be curbed, and no such word could stand the test of constitutionality if it were there.

Instead of raising such false fears, it would perhaps be well for certain opponents of the civil rights bill to recognize where the true threat to freedom of expression lies. For the November 6, 1963, edition of the Washington Post reports that television stations in Atlanta and Shreveport refused to carry a CBS network program because certain actors in the program expressed opinions concerning racial segregation which were at variance with opinions held by some persons in the South. Such action is hardly the best way to promote freedom of expression.

A far more serious threat to first amendment freedoms has taken the form of actions for libel which have been instituted by public officials of certain Southern States against newspapers and persons who have expressed opinions in opposition to segregation. The New York Times of April 4, 1964, reports that at least 17 such libel actions seeking damages totaling $288 million are now pending in Southern States. The use of the law of libel to obtain unjustified and inflated damages from biased and inflamed jurors is a perversion of the law and a serious threat to freedom of expression. The U.S. Supreme Court recently reversed a judgment of an Alabama court which had awarded $500,000 to an official of Montgomery, Ala., for alleged damages suffered by an advertisement which appeared in the New York Times. In his concurring opinion in this case, Justice Goldberg stated:

> The opinion of the Court conclusively demonstrates the chilling effect of the Alabama libel law on first-amendment freedom in the area of race relations.

Before the opponents of this bill argue that H.R. 7152 violates the first amendment, they would do well to put their own house in order and stop using the law of libel to silence opinion that is critical of the practices of racial segregation.

Charge: Boards of trustees of schools would be denied the right to handle students and teaching staffs in any way they chose.

Fact: Public schools are, of course, forbidden to discriminate under the Constitution. These schools are built by the tax money of all; they must be equally available to all. They are not the private preserve of local boards of trustees; they belong to all the people. Unfortunately, many of those who see the bill as an invasion of liberty actually want license to take unconstitutional action. The bill would not grant them that license. Nor should it do so. All of us should begin to realize that when we speak of a gulf between the races we are referring for the most part to an economic gulf. An economic gulf which can best be bridged by education. Let us stop fighting about the color of the child who sits next to our son and daughter and begin discussing how we can work together to improve the quality of all our schools.

### VOTING

Charge: The bill takes away the rights of States to determine qualifications of voters.

Fact: Under the bill the States will continue to determine the qualifications of voters. The bill has no effect on this established right. It simply requires that the same standards for determining qualifications be used for Negroes as are being used for white applicants. It would prohibit, as it should, the practices of some local officials who regularly turn down all Negroes, including teachers and college graduates, because of "illiteracy," while granting the vote to white persons who can neither read nor write.

Hopefully, it will also eliminate blatant cases of discrimination, such as the one involving the blind Negro woman who was assisted in filling out her voting registration form by a polling official, and then was disqualified for "failing to fill out the voting form properly."

Injustice of that kind would be dealt with by the bill.

The Constitution prohibits such practices, and this bill will make certain that this constitutional prohibition against double standards is obeyed.

However, I should like to point out what I consider to be a serious omission in this bill—an omission which can be corrected by an amendment which I intend to offer at the appropriate time. I refer to the fact that the bill, while acting wisely to correct the above cited violations of voting rights in Federal elections, does nothing about State and local elections. I believe that the same prescriptions now made to apply to the election of Federal officials should apply to the election of State and local officials. The Negro in the South seldom gets to see his President or his Senator, and I may add, neither does the voter in the North; and if this debate does not soon terminate, this fact may well prove unfortunate for some of us.

However, the Negro in the South does get to see his sheriff and his local judges and other officials of the county or those in the city hall quite often. These are the people he is interested in helping elect and I intend to offer an amendment which will give him a fair chance to register and then do as his conscience may direct.

### EQUAL EMPLOYMENT OPPORTUNITY

Mr. President, it is also charged that employers, including farmers, will have to hire employees according to race to establish racial balance in every job classification; and it is said that quotas will be imposed, forcing businessmen to hire incompetent and unqualified personnel.

Now I turn to the fact: For some reason, the fact that there is nothing whatever in the bill which provides for racial balance or quotas in employment has not been understood by those opposed to civil rights legislation. They persist in opposing a provision which is not only not contained in the bill, but is specifically excluded from it. Those opposed to H.R. 7152 should realize that to hire a Negro solely because he is a Negro is racial discrimination, just as much as a "white only" employment policy. Both forms of discrimination are prohibited by title VII of this bill. The language of that title simply states that race is not a qualification for employment. Every man must be judged according to his ability. In that respect, all men are to have an equal opportunity to be considered for a particular job. Some people charge that H.R. 7152 favors the Negro, at the expense of the white majority. But how can the language of equality favor one race or one religion over another? Equality can have only one meaning, and that meaning is self-evident to reasonable men. Those who say that equality means favoritism do violence to commonsense.

Let me quote some arguments, which I am sure Senators will find familiar, being used against H.R. 7152. These quotations are not taken from the pamphlet distributed by the Coordinating Committee, although they might very well have been. Rather, they are excerpts from a legal brief submitted by counsel for Jones & Laughlin Co., in the N.L.R.B. against Jones & Laughlin case, decided by the Supreme Court in 1937. The brief reads, in part:

> The petitioner's order constituted an unlawful interference with the right of the respondent to manage its own business * * * the question of retaining or discharging an employee involves delicate consideration of discretion which the law is loathe to attempt to weigh. The facts of the present case show the dangers of bureaucratic interference. * * * This is clearly an interference with the normal right of the respondent to manage its own business, because it is a dictatorial usurpation of the respondent's discretion to determine the capabilities of its employees.

As everyone is aware, that fallacious argument was rejected by the Supreme Court; but today it is being repeated virtually word for word against the civil rights bill. Yet, in the more than 25 years since that Supreme Court decision, there has been no effort to repeal the National Labor Relations Act because it threatens the individual's right to manage his own business. Today, no one would say that the National Labor Relations Board has taken over the management of businesses. Neither has it sought to determine the capabilities of employees. Rather, it has accomplished its initial goal, the facilitating of orderly collective bargaining. Likewise, title VII of the bill has only one purpose—the elimination of racial and religious discrimination in employment.

Finally, let me attempt to put to rest the wholly spurious argument that H.R. 7152 would establish compulsory employment quotas, by pointing out certain relevant facts which should demonstrate the baseless nature of this objection to the bill. The Supreme Court has ruled, in numerous cases, that racial discrimination in the selection of juries is unconstitutional. In case after case, where it has been demonstrated that Negroes have been systematically excluded from serving on juries, the Supreme Court has declared such practice a violation of constitutional procedure. No individual may be prevented from serving on a jury on account of his race. But this does not mean that every jury must contain a Negro. The Court's decision does not establish quotas for juries. Neither does the Court demand that prospective Negro jurors be given preferential treatment over prospective white jurors when a panel is chosen. In fact, the Supreme Court has flatly rejected the notion that there must be racial quotas for juries. In *Akins* v. *Texas*, 325 U.S. 398 (1945), the Court ruled that there need not be any direct correlation between the number of Negroes on a particular jury and the number of Negroes in the community.

What is true in the case of juries is also true in the area of employment. H.R. 7152 does not require that every employer with more than 25 employees hire a Negro or a certain percentage of Negroes. It is possible that although a particular jury or a particular business will contain no Negroes, no charge of discrimination will be made. But businesses, like juries, may not systematically exclude Negroes, when the only ground for exclusion is the color of a man's skin.

So I think the experience with juries is on all fours with what will be the situation in the case of employment. In practice, I know this is true in New Jersey, which I am so proud to represent. No quotas are applied there.

There is an absolute absence of discrimination for anyone; and there is an absolute prohibition against discrimination against anyone.

Charge: The bill vests almost unlimited authority in the President and his appointees and is a vicious interference with private and State rights.

Fact: Authority granted to Federal officers is carefully limited in every section of the bill and thorough judicial review is provided for. The bill specifically provides for the use of State remedies where possible—title II, section 204(c). It emphasizes the use of consultation and mediation—sections 204 (d), 602, 707(a), 1002—and the dissemination of information—sections 403–405, 504. It seeks not to subvert, but rather to uphold the liberties of all American citizens.

And, if State laws, commissions, and means of enforcement are already operating effectively within the State, the Federal authorities will defer to them. Personally I would prefer to see each State take the necessary actions to protect the freedom and dignity of its citizens; however, the constitutional rights of citizens cannot be indefinitely suspended because a State refuses to act.

Charge: The bill is unconstitutional and contrary to the spirit of the Bill of Rights.

Fact: On the contrary, the civil rights bill is designed to guarantee and protect constitutional rights. For too long the rights of Negroes have been denied and abridged. The testimony and findings in hundreds of court cases demonstrate beyond the shadow of a doubt that Negroes are being deprived of their right of free access to Government facilities in violation of the 14th amendment; their right to freedom of speech and petition in violation of the 1st amendment; their right to the equal protection of the laws, to due process of law, and even to the security of their persons and that of their families.

H.R. 7152 would provide a remedy against these abuses; it would rectify some of these injustices; it would restore the balance in favor of observance of the Constitution where observance is now sadly lacking. And it would accomplish these goals without infringing upon the constitutional rights of any citizen.

The supporters of this bill have contributed to the debate so that the American people will have a clearer understanding of what this legislation means and why it must be adopted. In undertaking to provide a free exchange of views, the Senate has admirably fulfilled its responsibility to inform and educate the citizenry concerning the great problems facing the Nation. However, the Senate has not fulfilled its primary responsibility as a legislative body; namely, to take action so that those problems may be resolved. The civil rights bill must be brought to a vote. Only then can the issue which now divides us be decided.

But now the Senate stands immobile, unable to fulfill its responsibility. Meanwhile, there is growing restlessness in the country. Some of it is well-directed and inspiring, like the prayer vigil now going on here in Washington. Some of it is ill-advised and embarrassing and dangerous, like the stall-in at the World's Fair.

We must give our Negro citizens the privileges which have been so long denied them. We must grant them full and equal citizenship. We must enact this bill, not because we are forced to do so, not because of sectional concern, but because, in the words of our late President, John F. Kennedy, "It is right."

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. WILLIAMS of New Jersey. I am happy to yield to the distinguished Senator from South Dakota.

Mr. McGOVERN. I intend to seek the floor in my own right in a moment, but before the Senator from New Jersey yields the floor, I wish to say that I had an opportunity to hear the entire address that he has delivered in the Senate this afternoon. I wish to express my own personal appreciation for the research, study, and time that the Senator from New Jersey has obviously given to the subject. He has made it possible for many of us to come to a better understanding and a better appreciation of the issues that are at stake.

During the years that I have had the privilege of knowing the Senator from New Jersey, going back to the time when he was a Member of the House of Representatives, I have known of no person in public life who has demonstrated a greater and more consistent concern for the entire range of human rights. The same broad humanitarian philosophy that has made him a leader in working for better standards for American labor, and for our rural citizens, and for a higher quality of life for our people in the cities has also helped to explain the great interest he has taken in this all-important area of human rights. I wished to commend the Senator before he yielded the floor.

Mr. WILLIAMS of New Jersey. Mr. President, I am deeply grateful to my good friend the Senator from South Dakota.

I yield the floor.

Mr. McGOVERN. Mr. President, at a later stage in the debate on the civil rights bill I hope to outline briefly my own views on the important issues that are raised in the bill.

## THE URGENT NEED FOR CONVERSION PLANNING

Mr. McGOVERN. Mr. President, I should like to ask the attention of the Senate on another subject which in some ways is related to some of the issues in the civil rights debate. Last Monday in a speech before the Associated Press in New York, President Johnson announced a 40-percent cutback in the production of enriched uranium, which is the material from which nuclear warheads are constructed. At the same time Premier Khrushchev announced a parallel cutback in Russian nuclear production. On the following day Prime Minister Douglas-Home pledged Britain's support and cooperation in the reduction of nuclear materials production.

The reaction, so far as I know, in practically all countries, both here in the United States and overseas, was enthusiastic. Most commentators have recognized that the cutback would not in any way affect the balance of power between the great nations, nor would it interfere in the least with the enormously destructive power either of the Soviet Union or the United States.

President Johnson made that point quite clear in his speech.

Nevertheless, there is genuine cause for satisfaction in the announcement of these reductions. We all know that it is not weapons, but the will to use them, that cause wars. The awesome power of nuclear weapons may give the great powers pause, but the terror of weapons has never yet prevented a war. As long as fear and mistrust exists between nations, the danger of war will be ever present. The coordinated announcement of cutbacks in the production of nuclear materials, while not significant in military terms, was an important step toward reducing the tensions that pervade our world, raising the hope that international conflicts may more easily be resolved without resort to force.

However much we welcome the chance to reduce our production of the weapons of war, we must recognize that such a cutback is not without attendant difficulties. Many people in this Nation, indeed, whole communities, are dependent on the production of enriched uranium for their livelihood.

The recent reduction, plus earlier announced reductions in nuclear materials production, have directly affected over 400 jobs in Portsmouth, Ohio; Oak Ridge, Tenn.; Paducah, Ky. In addition, the reductions mean a cutback in the need for privately supplied electrical power amounting to over $30 million, thereby affecting employment in that industry. There is no doubt that this loss of employment will inevitably spread out through the adjacent communities, compounding the problem.

The threat of economic distress hangs over many other areas of this country heavily engaged in defense production. In a democratic nation such as ours there is always the danger that the legitimate concern of the people of such areas may influence decisions that ought not be the subject of economic pressures.

In other words, our level of defense spending ought not to be geared to economic pressures. It ought to be geared to providing the needs of our military defense, and for no other purpose.

Since 1950 this Nation has spent over half of its entire budget each year in preparation for war. Many voices, including that of President Eisenhower, warned of the dangers of a military-industrial complex that was easy to build but very difficult to dismantle. It was Karl Marx who predicted that capitalist countries would have to spend more and more on the production of arms in order to prevent economic collapse, and that this would propel the world inevitably toward war. In this, as in so many of his theories, Marx was wrong. There is nothing inevitable about the production of arms in America. The dangers of our world require that we be militarily strong, and we are strong. But there is neither need nor excuse for saddling our taxpayers with the cost of construction of superfluous weapons that add little if anything to our military strength.

President Johnson was clear on this point when he told his New York audience on Monday:

> We must not operate a WPA nuclear project just to provide employment when our needs have been met.

In our determination to prevent waste in our military program, and to avoid provocations that increase world tension, however, we must not abandon those of our people who have become dependent on military programs for their income and for their livelihood.

Through its defense programs, the Federal Government has brought entire communities into a dependency from which they cannot escape, in my judgment, without assistance. Where will they get that assistance when the inevitable shifts and cutbacks take place?

Secretary McNamara has been clear about the role of the Department of Defense. In an appearance before the House Armed Services Committee in January of this year, Mr. McNamara said:

> The Defense Department cannot and should not assume responsibility for creating a level of demand adequate to keep the economy healthy and growing. Nor should it, in developing its programs, depart from the strictest standards of military need and operating efficiency in order to aid an economically distressed company or community.

Mr. President, I think that statement is unassailable. I cannot see how anyone could quarrel with the Department of Defense in considering that it is its responsibility to provide for the military defense of the country at the lowest possible cost, and without regard to considerations of providing jobs, or doing the various other things to stimulate the economy which are not within the proper role of the Defense Department. We would be in a sorry state if our Defense Department were subjected to the pressures of economic need in carrying out its mission to defend our Nation.

To meet the Government's responsibility to those communities that have become dependent on defense contracts and installations—and they have done a good job in meeting the country's defense needs—I introduced a bill on October 31 of last year to create a National Economic Conversion Commission. It would be the task of this Commission to develop proposals to lessen the impact of a defense cutback, such as the one announced last Monday by President Johnson, and to work with local and State leaders, to work with defense contractors in developing alternative production plans so that employment and income can be maintained. The bill, now before the Commerce Committee, has 12 cosponsors in the Senate, the latest one being the Senator from Maryland, who asked that his name be added to the bill yesterday. Twenty-two Members of the House have since introduced identical bills in that body. The President has created a special executive department committee, known as the Committee on the Economic Impact of Defense and Disarmament, to coordinate executive department conversion planning.

The proposed legislation has the support of the Republicans and Democrats alike. This is a bipartisan problem. We are proposing a bipartisan solution.

Mr. President, considerable interest has been shown by Congress and by the President. Moreover, the public, and some sections of the press have also been concerned about the problem that I am discussing. I have received literally thousands of letters from people in every single State in the Union since the introduction of this legislation last fall, supporting the concept of a Conversion Commission. I have received literally hundreds of copies of letters which have been sent to the President of the United States and to the Senator from Washington [Mr. MAGNUSON], chairman of the Commerce Committee. Many of these letters are from people who have been affected by the loss of jobs because of the reduction in defense spending, or people who fear the loss of their jobs because of proposed reduction in military spending.

There have been numerous articles in the press. I ask unanimous consent that two articles that appeared in the New York Times last week, one of which contains a useful table showing the importance of defense-space business to 34 large contractors, be printed at this point in the RECORD, as being representative of many others.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times, Apr. 12, 1964]

## ECONOMISTS SEE AN END TO ARMS INDUSTRY BOOM

(By Will Lissner)

The bottom isn't falling out of the defense business, at least not yet, but the growth is, economists who have been studying the effect of recent cutbacks on the arms contractors report. This is forcing the country and the defense industry to think about the economics of a transition from an economy sparked by a munitions boom to one projected forward and upward by a newly strengthened civilian economy.

The small group of economists who have been preparing for the transition laugh at the industry leaders who as one put it, "approach the wailing wall, rend their garments, don sackcloths and ashes and recite from the Book of Lamentations."

These economists have been reporting recently on their studies in a variety of places, to the Senate Subcommittee on Manpower, before the Electronics Industries Association in Washington last month, in a symposium in the current issue of the bulletin of the Atomic Scientists and in several economic reviews.

### THREAT TO PROSPERITY SEEN

In these reports they emphasize that adjustment to a peace that is breaking out ever so gradually is no light matter: It could threaten the country's prosperity. But the economists emphasize that it need not and, indeed, could underpin it.

John Silard of the United Automobile Workers legal staff, who was special consultant for the Senate Labor Committee on Defense Industry Conversion, points out that "today we are on the threshold of a serious national confrontation."

"Soon," Mr. Silard says, "we will be ready for a new policy of technological advance, which will facilitate the return to a peacetime pattern of national economic life."

Dr. Murray L. Weidenbaum, senior economist of the Stanford Research Institute and formerly with the Budget Bureau and the Boeing Co., recently completed for the Defense Department a study of defense conversion potentials.

He has tried to make clear to the defense industry the size and nature of the transition problem. The industry's nervous system suffered telling shocks from the nuclear test ban agreement, the decline in the next year's budget, the sharp reduction in new funding for strategic forces, impending closure of defense installations and indications of more cutbacks to come.

This, Dr. Weidenbaum emphasizes, is not a disarmament or even arms-control type of situation. Speculation is general that the defense budget may possibly decline as much as $5 billion over the next 5 years. He pointed out:

"Were this five-by-five situation to come about, it would mean no more than a 10 percent reduction from the current level, or a return by 1970 to the 1962 level of defense spending.

"Now, 1962 was by no means a depressed situation. In fact it was significantly higher than the post-Korean plateau in defense spending that characterized the Eisenhower administration."

### DECLINE IS PREDICTED

Dr. Weidenbaum estimates that, taking future peaks and valleys into account and using dollars of constant value, the military budget will decline by several billion dollars in the next few years.

Then, he figures, it will begin a relatively slow increase so that between now and 1975 the military budget will rise at the average annual rate of 1 percent. This contrasts with a likely increase in total output of goods and services during that period of 3½ percent a year.

Thus the defense market outlook is for maintenance of a high level of defense demand in an area of the economy that is no longer a major growth area but rather one characterized by continued instability and fluctuation.

Archibald S. Alexander, assistant director of the U.S. Arms Control and Disarmament Agency, who has responsibility for his agency's economic program, believes there are three broad alternative courses for future defense spending.

### ALTERNATIVES ARE GIVEN

First, if no substantial disarmament agreements are reached but the weapons inventory becomes fairly complete and no crises require calling up additional men, the prospect is for a gradual decrease in defense spending.

This cut would be small in terms of actual dollars but larger in terms of percentage of total output, Mr. Alexander says. Offsetting steps needed, he holds, would be those that are needed today when companies and employees involved in shifts are hard hit, except that the blow would fall within a contracting industry.

The second alternative, Mr. Alexander says, is a substantial decrease under step-by-step disarmament. Dr. Weidenbaum estimates that the total net reduction in U.S. security expenditures under this alternative would be about $40 billion over a 12-year period.

This, Dr. Weidenbaum points out, would involve a decline of roughly $6 billion a year in the crucial introductory 3-year period of maximum impact. Then it would drop more gradually to the $20 billion annual level by 1975.

A net reduction of defense expenditures of $6 billion a year is about 1 percent of the total annual output of goods and services. It would be a far smaller percentage of total output than was represented by the defense cuts after World War II and after the Korean war, Dr. Weidenbaum points out. The defense cut of post-World War II was 30 percent of total output; the post-Korean defense cut was 3 percent of it.

But this could cause a serious slowdown, he warns, and, if not offset, might well generate a total decline of several times that amount in the national economy.

Mr. Alexander's third alternative is a total decrease, which he points out could only occur if much of our defense industry was obliterated in a major war—which he hopes is unlikely.

Dr. Weidenbaum takes as a more realistic version the type of post-World War II disarmament to a level under $10 billion, but finds even this unlikely.

Barring new freezes in the cold war, the prospect is for the release of an important amount of resources and men from the military to the civilian economy.

### OPPORTUNITY IS HAILED

Michael Michaelis, of Arthur D. Little, Inc., chairman of a U.S. Chamber of Commerce committee on research and development, who was formerly Executive Secretary of the White House Panel on Civilian Technology, argues that this is opportunity rather than threat.

The ability of corporations now oriented to defense to combine a great diversity of scientific and technical skills for massive assaults on large-scale problems, he finds, "may turn out to be a social innovation of even greater consequence, in the long run" than the technological revolution that made it possible.

"This," he concludes, "may be the spillover from military to civilian needs that is of greatest national and social consequence if we make up our minds to use it."

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[From the New York (N.Y.) Times, Apr. 13, 1964]

## Defense Industry Finds Conversion Challenging Task—Economists Say Shift Offers Opportunity for Spurring Long-run U.S. Growth

(By Will Lissner)

Helping the defense industry turn its swords into plowshares is a task of major proportions, according to a group of economists who have been studying the problem for government and business.

But the conversion of defense industry resources to peacetime pursuits, as fulfillment of national security needs and the international political situation permits offers the country a "tremendous opportunity" to bolster longrun economic growth and progress, the investigators report.

The group of economists includes Archibald S. Alexander, who is in charge of the Arms Control and Disarmament Agency's economic programs; Richard Nelson of the Rand Corp., a specialist in research and development analysis, and Dr. Murray L. Weidenbaum, senior economist of the Stanford Research Institute.

Their findings are set forth in a report entitled "Defense Conversion Potentials," which has been submitted to the Defense Department by Dr. Weidenbaum.

The economists say that conversion is a large problem for several reasons.

### NEW SHIFT IN PROCUREMENT

For one thing, a new shift has been developing in defense business.

During the midfifties, defense procurement shifted from the automotive and ordnance type of equipment produced largely in the upper Middle West to aerospace and electronic systems on which east and west coast companies have concentrated.

But in the last 6 years the major aerospace companies, taken as a whole, have received a declining share of prime defense contracts. A rising share is being allocated to research and development and production facilities along the gulf coast.

The bulk of the work will continue to be performed at existing industrial complexes, notably in California and the New England-Middle Atlantic region, Dr. Weidenbaum believes, but these facilities cannot reasonably expect to increase their share of defense contracts.

This, he thinks, may be why a prospective downturn, or even a plateau, in overall defense spending causes such consternation among these companies.

The problem of adjusting to a gradual or substantial decline in military demand is concentrated in a few industries—ordnance, aircraft, ship construction, and electronics—the bulk of whose sales are to the Government.

This problem is compounded because these four industries cluster in a few regions, notably the west coast, where they represent a major part of the industrial base of these areas.

Defense employment is 10 percent or more of the manufacturing employment of 15 States, according to data of the Bureau of Employment Security of the U.S. Department of Labor. These are the States:

Kansas, 30.26 percent; California, 29.59; Washington, 29.07; New Mexico, 23.80; Connecticut, 22.15; Arizona, 20.58; Utah, 20.35; Colorado, 17.80; Florida, 17.19; Maryland, 15.86; Massachusetts, 13.22; Texas, 12.65; Nebraska, 11.98; Missouri, 10.81; and New Jersey, 10.79.

### SAN DIEGO CITED

The concentration is far greater in certain metropolitan areas, such as San Diego, with 81.8 percent of total manufacturing employment in missiles and aircraft; Wichita, Kans., 71.7 percent, and Seattle, 52.6 percent. The figure for the Los Angeles area is 26.9 percent.

Moreover, this employment is almost wholly in facilities built for the production of specialized defense equipment. Currently about 90 percent of defense production consists of such specialized equipment.

Dr. Weidenbaum, in studying conversion potentials for the Defense Department, found that relatively few of the workers or the facilities had ever been engaged in the production of civilian goods.

Moreover, the large, specialized defense companies had sought to diversify—turning out, for example, canoes, computers, and coffins—but had not been successful except in a very few cases.

### LOSSES ON JETLINERS

The only attempt at diversification of a major sort was in production of transport aircraft for the commercial airlines, the large jetliners. But the profit performance on the large jet programs has been extremely poor and the losses incurred have both depleted venture capital and reduced enthusiasm for attempts to diversify, Dr. Weidenbaum reports.

This is to be expected he says. The companies lack commercial marketing capability because they needed none. They cannot produce large volumes at low cost because they are equipped to design efficiently small numbers of large-scale systems of great technical complexity. They just cannot make plowshares and pruning hooks.

Defense industry executives said, however, that there were fields these companies could enter if demand and financing were organized.

### DISCUSSION URGED

They mentioned large-scale construction, mining of undersea minerals, sea farming, space travel, integration of transportation systems, revitalization of the merchant marine, improved communications and weather forecasting, nuclear electronic power, conversion of salt water to fresh, traffic control systems, air and water pollution control, urban development and program of technical assistance to developing countries.

Mr. Alexander, the disarmament agency official, has emphasized that the country must start discussing programs for an orderly transition of defense industry to civilian work.

What is needed, he says, are coordinated Federal, State, and local programs involving participation by business and labor in policymaking, planning, and action.

Dr. Weidenbaum has suggested some lines along which such programs might be developed.

### TAX REBATE SUGGESTED

The Federal Government might award defense contractors nondefense research and development contracts. It might establish new requirements for nondefense systems so that the large defense contractors' sophisticated technology could be employed in them.

The Defense Department might treat commercial product planning or the development of a commercial marketing capability as allowable costs on military contracts. Retraining of employees might also be made an allowable cost.

To help nondefense industries that lag in research and development work, the Government might arrange the transfer of research resources from defense companies to these industries.

A tax rebate might be given for commercial research and development by defense contractors. This would be similar to the recently enacted tax credit for investment in production equipment.

Joint industry-Government financing of certain types of commercial research and development might be arranged, along the lines of the Interior Department's mineral exploration program. Under this, the Government pays up to half the cost of exploration and is reimbursed out of the proceeds.

Other possibilities are long-term loans and loan guarantees for certain types of commercial research and development, comparable to existing housing, small business and similar programs; leasing of Government-owned plant and equipment on favorable terms for work in behalf of industries with little engineering activity, and technical assistance on civilian applications of military research.

Michael Michaelis of the engineering concern, Arthur D. Little, Inc., one of the economists who have been studying the problem, says that the defense industry's development of the capability of creating highly advanced systems "has endowed us, as a Nation, with new military powers, and with a sense of power."

"To apply this capability to our civilian economy," he believes, "requires a deliberate and conscious national and corporate effort."

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[From the New York (N.Y.) Times, Apr. 13, 1964]

## Defense-Space Business

Following is a table summarizing research by Dr. Murray L. Weidenbaum of Stanford Research Institute estimating the importance of defense-space business to 34 large contractors. Partly because of the nature of the business, involving classified programs, the estimates are approximate. Defense-space orders may exceed company sales when payment is negotiated later, after delivery, and the amount does not appear in the year's sales figure. In some cases the ratio of defense-space orders to total sales may not be an accurate indicator of arms program involvement because, for example, military orders may be filled from civilian production.

*Importance of defense-space orders to 35 major contractors, fiscal year 1962*

| Company | Defense contracts (1) | NASA contracts (2) | Total (1)+(2) (3) | Company sales [1] (4) | Ratio of defense-space orders to total sales (3)÷(4) (5) |
|---|---|---|---|---|---|
| | *Millions* | *Millions* | *Millions* | *Millions* | *Percent* |
| 75 to 100 percent: | | | | | |
| Republic Aviation | $332.8 | $6.9 | $339.7 | $295.8 | 100.00 |
| McDonnell Aircraft | 310.9 | 68.5 | 379.4 | 390.7 | 97.11 |
| Grumman Aircraft Engineering | 303.6 | 24.6 | 328.2 | 357.1 | 91.91 |
| Lockheed Aircraft | 1,419.5 | 5.0 | 1,424.5 | 1,753.1 | 81.27 |
| Avco | 323.3 | 1.4 | 324.7 | 414.3 | 78.37 |
| North American Aviation | 1,032.5 | 199.1 | 1,231.6 | 1,633.7 | 75.39 |
| Hughes Aircraft | 234.2 | 9.2 | 243.4 | (2) | (3) |
| 50 to 74 percent: | | | | | |
| Collins Radio | 150.1 | 3.7 | 153.8 | 207.8 | 74.01 |
| Thiokol Chemcial | 178.3 | .8 | 179.1 | 255.8 | 70.02 |
| Raytheon | 406.6 | ----- | 406.6 | 580.7 | 70.02 |
| Newport News Shipbuilding & Dry Dock | 185.0 | ----- | 185.0 | 267.3 | 69.21 |
| Martin Marietta | 802.7 | 1.8 | 804.5 | 1,195.3 | 67.31 |
| Boeing | 1,132.8 | 15.6 | 1,148.4 | 1,768.5 | 64.94 |
| General Dynamics | 1,196.6 | 27.9 | 1,224.5 | 1,898.4 | 64.50 |
| Curtiss-Wright | 144.6 | ----- | 144.6 | 228.7 | 63.23 |
| United Aircraft | 662.7 | 34.1 | 696.8 | 1,162.1 | 59.96 |
| Douglas Aircraft | 365.6 | 68.4 | 434.0 | 749.9 | 57.87 |
| 25 to 49 percent: | | | | | |
| American Machine & Foundry | 187.3 | ----- | 187.3 | 415.4 | 45.09 |
| General Tire & Rubber | 366.1 | 66.4 | 432.5 | 959.8 | 45.06 |
| Northrop | 152.5 | 1.3 | 153.8 | 347.5 | 44.26 |
| Hercules Powder | 181.6 | ----- | 181.6 | 454.8 | 39.93 |
| Sperry Rand | 465.6 | 2.2 | 467.8 | 1,182.6 | 39.56 |
| Bendix | 285.9 | 19.4 | 305.3 | 788.1 | 38.74 |
| FMC | 160.4 | ----- | 160.4 | 506.5 | 31.67 |
| Pan American World Airways | 146.7 | ----- | 146.7 | 503.9 | 29.11 |
| 0 to 24 percent: | | | | | |
| International Telephone & Telegraph | 243.6 | 2.2 | 245.8 | 995.5 | 24.69 |
| General Electric | 975.9 | 23.0 | 998.9 | 4,792.7 | 20.84 |
| Radio Corp. of America | 339.6 | 20.2 | 359.8 | 1,742.7 | 20.65 |
| Westinghouse Electric | 246.0 | 3.4 | 249.4 | 1,954.5 | 12.76 |
| International Business Machines | 155.5 | 12.6 | 168.1 | 1,925.2 | 8.73 |
| American Telephone & Telegraph | 467.7 | 10.8 | 478.5 | 11,742.4 | 4.07 |
| Ford Motor | 269.1 | ----- | 269.1 | 8,089.6 | 3.33 |
| General Motors | 449.0 | 1.4 | 450.4 | 14,640.2 | 3.08 |
| Standard Oil (New Jersey) | 180.1 | ----- | 180.1 | 9,537.3 | 1.89 |

[1] Net sales for fiscal year ending during 1962.

[2] Not available.

[3] Estimated from other sources to be in excess of 75 percent.

NOTE.—In some cases, it appears that the ratio of defense-space orders to total sales in fiscal year 1962 is not an accurate indicator of the actual ratio of military-space sales to total sales.

Source: M. L. Weidenbaum, Stanford Research Institute.

Mr. McGOVERN. Mr. President, the cutback in the rate of arms spending, which until recently was widely thought to depend on the rather remote possibility of a firm disarmament agreement with the Soviet Union, has already taken place in the absence of any enforceable disarmament agreement.

Representative CARL VINSON, chairman of the House Armed Services Committee, explained this development to the House of Representatives earlier this year during presentation of the scaled-down Defense budget for next year. Mr. VINSON said:

> We are reaching a point in several areas, principally missiles, where we are coming up pretty close to our total needs. And we simply do not need to buy as many of the items as we did before.

Mr. President, I think that Representative VINSON has made a point that has not been fully appreciated, that in the absence of any kind of formal agreement on disarmament, we can anticipate substantial reductions in military spending for the simple reason that we have met all of our reasonable needs in a good many areas of the defense budget.

There comes a point after awhile when one can pile missiles no higher, when one can find no room for any more nuclear weapons systems. When that time comes, there will also come the recognition that we must reduce our allocation of the defense budget, even in the absence of any kind of agreement on disarmament.

Mr. President (Mr. McINTYRE in the chair), on August 2 of last year, I suggested in a speech in this Chamber that, as far as strategic nuclear weapons are concerned, we had a stockpile sufficient to destroy the Soviet Union several times over. President Kennedy made the statement as early as June 12 of last year, prior to the test ban treaty debate, that both the Soviet Union and the United States could destroy the world several times over.

I questioned the need for the continuance of the present rate of defense expenditure. I said to the Senate at that time:

> I think we need to take another careful look at our enormous arms budget, asking ourselves: What part of this budget represents additions to an already surplus overkill capacity? What alternative uses can be made of surplus military funds for strengthening the economic and political foundations of our society?

Since then, defense expenditures have been significantly reduced, primarily in the area of strategic weapons systems. President Johnson's proposed budget for fiscal year 1965 contains $1 billion less for the Department of Defense, and $3 billion less in new obligational authority for our military program.

Writing in the April issue of Foreign Affairs, former Deputy Secretary of Defense Roswell Gilpatric, raised the possibility of a 25-percent cut in defense spending by the end of this decade. That would figure out to approximately $12½ to $13 billion, a 25-percent proportion of our present military budget expenditure.

What would such a cutback mean to our defense-dependent communities? At my request, the Department of Defense prepared a list of major military procurement programs not funded beyond fiscal year 1963, and those that will not be funded beyond fiscal year 1964, together with the affected major suppliers and their location. I ask unanimous consent to have this list printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

### MAJOR MILITARY PROCUREMENT PROGRAMS NOT FUNDED AFTER FISCAL YEAR 1963 [1]

F-105 aircraft, major suppliers: Republic Aviation Corp., Farmingdale, N.Y.; United Aircraft Corp. (Pratt & Whitney Division), East Hartford, Conn.; Collins Radio Co., Cedar Rapids, Iowa; North American Aviation, Inc. (Autonetics Division), Downey, Calif.; General Electric Co., Burlington, Vt.; General Electric Co., Johnson City, N.Y.; Laboratory for Electronics, Boston, Mass.

Falcon (GAR 2B/11) missiles, major suppliers: Hughes Aircraft Co., Tucson, Ariz.; Thiokol Chemical Corp., Elkton, Md.; the Eagle-Picher Co., Joplin, Mo.

Dyna-Soar (R. & D.), major suppliers; the Boeing Co. (Aerospace Division), Seattle, Wash.; RCA, Camden, N.J.; Minneapolis-Honeywell Regulator Co., St. Petersburg, Fla.

OH-13/23 helicopter, major suppliers: Hiller Aircraft Corp., Palo Alto, Calif.; Bell Helicopter Co., Fort Worth, Tex.; Indiana Gear Works, Indianapolis, Ind., Parsons Corp., Traverse City, Mich.; United Aircraft Corp. (Ham-Stand Division), Windsor Locks, Conn.

OV-1 aircraft, major suppliers: Grumman Aircraft & Engineering Co., Bethpage, L.I., N.Y.; Bendix Corp., Eatontown, N.J.; Chandler Evans Corp., West Hartford, Conn.; Collins Radio Co., Cedar Rapids, Iowa; Motorola, Inc., Scottsdale, Ariz.; Ryan Aeronautical Co. (Electronics Division), San Diego, Calif.; Sperry Rand Corp., Phoenix, Ariz.; United Aircraft Corp. (Haminton Standard Division), Windsor Locks, Conn.

A4E aircraft, major suppliers: Douglas Aircraft Co., Inc., Long Beach, Calif.; United Aircraft Corp. (Pratt & Whitney Division), East Hartford, Conn.; Bendix Corp., Teterboro, N.J.; Lear-Siegler, Inc., Grand Rapids, Mich.; Ryan Aeronautical Co. (Electronics Division), San Diego, Calif.; AiResearch Corp. (Garrett), Phoenix, Ariz.; Melpar, Inc., Falls Church, Va.; Kollsman Instrument, Elmhurst, L.I., N.Y.; United Aircraft (Ham-Stand), Windsor Locks, Conn.; Genisco, Inc., Los Angeles, Calif.

RA-5C aircraft, major suppliers: North American, Columbus, Ohio; Solar Aircraft, San Diego, Calif.; Collins Radio Corp., Cedar Rapids, Iowa; Bendix Corp., South Bend, Ind.; North American (Autonetics Division), Downey, Calif.; General Dynamics (Electronics Division), San Diego, Calif.; Garrett Corp. (AiResearch Division), Los Angeles, Calif.; General Electric Co., West Lynn, Mass.; General Precision, Inc. (Kearfott Division), Little Falls, N.J.; Westinghouse Electric Corp., Glen Burnie, Md.

KC/RC-135 aircraft, major suppliers: The Boeing Co. (Transport Division), Renton,

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[1] Maintenance and modification programs may continue to be funded after fiscal year 1963.

Wash.; United Aircraft Corp. (Pratt & Whitney Division), East Hartford, Conn.; Northrop Corp. (Norair Division), Hawthorne, Calif.; Rohr Aircraft Corp., Riverside, Calif.; Ryan Aeronautical Co., San Diego, Calif; Twin Industries, Inc., Buffalo, N.Y.

Hawk missile, major suppliers: Raytheon Co., Lexington and Andover, Mass.; Raytheon Co., Bristol, Tenn.; Aerojet-General Corp., Sacramento, Calif.; Intercontinental Manufacturing Co., Garland, Tex.; Northrop Corp. (Nortronics Division), Anaheim, Calif.; RCA, Camden, N.J.; Bendix Corp., Teterboro, N.J.; Goodyear Aircraft, Inc.; Akron, Ohio; FMC Corp., San Jose, Calif.

Nike-Hercules missile, major suppliers: Western Electric Co., New York and North Carolina; Douglas Aircraft Co., Inc., Charlotte, N.C.; Intercontinental Manufacturing Co., Garland, Tex.; Thiokol Chemical Corp.; Marshall, Tex.; Hercules Powder Co., Radford, Va.; General Electric Co., Syracuse, N.Y.; Continental Can Co., Inc., Chicago, Ill.; Aerojet-General Corp., Azusa, Calif.; Elgin National Watch Co., Lincoln, Nebr.; FMC Corp., Lakeland, Fla.; Consolidated Welding & Engineering Co., Chicago, Ill.

Mr. McGOVERN. Mr. President, the impact of these cutbacks is already being felt in many parts of the Nation. Prof. Seymour Melman of Columbia University has prepared a list of recent and pending layoffs in 19 major defense firms in six States. I ask unanimous consent to have this list printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

*Recent and pending layoffs in 19 major defense firms*

(NOTE.—These data were assembled from managements, trade unions, and employees of the firms.)

| | |
|---|---|
| New York metropolitan region: | |
| Arma Division: | |
| 1963 to date layoff of production workers | 690 |
| 1963 to date layoff of engineers and technicians | 825 |
| 1963 to date layoff of clerical and administrative workers | 200 |
| Sperry Gyroscope: | |
| 1963 to date layoff of production workers | 1,000 |
| 1963 to date layoff of engineers and technicians | 550 |
| 1963 to date layoff of clerical and administrative workers | 200 |
| Reeves Instrument | 360 |
| Republic Aviation: | |
| 1963 to date layoff of workers | 3,700 |
| Scheduled layoff (few engineers involved) | 6,000 |
| Ford Instrument: 1963 to date layoff of production workers | 430 |
| New Jersey: | |
| RCA (Camden and Morristown): | |
| 1963 to date layoff of production and maintenance | 3,700 |
| 1963 to date layoff of engineers | 800 |
| 1963 to date layoff of technicians | 450 |
| ITT: | |
| 1963 to date layoff of production and maintenance | 300 |
| 1963 to date layoff of engineers and technicians | 280 |
| 1963 to date layoff of salaried employees | 220 |
| Bendix Aviation (Teterborough) | 500 |
| Bendix Aviation (Red Bank): | |
| 1963 to date layoff of production and maintenance | 400 |
| 1963 to date layoff of white-collar workers | 400 |
| Bendix Aviation (Homedale): 1963 to date layoff | 100 |
| New Jersey—Continued | |
| Curtiss-Wright (Teterborough): | |
| 1963 to date layoff of production and maintenance | 2,000 |
| 1963 to date layoff of salaried personnel | 400 |
| ITT (data and information systems): 1963 to date layoff (mostly professional staff) | 500 |
| General Precision: | |
| 1963 to date layoff of engineers | 60 |
| 1963 to date layoff of production workers | 170 |
| Impending layoff of production workers | 180 |
| Massachusetts: | |
| Avco (Lawrence, Lowell, and Wilmington): 1963 to date layoff of engineers and scientists (projected layoff now pending 2,500) | 270 |
| Mitre: 1964 layoff | 150 |
| Raytheon: 1963 to date layoff | 8,000 |
| California: | |
| Aerojet (Sacramento): | |
| 1963 to date layoff | 2,000 |
| Pending layoff | 3,000 |
| Aerojet (Azusa): | |
| 1963 to date layoff | 800 |
| Pending layoff | 1,200 |
| Douglas (projected layoff now pending 3,750) | ------ |
| Lockheed: | |
| 1963 to date layoff of engineers and scientists | 1,100 |
| Pending layoff (not including 700 to be transferred to Sunnyvale) | 1,500 |
| Systems Development Corp.: pending layoff | 1,000 |
| Colorado: Martin (Denver): As of Mar. 8 layoff of employees | 2,800 |
| Washington: Boeing: 1963 to date layoff of employees (continued reduction in employment through 1964) | 14,600 |
| Total | 67,085 |

Mr. McGOVERN. Mr. President, in addition to the mounting problems in areas losing defense contracts, many communities partly or heavily dependent on a nearby military installation face the loss of that installation in the near future.

At a recent briefing that was unclassified, Secretary McNamara reminded Senators that no community should regard any military installation as anything other than a temporary installation. I believe that if Senators would stop to reflect on that statement, they can reach no other conclusion. Many of the shutdowns have already been announced. Inevitably, more will follow in the very near future.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a list of military installations scheduled to be closed in fiscal year 1964 or in the first half of fiscal year 1965.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

### MILITARY INSTALLATIONS WITH ANNOUNCED CLOSING DATES IN FISCAL YEAR 1964, OR IN THE FIRST HALF OF FISCAL YEAR 1965

#### ALABAMA

Theodore Army Terminal, Mobile, June 30, 1964.

#### ARIZONA

Radar site, Winslow, August 30, 1963.

Radar site, Yuma, August 30, 1963.

#### ARKANSAS

Radar site, Walnut Ridge, August 30, 1963.

#### CALIFORNIA

Air Force Plant No. 16, Downey, October 26, 1963.

Air Force Plant No. 76, Bakersfield, March 30, 1964.

SAGE Center, Marysville, August 30, 1963.

Benicia Arsenal, Benicia, August 30, 1963.

Fort Mason piers, San Diego, July 12, 1963.

Mira Loma Air Force Station, Ontario, December 31, 1964.

Marine Corps supply forwarding annex, San Francisco, July 1, 1964.

Naval Air Station, Oakland, July 1, 1963.

Naval repair facility, San Diego, December 21, 1964.

Naval Oceanographic Office, San Francisco, January 31, 1964.

Nike site 33, San Francisco, June 30, 1964.

Pasadena Area Support Facility, Pasadena, December 31, 1964.

Overseas Supply Agency, San Francisco, July 1, 1964.

Santa Rosa Island A.C. & W., Station, Santa Barbara, July 1, 1963.

#### CONNECTICUT

New London dock, New London, November 7, 1963.

Nike site HA-25, Hartford, September 9, 1963.

#### FLORIDA

Fort Village Lanham Housing, Key West, August 30, 1963.

#### GEORGIA

Naval Forms and Publications Supply Office, Bryon, September 30, 1964.

#### ILLINOIS

Nike site C-44, Chicago, September 23, 1963.

Nike site C-54, Chicago, August 1, 1963.

Naval Oceanographic Office, Chicago, October 31, 1963.

#### INDIANA

Air Force Plant 30, Indianapolis, September 30, 1964.

#### IOWA

Ottumwa Tracking Station, Ottumwa, March 31, 1964.

#### KENTUCKY

Camp Breckenridge, Union County, June 30, 1964.

Louisville Army Depot, Louisville, July 1, 1963.

#### LOUISIANA

Camp Leroy Johnson, New Orleans, June 30, 1964.

England Air Force Base radar site, Baton Rouge, August 30, 1963.

Gap filler site, Lake Charles, August 30, 1963.

Gap filler site, Weeks Island, August 30, 1963.

Overseas Supply Agency, New Orleans, July 1, 1964.

Naval Oceanographic Office, New Orleans, January 31, 1964.

#### MAINE

Deblois Weapons Range, Columbia Falls, April 30, 1964.

#### MARYLAND

Naval Oceanographic Office, Baltimore, January 31, 1964.

Naval Weapons Industrial Reserve Plant, (DOD 148) Strawberry Point, October 31, 1963.

#### MASSACHUSETTS

"E" Street Annex, Boston, June 30, 1964.

Mifflin Estate, Nahant, January 3, 1964.

Naval Oceanographic Office, Boston, October 31, 1964.

Nike site B-38, July 1, 1963.

#### MICHIGAN

Camp Lucas, Sault Ste. Marie, June 30, 1964.

SAGE Direction Center, Sault Ste. Marie, December 31, 1963.

Nike site D-17, Algonac, December 3, 1963.

Nike site D-54-55, Detroit, August 1, 1963.

Nike site D-86, Franklin, November 1, 1963.

### MINNESOTA

Radar site, Grand Rapids, January 7, 1964.

### MISSOURI

Fort Crowder, Neosho, June 30, 1964.

St. Louis Ordnance Plant, St. Louis, June 30, 1964.

### NEVADA

Lanham Act housing site, Hawthorne, December 1, 1963.

### NEW JERSEY

Camp Kilmer, Edison, June 30, 1964.

Nike Site PH-32, Burlington, July 5, 1963.

### NEW MEXICO

Radar site, Las Cruces, August 30, 1963.

Radar site, Roswell, August 30, 1963.

### NEW YORK

Army Building, 39 Whitehall Street, New York, June 30, 1964.

SAGE Direction Center, Syracuse, August 30, 1963.

Mitchel Field Sewage Facilities, New York, April 30, 1963.

Naval Oceanographic Office, New York, January 31, 1964.

Building No. 2, Jay Street Annex, Naval Shipyard, Brooklyn, July 1, 1964.

Niagara Falls Chemical Plant, Niagara Falls, October 10, 1963.

Nike site NY-23, Nassau County, September 12, 1963.

Overseas Supply Agency, Brooklyn, July 1, 1964.

### NORTH CAROLINA

Naval Air Facility Weeksville, Elizabeth City, December 31, 1964.

Radar site, Cherry Point, August 30, 1963.

### NORTH DAKOTA

SAGE Direction Center, Grand Forks, December 31, 1963.

SAGE Direction Center, Minot, August 30, 1963.

### OHIO

Brookfield Air Force Station, Brookfield, November 1, 1963.

Lordstown Military Reservation, Lordstown, September 15, 1963.

Naval Reserve Training Center, Cleveland, August 1, 1963.

Rossford Ordnance Depot, Toledo, July 1, 1963.

### OKLAHOMA

The 32d Air Division, Oklahoma City, December 31, 1963.

### OREGON

Naval Air Landing Field, Tilamook, July 31, 1963.

### PENNSYLVANIA

Lukens Steel Plant, DOD 337, Coatesville, December 15, 1963.

Naval Home wharf, Philadelphia, March 31, 1964.

Naval Reserve Training Center, Erie, October 22, 1963.

Naval Reserve Training Center, Harrisburg, June 1, 1964.

### RHODE ISLAND

Nike site PR-69, Providence (Coventry), September 9, 1963.

### SOUTH DAKOTA

Nike site E-01, E-20, E-40, E-70, Ellsworth, September 12, 1963.

### TEXAS

Camp Gary, San Marcos, December 31, 1964.

Radar site, Eagle Pass, August 30, 1963.

Gap filler site, Carrizo Springs, August 30, 1963.

Gap filler site, Comstock, August 30, 1963.

Gap filler site, Delmita, August 30, 1963.

Gap filler site, El Paso, August 30, 1963.

Gap filler site, Palacios, August 30, 1963.

Gap filler site, Laredo, August 30, 1963.

Gap filler site, McCamey, August 30, 1963.

Gap filler site, Riviera, August 30, 1963.

Naval Oceanographic Office, Galveston, October 31, 1963.

Panatex Ordnance Plant, Amarillo, December 6, 1963.

Radar site, Pyote, August 30, 1963.

Radar site, Ozona, August 30, 1963.

Radar site, Rockport, August 30, 1963.

### VERMONT

Radar site, Lyndonville, August 30, 1963.

### WASHINGTON

Radar site, Fort Lawton, Seattle, August 30, 1963.

Ammunition Storage Annex, Spokane, October 10, 1963.

Sage Direction Center, Spokane, September 30, 1963.

Mount Rainier Ordnance Depot, Tacoma, July 1, 1963.

Naval Oceanographic Office, Seattle, October 31, 1963.

ADC Unit, Spokane, September 30, 1963.

Naval Harbor Defense Unit, Port Townsend, January 16, 1964.

### ALASKA

Radar site, Bethel, October 31, 1963.

Radar site, Middleton Island, October 31, 1963.

Radar site, Ohlston Mountain, October 31, 1963.

Eight DEW line sites, April 30, 1964.

### HAWAII

Bombing Range, Bonham Air Force Base, March 31, 1964.

Fort Ruger Theater Parcel, June 30, 1964.

Sand Island Harbor Control Post, April 30, 1964.

**Mr. McGOVERN.** Mr. President, we tend to discuss the conversion problem as though it were far off in the future.

The New York Times made an excellent survey last summer of 25 of the largest military contractors in the country. They found that a high percentage of those companies had done little or no thinking, little or no planning, for the time when defense contracts may be reduced, canceled, or will have expired.

It is true that certain private industries that are under contract to the Federal Government have done considerable thinking and planning in this field, but they are the exception rather than the rule. We tend to think about this as a problem that is far off in the future, when the fact is that the problem is on top of us now. It is a very real problem to a great many people in various parts of the Nation.

The facts and figures I have just placed in the RECORD—and I hope they will be studied, because they show that arms reduction is a challenge to us—urgently call for a solution.

I have asked for hearings to be held on my conversion bill, and the Senator from Washington [Mr. MAGNUSON] has promised them at the earliest opportunity.

We all know something about the legislative situation before the Senate at the present time which makes it difficult for us to open up hearings on a new subject of this kind right now; but I urge all Senators to consider this proposed legislation carefully, and to investigate the situation within their own States.

I should like to say a word about the relationship of my proposed legislation to the President's Committee which has been created by Executive action. I personally welcomed the creation of the President's Committee as an indication of the concern of the White House with this problem, and the determination of the President to meet the situation before it has a major impact on our economy. At the same time, I believe that the Congress should demonstrate its own interest in protecting those communities affected by defense cutbacks. There is no need for a multiplicity of Government agencies in this area. There is need for a single capable agency, adequately staffed and financed, with a well-defined responsibility for planning the conversion of plants and communities from a defense economy to a civilian economy. I should expect that the Commission created by S. 2274 would either supplant the President's Committee, or would upgrade that Committee and turn it into a conversion commission with legislative authority and appropriated funds. In either event, the passage of S. 2274 would give us an agency adequate to the task and charged with reporting back to Congress within a year with specific plans for dealing with the plans to which I have referred. The bill would also bring the talents and resources of local and State governments—and defense contractors—to bear on the problem of conversion.

Mr. President, I hope that with the renewed interest in the problem generated by the President's recently announced cutbacks in uranium production, together with more awareness on the part of Congress and the public, we can take swift action to prevent serious economic difficulties from following in the wake of what should be a hopeful opportunity for our country; that is, the reduction of the arms burden.

We have reached the point in our development where it is possible to relieve ourselves of a portion of the heavy burden of armaments and to do so with no loss whatsoever to our military strength. We must not let this long-sought opportunity bring economic misery to many of our people and many areas of our Nation.

With the proper planning, the economic risks of defense cutbacks can be overcome. We can no more shirk our responsibility to protect the people and the communities who built our defenses than we can neglect our responsibility to maintain our national strength.

Mr. President, in an editorial in yesterday's Washington Post, the importance of planning for conversion was underscored.

> Only intelligent forward planning will prevent the blessing of disarmament from being transformed to an economic nightmare—

The Post said. We must heed that warning before events overtake us.

I ask unanimous consent that the Post editorial, which I inserted in the RECORD yesterday, be again printed at this point of my remarks, in order to preserve the continuity of my statement.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SWORDS INTO PLOWSHARES

President Johnson's decision to curtail sharply the production of uranium and plutonium and the announcement by the Russians that they will move in the same direction are most welcome contributions to the relaxation of world tensions. But as the threat of nuclear annihilation recedes, new economic problems are created. And while they do not pose issue of life and death, their solution, which falls well within the boundaries of our knowledge and experience, is essential to a healthy American economy.

Although national defense absorbs nearly 10 percent of our gross national product, there is scandalously little knowledge about how many jobs are involved or exactly how changes in the level and composition of defense expenditures affects the level of employment. But when individual programs are "phased out" or when the overall level of defense expenditures declines, unemployment rises sharply in areas where defense production activities are concentrated.

There is no accurate measure of the number of persons idled by defense cutbacks or the number likely to lose their jobs when defense expenditures decline $1.3 billion in fiscal 1965. But it is obvious that the problem will grow more acute as the possibilities of a genuine detente are enhanced. Former Deputy Defense Secretary Roswell L. Gilpatric writes in the April issue of Foreign Affairs that a further improvement of relations with the Soviet Union could lead to the elimination of strategic bombers and a 25-percent reduction in the defense budget by 1970.

In the event of a sharp reduction of defense outlays, a way should be found for the orderly conversion of defense industries to civilian use. A massive conversion was easily effected after the Second World War, but the path was then cleared, as it would not be now, by a huge backlog of unsatisfied consumers' demands and an equally huge pool of liquid savings.

Without the pressure of consumer demand, there are no obvious or simple formulas for converting the military airframe industry or firms engaged in producing electronic equipment. The affected companies, many of whose managements have grown lethargic as a result of dealing with one sure customer, must find civilian products and open civilian product markets.

Last December President Johnson appointed a Committee on the Economic Impact of Defense and Disarmament. But that body has no staff, no budget, and, as yet, precious little information about the dimensions of a problem which is likely to grow more acute. An organizational framework is required, and it would be most swiftly provided by Senator GEORGE MCGOVERN's bill (S. 2274) to establish a National Economic Conversion Commission. Only intelligent forward planning will prevent the blessing of disarmament from being transformed to an economic nightmare.

Mr. McGOVERN. Mr. President, before I yield the floor, I wish to make one further general observation about the subject I have discussed; namely, the prospect of further reductions in arms spending, by expressing my own faith in the capacity of the American people and the American economy to absorb these reductions while our economy continues to move forward.

There is a wide range of unmet public and private needs to which we might devote new resources and manpower when they are found to be in excess of our defense needs.

The Senator from Connecticut, who was in the Chamber a moment ago, is now holding hearings on the problem of the pollution of air and the pollution of water, subjects which are of great interest to many of our citizens. They are problems which we ought to tackle with at least as much urgency as we have brought to bear on military programs.

There is also the problem of modernizing our railroad industry. We are all happy about the settlement of the threatened strike last night. However, this is only the beginning of many steps that should be taken to bring about a healthier and more wholesome railroad industry.

There is also the problem of mass transportation in the cities. That has been neglected. There are also the problems of weather control and weather modification.

There are unmet needs in the field of education and in the field of health, as well as in the field of urban and rural development. There are many areas to which we could turn our attention and our resources and some of our manpower once they become excess to our needs in the field of military defense.

Mr. President, if we seize these opportunities in the private sector and in the public sector, we shall find that any reduction in arms spending can open the way for new and hopeful opportunities for the American people.

I yield the floor.

Mr. KEATING obtained the floor.

Mr. KEATING. Mr. President, I ask unanimous consent that I may yield to the Senator from Delaware without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FORGERIES ON TAX RETURNS IN ROBERT BAKER CASE

Mr. WILLIAMS of Delaware. Mr. President, in March of this year Mr. Hauft, an accountant, made the charge that his name as it appeared on Mr. Baker's individual and partnership tax returns for 1961 was a forgery.

This information was submitted to the Internal Revenue Service. I have received a letter from the Internal Revenue Service dated April 23, 1964, in which the Commissioner of Internal Revenue confirms this charge. I quote:

> It has been established that Mr. Baker signed Mr. Hauft's name as the preparer of both the 1961 individual and partnership returns. This fact will be further considered as it relates to Mr. Baker's tax affairs.

I ask unanimous consent that the letter dated April 23, 1964, be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. TREASURY DEPARTMENT,
COMMISSIONER OF INTERNAL REVENUE,
*Washington, D.C., April 23, 1964.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: This is in further reference to your letter of March 19, 1964, requesting information concerning the income tax affairs of Robert G. Baker. We advised you in our letter of March 26 that an investigation was underway by our Inspection Service of the allegation that tax returns may have ben substituted in the files of the Internal Revenue Service.

The investigation of this matter has now been completed. No evidence was found to substantiate the allegation that the Baker returns had been substituted in the Service's files. The investigation conducted by our Inspection Service, which included analysis of the questioned documents by the Federal Bureau of Investigation laboratory, shows that the returns are those originally received and processed.

It has also been established that Mr. Baker signed Mr. Hauft's name as the preparer of both the 1961 individual and partnership returns. This fact will be further considered as it relates to Mr. Baker's tax affairs.

I have forwarded a letter to Senator B. EVERETT JORDAN, chairman, Committee on Rules and Administration, giving the full details of the investigation.

In addition to the return filing information given you in our letter of March 26, we can also advise you that income tax returns were filed by Robert G. and Dorothy C. Baker for the years 1953 through 1956. The returns for 1955 and 1956 were timely filed. The returns for the years 1953 and 1954 have been destroyed under the Service's destruction program, approved by the Joint Committee on Disposition of Executive Papers. Accordingly, we are unable to say with any certainly when the returns were submitted. However, there is nothing in our records to indicate these returns were not filed timely.

With kind regards.

Sincerely,

MORTIMER M. CAPLIN,
*Commissioner.*

Mr. WILLIAMS of Delaware. Mr. President, the letter further points out that these forgeries took place prior to the time the returns were filed. It is significant that the Commissioner specifically charges that Mr. Baker himself was the one who had forged Mr. Hauft's name as the preparer of the returns.

As evidence that forging the name of an accountant on a tax return is a violation of the law, I read a letter dated March 25, 1964, addressed to me and signed by Mr. Colin F. Stam, chief of staff of the Joint Committee on Internal Revenue Taxation. It reads as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL
REVENUE TAXATION,
*Washington, March 25, 1964.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: This is in response to your inquiry regarding the penalty provisions applicable in a situation where a tax return has been filed with a forged signature of a preparer of the return.

Under the Internal Revenue Code, such an offense may be prosecuted under section 7206(1) or under section 7207. Section 7206(1) provides:

"Any person who—

"(1) Declaration under penalties of perjury.—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or".

* * * * *

"shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution."

Section 7207 of the Internal Revenue Code relating to fraudulent returns, statements, or other documents provides:

"Any person who willfully delivers or discloses to the Secretary or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both."

Such an offense may also be prosecuted under section 1001 of the Criminal Code of the United States (title 18, United States Code), which provides:

"Sec. 1001. Statements or Entries Generally.—Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Sincerely yours,

Colin F. Stam,
*Chief of Staff.*

Mr. President, this letter clearly outlines the penalties for any person who forges the name of the preparer of a tax return.

I respectfully suggest that this is one instance in which the Department of Justice can begin taking action.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

### FORGED CIVIL RIGHTS PETITIONS

Mr. KEATING. Mr. President, from time to time, during the debate on the pending measure, I have commented on the extent and contents of mail I have received on the subject from the State of New York. During the last 2 weeks however, a pattern seems to be developing in connection with printed petitions against the civil rights bill, which may be of interest to my colleagues.

About a month ago, I began to receive a number of single sheet petitions condemning the bill and urging me to vote against it. The petitions are printed on a sheet a little larger than a letter size paper. About one-third of the face of the petition contains printed matter stating that the bill would interfere with the right of homeowners to sell and lease their property; that if the bill were passed the Federal Government would supervise schools and homes and interfere with the personal liberties of individuals. Perhaps the most puzzling statement is the one alleging that the bill would bring about Federal control of an individual's right to build and occupy his home.

These charges, of course, are complete distortions of the actual contents of the bill. While the statement contains no mention of the source of these misrepresentations, or, for that matter, the source of funds which were used to have the petition printed and distributed, the allegations are of the character which appear so often in the publications of the Coordinating Committee for Fundamental American Freedoms. Only this month, the Mississippi State Senate appropriated an additional $50,000 for the use of this organization, so we know that they do have sufficient funds available for such a project.

As the signed petitions continued to come in, I marveled at the number of people who had been misled into believing these distortions. Each signer promptly received a letter from me explaining that the charges made in the petition were untrue and that I fully intended to support the bill. Then the return letters started to come in. Not all of the return letters, of course, were as I shall outline, but some of them, in all fairness, it should be said, expressed regret that they had been misinformed and were glad to receive my letter setting them straight. However, most of them did not reply to my letter, nor was any reply required.

The first letter I received was from a Roman Catholic clergyman, an official of the Brooklyn diocese. He said:

> It is important to me to advise you that I have not communicated with you at any time regarding civil rights legislation. * * * For a long time, it has seemed to me that dishonesty might occur in the matter of representations made to our lawmakers. It is most distressing to find that such is the case and that my name has been used.

Since then, I have received a number of other letters from constituents who have expressed both surprise and indignation that their signatures have been forged. A man in Elmhurst wrote:

> I am in favor of civil rights and whatever communication you received bearing my name was unauthorized.

Another simply sent my letter back with his own note:

> I never sent you a message. I approve of civil rights legislation.

A father in Forest Hills stated:

> I have not and will not sign any petition against civil rights. Further, I have never given permission to anyone to use my name, or my 11-year-old daughter's name—

Which, by the way, also appeared on the petition.

I have spoken on this subject this afternoon in order to advise the Senate to beware. Someone is using anti-civil-rights money to buy telephone books and mailing lists, and many of those earnest protests may represent only the wishes of those who would defeat the bill.

## SPEECH OF JOHN D. ROCKEFELLER 3D, AT SPELMAN COLLEGE, ATLANTA, GA.

Mr. KEATING. Mr. President, in a speech dedicating a new Fine Arts Building at Spelman College, Atlanta, Ga., on April 12, John D. Rockefeller 3d, noted that progress is being made in the vital areas of overcoming barriers, creating job opportunities, and providing educational and training programs that will allow the Negro and other minority Americans to achieve their full potential.

Mr. Rockefeller maintained that this progress creates responsibility for all concerned. Each American, he said, has the responsibility of practicing those precepts which will give equal opportunity to all Americans; the young Negro in turn has the responsibility of taking full advantage of his opportunities.

With great insight, Mr. Rockefeller said that the outcome of the civil rights struggle is crucial to the future of our country. "In its successful resolution there is, for each of us," he said, "an important role to play." Each of us in the Senate has his role to play and each knows full well what that role should be.

Mr. President, I ask unanimous consent that the text of Mr. Rockefeller's speech be printed in full in the Record.

Mr. JAVITS. Mr. President, often the argument is made by opponents of the civil rights bill, as it has been to all civil rights proposals in the past, that what is sought to be achieved by these measures—racial justice—cannot be obtained by law, but only by changes in human hearts. The answer is clear enough: no one contends that law is the simple, all-sufficing answer, but it is the basic, necessary first step in the direction of justice, which must be aided by wise and firm enforcement and continuous efforts at human communication and understanding.

The recent address delivered by Mr. John D. Rockefeller 3d, to which my colleague has referred, most eloquently stressed these fundamental points. I am most pleased to join my colleague in requesting that the address be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Text of a Talk by John D. Rockefeller 3d at the Dedication of the John D. Rockefeller, Jr., Fine Arts Building, Spelman College, April 12, 1964

I am very happy to visit Spelman College again. My family has been associated for five generations with the college as well as with the ideals of education that it serves. We are proud of the relationship and we applaud the leadership of President Read and President Manley in establishing Spelman as one of the fine institutions of education in Atlanta, and in the entire South.

Spelman always had a special meaning for my grandfather who spoke here at the ceremonies naming it just 80 years ago yesterday. The college, as you know, is named for my great-grandparents whose home was a station on the underground railroad.

It is gratifying to me that I should have the opportunity to represent my family here today, and to join with you in dedicating this Fine Arts Building to the memory of my father. His interest in Spelman as well as the United Negro College Fund is well known. But especially in our minds today was his interest in the arts to which this building is dedicated. It is most fitting that it bear his name, for art and beauty were meaningful factors in his life and he attached great importance to the place of the arts in the lives of people generally.

My hope—and I know it would be my father's hope—is that you will use this building as another means of gaining the fuller, richer life which the arts make available to us. I trust that each of you, and the future students of Spelman, will carry the knowledge and appreciation of art and culture gained here back to your families and communities.

I have wondered whether my talk today should be on the importance of the fine arts to your life and mine. But instead I have chosen a subject that is, I believe, even more important. That is the challenge of new opportunities for you and many other young people in schools and colleges across the country.

During the past 2 or 3 years, an exciting and significant social change has transformed the possibilities for the minorities of America. We are at the point of a changing tide where it is crucial that we understand these new opportunities and the responsibilities that go with them. Unless we see this new situation clearly, and act upon it with vigor, we may become lost in an undertow of violence and grief.

How America treats its minorities—and especially its Negro population—is first of all a moral question. Yet we should not ignore the far-reaching economic effects of the current struggle for equal opportunity. We should also be aware that what helps the Negro helps other minorities in all parts of America: The immigrant in New York, the migrant in the Southwest, the miner in Appalachia. And on the world scene, only a totally free America, meeting the ideals, rights, and aspirations of all, regardless of race, can maintain ideological leadership. As President Johnson stated a year ago: "Unless we are willing to yield up our destiny of greatness among the civilizations of history, Americans—white and Negro together—must be about the business of resolving the challenge which confronts us now."

Against this background, I would first like to discuss with you the three interrelated factors that, as I see it, dominate the civil rights question today: Simply expressed, they are barriers, jobs, and education.

II

As to barriers, it is clear that more and more are falling—in housing, employment, government, and education—in virtually every area of our national life. There is broad and growing understanding that, as President Kennedy put it, race has no place in American life or law.

I realize that to many of us the progress seems limited and slow—only the first steps on a long journey. In any event, it is a long-awaited beginning—a beginning that makes inevitable the day when every American will enjoy an equal freedom.

As Roy Wilkins has said, we are seeing "an awakening of the American conscience to the urgency of the civil rights issue." The barriers that remain, stand not only in the South; they stand in the North as well—the problem is not a sectional one, but a national one. It is no longer the Negro's problem; it is the problem of every American.

The Negro protest, militant and determined, is not just a struggle against a wrong. Rather, it is a struggle for a right. Its real roots are in the spirit—and the letter—of our democratic heritage. It seeks not an empty symbol nor a mere emblem of status. It seeks instead what is real and basic to the Negro and to every American: His personal dignity, his education, his job, his home.

The all-important civil rights bill is now being considered in our Senate. The attention of the Nation is focused upon the debate. While we look forward to its early passage, we must remember that the removal of legal barriers is only a first step. The laws are still to be enforced. Then, while they are being enforced and even after, still other barriers stand—these more difficult to break down. These are the hidden barriers. No law, no enforcement, no protest can erase these, for they exist hidden in the minds and hearts of people, of Negroes and whites alike. These are the intensely personal barriers of attitude, of how one man regards another, of how well or how little one man likes another. Subtle, ingrown, tangled, the sum of all our experiences, these hidden barriers cannot be removed, they can only be overcome.

They shall be overcome as whites and Negroes come more and more in contact with one another in their workaday lives, as a person of a color or a background different from ours becomes our neighbor and our coworker. Misunderstandings will be myriad since the wide gulf caused by centuries of enforced separation and indifference will take time to bridge. There will be setbacks, but there will be victories as well, each lowering a hidden barrier, each bringing nearer the day of equal freedom for all.

III

The second factor I would discuss is jobs. Here a dramatic and encouraging development has occurred across the American scene. Jobs for qualified Negroes are opening at a rate that those close to the situation would not have believed possible just a year ago.

Today, if a young man or woman has ability and initiative and is willing to give himself wholeheartedly to his work, he will find in many companies today that there is no position from which he will be barred because of race. Also, in these companies he has opportunity to rise to the higher positions, provided he has the abilities to meet the intensive competition. Such a statement would have been unthinkable only months ago.

Lately, I have discussed job opportunities with the heads of several national corporations. I am greatly impressed and gratified by their approach to this rapidly moving situation. They cited the strides their companies are making in hiring Negroes and moving them along into ever higher positions of responsibility and proficiency. This is not a record of isolated instances, but solid, hopeful evidence of the infusion of the Negro into the mainstream of American business. Yet, there is an irony that must temper optimism: The jobs are opening faster than Negroes can be found or prepared to fill them. Automation is crowding out the unskilled, calling for higher and higher levels of training and education.

At the same time, forces within industry and Government are at work to help disadvantaged minorities take advantage of the opportunities now coming within their reach. Some 150 leading companies are enrolled in the plans for progress under the President's Committee on Equal Employment Opportunity in an imaginative and increasingly successful program to provide training and to open jobs for Negroes. The National Skills Bank, started last year by the Urban League, is helping to match individuals to jobs. In New York, an organization known as Harlem Youth Opportunities is developing a special attack on the problems there, and similar programs are beginning in other cities.

Yet a man must be responsible for his own qualifications. The help of others is often important—especially now—but in the last analysis if a man is to measure up, he must stand on his own two feet. Austin Walden, Atlanta's new judge, put it this way: "I have little concern about the difficulty of breaking down the remaining barriers in the pathway of Negro youth, but I am greatly concerned that youth prepare to take full advantage of the opportunities now opening before them. Henceforth, the young Negro will increasingly have to compete with the youth of the world. It will no longer suffice to be the best Negro. He will have to be the best man, period."

IV

So we have barriers going down and jobs opening up. The young American Negro faces unprecedented opportunities and, at the same time, the unprecedented challenge to prepare himself for them. Thus, we have the third factor in the civil rights struggle: education.

In the American dream, education has always been the watchword, the talisman, the open sesame to opportunity. Education is what our Founding Fathers so revered, what Lincoln gained by firelight, what, throughout our history, the sacrifices of one generation have earned for the next. As the leaders of the civil rights movement recognize, education is the key to the future of the American Negro as it is for all of us.

Yet, many have told me, education is the word that the young Negro of 1964 does not want to hear. He is impatient, they say. Talk of education he equates with further delay. Education to him means back to the books, wait a while—and he does not want to wait.

Every man of conscience will be sympathetic with his impatience. Yet can we speak of the opportunities which are opening and ignore what must be done to bring them within reach? Ralph McGill made this observation: "Because of the long isolation of the Negro from American life, a cultural and educational lag exists which would make it difficult for many Negroes—especially those in the rural South and those who had gone from it, untaught and unskilled to the industrial cities of the East and West—to take advantage of the rights attained."

James B. Conant has noted this cultural isolation in communities all over America. Children from these areas, he points out, are disadvantaged by isolation before their education begins; they are behind from the start, and the lag only lengthens as the pupil advances. The consequences are all too familiar. They appear especially in the adolescent years as increasing thousands of discouraged Negroes drop out of high school. They are young veterans socially crippled from the wounds of poverty and discrimination, caught tragically in the vicious circle of lack of training, lack of job, lack of hope.

That this lag be recognized and eliminated is of central importance to the Negro, to all the minorities of America, and to America itself. Every day it is allowed to exist, our Nation is wasting valuable human resources. Its correction, in the last analysis, is a matter not only of conscience but of commonsense.

It must be a foremost task of our time to equip American education with a catchup capacity that will permit our disadvantaged minorities an equal chance with all Americans to meet their basic needs and to realize their full potential. If this effort is to be really effective we must, as Dr. Conant has suggested, begin at the beginning. We must concentrate a massive effort on the beginning grades including kindergarten.

For leadership in this catchup effort we look to our educators, to the teachers and administrators, and to the citizens on our school boards. With each, we must rely on his skill, but we must depend, to at least an equal degree, upon his heart, upon how much he truly cares about the welfare of the children.

The importance of "caring" cannot be overemphasized. I will always remember what a friend told me about a visit he made to several South American countries during the thirties. In many humble homes, alongside a revered religious symbol, he often saw a picture of Franklin D. Roosevelt. My friend one day asked a farmer why he gave the picture such a place of honor. The farmer said, "Because President Roosevelt is our friend. Because he cares about us and our problems."

Even as we begin this massive catchup effort within our schools, the urgency of the situation requires other, more immediate steps. I have in mind a proliferation of locally based projects designed to seek out promising disadvantaged boys and girls to give them the extra help they need to be admitted to high schools and colleges. There is a widening awareness of the extent of the problem and the urgency of the steps needed for its solution. Many encouraging beginnings are already underway. For example, universities and colleges such as Dartmouth, Princeton, and Oberlin are involved in such programs, as are Hotchkiss and Loomis Schools on the preparatory level. Still another promising technique to enrich our educational system is the increasing exchange between Negro and non-Negro colleges, the so-called sister-to-sister program, where, for instance, Tuskegee and Michigan are exchanging professors and students in many departments.

More, much more, needs to be done. We must look beyond our school systems if progress is to be rapid enough. Industry, labor, government, foundations, and individual citizens all have a role to play. It is essential that new and increased efforts, by both public and private agencies, be forthcoming. The objective is clear: to equip American society with the capacity to bring the new opportunities within the reach of the disadvantaged.

From this brief review of the current situation in relation to barriers, jobs, and education, it seems clear that important progress is being made—progress in the steady lowering of legal barriers, in the significant increase in job opportunities, in the growing attention to educational needs and training programs.

To me the winds of change coursing across our land carry a message of hope for the young Negro, for all Americans. This progress I see is not founded on a passive wish, but upon the realities of our day, upon the surging evidence of a turning tide.

The thought I would leave with you today is that the tide of progress, which brings us hope, also brings us responsibility. I cannot emphasize too strongly this element of responsibility. Certainly it is a collective responsibility facing our communities, our States and our National Government, but even more important, it is an individual responsibility facing each and every one of us.

As individual citizens in a democracy, our responsibility is direct and personal. In our way of life, change comes not on order from the top but by the accumulated actions of citizens working as individuals or groups across the Nation. These may be the separate actions of a town council, a church board, the president of a company, the mayor of a city, or the governors of a club. They may be the actions of a personnel officer, a union delegate, a restaurant owner, a landlord, or the driver of a bus.

When the citizens of a Nation are alert and progressive, a country moves ahead, when they are not, it moves backward; it cannot stand still. It is easy for citizens in a democracy to brush aside their responsibility on the grounds that the problems are too great or complex, the end results beyond their competence. We must remember, however, that it is what we do as parents, as voters, as workers in civic or social organizations, as holders of public office that will in the last analysis give equal opportunity to all Americans. America, we must remember, is no more than the sum of ourselves.

The individual responsibility which we are discussing applies to you young people with special impact and meaning. It has twofold implications. First, there is the responsibility to equip yourself to take full advantage of the new opportunities opening to you.

By raising your sights and reorienting your thinking, you can look ahead to a future of exciting promise. You can look beyond the older, long-open professions such as teaching. You can see the way clear to new careers in business, science, technology, and the arts, to mention but a few.

Competition will be stiff; you will be severely challenged to meet it. Many say the Negro has an "attitude deficiency"; he lacks competitive spirit, he lacks a sense of personal responsibility. The retort is that he has only lately been allowed to enter the competition, and has never had much to be responsible for. To the disadvantaged, discrimination is both a handicap and an alibi. However, it must be recognized that when the handicap goes, so does the alibi.

Your success in preparing for and meeting these new opportunities will inspire other young people in your community to similar efforts to advance themselves. And I would say to you without reservation that you can also be an example, an inspiration to the youth of all America, both Negro and white. The extent of your own success will depend very considerably upon your motivation, upon your will to win. It will also depend upon recognition that we get out of life only what we put in, and what we put in is determined largely by how well we are prepared.

Second, there is your broader responsibility to your community and to the Nation. You, and many other students like you, have been in the forefront of the Negro protest that is rewriting our laws and changing the economic and political patterns of American life. You have made protest a positive force. Now fast-changing circumstances summon you to progress beyond protest, to capitalize upon what protest has bought, to make safe and secure what is so newly won.

I do not suggest that there is no longer need for protest. I wish this were true, but laws are yet to be enforced, uncounted barriers are still to be removed. The civil rights movement undoubtedly will continue until we achieve the equal freedom that simple dignity demands. I trust, with a fervent faith, that this movement will always be distinguished by forbearance, by nonviolence, and by a deserved respect for wise leadership. The individual actions of you young people and your adherence to responsible leadership will determine to a large extent the ultimate success of the movement, and whether it will escape the tragedy of violence.

There is no question that the outcome of the civil rights struggle is crucial to the future of our country and hence to every American. In its successful resolution there is for each of us, as I have tried to indicate, an important role to play, and for you young people the responsibility is special. Yours must now be the role of the statesman who succeeds the revolutionary, of the settler who comes after the pioneer. There is in history a time for each, and to each posterity owes an equal debt. This is your great challenge * * * this is your great opportunity.

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## TWO SIDES OF MIDEAST ISSUES: FACT VERSUS FANATICISM

Mr. KEATING. Mr. President, the American people have recently heard charges that our Government is taking a one-sided view of Middle East problems and that we are not fully aware of what is described as "the terrible tragedy of Palestine." We are told that we must reappraise our policies toward the Middle East and make more of an effort to see both sides of the issues.

Mr. President, I wish briefly to explore these charges. What is the terrible tragedy of Palestine—as the Arabs insist upon saying—which has been such a bar to peace in the Middle East? What are both sides of the Arab-Israeli dispute? What are Arab objectives for the future?

When Arab leaders talk of tragedy in Palestine, they are referring first of all to the Arab refugees, living in the Gaza strip and in Jordan. These refugees, so Arab leaders would have us believe, were driven from their homes by heartless Zionists and have lived in poverty and despair ever since. If this Arab view were in fact the true story, one might be more sympathetic to the publicly expressed concern of Arab leaders.

But the facts are quite different. In 1947, the United Nations approved the partition of Palestine. The Israelis, long ready for statehood and independence, accepted the U.N. resolution. The Arab states declared war and attacked the new state of Israel. The Jewish citizens of Israel, with their backs to the sea, stood fast to defend their state. The Arabs in Israel territory turned to their leaders for guidance and received very bad advice. They were told by the ex-Grand Mufti of Jerusalem and his aids to leave their homes to await the anticipated victorious arrival of the Arab armies. They were assured that within weeks they would be back to divide up the spoils of victory.

When the Arab armies were defeated these Palestinian Arabs found themselves homeless, but in Arab territory. If the Arab states had then accepted the reality of Israel's existence, many of the Arab refugees might have returned to their former homes. But, from the beginning, the Arab states refused to negotiate and make peace. Obviously, Israel could not afford to take a fifth column of disloyal and belligerent Arabs. They received shelter instead in U.N. camps along the borders of Israel and almost immediately became pawns in the bitter Arab struggle to dislodge and discredit the new State of Israel.

As individuals, these refugees at once received American sympathy and help in generous measure. Primarily the victims of jealous Arab leaders and their own fright and uncertainty, the refugees were fed and cared for by the U.N., and the United States paid most of the charges.

Now, 16 years later, the situation has changed. First, more than half of the increasing number of refugees are under 15; therefore, they were not by birth Palestinians and have no memory of life in the former British mandate.

Second, for 15 years, the Arab refugees have heard, through the idle days and desert nights, the voice of Arab imperialism and hatred for Israel. They have been told again and again over radio Cairo that Israel must be destroyed. The country that, under different circumstances might have become their homeland—as it did become the homeland of those Arabs who ignored the Grand Mufti and remained in Israel—instead became the object of their burning hatred.

Third, for political reasons, the Arab nations have chosen to exaggerate the hardship of these people by refusing to resettle them in Arab countries, and by holding out to them the illusion of ultimate return and repatriation in Israel. Although there is ample space in many Arab lands—outside of Egypt—the Arab States have refused to offer their countrymen and coreligionists a home. To Israel and to other nations which have opened their doors to destitute refugees, this heartlessness is difficult to comprehend. Yet the Arab States prefer to use these refugees, men, women, and children, as political pawns and to insist upon their repatriation in Israel rather than to make them welcome in Arab lands.

Mr. President, to my mind that is the greatest tragedy of Palestine, and it is a tragedy that could so easily have been averted had the Arab leaders themselves shown any genuine concern for their unfortunate people who fled from Israel in 1947.

(At this point the Acting President pro tempore (Mr. Metcalf) resumed the chair.)

Mr. KEATING. Mr. President, I have discussed and am discussing at length the refugee problem, not because it is the real source of the conflict, but because it is the result. It is the outward symbol, continually cited by the Arabs to explain their intransigence against Israel.

The real issue, as King Hussein stated on "Meet the Press," is the existence of Zionism, that is, the historic and cherished ideal of the Jewish people to achieve a national homeland. I need not dwell upon the origins of Zionism. It was the dream of the Jewish people through centuries of discrimination and persecution. It became a practical goal of revered leaders, like Herzl and Chaim Weizmann. It became an imperative of the international conscience in the aftermath of Hitler's demoniac horrors. In a world of nationalism, it was as logical for Jewish nationalism to achieve its objective as it was for Arab nationalism.

The strength of Israel today is not alone the strength of its fortifications or the number of its soldiers. It is the strength of an idea, the restoration of a people, the renaissance of a civilization. There is no real conflict between Arab nationalism and Jewish nationalism, between the 13 Arab States with their 3 million square miles and Israel with its 8,000 square miles. Yet Arab leaders resent Israel, because an independent Jewish State in the Middle East is in direct opposition to their ambition for a pan-Arab empire extending from Africa to Asia, from the Mediterranean to the Indian Ocean.

Now it should be clear that while Arabs talk of a united empire, they face serious practical difficulties in achieving it. There is no such reality as one Arab nation. There are separate Arab States, with the result that leaders are jealous of one another's prerogatives. There are differences of religion, of status, of nationality. They are sharply divided between the rich, oil-possessing states and the have-nots, like Egypt, with the largest population and the least resources. The only thing they seem to have in common is hatred for Israel. Only here can the Arab States seem to find real agreement and unity. Therefore, Arab resentment of Israel and Arab jealousy of Israel's progress have been deliberately exaggerated to promote and serve the shibboleth of Arab unity, until today hardly an Arab in the whole area is untouched by this contamination of hatred. Like Hitler's policies in Europe, Arab revanchism becomes a vicious circle. Israel is a territorial obstacle to the Arab monopoly of the Middle East; hatred of Israel therefore becomes a rallying point for frustrated imperialists; and ultimately, because it is the only point on which all Arabs can rally, hostility to Israel becomes an end in itself.

Any rational observer can see that Israel is no real threat to Egypt or Jordan, or Lebanon or Syria, as Arabs pretend. Israel's water diversion program does not deprive the Arab States of a resource which they were using or maintaining themselves, as has been charged. Israel is not responsible for Nasser's excessive military expenditures which are squandered to prop up a puppet regime in Yemen, as has been charged.

On the contrary, as one reviews closely events in the Mideast today, it is clear that Israel is concentrating its effort on constructive domestic development, while maintaining a defense-oriented military establishment, dictated by the continuing Arab siege.

Yet the Arabs refuse to sit down with the Israelis and settle any one of the specific issues in dispute—the refugee issue, or the boundary question, or the Jordan River diversion. Israel has consistently declared its readiness to take up these issues individually.

King Hussein made the point that the Arab nations do not categorically refuse to sit down with Israel. They only, as he put it, insist that Israel must first implement United Nations resolutions on the Mideast problems, as a precondition to negotiations. We hear that statement again and again.

Manifestly, such a statement is untenable, because it was the Arabs who went to war to nullify these resolutions in the first place. If all the United Nations resolutions had been implemented by both sides, the conflict would never have occurred. Moreover, 16 years have passed since Palestine became Israel. The face of the Middle East is changed, and no settlement can be made on the basis of ancient resolutions that do not reflect today's realities.

It is totally unrealistic for the Arab States to demand repatriation of Arab refugees, when the Arab States will not negotiate a peace settlement. Resettlement in Arab lands, with compensation, is the only realistic possibility for the great majority of the Arab refugees today. Acceptance of the boundaries existing today, with perhaps minor modifications, is also necessary. Use of the precious waters of the Jordan and other Middle East rivers can and should be negotiated with due regard to the rights of all riparian states. The water plan devised by President Eisenhower's emissary, the late Eric Johnston, was acceptable to the engineering experts of both Israel and Jordan. It is still the only logical and sensible plan; and, in truth, it is consistent with the water projects which both Israel and Jordan are now constructing.

The sincere way to negotiate a peace settlement is to sit together and talk, without preconditions. Any leader who would insist upon preconditions to the opening of talks is not honestly trying to resolve the issues between Israel and the Arab States; he is trying to block consideration of them and to make meaningful negotiations impossible.

So when the people of the United States are told that we should look clearly at the situation in the Mideast, at what the Arabs insist upon calling "the tragedy of Palestine," we ought indeed to take a good look. When we are told to look at both sides of the story, we should look at both sides.

What we see is very revealing. On the one side, we see Israel, a progressive nation, a haven for refugees the world over, deeply absorbed in economic development and growth within its own boundaries, a state practical enough to want good relations with its neighbors, but realistic enough to guard its own security.

On the other side, we see a band of frustrated Arab imperialists, in continual disagreement with themselves and the rest of the world, governments wasting the sustenance of their citizens for guns and rockets, wasting the days and years of fellow Moslem refugees for a political slogan at the United Nations, fanatics obsessed with the passion to exterminate those who do not conform to their singleminded dream of empire.

Mr. President, the people of the United States welcome leaders of foreign nations friendly to the United States. We listen with attention and interest to their words. But we cannot always agree with their arguments; and when we disagree, we can—and should—speak out.

King Hussein of Jordan has indeed given the American people a new insight into the Middle Eastern situation, but it is a picture that can only arouse deep concern and anxiety in this country. We once regarded him as a conciliatory Arab leader. We once hoped that he might inherit the wisdom of his grandfather Abdullah, who wanted an Arab-Israel peace. Altogether, since 1957, we have given King Hussein $461 million, in aid, mostly grants, including about $30 million in military aid. We have paid more than $150 million to provide for Arab refugees in Jordan, yet in Moscow on April 11, King Hussein's Ambassador reportedly declared in an interview:

> I will say frankly that today we believe that the U.S.S.R. can help us more than any other country.

Now King Hussein appears as the spokesman of an Arab alliance determined not to compromise, but to obstruct, not to help others but to promote suffering, not to create, but to destroy.

What we can learn from this visit is twofold: First, that we, the United States, must reject fanaticism of any kind and look at the Mideast problem with open eyes and clear heads. We cannot allow ourselves to be browbeaten by Arab threats or wooed by Arab promises. We must recognize and emphasize again and again the fact of Israel's existence; the fact that hatemongering and military preparations by the Arab States are a definite threat to the peace of the Middle East and therefore to our own foreign policy objectives. We must understand that Arab diplomacy speaks with different voices in different lands. It is soft and persuasive in Washington, strong and nationalistic at the U.N., but bitter and belligerent in the Middle East. We must not be confused or misled by it.

I wish it were possible for all Senators to read from time to time the emanations that come out over Radio Cairo about the United States and its leaders. We must not be confused or misled by the change in pace which we find in Arab diplomacy.

Second, we must recognize the reality of the threat expressed by the Arab leaders since the Arab summit conference of January 1964. The Arabs mean what they say and they are acquiring the means, the missiles, jets and bombers to give effect to their threats. Time is not necessarily on the side of Israel or of peace if fanatic Arab nationalism is organized under a unified Arab military command, and if Arab leaders are fully armed, and attempt a deliberate wooing of world opinion for their deceptive arguments.

The United States cannot stand idly by while Arab forces seek new strength for future assaults on Israel. Our Government, preferably the President himself, should speak out and make unmistakably clear that the United States will not permit such an assault, now or at any time, and that the United States is committed to resist aggression, that the United States is determined to strengthen those who are threatened, and that above all, we want an Arab-Israel peace as soon as possible.

The need to begin negotiations, or even to begin negotiations about negotiations, grows more pressing with each day. The influence of the United States must be brought fully to bear on this question, and the Arab States must be made to understand that continued U.S. friendship and assistance is dependent upon a new attitude, an acceptance of compromise, and a willingness to talk with Israel's leaders about conflicts which could spark a serious military conflagration in the Middle East.

The situation that is rapidly developing there deserves the most careful attention. It is a grave threat to world peace. It is potentially one of the most, if not the most, explosive areas in the world, and if an explosion were ever to take place, the United States would face a world crisis of monumental proportions. We must use our best efforts today to avert such a crisis tomorrow.

Mr. President, I yield the floor.

Mr. HOLLAND. Mr. President——

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Florida.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 164 Leg.]

**Aiken**
**Allott**
**Anderson**
**Bartlett**
**Beall**
**Bennett**
**Boggs**
**Cannon**
**Case**
**Church**
**Curtis**
**Dirksen**
**Dodd**
**Dominick**
**Fong**
**Gruening**
**Hart**
**Hill**
**Holland**
**Humphrey**
**Inouye**
**Jackson**
**Jordan, Idaho**
**Keating**
**Kuchel**
**Long, La.**
**Magnuson**
**Mansfield**
**McGee**
**McGovern**
**McIntyre**
**Metcalf**
**Miller**
**Monroney**
**Morse**
**Mundt**
**Muskie**
**Nelson**
**Neuberger**
**Pastore**
**Pearson**
**Pell**
**Prouty**
**Ribicoff**
**Saltonstall**
**Scott**
**Smith**
**Sparkman**
**Symington**
**Williams, N.J.**
**Young, Ohio**

The ACTING PRESIDENT pro tempore. A quorum is present.

Mr. HOLLAND obtained the floor.

Mr. MUNDT. Mr. President, will the Senator yield to me to make a brief statement, with the usual understanding?

Mr. HOLLAND. I am glad to yield to the Senator from South Dakota provided I do not lose my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PORTUGAL MOVES TOWARD GREATER DEMOCRATIZATION

Mr. MUNDT. Mr. President, for some years the United Nations has been expressing criticisms of Portugal complaining that in its relationships with its colonial areas is retarding the development and growth of educational and democratic processes which will eventually prepare these regions for complete, stable, and secure independence should that be their desire. These processes in underdeveloped countries are usually much slower than desired and too frequently new countries fail to improve conditions for their citizens or to operate democratic procedures appropriately because they are "put on their own" before they are duly prepared for self-government and independence.

At times the United States has been engaged in the doubtful practice of trying to control from afar through support of abortive United Nations resolutions the relationship between Portugal and Angola. Since the Portuguese are old and honored friends of the United States and have been of great assistance in our defense effort, it is therefore gratifying to note that recent developments indicate that there is important new evidence. That the processes of democratizations are at work in Angola and in Mozambique.

Since this change has not been widely publicized in the American press and since the criticisms of earlier Portuguese policy were banner headlined, I ask unanimous consent that in the body of the RECORD at this point in my remarks there appear the text of a press release dated April 15, issued by the Portuguese Embassy in Washington and headlined, "Legislative Elections in Angola and Mozambique."

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

### LEGISLATIVE ELECTIONS IN ANGOLA AND MOZAMBIQUE

The results of the legislative elections recently completed in the oversea Provinces of Angola and Mozambique were as follows:

### ANGOLA

Legislative council: 34 representatives were elected to the legislative council, of which: 15 were elected by direct suffrage, 3 by the workers' organizations, 3 by the corporate organizations, 3 by the rural "Regedorias" (rural councils), 4 by administrative bodies of the Province, 3 by the religious and cultural organizations, and 3 by economic associations. Total, 34.

Percentage of eligible voters (direct suffrage) who went to the polls: 84.9 percent.

Economic and Social Council: 16 representatives were elected to the economic and social council of the Province, as follows: 4 elected by the administrative bodies of the Province, 4 elected by the workers' organizations, 4 elected by the economic associations, and 4 elected by the religious and cultural organizations. Total, 16.

### MOZAMBIQUE

Legislative council: 27 representatives were elected to the legislative council, of which: 9 were elected by direct suffrage (the percentage of eligible voters who went to the polls was 87.19 percent); 3 representatives were elected by each of the following groups: Workers' organizations, corporate organizations, religious and cultural organizations, rural "regedorias," administrative bodies, and economic associations.

Although the majority of the representatives elected are natives of Mozambique, one of them was born in Angola.

Economic and social council: 16 representatives were elected to the Economic and Social Council, 11 of them being natives of Mozambique. These elections are not by direct suffrage, but rather by the organizations representing the economic and social interests of the voters. Thus, four representatives were elected by each one of the following groups: Workers' organizations, economic organizations, administrative bodies, and religious and social organizations.

Mr. MUNDT. Mr. President, while the elections reported in this release are different in nature and character from the type of representative elections we are accustomed to in the United States, they do mark real progress toward self-determination and self-rule by the people involved.

In the highly significant business of making freedom function for the people generally instead of for only a few politicians or rulers at the head of a newly created nation, the educational processes of "learning to do by doing" have great and enduring values. This is what it appears is now taking place in Angola and in Mozambique. I join many other Americans in wishing the best for the continued development of these procedures and congratulate the Government of Portugal on the progress which is being made. May it continue without interruption by violence from within and without interference from without which will destroy its chances for success.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HOLLAND. Mr. President, since it is my custom to give notice to my colleagues in the Senate as to my intention, I wish to state to Senators who are present that, speaking for myself and my distinguished captain, the Senator from Alabama [Mr. HILL], there is no intention to ask for a live quorum at the end of my speech.

Mr. HILL. As I understand, that statement is based on the understanding that the Senate will recess at about 8:30 until tomorrow morning. Is that correct?

Mr. HOLLAND. The Senator is correct. The acting majority leader has advised me that he would like to have the Senate recess at 8:30 this evening until tomorrow. My statement is in compliance with that understanding.

Mr. President, the pending business is the amendment offered by the distinguished junior Senator from Georgia [Mr. TALMADGE] and other Senators, which would, if adopted, provide that in most proceedings for criminal contempt in Federal courts, the defendant shall be entitled to a trial before a jury conforming as nearly as may be to the proceedings in other criminal cases. The carefully drawn amendment of the distinguished Senator from Georgia provides that trial by jury shall not apply to criminal contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court nor shall it be construed to deprive courts of their power in civil contempt proceedings to secure compliance with or to prevent obstruction of their orders as distinguished from punishment for criminal contempt.

This amendment is most timely and it brings up substantially the same issue as was passed upon favorably by a large majority of the Senate in 1957 when we were debating the so-called Civil Rights Act of 1957. That this amendment is peculiarly timely at this time is pointed up by the 5-to-4 decision of the U.S. Supreme Court on April 6 in which our highest Court ruled that former Governor Barnett of Mississippi and former Lieutenant Governor Johnson, now Governor of Mississippi, do not have the right of jury trial when they are subjected to criminal contempt proceedings. In the majority decision, written by Mr. Justice Clark, it was very clearly set out that though the Court ruled in that hairline decision—5 to 4—that a defendant was not entitled to a jury trial in a criminal contempt proceeding, it was within the discretion and jurisdiction of the Congress to pass a statute which would dispense with the ruling that criminal contempt proceedings could be held without jury trial. The wording of that portion of the opinion by Mr. Justice Clark in that decision was as follows:

> It has always been the law of the land, both State and Federal, that the courts, except where specifically precluded by statute, have the power to proceed summarily in contempt matters.

I digress long enough to say that the Senator from Florida views those words as almost an invitation, if not a mandate, to Congress to take some action that will get the Court out of the disagreeable situation under which it has divided on this question 5 to 4, and under which, even in the Court's opinion, certain expressions appear, such as those decrying the tendency of the lower courts to impose much higher penalties for criminal contempt convictions than was the case theretofore.

It seems to me that we should regard this as almost a privileged matter, in which we should act at the end of proper debate upon the amendment offered by the distinguished Senator from Georgia [Mr. TALMADGE] and other Senators.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. I yield to the Senator from Alabama for a question.

Mr. HILL. Is not the amendment offered by the distinguished Senator from Georgia [Mr. TALMADGE] the same amendment that the Senate adopted to the 1957 civil rights bill?

Mr. HOLLAND. It is the same as that offered at that time by our late distinguished friend from Wyoming, Senator O'Mahoney, who spoke with great persuasiveness and eloquence in support of the amendment and insisted that the Constitution required the adoption of such an amendment.

Mr. HILL. Is it not true that our late friend Senator O'Mahoney was one of the ablest and most profound lawyers in the Senate?

Mr. HOLLAND. That was my opinion of him. I regarded him as a leader in the Congress in the field of knowledge of constitutional law and of questions in connection with the Constitution.

Mr. HILL. I had the same opinion of the late Senator from Wyoming. He was a great man. The late Senator from Wyoming and I had our pictures taken together shortly before he left the Senate. When he left the Senate, I inscribed on that picture, "To the last of the great giants." He had been in this body with William Borah, George Norris, Carter Glass, Alben Barkley, Pat Harrison, and others of the great men of his time; and he was one of the greatest.

Is it not true that the present President of the United States, who was at that time the distinguished majority leader, Lyndon B. Johnson, voted for this amendment?

Mr. HOLLAND. That is correct; and he spoke for it persuasively. I think his speech has already been placed in the RECORD in the course of this debate.

Mr. HILL. Is it not true that President Johnson's distinguished predecessor in the presidency, John Fitzgerald Kennedy, when he was a Senator from Massachusetts, also supported this amendment?

Mr. HOLLAND. That is correct; and that fact has been placed in the RECORD. The fact that those two distinguished former Senators voted in that way is highly persuasive for doing what I have just said I believe is the mandate of the Supreme Court. I believe the Supreme Court has, in effect, issued a mandate for Congress to take statutory action to do away with the rule which, by a 5-to-4 decision, the Court says exists, permitting a trial without a jury in criminal contempt proceedings.

Mr. HILL. Is it not true also that the present majority leader of the Senate, the distinguished Senator from Montana [Mr. MANSFIELD], supported and voted for that amendment?

Mr. HOLLAND. I so understand. I do not recall his speech on that amendment, but I have been told during this debate that he voted for the amendment.

Mr. HILL. Is it not also true that the amendment was adopted by the Senate by a substantial majority?

Mr. HOLLAND. That is correct; an overwhelming majority.

I thank my friend from Alabama for his constructive comments which, as usual, have illuminated the RECORD greatly.

Mr. HILL. I thank the Senator from Florida. When the sun is shining brightly, there is not much opportunity for anybody to add illumination. When the distinguished senior Senator from Florida is speaking, there is not much opportunity for anyone else to add illumination.

Mr. HOLLAND. We all know that the Chesterfieldian Senator from Alabama always speaks in this highly complimentary vein; but I appreciate it nonetheless. I thank him.

Mr. HILL. The Senator from Florida knows that the Good Book tells us:

> Out of the abundance of the heart the mouth speaketh.

Mr. HOLLAND. I remember that. I am glad the Senator brought the Bible into the discussion.

I have, on three occasions, spoken at some length on this bill. In my first two major speeches during the debate I made special reference to the fact that this bill deprives citizens of their right of trial by jury in criminal contempt proceedings.

On March 19, I discussed title IV—which deals with desegregation of the public schools.

I showed how dangerous would be the grant of unlimited power, under title IV, to the Attorney General to bring injunction suits at his sole discretion upon any finding of discrimination in school segregation cases which he personally saw fit to make, and thereafter to invoke criminal contempt proceedings without trial by jury.

I expressed my strong belief that what most Negro children of America want and need is better schools and not integrated schools. As my first witness, the great educator, Dr. James B. Conant, who was president of Harvard University, presented telling evidence on that point.

Also, I quoted definite statistics from the most authentic sources showing that the Negro student's and the Negro teacher's opportunity for education and professional advancement is greater in the segregated schools of the South than in the integrated schools of the rest of the Nation. Of that there can be no question when one looks at the facts, as, for example, the fact that all the fine presidents of the great colleges for the Negro race are presidents of segregated schools.

I warned the Senate on that occasion:

> The peril of destroying or diluting the rights of the constitutional guarantees to all citizens * * * is contained in the fourth title of the bill.

I sound that warning again today, Mr. President.

As the minority views of the House report clearly and conclusively show, title IV would deprive a defendant of many of the protections guaranteed every citizen by the Bill of Rights and particularly would deprive him of the right of trial by jury when he is charged with criminal contempt for disobeying writs of injunction or restraining orders in school desegregation suits brought by the Attorney General.

On April 6, I addressed myself to title VII—EEOC—Equal Employment Opportunity Commission—but in reality, to use the old title, the FEPC section of the bill.

I hope, and I believe, Mr. President, that I showed how this equally dangerous, or even more dangerous, section, whose parentage is so uncertain, no one seems to know from whence it came, is to the citizens of our beloved country.

I showed what grievous damage to our Constitution—to the very foundations of our democratic system—title VII, like title IV, would do by giving the arbitrary power to the Commission, rather than the Attorney General, to bring injunction suits without provision for jury trial for criminal contempt.

My point was buttressed, Mr. President, in a most timely and significant way. On that very day the Supreme Court, by a hairline 5 to 4 decision, ruled that former Governor Barnett of Mississippi and former Lieutenant Governor Johnson, who now is Governor of that fine State, did not have the right of jury trial when they were subjected to criminal contempt proceedings which came to a halt in the Circuit Court of Appeals in New Orleans when that court announced that it was evenly divided on that question, by a vote of 4 to 4. The Supreme Court on that very day made it completely clear that a jury trial would not be a matter of right for anyone facing a criminal contempt proceeding as a result of an action brought under either title IV or title VII of the pending bill.

I feel strongly about this matter, Mr. President. I have always believed that trial by jury is one of the most precious heritages the Founding Fathers handed down to us. I have treasured it as a part of the heart of that imperishable document, by which and under whose protective safeguards and inalienable rights we live—our Constitution. In connection with that I should like to include in the RECORD at this point in my remarks the following brief colloquy I had that day with the distinguished senior Senator from Alabama [Mr. HILL].

I read from the CONGRESSIONAL RECORD dated April 6, 1964, page 7010:

> Mr. HILL. Does the Senator agree that one of our most precious rights under our Anglo-Saxon system of justice is the right to trial by jury?
>
> Mr. HOLLAND. I thought so until the decision came down today. I was taught as a boy in law school and as a young lawyer practicing and appearing before all courts, from the lowest to the highest in the land, that that was one of the sacred rights, and that it came to us from law more ancient than ours. But apparently in the field of criminal contempt, a majority of the Supreme Court, five out of nine, thinks the matter is not of such substance that a jury should be called for.
>
> Mr. HILL. The truth is that it is a right that was fought for and won and goes back as far as Magna Carta, in 1215, and to the petition of rights and the Bill of Rights, and therefore permeates our whole Anglo-Saxon history.
>
> Mr. HOLLAND. It is one of the anchors of our Anglo-Saxon system of law. I invite the attention of the Senator to the fact, as shown by today's decision, that a bare majority, five out of nine members of the Supreme Court, could make this decision; whereas if a defendant is being tried by a jury, the unanimous verdict of all 12 is required to convict. There is a considerable difference between the right to have a bare majority of a court pass on one's case and the right to have a jury of one's peers pass on his case, because in order to convict, those peers must unanimously say, "This man has wilfully and criminally violated an order of the court, known to him and applicable to him, and which he has violated in an effort to knock out completely the orderly process of our laws."

Mr. HILL. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield to the Senator from Alabama.

Mr. HILL. In such cases, under the various titles of the bill—and the bill has eleven titles—the Attorney General of the United States, whoever he might be, would really be the prosecuting officer, would he not?

Mr. HOLLAND. That is true.

Mr. HILL. Is it not also true that when Federal judges are appointed, the Attorney General, the head of the Department of Justice, has much to say about their appointment?

Mr. HOLLAND. Yes; I regret to state that that is a fact.

Mr. HILL. Is it not also true that the Attorney General, the head of the Department of Justice, also has much to say about the promotion of judges?

Mr. HOLLAND. Yes; I regret to say that that, too, is true.

Mr. HILL. On the other hand, 12 jurymen, 12 peers, selected from the population of the local district, would have no obligation to, or connection with, the Attorney General, who would be the prosecutor in such cases, would they?

Mr. HOLLAND. They would not. Their names would be drawn from the box in which the names of the total number of prospective jurors would have been placed; and the entire group of names would have been placed in that box and later drawn from it, under conditions of secrecy. Thereafter, in selecting the twelve members of the jury, both the plaintiff and the defendant would have the right to challenge or strike for reasons sufficient to them, including the reason of possible prejudice.

Mr. HILL. Does the Senator from Florida agree that if the integrity of our judicial system is to be preserved, nothing is more important to it than preservation of the right of trial by jury?

Mr. HOLLAND. That is correct.

Mr. HILL. The entire history of mankind shows that to be true, does it not?

Mr. HOLLAND. All Anglo-Saxon history demonstrates that conclusively.

Mr. HILL. And even the history of earlier times does the same, does it not? Is not the history of all mankind replete with the tragic stories of those who suffered because of lack of the protection of our judicial system, including—and this is one of the most important—the right of trial by jury?

Mr. HOLLAND. Yes; all too often that was the case. It was because of such abuses that Magna Carta was wrung from a reluctant monarch; and that protection and the other protections under the Anglo-Saxon system of law came into being in order to protect more fully the rights of the individual citizen.

Mr. HILL. Yes.

I am sure the Senator from Florida recalls the masterly address by Jeremiah Black before the Supreme Court of the United States, in the case of ex parte Milligan, after Milligan had been tried in Missouri, during the Civil War, by a drumhead court-martial. Jeremiah Black, a great lawyer, carried the case all the way to the Supreme Court; and while before the Supreme Court, he presented the history of these rights, and also presented a very clear statement of their meaning and their importance to individual citizens.

We say we are proud to be Americans; but, after all, what we really mean is that we are proud of the freedom and the liberty that we enjoy as American citizens, and also of the right of trial by jury, which is basic to the guarantee of justice and liberty to all our people. Is not that correct?

Mr. HOLLAND. That is correct. The great knowledge of the Senator from Alabama of these matters makes me wish I had an opportunity to return to school and study under his tutelage. I thank him for his important contributions to the debate.

Mr. HILL. I thank the Senator from Florida.

Mr. HOLLAND. Mr. President, I read further from the debate from which I have been quoting:

> Mr. HILL. Is it not true that the jury of peers are chosen and selected within the judicial district in which the person lives? Are they not people who know him, know his standing, and know his general reputation in the community in which he lives?

> Mr. HOLLAND. This is correct. If his reputation is good, it is fine for him to have such a jury summoned. If his reputation is bad, the jury will be summoned from the people of that very area, and who know more about what that bad reputation is.
>
> Mr. HILL. That is correct.

To say to the American businessman: "I shall tell you whom to hire, whom to fire, whom to promote, whom to demote;" to say to the great Labor Union of America: "I shall tell you how to manage your union, how to determine the seniority of your members, how to set the rules"; to say to the workers of America: "I shall tell you with whom you shall associate, with whom you must work at your workbench, with whom you must share your lunch hour"—is undemocratic, Mr. President, is unconstitutional, Mr. President, and is wrong. It must not happen in America or else we would become the very antithesis of democracy—a police state—and particularly so when authority would be given to the EEOC to proceed by injunction, coupled with later use of criminal contempt proceedings without jury trial. The Talmadge amendment would at least require the safeguard of jury trial in appropriate criminal contempt proceedings under this highly objectionable Title VII of the bill.

The most dangerous provision of the bill, of all those dealing with the power of the Attorney General to bring injunction suits, and thereafter to use criminal contempt proceedings without jury trial, is found in section 302 of title III of the bill, in the following words:

> Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.

The distinguished senior Senator from North Carolina [Mr. ERVIN] has done a great service during this debate by calling the attention of the Senate and the attention of the Nation to the fact that this inconspicuous portion of the bill accomplishes, in effect, what was embraced in the point III provisions of the 1957 civil rights legislation, which would have authorized the Attorney General to bring an injunction suit within his sole discretion in any matter which he felt involved a threat to or an invasion of civil rights, with the power, of course, to use criminal contempt proceedings, without jury trial thereafter. The Senate soundly turned down that proposal; and it has been since turned down by a majority of the Senate on several occasions, particularly by three different votes during consideration of the civil rights bill of 1960. Yet, it is now proposed in this bill, through this inconspicuous and almost hidden section which appears under title III, and is supposedly confined to the field covered by that title, "Desegregation of Public Facilities." Section 302 proposes to give to the Attorney General the full power to intervene in any action involving and defending civil rights brought by any citizen in any court of the United States. It would give to the Attorney General the right to obtain exactly the same relief as if he had instituted the action in the beginning, including, of course, the right to bring criminal contempt proceedings without trial by jury.

Mr. HILL. Mr. President, will the Senator from Florida yield again to me?

Mr. HOLLAND. I am glad to yield to the Senator from Alabama.

Mr. HILL. In section 302, on page 13, the sentence beginning in line 9 is:

> In such an action the United States shall be entitled to the same relief as if it had instituted the action.

That provision was included in order to insure that the defendant will not have his right of trial by jury, is it not?

Mr. HOLLAND. Yes; it was put there for that reason, and also to give the Attorney General any right which he might have had if he, himself, had instituted the proceeding.

Mr. HILL. Yes.

Mr. HOLLAND. One of those rights is freedom from any questioning by the court or by anyone else as to why he decided to come into the case. It would be a right of intervention, without giving any court the right to question the discretion of the Attorney General.

Mr. President, that is too much power and authority to repose in any man. If he were a good man, I do not believe he would wish the power. If he were a bad man, he certainly should not have it. So far as I am concerned, I am not willing to give it to any Attorney General. My remarks have no reference to any present, former, or future Attorney General as a person, but refer to anyone holding that office.

Mr. HILL. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield.

Mr. HILL. That was the strong feeling of the Senate in 1957 when it struck title III from the civil rights bill of that year.

Mr. HOLLAND. Yes. Then in 1960 three separate efforts, one differing very little from the other, were made to put substantially the same provision in the bill of 1960. In every instance the Senate voted down such attempts.

Mr. President, how far from the sound and fundamental concepts of Anglo-Saxon justice do the starry-eyed advocates of this bill think they can go and still preserve an America with its constitutional guarantees of freedom?

It is interesting to note that even the distinguished senior Senator from Minnesota, the floor manager of this bill, in his eloquent declamation of March 30 recognized the sweeping nature of section 302 in the following words:

> He [the Attorney General] would also be authorized to intervene in such suits brought by a private party as well as in any other suit brought by a private party based on the denial of equal protection of the laws on account of race, color, religion, or national origin.

A little later in his declamation the distinguished Senator from Minnesota [Mr. HUMPHREY] made the following statements:

> The bill requires the Attorney General to state in his complaint that he has received a complaint and that in his judgment the persons who complained are unable to initiate or maintain appropriate legal proceedings. These statements by the Attorney General will not be subject to challenge either by the defendants or by the court. Under no circumstances will the Attorney General be required to reveal the names of the particular complainants. Of course, if the defendants deny that they discriminate, it would always be necessary for the Attorney General to prove discrimination to the satisfaction of the court.
>
> In short, we are still relying on private litigation as the first line of action to make constitutional rights effective. The Attorney General may act only when he finds, in the particular case, that private litigants do not have and cannot obtain the resources necessary, or that they are likely to incur reprisals for their temerity in claiming their constitutional rights.

I note that the able Senator from Minnesota stretches the provision of title IV, which does provide, as he says, that "the Attorney General may act only where he finds in a particular case, that private litigants do not have and cannot obtain the resources necessary, or that they are likely to incur reprisals for their temerity in claiming their constitutional rights," so as to apply those same limitations to section 302. I respectfully call to the attention of the Senator from Minnesota and other Members of the Senate the fact that such limitations do not apply in any way to the provisions of section 302 under which the Attorney General, without any limitations whatever in his discretion, is given complete authority to intervene in any action which "has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin." The authority of the Attorney General under section 302 is absolute and unlimited. He may intervene in any civil rights action brought by any private or public body other than the United States and as an intervenor in the name of the United States he shall be entitled to the same relief as if he had originally instituted the action. There could not be any greater grant of more unbridled power and when such grant is coupled with the additional power to bring criminal contempt proceedings without a jury trial, I have a deep conviction that such a grant goes far beyond what any law should provide if the constitutional rights of the citizens of our country are to be given any consideration by the Congress. No good man serving as Attorney General would want such sweeping power and no good or bad man should be allowed to have it.

I note with interest the additional statement by the distinguished Senator from Minnesota [Mr. HUMPHREY] on page 6543 of the CONGRESSIONAL RECORD of March 30, to the effect that a decision of the Attorney General to bring a suit or to intervene "will not be subject to challenge either by the defendants or by the courts." No stronger statement could be made to show that it is proposed to give the Attorney General complete and unlimited power to bring injunction suits followed, if he sees fit, by criminal contempt proceedings without jury trials.

I regret exceedingly that I was not allowed to bring out these points during the able declamation of the Senator from Minnesota, but he precluded my doing so by stating in the beginning:

> At the conclusion of my remarks I shall be more than happy to attempt to answer questions or to engage in debate and discussion. I believe it is very important for a full understanding of this measure, but during my presentation I shall not yield.

Unfortunately, the declamation of the able Senator lasted so long and was followed immediately without a quorum call by a similar declamation made by the able senior Senator from California [Mr. KUCHEL] that no practical opportunity was given for any colloquies whatever with reference to the positions taken by the able Senator from Minnesota in his presentation of what he characterizes as the "affirmative case for the bill before the Senate."

I do not wish to weary the Senate with repetition of what I have said previously on this bill, but I do wish to read this opening paragraph of my remarks on April 13. It sums up just what my feelings, my convictions and my fears for my country are, should this iniquitous piece of handiwork become law.

I read from the CONGRESSIONAL RECORD of April 13, page 7736:

> Mr. President, I feel so strongly that the coercive and compulsive methods embraced in the pending bill are completely inappropriate for the solution of the racial problem which it is supposed to solve, that I must discuss in some detail that important aspect of the situation; namely, the coercive and compulsive methods embraced in the bill, and the complete inappropriateness of the suggested solution of the problems. For coercion, whether by legislation, litigation, economic pressure, or raw force can never solve a problem like this—coercion only makes the problem more difficult.

I pointed out how the inflamed passions of susceptible people, spurred to violence by reckless, militant organizers who set themselves up as their leaders, are exploding in anger, frustration, and fear across the country; how naked threats of "ballots or bullets," "the bloodiest year yet," and "the hot summer" are inflaming emotions and unleasing forces which, if not contained by cool heads, soon may embroil whole communities, entire regions of the Nation and broad areas in internal strife.

I mentioned the terrible things that are happening in Cleveland, where bitter hatred, heated to the breaking point by demagogs has resulted in the death of one man; where a frenzied zealot has sounded "a call to arms" to Negroes to arm themselves with shotguns and rifles and combat fatigues and helmets; where full-scale rioting, which could swiftly become mob violence and lead to mob rule or martial law, has occurred. The able Senator from Ohio [Mr. LAUSCHE], for whose courage all of us must have great admiration, expressed his concern, and not only that, took his stand in respect to that incident, despite the threat of dire political consequences. I salute the Senator from Ohio.

I also mentioned, and wish to mention again, the outrageous thing which CORE—the Brooklyn chapter of CORE—proposed to wreak in New York City, the greatest center of population in our country. They proposed to wreak damage not only upon New York City, but also upon the Nation, and, for that matter the free world, by creating a tremendous traffic jam with gasless jalopies, brokendown automobiles, and flat tires on the highways leading to the great New York World's Fair—the current showplace of America and the showplace of the free world—which opened yesterday. Next, Brooklyn CORE proposed to waste the great metropolis' water supply by leaving open all water spigots and mains, and bringing on inconvenience, health hazards, and the danger of fire.

What monstrous performances, Mr. President, to propose in the name of civil rights, in the very shadow of the Statue of Liberty which beckons all the people of the world to come to America, the land of the free, the land of peace, and of good will. What must the people of the rest of our great country, the friendly peoples of the world—and, Mr. President, those of the Communist countries who are not our friends—think of America? I feel sure this news was received with sorrow by our friends and with great glee by our enemies.

Yes, I know that the national CORE suspended the Brooklyn CORE. I further am aware that the all-out traffic jam has not occurred yet, and that the water supply has not yet been sabotaged, but that is not the point. The tragic fact is that in free America such things could even be planned and publicized by irresponsible leaders, which, of course, they are. The further tragic point is that these irrational people were serious in their intentions—they intended to do these things—and may still intend to do them.

I feel that at this point in my remarks there should be preserved in the RECORD for all who may read it now, or later, the story as told by the newspapers of what happened in New York yesterday at the opening of the World's Fair which was honored by the attendance of our President to make the speech of dedication. I find the report of the disgraceful happenings of yesterday in all of the papers of today. I wish to include in the RECORD at this time the longest and most factual of the several articles in the New York Times and also the most detailed of the articles in the Washington Post, both papers being dated today.

Mr. President, I ask unanimous consent that the articles from the New York Times and the Washington Post under date of April 23, 1964, be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### FAIR OPENS, RIGHTS STALL-IN FAILS; PROTESTERS DROWN OUT JOHNSON; 265 ARRESTED IN DEMONSTRATIONS—RAIN SOAKS CROWD—SIT-INS MAR FESTIVITIES AT SOME PAVILIONS—ATTENDANCE CUT

(By Homer Bigart)

The New York World's Fair was opened by President Johnson on schedule yesterday, despite the double obstacle of foul weather and civil disobedience.

Massive demonstrations threatened by civil rights groups outside and inside the fair failed to materialize. A few hundred Negro and white activists did, however, distract and disturb the crowds during the colorful premier of the great exposition.

It rained most of the morning, and it was cloudy and chilly the rest of the day. The grim, November-like weather, combined with the fear that integration activists might block access to the fair, undoubtedly kept thousands away. By 4 o'clock the attendance was only 69,582, of which fewer than 47,000 represented paid admissions.

Wide publication of a threat to pull emergency cords on subway trains apparently had alarmed many. Yet there was only one serious attempt to stop a train.

#### TRAFFIC FLOWS SMOOTHLY

Similarly the forecast of a paralyzing stall-in evaporated; traffic moved smoothly.

At evening 265 persons had been arrested outside and inside the fairgrounds.

Among those arrested were leaders of the demonstration. James Farmer, national director of the Congress of Racial Equality, and Bayard Rustin, organizer of last summer's march on Washington, were taken into custody as the police dispersed a sit-in at the New York State pavilion.

The militant integrationists were unable to disrupt the opening ceremonies, of which the climax was the President's speech to 10,000 rain-soaked spectators in Singer Bowl. Entrance to the bowl was by invitation only.

But later the President was assailed by rude shouts from pickets and sit-ins when he dedicated the Federal pavilion.

Groups of demonstrators sat in clumps of freshly planted shrubbery at either side of the pavilion. The President spoke from under the shelter of the huge structure, which resembles a giant ice cream sandwich balanced on a small pyramid.

#### SHOUTS OF FREEDOM NOW

Another group of teenager militants marched in a circle 100 yards away, surrounded by the police. They brandished placards, and their shouts of "Freedom now" sometimes drowned out the strong voice of the President.

"We do not try to mask our national problems," said the President. "We do not try to disguise our imperfections or cover up our failures. No other nation in history has done so much to correct its flaws."

The President's forecast of "a world in which all men are equal" drew loud derisive laughter from the pickets.

As soon as the President had left, police wagons drove up, and the sit-ins were flushed from the shrubbery. They had to be dragged into the wagons.

The opening-day crowd tried to ignore the pickets, but they seemed to be all over the fair. The gathering of two or more pickets served as a magnet, attracting scores of policemen, reporters and photographers. The milling knots disrupted the visitors' appreciation of the 646-acre fair, which seemed surprisingly beautiful even in the rain.

Bearded and untidy, the seats of their pants muddied from sitting on the soggy ground, the pickets repelled and fascinated the fairgoers.

Some foreigners were embarrassed. A Pakistani woman, swathed in a purple and gold sari, paused to watch the pickets, then murmured to her escort, who replied in English: "I think we should move on. I do not like to look at this."

The fair was a glittering mirror of national opulence; yet the pickets and the sit-ins and the lie-ins were a somber reminder of an aggrieved minority.

The demonstrations, Mr. Farmer explained before his arrest, "were to point up the contrast between the glittering world of fantasy and the real world of brutality, bigotry and poverty."

Other sit-ins blocking stairways at the New York State pavilion were jumped on and stepped on by visitors before they were dragged away by the police.

A woman led her 6-year-old daughter through the sit-ins and then scolded her for not following instructions.

"When I say step on them, step on them," the mother told her child.

The Southern States' pavilions were special targets for demonstrators.

On entering the fair, Mr. Farmer had gone directly to the Louisiana pavilion. He was carrying a three-foot electric cattle prod along with a sign saying that the instrument was used on Negroes in Louisiana. But since the pavilion was far from completed and unable to open, picketing there soon broke up.

At the Florida pavilion, a white youth climbed to the top of the building and perched on a 50-foot pillar. About 40 other demonstrators, who said they were from Florida, alternately marched or lay down to bar the entrance. They sang "We shall not be moved."

The Illinois pavilion was forced to close—but for other reasons. "Mr. Lincoln," an animated mechanical effigy of the Great Emancipator, failed to move and talk. "Electronics difficulties" were blamed.

This fair had something for everybody. Besides the rather eerie Lincoln effigy, which could simulate a flesh-warm handshake when the electronics were right, there were a host of other audio-animated figures, including caveman and dinosaurs; about 150 pavilions, some shaped like giant eggs; and in the amusement area, rides that provided hair-raising thrills.

### AGLOW WITH COLOR

As night fell, the pavilions and fountains were bathed in colored lights. The Pool of Industry erupted with fireworks and rainbow-hued fountains. The most brilliant lights probed the heavens from the tower of the U.S. electric power and light companies. The 12 searchlights adding up to 12 billion candlepower, concentrated in a single beam that was supposed to be visible as far off as Washington.

The gates of this billion-dollar festival, which commemorates the 300th anniversary of New York, opened at 9 a.m. An attendance of at least 250,000 had been forecast. But the weather was cruel.

"It's April Again" insisted the music from 150 loudspeakers scattered about the grounds, but the air was as raw as late autumn. And it was raining.

Nevertheless, the grounds were picturesque. The copious rains of recent weeks had helped the newly planted grass. The trees were budding, and some areas were bright with forsythia and azalea.

The ceremonies opened with a parade starting at 9:25. It sloshed, with bands playing bravely, through avenues that were almost deserted. Only five persons stood on the reviewing stand with Maj. Gen. William E. Potter, U.S. Army, retired, who took the salute as executive vice president of the fair.

There were governors and beauty queens in the parade; bagpipers from three nations, a steel band, a Chinese drum and bugle corps; African drums, an Israeli accordionist with folk dancers and Spaniards with guitars. Even the pickets had trouble keeping their feet still when a military band played "Dixie" and a Stephen Foster medley.

The international section included Moorish women who lifted their robes as they stepped over puddles; geisha girls twirling parasols; hula dancers shivering in overcoats on a Hawaiian float. Further on, riding in a red convertible, was Miss Louisiana in a sopping, sequined, strapless gown; Montana cowboys in yellow slickers led by Gov. Tim M. Babcock; the University of Pennsylvania's 201-member band, with Miss Susan Scranton, daughter of Gov. William Warren Scranton bearing the "U."

There were other cheering sights: a German beerwagon drawn by four big, fat, brown horses, and a host of Walt Disney characters.

### PUDDLES AT BOWL

Inside Singer Bowl invited guests waited in underpasses, unwilling to sit in the rain until the officials arrived. There was something wrong with the drainage; great sections of the paved stadium floor, on which temporary seats were arranged were under an inch or two of water.

Finally it stopped raining, and shortly after 11 a.m. the official ceremonies began with an invocation by Cardinal Spellman.

All the speakers paid tribute to Robert Moses, the builder and president of the fair.

Former President Harry S. Truman said he wished Mr. Moses were a native of Missouri.

"There's only one Moses," Mr. Truman said lightly, "and that's not the one mentioned in the Bible."

### TRUMAN CHARMS CROWD

The former President, who was accompanied by Mrs. Truman, their daughter, Margaret, and her husband, Clifton Daniel, made a gently humorous speech that charmed the spectators and made them forget the rain.

Mr. Truman said he had tried to get the United Nations headquarters in Missouri, "but I didn't have a Chinaman's chance."

The former President received a standing ovation.

Other speakers included Governor Rockefeller, who said "the fabulous Bob Moses has done it again." Mr. Rockefeller also put in a laudatory word for the New York State Exhibit at the fair and for upstate scenery.

Then, after a fanfare and "Hail to the Chief," the President arrived, heavily guarded.

Mr. Johnson made no allusion to the presence of civil rights demonstrators at the fair. But he predicted that the United States would soon be a nation "in which no man is handicapped by the color of his skin or the nature of his belief," a nation "in which no man need be poor."

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## MIDTOWN TEMPO NORMAL ON THE FAIR'S FIRST DAY

The opening of the World's Fair yesterday did little to alter the day-to-day rhythm of life in New York.

There was no great crush on the subways or the sidewalks. Taxicabs, despite the rain, were generally available. The crowds in the department stores were about average, and tables were easy to get in most midtown restaurants.

Only the hotels seemed to be doing extraordinary business. The Waldorf-Astoria, the Astor, the New York Hilton, and the Plaza, among others, reported all their rooms taken for last night and tonight.

### PEACE CALLED POSSIBLE

A chill breeze stirred the sodden flags outside, but the President spoke without a topcoat and warmed the audience with predictions of peace and plenty. He insisted: "Peace is not only possible in our generation, but I predict it is coming much nearer."

The President drew laughter by referring to the fair as "the promised land of Mr. Moses."

Earlier Mayor Wagner had predicted that more than 70 million persons would visit the fair before it closes in autumn, 1965—a record for any exposition.

"Today we may well be marking the end of one era and the beginning of another," the mayor said.

Messages from former Presidents Dwight D. Eisenhower and Herbert Hoover were read.

Present under the blue and orange canopy on the speakers' dias were 9 State Governors; 23 Ambassadors; 11 Members of Congress; the U.S. Ambassador to the United Nations, Adlai E. Stevenson; the United Nations Under Secretary for Special Political Affairs, Ralph Bunche; Marquesa Carmen Villaverde, daughter of Spain's Generalissimo Francisco Franco, and Mrs. Indira Gandhi, daughter of India's Prime Minister Jawaharjal Nehru.

### CHANTING DEMONSTRATORS

From Singer Bowl, the President went to dedicate the Federal pavilion. He spoke against a background of chanting demonstrators who never ceased marching during his speech.

The marchers lifted three youths to their shoulders, and the youths waved placards that the President could see: "A World's Fair Is a Luxury, but a Fair World Is a Necessity" and "See New York's Worse Fair—Segregated Schools for Negroes, Puerto Ricans, and Rats."

The theme of the fair is "Peace Through Understanding." Many of the pavilions euphorically projected a future of peace and prosperity.

Several exhibits were not ready, and some pavilions remained closed. Others opened with partly completed displays.

"America is never accomplished," said an Archibald MacLeish quotation on an interior wall of the Federal pavilion. "America is always still to be built." This applied also to the $17 million pavilion itself. The Hall of Presidents will not open until July 4.

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## SHOUTS MAR JOHNSON'S TALK AT PAVILION

(By Richard J. H. Johnston)

Twenty-three chanting civil rights demonstrators all but drowned out President Johnson's second speech at the World's Fair yesterday.

The words of the President, as he dedicated the Federal pavilion, were unintelligible to about half of the 400 persons who had gathered at the entrance to the building, a vast open area that is under the building itself.

President Johnson stopped at the Federal pavilion moments after he left the Singer Bowl, where he had spoken at the dedication of the fair itself.

The demonstrators, a group of white and Negro, male and female youths from the Congress of Racial Equality, had taken up positions on the outer rim of a moat that fronts the structure. Silently they held aloft plastic and oilcloth banners painted in red, reading, "Freedom Now" and "Jim Crow Must Go."

When the band had finished playing "Hail to the Chief," Luther H. Hodges, the Secretary of the Interior, stepped to the podium to introduce Mr. Johnson.

The pickets began rhythmic chants of "Freedom Now" and "Jim Crow Must Go."

### CHANTS GROW LOUDER

Mr. Hodges hesitated, looking to his left at the spot where the shouting was coming from. He seemed to realize that it was not going to stop and continued his brief introduction.

As the President stepped to the microphones, the chanting swelled in volume. With a glance toward the demonstrators, Mr. Johnson spoke with measured words, ignoring the shouts.

Visitors standing in front of the President tried to shush the noise and began demanding that the police "do something * * * take them out of here."

A New York City police official shouted to a captain and a sergeant, ordering them to "get them away from there." But the two officers hesitated until several patrolmen began to force the demonstrators from their place on the lagoon rim.

One by one the demonstrators sank limply to the rain-soaked turf, still shouting. The police began dragging them away, but before any could be removed, Mr. Johnson had finished his short address. He stood through a chorus of "The Star-Spangled Banner" played by the band, turned his back and strode across the building's esplanade to his waiting car 100 yards away. He was unsmiling until he reached the car, where he posed, waving and smiling, for photographers.

### DRAGGED AWAY BY POLICE

The demonstrators continued to shout through the anthem. Three of them rose to their feet, the rest lay in huddled groups.

As the police began dragging them toward patrol wagons that had drawn up, one demonstrator clutched at a newly planted shrub. It came loose and the demonstrator dragged it along with him.

While the President was talking, Jay Rutherford, New York protocol chief for the State Department, stood wringing his hands in anguish as the chanting continued.

"This is dreadful, dreadful," he said.

Nearby was a small group of foreign dignitaries who watched and heard the disturbance in disbelief.

A Secret Service man, looking grim, said, "We can't protect him from this public insult."

Former Gov. W. Averell Harriman, who is now Under Secretary of State for Political Affairs, arrived at the scene just as the President began to speak. He became so agitated over the disturbance that he forgot to take his hat off until the final bars of the national anthem were being played.

"This is certainly disgraceful," he muttered.

### OTHER PLANS GO SMOOTHLY

Except for this incident, the President's visit made under the most thorough security arrangements ever for the protection of a President in peacetime, went off without a hitch.

At the end of a 7-minute flight in a Marine Corps helicopter from Kennedy International Airport, the President stepped to the landing pad atop the Port Authority Building at noon.

He rode an elevator 120 feet to the ground and stepped into a closed limousine. Twenty-five New York City motorcycle policemen escorted the 20-car motorcade over the eighth-of-a-mile route within the grounds to the Singer Bowl, where he made the fair opening-day dedicatory speech.

About 3,000 spectators saw him pass from behind barriers 30 feet away on either side of the route. World's Fair and city policemen, detectives and Secret Service men stood almost shoulder to shoulder along the route.

The Presidential car was driven into the bowl through a truck ramp. The President got out at the foot of the steps of the speakers' platform.

From the bowl he went by car, a distance of 300 yards, to the Federal Pavilion.

He returned to the heliport by the same route over which he had arrived, and his helicopter rose from the pad at 1 p.m. He returned to Washington in his Air Force jet from Kennedy Airport.

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## Johnson Opens Fair Amid Rights Din; Stall-in Plans Fail—President Ignores Chanters, Talks on Peace, Equality

(By Edward T. Folliard)

New York, April 22.—President Johnson looked straight ahead today, refusing to be distracted or rattled, when civil rights demonstrators sprawled on the ground near him at the New York World's Fair and chanted "Freedom now" and "Jim Crow must go."

The Chief Executive had opened the fair earlier with this heartening statement:

"I prophesy peace is not only possible in our generation—I predict it is coming much earlier."

He recalled how much had happened since New York's World Fair of 1939, and said that if his prophecy of peace is fulfilled people will see a vastly different America by the time of the next fair.

### ENVISIONS THE FUTURE

"They will see an America in which no man must be poor," he said.

"They will see an America in which no man is handicapped by the color of his skin or the nature of his belief—and no man will be discriminated against because of the church he attends or the country of his ancestors."

It seemed to make no difference to the demonstrators—members of the Congress of Racial Equality (CORE)—that Mr. Johnson is a champion of civil rights.

They gathered in front of the U.S. pavilion, which he was to dedicate by cutting a red-white-and-blue ribbon. They were for the most part young, white and Negro, some of them with beatnik beards.

### FLOP DOWN NEAR PRESIDENT

When police began to disperse the demonstrators, those on the President's left flopped to the ground among some Andromeda shrubs. They chanted "Freedom now" and "Jim Crow must go" while Secretary of Commerce Luther Hodges and Mayor Robert F. Wagner of New York were speaking, and they kept up the clamor when Mr. Johnson took over the microphones.

"With God's help and His blessing," said the President in his peroration, "we will move forward to a world in which all men are equal, in which all people are free, in which all of us can live in peace."

"Freedom now," chorused the demonstrators. "Jim Crow must go."

Mr. Johnson never turned his head to look at them, although they were about 50 feet away. He did, however, raise his voice so that he could be heard above the hullabaloo.

The U.S. Marine Band played the Star Spangled Banner, and the President and others came to attention—all except the CORE demonstrators. They remained in the mud behind the shrubs, and kept up their chanting.

One of the big stories of the day concerning the fair had to do with something that did not happen. This was the expected "stall-in," a plan by the suspended Brooklyn chapter of CORE to put 2,000 cars on the highways leading to the fair and stall them by having them run out of gasoline.

Had the highways been blocked by such a scheme, it would have made no difference to President Johnson in his travels. After flying to the John F. Kennedy International Airport, he went by helicopter to the fairgrounds in Flushing Meadow.

From the heliport on the grounds, the Chief Executive drove to the Singer Bowl for the grand opening. A heavy rain had been falling, the flags were drenched, and about a third of the bowl seats were empty when he arrived.

Former President Harry S. Truman and Mrs. Truman were already in the stand, having come in an admiral's barge. The Missouri warrior had made a speech, and so had Gov. Nelson A. Rockefeller, Mrs. Indira Ghandi, the daughter of Indian Prime Minister Nehru, and Robert Moses, president of the fair.

Mr. Johnson, accomplished by Mayor Wagner and Secretary of Commerce Hodges, left the Singer Bowl after the opening ceremony and went to the U.S. pavilion.

What he had to say in dedicating the big glass and stone pavilion seemed especially appropriate in view of the demonstration put on by the CORE demonstrators.

Mr. Johnson said:

"We do not try to mask our national problems, whatever they may be, under a cloak of censorship or under a cloak of secrecy. We do not try to disguise our imperfections or to cover up our failures. Rather, we freely admit them, and we bend our energy and our toil to correct them.

"I know of no other great power in the history of the world which so freely admitted fault and felt under such a great moral duty to correct those faults.

"This is because we realize that real progress comes through a constant process of criticism and reexamination; that those who censure the old provide the foundation upon which the new can be built.

"Free and unhindered criticism of men, of ideas, and of institutions is the vital nourishment of all freedom. Thus we have chosen as our theme the challenge to greatness."

The President flew back to Washington after the ceremony at the pavilion.

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[From the Washington (D.C.) Post, Apr. 23, 1964]

## Johnson Opens Fair Amid Rights Din—Stall-In Plans Fail—294 Are Arrested in Series of Wild Demonstrations

New York, April 22.—Police and civil rights demonstrators clashed today in a series of scuffles, some of them bloody, but the stall-in that was intended to paralyze the opening of the New York World's Fair fizzled.

The threatened king-size traffic jam never developed. Police said traffic on the five major expressways feeding into the 646-acre fairgrounds was "light to moderate."

Nevertheless it was a stormy beginning for the fair designed to advance "Peace Through Understanding." There was picketing inside and outside the fair. Disturbances and scattered violence occurred constantly.

A total of 294 demonstrators were arrested. Among them were James Farmer, national director of the Congress of Racial Equality; Bayard Rustin, a director of the March on Washington, and Author Michael Harrington, whose book "The Other America." sparked interest in the attack on poverty.

Several leaders of the insurgent CORE chapters that fostered the plan to deliberately stall autos also were arrested.

### ACCUSED AS DISORDERLY

A spokesman at the neighborhood Elmhurst police station said that the charges were mostly disorderly conduct and resisting arrest.

Four Queens Criminal Court judges were on duty handling the cases as fast as possible. Bail was set from $500 to $2,500 each. In the past, civil rights demonstrators were usually released for a hearing.

Demonstrators, mostly young Negroes and whites, gathered in front of the U.S. Pavilion and chanted "Freedom Now" and "Jim Crow Must Go" as President Johnson spoke at the dedication. They chanted as other dignitaries made speeches, almost drowning out many of them.

The most serious incident occurred early in the day in Queens when about 20 demonstrators tried to stall a subway train en route to the fair.

The train came to a jarring halt when someone, presumably a demonstrator, pulled an emergency cord.

Two demonstrators threw themselves in front of the train. They lay near the electrified third rail on ties wet from a drizzling rain. Others lay down inside the train and kept the doors from closing.

Police with night sticks moved in. They yanked 17 men and 3 women off the train and tracks, some with blood streaming from head and face wounds. Three policemen were injured.

"Just like Birmingham, just like Birmingham," the demonstrators chanted as they were marched off to jail.

(In Washington, Senator Richard B. Russell, Democrat, of Georgia, said on the floor of the Senate that Federal agencies should investigate the stall-in and the treatment of demonstrators.)

Police also fought with demonstrators outside the main entrance to the fair at about the time the President arrived.

A singing, chanting crowd in front of the entrance suddenly stopped and headed for a subway. Then they abruptly turned around, joined hands, and charged the fair entrance.

Police rushed to the gates to stop them. Shoving and pushing broke out. One of the demonstrators was arrested and manacled. The others screamed and shouted in protest.

But on the parkways, where trouble was supposed to develop, traffic was moving smoothly.

The runaway CORE groups apparently put few cars on the road in the protest that they said was designed to call attention to slum conditions, a lack of progress in school integration, discrimination in employment, and alleged police brutality.

Several cars ran out of gas, a couple developed motor trouble, and at least one car stalled with two flat tires. But as fast as the demonstrators stalled their automobiles, police pulled them out of the way with tow trucks, dump trucks, and even bulldozers.

But, either because of the steady rain that fell all morning, or because of fear of being delayed by a jam, many motorists who ordinarily use the roads or who might have planned to drive to the fair stayed away. One police official remarked that traffic was lighter than on a normal weekday.

After nightfall, when the fair became a dazzling galaxy of lights, attendance slowly mounted to a total of 87,039 by 9:30 p.m.—far below the expected 250,000 to 500,000.

Isiah Brunson, chairman of the Brooklyn CORE, which originated the stall-in idea, said it achieved its objective—causing the city financial pain by keeping cars off the roads.

Inside the fair there were incidents as demonstrations were held by national CORE in an attempt to overshadow the stall-in.

The more than 1,000 demonstrators, half of them white, never got very far. They were effectively contained by about 5,000 city and private policemen.

### MANY PICKET GROUPS

Most of them gathered at 9:30 a.m. at the Unisphere, the steel globe that is the symbol of the fair. After marching around it, they broke into smaller groups and picketed individual exhibits.

Farmer and most of the other leaders went to the New York pavilion. They picketed for a while and then linked arms and sat down in front of the entrances.

Police asked the demonstrators to move. They refused. Some visitors stepped over them to get inside, and one, perhaps inadvertently, stepped down hard on Rustin's thigh on his way in.

When another request to move was ignored, the sit-ins were placed under arrest. Some walked to police vans. Farmer elected to be carried.

### TROUBLE AT POSITIONS

One demonstrator tried to climb atop the huge plastic orange crowning the Florida exhibit tower while Gov. Farris Bryant was present.

He was pulled down, but he kicked a detective in the face. The kicker was arrested while other pickets shouted at the Governor, "Governor Bryant must go." Bryant ignored them.

The pickets also singled out the pavilions of the Schaefer Brewery Co and Ford Motor Co. for demonstrations, forcing the latter to close for a while.

There were minor demonstrations at the Maryland, New York State, Mississippi, Louisiana, Illinois, New England, Missouri and General Motors pavilions.

Farmer picketed outside the Louisiana exhibit and carried a cattle prod, a battery-powered pole that produces an electric shock and has been used against civil rights demonstrators in that State.

The crowds in many cases ignored the demonstrators and walked right over them. Some kicked and shoved their way through.

### SOME FAIRGOERS ANGRY

At the New York State pavilion, angry fairgoers kicked and jumped on the pickets blocking stairways. A bespectacled man jumped several steps from the bottom and landed with both feet in a knot of demonstrators.

Intermittently, visitors got into angry conversation with individual CORE members and their sympathizers both in and outside the fair. Alert police moved in fast to break up the arguments before blows were exchanged. Some pickets heckled police.

The last of the CORE pickets left the grounds about 9 p.m., although most had pulled out in the afternoon.

National CORE issued a statement saying the demonstrations were "classic" and "successful" and that there would be more of them.

Mr. HOLLAND. Mr. President, it is, I am sure, humiliating to most New Yorkers, who, like other Americans, have high respect for our President, to note that the shrieking and singing demonstrators drowned out the voice of the President as he sought to bring the high prestige of the Presidency to the fair to honor its formal dedication. I am not surprised to note that President Johnson showed no concern, no frustration, and no anger and went ahead to complete his speeches on both of the occasions when he was so rudely treated. One of my good friends in Florida called me today to tell me that he was listening yesterday over either radio or television and that he was astounded to note the disgraceful way in which the President, as the honor guest of the occasion, was mistreated by the demonstrators. Both of the news articles which I have placed in the RECORD, that is, from the New York Times and the Washington Post—clearly report these disgraceful exhibitions.

Before I read from this article, Mr. President, I should like to comment that our distinguished friend, the senior Senator from New York [Mr. JAVITS], apparently has made two completely different speeches on this subject today. I take it for granted, knowing his sincerity, that after he made the first one on the floor, which occurred during a colloquy with the distinguished senior Senator from Georgia [Mr. RUSSELL], he, too, must have read the newspapers, because the two statements are so vastly different in their content.

I note that in the colloquy earlier in the day between the Senator from New York [Mr. JAVITS] and the Senator from Georgia [Mr. RUSSELL], the Senator from New York, according to the UPI, included the statement:

> "This was a proud day for New York," JAVITS said. "There was a little discord but not too much."
>
> The New York Senator urged the Southern States to follow New York's example and added the city would welcome investigators from the Civil Rights Commission.

It was a proud day, so he said on the floor of the Senate; and I am sure he meant just that.

I note this afternoon in a UPI dispatch, that our distinguished friend, the senior Senator from New York [Mr. JAVITS], makes a completely different statement. It reads:

> JAVITS acknowledged today that he apologized privately to President Johnson for the actions of shouting demonstrators at the World's Fair.
>
> JAVITS said he considered the shouts during Johnson's speech yesterday opening the New York fair an act of "disrespect to the President."
>
> The comments came during an exchange on the Senate floor with Senator ALBERT GORE, Democrat, of Tennessee.

That exchange, as I understand, came later in the day. Apparently our friend the senior Senator from New York had seen some of the items which I have just placed in the RECORD. For example, one of the items from the New York Times—and it is quite lengthy—is by a very distinguished reporter, Mr. Homer Bigart. I shall not attempt to read it in full, because it is much too long, and it is already in the RECORD. But I think it is necessary to read some of the paragraphs from it in order to give a clearer understanding of what was reported in the New York Times by this distinguished reporter.

The first of these statements is this:

> At evening, 265 persons had been arrested outside and inside the fairgrounds.

Further:

> But later the President was assailed by rude shouts from pickets and sit-ins when he dedicated the Federal pavilion.

The article further states:

> The President's forecast of "a world in which all men are equal" drew loud derisive laughter from the pickets.

Another paragraph reads:

> As soon as the President had left, police wagons drove up, and the sit-ins were flushed from the shrubbery. They had to be dragged into the wagons.

Two later paragraphs read:

> Bearded and untidy, the seats of their pants muddied from sitting on the soggy ground, the pickets repelled and fascinated the fairgoers.
>
> Some foreigners were embarrassed. A Pakistani woman swathed in a purple and gold sari, paused to watch the pickets, then murmured to her escort, who replied in English: "I think we should move on. I do not like to look at this."

The article further states:

> The fair was a glittering mirror of national opulence, yet the pickets and the sit-ins and the lie-ins were a somber reminder of an aggrieved minority.
>
> The demonstrations, Mr. Farmer explained before his arrest, "were to point up the contrast between the glittering world of fantasy and the real world of brutality, bigotry, and poverty."

Still later—and I shall have more to say about this later:

> At the Florida pavilion, a white youth climbed to the top of the building and perched on a 50-foot pillar. About 40 other demonstrators, who said they were from Florida, alternately marched or lay down to bar the entrance. They sang, "We Shall Not Be Moved."

Mr. President, there is much more of the same. It is too bad that such an occasion met with that kind of response from people of the great metropolis of New York. It was not stopped, either by the police of New York or the fair police, though it is stated in another article that there were 5,000 of such police there in order to stop that kind of demonstration.

There is one more paragraph in the item which I was reading, Mr. President. I read that into the RECORD at this time:

> CHANTING DEMONSTRATORS
>
> From Singer Bowl, the President went to dedicate the Federal pavilion. He spoke against a background of chanting demonstrators who never ceased marching during his speech.
>
> The marchers lifted three youths to their shoulders, and the youths waved placards that the President could see: "A World's Fair Is a Luxury, But a Fair World Is a Necessity," and "See New York's Worse Fair—Segregated Schools for Negroes, Puerto Ricans, and Rats."

The second article from that same edition of the New York Times is by Richard J. H. Johnson, whom I do not happen to know, but it is under his byline.

I have already placed that in the RECORD, but I quote certain paragraphs from it because I believe they point up the extravagant, highly disagreeable, and highly disgraceful nature of what occurred in New York at the World's Fair yesterday.

The first paragraph reads as follows:

> Twenty-three chanting civil rights demonstrators all but drowned out President Johnson's second speech at the World's Fair yesterday.

The second quotation is:

> When the band had finished playing "Hail, to the Chief," Luther H. Hodges, the Secretary of the Interior—

Of course, that should be Secretary of Commerce—

> stepped to the podium to introduce Mr. Johnson.
>
> The pickets began rhythmic chants of "Freedom Now" and "Jim Crow Must Go."
>
> CHANTS GROW LOUDER
>
> Mr. Hodges hesitated, looking to his left at the spot where the shouting was coming from. He seemed to realize that it was not going to stop and continued his brief introduction.
>
> As the President stepped to the microphone, the chanting swelled in volume. With a glance toward the demonstrators, Mr. Johnson spoke with measured words, ignoring the shouts.
>
> Visitors standing in front of the President tried to shush the noise and began demanding that the police "do something—take them out of here."
>
> A New York City police official shouted to a captain and a sergeant, ordering them to "get them away from there." But the two officers hesitated until several patrolmen began to force the demonstrators from their place on the lagoon rim.
>
> One by one the demonstrators sank limply to the rainsoaked turf, still shouting. The police began dragging them away, but before any could be removed, Mr. Johnson had finished his short address. He stood through a chorus of "The Star-Spangled Banner" played by the band.

That was during the singing of "The Star-Spangled Banner" at the end of the President's remarks. "The Star-Spangled Banner" was sung by a wonderful chorus.

Continuing the quotation:

> The demonstrators continued to shout through the anthem. Three of them rose to their feet, the rest lay in huddled groups.

Mr. President, what shall we say of the type of Americanism represented by callow youths who use this kind of method of showing in the presence of thousands their disrespect for their President, their disrespect for their national anthem, and their disrespect for all the standards of decency as was shown in the demonstration yesterday?

Another paragraph reads:

> While the President was talking, Jay Rutherford, New York protocol chief for the State Department, stood wringing his hands in anguish as the chanting continued.
>
> "This is dreadful, dreadful," he said.
>
> Nearby was a small group of foreign dignitaries who watched and heard the disturbance in disbelief.
>
> A Secret Service man, looking grim, said, "We can't protect him from this public insult."

Mr. President, what are we coming to, when 5,000 police are required to maintain order, in addition to the Secret Service and all the other secret protective paraphernalia in the area, and when a group of hoodlums of this kind can bring this kind of discredit and disgrace upon the great city of New York, in which they are a minority, and upcn our country in the presence of countless foreigners? There are numerous foreign exhibits at the fair.

Another article tells of the parade in which people from many foreign nations participated in native costumes to show their appreciation of the New York World's Fair.

What kind of conduct are we coming to? Is there any such thing left as reasonably good manners? Is there any such thing left as patriotism? Is there any such thing left as respect for our highest dignitary, the President of the United States, and for a fair which has drawn the attention of the whole free world on this great and glittering and really glorious occasion, the opening of the World's Fair, for which Congress appropriated $17 million so that an appropriate exhibit might be constructed there to represent the United States of America?

What are we coming to when we allow these things to get so out of hand as to force the President of the United States grimly to attempt to speak against a background of shouts and insults of that kind, and then to leave grimly, as the article states, with no smiles until he got into his car and was gone at the end of an occasion which should have been an occasion for pleasure and rejoicing by him and by all the assembled thousands of people.

It all comes from the most false kind of leadership. It comes from a disturbed people who apparently understand little of what their country stands for. It comes from those who have little understanding of the great investment which the city of New York and the State of New York have made in the fair, and of the enormous amount of good will which would come to their own State and to their own city, if only they would cooperate reasonably with those who have made possible this great asset of the free world.

Not only the United States, not only many States in the Nation, not only the great manufacturing enterprises from one end of the Nation to the other are exhibiting there, but many nations throughout the free world are also exhibiting.

I am placing these things in the RECORD because I hope that there are people throughout the country—and there are some who read the CONGRESSIONAL RECORD—who will read and understand what a terrible debacle a thing of this sort really is, and how deeply it drags the prestige of our country down into the mud and mire to have this kind of conduct made evident on such an occasion.

I have already placed in the RECORD the articles published in the Washington Post this morning. I believe it might be well to read into the RECORD a few of the paragraphs from the second one because it was written by one of the most distinguished reporters in our Nation, Edward Folliard, who apparently was present in person, because it appears over his byline.

This was the theme of the Chief Executive:

> I prophesy peace is not only possible in our generation—I predict it is coming much earlier.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Can the Senator recall recently when any President of the United States, who was not engaged in making a political speech but was on a mission of good will and affection in the tradition of American respect for a great city of our country, has ever been treated with such indignity?

Mr. HOLLAND. I cannot, except for the tragic assassination of our beloved late President Kennedy, which went even further than that, because it came apparently from only one diseased mind. The misconduct in the present instance came from group psychology, which I find hard to understand, and from leadership which was far wider than one person, from a group whose minds are apparently afflicted with the idea that their country means nothing to them, that it is quite within their province and their idea of liberty that they should put on such a disgraceful exhibition as this one proved to be at the New York World's Fair opening and dedication yesterday.

Mr. LONG of Louisiana. Let me say to the distinguished Senator from Florida that there have been Presidents who have been subject to severe criticism. For example, I was worried that some extremists might be discourteous to President Kennedy when he visited the city of New Orleans, because after all there were some people in the area who had been vitriolic in their criticism of the President; but when the President came to New Orleans everyone treated him courteously; and anyone who may have had unkind thoughts toward the

President, if he could not be polite in treating the President, stayed away and did not go to the celebrations.

Mr. HOLLAND. That is courtesy of the kind we should find in every community of the Nation. It has been shown in my own State. Florida did not vote for the Kennedy-Johnson ticket. Unfortunately, we lost by 47,000 votes, which was close, because over a million and a half votes were cast. But when the late President Kennedy came to Florida a few days before his untimely death, he was received with great joy and acclaim, both in the city of Tampa and in the city of Miami, with literally hundreds of thousands of people out on the streets to do him honor.

When President Johnson only recently came to the celebration in connection with the groundbreaking ceremonies of the Cross Florida barge canal in north Florida, where many people are highly conservative and do not agree with the President's philosophy, and who hold to the conservative philosophy that generally pervades the South, everyone came out to do honor to the President and his lovely wife and his two daughters. Thousands of people stood in the rain to do honor to a man who had come to do them honor.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Is it not a fact that a great many Americans who do dishonor to and indicate contempt for the man who occupies the office of the President of the United States are indicating contempt toward the great country which he represents?

Mr. HOLLAND. The Senator is completely right. I appreciate his bringing this matter to our attention. There is contempt. There is no doubt about it. There is no sense of fealty on the part of citizens who would do a thing like that. It is unfortunate that we should have in our country such leaders of youth, because these incidents involved youths, as my further reading from this article will show.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Is it not generally true that for every right possessed by a citizen there is also a responsibility and a duty?

Mr. HOLLAND. There is a responsibility and duty, as was called to our attention so clearly by the late President Kennedy at his inauguration. That is something that every citizen owes to his country. The Government, on the other hand, in the very nature of things, will not do a great many things for a great many people because they do not need them.

However, the fealty and the honorable devotion and dedication to the service of one's country shown by the distinguished Senator from Louisiana, when he served on the beachheads of Italy—and I know something about his service there—is something which in time of peace should glow in the lives of all young Americans.

We have come to a sad day when this kind of thing can happen. Those who are pushing the civil rights bill and those who are demonstrating in support of the bill are playing with fire. They are doing it deliberately, and thus are sacrificing most of the precious patriotic ideals of our country.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield further.

Mr. LONG of Louisiana. I should like to ask the Senator what his opinion is about this situation. When we look at those who would deny a white citizen so much as the right to be tried before a jury, or the right of his neighbor to have a trial by jury, does the Senator believe that there is anywhere a community where the responsible white citizens would subject a President—even though the President were advocating that they be governed, for example, by the contempt powers of the Federal court—to such an indignity?

Mr. HOLLAND. No; I am sure the Negro citizens in the Senator's State and in mine would join in acclaiming the President's coming to our States. I have seen that happen in recent days. They have joined and would join in doing honor to our President. I cannot understand the degraded standards of certain people. Even less do I understand the leaders of the people who knowingly are bringing these things to pass.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield further.

Mr. LONG of Louisiana. I suggest to the Senator that the colored citizens of his State and of my State would conduct themselves with credit. They would not reflect the kind of leadership that James Farmer and others like him provide for certain misguided people. I suggest further that there is a minority of that race which can be stirred up to conduct itself in the backward fashion of Africa—or in the most backward fashion that people have considered as the backward fashion of Africa of 30 years ago, as exemplified by certain leaders.

Those are the kind of people who have political power in this country today.

Mr. HOLLAND. Unfortunately, they have much power. I read the next sentence in the article from news dispatches published on the front page of this morning's Washington Post:

> Nevertheless, it was a stormy beginning for the fair designed to advance "Peace through Understanding." There was picketing inside and outside the fair: Disturbances and scattered violence occurred constantly. A total of 294 demonstrators were arrested. Among them were James Farmer, national director of the Congress of Racial Equality.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. What was James Farmer doing there?

Mr. HOLLAND. He was picketing.

Mr. LONG of Louisiana. Is not this the James Farmer who suspended the chapter of the Congress of Racial Equality which was calling the strike?

Mr. HOLLAND. No; he suspended the chapter which was trying to stage the stall-in—not S-t-a-l-i-n, but s-t-a-l-l-i-n.

As I understand, he joined wholeheartedly in the picketing, not only of the President, but of the various pavilions also.

I read the following from the news article published on the front page of today's Washington Post.

> A total of 294 demonstrators were arrested. Among them were James Farmer, national director of the Congress of Racial Equality; Bayard Rustin, a director of the march on Washington, and Author Michael Harrington, whose book "The Other America," sparked interest in the attack on poverty.
>
> Several leaders of the insurgent CORE chapters that fostered the plan to deliberately stall autos also were arrested.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Did not James Farmer and his organization, CORE, declare themselves as being against this demonstration?

Mr. HOLLAND. Against the stall-in on the highway. However, I believe that at the same time they announced that they would participate in the demonstrations within the fair. That is my recollection of his announcement.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. James Farmer was against blocking the entrances to the World's Fair, but he was in favor of subjecting the President to the type of indignity that the President suffered. Is that correct?

Mr. HOLLAND. He was expelled. He was dragged, kicking, from the scene. I should like to read another paragraph.

Mr. LONG of Louisiana. I trust that James Farmer was not subjected to the type of bone crushing police brutality that other Negro demonstrators were subjected to.

Mr. HOLLAND. There is one picture of a demonstrator bleeding from his face and with blood on his clothes. Another picture shows a policeman striking a demonstrator on the head. This demonstrator was trying to hold up an interurban train or an elevated train by standing in the door and refusing to let the door close. The picture is here, if the Senator wishes to see it. The picture was published in one of the New York newspapers. I believe it is in the Daily News. It shows a police officer striking a young demonstrator.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Is the picture to which the Senator makes reference the picture showing two Negro policemen beating a Negro demonstrator, with one of the policemen holding the demonstrator and the other policeman hitting the demonstrator over the head with a heavy blow from his night stick?

Mr. HOLLAND. That is one of the pictures. But not that to which I have just referred. Another one shows even greater application of brute force and beatings. I believe that the picture to which the Senator refers was published in the Washington Evening Star of yesterday.

Mr. LONG of Louisiana. I am not sure that is the picture I had in mind.

Mr. HOLLAND. Another picture shows one of the demonstrators who has been struck on the head, with his head bleeding from several wounds. The Senator will notice blood streaming down his face and all over the demonstrator's trousers. Another picture shows a policeman striking a man with a raised club. Has the Senator seen this?

Mr. LONG of Louisiana. The picture I have in mind appeared in the New York Times and was somewhat clearer. There appeared to be blood flowing down a demonstrator's face at the same time that a policeman's billy club was being landed on his head.

Mr. HOLLAND. There are so many, I will not begin to say how many there are. A picture to which I referred earlier shows police officers beating a young man who is holding the train door open. The caption reads: "Policeman Yanks Picket from Train at Jackson Heights." There are probably 20 from various newspapers. Apparently the photographers were at different places and saw different actions.

Mr. LONG of Louisiana. I invite the attention of the Senator to a picture which shows a policeman beating a Negro. Has the Senator ever seen such vivid evidence of extreme inhumanity to man as those two policemen are administering to a Negro demonstrator, who apparently is pleading for his life?

Mr. HOLLAND. This is a very brutal scene. It is a picture of a demonstrator holding both hands above his head. He has fallen down. One Negro policeman is holding him from the back, and another one is at his side, striking him with his nightstick.

Mr. LONG of Louisiana. Does the Senator from Florida believe that such inhumane beating could be visited upon American citizens, and that the mayor and the chief of police of that city had told the police to go ahead and crack the skulls of the demonstrators with no regard for their lives?

Mr. HOLLAND. That might have occurred; but not knowing whether it occurred, thinking very well of the mayor of New York, and realizing the size of New York—it has a good many more people than Florida, which has a population of just under 6 million—I would hesitate to say that the mayor himself knew anything about this.

Mr. LONG of Louisiana. Does the Senator recall the publicity that occurred when a man had his trousers torn by a police dog in Birmingham?

Mr. HOLLAND. I recall that.

Mr. LONG of Louisiana. Does the Senator recall the pictures showing how that occurred?

Mr. HOLLAND. I recall seeing the pictures. Later the USIA distributed the pictures all over the world.

The distinguished senior Senator from Georgia [Mr. RUSSELL] suggested today that if there were any fairness at all, the pictures of what took place yesterday might well be shown all over the world. Personally, I hope they will not be. I think it would be just as wrong to show them as it was wrong to show pictures of the isolated case in Birmingham. I am sure the Senator from Louisiana will agree with me.

After all, we are all one great country. We stand or fall together. My feeling is that we are being very foolish when we allow this kind of thing to happen and are even more foolish when we publicize such pitiful happenings by distributing pictures of them all over the world. I hope we shall get away from this kind of action. I am completely out of patience with it. It seems to me we are sacrificing our country upon the altar of personal feelings, when such activities can be so strongly encouraged, even by people in high places.

I am sure that there must be people of decency in New York. There must be many humane and generally good people, who will not permit such excesses as we saw through the pictures of what took place yesterday and as we learned, through radio and television, transpired not only on the fair grounds, but also in New York City.

One of the articles states that there are two instances in which it was necessary to assist demonstrators off the rapid transit trains which they had stopped. One picture shows that action. The article states that the demonstrators stopped a train, and that a man got down on the tracks in front of the train and came very near to being electrocuted, because apparently he did not know he was almost on the third rail.

So much has been written about what transpired that I cannot hope to read it all. But I have placed most of the articles in the RECORD, where those who want to read, those who are not blind, can realize how far things have gone, how far we are allowing this activity to go, and how greatly this disorder, this disturbance, which has resulted largely from the introduction of this bill, is affecting our country. It is a terrible thing.

Mr. LONG of Louisiana. Did the Senator notice that the Birmingham incident with respect to the police department was a situation in which the police merely wanted a demonstrator to move back, but the demonstrator had his cameraman with him and insisted on walking into the dog, so that he could show all over America and all over the world a picture of how he was being bitten by a dog—obviously a put-up job; while, on the other hand, the brutality that occurred in New York City was not a put-up job? Is it not obvious that the man whose head was being cracked in was pleading for mercy? He did not come with a cameraman and plead for mercy. He was pleading his cause. Is not that fairly clear from the picture?

Mr. HOLLAND. It is fairly clear from the picture. Yet I still think we should not publicize these acts; we should try to correct them.

Both the Senator from Louisiana and I have been rather moderate in our approach to this matter. Throughout the years of the pendency of the poll tax amendment to the Constitution, he and I were joint authors of the amendment. I am very proud of that. I suspect that the distinguished Senator from Louisiana was subjected to greater pressure and criticism in his State than I was in my State, but he stayed with me from beginning to end, and we finally saw that amendment go into the Constitution.

I read in the newspapers the other day—I hope the Senator from Louisiana did, too, because it gave me a good feeling—a statement by the secretary of the State of Texas that more than 100,000 voters had qualified to participate in the elections to Federal office this year—elections for President, Vice President, presidential electors, Senators, and Representatives. Those people had not paid their poll tax and would not have been qualified to vote under the Texas poll tax law.

We are getting somewhere by taking moderate means of approach, but we are not getting anywhere when we take drastic methods of approach.

I hope that Senators who, I fear, are thinking about votes rather than the results of this will wake up in time to realize that such a drastic bill as this is destructive of the rights of all people, black or white, rights which they should be allowed under the Constitution. I hope Senators will wake up in time to change course. That is the real purpose of this extended debate.

I thank the distinguished Senator from Louisiana for his contribution to the discussion.

I continue to quote from the article by Mr. Folliard, at the time he was being annoyed by demonstrators at the pavilion:

> Mr. Johnson never turned his head to look at them, although they were about 50 feet away. He did, however, raise his voice so that he could be heard above the hullabaloo.
>
> The U.S. Marine Band played "The Star-Spangled Banner," and the President and others came to attention—all except the CORE demonstrators. They remained in the mud behind the shrubs, and kept up their chanting.

What a dismal picture that is. It is sad to think of its having occurred in our Nation's greatest city when it was most on parade, at the opening of the great World's Fair.

I have before me another article. I shall not place it in the RECORD, because I do not want to burden the RECORD. It relates to the Maryland exhibit at the World's Fair. The writer tells how the exhibit was picketed, and states that the Governor of Maryland, J. Millard Tawes, a fine gentleman, canceled his trip to the fair because of the threats of demonstrations and stall-ins. I shall read one paragraph:

> However, Gov. J. Millard Tawes canceled a trip to the opening because of threatened stall-in.

It is all so much dismal stuff. I could read five times this amount into the RECORD, but I prefer not to do so. I want the people of our country and elsewhere to realize that in that great city, which should be one of the centers of our civilization, one of the leaders in the things that are worth while, there are fine people who, through the promotion of the World's Fair, are attempting to do just that. They have done a fine job, and we have helped them.

I am sure that the distinguished Senator from Montana [Mr. Metcalf], who is now occupying the chair as Acting President pro tempore, and other Senators have all helped in trying to make certain that the United States was well represented at the fair by having an exhibit. To have the whole event so nearly destroyed, so completely frustrated by the actions of a few irresponsible, unprincipled people who are led by even more irresponsible and less principled leaders, is too bad. I hope that we shall learn in time that we cannot afford to have this kind of activity in our country.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Can the Senator see any basic distinction between what the Congress of Racial Equality was doing in New York City and what it has been doing in other cities of the South, and even in other parts of the country?

Mr. HOLLAND. Yes. The Senator from Florida, as he will say in the latter part of his talk, if he can get around to it, has been picketed almost every time he has gone to Florida in the course of his current campaign. Not one insult has been hurled at him. He has been picketed by CORE on every occasion, sometimes, too, by NAACP, and sometimes by student groups. The picketing has been done respectfully and decently. There has been no interference with our program. We have put over every point of right of assembly, right of petition, right to state their complaints, in a way that neither I nor anyone else could complain of.

I am sorry they feel that way about me; but I do not find in their conduct anything about which I can complain; and I have seen similar situations in the cases of the picketing of others. For example, the other day, Assistant Secretary of the Army Ignatius went to the University of Florida, in connection with an ROTC occasion of some kind. A very large crowd assembled there, and he was picketed by a group of pacifists. There are some pacifists in our State; but their picketing was done in an orderly manner, and in good form, and those who did the picketing were clean and decently dressed, and were well behaved. So far as I am concerned, if they are able in that way to get rid of their frustration and to "work off a little steam" by that process, I have no objection. It seems to be a sort of fad for some people to picket. If that is a way in which they can satisfy their feelings and can "work off some steam," I have no objection.

My aide has handed me two tearsheets which have just come from the Associated Press news ticker. I have not read them; but I shall read them now to the distinguished Senator from Louisiana, because I am sure my aide would not have handed them to me if they did not have some sound application to what we are discussing.

The first one reads as follows:

> Moscow.—Tass carried a 200-word item about the opening of the New York World's Fair in its international service today, calling it "a mixture of carnival and fair."
>
> The Soviet news agency devoted nearly half of the story to civil rights demonstrations. It said those arrested for trying to stop subway trains "were all covered with blood when brought to the station."

One of the men shown in the newspaper photograph which I showed to the Senator from Louisiana was arrested during the stopping of the subway trains.

I read further from the Associated Press news ticker item from Moscow.

> It noted there was chanting during President Johnson's speech and that more than 200 were arrested, then added: "One of the demands of the demonstrators was that the police should stop its brutal treatment of Negroes."

Mr. President, the brutality was mostly on the side of the demonstrators, although certainly there was some on the part of the police—judging from the newspaper photographs.

The other tearsheet from the Associated Press news ticker reads as follows:

> Washington.—The Justice Department indicated today it will look into complaints that police mishandled civil rights demonstrators in New York yesterday. It said it makes a routine check of all such complaints.
>
> A number of demonstrators were arrested yesterday in connection with the opening of the New York World's Fair. Some of those taken into custody at a Queens subway station had bloody heads and faces.
>
> Senator Russell reading news reports of the incidents to the Senate yesterday, demanded that Attorney General Robert F. Kennedy and the civil rights Commission investigate reports that police had beaten the demonstrators.
>
> He renewed his demand today, challenging the Government and supporters of civil rights legislation to publicize "the blood flowing on the sidewalks of New York yesterday" with the same zeal applied to alleged southern offenses.

Mr. President, all these things join with the material we have previously been discussing, to make the sorry picture a little more complete, and to make completely clear that the distress which was pictured on the face of the Pakistani woman, in the photograph published in connection with one of the dispatches, and that shown on the face of the foreign dignitaries who were with the President, and who could not understand that situation, have been turned into glee in Moscow, when the Government officials there heard that such disturbances were occurring and that such treatment had been accorded our beloved President. It is unthinkable, Mr. President.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield briefly to me, to permit me to make a statement, if it is understood that in yielding to me for that purpose, he will not prejudice his right to the floor or any of his other rights?

Mr. HOLLAND. Yes, Mr. President; with that understanding, I ask unanimous consent to yield for that purpose.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). Is there objection? Without objection, it is so ordered.

Mr. LONG of Louisiana. I have asked permission to make a brief statement, rather than to propound an interrogatory, because I believe that a statement will better enable me to cover the point I have in mind.

A short time ago I discussed what happened in the little city of Plaquemine—which should not be confused with the Parish of Plaquemines, which is located about 100 miles away from the city of Plaquemine.

In the peaceful little city of Plaquemine, a tolerant, kindly city, Mr. James Farmer, of the Congress of Racial Equality, who went there, stirred a lot of fine, understanding, lovable people into demonstrations of hatred and unrest; and in that connection there were all sorts of violations of law, including demands that businessmen hire Negroes to work as cashiers in their places of business, even though the Negroes referred to had had no such experience; and there were also demands that if such Negroes were not hired to work as cashiers in those places of business, Negroes would picket such business establishments—contrary to the ordinance of that city, which prescribes that picketing may be done only by groups of not more than two persons. There was also a great deal of hurling of bricks and brickbats and broken bottles at automobiles, and similar violations of law and disturbances of the peace. There were countless violations and all sorts of disturbances. All of them were stirred up by the same persons. There were also many threats of personal harm to the residents of the city; and there were violations of the right of working people to enjoy peace and rest at night, when they were in their homes, and when it was time for them to sleep. In short, there were all sorts of unlawful disturbances and violations of law and order, including a great deal of chanting, singing, and screaming at late hours of the night, well after midnight; and countless other minor violations.

Mr. HOLLAND. But they were not directed against the President of the United States.

Mr. LONG of Louisiana. That is true. However, the point I make is that there is no real distinction between the two situations. Both involve clear violations of the law. In the one case, there were violations of law and disturbances of the peace, by various means, including the throwing of bricks and large stones at people's automobiles, the blocking of traffic, the creation of turmoil, and action which resulted in keeping working folks awake at night—all sorts and kinds of noise and disturbances. All the activity of that sort involved clear violations of law, and all such violations of law justified the methods the police used to break up the demonstrations and to send the people to their homes.

But that situation was described by James Farmer and by others of his group as "police brutality."

I suggest to the Senator from Florida that although the magnitude becomes greater when such persons undertake to humiliate the President of the United States in the eyes of the rest of the world, and although it is unthinkable that anyone would do such things, yet I believe it is fairly clear that the principle is the same in both cases—namely, that such activities clearly involve violations of laws and violations of the rights of citizens.

Mr. HOLLAND. The Senator from Louisiana is correct; and such developments are a sad commentary on the situation which has obtained in so many parts—almost everywhere—of our country.

On the other hand, I doubt that even one dozen of the people of his great State would attempt to embarrass or humiliate the President of the United States—as was done yesterday in New York.

Mr. LONG of Louisiana. Yes, I doubt that any of the people of my State would do such a thing—unless it might be done by someone whom I would not think a good American. It is possible that someone of that sort might attempt to do such a thing.

Mr. HOLLAND. Of course, the Senator from Louisiana is correct.

So it is clear that it is with false leadership, selfish leadership, and un-American leadership that we must have our greatest concern.

Mr. President, I have assembled a number of other clippings, which I was ready to use in presenting these matters to the Senate. However, time is passing; and I promised the majority whip that I would be in a position to have the Senate take a recess at about 8:30 p.m. That is the understanding of the Acting President pro tempore, is it not?

The ACTING PRESIDENT pro tempore. Yes.

Mr. HOLLAND. So I shall not further burden the RECORD with many more news articles, although I have quite a number ready to use.

Likewise, Mr. President, I feel that I should and must include in the RECORD the story of the insulting treatment which was given to Florida's distinguished Governor yesterday at the Florida Pavilion. The State of Florida has spent a good many hundreds of thousands of dollars in providing a pavilion and an exhibit which we think are not only a useful credit to our own State, but also a contribution to the entire fair. We responded in this way to the invitation extended to us by the officials of the New York World's Fair. We feel that we are the guests at that fair, of the city of New York, and of the State of New York. We know perfectly well that the officials of both the city and the State not only refuse to countenance such happenings as those that occurred yesterday at the Florida Pavilion to our Governor, the Honorable Farris Bryant, but we are also sure that the governing officials of both the city and State are ashamed of the conduct of some of their citizens on that occasion. Mr. President, I prefer not to relate this matter in my own words, but, instead, to quote the report from the New York Herald Tribune of today, April 23, appearing in the column of Jimmy Breslin, whom I do not know. The article reads as follows:

### AT FLORIDA'S PAVILION

> The muddy shoes did not move. They were shoved further out to make it harder for anybody to walk over them. And these kids sitting on the walk with their backs against the glass doors stiffened and locked arms when they saw Farris Bryant, the Governor, coming toward them at the entrance to the Florida exhibit at the World's Fair yesterday.
>
> Bryant was in a black hat and light brown topcoat and was walking first. Behind him were these big guys in cowboy hats and green uniforms and black shiny holsters with .45's in them. They were Florida State Troopers.
>
> The entrance had six glass doors which open outward. There were 20 kids, all of them white, sitting in the entrance-way with their backs against the glass doors and their muddy shoes sticking out.

I am glad that the article has made it clear that all 20 people were white, because it shows clearly that the responsibility for all the disturbance created by James Farmer and all the others does not rest solely upon members of the colored race.

I continue to read from the article:

> Bryant picked the last door on the left side and walked up to it. He stopped when he hit the muddy shoes. They did not move for him.
>
> "Would you mind moving aside?" he said to the kid sitting against the door.
>
> Mark Epstein, 16, and a student at Elizabeth Irwin High School in Greenwich Village, looked up at the Governor of Florida through thick glasses and he said nothing. The muddy shoes did not move.
>
> ### A BEATING IS AVERTED
>
> The Governor stepped back, and now the green uniforms moved around him and came in on top of these kids. One trooper stepped on Epstein and grabbed the door handle and pulled the door to him. Epstein tried to push against the door, but then another Florida trooper got his hands on the door and now it moved and Epstein slid with it. Then one of the troopers reached down and put a big hand on Epstein's black hair. The kid's head jerked up and the trooper started walking with his hands at his side, dragging this kid along the ground by his hair.
>
> "You're not in Florida, gentlemen," a colored kid standing on the side started yelling, "You're not in Florida, gentlemen."
>
> The trooper dropped his hand to Epstein's jacket collar. He took a handful of it and started walking again. The front of Epstein's shirt cut into his throat and now he didn't know what was happening to him and he was badly frightened. So were the others. They were trying to hold their ground, but the sharp creases in the troopers' green pants disappeared as their knees jammed into the kids. The muddy shoes moved a little.
>
> Now the troopers had an aisle cleared and the Governor walked through it and into the building and so did the people behind him. The troopers followed immediately. The one who had Epstein by the collar dropped him and left him on the ground. The kid was coughing because he hadn't been able to breathe.
>
> Then a huge trooper, this one in a gray uniform, stepped out to hold the door.
>
> "Don't I know you from some place," the colored kid on the side yelled at him. "Aren't you the man who bought my police dog?"
>
> "Lay that club on his haid," a man told the trooper.
>
> ### A PICKET IS MOVED
>
> And now everything was going to happen. The trooper looked straight at the colored kid with narrowed eyes. Inside the pavilion, a man came running to the glass doors with his fists clenched and a bad look in his eyes and he was trying to push through and if he had made it there would have been hell. But Billy Vessels put an arm in front of the guy and Vessels was not going to let the guy get past his arm.

I am sure that the Senator from Louisiana remembers Billy Vessels. He was a great football player with the University of Oklahoma. As I remember, he was an All-American football player.

Mr. LONG of Louisiana. I remember him.

Mr. HOLLAND. I continue to read from the article:

> Vessels once played football for Oklahoma about as well as anybody ever played college football and yesterday at the World's Fair he saved a lot of kids a bad beating.
>
> It was over then. The place was quiet. The only sound was Mark Epstein, 16, coughing to get his wind back. The whole thing had seemed unreal. And now everything else seemed unreal. You felt like you were in a strange place.
>
> Off to the left, up on top of the hill, were apartment buildings. Familiar buildings, too. And right behind them is Queens Boulevard. Pepe and Johnny Maguire have a bar there. And up the other way, behind Shea Stadium, is LaGuardia Field. And the el up there, crossing the parkway, that one goes to Sunnyside. They have a fight club in Sunnyside. Hell, you know the whole area. You feel at home in it. But yesterday it was different. It was a strange place filled with things that have never gone on before. You never else seemed unreal. You felt you were in a strange place.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. I ask the Senator if he does not find it somewhat frightening to think that people who would promote and be responsible for that kind of indignity to a President, the Governor of a State, and people in general, have such political power that many people in politics fear to do anything that would offend them.

Mr. HOLLAND. Unfortunately, that is the case. I am still reading from the article by the reporter Jimmy Breslin, whom I do not know:

> This is no knock at the trooper. He had to clear a way for the Governor of his State and this kid was trying to stop him. The guy had to do something. But it was bewildering to see it done here in this place where you always felt at home.
>
> "I can't go down to Florida," Epstein said, "so this is the closest I can come to demonstrating against Florida. Right here at the fair."

Mr. President, that statement speaks rather large in itself. Twenty white boys—Epstein and nineteen others whose names we do not have—tried to prevent the Governor of our State from attending the dedication of a pavilion, which was paid for by the taxpayers of Florida, and built in response to an invitation extended by the officials of New York City and New York State. They tried to prevent the Governor from entering his own State pavilion and from performing the dedication ceremonies there.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Did the thought ever occur to the Senator that some of the white beatniks are paid to do that sort of thing?

Mr. HOLLAND. I have heard of it, but I prefer to think that it is the fault of leadership, and that bad precept is responsible. We have heard that Farmer himself was pulled into a police wagon and went to jail. Two other leaders, whose names I read from one of the articles a while ago, were involved. How can we blame youngsters who are 16, 20, and 21 years of age for feeling that they are being properly led when experienced men, with quite a knowledge of the world, stoop to doing the type of things that they are doing, particularly in misleading the youth of our Nation.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for another question?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Was the passageway which Mr. James Farmer was seeking to block the same passageway that the President would have had to use in order to ascend the platform and address the people of America at the opening of the New York World's Fair?

Mr. HOLLAND. I am not able to answer that question. The news articles do not specifically define what passageway it was. But it was one of the passageways in the various areas that were being picketed. Not only was the Florida pavilion picketed, but there was quite an article about the picketing of a beer company's exhibit and the picketing of the Ford exhibit, which was forced to close. I am sorry that the Ford exhibit closed. The Florida exhibit did not close, and will not be forced to close by that kind of demonstration.

Mr. LONG of Louisiana. Would it not be a fair statement to say that those people complain about rights that they imagine they should have at the expense of others, and have demonstrated how much utter contempt they have for the rights of the citizens?

Mr. HOLLAND. That is true. That is one of the things we must do. We must find some way to reach those people and show them what false philosophy they follow, what false ideas they have, how they are completely violating all decency, and all the lawful rights of the others, and treading on the Constitution, and doing it in the name of civil rights.

Mr. LONG of Louisiana. Would it not be fair to paraphrase the Scriptures in a way and say that those people worship false gods?

Mr. HOLLAND. I am afraid they do. Does the Senator mean the leaders, or the followers?

Mr. LONG of Louisiana. Both the leaders and the followers.

Mr. HOLLAND. The leaders would be responsible for the leadership. The ones who follow the leaders worship them. If that is what the Senator means, I presume that is true.

Mr. President, I have been picketed several times in my own State during these last few weeks by CORE, NAACP, and others, both white and colored, but always quietly and respectfully. I would be astounded to receive such treatment as that meted out in New York, even though I am a citizen and an official of Florida, and not of some other State, from any group of picketers in Florida. They have certainly demonstrated much more peacefully and with much better manners than those displayed yesterday by this young group of picketers at the Florida pavilion at the World's Fair who tried to exclude the Governor of Florida from the pavilion which he had come to dedicate and which was paid for by the citizens of Florida. I could not for a moment believe that any group of picketers in my State—whether white or black—could treat a visiting Governor from another State in the disgraceful way that these New York picketers treated Governor Bryant yesterday. I hope that with such conduct prevailing and disclosed by the New York press the officials and the people of New York will themselves come to the conclusion that they must use a stronger hand and enforce more decent conduct on the part of those who seek to exercise their right of assembly and freedom of speech by picketing. I shall not dwell longer on this disagreeable matter, Mr. President, other than to include in the RECORD a thoughtful column by Mr. David Lawrence from the Evening Star of yesterday, April 22, entitled "High Court's Law of the Land." The subtitle reads "Stall-in and Sit-in Reflect Confusion in United States on Limits on Demonstrations."

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. In view of the prejudice that the press, the television, and radio seem to demonstrate against the South in general, what does the Senator think would have happened if the people of our States had treated the President with such indignity in a planned organization and showed the President the type of discourtesy and disrespect that was accorded the President on yesterday?

Mr. HOLLAND. I shudder to think how extreme the statements would have been in the Northern press of the Nation. I think there would have been very extreme statements in the press in Florida and in Louisiana, too. I do not think we would have tolerated that kind of mistreatment to a visiting dignitary. We do not have that kind of disrespect for those in high office. I am sure we would find nothing of that kind in either the State of Louisiana or the State of Florida.

Mr. Lawrence cites certain decisions of the Supreme Court which he says have encouraged the extreme tactics now being exhorted to by picketers. I read two paragraphs from Mr. Lawrence, as follows:

> Demonstrators thus have been encouraged to block entrances and collect crowds that disrupt traffic—if only to gain notoriety or publicity for their cause. The right of any citizen to drive his automobile and stall it on a public highway is regarded by some Negro leaders as comparable to the court-approved right of sit-in demonstrators to block entrances to buildings.
>
> Strictly speaking, the police should be able to arrest persons either for a breach of the peace or for performing acts which threaten a breach of the peace. But the Supreme Court has declared otherwise, and the supporters of the stall-in idea have every right to invoke the existing Supreme Court decisions in defense of their demonstrations in New York City. It is true that the New York State court issued an order enjoining the stall-in demonstration. The mere existence of an injunction, however, is not sacred in the eyes of the Supreme Court if the person who violates it claims his objective is to obtain constitutional rights. This is an extreme interpretation, but the Supreme Court has made it.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. It was my pleasure to see the article by Mr. Lawrence. That article, like many others by Mr. Lawrence, convinces me that he is one of the true intellectual giants of this country. Mr. Lawrence's article, like many of his articles, very clearly states that violence must be controlled, whether it is in the South or in the North.

Mr. HOLLAND. And whether it is committed by demonstrators, or by ordinary criminals. That is really the point of his remarks.

Mr. Lawrence makes it very clear that "now ordinarily individuals would not take these chances, but they have been supported by recent Supreme Court decisions and by the voices of approval which have been raised in many quarters to the idea of demonstrations."

I think that is along the lines I have stated. It seems to be a hobby. It seems to be a fad. Demonstrations seem to be a smart thing. No matter what they do—or how they do them—they are right.

Mr. President, I hope that the people of our country—both those in official positions and the members of the public generally—will regard yesterday's demonstrations as a storm signal which may not be neglected, but will call the whole country back from the present dangerous trend under which demonstrations are becoming more and more unruly and are violating more and more the rights of innocent persons. Unless there is a betterment of the situation, we may well expect much greater showing of resentment from the general public than has been shown to date.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Has the Senator any reason to believe that passing this bill, which in the opinion of many was generated by and had its beginning with the Birmingham demonstrations, would take this type of thing off of the street and into the courts?

Mr. HOLLAND. No. That is the big misconception. Enacting a law, handing down a decree, issuing a mandate, sending down an army, exerting economic pressure—none of those things heals wounds which occur because people do not like each other, and for some reason do not want to associate.

The good that has been accomplished—and many things have been done—have come about by means of using a friendly approach to see what is tolerable to the two races. Nothing is going to solve this problem until we find out what is tolerable. Not everything in this bill will be found to be tolerable by the two races. I have heard from Negro teachers, and I have heard from Negro merchants who do not want this bill—for obvious reasons, which the Senator knows. The public has been most patient, but there is an end to patience and I express the strong hope that we may see an end to the extreme types of demonstrations which have now become commonplace.

In the effort to discover what is showing up today on the ticker tape which is just outside the Senator Chamber as to the disorders that are taking place in various parts of our country and which indicate the utter disrespect of law and order which is prevailing in too many places, I went out to the AP ticker, Mr. President, a couple of hours ago and picked up four or five items which indicate something of the widespread troubles which we are having as a result of the extremely reckless leadership in these demonstration movements. I quote several of these ticker items into my remarks at this time as a part thereof. Surely it must be apparent to anyone who is not blind and will not refuse to see that these so-called demonstrations are doing great harm to the country and holding up a false image of our country to all the world. You will note in the item from the New York Times which I inserted a few minutes ago, the fearful comments of the Pakistani lady when she ran into the demonstrations at the World's Fair yesterday. We do not want the whole world to think we are a Nation of hoodlums and lawless rioters.

In closing, I read into the RECORD several comments which I think will show that this problem has become nationwide, and is growing more dangerous every day. These comments come from the tickertape and cover a period of perhaps a couple of hours. They were taken off the ticker before I began my speech.

The first item which I quote is from Chicago:

> CHICAGO.—A civil rights group said today it would picket a $100-a-plate Democratic fund-raising dinner tonight at which President Johnson will be the main speaker.
>
> Rose Jennings, of the Student Nonviolent Coordinating Committee, said the demonstration would "urge more rapid action on the civil rights bill" and protest the "inadequate" food budget of the city's relief recipients.
>
> Mrs. Jennings said she did not know how many pickets would participate in the demonstration.
>
> When told that Johnson said he felt sorry for the demonstrators who interrupted his speech at the opening of the world's fair yesterday, Mrs. Jennings replied: "It's nice to know a man does have some compassion."

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Florida yield to the Senator from Louisiana?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Can the Senator tell me why those people would picket a Democratic Party fundraising dinner in the North? Have not the Democrats of the North in general been strong in support of anything that could be labeled civil rights?

Mr. HOLLAND. The Senator is correct.

There is an item from Providence, R.I.:

> PROVIDENCE, R.I.—A sit-in by backers of legislation to bar discrimination in housing neared the 48-hour mark at the Rhode Island statehouse in Providence today.
>
> Lawmakers generally ignored the demonstrators, who sat in spectators chairs on both sides of the house chamber.
>
> Extra State police and deputy sheriffs were on duty, but no incidents were reported.
>
> The number of demonstrators swelled to more than 100 at times during the night.
>
> Several participants said they had maintained a fast since the start of the sit-in Tuesday afternoon.
>
> Leaders said the demonstration would continue at least into tomorrow.
>
> Two Providence youths again pitched a pup tent on the statehouse lawn and spent the night there in what they described as a demonstration of the ability of Negroes and white persons to live together harmoniously.
>
> One youth was a Negro, the other white.
>
> More than half of the demonstrators inside the capitol were white persons.
>
> The question of a ban on housing discrimination has been before the Rhode Island Legislature for 7 years. Such bills passed the senate twice, but did not come out of committee in the house until this year, when a watered-down measure backed by leaders of the Democratic majority was killed by a margin of almost 2 to 1.
>
> The city of Providence, where most of the State's Negroes live, is now seeking authorization to enact a housing discrimination ordinance of its own.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Much as I dislike to see this sort of thing happening, I say to the Senator from Florida that this is a matter of one's chickens coming home to roost. This all started when President Kennedy "bent a knee" to the Birmingham demonstration. After that there have been all kinds of demonstrations in this country.

Mr. HOLLAND. There is a great deal of truth to that, but we must pool the thinking of the people of this country and find out how we can solve the problem. The avalanche is moving, and we must stop it. That is the reason why I am placing these disagreeable things in the RECORD.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Can the Senator tell me whether there is anything in the civil rights bill that would would solve the Rhode Island problem and call off that particular demonstration?

Mr. HOLLAND. No, there is not. The Senator knows that perfectly well. Many of these demonstrations are aimed at intangible, idealistic goals, which have no reference at all to the pending civil rights legislation. They grow out of this same misleading movement which so frequently erupts into violence.

Mr. LONG of Louisiana. Is there anything in the civil rights bill which would have helped the problem at the World's Fair?

Mr. HOLLAND. No; and the funny part about that is—if one can say "funny," because it is really tragic—that the State of New York has on the statute books all the drastic legislation which is in this bill, and it is not solving the problem. New York has an FEPC act; it has an open housing act—which is not in this bill at all—it has abolished segregated schooling. It has integrated schools. It has everything that is in this bill that the moderates in the Senate complain about, and they have not been found to be solutions.

Let me say to the distinguished Senator that his colleague, the senior Senator from Louisiana [Mr. ELLENDER], placed in the RECORD the other day statistics from the Department of Labor showing the percentage of Negro unemployment in the various States. The State of New York with its longstanding FEPC law headed the list—or nearly so—with about 18 percent, if I remember correctly, of Negroes who were unemployed; whereas in the South, where, of course, there are no FEPC laws, there is not one State which has a percentage of unemployment that is one-third that of the State of New York.

Perhaps it is only frustration on the part of those people. They have tried all the legal remedies and they have not worked, so they do not know what will work. They are merely "kicking out" against conditions which they do not understand.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Does the Senator recall when Attorney General Robert Kennedy first came to talk to a group of southern Senators, and told us what he had in mind in the nature of a civil rights bill? He undertook to sell us on the idea of wanting to take these disputes off the streets and put them in the courts?

Mr. HOLLAND. The Senator is correct.

Mr. LONG of Louisiana. I suggest to the Senator that if this is not correct, the very States which are pressing this type of legislation already have all these laws, and they are the ones having the trouble nowadays.

Mr. HOLLAND. The Senator is correct. He has stated it better than I have. That is what I was trying to say. The States which have such laws on their books have found out how futile it is for them to have enacted them.

Early today the ticker carried a story from Chester, Pa.

> CHESTER, PA.—All public schools in this city were closed today and 216 persons in jail following the resumption of civil rights demonstrations.
>
> School officials yesterday announced the closing of the city's 18 public schools, "pending the return to normal conditions," because of what they termed an explosive situation and fear for the safety of 11,000 pupils in this industrial city.
>
> Civil rights demonstrators have staged rallies and protest marches in this city of about 63,000 almost every day in the last month. They are protesting alleged de facto school segregation, a charge denied by the eight-member school board, which includes one Negro.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. What city did the Senator say that was?

Mr. HOLLAND. Chester, Pa. Pennsylvania has an FEPC law, and also integrated schools.

Mr. LONG of Louisiana. Does the Senator know of anything in the pending civil rights bill which would help the situation in Chester, Pa.?

Mr. HOLLAND. Not a thing but they have the fever.

The last item is tragic. I regret to have to put this in the RECORD but I believe I should do so, to show what is going on. It is one of the many which I hurriedly took off the ticker in a period of 3 or 4 minutes, 2 hours or more ago. It comes from St. Louis:

STABBING

ST. LOUIS.—James Reedy, 22-year-old student at St. Louis University, was stabbed to death just before midnight when he and a classmate were accosted by a gang of about 15 Negroes, police reported.

Reedy was found on a sidewalk across the street from the John J. Cochran Veterans' Hospital, in an integrated residential area (at 900 North Grand).

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LONG of Louisiana. Was that boy white or colored?

Mr. HOLLAND. He was white. The ones who killed him were Negroes, according to the article, and there is no indication there was any provocation of any kind.

Mr. LONG of Louisiana. What is there in this bill that would help with that situation?

Mr. HOLLAND. Nothing. The article states that even the housing area in which the murder occurred was an integrated housing area.

This was a dreadful thing.

Probably that is the reason why Negro and white youths were in such close juxtaposition, which may have contributed something to the trouble. I do not know.

But they were not living in the normal state of separation of the races which the Senator and I know is to be preferred. It is even preferred in the great cities of the North. That is why there is de facto school segregation, because in schools in the communities where the children are colored, the children there are also colored, and when the community is Puerto Rican, they are Puerto Rican, and when the community is white, they are white. The Senator knows perfectly well that the old adage, "Birds of a feather flock together," applies in this instance.

The other day I placed in the RECORD a vital and stimulating article published in the New York Times showing the three great subdivisions—one in New York, one in Connecticut, and one in New Jersey—in three different States which had started deliberately to develop integrated housing areas with quotas for each race.

Soon they became what the Negroes who remained there called Negro ghettos, because the white people moved out and the colored people moved in.

It is too bad that these qualities of character seem to be imbedded so deeply in both whites and colored people.

We witness accounts of it both as to schools and as to housing every day. We know about the situation in Seattle, Tacoma, and Berkeley, and how the people turned down by a huge majority proposed open housing regulations and in Kansas City barely failed to do so.

All of us must understand there are a great many things that can be done by law, but we cannot change the nature of people.

When we try to change the nature of people, without their having an opportunity to decide for themselves what parts of the change they can tolerate, we are making a hopeless mistake—a dangerous mistake—and we are making ourselves look just about as foolish as intelligent human beings can look.

Unless there are some further questions, I yield the floor.

## THE EDUCATED WOMAN

Mr. METCALF. Mr. President, my colleague, the junior Senator from Oregon [Mrs. NEUBERGER], has recently written an article on the changing role of women in society, and particularly the influence of education in that change.

In the article the Senator examines the consequences of an ever-increasing number of college educated women on the labor market and offers some recommendations to insure that the social and intellectual contributions of these women will not be wasted.

Mr. President, I ask unanimous consent that the article appearing in the Intercollegiate Association of Women Student's magazine be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE EDUCATED WOMAN

(By MAURINE B. NEUBERGER, U.S. Senator)

Rows of numbers concerning foreign aid and surplus commodities don't haunt the leaders in Government nearly as much as that lone number followed by a percentage sign which tells of continuing unemployment. Secretary of Labor Willard Wirtz reports that nearly 6 percent of Americans are unemployed. If that is a disturbing figure to the President and Members of Congress, imagine what it means to be one of those 4 million who need a job and must suffer mental and physical anguish because there is no work.

But the able Secretary has also noted that the preponderance of the unemployed are to be found in the ranks of the uneducated.

A decade back speakers on the campuses of women's colleges were apt to ponder at length over the value of a college degree, and it was a time when many coeds thought of getting married, of rearing beautiful children, cooking wonderful goulash, and entertaining the boss on short notice, but in an atmosphere of glistening crystal and romantic candlelight.

Today's college woman knows that she can do both—have a degree, perfect her skills as a breadwinner, and still have a home and children.

In fact, it is assumed that most girls graduating from college this June will be going into the labor market.

Because of the increasing numbers of women with jobs, President Kennedy appointed a Commission of educators, businessmen, professional people, labor leaders, and politicians, like me, to study possible areas of discrimination against women who work. This Commission, after 2 years of investigation, will make its report to the President this October. The report will have a direct bearing on your own welfare as a professional woman or one of the women with special talents in the army of white-collar workers.

The report will deal with civil and political liberties, your role in the social security system, the kind of tax deductions you may claim, and your right to equal pay.

Women are traditionally trained to be nurses, teachers, and social workers. Needs for these skills are exceeding supply and a call is out for the educated women in America to come back into the labor market and give us the benefit of their training. However, the number of college-trained women has tripled in the last 30 years and yet the number of college graduates in the labor force has declined.

I have found it of interest to explore the reason behind this statistic. As a member of the President's Commission on the Status of Women I have had an opportunity to explore the social security laws and the tax laws affecting women, and I think I have found the answer. Many of these women are also housewives and mothers. In order to pursue their professions they must hire household help or child care assistance or pay nursery school tuition. Since there is a minimum of tax deduction, they may question the worthwhileness of leaving home and going back into the world of business.

A change in this unfair tax provision will be included in the recommendations to the President from the Commission.

The modern professional woman is not only poorly represented in the thousands of new space age jobs involving science and mathematics, but is also losing ground in some of her longtime strongholds. Elementary schools and social work are attracting increasing numbers of men who are profiting from the better salaries and favorable tenure laws that teachers have won over the years of organization and appeals to legislatures.

Dr. Mary Bunting, president of Radcliffe College, is one of my colleagues on the Status of Women Commission. She attributes the decline of professional women to the cultural force that tells a woman that it is unladylike to use her mind. The commission has also taken note that although there are plenty of women on college faculties, they are all instructors or assistant professors. One such assistant commented, "They make you a full professor the day before you retire."

Many of you attend college for other reasons than job training. There is great emphasis for both men and women to attend college not only for the sake of an education, but also for its social and economic status.

And what if marriage is your goal. Most women want to marry a man with a college education, and realize that to get him they will need a college education themselves.

For the college woman who doesn't need to work to fulfill financial or creative needs, there is a desirable career as a volunteer in community service, in politics, in art.

Whatever it is, the educated woman of today can find in herself an individual of social worth who has her very important role to play in giving intellectual leadership to her family and society.

## A NEW DIXIE COLONEL—THE COORDINATING COMMITTEE FOR FUNDAMENTAL AMERICAN FREEDOMS, INC.

Mr. METCALF. Mr. President, the April 12 issue of the Norfolk, Va., Virginian-Pilot and Washington Post carried an excellent, carefully documented article on the Coordinating Committee for Fundamental American Freedoms, Inc., and its director, John J. Synon.

The Coordinating Committee for Fundamental American Freedoms, Inc., is responsible for much of the misinformation that has been spread throughout Montana and other States concerning the civil rights bill.

Mr. President, I ask unanimous consent that the article which appeared in the Washington Post, written by Luther J. Carter, Washington correspondent of the Norfolk Virginian-Pilot, be printed in the body of the RECORD. Mr. Carter is a former recipient of an American political science congressional fellowship and in that capacity served with skill and ability in my office for several months. I can vouch for his thorough and patient research.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 12, 1964]

### A NEW DIXIE COLONEL

(By Luther J. Carter)

A heavy fist clenching a "$100 Billion Blackjack" shook threateningly at newspaper readers in scores of cities outside the South last month, and many may have felt the sense of alarm this menacing full-page advertisement was meant to produce.

The ad, sponsored by the Coordinating Committee for Fundamental American Freedoms, Inc., a group created last July to lobby against the civil rights bill, was the brainchild of John J. Synon, 54, a public relations man.

"I wrote every word of it," says Synon, the Coordinating Committee's director.

The advertisement was checked for "legal exactitude" by John C. Satterfield, the Mississippi lawyer and former American Bar Association president who, along with Synon, leads the lobbying effort.

But it was Synon, who chose the "blackjack" image in an attempt to turn opinion against the bill's fund cutoff provision, and the rest of it as well.

The "blackjack" in the ad refers to the Federal budget. Synon and his committee contend that by withholding funds Federal administrators could crack down on any federally assisted local activities which they fancifully conceived to be discriminatory. Supporters of the bill regard this as the grossest of distortions.

Who is this newly commissioned colonel in the Dixie forces? What are his qualifications to speak against the civil rights bill?

Synon, 6-feet-3½, angular, talkative, was born in Norfolk, the son of a lawyer and real estate developer. He attended Blackstone Military Academy in Southside, Va.

Caught by the depression, he never attended college, but began a string of newspaper and other jobs which, interrupted by a 2-year stint in the Air Corps that ended in a disability discharge, eventually took him to California.

Since World War II Synon has performed in a wide assortment of roles: A public relations man with a taste for rightwing politics who helped Goodwin J. Knight campaign in 1950 for reelection as Lieutenant Governor of California; a secretary to the Governor after Knight succeeded Earl Warren; a Knight appointee on the State industrial accident commission.

He was the apparent author of an article in a rightwing journal attacking Knight as a betrayer of the conservative cause; a losing candidate for Congress who championed right-to-work legislation; a lobbyist for whisky by the drink before the Virginia Legislature; and before taking up the fight against the civil rights bill, a lobbyist in Washington for Portuguese business firms in Angola whose names became embroiled in a congressional investigation last spring of foreign lobbies.

Synon, the anticivil rights bill lobbyist, sees that job as one of arousing opposition to the bill in congressional constituencies and letting Congressmen feel the pressure—rather than actually buttonholing Members.

He is paid $500 a week, plus expenses which have been running as much as $1,600 a quarter. He told an interviewer, "I'm a top-flight man and they don't come cheap."

Synon can thank the Mississippi Sovereignty Commission for most of his salary, although the commission insists that as the chief financial provider for Fundamental American Freedoms, Inc., it has looked much more to private donors across the country than to the State's taxpayers.

The vice chairman of Fundamental American Freedoms, Inc., James J. Kilpatrick, editor of the Richmond News Leader, encouraged Synon to become the lobbying group's director.

"He is our senior reviewer of nonfiction for the News Leader's book page," says Kilpatrick. "I certainly have a lot of confidence in him."

On the strategy of the campaign, Synon said, "There's nothing I need to do in Virginia, and there's nothing I can do in New York. So we are concentrating on those States where we have reason to believe the Senators are intellectually honest and subject to facts rather than pressure."

"We would approach (through advertising and direct-mail campaigns) those Senators whose States contain few Negroes. Let's say, in the Dakotas—they've got more Indians out there than they have Negroes. The Senators can afford to be statesmen."

In his view, no Senator is more important to the ultimate outcome of the civil rights fight than the Republican minority leader, EVERETT M. DIRKSEN of Illinois.

Synon explained the conflicting pressures that work upon DIRKSEN: "This bill isn't going to create any new jobs. Who is going to lose his job if you're going to force the employment of Negroes? This answer is simple. He [the Negro] is going to take the job where he is more nearly competitive. The surprising thing is what amounts to a sellout by the labor unions toward their membership.

"The bill will utterly destroy union seniority. DIRKSEN comes in this because he has hundreds of thousands of Hungarians, Polish, Italians, and Irish who are going to be the first fall-guys in Operation Black Bootstrap."

DIRKSEN, he said, is feeling pressures from two sides, from Negroes and from the white working class.

"The question is—which is his softer side? Just where is his soft underbelly?" he said. "Senator DIRKSEN will do the right thing according to his lights. The question is, what are his lights? But I have a great deal of confidence in the minority leader."

This confidence may have been shaken last week when DIRKSEN spelled out his ideas on the civil rights bill's fair employment section, saying that the modifications he proposes would "broaden" and improve the act and would not gut it.

It's the constitutional issue, and nothing else, which has led to the lobbying effort, Synon said.

"We are not interested in the racial aspects of this thing at all," he said. "I have pretty much of a detached view of it."

Church lobbying for civil rights legislation is a potent force for the bill in the Midwestern and Rocky Mountain areas where his group is concentrating, Synon said. But, "These people are not engaged in the saving of souls. They are engaged in an ideological war just as is the John Birch Society and the Communist Party. * * * They are lobbyists.

"Senators are wise to pressure groups and they evaluate them accordingly."

Synon came to the attention of the Senate Foreign Relations Committee when it made an extensive inquiry into foreign lobbies. The New York public relations firm of Selvage and Lee, Inc., figured importantly in the investigation, and Synon was on a $5,000 a year retainer by that company.

(Synon's first connection with Selvage and Lee was as a lobbyist for liquor legislation at the 1962 session of the Virginia General Assembly.)

In October 1962, three articles deploring the "racist" attitude of Negro leaders in Africa and the United States appeared in the Charleston (S.C.) News and Courier under Synon's byline. He was identified as a public relations man who has made a "close study of African affairs."

The Foreign Agents Registration Act required that Synon inform the newspaper of his association with Selvage and Lee, and that the firm represented Portuguese oversea companies in Africa. According to Thomas R. Waring, the paper's editor, the News and Courier knew of these connections. The articles were published without compensation to Synon.

"The press has been full of anti-Portuguese material, all of it written by people who are on somebody's payroll," Waring said. "We saw no reason to refuse readable copy that we liked because the author happened to be on the payroll of Portugal."

The articles bitterly critical of the Kennedy administration, accused it of hypocrisy and a cynical pursuit of Negro votes.

Another fleeting speciman of rightwing-literature appeared in the November 16, 1957, issue of the publication Human Events. Some people attributed it to Synon, although it appeared under the psuedonym "J. Sutter Mill," and Synon won't say whether he wrote it or not. Entitled the "Death of a Salesman," the piece attack Goodwin Knight cuttingly and contemptuously.

"It was far too nasty and far too wrong," says Knight. "He (Synon) bragged to everybody in the (San Francisco) Press Club that he wrote it."

It said in strong language that the Governor was neither "left" nor "right" but the "quintessence of expediency."

"I would not give him (Knight) the satisfaction of knowing that I did not write it," Synon said.

Knight said "he was very bitter against me personally, because I couldn't endorse him when he ran for Congress (in 1958)."

The story of Synon's career in California from the time he met Knight in 1949 until he took a job back East with the Americans for Constitutional Action in 1959 is filled with contradictions.

Synon says he was working as a public relations man for an oil association and became Knight's northern California campaign manager. He says Knight passed him over and selected Robert G. Alderman as his personal secretary when he became Governor. Synon joined the Governor's office in 1953. Later Alderman was fired. Synon says he then took charge of Knight's office. Knight said that Synon was "I think, assistant press secretary."

Synon received $7,356 a year to start and was receiving $12,000 a year when he left about 12 months later. Knight says he appointed Synon to the Industrial Accident Commission after others in his office said they couldn't work with Synon. Synon says he wanted out because he didn't like Knight's actions.

His new job paid $11,000 a year to start. His pay increased to $15,750 a year before he resigned in late 1959.

On the commission, Knight says he heard from other commissioners that Synon "was not industrious and not a good commissioner."

Synon points out he went on the commission in 1955 to fill an unexpired term and

Knight named him to a full 4-year term in 1956—an appointment confirmed by the State Senate.

Synon resigned about a year after Democratic Gov. Edmund G. (Pat) Brown took office.

On January 3, 1957, an investigating committee of the California Assembly called Synon and Alderman to testify about the passing out of "free ride" insurance brokerage fees to politically friendly brokers, even though they might perform no services whatever with respect to State insurance contracts. Alderman testified—in contradiction to Knight's assertions—that the Governor once intervened to sugegst four brokers for the list of fee recipients, the Sacramento Union reported.

Synon was quoted by the San Francisco Chronicle as saying that he never had discussed insurance brokers with Knight, and had "absolutely no recollection" of signing any memoranda telling the Finance Director that the Governor wanted certain brokers placed on the favored list. The memoranda, with his signature, were then produced.

Assemblyman Jesse M. Unruh of Los Angeles, now Speaker of the Assembly, suggested that Synon had "set up a deal" for a friend to undercut another broker's renewal bid for insurance on the San Francisco Harbor contract. Synon denied any wrongdoing, and said that the new policy had resulted in a $13,000 premium savings.

## RECESS UNTIL 10 A.M. TOMORROW

Mr. HOLLAND. Mr. President, pursuant to the order entered on Friday, April 17, 1964, I move that the Senate take a recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 42 minutes p.m.) the Senate took a recess, under the order entered on Friday, April 17, 1964, until tomorrow, Friday, April 24, 1964, at 10 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate April 23 (legislative day of March 30), 1964:

### COMMISSION ON CIVIL RIGHTS

Eugene C. Patterson, of Georgia, to be a member of the Commission on Civil Rights, vice Robert G. Storey, resigned.

### IN THE AIR FORCE

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

*To be second lieutenants*

Adams, Duane A., AO3105039.
Allbee, Thomas D., AO3130424.
Anderson, William J., AO3083599.
Arslan, Charles R., AO3131502.
Ashy, Joseph W., AO3132517.
Balcom, Keith W., AO3132995.
Baschnagel, William R., AO3131235.
Bass, Thomas L., AO3119619.
Betts, Carlton L., AO3131832.
Bjornstad, Eugene N., AO3119410.
Bock, Charles M., AO3074634.
Borinski, George E., Jr., AO3131249.
Boswell, William H., AO3120022.
Bower, Larry E., AO3107869.
Bradbury, Rufus S., AO3132882.
Bragaw, Robert A., AO3130710.
Brennan, John E., AO3133048.
Bridges, John D., AO3119586.
Bromiley, William R., AO3120205.
Brook, Harley J., AO3134668.
Brooks, Donald A., AO3130769.
Brooks, William I., Jr., AO3129444.
Brown, Samuel, AO3130782.
Brudno, Edward A., AO3133135.
Buecker, William H., AO3132098.
Buley, Joseph R., AO3119159.
Calvez, Clifton A., AO3122602.
Carr, Richard J., AO3137902.
Carstensen, John R., AO3130427.
Casey, David R., AO3119816.
Catenacci, John R., AO3130890.
Chandler, George E., AO3132057.
Clark, John G., AO3119181.
Clark, Robert C., AO3132531.
Cobb, Jerry R., AO3107144.
Cole, Gordon E., AO3130785.
Colligan, John J., AO3131510.
Combs, Richard R., AO3137930.
Condit, James C., AO3135189.
Cranos, Roger L., AO3135265.
Crooks, Thadis W., AO3132538.
Curtis, Carl R., AO3133051.
Curtis, John E., AO3129367.
Cutright, Robert C., AO3133026.
Danforth, George S., III, AO3128599.
Davis, Clarence L., AO3129460.
Decker, John A. Jr., AO3085521.
Delaney, Joseph F., AO3128999.
Delaveaga, Richard A., AO3119684.
Denby, Donald J., AO3131119.
Densmore, Joel Y., AO3135309.
Dipaolo, Salvator M., AO3132295.
Distaso, Jack R., AO3099894.
Dixon, James W., AO3132160.
Dodgen, Donald L., AO3132544.
Dodson, William H., AO3138150.
Doublier, Rene M., AO3131347.
Duston, Arthur G., IV, AO3119962.
Dutton, John A., AO3085548.
Eathorne, Frank G., Jr., AO3133091.
Edmunds, Rance S., AO3133052.
Elliott, John R., AO3135609.
Elliott, Leland R., AO3108117.
Elrod, Bryant D., AO3073737.
Engstrom, Wayne A., AO3132977.
Epting, James L., Jr., AO3106181.
Erickson, Alan W., AO3131143.
Eynon, Alfred C., AO3136358.
Fanelli, Matthew J., Jr., AO3132296.
Ferm, Rodney E., AO3120087.
Finn, Ronald S., AO3096892.
Fish, Rufus T., Jr., AO3109199.
Fletcher, Larry N., AO3132834.
Flowers, Arthur D., AO3131653.
Fox, Edward H., AO3129123.
Frampton, Gene D., AO3131919.
Friedl, Robert S., AO3109433.
Gabrielson, Richard A., AO3130429.
Garner, Thomas L., AO3130522.
Gassmann, Joseph, AO3131056.
Geldbach, Arthur R., AO3135667.
Gemelli, Glenn G., AO3129478.
Gilbert, Thomas M., AO3134753.
Gilmour, Niles D., Jr., AO3074037.
Glynn, Lawrence J., Jr., AO3135895.
Grady, Sanders W., AO3131694.
Graham, William G., AO3136421.
Green, Theron B., AO3109288.
Greene, Howard B., AO3120288.
Greenstine, Robert B., AO3132012.
Griffin, Kirby G., AO3136428.
Gross, Larry R., AO3120162.
Grosskopf, George K., AO3132270.
Guy, Alden R., AO3132838.
Hall, William M., AO3138098.
Hammond, Marvin H., Jr., AO3108090.
Hardin, Thomas S., AO3136453.
Harlan, Robert H., II, AO3107887.
Harmon, Jerry H., AO3132391.
Harms, Frederick G., Jr., AO3129380.
Harrington, Fred A., Jr., AO3129901.
Harris, Kent K., AO3069893.
Harris, Leaman D., AO3130232.
Hartman, Willard S., AO3133009.
Hinkle, Richard E., AO3132170.
Hockenberry, Everett D., Jr., AO3132338.
Hoke, Russell M., AO3129064.
Holland, Dewey G., AO3093172.
Hooks, Kenneth R., AO3119840.
Howard, Joseph C., AO3131658.
Jacobs, Michael F., AO3119841.
Jacobus, Kenneth H., AO3119871.
Jander, Thomas R., AO3129776.
Jansen, Carl A., AO3135781.
Jedlicka, Richard A., AO3131763.
Jefferson, Jack J., AO3133015.
Jennings, Paul C., AO3093467.
Jensen, Fred C., AO3129306.
Jevcak, Joseph J., AO3109096.
Jewett, Calvin F., AO3130894.
Johanningsmeier, Donald, AO3136536.
Johnson, Gene H., AO3098294.
Johnson, Ralph K., AO3122850.
Johnson, Ralph T., Jr., AO3084879.
Johnson, Thomas P., Jr., AO3132420.
Jones, Jerry P., AO3108165.
Jonke, Frank J., AO3130895.
Kerkman, Dennis J., AO3131064.
Kirschman, Richard H., AO3108494.
Kohlmann, Dennis, AO3135819.
Kolb, Harry U., Jr., AO3136596.
Korte, Edward M., AO3132848.
Krach, Thomas H., AO3129953.
Lape, Gary D., AO3132068.
Larson, Rodney M., AO3068359.
Layton, Daniel E., AO3107351.
Lee, Gregory A., Jr., AO3131411.
Lockhart, Johnny G., AO3132569.
Love, Roy R., Jr., AO3109532.
Lucas, James H., AO3132343.
Lunsford, Jack H., AO3084444.
Lutsky, Alan L., AO3137599.
Madden, Dennis P., AO3120349.
Mangum, David H., AO3132680.
Marquis, James D., AO3107623.
McCarthy, William R., AO3131531.
McChristian, Jerome M., AO3132682.
McDonald, Donald G., AO3054010.
McKean, Robert E., AO3132575.
McKenna, George W., AO3130845.
McLaughlin, Robert G., AO3131486.
McLaurin, William T., AO3132017.
McMasters, John H., AO3107403.
McVean, Duncan E., AO3093355.
Merrell, Robert H., AO3131019.
Meyers, George J., III, AO3130829.
Misiorowski, Ronald L., AO3135183.
Morrison, Roger A., AO3131665.
Muldowney, Francis W., III, AO3130793.
Narbut, Leon A., Jr., AO3130777.
Nelson, Marshall D., AO3119783.
Nichols, Kenneth E., AO3106247.
Obermeyer, Ronald W., AO3108955.
O'Connor, John M., AO3137212.
Oliva, Anthony J., AO3131539.
Oliver, Alfred, AO3130730.
Oliver, George M., AO3132509.
Pack, Richard L., AO3133201.
Panton, David W., AO3130513.
Payne, John B., III, AO3086263.
Phillips, Maxey J., AO3131022.
Pignone, Francis X., Jr., AO3132355.
Placko, Jerry S., AO3107763.
Plummer, Ernest L., AO3131602.
Pokorny, Otto T., AO3132020.
Pollak, James E., AO3132186.
Proctor, William A., AO3136015.
Quinn, John A., AO3130809.
Racine, Joseph F., AO3131544.
Rampy, Johnny M., AO3119540.
Randolph, Donald D., AO3133032.
Rappold, Robert A., AO3129723.
Reagan, Norman W., AO3120312.
Rice, Arthur W., III, AO3131373.
Ricker, Leo F., AO3131840.
Riddle, George E., AO3132866.
Rieger, Louis J., Jr., AO3131284.
Riley, Chester H., AO3130830.
Risch, Gregory M., AO3120362.
Rodda, Michael K., AO3119470.
Rodgers, James A., AO3119918.
Rush, Hughey A., III, AO3098732.
Schaefer, Weldon E., AO3099048.
Schibler, Mark C., AO3132095.
Schmidt, Walter K., AO3119339.
Sculley, Jay R., AO3132915.
Seagraves, Harold O., AO3105524.
Seale, Stephen W., AO3132589.
Sealy, William F., AO3119849.
Shogren, Stanley P., AO3119678.
Sidebottom, Harold W., AO3130603.
Smith, Douglas B., Jr., AO3119948.
Smith, George C., AO3120319.
Smith, Gregory H., AO3119786.

Smith, James L. C., AO3136942.
Sorensen, Donald N., AO3129827.
Spanberger, Lloyd R., AO3129093.
Speckmann, Elwood W., Jr., AO3072797.
Spradlin, Don M., AO3132027.
Stager, Dale W., AO3119310.
Stuart, Warren C., AO3137372.
Sweet, John H., AO3129830.
Taff, Ralph G., Jr., AO3108098.
Talbot, Grady E., AO3135054.
Thomasson, David E., AO3129831.
Thompson, Donald L., AO3129832.
Tillman, Joe A., AO3131164.
Troutman, William W., AO3069359.
Trykoski, Michael A., AO3120202.
Tschirhart, Leslie H., AO3122861.
Wadkins, Donald L., AO3137025.
Wagstaff, Frank E., AO3099400.
Wallace, Larry W., AO3132606.
Walls, Douglas D., AO3120327.
Wardlaw, Thomas T., AO3120072.
Welch, Guy F., AO3129605.
Welde, Francis J., AO3107943.
Wells, Peter C., AO3109010.
Wennerstrom, Arthur J., AO3067424.
Werner, James K., AO3132608.
Whalen, Francis J., AO3131293.
White, Robert E., AO3119565.
White, Ronald L., AO3137443.
Willis, Richard P., AO3131998.
Wilson, Joseph A., Jr., AO3138632.
Wilson, Ronald L., AO3132880.
Wirsching, James H., AO3128981.
Yeager, Kurt E., AO3109426.
Yeargain, Gary P., AO3129014.
Zimmerman, Larry L., AO3120193.
Zipps, Robert H., AO3130781.

The following distinguished military graduates of the Air Force Precommission Schools for appointment in the Regular Air Force, in the grade indicated, under provisions of section 8284, title 10, United States Code, with dates of rank determined by the Secretary of the Air Force:

*To be second lieutenants*

Ackerman, Emanuel, AO3145029.
Akin, Robert L., AO3156658.
Albritton, Edward C., AO3144859.
Alford, William R., AO3098648.
Allen, William H., Jr., AO3155892.
Allis, Richard A., AO3155657.
Almeda, Charles E., AO3145083.
Alverson, Richard V., AO3157007.
Anderson, William A., AO3145138.
Anger, Terry G., AO3146085.
Armitage, Thomas C., AO3144512.
Arthurs, Dale D., AO3132737.
Arvik, Jon H., AO3156970.
Ayer, Frederick L., AO3133341.
Bailey, James P., AO3134143.
Baird, James, AO3145704.
Ballard, Malcolm J., Jr., AO3145037.
Barbieri, William A., AO3109080.
Bart, Siegfried G., Jr., AO3155400.
Bayer, Robert E., AO3144718.
Beasley, Dennis C., AO3144986.
Benjamin, Warren E., AO3144628.
Benson, Verne H., AO3144504.
Bernard, Harold W., Jr., AO3157012.
Bernhart, Michael H., AO3144910.
Biltz, James E., AO3134190.
Birch, George E., AO3138865.
Bischoff, John W., AO3155108.
Blackmon, Jerry M., AO3155895.
Bolen, Todd, AO3130478.
Borchert, Frederick C., AO3157071.
Borner, Frank D., AO3144584.
Boucher, Paul A., AO3156848.
Bowen, Robert E., AO3155232.
Bradberry, Brian L., AO3145254.
Brandt, Paul L., III, AO3145494.
Branscum, Harold W., AO3144830.
Brinson, Edwin L., AO3156293.
Browne, Cletus C., AO3131960.
Burckel, William P., AO3154459.
Burdick, David R., AO3144864.
Burhans, William A., AO3145162.
Burk, William J., AO3134099.
Bush, Richard L., AO3155898.
Bush, Ronald J., AO3144620.
Bussey, Louis R., AO3145104.
Calabrese, John R., Jr., AO3144768.
Campbell, Timothy L., AO3156008.
Carson, Gerald G., AO3138872.
Carter, Richard L., AO3145149.
Cason, Thomas O., AO3138018.
Charbonnier, Robert D., AO3144944.
Chmielewski, Michael R., AO3144644.
Christie, Harry W., Jr., AO3154690.
Clarke, Charles E., AO3145084.
Clem, Michael C., AO3154390.
Coffas, James, AO3138076.
Coffey, James A., AO3145126.
Cohn, Marcus T., AO3144407.
Colapietro, Robert L., AO3156851.
Colasanti, Leonard M., AO3154709.
Coogler, Monroe A., Jr., AO3144878.
Cook, William A., AO3155370.
Coons, David J., AO3144502.
Cooper, Robert N., AO3120276.
Cox, James D., AO3155952.
Cox, Stephen E., AO3144669.
Crabb, James H., AO3144736.
Croft, Robert L., AO3144731.
Crow, Wesley B., AO3155880.
Culp, Eugene R., AO3144570.
Cyphers, Hubert J., AO3144749.
Daggett, Jesse B., II, AO3145690.
Davis, Donny R., AO3133224.
Davis, William H., AO3144707.
DeBolt, Richard A., AO3144496.
Deere, Monte M., AO3146176.
DeMuth, Ronald N., AO3144899.
Dice, Eugene E., AO3156304.
Dierker, Ronald J., AO3154975.
Douglass, John W., AO3133773.
Duarte, Fred, AO3144626.
Dudac, Thomas W., Jr., AO3156854.
Dugdale, Richard K., Jr., AO3144694.
Edwards, Carlton W., AO3145174.
Elder, Richard W., AO3144533.
Ellis, William G., Jr., AO3145051.
Ellrodt, Bernard F., AO3155429.
Evans, William H., AO3145652.
Fallon, Thomas A., AO3145820.
Finigan, Thomas R., AO3144583.
Ford, Roger E., AO3155197.
Fowler, Arnold K., AO3086873.
Fox, Michael J., AO3145559.
Frank, Richard E., AO3145220.
Frankhauser, Walter A., AO3155402.
Frazier, Keith V., AO3145160.
Fresh, Donald W., AO3156887.
Frucci, Norman R., AO3144602.
Fulton, William C., AO3144814.
Futch, Thurman C., Jr., AO3144476.
Gaasch, Roland C., AO3154985.
Gamble, Don M., AO3138504.
Garrett, Norris A., AO3144877.
Gasperich, Frank J., Jr., AO3154392.
Gelbhar, Johnny R., AO3156761.
Gemelos, Elias N., AO3156309.
George, S. W., AO3145794.
Giles, Harry G., AO3144753.
Girvin, Richard J., AO3154826.
Goar, Larry J., AO3144798.
Godfrey, Curtis L., AO3146420.
Goosen, Clarence D., AO3144467.
Grace, James W., AO3154556.
Grant, James F., AO3145878.
Grassman, Jon M., AO3145112.
Greenley, Jon A., AO3155635.
Gregory, Eugene R., AO3156058.
Griswold, Guy D., AO3155564.
Grossberg, Herbert I., AO3144800.
Grote, Jeffrey E., AO3144442.
Groth, Dennis D., AO3156312.
Guerra, Philip, Jr., AO3144494.
Guerra, Raul J., Jr., AO3144618.
Habiger, Eugene E., AO3138352.
Hackett, Robert H., AO3156580.
Hagen, James J., AO3157020.
Hall, Billy L., AO3133228.
Hamblin, David R., AO3154470.
Hansen, Gordon L., AO3133194.
Hanson, Melvin A., Jr., AO3145105.
Harris, John R., AO3138549.
Harrison, John H., AO3144875.
Hawkins, Houston T., AO3156393.
Heier, Joseph F., AO3144659.
Henry, Louis M., AO3155909.
Herbst, Darell J., AO3133600.
Herman, William J., AO3156125.
Hill, Thomas L., AO3156781.
Hirschy, Victor L., AO3145009.
Hoksch, Orville J., Jr., AO3145553.
Horihan, Charles R., AO3154876.
Hornbeek, Larry R., AO3138779.
Hubbard, Hershell R., AO3145645.
Hudson, Robert W., AO3145008.
Hughes, John W., AO3156158.
Hurst, Jackson F., AO3156498.
Hussong, Daniel E., AO3134224.
Hutson, John M., AO3145935.
Istock, Paul H., AO3155884.
Jacobs, Dale L., AO3120298.
James, Walter D., AO3098253.
Jared, Julius D., AO3145990.
Jelks, Edwin B., III., AO3145078.
Jensen, Jerald N., AO3134289.
Johannisson, Eric E., AO3144999.
Johnston, James U. L., Jr., AO3155914.
Jolie, Jacques, AO3144914.
Jones, Clyde D., AO3144690.
Jones, Dale G., AO3145749.
Jordan, Lawrence W., AO3155206.
Judd, Thayne H., AO3132790.
Katayama, Daniel H., AO3107672.
Keating, Joseph M., Jr., AO3144648.
Keck, Henry E., AO3145670.
Keeler, Joseph F., Jr., AO3155821.
Keller, Loren W., AO3138983.
Kempin, Paul D., AO3144757.
Kirkham, John N., Jr., AO3154952.
Kirkpatrick, Haskell M., Jr., AO3156446.
Klein, Robert A., AO3145125.
Klein, Robert J., AO3144743.
Knopf, Kenneth D., AO3134120.
Kobler, Arthur L., AO3144523.
Koskinen, Michael F., AO3096897.
Kramer, David K., AO3145891.
Kramer, John W., AO3144849.
Kressin, Paul E., AO3144457.
Landes, Jack T., AO3144943.
Langley, Stanley R., AO3144935.
Lanning, Russell M., AO3155916.
Larsen, Thomas L., AO3155639.
Lee, Joseph C. H., AO3145315.
Ligon, Joe L., AO3144567.
Lipscomb, William O., Jr., AO3132427.
Lomas, Richard M., AO3156449.
Looney, Larry N., AO3155781.
Lorance, David R., AO3146457.
Lowther, Jack L., AO3155747.
Manning, Richard P., AO3144491.
Marshall, Clark E., AO3155116.
Maslona, Paul M., AO3155381.
Mauk, Samuel C., AO3145696.
McCarthy, Michael W., AO3155271.
McCarthy, Robert J., AO3155447.
McGehee, Robert L., AO3155919.
McKinney, James R., AO3155920.
Meacham, Arthur R., III, AO3145555.
Michna, Robert J., AO3155215.
Mihata, Walter H., AO3133914.
Milacek, Alan D., AO3155921.
Miller, David M., AO3144510.
Miller, John A., AO3145543.
Miller, Melvin E., AO3145785.
Miller, Roger A., AO3154646.
Minarcine, Robert A., AO3146210.
Mong, Dayton J., AO3133928.
Montequin, James J., AO3144526.
Morgan, Kenneth A., AO3144527.
Morris, Jon P., AO3154402.
Morrow, James K., AO3155581.
Mosby, Warren A., AO3155051.
Murphy, Robert G., Jr., AO3144976.
Myers, Gus E., AO3145545.
Nanney, John P., III, AO3144930.
Nelson, Harry A., AO3157054.
Norwood, James R., AO3156606.
O'Donoghue, Denis D., AO3134170.
Olson, Paul M., AO3146206.
Panneton, Robert J., AO3133690.
Parker, Robert W., AO3133455.
Partrich, William C., AO3145632.
Pearson, Donald J., AO3154714.
Pearson, Frank R., AO3144451.
Peters, James F., AO3144948.
Peterson, James W., AO3134294.
Poole, William M., AO3144485.

Poppink, Gerald N., AO3144486.
Ragan, Tillman J., AO3155979.
Rapson, Robert L., AO3156917.
Rebollo, Claudio, AO3144671.
Reed, Charles H., AO3155715.
Reimer, John C., AO3144600.
Richardson, Hugh W., AO3156408.
Richardson, John M., AO3133620.
Ridings, Virgil P., Jr., AO3145800.
Riza, Jan C., AO3138842.
Roberts, Jimmy P., AO3154957.
Rothenberger, Dale L., AO3146207.
Rouse, George D., AO3155609.
Salisbury, Charles H., Jr., AO3155475.
Sanders, Dale J., AO3144557.
Sandison, Edwin W., IV, AO3145102.
Saxton, Gerald F., AO3134133.
Schnicker, Donald L., AO3134275.
Sears, Robert J., AO3145689.
Seibert, Ruebin R., AO3156768.
Seitz, Thomas B., AO3154936.
Seknicka, John E., AO3118683.
Shiplov, Jerimiah J., AO3145129.
Shoemaker, Anthony A., AO3144967.
Silverman, John L., AO3154478.
Sirois, Joseph G., AO3144840.
Smith, Garwin B., AO3134299.
Squazzo, Emil M., AO3144655.
Stevenson, Garland E., AO3144860.
Stewart, Michael R., AO3156464.
Stinson, Edgar S., AO3145584.
Stokes, Dan M., AO3155935.
Strehlow, Virgil G., AO3145121.
Sullivan, Thomas J., AO3154685.
Supik, Donald F., AO3145624.
Svoboda, Adrian L., AO3144598.
Tafoya, Alberto F., AO3144601.
Tannian, Frances C., AO3137691.
Tash, Neal E., AO3157004.
Tatman, David I., AO3133996.
Taylor, Henry L., III, AO3144725.
Trusty, Monty J., AO3146190.
Tucker, James H., AO3155937.
Vogel, John M., AO3145864.
Walker, Harold C., AO3145561.
Warren, Max E., AO3145701.
Waterman, Charles R., AO3145663.
Webster, Joseph B., III, AO3156415.
Weigand, Louis G., III, AO3138543.
Wessel, James R., AO3154481.
Weyler, Kenneth L., AO3154748.
White, James S., AO3145040.
Whittier, Charles E., AO3137761.
Wickham, Frederick O., Jr., AO3145557.
Wilkins, Kermit D., AO3144947.
Willems, Gary B., AO3144515.
Williams, Jonathan, D., AO3133799.
Wilson, Jack G., AO3156643.
Wilson, John H., AO3131999.
Wilson, Robert E., AO3145692.
Wolf, Gary K., AO3133999.
Woodson, Murphy A., AO3144735.
Wright, Alfred A., AO3156769.
Wright, David K., AO3144827.
Wright, Franklin E., AO3146328.
Wright, John D., AO3133902.
Young, Jimmie D., AO3145694.
Young, Michael A., AO3156644.
Young, Robert A., AO3145699.
Younger, Jey E., III, AO3156770.
Zimmer, Peter B., AO3144541.

## WITHDRAWAL

Executive nomination withdrawn from the Senate April 23 (legislative day of March 30), 1964:

### POSTMASTER

I withdraw the nomination sent to the Senate on April 2, 1964, of Gavin R. Argue to be postmaster at Apalachin, in the State of New York.

# EXTENSIONS OF REMARKS

## The Polish Constitution of 1791: A Contribution to Freedom

EXTENSION OF REMARKS
OF
**HON. DONALD M. FRASER**
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. FRASER. Mr. Speaker, Sunday, May 3, marks the 153d anniversary of the 3d of May Polish Constitution, from which I should like to quote:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

These words express the close ties of Polish liberalism with the ideals of our own American Republic. Seven million people of Polish descent live in the United States and, therefore, their May 3 commemoration, sponsored by the Polish-American Congress, is also our commemoration.

The Polish Constitution is one of many contributions of the Polish people to Western civilization. May 12 marks the 600th anniversary of the founding of the Jagiellonian University of Krakow, the only institution of higher learning in Poland with a continuous history. Among the university's alumni is Nicholas Copernicus, regarded by historians as the first major figure in the scientific revolution—a revolution which is still going forward. Of special interest to Americans is the large academy of medicine, now separated from the university, where a children's hospital and research center is being built, partly with U.S. grants.

Poland is now ruled by a Communist government, and I noted with dismay the increased persecution of the Catholic Church of Poland last summer. All Americans hope for the release of Poland from oppressive restriction of liberty. The commemoration of the 3d of May Polish Constitution is, therefore, an important day in our American common life.

## Armenian Martyrs Day

EXTENSION OF REMARKS
OF
**HON. ABRAHAM J. MULTER**
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. MULTER. Mr. Speaker, on the eve of April 24, 1915, a shocking and evil event befell the Armenians in Turkey. More than 1,000 Armenians, good and honorable persons from all walks of life, were arrested and imprisoned by the Turkish Government. From the moment of their arrest they were held incommunicado. A few days later they were deported under heavy guard and then they were brutally executed. The arrest and execution of these Armenians proved to be the beginning of the end of Armenian communities in Turkey. The extermination of the Armenians and their communities was carried out so effectively, so ruthlessly, that by the end of that year all Armenians had been uprooted from their homes. Some were massacred; some were starved to death; the lucky ones—only a few hundred thousand of them—were able to escape to neighboring Persia and Russian Caucasus. When the First World War came to an end, historic Armenian towns, the villages in which Armenians had lived from time immemorial, were dead towns and deserted villages. More than 1 million Armenians had lost their lives in this almost unprecedented human carnage, and those who had survived were on the verge of starvation. Such was the cruel and crushing legacy of World War I to the Armenian people.

Since that fateful April 24, Armenians everywhere observe the anniversary of that sad event as a national day of mourning, and pray for the blessed memory of the victims of Turkish genocide. On the observance of the 49th anniversary of that sad event, I join the Armenian people in their prayers.

## Armenian Martyrs Day

EXTENSION OF REMARKS
OF
**HON. F. BRADFORD MORSE**
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. MORSE. Mr. Speaker, April 24 is recognized as the commemoration of a most horrible event in history, the beginning of 2 years of extermination of the peaceful Armenian people in 1915.

Armenia was once a thriving nation of 1,250,000 people, located between the Black Sea, the Euphrates River, Russia, and Iran. It encompassed the regions of Anatolia, Cilicia, and part of the Caucasus. The Armenian people were Christians, the first ancient nation to adopt Christianity, and by 1915 they were prosperous, well educated, and highly civilized. Armenian cities were clean and well governed. Every village had a school, and nearly every large town had a college. Armenians were closely allied with Western Europe and the United States and proud of their Christian heritage. Truly, in former days, Armenia was a progressive outpost in the Middle East, setting standards and showing the way to advanced civilization for the whole region.

But in 1915 Armenia was unfortunately a subject state of the Ottoman Empire. Moslems were scattered throughout the Armenian population. The Moslems generally, as latecomers, were poorer than the Armenians, uneducated, unskilled, and envious of their Armenian neighbors. This situation provided the fuel for genocide by the archaic, repressive government in Constantinople. Like the great crusades in reverse Moslems from the north swept into Armenia to eradicate an alien religion and its followers.

The massacre started on April 24, 1915, with the arrest of thousands of leading Armenians who might be able to lead a resistance. Then a carefully planned extermination was carried out, working downward through the populace even to the smallest village, until practically every Armenian in the Ottoman Empire was destroyed.

The men were seized and summarily executed. The young women were sold into brothels and harems. The children by thousands were given to Muslims to be converted. Thousands of old men and women and children were forced to walk without adequate food or clothing many miles, sometimes for 5 or 6 months without rest until they all died from exhaustion. In this terrible massacre 800,000 Armenians died, and 250,000 fled into Russia. In 2 years Armenia ceased to exist, and the Armenian homeland became a vacuum to be slowly filled by Muslims. Today a decimated Armenian nation survives as a captive republic of the U.S.S.R. The proud, progressive Armenia of 1914 is no more.

This is the saddening event which is commemorated today, appropriately called Armenian Martyrs Day. In remembering it we pay respect to a great nation of long-suffering people, to all Armenians. Mankind dealt unfairly and cruelly with them. Our remembrance of it may help remind all of us never again to permit such a thing.

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## A Success in the Foreign Aid Program—The Public Health Center at Gondar

EXTENSION OF REMARKS
OF
**HON. ROBERT R. BARRY**
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. BARRY. Mr. Speaker, the kingdom of Ethiopia is a very poor nation, 57 percent of those 20 million people manage to eke out a meager living from agriculture. Since the gross national product is estimated at only $800 million, the per capita income is comparatively low, less than $75 a year. Because of its low standard of living, communicable and other diseases are rampant and it is estimated that 600,000 Ethiopians are received annually at the country's hospitals and clinics. To treat these patients, there are only 200 physicians, the majority of whom have practices in Addis Ababa.

The Ethiopian Government realized that the first step toward combating these contagious diseases, of typhus, malaria, and dysentery, would be to train specialized personnel. Therefore, there was established at Gondar in October 1954 the Haile Selassie Public Health College and Training Center. The purpose of the center is to train first-rate public health workers who adapt themselves to meet the needs of rural Ethiopia. These public health personnel become community health officers, nurses, and sanitarians of preventive medicine rather than practicing physicians and bedside nurses. Graduates from the center will attempt to eradicate malaria by spraying swamps, will attempt to do away with typhus by purifying contaminated water supplies.

The U.S. Government, through the Agency for International Development, closely supports this center at Gondar in cooperation with the Ethiopian Government and the World Health Organization. We provide a director, generally some one on loan from the U.S. Public Health Service, and technicians, five at the present time, who serve as faculty instructors. Laboratory equipment and medical supplies, too, are an integral part of the U.S. program. The Ethiopian Government, in addition to providing the buildings, pay for the salaries of personnel at the center. U.S. assistance is scheduled to end in 1970, when the center becomes self-supporting.

Graduates of the training program now total 225, who are staffing some 60 rural service centers in villages throughout the country. Although received with suspicion at first by the rural population, the health officers were slowly incorporated into the village social life when the people saw for themselves the proof of the good wook of these dedicated personnel. The success of the program has been measured by the enthusiastic support which the graduates now receive from the villagers, by the decline of the communicable diseases, and by the number of young people who volunteer for public health service.

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## Senator John G. Townsend, Jr.

EXTENSION OF REMARKS
OF
**HON. JOSEPH W. MARTIN, JR.**
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. MARTIN of Massachusetts. Mr. Speaker, I join my colleagues in mourning the death of former Senator John G. Townsend, Jr., of Delaware.

He was one of my closet friends in Congress. We often referred to him as the chicken king of the United States, and the strawberry king, because of his leadership in these fields of agriculture in his home State.

John Townsend was a devoted Republican. He was a devoted American. He rendered great service to his country. All who knew him will miss him greatly.

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## A Tribute to Voit Gilmore, America's First Director of the U.S. Travel Service

EXTENSION OF REMARKS
OF
**HON. ROBERT W. HEMPHILL**
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. HEMPHILL. Mr. Speaker, Voit Gilmore, our country's first Director of the U.S. Travel Service, on April 6 announced his resignation in order to return to his native State to resume his private and public responsibilities.

With him go the best wishes of his many friends in Congress and his colleagues in Government. We note with pleasure that he intends to continue his distinguished record of public service by running as candidate for the North Carolina State Senate. Although qualified by experience and ability to fill posts of higher responsibility, Mr. Gilmore with characteristic modesty seeks an elective post that will put him close to the people of his area.

It has been 2½ years since the President asked Voit Gilmore to organize and direct our Government's program to increase international understanding and good will, as well as to bring needed dollars to the United States by attracting tourists to our shores. USTS is now vigorously promoting travel to the United States in 42 foreign countries.

The results have been both impressive and gratifying. As was noted by Senator MAGNUSON, able chairman of the Senate Commerce Committee and an author of the Travel Service legislation, Voit Gilmore had nine USTS offices open and running on five continents in less time than it takes many new Government agencies to recruit a staff and acquire its furniture.

Government redtape for arriving travelers was slashed. A new attitude of friendliness to strangers improved the worldwide image of America as the hospitable land it is. Mr. Gilmore developed "Americans-at-Home," the USTS plan which has led some two dozen U.S. communities to establish hospitality programs to let international visitors meet Americans and see American homes.

In just 2 years—between 1961 and 1963—oversea travel to the United States increased an amazing 42 percent, contrasted with a previous average annual increase of only 8.5 percent. The 1963 total was 735,000 visitors from overseas, a volume which pumped some $400 million into the American economy. Our distinguished Secretary of Commerce, the Honorable Luther H. Hodges, has termed USTS "one of the best investments by the U.S. taxpayer in the last decade."

U.S. industry has cooperated closely with USTS and has applauded its accomplishments. The "Visit U.S.A." effort has been an outstanding example of Government-industry cooperation to bolster the American economy. In recognition of this, Mr. Gilmore received the American Motor Hotel Association's distinguished service award for 1961–62, he was given industry's Mr. Travel Award in 1963 and also last year he received Hospitality magazine's coveted silver plate award for his contribution to the travel industry.

Of course there were problems connected with getting so ambitious and so unprecedented a program launched on a global basis. Never before has our Government engaged in a promotional effort of this sort. It has been pioneer work. Many were skeptical of the program and were quick with criticism. The obvious results have turned such doubts to praise.

It has been my pleasure to support the U.S. Travel Service from its legislative beginnings until the present, when its year of greatest accomplishment is in prospect. I share the feeling of my chairman, Hon. OREN HARRIS, who heads the House Interstate and Foreign Commerce Committee, who has termed USTS one of the greatest opportunities for international peace and commerce yet created by Congress.

Voit Gilmore, the guiding spirit of USTS from its beginning, is due the thanks and admiration of a grateful nation. He flew almost a million miles to get the Travel Service underway. He gave the directorship the utmost of his talent and unbounded energy.

He departs with the satisfaction that his "child" is well begun, well on the way to being one of America's most effective programs to improve world peace and aid our national economy.

Congratulations and Godspeed to Voit Gilmore, a distinguished American. May his days of service be long and fruitful.

## Armenian Martyrs Day, April 24

EXTENSION OF REMARKS

OF

### HON. BARRATT O'HARA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 23, 1964*

Mr. O'HARA of Illinois. Mr. Speaker, the Armenians in Turkey have had their miseries and misfortunes. They had lived under the autocratic tyranny of the Turks for centuries, and had endured all sorts of hardships. Since late 19th century they were being massacred by the tens of thousands and nothing seemed to avert more massacres. All these tragic events had become part of their national history. But their real national tragedy, one that practically wiped out all traces of Armenian communities in the Ottoman Empire, began on the fateful April 24, 1915.

On that day, and during the night of April 23, all prominent Armenians in Constantinople and in other towns, persons active and well known in all phases of communal activity, were arrested and imprisoned, held incommunicado and then under their guard-executioners deported to various parts of the country. Their unenviable lot was sad enough to plunge the whole Armenian community of the country into national mourning, but the lot that was in store for some 2 million Armenians in Turkey was no different. In the course of the next 6 months all of them were uprooted from their native homes. Many hundreds of thousands lost their lives in carefully organized wholesale massacres. Hundreds of thousands more lost their lives by famine and under indescribable hardships. Though some 500,000 managed to escape death by finding refuge in neighboring lands, in Persia, Russia, and in some parts of Europe, the majority of the Armenians simply ceased to exist by the end of 1915. Thus in the course of less than a year the industrious and relatively prosperous Armenian community, with its centuries-old eventful history, was no more.

Such was the legacy of the tragic events which began on that black April 24 of 1915. Today in commemorating the 49th anniversary of that tragedy, Armenians everywhere, even those in the Soviet Armenian Socialist Republic, bless the memory of the victims of that tragedy perpetrated by the Turkish Government in 1915.

Genocide is a crime against humanity. Those who are guilty of such crime must know that as the spirit of the brotherhood of man grows, all mankind will rise against crimes against their brothers.

## Armenian Martyrs Day

EXTENSION OF REMARKS

OF

### HON. WILLIAM L. ST. ONGE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 23, 1964*

Mr. ST. ONGE. Mr. Speaker, April 24 each year marks a sad day in the history of the Armenian people. It was on that day in 1915 when some 2 to 3 million Armenians—the whole Armenian population in Turkey—were slaughtered or deported. This tragic event is observed annually by Armenians in the United States and in other countries as Martyrs Day.

On this day, people of Armenian descent and all freedom-loving people, pay their respects to those martyrs who nearly a half century ago were innocent victims of a cruel and despotic regime which sought to further its dreams of conquest by undertaking wholesale massacres of a peaceful people. This was certainly an act of genocide—the murder of a whole people, a tragedy that shocked all mankind.

Beginning on that infamous day in 1915, all prominent Armenians in Turkey were arrested and later deported to various parts of that country—only to be executed there. Among them were clergymen, intellectuals, well-known merchants, artisans and others—in all about a thousand persons representing all classes of the Armenian community in Turkey. But they were only the first group of victims of a well-organized genocide plan to destroy this minority people in Turkey.

Others followed within a matter of weeks. It soon became evident to all Armenians in Turkey that they were doomed to death and destruction, and that they were faced with a tragedy of national proportions—a tragedy which was unheard of until that day in the annals of civilization. In a period of less than 6 months the Turkish Government decimated the Armenians within its borders by massacres, deportation, famine, and other means. Only a small segment of the Armenian community succeeded in escaping.

In the United States today we have several hundred thousand people of Armenian extraction. They are loyal and devoted citizens, intelligent, hardworking, deeply religious, and a great asset to our country. To all of them and to their kinsmen in other countries, I wish to extend my deep sympathy on this day and to join with them in paying tribute to the memory of the Armenian martyrs of 1915. Only by keeping their memory alive and retelling the tragic events of that genocide, can we hope to prevent such acts in the future.

## Imports of Foreign Beef

EXTENSION OF REMARKS

OF

### HON. JOHN DOWDY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 23, 1964*

Mr. DOWDY. Mr. Speaker, the cattle industry of the United States is now facing a grave crisis in its history. Foreign imports of beef are endangering this industry's very existence.

In my newsletter of April 24, I discuss this problem with my constitutents. I insert this newsletter at this point:

YOUR CONGRESSMAN REPORTS

(By JOHN DOWDY, Seventh District of Texas)

The question of meat imports from Australia and New Zealand continues to press upon our domestic cattle producers; it is particularly pressing upon our own cattlemen of the Seventh Congressional District. The domestic livestock industry of the United States has suffered serious economic difficulties in recent months because of the rapidly increasing amount of meat that is being imported.

This situation has been brought about in the last few years because Congress, over my protest, surrendered to the Executive the power to control foreign commerce, which was given to the Congress in the U.S. Constitution.

When that bill was passed, it gave to the Executive the authority to reduce tariffs which Congress had provided for imports. The tariff on meat was subsequently cut in half, with indication that it may be even further reduced. I am firmly of the opinion that we should first give consideration to the interests of our own producers and our own industries.

In the interest of our cattle producers, I have introduced H.R. 10817, which will impose limitations on imports of meat into the United States.

Meat imports are now 10 times what they were 4 or 5 years ago. It is true, and I am pleased that it is so, that meat imports from Australia have declined substantially during the first 3 months of 1964, from what it was last year, and this decline should be quite beneficial to the domestic livestock industry of the United States, which has been suffering in recent months, not only from the imports, but from the drought.

However, we should make it completely clear that this reduction in meat imports from Australia is not based on any negotiation or any voluntary agreement. There is nothing to prevent a reverse of the present imports position at any time, with a spurt in the amount imported. American livestock producers still desperately need legislation to set reasonable limits on beef imports, and I am supporting this proposal.

It is my hope that Congress will give this matter top priority, in order that we may prevent further serious economic damage to this large and important U.S. industry. If the cattle industry is seriously injured, the entire economy of the United States will suffer along with it.

## Administration Rejects Proposal for Expenditure Policy Review

EXTENSION OF REMARKS
OF
**HON. THOMAS B. CURTIS**
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. CURTIS. Mr. Speaker, on January 10, 1964, the minority members of the Joint Economic Committee wrote to President Johnson suggesting that a bipartisan Presidential Advisory Commission on Federal Expenditure Policy be established with the purpose of making an objective study in this area. I inserted a copy of that letter to President Johnson in the Congressional Record on January 20, 1964, pages 610–611.

In a letter of April 11, Secretary Dillon has rejected the suggestion of the Joint Economic Committee minority. I ask unanimous consent that a copy of Secretary Dillon's letter, as well as my reply to him, be included in the Record for the information of those who wish to follow this discussion to its conclusion.

The letters follow:

The Secretary of the Treasury,
*Washington, D.C., April 11, 1964.*

Hon. Thomas B. Curtis,
*House of Representatives,*
*Washington, D.C.*

Dear Mr. Curtis: The President has asked me to reply to the letter of January 10, 1964, from the minority members of the Joint Economic Committee. Your concern over expenditure policy is entirely appropriate, and we appreciate the constructive and thoughtful approach which has gone into your recommendation for a special advisory commission to review Federal activities and expenditures.

The President's firm position on the importance of expenditure control along with tax reduction in stimulating the sound growth of our economy is, of course, now well known. His determination to eliminate waste and efficiency through a continual review by the executive branch of the usefulness of existing programs and the establishment of priorities among needed and desirable new programs was unambiguously set forth in his first budget. I am sure you agree that the progress we are making toward a balanced budget, as a result of his strict economy measures and the exhaustive screening of existing programs, was an important factor in the early enactment this year of the tax reduction legislation.

It is, of course, a basic and necessary part of the President's duty under the Budget and Accounting Act to propose in each budget the amounts which, in his judgment, are necessary for the support of the Government. The Congress has a similar responsibility when it is considering the President's budget recommendations.

Expenditure policy is, in fact, program policy. It encompasses practically the entire range of matters with which the executive branch and the Congress deal, including national security and domestic economic and social policy. Under our form of government these responsibilities rest with elected officials, the President and the Members of the Congress. Theirs is the basic responsibility for formulating and deciding matters which relate to the nature, size, and relative priority of Government programs and outlays. It would seem unrealistic and unwise to assign to a bipartisan commission a task so broad that it encompasses virtually the whole of the agenda of government.

To be sure, expertise on a more specialized basis—dealing wtih specific programs or with matters of organization and procedures—can and has in the past been of value both to the President and the Congress. Expert knowledge has also been useful in obtaining greater economy and efficiency in selected operations. The President and his operating officials have called in the past for such advice as circumstances warrant, and will continue to do so in the future.

In the final analysis, however, I believe the greatest progress can be made toward your objectives if we concentrate on improving program and management appraisals and reviews within the existing framework—both legislative and executive—rather than through a large temporary commission with broad and far-ranging terms of reference.

Certainly the Joint Economic Committee can, as in the past, contribute to such efforts. I can assure you that the President and each of his agency officials intend to press ahead to improve on the accomplishments we have made to date in careful determinations of priorities, in ever greater attention to efficiency, and in the elimination of any and all unnecessary expenditures.

Sincerely yours,

Douglas Dillon.

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Congress of the United States,
House of Representatives,
*Washington, D.C., April 22, 1964.*

Hon. C. Douglas Dillon,
*Secretary, U.S. Treasury Department,*
*Washington, D.C.*

Dear Mr. Secretary: Thank you for your letter of April 11, 1964, replying to a letter of January 10, 1964, sent to the President by the minority members of the Joint Economic Committee and suggesting the establishment of a Presidential Advisory Commission on Federal Expenditure Policy.

I regret that the administration has rejected the idea of an objective and bipartisan review of expenditure policy by a Commission of experts outside of the Government. However, I do agree with you that efforts in this area should move forward by improvements of the existing legislative and executive framework.

In the light of the difficulties in altering established patterns of thought and procedure within Government, however, the Joint Economic Committee minority felt that the recommendations of a blue-ribbon Commission would help to stimulate needed action within the existing framework.

You may be certain that I will continue to press for improvements in the existing expenditure policy machinery. I would, of course, welcome the full support of the administration in those efforts since the chances of making meaningful improvements without administration backing are slight.

Since the January 10 letter to the President was placed in the Congressional Record, I intend to place your reply as well as this letter in the Record so that those who are interested may follow the discussion to its conclusion.

Sincerely yours,

Thomas B. Curtis.

## Statement Before the House Judiciary Committee by Representative Roudebush

EXTENSION OF REMARKS
OF
**HON. RICHARD L. ROUDEBUSH**
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 23, 1964*

Mr. ROUDEBUSH. Mr. Speaker, this week the House Judiciary Committee opened long-awaited hearings on the question of a constitutional amendment to permit voluntary prayer and Bible reading in American public schools.

The debate actually goes much deeper than that. What is involved is whether or not the great religious heritage of this Nation shall continue to be observed in our public functions and public institutions.

It has been my privilege to support a constitutional amendment to repair the great damage caused by the Supreme Court decision, and this week I was among the Members of the House of Representatives to offer testimony in support of such action.

Under unanimous consent, I insert the text of my statement to the House Judiciary Committee in the Record.

The statement is as follows:

Perhaps no issue in recent years has so aroused the American people as the Supreme Court outlawing of voluntary prayer and Bible reading in our public schools.

It is no overstatement to categorize this action as shaking the very moral and religious foundation of this Nation.

On June 18, 1963, the day following the second of the Supreme Court decisions banning the religious observances, I introduced my legislation—House Joint Resolution 487, to amend the Constitution to permit nonsectarian prayer in public schools on a voluntary basis.

It is my understanding that since that time a total of 144 resolutions in 35 different forms have been introduced before Congress—all designed to retain religious observances in our public life.

I was also one of the 164 Members of the House who signed a petition to discharge House Joint Resolution 693, a proposed constitutional amendment similar to my own legislation making prayer and Bible reading permissible.

The very seriousness of the situation, and the fact that we do need a constitutional amendment is evidenced by the very circumstance that brings us to these hearings today. It seems incredible in a nation such as ours, which has achieved its stature and impact in history as a free civilization, that we are meeting here today to consider if legislation is needed to permit Americans to pray and read the Bible in public institutions.

Since the very origin of this Nation, our basic laws contained in the Constitution, our great Declaration of Independence and the Bill of Rights have been based upon public faith and recognition of God.

It is not the design or intent of my legislation, or that of any other Member, to enforce, impose, or regulate religion in any manner whatsoever in our public schools.

Our Constitution clearly demands that there be a separation of church and state, but it was never intended to separate God and state.

And, by the same token, it is discrimination and restraint of the most odious nature to require that the vast majority of our public school students refrain from any prayers or Bible reading because it may offend a tiny minority of the students.

My request for a constitutional amendment arises from a simple prayer which said little more than "God bless my parents, my teacher, and my country."

No child was required to recite this prayer. No child even had to stay in the room during the ceremony if he didn't choose to.

The Supreme Court decided that the use of this simple, nondenominational prayer on a permissive basis was a violation of the Constitution.

I respectfully submit, in my opinion, the Supreme Court was wrong.

If the Court was right one of the first things it should have done was to abolish its own prayers.

If the Court was right the Declaration of Independence might have to be rewritten to strike out references to the Supreme Being.

If the Court was right the Bureau of Engraving and Printing and the mint might have to reissue all coin and currency without "In God We Trust."

If the Court was right we shall have to revise the Pledge of Allegiance to the Flag, and remove the words "under God."

And, of course, the Court's ruling raises a question about the rules of the House and Senate which provide that each session shall open with a prayer.

None of these analogies are farfetched. Quite the contrary. In fact, it was reported by Associated Press on April 7 that the same woman who instituted one of the school prayer cases has petitioned the Baltimore School Board to strike the words "under God" from the Pledge of Allegiance.

In California, suit has been instituted to remove "In God We Trust" from our coinage.

If these cases follow the legal path of previous cases, we can presume that they will someday reach the Supreme Court. In view of the past rulings, there can be little doubt as to the ultimate outcome.

Conceivably this tiny minority of citizens who are opposed for whatever reasons to any public recognition of a God, could effectively attack all of the references to God that I have mentioned and thereby succeed in removing such from any governmental function. I would say today that this very probably will happen over a period of time unless appropriate action is taken by the Congress.

History has recorded the decline and fall of many civilizations who have forsaken their religious heritages and beliefs. Judging from the volume of opposition to this move to take God out of American public life, it is my sincere belief that the American people are not willing to see our bedrock foundation of religious principles rent asunder by a hairsplitting Supreme Court.

We could go on citing endless examples to illustrate the absurdity of the Supreme Court's decision in the school prayer case, but this is hardly necessary.

There has been general and widespread confusion and disobedience, which is tantamount to nullification of this particular decision.

But the decision should not be allowed to rest there. Our school superintendents, our teachers, our principals, and our students should not be forced to technically break the law in their daily observances.

There should be a legal nullification and the process of obtaining such can be set in motion through approval by the Congress of my House Joint Resolution 487, or similar measures introduced in the House.

Support of such legislation has become formal policy of the Republican minority in the House, and I wish to strongly associate myself with the resolution adopted in February by the House Republican Policy Committee.

This resolution reads: "*Resolved*, That the House Republican Policy Committee go on record in support of a constitutional amendment declaring the right of individuals to participate or to refrain from participation in prayer and Bible reading in public institutions throughout the United States and the right of the Government of the United States to make reference to God Almighty in public governmental affairs."

Mr. Chairman, one of the most obvious differences in our American system compared to that of the Soviets, is our national belief in God, and the tolerance for all faiths and religions.

This difference should be emphasized and strengthened, rather than weakened and abandoned in favor of the godless Communist ideology.

It is true, many of our youngsters receive adequate spiritual and religious education in church, Sunday school, and the home. Many do not, and it has been said unless the Bible is used in public schools many millions of children will never know the Ten Commandments.

Mr. Chairman, I urge the approval by this committee of a constitutional amendment to keep God in our public life, and the report of such an amendment to the House of Representatives for a vote by all Members.

Thank you.

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## The 1964 National 4-H Club Conference

EXTENSION OF REMARKS

OF

### HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 23, 1964*

Mr. BOLAND. Mr. Speaker, this morning I joined with other members of the Massachusetts congressional delegation in welcoming our State's delegates to the magnificent conference of the 4-H Clubs. It was an inspiring sight to witness. Delegates from across the Nation and from every State, accompanied by their leaders, were welcomed by Members of the House of Representatives and the U.S. Senate. The purpose of this annual conference is to provide an opportunity for a select group of older 4-H Club members to learn more about our democratic Government and citizenship in action, as well as to develop a greater appreciation of our American heritage and to better understand their own roles as responsible citizens.

Mr. Speaker, I want to congratulate the four young delegates who represent the Commonwealth of Massachusetts at this great conference. They are Sandra Kupiec, Pittsfield; Rosemarie Regis, Peabody; Gary Blanchard, from my congressional district, Warren, Mass.; and George Dole, Shelbourne. Mr. Merle L. Howes, head of the University of Massachusetts Cooperative Extension of 4-H and Youth Programs, accompanied the group to Washington. He has done outstanding work in this field and I compliment him for his dedicated service in this great work and the fine programs that the University of Massachusetts administers and oversees.

Mr. Speaker, this year marks the 50th anniversary of the passage by Congress of the Smith-Lever Act which officially established the Cooperative Extension Service, and such cooperative extension work as 4-H programs. The 4-H Clubs and programs have constantly expanded and adapted to the needs of youth in our modern society, and have opened the door of opportunity for millions of young people through the last half century. The 4-H membership is now 2½ million boys and girls, ages 10 to 21, who benefit from the pooling of talent, time, and money contributed through the Cooperative Extension Service, the National 4-H Service Committee, the National 4-H Club Foundation and other friends of 4-H.

These boys and girls are helped by 4-H to acquire knowledge and skills, explore career opportunities, cultivate leadership abilities, gain satisfaction and recognition by useful work, constructively use leisure time, appreciate agriculture and home economics, value and use research, practice healthful living, cooperate with others, and live by citizenship ideals and values. The 4-H Club work is the youth education program of the Cooperative Extension Service, conducted through the joint efforts of the U.S. Department of Agriculture, the land-grant colleges and universities and county governments. Members of 4-H have an inspiring pledge which reads as follows:

> I pledge by head to clearer thinking, my heart to greater loyalty, my hands to larger service, and my health to better living, for my club, my community, and my country.

Yes, these boys and girls pledge head, heart, hands, and health, hence the appropriate club name of 4-H.

THE 4-H PROGRAM IN THE SECOND CONGRESSIONAL DISTRICT OF MASSACHUSETTS

Mr. Speaker, there are 1,800 4-H Club members regularly enrolled in the 4-H Club program in my congressional district. The program is supervised by three full-time professionally trained county 4-H Club agents. These agents direct the work of volunteer county 4-H Club leaders (see attached list) who meet with local, small groups of 4-H members to teach skills related to the 4-H project.

The major 4-H projects include:

First. Food and Nutrition.

Second. Forestry and Conservation.

Third. Clothing.

Fourth. Gardening.

Fifth. Home Improvement.

Sixth. Child Care.

Literature in support of this teaching is prepared by staff specialists at the University of Massachusetts.

THE MASSACHUSETTS 4-H CLUB PROGRAM

Thirteen thousand young people are currently enrolled in the 4-H Club program in Massachusetts. This work is supported by 2,500 volunteer adult leaders who serve as "teachers" for 1,200 different 4-H Clubs.

The Massachusetts 4-H Club Foundation, a private organization responsible for developing financial support for the Massachusetts 4–H program, is making a significant contribution to the total 4–H effort. Four hundred contributors, individuals, and Massachusetts industries supported Massachusetts 4–H through the foundation in 1963.

Mr. Speaker, I would like at this time to pay tribute to the host of volunteer leaders serving the 4–H program in my congressional district of Massachusetts, comprising communities in Hampden, Hampshire, and Worcester Counties. They give freely of their time for this worthy cause and work in excellent cooperation with their respective county's extension service and with the University of Massachusetts Extension Service at Amherst. Under permission granted I place the names of these 4–H volunteers by community, with my remarks:

### Volunteer Leaders Serving the 4-H Program in Second District, Hampden County

Agawam: Mrs. Louis Caruso, Mrs. William Case, Mr. Carmen Cirillo, Mrs. George Collins, Mrs. Donald Cross, Mrs. Joseph Della Guistino, Mrs. George Gagliarducci, Mrs. Ronald King, Mrs. Stanley Lipski, Mrs. Edna Radding, Mr. Thomas Reidy, Mrs. George Webster, Mrs. William Yelinek, Miss Kathleen Yelinek.

Brimfield: Mr. Charles Deland, Mrs. Clarence Keith, Mrs. Alexander McVeigh, Mrs. William Pratt, Mr. and Mrs. Frederick Prentiss, Mr. Johnstone Prescott, Mrs. Thomas Reed, Mrs. Kenneth Silvius, Mr. Donald Spear, Mrs. George Tetreault, Mrs. Gladys Whitten, Mr. Roger Wightman, Mrs. Herbert Wright.

Chicopee: Mrs. George Bedard, Mrs. George Beeler, Mrs. Albert Boutin, Mrs. Myles Brennan, Mrs. Jean Briere, Mrs. Frank Czaporowski, Miss Janice Langevin, Mrs. Alfred Ducharme, Mrs. August Giera, Mrs. Thomas Houlihan, Mrs. Henry Le Mieux, Mrs. Henri Marcotte, Mrs. Ethel Stonina, Mrs. Richard Therrien.

East Longmeadow: Mr. Roland Chapdelaine, Mrs. Theresa Chapdelaine, Mrs. Harry Coles, Mrs. Wesley Collins, Mr. Ed Craven, Mr. Benedict Grabierz, Mrs. Josephine Grabierz, Mrs. Elizabeth Wright, Mr. Merritt Wright, Miss Nancy Wright.

Hampden: Mrs. Antonio Esposito, Mrs. Croyden Kibbe, Mrs. Harry Johnson, Mrs. Ralph Miller, Mrs. Peter Terzi, Mr. James Whipple.

Holland: Mrs. Ronald Croke, Mrs. Raoul Gendreau, Miss Eunice Foster.

Ludlow: Mrs. Ralph Barth, Mrs. Leonard Brennan, Mrs. Herbert Dickey, Mrs. Ernest Flebotte, Mrs. Elizabeth Gaviglio, Mr. Harold Griffing, Mr. Dorval G'guere, Mrs. Donna Haluch, Mr. Ray Haluch, Mr. Dexter Hiersche, Mrs. Elsie Hiersche, Mrs. Martha Hiersche, Thomas Hiersche, Mrs. Robert Koshinsky, Mrs. Herbert McChesney, Mr. Francis McMenamin, Mrs. Francis McMenamin, Mrs. Gerald Paul, Mr. John Polansky, Mrs. Wesley Rhodes, Mrs. Bertha Tower, Mrs. Geo. Walls.

Longmeadow: Mrs. Ann Brunton.

Monson: Mrs. Jane Anderson, Mr. Paul Brown, Mr. Henry Czajka, Mrs. Wm. Emerson, Mrs. Earl Gilbert, Mr. Steve Grudzien, Mrs. Douglas Habel, Mr. William Hubert, Mrs. Randall Ketterman, Mrs. Victor LePace, Mr. Truman Lowra, Mrs. Donald Nothe.

Palmer: Mrs. Joseph Bolow, Mrs. Carl Brodeur, Mrs. Fred Piechota.

Springfield: Mrs. Louis Berrelli, Mrs. Gladys Dykstra, Mrs. David Picard, Mrs. Walter Reardon, Mrs. Clarence Smith, Mr. Clarence Smith, Mrs. Walter Thorn, Mrs. Lester Woodbury, Mrs. Fred Yates.

Wales: Mrs. Agnita Baker,

West Springfield: Mrs. Howard Burnham, Mrs. Ralph Criscio, Mr. Joseph Dupius, Mrs. Mary Dupius, Mrs. Charles Gervickas, Mrs. Samuel Hardcastle, Mrs. Rose Nash, Mr. Thomas Nash, Mrs. Everett Wilder.

Wilbraham: Mrs. Irving Agard, Mr. William Duval, Mr. Thomas Erwin, Mrs. L. W. Gould, Mrs. Herman Grandchamp, Mrs. John LeBlanc, Mrs. Robert Maynard, Mrs. Carl Meier, Frances Mell, Mrs. John Nelsson, Mrs. Ronald Nobbs, Mrs. Elsie Randolph, Mrs. Winifred Rice, Mrs. Denny Richter, Mr. Lucien Riendeau, Mrs. Lucien Riendeau, Mrs. Everett Warner.

### Volunteer Leaders Serving the 4-H Program in the Second Congressional District, Hampshire County

Belchertown: Mrs. Edwin Whipple, Mrs. Preston Atwood, Mr. Wallace Chevalier, Mrs. Richard I. Cole, Mr. George Foster, Mrs. Julian H. Hussey, Mrs. Fred Opielowski, Mrs. Edward H. Rice, Jr., Mrs. Godfrey Wenzel, Mrs. Omer Dupuis, Mrs. M. McLean, Mrs. Jack Poole.

Granby: Mr. Roy W. White, Mrs. Philip Denette, Mr. Francis E. DeWitt, Mrs. John Erickson, Mrs. Robert L. Hatch, Mrs. Arthur A. Hauschild, Mrs. Harvey LaFleche, Mr. Warren McKinstry, Mrs. Lindolph O. Parker, Mrs. Earl Poitras, Mrs. Roy E. Simmons, Jr., Mrs. Edward Trompke, Mr. Frederick Wilson, Mrs. John Zucker, Mr. Armand C. Cormier, Mr. Kenneth Fortier, Mr. Carlton S. Nash.

South Hadley: Mr. Alfred Sebastyanski, Mrs. Warren Bock, Mrs. John Conant, Jr., Mrs. Raymond Dressell, Mrs. Edward Ezold, Mrs. Whitfield B. Hallett, Mrs. Casimir Klekotka, Mrs. Edward Laferriere, Mrs. Walter Malec, Mrs. Daniel Mulvenna, Mrs. Everett Reed, Mrs. Wistar Goodhue, Mrs. Alfred Sebastyanski, Mrs. John M. Sullivan, Mrs. Michael Sullivan, Mrs. Francis Williams, Mrs. William Williams, Mrs. Alan Craven, Mrs. Felix Gagne, Mr. A. A. Soander.

Ware: Mr. Eugene Bourgault, Mrs. James Bradley, Mrs. Bernard Dulak, Mrs. William Duval, Mr. Michael Guzik, Mr. Julian J. Knapp, Mrs. Frank Krusik, Mrs. Walter Olszewski, Mrs. Alida Phaneuf, Mr. John J. Schott, Mrs. Walter Swinarski, Mr. Lloyd H. Thomas, Mrs. Stanley Wyrobek, Mrs. Mary Riggie, Mr. Francis Cote, Mr. Robert Heavey, Mr. Leo Hevey, Mrs. Joseph Jurczyk, Mr. Charles Lemaitre, Mrs. Donald St. Germaine, Mr. William F. Wade.

### Volunteer Leaders Serving the 4-H Program in the Second Congressional District (Worcester County)

Brookfield: Mrs. Michael Pecha, Mr. Michael Pecha.

East Brookfield: Mrs. Sybil Hingston, Mrs. Robert Jaquith, Mrs. Harold Lovejoy, Mrs. John Treadwell, Mrs. Arthur Germaine, Mrs. Richard Pelletier, Mrs. Francis Vivier, Mrs. Philip Terry.

North Brookfield: Mrs. Janet Snelling, Mrs. Edith Prothro, Mrs. Raymond Waydaka, Mrs. George Sullivan, Mrs. Edmund Evans, Mrs. Roger Ducasse, Mrs. Laurence Thayer, Miss Christine Hayden, Mrs. Rene Lambert, Mr. Rene Lambert, Mr. Philip Waugh, Mr. George Frizzell, Mr. Henry Marchessault, Mr. Robert Munyon, Mr. George Cross, Mr. Ronald Fritz.

Sturbridge: Mrs. Stephen Grudzien, Mr. Stephen Grudzien.

West Brookfield: Mrs. Bernard DuPaul, Mrs. Richard Frew, Mr. Richard Frew, Mrs. Oliver Hill, Mrs. David Stevens, Mrs. Stanley Koziol, Mrs. Richard Standish, Mrs. Arvid Silverberg, Mrs. Virgil Martin, Mrs. Milton Potter, Mrs. Francis Ploof, Mrs. John Sauer, Mr. John Sauer, Mrs. Donald Williams, Mr. Donald Williams, Mrs. Roger Persons, Mr. Roger Persons, Mrs. John Lapierre, Mr. John Lapierre, Mrs. Richard Morse, Mr. Richard Morse.

Warren: Mr. James Blanchard, Mr. Boleslaw Doktor, Mrs. Doris Gravelin, Mrs. Robert Hastings, Mrs. Robert McCarthy, Mr. Leroy Richardson, Mr. David Shepard, Mr. Robert Williams.

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# SENATE

## Friday, April 24, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God from whom all blessings flow, as we stretch lame hands of prayer to Thee, grant us the benediction of Thy healing peace. Draw very near unto us. Teach us to weave the concerns of these troubled days into the perspective of the long years.

The cries of the crowds about us but bring us to confusion without and perplexity within. As, for this solemn, searching moment, the words of this Chamber are hushed to silence, breathe upon our thinking with Thy truth, breathe upon our understanding with Thy light, breathe upon our attitudes with Thy love.

May the heavy pressures of the world not mold us; but may we be so strengthened with might in the inner man that we may help mold the world nearer to the fashion of Thy righteous will. From the perplexing problems whose attempted solutions so often tend to divide us in our judgment, at this common altar of prayer we find a unity which ties us together, even amidst all the diversities of our thought.

Beset by the confusion of these days, when honest and sincere men differ, may we never forfeit our own self-respect or the confidence of those who trust us, as we dedicate our highest and best to the service of the Nation.

In the dear Redeemer's name we ask it. Amen.

## THE JOURNAL

On request of Mr. Mansfield, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 23, 1964, was dispensed with.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

## EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting sundry nominations, which was referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

## ORDER FOR MORNING HOUR

Mr. MANSFIELD. Mr. President, before I suggest the absence of a quorum, I renew the request made on yesterday for a morning hour at the conclusion of the quorum call.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

## CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll; and the following Senators answered to their names:

[No. 165 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Boggs
Brewster
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Douglas
Fong
Goldwater
Gore
Gruening
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Keating
Kuchel
Lausche
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morse
Mundt
Muskie
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Nevada [Mr. BIBLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Michigan [Mr. HART], the Senator from Alabama [Mr. HILL], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Georgia [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Louisiana [Mr. ELLENDER], the Senator from Indiana [Mr. HARTKE], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Utah [Mr. MOSS], the Senator from Wisconsin [Mr. NELSON], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] and the Senator from Arkansas [Mr. MCCLELLAN] are absent because of illness.

I further announce that the Senator from West Virginia [Mr. RANDOLPH] is absent during convalescence from an illness.

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from New York [Mr. JAVITS] are absent on official business.

The Senator from Colorado [Mr. DOMINICK], the Senator from New Mexico [Mr. MECHEM], the Senator from Iowa [Mr. MILLER], and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Texas [Mr. TOWER] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

## PERSONAL STATEMENT BY SENATOR DOUGLAS

Mr. DOUGLAS. Mr. President, I wish to correct an unintentional injustice which I have done to the senior Senator from Florida [Mr. HOLLAND]. In a discussion with the senior Senator from Oregon [Mr. MORSE] on April 11, as published in the CONGRESSIONAL RECORD at page 7681, I said that in 1957, when the Banking and Currency Committee was considering the bank holding company bill, the senior Senator from Florida had, as I remembered it, honestly assured us that the income from the Alfred I. du Pont estate was primarily devoted to charitable purposes, whereas later developments had shown that only one-eighth of that income was so devoted.

I thought that the appearance before our committee by the Senator from Florida [Mr. HOLLAND] had been in executive session.

Since that time I have searched the transcript of the public hearings and the executive sessions which were held on that bill, and I have found that there is absolutely no record of the Senator from Florida appearing at any time.

The Senator from Florida [Mr. HOLLAND] assures me that he has no memory of doing so—and he has a very good memory on almost every matter—and the record shows that this point was, in fact, raised by other Senators with whom, evidently, I confused the Senator from Florida.

I hereby apologize to the Senator from Florida for the unintentional injustice which I have done him. I am communicating my apology immediately to individuals and newspapers which have criticized the Senator from Florida on the basis of my erroneous statement which was published in the CONGRESSIONAL RECORD.

Mr. HOLLAND. Mr. President, first, I wish to express my sincere thanks to the Senator from Illinois for his customary frankness and complete integrity in handling a matter of this kind. The situation arose, as I understand it, in a colloquy between the distinguished Senator from Illinois [Mr. DOUGLAS] and the distinguished Senator from Oregon [Mr. MORSE] at a time when I was not in the Chamber. It was first called to my attention when I was in Florida a few days ago, and I promptly said I had no recollection of any such incident, but that I could not categorically say that there had not been such. I understood it had taken place about 8 years ago.

When I returned, I had the record searched. We searched the record of the executive hearings and of the open hearings before the Committee on Banking and Currency, of which I have never been a member, but of which the Senator from Illinois is one of the most active members. I found that I had not appeared in either of those hearings. We also searched the record of the debate, with the same result. We examined the file on the subject, with the same result.

The matter was one as to which I had not had any information at that time which would have enabled me to make such a statement to the distinguished Senator from Illinois, and I had no recollection of any private discussion with the Senator.

This morning he came to me of his own will, because apparently he had been disturbed by the same reports which had been coming to me, and told me he was preparing to make the statement which he has just made. I very warmly thank him and say for the record that it is characteristic of the Senator from Illinois that he practices complete adherence to the highest standards of integrity in this and every other matter in the Senate.

So far as the Senator from Florida is concerned, he not only has no knowledge whatever of any such discussion or such appearance; he is very sure there was none such, and he finds from the record of the committee hearings that two other distinguished Senators who were members of the committee did support the amendment which was placed in the bill in committee, and on which there was no vote on the floor of the Senate. As a matter of fact, there was no yea-and-nay vote on the passage of the bill. The bill was passed on a voice vote. The Senator from Florida had no part in the discussion of the bill on the floor of the Senate, because the bill had been reported by a committee on which he had no membership and that had worked on this complex, technical bill, with which he had no familiarity whatsoever.

The Senator from Florida thanks his distinguished friend from Illinois for making the record completely clear on this matter.

Mr. DOUGLAS. I wish to say again to the Senator from Florida how deeply I regret what has happened. I shall try to rectify as best I can any injustice that has been done to the Senator from Florida. I thank him for the courtesy with which he has treated my apology and express my regrets again.

Mr. HOLLAND. Mr. President, big men know how to apologize; little men never do. The Senator from Illinois is one of the big men of the Senate.

## EXECUTIVE COMMUNICATIONS, ETC.

**The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:**

### REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON PARTICIPATION IN RESEARCH AND DEVELOPMENT WORK

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the participation of the Georgia Institute of Technology, Atlanta, Ga., in research and development work which supports the national space program; to the Committee on Aeronautical and Space Sciences.

### REPORT ON TITLE I AGREEMENTS UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

A letter from the Associate Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, a report on title I agreements under the Agricultural Trade Development and Assistance Act of 1954, for the month of March 1964 (with accompanying papers); to the Committee on Agriculture and Forestry.

### AUDIT REPORT ON EXCHANGE STABILIZATION FUND

A letter from the Secretary of the Treasury, transmitting, pursuant to law, an audit report on the Exchange Stabilization Fund, for the fiscal year ended June 30, 1963 (with an accompanying report); to the Committee on Banking and Currency.

### REPORT OF SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman, Securities and Exchange Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1963 (with an accompanying report); to the Committee on Banking and Currency.

### REPORT ON EXCESSIVE COSTS INCURRED BECAUSE OF EXTENDED CONTRACTOR-FURNISHED TECHNICAL SERVICES RELATING TO ELECTRONIC AIR TRAFFIC CONTROL SIMULATOR SYSTEMS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on excessive costs incurred because of extended contractor-furnished technical services and other deficiencies in administration of contracts for electronic air traffic control simulator systems, Federal Aviation Agency, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### REPORT ON UNNECESSARY COST TO THE GOVERNMENT IN LEASING OF ELECTRONIC DATA PROCESSING SYSTEMS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on unnecessary cost to the Government in the leasing of electronic data processing systems by the Boeing Co., Airplane Division, Wichita, Kans., Department of Defense, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### REPORT ON CONTRACT WITH FLORIDA WATER CONSERVANCY DISTRICT, COLORADO

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, on findings on the matter of justifying approval of an amendatory contract with the Florida Water Conservancy District, Colorado (with an accompanying report); to the Committee on Interior and Insular Affairs.

### PROPOSED AMENDMENT TO CONCESSION CONTRACT IN GRAND TETON NATIONAL PARK, WYOMING

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract in Grand Teton National Park, Wyoming (with accompanying papers); to the Committee on Interior and Insular Affairs.

### REPORT OF ELEANOR ROOSEVELT MEMORIAL FOUNDATION

A letter from the chairman of the Eleanor Roosevelt Memorial Foundation, of New York, N.Y., transmitting, pursuant to law, the annual report of that foundation, for the year 1963 (with an accompanying report); to the Committee on the Judiciary.

### AUDIT REPORT OF NATIONAL SAFETY COUNCIL

A letter from the President, National Safety Council, Chicago, Ill., transmitting, pursuant to law, an audit report of the financial transactions of that council, for the year 1963 (with an accompanying report); to the Committee on the Judiciary.

### ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered, granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

### TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered, granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

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## PETITIONS AND MEMORIALS

**Petitions, etc., were laid before the Senate, or presented, and referrred as indicated:**

By the ACTING PRESIDENT pro tempore:

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION GRANTING MEDICAL ASSISTANCE TO THE AGED UNDER THE FEDERAL SOCIAL SECURITY ACT

"*Resolved,* That the General Court of Massachusetts hereby urges the 88th Congress of the United States to pass legislation granting medical assistance to the aged, funds for such assistance to be raised under the Federal Social Security Act, and eliminating the paupers' oath; and be it further

"*Resolved,* That a copy of these resolutions be sent forthwith by the secretary of the Commonwealth to the President of the United States, to the Presiding Officer of each branch of Congress, and to the Members thereof from the Commonwealth.

"House of representatives, adopted, March 30, 1964.

"WILLIAM C. MAIRES,
"*Clerk.*

"Senate, adopted in concurrence, April 2, 1964.

"THOMAS A. CHADWICK,
"*Clerk.*

"A true copy.
"Attest:

"KEVIN H. WHITE,
"*Secretary of the Commonwealth.*"

Petitions signed by Koho Arakaki, mayor of Gushikawa-Son, Seitoku Tominkana, chairman, Assembly of Gushikawa-Son, Sakae Taira, chairman, Gushikawa-Son, and Seijiro Kohagura, chairman, Municipal Assembly of Ginowan City, all of the island of Okinawa, praying for a quick solution of the prepeace treaty compensation issue; to the Committee on Armed Services.

A resolution adopted by the Common Council of the City of Yonkers, N.Y., remonstrating against any amendment of the Sugar Act of 1948; to the Committee on Finance.

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## LIMITATION OF QUOTAS ON IMPORTS OF BEEF AND BEEF PRODUCTS—CONCURRENT RESOLUTION OF SOUTH CAROLINA LEGISLATURE

Mr. THURMOND. Mr. President, on behalf of myself and the senior Senator from South Carolina [Mr. JOHNSTON], I send to the desk for appropriate reference a concurrent resolution of the South Carolina General Assembly recommending to the U.S. Congress, the U.S. State Department, and the U.S. Department of Agriculture that consideration be given to limiting the quotas on imports of beef and beef products.

There being no objection, the concurrent resolution was referred to the Committee on Finance, and, under the rule, ordered to be printed in the RECORD, as follows:

### CONCURRENT RESOLUTION RECOMMENDING TO THE U.S. CONGRESS, THE U.S. STATE DEPARTMENT, AND THE U.S. DEPARTMENT OF AGRICULTURE THAT CONSIDERATION BE GIVEN TO LIMITING THE QUOTAS ON IMPORTS OF BEEF AND BEEF PRODUCTS

Whereas the South Carolina Cattlemen's Association has reported that on February 17, 1964, an agreement was announced which allows Australia and New Zealand beef imports into this country during the years 1964 through 1966 of 773, 801, and 830 million pounds and that this agreement more than doubles the rate of imports from these countries during the period 1948 to 1962 and that these heavy imports are seriously depressing our cattle market; and

Whereas the association further reports that a portion of these imports is of primal cuts which will severely damage our domestic price structure; that the American producers and feeders are obligated to pay high fixed costs associated with labor, land, local and Federal taxes and other expenses over which they have no control and which are higher than those of their foreign counterpart; and

Whereas the stability of the American beef industry is essential to the growth and welfare of the entire American economy in all States; and

Whereas continued price depression will inevitably result in removal of capital from the United States to foreign points with concurrent employment losses; and

Whereas such large import quotas may be disastrous to the American producers and feeders and unacceptable to the American public and may well set into motion restrictive forces which in the long run will have unfavorable impact upon importing countries; and

Whereas the members of the general assembly feel that such conditions should be thoroughly considered by the U.S. Congress, the U.S. State Department and U.S. Department of Agriculture: Now, therefore, be it

*Resolved by the senate, the house of representatives concurring,* That the members of the general assembly recommend to the U.S. Congress, the U.S. State Department, and the U.S. Department of Agriculture, that a new study be made relative to the quotas on imports of beef and beef products into the United States, that in such study a composition of imports be considered so as to embrace in future quotas cooked and cured meats, a sharp reduction in imports of primal cuts and should a growth factor be involved in any negotiation it be at much less than the full amount; and be it further

*Resolved,* That copies of this resolution be sent to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, each Member of the congressional delegation from South Carolina, the Secretary of State, and the Secretary of the U.S. Department of Agriculture.

## RESOLUTIONS OF SOUTH CAROLINA SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. THURMOND. Mr. President, the South Carolina Society of the Sons of the American Revolution held a convention in Columbia, S.C., on April 4, 1964, and at that time the society approved four resolutions of concern to the Congress. I have been impressed with the resolutions, Mr. President, and feel that they merit the serious attention and consideration of the Congress.

I, therefore, ask unanimous consent that these four resolutions be printed in the Record and appropriately referred.

Mr. President, the Sons of the American Revolution is a great patriotic organization. I am pleased to have been associated with this organization, and particularly with the South Carolina Society, for many years; so, I commend to my colleagues their attention to these important resolutions.

There being no objection, the resolutions were referred or ordered to lie on the table, and ordered to be printed in the Record, as follows:

To the Committee on the Judiciary:

### Resolution 1

A resolution to memorialize South Carolina Senators and Representatives in the U.S. Congress to support legislation permitting prayer and/or Bible reading in public schools

Whereas the recent decision of the Supreme Court of the United States concerning the reading of the Bible and prayers to God or a Supreme Deity in public schools has resulted in confusion and misunderstanding of the extent and meaning of that decision; and

Whereas we believe that godlessness or neutralism in religion promotes communistic ideology and amorality and, further, that any form of voluntary affirmation or expression of belief in a Supreme Being or God in song or pledge or other observance or proceeding in any public school or public place or upon any coin, currency, document, obligation or oath of office of Government does not constitute "an establishment of religion" in the sense in which that phrase was used in the first amendment of the Constitution, therefore, be it

*Resolved,* That we, the South Carolina Society of the Sons of the American Revolution, do hereby memorialize the Senators and Representatives of State of South Carolina in the Congress of the United States to support an amendment to the Constitution which will effectively and clearly express the principles expressed in the preceding paragraph and remove the confusion and misunderstanding created by the decision of the Supreme Court.

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### Resolution 4

A resolution to memorialize the representatives of the State of South Carolina in the Congress of the United States to support resolution No. 6, adopted by the 73d Annual Congress of the National Society of the Sons of the American Revolution on May 22, 1963

Whereas the 73d Annual Congress of the National Society of the Sons of the American Revolution adopted as resolution No. 6, the following:

"*Be it resolved,* That the National Society of the Sons of the American Revolution does hereby endorse in principle the bill pending in the Congress of the United States as House Joint Resolution No. 25, otherwise called the liberty amendment, which proposes an amendment to the Constitution of the United States; and we urge that the Congress of the United States do submit said proposed constitutional amendment to the people of the Nation for ratification"; and

Whereas the delegates from the South Carolina society to the 73d annual congress of the national society did support said resolution; and

Whereas we now and hereby reaffirm our support of said resolution: Now, therefore, be it

*Resolved,* That we memorialize the representatives of the State of South Carolina in the Congress of the United States to support said resolution No. 6, as adopted by the 73d Annual Congress of the National Society of the Sons of the American Revolution on May 22, 1963.

To the Committee on Finance:

### Resolution 3

A resolution to memorialize the South Carolina representatives in the U.S. Congress to determine whether the activities of certain tax-exempt charitable, religious, or educational organizations violate existing laws

Whereas the tax laws of the United States prohibit tax-exempt charitable, religious, or educational organizations from engaging in substantial lobbying or propaganda to influence legislation; and

Whereas Senator Thurmond, of South Carolina, has alleged and Mr. Colin Stam, chief of staff of the Joint Committee on Internal Revenue Taxation has apparently agreed that the National Council of Churches has played a vigorous and substantial role in urging enactment of the civil rights bill; and

Whereas the Select Committee on Small Business of the House, in its October 16, 1963, report titled "Tax-Exempt Foundations and Charitable Trusts: Their Impact on Our Economy" states that the Treasury Department not only does not know how many such trusts exist but that knowledge of their activities is limited—for example, of 546 trusts examined by the committee only 113 had received 1 or more Treasury field audits in a 10-year period—and in consequence of its findings recommends that tax returns of these foundations "require disclosure of amounts spent for instigating or promoting legislation or political activities, or amounts paid to other organizations for the purpose"; and

Whereas the National Observer, a weekly newspaper by the publishers of the Wall Street Journal, in its July 1, 1963, issue, reported that representatives of the Ford, Rockefeller, and Taconic Foundations, at a secret breakfast held in Hotel Carlyle, New York City, June 10, 1963, also attended by officers of NAACP, CORE, Urban League, SLOC (Mr. Martin Luther King's group) and by other white persons, subscribed $850,000 to the latter mentioned organizations and subsequently assisted in forming an executive committee to collect and to distribute funds in behalf of such groups and, further reported that the leaders of these civil rights groups made a "small donation" to a militant Student Non-Violent Coordinating Committee (SNICK); and

Whereas SNICK has engaged in "direct action" demonstrations in Atlanta and in the words of the Atlanta Journal, February 2, 1963, "The tax-exempt Student Non-Violent Coordinating Committee counts among its active supporters at least two * * * who have been identified by an FBI undercover agent in hearings before the House Un-American Activities Committee as Communist Party members."; and

Whereas under the guidance, direction, or encouragement of one or more of said civil rights groups children have been marshaled, marched, and taught defiance of law and order; public education has been disrupted and public school pupils and teachers in some areas have been demoralized; public and private property has been invaded and seized by sit-downs or other means; small businesses have been damaged or ruined and individual rights and freedoms have been infringed; riots, civil disorders, and violence prejudicial to the safety and welfare of all citizens have been encouraged; and massive demonstrations have been staged to intimidate the lawmaking bodies of the land with a view to obtaining the passage of legislation of doubtful constitutionality and of uncertain morality; and

Whereas we believe that such acts endanger this Republic and are inimical to the welfare of all our citizens of whatever race or creed; and

Whereas it seems obvious that NAACP, CORE, Urban League, SLOC, SNOC, and the National Council of Churches have all engaged in lobbying in one or more forms and that the Ford, Rockefeller, and Taconic Foundations have subsidized, directly or indirectly, the activities of these organizations: Now, therefore, be it

*Resolved,* That we hereby memorialize the Senators and Representatives of the State of South Carolina in the Congress of the United States to ascertain either through the investigative powers of the Congress or by other certain methods whether or not the aforesaid organizations have abused the privileges of tax immunity, that full publicity be given such action, and that if an affirmative finding is made appropriate legal penalties be promptly invoked.

Ordered to lie on the table:

### Resolution 2

A resolution to memorialize the South Carolina representatives in the U.S. Congress to oppose passage in the Senate of the so-called civil rights bill or if appropriate at the time of adoption of this resolution to seek repeal

Whereas there is pending before the U.S. Senate a House-passed bill known as the civil rights bill, and whereas six members of the Judiciary Committee of the House have declared that this bill is "illustrative of the total disregard of the Constitution of the United States by those who drafted this legislation," that "If this is enacted, the basic and fundamental power of the States and the power of local governments to regulate business and to govern the relations of individuals to each other will have been preempted," and that it grants such a totality of power to the Executive and his appointees, particularly the Attorney General, as has seldom been seen before, that it grants authority to seriously impair the following civil rights of those who fall within the scope of the various titles of the bill:

1. Freedom of speech and freedom of the press concerning "discrimination or segrega-

tion of any kind at any establishment or place" (secs. 202–203).

2. Homeowners' rights to rent, lease, sell their homes as free individuals (secs. 601–602).

3. Right of realtors and developers of residential property to act as free agents (secs. 601–602).

4. Right of banks, etc., to operate according to their best judgment (601–602).

5. Right of employer to hire, fire, determine terms, conditions, compensation, or privileges of employments (title VII).

6. Seniority rights of employees in corporate or other employment (VII, VI, 711b).

7. Seniority rights of all persons under Federal civil service (sec. 711a).

8. Seniority rights of labor union members in their locals and in their own apprentice programs (title II, title VI via sec. 711b).

9. Unions' right to choose members, to determine rights of members (VII, VI, 711b).

10. Farmers' rights to freely choose tenants and employees (titles VI and VII).

11. Farm organizations' right to choose members, determine rights (VI, VII).

12. School boards', trustees', both public and private institutions' right to determine handling of students, makeup and handling of staffs (titles IV, VI, VII).

13. Rights of owners of inns, hotels, motels, restaurants, cafeterias, lunchrooms, soda fountains, motion picture houses, theaters, concert halls, sports arenas, stadiums, and other places of entertainment to freely carry on their business in the service of their customers (II, VI, VII).

14. Rights of States to determine voter qualifications in all Federal elections and many State elections (title I).

15. Right of litigants to even-handed justice in Federal courts. Civil rights litigants, especially the Attorney General, are placed in special category with preferences and advantages not afforded other parties in any other form of litigation (sec. 101d, title IX).

Whereas we believe that the breath of our Republic is individual freedom and individual responsibility and that the passage of patently unconstitutional legislation in an attempt to forcibly correct real or fancied social and economic ills only heaps evil upon evil by following the doctrine that the end justifies the means, that by mocking the Constitution such legislation will ultimately destroy the freedoms not only of those whom it professes to serve but of all men, and we further believe that the distortion or destruction of any one of the basic constitutional guarantees does but pave the way toward centralized, authoritarian, governmental control with the consequent ultimate downfall of this great Republic: Now, therefore, be it

*Resolved*, That we, the South Carolina Society of the Sons of the American Revolution, do hereby memorialize the Senators of the State of South Carolina, and the Representatives thereof, if this legislation shall not have been passed on or before the date of adoption of this resolution—to do all in their power to defeat this legislation or, if appropriate, to effect its repeal.

## CIVIL RIGHTS—RESOLUTION OF HOLLY HILL, S.C., METHODIST CHURCH

**Mr. THURMOND.** Mr. President, I am pleased to call to the attention of my colleagues a resolution which has been approved by the Holly Hill Methodist Church of Holly Hill, S.C., on April 17, 1964. This resolution takes a strong stand against the so-called civil rights legislation and also disassociates this church from the stated positions of the World Council of Churches and the National Council of Churches in support of this legislation.

I ask unanimous consent, Mr. President, that this resolution be printed in the RECORD and appropriately referred.

There being no objection, the resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

HOLLY HILL METHODIST CHURCH,
*Holly Hill, S.C., April 17, 1964.*

Whereas it has been brought to the attention of the official board of the Holly Hill Methodist Church, Holly Hill, S.C., that efforts are being made on behalf of passage of the civil rights bill, now pending before Congress, by the World Council of Churches, and the National Council of Churches; and

Whereas these two church bodies are representing their position as that of the various denominations and church groups contributing to the support of these two organizations; and

Whereas such positions are being brought to the attention of the Members of Congress of the United States, and are being represented to said Members of Congress as the views of the supporting denominations: Therefore be it

*Resolved*, That we, the members of the official board of the Holly Hill Methodist Church, Holly Hill, S.C., go on record as opposing such views, positions, and representations of the World and National Council of Churches, and make it known that these organizations are not speaking for or presenting the views of the Holly Hill Methodist Church; and be it further

*Resolved*, That this resolution be sent to the Presiding Officer of the Senate, the Speaker of the House, the majority and minority leaders of both Houses of Congress, and to all Senators and Congressmen of the State of South Carolina in order to protest the action of these two organizations.

M. C. COLVIN,
*Chairman of the Official Board.*

Signed April 17, 1964.

## EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Dr. Mary I. Bunting, of Massachusetts, to be a member of the Atomic Energy Commission.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of Ohio:

S. 2768. A bill to authorize the sale, without regard to the 6-month waiting period prescribed, of zinc proposed to be disposed of pursuant to the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

By Mr. HUMPHREY:

S. 2769. A bill for the relief of Luis Mario Tredici, M.D.; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS OF SENATE RESOLUTION 308

**Mr. TOWER.** Mr. President, I ask unanimous consent that at the next printing of Senate Resolution 308, relating to gathering of and publication of speeches of Gen. Douglas MacArthur, the names of the distinguished Senator from Mississippi [Mr. STENNIS] and the distinguished Senator from New York [Mr. JAVITS] be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE SITUATION IN VIETNAM

**Mr. MANSFIELD.** Mr. President, I would like to call to the attention of the Senate a column on Vietnam by Walter Lippmann which appeared in the Washington Post of April 21, 1964. Mr. Lippmann is an outstanding journalist, and whether one agrees with him or not, his prose is invariably stimulating and thought provoking. The article previously referred to seems to me to be exceptional. In it Mr. Lippmann analyzes the situation in Vietnam with unusual accuracy and clarity. He debunks the idea that a painless way to victory is to encourage General Khanh to carry the war into North Vietnam. He explains why such advocacy is glib and irresponsible both in terms of its immediate military objective of defeating North Vietnam and in terms of the ultimate objective of ending the strife in the south.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### FOREIGN POLICY DEBATE

(By Walter Lippmann)

After spending a few days in Saigon, Mr. Nixon has come home with a formula for winning the war in southeast Asia. The reason we are not winning it now is, he says, that we believe in "Yalu River concepts of private sanctuaries," and for that reason we are preventing the South Vietnamese, who presumably are raring to go, from taking the offensive, from carrying the war into Laos and to the north, and of winning the war there.

Mr. Nixon ought to know better, and perhaps he does know better, than to say that the reason why South Vietnam does not win the war in North Vietnam is that the United States won't let it. The indubitable fact is that South Vietnam is quite incapable of carrying the war successfully into North Vietnam. That is not because we will not give it arms. We do give it arms. It is because the South Vietnamese have very little fighting morale and are well aware from experiments that have already been made that raiding in North Vietnam means almost certain death. Let us hope that Mr. Nixon is not going to revive, at this late date, the old chestnut which we used to hear about "unleasing Chiang Kai-shek," and ask us to believe that victory can be had by unleasing General Khanh.

General Khanh is leashed by the unwillingness of the large majority of the South Vietnamese to fight on in the civil war. "Hot pursuit" indeed: where are the Vietnamese soldiers who are hot about pursuing the Vietcong into the clutches of General Giap? The truth, which is being obscured for the American people, is that the Saigon Government has the allegiance of probably no more than 30 percent of the people and controls (even in daylight) not much more than a quarter of the territory.

The real and immediate problem in South Vietnam is to prevent a collapse of a weak government which is losing the civil war. That is the paramount objective of the Johnson-McNamara policy—to prevent a bad situation from becoming impossible. It is certainly not a glorious policy, or even a promising one, and it has led high officials of the administration into making commitments that had better been left unmade. But the policy is at least concerned with the reality of the situation, which is the need to prevent a collapse and surrender before there is an opportunity to work out a political solution in the area.

Any other plan for "winning the war" in southeast Asia must be, if the speaker is being candid and not tricky, a plan for the intervention of the United States with large forces prepared to overwhelm the whole of Indochina and to confront mainland China itself. All schemes for interdicting outside help to the Vietcong can be carried out only by the U.S. Air Force. The South Vietnamese Government does not have the bombers and could not fly them if they had them in any such enterprise. The enterprise should never be undertaken unless we are prepared to have a large war with China.

In his review of foreign policy on Monday, the President was in effect saying that there has been no material change since the death of President Kennedy. Our relations with Russia, which took a decided turn for the better between the Cuban crisis and the test ban treaty, have continued to improve, slowly to be sure, but to improve.

On the other hand, in the areas where President Kennedy had not been succeeding, things are about as they were. This is true of Europe, of Asia, and of South America. There is a pause in Europe and perhaps also in Latin America. This may be in part because new developments have not gone far enough to show what is going to happen, in part because of the coming elections—here and in Britain and in Chile this year, in Germany and France and Brazil next year. There is a pause in the Far East because the war plans of Messrs. Nixon and Goldwater are unworkable and undesirable, and any other kind of plan is, as Senator FULBRIGHT would say, still unthinkable.

This pause permits President Johnson to devote himself primarily to our too long postponed and too much neglected internal problems.

## ADDRESS BY SENATOR MANSFIELD AT MONTANA CENTENNIAL DINNER

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a speech I delivered at the Montana centennial dinner, at the Sheraton Park Hotel, on April 17, 1964.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### THE MONTANA CENTENNIAL DINNER

(Address by Senator MIKE MANSFIELD, Democrat, of Montana, Sheraton Park Hotel, Washington, D.C., April 17, 1964)

My fellow Montanan, this is the week that was. This was the week that the Butte, Anaconda & Pacific Railroad settled its strike, resumed it and settled it once again. I am happy to state that notice received from Butte and Anaconda this morning that the men are back at work and the smelters and mines are working at capacity and the possible shutdown at Great Falls has been averted.

This is the week that our Chief Executive, Governor Babcock, came into Washington to arrange, I thought, for the Montana centennial celebration. I find, however, after duly investigating that he had a dual purpose. He was also trying to arrange for the selection of a Republican candidate for President by attending the Republican Governors conference. I understand that he has been a lot more successful with the arrangements for the centennial celebration and I am delighted that he is with us tonight.

This is the week that the C.H.—Chet Huntley—brand was put on certain nature-fed cattle in New Jersey and now I understand it has been taken off. His feeding lot operation, however, continues and still furnishes a dire threat to the well-being of Montana cattlemen. His beef is of a very superior quality. But it was not his special nature-feed that made the difference. The truth is that it was simply the bulls which he has been importing from Cardwell and Reed Point.

This is the week that a new silver dollar was being produced in the new mint in Bozeman. It is known as the Montana double-cartwheel and is made by pasting two 50-cent pieces back to back. My latest information is that there is now not only a shortage of silver dollars in our State but we also face a shortage of half dollars.

This is the week that coin collectors are after me because they do not want new dollars minted with the 1922 date on it. I want them to know that I am with them all the way. I have a few myself. Some dealers also want free and ready access to the 3 million rare silver dollars now being held in the vaults in the Treasury. The cellars of the Treasury Department have become the greatest mining find since the Virginia City-Bannock gold strikes of a century ago.

This is the week in which it was announced that beef imports were reduced by 220 million pounds this year through voluntary agreements with Australia and New Zealand. This is the week in which it was announced that 68 million pounds of domestic beef is being purchased by the Defense Department for the use of Armed Forces overseas. And this is the week that Secretary of Agriculture Freeman announced that $20 million would be spent for the purchase of domestic beef to supplement school lunch programs and the like.

This is the week that Marvin Brooks and Cloyd Wampler consented to come out of their hibernation in Pony and Wisdom and travel to the Nation's Capitol to show what magnificent citizenship is produced in two of the smallest towns of one of the biggest States of the Union.

This is the week in which I have been confronted with one of the few genuine drafts of my life aside from being named majority leader of the Senate. I was drafted to make this speech tonight. And then, of course, to make sure that I would be here for this most pleasant assignment, "Monty" Montana lassoed me on the steps of the Capitol and, very fortunately, in public. It was only coincidental, with November not so far away, that CBS, ABC, NBC, and Frank Muto were close by.

This is the week we advertised Brinkley and came up with Huntley. And this is the week that one Senator says that all Senators ought to publish a list of outside business interests and inside assets and another Senator says that if they did so, they would become second-class citizens.

This is the week when the Democrats finally recaptured the State House; our Senator David Manning from Treasure County who happens to be a Democrat is serving as Acting Governor. On that score, of course, I can assure the Governor, that the State is in good hands, that Montana will still be there when you get back.

And now to turn from the week that was to the moment that is, I want to say that railroad trains fascinate all youngsters. The Centennial Train, I am sure, will make children out of people of all ages.

This extraordinary pilgrimage is a kind of Lewis and Clark expedition in reverse. Montanans, in effect, are bringing civilization back to the East. May I suggest that you lock up your silver dollars while you are in this part of the country. A veritable passion for cartwheels has developed here in the East, and we would like very much to avoid a too realistic reenactment of one of the great train robberies of the past.

In any case, I do know that this train with its wonderful cargo of Montanans and its treasures is fully in keeping with the traditions of the Big Sky Country. I am delighted to see it and you here in Washington.

The train tells a great deal of us and of our part in the building of a nation. It unfolds a dramatic history on a continental scale. The characters in this drama provide the cast of a thousand movies. The settings are familiar to hundreds of millions of TV viewers not only in our own country but throughout the world. It is all here either in replica or by suggestion: The towering mountains, the plains, the desert; the wigwam, the covered wagon, the lonely trading post or the settler's cabin, the gold camps and ghost towns, the territorial legislature and the offices of the giant corporations. Even the saloons are here, although the liquor, no doubt, is not as hard as it used to be—well, not quite as hard. And here, too, are the Indians, cowpokes, trappers, lumbermen, ranchers, miners, copper kings, politicians, statesmen, outlaws, and vigilantes.

All of these are parts of the saga of our State. After Lewis and Clark brought back the first reports, many made the trek westward to become a part of the drama. They came from all of these Eastern States and the Mississippi Valley. They came from Europe and from Asia. They came to trap, to log, to mine, to railroad, to trade, to preach, to teach, to farm and to work at whatever needed doing. And some came to rob and to kill and others to stop the robbings and killings.

All left their mark. Some moved farther west and others went back East. But many stayed and worked and built.

They confronted a land and an Indian way of life unchanged for millenia and they changed both. And Montana, in turn, changed the pioneers and their descendants. Out of the infusion of ideas and energy, in an incredibly short time—remember that the Lewis and Clark expedition was scarcely a century and a half ago and Custer's last stand less than a century ago—out of this infusion emerged the Treasure State as we know it today.

It is a State big enough to remember the past without bitterness. It is a State warm enough to accommodate, with a mutual tolerance, all the human strains of its present diversity. It is a State which, today, is great enough for its people to live together in peace and to share fully in all the hopes for a peaceful nation in a peaceful world.

But it was not always so. Change is rarely easy. More often than not, change is conflict, the conflict of man against man, man against nature and man against himself. Change is hope and the dashing of hope but always the rebirth of hope.

From the very beginning that has been the pattern of Montana life. We have had our times of disappointment and disaster. Repeated Indian wars, in our State, as elsewhere, for example, left scars which were a long time in healing on both sides. Trappers and prospectors died lonely and senseless deaths in the early search for wealth in furs and gold and silver. Miners, sheep and cattlemen, wheat ranchers, railroaders and businessmen and their families ate the bread of bitterness in the great depression and problems of unemployment, even if less extreme, still affect us today. Natural calamities of weather and range and the unnatural calamities of the market have from time to time plagued our ranchers and farmers.

Yet in spite of these recurrent difficulties, perhaps, in part because of them, Montana is the vigorous State that it is. We have learned many things from our turbulent history. And most important I think, we have learned how to roll with the process of change itself while holding on to what is enduring in our heritage and tradition.

This ability to recognize and to seize the opportunities presented by changing circumstances, to be guided by but not bound by the past, is a quality which in these times has great significance for the Nation as a whole in its relations with the rest of the world.

For today, the United States functions in a world of change. Western Europe is changing rapidly and parts of the Communist world, apparently, are shaking loose from the hogties of rigid dogma. That world, too, is undergoing change from Berlin to the Urals and beyond. Recent statements of Mr. Khrushchev suggest to his credit that he is convinced that there is dignity in responding to man's needs in peace and that it is to be preferred to mass death in ideological war. This awareness has not yet, apparently, penetrated the consciousness of the Chinese leaders. But the Chinese people, I am confident, understand that there is much to be said for a full life over nuclear death. The day may not be too distant when Chinese leadership will also have to accept what the Chinese people understand.

Among the Western nations there is also change from a heavy dependency on the United States to a greater independence. It is true that this independence sometimes seems to border on the fragmentation of Western unity. Yet it is a much healthier state of affairs than an apparent unity which would be held together only by an old cement patched up with a lavish use of American resources. In Africa, there is the transition to national independence on a continental scale. It is not an easy transition but it has begun and it will not be reversed.

And in the deadly nuclear confrontation between Russia and the United States there is the reality and the hope of the nuclear test ban treaty. No single achievement, may I say, meant more to our late President than this treaty and one of the most satisfying experiences of my years in public life was to help in securing its ratification by the Senate. The agreement stopped what had threatened to become a callous disregard for the health of all people and their descendants in the name of science and security. And the potential of that first step in terms of further progress toward stability remains a principal resource for peace.

In this era of worldwide change there are both new dangers and new opportunities for the United States. We shall reduce the dangers and enhance the opportunities as we perceive the realities of the change. It is a wonderful thing to re-create the world of a century ago on a train bound for the New York World's Fair. But it would be unfortunate if we mistook the re-creation for the current reality, if we let ourselves believe that this is really how we live today. It is just as unfortunate, in the affairs of the Nation, to cling to the belief that the world of today remains the same as the world of 15 or 20 years ago. It would be tragic, too, to assume that the policies of 1945, 1950, and even 1955 or 1960 suffice for the present era of international relations.

We have no difficulty in distinguishing between territorial Montana a century ago and Montana today. But sometimes there is difficulty in distinguishing between the world of 20 or 10 years ago and what was adequate for our needs then and the world today and what is necessary if we are to live in it. It seems to me that the late President with his deep and sensitive human perception was fully aware of the worldwide changes which were taking place. He sought to bring the rest of the Nation to a similar state of awareness. And in his first statement to the Congress, President Johnson called upon us "to continue" what President Kennedy had begun.

That, it seems to me, is the great task ahead. We must continue to examine and to re-examine and examine again every premise of policy on which we have operated for so many years. Some of these premises, I am sure, will remain as sound as they were on the day that they were conceived. Others will be found to have lost some of their significance or to have been bypassed by subsequent developments.

We will have to think hard, for example, about the possibility of increased commerce in peaceful goods, along the lines of the great wheat trades of this year. The legislation which made possible these trades was the last matter of policy on which President Kennedy communicated with me before his death. The trades, in effect, were made possible by the Congress after his death at the continued urging of President Johnson.

These trades have cut into our surpluses. They have brought a tangible return to us. And they have helped to take our great bounty of food out of the realm of international animosities and put it where it should be—in the realm of international peace. Additional mutually advantageous trade along these lines may well serve as a modest instrument for advancing friendship among all peoples.

We will have to recognize now and in the years ahead that peace does not require all nations to goosestep to identical policies in order to live together in and to work together for peace. The nationalism and self-interest of many countries, no less than our own, sometimes requires them to take positions in world affairs which do not necessarily coincide with ours. And, in this connection, it is important to recognize that the effort to maintain or to achieve a position of independent neutrality by certain countries is not necessarily inconsistent with the long-range interests of the United States. After all, we have lived very well for decades with a neutral Sweden and a neutral Switzerland and, more recently, with a neutral Austria and an essentially neutral Finland. These nations are free and friendly even though their policies are not always alined with ours. Our relations with them are excellent and mutually advantageous even though they are not allied, let alone subservient to our policies.

We will have to continue to revise our concepts of foreign aid. We have seen this program backfire in many places, notwithstanding its achievements in others. It may be that we will come to understand that aid, however unavoidable it may be in our current policies, is still limited in its potential. It is not a cure-all for the ills and inequities of the contemporary world. We may come to understand that the principal factor in the progress, peace, and freedom of other nations is neither what we or the Russians do but what these nations do for themselves. It is not necessary to retreat into isolation in order to recognize that there are rational limits at any given time to the efficacy of international involvement. In the same pattern, it is also becoming clearer that international responsibility does not require us to be in the vanguard of every issue and crisis which may arise. On the contrary, it is most desirable to share the burdens of international peace and progress through the United Nations and in other ways with as many nations as possible.

Finally, I think there is hope for a continued slowdown in arms competition, largely as a result of the nuclear test ban treaty. The defense budget may not require, in the future, quite the enormous percentage—it is now upwards of 50 percent—of our Federal expenditures. If this hope is realized, we may be able to act with greater determination and without a crippling burden of taxation, on the many problems which confront us at home. What is involved here is not only a war on poverty, as it has been called. There are immense and growing needs which are not being satisfactorily met in education, in recreation, in health, in the prevention of crime, in the whole range of public services. In short, as peace is reinforced, we should be in a better position to engage ourselves with vigor in a general effort to improve the opportunity for a full and satisfying life for all the people of the Nation.

The affairs of people halfway around the world may seem remote and unimportant to those who are lucky enough to live in the quiet and peace of our State. They may not appear to have much relevance on a happy train ride to New York. But they are of the utmost relevance. The international situation affects our opportunity to work, to plan and, in the end, even to live our lives in decency and in peace. We know, some of us with great personal sorrow, that events whose origins lay thousands of miles from our shores have reached repeatedly into Montana and called us forth to great international conflicts. As Montanans, as Americans, we have a duty and a responsibility to make sure that no opportunity is left unexamined in the search for a just and lasting peace.

## JOSEPH J. McQUEENEY

Mr. DODD. Mr. President, last week one of the finest and best liked men in New Haven, Joseph J. McQueeney, passed away. All who knew him will always remember his generous spirit, his quiet dedication to the welfare of others, his unflagging amiability, and his devotion to the responsibilities he unselfishly undertook throughout the course of his life.

He contributed richly to an era in the life of New Haven which is gone but which lives on in the happy memories of those who experienced it.

His brother, Charles McQueeney, the able and respected managing editor of the New Haven Register, has written a memorable column about his older brother which will deeply move not only those who knew Joe McQueeney personally, but all who have an insight into human nature and an appreciation of what is truly important in life.

I wish to pay my respect to the memory of Joseph McQueeney and to express my sorrow and sympathy to his widow and to his family for the very great loss which they have sustained.

Mr. President, I ask unanimous consent that this column, which appeared in the New Haven Register-Journal Courier on Saturday, April 18, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Sadness cloaked its veil over our family during the past week. Death struck unexpectedly and took the oldest member of the brood, our big brother. He was just that for a long while, from our childhood days as a matter of fact. And from the time he was a young man, he was not only big brother to us, but also played the role of father—and played it well—following the death of our pop. We owe much to him, especially for his wise counsel down through the years. Often it was, in our youth, that we sought his advice and never once do we recall that he failed us. Many times after listening to him we decided to do it our own way, only to find that we would have been better off if we had done as he suggested. As a growing lad, whenever we were short of funds, Joe was always an easy touch. On occasion we forgot to make repayment, but he never complained. We feel certain that when he gave us a loan, he sort of kissed it goodby. We also can recall the many times when we were the dudes of State Street, all dressed up in his best. He was always a pretty dapper fellow and when we were his size, we must admit we looked pretty good in a suit or topcoat belonging to him. He'd blow his stack as he watched us emerge in his best, admonishing us to "take it off" but he'd soon relent with a warning "it's all right tonight, but remember, this is the last time I want to see you in anything of mine." We looked good in his ties too, and he could talk himself blue in the face trying to dissuade us from wearing them. It was all talk to no avail. Anytime we wanted to add a little something to our getup, his tie rack was one of our favorite targets. Other male members of the family also took advantage of him in this respect. It was, in a way, a tribute to his fine taste.

In his youth he was very active in the activities at Yale Hall down Franklin Street way. There, he and other neighborhood kids worked with Richard (Pop) Lovell, later going over to Jefferson Street when the new Boys' Club was erected. He was one of the real sparkplugs in the new but growing Boys' Club. It wasn't too long after its start in the new location that Mr. Lovell had fine teams afield, especially in football. Our big brother, along with Bill Cronin, comanaged the teams for several years keeping a sharp eye on the financial aspects. Our eyes used to pop when he'd come home from a Sunday afternoon game, carrying a bag full of money, money received as a guarantee from the rival team or taken up in a collection among the fans. He and Cronin would sit at our family table counting the money and making out reports to be handed to Mr. Lovell. They'd turn over sizable sums every week, for the Boys' Club teams in that era were always a top attraction. We remember too that as a Boys' Clubber, he tried his hand at acting. He had an important role in something called Officer 666. We vividly remember mom taking us down to the Jefferson Street gym to watch our hero and we were real proud of his performance. As we reflect on it now, there was plenty of ham on the stage that night but we weren't aware of it. We thought he turned in a magnificent performance. Broadway was flourishing at the time and Hollywood was in its infancy, but neither put in a hurried call for him or any other member of the cast.

Some years ago we saw our first Shubert show as his guest. He asked us to "Sinbad," starring Al Jolson. He took us to the old Hyperion on occasion, or the old Poli Palace for a special TMA benefit. A fight fan in his early days, he also paid our way so that we could be with him at some of the bouts at the Arena or the old Nutmeg Stadium on River Street. We can't explain it, but we have long had the feeling that we were something special to him. He was always very proud of any accomplishment of ours and never hesitated to tell us when he thought our Saturday Journal was good or that someone had spoken to him about it. He was proudest whenever anyone mentioned his kid brother on the Register. He picked us to be best man at his wedding and he acted in the same capacity at ours. He was loyal to his family and his job and most devout in his practice of his religion. We feel strongly that if ever a guy had made it up there, he's the one. We can envision him in reunion with mom and pop, bringing them up to date on all that transpired since they went. We hope he has told them how much we miss them. We know we're going to miss him just as much.

## DEMONSTRATIONS AT OPENING OF NEW YORK WORLD'S FAIR

Mr. BREWSTER. Mr. President, I should like to go on record in protest of the intemperate and disrespectful treatment afforded President Johnson Wednesday last, at the opening of the New York World's Fair, by a handful of mischievous demonstrators. These people, in my opinion, seem to have "redoubled their efforts when they have forgotten their aim."

Let us hope that the failure of the so-called stall-in was due to the realization by many of those involved that such plans were indeed rooted in folly. Had such a massive demonstration materialized, it might have generated, as the New York Times observed, "animosities and bitterness that could have done untold harm."

There is a well-known phrase from the fertile mind of Benjamin Franklin that seems to the point in this matter.

> A little neglect,

He wrote—

> may breed mischief; for want of a nail the shoe was lost; for want of a shoe the horse was lost; for want of a horse the rider was lost.

It may be added, however, that too many nails driven into the hoof will equally bring the horse up lame. The contest is lost either way.

The protests in our country during recent years by our shamefully oppressed minority groups were motivated by acute suffering, bitter neglect, and real grievances. These problems have been brought into the glaring light of national debate, and the concern of our Congress and our administration is now sincerely involved in attempting to rectify these wretched discrepancies.

But, Mr. President, I must deplore the current rash of militant action by a small group of misguided citizens. Some of these people seem to have developed a ravenous appetite for anarchy, a total defiance of law and order which has not and will not be tolerated in America.

It is especially unfortunate that this militancy is being accelerated around the Nation when this body of laws has before it a civil rights bill that is being fought for by men of good will and sober principle. This bill was passed by the House overwhelmingly and I am certain that, when given the opportunity, the U.S. Senate will also pass the bill. President Johnson has given it his unqualified support, and the distinguished Senator from Minnesota is now attempting to lead the bill to its inevitable passage.

I support this bill, Mr. President, but I wanted at this time to caution the extremists. This is a time of coming together, of working together toward the same goal. Let us argue and debate, but let us remember that we must do so with reasonable attitudes and moderate actions, for the good of all our citizens.

The Baltimore Evening Sun of last night contains an editorial entitled "Opening Day," and the Washington Post of this morning carries a similar editorial, entitled "The Stall-in Failure." I ask unanimous consent that both editorials be printed in the RECORD following my remarks.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Baltimore (Md.) Evening Sun, Apr. 23, 1964]

### OPENING DAY

For whatever reason, the threatened massive snarl of traffic at the opening of the World's Fair failed to develop. The reaction must be one of relief, particularly for supporters of the Federal civil rights bill. On the other hand, opponents of the Negro demands for equal treatment can take no satisfaction from yesterday's events. For one thing, the type of tactics adopted by the militant splinter civil rights forces in New York would have played into the segregationists' hands if successful. For another, the principal civil rights groups still mounted sit-in and other more orthodox demonstrations to show their dissatisfaction with the slow pace of desegregation.

Although the stall-in on major roads leading to the fairgrounds did not materialize, isolated attempts were made to hinder subway traffic. In at least one of the encounters several demonstrators emerged with bleeding heads. Fingers holding subway doors open were rapped with night sticks. Demonstrators blocking entrances to several exhibits at the fair were dragged by their heels—down a flight of stairs in several instances—by private guards. There is insufficient evidence, at least for the moment, to sustain any charge of police brutality. A lesson may nonetheless be drawn from the experience.

Yesterday may well have been opening day not only of the fair but also of spring and summer civil rights demonstrations throughout the Nation. Leaders of the major civil rights organizations probably could not stop them even if they wanted to. The scuffles in the subway, the bumping of demonstrators down steps, the atmosphere of tension created by the belligerent threats of the most militant civil rights groups are not a necessary part of the demonstration process nor of proper measures to preserve order and the public's safety. Restraint on both sides will not be easy to maintain in the crisis of conscience which faces the United States this spring of 1964. But it must be maintained, by authorities and demonstrators alike and equally, if the extremists of both races are not to guide the course of events for the coming months.

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[From the Washington (D.C.) Post, Apr. 24, 1964]

### THE STALL-IN FAILURE

The country can be much relieved over the failure of the New York stall-in to disrupt seriously the opening day at the World's Fair. But even though the demonstrators did not succeed, the effects of their effort long will be weighed seriously by thoughtful people.

This whole disorder must be distinguished from the demonstrations involving protest against specific abuses. It was essentially an effort to make the community aware of the total position of the Negro people by inflicting undiscriminating injury, pain, and inconvenience upon other citizens. No one can doubt the ability of a very small minority to inconvenience very greatly the entire population of so complicated and delicate an organism as a large metropolitan center. But a minority that turns to this kind of reprisal is itself employing a kind of blind and undiscriminating racial hatred. The face of racism is no prettier when it is antiwhite than when it is antiblack. The Negro leader who mobilizes his community in such an effort is trying to arouse and not seeking to diminish racial hatred.

Such is the patience and understanding of the Negro rank and file that these methods are not likely to enlist mass support as long as the hope of the Negro for a fair deal still survives. The appropriate answer to these extremists on the part of the white community is a renewed effort to show that these hopes are going to be realized. It would be tragic indeed if these misguided disorders alienated the great support that has risen in this country for an end to discrimination.

One of the most alarming aspects of this resort to lawless methods is the reluctance of even conservative Negroes to condemn them. The fact that such extreme steps can gain support from any Negro followers only suggests the degree of racial consciousness that generations of discrimination have fostered in the Negro. For more than 100 years, we have been telling the Negro that he is different from the rest of us, that he must live, eat, drink, and go to school separately. We have beseeched him to accept the notion that he is different. We have belabored him into an awareness of his racial identity. There now is a danger that he may have been made so race conscious as to follow unthinkingly even the most misguided Negro leaders as long as they speak in the name of and act for the Negro race.

That danger must be faced. It is a danger that discrimination and despair could multiply. It is a danger that can be diminished only by divesting our laws, our economic practices and our social institutions of racial consciousness. We must move more swiftly toward an end to discrimination, not because of the New York stall-ins, but in spite of them.

## ADDRESS BY SENATOR TALMADGE AT SENATE BREAKFAST

Mr. STENNIS. Mr. President, the Senator from Georgia [Mr. TALMADGE] delivered an excellent address before the Senate breakfast on April 22, regarding training our youth in principles and patriotism.

As always, the address of the Senator from Georgia was forceful and worthy. I believe it should be preserved and given wide circulation.

I ask unanimous consent that the address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My friends, Edmund Burke believed that the character of the next generation can be predicted, and is in fact determined, by the prevailing sentiments and behavior of the youth today.

This is more than just the expression of a philosophical principle. It is indeed a warning and a challenge to all who are concerned with the future of young pople. And to me it is a reminder of the wisdom that we find in the 22d chapter of Proverbs, the sixth verse: "Train up a child in the way he should go, and when he is old, he will not depart from it."

My friends, lately I have become increasingly concerned about the morality and discipline of our young people. I wonder if the American people, in the rearing of their children, aren't straying from the teachings of their fathers, if they aren't becoming unmindful of the fact that "children are the heritage of the Lord" and, therefore, must be instructed according to His word.

Judging from the number of recent national magazine articles and widespread publicity dealing with the moral conduct, or misconduct, of our youngsters, it appears that this is a matter of growing concern throughout the country. And it should be.

The moral fabric of a nation is only as strong as its weakest fibers.

Certainly the situation is not as dismal or hopeless as some would have us believe. I will not endeavor to paint such a picture this morning.

However, neither is it all bright and rosy. In my opinion, things are far from what they should be with growing numbers of our children.

I am aware that such a charge as this usually brings an angry outcry proclaiming that "we are not all bad." This, of course, is true. We have in America, in our high schools and colleges, a vast and praiseworthy army of fine young men and women who are the products of good homes and Christian training.

We are proud of them, and we place great trust in them. I certainly would not go so far as the California school superintendent who branded a certain class of so-called delinquents as "the cult of the slob."

On the other hand, I cannot subscribe to the theory that errant young people of today are only misunderstood and really act no differently than those of any previous generation.

Nor can I believe that boys and girls of today are the unfortunate victims of unhappy circumstances and uncertain times and, therefore, not responsible for what they think and do.

Certainly, this is a complex and insecure age in which we live. But I think the problem which I wish to discuss with you this morning is much more than merely a symptom of this period in our history.

My friends, I fear that standards of morality have been greatly lowered. I see signs that the value of restraint and individual responsibility has fallen to what could be an all-time low.

If this is true, it could be a great tragedy, and I contend that it is one for which we have sown the seeds and which is now beginning to bear a bitter fruit in our children.

Somewhere at some time, something has gone amiss when we see in a respected national magazine a symposium on the merits and demerits of chastity. The matter is treated as though it were no more than the vestige of an outmoded virtue.

Recently Newsweek magazine devoted its entire cover story to morals on the campus. The article stated, and I quote: "chastity remains a virtue for most of today's 4½ million college students; but for a significant—and growing—minority the question has become academic."

No, all is not well with our children when we read of organized gangs of teenagers roaming the streets in search of a fight or a party to crash, or when we see that the final whistle at a football game is often the signal for mayhem.

All is not well when our city streets are unsafe after dark, and when our parks must be vacated at sundown by law-abiding citizens and their families.

The number of crimes and acts of violence perpetrated by persons under 18 years of age increases each time the statistics are compiled.

Somewhere along the line, the training of our youth has gone sour when they think it is great sport to wreak havoc in a cemetery by tipping over tombstones * * * when the height of pleasure is achieved in the desecration of a church * * * when policemen are hired for high school dances to see that drinking doesn't lead to disorder * * * when teenage pregnancy occurs much more frequently than illegitimate birthrates show.

Authority, whether it be in the police, in the school or in the home, has become the object of ridicule. In many young circles, you are considered a square if you adhere to the rules of established order or acquiesce to the commands of your elders.

Unfortunately, much of today's unruly or abusive conduct by young people is dismissed as only boyish behavior, and in one form or another, such showingoff happens all the time.

This is true. It does happen over and over again.

Yes, these things occur every day, and this is exactly what I am talking about. This is what I am concerned about. It goes directly to the point I wish to make.

When children are not taught respect and obedience, when the doctrine of responsibility is not instilled in them in the home, when despairing and apparently helpless parents allow their offspring to do pretty much as they please, how can they be expected to act responsibly and honorably outside the home?

If children are allowed to disobey their parents with impunity and act in such a belligerent and disrespectful manner as to undermine authority in the home, how can these young people be expected to respect any authority outside the home?

If they can scorn their adults, can they not also thumb their noses at the law and trample on the rights and property of others?

They can and they do.

"Boys will be boys," we are told by the apologists. So we forgive and forget. We absolve them of all responsibility because they are young and exuberant and strong-willed.

Boys will be boys, but soon they will be men, and all men must learn that ours is an ordered society and all of us must at one time or another bend our will to established authority.

Otherwise, there would be chaos and anarchy.

We also hear the explanation that young people today have too much time on their hands, and consequently they are idle because they don't have enough to do.

There is idleness all right, and it is true that this certainly can—and often does—lead to waywardness. But—this is not because there isn't enough to do. The fact is that too many young people today aren't given enough to do.

Virtually everything is done for them, with the car keys and spending money thrown in as a bonus.

Here is what a William County, Va., police chief says about idleness and teenagers:

"Always, we hear the plaintive cry of the teenager: What can we do? Where can we go? The answer is, Go home; hang the screens; paint the woodwork; rake the leaves; mow the lawn; shovel the walk; wash the car; learn to cook; scrub the floors; repair the sink; build a boat; get a job; help the minister, priest, or rabbi, the Red Cross or the Salvation Army; visit the sick; assist the poor; study your lessons; and then when you are through—and not tired—read a good book.

"Your parents do not owe you entertainment. Your village doesn't owe you recreational facilities. The world doesn't owe you a living. You owe the world something. You owe your time and energy and talents, so that no one will be at war or in poverty, or sick and lonely again. In plain simple words grow up, get out of your dream world, quit being a crybaby, start acting like a man or a lady."

"An idle soul shall suffer hunger," the Scriptures tell us, and I am of the same mind as the poet who said that "nothing is so certain as that the evils of idleness can be shaken off by hard work."

Perhaps the theory most commonly advanced to "explain" the unrest of our young people is the fact that these are troubled times and the future is uncertain. This leads to fear and insecurity which for some reason is supposed to be an excuse for rebelliousness and defiance.

If youth is unhappy and afraid and insecure, then I agree with J. Edgar Hoover that the blame must be placed with their elders. Writing recently on the training of children, Mr. Hoover said that they aren't being taught how to live in a free society. Said he: "These are the unhappy youth. Their arrogant defiance of authority is a pitiful pose that seeks to conceal the tragic fear and insecurity which they feel. This fear, this insecurity exists because we have failed to prepare them to meet the personal demands and responsibilities of life in our American republic."

What is the key to such preparation? It is self-discipline, and this can be practiced only after discipline is learned from others.

Boys and girls must be given standards of acceptable behavior.

And, as Mr. Hoover points out, these standards must be enforced to the strictest degree.

Love and affection are not synonymous with indulgence. A well-adjusted and responsible individual is not the product of a weak and inconsistent upbringing, or vacillating enforcement of disciplinary standards.

We naturally look to our churches for moral guidance, but virtue cannot be taught from the pulpit alone. Nor should the burden fall upon our schools.

This is the primary duty and responsibility of parents. Moral training must begin in the home. It must continue in the home. It must be strict and unrelenting until the boy becomes a man and goes out to make his own way in the world.

The training of a child is properly based upon the law of God. His law is our law and He has commanded us to make it the law of our children.

Let us endeavor to restore to their rightful positions of importance the Christian home and the family altar. I am convinced beyond a doubt that as these institutions decline, so will delinquency, immorality, and irresponsibility increase.

What is needed is a revival of the God-loving and God-fearing spirit which guided the lives of our Founding Fathers. And, when all of us have rededicated ourselves and our teachings to His principles, we will be able to say with certainty and great pride that our children will give only of their best to the future.

We will know that our children will be honorable and upright citizens.

My friends, I know of no better expression of the hopes and desires a father has for his son than the prayer of the late General of the Army Douglas MacArthur:

"Build me a son, Oh Lord, who will be strong enough to know when he is weak, and brave enough to face himself when he is afraid; one who will be proud and unbending in honest defeat, and humble and gentle in victory.

"Build me a son whose wishbone will not be where his backbone should be; a son who will know Thee—and who will know that to know himself is the foundation stone of knowledge.

"Build me a son whose heart will be clear, whose goal will be high; a son who will master himself before he seeks to master other men; one who will learn to laugh, yet never forget how to weep; one who will reach into the future, yet never forget the past.

"And after all these things are his, add, I pray, enough of a sense of humor, so that he may always be serious, yet never take himself too seriously. Give him humility, so that he may always remember the simplicity of true greatness, the open mind of true wisdom, the meekness of true strength.

"Then, I, his father, will dare to whisper: 'I have not lived in vain.' "

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## ARBOR DAY

Mr. HRUSKA. Mr. President, we Americans observe many holidays and days of commemoration each year, but one holiday is unique in that it proposes for the future rather than reposing on the past. That holiday is Arbor Day. The trees planted on Arbor Day are sources of increasing pride and pleasure as each year passes.

Nebraskans are particularly aware of the fruits of this day since Arbor Day was founded in our own Nebraska City by one of our notable citizens, J. Sterling Morton, this country's third Secretary of Agriculture. We, in Nebraska, chose April 22 to observe this important holiday because that is the anniversary of the birth of J. Sterling Morton.

The importance of planting trees was first recognized by the pioneers, who first viewed the potential of our great plainslands as the bountiful provider for our Nation. Recalling their journey through the forests of our eastern lands, these hardy pioneers longed for the cooling shade of a tree after a long arduous day working the soil.

Trees brought new comforts to the lives of these plainsmen. Log cabins replaced sod huts. The forward-looking partnership of nature and man produced many new benefits. One of the prime benefits that Nebraska has gained is the windbreak groves that soften the sweeping winds of the plains States. The founding of Arbor Day added further impetus to the windbreak plantings.

Nebraska has maintained the lead in windbreak plantings to this day. A recent publication by the American Forest Products Industries entitled, "Nebraska Forest Facts" gives an interesting insight into the extent of tree planting in Nebraska. For example, it discloses that since the beginning of tree planting in Nebraska, almost 380,000 acres have been planted. This is an area of over half the size of Rhode Island. Today, there are over 1 million acres of trees in Nebraska, nearly 1 acre for each citizen.

The valuable lesson of forward-looking cooperation with nature holds great promise for the future. Large tracts of land are leveled to provide new living, traveling, and working space for our increasing population. Great quantities of lumber are used to erect buildings to house this increase. Much of the land in our cities and suburban areas are found to be a small replica of the plains which our pioneers found in the Midwest. Once sheltered land is found bereft of trees and shrubbery.

As we all know, great forests across our Nation have been consumed or destroyed. Just recently we have had occasion to see the passing of some of our ancient redwood trees to make way for a modern highway. This consumption must be countered by our awareness of the need for replacement.

Arbor Day is an annual reminder of what we must do to prepare for the future and a day which presents the opportunity to enjoy the past and present blessing of its offspring. On this one day we propose to preserve and heighten these blessings—we perform our part of a fruitful bargaining—going into our forests, our plains, and our lawns to plant a living memorial to stanch partners in our future, our trees.

Mr. President, I ask unanimous consent that the chapter entitled, "Tree Planting" from Nebraska Forest Facts be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Tree Planting

Early in Nebraska's history, the State earned the name "The Tree Planter's State." In 1869 Nebraska passed a tax exemption law favoring tree planting. On January 4, 1872, the State board of agriculture set aside April 10 for the planting of trees and proclaimed it Arbor Day. More than 1 million trees were planted on the first Arbor Day ever observed in the United States.

In 1873 Congress passed the Timber Culture Act, which gave title to a quarter section of land to any person who planted at least 40 acres of trees spaced not more than 12 feet apart.

In 1884 Prof. Charles Edwin Bessey came to the University of Nebraska as professor of botany and horticulture. While studying the Nebraska sandhills area, he noticed that there was always moisture a few inches under the surface of the soil. This convinced him that trees could grow well in the sandhills country and he urged the U.S. Department of Agriculture to make experimental plantings on some of the federally owned land in the State.

In 1891 the U.S. Department of Agriculture furnished planting stock for experimental planting on private lands in Holt County. The plantation, however, was forgotten until 1901 when William L. Hall of the U.S. Department of Agriculture, Bureau of Forestry, investigated forest conditions in Nebraska. He visited the plantation and reported that the trees were 18 to 20 feet high and recommended that additional experimental plantings be made.

Hall's plea fell on receptive ears, and on April 16, 1902, President Theodore Roosevelt proclaimed the Nebraska Forest Reserves. The reserves include two units—one of 90,000 acres between the Dismal and the Middle Loup Rivers, the other 110,000 acres near the Niobrara River further north.

The first beds in Bessey nursery, which were to provide the seedlings for the plantings, were seeded in the fall of 1902. The first seedlings were planted in the new forest reserves in 1903—70,000 jack pine from Minnesota. It is interesting to note that these 70,000 seedlings have since matured and are now marked for a proposed post and pole sale.

The establishment of a forestry school at the University of Nebraska in 1902 also stimulated interest in tree planting and forestry, though the school was discontinued in 1915.

In 1904 the Kincaid Act was passed, providing distribution of free trees to farmers and ranchers west of the 100th meridian.

The Clarke-McNary Act of 1924 provided for distribution of tree seedlings to private landowners at cost. The Prairie States Forestry Project from 1935 to 1942 provided for the planting of windbreaks and shelterbelts.

In 1961, 6,019 acres in Nebraska were planted in trees; of these 4,984 acres were windbreak plantings (table 1). Of the remainder, 875 acres of forest planting were made on privately owned land, and 160 acres on publicly owned lands—nearly all of the latter on the Nebraska National Forest.

Since tree planting in Nebraska began, it has been estimated that nearly 380,000 acres of trees have been planted. Nearly 327,000 acres were windbreak plantings. Of the 53,000 acres of forest plantings that have been made, nearly 20,000 acres were on private lands. Thirty-one thousand acres were federally owned, mostly in the Nebraska National Forest, and about 1,600 acres in other public (non-Federal) ownership.

Nebraska's acreage of wind-barrier plantings is larger than any other State. Kansas is second in area with 214,000 acres, and North Dakota is third with 157,000 acres.

Assuming an average of 8 acres of windbreaks to the mile, Nebraska's acreage of wind-barrier planting is equal to 40,867 miles—enough to circle the earth at the equator 1.6 times.

Nebraska has three tree nurseries—the Bessey Nursery at Halsey, owned and operated by the U.S. Forest Service, and private commercial nurseries at Arlington, in Washington County, and at Fremont in Dodge County.

## CIVIL RIGHTS AND CIVIL DISOBEDIENCE

Mr. HUMPHREY. Mr. President, the struggle for the fulfillment of constitutional rights for all Americans has often been shrouded in confusion—confusion about which methods are proper and lawful in the quest for equal rights, and which methods subvert the very foundations of the Constitution we seek to preserve.

I believe that all of us can improve our moral and legal perspective of the civil rights issue, Mr. President, if we read the following article published in a recent issue of Presbyterian Life. This article was written by Harrison Tweed and Bernard G. Segal, cochairmen of the Lawyers' Committee for Civil Rights Under Law, and by Herbert L. Packer, professor of law at Stanford University.

The article entitled "Civil Rights and Disobedience to Law: A Lawyers' View," is one of the best-informed and most thoughtful discussions I have read on this troublesome problem, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CIVIL RIGHTS AND DISOBEDIENCE TO LAW: A LAWYER'S VIEW

(By Harrison Tweed, Bernard G. Segal, and Herbert L. Packer)

One of the most troubling aspects of the current crisis in race relations is the frequency with which it seems the law is being violated by those active in the struggle on both sides.

This is a serious matter because no one can doubt that this country must solve the civil rights problem not by a resort to lawlessness and disorder but by reliance upon the administration of the law through due process in the courts and fair enforcement by the appropriate authorities.

Thus the spectacle of repeated violations of law, actual or apparent, by those who are pressing the fight for civil rights is deeply troubling to many thoughtful persons who reject the notion that the end justifies the means and who insist that those who work for good ends must remain morally accountable for the methods they use to work toward those ends.

What is the difference, these people ask, between the southern Governor who violates the law by standing in the schoolhouse door to prevent the court-directed entry of Negro pupils, and the Negro demonstrator who violates the law by participating in a sit-in at a segregated lunch counter in a southern city that has an ordinance making it illegal for him to do so? Is there a meaningful distinction between these two cases? And what can be said about the position of an eminent clergyman who attacks segregation by taking part in a demonstration that ends in his arrest on the charge of having wrongfully trespassed on another's property; or the people who delay the construction of a hospital by physically obstructing the movement of men and materials at the construction site during a protest against discriminatory hiring practices by the builder of the hospital? These and many similar instances that continue to recur require careful thought if we are to be clear about the bounds within which the struggle for civil rights may legitimately proceed.

In this article we shall not venture into the deep waters of philosophic speculation about the moral justifiability of disobeying an unjust law. Our concern is with the legal issues involved, and our purpose is to call attention to some aspects of the legal system that are often overlooked in discussions of this subject, to the detriment of clear thinking about it.

Let us start with a relatively easy case. On the one hand we have Governor Wallace vowing to "stand in the schoolhouse door." On the other hand we have a Negro demonstrator who sits at a lunch counter in Greenville, S.C., that is required by local law to be segregated. We think that these two cases are easy to differentiate; but there are obviously erroneous answers to the problems. It is no answer to say that in one case the objective is "bad" and in the other it is "good." Orderly social living would be impossible if people only obeyed laws they happened to like. And it is not much more helpful to say that in the first case the law being disobeyed was constitutional, while in the second case it was not. Whether a law is constitutional involves a prediction as to how a court will decide the question. We know now that laws and ordinances directing racial segregation in places of public accommodation are unconstitutional. The Supreme Court, to whom belongs the power of final decision, has so held. But we did not know it before the Court so held, although it may not have required great learning in constitutional doctrine to enable one to guess the outcome. The point is that Negro demonstrators who staged sit-ins before those laws and ordinances were held unconstitutional appeared on the surface to be engaging in conduct just as defiant of law as that of Governor Wallace in Tuscaloosa and of Governor Barnett in Oxford. The distinction between the cases plainly involves something more than a differences in accuracy of predicting the course of judicial decision.

The crucial difference lies in the fact that the Negro demonstrators were not violating any court order, but rather laws which had not been tested, which the Negro demonstrators in good faith believed were invalid, and which they were determined to challenge through the processes of law. Under our system a person is entitled to challenge the validity of a law being applied against him by resisting its enforcement in court on a plea of invalidity. That kind of lawful resistance to law is a cornerstone of our liberties. A free society would be doomed unless it provided the citizen with means for asserting the invalidity of laws and other official acts as measured against the fundamental law of the Constitution. When the law being challenged provides criminal penalties, as these segregation laws do, the challenger runs the risk of going to jail if his challenge is not ultimately upheld by the courts. In the face of that danger, it is a courageous and commendable act for a man to defy a law in order to attack its validity through the processes of law. That is what the Negro demonstrators against segregation laws have done, and we should honor them for it.

The conduct of Governor Wallace and of Governor Barnett stands in sharp contrast to this kind of lawful resistance to law. Both sought to resist the execution of Federal court decrees ordering their respective State universities to admit Negro students. We may assume that both of them believed that the Federal court decrees were unconstitutional, that desegregation by law is an invasion of the rightful sphere of the States. But that belief, if it existed, was not accompanied by a determination to challenge desegregation through the processes of law. Quite the contrary. Both Governor Wallace and Governor Barnett did everything they could to avoid submitting their dispute about the validity of the law they were resisting to the orderly and due processes of law. Instead, they did everything they could to delay and defeat the execution of the court orders without involving themselves in a legal contest; and they acted after the validity of the desegregation orders had been fully and unsuccessfully challenged in the courts.

Governor Wallace's brief show of defiance at Tuscaloosa was evidently calculated to avoid subjecting himself to being held in contempt of the Federal court's order. His evident purpose was to harass by diversionary tactics, not to contest by law. His conduct was, simply and literally, lawless. The Negro demonstrators, on the other hand, were disobeying laws they believed to be invalid in order to invite rather than to evade a lawful resolution of their contentions. There may have been no other way to contest the validity of segregation laws. Defiance of a court order, however, is both unnecessary (since other means are available to test its validity) and subversive of the orderly processes of government. Such conduct by one who is sworn to uphold the law is particularly deplorable.

It is of course true that it does not require a multiplicity of sit-in cases to establish the legal proposition that State and municipal segregation laws are invalid. In the case of many sit-ins, freedom rides, and other demonstrations against segregation laws and other forms of discrimination, a somewhat different issue is presented. The purpose of mass demonstrations such as those that took place in Birmingham, Ala., last spring was not primarily to provide an opportunity for court attack on segregation but rather to dramatize the contentions of the Negro community, to focus public attention on the pattern of racial inequality, and to bring pressure on the white community to alter their ways. Inevitably, these demonstrations appeared to involve violations of laws other than the admittedly invalid segregation ordinances. Demonstrators were arrested for such offenses as holding a parade without a permit, disorderly conduct, and trespassing upon private property. The same pattern of demonstration, disorder, and resulting arrests has taken place in many northern cities.

Now, of course, there is nothing invalid about a statute or ordinance that prohibits disorderly conduct, or trespass, or that imposes reasonable requirements on the holding of public meetings in the interest of maintaining order. That is to say, there is nothing invalid about such a statute or ordinance on its face, as lawyers say. Many people leap from that fact to the erroneous conclusion that conduct in violation of such an ordinance necessarily is unlawful and should therefore be condemned. That conclusion overlooks the well-established proposition of law that a statute or ordinance that is valid on its face may be administered in an unfair way and may consequently be invalid as applied. For example, let us assume that it is unobjectionable for a city to have an ordinance requiring persons wishing to use public thoroughfares or parks for a parade or a meeting to obtain a license to do so from the chief of police. Such an ordinance may be used so that traffic will not be disrupted at inconvenient hours, or so that there will not be a conflict between two or more groups seeking to use the same location for a meeting at the same time, or for some other valid and nondiscriminatory municipal purpose. Such an ordinance can be valid on its face; that is to say, in its normal application it presents no problems, as opposed to an ordinance that requires segregation of the races, which has no valid application at all and is therefore invalid on its face.

Now let us suppose that the chief of police uses the ordinance to deny access to public facilities to Negro groups but not to whites. There is no question but that the ordinance is then being applied in an invalid manner to deny to the Negro groups the rights of speech and assembly to which they are entitled under the Bill of Rights. They are caught in a familiar dilemma. If they stand on their rights, they are disobeying the local law; if they obey the local law (and do not parade without the license that they cannot get), then they are deprived of rights to which they are constitutionally entitled. That dilemma is dissolved by decisions of the Supreme Court holding that people may not be punished for violating a local law which, however fair on its face, has been applied in a way that violates their constitutional rights.

Of course, it is not always easy to tell when people's constitutional rights are being violated by the application of local laws and when they are not. For example, suppose that it is perfectly clear that the holding of a public meeting on a controversial issue is going to provoke an outbreak of disorder, and the authorities therefore try to prevent the meeting from taking place. Are civil rights demonstrators justified in going ahead with a meeting even though they know that the result is likely to be violence? Perhaps it would be more prudent for them to abstain, but our American tradition of protection for free speech suggests that they may assert their right to go ahead and hold the meeting despite the threat of violence. It is the duty of law-enforcement authorities to protect freedom of speech by making arrangements for the safety of those who urge unpopular causes. Needless to say, that ideal is often not realized in practice, and never more obviously than in the failure of law-enforcement authorities in the South to protect the rights of Negroes and others who demonstrate for civil rights. In an extremity, the police may stop a meeting in order to protect the participants from violence and to prevent a general eruption of disorder. But that reserve power should not be used as an excuse to do nothing in advance to protect the rights of the speakers or demonstrators. It would be a strange legal system that held those who violently interfere with the freedom of others equally accountable with those who are their hapless victims. And our system is not in any ultimate way open to that reproach, whatever the views to the contrary of State and local police, prosecutors, and judges.

One of the most difficult questions in the civil rights area that the Supreme Court has to face is whether segregation by private owners of facilities open to the public-at-large may be enforced by criminal prosecutions for trespass in the absence of any State law or policy requiring or favoring segregation. The Court has on its current docket cases that may force it to deal with the question. And the question was put dramatically not long ago when a group of Protestant clergymen, including Dr. Eugene Carson Blake of the United Presbyterian Church, were arrested for criminal trespass while accompanying a group of Negroes who sought admission to a segregated amusement park in Maryland. We do not, of course, know how the Supreme Court will deal with the legal question that underlies this case, or, indeed, whether it will deal with it. Whatever the ultimate verdict, it seems that Dr. Blake and his colleagues were well within the justifying principles that we have been discussing in this article. It is perfectly true as a general proposition that you may be subjected to criminal prosecution for going upon another's property against his will. There is nothing illegal on their face about laws that protect private property rights by penalizing people who willfully violate those rights. But it is fairly open to question whether the State may back up a private preference for segregation, at least when the premises in question are normally open to the public-at-large, by lending the aid of its criminal process to enforce the will of the would-be segregator. To put it another way, the State's criminal trespass law may be invalid as it is applied to the case of the public facility whose owner seeks State aid in enforcing segregation. Valid or invalid, it seems entirely appropriate, until the question is finally decided for those who have a good faith belief that the law is being invalidly applied in these circumstances, to challenge the law by acting as Dr. Blake and his colleagues did. If the courts were finally and definitively to rule against the argument that the trespass laws were being invalidly applied in this situation, continued defiance of the law would not have the justification that can presently be made for it. Then Dr. Blake and Governor Wallace would indeed be in the same boat insofar as the lack of legal justification for their conduct is concerned. Continued resistance to law that has been fully and fairly settled, whatever the appeal to conscience or to history may produce in the way of an answer, is no part of the American tradition and is in the deepest sense subversive of the legal process. But as matters stand today, whatever judgment men of the world might reach on prudential grounds about this sort of social protest, it cannot be labeled as lawless.

We do not want to leave the impression that the mere fact that demonstration is carried on in behalf of civil rights can serve as a legal justification for it. There is much civil rights activity that merits the condemnation of all who prize the ideal of liberty under law. When valid laws are broken simply to create sympathy for the civil rights position or, even less defensibly, simply to dramatize the contentions of the demonstrators, it seems clear that important values are being unjustifiably sacrificed. The demonstrators who were convicted of breach of the peace for camping in Governor Rockefeller's office could offer no justification of the kind we have been discussing for the violation of law. The law they violated was not invalid, either on its face or as applied to them. Other instances of civil rights demonstrations that have involved totally unjustifiable violations of law come also to mind. Last summer's blockade of the approaches to Jones Beach in New York by demonstrators lying down in the road can hardly be condoned, even assuming the correctness of the demonstrators' view that Negroes were being discriminated against in employment there. The same is true of the demonstrations that led to a halt in construction work on the Downtown Medical Center in Brooklyn, N.Y. The distinction between peaceful picketing and interference with the rights of others is not always an easy one to draw, as the history of labor relations in this country demonstrates; but both of these incidents violated well-accepted standards of behavior in labor disputes.

Even when demonstrations may not in themselves involve illegal conduct, there is a question of judgment involved if they are used indiscriminately. Primary reliance should be placed, we believe, upon quiet and orderly processes of conciliation and negotiation to resolve specific civil rights disputes. Demonstrations which expose their participants to situations that may involve violations of law should be a last resort.

Disobedience to law is always prima facie unjustifiable. It can be justified, as we have shown, particularly in situations in which obeying the law defeats the enjoyment of constitutionally guaranteed civil liberties. But the burden is always on the person who claims that his violation of law is legally justifiable. And that burden applies just as strongly in the court of public opinion as it does in a court of law, a fact that makes it incumbent on proponents of the great struggle for civil rights to go about their important task with a keen awareness of the value of preserving the respect for law upon which any social order must ultimately depend.

GENERAL ASSEMBLY STATEMENT—1960

"Affirming that some laws and customs requiring racial discrimination are, in our judgment, such serious violations of the law of God as to justify peaceable and orderly disobedience of these laws.

"Believing that current student demonstrations against racial segregation, while in some cases conflicting with local laws or customs, seem to be consistent with our Christian heritage, the Federal Constitution, and the moral consensus of our Nation;

"The 172d general assembly assures students of our common cause with those who for the sake of conscience participate in such responsible nonviolent demonstrations; [and] Urges them to continue to recognize the dangers to the civil order inherent in conflict with established authority."

(This article was written by the authors in their individual capacities and not as representatives of the Lawyers' Committee.—THE EDITORS.)

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## GOVERNMENT'S HIDDEN DIMENSION

**Mr. HUMPHREY. Mr. President, the distinguished junior Senator from Maine [Mr. MUSKIE], has made a rich contribution to the literature on American federalism. I am sure that all Senators and others who read the CONGRESSIONAL RECORD will be grateful to have this excellent, articulate, and thoughtful exposition of the Federal system placed in the RECORD, so that more of us can benefit from the wisdom and perception of the Senator from Maine [Mr. MUSKIE].**

**I ask unanimous consent to have the article, entitled "Government's Hidden Dimension," which was published in the Saturday Review of April 18, 1964, printed in the RECORD.**

**There being no objection, the article was ordered to be printed in the RECORD, as follows:**

### GOVERNMENT'S HIDDEN DIMENSION: A U.S. SENATOR SEES IN FEDERALISM A NEGLECTED SOURCE OF NATIONAL STRENGTH AND STABILITY

(By EDMUND S. MUSKIE)

It is one revealing commentary on the image of the United States that our friends abroad are so quick to congratulate us on the stability of our institutions in time of crisis and so ready to condemn us for our deliberate speed in dealing with critical issues both foreign and domestic. Few really understand that the basis of our stability is the cause of our deliberation.

An assassin can rob the Nation of a beloved leader. But the constitutional structure of government remains inviolate, held together by procedural threads stoutly woven into the fabric of our system and tested by time and experience. The madman's bullet may damage the national psyche. Even so—to quote Lyndon B. Johnson's quiet estimate of his own first 100 days—"the peoples' part was well done."

Let foreign princes marvel at how swiftly a new President may apply his own spurs to an onery National Legislature. Americans have accepted our scheme of succession without qualm or question since John Tyler first subjected "the wisdom and sufficiency of our institutions to a new test" by deliberately establishing that the Vice President becomes President in fact and not merely an acting caretaker on the death of an incumbent. So once more "the great Federal Establishment has moved on with the business of state," as the Washington Post said recently, "steadying in the wake of calamity to all the demands that crisis has made upon it."

But stability and effective constitutional government are not all that is expected of the United States. Throughout the world as well as at home querulous voices are raised whenever our Government fails to act decisively on a point of international conflict, or when domestic pressures "are permitted" to condition foreign policy, or when the Nation "fails" to scrub away the tarnish of civil wrongs from its own image.

Our critics overlook the fact that America's governmental institutions are stable because they are pluralistic, because they are democratic, because they are counterbalanced and constitutionally inhibited. For the same reasons, they are sometimes slow—at least by comparison with authoritarian regimes. If we have only begun to resolve the promise of civil rights for all and the problems of the aged, of urban expansion, of education, of poverty, of unemployment, and all the rest—if the product of our federalism is still imperfect—it is not for lack of recognition. The problem of meeting common needs today is more procedural than philosophic. The issues are when and how, not whether.

There are, of course, many elements of stability in the American constitutional system: the checks and balances based upon a separation of powers among the legislature, executive, and judiciary; the bicameral legislature; the practice of judicial review by the Supreme Court; congressional control of appropriations; constitutional limitations upon the powers of the Central Government; and even custom and tradition.

But far and away the most powerful and pervasive force for stability and continuity in our system of government, beyond the Constitution itself, is the division of governmental powers and jurisdictions between the National Government and the States. Under the U.S. Constitution, the States are indestructible organs of local government that exist and function in their own spheres. Without this kind of democratic decentralization the future of our democratic institutions, subjected to increasing pressure from centralizing forces within and totalitarian forces without, might well be placed in jeopardy.

Despite the critical importance of our multisovereign Federal system, it is precisely this aspect that is so poorly understood. For non-Americans, it is easily the most incomprehensible facet of the American constitutional system.

Our Constitution is honored throughout the world as a model charter of representative government and democratic freedoms, but its role as a vehicle for apportioning sovereignty between the Federal Government and a State is but dimly perceived. It strikes the "average" European or Asian as anomalous in the extreme that our powerful Central Government should feel itself compelled to bicker with State officials about the enforcement of U.S. laws—or that the Supreme Court should find it necessary to arbitrate conflicts between the authority of "political subdivisions" and the authority of Washington.

If the precise nature and functioning of our multisovereign system is an esoteric subject for our neighbors overseas, it is equally true that most Americans today only vaguely sense an even more significant complication—namely, that the whole interplay of these relationships has been profoundly altered today from many of their original concepts. Mutations of far-reaching consequences have occurred and continue to occur throughout the whole structure.

Only 2 months before his death, President Kennedy sought to focus public awareness on the importance and meaning of this quiet revolution. "The problems of government," he said, "are becoming more and more complex, and the relationships between State and Federal Government more and more interdependent * * * but the more important point is to recognize that we are allies under the Constitution. * * * Too often it is suggested that the Federal Government and the State governments are competitors. Instead we must work closely together for the benefit of our country which we all seek to serve."

It is necessary to recognize the changing patterns of this alliance not only to understand American federalism today but also to draw valid conclusions about its vitality and its importance for the future.

The Constitution does not define the term "federalism," nor does it describe precisely what its framers had in mind regarding the boundary between the Central and State governments. In fact, the Constitution does not use the word "Federal," nor does the preamble go further than to say that the Founders hoped to "establish a more perfect Union."

The Union they founded was one of semiautonomous States under a National Government that exercised "enumerated" and carefully circumscribed powers. The powers retained by the States were not enumerated although it was implied (and later explicitly stated in the 10th amendment) that those powers not specifically given to the Central Government would be retained by the States or the people.

Debate since the adoption of the Constitution (and even before) has centered primarily around two opposing concepts of the proper balance between Federal and State powers. One doctrine would restrict the National Government to its enumerated powers. The other would supplement these powers with authority implicitly delegated throughout the Constitution and with inherent powers deriving from the national character of the Central Government. Strict construction on the one hand to preserve the State powers has been opposed on the other by a viewpoint giving full freedom to the Central Government to pursue constitutional ends even at the expense of State prerogatives. The history of federalism has been, largely, a history of conflict between these interpretations.

Roughly speaking, the dividing line between the older approach of "strict construction" and the newer philosophy of national preeminence was the Civil War and the adoption of the 14th amendment. The implications of that amedment, as it has turned out, were enormous, but its practical effect remained negligible for almost 60 years.

It is sufficient for our purposes to recall that from 1865 to 1930 the emphasis of constitutional struggle shifted more toward the protection of property rights against the monopolies of public power, and that during the past 30 years it has shifted again increasingly toward promoting the use of Federal authority to preserve and enhance individual rights and welfare.

Certainly the most fundamental and dramatic changes in American federalism have taken place since 1900 and, principally, since the 1930's. Considering that for almost 150 years prior to the present generation the emphasis of constitutional law in the United States has been upon preservation of State powers and limitation of the Federal, it should come as no surprise to find large areas of opinion today that cling to the astringent approach to Federal powers. In fact, the constitutionality of many Federal powers under the 14th amendment and the commerce clause is still debated by many who draw sustenance from an era of constitutional law when States rights theories such as interposition and nullification seemed more plausible than they do today.

The scope of the constitutional revolt of the 1930's, and the rapidity with which traditional concepts of federalism were altered in favor of the Central Government to meet the exigencies of the great depression persuaded many people that federalism, as a technique of government in the United States, would rapidly fade away.

Prof. Harold J. Laski, writing under the title "The Obsolescence of Federalism" in 1939, expressed the belief that while it is a suitable technique of government during periods of capitalistic expansion, federalism is a luxury that contracting capitalism cannot afford. Federalism has failed and is dying, he said, not only in the United States but also in Canada, Australia, Germany. To explain this failure, he argued that "* * * it has become clear the true source of decision is no longer at the circumference, but at the center, of the State. For 48 separate units to seek to compete with the integrated power of giant capitalism is to invite defeat in almost every element of social life where approximate uniformity of condition is the test of the good life."

In more typically American terms, other critics of traditional federalism found their strength in the heritage that endowed promotion "of the general welfare" with an overriding moral as well as constitutional importance. They recognized that, after 140 or more years of national growth, the problems of the "general welfare" required solutions that were in many ways as foreign to the expectations of the Founding Fathers as were the problems themselves.

But the critics of federalism have committed a fundamental error. They have judged it in the light of its controversial dimensions—the historic spheres of Federal powers, State powers, and judicial interpretation—in which the weight of supremacy has clearly shifted in favor of the central government. But these changes in jurisdiction, sovereignty, and prerogatives have had little effect on the powers of the States to govern freely in the interest of their citizens.

The vitality of the Federal idea in America has not only survived the crisis in political and economic philosophy of the last three decades; it has also asserted itself in a broad new dimension that has given rise to the greatest growth in State powers and functions in the history of the Nation.

A typical example: In the decade from 1950 to 1960, the nondefense expenditures of the Federal Government increased by the relatively modest amount of $6.4 billion—a growth of about 24 percent. State expenditures during the same period increased by $19.3 billions, from $13.2 billions in 1950 to $32.5 billions in 1960—a growth of 146 percent, or more than six times the growth rate of the Federal Government.

This explosion in the functions and powers of local government is one of the most fascinating and challenging developments in modern U.S. history. Yet it has taken place with so little fanfare and public attention that it remains an area of relative mystery to most Americans. It represents an annual expenditure of immense proportions and involves the States and the Federal Government in joint enterprises of vital national significance. By comparison with more sensational developments in Federal-State relations, however, it has received very little public notice.

This largely unknown and unexplored area of government is what might well be called federalism's "hidden dimension."

Functioning almost as a fourth branch in meeting the needs of the people, this dimension is directly involved in such matters as highways, housing, urban renewal, planning, education, public welfare, hospitals, airports, public health, unemployment compensation, agricultural extension, water and air pollution, and sewage treatment facilities. Yet it has no direct electorate, operates from no set perspective, is under no special control, and moves in no particular direction. It operates sans legislature, sans executive branch, and sans judiciary. It is represented by no policymaking body (although it is developing its own sacred cows). We're not certain even of its cost. Some estimates range as high as $14 billion annually.

The principal framework of this structure is the system of Federal "grants-in-aid." Although traceable back to ante bellum days, the technique of quasi-contractual relationships between the Federal and State governments for Federal aid to State-run programs of social and economic development has grown primarily since 1911. Over the years, Congress has enacted some 73 such programs. Only 14 have been terminated; 59 are still on the books. Grants-in-aid to State and local governments during fiscal year 1964 will cost an estimated $10 billion—an almost fourfold increase over the estimated cost 10 years ago of $2.7 billion.

It was in 1962 that the U.S. Senate authorized creation of a Subcommittee on Intergovernmental Relations to undertake serious exploration of this Government within government.[1] In fulfillment of our warrant to explore the whole area—to give definition and identity to the hidden dimension, to understand what it is, its potential, and in what direction it is moving—our subcommittee prepared a voluminous intergovernmental relations questionnaire. It was designed with the help of numerous experts to probe deeply into significant areas relating not only to grants-in-aid but to apportionment, conservation of resources, metropolitan area problems, assignment of tax sources, tax coordination, and payments in lieu of taxes. Its distribution to all governors, State attorneys-general, State budget officers, to 250 State legislative chieftains, 800 school boards, 1,900 county officials, 1,600 city managers, 900 mayors, and 400 academicians and other experts evoked responses ranging from dismay over its length and complexity to heartening demonstrations of closely reasoned collaboration.

The Northern Virginia Sun, one of the more responsible suburban dailies to emerge in recent years, greeted the subcommittee's field inquiries as an opportunity for local officials "to show their stuff." Said the Sun: "If these echelons of government have the capacity to clean away the deadwood of decades and grapple imaginatively with the huge dilemmas of city, town, and county, Congress will be only too happy to hear it."

In showing their stuff, our respondents inevitably raised more questions than they answered. Still, the returns to date from more than 460 State and local officials have given Congress a massive and informed cross-section of grassroots opinion on a scale never before attempted and with a wealth of detail that illuminates broad issues bearing directly on the future of federalism.

General attitudes are always difficult to gage, especially on the basis of multi-itemed questionnaires. But given an awareness of such pitfalls, a careful assessment of the aggregate returns clearly suggests that our participating States and local officers fall into four groups.

The first include all those who reject the present system of Federal-State cooperation and yearn to reestablish firm distinctions between the enumerated powers of the Federal Government and the reserved powers of the States. Numbering approximately 11 percent of the total, this small but articulate group approached the issues raised in our inquiry with a strong allegiance to the concepts of State powers that prevailed in the United States until the mid-1930's.

Closely, allied to this group were those whose intellectual inclinations placed them among the States righters but whose pragmatic bent persuaded them that some abridgment of traditional State prerogatives and powers, some collaboration with the Federal Government, is desirable and necessary. This group, in general, was far less willing than the first to eliminate or reduce the present degree of Federal involvement at State and local levels.

Most within this classification, comprising 43 percent of the whole, accepted the grants-in-aid device as a means of solving certain common problems, and they did assign a role, albeit somewhat restricted in scope, to the National Government in a number of complex problems facing metropolitan area residents.

The third group accounted for approximately 33 percent of the total. Here we find most of the Governors, State budget officers, some academicians, and a scattering of urban area officials. This group declined by and large to enlarge upon their ideological views but expressed general satisfaction with present methods and trends of cooperative federalism.

The fourth group constituted some 13 percent of the total and included, among others, a significant number of schoolboard members and academicians. In the main, this category adopted a fairly consistent pro-Federal stand in their answers. They strongly supported greater use of the grants-in-aid system; they opposed assumption by the States of certain taxing and financing functions now exercised by the Federal Government. And they assigned to Washington a major role in helping to solve the problems confronting the Nation's metropolitan areas. Over and over again in the responses from this group appears the theme that the State and local governments are unable to cope with the more pressing domestic problems confronting America in the 1960's.

The extremes at both ends of the scale, i.e., the traditional States righters and the nationalists, comprise less than a quarter of all the respondents. For this reason, both may be considered atypical. By combining the reluctants with the positives and reexamining their responses to certain key questions, it is possible to sketch the broad outlines of what might be called the majority's implicit consensus about what our Federal system is and what it may become. To join these middle groups to be sure, blurs the ideological distinctions that separate them, but they are in fact joined by their acceptance of certain practical solutions to common problems.

Extended review of the answers to those questions on which there was agreement among the two middle categories enabled us to piece together the following composite theory of how federalism works and can work in America in the 1960's:

1. Theory and ideological differences aside, the dominant view of Federal, State, and local governmental relations is one that pictured the entire system as integrated in practical matters but with each level attempting to maintain its separate institutional identity and sources of power.

2. The practical functions of government are not neatly parceled out among the three levels; several governmental functions may be undertaken jointly at each governmental level with the result that significant and continuing responsibilities may be exercised by all.

3. Decisionmaking in the intergovernmental process is shared fairly equally among various public bodies in the three echelons, thus preserving a basic principle of our traditional federalism.

4. The administration of programs of common concern are joint undertakings. Such devices as joint boards, joint inspection, the sharing of specialized information and use of another level's technical personnel, reveal the benefits of this collaboration among equals. Competition rather than collaboration, however, is produced when administrative regulations are unilaterally imposed without full consultation with another level's officials and without recognition of the merit of some administrative practices or other jurisdictions.

5. The Federal grant-in-aid is and will continue to be an inescapable and important feature of contemporary intergovernmental relations. It provides a necessary means whereby the three levels of Government can collaborate to fulfill common purposes. If not encumbered with excessive administrative redtape, it can also serve to strengthen State and local governments, since it utilizes the existing institutional framework for administering these activities of common concern.

6. Representative, responsive, and responsible State governments are vital for the proper functioning of American federalism. They collect a sizable proportion of total revenues, directly administer several important governmental services, provide assistance to their local units of government, and serve as crucibles for the development of improved policies and techniques.

7. When properly empowered, financed, and aided, county and municipal governments singly and in voluntary association with one another can meet many of the challenges that ubiquitous urbanization has created.

8. Intergovernmental relations should be viewed primarily as a network of functional, financial, and administrative arrangements that seek to advance the commonweal. Parity with respect to the power positions of the various levels is indispensable for successful collaboration in this area. Inequality undermines the voluntary stimulus that is so essential for any full-fledged cooperative endeavor.

9. Every level has a fundamental duty to preserve the interlevel balance, but a primary responsibility for maintaining this balance rests with Congress. Its past enactments constitute the greatest single force shaping the Federal system under which we live, and its future actions will exert no less an impact.

In the final analysis, the tensions existing within this composite view of American federalism, created by the commingling of conflicting ideals within the confines of a practical solution of shared problems, augur well for the future of our system of intergovernmental relations. American federalism has always been a bold attempt to reconcile stridently conflicting ideas.

And it is most illuminating to note how the protagonists in this debate change sides from time to time, from one historical epoch to the next. None of the great geographical sections of America, nor the major political parties, nor the principal segments of political opinion (liberals or conservatives), nor even the economic interests of the country have pursued consistent policies where Federal-State relationships are concerned. The remarkable ease with which these groupings have shifted positions at various periods of history on this subject provides a dramatic confirmation of the dynamism of the Federal system and its vitality for the future.

If nothing else, it should illustrate the futility of political platitudes and the danger of shibboleths. Certainly, labels and slogans tend to lose their meaning when we realize that in the crucible of practice, the ideological tenets of General Motors 10 years ago may well be labor's central argument 10 years hence. It is certainly historical fact that the States rights dogma of yesterday's liberals is the staple of the conservative case today.

Thus, it seems to me, we do not validly reflect the fundamental vitality of American federalism to argue that it is dead because it is changed or that it will die because of its advocates. The system's real test lies in how effectively it is meeting the needs of the American people today. It cannot be measured against an abstract formulation of the past or of the future.

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[1] The subcommittee of the Senate Government Operations Committee consists of the author, as chairman and Senators SAM J. ERVIN, JR., of North Carolina; HUBERT HUMPHREY, of Minnesota; and ABRAHAM RIBICOFF, of Connecticut, Democrats; and Senators KARL MUNDT, of South Dakota and CARL T. CURTIS, of Nebraska, Republicans.

President John F. Kennedy understood this very well. "It is the best system yet devised," he said shortly before his death, "but we have to make it work * * * in a common effort to reduce unemployment, and to eliminate poverty among our people; to make our urban centers a better place in which to live; to guarantee equal opportunity in all fields; to conquer mental retardation and mental illness; to keep this country strong; to keep it in a position where it can fulfill its responsibilities to all the free world."

History may one day include among the greatest achievements of the New Frontier the powerful momentum evoked by its young leader to harmonize the rational design of the founders with the kind of pragmatic action necessary to exercise all those specters that still haunt our own society—and the world. In meeting this challenge President Kennedy summoned us to begin anew; President Johnson has committed us to continue. The quest embodies our best hope for achieving a yet more perfect union.

## FROM PULPIT TO POLITICS

Mr. HUMPHREY. Mr. President, too often many Americans make the unfortunate charge that politics is and should be left to the politicians, the charge that "you can't fight city hall," that there is little or nothing that the "ordinary citizen" can do to affect governmental policy.

I find it especially refreshing, Mr. President, to read the kind of story I now call to the attention of all Senators. Bob MacGregor, a young Presbyterian minister in Minneapolis, decided in 1961 that he was one American who could not stand in the midst of pressing social and political problems without contributing his talents to the political process.

He is now serving a second term on the Minneapolis City Council. The story of his decision to become an active part of American politics should be an inspiration to all of us. I ask unanimous consent to have the story of Bob MacGregor, entitled "The Pastor Enters Politics," which was published in the April 1 issue of Presbyterian Life, printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### FAMILY LIFE SUFFERS, BUT MINNEAPOLIS ZONING IMPROVES WHEN THE PASTOR ENTERS POLITICS

(By Janet Harbison)

Big, handsome Robert MacGregor is an ordained minister who set out to spend his life as a pastor. His wife, Mari, set. out to be a pastor's wife. Both MacGregors, brought up in the Minneapolis-St. Paul area, went to Macalester College, where Bob captained the football team. They spent the first 3 years of their married life in Princeton, while Bob attended seminary. Their first child (they now have three) was born there. After Bob got his B.D., they were happy to receive a call back to Minneapolis to the Andrew Church.

"I wanted a church with a lot of problems," Pastor MacGregor says. "Andrew is the oldest Presbyterian church in Minneapolis. It's an inner-city church, in a changing neighborhood, not too far from the University of Minnesota campus. It's plagued with all sorts of problems, the kind you inevitably get in such a situation."

MacGregor started trying to cope with all the problems of the Andrew Church in the fall of 1957. By 1961, he found himself running for office, a candidate for the Minneapolis City Council. To the surprise of many, Bob won, and began to devote most of his time to being an alderman. He had already resigned his pastorate at the behest of Presbytery when he announced his candidacy, even though his congregation wanted him to stay on. Thus, for a few hectic months, MacGregor was unemployed.

How had the pastor come to enter politics? What has happened to him since he won that first election? The answers to these questions provide some insights into what can come about when the church takes seriously its mandate to become involved with people where they live.

As a young pastor, MacGregor tried to help his parishioners cope with the difficulties of crowded urban life and was drawn inevitably into civic action, taking part in groups like the University District Improvement Association. Almost everything in the area needed improving—housing, schools, control of the awarding of liquor licenses, offstreet parking—if the area were not to slip relentlessly into decay. The churches in the neighborhood have a long history of efforts at bettering conditions. The basic trouble was that the whole city of Minneapolis had "archaic zoning," as MacGregor puts it, and had allowed a hodgepodge type of growth. To get a decent zoning ordinance required citywide cooperation.

"The current alderman in the district was not too receptive," Bob recalls. "Freeways were slicing up the area, and nobody was doing a thing about it. Eventually a nonpartisan group called Citizens Organize for Responsible Government (CORG, for short) was started. Members were known locally as the 'do-gooders,' and I became involved in their work. After awhile, they approached me and asked me if I would run for alderman. I didn't exactly jump at the chance. But after some hard thinking and prayerful consideration, I decided to run."

People around Minneapolis tend to attribute the zoning ordinance finaly adopted by the city late in 1963 in large part to this decision. Several years of patient organizing, learning to know the government of the city and how it operated, cultivating forces in favor of civic improvement all over the city—plus a second election campaign even rougher than the first—came between. MacGregor is the first to say that "anything that gets accomplished requires hundreds of people." But much that has lately been done in Minneapolis about zoning, civil rights, and a number of other questions has been instigated by the pastor who entered politics.

#### SOME CHURCH PEOPLE RAISE QUESTIONS

"I called in the session and asked permission to make the first campaign, which they unanimously granted. The congregation approved, too," says Alderman MacGregor. "But many church people didn't. That was the hardest thing—the reaction of some church people. They talk about me as a 'former minister.' And some of the more conservative people are angry because I caucus with the Democrats." (The Democratic-Farmer-Labor Party is strong in Minnesota, and its ideas correspond better with the things Bob is fighting for, he thinks, than those of the Republicans. His father, a bank official in St. Paul, is a Republican.)

Bob finds that people have a certain image of what a minister should be and do, and have certain preconceived notions. Sometimes his colleagues among the 13 councilmen consider him a bit of an anomaly. "You ought to go back in the ministery; you don't belong down here," they may say. Or sometimes, when Bob has been expressing his mind on a question with a certain amount of vigor, it will be, "You, a minister, talking like that? Have you lost your principles?"

"My being a minister is a convenient hook on which to hang attacks on me," Bob says.

Being a public servant has changed life for Alderman MacGregor—and for Mari, too. "In city government, you're so close to the people. The phone is ringing all the time. At every local affair, they want the district alderman present. As soon as they hear I'm at an affair, they all come up with some complaint or other. Home life is hard to come by—I'm out about every night.

#### THE PHONE NEVER STOPS RINGING

"A few of the phone calls we get are most difficult on Mari," he goes on. "People tell her what a misfit I am and that I am being duped by the Communists on certain zoning or urban renewal issues. The ultraright groups are most difficult to work with, and mince no words. When I have supported an urban renewal project and stand up to speak, they have their people dispersed in the audience to boo and heckle. Once I got on an elevator with a group of ladies who were opposing the new zoning ordinance as an unwarranted interference of government, and something that they felt was financed by the Communists. They turned to me, shook their fingers, and said I was being led astray by the Communists and fellow travelers. They said I used to be a Christian until I got on the council and started taking illegal liquor money. [The last accusation is particularly humorous, since Bob has been a target of the very liquor interests whose money he allegedly took. They have often tried to get him removed from the committee of council which grants liquor licenses.]

"We receive numerous calls from people I really can't help as an alderman, but can do more good for as a clergyman. They need someone to counsel and listen to them about their financial, marital, and neighborhood problems. The councilman is the elected official closest to the citizen and easiest to reach by phone. If something goes amiss at any echelon of government, the councilman is usually the first to hear from the irritated taxpayer."

Since manses don't go with seats on the council, the MacGregors have had to buy a house. The salary for a city councilman is low; the presumption is that he's most probably something like a lawyer, with a practice on the side. And of course, the MacGregors have to bend over backward not to take any favors from anybody. Hence, public service hasn't exactly put them on easy street.

By the time MacGregor's second campaign came around, "I'd made a lot of enemies," he says. "It was a bitter, hard campaign. I'd irritated the liquor interests which had dominated city politics for years. The firemen and the policemen had tried to get their salaries written into the new city charter. Salaries don't belong in a city charter, and I opposed them. So the firemen and policemen campaigned against me. The slum property owners were against me, I had won their enmity by my position on zoning. Also, the land speculators were against me. So anyone who wanted to run against me could raise a lot of money for his campaign without any trouble."

Bob's opposition in this campaign, which culminated in his election to a second term in July 1963, didn't spare the horses. All sorts of accusations were made against MacGregor—that he was a despoiler of the property of old ladies, that he was the guilty party in depriving the public of a park to build a freeway (which had been voted before he ever came on the city council). These are mild samples. "There are very few rules in campaigning," says MacGregor.

"We were a little disturbed by all this," he goes on. "I'm a sensitive person. This is the kind of thing I find hard to take. But just during this time I began to understand my faith a little more. Especially I got a lot out of Paul's writings—the things he says about his own persecution and hardships. But also, I began to understand that when you are attacked, it is, partly at least the result of your own foolishness; you can't think you're right, and nobody else is, when you're in politics. This sort of thing may be God's way to keep people humble."

MacGregor ran the second time because he had started a number of things which had not yet come to fruition, "and I knew I'd be a frustrated man if I didn't carry through."

The comprehensive zoning ordinance, and a mayor's commission on human relations designed to coordinate the work of the 28 groups in Minneapolis concerned with civil rights and allied questions, are among the things Bob went back to fight for, and has had a strong hand in, as proponent and drafter. He currently serves on such committees and projects of the council as: finance, ordinance and legislation, licensing, zoning, the board of public welfare, the health department, workhouse, hospital, and relief practices—almost the gamut of things, aside from sewers, with which city councils are occupied. Wrestling daily with these problems, Bob has developed some convictions about city government.

"I started out as a naive person in politics," MacGregor says now, "and I came to recognize several things. One is the importance of the minority. It can serve to temper legislation, to make the majority think. And it's amazing how frequently the minority's position is sustained later on." (Minneapolis folk recall that when Bob first became an alderman, he was virtually alone in advocating a coherent zoning program.)

"I have been supported by thinking of the minority of the first-century Christians," the young official goes on. "Later on, they were sustained. Nobody was supporting me at the start of the civil rights thing, and then gradually many came around.

"Now, Minneapolis is a city of churches. It's a clean town, as towns go, with a lot of homeowners, and many church people in public positions. The city attorney is a Presbyterian elder; so is the city engineer. But even in the cleanest town, the churches ought to be on their guard. There are always unwholesome elements waiting to zero in. The church should be involved in local politics and local government. It should be represented because, you know, unless somebody is paying attention, the citizens can be unaware of what's happening until it's too late."

As for Robert MacGregor, he set out to be a pastor, and that's the direction in which he is still heading: "My first concern is still the church, and I hope to go back into full-time church work." Almost every Sunday finds Bob filling a pulpit somewhere in the Minneapolis aera.

In the meantime, as Mari perceptively remarks, "Bob can be free, and say what he wants, because he isn't absolutely interested in reelection."

## AN OUTSTANDING LABOR LEADER—WILLIAM A. BOYLE, PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA

Mr HUMPHREY. Mr. President, the United States is fortunate in having a well-organized, responsible, and effective organized labor movement. One of the outstanding labor leaders is Mr. William A. Boyle, president of the United Mine Workers of America.

Mr. Boyle understands the needs and the aspirations of the working people of our country. He went to work in the coal mines of Montana as a very young man. He became active in union organization during the time that he was a coal miner. He became president of his own local union and was elected president of District 27 in 1940. The New York Times, Tuesday, March 24, published an excellent biographical item on the life and work of Mr. William Anthony Boyle.

It is because Mr. Boyle so fully and honorably represents the union movement of our country that I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 24, 1964]

### COAL MINERS' LEADER—WILLIAM ANTHONY BOYLE

WASHINGTON, March 23.—In 1948, John L. Lewis, president of the United Mine Workers of America, brought a young Montanan, William Anthony Boyle, to Washington to be his assistant. Mr. Lewis liked Mr. Boyle's style—for one thing because Mr. Boyle was not afraid to tell Mr. Lewis what he thought. The Jovian Mr. Lewis had long before attained the status of legend among the miners and was not always favored with candor by his associates.

When Mr. Boyle came east to take on his assignment, Mr. Lewis is said to have told him: "Be anonymous."

Mr. Boyle took his advice seriously. He developed a reticence that continues today when he has been president of the union officially since early 1963 and the union's head in fact for nearly a year before that.

Mr. Boyle was in the spotlight today when his union signed its first contract with the Bituminous Coal Operators Association since 1958.

The completion of the talks makes Mr. Boyle, who is 56 years old, the first miners' president other than Mr. Lewis to negotiate a new agreement with the mine owners since 1919.

Mr. Boyle's slow emergence from the shadows has been made difficult by more than his own reticence. Mr. Lewis, who is president emeritus of the union and still comes almost daily to its baronial offices in what was once the University Club here, was for years the colossus of the American labor movement.

#### BORN IN MONTANA

Mr. Boyle is a proud man with a hot temper. But if he has resented the inevitable comparisons with Mr. Lewis he has never shown it.

His own progression through the union hierarchy has been steady and it was evident years before he was tapped for the $50,000-a-year presidency that he was in line for the job.

Mr. Boyle was born December 1, 1907, in a cabin at a since-abandoned mining camp nearing Bald Butte, Mont. For official purposes he uses the initials W. A.; his friends and family call him Tony.

The Irish Boyles have been coal miners almost as long as anyone can remember—first in the mines of England and later Scotland, where Mr. Boyle's father, James, went underground at the age of 9.

Mr. Boyle went to work in the soft coal mines at Montana soon after he was graduated from high school. When work was slack he earned a living as a hard rock miner.

He soon became active in the union and held all the local offices there were before he was elected president of district No. 27 in 1940. His youngest brother, Richard, holds the district post today.

When Mr. Boyle came to Washington, he took on many difficult and unpleasant assignments. Operating always behind the scenes, he did troubleshooting for Mr. Lewis. He became an expert at contract interpretation and was the final judge of whether locals could call strikes.

#### TACKLED UNION PROBLEMS

When Mr. Lewis relinquished the presidency of the union to Thomas Kennedy in 1960, Mr. Boyle was Mr. Kennedy's natural successor as vice president.

For much of his term, Mr. Kennedy was a sick man and Mr. Boyle, with Mr. Lewis' advice, did the work of running the union. When Mr. Kennedy died on January 19, 1963, Mr. Boyle became the union's 11th president and the first from west of the Mississippi.

To put it bluntly, Mr. Boyle inherited a problem. The union was wealthy but its membership shrinking.

Dwindling output and mechanism had combined to reduce the membership in the mines from a peak of 700,000 in 1923 to 130,000. The union's catchall district No. 50 outnumbered its parent nearly 2 to 1.

Mr. Boyle has attacked his union's problems with a grim and ferocious energy. He works virtually all the time. Lately he has been demanding more ambitious Government programs to aid the depressed coal mining regions, extension of Federal mine safety regulations to small mines and a curb on imports of residual oil, which he says are costing miners jobs.

There is no evidence, however, that he plans to reverse the union's policy of accepting mechanization.

If the slight, sandy-haired union president has any relaxation, it is his family. When he and his wife, Ethel, have a spare moment they are likely to head for Billings, Mont., where Mr. Boyle's two brothers, Richard and John, and his daughter, Antoinette, her husband, Daryl Ingebregson and their son, Daryl Jr., live. The boy, who is 6 years old, is the joy of his grandfather's life.

## NATIONAL INTERRELIGIOUS CONVOCATION ON CIVIL RIGHTS—APRIL 28, 1964, AT GEORGETOWN UNIVERSITY

Mr. HUMPHREY. Mr. President, I invite attention of Senators to the fact that on April 28, Tuesday of next week, at 8 p.m., the three major religious faiths will sponsor the National Interreligious Convocation on Civil Rights in the fieldhouse at the Georgetown University. The sponsoring organizations are the National Council of Churches, the Commission on Religion and Race, and equivalent Catholic and Jewish organizations.

This convocation will feature addresses by Dr. Eugene Carson Blake of the Council of Churches, Rabbi Yuri Miller and Archbishop Shehan. The chairman of the convocation will be Archbishop O'Boyle of Washington, D.C.

The program will also consist of music and religious ceremonies in behalf of civil rights. The fieldhouse will, I understand, seat over 3,500 people. There is already an overflow crowd coming to Washington from all sections of the country. Over 1,000 clergymen will attend the convocation in addition to thousands of lay persons.

This should truly be a most historic affirmation in behalf of human rights and in support of the pending civil rights legislation.

After the convocation the National Council of Churches will sponsor a daily civil rights prayer service at 9 a.m. at the Lutheran Church of the Reformation at 212 East Capitol Street NE. Prominent clergymen from the Nation will conduct the daily services which will continue until the civil rights bill is enacted.

This convocation and the daily prayer service was announced at a recent press conference and the sponsors of these events look forward to welcoming all those who are interested in this important ceremony.

## PETROLEUM PINCH: MORE SMALL OIL FIRMS QUIT AS COMPETITION MOUNTS

Mr. CARLSON. Mr. President, the independent oil companies have for many years been responsible for an impressive record in oil exploration and development in Kansas and many Midwestern States.

As a result of sagging crude oil prices, increased cost of production and competition from large major companies, hundreds of these companies are being forced to cease operations and liquidate their assets.

At a recent meeting of the Independent Oil Producers from Kansas, Oklahoma and Texas, which was held in Oklahoma City, several methods of assisting the independent operators were considered.

George Bruce, president of the Kansas group, suggested that Kansas, Texas and Oklahoma producers shut down production for a 10-day period in order to restore recent price cuts; however, this suggestion was not approved by Texas and Oklahoma. The representatives of the three States did agree to push for a Federal study of oil imports and their influence on domestic crude prices. The group also agreed to ask Interior Secretary Udall to review offshore leasing of oil development rights and to consider bringing offshore oil production under market demand proration systems practiced by some States.

Recently there appeared in the Wall Street Journal, issue of April 8, a very excellent article entitled "Petroleum Pinch." I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PETROLEUM PINCH: MORE SMALL OIL FIRMS SELL OUT AS COMPETITION MOUNTS, PROFITS SUFFER—DRILLING COST RISE, CRUDE SAG SQUEEZE INDEPENDENTS; BIG CONCERNS ARE EAGER TO BUY—JUSTICE DEPARTMENT STEPS IN

(By James C. Tanner)

In recent days M. H. Robineau, president of Frontier Refining Co. in Denver, has quietly passed the word in the oil industry that his concern, with an annual volume of $44 million, is up for sale. The reason, according to Mr. Robineau: "I've been in this business 40 years but I've got to be realistic. It's getting murderous for the independent refiner."

In deciding to sell out, Frontier is joining a growing list of independent oil companies who are giving up the struggle. With crude oil prices sagging, production costs climbing and major companies intensifying their fight for customers, the squeeze on many smaller oil companies has become too much to withstand. "Many independents are operating in the red—those making a profit, like ourselves, are an exception," notes Mr. Robineau. In the past 3 years, oil company mergers have run at a $1 billion annual clip (based on selling prices) and many industry officials look for the figure to go even higher this year.

In most cases the independents are having little trouble finding buyers. For some of the same reasons that the independents feel compelled to quit the business, fully integrated major oil companies are ready to take them aboard. Rising real estate and construction costs, for example, often make a merger or purchase of a smaller company a less expensive way for a big firm to establish a strong regional marketing setup than to go out and build their own chain of stations.

#### EXPLORATION COSTS SOAR

The same holds true of finding crude oil. Exploration costs have soared to such an extent that major firms often regard acquisition of independents as a cheaper way to get oil than by hunting for it themselves. The steep rise in drilling costs points up what firms face in oil exploration. Last year, according to the trade publication Petroleum Engineer, the average deep oil well cost $695,984 to drill, a 6-percent increase from 1962 and 27 percent above the $550,000 average of 1953. Yet, only one in nine expensive wildcat wells ever strikes oil.

Mergers are increasing in many industries, of course, largely reflecting company efforts to diversify. But the trend seems more pronounced in the oil industry and can generally be traced to a different reason: A cost-price squeeze.

"Since 1957 the prices which the company can obtain from its domestic oil have declined approximately 6.5 percent while operating costs have increased approximately 20 percent," says Lawrence S. Reed, president of Houston-based Texas Gulf Producing Co. The company's stockholders this month will vote on a proposal to sell its assets to Sinclair Oil Corp. Directors of Texas Gulf, big independent with interests in Libyan and Peruvian operations and with large U.S. reserves of oil and natural gas, decided to recommend sale of the company for $250 million rather than continue the "increasingly costly and discouraging" search for oil and gas.

"For many, it's become more profitable to sell than to continue in business," comments Minor S. Jameson, Jr., executive vice president of the Independent Petroleum Association of America. Though the cost-price squeeze, low production allowables by States and declining rates of return are the immediate factors bringing the sellouts, Mr. Jameson says the independent oilman's woes are more basic. The growing worldwide surplus of petroleum, a slackening in the rate of growth in U.S. oil consumption, an upheaval in gasoline marketing policies and the "increasing intrusion" of the Federal Government into the economic affairs of the industry are at the root of the oil merger trend, he declares.

#### A DROP IN MEMBERSHIP

As an indication of the extent of such consolidations, the Texas Independent Producers and Royalty Owners Association reports the number of oilmen in the State has dropped to 6,200 from 6,600 in the past 5 years. "Even more significant is the growing number of operators who have pulled in their horns on drilling and exploration but are not yet on the drop-out list," adds an association official.

The merger trend hasn't escaped the attention of Government officials. The Justice Department, in fact, currently is trying to break up one combination—the $385 million sale of assets of Honolulu Oil Co. to Pan American Petroleum Corp. and Tidewater Oil Co.

Now in Federal court in San Francisco, the case is being watched closely by much of the industry because of pretrial remarks made by Government attorneys. "What we * * * propose to show," said the attorneys in a brief, "is that the acquisition is part of a trend which, if not stopped, threatens an undue restriction in the number of independent producers and independent refiners by concentrating ownership of domestic production in the hands of 20 or so large integrated oil companies."

Oilmen don't dispute the trend though they dispute Justice Department conclusions that it may be unduly restrictive on the independents. Sell-outs will continue to climb, says one oil company executive, adding: "The only limiting factors are the Justice Department—and the supply."

#### OLD BREAKUP PLAYS A PART

Ironically, much of the motivation for today's consolidations on the marketing side dates back to the Government-enforced dissolution of the old Standard Oil combine a half century ago. It left some powerful oil companies with only regional markets—a pattern they are trying to break. And, many have found, a quick, painless way to market their brands coast-to-coast is by acquisition.

Standard Oil Co. of California chose this way to break into five southeastern States formerly outside its marketing area, with the 1961 acquisition for $170 million of Standard Oil Co. of Kentucky.

Now, Humble Oil & Refining Co., chief domestic subsidiary of Standard Oil Co. (N.J.), is following the same route by proposing to buy the west coast refining and marketing facilities of Tidewater Oil for $329 million. Humble three years ago began an effort to push into the far west by building its own stations. It so far has 800 in this region—250 of them in California. With the acquisition of the Tidewater facilities, Humble would pick up 3,900 additional stations, bringing its U.S. total to about 34,000.

"It's hard to justify any big advertising program in an area unless you've got at least 5 percent of the market," says one oil industry executive, putting his finger on the major problem of trying to enter a market by building up from scratch. With the purchase of the Tidewater facilities, "Humble will become a big factor on the west coast in one fell swoop" notes a competitor. "It would have taken years to do it any other way."

#### WANT MORE CRUDE

In today's fiercely competitive atmosphere, oil companies want not only to have their own outlets for their refinery production but also to be self-sufficient in crude oil supplies. Many integrated oil companies are deficit refiners; that is, they process more crude oil than they are able to produce and have to buy much of the crude from independent producers.

E. L. Steiniger, chairman of Sinclair Oil, says that purchase of Texas Gulf Producing's vast oil reserves will help "to enable the company to compete on more equal terms with competitors now more favorably situated." Following the Texas Gulf acquisition, Sinclair will be able to produce about half of its refinery requirements compared with about 43 percent now, says Mr. Steiniger.

Just getting 100 percent of their crude oil needs now is not enough for many companies, one oil executive contends. "Most would like to have double the reserves they need now, as a floor for future growth," he says. "That's why everybody has been trying to make a deal with Superior Oil Co."

Superior is one of the few independent domestic producers large enough to go abroad in the search for oil. But for some time it has been unable to find markets for all its foreign petroleum and in late January plans were announced to sell its Venezuelan subsidiary to Texaco, Inc., which has extensive refinery facilities, for about $125 million.

Much of the glow of foreign crude is beginning to rub off as market competition worsens and governments abroad get more fickle about such matters as oil royalties. This has played a role in intensifying interest in obtaining more U.S. crude as insurance in case oversea supplies are cut off.

Not all the sellouts, of course, can be blamed on a sag in profits by independents. Many independent companies do well despite industry problems, often because they have themselves pursued an active policy in acquiring smaller firms. But the fierce bidding for properties often pushes the price high enough to make a sellout more attractice than continuing in business. Shell Oil Co., which has been wanting to expand in the Southeast, last month bought the refining and marketing properties of El Paso Natural Gas Products Co., a subsidiary of El Paso Natural Gas Co., for $37 million, though El Paso by no means was a poverty case. Its 1963 net income, according to W. S. Noel, president, varied little from the $3,563,283 earned in 1962. "We thought it was a good sale for us to make," he says.

## CARL T. CURTIS—A QUARTER OF A CENTURY OF DEDICATED SERVICE

Mr. HRUSKA. Mr. President, earlier this month, on April 4, my distinguished and beloved colleague, Senator Carl T. Curtis, was accorded a standing ovation by 2,200 of his fellow Nebraskans and fellow Republicans at the annual Founders Day banquet in Omaha's Civic Auditorium, marking his 25th anniversary in the Congress.

The honor came as a complete surprise to him. He confided to me later that he was a little perplexed as I recited to the audience a few of the many milestones in Carl's long record of dedicated and devoted work in behalf of Nebraska and the Nation.

When I invited him to join me at the speaker's stand, he was almost literally overcome by the spontaneous outpouring of appreciation and affection expressed for him by those attending the Founders Day banquet.

The distinguished minority leader was our featured speaker that evening, and he can attest to the tremendous enthusiasm of the testimonial for Senator Curtis.

His Nebraska colleagues in the Congress presented Senator Curtis with a token of our appreciation for the privilege of serving with him. We gave him a watch with this inscription:

> From the congressional delegation to its dean—Senator Carl T. Curtis, in recognition of 25 years of distinguished service to Nebraska and the Nation.

Some weeks ago, Mr. President, the chief of the Washington Bureau of the Omaha World-Herald, Mr. John Jarrell, prepared an article for that newspaper's Magazine of the Midlands in which he took note of Senator Curtis' quarter of a century in the Congress. I ask unanimous consent to have printed in the Record excerpts from my remarks concerning Senator Curtis at Nebraska Founders' Day and the text of Mr. Jarrell's article published in the Omaha World-Herald Magazine of the Midlands.

There being no objection, the excerpts and article were ordered to be printed in the Record, as follows:

### Excerpts From the Remarks of Senator Roman L. Hruska, Nebraska Republican Founders Day Banquet, Civic Auditorium, Omaha, April 4, 1964

This fine civic auditorium has always been a source of great pride to all Omahans. But it now holds a special meaning for Vicki and me because of the honor so warmly and generously accorded us here just about a year ago tonight. We shall never forget the thrill of that evening and the kindness which so many of you here again tonight showed to us. It will always be a source of great inspiration and encouragement in the work in which we are engaged.

Tonight the memory is especially vivid because we have with us, as we did a year ago in this same room, my colleagues in the Nebraska delegation in the Congress.

It is both a pleasure and an inspiration to work as a part of this team. No delegation in the Congress pulls together in harness better than Nebraska's and that is not just my judgment—anyone in Washington would tell you the same thing.

I want to say a special word about the dean of our delegation, Carl Curtis. You know Carl has completed a quarter of a century of consecutive service in the Congress, 16 years in the House and 9 in the Senate.

If you were to look only at the headlines, perhaps you would think that he was pretty well occupied with the Bobby Baker mess. But I can tell you that his position as the ranking Republican on the Rules Committee takes a relatively small part of Carl's time.

He is widely recognized as a leading expert in tax legislation, running from his long and distinguished service on the House Ways and Means Committee through his present membership on the Senate Finance Committee. With my amendment to limit meat imports, it was mighty comforting to see Carl as a member of that committee. He has been an outspoken leader in this fight for many, many months, long before it became the critical issue it is today.

He really should be five or six Senators, because Carl has several other topflight committee assignments. He is on the Senate Investigating Subcommittee which investigated the Billie Sol Estes and TFX matters; he is a member of the Space Committee and the very important Joint Committee on Atomic Energy.

But, with this very heavy load, Carl Curtis, as he has throughout his 25 years, continues to work for Nebraska. He has been a real leader in resource development, in farm legislation—particularly in the effort to find new and better uses for our agricultural products—in all the things for which Nebraskans stand and in which they believe. We have a spirited and dedicated fighter in Carl T. Curtis.

Carl, since this is the first Founders Day we have had since your 25th anniversary in the Congress in January, we take this occasion to salute you and to thank you.

We take this occasion to express our admiration and our respect. We tell you here and now of the esteem and the admiration which have become so firmly seated in the hearts of the tens of thousands of Nebraskans with whom you have worked and the millions of Americans whom you have served since you were first sworn in as a Member of the Congress in 1939.

(A standing ovation followed.)

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[From the Sunday World-Herald magazine, Dec. 29, 1963]

### Carl Curtis Reaches a Milestone—A Quarter Century of Public Service

(By John Jarrell)

**Washington.—When he first ran for Congress, he heard a radio announcer say—** erroneously, as it turned out—that he had been defeated. In his seventh campaign, he went to bed trailing his Democratic opponent. Ten years ago, he announced his retirement from politics.

But next Friday, Carl T. (for Thomas) Curtis will celebrate a quarter century of consecutive service in the Congress of the United States, the first 16 years in the House of Representatives, the next 9 in the Senate.

Only one Nebraskan, George Norris, served longer than this small-town lawyer from Minden who stood in the well of the House of Representatives January 3, 1939, and took the oath of office. Mr. Norris was a Senator and Representative for 40 years.

When the newly elected Mr. Curtis, then 33, swore to uphold and defend the Constitution, Franklin D. Roosevelt was midway through the second of his four terms as President. Newspapers that day featured the convening of the 76th Congress, reported that the New Deal President would face stiff opposition from a House where there was a resurgence of Republican strength.

Speaker William B. Bankhead, in fact, predicted broad revision of many controversial laws that the Roosevelt administration had driven through in earlier years.

#### A WIDE RANGE

The newspapers on January 3, 1939, carried the usual wide range of stories.

The Duke of Windsor was not, it was reported, returning to England to visit his mother, Queen Mary, who was ailing. A 23-year-old mountain climber was the first to scale the east face of 14,235-foot Longs Peak, in Colorado, in wintertime. Nebraska's then 2-year-old Unicameral Legislature was convening that same day in Lincoln, with three in the race for Speaker—A. L. Miller of Kimball, W. H. Diers of Gresham and Edwin Schultz of Elgin.

The previous Saturday, there were 7,000 skaters—and, someone estimated, 35 hundred dogs—on the ice at Omaha's Fontenelle Park lagoon. Two high school students crashed a White House party on a scavenger hunt dare and got autographs of FDR, his wife and son, John. And 160 ships of the U.S. fleet left Caribbean bases for Panama Canal defense exercises.

That was the world at the beginning of 1939 when Carl Curtis was administered the oath by Speaker Bankhead, dead these last 24 years.

Eight times Mr. Curtis was elected to the House, and twice the voters of Nebraska have sent him to the Senate.

Rather short, rather stocky, the mild-mannered and modest Mr. Curtis, while he may not stand out in a crowd, is a terror on the political hustings. Take a look at the imposing list of the men he has vanquished in 10 elections to Congress:

Two incumbent House Members; two former Representatives; one man later to be elected a Representative; an incumbent Governor, a former Governor and two Nebraskans who later were elected Governor—to say nothing of assorted mayors, State chairmen and others who decided to test the Curtis strength.

#### FELLOW MINDEN RESIDENT

By a strange quirk of political fate, on four occasions in his congressional races, Mr. Curtis has been thrown against a fellow resident of Minden (population 2,383 in the 1960 census).

Eight years before he first ran for Congress, at age 25, he took his first fling at elective office—as a Democrat.

His family had been Democrats and while he'd voted for Herbert Hoover for President in 1928 and for Republicans for Governor, he considered himself a Democrat, and in 1930 he sought the office of Kearney County Attorney on that slate. He won, served a 4-year term and in 1934 was defeated for reelection.

Some Democratic partisans had questioned his party loyalty, and Carl himself says he wasn't quite comfortable there anyhow. In 1936 he affiliated with the Republicans—"and that was when the Republican Party was at its lowest point," he says. It was the year Alf M. Landon carried two States in his quest for the Presidency.

By 1938, Mr. Curtis decided the time was ripe to make the race for Congress. Minden was then in the old Fourth District, and a Democrat, Charles Gustav Binderup, occupied the House seat to which he first had been elected in 1934. He and Mr. Curtis were fellow townsmen.

When he came home that day in 1938 and told Mrs. Curtis—Lois—that he would like to run for Congress, it took her about 30 seconds to say, "Let's try it."

Two others also sought the Republican nomination, Howard W. Churchill, of Fairfield, and E. E. Jackman, of Grant.

In 1938, communications were not what they are today. On the day of the primary, it rained hard; the list of candidates for office was long, tabulation was slow. There were few radio stations.

That night, no returns were available in Minden, so Mr. and Mrs. Curtis drove to Hastings to see if they could get news of the voting. They could not, returned home and went to bed.

### OUT OF HIS SYSTEM

Next morning the nervous young candidate was up early, and tuned in the Clay Center radio station for the 6 o'clock news.

The announcer transposed the vote of Mr. Curtis and Mr. Jackman, calling the Jackman total 11,144 and reporting Curtis received 9,709 votes.

Carl sat down on the edge of the bed and said to his wife:

"Well, I'm glad I got it out of my system. But I'm glad I tried."

Just then the telephone rang. It was Randy Ryan, manager of the Clay Center radio station, calling long distance. Had Mr. Curtis heard the broadcast? He had, the candidate replied. It was all a mistake—the tabulations were reversed and it was Carl Curtis who had been nominated, reported Mr. Ryan. The gloom in the Curtis household lifted quickly.

In November Mr. Curtis went on to defeat Congressman Binderup, 59,794 to 42,957, and his congressional career was launched.

In 1940 a former Republican Congressman, Fred G. Johnson, of Hastings, challenged him and lost. But in 1942 there was a new complication.

As a result of the 1940 census Nebraska lost a congressional seat, dropping from five to four members. Oren Copeland, a fellow Republican, and Carl Curtis were thrown into the same district. Carl won, and in November won again.

The loser in the November election was an educator named Ralph Brooks, and he was destined in 1958 to be elected Governor of the State.

### TIME TO BOW OUT

It was rarely easy sledding, but Mr. Curtis is an indefatigable campaigner. Most years he had opposition both in the primary and general elections.

In 1950 he had what he terms "a real scare." His opponent in the general election was Clarence Miles, a popular mayor of Lincoln, and through much of the night Mr. Miles was ahead. In the early hours of the morning, as the rural vote was tabulated, Mr. Curtis took the lead.

Another time he defeated Frank Morrison, now the State's two-term Democratic Governor.

But after 8 elections and 16 years in Congress, with two tough campaigns every 2 years, he decided it was time to bow out.

"Planning your life 2 years at a time is hard on family and finances," he observed to a reporter when he announced that he would not be a candidate for reelection. That was March 1954.

Fate was shortly to intervene. The very next month the State's junior Senator, Dwight Griswold, died of a heart attack after serving only 15 months.

The senior Senator, Hugh Butler, urged Mr. Curtis to reconsider his decision and to seek the senatorial post. Other friends did the same. After some soul searching he got into the race.

So did three other prominent Republicans: the then Governor, Robert Crosby; Dave Martin, the Republican State chairman, later elected to Congress, and State Senator Terry Carpenter, a former Member of Congress.

### TOP CAMPAIGNER

Before the primary, Senator Butler, Mr. Curtis' close friend and adviser, died. This was a blow, for Hugh Butler was the State's great political power.

But a month later Mr. Curtis was the victor in the primary, 21,000 votes ahead of Governor Crosby, his nearest rival. In November he went on to defeat former Gov. Keith Neville by more than 92,000 votes, and the following January he entered the Senate. In 1960 he was reelected with ease. He had a 107,000 majority.

He's regarded as one of the best campaigners Nebraska ever produced. He starts his planning early, lines up his team and works out details to the last dot of an "i," the last crossing of a "t."

He makes as many public appearances as he can, speaking to groups large and small. When there is a half hour unscheduled, he walks up and down the streets of Nebraska towns and cities shaking hands.

"I'm Carl Curtis," he will tell people, and explain what he's running for. "I'd like your vote."

When he runs into a heckler or an unfriendly smartcrack artist, as every politician does from time to time, he doesn't argue. He merely smiles and moves on, hand outstretched to the next person.

Lynn E. Mote, who was Senator Butler's administrative assistant and served until October in the same capacity with Senator Curtis—he's now in private industry—went through two Senate campaigns with him.

From long habit, he still refers to Mr. Curtis as "the boss."

"One year, after adjournment, we drove 10,000 miles in 7 weeks," he recalled. "We covered the State. With the boss, it was all day, every day. He was out of bed before 6 a.m. and it usually was midnight when we finished up. I'm 10 years or so younger but he wore me out.

"When we were driving from town to town, he'd be dictating into a portable transcriber, making notes or listing people he wanted to drop a letter to."

### CREDIT TO HIS WIFE

Hard campaigning is something he's always practiced. In that 1938 campaign he spoke in 164 towns. He made his first speech in the general election campaign when the mercury stood at a blistering 107, his last one just before election when it was below freezing.

Ask him about campaigning and he is quick to credit his wife with a large share in its success. Except when the children were small she has always participated.

"She meets people well," says Mr. Curtis. "She sees to it that I have clean shirts, that my suits are pressed and that I take my vitamins."

She is "a game contestant," adds the Senator.

The Curtis of today sounds in many respects like the Curtis who took his seat in Congress a quarter century ago at the age of 33.

In an early speech after his arrival in Washington, he said:

"We cannot continue to increase our national debt. We cannot squander our way to prosperity."

He says he believed it then, and he believes it now.

But if he hasn't changed in his philosophy, he has changed in appearance. He weighed 190 pounds when he arrived in Washington, a good deal of heft for a short man to carry.

Now he weighs 157, and for a good many years he has tried to keep his weight in that neighborhood. And like so many Americans, he has to watch his diet carefully to do it.

The other day he looked back over the two and a half decades he's been in Congress.

"My daughter hadn't reached her third birthday when we came to Washington," he said. "Now she's a mother. My son wasn't born—now he's finished college and is in the Navy."

### MOST EXCITING DAY

The daughter, Claramae, is Mrs. James Hopkins. The son, Tom, is in the Naval Officer Candidate School at Newport, R.I.

But it doesn't seem like 25 years, he said.

The most exciting day of the quarter century?

"Probably the first day," he said. "Not, of course, in terms of events, but it was an emotional sort of day, taking my seat as a Member of the Congress of the United States."

The most dramatic moment, though, was when Gen. Douglas MacArthur, just fired by President Truman from his command in Korea, addressed a joint session of Congress in 1951. That was the famed commander's "old soldiers never die, they just fade away" speech.

Mr. Curtis recalls when President Roosevelt addressed a joint session of Congress on his return from Yalta. He was obviously a dying man.

"The fire and sparkle and gleam in his eyes were gone," Mr. Curtis remembers. "He was failing right before us."

The worst 2 days I ever lived through were on December 8 and 11, 1941, when Congress declared war on Japan and Germany

From the time he took office in 1939, Mr. Curtis had advocated "strict and absolute neutrality" for the United States. He used that phrase repeatedly in speeches. He thought the Roosevelt administration's policies were leading the Nation into war.

"I had opposed what I considered Roosevelt's policies of intervention," he said, "but I had no desire not to go along with the declaration of war. We had been attacked. We had to defend ourselves. So I voted in favor of going to war. But I felt that it would be a tremendous ordeal, and that our country would never be the same."

He wept as he cast that December 8 vote favoring the declaration of war.

### BASIN STUDY PLAN

The tragic day that President Kennedy was assassinated, only a few weeks ago, form the most unexpected and shocking experience of Mr. Curtis' quarter century on Capitol Hill.

"It was difficult to realize the truth of the report," he said. "I was stunned to think that such a terrible crime had been committed. Deep sorrow and regret were followed by an awareness that the American people were one and were united in a time of crisis."

He is proud that he introduced the legislation calling for a Missouri Basin study that later led to the Pick-Sloan plan. He was then a member of the old Flood Control Committee of the House.

His legislative specialty, however, has been taxes. He was the fifth-ranking Republican on the tax-writing House Ways and Means Committee when he left that body, and he serves now on the Senate Finance Committee.

He has said on many occasions: "I'm proud to be called a conservative."

He was the first Senator to publicly declare himself for his conservative friend from Arizona, BARRY GOLDWATER, for President.

His present term doesn't end until January 1967. No one doubts that in 1966, he'll be walking Nebraska streets again, hand outstretched, telling the voters, "I'm CARL CURTIS and as you may know, I'm running for reelection to the Senate. I'd certainly like to have your vote."

And if he runs true to form, he'll get most of them, too.

Mr. HRUSKA. Mr. President, I ask unanimous consent that at a later time, as other Senators join briefly in similar comments with regard to the 25th anniversary of Senator CURTIS' service in Congress, they may be placed in the same part of the CONGRESSIONAL RECORD.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, it is a great pleasure for me to join other Senators today in paying tribute to one of our hardest working colleagues, the junior Senator from Nebraska [Mr. CURTIS], as he proceeds into his 26th year of service in the U.S. Congress.

It is my particular pleasure to be associated with CARL CURTIS on the Senate Finance Committee—of which he has been a member for the past 5 years—and in that capacity I have grown to know him better, not only as a fine person and a gentleman, but as a particularly capable member of the committee, whose depth of knowledge of tax matters and ability to quickly and accurately analyze some of the more complex issues which come before us is a source of inspiration to all who work with him.

There is no question that the people of Nebraska are as fully aware of the great talents and abilities displayed daily here in the Senate by CARL CURTIS as we are, or they would not have returned him to Washington to represent them for the past 25 years.

I am proud and honored to serve with CARL CURTIS in the Senate. In congratulating him on his fine record in Congress for over 25 years I also wish to congratulate the fine people of Nebraska for the good judgment they have displayed each time the name of CARL CURTIS has appeared on the ballot.

Mr. MUNDT. Mr. President, I am happy that the Senator from Nebraska [Mr. HRUSKA] has called attention to this important anniversary in the career of the senior Senator from Nebraska [Mr. CURTIS].

I shall read with great interest the material which has been placed in the RECORD.

It so happens that the Senator from Nebraska [Mr. CURTIS], former Representative Jensen of the Council Bluffs area, and I took the oath of office together in January of 1939. We arrived together in Congress with what one might call hometown pride down Omaha way, because we all lived within a 250-mile circle of each other of that distinguished metropolis, Council Bluffs—and Exira. So the three of us watched each other during these 25-odd years.

The Senator from Nebraska [Mr. CURTIS] has had a distinguished career in the House of Representatives, serving there on the important Ways and Means Committee. He came to the Senate bringing a great abundance of background, training and knowledge, and of seniority, where he now serves on the equally important Finance Committee of the Senate.

In the business of Government, the problem involved in the spending of people's money and raising taxes to make the spending possible are two of the most significant tasks before Congress.

I join other Senators in saluting a distinguished colleague with a mighty fine quarter-century record in both House and Senate.

Mr. SIMPSON. Mr. President, I should like to associate myself with the remarks of Senators on this side of the aisle, and to observe further the great service which the Senator from Nebraska [Mr. CURTIS] has rendered with respect to his assignment on the Committee on Rules and Administration.

He has brought solace and comfort to the people of America. It is fitting and proper that this tribute be paid him now.

Mr. AIKEN. Mr. President, I congratulate the people of Nebraska for having enjoyed the services of the Senator from Nebraska [Mr. CURTIS] for a quarter of a century as their representative in Congress. I also wish to congratulate the Senator from Nebraska [Mr. CURTIS] for having such a good constituency as he has in the State of Nebraska—one instance, I believe, where the representative has really represented the people who sent him to the Congress.

Mr. MANSFIELD. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I am glad to yield.

Mr. MANSFIELD. Mr. President, I join other Senators in extending best wishes, congratulations, and felicitations to the distinguished Senator from Nebraska [Mr. CURTIS] on the 25th anniversary of his service in the House and Senate.

It was my pleasure and privilege to serve with the Senator in both bodies. While we disagreed on occasion, I should like the Senate and the people of Nebraska to know that I have a high regard for his diligence, his attendance to his duties, his sense of responsibility, and for the service which he has given to his State and the Nation.

The Senator from Nebraska is well known outside the limits of his State because he has views which leave no one in doubt as to where he stands. His views are usually supported by research and study of the particular subjects in which he is interested.

Again I wish to congratulate the distinguished Senator from Nebraska on his 25 years of service to the people of Nebraska and the people of the Nation.

Mr. AIKEN. Mr. President, I believe one reason why the Senator from Nebraska has been able to endure 25 years of service in Congress and still remain in full vigor has been his sense of humor, which he frequently shares with the rest of us. There is nothing like a sense of humor to enable one to endure 25 years in Congress and still do good work.

Mr. STENNIS. Mr. President, I wish to join with the sentiments and tributes being addressed to the Senator from Nebraska. I treasure him as a personal friend and associate, as well as a very valuable Member of the Senate. His penetrating mind and analytical processes and disposition are very valuable indeed. I join in appreciation for that fine sense of humor that he always has, at his own expense, but one had better look out, or he will be a victim of it too.

Mr. AIKEN. And that does not always appear in the RECORD.

Mr. THURMOND. Mr. President, I join my colleagues in the Senate in paying tribute to the distinguished Senator from Nebraska [Mr. CURTIS]. Senator CURTIS is one of the ablest Members of the Senate. He is a great patriot. He has the vision to understand communism. He has the courage to take steps to overcome and overpower it in every way possible.

He is a fine Christian gentleman. I value his friendship very highly. He has rendered great service to America. I only wish more Members of Congress had his great ability, his loyalty to his country, and his great integrity and character.

Mr. PROUTY. Mr. President, the distinguished junior Senator from Nebraska has reached a significant anniversary in his public life.

He can now look back on 25 years of service in the Congress of the United States.

Those of us who know CARL CURTIS admire his tenacity of purpose and his courage in exposing evil in all places—high or low.

The Senator from Nebraska is one of the great guardians of the public purse and he would spend a dollar of the taxpayer only for desirable and necessary objectives.

His leadership on five important committees is well known and deserving of the highest praise.

CARL CURTIS is a fine public servant and Nebraska and the Nation have been true beneficiaries of his service.

Mr. JORDAN of Idaho. Mr. President, it gives me much pleasure to join with my colleagues in honoring Senator CARL T. CURTIS today as he completes his 25th year in the Congress. I have known CARL for a good many years, and have always had a great deal of respect for him as a man and for his many capabilities. However, even my previously high regard for him has deepened since I have gotten to know him even better as a colleague here in this great body.

He is a man of keen intellect who has a probing mind for facts and details. He is an exceptionally honorable and trustworthy man among many honorable and trustworthy men. He has boundless energy and courage unsurpassed. He knows that hard work never hurt anyone and conscientiously performs his duties as U.S. Senator with dispatch. Over the years he has earned a well-deserved reputation for himself as an excellent investigator and interrogator on Senate committees. The latest example the Senate has seen of his talents along these lines has been in the recent Rules Committee investigation. The Senate itself and the people of this country are indebted to him for the diligence with which he has carried out his duties in this investigation.

I commend the people of Nebraska for their foresight in returning him to the Congress of the United States for these 25 years. And I commend Senator CURTIS for the service he has given the people of Nebraska and all Americans during those 25 years.

Mr. BOGGS. Mr. President, I am very happy to join my colleagues in paying tribute to my good friend, the very able Senator from Nebraska, CARL CURTIS.

Senator CURTIS has served the people of the "Cornhusker State" since 1939 when he was first elected to the House of Representatives. In 1954, he was elected to the Senate of the United States and reelected in 1960.

I was privileged to serve with Senator CURTIS in the 80th, 81st, and 82d Congresses and now here in the Senate. His guidance and counsel have been of tremendous help to me and have always been so graciously given.

Senator CURTIS was a member of the important Ways and Means Committee when he served in the House and here in the Senate he serves with distinction as a member of the important Senate Finance Committee.

I am glad to have this opportunity to wish my colleague well in his 26th year of faithful and dedicated service to the people of Nebraska and to this Nation.

Mr. CASE. Mr. President, Senator CARL CURTIS has been an effective and able spokesman for his State in his quarter-century of public service. It has been a privilege to be associated with him in both the House and the Senate. I congratulate him warmly.

Mr. HICKENLOOPER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes, to present my tribute to the junior Senator from Nebraska [Mr. CURTIS], on the 25th anniversary of the commencement of his service in Congress.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HICKENLOOPER. Mr. President, there was a time, much earlier in my life, when a quarter of a century seemed to be an eternity. However, as the years have passed, the span of that period of years seems to have shrunk in significance, and it now seems but a short time, indeed.

Nevertheless, Mr. President, in the annals of the public service of an individual, 25 years is indeed an extended period of time. It reaches great significance when that quarter of a century has been consistently and constructively devoted to outstanding public service by the individual concerned.

Such is the case with the junior Senator from Nebraska [Mr. CURTIS]. All of us have known him for a good many years. We have respected him for all those years. I cannot add any luster to the record he has made, nor will my words add appreciably to the tributes already paid him by others.

During those many years of service, during which I have served with him in one capacity or another in the Congress, first in the House of Representatives, and thereafter in the Senate of the United States, I have gained a great deal of confidence and stimulus from the integrity of his service and from the keen perception he has brought to the duties which have been his.

I know of no one who exceeds him in zeal for doing his duty and fulfilling his responsibility as a public servant. No one could successfully accuse him of ever shrinking from meeting a responsibility; no one could ever successfully accuse him of ever being deficient in the performance of his duty. On the contrary, he has performed with outstanding integrity and ability his duties in both the House of Representatives and the Senate.

Governing all his actions has been, first of all, a zeal to serve faithfully in the offices to which he has been elected; and he has served in those offices with credit to himself, with pride to his State, and with tremendous and unusual benefit to the Nation.

This quarter of a century of service is one which should bring pride and satisfaction to him—although whether it brings pride to him is perhaps a question, inasmuch as he is not a prideful man, and does not seek to enhance the importance of his position. But I am sure this long period of faithful and devoted service must bring real satisfaction to him, as it does to his friends.

So, Mr. President, on this 25th anniverary of the commencement of the great contributions and service by the junior Senator from Nebraska to his State, his country, and the people with whom he has been and is associated, I join other Senators in congratulating him, in thanking him for the opportunity of serving with him, in thanking him for the benefit and assistance he has been to me, and in congratulating the American people and our system of freedom and opportunity for the benefits of his service and for the contributions he has made.

Mr. KUCHEL. Mr. President, in its history the State of Nebraska has sent many men of honor and courage to the U.S. Senate, but none whose honors shine more brightly than the person of the distinguished Senator from Nebraska, CARL CURTIS.

His friends and his fellow Senators, as he concludes a quarter of a century of honorable service to the people of his Nation and of his State, we greet him and wish him Godspeed for many years of health and happiness in public service in the days ahead.

It can be truly said that in his tenure of office in the legislative branch of the American Government, CARL CURTIS, has become intimately acquainted with the problems in the field of fiscal responsibility and Federal tax policy.

On numerous occasions he has risen in the Senate Chamber to demonstrate his point of view on tax legislation, and on matters of appropriations.

Senator CURTIS has demonstrated his zeal as a member of the Committee on Government Operations, particularly in recent weeks and months. I know firsthand that his membership on the Committee on Rules and Administration has been helpful in endeavoring to make the Senate function better. He serves upon the Committee on Aeronautical and Space Sciences, and he graces the Committee on Atomic Energy.

This man from Nebraska has worked hard during all of his service in the Senate to help to make American Government function. Beyond all that, on several important occasions he has served his country overseas in various important international conferences—in at least one of which I was privileged to serve with him.

It is a great thing when a public servant and a friend celebrates an important milestone in his governmental career, and those who know him rise and salute him. That I am honored to do this day, along with other Senators with whom he serves.

In saluting him, I also pay my respects to his wife and family, and bid all of them Godspeed for the future.

Mr. CARLSON. Mr. President, I wish to associate myself with the remarks made by other Members of the Senate in regard to the 25 years of outstanding and dedicated service of our colleague, CARL CURTIS.

It was my privilege to serve with him in the House of Representatives for several years. He represented the first Congressional District in Nebraska, which adjoined the sixth Congressional District of Kansas, the district I represented for 12 years. Our problems were similar and therefore, we had an opportunity to be closely associated in many projects and programs in behalf of our congressional districts.

Senator CURTIS has been and is one of the Nation's leaders in the conservation of natural resources and the control of water runoff in our Nation. He has sponsored many programs for the construction of reservoirs to impound water for beneficial uses. These projects are resulting in great economic gains to areas in Kansas and Nebraska.

I like to think that I am partially responsible for getting CARL CURTIS started in public service, where he has served with such great distinction. In the recess period of the 75th Congress, CARL CURTIS drove down from Minden, Nebr. to my farm in Concordia, Kans. I was out in the wheatfield operating a combine, and CARL drove out to the field. He mentioned he planned on making the race for Congress in the first district and asked for some advice, as I was serving my second term in the House. We sat down in the shade of a truck and discussed campaign procedures. CARL went back to Nebraska, started his campaign and won the election—and has won ever since.

I am confident that he will be serving not only Nebraska, but the Nation, for years to come.

Mr. TOWER. Mr. President, I join other Senators in extending my congratulations to the Senator from Nebraska on completing 25 years in Congress. Twenty-five years is a long time.

I was a lad of 13 when Senator CURTIS came to Washington.

It is a great joy and a privilege to those who are relatively new in Congress to serve with seasoned statesmen like CARL CURTIS. He is a man of great wisdom, a man who is always knowledgeable in depth on the issue to which he addresses himself, a man who states his case not only lucidly and eloquently, but forthrightly and with conviction.

I have never known CARL CURTIS to flinch from supporting an unpopular position if he believed that position to be right. He has the kind of courage that I think few may equal, but rarely do any excel.

He has the kind of integrity that is laudable in a public servant. He has served the people of his State and his country with great distinction for 25 years.

We look forward to a yet greater period of service from CARL CURTIS, and extend to him the hope that he will be present with us for at least another 25 years.

**Mr. FONG.** Mr. President, I am pleased and proud to add my warm felicitations and congratulations to the accolades and tributes tendered to my friend and colleague, the junior Senator from Nebraska, CARL CURTIS.

To serve in the Congress of the United States for a quarter of a century as CARL CURTIS has is a truly remarkable record.

It is eloquent testimony to a good and faithful public servant who has served his nation and his State so outstandingly that he has been returned to office time and time again.

Those of us who have served with CARL CURTIS wholeheartedly concur with the judgment of the people of Nebraska. We endorse their choice.

Like them, we know CARL CURTIS is a solid citizen, whose feet are on the ground and whose head is not in the fleeting clouds and whose eyes look ahead to new, wider horizons.

We know he is a man of the highest integrity and ability. We rely on his counsel, for he brings to the problems and issues the meticulous and orderly thought processes of a lawyer.

We know he is a man uncompromisingly devoted to constitutional government.

It is indeed fortunate that CARL CURTIS chose to devote 25 years in the service of America.

Such a distinguished record deserves unstinting tribute. I am happy to salute my able friend CARL CURTIS on this occasion.

Perhaps these tributes to him will inspire consideration of a certificate, or service pin, or medal to be awarded Members of Congress with long tenure as an expression of a grateful nation.

**Mr. BENNETT.** Mr. President, as one who came to the Senate without any previous experience in the other body, I am always interested in the special contribution that men can make who have been fortunate enough to have this privilege. For Senator CARL CURTIS, who is marking his 25th year of continuous service in Congress, the other body was a wonderful prep school.

I have been particularly impressed with the training he received in the tough House Ways and Means Committee, which makes his service on the Senate Finance Committee unusually effective. Even though by the accident of seniority I outrank him in the Senate and on the Finance Committee, I envy him for the depth of experience on which he can draw when the committee meets to work on difficult revenue and social security problems. I also envy him for the fact that he can look at these problems through the eyes of a good lawyer with years of practical legal experience.

All these are a part of a great capacity he has developed in 25 years of legislative service. But this is not the whole story. He uses them to give expression to a personal philosophy in which deep religious conviction is blended with a great devotion to the principles of personal freedom, as expressed by our constitutional form of government, and a great sense of personal dedication.

The people of Nebraska and of the United States are fortunate to have had a man like CARL CURTIS working on their problems for a quarter of a century. I am sure the people of his State realize and appreciate this and that they will see to it that he stays here for many more years, during which the extent of his contribution and the richness of his value will continue to increase.

It is a great privilege to be in the Senate while CARL CURTIS is here, to work at his side, and to call him friend.

**Mr. ALLOTT.** Mr. President, I wish to add my voice today to those of my distinguished colleagues in tribute to a man whose 25 years in the Congress of the United States has established a pattern of devotion to his senatorial oath, and as a result to his country, that has seldom been excelled. I refer, of course, to my colleague from my neighboring State of Nebraska, Senator CARL CURTIS.

I have never known a more dedicated man than CARL CURTIS. His dedication of mind and purpose, his around-the-clock interest in and attention to his senatorial duties, plus his keen intellect, has made of him one of the most invaluable Members of Congress during his 25 years of service.

I am always particularly delighted at an opportunity to listen to CARL CURTIS as he engages in floor debate. Nothing, to me, is more enlightening or helpful, in matters of complex legislation, than to watch and hear his agile mind probe and thrust in an effort to bring the issues of controversial matters into sharper focus. To those of us who listen to him, his colloquy is invariably not only enlightening but enjoyable. I must admit, however, that I am glad that Senator CURTIS and I must often find ourselves of the same general philosophy, for, to any floor debate opponent, CARL CURTIS is a formidable adversary.

It has been a privilege and a pleasure for me to have served with Senator CURTIS for almost 10 years of his 25 years in the Congress, and I am most grateful to him for the benefit of his counsel on many matters where he was more expert than I.

I can only say, in closing, that the people in my neighboring State of Nebraska are to be congratulated for having provided this Nation with the type of leaders who represent them in this body. Both CARL CURTIS and his senior colleague ROMAN HRUSKA are sound men, in the highest tradition of this body, and it is an honor to call them friends and colleagues.

**Mr. CURTIS.** Mr. President, it would be quite inappropriate for me to associate myself with the remarks which have been made here. That I shall not do. I rise for the purpose of expressing my very deep gratitude to my senior colleague [Mr. HRUSKA], and to all the other Senators who have been far too generous in their remarks about me.

I wish the RECORD to show that I deeply appreciate the kindness shown to me by these remarks.

The **PRESIDING OFFICER.** Is there further morning business?

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## ANALYSIS OF SECTION 602 OF THE CIVIL RIGHTS BILL

**Mr. HUMPHREY.** Mr. President, about 2 days ago the distinguished Senator from Alabama [Mr. SPARKMAN], was addressing the Senate on the subject of the civil rights bill, particularly with reference to the hearing requirements under title VI.

I participated in that discussion in an effort to explain the provisions of section 602 of title VI. Section 602 is the implementing section to the general policy laid down in section 601.

The distinguished Senator from Vermont [Mr. AIKEN], asked some very pertinent questions relating to the coverage or the scope of the cutoff of Federal funds as outlined and authorized in title VI under the procedures laid down in section 602.

This matter has been given considerable study since that time.

I indicated, during the debate, when the Senator from Alabama was addressing the Senate, that I would be prepared to bring to the attention of the Senator a more detailed analysis of the application of section 602 of title VI. I also indicated to the Senator from Vermont that I would, at the same time, do the same thing with reference to what, for the lack of a better phrase, can be described as pinpointing the cutoff of Federal funds; that is, whether they would be cut off throughout a State, with reference to a program covering the whole State, or with reference to a program covering the whole State, or with reference to a particular project or a particular area.

In cooperation with the Department of Justice, I have prepared two statements dealing with the hearing requirements and the cutoff of funds.

### HEARING REQUIREMENT IN TITLE VI

Section 602 provides that compliance with any requirement adopted pursuant to section 602 may be effected by a cutoff of funds or by other means authorized by law, "after a hearing." The nature of the hearing required will depend on the circumstances and the compliance action proposed.

The first step, in all cases, will be advice to the appropriate person or persons and a reasonable effort to secure voluntary compliance. Obviously, no hearing is required in connection with such efforts at voluntary compliance. It is only after the agency has determined that compliance cannot be secured by voluntary means that the occasion would arise for any formal compliance action which requires a hearing.

One typical form of compliance action would be a referral to the Department of Justice for legal action. Such action might be a suit for desegregation of public schools or public facilities under title III or IV of H.R. 7152. Or it might be a suit to enforce the terms of a grant or loan agreement. In such a case a formal agency hearing on the record would serve no purpose, since the facts would be tried de novo in the court proceeding. All that section 602 would require in such case would be notice to the prospective defendants of the proposed referral for litigation, so as to give them one further opportunity to comply voluntarily.

Similarly, reliance to achieve compliance might be placed on available procedures under State law or municipal ordinance. A formal hearing on the record would not be required before a referral was made to such an agency.

In this connection it may be noted that section 5 of the Administrative Procedures Act excludes, from its procedural requirements for hearings, "any matter subject to a subsequent trial of the law and the facts de novo in any court." 5 United States Code 1004.

If the compliance action involves a cutoff of funds—i.e., a refusal to grant or continue assistance, or a termination of assistance—section 602 requires an express finding of noncompliance by the particular recipient and section 603 provides for judicial review. The primary purpose of the hearing requirement appears to be to insure that an adequate record will be made for purposes of judicial review—see CONGRESSIONAL RECORD, February 7, 1964, pages 2501–2507. Accordingly, in cases where assistance will be terminated on an express finding of failure to comply with a nondiscrimination requirement adopted by the agency, a more complete type of hearing, including an adequate opportunity for the recipient to present evidence and argument, would be required, so as to establish a full record on the issue of compliance on the basis of which a reviewing court could determine whether the agency's action was supported by substantial evidence.

Section 602 makes it clear that such a hearing must be held prior to the taking of final agency action. Nothing in section 602 requires that more than one hearing be afforded. Accordingly, in a situation where action is recommended at one administrative level and finally taken at a higher level, it would be necessary to afford only one hearing, which could be afforded either prior to the initial recommendation, or at some later stage prior to the taking of final action.

The requirement of a hearing prior to the cutoff of funds adds substantially to the procedural protection afforded recipients of Federal assistance. Many Federal grant and loan statutes contain no provisions for such hearings. For example, the Hill-Burton Act, authorizing grants for hospital construction, provides for a Federal hearing to the State agency, prior to any refusal or termination of a grant, 42 United States Code 291h(a), 291j(a), but makes no provision for a hearing to the hospital which actually receives the grant. Grants to State employment services may be revoked by the Secretary of Labor upon notice in writing to the State stating wherein the State has failed to comply with its approved plans; no provision is made for a hearing (27 United States Code 49h). The School Lunch Act, 42 United States Code 1751, makes no provision for hearings; the regulations under it allow a State agency or a school "opportunity to submit evidence, explanation, or information" prior to a cutoff of funds (7 CFR 210.18). Lending agencies, such as the Small Business Administration, are typically under no statutory or other obligation to afford any form of hearing before refusing a loan, or before terminating a loan for breach of any condition stated in it. The various statutes authorizing research grants by NIH, AEC, and other agencies typically contain no provision for hearing prior to either refusal or termination of a grant; a typical statutory provision is that of 42 United States Code, 1891, which simply authorizes the heads of certain agencies to make grants for the support of basic scientific research "where it is deemed to be in furtherance of the objectives of such agency."

Many other examples could be given of grant and loan statutes which presently contain no provision for hearing prior to a refusal or termination of funds. Section 602 would require hearings in all such cases, where the refusal or termination was based on a finding of failure to comply with a nondiscrimination requirement adopted pursuant to title VI of H.R. 7152.

### PINPOINTING CUTOFFS UNDER TITLE VI

Section 602 of H.R. 7152 authorizes, as a means of achieving compliance with title VI, the cutoff of funds—that is a refusal to make or continue a grant or loan, or a termination of such grant or loan. The intention has been made very clear that:

> Fund cutoff is the last resort, to be used only if all else fails to achieve the real objective—the elimination of discrimination in the use and receipt of Federal funds. (CONGRESSIONAL RECORD, Apr. 7, 1964, p. 7059, Senator PASTORE; see also H. Rept. No. 914, pt. 2, pp. 25–26.)

It follows—and has also been made clear—that if a cutoff of funds is necessary, that cutoff:

> Should be pinpointed * * * to the situation where discriminatory practices prevail as Secretary Celebrezze stated in his testimony. By this means, the effect upon cutting off of funds will be limited to the county or immediate area where racial inequality exists. (H. Rept. 914, pt. 2, p. 26.)

The same point was made in the Senate in the following colloquy on April 7, 1964:

> Mr. RIBICOFF. By way of further amplification of the question raised by the distinguished Senator from Mississippi, may I ask the distinguished Senator from Rhode Island whether it is not correct to say that if a State was administering a program and there was discrimination in one part of that program, under appropriate rules and regulations it would be possible to disallow the expenses and the allotment that would go to that section of the program where the discrimination was taking place, but to allow the expenses and allotments to areas where there was no discrimination.
>
> Mr. PASTORE. Under the broadness of the statute, that would be correct. (CONGRESSIONAL RECORD, p. 7060.

Section 602 provides that any compliance action "shall be consistent with the achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken." It would not be consistent with the objectives to cut off funds any more broadly than was necessary to remedy these particular situations where discrimination was occurring.

Adequate procedural devices are available to achieve this pinpointing. Some examples will illustrate the range of possibilities.

First, under many programs grants or loans are made directly to local entities. For example, grants for school construction under Public Law 815 are normally made to the local educational agency, that is, the school board or other authority responsible for public schools in a county or other school district. Under section 602 cutoff of funds would be authorized only on a finding that the particular school board was not complying with the nondiscrimination requirement imposed pursuant to section 602. A similar pattern is followed in most aid to education programs.

Second, under other statutes the grant is made to a State but administrative machinery now exists by which any cutoff can be pinpointed to a particular noncomplying institute. For example, the School Lunch Act, 42 United States Code 1751 et seq., provides for payments by the Secretary of Agriculture to States in accordance with agreements between the Secretary and the State, 42 United States Code 1756. It further provides that the Federal funds, and State matching funds, will be disbursed to eligible schools in accordance with agreements, appoved by the Secretary of Agriculture, between the State and each such school, 42 United States Code 1757. The Secretary's regulations provide that:

> Any State agency or any school may be disqualified from future participation if it fails to comply with the provisions of this part and its agreement with the department or the State agency. 7 C.F.R. 210.18.

They also provide machinery by which the Secretary may determine that a school is not entitled to reimbursement on any claim or portion of a claim submitted by it, or that a school is obligated to refund any overpayment received (7 CFR 210.15(c)). Alternatively, if the Secretary disagrees with any such determination made by the State agency, he may assert a claim against the State agency for the amount improperly paid (7 CFR 210.15(a)). In short, the Secretary of Agriculture, under the procedures established by the existing regulations, can disqualify an individual school from further participation in the program, and has effective means by which to disallow or recover payments to individual schools. These procedures would afford ample power by which the Secretary could require a cutoff of funds to a particular noncomplying school without jeopardizing funds payable to complying schools.

In fact, of course, a cutoff of funds would seldom appear necessary under the school lunch program in view of the availability of suit under title IV of H.R. 7152 as an alternative means of achieving compliance.

Third, the authority conferred by section 602 to terminate, or to refuse to grant or continue, assistance clearly includes the power to make a partial or conditional termination or refusal. Thus it would appear appropriate, in any case where grants are made to States which are disbursed by local agencies or offices, for the Federal agency to specify in its regulations or in a grant agreement, procedures by which a partial or conditional cutoff would be made in cases where a particular local agency or office had failed to comply with title VI. For example, the Federal agency could provide that the grant would be reduced by the amount normally distributable by the noncomplying local agency or office, or could enter a conditional order advising the Senate that unless it acted by a specified date to achieve compliance by the noncomplying agency or office, its grant would be cut off in whole or in part.

The foregoing are intended as suggestive; under particular programs, other procedures may be possible and appropriate.

All of the foregoing suggestions assume that the State itself is endeavoring to comply with title VI, and that noncompliance is limited to a particular locality or situation. If the State itself refuses to agree to comply with title VI, or issues instructions or policies which are in violation of any requirement adopted pursuant to that title, there may be no alternative available except a statewide cutoff.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. AIKEN. There seems to be a no more appropriate time than the present for clearing up another matter which has been unclear to some of us up to this time. It deals with title II, section 201(a)(1), which reads as follows:

> (1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

That is the definition of a place of public accommodation.

Mr. HUMPHREY. That is correct.

Mr. AIKEN. As I understand, from talking with some of leaders in the House who piloted the bill through the House, the restriction to five rooms or more for rent applies only to transient guests and does not apply to a person who is boarding schoolteachers or school children, or perhaps employees of a local bank, for example.

Mr. HUMPHREY. The Senator is eminently correct. It applies to transient guests.

Mr. AIKEN. With that interpretation by the Senator from Minnesota, who is in charge of the bill in the Senate, it seems to me that the objection which I had raised earlier has been overcome in the House bill. In other words, no authority is given to the Federal Government to invade the home to tell a homeowner whom she can or cannot take into her home as a boarder.

Mr. HUMPHREY. So long as the guests are not transients; that is correct.

Mr. AIKEN. As long as they are not transients. I understand. If she has more than five rooms——

Mr. HUMPHREY. That does not apply.

Mr. AIKEN. If she has more than five rooms and does extensive catering to transients, she would come under the law.

Mr. HUMPHREY. Yes.

Mr. AIKEN. But if she has more than five rooms but does not cater to transients, and operates a regular boarding house, than the five-room limitation does not apply.

Mr. HUMPHREY. The Senator is correct.

Mr. AIKEN. That is the interpretation that I hoped the Senator would put upon title II. I believe, if I may say so, Mrs. Murphy is adequately protected.

Mr. HUMPHREY. Yes; and so is Mrs. Olsen. I thank the Senator.

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## INEFFICIENT UTILIZATION OF PERSONNEL TO ADMINISTER THE MILITARY ASSISTANCE PROGRAM IN ADVANCED WESTERN EUROPEAN COUNTRIES

Mr. MORSE. Mr. President, the Comptroller General of the United States has issued a report under date of March 6, 1964, entitled "Inefficient Utilization of Personnel To Administer the Military Assistance Program in Advanced Western European Countries—Department of Defense."

The burden of the report is that large military aid offices are being maintained in Europe, even though military aid to those countries has almost disappeared. This is a good answer to Secretary McNamara's claim that $1 billion in military aid is not enough.

I invite the good Secretary's attention to the fact that the Comptroller General finds great waste in the administration of the military aid program, and this is his latest finding. The entire report belongs in the Record, including the reference to the opinions of American Ambassadors in those countries as to whether the military aid staffs are too large. Also, it will be noted that the report states that those military missions continue to prepare military aid plans even though no more grant aid is supposed to go there.

Mr. President, I ask unanimous consent that the report be printed at this point in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

### Report to the Congress of the United States on Inefficient Utilization of Personnel To Administer the Military Assistance Program in Advanced Western European Countries, Department of Defense

(By the Comptroller General of the United States, March 1964)

Comptroller General
of the United States,
*Washington, D.C., April 2, 1964.*

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

Enclosed is our report on the inefficient utilization of personnel to administer the military assistance program in advanced Western European countries. Comments on our report by the Department of Defense and our evaluation of the comments have been classified as "secret" and are contained in a supplementary report. The supplementary report also contains a classified summary of comments from the U.S. Ambassadors or Embassies in the countries covered by our review.

In our opinion the Department of Defense has not made a determined effort to phase down the staffs of the Military Assistance Advisory Groups in Western European countries to the extent warranted by the reduction in the scope of the grant aid programs in these countries. We found that in 1962, when the value of grant aid deliveries to eight of the countries covered by our review was $190 million, the Military Assistance Advisory Groups in these countries were staffed in total with approximately 345 U.S. personnel or 56 percent of the level maintained to administer programs during the peak year of 1953 when the value of grant aid deliveries was $2.3 billion. The marked disparity in the value of decreases in deliveries and the assigned staff strongly indicates that maximum staff reductions have not been made. We believe that this disparity resulted from the failure of the Department of Defense to eliminate functions no longer required and to realine responsibility for the remaining functions by transferring these functions to other U.S. personnel in existing organizations and by reorganizing the Military Assistance Advisory Groups on an austere basis.

The failure to eliminate or reduce the Military Assistance Advisory Groups' functions and to make appropriate reductions in the number of personnel assigned, as the military assistance programs were accomplished or reduced, has resulted in the unnecessary expenditure of millions of dollars overseas; the ineffective utilization of highly skilled, highly trained personnel; and the continued but unnecessary support overseas of the dependents of many Military Assistance Advisory Group personnel.

Upon completion of our review, we proposed to the Secretary of Defense that consideration be given to the elimination or deactivation of the eight Military Assistance Advisory Groups. We proposed also that, in those instances where some of their functions are still considered essential, appropriate consideration be given to centralizing the responsibility for performing such functions or that they be assigned to other U.S. personnel in existing organizations in Europe.

The Department of Defense furnished us with comments in response to our findings and proposals for corrective action by letter dated July 25, 1963, classified secret. The Department of Defense has informed us that a worldwide review is now being made of the missions and functions of Military Assistance Advisory Groups to determine the feasibility of reducing U.S. representation abroad. We believe that immediate personnel reductions can be made by eliminating or reducing functions now being performed by these groups. We intend to make a followup review at a later date, and at that time we will examine into the adequacy of the Department of Defense's action to reduce or eliminate the staffs of the Military Assistance Advisory Groups in the countries involved.

Copies of this report are begin sent to the President of the United States, the Secretary of State, and the Secretary of Defense.

JOSEPH CAMPBELL,
*Comptroller General of the United States.*

INTRODUCTION

The General Accounting Office has made a review of the continuing need for eight individual Military Assistance Advisory Groups (MAAG's) to administer military assistance program (MAP) functions in advanced Western European countries (France, Norway, Denmark, the Netherlands, Belgium/Luxembourg, Italy, the United Kingdom, and Germany). The review was directed primarily toward examining into whether the functions being performed by the MAAG's were essential and whether the maintenance of MAAG's in each of the countries is the most economical and effective means of administering residual MAP functions in view of the virtual phaseout of additional U.S. grant aid assistance, improved recipient country military and economic capabilities, and U.S. balance-of-payments deficits. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The scope of our review is shown on page 60.

The Department of Defense (DOD) commented on the findings contained in this report by letter dated July 25, 1963, classified "secret." The essence of the comments, which are unclassified, are presented on pages 56 and 57 of this report. A separate supplement to this report, classified "secret," contains the full text and our evaluation of the comments.

Military assistance valued at more than $12 billion had been programed for Western European countries from 1950 through June 30, 1963. The annual deliveries of military assistance to these countries had been phased down from a high level in 1953 of about $2.3 billion to a level in 1962 of $191 million. Undelivered balances from prior years' programs of about $421 million, and the proposed fiscal year 1964 program of $85 million, consist primarily of limited amounts of major items of high value, such as missile systems, advanced aircraft, and naval vessels.

Military Assistance Advisory Groups have been established in each country to administer the military assistance program and to assist the host governments in developing the military strength and posture needed to support their North Atlantic Treaty Organization (NATO) commitments and to provide for internal security.

A list of the principal U.S. officials responsible for the administration of the military assistance program for selected European countries is attached as an appendix.

HIGHLIGHTS

In view of the remarkable economic and military improvements and the virtual discontinuance of grant aid in advanced Western European countries, the purpose for establishing Military Assistance Advisory Groups to administer the military assistance program in each country has been almost completely accomplished. Nevertheless, we found that in 1962, when the value of grant aid deliveries to eight of the countries covered by our review was $190 million, the MAAG's in these countries were performing many of the same functions and were staffed in total with approximately 345 U.S. personnel or 56 percent of the level maintained to administer MAP programs during the peak year of 1953 when the value of grant aid deliveries was $2.3 billion. The marked disparity in the value of decreases in MAP deliveries and the assigned staff strongly indicates that maximum staff reductions have not been made. We believe that this disparity resulted from the failure of the Department of Defense to eliminate functions no longer required and to realine responsibility for the remaining functions by transferring these functions to other U.S. personnel in existing organizations and by reorganizing the Military Assistance Advisory Groups on an austere basis. The failure to eliminate or reduce the MAAG's functions and to make appropriate reductions in the number of personnel assigned, as the military assistance programs were accomplished or reduced, has resulted in the unnecessary expenditure of millions of dollars overseas; the ineffective utilization of highly skilled, highly trained personnel; and the continued but unnecessary support overseas of the dependents of many MAAG personnel.

The functions assigned to the MAAG's at the time of our review consisted of a relatively small number of basic functions and a large number of ancillary functions or responsibilities subordinate to, and in some instances unrelated to, the basic purpose of the MAAG's. The basic functions for which the MAAG's were established were to (1) provide technical assistance and advice, (2) develop and monitor training activities, (3) observe the utilization of MAP-furnished material, (4) plan and program material requirements, (5) monitor the supply of spare parts, (6) maintain end-item supply records, (7) arrange for the declaration of excess MAP property and process the redistribution or disposal of the excesses, and (8) arrange for the transportation of material. Responsibilities related to the promotion of military assistance sales are being assigned to the MAAG's as grant aid is discontinued in Western European countries. In addition to the basic functions, the MAAG's perform ancillary functions stemming from their own administration and support, and other ancillary functions, as assigned by the Department of Defense or Headquarters, U.S. European Command (USEUCOM), in furtherance of the missions of the U.S. commander in chief, Europe (USCINCEUR).

Our review of the MAAG's records and discussions with the MAAG's official disclosed that the basic MAP functions and almost all the ancillary functions and responsibilities were either unnecessary, of questionable need, or already being performed to a greater or lesser extent by other U.S. personnel in existing organizations in Europe. Therefore, upon completion of our review, we proposed to the Secretary of Defense that consideration be given to the elimination of the nonessential functions of the MAAG's and the transfer of those functions still considered essential to other U.S. organizations in Europe. We proposed also that consideration be given to the deactivation of the eight MAAG's we reviewed as the functions were eliminated or transferred.

In response to our proposals, DOD advised us that a worldwide review was being made of the missions and functions of MAAGs to determine the feasibility of reducing U.S. representation abroad and that, pending the results of this review, DOD did not accept our proposal relative to elimination of the eight Western European MAAG's. DOD advised us further that in order to maintain MAAG personnel strengths at an austere level, consistent with essential MAP operations, USEUCOM had conducted periodic manpower surveys and management studies. DOD stated that these review actions had already resulted in significant manpower reductions in the eight MAAG's. Also, DOD stressed a number of considerations which would influence its decision as to the continued need for individual MAAG's, including the value of close personal contacts and the roles and missions which the MAAG's may assume to an increased extent.

Although the number of personnel assigned to the MAAG's had been reduced, our review indicated that the manpower surveys and management studies conducted in Europe were basically inadequate in that they failed to question whether functions being performed were actually required and failed to consider whether intangible factors, such as the value of close personal contacts, warranted the continuation of traditional MAAG organizations.

A Department of State official prvoided us with documentation which showed the comments of the ambassadors or the embassies on the continued need for the MAAG's. These comments which were made after reviewing our draft report sent to DOD are contained in the classified supplement to this report.

We believe that immediate personnel reductions can be made by reducing functions which are no longer necessary, of limited value, or already being performed to a greater or lesser extent by other U.S. personnel in Europe. We believe also that even greater personnel reductions will result now and in the future through the elimination of the triservice organization of the MAAG's we reviewed, the elimination of the remaining functions as they are determined to be no longer essential or are capable of being performed as effectively and economically by other organizations in Europe, and the eventual deactivation of the MAAG's when the tangible and intangible factors no longer warrant the retention of an individual organization.

DOD has informed us that a worldwide review is now being made of the missions and functions of MAAG's to determine the feasibility of reducing U.S. representation abroad. We intend to make a followup review at a later date, and at that time we will examine into the adequacy of the DOD actions to reduce or eliminate the staffs of the MAAG's in the countries involved.

BACKGROUND

Foreign assistance legislation authorizes the furnishing of military assistance to friendly nations and international organizations in order to promote the peace of the world and the foreign policy, security, and general welfare of the United States and to facilitate the effective participation of such nations in arrangements for individual and collective defense. The Foreign Assistance Act of 1961, as amended, further provides that the President shall regularly reduce and, with such deliberation as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

Because of the rapid economic recovery of Western European countries, and in recognition of continued U.S. balance of payments problems, the United States has virtually discontinued additional grant aid military assistance to Belgium/Luxembourg, Denmark, France, Germany, Italy, the Netherlands, Norway, and the United Kingdom, except to fulfill prior U.S. commitments and limited training.

From the inception of the grant aid program in 1950 through fiscal year 1963, the United States had programed military material and training valued at over $12 billion to assist the following Western European countries to improve and augment their military forces.

[Amount in millions]

| | |
|---|---|
| Belgium/Luxembourg | $1,242.6 |
| Denmark | 625.1 |
| France | 4,158.2 |
| Germany | 900.4 |
| Italy | 2,294.5 |
| Netherlands | 1,218.3 |
| Norway | 816.6 |
| United Kingdom | 1,037.1 |
| Total | 12,292.8 |

A considerable amount of the grant aid military assistance provided was programed and delivered to the above Western European countries early in the 1950's, and deliveries had been drastically reduced in recent years, as shown in the following summary:

[Value of deliveries, in millions]

| Calendar year: | |
|---|---|
| 1950 | $266 |
| 1951 | 668 |
| 1952 | 1,660 |
| 1953 | 2,278 |
| 1954 | 1,511 |
| 1955 | 1,065 |
| 1956 | 1,391 |
| 1957 | 954 |
| 1958 | 494 |
| 1959 | 688 |
| 1960 | 355 |
| 1961 | 266 |
| 1962 | 191 |

### *Responsibilities for administration of the military assistance program*

Under the direction of the President, the Secretary of State is responsible for the continuous supervision and general direction of the assistance programs, including but not limited to determining that there shall be a military assistance program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

The Secretary of Defense has primary responsibility for (1) the determination of military end-item requirements, (2) the procurement of military equipment in a manner which permits its integration with service programs, (3) the supervision of end-item use by the recipient countries, (4) the supervision of the training of foreign military personnel, (5) the movement and delivery of military end-items, and (6) the performance, within the Department of Defense, of any other functions with respect to the furnishing of military assistance.

The Assistant Secretary of Defense (ASD) International Security Affairs (ISA), has been delegated to act for the Secretary of Defense in military assistance matters and is responsible for all military assistance activities of the Department of Defense, including the supervision and coordination with other governmental agencies in the area of military assistance.

The Director of Military Assistance acts for the ASD, ISA, in all military assistance matters and activities of the Department of Defense, including the supervision and administration of the military assistance program and its presentation to the Congress.

Under the direction of ASD, ISA, the U.S. commander in chief, Europe, has been delegated the authority to present and justify military assistance plans and program and budget data; supervise the activities of MAAG's; direct and supervise the execution of approved programs; provide and arrange for necessary technical and administrative support; and provide such other assistance as may be requested.

Under the military command of USCINCEUR, the chief of MAAG in each host country is responsible primarily for—

1. Making recommendations to USCINCEUR concerning military assistance in the host country.

2. Developing military assistance plans and programs in cooperation with the chief of the U.S. diplomatic mission and other U.S. governmental agencies in the mission and for submitting them to USCINCEUR.

3. Observing and reporting on the utilization of material furnished by, and personnel trained at the expense of, the United States.

4. Administering military sales transactions in accordance with current instructions.

5. Providing appropriate advisory services and technical assistance to the host country on military assistance.

6. Working directly with the military departments and appropriate military area commands in arranging for receipt and transfer of military assistance material, training, and services in the host country.

7. Providing liaison with the host country with respect to weapons production and offshore procurement matters.

8. Providing such services as may be requested with respect to the mutual weapons development program.

9. Advising and assisting in the development of refined reimbursable military assistance programs or requests for both material and training assistance required; receiving formal reimbursable military assistance programs or requests; reviewing such programs or requests against appropriate military department policy and providing appopriate comments through established channels to the respective military department; receiving official pricing and availability data and other information from the military departments, together with terms and conditions applicable to sales; processing and submitting letters of offer for country acceptance; and receiving country acceptance of the offers and firm orders and forwarding them to appropriate military departments.

The MAAG's included in this review have the primary mission of assisting host governments in developing the military strength and posture needed to support their NATO commitments and to provide for internal security. In carrying out these missions, the chiefs of MAAG's are the representatives of the Secretary of Defense with respect to the MAP in the country to which they are accredited; operate under the military command of the commander in chief, Europe; and are under the supervision of the U.S. diplomatic mission to the extent provided by law and in accordance with Executive orders and such instructions as the President may from time to time promulgate.

In each of the countries included in this review, the United States has executed a bilateral agreement with the recipient country which includes provisions for the right of entry of U.S. personnel to administer the military assistance program and for the payment by the recipient country of U.S. administrative expenditures incurred within the country in connection with assistance furnished under the agreement. The recipient countries do not reimburse the United States for salaries of civilian and military personnel and basic allowances of military personnel assigned to Military Assistance Advisory Groups.

### *MAAG staffing and operating costs*

As of January 1, 1963, the following MAAG's were authorized a total of 219 officers, 176 U.S. enlisted men, 70 U.S. civilians, and 114 local nationals.

| | Officers | Enlisted men | U.S. civilians | Local nationals | Total |
|---|---|---|---|---|---|
| Belgium/Luxembourg | 21 | 17 | 8 | 19 | 65 |
| Denmark | 18 | 22 | 4 | 9 | 53 |
| France | 22 | 17 | 13 | 17 | 69 |
| Germany | 74 | 26 | 20 | 32 | 152 |
| Italy | 37 | 48 | 10 | 10 | 105 |
| Netherlands | 19 | 20 | 4 | 9 | 52 |
| Norway | 22 | 22 | 7 | 16 | 67 |
| United Kingdom | 6 | 4 | 4 | 2 | 16 |
| Total | 219 | 176 | 70 | 114 | 579 |

Approximately $4 million in appropriated funds and the equivalent of at least $2.3 million in local currency contributed by host countries were expended during fiscal year 1962 for costs associated with the maintenance of the MAAG's, including military and other salaries, MAAG administrative and support costs, and support costs for U.S. dependents in Europe.

## FINDINGS

### *Inefficient utilization of personnel to administer the military assistance program*

Inefficient utilization of personnel by the Department of Defense to administer the military assistance program in advanced Western Europe countries has resulted in the unnecessary expenditure of millions of dollars overseas; the ineffective utilization of highly skilled, highly trained personnel; and the continued but unnecessary support overseas of the dependents of many MAAG personnel. Our review disclosed that, in eight Western European countries where the military assistance program had been virtually completed, DOD continued to maintain Military Assistance Advisory Groups as originally organized to administer a grant aid program for these countries which exceeded $2 billion in 1953.

Although DOD has made reductions in the number of personnel assigned to each MAAG, we believe that substantial savings could be realized, dollar expenditures overseas could be reduced, and more effective utilization of trained personnel could be achieved by a determined effort on the part of DOD to eliminate those functions no longer required and to administer the remaining functions in the most economical and effective manner. In our opinion a reevaluation of the need to retain many of the functions now being performed by the MAAG's, the transfer of required functions to other U.S. personnel in existing organizations in Europe, and a reorganization of the MAAG's in these countries could result in substantial reductions in the present staffs of these MAAG's and lead to the deactivation in the near future of some of the MAAG's covered by our review.

### *Inadequate reduction in Military Assistance Advisory Groups*

The Department of Defense has not made a determined effort to phase down the staffs of the MAAG's in Western European countries to the extent warranted by the reduction in the scope of the grant aid programs in these countries. Although reductions have been made in the staffs of these MAAG's, considerable manpower is still being utilized to administer military assistance programs which have been virtually completed. For example, grant aid deliveries in 1953 to 8 of the countries we reviewed (deliveries were not made to Germany until 1956) were valued at about $2.3 billion, and 617 U.S. personnel were assigned to the MAAG's. In contrast, deliveries in 1962 to these same countries were valued at only $190 million, yet 345 U.S. personnel were assigned to the MAAG's. The imbalance in MAP deliveries and MAAG's personnel is illustrated further in the following schedule:

| | Grant aid military assistance delivered (millions) | | Authorized or assigned U.S. personnel | |
|---|---|---|---|---|
| | 1953 | 1962 | 1953 | 1962 |
| Belgium/Luxembourg | $285 | $18 | 93 | 46 |
| Denmark | 82 | 14 | 53 | 44 |
| France | 945 | 37 | 162 | 52 |
| Italy | 400 | 65 | 90 | 95 |
| Netherlands | 195 | 12 | 73 | 43 |
| Norway | 140 | 26 | 73 | 51 |
| United Kingdom | 231 | 18 | 73 | 14 |
| Total | 2,278 | 190 | 617 | 345 |

In Germany, about 84 percent of the $900 million in grant aid military assistance furnished was delivered in 1956, 1957, and 1958. Deliveries in 1961 and 1962 totaled only $3 million. Notwithstanding the drastic phase down of military assistance to Germany, U.S. personnel assigned to the MAAG were only reduced from an authorized strength of 262 in June 1958 to a strength of 120 on January 1, 1963.

We recognize that the ratio of MAP deliveries to assigned MAAG staff would not necessarily be fixed because administrative personnel requirements are not equally variable. On the other hand, the marked disparity in the value of decreases in MAP deliveries and the assigned staff strongly indicates that maximum staff reductions have not been made. We believe that this disparity resulted from the failure of DOD to eliminate functions no longer required and to realine responsibility for the remaining functions by transferring these functions to other U.S. personnel in existing organizations and by reorganizing the MAAG's on an austere basis.

The functions and activities of the eight European MAAG's included in our review were still being performed within a triservice organization where about 55 percent of available manpower was utilized on general supervision, administrative matters such as personnel administration, communications, and security, and various housekeeping functions.

### *Unnecessary expenditure of appropriated funds and adverse effects of such oversea expenditures on international balance of payments*

The cost of maintaining the eight MAAG's we reviewed is over $6.3 million annually. About $4 million of these costs involve the use of appropriated funds, and the balance is contributed in the form of local currency by the host countries. The appropriated funds are used primarily for military and civilian pay and allowances as well as for travel costs incurred by U.S. personnel en route to the host country. The contributed local currency is used for salaries of local nationals as well as most other administrative and housing costs associated with the operation of the MAAG's.

During fiscal year 1962, the costs of operating the MAAG's reviewed were as follows:

| | MAAG costs | | |
|---|---|---|---|
| | Appropriated funds | Local currency contributions | Total |
| Belgium/Luxembourg | $355,539 | $369,758 | $725,297 |
| Denmark | 353,361 | 171,613 | 524,974 |
| France | 464,358 | 370,492 | 834,850 |
| Germany | 1,042,123 | 450,677 | 1,492,800 |
| Italy | 774,110 | 503,728 | 1,277,838 |
| Netherlands | 336,879 | 203,670 | 540,549 |
| Norway | 551,602 | 103,677 | 655,279 |
| United Kingdom | 125,649 | 136,702 | 262,351 |
| Total | [1] 4,003,621 | 2,310,317 | 6,313,938 |

[1] Consists principally of $3,280,000 for military pay and allowances. The balance is primarily U.S. civilian salaries and a small amount of MAAG support costs.

A significant portion of the appropriated funds being expended unnecessarily through the continued performance of unnecessary, questionable, and transferable functions by MAAG personnel is being spent overseas and consequently contributes to the problem of international deficits being experienced by the United States. We recognize that the entire $4 million being expended annually for the maintenance of MAAG's is not contributing to the problem inasmuch as an undetermined portion of the pay and allowances is being spent by MAAG personnel and their dependents in post exchanges, commissaries, and other U.S.-sponsored activities which emphasize the marketing of U.S.-produced products. However, should DOD make significant reductions in the numbers of MAAG personnel by reducing the functions being performed by the MAAG's, we believe that a major portion of the funds appropriated for the operation of the MAAG's and presently being expended overseas could be eliminated. We believe that this elimination would have a beneficial effect on the international balance of payments.

### *Ineffective utilization of skilled personnel*

The retention of high ranked and highly skilled military personnel to administer military assistance programs which are virtually completed has resulted in the ineffective utilization of manpower. At the time of our review, about 579 personnel, including 219 officers, were authorized to eight individual MAAG's in Western European countries to administer the military assistance program. Of the 219 officers authorized, 8 were general officers, 32 were colonels, 75 were lieutenant colonels, 77 were majors, 26 were captains, and 1 was a lieutenant.[1] An analysis of the qualifications of these officers disclosed that many had received advanced training at the Army War College, at the Command and General Staff College, and in the branch of service to which assigned. A high percentage had also received specialized training at schools on matters such as military assistance, language, aviation, and the management and command of missiles and missile units.

With the phaseout of grant aid and the attainment by recipient countries of a high degree of self-sufficiency in operating and maintaining MAP-furnished equipment, we believe that there is no longer a need for the MAAG's to perform many of their present functions and that the remaining essential MAAG functions do not warrant the assignment of officers possessing the rank, training, and experience of those assigned to the MAAG's at the time of our review. Accordingly, we believe that the assignment of personnel to perform MAAG functions which are no longer necessary, of questionable need, or susceptible of being performed by other U.S. personnel in existing organizations result in the ineffective use of manpower which could be effectively used to fill other military manpower requirements.

### *Need to eliminate or realine responsibility for functions of the MAAG's*

The eight MAAG's in Europe were almost wholly involved at the time of our review in performing functions which were either unnecessary, of questionable need, or susceptible of being performed as effectively with attendant savings in support costs by other U.S. personnel located in Europe. In view of the virtual discontinuance of military grant aid and in view of the remarkable economic and military improvements in the countries involved, the basic purpose for maintaining the MAAG to administer the military assistance program in each country has been almost completely accomplished. Nevertheless, triservice MAAG organizations are being maintained and are performing many of the same functions they were performing 10 years ago when equipment valued at $2.3 billion was provided as grant aid and when the countries were dependent upon the United States for a major part of their economic and military support.

### *Functions and activities of European MAAG's reviewed*

The functions and activities of the eight European MAAG's selected for our review consisted of a relatively small number of basic functions for which the MAAG's were originally established. The functions primarily involved (1) the planning and programing of equipment, material, and training to be provided as grant aid and (2) observing, advising, and assisting the recipient countries as necessary to assure the effective and proper use of the aid provided. Responsibilities related to the promotion of military assistance sales were being assigned to the MAAG's as grant aid was discontinued. In addition to the small number of basic functions, the MAAG's were performing a large number of ancillary functions or responsibilities subordinate to, and in some instances unrelated to, the basic purpose of the MAAG's. The ancillary functions performed by the MAAG's consisted of their own administrative and support activities as well as other functions assigned to the MAAG's as the representatives of DOD and USCINCEUR.

The U.S. European Command conducts periodic manpower surveys and identifies all principal MAAG functions and activities and that portion of manpower assigned to each. An analysis of the most recent USEUCOM surveys of the eight MAAG's covered in our review disclosed that only about 40 percent of the time of assigned MAAG personnel was utilized directly on the primary military assistance functions, while about 60 percent of their assigned time was spent on administrative and support activities—such as personnel administration, communications, security, and other housekeeping functions—and on general supervision and other ancillary functions. Following is a consolidated summary of MAAG manpower effort expended in each functional area according to the most recent survey available at the time of our review.

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[1] These ranks are in terms of Army and Air Force grade structures, but naval officers were also assigned to the MAAG's.

| Function of activity | Total personnel (approximate) | Percent of manpower | |
|---|---|---|---|
| | | Range | Average |
| Administrative and support | 316 | 45.5-64.6 | 53.5 |
| General supervision and other ancillary functions | 48 | 5.6-11.6 | 8.1 |
| Technical assistance and advice | 67 | 2.0-17.7 | 11.3 |
| Training activities | 54 | 2.8-15.6 | 9.1 |
| Observation of end-item utilization | 33 | 1.5- 6.9 | 5.5 |
| Planning and programing of material | 17 | .4- 7.6 | 3.0 |
| Spare parts supply | 15 | .3- 5.5 | 2.5 |
| Military assistance sales | 12 | .2- 5.6 | 2.1 |
| End-item supply records | 11 | .1- 4.1 | 1.8 |
| Excess property redistribution | 11 | .3- 6.4 | 1.8 |
| Transportation of MAP material | 7 | 2.7 | 1.3 |
| Total | [1] 591 | | 100.0 |

[1] Varies slightly from total personnel as of January 1, 1963, because dates of USEUCOM surveys varied from March 1962 to August 1962.

The above functions are described and evaluated below in terms of their need, duplication, or susceptibility of improved economy and efficiency through transfer or realinement of responsibility.

*Administrative and support activities and general supervision and other ancillary functions*

As shown in the above schedule, over 53 percent of the effort of personnel assigned to the MAAG's was spent on administrative and support activities. Administrative and support activities included personnel administration, internal security, MAAG housing, compilation of MAAG manpower survey data, protocol studies, and evacuation plans for noncombatant employees and dependents. In addition, about 8 percent of the effort of personnel assigned to the MAAG's was spent on general supervision and ancillary functions pertaining to other than MAAG administration and support. General supervisory efforts were limited to personnel at the MAAG chief and the Army, Navy, and Air Force section chief level who could not easily identify the time spent on specific functions because of the complexity of making prorations. The other ancillary functions included duties, such as providing services with respect to the mutual weapons development program, public information, international and cooperative logistics, disaster relief planning, peacetime military construction, and other functions, some classified. Most of these functions were unrelated to the basic purpose of the MAAG's or susceptible of being performed as effectively and economically by other U.S. organizations.

The time allocated to the administrative, support, and general supervision areas was understated because the following criteria were established in allocating time for the manpower surveys:

1. Leave time, pilots' proficiency flying, military duties and training, attendance at protocol functions, and extra duties should be absorbed in the primary functions performed by the individual.

2. Conferences, discussions, document research, preparation of internal procedures and instructions, trip reports, and secretarial assistance should be charged to the related function performed.

3. Where supervisors at branch chief level and below perform some functions directly, these should be indicated. The balance of their time, such as that spent in supervision, together with the time of secretaries and clerical assistants, should be prorated over functions performed by action personnel.

4. At MAAG chief and Army, Navy, and Air Force section chief levels, the time of individuals should not be identified to specific functions because of the complexity of making such prorations.

5. Projects, activities, and reports not specifically related to the basic functions should be charged in an overall category without specific identification.

Our detailed review and analysis disclosed that about 316 of the 591 man-years of effort in the eight MAAG's at the time of our review was being spent preparing correspondence, travel orders, and duty rosters; controlling classified material; performing commercial transportation services for personnel assigned or attached to the MAAG; maintaining correspondence files; providing internal messenger service; reproducing publications, forms, and other material; distributing publications; maintaining personnel records, assigning personnel, and preparing payrolls; providing personnel services, including those relating to passports and visas, local permits, and other services for dependents; preparing MAAG budgets and processing funding documents; performing disbursing functions; planning and coordinating actions among two or more of the service sections of the MAAG; and in the supervision and administration of Army, Navy, and Air Force sections.

In summary, over 53 percent of the personnel assigned to the eight MAAG's in Europe are utilized for administrative and support purposes while only 8 percent of the personnel are utilized for general supervision and other ancillary functions, most of such functions being unrelated to the basic purpose of the MAAG's or susceptible of being performed as effectively and economically by other U.S. personnel in existing organizations. We believe that the time spent on administrative and support activities is excessive in relation to the few essential residual military assistance program functions identified in subsequent sections of this report. Much of the time spent on administrative and support activities of the MAAG's could be eliminated if the MAAG's performed only essential functions within an austere organization and the remaining functions were eliminated or transferred to, and absorbed by, other U.S. personnel in existing organizations deployed in Europe.

*Technical assistance and advice*

Our review of the MAAG's records and discussions with the MAAG's officials disclosed that most of the assistance and advice provided by the MAAG's were not technical in nature inasmuch as the MAAG's were acting primarily as an intermediary between the host country forces receiving such assistance and other U.S. organizations actually providing the assistance. At the time of our review, personnel assigned to the MAAG's were spending over 67 man-years of effort in this area. We believe that the effort devoted to this function was high in view of the self-sufficiency of these countries as indicated in our review, the small amount of technical assistance actually provided by the MAAG's, and the other U.S. personnel on hand to act as an intermediary between the host country and the other U.S. organizations providing technical assistance.

The MAAG's responsibilities include provisions for rendering technical assistance and advice to host countries which are required to properly introduce, utilize, and maintain equipment provided under the military assistance program. Such assistance and advice are provided to a limited degree by MAAG personnel. A large portion of such assistance and advice, however, are provided by technicians from the U.S. military departments or technical representatives under contract. The assistance and advice provided normally relates to the use, nomenclature, capabilities, technical characteristics, techniques of operation, maintenance, and tactical employment of equipment provided or to be provided.

We found during our review that U.S. personnel assigned to other U.S. or NATO agencies were on hand or available at the same time as the MAAG personnel for the purpose of performing inspections or providing any assistance that might be needed. MAAG personnel were generally using their time to (1) provide advice and assistance on minor operating problems brought to the MAAG's attention during visits to military units, (2) obtain information and assistance from other U.S. and NATO agencies, as requested by the host countries' armed forces, (3) initiate action to expedite the delivery of needed spare parts from U.S. or NATO sources, as requested by the host countries' armed forces, and (4) receive and forward technical publications and informational releases to the host countries. Following are summaries of our observations, among others, with respect to the technical assistance and advisory function of the MAAG's in the European countries involved in our review.

France: A review of documentation and discussions with MAAG personnel assisting the French Army disclosed that little actual advice and assistance were provided directly by the MAAG during fiscal years 1961 and 1962. In the majority of cases, it consisted of processing documents between the French Army and the United States or NATO agencies actually providing advice and assistance. We believe that the types of advice and assistance provided by the MAAG could be significantly reduced or eliminated because (1) the French have become highly self-sufficient in the operation and maintenance of MAP equipment, (2) most of the remaining $15 million in MAP hardware was scheduled for delivery by June 1963, and (3) much of the MAP equipment is obsolete and has been, or is being, replaced by the French with non-MAP equipment.

At our request, MAAG Army section personnel provided us with documentation which, in their opinion, was representative of the technical assistance provided during the 2-year period. We found that, of 289 actions taken, the MAAG directly provided technical advice and assistance in only 20 cases. For the most part, the Army section acted as an intermediary between the French Army and the United States or NATO agencies, as illustrated below:

1. During fiscal years 1961 and 1962, there were 71 technical questions posed, or requests for information made, by the French Army. The Army section was able to provide direct answers in only 20 of these instances, and all others were referred to other United States or NATO agencies for appropriate action.

2. During fiscal years 1961 and 1962, the Army section processed 132 actions dealing with supervision over technical matters or the initiation of followup actions on spare parts. In every case, the MAAG acted only as an intermediary between the French and the United States or NATO agencies which actually provided the advice or assistance.

3. During fiscal years 1961 and 1962, there were 86 letters prepared to transmit publications and informational releases to the French liaison group. This workload would be unnecessary if information was sent directly to the French by the responsible U.S. military organizations.

Although MAAG officials stated that most of the advice and assistance were provided in connection with advanced weapons which were recently furnished, the MAAG reports on visits in 1961 and 1962 to French advanced weapons units cited only a few instances where significant problems were brought to the attention of MAAG personnel or where advice and assistance were requested. Our review of these MAAG reports disclosed that the advice and assistance rendered during field visits generally pertained to minor operating problems.

We found that the assistance provided to the French Navy and Air Force was generally of the same nature as that being provided to the French Army. Many of the MAP aircraft in the French Air Force have become obsolete and have been replaced by French-made aircraft, and the remaining MAP equipment requires little technical assistance from MAAG personnel. Much of the MAAG efforts in assisting the French Navy were related to the installation of one weapons system which was scheduled to be installed by July 1963. At the time of our review 10 contract technical services personnel (CTSP) were advising and assisting the French in the installation of the system under the supervision of a MAAG officer permanently assigned at the port where the system was being installed. In addition to supervising the CTSP, we found that this MAAG officer was requesting the MAAG to provide technical assistance and information on the delivery of equipment and material and that the MAAG, in turn, was forwarding most of these requests to other U.S. agencies for action. We have been advised by MAAG Navy personnel that little, if any, technical assistance will be required for MAP-furnished equipment after the system is installed.

Denmark: The efforts of the MAAG in Denmark have shifted from that of providing advice and assistance in connection with the establishment and improvement of basic maintenance and logistical systems to that of acting primarily as an intermediary between the Danish Armed Forces and the United States or NATO organizations actually providing the technical assistance. This shift is primarily a result of the attainment by the Danish Armed Forces of a high degree of effectiveness in maintaining and operating conventional and sophisticated equipment furnished by the United States under MAP.

As a result of a review of actions considered by the MAAG to be illustrative of technical advice and assistance provided to the Danish Armed Forces, we found the following actions to be typical of the role of the MAAG in this area:

1. Obtained from other United States or NATO agencies and forwarded to the Danes answers not known by MAAG personnel to questions posed and technical information requested by the Danish Armed Forces.
2. Performed followup actions on spare parts ordered from the NATO Supply Center by the host country armed forces.
3. Requisitioned or performed followup actions on requisitions for space parts from U.S. supply sources.
4. Transmitted to the Danish Armed Forces technical publications received by the MAAG through routine distribution from other U.S. agencies.

Interviews with MAAG personnel and our review of pertinent correspondence revealed that on-the-spot advice and assistance provided during field visits to the Danish Armed Forces were concerned primarily with minor operating and maintenance problems which normally were not brought to the attention of the MAAG. We were advised that other minor problems encountered were not reflected in reports on the field visits.

Norway: Our review of documentation and discussions with MAAG personnel in Norway disclosed that the technical assistance rendered by the Army section of MAAG during 1961 and 1962 was almost entirely in connection with a particular advanced weapons system. Nevertheless, we found that three CTSP were assigned to the locations of this advanced weapons system to advise and assist the Norwegian Air Force in matters pertaining to maintenance, supply, and operator training. These U.S. representatives prepare monthly or quarterly reports disclosing the results of their work and areas needing improvement. The reports are channeled through the MAAG to USEUCOM who may in turn forward them to other interested DOD agencies. Our review of the CTSP reports for the last 6 months disclosed that the efforts of MAAG have been largely concerned with encouraging Norwegian officials to implement recommendations made by the technical representatives. We believe that their encouragement could be provided by USEUCOM personnel during routine or special visits to the Norwegian Air Force.

Our review of the assistance provided the Norwegian Air Force showed that MAAG efforts were largely concerned with coordinating, rather than providing, technical assistance or services. For example, the fiscal year 1962 program included a request for two supply specialists from air materiel forces, European area (AMFEA), now the U.S. logistic support office in Europe, to update supply records at Bodo Air Base. AMFEA subsequently provided the assistance, even though the MAAG staff included five airmen with the required supply specialty skills.

The assistance the MAAG provided to the Norwegian Navy has been concerned primarily with periodic advice and assistance in supply procedures patterned after U.S. Navy systems. The need to continue this type of assistance is highly questionable inasmuch as a USEUCOM representative, in July 1960, stated that the Norwegian Navy had developed warehousing and recordkeeping techniques of a very high quality and that he had found the Norwegian Navy to be well versed on the essentials of supply operations.

Belgium and the Netherlands: We found that the MAAG's in Belgium and the Netherlands were rendering the same general types of assistance as we found being rendered by the MAAG's in France, Norway, and Denmark. By reviewing the MAAG's field trip reports for the 18-month period ended December 31, 1962, and other pertinent documentation and through discussions with MAAG personnel, we found that (1) the countries had attained a high degree of self-sufficiency in the operation and maintenance of sophisticated and conventional MAP equipment, (2) the MAAG is referring requests for technical assistance and information to other United States or NATO agencies for action, and (3) the advice and assistance provided by the MAAG on visits to Belgian and Dutch military units related to minor operating and maintenance problems which were not referred to in MAAG trip reports and normally were not brought to the attention of the MAAG.

Italy: At our request, MAAG personnel in Italy provided us with files which, in their opinion, contained representative examples of the type of technical assistance being provided. We reviewed over 400 actions and found that the great majority of the actions fell into the same categories of assistance we found in the other countries we reviewed. Although the volume of advice and assistance was much greater, most of the assistance was not technical in nature. Most of the advice and assistance that the MAAG offered during 1962 pertained to four weapons systems. At the time of our review, most of the advice and assistance provided by the MAAG pertained to one weapons system. About 30 MAAG personnel and 40 contract technical services personnel were providing on-the-spot assistance and training for this system. This assistance, however, was to be phased out shortly as the weapons system was being withdrawn.

United Kingdom: Little advice and assistance are required and provided by the MAAG in the United Kingdom as evidenced by the expenditure of less than one-half of a man-year for this function. The MAAG's limited effort in this area results from the discontinuance of grant aid and the internal self-sufficiency on the part of the United Kingdom with regard to matters normally handled by the MAAG.

Germany: The MAAG in Germany is rendering advice and assistance on equipment purchased from the United States even though the Germans have procured the services of appropriate technical personnel to assist in the installation, training, operation, and maintenance of this equipment. Nevertheless, the amount of MAAG effort expended in this area was relatively extensive. Again, as in the other countries we reviewed, our analysis of the assistance disclosed it to be more liaison than technical. The MAAG advised us that, even though Germany was procuring all of its military equipment, the rendering of advice and assistance on items procured not only assured the MAAG that Germany was properly utilizing the equipment and was a strong member of NATO but offered satisfaction to the customer and the opportunity for personal contacts which the MAAG considered necessary to insure future sales from the United States.

In addition to the above, MAAG personnel in each country reviewed consistently advised us that the major benefit of providing advice and assistance to the host countries is the opportunity to meet personally with host country military personnel and to keep them closely allied to the United States. Although we were not able to fully evaluate the merits of these assertions, we found that (1) for several years the United States has provided, and will continue to provide, grant-aid orientation training courses for the purpose of meeting personally with host country personnel and keeping them closely allied to the United States and (2) numerous other United States or NATO agencies have the opportunity for close personal contacts with host country personnel and are providing them with assistance. Moreover, we noted that this intangible factor had not been considered previously by the USEUCOM manpower studies and in DOD evaluations.

Following are examples of other U.S. personnel providing personal contact and/or assistance to host country personnel:

1. USAREUR provides personnel for or performs Nike equipment checkout tests, semiannual Nike operational readiness inspection, preannual service practice inspections of Nike units, semiannual Honest John operational readiness inspections, annual Army training tests of Honest John units, and annual safety inspections of advanced weapons units in some countries.
2. The NATO Maintenance and Supply Services Agency provides supply, maintenance, procurement, and technical assistance to all NATO countries and has an advanced weapons technical assistance team that visits missile sites quarterly.
3. Certain U.S. advanced weapons units located in the vicinity of comparable host country units provide assistance to French, Belgian, Dutch, and German units located in Germany. In most cases, the U.S. units are located considerably closer to the country units than the MAAG's.
4. U.S. personnel assigned to the NATO Allied Forces in Northern Europe (AFNORTH) have provided assistance when requested. AFNORTH is the NATO subordinate command for the United Kingdom, Norway, Denmark, and Northern Germany.
5. U.S. mobile training teams consisting of military specialists provide technical assistance as required.
6. U.S. CTSP are permanently assigned to military units to provide technical assistance as required.

### *Training activities*

Grant-aid training being provided to the Western European countries included in this review has been substantially reduced from that furnished in prior years and is to be continued only on a limited basis in the future. At the time of our review, personnel assigned to the MAAG's estimated that about 54 man-years were devoted to participating in the fiscal programing of training requirements and making administrative arrangements for students selected to attend courses. The MAAG's were also performing a number of duties pertaining to the utilization of the personnel trained. We believe that the 54 man-years of effort devoted to training is high in view of the activities being performed which appear to be serving no useful purpose and the extent of participation by the recipient countries and other U.S. personnel. We believe also that considerable manpower savings could be realized by eliminating the training activities serving no useful purpose, by programing training requirements on a centralized basis, and through the absorption of MAAG administrative and surveillance duties by existing U.S. organizations within the recipient countries.

The United States provided formal training in the United States and overseas to about 57,000 personnel in the countries included in this review from the inception of the MAP through June 1961. Additional on-the-job training assistance has been provided to many thousands of personnel by mobile training teams and contractor technical services personnel. The value of training provided from the inception of the MAP through June 1962 amounted to about $269 million.

Over the period of the MAP, many of the countries have built up their training establishments to a point of virtual self-sufficiency for the conventional-type equipment furnished under MAP. With the increased economic capability of the recipient countries, much of the training which they do not have a technical capability to provide will be purchased in the future with their own funds under military assistance sales arrangements. For example, during fiscal year 1963, virtually all the training for Germany was provided under such sales arrangements.

In line with the increased military and economic capabilities of the recipient countries, the United States generally has restricted future grant aid MAP training to (1) that required to provide an operational capability for advanced weapons systems recently delivered, or scheduled for delivery, and (2) that required to enhance the relationship between the recipient country and the United States, including orientation tours. For fiscal year 1964, training totaling $6.25 million has been programed.

With the concentration of training on that required for advanced weapons and orientation tours, the amount of effort needed to prepare fiscal programs and assure the effective use of trained personnel should be considerably less than was required at the time that large numbers of students were being trained in a wide range of subjects.

Our review of training activities disclosed that, to the extent the MAAG's are involved in preparing fiscal programs, implementing the programs, and monitoring the utilization of personnel trained at U.S. expense, the duties either were not essential or could be more efficiently and economically performed on a centralized basis or by other U.S. personnel deployed in Europe.

We found that MAAG's do only a limited amount of work in preparing fiscal programs. For example, in France, the Netherlands, Norway, Italy, and Denmark, where a total of 30 man-years were devoted to training activities, we found that the recipient countries selected courses to be attended from lists of available courses furnished to the MAAG's. The MAAG's consult to some extent with recipient country officials regarding their selections and refine the programs to come within approved dollar ceilings. MAAG personnel also attend a training conference at USEUCOM to further refine the fiscal program. Our review disclosed that few changes are made by the MAAG's in the selection of courses by the recipient countries.

After the training program has been approved, MAAG actions to implement it are primarily clerical in nature and consist of (1) notifying the recipient countries of the courses approved and the number of participants authorized to attend, (2) arranging for and assuring that participants have received security clearances, (3) administering English proficiency tests in some cases, and (4) preparing invitational travel orders and giving each group of participants a short briefing before its departure to attend the courses. Our review disclosed that few students selected by the recipient countries have been rejected because of improper qualifications. In some of the countries, we also found that English tests were not being administered since country personnel were considered proficient in the English language, and in other countries our tests disclosed that students were seldom rejected for lack of English proficiency.

After the courses have been attended, MAAG's monitor the utilization of personnel by (1) obtaining periodic reports on the assignment of each student, (2) maintaining records incorporating data from the reports, and (3) occasionally verifying the accuracy of their records during visits to recipient country units made for other purposes. Records submitted by the recipient countries show that students have almost always been assigned to duties related to the training received and the MAAG's have no knowledge of improper assignments.

As indicated above, MAAG's do not participate to a significant degree in selecting or influencing the courses to be attended, do not select the participants, do only a limited amount of work in preparing the fiscal programs, and are engaged primarily in making administrative arrangements that do not require a high degree of technical skill.

We could find no evidence that adverse conditions exist in any of the countries we reviewed to a degree that would require the constant presence of U.S. personnel to prepare fiscal programs or administer training activities. Accordingly, we believe that significant manpower savings could be realized by eliminating the need for MAAG participation in the limited grant-aid training programs contemplated for the future. This could be accomplished by (1) preparation of fiscal programs for Western European countries on a centralized basis with itinerant visits to the countries, as needed, (2) the use of available personnel at advanced weapons sites in the recipient countries to make periodic checks to assure the effective use of trained personnel on the basis of reports submitted by recipient countries, and (3) a transfer of MAAG administrative functions still considered essential to other U.S. organizations in the recipient countries.

In response to our findings and proposals for corrective action, DOD advised us that a worldwide review of the missions and functions was being conducted to determine the feasibility of reducing U.S. representation abroad. In January 1964, we were advised by DOD officials that, even though this review had not been completed in all the eight Western European countries we reviewed, DOD had taken steps to eliminate the training function in one of the MAAG's.

### *Observation of end-item utilization*

Our review of MAAG records and discussions with MAAG officials disclosed that the MAAG's have continued to devote considerable efforts in making observations of MAP-furnished equipment and in providing advice and assistance to recipient countries to assure the effective and proper use of the aid provided even though (1) each of the countries has demonstrated a high degree of capability to effectively maintain and properly utilize the equipment furnished, (2) much of the equipment is approaching obsolescence and is being replaced by the host country with more modern equipment, and (3) other visiting and permanently assigned personnel provide advice and assistance and observe the maintenance and utilization of advanced and sophisticated weapons systems more recently furnished. Moreover, we found that the United States has sold its rights to equipment furnished to Germany and contemplates entering into negotiations to make similar sales to most of the other Western European countries. It is our understanding that sales of equipment on this basis eliminate the continued need for the United States to observe the utilization within the country and to provide the countries with advice and assistance regarding the equipment sold.

As a condition of eligibility for the furnishing of grant aid defense articles, foreign assistance legislation since inception has required that the recipient country agree to permit continuous observation and review by, and furnish necessary information to, representatives of the U.S. Government with regard to the use of such articles, as the President may require. The responsibility for performing the observations has been delegated to the MAAG's, as representatives of DOD, and the number of observations to be made has been left to the discretion of the MAAG's. For the MAAG's included in this review, the most current manpower estimates indicate that about 33 man-years were being used to perform these observations, as well as observations of the utilization of personnel trained at U.S. expense. MAAG efforts in monitoring the use of trained personnel are discussed on pages 34 and 35 of this report.

During the course of our review, we found no evidence of any consideration on the part of the MAAG or higher authority as to the continuing need for observations of MAP-furnished equipment even though MAAG personnel continually observed and reported that the recipient countries were effectively maintaining and properly utilizing the equipment provided, as illustrated below:

1. Reports prepared by MAAG personnel regarding their visits to French Army, Navy, and Air Force units during the 2-year period from mid-1960 to mid-1962 showed little evidence that equipment had been maintained or utilized improperly even though much of the equipment is obsolete or is approaching obsolescence and is being replaced by the French with non-MAP equipment.

2. Reports prepared by MAAG personnel regarding their visits to Norwegian Army, Navy, and Air Force units during the 16-month period ended October 31, 1962, disclosed that in all but a few instances the Norwegian Armed Forces were encountering no problems in maintaining and utilizing MAP-furnished material.

3. Reports prepared by MAAG personnel on their observations of the utilization by Danish military units of MAP-furnished material during fiscal years 1961 and 1962 disclosed virtually no instances in which the Danish Armed Forces were encountering significant problems in effectively maintaining and utilizing MAP-furnished material. Moreover, much of this equipment now being subjected to U.S. end-use inspections is to be replaced with non-MAP equipment as a result of a recent agreement between the United States and Denmark.

4. Reports prepared by MAAG personnel in Belgium, Italy, and the Netherlands on their observations of the utilization of MAP material during the 19-month period ended January 31, 1963, disclosed virtually no instances in which the countries' armed forces were encountering significant problems in effectively maintaining and utilizing MAP-furnished material.

5. The sale to Germany of U.S. residual rights to MAP equipment provided to Germany has now eliminated the MAAG's responsibility for observing the maintenance and utilization of equipment within the country.

In interviews with MAAG personnel, we were repeatedly advised that the recipient countries' armed forces had attained a capability to properly maintain and utilize MAP-furnished equipment. Some of the MAAG personnel were of the opinion that observations were being made more to comply with assigned responsibilities to make the observations than to fulfill an actual need. For example, many were of the opinion that little or nothing was actually being accomplished by observing much of the MAP equipment, particularly obsolete and conventional-type equipment, because conditions observed were generally known to the MAAG observers beforehand. In this connection, we found that some of the MAAG's have either discontinued or reduced in frequency the observation of certain military units. In Italy, for example, we were advised by the MAAG chief that the observation of conventional army units had been discontinued because the equipment was consistently found to be in excellent condition or was obsolete and observations were therefore no longer needed.

The MAAG's were making many observations of sophisticated weapons systems, such as Nike, Honest John, and certain types of aircraft, that have been on hand in the recipient countries for several years and have been declared operational. This equipment is normally operated as a unit or from a permanent site or base and therefore lends itself to ready observation and determination of proper maintenance, distribution, and utilization. There is a questionable need for MAAG's to observe the utilization of this equipment not only because of the apparent capability of the countries to maintain and operate it, but also because other U.S. personnel not assigned to MAAG's frequently visit or are permanently assigned to these advanced weapons units and are therefore in a position to perform any equipment observations that are necessary, as shown in the following examples:

1. Belgian, Dutch, and French units of an advanced weapons system are located in Germany where U.S. contract technical services personnel and other U.S. personnel are permanently assigned to each of these units. In addition, we found that these units are frequently visited by USAREUR and other U.S. personnel, and comparable U.S. units located in the vicinity of these units have been designated as counterpart units to assist the Belgian, Dutch, French, and German units.

2. Italy has contractor technical services personnel permanently assigned to some of its advanced weapons units, as necessary. In addition, the units are frequently visited by U.S. personnel other than those assigned to the MAAG.

3. Denmark and Norway have U.S. contract technical services personnel assigned to certain advanced weapons units, and several U.S. Army, Navy, and Air Force personnel are assigned to AFNORTH, a NATO organization having among its responsibilities the observation of NATO units in Denmark and Norway.

In view of the NATO countries' subsequent increased capability to properly maintain and operate certain advanced weapons equipment and in recognition of the increased capability of NATO countries and NATO subordinate commands to test and supervise certain advanced weapons units, USEUCOM has decreased substantially the frequency of observations of these units by the Commander in Chief, U.S. Army, Europe (CINCUSAREUR). Despite USEUCOM's recognition of the increased self-sufficiency of the advanced weapons units, USEUCOM only changed the responsibility of CINCUSAREUR and did not change the end-item observation responsibilities of the MAAG's.

Substantial economies could be effected and skilled manpower could be made available for other necessary military functions by eliminating the MAAG's responsibilities for end-item observations. The conduct of the minimal essential observation of end-item utilization could be assigned to other U.S. personnel visiting host countries' units, or assigned on a centralized basis. The benefits accruing from this action should be proportionate to the extent that duplication exists in the manner in which the observation of end-item utilization is presently conducted.

*Planning and programing of material*

MAAG's included in our review have continued to prepare and revise individual long-range military assistance plans and annual programs for equipment and supplies even though grant aid is limited to meeting existing commitments in some countries and is to be provided only to a limited extent in others.

MAAG responsibilities for the planning and programing of equipment and supplies include (1) preparation of long-range plans, (2) preparation of current year military assistance programs, and (3) refinement of plans and programs as necessary. The most current manpower estimates indicate that the eight MAAG's reviewed spend about 17 man-years of effort in connection with planning and programing functions. Existing administrative guidance of USEUCOM provides that a country 5-year military assistance plan is developed principally to produce the best possible statement of funding requirements to be included in annual military assistance programs.

In view of the improved financial capability of European NATO countries and in accordance with foreign assistance legislation, the United States has established a policy that new commitments for grant aid military equipment will not be offered to the Western European countries included in this review.

Although virtually no additional grant aid is to be provided to the eight Western European countries, we were advised by the MAAG's that they are continuing to prepare military assistance plans. In France, the plans were being prepared in the same detail and on the same basis as though grant aid were to continue, whereas, in other countries, the plans were being updated and revisions were being made as necessary. We were also advised that recent changes in planning procedures may result in additional workload because of a requirement to prepare plans in greater detail.

Since future plans and programs for Western European countries are almost entirely limited to the remaining material that the United States is committed to furnish as grant aid, we believe that the plans and programs could be prepared on a consolidated basis at a centralized point with considerable savings in manpower. Preparation of plans and programs on this basis would involve relatively few types of items, and the volume of activity should be relatively small.

*Spare parts supply*

Almost all the MAAG efforts to monitor undelivered grant aid spare parts to support MAP-furnished equipment are no longer essential to protect U.S. interests or to assist the recipient countries because (1) virtually all grant aid spare parts support has been completed and (2) the countries are considered to be reasonably capable of determining requirements for spare parts to support the end items furnished under MAP.

The MAAG's included in this review have estimated that about 15 man-years were being used to (1) provide assistance and advice to country authorities in the preparation of requisitions, (2) edit requisitions for material and publications needed to maintain MAP-supplied end items, and (3) maintain such records as required to perform these duties.

Performance of functions such as above is desirable so long as there is a continuing program to provide grant aid spare parts and a recipient country has not demonstrated an adequate capability to determine its spare parts requirements. In the countries we reviewed, however, this is not the case. For example, the United States has been phasing out grant aid spare parts support to European countries over a period of several years and has now completely discontinued the programing of spare parts support to all the countries included in this review except for (1) the Thor missile in the United Kingdom where such support will continue until October 1964 and (2) a declining amount of grant aid spare parts support to Norway until December 1964.

In Norway, our review of available documentation and discussions with MAAG officials indicated that the Norwegians have effective internal controls to assure that requisitions submitted are accurate. Additionally, in the 24-month period ended October 31, 1962, a limited number of visits made by MAAG personnel to Norwegian Air Force supply installations to review country stock levels and controls over the receipt, storage, and issuance of MAP-furnished material disclosed that Norwegian supply practices were considered to be acceptable at all but one installation. The problems encountered at the one installation were not resolved by the MAAG but were referred instead to AMFEA.

In the other countries we visited, we found that most of the spare parts that the United States has agreed to supply have been placed on order and either have been received or are scheduled for delivery in the near future. Accordingly, there is virtually no need to continue to edit requisitions or assist in their preparation, and these residual duties should further diminish and eventually terminate as undelivered spare parts are received by the countries. Moreover, in several countries, we were advised that the MAAG's performed either extremely limited or no editing functions because (1) the country had the capability to determine its requirements for spare parts or (2) the MAAG's did not have technical information needed to meaningfully edit requisitions.

MAAG officials in several of the countries advised us that they were performing a number of functions associated with undelivered grant aid spart parts. As spare parts are delivered, these functions will terminate. Moreover, our analysis disclosed that there is no essential need for the MAAG's to be involved in these residual functions, as illustrated by the following examples:

1. MAAG Air Force officials in France and MAAG Army officials in the Netherlands were attempting to resolve funding problems in connection with grant aid credits established at the NATO Supply Center (NSC) in prior years even though this was a matter which could be resolved directly between the recipient country and NSC.

2. The MAAG in France was acting as an intermediary to follow up on the status of undelivered spare parts at NSC even though the United States and France had liaison personnel stationed at NSC who were available to assist the French in resolving any problem areas.

3. In Denmark, MAAG efforts were devoted primarily to requests to expedite undelivered spare parts. We believe that this is a function which could be handled by direct communications between the country and the supply source.

On the basis of our findings, we believe that there are few MAAG efforts related to the monitoring of undelivered spare parts that contain any degree of essentiality and that the few residual duties that may be required should terminate in the near future.

*Military assistance sales*

The most current manpower estimates available at the time of our review indicated that 12 man-years, or slightly over 2 percent of the total effort of the eight MAAG's, was devoted to the substantial sales of U.S. military equipment to host countries. Military assistance sales to the countries included in our review amounted to over $2.1 billion as of June 30, 1962.

Although it appears that this function is significant enough to warrant continuation of the duties being performed by the MAAG's, continuation of these duties would require only a small part of the MAAG staffs. Furthermore, the retention of a MAAG to perform this function would be highly questionable if the other MAAG function were eliminated or transferred, especially in view of the other U.S. organizations already participating in the program or capable of assuming the duties assigned to the MAAG's.

Current planning guidance provides that much of the military equipment, training, and other services to be provided by the United States in Western Europe in the future will be furnished through military assistance sales arrangements in order to (1) provide each country with the equipment and services needed to fulfill country commitments to NATO and, consequently, strengthen NATO overall and (2) curtail the gold outflow from the United States resulting from the current deficit in the balance of payments between the United States and certain Western European countries.

Although the amount of effort relating to military assistance sales vary among the MAAG's we reviewed, we found that MAAG responsibilities consisted of providing assistance to identify required equipment for which there is a sales potential in Italy and Germany as well as performing certain administrative functions in all the countries, such as item research, preparing letters of offer, and procedural liaison with service departments.

Although sales to Western European countries have been substantial, the MAAG's have participated in these sales arrangements only to a limited extent. This limited participation is demonstrated by the following tabulation, which shows the amount of effort estimated by MAAG personnel to be expended on duties related to military assistance sales at the time of our review.

| Country: | *Estimated man-years* |
|---|---|
| Belgium/Luxembourg | 0.52 |
| Denmark | .09 |
| France | 1.26 |
| Germany | 7.52 |
| Italy | 1.82 |
| Netherlands | .28 |
| Norway | .20 |
| United Kingdom | .78 |

The greatest sales efforts in any of the MAAG's we reviewed were being made in Germany. In this country, the approximate dollar level of sales is based on government-to-government agreements and is directly related to the annual cost of maintaining U.S. forces in Germany. The MAAG has the mission of assisting the Germans to develop reimbursable military assistance programs.

We were advised that a primary mission of MAAG, Germany, is to increase the strength of NATO by encouraging the sale of U.S. military equipment to Germany. We reviewed selected MAAG files on complete and incomplete sales contracts with Germany to determine the extent the MAAG actually influences or participates in military assistance sales. We found that actions taken consist primarily of performing functions, such as (1) obtaining prices and technical information on equipment available for sale, (2) preparing offers of sale, (3) arranging equipment demonstrations and meetings with sales representatives of U.S. manufacturers, (4) participating in contract negotiations, (5) processing acceptance of sale, (6) making administrative arrangements for training under military assistance sales, and (7) providing information related to military assistance sales to the Office of the Secretary of Defense and other interested U.S. agencies as required. We were also advised by MAAG personnel that benefits were derived by the United States through influence exerted during personal contacts with German personnel.

In Italy, the approximate dollar level of sales is also based on government-to-government agreements and is related to the level of U.S. defense expenditures in Italy.

In Belgium, Norway, Denmark, and France, we found that the MAAG's do not have the specific mission to assist the recipient countries to determine defense requirements eligible for sale to these countries. While the duties being performed vary by country, we found that less than a total of 3 man-years of effort was being devoted in these four countries to sales activities and, that these efforts consisted principally of functions, such as (1) obtaining information on availability, price, configuration, and capability of equipment, (2) arranging meetings between U.S. manufacturers' reprsentatives and host country representatives, (3) arranging equipment demonstrations, (4) commenting to higher headquarters on the desirability of selling certain critical equipment to the host country, (5) preparing letters of offer, (6) processing purchase orders, (7) screening requests for publications, and (8) making arrangements for training of country personnel on a reimbursable basis.

The MAAG in the United Kingdom is not involved to a great extent in military sales because the United Kingdom maintains its own procurement office in the United States.

With the exception of the MAAG's in Germany and Italy, we could find no clearly defined sales responsibilities for the MAAG's. Instead, we found that the MAAG's participated in the sale programs only as requested by the host countries or by other U.S. organizations. Nevertheless, MAAG personnel were of the opinion that they were contributing to military assistance sales, and that intangible benefits were being realized through their personal contacts with recipient country officials.

MAAG's in Germany and Italy are concerned to a limited extent at this time with the international logistics program, which involves the assessment of logistic systems with a view to improving logistic readiness through cooperation between the United States and its allies. As part of this program, the MAAG's also perform a limited amount of work which deals with the mutual improvement of United States and allied logistics readiness through sales and standardization of military equipment and the joint use of logistics facilities. In connection with these programs, we found that the MAAG's were participating to some extent with other U.S. agencies having primary responsibilities. So far as we could determine, MAAG efforts related to these programs were neither extensive nor time-consuming.

While we recognize that it appears to be desirable to continue MAP efforts similar to those being performed by the MAAG's, particularly in Germany and Italy, we believe that the function could be performed with only a small part of the MAAG staffs and that the limited efforts expended at the time of our review would not warrant the continuation of a complete MAAG mission overhead structure.

*End-item supply records*

The MAAG's in each of the countries we reviewed were maintaining inventory records of major equipment items furnished under MAP. The records no longer served their primary or intended purpose and were generally unnecessary inasmuch as the host countries had developed reliable inventory records that were available to serve other MAP purposes. In prior years, there had been a need for MAAG's to maintain inventory records of major items of equipment so that, in the preparation of military assistance grant aid programs, the United States would not have to place sole reliance on recipient country records for which assurance of reliability had not been established. MAAG records, however, are no longer needed for programing purposes inasmuch as future grant aid of any substance is not planned for Western Europe.

Several of the MAAG's advised us that the records they maintained were used to schedule observations of the maintenance and utilization of equipment in the countries. We found that in some MAAG's the records could not be used for this purpose because they did not show the location or condition of the equipment. For example, MAAG inventory records in Italy, Norway, and France did not show the location of Army equipment.

We were advised also that the records were used to answer internal inquiries, determine excesses, and eventually serve as a basis for the sale of U.S. residual rights to MAP-furnished equipment on hand in the countries. We found that all of these purposes could be served by using either inventory records kept by the countries or other information available to the United States. For example, at the MAAG's we reviewed, we were advised by MAAG officials that records of inventory balances were maintained by the recipient country, that these records were considered to be accurate, and that information shown on the records were made available to U.S. personnel as needed. Additionally, the United States maintains independent records showing (1) the value and quantities of equipment delivered to the recipient countries and (2) the value of redistributable and disposable excess MAP property reported by the recipient countries.

MAAG's in several countries were already relying to a considerable extent on country inventory records. For example, in Italy and Belgium, MAAG records were not kept for any Air Force equipment except aircraft and missiles and, in the Netherlands, the MAAG had not kept independent records of Air Force equipment for more than 2 years. On the other hand, we found that pursuant to recent instructions the MAAG in the Netherlands was in the process of establishing records of Navy equipment provided under MAP even though they were not considered to be necessary because of the availability of reliable records kept by the Netherlands Navy. Similarly, the MAAG's in Italy, the Netherlands, Belgium, and Norway relied on recipient country reports for ammunition inventory data.

Personnel assigned to the MAAG's included in this review have estimated that 11 man-years, or less than 2 percent of the total effort of the eight MAAG's, were being expended in keeping equipment inventory records current. We believe that this is an unnecessary use of manpower considering the availability of accurate inventory data kept by the recipient countries. Moreover, we found that, to a considerable extent, MAAG records are compiled on the basis of information submitted by the recipient country and that recorded balances are adjusted on the basis of country inventories without systematic verification by the MAAG's; therefore, it is doubtful if the MAAG records are any more reliable than those maintained by the country.

In view of the limited MAAG need for equipment inventory information and the availability of reliable records kept by recipient countries, we believe that the maintenance of inventory records by the MAAG's could be discontinued.

*Recovery, redistribution, or disposal of excess MAP property*

The most recent manpower estimates available at the time of our review indicated that 11 man-years, or less than 2 percent of the total effort of the eight MAAG's, were being expended in connection with the recovery, redistribution, or disposal of excess MAP property. We found that the MAAG's duties were primarily clerical in nature and did not require the assignment of MAAG personnel in the recipient countries for their performance. Moreover, sales by the United States of residual rights to MAP-furnished equipment which have been consummated or are to be negotiated with European countries would eliminate the need for any additional U.S. efforts to recover, redistribute, or dispose of excess MAP property.

Grant-aid MAP material no longer needed by the recipient country for the purpose for which furnished is required by statute and bilateral agreements with recipient countries to be returned to the United States unless the President consents to other disposition. Accordingly, the recipient country is required to notify the United States of all grant aid MAP material no longer needed in the furtherance of MAP. This policy no longer applies in Germany where the United States has sold its rights for their residual value and where title to the property is now vested with Germany. The United States is now entering into negotiations in an attempt to make similar sales to the other countries included in this review.

At the time of our review, the functions performed by the MAAG's generally consisted of (1) encouraging the host country to identify and declare excess MAP property, (2) preparing excess property declarations for submission to higher authority, (3) advising the host country of the disposition to be made of the property (4) preparing shipping documents for transfer of the property, and (5) acting as an intermediary between the host country military elements and U.S. agencies responsible for the inspection and redistribution or other disposition of the excess property.

Our review disclosed that MAAG efforts to encourage recipient countries to declare unneeded items to the United States as excess have not been aggressive or extensive. In some cases, potentially excess items noted during visits to installations have been brought to the attention of the recipient countries; however, MAAG's have generally relied on the recipient countries to take the initiative in reporting excesses. In April 1962, DOD expressed a policy of not pressing the countries to declare items as excess unless a bona fide redistribution requirement was known to exist. We believe that this objective could effectively be achieved by itinerant visits from U.S. agencies having knowledge of the types and amounts of material needed for redistribution.

Our review of the remaining MAAG efforts regarding redistribution and disposal of excess property disclosed that the MAAG's acted principally as intermediaries in transmitting excess declaration and disposition instructions and were also engaged in routine clerical activities of the type that could be performed by agencies of U.S. major military commands located in Western Europe having primary responsibilities for the redistribution or disposal of excess MAP material.

In January 1964 we were advised by DOD officials that, although the worldwide review of the missions and functions of the MAAG's being conducted by DOD was not completed in all the eight Western European countries we reviewed, DOD had taken steps to eliminate this function in one of the MAAG's by transferring the remaining responsibilities to USCINCEUR.

*Transportation of material*

The principal duties of the MAAG's involving the transportation of material consist of the preparation of shipping documents and observations of deliveries of MAP-furnished and other material. In some cases the MAAG also acts as a Military Sea Transport Service (MSTS) representative. Our review indicated that there is no essential need for the MAAG's to perform these duties since they are (1) of questionable need, (2) capable of being performed by other U.S. personnel in existing organizations, (3) required only to support U.S. personnel stationed in the recipient countries, (4) not directly related to military assistance matters, and, (5) being performed as a convenience to other U.S. organizations. In the eight MAAG's included in this review, an estimated 7 man-years, or over 1 percent of the total effort of the eight MAAG's, were used to accomplish these functions.

Our review in six MAAG's disclosed that the amount of MAP equipment observed and inspected on delivery varied considerably. For example, we were advised that observations were performed by the MAAG in Italy for all shipments, including material sold to Italy under military assistance sales arrangements; in Norway and France, these functions were performed for about 65 percent of the shipments; and in the Netherlands, Belgium, and Denmark, the functions were performed in only a relatively few instances. In those cases where MAAG observers were not present, we found that representatives from recipient countries were inspecting and receipting for material. We believe that the need for the MAAG's to observe MAP deliveries is questionable in view of the significant reductions in the amounts of material being shipped to the countries covered by our review. Furthermore, other U.S. personnel in existing organizations are capable of performing any remaining essential duties related to the transportation of MAP material and, of performing any necessary checks on the inspection and receipt of material by recipient countries' representatives.

In addition to their responsibilities for transportation of MAP material, the MAAG's (1) also provide transportation services with respect to household effects, automobiles, and other commercial cargo for assigned personnel, (2) have also been directed to observe the offloading of material produced under the weapons production and mutual weapons development programs, including Hawk missiles in Italy and the Netherlands and Bullpup and Terne missiles in Norway, and (3) have been appointed as MSTS representatives, under cross-servicing agreements, in several countries, including Italy, Norway, and Denmark. These duties consist of such functions as assisting in making administrative arrangements in connection with the berthing and loading of vessels.

Our analysis of MAAG effort in connection with the transportation of MAP material disclosed that, with the possible exception of observing offloading of ammunition and other hazardous cargo, the effort does not require special military or technical skills. We believe that any functions the MAAG's now perform that can be considered essential could be performed by other U.S. personnel located in the recipient countries.

AGENCY COMMENTS; CORRECTIVE ACTION TO BE TAKEN

Upon completion of our review we proposed to the Secretary of Defense that he consider the elimination or deactivation of the eight MAAG's in the Western European countries covered by our review to (1) overcome the present performance of unnecessary or duplicated functions, (2) eliminate unnecessary expenditures, and (3) reduce the number of U.S. personnel and their dependents assigned overseas. We further proposed that, in those instances where some of the MAAG's functions are still considered essential, appropriate consideration be given to centralizing the responsibility for performing such functions at USEUCOM, or assigning responsibility for these functions in the interests of economy and efficiency to the various other U.S. personnel in organizations existing in Europe.

The Department of Defense furnished us with comments in response to our findings and proposals for corrective action by letter dated July 25, 1963, classified "secret." A separate supplement to this report, classified "secret" contains the full text and our evaluation of the comments. DOD's position, stated in unclassified terms, in essence is that—

1. Periodic manpower surveys and management studies have been conducted by the unified commands and evaluated by DOD. Under existing survey and review procedures, staffing levels have been, and will continue to be, reduced to the minimum required to discharge DOD responsibilities.

2. The General Accounting Office proposal minimizes or discounts valid considerations which will influence DOD decisions on retention or elimination of MAAG's including (a) a number of intangible benefits, such as close personal contacts, which would be lost, (b) potential unfavorable effects on the U.S. balance-of-payments position, particularly if country contributions were to be lost through the centralization of MAAG functions, and (c) roles and missions which the MAAG's may assume to an increased extent.

3. DOD is conducting a worldwide review of missions and functions of MAAG's to determine the feasibility of reducing U.S. representation abroad. The purpose of this review is to consider reductions, by consolidation or elimination, with the objective of reducing our dollar payments abroad, where this can be achieved without serious impairment to basic U.S. policies and programs.

4. Pending the results of this review, DOD does not accept the General Accounting Office proposal relative to elimination of the eight MAAG's, without consideration of other alternatives or full assessment of the U.S. benefits deriving from their presence in the NATO countries.

In January 1964, we were advised by responsible DOD officials that the worldwide review of the missions and functions of the MAAG's to determine the feasibility of reducing U.S. representation abroad was underway but had not been completed. Therefore, the results of the reviews in all the eight MAAG's included in this report were not known.

CONCLUSIONS

Our review indicated that eight individual MAAG's in France, Norway, Denmark, the Netherlands, Belgium/Luxembourg, Italy, the United Kingdom, and Germany were considerably overstaffed to perform the relatively few essential functions that remain as a result of the virtual completion of military assistance grant aid, accomplishment of military assistance program objectives in Europe, and the attainment of a high degree of military and economic self-sufficiency in the countries involved. Nevertheless, DOD had not adequately phased down the MAAG staffs or their functions commensurate with reductions in the military assistance programs and the attainment of tactical and logistic competency on the part of the European military forces involved.

Our review of the periodic manpower surveys and management studies referred to by DOD disclosed that they have not been directed to an examination of the essentiality of the MAAG functions being performed. In some cases, the surveys have commented on the reduced workloads of MAAG's resulting from the virtual phaseout of grant aid military assistance, increased country self-sufficiency in maintaining and utilizing U.S.-furnished equipment, and the capabilities of existing U.S. agencies to absorb functions being performed by the MAAG's. We could find no evidence, however, that the personnel reductions recommended by their studies were based on elimination of unnecessary functions. As shown in this report, the MAAG's are continuing to be staffed on the basis of their performance of functions which are not necessary and we found no indication in the manpower surveys that the need for these functions was ever questioned. With regard to DOD's contention that consideration should be given to a number of intangible factors in deciding on retention or elimination of MAAG's, we agree that they should be evaluated in arriving at a proper decision. We noted, however, that these intangible factors had not been considered previously in the USEUCOM manpower studies and in DOD evaluations.

The failure to eliminate or reduce MAAG functions and to make appropriate reductions in the number of personnel assigned, as the military assistance programs were accomplished or reduced, has resulted in the unnecessary expenditure of millions of dollars overseas; the ineffective utilization of highly skilled, highly trained personnel; and the continued but unnecessary support overseas of the dependents of many MAAG personnel. We believe that immediate personnel reductions can be made by eliminating or reducing functions now being performed by the Military Assistance Advisory Groups. Since DOD has informed us that a worldwide review is now being made of the missions and functions of MAAG's to determine the feasibility of reducing U.S. representation abroad, we intend to make a followup review at a later date, and at that time we will examine into the adequacy of the DOD actions to reduce or eliminate the staffs of the MAAG's in the countries involved.

### SCOPE OF REVIEW

We obtained estimates of the amount of time expended by MAAG personnel on each of their principal assigned functions and evaluated documentation considered by MAAG personnel to be representative of the work performed on these functions. We also interviewed MAAG personnel to determine the extent, nature, and essentially of their duties.

We made detailed reviews in France, Denmark, and Norway. We also made selective reviews in the Republic of Germany, Italy, the Netherlands, Belgium, and the United Kingdom to the extent deemed necessary to confirm conditions observed in our detailed reviews and to properly consider any significant differences in duties or missions.

We visited United States and NATO organizations in Europe to ascertain the type and extent of support rendered by them to the recipient countries, to determine whether their duties duplicated those performed by the MAAG's, and to evaluate the feasibility of transferring residual MAAG functions to these organizations.

Our field work was completed in March 1963.

### APPENDIX

*List of principal U.S. officials responsible for the administration of the military assistance program for selected European countries*

| | Tenure of office | |
|---|---|---|
| | From— | To— |
| DEPARTMENT OF DEFENSE | | |
| Secretary of Defense: Robert S. McNamara | January 1961 | Present. |
| Deputy Secretary of Defense: | | |
| Cyrus R. Vance | January 1964 | Present. |
| Roswell L. Gilpatric | January 1961 | January 1964. |
| Assistant Secretary of Defense (International Security Affairs): | | |
| William P. Bundy | November 1963 | Present. |
| Paul H. Nitze | January 1961 | November 1963. |
| Director of Military Assistance: | | |
| Gen. Robert J. Wood | September 1962 | Present. |
| Gen. Williston B. Palmer | November 1959 | August 1962. |
| Deputy Director of Military Assistance: William M. Leffingwell | January 1960 | Present. |
| Commander in Chief, U.S. European Command: | | |
| Gen. Lyman L. Lemnitzer | November 1962 | Present. |
| Gen. Lauris Norstad | November 1956 | October 1962. |
| Deputy Commander in Chief, U.S. European Command: | | |
| Gen. John P. McConnell | October 1962 | Present. |
| Gen. Earle G. Wheeler | March 1962 | October 1962. |
| Gen. Charles D. Palmer | October 1959 | February 1962. |
| Chief, MAAG, Belgium/Luxembourg: | | |
| Maj. Gen. W. T. Thurman | August 1963 | Present. |
| Maj. Gen. Frank E. Rouse | August 1962 | August 1963. |
| Maj. Gen. Tom V. Stayton | September 1959 | August 1962. |
| Chief, MAAG, Denmark: | | |
| Rear Adm. W. T. Nelson | August 1963 | Present. |
| Brig. Gen. William M. Gross | March 1960 | August 1963. |
| Chief, MAAG, France: | | |
| Maj. Gen. Herbert G. Sparrow | August 1962 | Present. |
| Maj. Gen. Philip C. Wehle | August 1959 | August 1962. |
| DEPARTMENT OF DEFENSE—continued | | |
| Chief, MAAG, Germany: Maj. Gen. Victor R. Haugen. | August 1962 | Present. |
| Chief, MAAG, Italy: | | |
| Maj. Gen. Sory Smith | August 1963 | Present. |
| Maj. Gen. Normando A. Costello | October 1961 | August 1963. |
| Chief, MAAG, Netherlands: | | |
| Rear Adm. Robert H. Speck | September 1963 | Present. |
| Rear Adm. Goldsborough S. Patrick | June 1961 | September 1963. |
| Chief, MAAG, Norway: | | |
| Rear Adm. J. D. Black | August 1963 | Present. |
| Rear Adm. Joshua W. Cooper | March 1960 | August 1963. |
| Chief, MAAG, United Kingdom: Maj. Gen. Romulus W. Puryear. | August 1962 | Present. |
| DEPARTMENT OF STATE | | |
| Secretary of State: Dean Rusk | January 1961 | Present. |
| Ambassadors: | | |
| Belgium: Douglas MacArthur II | February 1961 | Present. |
| Denmark: William M. Blair, Jr | March 1961 | Present. |
| France: Charles E. Bohlen | September 1962 | Present. |
| Germany: | | |
| G. C. McGee | April 1963 | Present. |
| Walter C. Dowling | November 1959 | April 1963. |
| Italy: C. Frederick Reinhardt | April 1961 | Present. |
| Luxembourg: | | |
| William R. Rivkin | November 1962 | Present. |
| James Wine | April 1961 | October 1962. |
| Netherlands: John S. Rice | March 1961 | Present. |
| Norway: Clifton R. Wharton | March 1961 | Present. |
| United Kingdom: David K. E. Bruce | February 1961 | Present. |

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## SPRING CLOTHESPIN INDUSTRY OF VERMONT

Mr. PROUTY. Mr. President, yesterday morning I received notice from the Tariff Commission that it had concluded its proceedings under section 225(b) of the Trade Expansion Act of 1962. Under that section the Commission determines if domestic industries which earlier had been found to have been injured by tariff concessions should have their products reserved from further trade negotiations on the grounds that there has been no improvement in the condition of the industry.

A peculiar thing happened in the case of an industry important to Vermont—the spring clothespin business. Of the six Commissioners voting, three found that there had been improvement in the conditions of the industry—three found that there had not been such improvement.

The last page of the release noted that:

> Each item in the foregoing tabulation for which the Commission finding (by majority vote) is indicated as "not improved" shall be reserved, pursuant to section 225(b) from the forthcoming trade agreement negotiations for the reduction of duty or other import restriction or elimination of duty. All other items * * * may be subject to negotiation.

The spring clothespin people, having a split vote on the question of the state of their industry now face the possibility that the President will choose to negotiate import liberalizations on spring clothespins.

Mr. President, it seems unfortunate that section 330(d) of the Tariff Act of 1930, which permits the President to adopt the findings of either three Commissioners as his own, should be a possible basis for allowing these products to go on the negotiable list when there has been no affirmative finding by the Tariff Commission that further trade concessions for these products will not cause irreparable harm.

The fate of this industry now hangs on the decision of the President, acting on the advice of the Special Representative for Trade Negotiations and the Trade Expansion Advisory Committee. None of these parties have gone through the extensive factfinding proceedings which brought the Tariff Commission to the conclusion that they could not agree. None of these parties is bound to justify a determination in terms of irreparable injury to the industry. And, what is more surprising still, in spite of our determined efforts to write effective legislation to aid areas of inordinately high unemployment, not one of these parties is bound to consider whether or not this industry is located, for the most part, in designated area redevelopment areas.

Mr. President, it seems to me that it would be prudent, in any situation where the Tariff Commission is unable to agree on an industry's ability to withstand further trade relaxations, to give the industry the benefit of the doubt—a presumption of inability to brave the onslaught from new trade liberalizations—particularly when, as here, the industry is an amalgam of small businesses located in areas of substantial unemployment.

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

The Chair lays before the Senate the unfinished business.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, to amend the language on page 54, after line 7, by adding a new title.

The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may speak today from the desk of the senior Senator from Arkansas [Mr. MCCLELLAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor, and that when I begin my speech it will not be counted as another appearance.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 166 Leg.]

Allott
Anderson
Bartlett
Beall
Bennett
Boggs
Brewster
Carlson
Case
Church
Cotton
Curtis
Dirksen
Dodd
Douglas
Ellender
Fong
Goldwater
Gore
Gruening
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kuchel
Lausche
Mansfield
McGee
McGovern
McIntyre
Metcalf
Monroney
Morse
Mundt
Muskie
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Simpson
Smith
Sparkman
Stennis
Talmadge
Thurmond
Walters
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present. The Senator from South Carolina has the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Illinois [Mr. DIRKSEN] with the understanding that I do not lose my right to the floor, and with the further understanding that when I commence my speech, it will not constitute another appearance.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 516

Mr. DIRKSEN. Mr. President, on behalf of the distinguished majority leader [Mr. MANSFIELD] and myself, I submit an amendment in the nature of a substitute for the Talmadge amendment now pending before the Senate, which I believe bears No. 513.

This amendment also deals with jury trials. We had some discussion with various Senators, and, I am frank to say, with the Department of Justice. This amendment would seem to be agreeable. I trust it will be agreeable to everyone when it is finally called up for a vote. I anticipate that it will not be called up until either Monday or Tuesday of next week, unless the distinguished majority leader has other plans.

Mr. MANSFIELD. Mr. President, there should be some debate on this most important subject. Speaking as a Senator from the western part of our Nation, I say that this is a most significant amendment. It should be given thorough consideration and debate. I would hope that at some time early next week we will be able to come to a vote, perhaps on Tuesday, or thereabouts.

Mr. DIRKSEN. That would be quite agreeable. We shall have this amendment reproduced so that copies will be available.

Mr. President, I send the amendment to the desk and request that it be read for the information of the Senate.

The legislative clerk read the amendment, as follows:

An amendment in the nature of a substitute for the amendment No. 513 of Mr. TALMADGE.

By Mr. DIRKSEN (for himself and Mr. MANSFIELD):

In lieu of the language of the amendment substitute the following:

On page 11, strike out all the language from the beginning of line 15 to the end of line 17.

On page 55, after line 1, insert the following new section:

"SEC. 1105. Criminal contempt proceedings; penalties; trial by jury.

"In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is before a jury, the procedure shall conform as near as may be to that in other criminal cases."

On page 5, after line 24, insert the following new section:

"SEC. 102. Section 151 of the Civil Rights Act of 1957 (41 Stat. 638) is amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following:

"*Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is before a jury, the procedure shall conform as near as may be to that in other criminal cases."

Mr. MANSFIELD and Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, is it to be my understanding that the amendment is now the pending business?

Mr. STENNIS. Mr. President, will the Senator yield? The Senator recognizes, does he not, that the amendment now before the Senate is the Talmadge amendment?

Mr. DIRKSEN. This is a substitute.

Mr. STENNIS. Is it proposed by the Senator to substitute this amendment for the Talmadge amendment?

Mr. DIRKSEN. Yes.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold that suggestion?

Mr. STENNIS. Yes.

Mr. MANSFIELD. Mr. President, is the amendment proposed the pending business?

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

Mr. THURMOND. Mr. President, a point of order.

Mr. STENNIS. Mr. President, I do not wish to yield the suggestion of the absence of a quorum.

Mr. MANSFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Does the Senator from South Carolina yield for the suggestion of the absence of a quorum?

Mr. THURMOND. Mr. President, I yielded to the distinguished Senator from Illinois [Mr. DIRKSEN]. I understood he wanted to make an insertion in the RECORD or make some remarks. I did not know he intended to offer an amendment, or I would not have yielded. I wish to make the record clear on that point.

Mr. MANSFIELD. Mr. President, I wish to make the record clear. When I approached the distinguished Senator from South Carolina to ask him to yield, I did not say it was for an insertion in the RECORD. I think it is pretty well known among the 100 Members of the Senate that the majority leader and minority leader have been working on an amendment, and that we were going to propose it. As a matter of courtesy, I asked the Senator from South Carolina if he would yield to the Senator from Illinois, the minority leader. As always, the Senator from South Carolina agreed to extend this courtesy to the leadership.

Mr. THURMOND. I would not have considered yielding—and I think the majority leader and minority leader knew this—in order that they might offer another amendment. I assumed the Senator wanted me to yield to make an insertion in the RECORD, just as I intended to yield to the Senator from Oregon, who has some remarks to make on another subject. If other Senators had remarks to make, I would also yield to them. I want the RECORD to show that this was deception. I would not have yielded for that purpose.

Mr. MANSFIELD. The Senator cannot stop us from offering the amendment. This amendment was offered, and was made the pending business. If the Senator wants to suggest the absence of a quorum, he can do so. In so doing he would lose the floor, but I will waive that point.

Mr. THURMOND. I wanted to say——

Mr. MANSFIELD. But there was no deception.

Mr. THURMOND. I did not yield for the purpose of having any amendment adopted.

Mr. MANSFIELD. No; not adopted.

Mr. THURMOND. As I said, I was doing a courtesy to the Senator from Illinois to permit him to make some insertions in the RECORD. That is all I yielded for. After this time I will not yield the floor for another such parliamentary maneuver. I realize that the amendment could be offered sooner or later, but I do not think a Senator has the right to take advantage of my yielding to him in order to offer an amendment.

I suggest the Senator offer it at some other time, at the conclusion of my remarks or some other time, but not at this time. I object to making it the pending business, if the Senator is going to offer it. The clerk of the Senate has read it. I will not have any objection if he wishes to submit it, provided it is not made the pending business, but I object to taking advantage of my having yielded by offering an amendment. I have yielded to other Senators. I am always glad to yield to the distinguished majority leader, or to the distinguished minority leader, who is always very courteous. I am willing for him to submit the amendment, but not to make it the pending business in the course of my speech. I did not yield with any such contemplation. I thought I was rendering a courtesy. I do not want to be taken advantage of.

Mr. MANSFIELD. The Senator is not being taken advantage of, because had we desired to do so, we could have obtained the floor in our own right and offered the substitute and had it made the pending business; but in view of the statement made by the distinguished Senator, and in view of his allegation that there has been some deception or subterfuge involved in this, I would suggest that he suggest the absence of a quorum and do so on the basis that he does not lose the floor and that it does not interrupt the continuity of his speech.

Mr. THURMOND. I ask the Senator from Illinois, if he wants to offer the amendment, if he will not wait until an appropriate time, until the conclusion of my remarks or some other appropriate time, and not have it made the pending business. When I yielded to him, I thought he was going to place some insertion in the RECORD, which I did not object to. I realize that other Senators could have obtained the floor before I did. I realize that the majority leader could have offered the amendment. But I do not think it appears right. I think it would be better if the distinguished Senator from Illinois, who is always very courteous, would be willing to have the amendment offered at the conclusion of my address or at some other appropriate time. The amendment will not be considered any sooner, anyway. I understand that it is to be considered next week.

I ask the Senator from Illinois if he would not agree that the amendment be made the pending business at a later time.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. THURMOND. I yield.

Mr. DIRKSEN. Frankly, I did not talk with the distinguished Senator from South Carolina. The majority leader talked with him. When I came into the Chamber I thought it was fully understood that the purpose in yielding to me was for the offering of the amendment. I am sorry if there was any misapprehension about it. I shall be more than delighted to withhold any request to make the amendment the pending business, and merely let the amendment be submitted as a substitute for the amendment offered by the distinguished Senator from Georgia.

Mr. THURMOND. I thank the distinguished Senator from Illinois.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. PASTORE. If this amendment is offered at this time, and the request to make it the pending business is delayed, will that request later on be subject to unanimous-consent or to further debate?

Mr. THURMOND. Mr. President, it would be the same situation now or later, on that point.

Mr. PASTORE. It might make a great deal of difference.

The PRESIDING OFFICER. It would be temporarily laid aside for consideration at a later time.

Mr. PASTORE. In other words, the amendment itself is not offered?

Mr. DIRKSEN. Oh, yes, it is.

The PRESIDING OFFICER. It is offered, but it is not the pending business. It will be laid aside for consideration at a future time.

Mr. PASTORE. Will that request be subject to unanimous consent or to further debate?

The PRESIDING OFFICER. It will not be subject——

Mr. PASTORE. It will happen automatically?

Mr. DIRKSEN. What was the last ruling of the Chair?

The PRESIDING OFFICER. The amendment can be laid aside temporarily for consideration at a later time.

Mr. DIRKSEN. It requires, however, no unanimous consent——

The PRESIDING OFFICER. No unanimous consent.

Mr. DIRKSEN. To reinstate the amendment for consideration?

Mr. PASTORE. It happens as a matter of course.

Mr. DIRKSEN. That is correct.

The PRESIDING OFFICER. It can be called up by the Senator from Illinois at any time.

Mr. MANSFIELD. Mr. President, it could be called up at any time; now, even?

The PRESIDING OFFICER. It is now the pending question. At the present time, it is the pending question, unless a request is made by the Senator from Illinois that it be temporarily laid aside and called up at a later time. But, as of now, it is the pending question.

Mr. THURMOND. Mr. President, the amendment of the Senator from Georgia [Mr. TALMADGE] is the pending question, as I understand, because this matter has not been taken up.

The PRESIDING OFFICER. The amendment of the Senator from Illinois takes precedence, unless there is a unanimous consent request made by the Senator from Illinois to change the situation.

Mr. THURMOND. In view of the statement of the Senator from Illinois that he would not ask for it to be made the pending business, I ask him to withdraw his request that it be made the pending business at this time.

Mr. MANSFIELD. Mr. President, if the Senator from South Carolina will yield, I should like to make a unanimous-consent request to the effect that at the conclusion of the speech of the distinguished Senator from South Carolina, the Dirksen-Mansfield amendment be made the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, I object.

Mr. THURMOND. Mr. President, I request that the amendment of the Senator from Illinois not be made the pending business now, as he said he would a few moments ago.

Mr. DIRKSEN. First, I must make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. I assume I should ask that the amendment be temporarily laid aside, without prejudicing the other amendment in the nature of a substitute.

The PRESIDING OFFICER. If the amendment offered by the Senator from Illinois is temporarily laid aside under the regular order, another Senator could offer another substitute amendment to the amendment of the Senator from Georgia [Mr. TALMADGE]. However, the Senator from Illinois, by demanding the regular order, could call up his amendment.

Mr. DIRKSEN. However, another amendment could be offered.

The PRESIDING OFFICER. Another amendment could be offered in the interim.

Mr. SALTONSTALL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts will state it.

Mr. SALTONSTALL. If another amendment is offered, unless it is a substitute amendment, it becomes an amendment in the second degree and would not be in order; is that not correct?

The PRESIDING OFFICER. Another amendment would have the same degree as the Dirksen-Mansfield amendment.

Mr. MANSFIELD. Mr. President, if the Senator from South Carolina will yield——

Mr. THURMOND. I am glad to yield to the Senator from Montana, under the same conditions as heretofore stipulated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it seems to me we are confronted with a highly unusual procedure. As I recall, when the amendment was offered by the Senator from Georgia [Mr. TALMADGE], it was read and made the pending business, with no objection from any Senator. Now, as the leadership attempts to offer a substitute, questions are raised which are a little out of the ordinary. I hope that Senators will recognize the fact that any Member of this body on any side of this question should be accorded the usual courtesy, that when an amendment or a substitute to an amendment has been offered and read, it should be considered in line with the regular order of procedure.

So once again I renew my request.

Mr. THURMOND. When the Senator from Georgia [Mr. TALMADGE] offered his amendment, he was the scheduled speaker. He did speak. He offered his amendment at the time he began his speech—or shortly thereafter. That is quite different from a Senator coming into the Chamber after one Senator has obtained the floor on the opposing side, and asking him to yield to him with the contemplation of insertions in the RECORD—because that is the only way I have yielded; I am trying to accommodate Senators and to be courteous—and then offering an amendment. I realize it could have been offered earlier. Other Senators might have been ahead of me. The amendment can be offered at the conclusion of my address. I do not believe it is proper, under the present circumstances, to offer it now. The way it has been done I do not believe it is courteous to ask a Senator to yield, as I was asked to yield, so that this amendment could be offered. I hope the Senator from Illinois will withdraw his request that his amendment be made the pending business. I hope the Senator from Illinois will proceed to withdraw the amendment altogether, or not ask that it be made the pending business, and let me complete my speech on the Talmadge amendment.

Mr. MANSFIELD. Mr. President, will the Senator from South Carolina yield at that point?

Mr. THURMOND. I am glad to yield to the Senator from Montana, with the usual stipulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished minority leader, I should like to suggest that the situation remain as it is, and to state to the Senate that at the conclusion of the speeches by the distinguished Senator from Oregon and the distinguished Senator from South Carolina, it would be our intention, then, to propose to the Senate that the Dirksen-Mansfield substitute be made the pending business.

Mr. HUMPHREY. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I am glad to yield to the Senator from Minnesota, with the same understanding as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Do I understand correctly that during this interlude no change will be forthcoming in reference to the pending business, the Talmadge amendment? If an amendment were to be offered to it, it would be an amendment in the second degree and it would preclude, as I understand it, the offering of the amendment by the Senator from Illinois and the Senator from Montana.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. RUSSELL. Mr. President, will the Senator from South Carolina yield to me?

Mr THURMOND. Mr. President, I yield to the Senator from Georgia [Mr. RUSSELL], on the same conditions as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL. Mr. President, I believe the Senator from Minnesota is unduly suspicious, because no one is planning in any way to take advantage of the leadership in this matter. The Senator from South Carolina did not feel that this amendment should be offered on his time, and I believe he is perfectly within his rights in making that suggestion. I know of no other amendment intended to be offered. I have not seen the amendment offered by the leadership. No one has discussed it with me. I do not know what it involves. Certainly, insofar as those of us who are supporting the amendment offered by my colleague and others is concerned, we are standing on that amendment and not trying to rule out any other amendment.

The Senator well knows, in the position in which we stand today, that if it were offered, with the leadership having the right of recognition, it could be disposed of quite readily. The Senator from South Carolina is trying to make his speech within the period specified in the germaneness rule. He is trying to speak on the pending amendment. I hope Senators will let him proceed and make his address without undertaking to deprive anyone of his rights. The leaders are entitled to recognition whenever the Senator from South Carolina yields the floor.

Mr. THURMOND. Mr. President, I am now pleased to yield to the Senator from Montana, with the usual understanding, that I do not lose my right to the floor.

Mr. MANSFIELD. Mr. President, first, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The Senator has the right to do that.

Mr. MANSFIELD. So far as the Senate is concerned, I have unlimited confidence in its good faith. The distinguished minority leader and I anticipate no difficulty whatever, after the Senators from Oregon and South Carolina have completed their speeches, in offering to make the substitute the pending business.

Mr. THURMOND. I thank the majority leader for his characteristic courtesy. I now yield to the Senator from Minnesota, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. The Senator from Minnesota is not at all suspicious. The Senator from Minnesota was merely inquiring about the parliamentary situation. That is a customary procedure in the Senate, as customary as moving that the Senate stand in recess, or a parliamentary inquiry. I wish the record to be clear that with respect to courtesy, the Senator from South Carolina obtained recognition by the Chair and then suggested the absence of a quorum. Under ordinary circumstances, he would have lost the floor. He retained it as a matter of courtesy. Courtesy prevails among all the Members of this body. I do not wish it to appear that courtesy is all on one side.

Mr. RUSSELL. I thank the Senator from Minnesota for his courtesy.

Mr. THURMOND. When I suggested the absence of the quorum I said that I made the request by unanimous consent, with the understanding that I would not lose my right to the floor and that it would not terminate my address and that it would not be counted as another appearance on my resuming my speech. I had previously conferred with the Parliamentarian, and he had said that I would have the floor after the quorum call had been completed.

I am sure the Senator from Minnesota would not have tried to take me off the floor anyway. I have always found him very courteous.

Mr. HUMPHREY. I fully agree with the Senator from South Carolina. He is always courteous. I merely tried to show that we always cooperate with one another. I have no objection to the Senator's proceeding now. I do not want it to appear that, somehow or other, when a Senator makes a parliamentary inquiry, to gain an interpretation of a situation that prevails in the Senate, he is suspicious of the opposition or of those who are opponents to a bill under consideration. I am not at all suspicious. These are times when the rules appear to be rather confusing. I try to cooperate with all other Members of the Senate.

Mr. THURMOND. Mr. President, I now yield to the Senator from Mississippi, with the usual understanding, that I do not lose my right to the floor, and so forth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I commend the Senator from South Carolina for standing his ground on this matter. He was asked to be prepared to speak today on the pending amendment when the Senate convened. He said he would make a speech that was germane on the pending question. He obtained the floor only for that purpose. The Senator from Minnesota was not in the Chamber, but it was the understanding that the Senator from South Carolina would suggest the absence of a quorum. He obtained the floor in full good faith. I believe that the leaders, after they understood the situation, did the gentlemanly thing and the senatorial thing. I commend them, too.

Mr. LAUSCHE rose.

Mr. THURMOND. I thank the distinguished Senator from Mississippi. I yield to the Senator from Ohio with the same understanding as previously.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, I should like to direct a question to the sponsors of the new amendment, to ask them whether the amendment embodies identically the same language dealing with trials as was embodied in the 1957 act; or have additions or deletions been made?

Mr. MANSFIELD. Generally speaking, the answer is yes.

Mr. DIRKSEN. There are modifications.

Mr. LAUSCHE. There are modifications? Did the Senators have in mind the situation that in some instances we grant jury trials are granted in contempt cases, and in other instances they are not? Also, have they considered why there is a difference? If the essence of a wrong is an insult to the court, why should a jury trial be granted in one instance and not in another instance? Was that point discussed?

Mr. DIRKSEN. Not only was it discussed, but the finding of the Supreme Court in the past few weeks, in the Barnett case, in which the issue came up, was thoroughly discussed. It was discussed with the staff and others.

Mr. LAUSCHE. I was engaged in a discussion yesterday, in which it was pointed out that under the Landrum-Griffin Act, when someone insults a court by refusing to obey its order, he has the right of trial by jury. I wished to find out the reason for justifying no trial by jury in another situation, where the substance of the wrong is identical; namely, contemptuous conduct.

Mr. DIRKSEN. I merely point out that contempt in the presence of the court is one thing, and criminal contempt not in the presence of the court is quite another thing. That exception is carried in the amendment.

Mr. LAUSCHE. I shall examine it. I understand the difference quite thoroughly.

Mr. THURMOND. Mr. President, the distinguished columnist and magazine editor Mr. David Lawrence has raised a most pertinent and important point in his column of April 23, 1964, as printed in the Evening Star. This column is entitled "High Court's Law of the Land: Stall-in and Sit-in Reflect Confusion in United States on Limits on Demonstrations."

In this column, Mr. Lawrence raised the question as to how far these Negro demonstrations and acts of violence can be taken in the South and also how much they can be limited in the North, depending evidently not on the rule of law but rather on the well-known saying that it all depends on whose ox is being gored and how much. For instance, Mr. President, we have been told by some of the distinguished leaders of the proponents of the so-called civil rights legislation that there are such things as civil wrongs as well as civil rights. When the proposed stall-ins were announced for the New York World's Fair, we were told that the stall-in would be a civil wrong, evidently because the stall-ins were to take place above the Mason-Dixon line. Earlier, however, we had been told repeatedly—even by the U.S. Supreme Court—that a sit-in in the South is a civil right. In fact, as Mr. Lawrence points out in his column of last evening, the Court has ruled that to arrest or to eject sit-inners from southern restaurants and other private establishments is a direct violation of the 14th amendment, even where there is no State law prohibiting integration of the races in private eating establishments.

Mr. Lawrence points out further in his column that the New York City police must have violated the "law of the land"—if we are to be forced to take all Supreme Court decisions as being "the law of the land" rather than the law of the case as they should be noted—when they arrested and ejected the stall-inners and the sit-inners at the New York World's Fair this week. But, Mr. President, we have heard no cries from the distinguished proponents of this legislation to the effect that anyone's rights have been violated by the State of New York, as we heard when—as Mr. Lawrence points out in his column—local law-enforcement officers in Columbia, S.C., stopped demonstrations on the State house grounds which had been permitted to continue until it was reaching the point of violence. Mr. President, down South we have a word for all of this and the word is "hypocrisy." Mr. Webster defines "hypocrisy" as being an:

> Act or practice of feigning to be what one is not, or to feel what one does not feel; esp., the false assumption of an appearance of virtue or religion; canting simulation of goodness.

In order that Mr. Lawrence's very able assessment of the confusion and hypocrisy which has been brought about by recent Supreme Court decisions on sit-ins might be made available to all Members of the Congress, I shall read the full text of his column into the Record at this point. I ask unanimous consent that these remarks and Mr. Lawrence's column appear at an appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

### High Court's Law of the Land—Stall-In and Sit-In Reflect Confusion in United States on Limits on Demonstrations

What's the difference between a stall-in and a sit-in? Did the New York City police violate "the law of the land"—as proclaimed by the Supreme Court of the United States—when demonstrators were arrested in and around the New York World's Fair?

These questions reflect the confusion that exists in the United States today as to what are the true limits of "street demonstrations" and just how far the exercise of the right of petition may go before it becomes a vehicle of violence.

But no matter whether one approves or disapproves of these demonstrations, the point has been dinned into the ears of many Americans that what the Supreme Court says is "the law of the land." Small wonder that the "civil rights" demonstrators decided on a stall-in as a mere supplement to the rights granted them in court cases in connection with sit-ins and marches.

The Supreme Court of the United States, for instance, on May 20, 1963, reversed the conviction of three Negroes and one white student who had been arrested for trespassing when they refused to leave a lunch counter of a store in New Orleans. There was no ordinance requiring segregation, but the mayor had issued a statement previously in which he said that "the community interest, the public safety, and the economic welfare of this city require that such demonstrations cease and that henceforth they be prohibited by the police department."

Speaking for the Supreme Court, Chief Justice Warren concluded that this statement by a city official was State action and thus constituted denial of "equal protection." The arrest of the sit-in demonstrators was, therefore, held to be unconstitutional. Justice Douglas, in a concurring opinion, insisted that a restaurant "has no aura of constitutionally protected privacy about it." Certainly the same can be said about the World's Fair pavilions.

In another case, decided on February 25, 1963, the Supreme Court reversed the conviction of 187 Negro students involved in a march around the State house in Columbia, S.C. The local police had permitted the demonstration to go on for about 45 minutes and made the arrests for breach of the peace only after the students refused to obey an order to disperse when a crowd had gathered in the area and traffic was being impeded. The Supreme Court, by an 8-to-1 vote, held that this violated constitutional guarantees of free speech, free assembly, and freedom to petition.

Demonstrators thus have been encouraged to block entrances and collect crowds that disrupt traffic—if only to gain notoriety or publicity for their cause. The right of any citizen to drive his automobile and stall it on a public highway is regarded by some Negro leaders as comparable to the court-approved right of sit-in demonstrators to block entrances to buildings.

Strictly speaking, the police should be able to arrest persons either for a breach of the peace or for performing acts which threaten a breach of the peace. But the Supreme Court has declared otherwise, and the supporters of the stall-in idea have every right to invoke the existing Supreme Court decisions in defense of their demonstrations in New York City. It is true that the New York State court issued an order enjoining the stall-in demonstration. The mere existence of an injunction, however, is not sacred in the eyes of the Supreme Court if the person who violates it claims his objective is to obtain constitutional rights. This is an extreme interpretation, but the Supreme Court has made it.

Two of the demonstrators at the New York Fair yesterday—James Farmer, national director of the Congress of Racial Equality, and Bayard Rustin, who was deputy director of the "March on Washington" last August—engaged in a sit-in that blocked entrances to the New York City pavilion, and were arrested. They arrived at the fair with many followers, and one of the leaders said: "I came here to court arrest."

Now ordinarily individuals would not take these chances, but they have been supported by recent Supreme Court decisions and by the voices of approval which have been raised in many quarters to the idea of demonstrations. Thus, for example, in the "March on Washington" there was a disruption of traffic and a heavy financial loss to merchants in the city of Washington, and to the city government, but the march nevertheless was applauded not only by much of the press but in speeches in Congress and elsewhere.

The danger of any demonstration involving hundreds of persons is one that poses a bewildering legal problem for the police. Shall they deal with a threatened demonstration and get a court order as a preventive, or must they wait until law and order have actually been disrupted and somebody has been hurt? The Supreme Court, for the time being at least, has decided things must reach the point of violence before the police can intervene.

## U.S. FOREIGN AID HAS HELPED THE PRIVATE SECTOR ABROAD—WHY NOT GIVE THE SAME TERMS TO ALASKAN BUSINESSMEN IN DISASTER-STRICKEN AREAS?

During the delivery of Mr. THURMOND'S speech,

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Alaska, with the understanding that I will not lose my right to the floor; that the resumption of my speech after such yielding will not count as another appearance; and with the further understanding that the remarks by the distinguished Senator from Alaska will appear elsewhere in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRUENING. I thank the distinguished Senator from South Carolina for his unfailing courtesy.

Mr. President, many businessmen in the disaster areas of Alaska face the unhappy prospect of assuming new, huge debts to reestablish themselves in business while at the same time having to repay debts on business assets which have been destroyed in the Good Friday earthquake and resulting tidal waves.

The able Administrator of the Small Business Administration, Mr. Eugene Foley, has wisely seen the necessity for aiding the private sector of the Alaska economy and has offered to make disaster loans to refinance the old indebtedness of these stricken businessmen and to finance the reestablishment of the businesses involved. He has seen the need for generous terms and has offered disaster loans for 30 years at 3 percent interest per annum with a moratorium on the payment of interest for 1 year and a moratorium on the repayment of principal for 5 years.

Last week I suggested to Administrator Foley that we should be at least as generous with borrowers here at home as we have been with borrowers under our foreign aid program where we loan huge sums at three-fourths of 1 percent interest with a 40-year repayment and a 10-year moratorium on the repayment of principal.

Under the law governing the small business program, the Administrator can set the interest rate for loans at any rate from 0 percent to a maximum of 3 percent. I have asked the Administrator to equate our domestic loan program with that of our foreign aid loan program and set the interest rate on small business disaster loans in Alaska at three-fourths of 1 percent per annum. To do less is to act unjustly to our own citizens.

I have today renewed my request to Administrator Foley citing instances of direct loans by the United States to private industry abroad in sizable sums at three-fourths of 1 percent interest per annum, repayable in 40 years with a moratorium on the repayment of principal for 10 years.

I ask unanimous consent that the letter to Administrator Foley, in which the request is made, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., April 24, 1964.*

Mr. EUGENE P. FOLEY,
*Administrator, Small Business Administration, Washington, D.C.*

DEAR MR. FOLEY: Yesterday at the meeting of the Federal Reconstruction Commission for Alaska you brought up my efforts to secure the same interest rate of three-fourths of 1 percent per annum on small business loans in disaster areas of Alaska as the United States has charged for development loans under the foreign aid program. You sought to distinguish these foreign loans from your domestic small business loans on the ground that the foreign loans were made directly to foreign governments and not to the private sector of the foreign economy.

After the meeting, when I informed you that you were mistaken, you said that if I could produce the evidence that some of these three-fourths of 1 percent loans were made to the private sector of the foreign countries, you would feel that you could modify your position from your declared intent of requiring the maximum interest rate prescribed by law (3 percent per annum) for small business loans made in the disaster areas in Alaska.

The evidence you desired is set forth in detail below.

In the first place, the foreign governments to which three-fourths of 1 percent loans are made are merely the conduits of those loans to the business and industrial sectors of those countries. True, many of those foreign governments—not having our American concept of free enterprise—may retain a part control or a nominal control of those industries and businesses or may own and operate them. But in essence loans to foreign countries to be used in the industrial sector of their economies produce precisely the same effects as loans by the Small Business Administration in the United States and are identical in nature with our loans—they help produce jobs for individuals, profits for stockholders, and economic wealth for the country.

If form rather than substance is the stumbling block to your modifying your stand, I could suggest a sizable loan to the State of Alaska or to the Alaska Development Corporation—the political equivalent of foreign governments—at three-fourths of 1 percent interest to be loaned to businessmen in the disaster areas of Alaska. But it is not necessary to resort to such a device since the evidence is abundantly clear that three-fourths of 1 percent loans are made in the foreign aid program directly to private industrial and business concerns, as I snall detail below.

Pursuing for a moment the economic effects of our three-fourths of 1 percent loans to foreign governments for industrial purposes, it is evident that when we gave (not loaned) for the development of fisheries resources $848,000 to Taiwan, $159,000 to Cambodia, $907,198 to Indonesia, $1,908,500 to Vietnam, $5,351,000 to Korea, $1,128,620 to India, $1,355,670 to Pakistan, $337,000 to Somali, $200,000 to Ivory Coast, $195,000 to Nigeria, and $151,971 to Peru, these dollars went directly to building canneries in those countries (canneries of exactly the same type as Pete Deveau of Kodiak, Alaska, is trying to rebuild and for which he is seeking a Small Business Administration loan) or to build fishing boats operated by individual fishermen (just like the fishing boats which were destroyed at Seward, Valdez, and Kodiak and for which Small Business Administration loans are now being sought by the fishermen of those Alaska communities).

But we do not have to rely on this obvious interpretation of what takes place in our foreign aid program for reasons why your position should be modified, for the foreign aid program is replete with instances of three-fourths of 1 percent per annum loans made directly to private concerns repayable in 40 years with a 10-year moratorium on repayment of principal.

Here are some examples of such three-fourths of 1 percent 40-year loans:

Afghanistan: Loan on March 23, 1963, of $2,625,000 to the Ariana Afghan Airlines, 49 percent of the stock of which is owned by Pan American World Airways (a private U.S. corporation) and the major portion of the remainder of the stock owned by private Afghanistan banks;

India: (a) Loan on June 28, 1962, of $17,900,000 to the Tata Hydroelectric Power Supply Co., Ltd., and the Andra Valley Power Supply Co., Ltd. (both private companies) for the Trombay Thermal Power Station;

(b) Loan on September 25, 1962, of $13,700,000 to the Tara Engineering & Locomotive Co., Ltd. (a private corporation) for expansion of a private truck plant;

(c) Loan on July 27, 1962, to NAPCO Bevel Gear of India, Ltd. (a private corporation) of $2,300,000 for expansion of privately operated precision gear plant;

Egypt: Loan on April 26, 1962, of $3 million to the Societe Misr Pour La Rayonna for the construction of a cellophane plant. This company was a privately owned company, but by nationalization decree of the Egyptian Government, a controlling interest in the company was nationalized;

Brazil: (a) Loan on March 6, 1963, to the Credito e Financiamento S. A. (a private corporation) of $4 million for the establishment of a development bank;

(b) Loan on March 11, 1963, to the Companhia De Carbonos Coloidois (a private corporation) of $2 million for a carbon black plant;

Mexico: Loan on June 30, 1962, to the Nacional Financiera, S. A. (a private corporation) of $20 million for supervised agricultural credit.

These examples among many illustrate my point that there is no justification for this double standard and that borrowers in the disaster areas of Alaska should at least be treated equally with foreign borrowers under our foreign aid program (who have suffered no disaster) and that you should exercise the authority you have under the law and lower the interest rate on disaster small loans to three-fourths of 1 percent per annum.

The act sets no minimum rate of interest, only a maximum rate of 3 percent per annum. In conversations with me you indicated that you had sufficient authority and discretion to set the interest rate at any rate up to 3 percent per annum.

It should be borne in mind that when, for example, the loan of $13,700,000 was made in India to the Tata Engineering & Locomotive Co., Ltd., on three-quarters-of-1-percent, 40-year-payment terms, there accrued no economic benefit to the American economy. All benefits—assuming adequate tax laws and collections—flowed to the economy of India and every other country benefiting by our three-quarters-of-1-percent loan. On the other hand, small business loans in the disaster areas of Alaska will generate jobs and tax dollars and will relieve the taxpayers of Alaska and the United States of the necessity of welfare and unemployment compensation payments.

I therefore renew my request to you that you modify the terms of disaster small loans in Alaska so as to put the Alaska borrower on terms of equality with those in foreign countries to whom we loan American tax dollars at three-fourths of 1 percent interest per year, with a 10-year moratorium on repayment of principal.

With best wishes, I am

Cordially yours,

ERNEST GRUENING,
*U.S. Senator.*

## IS AN AMERICAN PROTECTORATE IN ASIA WORTH WAR?

During the delivery of Mr. THURMOND'S speech,

Mr. MORSE. Mr. President, some days ago—almost 2 weeks ago, as I recall—I announced that I was at work on an analysis of international law principles vis-a-vis the unilateral military intervention of the United States in South Vietnam. I have completed that study; and at this time I propose to present my findings. This will be a major foreign policy speech, one of the more important foreign policy speeches I have made in my 20 years in the Senate. It is one that I wish had not been necessary to make, because in this speech I shall set forth my reasons for complete and total disagreement with my Government in connection with the conduct of what I call McNamara's war in South Vietnam. But, Mr. President, I desire to be constructive and to offer my criticisms of U.S. policy as constructive criticisms, and to do in this case as I have always done—offer affirmative proposals as substitutes for what I believe is a most unfortunate, most unwise, and completely unjustifiable American foreign policy in South Vietnam.

Mr. President, the war the United States is fighting in South Vietnam is a menace to the American people, for two reasons:

First, it is outside the legal framework of international law and American treaty obligations;

Second, it threatens to engulf the resources and manpower of the American people on the continent of Asia for an undefined time and purpose.

Either of these reasons alone is sufficient reason for the American people to draw back from the brink. These reasons together make it imperative that we draw back.

Most of this speech will deal with the legal problems of our intervention in Vietnam, although I shall refer also to the sheer stupidity of a unilateral American war in Asia.

### HISTORY OF U.S. POLICY IN VIETNAM

One cannot review the history of American policy in Indochina, and later Vietnam, without concluding that the U.S. Government wanted France to stay there; and that when that failed, we took up where France left off.

We refused to sign the Geneva Agreement, which took France out of Indochina. Our refusal gave fair indication of our intention to stay on and carry out the French role there alone.

Mr. President, at the outset I wish to call the attention of the Senate to my opinion that our failure to sign the Geneva agreement is of tremendous significance in connection with the subsequent development of American foreign policy in Vietnam.

In 10 years time, we have effectively established a United States protectorate over South Vietnam. When our first choice of a local ruler proved totally inefficient, we encouraged his overthrow. I say "encouraged," because the extent of the American participation in the coup that overthrew Ngo Dinh Diem is still unknown. But it is widely known that not only were Americans in Saigon dissatisfied with the Diem government, but our officials also spread word that we would welcome a change in governments.

High administration officials said publicly that U.S. aid would be reduced unless the Diem government changed its policies. Ambassador Lodge told President Diem that we wanted his brother, Ngo Dinh Nhu, removed from his positions of office and influence. A resolution introduced in the Senate, with 22 cosponsors, called for an end to U.S. aid unless the Diem government changed its policies of repression.

When the coup finally came, we quickly welcomed and recognized the new government headed by General Minh. We resumed the aid that had been suspended in order to put pressure on Diem.

It mattered little that 3 months later, another coup deposed General Minh, and installed General Khanh. The Diem, Minh, and Khanh regimes have all ruled South Vietnam only because of heavy financial backing by the United States. When we found one hopelessly incompetent, we have brought about a replacement.

Today, South Vietnam does not run the war against the guerrillas. She does not make her own foreign policy or military policy. The United States does. The U.S. Air Force is fighting in South Vietnam. Its planes and men are providing the air support and air transportation for the government ground forces. Americans numbering at least 15,000 are fighting with the ground forces. When they are shot at, they shoot back.

If hot pursuit of guerrillas is undertaken into Cambodia, it is the Americans who authorize it and make possible its execution. Several weeks ago, or more, we had to apologize to Cambodia, because we were caught bombing a Cambodian village; we were caught dropping a shocking, inhumane firebomb on a Cambodian village. The village was burned, and 16 persons were killed. How were we caught? We were caught because our plane was shot down, and the precious life of the American pilot was snuffed out. This is an ugly picture, and it is a picture that will blot the history of this glorious Republic. Therefore, I will continue to plead that we correct this mistaken policy and that we change our course of action in South Vietnam.

As I have said, if action is carried into Cambodia, it is the Americans who authorize it and make possible its execution. If "hot pursuit" into Laos is undertaken, it will be on our say-so and executed by American military aircraft manned by the U.S. Air Force.

If the war is carried into North Vietnam, it will be done on American orders, not on General Khanh's orders, and it will be done by the U.S. Air Force alone.

South Vietnam has become a protectorate of the United States. We have made it one, in order to protect what we regard as American interests in southeast Asia.

### U.S. POLICY IN INDOCHINA

Our intentions in this respect are clear, from the history of the French withdrawal. I refer Senators to the memoirs of Anthony Eden, who was British Foreign Secretary in 1954. His volume of memoirs covering this period is entitled "Full Circle"; and he writes as follows of the early months of 1952:

> There was a growing feeling in Paris, partly inspired by rumors of impending Chinese military intervention in Indochina, that Great Britain and the United States should give more help. The French complained that they could not be expected to defend the interests of the free world in Indochina singlehanded and at the same time make the contribution to European defense which was being demanded of them. Underlying this argument was the fear that, owing to her commitments in Indochina, France would find herself militarily inferior to a rearmed Western Germany in the proposed European army.
>
> These were the views with which the French Government confronted Mr. Dean Acheson and myself when we flew to Paris at the end of May for three-power discussions on the problems of Europe and southeast Asia. On the 26th, before the formal discussions opened, I had a long talk with Mr. Acheson at the British Embassy. He told me of the U.S. determination to do everything possible to strengthen the French hand in Indochina. On the wider question of the possibility of a Chinese invasion, the U.S. Government considered that it would be disastrous to the position of the Western Powers if southeast Asia were lost without a struggle. On the other hand, the Americans were determined to do nothing in that area which would provoke a third world war. Their present thinking was that deterrent action was the best course. At an appropriate moment there might have to be some form of warning to the Chinese. If the warning were ignored, Mr. Acheson believed that a blockade of the Chinese coast and the dislocation of her communications would have to be considered. I agreed generally with Mr. Acheson's approach, though I personally thought it unlikely that China would enter the war, and said so. The present state of affairs suited China very well and she would have nothing to gain by internationalizing the conflict. I told Mr. Acheson that Her Majesty's Government were strongly opposed to any course of action in southeast Asia which would be likely to result in a war with China. We both agreed that although possible means of deterring China should be examined, any provocative action must at all costs be avoided.
>
> On May 30, Mr. Acheson and I had a long and difficult conference with the French Prime Minister, M. Pinay, and the principal members of his Government. M. Pleven, the Minister of Defense, took the lead in present-

> ing the French case, which confirmed our Ambassador's warning, and made depressing hearing. Mr. Acheson remained sympathetic but firm. There was no doubt, he said, that France's effort in Indochina was in the general interest. He pointed out, however, that the United States was already bearing a third of the cost. The French Ministers repeatedly argued that if further aid was not forthcoming, there would be grave parliamentary difficulties in France. These would prejudice the ratification of EDC and the continuation of French efforts in Indochina.
>
> As we were driving away from the conference, Dean Acheson told me, more in sorrow than in anger, that if further aid were approved by Congress, the United States would be bearing about half the cost of the Indochina war, yet to hear the French talk, one would think that his Government were only supplying them with the odd revolver or two. I reflected that if the French really wanted American aid, they were going about it in the worst possible way.
>
> When we held a further three-power meeting in London at the end of June, I learned that I had been wrong in doubting the French method. Mr. Acheson told me, before the talks began, that his Government had agreed to increase their aid to the French in Indochina by $150 million during the coming fiscal year. This was an increase of 40 percent, and generous by any standards.

By late 1953, a new American administration was in office, and the French position in Indochina had slipped still further. In December of 1953, the Vietminh, the Communist-led rebels against the French, had embarked on a new offensive, and Mr. Eden says of it:

> The new offensive was no doubt intended to show the ineffectiveness of the French guarantee to Laos in the recently concluded treaty. It may not have succeeded in this purpose, but it did serve to arouse concern for the future of the French military position. This concern, and fears of Chinese intervention, were becoming particularly acute in the United States. On December 29, Mr. Dulles told a press conference that in the event of an invasion of Indochina, the American reaction "would not necessarily be confined to the particular theater chosen by the Communists for their operations." On January 12, 1954, after proclaiming the doctrine of instant retaliation, Mr. Dulles gave warning that Chinese intervention would have "grave consequences which might not be confined to Indochina." These admonitions did not seem to me on the mark. I did not believe that any Chinese intervention was imminent; there was no need for it. The Vietminh were doing well enough as it was. More practically, the view was already being canvassed in the American press that the United States should step in to help the French with sea and air power before the military situation deteriorated further.

But the French, Russians, and British were ready to sit down and discuss a political settlement in Indochina. "It was essential," continuing to quote the British Foreign Secretary of the time:

> That the French should hold their ground militarily, in order that their bargaining position at Geneva should not be weakened. But I did not consider it to be in the best interests of France that the scale of the fighting should be increased, or that she should be encouraged to expend her straitened resources in trying to force a military decision. The Americans took a different view. On February 8, our Ambassador was told at the State Department that the U.S. Government was perturbed by the fact that the French were aiming not to win the war, but to get into a position from which they could negotiate.
>
> At this time Mr. Bedell Smith, the American Under Secretary of State, was reappraising the situation with a small group invited by the President to consider the Indochina problem. He told our Ambassador that there was no intention of sending American troops into Indochina; the President would not do it even if he had the power. Yet the American Ambassador in Saigon had succinctly remarked that "the French would not be allowed to skedaddle unless China gave absolute guarantees." I did not see how this dual purpose was to be realized.
>
> On March 29, in a speech to the Overseas Press Club of America, Mr. Dulles said that the imposition of the Communist system on southeast Asia "should not be passively accepted but should be met by united action. This might involve serious risks, but these risks are far less than those that will face us in a few years from now if we dare not be resolute today." I had no objection to strong American words, but I wanted to be sure that they meant what they appeared to say. We had been told that the United States was not prepared to intervene in Indochina in the only effective way, on land. It was important not to encourage the French by the offer of lesser means which could not succeed.
>
> Meanwhile, the position of the besieged French garrison at Dien Bien Phu had deteriorated further. The American Government now approached the French and ourselves with a new proposal. This was to the effect that all the countries concerned should issue, before Geneva, a solemn declaration of their readiness to take concerted action under article 51 of the United Nations Charter against continued interference by China in the Indochina war. We were informed that the proposed warning would carry with it the threat of naval and air action against the Chinese coast and of active intervention in Indochina itself. This ad hoc coalition, comprising the United States, France, the United Kingdom, Australia, New Zealand, Thailand, the Philippines, and the three Associated States of Indochina, would simultaneously set about organizing the collective defense of southeast Asia.
>
> Reports from Paris indicated that this idea had met with a lukewarm reception there. On April 5, President Eisenhower sent a message to Sir Winston Churchill urging him to fall in with the American plan and suggesting that Mr. Dulles might fly to London within a few days to discuss his proposal. This offer was accepted, but at the same time I warned Sir Roger Makins in Washington that he should say nothing at this stage which might commit us to the joint action proposed.

Secretary Dulles set out to London to discuss an American proposal for a joint Allied intervention in Indochina. From what has been written and related about the position of the United States, Secretary Dulles and Admiral Radford were advocating prompt American intervention of any degree necessary to save the French position. President Eisenhower, whatever his personal views of its wisdom, wanted congressional authorization and the participation of other countries. So Dulles and Radford both went to London to try to get participation from the British.

Mr. Eden writes that he summarized his own position in writing shortly before the Dulles visit:

I quote the British Secretary:

> The U.S. proposal assumes that the threat of retaliation against China would cause her to withdraw aid from the Vietminh. This seems to me a fundamental weakness. There is a distinction between warning China that some specified further action will entail retaliation, which might be an effective deterrent, and calling upon her to desist from action in which she is already engaged. I cannot see what threat would be sufficiently potent to make China swallow so humiliating a rebuff as the abandonment of the Vietminh without any face-saving concession in return. If I am right in this view, the joint warning to China would have no effect, and the coalition would then have to withdraw ignominiously or else embark on warlike action against China.
>
> Neither blockade nor the bombing of China's internal and external communications, which the U.S. Government appear to have in mind, were considered by our Chiefs of Staff to be militarily effective when these were discussed in connection with Korea. They would, however, give China every excuse for invoking the Sino-Soviet Treaty, and might lead to a world war. Nor should we commit British forces to operations in Indochina.

The British Foreign Secretary, Mr. Eden, also paraphrases the conversation he had with Secretary Dulles:

> The battle at Dien Bien Phu had reached a crucial phase and American military authorities did not rate the French chances of victory highly. For these reasons, Mr. Dulles went on, the U.S. Chiefs of Staff had suggested 3 weeks ago that American naval and air forces should intervene in the Indochina war. He told us that some aircraft carriers had already been moved from Manila toward the Indochina coast. On reflection, Mr. Dulles had considered that the United States should not act alone in this matter and that before a decision to intervene were taken, two conditions should be met. First, there must be some assurance that the French Government were willing to grant the associated states real independence within the French Union, so as to provide the necessary political basis for effective resistance. Second, the U.S. Government must ascertain whether their allies, especially the United Kingdom, Australia, and New Zealand, took an equally grave view of the situation. For these reasons, although he no longer had in mind a warning declaration specifically directed against China, Mr. Dulles wanted to see the formation of an ad hoc coalition which might develop into a southeast Asia defense organization. He thought that this in itself would deter China from further interference in Indochina, and would strengthen our position at Geneva by giving evidence of our solidarity.

Eden's reply to the Indochina proposal of Dulles was as follows:

> If there was to be any question of Allied intervention, military or otherwise, or of any warning announcement before Geneva, that would require extremely careful consideration. It was doubtful whether the situation in Indochina could be solved by purely military means and we must at least see what proposals, if any, the Communists had to make at Geneva. Accordingly, I told Mr. Dulles that, in my view, the communique which would be issued after his visits to London and Paris should not go beyond a warning that we would not allow the work of the Geneva Conference to be prejudiced by Communist military action. I was not convinced that any immediate mention should be made of any decision concerning collective security in southeast Asia, if that were agreed upon.
>
> Our formal talks on April 12 and 13 added little to this initial conversation. I said that I could agree to no more than to engage in preliminary discussions on the possibility of forming a mutual security system

in southeast Asia. On the question of intervention, Mr. Dulles was convinced that Indochina was the place for such action, should it become necessary, provided that two requirements could be met. First, an unequivocal declaration by the French Government of independence for the associated states and secondly, the placing of the conflict on an international basis. This, he said, with the addition of outside air and naval support, would create the possibility of victory. Mr. Dulles added that he was confident that Congress would authorize the President to use U.S. air and naval forces, and possibly even land forces. I was not convinced by the assertion which Mr. Dulles then made, that the situation in Indochina was analogous to the Japanese invasion of Manchuria in 1931 and to Hitler's reoccupation of the Rhineland. I explained that the British chiefs of staff did not believe that Allied intervention could be limited to the air and the sea. I told Mr. Dulles that British public opinion, with the Geneva Conference in prospect, would be firmly opposed to any present commitment to become involved in war in Indochina. * * *

About this time, American opinion was being explored by Vice President Nixon. In his famous speech to the American Society of Newspaper Editors in New York City on April 16, 1954, he spoke not for attribution. According to the account in the New York Times of April 17, he said that if the French stopped fighting in Indochina and the situation demanded it, the United States would have to send troops to fight the Communists.

"We must take the risk of putting American boys in the fighting" if there was no other way. Those were the words of Richard Nixon in 1954.

I ask unanimous consent to have the New York Times story of April 17, and that of April 18 identifying the speaker as Vice President Nixon, reprinted in the Record at this point in my remarks.

There being no objection, the news articles were ordered to be printed in the Record, as follows:

### High Aid Says Troops May Be Sent if the French Withdraw

(By Luther A. Huston)

Washington, April 16.—A high administration source said today that if France stopped fighting in Indochina and the situation demanded it the United States would have to send troops to fight the Communists in that area.

He said he hoped this country would not have to send troops but if it could not avoid it the administration would have to face up to it and would do it. As the leader of the free world, the United States cannot afford another retreat in Asia, he said.

The source of these statements does not hold press conferences and he is not the administration spokesman on foreign policy. Those were the reasons he gave for refusing to permit his name to be used, his remarks to be attributed to him or the time or place where his statements were made to be disclosed.

He has, however, a voice in the formation of policy. He said that if the situation required it he would support sending troops to Indochina.

### EISENHOWER AID SILENT

The statement on possible U.S. armed intervention in the fighting came in answer to a question after the highly placed official had expressed the opinion that there was no reason why the French could not win in Indochina.

What prompted the question was his statement that while the Vietnam forces would continue fighting in event of a French withdrawal, Indochina probably would be Communist-dominated within a month of that act.

James C. Hagerty, White House press secretary, now in Augusta with President Eisenhower, would not say whether the statements made by the administration source reflected the views of the President.

"I have no knowledge of the story," said Mr. Hagerty. "I was not in Washington and I cannot comment on anything I did not hear."

Congressional reaction to the anonymous statement was scattered but to the point. Senators Bourke B. Hickenlooper, Republican of Iowa; and Hubert Humphrey, Democrat of Minnesota, said the administration official's comments on Indochina went far beyond the Eisenhower-Dulles policy as they understood it.

Senator Mike Mansfield, Democrat of Montana and another member of the Foreign Relations Committee, asked that the official identify himself "so that Congress can question him to find out who and what he is speaking for."

Senator William F. Knowland of California, the majority leader, declined any comment on the statement, presumably because he was among those who heard it firsthand and felt bound to respect the official's desire to remain anonymous.

Adopting a phrase used only recently by President Eisenhower, the official remarked that "the United States, as the leader of the free world, cannot afford further retreat in Asia." He expressed the view that the Communist forces could be stopped "without American boys," but added "we must take the risk of putting American boys in the fighting" if there was no other way.

The source of some of the most provocative statements that have been made recently by any Washington official ranged wide in the field of troubled Asian affairs and showed an unusual familiarity with the subject. His auditors were impressed with his knowledge and ability to marshal his facts.

### GENEVA PROSPECT SURVEYED

Among the statements he made were these:

The situation in southeast Asia is currently the most important issue facing the United States. It relates to a war we might have to fight in the future and that we might lose.

The main target of the Communists in Korea and in Indochina is Japan. Conquest of areas so vital to Japan's economy would reduce Japan to an economic satellite of the Soviet Union.

The Geneva Conference on Far Eastern Problems, opening April 26, will end in an impasse on Korea. The United States would come out where it went in at Geneva.

At Geneva, however, the United States has to take a position and try to sell it to the reluctant French and British.

The Geneva conference will not create a free, independent, and united Korea, but even so, Dr. Syngman Rhee, President of South Korea, will not move alone. He will continue to use the threat of unilateral action, however, as a strategic weapon.

Korea and Indochina, the source said, will be the two major items on the agenda at Geneva. The Allies will be for a free united and independent Korea, he declared, but the Communists cannot agree to that because they know that if an election is held they will lose.

What, then, will the South Koreans do? he asked. It is hard to be dogmatic, he said, but his guess was that President Rhee would not like it but would not take unilateral action that would reopen the war.

President Rhee is a complex man, both a conspirator and a realist, according to this thesis, who knew he could not win without U.S. support so would not move alone, but thought it unwise to announce he would not move alone. So long as the Communists are afraid President Rhee will act unilaterally, they will be forced to act differently at the Geneva conference table, the source said.

Indochina, he said, needs a Syngman Rhee.

The war in Indochina involves the future of France, of Asia, of Europe and, finally, the United States, he declared.

From the Communist point of view the war in Korea is about Japan, he continued, and so is the war in Indochina, which is essential to Japan's economic survival. Without trade with Indochina and Korea and with these countries under Communist control, Japan would become an economic satellite of the Soviet Union, which is the Communists' aim, he said.

But he saw no reason why the French forces should not win in Indochina with their greater manpower and tremendous advantage in materials.

The problem is not materials but men, he said, and they will not come from France, which is tired of the war; they must come from Vietnam, Cambodia, and Laos. But the French have been slow in training the native soldiers.

Even more difficult is the problem of giving the Indochinese the will to fight, he went on. He took issue with the view that if the French got out, the Indochinese would fight to keep their independence, saying Indochina would be Communist-dominated within a month if the French left.

So the United States must go to Geneva and take a positive stand for united action by the free world, he asserted, or it will have to take on the problem alone and try to sell it to the others.

There will be French pressure at Geneva to negotiate and end the fighting at any cost, he said, and the British position will be somewhat similar because of mounting Labor Party pressure and defections in the Conservative ranks. The British do not want to antagonize Red China, which they have recognized.

The United States is the only country that is strong enough politically at home to take a position that will save Asia, the official continued.

### NEGOTIATIONS OPPOSED

He raised the question of negotiating to divide the territory, saying the United States could invite the Communists into the government or could negotiate to get the Communists to invite it in, but that negotiations in any form would end up in Communist domination of a vital new area.

Perhaps Communist intransigence about Korea would teach the French and the British the futility of negotiation and bring them over to the plan of united action put forward by Secretary of State John Foster Dulles, he suggested.

The United States completely opposes any suggestion that admission of Communist China to the United Nations be used as a bargaining point at Geneva, he declared. He stressed that it was important to contain Communist China in the area it now holds and that recognition of the Peiping Government, which admission to the United Nations would involve, would emasculate the containment policy.

The three things the United States must do, he said, are to keep up the program of aid to the French forces, encourage France to give real independence to Vietnam, Cambodia, and Laos, and try for a program of united action in Asia.

With regard to the view that it might be politically expedient to agree to negotiations with Red China, he said the answer was that if the United States left its policy to an uninformed public opinion, it would go down the long road to disaster. This country must take the long risks now, he said.

### DANGER OF SUBVERSION

An alliance, however, will not meet the real danger in Asia, which is not aggression but internal subversion, he declared.

The free world must face the fact that a pact cannot be effective unless internal subversion can be stopped, he continued, and one way to do this would be to associate the United States with the legitimate aspirations of its friends and potential friends in the Far East.

These aspirations were termed threefold: independence from any foreign domination, recognition of equality, and peace.

U.S. information programs should be maintained and strengthened to carry assurance of this country's sympathy with those aspirations to the Asian countries. The source said he would oppose any curtailment of those programs or cuts in appropriations that would lessen their effectiveness.

All Asians want to be on the winning side and we must let them know that by joining with the United States they would be on the winning side, he said. The leaders making U.S. policy were pictured by him as competent, imaginative, courageous, and dedicated and he said the policies being formulated for Asia would win if public opinion supported them.

But with or without the support of public opinion, if the situation in Indochina requires that American troops be sent there to prevent that area from disappearing behind the Iron Curtain, the administration must face the issue and send the troops, he declared.

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### Nixon Is Revealed as Author of Stir Over Indochina: Vice President Told Editors United States Might Intervene With Troops if the French Quit—State Department Declares It Is Highly Unlikely Force Will Be Sent to Asia

(By John D. Morris)

Washington, April 17.—Vice President Richard M. Nixon is the administration official who said yesterday that the United States might have to send troops to Indochina if the French quit fighting there.

The disclosure coincided with the development in Congress of much concern, considerable resistance, and some scattered support for the possible use of U.S. ground forces as a last resort in the crucial Far Eastern war, as suggested by Mr. Nixon.

Senator William F. Knowland, of California, the Senate majority leader, voiced agreement that .troops should be sent, if necessary, to keep southeast Asia from falling into the hands of the Communists. He added, however, that he did not think it would be necessary.

Senator Knowland added that Congress and the people would not "be satisfied" with the development of another Korea situation in which this country would "assume 90 percent of the burden."

### COOPERATION IS SOUGHT

He added he thought the time had arrived when all nations giving lipservice to the free world defense should take part in the collective security system, and in an allusion to the role of other United Nations members in the Korean war, he expressed the view that Americans would not care again to see "60 backseat drivers" holding back the use of the full military power of the United States. The United Nations has 60 members.

Elsewhere, questions arose as to the propriety of presenting so grave a possibility to the American people through an anonymous "high official," as the Vice President was identified at his own insistence in initial news accounts of his speech.

In the first official reaction to the Vice President's statement from the executive branch, the State Department announced that the dispatch of U.S. troops to Indochina was "highly unlikely."

Without accepting the identification of Mr. Nixon except as "a high Government official," the Department said his address "expressed full agreement" with policies previously set forth by President Eisenhower and Secretary of State John Foster Dulles.

"In regard to a hypothetical question as to whether U.S. forces should be sent to Indochina in the event of French withdrawal, the high Government official categorically rejected the premise of possible French withdrawal," said the State Department.

"Insofar as the use of U.S. forces was concerned, he was stating a course of possible action which he was personally prepared to support under a highly unlikely hypothesis.

"The answer to the question correctly emphasized the fact that the interests of the United States and other free nations are vitally involved with the interests of France and the associated states in resisting Communist domination of Indochina."

Vice President Nixon delivered his speech yesterday at the annual convention of the American Society of Newspaper Editors.

If France stops fighting in Indochina and the situation demands it, he said, the United States will have to send troops to prevent the Communists from taking over this gateway to southeast Asia. This was during a question period that followed his prepared speech, in which he discussed Far East problems.

Mr. Nixon spoke to the editors on the condition that his remarks would not be attributed to him. News mediums in the United States observed the stipulation in reporting the speech yesterday.

However, the account carried by the Times of London, was worded in such a way as to make it unmistakable that Mr. Nixon was the high official speaking, and France-Soir in Paris identified the Vice President as the speaker.

Representative Clare Hoffman, Republican, of Michigan, meanwhile attributed the speech to the Vice President in an interview with the Daily Star of Niles, Mich.

As a consequence, the editors' society made it known that there was no longer any restriction on publication of the speaker's identity. Mr. Nixon, for his part, made himself unavailable for questioning.

Among editors who heard the speech, the consensus was that Mr. Nixon was testing the reaction of the public and Congress.

### REVIEW BY CONGRESS URGED

Senator Knowland voiced doubt that the public would react favorably to the establishment of such a policy in the absence of adequate arrangements for a joint defense force in the Indochina area.

Secretary Dulles is now seeking to establish a 10-nation alliance to guard Indochina and southeast Asia against new aggression.

"It is my belief," Senator Knowland said, "that prior to commitment of any armed forces—land, sea, or air—the President would and should come to Congress and lay the facts before it with his recommendations.

"I believe the reaction of Congress and the American people would to a considerable extent be influenced by what nations would contribute to collective action."

Congress and the people, he said, "would not be satisfied with having this country assume 90 percent of the burden as it did in Korea."

"Nor do I think that they would care to see 60 back-seat drivers restraining the use of our full military potential as they did in Korea," he added.

Mr. Knowland left no doubt that he referred to other members of the United Nations, and added:

"I think the time has arrived when those nations giving lipservice to free world defense should be willing to take part in the collective security system."

Senator Knowland expressed the belief that French withdrawal from Indochina was unlikely and that U.S. ground forces would not be required in any event.

There is ample manpower among the free nations of Asia "to meet the threat in southeast Asia if supported by the air and sea forces of other nations with the potential to do so," he asserted.

Senators Leverett Saltonstall of Massachusetts and Bourke B. Hickenlooper of Iowa, Republicans, were among those registering outright opposition to the use of U.S. troops.

Mr. Saltonstall, chairman of the Armed Services Committee, said that "from the information that has been given me thus far, my opinion is that we should not send men into Indochina."

Senator Hickenlooper, a member of the Foreign Relations Committee, said he had no reason to change his past position against such action.

In separate interviews, Senators Ralph E. Flanders, Republican, of Vermont, and John F. Kennedy, of Massachusetts, Estes Kefauver, of Tennessee, and Hubert M. Humphrey, of Minnesota, Democrats, stressed the need for assurances that the United States backed complete independence for the three Indochinese states.

Senator Kefauver said he was "unalterably opposed" to sending troops.

Senator George Smathers, Democrat, of Florida, called on the administration to first "put our enemies on notice that if we are drawn into a war, we are going in with everything we have."

Senator Alexander Wiley, Republican, of Wisconsin and chairman of the Foreign Relations Committee, commented merely that "I don't think that [the dispatch of troops] will ever come to pass."

Among other complications caused by the anonymous nature of the speech, the U.S. Information Agency decided not to mention it in yesterday's broadcasts to foreign countries.

One reason, according to officials, was the awkwardness of quoting an anonymous source. But the main hitch, it was said, came from standing instructions to regard President Eisenhower's statement of February 10 as guiding policy on Indochina.

### U.S. TECHNICIANS SENT

In his news conference on that day the President said he could not conceive of a greater tragedy for America than to get heavily involved now in all-out war in the Far East. No one, he asserted, could be more bitterly opposed to ever getting the United States involved in a hot war in that region.

Four days earlier, the Government had announced it was sending 200 technicians to help service U.S. planes being used by the French in Indochina. This precipitated protests in the Senate, and assurance was given by the Government that the technicians would be withdrawn in June.

On March 25, at another news conference, the President said the defense of Indochina was "of transcendent importance."

On March 29, Secretary Dulles announced:

"Under the conditions of today, the imposition on southeast Asia of the political system of Communist Russia, Chinese Communist ally, by whatever means, would be a grave threat to the whole free community.

"The United States feels that that possibility should not be passively accepted, but should be met by united action. This might have serious risks, but these risks are far less than would face us a few years from now if we dare not be resolute today."

**Mr. MORSE.** Mr. President, British Foreign Secretary Eden's memoirs continue to outline the effort by Secretary Dulles to bring the United States into active participation in Indochina.

Mr. SPARKMAN. Mr. President, will the Senator from Oregon yield at that point?

Mr. MORSE. I am glad to yield.

Mr. SPARKMAN. From whom was that quotation made by Vice President Nixon?

Mr. MORSE. From the New York Times of April 17 and 18, 1954.

Mr. President, continuing with the quotation:

> On the evening of April 23, we were assembled at the Quai d'Orsay for an official dinner, which was being given by the French Government for the NATO powers, when Mr. Dulles drew me aside. Then he told me that a telegram had arrived from General Navarre to the French Government, to the effect that only a powerful airstrike by the United States in the next 72 hours could save the situation at Dienbienphu. * * *
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> The French Air Force had heavy commitments on supply duties and had to give close tactical support to the garrison. They could not effectively interrupt the flow of Vietminh supplies from the Chinese border to the main depot, northeast of Dienbienphu. It was the bombing of this depot, dispersed over a wide area 8 miles square, which General Navarre now wished to see undertaken by the Americans. The French Air Force could then concentrate on attacking the enemy strongpoints in the Dienbienphu area. The French general staff argued that bombing by an outside force, apart from the material damage it would cause, would have a considerable effect on the morale of troops in the fortress and on French and native forces in Indochina generally. They told our general staff that the Americans had offered 60 B-29 aircraft, which would operate from Manila. Each sortie could drop approximately 450 tons of bombs and would operate from 20,000 feet. We were also told by the French that a U.S. Air Force general and 10 officers had visited Dienbienphu to study conditions and discuss the general situation.
>
> On the following day, April 24, I discussed the situation further with Mr. Dulles and Admiral Radford, the Chairman of the American Joint Chiefs of Staff Committee. Mr. Dulles began by saying he was now convinced that there was no chance of keeping the French in the fight unless they knew "that we would do what we can within the President's constitutional powers to join them in the fight." The French had said that it would not be enough if we were to assure them that we would join them in defending the rest of Indochina, in the event of the fall of Dien Bien Phu. Unless we participated, by an airstrike, in the battle for the fortress itself, that would be "their last battle." Mr. Dulles wished to make it plain that there was no possibility of U.S. participation in the Dien Bien Phu battle, because the President had not the power to act with such speed and because it was perfectly clear that no intervention could now save the fortress, where the situation was desperate. I asked Mr. Dulles what measures he had in mind. Admiral Radford replied that there must be some military effort to assist the French without delay. He suggested that British participation might take the form of sending RAF units into Tongking from Malaya or Hong Kong. He also inquired whether we had not an aircraft carrier in the area. Neither he nor Mr. Dulles gave any more explicit account of the joint military action they contemplated. Admiral Radford went on to say that he thought it most likely that when Dien Bien Phu fell, the whole military situation in Indochina would get out of control within a few days. There might be riots in Saigon and Hanoi, and the whole population might turn against the French. The only way he saw of preventing this was to demonstrate that France now had powerful allies in the fight.
>
> In reply to this, I said that the French had not painted anything like so desperate a picture to us. On the contrary, the French Government's line with Her Majesty's Ambassador that morning had been that the situation at Dien Bien Phu was very bad, but that they would fight on elsewhere if it fell. I asked Admiral Radford if he really thought that air intervention by the United States and the United Kingdom could decisively alter the situation. Had the Americans considered the effect on world opinion and how the Chinese would react? I said that I assumed they had not forgotten the Russo-Chinese alliance. It was possible that if we went into Indochina we should find ourselves fighting Vietnam as well as Vietminh, and in addition heading for a world war. Admiral Radford replied that he had never thought that the Chinese would intervene in Indochina, nor had they the necessary resources available. If they attempted air action, we could eliminate this by bombing the Chinese airfields, which were very vulnerable. At the end of our meeting, I told Mr. Dulles that he was confronting British opinion with about as difficult a decision as it would be possible to find. I would at once consult my colleagues.
>
> Shortly after this, Maurice Schumann rang me up to say that both Laniel and Bidault were now strongly in favor of my returning to London, and hoped that I would urge my colleagues to agree to proceeding on the lines desired by Dulles. During the course of the evening, however, the French appeared to have second thoughts. Denis Allen sent me a message after my departure from Paris to say that Bidault was, on reflection, far from enthusiastic about the American proposals. If Dulles pressed the matter, it was probable that Bidault would advise Laniel not to accept American intervention.
>
> From London Airport, I drove to Chequers to give the Prime Minister a full report on the situation. As happened so often in the years we worked together, I found that Sir Winston and I, though physically separated by hundreds of miles, had formed exactly the same conclusion. We agreed that it now seemed inevitable that the French garrison at Dien Bien Phu would be overwhelmed or compelled to surrender. I said that Mr. Dulles and Admiral Radford evidently feared that this would promptly be followed by the collapse of all French resistance throughout Indochina and, in order to avert it, favored some dramatic gesture of Anglo-American intervention in Indochina. They now recognized that this could no longer save Dien Bien Phu, but still wanted to rally French and Vietnamese morale and to prevent a general disintegration. Congress would be more likely to approve such action if intervention were to be on an Anglo-American basis. The Americans had therefore proposed that the United States and the United Kingdom Governments should give the French a joint assurance that they would join in the defense of Indochina, and that, as an earnest of this, they should be given immediate military assistance, including token British participation. I told the Prime Minister that I disagreed both with the American belief that such intervention could be effective and with the view that it could be limited to the use of air forces. I doubted whether intervention would have any substantial effect in rallying public opinion in Indochina, and I was certain that it would not be welcomed by nationalist opinion in southeast Asia generally. Militarily, I did not believe that the limited measures contemplated by the United States could achieve substantial results; no military aid could be effective unless it included ground troops. Sir Winston summed up the position by saying that what we were being asked to do was to assist in misleading Congress.

Mr. President, I repeat this statement. This is a report on the attitude of the Prime Minister of Great Britain, Sir Winston Churchill.

> Sir Winston summed up the position by saying that what we were being asked to do was to assist in misleading Congress into approving a military operation, which would in itself be ineffective, and might well bring the world to the verge of a major war.
>
> We agreed that we must therefore decline to give any undertaking of military assistance to the French and Indochina.

The Dulles mission failed. Dulles failed to draw the British into a U.S. plan to start a major military operation in Indochina.

I say to my colleagues in the Senate that we cannot ignore that history. I express my view on the floor of the Senate today that the failure of Dulles to get the British to go along in starting a war in Indochina of a different type—an Anglo-American war—must be carefully considered when we try to figure out why the United States did not sign the Geneva agreements.

It is my view that we did not sign the Geneva agreements because we did not intend to go along. We have not gone along. Therefore, we stand here today in this ugly, shocking posture of the United States before the eyes of the world, engaging in a unilateral military action in McNamara's war in South Vietnam, unjustifiably killing American boys, with the military and the Secretary of Defense and the President of the United States trying to alibi it.

Mr. President, it cannot be alibied. It is wrong. We cannot act alone. We are not justified in acting alone. The unilateral military action, with all the potentialities of threatening the peace of the world, cannot be justified on the basis of the international law obligations that I shall shortly proceed to discuss in my speech.

I wished to draw this line in my speech at this point. In my judgment, the history of the U.S. operations in Indochina took a turn in London. So Winston Churchill and Sir Anthony Eden turned down Dulles' proposal to start an Anglo-American war in Indochina.

The rejection by Britain of joint action, and the coolness of the French Government effectively ended the plan pushed by Dulles abroad and by Nixon at home to put Americans into the fighting in Indochina.

But Dulles did not give up trying.

This record shows how we got ourselves into our present situation in Vietnam. It must be considered as part of the whole context of our actions today.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. GRUENING. Is it the Senator's thought, in trying to make his speech early in the day, that the press of the United States would pay a little more attention to it than it has to some important utterances on this subject made by him on the floor of the Senate, which have hitherto been completely ignored?

Mr. MORSE. I say most goodnaturedly to my friend from Alaska that I will leave that up to the press.

Dulles did not stop trying to get others to involve themselves with us in Indochina.

Eden tells us of the events during the Geneva Conference itself. The conference on Indochina had as participants Great Britain, France, Russia, China, the United States, Cambodia, Laos, the State of Vietnam, and the Republic of Vietnam.

Eden states:

> I said that we must really see where we are going. If the Americans went into the Indochina war, the Chinese themselves would inevitably step up their participation. The next stage would be that the Americans and the Chinese would be fighting each other and that was in all probability the beginning of the third world war.
>
> Meanwhile Mr. Robertson, U.S. Assistant Secretary of State for Far Eastern Affairs, whose approach to these questions is so emotional as to be impervious to argument or indeed to facts, was keeping up a sort of "theme song" to the effect that there were in Indochina some 300,000 men who were anxious to fight against the Vietminh and were looking to us for support and encouragement. I said that if they were so anxious to fight I could not understand why they did not do so. The Americans had put in nine times more supplies of material than the Chinese, and plenty must be available for their use. I had no faith in this eagerness of the Vietnamese to fight for Bao Dai.
>
> Our American hosts then introduced the topic of the training of Vietnamese forces to defend their own country. Whatever the attractions of this scheme, they admitted that it would take perhaps 2 years to finish. The problem was what would happen meanwhile. When Lord Reading asked Mr. Dulles what he thought about this, he replied that they would have to hold some sort of bridgehead, as had been done in Korea until the Inchon landings could be carried out. Lord Reading commented that this meant that things would remain on the boil for several years to come, and Mr. Dulles replied that this would be a very good thing.
>
> I was concerned at this time by developments outside Geneva which, it seemed to me, might endanger our admittedly slender chances of making progress in negotiation. On May 15 I was surprised to find reports in the Swiss morning papers of Franco-American discussions on the possibility of military intervention by the United States in Indochina. That this issue should have been resurrected at such a moment was startling. I at once asked Mr. Bedell Smith if there was any truth in these reports, and he told me he knew nothing about the matter. When M. Bidault came to see me later in the morning, I asked him if he could confirm the rumors, and he gave me a vague denial which largely reassured me. However, at the end of our meeting, M. de Margerie, his principal adviser on that occasion, led me to the window and said that he had a document which he had been instructed by M. Bidault to read to me. This contained the conditions for United States intervention in Indochina. I commented: "Then what the newspapers said is true." "Certainly," Margerie replied, "very much so." He gave me the conditions, which were for intervention either after the failure of Geneva, or earlier if the French so desired, and he emphasized that the American preference had been clearly expressed for the earlier date.

The sad, historic fact is that the American Secretary of State was at Geneva doing everything he could to get a war started in Indochina with American and British participation; trying to convince the French to stay in with such assistance.

That is in the background of McNamara's war in South Vietnam. That is in the background of the unfortunate and, in my opinion, unjustifiable killing of American boys in South Vietnam. It is not the most pleasant chapter of American history. Such facts stir up a rude awakening on the part of thinking Americans who too frequently come to assume falsely that their country can do no wrong.

I am proud to say that the total record of my country is a glorious one. But one cannot sit on the Committee on Foreign Relations and cannot serve in this body for 20 years without knowing that sometimes the record of the United States on some issues is not one that the sunlight of truth shines upon, or that our forefathers, who sacrificed so much to make us free, would be proud of.

This is one of those chapters. We are writing a continuing chapter in this story that will not be pleasant reading to American students in the year 2000, 2025, 2050, 2075, or the year 3000. It will also be regretted by many more Americans much sooner than that.

Eden reported to Churchill:

> I myself fear that this new talk of intervention will have weakened what chances remain of agreement at this conference. The Chinese, and to a lesser extent the Russians, have all along suspected that the Americans intend to intervene in Indochina whatever arrangements we try to arrive at here. The Chinese also believe that the Americans plan hostilities against them. These reports could help to convince them that they are right, and I do not accept the U.S. argument that the threat of intervention will incline them to compromise.

On May 29, reports Eden:

> As I reported to London at the time, the Americans seemed deeply apprehensive of reaching any agreement, however innocuous, with the Communists. Their delegation had recently been expressing concern about the contacts which they believed to be taking place between the French and Vietminh delegations, and seemed to fear that they would make a deal of their own. I saw no reason to worry about this. There were signs, too, that the bogey of intervention was once again with us. Sir Gladwyn Jebb reported from Paris on May 31 that the United States had practically reached agreement with France on the conditions for intervention, should the conference fail. Bidault confirmed to me on the same day that, if no agreement were to be reached at Geneva, American help was contemplated to the extent of three divisions.

But the conference did not break down. Instead it agreed on a settlement based on seven points that Dulles himself had worked out with Eden. As the conference came to an end, Britain and France both tried to get the United States to sign the Geneva accords. Of this effort Eden writes:

> M. Mendes France's main purpose in these conversations, which he pursued with drive and skill, was to dispel Mr. Dulles' suspicion that there would inevitably be some departure by France from the seven points on which we had agreed in Washington. He described to us his negotiations with the Vietminh on the question of the demarcation line in Vietnam, and effectively demonstrated that at no point had his position diverged from the minimum terms which had been defined by the Americans and ourselves. He said that it would be of the greatest help to him if Mr. Dulles would come on to Geneva and give France full backing there; success or failure might depend on this. I did all I could to support Mendes France and to reinforce his request. I told Dulles that we were on a knife-edge, with an even chance of getting the sort of agreement we all wanted. His decision might well decide the issue.
>
> Our combined arguments at first produced no impression. Mr. Dulles told us that after discussion with the President, it had been agreed that he should not return to Geneva. He reiterated his fears that, in the event, France would be compelled to depart from the seven points, and the United States would then have to dissociate herself from the resulting agreement. He said that even if the settlement adhered to the seven points faithfully, the United States still could not guarantee it. American public opinion would never tolerate "the guaranteeing of the subjection of millions of Vietnamese to Communist rule." Dulles concluded by saying that he did not want to put himself in the position of having to say "no" in public. To this Mendes France replied that the United States would not escape the dilemma by refusing to appear at Geneva. Since they were already represented at the conference, they would have to make a decision in any case. He repeatedly emphasized that Dulles' suspicions about a departure from the "seven points" were wholly unjustified; it was precisely because he wished to secure them that he was anxious for Dulles to come to Geneva.
>
> I had already been warned by Bedell Smith that the U.S. Government could not associate themselves with the final declaration. The most they could do was to issue a declaration taking note of what had been decided and undertaking not to disturb the settlement. Since Dulles had been at least as responsible as ourselves for calling the Geneva Conference, this did not seem to be reasonable. I also feared that it might lead to serious difficulties at our final meeting, for the Chinese had indicated that they would insist upon signature of the final declaration by all the delegations. I thought that I had better have this out with Molotov before the meeting. I went to see him and we eventually agreed that, in order to eliminate the problem of signature, the declaration should have a heading in which all the participating countries would be listed.

Mr. President, the rationale given to the American people for our refusal to sign the Geneva agreement of 1954 was that we were not party to the war. That was nonsense, for our Secretary of State was there, doing everything he could to get us involved in intervention in Indochina.

By 1954, we were financing 75 percent of the French war effort in Indochina. From 1950 to 1954, we poured in more than $1.5 billion of our money for the French; we were already intervening with our money and our supplies. Russia, China, and Britain were far less involved in it than we were, if at all; but they signed the Geneva Agreement. If our reason for not signing had been valid, we should not have participated in the conference. But we did, because we wanted to have a hand in it; and, as Anthony Eden said, seven basic principles of the accords came from Dulles. Yet we refused to sign the agreement.

I repeat that, in my opinion, when this matter is studied from its four corners, it will be found that there is a clear indication that at that very time, Dulles and Smith and Radford intended to have the United States become involved in Indochina; but they could not very well engage in unilateral action and also have us sign the Geneva accords.

So, Mr. President, why did not our representatives sign that treaty? Why did not South Vietnam sign it? I think the answer is that their refusal to sign it was based on the fact that the United States had already decided to step in to South Vietnam at least, and carry on where France had left off—to keep South Vietnam as a western protectorate and toehold in Asia.

By January 1, 1955, Secretary Dulles was denouncing the Geneva agreements as "a major setback."

### GENEVA ACCORD, DECLARATION, AND U.S. POLICY STATEMENT

Mr. President, I ask unanimous consent to have printed at this point in the RECORD three documents relating to the conclusion of the French war in Indochina: the provisions of the Geneva agreement relating to Vietnam; the Final Declaration of the Geneva Conference; the U.S. Declaration on Indochina, made by Under Secretary of State Walter Bedell Smith; and the press conference statements of the time by President Eisenhower and Secretary Dulles.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

### DOCUMENT NO. 5—AGREEMENT ON THE CESSATION OF HOSTILITIES IN VIETNAM, JULY 20, 1954

#### *Chapter I—Provisional military demarcation line and demilitarized zone*

#### Article 1

A provisional military demarcation line shall be fixed, on either side of which the forces of the two parties shall be regrouped after their withdrawal, the forces of the People's Army of Vietnam to the north of the line and the forces of the French Union to the south.

The provisional military demarcation line is fixed as shown on the map attached.[1]

It is also agreed that a demilitarized zone shall be established on either side of the demarcation line, to a width of not more than 5 kilometers from it, to act as a buffer zone and avoid any incidents which might result in the resumption of hostilities.

#### Article 2

The period within which the movement of all forces of either party into its regrouping zone on either side of the provisional military demarcation line shall be completed shall not exceed 300 days from the date of the present agreement's entry into force.

#### Article 3

When the provisional military demarcation line coincides with a waterway, the waters of such waterway shall be open to civil navigation by both parties wherever one bank is controlled by one party and the other bank by the other party. The Joint Commission shall establish rules of navigation for the stretch of waterway in question. The merchant shipping and other civilian craft of each party shall have unrestricted access to the land under its military control.

#### Article 4

The provisional military demarcation line between the two final regrouping zones is extended into the territorial waters by a line perpendicular to the general line of the coast.

All coastal islands north of this boundary shall be evacuated by the armed forces of the French Union, and all islands south of it shall be evacuated by the forces of the People's Army of Vietnam.

#### Article 5

To avoid any incidents which might result in the resumption of hostilities, all military forces, supplies, and equipment shall be withdrawn from the demilitarised zone within 25 days of the present agreement's entry into force.

#### Article 6

No person, military or civilian, shall be permitted to cross the provisional military demarcation line unless specifically authorised to do so by the Joint Commission.

#### Article 7

No person, military or civilian, shall be permitted to enter the demilitarised zone except persons concerned with the conduct of civil administration and relief and persons specifically authorised to enter by the Joint Commission.

#### Article 8

Civil administration and relief in the demilitarised zone on either side of the provisional military demarcation line shall be the responsibility of the commanders-in-chief of the two parties in their respective zones. The number of persons, military or civilian, from each side who are permitted to enter the demilitarised zone for the conduct of civil administration and relief shall be determined by the respective Commanders, but in no case shall the total number authorised by either side exceed at any one time a figure to be determined by the Trung Gia Military Commission or by the Joint Commission. The number of civil police and the arms to be carried by them shall be determined by the Joint Commission. No one else shall carry arms unless specifically authorised to do so by the Joint Commission.

#### Article 9

Nothing contained in this chapter shall be construed as limiting the complete freedom of movement, into, out of or within the demilitarised zone, of the Joint Commission, its joint groups, the International Commission to be set up as indicated below, its inspection teams and any other persons, supplies or equipment specifically authorised to enter the demilitarised zone by the Joint Commission. Freedom of movement shall be permitted across the territory under the military control of either side over any road or waterway which has to be taken between points within the demilitarised zone when such points are not connected by roads or waterways lying completely within the demilitarised zone.

#### *Chapter II—Principles and procedures governing implementation of the present agreement*

#### Article 10

The Commanders of the Forces on each side, on the one side the Commander in Chief of the French Union forces in Indochina and on the other side the Commander in Chief of the People's Army of Vietnam, shall order and enforce the complete cessation of all hostilities in Vietnam by all armed forces under their control, including all units and personnel of the ground, naval and air forces.

#### Article 11

In accordance with the principle of a simultaneous cease-fire throughout Indochina, the cessation of hostilities shall be simultaneous throughout all parts of Vietnam, in all areas of hostilities and for all the forces of the two parties.

Taking into account the time effectively required to transmit the cease-fire order down to the lowest echelons of the combatant forces on both sides, the two parties are agreed that the cease-fire shall take effect completely and simultaneously for the different sectors of the country as follows:

Northern Vietnam at 8 a.m. (local time) on July 27, 1954.

Central Vietnam at 8 a.m. (local time) on August 1, 1954.

Southern Vietnam at 8 a.m. (local time) on August 11, 1954.

It is agreed that Peking mean time shall be taken as local time.

From such time as the cease-fire becomes effective in Northern Vietnam, both parties undertake not to engage in any large-scale offensive action in any part of the Indo-Chinese theatre of operations and not to commit the air forces based on Northern Vietnam outside that sector. The two parties also undertake to inform each other of their plans for movement from one regrouping zone to another within 25 days of the present Agreement's entry into force.

#### Article 12

All the operations and movements entailed in the cessation of hostilities and regrouping must proceed in a safe and orderly fashion:

(a) Within a certain number of days after the cease-fire Agreement shall have become effective, the number to be determined on the spot by the Trung Gia Military Commission, each party shall be responsible for removing and neutralising mines (including river- and sea-mines), booby traps, explosives and any other dangerous substances placed by it. In the event of its being impossible to complete the work of removal and neutralisation in time, the party concerned shall mark the spot by placing visible signs there. All demolitions, mine fields, wire entanglements and other hazards to the free movement of the personnel of the Joint Commission and its joint groups, known to be present after the withdrawal of the military forces, shall be reported to the Joint Commission by the commanders of the opposing forces;

(b) From the time of the cease-fire until regrouping is completed on either side of the demarcation line:

(1) The forces of either party shall be provisionally withdrawn from the provisional assembly areas assigned to the other party.

(2) When one party's forces withdraw by a route (road, rail, waterway, sea route) which passes through the territory of the other party (see article 24), the latter party's forces must provisionally withdraw three kilometres on each side of such route, but in such a manner as to avoid interfering with the movements of the civil population.

#### Article 13

From the time of the ceasefire until the completion of the movements from one regrouping zone into the other, civil and military transport aircraft shall follow air-corridors between the provisional assembly areas assigned to the French Union forces north of the demarcation line on the one hand and the Laotian frontier and the regrouping zone assigned to the French Union forces on the other hand.

The position of the air-corridors, their width, the safety route for single-engined military aircraft transferred to the south and the search and rescue procedure for aircraft in distress shall be determined on the spot by the Trung Gia Military Commission.

#### Article 14

Political and administrative measures in the two regrouping zones, on either side of the provisional military demarcation line:

(a) Pending the general elections which will bring about the unification of Vietnam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present agreement.

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[1] Map not printed.

(b) Any territory controlled by one party which is transferred to the other party by the regrouping plan shall continue to be administered by the former party until such date as all the troops who are to be transferred have completely left that territory so as to free the zone assigned to the party in question. From then on, such territory shall be regarded as transferred to the other party, who shall assume responsibility for it.

Steps shall be taken to ensure that there is no break in the transfer of responsibilities. For this purpose, adequate notice shall be given by the withdrawing party to the other party, which shall make the necessary arrangements, in particular by sending administrative and police detachments to prepare for the assumption of administrative responsibility. The length of such notice shall be determined by the Trung Gia Military Commission. The transfer shall be effected in successive stages for the various territorial sectors.

The transfer of the civil administration of Hanoi and Haiphong to the authorities of the Democratic Republic of Vietnam shall be completed within the respective time-limits laid down in article 15 for military movements.

(c) Each party undertakes to refrain from any reprisals or discrimination against persons or organisations on account of their activities during the hostilities and to guarantee their democratic liberties.

(d) From the date of entry into force of the present agreement until the movement of troops is completed, any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district.

Article 15

The disengagement of the combatants, and the withdrawals and transfers of military forces, equipment and supplies shall take place in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, equipment and supplies of the two parties shall be completed within 300 days, as laid down in article 2 of the present agreement;

(b) Within either territory successive withdrawals shall be made by sectors, portions of sectors or provinces. Transfers from one regrouping zone to another shall be made in successive monthly instalments proportionate to the number of troops to be transferred;

(c) The two parties shall undertake to carry out all troop withdrawals and transfers in accordance with the aims of the present agreement, shall permit no hostile act and shall take no step whatsoever which might hamper such withdrawals and transfers. They shall assist one another as far as this is possible;

(d) The two parties shall permit no destruction or sabotage of any public property and no injury to the life and property of the civil population. They shall permit no interference in local civil administration;

(e) The Joint Commission and the International Commission shall ensure that steps are taken to safeguard the forces in the course of withdrawal and transfer;

(f) The Trung Gia Military Commission, and later the Joint Commission, shall determine by common agreement the exact procedure for the disengagement of the combatants and for troop withdrawals and transfers, on the basis of the principles mentioned above and within the framework laid down below:

1. The disengagement of the combatants, including the concentration of the armed forces of all kinds and also each party's movements into the provisional assembly areas assigned to it and the other party's provisional withdrawal from it, shall be completed within a period not exceeding 15 days after the date when the cease fire becomes effective.

The general delineation of the provisional assembly areas is set out in the maps[2] annexed to the present agreement.

In order to avoid any incidents, no troops shall be stationed less than 1,500 metres from the lines delimiting the provisional assembly areas.

During the period until the transfers are concluded, all the coastal islands west of the following lines shall be included in the Haiphong perimeter:

Meridian of the southern point of Kebao Island.

Northern coast of Ile Rousse (excluding the island), extended as far as the meridian of Campha-Mines.

Meridian of Campha-Mines.

2. The withdrawals and transfers shall be effected in the following order and within the following periods (from the date of the entry into force of the present agreement):

*Forces of the French Union*

| | *Days* |
|---|---|
| Hanoi perimeter | 80 |
| Haiduong perimeter | 100 |
| Haiphong perimeter | 300 |

*Forces of the People's Army of Vietnam*

| | *Days* |
|---|---|
| Ham Tan and Xuyenmoc provisional assembly area | 80 |
| Central Vietnam provisional assembly area—first instalment | 80 |
| Plaine des Jones provisional assembly area | 100 |
| Central Vietnam provisional assembly area—second instalment | 100 |
| Pointe Camau provisional assembly area | 200 |
| Central Vietnam provisional assembly area—last instalment | 300 |

*Chapter III—Ban on the introduction of fresh troops, military personnel, arms, and munitions. Military bases*

Article 16

With effect from the date of entry into force of the present agreement, the introduction into Vietnam of any troop reinforcements and additional military personnel is prohibited.

It is understood, however, that the rotation of units and groups of personnel, the arrival in Vietnam of individual personnel on a temporary duty basis and the return to Vietnam of the individual personnel after short periods of leave or temporary duty outside Vietnam shall be permitted under the conditions laid down below:

(a) Rotation of units (defined in paragraph (c) of this article) and groups of personnel shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in article 1 of the present agreement during the withdrawal period provided for in article 2.

However, under the heading of individual personnel not more than 50 men, including officers, shall during any one month be permitted to enter that part of the country north of the provisional military demarcation line on a temporary duty basis or to return there after short periods of leave or temporary duty outside Vietnam.

(b) "Rotation" is defined as the replacement of units or groups of personnel by other units of the same échelon or by personnel who are arriving in Vietnam territory to do their overseas service there;

(c) The units rotated shall never be larger than a battalion—or the corresponding échelon for air and naval forces;

(d) Rotation shall be conducted on a man-for-man basis, provided, however, that in any one quarter neither party shall introduce more than 15,500 members of its armed forces into Vietnam under the rotation policy.

(e) Rotation units (defined in paragraph (c) of this article) and groups of personnel, and the individual personnel mentioned in this article, shall enter and leave Vietnam only through the entry points enumerated in article 20 which follows;

(f) Each party shall notify the Joint Commission and the International Commission at least two days in advance of any arrivals or departures of units, groups of personnel and individual personnel in or from Vietnam. Reports on the arrivals or departures of units, groups of personnel and individual personnel in or from Vietnam shall be submitted daily to the Joint Commission and the International Commission.

All the above-mentioned notifications and reports shall indicate the places and dates of arrival or departure and the number of persons arriving or departing;

(g) The International Commission, through its Inspection Teams, shall supervise and inspect the rotation of units and groups of personnel and the arrival and departure of individual personnel as authorised above, at the points of entry enumerated in article 20 which follows.

Article 17

(a) With effect from the date of entry into force of the present agreement, the introduction into Vietnam of any reinforcements in the form of all types of arms, munition and other war material, such as combat aircraft, naval craft, pieces of ordnance, jet engines, and jet weapons and armoured vehicles, is prohibited.

(b) It is understood, however, that war material, arms and munitions which have been destroyed, damaged, worn out or used up after the cessation of hostilities may be replaced on the basis of piece-for-piece of the same type and with similar characteristics. Such replacements of war material, arms and ammunitions shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in article 1 of the present agreement, during the withdrawal period provided for in article 2.

Naval craft may perform transport operations between the regrouping zones.

(c) The war material, arms and munitions for replacement purposes provided for in paragraph (b) of this article, shall be introduced into Vietnam only through the points of entry enumerated in article 20 below. War material, arms and munitions to be replaced shall be shipped from Vietnam only through the points of entry enumerated in article 20 which follows.

(d) Apart from the replacements permitted within the limits laid down in paragraph (b) of this article, the introduction of war material, arms and munitions of all types in the form of unassembled parts for subsequent assembly is prohibited.

(e) Each party shall notify the Joint Commission and the International Commission at least two days in advance of any arrivals or departures which may take place of war material, arms and munitions of all types.

In order to justify the requests for the introduction into Vietnam of arms, munitions and other war material (as defined in paragraph (a) of this article) for replacement purposes, a report concerning each incoming shipment shall be submitted to the Joint Commission and the International Commission. Such reports shall indicate the use made of the items so replaced.

(f) The International Commission, through its inspection teams, shall supervise and inspect the replacements permitted in the circumstances laid down in this article, at the points of entry enumerated in article 20 below.

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[2] Maps not printed.

### Article 18

With effect from the date of entry into force of the present Agreement, the establishment of new military bases is prohibited throughout Vietnam territory.

### Article 19

With effect from the date of entry into force of the present Agreement, no military base under the control of a foreign State may be established in the regrouping zone of either party; the two parties shall ensure that the zones assigned to them do not adhere to any military alliance and are not used for the resumption of hostilities or to further an aggressive policy.

### Article 20

The points of entry into Vietnam for rotation personnel and replacements of material are fixed as follows:

Zones to the north of the provisional military demarcation line: Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen;

Zone to the south of the provisional military demarcation line: Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tanchau.

## *Chapter IV—Prisoners of war and civilian internees*

### Article 21

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Vietnam, French and other nationalities captured since the beginning of hostilities in Vietnam during military operations or in any other circumstances of war and in any part of the territory of Vietnam shall be liberated within a period of 30 days after the date when the cease-fire becomes effective in each theatre.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities.

(c) All prisoners of war and civilian internees held by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to their country of origin, place of habitual residence or the zone of their choice.

## *Chapter V—Miscellaneous*

### Article 22

The commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present agreement are suitably punished.

### Article 23

In cases in which the place of burial is known and the existence of graves has been established, the commander of the forces of either party shall, within a specific period after the entry into force of the armistice agreement, permit the graves service personnel of the other party to enter the part of Vietnam territory under their military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war. The Joint Commission shall determine the procedures and the time limit for the performance of this task. The commanders of the forces of the two parties shall communicate to each other all information in their possession as to the place of burial of military personnel of the other party.

### Article 24

The present agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the demilitarised zone and the territory under the military control of the other party, and shall commit no act and undertake no operation against the other party and shall not engage in blockade of any kind in Vietnam.

For the purposes of the present Article, the word "territory" includes territorial waters and air space.

### Article 25

The commanders of the forces of the two parties shall afford full protection and all possible assistance and cooperation to the Joint Commission and its joint groups and to the International Commisison and its inspection teams in the performance of the functions and tasks assigned to them by the present Agreement.

### Article 26

The costs involved in the operations of the Joint Commission and joint groups and of the International Commission and its inspection teams shall be shared equally between the two parties.

### Article 27

The signatories of the present agreement and their successors in their functions shall be responsible for ensuring the observance and enforcement of the terms and provisions thereof. The commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present agreement by all elements and military personnel under their command.

The procedures laid down in the present agreement shall, whenever necessary, be studied by the commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

## *Chapter VI—Joint Commission and International Commission for Supervision and Control in Vietnam*

### Article 28

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

### Article 29

An International Commission shall ensure the control and supervision of this execution.

### Article 30

In order to facilitate, under the conditions shown below, the execution of provisions concerning joint actions by the two parties, a Joint Commission shall be set up in Vietnam.

### Article 31

The Joint Commission shall be composed of an equal number of representatives of the commanders of the two parties.

### Article 32

The Presidents of the delegations to the Joint Commission shall hold the rank of general.

The Joint Commission shall set up joint groups, the number of which shall be determined by mutual agreement between the parties. The joint groups shall be composed of an equal number of officers from both parties. Their location on the demarcation line between the regrouping zones shall be determined by the parties whilst taking into account the powers of the Joint Commission.

### Article 33

The Joint Commission shall ensure the execution of the following provisions of the Agreement on the cessation of hostilities:

(a) A simultaneous and general cease-fire in Vietnam for all regular and irregular armed forces of the two parties.

(b) A regroupment of the armed forces of the two parties.

(c) Observance of the demarcation lines between the regrouping zones and of the demilitarised sectors.

Within the limits of its competence it shall help the parties to execute the said provisions, shall ensure liaison between them for the purpose of preparing and carrying out plans for the application of these provisions, and shall endeavour to solve such disputed questions as may arise between the parties in the course of executing these provisions.

### Article 34

An International Commission shall be set up for the control and supervision over the application of the provisions of the agreement on the cessation of hostilities in Vietnam. It shall be composed of representatives of the following States: Canada, India, and Poland.

It shall be presided over by the Representative of India.

### Article 35

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States. The mixed teams shall be located at the following points: Laokay, Langson, Tien-Yien, Haiphong, Vinh, Dong-Hoi, Muong-Sen Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cape St. Jacques, Tranchau. These points of location may, at a later date, be altered at the request of the joint commission, or of one of the parties, or of the international commission itself, by agreement between the international commission and the command of the party concerned. The zones of action of the mobile teams shall be the regions bordering the land and sea frontiers of Vietnam, the demarcation lines between the regrouping zones and the demilitarised zones. Within the limits of these zones they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfillment of their tasks (provision of personnel, placing at their disposal documents needed for supervision, summoning witnesses necessary for holding enquiries, ensuring the security and freedom of movement of the inspection teams, &c.) They shall have at their disposal such modern means of transport, observation, and communication as they may require. Beyond the zones of action as defined above, the mobile teams may, by agreement with the command of the party concerned, carry out other movements within the limits of the tasks given them by the present agreement.

### Article 36

The international commission shall be responsible for supervising the proper execution by the parties of the provisions of the agreement. For this purpose it shall fulfil the tasks of control, observation, inspection, and investigation connected with the application of the provisions of the agreement on the cessation of hostilities, and it shall in particular:

(a) Control the movement of the armed forces of the two parties, effected within the framework of the regroupment plan.

(b) Supervise the demarcation lines between the regrouping areas, and also the demilitarized zones.

(c) Control the operations of releasing prisoners of war and civilian internees.

(d) Supervise at ports and airfields as well as along all frontiers of Vietnam the execution of the provisions of the agreement on the cessation of hostilities, regulating the introduction into the country of armed forces, military personnel, and of all kinds of arms, munitions, and war material.

### Article 37

The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

### Article 38

The inspection teams shall submit to the International Commission the results of their supervision, their investigation and their observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the conclusions of each member shall be submitted to the Commission.

### Article 39

If any one inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation, the International Commission shall be informed; the latter shall study the reports and the conclusions of the inspection teams and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

### Article 40

When the Joint Commission is unable to reach an agreement on the interpretation to be given to some provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

### Article 41

The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 42. If the votes are divided, the chairman's vote shall be decisive.

The International Commission may formulate recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Vietnam, in order to ensure a more effective execution of that agreement. These recommendations shall be adopted unanimously.

### Article 42

When dealing with questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, namely;

(a) Refusal by the armed forces of one party to effect the movements provided for in the regroupment plan;

(b) Violation by the armed forces of one of the parties of the regrouping zones, territorial waters, or air space of the other party; the decisions of the International Commission must be unanimous.

### Article 43

If one of the parties refuses to put into effect a recommendation of the International Commission, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 42, it shall submit a majority report and one or more minority reports to the members of the Conference.

The International Commission shall inform the members of the Conference in all cases where its activity is being hindered.

### Article 44

The International Commission shall be set up at the time of the cessation of hostilities in Indochina in order that it should be able to fulfil the tasks provided for in article 36.

### Article 45

The International Commission for Supervision and Control in Vietnam shall act in close cooperation with the International Commissions for Supervision and Control in Cambodia and Laos.

The Secretaries-General of these three Commissions shall be responsible for coordinating their work and for relations between them.

### Article 46

The International Commission for Supervision and Control in Vietnam may, after consultation with the International Commissioners for Supervision and Control in Cambodia and Laos, and having regard to the development of the situation in Cambodia and Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

### Article 47

All the provisions of the present Agreement, save the second subparagraph of article 11, shall enter into force at 2400 hours (Geneva time) on July 22, 1954.

Done in Geneva at 2400 hours on the 20th of July, 1954, in French and in Vietnamese, both texts being equally authentic.

For the commander-in-chief of the French Union Forces in Indochina:

DELTIEL,
*Brigadier-General.*

For the commander in chief of the People's Army of Vietnam.

TA-QUANG-BUU,
*Vice-Minister of National Defence of the Democratic Republic of Vietnam.*

## U.S. DECLARATION ON INDOCHINA

(NOTE.—Following is the text of a statement made by Under Secretary Walter B. Smith at the concluding Indochina plenary session at Geneva on July 21:)

As I stated on July 18[1] my Government is not prepared to join in a declaration by the Conference such as is submitted. However, the United States makes this unilateral declaration of its position in these matters:

### DECLARATION

The Government of the United States being resolved to devote its efforts to the strengthening of peace in accordance with the principles and purposes of the United Nations takes note of the agreements concluded at Geneva on July 20 and 21, 1954 between (a) the Franco-Laotian Command and the Command of the Peoples Army of Vietnam; (b) the Royal Khmer Army Command and the Command of the Peoples Army of Vietnam; (c) Franco-Vietnamese Command and the Command of the Peoples Army of Vietnam and of paragraphs 1 to 12 inclusive of the declaration presented to the Geneva Conference on July 21, 1954 declares with regard to the aforesaid agreements and paragraphs that (i) it will refrain from the threat or the use of force to disturb them, in accordance with article 2 (4) of the Charter of the United Nations dealing with the obligation of members to refrain in their international relations from the threat or use of force; and (ii) it would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security.

In connection with the statement in the declaration concerning free elections in Vietnam my Government wishes to make clear its position which it has expressed in a declaration made in Washington on June 29, 1954[2] as follows:

"In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to insure that they are conducted fairly."

With respect to the statements made by the representative of the State of Vietnam, the United States reiterates its traditional position that peoples are entitled to determine their own future and that it will not join in an arrangement which would hinder this. Nothing in its declaration just made is intended to or does indicate any departure from this traditional position.

We share the hope that the agreements will permit Cambodia, Laos and Vietnam to play their part, in full independence and sovereignty, in the peaceful community of nations, and will enable the peoples of that area to determine their own future.

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### NEWS CONFERENCE STATEMENT BY THE PRESIDENT

I am glad, of course, that agreement has been reached at Geneva to stop the bloodshed in Indochina.

The United States has not been a belligerent in the war. The primary responsibility for the settlement in Indochina rested with those nations which participated in the fighting. Our role at Geneva has been at all times to try to be helpful where desired and to aid France and Cambodia, Laos, and Vietnam to obtain a just and honorable settlement which will take into account the needs of the interested people. Accordingly, the United States has not itself been party to or bound by the decisions by the Conference, but it is our hope that it will lead to the establishment of peace consistent with the rights and the needs of the countries concerned. The agreement contains features which we do not like, but a great deal depends on how they work in practice.

The United States is issuing at Geneva a statement to the effect that it is not prepared to join in the Conference declaration, but, as loyal members of the United Nations, we also say that, in compliance with the obligations and principles contained in article 2 of the United Nations Charter, the United States will not use force to disturb the settlement. We also say that any renewal of Communist aggression would be viewed by us as a matter of grave concern.

As evidence of our resolve to assist Cambodia and Laos to play their part, in full independence and sovereignty, in the peaceful community of free nations, we are requesting the agreement of the Governments of Cambodia and Laos to our appointment of an Ambassador or Minister to be resident at their respective capitals (Phnom Penh and Vientiane). We already have a Chief of Mission at Saigon, the capital of Vietnam, and this Embassy will, of course, be maintained.

The United States is actively pursuing discussions with other free nations with a view to the rapid organization of a collective defense in southeast Asia in order to prevent direct or indirect Communist aggression in that general area.

### NEWS CONFERENCE STATEMENT BY SECRETARY DULLES

The Geneva negotiations reflected the military developments in Indochina. After nearly 8 years of war the forces of the French Union had lost control of nearly one-half of Vietnam, their hold on the balance was precarious, and the French people did not desire to prolong the war.

These basic facts inevitably dominated the Indochina phase of the Geneva Conference and led to settlements which, as President Eisenhower said, contain many features which we do not like.

Since this was so, and since the United States itself was neither a belligerent in Indochina nor subject to compulsions which applied to others, we did not become a party to the Conference results. We merely noted them and said that, in accordance with the United Nations Charter, we would not seek by force to overthrow the settlement. We went on to affirm our dedication to the principle of self-determination of peoples and our hope that the agreements would permit Cambodia, Laos, and Vietnam to be really sovereign and independent nations.

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[1] Not printed.

[2] Bulletin of July 12, 1954.

The important thing from now on is not to mourn the past but to seize the future opportunity to prevent the loss in northern Vietnam from leading to the extension of communism throughout southeast Asia and the Southwest Pacific. In this effort all of the free nations concerned should profit by the lessons of the past.

One lesson is that resistance to communism needs popular support, and this in turn means that the people should feel that they are defending their own national institutions. One of the good aspects of the Geneva Conference is that it advances the truly independent status of Cambodia, Laos, and southern Vietnam. Prime Minister Mendès-France said yesterday that instructions had been given to the French representatives in Vietnam to complete by July 30 precise projects for the transfers of authority which will give reality to the independence which France had promised. This independence is already a fact in Laos and Cambodia, and it was demonstrated at Geneva, notably by the Government of Cambodia. The evolution from colonialism to national independence is thus about to be completed in Indochina, and the free governments of this area should from now on be able to enlist the loyalty of their people to maintain their independence as against Communist colonialism.

A second lesson which should be learned is that arrangements for collective defense need to be made in advance of aggression, not after it is underway. The United States for over a year advocated united action in the area, but this proved not to be practical under the conditions which existed. We believe, however, that now it will be practical to bring about collective arrangements to promote the security of the free peoples of southeast Asia. Prompt steps will be taken in this direction. In this connection we should bear in mind that the problem is not merely one of deterring open armed aggression but of preventing Communist subversion which, taking advantage of economic dislocations and social injustice, might weaken and finally overthrow the non-Communist governments.

If the free nations which have a stake in this area will now work together to avail of present opportunities in the light of past experience, then the loss of the present may lead to a gain for the future.

### TEXT OF FINAL DECLARATION

"Final declaration, dated July 21, 1954, of the Geneva Conference on the problem of restoring peace in Indochina, in which the representatives of Cambodia, the Democratic Republic of Vietnam, France, Laos, the People's Republic of China, the State of Vietnam, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America took part.

"1. The Conference takes note of the agreements ending hostilities in Cambodia, Laos, and Vietnam and organizing international control and the supervision of the execution of the provisions of these agreements.

"2. The Conference expresses satisfaction at the ending of hostilities in Cambodia, Laos, and Vietnam. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreements on the cessation of hostilities will permit Cambodia, Laos, and Vietnam henceforth to play their part, in full independence and sovereignty, in the peaceful community of nations.

"3. The Conference takes note of the declarations made by the Governments of Cambodia and of Laos of their intention to adopt measures permitting all citizens to take their place in the national community, in particular by participating in the next general elections, which, in conformity with the constitution of each of these countries, shall take place in the course of the year 1955, by secret ballot and in conditions of respect for fundamental freedoms.

"4. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Vietnam prohibiting the introduction into Vietnam of foreign troops and military personnel as well as of all kinds of arms and munitions. The Conference also takes note of the declarations made by the Governments of Cambodia and Laos of their resolution not to request foreign aid, whether in war material, in personnel, or in instructors except for the purpose of effective defense of their territory and, in the case of Laos, to the extent defined by the agreements on the cessation of hostilities in Laos.

"5. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Vietnam to the effect that no military base at the disposition of a foreign state may be established in the regrouping zones of the two parties, the latter having the obligation to see that the zones allotted to them shall not constitute part of any military alliance and shall not be utilized for the resumption of hostilities or in the service of an aggressive policy. The Conference also takes note of the declarations of the Governments of Cambodia and Laos to the effect that they will not join in any agreement with other states if this agreement includes the obligation to participate in a military alliance not in conformity with the principles of the charter of the United Nations or, in the case of Laos, with the principles of the agreement on the cessation of hostilities in Laos or, so long as their security is not threatened, the obligation to establish bases on Cambodian or Laotian territory for the military forces of foreign powers.

"6. The Conference recognizes that the essential purpose of the agreement relating to Vietnam is to settle military questions with a view to ending hostilities and that the military demarcation line should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Vietnam.

"7. The Conference declares that, so far as Vietnam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity, and territorial integrity, shall permit the Vietnamese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot.

"In order to insure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the member states of the International Supervisory Commission referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from April 20, 1955, onward.

"8. The provisions of the agreements on the cessation of hostilities intended to insure the protection of individuals and of property must be most strictly applied and must, in particular, allow every one in Vietnam to decide freely in which zone he wishes to live.

"9. The competent representative authorities of the northern and southern zones of Vietnam, as well as the authorities of Laos and Cambodia, must not permit any individual or collective reprisals against persons who have collaborated in any way with one of the parties during the war, or against members of such persons' families.

"10. The Conference takes note of the declaration of the French Government to the effect that it is ready to withdraw its troops from the territory of Cambodia, Laos, and Vietnam, at the request of the governments concerned and within a period which shall be fixed by agreement between the parties except in the cases where, by agreement between the two parties, a certain number of French troops shall remain at .specified points and for a specified time.

"11. The Conference takes note of the declaration of the French Government to the effect that for the settlement of all the problems connected with the reestablishment and consolidation of peace in Cambodia, Laos, and Vietnam, the French Government will proceed from the principle of respect for the independence and sovereignty, unity, and territorial integrity of Cambodia, Laos, and Vietnam.

"12. In their relations with Cambodia, Laos, and Vietnam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, the unity, and the territorial integrity of the abovementioned states, and to refrain from any interference in their internal affairs.

"13. The members of the Conference agree to consult one another on any question which may be referred to them by the International Supervisory Commission, in order to study such measures as may prove necessary to insure that the agreements on the cessation of hostilities in Cambodia, Laos, and Vietnam are respected."

Mr. MORSE. Mr. President, I do not believe the United States wanted to put its name on the text of that agreement of July 21, 1954, because a few weeks before we had decided to back Ngo Dinh Diem as head of a government in South Vietnam. He was appointed Premier by the former Emperor, Bao Dai, on July 7.

If all the facts behind the American decision to put its full support behind Diem are ever published, they will show the heavy hand of the Central Intelligence Agency in that decision. It was a decision recommended and supported not through State Department channels, but through CIA channels.

A letter of October 21, 1954, from President Eisenhower to Premier Diem put our commitment in writing. It called upon Diem to make certain reforms. We do not talk about that any more. When Diem did not make the reforms that we believed were the minimum needed to make his government even look like a success, we dumped him. We got another boy, so to speak. In fact, we have gotten two other boys; and we have stopped talking about needed reforms as a condition of aid.

We no longer talk about freedom in South Vietnam, for there is little there. The United States is supporting a military Fascist dictatorship, as ruinous to human liberties and rights as vicious communism is, for there are no differences between police states, when it comes to human rights. Mr. President, that is not going to be pleasant reading for our descendants. When one is making history, sometimes it is easy to overlook what one is doing. Of course we are making history in our foreign policy in South Vietnam; and it is a history of foreign policy, in connection with McNamara's war, that is completely out of line with the glorious chapters that comprise the overall volume of American history—so much out of line, Mr. President, that I wish we could tear out that part; I wish we could erase it. But, of course, we cannot. However, we do not need to continue to write it. So my plea is that we stop writing it. We need to keep faith with the man whom I consider the greatest leader in the field of foreign policy in this body during my many years of service here—a great Republican, a great chairman of the Senate Foreign Relations Committee, the incomparable Arthur Vandenberg.

The Senate has heard me say it many times. But I want it in the speech. It presents an opposing view to the policy of my Government in South Vietnam. This great tenet of Vandenberg's, which is a tenet affecting the whole philosophy of our foreign policy, is unanswerable. The advocates of expediency in foreign policy, which means the advocates of the policy of intellectual dishonesty, cannot answer it, for there is nothing practical about the expediency.

Vandenberg pointed out that there is no hope for permanent peace in the world until all of the nations of the world are willing to set up a system of international justice through law, to the procedures of which would be submitted, for final and binding decision, every issue that threatens the peace of the world. They would be enforced by an international organization such as the United Nations.

That great American ideal cannot be reconciled with American foreign policy in South Vietnam. They are poles apart. We have not even suggested that the South Vietnam issue should be taken to the United Nations. We have not even urged that an international peacekeeping organization ought to be set up in South Vietnam to keep the warring parties apart, as we participate in the Congo, Middle East, and Cyprus. This is one of the purposes of the United Nations Charter.

As far as our policy in relationship to our obligations under the United Nations in South Vietnam is concerned, it would appear that we think the United Nations Charter is a scrap of paper in respect to South Vietnam. But it is not. It is still a treaty binding upon all the signatories, including the United States, for we signed the charter. We have the same obligation today that we had when it was signed in San Francisco, and that we had when the charter was ratified by the Senate, and that we had when it became an international law treaty committing the United States to fulfillment of its obligations. We cannot square that with our record in South Vietnam.

I do not believe the United States wanted to put its name on the text of the treaty of July 21, 1954. A letter of October 21, 1954, from President Eisenhower to Premier Diem, put our commitment in writing, and as I said, set forth certain conditions for reform that the President made conditions precedent to U.S. support.

But the commitment was to Diem. This was the letter President Johnson referred to on March 24, 1964, when he said he found himself in the same place President Eisenhower found himself in 10 years ago. Unfortunately, this is just where we are—in the same place, and perhaps even less so.

I ask unanimous consent that the text of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

### LETTER TO THE PRESIDENT OF THE COUNCIL OF MINISTERS OF VIETNAM REGARDING ASSISTANCE FOR THAT COUNTRY, OCTOBER 25, 1954

(Released Oct. 25, 1954, dated Oct. 1, 1954)

His Excellency NGO DINH DIEM,
*President of the Council of Ministers,*
*Saigon, Vietnam.*

DEAR MR. PRESIDENT: I have been following with great interest the course of developments in Vietnam, particularly since the conclusion of the conference at Geneva. The implications of the agreement concerning Vietnam have caused grave concern regarding the future of a country temporarily divided by an artificial military grouping, weakened by a long and exhausting war and faced with enemies without and by their subversive collaborators within.

Your recent requests for aid to assist in the formidable project of the movement of several hundred thousand loyal Vietnamese citizens away from areas which are passing under a de facto rule and political ideology which they abhor, are being fulfilled. I am glad that the United States is able to assist in this humanitarian effort.

We have been exploring ways and means to permit our aid to Vietnam to be more effective and to make a greater contribution to the welfare and stability of the Government of Vietnam. I am, accordingly, instructing the American Ambassador to Vietnam to examine with you in your capacity as Chief of Government, how an intelligent program of American aid given directly to your government can serve to assist Vietnam in its present hour of trial, provided that your government is prepared to give assurances as to the standards of performance it would be able to maintain in the event such aid were supplied.

The purpose of this offer is to assist the Government of Vietnam in developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means. The Government of the United States expects that this aid will be met by performance on the part of the Government of Vietnam in undertaking needed reforms. It hopes that such aid, combined with your own continuing efforts, will contribute effectively toward an independent Vietnam endowed with a strong government. Such a government would, I hope, be so responsive to the nationalist aspirations of its people, so enlightened in purpose and effective in performance, that it will be respected both at home and abroad and discourage any who might wish to impose a foreign ideology on your free people.

Sincerely,

DWIGHT D. EISENHOWER.

Mr. MORSE. This letter was not a treaty; it was not a resolution of Congress carrying the weight of law. It was the promise of one head of government to ask Congress to do certain things if certain conditions were met by Diem.

Neither man remains in office. The conditions were not met. But the aid was sent anyway. Even after we helped remove Diem from office, American support continued.

Why? Because we have never regarded or treated South Vietnam as a sovereign country. We have regarded and treated it as our protectorate. We rule through local rulers, just as the French did. But the strings are pulled by American hands, and with American money.

Of course, our interest there is primarily military. With the French it was primarily economic, and still is. But the United States has put its trust in "reeking tube and iron shard" for so long we scarcely know how to deal with foreign countries and foreign problems in anything but military terms.

### AMERICAN RESPONSIBILITIES UNDER GENEVA AGREEMENT

Not being a party to the Geneva Agreement, and South Vietnam not being a party to it, what possible right does the United States have to enforce it unilaterally? None. The United States has no rights under it at all. South Vietnam may have some, since her territory is governed by it.

We have claimed that the Geneva agreement has been violated by North Vietnam, and we have pointed to the 1962 report of the International Control Commission, which reported violations by North Vietnam.

But what about the 1957 report of the Commission which found that both North and South Vietnam had violated the Geneva Agreement, and what is more, that the United States had aided, abetted and participated in the South Vietnamese violations?

Take a look at the language of article 16 of the Geneva Agreement:

> With the effect of the date of entry into force of the present agreement, the introduction into Vietnam of any troop reinforcements and additional military personnel is prohibited.

I wonder if Secretary McNamara ever read it. Look at article 17:

> With effect from the date of entry into force of the present agreement, the introduction into Vietnam of any reinforcements in the form of all types of arms, munitions, and other war material, such as combat aircraft, naval craft, pieces of ordnance, jet engines and jet weapons and armoured vehicles, is prohibited.

Secretary McNamara can talk all he likes about violations of the agreement by North Vietnam but the United States and South Vietnam began violating the agreement on January 1, 1955, when we began our military aid program to South Vietnam.

Paragraphs 59 and 60 of the International Commission for Supervision and Control in Vietnam report of 1957 state:

> 59. In paragraph 27 of the fifth interim report reference was made to complaints received from the PAVN High Command regarding alleged violations of articles 16 and 17 of the Geneva Agreement. The Commission has not been able to carry out its investigation mentioned in that paragraph regarding the alleged construction of a new airfield at Nha Ban in South Vietnam, the reasons being alleged insecurity conditions in the area and the stand of the Government of the Republic of Vietnam, mentioned in paragraph 44 above. The PAVN High Command has also alleged the construction of two other airfields in South Vietnam. This is under investigation.
>
> 60. During the period under report, the Commission has received a total of 24 complaints alleging 76 specific instances of violations of articles 16 and 17 in South Vietnam.

> In two cases where United States and Vietnamese military personnel were introduced into South Vietnam without any notification under article 16(f), the Operations Committee of the Commission came to the conclusion that there had been a violation of article 16. In one case where a U.S. military plane brought to Saigon a consignment of aircraft wheel tires the Committee concluded that there had been a technical violation of article 17. In the first two cases, mentioned above, the Commission asked the French High Command to show cause why a finding of violation of article 16 should not be given, and in the third case why a finding of violation of article 17 should not be given. The French Liaison Mission in its reply dated the 21st July has not denied the facts but has stated that due to lack of coordination between the various Vietnamese services, notifications were not given. The matter is under the consideration of the Commission.
>
> In another case the Commission decided that there had been no violation as on the date mentioned by the PAVN High Command in its complaint, no U.S. plane had landed at Tourane and, in one more case, that the allegation had not been proved. In two cases the Commission declined to undertake any investigation as the allegations were too general. For the same reason the Commission just noted two complaints from the PAVN High Command. The other complaints are under inquiry. In some cases it has been found that team reports bear out the allegations made by the PAVN High Command of violations of articles 16 and 17. In such cases the party has been asked to explain why notifications as required under the agreement have not been given and why the procedure laid down in protocol 23 for the introduction of war material and military personnel has not been followed.

Paragraph 63 states:

> 63. One major case of a foreign military mission in South Vietnam came up during the period under report. On April 25, 1956, the Commission received a request from the French Liaison Mission and the Republic of Vietnam for grant of permission for the entry of 350 military personnel of the U.S. Army Service Corps into South Vietnam. It was stated that these persons would constitute a mission called TERM—Temporary Equipment Recovery Mission—whose duties would be to examine war material and military equipment lying in South Vietnam which was the property of the U.S. Government for the purpose of selecting material to be exported from Vietnam and to protect and preserve this material. The Commission was informed that the members of TERM would start entering South Vietnam by the last week of May 1956. The Commission informed the French Liaison Mission that the matter was under consideration and that, pending the decision of the Commission, no entry should be effected. In spite of this, 290 U.S. military personnel belonging to the TERM have been introduced into South Vietnam, thus facing the Commission with a fait accompli.
>
> The Commission takes exception to this method of procedure adopted by the French Liaison Mission and the Government of the Republic of Vietnam. The Commission gave due consideration to the request of the Republic of Vietnam and communicated its decision on May 29, 1956. In this letter the Commission asked for assurances that the functions of TERM would be solely the selection of material for export from the country and that it would not be used for any other purpose. The Commission further asked for details regarding the mission, number, and names of personnel, their postings in the country and the tasks assigned to each one of them. Lastly, the Commission proposed certain conditions on acceptance of which the Commission would be prepared to agree to the entry of the TERM personnel. These conditions include submission of fortnightly progress reports on the work of TERM, submission of notifications regarding entry and exit of TERM personnel, right of the Commission and its fixed teams to control entry and exit, and the right of the Commission to conduct spot checks at any place where TERM personnel were functioning. The matter is being pursued with the authorities of the Republic of Vietnam, whose final acceptance of the Commission's conditions has not yet been received. The Commission has also received complaints from the PAVN High Command regarding alleged activities of certain U.S. military missions in South Vietnam as constituting violations of articles 16, 17, 18, and 19 of the agreement. The matter is under the consideration of the Commission which is awaiting the comments of the French High Command.

I ask unanimous consent to have the full text of this report printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. McINTYRE in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORSE. Mr. President, any aid to North Vietnam from China and Russia put together cannot come close to matching the aid we have given to the South Vietnam Government. In a sense, the United States is arming the rebels, too, because much of their equipment is captured from the Government forces.

I digress to say that the American people would be greatly surprised if they knew how much American equipment has been captured by the Vietcong. The briefings we have received, in which we have asked questions on this subject, always produce information that great quantities of American military equipment have been captured from the South Vietnamese by the Vietcong, which is being shot back at American boys.

That is why the American military officers who have communicated with me talk about the nature of this operation and point out that it really is not a war operation in the sense that our military proceeds to take the steps it would proceed to take if we were conducting an out-and-out war operation, giving the protection to American boys that they ought to have. That is why military officers who have communicated with me have pointed out that we are not fair to the American boys who are dying in South Vietnam. We are not giving them the military protection to which they are entitled. One of those officers said, "Senator, many times American boys are sitting ducks." We cannot give protection to Americans in helicopters, the way the military operations are being conducted. We cannot give them the protection they should have as we send them out in jeeps and other military vehicles along with the Vietnamese. They are greatly outnumbered. In those forays we not only lose precious American lives, but much American equipment, which gets into the hands of the Vietcong, who use it to fight back.

I think it is probably the strangest, most ludicrous, paradoxical, inexcusable American military operation in the history of the Republic.

From whatever angle one looks at McNamara's war in South Vietnam, he cannot justify it from the standpoint of desirable American policy. How long are we going to continue it? How long is it going to take for the American people to finally make clear that they want no more of it, as the French people finally made clear to the French Government they wanted no more of it?

The policy should change. We should participate with the United Nations, as I shall say in some detail toward the close of my remarks as I discuss the blueprint for action which I believe should be the substitute for our present foreign policy in South Vietnam.

Mr. Nixon is proposing that we expand the war into North Vietnam, which means beyond any question of doubt a proposal that our country become an out-and-out aggressor nation. Unbelievable. Fantastic. Yet there it is—an ugly reality.

Rationalizers and alibiers are trying to wave the flag into tatters to justify it. They cannot justify it. This is a sorry record of the history of American participation in the development of the unfortunate plight in which we now find ourselves, starting with the account of what happened prior to the Geneva accords.

Mr. President, I do not like to stand on the floor of the Senate and charge my Government with violating the Geneva agreement, but I am satisfied that we are violating it. Why did we never take our own complaints about violations to the signers of the Geneva agreement? They are the nations responsible for its enforcement, not the United States.

I am at a loss to understand the Secretary of State and other officials of the State Department, who give us the same kind of rationalization—that we are in South Vietnam because North Vietnam and possibly other countries are violating the Geneva treaty. We are not even a party to the Geneva treaty, and neither is South Vietnam.

But the Secretary of State does not have to be told that. He knows. He knows that if any country is violating a treaty and endangering the peace of the world, any member of the United Nations not only has the right but also the duty to take the offender before the United Nations for an accounting.

I said to the Secretary of State the other day, "Give me one reason for not going before the United Nations."

I have listened to weak, meaningless replies when one takes a look at the substantive problem involved. All I could get out of the Secretary of State was that he did not believe the United Nations would do anything about it.

I do not have to tell the Senate what my reply was: "Mr. Secretary, how will you ever know until you try."

I will tell the Senate why we have not taken it to the United Nations. We do not wish to do so because the United Nations would never support our policy, because we want to continue to treat South Vietnam as an American protectorate. What are we doing with a protectorate?

All I can hope for is that before it is too late the American people will become fully aware of what their country is up to. Let me warn again—and I have raised this warning on the floor of the Senate before as I have discussed Mr. McNamara's war in South Vietnam—expand the war into North Vietnam and there will not be a person in Government who can be sure Red China will not come in. There will not be a person in Government who can be sure, if we make the stupid mistake of expanding the war into North Vietnam, that it will not provide a meeting ground for Khrushchev and the Red Chinese to get back together again. I do not know what facts anyone in the State Department or the Pentagon can point to which would indicate that Khrushchev will let the Western Powers take over southeast Asia.

I thought we learned our lesson from what happend in Korea. In the past 10 days I pointed out on the floor of the Senate that our leading military officials, except for General MacArthur, were very much concerned about the danger of the Red Chinese and the Red Russians coming in if we bombed beyond the Yalu.

That was when the old slogan was developed:

> There is no substitute for victory.

There was also talk about privileged sanctuaries beyond the Yalta. General MacArthur wished to bomb beyond the Yalu against the orders of his Commander in Chief not to bomb beyond the Yalu.

We all know that President Truman took an unjustifiable castigation and a great deal of criticism on that score. It has now come out into the open. It is known that every high American military official in command at the time advised the Commander in Chief, the President of the United States, that if we bombed beyond the Yalu and Red China and Red Russia came in, they would control the air and massacre American soldiers by the thousands. At that time, we did not control the air, and they would have driven the American Air Force out of the skies. This contributes to a better understanding of why, during my service in the Senate, I voted for more money for air power than any President whom I have served had recommended.

But military power alone will not save us. I know that if the road that mankind is to walk is merely the road toward greater and greater armaments and power to kill, all civilized nations are through.

Why have we not taken our complaints about violations of the agreements to the signers of the treaty itself? They are the nations who are primarily responsible for its enforcement.

Was it because the United States has never really accepted the ousting of Western Powers from Indochina? Is it because we planned to stay in South Vietnam no matter what the Geneva agreement decided?

Certainly that is what the record indicates. There is not one single treaty or international law document that authorizes this country to involve ourselves in South Vietnam or to police the Geneva agreement. On the contrary, all our international legal obligations require us to stay out.

We have not even observed the declaration by Under Secretary Smith that we would refrain from the threat or the use of force to disturb the Geneva agreement.

That declaration at least set forth the theoretical duties we would undertake with respect to Vietnam.

### U.S. RESPONSIBILITIES UNDER UNITED NATIONS CHARTER

Our declaration of July 21, 1954, said the United States would refrain from the use of force to disturb the Geneva Agreement "in accordance with article 2(4) of the Charter of the United Nations dealing with the obligation of members to refrain in the international relations from the threat or use of force."

I call attention to the fact that we took note then of our obligation under the U.N. Charter not to use force in the conduct of our international relations.

Yet we did use force to disturb the Geneva Agreement. We armed South Vietnam. Today we have even brought in American forces. We are talking about using South Vietnam as a base from which the United States may attack North Vietnam.

How, Mr. Secretary of Defense and Mr. Secretary of State, does all that square with our obligation not to use force in international relations, except in our own self-defense

You say North Vietnam violated the agreements, too, maybe even first? Then why did we not complain to the members of the Geneva Conference and ask them to act? Or why did we not bring up the matter in the United Nations, as is implied from the Smith statement recognizing our U.N. obligations and saying that we would view any renewal of aggression as seriously threatening international peace and security?

We all know that anything that threatens international peace and security is a matter for the United Nations. It is not a matter for the U.S. Air Force, or the American Secretary of Defense, to handle as they see fit on a U.S. unilateral basis.

If the conflict in Vietnam is viewed as an aggression by North Vietnam, then we have no choice but to take the matter to the U.N. Every minute that we pursue the war in Vietnam, we are doing it in violation on the U.N. Charter.

What are the specific sections of the charter that are controlling? Article II states, in its paragraphs 3 and 4:

> 3. All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
>
> 4. All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

Our participation in the war in South Vietnam violates paragraphs, 3 and 4, and our open threat to make war on North Vietnam violates paragraph 4.

Mr. President, Nixon would take us to war. Nixon wanted to take us to war when he gave his speech to the editors in New York in 1954. Ten years later he is at the same gate trying to enter into an area of war.

To the everlasting credit of President Johnson, he has not yet proposed that we go into North Vietnam. As my colleagues in the Senate know, the senior Senator from Oregon stands shoulder to shoulder with President Johnson on the overwhelming majority of issues—well over 90 percent of the issues. I am sad that I must completely disagree with him on his South Vietnam policy. I believe he is following some very bad advice.

I find myself in some disagreement with him on certain phases of foreign aid. Yet, as a member of his party, I owe it to him to express my disagreement when I think he is wrong, because that is the best way to serve one's President. One does not serve the President well by being a yes-man or a rubberstamp.

I would much prefer to be with my President on this issue, but I cannot be with him on this program and fulfill what I consider to be my trust as a Senator from my State.

It is not only paragraphs 3 and 4 of article II of the charter that we are violating. I invite Senators to look with me at article 33, which reads:

> The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

We have said ourselves that the war in Vietnam is a threat to peace. That is our rationalization for being in South Vietnam.

We say that is why the United States is in South Vietnam, but we are not establishing peace. The presence of the United States in South Vietnam is only expanding the war. Yet the charter says that "first of all" we must seek a peaceful solution.

Now let us look at article 34 for a moment. Article 34 provides:

> The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

And article 35 states, in paragraph 1:

> Any member of the United Nations may bring any dispute, or any situation of the nature referred to in article 34, to the attention of the Security Council or of the General Assembly.

Under articles 2 and 33, we are obliged to seek a peaceful solution of the South Vietnamese issue. We could ask for the Geneva Conference of 1954 to reconvene, or we could even seek to have the Southeast Treaty Organization try to settle it. The SEATO statement out of Manila on April 15 recognized that the security of South Vietnam, and all of southeast Asia is threatened by what it called Communist aggression. Why, then, did not SEATO members undertake to deal with it? Why did they not notify the U.N. of the threat? That is their duty under both SEATO and the U.N. Charter.

I will give Senators my opinion as to why they did not. The United States did not want them to. That would not be pleasing to the United States. This is a "hot one" for the United States to handle. Review again with me who "they" are.

New Zealand and Australia—if South Vietnam is vital to the interests of any area, it is vital to the area of New Zealand and Australia. But we do not find New Zealanders and Australians dying in Vietnam.

Pakistan, Thailand, and the Philippines—one would think that if South Vietnam were vital to any area, it would be vital to Pakistan, Thailand, and the Philippines. Yet we do not find men from those countries dying in South Vietnam.

Great Britain and France—France has made it very clear that she will not send her boys into South Vietnam to die. She has had enough. She tried it. She lost the flower of her manhood.

My account of the position of Great Britain preceding the Geneva Accords, when Dulles was trying to sell Great Britain with the idea that she should participate in a war in Indochina, is ample proof why we do not find Great Britain willing to go into South Vietnam.

But that does not excuse Australia, New Zealand, Pakistan, Thailand, the Philippines, Great Britain, and France, nor does it excuse the United States, from taking the issue to the United Nations. That is why I charge—serious though I know the charge is—that my country stands in violation of its obligations under the United Nations Charter.

Why is not such a threat the subject of peaceful means of settlement? Why are all these countries ducking, hedging, and evading their obligations under the United Nations Charter, along with the United States—although we are the worst actor, for we are actually in South Vietnam with troops on the basis of a unilateral military intervention?

We read in the newspapers this morning the most recent alibi of the State Department and the Defense Department. They cited figures to show that Britain has eight advisers in South Vietnam and that Australia has 30 men there, advising. But they are a long way from the combat zones.

Mr. Secretary of State and Mr. Secretary of Defense, the American people will not accept that kind of evasive answer to the question: Why are not the SEATO nations in South Vietnam, in keeping with their commitment?

We have not heard recently, but we shall hear it again, Secretary Rusk's standard alibi for our being in South Vietnam and other countries not being there: "The United States was invited in."

Mr. President, we were not invited in. Who invited the United States in? Our own puppet, the puppet we set up in the first place—Diem; and now, Khanh. I was aghast when the Secretary of State pulled that one out of the hat, for that is the same kind of unjustifiable alibi that Russia gives for being in East Germany, where she maintains a puppet government: namely, that she is in East Germany because her puppet asked her to come in.

The Secretary cannot "sell" that, because it is an insult to the intelligence of the American people. His duty is clear; his duty is to take the issue to the United Nations. Even by invitation, we have no legal right to take part in a civil war. If there has been an armed aggression against South Vietnam, then it is clearly and simply an issue for the United Nations.

So I say these SEATO members have an obligation to make it a subject of peaceful settlement at the regional level of SEATO and at the Geneva Conference level. These two levels are available, as is also the United Nations level.

I refer also to article 37 of the United Nations Charter:

> Should the parties to a dispute of the nature referred to in article 33 fail to settle it by the means indicated in that article, they shall refer it to the Security Council.

"They shall," are the words used. As every lawyer in the Senate knows, those are mandatory words; they create an obligation and a duty. But we have not carried out that obligation and that duty. Let no one try to give me the excuse that we are not the only ones, for all of us know, as parents, that we had to deal many, many times with that sort of excuse, in the process of raising our children. Just because John or Mary has or has not done something, so we have said to our children, is no excuse for them.

Our signature is on the charter; we signed it; and we undertook the obligation and the duty carried by the words "they shall." But we have not carried them out. So I ask the Secretary, "When are we going to recognize those obligations?"

There have been those who have tried to confuse this issue and to mislead the American people into going along with the present unilateral action by the United States in South Vietnam, on the basis of the claim of self-defense. Of course, such a claim always strikes a sympathetic note with people—"He did it in self-defense"—even though lawyers know that self-defense is not necessarily a valid excuse for killing someone. In South Vietnam, we are not even acting in self-defense.

Mr. President, in my judgment, the self-defense argument is completely incompetent, irrelevant and immaterial, as we lawyers say, in the face of the obligations of the United States to take the South Vietnam problem to the United Nations. When are we going to recognize them?

### U.N. AND SELF-DEFENSE

The article of the U.N. Charter relating to self-defense also requires examination. It is article 51. Article 51 states:

> Nothing in the present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

I wish to repeat the reading of part of the article, for it knocks into a cocked hat the alibi excuse about "self-defense." The article states:

> Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Mr. President, in that connection I stress the point that the words used are "shall be."

What is the burden of my argument on this point? The burden of my argument is that the United States has not taken the issue to the Security Council, if it wishes to make the claim that it has some right of self-defense in South Vietnam—although such a claim is, of course, a ridiculous one. But even if one wishes to make for a moment, for the purpose of debate, that absurd contention, I point out that the United Nations Charter states very clearly what our duty is; it states that we shall take the issue to the Security Council. However, we never have done so.

That neither of the two Vietnams separately, nor the country as a whole, is a United Nations member is not the real issue; the basic issue is the role of the United States in helping South Vietnam defend itself against rebel warfare, abetted from North Vietnam.

There is no self-defense for the United States here. Neither is there any treaty that calls upon us to defend South Vietnam.

Yet even if there were, we are obliged to undertake that action only until the United Nations has taken over the problem; and we must report to it any action taken in "collective self-defense."

Thus, Mr. President, I say that we stand in violation of this article, too, along with all the others.

Heretofore, I have been referring to the war as involving an aggression by North Vietnam. We have no legal basis of law or treaty for participating in it.

Neither do we have a legal basis for participating in it if it is viewed as a civil war. International law recognizes the right of revolution; hence, it does not recognize any right of outsiders to intervene in the fighting. But we have directly intervened in the fighting in South Vietnam. That also is a violation of article II of the charter.

I ask unanimous consent that excerpts from the article by Quincy Wright on this subject, which appeared in the American Journal of International Law in 1960, be printed at the conclusion of these remarks.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). Without objection, it is so ordered.

(See exhibit 2.)

Mr. MORSE. Of course, Mr. President, Quincy Wright is one of the great scholars of international law. He is widely recognized as such, and he is recognized by international lawyers as among their great teachers. I have leaned heavily on him in connection with my work in the field of international law and in the preparation of this speech, as I have also leaned heavily upon the writings of another great expert in this field, Ben Cohen.

I am at a loss to understand why the State Department has been following a course of action so completely inconsistent with the great teachings of these recognized authorities on international law.

The United Nations Charter does not call for U.N. jurisdiction over domestic affairs of a nation. But article 34 makes it very clear that the Security Council does have the authority to "investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security."

So even if the Vietnam war is viewed as basically a civil war—which I think it is—the United Nations may determine whether it is a threat to peace, and if it finds it is, it may deal with it. When third parties enter the conflict—as the United States has, on one side, and possibly China and Russia, on the other side—it is a dispute that falls under several articles of the United Nations Charter, and requires us—and makes it mandatory that we do so—to take the issue to the United Nations, although we never have taken it there.

There is no getting away from the many provisions of the United Nations Charter that require the Vietnam issue to be handled by the United Nations, whether it is considered a foreign aggression or a civil war.

Are we prepared to say, in so many words, what our policy is already saying: The United States has no more interest than Russia has in working through the United Nations when we think our interests are at stake?

Are we interested in working through the United Nations only when the interests of other countries are at stake? We cannot possibly defend that premise. Yet we are following a course of action which subjects us to that criticism so far as our unilateral action in South Vietnam is concerned, in open defiance of our obligations under the United Nations Charter.

That is what Secretary McNamara's defense policy statements amount to so far as Vietnam is concerned. He is trying to foreclose diplomatic handling of the issue. He is trying to keep it a military issue, a military war, with a military solution.

That is why so many Senators take umbrage when I refer to it as MaNamara's war. But it it his blueprint, his basic policy, that the administration has accepted.

I hope the next time he goes to Vietnam he goes by way of Paris and talks to some of the French leaders, military and civil, who found out after 8 years that there was no such thing as a military victory for a Western power on the Asia mainland.

### OUTLOOK IS STEADILY DETERIORATING

Everything I have said about the illegality of our war in South Vietnam will be even more true if we expand the war by attacking Laos and North Vietnam.

How policymakers who are bound to refrain from force in international affairs, except in self-defense, can keep repeating that such a thing is under study is beyond me.

Whenever we are briefed, neither the Secretary of State nor the Secretary of Defense has been willing to eliminate completely the possibility of an expansion of this war. And until they are willing to commit themselves against an expansion of the war, they deserve the criticism I make now—namely, that they are endangering the security of this country and the peace of the world. An expansion of the war into North Vietnam might very well bring in the Red Chinese and Russia. And I need not say that if that happens the holocaust is on.

It is highly dangerous for the United States still to be keeping a possible door ajar through which we can go into North Vietnam for an expansion of the war. It is the old threat that Dulles made so often in 1954.

We should be no party to it. We should assure the world that we have no intention of doing so. We should call upon the members of the United Nations to come in and help us to maintain peace in South Vietnam and to separate the two warring factions by means of United Nations operations.

The talk about the possibility of expanding the war into North Vietnam is a desperation move. It is the frantic act of throwing in a whole bankroll to draw one more card, when the pot has been lost by the cards already dealt.

Look at the history of that war.

For 8 years the French carried the burden, financed at the end largely by the United States. From 1946 to 1954, we put $2 billion into the French war effort.

In 1954, we were spending $800 million on it, and carrying 78 percent of the cost. Over a million casualties, military and civilian, had been suffered by all the parties in the conflict.

In 1955, when we had moved into South Vietnam in place of the French, it cost us $300 million a year to support the Diem government.

In 1961, conditions were so much worse that the annual rate of aid went up to $400 million, and our military help in the person of "advisers" was an unknown added cost out of our regular defense budget.

In 1964, the annual rate of aid is up to $550 million. McNamara went over there and promised them we would stay forever. "Forever," he said. He promised them also that we would pick up the check for the cost of the imposition of a draft in the amount of another $50 million. It is a bottomless pit, I say to the American taxpayers. It is a sinkhole for our money. We ought to stop it. The cost of the American Air Force and military advisers is probably much more than that.

Yesterday, President Johnson said our aid would be increased still more. It is difficult for me to understand to what possible use more aid could be put to in South Vietnam. Press reports indicate that South Vietnam has long since been saturated with American aid.

The ground troops and our uncontested air power together have not been able to destroy Vietcong bases in South Vietnam. Who can believe that air attacks alone are going to destroy them in Laos or North Vietnam?

Those air attacks would be nothing at all but the first installment on an American land war in Asia. Mr. Nixon was "talking it up" in 1954. It is no surprise that he is still talking it up now.

Remember that the prognosis offered by Secretary McNamara for the war in South Vietnam is "forever." Who is willing to guess how long it will take Americans to wipe out supply lines in North Vietnam, especially if China gets nervous about our presence and enters the fighting as she did in Korea, and Russia finds a basis for joining her and comes in, too? It is my position, Mr. President, that wisdom and duty both call for a peaceful settlement.

In all the pronouncements and publications of the State and Defense Departments on Vietnam, we proclaim that North Vietnam is committing aggressions that threaten the peace.

But we have not intervened to bring peace, to provide a peaceful settlement. Our intervention has not even brought freedom. It has brought a military dictatorship. To South Vietnam, American intervention has brought more fighting, more war, more death, more destruction, more terror, and less freedom. We have not taken people out of the fighting; we have only brought more people into it. McNamara now wants us to finance the draft in South Vietnam, to get men into the fighting. And the American taxpayer will pay for it.

The territory under full control of the Khanh junta is declining. Casualties inflicted on Government forces are higher than ever, despite the complete control of the air by the United States. Although Vietcong casualties are also said to be high, the estimate of 20,000 "hard core guerrillas" is the same as it was 2 years ago.

It is hardly any wonder that desperation measures to save our puppet government are being considered.

Aside from the illegality of our intervention, there is the even more serious question of what its objective is and how much it is going to cost.

What does "victory" mean in South Vietnam? Does it mean until rebels stop fighting the Government? If so, I predict that rebellion will never stop until the Americans leave. The United States is the best source of weapons they have. They are constantly capturing them from the retreating South Vietnamese. It is interesting also that at one time we decided we would arm some of the villages, particularly in the delta areas.

We tried to build up a sort of village minuteman or militiaman or civil patrol, and we supplied them with much equipment, only to learn that, strangely enough, much of the equipment seemed to get into the hands of the Vietcong.

That has been an oriental practice for a long time. Do Senators remember when Chiang Kai-shek was still on the mainland of China? We were pouring military aid to him at that time. Our intelligence reports at that time showed that much of the aid seemed to get into the hands of the Communists, without even being uncrated—and we know strange negotiations seemed to be carried on between the Communist rebels and the Chiang Kai-shek forces. Much of the military equipment got into the hands of the so-called Communist war lords and was used against the Nationalist forces. Finally, those forces were driven off the mainland of China.

Earlier in the Vietnamese war, when it was discovered that a good deal of American equipment which had been made available to the people of the villages, allegedly for their self-defense, was getting into the hands of the Vietcong, we learned, in one of our briefings, that the United States decided to go out, collect, and bring back and keep under its control as much of that equipment as possible. But there is a great deal of equipment there yet.

Moreover, the Vietcong seem to have been making steady progress since 1954. We have steadily raised the ante, both financially and militarily, but we are still losing. Yet the only proposals for change have been to escalate the war so as to involve other countries. If we escalate it into North Vietnam, we can look forward to an American war there that will bring in China in one way or another.

The illogic of our policy is that if we show any sign of success, the Chinese will step up their participation. Conversely, as the guerrillas show signs of success, we have stepped up our participation. This escalation on both sides can only lead to a disaster for the United States. It can only lead from being bogged down in South Vietnam to being bogged down in North Vietnam and then to being bogged down in China.

That is why the interest of the United States require a negotiated settlement or an international peace force, just as French interests finally required it.

I am greatly concerned about what military officials tell me would happen if we let the situation develop so that it became necessary, or we thought it became necessary, to put masses of American ground forces in Asia.

I am waiting to listen to the first high, responsible American official who will testify, under examination, that he thinks the prognosis is good for a ground victory by an American Army in China. All the briefings on that subject matter that I have received thus far in my many years in the Senate show that that is not the place to pick as a battleground with communism. I cannot think of anything that would be more awful than to continue the present course in South Vietnam until we get into a position where it will be said that we have no choice, that we cannot retreat, that we must not give the impression that we are backing out, but must go in deeper. The French did that. Military advisers tell me that the white man's army cannot win on the mainland of China.

That is why we all know, or should know that if we get into a war with China and with Russia, it will be a nuclear war. One of the most shocking experiences I had was at a briefing not long ago when there was talk to the effect that if we followed the objective of expanding the war in Vietnam we would have to use nuclear weapons.

I am convinced that with the first nuclear bomb—I care not what its size—dropped on North Vietnam or anywhere else in Asia, the holocaust will be on.

If anyone thinks the United States can start dropping nuclear bombs and not be held to an accounting by the nuclear powers that are against us, he has lost his mind. If we resort to the use of nuclear power in Asia, nuclear bombs will start dropping on both sides.

I do not have to tell Senators what they all know. The advisers tell them that both the Communist world and the free world have the power to destroy each other in the relatively short time of not too many days.

That is why the senior Senator from Oregon dares to talk on the floor of the Senate about morality. That is why the senior Senator from Oregon dares to suggest to his Government that, unless American foreign policy is built upon foundations of moral principles, it cannot be justified. A nuclear war, large or small, cannot be justified on moral grounds. And it will not be possible to keep it small. Such a war is immoral.

That is why I say, take it to the United Nations. Insist that the other signatories to the charter assume their obligations to enforce the peace. It is in our historic interest to do so.

Perhaps someday it will be a subject of historical study that will reveal the causes for an American obsession with Asia. It is an obsession that has not gripped our policy in any other part of the world so completely. It is an obsession about an area of the world that is completely beyond the perimeter of American defense, for South Vietnam is not within the perimeter of American defense. If we got into a war with Russia tomorrow, we would not keep one single American boy there. Why are American boys over there now?

I believe we should get out now, except for participating in the maintenance of a peacekeeping United Nations force and trying to bring the killing to an end.

Even in Cuba, during the missile crisis, we moved to internationalize our defensive action through the Organization of American States, and we immediately called the Security Council of the U.N. together to notify it of our proposed action in Cuba. What is more vital to the interests of this country than Cuba, just 90 miles away? Why is it that South Vietnam, 7,000 miles away, is consistently handled as a unilateral issue, when we recognize that Cuba, only 90 miles away, must be handled as an international issue?

Of course, it is said behind closed doors that there is no effective regional organization in Asia. That is the tribute our officials pay to SEATO in private.

But there is the Geneva Conference. And there is the United Nations.

Surely the Mediterranean is important to this country. When trouble broke out in Cyprus, we tried first to handle that issue through a regional organization—NATO. When that highly inappropriate mechanism did not work, we agreed to go to the United Nations.

So did we in the case of Suez. So did we in the case of the Congo.

Why did we in those cases and not in the case of Vietnam? I believe it is because of our heavy emotional commitment, which is turn led to our heavy financial and military commitment.

The stranglehold these commitments have on our policymakers is evident. Whenever President Johnson speaks of South Vietnam, he mentions the commitment of President Eisenhower in 1954.

Yet, President Johnson inherited many things from the Eisenhower and Kennedy administrations that he has sought to change. He inherited a 5-year-old railroad struggle. But he did not perpetuate it. He settled it. He inherited a chronic state of poverty and unemployment. But he is not perpetuating it; he is trying to change it.

He inherited a cold war confrontation with the Soviet Union. But he has not stood fast to keep it going; he has tried to alter it.

The Vietnam policy he inherited from the Dulles-Eisenhower administration is the most dangerous and illegal policy of all. Why should it be perpetuated? President Johnson may cry "peace, peace" but he will not bring peace until he changes what we are doing in Vietnam.

All this 10-year-old Vietnam policy has brought the American people is war by executive agreement. There is no treaty; there is not even a United Nations action under the treaty of the U.N. Charter, as there was in Korea. The only legal basis for a war in Vietnam would be the U.S. Constitution. But there has been no declaration of war under that, either.

No Member of Congress has proposed a declaration of war. The administration has not proposed a declaration of war. But we are making war.

Oh, of course, the political pitch is made that this is a confrontation with communism and as Americans we must all fall in line with whatever our military advisers say must be done about it. That is why Senators praise McNamara's patriotism. That way they hope to avoid having to go into the illegality of his policy.

I praise his patriotism, too. I praise his brilliance. But, in accordance with his policy on South Vietnam, I believe he has suffered a lapse of judgment.

In cloakrooms and behind closed doors, it is said that it is all right to go to the U.N. where the issue is not a direct one between the United States and a Communist power; the U.N. is all right for the Arabs and Cypriots and Congolese and to head off great power involvements; but in Vietnam the United States itself is directly and heavily involved and our prestige and our interests must not be jeopardized by the uncertainties of the U.N. which we cannot control.

I ask, What are the uncertainties of the U.N. compared to the uncertainties of continuing and escalating this war in South Vietnam? We do not control Vietnam, either; we do not control the rebels, we do not control the North Vietnamese, we do not control China. The United Nations, which we do not control, could not do any worse in this situation than we have done.

Neither Vietnam as a whole, nor its two parts, has membership in the United Nations. But that does not affect the capacity of the organization to deal with them.

I point to paragraph 6 of article III of the charter:

> The Organization shall insure that states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

Most recently, President Johnson has said he hopes to see "some other flags there," referring to SEATO members. The only legitimate right they have in Vietnam is in trying to settle the dispute by pacific means.

Otherwise, the only flag, other than the Vietnam flag, that has any right there is the United Nations flag. If it chooses, the U.N. can direct SEATO to handle military operations there on behalf of the U.N.

I ask President Johnson why the United Nations flag has not been invited into Vietnam.

I believe that should be a basic part of our foreign policy. I believe that when the peace is threatened anywhere in the world the United States should take the position that we will raise the issue before the Security Council and, if necessary, before the General Assembly, to have the United Nations carry out the clear obligations that the Charter makes mandatory upon the signatories thereto.

It is not the fighting flags of other nations that we need or should want in South Vietnam. I say to my President that what is needed is to send United Nations flag in, and have the signatories to the United Nations Charter jointly give support to the United Nations in establishing and maintaining a force in South Vietnam, aimed at maintaining the peace.

It would be difficult. It would have its ups and downs. But it is an entirely different psychological approach to the problem of South Vietnam. It is the difference between trying to establish peace and expanding war. It is the difference between an approach to peace and an approach to war.

In the absence of a U.N. action, in the absence of a joint SEATO action, and in the absence of a congressional declaration of war, men and planes fighting under the American flag have no business in South Vietnam. The longer they fight, and the more of them we send, the harder we will find it to end the conflict.

President Johnson and the American people have a challenge before them, not to make a bigger war in Asia, but to bring the United Nations into Asia. If he will turn his talents to that end, he will be acting in accord with the legal and foreign policy principles which the United States has long professed. He will be acting in accord with the United Nations Charter. And I believe he will be acting in the best interests of the safety of the United States.

Mr. President, I recognize full well that others as sincere and as patriotic and as dedicated to our country as I am, will thoroughly disagree with my views.

That does not relieve me of my responsibilities, as I see those responsibilities, to raise questions of international law in respect of American policy in South Vietnam.

I do not expect agreement from the very able and distinguished Secretary of Defense, although he will find me on the same side with him on many issues. However, I am irreconcilably opposed to his position in South Vietnam.

In fairness to him I believe I should say, as I close my speech, that I have just been handed a news ticker reference to him, which reads as follows:

> WASHINGTON.—Secretary of Defense Robert S. McNamara, replying to news conference questions, said today he was "pleased to be associated" with the operation of the war in Vietnam.
>
> "I don't object to it being called McNamara's war," he said, referring to a description used by Senator WAYNE MORSE, Democrat, of Oregon.
>
> The Pentagon chief added that "I have high regard for Senator MORSE, but not in this respect"—the Senator's continuing criticism of the role of the United States in Vietnam.

Mr. President, I understand the Secretary's view. We continue to agree to disagree. As long as this war, which I consider to be an unjustifiable war, a war which involves a violation by the United States of its Charter of the United Nations, a war which in my opinion is an unjustifiable killing of American boys in South Vietnam, is continued I expect to be against it in the Senate and in the country.

I close by saying I do not believe Congress can escape its obligation to take official jurisdiction over the subject matter. Congress ought to decide whether or not by official action—and the proper official action would be a declaration of war in South Vietnam, against which I would vote—it wants to support McNamara's war by officially declaring it to be that, as it only has the authority to do under the Constitution of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated March 14, 1964, addressed to me, and signed by David Stall and Alice H. Stall, in commendation of my stand relative to South Vietnam.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

YOUR TOWN PRESS, INC.,
*Salem, Oreg., March 14, 1964.*

Senator WAYNE MORSE,
*Senate Office Building,*
*Washington, D.C.*

DEAR WAYNE: We are moved to commend your wisdom and courage for the stand taken on South Vietnam. Surely, the U.S. policy formulations should be guided by someone other than Secretary of Defense and the CIA. Our involvement in that area has been too much by executive fiat without adequate reference to legislature and the people. As far as the moral basis for it all goes, this certainly dwindles as the truth of Diem regime became revealed and is hardly strengthened by the succession of one military strong man for another.

Education and retraining for industrial skills; medical needs; civil rights; our rate of economic growth—these are all problems of relevant and pressing concern. We know that you are conscious of this and take this opportunity of strengthening your commendable resolve.

Cordially yours,

DAVID STALL.
ALICE H. STALL.

EXHIBIT 1

## SIXTH INTERIM REPORT OF THE INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN VIETNAM, DECEMBER 11, 1955, TO JULY 31, 1956

(Presented by the Secretary of State for Foreign Affairs to Parliament by command of Her Majesty, January 1957)

### FOREWORD

The first five interim reports of the International Commission for Supervision and Control in Vietnam, covering the period from August 11, 1954, to December 10, 1955, were published as "Vietnam No. 1 (1955)," Cmd. 9461 (containing the first two reports); "Vietnam No. 2 (1955)," Cmd. 9499; "Vietnam No. 3 (1955)," Cmd. 9654; and "Vietnam No. 1 (1956)," Cmd. 9706. The present white paper contains the text of the Sixth Interim Report. This was received at the Foreign Office on October 2, 1956, and, in accordance with the procedure described in the Foreword to Command Paper 9461 of 1955 is now published after the distribution of copies to all members of the Geneva Conference of 1954.

2. After the publication of the Fifth Report, representatives of the two cochairmen of the Geneva Conference met in London to discuss the difficulties being experienced by the International Supervisory Commission as outlined in chapter VII of the report herein. As a result of this discussion the cochairmen sent messages on May 8, 1956, to the Government of France, jointly to the Governments of the Republic of Vietnam and of the People's Republic of Vietnam, and to the International Supervisory Commision. These messages were published in the white paper "Vietnam No. 2 (1956)," Cmd. 9763.

FOREIGN OFFICE, *January 1957.*

## SIXTH INTERIM REPORT OF THE INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN VIETNAM, DECEMBER 11, 1956, TO JULY 31, 1956

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### INTRODUCTION

The International Commission for Supervision and Control in Vietnam has so far submitted five interim reports covering its activities from August 11, 1954, to December 10, 1955.

2. This is the sixth interim report of the Commission containing a summary of its activities from December 11, 1955, to July 31,

1956, and a review of the progress made by the two parties in the implementation of the agreement on the cessation of hostilities in Vietnam.[1] This report should be read along with the relevant chapters of the five earlier interim reports.

### CHAPTER I—ESTABLISHMENT AND MACHINERY OF THE INTERNATIONAL COMMISSION IN VIETNAM

During the period under review, the International Commission continued to carry out the task assigned to it under articles 29, 34, and 36 of the agreement; namely, the supervision and control of the proper execution by the parties of the provisions of the agreement. The Commission held 58 meetings during the period under review for the transaction of its day-to-day business. The committees of the Commission; namely, the Operations Committee, the Freedoms Committee and the Legal Committee, continued their activities. Twenty-one mobile teams were sent out for investigation, reconnaissance, and control thus making a total of 153 since the Commission started its activities. The difficulties experienced by the Commission's fixed and mobile teams are described in subsequent chapters of this report.

2. As in the past, the Commission has continued to pay official visits to Saigon. The question of transferring the Commission's headquarters from Hanoi to Saigon still remains unsettled. The matter has been raised with the French authorities in the south as well as with the Government of the Republic of Vietnam but so far no satisfactory solution has been found. The Commission will continue to pursue this matter.

3. In accordance with the provisions of article 45, a coordination conference of the secretaries-general of the three Commissions of Vietnam, Laos, and Cambodia was held at Siem Reap in Cambodia on January 10 and 11, 1956. Questions of an administrative nature including the accounting procedure of the Commissions were discussed and satisfactorily settled.

### CHAPTER II—PROVISIONAL MILITARY DEMARCATION LINE AND DEMILITARISED ZONE

4. In the month of September 1955 the Commission had made certain suggestions to the two high commands for the improvement of the administrative arrangements on the demarcation line and in the demilitarised zones. Mention was made of this in paragraphs 3 and 4 of the Fifth Interim Report. The initial reactions of the two high commands to the Commission's suggestions were also recorded in that report. The detailed comments of the two high commands on the Commission's suggestions were examined by the operations committee. The recommendations of the operations committee were carefully considered by the Commission. It was seen that the response of the parties fell into three categories:

Category I: Items which both parties had not accepted.

There was one such item; namely, the question of fixed market places. The Commission agreed to drop this suggestion.

Category II: Items which had been accepted by both parties.

These included: (1) The checking of movements of personnel by the check posts on the demarcation line; (2) the setting up of mobile patrols on either side to stop people crossing at unauthorised places in between the check posts; and (3) the provision of telephone communication between Mobile Team 76 and the P.A.V.N. Headquarters at HOXA. As both parties had accepted these suggestions, they were finalised by the Commission.

Category III: Items which had been accepted by one party and not accepted or partially accepted by the other party.

After considering the comments offered by the two high commands on this category, the Commission decided to convert the suggestions in this category into recommendations and the two high commands were directed to implement them. The recommendations under this category were:

"(1) That permits should preferably bear the photographs of the persons in whose favor they were issued to facilitate checking. In view of the practical difficulties, however, the parties were called upon to consider ways and means of providing photographs on permits. The Commission further added that permit holders should not be prevented from crossing the demarcation line on the ground that the permits did not have photographs;

"(2) That the people in the demilitarized zones should have the right of assembly and the right to hold public meetings organized for political purposes. However, as political sympathies were bound to be mixed and meetings were likely to create public excitement, public meetings organized for political purposes should be regulated without in any way restricting the right of assembly or association. Before a political meeting was held, adequate notice should be given by the organizers to the local authorities indicating the time and place where the meeting would be held. Intimation of such meetings should be given by the local authorities to Mobile Team 76;

"(3) That the parties be allowed to increase the police strength in the zone under their control for the proper maintenance of law and order and that the first increase should not be more than 50 percent of the present authorized strength. Any additional increase would require the approval of the central joint commission and in case of disagreement that of the International Commission; and

"(4) That Mobile Team 76 be advised by telephone in advance whenever the joint commission was considering any serious incident or threat of such an incident, so that the team could observe at the meeting and if the joint commission machinery failed to take necessary action, could report immediately to the Commission and take preliminary action to prevent or limit the incident in pursuance of the Commission's responsibility under article 36(b) of the agreement.

5. These recommendations were conveyed to the two high commands on February 24, 1956. So far the Commission has not received any reply regarding the implementation of the recommendations from the French High Command. The P.A.V.N. High Command has replied to the Commission's recommendations in April 1956. Of the four recommendations made by the Commission, the P.A.V.N. High Command has not accepted (2) and (3) and has not commented on (4). With regard to the increase of police strength in the demilitarized zones (recommendation No. 3) the P.A.V.N. High Command did not consider any such increase above the number fixed in the statute of the demilitarized zones was necessary and expressed the view that any additional reinforcement should be approved by both parties in the Central Joint Commission. With regard to organization of political meetings (recommendation No. 2) the P.A.V.N. High Command did not consider it necessary that modalities should be laid down for the regulation of such meetings.

6. The movement across the demarcation line and the entry into the demilitarized zones of persons not directly concerned with the administration of the zones are governed by articles 6, 7, 8, and 9 of the agreement and are closely regulated by a protocol signed by the two high commands in September 1954 (decisions Nos. 6 and 11). This protocol provides for the practical implementation of these articles including the establishment of a permit system. Different types of permits are prescribed for the crossing of the demarcation line and for the entry of persons into the demilitarized zones. These permits are, according to decision No. 11, to be issued by the joint subcommission in the demilitarized zone and have to be endorsed by the two parties represented therein.

7. However, the actual implementation of the provisions of decision No. 11 relating to the permit system has been far from satisfactory. The French High Command has since November 1955 unilaterally introduced certain innovations which have resulted in stopping the movement of permitholders across the demarcation line into the southern demilitarized zone. They are required, at the points of crossing on the southern side of the demarcation line, to deposit the permits issued by the joint subcommission in the demilitarized zone and to take temporary ones to move within the southern demilitarized zone. They are required to recross at the same point in order to collect the original permit even though Hien Luong Bridge has been accepted by both the parties as a common point of crossing. The Commission has received numerous petitions from the demilitarized zone in which objections to the new procedure have been stated.

8. The Commission considered the situation and made certain suggestions in a letter dated February 24, 1956, to the French High Command. The high command was informed that the Commission did not see any reason for changing the present system under which the permits for crossing the demarcation line were issued by the joint subcommission. The Commission further suggested that the check posts should have complete nominal rolls of all permitholders and the post at Hien Luong bridge should have master lists of all persons holding permits authorizing them to cross the demarcation line. The high command was also informed that it should not collect permits at the demarcation line, but that the Commission had no objection to the issue of additional authorization slips to the permitholders. The P.A.V.N. High Command has complained to the Commission that hindrances to the freedom of movement of the permitholders continue and that in many cases the French High Command has refused to renew the permits already issued and has been progressively reducing the number of permits. The Commission has again asked the French High Command in July 1956, to accept the suggestions made by the Commission in its letter of February 24, 1956. The high command was further informed that if no satisfactory reply was received within 3 weeks the Commission would consider whether it should not convert the suggestions into recommendations. According to the report received by the Commission from its team in the demilitarized zone, movement of the people entitled to cross the demarcation line into the demilitarized zone south has virtually come to a standstill during the last 8 months. The Commission is of the opinion that the freedom of movement guaranteed to the permitholders under article 9 of the agreement is being denied to them, and that no action has been taken by the French High Command to remedy the situation.

9. The Commission has received from the P.A.V.N. High Command during the period under report 29 complaints relating to 236 alleged incidents in violation of article 7, including 116 alleged incidents in violation of article 14(c) in the southern demilitarized zone. Out of the number of incidents referred to above, 154 pertain to the period under report. In reply the French High Command has forwarded to the Commission a letter from the Government of the Republic of Vietnam which denies the allegations and states that a few of the incidents were caused

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[1] References to "articles" in the report are to the articles of this agreement. See "Miscellaneous No. 20 (1954)," Cmd. 9239, page 27, et seq.

by supporters of the north. The complaints are under inquiry. The Commission has not so far received any reply from the Government of the Republic of Vietnam with regard to 155 of the above alleged incidents.

10. In paragraph 41 of the Fifth Interim Report the Commission had made reference to Mobile Team 87 which was to investigate certain alleged violations of articles 7 and 14(c) in the demilitarized zones. It had been reported that the Commission had decided to send the team back to the field as the Government of the Republic of Vietnam had withdrawn its condition that liaison officers attached to this team should be in civilian clothes when the team operated in the southern demilitarized zone. However, soon after the Republic of Vietnam qualified this concurrence by stating that, should the presence of the P.A.V.N. liaison staff in uniform provoke any incident, the responsibility would be that of the international commission. The Commission informed the French High Command that it could not accept any responsibility for any incident that might occur as it was the duty of the high command concerned to assure full security to the team under article 25. Since the Commission was anxious to conduct the investigation as soon as possible, it proposed to the P.A.V.N. High Command that, as a special case, its liaison staff attached to Mobile Team 87 should wear civilian clothes. The P.A.V.N. High Command did not agree to this on the ground that the Commission itself had decided on November 8, 1955, that liaison officers in the demilitarized zones could wear uniforms if so desired by the high command concerned. In the meanwhile, the Republic of Vietnam laid down a few more conditions in the form of suggestions. These suggestions were not accepted by the Commission. At the beginning of March, the French Liaison Mission informed the Commission that the Government of the Republic of Vietnam could agree to the resumption of investigation by Mobile Team 87 provided the P.A.V.N. liaison staff was sent in civilian clothes. In view of this, the Commission requested the P.A.V.N. High Command to agree as a special case with respect to Mobile Team 87 to the wearing of civilian clothes by the P.A.V.N. liaison staff accompanying the team. The P.A.V.N. High Command again did not agree to the Commission's request for the same reasons as given before. It further requested the Commission to take up a firm stand toward the French High Command and demand that it withdraw the unacceptable condition of civilian clothes. On July 7, 1956, the Commission converted its suggestion into a recommendation that in the demilitarized zones and on the demarcation line the representatives of the high commands sent for liaison duties may be in uniform if so required by their high command. In view of this recommendation it is hoped that the team will be able to resume investigations before long.

11. The P.A.V.N. High Command had lodged a complaint with the Commission that on February 25, 1956, the representatives of the French High Command in contravention of article 7 permitted 150 persons amongst whom were 5 military officers to enter the demilitarised zone and attend a flag salutation ceremony on the demarcation line. An investigation conducted by the Commission revealed that, even though the representatives of the P.A.V.N. delegation had refused concurrence to the entry of these 150 persons into the demilitarised zone, the French High Command permitted their entry without authorization. The Commission, after investigation, has concluded that there has been a violation of article 7 of the agreement by the French High Command. The P.A.V.N. High Command lodged another complaint with the Commission that on the 17th and 25th of January 1956, the French High Command in contravention of article 7 permitted the entry of a number of persons into the demilitarised zone. The French High Command forwarded a letter from the Government of the Republic of Vietnam which admitted that there had been an infraction of the status of the demilitarised zone and stated that this was due to lack of liaison between the French representative on the joint subcommission and the local authorities. The Commission has sent a letter to the French High Command stating that the procedure for the entry into the demilitarised zone should be strictly followed.

12. The situation in the demilitarised zone has not shown any improvement since the Fifth Interim Report. If anything, the difficulties have increased. As mentioned in the foregoing paragraphs, hindrances to the free movement of the permitholders, numerous complaints about alleged infraction of the status of the demilitarised zone and article 14(c), inadequate implementation of the Commission's recommendations regarding the administrative arrangements in the demilitarised zone and the unsatisfactory functioning of the central joint commission and its subordinate agencies have largely contributed to this deterioration.

13. It has been the experience of the Commission that the central joint commission, through the agencies under it, has discharged its duties very unsatisfactorily. It has become increasingly necessary for the Commission to intervene and to take more active steps, even though under article 36 (b) its responsibilities are limited to supervision. It has also been found that the central joint commission did not meet for days together even though cases referred to it by the P.A.V.N. delegation were pending with it. It has not resolved the important questions described in the previous paragraph such as the question of freedom of movement of permit holders and it has failed to undertake investigations through its joint groups into a large number of incidents, as the French High Command did not agree to participate. Furthermore, the disputes which have arisen in the joint subcommission in the demilitarised zone from time to time have not been settled. Since the dissolution of the French High Command there have been no meetings either of the joint subcommission in the demilitarised zone or of the central joint commission. The P.A.V.N. High Command has therefore sought the Commission's intervention as its efforts to get the central joint commission to meet have yielded no results.

14. The cochairmen in their message dated May 8, 1956, to the French Government, invited them to discuss with the authorities of South Vietnam the question of the resolution of the practical problems with a view to reaching an arrangement which will facilitate the work of the International Supervisory Commission and the Joint Commission in Vietnam. They also requested that until the arrangements envisaged above were put into effect the French Government should preserve the status quo. However, the status quo maintained by the Government of the Republic of France has not included the continued functioning of the central joint commission and its agencies, with the result that the day-to-day problems in the demilitarised zone have remained unsolved.

15. The International Commission has, in a previous communication of May 2, 1956, to the cochairmen, emphasised the importance which it places on the work of the joint commission. The Canadian delegation, as indicated in its separate note of May 3, 1956, to the cochairmen, while not fully agreeing with the emphasis placed in this communication on the importance of the work of the joint commission, was in agreement that as a matter of urgency steps should be taken to insure that the tasks of the joint commission continued to be performed. The Commission is of the view that the joint commission is an essential part of the machinery for the implementation of the ceasefire agreement, and that its nonfunctioning adversely affects the execution of the agreement, particularly in respect of the administration of the demarcation line and the demilitarised zones. The Commission is, therefore, of the view that the joint commission and its agencies should resume their normal working.

### CHAPTER III—DEMOCRATIC FREEDOMS—ARTICLES 14(c) AND (d)

#### *Article 14(c)*

16. The supervision of the implementation by the parties of the provisions of article 14(c) continues to be one of the major problems of the Commission. Under this article, the parties have undertaken to refrain from any reprisals or discrimination against persons or organizations on account of their activities during the hostilities and to guarantee their democratic liberties. During the period under review, the Commission received from the P.A.V.N. High Command 102 complaints alleging 281 incidents concerning violations of article 14(c) in South Vietnam. The Commission has also received through its petition boxes, through its fixed and mobile teams, and through the P.A.V.N. High Command a large number of petitions alleging reprisals in the south. These complaints and petitions contain allegations of a number of cases of arrest, detention, murder, massacre, and mass concentration of families of former resistance workers committed by the authorities of the south. During the period under review, the Commission received from the French High Command five complaints involving 18 incidents, including one alleged case of murder, alleging that the authorities of the north had committed reprisals against the former supporters of the French High Command concerning violation of article 14(c).

17. The Commission, as in the past, has forwarded the majority of these complaints and some of the petitions to the high command concerned for comments and reports of remedial action taken if the allegations were found to be true. The Commission is still seized with 143 complaints against the French High Command and 5 complaints against the P.A.V.N. High Command concerning alleged reprisals under article 14(c). During the period under review, the Commission decided to send out three mobile teams to make on the spot investigations into complaints of alleged violation of article 14 (c) in the south, under the terms of article 37 of the agreement. The following are the complaints along with the dates on which the concurrence of the party was asked for:

*Number of the team, date when concurrence asked for, and task of the team*

103. March 15, 1956, to investigate alleged violation of article 14(c) in the Province of Quang Nam (Duy Xuyen).

104. March 15, 1956, to investigate the massacre of three families at Gia Rai (Bac Lieu Province).

105. March 15, 1956, to investigate the alleged concentration of former resistance workers and their families in Thua Thiem Province.

In addition to these three cases, the Commission had decided to send out three other mobile teams during the period covered by the Fifth Interim Report. The following are the complaints and the dates on which the concurrence of the party was asked for:

*Number of the team, date when concurrence asked for, and task of the team*

85. August 27, 1955, to investigate alleged violation of article 14(c) in the Province of Chau Doc, South Vietnam.

87. September 8, 1955, to investigate alleged violation of article 14(c) in demilitarized zones (north and south).

93. October 4, 1955, to investigate alleged violation of article 14(c) in Huong Hoa, South Vietnam.

In addition to the above six cases where the Commission has asked for the concurrence of the high command concerned, the Commission has also ordered a mobile team investigation into two complaints from the P.A.V.N. High Command alleging murder and arrest in the Province of Quang Nam but the decision to send out this team has not yet been taken. In one other case, the Commission has directed one of its fixed teams in the south to undertake inquiries into an alleged murder.

18. The decision to send these teams was taken at various times by the Commission and the concurrence of the French High Command has asked for under the provisions of article 35. During the period under review, the Commission was not able to carry out these investigations as it was awaiting concurrence from the French High Command. Concurrence for Mobile Teams 93, 103, and 105 has been received in the month of July 1956. Mobile Team 103 concluded its preliminary inquiry on July 28, 1956, at Hanoi in the presence of liaison officers of both the parties and had not yet commenced its investigation in South Vietnam during the period under review. The Commission hopes that it will not meet with further difficulties and the teams will be able to carry out the investigations soon. The position as regards Mobile Team 87 has been explained in paragraph 10.

19. During the period covered by the Fifth Interim Report, the Commission had decided to undertake a mobile team investigation on a complaint from the P.A.V.N. High Command of alleged violation of article 14(c) in South Vietnam. The team (Mobile Team 90), however, was not deployed in view of the reply received from the French High Command on the P.A.V.N. High Command's complaint that the persons concerned had been released. On December 12, 1955, the P.A.V.N. High Command complained that the persons involved in its first complaint had been rearrested and asked for the despatch of the mobile team. This fresh complaint was forwarded to the French High Command on December 2, 1955, for its comments and in April the Commission drew the attention of the high command to its earlier decision to have a mobile team investigation. The Commission will take a final decision on receipt of a reply from the French High Command which is awaited.

20. The Commission has taken a final decision and made recommendations to the French High Command in one case which had been pending since April last year. In the month of April 1955, when Mobile Team 47 was conducting an inquiry in the Chi Hoa prison into alleged violations of article 21 by the French High Command, it came across 25 cases of prisoners arrested after the cease-fire who claimed that they were former resistance workers who had been detained for no reasons after cease-fire. The P.A.V.N. High Command subsequently sponsored 23 out of these 25 cases and alleged that they were violations of article 14(c) by the French High Command. The statements of these 23 prisoners were obtained by Mobile Team 47 and the Commission also obtained from the South Vietnam authorities dossiers in each case. These dossiers and the statements made by the prisoners were carefully examined by the Freedoms Committee and the Legal Committee of the Commission. After careful scrutiny of the committees' reports, the Commission declared that there was a violation of article 14(c) in 15 cases and has recommended the immediate release of the affected persons. In the other eight cases, the Commission was of the view that no violation of article 14(c) had been established. Out of these eight cases, in one case, the Commission decided that no further action was necessary and in the remaining seven cases, the French High Command was requested to arrange with the authorities concerned to proceed immediately with their judicial processes and submit the dossiers to the Commission, when completed, on receipt of which the Commission would review these seven cases to see whether the provisions of article 14(c) were violated or not. These findings and recommendations were communicated to the French High Command on June 7, 1956. The recommendations of the Commission have not yet been implemented. In another case, that of a former resistance member of Khanh Hoa Province named Tran Chau who had been arrested, the Commission decided that the case was covered by article 14(c) and recommended on June 26, 1956, to the French High Command that the person should be released forthwith. The Commission has not received any reply from the French High Command indicating that the recommendation has been implemented. The French High Command was also asked to show cause why a finding of violation of article 14(c) should not be given for the arrest and detention of a person who had taken part in the hostilities. The Commission has not received any reply to this show-cause notice although the prescribed time of 2 weeks has elapsed.

21. In February 1956, the International Commission received a communication from the Commander in Chief of the People's Army of Vietnam bringing to the Commission's notice the existence of an ordinance in South Vietnam—General Order No. 6 of January 11, 1956, issued by the President of the Republic of Vietnam—and complaining that this ordinance was in violation of article 14(c). The ordinance gave special powers to the Government to take extraordinary measures for detention or deportation for reasons of public security. The Commission examined the complaint of the P.A.V.N. High Command and on March 5, 1956, communicated to the French High Command its view that no law, regulation or order in either of the two zones could, in any way, supersede the obligations which the two parties have undertaken under the provisions of article 14(c) of the agreement on the cessation of hostilities in Vietnam. The French High Command was further informed that the Commission expected that any action taken under General Order No. 6 would be taken with due regard to the provisions of article 14(c) and if complaints were brought to the notice of the Commission regarding the application of this decree or any other law, regulation or order in either of the two zones, alleging the violation of article 14(c), the Commission would take steps to satisfy itself that there had been no reprisals or discrimination against persons on account of their activities during the hostilities and that their democratic liberties had not been infringed in violation of article 14(c). A copy of this communication was forwarded to the Commander in Chief of the People's Army of Vietnam pointing out that the Commission was always ready to deal with specific complaints regarding violations of the provisions of the cease-fire agreement. Subsequently the Commission has received a few specific complaints of action under General Order No. 6 which, in the opinion of the P.A.V.N. High Command, amount to violation of article 14(c). These cases are being pursued with the French High Command and in one case the Commission has ordered investigation by a mobile team. Concurrence for this Mobile Team 105 has been received. It has come to the Commission's notice that former resistance workers are being held in detention under Ordinance No. 6 although the ordinance was promulgated sometime after the arrests took place. The Commission has asked the French High Command for a clarification of how retrospective effect is being given to the ordinance. A reply is awaited.

22. It was pointed out in the Fifth Interim Report that the inability of the Commission to send out mobile teams for investigating alleged violations of article 14(c) was causing serious concern to the Commission. During the period under review the Commission was unable to send out any investigating teams to South Vietnam. As has been pointed out in paragraph 16 complaints and allegations regarding violation of article 14(c) have been very numerous and in some cases of a very serious nature. The Commission is not in a position to state whether these complaints are true or not as it has not been permitted to certify them through the machinery laid down in the agreement. The question of the degree of cooperation extended by the party concerned to enable the International Commission to carry out investigations will be discussed in fuller detail in paragraph 69 of this report.

### *Article 14(d)*

23. In paragraph 12 of the Fifth Interim Report, the Commission had informed the cochairmen that it was pursuing the question of residual cases under article 14(d) with the two parties. On October 22, 1955, the Commission had made suggestions regarding follow-up action on the residual categories, outlined in paragraph 33 of the Fourth Interim Report. The Freedoms Committee was charged with the task of holding discussions with the representatives of the two high commands with a view to arriving at a satisfactory settlement of this problem. Between January 7 and March 12, 1956, the committee held five meetings with the representatives of the parties. During the course of discussions, both parties accepted in principle the suggestions made by the Commission in its letter of October 22, 1955. No agreement has been reached, however, regarding the implementation in practice of the suggestions. During the course of the discussions, the representative of the P.A.V.N. High Command proposed that the best solution of the problem of article 15(d) would be to have complete freedom of movement between the two zones. The representative of the French High Command was not in favor of this proposal as, in his view, it went beyond the scope of the cease-fire agreement. Both parties were, however, willing to continue discussion of residual cases. In view of the developments in the south and the withdrawal of the French High Command from South Vietnam, the discussions with the two parties have been for the present held up. Thus, the Commission has not so far been able to resolve the question of residual cases mentioned in paragraph 33 of the Fourth Interim Report.

24. The question of investigating the complaint made by the French High Command in April 1955, that the seminarists of Xa Doai were not being permitted to move south was referred to in paragraph 15 of the Fifth Interim Report. Mobile Team F-44 which was sent to the seminary at Xa Doai was not able to interview the seminarists concerned as the religious authorities on religious grounds did not allow the team to enter the seminary and hold investigations there. The team had to return with the task unaccomplished. The P.A.V.N. High Command informed the Commission that the religious authorities were, however, agreeable to allow the seminarists to be interviewed outside the premises. The Commission in March 1956 informed the P.A.V.N. High Command that in its view the seminary would have been the most satisfactory place for conducting investigations but in view of the delay and the need to interrogate the seminarists immediately the investigations

need not take place at the seminary grounds but the seminarists should be produced before the Commission's team at Vinh. In reply the P.A.V.N. High Command informed the commission that the seminarists had stated that they did not wish to be interviewed by the Commission and that those who wanted to go south had been authorized to do so before July 20, 1955. The Commission did not accept these arguments and made a recommendation in June 1956 to the P.A.V.N. High Command that arrangements should be made to produce seminarists before the team at Vinh as soon as possible. In July 1956 the Commission asked the P.A.V.N. High Command to inform the commission whether or not it was prepared to produce the seminarists at Vinh within 15 days. The high command in reply informed the Commission that the seminarists would be returning from their holidays at the end of August and that the local authorities had been directed to make arrangements with the seminarists on their return. The investigation by Mobile Team F–44 has not yet taken place.

25. The P.A.V.N. High Command had in November 1955 alleged that a serious incident took place in Thu Dau Mot Province in South Vietnam where plantation workers approached the authorities for permits to go north. The P.A.V.N. High Command alleged that the authorities opened fire and killed one person and seriously wounded three. It also alleged that 40 persons were arrested and put in jail. The French High Command whose comments were invited admitted the occurrence of the incident but stated that there was no question of denial of facilities under article 14(d). It enclosed a letter from the South Vietnam authorities in which it was stated that the workers had demonstrated and that the police had fired in self-defense and to maintain order, and that the arrests were subsequently made for common law offenses and acts against the State. The Commission has decided to send a mobile team to investigate on the spot. The concurrence of the French High Command is awaited.

### CHAPTER IV—PRISONERS OF WAR AND CIVILIAN INTERNEES

26. As stated in paragraph 10 of the Fourth Interim Report and paragraph 20 of the Fifth Interim Report, the parties continued to make claims against each other in respect of prisoners of war and civilian internees, particularly in cases where the replies received by them from the other party in the joint commission were not considered satisfactory. During the period under report 330 such claims were received from the French High Command and 834 from the P.A.V.N. High Command.

27. In its efforts to get the parties to clear their claims and counterclaims concerning prisoners of war, the Commission has been continually urging them to make further and more thorough investigations in invidual cases and thereby help the other party in knowing the ultimate fate of the prisoners concerned. Under a procedure introduced in July 1955, the parties have also been exchanging regularly, through the medium of the Commission, fortnightly reports of progress made on search requests of prisoners of war received from the other side in the Joint Commission.

28. In paragraphs 21 and 22 of the Fifth Interim Report, mention was made of the cases of 141 Vietnamese officers alleged to have been kept in detention in prisoner-of-war camps in North Vietnam after the cease-fire and it was stated that the Commission, on the basis of investigation carried out by Mobile Team 80, had come to the conclusion that the allegation of detention in prisoner-of-war camps after the cease-fire had not been proved, but as it felt that these 141 ex-prisoners of war, who worked in construction yards after their release, might not have been able to exercise their choice of zone of residence, it decided that their cases would be treated as residual cases remaining to be disposed of under article 14(d) of the agreement.

29. On receipt of further representations from the French High Command, concerning these persons, the matter was further examined by the Commission and it was suggested to the P.A.V.N. High Command in March 1956, that 89 of them should be informed by individual letters that facilities would be granted to them and to their wives and children dependent on them to proceed south in exercise of their right to choose their zone of residence if they so desired. The P.A.V.N. High Command replied on June 12, 1956, that it did not accept the Commission's findings that these persons had been under some restrictions. They further stated that these persons had been enjoying the same rights as any other citizen and had been working on their own free will in construction yards in North Vietnam. In view of this, the suggested procedure was not acceptable to the P.A.V.N. High Command. The P.A.V.N. High Command also wondered why the Commission had been induced to put up the request contained in its letter of March 10, 1956. The matter was again considered by the Commission in the third week of June and the P.A.V.N. High Command was again asked to adopt the procedure suggested by the Commission in March and report compliance, failing which the Commission would consider converting the suggested procedure into a recommendation. The P.A.V.N. High Command's reply has now been received and is being considered by the Commission.

30. During the period under review, the P.A.V.N. High Command informed the Commission that 57 German and Hungarian "ralliés" were being repatriated through China. One of the Commission's teams on the Vietnam-China border was instructed to ask the following questions to these persons: "Do you consider yourself a prisoner of war?" and "Are you being repatriated of your own free will?" The team was also instructed to obtain a list of all persons being repatriated. The team was satisfied from the replies to the two questions mentioned above that the persons concerned did not claim to be prisoners of war and that they were being repatriated of their free will. But the team was unable to obtain the names of these persons. The Commission asked the P.A.V.N. High Command to supply a list of their names, but the P.A.V.N. High Command refused to do so on the ground that their cases did not come under the Geneva Agreement and at the time of their repatriation, as had been stated by the team, these persons had informed the team that they did not want their names to be revealed.

31. The Commission has before it the cases of 26 deserters, who made applications either to the French High Command or to the commission for transfer to the French Union forces for repatriation to their country of origin. Some of these cases have been pending for a long time. The P.A.V.N. High Command has stated that these persons have changed their mind and are no longer desirous of being handed over to the French Union forces. The Commission has, therefore, suggested to the P.A.V.N. High Command that they be produced before the Freedoms Committee of the Commission so that the Commission might satisfy itself that they have in fact changed their mind. In reply, the P.A.V.N. High Command informed the Commission that one "rallié" handed over to the French Union forces in February 1955 had been sentenced to death and another "rallié" repatriated in March 1955 had been sentenced to 12 years' hard labour and 20 years of solitary confinement. The P.A.V.N. High Command, further, stated that in view of this attitude of the French High Command, it would not agree to the repatriation of any "rallié" through the French Union forces until such time as the assurance which had been previously asked for from the French High Command that no deserter handed over by the P.A.V.N. High Command would be punished for desertion, was given. The French High Command has been asked to offer specific comments on the two cases quoted by the P.A.V.N. High Command and its attention has also been drawn to the fact that these persons are entitled to the benefit of article 14(c) and should not be punished for acts connected with desertion.

32. It has, however, been made clear to the parties that the Commission does not deal with deserters under the agreement, but the Commission has expressed a hope that the procedure laid down as a result of discussion between the parties and the Commission for the repatriation of "ralliés," which was based on humanitarian grounds, would be continued and that the Commission was ever willing to offer its good offices in this regard.

33. In one case, however, that of ex-legionary Johann Vreckar, the Commission received several petitions from him of a conflicting nature and his wishes were not clear. The Commission, therefore, decided on February 9, 1956, that a mobile team (100) should interview Vreckar with the limited task of ascertaining whether he desired to be handed over to the French Union forces or not. No investigation into his status was to be undertaken. The P.A.V.N. High Command expressed its unwillingness to produce Vreckar before the Commission's team on the ground that he was a "rallié" and had clearly expressed his wish to be repatriated to the German Democratic Republic. The Commission reiterated its demand on several occasions that Vreckar should be produced before the mobile team. In July the Commission converted its request into a recommendation and asked that Vreckar should be produced before the team by July 13, 1956. The P.A.V.N. High Command, however, did not produce him within the time limit. On July 14, 1956, ex-legionary Johann Vreckar on his own came to the Commission's secretariat and was interviewed by the three Deputy Secretaries-General of the Commission. On being questioned about his wishes he stated that he did not want to be handed over to the French Union forces. The Commission has closed this case.

34. Regarding civilian internees the latest position is as follows:

| | FUF | PAVN |
|---|---|---|
| 1. Number released up to July 31, 1956 (excluding 93 mentioned in the 3d interim report, 67 mentioned in the 4th interim report and 79 mentioned in the 5th interim report), by | [1] 4 | -------- |
| 2. Number of recommendations for release made by the Commission during the period under report under art. 21 to | 2 | -------- |
| 3. Number of cases in which recommendations for release made by the Commission under art. 21 (with dates of recommendations) have not so far been implemented by | [2] 13<br>[3] 6 | --------<br>-------- |
| 4. Number of cases under consideration on complaints against | 111 | 6 |
| 5. Number of cases in which Commission has declared that release was inconsistent with art. 21 of the Geneva Agreement, against | 12 | -------- |
| 6 Number of cases in which Commission has held violation of art. 21 and decided to take action under art. 43 of the Geneva Agreement, against | 2 | -------- |

[1] Regarding one identity has been questioned, and it is being considered whether this release was under art. 21 or 14(c).

[2] Aug. 29, 1955.

[3] Dec. 9, 1955.

35. As mentioned in serial No. 5 above, there have been 12 cases where the French

High Command released civilian internees without handing them over to the P.A.V.N. High Command. The Commission has informed the French High Command that such releases are inconsistent with the provisions of article 21.

36. In the cases of 19 civilian internees (13 plus 6) referred to at serial No. 3 above, the Government of the Republic of Vietnam contended that their cases were not covered by article 21(b) as they were former members of the National Armed Forces and had been detained or punished under the military law applicable to them and could not, therefore, be considered as civilian internees. The Commission examined the legal aspect of the matter and after very careful consideration came to the conclusion, with the Canadian delegation dissenting, that, when it was clear that a person had been arrested and convicted because he had contributed to the political and armed struggle between the two parties in Vietnam, his case was covered by article 21, no matter under what law he was so convicted and no matter what his status was at the time of arrest and conviction. The benefit of article 21 could not be denied to a person if the reason for his arrest and conviction was that he had contributed to the political and armed struggle in Vietnam, and the fact that he was a former member of the armed forces of one party and had been arrested and convicted under military law of that party, could not exclude him from the definition of a civilian internee.

37. This decision was communicated to the French High Command but the Republic of Vietnam adhered to its own interpretation of article 21(*b*). The Commission has, in a letter dated June 6, 1956, reiterated its stand and requested the French Liaison Mission to urge the Government of the Republic of Vietnam to implement the recommendations made by the Commission and to release the persons concerned immediately, particularly in view of the appeal made to the parties by the cochairmen to give effective cooperation to the Commission. The French Liaison Mission has also been informed that if the Commission's recommendations are not implemented by the authorities concerned the Commission would consider taking action under article 43 of the agreement. The recommendations have not been implemented. The difficulties encountered by Mobile Team 47 which has been charged with examining complaints of violations of article 21 in South Vietnam, will be dealt with in paragraph 70 of this report.

38. The Commission would like to draw the attention of the co-chairmen to two cases coming under article 21—the case of Tran Quy Minh alias Hamaide Francois and the case of Nguyen Truong Sinh alias Tangavelou, which have been pending with the Commission since June and July 1955 respectively. In both these cases the Commission, after careful examination, arrived at the finding that they were civilian internees. On February 17 and 27, 1956, respectively, the Commission communicated to the French High Command these decisions and directed the French High Command to produce these two persons who were stated to be in custody in France, at Saigon so that their choice of zone in which they would like to go and live might be ascertained. In spite of protracted correspondence with the French High Command, the recommendations of the international Commission in these two cases were not implemented. In both the cases the French High Command claimed that as Hamaide Francois and Tangavelou were of French nationality their cases were not covered by article 21. The Commission, after examination informed the French High Command that article 21 applies to all civilian internees irrespective of nationality. The French High Command has informed the Commission on July 14, 1956, that Hamaide Francois was released in France on September 11, 1955, after a grant of free pardon. In the case of Tangavelou, the French High Command has informed that he has been released on probation in France and that he has submitted a petition for a reprieve which is being considered. In both these cases, therefore, the French High Command has rejected the considered findings and recommendations of the Commission. The Commission has recorded violation of article 21 in both these cases and has informed the French High Command that the Commission will take action under article 43 of the agreement.

39. The Commission views with concern cases of this nature where a party refuses to implement the recommendations of the Commission due to difference of interpretation of the agreement. If the Commission is to fulfill its tasks of supervision and control adequately, it is essential that the Commission's authority on interpretation must be accepted by the parties as final.

40. The case of Father Nguyen Quang Vinh, a Trappist monk of the monastery of Chau-Son, which was mentioned in paragraph 14 of the Fifth Interim Report, has been pending with the Commission since May 1955. The French High Command had alleged that Father Vinh was detained as a civilian internee by the P.A.V.N. authorities. The Commission has obtained from the P.A.V.N. High Command a complete dossier of the case in order to ascertain whether his case is covered by article 21. Father Vinh has been sentenced to penal servitude for life on allegedly common law charges. The Commission decided in April 1956 that the legal committee, acting as a team, should interview Father Vinh and also examine the dossier of his case. Father Vinh was, however, not produced before the Commission's team by the P.A.V.N. High Command. The Commission was informed on July 3, 1956, by the P.A.V.N. High Command that Father Vinh escaped from custody in the month of January 1956. The Commission has asked the legal committee to examine the dossier of the case and on the basis of the documents available to submit a report whether there had been a violation of any article of the Geneva Agreement.

### CHAPTER V—BAN ON THE INTRODUCTION OF FRENCH TROOPS, MILITARY PERSONNEL, ARMS AND MUNITION—MILITARY BASES IN VIETNAM

41. Arrangements made for the supervision and control of the execution by the parties of the provisions of articles 16 to 20 of the agreement and additional measures taken by the Commission to discharge its special responsibility under article 36(d) have been referred to in the first five interim reports.

42. The mobile team arrangements made for the continuous control of introduction of war material and military personnel on the Vietnam-Cambodian border at Loc Ninh continued throughout the period under report, but Mobile Team 88, located at Phuc Hoa on the Vietnamese-Chinese border had to be withdrawn on January 25, 1956, due to the insistence of the P.A.V.N. High Command that further extension of the tenure of the team could not be given and that logistic support was to be discontinued. Another team with a new number 99 was established at Phuc Hoa on February 8, 1956. This team also had to be withdrawn on May 16, 1956, after the refusal of the P.A.V.N. High Command to implement the recommendations of the Commission. During the absence of the above mobile teams from Phuc Hoa, the mobile element of the Lang Son Fixed Team was given the additional task of controlling the area from Dong Dang. The mobile element visited Phuc Hoa on seven occasions.

43. However, the Commission has been of the view that continuous control by a mobile team at Phuc Hoa is essential, since the mobile element of the fixed team at Lang Son cannot assure the necessary supervision of most of the important lines of communication near the border between North Vietnam and China. The stand of the P.A.V.N. High Command has been that the maintenance of a mobile team for an undetermined period changes its character to that of a fixed team and that this is contrary to the provisions of article 35. The Commission after giving full consideration to the views of the P.A.V.N. High Command, has held, with the Polish delegation dissenting, that it has full authority under article 35 to keep mobile teams in operation in the zones of action for such periods as it considers necessary and that such mobile teams will not become fixed teams irrespective of the length of time they are kept in operation. The above decision of the Commission was communicated to the P.A.V.N. High Commands before withdrawing Mobile Team 88 and Mobile Team 99. The Commission has made it clear that the decisions to withdraw the teams were forced on the Commission because of the refusal of the P.A.V.N. High Command to implement the recommendations of the Commission and to extend the necessary cooperation to the teams. At the insistence of the Commission the P.A.V.N. High Command, though it has not accepted the Commission's interpretation of article 35, has, on July 19, 1956, agreed to the deployment of a new mobile team at Phuc Hoa. The Commission has, therefore, decided to send a new team to Phuc Hoa at the earliest date possible. The P.A.V.N. High Command has informed the Commission that the tenure of the team will be discussed later.

44. In addition to the airfields within the zones of action of the fixed teams which were being controlled, the Commission decided to carry out the reconnaissance of the important and uncontrolled airfields in Vietnam which could be used for introducing military personnel and war material. During the period under review, in the north the P.A.V.N. High Command gave concurrence to three controls and four out of five reconnaissance requested by the Commission and seven teams completed the tasks entrusted to them. Concurrence for the fifth reconnaissance was not received during the period under report. In the south, the Government of the Republic of Vietnam gave concurrence in 4 out of 10 cases where concurrence was requested. The four teams concerned completed their tasks. The reconnaissance of the remaining five airfields and the second reconnaissance of another airfield could not be carried out as the Government of South Vietnam did not give concurrence. In three cases where the Commission decided after reconnaissance to institute control, no control could be exercised. The Government of the Republic of Vietnam in connection with both reconnaissance and control referred to above, took the stand that there should be parity between the north and the south. The Commission did not accept the argument of parity and requested the authorities of South Vietnam to make immediate arrangements for the reconnaissance or control of the airfields concerned as the case may be. Compliance is awaited. During the period under review, the Commission completed four reconnaissances and three controls covering five airfields in the north and four reconnaissances covering four airfields in the south. Further reference is made in paragraph 73 below. During this period the Commission also carried out periodic reconnaissances of roads in North Vietnam. Six such reconnaissances were completed with the concurrence of the P.A.V.N. High Command. The seventh could not be completed due to bad weather conditions when the team was actually deployed.

45. Mention was made in paragraphs 31 to 35 of the Fifth Interim Report of the

problems of control of shipping in the Mekong River. The legal committee of the Commission has studied the question of the rights of shipping on rivers open to international navigation and their compatibility with the obligations of the parties under articles 16 and 17 and has come to the conclusion that the Commission has the right to stop ships for control purposes by its teams. The French High Command has been informed of this decision.

46. In order that the fixed teams might devote special attention to such places on the coast where there was possibility of war material and military personnel being landed, the Commission has, from time to time, carried out reconnaissance of the coast of Vietnam. The task has been completed with the following exceptions:

(a) Coastal area between Ha-Tien and Rach-Gia in South Vietnam. This could not be done due to the alleged conditions of insecurity prevailing in this area.

(b) The coast from Haiphong to Tien-Yen in North Vietnam. This could not be carried out due to the nonprovision of suitable sea transport.

47. The Commission, during the period under report, ordered reconnaissance of all offshore islands both in North and South Vietnam in view of complaints made by the parties about lightening of ships and in view of a case which came to the notice of the Commission. The French High Command in a letter to the Commission on December 16, 1955, alleged that there were a great number of places in the area of Haiphong, where lightening of ships could be effected. In January 1956 the Haiphong fixed team brought to the notice of the Commission an instance where a ship was lightened in the Baie D'Along before entering Haiphong. The captain of the ship freely gave the information to the team that his ship had anchored in the Baie D'Along for some time for offloading into barges approximately 1,000 tons of cargo there in order that the ship might be sufficiently light to enter Haiphong Harbor. The team checked the cargo of the ship and the lightened material in Haiphong port and found them to be general merchandise. On February 4, 1956, the PAVN High Command alleged in a letter to the Commission that numerous ships were anchoring off the Mekong estuary at nighttime and unloading war material into barges which brought them to the shore.

48. As a result of the allegations of the French High Command and the instance of lightening mentioned above, the Commission directed its teams early in February 1956 to carry out a reconnaissance of the offshore islands and submit the following information:

(a) Islands which are suitable for lightening of war material/military personnel.

(b) Their recommendations regarding the frequency of control.

The parties were also requested to indicate the places along the coast of North and South Vietnam where lightening could take place. In May 1956 the Commission also directed its naval advisers on the recommendations of the operations committee to reconnoiter Cap St. Jacques area in view of the P.A.V.N. High Command's complaint in order to determine the places where lightening could take place. The reconnaissance is underway. The Commission decided in June 1956 on similar reconnaissance of the Haiphong area by its naval advisers. Concurrence of the P.A.V.N. High Command for the proposed reconnaissance is awaited.

49. However, the Commission's teams have not so far been able to carry out any reconnaissance of the offshore islands in North Vietnam. The Commission has been pressing the P.A.V.N. High Command since March 1956 to provide necessary transport to the teams concerned, but the high command has not done so. The Commission hopes that the teams along the coast of North Vietnam will be able to begin this reconnaissance soon. In South Vietnam this task of reconnaissance was partially done. However, further reconnaissance was held up as the Government of the Republic of Vietnam in reply to the Commission's request to provide suitable sea transport to the teams concerned informed the Commission that it would not oppose the continuance of the reconnaissance of the coastal islands south of the 17th parallel provided similar reconnaissance was carried out of all the islands north of the 17th parallel. The Commission refused to accept such conditional cooperation and informed the French High Command that it took decisions in each zone on merits. It was also informed that the P.A.V.N. High Command had been requested to make available suitable transport to carry out reconnaissance of the offshore islands in the north. The Government of the Republic of Vietnam has now given its concurrence for the continuance of the reconnaissance of the offshore islands and the reconnaissance has been resumed.

50. The Commission's teams both in South and North Vietnam have been encountering difficulties in the performance of their normal duties. The difficulties faced by the Commission's teams in South Vietnam are mentioned in paragraphs 51 to 56 and those in regard to North Vietnam in paragraph 64.

51. The difficulties in respect of South Vietnam are: (a) time notice restrictions on team movements to certain areas and delays in certain cases in the provision of necessary sea and air transport; (b) lack of notifications due under articles 16(f) and 17(e) of the agreement; (c) restrictions on the exercise of spot-checks on ships and aircraft and failure in certain cases to make available the required documents. In paragraph 45 of the Fifth Interim Report the Commission had referred to the question of time notice restrictions. According to the instructions to the fixed teams and their mobile elements prescribed by the Commission, the fixed teams are required to give half an hour's notice before moving to any part of their zones of action and their mobile elements to give 2 hours' notice. Though this has been accepted by the two high commands, the Government of the Republic of Vietnam has been demanding on grounds of insecurity and other reasons 24 hours' notice and in some cases even 48 hours' thus restricting the movements of the majority of teams. The senior military advisers of the Commission discussed the situation with the representatives of the French High Command and on the basis of their report, the Commission rejected the various arguments advanced by the Government of the Republic of Vietnam and insisted that the teams should be taken out on control duties on giving notice as prescribed in the instructions to fixed teams and their mobile elements. With regard to Fixed Team Tan Chau, in which case the Commission had made an exception before, the operations committee after studying the problem came to the conclusion that it would appear that the security situation in the team's zone and sphere of acion was normal and that it considered that the team should now be able to carry out its duties effectively in accordance with the instructions laid down by the Commission. The French High Command has been informed accordingly and has been requested to provide the necessary facilities for the team to function fully. The French High Command has communicated to the Commission a letter from the President of the Republic of Vietnam dated July 12, 1956, which instructs the authorities in South Vietnam that the advance notices by the Commission's team could be reduced to 2 hours unless a visit to a region under the control of another province should require longer notice. But the restrictions on the movements of the teams still continue.

52. From 3 to 7 days advance notice has also been demanded before providing necessary sea or air transport to Fixed Team Cap St. Jacques for the purpose of carrying out its prescribed control duties. Sea and air transport have not been made available for weeks together in spite of requisition with the result that the team has not been able to carry out the control of the Camau Peninsula in South Vietnam for months. Longer notice than what is prescribed in instructions has also been demanded in the case of two other teams.

53. The second problem faced by some of the Commission's teams in South Vietnam is with regard to notifications to be given under article 16(f) and 17(e) before the introduction of military personnel and war material. Under article 16, military personnel can be introduced into Vietnam only by way of rotation, notification for which is required to be given to the Joint Commission and to the International Commission at least 2 days in advance of the arrivals or departures of such personnel. Under Protocol 23 signed by the two high commands, within 72 hours of arrivals or departures of military personnel a report is to be submitted to the Joint Commission and to the International Commission. A reference was made in paragraph 28 of the Fifth Interim Report to the visits of military aircraft including U.S. Navy planes to Saigon, without advance notification of these movements to the Commission's team. The Commission had informed the French High Command that advance notifications must be given in respect of all civil and military aircraft carrying military personnel and war material in accordance with the provisions of articles 16(f) and 17(e). However, according to the reports received from some of the teams, especially the Saigon Fixed Team, U.S. naval and military planes continued to enter and leave Vietnam without notification during the period under review. In a number of these cases these planes were seen bringing in and taking out United States and Vietnamese military personnel. In reply to the Commission's inquiry, the French High Command has stated that the U.S. personnel are either in transit or replacements for the MAAG (Military Aid Advisory Group) and that Vietnamese personnel are returning after attending training courses outside the country. In most cases notifications under articles 16(f) and 17(e) were not given. As regards the military transport aircraft as distinguished from their cargoes, the Commission decided on July 26, 1956, that these aircraft in themselves constituted war material in terms of article 17(a) and Protocol 23. The Commission has communicated the above decision to the French High Command and has informed it that the Commission will require advance notifications about the arrivals and departures of these planes in order to insure that they do not remain in the country and that they do not unload any war material. The Commission has indicated that it was preparing detailed modalities for the control of transit operations. In the last 6 weeks there has been an improvement in respect of notifications and in the majority of cases such notifications are being received by the team concerned.

54. In paragraph 35 of the fifth interim report, mention was made of the difficulties encountered by the Commission's fixed team at Saigon with regard to the control of Saigon airport and of the suggestions made by the Commission to the French High Command in this connection. As the situation did not show any improvement, the Commission reviewed the position and made certain recommendations to the party in April 1956. In spite of this, the team continues to encounter difficulties in the exercise of its control duties. It has not been permitted to go to the loading and unloading area and in a number of cases, in spite of the team's

request, foreign incoming aircraft were not brought to the parking area for the purpose of spot checking of their cargo. These aircraft taxied directly to the military section of the airport to which the team is not given access.

55. Manifests and other relevant documents of the aircraft were also not made available to the Saigon fixed team on numerous occasions on the ground that the local customs and other authorities had not received instructions to show them to the team.

56. In the harbor, the Saigon fixed team noticed instances where war material was brought in without notification; neither were manifests made available. There were also instances where war material was shipped out and notification was given either after the loading or after the departure of the ship. The team could not check the cargo. The team was also not allowed in some cases to carry out spot checks on ships in the harbor. The liaison officer told the team that the ships over which the team wanted to exercise control did not carry any war material and that there was therefore no need for the team to do its spot checking and that its request for manifests would be communicated to the higher authorities. As a result, in these cases the Commission could not satisfy itself that the incoming shipment did not contain war material. The French High Command has notified the Commission from time to time of war material introduced into South Vietnam during the period under report. However, prior approval of the Commission for such introduction was not obtained as required by protocol 23.

57. During the last 6 weeks there has been an improvement in the matter of production of manifests and other documents to the team both in the airport and in the harbor at Saigon.

58. Both the parties have contended that internal movements of war materials are not subject to control by the Commission. The Commission has considered this argument and, in order to satisfy itself that the movements are really internal, has suggested a method of control in the zones of action of the teams. The Government of the Republic of Vietnam has agreed to this suggestion subject to a reservation. The comments of the P.A.V.N. High Command are awaited.

59. In paragraph 27 of the Fifth Interim Report reference was made to complaints received from the P.A.V.N. High Command regarding alleged violations of articles 16 and 17 of the Geneva Agreement. The Commission has not been able to carry out its investigation mentioned in that paragraph regarding the alleged construction of a new airfield at Nha Ban in South Vietnam, the reasons being alleged insecurity conditions in the area and the stand of the Government of the Republic of Vietnam, mentioned in paragraph 44 above. The P.A.V.N. High Command has also alleged the construction of two other airfields in South Vietnam. This is under investigation.

60. During the period under report, the Commission has received a total of 24 complaints alleging 76 specific instances of violations of articles 16 and 17 in South Vietnam. In two cases where United States and Vietnamese military personnel were introduced into South Vietnam without any notification under article 16(f), the operations committee of the Commission came to the conclusion that there had been a violation of article 16. In one case where a U.S. military plane brought to Saigon a consignment of aircraft wheel tires the committee concluded that there had been a technical violation of article 17. In the first two cases, mentioned above, the Commission asked the French High Command to show cause why a finding of violation of article 16 should not be given, and in the third case why a finding of violation of article 17 should not be given. The French Liaison Mission in its reply dated July 21 has not denied the facts but has stated that due to lack of coordination between the various Vietnamese services, notifications were not given. The matter is under the consideration of the Commission. In another case the Commission decided that there had been no violation as on the date mentioned by the P.A.V.N. High Command in its complaint, no U.S. plane had landed at Tourane and, in one more case, that the allegation had not been proved. In two cases the Commission declined to undertake any investigation as the allegations were too general. For the same reason the Commission just noted two complaints from the P.A.V.N. High Command. The other complaints are under inquiry. In some cases it has been found that team reports bear out the allegations made by the P.A.V.N. High Command of violations of articles 16 and 17. In such cases the party has been asked to explain why notifications as required under the agreement have not been given and why the procedure laid down in protocol 23 for the introduction of war material and military personnel has not been followed.

61. During the period under review the Commission considered the question of introduction into South Vietnam of a number of landing ships (tank) mentioned in the team reports. The Commission decided that LST's were war material. It has asked the French Liaison Mission to explain why they were introduced without notification under article 17 and without following the procedure under protocol 23.

62. With reference to paragraph 30 of the Fifth Interim Report regarding necessary notification under articles 16(*f*) and 17(*e*) to the Central Joint Commission, the situation remains unchanged. The French High Command has not implemented the recommendations. In fact, the position has become more complicated due to the nonfunctioning of the Central Joint Commission after the disappearance of the French High Command on April 28, 1956.

63. One major case of a foreign military mission in South Vietnam came up during the period under report. On April 25, 1956, the Commission received a request from the French Liaison Mission and the Republic of Vietnam for grant of permission for the entry of 350 military personnel of the U.S. Army Service Corps into South Vietnam. It was stated that these persons would constitute a mission called "TERM"—Temporary Equipment Recovery Mission—whose duties would be to examine war material and military equipment lying in South Vietnam which was the property of the U.S. Government for the purpose of selecting material to be exported from Vietnam and to protect and preserve this material. The Commission was informed that the members of "TERM" would start entering South Vietnam by the last week of May 1956. The Commission informed the French Liaison Mission that the matter was under consideration and that pending the decision of the Commission no entry should be effected. In spite of this, 290 U.S. military personnel belonging to the "TERM" have been introduced into South Vietnam, thus facing the Commission with a fait accompli. The Commission takes exception to this method of procedure adopted by the French Liaison Mission and the Government of the Republic of Vietnam. The Commission gave due consideration to the request of the Republic of Vietnam and communicated its decision on May 29, 1956. In this letter the Commission asked for assurances that the functions of "TERM" would be solely the selection of material for export from the country and that it would not be used for any other purpose. The Commission further asked for details regarding the mission, number, and names of personnel, their postings in the country and the tasks assigned to each one of them. Lastly, the Commission proposed certain conditions on acceptance of which the Commission would be prepared to agree to the entry of the "TERM" personnel. These conditions include submission of fortnightly progress reports on the work of "TERM," submission of notifications regarding entry and exit of "TERM" personnel, right of the Commission and its fixed teams to control entry and exit, and the right of the Commission to conduct spot checks at any place where "TERM" personnel were functioning. The matter is being pursued with the authorities of the Republic of Vietnam, whose final acceptance of the Commission's conditions has not yet been received. The Commission has also received complaints from the P.A.V.N. High Command regarding alleged activities of certain U.S. military missions in South Vietnam as constituting violations of articles 16, 17, 18, and 19 of the agreement. The matter is under the consideration of the Commission which is awaiting the comments of the French High Command.

64. The difficulty that is being experienced by the Commission's teams in the north is with regard to obtaining suitable and modern means of sea or air transport for control purposes. Since June 1955 the Commission has been making efforts to get the PAVN High Command to provide a suitable seaworthy boat for Fixed Team Haiphong for controlling the coast between Do Son and Sam Son. It had informed the high command that in its view control could best be exercised by means of an amphibian aircraft. The high command informed the Commission, in reply, that a naval craft could serve the purpose equally well and that it was negotiating with the French for obtaining two LCT's. However, when the French High Command informed the P.A.V.N. High Command that it was willing to send four boats to Haiphong Harbor in one of its naval vessels, the latter did not accept the offer on the ground that it could not allow the French vessel to enter its waters. The French High Command, in a letter to the Commission dated December 16, 1955, to which reference was made in paragraph 47 above, requested the Commission's assurance that there was really effective control in the areas of Haiphong, Hong Gay, Cam Pha port and Pho Cac Ba, particularly with reference to the means of transport available to the team. This was examined by the operations committee of the Commission, and on its recommendation the Commission informed the French High Command that up to that time the control in the area in question had been as effective as possible with the transport facilities available to the team. The facilities consisted of vehicles only. The Fixed Team Haiphong did not have a boat to control part of its zone of action along the coast from Do Son to Sam Son once a week as prescribed by the Commission. Except for this, the control of the other areas within the zone of action of the team has been carried out by road as prescribed by the Commission in the instructions to fixed teams and their mobile elements. In the last week of July, Fixed Team Haiphong was provided with a boat and did two short trips within its zone of action. But the team has reported that in its opinion the boat does not fulfill all the requirements of the team for the purpose of its control duties. The matter is under the consideration of the Commission. The Tien Yen and Vinh teams have not been provided with the required sea transport.

65. The Commission's fixed teams both in North and South Vietnam have experienced difficulties from time to time in the course of their day-to-day working. These difficulties were often due to narrow interpretations placed by the liaison officers on the teams' instructions and to the differences of opinion which thereby resulted between the teams and the liaison officers. Such difficulties were settled or are being settled by the teams themselves or by the operations committee of the Commission.

### CHAPTER VI—COOPERATION OF THE PARTIES TO THE AGREEMENT

66. In chapter VIII of the Fourth Interim Report and in chapter VI of the Fifth Interim Report, the Commission recorded the degree of cooperation which it was receiving from the two parties, the extent to which they were fulfilling their obligations under the agreement and the difficulties which the Commission itself was experiencing in carrying out its tasks of supervision and control. These difficulties were brought to the specific notice of the cochairman, as the Commission felt that unless they were resolved and unless the parties were prepared to execute the provisions of articles 25 and 35, the Commission would not be able to discharge its responsibilities under the agreement. The Commission regrets to state that during the period under review, most of the difficulties which were described in earlier reports still confront the Commission.

67. The difficulties which the Commission has been experiencing concern either cases "where the Commission's activities are being hindered" or cases "where one of the parties refuses to put into effect the recommendations of the Commission." This distinction has been made in article 43 of the agreement itself.

*Difficulties in South Vietnam—Cases where the Commission's activities are being hindered*

68. The main difficulties in this category experienced in South Vietnam are those connected with the operation of the Commission's fixed and mobile teams and the implementation of articles 16 and 17 of the agreement.

69. The Commission decided during the period under review to send four mobile teams to conduct investigations under articles 14(c) and 14(d) in South Vietnam, in addition to the two teams which it had decided to dispatch during the period covered by the Fifth Interim Report. The Commission has not been able to obtain the concurrence of the French High Command for the conduct of these investigations, except in three cases referred to in paragraph 18. In one case, it has been stated by the Government of the Republic of Vietnam that for security reasons, no investigation is possible. The International Commission took up the matter with the French High Command as in its view the security conditions in the area appeared to be normal. Nevertheless, the concurrence has not been received. The Commission is pursuing these cases. As mentioned in previous reports, the Commission had to withdraw its mobile Teams 24 and 61 as the Government of the Republic of Vietnam had stated that the investigations could not be carried out on grounds of security and laid down conditions which were not acceptable to the Commission. The Commission has so far been unable to resume the activities of these teams. The Commission is of the view that unless the party concerned cooperates with it in the conduct of on-the-spot investigations and unless the Commission is in a position to carry out inquiries through its inspection teams as visualized under article 37 of the agreement, it will not be in a position to fulfill satisfactorily the tasks of supervision and control under the agreement.

70. The activities of mobile Team 47 which was investigating complaints of alleged violations of article 21 have come to a standstill because of the nonproduction by the Government of the Republic of Vietnam of dossiers and papers concerning the prisoners and in some cases of the prisoners themselves whom the Commission had decided to interview. In spite of protracted correspondence the authorities have produced neither the persons nor their dossiers. There are over a hundred such cases which remain to be settled. Amongst these are the cases of 16 alleged prisoners of war/civilian internees detained in Poulo Condore prison. The Commission informed the French High Command on June 5, 1956, that the concurrence of the authorities of the Republic of Vietnam should be obtained within 3 weeks failing which the Commission would decide what action it should take for nonimplementation of the recommendations of the Commission. No reply has been received to this demand. The Commission has, on June 6, 1959, made a final demand to the French High Command for the production of dossiers concerning the other cases stating that if they were not received within 3 weeks the Commission would declare the detainees as prisoners of war/civilian internees. No reply has been received so far.

71. Another major difficulty is the time notice restrictions placed by the authorities in South Vietnam on the Commission's fixed teams. These have been described in detail in paragraph 51. The Commission had made it clear that the existence of such time notices makes it impossible for its teams to carry out all their duties effectively. In spite of the repeated efforts of the Commission, during the period under review, movements of the teams continued to be restricted.

72. The provisions of articles 16 and 17 and protocol No. 23 have not been fully implemented by the French High Command. The notifications which the parties have undertaken to give under the provisions of these articles were not received regularly by the Commission. Thirty-six cases have been recorded where no notifications have been received by the Commission's team in Saigon and on 14 occasions the team actually saw military personnel deplaning at Saigon airfield. The Commission has repeatedly taken serious objection to the failure of the French High Command to give the required notifications under articles 16 and 17. On April 25, 1956, the French High Command informed the Commission that the Government of the Republic of Vietnam had indicated its consent to give the required notifications. As indicated in paragraph 53 above, notifications are being received in the majority of cases, since the last 6 weeks. However, there have been cases where no notifications were received. The difficulties of the team in exercising control in Saigon airfield have been dealt with in paragraph 54 above.

73. The Commission has been unable to conduct reconnaissance and control of the airfields in South Vietnam mentioned in paragraph 44. The details of the difficulties which arose in this connection have been described in that paragraph. The Commission has asked that immediate arrangements should be made for the reconnaissance and control of the airfields as the case may be. Because of this lack of cooperation, the Commission has not been able to supervise all airfields in the discharge of its statutory duties under article 36(d). The Commission has also not been able to complete the reconnaissance of part of the coast of South Vietnam as the particular means of transport required by the Commission was not supplied.

74. Arrangements have not been made for accommodating the mobile element of the fixed team at Tan Chau, decided upon by the Commission.

75. Apart from the cases which have been specified above, there are numerous other cases which are pending settlement for a long time as satisfactory replies have not been received from the French High Command. Correspondence is conducted for months together and the Commission is unable to settle cases because of lack of adequate replies.

*Cases of nonimplementation of recommendations of the Commission*

76. Apart from the hindrances in South Vietnam mentioned above, there are cases where specific recommendations of the Commission have not been implemented by the French High Command or where implementation has been delayed. The majority of cases concern recommendations made by the Commission regarding release of civilian internees from prisons in South Vietnam. Details of these cases have been mentioned in paragraphs 36, 37, and 38. In spite of repeated requests, 21 recommendations regarding release of civilian internees have not been implemented. In 19 cases, the authorities of the Republic of Vietnam have rejected the Commission's recommendations on the ground that the persons concerned were former members of the armed forces. Details of two other cases of nonimplementation have been mentioned in paragraph 38 above. As pointed out in chapter IV, the Commission gave very careful consideration to the legal aspect of the matter and confirmed its recommendations. In spite of this, the recommendations have not been implemented. The Commission views with great concern cases where the parties refuse to implement its recommendations on the ground that they interpret the provisions of the agreement in a different manner.

77. The Commission conveyed on February 24, 1956, its recommendations that notifications of import of war material and introduction of military personnel should be given in writing to the Central Joint Commission as laid down in articles 16 and 17 and for this purpose a Central Secretariat should be sent up. The French High Command has not accepted these recommendations.

78. Apart from the cases specified above, there are several other cases of nonimplementation and partial implementation of recommendations some of which are considerably old, such as, the recommendations made by the Commission a year ago as a result of investigations conducted by Mobile Teams 57, F-16, and 24.

*Difficulties in North Vietnam—Cases where the Commission's activities are being hindered*

79. There also exist cases in North Vietnam where the Commission's activities are being hindered. The case of Mobile Team F-44 has been mentioned in paragraph 24 above. This case, where the Commission has been experiencing a major difficulty, has been pending with the Commission since April 1955, and the Commission's repeated efforts to complete the investigation have not been sucessful so far. Various reasons have been given by the P.A.V.N. High Command for not arranging for the interview of the seminarists, including the reason of the reluctance of the religious authorities to allow the team to interview the seminarists inside the seminary. As already mentioned in paragraph 24, with a view to expediting the matter, the Commission has decided to interview the persons concerned at Vinh and has made a recommendation to that effect. This recommendation has not been implemented.

80. The Commission has not yet been able to complete the reconnaissance of part of the coast of North Vietnam as the P.A.V.N. High Command has not supplied suitable means of sea transport. The question of providing suitable sea transport to the teams at Vinh, Tien Yen and Haiphong was taken up with the P.A.V.N. High Command as early as June 1955. The teams at Vinh and Tien Yen have been without suitable means of sea transport. As stated in paragraph 64 above, a boat was given to the Haiphong Fixed Team in the last week of July 1956, but its adequacy is yet to be determined.

81. On January 1, 1956, the P.A.V.N. High Command took over the air services in North Vietnam which connect the Commission with its teams in the north, assuring the Commission that the services would continue to be as satisfactory as before. Since that date, however, the Commission has been experiencing difficulties in the maintenance of its team at Lao Kay as the air service between

Hanoi and Lao Kay has been functioning unsatisfactorily. The service to the teams at Tien Yen, Lang Son and Vinh has not met all the Commission's requirements. Under instructions from the Commission, the senior military advisers have examined how far the air services provided by the P.A.V.N. High Command fall short of the requirements of the Commission and have made proposals for the improvement of the maintenance of the teams by air in North Vietnam. The matter is under the consideration of the Commission. The difficulties mentioned in this paragraph relate to the maintenance of the teams in the north and do not concern their control duties.

82. Apart from the above cases, there are a few cases where satisfactory replies have not been received from the P.A.V.N. High Command as a result of which the Commission has not been able to settle some outstanding cases.

### *Cases of nonimplementation of recommendation of the Commission*

83. One difficulty of a serious nature where the Commission's recommendation has not been implemented has been the withdrawal of the Commission's mobile team from Phuc Hoa. This has been described in paragraphs 42 and 43. In this case the P.A.V.N. High Command has refused to implement the recommendations of the Commission on the ground that it does not agree with the Commission's interpretation of article 35. As a result, the P.A.V.N. High Command refused to provide the necessary logistic and other support for the continued existence of Mobile Team 99. The team had to be withdrawn. In the meantime, the mobile element of the Lang Son team visited the area on seven occasions for control purposes. The Commission, however, is of the view that a team at Phuc Hoa on continuous duty is essential to control the area. At the insistence of the Commission the P.A.V.N. High Command has agreed to the deployment of a new team at Phuc Hoa; but it has not accepted the Commission's interpretation of article 35. As stated in paragraph 76, the Commission views with great concern cases where parties refuse to implement the recommendations of the Commission on the ground that they interpret the provisions of the agreement differently.

84. Under the cease-fire agreement the parties have, apart from the obligation to implement all the articles fully, accepted the obligation to afford full protection and all possible assistance and cooperation to the International Commission and its inspection teams in the performance of functions and tasks assigned to them by the agreement. Neither party has fulfilled in their entirety these obligations. As has been revealed in the preceding paragraphs, the degree of cooperation given to the Commission by the two parties has not been the same. While the Commission has experienced difficulties in North Vietnam, the major part of its difficulties has arisen in South Vietnam.

### CHAPTER VII—CONCLUSIONS

85. The previous chapters of this report, and in particular chapter VI, have outlined the progress made in the implementation of the cease-fire agreement in Vietnam, the degree of cooperation received from the two parties and the difficulties which the International Commission is experiencing in carrying out its tasks of supervision and control.

86. Apart from these difficulties, developments of a serious nature have taken place in South Vietnam. The Commission had already pointed out in previous reports that the transfer of power from the French authorities in the South to the authorities of the Republic of Vietnam had created difficulties in the implementation of the agreement in South Vietnam, particularly in view of the fact that the Government of the Republic of Vietnam did not consider itself as bound by the Geneva Agreement, stating that it was not a signatory to that agreement. On April 5, 1956, the Commission received a letter from the High Commissioner for France in Saigon dated April 3, 1956, giving notice that the French High Command would withdraw completely from South Vietnam on April 28, 1956. The Commission thereupon decided to inform the cochairmen of this serious development and ask for directions as to the future working of the Commission. In their reply dated April 19, 1956, the cochairmen informed the Commission that they were considering the situation in Vietnam and that pending their final decision the Commission should continue in existence and carry on its normal activities.

87. The Commission interpreted the cochairmen's directive to mean that, pending a final solution of the problem, it should continue to deal with the French authorities in Saigon as hitherto, and that the entire machinery for the proper implementation of the cease-fire agreement would be maintained. As a result of the talks held with the French authorities regarding the interim arrangements, the Commission decided that the attention of the cochairmen should be drawn to the nature of these arrangements and to the fact that after April 28, 1956, the joint Commission machinery would not be functioning due to the withdrawal of the French High Command. Accordingly, a special message was sent to the cochairmen on May 2, 1956, with a separate note by the Canadian member, and instructions were sought as to the future working of the Commission. In this communication the Commission also informed the cochairmen that it would remain in being and subject to the difficulties mentioned by it, maintain its machinery for supervision and control. It requested the cochairmen to take steps to resolve the difficulties to enable the Commission to carry on normal activities.

88. The cochairmen of the Geneva Conference discussed the matter during their talks in London and on May 8, 1956, issued messages to the International Commission, to the Government of the French Republic, and a joint message to the Governments of the Democratic Republic of Vietnam, and the Republic of Vietnam. They strongly urged both the Governments in Vietnam to make every effort to implement the Geneva Agreements to prevent any future violation of the military provisions of the agreement and to insure the implementation of the political provisions and principles of the final declaration of the Geneva Conference. They further asked the parties to give the International Commission all possible assistance and cooperation in future in the exercise of its functions. So far as the political settlement is concerned, the cochairmen requested the two Governments to transmit their views about the time required for the opening of consultations on the organization of elections and the time required for holding of elections to unify Vietnam. They recognized that the dissolution of the French Union High Command had increased the difficulties of the International Supervisory Commission in Vietnam in carrying out the functions specified in the Geneva Agreements which are the basis for the Commission's activities and that these difficulties must be overcome. In their message to the French Government, the cochairmen invited the French authorities to discuss the question with the South Vietnam authorities in order to reach an arrangement to facilitate the work of the International Commission and the Joint Commission in Vietnam. Until these new arrangements were put into effect, the French Government was requested to preserve the status quo. In their message to the International Commission, the cochairmen appealed to the Commission to persevere in its efforts to maintain and strengthen peace in Vietnam on the basis of the fulfillment of the Geneva Agreements with a view to the reunification of the country through the holding of elections under the supervision of an International Commission.

89. The Commission examined very carefully the three messages which the cochairmen had sent and on May 27, 1956, communicated to the cochairman its response to the appeal addressd to it. The Commission will, as stated in its message of May 27, 1956, persevere in its efforts to maintain and strengthen peace in Vietnam on the basis of the fulfilment of the Geneva Agreement. It will continue to deal with the parties concerned on the basis of the status quo until arrangemetns that will facilitate the work of the International Supervisory Commission and of the Joint Commission in Vietnam envisaged in the cochairmen's message to the French Government "are put into effect." Discussions between the High Commissioner for France and the authorities of the Republic of Vietnam on the question of the future working of the cease-fire agreement and the relationship of the authorities of the Republic of Vietnam with the International Commission have just been concluded in Saigon.

90. In spite of the difficulties which it is experiencing, the Commission will, as directed by the cochairmen of the Geneva Conference, persevere in its efforts to maintain and strengthen peace in Vietnam on the basis of the fulfilment of the Geneva Agreements on Vietnam with a view to the reunification of the country through the holding of free nationwide elections in Vietnam under the suprevision of an International Commission.

G. PARTHASARATHI,
*India.*
B. M. WILLIAMS,
*Canada.*
J. GOLDBLAT,
*Poland.*

Hanoi, September 9, 1956.

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### EXHIBIT 2

### EXCERPTS FROM ARTICLE ENTITLED: "SUBVERSIVE INTERVENTION" BY QUINCY WRIGHT, AMERICAN JOURNAL OF INTERNATIONAL LAW, 1960

Aggression means any use of, or threat to use armed force in international relations in violation of an international obligation. This offense is referred to in three articles of the United Nations Charter providing:

> All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations (art. 2, par. 4).
>
> The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with articles 41 and 42, to maintain or restore international peace and security (art. 39).
>
> Nothing in the present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security (art. 51).

These articles prohibit "the threat or use of force," "aggression," and "armed attack" (which all seem to mean the same thing) for which a government de facto or de jure is responsible because of act or negligence. They imply that "threat to the peace or breach of the peace" becomes "aggression" when the responsible state has been identified. It is clear that they prohibit only the threat or use of armed force or an armed attack. They cannot be construed to include other hostile acts such as propaganda, infiltration or subversion. The latter, insofar as prohibited by international law, come within the category of "subversive intervention." The distinction is important because there has been persistent effort to include subversive intervention in the concept of aggression by calling it "indirect aggression" and thus to justify military action by states or by the United Nations to stop it. It seems clear that such an interpretation would be contrary to the primary purposes of the United Nations to prevent "the scourge of war" and "to suppress acts of aggression or other breaches of the peace."

The charter makes it clear that any use of armed force by a state in international relations, which includes attacks against public ships on the high seas and across armistice lines, as well as across established boundaries, is forbidden unless necessary for defense against an "armed attack"; unless authorized by the United Nations when faced by a "threat to the peace, breach of the peace or act of aggression"; or unless invited by a state. The recognition in the charter of the "sovereign equality" of states clearly permits a state to use armed force in the territory of another state on the invitation of the latter, but this permission is subject to the conditions that the invitation, even if based on a preexisting treaty, is made freely by the government of the inviting state at the time the force is sent in, that the inviting government is in uncontested control of the state when the invitation is given, and that the forces are used only within the territory of the state issuing the invitation, unless that state is the victim of an "armed attack" from another state justifying "collective self-defense." International law does not permit the use of force in the territory of another state on invitation either of the recognized or the insurgent government in times of rebellion, insurrection or civil war. Since international law recognizes the right of revolution, it cannot permit other states to intervene to prevent it. The United Nations itself cannot intervene to stop civil strife, unless it concludes that such strife threatens international peace and security or violates an internationally recognized cease-fire line.

Mr. MORSE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 167 Leg.]

Aiken
Allott
Anderson
Bartlett
Beall
Bennett
Boggs
Brewster
Carlson
Case
Church
Cotton
Curtis
Dirksen
Dodd
Douglas
Ellender
Fong
Gore
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kuchel
Magnuson
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Monroney
Morse
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Smith
Stennis
Tower
Walters
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. MUSKIE in the chair). A quorum is present.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to the modified amendment offered by the Senator from Montana [Mr. MANSFIELD], on behalf of himself and the Senator from Illinois [Mr. DIRKSEN], as a substitute for the amendment relative to jury trials, offered by the junior Senator from Georgia [Mr. TALMADGE], on behalf of himself and other Senators.

During the delivery of Mr. MORSE's speech on South Vietnam,

Mr. DIRKSEN. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield to the distinguished minority leader with the understanding that the interruption will appear elsewhere in the RECORD, and without losing my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, in introducing the Mansfield-Dirksen amendment this morning, there was a technical mistake made as to line and page. In order to make it an exact substitute, I ask unanimous consent that it be corrected in that respect.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment as modified was ordered to be printed as follows:

AN AMENDMENT IN THE NATURE OF A SUBSTITUTE FOR THE AMENDMENT NO. 513 OF MR. TALMADGE

In lieu of the language of the amendment substitute the following:

"SEC. 1101. CRIMINAL CONTEMPT PROCEEDINGS; PENALTIES; TRIAL BY JURY.—In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed 30 days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.

"SEC. 1102. Section 151 of the Civil Rights Act of 1957 (41 Stat. 638) is amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following:

" '*Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed 30 days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.' "

Mr. DIRKSEN. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, the trial by jury concept is a cherished and revered institutional process in our society. Its history and heritage, recently reviewed in this Chamber, are well known to all. Equally cherished and revered, equally adorned by the vine of history and heritage, equally essential to any civilized society, is the power of the judiciary to resolve in a full and complete fashion the disputes of the litigants before it. The most severe and lethal attack on this mainmast of our society is the willful and contemptuous disobedience of the final order of the court. It is for this reason that willful and contemptuous acts of disobedience of court orders historically have been treated as attacks on the basic structure of the judiciary, and have been punished by the courts, without the assistance of a jury. It has always been considered one of the necessary incidents of the power of the courts to vindicate their own dignity, enforce their own orders, and protect themselves from insult in each case, without assistance. The cases on this power of the judiciary are legion, not only in the Federal Courts, but also in those of the several States. The Supreme Court has recently reviewed this history and this inherent power of the courts in United States against Barnett, decided but 2 weeks ago.

In facing this issue of the alleged conflict of these basic institutional processes of our jurisprudence, the proposed amendment of the distinguished minority leader and myself strikes a balance between these conflicting viewpoints, so that in cases arising under this act, when an order of the court has been willfully and contemptuously violated, the court will be able to fine such person up to $300 or imprison him for a period of up to 30 days, without a jury. The provisions of this amendment will extend to each and every title of this act under which a possible criminal contempt proceeding could arise. The Supreme Court in the recent Barnett case intimated that some upper limit should be established on the power to try a criminal contempt without a jury. It is for this reason that the upper limit of 30 days—$300—is extended to all titles of the bill, thus modifying the bill itself in this regard. It will, in addition, amend the existing law embodied in the Civil Rights Act of 1957, which provided a 45-day $300 limitation on the court in any criminal contempt arising out of voting cases.

I urge that the provisions of this proposed amendment be adopted by a vote in the not too distant future.

## DALLAS AND THE STATE OF TEXAS

Mr. TOWER. Mr. President, I have received a copy of a letter from Mr. Robert D. Moore, of 3511 Eighth Avenue South, in Great Falls, Mont., that was addressed to the editor of the Dallas Morning News. I believe it carries a message that should be read by the Members of this Senate, as well as editors across our land. For that reason I shall ask to place it in the CONGRESSIONAL RECORD so that it too may become a part of history.

Mr. President, as Mr. Moore notes, the irresponsible attacks upon the city of Dallas and the State of Texas continue from many quarters. The reasons are quite obvious to all who are knowledgeable in the ways of politics. Dallas is generally a conservative city, and at the same time a growing, dynamic, progressive city. It seeks to solve its problems by hard work and faith. Because of this Dallas, and indeed all of Texas, has come under attack from those who think a managed, well ordered society is the answer to the ills of the moment. By ignoring the fact that the assassin of our former President was an avowed, dedicated, and itinerant Marxist, and by constantly seeking to perpetrate the hoax that Texas and Dallas are hotbeds of hatred, the spreaders of this false story seek to reap political benefit. It is my hope that America will not be deceived.

Mr. President, I ask unanimous consent to place the letter in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

GREAT FALLS, MONT.

EDITOR, DALLAS MORNING NEWS,
*Dallas, Tex.*

DEAR SIR: It is with growing dismay that I read and hear of the continuing attacks on the people of Dallas carried in the press and on TV and radio throughout the country. These attacks supposedly stem from the tragedy which occurred on November 22 and the aftermath of that event in Dallas. There are so many distortions of these events and their causes in the news media that one must wonder if he can even rely on the accuracy of the news today or if the news media are only tools of those wishing to promote—or destroy—a cause.

The fact that these events occurred in Dallas has made your city the object of the most vicious and unwarranted attacks I have ever seen. That these same events could have occurred in my town—or any other town—seems to escape even so-called levelheaded thinkers. It has been said that the fact that an American President could be assassinated in this day and age is a sad commentary on our country and our people. In my opinion the fact that a city such as yours—made up of all kinds of people just like mine—could be crucified for this dastardly event is an even sadder commentary on the American people.

It seems quite obvious that the people of Dallas are being used as the brunt by those who wish to destroy the element in this country that disagrees with our trend toward socialism and all-powerful Federal Government. That the technique of slandering a complete city in order to accomplish an objective can be used by these people indicates their lack of even common scruples in accomplishing their purposes. That this technique can receive such widespread acceptance by our news media and by so many people who accept the news as fact, should be a cause of great concern to every American.

My purpose in writing you is to assure you—and through you, the people of Dallas—that there are many of us who realize the reasons for the vicious attacks on your fine city and who admire your courage in facing these attacks. It took me a long time to write this letter because I thought these attacks were only postassassination hysteria. I couldn't believe they would continue—that the rest of us would let them continue. However, it is now apparent that Dallas is being used in an attempt to impugn the motives of every one of us who favors government by the Constitution. This in face of the fact that a Communist shot the President.

Be assured that you have the support of a large segment of the people of this country. We only wish we could do more to share the burden unjustly forced upon you by some unscrupulous vocal people and groups—and so well served by the news media.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

### ILLINOIS FEPC

Mr. TOWER. Mr. President, I have stated on many occasions that the fair employment practice title of this bill is particularly objectionable to me for a number of reasons.

I feel that it is unconstitutional for the Federal Government to invade this field of legislative activity, which the Constitution reserves to the States and the people.

I also have pointed out that enforcement of this FEPC provision would be virtually impossible outside of a police state in which the Federal Government took charge of all the hiring, firing, promotion, and demotion policies and activities of the formerly free business system of this Nation.

And I have pointed out the extreme difficulties this proposed FEPC would place upon private business—whether or not the individual business had a good record of equal employment.

Proponents of this radical title have told me that I overstate the case.

I do not believe I overstate the case. I think what has been said here and the colloquies that have been engaged in indicate that the case has hardly been overstated at all. The proponents feel that FEPC legislation would not require the private business to keep unnecessary voluminous records. They say there would be no additional heavy expenditures by free business in an effort to protect itself against abuses under an FEPC law.

Mr. President, I do not think that I overstate the FEPC case. I feel that the regulations, lawsuits, and Federal pressures placed upon private business by this title are utterly unacceptable in a free economy, particularly since these pressures can be placed upon any firm at any time in presuming the firm guilty until it proves itself innocent.

Therefore, I have sought out an example of what free business can expect from an FEPC law, and I would like to now discuss in some detail the situation involving the State of Illinois FEPC commission and the Motorola Co.

May I point out that in citing this situation I make absolutely no attempt to judge the merits of the position of either side in this case. I present only a number of documents and newspaper clippings concerning the case to illustrate the type of dispute business can find itself in under an FEPC law and the enormous difficulties facing any bureaucracy and judiciary in attempting to enforce an FEPC law.

First, I want to read an article from the New York Times of March 22, 1964, because it sets the stage by providing a brief, yet complete, summary of the situation.

The article is headlined "Dispute on FEPC Arises in Illinois—Decision by Negro Attacked in Motorola Case."

CHICAGO, March 21.—Political, business, and civil rights circles in Illinois are being jarred almost daily by repercussions over a finding in the case of a Negro who contends that he was denied a job because of his race.

National importance has been given to the decision by the Illinois Fair Employment Practices Commission, which has been cited as an example of the dictatorial power the proposed Federal civil rights bill could give Government in telling a private employer whom he may hire.

The subject has been made an issue in the Illinois gubernatorial campaign, with Republican candidates stressing the matter and Gov. Otto Kerner, a Democrat, who is seeking reelection, trying to allay criticism.

The controversy was touched off by a report by Robert E. Bryant, a Negro examiner for the FEPC, upholding the charge of a Negro applicant, Leon Myart, that Motorola, Inc., the radio and television company, had violated the State's Fair Employment Practices Act by refusing to hire him because of his race.

The examiner recommended in a ruling that requires confirmation by the employment commission, that Motorola cease giving applicants a standard ability test, devised by a professor at the Illinois Institute of Technology and used since 1949. The examiner considered the test to be unfair to "culturally deprived and disadvantaged groups."

### MOTOROLA APPEALS RULING

Motorola denied discrimination and appealed the ruling to the full commission. The company's legal counsel said the appeal would be taken to the Supreme Court, if, necessary. The order was also challenged by the Employers Association of Chicago, representing 1,400 companies in the area.

Now, I should like to read an editorial from the Chicago Tribune of March 7, 1964, which sets forth that newspaper's view of the Motorola-Illinois FEPC case. The editorial is entitled—"The State Will Do Your Hiring":

A foretaste of what employers may expect if the equal employment opportunity provisions of the Federal civil rights bill become law has been provided here in Illinois under the State Fair Employment Practices Act. An agent for the Commission enforcing the act has just told Motorola, Inc., that the State hereafter assumes to direct its hiring practices.

Motorola has been giving job applicants a general ability test devised by a professor at Illinois Institute of Technology and used by at least one other large Chicago employer.

A Negro applicant charged that he was denied employment because of his race. The corporation said he failed the test. The claimant said he passed it. He did pass it on reexamination in the FEPC office, and the company was ordered to hire him. But the question of fact concerning the results of the original test is less germane than the excursions of the examiner beyond that point.

This official, Robert E. Bryant, decreed that Motorola must abandon ability tests for job applicants for three reasons: (1) that the test was unfair to "culturally deprived and disadvantaged groups"; (2) that the questions did not take into account "inequalities and differences in environment"; and (3) that the standards for passing were based on those of "advantaged groups."

This may be reduced to the absurdity that any test acceptable to the FEPC would be one which brought out no distinctions whatsoever among competing applicants and would therefore be meaningless. How, then, is the employer to develop any basis for making a choice in hiring?

The examiner's further dicta were not of a sort to reassure bedeviled employers. He said that "current circumstances and objectives" impose the demand that hiring personnel develop "general convictions of economic need" among minority groups and that executives "move positively" to achieve an unspecified balance in their work force.

As merit and ability demonstrated by testing is out the window, this would seem to be a prescription for reverse discrimination; i.e., that race, color, religion, or something else be given priority over judgments of a job applicant's prospective usefulness to his employer.

So here the doctrine is enunciated that a political appointee is going to dictate to business what standards of selection are to govern its employment policy. A businessman is not to be allowed to decide the choice of workers or associates best fitted to advance his business interests. In the name of rights, the employer's rights are canceled.

In our recent editorial discussion of the Federal fair employment section of the pending civil rights bill, we said that Government was intent on legislating itself into partnership with private business and dictating hiring, firing, and promotion policies. The ruling in Illinois demonstrates that once the snout is in the tent, the rest of the camel will quickly follow.

The Federal Commission is empowered to bring charges of unfair practice on its own motion, and without a complaint; to turn loose its agents and lawyers on a business, with power to examine books and papers and to question employers or executives; and to require that an employer keep records of who applies for a job, who gets it, who does not, and why.

All this is to be done under standards not prescribed, but vague and subjective in nature, according to what the agent thinks is discrimination and what he guesses may have been in an employer's mind. Under such ground rules, the harassment of business and industry could be unrestricted and unlimited.

Now, I should like to provide for the Senate a statement of the Motorola Co., explaining its position in this case:

### Motorola Co. Statement on FEPC Case

#### APPLICATION OF COMPLAINANT

On July 15, 1963, Leon Myart, a Negro, applied for a job as analyzer at the employment office at Franklin Park. Myart filled out an application and took the general ability test No. 10. Among other reasons for not being hired, Myart failed test No. 10 with a score of 4—passing is 6 or more and on his application he admitted in writing an arrest for sodomy, which charge Myart never refuted. The interviewer conducted a regular interview and then rejected his application.

#### CHARGE AND HEARING

On July 29, 1963, Myart filed a charge of unfair employment practice with the Illinois FEPC. He claimed he was not employed because of his race. The FEPC investigated, filed a complaint against Motorola and public hearing was held on January 27, 1964, before Robert E. Bryant, a Negro Chicago attorney, selected as hearing officer by the FEPC. Myart claimed he had taken 432 hours of instruction in electrical courses at Chicago high schools and trade schools to qualify him for an analyzer position.

#### MOTOROLA REASON FOR REJECTION

Motorola introduced evidence to show:

1. Myart failed the general ability test No. 10 given to all hourly applicants.
2. Myart omitted some of his alleged education and work experience on the application so that the interviewer had no knowledge of this. Further, he showed no related industrial experience.
3. In the hearing Myart was asked 10 questions in the analyzer-phaser technical test given to all applicants for this job. Seven questions answered correctly is considered the minimum passing grade. Myart answered 1 question out of 10 correctly.
4. A former employer of Myart testified he was not rehirable.
5. Myart admitted in writing on his application that he had been arrested for sodomy and Motorola would not hire an applicant about whom there was a question of moral turpitude.

#### HEARING OFFICER'S DECISION

On February 26, 1964, the hearing officer Bryant issued his decision ordering Motorola to hire Myart as an analyzer and phaser and that Motorola cease using test No. 10 in its employment screening. On March 13, 1964, Motorola appealed this decision for public hearing before the full commission which must be accomplished in Illinois before the case can be appealed to a court of law.

Bryant's decision referred to three books on psychology which were not introduced in the hearing record and which Motorola had no opportunity to rebut. Bryant claimed that test No. 10 was discriminatory because it did not equate inequalities and environmental factors among the disadvantaged and culturally deprived groups. The author of the principal book advised us that Bryant quoted out of context and thereby changed the meaning of the text.

#### BACKGROUND OF TESTS

Most companies of any size use screening tests. Motorola used tests from Purdue University for 10 years. Three years ago Dr. Phillip Shurrager, head of the department of psychology at the Illinois Institute of Technology, and Dr. Ira Salisbury updated our personnel testing to fit new jobs created in the last 10 years and also applied these tests to the older jobs. Working with three other Ph. D.'s at IIT and using computers they developed a battery of tests for Motorola. Test No. 10, which was copyrighted by Dr. Shurrager in 1949, was included in the battery of tests. Test No. 10, which is at issue, is used by large companies in the United States. This test rejects from 10 to 15 percent of applicants at Motorola. Since this test has been challenged, Dr. Shurrager and his staff have conducted a special study which shows test No. 10 and other tests used by Motorola to be "race free."

#### REASON WHY MOTOROLA IS PILOT CASE

The FEPC has advocated the unlegislated concept of "Negro preferential hiring," a double standard for hiring with lower criteria for Negroes than others. Hence, it has targeted a company with a good system of tests and made a pilot test case of Motorola.

#### MOTOROLA'S POSITION

Since our tests are race free and therefore nondiscriminatory (and we are able to prove this) we feel we have the right to use the tests for selection of employees to perform our jobs. The profit success of our company depends in great measure upon our ability to effectively select the talents we need to accomplish our tasks. If we are denied this right by the FEPC, then the State usurps the employer's authority and a government agency sets the employment standards by which we and other employers must hire.

The tests give employment opportunity to Negroes they did not have before since interviewers formerly relied on "prior related experience." Few Negroes had this related experience—hence few were hired in the electronics industry. The tests objectively identify talents and provide predictability of success on the job—a real measure of trainability. Thus the interviewer has a broader horizon within which to make selections of applicants which has resulted in more Negro hires.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. TOWER. Mr. President, I yield to my distinguished friend from Georgia for a question.

Mr. TADMADGE. The able Senator is making an outstanding speech on behalf of freedom of all citizens in the United States of whatever color, whatever religion, or whatever area of the United States they may hail from. He has referred to the Motorola case, which has been in the news a great deal in recent months. I know that the Senator was as shocked as I was to find that an official tried to determine for himself the educational standards which a company should desire of its employees. Is it not true that the decision of the examiner in the Motorola case put a premium on ignorance for prospective employees, instead of intelligence?

Mr. TOWER. It certainly put a premium on ignorance. It said, in effect, that a test is discriminatory if it discriminates against those who are by virtue of intellectual and educational background incompetent to do a particular job.

There are qualifications for a number of things. There are qualifications for service in the Senate. There are qualifications for service as President. There are qualifications for service as a Member of the House of Representatives.

We lay down certain qualifications by law for various public offices which require peculiar skills. Most States, for example, require that judges be lawyers.

It is certainly right and proper for a private company to require that a man possess certain skills necessary to perform the work required by that company, or that he possess a sufficient intellect to be trainable to do a specific job.

As the Motorola Co. pointed out, the examiner established a double standard for hiring, one standard to be applied to whites, and another to be applied to Negroes.

Psychologists have debated these questions—some holding that an intelligence test may discriminate against people whose environmental background did not prepare them to pass the educational tests.

But this seems to me to be a flimsy argument. Does it mean that the employer must hire someone who is not competent by virtue of his environmental and educational background?

Mr. TALMADGE. The Senator has said that there are standards for certain public officials. Qualifications are prescribed for the Office of President, for Senators, and for Members of the House of Representatives; and each State prescribes qualifications for Governors. But they are Federal or State officials, and the qualifications are clearly spelled out in the Constitution of the United States and the State constitutions. Is that not correct?

Mr. TOWER. That is correct.

Mr. TALMADGE. Does the Senator from Texas know of any provision in the Constitution of the United States that authorizes the Federal Government to determine for a private employer whom he shall or shall not employ?

Mr. TOWER. There is nothing of that nature in the Constitution. If Congress were to attempt to enact such compulsion, it would be flying into the teeth of the Constitution. Congress would be violating the Constitution in that respect, because no such power is conferred upon the Government of the United States by the Constitution, and by no stretch of the imagination could it be comprehended by the necessary and proper clause of the Constitution.

Mr. TALMADGE. Is it not one of the greatest virtues of our free enterprise system that every citizen, no matter how humble he may be, can, by education, hard work, and frugality, work himself up the ladder of success and achieve whatever financial reward his ingenuity and ability may permit him to win?

Mr. TOWER. The Senator's observation is absolutely correct. In a free enterprise system, the essence of the system is that a man may progress as fast as his ability, his energy, his intellect, and his ambition will take him. This has been the genius, the dynamics, behind the tremendous growth and progress of the great American Republic. This is the reason why we are the most comfortable people in the world, the most productive, the most economically and militarily powerful, and, at the same time, the most self-reliant and resourceful people in the world.

Mr. TALMADGE. And we are the most free.

Mr. TOWER. That is because we have had freedom; and because of freedom, not only have we enjoyed certain privileges and immunities, but freedom has compelled us to accept responsibility, as well. So in accepting responsibility, we developed national character and moral fiber.

A time may come when we shall all be reduced to a status of dependability on the Federal Government, to a complete status of subordination to the Federal Government, to the extent that the Federal Government will guarantee us a job, whether we are competent to do the job or not, and will guarantee us an annual income.

Mr. TALMADGE. The bill does not guarantee anyone a job at any time, does it?

Mr. TOWER. It does not guarantee anybody a job, but it would compel an employer to hire persons whom he does not believe to be competent to perform the work.

Mr. TALMADGE. Is not that the very antithesis of the free enterprise system as we have known it in all the years of the history of our Republic?

Mr. TOWER. It certainly is the antithesis of the free enterprise system. Measures of this kind, carried to their logical limits in terms of enforcement and administration, could result in the destruction of the free enterprise system as we know it.

Mr. TALMADGE. Would not the bill deny to an employer the constitutional right to employ such workers as he thought could best enable him to conduct his business and make it profitable and rewarding?

Mr. TOWER. It would deny an employer that right, as the Motorola Co. has pointed out. A company has a responsibility to its stockholders. It must produce a profit. If it is to be hamstrung and dictated to in its employment practices, obviously it cannot fulfill that responsibility. People will not continue to invest in such a company; and ultimately the business will be harassed and smothered by regulations, and will inevitably fail.

At present, one of the great problems confronting business in the United States is that production costs are going well above competitive levels, to the extent that Germany, Japan, and other industrial countries are underselling us, not only in world markets, but in our domestic markets, as well. In a critical period in the history of our Nation's economy, when we are not able to compete in terms of production costs, business is being told that it must assume an additional burden which inevitably will cost it more and will further drive up production costs and put business in a more unfavorable competitive position.

Mr. TALMADGE. In addition to depriving an employer of his conditional right to select such employees as he believes will best make his business successful, would not the bill also deny to labor unions certain rights which Congress has granted them with respect to collective bargaining?

Mr. TOWER. Yes, indeed. The bill specifically applies to labor unions as well as to business, in terms of union membership, in terms of apprenticeship training, and in terms of making more jobs available for employees. That would certainly have an effect on unions.

The bill would knock some seniority systems into a cocked hat. It would militate against the best interests of a majority of trade union members. I am sure that some trade union leaders have the hope or feeling that perhaps the bill would not be rigidly administered and applied so far as trade unions are concerned. But there may not always be an administration that is friendly to labor. An administration unfriendly to trade unions could, by a rigid application of the law, militate very much against the best interests of trade unions.

Mr. TALMADGE. That is what is contained in the provision for Government policing of the rights of employers, the rights of employees, and the rights of labor unions. The right of free bargaining between employers and employees would be destroyed. The rights of labor unions that might be involved might be destroyed by permitting the Government to use compulsion in making decisions. Is that not correct?

Mr. TOWER. That is absolutely true. The distinguished Senator from Georgia has pointed up well one of the fatal weaknesses in the bill—a subtle, insidious attack on the very institution of collective bargaining. Many matters determined by the bill are matters that are ordinarily determined across the bargaining table. The results that have been achieved by organized labor through collective bargaining over the past 30 years indicate that the unions want to continue collective bargaining as a strong institution and as a significant aspect of labor-management relations. But that would cease to be so if title VII of the bill were enacted.

Mr. TALMADGE. The theory behind the proposed legislation is that it is supposed to outlaw discrimination in the employment of personnel. Is the word "discrimination" defined in the bill?

Mr. TOWER. The bill is supposed to outlaw discrimination, but it does not define "discrimination." The Senator is correct.

Mr. TALMADGE. That is the point I was making. Would it be considered to be discrimination if a person wished to employ a good-looking stenographer instead of an unattractive stenographer?

Mr. TOWER. I have always tried to exercise that kind of discrimination in my hiring practice, and I suppose it is discriminatory. Of course, the bill provides that there shall be no discrimination on the basis of race, color, religion, national origin, or sex. It does not say anything about good looks. However, I am sure that none of the other terms are defined in the bill, either. No doubt there would be liberalized interpretations by the Commission, to the extent that this provision would include or cover almost anything; and in time this all-powerful, omnipotent Commission of five members could determine when anyone had been discriminated against for any reason, and then it would "lower the boom" on the alleged offending employer.

Mr. TALMADGE. In the Motorola case, in Illinois, an examiner of the State commission determined that someone had been discriminated against because of the use of a certain examination; is that correct?

Mr. TOWER. That is correct. Furthermore, it was ordered that the examination no longer be used by that company, in connection with its employment practices.

Mr. TALMADGE. Would the Senator from Texas hazard a guess as to how such a governmental agency, using personnel who might be alleged to be experts in thought control, would be able to determine whether there had been an intent to discriminate when an employer had declined to employ a particular applicant, and when, thereafter, the applicant might have alleged that he had been discriminated against because he was a Baptist or because he was a Methodist, and so forth? Can the distinguished Senator from Texas show how such a determination could be made?

Mr. TOWER. In my opinion, it could not be made; in my opinion, that could not be determined. For that purpose, the Commission or its assistants would have to be mindreaders. As a lawyer, the

Senator from Georgia knows that in such a case they would be dealing with the old doctrine of mens res—determination of what was in one's mind—and, in particular, determination of whether there was criminal intent in the mind of the employer.

Of course, in connection with the criminal law, there have been devised means of determining whether criminal intent existed; and, as a result, within reason, that can be determined.

Furthermore, in the cases which would arise under this bill, there would be no way under the shining sun by which the Commissioners could be compelled to prove anything. They could act entirely on the basis of only their personal whim and the arbitrary use of unreasonable discretion.

Mr. TALMADGE. Madam President, will the Senator from Texas yield again to me?

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Does the Senator from Texas yield further to the Senator from Georgia?

Mr. TOWER. I yield.

Mr. TALMADGE. Suppose 10 persons applied to a certain employer for employment. Suppose one of them was a Catholic, one was a Protestant, one was white, one was black—and so forth and so on. If, following their application for employment, only one was employed, could not the other nine claim they had been discriminated against because of their religion or their color, and so forth? In that event, would not the Commission be able to charge the employer with violating this law?

Mr. TOWER. Now the Senator from Georgia has let a very ugly cat out of the bag—very ugly, indeed. Precisely what he has suggested could happen.

Mr. TALMADGE. And would not it happen?

Mr. TOWER. Yes, I submit that it would happen; and it could result in the establishment of a job quota system. Certainly that could happen if an employer did not act in a way that would suit all those who applied to him for employment—even though the proponents of the bill say an employer would not have to do that. But rather than run the risk of being faced with such suits day in and day out, an employer would no doubt take steps to protect himself, by attempting to employ persons of every nationality, every color, and every ethnic background. Of course, such a practice might be difficult to carry out, and might, after it was carried out, cause him many difficulties in operating his business; but no doubt he would attempt to do that.

Mr. TALMADGE. Such a practice could actually result in driving him into great difficulties—and perhaps even into bankruptcy—could it not?

Mr. TOWER. Yes, it could drive him to adopt unusually unsound business practices.

Mr. TALMADGE. Let us consider the case of an employer who employed 25 persons—in perhaps a small town, located somewhere in the United States. Under the provisions of the bill, the Commission could determine all of his relationships with his employees, as regards hiring them, promoting them, and assigning them to jobs, could it not?

Mr. TOWER. That is precisely true.

Mr. TALMADGE. If the Commission moved in on him, because of the filing of a complaint, the contest between the employer and the Commission would be a very unequal one, would it not?

Mr. TOWER. Indeed so—and even in the case of a very large business. In fact, it is clear that no business in the United States has all the resources that the U.S. Government has. So certainly the small businessman would face a tremendously formidable opponent, and would not have a chance to succeed against that opponent.

Mr. TALMADGE. A small businessman would have virtually no chance at all to successfully oppose the Federal Government; and the mere threat of such a suit by the Government would force most small businessmen to knuckle under, rather than be faced with ruinous expenses in connection with such a suit; is that not true?

Mr. TOWER. That is quite true. Certainly, the loser would be the small businessman. Perhaps a large employer could weather the storm——

Mr. TALMADGE. He would establish a quota system, would he not?

Mr. TOWER. No doubt. Perhaps he would also be large enough to be able to absorb some losses along the line. But the small businessman would be driven to the wall by the rigid enforcement of this measure; and we can expect nothing less than rigid enforcement of it, for political reasons. Therefore, it might very well sound the death knell of many small businessmen in the United States.

Mr. TALMADGE. Is it not also true that when the Government started to file such suits against employers, labor unions, and others, as the case might be, under the provisions of this measure, the poor harassed defendants—the employers—would not even have the right of a jury trial when they were brought into court?

Mr. TOWER. Yes; under the present provisions of the bill, they would not have a right to have a jury trial.

Mr. TALMADGE. Does the Senator from Texas think that at this late date, almost 1,000 years after Runnymede and Magna Carta, the Senate of the United States should seriously be considering—in this enlightened age—passing a bill which would not provide for the right of trial by jury?

Mr. TOWER. We can refer to an even earlier period—to the constitution of Clarendon, which established the basis of our constitutional system. Trial by jury has been a feature of the Anglo-Saxon legal system. It is one of our most cherished legal rights, dating back even before the time when Columbus discovered America. But now it is proposed that we vote to throw it out the window.

Mr. TALMADGE. But is not the right of trial by jury the greatest civil right the American people possess?

Mr. TOWER. It is the greatest civil right, in my opinion, that I possess—the right to be tried by a jury of my peers, if I were to be accused of the commission of a crime.

Mr. TALMADGE. Certainly it is the greatest civil right that I possess, in my opinion; and I am not anxious to surrender it, either for myself or for the other 190 million Americans.

Does the Senator from Texas believe that if the pending bill, with its 11 different titles, which relate to 11 different subjects, each of which amounts to a different act, were to become law, the people of the United States would be pleased with their civil rights? The bill is 55 pages long. It would vest in the Federal Government many powers which actually belong to the local police, and at the same time would require the people to surrender many of their rights, including the right of trial by jury.

Mr. TOWER. I do not think they would be pleased. It is true that at the present time many of them think they would be pleased with the bill; but, for the most part, those who believe they would be pleased with it—and generally they support the bill, even though they have not read it—believe the bill would provide them with new rights and would also provide for better protection of their existing rights, without at the same time removing any of their existing rights. However, that is not so—as is clearly shown by even the most cursory reading or examination of the bill.

Mr. TALMADGE. Is it not true that the only additional right which might be conferred by the bill would be the right to trespass on private property.

Mr. TOWER. I think that is true.

Mr. TALMADGE. Is it not also true that the only other additional right or power the bill would give would be the power of the Federal Government, through such a Commission, as proposed in title VII, to regulate the lives of the American people.

Mr. TOWER. That is true. So, in dealing with the bill, we are dealing with a measure which involves many contradictions. The result of enactment of the bill would be the destruction of many of the rights of the people.

Mr. TALMADGE. Yes. Is it not also true that under the FEPC provision, every time a citizen was denied or refused a job for which he had applied, if he became disgruntled he could complain to the Government, and the machinery provided by the bill would be applied, with the result of great harassment of the employer?

Mr. TOWER. That is correct.

If the Senator from Georgia, for example, were to resign from this body, and were to apply for other employment, and if he were refused such employment, he could invoke the provisions of the proposed act—as I interpret it. Everyone who found himself in such a position could become a petitioner under the provisions of the act.

Mr. TALMADGE. Furthermore, whenever there was an opportunity for promotion in a business, those who were not promoted would be able to harass the employer, through application to the would-be thought police, and could claim they had been discriminated against, could they not?

Mr. TOWER. Absolutely so. One who was not promoted after what he considered a reasonable length of time of employment in a particular company could feel that he had been discriminated against, and could claim that he was discriminated against because he belonged to a particular church or because he was of a particular national origin or of a particular sex, or whatnot.

Mr. TALMADGE. Is it not also true that anyone who might be discharged from employment—perhaps because the company did not have sufficient work to keep all its employees busy, or perhaps because the employee had been guilty of absenteeism, inefficiency, or drunkenness—could run to the Government and complain to the proposed commission, under the provisions of this measure?

Mr. TOWER. Absolutely so. Regardless of the grounds on which a man was discharged, not advanced, or demoted, the person who claimed that he had been offended could institute such action. And the burden of proof in that case would fall squarely on the employer to prove that discrimination was not the cause, but that it was one of the instances that the Senator mentioned, such as incompetence, or economic necessity.

Mr. TALMADGE. Does the Senator believe that we would be increasing the civil rights of the American people if we were to emulate the system of communism, under which the Government tells every citizen where he must work, at what wage, and under what conditions?

Mr. TOWER. I think we shall certainly move closer to the Communist system if we adopt this title VII.

I remind the Senator of the very sage words of the then Senator Lyndon B. Johnson of the State of Texas, whom I succeeded in the Senate. The then Senator Johnson made a speech in the Senate in March of 1949 in opposition to the Fair Employment Practices Commission. He stated in that speech that if the Government could tell the employer whom he must hire, the Government could also tell the employee where he must work, and this is the inherent danger in the bill.

Mr. TALMADGE. I have read that speech. He stated that the Fair Employment Practices Commission provision is the very worst of the civil rights provisions. And I certainly concur in that speech. I think it was one of the most outstanding speeches he ever made. I think it ought to be published throughout the United States in order that all people might know the wisdom which he possessed when he made that statement in the Senate for the guidance of the American people and all future generations as yet unborn.

Mr. TOWER. I agree with the Senator to the extent that I have already entered that statement in the RECORD. I hope Senators will avail themselves of the wisdom contained in the speech and discover what Lyndon B. Johnson really thinks about the Fair Employment Practices Commission provision.

Mr. TALMADGE. I appreciate the Senator's yielding to me. I congratulate him on the magnificent speech that he is making in an effort to protect the rights of all Americans of whatever color, race, or sex, or of the area in which they may reside.

Mr. TOWER. I thank the Senator from Georgia for his questions.

Mr. TALMADGE. Madam President, will the Senator from Texas yield?

Mr. TOWER. I am glad to yield.

Mr. TALMADGE. Is it not true that the FEPC provision in the civil rights bill was not one of the recommendations of the late President Kennedy when he sent the civil rights bill to the Congress with the recommendation that it be approved?

Mr. TOWER. The Senator is absolutely correct. The original proposal of President Kennedy did not contain the FEPC proposal. It was noted at the time that such a proposal had been discussed by staffers within the administration, and there was considerable feeling that the provision was a little too tough, and that it should not become a part of the proposal because it would jeopardize and endanger the passage of the civil rights bill. It was put in by the House committee and is now being urged by the President, in a much tougher bill, on the whole, than that which had been advocated by President Kennedy.

Mr. TALMADGE. I believe this proposal was inserted to please the chairman of the Committee on Education and Labor, ADAM CLAYTON POWELL; is that not correct?

Mr. TOWER. I believe that is correct.

Mr. TALMADGE. The proposal provides, I believe, among other things, that it would be discrimination to classify an employee; is that not correct?

Mr. TOWER. The Senator is correct. It prohibits classification as an instrument of discrimination in any employment within a company.

Mr. TALMADGE. So, really, the "thought police" would have the power—at least they would travel on the assumption that they had the power—to classify employees and assign them to specific jobs.

Mr. TOWER. The Senator is absolutely correct. For example, an employer might have a racially balanced employee force—indeed, various minority groups might have even a greater ratio of employees in a given company than that in the population as a whole. But if an employer classified one of those workers, as being competent to do only a particular type of work—perhaps menial in character—it could be charged by one so classified that he was competent to do work of a technical and skilled character, and that he had been discriminated against merely because of his race, his color, his religion, his natural origin, or his sex.

Mr. TALMADGE. So if someone working on a lathe decided that he could best serve by becoming an assistant secretary in the business of the company, the Government could harass the employer and say that the man should be an assistant secretary of the company, instead of being assigned to work on a lathe; could it not?

Mr. TOWER. The Senator is absolutely correct.

Mr. TALMADGE. In the final analysis, the Government would have the power to determine not only who should be employed, but at what job within a particular business; would it not?

Mr. TOWER. The Senator is correct. One might call it both a horizontal and a vertical arrangement. It would be horizontal in the sense that one's labor force would have to be balanced in a quota sense, and vertical to the extent that for each job classification the employer would have to establish the quota system.

Mr. TALMADGE. If the civil rights bill should be passed in its present form, the Government of the United States would be policing not only every individual who applied for a job, and who had been denied a job, but every individual presently employed. The determination as to duties would become a matter for Federal approval or disapproval, would it not?

Mr. TOWER. The Senator is absolutely correct. I believe very few people understand how comprehensive the bill is in its application to fair employment practices. It does not mean that those who applied for a job after the bill was enacted would come within the province of the act. It means also that everyone presently employed would come within the province of the act. It means that the act would be applied to current employees, relative to job classifications, promotions, changing of jobs, or demotions. So it is an extremely comprehensive bill.

Mr. TALMADGE. It is also interesting to note, as to the means of enforcement, that only two members of the Commission—not a majority—could decide that there had been discrimination in employment, or in the assignment of duties, or promotion, or salaries.

Mr. TOWER. It would not even require a majority of the Commission.

Mr. TALMADGE. Forty percent of the Commission, rather than a majority, could instigate an action.

Mr. TOWER. The Senator is correct.

Mr. TALMADGE. Does the Senator believe there is anything democratic about that?

Mr. TOWER. That is not democratic where I come from. We have always been under the impression that the majority was supposed to rule. Thomas Jefferson said that the will of the majority is in all cases to prevail. But Jefferson added that the will of the majority must be reasonable. Perhaps we are assuming that the minority will be more reasonable than the majority, if a minority believe a business should be harassed on some charge of discrimination.

Mr. TALMADGE. A minority view in this matter could be as important as the view of a simple majority?

Mr. TOWER. The Senator is absolutely correct.

Mr. TALMADGE. Is that not unthinkable in the United States?

Mr. TOWER. It is unthinkable to me. I cannot see any justice in that. Of course, one must remember that this will be a bipartisan Commission, made up of three members of one party and two members of another, which will be required by the law. A minority party could wreak its will on the Commission for political reasons. It also means that a poor businessman could be subject to harassment from both sides of the political fence.

Mr. TALMADGE. The Senator stated that the Commission would be bipartisan. That is correct; but the Senator has no illusion that it would be nonpartison, has he?

Mr. TOWER. I have no illusions about that.

Mr. TALMADGE. In other words, any applicant for appointment to this Commission must first prove his zeal in his advocacy of such force laws as this?

Mr. TOWER. I would not be setting the qualifications of the Commission, and I would not be the one who would select the members of the Commission. An educated guess would be that members of the Commission would be persons who would interpret the provisions of the bill very liberally and would be zealous and energetic in the rigid enforcement of the law.

Mr. TALMADGE. Does the Senator receive a great volume of mail from people who are 45, 50, 55 years of age and older, who find great difficulty in obtaining employment?

Mr. TOWER. I do. I hear from citizens who have advanced into their forties and fifties, and who have difficulty in finding employment.

Mr. TALMADGE. If we create the "thought police" to regulate employment of the American people, perhaps it should be agreed that the greatest discrimination that exists at the present time in employment is with respect to age. Is that correct?

Mr. TOWER. Certainly it is a very great discrimination. Not long ago I received a letter from a distinguished legislator in my State requesting that the bill be amended to include age as well.

Mr. TALMADGE. Does not the Senator believe that age ought to be included if Congress is to enact a law with reference to discrimination as to color, religion, sex, or national origin?

Mr. TOWER. If we really wish to make a shotgun bill of the pending bill, it ought to cover age. Perhaps the aged people are the people most discriminated against.

Mr. TALMADGE. Perhaps the aged people are being discriminated against more than any other group or any other citizens of our country. I believe that one of the saddest things which has occurred in recent years is the fact that a person who is 45 or 50 years of age, and loses his job for one reason or another beyond his control—whether it be because of automation or because a firm goes out of business, or a situation of that sort—should be unable to find employment, particularly if he is a breadwinner. It is sad that a person who has reached middle age or has gone beyond middle age should find it almost impossible to find a job. Does not the Senator believe that that situation ought to be considered in a bill of this magnitude, if we are to set up a "thought police" with which to regulate the employment policies of this country?

Mr. TOWER. If we are to cover everything else, we should cover the aged also.

Mr. TALMADGE. The aged should not be discriminated against, should they?

Mr. TOWER. Certainly the aged should not be discriminated against.

Mr. TALMADGE. If the bill is passed in its present form, they will be discriminated against, will they not?

Mr. TOWER. They certainly will be discriminated against. Of course there is a specific exemption so far as atheists are concerned. The bill provides against discrimination on account of race, color, national origin, religion, and sex. However, the bill provides that such protection shall not apply to atheists. They are being discriminated against.

Mr. TALMADGE. Does not the Senator believe, no matter how repugnant atheism may be to either of us, atheists should have the privilege of being able to earn a living, regardless of their belief or unbelief?

Mr. TOWER. Atheism certainly is repugnant to me. The attempts on the part of atheists to prevent the use of prayers or Bible reading in our public schools is also repugnant to me. The Supreme Court decision in that case was repugnant to me also. At the same time, atheists should have the right to earn their daily bread, without discrimination.

Mr. TALMADGE. We ought not to starve them to death because of their nonbelief. Is that correct?

Mr. TOWER. The Senator is correct. This is going back to the days of the Massachusetts Bay Colony, to the days of a theocracy, when everyone had to attend church, regardless of whether or not he was a member of the church. In the days of that Puritan theocracy only a small group determined who could be a church member. I do not know whether the Senator from Texas or the Senator from Georgia would have qualified under the standards that were in effect at that time. No doubt we would have been excluded from joining the church. We probably would not have been able to vote or hold public office, and we would not have had a voice in any public affairs. In those days, even if one could not belong to a church, he nevertheless had to attend church, whether he wanted to do so or not. It was a rigid, dictatorial type of society, in many ways an oligarchy. Some of the people did not agree, and they had to leave for other parts.

I do not believe that we should go back to that type of puritanical society, in which a small minority can impose its will upon the majority. The majority of the people in America are God-fearing people, and for the most part, we are a Christian nation, with a strong Jewish minority. It could be said that we accept Judean-Christian ethics of religion and morality. Although we do not want a minority of athiests to impose their minority will on us, we should not discriminate against them and deny them their basic right to earn their daily bread.

Mr. TALMADGE. I agree with the Senator. Is it not repugnant to the first amendment to provide for anything like that?

Mr. TOWER. It is definitely repugnant to the judicial precedents and policies of our country.

Mr. TALMADGE. As I remember, the first amendment provides that Congress shall make no law regarding the establishment of religion or the free exercise thereof. The bill sets up a criterion to the effect that a man who is an atheist would not have the right to protect his job opportunities. Is that correct?

Mr. TOWER. That is correct.

Mr. TALMADGE. That is clearly contrary to every decision that has ever been rendered by the Supreme Court of the United States. Is that not correct?

Mr. TOWER. I would say that it is contrary to the judicial precedents, and that it is a great failing in the bill. I hope that if the bill is enacted, the law will be declared unconstitutional.

Mr. TALMADGE. It surely will be. But, of course, I am sure the Senator is aware, as the Senator from Georgia is aware, that most of the law we learned in law school and in the courthouse has been repealed by the Supreme Court. At the present time only a psychologist can predict with any degree of accuracy what the Supreme Court might decide. Is that not correct?

Mr. TOWER. That is correct. The Senator from Georgia is a very able lawyer, but during the time that he has served in public life, court tests have changed matters, and he would probably be advised, if he returned to the practice of law, to get a degree in psychology and another one in sociology, so he could predict with some reasonable degree of certainty the course of judicial precedents.

Mr. TALMADGE. I believe that would certainly be a requisite for anyone who wished to practice before the Supreme Court of the United States.

Mr. TOWER. Yes.

Mr. TALMADGE. Can the Senator tell me how the "thought police" could determine whether a job applicant had been rejected because of his race?

Mr. TOWER. I suppose it would have to be a guess. It would be the arbitrary decision of the Commissioner. It would have to be the Commissioner's guess that a person was refused employment because of his race. However, discrimination is not defined; neither is color; nor national origin, race, religion.

These terms are not defined. The term "sex" is not defined, but I believe we can probably reason that that means an applicant is a man or a woman. That is not true so far as the others are concerned.

Mr. TALMADGE. Actually, under our system of private enterprise, is not everything we do in our daily lives a form of discrimination? What kind of automobile does the Senator drive?

Mr. TOWER. I happen to drive a product of the Chrysler Corp. It is one of the less expensive models.

Mr. TALMADGE. Does not the Senator discriminate against the product of General Motors and the product of Ford Motors when he selects a Chrysler automobile?

Mr. TOWER. My wife drives a General Motors product. I cannot afford any more automobiles in our family so I cannot buy one from every automobile manufacturer. Therefore I have been discriminating against the other manufacturers.

Mr. TALMADGE. Under the terms of the bill the Senator could be accused of having discriminated against any product he did not see fit to buy. Is that correct?

Mr. TOWER. Of course, the bill does not give the Commission that much authority, but in the same spirit——

Mr. TALMADGE. That is the purport of it. Is that correct?

Mr. TOWER. That is the purport of it. It could be classified as a form of discrimination.

Mr. TALMADGE. Did not the Senator discriminate when he bought black shoes instead of tan shoes?

Mr. TOWER. Yes. Actually, the Senator from Texas rarely wears anything but black or gray. I discriminate very much against brown.

Mr. TALMADGE. Did not the Senator discriminate when he selected a suit of beautiful gray instead of brown or tan or gabardine?

Mr. TOWER. Yes. I must confess that I discriminated against American tailors, because I purchased the suit in London. If that gets back to my constituents, it might go hard with me.

Mr. TALMADGE. Did not the Senator discriminate when he selected his necktie and his shirt?

Mr. TOWER. Yes. Everything we do involves discrimination, whether it be the food we eat, the clothes we wear, the automobiles we drive, or the company we choose.

Mr. TALMADGE. Did not the Senator discriminate when he ran for the U.S. Senate instead of for the House of Representatives or for the governorship of his State, or for mayor of his city?

Mr. TOWER. That is true. At one time I elected to run for the State legislature, but the people of my legislative district did not choose to support me. At another time, I elected to run for the U.S. Senate, but the people of my State discriminated against me by voting for Senator the man who is now President of the United States, Lyndon Baines Johnson.

Mr. TALMADGE. Did not the voters of the Senator's State discriminate in his favor when they elected him subsequently to the Senate?

Mr. TOWER. I think it could be said that the people of the State of Texas did discriminate when I was elected to the Senate.

Mr. TALMADGE. Did not the Senator discriminate when he selected his wife?

Mr. TOWER. I was very discriminating when I selected my wife.

Mr. TALMADGE. Does the Senator know of any way by which we could eliminate all of this rampant discrimination and still maintain a free society and a free republic?

Mr. TOWER. The only way in which such discrimination could ever be erased would be to deny every individual citizen any power of discrimination at all. In other words, all decisions would have to be resolved for him by an omniscient, omnipotent Uncle Sam.

Mr. TALMADGE. In other words, so long as we have discrimination, we shall have freedom. When we cease to have discrimination, we shall have an anthill society, in which the Government will call the shots?

Mr. TOWER. I think we will have about arrived at "1984" when that occurs.

Mr. TALMADGE. I agree with the Senator. I do not know anything so basic to our free Republic as the right to discriminate in the field of private conduct. Every citizen should have equality before the law. We have that now. The laws relate to every citizen of the United States, regardless of sex, regardless of religion, regardless of color, or regardless of where a person resides; and that is as it should be.

Whenever a citizen believes he is not being accorded equality before the law, he has a right to go into the courts, local, State, or Federal—and that is what citizens frequently do.

I know of no one who can complain at the present time that the courts do not give equality. That is particularly true of the Federal courts, because I know of no citizen who has filed any case with respect to discrimination who has not had it speedily approved by the present Supreme Court of the United States.

But if we are to go into an area of discrimination in which citizens exercise their right of freedom under the free enterprise system, and are to say, "You may not discriminate," that will mean that every area of private human conduct will be regulated by the Government of the United States and the "thought police." Every time a citizen takes any action of any kind, whether he buys a piece of land, plants cotton instead of corn, decides to operate a dairy farm instead of raising alfalfa, decides to practice law, medicine, or dentistry, or goes into the retail business, he will be considered to be discriminating.

Mr. TOWER. That is absolutely correct.

Mr. TALMADGE. So long as there is freedom in our country, people can continue to discriminate. But when discrimination is outlawed in this country, and people become mere numbers in a bureaucratic system, in which the government makes all the decisions, we shall have a system similar to that of the Soviet Union, to totalitarian forms of government, or to dictatorships that have risen from time to time; and our free society and our proud Republic will die, will they not?

Mr. TOWER. I agree with the Senator from Georgia. Discrimination is a necessary concomitant of the great institution of freedom and justice as we enjoy it in this country.

Mr. TALMADGE. The fact that a person is discriminating is supposed to mean that he has good judgment, is it not?

Mr. TOWER. The fact that a person is discriminating is taken to mean that he will exercise in a responsible, tasteful manner whatever license our system gives him.

Mr. TALMADGE. I agree with the Senator. I compliment him on his outstanding speech.

Mr. TOWER. I thank the Senator from Georgia.

Mr. President, I continue to read from the report in the Motorola case:

### 8. MOTOROLA POLICY AND PRACTICE

President Bob Galvin has proclaimed the Motorola policy of nondiscrimination in its hiring practices. We have affirmatively sought out Negroes throughout the country in compliance with the Federal Executive Order 10925 issued in 1961. Motorola recruits in Negro engineering colleges, business administration schools, trade schools and so forth. Today our program is one of the best equal employment opportunity programs in Illinois—integrated at all job levels from engineers, college degree accountants, technicians and trade skills, office and clerical and hourly semiskills. We have moved in step with national policy in the selection of qualified Negroes and other minority groups.

Keeping in mind the company's position in this FEPC case, let us consider the decision and order of the Illinois Fair Employment Practices Commission, as we continue to study the type of situation both business and bureaucracy can find themselves in under an FEPC law:

### DECISION AND ORDER OF FEPC HEARING EXAMINER

This matter came on for public hearing before the hearing examiner on January 27, 1964, on a complaint issued by the Fair Employment Practices Commission on behalf of one Leon Myart pursuant to Ill. Rev. Stat., ch. 48, secs. 851–866.

The complaint charges that on July 15, 1963, at Chicago, Ill., the respondent committed an unfair employment practice in that respondent did not hire complainant because of his race.

The complainant is a Negro. The complaint alleges that Myart applied at respondent's place of business in Chicago for the position of analyzer and phaser; that complainant was well qualified for the position for which he applied. The qualifications he cited as relating to said position are these: A 19-month course of study-combination general electrical and radio-television technician course and another electronics shop course of 432 hours.

It appeared upon the hearing that, in common parlance, an analyzer and phaser is a troubleshooter, checking radio, television and stereophonic sets for faults as they come off the production line and rectifying.

The complaint further states that after the charge was filed with the Commission, one of its employees investigated said charges to ascertain the facts relating to said alleged unfair employment practice and that the Commission afterwards determined that there was substantial evidence that said unfair employment practice had been committed. The complaint further alleges that pursuant to section 8 of the Illinois Fair Employment Practices Act, a conciliation conference was scheduled and duly noticed and that there was a failure to settle or adjust the charge.

Paragraphs four and five of the complaint set forth further satisfaction of jurisdictional and procedural prerequisites leading to the instant hearing. At the public hearing no jurisdictional or procedural questions were raised by the respondent, and the hearing examiner holds that all jurisdictional and procedural requirements were satisfied prior to the public hearing.

The relief sought through the complaint is that respondent be required to offer to the complainant employment as an analyzer and phaser, and that his seniority be computed as starting on the date of his application, to-wit: July 15, 1963, that respondent be ordered to pay complainant the wages he would have earned after said date down to the date of the order to be entered pursuant to this complaint, less the amount of his earnings meanwhile; that respondent be ordered to cease and desist from committing the unfair employment practice complained of at any place of respondent's business in the State of Illinois; that respondent cease and desist from denying equal employment opportunity to all qualified applicants; that the respondent be required to promulgate a policy statement of merit employment in accord with the Fair Employment Practices Act of Illinois, and that said policy statement be promulgated to all present employees of the respondent and to all places where future employees are recruited, and that said policy be made known to all future applicants for employment with the respondent company.

At the opening of the hearing on January 27, 1964, counsel for the respondent orally moved for the correction of its legal title, and the correction was accordingly made in the heading of this Decision and Order. The hearing examiner notes that the respondent failed to avail itself of a conciliation conference scheduled by the Commission pursuant to section 6 of the act and that the respondent elected not to file an answer pursuant to section C. Subsection 4 a, b of the Rules and Regulations of Procedure prescribed by the Commission. By subsection 4d, any allegation in the complaint, which is not denied or admitted in the answer, unless the respondent shall state in the answer that he is without knowledge or information sufficient to form a belief, shall be admitted. However, by subsection 4g, the hearing examiner is required to hear the matter and make his findings of fact and enter his order upon the testimony at the hearing, notwithstanding respondent's failure to file an answer. Thus the matter was heard on complaint and testimony and the exhibits produced in connection therewith.

By section 1 of the act, it is declared to be the public policy of this State that equal employment opportunity without discrimination because of race, color, religion, national origin, or ancestry should be protected by law; and the legislature found, in part, preliminary to its statement of policy that denial of equal employment opportunity because of race, color, religion, national origin, or ancestry, deprives a portion of the population of the State of earnings necessary to maintain a reasonable standard of living, thereby tending to cause resort to public charity.

By article IX of said rules and regulations, they are to be construed to accomplish the purposes of the act and the policies of the Commission.

The complainant, to maintain the issue in his behalf, testified first; and he was followed by Walter J. Ducey, Executive Director of the Commission. The complainant testified that he attended Forrestville grade school, Dunbar Vocational High School, evening division, from which he received a certificate setting forth that complainant, on June 7, 1961, had completed a prescribed course of 432 hours in electronics shop (exhibit II; report of proceedings, p. 14); Academy for Adults, which awarded a diploma on June 17, 1960, and setting forth that complainant had satisfactorily completed a general high school course (exhibit I; report of proceedings, p. 15); official transcript of complainant's scholastic record in a combination general electrical and radio-television technicians course, dated November 7, 1962, and issued by Coyne Electrical School (exhibit III). This exhibit sets forth that complainant received an average grade of 83.1; that the combined courses included basic electricity and wiring d.c. power and motor repair, a.c. power and maintenance, industrial electronics, refrigeration and electric appliance repair, basic radio-TV, AM and FM servicing, TV circuits and construction, television service and repair, and TV servicing and color circuits. The electrical course was 6 weeks long in each department or 100 hours. That the TV-radio electronics course was 7 weeks long or 210 hours. This transcript contained also a remark relating to complainant's industry and cooperation as above average. In addition to these exhibits offered by the complainant as proof of his academic qualifications, he also offered two diplomas which were awarded him by Coyne Electrical School. The one dated May 5, 1961 (exhibit IV), shows satisfactory completion of a resident course of instruction in general electrical technicians course; the other is dated December 7, 1962, and recites that complainant has satisfactorily completed the resident course of instruction prescribed for television-radio electronics technicians course (exhibit V). All of these schools are located in Chicago, Ill., and one is under the supervision of the Chicago Board of Education.

The evidence shows that complainant attended one or more of these schools while he was working at various jobs not related to his training (report of proceedings, pp. 24–26). As proof of his experiential qualifications in the field related to that employment for which he applied at respondent's place of business, complainant testified that he worked part time with his brother in the operation of Neighborhood Radio-TV Service over a 3-year period immediately preceding his application with respondent. Here complainant performed general service on radios and televisions (report of proceedings, p. 27). He also worked at House of Sound which offered a television rental service and kept in stock for this purpose about 30 sets which complainant kept in working order. At both shops, complainant served as "troubleshooter," checking circuits of sets, voltage, and resistors; and he read schematic diagrams—localizing faults and balancing voltages of opposite phases, and repairing sets. Complainant's testimony respecting his school attendance and experience substantially supports the allegations of the complaint.

Complainant testified that he was on respondent's premises not more than 15 minutes during the process of his application and his being tested (report of proceedings, p. 69). By his complaint complainant claims that he took and passed the company tests, that white persons were hired during this period but that he was not, and that he believes he was not hired because of his race.

At the hearing respondent raised no question regarding the respectability of the schools which the complainant attended, but in seeking to meet the showing made by the complainant, the respondent made a four-point attack.

First, respondent showed that complainant failed to write in on respondent's printed application form the name of one of the schools that complainant attended; namely Dunbar High School (respondent's exhibit I; report of proceedings, pp. 43, 44) and his radio and television experience (report of proceedings, pp. 47, 65). Complainant testified that he orally informed the interviewer of both of these items (report of proceedings, pp. 65, 70) and showed to the interviewer complainant's certificate from Dunbar (complainant's exhibit II), showing completion of 432 hours course in electronics. Respondent's employment interviewer, Jerry Hoelscher, testified at one point that he orally asked complainant for further information relating to his experience or training or background not included on his application and that there was none, "to my knowledge" (pp. 165, 161). Hoelscher further testified that if complainant had informed the interviewer of complainant's training at Dunbar Vocational School he, the interviewer, would have noted that fact in writing on complainant's application form. Under cross examination, witness Hoelscher admitted that he asked complainant no question regarding his training in related work (report of proceedings, p. 170).

There is then presented two questions relative to complainant's revelation of his educational and experiential background. The first is whether complainant is to be held responsible for these written omissions, and whether these omissions were decisive to his being hired; second, there is a disputed question of fact about complainant's oral communication of his educational and experiential background to the interviewer.

Reviewing the reverse side of respondent's exhibit I, the printed application form, the hearing examiner notes that there are four sections separately titled so that complainant's four last places of employment are reduced, without regard to whether any of the four were places engaged in any work related to that for which complainant was applying at respondents. The same must be said of the section headed, "List below other special qualifications you have (Machinery or office equipment)."

In the judgment of the hearing examiner no place on the application form was designed to educe the information respecting complainant's particular experience in the related field of work. Moreover, Hoelscher said this omission was not decisive to complainant's not being hired (report of proceedings, p. 159). On the disputed question whether complainant orally informed the interviewer of the applicant's educational and experiential background, the hearing examiner holds with the complainant. As the trier of the facts, the hearing examiner is the judge of the credibility of the witnesses and of the weight to be given the testimony of each. That complainant would apply for employment as analyzer and phaser in the radio and television field and then suppress information to the interviewer regarding the applicant's education and experience in the field of which he was applying for employment is improbable.

The second point of respondent's attack upon the case made by the complainant at the hearing consisted of a series of 10 questions put to complainant under cross examination, questions the answers to which respondent claims an analyzer and phaser at Motorola must know, and which are put to every applicant for employment as analyzer and phaser at Motorola, providing the applicant first passes test No. 10. This latter test will be dealt with during consideration in this decision and order of respondent's attack No. 3. These questions were said by respondent to be a test of complainant's knowledge of the work for which he applied at Motorola.

In the judgment of the hearing examiner this test put upon the hearing came too late and cannot now determine the issue of whether complainant was denied equal opportunity of employment at the time he applied.

Respondent's third point of attack was made in connection with the said test No. 10 which was put to the complainant at the time he applied for employment, and it followed his filling out the written application (respondent's exhibit II). This exhibit was said by respondent to be the same test from containing identical questions as the one complainant took at the time of his application. The test form on which complainant indicated his answers was not offered in evidence and the only reason for not doing so, was that it had been sent to the respondent's test area. Exhibit II was admitted into evidence for the restricted purpose of showing the type of test that had been put to complainant at the time he applied for employment (report of proceedings, pp. 157, 169).

It was claimed by the author of this test, who testified at the hearing on behalf of the respondent, that the test is the shortest test of intelligence that has been developed, as far as he knew. It is said to test verbal understanding, understanding of instructions (report of proceedings, p. 209). The witness, Dr. Shurrager, developed a series of tests for the respondent including tests of four different kinds of special relations and ability; and he regularly supplies these tests to respondent for a fee (pp. 210, 211). Of the greater number of witnesses testifying in respondent's behalf, only witness Hoelscher attempted to place himself within the area of having direct knowledge of complainant's score on test No. 10, and he testified that the score was 4 and that the passing grade at Motorola is 6, while Dr. Shurrager says that the mean he set was 8. Inasmuch as Mr. Hoelscher was not the person who administered the test to the complainant, his opportunity for knowing the fact about which he testified falls short of legal requirements. No testimony was offered from the administrator who administered the test and graded it. In the absence of the test which complainant took, his answers thereto, and the overlay key for checking the complainant's answers, the hearing examiner is denied sufficient means for holding with all other applicants without regard to the complainant's race.

All of the above-mentioned items were at one time, at least, in the possession and under the control of the respondent; and its failure to produce, after the exercise of reasonable diligence, or its failure sufficiently to explain away its inability to produce, if that were the fact, does not convince the hearing examiner of any eagerness on the respondent's part to disclose all the facts in this case.

The hearing examiner is persuaded therefore, that had respondent produced the test administrator to testify, the test No. 10 which the complainant took, his test score, and the overlay key from which comparisons with, and checking of complainant's answers might have been made, the showing would have been adverse to the respondent. These missing items were not equally available to the complainant. A reasonable prudent person, under the same or similar circumstances as the respondent, would have produced these missing matters if he believed they were favorable to him, *Beery* v. *Beery*, 311 Illinois, Appeals 469. Moreover, the complaint alleges that complainant passed the company tests, the commission investigator testified that when he administered test No. 10 to complainant passed with a score of 7, a point above the minimum required by the company (report of proceedings, pp. 121, 122). Dr. Shurrager testified that a person retaking the test might improve his first score, but not appreciably (p. 215), that no special training was required and that there is no real difficulty in administering and scoring test No. 10 (report of proceedings, p. 210). The hearing examiner cannot, in connection with test No. 10, end the discussion here.

Because of the probability otherwise that respondent may continue to use test No. 10, in its employment practice, without revision, if revised it can be, the hearing examiner makes the following observations, though not necessary to the decision and order in this case: copyrighted as it was in 1949 and used since that time, test No. 10, in the light of today's knowledge, is obsolete. Its form was derived form standardization on advantaged groups. Studies in inequalities and environmental factors since the publication of test No. 10, have been made with careful equating of such background factors. Dr. Shurrager realizes somewhat the existance of these background variables, but his test No. 10, at the time of complainant's taking it, and at the time of the hearing, had not been revised to meet the acknowledged, current conditions (report of proceedings, pp. 215–218). In the light of current circumstances and the objectives of the spirit as well as the letter of the law, this test does not lend itself to equal opportunity to qualify for the hitherto culturally deprived and disadvantaged groups, Audrey M. Shuey, "The Testing of Negro Intelligence," J. P. Bell Co., Inc., Lynchburg, Va., 1958. See vii. Until test No. 10 is revised, or appropriately replaced, those persons such as the complainant in this case who apply for employment at respondent's company will be at a competitive disadvantage, Paul A. Norgren et al., "Employing the Negro in American Industry" Industrial Relations Monograph, No. 17, Industrial Relations Counselors, Inc., New York, 1959, page 25.

The fourth and final attack which respondent made on the complainant's case was to show the company's general hiring practices. The attempt here was to show that the company accords equal employment opportunity to all without discrimination because of race, color, religion, national origin, or ancestry.

It is noted that the personnel director, at the hearing, was unable to tell approximately the number of Negro analyzers and phasers that were employed by the respondent except within the last 10 days prior to the hearing; and apparently he learned that fact through looking at pictures of a Negro analyzer in the Courier newspaper. The investigator's charge report in evidence indicates that as of August 22, 1963, respondent employed approximately 25 phasers and analyzers, all being persons of the white race (report of proceedings, pp. 233, 234; complainant's exhibit VI). In this connection, Witness Piper testified that Negroes at respondent's have been occupying jobs of technicians and/or analyzers and phasers for at least 3 or 4 years. On this point there is conflict between two of respondent's own witnesses and with the investigator's report. In the light of all the evidence in this case considered together, the hearing examiner accepts the finding of the commission investigator (see report of proceedings, pp. 281, 282).

In the consideration of Mr. Piper's testimony with regard to complainant's arrest record, the hearing examiner is not able to say that respondent gave it any weight in denying employment to the complainant. Under direct examination, Mr. Piper stated that had the complainant successfully passed all other tests usually administered for the job applied for, he would still have been denied because of his arrest record (report of proceedings, p. 270). Yet, under cross examination, Mr. Piper testified that "if we were at a point of seriously considering the hiring of the applicant, we would have undertaken an investigation, as we have done in many cases in the past" (report of proceedings, p. 272). Then on page 276, Witness Piper testified that in the final analysis the company would make its decision "based upon the information which we obtained in an investigation," which was not made in this case.

If the Fair Employment Practices Act of this State is effectually to be implemented, personnel executives in the industries covered by the law, have a supreme responsibility to move positively to eradicate unfair employment practices in every department. Somehow, general convictions of economic need and fairness must be acquired, and concerted action made to come into play within each department throughout the plant and with the administrators of this law. There is ample modern authority for this position. The task is one of adapting procedures within a policy framework to fit the requirements of finding and employing workers heretofore deprived because of race, color, religion, national origin or ancestry. Selection techniques may have to be modified at the outset in the light of the experience, education, or attitudes of the group, Frances J. Brown, Educational Sociology 2d ed., Prentice-Hall, Inc., 1954, pp. 135-138; Paul H. Morgren et al., "Employing the Negro in American Industry," (Industrial Relations Monograph, No. 17; Industrial Relations Counselors, Inc., N.Y. 1959, pp. 4, 5, 8, 10, 11). The employer may have to establish in-plant training programs and employ the heretofore culturally deprived and disadvantaged persons as learners, placing them under such supervision that will enable them to achieve job success.

In order to sustain the complaint in this case the hearing examiner must find that the complainant has proved the complaint by a preponderance of the evidence, Smith-Hurd Illinois Annotated Statutes 1963, ch. 48, par. 858(f). The examiner, if he finds that the evidence in this case, when considered altogether, preponderates in favor of the complainant. The hearing examiner so finds, *Garlinski* v. *Chgo. City Ry. Co.* (1930), 257 Ill. App. 414. There is relevant evidence here such that a reasonable mind might accept as adequate to support the conclusion that an unfair employment practice was committed by the respondent against the complainant in the company's denial of employment to the complainant on or about July 15, 1963; that complainant was denied because of his race.

It is therefore ordered as follows:

(a) That respondent, Motorola, Inc., cease and desist in the future from committing the unfair employment practice complained of in this complaint at any place of business of the respondent in the State of Illinois and to cease and desist from denying equal employment opportunity to all qualified applicants.

(b) That respondent cease and desist from the use of test No. 10 within 30 days from the date of this order; or within such further time as may be extended by the Commission upon written request made for good cause shown before the expiration of said 30 days.

(c) That if respondent chooses to replace test No. 10, that it adopt a test which shall reflect and equate inequalities and environmental factors among the disadvantaged and culturally deprived groups and in this connection, it is ordered that respondent inform the Commission, in writing, of the company decision within 30 days from the date of this order, or within such further time as may be extended by the Commission after written request made for good cause shown before the expiration of said 30 days.

(d) That respondent revise its application for employment from to educe specifically the last places of employment, if any, in the related field for which applicant is applying, and in detail, the experience, if any, which applicant claims, whether inside or outside the related industry. That respondent submit to the Commission a copy of said revised application for employment form within 30 days from the date of this order, or within such further time as may be extended by the Commission expiration of said 30 days.

(b) That the respondent, Motorola, Inc. immediately offer to the complainant employment as analyzer and phaser, and that upon such employment assign him to the company's so-called sponsor program at the current rate of pay paid to all other employees working under the sponsor program in the department, under adequate supervision with the end in view of enabling the complainant to achieve job success as an analyzer and phaser.

(f) That the respondent's intentions to execute this order in good faith be promulgated to the complainant's supervisor and all other employees in the department.

(g) That the respondent report the date of its offer to the complainant in compliance with this order within 7 days from the date hereof to the Commission; and to make such further reports to the Commission as it may inquire.

Enter:

Robert E. Bryant,
*Hearing Examiner.*

February 26, 1964.

### CERTIFICATE OF SERVICE

I, Robert E. Bryant, hearing examiner in the above-entitled cause, do hereby certify that I have served a copy of the foregoing decision and order upon the complainant and respondent by placing the same in the U.S. mail in an envelope, properly addressed with first-class postage affixed, to Attorney Robert V. Nystrom, 77 West Washington Street, Chicago, Ill., who is attorney of record for the respondent; and Attorney Quentin J. Goodwin, 105 West Adams Street, Chicago, Ill., who is attorney of record for the complainant.

This 26th day of February A.D. 1964.

Robert E. Bryant,
*Hearing Examiner.*

Now that we have considered both the company and the State FEPC views on this particular case—and I again remind the Senate that I presume to make no judgment on the merit of either argument, since I use this case only as an example of a type of litigation business can expect—let us now look in detail at the specific test which the Illinois FEPC examiner determined to be "discriminatory."

Here are the 28 questions on the general ability test in question (test No. 10):

1. A careful man is likely to be: (1) miserly; (2) cautious; (3) dishonest; (4) friendly.

2. When a large fire occurs, the first thing to do is: (1) call the foreman; (2) turn in the alarm; (3) put it out; (4) run.

3. If 6 oranges cost 36 cents, how much will 5 oranges cost?

4. A desert always has (1) sun; (2) sand; (3) palm trees; (4) camels.

5. A tireless man is likely to be: (1) young; (2) lazy; (3) energetic; (4) poor.

6. In the following series of numbers and letters, count each 7 that does not have a 4 or an N following next after it: 37X4T74L-97N6T7WC57L.

7. If a conveyor moves 5 feet in one-half second, how far will it move in 7 seconds?

8. Thirst is to water as desire is to: (1) need; (2) food; (3) hunger; (4) satisfaction.

9. A sale always involves: (1) money; (2) a buyer; (3) dry goods; (4) an argument.

10. Three percent of $5,000 is the same as 5 percent of what amount?

11. A successful business must have (1) production; (2) customers; (3) inspector; (4) welder.

12. Which of the following is most unlike the others? (1) electrician; (2) janitor; (3) inspector; (4) welder.

13. Gasoline is related to car as what is related to dog? (1) cat; (2) doghouse; (3) food; (4) water.

14. What resembles a cat in the same way a puppy resembles a dog? (1) Tom; (2) kitten; (3) tiger; (4) Tabby.

15. Which of the following is most like a circle? (1) sphere; (2) cone; (3) elipse; (4) cylinder.

Read the statements below:
B is shorter than C.
A is taller than C.
S's height is less than B's.

16. Who is shorter, A or B?

17. Who is taller, S or C?

18. Which of the four is shortest?

19. Which of the four is tallest?

20. A house most resembles a (1) tent; (2) ship; (3) cave; (4) castle.

21. A man earned $80. The first day he spent one-fourth of this amount. On each day following he spent one-fourth as much as he spent on the first day. How much money did he have after 4 days?

22. If the first two statements are true, the third is (1) true; (2) false; (3) uncertain.

1. A good workman must have sharp tools.
2. Paul has sharp tools.
3. Paul is a good workman.

23. If 3⅓ pounds of beans cost 30 cents, how much will 20 pounds cost?

24. One letter is wrong in the following series. What should that letter be?
AZBYCXHWEVFUG.

25. Harry is 26 years old. Harry is 3 times as old as John was 3 years ago. How old is John?

26. When the following words are arranged in a sentence, what is the first letter of the fourth word? The bolt nut the on screw.

27. Jim turns out 20 pieces of work in 1 minute. Jason turns out 60 pieces in a minute and a half. How many additional pieces will Jim have to turn out to equal Jason's work after they have both worked 1 hour?

28. A pipe 35 inches long is cut so that one piece is two-thirds as long as the other piece. How long is the shorter piece?

A very simple test was given to the applicant, who apparently answered only one of the questions correctly. It is not necessarily a test on which we would all score 100 percent, but certainly it is a simple test, and one that should not be too difficult for anyone who has an educational background. The applicant apparently did not have it.

I should like now to include for the consideration of my colleagues during this debate upon the FEPC title of the bill before us a chronological sampling of newspaper clippings and news releases dealing with the case in question.

From a cursory study of these clippings, I think the Senate will be able to see the virtually impossible position in which both business and bureaucracy have found themselves under this FEPC law in the State of Illinois.

The first clipping is from the Chicago Sun Times of January 15, 1964, and carries the headline: "Asks Court Order on Balky Witness in FEPC Hearing." It reads as follows:

The Illinois Fair Employment Practices Commission was asked Tuesday to petition for a circuit court order to force a witness to appear in a case.

The request was made by Robert V. Nystrom, attorney at 77 West Washington, representing Motorola, Inc., which has been charged in two cases with refusal to employ six Negroes.

Nystrom called loudly at a hearing in the State of Illinois Building, 160 North La Salle, for Frank Fager, of 533 Sixth Avenue, Des Plaines. Fager, a civilian, is equal opportunity officer with the Chicago Air Force Contract Management District at O'Hare Airport.

Fager was not present.

Process server dispatched.

Nystrom said he sent a process server, Peter Berg, to Fager's home Sunday night with a subpena. Berg was admitted by a child, the attorney said, and then Fager appeared to ask what was wanted.

"My man handed Fager my check for $10.50 to cover a witness fee and transportation," Nystrom said. "Fager asked what it was for. My man then gave him the subpena and said maybe that would explain it.

"Fager said, 'Get out of my house.' He took the process server by the arm and escorted him to the door, using a little force. He threw the subpena and the check out after him. My man threw them back in."

### FAGER STUDIED CASE

Nystrom said Fager, as a representative of the President's Committee on Equal Employment Opportunity, had investigated the case and gathered information that would be useful in Motorola's defense.

The attorney said the State Fair Employment Act provides for enforcement of subpenas by the circuit court. He asked that such steps be taken.

Fager was not available for comment at his office or home.

Joseph Minsky, technical adviser to the commission, said 5 days' notice must be given the affected person before a court petition is filed. He said the five-member commission will decide whether this should be done. The commission will meet January 31, he said, but can be polled by phone.

### COMPLAINT OUTLINED

The complaint against Motorola was made by Leon Myart, of 6333 South Dorchester, to both the State and Federal agencies. He claimed he was denied employment last July 15, as an analyzer and phaser at the Motorola plant at 9401 West Grand.

Myart said he is a graduate of an electronics trade school, studied at night for 2 years at Paul L. Dunbar Vocational High School and had electronics training in the Army.

Nystrom said an analyst and phaser must be able to diagnose the cause of trouble in a television set or other equipment that fails to work as it comes off an assembly line and to read circuit blueprints at a glance.

### CASE CONTINUED

He said the qualifications are just short of those for an engineer, and he expects no trouble in showing that Myart did not have them.

Hearing Officer Robert E. Bryant, an attorney at 5828 South Calumet, agree with Nystrom and Myart's attorney, Quentin J. Goodwin, to continue the case until January 27.

I now quote a news release of the Illinois Fair Employment Practices Commission dated for release March 3, 1964:

### FOR IMMEDIATE RELEASE

Motorola, Inc., has been ordered to halt discriminatory hiring practices and to offer a job to a Negro who had earlier been turned down by the company and to stop using the test which they had given him.

The order was contained in an opinion issued by Attorney Robert E. Bryant, 5828 South Calumet Avenue, Chicago, following a public hearing which he conducted based on a case which had been filed earlier with the Illinois Fair Employment Practices Commission by Leon Myart, 6333 South Dorchester Avenue, Chicago. Myart charged to the FEPC that he had been denied a phaser and analyzer's job by Motorola, Inc., because of his race. The two parties were unable to settle the case privately and appointed Bryant to hear the case in public.

In the hearing, Motorola, Inc., claimed that Myart had failed a test of general ability and been rejected for that reason but was unable to produce his test record. Myart claimed he had passed it and showed in the hearing that he had subsequently passed the test in the FEPC office.

In his opinion Bryant found that this test is obsolete and stated, "In the light of current circumstances and the objectives as well as the letter of the law, this test does not lend itself to equal opportunity to qualify for the hitherto culturally deprived and disadvantaged groups." He also pointed out that the standards for the test were based upon advantaged groups and did not account for the inequalities and differences in environment, and that the author of the test acknowledged the existence of these background variables.

If Motorola, Inc., wishes to replace this test with another, Bryant ordered it to do so with a test "which shall reflect and equate inequalities and environmental factors among disadvantaged and culturally deprived groups."

Bryant also stated, "If the Fair Employment Practices Act of this State is effectually to be implemented, personnel executives in industries covered by the law, have a supreme responsibility to move positively to eradicate unfair employment practices in every department. Somehow, general convictions of economic need and fairness must be acquired, and concerted action made to come into play within each department throughout the plant and with the administrators of this law."

The parties in this case have until March 14, 1964, to file a petition for review with the FEPC. If no petition is filed, Bryant's order stands if the Commission finds it to be supported by substantial evidence.

The Chairman of the Commission is Charles W. Gray, of Prospect Heights; Mrs. Orville N. Foreman, Jacksonville; James Kemp, Chicago; Robert J. Myers, Springfield, and George L. Seaton, Hinsdale.

Now, let us turn to a story from the Chicago Daily News of March 6, 1964, headlined "Motorola Wants Review by FEPC":

Motorola, Inc., loser in a fair employment practices case, will ask the full Commission to review the ruling of its hearing examiner.

Examiner Robert E. Bryant's order not only ordered the company to offer a job to the complainant, but also to stop using the general intelligence test the complainant had failed.

Leon Myart, 6333 Dorchester, a Negro, was refused a job as analyzer and phaser at Motorola on the basis of the test, according to Motorola testimony. The job requires testing and "trouble shooting" on TV sets as they come off the assembly line.

Bryant called the test obsolete and said it "does not lend itself to equal opportunity to qualify for the hitherto culturally deprived and disadvantaged groups."

Robert V. Nystrom, Motorola attorney, disputes this. He said the test was "color blind," which means there is nothing in it that could lead a potential employer to judge the race of an applicant.

It was developed by a top psychologist at Illinois Institute of Psychology.

And now a story from the Chicago Tribune of one day after the previously read story. This one dated March 7, 1964, and headlined "Criticize FEPC Order Banning Test on Hiring—Employer Group Tells Concern at Ruling":

An Illinois Fair Employment Practices Commission ruling ordering Motorola, Inc., to halt alleged discriminatory hiring practices drew critical reaction yesterday from Chicago employers and industrial psychologists.

The Employers' Association of Greater Chicago, which represents 1,400 companies, expressed concern over Thursday's decision of an FEPC examiner that a general ability test given job applicants at Motorola was discriminatory.

Two industrial psychologists, including the author of the test, have taken exception to the ruling.

### CASE DUE FOR STUDY

Several major Chicago area industries and companies that administer ability tests to applicants are withholding comment pending a closer study of the case.

Robert E. Bryant, FEPC examiner, ordered Motorola to stop giving the test because, he said, it is unfair to "culturally deprived and disadvantaged groups."

He directed the electronics company to offer a job to Leon Myart, 6333 Dorchester Avenue, a Negro, who had charged he was denied a job by Motorola because of his race.

### RULING IS FIRST ON TESTS

It was the first time the Commission has asserted authority over the ability tests a company may use in screening job applicants, said Walter J. Ducey, executive director of the Commission.

Roland E. Fulton, president of the employers association, asserted yesterday that the FEPC should "reflect the thinking of experts in the field of testing who would be considered to be on level with the experts used by Motorola."

Dr. Philip Ash, president of the Illinois Psychological Association, said that he is not aware of any general ability test which was developed to discriminate against any group.

He also took exception to Bryant's statement that the Motorola test is obsolete. "There are other tests that are much older," he said.

### AUTHOR TELLS AIMS

Dr. Philip Shurrager, author of the test, said it was copyrighted in 1949 and has been revised several times since then.

"This test was not developed to exclude Negroes from whites," he said. "It is a test designed to help evaluate the trainability of a prospective employee.

"I know of no way to evaluate that a test in itself is discriminatory toward any group."

Shurrager is a professor at Illinois Institute of Technology.

### COMPANY TO APPEAL

Robert V. Nystrom, attorney for Motorola, said the company will appeal the decision "all the way to the Supreme Court if necessary."

"The question at hand," Nystrom said, "is whether an employer in Illinois is going to be permitted to set the education, moral, and aptitude standards for its employees, or whether the State will dictate the standards."

Nystrom asserted that the Motorola firm, located at 9401 Grand Avenue, Franklin Park, is a leader in the electronics field with its integration program.

Fulton, the employers' association head, said Motorola, Inc., is one of the best integrated companies at all job levels in the State.

And another Chicago Tribune article of March 12, 1964, headlined "Charges Firm Can't Get Fair FEPC Hearing—Cites Negro Official in Motorola Case":

Robert V. Nystrom, attorney for Motorola, Inc., charged yesterday that his firm could not be given an impartial hearing by the Illinois Fair Employment Practices Commission because the examiner, George N. Leighton, an attorney, is a Negro.

Nystrom said that a Negro hearing officer could not give an objective ruling when the complainants are Negroes.

"The Negro community is in a state of emotional unrest," Nystrom said. "Great pressure is put on its leaders. These leaders are powerless not to yield to the followers."

### CITES "UNCLE TOM" CHARGE

"For example, Bill Berry, director of the Urban League, has tried to be objective in some of his statements and because of this he has been called 'Uncle Tom' in some Negro publications."

Leighton referred to Edwin C. (Bill) Berry.

The FEPC is hearing charges that Motorola had five women job applicants undergo tests "which were unfair to culturally deprived and disadvantaged groups."

The applicants were refused employment. Two failed intelligence tests and three did not pass the manual dexterity examinations, the firm said.

### FIRM WINS POSTPONEMENT

The hearing was continued to April 4 at Nystrom's request. He said he will file a petition asking circuit court to force the FEPC to produce certain records which he said will enable him to find proof of his charges.

Nystrom also charged that Charles W. Gray, chairman of the FEPC, was "trying to serve two masters." Gray is personnel director of Bell & Howell Co.

"Bell & Howell has 4,000 employees, and less than 20 Negro workers," Nystrom said.

Mr. STENNIS. Madam President, will the Senator yield for a question?

Mr. TOWER. I yield to the Senator from Mississippi for a question.

Mr. STENNIS. I ask the Senator if he recalls that last June or July, about the time the bill was in its inception and was presented to Congress, a great deal was written and said about job quotas, and if there was much agitation for the assignment of jobs through an FEPC on the basis of quotas or population? In other words, if there should be a certain percentage of white people in a community, they would get a certain percentage of the jobs available, based on population, and the colored people would get another quota.

The Senator will recall, I am sure, that the proponents of the bill were quick to say that the bill did not require the assignment of jobs based on quotas. Nevertheless, my question to the Senator is, If a law like this were put into operation, would it not be the natural and logical thing for the employer—it would be almost necessary for him to do to avoid being charged with unlawful discrimination—to adopt a formula of assigning employment on a quota basis? That is the only way out.

Mr. TOWER. The Senator from Mississippi was not in the Chamber a short while ago, when the Senator from Georgia [Mr. TALMADGE] and I had some colloquy on this same subject. The Senator is absolutely correct.

Mr. STENNIS. I am sorry I missed it.

Mr. TOWER. Although the bill does not require a quota system, certainly this would inevitably be the net effect of it, because in its enforcement each time someone applied for a job and is denied one in the community, a community which might have a considerable mixture of ethnic groups, we would have to fall into the pattern of a job quota system, as the Senator noted. Certainly the effect on the company would be to virtually compel it to establish a quota system to avoid harassment from various suits alleging discrimination.

For example, we could simply take into account the various ratios in each group in a community, and rather than hiring on the basis of experience and ability, simply hiring on the basis of an ethnic background to make sure that every ethnic group is represented, more or less the same ratios that occur in the population, trying to avoid harassment by the Commission.

Mr. STENNIS. So when that condition is reached, and when that happens, we shall not only have destroyed in this country the right of an employer to lay down some of his own qualifications and some of his own guidelines for selecting those for his business who he thinks will make it better and improve it, but we shall also have put the employer in a straitjacket and further destroyed, in a large way, the initiative and the desire of the individual employee to better his training, better his skill, and better qualify himself for jobs and promotions.

It seems to me that the effect of the bill would be to give encouragement to the indolent and the lazy, to those lacking in zeal or ambition, to those lacking in company loyalty, because the bill also provides that the Commission may determine whether there has been discrimination in the matter of promotions or advancement.

I should like to hear the Senator develop that point. That was my next question. The same reasoning would apply, would it not?

**Mr. TOWER.** It would. What incentive would there be for a man who felt he might have some reasonable chance of getting ahead with the Equal Employment Opportunity Commission? What incentive would there be to force him to do a job well, when he can seek out this Federal "blackmail" and gain a promotion with it. This is an insidious and dangerous provision of the measure, because it would not apply only to people applying for a job, but it would apply to people in existing jobs. The bill provides that there may not be any discrimination in classification for job purposes. This means that a person who is perhaps competent to do only a particular kind of manual work and has no particular skill, might try to project himself into a skilled position merely by alleging he has been classified for a menial position because he belongs to some religious faith, or an ethnic minority group.

**Mr. STENNIS.** The Senator is pointing out that this regulation would put the employer in a straitjacket as concerns employment of new personnel, and would regulate and control him on the basis of promotions. Would not the same thing occur and apply also with reference to his ability to discharge someone?

**Mr. TOWER.** Absolutely. That authority is included in the bill. As the able Senator is noting now, this is a very comprehensive measure. The result is the virtual dictation of all employment practices to management by the Govern- of the United States. The employer would be inhibited in discharging personnel as well as hiring personnel. He would also be inhibited in the classification of personnel for job purposes. He would be inhibited in promoting and demoting. This is an extremely comprehensive measure. I do not see how, if it were rigidly enforced, we could avoid virtual complete Government dictation to management in employment practices.

**Mr. STENNIS.** I believe the comments of the Senator from Texas are fully warranted. They are based on sound commonsense. Will the Senator yield to me for another question or two along another approach to the same bill which the Senator is so ably discussing?

**Mr. TOWER.** I am very glad to yield to the Senator from Mississippi.

**Mr. STENNIS.** If it is a matter of right for a person to be employed, to have a job, or to be considered for a job against the will of the employer—or if that should become a right under the American system, what about the people who would apply for jobs with employers who employ fewer than 25 people? They would not be covered, would they? How could they be discriminated against, if the provision we are discussing is a matter of right? I believe it is not a matter of right.

**Mr. TOWER.** I was just about to seek clarification from the Senator on that question, because I know that the Senator is an able lawyer and judge, and I was sure he did not conceive it as a right guaranteed in the Constitution.

**Mr. STENNIS.** No—the very opposite; but the bill proceeds on that idea.

**Mr. TOWER.** The Senator is correct. The bill does proceed on that assumption.

**Mr. STENNIS.** Yes.

**Mr. TOWER.** Nowhere will there be found in the Constitution any specific guarantee of this type. The 10th amendment to the Constitution provides:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The ninth amendment provides:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The power to enforce some right which might remain to the people by virtue of the ninth amendment does not reside in the Government of the United States.

**Mr. STENNIS.** The Senator is correct.

**Mr. TOWER.** Because its powers are specifically spelled out. Certain powers are enumerated only to functions of the Federal Government, to enforce and protect those rights, privileges, and immunities which are spelled out in the Constitution.

**Mr. STENNIS.** The Senator has clearly and soundly expressed it. Going to another illustration, if this is a Federal right—and I do not believe that it is a Federal right, but the bill proceeds on the idea that it is—with reference to being considered for a job, what reason have we for leaving out of the operation of the bill employees and prospective employees who would come under the State FEPC law? It is proposed to exempt them, as the Senator knows. If a Federal right is involved, have we the power to discriminate against such persons?

**Mr. TOWER.** It seems to me again we are acting inconsonant with the spirit if not the letter of the Constitution, when we consider the measure to apply to some States and not to others. I was under the impression that at the Constitutional Convention in 1787 it was recognized that every State as a corporate entity was equal. Indeed, the Senate of the United States—the body in which the Senator from Mississippi and I now sit—is a manifestation of that recognition of the purely Federal character of the system, with every State being equal.

My State has a larger population than that of the State the Senator from Mississippi represents, but his State is better represented by the presence of the distinguished and able Senator from Mississippi. But it is intended that every State, regardless of its size, shall have an equal number of representatives in the Senate. This recognizes the Federal character of the system. Therefore, our laws must also recognize the Federal character of the system by making it equally applicable to all States unless there are some unusual or extenuating circumstances.

For example, consider the matter of tidelands. When Texas came into the Union, it was recognized that she enjoyed riparian rights to land out to three ocean leagues. This does not necessarily apply to all States, but under ordinary circumstances, in legislation of this sort, certainly the law must be made equally applicable to all States of the Union.

**Mr. STENNIS.** The Senator has made that point very clear. There is another question I should like to ask. If we are to consider it a Federal right for a person to have a job in factory A, what difference does it make whether factory A is engaged in interstate commerce? That is not the test, if it is a right that we are talking about. We know that the commerce clause in the Constitution is limited. My point is that if these are Federal rights, we ought to amend the Constitution in order to make it clear that this is a Federal right that a person has, whether he is engaged in interstate commerce or not. It ought to be a right expressly enumerated in the Constitution, if that is the case, rather than merely limiting the way, as it is now.

**Mr. TOWER.** I agree with the Senator from Mississippi. It seems to me that the correct approach of the proponents of the pending measure would be to place it in the form of a constitutional amendment, to be passed by two-thirds of the membership of both Houses and submitted to the States for ratification, either in convention or in the legislatures of the States. It should be made a part of the Constitution. If such a procedure were followed and the measure were ratified and made a part of the Constitution, we in Congress would have the responsibility of enacting implementing legislation to enforce that provision of the Constitution. That was the situation, for example, with respect to the Volstead Act, to implement the 18th amendment. That was another illustration of legislating morality, as the present endeavors attempt to legislate morality.

That is the absolutely correct approach. I do not know what the outcome would be if the measure were submitted in that form, but I believe a pretty good guess would be that if the measure were to be placed before State conventions or State legislatures for ratification, it would not be ratified.

**Mr. STENNIS.** I believe the Senator is correct. The prospect that it would not be ratified is proof that people do not look at this as a Federal right. We are, therefore, going beyond the letter and spirit of the Constitution of the United States as written now when we try to legislate on the theory that it is a right.

Mr. TOWER. I believe that our Founding Fathers had pretty well conceived of all the basic rights or God-given rights that are inherent in man by his nature as a creature of God, and that pursuing the matter further, by trying to define additional rights, gets us into trouble, because as we attempt to define additional rights, we run the risk of encroaching upon those we already recognize, either through the Constitution or through law or tradition, as belonging to the people. In enforcing rights—even those that we already have—we always run the risk of encroaching on rights in the process of enforcement.

Mr. STENNIS. The Senator is correct. An illustration of that is the employer who has 26 people working for him in a little factory, or a little manufacturing plant of some kind, which he has built up with his own efforts and ingenuity and planning over the years to develop it into a little enterprise. It is affording him a living and a competence for his old age. He is trying to select his employees to the best of his judgment on the basis of who will contribute the most to his business.

Mr. TOWER. At least for the time being he has that right.

Mr. STENNIS. Yes. It is a basic right. He has the right to select the people whom he wishes to have work for him, whether he believes that they will make more money for his business or whether he believes they will afford him the satisfaction that he seeks. That is a basic right.

The bill, in proposing to give prospective employees rights of employment, is doing so at the expense of the employer who has built up the business.

Mr. TOWER. Yes.

Mr. STENNIS. It illustrates the Senator's thought with reference to taking rights away from someone and giving them to someone else.

Mr. TOWER. Yes. If we should pass the bill we would not permit the employer to have that choice.

This tends to militate against what we might call the democracy of the marketplace. There is no democracy like the democracy of the marketplace. A dollar bill can represent a great number of things to a great number of people. One thing that it is, and that Americans should recognize it is, is a ballot.

When a dollar is spent, it is a ballot, which determines the goods that are to be produced. When our right or privilege or license to spend our money as we see fit is taken away from us, such action is destructive of the only kind of absolute democracy that we have in this country.

When an employer is compelled to hire a man regardless of whether or not he produces in a way that is satisfactory to the employer, the democracy of the marketplace is destroyed. Labor is marketable. If an employer cannot choose how he is to spend his money for labor, for talent, and for intellect, economic democracy is destroyed. Economic democracy is a necessary concomitant of political democracy. If economic democracy goes down the drain in this country, we no longer have political democracy, regardless of what the starry-eyed planners say.

Mr. STENNIS. Then it will be some other form of government, not the kind we have now.

Mr. TOWER. It will have to be totalitarian in form, whether it is a dictatorship or an oligarchy. I would just as soon be governed by a dictator as by a committee. It will be some form of an authoritarian system. We would no longer have our liberties.

Mr. STENNIS. The Senator has given an excellent illustration and answer. I thank him very much for yielding to me.

Mr. TOWER. I continue to read from news reports on the Motorola case.

On the same day, March 12, 1964, another newspaper, the Chicago Sun Times, published the following article:

### MOTOROLA TO SEEK A COURT ORDER ON FEPC RECORDS

An attorney for Motorola Inc. said Wednesday he would try a circuit court to force the Fair Employment Practices Commission to supply him with all its records.

He also wants Charles W. Gray, commission chairman, to testify as his witness in a case brought against Motorola by five women. They claim they were denied jobs as wirers and solderers by the electronics equipment manufacturer because they are Negroes.

After a series of impassioned speeches, the attorney, Robert V. Nystrom, 77 West Washington, obtained a continuance of a hearing in the case while he seeks a writ of mandamus requiring that the commission do as he wants.

He said he would be ready to go into court Friday.

As the FEPC session began in a city hall meeting room for judges, Nystrom protested a refusal by the commission to issue subpenas supplying the records and Gray.

Such subpenas must be signed by Gray. The chairman turned down the request after a commission ruling that the subject matter covered was not pertinent.

#### SEEKS RACIAL DATA

Nystrom also sought to subpena the names, addresses and racial backgrounds of examiners appointed by the commission to hear FEPC cases. This was refused.

Joseph Minsky, technical adviser to the commission, said three examiners have been white and two Negro. The Negroes heard two cases against Motorola as well as others.

Nystrom moved for a change of venue to another examiner because George N. Leighton, the hearing examiner on the case, is a Negro. He claimed the FEPC can control the outcome of cases by racial selection of the examiner.

"Selection of hearing examiners is not by accident," Nystrom charged. "It is by calculated design."

#### VENUE CHANGE DENIED

He claimed the Negro community is in such a high state of emotional unrest that a Negro would not dare rule against another for fear of being branded an Uncle Tom, a term used to denounce a Negro who ingratiates himself with whites.

Leighton said he would be much disturbed if he thought this were true. He said he was equipped to give a fair hearing. He denied the change of venue as he had a previous similar motion.

Complainants in this case are Mrs. Katie Stewart, of 2920 West Walnut; Mrs. Helen Rayner, of 6558 South Rose; Mrs. Margaret Thornton, of 1509 South Millard; Mrs. Margaret Brand, of 4928 South Forrestville; and Mrs. Lily Carthan, of 2245 West Lake.

Also, Madam President, the distinguished New York Times columnist, Arthur Krock, wrote on this topic on March 13, 1964, as follows:

### IN THE NATION: A PILOT RULING ON EQUAL EMPLOYMENT OPPORTUNITY

WASHINGTON, March 12.—The Illinois Fair Employment Practices Commission has just furnished a graphic illustration that when a political arm of government assumes jurisdiction over the hiring and firing policies of private business, the tendency is to expand this authority into autocratic control. The ruling of the Illinois FEPC by which this tendency was strongly established has nationwide importance because title VII of the pending equal rights bill proposes to make this jurisdiction a Federal power, exercised by an Equal Employment Opportunity Commission.

If Congress approves the pending measure, with title VII included, and the constitutionality of this section is affirmed by the Supreme Court, the way will be open to project the rationale of the Illinois FEPC ruling throughout the free enterprise system of the United States. Then a Federal bureaucracy would be legislated into senior partnership with private business, with the power to dictate the standards by which employers reach their judgments of the capabilities of applicants for jobs, and the quality of performance after employment, whenever the issue of "discrimination" is raised.

The administration bill of which title VII is a part has never been submitted to either House or Senate committees for the customary and essential hearings and analysis. Consequently, if the Senate motion to send the measure to committee fails of adoption, as is expected, only the Senate rules which permit unlimited debate unless terminated by cloture will expose the bill to the intensive examination made imperative by its vast new donations of Federal power in a domain long established as the private sector.

The assumption of authority by the Illinois FEPC stresses how vital this examination is to the general interest. The State commission ordered Motorola, Inc., to cease subjecting job applicants to its overall ability test on the finding that the test is unfair to "culturally deprived and disadvantaged groups." The test was compiled and copyrighted by Prof. Philip Shurrager of the Illinois Institute of Technology in 1949 and, with some revisions, has been in use since then. He defined its objective as "not to exclude Negroes from whites * * * but to help evaluate the trainability of a prospective employee * * * and I know of no way to evaluate that a test in itself is discriminatory toward any group."

#### THE FIRST INSTANCE

Nevertheless, exercising for the first time an authority over the ability tests an employer may use in screening applicants, a State FEPC examiner ordered Motorola, Inc., not only to disuse Shurrager's questionnaire, but to offer a job to a Negro who charged he was denied a job because of his race. The Employers Association of Chicago, representing 1,400 companies in the area, challenged the order. And, in announcing that Motorola, Inc., would appeal the action "all the way to the Supreme Court if necessary," its attorney said:

"The question at hand is whether an employer in Illinois is going to be permitted to set the educational, moral, and aptitude standards for its employees, or whether the State will dictate the standards." If title VII survives the Senate debate, the scope of this "question at hand" will spread from Illinois to the Nation. Meanwhile the attorneys for Motorola, Inc., have contended that the company cannot depend on a fair hearing of its rebuttal because the hearing officer designated by the commission is a Negro.

The company's finding that the applicant had not passed the Shurrager test is complicated, so far as his particular case is concerned, by the announcement of the Illinois FEPC that he passed it on reexamination in its own offices. But, in commenting on the examiner's order, the Chicago Tribune stated the issue in its broad perspective.

The examiner had also ruled that the questions in the test did not take into account "inequalities and differences in environment," thereby favoring the "advantaged groups." This, said the Tribune, "may be reduced to the absurdity that any test acceptable to the FEPC would be one which brought out no distinction whatsoever among competing applicants. How then is an employer to develop any basis for making a choice. So here the doctrine is enunciated that a political appointee is going to dictate to business (its) standards of selection."

For a view from a suburban Chicago newspaper, let us consider an editorial published in Life Newspaper of Cicero, Berwyn, Stickney, and Forest View, Ill., on March 15, 1964.

The editorial reads:

### Civil Rights Issue

This community reacted so immediately and effectively last year when an attempt was made to pass a forced housing measure through the Illinois General Assembly that it was credited with turning the tide and causing the defeat of the measure at Springfield.

What might have happened had a fair housing commission been set up to administer such a forced housing law, had it passed, might best be shown by what is happening to Motorola, Inc., which is now being charged with discrimination in hiring practices by the Fair Employment Practices Commission.

The Commission is hearing charges that five Negro women applicants, who failed tests, were the subjects of discrimination because the tests were "unfair to culturally deprived and disadvantaged groups." The Commission will be asked in circuit court to produce records to show proof of the charges.

Two of the women failed intelligence tests and the other three did not pass the required manual dexterity tests, according to the company. Yet, the Motorola Co. is being charged with discrimination, even though white applicants must pass the same tests in order to obtain employment.

There seems to be no concern for the 35-year-old Motorola Co. which last year had sales of $377 million and had 19,000 employees whose selection for their jobs apparently was responsible for building the company into one of the world's largest electronic firms. Any rights they might have to determine the qualifications of their employees in order to maintain quality would go down the drain if job applications had to be considered on the basis of being "culturally deprived" or from "disadvantaged groups."

This same reasoning runs through the whole fabric of the civil rights issue. While employers are forbidden to record such data, the civil rights bill now before the U.S. Senate would require the Census Bureau to assemble registration data on basis of race, color, and national origin.

Civil rights demonstrators have violated numerous laws, while demanding that laws favoring them be enacted because Negroes are a sizable and certainly vocal minority. They now want jobs for members of their race on the percentage of the population, rather than on ability and skill. There would be absolute chaos if all nationalities demanded similar consideration.

Even moderate Negro leaders have been discredited with "Uncle Tom" references where they have urged restraints on demands, sit-downs and boycotts as damaging the cause of Negro equality. The most ardent and vociferous leaders have taken over and are doing irreparable damage to the civil rights cause. There is bound to be a white reaction.

A few days after the previous editorial was printed, the Illinois State Fair Employment Practices Commission issued a news release, March 18, 1964, which the commission said clarified the issue in dispute. Here is that news release:

### FEPC News Release

Over the course of the past few days much has been written and said about the matters before the Illinois FEPC which involve Motorola.

The commission now believes that it is important to state the background and facts in these matters.

In the case of Margaret Thornton, the first case involving Motorola to come before the commission, a conciliation conference was set and representatives of the Motorola Co. did not come to the commission offices for the conference.

Therefore, in both cases the Motorola Co. has failed to utilize the most fruitful and productive procedure provided under the law. Ninety percent of the cases in which the commission has found substantial evidence of discrimination have been settled in conciliation conferences, attesting to the efficacy of this procedure as a means of mutually acceptable settlements.

The law is rigorous in spelling out the procedure which follows after the failure of a conciliation conference. There must be a public hearing. Therefore, the commission set a public hearing in both cases involving Motorola.

In the Leon Myart case, the hearing examiner appointed by the commission was Mr. Robert Bryant, Esq. Mr. Bryant is not an employee of the commission; he is an individual attorney in private practice, selected by the commission on the basis of his qualifications and his interest in serving in this public capacity.

Mr. Bryant's opinion does not have the force of law. His opinion is not the opinion of the commission because the commission has not acted upon his opinion. His opinion is his recommendation to the commission, and in passing this opinion up to the commission, he has fulfilled his obligations as a hearing examiner.

The law provides that the commission may hear arguments from both parties if there is an appeal to the commission for a review. In any case under review after all arguments are heard and the transcript reviewed and all evidence adduced, the commission will then make a determination about the hearing examiner's opinion.

Statements in the press that have called this an order of the Illinois FEPC are false.

Statements in the press which describe this as a "bureaucratic seizure of power" are clearly false because there has been no seizure of power to do anything. The fact is that the commission has not acted.

As the commission sets about to seek a just and equitable outcome of this matter, it will seek expert advice and opinions on the matter of preemployment testing in order that we will not be acting in a vacuum. No member of the commission has any preconceptions about the validity or invalidity of Mr. Bryant's findings. Until the commission makes it final determination, Mr. Bryant's opinion is just that—an opinion and a finding.

This commission seeks to work on the most pressing economic and social problem of our times in an atmosphere already charged with unrest and emotion. The explosive potential of this atmosphere is heightened by misinformation, distortion, and misunderstanding. Every citizen has the right to know the facts in these matters, for without the facts the community is in danger.

Things took a little lighter turn the next day, March 19, 1964, when the Chicago Tribune printed this editorial:

### The Motorola Rule and Cassius X

A reader who has taken note of the ruling of an Illinois State FEPC examiner against Motorola, Inc., has made the logical application and extension of this new doctrine to another flagrant case involving what is now termed "discrimination."

In dealing with a complaint that Motorola had failed to hire a Negro job applicant, the examiner ruled that a general ability test given by the company to all persons seeking jobs was discriminatory and unfair, in that it did not make allowance for "culturally deprived and disadvantaged groups" and "inequalities and differences in environment."

Motorola was therefore ordered to hire the rejected applicants and was further directed to stop using ability tests. The test in point had been devised in 1949 by Prof. Philip Surrager, of Illinois Institute of Technology, and, with certain revisions, had been in use since then.

Our correspondent is reminded that for many years the U.S. Army has been using various screening tests to determine the mental, physical suitability of young men receiving greeting through their draft boards, and that in a recent report to selective service examination the world's heavyweight champion, Cassius Clay, was not given passing marks.

Mr. Clay, as a Negro, may legitimately contend that he is the victim of discrimination, and the claim would perhaps have more validity than in the case of the Negro job applicant at Motorola.

In developing this point, our informant cogently argues: "The rejection of this pugilist constitutes over discrimination, in the light of the recent fiat of the FEPC examiner. Whatever tests are used to qualify persons for military service are obviously obsolete and must be discontined, as they penalize those whose misfortune it is to have weak mentalities or personality defects."

* * * * *

We are disposed to agree that Clay, a proud member of the Black Muslims, has suffered a serious deprivation of his civil rights in being denied the equality enjoyed by all Army privates. Certainly Secretary of Defense McNamara, General Hershey, of the draft apparatus, and other high brass have failed to consider that they do not take into account cultural deprivation and disadvantage, or inequalities and differences in environment.

It may, of course, be said that a heavyweight champion is merely unequal because he is segregated by that lofty position—i.e., all the rest of his fellows are not heavyweight champions with him. But whether a man who picks up a couple of hundred thousand dollars for a few minutes' work and is given to riding around in fancy cars which are status symbols in themselves can be said to be the victim of environment deprivation is a point subject to argument.

The landmark decision in the Motorola case thus arouses collateral issues of remarkable complexity, and we should say that the doctrine, if it is to stand, must be applied universally. Justice will therefore only be served when Cassius is given his full rights of citizenship and admitted into that exclusive club known as the Army.

It may be, however, that the Black Muslims, who choose to segregate themselves to avoid contamination by whites, will prefer to have an army of their own, as they sometimes seem to imply. In that event, Mr.

Clay might prefer to serve in the ranks of Islam, and, like John Okello, late of Zanzibar, to vest himself with the rank of field marshal.

A further development in the FEPC case came the next day, March 20, 1964, and brought into the picture for the first time the U.S. Air Force as a defense contractor, thus adding further to the difficult position facing both the business and the State bureaucracy.

That new situation is described in a Chicago Tribune article headlined:

### Military Aid Backs Bias Ruling—Joins Motorola Dispute Through Contracts

An Air Force officer has agreed with an Illinois Fair Employment Practices Commission examiner that Motorola, Inc., should hire a Negro who claimed he had been rejected because of his race, it was revealed yesterday.

The applicant, Leon Myart, 27, of 6333 Dorchester Avenue, filed complaints both with the FEPC and the President's Committee on Equal Employment Opportunities.

### BASED AT O'HARE

Motorola, through its military electronics division, 1450 North Cicero Avenue, has a military contract to provide all service and maintenance for the telemetry acquisition and microwave relay system for Edwards (California) Air Force Base. Military contracts amounted to 15 percent of Motorola's business in 1963.

The military investigation was made by Frank Fager of the Air Force Contract Management District at O'Hare International Airport. He is charged with policing the fair employment terms of military contracts.

On April 2, 1964, I received the following letter from the Department of the Air Force, Washington, concerning this case:

Dear Senator Tower: This is in response to your inquiry concerning certain employment matters relating to Motorola, Inc.

The Air Force has not been involved in the apparent discussions which have arisen as a result of the preliminary findings by a hearing examiner of the Illinois Fair Employment Practices Commission concerning Motorola, Inc. Mr. Leon Myart filed a complaint of alleged discrimination in employment against Motorola, Inc., with the Illinois Fair Employment Practices Commission and a simultaneous complaint with the President's Committee on Equal Employment Opportunity. The President's Committee requested the Air Force to investigate the complaint against Motorola since the Air Force has contract management cognizance of this company.

The Air Force report of investigation of the complaint of alleged discrimination in the employment of Mr. Leon Myart against Motorola, Inc., has not yet been submitted to Air Force Headquarters by our field activity. Present procedures require that such reports of investigation of complaints of alleged discrimination in employment against Air Force contractors be reviewed by Air Force Headquarters and forwarded, together with recommendations, to the President's Committee on Equal Employment Opportunity for review and disposition.

Your interest in Air Force matters is appreciated.

Sincerely,

William E. Poe,
*Colonel, U.S. Air Force, Congressional Inquiry Division, Office of Legislative Liaison.*

### HIRING IS ORDERED

Fager acted under the authority of a nondiscriminatory clause in the Air Force-Motorola contract. The clause specifies that if a contractor discriminates against an employee because of race, creed, color, or national origin, the contract may be canceled and the contractor barred from further U.S. dealings.

Robert Bryant, Hearing Examiner for the FEPC, 2 weeks ago ordered Motorola to hire Myart and to stop giving a general ability test to job applicants because the test is discriminatory to disadvantaged groups. Bryant is a Negro.

Charles W. Gray, Chairman of the FEPC, said Wednesday that Bryant's order is not binding upon Motorola. The Commission will meet today to set a date for a full hearing on the case.

### ASKED TO GIVE TEST

The Air Force's Fager last fall asked Prof. Phil Shurrager of Illinois Institute of Technology, author of the test, to administer it to Myart. Shurrager was not aware that Myart had filed a complaint with the FEPC or that it was the fourth time Myart had taken the same examination.

Myart had taken the test at Montgomery Ward & Co., Motorola; and in the FEPC offices, 205 West Wacker Drive, it was learned. He scored six, four, and seven, in that order, none of which would qualify him for the job he was seeking at Motorola.

### GETS HIGH SCORE

The fourth time he scored a 15, considered high. After a 10-minute interval, Dr. Shurrager gave Myart a different test of equal difficulty. Myart scored a nine.

The tests were turned over to Fager. He then asked Motorola to reconsider the Myart case.

Next, I want to read a story from the Chicago Tribune of March 21, 1964, headlined "Boss Has Right To Hire Best—FEPC Chairman Gray Clarifies Earlier Statement":

Charles W. Gray, chairman of the Illinois Fair Employment Practices Commission, explained his position yesterday on the hiring rights of Illinois industry.

"Every employer has the right to get the highest qualified persons he can get," Gray told the Tribune. "The Illinois fair employment practices law is a merit law; that is, the person with the best qualifications should get the job."

The chairman discussed his position during a break in the FEPC meeting yesterday in the Commission's offices at 205 W. Wacker Drive.

### JOB DISCRIMINATION

The FEPC is involved in an alleged job discrimination case against Motorola, Inc., that has drawn wide interest.

Leon Myart, 27, of 6333 Dorchester Avenue, a Negro, filed a complaint with the FEPC that he had been rejected by Motorola because of his race.

Subsequently, Robert Bryant, a Negro FEPC examiner, ordered Motorola to hire Myart and to stop giving an ability test that he said was discriminatory to disadvantaged groups.

The Commission has received Motorola's petition to review the decision of Bryant. Myart has not filed a petition and has 1 week to do so. The Commission said yesterday it will set a date for a full hearing after receiving Myart's petition.

Gray called a press conference Wednesday to assert that Bryant's order was not binding and that the case would get a full hearing.

### LOWER THE STANDARDS

Gray clarified a statement he made Wednesday night before the electronics personnel association meeting in the Svithiod Club, 624 W. Wrightwood Avenue, regarding the proposal of lower hiring standards for Negroes.

"I discussed a proposal that suggests that employers might use a lower standard in the hiring of Negroes," he said. "It was introduced for discussion, and not to reflect my views as chairman of the FEPC."

Gray acknowledged that the proposal was discussed 2 months ago at a meeting of the FEPC's public advisory committee.

"If an employer wants to set a different standard for Negroes, that is his right," he continued. "There is nothing in law that requires it."

### URBAN LEAGUE PLAN

The proposal described by Gray is one that is espoused by Whitney M. Young, Jr., president of the National Urban League. Young calls it the compensatory hiring program.

Gray, at the Wednesday night meeting, also urged employers to expand their recruiting programs. "I suggested they talk with the Illinois State Employment Service and the Urban League."

Gray said that it is the policy of his firm to hire the best qualified persons.

The following is a March 23, 1964, column by Mr. Milburn P. Akers, of the Chicago Sun-Times which reads as follows:

### DISCRIMINATION—AND JUSTICE

Discrimination, as the word is ordinarily employed today, is an ugly thing. For the word, in its present-day usage, connotes prejudice—the prejudice of a majority directed against a defenseless minority. It is usually applied to malpractices, real or fancied. in the realms of race or religion.

There is, however, another form of discrimination that has come into being; the discrimination of an organized, articulate minority as directed against a single segment of an unorganized majority. It is a form of discrimination in which government, State or Nation, too frequently joins with the organized minority at the expense of the unorganized majority.

The recent ruling in the Motorola case by examiner Robert E. Bryant of the Illinois Fair Employment Practices Commission is a prime example of organized minority discrimination, aided and abetted by government, against an unorganized majority—if, in fact, there is such a thing as a majority in this country.

Bryant held that a general ability test used by Motorola in selecting prospective employees was inequitable in that, in his judgment, it discriminated against Negroes. Some Negro applicants, lacking in educational and cultural advantages possessed by some white applicants, were assumed by him to be the object of discrimination. He ordered the company to stop using the test.

The examiner's ruling will probably be reversed by the full commission. Nonetheless, it illustrates a trend. An employer is supposed to conduct his business as a social welfare institution. He is to be required to provide employment for individuals, merely because they belong to a so-called minority group, irrespective of the abilities possessed by them.

Who is being discriminated against? The employer? Yes. But so, too, are applicants, whether white or colored, who possess ability and aptitude.

Society is responsible, in many such cases, for the fact that some applicants lack the cultural and educational background to pass such tests. But is that sufficient reason to require an employer to make up for the failures of society?

Is Motorola responsible for the fact that some applicants, irrespective of race, lack requisite education and aptitude required in specific jobs?

The responsibility for such lacks, whether found in a white or a colored applicant, is not that of industry. Sometimes it is the fault of the applicant himself. Many times society and government are responsible.

Why then should business firms be penalized for the failures of others? **Why then** should qualified applicants be penalized for the failures of others?

The Motorola case illustrates discrimination; the discrimination engaged in by those who would correct the evils and shortcomings found in our society by discrimination against others.

There has been far too much talk about discrimination. The tyranny of a minority is as bad as the tyranny of a majority.

We need to be more concerned in this country with justice; justice for the minorities and justice for the so-called majority as well. For there is no majority in the United States in the sense the word is ordinarily employed. A majority, even in the political sense, is a temporary grouping of minorities.

The Negro is entitled to justice. Justice demands he have equal opportunity. Justice doesn't require that he have preferential treatment; justice, in fact, should deny preferential treatment to any individual or group. It should also preclude discrimination against any individual or group, including industry.

A society or a government that has failed to provide equal opportunities for its citizens—opportunities which, if availed of, would correct many inequities—shouldn't penalize others for its failures. It should tackle the root cause of those failures.

Today's trend, as illustrated in the Motorola case, is toward the welfare state: an economic and social system which stifles incentive by reducing all to a common denominator. Aptitude and ability, the characteristics which the Motorola test sought to determine in individuals, would be disregarded. The self-sufficient, the able, and the creative will be reduced in status to that of the dependent, the illy qualified and the mediocre. For in the idyllic welfare state envisioned by the social planners all must be reduced to a common denominator; none permitted to rise as a consequence of ability, aptitude or motivation.

There has been too much emphasis on discrimination, as the term is employed today, and not enough seeking after equal justice.

The following is an editorial from the distinguished newspaper, the Wall Street Journal, which has special experience in the field of business and finance. The editorial, published March 26, 1964, reads as follows:

### DISCRIMINATION AGAINST ABILITY

One section of the civil rights bill now in the Senate would create an Equal Employment Opportunity Commission similar to several existing State commissions. So a number of lawmakers have been watching developments at the State level.

Of particular interest to some Congressmen was a recent Illinois case in which Motorola, Inc., was charged with discriminating against a Negro job applicant. The issue turned largely on a preemployment test devised by an Illinois Institute of Technology professor and used to determine the trainability of a prospective employee.

After the test was administered, the company said the applicant had failed and thus rejected him. But the applicant claimed he had in fact passed the test and had been turned down because of his race.

Before an examiner of the Illinois Fair Employment Practices Commission, the company vigorously denied the charge. It said that the test, which is used by several other companies, is "completely race free" and "administered fairly to all applicants." The company also noted that it employed Negroes at all job levels.

The FEPC examiner, nonetheless, ruled that the company in this case had been guilty of discrimination. That is a question often difficult to settle conclusively in this touchy area. But the examiner by no means stopped there.

He went on to direct the firm to stop using the test altogether, on the grounds that it was unfair to "hitherto culturally deprived and disadvantaged groups," that it failed to take into account "inequalities and differences in environment," and that it thus favored "advantaged groups."

If this judgment is approved by the Commission and stands up on appeal, the company thus will have to disregard its established standard of ability in selecting new employees. That, comments Ohio's Representative ASHBROOK, "is a long step away from saying an employer should not have prejudicial policies."

There's no way to tell how a Federal commission would work out in practice, but such State experiences show all too clearly what it could mean: Government dictation of private hiring policies. And discrimination against ability.

Next is a full page article from the March 30, 1964, issue of U.S. News & World Report. The article reads:

### WHAT HAPPENS WHEN GOVERNMENT POLICES YOUR HIRING

Civil rights legislation now before Congress poses this problem for employers: How will a law banning racial discrimination affect their hiring practices?

For an answer, some Congressmen are citing a current case in Illinois, described below:

A sample of what happens when a Government agency gets power to police a company's hiring, firing, and promotion policies now is getting widespread attention, in and out of Congress.

The case involves only one company in one State. Yet it has national implications, because:

It comes at a time when Congress is considering legislation that would give the Federal Government power to oversee the employment practices of most employers throughout the country.

This legislation—the civil rights bill that has been passed by the House and now is before the Senate—would create an Equal Employment Opportunity Commission. The idea is to outlaw discrimination in employment because of race, religion or nationality.

Some States already have such legislation, among them Illinois, where the case mentioned above arose.

### THE MOTOROLA CASE

In this case, Motorola, Inc., became involved with the State's fair employment practices commission, and was accused by the FEPC of discriminating against one Negro, although the firm says it employs many Negroes.

An examiner ordered Motorola to:

1. Hire a Negro who the company says does not meet its standards.
2. Give the Negro applicant back pay and seniority dating from the time he was first rejected.
3. Discontinue an employment test which the firm has used for years.

The Motorola case has been called to the attention of Congress by Representative JOHN M. ASHBROOK, of Ohio, with a warning that it goes beyond "any purported humanitarianism or effort to eradicate prejudice."

"This is a prescription," Mr. ASHBROOK said, "for Government control of hiring, promotion, and firing policies. Merit is to be thrown out the window. This is a long step away from saying that an employer should not have prejudicial policies."

Motorola says it will appeal, if necessary, "all the way to the Supreme Court." The examiner's order has not yet been upheld by the full FEPC of Illinois.

The Negro applicant claimed, and the examiner found, that he was rejected because of his race. Motorola said the applicant failed the employment test, with a score of four, and that the minimum acceptable grade is six. The Negro insisted that he had passed the test.

The FEPC tested the applicant, and he scored seven. The author of the test says, however, that it is not unusual for a person to raise his score on a second try.

The applicant claimed, moreover, and the examiner found, that Motorola had hired 25 white persons, and no Negroes, for jobs like that now in dispute.

### DISPUTE OVER TEST

The test at issue was devised in 1949, and later revised, by Prof. P. S. Shurrager, of the Illinois Institute of Technology. The test is used by employers besides Motorola.

The examiner found the Shurrager test "does not lend itself to equal opportunity to qualify for the hitherto culturally deprived and disadvantaged groups." He held that the test favors "advantaged groups" and thus is "obsolete" in "light of today's knowledge."

Mr. Shurrager contends that the test's objective is "not to exclude Negroes—but to help evaluate the trainability of a prospective employee." He says, in fact, that he knows of no way to determine that a test in itself discriminated against any group.

Motorola contends that the issue is "whether an employer in Illinois is going to be permitted to set the educational, moral, and aptitude standards for its employees, or whether the State will dictate the standards."

The tests, the company adds, "are completely race free and are administered fairly to all applicants" regardless of race, color, or nationality.

"Motorola," the firm says, "is one of the best integrated companies in our industry, with Negroes being employed at all job levels."

The Employers' Association of Greater Chicago has come to Motorola's defense, saying the company is "one of the best integrated" in Illinois and that "their program of integration is a model in the electronics industry."

Mr. ASHBROOK has told Congress that what has happened in Illinois could also happen under Federal legislation.

### THE FEDERAL BILL

This bill provides for a new Government agency to police the hiring, firing and promotion practices of companies with 25 or more workers.

The national FEPC—officially known as EEOC—would have headquarters in Washington, regional offices throughout the United States. There would be a staff of lawyers, investigators, and examiners.

These officials would have broad powers to require employers to keep detailed job records open for inspection. They could question employers and their workers when any suspicion of discrimination arose.

Under the EEOC, employers would be required to hire, promote and give pay raises to Negroes and members of other minorities on an equal basis with whites. It would be illegal to discriminate against any of these groups.

Prohibitions against discrimination would apply, too, to labor unions and employment agencies.

Civil suits, injunctions, fines and, in some cases, jail terms could be imposed on violators. Final enforcement would be in the Federal courts.

The Federal plan would be similar in many ways to the FEPC setup in Illinois.

If EEOC becomes law, any employer in any State, just as in Illinois, could be ordered to hire a worker, revise his hiring policies, or reinstate one who had been fired.

In line with this Motorola-Illinois case, I would like to note that another very important company has expressed grave doubts to me about title VII of this bill.

I read now a statement of the Detroit Edison Co. sent to me by that firm's executive vice president, Donald F. Kigar:

The Detroit Edison Co. supports generally the objectives of the civil rights legislation now before Congress, and especially the objective of equal employment opportunities for all our citizens. Carefully drawn legislation could, we believe, be useful in achieving this goal. However, title VII of the proposed Civil Rights Act of 1963 is extremely broad in language and is open to whatever interpretation the Government wishes to read into it. We are opposed, therefore, to title VII because it gives the President, through his appointees, almost unlimited executive power to control this company's hiring and promotion practices, thus limiting and interfering with a fundamental principle of free enterprise—management's responsibility to manage. This objection and others are discussed in more detail later in this statement.

A brief description of our company and its relationship with the community may be helpful in understanding our position.

The Detroit Edison Co. is an investor-owned electric power system engaged primarily in the generation and sale of electric energy in a 7,500 square mile area of southeastern Michigan. We serve about 1,300,000 customers concentrated largely in and around Metropolitan Detroit. We employ about 9,200 employees, mostly in semiskilled, skilled, and professional classifications. The highly technical nature of our business, and our obligation to provide uninterrupted service to our customers, make it necessary to maintain high standards of employment.

This company has a reputation for providing excellent electric service at reasonable rates. It is known in the community as a good place to work. Our personnel policies and practices have been emulated by many other companies throughout the country. We are recognized as a good citizen not only in the communities we serve, but also in our State and Nation. To this end our management and employees have contributed much time and money to worthwhile community organizations such as the League for the Handicapped, Goodwill Industries, the recently established Kennedy Foundation for Disadvantaged Youths, and the Urban League.

Our active relationship with the Urban League dates back to 1946, and currently our company president, Walter L. Cisler, is a member of the league's board of directors. A retired assistant manager of employee relations was a member for many years and continues to serve on its advisory committee. Our president and other officers of the company have been active in raising money for the Negro College Fund.

We believe all persons should have equal opportunities for employment regardless of race, color, sex, or national origin. Our employment policy of nondiscrimination is explicit and published as a company general order. Copies have been distributed to all supervisory and nonsupervisory employees. We employ qualified Negroes in various job classifications including laborer, apprentice lineman, mechanic, stenographer, meter reader, customer representative, work leader, customer serviceman, supervisor, and engineer. In our endeavors to recruit professional-level manpower, we visit many leading colleges and universities including Howard University, Fisk University, and Tennessee A & I, which are predominantly Negro. In addition we participate in High School Career Day activities which are designed to acquaint white and Negro students with employment opportunities at Detroit Edison. We cite these activities only to show that we actively pursue our policy of nondiscrimination.

Economic opportunity is the key to the solution of this difficult human relations problem. We are opposed, however, to any legislation which would eventually weaken or destroy the mainspring of economic progress for every individual citizen whatever his race, color, or creed: our system of free enterprise.

We believe title VII of the proposed Civil Rights Act of 1963 provides for an unwarranted intrusion of the Federal Government into our company's affairs. The Commission on Equal Employment Opportunity is given broad powers to administer the bill and enforce the ban on discrimination. It subjects this company to the harassment by agents of the Commission empowered to enter and inspect our premises, examine our records, question our employees, and investigate other matters which may be deemed appropriate. It would provide for onerous recordkeeping and reporting activities. In the absence of standards of proof or of evidence, Government agents would be forced to establish their own standards. Trial by jury is denied. The orders of the Commission may be enforced by injunction which deprives a citizen of protections guaranteed by the Bill of Rights against arbitrary or capricious behavior by Government officials.

The language of title VII is ambiguous or open ended in many respects. Nowhere in the bill is discrimination defined. In our opinion the Commission would ultimately control this company's employment and promotion practices, and place severe limitations upon management's responsibility for making decisions and exercising discretion in this critical area of our operations.

A situation has already developed in Illinois which is of great concern to us. Here, the FEPC ruled that general ability tests used in selection denied employment to a Negro because of his race. The argument was that the test was unfair to "culturally deprived and disadvantaged groups." Thus, merit and ability, the cornerstone of our employment practices would be set aside by such reasoning. The Detroit Edison Co. has used professionally developed and carefully validated selection tests as part of our employment program for more than 30 years. We consider them essential to maintaining the high standards of employment required in our business. These and other objective standards of selection assure the truly qualified candidate that there will be no discrimination for any reason, including that which may be based on race, creed, or color.

In the absence of well-defined standards of discrimination, we believe the Commission itself could not cope with the unlimited number of cases which would undoubtedly come before it. It would, therefore, be forced to adopt a measurable standard—most likely based on racial balance. Such a concept has already been adopted by the U.S. Department of Labor in connection with union apprenticeship programs. We understand this terminology was included in earlier drafts of the proposed civil rights bill.

To avoid charges of discrimination and extensive court proceedings, employers would be forced to employ a certain proportion of Negroes—presumably the same proportion to be found in the communities from which the employer draws his work force. We believe such a concept would have very serious consequences. It would tend to force employers to lower qualifications in order to comply, and it would threaten the job security of employees in present work groups. Such a course becomes, in effect, reverse discrimination or preferential hiring. Every employee, not merely members of a minority group, could bring charges of discrimination before the Commission. Such a situation would give rise to an unprecedented amount of Federal investigation and litigation against private business. Clearly, the result would be disastrous.

### CONCLUSION

Title VII in our opinion is one of the most drastic legislative measures ever undertaken by the Congress, opening wide the door to even more stringent Government control of private business. Title VII gives to the Commission almost unlimited power to restrict individual liberty and freedom of choice. To enact such legislation in the name of human rights is to make a mockery of the freedom which makes real social and economic progress possible. It is our earnest hope that the above mentioned defects in title VII can be eliminated before the bill comes to the floor.

The following is a fine summary of the case and the problems it raises about testing and employer rights which appeared in the Wall Street Journal on April 21, 1964, under the headline "Testing and Discrimination" as written by Todd E. Fandell:

On a cool, clear day last July, Leon Myart, a 27-year-old Negro, strolled into the employment office at Motorola, Inc.'s huge manufacturing plant in suburban Franklin Park. He filled out an application, took a 5-minute general ability test and left.

Today, 9 months later, the seemingly innocuous test Mr. Myart took at Motorola has evolved into a controversy of national import, becoming enmeshed in the great civil rights debate in the U.S. Senate.

The controversy grew out of a March 5 decision of a hearing examiner for the Illinois Fair Employment Practices Commission. The examiner, Negro Attorney Robert E. Bryant, ordered Motorola to stop using the general ability job test because it discriminated against "the hitherto culturally deprived and the disadvantaged groups." The ruling was the first on record in which any of the more than 30 State FEPC's had asserted authority over tests a company may use in screening job applicants. True, the ruling still may be overturned by the full commission or the courts, but opponents are fighting it on the presumption it at least will be upheld by the commission.

### REACTION EXTENDS TO CONGRESS

The ruling has raised the obvious question whether a Government agency should have the power to regulate employment standards of a private company. Judging from the reactions, coming fast and at times furious, the Motorola case has been swept up in broader considerations of civil rights. Congressional foes of civil rights, some business groups and editorial writers are citing the ruling as an example of dictatorial powers and harassment the Federal Government would exercise in telling employers whom they may hire if the civil rights bill now being debated in the Senate is passed in its present form.

Such powers, it's argued, would flow from the proposed authority for the Federal Commission on Equal Employment Opportunities provided under title VII of the bill. This section has emerged as a central point of the debate, with Senate Minority Leader DIRKSEN leading attempts to amend it. Voting on the amendments is due to take place this week. The Motorola case has had no small part in spurring this effort to amend the bill. It also is somewhat embarrassing to civil rights advocates, to whom the timing of the case may seem a bit unfortunate.

To understand the Motorola case, a brief review is necessary. Mr. Myart was responding to a newspaper ad for troubleshooters who check radio, television, and stereo sets for defects as they come off the production line. Motorola says Mr. Myart scored a four on the test, two points below its minimum to qualify for further testing and acceptance. But the company couldn't produce the answer sheet to prove he had flunked. Mr. Myart insists he passed and did, in fact, do so on several subsequent occasions during the course of State and Federal investigations of his complaint.

The examiner, largely on the basis of Mr. Myart's background in electronic work and Motorola's inability to prove his score, ordered the company to employ Mr. Myart. After disposing of the case on these grounds, Mr. Bryant went on to ban the test, devised in 1949 and not revised since, as discriminatory and obsolete "in the light of today's knowledge" of intelligence testing.

Motorola vigorously denies the test discriminates in any way against Negroes and contends it has every right to use it. "This test was not developed to exclude Negroes," says Dr. Phillip Shurrager, author of the test and chairman of the psychology department at Illinois Institute of Technology. "It is a test designed to help evaluate the trainability of a prospective employe," Dr. Shurrager adds. "I know of no way to evaluate if a test in itself is discriminatory toward any group."

The Employers' Association of Greater Chicago jumped to Motorola's defense, claiming surveys conducted by Dr. Shurrager and his associates proved the Motorola test was "race free" and the FEPC ruling did not "reflect the thinking of experts in the field." Robert V. Nystrom, Motorola attorney, maintains the issue "is whether an employer in Illinois is going to be permitted to set standards for its employees or whether the State will dictate the standards." And in the U.S. Senate, Senator JOHN STENNIS, Democrat, of Mississippi, warned that if the proposed Federal commission can "go to the extent of determining what must be in a test given by an employer, it can set the educational, moral, and aptitude standards for all employers." On the other hand, a number of academic authorities and civil rights groups contend the real issue goes deeper to what they term the discriminatory nature of even the most sophisticated intelligence tests.

Indeed, this issue is not new. It has troubled social scientists and educators for a number of years. The discrimination that Mr. Bryant found in the testing process also last month led the New York City Board of Education to abolish use of intelligence tests in the Nation's largest public school system. The move was in response to increasing charges that such tests are middle-class oriented and slanted against slum children, especially Negroes and Puerto Ricans.

### SCHOOL TESTING DROPPED

Many psychologists today are disillusioned with the validity of intelligence test scores as measures of native intelligence unaffected by experience and environment.

Testing experts conclude that, because all answers to intelligence test questions are learned responses, such tests are inherently discriminatory against persons educated in inferior schools and coming from poor home environments. A number of research efforts in recent years indicate that test scores of Negroes and whites become more nearly equal as background factors, such as socioeconomic status and schooling, are equalized.

Intelligence tests fail to reflect the ability of the "disadvantaged," the argument runs, because they ask questions using words and situations which may not be a part of a culturally deprived person's personal experience, regardless of his natural ability. A question from the Motorola test illustrates how this works on an elementary level.

One question is to choose which of the following is always present at a desert: Sun, sand, palm trees, or camels. Most persons would have little difficulty answering sand. But someone who has never seen a desert and whose grade school geography class failed to cover the topic might have difficulty though, in the words of FEPC Examiner Bryant, "he may be an expert at repairing television sets."

### A QUESTION OF RELEVANCY

But if employers don't use general tests in screening applicants, how can they establish standards of selection? "There are two important considerations involved here," says Dr. Philip Ash, president of the Illinois Psychological Association. "First, is the test relevant to the job—does it help predict whether the applicant will be successful?"

If so, then the discriminatory nature of the test, if any, must be determined, according to Dr. Ash. "This can be verified only through careful sampling on comparable groups as nearly alike in background as possible, for no test is on its face discriminatory."

Mr. Bryant contends, "There's absolutely nothing in my ruling which would preclude an employer from testing applicants in a way pertinent to the job they're seeking. Use of intelligence tests of this sort is a tool serving to discriminate between whites and Negroes, whether done deliberately or not."

On this latter point, Mr. Bryant gains considerable support among some sociologists. "Although not designed for the purpose, intelligence tests have for years been used by many employers to separate Negroes from whites in setting hiring standards," declared Dr. Raymond Mack of Northwestern University.

"It's a barrier that must be broken down," argues Mr. Bryant. He ascribes claims that his ruling would open the door to excessive government interference to persons ignorant of the weight of scientific evidence. Mr. Bryant wryly observes that several Chicago companies have quietly dropped use of job tests since his ruling. "They're probably motivated by a fear of adverse publicity, but at least it's a start," he asserts.

About the only thing certain concerning the outcome of the issue is that it will get a thorough airing before it is resolved. Motorola, which has promised to appeal "all the way to the U.S. Supreme Court, if necessary," to preserve an employer's right to set testing standards, has been granted permission by the full State commission to introduce further testimony.

Whatever the outcome of the Motorola case, the FEPC examiner has raised an issue which likely will be argued by employers and advocates of fair employment practices legislation for years to come.

I read next two articles concerning the first hearings in this case before the Illinois FEP Commission. These articles are from the Chicago Sun-Times and the Chicago Tribune of April 19, 1964.

It is carefully pointed out that there has been no final decision in this case and that, in fact, the full State fair employment practices commission has not ruled. But, I think it will be obvious that these hearings indicate the type of expense forced upon an employer by a fair employment practices law even at this early stage and simply because of the action of a single bureaucrat who has investigated and executed a fair employment practices "order." On the Federal level such harassment would be even worse.

[From the Chicago (Ill.) Tribune, Apr. 19, 1964]

## DISCREPANCIES REVEALED AT FEPC HEARING: "MOTOROLA APPEALS BIAS CHARGE"

Evidence to substantiate the claim of Motorola, Inc., that it did not deny a job to a Negro applicant because of his race was introduced yesterday at a public review by the Illinois Fair Employment Practices Commission.

Robert Wood, personnel director for Montgomery Ward & Co., testified that Leon Myart, 27, who complained to the FEPC against Motorola, applied for a Christmas season job with the mail order house in 1961.

### TAKES WARD'S TEST

Wood said that Ward's gave Myart the same job applicant test that Myart was given by Motorola when he applied there in 1962 for a job as a "phaser and analyzer."

Attorneys Robert V. Nystrom and Robert Cronin, representing Motorola, said that Myart had testified at hearings before Robert E. Bryant, an FEPC hearing examiner, that he had never taken the exam before.

Wood said that Myart's score on the exam given by Montgomery Ward & Co., was 6, which the company did not consider a passing score. Wood said the company hired him, nevertheless, as a Christmas season helper.

### ANALYZE TESTS

Dr. Phil S. Shurrager, chairman of the psychology department at Illinois Institute of Technology, who devised the test used by both Motorola and Montgomery Ward & Co., said he gave Dr. Ira Salisbury the figures on tests given to 1,072 job applicants in two Chicago area Motorola plants from last January 20 through March 16.

Dr. Salisbury, associate psychology professor at IIT and an expert statistican, said of 274 Negroes who took the test 220, or 80.3 percent passed it. Of the 798 non-Negroes who took the test, 658 or 82.5 percent passed it.

He said the variance of 2.2 percent in the rate of passing by Negroes and non-Negroes was "not statistically significant." A variance of 6 percent, he said, could be considered significant.

### ASK FOR REVIEW

Motorola considered a grade of six a passing grade on the test. Dr. Salisbury said that the mean grade of Negroes who flunked was 3.37, and the mean grade of non-Negroes who flunked was 3.31. A "mean" grade separates any given group into two equal parts, half above and half below that grade.

Motorola asked for the public review, which was held in a city hall courtroom, of the March 5 ruling by Bryant which directed Motorola to stop using the general ability test and also to offer a job to Myart.

### RULING NOT IN FORCE

Motorola attorneys introduced evidence to show that Bryant in 1962 and 1963 was the attorney in a divorce case for James Kemp, an FEPC commissioner.

The hearing was continued to May 25. Bryant's ruling is not effective until the commission acts on Motorola's appeal.

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[From the Chicago (Ill.) Sun-Times, Apr. 19, 1964]

## STATE FEPC BEGINS ITS HEARINGS IN REVIEW OF MOTOROLA HIRING CASE

A witness for Motorola Inc. testified Saturday that the difference between the performance of Negroes and non-Negroes taking a controversial personnel test recently was "statistically insignificant."

The witness, Dr. Ira Salisbury, a statistician, appeared before the Illinois Fair Employment Practices Commission in city hall.

The commission was opening its review of charges that Motorola has racially discriminatory hiring practices.

In part of his ruling against Motorola, a hearing examiner charged in February that the company's 5-minute aptitude test "does not lend itself to equal opportunity to qualify for the hitherto deprived and disadvantaged groups." The examiner, Robert E.

Bryant, ordered the company in February to "cease and desist" from using the test.

Salisbury and the test's developer, Dr. Phil Shurrager, Saturday described results obtained when it was given to 1,072 Motorola applicants from January to March.

Of 274 Negro applicants, Salisbury said, 220 (or 80.3 percent) achieved a score of 6 or higher, which Motorola regards as passing.

### NOT SIGNIFICANT

The difference of 2.2 percent between Negroes and non-Negroes was "not statistically significant" Salisbury said. A significant difference "might be 6 percent," he said.

He also told the commission that the 54 Negroes who did not pass achieved an average score of 3.37 while the 140 non-Negroes who failed scored an average of 3.31.

Under questioning, Salisbury said he had no information about the educational or cultural background of any of the applicants.

Salisbury is an associate professor of psychology at the Illinois Institute of Technology. Shurrager is head of the IIT Department of Psychology and Education.

### SCORE OF 4

The complainant in the Motorola case is Leon Myart, of 6333 South Dorchester, who has charged that the company refused to hire him because he is a Negro.

Motorola, Saturday, produced witnesses from the company's personnel and data-processing departments who testified Myart received a failing score of 4 on the test.

Robert V. Nystrom, Motorola's chief attorney, suggested that Commission Chairman Charles W. Gray and James E. Kemp, a commission member, "might not want to sit in review of the case."

After Motorola announced its intention to appeal Bryant's ruling, Nystrom contended, Gray "indicated a prejudgment against Motorola" in a statement published by the Illinois Association at Commerce.

In that statement Gray said, "Motorola refused to produce Myart's test." The test Myart filled out, was destroyed in keeping with normal company practice.

Another Motorola counsel, Robert E. Cronin, contended, that Kemp hired Hearing Examiner Bryant as his personal attorney during a 1962 divorce action.

After consulting among themselves, commission members decided Kemp and Gray would remain on the review panel. Hearings on the case are to continue May 25.

I shall summarize my remarks on the Illinois Fair Employment Practices Commission case.

What I have presented here today—without any comment on the merits of the case involved—is an example of the type of dispute which a business and a bureaucracy can find themselves embroiled in under a fair employment practices law.

If past experience is any guide, we can stand here and say that as surely as bells will ring for the next quorum call this State FEPC situation will be compounded to size beyond recall should the massive and lumbering Federal Government take an unconstitutional hand in FEPC legislation.

I remain as opposed as anybody to discrimination in hiring, but I also remain opposed to unconstitutional legislation, and I remain opposed to the passage of coercive law which can only operate to destroy the spirit of reason by which American firms are seeking to solve the equal employment problem.

Mr. President, confusion is no substitute for accomplishment; emotion is no reason to doom responsible efforts; coercion is no replacement for reason.

To pass the FEPC title of this bill would set the cause of equal employment opportunity back decades. To pass this FEPC title could damage beyond repair the free business system of this Nation which alone can provide the employment we are so worried about.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. STENNIS. Mr. President, I thank the Senator from Texas for a very fine speech on a major title of the bill. He made a very worthwhile contribution to the debate. I know that Senators who could not be present to hear his speech will be very glad to read his remarks.

Mr. TOWER. I thank the Senator from Mississippi for his fine compliment.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 168 Leg.]

Aiken
Allott
Anderson
Bartlett
Bible
Carlson
Case
Church
Cotton
Curtis
Dirksen
Dodd
Douglas
Fong
Gore
Gruening
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
Metcalf
Monroney
Morse
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Smith
Sparkman
Stennis
Tower
Williams, Del.
Young, N. Dak.
Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

## MONTANA'S CENTENNIAL TRAIN

During the delivery of Mr. TOWER's speech,

Mr. METCALF. Mr. President, I was proud to welcome Montana's Centennial Train, which stopped in Washington for 2 days last week en route to the World's Fair in New York.

The train left Montana early in April, and stopped at Omaha, Kansas City, St. Louis, Louisville, Cincinnati, and Charleston on the way to Washington, D.C.

Aboard the train were some 300 Montanans, their horses, a chuckwagon, a covered wagon, and other old-time vehicles which were part of colorful parades at host cities.

Exhibits on the train include part of Montana's priceless heritage—Russell and Remington art, a gold collection valued at $1 million.

The climax of the visit of the Montana Centennial Train was the dinner Friday night, when almost 1,000 people jammed a huge dining room to pay their respects to our distinguished majority leader, and Montanas' beloved senior Senator, MIKE MANSFIELD.

President Johnson was among the honored guests. A special guest and honorary chairman of the dinner was Burton K. Wheeler, Senator from Montana from March 4, 1923, to January 3, 1947. It was a pleasure to see Senator Wheeler, Montana's elder statesman, looking so well.

The toastmaster was Chet Huntley, a Montanan and half the Huntley-Brinkley television team.

He called attention to the exhibits on the train, including the gold. One of the thrills awaiting visitors to the Montana exhibit at the World's Fair is that of being able to pan for gold.

Mr. Huntley's enumeration of Montana names rivals the music of the names in "American Names," by Stephen Vincent Benet.

But the high point of Mr. Huntley's speech was his introduction of Senator MANSFIELD—a tribute especially appropriate from a man who has known the legislative leaders of the world. We are all 7 feet tall when we turn in admiration to MIKE MANSFIELD for his accomplishments.

I ask unanimous consent to have printed at this point in the RECORD, Chet Huntley's remarks at the Montana Centennial dinner held at the Sheraton-Park Hotel on April 17.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### INTRODUCTORY REMARKS, CHET HUNTLEY AT MONTANA CENTENNIAL DINNER, WASHINGTON, D.C., APRIL 17, 1964

It's like home coming to you, to be here with so many friends and old associates. I am relieved to see that the train did, indeed, get here on time and with what incident, I don't know. I have not had time yet to be briefed on what adventures or foul play you encountered on your long train ride through the congested wildernesses of the East. I assume that our ingot of solid gold made it and is somewhere in safekeeping.

But I would warn you, don't let this business of F.D.R. taking us off the gold standard mislead you. From all I can observe, gold is still sought after in these parts, and sometimes with a passion and dedication which would make Henry Plummer look like a greenhorn.

It's good to see Senator Wheeler here tonight and our thoughts perhaps flash back to that period when Montana supplied the "enfant terrible" of the Senate—the pair known as Wheeler and Walsh. It's good to see Senator Wheeler looking like his old self and bearing his years so lightly. And he is, as he always was, the fellow with three of a kind or better behind that stern visage.

How many of you are aware that we Montanans almost lost Burton K. Wheeler even before we could barely claim him. You know he settled in Montana because he got taken in a poker game in Butte. That was the last time anyone ever heard of Wheeler suffering that particular industry. And then in one of his political campaigns he barely escaped lynching over in Dillon. There are those who have been cursing the fellows who bungled the job ever since.

By the way it is appropriate that Senator Wheeler's book "Yankee From The West" appeared a few weeks before the beginning of this centennial year. There is a lot of Montana history in it and if you think Mississippi or Illinois has some peculiar political standards and practices, ours, not so long ago, was not so restrained either.

I trust that the hallowed walls of this old hotel here in Washington can bear one bunkhouse story. Old Billy Atwood was the cook on a ranch up the Jefferson, near Twin Bridges; and Billy could stretch truth and veracity to incredibly delightful lengths. He told us one evening how he had been hauling blastin' powder in an open wagon bed and he forgot all about the repeated admonition that he couldn't smoke around his dangerous cargo. "Well," he said, "I lit my pipe, threw the match in the wagon bed, and damned if a dozen bushels of that stuff didn't burn up before I could stomp it out."

Have you ever stood on the platform of the depot in Whitehall and watched the North Coast Limited snake down the eastern abutment of the Continental Divide into Pipestone and on into the Whitehall block with Pete Ross, Ramblin' Jack Wolverton, or Jim Berry at the throttle? Have you ever heard the lonely wail of the Empire Builder send the echoes flying across the wintry Saco flats, the Milk River, and up on the North Bench to Whitewater and the Canadian line? Do you remember the angry and excruciating snorts—the blasts of mechanical vituperation—as the great articulared mallets pulled a hundred cars and a caboose over Bridger Pass into the fertile Gallatin Valley?

Have you ever sung the music of Montana names: Chateau Cascade, Missoula, Pend O'Reille, Big Horn, Carbon, Sweetgrass, Stillwater, Silver Bow, and Glacier? Roundup, Little Butte, Judith Gap, Harlowtown, Armington, Spion Kop, Great Falls? And the ridiculous little name of Two Dot? The Lodge Pole Meadows, Half-Moon Park, Rattlesnake Canyon, Last Chance Gulch, Meaderville, and Stinky Creek? The Belts and Little Belts, Bitterroots and Tobacco Roots, Big Horns and Absarokees, the Crazies and the Little Rockies? Do you know Deer Lodge, Red Lodge, or Lodgegrass, Plentywood, Scobey, Cutbank, Boulder, Ekalaka, Glendive, Kalispell, Big Timber and Nyhart? And what about the Madison, the Gallatin, Jefferson; the Milk, Lewis and Clark, Yellowstone, the Powder, the Bitterroot and Flathead—and the great Missouri, without which the Mississippi would be only a gentle Thames or Tiber.

Have you ever seen dawn at the Gates of the Mountains or listened to the morning call of a meadowlark in a Lewiston wheatfield? Have you seen the day's new sun strike great explosions of light from the craggy facets of the Spanish Peaks? Have you seen the Crazies by moonlight or have you gathered stardust from Hebgen or Flathead? Have you seen Old Hollowtop silhouetted against the setting sun, standing immutably sentinel over the dusk-filled Gallatin Valley?

These are some of the experiences, and places and names that bind us together, for we know them intimately and we can feel that they are ours.

There is something else, however, that binds us into a special breed. It has been said by a Member of the U.S. Senate that Mike Mansfield makes every Senator feel a little taller. Mike Mansfield binds us together in reflected pride and he makes us feel taller because he is one of us and we discovered him.

If the Republican Party had not been invented earlier, my mother would have. But Mike confused and nonplusses her and she lamely forgives him his political sins by observing that he is not like the rest of "those Democrats." And I am sure she casts a secret vote for him and prays that he will yet see the error of his ways.

I met Mike one morning in the Billings airport and I said, "How are you, Senator?" As we drove down the Rimrocks, my brother-in-law said, "You shouldn't call him Senator—it might spoil him, he's just our Mike."

This is one of the proudest moments of a not completely uneventful life—to know the privilege of introducing our beloved Mike. There is something special about a man who was a veteran of the Army, Navy, and Marine Corps at the age of 19. We must respect a man who had neither the time nor the means then, to attend high school and who entered college at Montana School of Mines and somehow fitted his classes into his shifts in old Mountain Con, the Emma, or the Elm Rau. We draw closer to a man who pursued excellence then at the University of Montana and his Ph. D. at UCLA and came home to teach at the university. Our admiration goes out to a man who then offered his talent and his wisdom to the Nation and had it accepted, first in the House and then in the Senate. And then we thrilled to see this man elected by his colleagues as majority leader. And we have been pleased and proud to watch him in that capacity as he does with wisdom, courtesy, and benign kindness what others have tried to do with pressures, threats, and invective. Who will ever forget that obituary for a dead President which our fellow Montanan delivered there in the Capitol rotunda on that tragic day last November.

I am 7 feet tall tonight as I introduce the majority leader of the U.S. Senate, the confidante of Presidents, the frequent special ambassador of the United States on special missions, the senior Senator from Montana, our Mike.

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## TWO MONTANANS AMONG AMERICAN MOTORS CONSERVATION AWARD WINNERS

Mr. METCALF. Mr. President, two Montanans are among the 20 conservationists, representing 17 States, who have been named winners of the 1963 10th anniversary American Motors Conservation Awards.

They are Miss Lillian Hornick of the Information and Education Division of the U.S. Forest Service at Missoula, Mont., and Harry B. Mitchell, a resident of Great Falls, who is the chairman of the Montana Junior Chamber of Commerce's conservation committee.

Miss Hornick was chosen by the American Motors Conservation Awards committee for recognition in the professional category because of her zeal and drive in support of conservation programs in Montana. As the executive secretary of the Montana Conservation Council, she has organized and conducted a successful series of conservation workshops for women over the years. Much of the growth and success of the conservation council has been attributed to Miss Hornick's efforts, which she carries on, on her own time.

An award winner in the nonprofessional category, Mr. Mitchell was chosen for effective leadership in helping to secure the passage of legislation in Montana to protect streams from damage by highway construction. In addition to this essential work, Mitchell also is credited with arousing the interest of Montana Jaycees in other conservation programs.

All of the winners are expected to attend an awards presentation dinner to be held in the Statler-Hilton Hotel here in Washington on Wednesday evening, May 20. Winners in both the professional and nonprofessional categories will receive a sculptured bronze medallion. Professional award winners also will receive $500. Several hundred representatives of Congress, various Federal and State conservation agencies, and national conservation organizations have been invited to the dinner as guests of the American Motors Corp.

The conservation awards program was started in 1953. Its purpose is to point up the interrelatedness of all phases of renewable natural resource conservation—soil, water, forests, fish, and wildlife—and to honor men and women whose efforts on behalf of conservation, although not likely to receive wide recognition, represent an outstanding personal contribution to advancing the cause of natural resources management for the future.

Mr. President, I ask unanimous consent to have printed at this point in the Record, a list of the names of persons who have been named as winners of the 1963 American Motors Conservation Awards.

There being no objection, the list was ordered to be printed in the Record, as follows:

Winners of the 1963 American Motors Conservation Awards in other States are, in the professional category, Robert G. Struble, Kennett Square, Pa., for watershed and soil conservation programing; Ben H. Thompson, Glen Echo, Md., for national park work; Malcolm E. King, Gaithersburg, Md., for developing public interest and support for fish and wildlife programs; James W. Scott, Anchorage, Alaska, for forest fire prevention work; Alfred S. Jackson, Canadian, Tex., for improving understanding of bobwhite quail and other wildlife of the Texas Panhandle; Samuel M. Carney and Dr. Aelred D. Geis, Laurel, Md., for developing techniques to improve migratory waterfowl management; J. Harry Cornell, Raleigh, N.C., for establishment in his home State of a policy that resulted in additional trout fishing opportunity; Philip Barske, Fairfield, Conn., for assistance in the growth and development of the Atlantic Waterfowl Council; and Mrs. Eleanor Bennett, Mechanicsburg, Pa., for efforts that led to the publication of a teaching guide to natural resources, now in use in elementary and secondary schools throughout that State.

Award winners in the nonprofessional category are Daniel Smiley, Lake Mehonk, N.Y., Dr. Edgar Wayburn, San Francisco, Calif.; Walter L. Mims, Birmingham, Ala.; Edward H. Hilliard, Jr., Denver, Colo.; Tony F. Krebs, Quinn, S. Dak.; Garth Cate, Tryon, N.C.; Dr. Neil Compton, Bentonville, Ark.; Dr. S. Glidden Baldwin, Danville, Ill.; and Mrs. Claire S. Batchelder, Concord, N.H.

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## STATEMENT OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION ON NEW MARKET NEWS SERVICE OF USDA

During the delivery of Mr. Tower's speech,

Mr. HOLLAND. Mr. President, last year during Senate consideration of the agriculture appropriations bill, there was inserted in the Record a statement forwarded to the Senate Agriculture Appropriations Subcommittee by Secretary of Agriculture Freeman. This statement related to the Federal-State market news leased wire system and appears in the Congressional Record, volume 109, part 13, pages 18006–18007.

At this time I ask unanimous consent to have printed at this point in the Record a letter to me, as chairman of the subcommittee, dated March 23, 1964, from Mr. Stanford Smith, general manager of the American Newspaper Publishers Association, New York, together with a statement prepared by the association in response to Secretary Freeman's statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN NEWSPAPER
PUBLISHERS ASSOCIATION,
*New York, N.Y., March 23, 1964.*

Hon. SPESSARD L. HOLLAND,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HOLLAND: Many newspapers are concerned that U.S. Department of Agriculture has entered the business of operating a news wire service as a joint venture with the American Telephone & Telegraph Co.

Because this subject has been presented for consideration by several committees of the Congress, we ask that the attached American Newspaper Publishers Association statement be placed in the CONGRESSIONAL RECORD as our answer to a USDA statement which you inserted in the RECORD on September 25, 1963.

We believe our statement provides information of interest to many Members of the Congress. In summary:

1. The new USDA news wire service defeats an announced purpose of Congress to explore the possibility of coordination with and use by the Weather Bureau of these same facilities to reduce costs to the Government.
2. Assistant Secretary of Agriculture George L. Mehren has acknowledged that he "cannot honestly say that its (the new market news wire) absence prior to August 1 was a grave or crippling deficiency."
3. The new USDA news wire service is contrary to public policy set forth by Congress in the law creating the U.S. Information Agency, requiring it to encourage maximum use of private news agencies rather than operating a domestic news agency itself.
4. The censorship provision in USDA publication AMS 510 still exists, and no specific rules and regulations have been set forth in the Federal Register or in the A.T. & T. tariffs.
5. Arrangements between USDA and A.T. & T. result in a monopoly for A.T. & T. in supplying this new market news wire service to the exclusion of any other carrier.
6. USDA has incurred added costs to operate a new market news wire service which is not needed.

We believe the Congress should require termination of this new market news wire service, as it is a venture which is contrary to public policy, it is competitive with private business; and it adds unnecessary costs to the Government.

Sincerely yours,

STANFORD SMITH,
*General Manager.*

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## STATEMENT OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION ON "NEW MARKET NEWS SERVICE" OF U.S. DEPARTMENT OF AGRICULTURE, MARCH 23, 1964

This statement has been prepared by the American Newspaper Publishers Association in response to a letter and statement submitted by Secretary of Agriculture Freeman to Senator SPESSARD L. HOLLAND commenting in detail on ANPA opposition to entry of USDA into the news wire business. The aforementioned letter and statement were printed in the CONGRESSIONAL RECORD, volume 109, part 13, pages 18006–18007.

ANPA has not previously sought an opportunity to respond to the Secretary's statement. We had hoped that the problem would be solved through the continuing interest of Members of the Congress and many newspapers. However, this has not occurred but instead the controversy continues.

In view of the fact that committees of the Congress have recently indicated interest in reviewing the facts surrounding the entry of USDA into the news wire field, we now make this statement in reply to the Secretary for the information of all Members of the Congress.

We shall take up the Secretary's response to each of the six arguments of ANPA.

### ANPA ARGUMENT NO. 1

"Under our concept of freedom it is improper for the Government to engage in the business of news gathering and dissemination. It can too easily become a propaganda agency."

The Secretary disagrees with this. He thinks that it is entirely proper for the U.S. Government to get into the business of news gathering and dissemination and to do so by entering into exclusive business agreements with a single large communications company. Official publication AMS–510 graphically portrays the "New Market News Service" for what it is, namely, a joint business venture of the USDA and the American Telephone & Telegraph Co.

In this document as reproduced by A.T. & T., the seal of A.T. & T. and the seal of USDA Agricultural Marketing Service are shown in equal prominence on the last page of the document describing the new news service. This document emphasizes that all applications for the service are to be made through either the sales offices of A.T. & T. or through A.T. & T.'s so-called "USDA Agricultural Marketing Service Section"; that subscribers to the service pay all charges for the entire service directly to the A.T. & T.; that the USDA, however, can approve or disapprove all contracts between a subscriber and A.T. & T.; that the facilities used in the "New Market News Service" are owned by the A.T. & T.; and that USDA can order the service to any subscriber discontinued for any reason it sees fit.

By getting into this news business, the Secretary of Agriculture has created a situation that tends to defeat an announced purpose of Congress. In 1962 the 87th Congress directed a joint Department of Agriculture-Weather Bureau survey to explore the possibility of coordination with and use of existing market news service facilities in disseminating weather information. The Secretary says that the New Market News Service is an outgrowth of that action. However, by going into the business of this news service, USDA thwarts the possibility of any such coordination and use of market news service facilities for weather purposes. This is so because the market news service facilities are now preempted for use in the new business venture and cannot be shared with or used by the Weather Bureau for weather purposes. Thus, the New Market News Service should be promptly discontinued if for no other purpose than to permit the coordination with and use by the Weather Bureau of these facilities thereby preventing wasteful duplication of facilities now leased by the Government from A.T. & T. and thereby lowering costs to the Government. What has now been done is in derogation of such weather use. (See p. 11 of the 87th Cong., 1st sess. H. Rept. No. 497).

There is no demonstrated public need for the USDA to enter into this market news business. Although a USDA press release of November 5, 1963, purports to establish the dire public need for the new market news service by the use of such extravagant phrases as "the food industry of this Nation literally could not function today without this market information," the writer of that November 5 release (George L. Mehren) subsequently stated under oath on January 3, 1964, that:

"I would say that prior to August 1, 1963, by far the best food system in the world and, by far, the best food distribution system that this country has ever developed did emerge in the absence of the drop system. Consequently, in all honesty, I would say that, while the drop system was completely consistent with our statutory directives, completely consistent with the basic policies of market news generally, I cannot honestly say that its absence prior to August 1 was a grave or crippling deficiency in the operations of the market news service."

### ANPA ARGUMENT NO. 2

"Government should not engage in any enterprise in competition with existing private ownership which is able to provide satisfactory service, as the U.S. Department of Agriculture will be doing in this case."

Although the Secretary first says that there is no such private ownership, he further says that there is a privately owned news service named PAM News Corp. which could be affected competitively by the entry of the Government into this new business depending upon what value the customer will place on PAM's service in comparison with the new Government service. Thus, the new news service seems to be directed toward an existing private news agency specifically and all private news agencies generally.

The facts are there are many privately owned news agencies located throughout the United States that were and are doing a highly competent job in informing the public of agricultural marketing news. This is admitted by the USDA when its officials now say that the new news service honestly is not essential.

What is most disturbing about the Secretary's position is that he seems to be diametrically opposed to the basic public policy expressed in the above-quoted argument of ANPA.

This fundamental public policy has been set forth by Congress in the law creating the U.S. Information Service in the following language:

*"Utilization of private agencies*

"In carrying out the provisions of this chapter it shall be the duty of the Secretary [of State] to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country." Jan. 27, 1948, c. 36, title X, par. 1005, 62 Stat. 14. (22 U.S.C. 1437.)

It is increasingly apparent that the new policy of the USDA is at odds with that expressed by Congress in the above-quoted statute. Thus, the USDA policy will discourage or destroy services of private news agencies in the dissemination of agricultural news rather than encourage such private news agencies. The USDA policy will thereby discourage rather than encourage the maximum number of different private agencies in the business of disseminating agricultural news.

Such business activities of the USDA point ultimately toward the Government taking over the entire business of disseminating agricultural news. This would then provide the propaganda device so repugnant to our democratic way of life.

### ANPA ARGUMENT NO. 3

"The announcement sets up a system of censorship by giving the Department of Agriculture authority to cancel the service of anyone who allegedly abuses the service by 'misrepresentation' of reports, or for any other reason when, in its sole judgment, such cancellation is desirable."

Official bulletin AMS 510 contains the following provision:

"The new service is available to all who want it, and no application need be made to USDA to receive service. However, USDA reserves the right to cancel at any time the connection of any or all subscribers who abuse the service by misinterpretation of reports, or for any other reason when, in its sole judgment, such cancellation is desirable."

In his reply the Secretary says that the above-quoted statement from official bulletin AMS 510 doesn't really mean what it actually says. He concedes that the language is subject to misinterpretation, and he then describes some procedures which he says would have to be followed in canceling the service. However, AMS 510 still has not been revised to include within it the language that the Secretary says was intended even though AMS 510 has been outstanding since July 1963.

Moreover, so far as ANPA has been able to determine, nothing has been published in the Federal Register to set forth the rules and regulations which the Secretary says would apply but which are not in AMS 510 even though many months have elapsed since the Secretary's statement.

Additionally, none of the rules that the Secretary says would apply are contained in the tariffs of A.T. & T. filed with the Federal Communications Commission. These tariffs are required by law to set forth the terms and conditions under which any service may be terminated.

### ANPA ARGUMENT NO. 4

"Future expansion of this service—as is indicated in a Department of Agriculture background memorandum—could easily lead to a complete national news wire in direct competition with Associated Press and United Press International."

In his answer to this the Secretary states that the USDA is not authorized to engage in the operation of a complete national news wire. This bare assertion that the USDA is not authorized to operate a complete national news wire is out of harmony with the assertion made elsewhere in his statement as to the alleged statutory basis upon which the new news service is being rendered.

The Secretary relies for statutory authority for the new news service upon an enactment of Congress in 1862. He says that the statute authorized the Agriculture Department to "acquire and diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word."

If the Secretary is correct in his contention that the above-quoted 1862 statute authorized the news service then it would seem to follow that the same statute authorizes a complete national news wire. It is difficult to see how any news would not be "useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word."

### ANPA ARGUMENT NO. 5

"The announced plan has monopolistic implications in that only A.T. & T. wires can be used although the present privately owned news service in this field uses wires leased from Western Union. FCC policies and actions have been aimed at preserving competition in the leased wire field between A.T. & T. and Western Union."

The Secretary's answer to this argument follows:

"The USDA obtains its leased wire services under a contract (TPS 72907) made by the General Services Administration for all civil Federal agencies. USDA has no jurisdiction over the awarding of contracts to provide these long line services."

The facts are that the New Market News Service, which gives a monopoly to A.T. & T., was established after a direct exchange of letters between USDA and the American Telephone & Telegraph Co. There was first a letter from the USDA to the A.T. & T. dated April 9, 1962, proposing the service and a letter from A.T. & T. to USDA dated August 7, 1962, agreeing to the establishment of the new news service.

Following this exchange of letters between A.T. & T. and USDA, the AMS 510 bulletin was published setting forth the monopoly granted by USDA to A.T. & T.

No agreements were sought by USDA with any communications carrier except A.T. & T. and, as shown by the AMS 510, the agreement is an exclusive one in which the only communications carrier involved in providing or selling the new news service is A.T. & T. This is contrary to efforts made by other Government agencies at preserving competition between A.T. & T. and Western Union. The privately owned competing news agency, PAM News Corp., used wires of Western Union.

### ANPA ARGUMENT NO. 6

"The American taxpayers should not be expected to pay for news wire services to anyone."

The Secretary states that the New Market News Service is being paid for entirely by the private subscribers at no additional cost to the taxpayers.

In order to provide this service it was necessary for the USDA to assign personnel to screen out press releases and administrative material that are not supposed to go out to subscribers, and it was necessary for the Department to acquire coding and decoding equipment none of which would have been necessary but for the establishment of the new news service.

Moreover, the new news service is preventing the Government from realizing the cost savings that should have resulted from the utilization by the Weather Bureau of the excess capacity in the wire line facilities now utilized for the New Market News Service. As stated by the Secretry elsewhere in his statement, "there is no opportunity for use of the market news leased wire circuits to transmit any significant amount of other traffic."

There can be no question, therefore, that this unnecessary New Market News Service is costing the taxpayers money.

### CONCLUSION

This New Market News Service represents a departure without congressional sanction from the fundamental concept that the Government should not engage in the business of selling a news service but instead should rely on and encourage news dissemination through the diverse privately owned news services. In this respect it represents a threat to a free and independent press. Furthermore, it is clearly in conflict with the intent of the Congress.

We, therefore, urge the Congress to require by law, in a way that cannot be misinterpreted, the discontinuance of this New Market News Service and require USDA to encourage the maximum participation of private news agencies in the widest possible dissemination of agricultural news.

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## CLOSING OF MILITARY INSTALLATIONS

During the delivery of Mr. TOWER's speech,

Mr. McGOVERN. Madam President, yesterday, I spoke to the Senate about the urgent need for conversion planning to prevent economic hardship from following in the wake of a cutback of defense spending and the closing of military installations. I said, yesterday, that:

> At a recent briefing that was unclassified, Secretary McNamara reminded Senators that no community should regard any military installation as anything other than a temporary installation. I believe that if Senators would stop to reflect on that statement, they can reach no other conclusion. Many of the shutdowns have already been announced. Inevitably, more will follow in the very near future.

At the time when I spoke, I was not aware how soon new closings would be announced. But at 10 a.m. today Secretary McNamara announced a series of consolidations, reductions, and closures of Department of Defense field activities.

The new economy measures, spread over 3½ years, will affect 52 communities in 29 States. The total savings to the American taxpayers will be $68 million annually. Among these is the Igloo Black Hills Army Ordnance Depot in my own State of South Dakota.

The Igloo depot has served this Nation well since World War II. The entire economy of the local community, Igloo, and much of the income of nearby Edgemont, is dependent upon this installation. The Department of Defense has now decided that it can no longer justify the expenditure necessary to maintain it, since it is no longer essential to our defense. Representatives from the affected community met with our congressional delegation some time ago to present to Defense Department officials arguments for retaining the base. But we, of course, agreed that we did not want the installation retained if it were not needed by the Defense Department. But this does not end our responsibility to these defense-oriented communities that we have created.

The people of Igloo and Edgemont, S. Dak., are dedicated and hard-working people. They have long served their Nation well. Is the Federal Government now to abandon them without guidance or assistance?

According to the Department of Defense, some 482 civilian jobs in the community are directly affected by this closing. The entire population of Igloo is 750, and neighboring Edgemont has a population of 1,772. The implications for these communities are therefore very great. Without the ordnance depot these communities will lose a major part of their means of support. I believe that the Federal Government has an obligation to the people of Igloo and Edgemont, an obligation to protect them against the loss of income that will follow in the wake of the military shutdown. The Federal Government should not, in my opinion, protect them by maintaining a military base it deems no longer necessary to our defense. It should protect them, however, by helping to provide alternative sources of jobs and income in the performance of useful work.

The problems faced by the people of this area are the same as problems faced by hundreds of communities in every State in our Nation. These communities—those I mentioned in my speech yesterday and those affected by today's announcement—are faced with a loss of a military installation or with the loss of defense contracts. At the present time, there is no Federal agency charged with the task of easing their transition to peaceful production. This is why I urge the speediest possible passage of my bill, S. 2274, to create a National Economic Conversion Commission.

Secretary McNamara has said, as I pointed out yesterday, that it is not the duty of the Defense Department to be concerned with the economic impact of cutbacks on local communities or companies. The job of the Defense Department, according to Secretary McNamara, is to provide this Nation with the best possible defense at the lowest possible cost. The Secretary cannot do this job if he must worry about the impact of economy moves on local communities. However, there must be some Government agency that does take responsibility for this problem.

Our first reaction on hearing of the loss of a defense contract or military installation in our State is to protest to the responsible officials and demand that the threatened action be postponed or reversed. We all claim to be for economy in Government, and yet, when an economy move hits our own State, we tend to react immediately and passionately. This is understandable.

However, it must now be obvious to us all that this is no solution. There have been substantial cutbacks and changes in our defense spending program, and these will continue. Despite some vocal protests on Capitol Hill, Secretary McNamara has been firm and President Johnson has been firm in pressing for economy consistent with our real defense needs. I believe that we would have it no other way. Let us now be constructive. Let us now turn our attention to passing legislation such as S. 2274, which would provide the guidance needed by the community, by the Nation, and by the Congress as we modify or reduce defense spending.

Madam President, I ask unanimous consent to have printed at this point in the RECORD the announcement of the closing and consolidation of military installations, together with a list of the affected communities and a detailed description of the steps to be taken at Igloo, S. Dak.

There being no objection, the announcement, list, and memorandum were ordered to be printed in the RECORD, as follows:

APRIL 24, 1964.

Hon. GEORGE S. MCGOVERN,
*U.S. Senate.*

DEAR SENATOR MCGOVERN: The Secretary of Defense is announcing today plans for the closure of certain defense installations and a reduction in Defense support activities. This is in furtherance of the Department of Defense policy to retain only those facilities required to support essential missions. The Department of the Army is placing primary stress upon consolidation of related activities to reduce overhead costs and make maximum use of retained facilities. Included in the announcement are certain Army installations which are no longer considered necessary to accomplish the Army's mission.

Knowing of your interest in this matter, attached is a fact sheet which outlines the action involving Army activities in your geographical area.

You are assured that all career employees whose jobs are eliminated will be offered other job opportunities. If a new job offered a career employee requires transfer to Department of Defense installations in another locality, the move will be made at Government expense.

I trust this information will be of assistance to you. The Department of the Army would be pleased to furnish any further information on this subject that you may desire.

Sincerely,

F. W. BOYE, Jr.,
*Brigadier General, GS Deputy Chief of Legislative Liaison.*

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### EFFECT OF PROGRAM ON ARMY ACTIVITIES, IGLOO, S. DAK.

(A) Affected installation: Black Hills Army Depot.

(B) Personnel implications:

| | |
|---|---|
| Civilian (strength estimated June 30, 1964): | |
| Positions transferred to other installations | 131 |
| Positions eliminated resulting from closure | 296 |
| Previously scheduled reductions based upon productivity improvements (loss in personnel spaces regardless of closure) | 55 |
| (Caretaker positions (retained until final transfer to GSA for disposal), 30.) | |
| Total reduction | 482 |
| Military: | |
| Positions reassigned to other installations in present duties | 0 |
| Positions available for reassignment to higher priority duties elsewhere | 4 |
| Installation strength before | 516 |
| (Caretakers), after | [1]30 |

[1] Additional potential savings after installation is turned over to GSA.

(C) Completion date: To be inactivated, declared excess and turned over to General Services Administration by June 1967 for disposal.

(D) Explanation: Evaluation of space needs indicates 3.8 million square feet will be excess to requirements by 1970. The excess space can be released through the closure of two of the average-size ammunition depots after relocation of stocks.

The main reasons for closing this Army depot are to release the facilities with the least capability to perform a variety of missions and to achieve the greatest annual savings. Extensive studies of 14 Army ammunition depots revealed that the closure of this depot most nearly achieved this purpose. Closure of Black Hills provides an annual savings of $3.1 million, the second largest after the closure of Sioux at savings of $3.4 million of the four reserve storage ammunition depots. At Black Hills the internal rail facilities, the road net and water resources do not compare favorably with the other depots.

The annual recurring net savings in operating costs are estimated to be $3.1 million.

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APRIL 24, 1964.

### DEPARTMENT OF DEFENSE ACTIONS TO EFFECT CONSOLIDATIONS, REDUCTIONS, AND CLOSURES OF FIELD ACTIVITIES

The following listing summarizes actions which will be taken during the next 3½ years in 29 States to consolidate, reduce, or discontinue field activities in accordance with plans announced by the Secretary of Defense today. In addition, there are eight actions to be initiated at oversea locations. These oversea actions will not be revealed until the Governments concerned have been consulted.

The actions being initiated stress the consolidation of related activities within and among the military departments and the Defense Supply Agency in order to reduce overhead costs and facilities. About half of the actions are related to a consolidation of contract administration offices in 29 cities where there are now 2 or more separate offices operated by the military departments and the Defense Supply Agency. These 29 cities are denoted in the following list by an asterisk (*).

These actions will be phased over periods up to 3½ years to minimize impact on employees and communities and reduce close-out and relocation costs. Career employees whose jobs are eliminated will be offered other job opportunities. Also, it is expected that normal attrition in the work force, and a freeze on new hiring, will produce jobs for many affected by these reductions. If the new job offered an employee requires a move to another Defense installation, the moving expenses involved—in the case of career employees—will be borne by the Government. To assure the widest opportunity for new jobs, retraining programs for skills required within the Defense Department will be established when necessary at Government expense. The services of the Department of Defense Office of Economic Adjustment will be available to help communities find new payrolls.

#### ALABAMA

*Birmingham: Consolidate the Contract Administration Offices of Army and Air Force.

#### ARIZONA

*Phoenix: Consolidate the Contract Administration Offices of Navy and Air Force.

#### CALIFORNIA

*Los Angeles: Consolidate the Contract Administration Offices of Army, Navy, and Air Force.

Oakland: The terminal functions of the Oakland Army Terminal and the Naval Supply Center, Oakland, will be consolidated under an Army-Navy Joint Terminal Command, headquartered at the Oakland Complex. This joint command will be established effective July 1, 1964.

Pasadena: The Army's Pasadena Area Support Center will be transferred to GSA by July 1965 for management. Most Army and Air Force administrative units will remain as tenants of the GSA space.

*San Francisco: Consolidate the Contract Administration Offices of the Army, Navy, Air Force and DSA.

San Francisco, naval activities: Eight naval activities will be relocated from various locations in San Francisco and San Bruno to Treasure Island by December 1966. Included in the relocation are Headquarters of the Commandant, District Public Works Office, Judge Advocate General, Pacific Area Resident Officer-in-Charge of Construction, Area Audit Office, Branch Office of ONR, Board of Inspection and Survey, and the Naval Dispensary.

#### COLORADO

*Denver: Consolidate the Contract Administration Offices of Army and Air Force.

#### CONNECTICUT

*Bridgeport-Hartford: Consolidate the Contract Administration Offices of Navy and Air Force.

Windsor Locks: The Air Force Reserve Group now at Bradley Field will relocate to Westover AFB by July 1966. The ANG Fighter Squadron will remain at Bradley Field.

#### FLORIDA

Jacksonville: The seadrome, Naval Air Station, Jacksonville, will be inactivated by January 1965.

Key West: The seadrome, Naval Air Station, Key West, will be inactivated by January 1965.

Pensacola: The seadrome, Naval Air Station, Pensacola, will be inactivated by January 1965.

#### GEORGIA

*Atlanta: Consolidate the Contract Administration Offices of Navy, Air Force and DSA.

### ILLINOIS

*Chicago: Consolidate the Contract Administration Offices of Army, Navy, Air Force, and DSA.

Decatur: Decatur Naval Weapons Industrial Reserve Plant will be declared excess and reported to GSA by June 1964 for disposal.

### LOUISIANA

New Iberia: The Naval Auxiliary Air Station, New Iberia, will be declared excess and reported to GSA by January 1965 for disposal. The advanced pilot training mission will be relocated to NAS, Corpus Christi, and consolidated with similar pilot training operations.

### MARYLAND

*Baltimore: Consolidate the Contract Administration Offices of Navy and Air Force (now being planned).

### MASSACHUSETTS

*Boston: Consolidate the Contract Administration Offices of Army, Navy, Air Force, and DSA.

New Bedford: Fort Rodman, a subpost of Fort Devens, Mass., will be declared excess and reported to GSA for disposal by September 1966. Five acres will be retained for construction of a new Army Reserve Center.

Watertown: Watertown arsenal will be declared excess and reported to GSA by September 1967 for disposal except for the facilities occupied by the Army Materials Research Agency which will remain at Watertown.

Winthrop: Fort Banks, a subpost of Fort Devens, will be declared excess and reported to GSA by September 1966, for disposal. Its functions are to provide messing and housing support to Air Defense Units in the Boston-Providence area. These functions will be transferred to Fort Devens.

### MICHIGAN

*Detroit: Consolidate the Contract Administration Offices of Army, Navy, and Air Force.

Grosse Ile: Naval Air Station, Grosse Ile will be declared excess and reported to GSA by September 1967, for disposal. All Naval and Marine Air Reserve Activities in the Detroit area will be located at nearby Selfridge Air Force Base.

### MINNESOTA

*Minneapolis: Consolidate the Contract Administration Offices of Navy and Air Force.

### MISSOURI

*Kansas City: Consolidate the Contract Administration Offices of Army and Air Force.

*St. Louis: Consolidate the Contract Administration Offices of Army, Navy, and Air Force.

### NEBRASKA

Sidney: Sioux Army Ammunition Depot will be declared excess and transferred to GSA for disposal by June 1967.

### NEW JERSEY

*Newark: Consolidate the Contract Administration Offices of Navy and Air Force.

### NEW YORK

*Buffalo: Consolidate the Contract Administration Offices of Navy and Air Force.

*New York City: Consolidate the Contract Administration Offices of Army, Navy, Air Force, and DSA.

*Rochester: Consolidate the Contract Administration Offices of Army and Air Force.

*Utica: Consolidate the Contract Administration Offices of Navy and Air Force.

### NORTH CAROLINA

*Winston-Salem: Consolidate the Contract Administration Offices of Navy and Air Force.

### NORTH DAKOTA

Bismarck: Fort Lincoln will be declared excess and reported to GSA by June 1965 for disposal. Reserve training units will be transferred to GSA space in the area.

### OHIO

*Akron: Consolidate the Contract Administration Offices of Navy and Air Force.

*Cincinnati: Consolidate the Contract Administration Offices of Army, Navy, and Air Force.

*Cleveland: Consolidate the Contract Administration Offices of Army, Navy, and Air Force.

Columbus: Establish a new DSA Data Systems Field Office in Columbus. The consolidated staff will be drawn primarily from DSA Supply Centers located in Columbus, Ohio; Philadelphia, Pa.; Richmond, Va.; and Dayton, Ohio. The new Data Systems Office will be brought to full strength by July 1966.

### OKLAHOMA

Muskogee: The High Energy Fuel Plant at Muskogee, Okla. will be declared excess and reported to GSA for disposal by July 1964.

### OREGON

Clatskanie: Beaver Army Terminal will be declared excess and reported to GSA by July 1965 for disposal. Water terminal functions will be transferred to Army Rio Vista Storage Site, Calif.

### PENNSYLVANIA

*Philadelphia: Consolidate the Contract Administration Offices of Army, Navy, Air Force and DSA. (Now in process.)

*Pittsburgh: Consolidate the Contract Administration Offices of Army, Navy and Air Force. (Now in process.)

### SOUTH DAKOTA

Igloo: The Army Black Hills Ammunition Depot will be declared excess and reported to GSA by June 1967 for disposal.

### TEXAS

El Paso: Consolidate the Contract Administration Offices of Army, Navy and Air Force. Inactivate 431st Air Refueling Squadron at Biggs AFB in June 1965.

### UTAH

*Salt Lake City: Consolidate the Contract Administration Offices of Army and Navy.

### VIRGINIA

Norfolk: The seadrome, Naval Air Station, Norfolk will be inactivated by January 1965.

### WASHINGTON

Bremerton: Part of Navy East Park Housing Annex will be declared excess and reported to GSA for disposal by September 1964.

Lynnwood: The U.S. Army Northwest Relay Station at the Lynnwood and Silver Lake sites will be relocated to the Spokane SAGE Control Center and Yakima Firing Center, Washington, by December 1966. The Lynnwood site will be retained for possible future use and the lease on the Silver Lake site will be terminated.

Seattle: Relocate all activities from the premises of the Seattle Army Terminal to permit full closing of this facility. The Seattle District Engineer will be relocated to GSA or Defense space; other tenants will relocate to DOD installations, primarily the Naval Supply Depot, by December 1965. The terminal operations have been inactive since 1957 when this workload was transferred to the Naval Supply Depot.

Seattle: Fort Lawton operations will be phased out, with the X Corps Headquarters relocating to Fort Lewis and other tenants to Naval activities in the Seattle area. All real property will be retained for possible future use; action will be completed by July 1967.

*Seattle: Consolidate the Contract Administration Offices of Army, Navy and Air Force.

Tacoma: The U.S. Army Tacoma Storage Site will be declared excess and reported to GSA for disposal by January 1965.

### WISCONSIN

*Milwaukee: Consolidate the Contract Administration Offices of Navy and Air Force.

Mr. McGOVERN. Madam President, a few days ago 26 Members of the House of Representatives—22 of whom are sponsors of bills identical to the one I introduced last fall in the Senate—sent to President Johnson a letter in which they drew his attention to this very serious problem which is being faced in various parts of the country when military installations are closed; and they stated that they would appreciate an opportunity to meet with the President to explore programs and policies which the administration might implement in the immediate future, in connection with the need for conversion legislation.

A similar letter was sent to OREN HARRIS, chairman of the House Committee on Interstate and Foreign Commerce. At that time, the letter was signed by 20 Members of the House of Representatives who had introduced bills identical to the measure which some 12 Senators, including myself, introduced in the Senate.

Madam President, I ask unanimous consent that these two letters—the one to President Johnson, and the one to Chairman HARRIS—and also a list of the House of Representatives signers of the letters and the Senate sponsors of the bill be printed at this point in the RECORD.

There being no objection, the letters and the lists were ordered to be printed in the RECORD, as follows:

APRIL 21, 1964.

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Members of Congress have become increasingly concerned with the economic hardship caused by the termination or alteration of defense contracts. Although our information on the extent of the economic impact of our Defense Establishment is inadequate, it is clear that tens of thousands of employees have already been laid off by defense contractors as a result of Department of Defense cutbacks.

Twenty bills have been introduced in the House calling for the creation of a National Economic Conversion Commission to study the problem and recommend appropriate policies for Government and industry. We have requested Chairman HARRIS to hold hearings on these measures at the earliest possible date.

Thorough study of the conversion problem by the executive branch, which will lead to concrete, affirmative action, must, in our view, be instituted at once. The informal interdepartmental committee formed last summer and given permanent status by you in December will not, according to its Chairman, present even preliminary recommendations until late this year.

The urgent problem of economic conversion cannot be postponed. Economic dislocations are occurring every day. We would appreciate an opportunity to meet with you to explore programs and policies which the administration may implement in the immediate future.

Sincerely yours,

————————.

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APRIL —, 1964.

Hon. OREN HARRIS,
*Chairman, House Committee on Interstate and Foreign Commerce, Washington, D.C.*

DEAR MR. CHAIRMAN: Twenty Members of the House of Representatives have now filed legislation pending before your committee that would provide for research on the problem of economic conversion. The bills provide for the creation of a National Economic Conversion Commission to conduct a thorough study and recommend policies for government and industry to ease the transition from military to civilian production necessitated by the predicted reduction in defense expenditures in the years ahead.

This is not a problem that will become urgent sometime in the future. It is critical right now. Although our defense budget was reduced by only $1 billion this year, the level of military procurement is down by $2 billion. These changes in the volume of our military spending will have a broad impact on our economy. It is estimated that 10 percent of our gross national product is attributable to defense and defense-related spending. These activities involve 9 percent of our total labor force and 3 of every 5 scientists and engineers.

We have already witnessed the hardship and panic that result when defense contracts are terminated. Tens of thousands of workers have been laid off or await layoff at the present time.

Thus far we have done little planning to prepare for the shifts from military to civilian industrial technology. We have little detailed information on the impact of military expenditures—direct and indirect—on our economy as a whole.

The magnitude of the conversion problem provides an opportunity for the Congress to initiate the increased awareness and concern that will be necessary to successful policies.

We hope that you will be able to schedule hearings on this legislation sometime during this session of Congress. The House Committee on Interstate and Foreign Commerce can perform a real service to the Nation by adding to our knowledge of the conversion problem and by pointing the way toward responsible policies for the future.

Sincerely yours,

——— ———.

### Sponsors of National Economic Conversion Commission Bill, S. 2274

Senate: McGovern of South Dakota, Bayh of Indiana, Clark of Pennsylvania, Gruening of Alaska, Long of Missouri, Morse of Oregon, Nelson of Wisconsin, Randolph of West Virginia, Williams of New Jersey, Young of Ohio, Humphrey of Minnesota, Brewster of Maryland.

House: Van Deerlin of California, Brown of California, Holifield of California, Edwards of California, Rosenthal of New York, Pelly of Washington, Boland of Massachusetts, Farbstein of New York, Conte of Massachusetts, Katherine May of Washington, Morse of Massachusetts, Nix of Pennsylvania, Halpern of New York, O'Neil of Massachusetts, Joelson of New Jersey, Ryan of New York, Lindsay of New York, Mathias of Maryland, Monagan of Connecticut, Rodino of New Jersey, Sickles of Maryland, Donohue of Massachusetts, O'Brien of New York, Pirnie of New York, Younger of California, Stratton of New York.

## SIXTEENTH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. CASE. Mr. President, 16 years ago, Britain terminated its mandate over Palestine; and on May 14, 1948, the new State of Israel was proclaimed. It was promptly recognized by the United States.

From the north, the south, and the east, Arab forces converged on the new state, which had to fight for its very survival. Israel did so with heroism and valor, and an armistice was achieved in January of the following year. The 16th anniversary of Israel's independence was celebrated on April 16 this year, in accordance with the Hebrew calendar.

Sixteen years after its founding under such adverse circumstances, Israel has been transformed. It is a bastion of freedom and democracy in the Middle East. It has accomplished miracles in admitting more than a million persons to its shores and absorbing them into its economic and social life. It has developed new industries, and by irrigation has transformed and extended its agriculture. It has developed a thriving internatioinal trade. Moreover, it has taken a leading role in assisting African and Asian countries with the problems of their own economic development.

But, after 16 years of independence, Israel is still confronted by neighboring states which refuse to recognize her, and whose leaders reaffirm their determination to drive Israel into the sea. This matter has always been of grave concern; but today the situation is more dangerous than ever before because of the determination of hostile forces to acquire advanced, modern weaponry. Such weapons can reach any part of Israel almost instantly. Under these circumstances, it is clearly an inadequate answer to the problem for this country merely to promise to come to Israel's aid in the event she is attacked.

What is most urgently needed here is a willingness by both sides to meet together and to adjust their differences by peaceful negotiations. The nations of the Middle East must come to a willingness to live and let live, and begin to build the bases of cooperation which are clearly in their common interest.

I hope that the U.S. Government will exert its powerful influence to discourage a futile and dangerous arms race in the area and to bring about the negotiations which are so urgently required.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JORDAN of North Carolina. Mr. President, it pleased me a great deal when the junior Senator from Georgia [Mr. Talmadge] introduced the jury trial amendment to the proposed civil rights bill.

I had been satisfied in my own mind all along that such an amendment would be offered by someone, and I am glad that Senator Talmadge and the cosponsors of the amendment—Senators Ervin, Robertson, Thurmond, and Stennis—took the leadership in offering this particular amendment.

Pleased as I am that these Senators offered this amendment, I have been even more pleased with the reaction to the proposed amendment not only among Members of the Senate but also by many other people with whom I have talked about this matter.

I am confident that the amendment will be adopted after it has been given due consideration.

I say this because it would be inconceivable to me for the Senate not to include the provisions of this amendment in any civil rights bill it considered.

As a matter of fact, I am at a loss to understand why the proponents of the so-called civil rights bill did not include such a provision in the original proposal.

As I have stated before in this Chamber, I am not a lawyer and I am not qualified to enter into any technical discussion of the law and our judicial process.

But it seems basic and fundamental to me as a layman that anyone advocating and promoting wider civil rights would certainly be the first to insist upon preserving the principle of trial by jury.

If there is anything at the very heart of our form of government and our way of life it is the principle of trial by jury and the principle of any accused person being judged by his fellow citizens.

In my way of thinking, it does not take a legal scholar to recognize the importance of the principle of trial by jury. This principle and this concept rank alongside the principle of freedom of speech and the basic rights we cherish so much as the very foundations of liberty and freedom.

Recently I have done some reading in connection with the question of our jury system, and the thing that strikes me most about this matter is the fact that all experts agree that trial by jury has been for many centuries one of the basic differences between freedom and tyranny.

History is filled with examples that show that once this basic right of freemen is compromised, then all freedom is in jeopardy and in serious danger.

In the days since the jury trial amendment was offered there have been a number of brilliant speeches and discussions of the question by Members of the Senate. I do not think it would serve any purpose to review the history of this vital part of our system of Government because this has already been done quite ably and thoroughly discussed. However, I would like to make some observations about these discussions.

The thing that impresses me most is the fact that this debate on this particular amendment brings into sharp focus for all of us the great importance of preserving a principle which we too often take for granted.

The right which freemen obtained to have an accused person tried by a jury of his peers did not come easily. For centuries men fought and died to establish this principle, and when this Nation was formed this right was held onto and protected in no uncertain terms by the framers of the Constitution.

There is no doubt that the success of the new Nation that was formed from the Original Thirteen Colonies depended to a very great extent on the preservation of this basic right. Since that time, the right of a trial by jury for all accused persons has been accepted without question and protected without reservation.

We have taken for granted that the principle of jury trials would be preserved without question; and because it has become a universally accepted procedure in our system of government, we perhaps have overlooked its importance to us and its importance to the preservation of freedom. The biggest mistake we could make in this day and time would be to lose sight of the importance of the principle of trial by jury, in our haste to solve some of our very serious social and economic problems.

All of us realize that we have problems which need to be solved just as soon as possible. But in trying to solve them, we do not want to damage beyond repair any of the basic framework of democracy.

Another thing that concerns me greatly about the entire question of providing equal opportunities for all our citizens in all fields of endeavor, is the question of how to go about this duty in such a way that we shall not tear down more than we build up, or destroy more than we protect.

I sincerely feel that the greatest duty Congress has is to move with caution and prudence in whatever direction it is decided is best to take.

This is why I was very much disappointed that the bill which was passed by the House of Representatives was not referred to the Senate Committee on the Judiciary.

I think history will show that bills which are thoroughly and fully discussed in committee and are considered from many different viewpoints and approaches make the best and soundest laws.

In such a complicated society as ours, it is only natural that every action brings on a reaction.

I cannot help but believe that the bill as passed by the House of Representatives was, in the final analysis, a direct reaction to the numerous demonstrations that took place throughout the country last year. In fact, when Attorney General Kennedy testified before the Senate Committee on the Judiciary last July, he admitted that the demonstrations had a great deal of influence on the submission of far-reaching civil rights proposals.

The proposals upon which he was testifying had been recommended by the President in June.

After the hearings were held, if my understanding is correct, changes were made in the proposals, and there evolved in the House of Representatives the measure which is now pending in the Senate H.R. 7152.

Looking back over the sequence of events, I cannot help but believe that somewhat of a frantic rush was put on to enact sweeping civil rights legislation in the wake of the widespread demonstrations.

The very fact that so many deficiencies have been discovered in the bill—for example, the omission of the jury trial provision—is evidence enough that the Congress should use an abundance of caution and prudence in any action it takes in this field.

I cannot emphasize too strongly that we are not dealing with a matter about who can make the biggest headlines, or what group can put on the biggest demonstration, or what Senator can talk the longest. We are dealing with very serious human problems; and the solutions to these problems can very seriously damage our system of government and the principles we hold dear, if we are not extremely careful about how we go about our work.

We have had demonstrations of all kinds in North Carolina during the past several years.

On numerous occasions I have urged those who advocate and take part in these demonstrations to use the utmost care and restraint.

In many parts of the Nation local laws have been defied, arrests have been openly solicited, and lives have been lost in what I feel have been unfortunate plans and determinations to make our race problems a great drama and a great spectacle.

There are those who contend—and I feel they are sincere in their contentions—that this is not only the best way to bring about equality, but is the only way that has thus far been successful. I do not believe this is true.

In North Carolina, we have had many demonstrations, and we have also had opened to nonwhites many doors which previously were not open; but these doors were opened, not in the heat of the demonstrations, but only when neighbors and friends could sit down together and reason together and come to reasonable solutions.

I have always contended that when the Government forces any citizen to do something, that citizen will not do it as willingly as he would have if he had been left to do it on his own, as a result of persuasion and moral obligation.

Of course, we still have demonstrations in many parts of the country; and it is my feeling that these demonstrations will probably continue indefinitely, regardless of what action is taken on H.R. 7152.

But these demonstrations have been going on long enough to set some very definite patterns. Some conclusions can also be reached about the effects they have had.

It is my opinion—and it has been my opinion all along—that these continuous demonstrations serve no purpose, other than make it even more difficult to solve already difficult problems.

In recent days, there have been newspaper articles about the "polarizing" of public opinion. In my opinion, it is indeed most unfortunate for such a thing to happen when we are dealing with such delicate and sensitive human problems as race relations.

Once public opinion on a question of this sort sets and "becomes concrete," the problem of finding solutions becomes much more difficult.

Because I firmly believe this, I have always stressed the importance of moderation, calmness, and prudence in the area of race relations.

Inflammatory actions only bring about inflammatory reactions; and if we are to find the real answers to these problems, they will not be found under the threats, the pressures, and the dangers of unreasonable and unruly demonstrations.

I sincerely feel that we in North Carolina have shown good faith in this connection. Last year, when demonstrations reached their peak in North Carolina, Governor Sanford and other leaders strongly urged demonstrators to use more restraint in their actions. He said the demonstrators had made their point, and strongly urged them to use more positive approaches in seeking their goals.

I am glad to say that in at least one area of the State—in Goldsboro, N.C.—a group took a more positive approach. I think what they did makes an interesting story.

Goldsboro is located in the eastern part of North Carolina and is a growing city of about 35,000 population. Last November 1, a group of Negro students decided that rather than engage in sit-ins, they would do their demonstrating with study-ins.

They shifted their demonstrations from the streets to the classrooms. Volunteer teachers have been meeting with the group of high school students every Monday and Thursday night. To begin with, the group consisted of about 85 students, but has since dropped to about 50. The students range in age between 11 and 17, and they report to 2-hour classes at the community center, twice each week.

Their teachers feel that these students are truly interested in helping themselves; and they are taking their work seriously. For the most part, their extracurricular studies are guided toward better preparing them for college; and the courses involve reading, vocabulary building, grammar and composition, and cultural appreciation.

I think what these students in Goldsboro are doing is an encouraging sign, and certainly offers concrete evidence of the efforts we in North Carolina are making to remain calm and to act with reasonableness.

It is not easy to bring about a climate of calmness, when feelings and emotions are running as strongly as they have been recently; but, in my opinion, if we do not maintain an atmosphere of calmness, we are going to lose rights for all of our citizens, instead of gaining rights for any particular group of citizens.

In my opinion, if Congress enacts a so-called civil rights bill which denies a citizen the right of trial by jury, we will be making direct contributions to disorder and we will be inviting chaos and creating conditions under which it will be even more difficult to maintain an atmosphere of calmness.

It has been argued that one of the reasons for omitting trial-by-jury proceedings in previous civil rights bills is that in some areas it would be impossible to obtain convictions. The logic of this reason is extremely difficult for me to understand.

I am confident that the Congress of the United States is not going to damage our basic legal process in order to find a shortcut to convicting people who do not act in accordance with the wishes of certain Federal officials.

In my view, Congress could make no greater mistake than to do away with this time-tested right of all citizens for the sole purpose of speeding up the attainment of equal opportunities in a few isolated areas.

No one is going to deny that some discrimination has been shown in some areas.

There is no argument about that. And neither is there any argument, I am glad to say, about the fact that no particular area or no particular section of this country has a monopoly on discrimination and ill feelings between the races.

There are deep feelings in all areas of the Nation, and events in the past year have shown very clearly that these feelings are real and they are there—and they have been there—and they will be there for some time to come. Until recently the general public thought that the South was the only place racial discrimination was found, but this was not the truth. The feelings that exist in my part of the country are felt in many other parts. The only difference is that for many years the feelings in the South have been more widely advertised.

I think it would be tragic for the Congress to have any part in leading the American people to believe that all of the problems will be solved with the passage of H.R. 7152. Nothing could be further from the truth.

The only real solutions we are going to find are going to be in the hearts and minds of the people of this country and not in the pages of the law books where Federal authority over the conduct of all citizens is repeatedly increased.

Let us look, for example, at what the situation could be in respect to registering and voting if H.R. 7152 were enacted without amendment. In the State of North Carolina, we have 2,200 election precincts and 100 county boards of elections—1 board of elections for each of the 100 counties in the State.

If H.R. 7152 is enacted into law without amendment, it would mean, in effect, that the 2,200 registrars who serve in our State, plus all of the members of the 100 county boards of elections, would be virtually under the control and at the mercy of the Federal Government in carrying out their duties and responsibilities. At all times, they would be subject to possible direction of and harassment by Federal authorities.

They would go about their work under the threat of being hauled into court and the force of Federal authority could be turned loose upon them at any time a person came before them and felt that he was being mistreated because of his race, or his color, or his national origin.

Some of the proponents of H.R. 7152 argue that this Federal authority is needed in order to prevent registrars and county boards of elections from showing any discrimination in registering qualified voters.

For the sake of discussion, let us assume that H.R. 7152 is enacted into law without amendment and various registrars are charged with engaging in discrimination. Let us also assume that some more—and we do not know how many more—people would register and vote if H.R. 7152 were enacted into law. After all of this happens and the full force of the Federal Government has been brought down upon a registrar, all that has been accomplished has been the fact that another citizen might be registered and might vote. That is the most that can be accomplished. But much more will have happened if in fact the registrar in question is determined to engage in discrimination.

To begin with, it is my feeling that if a registrar is determined to engage in discrimination, he is going to find a way to do it whether or not H.R. 7152 is enacted. And in my opinion if the full force of the Federal Government is brought upon him he will be more likely to try to find more and different ways to discriminate than he does now.

The point I wish to make is this: We have not solved the problem of discrimination until we have created a climate where each and every registrar in the United States goes about his duty without showing any discrimination, wittingly or unwittingly, and the way to do this is by keeping that registrar in the right frame of mind in carrying out his duties and his responsibilities.

In a previous speech I tried to show that we have made very serious efforts in North Carolina to create conditions under which all qualified citizens would be encouraged to register and to vote.

It is true that the number of nonwhite citizens registered to vote in North Carolina is not as large as we would like to see it, but this number is growing larger each and every year. We are encouraging all qualified citizens to register and to vote and to take an active part in government. In a short time, I think the facts will show that a high percentage of our nonwhite citizens are actively participating in elections in our State.

It is a fact that we are encouraging all citizens to register and to vote, and I think the fact that the North Carolina Advisory Committee on Civil Rights received complaints from only 5 out of 100 counties shows that we are making honest efforts to register all qualified voters.

In addition to encouraging all citizens to take part in the Government process, we in North Carolina have also made honest efforts to set up the machinery and let it operate in a fair manner.

I would like to quote from the report of the Advisory Committee on Civil Rights published in 1961 and the comments the committee made about the appeal procedure that is followed under North Carolina State law in cases where any potential voter has reason to make complaints.

The committee report states in part:

> Any person who is denied registration for any reason may appeal the decision of the registrar to the county board of elections. The procedure is simple—he must hand the registrar a paper stating his name, age, and address, and "I appeal to the county board of elections because I have been refused registration though qualified." Other words to the same effect will be sufficient.
>
> He must sign this himself. It must be delivered to the registrar on the day of the denial or by 5 p.m. on the day following denial. If the denial takes place on Saturday, GS 103–5 would permit the notice of appeal to be delivered up until 5 p.m. on the Monday following.
>
> That is all he needs to do, but it must be done if his right to register is to be established. Most people wait too long. Writing the State board of elections or the county board of elections, the Civil Rights Commission, or anyone else is useless unless that first step is taken.
>
> This procedure has been clearly stated in the North Carolina elections laws since 1957, when the general assembly amended the statute to make plain just what the person desiring to register must do if denied registration. The county board will then set a time for the applicant to appear and if he is qualified the board will register him. If not, he can then give written notice of appeal to the superior court, which can order him registered if he is qualified. But the official first step is this short written statement handed to the registrar at any time on the day of or following the denial.

We can see from this observation made by the Advisory Committee on Civil Rights that we in North Carolina have not been negligent in setting up what we feel are fair procedures. In its report the advisory committee makes a number of recommendations, and among them is the recommendation that the various registrars throughout the State should follow more standardized procedures in administering the literacy tests.

I think this is a good suggestion, but again I say we will be much better off in the long run if we leave this matter to the various States and encourage leadership at the State and local levels to do this.

I think the approach through the State and local leaders would, in the long run, be much more effective than decrees and directives from Washington.

I cannot help but believe that if the election machinery of this country is run from the city of Washington, we will see widespread discord, discontent, and a great reluctance to work together cooperatively and in a spirit of good will.

The advisory committee on civil rights in North Carolina strongly urged all those who feel that they have been the target of unfair discrimination to use the appeal procedure that is a part of the general statutes of our State law.

As the committee observed:

> If this simple procedure is followed, it will be far more effective than petitions, investigations, new laws or demonstrations in the presence of any particular registrar who appears reluctant to register anyone.

I think the chain of events in recent years shows that we have in North Carolina good intentions.

The literacy test, which requires potential voters to be able to read and write any section of the State constitution, was held valid by the U.S. Supreme Court in 1959.

In the famous Bazemore case of 1961 the North Carolina Supreme Court decided that the complainant should be given another opportunity to register because in the first instance the registrar had dictated a portion of the Constitution to the potential voter.

The North Carolina Supreme Court held that this was not a fair test.

Again, Mr. President, I mention these intances to show that the leadership of North Carolina—and I think this includes a vast majority of local officials as well as State officials—are dealing with the question of voter qualifications in good faith.

Mr. President, to demonstrate what I sincerely feel is another display of good faith under the most difficult of circumstances, I would like to call to the attention of the Senate briefly some of the things that have transpired in the field of education in our State within the past 10 years.

The Supreme Court case involving public schools handed down on May 17, 1954, created very grave problems for us.

Several months after the decision was handed down in May, Governor Umstead died—incidentally, Governor Umstead was at one time a Member of the Senate—and he was succeeded by the Honorable Luther H. Hodges, who was then Lieutenant Governor, and is now a member of the President's Cabinet.

Before his death Governor Umstead appointed a special committee on education to study the Supreme Court decision and to come up with some recommendations.

This committee made the report to Governor Hodges in December of the same year, and I would like at this point to read into the RECORD this report:

To the Governor of North Carolina: This committee was appointed by the Honorable William B. Umstead, late Governor of the State of North Carolina, on August 4, 1954, for the purpose of studying the effects of the decision of the Supreme Court of the United States of May 17, 1954, dealing with racial segregation in the public schools, and to make recommendations to him as to how the problems arising therefrom might be met. After the death of Governor Umstead, soon after you took the oath of office as Governor of North Carolina, you requested this committee to continue its work and report to you as originally instructed.

Immediately upon its original appointment the committee began to study the problem, gathering information from every possible source. Every State in the Union which is materially affected by the Supreme Court's decision was contacted and reports, studies, briefs, legislative enactments, and all other available documents dealing with the subject were secured, distributed to, and studied by the committee. The committee and its subcommittees have met periodically. Members of the committee have discussed the problem with individuals, groups, school officials and authorities throughout North Carolina and have made every possible effort to ascertain the sentiment of the people of North Carolina and probable effects of the Court's decision and to find a satisfactory solution to the attendant problems.

The committee is of the opinion that no other judicial decision or legislative enactment has ever so directly and drastically affected the public schools and, therefore, the lives of all the people of North Carolina as the decision of the Supreme Court of May 17, 1954. This decision makes a major change in our State school law. This new interpretation of our Federal Constitution threatens to disrupt our accustomed social order and disturb the peace within many school districts of the State. So, as the committee moves to perform the functions assigned to it, it does so with the following objectives in mind.

1. Preservation of public education in North Carolina.

2. Preservation of the peace throughout North Carolina.

That is the significant part of the report to the Governor.

The committee approaches the accomplishment of the above objectives with deep humility, knowing that the final answers are not with the committee but with the legislature and the people of this State. Now as never before in this generation North Carolinians are called upon to act coolly, exercise restraint, exhibit tolerance, and display wisdom. The committee recommends that members of all races in North Carolina approach this problem of unprecedented difficulty in that frame of mind.

With the above thoughts and objectives in mind, the committee submits to you the following conclusions and recommendations:

First. The committee is of the opinion that the mixing of the races forthwith in the public schools throughout the State cannot be accomplished and should not be attempted.

The schools of our State are so intimately related to the customs and feelings of the people of each community that their effective operation is impossible except in conformity with community attitudes. The committee feels that the compulsory mixing of the races in our schools, on a statewide basis and without regard to local conditions and assignment factors other than race, would alienate public support of the schools to such an extent that they could not be operated successfully.

Second. The committee is of the opinion that the people of North Carolina look upon education as the foundation upon which our democratic institutions stand and are determined to provide education for all children within the limits of their financial ability. The committee feels that the people of North Carolina desire to solve the problems created by the Supreme Court's decision and provide education for our children within the framework of our present public school system, if possible. The committee shares that view and, therefore, recommends that North Carolina try to find means of meeting the requirements of the Supreme Court's decision within our present school system before consideration is given to abandoning or materially altering it. Only time will tell whether that is possible.

Third. The committee is of the opinion that the enrollment and assignment of children in the schools is by its very nature a local matter and that complete authority over these matters should be vested in the county and city boards of education. With such authority local school boards could adopt such plans, rules, and procedures as their local conditions might require. The committee finds that public school problems differ widely throughout North Carolina and that there is even a wide variation of problems and conditions within counties themselves. As these problems unfold and develop from month to month and from year to year local school administrative units could move to meet each problem as it arises if such units are given complete authority over the matters referred to above. We, therefore, recommend that the General Assembly of North Carolina enact the necessary legislation to transfer complete authority over enrollment and assignment of children in public schools and on schoolbuses to the county and city boards of education throughout the State.

Fourth: The committee feels that problems arising from the Supreme Court's decision will be with us for many years and will require continuous study, attention, and perhaps legislative action. We, therefore, recommend that the legislature create an advisory commission for that purpose and that the legislature be represented on such a commission.

The committee, of course, is aware of the fact that the Supreme Court of the United States has not handed down its decree in the Virginia, South Carolina, Delaware, and Kansas cases, implementing its decision of last May in those cases, and is aware that additional legislation might be required immediately after that decree is issued, and from time to time thereafter. We do not think, however, that the legislation herein recommended is premature or that it will in any way adversely affect the welfare of the schools of North Carolina, regardless of the terms of the Court's final decree in those cases.

The committee hopes it has been of service to you in the study of this important matter and it stands ready to render such additional service as it might be able to perform.

Respectfully submitted this the 13th day of December 1954.

Thomas J. Pearsall, attorney at law, Rocky Mount, chairman; F. D. Bluford, president, Agricultural and Technical College, Greensboro; James H. Clark, banker and farmer, Elizabethtown; Ruth Current, home demonstration agent, North Carolina State College, Raleigh; Gordon Gray, president, University of North Carolina, Chapel Hill; Fred B. Helms, attorney at law, Charlotte; Dallas Herring, businessman, Rose Hill; R. O. Huffman, industrialist, Morganton; William T. Joyner, attorney at law, Raleigh; Helen S. Kafer, hospital administrator, New Bern; James C. Manning, superintendent, Martin County Schools, Williamston; Holt McPherson, editor, High Point Enterprise, High Point; Hazel S. Parker, county home agent, Tarboro; Clarence Poe, editor, the Progressive Farmer, Raleigh; I. E. Ready, superintendent, Roanoke Rapids City Schools, Roanoke Rapids; J. W. Seabrook, president, Fayetteville State Teachers College, Fayetteville; Paul Reid, president, Western Carolina College, Cullowhee; L. R. Varser, attorney at law, Lumberton; and Arthur E. Williams, chairman, Wilson County Commissioners, Wilson.

The commission which made this recommendation was diversified. It included teachers, nurses, doctors, lawyers, and others, representing almost every profession.

I should like the record to show, Mr. President, that legislation carrying out the recommendations of the Advisory Committee was adopted by the North Carolina General Assembly, and I sincerely feel that it is a fair statement to say that the arrangement has worked out for everyone concerned.

I use the word "arrangement" because it has enabled us to keep our schools open, to comply with the decision of the Supreme Court on a gradual basis, and at the same time made it possible for us to improve the quality of education we are providing for our young people.

Even in the early days of Governor Hodges' administration, when tempers were short and emotions were high, the general assembly and local governing bodies provided record sums for education.

This gives an indication of how devoted we are to our public schools and to the task of improving them.

The work in this field has continued and has been accelerated under the administration of Governor Sanford.

Governor Sanford has proved that under difficult and adverse conditions the educational life of our State can advance and improve in more than just a token way.

Under his administration we have increased State taxes and spent untold millions of dollars for new facilities to carry out his outstanding program of quality education.

In this connection, Mr. President, I should like to quote a section of Governor Sanford's inaugural address delivered on January 5, 1961:

> We are going to continue to put our faith in these fundamentals: universal education, supporting, and supported by, a stronger economy.
>
> I am not going to rely on dire statistics to prove my determination to lift the quality of education and to broaden the opportunities of earning a better living. Instead I am going to rely on faith. We have come a long way from a beginning which rose out of the ashes of disaster and despair.
>
> We all are proud of our universal education. But now, in the closing decades of the 20th century, we must do more than merely make education universal. We must give our children the quality of education which they need to keep up this rapidly advancing, scientific, complex world. They must be prepared to compete with the best in the Nation and I dedicate my public life to the proposition that their education must be of a quality which is second to none. A second rate education for our children can only mean a second rate future for North Carolina.
>
> Quality education is the foundation of economic development, of democracy, of the needs and hopes of the Nation. Quality education put in its bleakest terms is survival. In its brightest terms, it is life, and growth, and happiness.
>
> I have already detailed my program for quality education in North Carolina. It is a model program which represents the best thinking in the education field. Already it has received national attention and comment. We are confident that this is the program that the children of North Carolina need.
>
> If it takes more taxes to give our children this quality education, we must face that fact and provide the money. We must never lose sight of the fact that our children are our best investment. This is no age for the faint of heart.

I think it is interesting to note, Mr. President, that in a period when there were many schools being closed in some States—and in a period when there was strife and discord and a great many schoolchildren did not know what the day would bring when they went to classes in the morning—North Carolina made increases in its public school expenditures and made marked improvement in the educational opportunities of its children.

In fact, in 1961–62—the latest year for which figures are available—the amount of expenditures for local schools by State and local governments per $1,000 of personal income was $45.15 in North Carolina as compared with a national average of $39.70.

North Carolina ranks among the upper one-fourth of States in the amount of its resources that are used in the support of the public school system.

Again in the 1961–62 period North Carolina led the Nation by providing an 18-percent increase in funds for public schools, compared with a national average increase of 4.9 percent.

There is a vast difference between 18 percent and 4.9 percent.

In many ways, Mr. President, these figures speak for themselves and they speak unusually loud and clear when we take into account the fact that we have had some very serious and very grave problems in keeping our school system on an even keel during the past 10 years.

> I believe that the people of this State will rise in boldness and will go forward in determination that we have chosen wisely when we base our future hopes on quality education. I need your help, your understanding, your firmness of purpose, and your hard work if we are to achieve this goal.
>
> While quality education is the rock upon which I will build the house of my administration, we are not going to fall into the error of thinking that this, or any other single emphasis, will alone build a better North Carolina.
>
> Education supports the economy but education must be supported by the economy. As we work for quality in education we must at the same time work just as boldly for broader opportunities to lift the income for our people.
>
> Our goal is not only full development of the talents of our children, but also the creation of an expanding economy which will give everyone a better chance to make a better living.

All of this shows, Mr. President, that we have a spirit of progress and prudence in North Carolina, and we feel that we can bring about richer and fuller lives for all of our citizens if we are permitted to work with and for our people at the local and State levels.

But again, this is part of our determination and dedication to conduct ourselves in a manner which will maintain a climate and atmosphere of calmness and prudence.

We could not accomplish what we have accomplished in this period if we were running in a dozen different directions or if we did not have the essential element of broad public support we enjoy for good schools.

Mr. STENNIS. Mr. President, will the Senator yield for a question at this point?

Mr. JORDAN of North Carolina. I am glad to yield to my distinguished friend from Mississippi for a question.

Mr. STENNIS. I have listened with a great deal of interest to the Senator's recital about the progress that the State has made and the various programs that the people of North Carolina are carrying on with respect to their public school system. The Senator from Mississippi has some knowledge of its operation through observation. He has admired it for many years. He is glad to see the development, the progress, and the forward-looking system of public education in North Carolina. The Senator has already mentioned the public support that he has in his home State. Is not public support the essential foundation of any system of public education?

Mr. JORDAN of North Carolina. I am glad that the Senator asked that question. I am glad that he has brought out that point. To my way of thinking, that is the only way in which it is possible to bring about a fine educational system or any other good system. It is done by people providing for their own welfare. If the people back home do not want something, they will not try to make it work.

Mr. STENNIS. In other words, schools will not be improved without the support of the people back home. Is that correct?

Mr. JORDAN of North Carolina. The Senator is absolutely correct.

Mr. STENNIS. Does not the bill show a tendency throughout, not only with reference to education, but also in connection with all the other titles, to transfer power and responsibility from the local level, whether it be a school district, a county, or a State, to the Federal Government in Washington? Is that not the whole picture and pattern of the bill? Is that not one of the major outstanding purposes of the bill?

Mr. JORDAN of North Carolina. The Senator is absolutely correct. That is one of the things that disturbs me, just as it disturbs the Senator from Mississippi and other Senators. Returning to the situation of local people cooperating and helping each other reminds me of a little rural school that I am familiar with. The local people did not have the money with which to provide a cafeteria. They had decided that they wished their children to have a cafeteria in the school. The people decided to build it themselves. They went to the school at night and dug out the foundation for it and then built the cafeteria. They provided the money for its construction by giving suppers. The Senator knows how people in those communities give barbecues and do things like that. They did all sorts of things to raise money. They did it through the PTA. They gave shows, and did one thing and another. Pretty soon they had collected enough money with which to build their cafeteria. It is a well-equipped cafeteria. It has been in operation for a good many years. Those people are proud of it, because they put something of their own into it. If they had looked to Washington, they would not have a cafeteria today. Washington cannot do everything for everyone. It does not understand these problems. Washington is inclined to say, "You are not entitled to it," or "You are too little," or "You are too big." Washington has all sorts of answers. It would have taken years to reach the point where that cafeteria could have been built, and in the meantime the children would have been deprived of the benefits of the hot school lunch program and the milk program. Of course, there is no use providing a school lunch program if there is no way of administering it.

What I have cited is a good example, because if people want a good school, they will get it.

This same little school wanted to hire a music teacher. They said, "Our children should have music."

It is not possible to have everything provided by the Federal Government.

This is the sort of thing that I am talking about and the sort of thing the Senator is talking about.

Mr. STENNIS. What the Senator has cited with reference to the music teacher and the cafeteria represents the very heart and soul of that school. That is what makes it "click." That is what makes it work. That is the American system. If we were to try to operate that school by passing laws here or through court orders, and all that sort of thing, the program would bog down.

Mr. JORDAN of North Carolina. There is no question about it. The way to handle these situations is through a local form of government.

I do not know whether those problems exist in Mississippi, but it is not an easy thing to persuade people to serve on a county commission, or to take similar positions that do not pay very much. Many headaches are connected with such jobs. A great deal of work must be done at night. It takes a great amount of time to do it. If someone is to control the program from Washington, the local people will not do it. They will say, "Let someone else do it."

Then there will be a sad state of affairs.

Mr. STENNIS. The interest will diminish, people will move away, and activities will be reduced, because there is no local support.

Mr. JORDAN of North Carolina. That is quite true.

Mr. STENNIS. I should like to question the Senator briefly on another phase on which he has touched in his speech; that is, with respect to title VII, the so-called Fair Employment Practice Commission. The Senator from North Carolina has been successful in manufacturing and has an industrial plant of his own. He and his associates know what a day's work is. They know what it means to people who work for them. They know what it means to have a small plant grow and develop.

Under the terms of the bill, if it should pass, would an employer of more than 25 employees have the right to select his employees, those whom he wants to have associated with him in his business, those who he thinks will do the best job for themselves as well as for the employer?

If the bill should become law, will not the employer be denied that right? Will he not, instead, be required to have an agent representing the Federal Government, whose seat is in Washington, not in North Carolina, oversee and supervise the employment of the people who make up the personnel in the little factory within a town which employs 25 employees? Would not such an employer be affected if the bill should become law?

Mr. JORDAN of North Carolina. That is true; there is no question about it.

Mr. STENNIS. Does the Senator from North Carolina believe that that would strengthen that small business or enterprise, whether it be an industrial plant or a bank? Would it strengthen it or tend to weaken it?

Mr. JORDAN of North Carolina. I am afraid it would come nearer to destroying it than anything else. All businesses are conducted in about the same way.

In my own office in the Senate, when we need another secretary, we find out if the applicant can write shorthand and can typewrite, how well she can spell, and if her knowledge of grammar is good. We give her a test. If her personality and other attributes indicate that she will fit into our group of people, we will employ her. If not, we will not employ her. We have no prejudice against such a person; but if she cannot do the work we want done, we feel that we must employ someone else.

If that right were denied in a business or any other activity and we had to accept anybody who showed up, pretty soon there would be no one on whom we could depend. I do not believe any loyalty would be created if that were the case. To be successful, a plant must have loyal employees, persons who will take pride in the institution, who will be proud of the product they make. But if it is necessary merely to hire them without having the right to "run them off" if they do not do good work, they will all soon say, "I am going to get paid anyway. I have a job. The Government made you hire me. You cannot run me off unless the Attorney General says you can."

I do not see how a business can be operated in that way.

Mr. STENNIS. Under the bill, not only would the manager of a small enterprise lose the right to select employees; he would also have a supervisor to tell him how he must promote his employees, would he not?

Mr. JORDAN of North Carolina. Exactly; that is what the bill provides.

Mr. STENNIS. Moreover, the employer would have to have the permission of a Federal supervisor, in effect, before he could discharge anyone for failure to live up to the requirements of the jobs. Is not that correct?

Mr. JORDAN of North Carolina. That is quite true. I do not know of any business establishment that has been successful, and has made any contribution to a community, a State, or the Nation, that has not had what we call the merit system. Under such a system, people are promoted because they have done a better job than someone else could do, or because they are better qualified. They have devoted their energies and talents to the promotion of the business, to the extent that they are worth more.

But if an employer were to be required to promote someone because he has been employed for so many days, and because an employee may say, "I have been here as long as someone else"; and if the employer must promote him without regard to fitness or loyalty or desire to make the company better or more prosperous, so that it can provide a better job for him, all the incentive to help build the business into a better one would disappear.

Mr. STENNIS. Let us take the illustration of a little business owned and operated by a man who has made it grow from 5 employees to 10 then from 10 to 15, and then from 15 to 20. If the number of employees should grow to 20, and the bill should become law, the employer would know that if he employed as many as 25 persons he would lose control of the business to the extent that someone else would do the hiring, or at least supervising; that someone else would control the promotion list, regardless of what the employer might think of his merit system; and that someone else would determine whether he can fire an employee who he thinks is not doing his work properly, does not the Senator believe that instead of trying to expand his business and provide more jobs, and raise the number of employees to 25, he would stop at 20 or 23?

Mr. JORDAN of North Carolina. The distinguished Senator from Mississippi knows that all businessmen are alike. They discuss their business affairs and conditions together, just as we discuss legislation among ourselves in the Senate. If a man has 30 employees and is plagued to death by Federal officials, he will advise his friend not to employ 30, because he will be in trouble. He will say, "Don't let your business grow any more."

That is not where it will stop. Somebody else will come in and say, "You are not like me. I will make it 30." The next fellow will make it 35. But finally they may all reduce the number of their employees to 10. We have seen that done under social security.

Such a proposal would tend to destroy the incentive of a business to grow beyond a certain size, when a man feels that it is something he can control or manage and arrange with his own employees. It is always a mutual affair. If a business is not a mutual enterprise with the employees, the management and the employees will not get along well together. The business will not be profitable. It will not be possible to expand the business without cooperative enterprise.

Mr. STENNIS. I thank the Senator for his answers. I shall ask him to yield for one more question.

We have been speaking about the man who had a little business and who would lose control of the hiring of his help and lose control of promoting them. He would not be able to control the firing of those who do not deliver. Would he not have had something taken away from him?

Mr. JORDAN of North Carolina. The Senator is correct.

Mr. STENNIS. That is why we say the bill would destroy more rights than it could possibly restore.

Mr. JORDAN of North Carolina. In all my experience and dealings with businesses, whether they employ 1, or 10, or any other number of employees, I have never seen anybody who discriminated against employees or who wanted to get rid of good employees. The employer will always try to encourage them to stay. It is sometimes necessary to "run off" some employees who are not satisfactory, who are not able to produce. But that is always an unpleasant thing to do.

However, capable employees do not lose their jobs. Other employers try to take them away. We are always trying to hire somebody who is good. But there are some persons whom one never tries to hire.

I do not believe there is any discrimination in business, regardless of color, creed, or religion. If a person is doing good work, nobody wants to lose him; the employer wants to keep him.

Mr. STENNIS. Employers are always looking for good employees.

I thank the Senator from North Carolina for yielding. I appreciate the speech he is making. It is pertinent, logical, and filled with reason.

**Mr. JORDAN of North Carolina.** I appreciate the remarks that have been injected into my speech by the Senator from Mississippi. It has been worthwhile to have them occur at this particular point.

As I have stated before, our practice has been to follow a course that would preserve our public schools and at the same time preserve public support of them.

There are 171 public school jurisdictions in the State of North Carolina. During the past 10 years, 42 of these units have been integrated.

Some of the proponents of H.R. 7152 have contended that the pending measure needs to be enacted into law because the integration of public schools has been too slow.

This is a question of judgment, Mr. President, and it is my contention that regardless of what speed is used, that speed should never be so fast and so excessive that it destroys the public support of the public schools in any school district.

I have always felt that two basic approaches must be used in bringing about equal opportunities for all of our citizens.

First of all, we must maintain conditions under which people in all communities can sit down and work out mutually satisfactory solutions about public accommodations, about employment opportunities, about registering and voting, about housing, about educational opportunities, and all of the other things that go into the broad meaning of civil rights and fair treatment.

Unless we maintain a climate of this type, we are going to bring about ill feeling, rather than diminish it. I have felt that along with this approach, we must work on the question of racial discrimination from the standpoint of long-range solutions. It is my feeling that the heart of the real solution to this total problem lies to a large measure in education.

We can say what we please, and to whom we please, and we can pass any law we please; but until we have raised the educational level of a large segment of our population—and this includes all races, and all colors and all creeds—we are not going to find any real solution to this whole problem.

It is my sincere belief that if we educate all of our citizens and make useful, productive, constructive citizens of them, we shall no longer have problems concerning public accommodations, employment, housing, and other things which are causing so much concern throughout the United States today. This is not a view that I hold lightly, or one which I have just recently adopted for the sake of discussion here.

During my entire life I have had a great deal of respect and regard for the value of education and an enlightened citizenry.

In no way do I wish to appear to boast; but long before I became a Member of the Senate, I had a real and a genuine interest in the need for improved education. For many years I have served on the Board of Trustees of Duke University; and I am proud of what that institution has done to uplift the educational standards—in not only North Carolina, but also throughout the Nation. I have also served for a number of years as a member of the Board of Trustees of Elon College, and I am also a member of the Board of Trustees of American University, here in Washington, D.C.

So I think I speak with some knowledge and appreciation of what education means and what educational institutions can do and are doing to bring about a better way of life for all of us. I also speak as one who has given many hours of my time and a great deal of my effort to improving our educational standards.

Because I feel as I do about the importance of education, during the time I have been in the Senate I have voted in favor of every bill which has been brought up for consideration which would provide Federal assistance to the State for educational purposes. I have done this because I feel this is one of the most urgent needs in our Nation today—not only to uplift all our people and enable them to provide for themselves richer and fuller lives, but also because I believe the ultimate victory we will win against communism will be won in the classrooms of this Nation. It will be won as a result of having a more enlightened, a more educated, and a more productive population throughout all endeavors of human effort.

I make these particular remarks about my personal feelings concerning education, because I sincerely hope Congress will not create conditions under which it would be impossible for me as a representative of the people of North Carolina to vote for a bill which would help the people of North Carolina—as well as the people in every other State—to improve the quality of public education.

It is of tremendous importance to preserve an atmosphere in which the States and local communities will have full authority over the manner in which States and districts are operated.

It would be very easy for me—as a resident of North Carolina—to be critical of how a school is operated in Seattle, Wash., in Phoenix, Ariz., or in New York City, if the operations of that school did not suit my particular fancy. But I would be the last person in the world to tell a school board in Seattle, or in Phoenix, or in New York City what policies to follow, unless I knew what the problems were.

I say this, Mr. President, because I firmly believe that the ultimate responsibility for public education must be met at the local level, and we must at all times maintain conditions under which local school boards have the greatest possible freedom in meeting their duty and their responsibility.

We cannot run every schoolhouse in this Nation from Washington, D.C.

We cannot preside over every ballot box in the United States from Washington, D.C.

At some point the people themselves must solve the problems involved in getting along with each other. This is something that is an impossible function of any government; and if we try to dictate good will through government, we shall ultimately make a shambles of our basic form of government.

There is no doubt about the fact that we have some very serious racial problems in this country. They are problems that need to be solved, and I am confident they will be solved. It is our duty to see to it that they are solved in such a way that the results will be constructive rather than destructive. It is our duty to see to it that they are solved in such a way that our form of government will not be compromised and will not be endangered.

After all, there are responsibilities in many areas in this whole picture, and among those responsibilities are the ones that rest with the individuals themselves.

The Government has a responsibility to create conditions under which the problems can be solved, and the individuals involved have the responsibility to help themselves, once they are given the opportunity to do so.

It is easy to say that certain people have been denied certain rights. It is easy to say that we need to move without delay to see that those rights are exercised, no matter what the cost may be.

I, for one, feel that every qualified voter should be able to exercise his right to register and to vote. But I do not feel that the right of all our citizens of this land to a trial by jury should be compromised and endangered for the sole purpose of speeding up processes of attaining other rights and cutting corners to get where we need to go.

If we sincerely and earnestly work on this problem, we cannot only bring about equal opportunities for all our citizens, but we can also preserve other rights which would be endangered if H.R. 7152 in its present form were enacted.

I sincerely hope we shall find reasonable and workable solutions.

Regardless of what action the Congress takes this year, it will take a long time to solve all of our problems in the field of equal opportunities.

I am one who believes we have made amazing progress; and I only wish more attention would be given to the progress we have made, rather than the attention that is given to the criticism we get for the progress we have not made.

With circumstances as they are and with feelings as they have been for some years, I think what we have been able to accomplish far outweighs what we have not accomplished.

Above all else, I hope that Congress will not take action which will bring about conditions under which we cannot continue to move ahead under our own initiative and on our own volition.

For many years my section of the country was criticized for not making efforts to bring about racial equality. It is true that conditions which have existed have made rapid progress most difficult, if not, in some cases, virtually impossible.

But for a number of years we have been moving, and we have been making progress. I sincerely hope that Congress will not take action that will slow us down or will have the end effect of destroying progress we have made and are continuing to make every day.

Mr. President, this concludes my remarks; and I yield the floor.

## TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

## ADDITIONAL BILLS INTRODUCED

Additional bills were introduced, read twice by their titles, and referred, as indicated:

By Mr. HOLLAND:

S. 2770. A bill to designate a navigation lock and flood control structure of the central and southern Florida flood control project in the State of Florida as the W. P. Franklin Lock and Control Structure; to the Committee on Public Works.

By Mr. SCOTT:

S. 2771. A bill to provide for the establishment of a Health Insurance 65 Program; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. Scott when he introduced the above bill, which appear under a separate heading.)

## HEALTH CARE FOR THE AGED

Mr. SCOTT. Mr. President, I send to the desk, for appropriate reference, a bill to assist aged individuals to purchase private health insurance policies which will enable them to provide adequate medical care for themselves.

Assisting our aged citizens in meeting their health care costs is one of the most challenging problems confronting American society today. Through the miracles of modern medicine, our senior citizens are living longer and more productive lives today, and are likely to live to even riper ages as medicine continues its advance. Despite the addition of productive and healthy years to their lives, these individuals continue to be susceptible to ailments and illnesses which require more medical treatment and hospitalization than do younger people.

The progressive improvement in the medical sciences, while conquering several diseases completely and reducing the time required for treatment of other illnesses and ailments, has also led to higher costs of health care. These higher costs pose a particular problem to our older citizens, many of whom live on fixed incomes. Moreover, our senior citizens generally are ill for longer periods of time and consequently require more medical and hospital treatment than those below age 65.

It is clear, then, that some of our older citizens require governmental assistance to supplement their own resources in meeting the costs of their health care. This is the premise underlying all legislation that has been introduced in this area over the years.

Under my bill, any individual aged 65 or over may purchase a health insurance policy which contains at least the coverage specified in the bill. The Government would provide cash payments to defray the annual premium cost of the insurance policy.

Such payments would amount to whichever of the following is smaller: First, one-half the annual premium of the policy; or, second, $75 if the policy is a short-term illness benefits policy, or $90 if the policy is a long-term illness benefits policy.

These cash payments may be made directly to the individual beneficiary in reimbursement for the Government's share of the premium cost or, if the beneficiary prefers, directly to the insurance company issuing the policy. The Secretary of Health, Education, and Welfare would administer the program and would disburse the benefit payments provided thereunder.

Under the bill, a short-term illness benefits policy must contain at least the following benefits during the year in which the policy is in operation: First, up to 45 days inpatient hospital services; second, 2 days of nursing home care—up to 90 days—for each unused day of inpatient hospital care; third, up to $200 worth of surgical treatment; fourth, up to three visits to a doctor's office for treatment; fifth, outpatient hospital services, including diagnostic, X-ray, and laboratory services; sixth, outpatient surgical services; and seventh, up to 10 days of visiting nurse services prescribed by a physician.

The long-term illness benefits policy must contain at least the following benefits during the year in which the policy is in effect: First, up to 75 days' inpatient hospital services; second, 2 days' nursing home care—up to 150 days—for each unused day of inpatient hospital care; third, up to $300 worth of surgical treatment; fourth, up to five visits to a doctor's office; fifth, outpatient hospital services, including diagnostic, X-ray, and laboratory services; sixth, outpatient surgical services; and seventh, up to 30 days of visiting nurse services prescribed by a doctor.

I have been assured that if such policies were issued by private insurance carriers, annual premiums of $150 for the short-term illness benefits package and $180 for the long-term illness benefits package, respectively, would be actuarially sound. And, Mr. President, I believe that enactment of the legislation I am proposing today would stimulate private insurance companies to offer such policies to our aged citizens.

My bill would supplement existing law. The Kerr-Mills or Medical Assistance for the Aged Act of 1960 is an effort to meet the problem of high health care costs in the case of those aged individuals whose resources otherwise would be wiped out as a result of the costs of treating their chronic or catastrophic illnesses. I voted for the Kerr-Mills bill in the Senate in 1960; I shall continue to support its implementation and extension in the various States of the Union; and I am prepared to support amendments designed to broaden its coverage and improve the benefits offered under its provisions.

My own constituency, the Commonwealth of Pennsylvania, has a medical assistance for the aged program established pursuant to the Kerr-Mills Act. Begun in 1961, it was broadened in scope and coverage last year under the imaginative leadership of the administration of Gov. William W. Scranton so that it now represents the most liberal application of the Kerr-Mills Act in the Nation. I am proud of the Pennsylvania Kerr-Mills program and I salute Governor Scranton and his administration for their continuing concern for helping many aged Pennsylvanians obtain the best medical care they possibly can.

The Commonwealth's Secretary of Welfare, Arlin M. Adams, described Pennsylvania's medical assistance for the aged program in an excellent statement before the House Ways and Means Committee last November.

As Secretary Adams pointed out, the Pennsylvania General Assembly authorized the Commonwealth government to make arrangements with nonprofit carriers under which aged individuals, whose income and assets exceed the maximum limits established by the Commonwealth's medical assistance for the aged program, could purchase with their excess income and assets health insurance coverage to supplement the benefits to which they are entitled under the Pennsylvania program. Secretary Adams requested the approval of the U.S. Department of Health, Education, and Welfare for such an arrangement, but was advised that it is not permitted by the Kerr-Mills Act. Last December, therefore, I introduced a bill, S. 2385, which would enable States such as the Commonwealth of Pennsylvania to enter into such arrangements so that the scope and coverage of medical assistance under the Kerr-Mills Act could be broadened thereby.

Pleased as I am with the application of the Kerr-Mills Act in my constituency, I am convinced that it alone cannot completely do the job in assisting our elderly citizens to meet the costs of their health care. It serves its purpose well in the care of those eligible for its coverage. But there are other aged Americans who, while having resources above the maximum eligibility limitations stipulated in Kerr-Mills, are hard put to meet all their health expenses. My bill is an effort to help them through the tested medium of private insurance. It is a voluntary program rather than one the involves Government compulsion.

My bill provides for a partnership between the Government, the elderly citizen, and the health insurance industry of the Nation. It rests primarily on the principle of self-help. If he is able, it is up to the individual to meet the costs of his medical care. Insurance companies offer policies designed to make it easier for him to meet his health expenses. But my bill recognizes that some people are unable from their own resources to meet all their health expenses. And so it authorizes the Secretary of Health, Education, and Welfare to assist them in purchasing health insurance.

One virtue of my bill, in comparison to other bills offered in this field, is its relatively low cost. I say "relatively" because no one should be under the illusion that health care can be bought cheaply. I estimate that the maximum cost of the program during its initial year of operation would be slightly more than $1.1 billion to the Federal Treasury. This assumes the following: First, 80 percent participation by all aged citizens, excluding those covered by the old age assistance program and other programs, such as the Kerr-Mills program, and second, purchase by all these individuals of the long-term illness benefits insurance policy.

In conclusion, Mr. President, I do not assert that my bill as presently written is perfect. It undoubtedly would be refined after scrutiny in the legislative process by those of my colleagues who are more knowledgeable than I in this specialized field. But it is an effort to move ahead. In this spirit, I offer to the Senate the Health Insurance 65 Act. I urge that my colleagues and fellow citizens give it their thoughtful attention.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD together with the text of a statement by the secretary of public welfare of the Commonwealth of Pennsylvania.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 2771) to provide for the establishment of a health insurance 65 program, introduced by Mr. SCOTT, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Health Insurance Sixty-five Act".

### ENTITLEMENT TO BENEFITS

SEC. 2. (a) Every individual who—

(1) has attained age sixty-five;

(2) makes application for benefits under this Act; and

(3) at the time such application is made is the beneficiary of a qualified private health insurance policy with respect to which premiums are payable by him (or on his behalf);

shall be entitled to the benefits provided under the Health Insurance Sixty-five Program (hereinafter referred to as the "Program").

(b) Benefits provided under the Program to an individual entitled thereto shall consist of one or more money payments, made with respect to any enrollment year, to assist such individual in defraying the premium costs for such year of a qualified private health insurance policy of which he is the beneficiary.

(c)(1) The aggregate of the amounts payable to an individual as benefits under the Program for any enrollment year shall be equal to whichever of the following is the smaller—

(A) one-half of the premium costs of the qualified private health insurance policy of which he is the beneficiary, or

(B) (i) $90, in case such policy is a long-term illness policy, or (ii) $75, in case such policy is a short-term illness policy.

(2) Any payment of benefits under the Program to which an individual is entitled shall be made—

(A) directly to such individual by way of reimbursement, in case there has been paid by or on behalf of such individual the insurance premium on the basis of which he becomes entitled to such payment; or

(B) to the carrier offering the qualified private health insurance policy with respect to which such premium is payable, in case such individual has authorized (in the manner prescribed by regulations) such payment to be made to such carrier.

### ADMINISTRATION OF PROGRAM BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 3. (a) This Act shall be administered by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary").

(b) The Secretary shall have authority to prescribe such rules and regulations as he may deem necessary or proper to carry out the provisions of this Act.

(c) Wherever, in this Act, the term "regulation", "regulations", "rule", or "rules" is employed, such term shall, unless the context otherwise indicates, refer to one or more regulations, as the case may be, or one or more rules, as the case may be, prescribed by the Secretary in carrying out the provisions of this Act.

### QUALIFIED PRIVATE HEALTH INSURANCE POLICY

SEC. 4. (a) The term "qualified private health insurance policy" means a policy of health insurance which—

(1) is provided by a carrier or carriers authorized to do business in the State wherein such policy is issued;

(2) is authorized to be issued within such State under the laws and applicable regulations of such State;

(3) is approved by the Secretary as either a "long-term illness benefits" policy or a "short-term illness benefits" policy;

(4) is provided by a carrier which, in areas served by such carrier, offers such policy to all individuals residing therein who are aged sixty-five or over;

(5) is offered to individuals aged sixty-five or over on a guaranteed renewable basis;

(6) is provided by a carrier which, in the areas served by such carrier, offers individuals a choice of an approved "long-term illness benefits" policy or an approved "short-term illness benefits" policy, and permits an individual who has been a subscriber of one such policy for one year the option of changing to the other such policy;

(7) contains provisions under which the carrier offering such policy to any individual aged sixty-five or over agrees not to increase, with respect to such individual, the rate of premiums payable therefor for one year following the date such individual subscribes to such policy.

(b)(1) As used in subsection (a)(5), the term "guaranteed renewable basis" refers to an insurance policy which is renewable at the time it otherwise would expire at the option of the subscriber of such policy and which cannot be canceled by the carrier except for failure of payment of premiums thereon; except that the reservation by a carrier of the right to terminate an entire policy in a State in accordance with applicable laws and regulations of such State shall not be construed as grounds for disqualifying such policy as being offered on a guaranteed renewable basis.

(2) No insurance policy for purposes of this Act shall be considered to be offered on a guaranteed renewable basis unless increases or decreases in amounts of premiums payable therefor are applied to all subscribers aged sixty-five or over without regard to health condition, health services utilized or claimed, or other personal characteristics, of the policyholder.

### LONG-TERM ILLNESS BENEFITS

SEC. 5. (a) The term "long-term illness benefits" refers to a private health insurance policy under which an individual who is the beneficiary thereof for any enrollment year is entitled to have payment made by the carrier issuing such policy of all the costs incurred by him during such year by reason of his having received the following services which his physician has determined to be medically necessary—

(1) inpatient hospital services (but not for more than seventy-five days unless such policy so provides);

(2) nursing home care, but not for more than one hundred and fifty days unless such policy so provides (except that such policy may provide that the number of days for which he is entitled to have the costs of inpatient hospital services paid may be reduced by not more than one day for each two days he receives nursing home care the costs of which are paid under such policy);

(3) surgical services (but not in excess of $300 unless such policy so provides);

(4) physicians' services provided in a physician's office (but not for more than five visits, nor more than $5 per visit, unless such policy so provides);

(5) outpatient hospital services, including diagnostic, X-ray and laboratory services (but not in excess of $90 unless such policy so provides);

(6) outpatient surgical services; and

(7) visiting nurses' services (but not for more than thirty days unless such policy so provides).

(b) The Secretary shall approve, as providing "long-term illness benefits," any private health insurance policy which complies with the requirements of subsection (a).

### SHORT-TERM ILLNESS BENEFITS

SEC. 6. (a) The term "short-term illness benefits" refers to a private health insurance policy under which an individual who is the beneficiary thereof for any enrollment year is entitled to have payment made by the carrier issuing such policy of all the costs incurred by him during such year by reason of his having received the following services which his physician has determined to be medically necessary—

(1) inpatient hospital services (but not for more than forty-five days unless such policy so provides);

(2) nursing home care, but not for more than ninety days unless such policy so provides (except that such policy may provide that the number of days for which he is entitled to have the costs of inpatient hospital services paid may be reduced by not more than one day for each two days he receives nursing home care the costs of which are paid under such policy);

(3) surgical services (but not in excess of $200 unless such policy so provides);

(4) physicians' services provided in a physician's office (but not for more than three visits, nor more than $5 per visit, unless such policy so provides);

(5) outpatient hospital services, including diagnostic, X-ray, and laboratory services (but not in excess of $60 unless such policy so provides);

(6) outpatient surgical services; and

(7) visiting nurses' services (but not for more than 10 days unless such policy so provides).

(b) The Secretary shall approve, as providing "short-term illness benefits," any private health insurance policy which complies with the requirements of subsection (a).

### DEFINITIONS OF BENEFITS

SEC. 7. (a) The term "inpatient hospital services" means the following items furnished to an inpatient by a hospital (but only, in the case of any individual, to the extent that the aggregate cost of such items does not exceed $30 multiplied by the number of days such individual is an inpatient in such hospital)—

(1) bed and board (at a rate not in excess of the rate for semiprivate accommodations) and includes any special foods necessary to fulfill any diet requirements prescribed by the patient's physician;

(2) general nursing services;

(3) drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are customarily furnished by such hospital for the care and treatment of inpatients;

(4) use of operating, recovery, and other special rooms; and

(5) use of laboratory, X-ray, electronic equipment, and other related services for diagnostic purposes.

(b) The term "nursing home care" means the following items and services furnished by a nursing home to an individual who is an inpatient thereof, after transfer, upon the recommendation of his physician, from a hospital in which he was an inpatient for not less than seventy-two hours immediately prior to such transfer (but only, in the case of any individual, to the extent that the aggregate cost of such items and services does not exceed $15 multiplied by the number of days such individual is an inpatient in such nursing home)—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by such home or by others under arrangements with them made by such home;

(4) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the nursing home as are customarily furnished by such home for the care and treatment of inpatients; and

(5) such other services necessary to the health of the patient as are generally provided by nursing homes.

(c) The term "physicians' services" means services provided in the exercise of his profession in any State by an individual legally authorized to practice surgery or medicine by such State.

(d) The term "hospital" means a hospital which is licensed as a hospital in the State in which it is located.

(e) The term "nursing home" means a nursing home which is licensed as such by the State in which it is located, and which (1) is operated in connection with a hospital, or (2) has medical policies established by one or more physicians (who are responsible for supervising the execution of such policies) to govern the nursing home care and related medical care and other services which it provides, and (3) provides nursing care by or under the supervision of one or more registered nurses.

### MISCELLANEOUS DEFINITIONS

SEC. 8. For purposes of this Act, the term—

(a) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the costs of, health care or services for individuals under health insurance policies in consideration of premiums payable to the carrier;

(b) "health insurance policy" means the policy, contract, agreement, or other arrangement entered into between a carrier and another person whereby the carrier, in consideration of the payment to it of a periodic premium, undertakes to provide, pay for, or reimburse the cost of, health care or services for the individual who is the beneficiary of such policy, contract, agreement, or other arrangement; and

(c) the term "premium" means the amount of the consideration charged by a carrier for coverage by health insurance policy offered by the carrier.

### PAYMENT OF BENEFITS BY THE SECRETARY

SEC. 9. (a) The Secretary shall not make any money payment to or on behalf of any individual, as benefits provided by this Act, until he is satisfied that—

(1) such individual is entitled (under section 2(a)) to benefits under this Act;

(2) such payment is in reimbursement of, or will be used for the purpose of paying, one or more premiums payable for a qualified private health insurance policy of which such individual is the beneficiary.

(b) The Secretary shall establish such procedures as he deems appropriate under which interested parties may obtain a finding by the Secretary as to whether or not a particular private health insurance policy is a "qualified" private health insurance policy for purposes of this Act.

The statement presented by Mr. SCOTT is as follows:

### STATEMENT BY ARLIN M. ADAMS, SECRETARY OF PUBLIC WELFARE, COMMONWEALTH OF PENNSYLVANIA, FOR THE COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, NOVEMBER 20, 1963

My name is Arlin M. Adams. I am Secretary of Public Welfare for the Commonwealth of Pennsylvania. It is a great pleasure to appear before you to tell you about our program of medical assistance for the aged.

In Pennsylvania we have responsible and deep concern for the health and human services needs of all of our citizens. This is particularly true for our older people.

Public Law 86-778, the Kerr-Mills Law, made it possible for us to fulfill our responsibility more adequately.

While we recognize that our program under the law is not complete, we extended it in 1963 and hope to improve it even further.

Our MAA program began January 1, 1962. In September of 1963 we broadened the scope of the program, revising the eligibility requirements to the extent that we believe they are now the most liberal in the Nation.

### WHO IS ELIGIBLE?

The following income and assets may be held without affecting the eligibility or the amount of the MAA payment:

A single individual or one not living with spouse may have: Gross annual income up to $2,400; home, household furnishings, and car; insurance—cash surrender value up to $500; and other property—net value up to $2,400.

A married individual living with his or her spouse may have: A combined gross annual income up to $3,840; home, household furnishings, and car; insurance—cash surrender value up to $500 each; and husband's and wife's other property combined net value up to $3,840.

If the income or property exceed the above limits, one-half the excess income and all the excess other property are to be used by the individual to pay for the MAA care received. The individual is not restricted by law or regulation with respect to his use of income and property within the above limits, including the payment for physician's services.

Our 1963 legislation further liberalized the MAA program by deleting from the Pennsylvania support law all reference to recovery from the individual's property for any of the services for which payment was correctly made.

Of singular importance in determining eligibility for MAA is that part of our State's support law which spells out the extent to which spouses, living apart from the applicant, and sons and daughters have a responsibility for helping the individual meet his medical care costs if the relative is financially able.

Effective September 24, 1963, the Department decreased the amount required for support from the relatives, and it is currently studying the effects of this liberalization on expenditures. There is a likelihood that there may be additional liberalization in this regard—and complete elimination of the relatives' responsibility provision.

Another improvement in our MAA legislation authorized the department to determine eligibility at the time of application, without regard to the applicant's health condition at the time. Current regulations provide for issuance of a certificate of application to an eligible applicant which is valid for 12 months. It is our judgment that identifying the individual as a potential recipient of MAA on presentation of an identification card will facilitate giving more prompt service. It will provide more effective coordination between the vendors and the department. Since September 24 through October this change has resulted in 1,469 applications prior to the onset of illness.

The assembly also added posthospital nursing home care to the benefits under MAA.

### WHAT BENEFITS ARE PROVIDING?

Pennsylvania's current MAA program pays for the following medical care:

Inpatient hospital care for up to 60 days during a benefit period. This period of hospitalization may be continuous or intermittent. A new benefit period starts after 60 uninterrupted days of nonhospitalization. Thus an individual could be eligible to receive 180 days of hospitalization during a 12-month period.

The daily rate of payment is based upon the average per patient per diem operating costs, but not to exceed $25.

Posthospital care in a private nursing home for up to 60 days during a 12 month period, provided the individual entered the nursing home within 5 days after he was discharged from inpatient hospital care as an MAA beneficiary. The daily rate of payment is based on the rates established for public assistance recipients, and depends on the type of care the particular nursing home is equipped to provide.

Visiting nurse service in the home as prescribed by the individual's physician. For the first 4 weeks of this type of care, the program provides for as many visits as the person's condition requires. After the first 4 weeks of care, payment is limited to a monthly maximum of 12 visits. The rate of payment per visit is the minimum charge not to exceed $4, plus mileage under specified circumstances.

Posthospital care furnished in the individual's home by a hospital, under an organized home medical care program. This consists of medical care in the home by a hospital team of physician, nurse, therapist and social worker. The program includes nursing service, medications, sickroom equipment, laboratory service, physician's supervision, physical therapy, etc. The posthospital care in the home must be an uninterrupted continuation of the inpatient hospital care the individual had been receiving. Need for medical care under this program must be reviewed at least every 3 months. We pay the actual daily cost up to $5 for the service for every day the patient is in the program.

Public nursing home care in county institutions. Nursing home care must be prescribed by a physician. Full cost is paid.

Pennsylvania's MAA program does not pay for services by physicians, dentists, chiropodists, or optometrists, for outpatient hospital services, drugs or appliances.

### HOW MANY PEOPLE HAVE BEEN SERVED AND HOW MUCH HAS IT COST?

The MAA program has been in effect in Pennsylvania for 22 full months. During this period approximately 79,000 persons applied for care. Of the 79,000 applications, 66,000 were for inpatient hospital care, and 8,000 for public nursing home care. Approximately 56,000 applications were approved for payment, including 45,000 for inpatient hospital care.

MAA expenditures of Federal and State funds in these 22 months totaled $26,389,435; for inpatient hospital care $16,091,755; for public nursing home care $10,070,169; and the remaining $227,511 for nursing care in the home and home-hospital care. The payment for inpatient hospital care is the cost for the care provided approximately 36,000 patients. The difference between this 36,000 and the 45,000 approved for payment reflects the lag between applications approved and payments. In addition, the fact that an application is approved does not mean that a payment will be made.

Pennsylvania's partnership with the Federal Government under Kerr-Mills has made it possible to provide hospital and certain other health care to older persons who are least equipped financially to pay. Our aged population is becoming increasingly aware of the objectives of the MAA program, and are learning to use it. The hospitals and the medical profession are helping by cooperating in educational campaigns.

We believe that the liberalization in the department's support regulations and the deletion of recovery from property will lead to an increase in the number of persons who make use of the program. In fact it has been estimated that with the 1963 changes in the law, increase of the resource limits, as well as the deletion of the property recovery factor may result in an increase of approximately 4,000 persons per year. We know that the thought of having property encumbered has frequently acted as a deterrent to individuals who under the State's program were truly medically indigent. We further believe that as more people get to know about the program, the use and corresponding costs of the program will increase. We estimate that our total Federal-State expenditures for the fiscal year 1962–63 will approximate $17 million and that for the fiscal year 1963–64, this will increase to approximately $25 million because of the liberalization and increasing familiarity with the program, which is a normal concomitant of any new program of this type.

We do not intend to rest on what has been accomplished. Our goal is to continue improving the Pennsylvania Kerr-Mills effort.

We believe, further, that the Kerr-Mills program can be made to work in tandem with voluntary and commercial health insurance systems.

The 1963 Pennsylvania Assembly, in addition to liberalizing the MAA eligibility requirements, enacted legislation authorizing the Pennsylvania Department of Public Welfare to establish such a program. Accordingly, we developed a proposed program that we believe is consistent with the intent of Congress, leads to financial prudence, increases individual responsibility, is fiscally sound, and administratively practicable. The potential recipient of MAA benefits with excess income or property would purchase an insurance policy to cover that part of the costs which ordinarily would be met from his excess income or property.

The proposed program would work as follows:

Under our MAA program an aged person whose resources exceed the statutory limits of $2,400 or $3,840 is eligible for MAA to the extent that the cost of MAA medical care exceeds his excess resources.

Consider a person whose hospital bill is $500: (1) If neither his property nor annual income is more than $2,400, the full $500 will be paid by MAA; (2) if he has $2,700 in resources, the $300 ($2,700–$2,400) is the amount the person must presently pay toward the hospital bill; and the remaining $200, only, is paid by MAA; (3) if he has $2,900 or more, he is considered able to pay for his hospital care, and he is not eligible for MAA.

Under our proposed plan, insurance companies would offer a health insurance policy to the older person, to pay that portion of the costs he is now expected to meet out of his own resources; namely, the $300 or $500 noted above. The premium for this insurance would be related to the amount of medical care costs covered. In effect, this would permit the person to insure his excess resources, and when hospitalized his full hospital bill would be paid for him—partly by his own insurance and partly by MAA. This would enable him either to obtain needed medical care without depletion of his resources, or to use his resources to pay for medical care not covered by our MAA program, such as physician's services and drugs.

The proposed plan does not remove the responsibility of determining eligibility for MAA from the Pennsylvania Department of Public Welfare. The department would contract with a nonprofit organization to act as its agent in paying hospitals for care provided under the program. An aged person could apply for MAA at any time. If eligible, he would receive a certificate specifying the extent of MAA eligibility. He could then purchase insurance coverage for that part of the bill not covered by MAA. When hospitalized, the insurance company would pay the bill in full and charge the department for the part of the bill to be paid by MAA. The balance would be a charge against the insurance company's funds—the same as with any other insurance payment.

If the aged patient has purchased sufficient coverage to pay the full bill, the insurance company would pay the bill and there would be no MAA payment. We believe this program would encourage many people to purchase full coverage.

Under the proposed plan, the aged person would be protected against his excess resources being depleted at the time medical care is needed. Hospitals would have only the Blue Cross or similar organizations to deal with on a daily basis. We believe this kind of partnership between State government, the official public service agency, and the insurance companies is sound and should be given full consideration and encouragement.

We proposed this plan to the Department of Health, Education, and Welfare. HEW replied that it is in conflict with basic program policies which have been established under title I of the Social Security Act.

We believe our proposal serves to further the Kerr-Mills objective of increasing the dignity afforded to older citizens who are not eligible for public assistance, but who are unable to pay full cost for their medical care.

We believe our proposal is constructive in the direction of encouraging self-help in the finest American tradition. It allows a four-way partnership of Federal and State Governments, the citizen and our great health insurance enterprises. We commend it to your committee for study.

In summary, the Kerr-Mills program in our State is off to a good start. As our resources permit, we shall consider extending the benefits.

I appreciate the opportunity to express our point of view. We in Pennsylvania are hopeful that your committee and the Congress will continue to work to meet the health needs of the aged people in our population in accordance with sound concepts that exist in this very important field.

## AVAILABILITY OF CERTAIN CRITICAL MATERIALS DURING A WAR OR NATIONAL EMERGENCY—AMENDMENT (AMENDMENT NO. 517)

Mr. METCALF submitted an amendment, intended to be proposed by him, to the bill (S. 2272) to insure the availability of certain critical materials during a war or national emergency by providing for a reserve of such materials, and for other purposes, which was referred to the Committee on Armed Services, and ordered to be printed.

## EARTHQUAKE INSURANCE COVERAGE IN ALASKA—NOTICE OF HEARING

Mr. ANDERSON. Mr. President, I announce for the information of the Senate that the Senate Committee on Interior and Insular Affairs on May 4, beginning at 9 a.m., in room 3110, New Senate Office Building, will hold a further hearing on S. 2719, a bill introduced by Senator JACKSON and others to provide retroactive earthquake insurance coverage in Alaska. This bill has previously been considered by testimony chiefly from witnesses from Alaska. On May 4 it is hoped to have final testimony from interested Government agencies and from proponents of the bill as to how it would be financed and administered.

## THE CURRENT SILVER PROBLEM

Mr. BENNETT. Mr. President, on April 2, I submitted to the Banking and Currency Committee a statement on the current silver problem. This problem is still with us. I ask unanimous consent to have printed in the RECORD, at the conclusion of the statement of the Senator from Texas, or at some other appropriate point in the RECORD, a copy of the statement I made to the committee, and also two newspaper articles which deal with the same problem.

There being no objection, the statement and the articles were ordered to be printed in the RECORD, as follows:

### THE CURRENT SILVER PROBLEM

(Statement of Senator WALLACE F. BENNETT, of Utah, Committee on Banking and Currency, U.S. Senate, April 2, 1964)

The recent "run" on the Treasury by coin collectors has again focused the attention of the Congress on our silver problem. However, our present and potential difficulties with silver coinage are not simply the result of the activities of eager coin collectors. There is a far more fundamental difficulty arising from the fact that the intrinsic value of our coinage is affected by the price of silver in the world market.

Except for one or two other brief periods in the history of our monetary system, the intrinsic value of our coins has been significantly below their monetary value, and thus there has been no problem of a withdrawal of silver coins for their metal content. It will be remembered, however, that during the War of 1812 and again during the Civil War, metallic coins virtually disappeared. In 1837, silver coins again disappeared, because they were more valuable than gold at the official Treasury rate of 16 to 1. Frequently during these early years subsidiary coins ran into special difficulties because their silver content was set on a basis of intrinsic value rather than token value. Every time there was an inflationary trend, the coins became worth more as metal than as money; and people began hoarding them.

The problem was finally cured in 1853 when Congress reduced the silver content in subsidiary coinage by 6.9 percent, thus giving the silver in these coins a monetized value of $1.38 an ounce, with the silver dollar monetized at $1.2929 per ounce.

Today we are again facing this same fundamental problem. For many years the price of silver has been below the monetary value of our silver coins; but when the Treasury was forced to suspend silver sales in 1961 because the free stocks had been greatly depleted, market forces resulted in a rapid rise in silver prices.

In January of last year, the Treasury had only 30 million ounces of free silver left for coinage against an estimated demand for the year of 75 million ounces. Year-end figures show that the 75-million-ounce estimate was far too low. The Treasury was unable to go into the world market to purchase additional silver to meet its coinage needs because to do so would have forced the price above $1.2929 per ounce—the point above which it becomes profitable to melt dollars for their metal content. So we passed the Silver Purchase Act of 1963, which validated the price of silver at the ceiling of $1.2929 per ounce, which has been official since 1793. At the same time, we started issuing new $1 Federal reserve notes to replace outstanding silver certificates, thus freeing Treasury silver for coinage needs. When this 1963 act was passed, I warned that our problem had not been solved but that we had just bought time in which to act.

A year of that time has now elapsed. The silver content of silver dollars now approximately equals their face value as coins. This has resulted in the beginning of hoarding on the speculation of receiving profit. It has also encouraged hoarding of dollars for their rare coin value and has created a run which temporarily drained the Treasury of its stock of silver dollars.

Although it is denied by some, we might as well face reality—the problem which faces us today is similar to the one which we faced when silver coins were withdrawn from circulation during earlier periods of our history. Once we admit this fundamental problem, the next move is to determine a course of action that is equally fundamental. Several alternatives have been suggested, some of which do not face the basic issue. These alternatives are:

1. Mint more silver dollars with present silver content intact.

2. Mint more silver dollars with a decrease in the silver content from 900 to 800 grams, as outlined in the bill presently before this committee.

3. Abandon the silver dollar, letting it become either a source of metal or a rare coin collector's item. This means that it would be necessary to make a complete analysis of the whole problem of silver coinage, including the various demands being made on Treasury silver to develop a new Treasury silver policy.

Let's look at the figures of silver production and consumption as a basis for our choice.

In 1940, silver production and consumption in the United States were approximately equal, at a figure of 68.3 million ounces. In 1963, domestic silver production was 37 million ounces—a decline of 31.3 million ounces. During this period, U.S. consumption had increased to a total of 221.3 million ounces in 1963, thus leaving a deficit of 184.3 million ounces. Even if we could return to the 1940 record production, we would still have a deficit of 153 million ounces.

In 1963, free world silver production was 210.5 million ounces. This total was made up of 159.5 million ounces in the Western Hemisphere and 51 million ounces from other free world sources. Free world consumption during the same year totaled 419.2 million ounces. This total breaks down this way: 247 million ounces for industrial and art purposes, 60.9 million ounces for foreign coinage purposes, and 111.3 million ounces for U.S. coinage. That leaves a free world silver deficit of 208.7 million ounces for the year. Use of silver in industry and the arts alone amounted to about 12 percent more than total new production.

At the end of 1963, the Treasury had an inventory of 1.584 billion ounces of silver. If present rates of production and consumption do not change, and if the Treasury continues to sell its silver to all comers at $1.2929 an ounce (thus keeping a ceiling on the price of silver and permitting other countries to hold their silver off the market for the inevitable break through the ceiling price), present U.S. deficits will exhaust the Treasury stock in about 8 years. If production continues its present downward trend and consumption continues its present upward trend, however, this period will be significantly shorter.

In view of these facts, let us look again at the alternative suggestions.

The first suggestion was to mint more silver dollars maintaining their present silver content. By this action, no change in policy will be needed at this time. All silver certificates outstanding could be redeemed with silver dollars. But from the figures we have just examined, it is obvious that it would not be long before the silver stocks of the Treasury would be depleted, forcing a change at that time. Hence this alternative is shortsighted and unwise.

The second alternative is to mint dollars with a lower silver content. If new dollars containing 800 grams of silver are issued instead of the present 900-gram silver dollars, Gresham's law would operate; and the old dollars (which would be worth approximately $1.11 in terms of the new dollars) would be withdrawn from circulation and hoarded. With the silver content in new dollars at 800 grams, no one would request such dollars for silver certificates (except as collectors' items) as long as the Treasury continues to sell bar silver for $1.2929 an ounce. Also, the new dollars would not fill the redemption requirements unless a change is made in the basic law regarding the value of silver.

The proposition to mint 50 million new silver dollars, regardless of the silver content, is unrealistic. The experience which we have just had with the new issue of half dollars should make us aware that 50 million coins would be bought up immediately. Particularly is that true if, as is likely to be the case, this would be the last issue of silver dollars in American history.

Silver in the proposed 800 gram dollars would be monitized at $1.44 an ounce, while silver in our present half dollars, quarters, and dimes is monetized at $1.38 an ounce. This means that the subsidiary coinage would be worth more than the new dollars intrinsically. People would begin to hoard subsidiary coins. With the inability of the mint facilities even at present to meet the demand for coinage, this would be a tragedy. Therefore, this alternative cannot be embraced as a sound long-range solution.

That leaves alternative No. 3—the abandonment of the silver dollar and the formulation of new Treasury silver policy.

I think we can get along without silver dollars even though, in my State, silver dollars are a common means of exchange, as they are in many Western States. Their primary value is sentimental; however, since they have been partially—and could be completely—replaced by dollar bills.

The story is far different when we discuss subsidiary coinage. There is no substitute for these coins, and we must protect them from being converted to metal.

While holding the price of silver at its present level, the Treasury should move immediately to reduce the silver content in subsidiary coins. Old coins coming into the Treasury should be melted, and the silver used for new ones. Only when a sufficient supply of the new coins is available can the Treasury free the price of silver from its present ceiling without risking the loss of our coins.

I do not know what the unobstructed price of silver would be in today's market. I do not know what it will be a year or two from now. But I do know that with present trends of demand and supply, pressures for increased prices will continue to build. From available figures, both supply and demand appear to be relatively inelastic. An increase in price might result in both increased research in silver substitutes and possible increases in production, but I do not expect great changes in the near future.

As a beginning point, then, I suggest that these changes in policy should be made.

1. A reduction of silver in our subsidiary coins to 50 percent of their present content. This would raise the melting point to about $2.75 an ounce and the market price of silver could more than double before we would again be faced with a loss of subsidiary coins. The suggestion that we reduce the silver content in our coins by approximately 11 percent indicates a move in the right direction and a long overdue willingness of Members of Congress to admit that the situation calls for a remedial action. But this proposed 11-percent decrease is only a token, not a solution. If the price of silver were allowed to stabilize as a result of free market forces of supply and demand, it would almost immediately rise above the $1.45 price; and we would be in the same position again.

Incidentally, coins with a 50-percent decrease in silver would be acceptable in present coin machines. I was concerned about the coin vending industry and wrote to several large coin machine manufacturers requesting their comments on possible changes in the metal content of our coins. They report that a coin composed of 50 percent silver and 50 percent copper could be made to be acceptable. Other combinations of metal content would also work in existing machines. I would like to have several of these letters from vending machine experts included at the end of my remarks if there is no objection.

If it is argued that a decrease in silver content is devaluing our money, it should be pointed out that for most of the past 100 years the face value of our small coins has been much higher than their intrinsic value. We now have in our small coins approximately $1.9 billion worth of silver, or about the same quantity of silver that the Treasury has in its stock. If the Treasury could move quickly enough, much of this could be saved and would increase our stockpile.

Some may argue that the U.S. mint is unable to produce enough coins to meet present demands and would be totally unable to replace existing coins within a reasonable length of time. This is one of the reasons I ask immediate action. It will take time to make the changeover, yet this must be done while the Treasury has sufficient stocks of silver to guarantee that the market price will not rise above $1.38 an ounce—or it will be too late.

I also recommend the use of private facilities for coinage. The production of coins in private facilities could be easily controlled by representatives of the Treasury, and there are no unsolvable complications. Actually, there would be no other feasible solution, since our present supply of coins is approximately 10 times the annual capacity of our Government mint facilities.

2. I again recommend that the Treasury retire present silver certificates, replacing them with Federal Reserve notes as rapidly as possible. This action would free the Treasury's present stocks of silver from redemption requirements and would not in any way affect the promise made on each silver certificate to pay to the bearer $1 in silver on demand. I suggested this action nearly a year ago. A recent Treasury statement submitted to the House Appropriations Committee stated that if both "fit as well as unfit silver certificates were retired as they come into the Treasury, the bulk of the certificates would be out of circulation in a year." Such action would give the Congress and monetary authorities full control of our

present silver stocks, which control is not now possible.

3. I suggest that the Treasury draft a proposal for our consideration which would set a limit below which they will not allow our stockpile of silver to fall. The Treasury silver is the only significant reserve in the free world. It is well known that silver is a critical component of our military preparedness. It is a necessary component in missiles, aircraft, electronic equipment, photographic processes, communications equipment, and other military hardware. We should not underestimate the importance of keeping a sufficient stockpile on hand to meet our needs in the event that we may be unable to import silver from other countries. Our production of 37 million ounces a year only represents about one-sixth of our present needs, and the difference would have to come from Treasury stockpiles. If the mining industry were able to return to wartime production of related ores, such as lead and zinc, silver production might be doubled. But this is unlikely. There is little or no prospect that by increasing the price of silver we can step up production to the point where we can make up the deficit.

In view of this need of a national stockpile, we would be much better off if the Treasury would keep our present stocks (which cost much less than $1.29 an ounce) rather than sell silver now and then replace it at a new, higher market price later on.

I am glad that the Treasury is anxious to conduct extensive studies in this area, and I offer these suggestions and observations in the hope that they will be useful.

My only hope is that the proposed study by the Treasury does not serve to sidetrack action, because, as I have stressed throughout this statement, action is needed and needed soon. If we can do what must be done now, while the crisis is foreseeable but not imminent, we can avoid the crisis. If I have helped to clarify what proportions that crisis will assume and what elements it will contain, I have accomplished my purpose.

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## UP AND DOWN THE STREET: IN SILVER PINCH, ALL FLINCH

(By Robert W. Bernick)

The shortage of silver dollars today has touched every American in one way or another.

The pressure on minting of subsidiary coinage is great. The public isn't even certain the Treasury is going to follow up with issuance of $66 million more in the famous J.F.K. 50-cent pieces that disappeared almost overnight from commercial banks.

Out in Nevada, the gamblers are glumly replacing the cartwheel with "dollar counters." Banks and laundries and other retailers are offering the silver dollar as an "attractive inducement."

Silver-dollar savers recently stormed the Treasury Building itself in Washington, D.C. They ostensibly were bent on collecting rare old silver "standards." But the crowds must have given some of the theorists about money in the halls of the building an uneasy feeling that history may not agree with them about either silver or gold.

In 1932 silver was selling for slightly more than 27 cents an ounce.

It was selling for around $1.14 an ounce at the time the Comstock Lode discoveries and before Germany, and later other European countries, demonetized and placed huge amounts of silver on world markets.

Now, the price has risen in 2 years from about 91 cents an ounce to the statutory quotation of $1.293—or "melt point" for the silver "standard" dollar.

Only 3 million standards are left in Washington, and it is suggested they be auctioned off. (At least the Treasury will get some of its own paper money back.)

Some want to mint more silver standards, with 80 percent silver rather than 90 percent. Others propose the end of the silver dollar, with subsidiary coinage reduced to 50 percent silver.

(There's 6.9 percent less silver in subsidiary coins—50-, 25-, and 10-cent pieces—than in the silver dollar. Thus the melt point for the subsidiary coinage is $1.38 an ounce.)

This subsidiary coinage contains about $1,900 million worth of silver—almost equal to the silver stores of the Treasury at present.

Only the Treasury doesn't own the silver in the coins. You do, if you have any.

And you can do what you want with it. Melt it down, hoard it, turn it in for paper—or use it in a vending machine.

Meanwhile the industrial silver users who have been conducting a raid on the U.S. Treasury silver stores since 1946—or before—now argue we ought not have any silver in our coins at all.

They want the silver given them at a fantastic subsidy—even though they have received already a gift on the basis of today's silver price of $219,290,000 in the past 18 years.

How fantastic that subsidy would be is related to proposals to properly revalue silver at $2.50 to $2.75 an ounce.

These same silver users—largely centered in the New England silverware and plate manufacturing centers—were the same who opposed the Silver Purchase Act of 1934. According to Francis Brownell, retired chairman of the American Smelting & Refining Co., they carefully planted articles in Harper's magazine, American magazine and the like aimed at ending purchases of silver by the Government, proposing sale by the Treasury to the public (them).

In fact, however, it has been estimated by the Idaho Mining Association that since the United States started purchasing silver (including silver at the low price of 27 cents an ounce or so), the people of the United States have now made a paper profit of $2,225 million. And that includes the subsidy of $219,290,000 given the silver users.

Meanwhile, the deficit of United States and world consumption versus production has increased at a rising pace. Last year, according to Senator WALLACE F. BENNETT, Republican, of Utah, the U.S. consumption was at 214,300,000 ounces, while production was at 37 million ounces, down 31,300,000 ounces from 1940 levels.

The deficit in consumption versus production is now running at rate of 153 million ounces, and even if the country had a peak production of 68,300,000 ounces, as in 1940, it would still not be enough.

Worldwide, total silver production of 210½ million ounces was less than U.S. consumption. And total world consumption was 419,200,000 ounces.

Devaluation is the only way out—even though the Treasury has been remarkably extravagant in its sale of American silver in the past to industrial users.

However, devaluation may not solve the problem.

The example of Chile, which devalued the silver peso in 1941 so that six of them equaled an American dollar, comes to mind. In 1933, the peso was further devalued, with only token silver. This was replaced by a copper peso. In the end, the copper peso was worth more in copper than the peso. So paper pesos were resorted to.

In Brazil, the brass milrei of 1939 was found to be worth more in brass than in paper milreis. It was replaced with a tin cruzeiro (cross) and valued at 100 milrei (which valuation eventually disappeared).

The tin cruzeiro was followed by a paper cruzeiro. Finally, it took 2,000 cruzeiro to make a dollar. And so on.

Silver once was more valuable than gold in Egypt. Silver from Spain gave the Phoenicians command of world trade.

For 300 years, the Byzantine Empire held sway—because it never devalued its silver coin and treasure store. It was silver from Greek mines that enabled the Greeks to buy ships and defeat the Persians at the Battle of Salamis in 480 B.C., preserving Greek culture as a mainspring of Western thought.

Silver made Venice more than a sick fishing village—took it to world trading power.

The Treasury will have to act out of expediency, no matter what it does. But the image of the silver dollar is still the image of the American people and the world of U.S. money.

What kind of money can you have that has no "image"?

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[From the Salt Lake Tribune, Apr. 13, 1964]

## SILVER CONTENT OF COINS COULD BE CUT

The silver dollar holds a high place in the affections of westerners. As Senator CANNON, of Nevada remarked, the cartwheel is "a symbol of the individuality and noncomformity of our frontier States."

Yet the Treasury has not minted any dollars since 1935 and the House Appropriations Committee refuses to approve funds for this purpose until Congress passes separate legislation reducing the amount of silver in the cartwheels.

Otherwise, the committee fears, dollars may become worth more for their silver content than they are as coins.

By law, all silver coins (dollars, halves, quarters, and dimes) contain silver and copper in the ratio of 90 to 10. That means a cartwheel contains 0.77 of an ounce of silver and, with an ounce of silver worth $1.29 on the open market, a cartwheel contains a dollar's worth of silver.

This helps explain the recent run on silver dollars. If the price of the metal goes above $1.29, the holders of cartwheels can sell at a profit.

Senator BENNETT, of Utah, recently called unrealistic the proposal to mint 50 million new dollars regardless of silver content. He urged the Treasury and Congress to take steps which would permit the market price of metallic silver to set its own level. These included the eventual reduction of the silver content of subsidiary coinage (halves, quarters, and dimes).

At present, two halves or four quarters or 10 dimes contains 0.72 of an ounce of silver, which works out to a "melting price" of $1.38.

We agree with Senator BENNETT. Present coinage ratios should be changed. For when coins become worth more as metal than as money, people begin hoarding them.

A change in the ratio might create another problem, however.

Vending machines, in wide use throughout the United States, are designed to detect bogus coins. The detecting device, set for the present 90–10 ratio, could easily be adapted to an 80–20 ratio. But if the silver content dropped below 50 percent, or if another metal were substituted entirely, the vending machine industry would have to design a completely new detecting device.

We believe the industry has the know-how to make the necessary alterations.

Meanwhile, Congress and the Treasury should work out a new coinage formula.

For example, if the cartwheel contained 0.69 of an ounce of silver, instead of the present 0.77, the price of silver could rise to $1.45 before the "melting point" was reached. And the silver price might well do that very thing.

The present coinage ratio could be acting as a brake on the free market. At least that appears to be why the Silver Users Association, which wants the lowest possible price, is opposing any change.

## RECESS TO 10 A.M. TOMORROW

Mr. CURTIS. Mr. President, I move that the Senate take a recess, pursuant to the previous order.

The motion was agreed to; and (at 8 o'clock and 3 minutes p.m.) the Senate took a recess, under the order entered on Friday, April 17, 1964, until tomorrow, Saturday, April 25, 1964, at 10 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate April 24 (legislative day of March 30), 1964:

### IN THE NAVY

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

David C. Aabye
Bruce A. Abel
David G. Ahern
Marion R. Alexander, Jr.
John A. Alich, Jr.
Noel M. Allen
Robert L. Anders
Robert V. Andersen
Harold M. Anderson
Jerold F. Anderson
John T. Andrews III
Alfred W. Archibald
William L. Armstrong
Brian A. Arndt
Richard J. Arnswald
Louis W. Arny III
Loren D. Arrington
James M. Arrison III
Philip G. Asher, Jr.
Felton G. Atwell
Marshall H. Austin, Jr.
James B. Ayers
Eric W. Bachinsky
Rodney R. Badger
Thomas S. Baer
Jerry R. Bailey
William H. Baker
Lewis S. Baldwin
Michael H. Ballard
Leonard J. Ballback, Jr.
Thomas J. Barnett
Victor S. Baron
John J. Barsosky
Robert C. Bartlett
Brian C. Baumruk
James S. Baumstark
James M. Beall, Jr.
John W. Beardsley
Frederick H. Beaudry
Francis J. Bechelli, Jr.
Bruce B. Beckwith
Philip A. Becnel III
Neale L. R. Beightol
Lyndon R. Bell
Robert S. Bell
Malcolm J. Bellafronto, Jr.
Gerald W. Bellucci
Richard B. Belser III
Francis J. Benner
Brent M. Bennitt
Daniel C. Bennett
Lawrence P. Benson
William T. Benson
Henry G. Berger
Michael C. Berkowitz
Lawrence G. Bernard, Jr.
Ernest J. Bertolotti
Daniel E. Bienlien
Gregory D. Binder
Robert W. Bishop
Charles T. Biswanger III
George D. Black, Jr.
James M. Blackwelder
Ernest L. Blake, Jr.
Martin J. Block
Robert H. Boder
Lothar S. Boeck, Jr.
Joseph C. Boeddeker
Robert K. Bolger
Robert C. Bondi
William K. Boone III
Ronald J. Bosken
Robin Bosworth
Peter K. Bowden
Richard C. Bowers
Bruce R. Bowman
Gene M. Bowman
Philip A. Boyer III
William A. Bracker
Robert B. Bradley
Havel D. Bricker
Edward E. Brighton, Jr.
Richard M. Briner
Leon P. Brooks, Jr.
Emory W. Brown, Jr.
John F. Brown
James W. Browning II
John S. Browning, Jr.
Herbert F. Bryan
John G. Buchanan
Russell H. Buckley, Jr.
Marshall W. Bugge
Clifford T. Burgess, Jr.
Richard L. Burke
Michael F. Burns
Richard J. Burns
Roy D. Burns
Gerald C. Burroughs
Michael C. P. Burton
Earle S. Bushnell
Robert H. Buttram
Donn H. Byrne
Gordon G. Cable, Jr.
James D. Caldwell
Max D. Caldwell
Marcus B. Calhoun, Jr.
Joseph W. Callahan, Jr.
Virgil K. Cameron
James J. Campbell
Vincent T. Canale
Joseph H. Cappalonga
Michael P. Caputo
David J. Carey
Gary L. Carle
Eric Carlson
James L. Carlson
James C. Carolan
Hugh E. Carroll II
William H. Carson II
Lynn D. Carter
Maurice R. Caskey
Robert T. Cassady, Jr.
Robin B. Cassell
Brian B. Cassidy
Richard A. Cecil
Robert J. Cepek
Henry G. Chalkley
Terry M. Chamberlain
William L. Chaney, Jr.
Max I. Chastain
James J. Checkett
David W. Chenault II
Edward A. Chladek
Daniel W. Christensen
Ernest E. Christensen, Jr.
George F. Christian
Warren B. Christie, Jr.
Edward J. Christina
Richard V. Ciliberti
Steven H. Claassen
Henry H. Clark
Hiram W. Clark, Jr.
James W. Clark
Wilmot F. Clarke
Keith E. Claxton
William L. Clayborn
Geoffrey A. Clough
Gordon H. Clow
Arthur H. Collier
Michael R. Collins
Michael C. Combs
John Common
Edward H. Conant
Daniel E. Connell
Dennis J. Connolly
Lon M. Cooke
Ernest J. Coppola
Leino B. Corgnati, Jr.
John P. Costello II
William B. Costello
Michael D. Coughlin
Allan R. Coulson
Asbury Coward IV
Gregory V. Cranston
Frederick R. Crawford
Thomas W. Crews III
Charles F. Culbertson, Jr.
Richard C. Curley
John S. Cushing
Jerome H. Cusmano
Douglas B. Cutter
John H. Dalton
John A. Dambaugh
Robert J. D'Ambrosio
Joseph J. Dantone, Jr.
Kenneth R. Dargis
Frederick W. Dau III
Robert C. Davenport
Phillip H. David
Samuel L. Davies, Jr.
William E. Davies, Jr.
Frank A. Davis
George M. Davis
Gerald Davis, Jr.
Newell G. Davis
Walter B. Davis
William E. Davis
Richard W. Dawson
Maxie S. Day
Julius B. Dell, Jr.
Robert P. Demchik
John E. Dempsey
Robert T. Dendy
John F. DePew
Frank C. Desantis, Jr.
Bruce M. Dettman
John J. Dettmer
William R. Diener
Joseph G. Dimmick
William P. Dobbins, Jr.
Robert C. Donalson
John T. Donnelly, Jr.
Bernard G. Donohue, Jr.
James E. Doubles
Andrew I. Douglass
Paul R. Dow
Arthur P. Drennan
James M. Duffy
Richard B. Dunn
Gerald W. Dunne
Charles F. Durepo
John D. Durden
Terry L. Earhart
Richard L. Earnest
Robert W. Easton
Eric R. Eckstein
Rodman M. Eddy
Jerome E. Eggers
George F. Eichler
Lawrence G. Elberfeld
Donald G. Ellis
Winford G. Ellis
Thomas C. Elsasser
Leonard E. Engel, Jr.
Walter A. Ericson
Cyril G. Evanguelidi
Gerard R. Evans
John M. Evans
Marshall L. Evans
Matthew S. Evans, Jr.
Jack W. Everett, Jr.
Donovan L. Ewoldt
Walter H. Faddis
Michael A. Farmer
Dennis L. Farrar
Edmund J. Farrell, Jr.
William F. Feeney, Jr.
Robert J. Fegan, Jr.
Francis M. Feltham
Paul H. Fenton
Leabert R. Fernandez, Jr.
Robert V. Ferraro
Dennis G. Feuerbacher
William L. Fey III
James H. Finney
John R. Fitzgerald, Jr.
David L. Flentie
Paul R. Fletcher
Thomas D. Flory
Rowin K. Floth
Michael J. Foley
Richard W. Foley
William L. Forestell
James W. Foster
William J. Franks, Jr.
John H. Frazier III
Robert R. Fredlund, Jr.
Joseph W. Frenzel, Jr.
Raymond Frey
Marcus V. Friedman
William R. Fromme
William H. Fugard
Douglas P. Fuge
Grant D. Fulkerson
Kenneth E. Fusch
George A. Gaboric
Carl O. Gallmeyer
William J. Galvin, Jr.
Gregory P. Gantzert
John W. Garber, Jr.
Carl E. Garrett
Garland W. Garrett
Albert S. Gaston, Jr.
Charles R. Gates
Robert L. Gault
Ronald G. Georgenson
John M. Geraghty
Walter J. Gerard
Richard A. Gibson
Michael J. Gierman
Galen E. Gilbert
John T. Gilmartin
Joel D. Gingiss
Robert C. Glennon
Daniel F. Glevy
Antonio A. Godinho
Richard E. Goolsby
John E. Gordon
John E. Gorman
William A. Gottlieb
Joe F. Grable, Jr.
Clark Graham
William H. Graham III
Roger P. Granere
John A. Grant
John D. Graves
Douglas C. Gray
Francis D. Gray
Peter D. Greenberg
Bernard D. Greeson
Ronald I. Gregg
William A. Gregg, Jr.
Mark H. Griffiths
Carlton A. Griggs
Michael A. Gustavson
Patrick W. J. Haala
Howard W. Habermeyer, Jr.
Donald E. Hackett, Jr.
William R. Haines
Richard W. Halbert
Fredrick S. Hall, Jr.
Francis J. Halpin
Thomas J. Hammond
Donald A. Hannsz
Edmund P. Hannum, Jr.
David G. Hansen
Dale E. Hanson
Ronald E. Harder
Judd S. Harmon
George E. Harrell
Arthur C. Harris III
Richard C. Harris
Thomas H. Harris
William R. Harris
Gilbert A. Harrison
Russell W. Harrison, Jr.
Burr C. Hartman
Steven C. Hastings
James A. Haugen
Walter F. Hauschildt
Gerald L. Hausmann
Richard D. Havican
Thomas F. Hawk
Bobby J. Haynes
Charles M. Heath, Jr.
Robert V. Henderson, Jr.
Brian K. Hendricks
Russell K. Henry
Robert P. Herriott
George M. Hewitt
Frank H. Hiestand
Charles T. Higgins
Russell E. Hill
Robert M. Hinckley III
George E. Hise II
Glenn M. Hodge
Richard A. Hoferkamp
Dennis R. Hoffman
Jerry F. Hogan
James E. Holian
Robert E. Hollis
Michael S. Holman
John M. Holmes
William C. Holmes
Arthur F. Holz
Barry W. Hooper
Jonathan N. Horner
Douglas J. Horton
James H. Howard, Jr.
Mark W. Howard
Thomas E. Howell
John G. B. Howland
James H. Howser
James O. Hubbard
Robert O. Hughes
Wayne I. Humphreys
Matthew A. Hutmaker, Jr.
David D. Hutson
William W. Hyland, Jr.
John F. Iaconis, Jr.
Joe Ince
Philip R. Jacobs
Kenneth D. James
Stephen A. Jarecki
James L. Jennings
Paul R. Jennings
Stephen E. Jenstad
Charles C. Jett
Francis Johnson
James F. Johnson
Robert L. Johnson
Stuart C. Johnson
Thomas M. Johnston
Clark R. Jones
Donald W. Jones
Gary P. Jones
Philip K. Jones
Robert D. Jones
Roy W. Jones, II
Stephen H. Jones
Michael J. Jontry
Robert L. Jordan, Jr.
Robert H. Joyce
Jerry L. Julian
Henry J. Jurgens, Jr.
Karl H. Kaeser
David W. Kanning
Murray A. Kaplan
Bruce A. Kastel
Richard G. Katz
Michael L. Keating
Malcolm S. Keeney
Gary E. Kellner
Roger M. Keithly, Jr.
Carl W. Kellem
Thomas J. Kelley
Eugene E. Kelly
George J. Kelly, Jr.
William C. Kelly, Jr.
John P. Kelsey
Morris M. Kemple, Jr.
John A. Kendall
Michael J. Kenslow
Walter W. Kesler
Henry R. Kettelhodt
William H. Key, Jr.
Richard L. Keyser
Jason Kidder
Edward F. King
John L. Kipp
Kerry E. Kirk
Richard G. Kirkland
John F. Klein
Karl M. Klein, Jr.
Austin V. Koenen
Edward H. Koster
Crispin S. Kraft
James C. Kraft
James N. Kraft
Alexander J. Krekich
Ronald M. Krell
Bruce G. Krum
William M. Kurlak
Stephen K. Laabs
John F. Lambert
Philip W. LaBatte, Jr.
John S. Langdon III
Philip D. Lank
Robert H. Lark
Charles E. Laskey
James M. Latham, Jr.
William A. Latta, Jr.
Conrad C. Lautenbacher, Jr.
Robert W. Lautrup
Daniel C. Lavery
Dennis A. Lawrence
Robert E. Lawrence
William C. Lawton
Richard D. Lee
Anthony M. Lemke
Walter H. Lenhard III
George E. Leonard, Jr.
David B. Lester
Robert W. Lewis
Michael J. Liemandt
William H. Lifsey, Jr.
David Lipscomb II
Eric G. Lohmann
Kenneth L. Longeway, Jr.
Edward R. Losure, Jr.
Charles H. Lounsbury III
Lawrence Lovig III
Dale W. Lucas
Richard W. Ludden
Roger K. Lunde
Donald L. Lutton
Melville H. Lyman III
Thomas C. Lynch
William B. Lynch
Dennis C. Lyndon, Jr.
Robert B. Mabie
William G. MacAulay
Norman L. MacIntyre
Bert J. Mackaman
Jere G. Mackin
James J. Maginn

Bernard A. Maguire, Jr.
Richard J. Maham
William T. Malin
Paul A. Mallas
Charles E. Mann
Nicholas S. Markoff
Robert W. Marsh
John S. Marshall
David A. Martin
Michael M. Martin
Norman D. Masterson
Louie A. Mauney
George A. Mayfield
Read B. Mecleary
Richard J. Merritt
Michael H. Merritts
William L. Messmer, Jr.
John F. Meyer
Michael G. Meyer
Raymond T. Michelini
Kenneth B. Middleton, Jr.
Ro T. Milanette
Rudolph L. Milasich, Jr.
Robert J. Milhiser
Louis D. Milioti, Jr.
Jeffrey M. Miller
George F. Mitchell
Michael G. Mitchell, Jr.
Robert J. Mizer
Robert W. Moloney, Jr.
Francis H. Molloy, Jr.
Edward A. Monaco, Jr.
Charles L. Moore III
Lorie A. Moore
Stephen D. Moore
Allen W. Moored
Peter A. Morgan
Dennis A. Morris
Ricky K. Morris
Emil D. Morrow
John H. Morse III
William M. Moscrip
Ronald J. Moser
Daniel Moulton
John J. Mumaw
Alexander F. Munro II
Andrew J. Murphy
Charles R. Murphy, Jr.
Richard L. Murphy
Thomas O. Murray
Richard S. Muti
Larry R. Myers
Richard T. Myers
Terry J. Myron
Robert G. McClure
William E. McClure
James J. McConnell
Frank K. McCutchen, Jr.
Richard A. McDermott
Jay G. McDonald
Thomas E. McFeely
Jeremiah J. McGuire
Paul D. McManus
Dale A. McMullen
James G. McWalters
Jon W. Nagel
Moses T. Najarian
William H. Natter, Jr.
Joseph F. Navoy
Joseph F. H. Neal
Jerrold J. Negin
Arthur W. Nelson III
Richard J. L. Nelson
Lewis R. Newby
Robert B. Newell, Jr.
Thomas L. Newell
Robert A. Newkirk
Robert E. Newman
Thomas J. Nicarico
Aubrey A. Nichols
John E. Nicklo, Jr.
Donald W. Nissley
James D. Norvell
Stuart M. Novak
John A. Nuernberger
James W. Nunn
William V. O'Connor
John J. Oehler
Michael F. Oliver
Harold M. Olson, Jr.
Paul T. O'Neill
Lawrence H. Oppenheimer
Robert A. Orlosky
Judd F. Osten
James A. Ounsworth
Armand T. Palatucci
George F. Palmgren
John H. Palombi
Charles C. Parish
Arthur G. Parrott, Jr.
David J. Parry
James R. Pasch
William W. F. Peake
Nils A. S. Pearson
Leander M. Pemberton
Henry G. Perkins, Jr.
James B. Perkins III
Douglas D. Peterson
Winston H. Peterson
Richard H. Phelan
Alexander M. Phillips
Dennis A. Pignotti
Barry M. Plott
Joseph C. Plumb, Jr.
Frank N. Polhemus
James L. Poole
James H. Porterfield, Jr.
Robert L. Powers
Robert L. E. Prath
Nicholas L. Press
Ira T. Price
Edgar D. Priest, Jr.
Lawrence E. Probst
Joseph W. Prueher
Alan G. Putnam
Michael J. Quaintance
William F. Quirk, Jr.
Norman D. Radtke
Thomas G. Raffo
Floyd W. Ratliff, Jr.
Dennis E. Ray
Donald J. Ray
Norman W. Ray
Patrick J. Reardon
Barry R. Relinger
Joseph L. Restivo
Enrico A. Ricci
Stephen D. Richards
Robert B. Richey
Thomas N. Richman
Robert E. Rinker
Robert F. Riordan
Hugh J. Risseeuw
Glenn W. Ritchey, Jr.
Richard J. Robbins
James L. Roberts
John E. Roberts
Robert E. Roberts
Charles L. Robertson
Louis N. Robinson
Peter T. Rodrick
Paul E. Rowe, Jr.
Richard S. Ruble, Jr.
Joseph J. Rudy, Jr.
Jay B. Russell
Lawrence M. Russell
Theodore K. Sadamoto
John J. Sai
Henry D. Salerno
John D. Sande
Ronald J. Sanders
William P. Sargent
Joseph F. Satrapa
Edward T. Saucier
Joe M. Saul
Steven C. Saulnier
Dale A. Schempp
Ralph Schlichter
Henry W. Schmauss, Jr.
Baldwin S. Schmidt
Richard H. Schmidt
Michael J. Schneider, Jr.
Edwin E. Schoenberger
Robert F. Schroeder
Henry F. Schultz
Henry C. Schwemm, Jr.
Neil "C" Schwertman
Ronald B. Scott
Edward N. Scoville II
James R. Seeley
Harry "D" Sell
Robert P. Senecal II
Donald E. Seyk
James F. Shanahan
William F. Shaughnessy III
Joseph M. Shea, Jr.
William L. Sheehan, Jr.
Charles D. Shields, Jr.
Glenn E. Shindler
Charles L. Shoemaker
Geoffrey R. Shumway
Robert S. Shunk
Gerald W. Siebe
Harro H. Siebert
Robert L. Sigrist, Jr.
Lawrence M. Silver
Robert M. Silvert, Jr.
Harold D. Sisson, Jr.
David M. Sjuggerud
Phillip R. Slough
William A. Slover
Alan B. Smith
Donald V. Smith
Ernest M. Smith
Gordon L. Smith
Terry L. Smith
Theodore F. Smolen
James C. Sorensen
Walter Sowa, Jr.
Frank A. Spangenberg III
James L. Spencer III
Dennis R. Spradlin
William E. Spriggs
George F. Sprowls
Terry A. Stacy
William S. Stakes, Jr.
Joseph J. Staley, Jr.
John A. Stanley
Richard N. Stark
William L. Starks
Robert P. Stewart
Thomas H. Stick
Raymond E. Stone, Jr.
Robert A. Stoughton
Barton D. Strong
Allan P. Struck
Dennis M. Sullivan
Thomas B. Sullivan
Daryl D. Summers
Robert Sutton
John A. Swainbank, Jr
James N. Swan
Thomas J. Swartz
Roger D. Sweeney
John C. Sweet
Harry M. Swyers
Peter M. Syrko
Michael O. Tackney
Anthony R. Taylor
Donald O. Taylor
John M. Taylor IV
Robert B. Taylor III
Lewis F. Taynton
Joseph R. Tenanty, Jr.
John H. Tenbrook
Bruce A. Thoman
Benjamin F. Thomas
Bryce A. Thompson
David D. Thompson
Donnie H. Thompson
John F. Thuente
William J. Tinston, Jr.
Michael S. Tipton
James Tisaranni
John Titterington, Jr.
Thomas R. Toczek
James K. Tolbert
Charles J. Tomashek
David N. Tornberg
David A. Trace
Charles J. Trease, Jr.
Theodore W. Triebel
Gale E. Treiber
David F. Tuma
John A. Tweel
Lee V. Twyford, Jr.
William S. Ulrich
Richard P. Umfrid 3d
Roger E. Vanduzer
George B. Vaupel
Kenneth M. Viafore
Karl A. Vogeler III
David A. Wagner
William C. Waldron III
Keith A. Waldrop
John H. Walkenford III
Paul L. Walker
Donald H. Wallace
David H. Walsh
Robert M. Ward
Terry W. Ward
Leonard R. Wass
John R. Watkins
Keith I. Weal
Gerald W. Weber
Wilson G. Weed
Albert R. Weigel
Robert F. Weir
Donald A. Wellmann
Bruce Wells
Robert M. Welsh
Charles S. Welty, Jr.
Christopher Y. Wemple
Keith M. Werner
Eric L. Westberg
Clifford W. Wexler, Jr.
Gerard T. Whittle
Thomas T. Wiel
Charles L. Wilde
Billy B. Williams
John E. Williams
Richard D. Williams III
Jeffrey V. Wilson
Richard M. Wilson
William E. Wilson
Frederick J. Windle, Jr.
Mark R. Wisenburg
Ray C. Witter
Bruce K. Wood
Arch Woodard
Sanford G. Woodard
Robert B. Woodruff
Charles W. Wright
David R. Wright
Donald J. Wright
Hubert H. Wright IV
Webster M. Wright, Jr.
William H. Wright IV
David C. Wynne
Brian A. Young
Robert B. Yule
Gary G. Zech
Gary A. Zimmerman

The following-named midshipmen (Naval Academy) to be permanent ensigns in the Supply Corps of the Navy, subject to the qualifications therefor as provided by law:

John D. Ballbach
David S. Bary
Terran R. Boyd
Donald C. Burbick
Charles M. Coleman, Jr.
Albert F. Creal, Jr.
Timothy J. Drucis
Leroy F. Field, Jr.
John B. Gabor, Jr.
Donald B. Gibbins
Jeffrey W. Hallahan
William R. Hartwell
Robert E. Hoffler
Eugene C. Holloway III
Don L. Hunter
William E. Jarvis
James M. King
Alfred C. Kosmark
Donald O. Lacey, Jr.
Homer P. Leedy
Joseph M. Leonardi
Edward H. Mackenzie III
James R. Maitland
Ralph S. Martin
Michael A. Murray
Thomas O. Murray, Jr.
Robert H. Nichael
Joseph E. Ponder
Edmund F. Quinton
John E. Reiersen
Stephen J. Roesinger
John F. Schaefer
Richard A. Shapack
David R. Slutzker
Robert L. Solomon
Alfred W. Tate
Bruce K. Terwilliger, Jr.
Woodrow W. Vaughan, Jr.

The following-named midshipmen (Naval Academy) to be permanent ensigns in the Civil Engineer Corps of the Navy, subject to the qualifications therefor as provided by law:

James B. Clayton
Joseph B. Green, Jr.
Orval G. Herrell
Thomas A. Long, Jr.
Ole Leigh Olsen
David A. Rein
Bruce L. Runberg
Sheldon S. H. Zane

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line of the Navy (engineering duty), subject to the qualifications therefor as provided by law:

Bobby E. Bennett
Philip F. Grasser
Timothy P. Hulick

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

James W. Bell
Robert E. Bill
William G. Clements
Roger M. Cooper
John L. Davis
Charles J. Day
Donald D. DelManzo, Jr.
Frank M. Dirren, Jr.
Frank A. Escobar
Donald R. Hess
Richard D. Hoeman
Richard H. Lynch
Michael M. MacMurray
William G. McWilliams III
William R. Mansell
John D. Midgard
James L. Norton
Anthony M. O'Connell
Neil A. Robertson
Mark W. Hall
George C. Harrison, Jr.
Ulf Sawert
Bryan E. Selzer
Floyd E. Swartz, Jr.
Mark L. Turk
Ernest H. Vovakis
Donald E. Walker
Richard F. Wornson
Ronald L. Zeiler

William M. Pfann (Naval Reserve Officers Training Corps candidate) to be a permanent ensign in the Supply Corps of the Navy, subject to the qualifications therefor as provided by law.

Louie J. Griffin, Jr. (Navy enlisted scientific education program) to be a permanent lieutenant (junior grade) in the line of the Navy, subject to the qualifications therefor as provided by law.

The following-named graduates from Navy enlisted scientific education program to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

James R. Bauman
Walter J. Benn, Sr.
Robert L. Bevier
David A. Blake
Wayne H. Bostic
Bruce M. Brady
William J. Breen III
Carl C. Brewer
Charles N. Bright
Alvin L. Butters
James R. Campbell
"W" Eugene Carlsen
Charles E. Carroll
Willard G. Caudell
Donald K. Chalfant
Robert O. Chancellor
William H. Croll
Daniel A. Daly
Michael G. Dameron
Johnny H. Daniel
Carlton H. Darnell
Teddy G. Davidson
Norman E. Davis
David R. Debenport
David A. Dehart
Robert M. Donath
Paul W. Donndelinger
Charles J. Duchock, Jr.
James W. Dumas
Robert J. Farrell
Richard E. Fast
George S. Forrester
Thomas A. Foster
James R. Fuller
William K. Gaylord
Richard L. Gosselin
Charles N. Gross
Gerald L. Hall
James F. Harvey
Billy L. Heid

Ulis D. Hekel
Bruce W. Hepner
Roger A. Hiss
Ronald R. Hlavinka
Lauris M. Holloway
Robert D. Hopkins
John W. Hummel
Bradford Humphrey, Jr.
Joseph G. Hyde
Clifford L. Jamerson
Carmen J. Johnson
William F. Jorgensen
Melvin E. Kanner
Frank E. Kemmerer
Michael D. Kenny
Jon W. Kissinger
Jack U. Klaas
Timothy D. Klopfenstein
Thomas F. Lane
William T. Lee
Charles E. Lehmann
Barry H. Lerich
Eugene D. Maloney
John P. Meierdierks
John F. Mesman
James R. Meyer
Francis J. Murphy, Jr.
Leonard M. Nielsen
John G. Oehlenschlager
Eugene L. Oxenrider
Keith L. Parkinson
Arthur J. Pennington
Imon L. Pilcher
William J. Poole
Dennis E. Roberts
Clint D. Sadler
Frederick D. Salzer
John P. Sanger
Robert A. Schilling
Kenneth A. Schmidt
Gerald M. Schueman
Walter E. Sharp
Thomas E. Simpson
Edman L. Sipe
Russell E. Sirmans
Wiley H. Skidmore
Daniel M. Toporoski, Jr.
Anthony E. Troianello
Wayne M. Vickery
John A. Vorwerk
Michael G. Walker
Gary L. Weerts
John C. West, Jr.
Paul R. Williams
Thatason L. Williams, Jr.
James R. Winn

Stephen W. Dallas (Navy enlisted scientific education program) to be a permanent lieutenant (junior grade) in the line of the Navy, in lieu of ensign in the line of the Navy, as previously nominated and confirmed.

Harold M. Braswell, Jr. (civilian college graduate) to be a permanent lieutenant and a temporary lieutenant commander in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

George A. Jansen (civilian college graduate) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Jeptha T. Boone
Joe P. Smith, Jr.

The following-named (Naval Reserve officers) to be permanent lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Thomas R. Bates
John R. Blodgett, Jr.
Donald V. Blower
John R. Dykers, Jr.
William R. Nicholas
Malcolm L. Petway
Norman L. Swensson

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

John F. Ambrose
Ian M. Ballard
Frank N. Boensch, Jr.
Mark E. Bradley
Paul M. Crum
David M. Fitzgerald
Victor C. Heath
Lawrence A. Jones
Robert M. Jung
Daniel H. Kinzie IV
David L. Moskowitz
Donald G. Preuss
James J. Quinn
Thomas O. Robbins
Edward J. Robinson
William D. Young

Lucius L. Pitts II, HN, USN, to be a permanent ensign in the Medical Service Corps of the Navy, subject to the qualifications therefor as provided by law.

Frank R. Hicks, U.S. Navy retired officer, to be a permanent lieutenant commander in the line of the Navy, subject to the qualifications therefor as provided by law.

The following-named U.S. Navy officers to be permanent chief warrant officers, W-4, in the line of the Navy, subject to the qualifications therefor as provided by law:

Robert W. Goodreau
Irvin R. Moss
Jack M. Reid

The following-named (civilian college graduates) to be permanent lieutenants and temporary lieutenant commanders in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

John R. Goska
Wilbur G. Reed

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Charles R. Diem
James E. Krause
John D. Walsh

The following-named (civilian college graduates) to be permanent lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Frank I. Mangum
Theodore E. Muir

The following-named (Naval Reserve officers) to be permanent lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Walter H. Ebert
Harry S. Heget, Jr.
Peter C. Huelster
Peter Kasenchak
Richard S. Lodico
Charles E. Wingard

The following-named (civilian college graduates) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Ray A. Ashcraft
Robert Y. Coleman
James H. Fjerstad
Stephens M. Magers
Robert P. Moffett
Joseph G. Pille
Albert B. Pyland
Harold L. Russell
James T. Woodsmall

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Edward L. Abeyta
Terrance W. Baker
Thomas E. Bollinger
Peter B. Carroll
Richard A. Copeland
Peter R. Cunningham
John F. Debs
John H. DeMeyer
Michael M. Eisenburger
John J. Girolami
Louis C. Habig
William H. Hirshfeld
Robert S. Jones
Eliot Lable
Allen D. McCaghren
Charles F. Negus
Ronald T. Nelson
Gary P. Nichols
George R. Pedrick
Gerald L. Pierce
Gerald S. Poe
William G. Richardson
Donald E. Siegal
Joseph T. Siracuse
Seikichi Taba
Ronald H. VanSlooten
William F. Zinghelm

The following-named (civilian college graduates) (dental intern program) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

John B. Wahlig
Stanley A. Youdelman

The following-named (Naval Reserve officers) (dental intern program) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Roger E. Alexander
John M. Allen
David L. Bozikowski
William J. Buchholtz
William M. Bunting
John M. Cahan
Edgar H. Chambers
David C. Eldridge
Dennis C. Foster
Karl W. George
Dennis G. Hillenbrand
Norman J. Horenkamp
Neil W. Lamb
John D. Lane
Robert A. Lawton
Stephen J. Levine
Richard D. Pawlak
Kenneth G. Ponder
Griffith F. Pritchard
Dale S. Prock
Richard M. Pyne
David H. Schroeder
Richard L. Seberg
Barry E. Sharrow
Lawrence W. Stark
Thomas W. Stone III
Charles L. Stoup
James B. Sweet
Edward P. Theiss
James F. Whittaker

The following-named (Naval Reserve officers) (dental intern program) selected as alternates, to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Myron L. Pudwill
Edward A. Griebe
James B. Killinger

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

### LINE

Gray, Harold E., Jr.

### SUPPLY CORPS

McDaniel, Roderick D.

### CHAPLAIN CORPS

Oakley, Donald C.

### NURSE CORPS

Barrows, Anne C.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

### LINE

Bailes, William J.
Bates, William R.
Boler, Giles J.
Bowen, David M.
Carter, Floyd W., Jr.
Clark, Rolf H.
Connor, John
Delles, Carl M., Jr.
Dennis, David A.
Field, Stephen A.
Fischl, Joseph J.
Hannaman, Wilbur G.
Hauer, George I.
Jacobsen, Kenneth C.
Kohlstedt, Kenneth D., II
Knott, Ronald J.
Less, Anthony A.
McAbee, John T.
Moffitt, Robert E.
Nelson, Gary L.
Pierce, Huey L.
Plattis, Michael L.
Spear, Sherley L.
Taylor, Thomas F.
Uner, Alan L.
Unzicker, Leonard J.
Vincent, William A.
Ward, Charles E.
Watkins, Paul P., Jr.

### SUPPLY CORPS

Palmatier, Philip E.

### CIVIL ENGINEER CORPS

Holzbach, James F.

### MEDICAL SERVICE CORPS

Groce, William E.

### NURSE CORPS

St. Angelo, Joan E.

The following-named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

### LINE

Bennett, Paul L.
Brennan, Thomas J.
Brooks, Kenneth M.
Brown, Charles D.
Carden, Francis D.
Crabbs, Edward H.
Dooley, Dennis P.
Duke, Thomas E.
Gorgas, Chester W.
Grove, Frank H.
Harper, John N., Jr.
Haskell, Hugh B.
Hightower, Charles V.
Holmes, Harry M.
Judson, William H.
Lange, Peter S.
Larison, Donald E.
McEachen, Angus D., III
Salda, Ronald E.
Schneider, Michael J.
Schulze, John M., Jr.
Stearns, Richard C.
VanPelt, Sterley B., III
Walker, James R.
Wilson, David C.
Wright, Lawrence T.
Zucca, Garry J.

### SUPPLY CORPS

Berger, Paul
Ford, John E.

### CIVIL ENGINEER CORPS

Knuz, Joseph D.
Wheeler, David E.
Woll, Jerry D.

Carleton C. Chesnut for permanent promotion to the grade of chief warrant officer, W-4, in the U.S. Navy subject to qualification therefor as provided by law.

The following-named line officers of the Navy for transfer to and appointment in the Supply Corps of the Navy in the permanent grade of lieutenant (junior grade) and in the temporary grade of lieutenant:

Donald M. Ervine
Robert E. Knachel
Richard J. Moore
Richard B. Renner
Milton W. Weaver

The following-named line officers of the Navy for transfer to and appointment in the Supply Corps of the Navy in the permanent grade of ensign:

Ernest L. Andrews, Jr
David A. Bingemann
Roger A. Marien
William A. Naiva

The following-named line officers of the Navy for transfer to and appointment in the Civil Engineer Corps of the Navy in the permanent grade of lieutenant (junior grade) and in the temporary grade of lieutenant:

Jan W. Cook
Alvin V. Skiles

The following-named line officers of the Navy for transfer to and appointment in the Civil Engineer Corps of the Navy in the permanent grade of ensign:

Carl H. Bender, Jr.
Wilson M. Black
Larry G. Blackwell
Robert L. Brandon
William N. Ekstrand
Donald R. Wells

James W. Newcomb, Jr., Supply Corps, U.S. Navy, for transfer to and appointment in the restricted line, U.S. Navy (engineering duty), in the permanent grade of lieutenant.

The following-named officers of the Navy for permanent promotion to the grade indicated:

### LINE

### *To be captains*

Adams, Robert S.
Adams, William L.
Adkins, Aubyn L.
Adrian, Robert N.
Alexander, Robert H.
Alexatos, Michael S.
Alleman, James K.
Amme, Robert G.
Anastasion, Steven N.
Anderson, Clyde B.
Aubrey, Norbert E., Jr.
Ault, Frank W.
Babcock, Courtland T.
Bailey, William F.
Baird, William D.
Baldridge, Jewett A.
Baney, Sidney N.
Banks, William R.
Barrett, Alcus E.
Barrett, John M.
Bartlett, Lewis C.
Bass, Thomas E., III.
Bauman, John F.
Baumeister, Charles, Jr.
Bayne, Marmaduke G.
Beadles, Joe W., Jr.
Beaver, Robert H.
Behan, Joseph N., Jr.
Behl, John H.
Beling, John K.
Belt, Richard W., Jr.
Bennett, Milton D.
Berquist, Carl R.
Birdsall, Douglas "M."
Blattmann, Walter C.
Bliss, George L., Jr.
Blocker, Leo B.
Boydstun, Howard, Jr.
Brady, Francis X.
Brambilla, Marius G., Jr.
Brega, Richard E.
Briggs, Chester E., Jr.
Briggs, Chester A.
Brookes, Charles S.
Brown, Richard K.
Bryan, George R., Jr.
Buckwalter, Earl E.
Budding, William A., Jr.
Burley, Albert C.
Bursik, Vlada D.
Burton, John H.
Busik, William S.
Butler, Francis A.
Cafferata, William F.
Callahan, James E.
Campbell, James M.
Caney, Lawrence D.
Cantwell, Richard, A., Jr.
Carpenter, Melvin J.
Cates, Clifton B., Jr.
Cheal, Wayne R.
Cherbak, Alfred A.
Cockroft, Irving G.
Coleman, Thaddeus T., Jr.
Colenda, Frank
Colleran, Gerard F.
Collins, Cecil B., Jr.
Collins, Samuel L.
Connolly, Bartholomew J., III
Cooke, Henry J. H.
Cooper, Charles T., III
Coppola, Eduguardo M.
Cormier, Richard L.
Cornell, Leland B.
Coste, John E.
Coulter, Frank J.
Cox, Albert W.
Culley, William F.
Cummings, Edward J., Jr.
Curtis, Clifford B., Jr.
Cyr, Richard F.
Dankworth, Edwin G., Jr.
Danz, Lawrence F.
Davis, George J.
Davis, George W., V.
Davis, Raymond E.
Dawkins, M. Vance
Dibble, Edgar J.
Dick, John H.
Ditch, William E.
Dodson, Boykin R.
Dombroff, Seymour
Donaldson, James C., Jr.
Doran, Homer M., Jr.
Dougall, Alan
Douglas, Benjamin T.
Doyel, Wilbur T.
Drachnik, Joseph B.
Duborg, Robert W.
Dudley, John A.
Duncan, John A.
Durham, Harold D.
Durham, Hugh M.
Durio, Jack N.
Easton, William R.
Eaton, Max A.
Edwards, Eldon L.
Edwards, John Q., III
Efird, Terril A.
Elefter, Theodore
Ellis, Neil L., Jr.
Ellison, Harold H.
Emerson, Arthur T., Jr.
Erken Brack, Phillip F.
Esler, Clifford M., Jr.
Eslinger, Robert H., Jr.
Etheridge, Melvin R.
Facer, Gordon C.
Fearnow, Frederick R.
Feightner, Edward L.
Ferris, James
Field, Leonard E.
Finley, Miles R., Jr.
Fitzhugh, Mayo McG., Jr.
Fleming, William W.
Flessner, Conrad J.
Flint, Lawrence E., Jr.
Flynn, Edward P., Jr.
Foley, Peter J.
Foley, William J., Jr.
Forde, Lambert V.
Fox, Elmer L.
Fox, John C.
Francis, Arthur E.
Franz, Leonard A.
Frese, Bernard W., Jr.
Froscher, Clarence T.
Frossard, Clarence F.
Gaines, Robert Y.
Gallagher, Edward F.
Gallemore, Roy H.
Galvani, Amedeo H.
Garrett, William L., Jr.
Gastrock, Martin D.
Gendron, Edward W.
Gerdes, Henry A.
Gersuk, Ipser J.
Gillock, Robert H.
Gills, James W.
Girault, Norton R.
Gisvold, Paul A., Jr.
Gleeson, John P.
Godek, Mieczyslaw
Golden, William A., Jr.
Gould, Joseph E.
Graham, Woodrow W.
Gray, "O" "B"
Gray, William J.
Greenwood, Robert B.
Greer, Richard D., Jr.
Griffin, Edwin C.
Griffith, John "T"
Griggs, John B., III
Grkovic, George
Guidry, Joseph W.
Gulmon, Robert H.
Haase, Richard A.
Halsten, Homer H., Jr.
Hamby, Edward P.
Hardcastle, William H., Jr.
Hancock, Alex F.
Hannon, Paul G.
Hansen, Robert L.
Hanson, Ralph M.
Hammerstone, James H., Jr.
Harnish, William M.
Harrelson, George D.
Harris, Floyd L.
Harrison, Curg W., Jr.
Hawthorne, Robert E.
Haynie, John C., Jr.
Hazapis, Thomas
Heishman, Jack "C"
Heller, Samuel R., Jr.
Helsel, Kenneth D.
Henry, Alfred J., Jr.
Hershey, Kirk
Hershey, Merle M.
Heselton, Leslie R., Jr.
Heyworth, Lawrence, Jr.
Hibben, Carl B.
Hill, Charles A., Jr.
Hitchcock, Edwin N., Jr.
Hitz, Frederick W., Jr.
Holcomb, John K.
Hollinshead, Charles W., Jr.
Holmes, David C.
Holzrichter, Max A.
Homer, William N. P.
Hoppe, William E.
Horrell, Ernest R.
Howe, George B.
Hubbard, Raymond A.
Hubbell, Charles W.
Hudson, William O., II
Hudspeth, William L.
Humphrey, William S., Jr.
Hunt, Daniel, Jr.
Hunt, Robert F.
Hurst, Thomas C., III
Hussong, William J., Jr.
Hydinger, Marlin C.
Iiams, Meryl A.
Ischinger, Eric, Jr.
Jackson, Erwin S.
Jackson, Robert W.
Johnson, Earl B.
Johnson, James M.
Johnson, Silas R.
Jones, Jack B.
Jones, James A.
Karcher, Daniel M.
Kauffman, Hal A.
Kelley, Vincent F.
Kemp, Joseph C., Jr.
Kerr, Edward E.
King, David A., Jr.
Kirkland, William B., Jr.
Klahn, Dale C.
Klein, Walter C.
Knight, Olyce T.
Kostrzewsky, Alexander J.
Kubel, Howard L.
Kuntze, Archie C.
Kurtz, Lawrence A.
Labyak, Robert W.
Laird, Ian M.
Laliberte, William
Landua, Oliver H.
Lang, Harold F.
LaPierre, Douglas B.
Larsen, Frank
Larson, Robin E.
Lassell, Donald L.
Lavrakas, Lefteris
Law, Richard R.
Lawson, Dunbar
Lazenby, Richard D.
Leavitt, Guy C.
Lee, Howard "C"
Leehey, Patrick
Leonard, Edward F.
Lindstrom, Kenith V.
Lobdell, John H.
Loomis, William R.
Lovington, Joseph A.
MacGovern, Robert N.
Mackey, Wendell C.
Madson, Richard O.
Maher, David B.
Manson, Frank A.
Marrow, Jack S.
Martin, James N.
Martin, Neal, Jr.
Massie, Malcolm R.
May, Allan E.
McCain, Audley H.
McCants, Thomas R.
McCaughey, William H
McCauley, Brian
McClellan, Thomas R.
McClure, Huston B.
McCormick, James B.
McCoy, Donald E.
McCrerey, Homer A.
McCuddin, Leo B.
McCulley, William M., Jr.
McDougal, Clifford A.
McEwan, Archibald J.
McGann, Patrick H.
McGinnis, George P.
McGowan, Edward C.
McInnis, Norman, K.
McClaughlin, John
McLinn, Frank M.
McManus, Philip S.
McMullan, James J.
McMullen, Cornelius E.
McQuilkin, William R.
McTighe, John A.
Melusky, Thomas A.
Merwin, Jesse A.
Metzger, Lewis W., III
Meyer, Edgar R.
Miller, Harry Z.
Milner, Frank D.
Montunnas, Stanley
Mooney, James D.
Moore, Howard S.
Moore, Larry D.
Moore, Sam H.
Moore, Thomas H.
Moss, Richard N.
Moulton, Bernard W.
Mulligan, Charles E.
Murtha, Vincent L.
Naylor, Jesse A.
Newland, John W., Jr.
Newlon, Arthur W.
Newton, Arthur G.
Ney, Robert J.
Nichols, John L.
Nifong, James M.
Nolan, John J.
O'Brien, James M.
O'Connell, Daniel J.
Oliver, James D., Jr.
O'Neill, Martin G.
Pace, Joseph J.
Padget, Paul E.
Page, Horace C.
Pardee, William McK.
Pariseau, Joseph A.
Payne, Charles D.
Pendleton, Charles A., Jr.
Perez, Romeo
Phillips, Glenn E.
Pittman, Milan L., Jr.
Prager, Morton A.
Pridonoff, Eugene
Pump, Fred W., Jr.
Purcell, Jones W.
Quillin, James C., Jr.
Quinn, Frank N.
Racette, William A.
Raddatz, Robert W.
Rapp, William T.
Rathbun, Leon H., Jr.
Ray, Prentis R.
Regan, Robert F.
Reh, Frank J.
Rehnberg, Kay P., Jr.
Riblett, William R.
Riddle, Meredith G.
Ries, Herbert H.
Ries, Robert E., Jr.
Ringenberg, George W.
Ritchie, James
Robbins, Spencer E.
Roberts, Carlton B.
Roberts, Charles C., Jr.
Robie, Edgar A.
Robinson, Samuel J., Jr.
Rossell, Robert H.
Rothamel, William P.
Rowell, Kenneth F.
Ruiz, Charles K.
Rusk, Alfred D.
Ryan, John W., Jr.
Sahaj, Joseph
Sams, William R.
Sanders, Charles C.
Sappington, Merrill H.
Savacool, James M.
Sawyer, Clifford R.
Schall, Rodney F.
Scherer, Lee R., Jr.
Scott, David A.
Scott, William J.
Sedaker, Thomas S.
Sedell, Thomas R.
Seelinger, Robert A.
Sell, Leslie H.
Sestak, Joseph A.
Shaver, Robert G.
Shaw, Frank J.
Shea, John "D.," Jr.
Shepard, Tazewell T. Jr.
Shepherd, John T.
Shinneman, John R.
Shong, John W.
Shor, Samuel W. W.
Short, James W.
Sibold, Arthur P., Jr.
Sigurdson, Orville S.
Sinclair, Andrew M.
Smith, Alwyn, Jr.
Smith, Robert G.
Snyder, Gordon A.
Sollenberger, Harold D.
Spielman, James S.
Spreen, Roger E.
Stack, Martin J.
Stanley, Donald C.
Stark, Robert E.
Stastny, Charles E.
Stearns, William G., Jr.
Stecher, Robert W.
Stegg, Robert J.
Sterrett, David S.
Strong, Hope, Jr.
Stroud, George W.
Stuart, Robert M.
Sumrall, Elton L.
Swope, James S.
Symons, Floyd M.

Tate, Benjamin C.
Taylor, Theron J.
Tazewell, John P.
Tefft, John E.
Temme, Robert L.
Thielges, Bernard A.
Thomas, John M.
Thorne, Fred H.
Thurmon, Norman E.
Tickle, Paul A.
Tofalo, Francis
Tolerton, Raymond C., Jr.
Tower, Robert G.
Tracy, Weimer B., Jr.
Traylor, James T., Jr.
Treadwell, Thurman "K," Jr.
Tuttle, Louis "K," Jr.
Umbarger, Bernard S.
Underwood, William E.
van Lier Ribbink, Edvard F.
VanNess, Harper E., Jr.
Vessell, Frank G.
Vineyard, Merriwell W.
Vitucci, Vito L.
Volonte, Joseph E.
Waldman, Albert C., Jr.
Walker, Lewis W., Jr.
Wall, Maurice E.
Wallace, Kenneth C.
Ward, Charles W.
Ward, Herbert H., III
Ward, James R.
Warner, Robert E.
Watson, Samuel E.
Webb, Charles D.
Welles, William T.
Wessel, Robert L.
West, Horace B.
Westrup, Warren E.
Wharton, Claude A., Jr.
Whisler, George H., Jr.
White, Norman E.
White, Richard S., III
Whiteaker, James G.
Wills, James K.
Wilson, Walter K.
Winter, Edward J.
Wissman, Robert G.
Witmer, Robert M.
Wolff, Paul M.
Woodall, Reuben F.
Woodward, Horace J.
Woodward, Nelson C.
Wooldridge, Arthur R., Jr.
Wynkoop, David P.
Young, Howard S., Jr.
Zane, Curtis J.
Zimermann, Richard G.
Zoeller, Robert J.

### MEDICAL CORPS

*To be captains*

Bond, George F.
Country, John C.
Cowart, Elgin C., Jr.
Giknis, Francis L.
Hamill, James E.
Holmes, James H.
Johnson, Wendell A.
Kee, Charles E.
Lieurance, Richard E.
Marshall, Francies
Pariser, Harold P.
Weidemann, Karl C.
Wells, Peter F., II
Whiteside, James E.

### SUPPLY CORPS

*To be captains*

Arthur, Harry B.
Baldwin, Frank A.
Barbero, Francesco M.
Beckmeyer, Harold E.
Brademan, Royce A.
Cook, Glover H.
Daley, Clement E.
Daniels, Royce L.
Diggle, Raymond H.
Dowd, Wallace R., Jr.
Eckfield, Kenyon C.
Ernst, Clayton W.
Foster, Thomas E., Jr.
Fulton, Clyde E.
Furtwangler, Leo E., Jr.
Garrett, John H., Jr.
Grimsley, Geleter
Hamblen, Eunice A.
Haskell, John W.
Hauge, George E.
Herron, John C.
Hopwood, Alonzo L.
Hughes, Augustus P., Jr.
Hurley, Robert E.
Jeffrey, Paul W.
Jeppson, Robert B., Jr.
Kesselring, Waverley D.
Klofkorn, Kenneth R.
Knapp, Michael J.
Leedy, Ralph G.
Leighton, Richard W.
Lewis, John M., Jr.
Lewis, Wellington H.
Lohse, William M.
Lotterhos, Augustus, Jr.
MacQuarrie, Harry A.
Mago, Bernard A.
Maiman, Elmer J.
McLanahan, Clarence E.
Mills, Hubert P.
Morrissey, John E.
Nalley, Thomas L.
Normile, Walter G.
Oldfield, Edward C., Jr.
Paist, John B., Jr.
Parrish, Melvin O.
Peach, William T., III
Perkins, Charles F.
Sanders, Allen B.
Schmeder, Charles E.
Scott, John A.
Sheehan, William J.
Sirginson, Arthur W.
Slettvet, Richard M.
Swan, Alfred W.
Swint, Elwin O.
Tolleson, Carlos L.
Tolson, Walter W.
Wade, John W.
Wiedman, Charles, Jr.
Williams, Douglas O.
Wilson, Robert H.
Wright, Jack L.
Zivnuska, Robert W.

### CHAPLAIN CORPS

*To be captains*

Cahill, Richard A.
Ernstmeyer, Milton S.
Ferris, James S.
Gendron, Anthony L.
Kapalczynski, Eugene J.
Lonergan, Vincent J.
Sargent, Gerald H.
Schneck, Robert J.
Swinson, Jesse L.
Tuxbury, Vernon W

### CIVIL ENGINEER CORPS

*To be captains*

Anderson, Nelson R.
Bartlett, James V.
Busbee, Greer A., Jr.
Callahan, John F.
Castanes, James C.
Cline, Warren F.
Cunney, Edward G.
Dillion, John "G"
Dougherty, John A.
Grubb, Clarence A.
Hobson, Harold E.
Johnson, Edwin E.
Meeks, Arthur F.
Miller, William A.
Pickett, Bryan S.
Trzyna, Zbyszko C.
Turner, Charles W.

### DENTAL CORPS

*To be captains*

Colby, Gage
D'Vincent, Richard "C"
Giammusso, Anthony P.
Grossman, Frank D.
Johnson, Van L., Jr.
Knapp, Victor P.
Nystul, Oliver G.
Rinck, Theodore J. H.
Troxell, Richard R.

### MEDICAL SERVICE CORPS

*To be captains*

Austin, Paul L.
Buckner, James F.
Chartier, Armand P.
Dreitlein, William M.
Duwel, Bernard F.
Haase, Edward F.
Herrmann, Robert S.
Isert, Lawrence L.
Kuntz, Robert E.
Luckie, Robert G.
Mann, Charles F.
Vasa, Ralph L.
Westbrook, Francis L.
Witcofski, Louie K.

### NURSE CORPS

*To be captain*

Monahan, Dorothy P.

### IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Ronald Michael D'Amuar
Robert Karp Gosney
John V. Fiorentin
Robert E. Reed-Hill
John Edward Stein, Jr.
Robert Baker Walls, Jr.
Edward Bruce Weick
Daniel L. Welker

The following-named (Army Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

John J. Rapuano, Jr.

The following-named (U.S. Military Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Dennis F. O'Block
Donald M. Schwartz
Herbert D. Raymond III

The following-named (U.S. Naval Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Richard W. Andrews
Barry V. Banks
Barry N. Beck
Ronald Benigo
William C. Blaha
John D. Buckelew
Edward J. Bush, Jr.
Paul R. Caldwell
Michael J. Chumer
James B. Croft, Jr.
Martin E. Costello
John H. Dillon
Robert J. Dougal
Fred T. Fagan, Jr.
Edward M. Fox
Paul M. Frankovich
Anthony J. Garcia
Edward C. Gerhard
Mario G. Gerhardt
William J. Gleeson
Earl J. Gorman, Jr.
David W. Gould
Frank T. Grassi
Paul B. Graves
William A. Griffis II
Roy D. Hammock
Robert W. Harvey, Jr.
Paul D. Havens
Douglas J. Herrman
Homer E. Hire, Jr.
Jeffrey C. Hogan
Thomas J. Holden
Jeffrey D. E. Jefferies
Robert J. Johnson, Jr.
William C. Jones
Charles C. Krulak
David L. Lapham
David W. Lorenzo
Michael E. Lundy
Dale J. Lux
Alan E. Mahar
John T. Mahoney, Jr.
Patrick M. Malone
James E. McDonald, Jr.
Edward F. Miglarese, Jr.
Peter M. Molloy
Gerald F. Moran
Geoffrey D. Nelson
John A. Nordin
Vincent E. O'Neill
Everett W. Pentz, Jr.
Dennis N. T. Perkins
Charles A. Pinney III
Patrick M. Prout
Berton M. Ranta
Larry L. Robinson
Glenn W. Russell, Jr.
Richard P. Scott, Jr.
Ronald J. Shabosky
James R. Shoff
Ray G. Snyder
Robert C. Springer
Joseph D. Stewart
Dean A. Stiemke
Alan R. Tatlock
Robert R. Teall
James R. Thompson
Robert R. Timberg
William A. Tinsley III
Bruce E. Welch
Jerome A. Welch
Gordon R. Willson
David B. Wilshin
Robin F. Wirsching
Erik C. Woods
Jack B. Zimmermann

The following named (meritorious noncommissioned officers) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Calvin Kossiver
Clyde P. Drewett

## SENATE

SATURDAY, APRIL 25, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, at the beginning of deliberations in this forum of freedom, we come in the glad assurance, not just of our feeble hold of Thee, but, rather, of Thy mighty grasp of us.

Even as with bending backs we toil in the valley, we are grateful that the light of Thine eternal purpose falls upon our daily tasks, and that in the beauty of common things we may partake of the holy sacrament of Thy presence.

On the earth blackened by hate, we thank Thee for men and women of good will under all skies, the saving salt of a desperate world, upon whose integrity of character and upon whose understanding compassion for other nations and races the hopes of tomorrow's world rest.

Steel our hearts to be the servants of Thy will, as we serve the present age.

In the spirit and name of Redeemer, we pray. Amen.

### THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 24, 1964, was dispensed with.

### EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, before suggesting the absence of a quorum, I ask unanimous consent that the Senate proceed to the consideration of executive business, to consider the nomination for membership on the Atomic Energy Commission.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nomination for membership on the Atomic Energy Commission will be stated.

## ATOMIC ENERGY COMMISSION

The Chief Clerk read the nomination of Dr. Mary I. Bunting, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1965.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate resumed the consideration of legislative business.

## ORDER FOR A MORNING HOUR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on the same basis as on the preceding days of this week, and after the conclusion of the quorum call, there be a morning hour.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none; and it is so ordered.

## ORDER FOR RECESS TO 10 A.M. ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it stand in recess until 10 o'clock on Monday morning, next.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

## CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 169 Leg.]

**Aiken**
**Allott**
**Anderson**
**Bartlett**
**Beall**
**Bennett**
**Bible**
**Brewster**
**Carlson**
**Case**
**Church**
**Clark**
**Cotton**
**Curtis**
**Dodd**
**Douglas**
**Ellender**
**Ervin**
**Fong**
**Gore**
**Gruening**
**Hayden**
**Holland**
**Hruska**
**Humphrey**
**Inouye**
**Jackson**
**Javits**
**Johnston**
**Jordan, Idaho**
**Keating**
**Kuchel**
**Lausche**
**Magnuson**
**Mansfield**
**McCarthy**
**McGee**
**McGovern**
**McIntyre**
**McNamara**
**Metcalf**
**Monroney**
**Morse**
**Morton**
**Mundt**
**Muskie**
**Neuberger**
**Pell**
**Prouty**
**Proxmire**
**Randolph**
**Ribicoff**
**Russell**
**Scott**
**Simpson**
**Smith**
**Sparkman**
**Walters**
**Young, Ohio**

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. Bayh], the Senator from North Dakota [Mr. Burdick], the Senator from Virginia [Mr. Byrd], the Senator from Nevada [Mr. Cannon], the Senator from Arkansas [Mr. Fulbright], the Senator from Michigan [Mr. Hart], the Senator from Alabama [Mr. Hill], the Senator from Louisiana [Mr. Long], the Senator from Utah [Mr. Moss], the Senator from Virginia [Mr. Robertson], the Senator from Mississippi [Mr. Stennis], and the Senator from South Carolina [Mr. Thurmond] are absent on official business.

I also announce that the Senator from West Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Oklahoma [Mr. Edmondson], the Senator from Indiana [Mr. Hartke], the Senator from North Carolina [Mr. Jordan], the Senator from Massachusetts [Mr. Kennedy], the Senator from Missouri [Mr. Long], the Senator from Wisconsin [Mr. Nelson], the Senator from Rhode Island [Mr. Pastore], the Senator from Florida [Mr. Smathers], the Senator from Missouri [Mr. Symington], the Senator from Georgia [Mr. Talmadge], the Senator from New Jersey [Mr. Williams], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] and the Senator from Arkansas [Mr. McClellan] are absent because of illness.

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] is absent on official business.

The Senators from Delaware [Mr. Boggs and Mr. Williams], the Senator from Illinois [Mr. Dirksen], the Senator from Colorado [Mr. Dominick], the Senator from Arizona [Mr. Goldwater], the Senators from Iowa [Mr. Hickenlooper and Mr. Miller], the Senator from New Mexico [Mr. Mechem], the Senator from Kansas [Mr. Pearson], the Senator from Massachusetts [Mr. Saltonstall], the Senator from Texas [Mr. Tower], and the Senator from North Dakota [Mr. Young] are necessarily absent.

The PRESIDING OFFICER (Mr. Inouye in the chair). A quorum is present.

## TRANSACTION OF ROUTINE BUSINESS

The PRESIDING OFFICER. Morning business is in order.

## BILL INTRODUCED

**A bill was introduced, read twice by its title, and referred as indicated:**

By Mr. JACKSON (for himself, Mr. Anderson, Mr. Kuchel, Mr. Magnuson, Mr. Bartlett, and Mr. Gruening):

S. 2772. A bill to amend the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. Jackson when he introduced the above bill, which appear under a separate heading.)

## AMENDMENT OF ALASKA OMNIBUS ACT

Mr. JACKSON. Mr. President, on behalf of myself, and Senators Anderson, Kuchel, Magnuson, Bartlett, and Gruening, I introduce, for appropriate reference, a bill submitted and recommended by the President of the United States to amend the Alaska Omnibus Act to authorize $22,500,000 for additional transitional grants to the State of Alaska until June 30, 1966.

The Alaska Omnibus Act, Public Law 86–70, was enacted following Alaska's admission to statehood to assist that State to perform certain functions which had previously been borne by the Federal Government. A total of $28,500,000 of "transitional" grants to Alaska were authorized to help her assume her responsibilities as a State.

The severe earthquake which struck Alaska on March 27 has prompted the President to offer these amendments. The previously authorized transitional grants will expire on June 30, 1964. Until March 27, there appeared to be no need for an extension of those grants, and the Federal Government would not have proposed an extension. In fact, Alaska has been able to take over most normal State and local responsibilities previously administered by the Federal Government during territorial days.

However, the terrible events of March 27 have drastically changed the situation. As a result of the earthquake, the State and local governments in Alaska will temporarily lose sizable portions of their revenues. For example, about 50 percent of the State's population, economic resources and tax base are in the affected area. It is the source of about half the State's $55 million annual revenue from State and local sources.

Any decline in taxes will, in turn, impair Alaska's ability to match certain necessary Federal grant-in-aid funds and to finance capital projects and other programs through the sale of State and local obligations. At the same time, the State and localities are bearing extraordinary expenses in connection with relief and reconstruction.

The earthquake has, in effect, delayed the day when Alaska can be expected to complete an orderly transition to full statehood responsibilities. The disaster will reduce Alaska's revenues below the level required to finance its increased functions as a State.

To fill the gap, section 1 of the proposed bill would provide for a continuation of the transitional grants until June 30, 1966, and an authorization of $22,500,000 for such grants. While the earlier grants were based largely on the amounts the Federal Government would have spent on the programs assumed by Alaska, the proposed grants are based on an estimate of the amounts by which State and local revenues will fall short of expectations because of the earthquake, together with certain funds required to meet extraordinary operating expenses.

Section 2 of the draft bill would extend for 2 years several other features of the original transition program. The period during which the Governor could request a Federal agency to provide interim services and facilities in Alaska under section 44(b) of the Omnibus Act would be extended to June 30, 1966. It is expected that this authority will continue to be used to provide for Federal Aviation Agency operation of certain intermediate airports in Alaska. That operation would be financed, as it has been in the past, out of the transitional grant funds.

Section 44(c) of the Omnibus Act would be similarly amended to extend the period in which Federal agencies may contract with the State to perform certain services they formerly performed in Alaska. Finally section 45(a) of the act would be amended to extend for 2 years the President's authority to transfer to Alaska the Federal property used in connection with functions assumed by the State under the statehood and omnibus acts.

The sponsors of this bill agree with the President that this legislation is necessary to insure the continuance of effective State and local government in Alaska during the emergency reconstruction period. The Bureau of the Budget urges early and favorable consideration of the proposed bill.

The Senator from New Mexico [Mr. ANDERSON], who is a cosponsor of this bill, has stated to me that he will also consider this legislation in a hearing before the Senate Committee on Interior and Insular Affairs on May 4. He had previously scheduled a meeting for that date for additional hearings on S. 2719, the Alaska earthquake insurance proposal now pending before us.

We are hopeful that this early and forthright action on the part of the President and the Congress will help restore the confidence and courage of the people of our 49th State. Their fellow citizens stand ready to help them help themselves in this dark hour. Their steadfastness in the face of their terrible disaster has been an inspiration to us all.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2772) to amend the Alaska Omnibus Act, introduced by Mr. JACKSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

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## PRESERVATION AND RESTORATION OF CERTAIN WORKS OF ART—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of April 17, 1964, the names of Mr. LONG of Missouri and Mr. MCINTYRE were added as additional cosponsors of the bill (S. 2745) to save historic buildings, sites, and antiquities, to provide a program of preservation and restoration of works of art owned by the United States, and to provide high standards of architectural excellence in design and decoration of Federal public buildings, and for other purposes, introduced by Mr. CLARK on April 17, 1964.

## ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. PROUTY:

Summary memorandum on the pending civil rights bill, prepared by Representative WILLIAM M. MCCULLOCH, of Ohio.

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## PRESIDENT LYNDON B. JOHNSON

Mr. MANSFIELD. Mr. President, the history books one day will record the speed and vigor with which Lyndon B. Johnson has put his personal stamp on the Presidency in 1964. With few relaxations, the President is on the job day and night. He has nonstop working habits.

I know that he eats; I have seen him. I know he works; I have watched him. I assume he sleeps; and I assume he has some sort of recreational activity. But certainly he has been able to make a great deal of headway this year with many of the proposals he has advocated. He has used persuasion. He has fallen back on the advice of Isaiah. He has said, in effect, to all segments of the population, when differences have been brought to his attention, "Come, let us reason together." Through persuasion, he has been able to speed the taxcut proposals into law. Through persuasion, I believe he has been able to speed up progress on the civil rights bill. Through persuasion, he has been able to settle the railroad difficulty which has plagued the Nation for the past 4½ years.

I ask unanimous consent that an article from the April 23, 1964, issue of the Christian Science Monitor, under the byline of Mr. William H. Stringer, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE AUTHENTIC STAMP

(By William H. Stringer)

WASHINGTON.—History books one day will record the speed and vigor with which Lyndon B. Johnson put his personal stamp on the Presidency in 1964.

No longer does Washington speak of the Johnson-Kennedy administration. In a remarkably short time the resourceful, hard-driving, politically conscious Texan has impressed policy, technique, the executive staff, and White House style with his own image. It is a personalized operation, and effective in getting things done.

Editors visiting Washington for a State Department seminar on foreign policy this week had a chance to see this elemental L.B.J. in action. Instead of addressing the visitors in the State Department auditorium, as the late President Kennedy traditionally had done, Mr. Johnson had the editors taken by bus right to the White House and talked to them from a lectern in the rose garden.

Like an eloquent preacher he exhorted them on the Christian values of aid programs to the world's underprivileged and poverty stricken. He compared Americans, with monthly incomes of $200, to the two-thirds of the world's people who receive $8 or under a month. Sometimes he hardly glanced at his script. The editors would not soon forget this performance, though some editors felt they were being talked down to at times.

What distinguishes the Johnson White House is this vigorous activity, around the clock. With few relaxations, the President is on the job day and night. He has nonstop working habits. He pushes his assistants hard, though he can be generous and considerate when he thinks about it.

There are gaps in the President's knowledge, as with any new Chief Executive. There is sometimes an abundance of "corn," and of earthy talk behind the scenes. President Johnson is a politician to his fingertips, and he misses no chance to touch all bases—attempting to impress favorably every segment of opinion.

Are peace and prosperity the winning issues? Then he is able to announce a peace-promoting agreement with Soviet Premier Nikita S. Khrushchev, to cut back the production of military fissionable material. Simultaneously at every press conference, scheduled or impromptu, he stresses the thriving condition of the national economy.

Perhaps what particularly distinguishes President Johnson is his tireless, emphatic skill at persuasion—at persuading Members of Congress, or businessmen, or the railroad unions, or Negro leaders, to do what he thinks should be done.

This persuasion—sometimes it is arm twisting, sometimes eloquence, sometimes an appeal to "let us reason together"—has produced results. Without it, the tax cut would not have happened as quickly as it did. Without it, the civil rights bill would not have the prospects of enactment that it has. Without it, there would be a railroad strike now instead of cliffhanging negotiations.

The President does not use ideology, does not talk in terms of liberal versus conservative. But he talks endlessly, when he is working to promote agreement. He appeals to the strengths, and the weaknesses, and the patriotism, of those he is addressing—be they farm-State Congressmen or railroad officials. He stresses the national interest—the country, beyond party, locality, race, or creed.

If President Johnson's presidential tenure is adjudged a success by the historians, his ability at personal persuasion will be one reason for the verdict. He may well have special opportunity—nay necessity—to use this technique this spring and summer, in the civil rights strife which threatens so widely.

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## THE ALASKA EARTHQUAKE DISASTER

Mr. GRUENING. Mr. President, the personal tragedies and suffering of many of the people of Alaska at this time are great. In this connection, I placed in the RECORD the day before yesterday a letter describing her experiences and the aftermath from a mother from the Turnagain-by-the-Sea section of Anchorage, where 75 beautiful homes went over the cliff into the tidal water of Cook Inlet, and many others nearby are destined for destruction, as the slippage of the ground continues, aggravated by continuing tremors.

I think that these personal accounts of brave people, such as these Alaskans are, carry with them a better idea of the impact on human beings than any general description of the intensity of this earthquake—the greatest ever recorded on the North American Continent and the worst disaster that any State in the history of our Republic has experienced.

I ask unanimous consent that this moving letter by Lois Dafoe, the wife of the able former commissioner of education of Alaska, and now superintendent of schools for the Greater Anchorage area, be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 23, 1964.

DEAR ERNEST: I am writing as the wife of a man who is so busy trying to save the schools that he has little time or influence when it comes to saving his own private holdings—which is our home in Turnagain.

We in the Turnagain area who probably gave most to keep the economy going—are in a trap. We are mostly professional people, as you know. Doctors, lawyers, etc., who had put the biggest share of their savings into our homes—prepared to spend the rest of our days there.

Now we can't (the Dafoes, anyway) financially afford to add another $20,000 on to an already shaky $46,000 investment. To have our house moved from this danger zone, which it is in, to a lot and location to come up to FHA, would cost us $20,000. We can't even just give it back to FHA and take the loss of our equity. In fact, as I said before—we are trapped.

Many of the wives are tired of being displaced or "makeshifting" with temporary utilities, and are ready to leave Alaska. Don't ever minimize the strength of a large group of displaced earthquake jittery women.

The retroactive insurance program would appear to be the only complete solution. The second alternative would seem to be for the State or Federal Government to give a piece of land and have the Turnagain residents moved there by the district engineers.

Please help us get this settled. We have had almost a month of uncertainty. This waiting is not only dangerous (if geological reports are true) but very damaging to the morale of the higher income people of this area of Anchorage.

Please give us your all-out assistance toward the passage of the retroactive insurance measure or any specific program which would offer speedy help for the private citizen.

Sincerely, your friend,
LOIS DAFOE.

ANCHORAGE, ALASKA.

P.S.: Don and I are living in a little apartment over the boiler room in West High School (of all places). This end is safe, so the inspectors say.

Mr. GRUENING. The letter is an illustration of the heart-rending difficulties faced by Alaskans on two fronts, the home front and the occupational front. While Superintendent of Schools Don Dafoe was in Washington with Governor Egan to report on and to seek aid to rehabilitate Anchorage's badly damaged schools, Mrs. Dafoe was removing her furniture from their home, which is in imminent danger of destruction. They too have also the grave personal economic problem which nature's convulsion has thrust upon them and on many others.

The Anchorage Times, whose editor and publisher lost his beautiful home and its contents in the Turnagain-by-the-Sea residential development, as well as the lot on which it stood—for both were carried away in the matter of minutes by the March 27 earthquake—has written an excellent editorial pertinent to the current visit to Alaska of our able colleague, the Senator from New Mexico [Mr. ANDERSON], who has been appointed by President Johnson to head up the Alaska Reconstruction Commission, and is working hard at it.

I ask unanimous consent that the editorial entitled "Senator Needs Facts on Damage in Alaska" be printed at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily Times, Apr. 23, 1964]

### SENATOR NEEDS FACTS ON DAMAGE IN ALASKA

Senator CLINTON ANDERSON is "the man on the spot" in President Johnson's proposal that the U.S. Government should help Alaska overcome the earthquake losses.

Senator ANDERSON, who is due in Anchorage Sunday, must make recommendations. If his proposal is to be adopted as Federal policy, he must provide a strong defense against all onslaughts. That strong defense must come primarily from Senator ANDERSON and his coworkers on the Commission on Alaskan Reconstruction.

Because of this responsibility, it is no wonder that the Senator is proceeding cautiously and is investigating the Alaska problems thoroughly.

Thorough investigations are not strange to any Alaskan whose residency predates statehood. When this place was a territory, investigations seemed to be continuous and most of them were by Congress. Senator ANDERSON has been in Alaska before as an investigator.

Alaskans have also learned that investigators can wear all the badges of mean, heartless, and sometimes sadistic enemies while they are probing.

Some of the most uncomfortable experiences in the memories of Alaskans have been those moments on the witness stand when they were grilled by a visiting investigator who wanted to know why a particular course of action should be taken.

Alaskans also know that it has often developed that the sharpest, most penetrating investigator has subsequently become the strongest and most effective champion of Alaska causes in the Nation's Capital.

Past experiences would indicate that Alaskans may now be confronted with a repetition of that process.

Senator ANDERSON, who has been a champion for Alaska in past causes, is now the investigator. He needs facts and figures, fully and frankly presented without fear or fervor. He already has an adequate background on emotional and patriotic phases of Alaska's problems, and can do sermons well.

To find a constructive program under which the Federal Government can help restore Alaskans to their preearthquake status, Senator ANDERSON needs facts. Facts will be his ammunition in defending the recommendations from all doubters and opponents. He must convince the President of the United States that his recommendation is sound. He may have to stand up to 535 Members of Congress and "sell it."

We think the day is near when Alaskans will see Senator ANDERSON as their champion once more, the same as he was in the battle for statehood.

## THE 80TH ANNIVERSARY OF UNITED HIAS SERVICE

Mr. KEATING. Mr. President, 80 years ago, in 1884, when thousands of destitute Jews were fleeing from the terrible pogroms of Czarist Russia, a group of public-spirited citizens in the Jewish community of New York organized the Hebrew Sheltering House Association. In its first decade, almost 200,000 Jews arrived in this country, and the association played a vital part not only in resettling Jewish refugees here, but also in providing temporary shelter and helping secure employment.

From these beginnings the successor Hebrew Immigrant Aid Society was established in 1902. Following the merger of HIAS in 1954 with the National Refugee Service and the United Service for New Americans, today's organization, the United HIAS Service, continues to pursue on a much larger scale the same humanitarian purposes for which the Hebrew Sheltering House was founded 80 years ago.

During the past 80 years, world Jewry has suffered from repeated, unspeakable horrors. In 1903, a year after the founding of HIAS, the Czarist pogrom in Kishinev shocked an entire world and touched off a mighty wave of Jewish expatriation from Russia; in 6 years, from 1904 to 1910, 683,000 Jews arrived in the United States.

Again, World War I threatened the virtual extinction of hundreds of thousands of European Jews, and in the wake of the main military action came 2 more years of Russian pogroms as well as the brief Russian-Polish War, which also caught Jews in the middle.

During the 1920's, the enactment of the Immigration Act of 1924, which set the pattern of the national quota origins system that still blights our statute books today, left thousands of would-be immigrant Jews stranded in European ports.

The 1930's and 1940's brought the Nazi holocaust, the annihilation of 6 million European Jews, the flight of hundreds of thousands from Nazi tyranny, and the displacement of 200,000 more from their homelands as of the end of World War II.

In the 1950's a series of great emergencies—the Suez crisis, the Hungarian uprising, the Algerian war for independence, the Castro takeover in Cuba, and continued anti-Semitic repression behind the Iron Curtain—each of these has given rise to mass emigrations of Jews, many or most of them shorn of their property, the human victims of a world seething with revolution and strife not of their making.

These 80 years of suffering and hardship for millions of Jews have posed unbelievable challenges to the organizational and financial abilities of United HIAS Service, which is, of course, one of only many great private organizations working in the arena of immigrant aid and resettlement. But United HIAS Service has met these challenges, and has met them brilliantly. It has resettled political and religious refugees in countries around the world. It has directly aided the hungry and the destitute among them. It has furnished new arrivals in America with legal assistance in visa, deportation, and naturalization matters. It has fully cooperated with U.S. and international agencies active in the field of migration and refugee aid. As United HIAS Service characterizes its work, it has truly been a bridge to freedom.

The work of United HIAS Service continues. No one should underestimate the huge task of refugee resettlement that remains unfinished. Of 10,000 Jews in Cuba when Castro came to power, 7,500 have since fled, many receiving resettlement aid from United HIAS. Following Algerian independence, 130,000 Algerian Jews fled to France; again, United HIAS has been on the spot, and is still working, in connection with that emergency. With repeated anti-Semitic incidents in the Soviet Union, every indication is that United HIAS faces a future beset with new problems of humanitarian aid and relief to Jews in distress.

On this, the 80th anniversary of United HIAS Service, I offer congratulations for a job well done, and my sincere hope for continued successes in alleviating the plight of unfortunates the world over.

## CAPITAL CLASSROOM

Mr. KEATING. Mr. President, Colgate University in Hamilton, N.Y., is celebrating the 25th anniversary of its Semester-in-Washington program. Colgate's Washington study group has each year since 1935 provided a dozen or so students with a rare and valuable opportunity to study the workings of the Federal Government. It has been an important pioneer program that others have emulated, and it has had a significant influence on the Colgate men who were privileged to participate in it.

The father of the Washington study group, Dr. Paul Jacobsen, deserves special credit for his vision and initiative in undertaking such unique bridge between classroom teaching and practical politics. This year's program leader, Knud Rasmussen, is following with energy and imagination in his footsteps.

I am much pleased that one of the participants in this year's group, Edward M. Zachary, of Queens Village, N.Y., and one member of last year's group, Duncan Kilmartin of Poughkeepsie, N.Y., have worked in my office. They have both done excellent jobs and shown an unusually quick grasp of the issues involved in the legislative process.

Mr. President, I hope the program will be as useful in the future as it has been in its first 25 years. I ask unanimous consent to have printed at this point in the Record the text of a descriptive article about the program published in the February 1964, issue of the Colgate Alumni News.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Capital Classroom

On January 31, 1964, 10 undergraduates left the Colgate campus to spend a semester studying Federal Government in Washington, D.C. Led by Colgate instructor Knud Rasmussen, they are the 25th group to take part in this unique educational program.

Like members of the first group which left for Washington in 1935, the 1964 students will conduct interviews with Government leaders, work on a daily basis as "interns" in Government and congressional offices, and hear lectures and discussions by men responsible for the Nation's affairs. At the same time, they will be satisfying the requirements of the planned course of study in political science in which they are enrolled. They will attend seminars, read books and write reports.

Colgate's first Washington Study Group arrived in the Capital in September 1935. Franklin D. Roosevelt was then serving his first term as President. Joseph W. Byrns of Tennessee led the House of Representatives; John Garner of Texas presided over the Senate.

Abroad, the storm clouds were gathering. One month after the Colgate students settled in Washington, Italy invaded Ethiopia. Still, the United States clung to its hope that foreign troubles need not impinge upon domestic concerns. At home the headline news concerned the deaths of Will Rogers and Wiley Post that August, and the assassination of Huey Long early in September.

The members of this year's study group live in a world far removed from that of 1935. They will be studying a different kind of governmental process in a Washington that has changed its character. Essentially, however, their purpose remains the same as their predecessors—to apply their theoretical knowledge of the functions of Government to what they observe firsthand.

In Washington with the 1964 study group are: Robert E. Elder, Jr., Hamilton, N.Y.; Jack F. Fallin, Warren, Pa.; Stephen A. Glasser, Grosse Pointe Woods, Mich.; Philip C. Johnston, Bellaire, Ohio; Farhad Kazemi, Teheran, Iran; Donald H. Messinger, Clyde, N.Y.; Arnold Raphel, Troy, N.Y.; Wayne A. Rich, Charleston, W. Va.; David A. Rosenbloom, Albany, N.Y.; Charles Tantillo, Garfield, N.J.; and Edward M. Zachary, Queens Village, N.Y.

Young Elder is the son of Colgate Prof. Robert E. Elder who followed Professor Jacobsen as director of the Washington study group from 1952 to 1963. Raphel is a student of Hamilton College, and joins the Colgate group as a result of efforts toward increasingly close cooperation between the two colleges. The one foreign student, Farhad Kazemi of Iran, will add a useful perspective to the study sessions.

Kazemi will not be the first foreign student to participate in a study group. In the spring of 1952, 10 German university students accompanied the Colgate group to Washington and returned saying they had learned more about government in the United States than they had ever known about their own country.

"In 1964," says Mr. Rasmussen, "the group will be in Washington at a particularly significant period in the Nation's history. Because of the tragic event of last fall, the students will have an opportunity to see how the orderly transfer of governmental responsibilities is being effected. They will also be on the Capital scene at a time when the struggle for civil rights is reaching a climatic point.

The silver anniversary of the Washington study group is especially significant because it marks the end of the teaching career of Paul Jacobsen, founder of the group, who will retire on July 1, 1964.

Twenty-five successful semesters in Washington have served to effectively demonstrate the value of this particular off-campus study group. Colgate can be proud of Professor Jacobsen and the accomplishments of these 25 groups.

## SECRETARY McNAMARA AGREES TO CALL IT HIS WAR

Mr. MORSE. Mr. President, I ask unanimous consent that there be printed in the Record an article, from today's New York Times the headline of which reads as follows:

> McNamara Agrees To Call It His War—Secretary, Firm on Vietnam, Accepts Morse's Label.

There being no objection, the article was ordered to be printed in the Record, as follows:

### McNamara Agrees To Call It His War—Secretary, Firm on Vietnam, Accepts Morse's Label

Washington, April 24.—Secretary of Defense Robert S. McNamara said today that he did not mind if the fighting in Vietnam was termed "McNamara's War."

Senator Wayne Morse, Democrat, of Oregon, who renewed his attack on U.S. policy in South Vietnam in a Senate speech, has been calling it McNamara's war.

Senator Morse has objected especially to the U.S. commitment to continue supporting the Vietnamese forces as long as it takes to defeat the Communist Vietcong insurgents.

"I have a high regard for Senator Morse, but not in this respect," Mr. McNamara said at a news conference. "This is a war of the U.S. Government.

"I am following the President's policy and obviously in close cooperation with the Secretary of State.

"I must say," the Secretary continued, "I don't object to its being called McNamara's war. I think it is a very important war and I am pleased to be identified with it and do whatever I can to win it."

### MORSE PRESSES ATTACK

In a lengthy floor speech, Senator Morse charged that the U.S. participation in the war in Vietnam was "illegal and a menace to the American Nation."

He cited the Geneva accords of 1954, which the United States did not sign but agreed to observe. The accords, in addition to other provisions, provided for the partition of Vietnam and limited the amount of outside military assistance that could be brought into the area.

Mr. Morse said that the United Nations Charter covered threats to the peace and that disputes should be turned over to the world body. The fighting in Vietnam is a "matter for the U.N., not for the U.S. Air Force or the American Secretary of Defense to handle as they see fit," he said.

"Aside from the illegality of our intervention, there is the sheer stupidity of a unilateral American land war in Asia whose only promise is to bog us down there indefinitely," the Senator declared.

Mr. McNamara, at his news conference, conceded that the fighting in South Vietnam had flared considerably since Maj. Gen. Nguyen Khanh took over the Government.

The Secretary attributed it to the many changes that have been made in the regime, not only by General Khanh but by his predecessors who also took power in coups d'état.

"As you can well imagine, this has created disorder," the Secretary said. "There has been a vacuum. Into that vacuum the Vietcong have penetrated. Their rate of activity has increased dramatically, as has their fatality rate.

"If I remember the figures, they lost about 650 men killed or taken prisoner during the past week. That is, I think, the highest total in the last 2 or 3 years.

"The Government forces have been under considerable pressure as a result of the increased level of Vietcong attacks. They have also responded with amazing speed and effectiveness. Their fatalities, however, and their casualties have been high; again, the highest in the last 2 years.

"I think it will be several months before we see any substantial progress."

Mr. McNamara said he still believed in ultimate victory. In response to questions, he repeated the administration's view opposing direct U.S. intervention.

"The situation is one that the South Vietnamese themselves must solve," he said.

Mr. McNamara said the appointment of Maj. Gen. Richard G. Stillwell as Chief of Staff of the Military Assistance Command in South Vietnam was not related to the possible replacement of Gen. Paul D. Harkins, the commander, but was part of a reorganization to increase effectiveness.

### FELT VOICES OPTIMISM

On Capitol Hill, Adm. Harry D. Felt, commander of the U.S. forces in the Pacific, expressed optimism on the ultimate outcome of the war in South Vietnam. He testified in behalf of the administration's military assistance program.

Admiral Felt spoke in closed session before the House Foreign Affairs Committee, but some of his observations were made public.

He said it was comforting that the situation in South Vietnam had "not gotten out of hand despite a deterioration during the past year." The South Vietnamese fighting forces are improving in their tactics and effectiveness, he declared.

In previous testimony made public today, William P. Bundy, Assistant Secretary of State for Far Eastern Affairs, assured the committee that the recommendations of Ambassador Henry Cabot Lodge were being carefully heeded.

"I can say there are no recommendations that he has made that are not being carried out fully at the present time," Mr. Bundy said.

At one point in the hearing, which took place April 7, Representative WAYNE HAYS, Democrat, of Ohio, asserted that the U.S. policy in South Vietnam had been a "complete failure."

"I dispute that completely," Mr. Bundy retorted.

**Mr. MORSE.** Mr. President, let me say good-naturedly that the Secretary let down some of his apologists in the Senate who have objected to my calling the unilateral U.S. military action in South Vietnam what it truly is—McNamara's war. But it has been McNamara's war, because he has prepared the blueprints for this unjustifiable American military action, as I have said over and over again, and I repeat now.

According to the article, the Secretary stated:

> I am following the President's policy and obviously in close cooperation with the Secretary of State.
>
> I must say I don't object to its being called "McNamara's war." I think it is a very important war and I am pleased to be identified with it and do whatever I can to win it.

Well, at long last, we have smoked him out. We now have an admission from the Secretary of Defense that this Nation is engaged in war.

I ask the Secretary of Defense, I ask the Secretary of State, I ask the President: When are you going to ask for a declaration of war? I say from the floor of the Senate that the killing of American boys in South Vietnam cannot be justified, except on the basis of a declaration of war. I charge that McNamara's war stands today an unconstitutional war. It is now up to the President, the Secretary of State, and the Secretary of Defense to send to Congress a declaration of war proposal. They should ask for constitutional approval of the killing of American boys in McNamara's war. The American people are overwhelmingly against the war, I am sure. The people are right.

Parenthetically, I have another suggestion to make, I say to the Secretary of State, with regard to the Cuban crisis: I think the way to counteract the Cuban protest to the United Nations on the U-2 crisis is for the United States to serve notice on the Secretary General of the United Nations that we are perfectly willing to meet the Cuban demand to have a full and fair airing in the United Nations of our position on the U-2 flights. If it turns out that we are violating international law by U-2 flights over Cuba, we should be willing to adjust our policy accordingly. Incidentally, Cuba is a sovereign power, because, under international law, that is as true of Communist nations as it is of any other nation. I have no doubt we would adjust our Cuban policies to the findings of the United Nations. I quite agree that there should come through the United Nations a finding as to whether the U.S. U-2 flights over the sovereign nation of Cuba are justified. I have no doubt what would happen if a Cuban U-2-type plane flew over Texas, Florida, or any other part of the United States. It would be shot down, as would a Russian or any other foreign U-2-type plane.

As chairman of the Subcommittee on Latin American Affairs, I state that the probability is that a prima facie case exists against the United States in the flying of U-2 planes over a sovereign territory, even though it is Communist Cuba. I abhor the government of Cuba; but as in South Vietnam, I would have my country stay within the framework of international law. I know it is outside the framework of international law in South Vietnam, and I think a prima facie case exists against us in respect to U-2 flights over Cuba. Furthermore those flights are not necessary to protect the security of the United States. They are undoubtedly a convenient surveillance technique for obtaining spying information quickly. However, we all know that Cuba cannot succeed in building up any aggressive military preparations without our knowing it. Also we all know that any time Cuba crosses the line of justifiable national defense, and enters the area of aggression, we can and will protect our security immediately by an attack so quickly and devastatingly that Cuba will be completely destroyed as a military threat.

Right now we have a great opportunity to demonstrate to all the world that we seek peaceful procedures for the settlement of international disputes by welcoming a United Nations review of the justification, if any, under international law of United States U-2 flights over Cuba.

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## UNEASINESS IN GERMANY

**Mr. JAVITS.** Mr. President, the people of West Germany are uneasy about the course of U.S. foreign policy in Europe. The Senate speech by the Senator from Arkansas [Mr. FULBRIGHT] and the recent statements by President Johnson and Chairman Khrushchev have caused the people of West Germany to become apprehensive that we may be considering our policy of protecting the integrity and security of West Berlin and our support of their hope for the ultimate reunification of Germany.

They must be reassured that our policy has not changed. President Johnson's speech in New York, last Monday, before the Associated Press, should have given this assurance; but this is a subject of such great concern to West Germany that we must make especially sure that there is no question about our policy toward that nation.

This was made clear last Tuesday—after the President's foreign policy speech had been read by the Germans—when Dr. Heinrich Krone expressed the uneasiness which prevails in West Germany regarding possible United States-Soviet agreements on matters of vital concern to Germany.

Dr. Krone, chairman of the National Defense Council of the West German Cabinet, and an influential member of the Christian Democratic Party said:

> The impression should not arise that the defensive strength and will to defense of the West is weakening. This means that the leading power of the West, which alone by virtue of its nuclear weapons can present a completely effective deterrent, must not dismantle its troop presence in Europe rapidly or in a conspicuous way.

This uneasiness, in part, stems from the implications left by Senator FULBRIGHT's now-famous "myths and realities" speech. The principal ideas of that speech were that U.S. diplomacy is, to a large and dangerous degree, based, not on the facts of international life, but on its "myths"; that the United States should recognize that the U.S.S.R. has "ceased to be totally and implacably hostile to the West," and that we must make a distinction between "communism as an ideology and the power and policy of the Soviet state," if we are to deal with the Soviet Union effectively.

The straightforward application of these ideas to the German situation, would require, in my view, the abandonment of the cold realities upon which our policies are, and have been, based, and the substitution of new principles based on a myth. We must remember that if changes within the Soviet bloc call for reconsideration of our European policy, they certainly dictate that our German policy—which is central to our European policy—must be reexamined and adjusted. But there is no evidence whatever that the current thaw in East-West relations has had any impact on the Soviet Union's position on German reunification or related issues. The Soviets consider a weak and neutral Germany essential to their security.

The Soviet formula for reunification, which has been unacceptable to us all along, calls initially for a provisional government for all Germany, composed of representatives of the existing states. This government would set election laws and hold a nationwide election if all parties agree that the new nation would remain neutral. The Soviets have two objectives in adhering to this plan. They want to give the East German government equal status to the freely elected West German Government, and they want to neutralize Germany permanently.

Other than reunification, their plan for Germany would require West Berlin to become a demilitarized "free city" within East Germany, and would establish the Oder-Neisse line as the permanent border between East Germany and Poland. To this day, this constitutes the official position of the Soviet Government.

In contrast, our policy regarding Germany continues to call for reunification as the result of free elections throughout Germany. We feel that the resulting government should sign a peace treaty and should decide whether to form alliances with any foreign state. We have pledged ourselves to defend Berlin from forcible incorporation into East Germany, and to settle its status peacefully, only as part of an all-German settlement. We have also said that the permanent border between Germany and Poland should be decided by a future peace treaty, and that we would give full support to the political, economic, and military integration of Germany into Western Europe.

It is understandable, then, that the speech of the Senator from Arkansas [Mr. FULBRIGHT], coupled with the statements of President Johnson and Chairman Khrushchev in connection with the reduction of the production of fissionable materials, has caused considerable uneasiness in West Germany. Yet, while the West German Government acknowledged the desirability of the reduction of production of fissionable materials, many West Germans fear that the détente called for by the Senator from Arkansas [Mr. FULBRIGHT] may mean recognition of the status quo in Germany, a willingness on the part of the United States to recognize the East German Government, and the "defusing of the Berlin bomb" at West Germany's expense.

These fears are unjustified. The United States considers its relations to the people and Government of West Germany a key element of our European policy. President Johnson made our position entirely clear on this point, after his meeting with Chancellor Ludwig Erhard last December. In their communiqué, the two leaders agreed that "there should be no arrangement that would serve to perpetuate the status quo of a divided Germany, one part of which is deprived of elementary rights and liberties."

They also reaffirmed the "commitment to the peaceful reunification of the German people in freedom, by self-determination."

The President also reassured the Chancellor that the United States would continue to meet its commitments in Berlin.

In his speech to the Associated Press, the President reaffirmed the continued adherence of the United States to time-tested foreign policy principles which have been upheld under four Presidents because they reflect the realities of our world and the aims of our country. We must be alert to shifting realities, to emerging opportunities, always alert to fresh dangers. But we must not mistake day-to-day changes for fundamental movements in the course of history. It very often requires greater courage and resolution to maintain a policy which time has tested than to change it in the face of the moment's pressures.

Mr. President, if we needed any confirmation of the fact that little openings are seized upon to indicate big weaknesses, it is clear that the present business of overflights over Cuba, to which the Senator from Oregon has just referred, is critically important.

We are overflying Cuba, in the interests of the security of the Americas. We have every right to do it. I support it, as one Senator, as the only feasible alternative to going in there and making inspections by the use of our Marines.

I believe such flights entirely consistent with the law of this particular case, which is based upon agreement and upon the inter-American system, to which Cuba is a party.

All these events—the uneasiness in Germany and Cuba's challenge of the overflights which are made for the security of the Americas—indicate at one and the same time that we should show our desire to negotiate, or as President Eisenhower said—to walk the extra mile. We must always give reassurance that the United States determination to seek agreements with the U.S.S.R. does not shake our determination or cause us to change our fundamental policy; that we will adhere to our commitments; and that we are not afraid. If one Senator affirms a desire to agree, other Senators must affirm the catholicity and the integrity of the agreement and commitments of this country.

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## U.S. DOLLARS NOW HELP NASSER FIGHT OUR ALLY, GREAT BRITAIN

Mr. GRUENING. Mr. President, according to dispatches from the Middle East, President Nasser of Egypt—supported by millions of U.S. taxpayers' dollars—is again—or still—seeking to keep the Middle East in a constant turmoil. He has done this since he seized power in Egypt, almost 12 years ago. He now, more than ever before, needs these outside diversions to keep the Egyptian people from realizing that Nasser's outside adventures have trapped 40,000 Egyptian troops, aided by Russian arms, in a senseless and brutal war of conquest in Yemen.

Last week, President Nasser sent King Hussein of Jordan to the United States, to act as his mouthpiece and the mouthpiece of the other Arab countries. This is the same King Hussein who was vehemently denounced by Nasser's Radio Cairo only a short time ago and whose extermination was urged. Nasser called King Hussein and King Saud of Saudi Arabia:

> Lackeys who have sold their honor and dignity and who cooperate with the arch-enemies of the Arabs—the English, the Americans, and the Jews.

President Nasser called upon the armies of Jordan and Saudi Arabia to "destroy the hireling traitors."

Today's dispatches report that President Nasser went to the front in Yemen, and there, before his trapped soldiers, denounced our ally, Great Britain. He is reported to have said:

> We swear by God to expel Britain from all parts of the Arab world.

Meaning the British protectorate of Aden. It is particularly distressing that United States AID funds permit Nasser to wage his war in Yemen and to further the interests of Soviet Russia in that part of the world. Nasser has never been content with having satisfied Soviet Russia's age-old desire for a toehold in the Middle East. He has constantly sought every means to enlarge Soviet Russia's presence in that vital area. And he is doing so with our money—AID money—nearly $1 billion to date. How much longer is this folly by the United States to continue?

The time has come for the United States to take a firm stand with President Nasser. Indeed, the time for such forthright action is long past due.

How long shall we continue to permit country after country around the globe take our aid dollars greedily, with one hand, while tweaking our nose with the other?

I ask unanimous consent that the dispatches from the Middle East, published in the Washington Post and Times Herald and the New York Times of April 24, as well as in the New York Times of April 25, describing President Nasser's latest exploits and his verbal declaration of war on Great Britain, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, Apr. 23, 1964]

### NASSER SEES FRONT IN YEMEN

Egyptian President Nasser made a surprise visit to Yemen yesterday and was mobbed by shouting soldiers and tribesmen who brandished knives and held up Nasser's car while they slaughtered an ox in his honor.

After meeting with Yemeni President Abdullah Al Sallal, who called Nasser "the greatest man in the world," the Egyptian President said in a speech, "We swear by God to expel Britain from all parts of the Arab world. We swear by God we will confront zionism, stooge of imperialism. We tell British imperialism * * * get out of occupied South Yemen," referring to Aden and neighboring British protectorates, "or else fight for your survival."

Nasser's trip was thought to be connected with the upcoming visit of Crown Prince Faisal, of Saudi Arabia, to Cairo. The U.N. has tried for months to disengage thousands of Egyptian troops from Yemen to ease a settlement between republicans and loyalists back by Saudi Arabia.

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[From The New York Times, Apr. 23, 1964]

### NASSER FLIES TO YEMEN; WARNS BRITISH IN ADEN

ADEN, April 23.—President Gamal Abdel Nasser of the United Arab Republic flew to Yemen today on a surprise visit.

In a speech to a crowd of thousands President Nasser declared: "We swear by God to expel Britain from all parts of the Arab world." The speech was broadcast by the Yemeni radio.

Authoritative sources said the visit was for the purpose of a firsthand study of the 19-month-old war between the Yemeni revolutionary forces, supported by Egyptians and followers of the deposed Imam of Yemen.

President Nasser, referring in his speech to the "occupied south" (Aden and the neighboring British protectorates) and "British aggression" on Yemeni territory, said:

"Britain, which looks upon your revolution with hatred and disgust, must take up its staff and leave Aden and the south."

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### Nasser Presses Aden Issue; Charges "Tyranny" by Britain; Calls on Yemeni Tribesmen To Assist Arab Brothers in "Occupied South"—London Sends Protest to Thant

Aden, April 24.—President Gamal Abdel Nasser of the United Arab Republic told thousands of tribesmen in Sana, the capital of Yemen, today that the people in Aden and the neighboring British protectorates were suffering the "harshest form of tyranny, oppression and torture at the hands of British colonialism."

President Nasser's attack on Britain came on the second day of his surprise visit to Yemen. Yesterday he vowed "to expel Britain from all parts of the Arab world."

"We are with you, with our blood, heart and soul," the President declared today. "Britain must quit Arab land, for Arab land belongs to Arabs."

President Nasser also asked the Yemenis to help their brothers in Aden and the "occupied south, suffering in prisons of British colonialism."

#### PURPOSE OF VISIT UNKNOWN

Although the purpose of the President's visit is still a secret, he has not lost any opportunity of arousing the Yemenis against the British-protected Federation of South Arabia but with a marked difference. While the Yemeni President, Abdullah al-Sallal describes the federation and other protectorates as "occupied south Yemen," President Nasser repeatedly says the "occupied south."

The South Arabian Federation radio promptly criticized President Nasser's statements.

Expressing disappointment over the President's attacks, the radio said:

"But we have been accustomed to such distorted news and falsehood from the Cairo and Sana radios. What is regrettable is that Nasser has failed to understand our political setup. We only hope Nasser will leave us alone in peace so that we could cooperate and work together closely for achieving objectives of Arabism in accordance with the principles of Islam."

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### British Take Issue to Thant

London, April 24.—The British Government has directed the attention of U Thant, the United Nations Secretary General, to the terms of the speech made by President Nasser in Yemen yesterday, the Foreign Office said tonight.

"In Her Majesty's Government's view," the statement said, "this speech must make it more difficult for the Secretary General to carry out his task of using his good offices to try to settle outstanding issues between Yemen and the Federation of South Arabia, as provided for in the Security Council resolution of April 9."

A spokesman at the Foreign Office explained that the purpose of the representation to Mr. Thant was to invite his comments on President Nasser's anti-British campaign and the effectiveness of the Security Council resolution.

The resolution deplored a British air attack on a fort in Yemen, condemned reprisals, and asked both Britain and Yemen to exercise maximum restraint.

Britain maintains that the attack on the fort, on March 28, was a defensive reaction to attacks by Yemenis.

### Troop Morale Said To Sag

(By Dana Adams Schmidt)

Beirut, Lebanon, April 24.—The purpose of President Nasser's visit to Yemen is to raise the morale of about 30,000 Egyptians in that country, to prepare for a new test of strength with royalist tribesmen, and to give the operation in Yemen a new focus against the British in neighboring Aden.

This is the consensus of diplomats and others who have studied Yemeni affairs. A subsidiary purpose, they believe, is to satisfy President Nasser's personal desire for firsthand information on a country about which he has been frequently misinformed.

The Yemen situation, as these sources understand it, is as follows:

The Egyptian troops' morale is at a low ebb since President Nasser, instead of reducing the garrisons, has sent in more troops. In the course of more than a year, the Egyptians and Yemenis are reported to have developed a mutual detestation.

On the Egyptian side, this is complicated by a real fear of Yemeni ambushes. The Yemeni feeling against the Egyptians is not confined to tribal leaders and the family of the deposed Imam of Yemen. Leaders on the republican side are also bitter against the Egyptians.

#### MAJOR MILITARY EFFORT

Tribal and royalist forces made a major military effort in February when they cut roads connecting Sana with the main Egyptian supply base at Hodeida, as well as with Sana in the north and Taez to the south.

While the royalists have been fairly inactive since then they believe they have shown they can cut Egyptian communications when they want to.

Military thinking now is that while the royalists will probably never have the strength to defeat the Egyptians in their bases, the royalists might be able to starve the Egyptians out.

There was a basis for speculating on a possible political deal between the United Arab Republic and Saudi Arabia, on the one hand, and the republicans and royalists, on the other, as long as President Nasser showed signs of withdrawing his troops.

Since the beginning of April, however, President Nasser's determination to add rather than subtract troops became clear and most diplomats believe there will have to be another test of strength before negotiations can be useful.

The diplomats expect increasing United Arab Republic use of Yemen as a base for campaigning against the British in Aden. This is a popular Arab cause and increases President Nasser's support throughout the Arab world.

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## CUTBACKS IN OUR POSTAL SERVICE

**Mr. BREWSTER.** Mr. President, for the past 14 years—ever since April 18, 1950, when an economy-minded Postmaster General eliminated the second delivery of mail to residential areas—we have seen steady and unremitting cutbacks in the U.S. postal service.

Now—beginning on May 4—the present Postmaster General, John A. Gronouski, plans to take such a sharp ax to the postal service that the services provided for our modern society will be entirely inadequate.

I protest against this unnecessarily harmful attack upon one of the most vital and most necessary services which the U.S. Government extends to its citizens.

The postal service is the measure of the economic and cultural progress of a nation. It is the essential element which feeds our huge mercantile complex. It is one of the greatest unifying forces in our entire society—making possible, as it does, the swift and unhampered exchange of news and ideas among all our citizens. When a Postmaster General hurts the postal service, he is hurting the very roots of our civilization.

Mr. President, this serious and devastating curtailment of services comes at a time when the Postmaster General is boasting of the lowest postal deficit since the end of World War II. It comes at a time when the President of the United States is telling us that we are enjoying the greatest degree of economic prosperity in our history. It comes at a time when our gross national product is at an all-time high. The curtailment, in short, is coming at precisely the time when there is the least excuse for it.

Let us see what will happen on Monday, May 4.

In the first place, parcel-post deliveries in our metropolitan areas will be limited to only 5 days a week. This is a 16-percent decrease in service; and, ironically, it follows right after an increase in parcel post rates, effective last April 1, which averages 13 percent.

Parcel post, because of inadequate management by the Post Office Department, has been swiftly decaying over the years. There has been a steady pattern of rising rates and deteriorating service. Right now, because of these policies, private enterprise is taking over from the Post Office all the short-haul, profitable business. More and more, the Post Office is being left with only the costly, wasteful long-haul business, which private enterprise scorns and avoids.

This further reduction in service will make parcel post so unattractive to our citizens that, I feel certain, they will use it only as a last resort, when there is no other possible way to send a package. Certainly, any man or woman would think long and hard before he would send any perishable goods through the mails, when the period of time such goods must lie around a post office, awaiting delivery, is so arbitrarily prolonged. To send perishable goods through the mails will be to court disaster.

But, Mr. President, the reduction in parcel post service is only one part of the massive hatchet job that the Post Office Department intends to perform on the post office on May 4.

Beginning on that date, by order of the Postmaster General, Saturday will become a day of frustration and massive irritation in every post office and on every rural route in the country. On Saturdays, window service will be reduced to just 4 hours; and, in most post offices, only one window will be open for the accommodation of all postal patrons.

The Post Office Department has decreed that no domestic or international money orders will be sold on Saturdays, either in post offices or on rural routes. It has also prohibited issuance of COD money orders payable to mailers on Saturdays; all postal savings transactions; all box rent collections; and a host of other traditional post office services.

No information windows will be open on Saturdays. This means that if we wish to find out a few facts about a mailing problem, we shall have to stand in a long line of patrons wanting to mail packages, buy stamps, pick up packages, or what-have-you. Believe me, Mr. President, with only one window in operation, the line in each post office will be long and slow moving.

Clearly, it will be advisable for our citizens to avoid entering the post office on Saturdays. But millions of working Americans must use the post offices on Saturdays. This is their only day off, except for Sundays, when the post offices are closed to the public. If the Post Office Department persists in this unwise course, tens of thousands of Americans can look forward to spending half a day on Saturdays standing in line, waiting to complete a simple bit of postal business.

From all over the country, reports concerning the drastic reductions in collection services are coming in. In many cities, if a man mails a letter after 6 o'clock in the evening, the letter will remain in the mailbox all night, and will be picked up the next day by the letter carrier on that route. The letter carrier will carry the letter with him as he completes his route, and will bring it back to the post office with him at the end of his day. So, such a letter will at last begin its progress from sender to recipient approximately 20 hours after it has been mailed.

Is this what is called postal service in the United States of America in the year of our Lord 1964? Mr. President, this is not service; it is bureaucratic foolishness.

We are the greatest, the strongest, the wealthiest, and the most industrially advanced nation in the world. We are greatly blessed with mineral reserves, sufficient to make us impregnable against any enemy. The harvests of our fields not only keep our own people nourished, but also are transported—in considerable part—overseas, to sustain life in every corner of the world less fortunate than our country. Never has a nation been so munificently blessed. In view of all this prosperity does the Post Office Department now maintain that we cannot afford to operate a postal service able to compete with those of nations which we complacently consider comparatively backward and underprivileged?

When every other aspect of our national life is moving forward, why should the Post Office Department be the only operation to move backward?

The postal service of the United States must not be allowed to degenerate into a second-class operation. If the Post Office Department persists in its plans to wield this economy hatchet on May 4, overnight our postal service may become a third-class or fourth-class operation.

Economy, Mr. President, is an end greatly to be desired. We are all for reasonable economies. I commend the the President for his great effort to cut spending. In almost every other department and agency of Government, economies can be effected without serious harm to the social and economic fabric of the Nation. Programs can be delayed for a year or 2 years. Nonessential projects can be shelved. Plans can be scrapped.

But this is not so in the Post Office. The Post Office cannot set aside its current workload for a single hour, let alone a year or 2 years. The Post Office has no control over its volume; this is determined by the American people—the citizens who use the mails. The postal volume in this country goes up swiftly and steadily every single hour of every single day. It is the duty of the Post Office Department to accommodate that steadily increasing volume. The Post Office Department is blindly shirking that duty when it arbitrarily reduces service and artificially imposes on the service restrictive rules and regulations which can only make it slower, less convenient, less efficient, and less useful.

Mr. President, I call upon the administration of the Postal Establishment to revoke the order which will wreak such havoc in the postal service on May 4. If this order is not revoked, I strongly suggest that we should seriously consider remedial legislation which will restore service and will return the Postal Establishment to the 20th century.

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## CIVIL RIGHTS LEGISLATION—EDITORIAL PUBLISHED IN THE NASHVILLE BANNER

Mr. WALTERS. Mr. President, I ask unanimous consent to have printed in the Record an editorial published in the Nashville Banner of April 23, 1964.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Only Path—Bill Must Protect Rights of All—Black or White

The first fact proved by the bloody spectacle in New York yesterday is that the radical and fanatical civil rights leaders do not deserve a civil rights law.

These life-endangering disorders were not sparked by accident of emotion. They were minutely planned in defiance of a court injunction.

The lawless violence was touched off in utter disregard of pleas by the President of the United States and his chief law officer, the Attorney General of the United States.

This anarchy, long in the blueprint stage, and launched to gain world attention, was a slap in the face for the liberal leadership of the Senate, who in plenty of time, warned instigators that serious disregard for legal statutes would be dangerously detrimental to majority efforts for passage of the civil rights measure.

So why have a law—if yesterday's hoodlum performance could not be stopped by court order and the formal requests of the President and Attorney General fell on deaf ears?

Existing legislation meant nothing to those who sought to block the opening of the World's Fair. What reason is there to believe a new law passed next month or next year will be respected?

New York already has fair employment statutes and other regulations now sought in the civil rights bill.

Legislation passed years ago by the Empire State has produced no magic by which all men are made equal in ability and substance.

The Federal Congress can do no more. Nor can it take the rights and the property of one man and give them to another.

There are other questions to be asked, other inescapable deductions to be made about the sad spectacle of yesterday.

The center of the racial storm is in the North and not in the South. Eastern sociometeorologists who have been looking toward Dixie with clinical glee and ideological satisfaction, turned about just in time to receive a hurricane of hate full in the face on their own home ground.

Wednesday's skirmishing ranged from the top of Manhattan to the bottom and spilled over onto Long Island. The area affected was more extensive, the planning more sinister than for any comparable incident below the Mason-Dixon line. And if CORE's James Farmer wanted his image to go down to posterity in the current style—1964 martyred horizontal, coattails dragging, with an officer assigned to each hand and foot, he got it all the way.

Bayard Rustin, who planned the peaceful march on Washington, also was hauled away to the pokey. It was not his first brush with the law, nor with intensive integration. Several years ago he was arrested and served time in California on a charge of perversion—having been caught by police in the act in a car with two white men. This was brought to light by the Banner last summer, along with the information that the rights leader had been a member of the young Communist League, also that he visited Russia at one time.

And speaking of police brutality, it was something fierce the way New York's finest cracked heads with their night sticks. The South was shocked. It's little wonder that Senator Dick Russell called for an investigation. A smaller fracas in Georgia or Mississippi or Alabama would have brought the Attorney General's men swarming over the scene, with Federal troops alerted in the background.

Where was Mr. Kennedy yesterday? Was he at his field headquarters in shirt sleeves and casual hair—talking over three or four open telephone lines at the same time? How strange that no TV cameras were about the Justice Department? The young chief U.S. law officer now is getting what he asked for but from the wrong direction. He received a personal warning in New York nearly a year ago. Why had he not planned for the chaos that came to the fair?

Where to now, the civil rights movement, so-called, that was turned into civil disorder? The nonviolent Mr. Farmer who disowned four CORE chapters for planning the stall-in turned suddenly to civil disobedience and warnings of a national shambles.

To say that the civil rights leadership is split is putting it mildly. Wild Congressman Adam Clayton Powell, and gruesome Malcolm X, who talks of the disemboweling African Mau Mau technique, have moved into the ascendancy.

Mr. Powell says the Negroes have been listening to the wrong white people. He's sure right about that. They listened to those who thought it was intellectual and sophisticated to be overly mawkish in the race situation. Where are they now? There is seldom a peep, even beneath the inane hum of the cocktail circuit.

Yes, the Negroes who listened to the wrong white people now find themselves trouble. There is no doubt about that. They turned their ears to the politicians who sought the colored vote by promising more than could be delivered.

The politicians finally have gotten it through their heads that the tough leadership seized by the Harlem huckster, and his like, are demanding more than is in the power of the President of the United States or the Congress to give.

The civil rights movement has turned the corner and a tragic turning it is—to go down the highway of lawlessness to what Mr. Farmer has called a shambles, a scene of wild disorder and destruction. But there is no other route for those who talk of violence in the name of peace and advocate the breaking of laws not in their liking. That is lawlessness—revolution—chaos.

Where do the responsible citizens of the United States—black or white—fit into this picture? They are on the side of established law and sanity. If Congressmen don't already know from the millions of letters received, they will find out from the locust horde mountain of messages that began piling in on the Capitol today.

And the Negro citizens who believe in going about their business? That's just what they are doing in this part of the country. While pandemonium reigned in New York yesterday, the Negroes of Murfreesboro, Tenn., were celebrating the election of their first city councilman.

Saturday, while defiant CORE leaders in Brooklyn were planning the stall-in, a group of Negroes was meeting in one of Nashville's largest uptown hotels to pay tribute to a Negro lawyer and real estate broker for his constructive civic service. The Governor of Tennessee was a speaker and so was the mayor of Nashville.

A little earlier a statewide Negro political organization, whose president is chairman of the State pardons and parole board, met to lay plans to get out the vote for the upcoming State and national primaries.

Tennessee is in the South. Nashville is in the South. Murfreesboro, personalitywise, is Deep South. Nathan Bedford Forrest rescued it from the Yankees one time.

The Negro violence of the North must not throw the South out of perspective. The turn to lawlessness in New York must not steal the spotlight from those of all races and creeds who believe in law and order and in whose hands rests the ultimate fate of the country.

The peace and industry that now characterizes Tennessee life comes under a system of laws that long has been on the books. There is an atmosphere of good will here that has never been allowed to germinate in the hypocrisy of the North.

It's unfortunate that certain leaders, those who seek to use men for the control of their ballots, cannot get the idea. Or maybe they will begin to tune in on a glimmer of understanding.

There still is a way—under a law reasonably designed—to protect the rights of every man, black or white.

There can be no other route which would be free from continued disorder and ultimate anarchy.

This is the only path for all Americans of good will and understanding.

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## THE COMPUTER REVOLUTION—ADDRESS BY SENATOR HUMPHREY, BEFORE EASTERN SPRING COMPUTER CONFERENCE

Mr. HUMPHREY. Mr. President, on April 23, 1964, it was my privilege to address the spring joint computer conference, a great semiannual assembly of experts and companies who are pacesetters in the amazing world of computer technology.

The conference is held under the auspices of the American Federation of Information Processing Societies. The federation represents the Institute of Electrical and Electronic Engineers, the Association for Computer Machines, and the Simulation Council.

I take this occasion to state that one of the most amazing sagas of American free enterprise is the almost fantastic creativity of the computer industry. Its frontiers are unbounded and its contributions are almost incalculable to the Nation's security, its prosperity, and its health.

The advance of the computer state of the art has long been of deep interest to me personally, to the Senate Committee on Government Operations, and to the Subcommittee on Reorganization and International Organizations, of which I am chairman.

I believe it is only factual to say that no committee of the Congress has devoted longer, more sustained, and, yes, I say in all humility, more fruitful attention to the Nation's computer needs and opportunities than has the Senate Committee on Government Operations, under the chairmanship of the able Senator from Arkansas [Mr. McClellan]. As far back as August 1957 it was he who gave the go-ahead and guidance for the long series of committee ond subcommittee studies, hearings and reports, which have continued with complete unanimity for 6½ years.

So, Mr. President, in meeting with the Nation's computer leaders at the conference, I felt very much at home, based on our long and deep mutual interests.

I commend the distinguished committee of experts in Government and in private industry responsible for the conference.

I ask unanimous consent that the text of my address be printed at this point in the Record, preceded by a list of the principal experts who were responsible for the conference.

There being no objection, the list and the address were ordered to be printed in the Record, as follows:

Nineteen Hundred and Sixty-four SJCC—"Computers 1964 Problem-Solving in a Changing World," April 21–23, Washington, D.C.

Herbert R. Koller, U.S. Patent Office, Chairman, 1964 SJCC.

Alexander C. Rosenberg, Vice Chairman, Goddard Space Flight Center.

Joseph O. Harrison, Jr., secretary, Research Analysis Corp.

Richard G. Williams, alternate secretary, Research Analysis Corp.

Technical program: Jack Roseman, chairman, C–E–I–R, Inc., Dominic A. Letit, vice chairman, C–E–I–R, Inc., Bernard Cohen, C–E–I–R, Inc., Howard E. Tompkins, University of Maryland, G. H. Swift, IBM; Arthur I. Rubin, Martin Aircraft Corp., Jack Minker, Auerbach Corp., Elsie M. Mamo, C–E–I–R, Inc.

Exhibits: Solomon Rosenthal, chairman, Headquarters USAF, George Hopping, cochairman, General Services Administration.

Printing and mailing: Mike Healy, chairman, System Development Corp., Louis Elias, cochairman, System Development Corp.

Registration: Joseph H. Easley, chairman, UNIVAC, Norman C. Young, UNIVAC; James Lungwitz, UNIVAC.

Public relations: J. Hugh Nichols, chairman, Dunlap and Associates, Inc., John E. Kumpf, cochairman, UNIVAC, John L. Reynolds, cochairman, International Telephone & Telegraph.

Hotel arrangements: Clark J. Risler, chairman, Litton Industries, Richard H. Smith, Control Data Corp., Pat Doyle, National Bureau of Standards; Mary L. Douglas, Applied Physics Laboratory.

Finance: Richard C. Lemons, chairman, General Electric Co., Nicholas J. Suszynski, Jr., cochairman, General Electric Co.

Field trips: John J. Glynn, Chairman, Defense Documentation Center, Edward J. Cunningham, cochairman, Air Force Systems Command.

Proceedings: Gordon D. Goldstein, Chairman, Office of Naval Research, Margo A. Sass, cochairman, Office of Naval Research.

Ladies Activities: Renee Jasper, chairman, Auerbach Corp.

Consultants: Martin S. Becker, legal counsel, John Hoskins, graphic design; Compton Jones Associates, public relations; John C. Whitlock Associates, exhibits.

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### The Computer Revolution

### (Address by Senator Humphrey)

Visiting this remarkable conference is like entering both a World's Fair and a scientific congress of tomorrow's achievements today.

Your semiannual conferences have become fascinating showcases of the best, the latest and the almost incredible shape of things (still) to come. It is almost like seeing Buck Rogers in person.

Your fascinating exhibits cannot help but impress competitors, customers and, yes, visiting legislators.

Just think how a U.S. Senator—"fresh"—or weary from the 39th day of debate on the civil rights bill—views your world—a contrasting world—with pushbutton, command controls, automatic programing and snappy, pert scheduling. Ah, how I long for such conveniences in the Senate.

Maybe, too, before the Senate started the present debate, Senator Richard Russell, of Georgia, and I should have borrowed one of the Pentagon's computer "war games" and saved our colleagues a lot of "fighting" oratory. The computer is modern man's answer to the filibuster.

Seriously, this computer conference is not just another meeting; it is a vital "launching pad."

And the greatest thing we can launch is not new models, but new ideas.

It has been said that, in the computer world, hardware is 5 years ahead of software. So, too, the brainpower of computer manpower is 5 years ahead of the will power of some policymakers who are not computer-oriented.

The computer age is young; but already, let us admit, some laymen in policymaking positions have tended to make three types of speeches on the computer. The speeches have begun to sound almost like classics.

The very first type of address on computers tended to be one of sheer awe. It could be summed up in a single breathless word (like a child's reaction in a toy shop), "Oh!"

When the enthusiastic layman first saw a computer, he said, "Goodby to all other gadgets; this is for me."

The second type of computer talk was: "Oh, the millenium has arrived." "Goodby, drudgery; hello, leisure." "Goodby, care; hello, convenience." "Goodby, high costs; hello, savings."

And the third type of speech has been one of moody afterthought: "Oh, the problems this, will cause." "Goodby, jobs; hello breadlines." "Goodby, name; hello, number." "Goodby, individuality; hello, conformity."

In all three speeches there are elements of truth.

My own theme this afternoon is like the opening line from the musical, "Oklahoma." In this computer age: "Oh, what a beautiful morning." But let's get busy, so there is no "morningafter feeling."

Let's face it—the computer brain can be both boon and bane.

The computer will be just as much a boon as we choose to make it and as serious a bane as we might foolishly allow it.

Fortunately, President Lyndon Johnson has already taken the lead to maximize the boon and minimize the bane.

He has proposed—and I have introduced—a bill to establish a high-level Commission on Automation, Technology, and Enlargement.

This is but the "opening gun" of a broad campaign to realize the greatest possible good from "the second industrial revolution."

It is a revolution which alters the very concept of what a so-called "machine" really is. For machines that read, that remember, that improve their performance, that respond to sound—including human voices—to touch, to scent—machines which incorporate almost every facet of artificial intelligence—are now the machines that "dear old dad" knew.

The computer is the most versatile "tool" in history. As this audience knows better than any other, the computer steers or guides capsules in outerspace and monitors changes inside man himself; it runs assembly lines and mixes as many as 500 chemicals in an automatic fertilizer plant; it translates Bibles and checks the age of brandy; it handles reservations for airline seats, and processes payrolls, inventory, and purchase orders for giant corporations; it predicts elections and weather; the best choice of a mate for marriage; a name for a new product and a new product, itself.

Programed well, its successes are spectacular; programed poorly—mechanically or intellectually—it can misfire a space shot or a new automobile like the Edsel.

The revolutionary "tool" is no cure-all; but neither is it a passing fad.

Viewing it, we can adapt a certain popular magazine's slogan to: "Never underestimate the power of a computer."

The plain fact is that history's most profound revolutions have been underestimated by their contemporaries. All of history is full of the wreckage of nations, societies, and classes—which underestimated the nature and power of revolutions.

This audience will not make an underestimate—for you are in the vanguard of this revolution.

You know, it is 10 revolutions "rolled into one": The computer revolution is economic, sociopsychological, scientific, technological, military, informational, managerial, international, educational, yes—it is all of these—and profound in its impact on public policy.

It is: (1) Economic in its varied effects on business, agriculture, and labor, on small and large enterprises, on offices, factories, and mines; (2) social and psychological in changing the relationship of man-to-man, man-to-machine, man-to-government, man-to-cosmos; (3) scientific in opening up new frontiers of knowledge, in facilitating experiments, involving variables—so numerous, so subtle, so complex—as to defy the human brain, if unassisted; (4) technological in making possible breathtaking advances in engineering achievement, efficiency, and economy; (5) military in making possible worldwide, lightning-fast delivery of offensive and defensive firepower; (6) informational in making possible high-speed storage, manipulation, retrieval, and dissemination of the world's "pool" of knowledge; (7) managerial in making possible supersophisticated decisionmaking on production, distribution, marketing, advertising, and other executive policies; (8) international because it involves the free world's successful competition with the Communist bloc, as well as assistance to the developing countries; (9) educational—because it requires substantial changes in school curricula for the oncoming generation and refresher courses for the current generation; (10) and, finally, the revolution shapes and alters public policy. It requires changes on the part of policymakers in the legislative, executive, and judicial branches of the U.S., State, and local governments. Time will permit elaboration on but 4 of these 10 revolutions. Educationally, the computer is changing the world so rapidly that it requires rededication to a learning process which is lifelong. What you or I learned in college 20 or 10 or even 5 years ago won't suffice in any profession today—not in engineering, not in law, accountancy, medicine, dentistry, nursing, pharmacy, and so forth. Meanwhile, the computer is revolutionizing the university itself, breaking down barriers between what used to be thought of as "separate disciplines."

To meet new challenges, we will have to increase the Nation's investment in education; utilize advanced teaching aids; modernize libraries; reschedule classes during the day and evening and take many other steps.

Internationally, the computer is one of Western capitalism's greatest assets. When the Kremlin thinks of U.S. leadership in computers, the commissars turn even redder in shame and greener in envy.

The politburo may boast that their soft drink, Kvass, is better than Coca-Cola—because who can argue with some people's taste—But I stand forthrightly for that all-American drink, Coca-Cola, or its all-American competition, Pepsi-Cola. But the Kremlin cannot deny that so-called "decadent capitalism" is "batting first in the computer league." And so far as I am concerned, to paraphrase a proverb by Mr. Khrushchev, a Russian shrimp will whistle "Dixie" before we give up our present lead.

Elsewhere in the world, we must keep the lead in effective assistance to the emerging countries. The computer can spell a crucial difference in these countries thirst for know-where, know-what, know-how. If the modern computer seems like a paradox in the feudal Middle East or in the Africa of the "bush," so is the jet, the auto and the nuclear reactor. But no tool can be more helpful—in trained hands—than this most adaptable tool.

Your U.S. Government is aware of these and other arenas of computer progress. An Inter-Agency Committee on Data Processing has been doing what "doesn't always come naturally"—cooperate.

On the research front, the Bureau of the Budget informs me that the Federal Government is providing $48 million a year in support for computer studies. But this is "penny ante" compared to what U.S. agencies will require for their own computer research and development needs in the next decade.

Looking back, the Government has come a long way—but, frankly, not fast enough. The record of the past is in many ways inspiring. But the record in a few agencies proves that the "most underdeveloped space" in all this world is still "between some people's ears."

Neither in Federal agencies—nor in private enterprise—can we be smug with computer progress.

For one thing, we've trained far too little manpower, skilled on an interdisciplinary basis in the basic and superskills needed to accelerate the momentum of this computer revolution.

For another thing, as I indicated earlier, willpower, to change old organization, old procedure, old habits—has too often been lacking.

Almost 6 years ago, recognizing the information explosion, some of us in the Senate Reorganization Subcommittee proposed long-range Federal and national goals which only now are beginning to be realized. We suggested, for example, the equivalent of a national science information network. Only within the past few months have the Federal agencies—the stations of the network—really started to send signals that other stations could even receive and much less retransmit. At long last, the three principal Federal science agencies—the Department of Defense, the National Aeronautics and Space Administration, and the Atomic Energy Commission, together with the U.S. Department of Commerce—have started to think about their common customers and clients through common information service.

The agencies are now getting down to cases, too, in changing the present computer "Tower of Babel" into a reasonably compatible or at least convertible system for Government-wide needs.

"Systems of systems" are what our Senate Reorganization Subcommittee has urged—modular units which fit together to form a harmonious whole, for the use of the entire executive branch.

The legislative branch should, itself, take the lead. Few groups of men and women in the world need more, better or more varied information than the 535 elected Representatives and Senators. Congress' committees, subcommittees and Members need push-button, preferably display-type access, to specialized "banks" of information. Each major "bank" should serve the interested committees—Agriculture, Appropriations, Armed Services, Banking and Currency, Foreign Relations, Interior—and so on, down the alphabetic line.

When Congress has better access to the answers it needs, it will be in a position to ask still better—more useful—questions. Very soundly, a former Librarian of Congress, Mr. Archibald MacLeish, once said, "America is the country which knows all the answers, but none of the questions."

There are many questions about emerging trends—in population, health, industry—which no one has even thought to ask. The computer could help immeasurably to open up new vistas for Congress to explore—in our people's behalf.

Finally, I return to a fourth of the 10 revolutions which the computer makes possible.

It would be a revolution against needless extremes of the business cycle. It is a revolution not against fluctuations in our market economy, for there will always be such.

Rather, it is a revolution against avoidable depression and even, avoidable recession. It is a revolution for permanent prosperity. How?

By using the computer to maximize our knowledge of the economy, particularly of economic danger signals, as fast as they develop, so that remedial steps can be taken—by industry, as well as by Government.

Today, danger signals—rising economic "fevers," invisible unemployment, for example—often escape detection, because of their comparative subtlety.

For years, we have relied on a relatively few inadequate economic indexes like car loadings, auto sales, building starts, and the like. Yet, choking the file cabinets of Federal agencies are masses of information—which your own and other companies have supplied, often at great cost, but which are largely unmanageable except by the most primitive and slow manual methods.

Thus, mountains of largely unused, unsynthesized information exist in the U.S. Treasury Department, the Commerce Department, the Agriculture Department, the Federal Reserve Board, the Securities and Exchange Commission, the House and Home Finance Agency, and so forth.

The computer can put this information to work and make the compilation of some of it unnecessary.

And so I urge a revolution in Government-wide statistic gathering, statistic interpretation and statistic dissemination methods.

The revolution should place at the disposal of the President, the administration, and the free enterprise system infinitely more sensitive, faster, and more complete economic indicators. Today, we are enjoying record prosperity. We must continue to do so.

We must achieve a sustained rate of satisfactory economic growth. The computer can help us to do so. It can help us end the wild pattern of the past, of "boom and bust."

We must make the computer the greatest early warning system in economics, just as it already is in military science.

And we must use the computer as the greatest herald of unmet needs, of untapped markets, unrealized sales, unfulfilled recreational spending.

Computer models can simulate the dynamics of free enterprise in a way which will offer maximum reliability in predicting the economic future.

Heretofore, economic statistics gathering has been segmented and tardy.

A few elementary steps have been taken under the auspices of the U.S. Bureau of the Budget to avoid needless duplication in circulating Federal questionnaires and the like. The emphasis has heretofore been to avoid the negative, to avoid imposing needless requests on the private economy. This is a sound, but a too limited, objective.

The computer enables us to accentuate the positive in the future.

The computer is the key to infinitely sounder private and public decisions in our market economy. There will always be some guesswork, some risk, some unknowns. This is inherent in free enterprise.

But the computer can help us minimize avoidable mistakes.

This need not be at the price of the slightest reduction of our freedom as individuals. On the contrary, we can increase our freedom by liberating ourselves from the "slavery" of economic misfortunes.

Greater freedom for all to enjoy the good life—this can be the computer's ultimate contribution to man.

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## FOREIGN POLICY AND ORGANIZING FOR PEACE

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a provocative and interesting address on the subject "Is National Security Best Served by Present Arms Policy?" delivered by Brig. Gen. J. H. Rothschild, U.S. Army, retired, at a breakfast for Members of Congress sponsored by the United World Federalists, in Washington, D.C., on February 27.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### IS NATIONAL SECURITY BEST SERVED BY PRESENT ARMS POLICY?

(By Brig. Gen. J. H. Rothschild, U.S. Army, retired)

After 32 years in the Army, I retired about 6 years ago, and had time to start thinking about the larger picture of national security, rather than just the military side of that picture.

It was obvious, with the weapons we now have, that the use of our military power in an all-out war was unacceptable. The damage which would result would be a complete defeat for us as well as for our enemy.

The next step, then, was to evaluate the possible ways of avoiding war, and the risks associated with each way.

The way we are using at present is deterrence through nuclear strength, combined with a capability for limited war so as to avoid all-out war, if possible. The risks depend on the probability of war through miscalculation, the type that caused the Korean action; through accident; through intent, particularly of the Chinese Communists when they acquire nuclear weapons; and through escalation of a limited war into general war. It is unnecessary to discuss each of these with men of your background, but I would like to mention one other which is often ignored. This is the risk of war as a result of new scientific discoveries allowing the development of new weapons systems as yet unforeseen. It is obvious that if these new weapons could be built without the requirement of a large industrial base, even small, and possibly irresponsible, governments could possess them and threaten the peace of the world.

Without detailed discussion of the risks, let me say that I feel strongly that the probability of avoiding an all-out war, under present conditions, using deterrent power, for a period of more than 20 or 30 years is small.

Momentarily, I will postpone discussing the various partial methods of attempting to turn down the arms race and to ease international tensions.

At the other end of the spectrum from the use of national force for the solution of international problems, is some type of rule of law in the world. Of course, we have international law at present, but it is not capable of doing away with international violence.

Rule of law means world government, and world government can run the gamut from the complete superstate with all the powers of present nations, to a government with powers limited to those necessary for assuring the peace. I will discuss only the most limited type, which would have the power to insure that international wars could not occur, but not the power to interfere in the domestic affairs of nations. Such an international government, logically a revised United Nations, would require the normal branches of government—legislative, judicial and executive.

There is little doubt, given a real desire on the part of the world, that some acceptable type of organization for doing this job could be worked out.

I would like to make it clear that I am not talking about unilateral disarmament, nor am I talking about taking any steps which require trust in the words of the Communists. We must keep our military strength sufficiently high so as to logically deter any nation from challenging us with force until a safeguarded treaty is signed. I said "logically," but you must remember that nations are not necessarily logical. Also, the treaty should not rest on good intentions, but should adequately protect all nations, particularly during the disarming phase.

One of the major difficulties in this kind of step, toward world government, is that it calls for such a sharp departure from tradition. It means the delegation of sufficient power to an international body so that it may insure the peace. This has never been essential in the past, so it is something new. And any new idea appears to be instinctively abhorrent to humans. However, an entirely new set of conditions, which we now have, requires new measures to solve the problem.

Adding to this difficulty is the fact that an entire package must be accepted at one time in this departure from the past. It cannot be approached gradually and cautiously.

In order to have a world under rule of law, a body of law must be available and accepted. In addition to existing international law, it will be necessary to maintain the law abreast of new developments. This means giving a legislature power to make laws, within its charter.

To have such a legislature, it is necessary to have a realistic basis for voting. The one-vote-per-nation system will have to be superseded by a more equitable method, and the veto, both formal and financial, must be eliminated.

The small nations will not give up the present voting arrangement unless they receive sufficient value in return. This quid pro quo will be the assurance of peace, and the elimination of the veto. I might add that it probably includes the expectation of greater economic assistance when the disarmament burden is greatly reduced.

The more powerful nations will not give up the veto, and their military power, without the assurance that they are protected from an unacceptably destructive war, and the establishment of a method of representation which will guard them from possible financially irresponsible acts on the part of the poorer nations.

The world court system is meaningless without enforcement. Furthermore, the presence of an international force which can compel compliance with the edicts of the court will also insure that nations use, to settle their disputes, means other than war, such as mediation, arbitration and the courts.

In order for the international force to be sufficiently strong to accomplish its purpose, and not just set another nuclear military power against those already in existence, it is necessary for all nations to disarm to the minimum level essential to preserve their internal security.

The nuclear nations, however, cannot disarm safely unless the international force is invincible. It is impossible to find all the nuclear weapons in the world by any inspection or verification techniques. This need is circumvented through the international force which is so powerful that there is no purpose in any nation trying to cheat on disarming as nothing could be gained. It could not withstand the force, so the only result would be that eventually the concealed weapons would be discovered, with the resulting tremendous loss of prestige.

So, summing up this part, to have rule of law, a legislature based on an equitable voting system is essential. The voting system cannot be changed without the promise of an assured peace. Peace is not assured unless there is an international force powerful enough to insure that nations settle their disputes by peaceful means. The force cannot be invincible unless nations disarm. Nations cannot disarm safely without an invincible international force. And so we are back on our circle on which nothing comes first. All of these changes must be adopted at one time.

It might be encouraging to point out that this type of change is not without precedent. The U.S. Constitution was a package deal, and it was just as abrupt a departure from history in its day as limited world government is today.

I might point out that among the people who have been engaged in serious study and research in the field of arms control, and of disarmament, there seems to be quite general agreement that limited world government of this type is the only way of insuring peace for the long future. The differences among them appear mostly in the timing which is necessary to get various actions accepted.

If this analysis is logical—that a limited world government is needed to assure peace—then our present path through the disarmament jungle needs a thorough review.

The partial steps which are now being discussed, such as extending the test ban treaty to underground tests; disengagement; inspection to prevent surprise attack; and partial disarmament cannot in all probability, lead to the goal of peace. They can reduce tensions, but tensions rise and fall with world conditions and may go back up at any time. They can also reduce the probability of accidental war. But they do not prepare the world for that great jump in thinking which is required for a limited world government, and therefore, they are not leading in the new direction which must be followed.

We spent 5 years arriving at a partial test ban treaty which does little in the way of preventing war. If we had presented a realistic plan for reaching limited world government and had spent the same time educating our people and the world to its need, and thrashing out compromises on reaching that goal, think how much further we would be on the path of assuring that the world will not be trapped into an unacceptably destructive war.

The only way we can reach the goal of limited world government to insure a rule of law in the world is to start along the path. Up to this date, we have not yet done so.

## FOREIGN POLICY, DISARMAMENT, AND MEANS TO MAINTAIN INTERNATIONAL PEACE

Mr. JAVITS. Mr. President, the conduct of American foreign policy is now undergoing serious public debate and reexamination. Out of this, it is hoped, will come greater clarification of our situation and perhaps greater progress in our overall objective of achieving peace. The integrity of our alliances and the utilization of international peacekeeping organizations are clearly an essential part of this discussion and debate.

Some pertinent considerations on this subject are provided by John J. McCloy, Chairman of the President's General Advisory Committee on Disarmament and former U.S. High Commissioner in Germany. I ask unanimous consent to have printed in the RECORD excerpts from an address by Mr. McCloy, entitled, "Some Thoughts for 1964," which he gave before the New York Chamber of Commerce January 7 and which appeared in "War and Peace Report," March 1964.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### SOME THOUGHTS FOR 1964

(By John J. McCloy)

I think the great question of peace or war undoubtedly remains the paramount issue. For a considerable period since the close of the war I have been interested, as you probably know, in attempting to find the answer to the problem of competitive armaments. Recently we have sensed what we hope is some lessening of tensions between us and the Communist world, or at least between us and the Soviet Union. I have no doubt that the Soviets are impressed by the size and extent of our reprisal capacity and I am sure that it does awe them. I do not doubt that they want to avoid a thermonuclear war as do we. I am not so sure of Chinese attitudes, but in spite of our hopes of avoiding war by reason of our military strength, an uncontrolled armaments race in itself creates instability. If we look to history for analogies, it is difficult to find a situation in which great powers, engaged in an arms race, did not end up at war.

The subject of disarmament or arms control is a very difficult one, fraught with many complexities. The test ban treaty, which we concluded last year, was but an initial step, and yet the discussions and negotiations leading up to it took more than 2 years. It was, in my judgment, a good step forward and I think it enhanced rather than diminished the security of the country, but it was not enough to take us beyond the area of an uncertain balance of frightening deterrents. A nice balance of deterrents, even if it ever could be attained, is a rather slender reed on which to rest for long, and I do not feel that full reliance can be placed on it now simply because the armaments we have today are more deadly than any that man has heretofore conceived, much less experienced. Certainly disarmament in itself does not bring peace. Yet, since all rational leaders of nations must realize that nuclear war is not an acceptable instrument of policy (as it may be arguable old types of war sometimes were), it seems incongruous that we are not moving more rapidly toward balanced and enforceable acts of disarmament. Great political issues have to be settled before drastic steps in disarmament can be taken, but I see no reason why they cannot move forward together in some reasonable progression. The periods of tension out of which wars could emerge will be dependent for their solution primarily on the good sense and equable disposition of the individuals who are involved in them. They have, however, a way of gathering momentum about these individuals who then become subject to all the emotional stresses which surround them. If one of those individuals is unbalanced, as Hitler was, or as others have been in history, we could be faced with the catastrophe of nuclear war. It is also quite possible that well-intentioned men could find themselves the center of forces which might transcend their own rationality. I have frequently referred to Mrs. Tuchman's book, "The Guns of August," in which the author very graphically portrayed the events leading up to World War I. The episode at Sarajevo did not of itself rock the world when it occurred—it had much less impact at the time than the assassination of President Kennedy had on today's world, yet it gradually developed into a great crisis. Communication was not as rapid nor as simple as it is now, but one message followed another until the men at the helm became so overwhelmed by their flood that they lost control of events. It seemed that the only thing they could do was to respond to rumors of enemy mobilization by mobilization decrees of their own until they were all over the brink with no ledge on which to find a footing. Many historians now feel that war could have been avoided if there had been some machinery to which these overtaxed individuals could have repaired or if some breathing space within which the crisis could have been moderated had been available.

I recall very vividly my own contact with the Cuban crisis. It was touch and go, but fortunately, in the midst of those tensions, we did have available the institution of the United Nations, and though the staff and members of the United Nations did not have at hand well-tested or efficient machinery to cope with the situation, they did furnish a forum within which facts could be presented and issues debated. It did give us a breathing space in which the major interested parties could find the time and room in which to work out the solution.

Certainly not the least obligation rests on the United Nations (which, of course, in the last analysis means the nations which compose it), for some members of the United Nations have shown tendencies recently to form blocs of special interest whose main effort seems to be to advance what they conceive to be their own preferment in a manner which impairs confidence in the capacity of the United Nations to deal with the world's primary problems with objectivity.

It was only a little over a year ago that we looked down the gun barrel of nuclear war in the Cuban crisis. Recently we have seen the game of Russian roulette played on the autobahn and, though these tensions appear less ominous after they are over, they are dangerous every time they occur. If, while they are on, one is in a position of responsibility in the situation room in West Berlin, it is not difficult to sense their seriousness. Threats of war are thus too recent for us to allow our alliances to erode. But even if the world situation were less dangerous, even if we do have a period of decreasing tensions with the Soviet Union, as we all fervently hope we shall, the need for sustained Allied confidence in each other will be all the greater during a period when so many sensitive issues must be debated and determined.

## CIVIL DISTURBANCES IN CHESTER, PA.

Mr. HOLLAND. Mr. President, in my latest discussion of the civil rights bill, on Thursday evening, in opposition to the bill, I made reference to the fact that the public schools in Chester, Pa., had to be closed, keeping 11,000 students at home, and that general disorder existed in the streets of Chester.

From the AP ticker this morning, I have two items which indicate a continuance and extension of this troublesome situation. The first one reads:

CHESTER, PA.—Civil rights demonstrations flared into violence in this southeastern Pennsylvania city last night, resulting in injury to at least 10 persons and the arrest of at least 28 persons.

The violence erupted when police attempted to disperse demonstrators blocking a street in the Negro section of the city.

Fights broke out when some 150 helmeted State and city policemen, and deputized municipal workers, swinging nightsticks, moved in to make arrests and herded the demonstrators into buses to be taken to the police station.

Rocks, bricks and bottles were hurled at policemen, windows were smashed in police cars and persons at the scene said they heard a shot fired.

A flurry of fighting erupted inside the bus and a second wave of violence flared, as bystanders joined the melee and more police arrived.

Minutes later, some 100 policemen rushed from buses to a nearby tavern where more rioting and rock throwing was met with force by police, carrying riot sticks.

The second item reads:

Police quelled the outbreaks, but described the situation as tense as they patrolled the streets of Chester and followed up reports of vandalism and a rash of false fire alarms.

Among the injured were six policemen and a Negro 21-year-old expectant mother.

Police reported vandals also smashed windows in the home and automobile of Chester Polioe Capt. Theodore Laws, a Negro.

Among those arrested was a white minister, Rev. Clayton Hewett, 36, rector of Atonement Episcopal Church, Morton, Pa. He was charged with inciting to riot.

There were reports that a warrant had been issued charging Philip H. Savage, tristate secretary of the National Association for the Advancement of Colored People, with inciting to riot, but police officials would neither confirm nor deny this.

Mr. President, all of this is so similar to what is happening in Cyprus, and what will continue to happen in our country, if these foolish demonstrations are not halted, that it must cause the utmost alarm and concern to every American regardless in what part of the Nation he lives.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. RUSSELL. I did not understand where the Senator said these disturbances have been taking place.

Mr. HOLLAND. In Chester, Pa.

Mr. RUSSELL. In Chester, Pa.?

Mr. HOLLAND. Yes. This was the third day of these destructive happenings.

## DISTRICT COURT JURISDICTION IN GOVERNMENT SALARY CASES

Mr. KEATING. Mr. President, in the first session of this Congress, I introduced a bill (S. 1351) to repeal a provision in the Judicial Code which now prevents Government employees and members of the Armed Forces from suing the Government on a salary claim in their own local Federal court.

This existing jurisdiction arrangement is exceedingly unsatisfactory, since it places Government employees and former employees under the burden of having to litigate any salary dispute with the Government in the Court of Claims, here in Washington. Moreover, when an illegal discharge from employment is involved, the former employee may sue for reinstatement in his local Federal court, but may not sue for back pay in the same court. This results in his not being able to gain complete relief in a single proceeding—thus putting both the private litigant and the Government to unnecessary inconvenience and expense.

The measure I am sponsoring would simply permit a past or present Government employee, including an Armed Forces member, to dispose of all of his claims against the Government growing out of his employment, in a single court proceeding in his own Federal judicial district. No change in substantive law governing salary claims is contemplated, nor would there be any new burdens on the Government, inasmuch as it is fully equipped to handle any and all of its litigation locally, through the U.S. attorneys or through Washington, as it sees fit—which is the way the Department of Justice operates now.

Agency reports on this proposed legislation were delayed, pending its consideration by the Judicial Conference of the United States. I am very glad to advise the Senate that the Judicial Conference, at its session of March 16, 1964, voted to approve the bill, and I ask unanimous consent that a letter, to that effect, dated April 8, 1964, from the Director of the Administrative Office of the U.S. Courts to the chairman of the Senate Judiciary Committee, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS,
SUPREME COURT BUILDING,
*Washington, D.C., April 8, 1964.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request of April 2, 1963, for the views of the Judicial Conference of the United States on S. 1351, "To repeal subsection (d) of section 1346 of title 28 of the United States Code relating to the jurisdiction of the U.S. district courts."

This section now prohibits a U.S. district court from exercising jurisdiction over any civil action or claim for a pension; and, any civil action or claim to recover fees, salary or compensation for official services of officers or employees of the United States.

By virtue of the act of October 5, 1962 (76 Stat. 744, 28 U.S.C. 1361), it is now possible for Government employees who allege that they have been improperly discharged to sue in their home districts for reinstatement but under the prohibition of subsection (d) of 28 U.S.C., section 1346, the employee's claim for back pay, which very frequently accompanies his claim for reinstatement, must be brought in the Court of Claims. It seems clear that in order to do complete justice as efficiently and inexpensively as possible, the district courts should be given jurisdiction of the compensation claimed as well as the improper discharge in order that they may be disposed of in a single action.

Accordingly, the Judicial Conference at its session on March 16, 1964, voted to approve this legislation.

Sincerely yours,
WARREN OLNEY III,
*Director.*

Mr. KEATING. Mr. President, I also ask unanimous consent that a letter dated April 3, 1964, expressing the approval of the Department of Justice, sent to the chairman of the Senate Judiciary Committee by the Deputy Attorney General, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
*Washington, D.C., April 3, 1964.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on the bill (S. 1351) "to repeal subsection (d) of section 1346 of title 28 of the United States Code relating to the jurisdiction of the U.S. district courts."

Subsection (a) of section 1346 of title 28, United States Code, gives the district courts jurisdiction, concurrent with the Court of Claims, of (1) any civil action against the United States for recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, and (2) any other civil action or claim against the United States, not exceeding $10,000 in amount, founded upon the Constitution, any act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States. Subsection (d) of section 1346 provides that the district courts shall not have jurisdiction under the section of (1) any civil action or claim for a pension, and (2) any civil action to recover fees, salary, or compensation for official services of officers or employees of the United States. S. 1351 would repeal subsection (d) of section 1346.

With the exception of the amendment proposed below, the Department of Justice has no objection to the enactment of this legislation.

With exceptions not here pertinent, under existing law (38 U.S.C. 211(a)) the decisions of the Administrator of Veterans' Affairs on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration are final and conclusive and are not reviewable by any other official or any court of the United States. Beyond this, section 1501 of title 28 provides that "The Court of Claims shall not have jurisdiction of any claim for a pension." Paragraph (1) of section 1346(d) of title 28 similarly provides that the district courts shall not have jurisdiction with respect to such claims.

Since the objective of this legislation, as announced by its sponsor, is to confer upon the district courts jurisdiction concurrent with the Court of Claims in certain personnel cases, and since the Court of Claims has no jurisdiction in pension cases, it is suggested that the repeal of subsection (d)(1) of section 1346 of title 28, is unintentional. The bill should therefore be amended to refer to "subsection (d)(2)" rather than "subsection (d)".

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,
NICHOLAS DEB. KATZENBACH,
*Deputy Attorney General.*

Mr. KEATING. Mr. President, there is no reason to continue the anomalous quirk in district court jurisdiction to which this bill is directed. I am hopeful that with the approval by the Department of Justice and the Judicial Conference, the way is now clear for Senate passage of this bill as soon as parliamentary circumstances permit. Its final enactment, in my judgement, would be of great benefit, and would provide fairer treatment to the hundreds of thousands of Government men and women who are potentially affected by the mechanisms for adjudicating salary claims against their employer.

## DEATH OF BRIGADIER GENERAL DELAFIELD

Mr. KEATING. Mr. President, just a few days ago, Brig. Gen. John Ross Delafield passed away at his home in Fieldston, the Bronx.

General Delafield was one of my State's distinguished senior citizens. He was one of the founders of the Reserve Officers Association of the United States; and from 1923 to 1926 he served as the R.O.A.'s national president. He was the R.O.A.'s second national president.

General Delafield never lost his interest in the citizen-soldiers of this Nation. While pursuing his career as a member of one of New York's outstanding law firms, he always had time to support R.O.A. and to lend encouragement to those who served in the military, either as professional members or as part-time reservists.

Many Americans were affected by General Delafield's career as a patriot. We mourn his passing. We refer with pride to the life which he devoted to the betterment of his country; and we extend our sympathy to his loved ones.

I ask unanimous consent that a brief outline of his life, as published in the April 9 issue of the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 9, 1964]

BRIG. GEN. JOHN A. DELAFIELD DIES; ARMY RESERVIST AND LAWYER, 89—EX-CHIEF OF ORDNANCE DISTRICT HERE WAS ALSO A GENEALOGIST AND A CONSERVATIONIST

Brig. Gen. John Ross Delafield, (retired Army reservist and senior partner of the law firm of Delafield, Hope, Linker & Blanc, died yesterday at his home in Fieldston, the Bronx. He was 89 years old.

General Delafield was active in Reserve circles throughout his adult life and was a leading advocate of adequate national defense during the interwar period. He also was active in conservation of scenic and historic sites.

He was born in Fieldston, then an unincorporated suburb, the son of Maturin Livingston and Mary Coleman Livingston Delafield. He was a descendant of the John Delafield who came to New York from London in 1783 and also of the Livingston family.

General Delafield was graduated from Princeton University in 1896 and from the Harvard Law School in 1899. He served for a time in the law firm of Strong & Cadwalader and then started his own practice.

As a member of the legal subcommittee of the old Merchants Association's committee on transportation, he took part in the investigation of the management and financing of the elevated and surface transit lines and in efforts to eliminate abuses. The city eventually was obliged to take them over.

He was active in good-government groups before World War I and was commandant of the Veterans Corps of Artillery of the National Guard. In 1917 he organized and trained a corps of 1,400 men for the defense of the city.

General Delafield was commissioned a colonel and later brigadier general in the Ordnance Department of the Army and served as chairman of the War Department's Board of Contract Adjustment and as chief of the New York Ordnance District.

From 1923 to 1926 he was president of the Reserve Officers Association of the United States. He was commander in chief of the Military Order of the World War from 1930 to 1933 and served on its executive and other committees for many years.

General Delafield was also interested in genealogy. He wrote a two-volume history of the Delafield family and was a fellow of the American Society of Genealogy.

He had a summer residence at Annandale-on-Hudson in Dutchess County. The house, Montgomery Place, was built in 1791 by Janet Montgomery, widow of Gen. Richard Montgomery, who fell in the battle of Quebec.

General Delafield held the Distinguished Service Medal and decorations from several foreign governments.

## CIVIL DISTURBANCES IN CHESTER, PA.

Mr. RUSSELL. Mr. President, I wish to speak very briefly on the series of riots and the outbreak of violence which have afflicted the city of Chester, Pa.

It is deplorable that several thousand schoolchildren are unable to attend school because of racial strife in that city.

The report I heard broadcast on the radio, this morning, was to the effect that the demonstrators had assembled in a church, before they went to the heart of the town, where they blocked traffic.

The other day, the distinguished Senator from New York referred to the fact that people in my State had assembled in a church and suggested that that fact had exonerated them from any wrongdoing thereafter. As a matter of fact, they had done practically the same thing that the demonstrators in Chester had done. They went to the main street, lay prostrate in the street, and stopped all traffic. Of course, that is contrary to municipal ordinances in most of the cities in my State, and has been from the very beginning.

I do not know how long the situation in Chester will last. A number of people were hospitalized, last evening. I believe six of them were policemen, who were sent to the hospital for treatment.

I am sure this very tragic event has fallen under the eagle eye of the Attorney General of the United States, and that he has members of the FBI on hand, to make notations and to report to him on the extent of any violations of civil rights of the demonstrators, as was done in all the cities of the South. I also hope the Civil Rights Commission will be able to call a few of its representatives out of the Southern States, and send them to Chester, Pa., in order that the Commission may be able to incorporate in its next report a statement on how seriously the civil rights of the demonstrators had been violated by the police.

I say that, not with tongue in cheek—because I hope it will be done—but also not with any faith that it will be done, because of the double standard that has been applied by those in highest office in this land, particularly those who control the media of communication and dissemination of news in this land, who attempt to apply one standard to the demonstrations in the South and another standard to those that occur outside the South.

Mr. HOLLAND. Mr. President, will the Senator from Georgia yield?

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

## DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

Mr. TALMADGE. Mr. President, many Members of the Senate, including the junior Senator from Georgia, have pointed out repeatedly how cunningly and craftily drawn much of the language in the alleged civil rights bill is. Many of us have contended that under certain conditions so-called private clubs could be opened under the public accommodations section, title II of the bill, which provides injunctive relief against discrimination in places of public accommodations. That has been denied by other Senators.

I point out that on page 8, paragraph (e), beginning on line 18, the language purports to exempt private clubs, but makes an exception if they come within the scope of subsection (b).

Subsection (b) would open such private clubs if they maintained "any inn, hotel, motel, or other establishment which provides lodging to transient guests"; so would paragraph (2) thereof, "any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises," and so forth.

Mr. President, virtually every private club of which I know in the United States opens its facilities, at one time or another, to the public. Recently, I have received, through the mail, a letter from the Harvard Club of New York City, 27 West 44th Street. The letter, dated March 12, 1964, is addressed "To Our Members." It states, in part:

> In line with the policy of the better clubs across the Nation, the Harvard Club of New York City does not solicit business from outside groups. Along the same lines, however, the various function rooms of the Harvard Club are available to members and their guests.

In other words, the letter is a notice to the members of the Harvard Club that its facilities are available, not only to the members, but also to their guests.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the letter from the Harvard Club of New York City and the menu of the Harvard Club, which sets forth the dinner menus and buffet dinner menus, the prices, a diagram of facilities, and the charges in that connection.

There being no objection, the letter and pamphlet were ordered to be printed in the RECORD, as follows:

HARVARD CLUB OF NEW YORK CITY,
*March 12, 1964.*

TO OUR MEMBERS: In line with the policy of the better clubs across the Nation, the Harvard Club of New York City does not solicit business from outside groups. Along the same lines, however, the various function rooms of the Harvard Club are available to members and their guests. Constant efforts are being made to insure that these facilities are among the finest available in the clublike tradition.

Since the publication last fall of the booklet entitled "Facilities of the Harvard Club" and completion of the installation of our new culinary equipment, we have had many requests for more information concerning our facilities for private parties and banquets.

Meetings and studies have been scheduled between Chef Rollet, John Gerecter, food director; Frank Caceres, banquet manager; Bernard Minnax, resident manager; and the writer. Menus have been greatly revised and expanded and as a result the enclosed information is being sent you to assist in your planning.

Mr. Frank Caceres, our banquet manager, may be reached here at the club for any additional help needed in planning these functions. Phone: MUrray Hill 2-4600—extension 124.

Sincerely yours,
JOHN PAUL STACK,
*General Manager.*

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HARVARD CLUB OF NEW YORK—FACILITIES FOR PRIVATE LUNCHEONS, DINNERS, MEETINGS, AND RECEPTIONS

John Paul Stack, general manager; Herbert Miller, comptroller; Bernard L. Minnax, resident manager; John M. Gerecter, food director; Charles Rollet, executive chef; Frank Caceres, banquet manager.

### LUNCHEON MENU

Choice: Fresh fruit cocktail, chilled tomato or V-8 cocktail, melon in season, chilled grapefruit maraschino, guava or mango nectar or consommé du jour, potage du jour, chilled vichyssoise, cream of lobster, jellied madrilène sherried black bean, green split pea, cream of tomato. Extras: Shrimp cocktail, $1; lump crabmeat cocktail, $1; cherrystone clams, 75 cents; Cape Cod oysters, $1; blue point oysters, $1; little neck clams, 75 cents; green turtle soup amontillado, 50 cents; cold cream of curry indienne, 50 cents.

*Entrees*

| | |
|---|---|
| Chicken à la king in patty shell | $4.50 |
| Broiled spring chicken (half) au cresson | 4.50 |
| Broiled breast of chicken with sliced ham and mushrooms | 4.50 |
| Broiled chopped sirloin steak with mushroom sauce | 4.50 |
| Breaded veal cutlet with tomato sauce | 4.50 |
| Baked sugar cured Plymouth Rock ham with raisin sauce | 4.50 |

### *Entrees*—Continued

| | |
|---|---|
| Broiled swordfish steak, maitre d'Hôtel | $4. 50 |
| Broiled filet of Boston flounder, lemon butter | 4. 50 |
| Harvard club chef's salad bowl | 4. 50 |
| Roast Maryland turkey with dressing and cranberry sauce | 4. 50 |
| Veal cordon bleu | 4. 50 |
| A variety of cold cuts with potato salad and cole slaw | 4. 50 |
| Stuffed leg of cornish game hen parisienne (boneless) | 4. 50 |
| Broiled striped bass with lemon butter | 4. 50 |
| Beef à la mode, jardinière | 4. 75 |
| Hawaiian ham steak with grilled pineapple ring | 4. 75 |
| Stuffed breast of cornish game hen gourmet | 5. 25 |
| Seafood Newburg on rice pilaf | 5. 25 |
| Breast of cornish game hen à la kiev | 5. 50 |
| Broiled lamb chops (2) | 5. 75 |
| Broiled minute steak | 6. 00 |
| Petit filet mignon | 6. 50 |
| Broiled sirloin steak | 7. 50 |
| Broiled sliced tenderloin of prime beef | 7. 75 |
| Broiled prime filet mignon with mushrooms | 8. 00 |

Choice: New peas, baby lima beans, broccoli, hollandaise, string beans, corn sauté, broiled tomato, asparagus, hollandaise, cauliflower au gratin, mixed peas and carrots.

Choice: Potatoes—whipped, au gratin, hashed brown, roast, delmonico, parisienne.

Choice: Apple pie, cheese cake, frozen chocolate eclair, chocolate sundae, fruit jello, whipped cream, biscuit tortoni, choice of assorted familiar ice creams or sherbets, coconut snowball.

Extra: Baked Alaska, $1; cherries jubilée, $1; peach melba, 75 cents.

Rolls and butter, coffee, tea, or milk.

Selections should be limited for the entire group to one choice in each section.

Price of entree is price per cover.

For information concerning: Cocktails, highballs, wines, after-dinner drinks, hors d'oeuvre, special bar arrangements, room rentals, usage and tax charges, flowers, decorations, minimum guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

### BUFFET LUNCHEON MENUS

Choice: Consomme du jour, potage du jour, sherried black bean soup, jellied madrilène, cream of tomato, green split pea.

Choice of entree: Creamed chicken a la king, $5; old fashioned beef stew, $5; curry of spring lamb, $5.25; Swedish meat balls with Lingonberry sauce, $5.50; shrimp creole with rice, $5.75; seafood a la Newburg, $6.

Potato salad, Harvard beet salad, cole slaw, sliced eggs and tomatoes, assorted dressing and pickles.

Cold cut trays: Ham, turkey, tongue.

Assorted rolls and butter.

Assorted pastry selection.

Coffee, tea, milk.

It is requested that selections be limited to one item in each of the choice sections for the entire group. Price of entree is the price per cover.

For information concerning cocktails, highballs, wines, afterdinner drinks, hors d'oeuvre, special bar arrangements, room rentals, usage and tax charges, flowers, decorations, minimum guarantees, etc., please consult sheet listing banquet department tariffs.

### DINNER MENUS

Choice: Fresh Fruit Cocktail, Chilled Tomato or V–8 Cocktail, Melon in Season, Chilled Grapefruit Maraschino, Guava or Mango Nectar, or Consommé du Jour, Potage du Jour, Sherried Black Bean Soup, Vichyssoise, Cream of Lobster, Green Split Pea, Cream of Tomato, Jellied Madrilène.

Extras: Shrimp Cocktail, $1; Lump Crabmeat Cocktail, $1; Cherrystone Clams, 75 cents; Cape Cod Oysters, $1; Blue Point Oysters, $1; Little Neck Clams, 75 cents; Green Turtle Soup Amontillado, 50 cents; Cold Cream of Curry Indienne, 50 cents.

### *Entrees*

| | |
|---|---|
| Broiled Breast of Chicken with Sliced Ham and Mushrooms | $6. 00 |
| Broiled Chopped Sirloin Steak with Mushroom Sauce | 6. 00 |
| Broiled Spring Chicken (Half) au Cresson | 6. 00 |
| Baked Sugar Cured Plymouth Rock Ham with Raisin Sauce | 6. 00 |
| Breaded Veal Cutlet with Tomato Sauce | 6. 00 |
| Broiled Filet of Boston Flounder, Lemon Butter | 6. 00 |
| Roast Maryland Turkey with Dressing and Cranberry Sauce | 6. 00 |
| Broiled Swordfish Steak, Maitre d'Hôtel | 6. 00 |
| Hawaiian Ham Steak with Grilled Pineapple Ring | 6. 00 |
| Stuffed Breast of Cornish Game Hen, Gourmet | 6. 25 |
| Roast Whole Cornish Game Hen on Wild Rice | 6. 50 |
| Broiled Lamb Chops (2) | 6. 75 |
| Roast Leg of Spring Lamb, Mint Jelly | 6. 75 |
| Seafood Newburg on Rice Pilaf | 6. 75 |
| Roast Prime Rib of Beef, au Jus | 7. 50 |
| Roast Sirloin of Beef | 7. 50 |
| Broiled Minute Steak | 7. 50 |
| Roast Stuffed Cornish Game Hen (Partially Boned) | 7. 50 |
| Roast Tenderloin of Prime Beef with Mushroom Sauce | 8. 75 |
| Broiled Sirloin Steak | 8. 75 |
| Broiled Prime Filet Mignon | 9. 00 |

Choice: New Peas, Baby Lima Beans, Broccoli, Hollandaise, String Beans, Corn Sauté, Broiled Tomato, Asparagus, Hollandaise, Cauliflower au Gratin, Mixed Peas and Carrots.

Choice: Potatos—Whipped, au Gratin, Hashed Brown, Delmonico, Roast, Baked, Parisienne.

Choice: Salad—Tossed Garden Greens, Mixed Green and Tomato Slices, Chiffonade, Sliced Tomatoes, Vinaigrette, Celery, Olives, and Radishes.

Choice: Choice of Ice Cream, Chocolate Sauce, Petit Fours, Apple Pie, Biscuit Tortoni, Cheese Cake, Frozen Chocolate Eclair, Cocoanut Snowball, Ice Cream with Crushed Strawberries, Choice of Assorted Sherbets.

Extra: Cherries Jubilé, $1; Baked Alaska Flambé, $1; Peach Melba, 75 cents.

Selections should be limited for the entire group to one choice in each section. Price of entree is price per cover.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, and etc., please consult sheet listing "Banquet Department Tariffs."

### BUFFET DINNER MENUS

Choice: Chilled Half Maine Lobster or Cold Maryland Crabmeat Salad.

Cold Cut Trays: Ham, Roast Beef, Turkey, Tongue.

Roast Long Island Duckling, Roast Jersey Chicken.

Potato Salad, Harvard Beet Salad, Cole Slaw, Sliced Eggs and Tomatoes, Assorted Dressings and Pickles.

Choice: Creamed Chicken à la King, $7.50; Old Fashioned Beef Stew, $7.50; Shrimp Creole with Rice, $7.50; Curry of Spring Lamb or Scallops, $7.50; Swedish Meatballs with Lingonberry Sauce, $7.50; Sliced Roast Turkey (Carved at Buffet), Giblet Gravey $8; Sliced Plymouth Rock Baked Ham (Carved at Buffet), Madeira Sauce, $8; Sliced Beef Tenderloin (Carved at Buffet), Mushroom Sauce, $8.75.

Assorted Rolls and Butter.

Assorted Pastries, Apple Pie, Cheese Cake, Chocolate Custard, Fruit Jello, Rice Pudding.

Coffee, Tea, Milk.

It is requested that selections be limited to one item in each of the choice selections for the entire group. Price of entree is the price per cover.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

### BUFFETS FOR COCKTAIL PARTIES AND RECEPTIONS

Hot Hors d'Oeuvre, large tray, 3 dozen pieces, $8.50.

Assorted Cold Canapés, large tray, 3 dozen pieces, $7.50.

Shrimp Bowls, $3 per dozen, large bowl, 5 dozen, $15.

Assorted Canapés and Shrimp Bowl (3 dozen Canapés, 2 dozen Shrimp), $13.50.

Baked Oysters or Clams Casino, 3 dozen, $10.

Large Silver Relish Bowl including Green and Ripe Olives, $6.50.

Stuffed Celery with Roquefort Cheese, large tray, $6.50.

Assorted Finger Sandwiches, large tray, 3 dozen pieces, $8.

Barbecued Spare Rib Tidbits, 50 pieces, $15.

Barbecued Baby Chicken Legs, 50 pieces, $15.

Cocktail Frankfurters, 20 orders, $6.75.

Roast Whole Maryland Turkey, $35.

Baked Smoked Plymouth Rock Ham, $35.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

The Club's banquet facilities can accommodate parties of up to 180 individuals.

### BANQUET DEPARTMENT TARIFFS

Beverages: Cocktails and Rye Highballs from $0.90 to $1.25. Scotch and Bourbons from $1.05 to $1.25. Imported and Domestic Wines—as selected from our Wine List. Cordials and After Dinner Drinks from $1.10 to $1.25.

Bar Arrangements: A number of styles of Bar service are available to suit individual function requirements. Our Special Harvard Club Cheese Spread with Crackers is served at no extra charge.

Wine Service: Our Wine cellar is stocked with excellent imported and domestic Wines to make luncheon or dinner complete.

Canape Service: Hot or Cold Canapés from $7.50 per Tray.

Guarantees: Minimum guarantee must be established 24 hours prior to function. All prices subject to change without notice.

Room Rental: Room Rental charge is based on room selected.

Usage and Tax Charges: Add 10 percent for Usage Charges and 5 percent New York City Sales Tax on Food and Beverage.

Flowers, etc.: Special arrangements can be made for flowers and other decorations.

Cigars, Cigarettes: Popular brands of cigarettes 40 cents per pack; Imported and Domestic cigars from 40 cents each plus City Sales Tax.

Special Receptions: Wedding receptions can be arranged.

Ladies' Dining Room: Available for intimate luncheons and dinners with Pre-Theater dinners a feature.

### *Room rental charges*

Mahogany, East, Weld, Slocum, North, Ladies' Lunch, $7.35; Dinner, $14.70; Meeting, $15.75 until 4 p.m., $31.50 after 4 p.m.

President's Room, Lunch, $12.60; Dinner, $14.70; Meeting, $15.75 until 4 p.m., $31.50 after 4 p.m.

Biddle (No City Rooms Tax), Lunch, $15; Dinner, $25; Meeting, $50 until 4 p.m., $65 after 4 p.m.

Biddle & North (No City Rooms Tax), Lunch, $22.50; Dinner, $37.50; Meeting, $75 until 4 p.m., $100 after 4 p.m.

Above Rental prices include New York City Room Tax of 5 percent (Where Applicable).

Mr. TALMADGE. Mr. President, I believe it is clear from the solicitation of patronage and business that the bill would bring the Harvard Club of New York City within the coverage provided by title II of the civil rights bill.

That title would include not only the Harvard Club but virtually every other private club in the United States. This clearly demonstrates how far reaching is the language of the bill.

Mr. HUMPHREY. Mr. President, if the Harvard Club chooses to lose its exclusive nature, and to become a so-called common people's club, and if it opens its doors to one and all, then, indeed, it will come within the purview and the enforcement provisions of the bill.

But if the Harvard Club is as exclusive as its name sounds, and if it limits the use of its facilities to its members and their guests, it will not come within the purview of the bill—all the talk and discussion to the contrary, notwithstanding.

I also wish to make perfectly clear, as one Senator who supports the bill, that I believe the Department of Justice has a responsibility to investigate any infringement of the law or any alleged violation of the law or the Constitution, such as has been suggested by those who are in opposition to the bill. There is no double standard, and there must not be a double standard. The standard of justice must apply with equal force and with equal treatment to all persons, in all sections of the country.

I deplore what has happened in Chester, Pa., I deplore police brutality in New York City, in Birmingham, in Montgomery, in Jacksonville, or anywhere else, just as I would deplore it if it happened in my own city of Minneapolis.

It should be made crystal clear that a mere assertion of a double standard does not necessarily make it the case. I am happy to note, though, that the police of the city of New York, acting within their authority, conducted themselves with care and restraint, as regards the use of physical force. They are to be commended for doing so.

Mr. JAVITS. Mr. President, I join in the statement just made by the Senator from Minnesota. There is no double standard; there should be no double standard.

To those of our friends who claim there is a double standard, we say the bill will apply across the board to all—including New York. We want it to apply that way. We want the Attorney General and the U.S. Civil Rights Commission to take action in regard to New York as much as in regard to Georgia, Alabama, and Mississippi. There is only one standard. We want it enforced across the board, everywhere in America. That is why we are in favor of the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. Mr. President, I suggest that the able and distinguished Senator from Minnesota and the able and distinguished Senator from New York read the bill with more care. If they will read the bill with more care, they will find that under title VII, the FEPC title, there are provisions that the Commission to be created by such title may exempt States which have FEPC laws from the application of the Federal law. But States which do not have FEPC laws would have the Federal law "put to" them. These provisions are designed to exempt many Northern States from the coverage of the bill.

If Senators will read the provisions of the bill dealing with desegregation of schools, they will find that those provisions are designed to provide for the compulsory desegregation of the public schools in the South, but to exempt from compulsory desegregation the public schools in the North located in racially segregated residential districts.

An amendment has been offered by the minority leader and the majority leader to provide a substitute for the jury trial amendment offered by Senator TALMADGE. While the bill purports to be against segregation and discrimination, the amendment in the nature of a substitute would segregate litigants in civil rights cases from all other litigants in the United States.

After segregating these litigants from all other litigants, the amendment in the nature of a substitute proceeds to discriminate against them by denying them rights which the Constitution itself as well as all Senators, would extend to all the Al Capones in this country.

So we have before us an alleged jury trial amendment in the nature of a substitute which segregates litigants in civil rights cases, and then discriminates against them by denying them rights that the most reprehensive criminals in the United States would receive by the common consent of every Member of the Senate.

Mr. SPARKMAN. Mr. President, I fully agree with the statement made by the distinguished Senator from North Carolina. It was my purpose to invite attention to the fact that under the section relating to desegregation of schools, the schools of Harlem would remain segregated, just as they are today. Actually, the bill contains a clause that guarantees that the segregation in the five schools in the segregated areas of Cleveland will continue as it now exists. So will it in the other ghetto areas of the North.

Mention was made of Birmingham. If there is any city in the world that has been libeled far beyond its due, it is the city of Birmingham. Whereas the troubles and demonstrations in Birmingham lasted for several weeks, only 69 persons were injured. Twenty-two of them were Negroes; 47 were whites, primarily police who were under instructions to stand and "take it"; and they did. More people were arrested and stockaded within an hour's time in the New York demonstrations the other day, I dare say, than the total number during the weeks in which the demonstrations went on in Birmingham.

I call to the attention of those who may want to look it up in the current issue of Newsweek, an article by Raymond Foley, in which he takes up this question. He states that Birmingham has been terribly libeled and slandered. That is true—and simply because Birmingham happened to be the first place where the demonstrations started. References to Birmingham and to police brutality there have become almost slang terms.

No police action in Birmingham exceeded the brutality which took place the other day in New York, when the police took charge of those who were trying to stop the subways from running.

I believe we certainly should look at this situation without a prejudiced eye. If—as the proponents of this bill insist—such a bill is to be passed, I believe it ought to apply with equal force throughout the country.

I submit that the present provisions of this bill would not apply equally throughout the country.

The PRESIDING OFFICER. The Senator's time has expired. Is there further morning business?

Mr. HOLLAND. Mr. President, I want to call attention to two facts with reference to the current disorders in Chester, Pa., and in New York City. First, with reference to the disorders at the World's Fair 3 days ago, the police of the city of New York and the police of the World's Fair stood by helplessly while the Governor of Florida was excluded by 20 young white hoodlums from entrance to the Florida pavilion, for which our State had paid on the invitation of the State of New York, the city of New York, and the Fair authority. The only way the Governor of the State of Florida was able to get in the pavilion was through the assistance of four Florida patrolmen who were along with him. The Florida patrolmen finally had to drag the obstructionists away from the door. They were keeping the doors closed so that the Governor could not go in to dedicate that pavilion, erected with our own money in order, in part, to add to the attractiveness of the fair.

Second, with reference to the Chester, Pa., disturbances of last night, the AP dispatch, which I have already placed in the RECORD, shows that not content with beating up six of the policemen, when the demonstrators discovered that the police were being led by a captain of the police who was a Negro, they proceeded to go to his home and to violate the privacy of his home. They broke his windows and broke his door down.

What is the country coming to when people in so many areas of the Nation are not willing to support lawful efforts to maintain law and order, but instead they create this unlawful, dangerous situation?

Mr. JAVITS. I wish to answer the statement of the Senator. We have adopted a policy of nailing these points down as they are raised.

I shall not sit by and allow the bill to be destroyed, if I can avoid it. We are told, first, that if a certain State does not have a Fair Employment Practices Commission, that that State is discriminated against. But what is not said is that under the bill, a State need only enact an effective FEPC law which covers situations of the type covered by title VII of the bill. If it has such a law, then under the usual practice of comity and State administration, the Commission would give the State an opportunity to enforce it. If it does not have such a law, then the Federal law would be operative.

There would be one standard, one law. If a State did not have such a law, then the Federal law would control, and the State could not complain. There would be a single standard—the same standard for the State as for the Federal Government.

As for the provision for a jury trial in contempt cases, I point out that we have the Landrum-Griffin Act, which has been mentioned, and the Civil Rights Act of 1957, which the opponents of the pending bill have acknowledged very graciously and very happily. Another act likewise contains such a provision. So there is ample precedent for Congress' doing what it believes ought to be done with respect to contempt proceedings.

That does not reflect prejudice against the South, any more than it does against the North. The same judges would apply the same standard.

Finally, as to the provision dealing with racial imbalance, I shall not sit by and permit it to be distorted. Racial imbalance is not segregation within the meaning of the equal protection clause of the 14th amendment to the Constitution. If segregation can be proven, then the exemption in the bill with reference to racial imbalance will not be applicable. And if racial imbalance, rather than segregation, can be proven in any State in the South, whether it is the State of the Senator who has spoken, or any other State, the same standard will apply. The exception will obtain just the same. Racial imbalance is not encompassed within the word "segregation." This will apply to the North the same as the South.

Mr. ERVIN. Let me see if I understand the Senator from New York correctly. When the Senator says that racial imbalance has nothing to do with segregation, is it the position of the Senator from New York that where there are schools in New York which are all white or all Negro because of the manner in which district lines have been drawn by the New York Board of Education, and because of the residential patterns, that that is not segregation, but that when there are schools in the South having all white or all Negro students, for any reason, that that is segregation?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I ask for 1 additional minute, so that I may answer the question of the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I am delighted the Senator has asked that question, because he has always contended that the only thing which can be regulated by law is opportunity. He has contended that we cannot tell schools how they should be run, that we cannot tell schools the class of students that should be in them, but that opportunity should be protected by the law.

It is segregation when a white child who applies to a Negro school, or a Negro child who applies to a white school, cannot gain admission, on racial grounds. That is not true in New York. It has never been true in New York. It is not true now in New York. But it is true in States all over the South. This bill is intended to correct that situation. That is the difference which exists.

Mr. ERVIN. There are residential districts in New York City which are entirely white, and there are some which are entirely Negro. As a consequence, there are schools in New York which the children of only one race attend.

The people in the South do not have racially segregated residential patterns like the people in New York.

Title IV of the bill is drawn so that it will apply to the South, and so that it will not apply in any substantial degree to New York City. This is made obvious by section 401, subsection (b), on pages 13 and 14, which reads as follows:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

The first clause of this subsection is applicable to conditions in the South, and the second clause is applicable to conditions in Northern States like New York where de facto segregation exists as a result of residential patterns.

While its proponents claim the bill to be impartial, it is so drawn that its words will apply to the South in one way, and to Northern States like New York, in another. I charge that this is done deliberately and on purpose. The original bill which was submitted by the administration in June 1963, and for which this bill was substituted, had five or six pages providing that Congress thereby authorized appropriations of Federal money for busing schoolchildren from one district to another in order to overcome racial imbalance.

The words "racial imbalance" was used eight times in the original administration bill, which was laid aside for this bill. The words are used only once in the pending bill and that is to outlaw the racial imbalance theory which otherwise might require New York to desegregate its schools.

The PRESIDING OFFICER. Is there further morning business?

Mr. HUMPHREY. Mr. President, I rise for one purpose.

I thought that I was being fair and considerate when I deplored violence on the part of police or lawlessness on the part of citizens in any section of the United States. I am disturbed when I hear a response which suggests that somehow or other we are picking on someone if we try to be fair.

I wish to make it crystal clear that I, as a citizen and a Senator, do not condone or support brutality toward any of our citizens, wherever they may be.

There is no doubt in my mind that many of the incidents which have been taking place in all parts of the United States have been highly dramatized. At times, perhaps, they have been exaggerated. But it seems to me that what Senators ought to be doing is literally hanging their heads in shame that the United States of America, which claims that it is a nation based upon a constitution, has been exhibiting a pattern of violence in connection with race relations problems.

What we ought to be doing is finding out how, through law, we might better be able to strengthen the pattern of social conduct in our country.

I am of the opinion that we are now passing through a period somewhat similar to that at the time labor tried to organize.

There was a time when Congress refused to recognize collective bargaining. There was a time when Congress looked upon a trade union as a conspiracy. What did union members do? They fought that attitude. They started all sorts of trouble. They were willing to go to jail. They fought in the streets. There was bloodshed and violence.

Finally, the Congress of the United States recognized how wrong it had been, and passed laws that recognized collective bargaining, protected the right to organize, recognized the legitimacy of the trade union, and accepted the idea that labor was not a commodity.

Mr. President, from that time on there was less bloodshed and better labor-management relationships. I am happy to say that in recent years the United States has had the finest pattern of labor-management relationships of any industrial country in the world.

Instead of pointing to what has taken place in Chester, Pa., Birmingham, Ala., New York, N.Y., Jacksonville, Fla., San Francisco, Calif., or Cleveland, Ohio, the Congress of the United States ought to be saying, "What a tragedy. What an unbelievable tragedy that in America, citizens of the United States find themselves battling in the streets."

We must deplore such conduct whenever and wherever it occurs. We must enact laws which will take such violence from the streets and direct it into the courts. The Senate must set an example of forbearance, understanding, tolerance, and unity rather than debating this bill in a fashion which sets one American against another. And, above all, we must proceed to enact this legislation without further delay.

The PRESIDING OFFICER. Is there further morning business? If not, the morning hour is closed.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The **PRESIDING OFFICER.** The pending question is on agreeing to amendment No. 516, proposed by the Senator from Illinois [Mr. DIRKSEN], for himself and the Senator from Montana [Mr. MANSFIELD], as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, relating to criminal contempt.

The Chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. **GORE.** Mr. President, as I understand it, the purpose of the pending bill is to assure to all citizens of this country the full rights of citizenship. This is a laudable objective.

All citizens, whatever their race, their creed, their color, their religion, or their station in life, are entitled to equal treatment at the hands of their Government. As I see it, this proposition cannot be validly questioned.

From the standpoint of moral and social justice, it would be very desirable if each citizen also received equal treatment at the hands of all his fellow citizens. It is surely unrealistic, however, to hope that all bias, preference, and prejudice can be eliminated from our private lives. And it would be contrary to generally accepted principles of individual freedom for government to attempt to compel it.

It is easy to pronounce cliches like "discrimination is bad" or "civil rights must be assured," but while there may be general agreement on such phraseology, each individual is inclined to hold fast to his own interpretation of "discrimination" or of "civil rights," particularly as applied to his own life, and there are all sorts and shades of opinion about the proper role of government in balancing and implementing the rights and freedoms which are guaranteed by the Constitution.

No right is, or in an organized society can be, absolute. The exercise of any particular freedom by one individual is limited in its application by the effect of any particular act upon the rights of others. If individual freedom were interpreted as absolute freedom to act as one chooses, we would have no society at all. Each of us would have to spend all of his time defending himself from the depredations of others bent upon the full exercise of their freedom of speech, their freedom of movement, or their freedom in general.

One of the functions of government is to preserve and assure the individual freedoms guaranteed by the Constitution to the maximum degree possible consistent with the requirement of an orderly society. Thus, there is, I believe, a proper role for the Federal Government to play in the field of civil rights. The difficulty arises in properly defining this role, in applying it within the framework of the powers conferred upon the Federal Government by the Constitution, and in implementing Federal action with proper regard for the rights and responsibilities of the States, for the rights of all citizens.

It seems to me that there are two aspects of our national life with which the Federal Government ought to be particularly concerned in what has come to be known as the civil rights area. I should add that in so stating I do not seek to set forth a complete definition of the term "civil rights". If it were possible to reach general agreement on a definition of terms, we would not have nearly so much trouble with civil rights legislation.

First, in my opinion, the Federal Government should take reasonable but determined action, with proper regard for the constitutional rights of State and local governments, to assure to all citizens their political rights. The right of all qualified citizens to participate in the selection of public officials, to an equal voice in determination of issues at referendum, to seek public office, and to seek redress or to exercise initiative by petition is a right which must be zealously preserved and assured. In 1957 and again in 1960 I supported legislation which had as its principal purpose further protection of the right of franchise. I felt then, and I feel now, that these were reasonable measures and I believe that enactment of those laws has contributed to progress toward the objective of the elimination of discrimination in the exercise of voting franchise.

Secondly, it seems to me incontrovertible that all citizens, whatever their race, their religion, their color, or their national origin, ought to receive nondiscriminatory treatment in the collection of taxes and in the expenditure of funds derived from taxation. A Federal tax dollar must be impartially levied, collected, and disbursed—imposed according to ability to pay and distributed in accordance with entitlement pursuant to law. These are my firm beliefs which I have supported and which I am anxious to continue to support.

In this light, I am now constrained to state my very serious reservations about the provisions of title VI of the pending bill.

The stated objective of title VI is perhaps more meritorious than that of any of the bill's 11 titles. Nevertheless, I consider the provisions of this title, as now drafted, to be seriously defective and potentially dangerous. My objections to the title rest, in part, upon the lack of preciseness and the ambiguity of the language used. Moreover, I question the wisdom of legislation as proposed in this title from the standpoint of its effect upon the principle of separation of powers. In these remarks, I shall undertake to set forth in some detail the basis of my reservations.

Before proceeding to an analysis of the provisions of title VI, I observe that difficulties with the language used might, in large measure, have been obviated had we the benefit of a comprehensive committee report. The fact is, however, that the only committee report we have is the report of the House Judiciary Committee. Yet, the majority report of the House Committee is a bare-bones report. In most instances it merely paraphrases the language contained in the bill. It does not, by elaboration or example, clarify the intent of the committee. Moreover, this report does not deal at all with a number of amendments adopted on the floor of the House, some of which are contained in title VI, and the effect of which is quite uncertain, to say the least. Each Senator, under these circumstances, must resort to his own interpretation of the provisions. Already during the debate various sections of the bill have received varying interpretations by almost every Senator who has discussed them. How the courts would resolve these conflicting interpretations is surely subject to conjecture.

Under the circumstances, and in the light of the legislative history of the bill in the House, Senate committee consideration of the bill would have been highly desirable. The Senate has already decided this issue, and there is no point in raising that question again. I do take this opportunity to state that I feel very strongly that the Senate made a profound mistake in rejecting the motion of the senior Senator from Oregon [Mr. MORSE] to refer the bill to committee for a limited period of time.

I supported this motion and expressed the view then that a few days of careful committee consideration and definition of terms might save weeks on the floor of the Senate.

Section 601 of the bill provides as follows:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Only a few would quarrel with the above language of the bill, as a general statement. An analysis of the language, however, reveals, first of all, that there is no definition of the word "discrimination." What is "discrimination," Mr. President, as used in the proposed bill? There is no definition of that word anywhere in the bill or anywhere in the report. In title I, pertaining to voting, the prohibitions referred to are specifically stated, but there is nothing in the bill or in the committee report that indicates what acts or omissions would constitute the "discrimination" that is sought to be eliminated by title VI. I draw your attention to the use of the conjunction "or" in section 601. This, it appears to me, indicates that "subjected to discrimination under" means something different from or in addition to what is meant by the phrases "excluded from participation in" or "denied the benefits of." I repeat, however, that the word "discrimination" is not defined in title VI or any place else in the bill, nor are any standards prescribed to guide those who would administer the law or the courts which might be called upon to interpret it. It is now apparent from the debate on the floor of the Senate that there is no agreement among Senators about what acts or omissions constitute discrimination. It is quite possible, if not likely, that there would be a similar lack of unanimity among those who would administer the law, or even among judges who might be called upon to interpret it.

Under these circumstances, should the bill be enacted in its present form, we would be leaving to those who administer title VI the authority to prescribe the acts that would be prohibited. In effect, the Congress would be delegating to the Executive broad authority to determine just how the objective of eliminating discrimination in the expenditure of Federal funds would be achieved.

Moreover, in this section the phrase "receiving financial assistance" is similarly undefined and unlimited. Presumably any program, whether Federal, State, local, or even private, would be included if the program received Federal financial assistance, directly or indirectly. It is rather difficult to conceive of any activity at all that does not receive some kind of benefit, direct or indirect, from the expenditure of Federal funds.

There is one additional point about the language of section 601 that deserves comment. The authors eliminated from the types of discrimination to be prohibited discrimination because of religious beliefs. Religious discrimination is covered in the other titles to the bill. It is not included in title VI. No construction is possible, it seems to me, other than that if this bill should be passed in its present form this Congress will, insofar as this act is concerned, have sanctioned religious discrimination in the expenditure of tax funds. Does this really mean that it would be legally possible to exclude citizens, perhaps children, with certain religious affiliations, from participation in any Federal program? As far as the pending bill is concerned, such a contention could be made. I do not suggest that such action would be taken. I here question the broad scope of the language that is proposed to be written into law.

Mr. President, in this country we revere the constitutional guarantee of religious freedom. We hold fast to the concept of separation of church and state, and I believe it is well that we do so. The language in title VI, however, illustrates the unhappy facility with which some would bend constitutional principles in order to achieve a practical objective. This Congress passed a bill providing for the extension of Federal financial assistance to institutions of higher education, including church-affiliated schools.

Notwithstanding the constitutional provision pertaining to separation of church and state, the Government does, in its education programs, provide assistance to institutions which openly discriminate against persons of other faiths. I can only assume that religious discrimination was omitted from title VI for a purpose. For what purpose? Was it to permit continuation of this education program that religious discrimination was not included in the prohibitions of title VI? If so, the authors of the bill, in my opinion, may have proposed considerably more than intended. They may have opened the door to legal sanction of religious discrimination in other programs involving Federal financial aid.

This illustrates the dangers, Mr. President, of trying to legislate general principles or slogans.

Mr. CLARK. Mr. President, would the Senator from Tennessee prefer not to yield at this point until he has finished his speech, or would he yield to me now?

The PRESIDING OFFICER (Mr. SPARKMAN in the chair). Does the Senator from Tennessee yield to the Senator from Pennsylvania?

Mr. GORE. I am glad to yield to the Senator from Pennsylvania at this point.

Mr. CLARK. I came into the Chamber when the Senator was commenting on religious discrimination, and I wonder whether the Senator would mind explaining to me what I do not understand—how he could read section 601 as a possibility for the authorization of religious discrimination?

Mr. GORE. I did not undertake to say that it specifically authorized religious discrimination. Other titles in the bill contain references to discrimination on the basis of religion. Such a reference is omitted from title VI. The omission must have a purpose, and surely the omission would be interpreted as having some effect.

Mr. CLARK. Will the Senator from Tennessee yield further?

Mr. GORE. I yield.

Mr. CLARK. It occurs to me that the reason for the elimination is that title VI deals only with programs receiving Federal financial assistance, and that religious programs are not permitted to receive Federal financial assistance under the Bill of Rights, which requires separation of church and state.

Mr. GORE. I pointed out a few moments ago that the present Congress did enact a bill which specifically provides Federal aid to church-affiliated schools which openly—and I do not say wrongfully—discriminate against prospective students of other faiths.

Mr. CLARK. Mr. President, will the Senator yield further?

Mr. GORE. I yield.

Mr. CLARK. It is my understanding that all religious institutions which receive Federal aid are open to individuals of all faiths, regardless of whether they choose to attend or not. I believe it would be quite improper, under the Constitution to give aid to a religious institution which deliberately excluded anyone from any other faith. As the Senator knows, there are a few—but not many—Protestants attending Catholic schools, and on occasion Catholics attend church schools of other denominations. I believe there is no prohibition.

Mr. GORE. I am not sure that the general statement which the Senator from Pennsylvania has just made is a completely accurate one.

Mr. CLARK. In any event, if the Senator will yield to me for the last time——

Mr. GORE. I am glad to yield.

Mr. CLARK. Does the Senator seriously believe that title VI of the bill has anything whatever to do with religion?

Mr. GORE. Well, religious discrimination was omitted for some purpose.

Mr. CLARK. I have tried to state what, in my opinion, the omission was.

Mr. GORE. Would the Senator kindly restate it.

Mr. CLARK. That one reason why—probably among several— religion is not included in the prohibition against discrimination in section 601, is that the federally assisted programs, in which it is the aim of title VI to prevent discrimination, deal not at all with religion and the evil which is sought to be expunged, but has to do with discrimination in federally assisted programs on the ground of race, creed, or color—I beg the Senator's pardon, let me read the exact words: "race, color, or national origin"—not religion.

Mr. GORE. Then why is religious discrimination included in other sections? It was my understanding that the overall purpose of the bill was to assure all citizens of this country the full and equal right of citizenship, and to eliminate discrimination because of race, color, religion, or national origin.

Mr. CLARK. Will the Senator from Tennessee yield further?

Mr. GORE. I yield.

Mr. CLARK. It is not my purpose to debate with the Senator at this point why something was included in other titles of the bill. It is merely my purpose to point out to the Senator that in my judgment there can be no possible suggestion that title VI has any bearing whatever on religious discrimination.

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield to the Senator from North Carolina for some questions along the line of this discussion?

Mr. GORE. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to title II of the bill. Does not section 201, subsection (a), which appears on page 6, state:

> All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

Mr. GORE. That is section 201 subsection (a) on page 6 which the Senator has read.

Mr. ERVIN. Yes. Does that not indicate a purpose to require operators of places of public accommodation not to discriminate against people in the selection of their customers on the basis of their religion?

Mr. GORE. I believe that would be a reasonable interpretation.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to page 11 of the bill which deals with desegregation of public facilities. I particularly invite his attention to the portion of section 301, subsection (a) on the bottom of page 11. Does not this portion provide that the Attorney General can bring an action for any person being denied access to public facilities on account of his race, color, religion, or national origin?

Mr. GORE. The Senator is correct.

Mr. ERVIN. Does not the Senator from Tennessee interpret that to mean that this section is designed to prevent any discrimination in places of public facilities on the basis of religion?

Mr. GORE. Discrimination because of religion is certainly specified as a type of discrimination to be prohibited under that section.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to page 13, which has reference to title IV, relating to the desegregation of public education. I invite his attention specifically to these words of section 401, subsection (b):

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin.

Does not the Senator from Tennessee infer that this provision in the title was designed to prevent any discrimination against students in public schools on account of their religion?

Mr. GORE. The Senator has just read it. I would agree.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to the provisions of what is popularly called the FEPC section, title VII.

Mr. GORE. What is the page?

Mr. ERVIN. Page 32.

I invite the Senator's attention to section 704(a)(1), which appears in lines 21, 22, 23, 24, and 25, on page 32 and lines 1 and 2 on page 33. I ask the Senator from Tennessee if the provision reads as follows:

> SEC. 704. (a) It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;

Mr. GORE. It so provides.

Mr. ERVIN. I ask the Senator from Tennessee if that does not indicate the purpose of title VII to forbid discrimination against persons in employment on account of their religion.

Mr. GORE. In answer to the Senator from North Carolina, I should like to read the headline over section 704: "Discrimination Because of Race, Color, Religion, or National Origin."

Mr. ERVIN. I ask the Senator from Tennessee if there is a title in this bill which extends the life of the Civil Rights Commission?

Mr. GORE. Yes.

Mr. ERVIN. Does not the Senator recall that the Civil Rights Act of 1957, which created the Commission, empowered it to investigate the deniel of the equal protection of law on the basis of race, color, religion, or national origin?

Mr. GORE. I do not recall specifically, but I believe it is customary, in legislative drafts, speeches, and committee reports dealing with civil rights, and dealing with types of discrimination to be proscribed and prohibited, to include religion. Although I do not specifically recall it, I am sure such a term was used in the 1957 act.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that it was?

Mr. GORE. I will.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to a provision in the bill to which the Senator from Tennessee has already called the attention of the Senate. I refer to section 601 of title VI, on lines 20, 21, 22, 23, 24, and 25 on page 25 of the bill.

I ask the Senator from Tennessee if that provision reads as follows:

> SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Mr. GORE. The Senator is correct.

Mr. ERVIN. Mr President, as a lawyer, must not the Senator from Tennessee inevitably reach the conclusion, inasmuch as the other provisions of the bill to which I have referred specify that there shall be no discrimination on the ground of religion, and this provision, relating to title VI, fails to so specify, that the courts will hold that title VI contains no provision with respect to discrimination on the basis of religion?

Mr. GORE. Section 6 does not contain any prohibition against discrimination on the basis of religion; therefore, I do not know how the courts could conclude that it does.

Mr. ERVIN. Will not the Senator from Tennessee agree with the Senator from North Carolina that we must assume that the drafters of the bill and the proponents of the bill are intelligent men, who had something in mind when they presented a bill prohibiting discrimination in virtually all the other titles on the basis of religion and omitted that requirement from title VI?

Mr. GORE. I have considered long and diligently the whole proposition of using the threat of denial of Federal aid as a means of bringing about an end to discrimination, whatever that term means, and I noticed the omission of religion as a kind of discrimination which would be prohibited in title VI. As I examined the other sections, I wondered why it was omitted in title VI, as the Senator has so well pointed out by his questions.

I found it was included in other sections. Therefore, I asked myself, and then I began to ask others, why the omission was made. There must have been a purpose. I should like to ask the Senators a question. I know it is not permissible under strict application of parliamentary rules, for a Senator having the floor to interrogate other Senators; but unless there is objection, I should like to ask the same question of both the distinguished senior Senator from North Carolina and the distinguished senior Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GORE. I should like to ask this question of both Senators. It relates to title VI. If a citizen should, in fact, be discriminated against because of his religion in any program of Federal aid, is there any authority in title VI to require a discontinuance of such discrimination?

Mr. CLARK. I believe the answer is quite clearly "no." If I may elaborate a bit I should like to say that I was somewhat taken aback by what I heard when I came into the Chamber. I heard the discussion by the Senator from Tennessee as it applied to title VI, and also the discussion of the title by the Senator from North Carolina, in his Socratic approach, with which we are all familiar, and for which I honor him as one of the great cross-examiners in the Senate. Hearing the discussions caused me a little concern, and I wondered if the answer I had given the Senator from Tennessee was correct.

I went to my office to get what we sometimes call the bible of the proponents of the bill, which is a very carefully prepared compendium dealing with all the matters on which some questions might be raised during the debate. I should now like to read into the RECORD—I am sure my two friends will be interested in this—this question and answer. Why does not title VI?

Mr. GORE. Would the Senator from Pennsylvania mind identifying the so-called "bible?" I have a copy, but there is no indication as to who prepared it or its source.

Mr. CASE. This is the unexpurgated version.

Mr. GORE. It is not the "King James" version.

Mr. ERVIN. The Senator said it was a "bible." It does not look like the Bible I know.

Mr. GORE. I do not wish to promote a religious argument.

Mr. CLARK. Mr. President, to whom does the Senator yield?

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. In the famous words of a famous Senator now dead, I hold in my hand a semiofficial, unexpurgated, two-volume, loose-leaf notebook compendium, in green covers—and there is nothing sinister about green covers—entitled "H.R. 7152." The first volume contains titles I through V. The second volume is entitled "Titles VI Through IX."

Mr. GORE. I may have suffered discrimination. I have one volume with a blue binding. [Laughter in the galleries.]

The PRESIDING OFFICER. The Chair wishes to remind the visitors in the galleries that laughter or any other demonstration is not permitted.

Mr. CLARK. I should like to explain why the Senator from Tennessee appears, ostensibly, to have been discriminated against. It is because his zeal for the passage of the bill has not, on the record at least, been as great as that of the Senator from New Jersey [Mr. CASE] or mine, but I am sure that if the Senator from Tennessee were to request a copy of the so-called unexpurgated "bible," the Senator from New Jersey and I would be happy to make arrangements for him to receive one. May I now read the answer?

Mr. ERVIN. The Senator from Pennsylvania has not told us what inspired men wrote that "bible."

Mr. CLARK. Mr. President, to whom does the Senator from Tennessee yield?

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. I shall be glad to answer the Senator from North Carolina in a moment; but since the Senator from Tennessee has yielded to me, I should like to maintain the continuity of discussion without the irritation—I say this in all good humor—of somewhat immaterial interjections.

Mr. ERVIN. May I answer the Senator from Pennsylvania?

Mr. CLARK. No; I have the floor.

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. As I understand, the question was: Why does not title VI apply to religious discrimination? The answer, as contained in the book, is as follows:

> Religious discrimination does not appear to have been a significant problem in connection with Federal-aid programs. The inclusion of a reference to religion would have caused unnecessary concern on the part of religiously affiliated institutions which, for example, receive school lunches or participate in State welfare programs, assisted by the Social Security Administration.

In other words, title VI was directed at the evil—the very real evil—which presently exists under the Hill-Burton Act and under a number of other Federal programs in which Federal money is being used, day after day and month after month, to aid in the continuation of the programs of institutions—usually, but not always, supported by States, where discrimination on account of race or color is clear and established and, in my judgment, is unethical, immoral, and unconstitutional.

The evils sought to be remedied had nothing to do with discrimination on the basis of religion for federally supported programs, as referred to in the answer I have just read to the Senator from Tennessee.

Mr. GORE. The language that the Senator from Pennsylvania read from the as yet unidentified "bible"——

Mr. CLARK. If the Senator will yield, I shall be happy to identify the source of the "bible."

Mr. GORE. I yield for that purpose.

Mr. CLARK. I think I am correct in saying that at the request of the proponents of the bill—the sponsors and cosponsors—this elaborate compendium was prepared by the Attorney General of the United States.

Mr. GORE. Does the Senator state that as a fact?

Mr. CLARK. This is so to the best of my knowledge. I believe the Senator from North Carolina will agree with me that that is as far as we can go, not having personal knowledge.

Mr. GORE. I really doubt whether authorship of the document is a matter of great importance. To say the least, however, it is a little unusual that some of us are using a voluminous document which contains no identification whatsoever as to its source or as to who prepared it. It is not listed as an opinion of the Attorney General, or even of an assistant or a subassistant. It may have been prepared under the direction of the Attorney General, and I would not be critical of that fact if it was.

Mr. CASE. Mr. President, will the Senator yield?

Mr. ERVIN. I believe the Senator said he would yield first to me.

Mr. GORE. I do not yield to anyone for the moment. I wish to pursue the answer of the distinguished Senator from Pennsylvania. He read from the document as follows:

> Religious discrimination does not appear to have been a significant problem in connection with Federal-aid programs.

It might be very significant to a citizen who was discriminated against because of religion.

Mr. CLARK. But if nobody has complained, why should we legislate?

Mr. GORE. I ask the Senator from Pennsylvania whether discrimination because of national origin has been "a significant problem in connection with Federal-aid programs."

Mr. CLARK. I think it has.

Mr. GORE. Where?

Mr. CLARK. Certainly a broad definition of "national origin" would include individuals of Jewish origin or race; and there are, I am sorry to say, a good many institutions which are sufficiently anti-Semitic, as to which we are dealing with that problem.

Mr. GORE. That would be religious discrimination, and would not be prohibited by title VI. It is not national origin. It is religious discrimination.

Mr. CLARK. I should like to differ, in all good, friendly feeling, with my friend from Tennessee, because, in my opinion, anti-Semitism is racial, rather than religious.

Mr. GORE. But it is not related to national origin. Many of our friends of the Jewish faith are as old in their American ancestry as are the distinguished Senator from Pennsylvania and I.

Mr. CLARK. Let us say it is mixed.

I happen to be a Unitarian, and we are happy to have a number of members of the Jewish race or national origin in our faith. Yet I know they are being discriminated against just as much as if they were attending a synagogue or a temple.

Mr. GORE. That still does not answer the question. That is a fact which the Senator states. The Unitarian faith is a very appealing one. It is not surprising that many people of the Jewish faith can also endorse the faith of Unitarianism.

Mr. CLARK. It is not the faith; it is the race or national origin, whichever the case may be.

Mr. GORE. The Senator from Pennsylvania has read from this document and said that the reason why a provision on religious discrimination was omitted from title VI was that it had not been a significant problem in connection with Federal aid programs. Has it been a significant problem in voting?

Mr. CLARK. Yes.

Mr. GORE. Religion?

Mr. CLARK. Oh, religion; I beg the Senator's pardon. No. I thought he meant racial discrimination.

Mr. GORE. Why is religion included in the title pertaining to voting?

Mr. CLARK. I cannot tell the Senator. All I can say is that my purpose in starting the colloquy was to make clear that the word "religion" was not in title VI. I think I have done so. I have not the slightest intention of engaging the Senator in debate with respect to the other titles of the bill. I quite agree with the Senator from North Carolina in his very emphatic, socratic bringing out of the fact that the other titles of the bill do include religion.

I see no reason to include religion in title VI. I think the exclusion was wise, for the reasons I have given. If the doubts of the Senator as to the validity of the bill would be in any way dissolved by including religion in title VI, I would be happy to take up an amendment which would have that effect, if the Senator would assure me that if we would include religion in title VI, the Senator would vote for the bill.

Mr. GORE. It would improve title VI. And I would support such an amendment.

Mr. CLARK. I do not think it would improve it. But I am happy to have the Senator's view to the contrary.

Mr. GORE. The able Senator has said that he has explained why religion was omitted from title VI. I respectfully suggest that he has not. He has only read from this document a statement that it was not included because it did not appear to be a significant problem.

It did not so appear to whom?

Mr. CLARK. The House of Representatives.

Mr. GORE. The House of Representatives did not draft the bill.

Mr. CLARK. The House of Representatives debated and passed the bill. So did several committees, and I have no doubt this provision was carefully debated and considered on the floor. But I do not happen to know that it was.

Mr. GORE. That is the view of the Senator, that religious discrimination does not appear to have been a significant problem with respect to Federal aid programs. I have suggested to the Senator that national origin does not appear to have been a significant problem with respect to Federal aid. Yet national origin is included in title VI. This is a far more serious question in the opinion of the senior Senator from Tennessee than the Senator from Pennsylvania seems to think. Title VI deals not only with Federal aid to education, but it also deals with all Federal aid—direct or indirect—by grant, contract, or loan. So the draftsmen in their zeal may have done something quite material, which may have been unintended.

I yield now to the Senator from North Carolina, and then I will yield to the Senator from New Jersey.

Mr. ERVIN. I do not know whether I heard correctly the material which the

Senator from Pennsylvania read. But if I did hear it correctly, he read something which stated in substance that one reason they did not include religion in title VI was because they wanted to allay the fear of religious schools that they would have school lunch programs cut off. Did not the Senator from Tennessee understand the statement which was read by the Senator from Pennsylvania to make some reference to school lunch programs?

Mr. GORE. I understand the reference. But I would prefer to have the Senator from Pennsylvania state it.

Mr. CLARK. I would be happy to state it. The two Senators are quite correct. One of the purposes in excluding religion from the provisions of title VI was to be sure we did not kill the school-lunch program as it extends to religious-controlled institutions.

Mr. ERVIN. I ask the Senator from Tennessee if exclusion of discrimination from the bill for religion on that ground does not assert by implication that some of the schools were discriminating against students on account of religion, or that there was at least a fear that they would discriminate against students on account of religion. Otherwise, why should the bill permit discrimination on the ground of religion?

Mr. GORE. Discrimination can be for as well as against. It is discrimination that is to be prohibited in this bill, but there is no definition of discrimination. Would one be forbidden to discriminate in favor of someone?

Mr. ERVIN. Yes. The word discriminate as such means to treat one man differently from another. And when it is on the basis of religion, it means to treat one man differently than another because of his religion. And when you prefer a man on account of his religion, you are discriminating in his favor, because you are treating him differently from people of other religions. If I may make some observations without the Senator from Tennessee having his right to the floor endangered, I would like to say——

Mr. CLARK. Mr. President, reserving the right to object, I assume that the Senator from North Carolina would not wish his remarks, which may be extensive, to be counted as an additional speech. Therefore, I join in excluding that somewhat natural conclusion from the unanimous-consent request which the Senator has just made.

Mr. CASE. Further reserving the right to object, as I understand——

Mr. ERVIN. Mr. President——

Mr. GORE. Mr. President, I ask unanimous consent that I may yield to the senior Senator from North Carolina without prejudicing my own rights to the floor, and without the colloquy which will ensue being counted as an additional speech by the Senator from North Carolina within the legislative day.

Mr. CASE. Reserving the right to object, could the Senator give us some idea as to the length of time this will require?

Mr. GORE. I shall give an estimate of the time required. I shall not yield more than 10 minutes.

Mr. CASE. Under this particular consent?

Mr. GORE. Under this particular consent.

Mr. CASE. I withdraw my reservation.

The PRESIDING OFFICER (Mr. McGovern in the chair). The Chair hears no objection. It is so ordered.

Mr. ERVIN. Does not the Senator from Tennessee know as a lawyer that when the courts undertake to ascertain the intent of a legislative body from the language of an act, one of the chief rules they rely upon is that the expression of one thing is the exclusion of another?

Mr. GORE. That is one of the rules of construction, as I understand it.

Mr. ERVIN. Does not the Senator from Tennessee agree with the Senator from North Carolina that inasmuch as title VI of this bill prohibits discrimination on the basis of race, color, and national origin, and does not include discrimination on the basis of religion, that therefore discrimination on the basis of religion is permitted under the rule that the inclusion of one thing is the exclusion of another.

Mr. GORE. Mr. President, the distinguished senior Senator from North Carolina is a far abler lawyer than I. He has a great deal of experience, both in the practice of law and as a member of the Supreme Court of North Carolina. I would not be in a position, therefore, to match knowledge or wits with him with respect to rules of construction.

It is my general view and recollection that one of the rules of construction with respect to legislative intent is that the inclusion of one to the exclusion of the other is for a purpose, and that the exclusion is given due weight in undertaking to reach the intent and purpose of the act.

Mr. ERVIN. I construe the unanimous-consent agreement which was reached a moment ago as permitting me to say that I can understand why the Department of Justice did not furnish the Senator from Tennessee with a copy of what the Senator from Pennsylvania so erroneously calls the "bible." It was because the Department of Justice knows that the Senator from Tennessee uses his own head and comes to his own conclusions.

Mr. CASE. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE. Under the rules of the Senate, it seems to me this is an undeserved and unjustified reflection upon the Senator from Pennsylvania.

Mr. ERVIN. I have not mentioned the Senator from Pennsylvania. I have not mentioned the Senator from New Jersey. I have mentioned only one Senator—the Senator from Tennessee, and I think I have paid him a compliment, which is certainly not disapproved by rule XIX.

Mr. CASE. Mr. President, I suggest to the contrary. Mention of a Senator's name is not necessary if, by direct exclusion, applying the rule of expressio unius est exclusio alterius, a Senator is obviously talking about another particular Senator, to wit, the Senator from Pennsylvania, who, though he needs no defense at my hands, nevertheless is entitled to the benefit of the rules of the Senate.

Mr. ERVIN. Mr. President, how much of the 10 minutes allotted to me has been consumed?

Mr. CLARK. Mr. President, I rise to a point of personal privilege, and ask unanimous consent that the time necessary for me to make the point be not taken from the 10 minutes allotted to the Senator from North Carolina.

The PRESIDING OFFICER. Does the Senator from Tennessee yield for that purpose?

Mr. GORE. I yield for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will state his point.

Mr. CLARK. Mr. President, I thank my friend from New Jersey for rising to my defense, though I wish to point out that since I am a Pennsylvania politician, my skin is pretty thick. I take no affront at what I am sure was an unintentional slur on the part of the Senator from North Carolina.

I wish to add only the comment that while we have had some rather silly colloquies on the floor of the Senate during the course of the civil rights debate, I believe the efforts of my friends the Senator from North Carolina and the Senator from Tennessee—and I hope my statement is not a violation of rule XIX, section 2—to make something out of nothing in connection with the elimination of religion from title VI do, for me at least, result in a raised eyebrow.

Mr. CASE. Mr. President, my point of order cannot be waived by any other Senator but myself. The Senator from Pennsylvania is a generous man, and may not desire my assistance. But the question is one of principle, and arises under the rules of the Senate. The entire Senate is interested. I do not believe any reflection upon any Member of this body, such as that we have heard made by the Senator from North Carolina, should be made concerning—though not named specifically, but obviously intended to be—the Senator from Pennsylvania.

The PRESIDING OFFICER. The Chair would ask that the Senator from North Carolina proceed in the regular order.

Mr. GORE. Mr. President, before yielding again, I wish to point out to the senior Senator from Pennsylvania that I am not in any sense dealing lightly with the title to which reference is made or with this particular subject. I am deadly serious. Religion was omitted from title VI and omitted only from title VI. There must have been a purpose. Title VI deals with Federal aid for many purposes other than the school lunch program, to which the Senator has referred.

Title VI applies to every Federal-aid program of the U.S. Government. If I had a list of all the acts which provide Federal aid in its variant forms, it would perhaps require a considerable number of minutes merely to read them. To list the titles of all of the acts would perhaps require a whole page of the Congressional Record. Title VI deals with each and every one of them.

Surely there is a reason for omitting religion. Indeed, the Senator has read from the so-called "bible" an explanation by someone of why religion was omitted. That explanation would indicate that there was a reason for the omission. It was not merely a happenstance. I think it was a significant omission—and I speak as sincerely as I know how—and has implications of far greater importance than the senior Senator from Pennsylvania attaches to it. I am not speaking facetiously or lightly in so stating.

Mr. CLARK. Mr. President, since the Senator has referred to me, will he yield briefly?

Mr. GORE. I yield.

Mr. CLARK. I hope than when the present colloquy is concluded, we can perhaps all recover our sense of humor.

Mr. GORE. I have not lost mine.

Mr. CLARK. I am afraid that is quite obvious.

Mr. GORE. I hope the Senator from Pennsylvania will recover his.

Mr. CLARK. I never lost mine.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. GORE. I yield to the Senator from North Carolina.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I am still in full possession of my sense of humor?

Mr. GORE. I accept the Senator's assurance.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I have a high admiration and affection for the Senator from Pennsylvania?

Mr. GORE. I shall do so, but I wish the Record to show that I am not speaking humorously, lightly, or facetiously on the subject of the discussion. This is a serious omission.

Mr. ERVIN. Does not the Senator from Tennessee know that the Department of Health, Education, and Welfare annually makes many grants for the purpose of encouraging the conduct of medical research in medical schools belonging to religious institutions which exercise preference in the selection of their students from members of the religious denominations which operate the schools?

Mr. GORE. I believe that to be true.

Mr. ERVIN. Does not the Senator from Tennessee know that under the provisions of the National Defense Act Congress makes grants to persons who spend those grants to pay tuition to schools conducted by religious denominations?

Mr. GORE. I believe that is correct.

Mr. ERVIN. Does not the Senator from Tennessee know that during the past year Congress passed a bill which provided grants and loans to institutions of higher learning, and included within its beneficiaries institutions of higher learning operated by religious institutions?

Mr. GORE. That is correct. I have previously referred to that act.

Mr. ERVIN. Does not the Senator from Tennessee also recall that the National Defense Act contains specific provisions under which the Federal Government supplies to institutions of higher learning, and even to institutions at the high school level, regardless of whether they are conducted by the public or by private or religious organizations, such things as laboratory facilities?

Mr. GORE. The Senator is correct.

Mr. ERVIN. Under the provisions of the bill, excluding as it does discrimination on the basis of religion, does not the Senator from Tennessee agree with the Senator from North Carolina that that provision to which I have referred would permit the Government to continue to make grants and loans for such purposes even to institutions which practice discrimination on the basis of religion, either by preferring persons of one religion, or by excluding persons of another religion?

Mr. GORE. Insofar as the title to which the Senator has referred is concerned, he is correct.

Mr. CASE. Mr. President, will the Senator yield?

Mr. ERVIN. I should like to ask the Senator another question and then I shall subside, at least temporarily.

Mr. President, will the Senator yield?

Mr. GORE. I yield to the Senator from North Carolina.

Mr. ERVIN. Will the Senator from Tennessee agree that a man is not required by principles of law, religion, or commonsense to accept as a bible a document in which he finds incorrect statements?

Mr. GORE. I believe the answer to that question is obvious.

Mr. ERVIN. Will the Senator from Tennessee permit the Senator from North Carolina to express the hope that those who wrote the so-called bible had sounder views on questions of theology than they do on questions of law?

Mr. GORE. The Senator has my permission to indulge in such hope.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I honestly believe that the writers of this "bible" made four incorrect statements concerning the Constitution and the decisions of the court construing the Constitution on only two pages; namely, a statement that title II of the bill is appropriate proposed legislation to enforce the 13th amendment of the Constitution—a statement contrary to the decisions of the Supreme Court of the United States in United States against Harris and the civil rights cases of 1883. That is incorrect statement No. 1.

The next incorrect statement is that title II is appropriate legislation to enforce the 14th amendment. That statement is contrary to every decision of the Supreme Court from the time of the civil rights cases of 1883 down through the sit-in cases of last May, notably the case of Peterson against the City of Greenville.

The third incorrect statement is that in the enactment of the Civil Rights Act of 1875, the Congress made the mistake of tying it exclusively to the 14th amendment. This statement is incorrect because the Court in that case passed expressly upon the act's constitutionality from the standpoint of the interstate commerce clause, from the standpoint of the 13th amendment, and from the standpoint of the 14th amendment, and held that it was not valid legislation on any of those grounds. Moreover, the constitutionality of an act is determined on the basis of the entire Constitution rather than a single provision.

Then it was stated that title II is valid legislation under the commerce clause, although such statement is contrary to every decision handed down up to this date.

Mr. GORE. I am perfectly willing to concede that the statements are subject to differing opinions.

Mr. ERVIN. Can the Senator from Tennessee, on the basis of these assertions by the Senator from North Carolina, understand why the Senator from North Carolina is unable to accept this book as a bible either on theology or on law?

Mr. GORE. I am perfectly willing for the distinguished and able Senator from North Carolina to reject or accept any of the statements in the so-called bible. I would call to his attention, however, that he was reading from one volume bound in blue, while the distinguished senior Senator from Pennsylvania [Mr. Clark] was reading from one of the two volumes bound in green. So I am somewhat at a loss to resolve all the differences or to give any testimony as to the accuracy and probity of the statements in either.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that the Department of Justice discriminated against me, as it did against the Senator from Tennessee, in that it did not furnish me with a looseleaf copy, or even a bound copy, of what the Senator from Pennsylvania called a bible?

Mr. CASE. Mr. President, I ask unanimous consent that the Senator from Tennessee may do me the courtesy of yielding to me, for a brief statement and comment on several different matters, without his losing the floor, and without its being counted as another speech.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CASE. Mr. President, I think it is important to make one point clear, that, so far as the Senator from New Jersey is concerned, he does not regard in any sense the omission of reference to religion in this title as intended to have, or as actually having, the effect of permitting discrimination on the ground of religion.

The suggestion was made, with respect to the proposal mentioned, that there was an intention to exclude such persons. This may be so, and it is so, for the purpose of this bill and title only; but that this bill or title would have any effect whatsoever upon constitutional provisions is obviously impossible, because the constitutional mandate with regard to separation of church and State, and all that flows from it, could not be changed by a piece of legislation. I am sure the courts would not construe the legislation to have any such effect as that. I want to make it clear that if the Senator from New Jersey thought there was any intention to permit discrimination on account of religion, he would not vote for this title or for the bill having this title. I want the record to show the state of mind, so far as one Senator is concerned, in which he will vote for this particular bill.

If I may say in amplification, before I yield back to the Senator who has the floor and who has indulged me for this statement, this is not the only place where the question comes up. For example, in regard to the matter of housing, the title is not intended, by its exclusion of insured housing from its operation, for example, to have any effect whatsoever upon the President's power or the power of the Government of the United States in the matter of withholding funds for housing purposes under housing guarantees or anything else. It merely says "this bill does not do that."

So the effect of the omission of reference to religious activities from this particular title means that the bill does not deal with it, but does not make legal what, under other law or under the Constitution, would, of course, be illegal.

Mr. GORE. I appreciate the contribution of the distinguished senior Senator from New Jersey. I do not know by what authority he assures the Senate of the legislative intent of the proposed draft. He is neither an author of the bill nor a member of the Judiciary Committee, I believe——

Mr. CASE. I am not a member of the Judiciary Committee, but I am a Member of the Senate, and my vote is one vote. I am talking only for myself and to the extent that the argument may have validity on its own merits.

Mr. GORE. I am not disparaging the Senator. I appreciate his concern about the legislation. I am concerned, too. He and I have similar voting records, insofar as final passage is concerned, on the civil rights bills of 1957 and 1960.

Mr. CASE. And in many other matters.

Mr. GORE. And in many other matters. But the Senator from New Jersey proposes to tell us now that it is not intended to do thus and so by the bill. I was going to point out that the Senator from New Jersey, like the Senator from Tennessee, is neither an author of the bill nor a member of the Judiciary Committee, nor a member of any committee which has considered this section or title. It is a little difficult to know by what authority the Senator can assure us as to what was intended.

Mr. CASE. If I say so, the Senator from New Jersey had no intention to speak for anyone but himself and the state of mind with which he approaches this question and the frame of mind in which he will vote for or against it.

Mr. GORE. I was not criticizing the Senator.

Mr. CASE. The argument of the Senator is valid.

Mr. GORE. I served with the Senator from New Jersey in the House of Representatives. I have high regard for him.

Mr. CASE. Which is reciprocated.

Mr. GORE. I thank the Senator.

This illustrates the legislative jungle in which we find ourselves. Here is a bill dealing with a vexatious issue, the text of which has not been considered by a legislative committee of either the House or the Senate, a bill upon an issue filled with emotion and concern. Yet we have no report from the Senate as to its legislative intent, as to the definition of terms in it. It is little short of a tragedy that we must deal with an issue so important, with a bill of such vast import and scope, in such a haphazard way, without being certain of what is intended.

I did not intend to say, with respect to the omission of reference to religion from title VI, that the omission should be equated with a specific authorization of discrimination. Title VI does not prohibit discrimination against redheads.

It does not prohibit discrimination against short men. Yet every title of the bill includes religion, except title VI. It is title VI which deals with all Federal aid programs—Federal aid programs to airports, shipping lines, agriculture, mining, the blind, the old, school lunch programs. I could not begin to name them all. Its omission was for some purpose, and I have been trying to find out what the purpose was. I have been trying to indicate my own view that the purpose may have been an important one, but, more importantly, more may be accomplished by its omission than the authors of the bill—whoever they are—may have intended.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am glad to yield.

Mr. CASE. I appreciate very much the statement of the Senator. Of course, I had no thought as to his motive or purpose other than that which he has expressed.

Mr. GORE. I thank the Senator.

Mr. CASE. I believe it is right to raise the question of why this was left out in title VI, and why it is included in the other operating titles of the bill.

Mr. GORE. I thank the Senator. I believe the Senator and I can agree on one further point. The Senator knows that this is the first time I have asked the Senate to indulge me in a speech upon this important legislation. Therefore, I do not believe that I can be charged with filibustering, or otherwise.

Mr. CASE. I have no such thought in mind.

Mr. GORE. I understand the point to which the Senator was coming. I believe it illustrates the necessity for a line by line and almost word for word consideration of the bill; first, because of its importance, and second, because of the limitation and handicaps under which we labor without having had the benefit of committee consideration or committee reports.

Mr. CASE. It is unfortunate that we have not had that consideration, and I regret the necessity for its having been dispensed with in the Senate. However, I do point out, as the Senator of course knows, that many of these provisions have been heard and discussed in committees in many Congresses; and, of course, to a large extent, they were heard and discussed in the House Judiciary Committee, in connection with the development of the present bill—although that bill, of course, was prepared by the committee after its hearings, rather than before.

In regard to the substantive part to which the Senator from Tennessee is directing his attention, so far as I am concerned, I believe it deals with a matter not without significance to individuals, perhaps, but one in connection with which there has not been a great amount of discrimination on the grounds of religion. I believe that is the reason why this has been left out.

Mr. GORE. The Senator can say the same thing about national origin.

Mr. CASE. Let me add one point. It must be weighed against the concerns that parochial schools would have, for example, in regard to eliminating the school-lunch program, or a bus program, or that sort of thing—programs which have been held to be entitled to Federal subvention, even in the case of religious schools or parochial schools—although I believe a balance is required in the preparation of such legislation.

Even though I believe the pure view of the situation would perhaps suggest inclusion of the word "religion," we do not legislate on the basis of such considerations. We try to legislate without violation of deep principle, of course. We try to make legislation accommodate the decent or practical necessities of the situation in which we find ourselves. I believe, therefore, this is not an unreasonable thing to do. I certainly would join the Senator from Tennessee, and even the Senator from North Carolina, and of course the Senator from Pennsylvania, in agreeing that no great significance of that sort should be read into this provision. There is no intention to permit discrimination which is not otherwise authorized.

Personally, I do not feel that this matter is important enough, on the basis of known discrimination which may have existed in the past, with which we are attempting by this legislation to deal, to warrant a change in the bill as drafted. However, I am subject to persuasion on that point, and would consider any amendment the Senator from Tennessee may feel moved to offer.

I thank the Senator from Tennessee very much for his thoughtfulness.

Mr. GORE. I thank the Senator. His comments bring to mind the question of what is justified discrimination and what is unjustified discrimination. The distinguished senior Senator from Pennsylvania suggested that one way to remedy my concern would be to insert the word "religion" in title VI. I believe that would be an improvement. I would not wish to say at this time that I would offer such an amendment, but I shall certainly consider doing so. I am confident I would support such an amendment if the distinguished Senator from Pennsylvania were to offer it.

Mr. CLARK. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. CLARK. I do believe, with all deference to the Senator from Tennessee, that possibly the Senator from New Jersey [Mr. Case] and I have taken this colloquy in somewhat lighter vein than perhaps we should—certainly in a good deal lighter vein than either the Senator from Tennessee or the Senator from North Carolina.

When I suggested that we might amend title VI to include the word, "religion," I was being facetious, because I was quite sure the Senator from Tennessee would not wish to knock out the school-lunch program in his own State, which would be accomplished if the word "religion," were included.

Mr. GORE. Mr. President, I did not detect any humor or facetiousness in the Senator's words or demeanor at the time, but I accept his interpretation of it. He has referred to my concern for the possible elimination of the school lunch program in Tennessee. A provision is contained in the bill which would authorize a Federal official to withhold Federal funds for the school lunch program for an entire State, if one county or township within a State was in violation or allegedly in violation of the terms of the bill.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. In just a moment I shall be glad to yield. I intend to come back, and to deal with——

Mr. CASE. We can discuss it later. I wish to enter a caveat or a demurrer at this point.

Mr. GORE. I yield to the Senator from New Jersey.

Mr. CASE. I reserve the right to discuss the point later.

Mr. GORE. Yes.

This colloquy illustrates the difficulty of drafting legislation which would accomplish a worthy objective without working other practical results which even the authors of the bill might consider undesirable. This illustrates the need for line-by-line, word-by-word consideration of the provisions of this bill.

Section 601, to which I have been referring, sets forth the objective of title VI—that of eliminating discrimination in programs involving Federal financial assistance. I now wish to draw attention to the succeeding section of the same title. Section 602 deals with the manner in which the objective of section 601 would be accomplished. There are many uncertainties and ambiguities in the language of section 602. Moreover, the relationship between section 601 and 602 is subject to question and doubt.

For instance, there is a very real question as to whether the authority conferred upon departments and agencies of the Federal Government by section 602 limits the application of section 601. Section 602 provides:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

An amendment adopted during debate on the floor of the House has a bearing upon the meaning of the first sentence of section 602, as quoted above. The House amendment added the words "other than a contract of insurance or guaranty." While the meaning of the words added by the amendment appears clear enough, their inclusion in turn raises a number of questions. Among other things, the added words clearly remove from coverage of section 602 the Federal Housing Administration program of insured home loans and the Veterans' Administration program of guaranteed loans, as well as provision of insurance for deposits in banks and savings and loan associations.

I had thought these are clearly excluded, but it has been suggested to me that even this may not be so clear.

What is not at all clear, however, is the effect of this amendment on Presidential Executive Order No. 11063, which already undertakes to prohibit discrimination in the FHA and VA programs in certain respects. The question is whether these programs are excluded only from section 602 or whether they are excluded from the entire bill and, if the latter interpretation be correct, what would be the status of the Executive order?

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CLARK. I suspect the answers to the Senator's questions are fairly clear, but I would state them as follows: The exclusion beginning with the word "other" on page 26, at line 3 is confined to section 602 in title VI. I do not see how any legal interpretation which would give the exclusion any wider scope could be suggested. That exclusion, in my judgment, has no bearing whatever on the inherent powers of the executive, who drafts an Executive order to require the executive agency—which is under his general supervision and control, subject, of course, to specific congressional direction—to carry out the prohibition of discrimination in that field.

Finally, it is my view—speaking only for myself—that the exclusion was written in on the floor of the House because of the very powerful homebuilders' lobby and veterans' lobby, which wanted to be sure that, so far as Congress was concerned, it would not interfere with the present widespread discrimination through the medium of using FHA and VA insurance and guarantee contracts in areas where discrimination in housing on the the basis is widespread.

Mr. GORE. I am grateful for the contribution of the able and distinguished Senator from Pennsylvania.

Mr. CLARK. The Senator understands that I am speaking only for myself.

Mr. GORE. I did so understand. He speaks ably.

Mr. CLARK. I thank the Senator.

Mr. GORE. He is one of the ablest lawyers in the Senate. He is a man of learning and wisdom. As I understand his statement, he has said that the exclusion in section 602 is independent of section 601.

Mr. CLARK. Perhaps I had better limit what I intended to say. I am not sure what I actually did say. What I meant to say was that the exclusion applied only to title VI, not to the remainder of the bill, as I understood the Senator from Tennessee to suggest it might.

Mr. GORE. Mr. President, with the Senators' indulgence, I should like to discuss this point in a little more detail, because I believe it is important. It is important not only with respect to the housing field, but also with respect to other areas of Federal aid. I am grateful for the Senator's contribution.

During the debate in the House of Representatives when the amendment was adopted, the chairman of the House Judiciary Committee stated as follows:

> In other words, we nail down the prohibition. We allay all fears that, for example, actions under the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Housing Administration insurance programs, or any other Federal insurance and guarantee programs are included in the bill. They are excluded because they involve guarantees and insurance.

Subsequently, however, during the debate Mr. O'Hara of Michigan asked the chairman of the committee the following question:

> Would the gentleman please make it clear as to whether or not the amendment he offers, if adopted, will in any way affect the authority now being undertaken under President Kennedy's housing order affecting the operations of the FHA?

Mr. Celler's answer was:

> No, sir. It has nothing to do with it.

The two statements by the chairman of the House Judiciary Committee on the amendment which was subsequently adopted appear to me somewhat inconsistent. Similar inconsistencies appear in the statements made by the senior Senator from Minnesota, the manager of the bill in the Senate [Mr. Humphrey].

Mr. CLARK. Mr. President, will the Senator yield to me before he leaves the statements by Representative Celler?

Mr. GORE. I should like to read these quotations before I yield.

The Senator from Minnesota, at one point during the debate, stated:

> Title VI will have little or no effect on federally assisted housing. This is so for two reasons: First, much Federal housing assistance is given by way of insurance or guarantee, such as FHA and VA mortgages, insurance, and guarantee. Programs of assistance by way of insurance or guarantee are expressly excluded from title VI.

In addition, however, a little later, the Senator from Minnesota stated as follows:

> On the other hand, it will not impair in any way the existing authority of the President and the agencies administering those programs to deal with problems of discrimination in them.

Having read what to me appeared to be inconsistent statements by the chairman of the committee in the House and the manager of the bill in the Senate, I am happy to yield to the distinguished Senator from Pennsylvania.

Mr. CLARK. Mr. President, I thank my friend for his courtesy. As a lawyer, I say the statements by Representative Celler and the Senator from Minnesota [Mr. Humphrey] are not inconsistent at all. They are both in accord with my own view, which is that by adopting the amendment, the House turned its back on any effort to include in title VI a legislative prohibition against discrimination in the area of insurance or guarantee.

Therefore, that placed at least the House and Senator HUMPHREY, and also places the Senate, in a position where we turn our backs in an effort to prohibit that discrimination. But under our Government of separate powers, this exclusion in the bill, as I think it was correctly stated by both Representative CELLER and Senator HUMPHREY, is intended to have no effect whatever on the inherent power of the President under his Executive order to prevent the discrimination on which Congress has, as a legislative matter, turned its back.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. CASE. I concur utterly that this particular title is not in any way intended to, nor could it, affect the President's power with regard to discrimination in housing or in programs currently operated under the President's power in this connection, or existing orders of the President, specifically the Executive Order of November 20, 1962, No. 11063.

Mr. GORE. Once again, this illustrates the divergence of views of Members of the Senate.

Mr. CASE. I am not aware that anyone differs with my view. I agree with the Senator from Pennsylvania that the Senator from Minnesota [Mr. HUMPHREY] and Representative CELLER do not disagree with that interpretation of this matter.

Mr. GORE. I should like to cite the chairman of the Senate Housing Subcommittee. On April 10 he made an extended speech expressing views sharply in difference with those expressed by the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Pennsylvania [Mr. CLARK]. He cited a rather impressive array of legal authorities. I am not sure that I agree in all respects with the junior Senator from Alabama, but there is certainly widespread disagreement as to the effect of the title on housing programs.

Mr. CASE. Mr. President, will the Senator yield on this point?

Mr. GORE. I yield.

Mr. CASE. Representative CELLER's speech on this point made very clear the position of the Senator from Pennsylvania and the Senator from New Jersey, as we have endeavored to make it. He said:

First. That the enactment of title VI was proposed in order to "override specific provisions of law, which contemplate Federal assistance to racially segregated institutions."

The Hill-Burton Act contains provisions of that sort.

Second. It was proposed to "clarify and confirm" the authority already possessed by most Federal agencies to preclude discrimination or segregation in their programs; third, to "insure that the policy of nondiscrimination would be continued in future years as a permanent part of our national policy"; and fourth, to "avoid legislative debate over the so-called Powell amendment."

Mr. CELLER said that "the executive branch is believed in most cases to have adequate authority to preclude discrimination or segregation by recipients of Federal assistance," but that clarification and confirmation of this authority were desirable.

I do not, if I may say so with great respect and affection for the Senator from Tennessee, find anything in his speech—and I have read the entire text—which gives support to the idea that this language is intended in any way—by omitting to deal with or by expressly excluding from the effect of this title any particular form of discrimination in programs financed or helped by the Federal Government—to authorize the validation of discrimination which otherwise would be lawful under the Constitution.

Mr. GORE. I have not undertaken to express agreement or disagreement with the interpretation of the junior Senator from Alabama [Mr. SPARKMAN], but it seems to me that the Executive order of the President either is affected or is not affected. I invite the attention of my distinguished lawyer friends to a rather well-known principle which holds that when Congress has seized itself of a subject and has legislated upon it, the remedies provided in such legislation are exclusive.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I will yield in a moment. The bill provides specific procedures and proposes that Congress seize itself of the subject and legislate upon it. Does that have some meaning, or does it not have some meaning?

Furthermore, the title begins with the words, "Notwithstanding any inconsistent provision of any other law." I am not here undertaking to say that this would invalidate the President's Executive order or that it would not. But I do say we ought to know what we are doing, and there are a number of differing opinions about that.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CLARK. First, the distinguished and able junior Senator from Alabama [Mr. SPARKMAN], who is the chairman of the Subcommittee on Housing of the Committee on Banking and Currency, on which I serve, is one of the ablest and most articulate opponents of the bill. It is, therefore, not particularly surprising to find him raising the same question that the Senator from Tennessee raises, and with respect to which he says a categorical answer is needed.

Speaking for myself and, I believe, for the overwhelming preponderance of the lawyers in this country who have undertaken to analyze the bill, I can only say that, in my judgment, the Senator from Alabama is profoundly wrong, and that I suspect he would have great difficulty in finding competent legal opinion, north or west of the Mason-Dixon line, which would concur in the view he has expressed, and from which my friend from Tennessee explicitly divorces himself.

Furthermore, in my judgment—and this may well be cold comfort to the Senator from Tennessee—there is not a shadow of a doubt in any unprejudiced and objective legal mind that the opinion expressed by Representative CELLER and Senator HUMPHREY is completely correct. There is simply no doubt about it. The fact that Congress has undertaken to seize itself of a portion of its clear and legitimate jurisdiction over the subject could not possibly validly, legally be construed as vesting it with jurisdiction over a part of the subject which they expressly exclude, to the extent of nullifying the President's clear constitutional right to issue and enforce an Executive order.

Mr. GORE. The Senator is, of course, aware that there are a number of decisions by the Supreme Court of the United States bearing upon this point. Although I am not prepared to agree with the position of the junior Senator from Alabama, I do suggest to the Senator from Pennsylvania that I believe there is a shadow of a doubt, although he has indicated that he does not believe there is a shadow of a doubt.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CASE. At this point, when we are considering the question of the effect of the adoption of this title on such matters as the power of the President in regard to housing and the orders which he has issued, I should like to insert two brief questions which were asked and answered in the House debate, involving the chairman of the House Committee on the Judiciary.

> Mr. CELLER stated: "The purport of the amendment is to eliminate all guarantees programs of the Federal Government, all insurance programs of the Federal Government. In other words, title VI would have no effect, if you accept this amendment, on guarantees or insurance" (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2500).

Parenthetically, the amendment to which he was referring, as the Senator knows, excluded the insurance program. In addition to being chairman of the committee, Mr. CELLER was the proponent of the particular amendment.

Then this colloquy occurred in the House debate:

> Mr. O'HARA of Michigan. Would the gentleman make it clear as to whether or not the amendment he offers, if adopted, will in any way affect the authority now being undertaken under President Kennedy's housing order affecting the operations of the FHA?
>
> Mr. CELLER. No, sir. It has nothing to do with it. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2500.)

Mr. CORMAN, a member of the House Judiciary Committee and one of the floor managers of the bill then stated:

> Mr. Chairman, I rise in support of the pending amendment. The amendment would make absolutely clear the intention of the Congress that the authority conferred by title VI and the actions required by title VI, do not apply to programs of insurance and guarantee. Title VI will not affect such programs. It will leave the situation as to them just as it is now. In the field of housing, the President, by Executive order,

> has already acted to require that racial discrimination be eliminated. That action rests on authority other than title VI, and that action will not be affected by the adoption of title VI as amended by this amendment. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2501.)

The following colloquy then occurred:

> Mr. RANDALL. Mr. Chairman, I move to strike the last word.
>
> I wish to ask a question of the chairman, if I may, to be sure of some things. The housing order of the Chief Executive of November 1962 is still in effect. That will not be affected by this amendment? Is that correct?
>
> Mr. CELLER. Yes. Title VI has no effect over Presidential orders. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2501.)

That completes the quotation from that part of the debate on Mr. CELLER's amendment.

I am most grateful to the Senator from Tennessee for permitting me to enter this material during the course of his speech.

Mr. GORE. I appreciate the contribution of the Senator.

Unless section 601 is limited by section 602, then the scope is broad indeed. If section 601 is limited by section 602, then clearly the FHA insurance program and the VA guarantee programs are excluded from the bill. There would then surely be serious question about the legal status of the Exective order.

Although I do not express agreement with all the conclusions of the junior Senator from Alabama, I must confess that I do not know what decision would be reached by the courts on the question. Under the circumstances, it seems to me appropriate to consider the alternatives. And if there is doubt, then the Senate, it seems to me, has an obligation to clarify it. We should know what we are doing. We should act with certainty insofar as we can do so.

If the theory advanced by the junior Senator from Alabama is correct, then Executive Order No. 11063, insofar as it pertains to the FHA and VA home loan programs, is nullified. It is clear, in any event, that no action could be taken by the Federal Housing Administration or the Veterans' Administration under authority of title VI to eliminate discrimination in these programs. And if the theory of the Senator from Alabama is correct, no action could be taken in the future by either the President of the United States, by way of Executive order, or by the agency concerned, pursuant to regulation, to achieve that objective. In other words, if the theory of the Senator from Alabama is correct, there could be no Federal action to enforce nondiscrimination in either of these programs, unless additional legislation should be passed.

On the other hand, if the interpretation of the junior Senator from Alabama is not correct then, first of all, Executive Order No. 11063 would remain in full force and effect. This result cannot be reached unless title VI should be construed to the effect that section 601 itself confers authority and direction to eliminate discrimination, with section 602 conferring an alternate means of achieving the same objective. Under this construction there would be a statutory basis for Executive Order No. 11063 if title VI should be enacted into law. Moreover, there would then exist a statutory basis for a broader Executive order in the area of housing—one which might reach the disposition of an individually-owned home by the owner thereof. This could conceivably be construed as constituting a statutory basis for a Federal fair housing law promulgated by Executive order. I wonder, Mr. President, if the Senate now wishes to do this, or if it wishes to take the chance of doing so unknowingly by enacting into law uncertain and ambiguous language.

Now, if the language of section 602 does not limit the language of 601 with respect to the words added by the House amendment as they apply to the FHA and VA programs, then it does not limit section 601 at all. Under that construction, action might be taken under the authority of section 601 to reach the operation of banks, savings and loan associations, and similar agencies whose protest, so I understand, led to adoption of the House amendment. If, in fact, action can be taken under section 601 outside the limitations of section 602, there would be no practical limit on the areas of our national life which might be reached by Executive order promulgated under section 601 as so construed.

Obviously, Mr. President, both these conflicting interpretations cannot be correct.

As I stated earlier, we should clarify and resolve the doubts. We should know the meaning of the language which we write into law. In the absence of clarifying amendments, each Senator must necessarily reach his own conclusions without any certainty as to the scope of the powers conveyed, and an authoritative interpretation from the courts would have to be left for the future.

Now I turn to some of the ambiguities which are found in the language of section 602 itself.

When I first read this section my attention was attracted to an apparent inconsistency in the choice of words in the first and second sentences of the section. The first sentence provides:

> Each Federal department and agency * * * shall take action to effectuate the provisions of section 601.

This, let me point out, is positive, mandatory language. The succeeding sentence states:

> Such action may be taken by or pursuant to rule, regulation, or order of general applicability.

There follow a number of provisions which apply to any action taken pursuant to rule, regulation, or order. These are the so-called safeguard provisions which have been referred to many times during the debate. When an action is taken to withhold or terminate aid under this procedure there must first be a rule or regulation approved by the President. There must be an express finding of discrimination. There must be a hearing. The person or persons whose actions are found to have constituted discrimination must be so advised. There must be a determination that compliance cannot be secured by voluntary means. Committees of the Congress must be informed of the intention to terminate aid. Finally, if aid is terminated, the agency decision is subject to judicial review under the Administrative Procedure Act.

Both those who drafted the bill and those who supported amendment of the original language of this section in the House sought, I am sure, to surround these procedures with safeguards that would fully protect the public interest. It is an impressive list of procedural steps. With respect to the adequacy of the safeguards, I now limit myself to the statement that it seems to me that judicial review under the Administrative Procedure Act affords judicial review more in form than in substance.

But the adequacy or inadequacy of the procedural safeguards is not what gives me the greatest concern.

Mr. METCALF. Mr. President, will the Senator from Tennessee yield at that point?

Mr. GORE. I yield.

Mr. METCALF. I have long been concerned about the adequacy of the review safeguards under the Administrative Procedure Act. I wonder whether it would be better for us to provide that the first review of a case under the bill would take place in the district court in the district in which the judicial officers would be familiar with the situation, rather than to include a provision relative to the Administrative Procedure Act, with review in the circuit court of appeals.

Mr. GORE. The Senator has raised a very interesting point. I take it he means that a citizen or an agency of local government who is charged with the commission of some crime or discriminatory practice should be permitted to go into the district court for a de novo determination of the issue.

Mr. METCALF. I am not necessarily saying the case would have to be tried de novo, but at least the first review should be in the district court. Why should it be necessary for litigants to travel all over the United States to have their cases heard? The distance from the State capitol in my State to the seat of the Circuit Court of Appeals for the Ninth Circuit is 1,500 miles. Under the Administrative Procedure Act, our State Governor, superintendent of public instruction, the head of the housing agency, or some other official would have to trot down to San Francisco.

Mr. GORE. Under the Administrative Procedure Act the cards would be definitely stacked against the citizen.

Mr. METCALF. That is correct. It would seem to me wiser to have the first decision in such a case made by a judge whom we have helped select, and who would be familiar with the State laws involved.

Mr. GORE. I should like to clarify my statement. I may have misspoken myself. I did not mean to imply that in San Francisco there would be a Federal judge who himself would have an attitude of a stacked deck.

Mr. METCALF. Of course not.

Mr. GORE. I say that if the bill becomes law, the judge would make a decision under the Administrative Procedure Act, if that were the only judicial review provided in the pending bill. As the Senator knows, under the Administrative Procedure Act the Government would be given a preferential position in the contest or issue, because if the Government can show that there is any substantial justification for its action, then the action must stand under the Administrative Procedure Act.

Mr. METCALF. The so-called substantial evidence rule operates with presumptions in favor of the Government at all times.

Mr. GORE. Yes. I agree. That is certainly one of the shortcomings of the bill.

Mr. METCALF. I thank the Senator from Tennessee.

Mr. GORE. But I wished to emphasize a point that concerns me even more. In my opinion, there is a serious question as to whether these procedures which I have named seriatim would have to be followed at all. The Senator will probably recall that early in the debate I raised the question as to whether the use of the word "may" in section 602 would not in fact indicate that the procedures which could be followed would constitute merely an alternative means of action under section 602.

Will the able Senator refer to section 602 on page 26? I should like to read the first sentence of section 602, which is as follows:

> Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract, other than a contract of insurance or guarantee, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

I now read the second sentence:

> Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

It seems to me that use of the word "may" indicated that action might be taken to terminate aid without following a "rule, regulation, or order of general applicability" at all.

When I raised this question it elicited conflicting responses. The senior Senator from New York [Mr. Javits], whom I engaged in colloquy on the question, appeared to agree with me. He indicated that, in his view, regulations might be adopted and approved by the President and followed by the agency. He stated, however, that in his view, action might also be taken by the Secretary of the department concerned on an ad hoc, or case-by-case basis.

Other Senators have stated their views that the procedures specifically outlined in section 602 are mandatory and that if any action were taken to terminate or withhold aid it would have to be taken in full compliance with the procedural safeguards to which I have referred. The senior Senator from Rhode Island stated his view as follows:

> However, any additional or new action will have to be pursuant to a rule, regulation, or order of general applicability. In this context the word "may" imports a choice only among these three methods. It does not confer freedom to effectuate section 602 in any other way.

Shortly before debate in the Senate began, my office was visited by a representative of the Department of Justice, who graciously offered to provide information should I have any questions about the bill. Subsequently, a member of my staff called him and inquired about the reasons for use of the word "may" in the second sentence of section 602, which I read. Shortly thereafter there was delivered to my office a memorandum on the question. There is no indication on the memorandum as to its authorship, nor is there any indication that its contents were approved by any official of the Department of Justice, or any other official of the Government. In any event, the memorandum was delivered to my office in response to an inquiry made by a member of my staff of an official of the Department of Justice. At this point, I wish to read to the Senate this paper entitled "Memorandum on the Use of 'May' in the Second Sentence of Section 602":

> The second sentence of section 602 of H.R. 7152 (p. 26, l. 6) provides that action to effectuate the provisions of section 601 "may be taken by or pursuant to rule, regulation, or order of general applicability." The question has been raised why "may" is used rather than "shall."
>
> The intention in title VI was to impose a mandatory requirement that the policy declared in section 601 must be effectuated as to each program and activity subject to title VI, but to avoid the implication that the Federal departments or agencies would be required in all cases to take action in addition to action taken in the past. Consistently with this intention, "shall" is used in line 4, and "may" in line 6.
>
> It is not intended that each Federal department or agency subject to title VI must issue rules, regulations, or orders implementing section 601. If an agency's existing regulations are adequate to carry out the policy of section 601—as appears to be the case with a number of agencies—there would be no need to issue new regulations. Similarly, in the case of direct Federal programs such as social security, there would be no purpose in issuing regulations, since title VI would not authorize imposition of any requirements on recipients of social security payments.
>
> In such cases, the actions required by title VI to effectuate the policy of section 601 would consist simply in continuing to pursue the agency's existing policies and procedures and to enforce requirements already in existence, by the use of powers conferred under existing laws. Use of "may," in line 6, indicates that issuance of new rules and regulations is not required where an agency's existing regulations, procedures and policies are adequate to effectuate section 601.
>
> If an agency does impose any new requirement on recipients of Federal assistance, or on public or private agencies which participate in administering an assistance program, it is clear that it must embody such requirement in a rule, a regulation or an order which must (a) be of general applicability, (b) be consistent with achievement of the objectives of the assistance statute, and (c) be approved by the President. This intention was made explicit in statements by Congressmen Rodino and Lindsay, Congressional Record, February 7, 1964, page 2467. There would be no objection to making a like intention explicit in the Senate.

I call to the attention of the Senate in particular the first sentence of the third paragraph of the memorandum. It states:

> It is not intended that each Federal department or agency subject to title VI must issue rules, regulations, or orders implementing section 601.

Thus, according to this memorandum, it is intended that action or actions may be taken in some manner that does not conform to the safeguard provisions set forth in section 602.

I particularly call this matter to the attention of the able junior Senator from Montana [Mr. Metcalf], because the document delivered to me by the Department of Justice seems to me to make perfectly plain that the actions may be taken in some manner other than in conformity with the so-called safeguard provisions.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. METCALF. So far as legislative intent is concerned there must be a rule or regulation of general application; but, as the distinguished Senator from Tennessee has pointed out, the use of the word "may" makes the general legislative intent ambiguous. Perhaps the word should be "must," or some other word of general application.

Mr. GORE. If I may use nonlegal language, the first rule of construction of legislative intent is that Congress intended to do what it did. And the word "may" does not mean "must"; does it?

Mr. METCALF. No. I am in accord with the distinguished Senator from Tennessee that the word "may" in legislative phraseology has become a word of art and has a special meaning.

Mr. GORE. And connotes discretion.

Mr. METCALF. It would seem to me that we should try to avoid the case-by-case approach, or, as the Senator has pointed out, the ad hoc approach to the establishment of general rules and regulations.

Mr. GORE. I agree. I thank the Senator for his contribution.

The memorandum which I read states that action might be taken under existing authority found in the statutes authorizing some Federal programs, and a footnote to the memorandum cites among other things, Executive Order No. 11063, the President's Executive order on housing.

The fifth paragraph of the memorandum states:

> If an agency does impose any new requirement on recipients of Federal assistance, or on public or private agencies which participate in administering an assistance program, it is clear that it must embody such requirement in a rule, a regulation or an order—

The memorandum thus asserts that "it is clear" that the procedural safeguards must be followed with respect to any "new requirement." This is not at all clear to me, Mr. President.

As I understood, those were essentially the views the senior Senator from Pennsylvania [Mr. Clark] and the senior Senator from New Jersey [Mr. Case] were expressing.

The intent of those who drafted the language of the proposed bill may have been clear to themselves. The word "may" however, clearly denotes the alternative. If the procedures provided for action under a "rule, regulation, or order of general applicability" are to be mandatory for any action taken pursuant to the authority of this bill, the word "shall" or "must" should be used.

As the Senator from Montana [Mr. METCALF] has stated so well, the word "may" has a legislative history with which all of us are are familiar. I think we must be advised that many Federal agencies have taken wide latitude in the interpretation of the word "may."

It is my conclusion, Mr. President, that the meaning of the language is reasonably clear. According to that language, Federal aid may be terminated by action under the procedures set forth in title VI, or it may be taken pursuant to some other, unspecified procedure, perhaps on a case-by-case basis, as indicated by the senior Senator from New York, perhaps by Executive order under the broad authority of section 601, or perhaps in some other manner not yet decided upon by those who, under the broad authority of the bill, would administratively determine the law, choose the course or courses of action, and administer the law, if the proposed bill is enacted in its present form.

If some means is available by which Federal aid may be terminated other than by following the procedures outlined in section 602, it ought to be spelled out in detail. If such vast and potentially oppressive power is to be conferred upon the executive branch of the Federal Government, then it should be done in specific terms, with both the scope and limitations of the power precisely understood.

If we assume that the interpretation of the language as contained in the memorandum is correct, what is included in the term "agency"? Is the President of the United States an "agency" under terms of the proposed bill?

To go back to the first sentence of section 602, it provides that each "Federal department and agency" shall take action.

There is no discretion there. The word "may" is not used. It is positive.

Is the President of the United States included in that phrase? I do not know. If the President of the United States, however, may take action by Executive order under the broad language of section 601, without regard to section 602, then the so-called safeguard procedures outlined in section 602 could be almost meaningless. Moreover the House amendment adding the words "except a contract of guaranty or insurance" would likewise be meaningless.

I do not have the answer to these questions, Mr. President. However, I would say to those who would rely upon the safeguard provisions of section 602 that a word of caution is in order.

I would also say to those who believe that Executive Order No. 11063 would continue in effect after passage of the bill, and especially to those who think it should continue and should be broadened, that they should take a long look at the authorities cited by the junior Senator from Alabama.

Finally, I say to those who believe that the House amendment excluding contracts of insurance or guaranty would preclude any action being taken with reference to such programs, that they had best take another look at the bill.

My own conclusion is that there is no certainty at all about limits on the coverage of title VI and there is no certainty at all about the means by which its purpose might be implemented.

There is another aspect of the language of section 602 about which I am very much concerned. This section authorizes, upon a finding of discrimination, "the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding."

Neither the bill nor the report defines the word "recipient." In the absence of any language defining or limiting the word, I assume that it refers to any person, agency, or governmental unit that receives financial assistance from the Federal Government. In the absence of definition, this would appear to be a reasonable interpretation, if not an obvious one.

Not all our Federal programs operate the same way—as all Senators know. In fact, I do not know of any two which are identical. In programs of direct financial assistance to a person, such as social security and Veterans' Administration pensions, the relationship is between the Government and the individual. In these programs the individual is the recipient. I do not know how there can be a question about that.

I do not understand that these programs are covered by the bill, but even here one cannot be absolutely certain about it. Conceivably, they would be covered under a construction of the bill by which section 601 is not limited by section 602.

Mr. SPARKMAN. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am glad to yield.

Mr. SPARKMAN. I commend the Senator from Tennessee for bringing up the serious and detailed discussion of title VI, particularly of sections 601 and 602 and their uncertainties, as he terms them, as well as the lack of certainty in other provisions. He has amply demonstrated that there is much to be desired in clarification—which applies not only to title VI, but also to other provisions in the bill. I heartily join the Senator in his comments on the fact that the civil rights bill did not go to committee, where these uncertainties could be studied carefully, discussed, and straightened out. However, as he said, it is too late for that now.

The Senator apparently did me the honor to read the remarks I made with reference to sections 601 and 602, particularly with reference to the Celler amendment.

Mr. GORE. I heard the Senator's speech.

Mr. SPARKMAN. The Senator has done me an even greater honor to listen through——

Mr. GORE. I did not hear it all. Do not push me too far.

Mr. SPARKMAN. I did not say all the way through. I said "through." I was referring to the part to which he did listen.

The Senator knows about the questions which were put to Representative CELLER on the floor of the House at the time when the Representative offered his amendment. The comments made by other Representatives showed clearly that there was no common agreement among the Members of the House when the amendment was put in. I noted at the time that Representative CELLER stated the amendment was offered because so many protests had been made against it.

Did the Senator read the article in the Cornell Law Review—I believe that is the name—written by Professor Bickel, of Yale University? I believe he quoted from it.

Mr. GORE. The Senator is correct; I did refer to authorities cited by the Senator from Alabama.

Mr. SPARKMAN. This distinguished professor of law at Yale University said when the statement was made, that the addition of the amendment did not in any way affect the President's Executive order. The professor said it was not a clarification of the record, but was a statement of an opinion of the law, and it was wrong. He said:

> If these statements express anything, it is a wistful desire on the part of Messrs. CELLER and CORMAN to have their cake and eat it, too.

Mr. CORMAN thought he could have it both ways, because the Executive order rests on authority other than title VI of the bill. But now Mr. Bickel goes on to say—I shall not read it in detail—that it was simply a wrong conclusion of the law; that Congress, having moved into the field with this provision, preempted the field, not only so far as the Executive order pertains now, but even that it would prevent the President from having the authority to move in, in the future, because the field would have been preempted by Congress.

I have maintained that all along. The Senator may recall that shortly after the President issued his Executive order, I placed in the RECORD a brief to the effect that the Executvie order was not valid in the beginning.

Mr. Bickel, by the way, is in favor of this proposed legislation; but I believe he is like the Senator from Tennessee—he believes that any word used in the bill should be such that people would know what it meant. But I submitted a brief, at the time, to show that the President—at least, to my satisfaction—did not have authority to issue the Executive order. If I correctly construe Mr. Bickel's statement, he arrived at the same conclusion, because he calls attention to the fact—I believe he does in the article—that on six different occasions Congress had had an opportunity to vote the substance of the President's Executive order, but voted the other way—in short, turned it down on six occasions.

Therefore, it could show the congressional intent. However, even if it did not show the congressional intent, certainly the writing of this provision into law shows the congressional intent and, according to Mr. Bickel, preempts the field. I personally believe Mr. Bickel is right. I was impressed by his writings.

Mr. GORE. Mr. President, first I thank my distinguished friend from Alabama, my neighbor, for his generous references to me. Next, I thank him for his contribution to the debate on the bill, particularly his contribution to the development of my thoughts.

I am not necessarily persuaded to his point of view. I find his arguments and the authorities he cites quite interesting. However, I should like to ask the question: Unless the Executive order is affected, what is the result of section 602? It seems to me, unless it is affected, a much broader authority would, by section 601, be conferred upon the President, an authority which might affect the disposition of an individual home by the owner thereof.

What I am trying to say is that here is an area of great doubt.

Able Senators say that the Executive order of the President will be invalidated by the passage of title VI. Other Senators say it would be unaffected. I say if it is unaffected, there is a grant of power in title VI which is considerably broader than the Executive order on housing. I ask the Senate if it wishes thus blindly to legislate?

We ought to understand what we are doing, as the distinguished Senator from Montana said in better language than I have used.

Mr. SPARKMAN. Mr. President, I certainly believe the Senator is right, that there should be written into the bill language which can be read and understood, and which will point out plainly and clearly what is intended.

However, with reference to what would be the effect on the President's Executive order, I remind the Senator that the President's Executive order covers contracts of insurance and guarantees.

Those are specifically excluded; and Representative CELLER, who offered the amendment and managed the bill on the floor of the House, said contracts of that type would not come under the provisions of the bill.

He seemed to feel, however, that other types of housing which the President's order affected would come under the provisions of the bill. The President's order affected not only FHA and VA housing, but also affected public housing, direct loans, and all types of subsidized housing. Frankly, it was my understanding that what started the amendment on its way was the desire to make certain that banks and savings and loan institutions would not be covered. The amendment that was written into the bill in the House makes no reference to banks and savings and loan institutions. They were not covered by the President's Executive order. The language which went into the bill limited itself to two types, and those are contracts of insurance and guarantees. Those are plainly FHA insurance contract and VA guarantees of GI loans.

It seems to me that Professor Bickel is correct in his statement when he uses that good, old, timeworn phrase of someone "trying to have his cake and eat it too." It cannot be done. I believe it is an inescapable conclusion that if the bill becomes law, the Executive order will go out, and will not be capable of coming back in.

Mr. GORE. I find a great deal of merit in the Senator's presentation. I have reviewed the authorities he has cited. I have not read all the Supreme Court decisions, but I have read some of the citations. The fact stands that there are many Senators who hold divergent views.

Mr. SPARKMAN. Sometimes, one view one day, and another view a subsequent day.

Mr. GORE. That is permissible in this body. I am trying, in my efforts today, to point out the uncertainties in the language of title VI, and to indicate to the Senate my strong feeling that we should be more precise and more specific in dealing with programs of Federal assistance. It is a very serious matter for Congress to authorize the denial of Federal assistance, or the threat of denial of Federal assistance, as a means of forcing and compelling compliance with some Federal official's definition of discrimination. This is a very broad grant of power, which, in the wrong hands, might become oppressive. It is a power which I would grant with great reluctance, and only if I understood precisely what power was being granted.

Mr. SPARKMAN. I agree completely with the distinguished Senator from Tennessee. He is making a great contribution in pointing out the uncertainties and ambiguities and weaknesses. As I have said, the language seems to be the product of very bad legislative drafting.

The Senator refers to discrimination. Of course he has heard that term used many times. I have said something about it on several occasions. However, nowhere—and the Senator has made this point—in this great omnibus bill is the term "discrimination" defined. Does not the Senator agree with me?

Mr. GORE. I agree.

Mr. SPARKMAN. The Senator was a practicing attorney.

Mr. GORE. Not much.

Mr. SPARKMAN. He is a skilled lawyer. He does not practice now, of course, because I know he cannot practice very much now.

Mr. GORE. My wife is in the gallery. She was a much better lawyer than I was.

Mr. SPARKMAN. Perhaps the Senator should get her opinion on it. How in the world could an indictment which would be upheld in a case of discrimination be drawn? No definition, no standard, no guideline whatever is set forth in the bill itself. How would a judge charge a jury? Perhaps that is the reason why a trial by jury is proposed to be denied in some of these cases. The judge would be relieved of the duty of charging the jury. How could he charge the jury as to what discrimination is, when no guidelines, no standards, no definitions are laid down in the bill?

Mr. GORE. I thank the Senator from Alabama. Many Federal-aid programs bring about a direct relationship between a Federal Government agency and a citizen of the country, such as the Veterans' Administration pension program, which I have cited.

Other programs are administered by the several States. In those programs the contractual relationship is between the Federal Government and the State.

In still other programs, there is a direct relationship between the Federal Government and a local subdivision, such as a school district or a city. In still others, the relationship may be between the Federal Government and a private organization. Thus, the identity of the "recipient" of assistance may vary from program to program. In the case of those programs which are administered by the State and in which the contractual relationship is between the Federal Government and the State, the State is the recipient rather than the individual who may ultimately receive financial benefit. The bill would authorize the termination of Federal aid to an entire State for such programs even though the allegation of discrimination pertains to only one county or township within a State.

Earlier when I made this statement, the Senator from New Jersey [Mr. CASE] entered a demurrer. I shall now proceed to demonstrate, I think beyond a peradventure of doubt, that this is true. I see no justification for vesting in a Federal official the power to withhold Federal aid to the school lunch program for the children of an entire State who are wholly without responsibility for or means of correction of alleged wrongs, because some local official has practiced or has allegedly practiced discrimination. Oh, I have been assured over and over that this would not be done. But as a legislator, I am concerned with what could legally be done by terms of a bill if enacted, rather than what would probably be done.

Mr. President, the State of Tennessee, which I have the honor, in part, to represent, is a State of great diversity in its geography, its economy, and in its population. There are counties in Tennessee which have not a single Negro resident. There are other counties in Tennessee in which a majority of the residents are Negroes. There are counties which have a substantial Negro population but which have entire communities in which there are no Negro residents.

It would seem to me wholly unwise to penalize citizens of one section of a State because of some alleged discriminatory action by a local official in another section of the State, a State 600 miles long and so diversified. Yet such action is authorized by title VI. I propose to demonstrate that.

I have also raised this question earlier during the debate. Those with whom I have engaged in colloquy agree that the bill confers authority to terminate aid on a statewide basis. It is asserted, however, that such action would be taken only in the most drastic of circumstances and only if all other means of eliminating discrimination should fail. The Department of Justice or its representatives appear to hold the same view.

The representative of the Department who visited my office left there certain materials which included, among other things, a series of hypothetical questions and answers about various provisions of the bill. I invite the attention of the Senate to certain questions and answers as they appeared in the document which was left in my office:

> Question. Suppose a State or locality, in administering unemployment compensation, requires its offices to maintain separate waiting lines for white and Negro recipients. Would all workmen's compensation payments to the State or locality be terminated?
>
> Answer. Such separate lines would clearly be inconsistent with title VI. Hence the Federal agency would have authority to cut off all unemployment assistance until this form of segregation was ended. However, it is not expected that such a drastic step would be taken. Title VI is not intended to be punitive; to deprive all recipients of aid could result in great harm to many innocent individuals who desperately require assistance. Thus, for example, the agency might provide that certain administrative costs would be disallowed if such a segregation practice were followed. Or it might obtain contractual agreements from the States not to engage in such segregation, and bring suit to enforce the contract. In general, it is expected that Federal agencies would not cut off assistance where other means of enforcing nondiscrimination requirements could be found. Before taking any compliance action the agency would have to (1) try to obtain compliance by voluntary means; (2) afford the State agency a hearing; and (3) if funds are to be cut off file a written report with the appropriate congressional committees.
>
> Question. If a number of localities in a State discriminate in connection with a program receiving Federal financial assistance, could all assistance to the State under the program be cut off? Would the same result follow if only one city or town in the State practiced such discrimination?
>
> Answer. It would depend on the circumstances and the way in which the Federal assistance is administered.

I digress to invite the attention of Senators, who say that this could not be done, to this specific question, hypothetically placed and hypothetically answered by, I take it, the Department of Justice in a document delivered to my office by an officer of the Department of Justice. I continue to read:

> Under section 602 assistance could be terminated or refused only to a "recipient as to whom there has been an express finding of failure to comply" with a nondiscrimination requirement adopted pursuant to that section. If under a particular program, the State is the recipient, then action could be taken with respect to the State on a finding of failure by the State to comply with such a requirement.

I digress to say that unless a State complies fully, then it is not in compliance. Unless every county conforms, the State is not fully complying. I continue to read the answer:

> If the discrimination were required by State law, or by a plan approved by the State, a Federal agency might be justified in concluding that all recipients of aid in the State would discriminate, without having to make separate investigations and findings as to each locality receiving aid. In most cases, however, a separate finding and order as to each particular locality would probably be necessary. Thus, absent some basis for finding that the State were responsible for the discrimination, it would be expected that action would be taken only with respect to the local unit or units (e.g., the cities, towns, or counties actually involved).

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield for two questions which I think are relevant to the subject he is now discussing?

Mr. GORE. I yield.

Mr. ERVIN. Does not the Senator from Tennessee know that the President, whoever he might be, would depend upon the Department of Justice to interpret the meaning of this act for his guidance?

Mr. GORE. The Department of Justice, or some other agency.

Mr. ERVIN. Does not the Senator from Tennessee know that the Department of Justice is involved now in litigation which involves the closing of the public schools of Prince Edward County, Va., and that the Department of Justice has taken the position in that particular case that the State of Virginia must deny the use of the public schools to all the schoolchildren in all other areas of Virginia unless they open the schools of Prince Edward County?

Mr. GORE. I was not aware of that contention.

Mr. ERVIN. Would the Senator from Tennessee accept my assurance that that is the position of the Department of Justice in that case, and that the Department of Justice bases its contention upon the theory that if public education is denied to the schoolchildren in one county and granted to the children of another county in the State, that that constitutes a denial of equal protection of the laws?

Mr. GORE. I thank the Senator for giving me that information.

I continue to read:

> Question. Would assistance be cut off to a private institution which engaged in segregation, where the segregation is required by the State?
>
> Answer. The requirements of title VI apply "notwithstanding any inconsistent provision of any other law." Moreover, any State law or policy requiring segregation would clearly be unconstitutional. Hence no such law or policy would excuse a failure to comply with a nondiscrimination requirement imposed pursuant to section 602. Whether aid would be cut off, or the nondiscrimination requirement would be enforced in some other way, would depend on the circumstances.
>
> Question. If an agency administers two aid programs, and a person who received assistance under both engages in discrimination in connection with one and not the other, could assistance be cut off as to both programs?
>
> Answer. No, There would have to be a finding of discrimination in connection with each program for which aid is terminated or refused.
>
> Question. Would Federal milk or school lunch programs be terminated because a school was segregated?
>
> Answer. The Federal agency could require that the school distributing milk and lunches refrain from segregation. It would have legal authority to enforce that requirement by terminating or refusing assistance. But it is not expected that such programs would be terminated so long as milk and food were made equally available to white and Negro children alike. Such termination would be inappropriate in view of the fact that other means of ending segregation were available which did not involve denying needed food to growing children. It would be more appropriate, and more consistent with the objectives of the milk and school lunch programs, for example, to rely on suits by parents or by the Attorney General under title IV of H.R. 7152, as the method of bringing an end to segregation.
>
> Again, it should be emphasized that before any funds could be refused or terminated there would have to be (1) an effort to obtain compliance by voluntary means, (2) or hearing, and (3) a full report to the appropriate committees of Congress.

I am struck, Mr. President, by the repeated use in these answers of such phrases as "in general," "it is expected," "dependent upon the circumstances," "in most cases," "probably."

I do not question in any way the good faith of those who drafted title VI nor do I in any way question the good faith of those who predict the manner in which it would be administered.

I do not question the good faith of the President of the United States or of any person now holding office in the executive branch. I am confident that this administration would not withhold aid unless the circumstances were deemed by them to require it. I accept the statements made on the floor of the Senate that it is not intended that the provisions of this section be used for punitive or vindictive reasons.

But, Mr. President, Congress should not enact a law in reliance upon the good intentions of those who, now, or in the indefinite future, will administer it. We do not know who those persons will be. If this bill should be enacted into law, it will be on the statute books permanently unless repealed. And repeal of a law, the retention of which is favored by the Chief Executive, requires a two-thirds vote of both Houses of Congress. So, let us not deal lightly with the law we seek to enact here.

In my opinion, the only safe manner in which to proceed is to assume that power which is granted will be used. Let us suppose that at some time in the indefinite future this country might find itself with an administration that might withhold Federal aid, or threaten to withhold Federal aid for political purposes.

I do not think this is likely to occur. I surely would hope it does not occur. But the fact remains that title VI confers authority to withhold or to threaten to withhold aid from States, or from a geographical area of the country. No standards are set forth to guide those who administer the law in reaching their determination as to what constitutes discrimination. By and large, the decisions would be made on subjective factors. To me, it is not inconceivable that Federal aid to some area might be terminated at some time in the future as a form of political reprisal or that termination of aid might be threatened to bring about political action.

In enacting legislation, the only safe course is to consider what is possible rather than merely what is probable. I would point out again that whenever a decision is made to terminate aid, even if made under the so-called safeguard procedures of section 602, that decision can be overturned only if the aggrieved party is able to demonstrate in court that there was no substantial evidence at all to constitute a basis of the administrative action. This, as the junior Senator from Montana [Mr. METCALF] and I are agreed, is insufficient.

Here again, the difficulty arises, in large measure, because of the effort to enact a law in general that almost defies the art of legislative draftsmanship. Federal programs involving financial assistance are numerous. They are specific. They are enacted for different purposes and they operate in accordance with different procedures. Title VI would have the effect of amending all of these laws. I do not know that any comprehensive list has even been compiled of all of the laws that would be affected by title VI. Title VI itself is only slightly more than two pages long. A mere listing of the aid laws by title that the pending bill would affect would probably occupy much more space.

If Congress intends to provide for the termination, or the threat of termination, of Federal aid as a means of eliminating discrimination, it ought to do so by amendment of the specific acts concerned. How else will we know exactly what we are doing?

There are simply too many uncertainties in the language of title VI as it is now drafted. Even if these uncertainties are resolved by amendment, however, there would still be a serious question about the wisdom of authorizing or directing the termination, or threat of termination, of Federal aid under the approach followed by title VI of the pending bill. Federal aid programs, as I have said, are myriad. In some instances aid goes to those who are affluent, but let us not forget that aid goes, too, to many who have not reached the age of accountability and, also, to many who have long passed it.

I have already adverted to the fact that title VI would, in practical terms, amend numerous statutes authorizing various types of Government programs. In effect, should title VI be enacted into law, the terms and conditions upon which Federal aid would be extended for a variety of purposes would be subjected to new requirements.

There is no question but that the Congress has full authority to impose conditions upon the extension of Federal aid. Congress has always done so. Only those who meet whatever conditions are specified in the statute authorizing the program are entitled to receive aid under it.

As I have said, Congress has always imposed such conditions. Only Congress should do so. We should not delegate the authority to determine the conditions of eligibility for aid. This is a legislative responsibility, one of the responsibilities which our constituents chose us to exercise.

Our Government is one in which the authority is divided between three coordinate branches. The powers granted to the legislative branch, the judicial branch, and the executive branch by the Constitution are such as to provide a system of checks and balances. Of all the power granted to Congress, the power of the purse is by far the most important. It is the power that has been most zealously and jealously guarded by Congress down through the years.

In recent years Presidents have requested that Congress give to the Executive what has been called the item veto, authority which would permit the President to veto one part of an appropriation bill without destroying the validity of other items in it. Congress has never even come close to granting such authority to the President. It has refused to do so out of a realization that such action would constitute a serious diminution of congressional power over the expenditure of funds.

The authority which would be conveyed by title VI is in some respects more far reaching than would be an item veto. If enacted into law, title VI could be so administered as to constitute a geographic veto, with the executive department making the determination as to those geographic areas in which money would be spent and those in which it would not.

I emphasize again that title VI sets forth no standards at all as to what constitutes discrimination. It does not undertake to specify the acts which would be prohibited, nor does it set forth the conditions which would have to be met to make a recipient eligible to continue receiving Federal aid. There are no indexes either for those who would administer the law or for the courts.

Under title VI, as now drafted, the standards and the guidelines would be developed by the executive department. Should title VI be enacted, the Congress will have delegated to the Executive a significant measure of congressional control over the expenditure of funds. There are those who assert that in recent years there has been a trend toward a shift of power from the Congress to the Executive. There is some basis for such an assertion. If Congress should now delegate to the Executive the authority to specify the conditions upon which Federal funds would be expended, the trend will be accelerated. If we take such action in the name of civil rights, for what other purposes will we be called upon to do it again?

I am not here undertaking to raise a constitutional question. Other Senators have suggested that title VI constitutes an attempt at an unconstitutional delegation of the power to legislate. Whether the delegation of authority is so extensive as to contravene the Constitution is open to question. There is no question in my mind, however, that to delegate such authority to the President, as contemplated in title VI of the pending bill, would be most unwise.

I hope that the remarks that I have made today will not be interpreted as indicating hostility to a reasonable civil rights bill. On the contrary, I supported the civil rights bills of 1957 and 1960. I hope the pending bill will be so modified that I can conscientiously support it. I cannot do so in its present form.

Mr. ERVIN. Mr. President, will the Senator yield to me for a question?

Mr. GORE. I yield.

Mr. ERVIN. I should like to say that the Senator from Tennessee has made the most accurate analysis of title VI which could possibly be made.

Mr. GORE. I am very grateful for that generous statement.

Mr. METCALF. Mr. President, will the Senator from Tennessee yield to me for a moment?

Mr. GORE. I yield.

Mr. METCALF. The Senator from Tennessee has made a contribution to the debate in laying before the Senate the questions he has raised as to the legislative language and the legislative intent of title VI. I compliment the Senator from Tennessee for the very able statement he has made.

Mr. GORE. I thank my friend very sincerely.

Mr. ERVIN. Mr. President, I rise in opposition to the substitute amendment offered by the majority leader, the Senator from Montana [Mr. MANSFIELD], and the minority leader, the Senator from Illinois [Mr. DIRKSEN], to the amendment proposed by the able and distinguished junior Senator from Georgia [Mr. TALMADGE], on behalf of himself, the able and distinguished junior Senator from Virginia [Mr. ROBERTSON], the able and distinguished junior Senator from South Carolina [Mr. THURMOND], and myself.

The proposed substitute amendment is a very queer amendment. It would be rather peculiar in its contents and implications if it were offered as a separate piece of proposed legislation or as an amendment to any bill other than the pending bill. But its peculiarity is very much multiplied when it is offered as an amendment to a bill which professes to be opposed to segregation and discrimination. The substitute amendment would engage in segregation itself. I make that statement because it would first place all people accused in cases charging criminal contempt into one class by themselves, and by so doing it would segregate them from all other litigants in the courts of the United States. I am fundamentally opposed to segregation of that class or kind because I believe that any system of law which makes any pretense to be an instrument for the administration of justice would have as its most basic requirement that all laws should apply alike to all men in like circumstances.

The pending bill not only takes a certain group or certain category of litigants and segregates them from all other litigants in the courts of the United States, but it also practices discrimination against them after it has segregated them.

It discriminates against the accused charged with criminal contempt in civil rights cases by denying them a right—and a most substantial right—which the Constitution of the United States gives, and which all of the Members of the Senate would be willing to give, by common consent, to persons charged with the most reprehensible crimes known to the law.

I have to confess that I am unable to understand why there should be any reluctance on the part of any Senator of the United States to give to people a right which belongs to murderers, burglars, rapists, counterfeiters, narcotic peddlers, persons charged with treason against their country, and common thieves, simply because those persons happen to be charged with criminal contempt in civil rights cases.

However, the amendment in the nature of a substitute is in complete harmony with the other provisions of the bill, which contains 55 pages, and constitutes the most monstrous blueprint for governmental tyranny ever presented to a Congress of the United States.

However, the proposed amendment, in the nature of a substitute, is in complete harmony with the other provisions of the pending bill. The bill is based upon the strange thesis that the best way to promote the civil rights of some Americans is to rob all Americans of civil rights equally as precious, and to reduce the supposedly sovereign States to meaningless zeros upon the Nation's map. That is the way in which the pending bill would operate.

It has been the boast of Americans in all their generations that this country believes in freedom of the individual. The bill is designed to rob all Americans of some of their most precious economic, legal, personal, and property rights.

It is a part of an intemperate movement backed by some people who are sincere but misguided, and by others who are merely exploiting the supposed beneficiaries of the bill.

It is a movement in entire harmony with the regulations recently adopted by the Commissioners of the District of Columbia, regulations which undertake to rob all residents of the District of Columbia of the legal right to select the persons to whom they shall sell their property or the persons to whom they shall rent their property.

Under those regulations of the District of Columbia, which represent a part of the movement which backs this bill, a person in the District of Columbia is actually robbed to a very substantial degree of the right of freedom of speech in racial matters, notwithstanding the fact that the provisions of the first amendment apply to the District of Columbia just as much as they apply to all other places under the American flag.

Under the existing regulations of the District of Columbia, an individual can actually be placed in jail and fined if he goes to his neighbor in a residential section inhabited by members of his neighbor's race and attempts to persuade his neighbor to sell his property to a member of his neighbor's race in preference to a member of some other race.

We have reached a tragic day in the history of the Nation—whose National Anthem calls it "The land of the free and the home of the brave"—when a man can be sent to jail and fined as a criminal in the Capital of that Nation, merely because he exercises freedom of speech.

## ORDER OF BUSINESS

Mr. ERVIN. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. ERVIN. I should like to make a unanimous-consent request for the purpose of conveniencing the able and distinguished senior Senator from California [Mr. KUCHEL]. He was going to speak after the last speaker had finished, and it was my purpose to postpone my remarks until the Senator from California had completed his.

Unfortunately, the Senator from California was called away from the Chamber just before the time the floor became vacant, by a delegation of constituents on a matter affecting his State. I should like to carry out the agreement, provided that in so doing I am not prejudiced in my rights to the floor.

For this reason, I ask unanimous consent that I may yield to the Senator from California to enable him to make his address at this time, and that what I have said thus far shall not count as a speech on the pending business, but that I may have the privilege of resuming it at a later time and completing what I have so far embarked upon.

Mr. KUCHEL. Mr. President, so that there may be no misunderstanding, first of all let me say I am grateful to the Senator from North Carolina for his courtesy to me. When he says, "at a later time," he means when I have finished my comments this afternoon; does he?

Mr. ERVIN. I did not understand the Senator.

Mr. KUCHEL. Will the Senator continue his remarks when I conclude?

Mr. ERVIN. I shall continue my speech, of which I have uttered only a few paragraphs, either today or at a later day. If I am not reached in time today, I would wish to continue at a later time.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senator from California is recognized.

Mr. KUCHEL. Mr. President, I am very grateful to the Senator from North Carolina for yielding to me.

Mr. ERVIN. I am glad to accommodate the Senator from California.

## PROTECTING THE PRESENT USERS OF LOWER COLORADO RIVER WATER

Mr. KUCHEL. Mr. President, the Nation as a whole is well aware of the attributes of climate, open space and beauty which make the Pacific Southwest area one of the most attractive regions of our country. But this vast area, otherwise so richly endowed by nature, suffers one shortcoming which has troubled the people living there as they have tried to provide for the additional millions who choose to live there with the passing of each succeeding year.

Today, I wish to discuss that shortcoming and to urge the reaffirmation by Congress of one basic historic principle, upon which must be based all future progress in meeting the challenge of tomorrow, for my State, and for our immediate neighbors.

### PACIFIC SOUTHWEST WATER SHORTAGE

The Pacific Southwest includes the lower Colorado River drainage basin and the area served from it—altogether a great deal of Arizona, southern Nevada, southern California, southern Utah, and western New Mexico.

The problem of which I speak is the shortage of water within that region. The geographic scope of the problem really encompasses States to the north and also Mexico. But pressing on us now is the near crisis in the Pacific Southwest itself. The only present significant source of surface water in the region is the Colorado River system—mainstream and tributaries. The underground water is quite limited and the mining of water in the entire area has resulted in an overdraft of that supply already.

It has long been recognized that the Colorado River system, which drains and serves parts of seven States, could not adequately meet all the ultimate needs of the Pacific Southwest. The States lower on the river have had to reckon with the understandable claim on the river made by the upstream States. Utah, Colorado, Wyoming, and New Mexico are known as the Upper Colorado River Basin States, though Arizona does have a small area in the Upper Basin also. The States of Arizona, California, and Nevada constitute the Lower Colorado River Basin States, though Utah and New Mexico also have small areas in the Lower Basin.

### EARLY HISTORY OF DEVELOPMENT

Although diversions from the Colorado River had been undertaken by aborigine Indians, and then by original settlers throughout the area, the first substantial use of the Colorado River in modern times was proposed and effected by forward-looking Californians. The first irrigation system on the river was that in the Palo Verde Valley in 1877. Later in the 19th century, the industrious people of the Imperial Valley of southern California took upon themselves the task of establishing diversion works on the river and a canal running partly through Mexico to deliver water to their rich valley. Their diversion began in 1901.

But the Imperial Valley was below sea level. In 1905 the river broke into the valley. Herculean efforts were required to seal the breach. From this time forward, the people of the Nation were increasingly conscious of the necessity for a flood control dam on the Colorado.

Another problem was that the international route of the Imperial Valley canal subjected the water supply of this area to the jurisdiction of our sister nation, Mexico.

### PROPOSAL FOR BOULDER DAM AND ALL-AMERICAN CANAL

The concept arose for a great dam on the Colorado to control floods and conserve water for use in the United States—water otherwise wasting to the Gulf of California—and, as part of the same project, the construction of an all-American canal to serve the Imperial and Coachella Valleys of California.

In recognition of the interstate and national scope of the problem, the U.S. Department of the Interior, under a 1920 direction of the Congress, studied the matter. The conclusion reached in 1922 was that the U.S. Government should construct the proposed canal and dam, the latter to be at Boulder Canyon upstream from California on the border between the States of Arizona and Nevada. The Boulder Canyon site was selected as the best storage and control point to regulate the river for diversions below that point in Arizona and California.

About 2 years later, the city of Los Angeles made appropriations of Colorado River water and began to spend millions of dollars on surveys and plans for a new aqueduct to take water from below Boulder Dam to the coastal plain of California. It is this Colorado River aqueduct that is now operated by the Metropolitan Water District of Southern California.

### EARLY PROBLEMS

At this point in time, a long history of regrettable controversy over the Colorado River began. It was composed of several issues, many of which have now been resolved. The principle of law for which I argue today should help to minimize the remaining difficulties.

The proposal to build a great dam in the Lower Basin raised concern among the upper Colorado River States. This was because all seven Colorado River States recognize the time-proven and well-established principle of Western water law that he who first appropriates water to a beneficial use thereby acquires a right to continue that appropriation as against others who would seek to make competing uses later. Not only does this principle of "first in time, first in right" apply to intrastate waters, but is was clearly established, by a 1922 decision of the U.S. Supreme Court, in *Wyoming* v. *Colorado*, 259 U.S. 419, to apply to interstate waters of the Colorado River.

The four Upper Basin States were united in their fear of how that rule of law and the Lower Basin's more favorable topography, longer growing seasons and, particularly, California's great growth, would result in the rapid appropriation, by those below the dam, of the additional Colorado River water made usable by the dam's conservation of flood waters. Such development might have prevented the upper States from later being able to store and divert water for needs they saw farther in the future. But most people also saw the evil which would result from neglecting flood control and equitable development of the river.

### THE COLORADO RIVER COMPACT

The solution was believed to lie in the provision of the Federal Constitution which authorizes compacts among States. In 1921 the Colorado River Basin States secured congressional approval to negotiate a compact which would apportion the Colorado River water among those several States, subject to ratification by Congress.

However, no agreement among the seven States could be reached as to the respective allocation to each. The best which could be achieved was an agreement, signed by the representatives of all States, to divide the entire basin into the upper and lower basins and apportion water between the two basins only. The division line runs across the drainage area roughly from above Gallup, N. Mex., in a northwesterly direction across the southwestern corner of Utah and into Nevada, traversing the main stream of the Colorado River at a point immediately within Arizona just south of the Utah border at what is known as Lee Ferry.

That Colorado River compact of 1922 apportioned to each basin in perpetuity the beneficial consumptive use of 7.5 million acre-feet of the water of the Colorado River system, which the compact defined as the Colorado River and its tributaries.

The compact further gave the lower basin, as a whole, the right to increase its beneficial consumptive use of Colorado River system waters by an additional 1 million acre-feet per annum.

It also provided that deliveries of water to Mexico under any obligation later recognized by the United States would be supplied first out of water above the first 16 million acre-feet divided between the upper and lower basins, and that if there was not sufficient water above that amount in order to meet the Mexican rights then the deficiency was to be borne equally by the two basins.

Further, in order to help assure that there would be sufficient water within the whole system of the lower basin to meet usage rights there, and perhaps part of the Mexican burden, the upper basin agreed that it would cause to deliver in the mainstream at Lee Ferry no less than 75 million acre-feet over each 10-year period. This upper basin obligation does not satisfy the lower basin's compact right to 7.5 million acre-feet per year in usage because more than 75 million acre-feet per 10 years must be let down at Lee Ferry in order to cover evaporation, seepage and other losses and the Mexican obligation. It had been thought that lower basin tributaries would contribute to the difference.

### PROBLEMS RAISED BY ARIZONA'S REJECTING THE COMPACT

The Arizona State Legislature rejected the compact her negotiator had signed. Arizona objected to the inclusion in the compact of the Colorado River tributaries, primarily because she did not wish her principal tributary, the Gila—which supplies nearly 2 million acre-feet to water users in central Arizona—to be included when counting water charged against the lower basin's share of the water of the Colorado River system allocated under the compact.

Rejection by Arizona, combined with failure of the compact to determine each State's individual share of the water, created a great obstacle to authorization of the proposed Boulder Canyon Dam and All-American Canal. The upper-basin States feared, since Arizona indicated she would not become a party to the compact, that any interbasin division the other States agreed upon would be nullified. This fear was because Arizona's uses would not be charged against the lower basin's apportionment and California and Nevada would, therefore, be free to exhaust the total lower basin apportionment, while Arizona, free of the compact, would appropriate additional water resulting in less for the upper basin under the law of prior appropriation.

Further efforts were made to seek agreement which would permit ratification of the compact by all seven States. Since the upper basin was not yet ready for development and California was, attention was directed to apportionment of the lower basin share among the three States of Arizona, California, and Nevada. Agreement was never reached. Even today there is no compact dividing the lower basin's share of water under the 1922 compact among the three States of Arizona, California, and Nevada.

### THE PROJECT ACT

Meanwhile, Californians were urging the Congress to follow through on the Department of the Interior's 1922 report and authorize the dam and All-American Canal together as the Boulder Canyon project. In 1928, following failure of the lower-basin States to agree in conferences held in 1925 and 1927, the Congress, under the leadership of one of the greatest Americans of all, my late, great, courageous, magnificent predecessor in the Senate, Hiram W. Johnson, passed a Boulder Canyon Project Act.

The Supreme Court of the United States recently interpreted that act, together with a California statute upon which Congress conditioned the project, plus water delivery contracts entered into by the Secretary of the Interior, to effect an apportionment of the mainstream water of the Colorado River, at and above 7.5 million acre-feet per year of beneficial consumptive use, among the States of Arizona, California, and Nevada. The Court excluded tributaries in the water accounting under the act—avoiding a decision on that point as to the compact.

As a condition to a Boulder Canyon project, the upper basin States had insisted upon protection against the risks raised by Arizona's refusal to ratify the 1922 compact. To effect this protection for the upper basin, the 1928 act provided that, if Arizona should not ratify the compact within 6 months, the act would not take effect unless all the other Colorado River Basin States did ratify and California agreed to limit its annual consumption of Colorado River water to 4.4 million acre-feet per year of the first 7.5 million in the lower basin plus one-half of any excess or surplus water over and above that amount.

Arizona did not ratify the compact within the time stipulated. California and the five other States did ratify, waiving seven-State ratification. California did accede to the dictates of Congress—by a 1929 act of her legislature self-imposing the limitation. Then the President proclaimed the effectiveness of the December 21, 1928, Boulder Canyon Project Act on June 25, 1929.

My good and dear friend, the dean of the Senate, Senator CARL HAYDEN, of Arizona, was on the scene at the time of consideration of the project act. In the 1928 debates he made explicit what everyone thought the act would assure to California. He said:

> The bill itself provides that a million acre-feet may be used in the vicinity of Los Angeles, and some 3½ million feet through the All-American Canal to irrigate the Imperial Valley. Then there is another half-million

> which may be used in the vicinity of Yuma and the Paloverde [sic] Valley.

Senator Hayden went further to describe what the project meant to California in permanent benefits:

> It means that there will be assured for all time to come an ample water supply for irrigation of the land in the Imperial Valley. It means that additional areas almost as large will be brought under cultivation in the State of California. On top of that it means that there will be a certain water supply in the Colorado River for use in the city of Los Angeles.

Then, the great Hiram Johnson replied for California:

> The desideratum that ought to be a desideratum of everybody connected with this bill * * * should be entirely the ratification of the Colorado River compact.

Senator Johnson acknowledged that under the act there would be "put upon California the burden of enacting legislation by which it may never be permitted in the future to utilize more than 4,400,000 acre-feet of water for its people, no matter how great a space of time may elapse."

But, Senator Johnson also objected to any scheme which would increase that burden by resulting in cutting California's share below 4,400,000 acre-feet, down to 3,400,000 acre-feet, saying to Senator Hayden:

> Now the Senator knows, and he knows just as well as I do, that not only are there perfected water rights exceeding that, but it would be an utter, absolute impossibility for us to go on with the plan that is ours in relation to the Imperial Valley and in relation to water for domestic purposes for the coastal cities with that quantity of water.

Mr. President, I continue now the honest cause so eloquently asserted by my illustrious predecessor; the cause of protecting California's users to the full extent of the 4.4 million acre-feet limitation. He did not lose this issue in the Congress. California has not been precluded on this issue by the Supreme Court decision. Anyone who says otherwise is wrong. The Court has done nothing more, on the precise issue now before us, than say that Congress did not make a decision in 1928 on what should be done if less than 7.5 million acre-feet is available for use from the mainstream in the lower basin. The Court simply referred the matter back to its original forum, the Congress, and I do not propose to abandon the cause now.

After the Project Act became effective, the Secretary of the Interior, in accordance with authority given him under the 1928 Project Act, entered into negotiations for contracts for the delivery of water to users in the lower basin. Before entering into contracts with any user in California, the Secretary insisted that the seven entities within California—two have combined so now there are six—who were to use California's share of the Colorado River, agree among themselves as to a proper division of that share. The so-called seven-party agreement of the California entities entitled to Colorado River water was thus entered into in 1931. It provides that the first 3.85 million acre-feet of California's share is to go to certain users, primarily agricultural, adjacent to or near the river, who had established early rights to the water. The next 1,212,000 acre-feet go to people on the coastal plain of southern California, primarily municipal and industrial users who acquire their water from the Metropolitan Water District Colorado River aqueduct. Under the intra-California agreement, a last priority of another 300,000 acre-feet per annum goes to supplement the supply of users having rights within the first 3.85 million acre-feet.

The Secretary then made U.S. contracts with the Californians totaling the 5,362,000 acre-feet, including water for rights which were "presently perfected" June 25, 1929. Eventually he was also to contract with Nevada for 300,000 acre-feet and with Arizona for 2,800,000 acre-feet of Colorado River water, all per annum.

### ARIZONA'S RECOGNITION OF PROTECTION OF EXISTING USES

Even after congressional authorization of the project, Arizona continued to fight efforts to put California's share of the water to work. Senator Hayden testified against funding of the project because California would be enabled to put her water to use and thus assure her share, then and for the future, as against later conflicting uses which might be desired by Arizona. In testifying in 1930, Senator Hayden again made it clear that Congress was doing. He said.

> What will happen is that the water of the Colorado River will be impounded in the Boulder Canyon Reservoir and made available for use; large quantities of water will be taken out of the Colorado River into the great All-American Canal, over 1 million acre-feet will be further taken out of the river by a pumping plant and taken over to the coastal plain of California in the vicinity of Los Angeles; they will be put to beneficial use; and, once having acquired a prior right to its use, no other State can obtain the use of those waters.

However, the money was made available and the project was built to the great benefit of the entire Nation. The decision supposedly made by the Boulder Canyon Project Act was, therefore, carried out by funding, by contracts for delivery, and by construction, in spite of Arizona's opposition. California water and power users underwrote the cost of construction of the dam, later named Hoover Dam, and All-American Canal.

Further steps were taken by Arizona to halt the project. Three lawsuits were brought by Arizona in the Supreme Court against other Colorado River Basin States. The first, decided in 1931, was an attempt to have both the Project Act and the compact declared unconstitutional. The Court held against Arizona. The other two later cases she brought were also decided against her.

Arizona's efforts to prevent California's establishment of prior uses took an even more strenuous expression in 1935. When the Government was building Parker Dam, below Hoover, to divert the water for the coastal plain of California—just as Senator Hayden predicted in 1928 and 1930—Arizona's Governor called out her militia to intervene with force of arms. The United States sued to enjoin that interference but lost because the Court found the Secretary of the Interior's authority was defective. But Congress then again indicated its intent and cured the defect in a 1935 statute which cleared the way for Parker Dam and the metropolitan water district aqueduct.

### PERIOD OF PROGRESS

Further progress and steps toward resolving remaining controversies on the lower Colorado then followed. In 1941, the delivery of water through the All-American Canal and through the metropolitan water district's aqueduct began.

The period 1944–52 was marked by completion of the Coachella branch of the All-American Canal and the progressive development of other existing projects.

In 1944, the United States and Mexico entered into a treaty obligating the United States to deliver 1.5 million acre-feet of Colorado River water annually to Mexico.

When Arizona saw an advantage in signing a water delivery contract with the United States, she ratified the 1922 Colorado River Compact in 1944. In doing so, Arizona's Governor clearly indicated that his State recognized California's prior uses were valid and subsisting, and would prevail over any subsequent uses anyone would make of the river's waters.

When he proposed that Arizona become a party to the compact and sign a water delivery contract, Arizona's then Governor, Sidney Osborne, said:

> Now, of course, we would like to take from California some of that 4,400,000 acre-feet of water, but neither unrecognized filings against it, nor wishful thinking on our part can accomplish that. The Federal Government, having expended tens of millions of dollars of the people's money to provide irrigation and power facilities for the use of this water in one State, will not wipe out that investment and divert that water to another State. Arizona cannot compel that any more than we can turn back the pages of history. The time has long since passed when Arizona could obtain the water which California has already put to beneficial use.

Mr. President, I point out this course of history on the Colorado River not to shame Arizona but to demonstrate that at all times all the States in a position to utilize Colorado River water, and specifically Arizona, recognized that establishment of beneficial use, including by California within her limitation, would give rise to a legal right to continue that use as against all later developments. That was the very meaning of the quantitative limit of 4.4 million placed on California's priorities. Thus, when Arizona finally ratified the compact and signed her water delivery contract with the United States in 1944, she knew that the most she could expect for her new uses was such water as California's prior uses did not require, subject to the overriding limitation on California.

The point is that the significance of the California limitation, like the significance of a boundary, is the recognition of the right to enjoy the water or property up to that limit. California gave up the significant right to establish legal priorities above the limitation. No basis for reducing her share below

4.4 million was agreed to by California in her Limitation Act of 1929, or in any other way, and she should not now agree to any such change in the solemn pact she made with Congress. And even if it might, Congress should not now attempt to recast that pact in such a way as to do violence to that reasonable expectation. For it would not be just hopes denied, but people—people now using the water.

### NEW USES WOULD RAISE PROBLEMS

However, shortly after her ratification of the compact, Arizona began laying plans for new substantial diversions of the waters of the mainstream Colorado River below Boulder Canyon. One, the Gila project, which, despite its being named for a tributary, uses mainstream water exclusively, was authorized by the Congress in 1947. Arizona was warned that this was the last water available from the mainstream without a controversy with California—because of danger to the latter's prior existing uses.

But at that time Arizona launched her campaign for the so-called central Arizona project. When the House of Representatives refused to authorize it until the water availability question was determined, Arizona, in 1952, began the suit that the Supreme Court decided on June 3, 1963.

Two main problems gave rise to the controversy when Arizona proposed this new diversion of 1.2 million acre-feet per year.

First. Experience as to the total Colorado River runoff, since 1930, especially in the lower basin, made it apparent that the water supply might not be great enough to meet the project's demand.

Second. Arizona made a startling contention as to the method of computing the allocation of waters under the compact and the Boulder Canyon Project Act. Though her original theory was somewhat different, what she ultimately contended was that she should not be charged at all with her diversion of water from Colorado River tributaries within her borders.

Although both the compact and the project act referred to allocation of waters of the "Colorado River System," defined to include the mainstream and tributaries, Arizona maintained that she was entitled to 2.8 million acre-feet per annum from the Colorado mainstream in addition to all other uses she made from tributaries of the mainstream.

As I have indicated, the upper basin States are obligated not to deplete the mainstream below an aggregate of 75 million acre-feet of water in each 10-year period at Lee Ferry. This 10-year delivery obligation must not be confused with the per annum usage rights—it is only coincidence that the former is evenly divisible by the latter. Seepage and evaporation in the long route of the river to the points of diversions from it, plus the requirements of the Mexican treaty, all make it clear that unless one includes lower basin tributary water there just would not be enough water to meet all the annual use apportioned to the lower basin States by the compact. There would be enough water to meet all the 2.8, 4.4, and .3 million acre-feet per year in usage rights claimed by Arizona, California, and Nevada, respectively, under the project act—let alone any surplus upon which California had always relied—if tributaries are excluded from the water accounting and can be freely diverted.

California, having no tributaries and having existing uses already far in excess of 4.4 million acre-feet from the Colorado River mainstream, vigorously objected to any such interpretation of the law as Arizona urged. Indeed, this issue of water rights, when coupled with the realities of available water supply, made the central Arizona project's claims questionable to all clear-thinking Members of Congress. That was why in 1951 a resolution was introduced by a Representative from the State of Pennsylvania and passed by the House Committee on Interior and Insular Affairs, directing that the central Arizona project authorization legislation be held in abeyance pending a determination of the water rights question.

### THE SUPREME COURT CASE

The U.S. Supreme Court was apparently the forum in which to resolve the controversy. The Court referred the case to a special master to hear the evidence and to recommend the content of a decision. Eventually, all five of the States having area in the Lower Colorado River Basin, plus the United States, became parties to the litigation.

The master's report was filed December 5, 1960, after a draft thereof had been previously circulated and after California's and New Mexico's requests to reopen the trial and take additional evidence had been denied.

The master resolved three crucial questions against California's interests.

First. He held that an allocation of water was made by the Boulder Canyon Project Act and the contracts entered into by the Secretary of the Interior. This was, he held, as to water of the Boulder Canyon reservoir and the main stream below the dam only. He thereby ruled with Arizona in her contention that she would be entitled to divert the water of any of the tributaries within her borders without having that water charged against the 2.8 million acre-feet allocated to her. Although the compact and the project act approving and, supposedly, implementing it each talked of the Colorado River system including tributaries, the master found that Arizona was entitled to 2.8 million acre-feet of the first 7.5 available from and below the Boulder Canyon reservoir.

Second. The master held that the mainstream of the Colorado River above the Boulder Canyon reservoir, Lake Mead, and below Lee Ferry was a tributary for the purposes at hand. This stretch of the mainstream lies entirely within Arizona and runs for some 275 miles. The master would have made it possible for Arizona to divert from the mainstream above Lake Mead without having such a diversion charged against her 2.8 million acre-feet share otherwise allocated to her.

Third. The master devised a formula as to the allocation of mainstream water when less than 7.5 million acre-feet total was available for use. Neither the compact nor the Project Act prescribes a formula in time of shortage. The formula the master devised was a proration formula, calling for the division of available water not on the widely accepted basis of satisfying existing prior uses first, but on the basis of giving to each State that portion of the available water equal in percentage to the portion to which it would be entitled if 7.5 million acre-feet were available. Under the master's formula for dividing the water when less than 7.5 million acre-feet is available, California, with contracts for 5,362 million acre-feet and 1963–64 existing uses of some 5.1 would be entitled not to 5.362 million, not to 5.1 million, not even to 4.4 million, but only to forty-four seventy-fifths of available water; Arizona, with 1963–64 existing projects capable of using some 1–1.2 million acre-feet from the mainstream, would be entitled to twenty-eight seventy-fifths of the supply; and Nevada, with minimal existing mainstream projects, would be entitled to three seventy-fifths. The master, without any basis in statute or legislative intent, would have overriden the prevailing principle of "first in time, first in right" which the Supreme Court, Arizona, California, and all other of the Colorado River Basin States had always applied to western water law, in general, and to the Colorado River, in specific. Congress has always followed that principle, too. It was widely thought that the Boulder Canyon Project Act implemented it also. Witness the earlier statements of Senator HAYDEN and Governor Osborne, which I have quoted.

But the master's report was subject to review by the full Supreme Court, absent Chief Justice Warren, who, because of his prior service as Governor of California, disqualified himself from participation.

On June 3, 1963, the Supreme Court announced its opinion in Arizona against California. The Court overturned some of the master's conclusions and adopted others. Some issues it saw fit not to decide. On the issue of whether diversions from tributaries were to be included in computing Arizona's 2.8 million acre-feet, the Court adopted the master's determination that the Boulder Canyon Project Act and the Secretary's contracts thereunder allocated Arizona that much water out of the mainstream. However, that holds, the Court said, only if there is at least 7.5 million acre-feet total available. More about this below.

As to the second issue, the Court rejected the master's characterization of the mainstream between Lake Mead and Lee Ferry as being a tributary and held that any diversions made by Arizona from that stretch of the river would be charged against her 2.8 million acre-feet per annum.

As to the third crucial issue, of what rule applies when less than 7.5 million acre-feet is available for use from the mainstream by the three Lower Basin States, the Court unanimously refused to adopt the master's pro ration formula.

The majority of five Justices held that no particular rule as to apportionment in time of shortage was established by the act. The other three Justices would have upheld, as existing law, the application of the traditional protection of existing uses as against newly proposed ones. But the majority said that the matter was not for the Court to determine, in view of the present state of the statutory law. They found an interstice within the Project Act, as to this shortage issue, which they said it was the duty of the Secretary of the Interior, under existing law, to fill by administrative action in the first instance with judicial review to follow later unless Congress in the meantime itself filled the interstice.

On this latter crucial point of apportionment in time of shortage, I think it is important to quote here from the opinion of the Supreme Court. The majority opinion states as follows:

> While pro rata sharing of water shortages seems equitable on its face, more considered judgment may demonstrate quite the contrary. Certainly we should not bind the Secretary to this formula. We have held that the Secretary is vested with considerable control over the apportionment of Colorado River water. And neither the Project Act nor the water contracts require the use of any particular formula for apportioning shortages. While the Secretary must follow the standards set out in the act, he nevertheless is free to choose among the recognized methods of apportionment or to devise reasonable methods of his own. This choice, as we see it, is primarily his, not the master's or even ours. And the Secretary may or may not conclude that a pro rata division is the best solution.

The same five Justices went on to state that neither was the California-supported rule of protection of prior uses "binding upon the Secretary" under the Project Act. That is why I am now asking the Congress to make our historic rule binding on the Secretary in the administration of this project, too.

Making it clear that it was not interpreting the project act to require or deny any particular method of allocation in the time of shortage, the Court said:

> It will be time enough for the Court to intervene when and if the Secretary, in making apportionments or contracts, deviates from the standards Congress has set for him to follow, including his obligation to respect "present perfected rights" as of the date the act was passed. At this time the Secretary has made no decision at all based on an actual or anticipated shortage of water, and so there is no action of his in this respect for us to review. Finally, as the master pointed out, Congress still has broad powers over this navigable international stream. Congress can undoubtedly reduce or enlarge the Secretary's power if it wishes.

### DUTY OF CONGRESS TO ACT

By not deciding the issue, and by explicit statement in its opinion, the Court left the matter of what to do in times of shortage within the power of Congress to decide, subject, only if we should default, to the prima facie determination of the issue by the Secretary of the Interior, who would, under the present state of things, have to act in the absence of any helpful criteria from Congress.

In the absence of congressional action setting forth directions for the Secretary, it is quite likely that we would only face more long litigation whenever a Secretary does have to meet the issue. Litigation does not produce more water. Nor does robbing Peter to pay Paul constitute progress. The law should be made clear beyond a peradventure of a doubt so neither litigation nor further reduction of existing uses will occur.

Mr. President, it is the duty of Congress, our imperative duty, to face up to this problem and to resolve it.

The gap in the law which the opinion of the majority in Arizona against California creates remains unfilled by the Court's decree which has now been entered. The particular provision important here, and which was agreed upon by all the parties, is as follows—article II(B)(3) of decree of March 9, 1964:

> If insufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy the annual consumptive use of 7,500,000 acre-feet in the aforesaid three States (Arizona, California, and Nevada), then the Secretary of the Interior, after providing for satisfaction of present (1929) perfected rights in the order of their priority dates without regard to State lines and after consultation with the parties to major delivery contracts and such representatives as the respective States may designate, may apportion the amount remaining available for consumptive use in such manner as is consistent with the Boulder Canyon Project Act as interpreted by the opinion of this Court herein, and with other applicable Federal statutes, but in no event shall more than 4,400,000 acre-feet be apportioned for use in California including all present (1929) perfected rights.

As the Boulder Canyon Project Act affords no controlling guidelines, the allocation under the decree need only be "consistent with" the act, and since there is no other presently applicable Federal statute, it is clear that Congress must act to provide the standard. Otherwise, in the words of one of the dissenting justices in Arizona against California:

> The Secretary of the Interior is given the right to determine the priorities by administrative fiat. Now one can receive his priority because he is the most worthy Democrat or Republican, as the case may be.

I do not believe Congress wishes to tolerate the existence of such an awesome power in any one man, no matter who or how well intentioned he might be. Nor do we wish to ignore the good faith and reasonable reliance of those who expended great efforts and sums to provide beneficial waterworks now in use. Most important, we should not take water, below the California limitation, away from people on the west side of the river to give it to people on the east side.

### THE ISSUE IS PRESSING

Mr. President, the issue is very much before us now. On the next day after the Supreme Court announced its opinion in Arizona against California, and even though the actual decree was yet to be entered, and although the case will not solve one of the primary issues which caused Congress to put a moratorium on the central Arizona project over a decade ago, Senators Hayden and Goldwater introduced S. 1658 to authorize the expenditure of $1 billion of Federal money to divert 1.2 million acre-feet of Colorado River water away from present uses in California—yes, and also from the present uses in Arizona—to new uses in central Arizona.

I vigorously, and properly, objected to taking up the Hayden-Goldwater bill in advance of the required comments by the Department of the Interior and the States involved. But the hearings, nevertheless, proceeded. We have now held three sets of hearings before my Reclamation Subcommittee this Congress, the most recent just completed this past week.

If the central Arizona project is authorized, the issue left unresolved by the Supreme Court in Arizona against California—the lack of an allocation by law of Colorado River mainstream water in the lower basin when beneficial consumptive use cannot attain 7.5 million acre-feet per annum—would then present the deadly serious problem of whether California's, and also Arizona's, and even Nevada's, historic uses would be destroyed in favor of Arizona's new uses.

It is only right that the new uses of the central Arizona project be made junior, in period of water shortage, to existing uses in Arizona, California, and Nevada, subject to California's special limitation. Notice that I treat Arizona, Nevada, and California precisely alike—I ask no favored treatment for my State. The issue involves people and properly should not concern on which side of the river they live.

This has been my position ever since the announcement of the Supreme Court decision of June 3, 1963. I made it clear when, during our second set of hearings on the Hayden-Goldwater bill, held last October, I asked the Governor of Arizona and other Arizona witnesses whether they would agree to guarantee California her existing uses up to 4.4 million acre-feet as against the proposed central Arizona project. The Arizona witnesses neither refused nor agreed to give California that assurance.

Here is what I asked of Arizona's Governor Fannin on this point at open hearings last October:

> Senator Kuchel. And what I am trying to get you to comment on is the fact that those contracts for delivery of water from the Colorado River, whether those contracts are in Arizona or in California, ought first to be satisfied before any other available waters are utilized for beneficial purposes. * * * Suppose there is a shortage of water? Suppose there is not enough water to fulfill the allocation to Arizona and not enough water to fulfill the allocation to California? Would it not be fair first to consider existing contracts for water in both States on the same basis?
>
> Governor Fannin. Well, that is a matter of law and I would not be in a position to speak upon that subject at this time.
>
> Senator Kuchel. At least, from the standpoint of the people of Arizona, the legislature has made it clear that existing water contracts shall first be satisfied. Is that not true?
>
> Governor Fannin. The existing contracts must first be satisfied; that is true.

Of Arizona State Engineer William S. Gookin I inquired, as follows:

> Senator Kuchel. Do you propose to recognize all existing uses in Arizona and to protect them?

> Mr. GOOKIN. To the extent that the State law embraces them we, of course, expect to abide by the State law.
>
> Senator KUCHEL. * * * anyone who is legally an entity, a district or city, and is legally and properly using Colorado River water today and has been doing so, will that entity be protected? Will it continue to be protected in its use to the amount of water which it has been using legally and properly?
>
> Mr. GOOKIN. To the extent that it has legal rights, it will be protected; yes, sir. That would be my understanding.

That is the simple assurance I am asking for on behalf of California, the same assurance that was given to my State by representatives of Arizona on this floor, and elsewhere, over a third of a century ago. But I was unable to elicit any agreement from Mr. Gookin that the rule between citizens of Arizona should also apply between our two neighboring States. I inquired further of him at that time:

> Senator KUCHEL. Well, in time of drought or water shortage how do you understand the waters to be allocated to your State and to mine?
>
> Mr. GOOKIN. * * * you are talking about the possibility of shortage, which, of course, we don't anticipate will ever arise.
>
> Senator KUCHEL. But if you were wrong, Mr. Gookin, how do you understand that the problem would be solved between the States in the lower basin?
>
> Mr. GOOKIN. Again, sir, it is an engineer giving a legal opinion, which, of course, the engineers are accused of doing. I understand that the Secretary would decide how that shortage would be shared.

So I say to the distinguished Senator from Pennsylvania [Mr. CLARK], who is sitting on the Democratic side of the aisle, that the Legislature of Arizona passed a statute in which it provided that if the Federal Government subsequently built the new central Arizona project, and if there should be a water shortage, the existing uses in Arizona would get priority, as they should.

But when I asked the Governor of Arizona, "Why should not the same rule be applied to the people in the neighboring State of California?" we did not get a good answer. What is sauce for the goose ought to be sauce for the gander.

I say to the able Senator from Kansas [Mr. CARLSON], whom I see on the Republican side of the aisle, that all I am asking in the debate with respect to the proposed legislation is that the same protection that will be given to prior uses in Arizona, by Arizona law, be given to prior uses in Arizona and California by Federal law. That is what I am seeking to do. I hope it may be appealing to my able friends.

Thus, Mr. President, a reassurance in the law is needed.

### CALIFORNIA MUST INSIST ON THIS PRINCIPLE

Mr. President, the principle I urge here today is one upon which California ought not, must not, and cannot yield. Ever since the gold rush days of over a century ago, my State has faced and has overcome with vision and fortitude the successively more complex problems raised by a burgeoning population. Not the least of these problems has been that of assuring an adequate water supply for all our people. Probably the most vexing aspect of that problem has been meeting the needs of southern California, both more arid and more populous than the North. But we have met them, with significant help from Congress, for which we are eternally grateful.

The very lifeline of southern California is the Colorado River and the vast complex of Federal and non-Federal works which provide water from it to people—to people to drink, to people to produce manufactured goods and crops enjoyed by the entire Nation, to people who play an immensely crucial role in the defense of the whole free world, to people who cannot do all these things if the Colorado River water upon which they are presently dependent is diverted to other people who are not presently dependent upon it.

The Governor of California, Edmund G. Brown, in writing to me on June 21, 1963, in relation to the impact on our State of the decision in Arizona against California, and specifically discussing the power of the Secretary of the Interior to determine whether California should receive less than 4,400,000 if the main river supplies less than 7,500,000, stated:

> It is essential that the priorities of California's existing projects, up to 4,400,000 acre-feet, be respected as against any new lower basin project.

And he said that California expects 4,400,000 acre-feet of water from the Colorado River. I am pleased that at our most recent hearings his spokesman ultimately endorsed my view that legal protection for Californa to that extent ought to be written into the Hayden-Goldwater bill.

My colleague, Senator CLAIR ENGLE—for whom we voice our prayers—said on June 23, 1963, in discussing the Supreme Court decision and the power given by it to the Secretary of the Interior:

> I do not believe that any single man should hold that much authority.

In a letter of July 9, 1963, to Governor Brown, Senator ENGLE stressed the continued validity of the western water law principle of "first in time, first in right," unequivocally stated his insistence upon legal protection for California's existing Colorado River uses of 4.4 million acre-feet as against any new projects, and said:

> It is my view that the guideline for allocation of water in times of shortage should be first priority to those projects that are first in time and first in use. This has been the traditional rule in the West. If adopted here it would safeguard those projects now in existence in all the Lower Basin States. It would require any new projects to be second in priority. It would preclude the possibility of building a new project and in times of shortage drying up one already built and in operation.

The chief legal officer of the State of California, Attorney General Stanley Mosk, has made his position on this point quite clear. In communicating his views on the August 1963 version of the Pacific Southwest water plan, which has now been revised, but which still would include the same facilities now before us in the Hayden-Goldwater bill, Attorney General Mosk wrote on October 28, 1963:

> In my view, the Secretary should unequivocally assure California's right to 4.4 million acre-feet per year from the Colorado River for California's existing projects, and this should be affirmed by Congress.

He offered testimony to the same effect in the most recent hearings on this subject before our Reclamation Subcommittee. Attorney General Mosk then said:

> To build a vast new project now, leaving undecided whether that new project or existing projects will suffer if water is short, would be an unprecedented folly.

To those who say my proposal for filling the gap left by the Supreme Court decision is novel, the chief legal officer of California replies:

> We have a century of modern history to help fill the gap. In 1855 the mining camps of the Sierra Nevadas were also, and in every sense, close to a state of nature. In that year the California Supreme Court decided the first prior appropriation case, aided by little more than judicial "notice of the political and social condition of the country" and the erudition of a Latin maxim (Qui prior est in tempore potior est in jure.). From that humble beginning the law of prior appropriation has spread throughout the West. Courts and legislatures have been impelled by imperative necessity. If our problem were internal to any State in the West, the answer would be clear: Existing projects would be protected as against a future project.

To those who say the present situation is different because more than one State is involved, Attorney General Mosk points out:

> Prior appropriation is applicable in the West without regard to State lines. The Supreme Court first so held in *Bean* v. *Morris*, 221 U.S. 485 (1911), a suit between prior appropriators. It later so held in *Wyoming* v. *Colorado*, 259 U.S. 419 (1922), a suit for an equitable apportionment between States representing their respective water users. In the latter case, the Court gave two mutually reenforcing reasons: (1) In both States, the rule of appropriation alone is adapted to conditions of their civilization, (2) neither State in justice can complain of the application, between them, of the rule which both States apply internally.

The position of the Colorado River Board of California, the State agency composed of the entities using Colorado River water, was made clear in letters to Governor Brown dated December 24, 1963, and January 10, 1964, copies of which the board sent to me. On December 24, the board, through its chairman, wrote the Governor telling of its unanimous resolution adopted December 11, 1963, by which, in the words of their letter:

> The board urged the Governor to continue as the position of the State of California the protection of the rights of existing projects, as against the claims of the central Arizona project, California's priority to be limited in accordance with the Supreme Court decision to 4.4 million acre-feet per year. We would ask for this protection not only in the pending legislation, which is the Hayden-Goldwater bill (S. 1658), but in any other legislation such as a regional plan in which the central Arizona project would be a component.

This was in reiteration of the board's resolution of July 13, 1963, when it stated:

> The interstate priorities of the existing California projects must be protected against any future Arizona projects to the extent of

> 4.4 million acre-feet annually from the Colorado River, and in all further proceedings before the Secretary of the Interior, the Congress, and the Supreme Court. No compromise is possible on the issue of protection of existing projects against future ones, except with respect to Nevada's relatively small allocation. There appears to be a reasonable prospect of supplying Nevada's 300,000 acre-feet, California's 4.4 million acre-feet, and Arizona's presently existing projects without shortage. The priorities of Arizona's existing projects should be given the same protection as California's.

### A SOLUTION CONSISTENT WITH THE DECREE

With its letter of January 10, 1964, to Governor Brown, the Colorado River Board of California submitted the text of proposed language which was prepared at their request by Attorney General Mosk and which it was suggested should be included in the pending legislation on the central Arizona project, thus assuring the protection which I and other Californians have insisted on.

This proposed statutory provision was made available to me by the board. I reviewed the proposed language and found it to be an accurate and fair way, if there is to be a central Arizona project, in which to achieve the end of protecting existing users of mainstream Colorado River water in Arizona, California, and Nevada against the proposed new diversions from the mainstream. It fails to assure protection for California's existing uses of some 700,000 acre-feet and existing capacity of some 262,000 acre-feet more, but this is because such has been precluded already by the Congress, the State Legislature of California, by nature and by the Supreme Court's recent decision. I do not propose that we upset any of those things. The provision simply would do what has not yet been done by anyone or anything.

Mr. President, I believe that this provision should commend itself to all men of good will who desire, as do I, to see California and Arizona overcome some of the differences which have plagued their houses for too long.

There are no loopholes in this proposal. It takes nothing away from the State of Arizona which it has been assured by virtue of the Supreme Court decision. As stated by the Colorado River Board in its letter to Governor Brown, explaining the amendment:

> This provision, as it makes expressly clear, would not amend any provision of the then proposed decree in *Arizona* v. *California*. Article II(B)(1) of that proposed decree assures to California 4.4 million acre-feet, to Arizona 2.8 million acre-feet, and to Nevada 300,000 acre-feet in the event 7.5 million acre-feet is available from the main river; article II(B)(2) assures to California one-half of the excess or surplus above 7.5 million acre-feet per year. This amendment implements proposed article II(B)(3), under which the Secretary of the Interior or the Congress is to allocate shortages if there is less than 7.5 million acre-feet available from the main river.

### PROTECTION OF EXISTING USES IRREFUTABLY CORRECT

As indicated in my references to the hearings already held on S. 1658, Arizona itself has heretofore recognized this principle as the only fair one to apply when there is to be competition between existing uses and ones yet to be authorized. By the act of its legislature, approved by Governor Fannin on March 17, 1961, the State of Arizona appropriated money to be used for the investigation of works relating to the central Arizona project as now proposed in S. 1658. However, in making that appropriation, the State of Arizona made clear its own public policy by providing in the same act:

> That the contract with the Bureau of Reclamation shall provide that the investigations and studies shall be restricted to only that quantity of water which may be available for use in Arizona after the satisfaction of all existing water delivery contracts between the Secretary of Interior and users in Arizona for delivery of mainstream water, and that nothing shall be done thereunder which shall impair existing rights in Arizona for the diversion and use of Colorado River water.

In other words, "first in time, first in right" applies, by Arizona law, among Arizona citizens. Why should not the same rule apply between two neighboring States?

The Colorado River Board of California made irrefutable the validity of the principle of protecting existing uses when it stated in its letter of December 24 to Governor Brown:

> Legally, the Court has declared that California is entitled to 4.4 million acre-feet of the first 7.5 million acre-feet available from the Colorado River. It has said that Congress may decide how shortages shall be borne in the event that less than 7.5 million acre-feet is available.
>
> Equitably, California's claim is proper because it is based on principles of protection of existing projects as against new projects which California and Arizona both recognize. In 1961, the Arizona Legislature expressly declared the principle applicable to the proposed central Arizona project, which should be junior in right to existing Arizona projects.
>
> Economically there can be no justification for depriving existing California projects of any part of their 4.4 million acre-feet for the benefit of a proposed project in Arizona. California will be heavily burdened by giving up the 700,000 acre-feet of Colorado River water which it is now using in addition to its 4.4 million acre-feet. That burden should not be increased.
>
> Morally, Arizona's consistent and repeated recognition of California's right to 4.4 million acre-feet justified California's reliance on receiving no less than that quantity.

In support of that moral justification, the board offered the same quotations from Senator HAYDEN and Governor Osborne which I offered earlier in these remarks.

### EXISTING ECONOMIES OR NEW ECONOMIES?

The question is: Which water needs will be met first and which should bear the risk of shortage? The question is tough, but it is with us. We must face up to it. Though we should always strive for a solution which prevents such a black day arriving, we must deal with the very real prospect of the available supply dropping considerably below the 7.5 million figure. The Secretary of the Interior has warned that such a situation may arise as early as in 1974. We must not deal in fuzzy speculation over pie-in-the-sky hopes. We must do what is right, now, and then also work for a solution which will meet all demands, perhaps even above 7.5 million acre-feet.

No one can justify authorizing 1.2 million acre-feet of new diversions to compete with people already relying on the river and who would be hurt substantially by any formula which gives new uses equal or higher priority. That is why I have already introduced the protection of existing projects amendment to S. 1658. That is why I have included it in my Pacific Southwest project bill, S. 2760.

My provision would only assure that the proposed new users who are not yet relying on the river will take the risk of water shortage rather than foist such a burden on those who have already been asked to give up too much of what they rightfully expected to have. Certainly, if Arizona and California were one State, and there was nothing preventing us focusing on the crucial issue, well being of people, no one would even suggest a different course.

California has three Colorado River projects. It seeks no new ones. From north to south, they are: The Colorado River Aqueduct of the Metropolitan Water District of southern California; the Palo Verde Irrigation District; and the All-American Canal. The oldest, Palo Verde and its predecessors, has been using Colorado River water since 1877. The youngest, the metropolitan water district, began construction 30 years ago and has been serving water to the coastal plain of southern California for more than 20 years. The All-American Canal has served water for more than 20 years to Imperial Irrigation District, Coachella Valley County Water District, and the Yuma Indian Reservation. But the water rights of Imperial Valley date back more than 60 years.

Together these California works cost more than a half-billion dollars, paid for by the people of California, and supply water to more than 8 million people and to some 700,000 acres of irrigated land. The economy of southern California is largely dependent upon the waters of the Colorado. These projects were designed and built to use 5,362,000 acre-feet of water annually. Last year they used 5,100,000. With new projects coming on the river, the Supreme Court decision would ultimately reduce California to 4,400,000 acre-feet per year, even if my protective provision is adopted.

The proration formula recommended by the master—but not adopted by the Supreme Court—could have reduced the supply for these existing uses even below 4.4. This is the shortage formula which the sponsors of the central Arizona project would no doubt urge the Secretary to resuscitate and adopt when their purposes would be served by it. This is the result that my provision would prevent. This is the subject which the Supreme Court remitted to Congress for solution.

### REAFFIRMATION OF HISTORIC PRINCIPLE

I think Congress is better qualified to make policy than is a single Cabinet officer. That is the rule underlying our entire form of representative government.

I ask Congress, if S. 1658 or any regional plan including the central Arizona project, is to become law, to first reaffirm 60 years of its consistent legislative policy.

On this occasion, as in many previous pieces of legislation, the Congress should set guidelines for the Secretary of the Interior which compel obedience to the law of priority of appropriation, of protection of existing uses, that prevails in the arid Western States.

Congress, as a matter of Federal statutory law has consistently adopted as basic the principle which all of the arid States have stated in their own jurisprudence: the law of prior appropriation. Both section 8 of the basic reclamation act, under which the Secretary is supposed to be administering the Boulder project, and section 18 of the project act are part of an unbroken series of Federal statutes in which Congress has affirmed that, as a matter of Federal law, the distribution of waters from federally constructed and operated projects by Federal officials should conform to the appropriative principles of State law, denying to such officials power to substitute their own discretion to allocate water. The Court has now found Congress did not say that clearly enough in 1928, as to this specific Boulder project. So we should do so now.

### A PRINCIPLE IN THE NATIONAL AS WELL AS ALL CALIFORNIA'S INTEREST

This is not a matter of provincialism or of pride. What I suggest makes sense, not only for the benefits of all parts of my State but for the Nation as a whole. There is presently in existence and use a huge aqueduct running from the Colorado River westward to the coastal plain of southern California, where it serves over 8 million people through assisting over 100 cities, including Los Angeles and San Diego, in meeting the water needs of those people.

Even if California is cut back to 4.4, that facility will run at only one-half capacity. If California's Colorado River diversions are not protected to 4.4, that facility could become totally useless. What the central Arizona project, as supported by Senators HAYDEN and GOLDWATER, proposes is just such a dire consequence of rendering useless this great public facility already at work for the benefit of millions of people. The irrigation uses in California would be in jeopardy, too.

After all, people are people, whether they be in Arizona or in California or elsewhere. It is not ignoble for California people to stand up and fight for reasonable requests. This is not a matter of concern simply to southern California. The future of the entire State is involved. I am a U.S. Senator representing all of California. The northern part of my State, including many vast existing and prospective metropolitan areas and the great inland valleys empire—itself as populous and as important as many whole States—has needs for water development. Some are pressing needs now. Others—probably even more extensive than we now imagine—are further away in time. But for every drop of water which is denied to southern California from the Colorado River the possibility is that we will be urged to tap even further northern California's water hope chest which that area has already so generously opened to a significant degree. Also, even though Arizona would actually be the beneficiary, and thus this should not be a problem, every dollar which would be needed to make southern California whole against reduction below 4,400,000 acre-feet of water from her historic Colorado River source might be placed by some people in competition with dollars needed for northern California water development. We do not want to have to ask the Federal Government for one dime more than is necessary to meet our already staggering needs.

The California State water project, already being constructed to import 1.5-plus million acre-feet into southern California, represents a maximum effort by the State of California to meet its water problems as they were assumed under that plan. The State has bonded itself in the sum of $1.75 billion on a self-help program based on the assumption that California would have 5.362 million acre-feet from the Colorado River. Nature and the Court have now reduced that to 4.4 million acre-feet. We will need help to make up that difference. California cannot, must not, lose any more of its historic Colorado River supply. I do not believe that the Congress will ask her to do so. It is inconceivable, as Governor Osborne and Senator HAYDEN conceded, that the Congress would deprive existing projects in California of their Colorado River supply in order to build new projects in Arizona.

Mr. President, I will have more to say later about my regional, truly regional, project bill, S. 2760, and why it is preferable to Secretary Udall's current Pacific Southwest water plan, upon which no bill has yet been introduced, as well as to the separate central Arizona project as put forth in S. 1658. But I do hope that my discussion today will help Senators understand why assured protection for existing projects is a necessary precedent to a new project which might otherwise significantly compete for a presently very limited water supply.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorze the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent dscrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

**Mr. CLARK.** Mr. President, I ask unanimous consent that the Senator from North Carolina [Mr. ERVIN] may be permitted to yield to me briefly, without his losing any of the rights which he has heretofore acquired by unanimous-consent agreement.

**Mr. ERVIN.** I join in that unanimous-consent request of the able and distinguished Senator from Pennsylvania and ask that I may be permitted to yield the floor temporarily to him, under the same conditions under which I yielded to the able and distinguished senior Senator from California.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the Senator from Pennsylvania.

### BIPARTISAN CIVIL RIGHTS NEWSLETTER

**Mr. CLARK.** Mr. President, the demand for our Bipartisan Civil Rights Newsletter is so great that we are unable to accommodate all the people who would like to have back copies. Therefore, we have decided to insert in the RECORD each Saturday the newsletters that have appeared during that week.

Mr. President, I ask unanimous consent to have numbers 34 through 39 of the Bipartisan Civil Rights Newsletter printed at this point in the RECORD.

There being no objection, the newsletters were ordered to be printed in the RECORD, as follows:

### BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 34, APRIL 20, 1964

(The 18th day of debate on H.R. 7152; 35th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant—daily, if necessary.)

1. Quorum scoreboard: There was only one quorum call on Saturday. It was made in the customary daylight time of 20 minutes.

2. Monday's schedule: The Senate will convene at 10 a.m. and will stay in session at least 12 hours. This bill's opponents will have the floor again.

Procedural rules will be enforced somewhat more strictly this week. It is anticipated that some voting on amendments will take place "deep in the week."

Floor captains for Monday: RIBICOFF (10–1); BURDICK (1–4); WILLIAMS of New Jersey (4–7); MUSKIE (7–close).

3. News items:

(a) "In Canton, Miss., a crowd of 260 Negroes waited in line all day to register to vote. Only seven of them managed to get inside the resigtrar's office to take the literacy test."

(b) "Mr. STENNIS. * * * Anyone who is qualified and is legally entitled to vote and has met the requirements of the law * * * should be entitled to vote. * * * I know, too, that there must be some legal machinery to enforce vested rights. * * * The Government may be charged with some responsibility in the voting field." (CONGRESSIONAL RECORD, Apr. 17, 1964, p. 8296.)

4. Quote without comment: "Mr. LONG of Louisiana. Is the Senator familiar with the fact that the prod sticks have been described as cattle prodders because they have been used on cattle? Is the Senator further familiar with the fact that the prod sticks are not designed for cattle but are designed for exactly the kind of 'animals' that they are touching: namely, reluctant human beings who insist on getting in the way of a policeman?

"Mr. THURMOND. * * * It seems to me that a stick of that kind might be appropriately used. There is not very much electricity in one. I remember once going through a secret organization ceremonial—a fraternal organization. There was a man after me with one of those sticks, and I ran for about 100 yards. I had to run fast to keep ahead of that stick because while it mostly tickled, it tickled pretty much. It would force one to move—it does not hurt anyone—but it is a practical means of getting people to move on." (Congressional Record, Apr. 14, 1964, p. 7901.)

### Bipartisan Civil Rights Newsletter, No. 35, April 21, 1964

(The 19th day of debate on H.R. 7152; 36th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant—daily, if necessary.)

1. Quorum scoreboard: We did well yesterday, making three quorums in 20 minutes each.

2. Tuesday's schedule: The Senate will convene at 10 a.m. and will stay in session until at least 10:30 p.m. Live quorums should be expected at any time. The bill's opponents will have the floor again. Floor captains for Tuesday:

Democrats: Magnuson (10–1); McCarthy (1–4); McGovern (4–7); Bayh (7–close).

Republicans: Keating (all day); Boggs (all day).

3. Another concession:

"Mr. Proxmire. Does the Senator from Mississippi deny that the overwhelming majority of whites in Mississippi can register and probably do register, and that the overwhelming majority of Negroes are not registered?

"Mr. Eastland. Would I deny it?

"Mr. Proxmire. Yes; would the Senator deny it?

"Mr. Eastland. No; I would not deny it." (Congressional Record, April 18, 1964, p. 8348.)

4. True crime stories:

(a) "Mr. Eastland. * * * Washington, from the standpoint of crime, is the worst city in the world.

"Mr. Ellender. The worst in the world. That is correct." (Congressional Record, April 18, 1964, p. 8355.)

(b) The following data are from the "FBI Uniform Crime Reports, 1962," the latest available data on crime rates in American cities. These figures show the crime rate per 100,000 inhabitants for all criminal offenses and for various crimes.

| | Total offenses | Murder [1] | Forcible rape | Burglary |
|---|---|---|---|---|
| Atlanta | 1,796.3 | 10.3 | 16.2 | 692.3 |
| Charleston, S.C. | 1,891.2 | 8.4 | 11.1 | 873.6 |
| Charlotte, N.C. | 1,592.9 | 11.9 | 7.5 | 736.8 |
| Jackson, Miss. | 997.1 | 8.0 | .5 | 550.2 |
| New Orleans | 1,417.4 | 9.1 | 10.9 | 480.2 |
| Richmond | 1,593.0 | 10.7 | 10.5 | 791.6 |
| Washington, D.C. | 1,384.0 | 6.0 | 9.9 | 502.7 |

[1] Includes nonnegligent manslaughter.

### Bipartisan Civil Rights Newsletter No. 36, April 22, 1964

(The 20th day of debate on H.R. 7152; 37th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: We're doing well: Three calls; average time, 23 minutes.

2. Wednesday's schedule: The Senate will begin at 10 this morning and will stay in session until at least 10 p.m. The leadership will propound a unanimous consent for a 1-hour morning hour. The bill's opponents will have the floor again. Floor captains for Wednesday:

Democrats: Dodd (10–1); Nelson (1–4); Metcalf (7–4); Moss (7–close).

Republicans: Cooper (all day); Morton (all day).

#### A SHORT COURSE ON TITLE V

A. The need for title V: Information is always necessary for legislation; the more controversial the field, the more important reliable information becomes. This need was recognized and met in the 20th century's first civil rights legislation, the Civil Rights Act of 1957. This bill established the Civil Rights Commission, which has provided an enormous amount of useful intelligence about the many-sided evil of racial discrimination. For the first time Government officials and interested citizens had access to authoritative and comprehensive studies of prejudice in all parts of the country. The civil rights bill of 1960, H.R. 7152, and many policies made by executive action have been based on data supplied by the Commission. The need for such information has not diminished, and experience and changing conditions have suggested new ways in which it can be met.

B. The major provisions of title V: The title recognizes the value of the Civil Rights Commission by extending it for 4 more years. Since many private and public agencies are now collecting material on civil rights, the Commission is also authorized to act as a clearinghouse for information, in order to facilitate the most widespread dissemination and use of such knowledge.

The Commission is also authorized to investigate charges of denial of voting rights, when such charges are made in writing under oath.

The Commission is a bipartisan, independent agency. Far from being a bureaucratic octopus, it has only 76 employees and its 1964 budget amounts to less than a million dollars. There are State advisory committees in every State and the District of Columbia. In addition to its own research activities, the Commission has held a number of hearings for the purpose of gathering opinions, facts, and recommendations from interested parties. It has also sponsored several conferences on problems related to civil rights. Its recommendations have been reflected in legislative and executive action.

C. Objections to title V: The chief objection to this title seems to be that the Commission is unnecessary. But as even a casual observer of the civil rights debate can testify, there is a continuing need for information in this field, and it is reasonable and logical that a government agency should do this job.

Opponents of civil rights also criticize the Commission's authority to subpoena witnesses and records. Considering the fact that many State and local officials have refused to appear before the Commission voluntarily, there is no other way to obtain their testimony than by subpoena. This is hardly unusual in American law.

Finally, the Commission's authority to testimony in executive sessions is attacked as a "star chamber proceeding." Closed sessions may be held when it is determined that testimony "may tend to defame, degrade, or incriminate any person." Once again, this is the reasonable and customary procedure, designed to give every protection to individual reputations. One can imagine the outrage of this bill's opponents if the Commission were to hear potentially incriminating testimony in public; the cries of outrage could be heard all the way from Yazoo City.

### Bipartisan Civil Rights Newsletter No. 37, April 23, 1964

(The 21st day of debate on H.R. 7152; 38th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: The civil rights express is really going strong. We made four quorums in an average time of 22 minutes.

2. Thursday's schedule: The Senate will convene at 10 this morning and will stay at work until at least 10 p.m. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. Once again the bill's opponents will have the floor. Floor captains for Thursday:

Democrats: Hart (10–1); Church (1–4); Ribicoff (4–7); Brewster (7–close).

Republicans: Javits (all day); Pearson (all day).

3. A case study of voluntary desegregation: Some of the more moderate opponents of the civil rights bill admit that racial discrimination exists and is an evil, but claim that efforts are being made to eliminate discrimination by means of voluntary action at the local level. Such community action, they say, will quickly put an end to the problem and bring about racial equality, if only no trouble is caused by "Federal interference." Proponents of this point of view have been vague in their remarks; specific examples of this commendable approach are not often given.

Now, however, this lack of evidence is at an end. James V. Prothro, a nationally known professor of political science at the University of North Carolina, has written a scholarly and detailed study of the remarkable efforts of voluntary desegregation made in Chapel Hill, N.C. Here at last is a chance to judge the success of the voluntary method and to see whether legislation is necessary.

It would be difficult to find a town in which there were more favorable conditions for community action than there are in Chapel Hill. It has a population of 17,000, most of whom are students and faculty members at the University of North Carolina, an institution with a national reputation. If the voluntary approach would work anywhere, it would be in Chapel Hill.

There has been a civic group actively promoting integration in Chapel Hill since 1954, and it is composed mostly of whites. Every important leadership group in the city has taken a firm public stand in favor of integration, including the mayor, board of aldermen, school board, ministerial association, newspaper and merchants association. There is an official mayor's committee on integration, and local governmental agencies practice racial equality.

Some of the first sit-ins occurred in Chapel Hill in 1960. These activities have resulted in the integration of movie theaters, lunch counters, and other facilities. The local newspaper supported and encouraged such peaceful demonstrations, and the police department had been scrupulously fair about the demonstrators' rights. In short, here was a community where everything was conducive to successful voluntary action. Prothro tells what happened next:

"The mayor's committee on integration recognized the impossibility of achieving an open city without a law requiring the few segregated establishments to comply with the generally endorsed policy. It accordingly recommended passage of a public accommodations ordinance by the board of aldermen. The State attorney general issued an advisory opinion, however, that the town probably did not have the authority to enact such an ordinance * * * the board of aldermen voted (4 to 2) to postpone action on an ordinance. Larger and more frequent protest marches followed this action.

"From the date of this failure of the aldermen, by virtue of legal uncertainty, to enact an ordinance requiring the few noncompliers to adopt the community's policy of nondiscrimination, race relations in Chapel Hill have deteriorated.

* * * * *

"Having failed to achieve their goals through the established leadership structure, leaders for civil rights shifted to new and more aggressive organizations.

* * * * *

"Chapel Hill has done almost everything that could be expected in an effort to solve its own racial problems.

* * * * *

"The principal lesson to be learned from Chapel Hill is that, even with a maximum of good will on all sides, a real solution to the problem of civil rights is possible only with the help of a Federal statute."

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### BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 38, APRIL 24, 1964

(The 22d day of debate on H.R. 7152; 39th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: The record continues well, with three quorum calls met in an average time of 23 minutes.

2. Friday's schedule: The Senate will convene at 10 this morning and will stay in session until at least 10 p.m. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. Once again the bill's opponents will have the floor. Floor captains for Friday:

Democrats: DODD (10–1); MCINTYRE (1–4); MCGOVERN (4–7); BAYH (7-close).

Republicans: HRUSKA and CURTIS.

3. Some fundamental differences about the judicial system: Following citation of the Supreme Court's decision in the Barnett case, holding that there is no constitutional right to trial by jury in criminal contempt cases, the following colloquy took place:

Opponent: "There was a 5–4 decision. The Senator knows well that one case decided by a 5-to-4 decision determines nothing."

Proponent: "It does; a majority decision does represent the law of the land."

Opponent: "No. It does not." (CONGRESSIONAL RECORD, Apr. 22, 1964, p. 8704.)

* * * * *

Opponent: "* * * I know of many men who, the very moment that they are appointed to one office, are candidates for promotion. They will decide any case in the way that the U.S. Government wishes it decided in order to gain promotion. * * * That is the trouble with Federal judgeships. That is one of the troubles in having trials by a judge. The average man does not get a square deal when his rights conflict with the ambition of a particular judge. I could name them by the dozen."

Proponent: "Is the Senator convinced that Federal judges, whose nominations the Senator * * * has helped to confirm, are as venal as he would indicate?"

Opponent: "I say that the Senator can find anything he wishes in the Federal judiciary." (CONGRESSIONAL RECORD, Apr. 22, 1964, p. 8756.)

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### BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 39, APRIL 25, 1964

(The 23d day of debate on H.R. 7152; 40th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Saturday's schedule: The Senate will convene at 10 this morning and will stay in session through the afternoon. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. There will be at least one live quorum. Floor captains for Saturday:

Democrats: CLARK (10–1); METCALF (1–4); WILLIAMS of New Jersey (4–7); MCCARTHY (7–close).

Republicans: CASE and CARLSON.

2. The parliamentary situation: The pending business of the Senate is the Mansfield-Dirksen substitute for the Talmadge jury trial amendment. The bipartisan leaders supporting the civil rights bill hope for a vote early next week.

3. Employment tests under title VII—Fears raised by the Motorola case are groundless.

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APRIL 21, 1964.

The EDITOR, THE WALL STREET JOURNAL,
*Washington, D.C.*

DEAR SIR: I note with some regret that the generally thorough and thoughtful discussion of the Motorola case in Todd E. Fandell's article, "Testing and Discrimination," in the Wall Street Journal of April 21, 1964, is marred by the failure of the author to explain that the issues involved are plainly not within the scope of the pending civil rights bill.

As one of the two bipartisan floor managers charged with special responsibility for title VII of the bill, I feel that I can speak with some authority as to what the title does and does not do.

The civil rights bill would not make unlawful the use of tests such as those used in the Motorola case, unless it could be demonstrated that such tests were used for the purpose of discriminating against an individual because of his race, color, religion, sex, or national origin. In other words, it is not enough that the effect of using a particular test is to favor one group above another, to produce a violation of the act; an act of discrimination must be taken with regard to an individual, "because of such individual's race, color, religion, or national origin," to quote from the language of the bill.

By contrast, the Senate's own FEP bill, S. 1937, which was the subject of extensive hearings in the Senate Employment and Manpower Subcommittee, which I chair, would cover the substance of the Motorola's case. The Senate's bill expressly provides that discrimination "shall include any act or practice which, because of an individual's race, color, religion, or national origin, results or tends to result in material disadvantage, or impediment to any individual in obtaining employment or the incidents of employment for which he is otherwise qualified." Unlike title VII of the pending civil rights bill, this language would reach the situation where an ostensibly nondiscriminatory test did in fact place at a disadvantage members of culturally deprived minority groups.

The opponents of the pending civil rights bill have had striking success in stirring confusion about what the bill would or would not do, and the Motorola case has been a favorite hobby horse. Frankly, I prefer the Senate bill to title VII, and so, I believe, do the 12 members of the Senate Labor and Public Welfare Committee who voted to report it favorably to the floor. I believe that the situation presented in the Motorola case should be covered by Federal law.

But whatever my preferences, and those of my colleagues may be, the fact remains that the issues raised by the Motorola case have nothing to do with title VII of the pending civil rights bill, and are plainly beyond its scope.

Sincerely,

JOSEPH S. CLARK.

### THE BILL NOT A LEGISLATIVE JUNGLE, BUT A CAREFULLY DRAFTED BILL

Mr. CLARK. Mr. President, earlier today, a colloquy took place between the Senator from Tennessee [Mr. GORE], who was criticizing title VI of the pending civil rights bill, and me. The Senator from New Jersey [Mr. CASE] intervened, as did also the Senator from North Carolina [Mr. ERVIN]. In the course of his remarks, the Senator from Tennessee referred to the bill in general, and to title VI in particular, as a "legislative jungle." At that time, I was unable to make any comment on his remark, as it was necessary for me to leave the Chamber. But I should like the record to show my strong view that the civil rights bill in general, and title VI in particular, is not a legislative jungle, but is a carefully drafted bill which has stood the test of rigorous debate in the Senate continuously since March 9, 1964, without its opponents' making as much as a dent in its provisions or in the logical order in which they are arranged. It has already received a line-by-line and section-by-section examination. Nothing worth serious consideration in the way of revision or amendment has been developed in that meticulous examination by the opponents of the bill, at least so far as the judgment of this Senator is concerned.

### CIVIL DISTURBANCES IN CHESTER, PA.

Mr. CLARK subsequently said: Mr. President, earlier today the able senior Senator from Florida [Mr. HOLLAND] introduced into the RECORD, under the title "Civil Disturbance in Chester, Pa.," two Associated Press news releases. Those releases reported the unfortunate breaking out of violence in civil rights demonstrations in the city of Chester, Pa., which, of course, is part of the Commonwealth which I have the honor to represent.

The Senator from Florida, in what I can only describe as a flight of fancy, referred to the analogy between what was happening in Chester, Pa., and happenings between the Greeks and the Turks in Cyprus.

In defense of my Commonwealth and the good people of Chester, I feel impelled to make the following comment. I believe there are no other citizens in this country who deplore as much as do the fine citizens of Chester, Pa., the unfortunate racial violence which has broken out as a result of what I believe to be the unwise efforts of demonstrators who are attempting to break up the de facto segregation, as they call it, of the schools in Chester. That de facto segregation arises from the fact that the housing pattern in that city does largely separate the white and the Negro races. Suggestions were made that by the transportation of school children to areas far removed from their homes, the de facto segregation could be broken up and the schools could be more or less integrated.

The business of transporting schoolchildren to areas well removed from their parents' homes has caused a good deal of disturbance, not only in Chester, but also in other parts of the country. It is a very controversial question. I regret very much that it became so controversial that violence broke out. I suggest that the people of Chester, including the people of Pennsylvania, are anxious and willing to do everything they can to mitigate tension between the races, and to assure to all citizens, regardless of their race, creed, or color, the equal protection of the laws which for almost 100 years has been guaranteed to them by the 14th amendment to the Constitution of the United States.

I must say that I rather deeply resent—and I am sure the citizens of my Commonwealth do, too—the reference to the unfortunate happenings in Chester in connection with the analogy sought to be drawn between the situation in Chester, Pa., and that in Cyprus. If an invidious comparison is to be made—and I would not do so had not my friend from Florida started the ball rolling—I would say the correct analogy is—not to Cyprus—but to Jacksonville, Fla.; or to Montgomery, Ala.; or to Birmingham, Ala.; or to a number of communities in Louisiana; or to practically the whole State of Mississippi.

We deplore racial disturbances in the North more than I can say. We are trying to stop them by the constitutional method of granting to our Negro citizens rights guaranteed to them under the Constitution of the United States. I regret to state that the opponents of the bill are taking exactly the opposite action in doing everything in their power on the floor of the Senate to prevent American citizens from achieving the rights guaranteed to them under the Constitution.

I honor my friends from the South for their opposition to the bill, but I suggest that they remove from their own eye the beam with respect to racial violence in their own States, resulting from their failure for almost 100 years to grant rights to which all American citizens are entitled, before they look across the Mason-Dixon line and undertake to criticize those of us in Pennsylvania who are doing our level best to get the bill passed, so that it can be of some help in preventing these deplorable conditions from continuing, and so that peace and good will will develop among all Americans, regardless of race, creed, or color, and to the entire United States of Amercia.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina [Mr. ERVIN] be permitted to yield briefly to me, to enable me to reply to the distinguished Senator from Pennsylvania, with the understanding that the Senator from North Carolina will not lose any rights whatsoever that have already accrued to him, and that he will again obtain the floor when I complete my remarks.

Mr. ERVIN. I shall be happy to yield on the conditions stated, and on the further condition that the resumption of my remarks later today or on a later occasion on this subject will not count as a second speech by me on the subject, and that I shall have the right to complete my speech.

The ACTING PRESIDENT pro tempore. Without objection, and with that understanding the Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I can understand the annoyance of my good friend, the Senator from Pennsylvania, because some of the Senators from the South have had the effrontery to mention the fact that throughout the North the number of racial troubles now taking place is greater than those in the South. I regret, with him, that that is the case. I certainly regret the fact that in my own State some troubles have taken place in Jacksonville. I am certainly conscious of that situation; and we are doing all we can to remedy it. We have had very few incidents of that sort.

Florida has seemed to have a great appeal to our Negro citizens, because in the years covered by the period from the Census of 1950 to the Census of 1960, my State gained in Negro population 46 percent, indicating anything but a hostile attitude towards our State and the opportunities it afford our Negro citizens.

In the State of Florida, there are many fine Negro citizens. I am sure no one deplores the acts of a very few of our Negroes in Jacksonville more than do the great majority of the Negro people there, who are more than 100,000 in number.

Mr. President, I should like to take up several of the points which were made by my distinguished friend, the Senator from Pennsylvania.

First, as I understand, he felt that we had been wasting time, and that this bill had not been "budged" in any particular in the several weeks of debate, and that we were merely trying to fend off a vote on the bill.

I dislike to express a view which differs so greatly from that of my distinguished friend; but I wish him to remember that only yesterday the two leaders—the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN]—by their action in offering jointly the amendment on the jury trial provisions of the bill, an amendment which would affect all titles of the bill, showed that we are getting somewhere on the bill, and that some of those who had thought the bill was as nearly perfect as it was possible for it to be, and were proposing from the beginning to ram the bill through the Senate in exactly the same form as that in which it came from the House, have in that one particular, come to a completely different conclusion.

That is as evident as it is that the sky is above us.

Mr. CLARK. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. I did not interfere with the remarks of my friend. I shall be glad to yield after I get through presenting this point, and then at the end of the other points.

I was getting to the point that the action yesterday of the two leaders showed rather conclusively that the debate has been meaningful and has brought out a very great failure on the part of the bill in the exclusion of trial by jury in connection with the many injunctive provisions contained in the bill, except in titles I and II, where there is a limited requirement for jury trial.

The second point I wanted to make, as I listened today to the able discussion of title VI of the bill, was that it would apply not only on a widespread, nationwide basis, but also would extend to more than the States represented by the Members of the Senate and the other House; it would also extend to Guam, the Canal Zone, and Puerto Rico. Field agents, after the laying down by the Chief Executive of a method of handling such disqualification, would be able to withdraw and, in effect, cancel appropriations made by the Congress of Federal funds to be spent in various parts of the Nation.

From what I heard from various Senators who are supporting, in the main, the bill, I am very sure that leading up to the speech made by the Senator from Tennessee, the groundwork was laid for the making of very substantial clarifications in the bill as to title VI.

I am sure there will be others, because our process of educating others as to the effect of the bill seems to be slow and painful. Members on both sides of this question seem to have fixed ideas, and therefore the customary process of enlightenment in connection with this educational debate, seems to be somewhat delayed. But we are making progress.

Now I am glad to yield to the Senator from Pennsylvania.

Mr. CLARK. I thank my friend; but I have concluded that no useful purpose can be gained by engaging in a colloquy.

Mr. HOLLAND. I am sorry my friend has reached that decision. I was going to yield to him; and I shall still be glad to yield to him, either now or at the conclusion of the several points I shall make.

The second point I wish to make has to do with the closing of schools, whereby for 3 days—as I understood from the AP and UPI dispatches—11,000 children, both colored children and white children, have been, in effect, locked out of the schools, and their education has been hampered and delayed, by the actions of certain persons in the good city of Chester. I am sure my friend deplores that situation as much as I do.

I know of no instance, in the case of a white school in any portion of the State of Florida, in which there has been a delay of even an hour. I know of very few delays in the case of Negro schools there. Never have I known of an instance in which schools in Florida have been closed by an official body, as a result of disturbances similar to those recently occurring in the North. I recall that in the city of Jacksonville, a good many colored children took "French leave," in order to participate in some demonstration; but there has been no disturbance so severe as to require the closing of schools.

So, although I equally deplore such happenings in my State and those in the good Commonwealth of Pennsylvania, I must say that those in Florida have had nothing of the severity of the ones which seem to be taking place in connection with fair Chester.

The third point I wish to make is in regard to the insensate way the demonstrators in Chester acted. From an AP dispatch, I learned that when the police there were being led by a captain of their own race—the Negro race—some of the demonstrators, no doubt inflamed by professional agitators, went to his home and proceeded to do very serious injury there, by breaking windows and bashing in the doors. Again, I am simply quoting the press dispatches. It would seem, therefore—since he was a member of their own race—that they were not in a mood to have the law enforced against them in such a way that their deliberate blocking of the streets would be ended by the lawful act of the police officers, even though the great city of Chester has given recognition to its Negro citizens by having policemen of that race on the force—one of whom, at least, has attained the rank of captain, and suffered serious mistreatment from people of his own race.

In my State, there are many Negro policemen and Negro deputy sheriffs; but, so far as I know, nothing of that nature has occurred in Florida.

The third point I wish to make is the one I stressed this morning. I am glad I see in the Chamber the distinguished Senator from New York [Mr. KEATING], because the statement to which I now refer was made both with reference to the good Commonwealth of Pennsylvania and the good State of New York. At that time I said that it seemed to me that their States had employed every civil rights legislative and legal maneuver and protection of which it was possible for one's mind to conceive, including measures provided for in the pending bill; and certainly including for many years school desegregation, which for decades has been a part of the laws of their States—I do not know the exact period; and also including the use of an FEPC law, which has greater coverage in both of those States than the coverage presently proposed in the pending bill; and also including provisions with reference to housing and the like, which are not included in this bill. Nevertheless, even with all those attempts by way of the enactment of laws and the abortive attempts to enforce such laws—because they have not been able to enforce them—they have made a dismal failure of their attempts to solve those problems.

My point then was, and is now, that it seems to me the present determined efforts by Members from those States to have the Federal Government force similar laws and measures upon other States, do not come with very good grace from Members who represent a part of the country which, after making all these legal maneuvers, has found them to be futile in that area. Of course they are bound to be futile, because no amount of laws or court mandates will solve these problems. They must be solved in the hearts and minds of men and in their attitudes toward each other. If two people do not love each other, the passage of a law will not make them change their attitude. Such a change requires much more patience, much more time, much more sympathy, much more mutual understanding and tolerance, and much more persuasion than could ever be expected to develop as the result of the mere passage of a law intended to bring about so great a change.

This morning, I commented on the disorders which took place on the opening day of the World's Fair. It became apparent that considerable numbers of demonstrators were involved. The press dispatches published in the New York Times and New York Herald-Tribune stated that more than 1,000 demonstrators were within the fairgrounds.

The dispatches stated the nature of what had occurred there, such as the drowning out of the words of our President by the singing, screaming, and bizarre tactics of the demonstrators; also the attempted exclusion of the Governor of the State of Florida from the Florida pavilion, which had been built with the use of the money of Florida taxpayers, at the invitation of the State and city of New York and the New York World's Fair authority, both in an effort to be of benefit to Florida and to increase the attractiveness of the fair.

Not one New York policeman raised his hand to help the Governor of Florida get into the pavilion. He and his party were going there to dedicate it; but 20 young hoodlums sat with their backs to the 6 glass doors. With 5,000 New York police either on the grounds or in the area—and again I am giving the figures as reported by the New York Times and the New York Herald-Tribune—apparently no one there would lift a hand to assist the Governor of Florida and the group accompanying him, nor did the fair police lift a hand. On the contrary, our Governor could not have gained entrance to our own pavilion, built with our own money, had it not been for the fact that four troopers from the State of Florida were there with him; and, after they tried to open the doors which were being obstructed by those 20 youngsters—all of whom were white, the troopers had to throw 2 of them out, and then hold the doors open, so that the Governor and his party of some 20 persons could enter the pavilion—a pavilion, built with our own money, to welcome all from America and all from other lands who might wish to visit it, to learn for themselves something of the beauty, the great resources, and the promising future of the great State of Florida, which I have the honor to represent in part. Furthermore, the Governor of Florida was there as a distinguished guest of the people of the State of New York.

The point I am making is that in that great State and in that good city, apparently something very dear has been lost—that is, a willingness to make a serious effort to enforce the law before serious trouble develops.

In reading these same articles I noticed that the Ford industrial exhibit—a very expensive one—had to be closed because the fair police and the other police who were there stated they would not lift their hands against demonstrating hoodlums, unless someone first signed a complaint against them. Under those conditions, the representatives of the Ford Co. simply closed the doors of that exhibit, and went home for the day.

The sole point I am making is that apparently there is no willingness on the part of the States which have tried the legal approach, and have failed, to realize that such an approach is bound to fail, and that if there is to be any hope of success, a much sounder approach must be made. When, in addition, there is a lack of willingness to enforce the law and to keep the peace, the situation, of course, degenerates into a deplorable one.

Those were the statements I made this morning. I say to the distinguished Senator from Pennsylvania that I have no regrets at having made them. Perhaps I did overstate the case in likening the streets of Chester, Pa., to those of Cyprus. I have not been to either; but the impression I gained from the newspaper reports from Chester was quite similar to the one I received from the reports on Cyprus. The fact remains, however, that if the AP and the UPI dispatches are correct, all last night there was a complete lack of law and order in the streets of Chester.

I believe this is the third day of the disorders in Chester. I deplore all such disorders—whether in New York, Chester, Jacksonville, or elsewhere.

I should like to say to all Senators that so far as the State of Florida is concerned, the people of Florida are not disposed to wink at such violations of law. They insist upon observance of the law. In Florida, there is, and has been, relatively great obedience to law. There has been very little trouble of any kind. Of course, the people of Florida are not perfect, but at least they are determined to maintain the progress they have made and to improve on it. At the same time, they will insist on enforcement of the law. I wish I could believe that a similar disposition and determination prevailed in the State and city of New York, for example. I noticed that conditions similar to those in Chester and in New York prevailed recently in Chicago, in connection with some of the disorders there.

Mr. President, we live in a time of serious and difficult problems. Unless the people of both races make up their minds to substitute a good will approach and to find out what each race can tolerate in the field of closer and more intimate racial relations, and unless they discard the idea of doing everything by compulsion and coercion, we are in for worse times—particularly when there is no disposition to obey the law.

That is all I have to say. I thank my distinguished friend for bringing up the point I made this morning. It is a real privilege to have an opportunity to discuss it again. But let it be distinctly understood that I know that all States have these problems although in varying degree. I have done my best to help solve them. In 1937, on the floor of the Florida State Senate, I supported elimination of the State poll tax, for all purposes. The next day, in one of our State newspapers, it was announced that that was tantamount to my stating that I would never again run for election on a States rights platform—which shows how popular it was to take that position at that time.

The Senator from Pennsylvania knows what I have done in this body in connection with elimination of the poll tax in all Federal elections, nationwide. I am willing to do many other things.

The pending bill has many provisions which I can support. But I am convinced, based primarily on a study of the bill, that at least four of its provisions will lead to greater and greater centralization of government. Our Government is already far too greatly centralized, and it is doing poorly many of the things it should be doing well, and is doing uneconomically many of the things it should be doing economically. Proposals to add to the powers of the Federal Government by means of the FEPC provision and the public facilities provision, which would require the services of thousands of field agents, and the proposed cancellation of appropriations already made, and proposed surveillance of all the activities within each State, to ascertain whether Federal appropriations voted by Congress should be stayed by the decisions of inferior executives all the way down in the "boondocks" are far from sound.

The Senate is already at the point of giving recognition to the unsoundness of a major part of title IV, which has to do with compulsory segregation in schools, by requiring a much more effective jury-trial provision in the case of the use of criminal contempt proceedings following an injunction, if the Attorney General, in the exercise of his sole discretion, were to decide—as the bill would permit; and under the provisions of the bill, there would not be a right of review by any court or any person that, in his opinion, an injunction suit should be brought.

Where are we going? What are we doing? What kind of supercentralized Federal Government are Senators trying to create? How much concern do they have for the freedom of the individual? How much concern do they have for the preservation of private enterprise? Under title II, how could a hotelkeeper, a restaurant keeper, or those in charge of any of the other businesses which would be affected maintain their right to control their business, if Uncle Sam were to intrude as their senior partner, with a veto power, and with the right to look over their shoulder every minute, in an attempt to discern whether, on the grounds of race, or color, or religion, or sex, there has been a hiring or a firing or a promotion or a demotion, that, in the opinion of some factotum in the Federal Government, the employer should not have made?

Mr. President, recent events, such as those of yesterday and the day before in New York, and those of yesterday in Chester, demonstrate the futility of the bill. I am not trying to throw brickbats at anyone or at any State. I am willing to concede that all States have some serious faults. However, I wish I could discern a disposition to enforce the law. I wish I could observe some disposition to abandon attempts to apply coercive measures of the kind which have not achieved results. I wish I could believe that the proponents of the bill are learning by experience that that is not the way to get the desired results. Yet, instead, they propose to force FEPC provisions down the throats of the people of States in which the employment of Negro citizens is much greater, in proportion, than it is in either Pennsylvania or New York.

I referred to the unemployment figures. The distinguished Senator from Louisiana [Mr. ELLENDER] has already had printed in the RECORD of April 8, figures from the U.S. Department of Labor which show—although I shall not now read all of them, of course—that in the State of Pennsylvania, 11.3 percent of the nonwhite working force was unemployed, as compared with an unemployment rate of only 5.8 percent for the white working force in that State. Has the Pennsylvania FEPC law done anything worthwhile about remedying the imbalance in unemployment there? In the State of New York the disparity is not so great. The figures show 4.9 percent unemployment for the whites and 7.4 percent for the nonwhites.

Many other States show much greater disparity. For instance, in the State of Michigan, 6 percent of the white workmen are unemployed, whereas 16.3 percent of the nonwhite workers are unemployed. Yet each of these three States has an FEPC program; but it has proven unable to solve that particular problem.

I apologize for having taken so much time of the distinguished Senator from North Carolina. I appreciate his courtesy, and I also appreciate the courtesy of other Senators, in permitting me to obtain unanimous consent for this purpose. I now yield the floor back to the Senator from North Carolina.

Mr. CLARK. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. I yield to the Senator under the same conditions under which I yielded to the Senator from Pennsylvania, to the Senator from California, and to the Senator from Florida.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I merely wish the RECORD to show that I have sat through the quite extensive remarks of my good friend from Florida. I reiterate what I said a few minutes ago—that I believe no useful purpose could be served by answering what the Senator has said. Everything he said has been answered again and again and again in the course of this almost interminable debate. I do not wish to detain the Senate any further. I thank my friend from North Carolina for yielding to me.

Mr. KEATING. Mr. President, will the Senator yield to me?

Mr. ERVIN. Mr. President, I should like to make another unanimous-consent request. I ask unanimous consent that I may yield to the Senator from Washington, and then to the Senator from New York. I ask unanimous consent that I be permitted to yield to the able and distinguished junior Senator from New York, on exactly the same terms on which I have heretofore yielded to other Senators, particularly the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEATING. Mr. President, I agree with the Senator from Pennsylvania [Mr. CLARK] that there is little to be gained by taking issue with the distinguished but mistaken Senator from Florida. We have been all over this ground before.

However, I believe this much should be said, because we all know that the Senator from Florida is a man of great good will. In his heart he always believes he is doing the right thing. Of that, I am convinced.

We all regret any acts of violence or any untoward events which have occurred in New York, Pennsylvania, Florida, or any other State. I regret deeply that the distinguished mother of my distinguished constituent, our representative on a United Nations Commission, the mother of the Honorable Marietta P. Tree, Mrs. Peabody, was arrested in Florida. That is most regrettable. I would not have mentioned it, were it not for insistence of the Senator from Florida in calling attention to the fact that the junior Senator from New York is on the floor, as he has done before.

But it is my considered judgment that we may—although I hope and pray that we shall not—experience other incidents similar to those that have occurred up to now, unless we come to grips with the proposed legislation with which we are dealing.

I propose to the Senator from Florida [Mr. HOLLAND] that if he and his colleagues who are opposing the bill would permit us to start voting on the merits of amendments on Monday morning, that would be an important factor in putting an end to the incidents that are taking place all across the Nation. The longer we are thwarted by a minority in the Senate in our efforts to act on the bill, the more and more danger there is that additional incidents will occur throughout the Nation. I am sure that is something which the Senator from Florida would regret as much as any other Member of the Senate would. Certainly it is something which all of us would deeply regret.

I believe the way to prevent such incidents in the future is to start voting now on the bill, which is designed to place in the hands of the courts the resolution of unfortunate racial difficulties and incidents, so as to take them out of the streets and off the streets, where they have no place, and where only harm can ensue from a continuation of them.

UNMASKING "UNMASKING THE CIVIL RIGHTS BILL"

Mr. President, 6 weeks ago, in a speech on the Senate floor, I exposed the so-called Committee for Fundamental American Freedoms as an organization financed by the State of Mississippi and dedicated to the defeat of this civil rights bill. In my earlier statements I pointed out that a large portion of the funds which support the coordinating committee are appropriated by the Legislature of the State of Mississippi. Lobbying reports for the first quarter of 1964 have now been filed, and they indicate that of $192,500 spent by the committee during the first 3 months of the year, $142,500 came from the Mississippi State Sovereignty Commission. Some of this is appropriated by the legislature; additional money is contributed to the Mississippi commission by private individuals in the belief that the contributions are tax deductible as contributed to a division of the State government for a public purpose. Organizations which enjoy tax deductions are listed by the Internal Revenue Service. I called the Internal Revenue Service. They had assured me that the coordinating committee is not entitled to claim such tax exemption. I think the people who are contributing to this are, so far as their contributions are concerned, entitled to know that fact.

The lobbying effort has taken many forms. Citizens have been induced to write to the wives of Members of Congress urging them to induce their husbands to oppose the bill. Civic groups have been persuaded to write to their Congressmen charging that the bill will destroy businesses, banks, and unions. Full-page ads have been taken in many newspapers outside the South, and two pamphlets which distort the meaning of the bill have been printed and circulated.

While I have repeatedly denied the truth of their allegations, and other Senators have dealt in detail with advertisements placed by the committee, I speak specifically this morning on the pamphlet "Unmasking the Civil Rights Bill" which appears to be the single piece of literature most widely circulated by the committee. I want to unmask the "unmasking."

It is evident that hundreds of thousands of these pamphlets have been distributed throughout the country and scores have been sent to me by irate constituents who have been taken in by the misrepresentations which it contains.

At this point I emphasize most sincerely that I do not object to receiving mail from New Yorkers who disagree with my stand on civil rights, or any other subject, so long as their opinions are based on fact. But since it is apparent that even the most fairminded Americans have been misled and frightened by reading this material—or by talking to friends who have read it—I believe it is time to unmask this fraud and challenge the committee to prove its case.

Two basic techniques are used by the coordinating committee to induce opposition to the civil rights bill.

One technique is to interpret the bill's provisions in a strained manner. Words and phrases are stretched to imaginative lengths. Each title has attributed to it untenable applications. They use what lawyers call a "slippery slope" argument.

Second, scare tactics are employed. Statements are made that the Federal Government is going to interfere with social security and veteran pensions of the needy; that conduct of education on the local level is to be threatened; that seniority rights of union members and job opportunities of white citizens are to be placed in jeopardy; that the Attorney General, in particular, and the Federal Government, in general, are to be handed dictatorial powers.

The pamphlet starts off with the bald and incredible assertion that the bill "will destroy the civil rights of all citizens of the United States who fall within its scope." It then goes on to list 15 civil rights which would be abridged by the passage of this bill. I will deal with these charges in detail later in this speech, but at this point I would like to point out a major discrepancy which appears throughout the pamphlet: The citation of section numbers to substantiate charges about the bill are completely inaccurate. For example:

The committee, on page 4 of its pamphlet, charges that the bill will destroy the right of freedom of speech and freedom of the press concerning "discrimination or segregation of any kind" "at any establishment or place," as delineated in the bill. Sections 202 and 203 are cited as authority for this statement and yet, they do not contain the quoted language, nor do they concern the right to free speech and free press.

Similarly, the committee cites section 711(a) as authority for the statement that seniority rights under Federal civil service will be destroyed; it cites section 711(b) as authority for the statement that the seniority rights of labor union members will be destroyed. These sections actually read as follows:

NOTICES TO BE POSTED

SEC. 711(a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

So that there is no relationship between the statement contained in the pamphlet and what is contained in those sections.

CUTOFF OF FEDERAL FUNDS

The coordinating committee's major attack is directed at title VI of the bill and it is to that attack that I shall direct my remarks.

Title VI provides for the cutoff of Federal financial assistance where such assistance is used in a racially discriminatory manner. Tax moneys of all Americans go to provide the funds for financial assistance. Therefore, it necessarily follows logically and morally that such assistance should be distributed without discrimination among all Americans.

The pamphlet, at page 6, asserts that title VI "vests almost unlimited authority by the President and his appointees to do whatever they desire." Obviously, the inference to be drawn by the reader is that each Federal department or agency is to become a law and master unto itself with the power to trample the rights of citizens underfoot.

The fact is that the House bill surrounds title VI with many safeguards and limitations.

In the first place, it must be recognized that action may only be taken under title VI if a recipient of Federal financial assistance is engaging in the discriminatory application of such assistance. Generally, a recipient will be a State or political subdivision. Thus, title VI is directed towards assuring that a school district, for example, which receives impacted school funds will operate its schools on a desegregated basis. An entire State is not to be made to suffer for the illegal and improper practices of one school district. And, a school district will have no reason to suffer if it merely follows the dictates of the Constitution; namely, that all persons shall be treated equally.

Where a department or agency does find a need to become involved in a case of suspected discrimination, action may only be taken pursuant to regulations approved by the President—not merely by the department or agency alone. Equally important, every effort must be made to secure compliance by voluntary means. If that fails, a formal hearing must be conducted where the recipient may demonstrate an absence of discrimination. Only where it has been shown that a person has been "excluded from participation in, denied the benefits of, or subjected to discrimination under" a program of financial assistance, may funds be denied or terminated. Even there, however, Congress must be notified 30 days in advance of any action to cut off funds and a party aggrieved by the action has the right to seek judicial redress in a Federal court.

Thus, a department or agency may not take irrational and misguided action. Ultimately, the President, the Congress, the judiciary, and the people will oversee responsibility for the action.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. KEATING. I yield.

Mr. ERVIN. Did the Senator from North Carolina understand the Senator from New York to say that title VI applied only to a State or a subdivision of a State?

Mr. KEATING. No, I said that most cases would involve States or political subdivisions of States. But under the Hill-Burton Act, for example, it could involve Federal assistance to private organizations.

Mr. ERVIN. I desire to ask the Senator from New York if it is not a fact that the bill would apply to any program or activity receiving Federal financial assistance, regardless of whether the program is being administered by a State or the subdivision of a State or whether it would affect individuals?

Mr. KEATING. That is correct. It would apply to any municipality or subdivision or State which is receiving Federal assistance.

Mr. ERVIN. Would it not apply to all farmers who would receive loans from the Farmers Home Loan Administration? In other words, if a farmer should apply for a loan to make a repair to his house or his barn, he would be subject to that provision?

Mr. KEATING. Under the bill a Negro farmer could not be excluded from aid on account of his race. The bill would apply to farmers to the extent that if they were receiving Federal aid, they could not be excluded on the ground of race, color, or creed.

Mr. ERVIN. Under the bill, could not the Federal Government step in and dictate to all farmers who are involved in the growing of tobacco, which has price supports, or in the growing of cotton, which has price supports, or in the growing of any other crop, which has price supports—that they must hire particular individuals instead of the men they select, if the Federal Government finds that they selected those hired by them on account of their race?

Mr. KEATING. No; that statement is not correct. That is one of the distortions that has been particularly bruited about in respect to the bill. I shall deal with the case of farmers in a minute, and show that in most Federal programs to aid farmers, aid is given directly from the Government to the individual farmer and no discrimination occurs.

Mr. ERVIN. I shall not interrupt the Senator long. But I should like to give the Senator from New York my assurance that that is the way in which I interpret the bill. In my opinion there is no distortion whatsoever in my interpretation of title VI, which has an inescapably plain meaning insofar as it converts executive departments and agencies into legislative bodies with virtually unlimited powers. I thank the Senator from New York for yielding.

Mr. KEATING. That is not the way in which the Federal Government interprets it. The Federal agencies are the ones who would administer the measure. I believe their interpretation is correct.

Mr. ERVIN. I should like to ask the Senator from New York if up to the present moment any agency of the Federal Government has the power to make any interpretation of the bill. No agency of the Federal Government has any power to make an interpretation of the bill until it is enacted into law, and then that power would be in the courts.

Mr. KEATING. Whether or not the agencies have the power, they are interpreting existing programs in that way. They have rendered legal opinions with regard to the proposed legislation which is to the same effect, and those opinions are directly at variance with the views expressed by my friend, the Senator from North Carolina.

Mr. ERVIN. Will the Senator permit me to make one observation? I believe that the booklet to which the Senator has made reference refers to the bill in its original form before it was amended slightly in the House. It is my honest opinion that everything in the bill is susceptible to the interpretation which the booklet has placed upon it with the possible exception of the exceeding slight changes made in the House. I disagree with the Senator from New York in respect to his comments on the booklet. I concede his right to make his own interpretation, but I say that my interpretation of the bill coincides pretty much with the interpretation in the booklet.

The people who issued the booklet have the same right to place an interpretation on the bill as has the Senator from New York and the Senator from North Carolina. I thank the Senator. I shall not disturb him any longer.

Mr. KEATING. That is all right. I am always glad to be disturbed by the Senator from North Carolina. Since we are on the subject, I understood the Senator from North Carolina to say that the book "Unmasking the Civil Rights Bill" does not apply to the bill that is now before the Senate.

Mr. ERVIN. I did not make that concession. I said that one or two of the statements in the booklet related to the original bill. Section 203, to which the Senator referred, was drastically changed in the House by striking out some of the provisions which were interpreted there to forbid freedom of speech. The most objectionable provision of section 201 was stricken from the bill in the House. There were slight changes in the bill. With these exceptions, I deem the interpretation of the booklet justifiable.

Mr. KEATING. The major revision of the bill occurred in the House Judiciary Committee 6 months ago. The bill was again substantially revised in the House in February and yet the pamphlet directed at the old subcommittee bill is still being distributed all over the country at a cost of thousands and thousands of dollars as propaganda against the bill that we are now considering. That action brings into focus one of the fundamental criticisms that I make about the action of the Coordinating Committee for Fundamental American Freedoms. The American people have also a right to get the facts on the bill that is before us and not to be misled by being told that we are considering a bill which we are not considering at all, and being given a pamphlet relating to a bill which was scrapped last October.

I hope that the Senator can prevail on those people to spend some of the money that they have in such abundance to print retractions or corrections of the great mass of material in the pamphlet which does not apply to the bill which is now before the Senate.

### HOUSING

It is alleged on page 7 of the pamphlet that the "right of homeowners in the United States to freely build, occupy, rent, lease, and sell their homes will be destroyed by this bill." This charge is completely without foundation.

While some States and municipalities have "fair housing laws" regulating the sale of private housing, no such provision exists in this bill. Private homes are mentioned nowhere in the bill; Government contracts of insurance and guarantee are specifically excluded from coverage under title VI, so FHA and VA mortgages are not involved in any way whatever.

### BANKS AND LENDING INSTITUTIONS

The same may also be said of the operations of banks and other lending institutions. The primary way the Federal Government could allege control over the operations of these institutions is through Government insurance or guarantee programs, such as FDIC. These programs have been exempted from title VI. Therefore, it is impossible to understand how the coordinating committee can charge that the civil rights bill controls the approval and foreclosure of loans by these institutions. And yet the pamphlet categorically states that "no bank could operate under the bill's provisions without undue hardship"—page 8. Another complete, utter distortion and misrepresentation.

### EDUCATION

The coordinating committee, in its pamphlet, also relies upon title VI when it charges that the civil rights bill will permit the Federal Government to interfere with students and teaching staffs in public and private schools and colleges. The basis for this charge is apparently grounded in that phrase of title VI which states that "no person shall be subjected to discrimination under any program receiving Federal financial assistance."

The argument is made that where a school receives assistance through the school lunch program, impacted area funds, or the Defense Education Act, the Federal Government may, pursuant to title VI, take action to assure that the teachers employed by or students admitted to such school are also subjected to governmental control.

The fact is, though, that title VI is limited in its operation to the grant or withholding of funds. No accompanying dictation or supervision is authorized. Thus, if a school district or school board is ultimately found to have committed racial discrimination, then the Federal Government may elect to withhold or refuse to grant additional Federal funds until such practice is discontinued. No additional action may be taken.

In title IV the Attorney General is empowered to implement the Supreme Court decision—now 10 years old—striking down segregation in public schools by instituting civil actions to desegregate public schools. The Commissioner of Education is also authorized, under the title, to dispense technical and financial assistance to aid local governments, school boards, and school personnel in coping with problems of desegregation, but only if the school board or other unit of government requests such assistance. Nothing in the title permits the Federal Government to interfere with educational instruction, the employment of school personnel, or the admission of students. Perhaps, even more important, the House specifically provided that the title did not authorize the Attorney General or Commissioner of Education to transfer students outside their school districts to rectify "racial imbalance." And yet the pamphlet charges that "the President and his appointees in Federal agencies would have the right to dictate pupil assignments in local schools." That is found on page 13. The implication of course—which is designed to frighten and enrage white parents in northern cities—is that this bill will force bussing of schoolchildren from one part of the city to another to overcome racial imbalance. The very language of the bill itself is conclusive proof that this simply is not true.

### SOCIAL SECURITY AND VETERANS BENEFITS

The coordinating committee, on page 14 of the pamphlet, has also indicated that title VI would enable the Federal Government to gain control over the lives of individuals through the manipulation of social security and veteran's benefit programs. This could not occur.

Programs of this nature involve the direct transmission of financial assistance from the Federal Government to the individual recipient. Objective standards have been incorporated into the statutes authorizing these financial benefits. An individual would or would not qualify for the benefits on the basis of concise facts which could have no relation to race. An agency of the Federal Government, therefore, would have no basis for practicing racial discrimination among recipients even if it so wanted to. Similarly, no intervening State or local agency of government or private entity lies between the Federal Government and the financial recipient. So, again, there would be no means of practicing discrimination. Under these conditions, title VI would not afford any means for manipulating this assistance, as the coordinating committee charges.

It seems unusually cruel deliberately to frighten those individuals who depend upon social security and veterans benefits by indicating that the civil rights bill will threaten the distribution of this assistance. It is one thing to challenge the civil rights bill in those areas where it would affect existing operations or programs. How much more dishonest it is to generate fear and false impressions in areas completely unaffected in any way by the bill.

### FARMERS

In the same manner, the coordinating committee indicates that title VI will directly interfere with the operations of farmers. That is found on page 6.

Basically, title VI is dedicated to guaranteeing fair treatment to farmers in the receipt of Federal financial assistance—not the subjugation of farmers under the iron hand of dictatorship. In those programs where a farmer is qualified under the law to receive financial assistance, the title provides that he shall receive his proportionate share irrespective of his race or color.

All farm programs are not covered, as the coordinating committee implies, because many do not involve financial assistance or involve insurance or guarantees which are exempt under the bill. And, to those that do apply, many involve direct assistance between the Federal Government and the farmer where discrimination could not conceivably occur. Only where an intervening State or local governmental agency exists could the misapplication of assistance even potentially occur. If it does, and if voluntary corrective action fails, then funds to that State or local agency of government would be terminated until distribution is conducted without regard to race or color.

It is correct that, under title VII, a farmer with 25 or more employees may not refuse to hire or proceed to discharge an employee solely because of his race, sex, or religion. But nothing in the title would permit the Federal Government to dictate preferences or quotas to a farmer or interfere in any of his employment practices not associated with the above categories of discrimination.

### EMPLOYMENT AND LABOR UNIONS

The coordinating committee has charged—as found on pages 9 to 11—that title VII would enable the Federal Government to dictate to businessmen, schools, farmers, other employers, and labor organizations, whom they must hire or accept for membership, and also permit the Government to impose quotas and preferences upon employers and labor organizations in favor of minority groups. The coordinating committee also maintains that title VII will authorize the Federal Government to interfere with the seniority rights of employees and union members.

Title VII does not grant this authority to the Federal Government. To make such assertions, as the coordinating committee does, is not only an unfortunate misinterpretation of the title's operation but is a cruel hoax because it generates unwarranted fear among those individuals who must rely upon their job or union membership to maintain their existence. A particularly vicious implication in the pamphlet leads white workers to believe they will be fired in order to make jobs for Negroes.

An employer or labor organization must first be found to have practiced discrimination before a court can issue an order to prohibit further acts of discrimination in the first instance. Adequate administrative and judicial procedures have been provided in the title to assure that an order of court is only founded upon clear and conclusive evidence of discrimination. For the Commission to request or a court to order preferential treatment to a particular minority group would clearly be inconsistent with the guarantees of the Constitution.

Twenty-five States have enacted fair employment legislation which is as broad or broader than that proposed in title VII. Most of these States authorize a commission to issue and enforce its own orders against employers and labor organizations which have been found to discriminate. In contrast, as described above, a Federal court is the only governmental organ authorized to enforce the provisions of title VII and, then, it may only do so pursuant to a trial where the Federal Government has the burden of proving discrimination by a preponderance of the evidence.

Finally, title VII provides that the Federal Equal Employment Commission is to turn over complaints it receives to State commissions where State laws are effective and the State commissions are effectively administering those laws. This means that in many States where effective enforcement is possible, title VII need not even apply.

### VOTING

Contrary to committee claims that the bill will destroy the right of States to determine the qualifications of voters in all Federal elections—found at page 5—title I only provides that when a State or local government conducts an election, it must do so fairly so that a citizen will not be denied the right to vote because of his race, color, religion, or national origin. Title I also establishes certain procedural safeguards to assure that, when a State or local government administers its voter qualifications, it does so without discrimination.

One of these safeguards involve the requirement that literacy tests be in writing, since overwhelming evidence exists that registrars in certain Southern States have used oral literacy tests as a means to disqualify Negro voters. Similarly, the title provides that where an applicant for registration has taken a State literacy test and has been rejected for illiteracy, the Attorney General, if he subsequently brings a suit charging discrimination by the registrar shall have the procedural right to a presumption in the court that the rejected applicant is literate to vote if he has completed the sixth grade of school. This provision in no way restricts the State's right to require voter applicants to take literacy tests and grants the State the right to prove in court that the applicant was rejected because of illiteracy and not because of the color of his skin. Finally, the title provides that an applicant shall not be denied the right to vote merely because he has committed a minor error or omission on an application form where such error or omission is not material to the applicant's having met the State's qualification requirements. This provision will not permit an individual to vote if he does not otherwise meet the State's qualifications for voting such as age or residency requirements.

In those States where election laws are administered without racial or religious discrimination, there will be no cause for the Federal Government to file a voter discrimination case or to apply the procedural safeguards established in title I

Multiple administrative and judicial safeguards surround each title of the bill in order to protect individual and property rights. The great majority of the States have enacted legislation which is generally more sweeping in nature.

The fact is that the coordinating committee represents a minority interest which is preventing any form of civil rights legislation. Under the American system, it has the right if it relies on true facts to present its position. But, also under the American system, it has long been accepted that every citizen, regardless of race, color, religion, or national origin shall be treated as an equal. This is the extent of the purpose and intent of the civil rights bill. Rights are to be provided equally to all Americans. Rights are not granted to a few at the expense of many. Totalitarianism is not bred when a nation's government and its people are dedicated to respecting and protecting the inherent equality of the individual. Only when a government or a people consider one race or one class of persons superior to another is there sown the seed of dictatorship and moral decay. When every American is accurately informed of the scope and operation of the bill, and the mask is taken off literature such as this, which is being disseminated through the country, there is no question that the passage and enforcement of the bill will be assured.

### RECESS TO 10 A.M. ON MONDAY

Mr. ERVIN. Mr. President, the hour for the recess, as fixed by the leadership of the Senate, having been passed, I move that the Senate do stand in recess until 10 o'clock on Monday morning, in conformity with the order previously entered.

The motion was agreed to; and (at 4 o'clock and 35 minutes p.m.) the Senate took a recess, under the order previously entered, until Monday, April 27, 1964, at 10 o'clock a.m.

### CONFIRMATIONS

Executive nominations confirmed by the Senate April 25 (legislative day of March 30), 1964:

ATOMIC ENERGY COMMISSION

Dr. Mary I. Bunting, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1965, vice Robert E. Wilson, resigned.

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# EXTENSIONS OF REMARKS

## An Answer to Misleading Charges About the Civil Rights Bill

EXTENSION OF REMARKS

OF

### HON. WINSTON L. PROUTY

OF VERMONT

IN THE SENATE OF THE UNITED STATES

*Saturday, April 25, 1964*

Mr. PROUTY. Mr. President, Representative WILLIAM M. MCCULLOCH, the ranking Republican member of the House Committee on the Judiciary, is more familiar with the provisions of the civil rights bill than are most Members of Congress, because he guided the measure through the House of Representatives.

The Representative from Ohio had a summary prepared at his request, and under his supervision. It answers very thoroughly many of the misleading charges which have been hurled at the civil rights bill.

I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the memorandum submitted by the distinguished Congressman from Ohio.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT THE CIVIL RIGHTS BILL (H.R. 7152), A SUMMARY PREPARED AT THE REQUEST AND UNDER THE SUPERVISION OF WILLIAM M. MCCULLOCH, REPRESENTATIVE TO CONGRESS, FOURTH DISTRICT, OHIO, APRIL 23, 1964

False and misleading charges are being directed at the civil rights bill now in the Senate.

To those people who believe in equality under the law, who support the Constitution, and who love liberty for themselves and for others, the civil rights bill is moderate in scope, and in accordance with the best traditions of America.

Here is what the civil rights bill does and does not do.

EDUCATION

The bill does not permit the Federal Government to transfer students among schools to create racial balancing.

The bill does not permit the Federal Government to dictate to schools or teachers as to what they must teach.

The bill does not permit the Federal Government to force religious schools to hire teachers they do not want.

The bill does not permit the Federal Government to interfere with the course content or day-to-day operations of public or private schools.

The bill does not permit the Federal Government to interfere with the job or seniority rights of schoolteachers.

The bill does authorize the Attorney General to bring civil suits to desegregate public schools where individual citizens are too poor or are afraid to bring their own suits.

Only at and after the request of a school board, the bill would authorize the Commissioner of Education to furnish limited technical and financial assistance to those public schools which need assistance in desegregating.

HOUSING

The bill does not permit the Federal Government to tell any home or apartment owner or real estate operator to whom he must sell, rent, lease, or otherwise use his real estate.

BANK LOANS

The bill does not permit the Federal Government to tell a bank, savings and loan company, or other such financial institution to whom it may or may not make a loan.

EMPLOYMENT AND UNIONS

The bill does not permit the Federal Government to interfere with the day-to-day operations of a business or labor organization.

The bill does not permit the Federal Government to require an employer or union to hire or accept for membership a quota of employees from any particular minority group.

The bill does not permit the Federal Government to destroy the job seniority rights of either union or nonunion employees.

The bill does authorize a bipartisan commission to investigate charges that an employer has refused to hire or that a union has refused to accept for membership an individual solely because of his race, sex, color, religion, or national origin. If the Commission cannot dispose of the charge through the voluntary cooperation of the employer or union, the Commission must either drop the charge or bring a civil suit in a U.S. district court. In court the Commission must prove its charge by a preponderance of the evidence.

This authority is weaker than that granted to 25 State commissions under State law. And, where a State commission is doing its job, the Federal Commission may not interfere.

FARMERS

The bill does not permit the Federal Government to interfere with a farmer's operation of his farm.

The bill does not permit the Federal Government to impose minority quotas upon a farmer's farmhands or tenants.

The bill does not permit the Federal Government to interfere with membership in farm organizations.

The bill only requires that a farmer, having 25 or more employees, may not refuse to hire an employee solely because of the color of his skin or his religion.

SOCIAL SECURITY AND VETERAN'S BENEFITS

The bill does not permit the Federal Government to deny or interfere with an individual's right to receive social security or veteran's benefits.

VOTING

The bill neither authorizes nor permits the Federal Government to interfere in a State's right to fix voter qualifications.

The bill does not permit the Federal Government to practice "judge shopping," or otherwise interfere with the local Federal judiciary.

The bill does provide limited procedural safeguards to assure that citizens are not denied the right to vote because of their race, color, religion, or national origin.

HOTELS AND RESTAURANTS

The bill does not permit the Federal Government to tell general retail establishments, bars, private clubs, country clubs, or service establishments whom they must serve.

The bill does not permit the Federal Government to interfere with or destroy the private property rights of individual businessmen.

The bill does not permit the Federal Government to tell a lawyer, doctor, banker, or other professional man whom he must serve.

The bill does not permit the Federal Government to tell a barbershop or beauty shop owner whom he must serve, except that such establishment, if located in a hotel, must serve all patrons of that hotel.

All the bill does is to require that the owners of places of lodging (having five or more rooms for rent), eating establishments, gasoline stations, and places of entertainment are to serve all customers who are well-behaved and who are able to pay.

This requirement is weaker than the public accommodation laws of 32 States. And, where these States properly enforce their laws, there is no reason for the Federal Government to interfere.

RIGHT TO JURY TRIAL

The civil rights bill contains no primary criminal penalties. Only civil actions are authorized, to prevent an individual from continuing to violate provisions of the bill. Historically and according to the Constitution, jury trials are not authorized in these types of cases. The laws of the 50 States are the same in this regard.

### FREEDOM OF THE PRESS AND FREEDOM OF SPEECH

The bill does not permit the Federal Government in any way to interfere with freedom of the press and freedom of speech.

### GRANT OF DICTATORIAL POWERS TO FEDERAL GOVERNMENT

A majority of the States have enacted legislation which is as strong or stronger than the major provisions of the civil rights bill. Nothing in the bill interferes with the effective enforcement of these State laws. And, where these laws are being effectively enforced, there is no reason for the Federal Government to interfere in States rights.

In each title of the bill, effective administrative and judicial safeguards are provided. Federal officials are granted no final authority to withhold Federal financial assistance or impose penalties upon citizens. Every citizen is guaranteed his day in court with all the judicial safeguards that the Bill of Rights guarantees.

### STATE CIVIL RIGHTS LAWS

A majority of States have strong civil rights legislation which is effectively enforced. The Federal civil rights bill specifically provides that the Federal law will in no way interfere with the right of those States to continue enforcing their laws. And, where the States do so, the Federal Government will have no cause to enforce the Federal civil rights law in those States. Thus, for the Americans who do not discriminate against their fellow citizens because of race, color, or religion, the Federal civil rights bill will have no effect on their daily lives.

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# SENATE

## Monday, April 27, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God of all mercy and grace, we come unfilled to Thee, grateful for altars of prayer, where, on the wings of faith, moods of doubt, which oft assail us, seem treason to that changeless world where Thou dost reign in the uninvaded realm of the true and the excellent. Awaken, we pray, our powers to seize this day, wealthy with promise, lest we miss its nobler calls by our preoccupation with lesser and meaner concerns.

Finding here, as we bow in contrition, the gifts of pardon and peace, may the memory of Thy past mercies mingle like sweet incense with a strengthening assurance of Thy present nearness which no cruel violence of man's devising can snatch from those whose minds are stayed on Thee.

Whatever tests the days yet to be granted us may bring, may we toil on without crippling haste, without undue stress and strain, in the joy of Thy strength, garnering the lessons of the past, alert to the challenge of the present, and serenely confident that the future is in Thy hands when to a redeemed earth, cleansed of its iniquity, there shall rise in splendor the city of our God.

In the Redeemer's name we lift our prayer. Amen.

### THE JOURNAL

On request of Mr. Mansfield, and by unanimous consent, the reading of the Journal of the proceedings of Saturday, April 25, 1964, was dispensed with.

### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

### EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting several nominations, which were referred to the Committee on Commerce.

(For nominations this day received, see the end of Senate proceedings.)

### ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that each day for the remainder of the week, when the Senate completes its business, it stand in recess until 10 o'clock the next morning.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HILL. Reserving the right to object, why not make the order for one morning at a time?

Mr. MANSFIELD. Mr. President, I change my request. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock in the morning.

The ACTING PRESIDENT pro tempore. Is there any objection to the modified request? Without objection, it is so ordered.

### ORDER FOR A MORNING HOUR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour under the same conditions as prevailed last week.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 170 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Fong
Hart
Hayden
Hickenlooper
Hill
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Mundt
Muskie
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. Anderson], the Senator from Alaska [Mr. Bartlett], the Senator from Virginia [Mr. Byrd], the Senator from Illinois [Mr. Douglas], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Florida [Mr. Holland], the Senator from Louisiana [Mr. Long], the Senator from Washington [Mr. Magnuson], the Senator from Utah [Mr. Moss], the Senator from Georgia [Mr. Russell], and the Senator from South Carolina [Mr. Thurmond] are absent on official business.

I also announce that the Senator from Maryland [Mr. Brewster], the Senator from West Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Oklahoma [Mr. Edmondson], the Senator from Louisiana [Mr. Ellender], the Senator from North Carolina [Mr. Jordan], the Senator from Wisconsin [Mr. Nelson], the Senator from Georgia [Mr. Talmadge], the Senator from Tennessee [Mr. Walters], the Senator from New Jersey [Mr. Williams], the Senator from Texas [Mr. Yarborough], the Senator from North Carolina [Mr. Ervin], the Senator from Tennessee [Mr. Gore], and the Senator from Indiana [Mr. Hartke] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater], the Senator from New Mexico [Mr. Mechem], the Senator from Massachusetts [Mr. Saltonstall], the Senator from Pennsylvania [Mr. Scott], and the Senator from Texas [Mr. Tower] are necessarily absent.

The ACTING PRESIDENT pro tempore. A quorum is present.

Morning business is in order.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### Publication of Notice of Proposed Disposition of Certain Molybdenum

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of the proposed disposition of approximately 11 million pounds of molybdenum contained in molybdenum disulfide now held in the national stockpile (with an accompanying paper); to the Committee on Armed Services.

### Audit Report on Federal Crop Insurance Corporation

A letter from the Comptroller General of the United States, transmitting, pursuant to law, an audit report on the Federal Crop Insurance Corporation, Department of Agriculture, fiscal year 1963 (with an accompanying report); to the Committee on Government Operations.

### Report on Overpricing of Certain Aircraft Components

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the overpricing of B-58 aircraft components under cost-plus-incentive-fee purchase orders issued to Sperry Gyroscope Co., Division of Sperry Rand Corp., Great Neck, N.Y., by Convair, a division of General Dynamics Corp., Fort Worth, Tex., Department of the Air Force, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### Report on San Luis Unit of Central Valley Project, California

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on the San Luis Unit of the Central Valley project, California (with accompanying papers); to the Committee on Interior and Insular Affairs.

## PETITION

The ACTING PRESIDENT pro tempore. The petition of Kyoku Uezu, mayor of Gushikawa Son, and Tatsuo Yoshihama, chairman, Municipal Assembly of Gushikawa Son, of the island of Okinawa, praying for a quick solution of the prepeace treaty compensation issue, which was referred to the Committee on Armed Services.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SPARKMAN:

S. 2773. A bill for the relief of James H. Ransom; to the Committee on the Judiciary.

By Mr. BEALL (for himself and Mr. Morse):

S. 2774. A bill to amend the District of Columbia Teachers' Leave Act of 1949; to the Committee on the District of Columbia.

By Mr. INOUYE:

S. 2775. A bill to authorize the Secretary of the Interior to make a loan and grant to the State of Hawaii for the construction of the Kokee water project, Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. SMITH:

S. 2776. A bill to authorize and direct the Secretary of the Treasury to cause the vessel *Alva L.*, owned by Harold Bunker, of Matinicus, Maine, to be documented as a vessel of the United States with coastwise privileges; to the Committee on Commerce.

By Mr. SCOTT:

S. 2777. A bill authorizing construction of flood control projects on Chartiers Creek, Pa.; to the Committee on Public Works.

## CIVIL RIGHTS—AMENDMENTS

Mr. McCLELLAN submitted 34 amendments (Nos. 518 through 551) intended to be proposed by him to the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, which were ordered to lie on the table and to be printed.

## WE MUST HOLD THE LINE ON FEDERAL EXPENDITURES

Mr. LAUSCHE. Mr. President, I am receiving mail from citizens who are either directly or closely related to activities of federally financed public service programs, objecting to either reductions in funds by the Bureau of the Budget or failure of the Bureau to approve requests for increased Federal moneys.

I do not want to see essential federally sponsored public services curtailed if it can be avoided. We must be very realistic, however, in our approach and demands, especially in view of the Federal Government's current precarious fiscal situation. We must realize that for fiscal 1964, the Federal budget is in a state of imbalance by $10 billion and, furthermore, that the recent tax cut will result in a $15 billion deficit for fiscal 1965.

Firm steps must be taken to hold the line on increases in Federal expenditures and new projects. If the national economy and the fiscal soundness of the Federal Government are to survive as a result of this tax cut, prudence and frugality, wherever possible, must be exercised by both the Federal Government and the citizenry in their demands. The Federal Government has been on a spending orgy since World War II, and as a result, the national debt has risen from $269.4 billion to $317 billion.

The Senate Appropriations Committee will view realistically all items in the appropriations bill from the House. I am reliably informed that no doubt some House and budget reductions will be increased, but it will have to be the policy of the committee in view of the present and contemplated future fiscal imbalance, to be more reluctant than in the past to make wholesale increases above Budget recommendations.

Nevertheless, I will see that Ohio's interests are given equal consideration commensurate with the general policy of the committee.

I repeat that, while these letters are asking me to intervene for restoration of cuts made in the budget, I will not attempt to influence the Appropriations Committee or the administration to restore reductions. If restorations are made in one instance, they have to be made in all; and if they are made in all, or in the majority, of instances, the whole program of the President of retrenchment in expenditures will be ruined.

## JURY TRIAL IN CRIMINAL CONTEMPT CHARGES

Mr. STENNIS. Mr. President, the best and clearest presentation, from the practical standpoint, of the question of the right of trial by jury in criminal contempt charges was contained in an editorial of April 26, 1964, in the Washington Sunday Star, entitled "Contempt."

I recommend the editorial to the reading of everyone, especially nonlawyers, for a very fine, clear, and impartial statement, from the practical side of the question, of the real issue or real principle involved.

I ask unanimous consent that the editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Contempt

The Senate is beginning to talk in terms of "compromise" in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.

We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to. Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.

The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt. Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense!

The civil righters argue that Southern juries (why only Southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.

If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order. It might be 30 days or 45 days, or it might be 10 years.

The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. The only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.

Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

No one could put it better. We hope the Senate, instead of winding up with a cheap compromise because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

## OREGON'S PROGRESS IN CIVIL RIGHTS

**Mrs. NEUBERGER.** Mr. President, I have received letters from some Oregonians who have been propagandized to fear the civil rights bill now before the Senate. Oregon's civil rights and antidiscrimination laws, in existence for many years, are much more effective and far reaching than the proposal now under consideration. Nevertheless, this fear seems to have been instilled in them.

I take this opportunity to elucidate some of the reasons why the Senate bill now being considered is no more stringent than Oregon's law. As members of the State legislature, my husband and I were sponsors and strong supporters of Oregon's law.

Oregon law declares it public policy that practicing discrimination against any of its citizens because of race, religion, color, or national origin "threatens not only the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic State." It is unlawful for an employer or a labor organization to discriminate.

It is prohibited under Oregon law to discriminate in the sale, lease, or rental of any real property.

State law declares that all persons in the jurisdiction shall be entitled to full and equal accommodations, including hotels, motels, trailer parks, campgrounds, places of public entertainment, recreation, or amusement, any place offering to the public goods or services, or any place offering to the public food or drink for consumption on or off the premises.

In Oregon, as in the proposed Senate bill, exclusion is made for bona fide private clubs.

Other sections of the civil rights bill deal with voting, school desegregation, and continuation of the Civil Rights Commission, as well as granting authority for the termination of federally financed programs operated by State or local governments on a racially discriminatory or segregated basis. Oregon and other States with effective civil rights codes would not be affected by the proposed Federal legislation.

Oregon has made progress during its 105 years of statehood, from the time when the State constitution banned Negroes from the State.

Mr. President, I ask unanimous consent to include at this point in my remarks an article from the Eugene Register Guard entitled "Oregon Making Rights Progress," reporting a speech made by Russell Payton, investigator for the civil rights section of the Oregon State Department of Labor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Eugene (Oreg.) Register Guard, Apr. 17, 1964]

### OREGON MAKING RIGHTS PROGRESS

Although many groups are impatient at civil rights progress, Oregon is making strides in prohibiting discrimination, the Eugene Civil Rights Commission was told Thursday.

Russell Peyton, investigator for the civil rights section of the State department of labor, said Oregon has very comprehensive civil rights laws.

"Some people say you can't legislate morals," Peyton said, "but this is not something new. Oregon started in 1859 when its constitution banned Negroes from the State."

And since that time Oregon has had a number of laws requiring discrimination. There were laws about firearms, marriage and liquor that dealt with race, Peyton noted. And one law prohibited contractors from hiring certain minority races if they wanted to get State jobs.

"Now, all of a sudden," Peyton said, "things are starting to change, and the laws are coming off the books. But it is a difficult job after years of conditioning, because you must change people's attitudes, too."

Peyton recognized the "growing trend of impatience. Many can't see why we aren't moving faster."

He commented that since 1949 every session of the Oregon Legislature has beefed up antidiscrimination laws. And it is Peyton's job to investigate alleged violations of laws prohibiting discriminatory practices in vocational schools, public accommodations, and housing.

He first tries to solve problems by "conference, conciliation, and persuasion." If these fail, complaints may be taken to a public hearing, and eventually perhaps even into court.

Most of complaints now come in the housing field, Peyton said. He estimates that in about 50 percent of his cases he finds no discrimination involved..

And most problems are settled by conciliation. In 14 years, only six cases have come to public hearings, he said.

Peyton said that in the housing field, the economic threat to landlords if they rent to Negroes just doesn't work out in practice.

"Tenants will threaten the landlord that they'll move out if he lets a Negro in, but they don't. By and large the tenants stay."

And in Oregon there is no threat of economic problems in a Caucasian residential district if a Negro family moves in, Peyton said. Temporarily many families may attempt to sell their property, causing values to decline. "But this is only temporary, and prices will go back."

Peyton said he finds it surprising that many members of minority groups are "not aware of their rights" under Oregon law.

**Mrs. NEUBERGER.** Mr. President, as I have shown, the civil rights bill now before the Senate duplicates many Oregon laws, but Oregon law covers discrimination in housing by extending its coverage to any person engaged in the real estate business, and includes "any place offering the public goods or services."

Oregon's Fair Employment Practices Act has operated smoothly, and, as Mark A. Smith, administrator of the civil rights division, states, the ease with which settlements are reached between the complainant and defendant often amaze both parties.

An excellent analysis comparing the civil rights bill now before the Senate and Oregon laws has been made by Peter N. Tugman, staff writer for the Oregonian, in his article, "Eleven-Section Civil Rights Bill Duplicates Many Oregon Laws," of April 19, 1964.

I ask unanimous consent that the article appear at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ELEVEN-SECTION CIVIL RIGHTS BILL DUPLICATES MANY OREGON LAWS

(By Peter N. Tugman)

House bill 7152, the civil rights bill, passed the House February 10, 1964, without major amendment. It is now before the Senate for consideration.

It is perhaps one of the most widely discussed and least understood pieces of legislation of recent years.

In response to a number of requests, the Oregonian prints below a digest of the bill's main features together with a comparison, where applicable, of existing Oregon State law on the subject.

The bill is in 11 titles intended, according to the official description of the act: "To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, extend the Commission on Civil Rights to prevent discrimination in federally assisted programs, establish a Commission on Equal Employment Opportunity, and for other purposes."

#### TITLE I—VOTING RIGHTS

Prohibits election registrars from applying unequal criteria for voter qualification or denying the right to vote on the basis of immaterial errors or omissions on records of applications. Requires that literacy tests be written except where applicant requests an oral exam and the law allows it. Provides that in testing, copies of questions and answers be available to applicants.

In voting tests a sixth grade education is a rebuttable presumption of literacy.

Permits the Attorney General or the defendant to ask for a three-judge court in voting cases, and instructs the judge designated for such a case to expedite it "in every way possible."

Oregon's civil rights package, a group of laws and executive orders passed between 1949 and 1961, contains no corresponding voters' rights legislation.

"I think it is clear Oregon had no need for specific legislation protecting minority rights in voter registration," said Paul Hanlon, a Portland attorney and member of the

Oregon State Civil Rights Advisory Committee of the Commissioner of Labor. He continued that under present Federal law the Attorney General may initiate criminal proceedings against an elections registrar for illegal deprivation of voters' rights. Hanlon said, however, the present law has proved hard to enforce and easy to circumvent by delay.

### TITLE II—PUBLIC ACCOMMODATION

Provides for injunctive relief for persons denied public accommodation or refusal of service in hotels, motels, some places of amusement and gas stations, if the refusal is made on the basis of race, color, religion or national origin.

The title is directed at discrimination or segregation carried on under color of law or any local or State ordinance or law. The effect of the title, therefore, would be to make such laws illegal.

Public accommodations are limited to those operating in interstate commerce and specific exception is made to owner-occupied (hotel-motel-apartment house) facilities of five or less rooms. This is the so-called Mrs. Murphy clause.

Not specifically covered were such things as barber shops, retail stores, dance halls, bowling alleys and other places of amusement. But any establishment within or containing an accommodation covered was brought under terms of the title. So that a store with a lunch counter would seem to be covered.

The remedies are suit for injunction either by the aggrieved party or by the Attorney General.

The State of Oregon has had a public accommodation law since 1953 and has had good success adjudicating the few complaints brought under its provisions. The Federal title may almost be construed as not applying to Oregonians because of the State law—unless of course the Oregonians are nonwhite and intend to travel beyond the State.

While the Federal law is drawn under the broad provisions of the commerce clause, the historical fact is that few if any businesses might escape its effect by pleading they are not in interstate commerce. As Dr. Paul W. Cherington of Harvard has remarked, "Birds have been held in interstate commerce and the New York Yankees not." He was referring to the courts' propensity for elastic construction of the Constitution when the question is one of social welfare. Numerous examples may be found in child labor litigation.

### TITLE III—PUBLIC FACILITIES

This requires that minority groups have equal rights to such facilities as swimming pools, parks, golf courses when they are owned by State or local government agencies. Permits the Justice Department to intervene in suits brought by aggrieved persons when such suits cannot be maintained by them because of finances, or potential or economic injury. Authorize the Attorney General to intervene in suits brought by citizens charging denial of equal protection of laws.

(Oregon has no comparable law in its civil rights package. There seems to be no need for one since municipal facilities have not been recently segregated.)

### TITLE IV—PUBLIC EDUCATION

Empowers the Attorney General to bring school desegregation suits and requires the U.S. Office of Education to report in 2 years on school desegregation and give local aid in desegregation problems. The Attorney General's power to sue in this area was not included in the 1957 act.

(Oregon in 1951 passed the Vocational School Act which included a provision banning discrimination in vocational, professional, or trade schools. This was an omnibus bill containing a number of other provisions not related to schools.)

The Federal act embodies an amendment by William C. Cramer, Republican, of Florida, making it clear desegregation does not include assignment of pupils "to overcome racial imbalance"—busing of students of one color to schools of predominantly another color would seem to be out.

Hanlon comments that busing to overcome de facto segregation is being tested in the courts with decisions going both ways to date.

### TITLE V—CIVIL RIGHTS COMMISSION

This title extends the Commission on Civil Rights for 4 years and designates it as a clearinghouse on civil rights matters.

Oregon has a bureau of civil rights under the commissioner of labor which acts as clearinghouse, information medium, and conciliator-enforcer of the Oregon civil rights package.

### TITLE VI—FEDERALLY ASSISTED PROGRAMS

Directs agencies extending Federal aid to act against discrimination by withholding such aid. Agencies are required to seek voluntary compliance and if not forthcoming must give 30 days notice before withdrawing aid. Title does not cover direct payments to individuals such as pensions, etc.

### TITLE VII—FAIR EMPLOYMENT

Bans discrimination by employers or unions with more than 25 employees or members. Establishes a fair employment opportunity commission which can sue for injunction to enforce compliance with the act.

The commission is authorized to "receive complaints, investigate and first seek compliance" with fair employment practices through "informal methods of conference, conciliation and persuasion," before instituting suit.

The methods of enforcing the title are identical with those of Oregon's 1949 fair employment practice act. The term "conference, conciliation and persuasion is identical to Oregon language. Commenting on the successor of the act in Oregon, Mark A. Smith, administrator of the civil rights division, said the ease with which settlements are made between complainant and defendant often amazes both parties. "We have the machinery and we are making it work," he said.

In Oregon conciliation is a charge upon the administrator. Hanlon said the Federal act appears to have the same thrust.

### TITLE VIII—STATISTICS

Requires the Census Bureau to collect statistics on voting, compiled by race, showing the number of persons of voting age and the number registered and voting—in areas designated by the Civil Rights Commission.

### TITLE IX—REMOVAL TO FEDERAL COURT IN CIVIL RIGHTS CASES

Allows appeal by defendant in a criminal case who has tried and failed to remove his case from State to Federal court on grounds of denial of equal protection. The title makes such cases remandable to higher Federal court for review of decisions of lower Federal courts.

### TITLE X—CONCILIATION

Creates a community relations service within the Commerce Department to help conciliate local racial issues. The service will be made up of seven persons, with a director to be paid $20,000 a year.

The service's conciliation efforts would be limited by law to disputes in which rights of disputants are impaired under the Constitution and "which may affect interstate commerce."

The agency may, under the title, offer its services whenever "peaceful relations among the citizens of the community involved are threatened." And it may offer its services either on its own motion or on request.

### TITLE XI—MISCELLANEOUS

Specifies that nothing in the act shall nullify existing State civil rights legislation which is not inconsistent with purposes of the Federal act. Assures that no existing legal powers of Federal officials are diminished by the act. Authorizes appropriation of funds necessary to implement the act.

The Oregon civil rights package, by passage of bills in 1959 and 1961, appears to go farther than the Federal act in covering discrimination in housing by extending to any person engaged in the real estate business and extending the public accommodations act to include "any place offering the public goods and services."

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## STAFF RESEARCH INTERN

**Mrs. NEUBERGER.** Mr. President, my husband, the late Senator Neuberger, established a position of research intern on his staff which I have continued. This program brings to us each fall a recent college graduate who becomes a regular member of the staff for 1 year. It has proved invaluable to the service which my office can give and does put us in touch with some wonderful young men and one woman.

Our alumni are now scattered from Rome, where one is a member of the staff of the Fairchild Publications, to Tanganyika, with the Peace Corps, to many other areas of industry and law.

One of Oregon's leading dailies, the East Oregonian, for April 13, carried an interesting story about this program which I ask to have printed in the Record.

There being no objection, the story was ordered to be printed in the Record, as follows:

> We sat the other day with a committee that was interviewing candidates for the position of research intern on the staff of Senator Maurine Neuberger.
>
> This is a position established by the late Senator Richard Neuberger. Graduating seniors from Oregon's 4-year colleges (public and private) apply. They submit their scholastic records, letters of application that tell something of themselves, and letter of recommendation from faculty. The procedure is concluded when they are interviewed by members of this committee on which we have served since the beginning of the very interesting program.
>
> At the end of the day the committee members select the person they think best qualified to fill the position. It never has been easy to make these selections. Members of the committee unfailingly express regret that it is possible for them to choose any one.
>
> There is another standard reaction. This year, as in years past, members of the committee expressed the opinion that it would be well for all of the pessimists who are sure this generation of college students is going to the dogs to see and talk with the students the committee has interviewed. We felt, as we have in previous years, that the Nation will be in good hands when these young people have matured and assumed positions of responsibility.
>
> Of course the committee sees outstanding young men and women. The position they seek is highly desirable because of the opportunity it affords to observe the inner working of the Federal Government. But we're sure there are many more as well qualified at the schools from which the candidates come.
>
> The candidates have done a lot of serious thinking on many important problems. They seldom give you an answer that comes off

the top of the head. They have good reasons behind their answers. Getting an education is a very serious business with them and so is planning their careers.

We never cease to be amazed at the capacity for work of some of those young men and women. It is not unusual to interview a young man who is working nights and Saturdays, getting top grades in all of his courses and doing important things in student government. They provide solid proof for the old adage that you should get a busy man if you want a tough job done well.

While we don't expect some of the harsh critics of today's system of education to accept it we must offer the opinion that today's college graduates are much better educated than those of our generation were. Their education is broader and deeper. We have seen that over and over again and nothing we see in education makes us happier. The proof is in the product and these are very attractive products.

This State's elementary and secondary schools and colleges are performing their tasks well. The elementary and secondary schools are sending a higher percentage of their youngsters to colleges every year and they are increasingly better prepared to do college work. The colleges are constantly demanding more of them and they are responding to the challenge.

We'll bet on this generation of college graduates to do a better job on their Nation's problems than their fathers and grandfathers did.

People in education in this State hear over and over again that they must improve their image. The inference is that education is not performing well in Oregon. The facts don't give the critics a leg to stand on. The test of education is in the products it is turning out. The facts are that boys and girls in Oregon schools are getting better educations than ever before.

Many of the critics have never taken the time to look into the things that really count in education. Many never look below the froth on top. It is most discouraging when we hear college alumni making irresponsible statements about education. In most cases they are the alums who judge their alma maters according to the performance of athletic teams.

Many of those critics who are quite sure that the colleges are not doing a good job couldn't stay in college today. The academic demands would be too stiff for them.

We will listen to and respect responsible critics. But too many of the critics of education in Oregon don't know what they are talking about.

## CIVIL RIGHTS ACT OF 1963—NEW HARRIS SURVEY SHOWS THE PEOPLE FAVOR CLOTURE 3 TO 1

Mr. JAVITS. Mr. President, I invite the attention of the Senate to an interesting copyrighted story in the Washington Post this morning entitled, "The Harris Survey: Rights Bill Still Favored 2 to 1 Despite 'Backlash'."

The Harris survey shows—and it is a substantial and important public survey—an interesting situation on the question of cloture in the current filibuster on the civil rights bill, that cloture is favored nationwide by 63 percent of those surveyed and opposed by 24 percent. Among the white people in the South, it is favored by 44 percent and opposed by 43 percent.

These percentages are not necessarily conclusive, of course; but the significance of the survey is twofold, as I see it. First, Americans, whatever their views may be on civil rights—and the same survey shows that among whites in the South there is strong opposition to outlawing segregation in public accommodations—nevertheless, take pride in and feel secure because of the integrity of the institutions of the Government of the United States.

It seems to me very clear that there is a serious problem in the Senate, when the Senate can be tied up by a minority of, at most, one-third of its membership—because after all, that is all that is necessary to prevent closure—so that it is unable to carry on the Nation's business because it is unable to come to a vote, as is its constitutional duty.

Although no more than a majority vote is required by the Constitution, the Senate cannot act, and is paralyzed from acting, under the rules of the Senate, unless two-thirds of its Members decide to come to a vote on the civil rights bill. Something must be basically wrong with our society and our Government for this to be permitted to happen. As always happens in our country, people are showing their uneasiness, even in the South, at such a situation. This survey is something of a guide as to the degree of opposition to the civil rights bill. The people realize that with the machinery of Government not always working effectively, there is a grave defect and difficulty in that machinery.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. On the related question of demonstrations and their effect on the bill, it is fatuous to suppose that we can this summer avoid some demonstrations, which hopefully will be peaceable, utilizing the first amendment rights of free speech and of free assembly and petition, but nonetheless demonstrations.

What, therefore, is the importance of the civil rights bill? The importance of the bill is that if we do not have a just answer to the deeply held grievances of the people who are demonstrating, we are in grave danger of having uncontrolled activity of that kind. On the other hand, if we do have a just answer, in my opinion we shall enlist the cooperation of the great majority of the American community, including the Negro community, to see that the demonstrations remain orderly and as fine a model of compliance with the first amendment as was the March on Washington last August.

What is at stake is critically important. What is at stake is whether the Government will give the great majority of Negroes a just answer to their grievances and will give the American people the opportunity to remain abreast of the situation.

However, if we do not do that, there will be a breakdown in government, and the government will place the people in a difficult position, because no answer will have been given where one is required. People will feel that there is something really wrong with the machinery of government if it cannot help them.

So a vote for cloture would be a vote, in great part, for the integrity of the American machinery of government, even more than it would be a vote with respect to civil rights.

I believe that this survey is strong evidence to that effect.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the survey to which I have referred.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

The key facts about civil rights legislation from a survey of a cross section of the American people:

By nearly 3 to 1, people in all regions, including the South, favor a Senate rule of cloture to end the civil rights filibuster.

By well over 2 to 1, the Nation favors the administration bill on civil rights.

The public accommodations section of the civil rights measure is favored by an even wider margin than the bill as a whole.

While the white South favors a curb on filibusters, opposition to the overall bill, and specifically to the public accommodations section, runs nearly 2 to 1 below the Mason-Dixon line.

It is apparent that the long drawn-out filibuster on civil rights has not impressed the American public with the usefulness of such legislative tactics:

*Limit Senate debate on civil rights, in percent*

| | *Nationwide* | *White South* |
|---|---|---|
| Favor | 63 | 44 |
| Oppose | 24 | 43 |
| Not sure | 13 | 13 |

Traditionally, of course, a minority of southern Senators has been able to tie up civil rights legislation until some kind of compromise.

As the debate on civil rights has taken place over the past several months, public support for the Johnson-Kennedy measure has actually risen:

*Administrative civil rights bill, in percent*

| | |
|---|---|
| April 1964 | 70 |
| February 1964 | 68 |
| November 1963 | 63 |

The South's stand in opposition to the civil rights bill is nowhere more graphic than to the key section outlawing segregation in public accommodations:

*Outlawing segregation in public accommodations, in percent*

| | *Total Nation* | *White South* |
|---|---|---|
| Favor | 62 | 24 |
| Oppose | 27 | 69 |
| Not sure | 11 | 7 |

## TAMPERING WITH THE RIGHT TO A TRIAL BY JURY

Mr. TALMADGE. Mr. President, I have proposed an amendment to the so-called civil rights bill which would guarantee the American people their constitutional right to a trial by jury, not only in criminal contempt cases arising from this proposed legislation, but in all criminal contempt cases.

The right to a trial by jury is one of the most basic and fundamental principles embodied in our Constitution. It is guaranteed to every American citizen who may be charged with a crime; and this, of course, includes charges of criminal contempt.

However, in recent years, this right has been neglected and abused in criminal contempt cases brought before some of our Federal courts. Persons have been sent to jail for long periods of time, or fined heavily on criminal contempt charges, after being found guilty by Federal judges without benefit of a trial by a jury of their peers.

For instance, as was brought out in the recent dissenting opinion of the U.S. Supreme Court in *United States* v. *Ross R. Barnett, et al.*, in *Green* v. *United States, supra,* and *Collins* v. *United States,* 269 F. 2d 745, sentences of imprisonment for 3 years were imposed; in *Piemonte* v. *United States,* 367 U.S. 556, a sentence of imprisonment for 18 months was imposed; in *Brown* v. *United States,* 359 U.S. 41, a sentence of imprisonment for 15 months was imposed; in *Nilva* v. *United States,* 352 U.S. 385, a sentence of imprisonment for 1 year and 1 day was imposed; and in *Levine* v. *United States,* 362 U.S. 610, a sentence of imprisonment for 1 year was imposed.

Mr. President, we must reverse this trend of handing out jail sentences in criminal contempt cases without a trial by jury.

We must make the right to a trial by jury more secure. We must protect it. We must guarantee it for all time.

The amendment which I have offered, and in which I have been joined in cosponsorship by a number of distinguished Senators, would protect and guarantee this right.

As was pointed out in an excellent editorial of Sunday, April 26, published in the Washington Sunday Star, there is absolutely no room for compromise when it comes to a constitutional right so important as that of trial by jury. The Star correctly condemned attempts to tamper with this right through some sort of face-saving compromise.

The editorial states, in part:

> Criminal contempt is something else, it is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

I commend the Star for its insistence upon this right. I ask that Senators carefully read this editorial and consider the importance of the decision with which we are faced.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Sunday Star, Apr. 26, 1964]

CONTEMPT

The Senate is beginning to talk in terms of "compromise" in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.

We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to. Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.

The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt. Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense!

The civil righters argue that southern juries (why only southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.

If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order. It might be for 30 days or 45 days, or it might be 10 years. The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. For the only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.

Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

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## THE DEBATE ON THE CIVIL RIGHTS BILL

Mr. CLARK. Mr. President, a moment or two ago the Senator from New York [Mr. JAVITS] made reference to the Harris survey which appeared in the newspapers this morning, dealing with public opinion on the civil rights bill. He also inserted in the RECORD a copy of the survey.

I note that the last table in the survey shows that President Johnson's handling of the civil rights bill is approved by a nationwide percentage of 67 percent, and by 61 percent of those queried in the white South. I believe that is quite significant as an indication that the opposition in the white South to this bill, which the President so strongly favors, has been vastly overestimated.

Mr. President, the defendant in the court of public opinion is the Senate, because the Senate in this long-winded filibuster, which started on March 9 and still continues, has shown its complete inability to measure up to its legislative responsibility.

In the process of doing so, we have thrown away our own rule book. We are at this moment proceeding under a most extraordinary procedure. Several months ago the Senate adopted a new rule, which allows committees to meet while the Senate is engaged in its morning hour. We are now in a sort of illegitimate morning hour. There is no reason why committees should not be sitting. There is no reason why a Senator must come to the floor instead of going to a committee meeting, except that one Senator has refused to give credence to the Senate rule, and in order to indulge him it has been necessary to enter into a unanimous-consent agreement to eliminate the rule adopted less than 2 months ago, so that our committees should not be able to meet.

We have thrown away the rule book for a unanimous-consent agreement. We have thrown away, for weeks, the Pastore germaneness rule. The only rule that Senators have any intention of using is rule XXII. Until the Senate is prepared to come back to orderly procedure, and bring that rule into accord with the procedure in every other civilized legislative body in the world, the Senate will continue to be held up to contempt throughout the country and across the world.

Mr. SMATHERS. Mr. President, I have listened with considerable interest to the statements of the able Senator from New York [Mr. JAVITS] and the able Senator from Pennsylvania with respect to the poll conducted by Louis Harris, which appeared in the Washington Post this morning.

As Arthur Krock, the esteemed editorialist and columnist of the New York Times once said, after all, it is not the polls that are the final determination as to how people feel, but, rather, elections.

If we look at the past few elections which have been held in the United States, we find, for example, that when people were able to express themselves by secret ballot they have spoken clearly on this subject.

For example, in Portland, Oreg., which is obviously not in the South, the people turned down a proposal, in a referendum vote, which called for a certain type of fair housing program. One that called discrimination in housing illegal.

The same type of thing happened in Seattle, Wash., recently. We also know what happened in the primary election in Wisconsin, in which the Governor of Alabama, although making very few speeches, spending little time and little money, offered himself as an anti-civil-rights candidate, and he received two and a half times the vote which the experts had said he would get. He polled over 25 percent of the total Democrat vote.

It was interesting, also, to note, in recent weeks, the Rhode Island Legislature turned down a public accommodations bill for that State. Surely, the Rhode Islanders are not southern, nor are they benighted.

All this would indicate to me that there is a backlash to the extreme pressures of these pro-civil-rights groups. All these elections throw some doubt on the results of the Harris poll. Incidentally, we were not permitted to see the questions that were asked in the Harris poll. It is possible to ask the question, for example, "Do you favor continued long debate in the Senate and thereby hold up the business of the Senate?" Everyone would be likely to answer "No." It is then possible to take that answer and interpret it in any way one wishes to interpret it.

I have had Mr. Harris conduct a few polls for me. They were pretty good polls. He is a good pollster. But, of course, the question is as important as the answer. One can get a certain answer by asking a certain question. And in the Harris poll as reported in this morning's press, the questions asked were not revealed, so from my personal experience in this civil rights matter, I am skeptical of the results of the Harris poll.

I believe that the Senator from Georgia, the Senator from Virginia, the Senator from Alabama, the Senator from Florida, or the Senator from Mississippi are representing the majority of the people in their States. If they were not, they would not be here, or continue to be reelected as they have been time and again.

I was back in my State over the weekend. Never before, in the 18 years that I have had the privilege of representing Florida in Washington, have so many people come up to me voluntarily, to stop me on the street, to say, "Please keep up your fight against the civil rights bill. You are doing splendidly. Do not give up the fight. We do not think there is any need for another law to permit the Federal Government to encroach further into our affairs."

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **SMATHERS**. I ask unanimous consent that I may proceed for 2 additional minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **SMATHERS**. With respect to so-called civil rights, I am happy to ask unanimous consent to have printed in the RECORD excerpts from an article entitled "State Teachers To Integrate."

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### STATE TEACHERS TO INTEGRATE

(By Louise Blanchard)

The Florida Education Association yesterday became the first statewide teachers' group in the Deep South to open its membership to Negroes.

Delegates representing more than 40,000 white teachers voted to remove the word "white" from the FEA charter "by more than the necessary two-thirds majority," Election Committee Chairman Jane Reynolds announced.

The announcement drew applause from delegates ending a 3-day meeting at Miami Beach Convention Hall. Voting machines were used for the balloting. The FEA never announces the number of votes in an election.

#### JOE HALL ELECTED

Dr. Joe Hall, superintendent of Dade schools, was elected FEA president for the coming year. He has headed the Dade school system during several years of peaceful and fairly rapid desegregation.

Immediately after the announcement of his selection, Dr. Hall said he has not made any plans for putting the desegregation move into effect.

State officers of the FEA and the Negro organization, the Florida State Teachers' Association, have met to discuss the question, said Dr. Gilbert L. Porter, executive secretary of the FSTA.

Dr. Porter said he was "proud of the FEA" and delighted by the decision.

The Dade Classroom Teachers' Association made the decision to open to Negro members about a year ago. It is not affiliated with the FEA, but many Dade teachers are members of both organizations.

Statewide education organizations in a half dozen border States desegregated their membership in the last 5 or 6 years, Dr. Porter said.

While the FEA was meeting at Miami Beach, the FSTA met in Miami and adopted as policy a statement prepared by the executive secretaries of the Negro education associations of 11 Southern States. The policy establishes principles for desegregation of education associations and says:

"Unilateral action will only serve to produce needless tensions. * * *"

Mr. **SMATHERS**. Mr. President, this action has been taken voluntarily by those people. There is no law which tells the teachers of Florida to do it. There has been no whiplash applied to force them to do it. This action is proof positive that if we in the South are left alone and permitted to try to solve our problems, they will be solved. If we are not dictated to, or forced into certain courses of action, but allowed instead to proceed as best we can, we can make a great deal of progress. This action demonstrates that if left alone, we are trying, and will do something about the problems, and in the end we can solve them.

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## FIDEL CASTRO'S DILEMMA

Mr. **SMATHERS**. Mr. President, we have all been interested in Fidel Castro's hysterical and inflammatory speech of about a week ago, in which he attacked the United States in most abusive language. It was the first such speech that he has made since October 1962. Everyone has been wondering why he was doing this at this particular time. In that connection a very interesting article was published in the Miami News of this past Sunday. It was written by Mary Louise Wilkinson. What she writes makes a good deal of sense and I commend it to my colleagues. She says that Castro has finally awakened to the fact that if the tensions between the Soviet Union and the United States continue to be eased, he is likely to be left all alone, stuck with his own inept government, and without any help from the Soviet Union. If the Soviet troops continue to be pulled out, he is afraid that when they are finally gone there will be no commitment or further inducement on the part of the Soviet Union to help him. Therefore, Castro is trying to create a crisis of sufficient magnitude to justify the Soviet Union being drawn back into a so-called confrontation with the United States, which then might have the effect of guaranteeing his present Cuban dictatorship continued help in the form of food, money, and protection from the Soviet Union.

This strategy on the part of Castro demonstrates in what desperate straits this man finds himself, and also what desperate steps he is likely to adopt in order to extricate himself.

I ask unanimous consent that the article may be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CASTRO SEEKS NEW CRISIS WITH UNITED STATES

(By Mary Louise Wilkinson)

After months of comparative calm, Cuban Premier Fidel Castro has been busy the past week trying to whip up another "crisis" with the United States.

Informed sources here and in Washington believe Castro's espionage system works so well he is anticipating what will happen in the next few weeks in regard to Russian-American relations.

The signposts are already there.

Russia and the United States recently agreed to cut back production of nuclear weapons and Russia has indicated it will pull Russian troops out of Cuba.

Castro's spies apparently have convinced the Cuban leader that even more startling agreements are in the offing.

He is beginning to wonder—and shout hysterically—if the lone Communist stronghold in the Caribbean is going to be left in the open like a sitting duck at a shooting gallery.

With the desperation of a drowning man, Castro has been trying to create a situation in which the Russians could not pull out completely without losing face.

Castro began it last Sunday, just when Russia and the United States had reached a new agreement on nuclear cutback.

In his most violently anti-American speech since the October 1962 missile crisis, Castro charged the United States with repeated U-2 violations of Cuban air space and claimed Cuba "would fight to the last bullet and the last man."

Last Sunday's speech came as a surprise after months of obvious Cuban attempts to reach a coexistence settlement with the United States.

That speech, in which the bearded leader appeared hysterically frightened, was met with a statement by President Johnson that the U-2 flights over Cuba would be continued.

The U-2's flying at altitudes up to 80,000 feet, replaced onsight inspection following the missile crisis. Russia agreed to the inspections. Castro did not.

The Cuban premier obviously was clutching at the retiring Russian forces as protection against a possible "green light" for exile action.

Also, the Organization of American States is expected to apply anti-Cuban pressure—certainly economic and possibly military—after the forthcoming foreign ministers meeting.

Russia waited 3 days before issuing a reply to the Castro speech.

Finally on Wednesday, Izvestia stated the U.S.S.R. would side with Cuba in case "of a treacherous attack" arising from the U-2 controversy.

But Russia did not rattle its rockets as before, limiting the statement to recognizing Cuba's "inalienable right to put an end to the intrusion."

Withdrawal of Russian forces poses a problem not only to Castro, who is seeing himself suddenly vulnerable in an alien hemisphere, but to the United States as well.

The PRESIDING OFFICER. Is there further morning business?

Mr. HILL. Mr. President, I suggest the absence of a quorum.

Mr. ALLOTT. Mr. President, will the Senator withhold that suggestion for a moment?

Mr. HILL. I withhold it.

## CLOTURE

Mr. ALLOTT. Mr. President, I believe the time has come to say a few words about cloture. The Senate has been engaged in debate on the civil rights bill for 7 or 8 weeks. Most of the things which can be said about the pending bill, together with the amendments, have been said.

Some Senators take the floor and criticize the cloture provision in the Senate rules. I take the floor now for only one reason, and that is to call the attention of Senators to the fact that the Senate has been debating this subject for some time. The cloture rule can be invoked and enforced at any time that Senators decide to do it. So-called unlimited debate, in which Senators take so much pride, is not actually unlimited debate. Senators have the right and the duty, at some point, to bring debate on this subject to a conclusion.

It is my hope that sometime during this week the Senate will start to vote on amendments, and that the Senate will begin to think about bringing itself to the mental state in which it will conclude debate, so that it can work its will on the bill.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 2 minutes, since I have already spoken, so that I may reply to the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. The real problem with respect to cloture is that it is often said that if a majority makes up its mind that it wants to vote, it can vote. That is not true. What the Senate has done under its own rule is to put handcuffs on its own hands, so that it cannot comply with the constitutional mandate to pass bills by a majority vote. The facts to prove that statement are as follows:

I have had a bitter experience, so I speak from personal knowledge. The Senate tried to amend rule XXII very modestly at the beginning of the present Congress, in January 1963. There was substantial sentiment to make cloture applicable upon the vote of 60 percent of the Members present and voting rather than two thirds. We tried to get cloture in order to adopt that rule, and a majority voted for cloture. The vote was 54 to 42. It may be remembered that I had a little passage at arms with then Vice President Johnson, who is now President of the United States, seeking recognition to make the point of order that 54 votes were enough as a clear-cut majority under the Constitution, even though not under rule XXII, but I never got anywhere with that contention. The Chair had given his opinion on that subject before and ruled against my view.

What we said was that 54 Members of the Senate wanted to change rule XXII; that they wanted cloture for that purpose. They did not get it. The whole proposal went down the drain. So we have a filibuster in progress now, just as we had before.

Consequently, it is not true that a majority of the Senate, even if it determines to do so, can work its will. Therefore, one of two things must happen: First, the country must make up its mind that the Senate must act—and that is why the Harris poll is so important; it must make up its mind that it is a disgrace that the Senate does not act, as it cannot act now; or the Senate must amend rule XXII, which, incidentally, it can do at any time. Otherwise the Senate will not be able to act.

Let us understand clearly what is at stake. It is the integrity of constitutional government. The longer the filibuster continues, the longer will that fact be borne in on the American people, until they demand—as I think they are now doing—that the Senate get on with its business. So the Senate should remove the handcuffs from its hands and not impede its constitutional responsibility and its constitutional duty.

Mr. ALLOTT. Mr. President, I ask unanimous consent that I may proceed for 2 minutes to reply to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, the Senator from New York made a statement which might be inferred as coming from me. He said that a majority of the Senate can proceed. I have never made that statement; I never will.

We all know what the cloture rule, rule XXII, provides. I wish to make it perfectly clear, regardless of what the Senator from New York has said or what anybody else may say, that I believe that at any time the Senate wishes to make up its mind that it will close debate on a matter, it can be done. I for one do not believe that rule XXII, or 66⅔ percent, or any other portion is the blocking element in concluding debate. The element that blocks debate is the state of Senators' minds.

I do not propose to stand behind rule XXII. I am willing to stand upon what I believe the Senate should do after it has had a reasonable time in which to debate the bill. I think the time to act is now.

## CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute proposed by the Senator from Illinois [Mr. DIRKSEN] for himself and the Senator from Montana [Mr. MANSFIELD] for amendment No. 513 proposed by the Senator from Georgia [Mr. TALMADGE] for himself and other Senators, relating to criminal contempt.

Mr. HILL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Sentators answered to their names:

[No. 171 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Fong
Gruening
Hart
Hickenlooper
Hill
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Morton
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Simpson
Smathers
Smith
Sparkman
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERTSON obtained the floor.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Vermont [Mr. AIKEN] for either a question or a statement, with the understanding that I shall not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I appreciate the courtesy of the Senator from Virginia. I promise faithfully to confine my remarks to a statement and not undertake to do anything else.

Mr. President, there is no doubt that the civil rights bill we are considering is one of the most significant proposals of this generation.

It has had a singular appeal to the emotions of many people, most of whom quite obviously have never read the bill.

Let me say to those people, "The bill is not as bad as its enemies claim nor would it produce the benefits which the proponents anticipate."

The House consideration of the bill appears to have been quite thorough, as indicated by the large number of amendments approved.

Whether the bill as a whole was improved by the House is a matter of opinion.

In the matter of public accommodations and the guarantee of voting rights, a fair solution and understanding appears to have been reached.

Even before the bill was introduced into Congress last year a controversial figure appeared on the scene in the form of "Mrs. Murphy."

I was very happy and even proud to be associated with her.

Strangely enough, she had then and still has her enemies.

Only recently, I received a letter asking, "What is the difference between Mrs. Murphy's boardinghouse and the Waldorf-Astoria?"

The answer, of course, is that Mrs. Murphy's boardinghouse is a home while the Waldorf-Astoria is a hotel.

I have received quite a few letters chastising both Mrs. Murphy and me.

These letters are, of course, discounted as representing the views of the misinformed or of a minority whose objectives appear to go well beyond the enactment of civil rights legislation.

The House committee felt strongly that the Federal Government should not be given control over the private home and very properly exempted "Mrs. Murphy" from the provisions of title II, the public accommodations section of the bill.

Since most proponents of civil rights legislation are now supporting the House bill, without change, we may assume that they are satisfied to have the home exempted from Federal controls.

The House also added title VII which relates to equal employment opportunity.

This title was not included in President Kennedy's original bill and probably by its inclusion by the House has not strengthened the prospects for ultimate passage of the bill itself.

This title as now written is discriminatory, contains big loopholes, and would be difficult to administer even if it should stand the test of the courts.

I would like to set forth two or three examples of what I mean.

Paragraph (b) of section 702, page 28, reads, in part, as follows:

> (b) The term "employer" means a person engaged in an industry affecting commerce who has 25 or more employees, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof.

The elimination of employers of 25 persons or less would exempt about 75 to 80 percent of all employers from the provisions of this title and possibly as much as 25 percent of our total working force from its protection.

The exemption of political bodies and their wholly owned corporations, from the U.S. Government down to the local level, would definitely deprive about 10 million persons of the benefits of this title.

Nearly 7 million of these persons are employed at the State and local level.

Schoolteachers would be the largest group affected, followed by public hospital employees, policemen, highway workers, firemen, clerks, and so on.

I see little justice in providing protection and benefits to employees of United States Steel, United States Rubber, and United States Gypsum if, in the same legislation, we specifically deny employees of the United States and its subdivisions the same protection and benefits.

Section 703 of title VII of the bill reads:

> This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society.

Although there is in this section a clear-cut case of discrimination, it is very difficult to ascertain the number of persons who could be adversely affected by it, because of lack of information.

The extent of commercial property holdings of religious organizations is one of the best kept secrets in the country today.

A contact with nearly 20 sources which might be expected to have such information produced no results. These commercial establishments include agricultural enterprises, radio stations, sports arenas, supermarkets, hotels, industrial plants, and nobody knows how many more places that are in competition with private industry.

Presumably, the tax exempt status of the property is responsible for much of the reluctance to give out information.

While there is no way of telling how many persons are employed in establishments owned or controlled by religious societies, the number itself does not really matter.

What does matter is that such establishments are given immunity from the law under this bill.

The support of this bill by representatives of religious bodies would be far more convincing if they would indicate plainly that they will not ask exemption from those provisions of the act which they advocate for others.

On page 35, again under title VII of the bill, we find this paragraph (f):

> Notwithstanding any other provisions of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.

While the number of atheists and agnostics in the United States is estimated at only a little over 3 million, it is inconceivable that any reasonable person would deny these persons the right to make a living and support their families.

This would be particularly bad in the event members of a family did not agree with the head of the family who might assert himself to be an atheist.

Nor would it seem advisable to encumber the bill with a provision of this sort, which, in the light of recent decisions of the Supreme Court, would almost certainly be held invalid.

Another part of the bill about which I have grave doubts is title VI.

This title relates to the withholding of Federal funds from any State where there is discrimination because of a person's "race, color, or national origin" in the application of such funds.

Programs from which Federal funds would be withheld include college housing loans, hospital construction, maternal and child welfare, library services, school milk and school lunch programs, 4-H Club programs, and at least a hundred others.

This title of the bill is now quite different from that which was submitted by President Kennedy last year.

Among the many changes is the deletion of discrimination because of "religion" as a basis for invoking penalties.

Why should it be considered legal to discriminate against a person because of religion, in the application of State-Federal programs, but illegal to discriminate because of "race, color, or national origin"?

It may be, of course, that religion was stricken from the bill to protect those States which have strict legal or constitutional prohibitions against any public assistance to schools maintained by religious organizations.

One point which has not been satisfactorily resolved as yet is the question of whether discrimination on the part of officials of a political subdivision, such as a city or county, would authorize the Federal agencies to withhold funds from the whole State or only from that area where the violation occurs.

The House report would limit the punishment only to that area which is in violation.

Others, however, interpret the language of the bill as authorizing the application of penalties to the whole State.

Last Friday the Senator from Minnesota [Mr. HUMPHREY] inserted in the RECORD a memorandum of his understanding on this point with the Justice Department. This memorandum, however, does not appear to be satisfactory upon reading it. First, it was not officially signed by the Justice Department—by the Attorney General. Further than that, it appears to state that, although this bill would give authority to punish a whole State for violation by a subdivision, they, of course, would not do it.

If we take this statement at face value, we are legislating for the present officials of the Justice Department. We should always legislate for the office, not for the man. It is entirely possible—indeed, probable—that those who now head the Justice Department will not be heading it even a year from now.

The theory back of title VI seems to be that if officials of a State or local government commit violations then the Federal Government, by creating hardship among all the people, will force the violators to become law-abiding officials or be thrown out of office by the innocent sufferers.

May I point out that this procedure has not yet forced Fidel Castro out of office, nor do I believe it would be much more successful on our domestic levels.

I am not in accord with this theory that the way to bring guilty parties to justice is to inflict punishment on the innocent by depriving them of benefits which Congress intended them to have.

Surely there must be a more direct and humane way of dealing with those who violate the law.

I have presented what I consider to be some outstanding weaknesses in the bill.

I believe that title VI should be greatly improved and made more specific. I feel keenly that the leaders of religious societies should tell us plainly that they are not asking for legislation for other people that they are not willing to accept for themselves.

I understand that there may be other weaknesses relating to matters of enforcement and legal procedure, which are subject to question. Because I am not a lawyer I do not know, but I have been told that.

In spite of the fact that the President has asked to have the bill approved as it came from the House, it seems to me that if we just set aside all legislative processes and take our directive from the executive branch we will not only be doing an injustice to our constituents but violence to the structure of our Government as well.

This bill has become sadly involved in political maneuvering but is it not the best politics to legislate on a basis of sound reasoning rather than political emotions or expediency?

Although I have not made any ironclad commitment to support any particular provision of the bill, I have at all times expected to support a strong bill—one which will correct injustices and guarantee to each and every citizen the rights and protection intended to be afforded under our Constitution.

I have intended to support such a bill by whatever means may be available and practicable.

At times it has been difficult to adhere to my purpose.

Acts of violence—false propaganda—misleading encouragements—regional smears—instances of arrogance—threats of political retribution and slander of our Government and the Congress—have tempted me at times to say "a plague on both your houses."

President Johnson must know that continued insistence on the Senate passing the bill identically as it came from the House will likely result in killing the legislation.

The time has come for him to confer with the congressional leadership of both parties and make such corrections in the bill as will eliminate discrimination and wipe out the political implications and tinges of hypocrisy which is now contains.

I believe the President can do this, and if he will do so I shall give the resultant proposal my fullest and active support.

Before closing, I do wish to pay my respects to the millions of persons who have honestly and earnestly been trying to correct the wrongs of others.

The awakened conscience of the people, especially people who do not segregate other people in their thinking, has already made life brighter and more promising for many millions of human beings.

Laws are at best only partially effective in insuring justice and guaranteeing happiness.

It is that which is in the hearts and minds of all of us and the practices of our daily lives that makes the world better or worse.

I trust that the President will look kindly upon my suggestion that the time has come when the people—all of us—need his leadership in our present efforts to build a better nation and insure equal justice and opportunity for all.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. AIKEN. I yield to the Senator from Ohio, if I may.

Mr. LAUSCHE. To illustrate what may happen under the provisions as they have been described by the Senator from Vermont, about 10 years ago Congress approved laws dealing with aid for the permanently and totally disabled. The Federal Government decided to participate with the States in providing help to the permanently and totally disabled. It was written in the law that if a State failed to comply with the Civil Service requirements in the hiring of employees administering the funds for the permanently and totally disabled, the Federal Government could withhold contributions for the financing of the program.

In Ohio there are 88 counties. Eighty-seven of the 88 counties agreed to conform with the Federal requirement and to hire only civil service employees to administer the fund.

One county—Harrison County—asserted its belief that the Federal Government should not tell it who it will or will not hire. The county argued that the judgment resided in the county, and that it would not be bound by the dictation of the Federal Government. Thus, there were 87 counties conforming and one county dissenting. I, as Governor, begged the officials of Harrison County to conform and they, true to their character, stated that they would not allow the Federal Government to dictate what they should do. I was faced with the threat that unless Harrison County conformed, no money would come into Ohio. Finally the matter had to be taken into court and the court decided that the Harrison County officials, in the exercise of their sovereign rights, were within their rights in saying that they would hire their own employees. It was only through this laborious process that we were able to obtain an allocation from the Federal Government.

I was Governor at that time, and I met with certain officials from Washington. They came into my office and stood over and above me as if I were a slave, and I had to listen to them. I begged them. I stated that the very reason for the existence of the situation indicated that there was substantial performance, with 87 out of 88 counties accepting the dictation. It was a humiliating experience.

I express concurrence with what the Senator from Vermont has stated, that we are a government of laws and not a government of men. If the Government intends to rely upon the Attorney General—whether it be Robert Kennedy, or whoever else it might be—to protect its rights, instead of having a clear declaration of law to protect it, we shall encounter trouble sooner or later.

I thank the Senator from Vermont for yielding to me.

Mr. PASTORE. Mr. President, will the Senator from Vermont yield on that same point?

Mr. AIKEN. In just a moment. It would appear that although I am not a lawyer, title VI as written would probably result in a different solution from the one which the State of Ohio arrived at by going through the courts. We are getting different decisions now from the higher courts than when the Senator from Ohio [Mr. LAUSCHE] was Governor of Ohio.

I am glad to yield now to the Senator from Rhode Island [Mr. PASTORE].

Mr. PASTORE. First of all, I say to the Senator from Vermont that there is no man in the Senate for whom I have higher respect than I do for him—and I believe he knows that. I know him to be meticulous and articulate. I quite agree with him that this is a complex and complicated subject. I believe we must start with the premise whether we will use all the taxpayers' money under a grant program, and allow the people who administer that money in the subdivision of a State to discriminate against people because of color.

We are all agreed that that situation should not be allowed to occur. When we consider its practical effect, we run into many avenues of doubt and confusion. I quite agree with the Senator from Vermont that it is difficult to legislate in this particular area. I quite agree with him that the provisions of the law under title VI, sections 601 and 602, are rather broad in language, but there are certain safeguards which constrict the whole process to bring about equity or justice, or to make the fight against capriciousness or arbitrary action of which the Senator from Vermont is complaining. He will notice that there are certain substantial safeguards in the bill which could not possibly allow to occur the very point he has brought out.

First of all, it is provided that before anything can happen, there must be a promulgation of rules and regulations provided for under the law. Each grant is different from other grants. If we began to particularize under this particular subtitle, it would be pretty hard to begin to imagine all the cases which would confront us in the future, so the law must be written in a general way. To a certain extent, there must be delegation of authority. But in the delegation of authority, we have to be careful that we do not allow anyone, by exercising his own arbitrary judgment, to do irreparable harm to many people—as in the school milk program which has been mentioned by my good friend, the Senator from Vermont. That is a further reason why we require every single department to promulgate rules and regulations.

The matter does not rest there. Before the rules and regulations can take effect, they must be approved by the President of the United States. I hardly believe that the President would allow any injustice to be perpetrated upon an entire State or people, whether in the State of Rhode Island, the State of Vermont, the

State of Ohio, or any other State of the Union.

Before any measure can be invoked against the State, in connection with any of these programs, it becomes necessary for the department to hold a hearing, at which time the State individuals involved will be given a bill of particulars in order to present their case. The process does not even end there. If at that time the administrator decides that he will shut off the money, he cannot do so arbitrarily. He must file a report with every pertinent committee of the Senate and the House. If the program has to do with social welfare, it must go to the Subcommittee on Health of the Committee on Labor and Public Welfare over which the distinguished Senator from Alabama has jurisdiction. In the House, it will be dealt with by the counterpart committee. If it has to do with the road program, it will have to go before the Committee on Public Works. The report would have to rest there for 30 days before the rule could take effect. In the meantime, it would be subject to judicial review by the courts.

The point I wish to make to the Senator from Vermont is that he is absolutely correct in saying that, as the law is written in its broad terms, it could be made to apply to a whole State within the concept of the legal definition, but there are safeguards that bring it back to a mundane and explicit restriction, whereby these acts of capriciousness and arbitrary conduct cannot be allowed.

I repeat to the Senator from Vermont that I cannot question him on his interpretation of the law. For that reason we had to write in certain safeguards, to make sure that the situation he describes would not happen. I was the Senator in charge of this particular title of the bill on the floor. I stated time and again that I hoped it would be written into the congressional report, that nothing in title VI is intended to be punitive or vindictive.

Here is a command that they try to bring about fairness in the distribution of the money by voluntary means. An attempt must be made at voluntariness. If anyone takes capricious or arbitrary action he ought to be fired, because he would not be worthy of holding a position with the U.S. Government.

I thank the Senator for his patience.

Mr. AIKEN. I agree that provisions have been written into this title which would ameliorate the situation. However, I still cannot agree that they provide a clear-cut solution to what could be a serious problem.

I agree that President Lyndon Johnson would never permit the people of a State to be punished because of the sins of a few. However, I must point out again that Lyndon Johnson will not be President forever. We do not know how long he will be President. We do not know who another President may be, or whether he will hold the same opinion. We cannot be too careful about the wording of the title.

Mr. CASE. The Senator from Rhode Island was specially charged with discussion of title VI, dealing with federally aided programs. I have been specially charged with respect to title VII, dealing with the fair employment practice provision.

Naturally, I wish to make some comment on the question that has been raised by the Senator from Vermont.

Mr. AIKEN. There is no reason why we cannot be humane with the people who violate the law. I am not a lawyer, but there are many lawyers in this body. Surely, among all this talent in the Senate there must be found a way of drafting the wording in this title so as to control the situation without punishing the innocent. Possibly it could be made a Federal offense to violate the law, leaving the violator subject to prosecution, without prosecuting the whole State for his sins.

I yield to the Senator from New Jersey.

Mr. CASE. I take it that the Senator is now discussing title VI. Am I correct in my understanding?

Mr. AIKEN. For the moment; yes.

Mr. CASE. I do not have any disagreement with the Senator from Vermont or the Senator from Rhode Island. The proponents of this title feel that tax money raised from all people alike regardless of color should be spent for the benefit of all people alike, regardless of color.

With respect to the question which the Senator raises, as to how this problem can be worked out within a State, and within a program within a State, it seems to me that that problem can be solved.

If the language in the title, as supplemented and interpreted, for example, by the statement inserted in the RECORD on Friday by the Senator from Minnesota, is not adequate, I believe we should bend our efforts to make the language more explicit and clearer.

My own interpretation, in layman language, is that perhaps funds could be withheld from a program at whatever level the responsibility for the administration of the program exists. It might be possible that a whole State could be guilty. As suggested by the Senator from Vermont, if a State officer is guilty, I do not see any alternative, if we adopt this principle, to having the money withheld from the whole State program. We must be careful that we do not in effect punish people who are not responsible for the action of others. I do not believe we are far apart in substance.

Mr. AIKEN. Or in purpose.

Mr. CASE. Or in purpose. The same thing is true with respect to title VII, for which I have primary responsibility.

We do not claim that the bill is perfect. We are not adverse to considering any amendments which would improve the section and eliminate unnecessary concern on the part of anyone. Our purpose cannot be in disagreement. I appreciate the Senator's yielding to me.

Mr. AIKEN. If a thing is worth doing, there is a way in which to do it. I am not undertaking to present language which would result in punishing a great many people while trying to punish the guilty party.

Mr. ROBERTSON and Mr. LAUSCHE addressed the Chair.

Mr. AIKEN. Mr. President, I appreciate the fact that I am speaking on the time of the Senator from Virginia. I should like to yield first to the Senator from Ohio, and then to the Senator from Virginia, if he will permit me to do so.

Mr. LAUSCHE. As I look at the situation, it seems to me that there are two situations in which the people of a State or a local subdivision might be punished. The first is, if the rule is adopted, that if a part of a State does not conform, the whole State assignment shall be denied. The second is that the State might not comply, and again the whole State allocation would be denied.

In analyzing that situation, it appears to me that in either event many innocent people would be forced to suffer. In the event a State is guilty of a violation and the local subdivision is denied its allocation, the burden of punishment meted out to the State falls upon the local subdivision. In the other event, if one or more counties fail to comply, the failure of those counties throws the burden upon the whole State. Therefore the question is not as simple of solution as might appear on its face.

There is one other bit of information that I can contribute in approaching this problem. In the 1930's the Governor of Ohio got into a controversy with the national administration respecting funds that were allotted to States. That controversy became very heated. It was between the Governor of Ohio and one of the high representatives of the Federal Government who was an adviser in the highest degree and who participated in international conferences. He was in charge of the administration of the relief program.

The argument grew in intensity. Ohio as a whole was denied its allocation of money, which amounted, as I recall, to $1,500,000.

Since the 1930's efforts have been made to have Congress approve that payment. Payment has not been made. The fight was between the administration and our government, but the punishment fell upon the citizenry of Ohio as a whole.

That money still has not been paid.

One further word, and I shall close. The Senator from Rhode Island [Mr. PASTORE] has objectively and sincerely presented the affirmative side of this dispute. He states that regulations will have to be adopted and that certain procedural courses will have to be followed. All of that will tend to insure that justice will be done.

However, the Secretary of the Department will formulate the regulations; it will not be Congress, which speaks for the people. In that field, there will be at least a bordering of the argument that there will be government by men instead of by law.

I concede that the question is perplexing, but I concur in what the Senator from Vermont has said: Let us write into the law clearly what we mean. Then all men will know what their rights are, instead of depending upon the whims and caprices of good men today who might become bad men tomorrow.

I thank the Senator from Vermont for yielding.

Mr. AIKEN. Mr. President, I appreciate the fact that I am speaking on time borrowed from the Senator from Virginia. If the Senator from Virginia wishes, I will not consider yielding any further.

Mr. ROBERTSON. I wish to ask the Senator a question, before I start my own discussion. Before I discuss the question of jury trials, I wish to commend what the Senator has said about title VI.

In that connection, I wish he would tell me the origin of the expression "the Green Mountain Boys." Where did that come from? Was that a Revolutionary expression; and if so, what did it mean?

Mr. AIKEN. The Green Mountain Boys were the early independent settlers of Vermont—they are still quite independent and, I still hear from quite a few of them.

Mr. PASTORE. Will the Senator tell us who they are?

Mr. AIKEN. The Green Mountains were settled by people who arrived in Vermont some distance ahead of the Connecticut sheriffs, because they did not approve of the type of government and the arbitrary form of government under which they considered Connecticut to be ruled at that time.

The Green Mountain people were a very independent and very liberal people. Vermont was the first State to prohibit the holding of slaves. As a matter of fact, they did not own any anyway, so what they did was not difficult. For a long time, they printed their own money. They established the first complete school system in North America.

They had a unicameral legislature for about 40 years. Then they decided it did not work so well, and abandoned it.

A story is told—so long as I have brought Connecticut into the picture, I might as well tell the story—of the time when the Green Mountain Boys were having a State congress at Windsor, Vt., for the purpose of writing a State constitution. A courier arrived telling them that Burgoyne and his Indians were coming down the Champlain Valley, and that they had better go back and protect their homes as soon as they could. So they hastily adopted a resolution which said they would "abide by the laws of God and the State of Connecticut until they had time to devise better ones." Even today, the laws of Vermont resemble the basic laws of Connecticut to a very great extent.

Mr. ROBERTSON. Saying that they would abide by the laws of God until they could pass better ones reminds me of the Scottish preacher who was on his way to preach a sermon in Edinburgh. On his way, he lost his bag, which contained his sermon.

When he arrived at the church, he told the people he had lost his sermon and said, "All I can do today is preach the words that God puts in my mouth. Next Sunday, I will try to do better."

All I wanted to know was whether the Green Mountain Boys liked a maximum of Federal control or a minimum of Federal control.

Mr. AIKEN. Of course, there was not much of a Federal Government, really, at that time. Up until 1791, the Vermonters resisted any Federal control whatsoever.

Mr. ROBERTSON. But they have some descendants up there today, have they not?

Mr. AIKEN. Yes. At one time 45 towns that are now in New Hampshire were represented in the Vermont Legislature. We once had a lieutenant governor who was a native of the same town in which the illustrious senior Senator from New Hampshire [Mr. COTTON] now resides. At one time the Vermont Legislature met in New Hampshire.

But the first Federal controls that Vermont succumbed to were upon the insistence of the Federal Government that we give up 30 or 40 towns in New Hampshire and about as many more in New York, as a condition of joining the Union. I do not know whether that was one of our big mistakes or not. At any rate, the trade was made. Vermont has been under Federal control since 1791 to a certain extent.

Mr. ROBERTSON. The point I wish to bring out is with respect to title VI, which the Senator is now discussing. It started with a provision that the President might issue the orders. Now, any bureaucrat could be in control of issuing the orders. If anyone did not like that, he would have to proceed under the Administrative Procedures Act, and prove that the action was arbitrary and capricious, and without any support.

The language reads, "notwithstanding the provisions of any other law."

For years we have had the laws on the basis of area, population, and mileage. For example, States receive a certain amount of Federal aid for roads, which they must match on a 50–50 basis.

But title VI contains the most extreme provision for Federal control that has ever been proposed in the history of the Government. I wondered if the descendants of the Green Mountain boys like that kind of proposal.

Mr. AIKEN. I do not know how many people I represent in Vermont, but a majority voted to send me here, and I am not happy with title VI of the bill.

Mr. ROBERTSON. I commend the Senator from Vermont for his frank expression.

Mr. AIKEN. The Green Mountain Boys did not really come under any Federal control until 1791. They then agreed to recognize the Federal Government, and the recognition was mutual.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. AIKEN. I yield to the Senator from New Hampshire—ex-Vermont.

Mr. COTTON. Mr. President, I have heard the distinguished Senator from Vermont address the Senate many times. I have never heard him address the Senate when he did not speak with accuracy, with force, with commonsense, and when his words were not deserving of a most careful consideration by the Senate.

I join the others in commending him today for a careful, thoughtful, keen, analytical speech on this complicated problem. If Vermont had kept those 21 towns that it took from New Hampshire, and retained for a period of time, my town would have been included, and I would have been proud to have been voting for the distinguished senior Senator from Vermont as my Senator.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. AIKEN. In a moment, with the permission of the Senator, I shall be glad to yield to the Senator from Kentucky.

My interest in title VI arose last year when a proposal was made on the floor of the Senate to shut off funds for 4–H work in some Southern States because there had been violations of, I believe, the constitutional rights of some people in those States. At that time it seemed to me that we ought to work out some different method of control than one of merely punishing a great number of innocent people to get even with a few.

I now yield to the Senator from Kentucky, if I may do so with the permission of the Senator from Virginia.

Mr. COOPER. Mr. President, I have been very much interested in the speech of the Senator from Vermont, particularly the part directed to title VI.

On April 21 I wrote to the Attorney General of the United States asking him to comment on several questions which the Senator has raised today with respect to title VI. I have not yet received an answer to my letter but I do not believe that the Attorney General has had time to respond to questions I propounded. In view of the questions that have been raised by the Senator from Vermont, I should like to have the letter that I wrote to the Attorney General printed in the RECORD.

Mr. President, I ask unanimous consent that the letter of April 21 which I wrote to the Attorney General be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 21, 1964.

Hon. ROBERT F. KENNEDY,
*Attorney General of the United States,*
*Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: I have been devoting close attention to certain sections of H.R. 7152, now before the Senate, and I would appreciate very much if you would give me your opinion on the following questions:

TITLE VI

1. Title VI, section 602, provides in part that "each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity by way of grant, loan, or contract other than a contract of insurance or guaranty." Would you list the kinds of "contracts of insurance or guaranty" which would be exempted under section 602 from the coverage of section 601?

2. Does the term "recipient" on line 16 of section 602 apply to private individuals, or does "recipient" include only Federal departments or agencies, States, or subdivisions of States?

3. Would section 602 cover an employer who receives funds under a Federal program, and who discriminates in his employment practices?

4. Would section 602 apply to individuals who contract directly with a Federal agency? Would it apply to a corporation which contracts directly with a Federal agency?

5. Would title VI of the present bill supersede those arrangements which have been established under Executive Order No. 10925, March 6, 1961 (President's Committee on Equal Employment Opportunity)?

6. Are there any Federal agencies which now have regulations which prohibit discrimination in their programs or activities covered by title VI? If so, which agencies, what are the regulations, and to what programs are these regulations directed?

7. Would persons who receive payments under various agricultural support and marketing programs be "recipients" under title VI? If so, what type of discrimination by these "recipients" under title VI would be grounds for cutting off their participation in a program? Would it include employment practices?

8. Title VI would apparently enable each Federal department or agency to establish its own rules and regulations for cutting off Federal funds. How is it intended that a consistent set of regulations prohibiting discrimination in Federal financial assistance programs shall be established throughout all departments and agencies? What procedure is provided by title VI to secure consistent regulations pursuant to, and the uniform application of, title VI in each and every Federal financial assistance program?

9. Would you provide several examples of the kinds of discrimination in the administration of Federal financial assistance programs which have occurred? I would appreciate specific details and examples in this instance.

10. Is it intended that the act of a Federal agency under title VI in cutting off funds for a program will take place only if discrimination within that particular program has occurred? Or, would it be possible to cut off funds for a particular program to influence the termination of discriminatory practices by a State, which are not covered by the particular program?

11. Would this title authorize the termination of school lunch programs to influence the desegregation of public schools within the State?

12. Under title VI, could such programs as the Federal-State highway program, and similar State aid programs, be terminated for the purpose of persuading or coercing the State or its subdivisions to end discrimination in public schools, public accommodations, or public facilities, etc?

### TITLE IV, SECTION 401 (C)

Would a privately endowed college which received 51 percent of its money each year from Federal grants qualify as a "public college"—operated predominantly through the use of Government funds? What is the test which would bring a private school within this section?

### TITLE III

1. Considering that H.R. 7152 would provide the Attorney General with authority to intervene in actions brought by individuals under titles I, II, and III (301), would section 302 provide the Attorney General with authority to intervene in cases arising under title VII?

2. To what type of action, other than those specifically authorized in H.R. 7152, would section 302 be applicable? Would section 302 embrace cases brought by individuals against State officials, or individuals against individuals, claiming the denial of equal protection of the law?

3. Would title III, section 302, permit the Attorney General to intervene in cases involving alleged denial of the first, fifth, and sixth amendments to the Constitution? If so, what criteria would be established for the intervention of the Attorney General?

4. In what respect does section 302 differ from the old title III of the original civil rights bill of 1957?

With kindest regards, I am,

Sincerely yours,

JOHN SHERMAN COOPER.

Mr. COOPER. The questions I asked the Attorney General cover several types of situations. One is whether the termination of financial assistance under a Federal program, would be limited to the particular program in which discrimination was alleged to have occurred.

I also asked if it would be possible for a Federal agency to terminate financial assistance under a program in which no discrimination had been alleged for the purpose of securing compliance by the State in other programs in which discrimination had occurred. For example—could a Federal agency terminate the Federal aid highway program in our effort to secure school desegregation.

I asked also whether the application of title VI could preempt the application of another title in the bill.

I cite the following example. Title VII relates to discrimination in employment. It sets forth the procedures under which that title could be enforced. Would title VI preempt title VII if a farmer or some other recipient of Federal funds practiced discrimination in employment.

Another question which I asked the Attorney General was whether title VI would embrace alleged discriminations other than those defined in H.R. 7152. I ask my friends the Senator from Rhode Island [Mr. PASTORE] and the Senator from New Jersey [Mr. CASE] to look into these questions, because I believe we should know the full scope of title VI.

Finally—I would raise another question, which, in the context of our legal system, might be called a philosophical question. I hope that the Senator from Vermont and the Senator from Rhode Island will give it the benefit of their consideration.

In various titles of the bill, rights are defined, and a legal procedure is provided to secure compliance with those rights. If necessary sanctions against individuals who practice discriminations, in defiance of those rights, are also provided.

This is not the case with title VI. The sanction exercised under title VI is not against an individual who discriminates, but a sanction exercised by some agency of the Federal Government against a group of individuals, some of who may be blameless, because of the failure of the State. I do not know whether there is any congressional precedent for this procedure. I am troubled because it would authorize sanctions by an agency of the Federal Government without criteria, and at times, would go against the innocent as well as the guilty. It is a philosophical change in our system of legal sanctions.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. PASTORE. Speaking philosophically, with respect to the argument made by the distinguished Senator from Kentucky, it is my firm belief—and there may be as many who would disagree with me as there would be who would agree with me—that the Congress of the United States appropriates money. That is our function. It is the responsibility of the executive department to spend that money. The powers of the executive department flow from the Constitution.

The President of the United States is empowered to issue Executive orders. He derives this power from the Constitution and may exercise it to insure that the Constitution is respected. I say that the President of the United States has an inherent right under the Constitution to see to it that there is no discrimination in Federal programs. If the Congress provides, let us assume—and I am not telling Senators that such a case exists; I am merely stating a hypothetical case—$1 million for a program in which milk is to be given to children attending the public schools of our country, there is an obligation on the President to see that there is no discrimination in that program.

Let me give a far-fetched example. Sometimes an extreme example must be given in order to make a point. Let us assume that a State or county for any reason that the Senator or I could not possibly understand at this moment, said, "We will give this milk to the white children alone, and not to the colored children." Or let us assume they said, "We feel the white children deserve a pint of milk, and the colored children should get only half a pint of milk." That is a far-fetched case, but let us assume it.

The Federal Government has appropriated funds to give milk to the children of America attending the public schools. Does not the Senator think the President of the United States has the right to say to that State, and that county, "We will withhold this money if you do not give to the colored children the same portion of milk you give to the white children?"

What is unconstitutional about that? What is far-fetched about it?

That is what we are trying to do under this provision.

To come back to the example given by the Senator, where, let us say, there is in effect an acreage program, the law is explicit. The proposed law is explicit on this point. It begins on page 26, line 6:

> Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent—

These are the important words—

> shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

That provision means that, if Congress were to adopt a program, for example, of providing milk to the pupils of America, and it were discovered that some States or communities were authorizing only white drivers to deliver the milk to the schools, the program could not be shut off for that reason. The law was not adopted to avoid discrimination in the employment of milkmen; the law was passed to give milk to the school children. The violation must be associated with the reason why the law was passed.

Therefore, unless the violation fell under title VII, there would be no limitation under title VI that would allow an agency to shut off milk to a certain area because only white drivers were hired to deliver the milk. That was not the purpose of the law. The purpose of the law was not to create jobs for milkmen. The purpose of the law enacted was to give milk to pupils. Therefore, the discrimination must be a violation of the purpose of the law.

What gave President Kennedy the authority, under his Executive order, to say to those engaging in defense contracts, "If you discriminate as against Negroes, you cannot get a contract?" Where did he get that authority? There is no such authority under statutory law. His authority was by Executive order. Why? Because the Constitution and the Supreme Court have said that there cannot be any discrimination as to color. The President of the United States, in carrying out that mandate, issued his Executive order.

There are many instances which are included in the provisions of the bill that the President could carry out by Executive order. The bill, however, provides certain safeguards which do not exist today.

Under the Hill-Burton Act today, if the Surgeon General decides that a certain hospital is not doing a certain thing—and I am sure the Senator from Alabama will bear me out—and the Surgeon General does not send money to a hospital until it has complied, no one can challenge him.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. PASTORE. May I finish?

Mr. COOPER. Yes.

Mr. PASTORE. Whereas, under the proposed law, before the Surgeon General could do it, he would have to adopt certain rules and regulations, and give a hearing. The President would have to approve it. Voluntary compliance would have to be asked for, subject to judicial hearing. Before the funds could be shut off, he would have to come before the committee, the chairman of which is the Senator from Alabama [Mr. HILL], and tell him why he was withholding the money. He would not be able to do it until he gave the chairman of the committee [Mr. HILL] an opportunity to study the matter in his committee and bring it out in clear daylight on the floor of the Senate.

Those are more safeguards than exist now.

The final argument I make is that Congress appropriates the money. The President of the United States spends the money. He has the obligation to spend the money under the Constitution. If, in distributing the money that the President has the right to spend, he should find that the spending of the money was in violation of the Constitution, the President of the United States could shut those funds off. He must shut them off, and he should shut them off.

Mr. COOPER. Mr. President, will the Senator from Vermont yield so that I may reply?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Vermont yield to the Senator from Kentucky?

Mr. AIKEN. I yield to the Senator from Kentucky.

Mr. COOPER. We are not in disagreement on the principle that public funds derived from taxation should be used without any discrimination against any of our citizens, Negro and white. I am sure the Senator knows my feeling in that regard.

Mr. PASTORE. I realize that.

Mr. COOPER. Second, I oppose any discrimination in these programs because of race, color, creed, or religion, as the Senator has said. However, I think the response of the Senator from Rhode Island to the questions I raised indicates that there are some problems connected with this section which should be cleared up.

The President has great powers, but I do not believe he has the unlimited powers which the Senator has intimated that he has. His powers have been tested on occasion in the courts, and they are not unlimited. Actually, President Kennedy doubted that he had the power to which the Senator from Rhode Island referred. Because an individual believes he has certain powers does not necessarily mean that he possesses such powers.

I recognize and believe in the rationale upon which title VI is based—that there should be no discrimination against any citizen in programs supported by public funds—but there are questions about the scope of title VI, which should be settled and which should not be left undetermined. That it is undetermined in many instances, has been developed in the discussion today, even by the very frank responses of the Senator from Rhode Island.

Mr. PASTORE. No piece of legislation is absolutely perfect.

Mr. COOPER. I understand that.

Mr. PASTORE. I have already pointed out that we realize that there are complexities and problems involved in the legislation. What some Senators are attempting to say is that we should be perfect in every instance. It is almost impossible to do that. That is the reason why there is provision for rules and regulations.

The Senator from Rhode Island is saying that the President of the United States has affirmative power, by virtue of his authority to issue Executive orders. The bill would limit that power. Many orders are being executed today which are much broader than this section provides for.

If any reasonable suggestions are made, we should lend an attentive ear to them. We all agree that what we are trying to do is make sure that the taxpayers' money, which belongs to all the taxpayers, is spent for the benefit of all our people, regardless of race, national origin, religion, or color of skin. All we are trying to do is put that principle into effect. It is not easy. It is difficult. I think we have done a rather good job. I think anyone who criticizes should not merely make criticism, but should have constructive suggestions as to how the provision should be made clear.

Mr. COOPER. I intend to do so. I would suggest that that criteria should be written on this title by the Congress for the agencies and departments. The Senator has asked me to make some suggestions, and I shall make them.

Mr. PASTORE. I would appreciate it.

Mr. COOPER. One of the criteria would be that any termination of funds would be directed only at a specific program in which the discrimination occurred, so that it would be clear that the termination of one program where there is no discrimination would not be used to obtain compliance within another program.

Mr. PASTORE. That is clear. There is no problem there.

Mr. COOPER. But that limitation could be written into title VI. A second criterion could be written in—to limit the powers of the agencies to discrimination against the rights defined in this bill. If other kinds of discrimination are to be reached by the termination of Federal financial assistance, that coverage should be spelled out in the bill.

Mr. PASTORE. I believe that is already in the bill.

Mr. COOPER. Another decision is to determine whether title VI would supersede in its application of the bill. These are suggestions as to criteria.

Mr. AIKEN. Mr. President, this colloquy lends emphasis to an inconsistency in the bill which I had rather feebly tried to point out earlier, under title VII. If a county is constructing a hospital or building a road, under what we call the cost act, it is exempt from the status of employer in the hiring of labor. Under title VI, if any Federal funds are employed in building a highway, if the county takes advantage of the exemption under title VII it is subject to general punishment for the whole county, or whatever area the Federal officials might decide upon.

Mr. CASE. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield to the Senator from New Jersey, under the same conditions as before. He has been patiently waiting for some time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I thank the Senator from Vermont. I express again the appreciation of all Senators for his thoughtful analysis and discussion of several titles of the bill.

We agree on the purposes to be accomplished. Second, we agree on the need for making the provisions of the bill as clear as possible, so far as the proponents of the bill are concerned. I believe I include the Senator from Vermont, at least in spirit, among that group. We shall cooperate to the full.

Further—and I know that the Senator from Vermont will agree with me—granted that there is need for perfection of the bill in many respects, we are also agreed that we should not let the difficulties of writing the law, or the need for perfecting the bill before us, in some respects, prevent us from doing the job or allow it to be an excuse for doing nothing, which would permit the continuation of discrimination, which should be eliminated from American society. I am sure that the Senator agrees with me on that point.

As to the specific points which the Senator from Vermont raised in his remarks, first of all, with respect to churches—and I am talking colloquially and not excluding them from——

Mr. AIKEN. Religious societies.

Mr. CASE. Religious societies. Those, perhaps, should not be in the bill, if we are talking in a strict sense; yet it seems to me that we should think about what the existing evils are which are sought to be corrected by the bill.

I know of no people in a religious society in the United States which excludes people from its employment on the ground of color. There may be some. I do not know about them. I do not believe this is an evil, for example, which needs to be dealt with in the bill. I know there are church societies that feel rather strongly they should be permitted to employ for all purposes, some of which may be secular in nature, members of their own faith.

Mr. AIKEN. If the Senator from New Jersey will yield, I do not know any member of a religious society who sets fires or robs anyone's chicken roost, but they are not exempted from the law.

Mr. CASE. The Senator from Vermont is a reasonable man, whose warmth and interest in his fellow man has been demonstrated so often that it does not need to be mentioned, yet once in a while we should pay tribute to him, whom we all take for granted in the utter decency of his life and service to his country. He knows that what we are talking about is the effort to write a bill which does not raise unnecessary hackles. One of the unnecessary hackles is the attempt to avoid by exemption all religious societies which are not guilty of discrimination of any sort on the grounds of color; nevertheless, we are concerned that they might not be permitted to continue employment for their purposes, of only members of their particular faith, for the strengthening, preservation, and continuation of their faith. Their very existence, perhaps, depends upon their being able to do so. I do not believe this is an evil which we can attempt to reach in the bill. I do not like to use a bad word in regard to anything that might have been said by the able Senator from Vermont, but I believe we are quibbling, because this is not really an effort to draw a perfect bill; this is an effort to draw the best bill possible, in dealing fairly and honestly with this great American problem—this great American dilemma, as it has been called.

Another point raised by the distinguished Senator from Vermont—and I believe Senators will agree with him, and will do something about it—is the exclusion of atheists, discrimination against Negroes on the grounds that they are atheists. Of course, it is unconstitutional, anyway. It has no effect. It is an inartistic element in the bill, and should be eliminated. I do not believe there will be great difficulty eliminating it, but even if it should not come out, it will have no effect and is no reason to be against the bill, except insofar as it points up the need to perfect it if we wish to do so.

The Senator raises a question as to exclusion of the United States as an employer in State agencies. First, as to the United States, the reason why the United States and its agencies are excluded is that the United States and its agencies are already covered by an operating policy of nondiscrimination more effective than the bill would make applicable. The rights of an employee of the United States and prospective employees under civil service regulations, and regulations of all the agencies, are now fuller and more complete than the terms of the bill. We do not wish to disturb the pattern.

So far as State agencies are concerned, I know of no reason for this, except an effort properly to abide by the Federal system and the distinction between States and their sovereignty and U.S. power. I believe, therefore, that this is justifiable for the purposes of this title. I believe it is true that we do not want to get into unnecessary difficulties, either in passage of the bill or in administration of the law.

So far as the Senator is concerned about exclusion of employers of fewer than 25 individuals, this is a practical matter. There are reasons for doing it. It is a new program. We are experimenting with it. Personally, I should like to see its application to the employer of one person. That is my own view. I recognize that this is a new program, and that there is fear of an encroaching Federal bureaucracy. It is a very honest fear on the part of many people, and we are taking it into account; also the newness of the program. We shall be doing it on an experimental basis, when we put this section into effect. This is not an example of provisions applicable for all time, but for the present time. It is not an unreasonable distinction to make. I wish to emphasize the point which I made at the outset of these brief comments—and I am grateful to the Senator from Vermont for permitting me to make them, when I believe they will be fresh in people's minds. We are not trying to override commonsense, traditional values, traditional practices, or rights, or anything else.

We are completely willing to consider all reasonable suggestions—and the Senator from Vermont hardly ever makes anything else—for the improvement of the bill and the protection of the rights of Americans and an adjustment of the great problems with which our society is faced, including the preservation of our Federal system. But we are determined that at last we shall make a beginning toward eliminating the stain of discrimination on the grounds of race, color, or religion from American life, recognizing the fact that the Federal Government has a responsibility in this area, which it has evaded for 100 years.

I thank the Senator.

Mr. AIKEN. I thank the Senator from New Jersey. I believe his contribution has helped to round out this debate so that it presents the various viewpoints very fairly.

There are two or three things which he mentions that might be worthy of comment. It is true that employees of the United States are pretty well covered now so far as employment practices are concerned. Of the 10 million public employees in the United States, or one-seventh of the working force in the United States, 7 million are employees of States and communities. They are clearly exempt under title VII of the bill. The question is, If the provisions are fully complied with now, why should there be any specific exemption written into the bill? Why should there be any objection to including employees of the United States, the States, and subdivisions?

Mr. CASE. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. CASE. I believe it is quite clear. The Senator from New Jersey at one time, in his youth, was a lawyer. It seems to me to make sense, as I recall my law—and the Department of Justice has advised us further on this point—that if we left people without this exemption, by including the Federal Government, it would have the effect of eliminating State law and State programs. That is the reason this was done.

Mr. AIKEN. I do not know as to that. If the bill becomes law as it is now written, I can foresee that there will be no unemployed lawyers left in the United States in a very short time after its passage, and that perhaps lawyers in the local communities can be completely exempted from the poverty program without doing any harm whatever.

Mr. CASE. For every reason, including our affection for the Senator from Vermont, we lawyers in the Senate indulge his prejudice as to lawyers with the greatest equanimity at any time.

Mr. AIKEN. There is another inconsistency. That is the matter of religious organizations. Under title VII they are exempted as employers. But under title VI the House amended the bill so that it is not an offense to discriminate against persons because of religion. Is that not an inconsistency?

Mr. CASE. If the Senator will permit me to say so—and I appreciate his asking me the question on his time—I think not. The question is, What are we trying to do? We are trying to eliminate discrimination where it exists. I believe it is a matter of common knowledge in this country that church organizations do not discriminate on grounds of color, and to eliminate it from title VI does not seem to me a strange thing to do. I would be just as happy to leave it in, because I like verbal consistency, and consistency of subject is an important thing. It is proper, however, to consider the concern of religious organizations lest what they regard as their proper area of personnel administration be interfered with or jeopardized.

Therefore I find no inconsistency between elimination of this provision from title VII and the inclusion of it in the other sections.

Mr. AIKEN. I have had a little difficulty following the Senator from New Jersey. On the other hand, I am not a lawyer. I still cannot see the reason for it.

Mr. CASE. This is not a legal question.

Mr. AIKEN. It sounds legal to me.

**Mr. CASE.** If I were to characterize this question I would say that the legalistic side has been presented by the Senator from Vermont, and that the effort to keep it down to its substance has been made by those of us who are trying to advance the progress of the bill. I do not suggest that the Senator is not interested in progress. I believe he has made a great contribution.

**Mr. AIKEN.** If I were not interested in making progress, I would not be speaking on the subject at all.

**Mr. MANSFIELD.** Mr. President, will the Senator yield?

**Mr. AIKEN.** I yield.

**Mr. MANSFIELD.** As always, the distinguished senior Senator from Vermont, the senior Republican in the Senate, has raised questions which are pertinent and to the point. He does this without wasting words. That is becoming a virtue in this body. I am delighted that he has raised these questions about titles II, VI, and VII. I am very happy that the distinguished senior Senator from Rhode Island was present to answer some of the questions raised by the very able Senator from Vermont. As always, the Senator from Vermont has performed a public service. When he speaks, he has something to say. He does not rise to his feet for the purpose of taking up time.

I was interested also in the remarks made by the distinguished Senator from Kentucky [Mr. COOPER], the distinguished Senator from New Jersey [Mr. CASE], and the distinguished Senator from Ohio [Mr. LAUSCHE], because in a real sense they entered into the spirit in which the distinguished Senator from Vermont was advancing his arguments.

I am delighted that I was able to be present for most of the time during the course of his speech and am only sorry that I missed the latter part. I shall read it very shortly.

I know that I am trespassing on his patience, but there is one part of the speech with which I would not agree. The Senator suggested that the President should meet with congressional leaders on this subject. I believe the time for that is past.

The President has made his position known. The courts have made their position known. The House has met its responsibility. Now the issue is in the Senate. I think these questions ought to be raised, as they have been. If amendments are to be offered, they should be offered. If speeches are to be delivered, they should be short and to the point, as was the Senator's speech. The Senate should vote on the amendments and on the bill, one way or the other. Again I thank the distinguished Senator for his contribution.

**Mr. AIKEN.** Mr. President, I yield to the judgment of the Senator from Montana, and I withdraw the invitation to the President. He should not have become involved in this matter in the first place. I think he made a mistake the first time. If we adhere to his insistence that we pass the bill without crossing a "t" or dotting an "i," we shall wind up with no bill. I want it to be a good bill, a bill that is equally fair to everyone. It is to that end that I referred to the President, not exactly as a last resort. I thought it was a good idea at the time I suggested it. I withdraw that invitation.

I thank the Senator from Virginia [Mr. ROBERTSON] for his courtesy and his inexhaustible patience in sitting there waiting to make his speech while the rest of us were discussing a very important matter.

**Mr. ROBERTSON.** Mr. President, in view of the traditionally good health the junior Senator from Virginia has enjoyed during his service in the Senate, he feels he owes it to his colleagues to explain why he appears before them today with his right arm in a sling.

Yesterday, the junior Senator from Virginia had a fall and struck his right shoulder and suffered what the doctors call a shoulder separation. In a shoulder separation, the collarbone separates from the shoulder bone. That is not a very pleasant thing to have happen, but it is not nearly so bad as to break one's shoulder. I do not yet know exactly what the treatment will be, but I understand that the end objective will be integration, and that time will take care of that situation.

I was happy to yield to the distinguished Senator from Vermont [Mr. AIKEN] and to other Senators who conducted a colloquy with him, because I feel that they developed some pertinent points concerning title II, title VI, and title VII of the pending bill.

Title II is the public accommodations section. It is similar to an act passed by a Reconstruction Congress following the Civil War and based upon the 14th amendment. In 1883 that act was declared unconstitutional by the Supreme Court. A few weeks ago, former Supreme Court Justice Whittaker said that the decision of 1883 had never been overruled and therefore is still the law of the land. So now the proponents of title II are resorting to a new device; namely, the interstate commerce clause.

Everyone who knows anything about interstate commerce knows that if a man from New England stops at a hot dog stand or a gasoline filling station in Virginia, that does not put the hot dog or the gasoline in interstate commerce. Yet that is the thin constitutional ground on which the framers of the pending bill rely.

I was much interested in hearing the distinguished senior Senator from New Hampshire [Mr. COTTON] say that, without being consulted, he had been selected to serve as a team captain for the bill, but that he wanted the world to know that he was not a captain who thought the bill was perfect and should be endorsed, accepted, and swallowed without the crossing of a "t" or the dotting of an "i". He said he believed there should be some amendments to the bill, and that he intended to support certain amendments.

Mr. President, when the bill was presented to us, we were told that we could not change it; that it was the last word in the program. No one has ever found out who drafted the bill. The assumption is that some smart lawyers in the Department of Justice drew it. But it was presented by the chairman of the House Committee on the Judiciary one morning, and he explained it for 1 minute. He gave the committee the opportunity of 1 minute to debate it, and then he called for a vote. No hearings were held, and no explanation was made of who had framed the bill. Nobody knew what the weasel words in the bill meant. A few amendments were adopted on the floor of the House, but not many, and then Senators were told that we could not have any hearings on the bill. We were told that it was so perfect that we must pass it just as it came to us from the House.

So I was pleased to hear the distinguished Senator from Vermont [Mr. AIKEN] say that he was not altogether satisfied with the bill; that he was looking a little closely at title II, thinking of a provision that affected the so-called Mrs. Murphy. She could accommodate overnight up to five customers from other States without being in interstate commerce; but if she served one of them breakfast the next morning, she would be engaged in interstate commerce.

What a farce to let the "Mrs. Murphys" out. Because widows all over the Nation have little roominghouses, Senators simply could not stand here and put them under the bill and thus put them out of business. So the "Mrs. Murphys" were exempted.

Then I heard the distinguished Senator from New Jersey [Mr. CASE] say how fine it was for a Methodist home for the aged to discriminate against Catholics or Episcopalians when they employed only Methodists, and that that was a good kind of discrimination.

**Mr. CASE.** Mr. President, will the Senator from Virginia yield?

**Mr. ROBERTSON.** Let me finish, please.

**Mr. CASE.** I am sorry; the Senator mentioned my name.

**Mr. ROBERTSON.** But that if a Jewish firm felt that its interests would be injured if it employed Catholics or Episcopalians or gentiles or persons of another race, that was a bad type of discrimination.

As Juliet's nurse said to Juliet: "God save the mark."

I now yield to the Senator from New Jersey.

**Mr. CASE.** The Senator from Virginia is most gracious. I did not hear the entire statement of the Senator; I only perked up my ears, as one would be inclined to do, when I heard my name mentioned. Whatever was said first, I cannot comment on, but I am sure the Senator would permit this correction:

I did not say that it would be all right for a Methodist to discriminate against Catholics. I do not think one should discriminate against anybody.

I say it would not offend the Senator from New Jersey very much—and perhaps I shall be ripped apart everywhere for saying this—to have a Methodist feel that in the strengthening of his organization he would like to spend money to hire Methodists, so long as Methodist people are admitted to the Methodist Church without discrimination on the ground of color.

**Mr. ROBERTSON.** The point is that those who framed the bill let the religious organizations out. Why? Because they would make it a little uncomfortable for the supporters of the bill if they were brought in. I may not be wholly accurate in what I heard or remember of the statement by the distinguished Senator from New Jersey, but I understood him to say that letting the religious organizations out of the title was not an objectionable thing to do.

Mr. CASE. I believe it is a reasonable exclusion, and that was the burden of my comment earlier, with the clarification I mentioned a moment ago.

Mr. ROBERTSON. Then we heard the statement of the distinguished Senator from Vermont. He is a great leader of our farm group, and he is known as an outstanding liberal. But title VI became a little too liberal for him. He could not understand why Congress should pass a law that would permit a bureaucrat to deny road funds, let us say, to an entire State.

Then we heard the distinguished Senator from Kentucky [Mr. COOPER] say that he was a little disturbed and had written a letter a week ago to the distinguished Attorney General, inquiring whether, if it were found that someone had discriminated in a minor way in one program, that fact could be used as a ground to withhold various other funds.

That is a very pertinent question.

In my opinion, this bill is deliberately framed so that the Attorney General, or any other administrator of funds, can do pretty much as he pleases. That is one reason why I will speak directly on the necessity for jury trials. The Department can go outside the community where the offense occurs, if necessary—perhaps it will not be necessary—and bring in a judge whose views on so-called social legislation are quite acceptable as a basis for his appointment. The defendant will feel before the trial ever starts, "That judge is hostile to me. That judge will not give me a fair trial."

Senators can remember the time when there were judges serving in the courts who were hostile to labor organizations. They enforced what was called the yellow dog contract. This provision was under the Constitution, but it was very objectionable. The judges would issue an injunction order and put labor leaders in jail for months.

So we passed a law that provided, in effect, "Hereafter, whenever you proceed against a labor organization by means of an injunction, the defendant must have the benefit of his constitutional right to a trial by jury." Why did we do it? Why did we exempt the labor organizations? Why did we exempt banks and savings and loan associations from title VI? Everyone knows that it was becoming too hot. They had the power of billions of dollars. They could pay for page after page of advertisements. The little pamphlet which was issued by a small Mississippi organization, and which caused such a debate among New York Senators and others, would not have been a circumstance as compared with what the banks and savings and loan associations could have issued under title VI.

So we decided that title VI would not cover the banks, and that it would not cover savings and loans associations. So we let the "Mrs. Murphys" out of title II. And we let the labor leaders out of all of it. We let the banks and the savings and loans associations out of title VI. We did not quite let the religious organizations out. Not believing in God can be a religion, just as believing in God can be a religion, but we did not let the atheists out. They are still in the bill, although the first amendment asserts that a man shall not be discriminated against because of his religion. Atheism is a religion. Yet we are discriminating against atheists. Is that fair? I do not like atheists. I do not believe in atheism. But I say, as a constitutional principle, is that a fair thing to do?

Mr. President, I am glad to yield to Senators so that they may develop phases of the bill. From my standpoint, there is no constitutional right which any person now has, regardless of race, color, sex, previous condition of servitude, or anything else we want to mention, that the person cannot obtain under existing law. It may be a little tedious. It may be a little expensive. But this bill goes beyond anything that we have ever had in the way of granting naked power to the executive branch of the Government. It affects the lives of everyone.

Title VII does not apply now unless the employer has 100 employees. Then the number cuts down to 50. Then it cuts down to 25. We know that in the end it will be handled in the same way that the Wages and Hours Acts was handled. First we exempted a certain number in the Wages and Hours Act—I do not recall how many. Now we have covered practically everyone. The FEPC will be handled in the same way. Those who are under it will never be satisfied until all their competitors are under it. Everyone will be under it. The Government will tell them, "You must not discriminate." What is discrimination? No one yet knows. That is the point. The Government will cut off the money. It will cut off the highway funds. It will cut off the social security funds. It will cut off the urban renewal funds. All the funds that the Government hands out can be cut off because of discrimination. But what is discrimination? We do not yet know. The offense is not defined in the bill.

While the distinguished Senator from Rhode Island pointed out the new safeguards, we are still under the Administrative Procedures Act. The regulations may not have any uniformity at all. Under the terms of the first bill, the President was to promulgate them. Now, each agency is to promulgate its own. It is true that the President must approve them. But what a job he would have if he really analyzed and studied everything which was proposed.

There would be a multiplicity of regulations. Suppose we did not like the regulations? We would have a hearing before a court. What kind of hearing? We would be convicted before we appeared before the court.

Unless we could prove that the order of which we complained was arbitrary, capricious, and without evidence to sustain it, we would lose.

That is the reason why I have offered an amendment to title VI to provide that the Administrator must prove discrimination by a preponderance of evidence.

Are we dealing with free American citizens? Are we to change all the civil law proceedings? The Senator from Kentucky is an outstanding lawyer. He holds degrees from two of our best Ivy League colleges. He knows what must be proved in a civil case to obtain damages. The case must be proved by a preponderance of the evidence. That would not be the test now.

The Senator also knows that in a criminal case, the proof must be beyond a reasonable doubt. A reasonable doubt of whom? Reasonable doubt on the part of a jury. A decision by a hostile judge who would be against the defendant before he heard any proof would not be a decision by a jury of peers. The Senator knows that the jurymen on the voir dire are asked the question: "Mr. Blank, have you made up your mind or expressed an opinion concerning the guilt or innocence of the accused?" Mr. Blank may say, "Oh, yes. I have been reading about this case. I think that Mr. So-and-so is just as guilty as he can be." He is told "Stand aside."

To be accepted, juror must say, "No, I do not know about the case. I have no prejudice against the defendant. I am prepared to give him a fair and impartial trial on the evidence that is presented to us." That is the way it is done. And yet, it is proposed to create new cases of criminal contempt. Now all the writers on contempt draw a distinction between civil contempt, which consists of enforcing a decree between individuals before a court of equity, and criminal contempt, which is a penalty placed on a man for violating some order of the court, for not doing what he is told to do.

The situation is similar to that under the common law when the State, or what was called the Crown, was a party to a suit. When the Crown was a party to a criminal contempt charge, it was well known that the King had appointed all the judges. They were his cronies. He could remove them any time he desired to do so. He would send word to the judge, "I do not like that man. If he comes before you, I want you to give him the works."

Our ancestors were up against that kind of procedure. That is what they fought against on the field of Runnymede in 1215. At that time they told King John, "We will not stand for your arbitrariness. We will not stand for star chamber proceedings. We demand an indictment if you are going to proceed against us. Then we want a trial by a jury of our peers."

At that time the peers were nobles. We no longer have nobles. In this country, perhaps every man is a king. Peers are now our neighbors, people who live and work as we do. But that is the fundamental principle that has come down to us. When the King—and that is now our Government—proceeds against an individual in a criminal contempt proceeding, that is a criminal procedure. Everyone who had any part whatever in the framing of our Constitution recognized a criminal contempt procedure by the Government as a criminal procedure. Therefore, they felt that it was fully covered by the provision they wrote in the Constitution that in all crimes the defendant should be entitled to a trial by a jury.

Patrick Henry and others said, "We do not feel that we are safe yet. We must have some amendments to the Constitution." They proposed 12 amendments, 10 of which were adopted. In the sixth amendment we find again a provision for jury trial. That is one of the amendments in what we call the Bill of Rights.

In 1957 the issue was presented to the Senate by a great lawyer from the Rocky Mountain States, Hon. Joseph O'Mahoney. He presented an amendment to the civil rights bill of 1957 which provided that in all proceedings under that bill there should be the right of trial by jury. That amendment was overwhelmingly adopted by the Senate. It is true that it was discharged in conference. The amendment was limited to voting rights, and, in a weasely compromise, was cut down to apply to cases in which the punishment by imprisonment would be for a term exceeding 45 days or a fine exceeding $300. If the punishment were greater than that, a defendant could appeal the decision of a hostile judge to a jury that would be fair. Such a provision was finally written into law. As I recall, it related only to the election cases, or cases which would arise under the provisions of the bill relating to voting rights.

Now we are confronted with the same amendment. I am a joint sponsor with the Senator from Georgia [Mr. TALMADGE], the Senator from North Carolina [Mr. ERVIN], and the Senator from South Carolina [Mr. THURMOND] of an amendment which would provide jury trials not only in actions which would arise under the provisions of the pending civil rights bill with respect to new crimes, but would bring all of our people into the same status now occupied by the members of labor unions. All of our people, whether they belonged to a union or not, would be treated like those who still possess what we are pleased to call American constitutional liberties.

Mr. HILL. Mr. President, will the Senator yield?

Mr. ROBERTSON. I shall yield in a moment.

We have been presented with a bill on which no hearings were held. We were told that the bill was so perfect that we had to accept it without change. Now what has happened? Last week, after the Senate started debating the Talmadge amendment, another amendment was offered relating to the right of trial by jury that would amend this so-called perfect bill. It is another weasel-worded amendment. The amendment that is now pending would provide that a defendant sentenced to imprisonment for a term exceeding 1 month or a fine exceeding $300 could get a jury trial, but otherwise a hostile judge could impose a penalty on the defendant up to that point.

I yield to the Senator from Alabama.

Mr. HILL. The Senator spoke of labor unions. Is it not true that into what we know as the Landrum-Griffin Act, which the Congress passed 3 years ago last September, there was written a guarantee of trial by jury? Section 608 of that act provides:

> CRIMINAL CONTEMPT
>
> SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

Mr. ROBERTSON. That is true. As I recall, however, the process of change dates back to the La Guardia amendment to the antitrust laws, which was adopted, I believe, in 1932. That amendment exempted unions from the antitrust laws when collective bargaining was involved, and prevented strikes over issues related to certain working conditions. Later the unions used their power to beat the Nation to its knees in an economic fight. Still the courts held that unions were not subject to the antitrust laws. But we would never have gotten through even those minor provisions designed to protect members of unions from bosses who would not let them know what their funds were being used for if we had not provided in the law that in all labor union cases a trial by jury could be required.

Will the Senator reread the section of the bill to which he referred?

Mr. HILL. The section is as follows:

> CRIMINAL CONTEMPT
>
> SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

Mr. ROBERTSON. The junior Senator from Virginia, notwithstanding the fact that from time to time he has been on the blacklist of certain labor organizations, has always endeavored to be scrupulously fair in all legislation pertaining to the workingman, because, with all due deference, the junior Senator from Virginia was not born with a silver spoon in his mouth. He has known the effort required to get ahead. He has had sympathy for the man who had to make his own living. But I do not think that we should give members of labor unions a special type of privilege and citizenship merely because they belong to a labor union, or that they should have the benefit of a jury trial in criminal contempt cases not committed in the presence of a judge, but that no one else may have that privilege.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. ROBERTSON. I yield.

Mr. HILL. Is it not true that every criminal—whether he be a murderer, a highway robber, a rapist, a thief, an embezzler, or whatever he may be, or however vicious or contemptible his crime—has a right to trial by jury?

Mr. ROBERTSON. Absolutely. As I have said, the framers of the Constitution undertook, in the case of a misdemeanor or felony, to guarantee a trial by jury when any criminal contempt by the Crown or State involved a crime.

In some States the law is different, and still refers back to a proceeding under the common law. No distinction is drawn between criminal contempt and civil contempt between parties and the State. But the decision in a case that has upset us all, and which in my opinion was clearly wrong, is the Barnett case from Mississippi. That case which was decided by a majority of only one, is the first case that I can recall in which it was definitely stated that even though a State is a party against an individual, and the case involves a criminal contempt not committed in the presence of a judge, the defendant is not entitled to a jury trial. But the court stated that if the judge should impose too heavy a penalty, the defendant might then be entitled to a jury trial.

There is no distinction in the Constitution whatever about whether he is put to too much penalty or not. I say that to put a man unjustly in jail for only 1 day is too much penalty for an innocent man. Therefore, I pay no attention to the saving provision in the Barnett case, that if the penalty were too heavy, he might be entitled to a constitutional trial by jury. For the same reason, I repudiate the pending substitute for the Talmadge amendment on the basis that if a defendant is branded as a criminal and is put in jail for more than 30 days and fined more than an average workingman's salary of 1 month, he is entitled to a jury trial, but not if the punishment is less than that.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. ROBERTSON. I yield.

Mr. HILL. The Senator spoke of the La Guardia Act. The Senator had in mind what is commonly known as the Norris-La Guardia Act; did he not?

Mr. ROBERTSON. That is correct. La Guardia was in the House. Norris was in the Senate.

Mr. HILL. I ask the distinguished Senator from Virginia if it is not a fact that, in advocating the adoption of the Norris-La Guardia Act, speaking in this very Chamber on March 18, 1932—practically 32 years ago—the distinguished Senator from Nebraska at that time declared:

> I agree, that any man charged with contempt in any court of the United States, * * * in any case, no matter what it is, ought to have a jury trial. * * * It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits in court and heard jury trials, knows that juries make mistakes, as all other human

> beings do, and they sometimes render verdicts which seem almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray I am confirmed in my opinion that after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender. I like to have trial by jury preserved in all kinds of cases where there is a dispute of facts.

Mr. ROBERTSON. Those words were spoken by a man who was first elected as a Republican. He felt that the Republican Party was not liberal enough for him. I believe he then became a member of the Progressive Party, and then he went into the Democratic Party. He was known as the liberal of the liberals in the Senate. He sponsored the TVA and a great many other measures. He was a great liberal.

In those days, liberals thought that liberality consisted of preserving a man's constitutional rights. They did not think that because it was desired to give some alleged rights to one group, they had the power to take constitutional rights away from another group.

Mr. HILL. Cannot the Senator well imagine that the word "liberal" stems from the same word as the word "liberty" stems from?

Mr. ROBERTSON. Of course. They both came from the Latin word "libertas," meaning free. Free from what? From tyranny, from oppression by the Government. If it means anything at all, that is what it ought to mean. That is what it always meant to me.

I repeat that we must draw a distinction, on the jury trial question, as between civil contempt and criminal contempt. We must remember that our proposal does not apply to contempts committed in the presence of a judge. We do not want to interfere with the proper discharge of justice and the adminstration of the courts.

There is a difference when two men are litigating over a boundary or something of that kind, when one violates the order of a court, and there is a case of criminal contempt against him. There is a distinction as between an action between individuals and the power provided in title II and title VII—an action by the "king" or the "crown" against an individual, with all the power of the Federal Government behind the Attorney General when he moves in.

It is said that the proposed law is to be quite different from the other provision. Congress turned down, world without end, a provision in the 1957 act that the Attorney General could initiate proceedings like this whenever he wished. Now it is sought to get around it by providing, that whenever the NAACP or any other group starts an action, the Government will enter the suit and the Attorney General will be in it with his own lawyers. The defendant will have to provide his own lawyers and defend himself as best he can, but the taxpayers will then proceed against him. That is the kind of case we are discussing.

Mr. HILL. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. HILL. When the Attorney General comes into a case in the name of the United States, that fact in and of itself denies the person charged with the right of trial by jury. Is that not correct?

Mr. ROBERTSON. Of course. It brings in the Attorney General under the provision that denies the accused a jury trial. Then the Attorney General will proceed before some friendly judge. The defendant will feel, "He is prejudiced against me. He is not going to give me a fair trial."

That is the issue before the Senate.

The fact that the United States, as a disinterested party, may constitutionally exercise particular powers in order to secure justice in litigation between private parties, does not provide a precedent for granting the United States, as an interested party, precisely the same powers.

That is the issue we are trying to discuss.

In fact, the idea is repugnant to accepted ideas of the due process of law. The theory of the proceedings provided for by H.R. 7152 is that the United States is itself an interested party.

I have just pointed out that any time the Attorney General wishes to do so, he can move in. Then the case becomes one of United States against Tom, Dick, and Harry. That is the thing we are complaining about.

Mr. HILL. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. HILL. Then the defendant is to be tried not by a jury, but by a judge who has not been selected by the people or a judge who has not run for an election to that office. He is not beholden to the people. He has been selected by the very Federal power to which the Senator is referring.

Mr. ROBERTSON. Yes.

Mr. HILL. And if he is looking for a promotion, it must come from the same Federal power.

Mr. ROBERTSON. If he does not get a recommendation for promotion as a circuit judge or to the Supreme Court, he will never get it. I have never known of an instance of promotion when the judge has not been recommended by the Justice Department.

The constitutionality of the proposed legislation must be judged on the basis that we are dealing with a criminal contempt not committed in the presence of the judge, in which the United States is prosecuting a private citizen.

The United States has been held to have authority under the Constitution to punish one party for contempt, without a jury trial, where only the rights of citizens in private litigation is involved. Different considerations apply where the proceedings are between the United States, representing the public and a defendant. In *Gompers* v. *Bucks Stove & Range Co.* (221 U.S. 418 (1911)), the Court said:

> Contempts are neither wholly civil nor altogether criminal. And it may not always be easy to classify a particular act as belonging to either one of these two classes. It may partake of the characteristics of both. *Bessette* v. *Conkey* (194 U.S. 329). But in either event, and whether the proceedings be civil or criminal, there must be an allegation that in contempt of court the defendant has disobeyed the order, and a prayer that he be attached and punished therefor. It is not the fact of punishment but rather its character and purpose that often serve to distinguish between the two classes of cases. If it is for civil contempt the punishment is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court. It is true that punishment by imprisonment may be remedial, as well as punitive, and many civil contempt proceedings have resulted not only in the imposition of a fine, payable to the complainant, but also in committing the defendant to prison. But imprisonment for civil contempt is ordered where the defendant has refused to do an affirmative act required by the provisions of an order which, either in form or substance, was mandatory in its character. Imprisonment in such cases is not inflicted as a punishment, but is intended to be remedial by coercing the defendant to do what he had refused to do. The decree in such cases is that the defendant stand committed unless and until he performs the affirmative act required by the court's order.
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> For example: If a defendant should refuse to pay alimony, or to surrender property ordered to be turned over to a receiver, or to make a conveyance required by a decree for specific performance, he could be committed until he complied with the order. Unless these were special elements of contumacy, the refusal to pay or to comply with the order is treated as being rather in resistance to the opposite party than in contempt of the court. The order for imprisonment in this class of cases, therefore, is not to vindicate the authority of the law, but is remedial and is intended to coerce the defendant to do the thing required by the order for the benefit of the complainant. If imprisoned, as aptly said in *In re Nevitt* (117 Fed. Rep. 451), "he carries the keys of his prison in his own pocket." He can end the sentence and discharge himself at any moment by doing what he had previously refused to do.
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> On the other hand, if the defendant does that which he has been commanded not to do, the disobedience is a thing accomplished. Imprisonment cannot undo or remedy what has been done nor afford any compensation for the pecuniary injury caused by the disobedience. If the sentence is limited to imprisonment for a definite period, the defendant is furnished no key, and he cannot shorten the term by promising not to repeat the offense. Such imprisonment operates, not as a remedy coercive in its nature, but solely as punishment for the completed act of disobedience.
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> It is true that either form of imprisonment has also an incidental effect. For if the case is civil and the punishment is purely remedial, there is also a vindication of the court's authority. On the other hand, if the proceeding is for criminal contempt and the imprisonment is solely punitive, to vindicate the authority of the law, the complainant may also derive some incidental benefit from the fact that such punishment tends to prevent a repetition of the disobedience. But such indirect consequences will not change imprisonment which is merely coercive and remedial, into that which is solely punitive in character, or vice versa.

I digress to point out in that connection how very surprising and how damaging to all previous concepts of constitutional law was the decision of the Supreme Court in the recent Barnett case. He was ordered to let a colored student into the University of Mississippi. He refused to obey the order.

The student was later admitted. Now it is sought to proceed against him in two ways, to put him in double jeopardy. It is proposed to sue him for civil damages. It is also proposed to proceed against him for criminal contempt, to punish him.

Governor Barnett did not have any illusions whatever about what some of the judges would do to him if they really had a free hand. So before they could "operate" on him, Governor Barnett took an appeal from the refusal for a jury trial to the Supreme Court.

It was the liberals on the Court who wished to uphold the Constitution as it was written and as it was intended to be enforced. This was clearly criminal contempt. The prosecution, by what the common law would call a crime, known by the framers of the Constitution as a crime, provided for a jury trial. That was the Barnett case. The liberals of the Court took that position. It was the Chief Justice and others, who are now out in the forefront for certain programs of what they call civil rights, who would deny an American citizen a fundamental right under the Constitution, and to lay the foundations for this very bill in which, in all of the new types of criminal contempt, a judge inherently hostile to the defendant, before the case can come before him, can order him put in jail for a month, and fine him $300. Not until then can he do what the woman is said to have done in the case of King Philip of the Medes and the Persians.

He had ordered sentence against her and she said, "Your Majesty, I appeal."

The King said, "You appeal? To whom do you appeal?"

She said, "I appeal from Philip drunk to Philip sober."

I do not know anyone who has been drunk, but that is the essence of it. We appeal from a hostile judge to a constitutional judge, to the right of trial by jury of impartial neighbors. That is what we appeal to, but in the meantime we shall be branded as a criminal.

Mr. HILL. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I yield.

Mr. HILL. The Senator from Virginia, in summing up his case on April 21 last, made the declaration that everyone knows that the Federal courts were created in the Constitution itself. That is the Supreme Court, authorized by the Constitution and created by Congress; consequently, the Federal courts, must of necessity operate under the Constitution. Then the Senator went on to say that under the Constitution all acts by the Crown against the individual in the nature of criminal contempt were considered criminal, and that therefore, when the Constitution provided that every man should be entitled to a jury trial in criminal cases, it contemplated exactly what the distinguished Senator, along with the distinguished Senator from Georgia and other Senators who joined in the Talmadge amendment propose. Is that not true?

Mr. ROBERTSON. That is absolutely true. There cannot be any fair interpretation of it in a different way

Continuing with the quotation:

> The distinction between refusing to do an act commanded—remedied by imprisonment until the party performs the required act; and doing an act forbidden—punished by imprisonment for a definite term; is sound in principle, and generally, if not universally, affords a test by which to determine the character of the punishment.

I say that because that was the former rule prior to the Barnett case.

> In this case the alleged contempt did not consist in the defendant's refusing to do any affirmative act required, but rather in doing that which had been prohibited. The only possible remedial relief for such disobedience would have been to impose a fine for the use of complainant, measured in some degree by the pecuniary injury caused by the act of disobedience.
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> But when the court found that the defendants had done what the injunction prohibited, and thereupon sentenced them to jail for fixed terms of 6, 9, and 12 months, no relief whatever was granted to the complainant, and the Bucks Stove & Range Co. took nothing by the decree.
>
> If then, as the court of appeals correctly held, the sentence was wholly punitive, it could have been properly imposed only in a proceeding instituted and tried as for criminal contempt. The question as to the character of such proceedings has generally been raised, in the appellate court, to determine whether the case could be reviewed by writ of error or on appeal. *Bessette* v. *Conkey* (194 U.S. 324). But it may involve much more than mere matters of practice. For, notwithstanding the many elements of similarity in procedure and in punishment, there are some differences between the two classes of proceedings which involve substantial rights and constitutional privilege (pp. 441–444).

Note the following words of Judge Lamar:

> Without deciding what may be the rule in civil contempt, it is certain that in proceedings for criminal contempt the defendant is presumed to be innocent, he must be proved to be guilty beyond a reasonable doubt, and cannot be compelled to testify against himself.
>
> * * * * *
>
> There is another important difference. Proceedings for civil contempt are between the original parties and are instituted and tried as a part of the main cause. But on the other hand, proceedings at law for criminal contempt are between the public and the defendant, and are not a part of the original cause (pp. 444–445).
>
> * * * * *
>
> In another most important particular the parties clearly indicated that they regarded this as a civil proceeding. The complainant made each of the defendants a witness for the company, and, as such, each was required to testify against himself—a thing that mostly likely would not have been done, or suffered, if either party had regarded this as a proceeding at law for criminal contempt—because the provision of the Constitution that "no person shall be compelled in any criminal case to be a witness against himself" is applicable, not only to crimes, but also to quasi-criminal and penal proceedings. *Boyd* v. *United States* (116 U.S. 616, pp. 447–448).

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. RUSSELL. First, I commend the distinguished Senator from Virginia for delivering his speech today under considerable physical handicap. I might say that this typifies the courage that has always stamped the men of the Shenandoah Valley, where even the walking wounded joined the battle when it was necessary to do so.

Justice Lamar was from my State. Of course that would prejudice him immediately in the minds of many people, who would say that he was not only incompetent, but biased as well. However, he is one of the great justices who have adorned the Supreme Court in its history.

The Senator was discussing the fact that the Supreme Court has held—and it has held it in other instances too, I believe—that in a prosecution for criminal contempt it is necessary to establish the same standard of guilt as it is necessary to establish in any criminal prosecution, namely, that the accused must be found guilty beyond a reasonable doubt.

Mr. ROBERTSON. There is no question about it.

Mr. RUSSELL. But how does one go about doing that under the amendment? When is the prisoner permitted to be confronted by the witnesses against him? When does he have the right of cross-examination of witnesses? How can he make any defense?

Mr. ROBERTSON. The bill consists of 50 or 60 pages; and it is designed to let those who will administer it proceed as they wish.

Under title VI it would be possible to withhold funds from a group or State or individual or some individuals. Suppose a State, group, or individual is found to be not guilty. How do they go about getting the money? No one knows. The money has been cut off, but how is it possible to get the money again? No one knows.

In the earlier provision under criminal contempt, a person would be presumed guilty even before he went before the judge. The holding of a bureaucrat would be presumed to be right. What would a defendant do? Instead of being presumed to be innocent, he would be presumed to be guilty. During prohibition days, when a man was found in possession of a gallon of liquor, it was presumed that he was going to sell it. Here a person would have to prove his innocence. It would be necessary for a defendant to prove that the order which held him guilty was arbitrary and capricious.

Now it is attempted to soften up that provision with another amendment. They did not think they could get extreme unction, so they made an attempt to soften up that provision. The people of the country are becoming a little uneasy about losing all their rights.

As the Senator from Georgia so well points out, a person goes before a hostile judge and the judge says, "You are guilty. The sentence is 30 days in jail and $300 fine." He is supposed to get a jury trial. But how is he going to get it?

Mr. RUSSELL. Suppose the judge decides that 30 days in jail and a $300 fine are not adequate punishment. It seems to me that the judge, when he has found a man guilty, really leaves it up to the jury to fix the punishment, to a certain extent. If the judge fines the man $300 or punishes him with imprisonment for 30 days, does the defendant have an opportunity to show that the crime is not as terrible as the judge thought? If so, why is he put in double jeopardy, first by the judge finding him guilty and then by referring the case to a jury and trying the defendant again? How does the judge determine whether a trial by a judge or a trial by a jury shall take place? How can he do it without deciding in advance that the man is guilty?

Mr. ROBERTSON. To ask the question is to answer it. Certain constitutional rights are denied to the defendant. The judge says, "You are so guilty, I will give you a jury trial," but the punishment must be more than 30 days and more than $300. He is guilty before he even gets there.

Mr. RUSSELL. Of course the jury will know that in the mind of the judge the man has been found guilty, or he would not have had his case submitted to the jury.

Mr. ROBERTSON. Yes.

Mr. RUSSELL. That would certainly prejudice his case.

Mr. ROBERTSON. Yes. The amendment is nothing but window dressing. The purpose is to make the whole procedure a little more palatable. A great protest is coming up from the country about taking away from a man the right of jury trial. This is an effort to meet that protest. It is said, "We will give him a halfway sort of jury trial."

Mr. RUSSELL. In other words, this whole provision, which is offered by the leadership—and I say this with all deference to both leaders—is a juridical monstrosity so far as the protection of the rights of a defendant is concerned.

A judge could find a defendant guilty before ever turning him over to a jury. But if the judge found the defendant guilty and did not think the offense was too bad, he could impose a fine of $100 and perhaps put the defendant in jail for 5 days.

But if the offense were severe, in the opinion of the judge, when he presented the defendant to the jury for a jury trial, the jurors would know that the judge had already passed judgment on the defendant and had found him guilty; the jurors could only assume that the judge thought the contempt was so terrible that the defendant should receive punishment greater than a $300 fine or 30 days in jail.

That is in keeping with everything else contained in the bill. Everything is vague, indefinite, inconclusive, and designed to vest powers in an appointive official that even elective officials should not be permitted to assert. Every page of the bill is a bureaucrat's dream. It gives him power to define what is a law and to say that a defendant is guilty of violating the law, and then permits the defendant to be tried by a jury after he has been found guilty by a judge.

Mr. ROBERTSON. I so fully concur in and endorse what the distinguished Senator from Georgia has said that for today I shall close my discussion on that note. The bill is a monstrosity which would deny to a man his constitutional rights.

Mr. RUSSELL. It is violative of all the laws and concepts of justice that free men have had since the dawn of history.

Mr. ROBERTSON. There is no doubt about it.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. McCLELLAN. Along the lines of the discussion concerning the duties of a judge, if a judge did not determine guilt, there would be no necessity for submitting the case to a jury. That is the first point.

Mr. RUSSELL. How would the judge determine guilt?

Mr. McCLELLAN. He would determine it in his own mind.

Mr. RUSSELL. I know, but he would determine it ex parte, too. There would be no hearing to assure that the judge would hear anything from the defendant's side of the case. It would be exparte proceeding.

Mr. McCLELLAN. But the point is that the defendant would be found guilty by a judge before a jury was ever assembled.

Mr. RUSSELL. That is correct.

Mr. McCLELLAN. Second, if upon hearing a judge found a defendant guilty, and the case were submitted to a jury in order to have the jury inflict punishment, the jury could inflict a punishment greater than the judge himself was authorized to impose without a jury verdict. But if the jury should turn the defendant loose, the judge, having already found the defendant guilty, could impose a minimum fine.

Mr. RUSSELL. The defendant would already be in jeopardy, because the judge had found him guilty ex parte. Then the judge would decide on the punishment after having given the defendant a trial. If any Senator can find equity or justice in that kind of procedure, I should like to have him stand up.

Mr. McCLELLAN. I raise this question under this amendment: Suppose a jury turned the defendant loose. The judge must have found him guilty; otherwise, he would not have submitted the case to the jury.

Mr. RUSSELL. Not only that; when the judge submitted the case to the jury, the jurors would know that the judge considered it such a terrible offense of criminal contempt that it deserved a punishment of more than $300 or 30 days in jail.

Mr. McCLELLAN. I am not sure that the judge could not set aside a jury's verdict of not guilty and impose the maximum penalty the amendment would impose.

Mr. RUSSELL. Under the procedure in the Federal courts, a judge can set aside the verdict of a jury.

Mr. McCLELLAN. If the defendant had been found guilty, he would have to remain guilty, if the judge wanted him to remain guilty, irrespective of what a jury decided.

Mr. ROBERTSON. Our ancestors won trial by jury 749 years ago. Yet here we are debating whether we will let people continue to have jury trial or will take it away from them.

With all due deference to an adequate discussion of this question, a man ought to have two good arms. I have only one good arm today, so I shall yield the floor and resume my discussion at a later time.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 172 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Church
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Ellender
Fong
Gruening
Hart
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Symington
Talmadge
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. McCLELLAN. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Missouri [Mr. SYMINGTON] without losing my right to the floor, and also that during the course of my remarks I may yield to other Senators upon their request for comments, questions, insertions in the RECORD, and for other purposes, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I am happy to yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, I thank the able and distinguished Senator from Arkansas for his typically gracious courtesy.

Mr. McCLELLAN. I am happy to yield.

## THE LATEST POSITION OF THE DEPARTMENT OF AGRICULTURE ON THE HEAVY DECLINE IN BEEF PRICES

Mr. SYMINGTON. Mr. President, as the Senate will recall, on February 19 last, I suggested six areas of possible action with respect to low beef cattle prices, and the declining farmer's share of the consumer dollar spent for beef, which fell last year to a 19-year low of 45.3 cents on the dollar.

One was the further reduction of beef imports. Those imports rose drastically in the years 1962 and 1963, to the point where imported beef last year represented 11 percent of the total U.S. supply, compared with only 1.6 percent as recently as the year 1956.

Two other questions I raised in February were first, whether imported beef is subject to the same inspection standards as domestic beef, and second, whether imported fresh beef should be so labeled when offered to the American consumer at the retail store.

A fourth point was the extent to which rising imports may have caused—not resulted from—a reduced rate in the liquidation of cows in the U.S. livestock inventory. In that connection, I presented facts from a recent study of how imported beef was being used by American supermarket chains, especially in hamburger, to maintain large reserves of beef and thus perpetuate a "buyer's market" at wholesale, constantly keeping the market low on domestic beef cattle.

I also suggested taking a look at enforcement of the Packers and Stockyards Act; and, finally, investigation to determine whether open and competitive bidding for meat and livestock is in fact being maintained.

Now I have a reply from the Department and ask that my letter of February 18 to the Secretary, and the reply from the Department of April 22, be inserted at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

February 18, 1964.

Hon. Orville L. Freeman,
*Secretary, Department of Agriculture,*
*Washington, D.C.*

Dear Mr. Secretary: Cattle producers in Missouri have advised me that they appreciate that some progress was made but are disappointed that the agreements announced yesterday with Australia and New Zealand did not roll back further the level of imports from those two countries.

In the continuing effort to assist the American cattle industry and for the protection of the American consumer, I believe the suggestions by Mr. William Beckett, administrative vice president and general counsel of the Missouri Farmers Association, as set forth in the enclosed letter, deserve consideration.

With Mr. Beckett, I believe that efforts should be made by the administration and the Congress:

"(A) To afford the American consumer the same basic health safeguards on foreign beef that is now provided for domestically slaughtered beef, and;

"(B) To consider the enactment of a labeling law whereby foreign beef is so labeled naming the country of origin."

I respectfully urge that executive action be taken to put these suggestions into effect wherever possible. Your advice as to any additional legislation required to implement these suggestions will also be appreciated.

In addition to Mr. Beckett's letter, enclosed herewith is a copy of the talk I am making in the Senate on the problems in the cattle industry primarily directed to a discussion of two problems in this industry outside the control of the producers.

At the end of this talk I recommend several steps which I believe can be taken and would appreciate your consideration and support on these recommendations.

Sincerely,

Stuart Symington.

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Department of Agriculture,
*Washington, D.C., April 22, 1964.*

Hon. Stuart Symington,
*U.S. Senate.*

Dear Senator Symington: We appreciate receiving your letter of February 18 together with a copy of a letter from Mr. William W. Beckett and of a talk dealing with measures to improve our cattle markets. I would like to assure you that we share your concern over present prices for cattle. Anything which adversely affects farm income is of great and immediate importance to this Department and to the President.

After carefully reviewing the six specific proposals you have made, we have the following comments concerning them.

First, we agree that continued negotiations looking toward a further reduction in imports of beef and veal should produce beneficial results. Discussions are now underway with Mexico with the objective of limiting shipments from that country to the United States, much as has been done in the agreements recently negotiated with Australia, New Zealand, and Ireland. Discussions may be initiated with other governments for the same purpose. In addition, we are making a major effort to convince other importing countries to lower their trade barriers so some of the beef now entering the United States will, in fact, be channeled to these other countries. This effort now has some promise of success, as Australia, for example, is finding larger markets for its beef in certain areas such as Western Europe than it had contemplated even a few months ago. In fact, as announced on April 6, we now expect shipments from Australia and New Zealand to the United States in 1964 to be substantially under those in 1963.

Second, under the provisions of the Imported Meat Act, 19 United States Code 1306 (b) and (c), imported meats are required to be in compliance with the Federal meat inspection regulations and marked "U.S. inspected and passed." As such, they are eligible to move in interstate or foreign commerce.

The immediate or true container, such as a can, carton or box of imported meat or meat food product, is required to bear a statement of origin. Similarly, imported meat carcasses or imported bone-in meat cuts must have the name of the country of origin stamped on each primal part or wholesale cut.

All imported processed products, such as canned or potted meats, ground meats, or sausage items, may be imported in consumer-size packages only. These are fully labeled including a statement which identifies the country of origin. The origin statement appears immediately below the name of the product.

Foreign meat imported for manufacturing or processing purposes is normally shipped in containers of 50 to 60 pounds capacity. These containers are also required to be fully labeled, including a statement of origin. Upon processing in this country, the identity of the imported product is, however, lost. Meat products processed under Federal inspection may, in some instances, consist in part or in whole of imported meat ingredients. The labels applied to such products are not required to identify the imported ingredients.

Imported cuts of meat may be divided, ground or otherwise processed by retailers. Here again the identification of the foreign product would not generally carry through to the consumer. The control and enforcement of labeling at the retail level are, however, State or local responsibilities. The Department's jurisdiction in this area is limited to assuring the wholesomeness of the product and its proper marking or labeling at time of importation.

Third, in order to be eligible to export meat or meat food products to this country, it is necessary for interested foreign countries to apply for and receive recognition of their national meat inspection programs. The Department will approve a foreign meat inspection system if it is adjudged to be the substantial equivalent of, or as efficient as, the system maintained and operated in the United States.

Establishments engaged in exporting products to this country must be certified to the Department as fully meeting specified requirements for this purpose. The certification is made by a responsible official of the foreign meat inspection organization. Such foreign establishments are, however, subject to our observation and review. Every effort is made to assure that imported products conform to the same sanitary and compositional standards applied to products produced under Federal meat inspection.

An inspection is performed by the Meat Inspection Division of this Department on each consignment of meat and meat products offered for importation. This includes laboratory sampling for residue determinations, as well as species identification. Other tests may be requested by inspectors as an aid to deciding the disposition of shipments. Products found to be not in compliance with the Federal meat inspection regulations are refused entry or condemned. We believe that these procedures provide reasonable safeguards for American consumers who purchase imported meats.

Fourth, the Department is further analyzing the impact of imports of beef and veal on the buildup in number of cows in domestic beef herds. We believe that imports have resulted in lower prices for cows than otherwise would have prevailed at times over the past several years, and that this situation in turn has contributed to reduced marketings of such animals. We are directing further attention to the influence of imports on domestic marketings and inventories of cattle, as well as prices.

Fifth, a major responsibility of the Department in enforcing the Packers and Stockyards Act is to see that effective market competition is maintained for livestock, meats, and poultry at all levels. The rapidly changing market structure for these products to decentralized selling of livestock through thousands of public and private markets and, on the other hand, increased concentration in the purchasing of meats has substantially increased the difficulty of providing the basic protection to the industry in recent years. The maintenance of effective competition is further complicated by entry of food chains into livestock slaughtering and the entry of food chains and packers into livestock feeding. The objective of the Department, within the limitation of its resources, is to prevent, uncover, and eliminate practices which restrain competition. Recent investigations in this area have uncovered restrictions on competition at public terminal and auction markets, in direct purchasing and in meat procurement. Appropriate remedial action has been taken. We shall continue the vigorous investigation and enforcement called for by the act.

Sixth, in addition to the activities described in the preceding paragraph, the Department is hopeful that the Congress will act favorably on the recent request of the President that a special commission be established to study food marketing and the market power exercised by various segments of the food marketing system such as corporate and voluntary chains. Such a study should indicate clearly the shortcomings of the marketing system, and the corrective action needed.

We appreciate the opportunity to comment on the foregoing subjects, and shall be glad

> to provide additional information regarding them should you care to have us do so.
>
> Sincerely yours,
>
> JOHN A. SCHNITTKER,
> *Staff Economist.*

**Mr. SYMINGTON.** Mr. President, more than a year ago—back in March of 1963—when some of us in the Senate first joined in urging action against the rapid rise in beef imports, the Department of Agriculture was not prepared then to give the same weight as we did to those imports, as a contributing factor in the downward break in the U.S. beef cattle market, which began late in 1962.

Later, however, we proved that impact to the satisfaction of the Department, and the Secretary acted, under his existing authority to negotiate a cutback on imports with the countries concerned.

I am gratified to read that the Department, in its letter to me, clearly reaffirms the Department's revised viewpoint.

The letter refers to the fact that in the late 1950's Australia began to lose its former main beef customers in Western Europe and the British Isles. At that time Australia found in the United States the only relatively open market left for its surplus beef, and proceeded to build up shipments to this country from what had been an 18-million-pound-a-year level in 1958, to over 500 million pounds—nearly half of all our imports—in 1963.

The letter also notes that as a contribution to solving our own problem of imports, U.S. negotiators in trade relations with the West Europeans are now supporting Australia's efforts to regain admission to West Europe for more Australian beef.

We hope for the success of these efforts. But success or no success, there is a practical maximum of imported beef the American market can absorb without sacrificing the solvency of our own livestock-producing industry. It was for that reason I voted for the Hruska amendment, which nearly carried; and now we must pass one of the measures now before the Congress to draw the line at 5 percent of the total supply.

We also look forward to a constructive presentation of the facts about the impact of recent high beef imports in Tariff Commission hearings which open tomorrow, a factfinding procedure requested by the Senate Finance Committee.

In response to the question I raised, Agriculture now states that—

> Imports have resulted in lower prices for cows than otherwise would have prevailed at times over the past several years and that this situation in turn has contributed to reduced marketings of such animals.

This statement supports without reservation the conclusion that the large inventory of cows accumulated during 1963 was not primarily the result of planned production increases by U.S. cattle producers; but rather, in considerable degree, a withholding of cows from an unprofitable market suffering from excessive import competition.

Agriculture advises that imported meat undergoes proper inspection in its country of origin to the satisfaction of the U.S. Department of Agriculture, and is checked again by U.S. Government inspectors before admission at the American port of entry.

Agriculture points out, however, that labeling of unprocessed imported meat is currently lost so far as the American consumer is concerned. A can or package of processed meat bears the country-of-origin identification on the label. Carcass or cut unprocessed meat however, is labeled only in the bulk container, or on the carcass, upon its arrival in this country. If such meat is mixed into manufactured or fresh meat supplies after it gets here, according to the Department of Agriculture, its "imported" label is lost.

Agriculture also states that the labeling of fresh meat on the package offered at retail, such as a package of hamburger, is presently regarded as a State or local responsibility, not within the jurisdiction of the Federal Department of Agriculture.

This question should deserve consideration by the Congress in the light of changing patterns in the U.S. food industry—especially if imports are to remain high, and their heavy rate of use in the American fresh meat supply continues to have serious impact on prices paid U.S. beef producers.

In the area of packers and stockyards enforcement of fair practices in the buying, processing, and wholesale marketing of livestock, meats, and poultry, Agriculture says:

> The rapidly changing market structure for these products to decentralized selling of livestock through thousands of public and private markets, and, on the other hand, increased concentration in the purchasing of meats has substantially increased the difficulty of providing the basic protection to the industry in recent years. The maintenance of effective competition is further complicated by entry of food chains into livestock slaughtering and the entry of food chains and packers into livestock feeding. The objective of the Department, within the limitation of its resources, is to prevent, uncover, and eliminate practices which restrain competition. Recent investigations in this area have uncovered restrictions on competition at public terminal and auction markets, in direct purchasing and in meat procurement. Appropriate remedial action has been taken.

At present, the United States has 2,250 stockyards, 3,300 packers, 17,000 commission firms and dealers, 1,000 poultry processors, 6,200 scales operated by packers and dealers, all of which the Packers and Stockyard Division of the USDA must keep track of.

The Division is doing this job with 190 personnel, including clerical workers—about 100 inspectors in the field over the 50 States. I am told that, insofar as possible, the Division seeks to eliminate objectionable practices in the livestock and meat trade through informal agreements with packers, processors, and livestock suppliers, as a part of which arrangement this is accomplished without publicity.

But large retail chains have refused in at least some important instances to submit themselves to any jurisdiction from the Packers and Stockyards Division on the ground that they, the chains, are not in the meatpacking or stockyards business.

As one obvious result of this attitude, two such cases have already been submitted to the courts.

The Senate Committee on Commerce is now considering Senate Joint Resolution 71, which would establish at the request of the President a National Commission on Food Marketing.

This Commission would carry out the first thorough study of the present-day American food distribution industry from farm to retail point of sale, and presumably would take into account the changes in that industry since chain retailing developed to the point where two-thirds of all retail sales are now handled by 10 percent of the stores.

One of the most constructive purposes which would be served by such a study could be determination as to whether present law is adequate to maintain proper conditions of free trade in the food industry as that industry is now constituted.

We hope this National Commission will be authorized by the Congress, and will carry through the mission visualized for it by President Johnson. I believe any report will verify my previously expressed conviction that an investigation is badly needed, so as to determine whether new forces have arisen in the food industry which may further widen the spread between what the farmer receives, and what the consumer pays, for the retail food product in this country.

Let me express my appreciation to the distinguished Senator from Arkansas for yielding to me at this time.

**Mr. McCLELLAN.** Mr. President, under the conditions of the previous unanimous consent, I am happy to yield to the distinguished Senator from New York [Mr. JAVITS].

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## PROMOTING INCREASED FOREIGN INVESTMENT AND INCREASED FOREIGN FINANCING

**Mr. JAVITS.** Mr. President, last July President Kennedy appointed a distinguished task force to make a thorough examination of what further steps could be taken by the U.S. financial community and the Federal Government to reduce our balance-of-payments deficit through the increase of the sale of U.S. securities, the encouragement of foreign purchases of U.S. corporate securities, and the identification of those restrictions abroad which make it difficult for U.S. corporations to finance their oversea operations from non-U.S. sources.

The report of the task force issued today contains 38 recommendations. I call particular attention to those recommendations which, in my view, would be of great value from the point of view of our balance of payments, if conscientiously followed by the U.S. financial community and the Federal agencies involved.

Recommendation No. 2 calls for a concerted effort on the part of our brokers and investment bankers to seek the modification of foreign regulations which make it difficult to promote the sale of U.S. securities abroad.

To attract foreign deposits to U.S. banks the task force, in its recommendation Nos. 16 and 17, recommends that interest rates on time deposits—domestic or foreign—be allowed to find their own competitive levels, and that the Federal Reserve Board be guided accordingly. The task force believes that such a move—which could be accomplished either by legislation or by the flexible administration of regulation Q—would enhance the ability of U.S. commercial banks to compete for foreign time deposits. I would sincerely hope that the Senate Banking and Currency Committee, of which I am a member, will look into this matter of regulation Q at its earliest opportunity.

Among those actions involving U.S.-based international corporations, I call attention to recommendation No. 18, which suggests that such corporations should consider the advantages of increased local ownership of their parent company shares in countries in which they have affiliates. This recommendation is extremely important, not only because its implementation may help our balance of payments, but because it would enhance the security of our investments overseas. The concept of joint ownership between U.S. firms and their local partners in new ventures has been actively pursued in the postwar period with very satisfactory results to both parties. I believe that this concept should be extended to ownership of the shares of parent companies to the maximum extent practicable.

Of the actions involving the U.S. Government, the task force's recommendations which would have the effect of reducing restraints on the sale of U.S. securities in other capital markets are of particular interest. The Treasury Department has been pressing foreign governments for quite some time now for the removal of such restraints, with limited success to date. As the task force report points out, such important capital markets as France, Italy, the Benelux countries, and Austria still maintain certain restrictions on capital flows in and out of their countries. The United Kingdom, Ireland, Japan, Australia, Spain, and the Scandinavian countries retain a wide range of controls for balance of payments and other reasons. That such controls remain a great deterrent to capital flows in key capital markets is evident from the 280-page report prepared by the Treasury for the Joint Economic Committee early this year. The existence of such controls have made for much of the justification for the imposition of the interest equalization tax now pending before the Senate Finance Committee. Although I am against Government regulation of capital flows, should our Government fail in its efforts to obtain the removal of foreign restraints on the sale of U.S. securities, I recommend that Congress give serious consideration to the creation of a voluntary capital issues committee, acting on guidelines established by appropriate Government agencies. Such a committee, in my view, would be far more flexible and effective than the measure proposed by the administration, in reducing the U.S. balance-of-payments deficit caused by the outflow of substantial U.S. capital.

The steps recommended in recommendations Nos. 35, 36, 38, and 39, calling for bilateral and multilateral negotiations aimed at the removal of remaining exchange controls or capital transactions between developed countries and the strengthening of free world capital markets, if effectively carried out, would go a long way toward the improvement of our balance-of-payments situation.

Such controls tend to weaken the greatest strength the Western World has—its economic power and its ability to channel its capital resources to raise the living standards of its people, to modernize industry, to advance technical and scientific knowledge, and to provide the economic wherewithal without which the struggle against Soviet expansion and to improve the economic circumstances of developing nations would not be possible.

I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal entitled "Payments Headache," as well as extracts from the report to the President from the task force.

There being no objection, the article and extracts were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 20, 1964]

### PAYMENTS HEADACHE: DOLLAR OUTFLOW, THREAT TO GOLD SEEN GROWING; TAX CUT ADDS WORRIES—FOREIGN BORROWINGS LIKELY TO RISE—TAX SAVINGS WILL LIFT IMPORTS, TRIPS ABROAD—LESS DRIVE FOR FOREIGN SALES?

(By Richard F. Janssen)

WASHINGTON.—The Johnson administration's gold-and-dollar headache, less painful recently, could well throb more naggingly again later this year.

The Nation's balance-of-payments problem is clearly much less severe now than last spring, when the net flow of dollars leaving for foreign shores was at a near-crisis rate of about $5 billion a year. A crackdown launched by the late President Kennedy helped push the rate down sufficiently to bring the deficit for all of 1963 down to $3 billion. Furthermore, administration men suggest the deficit this year may fall further to $2 billion or so.

However, Washington gold watchers are far from relaxed. The $2 billion figure for 1964 actually allows for some worsening later this year, as the rate of deficit recently has been down to $1.6 billion a year. The problem is that most officials see forces mounting that threaten in coming months to suck dollars out faster.

#### IMPACT OF TAX MEASURES

One such possibility arises, ironically, from expected passage of a tax on foreign bond issues and other borrowings here; the "interest equalization tax" may be passed late this spring. The tax would be retroactive to last July 19. The hope that the tax might not be passed has almost cut off such issues because the mere threat of the tax has reduced the prices the foreigners could get for the issues. If it is passed, experts figure these borrowings may leap to double the recent $350 million annual rate.

Worries are emerging, too, that the recently passed $11.5 billion tax cut, though billed as a long-run deficit cure because it would make investment here more attractive, may have some adverse short-term effect. Americans are considered certain to spend some of their tax savings on oversea vacations and imported goods. The hundreds of thousands of U.S. servicemen stationed abroad will have more to spend there.

If the tax cut propels prosperity upward as hoped, imports would rise. And it's feared American businessmen may find demand so ample at home that they won't bother as much with the effort to develop new markets abroad; thus some of the laboriously built steam would go out of the Government's expert drive. A leading foreign trade group has already forecast that this year's surplus of exports over imports may be $100 million slimmer than last year's nearly $5 billion.

Other even less predictable factors add to the uncertainties, too. The rash of interest rate increases abroad, if it continues, could again lure more U.S. investors' dollars to Europe. Officials are keeping a wary eye on U.S. banks lest foreign borrowers seek to skirt the impending interest tax through exempt bank loans. Russia doesn't appear likely to give much more payments-balance help by buying U.S. wheat. And newly announced plans for more aid to embattled South Vietnam are impeding the Pentagon's overseas dollar-saving efforts.

#### HARDEST JOB STILL AHEAD

The recent improvement, some officials fear, will reduce the sense of urgency about pushing back toward balance. Certainly, any letup now would be highly premature, top strategists say. "The hardest job is still ahead of us," one declares. "We've got to get down to zero and the progress along the way has to be rather striking."

While he isn't devoting as much time to the situation as President Kennedy did, President Johnson is no less determined that balance be reached, aids say. For the consequence of continued failure could be financial catastrophe for the free world.

With foreigners receiving more dollars through U.S. Government and private spending, lending and aid than they spend in this country, they have accumulated about $22 billion in U.S. bank accounts and quickly marketable U.S. securities. These foreign-owned dollars outnumber the $15.5 billion worth of U.S. gold that foreigners are eligible to buy, and far outweigh the roughly $3 billion that could be sold without cutting into the gold-backing required for U.S. currency. (Yesterday Congress' Joint Economic Committee called for repeal of the gold-backing requirement, arguing this reserve should be available to support the dollar's international value). The more foreign-owned dollars pile up, the more some of their owners may be tempted to get their share of gold before someone else does, and the more precarious the whole free world monetary structure becomes.

The United States is committed to selling its gold to foreign official buyers at $35 an ounce; this pledge is made to keep the value of the dollar stable, since it is widely used in international trade. If a run on U.S. gold should wipe out this stabilizing factor, international trade and lending could just about halt, toppling many nations, and perhaps the whole free world, into depression.

#### EFFECT ON FOREIGN POLICY

The threat of such a catastrophe keeps the administration from fostering lower interest rates to encourage business expansion. Spending and budget deficits have to be held down to avoid fueling foreign fears that they'll cause inflation and lower the dollar's value. Foreign policy is hampered, too, officials grumble, because foreign aid and troops stationed overseas add to the dollar outflow. Moreover, U.S. officials have to choke back their wrath at such things as De Gaulle's flirtations with Red China; France is already the biggest buyer of U.S. gold, and could mightily embarrass the United States by buying much more. "You wouldn't want to insult the guy who holds the mortgage on your house, would you?" one official sighs.

Anyway, Treasury and White House men express confidence they'll make enough progress toward balance during 1964 to avoid any mass cashing-in of chips by foreign dollarholders. To pull down the big military outgo abroad, it's hoped to transfer some air defense operations in Spain and Japan to those nations; too, Pentagon officials have been cutting headquarters and supply personnel abroad, forgoing "nonessential" construction, and pulling back U.S. military policemen and pilots who have been training foreign counterparts. For these and other reasons, administration men suggest the 1964 deficit may shrink to around $2 billion from the $3 billion of 1963.

But some Federal Reserve Board officials say they won't completely relax about the threat of a run on gold until the United States can actually start rebuilding its gold stock. This is "a prerequisite to restoring full confidence," one official says; while he doesn't consider a run likely this year, he's not yet ruling out the possibility. As foreigners left more of their surplus dollars in U.S. banks or invested them in U.S. securities last year, the net gold outflow dropped to $391.7 million from $833 million the year before and was far less severe than the average $1.7 billion a year of the 1958–60 period.

### TAXING FOREIGN BORROWINGS

Ironically, one thing likely to step up the dollar outflow is congressional passage of the interest equalization tax. The House already has okayed it, but Senate action will probably wait till after the civil rights fight. The aim is to discourage some foreign borrowers by raising their effective interest cost by about 1 percentage point. Since President Kennedy proposed that the tax be retroactive to last July 19, many foreigners have held off in hopes it won't pass and they might escape it altogether; the mere threat of the tax, of course, has lowered the prices of any foreign issues they'd try to sell here. But this "tourniquet" will doubtless loosen if the bill does pass, Treasury Secretary Dillon concedes, since some borrowers will be willing to pay the extra interest to get funds from the United States. New foreign securities issues sold here in 1963's final quarter were at an annual rate about half the roughly $700 million yearly expected after passage. Mr. Kennedy had asked for the tax after new issues jumped to a $2-billion rate in last year's first half.

One possible reaction to the interest tax is worrying officials now: Its pressure on foreign stock and bond sales here could, they fear, cause more capital to squirt out through bank loans to foreigners that are exempt from the proposed tax. The exemption is designed to let foreigners borrow all they need to buy goods from the United States. Anticipating possible abuses of the exemption, through seeming short-term loans that are renewed when due, Mr. Dillon has dispatched letters asking major banks to tell the Treasury whenever they lend a foreigner $250,000 or more for a year or longer. The reports would become mandatory when the bill is passed, but officials wanted an early start so that if it appears necessary, they could ask that the tax be extended to banks, too.

The income tax cut is expected to reduce the dollar outflow in the long run by making new investment in American plants and equipment more profitable, thus luring foreign-owned dollars into this country and helping keep U.S. investors' funds at home. The more efficient new plants, the reasoning goes, will let U.S. manufacturers lower costs, stave off import competition, and export more successfully.

### WINES AND SPORTS CARS

Hints are slipping out, though, that temporary disadvantages may show up first. When they become more prosperous, Americans generally spend more on imports such as French wines and continental sports cars. "We must expect a considerable expansion in imports during 1964 to keep pace with the rising level of domestic activity," Secretary Dillon has cautioned, adding that unless exports grow "at least as rapidly," foreign trade could become a "source of weakness" in the payments balance. Last year, the United States exported $21.8 billion worth of goods, and imported $16.9 billion worth. The surplus on trade alone was more than offset, though, by Government defense and foreign aid outlays, private capital flows, and tourist spending.

But bigger demand at home could blunt U.S. businessmen's appetite for sales overseas. Experience shows, Commerce Secretary Hodges says, that "some American manufacturers seek oversea markets only when domestic demand is slack. In good times, they don't bother." Hence some analysts doubt the United States can maintain the $5.7 billion annual rate of trade surplus it enjoyed in last year's final quarter.

Officials figure some of the initial tax savings will help Americans take foreign vacations, too. American tourists last year spent some $1.6 billion more abroad than foreign visitors brought in, up $200 million from 1962, and "goodness knows what the tourist deficit will be this year," exclaims one expert.

Britain's boost in bank interest rates last month and Japan's increase this month contribute to uneasiness about the payments situation. So far there have been no signs that U.S. investors are being attracted by the higher British yields, and Washington officials seem confident that the Japanese action won't lure American funds. But a continued climb in European rates could send U.S. capital cascading out once more. The logical defensive move of boosting short-term interest rates in this country is one the administration is loath to take, since this could blunt the expansionary effects of the tax cut.

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## Extracts From the Report to the President From the Task Force

### ATTRACTING FOREIGN DEPOSITS IN U.S. BANKS

Recommendation No. 16: The Congress should adopt legislation discontinuing mandatory regulation of maximum interest rates on domestic and foreign time deposits.

Recommendation No. 17: Pending adoption of such legislation, the Federal Reserve Board of Governors should administer regulation Q in a flexible manner permitting U.S. commercial banks to meet internationally competitive interest rates on both domestic and foreign time deposits.

Foreign time deposits with maturities exceeding 1 year in U.S. banks are similar to foreign purchases of long-term securities in their effect on the U.S. balance of payments. Encouraging such deposits thus is clearly within the terms of reference of the task force.

While an increase in short-term deposits in the United States by foreigners would not reduce the U.S. payments deficit as customarily defined, it would tend, at least temporarily, to reduce the volume of liquid dollar assets that foreign central banks might use to buy gold.

Similarly, greater short-term investment in this country by U.S. residents and corporations who would otherwise place their funds abroad would directly reduce the U.S. payments deficit.

The growth in time deposits in U.S. banks in recent years has reflected increases in rates paid on such deposits, following increases in the maximum rates under regulations of the Federal Reserve Board of Governors and the Federal Deposit Insurance Corporation. Foreign official time deposits have likewise risen substantially since their exemption from regulation in October 1962.

The objective of increasing commercial banks' ability to compete for foreign time deposits could be enhanced either (1) by legislation completely abolishing the power of the Board of Governors of the Federal Reserve System to regulate maximum interest rates on time deposits, or (2) by placing that authority on a standby basis, as the present administration has proposed. Members of the task force are divided in their opinion as to which of these alternatives should be used to achieve this objective; hence no recommendation as between these alternatives is made.

Recommendation No. 18: U.S.-based international corporations should consider the advantages of increased local ownership of their parent company shares in countries in which they have affiliates.

### EXCHANGE CONTROLS

Recommendation No. 35: The Department of State and the Treasury Department should take bilateral diplomatic action aimed at securing the step-by-step removal of remaining exchange controls on capital transactions between advanced capital-forming countries and the discontinuance or liberalization of special exchange markets or procedures for investment transactions.

Substantial progress has been made in removing exchange controls, yet the situation is still far from satisfactory. Only the United States, Canada, Germany, and Switzerland are free of exchange controls. Although adopting the aim of full liberalization, France, Italy, the Benelux countries, and Austria have preserved certain restrictions. A third group of countries, which includes the United Kingdom, Ireland, Japan, Australia, Spain, and the Scandinavian countries, retain a wide range of controls for balance of payments and monetary policy reasons.

The impact of exchange controls varies according to the operations regulated. In general, treatment of direct investment is the most liberal; the treatment of financial loans (that is, loans not linked to commercial transactions) is the least liberal. Treatment of portfolio investment has been formally "liberalized" in Austria and the Common Market countries, but even some of these countries retain practices which tend to be restrictive.

In some countries, for example, foreign securities may be purchased only through authorized banks. In some cases, certificates of ownership of foreign securities must be kept on deposit at these banks; in other cases purchases of foreign securities which are not listed on securities exchanges sometimes require the prior approval of exchange control authorities.

Japan, Australia, Spain, Ireland, and the Scandinavian countries all exercise tight control over foreign portfolio investments; except in rare instances, their nationals are not permitted to buy foreign securities. Although residents of the United Kingdom may freely acquire foreign listed securities and certain U.S. over-the-counter securities, they can do so only with funds obtained from the limited pool of "investment dollars" which now sell at a premium of about 11 percent, after having been as high as 14 percent earlier in 1964. These "investment dollars" represent primarily the proceeds of sales for dollars or other foreign currencies of foreign securities held by the United Kingdom residents.

### CAPITAL ISSUES CONTROL

Recommendation No. 36: The Department of State and the Treasury Department should encourage and support the enlargement of free world capital markets and urge countries with balance-of-payments surpluses to relax their capital issues control in order to permit an expanded volume of international lending.

New issues of foreign securities are carefully controlled in most major countries. The liberalization of capital issues raises sensitive questions because sales of new securities issues have a direct impact on interest rates, patterns of investment and the balance of payments. Some countries restrict distributions of foreign securities in attempts to prevent heavy demand for capital by foreign borrowers from driving up domestic interest rates and siphoning off a high proportion of domestic savings. In some countries direct controls over securities issues are in part designed to channel financial resources into investments considered of high priority by the government concerned. Although there has been some recent relaxation with respect to foreign borrowing in the United Kingdom, the capital issues control policy of that country generally has been to reserve the London new issues market for sterling securities for residents of the sterling area and the European free trade area.

### ROLE OF INTERNATIONAL ORGANIZATIONS

Recommendation No. 38: The Department of State and the Treasury Department should, through appropriate international bodies, particularly the OECD, advocate the step-by-step relaxation of monetary, legal, institutional, and administrative restrictions on capital movements, together with other actions designed to increase the breadth and efficiency of free world capital markets.

The international movement of capital is kept under constant review by the Organization for Economic Cooperation and Development, to which the United States belongs. This Organization can and should be more intensively utilized as a forum for review and confrontation on restrictions impeding the flow of capital among its members. Similarly, the OECD can assist in developing more effective capital markets in countries where these markets have lagged behind rapid industrial growth.

Recommendation No. 39: The Department of State and the Treasury Department should urge the International Monetary Fund to encourage step-by-step elimination of capital controls. The Fund should be requested to prepare a study dealing with remaining capital controls and how their elimination can encourage stabilizing movements of long-term capital and thus contribute to balanced international payments.

The International Monetary Fund can play an important role in eliminating restrictions on long-term capital movements associated with security purchases. Member countries are required to inform the Fund of capital restrictions they impose. Annual consultations of the Fund provide an opportunity for review and for comments by the U.S. Executive Director. Although the Fund cannot formally take exception to capital restrictions—since its approving jurisdiction is limited to restrictions on current transactions—it can indicate that removal of capital restrictions would be helpful to the international financial mechanism. The decision by the Fund in 1961 to make its resources available to finance balance-of-payments deficits arising from capital outflows should help encourage countries to eliminate capital controls.

## REPUBLICAN CITIZENS' COMMITTEE'S CRITICAL ISSUES COUNCIL STATEMENT ON REPUBLICANS AND CIVIL RIGHTS: A CONTINUING COMMITMENT

Mr. JAVITS. Mr. President, the Republican Citizens Committee's Critical Issues Council today released a comprehensive statement on civil rights which emphasizes the need for a twofold approach to ending discrimination in American life. The council called for enactment of legal measures—some of which are in the civil rights bill now and some of which are not in debate in Congress—and also a series of affirmative steps by the Government and public for increasing equal opportunity in the areas of voting, education, employment, public accommodations, the administration of justice and housing.

In addition to the work of the council's members, advice on the civil rights paper was sought from Mr. L. Edward Walsh, former Deputy Attorney General, and Mr. Clarence Clyde Ferguson, dean of Howard University Law School, and former General Counsel to the Civil Rights Commission. Special research assistance was provided by the Ripon Society of Cambridge, Mass., an organization of young Republican intellectuals in academic and business positions.

In its analysis and recommendations the council's paper:

First. Says the Republican Party has an historic commitment to individual opportunity which is now being restated for the 1960's.

Second. Stresses that "antidiscrimination legislation will only begin to meet the civil rights problem. But that beginnings can be most significant."

Third. Supports voting provisions in the current civil rights bill. Improved enforcement procedures in the Justice Department, however, are also called for.

Fourth. Recommends using constitutional authority of the 14th amendment to cut congressional representation of any State which persists in denying the franchise to voters.

Fifth. Suggests toughening of education section in current bill to speed up desegregation of schools in accord with the 1954 Supreme Court order.

Sixth. Opposes pupil shuffling as a viable way to end northern de facto school segregation. Suggests an alternative.

Seventh. Finds "most shocking example of discrimination in the job market in the U.S. Department of Labor Employment Service offices."

Eighth. Supports a fair employment practices commission covering both employers and unions. Opposes quota systems as discrimination in reverse. Emphasizes as "imperative" cooperation with existing State fair employment practice commissions and primary resort to persuasion and conciliation in disputes.

Ninth. Cites responsibilities of executive branch, localities, community organizations, and private persons for extending improved job opportunities for Negroes.

Tenth. Endorses legislation to bar discrimination in public accommodations based on ethnic or religious considerations. Emphasizes that the present bill should "require maximum Federal cooperation with local—civil rights—agencies and strong encouragement of voluntary action."

Eleventh. Declares "civil rights demonstrations must always be peaceful; respect for law and order must be maintained."

Twelfth. Cites abuse of rights of citizens by administrators of justice in certain areas. To protect right of peaceful petition and exercise of other constitutional rights, two new criminal remedies, two new civil remedies, and three court reforms are proposed.

Thirteenth. Calls for support of "State legislation to prohibit ethnic or religious discrimination in the buying, selling, and leasing of both public and private housing." Urges better education of public on actual results of such legislation.

Fourteenth. Calls for extension of Executive orders against discrimination in federally financed housing.

Fifteenth. Urges Congress and President to end discrimination in Federal aid programs.

"Republicans and Civil Rights: A Commitment Continued" is the fourth of the Critical Issues Council papers slated for release before the Republican National Convention in July. Earlier papers have dealt with Panama, agriculture, and the Atlantic alliance.

Members of the Critical Issues Council are: Dr. Milton S. Eisenhower, chairman; Elliott V. Bell, Adm. Arleigh A. Burke, U.S. Navy, retired; Arthur F. Burns, Albert L. Cole, James H. Douglas, Marion B. Folsom, Thomas S. Gates, T. Keith Glennan, Oveta Culp Hobby, Walter H. Judd, Mary P. Lord, Clare Boothe Luce, Deane W. Malott, James P. Mitchell, Gen. Lauris Norstad, U.S. Air Force, retired; Don Paarlberg, C. Wrede Petersmeyer, Samuel R. Pierce, Jr., Charles S. Rhyne, Raymond J. Saulnier, Lewis L. Strauss, Walter N. Thayer, Henry C. Wallich.

I ask unanimous consent that the latest report, entitled "Republicans and Civil Rights: A Continuing Commitment," be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### REPUBLICANS AND CIVIL RIGHTS: A CONTINUING COMMITMENT

For more than 3 centuries, Americans have dreamed a strange and wonderful dream. They have dared to seek strength for society by giving freedom to its members. They have liberated common men and women and have discovered uncommon faith and power. They have dedicated themselves to the importance of the individual and have achieved unparalleled greatness for the Nation.

Today, the character of American life is on trial. If we are to maintain our greatness, we must sustain our dream.

Yet, for 1 out of 10 Americans, the dream has been distorted. For members of several minority groups—particularly Negroes—the meaning of equal opportunity is not yet complete. And because we have failed to pursue the American dream as zealously as we might, our society pays an appalling price.

More than half of Negro adult males have less than a grade-school education; school dropout rates continue to increase. Contributions which might have been made to science, medicine, education, industry and the arts never will be realized. Denied opportunity is often a contributing factor in broken homes, juvenile delinquency and drug addiction. Crime rates among Negroes rise four times faster than among other groups. Out of wedlock births are 10 times as high.

In our economy, according to the Council of Economic Advisers, we lose from $13 to $17 billion from our gross national product each year because of unrealized opportunity among nonwhites—92 percent of whom are Negroes. Negro unemployment rates are twice those of whites.

Around the world—and particularly in the United Nations—our failure to expand individual opportunity at home frustrates our efforts to lead peoples who are largely nonwhite.

This is but part of the price we pay for a dream distorted. The promise of individual opportunity must now be redeemed.

### THE REPUBLICAN RECORD

Throughout the last 100 years, the Republican Party frequently has spoken of society's reliance on individual opportunity. The Republican response to civil rights problems has been shaped by this basic concern. Born out of a devotion to human rights, the party of Lincoln ended slavery and gave shape to the 13th, 14th, and 15th amendments on which present civil rights programs rely so heavily. Republican leadership after the Civil War created the first civil rights legislation to forge lasting equality for the Negro. But the task was Herculean; the attention of the Nation drifted. As the years passed, early Republican efforts were neutralized and new patterns of discrimination arose. In the 20th century, the voices of reaction exercised a powerful influence in the Democratic coalition. Presidential influence was muffled, legislative action paralyzed. Not until the Republican administration of President Dwight D. Eisenhower did the Nation again give its serious attention to civil rights.

From 1956 to 1960, President Eisenhower presented the most constructive civil rights proposals in more than 80 years. In some respects, they outdistanced even present recommendations. Unfortunately, a Democratic Senate seriously compromised the legislation. Nonetheless, the Civil Rights Commission was established, and the right to vote strengthened.

Moreover, President Eisenhower's executive action brought the completion of integration in the active Armed Forces (but not the State-dominated National Guard) and Veterans' Administration hospitals; the abolishment of segregation in the District of Columbia, in bus and train interstate travel, in schools on military posts, and in the ranks of civilian employees at naval bases. The Eisenhower committees on Government Contracts and Government Employment, under the chairmanship of Vice President Nixon, settled more than 1,000 complaints of discrimination. The Civil Rights Commission issued the most complete report in government history on the plight of the Negro. The President's stand at Little Rock further legitimatized the quest for racial justice. President Eisenhower's civil rights commitment had a profound moral and educational effect on the American people.

Meanwhile Republicans were practicing what they preached about State responsibility. In 16 of the 18 States which forbade discrimination in public accommodations before World War II, Republicans controlled the governorships, the legislature, or both when the laws were passed. Since the war, 19 of the 25 State fair employment statutes were enacted under Republican Governors or legislatures. In the first four States to pass such legislation, Republicans controlled both houses of the legislature and the governorship. Today, in State after State, Republican Governors forcefully articulate their devotion to the cause of civil rights.

In the last 4 years, Republicans in Congress have consistently supported progressive civil rights programs. Voting records show that Republican efforts to end discrimination in Federal aid programs far outdistance those of Democrats. Furthermore, when the House passed the new civil rights bill last February, 138 of 172 Republican Congressmen voted for the measure. This 78-percent proportion compares with only 59 percent for the Democrats. Thus has the party of Lincoln honored its platform promise of 1960: "We pledge the full use of the power, resources and leadership of the Federal Government to eliminate discrimination based on race, color, religion or national origin and to encourage understanding and good will among all races and creeds."

But far more important than the resources of the past are the policies for the future. Republicans will continue the commitment which began a century ago. We will translate unity of purpose into unity of action. We will resist any present temptation to duck the implications of the Lincoln legacy, the Eisenhower example, or the 1960 platform. As we seek to fulfill what our past has promised we will spell out the specifics of a Republican approach to civil rights.

### A TWOFOLD APPROACH TO CIVIL RIGHTS

The formal patterns of segregation and discrimination are only symptoms of a problem which lies deep in the soul of our society and in the hearts of men. Legislation can treat the symptoms, but laws alone cannot cure the deeper illness. Antidiscrimination statutes can end the legality of segregation, but they alone cannot produce meaningful integration.

Accordingly, this analysis of civil rights problems is divided into two parts. First considered are those legal measures which strike down formal patterns of discrimination. Second is the more subtle challenge: How can the Negro be fully integrated into American society? What affirmative actions, private and public, will enable him to utilize the privileges which the law guarantees?

It is true that laws cannot be used to compensate Negroes for opportunities long denied. Nor can governments legislate human understanding. Antidiscrimination legislation will only begin to meet the civil rights problem. But that beginning can be most significant. For only when obvious symbols of legal inferiority are removed can understanding grow between peoples. Only when there exists the chance for a good education, a good job, a good home, can Negro enterprise be adequately stimulated. Only when the validity of the Negro's protest is acknowledged in law and remonstrance is transferred from streets to courts can the walls of suspicion and fear be lowered.

It is important therefore to destroy the legal barriers which today set race against race. But the misunderstandings of centuries and the handicaps of prolonged deprivation will not disappear overnight. Once the door of individual opportunity is unlocked, we must also stand ready to encourage and welcome our fellow citizens as they walk through it.

As this twofold analysis proceeds through several areas of civil rights concern, it will be stressed that the law can be no more effective than the men who enforce it; administrative performance must match legislative promises. The importance of State responsibility and local experience will also be underlined. Proven institutions will be used as a basis for new actions. Glib diagnoses or extremist recommendations will be avoided in a search for commonsense, multifront solutions to a profoundly complex and critically important problem.

### PROTECTING THE RIGHT TO VOTE

In over 250 counties in the United States, 6 out of every 7 Negroes are denied the right to vote. In 100 counties containing over a third of southern Negroes, 92 percent of the nonwhite are unable to exercise the franchise. In many southern counties, virtually no Negroes are on the voting lists; a total of over 600,000 nonwhite citizens are denied a ballot. Despite 140 private registration drives and some 60 Federal law suits, Negro registration in these counties has increased barely 3 percent since 1956.

All of this happens in flagrant disregard of constitutional guarantees. It violates the Federal voting laws of 1957 and 1960. It abuses the basic right of citizens to participate in the democratic process.

### TIGHTENING THE VOTING LAWS

Why have so few been registered to vote? In the first place, loopholes have developed in the 1957 law which must constantly be patched. In 1959, the Eisenhower administration asked for preservation of voting records and authorization for Federal voting referees so that more than one Negro at a time could be qualified to vote in each case. But not until 1960 did Congress adopt these proposals and give the Justice Department practical power to protect voting privileges.

The present voting laws, however, are still inadequate. Therefore, provisions of the current civil rights bill that would set uniform and minimal registration requirements for both Federal and State elections should be supported. State registration officials should be required to apply equal standards and procedures to all who seek to register and to disregard immaterial errors or omissions in the applications. Literacy tests should be administered in writing, with the presumption (rebuttable in court) that an individual who completed the sixth grade in school is sufficiently literate to vote.

### ENFORCING LEGAL PROTECTIONS

In such ways, the law must be tightened. But merely tightening the law will not be enough. The greatest obstruction to enforcement of the right to vote is the difficulty of successfully prosecuting cases.

The Justice Department must strive continually to match civil rights promise with performance, particularly in recommending those who will serve as judges in the Federal courts. Legal scholars have observed that the record of the Eisenhower administration in appointing conscientious protectors of civil rights to southern judgeships was far superior to that of the subsequent Democratic administration.

The chief judge of the court of appeals should be allowed to appoint a three-judge court to hear voting cases at the district level, in order to assure a prompt and fair determination of individual rights, as provided in the current civil rights bill.

Finally, the Civil Rights Division of the Justice Department should be more adequately staffed. It is distressing to note that only 40 lawyers presently handle all voting cases. It is even more disappointing to realize that just last December, southern Democrats crippled Republican Senator KENNETH KEATING's effort to provide increased staffing for these cases. Even the best voting laws will be useless unless there are enough good lawyers to enforce them.

### A NONJUDICIAL RESORT

The civil rights bill now in Congress may not be enough to assure the Negro's right to vote. Tighter laws and more adequate prosecution will help, but even at its best, judicial enforcement will be a painfully slow and narrow-gaged method of protecting voter rights. As the bipartisan Southern Regional Council explains, the judicial approach is strictly a long-range proposition, "a matter of years and years." Through delay and defiance, through frustration and repression at the local levels, the Negro can still be denied his right to vote.

What can be done if judicial enforcement continues to be inadequate? The Constitution itself provides an important alternative. Under the 14th amendment, State representation in Congress can be reduced in proportion to the numbers of voters systematically denied the franchise. If Negroes are counted when representation is determined, then they should be allowed to vote. If they cannot vote, they ought not be counted for purposes of representation. Republicans have recognized that it may be necessary to implement this alternative. To do so would require reliable and official voting information. Partly for this reason, the new civil rights bill should require the Census Bureau to gather registration and voting statistics based on race, color, and national origin under the supervision of the Civil Rights Commission. The voting census is a unique Republican proposal and we recommend its adoption.

Despite the concern of many of its members, the Democratic Party is handicapped in the area of voting rights. The strength of the party depends in many cases on maintaining the status quo in the South. Ten out of 16 Senate chairmanships are held by Southern Democrats. Republicans will therefore have to take the lead in demanding effective voter protection and vindicating constitutional guarantees. Furthermore, the Republican Party should seek out Negro leadership in all sections of the country. Thus, the party can directly serve as a vehicle for integrating Negro citizens into the mainstream of American life.

### THE QUEST FOR EQUALITY IN EDUCATION

The individual's right to a good education is fundamental to his development. No avenue of opportunity is more important to the Negro than that of the schools. But present educational opportunities are not meeting economic and social demands.

In 1954, the Supreme Court condemned separate educational facilities as "inherently unequal." It ordered that they be desegregated "with all deliberate speed."

Yet, 10 years later, 91 out of every 100 Negroes in Southern and border States still attend segregated classes. Incredible as it may seem, only 1 percent of Negro children in the Old South go to school with white children. Voluntary desegregation has virtually ended. At the present rate of progress, the moderate Supreme Court compliance recommendations of 1955 will not be carried out until 2063. In fact, the number of segregated school districts has actually increased since 1959.

### ENDING LEGAL SEGREGATION

Again, what can be done to enforce the law of the land? The Government today has no power to initiate actions to desegregate schools. Cases must be filed by parents who are often discouraged by outrageous delays and prohibitive expense. As a remedy, the Justice Department should be given the power to initiate suits on behalf of children denied admission to segregated public schools. President Eisenhower originally requested such a law in 1957, and Republicans have frequently renewed his request. Such action was pledged in the 1960 Republican platform and should be retained in this year's civil rights bill.

In addition, Federal technical assistance should be given to help State and local agencies desegregate their school systems. Temporary aid is particularly needed when States cut off funds to integrating schools.

But here again judicial enforcement alone can be painfully slow. As experience in voting litigation shows, case-by-case actions, even by the Government, can be frustrated by obstructionist tactics. The record of futility is clear. The time has come to end the delay.

Therefore the present civil rights bill should include, as it does not at present, a provision whereby every school board which has failed to achieve desegregation must file with the Secretary of Health, Education, and Welfare a plan for at least first-step compliance with the Supreme Court order in the following school year.

If necessary, the board's plan would be enforced with the assistance of a Federal court order.

### AFFIRMATIVE EFFORTS TO EXPAND OPPORTUNITY

Ending formal school segregation will enhance educational opportunity, but it will by no means guarantee it. Most Negroes will still obtain inferior educations. Neighborhood patterns often produce racial imbalance in schools almost as severe as in formally segregated systems. This happens frequently in large Northern cities; it confronts us with the thorny problem of de facto segregation.

Unhappily, much mutual misunderstanding has prevailed on this problem to date. Whites certainly need to recognize the Negro's basic complaint of inferior schools. However, the most productive answer to inferior schools is an attack on the problem of quality itself rather than the use of widespread pupil shuffling. The human and financial cost involved in such proposals can be enormous, and they are potentially destructive to the social benefits of neighborhood schools. Many school boards have made valiant efforts to find sounder solutions to de facto segregation and, hopefully, their examples will be influential.

Accordingly, State and local agencies should develop comprehensive programs significantly to bring all schools up to high standards irrespective of the color of the students. To assist in this effort, the U.S. Commissioner of Education should be authorized to study the lack of educational opportunity at all levels, as provided in the current civil rights bill. Support also is warranted for special enrichment programs to meet the problems of culturally deprived children. New York City's higher horizons program is one notable pioneering effort. If properly utilized, the Nation's educational systems can become our most effective tool for breaking cultural barriers and opening individual opportunities.

### OPENING EMPLOYMENT OPPORTUNITIES

Equal opportunity in education will never be fully attained until racial barriers are breached in the job world. A desirable job at the "other end of the line" is one of the strong motivating factors for education and self-improvement.

Yet the plain fact is that Negroes do not have the opportunity for employment enjoyed by whites. One out of every four of the long-term, hard-core unemployed is nonwhite. Even this figure can be expected to increase as the labor market shifts to demand complex new skills in the age of automation.

Countless Negroes are denied the chance to acquire capacities indispensable for our advancing technology. Some labor unions and employers control apprenticeship programs to keep Negroes from qualifying for jobs. In many vocational schools, Negroes learn to lay bricks and repair shoes while whites study electronics, photography, or drafting. Millions of Federal dollars are spent to train highly skilled technicians under the National Defense Education Act.

Yet in the South only 4.5 percent of the enrollees in these programs are Negroes; even where they comprise almost half the population. In the six border States, Negro enrollments are less than 1 percent, and in the North only 2.3 percent of over 32,000 enrollees are Negroes. The Manpower Development and Training Act and the Area Redevelopment Act are specially designed to retrain the unemployed, yet administrators admit that the programs have as yet been of only limited value to Negroes. Educational background, poor job prospects, and overt discrimination all contribute to this deadlock.

But limited opportunity for training and education are not the only barriers to equality in employment. Willful discrimination still remains a major barrier to Negro advance, even though "White Only" signs may not be openly displayed. In field after field, equally trained Negroes get only half their share of jobs. The appalling fact is that the average college-educated, nonwhite American will earn less in his lifetime than the average white prehigh school dropout. One out of four Negro college graduates is forced into overcrowded blue-collar occupations. Despite the efforts of international labor leaders, several large local unions are still more than 98 percent white.

Perhaps the most shocking example of discrimination in the job market occurs in the U.S. Department of Labor Employment Service offices, established during the depression to help the unemployed find jobs. The Civil Rights Commission has found blatant discrimination in the placement procedures of a number of offices in the the North and South.

### STRIKING DOWN OVERT DISCRIMINATION

Unquestionably, artificial barriers of discrimination stifle initiative, waste talent, and corrupt the private enterprise system. The cost in economic loss, welfare expense, and social disorder has been staggering.

For this reason Republicans have taken the lead in establishing fair employment practices commissions in the large urban States. Governor Thomas Dewey and the late Senator Irving Ives guided the Nation's first enforceable FEPC law through the New York Legislature in 1945. In the next 2 years, Republican lawmakers in New Jersey, Wisconsin, Massachusetts, and Connecticut kept alive the momentum that has produced similar laws in a total of 25 States. But much work still remains. Many of the State laws are inadequate; several are poorly enforced. Because many laws do not deal effectively with union discrimination or apprenticeship programs, numerous job markets are still restricted. Still the greatest problem is that most Negroes live in States with no fair employment laws at all. Moreover, the national character of a highly mobile labor market makes any State enforcement difficult.

To break this formal pattern of job discrimination, most Republicans in Congress favor Federal fair employment legislation. It should be made unlawful for employers, labor organizations, or employment agencies to discriminate on the basis of race, religion, or national origin. The law should cover both unions and employers, both hiring mechanisms and training programs. Exemptions should be clearly provided for religious groups or other employees for whom ethnic or religious considerations are genuine occupational qualifications. The law must be clearly drawn and carefully administered so as to equalize opportunities for all qualified applicants. It must not be used to encourage discrimination in reverse, through quota systems or other devices which would unduly favor less-qualified workers.

Administration of the law should be centered in an Equal Opportunity Employment Commission with bipartisan membership. The law should expressly require extensive utilization of existing and effective State machinery. It is imperative that Federal officials cooperate closely with existing State FEPC's. Conciliation and persuasion should be emphasized; only when these methods fail should compulsory relief be sought. State experience shows that the overwhelming majority of cases can be settled on a voluntary basis.

### ADDITIONAL POSITIVE ACTIONS

An effective fair employment law can open doors of opportunity, but it is chimerical to expect that this action will in itself end the crisis in Negro employment. Long-range solutions will require great strides in education and at least the following affirmative actions:

Special efforts should be made to involve Negroes in the benefits of Federal-State manpower retraining programs. It is important to equip Negroes with the new skills that will be required in a labor market revolutionized by automation.

Educators should give greater attention to vocational education at the high school and posthigh school level. These programs should be nondiscriminatory and designed to give the Negro, as well as the white, vocational training for the skills of tomorrow's labor market.

Businessmen and union leaders should actively seek qualified Negroes in high schools, colleges, trade schools, and employment offices. Reports the chairman of a large corporation in Connecticut: "Businesses which have entered upon an active program of integration have learned, as we have learned, that qualified Negroes or other minority group members can be assimilated into the work force without real difficulty, and that they will pay their way in efficiency and loyalty as well as, and sometimes better than, those who have never experienced prejudice or felt any pressing need to prove themselves."

Increased training and open competition in the job market should produce real motivation for the Negro to succeed—not only on the job, but also in the schools and neighborhoods of American communities. Restoring open competition in the job market is imperative to the continued growth and prosperity of the American free enterprise system.

### EQUAL ACCESS TO PUBLIC ACCOMMODATIONS

The Negro has no more poignant reminder of second-class status than his exclusion from theaters, restaurants, hotels, and other public accommodations. Dean Edwin N. Griswold, of the Harvard Law School, a Republican appointee to the Civil Rights Commission, put it this way:

"The Negro in a segregated city is entirely excluded from the mainstream of community life; he must build his own minority society or have none at all * * * [For] the Negro traveler, the road may be more like a desert and each inviting sign a mirage, or worse yet, a humiliating rebuff to him, his family or companions."

It is distressing to note that many servicemen at southern bases are virtually excluded from the surrounding communities. One Air Force installation in Alabama, which trains foreign nationals as well as Americans, has had to issue "passports" to colored foreigners so that they may travel unmolested in the community. "For the American serviceman," testifies Dean Griswold, "neither his uniform nor his birthright is enough."

Sound race relations cannot be established while this pattern of humiliation persists. As a symbol of racial injustice, segregated accommodations have been the focus of protest demonstrations which often result in further misunderstandings.

While segregation in accommodations is sometimes defended as a private business decision, it is often exactly the opposite. Managers and store owners testify that their willingness to integrate is frequently frustrated by community pressures. The proprietor is not always free to exercise his best business judgment. Several national companies have reported millions of dollars in lost sales because of local race problems.

Although they are privately owned, institutions which regularly accommodate the community are an essential part of what we have to come to regard as our public life. For over 500 years, Anglo-Saxon law has recognized that the right to serve the public carries with it a social responsibility. Over the past century, 32 States have passed enforcible laws protecting the right of citizens to equal treatment in public accommodations. Republicans have contributed significantly to these laws in no less than 26 States.

Nonetheless, 18 States still have no public accommodations laws, nor can it be realistically expected they soon will take such action. If the national marketplace is to be truly open, it must be open everywhere. What is immoral must now be made illegal. To encourage a recourse other than street demonstrations, an effective remedy should be provided in Federal law.

### A STATUTORY PROPOSAL

Discrimination in public accommodations because of race, color, religion, or national origin should be made illegal. It should be stipulated in any law, however, that before relief would be granted, those that bring the complaint must show that discrimination is based solely on ethnic or religious considerations. Wide State experience demonstrates that alarmist predictions of wholesale interference with personal decisions are unfounded. This successful record needs far greater publicity than it has received.

Essentially private establishments should not be affected by the law. Facilities occupied by the proprietor which offer no more than five rooms for rent should be specifically exempted. Private clubs and religious institutions should not be covered.

It is also important that the new bill require maximum cooperation with local agencies and strong encouragement of voluntary action. The Attorney General should not be authorized to bring a Federal suit until local and State officials have been given a reasonable time to settle the complaint. Voluntary progress will not be stifled. To the contrary, persuasion and conciliation will become more effective. Under the tough New York State law, 98 percent of the cases are settled before they get to court.

To emphasize the moral nature of the commitment, the Federal statute should be based on the 14th amendment, which guarantees equal protection of the law to all citizens. A law based on the commerce clause, such as the administration has proposed, gives an unfortunate priority to commerce hindered, rather than rights denied. Nonetheless, the use of both sections would give the court a dual constitutional base.

### AFFIRMATIVE COMMUNITY ACTION

When these legal remedies are available, tensions will be reduced. Living with the law can open people's minds and weaken community prejudice. However, private affirmative action must accompany legal directives. Leaders in all sections of the country should exercise strong local leadership in the quest for racial harmony. Churches, schools, business and professional men must contribute to public acceptances of necessary social change. Religious leaders have a special responsibility to spell out the moral issues involved in discrimination. Interracial committees and human relations councils have made a good start in many areas of the North and South. Leaders of all races must continue to build a climate of understanding and good will.

### THE ADMINISTRATION OF JUSTICE

Last year in Birmingham the constitutional right to petition and protest was repeatedly denied to American citizens. The tools of oppression were flagrantly misused dogs, clubs, and firehoses.

This year thousands of Negroes line the streets in southern cities seeking to register for the vote. They are seldom successful. Sometimes the queues are forcibly dispersed. Confusion and delay plague the courts while white citizen's councils control local voting registrars.

In 1961, 315 Freedom Riders were arrested for gathering in a Mississippi bus terminal. Their constitutional right to unsegregated travel on common carriers had been clearly outlined since 1946. And in 1960 the Supreme Court had specifically applied this principle to terminal facilities. As Columbia University law professor Louis Lusky writes, "If the Federal law, which clearly precludes the remotest possibility of successful prosecution under local segregation statutes, could be frustrated in these circumstances, it could be frustrated in just about every case conceivable. But frustrated it was." Constitutional rights were denied through obviously groundless Mississippi breach of peace prosecutions. The cost so far has been over $2,000 for each individual who desired to appeal his sham conviction. Even though 3 years have elapsed many cases have not gone beyond the State circuit courts; few have reached the Mississippi Supreme Court, let alone the Supreme Court of the United States. It took 27 months for the Federal Court of Appeals to enjoin future unconstitutional arrests of this sort, but the court has refused to interfere with the pending cases.

In other Freedom Rider cases, the Constitution was abused less subtly. The weapon of oppression was mob violence. In Alabama, buses were set afire by wrathful klansmen while, as the Civil Rights Commission tells us, police officers stood by unmoved. Law enforcement broke down, and cherished rights were forfeited.

These cases are not unique. Similar incidents have occurred in other localities. But these instances do provide a striking example of how the tools of justice can be used to destroy constitutional liberties. Both through positive repression and through frustrating inaction, administrators of justice have repeatedly abused the rights of citizens.

Such abuses are not limited to the South. The Northern counterpart comes more often in various forms of police brutality. Although Negroes feel the brunt of official mistreatment more than others, still nearly half the allegations of police brutality come to the Justice Department from whites.

Civil rights demonstrations must always be peaceful; respect for law and order must be maintained. When violence occurs, police departments should use appropriate measures to prevent disorder. Unconstitutional use of enforcement techniques is the exception rather than the rule in this country.

Nonetheless, the significance of any such abuses must be understood. When police departments ignore cherished freedoms, a cloud of suspicion envelops the entire legal system. When courts ratify these abuses, the individual is often helpless. The rights of all are weakened when the rights of a few are denied. The security of all is threatened when a few lose respect for the law.

To protect constitutional liberties whenever they are threatened by State and local officials, the following recommendations are offered:

### CRIMINAL REMEDIES

The Justice Department should accelerate enforcement of criminal statutes already available. Several Department officials have quietly called upon the Attorney General to increase these prosecutions, noting that most actions are now brought in the North, even though most of the abuses take place in the South.

The present criminal statutes (18 U.S.C. 241–242) should be made more specific in order to be truly effective. They should spell out prohibited abuses in detail. The Supreme Court and the Civil Rights Commission have long recommended such improvements. Yet the present administration has given virtually no support to Republican efforts to strengthen these laws.

### CIVIL REMEDIES

The individual can seldom afford the time and expense necessary to bring civil actions to vindicate his constitutional rights. Congress, therefore, should empower the Attorney General to initiate civil proceedings to prevent denials of any rights, privileges, or immunities secured by the Constitution. This broad power was first sought by President Eisenhower in the ill-fated title III of the 1957 Civil Rights Act. Although the Civil Rights Commission and Republican legislators have since repeated the proposal, the Democratic administration has actually opposed it.

Federal law should make State, county, and city governments jointly liable in damages for the misconduct of their officers. Now when victims of official misconduct do manage to obtain civil judgments, the victories are hollow, since individual policemen seldom have money to satisfy the court awards.

### COURT REFORMS

Congress should facilitate Federal court action to break the demoralizing deadlock which occurs when constitutional rights are ignored in Southern State courts. Today, these courts are immunized from Federal intervention by outmoded doctrines and judicial timidity. Even when the Federal judiciary does undertake this duty, the litigation often is so complex and expensive as to be useless to the individual. Several procedural reforms are needed, but receive very little attention in the current bill:

Congress should affirm and clarify the right to remove to the Federal courts any State court proceeding involving race discrimination in which it is shown that denial of constitutional rights is reasonably to be anticipated. Removal orders, however, should be fully appealable.

Congress should restrict the judicial abstention doctrine as it applies to civil rights cases so that district judges will have less reason to wait for dilatory State rulings on clearly unconstitutional statutes—while defendants without bail are unjustly incarcerated.

Congress should clarify the authority of Federal courts to halt obviously groundless State court prosecution and injunction proceedings the only purpose of which is to effectuate racial discrimination or stifle protest against it.

### OTHER AFFIRMATIVE PROPOSALS

Reforms in our legal system are not the whole answer. To forestall abuses of justice before they occur, Americans must continually demand the highest standard of police and judicial administration. Increased attention must be given to the selection and training of law enforcement officers.

More nonwhites can be hired by law enforcement agencies. In many communities biracial committees can effectively work to improve police-community relations.

"Due process of law"—"equal protection of the laws"—these are constitutional concepts which have a special place in the traditions of America. All citizens must accept their responsibility to keep the vigil for liberty through determined leadership at all levels of government.

### EQUAL OPPORTUNITY IN HOUSING

The place at which the Negro lives governs the shape of his life. Neighborhood patterns determine school composition and cultural experience. Nothing is as discouraging to aspiring Negroes than to be forced back into an urban ghetto.

Segregated housing is a basic civil rights problem. While overt discrimination is not the only factor producing this situation, it is a critical one. Where discrimination impairs housing markets, the opportunity of an individual to locate his home according to his economic means is denied. Moreover, sellers, banks, and real estate agencies fear financial catastrophe unless they yield to discriminatory patterns. Even the largest home developers experience heavy risks when they attempt to sell on an open occupancy basis.

Fair housing laws equalize the conditions under which all developers and other sellers can compete in the housing market. Yet only a handful of States provide this protection. Republicans have led recent breakthroughs in New York, Minnesota, and Oregon. State legislation to prohibit ethnic or religious discrimination in the buying, selling, and leasing of both public and private housing should be encouraged.

Many people fear decreased property values and lowered cultural standards will result from such legislation. Yet, experience in States with open housing laws indicates that just the opposite is the result. These laws have reduced fear and suspicion and have curbed the "blockbusting" techniques sometimes practiced when normal access to certain neighborhoods is denied.

What should be the Federal role in ending discriminatory housing? Unquestionably, the Federal Government is already the most important single factor in the housing market. Financing and construction by the Veteran's Administration and Federal Housing Administration and insurance of savings deposits by Federal insurance corporations carry Federal influence into every part of the country. But this influence has often served to perpetuate discriminatory patterns.

Not until November 1962, after the congressional elections, was the famous presidential housing order signed. This long promised "stroke of the pen" was designed to end discrimination in federally financed housing. But it has had a very selective application. Federally financed housing projects started before the order have not been affected. Moreover, the order does not cover most conventional mortgages from federally assisted lenders. It thus discriminates against certain types of mortgage institutions. Leading savings and loan association officials argue that all lenders must be within the order if competitive equality is to be preserved. The President has the power to change the order, but, the current civil rights bill would not require him to do so. The housing order should be extended in order to restore normal competitive conditions in home financing and sales in every part of the country.

### PROVIDING POSITIVE OPPORTUNITIES

Laws and Executive orders which bar discrimination will allow the Negro to live where his pocketbook can take him. But new ideas and voluntary initiative are required to achieve real housing integration. The new approach to urban renewal which Republicans have suggested in Congress is exemplary. Building on recent experiences in New York State, they have called for rehabilitation of scattered private housing rather than construction of massive new apartment complexes. Low cost rentals would make units available to low-income families on a nondiscriminatory basis.

Ultimately, the whole community must answer the challenges of neighborhood integration. The stakes are high. If present demographical trends continue, the next 20 years may see a radical transformation in America's urban civilization. It is possible that solid white suburbs will surround solid black city centers, producing Negro majorities in 7 of our 10 largest cities. Steps must be taken to relieve the tensions which set race against race in urban America. Real estate brokers, bankers, teachers, clergymen, and local government officials should join in this difficult task. The health of society will depend in no small measure upon our response.

### DISCRIMINATION IN FEDERAL AID PROGRAMS

The Federal Government should stop spending money for the construction or operation of projects that discriminate against minority groups. Today, many Federal programs actually perpetuate discrimination in local communities. The following are typical examples:

Research grants by Government agencies—running into several hundred million dollars a year—are channeled partly into institutions which continue to segregate their facilities to the detriment of Negro education.

Vocational education grants perpetuate segregated programs in southern high schools, despite a strong protest by Republicans in Congress when the bill was passed in 1963.

Segregated medical facilities continue to operate under Hill-Burton Act construction grants. To date numerous segregated hospitals have been constructed with over $100 million in Federal funds in 14 Southern States.

The Federal judiciary already has taken some steps to halt these discriminatory practices—using the precedent of the 1954 school desegregation decision. It would be better, however, for Congress to relieve the Federal courts of the final responsibility for this constitutional adjustment.

If Congress will not act, the President must. Republicans repeatedly have stressed that the President already possesses the power to ban the use of Federal funds in all discriminatory programs through Executive orders. However, Congress should clarify the President's power in this area and thus guard against political abuse in its exercise. Congress should make it mandatory—not just permissive—for the President to cut off funds to certain discriminatory projects. Under Republican proposals, each executive agency should first seek voluntary integration. Any recipient who lost Federal aid would be able to obtain judicial review of the action.

If these comprehensive provisions fail of passage, they should be made one of the key civil rights issues in the 1964 campaign. Discrimination in federally assisted projects can no longer be shrugged off as a necessary evil.

### CONCLUSION

The recommendations in this paper represent a continuation of a commitment which began a century ago. We have outlined here a Republican faith set to action—the faith of a national party united in a common respect for the dignity of man.

We have tried to be realistic, understanding the incredible complexity of the civil rights challenge. We have recognized that the Negro is trapped in a vicious circle of discrimination and deprivation. His educational deficiencies lead to economic handicaps. Cultural barriers aggravate racial prejudice. Problems in voting, education, and public accommodations are inextricably intertwined with those of jobs, housing, and justice. We must seek to meet this complex challenge with courage on many fronts and at all levels.

Above all else we affirm the importance of the individual. We do not use this concept as a means of fleeing social responsibility—we desire no empty individualism. Nor do we seek an excuse for reducing all men to a common level—we want no masked collectivism.

We do ask that our society now fulfill the promise of the American dream: the right of all men to achieve their individuality, the opportunity for every man to be uncommon.

(Note.—Not every member of the Critical Issues Council, its advisers, or Republican Citizens Committee necessarily subscribes to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.)

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. McCLELLAN. Mr. President, I wish to direct my remarks primarily to amendment No. 513, offered by the Senator from Georgia [Mr. TALMADGE] and four or five others of our colleagues who are sponsors of it, and also to address my remarks in opposition to the proposed substitute amendment offered and cosponsored by the minority leadership and cosponsored by the majority leader [Mr. MANSFIELD].

Before proceeding with a discussion of these amendments and an analysis of the bill which would lay the foundation for proceedings which might involve a jury trial, I wish to submit a series of amendments which I now send to the desk. I ask unanimous consent that they be reported by the clerk and lie on the desk subject to further proceedings.

I ask unanimous consent that they be stated by the clerk.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Is there objection?

Mr. PROXMIRE. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Does the Senator intend to have the full text of each amendment read?

Mr. McCLELLAN. I do. I am going to place them in the RECORD if I have to read them all myself.

Mr. PROXMIRE. I assure the Senator from Arkansas that I am not objecting, I merely wish to keep the record straight.

Mr. McCLELLAN. What I am trying to do is to make it official, to have them read into the RECORD and to make them official so that they will be eligible for consideration in the event of a cloture motion.

Mr. PROXMIRE. The Senator from Arkansas is an expert on parliamentary procedure, but when a Senator introduces an amendment or bill it is automatically printed and available for future action and consideration.

Mr. McCLELLAN. These are not bills.

Mr. PROXMIRE. I beg the Senator's pardon—amendments.

Mr. McCLELLAN. They are not automatically referred anywhere, because the bill never went before any committee. We tried to have it referred to a committee.

Mr. PROXMIRE. The Senator is correct. My point is that if it is determined merely to submit amendments, the amendments will be available for the Senator to call up at a later time, whether read or not. Does the Senator wish them to be read?

Mr. McCLELLAN. I do not so understand the rules of the Senate. The rules of the Senate provide that amendments must be read the first time.

Mr. PROXMIRE. If the Senator from Arkansas will yield further——

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Is it not correct that reading will take place without actual formal reading of the full texts?

Mr. McCLELLAN. It could be waived, but I do not intend to have it waived.

Mr. PROXMIRE. I merely wish to keep the record straight, and I appreciate the Senator's explanation.

Mr. McCLELLAN. I do not wish to have it waived, that is the reason I wish the amendments stated.

The PRESIDING OFFICER. The clerk will state the amendments.

The amendments intended to be proposed by Mr. MCCLELLAN to House bill 7152, the civil rights bill, were received, ordered to lie on the table and be printed, and read by the legislative clerk, as follows:

### AMENDMENT No. 518

At the end of the bill add the following new title:

"TITLE XII—AMENDMENTS TO LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

"SEC. 1201. Section 102 of the Labor-Management Reporting and Disclosure Act of 1959 is amended to read as follows:

"'SEC. 102. (a) Whenever any rights secured by the provisions of this title have been infringed, or there are reasonable grounds to believe that any such rights are about to be infringed, by any violation of this title, a civil action may be brought in a district court of the United States for such relief as may be appropriate (including an application for a permanent or temporary injunction, restraining order, or other order). Any such action may be brought (1) by the person whose rights have been infringed or are about to be infringed, or (2) if requested by such person, by the Attorney General for or in the name of the United States. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

"'(b) The provisions of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes,' approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

"'(c) In any action or proceeding under this section the United States shall be liable for costs to the same extent as a private person.'"

### AMENDMENT No. 519

On page 35, between lines 20 and 21, insert the following new subsection:

"(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice (1) for an employer to hire any individual, or for an employment agency or labor organization to refer for employment, at the request of an employer, any individual, of a particular race, color, religion, sex, or national origin, in those certain instances where the employer involved believes, on the basis of substantial evidence, that the hiring of such an individual of a particular race, color, religion, sex, or national origin will be more beneficial to the normal operation of the particular business or enterprise involved or to the goodwill thereof than the hiring of an individual without consideration of his race, color, religion, sex, or national origin, or (2) for an employer to fail or refuse to hire any individual in those certain instances where the employer involved believes, on the basis of substantial evidence, that the hiring of such individual would not be in the best interests of the particular business or enterprise involved, or for the goodwill thereof."

### AMENDMENT No. 520

On page 34, beginning with line 15, strike out all through ", and" on line 20, and insert in lieu thereof the following:

"(1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, or for a labor organization to classify its membership, on the basis of race, color, religion, sex, or national origin, in those certain instances where race, color, religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise involved, and".

### AMENDMENT No. 521

On page 38, line 19, strike out "to cooperate with and utilize" and insert in lieu thereof "to seek and utilize, on a voluntary basis, the cooperation of".

### AMENDMENT No. 522

On page 27, between lines 20 and 21, insert the following new section:

"SEC. 604. This title shall take effect six months after the submission to the Congress by the President of a report by which the President shall (1) identify and designate each program and activity with respect to which this title shall be applicable, and (2) transmit a copy of each rule, regulation, and order which the President has approved for the application to each such program or activity of the provisions of this title."

### AMENDMENT No. 523

On page 26, line 6, strike out the word "may", and insert in lieu thereof the word "shall".

### AMENDMENT No. 524

On page 25, line 20, immediately after the section number "SEC. 601.", insert the subsection designation "(a)".

On page 25, after line 25, insert the following new subsection:

"(b) As used in this title in relation to any program or activity, the term 'Federal financial assistance' means the contribution by the United States from appropriated funds of the major part of the cost of a program or activity conducted by a State or any political subdivision thereof."

### AMENDMENT No. 525

On page 22, strike out all in line 22, and insert in lieu thereof the following:

"SEC. 104. (a) The Commission shall conduct a comprehensive study and investigation to determine—

"(1) the identity of the several races, colors, religions, and national origins included within the population of the United States, and means or criteria for the identification of individuals who belong to or are included within those races, colors, religions, and national origins;

"(2) the physical anthropological differences among individuals belonging to different races or of different color or national origin, including individuals of mixed race, color, or national origin;

"(3) the differences in customs, mores and traditions among individuals belonging to different races, or of different color, religion, or national origin, including individuals of mixed race, color, religion, or national origin;

"(4) the differences in the psychology, habits, traits of character, social and cultural values, motivations, and predispositions among individuals belonging to different races, or of different color, religion, or national origin, including individuals of mixed race, color, religion, or national origin;

"(5) the existence, extent, and causes of, the basis for, and any justification for, antagonism between individuals and groups of individuals belonging to different races or of different color, religion, or national origin;

"(6) the effect upon the nature, extent, and expression of such antagonisms of the enforcement by law of association of individuals and groups of individuals belonging to different races or of different color, religion, or national origin;

"(7) the nature and character of the acts, practices, devices, means, and methods used or threatened by individuals and groups of individuals of minority race or color to express or give effect to their antagonisms to individuals of other races or colors, the extent to which such acts, practices, devices, means and methods are used within various geographical areas of the United States; and the effects of such acts, practices, devices, means and methods upon the attitudes and conduct of individuals of the races and colors against whom they are directed or upon whom they are perpetrated;

"(8) the identity, nature, and extent of the problems arising from such antagonisms in the application or achievement of equal protection of the laws under the Constitution; and

"(9) the solution of such problems, including a consideration of means whereby minority groups of individuals of subnormal cultural level may be elevated to an acceptable level of behavior and conduct.

"(b) The Commission shall—"

On page 24, line 6, strike out the subsection designation "(b)", and insert in lieu thereof the subsection designation "(c)".

### AMENDMENT No. 526

On page 23, line 7, strike out the semicolon, and insert in lieu thereof a comma and the following: "and the unlawful acts, practices, procedures, and methods employed by or on behalf of members of any race or color in the assertion of claims to equal protection of the laws or in protest against alleged denials thereof;".

### AMENDMENT No. 527

On page 23, line 23, strike out the word "and".

On page 23, between lines 23 and 24, insert the following:

"(6) investigate allegations of discrimination against individuals who are members of the Caucasian race on account of their race or color, and the denial to such individuals of equal protection of the laws under the Constitution;

"(7) investigate, and transmit to the Congress a comprehensive special report with respect to, each occurrence of any riot, rebellion, insurrection, strike, boycott, civil disobedience campaign, or other mass physical disturbance conducted, participated in, or threatened by individuals composed in principal part of members of any minority race or color, under claim or color of any denial of equal protection of the laws, to determine the (A) identity of all individuals and organizations responsible for or participating in such disturbance, (B) the identity of all persons and organizations who have sustained loss of life, physical injury, or property damage in consequence of any such disturbance, and (C) the extent of all losses so sustained in consequence of any such disturbance;

"(8) in the conduct of the investigations required by paragraph (7), give priority to the investigation of all such disturbances which have occurred since July 1, 1963, within cities having a population in excess of one million inhabitants; and".

On page 23, line 24, strike out the paragraph number "(6)", and insert in lieu thereof the paragraph number "(9)".

### AMENDMENT No. 528

On page 24, line 5, strike out the closing quotation marks, and insert in lieu thereof the following new sentence: "Nothing contained in this paragraph shall impair the authority of the Commission to investigate any organization having as one of its asserted purposes the promotion or protection of civil rights to determine whether that organization is a Communist organization, a Communist-front organization, or a Communist-infiltrated organization within the meaning of the Subversive Activities Control Act of 1950 (50 U.S.C. 781).'"

### AMENDMENT No. 529

On page 24, line 9, immediately after the word "Congress", insert the words "an annual report in January of each year and".

On page 24, line 11, strike out the closing quotation marks, and insert in lieu thereof the following new sentence: "Each annual report of the Commission shall contain a full and complete statement concerning (1) the identity of each person who served during the preceding calendar year as a member, officer, employee, or consultant of the Commission or any advisory committee thereof, (2) the purpose, conduct, and result of each study and investigation conducted by or on behalf of the Commission during the preceding calendar year, and (3) the objects of expenditures made by the Commission during the preceding calendar year, and the amount expended for each such object.'"

### AMENDMENT No. 530

On page 24, line 12, immediately after the section number "SEC. 505.", insert the subsection designation "(a)".

On page 24, between lines 15 and 16, insert the following new subsection:

"(b) Section 105(e) of that Act is amended by adding at the end thereof the following new sentence: 'No person may serve as a member, officer, employee, or consultant of the Commission, or any advisory committee thereof, unless a full field investigation of such person has been conducted by the Federal Bureau of Investigation, and it has been determined by the Attorney General upon the basis of the reports of such investigation that such service by such person is clearly consistent with the interest of the national security.'"

### AMENDMENT No. 531

On page 25, line 17, strike out the closing quotation marks, and insert in lieu thereof the following new sentence: "All hearings conducted, and determinations made, by the Commission shall be subject to the provisions of the Administrative Procedure Act.'"

### AMENDMENT No. 532

On page 50, strike out lines 6, 7, and 8.

On page 50, line 9, strike out "(c)" and insert "(b)".

### AMENDMENT No. 533

On page 32, line 18, after "society." insert the following: "This title also shall not apply to any employer whose hiring and employment practices are pursuant to (1) a seniority system, (2) a merit system, (3) a system which predicates its practices upon ability to produce, either in quantity or quality, or (4) a determination based on any factor other than race, color, religion, sex, or national origin."

### AMENDMENT No. 534

On page 25, line 17, strike out the closing quotation marks, and insert in lieu thereof the following new sentence: "In the issuance of subpenas calling for the production of written or other matter, the Commission shall conform as near as may be to the practices, procedures, and requirements prescribed for the issuance of civil investigative demands under the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311).'"

### AMENDMENT No. 535

On page 25, line 10, immediately after the section number "SEC. 507.", insert the subsection designation "(a)".

On page 25, between lines 17 and 18, insert the following new subsection:

"(b) Section 106 of that Act is amended by adding at the end thereof the following new sentence: 'No sum may be appropriated to the Commission for any fiscal year except in conformity with authorization given therefor by legislation enacted by the Congress during the preceding fiscal year.'"

### AMENDMENT No. 536

On page 25, line 9, strike out the closing quotation marks, and insert in lieu thereof the following new sentence: "Proceedings for contempt arising under the provisions of this section shall be subject to the provisions of section 3691, title 18, United States Code.'"

### AMENDMENT No. 537

On page 24, line 12, immediately after the section number "SEC. 505.", insert the subsection designation "(a)".

On page 24, between lines 15 and 16, insert the following new subsection:

"(b) Section 105(e) of that Act is amended by adding at the end thereof the following new sentence: 'No member, officer, employee, or consultant of the Commission or any advisory committee thereof shall have access to any information of any other department, agency, or armed force which has been duly classified in the interest of the national security as information which may not be publicly disclosed.'"

### AMENDMENT No. 538

On page 23, line 15, strike out the semicolon, and insert in lieu thereof a comma and the following: "and the denial of equal protection of the laws to the public or to any class of persons in consequence of riots, rebellions, insurrections, boycotts, mass picketing, sit-ins, lie-downs, shop-ins, and other disturbances of the peace conducted by or on behalf of members of any race or color in the assertion of claims to equal protection of the laws or in protest against alleged denials thereof;".

### AMENDMENT No. 539

On page 19, line 2, immediately after the section number "SEC. 501.", insert the following:

"(a) Section 101(b) of the Civil Rights Act of 1957 (71 Stat. 634; 42 U.S.C. 1975) is amended as follows:

"'(b) The Commission shall be composed of ten members appointed by the President by and with the advice and consent of the Senate. The Commission shall include among its members one member chosen from each judicial circuit of the United States. Each member chosen from any judicial circuit shall be an individual who has been domiciled and has resided within that judicial circuit continuously for not less than five years immediately preceding the date of his appointment as a member of the Commission. Not more than five of the members shall at any time be members of the same political party.'

"(b) Section 101(e) of that Act is amended to read as follows:

"'(e) Eight members of the Commission shall constitute a quorum.'"

### AMENDMENT No. 540

On page 27, between lines 20 and 21, insert the following new section:

"SEC. 604. (a) Whenever any financial assistance to any program or activity within any State is terminated or suspended by any department or agency of the United States for any period under the provisions of this title for or on account of any discrimination upon the basis of race or color which has occurred within that State, all sums which would have been expended or available for expenditure for that program or activity within such State during that period, except for such termination or suspension, shall be deposited in a special fund hereby established in the Treasury which shall be known as the Minority Race Relocation Fund (referred to hereinafter as the 'fund').

"(b) The Commission on Civil Rights shall prepare, administer, and carry into effect a plan for the voluntary relocation of individuals of any race or color who are residents of any State within which financial assistance to any program or activity has been terminated or suspended on account of discrimination practiced against individuals of that race or color. Under such regulations as the Commission may adopt with the approval of the President, such plan shall provide for the payment from the Fund of the transportation expenses incurred for the relocation of individuals of such race or color, from their places of residence within such State to any place of relocation. Such place of relocation may be any place within any other State (1) within which no financial assistance to any program or activity has been terminated or suspended because of discrimination on account of race or color, and (2) in which the ratio of the number of the inhabitants thereof who are of such race or color to the total population of such State does not exceed the ratio of the number of individuals of such race or color within the United States to the total population of the United States. Such place of relocation may be any place within any foreign country which will accept the applicant for relocation for permanent residence, if such application effectively renounces his United States citizenship before his relocation. The Department of State shall assist in every practicable way individuals who desire to relocate under this section in any foreign country.

"(c) As used in this section—

"(1) the term 'transportation expenses' when used with respect to the relocation of any individual means (A) all expenses reasonably incurred in the transportation of such individual, his dependents, and their personal and household effects to another State or country, and (B) an allowance for the expenses of subsistence and lodging of such individual or individuals reasonably incurred in the course of such transportation; and

"(2) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any possession of the United States."

### AMENDMENT No. 541

On page 25, line 22, immediately after the word "excluded", insert the word "unlawfully".

### AMENDMENT No. 542

Beginning with line 18, page 25, strike out all to and including line 20, page 27.

### AMENDMENT No. 543

On page 25, line 20, immediately after the section number "SEC. 601.", insert the subsection designation "(a)".

On page 25, after line 25, insert the following new subsection:

"(b) The provisions of this title shall apply only to such programs and activities as the Congress may designate by legislation enacted after the date of enactment of this Act."

### AMENDMENT No. 544

On page 39, line 22, strike out "or on behalf of".

### AMENDMENT No. 545

On page 24, line 15, immediately after the closing quotation marks, insert the following new sentence: "Section 105(a) of that Act is further amended by adding at the end thereof the following new sentences: 'At no time may the ratio of (1) the number of members, officers, employees, and consultants of the Commission of any race, color, religion, or national origin to (2) the whole number of members, officers, employees, and consultants of the Commission exceed the ratio of (A) the number of individuals of that race, color, religion, or national origin included within the population of the United States, to (B) the whole population of the United States.' "

### AMENDMENT No. 546

On page 22, line 24, immediately after the words "United States", insert the words "who are in fact qualified to vote."

On page 23, line 17, immediately after the words "United States", insert the words "who are in fact qualified to vote".

### AMENDMENT No. 547

On page 33, line 1, after "employment," insert "solely".

On page 33, line 7, after "employee," insert "solely".

On page 33, line 12, after "individual" insert "solely".

On page 33, line 14, after "individual" insert "solely".

On page 33, line 19, after "individual" insert "solely".

On page 34, line 1, after "employment" insert "solely".

On page 34, line 10, after "individual" insert "solely".

### AMENDMENT No. 548

On page 32, after line 14, insert the following:

"(j) The term 'race' includes all races, including the Caucasian race.

"(k) The term 'color' includes all colors, including white.

"(l) The term 'religion' includes all religions, including the Protestant religions.

"(m) The term 'national origin' includes all countries of origin, including the United States.

"The terms 'race', 'color', 'religion', and 'national origin', when used in other titles of this Act, shall have the meanings assigned to them by subsections (j), (k), (l), and (m), respectively."

### AMENDMENT No. 549

Beginning with line 1, page 26, strike out all to and including line 20, page 27, and insert in lieu thereof the following:

"SEC. 602. (a) Whenever any person who is eligible to participate in, or to receive any benefit under, any program or activity receiving Federal financial assistance is unlawfully denied such participation or benefit, solely on the ground of his race, color, religion, or national origin, by any officer or employee of any State or any political subdivision of any State, such person may institute against such officer or employee a civil action for relief in the district court of the United States for the judicial district in which the office of such officer or employee is situated. Such court shall have jurisdiction to hear and determine such action, without regard to the amount in controversy, and may grant such injunctive or other judicial relief as may be required to terminate such unlawful denial. Proceedings for contempt for the violation of any judgment, decree, or order entered under this section shall be conducted pursuant to the provisions of section 3691, title 18, United States Code.

"(b) Whenever the Attorney General of the United States receives from any person a complaint, duly subscribed and executed under oath, to the effect that such person (1) has suffered such denial upon that ground by any such officer or employee, and (2) is financially unable to initiate and maintain appropriate legal proceedings to obtain relief from such denial, the Attorney General shall conduct an investigation to determine whether there is probable cause for belief that such allegations are supported by substantial evidence. If the Attorney General determines that such allegations are so supported, he may institute in the name of the United States, for the benefit of the complainant, a civil action under subsection (a) against the officer or employee concerning whom complaint was made for such relief as the court may determine to be appropriate.

"(c) No action shall be instituted by the Attorney General of the United States pursuant to subsection (b) until (1) there has been transmitted to the Attorney General of the State within which the alleged unlawful denial has occurred a full and complete written statement of the facts concerning such denial disclosed by the investigation made by the Attorney General, including the name and address of each person who is a prospective defendant in that action, the official capacity of such person, and the alleged acts or omissions of such person which are believed to provide a basis for action against him, and (2) the Attorney General of that State has been accorded reasonable opportunity to procure compliance by such prospective defendant with the requirements of law.

"(d) In any action instituted by the Attorney General of the United States pursuant to subsection (b) within any State, (1) the Attorney General of such State shall be entitled to intervene as an interested party, and (2) the United States shall be liable for costs to the same extent to which a private plaintiff would be liable.

"SEC. 603. (a) It shall be unlawful for any person to institute any action under section 602(a), or to make any complaint to the Attorney General under section 602 (b), with (1) knowledge or reason to believe that any allegation made therein is false, and (2) malice for the purpose of injuring the person concerning whom complaint is made in his office or employment. Whoever violates, attempts to violate, or combines or conspires with any other person to violate the prohibition contained in this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(b) The district courts of the United States shall have jurisdiction to prevent and restrain violations and threatened violations of the prohibition contained in subsection (a), and to grant such injunctive or other judicial relief as may be required to prevent and restrain such violations. It shall be the duty of the several United States district attorneys, within their respective districts, to institute proceedings to prevent and restrain such violations and threatened violations. Whenever any such violation occurs or is threatened within any State, the Attorney General thereof or his designee may institute in any court of such State or of the United States of competent jurisdiction proceedings under this subsection to prevent and restrain such violation or threatened violation.

"(c) As used in this section, the term 'person' means any individual and any partnership, corporation, association, or other legal entity."

### AMENDMENT No. 550

On page 20, line 10, immediately after the period, insert the following new sentence: "Nothing contained in this subsection shall be construed to authorize the Commission to withhold any evidence or testimony or any transcript or record from any court, any committee of the Congress, or any subcommittee of any such Committee."

### AMENDMENT No. 551

On page 19, between lines 9 and 10, insert the following:

"(c) All witnesses at public or executive hearings who testify to matters of fact shall be sworn."

On page 19, line 10, strike out the subsection designation "(c)", and insert in lieu thereof the subsection designation "(d)".

On page 19, between lines 12 and 13, insert the following:

"(e) Any person who is the subject of an investigation in a public hearing may submit to the Chairman or Acting Chairman questions in writing for the cross-examination of witnesses called by the Commission. With the consent of a majority of the members of the Commission present and voting, questions so submitted with respect to any witness shall be put to the witness by the Chairman, Acting Chairman, or a member of the Commission, or by counsel for the Commission.

"(f) An accurate stenographic record shall be taken and kept of the testimony of all witnesses in executive or public hearings. The record of his own testimony whether in public or executive session shall be made available for inspection by a witness or his counsel under Commission supervision. A copy of the transcript of all testimony given by any witness in a public hearing, or in executive session and subsequently made public by the Commission, shall be made available to such witness upon his request upon his payment of the cost of such transcript.

"(g) Interrogation of witnesses before the Commission shall be conducted by members of the Commission or by duly authorized staff personnel of the Commission. Every witness shall be heard in executive session before being heard in a public session, unless otherwise determined by the Commission for good cause."

On page 19, line 13, strike out the subsection designation "(d)", and insert in lieu thereof the subsection designation "(h)".

On page 19, line 16, strike out the subsection designation "(e)", and insert in lieu thereof the subsection designation "(i)".

On page 20, line 1, strike out the subsection designation "(f)", and insert in lieu thereof the subsection designation "(j)".

On page 20, line 4, strike out the subsection designation "(g)" and insert in lieu thereof the subsection designation "(k)".

On page 20, line 11, strike out the subsection designation "(h)", and insert in lieu thereof the subsection designation "(l)".

Beginning with line 16, page 20, strike out all to and including line 19, page 20.

On page 20, line 20, strike out the subsection designation "(j)", and insert in lieu thereof the subsection designation "(m)".

Mr. PROXMIRE. Mr. President, reserving the right to object, I will object unless the Senator from Arkansas will yield for a parliamentary inquiry.

Mr. McCLELLAN. I yield for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. I ask the Chair to rule on whether an objection on the part of the Senator from Wisconsin would prevent these amendments from being considered and from being available to be called up under the cloture rule.

The PRESIDING OFFICER. Under previous precedents of the Senate, the reading requirement of the rule will have been met if the amendment is read by the Secretary.

Mr. PROXMIRE. Is it true that the amendments will be in order whether the Senator from Wisconsin or any other Senator opposes the unanimous-consent request of the Senator from Arkansas?

The PRESIDING OFFICER. Under the decisions of the Senate, that would appear to be the case.

Mr. PROXMIRE. Then I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none; and it is so ordered.

Mr. McCLELLAN. Mr. President, I announced that I would speak in behalf of the amendment authored by the Senator from Georgia [Mr. TALMADGE], which is the pending business before the Senate, together with the substitute amendment which was authored by the distinguished minority leader, and cosponsored by the distinguished majority leader.

The amendment offered by the Senator from Georgia [Mr. TALMADGE] for himself and other Senators would restore to the judicial system what a provision in the 1957 act, section 103, or section 151 of part V of the Civil Rights Act of 1957, diminished. It would restore to our judicial system the right to a trial, which was diminished by the act to which I have just referred. It would also insure jury trials in all criminal contempt proceedings that might arise out of attempts to enforce the provisions of the pending bill, should it be enacted into law.

Not only should this bill be free from such impingements on the basic rights of the citizens of the country to a trial by jury, but the mistake made in 1957 should also be rectified while we are considering this legislation.

To obtain a proper perspective of the areas in which injunctions can be sought by the Attorney General, and also by the Equal Employment Opportunities Commission which this bill would create, those areas should be analyzed for the record so that we can get a perspective of the broad scope of activities that are going to be brought under the jurisdiction of the Attorney General, to seek court injunctions and thus to follow through our enforcement by criminal contempt action against those who may be alleged to have violated such court orders or such injunctions, and who, if this bill is enacted in its present form, will be prosecuted without the benefit of a trial by jury.

Under the bill as it is now drawn, the trial judge who issues the order in which it is alleged there has been a violation by an individual or by an association of individuals, or by a corporation, can and will in most instances become the accuser. The same trial judge will complain of the violation of orders under the procedure that this bill would authorize and permit. The trial judge would accuse. The same trial judge would for all purposes prosecute. The same trial judge would assess the guilt. And the same trial judge would inflict the penalty. And the citizen will have been deprived of his constitutional right to a trial by jury.

We are told that this is a bill to protect the civil rights of many of our citizens. I say that in this particular there is no discrimination because of race, color, creed, or anything else. It would deny the black man a right to a trial by jury. It would deny a Protestant a right to a trial by jury. It would deny someone whose national origin is England, France, or some other country, the right of a trial by jury as quickly as it would deny that right to someone from another country. In that particular, the bill does not discriminate. We must admit that that much of it is fair.

But, no one can deny that the bill, in order to achieve its objective, and to prepare for enforcement with a mailed-fist approach, would take away from American citizens the right of trial by jury. The substitute amendment would not change the principle at all. It provides, in effect, that if the defendant is to be fined more than $300, or is to be imprisoned for more than 30 days, he is entitled to a trial by jury.

I submit that under that amendment, the man could not get a jury trial if the court did not want to give it to him.

The right of a jury trial would be taken away from the defendant. The court in its discretion might grant a jury trial if it wished to do so, but as a right, trial by jury would be denied. Power would be consentrated in the court to take away a liberty and a right that American citizens have enjoyed since our Nation was founded.

The court might find in its discretion that a jury trial in a case would not be allowed. The court must come to that conclusion before a case is submitted to a jury. If the court concludes that the offense is of such a nature, of such magnitude, and attended by such circumstances that, if justice were to be done, the penalty must be more than a $300 fine or imprisonment for more than 30 days in jail, the court must submit the case to a jury. But the judge would not submit the case to a jury until in his own mind he had determined that the defendant was guilty, because if the defendant were not guilty, the defendant would not possibly deserve a fine of more than $300 or a term of imprisonment for 30 days. If the defendant were not guilty, he should not be fined 1 penny, nor should he be imprisoned for 1 minute. So the trial court, in his own mind, by his own judicial determination, must find a defendant guilty. On what ground? The amendment does not provide on what ground. Evidence? Who knows?

If the court tries the defendant once and finds him guilty, but he thinks the punishment ought to be greater, would the court submit the question to a jury? Would that be an impartial jury? I make that statement because the court would have already found the defendant guilty.

The purpose of submitting the case to a jury could only be in the hope that a jury might assess a higher penalty than the court had the power to impose. That would result in the most ridiculous injustice to American citizens that could possibly result in the name of civilization, in the name of civilized progress, and in the name of protecting human rights.

What I have described is what the proponents desire to do under the amendment. It may be called justice or the protection of human rights. But what is wrong with our jury system? Is 1 judge who already has his mind made up more likely to dispense justice than 12 of a defendant's peers who would hear the case and try it on its merits?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Is it not true that the sixth amendment to the Constitution, which assures to American citizens the right of trial by jury, would remain after passage of the bill without any challenge by either the Talmadge amendment or the Mansfield-Dirksen amendment; or indeed even if neither amendment were adopted.

McCLELLAN. The Senator is talking about criminal contempt?

Mr. PROXMIRE. Yes, indeed.

Mr. McCLELLAN. If a man were put in jail for 30 days—I do not care whether it would be in a civil contempt case or a criminal contempt case—he would still be required to eat the same salty food and smell the same prison stench and would still be branded a criminal and a jailbird as would a prisoner who would spend a longer term in prison.

Mr. PROXMIRE. I should like to ask the distinguished Senator from Arkansas if it is not true that throughout American history it has been within the power of a judge to decide in contempt proceedings, without a trial by jury, and to impose a penalty, not only a fine but also a jail sentence, and until 1957——

Mr. McCLELLAN. That is where the offense is committed in the presence of a court generally; but in civil contempt proceedings the defendant would be entitled to a jury.

Mr. PROXMIRE. No indeed, the power of a judge to punish contempt by penalty is overwhelmingly clear in Federal and State law. The trial by jury provision of the sixth amendment stands unchallenged by the bill. If the Mansfield-Dirksen amendment were added, the bill would provide a new right; namely, a new right of trial by jury. The only precedent for such action was in 1957. A trial by jury would be provided in the case of a person who might be found guilty of contempt. For the second time in all American history the proposed new right would be provided to the defendant. So the bill, as it would be amended by the two leaders, far from taking a right away, would add a right which would be precedent breaking and would assure additional rights to American citizens and not take them away.

Mr. McCLELLAN. I disagree with the Senator. The proposal is that in all criminal prosecutions the accused shall enjoy the right to a speedy trial and a public trial by an impartial jury. A violation of the law would result in a criminal contempt action, and in respect to criminal contempt the Constitution provides for trial by jury. The Senator may call it civil contempt, if he wishes to do so, but when people are put into jail and fined and judged guilty, the result makes the offense criminal contempt. People are not judged guilty for civil acts. They are judged guilty in criminal proceedings. Before the Senate now is a proposal with relation to criminal contempt. It is proposed to let the judge try a case without a jury.

Mr. PROXMIRE. Is it the position of the Senator from Arkansas that prior to the act of 1957, a judge who found a defendant guilty of contempt of court would have to grant a jury trial under those circumstances?

Mr. McCLELLAN. If the Constitution had been followed, yes. The Constitution so provides.

Mr. PROXMIRE. As a matter of precedent—in the State of Arkansas, the State of Mississippi, the State of Illinois, and the State of Wisconsin—is it not true that throughout all southern courts, as well as the courts of the rest of the country, contempt proceedings have been conducted without a jury? In the Barnett case it is true that there was a 5 to 4 decision in which there was some question of this by the minority, but until the Barnett case and the 1957 act there was no precedent for a jury trial in a contempt of court case.

Mr. McCLELLAN. As the Senator knows, in the Barnett case, which is the most recent case on this subject, a majority of the Court, in a 5-to-4 decision, held contrary to the position that I am taking. But in the dissenting opinion the minority said:

### B. The Constitutional Right to a Jury Trial

The Court, in denying defendants' constitutional claim to a jury trial, rests on the history of criminal contempts relied on in its past decisions. The most recent of these decisions is *Green* v. *United States* (356 U.S. 165), which was decided by a closely divided Court. The Court said:

"The principle that criminal contempts of Court are not required to be tried by a jury under article 3 or the sixth amendment is firmly rooted in our traditions." Id., at 187.

"Against this historical background [of the power to punish criminal contempts summarily at the time of the Constitution], this Court has never deviated from the view that the constitutional guarantee of trial by jury for crimes and criminal prosecutions was not intended to reach to criminal contempts." Id., at 186.

A review of the original sources convinces me, however, that the history relied on by the decisions of this Court does not justify the relatively recent practice of imposing serious punishment for criminal contempts without a trial by jury. My research, which is confirmed by the authorities cited in the appendix to the opinion of the Court, suggests the following explanation as to why criminal contempts were generally tried without a jury at the time of the Constitution; the penalties then authorized and imposed for criminal contempts were generally minor; and the courts were authorized to impose minor criminal penalties without a trial by jury for a variety of trivial offenses including, but not limited to, criminal contempts.

Mr. PROXMIRE. Is it not true that the Mansfield-Dirksen amendment would place the bill foursquare with the minority position in the Barnett case which is supported by the Senator from Arkansas, and that in any kind of case in which a substantial penalty might be involved, of more than 30 days in jail and $300 fine, there would be a jury trial?

Mr. McCLELLAN. I agree with the dissenting opinion, which states that a jury trial should be provided. It is a constitutional right that has been impinged. The proponents of the measure propose to perpetuate that violation of a constitutional right by the kind of amendment proposed. I suggest that the amendment to which the substitute has been offered, the amendment of the Senator from Georgia [Mr. TALMADGE] and others, is the way to carry out the constitutional mandate requiring a jury trial of such cases.

Mr. PROXMIRE. Is it not true that the language of the minority in the Barnett case said something about the jury trial being appropriate when unusual punishment was to be meted out?

Mr. McCLELLAN. I do not know what could be termed "unusual punishment." A jail term of 30 days, or a fine of $300, would be unusual punishment for me. I do not know whether it would be unusual punishment for the Senator from Wisconsin.

Mr. PROXMIRE. It would, indeed; but the amendment of the two leaders, the Dirksen-Mansfield amendment, provides that where there is this kind of punishment——

Mr. McCLELLAN. The Senator used the word "unusual." I think the word is "serious."

Mr. PROXMIRE. I accept the correction—serious. Where serious punishment is involved, the Dirksen-Mansfield amendment provides that there shall be a jury trial.

Mr. McCLELLAN. We disagree on the question of whether 30 days in jail and a $300 fine would be a serious punishment. I think it would be serious punishment. Most people would consider it serious punishment. The few who would not think it was serious punishment would be those who had experienced serving much longer sentences.

Mr. PROXMIRE. Of course, the judge would be in a position to inflict a fine of $1,000 and 6 months in jail without the amendment proposed by the two leaders. So it is a matter of degree. Many people would regard it as serious for them to be in jail only 1 day.

Mr. McCLELLAN. The Senator refers to the original bill when he refers to 6 months in jail and a $1,000 fine.

Mr. PROXMIRE. Yes.

Mr. McCLELLAN. I am more opposed to the original bill than I am to the amendment, but the principle involved is the same. The principle involved is protecting a defendant's right of trial by jury, and not permitting a judge to be the accuser, judge, jury, and punisher. I would rather have a jury try the case and make a determination as to guilt.

Mr. PROXMIRE. But because of the very nature of contempt, because of the kind of guilt involved in the particular act, it has been the standard historical constitutional practice all over our country throughout our history in all the courts, to give a judge this kind of power. The Dirksen-Mansfield amendment would limit that power very stringently. It would limit the punishment to what the Senator from Wisconsin would regard as serious punishment, but not extremely serious—$300 fine and 30 days in jail.

Mr. McCLELLAN. It has been a standard practice from the time this Nation and Government began not to have this character of law. We are venturing into something involving tremendous potentials and consequences.

Mr. SMATHERS. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. SMATHERS. Does the able Senator from Arkansas agree that in the Green case, the Gompers case, the Barnett case, liberal judges, such as Justices Holmes, Black, and Goldberg, pointed out that the matter of giving a court the right of summary punishment for contempt and putting a man in jail was not originally given to the courts, but, as a matter of fact, is a practice that has grown up in rather recent years?

Mr. McCLELLAN. And has not been challenged.

Mr. SMATHERS. And has not been previously challenged. The Justices in those cases said that the practice is most pernicious, and should be stopped because, they said, many times when a judge is cloaked in judicial robes and given a lifetime tenure in the job—I forget the exact words of Justice Black—he develops pride and sensitivity to the point where his feelings can be bruised easily, when he has the power to put other people in jail.

Judge Arthur Goldberg pointed out that since 1957 there had been six cases in which a judge had, of his own motion, put people in jail for over a year for contempt, and that it was a growing danger, not a lessening danger.

It seems to me that Senators who are of liberal persuasion should not be urging that judges have this right. They should be insisting on the right of every person to have a trial by jury. They should not be going in reverse. That is what Justices Black, Holmes, Douglas, Goldberg, and others have been saying.

Would not the Senator agree that that is what the judges said in the cases cited?

Mr. McCLELLAN. Yes. At least four of the judges have sensed the danger. The practice has never been seriously challenged before. Now it is being challenged. Four of the nine judges feel that it is eroding one of the precious and cherished guarantees of justice in this country under the jury system to proceed on the dictates of one man who may be clothed with a robe and have ideas of his own that he feels he ought to develop and possibly impose upon some of those who come before him at any particular time.

Mr. SMATHERS. I ask the Senator if perchance he read in this month's edition of "American Heritage" an article written by a former Attorney General of the United States, another man of whom it was stated that he was a liberal, Francis Biddle, Attorney General under Franklin Roosevelt. In this month's issue of "American Heritage" he writes about the trial of William Penn in 1670. He writes in the article about a judge who sent a jury out and who told the jury what they were supposed to do and find with respect to William Penn's preaching on religious beliefs. The jury refused to find William Penn guilty as the judge thought he should have been found guilty. Eight of them said, "We would have found him guilty, but four held out." The judge locked them up with the words, as I recall:

> Gentlemen, you shall not be dismissed until we have a verdict that the court will accept and you shall be locked up without meat, drink, fire, or tobacco. You shall not think thus to abuse this court. We will have a verdict, by the help of God, or you shall starve for it.

The jury finally came back. It found that William Penn was guilty of speaking on Church Street. That is all they would say. The judge found the jurors in contempt and locked up all the jurors. So the jury went to jail without a trial by jury.

This month another great liberal points out the fact that we may talk lightly of the right of every person, whether he lives in Arkansas, Mississippi, Florida, or anywhere else, but judges can become capricious and arbitrary, as can all citizens who are cloaked with the same power, with the privilege of holding office for the remainder of their lives, irrespective of what they do. So the citizens are the ones who need to be protected, not the judiciary, in this particular instance.

Mr. McCLELLAN. I thank the Senator.

Justice Black, in the Green case, said—and speaking of liberals, I know of no man more liberal than Justice Black:

> I find it difficult to understand how it can be maintained that the same people who manifested such great concern for trial by jury as is explicitly embodied in the Constitution for every $20 civil suit could have intended that this cherished method of trial should not be available to those threatened with long imprisonment for the crime of contempt.

Anybody who is in issue over property of the value of $20 in a civil suit is entitled to have a jury hear the case. Under the Constitution, it is explicit that a court would not absolutely disregard the plain letter and intent of the Constitution. If I were to sue any one Senator for $20 anywhere in the courts of the United States, I would be entitled to a trial by jury, but if a court said that I was guilty of criminal contempt that might send me to jail for 6 months and might fine me a thousand dollars or $500—whatever the limit is under the statute I do not recall—I would not be entitled to a trial by jury. A $20 piece of property would be more sacred under the Constitution than would my liberty be for 6 months.

I cannot conceive that the framers of the Constitution intended to place a premium on such a small value of property as compared to human rights.

Mr. PROXMIRE. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. The bill without amendment is four-square with the majority decision in the Barnett case in which, as I understand, there is no constitutional right to a trial by jury for criminal contempt. The bill with the Dirksen-Mansfield amendment, it seems to me, recognizes the objections of the four Justices who were in the minority in the Barnett case. This tolerant doctrine goes much further than the Supreme Court of Arkansas, in its decision in Freeman against State, which took this position:

> The power of punishment for contempt is independent of statutory authority, being inherent in and an immemorial incident of judicial power, its conclusions to be reached in judgments found without the intervention of a jury.

I believe the Senator from Arkansas and the Senator from Florida have made an excellent case; that is, that there has been a gradual change in law in recent years.

Mr. McCLELLAN. There has been no change in rights.

Mr. PROXMIRE. The Senator is correct. The Senator from Arkansas has argued that developments in law have cloaked our judges with extraordinary power. If this kind of abuse has developed, it is fully recognized by the Dirksen-Mansfield amendment which provides, as the Senator well knows, that any punishment in excess of 30 days and $300 will require a trial by jury.

Mr. McCLELLAN. I thank the Senator. He has gone with us part of the way. I only wish he would go all the way and accept the Talmadge amendment. Then we would resolve it completely and resolve it satisfactorily. We would protect the right of a trial by jury in this country beyond any question, in cases which may arise out of the injunctions which are expected to issue under the order of the so-called statute, if it becomes law.

Those who believe in this liberal philosophy of government today, who are most solicitous about human rights and human dignity, and the rights of individuals, are inconsistent when they wish to vest the courts with the power to be the originator of the order, the accuser of the violator, the judge who assesses guilt, and the judge who imposes the penalty or who inflicts the punishment. That is too much power for a judge to possess. There should be a diffusion of that power. Place the power to determine guilt in a jury of one's peers. Then let the jury, within limits fixed by the statutes, impose the penalty. But the assessment of guilt should be made impartially. In these cases, the judge is not impartial. It would be a judge who believes his court is being misused, or his orders abused, or that someone is in contempt of his proceedings and is being denied these rights.

I did not finish the statement by Justice Black. When I have finished that, I shall be glad to yield further.

He said:

> I am confident that if there had been any inkling that the Federal courts established under the Constitution could impose heavy penalties, as they now do, for violation of their sweeping and far-ranging mandates without giving the accused a fair trial by his fellow citizens it would have provoked a storm of protest, to put it mildly. Would any friend of the Constitution have been foolhardy enough to take the floor of the ratifying convention in Virginia or any of a half dozen other States and even suggest such a possibility?

We disagree on the whole philosophy of this bill. Let me state the difference this way: I wholeheartedly disagree with the sponsors and advocates of the bill with respect to its whole philosophy, when we institute legislation under the guise of protecting and preserving civil rights and use that as a label. One of the most precious, sacred, and most revered rights of the citizen is trial by jury, not by a judge who may have become tyrannical, as was indicated in the law—it was not stated exactly in that way—but after years of service, or after he has been granted the power, when he becomes obsessed with the idea that that power is something to use, he uses it and abuses it.

Someone said that sometimes judges turn men loose who should not be released. They do. They make mistakes. But their wisdom and the character of justice they have dispensed throughout the years, in our experience under our system of law, has not been surpassed by any other system in the world. It has its imperfections, but I would rather risk living under this system than any other. I do not wish to see it changed. There is no justification for it. There is every justification for giving people the right to a trial by jury.

Mr. PROXMIRE. Mr. President, will the Senator from Arkansas yield further?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Is not the Senator asking for a change, or would he support a change in the Arkansas law, which the Arkansas Supreme Court decision makes clear and explicit when it states that the power of punishment for contempt is independent of the statutory authority and without intervention of a jury?

Mr. McCLELLAN. The Senator mentions Arkansas. I practiced law down there for a good while. I do not remember any contempt cases, when I practiced law, except for some infraction in the presence of the court. But I do not care if one puts an Arkansas label on it, or a Wisconsin label, or any other label. It does not make it right.

Mr. PROXMIRE. Then the Senator would favor it?

Mr. McCLELLAN. It does not improve or sustain the justice of the argument. It does not mean each one is wrong, no matter whose label is on it.

The Senator asks me what I would do in Arkansas. I would be for the same principle there that I am here. I did not make all the laws of Arkansas.

Mr. PROXMIRE. I am accusing the Senator from Arkansas of nothing. I am only asking him whether he would favor a change in the law of Arkansas to provide a trial by jury in criminal contempt cases?

Mr. McCLELLAN. One might very well. I believe under the Constitution the accused is entitled to it now.

I have always thought that he was entitled to it. I still think so. Now we are legislating in this field. Do we wish to go along with the majority of the Court, which says that he is not entitled to it, or with the four members of the Court, and return justice to where the Founding Fathers put it, namely, in the hands of the peers of the man who is being tried?

Mr. PROXMIRE. Does not the Senator from Arkansas agree, in view of the long series of decisions by the Supreme Court, the latest being in the Barnett case, which hold that in a criminal contempt proceeding there shall not be a jury trial, that the Dirksen-Mansfield amendment is something new, that it grants a new, additional right, because it provides a jury trial where no jury trial has been provided for in the past?

Mr. McCLELLAN. No. I believe it was taken away in the decision to which the Senator has referred. That right is in the Constitution. It is being taken away. Even under the Dirksen-Mansfield amendment that right would be taken away. It is in the Constitution. The way to preserve the Constitution and to make it certain, is to vote for the Talmadge amendment.

Mr. PROXMIRE. The Dirksen-Mansfield amendment provides for a jury trial only in cases in which the penalty is substantial.

Mr. McCLELLAN. I come back to the fact that the Founding Fathers thought that it was essential to have a jury trial when a man's property was worth $20. I cannot conceive that the Founding Fathers thought that the same man who owned property was not entitled to a jury trial if he were being tried by a judge and subjected to a $300 fine or 30 days in jail.

I do not believe that our Founding Fathers would grant that right for $20, but would not grant it for a man's liberty. I am sure they put individual liberty and freedom on a higher level than a $20 bill.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SMATHERS. Does not the Senator agree with me that this type of case could arise in a situation in Wisconsin in which a school board might well rule that a certain school, under present conditions, should not be desegregated at this point——

Mr. McCLELLAN. Be further desegregated.

Mr. SMATHERS. Further desegregated. They may decide on a quota system. The school board, having ruled that they would not try to desegregate all at one time, and the judge having ruled that they should, the judge could then say, "You have disobeyed my injunction. I want the three of you"—and there are three male and two female members of the school board—"to spend the next 29 days in jail."

The Senator from Wisconsin might not think it was a serious offense, and that they should not be tried by a jury, but the members of the school board would feel it was pretty serious for them to spend 29 or 30 days in jail, and perhaps be fined, too. That is the way the bill would work.

Mr. President, we are not dealing with a criminal. A criminal automatically gets a jury trial. If he is a thief or a bum or a bootlegger, he gets a jury trial automatically. However, if a person were a member of a school board which is trying to arrive at compromise in desegregating a school, and in doing so ran counter to a judge's order, he could be sent to jail without a trial by jury.

Therefore, in effect, we give to thieves and crooks and people who have criminal records, trial by jury, but do not provide a jury trial to members of a school board, for example.

What has happened to the great liberal philosophy? It seems to me that those who proudly wave the banner of liberalism would be quoting Justices Goldberg, Black, and Holmes, and saying, "We want to expand the practice of the right of trial by jury to every citizen in this land, irrespective of what he may be charged with."

Would not the Senator agree that those five members of the school board would think it was serious, and that they would feel like criminals after they had spent 29 days in jail?

Mr. McCLELLAN. The Senator is correct. Those people could be making an honest judgment, knowing the conditions and trying to do their best to prevent demonstrations and other disruptions which would interfere with the school. However, the judge might say, "I am making on order. You must obey it. You may transport pupils from this area or from that area, but you must get your quota."

They are guilty from the beginning. There are no mitigating circumstances.

I do not believe our liberal friends, on reflection, would want to do it. They might ultimately vote against it. The more they think about it, the more they will feel that this is going too far, and that the end sought by this legislation does not justify these means of achievement and of enforcement.

What I am trying to say is not only the position of those who oppose the bill. The editorial section of the Sunday Star has consistently supported this measure. I read with some surprise and delight the editorial in the April 26 issue of the Sunday Star. It is entitled "Contempt."

The Star supports the bill and its general objectives. However, it sees the danger of eroding the liberties of the people, and tampering with the sacred and revered right of citizens to a trial by jury.

I had intended to read this editorial at the conclusion of my remarks, or near the conclusion of my remarks, but in view of the fact that I am a southerner and that I am opposing the bill, and since we have drawn on the philosophy and judgment and opinion of such great liberals as Mr. Justice Black, Mr. Justice Goldberg, and others, I think it well to indicate at this time that much of the liberal press feels that there is a danger in what is attempted here. I read from the editorial:

> CONTEMPT
>
> The Senate is beginning to talk in terms of compromise in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.
>
> We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to.

I point out that a principle is involved which ought not to be sacrificed. This is too great a price to pay. It is not purchasing value received. These are not my words. I quote further from the editorial:

> Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture or for any other reason.

Mr. President, again I call attention to the words "Once a man has been accused of crime," and I remind my colleagues in the Senate that the man who is making the accusation, generally, will be the judge who will pass judgment if a trial by jury is not granted.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. LONG of Louisiana. Is it not more or less unprecedented in this country that the accuser should also be the judge hearing the case? I ask the Senator if our tradition has not generally been to the contrary; namely, that anyone who has an interest or the one who is the accuser in a trial should excuse himself from hearing the case.

Mr. McCLELLAN. Ordinarily, one would think so; and that is often done. But a practice has grown up that has become dangerous. The most liberal members of the Supreme Court today, liberals with whose decisions in many instances I wholly disagree, are sensing this problem. Let it be said to the credit of some of those who have been regarded as extreme liberals on the Court that they are today disturbed about the trend in the direction of which the distinguished Senator from Louisiana is speaking. They find it to be not tolerable.

The Supreme Court has divided on this question five to four. Four Justices have the philosophy or the view which the Senator from Louisiana and I have on this issue. Five take the other position. The Senate, in passing the bill, will make the final judgment in the area covered in the jurisdictions which the bill will involve. The Senate will make the judgment as to whether the majority of the Supreme Court shall be sustained or whether it will follow the minority view and reestablish, so to speak, or return to, the fundamentals of our jury system. I think we should return to the fundamentals of the jury system.

The Senate's decision will be important. This is not a small, trivial amendment to delay proceedings or to lay a basis for argument for a few days of discussion of something that is as fundamental as what is proposed in the amendment.

In my judgment, when we are considering taking a man's liberty away from him, that power should lie with a jury of his peers. It should not be reposed anywhere else, except when there is a flagrant, open violation, perhaps, in the courtroom. I am speaking about contempt, when a court finds it necessary to protect its proceedings to the extent of not having a disruption that would bring about complete disorder or chaos. I am speaking of a charge that amounts to a crime committed in the presence of a court and continuing in his presence or so adjacent to it that it would obstruct the proceedings of the court. Otherwise, in my judgment, we would be making a great mistake if we did not return to the jury system for the adjudication of guilt or innocence.

Mr. ALLOTT. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. ALLOTT. I have been listening with much interest to the Senator's remarks. I wonder if he would explain to me where, in his mind, he draws the distinction between criminal contempt and civil contempt.

Mr. McCLELLAN. It is a pretty fine distinction. It is somewhat technical, as the Senator knows, but I can draw it from the distinction made by the distinguished Senator from Florida [Mr. SMATHERS] a few minutes ago, in his illustration of a board of directors of a school, undertaking to carry out a court order. The order might be general in its terms. It might provide that "by all deliberate speed the school shall be integrated," using the Supreme Court's basic ruling on the issue.

The school board, in its examination of the situation, and in trying to serve best the interests of the district, might conclude that "all deliberate speed" in the interests of the community meant that there should be a gradual integration, and would undertake to proceed accordingly.

But the court might decide that that was not "with all deliberate speed," and might possibly hold the board in contempt. Should the court, which made the decision in the first place, or a jury have the power to bring the board before it and convict it? That is an illustration of criminal contempt.

I have not undertaken to sit down and write a broad definition of the question in legal terms, but that is an illustration of what is meant in the bill by criminal contempt.

Mr. ALLOTT. Mr. President, will the Senator further yield?

Mr. McCLELLAN. I yield.

Mr. ALLOTT. I should say that in a case in which a court, for example, had, pursuant to the contractual rights of the parties, issued an order, which was later violated, it would not be considered criminal contempt. I must say, frankly, that I would not so consider it.

Mr. McCLELLAN. The Senator might very well be correct. The decision would be based upon an interpretation of the order. If the offense were not committed in the presence of the court, so as to absolutely obstruct the processes of the court, it might very well not be criminal contempt.

Mr. ALLOTT. I am sorry I did not make my point clear. I did not mean within the presence of the court; I meant outside the presence of the court.

Mr. McCLELLAN. I understood the Senator.

Mr. ALLOTT. We have before us a situation on which I have not heard any comment, although many words have been spoken on it. It is possible that some Senator has spoken on it. Title VII provides that certain acts are unlawful. I assume the Senator is addressing himself to title VII.

Mr. McCLELLAN. I have not reached any particular title of the bill; but I may say to the distinguished Senator from Colorado that if I ever am able to continue with my prepared comments or notes, I shall come to title VII, the equal employment opportunity title.

Mr. ALLOTT. I do not wish to interrupt the Senator's thought. A peculiar situation is involved. By title VII——

Mr. McCLELLAN. But criminal contempt applies not only to title VII; it applies to all the titles.

Mr. ALLOTT. I understand that, but this is one title about which most persons are concerned, or at least most seem to be.

Mr. McCLELLAN. I believe the titles of the bill that are involved in criminal contempt proceedings, or could become involved in them, are titles I, II, III, IV, and VII. Five titles of the bill are involved.

Mr. ALLOTT. If the Senator does not mind discussing title VII——

Mr. McCLELLAN. If the Senator will allow me to finish reading the editorial I had begun to read a few moments ago, I shall then be glad to yield to him. For purposes of continuity, I should like to conclude my reading of the editoral.

Mr. ALLOTT. Very well.

Mr. McCLELLAN. I wish to resume reading the editorial I referred to a while ago.

> The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt. Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense.
>
> The civil righters argue that southern juries (why only southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

> This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.
>
> If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed—

This is from a supporter of the bill—

> he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order.

The Senator from Colorado was concerned about the distinction between civil and criminal contempt.

Mr. ALLOTT. I am listening.

Mr. McCLELLAN. I continue to read:

> It might be 30 days or 45 days, or it might be 10 years.
>
> The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. For the only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.
>
> Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Mr. President, this is not a southerner talking. This is not a segregationist talking. This is not an unreconstructed rebel's viewpoint. This is one of the leading publications in the country. This is a supporter of the bill. But it has some restraint with respect to the means to be used to accomplish the end sought. This editorial supporter does not want to place the sacred and revered right of a jury trial in jeopardy merely to accomplish what I am sure it conceives to be, as do many of the proponents of the bill, a justified and warranted remedy for other conditions that they think violate civil rights. In other words, as President Johnson said when he was a U.S. Senator, "What you are doing is subtracting one right to try to provide another." The one which is sought to be taken away here is a more sacred right than that which it is proposed to grant in many instances.

I agree with those sentiments, or those sentiments agree with me, whichever is the proper way to put it. I find it comforting to read that those with a liberal point of view, although in favor of the proposed legislation, come to the point where they say, "What you seek to achieve may be proper. But we must not do it in the wrong way. We shall still try to do it under the Constitution, and with the protection of other rights, and not with their destruction."

I quote further from the editorial:

> Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

I stated heretofore in the course of my remarks that the judge becomes the accuser. The judge becomes the prosecutor. He becomes the jurist who determines guilt. He assesses the punishment. I ask Senators to stop and meditate a moment. What kind of evidence will the judge need? What kind of hearing will the judge give the accused? He denies him the right of a trial by jury. There is no requirement that he give him any sort of hearing. There is no requirement that he even permit him to appear by counsel. There is no requirement that he even permit him to give evidence in his own defense, or in mitigation.

The entire process is all in the arbitrary—and, perhaps in some instances, it would be the tyrannical—jurisdiction of one man, a judge.

The proponents do not have to go this far. If for one moment I could grant that the overall objectives are worthy and meritorious so that they should be achieved, I would plead: "Do not do it in this fashion. It is not necessary to do it in this fashion. And in my judgment it is wrong if it is done in this way."

I continue to read the editorial:

> No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

The words, "cheap compromise" are not mine. They come from a supporter of the bill. I plead with Senators to think about what they are doing. It is not worth it. Too high a price is sought to be paid. The proponents of the bill will achieve their goal if they can have the bill passed without this provision in it. Perhaps the goal can be achieved in a better fashion if the Talmadge amendment is adopted. Certainly the goal would be achieved in a manner which would be nearer within the framework of the Constitution than it would be if the Talmadge amendment were rejected.

Justice Black stated further in the Barnett case on this same subject:

> Assuming, however, that a U.S. court of appeals does have jurisdiction to try criminal contempt cases, I agree for the reasons set out in part A of my Brother Goldberg's dissenting opinion that Congress has commanded that defendants in those cases be accorded a right to trial by jury. His powerful arguments on this point stand unanswered by the Court. Even in construing statutes governing civil cases we have taken pains to resolve all doubts in favor of trial by jury as guaranteed by the seventh amendment. We should certainly be equally alert to construe statutes governing trials for criminal contempt so as to protect the right of jury trial guaranteed for the "Trial of all crimes" by section 3 of article III of the original Constitution and for "all criminal prosecutions" by the sixth amendment.
>
> I think that in denying a jury trial here the Court flies in the face of these two constitutional commands. My reasons for this belief were stated in *Green* v. *United States*, 356 U.S. 165, 193—

To which I have already alluded, and from which opinion I have quoted.

Mr. President, I wish to point out the titles of the bill and the provisions in those titles that would permit criminal contempt proceedings to come into play.

In general, H.R. 7152 would authorize the Attorney General of the United States to enforce various provisions, which are punitive in nature, by instituting injunctive proceedings in the name of the United States, in which no trial by jury may be had.

Under the bill, the Attorney General could, by authorizing proceedings in a court, set up the means for declaring an action to be criminal contempt. It could be done in the name of the United States, so that it would become immediately the power of Government over the individual.

The authority in the Attorney General is found in titles I, II, III, and IV. Title VII, to which reference was made a while ago, would authorize an Equal Employment Opportunities Commission to institute enforcement proceedings in a U.S. district court to enjoin a respondent from engaging in unlawful employment practices.

There would be two sources from which proceedings could be instituted—the U.S. Attorney General and the Equal Employment Opportunities Commission, which the bill would create. As I recall, the bill contains a provision under which an individual might institute suit himself if he could get the permission of one member of the Commission. That is my recollection. An individual citizen would not be permitted to sue to protect his rights for an injunction under title VII unless he could get a member of the Commission to permit him to do so.

If a citizen has a grievance, and a question arises as to whether a right which he possesses has been violated, and he has a remedy under the law, it would not be right to take that remedy away from him and say that he could not pursue it without the permission of someone on a board that we would establish. Such a provision would be clearly out of line with justice. The aggrieved person might have a good case, and a member of the board might agree to let him bring suit. But if the individual should bring suit on his own under the bill without the sanction or approval of some member of the Commission, the suit would be subject to dismissal, which would occur, I assume, if the court exercised its authority.

The provisions of the Civil Rights Act of 1957, relating to punishment for contempt without trial by jury, would be continued as to title I of H.R. 7152—voting rights—and would be made applicable to title II—public accommodations. The provisions of the 1957 act, referred to, authorized criminal contempt proceedings without a jury at the discretion of the judge; however, if the sentence of the court upon conviction exceeds a fine in excess of $300 or imprisonment in excess of 45 days, the accused may demand a trial de novo before a jury.

Such a provision would place a defendant in jeopardy twice. He would come before a court, where proceedings would be held. I am not clear as to what they would be. The court would say, "You are guilty. Therefore, you should be punished."

The court might look at the statute and say, "I cannot give the defendant a sentence of imprisonment for more than 45 days. He ought to have a term of imprisonment of 100 days. I cannot impose a fine of more than $300. The defendant ought to be fined $2,500. So I find him guilty and now order a trial by a jury, so that the defendant may receive a heavier punishment than I am permitted to give under the law."

The judge of the court would have found the defendant guilty once.

The defendant would be put on trial de novo. What does "de novo" mean? It means that the defendant has already been tried once. Since the court has decided that the case is a very serious and aggravated case, the judge feels that the defendant ought to have more punishment than the court could inflict upon him, and the court would order the defendant tried by a jury. The jury would try him.

Let us assume that the jury should find the defendant not guilty. What would the situation be then? The court had already found the defendant guilty. Does he have the power to set that verdict aside and say, "I have already found the defendant guilty. The only remaining question is one of punishment. Therefore, I will inflict the maximum punishment that I can inflict."

Would a jury trial in such a case protect the rights of a defendant? I am not sure. I do not think anyone is. The defendant would have been put in jeopardy twice. There is no doubt about that. The jury that would try such a defendant would probably not acquit the man, because the jury that would try him would know that the court had already found him guilty before he sent the defendant to the jury in the first place and before a trial de novo before a jury was granted in the court's mind.

In the judge's mind, the defendant would be guilty, or the judge would not have called for the jury trial.

Mr. President, there are right ways and wrong ways in which to do things.

Even though one might contend that the provision is right, without arguing that point for a moment, the proponents of the measure seek to bring it about in a wrong way, and in a way that would be vicious in its consequences toward constitutional government.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I am happy to yield.

Mr. LONG of Louisiana. Has the Senator from Arkansas noticed that the provision is spelled out on the basis that a defendant should be permitted a jury trial if he is to be fined more than $300? I ask the Senator what would be the defendant's situation, so far as concerns the cost of defending himself, even if he were innocent. The judge who would first try a defendant might find him guilty. Then he might say that he would undertake to fine him more than $300—let us say $500. In that case the man would be required to hire a lawyer or continue to pay a lawyer at considerable expense, including the expense of bringing to the court the necessary witnesses.

I ask the Senator if, from a financial point of view, a defendant might not jeopardize himself more by defending himself twice, first before the judge, and the second time before a jury, and if it would not cost him more to defend himself than to pay the fine to begin with.

Mr. McCLELLAN. That could result. No one can justify such a procedure. He will be found guilty before he is even tried, by the court that is going to sit in judgment and preside in a proceeding before the jury, if the judge thinks the fine should be more than $300 and he should be imprisoned for more than 30 days. There must be a determination before he is entitled to a jury trial. Who is to make the determination? Nobody but the judge. When he has made such a determination, he has made a determination of guilt.

Mr. LONG of Louisiana. Will the Senator yield for a further question?

Mr. McCLELLAN. I yield.

Mr. LONG of Louisiana. Did not the problem that caused the Supreme Court to write the divided decision arise in the case of former Governor Barnett, of Mississippi?

Mr. McCLELLAN. That was the latest decision.

Mr. LONG of Louisiana. Was that not one of those cases in which the Federal Government undertook to impose its will on the people of Mississippi? In doing so, the Federal Government feels it wants a martyr and wants to put the man in jail. Therefore, the Federal Government determines that there is not going to be a trial before a jury which may find the Government to be the culprit, rather than the man the Federal Government wants to punish.

Mr. McCLELLAN. I am sure that in that particular case the Government did not want the defendant to be tried by a jury. The Government might be justified in that feeling. I am not saying it is not justified. But I am saying that the jury system is destroyed if the position is taken that in this particular kind of case a jury will not be permitted to decide, because of the feelings of the people, where emotions are involved, and the people have ideas contrary to the concepts of the court, and that a jury ought not to try the issues, but the case ought to be reposed in a judge, so that the Government may be sure of a conviction.

My point to Senators who are supporting the bill is that if the bill is enacted without the Talmadge amendment—assuming the substitute amendment is adopted—they will be saying that we are abandoning, in this degree and this character of case, the constitutional guarantee of trial by jury in criminal cases. They are criminal cases. They carry with them a punishment fixed by statute. There must be an adjudication of guilt.

What we are talking about now is an illustration of the many defects in the bill that will have far-reaching consequences. I say it for the record, Mr. President. I say it for the public who are interested. I say it to every patriotic citizen of this country. The end the proponents seek does not justify the means they seek to employ to attain that end. Granted everything they say about the worthiness and the merits of the object, it does not justify the destruction of the right of trial by jury. More harm would flow from it than any good that would be achieved.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. McCLELLAN. I yield.

Mr. LONG of Louisiana. Does not the very nature of the Dirksen-Mansfield amendment——

Mr. McCLELLAN. If I may interrupt, I like what the editorial said about the amendment. I did not say it, but I like what it says. The editorial reads:

> Under the Senate compromise the fine remains the same but the maximum jail sentence drops to 30 days. What nonsense.

The principle is there. The only question is whether defendants will be put in jail for 30 days or 45 days. The principle is the same. If I must go to jail, I would rather go there for 30 days than 45 days. The proposal makes that much of a concession. But I do not want to go to jail, even if a jury finds me guilty, much less if a judge, who has already made up his mind and is prejudiced in the first place, should send me.

Mr. LONG of Louisiana. Does not the nature of this amendment invite a judge who may have very strong feelings that the man is guilty to decide to try the man without a jury for the very reason that a fair trial before a jury might result in the jury's turning him loose?

Mr. McCLELLAN. I think so. There may be an exception now and then, but in most cases, there will be no jury trial. The judge will arbitrarily try the issue. He will not risk a jury trial. So the defendant does not have a chance. He will be tried by a prejudiced judge. By "prejudiced" I mean one who has already made up his mind on the issue. The judge will decide not to risk a jury trial, but fine the defendant and put him in jail for the limit under his jurisdiction. That would be the character of justice this type of legislation would generate.

If it is done in this instance, someone will try to apply it in another instance when he is not willing to trust a jury for the enforcement of a law. It will be said, "Congress did it once. Let us do it again."

We did it in 1957. What a tragedy. Now is the time to rectify that mistake, and not compound it by doing it again.

We are going to make the decision in the Senate. We cannot blame any court for it. We are going to make it here. I hope the American people will blame us if we do wrong; and I am sure they will. Let the Senators be the judge of what is right and wrong.

I will be my own judge.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a further question?

Mr. McCLELLAN. I yield.

Mr. LONG of Louisiana. Does not the amendment proposed by the minority and majority leaders place the judge in a position in which he might have to take a chance that a jury might embarrass him by finding the defendant innocent after the judge has found him guilty?

Mr. McCLELLAN. Of course; it would put the judge "on the spot." That is why I say most judges will not risk it. They will not take a chance. They will sentence the man to the limit under the judge's jurisdiction. The defendant will get the limit under the jurisdiction of the judge. That is what we can expect if the law is enacted in that way.

The bill is not going to be passed with my vote. I may be wrong. I have been wrong before. But I have an abiding conviction about this matter that I do not think any amount of arguing is going to change. I have not heard any argument yet that justifies this means to attain the end—to crucify the jury system in a bill merely because it bears the glowing title of civil rights. It would destroy a most precious right, a right that has protected many an innocent man from being incarcerated at the whim or will of a tyrannical judge.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. HILL. This is supposed to be a bill against discrimination. That is what the proponents of it say.

Mr. McCLELLAN. It would put black, white, yellow, blue, purple, and everybody else in jail, alike.

Mr. HILL. Is it not true that a murderer or robber or rapist or thief or traitor or any other criminal has the right to trial by jury?

Mr. McCLELLAN. Yes. It is true in my State, and I assume it is true everywhere else, that if I stole a $5 bill from the Senator from Alabama, I would be entitled to a jury trial.

I am entitled to a jury trial if I am sued for $20.

Mr. HILL. Then these people might be charged with a violation of the so-called civil rights bill who would be discriminated against and denied the rights all other people would have if charged with some offense.

Mr. McCLELLAN. They would be discriminated against as to race, color, or religion. It would be discrimination because of the character of the accusation against them. In other words, we would be saying, "You are not entitled to a jury trial." But as the Senator points out, all the way up from a petty thief who stole only $5 to the one who is a rapist and murderer, would be granted a jury trial.

Mr. HILL. Even the traitor is granted a jury trial.

Mr. McCLELLAN. Yes; a traitor to his country would be granted a trial by jury, but in the civil rights area one is not entitled to anything except 45 days in jail.

### TITLE I—VOTING RIGHTS

This title would continue the authority of the Attorney General, vested in him by the Civil Rights Act of 1957, as amended by the Civil Rights Act of 1960, to institute injunctive proceedings in Federal and State election cases involving voting rights.

In addition, section 101(b) provides that in any voting suits brought under the Civil Rights Acts of 1957 and 1960, in which the United States or the Attorney General is plaintiff, the Attorney General may request, and the chief judge of the circuit shall immediately designate—it does not call for any alternative, as I understand the language of the bill—a three-judge district court to hear and determine the case at the earliest practicable date. That means that in a three-judge court a jury trial would not be available to the defendant. Appeals from final decisions of such courts would lie directly with the Supreme Court of the United States.

Mr. HILL. Mr. President, will the Senator from Arkansas yield?

The PRESIDING OFFICER (Mr. INOUYE in the chair). Does the Senator from Arkansas yield to the Senator from Alabama?

Mr. McCLELLAN. I yield.

Mr. HILL. That means that if the Attorney General prosecuting the case does not want the district judge in that particular district to try the case as he tries other cases, he can obtain two more judges; is that not correct?

Mr. McCLELLAN. There is no doubt about it. We would be circumventing everything possible. We would be trying to anticipate, trying to make certain that everyone would be convicted.

Mr. HILL. We would be trying to circumvent what we speak of as due process of law.

Mr. McCLELLAN. The Senator is exactly correct.

Mr. HILL. The due process of law has been built up through the centuries, through the blood, the valor, and the fighting of our forebears.

We have fought and bled and suffered to preserve our individual rights, and to preserve our freedom and our liberty. Now we seek to circumvent all these great Anglo-Saxon procedures; is that not correct?

Mr. McCLELLAN. That is true.

I point out what was stated in the House report on title I:

> Title I is designed to meet problems encountered in the operation and enforcement of the Civil Rights Acts of 1957 and 1960, by which the Congress took steps to guarantee to all citizens the right to vote without discrimination as to race or color.
>
> To help meet the problem of lengthy and often unwarranted delays which have occurred in the course of judicial proceedings under the prior acts, title I would require the courts to give priority to voting cases brought by the United States or the Attorney General and would authorize and direct the appointment of a three-judge court, upon request by the Attorney General, in cases brought under the 1957 and 1960 acts.
>
> Discriminatory use of literacy tests and other devices by registration officials is dealt with by the requirements in title I that such officials apply uniform standards and by the prohibition against their disqualifying an applicant for immaterial errors or omissions in papers requisite to voting in Federal elections. In addition, title I would require that, with respect to Federal elections, literacy tests be in writing (unless the applicant requests and State law authorizes a nonwritten test) and would create a rebuttable presumption that an individual who has completed the sixth grade possesses sufficient literacy to vote in Federal elections.

The implication, although it is not expressed if one reads between the lines, is that one of the purposes of title I is to amend the 1957 act so that immediate convictions can be obtained. That is its general objective.

### TITLE II—PUBLIC ACCOMMODATIONS

Section 204(a) authorizes either the person aggrieved, or the Attorney General, if he is satisfied that the purposes of the title will be furthered materially, to institute proceedings for an injunction to terminate any prohibited discriminatory action.

Section 204(c) provides that where the alleged discriminatory conduct is also prohibited by State or local law, the Attorney General must first notify State or local officials and afford them a reasonable opportunity to act, before instituting proceedings himself. However, if the Attorney General certifies to the court that the delay would adversely affect the interests of the United States, or that compliance would prove ineffective, he can institute injunctive proceedings without complying with section 204(c).

That is granting a great deal of power to the Attorney General. He uses his discretion and exercises the authority to proceed upon his own judgment.

As noted previously, the provisions of the Civil Rights Act of 1957 are made applicable to proceedings under title II, so that an accused may be tried for contempt initially without a jury, at the discretion of the judge. However, if tried without a jury and convicted and sentenced to a fine in excess of $300 or imprisonment in excess of 45 days, the accused would have a right to demand a new trial before a jury.

The accused would be placed twice in jeopardy—which I have been arguing in the other instance. The accused would be placed twice in jeopardy, with a shadow hanging over the jury trying him the second time, and the shadow of conviction of the judge presiding in the court where the jury is sitting where the accused is being tried. Is that impartiality? Is that fair and impartial, nonprejudiced, unbiased?

There is not a lawyer defending a man, guilty or innocent, who would take a judge or a jury under those circumstances; yet he is up there with the power to declare guilt, and with the power, then, to impanel a jury, to try the poor defendant sitting there under the frown of the judge who has already convicted him. His only hope would be that the jury would give him a fair trial under those conditions.

The Supreme Court would not wait 10 seconds to reverse a sentence of capital punishment conviction where such an atmosphere prevails. I do not know whether the Supreme Court would uphold this situation or not. I know that it should not. But it might do it.

Criminals are walking the streets and breathing the air of freedom today who have been turned lose by the Supreme Court on less technical grounds than are found here.

Yet Congress is asked to enact such unfair procedures.

### TITLE III—PUBLIC FACILITIES

This title would authorize the Attorney General, under certain circumstances, to bring suit to desegregate public facilities—other than public schools or colleges—which are owned or operated by State or local governments. It would also authorize the Attorney General to intervene in pending actions in the Federal courts seeking relief from discrimination practices by State and local governmental units or officials.

Section 301(a) provides that when the Attorney General receives a signed complaint from an individual charging a denial of equal protection of the laws on account of race, color, religion, or national origin, through denial or restriction of the right to use public facilities by—other than schools—which are owned, operated, or managed, by or on behalf of any State or local governmental unit, he may institute proceedings in the Federal court and seek appropriate relief if he certifies that the signers of the complaint are unable to initiate legal proceedings for relief and that the initiation of a suit by the United States will further the national public policy favoring progress in the desegregation of public facilities.

Mr. President, today I submitted a series of amendments. I did so as soon as I was recognized by the Chair at the beginning of my remarks. The first amendment I submitted would require the Attorney General to exercise the same vigilance, the same diligence, and the same authority with respect to the enforcement of title I of the Landrum-Griffin law, which is the bill of rights for the workers of America as he would under the pending bill. It is just as important to the worker not to be denied a job by some corrupt union official, and it is just as much of a right as any right that we are dealing with here. If the Attorney General is to become the agent in the protection of so-called civil rights, he ought to be required to do the same thing in protecting the rights of the working people. Union members who pay their dues to their union should not be discriminated against by their officials by reason of the fact that they are not obedient to their demands. We ought to have the same rights enforced. I want to see if our liberal friends, who are so eager to protect human rights, are willing to protect the right of an individual who pays his dues to a union, and who has to pay his dues if he is to get any work, when a union misuses and abuses him.

It may be said that he can bring a suit. So can every other citizen. However, he must do it with his own means and resources. He must go up against the national treasury of the union. How long can he last? He cannot, Mr. President.

If we are sincere, if we are not motivated by politics, if it is not political expediency that we are concerned about at this time, but if we are genuinely solicitous about human rights, let us have the Attorney General also protect the union member who is abused and misused and who is denied the right to earn a living, in many cases, because he will not go along with the corruption, the malpractice, and the improper activities of some of his union leaders.

Certainly this situation does not prevail in every union. I am not implying that it does. I do know that it exists in some unions. It has existed in the past. I do not say that I favor such a provision. I do not, Mr. President. However, if we are to put the responsibility in the Attorney General at the expense of the taxpayers of this country to proceed in every little imaginary grievance which is charged on the basis of race, color, national origin, or religion, we ought to include in that authority and in that directive to the Attorney General the duty to see to it that the rights of union members, who pay their dues so that they can have the right to work and earn a livelihood, are not infringed upon by corrupt administration on the part of their officials. If it is right in one case, it is right in the other. I wish to make this test. I want to know who really wants rights protected.

Mr. HILL. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HILL. When a union official is charged with such corruption or malfeasance in carrying out his duties, he is given the right of trial by jury, is he not?

Mr. McCLELLAN. He has that right now.

Mr. HILL. It is written into the Landrum-Griffin Act. Is that correct?

Mr. McCLELLAN. That is correct.

Mr. HILL. He has that right now?

Mr. McCLELLAN. Yes.

Mr. HILL. The people who would be charged under H.R. 7152, the so-called civil rights bill, are denied that right. Is that correct?

Mr. McCLELLAN. The Senator is correct. I will not vote to take that right of trial by jury from anyone, a union member or nonunion member, black or white, Catholic or Protestant, or anyone else. They are all entitled to trial by jury.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SMATHERS. Does not the Senator agree that it is the rankest type of discrimination under our laws whereby a known criminal—bootlegger, burglar, pickpocket, rapist, or whatever he may be, and everyone charged with murder—automatically has the right of trial by jury, while decent people, who have offered to serve as members of school boards, or those who have chosen to operate their own businesses, and who have been charged with discrimination, are not guaranteed the right of trial by jury, as are criminals? Would the Senator not agree that that is the rankest type of discrimination against people who actually should be given consideration, if any special consideration should be given to any group. These are the people who serve on school boards, and people who have their own businesses. Yet we would take away from them the right of trial by jury, although it is guaranteed to criminals?

Mr. McCLELLAN. The Senator is correct. I said before, and I repeat now, that what we do in the process is to subtract from existing rights more than we create, if we try to do what is proposed to be done here. It is favoritism. I come back to the proposition that the bill as now drafted, and as it is proposed to be enacted, when enforced would destroy or diminish more rights that every liberal believes in—and I use that term with all due deference—than it would add to those that the proponents are trying to serve.

Mr. SMATHERS. Mr. President, will the Senator from Arkansas yield for another question?

Mr. McCLELLAN. I yield.

Mr. SMATHERS. Earlier today, the distinguished Senator from Wisconsin [Mr. PROXMIRE], who was then the acting majority leader, asked the able Senator from Arkansas if it was not true that the courts had always had the right to find people in contempt of court. As I recall, he cited a case from Arkansas and also other cases in which persons had been held in contempt by the courts.

At that time, the able Senator from Arkansas was also asked to comment about the difference between civil and criminal contempt. I wonder if the Senator would mind, in my fashion of propounding a question, my referring to a book entitled "The Contempt Power," whose author is Ronald L. Goldfarb, a distinguished jurist in the Department of Justice. Mr. Goldfarb makes this point with respect to jury trials in contempt proceedings:

> There has been, in the past quarter of a century, an increasing inclination to alleviate some of the procedural harshness of standard contempt procedures. Extension of the right to trial by jury has been a foremost example of this trend. This is at least in part reflective of generally changing attitudes toward the value of the jury method of trial.
>
> Like more earthly fashions, the vogue toward the worthwhileness of the jury system has had periods of rising and falling favor. Critics of the jury system in general have been as frequent and as vociferous as have been its advocates.
>
> Rather than digressing to enumerate the arguments, it should be only hastily noted that summary contempt procedures are most obnoxious to those who place faith and importance in the libertarian nature of trials by jury.
>
> It could well be suggested that, most peculiarly in contempt cases, the jury has a valuable role.

I remind Senators that this article was written by a liberal on the subject about which we are speaking today. I continue to read:

> First, it brings the public's attention and interest to a dispute which is usually an official, governmental one. Public enlightenment, even if only through jury representation, has been characterized as an "indispensable element in the popular vindication of the criminal law." This participation hopefully encourages popular understanding and acceptance of the administration of justice.

Mr. Goldfarb said there should be more jury trials, not fewer, because jury trials help to breed respect for the law. I continue to read:

> Second, the jury may serve as an insulation between the alleged offender and the offended party, who is sometimes the judge and sentencer.

In discussing the Green case, about which the Senator and I spoke, the Senator from Arkansas was most eloquent and persuasive about the need for jury trials, because judges sometimes become arbitrary. This is what Justice Black said on that particular point:

> The power of a judge to inflict punishment for criminal contempt by means of a summary proceeding stands as an anomaly in the law. In my judgment the time has come for a fundamental and searching reconsideration of the validity of this power which has aptly been characterized by a State supreme court as, "perhaps, nearest akin to despotic power of any power existing under our form of government."

I am sure the Senator from Arkansas would agree, as he has already said, that what we are talking about now is actually extending the right of the courts to find people in contempt and to punish them by fines and jail sentences without trial by jury. According to Justice Black, that is the nearest thing to despotic power that we can find in our system of government today. Justice Black continued:

> Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of not unwilling judges, until it has become a drastic and pervasive mode of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. McCLELLAN. What we seek to do is to place in the bill the 1957 congressional sanction upon usurpation of the powers conferred upon Congress by the Constitution. That is exactly what we are seeking to do.

Mr. SMATHERS. The Senator is absolutely correct. That is the best expression of what we are trying to do that I have heard thus far. It is now sought to have Congress give approval to that which was done and which, as Justice Black said, has "slipped into the law as a very limited and insignificant thing," with no legislative approval or constitutional approval. But now Congress is asked to give it its blessing.

Justice Black, a great jurist, and one who speaks the liberal point of view, said:

> Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of not unwilling judges, until it has become a drastic and pervasive mode of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society. Therefore to me this case involves basic questions of the highest importance for transcending its particular facts. But the specific facts do provide a striking example of how the great procedural safeguards erected by the Bill of Rights are now easily evaded by the ever-ready and boundless expedients of a judicial decree and a summary contempt proceeding.

Would the Senator from Arkansas not agree, as he has already agreed, that this statement reaffirms his argument?

Mr. McCLELLAN. It reinforces it. However, I never thought my judgment was infallible in trying to unravel and interpret legal problems or issues. This is reassuring and a reinforcement of the position many of us are taking. Four dissenting justices of the Supreme Court, in the Barnett case, have reinforced our position. The decision was by such a thin margin—by only one vote—that it ought at least to flash before every Senator a yellow light of caution; a warning to look and examine again before we act. That is what I think the decision signifies.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SMATHERS. Does not the Senator agree that it is very difficult to understand how those people, who say they are of the liberal persuasion and the liberal philosophy, can support the proposed legislation, which would deprive one of a jury trial? When they stop to remember and think that all of the great jurists we have had, the liberal judges, Justice Holmes, Justice Black, and Justice Goldberg in recent weeks and months, and the great liberal Senators, Senator Norris, Senator Borah, and all those who were great leaders in this great liberal movement, every one of those, without exception has said that what we need to do is to extend the right of a trial by jury to people in every situation, not to limit it, not to take it away, not to deprive citizens of that basic right.

Does it not appear to the Senator that there is a terrible inconsistency in the position taken by so-called liberals who are proponents of this bill? They are leaving their patron saint on this particular argument, not 50 percent, not 90 percent, but 100 percent. They are going exactly contrary to what all the great liberals up to this point have argued was the very essence and the core of liberalism insofar as individual liberty was concerned; namely, the right of a trial by jury.

Mr. McCLELLAN. They are placed in a conflicting position. I do not see how they can ride off in both directions. I do not see how they can rationalize it. They want a man to have a jury trial for the highest crime in the land. They want a man to have a trial for petty thievery. I am sure they do not want to abridge that right. And yet, if a so-called civil rights proceeding is involved, where their views were on one side and the views of the defendant on the other side, they do not want him to have a jury trial. They drag him in. They let the court accuse him. They let the court prosecute him. They let the court try him. And they let the court say: "You ought to be fined more than you are." But that would send it to the jury. What they will do is to give him the maximum fine and maximum imprisonment. The maximum imprisonment provided in this bill is 45 days. It would be 30 days under the Dirksen amendment. But that is what the result would be.

The proponents are talking about the usurpation of a constitutional power. That is not in the Constitution. And it was not conferred upon the courts. The editorial that I read from the Sunday Star of yesterday referred to it. I refer to it as usurpation. The editorial referred to it as "criminal contempt." Speaking of definition, the editorial said:

> It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they considered to be a past violation of one of their orders.

It is an invention, according to this editorial supporter of the bill. I say it is usurpation of authority which four out of the nine members of the Supreme Court have recognized and condemned for what it is.

In my judgment, somebody will rue the day the right to a jury trial is taken away in certain cases, where, perhaps on both sides there is a great deal of emotion and prejudice. It would be a tragic mistake.

We talk about the power of the Attorney General. On his judgment, he can make a certification, to go to court, determine whether it is against national policy, and proceed. It is not intended that the determination upon which the Attorney General's certification is based should be reviewable.

There is another great weakness in the bill. The Attorney General has sole discretion to make a determination. And that cannot be reviewed in the courts. However arbitrary that determination may be, however unfounded it may be upon the facts or upon law, or upon all of the elements that are appropriate for consideration in that determination, the decision and determination by the Attorney General cannot be reviewed in the courts. It becomes final. Action proceeds.

Public schools and colleges are excluded from the class of public facilities covered by this section, since they are dealt with in another title. That is the only reason they are excluded. They are dealt with in title IV. The Attorney General would be authorized to implead as defendants such additional parties as may become necessary to the granting of effective relief.

The Attorney General, when he intercedes, can implead as defendants a dozen additional defendants. The Attorney General makes the decision as to who shall be the other defendants. The language is not, "with the permission of the court." The Attorney General does it.

There have been some good Attorneys General. I have no personal feelings with regard to any of them. Since I have served in Congress, the Attorneys General have always been very pleasant. They are agreeable. They are human. They make mistakes. I disagree with them sometimes. But they are not infallible.

Whatever authority or power we grant and repose in others by law, cannot be on the assumption that the particular individual will use it wisely, and that all who occupy the position hereafter will use it wisely. If a power can be abused, the place to curb it is in the law. It should not be taken for granted that no one will ever abuse it. Put the curb in the law. Put the restrictions there to require the review that the courts ought to give it. At the time the law is enacted, place it in the statute. Place the safeguards in the law, and do not entrust them to the discretion of infallible human beings.

When we do that, we shall have a government of men, and not of law. Discrimination should be spelled out, where it can be, by law. Let us keep our Government a government of law, and not let it drift into a government of men—not by our action here, or by the character of legislation we enact.

Mr. President, this is serious. It is said: "This will not amount to anything." Do not start trifling with it. We have already trifled with it too much. I pointed out a while ago that there are men running loose in this country who have been acquitted by the Supreme Court on technicalities after having had a jury trial. They are running free today because of our desire to protect people against having their rights usurped and trespassed upon.

We would rather let a guilty man go free occasionally than to establish a precedent which would ensnare, trap, and condemn an innocent man. That is the philosophy of our courts and our law.

Yet under the bill it is proposed, to gain an end that some think worthy, to throw to the wind safeguards that are so important to us. We would settle for that which is expedient now, so that we might thrust out our chests and say, "What a great victory we have achieved. We were able to overpower the minority. We have done it, boys. Here she is."

But if the bill is passed with the defects which I have pointed out in it, we shall have done much more than to achieve the goal of the bill. We shall have destroyed rights, constitutional protections, and guarantees that have made it possible for freedom to survive and for democracy to thrive under our system of government.

I ask Senators to be careful what they do. It will be too late after we have acted. The red signal is flashing every day, every hour, and every minute of this debate. Senators may not heed it, but it is there. The signal comes not from the old southern mossbacks, the unreconstructed rebels, as they might be called, but in many instances, from supporters of the objective of the bill who deplore the means which have been employed to achieve its passage.

Mr. HILL. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HILL. The Senator is making such an able and appealing address that I hesitate to interrupt him, but in reference to what he has said, would he not agree with the following statement of Mr. Ronald L. Goldfarb, of the Department of Justice, in a recent book by Mr. Goldfarb entitled "The Contempt Power," published by Columbia University Press:

> It could well be suggested that, most peculiarly, in contempt cases the jury has a valuable role. First, it brings the public's attention and interest to a dispute which is usually an official, governmental one. Public enlightenment, even if only through jury representation, has been characterized as an "indispensable element in the popular vindication of the criminal law." This participation hopefully encourages popular understanding and acceptance of the administration of justice. Second, the jury may serve as an insulation between the alleged offender and the offended party, who is sometimes the judge and sentencer.

Mr. McCLELLAN. The Senator is correct. If the bill should pass, that is exactly what would happen. The Senate made a mistake in the 1957 act. I did not vote for the measure; I am sure that the Senator from Alabama, who is now engaging in colloquy with me, did not vote for it, though I have not looked at the RECORD——

Mr. HILL. I assure the Senator that I did not vote for it.

Mr. McCLELLAN. We make a mistake in reference to the 1957 act. By the amendment of the Senator from Georgia [Mr. TALMADGE], we hope to rectify that mistake. We hope to correct it and get back on a constitutional course. It will not be a court which will make the decision; it will be the Senate. If we make the decision and stick to it, I believe we can be pretty well assured that the House will go along with us. I do not speak for that body, of course. But it will not be done—it cannot be done unless the Senate does it first.

I should like to proceed a little further in my speech.

Section 301(b) provides that the Attorney General may deem a person unable to initiate and maintain legal proceedings within the meaning of subsection (a) when such person is unable to bear the expense of litigation or to obtain effective legal representation, or when, in his judgment, the institution of such litigation might jeopardize his employment or otherwise result in injury or economic damage to himself, his family or his property.

Mr. President, the same principle should apply. The Attorney General should have the same power, the same directive, and the same duty in cases in which men are union members, paying their dues, and where their right to earn a livelihood has been taken away from them. The principle ought to apply in those cases as well as in the type of case which we are now discussing. I wish to see if the Congress is willing to do that. I shall seek to have such an amendment voted upon by a yea-and-nay vote. I do not see why we cannot include union members in such a proposal. Some of them cannot bring a suit. They have not worked for a sufficient length of time. They have been deprived of work. Some of them cannot bring a suit without fear of reprisals against them and without actual reprisals being imposed upon them. I wonder if we will let the Attorney General do it. I hope we shall. If it is to become the procedure, the practice and the philosophy of our Government that the Federal Government, with the mighty power that it can command, sometimes constitutional and sometimes even beyond the Constitution, can reach into the affairs of citizens throughout this Nation, into community life—into family life even—and undertake to tell people what they must do and what they cannot do, and empower the Attorney General of the United States, in cases in which he believes some wrong is occurring, to bring a suit under the conditions prescribed here, the procedure ought to apply to people who pay union dues. In many instances they must do so if they wish to work. They should be protected. Their meager resources will not enable them to litigate against the treasuries of the international unions.

Section 302 authorizes the Attorney General to intervene in any action brought by a private person to obtain relief from a denial of equal protection of the laws because of race, color, religion, or national origin.

Mr. President, a man who is denied the right to work ought to have the same right when he will not go along with the corrupt administration of his union.

It would thus permit the Attorney General to participate in suits alleging denial of equal protection of the laws for the reasons stated, such as suits seeking to remedy official mistreatment, abuse, or denial of rights to Negroes because of their race or color. The public facilities covered by title III are those which are State owned or managed, and would include State-owned amusement parks, golf courses, recreational areas, public auditoriums, libraries, courtrooms, and all other State-operated or municipal-operated institutions.

### TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

This title would authorize the Attorney General to institute suits seeking desegregation of public schools where the students or the parents involved are unable to bring suit and where he considered that a suit would materially further the public policy favoring the orderly achievement of desegregation in public education.

Section 407(a) would authorize the Attorney General to institute civil suits in the Federal district courts in order to achieve desegregation in public schools and colleges. He would be able to bring suit whenever he received a written complaint from parents that the school board in their district had failed to achieve desegregation, or from an individual that he had been denied admission to, or continued attendance at, a public college by reason of race, color, religion, or national origin. As a prerequisite to suit, the Attorney General would be required to certify that the signers of the complaint were unable to initiate or maintain appropriate legal proceedings for relief, and that the institution of an action would materially further the public policy favoring the orderly achievement of desegregation in public education. As was the case under title III, the Attorney General's judgment that the complainants are unable to seek effective legal protection is not subject to review, judicial or otherwise.

Here again a determination will be made that involves the lives and happiness of people, which could finally affect their freedom and liberty, and possibly bring about incarceration under a contempt proceeding. Yet, such discretion by the Attorney General is not reviewable by any court. Once it is made, it becomes, in effect, for the purpose of the proceedings, final, and becomes the law of the land, so to speak.

Section 407(b) provides that the Attorney General may deem a person unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) if such person is unable to bear the expense of litigation or to obtain effective legal representation or when the Attorney General is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their family, or their property.

This is one of the most inconsistent proposals in the bill. The Federal Government is undertaking to exercise a power, and it is saying that the Government will step in and bring the suit if the Attorney General finds that if the individuals brought the suit it might result in injury or economic damages to such person or persons, their families, or their property.

Yet, in title II, the economic welfare of the individual who has a business, and who is told he must integrate that business and must provide accommodations for everyone, irrespective of how much damage it does, irrespective of the fact that it may result in his having to close his business, irrespective of the fact that he will suffer economic losses, is not taken into consideration. On the other hand, the same Government is saying that if it is found that somebody, by bringing such a suit, might sustain a loss in order to protect his rights, the Government will step in and do it for him.

It is inconsistent. In my opinion, it is not characteristic of Government integrity to carry water on both shoulders, so to speak.

One must press for the right and oppose the wrong. Here the attempt is being made to make right wrong, and wrong right. I do not see it.

I cannot, for the life of me, see why the Government should not be interested in trying to protect defendants and save them from economic loss if a situation exists in which they might actually sustain a loss. Such property belongs to a person. A person's property cannot be taken in order to build a highway through it, or make a park out of it, or make room for an urban renewal project, without the Government paying the defendant for the use of the property.

But under the bill before the Senate, a man could be told, "Sir, you are going to serve people whom you do not want to serve, whom your business was not established to serve. You are going to do it, at your financial loss, even if it means closing your business or going bankrupt. You are going to do it or suffer the penalties of the law."

It does not seem right to me. Some say, "People ought not to be prejudiced." Not a Member of this body as presently constituted, nor anyone who has preceded us, nor anyone who will come after us, is without some prejudices. That is human nature. Prejudice is not going to be eliminated by law. It can be aggravated. There may be a government of force. There may be obedience of the law by the jailing of a few people, and so forth. But, in the hearts of men, an injustice will be done to both races, and to everybody concerned, because force does not breed good will. It creates and nurtures ill will, smoldering resentment—call it hatred, if you will. This is not the way to bring about a better relationship between the races or between religious groups.

Patience, tolerance, teaching, enlightenment, the processes of evolution, and not the processes of revolution by force, are the way to achieve lasting good.

It is said, "Relief must come more quickly." It may come more quickly on the surface, but it will not be made to come any quicker in the hearts of men; and that is the only place where it will endure.

Again, I ask Senators to watch the yellow flashing light——

**Mr. HILL.** Mr. President, will the Senator yield for a question?

**Mr. McCLELLAN.** I yield.

**Mr. HILL.** Was it not the very action by force that caused our fathers to revolt and the revolution to come about, after which was established a government in which the individual might be free in his person and free in the use of property, without Government interference?

**Mr. McCLELLAN.** We put the question on the basis of race and color. There is not a right enjoyed today by a white man who owns property that is denied to a Negro who owns property. A Negro can have a restaurant which serves only his people, if he so desires; and no white man would have a right to invade it or trespass upon it. The Negroes can have clubs, if they want to have them. It is said, "They are not economically able to do all these things."

Our forefathers were not able to do many of those things, but in the course of time, they became able. Most of them believed in thrift, industry, ingenuity, personal responsibility. They created many of those things. There is no reason why in the United States today a Negro cannot advance. It is said, "You will not give them jobs." We give them jobs. They will not be given the top jobs until they become qualified for them, of course. It is said, "They ought to have such jobs." The answer is that they must develop and prepare themselves for such jobs.

It is said that the white race is progressing. No one denies that. But just to say we must legislate that which cannot be achieved except by the processes of evolution is a grave mistake.

### TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

This title establishes an Equal Employment Opportunity Commission which would be empowered to receive and investigate charges of discrimination on the account of race, color, religion, or national origin, and to attempt through conciliation and persuasion to resolve disputes involving such charges. If conciliation is unsuccessful, the Commission would be authorized to seek judicial relief against such discrimination. In the event that the Commission failed or declined to bring a suit within a specified period, the individual claiming to be aggrieved, may, with the written consent of any one member of the Commission, bring a civil action to obtain relief.

Relief available upon suit either by the Commission or an individual would include injunction against further violation and orders for reinstatement and, in appropriate cases, the payment of backpay.

The Commission itself would issue no enforcement orders. However, if its efforts to secure voluntary compliance fail, the Commission is authorized to seek relief in the Federal court where a judge, or a master appointed by him, will hear the matter de novo.

The enforcement provisions of this title are contained in 707. The first stage would be the filing of a charge in writing under oath by or on behalf of a person claiming to be aggrieved, or the filing of a written charge by a member of the Commission, alleging that an employer, employment agency, or labor organization, has engaged in an unlawful employment practice as set forth in sections 704 and 705. After furnishing copies of the charges to the individuals or organizations against whom charges have been made, and making an investigation of the charges, if two or more members of the Commission believe that reasonable cause exists for crediting the charge, the Commission must endeavor to eliminate the unlawful employment practices by informal methods and, if appropriate, to obtain from the charged party a written agreement describing the practices which he agrees to refrain from committing.

Section 707(b) provides that if informal methods have failed to eliminate the unlawful employment practices, the Commission, if it determines that there is reasonable cause to believe that that charged party has engaged in, or is engaging in, an unlawful employment practice, shall bring a civil action within 90 days.

Section 707(e) provides that if the court finds that the charged party has engaged, or is engaging in, an unlawful practice as charged in the complaint, it may enjoin him from engaging in such practice and shall order him to take such affirmative action as may be appropriate.

Section 707(f) permits the court to appoint masters to hear the evidence in these cases.

Mr. President, my purpose in commenting upon and analyzing the titles to which I have referred was to place in my remarks the basic provisions of those titles of the bill out of which may spring contempt proceedings, proceedings in which I insist the defendant should have the right to be tried by a jury.

The imagination, in the activities enumerated and covered by the provisions of the titles which I have read, cannot expand in either width, depth, or length sufficiently to envision all the different characters of cases and the kinds of incidents which may prompt the institution of proceedings for contempt under these titles; yet the basic issue which I have described this afternoon is the right to a trial by jury.

Do we believe this situation will not have repercussions? There will be a multitude of innumerable proceedings growing out of the proposed legislation, if it should be enacted.

I beg, I plead with Senators tonight to get the criminal processes back on the constitutional track.

If we depart from them now, the temptation will be to depart from them again, when we may believe at the moment that the end may justify the means.

The safe thing to do for America, the safe thing to do for everyone intending to be helped by this proposed legislation, the right thing to do constitutionally, the right thing to do morally if we believe in the philosophy that people are innocent until proved guilty, if we believe in that dogma, is to preserve jury trials.

If we do not believe in that right, if we are ready to abandon it, this bill will be a good start. Voting for the bill as it is would be a good start. It is not the final step, but it is an initial step, an important one, and a significant one in the direction of the abandonment of jury trials.

We may say that there are plenty of other rights. That is true. Today, the petty thief is granted a jury trial, but if one violates in any degree an injunction which the court has issued in a civil rights proceeding, if Congress should enact this bill, or if the court believes a man has violated the order, he can be hailed into court and fined. No proceedings are prescribed. The judge can arbitrarily call him before him and say, "You have violated my order. I fine you $300, and I sentence you to 45 days in jail."

It may be said that the situation would be ameliorated by the amendment of the distinguished Senator from Illinois [Mr. DIRKSEN], the minority leader, cosponsored by the Senator from Montana [Mr. MANSFIELD], the majority leader, and that the sentence would be cut down, that the fine would be left at $300, but that the jail sentence would be cut down from 45 to 30 days. That may be all very well, but we shall not have removed the disease. The principle will still be there. It is just as right, if a man is guilty and should be punished, to sentence him to 45 days in jail, if the offense is that serious, without a jury trial, as to sentence him to 30 days if the offense is somewhat less, without a jury trial.

The principle is the same. It is wrong in our system of government and in our system of jurisprudence. It is a violation of the Constitution to do it. The courts have followed that practice, but four members of the Supreme Court—three of them the most liberal members of that Court, who have been regarded as great liberals, and who have been honored for it—have said that this is an authority which the courts have usurped, and that the time has come to stop it. They were not able to stop it. They needed only one vote, but they did not get that one vote, to stop it.

We can stop it here in the Senate. This is the place to do it. The people of the United States who believe in freedom and justice know that this is the place where they must look. They have no alternative. I do not think we should fail them. I do not think we should fail ourselves.

Mr. President, the yellow light is flashing: Caution. Caution. We must beware and look before we proceed further. We must not turn our eyes from it. We must not disregard it. We must see it. We see it, unless we are blind. That yellow light is flashing. It will continue to flash throughout the further consideration of the bill. This is only one aspect of the bill that ought to be corrected.

It should be corrected if we want a good bill, assuming that the ends are justified, and assuming that the final goal and objective of the bill are worth enactment of the bill. Assuming all that, there are still a number of things in the bill that ought to be extracted from it before it becomes law, because they do irreparable violence to constitutional rights which all of us have cherished, and which are essential to the preservation of this great country of ours and the liberty that we enjoy.

Look. Listen. Beware. Proceed with caution. Let us correct the situation. We have the duty to do it. We have the opportunity to do it.

It is said that we must pass the bill. We may pass one. At the moment that is not the point. What kind of bill will be passed, in this headlong rush to do it, in which the purpose is to overpower the minority and force enactment of the bill?

That is not sufficient to justify us in proceeding without caution, without deliberation, without judgment, and without exercising the wisdom that the seriousness of the matter dictates.

Mr. HILL. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HILL. Is it not true that the justices of the Supreme Court who did not agree with the four justices in their insistence on the right of trial by jury really predicated their decision on the proposition that Congress, in title 18 of the Code, has provided that where the United States initiates a suit there shall not be a jury trial in a criminal contempt case? Therefore the burden is squarely up to Congress. The challenge is for Congress to correct. We must make certain that we follow the Constitution and that we grant this precious right of trial by jury to all who come to trial. Does the Senator agree?

Mr. McCLELLAN. The Senator is correct, except that I would emphasize again that the initial obligation now is on the Senate. We say Congress, of course. However, if the Senate does not act, the House cannot act on the bill, because it has already passed the bill. If the bill goes to conference without such a provision in it, without the Talmadge amendment or a similar amendment included in the bill, the situation cannot be corrected. The place to correct it is the Senate to which the people must look at the moment. Those who have a conviction about the preservation of trial by jury must look to the Senate at this hour.

Mr. HILL. The responsibility, the duty, the obligation, the challenge is in the Senate.

Mr. McCLELLAN. Yes. I have not heard, and there will not be heard in this Chamber a voice that can bring to bear the persuasion, the conviction, and the convincing power to justify the denial of trial by jury. Why? Why? Is it because we have no faith in the jury system or in a law of this character? That is the only answer, because there is no proposal to repeal the right of trial by jury for a petty thief. There is no proposal for the repeal of a law for trial by jury for a rapist-murderer. No; they are entitled to it. However, when we get to civil rights, when someone may be technically violating a court injunction, we say he is not entitled to a trial by jury, and we jerk him up in the same court that issued the order, and the judge becomes the accuser, the prosecutor, and the judge, who assesses his guilt and then fixes the penalty.

Mr. President, who calls that justice? I do not.

The Senate can pass all the bills it wishes to pass with such a provision in it, and they still will not represent the American justice that the framers of the Constitution envisioned when our Government was established.

I yield the floor.

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## CIGARETTE ADVERTISING REFORM—A GOOD BEGINNING

During the delivery of Mr. McCLELLAN's speech,

Mrs. NEUBERGER. Mr. President, this afternoon, the major cigarette companies unveiled a new cigarette advertising code, a code which appears to impose standards and enforcement procedures for the self-regulation of cigarette advertising far beyond the meager efforts of the recent past.

To be sure, there are defects in the code. Unhappily, it fails to require adequate effective warning in cigarette advertising and labeling, a requirement that most objective observers have long considered essential if the full impact of the hazards of smoking are to be brought home to the American people.

But the code should effectively eliminate those most offensive appeals to adolescence and immaturity which have too long scarred the face of America's advertising media.

Thus, the code provides that:

(1) Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction.

(2) Testimonials from athletes or celebrities in the entertainment world, or from other persons who might have special appeal to persons under 21, shall not be used.

(3) Cigarette advertising shall not appear in school, college, or university media, or in comic books or comic supplements to newspapers.

(4) Sample cigarettes shall not be distributed to persons under 21.

(5) Promotional efforts shall not be conducted on school or college campuses or in fraternity or sorority houses.

(6) Cigarette advertising shall not appear on television and radio programs, or in publications, directed primarily to persons under 21.

(7) Persons depicted in advertising as smokers must be at least 25 years of age and must appear to be at least that old.

I note, with much satisfaction, that this list of proscribed abuses includes many to which I have, in the past, taken strenuous objection.

Moreover, the code sets stringent standards and tests for bringing order out of the chaos of filter claims.

The largest single advertisement in the college newspaper I have in my hand is one for a brand of cigarettes. It urges students to smoke a great deal, so that they can submit a larger number of empty packages in order to win certain prizes. Such an activity would be done away with under the code.

Most important, the tobacco industry agrees to the prior submission of all advertisements to an independent czar, who has been given "complete and final authority" to approve or disapprove all advertisements and to impose fines up to $100,000.

But the code will not enforce itself. A crucial test will be the choice of an administrator with uncommon ability and integrity. Moreover, we will expect that the companies which make up the industry will conform, as they have not done in the past, with the spirit as well as the letter of the code.

We will, then, wait and see. But today's action by the industry gives promise of being more than another public relations gesture—promise indeed that the blight of seductive and misleading cigarette advertising may yet be cured by voluntary action.

Mr. President, I ask unanimous consent to have printed at this point in the Record the text of the cigarette advertising code.

There being no objection, the code was ordered to be printed in the Record, as follows:

## CIGARETTE ADVERTISING CODE

### STATEMENT OF PURPOSES

The purposes of this code are to establish uniform standards for cigarette advertising and to provide means whereby compliance with this code can be ascertained promptly and fairly and on a consistent basis.

### *Article I—Definitions*

Section 1. "Advertising":

(a) Means all forms of advertising in, or primarily directed to, the United States, Puerto Rico, any territory or possession of the United States, or any military installation of the United States, including, but not limited to, radio, television and cinema commercials of all types, newspaper and magazine advertisements, billboards, posters and signs, subway and rail or bus car cards, automobile and truck decals, posters and signs, calendars, pamphlets, handbills, matchbook advertising, and point of sale display material of all types;

(b) Includes any written material or article or excerpt therefrom, not otherwise advertising, when used for promotional purposes;

(c) Includes labeling; namely, the display of written, printed, or graphic matter upon any portion of the package, carton, or other container in which cigarettes are packaged or shipped by the manufacturer; but

(d) Does not include the entertainment portion of any television or radio program.

Section 2. "Cigarette" means any roll of tobacco wrapped in paper or in any substance other than tobacco.

Section 3. "Representation" means any statement, reference, or claim, express or implied, direct or indirect, whether in oral, written, printed or graphic form, or in any combination of such forms.

### *Article II—The code administrator*

Section 1. There shall be a code administrator who shall be a person of recognized independence, integrity, and intellectual achievement to the end that decision by him shall command public confidence and respect. The administrator shall have all of the powers and authority necessary and proper to enable him to discharge effectively the responsibilities entrusted to him by this code.

Section 2. The administrator shall have complete and final authority to determine whether cigarette advertising complies with the standards of this code and to enforce this code in all other respects.

Section 3. The administrator shall appoint a staff adequate and competent to assist him in discharging his duties.

Section. 4. Neither the administrator nor any member of his staff shall be an officer, director, employee, or stockholder of any manufacturer of tobacco products, nor shall any such person have any financial interest in the business of any such manufacturer.

Section 5. The administrator is authorized to convene scientific advisory panels to enable him to carry out his duties. Persons selected for such panels shall be of independence, integrity, and competence in their particular areas of scientific discipline. In selecting such persons, the administrator may consult with appropriate governmental and private agencies such as the U.S. Department of Health, Education, and Welfare; National Academy of Sciences; National Research Council; American Medical Association; scientific advisory board of the Council for Tobacco Research—U.S.A.; medical and scientific societies; colleges and universities; and nonprofit research institutes.

Section 6. The administrator shall by regulation establish procedures for the administration and enforcement of this code including, without limitation, procedure for:

(a) The submission to him of proposed cigarette advertising which, together with any supporting data or documents, shall be kept confidential, except as otherwise provided in article IV, section 4, of this code or as agreed to by the submitting party;

(b) The submission of protests by parties subject to this code concerning any determination by him;

(c) Hearings in connection with all submissions and protests; and

(d) Reconsideration by him of any of his determinations.

### *Article III—Advertising clearance*

Section 1. No cigarette advertising shall be used unless such advertising shall first have been submitted to the administrator and determined by him to be in compliance with the standards of this code; provided that by regulation promulgated by the administrator specified advertising may be excepted from the requirement of such submission but not from the requirement of compliance with the standards of this code.

### *Article IV—Advertising standards*

Section 1. All cigarette advertising and promotional activities shall be subject to the following:

(a) Cigarette advertising shall not appear:

(1) On television and radio programs, or in publications, directed primarily to persons under 21 years of age;

(2) In spot announcements during any program break in, or during the program break immediately preceding or following, a television or radio program directed primarily to persons under 21 years of age;

(3) In school, college, or university media (including athletic, theatrical, and other programs);

(4) In comic books, or comic supplements to newspapers.

(b) Sample cigarettes shall not be distributed to persons under 21 years of age.

(c) No sample cigarettes shall be distributed or promotional efforts conducted on school, college, or university campuses, or in their facilities, or in fraternity or sorority houses.

(d) Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction.

(e) Natural persons depicted as smokers in cigarette advertising shall be at least 25 years of age and shall not be dressed or otherwise made to appear to be less than 25 years of age. Fictitious persons so depicted in the form of drawings, sketches, or any other manner shall appear to be at least 25 years of age in dress and otherwise.

(f) Cigarette advertising may use attractive, healthy-looking models, or illustrations or drawings of persons who appear to be attractive and healthy, provided that there is no suggestion that their attractive appearance or good health is due to cigarette smoking.

(g) No cigarette advertising shall contain a picture or an illustration of a person smoking in an exaggerated manner.

(h) Cigarette advertising shall not depict as a smoker any person well known as being, or having been, an athlete.

(i) Cigarette advertising shall not depict as a smoker any person participating in, or obviously having just participated in, physical activity requiring stamina or athletic conditioning beyond that of normal recreation.

(j) Testimonials from athletes or celebrities in the entertainment world, or testimonials from other persons who, in the judgment of the Administrator, would have special appeal to the persons under 21 years of age, shall not be used in cigarette advertising.

Section 2. No cigarette advertising which makes a representation with respect to health shall be used unless:

(a) The administrator shall have determined that such representation is significant in terms of health and is based on adequate relevant and valid scientific data; or

(b) If the administrator shall have determined it to be appropriate, a disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the administrator; or

(c) The administrator shall have determined that the representation with respect to health in such advertising is not material.

Section 3. The inclusion in cigarette advertising of reference to the presence or absence of a filter, or the description or depiction of a filter, shall not be deemed a representation with respect to health unless the advertising including such reference, description or depiction, shall be determined by the administrator to constitute, through omission or inclusion, a representation with respect to health. If the administrator shall have determined that such advertising constitutes a representation with respect to health, the provisions of section 2 of this article shall apply.

Section 4. No cigarette advertising shall be used which refers to the removal or the reduction of any ingredient in the mainstream smoke of a cigarette, except that it shall be permissible to make a representation as to the quantity of an ingredient present in the mainstream smoke or as to the removal in toto of an ingredient from the mainstream smoke, or as to the absence of an ingredient normally present in the mainstream smoke, if:

(a) The administrator shall have determined that such representation is significant in terms of health and is based on adequate relevant and valid scientific data; or

(b) A disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the administrator; or

(c) The administrator shall have determined that a disclaimer is unnecessary for the reason that the representation in such advertising has no health implication or that such implication is not material; and

(d) The quantity of such ingredient is determined and expressed in accordance with uniform standards adopted by the administrator for measuring the quantity of the ingredient present in the mainstream smoke, provided that, until such uniform standard is so adopted, the quantity of such ingredient may be determined and expressed in accordance with any recognized scientifically valid method disclosed to the administrator without any requirement of confidential treatment.

Section 5. Any advertising determined by the administrator to be in conformity with the code may include the following legend: "This advertising (label) conforms to the standards of the Cigarette Advertising Code."

*Article V—Procedures in event of violation of code*

Section 1. Any person, firm or corporation subject to this code, who violates any provision of this code, shall, in the discretion of the administrator with respect to each such violation, pay to the office of the administrator as liquidated damages, and not as a penalty, a sum, not to exceed $100,000, as determined by the administrator after consideration by him of all relevant facts. The administrator shall establish regulations for the determination of such violation and for the assessment and payment of such damages. No sanction shall be imposed without affording a hearing to the alleged violator. Upon written request from the administrator, an alleged violator of the code shall promptly deliver to the administrator any material and documents in its possession which are relevant and material to a determination by the administrator as to whether the code has been violated.

Section 2. Nothing herein contained shall be construed to give any person, firm, or corporation, other than the administrator, any cause of action.

Section 3. In the event of a violation of this code, the administrator in his discretion may make public the fact of such violation in such manner as he may deem appropriate.

## SPIRES OF THE SPIRIT

Mr. DODD. Mr. President, our esteemed friend and chaplain, the Reverend Dr. Frederick Brown Harris, is not only a man of rare character but a man of rare talent as well. I always look forward to reading his Sunday column in the Sunday Star, "Spires of the Spirit," and have had the privilege of inserting several of these columns in the RECORD over the years.

Dr. Harris' most recent column, printed yesterday, was devoted to a discussion of the essence of beauty. It is a remarkable article not only for the artistry of its form but, as well, for the depth of its insight. We are all continually indebted to Dr. Harris for pointing out what is really important in life and for reminding us of what is really abiding amid all the sound and fury.

His article, "Broadcasts of Beauty," is just such reminder and I ask unanimous consent that it be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SPIRES OF THE SPIRIT: BROADCASTS OF BEAUTY

(By Dr. Frederick Brown Harris, Chaplain, U.S. Senate)

In this life-bursting season of vernal glory all nature is a broadcasting station for beauty. Fountains of breathtaking loveliness are everywhere springing from the hitherto barren ground. Once more as in every springtide "beautiful" is the most overworked word in the language. It is a word heavily freighted with inner thrills as the chords of wonder vibrate to the music of the soul. Recently in a world populated with nothing save exquisite, exotic blooms, in the program that beauty was broadcasting, I understood why, in hours of greatest sentiment, when language breaks down, an orchid takes over.

And so comments heard on all sides in these days of unveiled splendor are sprinkled with the one word through which emotions break through language and escape—"beautiful, beautiful."

Last week in Spires we were gazing with multitudes at the glory of a "Blossoming Bough." Now let us ask why is a blossoming tree beautiful? What explains the mystic thrill when such beauty sweeps across the chords of our being? Who can explain the quickened pulse as we contemplate the starry heavens where in the infinite meadows there bloom the forget-me-nots of God? Or, the emotions which surge when we behold "A poem lovely as a tree."

Who can answer our question about the "beautiful"? The vociferous argufier cannot explain it for he is never within sight of beauty. That is something you cannot debate. The literalist, and the liberalist alike stack their arms and take off their shoes on holy ground. Beauty is a realm where beyond angry devisive voices there is peace. One cannot climb to beauty on the rounds of a syllogism. Nobody with a trowel or test tube gets within celestial distance of it. A whole convention of scientists, measuring color rays and computing the dimensions of petals, could not disclose why one flower is beautiful. And so the question still haunts us—where can beauty be found and where is the place of its understanding? Botany says, "it is not in me"; geology and chemistry declare, "it is not in us"; astronomy signals that while there is "a part of the flaming Pleiades in every leaf that grows," "beauty is not in me." Certain it is that vast information, diagramed and cataloged, may but obscure the primary and intuitive impression and drown the thing which nature's voice is saying. It was in no technical perusal of some ponderous tome of botany that one found the message of the lines—

> "O prophet flowers with lips of bloom,
> Out-vying in your beauty
> The pearly tints of ocean's shells,
> Ye teach me faith and duty.
> Walk life's dark ways, yet seem to say,
> With love's divine foreknowing,
> That when man sees but withered leaves
> God sees sweet blossoms growing."

So where then shall we look for beauty's secret? Shall we not say that beauty is always a reaching out for completeness? That is not a definition but surely it points us in the right direction. Perfect beauty is completeness—that is the quintessence of it. When the poet with deep insight speaks of seeing the invisible he declares that God's completeness may flow around our incompleteness. Again shall we say that beauty is completeness? Art is beauty in conception and expression; architecture is beauty in proportion; culture is beauty in mind and manner; grace is beauty in motion; eloquence is beauty in speech; and may we not add that a perfect tree, in perfect blossom, is the acme of beauty in nature.

You cannot beautify beauty. Any such attempt is defilement. "To gild refined gold, to paint the lily, to sprinkle perfume on the English violet, to add another hue unto the rainbow, or with taper light seek to garnish the beauteous eye of heaven, is wasteful and ridiculous excess." And so we cannot explain beauty—we can only surrender to it, for the "beautiful" is essentially the spiritual making itself known through the senses. When God would lead mortals to the beauty of holiness He so often makes a stairway to it by the holiness of beauty.

When at least in the fullness of time came the One of whom the flashing, flaming beauty of the ancient Temple spoke, when Aaron's rod budded and burst into beauty and blossomed in the One in whom met the hopes and fears of all the years, He unveiled the heart of the beautiful God and the world is still palpitant with the surpassing splendor of that vision. One of the choicest personalities that I ever knew, now gone into the heavenlies, wrote this sentence: "There are sunsets that are sacraments, songs that set us dreaming, flowers that touch us with a wild, sad, joy; faces that are Gospel Epistles, but the one ineffable beauty of the world, the sublimest possession of humanity, is the vision of God in Christ."

That One who is holiest among the mighty, and mightiest among the holy, is the fairest among 10,000 because He is complete. His life is the only perfect jewel that ever found its setting in our earthly sphere. From whatever angle we view it, and no matter what light is thrown upon it, there flashes back a gleam of beauty.

And so across the centuries the Christian Church has been broadcasting this word of beauty.

> "Fair the meadows,
> Fairer still the woodlands,
> Robed in the blooming garb of spring;
> Jesus is fairer,
> Jesus is purer,
> Who makes the woeful heart to sing."

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 173 Leg.]

Aiken
Allott
Bayh
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hayden
Hickenlooper
Hill
Hruska
Humphrey
Inouye
Jackson
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Long, La.
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morton
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Scott
Simpson
Smith
Sparkman
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

## THE VIETNAMESE WAR

Mrs. SMITH. Mr. President, there is a genuine need—a desperate need—for the American people to be told the truth on the Vietnamese war. They are not getting the facts from their Government as they should.

Yet, some information does get through to the American people from non-Government sources. That information is neither encouraging, nor confidence inspiring. Nevertheless, it is good to get it. Eventually we must face up to the facts and to the realities of what is going on in Vietnam.

Today two revealing reports appeared in print. One was the report in the Washington Daily News of April 27, 1964, by Scripps-Howard war correspondent Jim G. Lucas, who is the nearest successor to the beloved Ernie Pyle, from his firsthand study in Vietnam. The other is an article in United States News and World Report, of May 4, 1964, which gives excerpts from letters written by an Air Force captain in Vietnam prior to his death in combat.

They are extremely disturbing reports on our policy and operations in Vietnam. I urge every Member of the Senate to study them carefully. Mr. President, I ask unanimous consent that this material be printed at this point in the Record.

There being no objection the material was ordered to be printed in the Record, as follows:

[From the Washington Daily News, Apr. 27, 1964]

## Comment: We're Really Training Ourselves in Vietnam—United States Fails To Go All Out for Victory

(By Jim G. Lucas)

Can Tho, South Vietnam, April 27.—One often-overlooked factor that contributes to the long-drawn-out, no-win war in South Vietnam is this:

The United States is—and has been for the past 3 years—using Vietnam as a sort of military test laboratory, an extension of Aberdeen Proving Grounds, Fort Benning, Fort Bragg, and all the others back home.

As one American major here told me: "We're really not trying so much to train these people to win their war; rather, we're training ourselves."

In that light it can be more easily understood why we've run 35,000 to 40,000 American military personnel through the mill here in 3 years—though we've never had more than 16,000 men here at any one time.

### ONE YEAR

The normal assignment is for 1 year. It's damned unpleasant duty in a terrible climate. And practically no man, if he's on duty outside of Saigon, would want to stay longer.

But this doesn't help win the war. In fact, it slows it up.

Ambassador Henry Cabot Lodge, in a recent interview in Life magazine, made the point that U.S. advisers should be sent here for at least 2 years and preferably longer.

He's right—though I'll make no friends among U.S. servicemen in the field by saying so. And neither has the Ambassador.

But all this criticism back home of the South Vietnamese for appearing indifferent to whether they win the war needs a new examination in face of our own policy of seeming not to go all out for victory.

Especially so when it comes to committing our personnel to any needful lengthy periods.

### TYPICAL

Take the case of a typical American adviser to a South Vietnamese battalion. He would be a captain.

Fresh out from the United States, our man needs 3 to 4 months to get acquainted, learn his job, scout the terrain, and establish an effective working arrangement with the commander of the Vietnamese unit.

Beginning the fourth month, if he's any good, he knows what he's about.

But—U.S. Army policy is to yank him out of the field after 6 months and give him a staff job, probably in Saigon.

That means he's had at most 2 months to do a cracking job with his unit in the field.

I know one Vietnamese battalion commander who said he had had—"put up with" was his phrase—no less than 11 U.S. advisers in 2 years.

Each, of course, wanted to change something basic in the way the battalion was being run.

But our Army's policy is to keep shuffling the advisers along—evidently so that more Americans can get the guerrilla-warfare experience, and also because the Army says it feels sorry for the poor guys undergoing the jungle heat and all that.

Actually, I think three out of five of our battalion advisers—as pros eager to do their job—want to stay on longer in their field assignments. They feel they're just starting to prove themselves.

But the Army says they can't. It needs their slots to train more Americans how to advise Vietnamese battalions.

Maybe our Army is getting overinfused with a peacetime posture—or maybe it's the old question of whether we are in a real war or not.

A soldier's life is traditionally a hard one. Soldiers exist chiefly for one reason: To fight and win wars. Meanwhile, there are many fringe benefits in their contracts.

True, long family separations—when the national interest dictates—are also written into their contracts.

Most understand this. So do their wives. Some don't, however—especially when there's no formal war on.

Could it be that we are basing our personnel policies here in Vietnam on the clamor of this minority?

Somewhere along the line we've got to buckle down.

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[From U.S. News & World Report]

## A Captain's Last Letters From Vietnam: "We Are Losing, Morale Is Bad * * * If They'd Give Us Good Planes"

(This is an American pilot's own story of the role of U.S. troops in South Vietnam. They are far more than advisers to South Vietnam's armed forces. Americans are in the thick of a "hot war," a shooting war. And, often, they are fighting with obsolete weapons against a Communist enemy who is highly skilled and well armed. A vivid picture of the war, the elation and excitement, the frustration and bitterness, emerges from the pilot's letters home—a correspondence ended by his death in combat.

(Air Force Capt. "Jerry" Shank is dead—a combat casualty of the war in Vietnam. While he lived and fought, Jerry Shank wrote to his wife and family in Indiana every chance he got—sometimes twice a day. Those letters make up a moving "battle diary" of a war in which more than 15,000 Americans are fighting and dying in combat against the Communists. Excerpts from his letters are presented here with the permission of his widow. All references, by name, to his Air Force companions have been eliminated to spare them any possible embarrassment.)

November 14, 1963: We're using equipment and bombs from World War II and it's not too reliable. This is an interesting place here. Everybody works together, officers and enlisted. We're out there lifting bombs and such. Every possible time, we give the men a chance to ride. On a test hop or something like that—it gives them a little motivation. We can't take them on missions, 'cause we have to have our VNAF [Vietnamese Air Force] student pilot along * * *.

We 23 Air Force run the whole T–28 war in the Mekong Delta. This will give you some idea of Uncle Sam's part in the war.

November 22, 1963: Been real busy with the armament job—really makes a day go fast. Got all kinds of problems—can't get parts or books or charts describing the different bombs and systems. The Air Force hasn't used any of this equipment since Korea, and everybody seems to have lost the books. The main problem is personnel—no good officers or NCO's over here that really know their business. Most of them are out of SAC [Strategic Air Command] and have dealt only with nuclear weapons. This doesn't apply over here; what we need is someone from World War II. Some days it's like beating your head against a brick wall.

November 27, 1963: Sunday all hell broke loose with the VC (Communist Vietcong guerrillas). We had a big airborne operation against them—both choppers and parachutes. I woke up at 4:30 to fly my first night attack—darker than hell * * *. By 9 o'clock in the morning we had launched 12 sorties, which is a lot for our little operation. The Vietcongs got one chopper and one B–26 that day, but we (T–28's) hurt them bad. There is far more detail to this, but I don't want to put it in a letter.

I'm up to 20 missions now and am real confident in myself. I do good work, I feel like a veteran and I feel like a different man. I think I am older.

I have changed my opinion about the VC. They are not ornery little fellows. They are mean, vicious, well-trained veterans. They are killers and are out to win. Although this is called a "dirty little war" and it is far from the shores of old United States of America, it's a big, mean war. We are getting beat. We are undermanned and undergunned. The United States may say they are in this, but they don't know we need help over here.

If the United States would really put combat people in here we could win and win fast. It seems to be the old story of a halfhearted effort.

December 4, 1963: I have debated for a week and a half now over telling you of Black Sunday—November 24, 1963. I'm going to tell you and, if you don't want to hear about these things again, well, say so. You do have a right to know.

This was not a typical day. We flew 20 sorties. But the VC hurt us bad. All in all that day, 23 airplanes were hit, one B–26 crew lost their lives, 3 choppers crashed. The VC won.

What they had done was pull into the little village and commit their usual atrocities, then pull out. But all they had were small arms and rifles on them. So headquarters thought they would teach this little group of VC's a lesson and sent this operation I spoke of in after them.

But the crafty little b____s withdrew from the town into foxholes and bunkers and hiding places they had been secretly building for a week. Also, they had many friends in there plus large antiaircraft guns and all sorts of machineguns. So when the first wave of troops went in, they thought it was just a routine chase of VC's. But they soon ran against the VC wall and we pilots soon discovered that they had more weapons than pistols and homemade guns. Shrewd plan—and they won.

We could have won but I could write a chapter on that. I hope you were able to follow that, Connie. A lot happened that day and it happened fast and furious. It's not a good thing to tell a wife, but she has to know—no one else will say it—no one else can or will, I guess. There are no heroes over here but there are a lot of fine men—America better not let us down. We can use help. We can win, but America must come over, for the Vietnamese will never hack it alone. We've either got to get in all the way, or get out. If we get out the VC will be in Saigon the next day.

December 14, 1963: I do get a kick out of the Vietnamese people. They're poor, dirty, and unsanitary according to our standards, but they're happy and some are hard working.

December 16, 1963: The VC's [Communist guerrillas] sure gave them a rough time.

The VC are kind of a Mafia. They terrorize and then they sell "insurance" so that the people will not be harmed again. They strike especially villages where Americans have been seen. They terrorize these villages and then blame it on Americans by saying, "If Americans hadn't come to your village, we would not have plundered and killed, so if you don't want it to happen again, pay us money and don't let Americans into your village."

So you see, they gain from this. First of all, they get money or food; secondly, they instill a dislike for Americans—dirty b----s. But I do like the Vietnamese I've met and talked to. They are friendly, happy, and childlike—good people.

December 21, 1963: We got a briefing today of the total result of that operation on November 24. I'll repeat it briefly.

The airpower got credit for 150 to 200 killed. No one can be sure of the amount, for the VC carry off all their dead and wounded. They never let you know for sure how bad you hurt them.

Anyway, there were approximately 700 VC's dug in with three 50-caliber antiaircraft guns and three 30-caliber antiaircraft guns, plus many hundreds other machineguns. They were waiting for us, but we hurt them even though we lost. We lost because we had them trapped and they got away.

It's so mixed up over here—there are over 3,000 Air Force in Vietnam, yet there are only 50 combat crews (B–26 and T–28). What a ridiculous ratio. Also, the Army tried to show the Air Force is no good and vice versa. Ridiculous. Down at Soc Trang, Army and Air Force will die for each other, but up with the colonels and generals it's a big fight for power. And most of these idiots don't even have any idea of what it's like out in combat. * * * They're trying now to find out why we pick up so many hits. The dumb b-----s. We get hit more now because the VC have very fine weapons. There are Chinese over here now.

I think the next few months will tell. Either the VC will quit or this will turn into another Korea. I hope it doesn't take the United States too long to realize this.

December 22, 1963: Flew another mission today. We escorted three trains across no-man's land and then struck some VC's. Our FAD (the guy in the L–19 who tells us where to hit) received three hits, but we got them. I'm credited with destroying a 59-caliber antiaircraft gun. Bombed him him out of this world. I guess I'm a true killer. I have no sympathy and I'm good. I don't try to rationalize why I do it. No excuses. It's a target and I hit it with the best of my skill. It's a duel; only (I repeat) only the best man wins. You can't afford to be second.

December 30, 1963: Well, here goes. I got shot down yesterday. We were escorting a C–123 and I picked up three slugs in my airplane. One went into my fuel strainer and I lost all my fuel. I made it to a field called Pan Tho and landed safely. Me and the airplane are both okay, not a scratch except the three bullet holes. No sweat.

January 3, 1964: Down at Soc Trang, one of the airmen came up with the idea of putting chunks of charcoal in our napalm tanks. Napalm is a gasoline which is jelled into a mass about the consistency of honey. We carry two tanks of it, each weighing 500 pounds. When you drop it, it ignites and spreads fire about 200 to 300 feet. With charcoal in it, the charcoal is thrown about another 200 feet farther, like a burning baseball, and does further damage to VC houses. We've had it at Soc Trang and it works real well.

Tomorrow three birds are going out with one-half of their load of straight napalm and the other half with charcoal napalm (Madame Nhu cocktails). A photo ship is going along to take pictures. If higher headquarters thinks it's all right, then they'll buy us the charcoal. So far we've been buying it ourselves or else "borrowing" it from the kitchen.

January 7, 1964: Morale's at a big low over here, especially among the combat crews. It's the same old stuff we got in MATS. No consideration for the crew.

Lost two guys today. One was a pretty good friend of mine. The only guess is—the airplane just came apart. B–26—third or fourth that have done that now * * * Pretty bad day—just hard to find any good news to write. Can't even talk to anybody—nobody has anything to say. Just a blue day.

I don't know what the United States is doing. They tell you people we're just in a training situation and they try to run us as a training base. But we're at war. We are doing the flying and fighting. We are losing. Morale is very bad.

We asked if we couldn't fly an American flag over here. The answer was "No." They say the VC will get pictures of it and make bad propaganda. Let them. Let them know America is in it.

If they'd only give us good American airplanes with the U.S. insignias on them and really tackle this war, we could possibly win. If we keep up like we are going, we will definitely lose. I'm not being pessimistic. It's so obvious. How our Government can lie to its own people—it's something you wouldn't think a democratic government could do. I wish I were a prominent citizen or knew someone who could bring this before the U.S. public. However, if it were brought before the average U.S. family, I'm sure all they'd do is shake their heads and say tch-tch and tune in another channel on the TV.

January 9, 1964: Had a good target today finally. Felt like I really dealt a blow to the VC. On my second bomb I got a secondary explosion. This means after my bomb exploded there was another explosion. It was either an ammo dump or a fuel-storage area. Made a huge burning fireball. You really can't tell when you roll in on a pass what is in the huts and trees you are aiming at. Just lucky today, but I paid them back for shooting me down.

January 15, 1964: Another B–26 went in yesterday. Nobody made it out. A couple of guys I knew pretty well "bought the farm."

One of the new guys busted up a 28 (T–28) also yesterday. He thought he had napalm on but he had bombs. So at 50 feet above the ground he dropped a bomb. It almost blew him out of the sky. But he limped back to Bien Hoa and crash landed. The airplane burned up, but he got out all right.

That news commentary you heard is absolutely correct—if we don't get in big, we will be pushed out. I am a little ashamed of my country. We can no longer save face over here, for we have no face to save.

We are more than ever fighting this war. The Vietnamese T–28's used to come down here to Soc Trang and fly missions. But lately, since we've been getting shot so much, they moved up north. I kid you not. First they didn't want to come to Soc Trang because their families couldn't come. Second, because they didn't get enough per diem [additional pay]. Third, because they didn't want to get shot at. There were a couple of more reasons, but I can't remember them. These are the people we're supposed to be helping. I don't understand it.

January 20, 1964: I have never been so lonely, unhappy, disappointed, frustrated in my whole life. None of these feelings are prevalent above the other. I guess I should say loneliness overshadows the others, but that's really not true.

I am over here to do the best job possible for my country—yet my country will do nothing for me or any of my buddies or even for itself. I love America. My country is the best, but it is soft and has no guts about it at all.

I'm sure nothing will be done over here until after the elections. Why? Because votes are more important than my life or any of my buddies' lives. What gets me the most is that they won't tell you people what we do over here. I'll bet you that anyone you talk to does not know that American pilots fight this war. We—me and my buddies—do everything. The Vietnamese "students" we have on board are airmen basics. The only reason they are on board is in case we crash there is one American "adviser" and one Vietnamese "student." They're stupid, ignorant sacrificial lambs, and I have no use for them. In fact, I have been tempted to whip them within an inch of their life a few times. They're a menace to have on board.

January 26, 1964: I've done almost nothing all week. I needed the rest very badly. I actually think I was getting battle fatigue or whatever you call it. I've got 50 missions, almost all without any kind of a break, and it was telling on my nerves and temper. I feel real good today after all that sleep. I kinda hate to go to work tomorrow, for we start 2 weeks of combat again. But I'm rested for it now and am ready.

January 31, 1964: All you read in the paper is the poor leadership of the Vietnamese, but we are just as bad. Everyone over here seems to be unqualified for his job. Like me—I'm a multipilot, but I'm flying TAC fighters. We have no fighter pilots in our outfit. I'm not complaining, but, if the Air Force was serious, they would have sent over experienced fighter people. The same on up the line.

February 2, 1964: I'm getting to like Vietnam. Maybe I didn't say that right. I think it is a pretty country. These little villages in the delta are about as picturesque as you'll find. Tall palm trees, fields of rice, and all kinds of flowers. The people seem happy enough, if it wasn't for the terror of VC raids.

February 6, 1964: We scrambled after a fort under attack. We hit and hit good, but it got dark so we headed up here for Bien Hoa. Pretty hot target and we both were hit. Coming in here to Bien Hoa they warned us that VC were shooting at airplanes on final approach. Well, we made a tight, fast approach and held our lights (it was pitch black) until almost over the end of the runway. I forgot my landing gear and went skidding in a shower of sparks down the runway. Airplane's not hurt too bad. I'm not even scratched. My pride is terribly wounded. That was my 62d mission. I thought I had it "wired" after that much combat experience. Then I go and goof so badly.

February 17, 1964: All B–26's are grounded, so we are the only strike force left.

A B–26 crashed at Hurlburt last week. Another came with the wing just coming off. Finally, the Air Force is worried about the airplanes—finally, after six of my friends have "augered in."

February 21, 1964: Tuesday evening ——— got shot down. He fell in his airplane next to a Special Forces camp and got out without a scratch. The airplane burned completely up, though. [Another airman] was going in on his seventh strafing pass and never came out of it. Don't know what happened—whether he got shot or his controls shot out. That was two airplanes in two days. Kind of shook us up.

Not only that, the B–26's have been grounded since Monday because the wings came off one again at Hurlburt. So after the last crash the whole USAF fighter force is down to six airplanes. This should set an example of how much Uncle Sam cares. Six airplanes. Might as well be none.

Rumor now is that B–26's will fly again only with greater restrictions. * * * I'm pretty well fed up. Poor B–26 jocks are really shook. That airplane is a killer.

February 24, 1964: We're down to five airplanes now, all of them at Soc Trang. We have actually got nine total, but four are out of commission because of damage. The B–26's aren't flying yet, but they've been more or less released. I don't know what the United States is going to do, but whatever it is I'm sure it's wrong. Five airplanes can fight the war—that's just ridiculous. Tell this to my dad. Let him know, too, how much the country is letting everyone down. We fight and we die but no one cares. They've lied to my country about us.

February 29, 1964:

We've got a new general in command now and he really sounds good. Sounds like a man who is out to fight and win. He's grounded the B–26's except for a few flights. But they have to level bomb, not dive bomb—no strain for the aircraft that way. He has ordered B–57's (bombers—jets) to replace them, and has asked for immediate delivery. He has also demanded they replace the T–28's with the AD–6. The AD–6 is a much more powerful single-engine dive bomber. It was designed for this type of work and has armor plating. We are pretty excited about all the new airplanes. We can really do good work with that kind of equipment.

March 13, 1964: McNamara, Secretray of Defense, was here, spent his usual line, and has gone back home to run the war with his screwed-up bunch of people. We call them "McNamara's band." I hope and pray that somehow this man does something right pretty soon.

Just one thing right will help immensely. He did send a representative over here. All he did was make the troops sore.

One of our complaints was that we can't understand the air controller, so he suggested that we learn Vietnamese. We said we didn't have that much time, so he suggested we stay here for 2 years. A brilliant man. He's lucky to be alive. Some of the guys honestly had to be held back from beating this idiot up. This man McNamara and his whole idiot band will cause me not to vote for Johnson no matter how much I like his policies.

McNamara is actually second in power to Johnson. But, as a military man, he finishes a definite and decided last—all the way last.

Rumors are fast and furious. Nothing yet on B–57's. Rumors that B–26's are all rigged up with extra fuel tanks for long overwater flights. B–26 should never fly again, even if rejuvenated. Also, a rumor that B–26 pilots will get instruction in the A–1H—another single-engine dive bomber. All is still in the air—all rumors.

March 22, 1964: Been flying pretty heavy again. We've only got 20 pilots now and 11 airplanes. It keeps us pretty busy. Also, got 2 more airplanes they're putting together in Saigon, so we'll soon be back up to 13 airplanes again. Hope these last for a while.

(That was Captain Shank's last letter. He was killed in combat 2 days later. Edwin Gerald Shank, Jr., was born June 21, 1936, in the small farming community of Winamac, Ind., where he grew up. He studied architecture at Notre Dame University and graduated in 1959 with a bachelor of science degree.

(At the university he entered the Reserve Officers Training Corps, received his commission, and was called into active military service in the Air Force in August 1959. He liked the life of a military pilot and planned to make the Air Force his career. He was assigned to South Vietnam as pilot of a T–28 attack plane on October 15, 1963.

(Captain Shank was married to a hometown girl. They had a son and three daughters. He never saw his baby daughter, who is now 2 months old. He was killed while flying an airstrike mission against the Communists on March 24, 1964. He was 27 years old.)

## CONGRESS ON TRIAL

**Mr. CLARK.** Mr. President, on Friday, April 24, the junior Senator from New York [Mr. KEATING] made a most stimulating address at the Ferris Booth Hall on the Columbia University Campus in New York City to the student body of Columbia University. The address was entitled "Congress on Trial." I commend it to Senators. I ask unanimous consent that the speech may be printed at this point in my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### CONGRESS ON TRIAL

My remarks today will deal mainly with what might be broadly termed the procedures of Congress.

Rarely do we give the same attention to the way things are done as to the substantive issues with which we are dealing. The newspapers may be filled with reports, for example, on the President's legislative program, but precious little space will be devoted to weeks of debate on amendments to the House and Senate rules.

The procedural problems of Congress do not have the obvious glamour of an appeal for unconditional war against poverty. There is nothing sensational about how Congress disposes of its workload or regulates its debates.

Nevertheless, the manner in which Congress carries out its responsibilities may have a tremendous impact on the whole future of our Nation.

In any system of representative government, fair procedures are of vital importance. The best conceived programs will amount to nothing if their consideration can be thwarted by arbitrary rules or parliamentary devices. In the final analysis, procedural questions may determine not only the success or failure of any program, but the confidence of the body politic in the very institutions of government.

In my judgment, Congress is on trial. Public confidence in the legislative branch is at a low point because Congress has failed dismally to keep its own house in order. Its present methods of operations are tailor made for obstruction, delay, inefficiency, and minority control. Congressional reform is essential if Congress is to fulfill the crucial role in our system envisioned by the Founding Fathers.

The indictment against Congress can be supported by a bill of particulars showing the steady decline in its status and influence.

Its most significant power has become the power to negate the proposals of others. The Constitution vested the veto power in the President, but in contemporary practice it is more often the executive branch that initiates and the Congress that vetoes legislative proposals. As a consequence almost all the initiative in determining national policy has shifted decisively to the executive department and to some extent to the Supreme Court. Rarely is general legislation affecting the welfare of the Nation forged and developed in the first instance by the representatives of the people.

It might be thought that a Congress of such negative character would be marked by inactivity, but in fact Congress gets busier and busier and the sessions get longer and longer every year. This hum of activity, however, is a poor guide to the competence and effectiveness of the legislative branch. Indeed, the long sessions of Congress in some ways are an indication of its failings.

Congress appears to be bent upon proving the maxim set forth in the Federalist Papers that the smaller the power of an institution "the more safely may its duration be protracted."

In the fact of the most serious domestic and international problems, Congress dawdles and fiddles, frittering away weeks and months of precious time without any decisive action. It has achieved some of its greatest records of nonaccomplishment in some of its longest sessions, including last year's session which did not adjourn until the end of December.

Months of valuable time was wasted in petty bickering over who should preside at meetings of House and Senate conference committees on appropriations. When this monumental dispute was resolved, an argument arose as to whether the conference committee should meet in the House or Senate wing of the Capitol. Finally, after agreement was reached on these important questions, billions of dollars were appropriated in a matter of days with only brief debate in both bodies.

Occasionally there are weekend meetings of the Congress and all night sessions, but little can be accomplished even under this rigorous schedule when it is possible for an entire day to be spent on quorum calls. On one occasion during which I was personally present, the Senate met at 10 a.m. and did not recess until 8:31 that evening. The longest speech of the day was the Chaplain's prayer. For 10 hours and 11 minutes on that day, the Senate of the United States devoted its entire effort to mustering and maintaining a quorum of its Members. Why? So that at the end of the day it could recess rather than adjourn to its next meeting.

On another occasion, one member of a congressional committee was permitted to question the Attorney General on one bill during eight successive meetings of the committee stretching over a period of months. If every member of the committee had assumed the same prerogative under the same schedule, it would have taken 2 years for the committee to have completed its questioning of this one witness. By that time Congress would have expired and the process would have to be started all over again when the new Congress convened.

The Congress of the United States is the only legislative body in the world which enshrines the filibuster in a formal rule, allows one member to completely hamstring the meetings of its committees, and has no rule on the germaneness of amendments to general legislation.

Under the Constitution a majority of each House of Congress is authorized to determine the rules of its proceedings. In actual fact, a majority of the Congress can be victimized at will by the dilatory tactics of a determined minority. In the words of President Wilson, a profound student of government, "Its majority is powerless, helpless. In the midst of a crisis of extraordinary peril, when only definite and decisive action can make the Nation safe or shielded from war itself by the aggression of others, action is impossible."

Delay is only one of the frustrations and shortcomings in congressional operations—only one of the weapons by which a minority is able to exercise control over the actions of a majority.

The whole committee system has been distorted by the seniority rule and the immense powers of the committee chairmen. Ideally each committee should function as the eyes and ears of the House it serves on the matters within its jurisdiction. In practice, however, the committees have served not as the agents of Congress, but as agents of the committee chairmen. Legislation which an overwhelming majority of the Congress would favor has been buried in committee. Reports which an overwhelming majority of the Congress would reject have been issued as official documents of the House and Senate. The committees in these instances become sounding boards for a small claque which may represent no interest but its own, and which makes no effort to reflect the views of a congressional majority.

The House Rules Committee is that body's counterpart of the Senate filibuster for frustrating action by a majority. It was designed to perform the functions of a traffic cop in scheduling legislation, but instead has become a notorious stumbling block to action even on measures approved by both the House and Senate. The enlargement of its membership was hailed as a great reform, but the increase in its size did not affect its powers and it continues to bottle up or delay measures which would win easy approval and in some cases have won approval of a majority of Members of Congress.

The indictment of Congress must consider another aspect of its operations—the unfairness with which it deals with the people. The people are entitled to fair treatment in their dealings with the Government, whether they are witnesses before congressional committees or witnesses in our courts or in executive agency proceedings. Yet practices are condoned in congressional committee hearings which members would be the first to condemn in the operations of the other branches of Government. It isn't only the witnesses who suffer from this double standard, since time and again important committee hearings and reports are discredited by attacks against committee procedures.

The double standard applies even more forcefully to the action of Congress on conflict of interest legislation—action which has exempted Congress from the high standards of conduct it has imposed by law on the employees of the executive branch. Nothing weakens confidence in Government as much as the appearance of favoritism, inside dealings, and the use of public office for personal advancement. Congress has an equal, if not a special obligation to maintain the highest standards of ethics in the conduct of both its members and its staffs. The legislative process has been described as the "heartbeat of democracy," and if the heart of our political system is afflicted, the whole body politic can be suffocated and destroyed.

These are some of the problems Congress faces. Let us consider now the goals of congressional reform.

Some of the most vigorous proponents of congressional reform suggest that the goal of reform is a Congress more responsive to the desires of the President.

This is a serious mistake.

From a practical point of view, it increases the difficulties of obtaining the bipartisan support without which reform cannot succeed.

More fundamentally, it suggests that the secondary role of Congress is our tripartite system of government be confirmed rather than changed.

Under this scheme, Congress would remain an essentially negative institution not in the sense that it would obstruct the programs of the Chief Executive but in the sense that it would rarely provide leadership and initiative in meeting the Nation's problems.

There is no likelihood of self-reform on this premise. A vast majority of Members would join against any effort to promote a rubberstamp Congress.

The most persuasive basis for reform is the need to strengthen the position of Congress as an independent branch of the National Government. This is not inconsistent with recognition of an enlargement of executive power to deal with the global challenges facing our Nation. But it rejects any notion that an increase in executive power must be drawn from the residue of a declining Congress.

A strong and independent Congress which reflects the Nation's will does not weaken but fortifies the Nation's resolve and capacity for meeting the challenges of the 20th century.

The movement for congressional reform is not part of any plot to downgrade and discredit Congress, as some of the defenders of the status quo have charged. Such charges are the ultimate in confusion between cause and effect. Congress is being discredited not by those working for reform, but by daily evidence of its incompetence for creative and responsible decisionmaking, by repeated exposures of conflicts of interest and other abuses, by its inability to deal efficiently even with the most routine housekeeping responsibilities.

The movement for reform is based on a profound respect for Congress as an institution and faith in the capacity of a revitalized Congress to contribute to the future strength of the Nation.

It is not the attempt to extricate Congress from the morass into which it is sinking, but the unyielding resistance to reform which has done so much to downgrade and discredit the legislative branch in the eyes of the American people.

Of course we must maintain a sense of perspective in dealing with this subject. Let it be recognized that even the most farreaching changes in congressional procedures will not guarantee an effective Congress.

Congress is a human institution not a machine. We must loosen the bindings in which it is now shackled, and reduce the mechanical and institutional restraints on its performance to a minimum. But while an unshackled Congress offers the greatest hope for the future, ultimately, it will be the quality and wisdom of its Members and of the people that will determine whether that hope is to be realized.

But let us also recognize that there is no automatic cleansing process in the affairs of government—that good government and good citizenship are two sides of the same coin—and that unless the public insists upon governmental machinery which is attuned to the needs and conditions of the times, decay and obsolescence are unavoidable.

I believe that the public is fed up with the nonsense that passes for deliberation in the Congress.

They are fed up with traditions for shirking responsibility.

They are fed up with glowing promises which can't possibly be fulfilled under the present system for not doing things.

But it is up to the people to take the movement for good government off the back pages of the newspapers and to make it a prime issue in every political campaign.

The good government issue—in a sentence—is whether we are willing to take the steps necessary to enable our representative institutions to deal efficiently and creatively with the problems of America—today and in the future.

In my judgment an overwhelming majority of the American people are convinced that Congress is incompetent for this task. The party and the candidate that comes up with a plan and evinces the determination needed to clear out the cobwebs of inefficiency and unfairness in congressional procedures will deserve and receive the support of these citizens.

We live in an age of change and challenge. We are at the crossroads of the most dangerous and the most promising era in the history of civilization.

In facing the great decisions before us, we cannot tolerate weak links in the chain of government.

Filibusters, all night quorum calls and arbitrary committee chairmen, seem entirely incongruous in the atmosphere of today's world. They are not the kind of procedures out of which solid solutions to the problems of either today or the future can be forged.

When the very fate of the Nation may be at stake, we simply cannot allow a few vested interests, no matter how well placed, to obstruct and defeat efforts to repair the legislative machinery and replace its worn out parts.

We have heard enough about congressional prerogatives. It is time the prerogatives of the people were considered.

We have a magnificent history in which every American takes pride. But complacency is not the hallmark of good government. Self-satisfaction is not the stimulus for constructive citizenship.

It is time for the voice of the people to be heard in the Chambers of the House and Senate as well as in the land.

It is not just Congress which is on trial but the Nation. The verdict will not be rendered by any one generation but by history. We have a proud inheritance, but wealth in principles as in resources has its obligations, and our obligation as good citizens is to pass this inheritance on to future generations, enriched and ennobled.

We the people have formed this Union and it is we the people on whom the burden of its preservation and enrichment will forever rest.

**Mr. CLARK.** I may say, as one of the more critical Members of the Congress on this side of the aisle that I am delighted to know that the Senator from New York [Mr. KEATING] in his most interesting address to the students at Columbia, has made approximately the same criticism as I have made, but more eloquently and with a greater punch. It is perfectly clear to me that it is Congress which is on trial today before the country. It is not the opponents or the proponents of the civil rights bill, but Congress. The sooner that my colleagues recognize that fact, the sooner, we shall achieve that much-to-be-desired congressional reform, which in my judgment will be beneficial to the health and well-being of this body.

## EDUCATIONAL NEEDS

**Mr. CLARK.** Mr. President, on April 7, 1964, the Senator from Indiana [Mr. HARTKE] made a most interesting speech to the National Association of Student Personnel Administrators on the subject of the educational needs of our country in general, and our educational needs in higher education in particular. I ask unanimous consent that the text of the speech be printed in the RECORD at this point in my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR VANCE HARTKE TO THE NATIONAL ASSOCIATION OF STUDENT PERSONNEL ADMINISTRATORS, DETROIT, MICH., APRIL 7, 1964

I want to begin this evening by telling you about a letter I received the other day. It was handwritten in pencil on lined and punched paper of the sort used in a school notebook, and it concluded with a postscript: "Please excuse my writing. I am very nervous. I have never written to a Senator before." Obviously, it was a most sincere and serious letter. I think it is worth quoting at some length.

"I am sorry to bother you," the writer began, "as I know you are a very busy man, but this is a very important problem." The letter continues: "First, I would like to tell you that I am 28 years old and my husband is 35 years old.

We both dropped out of school when we were very young. We can see our mistake now. We hope it isn't too late. We have found it to be very difficult to obtain a decent job. We are in the less than $3,000 income group and have five children."

The letter goes on to its main point, to inquire whether the President's poverty program could provide home study courses for people like this couple to finish high school, saying they find it impossible to pay the $18 each per semester it would cost them.

"I have dreams of finishing high school," she continues, "and maybe if I am extremely lucky, taking nurses training. My husband would give anything to study industrial engineering. All of our children will be in school in less than 3 years and if my husband and I could get a proper education we could better prepare our five children for a decent and responsible life. Everyone seems to think that if you make less than $3,000 a year that you don't have any future and don't want one. That just isn't so. And we hope to take our education as far as we possibly can. And we hope by being very serious about finishing school we can show our children how important it is to go as far as one can with their education."

To me, this is a very poignant letter.

The point I want to make is that these people, who are high school dropouts, now realize the value of education.

They are anxious for their five children, as this young mother says, "to go as far as one can with their education." The youngest is apparently 3; the oldest can hardly be more than 10 or 12. This means that beginning about 1970 they will be faced with the problem of entering their first high school graduate in college, somewhere.

If all five gain a college education, there will be at least one, and often two, sometimes even three at the same time, in college over a period of as much as 14 years until the last is graduated.

Even at today's rates for the lowest costs, that of public universities, whose expenses now average $1,480 per year per student, that will be nearly $30,000 in higher education costs.

Projections indicate that by 1980, when the 3-year-old will be ready to start college, the cost in a public university will be $2,400 per year. Thus, the actual cost for these five will more likely come much closer to $40,000 than $30,000 by the time they have all finished college.

If they should try for private institutions, the cost would run far in excess of $50,000. How much chance is there that they will make it? Not much, I am afraid, under present circumstances.

Here, in one family, is the problem of the costs of higher education dramatized. Millions of families in this country are faced with similar problems, and they are spreading into higher income brackets as costs soar faster than incomes.

The U.S. Office of Education has estimated that between 100,000 and 200,000 able high school graduates with high aptitude and interest for college fail to continue because of financial inability to do so.

If you look at a graph made from any study of college attendance in relation to family income, you will find the attendance line rising very closely parallel to the line showing increased family financial position.

It is imperative that we do something to stop the loss of potential both to individuals and to the Nation caused by the ever-growing burden of costs. I do not need to tell you this; you are working with the problem day by day.

The big question is, How? How can we improve the situation? How can we reach the goal, as President Kennedy put it in his message on education last year, "of assuring that no student of ability will be denied an opportunity for higher education because of financial need"?

First, and basically, we must recognize that education is not a cost but an investment. In 1961, the high school graduate's average income was $6,102, but the average college graduate's income was 50 percent higher, $9,530.

While unemployment is still running at 5.4 percent of the working population, there is very little unemployment among college graduates, and the demand for highly trained people is going unfilled.

From the standpoint of the Federal Government, the additional $3,400 of earnings by the average college graduate in 1961 brought the U.S. Treasury somewhere around $700 to $800 of income taxes. At that rate, one might make out a case for full underwriting of college education by the Federal Government, since added income taxes alone would average out to full repayment of the Government cost over only 8 or 10 years of the graduate's work life.

The Government's profit for such an educational investment would run to thousands of dollars over the graduate's lifetime.

But we are not likely in the foreseeable future to adopt such wholesale expenditures by the Federal Government for college assistance to our youth. Our history and outlook stress individual initiative, not such a seemingly socialistic approach to education. Yet, we are coming to realize more than ever before the virtues of viewing education as investment, not as burdensome cost.

Prof. Arthur Mauch of the University of Michigan takes that attitude in the February issue of Banking, the journal of the American Bankers' Association. "If financing of education is to be adequate," he says in speaking to these traditionally economically conservative bankers, "the public must accept the fact that such support is an investment that brings high returns and that we can afford to make the investment—indeed that we can ill afford not to."

He goes on to point out that our gross national product now exceeds $600 billion a year, and that studies indicate the effects of education should be credited with 20 percent or more of this tremendous sum.

If we cut that in two, and credit education with only 10 percent of the cause, he says, and I quote, "It would not seem out of line to invest up to $60 billion" in education. Yet, all education, from kindergarten through university, public and private combined, costs not 10 percent but less than 5 percent of gross national product, around $25 billion.

I have said that the big question is, How? How can it be arranged that every able student who can benefit from it may receive a college education?

Since we are not in a Utopia, and there is no possibility of persuading the Nation just now that we should bear the burden with public funds entirely, what are the realistic possibilities?

Financial aid to students may come from four sources. Rarely does one of them alone cover the case; usually there is a combination of two, three, or even all four.

First, of course, is aid from the family. For the average family who sends children to college, this is often the largest expenditure in a lifetime outside of the purchase of a home.

Second, there are scholarships. A third source, and a rapidly growing one, is loans. The fourth is the student's own earnings.

Aid by the family, of course, is outside the scope of anything we can do about it in college or government circles. So I shall concentrate on the other three.

None is exclusive of the others; all are needed, though not all by every student. But we must have a system which provides these three things in the future, in more abundance than in the past, if we are to face up to the costs, or I should say to the investment needs, of college education in the years that lie ahead.

The bill which I have introduced into the Congress for Federal assistance, the Higher Education Assistance Act of 1965, provides for all three in a package concept which has won the support of a great range of leaders in higher education.

Let us look at these three, with scholarships first, then work opportunities, and finally loans.

The need for scholarships is clear. Without them, it is all but impossible for the high-ability student from a low-income family to make it on to college, and these are the ones who commonly benefit most from scholarship aid.

The need is abundantly evident. A study of more than 300,000 applicants in the National Merit Scholarship Competition of 1958–59 showed that, of the upper 30 percent in rank, one-tenth did not enter college, most often for lack of finances.

There has been a great growth in scholarship money available in recent years, but the growth in the need has been fully as great.

In 1949–50, 1,198 colleges and universities out of 1,808 gave $27 million in scholarships to nearly 125,000 students.

Ten years later, in 1959–60, the figure was $98 million to more than 287,000 students, with 1,677 institutions out of 2,011 making funds available. But almost a third of the total is concentrated in three States: New York, Pennsylvania, and Massachusetts.

Public funds at the State level are being generously used for scholarships in some of our States, but in some of the neediest there are none.

New York State leads with nearly $16 million in scholarships and fellowships provided for about 40,000 residents of the State in 1961–62.

By 1965, California will have 5,120 scholarships which are already authorized for distribution by the State. Business firms and corporate scholarships aid some 37,000 students to the tune of more than $22 million.

Altogether, the total of $150 million in scholarships estimated for 1961–62 by the Office of Education sounds like a tremendous sum. But while it is true that the top 2 percent in academic standing are able, regardless of family income, to find sufficient scholarship aid to enable them to go to college, the case is not the same for those others in the top 30 percent who would be a credit to any college under today's even stiffer standards.

So, a vital part of the package I have proposed to Congress would be an additional 50,000 scholarships per year for the next 4 years, when the peak of 200,000 would be reached, followed by support of those then in the program until they graduate.

These would be allotted to the States by formula based on number of high school graduates and the 14 to 17 age population of the State.

Selection would be made by a State board, with the criterion of need heavily stressed together with that of ability. The program would be aimed at reaching primarily this scholastically able but financially unable group.

In 1965, new enrollments in colleges and universities will rise to nearly 1½ million, and will keep on climbing. Against that figure, 50,000 additional scholarships is not an excessive number.

Two or three times as many of the top third of high school graduates who fail to continue would still be untouched by such a program.

But even for those who should receive the maximum amount which would be available from these new Federal scholarships, $1,000, and presumably this would be a minority, there is still need for meeting the rest of the bill.

Working your way through college is an American tradition. Probably, there are few, if any, in this room who did not share in that tradition in their own college days.

In 1959–60, employment opportunities reported by colleges for their students came to almost the same sum as scholarships, over $98 million, and provided assistance to even more students, somewhere above 288,000 of them.

Studies have shown that more than 90 percent of students have summer employment and that at least half of the men, and more among those who are married, work part time during the school year.

The employment opportunities on campus, of course, are only a part of the total; there is no way of calculating with any accuracy how many are holding part-time, and sometimes even full-time jobs, while attending school. When it is noted that even 10 hours a week is a quarter of the normal workweek for a fully employed person, it is obvious that work opportunities are a most important part of a college student aid package.

All too often, however, the work opportunities have no relationship to the academic career of the student. What does it benefit him to shovel sidewalks or rake leaves or grease cars in a filling station in relation to his preparation for social work or teaching or a career as an accountant?

In order to perform a dual function of aid to students and aid to the institution, the new bill proposes making funds available for a work-study program within the school, to be administered by the school.

It would help more students than any other part of the program, with an estimated 330,000 being assisted each year. Funds granted to the institutions would be used for projects useful to the university or college—assistance to professors, research projects, the manpower requirements for things the university needs to carry out but is always short of help to perform.

It would allow also, and here it gears very well into the poverty program, the use of students for pay in community projects. Such on-the-job training could help a social welfare department and a social welfare trainee, who would be aided in his college costs.

It could aid the public school system by providing part-time teaching aids outside the usual practice teaching program, improving both the student's training and the school's standards.

The appropriation called for is the highest of the four portions of the bill, $250 million annually. But it could also be one of the most rewarding forms of investment.

The rest of the package which I have proposed is in the area of loans. One portion is in the expansion of NDEA loans. The other is a new proposal which has been winning unanimous support, that for Federal insurance of commercial loans directly to students, much as the FHA insures home loans.

Loans for education have grown in recent years by leaps and bounds. They are meeting a middle-income need as a supplement to greater family financing than is possible for low-income families, where the scholarship and grant program is most acutely needed, as well as serving these too.

As education costs spiral upward, work and scholarships often need supplementing even in families with $10,000 incomes through some type of borrowing.

Provision of the National Defense Education Act for loans through cooperating educational institutions has been enormously successful. Recent National Defense Education Act amendments, as I am sure you are aware, have provided $135 million in new funds for fiscal 1965 and lifted the institutional loan ceiling to $800,000.

By the end of the school year in June 1962, $225 million had been advanced to students under the National Defense Education Act, assisting 327,000 undergraduates and more than 36,000 graduate students.

The changes proposed in my bill would raise the $135 million to $200 million, entirely remove the institutional ceiling, increase the sum available to an undergraduate from $1,000 to $1,500 per year maximum, and perhaps most important, would redefine institutional eligibility to include 2-year schools such as junior colleges and technical institutes.

These are needed reforms and expansions which deserve to be achieved.

A new source of loan funds has appeared in recent years, perhaps stimulated by the realization of need which the National Defense Education Act program revealed. That is the development of student loan guarantee organizations. The Massachusetts Higher Education Assistance Corp., a private organization, was the first statewide plan in the United States, organized in 1956.

The Massachusetts experience, in loaning approximately $6 million to some 13,000 students, has demonstrated the feasibility of direct loans to students as borrowers, even when they are legally minors. Out of 13,000 loans at the time of the report which gives these figures, only 56 were in default for a total of about $24,000. This is a ratio which many a commercial lender could envy.

Under these various State loaning agencies, the interest rate is kept low, usually from 3 to 6 percent simple interest. In addition, United Student Aid Funds, Inc., is serving to guarantee loans to students by participating banks in 30 States where the State banking association has given its sanction to the plan.

Of equal significance as indicative of need is the mushrooming of corporations backed by leading finance companies, among them chiefly—the C.I.T. subsidiary, Tuition Plan, Inc., and a subsidiary of Household Finance Corp., Education Funds, Inc. In testimony before the Senate Subcommittee on Education, I have cited the charges made by these companies as indicative of the need they have found, a need sufficient to compel borrowers—in this case, the families rather than the students themselves—to use their services. Under them, repayment begins immediately and the repayment period goes up to 5 years. Figures compiled by the Credit Union National Association show that, due to repayments continued during summer vacations, along with costs of insurance included in the lending service and other charges, the cost of the loan may rise to the equivalent of 23 to as high as 60 percent in terms of simple interest on an annual basis.

The Household Finance subsidiary, in attempting to clarify their position, furnished me with figures which show that their basic interest rate is figured at 14.4 percent in terms of simple annual interest, or 1.2 percent a month on the unpaid balance.

In addition, there is a monthly service charge of $1 regardless of the size of the loan or its balance. Insurance is a bulky item which makes up the balance of the charges.

According to the companies themselves, C.I.T. had 40,000 accounts outstanding last year and did a $67 million business. Household Finance formed its subsidiary only in 1960 and grossed $47 million last year, with 32,000 outstanding accounts. When to these 72,000 accounts are added many thousands more educational borrowers from commercial banks, the need for a low-cost method of financing college borrowing by students, to be repaid out of future earnings, is transparently clear.

Such a system would be provided by my proposal for guaranteed loans to college students. It would parallel and supplement existing loan guarantee organizations within the several States which possess them, and it would open the field to students in the many States which do not.

Further, it has the great attraction of very little cost. In order to set up the system, the sum of $1 million is calculated as sufficient, a sum which would be replenished by a charge of one-quarter of a percentage point paid by the lending institution, which would have a maximum interest rate fixed by the Commissioner of Education, in all likelihood not over 6 percent at the present time.

A qualified bank, or even perhaps a college from its endowment funds, could loan directly to the student for after-college repayment, and the fund would guarantee 90 percent of the loan.

This would eliminate need for packing on insurance costs for each loan, on which the lending institutions gain considerably at the present time.

It would open up, by its Federal Government guarantee, a great many more avenues leading to loan funds for students than are presently available. And it would make them possible at a reasonable interest figure.

This, then, is one answer to the question, "How?" Through the use of the Federal Government's vast powers we can help meet the needs of higher education for aid to its students in meeting soaring costs. If such a package is available to the five children of my Indiana constituents by the time they start attending college in 1970, it will greatly enhance the possibility that they can make it, all of them, to realize their full potential as future citizens of the Nation, contributing to its welfare and its income far more than the cost of the investment in their future. You, who are working with these problems at the grassroots level, dealing day by day with students and their families, know better than I how great the need is.

We, in Congress, have given the educational institutions you represent a greater opportunity for meeting your burgeoning needs for classrooms and facilities, through the great forward-looking so-called "bricks and mortar" bill passed in the 88th Congress last year.

I sincerely hope we can go forward now, before the end of this session, to all or even a part of this program for students as an addition to that program for institutions.

Favorable testimony on the bill has already been presented by the Association for Higher Education, the Association of State Universities, and Land Grant Colleges, the United Business Schools Association, the AFL–CIO and others.

The Treasury of the United States has given a most constructive reply to a request for comment, finding this a reasonable approach greatly to be preferred to the inequities and costs of a tax credit program such as Senator RIBICOFF proposed in the income tax debate.

We need this kind of united national attack on the problem. We must have it. I believe we will secure it, and that you will be given, through it, a new tool to meet the needs you face with students day by day.

## SOIL STEWARDSHIP WEEK

Mr. HRUSKA. Mr. President, beginning on May 3 and continuing through May 9 in many communities all over the United States programs will be held in observance of Soil Stewardship Week. Farmers, ranchers, agricultural interests and many urban groups will take time out to highlight conservation accomplishments and to contemplate the essence and meaning of man's stewardship on earth.

In the interest of this Nation and its posterity it would benefit us all, rural and urban alike, were we to expand this observance and encourage a more universal reflection on man's role in the marvelous master plan of nature.

Man's primacy in nature is generally recognized. Too often, however, we tend to take for granted, or to forget, man's dependence on two indispensable resources, soil and water. An observance such as Soil Stewardship Week serves well to create a more widespread awareness of the fact that soil and water are the essence of our being, that from soil we came, on and by soil we live, and to the soil our earthly forms return.

The relationship is dramatic and I believe urban dwellers have an appreciation for drama that might be attracted to the meaning attached to the responsibility of man as the highest form of life. Soil Stewardshp Week might thereby become the vehicle that conveys the importance of conservation.

In my State of Nebraska we know and appreciate the importance of soil and water and have accepted the responsibility that goes with it. We have not regretted it, for the rewards from our efforts to conserve and develop our resources have been bountiful. Our landowners from the Missouri River to the foothills of the Rockies hold great deference for the land. The relationship between man, soil and water, and the esteem in which the relationship is held, is in great measure responsible for the agricultural production on the 22 million acres under cultivation in our State.

The concept of soil and water conservation has engendered a practice, a way of life in Nebraska among some 70,000 farmers and ranchers. In developing this way of life, landowners have had a valuable assist from the Soil Conservation Service of the Department of Agriculture.

For nearly 30 years now, the Soil Conservation Service has been endeavoring at its basic assignment, soil and water conservation and sound land use. In consideration of Soil Stewardship Week I think it appropriate to pay tribute to this great agency and to Donald A. Williams, its able and talented administrator. Through the work and dedication of Dr. Williams, and his staff and associates and the people they serve in the Nation's soil and water conservation districts, the soil and water conservation program is spreading across our 50 States.

Beyond the deep inner satisfaction man derives from seeing the results of his conservation work and knowing that it is good, and does good, beyond the love and effort that goes into and comes from stewardship, there are more tangible benefits which probably have greater popular appeal. These tangible benefits are the justification for the millions of dollars invested yearly in conservation measures.

By way of example, in one Nebraska county alone it is estimated that an average annual benefit of over $600,000 can be expected from five authorized watershed projects and up to $1 million when all feasible projects in the county are finished.

In hardheaded practical terms, as our population grows, as our acreage per capita diminishes, the extent to which we practice basic resource conservation, irrespective of our attitude toward stewardship, will mark the difference between sickness and health, poverty and wealth of the Nation.

We can be thankful that because of those who have accepted stewardship our land is in safe hands and the outlook is excitingly suggestive of an ultimately poverty-free people, through conservation and stewardship.

A recent editorial in the McCook (Nebr.) Daily Gazette calls attention to the benefits of soil conservation in Red Willow County. The editorial recognizes that $2.5 million spent on conservation activities in that county over the past 23 years returned $10 million in benefits. Such increases of wealth in our Nation are multiplied many times over across Nebraska and America. Mr. President, I ask unanimous consent to have printed in the RECORD the editorial from the McCook Gazette.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### CONSERVING SOIL

An area of Government spending few thinking taxpayers can honestly begrudge is that appropriated for the conservation of our Nation's soil.

Anyone who has flown over Red Willow County following a rainstorm and seen the 5,500 miles of terraces holding back water that would otherwise sweep over fields and rush to canyons making them longer and wider, will readily agree. Likewise, the millions of GI's who saw the age-old terracing in Japan, China, and Korea know what the preservation of soil and water means to the preservation of humanity.

The importance of soil conservation was brought to the attention of the public last week when the Red Willow district supervisors met with several laymen as guests.

It was pointed out that approximately $2.5 million has been spent in the county's conservation work over the last 23 years with benefits estimated to be at least $10 million.

In addition to 5,500 miles of terraces, the work has included 607 acres of tree planting, 240 canyon dams, 15,151 acres of land leveling, 2,120 acres of bench leveling, construction of 2,308 irrigation structures, and 5,000 acres of range seeding.

The work has been financed largely by taxpayers in general with the farmer paying a minority part. This is so, even though the farmer is the first to benefit by increased production. Why should all taxpayers foot the bill of conservation? Because the real benefits of soil and water conservation done today will be realized, generations to come. Land saved from topsoil destruction will be here producing in the year 2000 or 2050 when the story of agriculture overproduction is merely history.

It is everyone's obligation to pay for the conservation of our soil, and likewise it is not morally the farmer's decision alone whether his farm utilizes modern, conservation practices or whether it is left to wash and blow away. One sometimes hears farmers say they wouldn't have terraces because they don't like to drive a tractor or combine over them. This is a narrow approach and a farmer taking this attitude might just as well say: "To heck with everyone but me."

Red Willow County is fortunate in having a progressive soil conservation district and farmers who have taken a wider view on conservation and joined in soil saving projects. Much progress has been made in the county in the last 23 years which will pay benefits long after all of us now using the soil are gone. We compliment those responsible and hope everyone will offer a helping hand as the district sets its sights on continued improvement.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that during the course of my speech this evening I may be permitted to yield to Senators for statements not to exceed 3 minutes, both for the purpose of stating a brief observation and for the purpose of making insertions in the RECORD, without prejudice to my right to the floor, and without prejudice to the Senators to whom I yield with regard to their rights on the floor hereafter.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, several weeks ago I began a speech on this bill by stating that the more I looked through and studied its 56 pages the more evidence I kept finding that H.R. 7152 does more to take away personal rights than to confer them.

Since making that remark, I have had considerable time to study this cleverly drafted piece of legislation; and I must confirm the fact that my former impressions of the bill were quite accurate. This bill does, indeed, storm the gates of our traditional American freedoms. In a sense, I picture this debate as a final means of waiting out and enduring the siege, until that day when the American people finally awaken to the dangers and evils that lie in the forced integration bills and rise up in great numbers to bury the attackers and their nefarious proposals under a mountain of public disapproval.

As these proceedings progress and as we are given the opportunity to inform the American public about the dire consequences of H.R. 7152, it is a great pleasure to see corrective amendments proposed. Though this bill would have to be literally amended out of existence in order to make it really perfect, it is nevertheless quite useful to consider such amendments as the ones proposed by the distinguished Senator from Georgia [Mr. TALMADGE] affecting the right to trial by jury in contempt proceedings under the bill, and under our criminal law in general.

It seems to this Senator that H.R. 7152 does quite enough damage to the American rights of privacy, property, and free enterprise without also attempting to enforce its provisions without benefit of trial by jury. After establishing the rules and regulations by which the owners of private businesses will be denied their rights to use that property as they see fit, and to select customers or employees as they see fit, this proposal goes even further. It proceeds to deprive persons brought to court for the crime of discrimination the right to a trial by jury. What we really see here is the ridiculous situation of a man who is dragged before the courts for merely having exercised what many of us consider his constitutional rights and being tried without the benefit of still another of his constitutional rights.

In effect, what proponents are attempting to do is this: They are looking at an alleged violation of the law which is criminal in nature and calling it something less than an actual crime. By some strange fiction, the constitutional guarantees to trial by jury are dispensed with and it is determined that this particular type of crime actually requires no trial by jury. But, of course, what I am contending is that all violations of this statute—should we have the misfortune to see it enacted into law—would certainly be criminal in nature. For prosecution of such acts to be legal and constitutional, it must, therefore, be conducted with due respect for the defendant's right to a trial by jury.

Of course, it may surprise some of my colleagues—and I know it would surprise many millions of average American citizens who have been sold a "bill of goods" on this proposed legislation—to know that by calling this something other than a criminal prosecution, proponents also seek to water down several other procedural safeguards. The right to a trial by a jury of one's peers is only one of the safeguards which benefits the defendant in a criminal proceeding. Some of the others are:

First. The presumption of innocence.

Second. The right to be confronted by one's accusers.

Third. The right of cross-examination.

Fourth. The requirement that the proof of guilt be beyond a reasonable doubt according to a well-developed body of rules of evidence.

Now, Mr. President, the way this Senator understands the law as it would be handled under the provisions of this bill, the person accused of "discrimination" could not fully rely on any of these safeguards. He would be cast at the mercy of an attorney general who, in most cases, would be authorized to shop around for a sympathetic court in which to bring suit; and then when the poor defendant is dragged in for having committed the crime—the undefined crime—of "discrimination," he is summarily deprived of any of the legal machinery by which he might have a reasonable opportunity to prove that he is innocent of the crime. Then, finally, he may be dragged before the court again in a contempt proceeding for continuing to "discriminate." In neither proceeding—the original trial or the contempt proceeding—will he have the opportunity to face his accusers, to cross-examine them, to rely on a true presumption of innocence, or to enjoy the rules of evidence which require proof of his guilt "beyond a reasonable doubt."

Can Senators imagine what the reaction would be if the unsuspecting public were fully informed of the facts on this aspect of the bill? Even by reading the bill carefully, our citizens will not be likely to discover the dangers that await them in this regard. I picture John Doe reading on page 11 of the bill and coming to section 205(c) which says, "Proceedings for contempt arising under the provisions of this title shall be subject to the provisions of section 151 of the Civil Rights Act of 1957 (71 Stat. 638)." Poor John Doe has no idea on earth what that provision says, so he skips on to the next line and forgets about it.

But, of course, this little item which he has had to skip over for lack of reference materials with which to study it, means that part of the 1957 act is made part of this bill. That provision in the 1957 law provided for contempt of court as follows: If a fine of more than $300 or if a sentence of more than 45 days were imposed, the defendant could demand a de novo jury trial; but if punishment did not exceed a $300 fine or 45 days' imprisonment, the defendant could not obtain a jury trial.

Of course, it has always been this Senator's contention that section 151 of the 1957 act was as unconstitutional as the day is long. A person, under the Constitution, either is or is not entitled to a jury trial; and the amount of the fine that is imposed on him cannot control that question. But, nevertheless, that obnoxious provision is being made part and parcel of the bill now before us.

Mr. President, the Constitution is very plain in its requirement that a person charged with the commission of a crime shall be entitled to a jury trial. The Constitution, in its great wisdom, makes no exception to this rule; but proponents are seeking to creat a limitless exception by ignoring the Constitution itself. They are attempting to set up such an exception by reference to the length of the prison term and the amount of the fine. This is the most outrageous standard of action ever proposed on the floor of the Senate. It is an ends-justifies-the-means proposal for which the American people would have nothing but disgust, of they only knew it was here in this bill.

So we find that, according to the compromise, a defendant under title I, II, III, IV, and VII could be denied a jury trial by keeping his penalty below $300 or 30 days in jail. It seems to me that this is an empty "compromise" if there ever was one. I might mention at this point that at least one of the major editorial pages in this city agrees with me. In fact, I should like to quote from the excellent lead editorial of yesterday's Sunday Star on this point. The editorial stated:

> The Senate is beginning to talk in terms of "compromise" in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.
>
> We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to. Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.
>
> The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt.

The so-called "compromise" was the compromise proposed in the 1957 Civil Rights Act. There was no compromise on the part of southern Senators or Representatives either then or now. The so-called compromise was only a question of those who would bury us getting together to decide how they should do it.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. LONG of Louisiana. I yield.

Mr. HILL. Is it not a fact that the 1957 bill as passed by the Senate carried the provision now embodied in the Talmadge amendment?

Mr. LONG of Louisiana. Yes.

Mr. HILL. Only when it went to the House and the House changed it was there the prostitution—the denial, really—of the right of trial by jury? One either has a right or does not have it; there is no way to divide a right. Is there?

Mr. LONG of Louisiana. That is my judgment. The so-called compromise was no compromise on the part of southern Senators or Representatives.

Mr. HILL. That is to say, the southern Senators opposed the so-called compromise and voted against it, and voted against the bill with the so-called compromise. Is that not correct?

Mr. LONG of Louisiana. That is correct. Every southern Senator and every southern Representative, so far as I know, voted against the bill with the so-called compromise amendment. So far as compromise is concerned, I am reminded of Little Red Ridinghood, when she said, "What big teeth you have, grandma." The answer was, "The better to eat you."

To those of us from the South the so-called compromise was merely a matter of those who had the votes imposing a tyrannical bill upon the Southern States. They merely said, "If you will not agree with us to crucify the South in this way, how about agreeing on some other means by which to crucify her?" It was a meeting of the minds of those who would penalize the South by arriving at an agreement among themselves. There was no compromise so far as southern Senators were concerned. There is none now. As the Senator indicated, the average southern Senator will defend and fight for the proposition that every person accused of a crime, be it a contempt of court or any other crime, is entitled to a jury trial. He believes that right should be protected at all costs. Lack of such protection is one of the things that is wrong with the bill.

Mr. HILL. In other words, every person charged under the provisions of this bill should have the basic, fundamental, precious American right of trial by jury which is given to the lowest form of criminal in this country, be he a murderer, robber, thief, or even traitor? Is that correct?

Mr. LONG of Louisiana. The Senator is entirely correct. The crime being dealt with here is the crime of discrimination. I do not care how many civil rights laws are passed; the right to discriminate, at least in certain connections, will still be permitted every American citizen. For example, I do not think anyone would go quite so far as to say that a man or woman cannot discriminate in the choice of a partner in the contract of matrimony. I suspect that it will still remain a right of a person to discriminate, however he or she wishes to do so, without any penalty, in the choice of a partner in marriage. There are many other respects in which a person should be permitted to discriminate.

While it is proposed in the bill that an employer shall not have the right to discriminate in choosing persons he will hire, I am happy to see that, even if the bill becomes law, at least the employee—for the time being, at least—will be permitted to discriminate in deciding for whom he shall work. While it is proposed to enact a law providing that a place of business will not be permitted to discriminate in deciding whom that businessman will serve or entertain in the facilities which he operates for a profit, at the same time a customer will be permitted to discriminate in deciding whose place of business he will patronize.

So the crime covered is not a crime by any standards other than those we find in the forced integration bill. It is being proposed to make it a crime to discriminate in certain respects; and the rights in which it is proposed to involve a person in charges of discrimination are those which have been the rights of American citizens since the foundation of the Union, and before that.

Mr. HILL. Does not the bill itself discriminate in denying to those who may be charged with a violation under the bill the right of trial by jury, whereas such a right is granted to murderers, rapists, robbers, thieves, embezzlers, narcotics peddlers, and all other criminals?

Mr. LONG of Louisiana. The Senator is correct. As the Senator knows, those who drafted the bill tended to take out of the bill provisions that might offend the people in New York, Chicago, Los Angeles, or some other parts of the country, but to leave in the bill stringent provisions which would offend those in the South.

The theory is that it is better politics to talk about civil rights, if one comes from the North or the East, and makes the southerners do something instead of talking about civil rights in terms of setting one's own house in order. So that could be a controversial problem.

I have tried to represent my constituents to the best of my ability, and I believe I have been favored with their support. I find it difficult to envisage the justice of any group picking out southern whites as being a bad group of people. I believe if anyone would look at the record of the South, he would find southerners to be law-abiding citizens; that the rate of crime in the South among whites is extremely low; that they are patriotic people; and that the rate of volunteers from Southern States to aid their country when it has been attacked or was in peril has been higher than the average throughout the Nation—particularly among southern whites. I believe the record will show that they are a fine group of American citizens from many points of view—biased though I may be in saying so. They are among our best citizens. But to pick them out for special action, as is proposed in the bill, and to discriminate against them, I believe to be most unfair.

We protect the rights of Communists to the utmost. Both the Supreme Court and many liberals in the Halls of Congress see to it that Communists get the utmost protection. There is virtually no way that their rights can be prejudiced. The same thing applies to a person accused of rape or murder. If that person were not assured of every conceivable right and that man's right had not been thoroughly protected, we would hear about it from many quarters.

I recall that we tried to modify the Mallory rule some years ago, feeling it was unfair, that it imposed too great a burden on the law to require that a person not be allowed a certain period of time before having a lawyer made available to him, for fear he might prejudice his rights or make a confession or tell someone something about the commission of his crime which might prejudice his rights. Some thought it would be difficult to enforce the law against a rapist-murderer while at the same time according him the overprotection of his rights on which the Supreme Court insists. I recall that some advocates of the Mallory rule rose on the floor of the Senate and vigorously fought any efforts to change the Mallory rule; therefore, the protection of a trial by jury and many other rights was carefully protected by the Supreme Court and by Senators on the floor of the Senate, whenever an effort was made to modify the Mallory rule.

But those rights could be denied, as the Senator points out, to citizens of the South. Presumably this bill is aimed at the white citizens of the South who would be tried under the provisions of this bill, without a right to trial by jury which is fundamental to the rights of all American citizens. It is difficult to conceive of Senators seeking to bypass and deny to any American citizen the rights guaranteed to him by the Constitution.

I believe this is a right which dates back to the days of our forebears, who wrested the power from King John at Runnymede in 1215. When we think of some of our citizens being denied that fundamental right in a bill which seeks to eliminate discrimination, and of imposing upon these people the extremes of discrimination by denying them a right which is literally several hundred years old, it seems to me to be almost unthinkable in this time, and in the Senate.

I continue to quote further from the editorial:

> Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense.

Mr. President, there are some people in this land, even those who both as a matter of conviction or of economic compulsion find it necessary to support the type of proposed legislation before the Senate, who would be fair enough to realize what utter nonsense it is to discriminate as to a man's right to a trial by jury when confronted with a criminal charge, which the proponents of the so-called compromise would suggest.

I quote further from the editorial:

> The civil righters argue that southern juries (why only southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

Mr. President, I might also suggest that this Government could have saved money when it passed laws seeking to bring about certain reforms in the area of labor-management relations, had it arranged matters so that Mr. Hoffa and some of his Teamsters Union members could not have had a trial by jury. I suspect that the Federal Government spent millions of dollars in a careful and thorough investigation, supervised by the Attorney General, Robert Kennedy, looking into every activity of Mr. Hoffa's affairs, seeking to bring about a conviction for some violation of the law.

I do not contend that Mr. Hoffa was innocent; but I ask Senators, Is there any Senator who would have voted to deny him a jury trial on the theory that Mr. Hoffa managed to influence the jury and managed, by his extensive connections in the labor movement, to achieve the result of a hung jury in one instance and acquittal in another, by the use of the power he might bring to bear to persuade and influence people?

Would any Senator have voted to change the law to deny labor leaders the right to a trial by jury, so that Mr. Hoffa could be put in jail by a judge and tried for criminal contempt without the benefit of a jury trial?

Would any Senator have voted to do that in the labor relations field? I do not believe so.

Notwithstanding the fact that Mr. Hoffa was successful in thwarting the Government's attempt to place him in jail on two previous occasions, no Senator has proposed to eliminate the right to trial by jury so far as Mr. Hoffa is concerned.

I believe those who would be punished by the provisions of the civil rights bill are as good citizens as Mr. Hoffa is, and are equally entitled to have their rights protected under the law.

Mr. HILL. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. I am sure the Senator recalls when Congress, in September of 1959, passed the so-called Landrum-Griffin Act. Title II of that act was described as the bill of rights for members of labor organizations—the bill of rights, equal rights, freedom of speech, the protection of the right to sue, and many other rights.

Section 608 provides:

> No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary or any other person in any court of the United States under the provisions of this act, unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in a district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

Mr. LONG of Louisiana. That language is in the Landrum-Griffin Act. That bill passed the Senate originally as the Kennedy-Ervin bill, the work of two great statesmen, one of them the late John F. Kennedy, President of the United States, and a great legal mind of the Senate, SAM ERVIN, who joined together in sponsoring the Senate version of that measure when it passed this body.

I suspect that it required considerable political courage for John F. Kennedy to vote to protect the right of trial by jury. I believe the Senator from Alabama recalls that at that time both the Senator from Massachusetts, later President of the United States, John F. Kennedy, and the then Senator from Texas, Lyndon Johnson, now President of the United States, voted for the right of a man to be tried by a jury of his peers without any bargaining away of his rights over whether the fine should be $300 or $500, or whether the term in jail should be 45 days or 30 days.

Mr. HILL. They not only voted for the unlimited right of trial by jury in the Landrum-Griffin Act, but also when the Civil Rights Act of 1957 was before this body the then Senator from Massachusetts, later President Kennedy, and the present President of the United States, who at that time was majority leader of the Senate, Lyndon B. Johnson, and also the present majority leader, the Senator from Montana [Mr. MANSFIELD], voted for the unlimited right of trial by jury, which is the right that would be embodied in the Talmadge amendment.

Mr. LONG of Louisiana. The Senator is correct. My thought about the matter is that it was just as good a bill as it passed the Senate as it was when it passed the House of Representatives. I believe that the bill that passed the Senate perhaps permitted labor somewhat more freedom and perhaps was more considerate of labor than the final version that emerged when the bill passed on the House side.

There is no doubt that the Senate guarded carefully the rights of organized labor. In doing so it guarded the rights of some people with whom John F. Kennedy had some violent differences of opinion, both with regard to his opinion of their worthiness and their opinion of his capacity to serve.

However, there was a fundamental right and it was protected by an act of statesmanship on both sides.

I continue to read from the editorial:

> This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.
>
> If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order. It might be 30 days or 45 days, or it might be 10 years. The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. For the only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.
>
> Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Mr. President, I say without fear of contradiction that the day will come—it may not be soon, but it will come, and the judgment will prevail from that day forward—when Members of the House and Senate will not look upon it as one of their better acts of statesmanship that they voted against the right of a citizen to have his case heard before a jury. If Senators make this mistake, they will not view it as one of their acts of statesmanship that they were carried away by mob demonstrations and perhaps by political pressures and by the persuasion of those who are motivated by thoughts that the end justifies the means. This will be an act which they will regret; and they will feel that they would have much preferred to vote to keep inviolate a citizen's right to trial by jury when he is accused of crime.

I believe that they will feel that any participation by them or by even a majority of the members of the Supreme Court in holding that a citizen was not entitled to the right of trial by jury was a case of fostering exactly what the Washington Star—and it is supporting this bill—has to say with regard to judicial tyranny.

It is nothing less than tyranny to permit a Federal judge, protected by a lifetime tenure, with the entire U.S. Army behind him to protect his personal safety, if necessary, to act in any such fashion. It is tyranny to permit a judge to lay down an order on the one hand, and to call people before him on the other hand and proceed to find a man guilty and fine him $299 and sentence him to 29 days in jail, on the theory that it was intended that he should exercise such tyrannical power. That is the height of tyranny.

Let us assume that the judge is wrong. Judges are not always right. That is why we have trials by jury.

It is a part of the American system of government to assume that it is better to turn 10 guilty men loose than to convict 1 innocent man of a crime that he has not committed.

No one can imagine the tyranny that would be possible under this bill. In the whole broad gamut of human relations, it would be possible for one judge to issue an order under title I, II, III, IV, or VII, and, after issuing the order, to haul citizens before him and find them guilty without trial by jury, for fear that if they were permitted to be tried before a jury of their peers they might be acquitted.

If the Senate perpetrates this kind of thing and extends this kind of mistake, Senators who do it will live to regret it; and they will not regard it as one of their acts of statesmanship when they look back on their careers in this body.

Tyranny is bad no matter how it is practiced. People in the Southern States will regard such an act of Congress as being aimed at them. They will view it as an attempt to force them to do something which to them is morally wrong. They will regard such an act as legislative tyranny; and it will make this a very hated piece of legislation in the area in which it is supposed to have the most application.

I can only suggest that it will lead to further resentments, and that it will be like planting a bad seed. It would bring a bad harvest; of that, I am sure.

Mr. HILL. The Senator from Louisiana recalls, I am sure, that the Founding Fathers, who fought the Revolutionary War and wrote the Constitution of the United States, knew the history and the story of the star chamber proceedings in England. They knew the story of Judge Jeffries and the Bloody Assizes, the professional witnesses, and all the rest of it, through the tyrannical measure of denial of the right to trial by jury and the sending of people to jail to be punished in all kinds of brutal ways, even to the taking of their lives.

Is it not interesting to observe that the men who wrote the Constitution not only provided for trial by jury and made it a part of our judicial procedure under our American system of government in one place, but they wrote it in two places. Article III of the Constitution contains this provision:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the

> said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

That provision was placed in the original Constitution, agreed to at the Philadelphia Convention.

As the Senator knows, in order to have the Constitution ratified, the Founding Fathers agreed to place in the Constitution the first 10 amendments. Almost simultaneously with the adoption of the original Constitution came the agreement to adopt the first 10 amendments. What do we find in amendment No. VI? The sixth amendment provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial—

They were getting away from star chamber proceedings by providing for a public trial—

> by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

That shows how deeply concerned the men who wrote our Constitution, the Founding Fathers, were to preserve for the people of this country, the citizens of America, the precious right of trial by jury. They not only made certain of it in the original Constitution; but also when they wrote the first 10 amendments, which we speak of as the Bill of Rights, they included a provision for the right of trial by jury in the sixth amendment. The only provision, as I recall, that appears twice in the Constitution is the provision for the right of trial by jury.

Mr. LONG of Louisiana. The Senator from Alabama is entirely correct. Perhaps it was necessary for the Founding Fathers to include that provision in the Constitution twice. Perhaps they recognized that some day in the history of the Nation it would be necessary for Senators and others to stand and fight to preserve the right of trial by jury from the efforts of others to bypass it and to deny it to American citizens by such proceedings as are now being proposed.

As the Senator from Alabama well knows, that is the kind of thing that perhaps needed to be set forth twice in the Constitution. Perhaps it might well have been said three or four times, since we are now confronted with a type of measure that proposes to bypass the right of trial by jury and some of the other legal safeguards, which are sought to be ignored by means of proceeding under the contempt power, or the power of criminal contempt, which is a more or less recent invention.

Mr. HILL. The Senator may recall that Thomas Jefferson, in the Declaration of Independence, cited the denial to the people of the right of trial by jury as one of the grievances which led to the Revolutionary War.

Mr. LONG of Louisiana. The Senator is correct. That is so. Once again, the reason why it is so true is that one reference had to do with the admiralty courts.

Mr. HILL. Admiralty courts do not have juries; they act as equity courts, without jurors. The British Crown—George III—had proceeded to make use of the admiralty courts for the very purpose of denying to the people of the Colonies the right of trial by jury which, as the Senator has well said, had been wrested from King John at Runnymede as far back as 1215.

Mr. LONG of Louisiana. The Senator from Alabama is correct. It is well that it should be that way, because tyrannical rule of the people is difficult to impose so long as they are granted the historic safeguards for which freemen have fought down through the centuries.

It would be difficult to imagine how a Communist system could be perpetrated on the people if the right of trial by an impartial jury were a part of the Communist system. There may be ways in which that system could be proselyted to make it appear that one was getting the benefit of an impartial jury trial, when actually such a situation did not exist. But, in my opinion, Communist tyranny could not be perpetrated upon the people of any nation if the right of trial by an impartial jury were assured, together with the other legal safeguards to which the Senator has referred, that are a part of our Constitution. In other words, the type of tyranny that exists under communism could not be perpetrated except by denying the right of trial by jury.

I continue to read from the editorial:

> Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."
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> No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. Is it not true that one of the greatest glories of our Government has been what we speak of as the check-and-balance system? When a judge tries a case, he becomes the prosecutor, he makes the decision in the case, and then he fixes the penalty.

Mr. LONG of Louisiana. If I might put it as Justice Black put it—I believe this is one of Justice Black's more striking and impressive efforts to uphold the freedoms of the American system; and as the Senator from Alabama knows, Justice Black is a great believer in the Bill of Rights—he said that when a judge denies a defendant the right of trial by jury, he "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty."

So a judge arrogates to himself all those prerogatives when he denies a defendant the right of trial by jury.

In other words, in effect, the judge is the sheriff. He has gone out and charged a man with a crime. He is the district attorney; he has prosecuted the man for the crime. In fact, the judge has also been a legislator, because he is the one who established the crime when he issued his order. So the judge is the lawmaker who gives the law, the sheriff who arrests the man for an infraction of the law, the district attorney who prosecutes the defendant, and the selector of his own jury, which is himself.

So the judge is the jury hearing the case. He is all those persons wrapped up in one. What chance does the poor defendant have? He has to defend himself before a judge who is a lawmaker, an apprehender, a prosecutor, a jury selector—the judge selects himself to be the jury—and the jury. Then, for the coup de grace, he turns his hat around again and becomes the sentencing authority, to sentence the poor defendant to what the judge believes is an appropriate sentence for the crime committed.

He is judge, jury, prosecutor, sheriff, lawmaker, all wrapped into one. Talk about tyranny. This is the height of it. This is the kind of thing that Americans fought to protect themselves from when they fought the bloody Revolution against the Parliament and the King of Great Britain.

Mr. President, I am certain that the distinguished Senator from Minnesota feels that he is being most generous to offer that this bill's jury trial provisions be handled under the same rule as appeared in the 1957 bill. But when we take a close look at the odious nature of the provision as it appears in section 151 of the 1957 act, it is obvious that this is not the sort of law we want.

As I have stated above, the defendant under this proposal—to which my good friends are willing to agree—would have the right to demand a jury trial only if he has been penalized to the extent of 45 days or more in jail or $300 or more in fines. What sort of ridiculous standard is this, Mr. President? Why should a person receiving a 44-day sentence be arbitrarily deprived of a jury trial when his neighbor who receives a 46-day sentence is allowed trial by jury and the other subsidiary rights which accompany this primary one?

This is an odd situation. If the punishment is the lesser, then the person is to be denied his rights. If the punishment is the greater, then he is to have his rights. That suggests to this Senator what would be a fair compromise. If someone wants to talk about a fair compromise, I shall give him a fair compromise. I shall propose the kind of compromise that a man has when he is in the armed services, if he is tried before the captain's mast. If he feels he will not receive justice—because he thinks the captain is prejudiced against him—he can demand the right to a summary court-martial, or a court-martial. If the man thinks he has done no wrong, he is willing to risk a heavier punishment and have his case heard before a fair trier of the facts.

If someone wants to say that a person is to have right to a jury trial except in a case like this, why not provide that the man can say: "I demand the right to be tried by a jury of my peers. I demand the right, if I am guilty, to have a year in jail, but give me the right to be tried by a jury of my peers."

The right to be tried by a jury of his own peers is something the Federal Government will not give the former Governor of Mississippi. That is an element of tyranny when one takes the attitude that we must not permit the people to have the right of self-government, and to be tried by a jury of their own peers.

Why should a person who is fined $295 see his constitutional rights disregarded when another person who draws $10 more in fines enjoys the rights that are justly his.

My contention is that a person's rights cannot legally or constitutionally be weighed on this sort of scale. If we feel that citizens should be accorded jury trials in contempt cases under this bill, then it should be done without regard to the severity of the sentence involved. When a man approaches the jail door, possibly because of a violation of his rights to trial by jury, his residence behinds bars is just as real and just as burdensome if it is for 29 days as it would be for 31 days.

The standard set up in the 1957 act is just about as nonsensical as a rule which would say that an alleged robber is allowed a jury trial only if he is alleged to have stolen more than $300.

This is not the sort of law the junior Senator of Louisiana wants to see perpetuated on our books. It is bad enough that it was incorporated into the 1957 act without our allowing it to steal its way into the broad provisions of this bill as well.

In the 1957 act, this provision actually applied only to voting registrars. But, if the same standard is incorporated into this bill, it's effect will be expanded to a phenomenal extent. It deals not only with voting, but with four other titles of this bill. It will apply to most local and State officials, to all owners of so-called public accommodations, to thousands upon thousands of employers, contractors, and businessmen of various types.

Do Senators realize that, under the proposed compromise, a barber who is alleged to have "discriminated" could be sentenced to 30 days in jail or $300 in fines without a trial by jury? Do Senators realize that a hamburger stand operator, or a beautician, or a motel operator, or an employer, or a bartender, or a shopkeeper, or any other of a thousand different types of people could be treated this way and sentenced to a whole month in jail without jury trial or fined $300 without jury trial?

Furthermore, how long do Senators think it will be before the racial extremists are clamoring for a Federal fair housing law to which this same disastrous provision applies? In such a case, which I am sure is high on the priority lists of many professional integrationists even today, any homeowner in this country could be placed in a situation where he might be jailed or fined without benefit of jury trial. Right now the 1957 law is serving as a precedent for the present proposals. Can Senators imagine what sort of limitless precedent would be involved in this forced integration if we should make the mistake of enacting it into law?

One wrong leads to another. It is said that two wrongs do not make a right, and they do not. They only make for more wrongs.

This is a situation in which Congress starts by enacting a law to deny a man the right to a trial by jury. All we are talking about at that point is someone who is a registrar, registering voters in my State. We are talking about denying 64 of my citizens the right to a jury trial. But some of us stood here and fought to defend the right of a trial by jury for those people. We won that fight in the U.S. Senate. And we won it because of the statesmanship of the Senator from Wyoming, the late Senator O'Mahoney, and the Senator from Idaho [Mr. CHURCH], who ably represents that State. We won the fight because people like the late President Kennedy and President Johnson had the courage to stand here and fight to protect a man's right to a trial by jury.

At that time all that the State of Louisiana was arguing for was the right of 64 registrars in 64 parishes of Louisiana to a trial by jury if they were accused of violating a court order. Now, however, we are talking about the rights of hundreds of thousands, and perhaps millions, of American citizens.

It is sought, on the basis of the so-called compromise which was forced upon Congress—and it was not a compromise—to attempt now to force that provision upon countless thousands of Americans to deny them their right to a trial by jury.

If a man is operating a barbershop and he is accused of discrimination, he is denied his right to a trial by jury. The judge who issues the order is to be the lawmaker, he is to be the prosecutor, he is to be the man who selects the jury—which is himself—then he is to be the judge who presides over the case, and the judge who imposes the final punishment. That is how rights are destroyed when we take a wrong step to begin with.

There was no showing that it was necessary to deprive Americans of their right to a trial by jury in order to pass the 1957 act. There is no showing that it is necessary to deny American citizens the right of a jury trial to pass the so-called proposed Civil Rights Act, but that attempt is now being made.

As relatively mild and narrow as it was in the 1957 law, it is serving as a full-fledged precedent for this fantastic expansion of what, in the first place, was a bad and unconstitutional law. So may I ask: What limits, if any, will this act have in serving as a precedent for legislative outrages in the future? The answer is that there will be no limits and the American public must be informed of this situation. What we will do if we pass this bill as it now reads, or if we accept the compromise amendment, is to open the door wide to Government by injunction, Federal coercion by injunction, and Federal harassment by injunction. Jury trial will simply be a thing of the past, and I know that this is not what the American people want.

So, as far as this Senator is concerned, I see nothing in the floor manager's offer that appeals to him in the least. It merely perpetuates a bad piece of law that should not have been put on our books in the first place.

Mr. President, reference has been made by the distinguished Senator from New York [Mr. JAVITS] to a footnote on page 14 of the Barnett decision which hints that Mr. Barnett might be due a jury trial if the penalty imposed on him were substantial. This footnote is being used by some of the proponents as argument for the adoption of the 1957 standard pegging the right to jury trial to the severity of the penalty placed on the defendant.

But, in this Senator's opinion, the footnote in the Barnett case and the section 151 in the 1957 act are both bad laws and cannot logically be used to buttress each other. They represent the "two wrongs" in the old proverb which says that "two wrongs do not make a right."

The standard suggested by the court in that footnote is not law; and, furthermore, we should note that four of the court's most liberal members tacitly expressed their opposition to this concept by dissenting to the decision rendered by the majority. These dissenters were the Chief Justice, Justice Goldberg, Justice Douglas, and Justice Black—all stanch liberals.

So, it would appear that this footnote matter should be disposed of for what it is worth—namely nothing. This is the very thing which was wrong with the 1957 act, and this is the very thing which we must do our utmost to avoid in this bill.

While I am on the subject of side issues, let me also make it clear that the discussion by the junior Senator from Louisiana has nothing at all to do with misdemeanor cases under State or municipal laws in which jury trials are sometimes denied. Here, I am talking only about crimes under Federal laws, tried under the direct purview of the Constitution and under the statutory authority of the U.S. Congress. Attempts to refer this matter to various practices in State and municipal courts, which are not creatures of Federal law, have no foundation and no logic here. We should limit ourselves to the kind of courts and the kind of cases which would be affected by this bill.

It seems to me, that only an amendment which seeks to encourage or require trial by jury for all defendants under this proposed legislation will bring it a little closer to being constitutional—which it is surely not now. The cause of constitutionality and the cause of reason stand in desperate need of support at a time like this when so many are wrought-up in the emotion of the moment and are prepared to vote "yes" on anything bearing the label of civil rights. We are in dire need of men who will stand up for the preservation of those rights which we now enjoy and which have served us well for generations. We need men who will stand up for these rights as opposed to the psuedo-rights being claimed by radicals and racial extremists who daily parade our streets.

It is most unfortunate that the O'Mahoney amendment which was adopted here in the Senate to amputate this evil from the 1957 act was so severely watered down in the House. It was turned into the ridiculous provision we now find in section 151 of the act. This is the general provision which the leadership is now willing to go along with. However, this is certainly not the provision which the junior Senator from Louisiana finds to his liking.

The restrictions placed on jury trial in the 1957 statute were limited to one field; but in this bill we find the cancer spreading to no less than five of the titles. In titles I and II, we have the $300-and-45-days rule of the 1957 act; and in titles III, IV, and VII, we have no right whatsoever to trial by jury. Mr. President, this is an outrage.

Proponents suggest that unless we pass a bill under which justice can be decreed and enforced in the twinkling of an eye, we are selling the Negroes of the country an "empty basket." However, it seems to this Senator that such arguments merely constitute a camouflaged way of saying that the ends justify the means. We hear the claim that unless the aggrieved citizen is able to adjudicate his claim or his complaint with the greatest degree of haste, then he has no right worth speaking of. Again, I charge that this is a case of worshipping the false god of "Ends justify the means."

Proponents seem to be suggesting that, if we are so unwise and so ill advised as to inject into the bill our normal, constitutional, traditional standards of trial by jury, we might as well not pass the bill at all. It seems to me that this is like saying that the bill will not function properly unless we simply forsake many existing individual rights which stand in its way. If this approach is needed by any bill, that bill should and must be defeated.

Mr. President, I wonder how many Senators who now support H.R. 7152 would have been elected to this body if in their campaign platforms they had championed the principle on which they now stand in relation to the right of jury trial. I suspect their constituents would not have wanted any part of this movement to deny them their right of trial by jury. Summary trial of criminal contempt is not the sort of thing that my constituents want, and I think the people of the rest of the Nation feel exactly the same as do the people of Louisiana.

Of course, not too many individual citizens are really in a position to feel the effect of the 1957 act, because that law's jury trial provision applied only to the subject of voting. But far more Americans will be directly involved in the overtones and consequences of this bill in its flagrant abuse of the right to trial by jury in criminal prosecutions.

This Senator wonders what the popular reaction would be if all Americans had easy access to and had the inclination to study educated remarks on this subject such as those made by Justice Black in the 1957 case of *Green* v. *U.S.* (356 U.S. 165). My impression is that the popular reaction would be almost unanimous in its disapproval of the provisions found in this bill. In an attempt to bring to light some of these expert legal opinions on the subject my colleagues have attempted to quote some of them during the debates of the last few days. I should like to join in this attempt to inform the public of the thinking of some of our professional legal minds by quoting a few of the most pertinent passages from Justice Black's arguments in the Green decision. He says in part:

> The power of a judge to inflict punishment for criminal contempt by means of a summary proceeding stands as an anomaly in the law. In my judgment the time has come for a fundamental and searching reconsideration of the validity of this power which has aptly been characterized by a State supreme court as "perhaps, nearest akin to despotic power of any power existing under our form of government." Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of not unwilling judges, until it has become a drastic and persuasive mode of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society. Therefore to me this case involves basic questions of the highest importance for transcending its particular facts. But the specific facts do provide a striking example of how the great procedural safeguards erected by the Bill of Rights are now easily evaded by the ever-ready and boundless expedients of a judicial decree and a summary contempt proceeding.
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> Summary trial of criminal contempt, as now practiced, allows a single functionary of the State, a judge, to lay down the law, to prosecute those who he believes have violated his command (as interpreted by him), to sit in "judgment" on his own charges, and then within the broadest bound to punish as he sees fit. It seems inconsistent with rudimentary principles of our system of criminal justice, a system carefully developed and preserved throughout the centuries to prevent oppressive enforcement laws, to concentrate this much power in the hands of any officer of the State. No government official, regardless of his position or the purity and nobleness of his character, should be granted such autocratic omnipotence. Indeed if any other officer were presumptuous enough to claim such power I cannot believe the courts would tolerate it for an instant under the Constitution. Judges are not essentially different from other government officials. Fortunately they remain human even after assuming their judicial duties. Like all the rest of mankind they may be affected from time to time by pride and passion, by pettiness and bruised feelings, by improper understanding or by excessive zeal. Frank recognition of these common human characteristics, undoubtedly led to the determination of those who formed our Constitution to fragment power, especially the power to define and enforce the criminal law, among different departments and institutions of Government in the hope that each would tend to operate as a check on the activities of the others and a shield against their excesses thereby securing the people's liberty.

Mr. SMATHERS. Mr. President, will the Senator yield so that I may ask him a question, without losing his right to the floor?

Mr. LONG of Louisiana. I may say to the Senator that I obtained unanimous consent that I might yield for observations not to exceed 3 minutes, for insertions in the RECORD, or for questions.

**Mr. SMATHERS. Does not the Senator agree with the statement made by Mr. Justice Black, Mr. Justice Goldberg, and Mr. Justice Holmes in respect of cases in which they have participated in the matter of contempt? Would not the Senator agree—as Justice Black so eloquently set forth in one case—that the right of trial by jury should be extended rather than diminished, and that in contempt cases it is imperative that all citizens in this Republic be granted the right of trial by jury? As the able Senator is so well stating now, the greater evil results from the fact that judges become capricious and arbitrary, and are clothed with all kinds of power and authority. Federal court judges hold office for life, irrespective of how wrong their decisions may be.**

**Does the Senator not agree that those who claim to be liberals should be advancing the cause of individual liberty and should be on the side of the Senator from Louisiana in urging that the right of trial by jury be given to all citizens, rather than taken away from them?**

Mr. LONG of Louisiana. The Senator is entirely correct.

It is difficult for this Senator to see how any liberal, unless he pursued it to the point of political expediency, or really any conservative—because, according to my definition of the word "conservative," it is one who wishes to preserve the better things of the existing order—could do otherwise. It is difficult for me to see why liberals are not fighting for the right of trial by jury as a protection against tyranny. It is difficult for me to see how any liberal, or any conservative, for that matter, could support the position of denying a person the right of jury trial.

Let me illustrate how unfair this provision would be. This no doubt will be the prevailing way of proceeding in the event the bill becomes law, certainly if it is administered as those who are vigorously pressing for the bill's passage think it will be. When the 1957 civil rights bill was being debated, the Senator from Louisiana quoted from the opinion of a Louisiana district judge whom he had not recommended for appointment. But he is a great judge. His father was an outstanding judge. He had written an opinion, from which I quoted at the time the 1957 civil rights bill was being debated. It was argued at that time that someone should be able to come into a parish, such as East Carroll Parish, where there were no Negroes registered, and see that they registered. What did that judge do? In pursuance of the act, a case was filed and heard. The judge ordered the registrar to cease discriminating. Since that date about 167 colored persons have been registered. It is a small parish; and they are being gradually registered, in accordance with the judge's order.

Here is what might happen: A man who says he should have been registered contends he is being discriminated against. He contends that the registrar should be put in jail. The judge asks to see the registration application. The application is faulty in 10 different places.

The applicant makes much of the fact that he is a schoolteacher. That fact does not mean he is intelligent. There are many ignorant schoolteachers in this land of ours, and, I regret to say, some of them are in Louisiana. So, looking at the application raised doubts as to whether that person should be a schoolteacher; but it is clear that he has not made out the application properly. It is faulty in 10 different respects. By the judge's own view, the applicant should not be registered, unless he can better qualify himself or come nearer filling out the application correctly.

There would not be too much danger in the case of a fairminded judge, who would accord the registrar every right he has under the Constitution. But suppose the judge were a zealot, who was hoping to be promoted to the appellate court or to the Supreme Court, who constantly stirred up the civil rights question, and urged people that Congress should have a certain number of day to act, and if it did not, the courts should act for Congress. Suppose this judge were one of those who believes that there is no limit to which the courts should go in pursuing the civil rights cause—on the theory that it might promote him to the Supreme Court of the United States. Suppose he were such a zealot. I dislike to say it, but some judges have been advancing the cause. They have been forceful and opinionated in pursuing the so-called civil rights cause. Suppose a zealous judge hauled the registrar into court. It might be an opinionated judge, who might hear the matter without benefit of a jury trial, and put him in jail. The question would be, Did the man violate the court order or did he not violate it? Nobody denies the right of the judge to call the registrar up to him and say, "Put that man on the rolls."

What we are talking about is the right of the judge to put that registrar in jail for violation of his order when it involved a matter of discretion. The registrar was not the same registrar who made the 10 mistakes in making the voter's application.

To pursue the thought further, what we are talking about is the right which has been denied 64 voting registrars in my State. But how about a barber who happened to be doing business in his shop, when a colored man came in and said he wanted a haircut, and the barber was waiting for another customer—perhaps he was waiting for one of his regular customers who had been patronizing him for many years and had made an appointment, and therefore said he could not cut the colored man's hair? Suppose the barber is brought before the Federal court for violating a court order? The barber could be tried without a trial by jury, and without the right to defend his rights, particularly if he were being tried before some arbitrary or capricious judge. As Justice Black has so well pointed out, judges can be capricious. The Senator from Florida knows that to be true, because he is a lawyer. I am sure that is true in both the States of Florida and Louisiana.

It is easy to see how completely arbitrary some Federal judges can become, when they are protected by a lifetime tenure.

Mr. SMATHERS. The Senator is absolutely correct. Would he not agree that the bill discriminates in the worst manner, in that the Constitution guarantees to a man who is charged with the crime of burglary, or automobile theft, or who may be a dope addict, or a total alcoholic, or is violating every law on the books, the absolute right to a trial by jury? The Senator, I am sure, would agree that in his State, as in the State of Idaho, or in the State of Virginia, or in the State of Utah, most of the people who serve on school boards and try to solve local problems are decent people; yet if they should happen to violate an order of the court with respect to desegregation of the schools, they would be haled into court and tried and punished by the judge and probably put in jail, without benefit of a trial by jury.

People serving on school boards, people whose sole purpose is to operate their own motel or hotel, or what-have-you, are in the position where the so-called liberal group which supports this so-called civil rights measure will not grant them a trial by jury. But they do not try to take away the right of trial by jury from a thug, robber, or murderer. Would not the Senator agree that this is the worst kind of discrimination he can think of, and that the proponents of the bill are actually promoting it themselves?

Mr. LONG of Louisiana. I feel that way. They would defend that right for Communists and traitors who would destroy our country. On the other hand, they would proceed to take away from an innkeeper who operates his place late at night when some colored man comes in and says he wants a room. The innkeeper says he is filled up for the night and has no more rooms. He would answer that question at his peril. He could be tried before a judge who might be a prejudiced man, who might have already made up his mind about the case. Let us face it. Look at the situation facing that innkeeper. In the first place, he would be subject to an order. The judge says, "I order you to stop discriminating." The man replies, "Yes, Your Honor." The next thing we know, along comes a civil rights extremist, who comes to town on a night when he could have had a hotel room in a dozen different places. But no, he goes to this particular place between 1 and 2 o'clock in the morning, and is refused a room. So the judge issues an order, and then hauls the innkeeper into court, telling him, "I find you guilty of contempt. You have violated my order."

The judge has an opinion on the matter to begin with, because he is the man who issued the order. The Senator knows how unfair that is. If the judge were not a Federal judge but a juror—and the Senator is a lawyer—he knows he could challenge that man for cause and refuse him the right to serve on the jury because he already had an opinion on the matter.

Mr. SMATHERS. The Senator is absolutely correct.

It was interesting to me to read in the American Heritage for this month an article written by Francis Biddle, former Attorney General under Franklin D. Roosevelt, about William Penn who, in 1670 or thereabouts, was tried because of his preaching. He was a Quaker, and he wanted to talk about his religion. The judge did not happen to agree with him, and they hauled William Penn into court and tried him before a jury. After the jury had deliberated for 8 or 12 hours, the judge called them before him. The jury said they could not agree. The judge brought them back again later, and eight agreed to convict Mr. Penn but four refused to convict him.

So the judge brought the four of them before him and said, "You are all going to render a verdict acceptable to the judge, or you are going to starve. I am not going to give you any water, I shall lock you up. You will get no food or water, or anything."

That made the other eight jurors so mad that they brought in a verdict in which they found William Penn guilty of making speeches on Church Street, or some name like that; but that is all they would find. The judge was so furious that he locked up the 12 jurors, found them in contempt, and put them in jail.

That is how far it is possible to go. That shows how arbitrary a judge could be if it were not for the right to a trial by jury. Some of our great liberals—those who profess to be liberals, or the quasi-liberals, the kind that call themselves liberals—would be for the kind of legislation which would deprive any citizen of the protection which we thought was already guaranteed under the Constitution when it provided that every man is entitled to a trial by a jury of his peers. Does not the Senator agree?

Mr. LONG of Louisiana. If I might comment upon the Senator's statement, we have courts of military justice. One reason for that was to try to protect servicemen from the arbitrary power of their commanding officers.

I recall one case, which I did not defend but I recall what happened when I was on a naval base in North Africa during World War II. The commanding officer wished to punish a seaman, so he gave the seaman a summary court martial. In that event, a seaman is entitled to have someone defend him. So the seaman found a youngster around the base who was qualified as a lawyer; and he defended him to the best of his ability. The court found him innocent and turned him loose.

The commanding officer reprimanded every man who sat on that summary court martial—gave them a public reprimand because they did not find the seaman guilty. He would not have had that problem if he had the power this act would give to an arbitrary judge, the power to go ahead and put people in jail without jury trial, or worry about the safeguards, the safeguards that have been placed in the Constitution for the benefit of a defendant so that he may defend himself.

Mr. SMATHERS. Let us take the case of a man in Idaho who works hard, amasses some capital and acquires a little business, say, a manufacturing business. Idaho does not have many colored citizens, so he has never hired many. He has worked hard, and has been able to go down to the bank with his wife and sign a note and get some more money and the bank has been able to help him to expand his business a little, and he has made good.

Suppose Congress enacts this civil rights bill, and one day a colored citizen shows up at this man's place of business, but he does not happen to be particularly qualified, so the employer gives him an examination and concludes he does not fit into his establishment, that he is not the kind of man he would like to have in his business, that he does not believe he would contribute to its success, because he does not have any particular ability. So what does he do? The employer says, "I don't want him in my business." So the colored citizen files a complaint, and the Federal Government moves in on the employer. What happens to the employer? He is forced to go before a Federal judge. Suddenly, he is presumed to be guilty rather than innocent. He must defend himself. He says to the judge, "No, there was no discrimination." But the judge may say, "You have no colored workers in your business. There is no record that you employ any colored citizens. There are not many colored citizens in Idaho, but you should have at least one."

The employer replies, "I do not happen to want this man because he does not have the ability I need for my business."

The Government says, "You hire him."

If the employer says, "I will not hire him," the judge can put that man in jail for 29 days or 30 days. They do not call it criminal, but he can put him in there, anyway; and he stays in jail without a trial by jury. Or the judge might even decide, "I am going to let him stay in jail for 29 days, and then after he gets out at the end of his sentence I shall order him to stand trial."

So, Mr. President, he is convicted in the judge's mind, and he must stand trial a second time. Is that not possible? Could not that happen? Could not that happen to a citizen in Idaho?

Mr. LONG of Louisiana. The same thing could happen.

Mr. CHURCH. It is highly unlikely.

Mr. SMATHERS. It could happen, even though it were unlikely. It will probably happen. It could happen in South Dakota, and in Idaho, and in Utah. If citizens in those States were asked, "Do you want to vote for a bill which takes away your right of trial by jury under those circumstances, and gives the right to a judge to put you in jail because he disagrees with the way you operate your business?" Does anyone think that those people would favor it? I do not believe they would, and I do not believe they would want their Senators to vote for it. Does not the Senator agree?

Mr. LONG of Louisiana. I agree with the Senator. Suppose a man is operating a small business in some State. Let us suppose he has a little hamburger stand, and someone comes along at midnight and wants to be served. The poor hamburger stand operator says, "I am sorry, but I am closing my shop now." Of course, some people encourage the attitude on the part of people to go to a place to do just what this man is doing, by asking the little hamburger stand operator to serve him a hamburger, even though it is time to close the shop. The operator could say, "I am sorry, but we are through for the night." So the man who tried to be served goes to a judge and obtains a court order. Perhaps the suit is being financed by the Congress of Racial Equality.

A little while later another man comes to the shop and wants a hamburger, and it may be that the owner of the hamburger stand has run out of hamburger meat. He cannot serve this man a hamburger. All he can say is, "I am sorry, but we do not have any more hamburger meat."

So this man, too, gets a court order. The judge looks at the man and he says, "Have I not seen you here before? You are the fellow who turned away that Negro last time, and refused to serve him a hamburger. And now you come back here again. I will put you in jail for 29 days."

If that man had had the right of trial by jury, he would never have been convicted by the jury. He would never have been convicted in the first instance, involving the man who wanted to be served a hamburger at midnight.

Why? Because if the man with whom he had had a run-in about closing the hamburger stand at midnight had been proposed as a member of the jury, he would have been challenged for cause by the man's lawyer. He would be right in challenging him on the basis of prejudice. However, the judge who is similarly involved in the original incident, not only sits in the case, but he is the whole jury. What chance does the accused have of being tried before that judge? If he gets out of it, he is very lucky, because everything is against him. The judge is already prejudiced against him. He can say to him, "Were you not here about 3 weeks ago, when you refused to serve a man a hamburger at midnight?"

The question is, Was the man guilty or innocent? But he is going to jail just the same, even though the reason he did not serve the second man a hamburger was that he had run out of hamburger meat around 10:30 that night.

Mr. SMATHERS. Does the Senator believe that a sentence of 29 days in jail is a proper breaking point, because if he were convicted by a jury he might have to serve 30 days or 45 days? In other words, does the Senator feel that it is a justifiable distinguishing feature between what people say is criminal contempt and what is civil contempt? Does the Senator know of any precedent in law, supported by any legal authority whatever, to the effect that a 30-day period in jail makes it all right to send an accused man to jail without a jury trial but that a 31-day period in jail makes it all wrong?

Mr. LONG of Louisiana. The majority of the citizens in my State, whether black or white—and I am sure that this is also true in Florida—are proud of the fact that they have never spent a day in jail. It is a matter of pride to be able to say that a person has never been in jail. When a man applies for employment, or is considered for promotion, or tries to join the military service, he is asked to fill out a questionnaire, and on it there will be the question, "Have you every been in jail?"

I am sure that the great majority of citizens in Louisiana and in Florida are proud of the fact that they have never spent a day in jail. A man in answering a questionnaire would have to say, "I was in jail, but it was under the contempt power of a Federal judge," and so forth.

In addition to the inconvenience and discomfort, it is a terrible wound to a man's pride to have to admit it.

Some people are proud of having served in jail. The Senator may recall that when the march on Washington was held, James Farmer sent his telegram up here to say that he was incarcerated in a Louisiana jail. He broke into jail. It would hardly have been possible to keep him out of jail. He wanted to break into jail so that he could emulate Martin Luther King, who wrote the kind of letter he wrote from the Birmingham jail. Of course that letter had all sorts of misstatements in it and many incorrect things in it. But he made his point. He said, "Have you ever seen people lynched?" Of course he had never seen anyone lynched. That was an absolutely incorrect statement that he wrote in his letter to some preachers.

So Mr. Farmer broke into jail and sent his telegram to be read to the marchers on Washington. Some people feel that every time they are put in jail they have one more civil rights badge on their chest. On the other hand, most people, both white and black, believe it is no mark of distinction to be able to say that they have been in jail for 29 days or for any length of time.

Mr. SMATHERS. Does the Senator agree that it is the fear of going to jail which will to some extent change our system of operation and our system of doing business and our system of a man having the right to operate his own business, because he is so fearful that he may end up in jail for 29 days? Incidentally, this may start the writing of a new song, "29 Days in Jail"——

Mr. LONG of Louisiana. If the 29-day amendment becomes law, the least we can do is to provide that if a man is accused of violating a court order he be permitted to ask for double or nothing.

Therefore, if he is to be sentenced to 29 days in jail he should have the right to say, "I will play for 58 days or nothing, but I want to have a jury trial."

Mr. SMATHERS. Is not the fear of going to jail, with a person being assumed to be guilty, the worst factor about the bill? It would bring about coercion to give up the right to operate one's business, for fear of being charged with discrimination, without the right of trial by jury, but to be summarily convicted and sent of to jail. The result would be that a man in business would say, "I will have to have so many of this color, so many who go to this church, and all of them, irrespective of their ability, irrespective of whether it is good for my business, and irrespective of whether it helps the business." That is what the bill would do, because of the fear of having to go to jail. Does the Senator agree?

Mr. LONG of Louisiana. The Senator is absolutely right. When I was practicing law some years ago—and the Senator from Florida, as one who has practiced law, can understand this—I had the opportunity of suing a company in one of two parishes in Louisiana. An almost identical lawsuit, in fact, one almost indistinguishable from my suit, had been decided by a judge in one of those parishes in the way that I wanted to have my suit decided.

So he filed a lawsuit in that parish. When the other lawyer saw that it was within my power to sue his client in the court where the judge had just decided a lawsuit on all fours with the suit I was filing, to the extent that my petition was almost word for word identical, that lawyer compromised the lawsuit rather than take a chance on going to judgment with it. That is a problem which lawyers recognize when the same case is being tried over again before a judge who decided against them.

But think of the greater disadvantage a defendant would have, or a lawyer would have, when first confronted with an order of the very judge before whom he was to be tried for a violation of the order, with no right of trial by jury or any impartial consideration, but only before a biased, prejudiced judge who had handed down the order in the first instance, who presumed to be both prosecutor, judge, and jury of the case.

The Senator can understand how a lawyer would be at an extreme disadvantage in trying to defend a defendant accused, and at what even greater disadvantage the defendant would be.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. ROBERTSON. I was interested in the cases cited by the Senator from Florida concerning the judge who wanted to put William Penn in jail, and the naval officer who wanted to convict a seaman. Is it not true that when the civil rights bill was before us in 1957, the Senate voted overwhelmingly to provide for jury trials in all criminal contempt cases?

Mr. LONG of Louisiana. The Senator is entirely correct.

Mr. ROBERTSON. That provision was thrown out in conference, and the conferees finally compromised on a provision for 45 days in jail or a $300 fine, only in election cases. Is it not true that in 1957 there was a title III that would have authorized the Attorney General to initiate prosecutions against any individual at any time, anywhere he saw fit, and that the Senate threw that out?

Mr. LONG of Louisiana. The Senator is entirely correct.

Mr. ROBERTSON. Is not title III in the present bill exactly the same as the previous title III, the only exception being that somebody will start the suit, and immediately the Attorney General will join in?

Mr. LONG of Louisiana. The Senator is entirely correct.

Mr. ROBERTSON. There is no trouble about it. Is it not true that the bill seeks to confer upon the executive branch of the Government more power than any bill since the vicious Reconstruction period after the Civil War?

Mr. LONG of Louisiana. The Senator is entirely correct.

Mr. ROBERTSON. Is not the theme song of the proponents of the bill: "Don't worry about all the extreme power. Nobody will use it all; and those who use any of it will always be kind and sweet and reasonable in the way they act"?

Mr. LONG of Louisiana. I have heard that assertion, and I suspect it has been said to the Senator from Virginia, "Don't worry about all those things. We are in charge, and you know we are not the kind of people who will do those things to you."

I am reminded of the old song:

> You can count on me. I am your friend forever.
> You know you can count on me.

One makes a mistake to rely on that kind of assertion, because the persons who make it will not always be in power. Also, they might later feel a sort of compulsion to change their position.

Even President Kennedy announced at first that he did not believe such legislation was necessary. But later, as a result of spectacular publicity given the Birmingham demonstrations, he felt that he was compelled to advocate a new civil rights bill. He did not feel that he could take a position advocating less than the Republicans were advocating, so he advocated everything that is in the bill.

Mr. ROBERTSON. Let us analyze the question as to whether it is proposed to use the power or not. Did not the NAACP say that the bill was not strong enough?

Mr. LONG of Louisiana. The Senator is correct.

Mr. ROBERTSON. Did not those who are still sponsoring the bill, including the distinguished President of the United States, say that we must not take one iota out of it?

Mr. LONG of Louisiana. The Senator is correct.

Mr. ROBERTSON. If it was not their intention to use all of the power, why did they demand that all that power be included in the bill?

Mr. LONG of Louisiana. I fail to understand why.

Mr. ROBERTSON. Would it not be prudent not to provide any more power than is expected to be used?

Mr. LONG of Louisiana. I totally agree with the Senator from Virginia.

Mr. ROBERTSON. If it is thought that there would be many instances when men were really interested and could not get a fair trial before a judge who had predilections about what was involved, and wanted the protection of a jury, why should we not provide for a jury trial, and not assume that Federal judges will never abuse the power?

Mr. LONG of Louisiana. I totally agree with the Senator. The right of a jury trial should be included to protect the rights of citizens.

The Senator from Virginia well knows that some Senators, like ourselves, will not limit themselves to considering what is in the bill. We know that even this bill is one more step in the invasion of rights that previously existed for a great majority of citizens.

The Senator is well aware of the problem that arose in New York, where civil rights groups undertook to show complete disrespect for the President of the United States. They tried to effect a stall-in at the World's Fair. That demonstration was put down because they had heard of the kind of police brutality that was being inflicted. It was almost unheard of in this century. Naturally it forced those poor people to think that they had better ease up in demonstrating against the World's Fair. The fact is that that group had demands to make. But there is not a thing in the bill that would meet any of the demands for which the people in New York were demonstrating.

New York has an FEPC law and a housing accommodations law. As best I can understand, they already have everything for which they are contending in the bill.

They are trying to do something about "busing" children across town, to force integration in the schools, even though they do not live in the same neighborhoods. So those people already have everything that the bill provides legislatively, and more, yet they are still making demands.

Actually, I believe an attempt was made by the authorities to call off the strike on the ground that it might prejudice the passage of the civil rights bill, but I understand that their leaders told the leaders of the Senate, who are pressing for the bill, that they are not interested in the bill; that the bill does not meet their needs at all; that nothing in the bill would help them. So they are demanding additional concessions and will continue to do so. There is no doubt that Congress will be confronted with still more demands if we permit the rights of Americans to be tried by juries to be bypassed. If Congress, which has permitted the right of trial by jury to be bypassed for voting registrars, were to permit the provision to be extended to innkeepers, cafe operators, gasoline station operators, and people in all other forms of business, all forms of manufacturing, under the FEPC provisions, that would not be the end of it.

The same people who put on the demonstrations and stir up all sorts of turmoil will come before Congress demanding that it enact a Federal open housing law to open every neighborhood in America to forced integration of the neighborhoods. But that will not satisfy them. Any Senator who thinks he will satisfy them by voting for this bill, will find them voting against him 2 years from now if he does not support any and all integrationist legislation that is proposed at that time.

Mr. HILL. May I ask if FHA has not been already eliminated from the bill? They will demand that it be restored. Banks and saving and loan associations that have their savings accounts have been eliminated. They will ask that they be included. The so-called Mrs. Murphys, who have five-bedrooms to rent, have been eliminated. The Mrs. Murphys will be in on the next run.

Mr. LONG of Louisiana. There is no doubt about it. It will come to the point where an individual landlord, having only a room or two for rent, will be in danger of going to jail by order of a Federal judge. It could come to the point where an individual person who was selling his home—an ordinary homeowner—would be subject to a trial by a Federal judge without a jury.

Mr. ROBERTSON. In other words, we are dealing with the fundamental rights for which the barons made the fight in the battle of Runnymede in 1215 against King John, again in 1225, and again through numerous acts of parliament. Then in our Declaration of Independence, in our Constitution, and in all of our laws we have had a high regard for a jury trial. Now we are asked to wipe it out.

Mr. LONG of Louisiana. The Senator is entirely correct.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. I am sure the Senator will agree with what Thomas Jefferson said:

> Trust no man. Bind all men by the chains of the Constitution.

One of the chains that our forefathers put in the Constitution is the right of a trial by jury. Is that correct?

Mr. LONG of Louisiana. The Senator is entirely correct. That is the reason why it should not be bypassed and why we should not permit this device of a trial by jury under certain conditions to be used to bypass the right of our citizens to a jury trial.

Mr. HILL. And we should trust no man insofar as bringing this type of action is concerned, or putting all this power in the hands of one individual.

Mr. LONG of Louisiana. The Senator is entirely correct.

Let me quote further from Justice Black's words along the same line:

> He truly becomes the judge of his own cause. The defendant charged with criminal contempt is thus denied what I had always thought to be an indispensable element of due process of law—an objective, scrupulously impartial tribunal to determine whether he is guilty or innocent of the charges filed against him. In the words of this court: "A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. Fair trials are too important a part of our free society to let prosecuting judges be trial judges of the charges they prefer," In re *Murchison*, 349 U.S. 133, 136–137. Cf. *Chambers* v. *Florida*, 309 U.S. 227, 236–237; *Tumey* v. *Ohio*, 273 U.S. 510. In re *Oliver*, 333 U.S. 257.
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> The vices of a summary trial are only aggravated by the fact that the judge's power to punish criminal contempt is exercised without effective external restraint. First, the substantive scope of the offense of contempt is inordinately sweeping and vague; it has been defined, for example, as "any conduct that tends to bring the authority and administration of the law into disrespect or disregard." It would be no overstatement therefore to say that the offense with the most ill-defined and elastic contours in our law is now punished by the harshest procedures known to that law. Second, a defendant's principal assurance that he will be fairly tried and punished is the largely impotent review of a cold record by an appellate court, another body of judges. Once in a great while a particular appellate tribunal basically hostile to summary proceedings will closely police contempt trials but such supervision is only isolated and fleeting. All too often the reviewing courts stand aside readily with the formal declaration that "the trial judge has not abused his discretion." But even at its rare best appellate review cannot begin to take the place of trial in the first instance by an impartial jury subject to review on the spot by an uncommitted trial judge. Finally, as the law now stands there are no limits on the punishment a judge can impose on a defendant whom he finds guilty of contempt except for whatever remote restrictions exist in the 8th amendment's prohibition against cruel and unusual punishment or in the nebulous requirements of reasonableness now promulgated by the majority.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. LONG of Louisiana. I yield.

Mr. CHURCH. If the pending amendment were adopted, would not that particular deficiency be corrected, in that both a maximum penalty and a minimum penalty would be prescribed. So if the judge were to try the case without a jury, he could not impose more than a 30-day penalty, or a $300 fine. But if the trial were to be decided by a jury, the amendment would correct this particular flaw to which the Senator referred by establishing maximum limits of 6 months and a thousand dollar fine. Is that not correct?

Mr. LONG of Louisiana. The Senator is correct. And as the Senator knows, I am quoting Justice Black's words from the famous case which I mentioned. Justice Black makes several criticisms of trials in criminal cases without the benefit of a jury and an uncommitted judge. In that particular respect, it is true that this criticism is not valid, because there is a limitation here.

Mr. CHURCH. I thank the Senator.

Mr. LONG of Louisiana [reading]:

> In my view the power of courts to punish criminal contempt by summary trial, as now exercised, is precisely the kind of arbitrary and dangerous power which our forefathers both here and abroad fought so long, so bitterly, to stamp out. And the paradox of it all is that the courts were established and are maintained to provide impartial tribunals of strictly disinterested arbiters to resolve charges of wrongdoing between citizens and citizens or citizen and State.
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> Those who claim that the delegates who ratified the Constitution and its contemporaneous amendments intended to exempt the crime of contempt from the procedural safeguards expressly established by those great charters for the trial of "all crimes" carry a heavy burden indeed. There is nothing in the Constitution or any of its amendments which even remotely suggest such an exception. And, as the Government points out in its brief, it does not appear that there was a word of discussion in the Constitutional Convention or in any of the State ratifying conventions recognizing or affirming the jurisdiction of courts to punish this crime by summary process, a power which in all particulars is so inherently alien to the methods of punishing other public offenses provided by the Constitution.
>
> In the beginning the contempt power with its essentially arbitrary procedures was a petty, insignificant part of our law involving the use of trivial penalties to preserve order in the courtroom and maintain the authority of the courts. But since the adoption of the Constitution it has undergone an incredible transformation and growth, slowly at first and then with increasing acceleration, until it has become a powerful and pervasive device for enforcement of the criminal law. It is no longer the same comparatively innocuous power that it was. Its summary procedures have been pressed into service for such farflung purposes as to prevent "unlawful" labor practices, to enforce the prohibition laws, to secure civil liberties and now, for the first time in our history, to punish a convict for fleeing from imprisonment. In brief it has become a common device for bypassing the constitutionally prescribed safeguards of the regular criminal law in punishing public wrongs.

Mr. CHURCH. Mr. President, will the Senator yield at that point in order that I may express my concurrence in the passage which the Senator has read?

The PRESIDING OFFICER (Mr. BAYH in the chair). Does the Senator from Louisiana yield to the Senator from Idaho?

Mr. LONG of Louisiana. I yield.

Mr. CHURCH. The need to adopt the jury trial provision in order to protect against excesses by the courts in criminal contempt proceedings is very real. It ought not to be limited merely to the bill before the Senate. The validity of the argument for a jury trial has equal application throughout the entire judicial process, wherever criminal contempt proceedings are involved. Therefore, I, for one, believe that the pending amendment ought to be extended to amend the Criminal Code so that it would have general application wherever criminal contempt proceedings occur in Federal courts.

However, as the Senator knows, though I am not in full agreement with his position in every respect, I am in substantial agreement on the general proposal for jury trials.

Mr. LONG of Louisiana. I thank the Senator. I recall some of the eloquent speeches that the Senator has made. I believe that it stands as a monument to the Senator from Idaho that he led a fight in this body with the late Senator Joseph O'Mahoney. I believe the Senator from Idaho was a cosponsor of the O'Mahoney amendment. It was the O'Mahoney-Church amendment. Sometimes a cosponsor does not get the credit that he is rightly due as a result of his efforts to prevail with amendments, because often one tends to refer to the principal sponsor—the first name that appears on an amendment. I know that the Senator from Idaho made some magnificent and eloquent speeches at that time. I hope it would not embarrass him for me to quote him on some occassions. Many times in the State of Louisiana I have referred to the statesmanship of the Senator and the fight that he made to preserve the right of jury trial. I believe it is becoming ever more clear that there are those who will whittle away and chisel away at the right of jury trial where it frustrates their purposes.

Admirable though those purposes may be in some cases, if we permit such chipping away to take place, there is no doubt in my mind that we are undermining a very essential part of the foundation of our form of Government. In selecting between two alternatives—the choice that in some cases a law violator might go free because has has been protected by a jury trial, and the choice that a guilty man might be incarcerated or fined because he did not have the protection of a jury trial—we should choose the former. If any one of us who might have the good fortune to live long enough, could look at the record 20 or 30 years from now, I believe we would be proud to have firmed up and strengthened the jury trial provision. Any Senator who had voted the other way would feel that he had made an error. I am not criticizing any Senator who does not agree with me. I have made mistakes in life. I am sure that I shall make more. I should like to think that most of them are behind me, though even in that statement I might be totally in error. From time to time Senators have decided questions in the best interests of the Nation at political cost to themselves. Sometimes their action results not only in great inner pride, but also a political asset. I think the present issue is one of that sort.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. Does not the Senator agree with the statement of Ronald L. Goldfarb, of the Department of Justice, in a book entitled "The Contempt Power," published by the Columbia University Press, in which Mr. Goldfarb made the following statement about trial by jury:

> It could well be suggested that, most peculiarly, in contempt cases the jury has a valuable role. First, it brings the public's attention and interest to a dispute which is usually an official, governmental one.

That is what we have here. Continuing to read from the book:

> Public enlightment, even if only through jury representation, has been characterized as an "indispensable element in the popular vindication of the criminal law." This participation hopefully encourages popular understanding and acceptance of the administration of justice. Second, the jury may serve as an insulation between the alleged offender and the offended party, who is sometimes the judge and sentencer.
>
> This conservative deliberation in an otherwise unlimited, uncontrolled situation allows the jury to function as a wall against possible abuses by governmental powerholders upon individuals. The general public may look with skepticism upon a judicial process which allows one man to be judge, prosecutor, victim, and jury, but as Justice Black aptly pointed out there is inclined to be less false martyrdom where a jury convicts.

That statement is well spoken, is it not?

Mr. LONG of Lousiana. The Senator is entirely correct, I highly commend the statement, though I regret to say that I had not previously come across it. I agree with the Senator 100 percent.

Mr. President, it seems very plain to this Senator that that is what is happening under the proposals of this bill. It is being used as the most convenient vehicle available for bypassing our traditional legal safeguards. In the name of haste, in the name of false expediency, and in fear of what the extremist mobs might do, we are being asked to discard a substantial portion of one of the most cherished rights in our system. That part of it which is not discarded by this bill certainly stands in grave jeopardy from the dangerous precedent the bill would set.

Why is it that we cannot look back in the simple, concise wording of the Constitution and find our answer there? Article III, section 2 of the Constitution, says in language that any man should be able to understand that "The trial of all crimes, except in cases of impeachment, shall be by jury." This Senator sees no exception for trials of the crime of criminal contempt. He refuses to accept the argument that because the act is called "contempt" it loses its constitutional definition as a crime. A rose by any other name is still a rose. Calling criminal contempt anything but a "crime" is like trying to soft-pedal price fixing by calling it "fair trade." The Congress is usually not willing to fall for this sort of tricky tactic, and in the end it should prove its intelligence again on the question of the traditional right to trial by jury.

Mr. President, I think the people also will refuse to be tricked into supporting forced integration merely because it is given the golden heading "civil rights." Unfortunately, to this point, much which has been written in favor of this bill is intended not to enlighten but to confuse the public into believing that this bill confers more rights than it takes away. Rather than telling the true story of the dangers which lie in these 56 pages, the propaganda published by many of those groups which support H.R. 7152 make it appear like the panacea of the century, the greatest cureall in the whole history of man. The logical and objective statements made in rebuttal by those of us who oppose this bill are seldom if ever given coverage by the press or by the news media, so the misimpressions that this is a good bill continue to run rampant. I feel certain that there is much talk going on and many pages being written in integrationist circles about the false and vicious issues being raised by the opponents of this bill on the subject of jury trials. I suppose that we are again being accused of spreading false propaganda and hate rumors and who knows what else. But I am sure that the integrationist talk and the integrationist pages will, in complete unanimity, fail to mention that in the most recent Supreme Court case on the subject no less than four liberal justices endorse the position we now champion. That bit of truth and candor would be too much to expect. But, be that as it may, those of us who oppose those forced integration provisions will continue to dedicate our best efforts toward informing the American public of the many dangers which are incorporated into this bill. We shall continue also to dismantle and discard, one by one, the many false arguments which are being suggested in support of the various provisions of this bill.

Mr. President, there is the old worn-out argument being spoken again on this matter which says that a jury cannot really be trusted to convict a defendant of discrimination, especially in the South. But I have always thought that one of the most compelling lessons taught by the history of governments is that "reason is best served by placing faith in the people." To distrust and to disrespect the people in the performances of their own duties to the social order is to invite resentment, treason, and reprisal. To do so constitutes a giant usurpation of powers which have been delegated to the people, and as George Washington warned in his farewell address:

> Let there be no change by usurpation, for through this, in one instance, may be the instrument of good, it is the customary weapon by which democratic governments are destroyed.

Indeed, our entire concept of government by the people is placed in dire jeopardy when we pay homage to the concept that Americans cannot be trusted to serve on juries or that juries dispense justice too slowly to be suited for our purposes.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. Was not that the hue and cry of those who granted more and more power to Adolf Hitler?

Mr. LONG of Louisiana. Yes, it is the favorite theme song of most tyrants who have burdened the life of mankind.

Mr. HILL. If one will read William Shirer's most interesting book "The Rise and Fall of the Third Reich," he will see exactly that this was the basis on which more and more power was taken from the people and was taken out of the Reichstag—which was Germany's congress—and put in the hands of Adolf Hitler, until finally he had full power, and we know what the result was.

Mr. LONG of Louisiana. The Senator from Alabama can recall those days so well because he was a Member of the Congress. He can recall the argument made in the book by Hitler "Mein Kampf," to the effect that democracy was decadent, too inefficient, archaic; that it could not meet the needs of the people; that Germany needed an efficient government; that to achieve efficiency, Germany needed the kind of government that Hitler and his Nazi Socialist Party proposed to give them.

There is no doubt that one could devise a more efficient way of doing business than we have in our Government. One could certainly devise a more efficient way of trying cases without a jury. There is no doubt that a quicker, more efficient way would be to have a judge sit on the bench, and, without hearing evidence, merely by looking at a man, say, "As far as I am concerned, you are guilty. I have seen you here before. Go to jail." It would save the State a great deal of money, and perhaps the judge would not be in error more than one time in three. But we think more of citizens' rights than to put them in jail without giving them the safeguards provided in the Constitution. This Senator happens to believe that a political or legal institution is not "efficient" in the democratic sense of the word when, by its nature, it tends to expend and to burn up our limited supply of liberties and freedoms. It may save time and money, but it strangles the people and their fundamental rights.

There is no reason why a defendant should not be given a right of appeal to the appellate court and to the Supreme Court, in the event he thinks he has been unjustly convicted.

A tremendous amount of money could be saved by denying the right to a jury trial, or the right of an accused to confront his accusers. A lawyers spends many years in law school, and in practice thereafter, learning how to take full advantage of all the procedural rights and the various substantive rights that are available for the benefit of his clients. Most of those rights could be disposed of, merely to streamline the process of justice, and to get on with the business. That is not saying it would be fairer to the citizens, but it would certainly be more efficient.

I have heard Senators say that the Senate is on trial. I heard such a statement tonight. We may be on trial because those of us who are convinced we are right will stand up and defend the right of the people, because we shall make our case and spell it out in the CONGRESSIONAL RECORD, so everyone can see our side of the argument.

It might be more efficient if Senators who are proponents of the bill could pass the bill by moving the previous question, and having a vote on the bill without debate, but such a procedure would not be appropriate to our form of government, though it might be more efficient to trample on the rights of the people.

Mr. HILL. As the Senator knows, the proponents of the bill have bypassed the rule of the Senate which provides that all bills shall go to a committee. The normal, regular procedure of the Senate has already been bypassed in order to railroad the bill through. Is that not correct?

Mr. LONG of Louisiana. The Senator is correct. It has been done on the argument that it would be a more expeditious way to proceed, that it would take less time, and that it would be a better procedure. Senators who would vote for the bill voted to bypass the committee. If the Judiciary Committee had been permitted to consider the bill, there is no doubt we would not be arguing now the right of trial by jury, because the Judiciary Committee has covered itself with glory on that issue when it has had occasion to consider it.

As the Senator from Alabama so well knows, when we passed on the labor-management bill, sometimes referred to as the Landrum-Griffin bill, we respected the right of jury trial. The Senator from Alabama, who is the distinguished chairman of the Committee on Labor and Public Welfare, has also been in a position to protect the laboring people of this country and to protect their rights against the sort of undue efficiency that those who would govern labor by injunction have sought to obtain.

Mr. HILL. Is it not true that one of the most important rights provided in the Constitution is the right of petition? When a bill is considered by a committee, as invariably bills are, except once in many years when an attempt to railroad a bill through the Senate is made, the bill goes to the committee not only for the consideration of the committee—which is most important—but also because it affords the people an opportunity to petition, to protest, to ask for changes and modifications, and to exercise their right of petition? Is that not correct?

Mr. LONG of Louisiana. It is correct; and that right has been bypassed.

Mr. HILL. And in bypassing that right, the right, as a practical matter has been denied. Is that not the case?

Mr. LONG of Louisiana. That is correct.

Mr. President, I was very much interested to note that one of the very best addresses ever made on this subject of jury trial in the 1957 debates was delivered by my good friend and distinguished colleague from South Dakota, Senator MUNDT. His address made such a water-tight case for the preservation of the right of trial by jury that I feel compelled to quote certain parts of it for the edification of my colleagues. I shall limit myself mainly to his comments on the history of jury trials, and will do so with the idea in mind that only by being aware of and understanding that impressive history of the right to trial by jury can we truly appreciate its importance to our system of government.

These are the parts in which I believe he spells out the points more eloquently than I could do in my own words.

He said in part:

> Alexis de Toqueville, the pernicious Frenchman often quoted by my distinguished liberal colleagues, was well aware that America's jury system was integral to her concept of justice. De Toqueville did not praise our jury system as a historian, although he might have done so. Nor did he commend it as a political philosopher, though this, too, he might have done. Rather, his counsel of 100 years' vintage he offered as an observer, as a critic of the American scene. The jury, he said, serves to imbue the minds of the citizenry with the qualities and character of the judge. Its operation, he realized, enhances among all people, a respect for the verdict of the law—instructs them in fair thinking and fair dealing. It has the built-in virtue, he counseled, of reminding each man, in judging his neighobr that he, in turn, might be judged. The unique advantage of the jury, said De Toqueville, is its value as an educational device for a people who have chosen to govern themselves.
>
> Needless to say, Alexis de Toqueville's was not a voice from the wilderness. Indeed, consult the writings of history's great legal scholars for praise of the jury system and we discover a virtual juridical hall of fame. The vivid impression secured from a persual of these writings is that when, as in the present instance, reasonable men may dispute the allowance of a jury trial, the gathered wisdom or experience urges its retention.
>
> Blackstone believed trial by jury was provided for in the Magna Carta and described it as "a trial that hath been used time out of mind in this Nation, and seems to have been coeval with the first civil government thereof."
>
> The drafters of our own declaration of rights in 1774 insisted that the colonists were entitled to "the great and inestimable privilege of being tried by their peers of the vicinage."
>
> Thomas Jefferson, Benjamin Franklin, and all the drafters and signers of the Declaration of Independence, asserted deprivation of trial by jury to be one of our grave grievances against George III.
>
> Our great Anglo-American forefathers were not prone to play recklessly with human rights. They were not prone to barter and manipulate and discard human rights like so many well-watered pieces of stock. When they found themselves confronted with a situation where it appeared that to protect more carefully one series of rights they must relinquish others, they knew that their search was not finished. They knew that their conclusions required reappraisal. They knew—because they reasoned—that if the story of aspiring democracy had been the story of exchanging rights won for rights not wholly won, democracy would hardly have developed beyond its primitive beginnings.
>
> Our Anglo-American forefathers knew, too, that of all the rights they had earned, each at the cost of supreme effort, supreme devotion, sometimes supreme sacrifice, none was to be more highly prized than the right to trial by jury. The great Mr. Justice Story was aware of their conviction when he penned in his commentaries:
>
> "The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy."
>
> They were eminently grateful for, and scrupulously guardful of, this right, because they were cognizant of its history—with what difficulty it had been won, with what ease it could be lost.
>
> Let us briefly review the headlines of this history. Trial by jury, as we know it today, has roots which were first nourished 800 years ago in England. Although it began as a means of extending royal knowledge and power its character gradually and markedly altered. More than 700 years ago, clause 39 of the Magna Carta provided that no freeman should be imprisoned, dispossessed or in any way detained, except by a fair judgment of his peers and according to the law of the land. Modern scholars agree that this bold provision did not refer to trial by jury quite as we know it today. Rather it was intended to put to an end the rapacious King John's habits of taking hostages, levying exhorbitant fines and imprisoning nobles without even consulting his own council of barons. But both in its immediate effect and its later interpretation, the renowned clause did advance the idea that man was entitled to a legal hearing before any penalty, detention, or dispossession could be ordered.
>
> By the time of the arrival of the 16th century, the jury concept had grown and matured to the point where clearly juries were no longer merely evidence-giving bodies; they had become vitally important units for the making of important factual decisions.
>
> Surely the greatest threat to jury trial in an ascending England occurred with the rise of the star chamber. This was an institution, created with the purest of intentions, to overcome the abuses of a few powerful noblemen and to compensate for small deficiencies in the jury system. Established by the King, the star chamber was, in 1487, given specific jurisdiction to hear and settle in closed session any disputes—legal, judicial, or administrative—in which the interest of the King was involved.
>
> Initially, the star chamber performed a useful function, partly because the task of containing the disputes and extravagances of rebellious barons had long been neglected; partly because the sometimes cumbersome, cautious, deliberate jury system had been replaced by a swift, efficient, dedicated executive device. However, as with other institutions founded in the best of faith and specially equipped to handle certain immediate problems, the star chamber came to extend its domain into fields where it should never

> have gone. Under Charles I, it undertook to punish religious writers whose opinions it questioned; to impose censorship on all printed matter; to mete out cruel and unusual punishments for minor political offenses. Clearly it had outlived its usefulness as a method for controlling rebellious barons. It had become—and remember, Mr. President: those of us who ignore history must but repeat it—an instrument for religious and political persecution.
>
> The star chamber, with its denial of the trial by jury which Englishmen had come to feel was a fundamental right, constituted one of the telling grievances against King Charles I. Accordingly, it was a crucial element in his fall. One of the first acts of the Parliamentary Party, after it gained supremacy, was to abolish the star chamber, in 1641, and to assert the right of every Englishman to a fair and open judgment by his peers.
>
> Unhappily for England, the lesson of her own foreboding experience in maligning the right to trial by jury was in part forgotten in her dealings with the American Colonies. While on the whole the administration of justice in 18th century colonial America followed the English pattern, the attitude of the colonists was from the first different. Having no reason to be fearful of feudal exactions or exploitations, the colonists viewed the King not as their protector but, rather, as himself a potential aggressor upon their rights. And in this spirit they courageously protested as an act of royal tyranny, every effort to limit trial by jury.

Mr. President, I ask, is that not pertinent today, if trial by jury is to be dispensed with in this bill, which seeks to impose on a great number of people laws which they bitterly resent, which entire States and sections of the Nation resent, and which their representatives in the Senate protest and struggle against? Is not this denial of trial by jury to be viewed by the people of this country, particularly those in the area from which I hail, as a "royal act of tyranny," at least to a certain degree?

> A favorite English technique for assuring swift and certain conviction was to extend the jurisdiction of the admiralty courts. Although these courts were not a part of the common law system, their denial of trial by jury to accused colonists proved especially effective. English or English-appointed judges could usually be relied upon to convict summarily, and often arbitrarily, colonial merchants and seamen. The more powerful and pervasive the admiralty courts became, the more deeply the American colonists resented them, and the more they came to insist upon trial by a jury as a fundamental right.
>
> The Stamp Act of 1764, offensive enough in its imposition of taxation without representation, added insult to injury by providing that all violations were to be tried in the admiralty courts. To the American colonists, the Stamp Act represented, among other things, deprivation of the right to trial by jury. The reaction against it was so fierce—recall, Mr. President, the Virginia resolutions proposed by Patrick Henry, the nullifications by various State legislatures, and above all, the boycott of all English merchandise—that within 2 years the English had no alternative but to repeal the ruthless measure.
>
> The final British effort to usurp jury trial from the Colonies came with the Act for the Impartial Administration of Justice, one of the intolerable acts of 1774, passed in retaliation to the Boston Tea Party. This act provided that certain colonial offenders were to be transported to England. This repudiation of the colonists' own right to judge their fellow citizens was one of the last acts which made reconciliation with England almost impossible, and thus provoked the war for American independence, and give birth to this new Republic.
>
> So aware were our constitutional founders of the supreme value of trial by jury, that twice they attached it in the Bill of Rights. The right to jury trial is guaranteed by the sixth amendment, in criminal cases; by the seventh, in civil cases. Devotion to this principle was so deeply imbedded in the minds of the colonists that even when the panic over the French Revolution struck America, and the alien and sedition laws were passed, trial by jury was guaranteed to any citizen accused of seditious activity.
>
> Yes, Mr. President, trial by jury, although originating in England as a means of extending royal knowledge and power, was adpoted in America as a means of insuring local protection from a remote and tyrannical administration. Deeply rooted in the American concept of government, it has withstood the attacks of the executive in wartime, and of the mob in peacetime, and this it must continue to do.

At this point, Mr. President, Senator MUNDT went into an explanation of what he thought were the facts of the case as they appeared to him in 1957 and then concluded this historical analysis as follows:

> Mr. President, the truth is simple: The history of jury trial is replete with evidence that when it is crushed, to solve expeditiously an immediate problem, there is grave risk of initiating a chain reaction. Opponents of the jury trial amendment somberly claim that its addition would emasculate the civil rights bill, that southern jurors might be reluctant to convict. This argument is as old as it is shortsighted. It is the same justification that was given for the establishment of the star chamber, for the ruthless acts of Parliament depriving colonists of jury trial, for the opposition to jury trial for workers involved in labor disputes. Historically viewed, it stands as the favorite argument of the absolutist, an indispensable tenet of tyranny or mobocracy. It is an argument which must be gravely questioned by those who hate judicial tyranny even more than they love judicial haste. It is an argument which denies the individual juror's capacity for justice and fairness, and in so doing places in jeopardy not only a judicial instrument nurtured and refined through 700 years of experience, but also the entire concept of responsible self-government conducted by reasonable men.

Now, I ask, Mr. President, what could be more logical and persuasive than the arguments made by the distinguished Senator from South Dakota on this question only a few short years ago? We are faced today with the same question we faced then. I predict the day will come when these words of the distinguished Senator from South Dakota will be quoted again.

By now there should not be any doubt in the mind of anyone, in my judgment, about the underlying purposes of the proposal in this bill for substituting government under Federal injunction for government under statutory law. The purpose is to avoid jury trails. This proposal for government by injunction insults the people of the South, because support of this provision of the bill necessarily implies the belief that the people of the South cannot be trusted as citizens to act as jurors, that they cannot be trusted to sit in judgment on fellow human beings, even though this is one of the highest privileges and duties of citizenship.

It implies, also, the belief that justice cannot wait on the sometimes cumbersome system of jury trials but must be sped on and rushed through the courts at the expense of anyone who is even suspected of violating the provisions of this proposed legislation.

I know that many supporters of the bill deny that they have any such feelings or that they intend any such implications, but, notwithstanding that, it must be perfectly clear by now to every Senator who has studied the bill and followed the debate that if there is not mistrust of the people of the South, and if there is not mistrust of the jury system itself, then there is no justification, no reason whatsoever, to support this proposal, which would establish government by injunction, the whole purpose of which is to avoid jury trials in civil rights cases.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HILL. The Senator has quoted from the very fine address of the Senator from South Dakota [Mr. MUNDT]. He has also quoted from some English authorities. I am sure the Senator will recall the words of Blackstone, that great English lawgiver, who said:

> Trial by jury ever has been, and I think ever will be, looked upon as the glory of the English law. And if it has so great an advantage over other in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases? * * *
>
> It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals. (See majority opinion *Reid* v. *Covert* (1955), where the court affirms Blackstone's position.)

Lord Camden, one of the great English jurists said:

> Trial by jury is the foundation of the British Constitution; take that away and the whole fabric will soon molder into dust.

Mr. LONG of Louisiana. Those are eloquent words. I agree with them. Mr. President, those of us of the South are proud to be a part of this Nation, and those of us who represent Southern States in Congress are proud to be a part of our Nation's Congress.

We find it somewhat difficult to adjust ourselves to what is inherent in the proposal, to dispense with the right of jury trial, namely, the thought that the people of our part of the country cannot be trusted to do their civic duty, that one speaks of second-class citizenship when one complains that he has not been able to exercise his rights of citizenship in the way he would like to. The Senator from Alabama has tried to do everything to help advance the status of the colored people of his State, as I have done in my State. We have great difficulty in reconciling ourselves to the thought that those of us who are from Florida, North Carolina, Virginia, Alabama, Louisiana, and other Southern States, are not patriotic, are not good citizens, and are not law-abiding citizens.

We submit that the record of our people, of those for whom we speak, for patriotism and devotion to their country, in good years and bad, in wartime and in peace, is a record deserving of better than the treatment given it by this proposal. What is contained in this proposal is not a provision to enforce a statute, but a proposal to proceed by the right of judicial court orders and judicial tyranny, which seeks to rule us as aliens in America.

Nor is there any cause to believe that rapid justice, with disregard for some of our constitutional rights, will serve this Nation better than a system which may be a bit slower but which is safely within the bounds of our constitutional system of government.

If this is to be the new approach to law enforcement in America—and we are talking about civil rights and personal rights—why not issue a broad injunction applicable all over the country, against the commission of any crimes? It seems to me that the protection of the virtue of womanhood in this country is a pretty strong civil and personal right. Who knows who may commit rape tomorrow? But if we are to prevent crime by injunction, and by a devious way of getting around trial by jury in that process, let us blanket out all crime. Why not enjoin all of it? Why not completely do away with juries? If anyone commits a crime, why not bring him before the court and charge him with contempt?

That is the precedent this sort of bill gives to us. In 1957 its effect was quite narrow, but now the contamination has spread to no less than 5 of the 11 titles of this bill. Who knows where the principle will be used next year, or the year after, or 10 years hence?

Mr. President, we have heard proponents of this bill, including the Attorney General of the United States, beg the question on the matter of jury trial by asserting that there is no constitutional right of trial by jury in a contempt case. Nobody ever said there was. The evil in this bill is that it seeks to make contempt cases out of acts which constitute crimes under State and Federal law, and thus to take them from under the jurisdiction of the courts, under laws which provide that persons committing such acts shall be tried by juries. The bill seeks to have those acts tried, instead, as contempts of court, under mandatory injunctions prepared by the Attorney General or by some so-called Civil Rights Commission, and issued by some Federal judge. The purpose, Mr. President, as I have demonstrated, is to eliminate trial by jury in such cases. Now remember, the statutes, both State and Federal, under which these acts constitute crimes, are not being wiped off the books. The acts remain crimes. But this bill would make them also contempts after a general injunction has been issued. It gives Federal courts an overriding jurisdiction, so that alleged offenders need not really be tried under the statutes if the Attorney General of the United States wants them tried for contempt, once a general injunction has been issued.

As Senators know, the complainant in these discrimination cases need not exhaust the administrative or State court remedies that may be available to him. So, in effect, the Attorney General, who will be standing in the shadow of most of these complainants, will be able to preempt the actions of States in enforcing their own laws.

I would be interested to know, Mr. President, what would be the reaction of many of those who support this bill—both here in the Senate and elsewhere—if the Congress should be asked to pass a bill providing that whenever any person has engaged or is about to engage in any act or practice which would constitute teaching or advocating, or the conspiracy to teach or advocate, the overthrow of the Government of the United States by force or violence, the Attorney General could institute in the name of the United States a civil action for preventive relief, including an application for permanent or temporary injunction, restraining order, or other order. The effect of such a law would be to make actions which now constitute offenses under the Smith Act the subject of Federal court injunctions, and therefore punishable as contempts, without jury trials. That is a pretty serious offense, a little more serious, I think, than denying a man the pseudo-right to a certain job, or to eat in a certain restaurant, or sleep in a certain bed, or attend a certain movie house.

I am certain that if such a proposal were made or even hinted at, the first people to rise in protest and to yell "tyranny" would be many of those who now stand ready to deny jury trials in cases involving the crime of "discrimination." There would be a great hue and cry that the Communists, are being denied their rights to a trial by jury; but if we are going to change our system of jurisprudence in this country and strike down the jury system, and have trial for contempt instead of for crime, why should we not have it apply to criminals who are parties to a conspiracy to destroy America? Try a few of them for contempt, without a jury? No; those in favor of the bill cannot go that far; a Communist has constitutional rights. But a southern citizen—a southern white citizen—must not be permitted to have those rights. It is said he cannot be trusted on a jury. He sends his sons to foreign soil to fight against the Communists, to fight against the conspiracy that would enslave every one of us, but when it comes to his right of trial by jury, he is ranked below the Communist traitors in our midst.

If we are to adopt the policy of enforcement by injunction, and if we are to substitute for indictment and trial by jury, the device of summary punishment for contempt,. there is no reason why we should not, and every reason why we should, apply this sanction to the one field in which the Federal Government has the greatest interest possible—the interest of self-preservation, to protect itself against conspiracy to bring about its destruction by force and violence.

If it is proper to have duly elected officials of sovereign States placed under Federal court injunction to restrain them against performing acts which might injure individuals in their voting rights, it is certainly proper to subject Communists and other subversives to Federal court injunctions to protect against actions which would injure the security and safety of the Government of the United States. As all of us know, the Communist conspiracy threatens all the basic constitutional rights of every citizens of this Nation, irrespective of race, creed, or color.

There is no argument which can be made against such an amendment. No argument can be made against an amendment to include the Communist conspiracy in this device, if it is a good one. There is no argument which can be made against such a proposed amendment that will not lie with equal force against the provisions of the so-called civil rights bill with respect to enforcement by injunction.

It has been contended in the past, and I am sure it will be contended during these debates, that this attempt to take away trial by jury is justified and given good precedent by the fact that Congress has already enacted many other statutes providing for government by injunction, without a right to trial by jury. I know that at the time of the 1957 debates there were 28 such laws on our books. There are probably several more today than there were then. But an examination of these statutes reveals the crucial fact that all of them deal with the regulation of artificial persons, known as corporations. Not one of them deals with the constitutional rights of individual persons—except the 1957 Civil Rights Act, of which I am very critical.

But here we have a bill which, if enacted, by the complete elimination of jury trials in certain cases, would institute in the United States of America something which, before the 1957 act, had never existed in law in this land, at least not since the appointed governors of the King of England sought by the Stamp Act and other emanations from London to deny the American colonists the freedom they insisted they possessed because they had come from England, where the doctrines of freedom had been wrought out, sometimes in bloody struggles against those who wished to use arbitrary power, from the King and the courts. Here we come directly on the old—in fact, the eternal—issue of human rights versus property rights.

Mr. President, I wish to address myself to this subject for a number of additional hours. I would like to continue my speech at a later date. But I will not ask unanimous consent that I might continue this speech without prejudice. I believe I can conclude my remarks on the subject the second time I address myself to this particular issue. If the acting majority leader is ready to recess, I shall suspend my speech at this point and deliver the remainder of it on my second appearance.

Mr. CHURCH. I am happy to do so, with that understanding.

## COMMUNIST PENETRATION OF NEGRO DEMONSTRATIONS

**During the delivery of the speech of Mr. LONG of Louisiana,**

Mr. THURMOND. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. Mr. President, I have previously asked unanimous consent of earlier Presiding Officers to yield for statements, questions, and insertions in the RECORD, not to exceed 3 minutes. With that understanding, I yield to the Senator from South Carolina, with the understanding that his remarks will follow mine in the RECORD.

Mr. THURMOND. Mr. President, I have repeatedly requested on the Senate floor and in the Commerce Committee that Congress investigate Communist penetration of and influences in the Negro demonstrations, riots, and agitations which have been plaguing our country for the past year or two. Now FBI Director J. Edgar Hoover has confirmed in testimony before the House Appropritaions Committee that "Communist influence does exist in the Negro movement."

In addition to this, the mayor of Cleveland, Ohio, has sent a report to the FBI charging that 38 members of subversive organizations took part in Cleveland's so-called civil rights demonstrations this year. There has also been a report in the Evans-Novak column, syndicated by the New York Herald-Tribune Service, that subversives have been responsible for demonstrations in San Francisco and other places.

There is no question that there is a tremendous amount of evidence which illustrates and confirms statements by Mr. Hoover, the mayor of Cleveland, the Evans-Novak column, and statements that I made in the Senate Commerce Committee and on the Senate floor last August. It is past time for Congress to get to the bottom of these subversive influences which have promoted racial strife and turmoil and which have been responsible in a large measure for promoting and inspiring the pending so-called civil rights legislation. Before this legislation is given any further consideration, Congress should designate a special committee or designate an existing committee or subcommittee to probe most deeply into this matter, so that we may have all of the facts on the agitation behind this legislation before the Congress is stampeded into taking unwise action to approve legislation inspired and promoted in large measure by Communist influences.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD my weekly newsletter of April 27, 1964, entitled "Communism and 'Civil Rights'"; an article from the Nashville Banner of April 25, 1964, entitled "Ohio Mayor Hits 'Subversives'"; an editorial from the May 4, 1964, U.S. News & World Report; and the Evans-Novak column from the Washington Post of April 24, 1964, entitled "Inside Report—Civil Rights Crisis."

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### COMMUNISM AND CIVIL RIGHTS

FBI Director J. Edgar Hoover has confirmed in testimony before the House Appropriations Committee that "Communist influence does exist in the Negro movement."

In his testimony, Mr. Hoover made a number of interesting statements on the record and even more interesting and revealing statements off the record. On the subject of Red infiltration of the Negro movements, he stated (on the record): "Turning to the subject of Communist interest in Negro activities, the approximate 20 million Negroes in the United States today constitute the largest and most important racial target of the Communist Party, U.S.A. The infiltration, exploitation, and control of the Negro population has long been a party goal and is one of its principal goals today.

"The number of Communist Party recruits which may be attracted from the large Negro racial group in this Nation is not the important thing. The old Communist principle still holds: 'Communism must be built with non-Communist hands.' We do know that Communist influence does exist in the Negro movement and it is this influence which is vitally important. It can be the means through which large masses are caused to lose perspective on the issues involved and, without realizing it, succumb to the party's propaganda lures."

In testifying on current issues being promoted by the Communists, Mr. Hoover made this statement: "Currently, the Communist Party, U.S.A. is stressing such domestic issues as the racial struggle; the abolition of all internal security programs and of congressional committees investigating communism; and the reduction of military spending with the diversion of such appropriations to a broad program of social welfare projects. On the international level, the party is dutifully echoing Soviet propaganda regarding peaceful coexistence and peaceful competition, disarmament, an end to nuclear testing and increased East-West trade. Woven into all the party's propaganda are basic Communist themes. In one way or another, it stresses the never-ending class struggle, the necessity for destroying the capitalist system, the claimed overwhelming superiority of communism over all other social orders, and the inevitable triumph of communism in the United States and throughout the world.

Mr. Hoover stressed the Communist activities to attract and influence young people. He pointed out that the Communists determined that the appeal to young people should emphasize three current items: "peace, civil rights, and employment for youth."

Last year I brought out in the Commerce Committee's hearings on civil rights and on the Senate floor that "there is Communist influence in and penetration of the current Negro demonstrations and agitational efforts in this country." I demanded that the Commerce Committee investigate information I put in the record of the hearings and in the CONGRESSIONAL RECORD proving my point. All these pleas, however, fell on closed ears and minds.

Writer Joe Alsop, a confidant of the Attorney General, has now revealed in a recent column that the infiltration of the Negro movements is "a very serious matter." He reported further that the "subject of the real headshaking is the Reverend Martin Luther King. His influence is very great. Yet he has accepted and is almost certainly still accepting Communist collaboration and even Communist advice."

This is in direct contradiction with the response which the Attorney General made to the Commerce Committee when he was queried about Communist influence in the Negro movements and demonstrations. He described Communist infiltration efforts as being "remarkably unsuccessful" and whitewashed King and other Negro leaders of connections with Communists.

When Mr. Hoover went off the record, on page 309 of the Appropriations Committee hearings, he made some very shocking and damaging statements which, unfortunately, are not being made public.

All the facts on Communist penetration of and influence over the civil rights activities in this country should be fully explored and aired by the Congress before any legislation inspired by these activities is approved.

Sincerely,

STROM THURMOND.

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[From the Nashville (Tenn.) Banner, Apr. 25, 1964]

### OHIO MAYOR HITS SUBVERSIVES

CLEVELAND.—Mayor Ralph S. Locher has sent a report to the FBI charging that 38 members of subversive organizations took part in Cleveland's civil rights demonstrations this year.

The mayor reacted angrily last week when it was learned the FBI was investigating complaints of police brutality in connection with a demonstration at an East Side school site. He said at that time, "Let them investigate Communists—not our law-abiding policemen."

The letter Mayor Locher sent Friday to J. Edgar Hoover, director of the FBI, and to Representative EDWIN E. WILLIS, Democrat, of Louisiana, chairman of the House Un-American Activities Committee, was based on a report prepared by Police Chief Richard R. Wagner.

Mayor Locher did not ask for a congressional investigation, as had been suggested by some groups here, but he pledged the full support of the police department in any hearing that might be scheduled here by any Federal committee.

The Department of Justice has indicated its investigation of the brutality complaints produced no grounds for action against Cleveland police.

In another development, School Board President Ralph A. McAllister said a taxpayers' suit seeking to block construction of three new schools in the Glenville area on the East Side is without grounds.

Civil rights groups opposing construction of the schools want the board to abandon the neighborhood school concept and use classroom space now available in schools in predominantly white areas.

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[From U.S. News & World Report, May 4, 1964]

### THE ENEMY WITHIN OUR GATES

(By David Lawrence)

J. Edgar Hoover, Director of the Federal Bureau of Investigation, is officially responsible for keeping a close watch on what the Communist Party in the United States is doing.

Mr. Hoover has just reported to Congress on the danger that faces the American people. He states that not only is the Communist Party in this country being financed by the Soviet Government, but that inroads are being made in our colleges and among other groups of young people. He adds that Communist infiltration has occurred in the racial controversy and that there is plenty of evidence of Soviet meddling in our internal affairs. Mr. Hoover testified in secret on January 29 before a House subcommittee. In his testimony, just made public, he said:

"Turning to the subject of Communist interest in Negro activities, the approximate 20 million Negroes in the United States today constitute the largest and most important racial target of the Communist Party, U.S.A. The infiltration, exploitation, and control of the Negro population has long been a party goal and is one of its principal goals today. * * *

"The Communist Party is continually searching for new avenues in order to expand its influence among the Negroes. In particular, it has sought ways and means to exploit the militant forces of the Negro civil rights movement. * * *

"We do know that Communist influence does exist in the Negro movement and it is this influence which is vitally important. It can be the means through which large masses are caused to lose perspective on the issues involved and, without realizing it, succumb to the party's propaganda lures. * * *

"The determination of the Soviet Union to maintain the Communist Party, U.S.A., and to strengthen and direct it in such a way as to make it a continuing danger to this Nation is clearly evidenced by the fact that for the past 44 years Soviet Russia has in one way or another directed and controlled the Communist Party, U.S.A., and helped to finance it."

Nobody with any intimate knowledge of the racial controversy that is stirring America today would for a moment contend that the majority of the leaders or members of the organizations which are seeking to obtain "civil rights" are in any way sympathetic to the Communist Party or that they would consciously allow themselves to become involved in Communist plots or intrigues. But, conversely, there is a small minority of misguided Negroes and whites who are fanatical about the racial movement and actually have been much influenced by the Communist techniques.

The zealotry exhibited by some of the demonstrators in this country is parallel to what is found in student movements in other countries, especially in Latin America. The Communists find it easy to brainwash the young and inspire them to engage in street demonstrations, sit-ins, stall-ins, and violence.

It doesn't take many Communist instigators to start a lot of trouble inside the ranks of any controversial group in this country. Mr. Hoover points out that "during 1963 top party leaders made 45 appearances before college groups" on campuses from Maine to California. He says that the youth program of the Communist Party is so important that the national leaders will go anywhere to meet with young students, no matter how small the group may be.

Unfortunately, various court decisions and the complex legal machinery that can be invoked to protect Communist agitators and demonstrators are making it possible for the Communists to achieve results which they perhaps would not attain if a majority of the Justices of the Supreme Court of the United States were to abandon the idea that the Communist Party is just another political party and not a subversive instrument of a foreign government.

All the disgraceful episodes which have occurred in New York and other cities recently were certainly not directed by patriotic American Negro leaders. But even these leaders frequently find themselves confronted with impassioned rebels who counsel extreme measures and who manage to arouse the deepest emotions among the rank and file of Negro members.

The time has come for the Government of the United States to do more to expose the infiltration in civic movements by the Communist Party and its agents, stooges, and allies inside this country. The enemy has been carrying on this warfare against our free Government. The Soviets, moreover, have not merely set up a military base in Cuba, but they have taken over the country by the same tactics of infiltration and subversion, which they are using also in Venezuela, Brazil, Argentina, and other Latin American countries.

The Communist movement cannot be brushed aside as just an inconsequential effervescence of ideological passion, nor can it be dismissed as only the work of a few irresponsible persons. The damage already done is extensive and will increase unless the Congress of the United States takes effective steps to fight the enemy within our gates.

[From the Washington Post, Apr. 4, 1964]

### CIVIL RIGHTS CRISIS

(By Rowland Evans and Robert Novak)

LOS ANGELES.—For further proof that rising Negro militancy harms rather than helps the civil rights cause, consider the crisis in California.

Elsewhere, there is only vague speculation about the impact of Negro demonstrations on white public opinion. Here, a concrete test looms in November. The statewide referendum will determine California's civil rights course for years to come. And if militant demonstrations persist, the vote in November promises to be a debacle for civil rights, not only here but in the whole Nation.

The Rumford Fair Housing Act was passed by the legislature last year in an effort to halt racial discrimination in housing. In November, Californians will vote on a constitutional amendment that not only would repeal the Rumford Act, but block all fair housing legislation in the future.

Something on the magnitude of a political miracle will be needed to defeat this constitutional amendment. If the vote were held today, the civil rights forces would lose by a humiliating margin.

This is a classic case of white backlash to the Negro revolution. Consequently, it doesn't take a professional politician to figure out that a moratorium on civil rights demonstrations is essential to take the sting out of this backlash. For the time being at least, what is desperately needed is less marching in the streets and more effort at better public relations.

But white civil rights leaders have been unable to make this point with Negro militants. They either refuse or fail to see that the November referendum is infinitely more important to Negro rights than any sit-in demonstration.

However, it's questionable whether responsible Negro leaders could subdue demonstrations if they tried. Here, as elsewhere, the Negro establishment is in danger of losing control over the civil rights movement to thugs and Communists.

A few Communists and fellow travelers have infiltrated the civil rights movement in both San Francisco and Los Angeles. The senseless, destructive sit-ins at the Sheraton Palace Hotel in San Francisco were dominated by extreme leftists. Under the guise of civil rights, young Negro toughs have been beating up police officers on Los Angeles' teeming South Side.

"I can't prove this," asserts one liberal State Assemblyman, "but I think—and a lot of people agree with me—that the Commies are promoting these demonstrations so that the anti-Rumford amendment will carry in November. Then they'd really have an excuse for riots."

Even if the demonstrations stopped, defeating the amendment would be a major task. A sure tipoff is the fact that few practicing politicians in California are out in front for civil rights.

The Democratic Party is officially against the amendment, but few Democratic officeseekers want to commit themselves deeply. The Republican Party is officially neutral, but many Republicans vigorously support the amendment. This includes conservative leader Joe Shell and the United Republicans of California (UROC), a grassroots volunteer organization

Moreover, civil rights forces fighting to preserve the new housing law are starved for cash compared with their foes in the well-financed California Real Estate Association.

Liberal businessmen, normally the bulwark of civil rights causes here, simply aren't contributing to this fight. In terms of power, they can get more for their dollar by giving to political candidates.

Most depressing of all is the attitude of the big Jewish community in Los Angeles, usually a source of liberal strength. One Jewish leader here guesses the Jewish vote would go 4 to 1 to repeal the open-housing law if the vote were today.

The only success so far by foes of the amendment was the decision of the Democratic-controlled legislature to postpone the vote until November. Even that minor victory required arm squeezing in the legislature and heavy pressures on Gov. Pat Brown.

That leaves 6 months to change the climate of opinion. But it won't change unless responsible Negro leadership somehow regains control and calls a halt to senseless demonstrations.

## RECESS TO 10 A.M. TUESDAY

Mr. CHURCH. Mr. President, if there is no further business this evening, I move that, in accordance with the order previously entered, the Senate stand in recess until 10 o'clock on Tuesday morning.

The motion was agreed to; and (at 9 o'clock and 3 minutes p.m.) the Senate took a recess, under the order previously entered, until Tuesday, April 28, 1964, at 10 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate April 27 (legislative day of March 30), 1964:

The following-named person to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant:

Alexander E. Tanos.

The following-named person to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

George J. Thompson.

# HOUSE OF REPRESENTATIVES

## MONDAY, APRIL 27, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Psalm 118: 24: *This is the day which the Lord hath made; we will rejoice and be glad in it.*

Almighty God, we thank Thee for the beauty and glory of this new day which has come as a fresh gift from Thy hand.

Grant that we may be strengthened by Thy spirit to discharge faithfully and courageously every duty and every opportunity we may have for noble service to Thee and all mankind.

May there be inculcated within the minds and hearts of all the people and children of our beloved country and in churches, homes, and schools a finer appreciation of the need of religion and our belief in a supreme being, as the great law and principle of human life.

Inspire us to join hearts and hands in doing whatever is necessary and whatever lies within our power to make the spirit of brotherhood prevail among all our citizens, for we know that only a social order that is brotherly and has in it a sense of universal community can meet the needs of these troublous times.

Hear us in the name of the Prince of Peace. Amen.

## THE JOURNAL

The Journal of the proceedings of Thursday, April 23, 1964, was read and approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 793) entitled "An Act to promote the conservation of the Nation's wildlife resources on the Pacific flyway in the Tule Lake, Lower Klamath, Upper Klamath, and Clear Lake National Wildlife Refuges in Oregon and California and to aid in the administration of the Klamath reclamation project," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. ANDERSON, Mr. MOSS, Mr. KUCHEL, and Mr. ALLOTT to be the conferees on the part of the Senate.

## WATERSHED PROTECTION AND FLOOD PREVENTION

The SPEAKER laid before the House the following communication, which was read and referred to the Committee on Appropriations:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
*Washington, D.C., April 23, 1964.*

Hon. JOHN W. MCCORMACK,
*The Speaker, the House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered the following work plans transmitted to you by Executive communication and referred to this committee and unanimously approved each of such plans. The work plans involved are (watershed, state, and Executive communication):

Bachelor Run, Indiana, 1398, 88th Congress.

Bear Creek, Missouri, 1789, 88th Congress.

Blockton, Iowa, 1789, 88th Congress.

Cane Creek, Georgia, 1234, 88th Congress.

Crane Creek, Minnesota, 1398, 88th Congress.

Dry Creek, Georgia, 1398, 88th Congress.

Hondo Creek, Texas, 1789, 88th Congress.

Valley Creek, Kentucky, 1789, 88th Congress.

Sincerely yours,
HAROLD D. COOLEY,
*Chairman.*

## MIKE POLITO AND FATHER RASSEUX

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, the Staten Island Advance recently published a recount of the following heroic exploit.

On March 4, 1944, a B-17 flying fortress crossed over the German border into Belgium on the return leg of a daylight bombing run on Berlin. The plane, shot through by flak, began to lurch in such a fashion that its breakup became imminent. Five men bailed out of the plane and five were carried to their deaths in the plane.

T. Sgt. Michael J. Polito, then 21, floated down to the earth. Snow was falling and visibility was bad. He lost sight of the plane and what he learned of his fellow crewmen's destiny is only second hand.

This was the preface to the real life story of Michael J. Polito, 41, a restaurant owner in Stapleton, Staten Island, N.Y.

The gunner-bombardier of 1944 and the restaurateur of 1964 are, of course, the same person.

For almost 7 months the Army Air Force gunner was in Belgium, dodging German patrols. He owes his life to many people who helped him, but to one particularly. It is to the Reverend Leopold Rasseux, pastor of a Roman Catholic church in the town of Mons, that he owes the greatest debt and to whom he made the vow.

The simple parish priest ministered to the shrapnel wounds Polito sustained on his right leg. He cared for him until he regained his strength and then placed him in homes of parishioners, always moving him about, to minimize his chance of being captured.

The priest, he said, an unswerving patriot, worked with the underground. Parting with the priest, Polito vowed some day to bring him to this country as a gesture toward repayment of his debt.

Years have passed. Polito is in the restaurant business but says he has no "overabundance of money." He wanted to remain true to his vow.

"Time's going fast," he figured. "Let me get this man over here."

Mike Polito and Father Rasseux are in this Chamber today.

## GOVERNMENT SUPPORT OF SCIENCE

Mr. ROUSH. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include a speech.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Speaker, earlier this month our distinguished colleague, the Honorable L. H. FOUNTAIN, of North Carolina, spoke before more than 5,000 members of the Federation of American Societies for Experimental Biology at a meeting held in Chicago.

He dealt at length with the subject of Federal Government support of science. This is an area in which governmental appropriations have expanded almost 20 times above the appropriations granted for this same purpose 15 years ago.

I am sure his listeners found his remarks enlightening. He classes himself as an "informed layman" on this subject. I consider this a most modest claim, and I feel certain you will agree with me after reading his remarks at this important meeting.

The remarks follow:

### FEDERAL SUPPORT OF SCIENCE

(By Hon. L. H. FOUNTAIN, of North Carolina, chairman, Intergovernmental Relations Subcommittee, House Committee on Government Operations)

Mr. Chairman, distinguished panelists, ladies and gentlemen, I am pleased to have this opportunity to share with you some observations on the Federal Government's role in the support of science. When your chairman invited me to participate in this symposium, I was at first hesitant about addressing so imposing an assemblage of scientists, but after some reflection I decided this would be a splendid opportunity to acquaint those of you who received Government support for your research with the views of an informed layman on this important subject. So, in a sense, I am appearing before you as a "citizen witness." In identifying myself in that fashion, I trust this audience will not mistake me for one of the witnesses who appears before the Appropriations Committees each spring to advocate vastly increased funds for his own special program interest in the National Institutes of Health.

One year ago, your organization, meeting in Atlantic City, adopted a resolution critical of our subcommittee's study of the NIH grant operations and requested the National Academy of Sciences "to enunciate the principles and philosophy which could serve as a basic policy in the future conduct and administration of Federal programs in support of fundamental research." The Academy study was recently completed, and I am highly pleased to find the conclusions of its Committee on Science and Public Policy, which was chaired by Professor Kistiakowsky, substantially in agreement with the position taken by our committee on most essential points. I will make reference to these in the course of my talk.

Inasmuch as your society has taken official notice of the work of our committee, and many of you as grantees have written to me and other Members of Congress, I think this an appropriate occasion to set the record straight as to what our committee has done—and what it has not done. There has been considerable misunderstanding on this score.

The Committee on Government Operations, it should be understood, is principally concerned with reviewing the administrative performance of Federal agencies. Specifically, the committee is charged in this connection with the "duty of studying the operation of Government activities at all levels with a view to determining its economy and efficiency." Within the committee, the Intergovernmental Relations Subcommittee, of which I am chairman, exercises this responsibility for the Department of Health, Education, and Welfare, and several other departments and agencies.

Functioning with a very small staff, it has been necessary for the subcommittee to approach its broad agency jurisdiction on a very selective basis. Programs are selected for special study in most instances because they involve large amounts of Federal funds and/or because alleged irregularities or questionable management practices have come to the subcommittee's attention. Study of the NIH grant programs was undertaken in 1959 largely on the basis of their size and extraordinary rate of growth.

I think it would be useful to remind you of the magnitude of that growth. NIH appropriations, excluding construction funds, have increased from a level of approximately $50 million in 1950 to around $900 million in the current fiscal year, and the President has requested $957.4 million for 1965. This would mean an NIH budget of over $1 billion for the next fiscal year, including the health research facilities program. More than 80 percent of this money is spent for extramural research and training purposes, principally in the form of grants and predominantly in educational institutions. Few programs in the history of our Nation have grown so rapidly and have been supported by the Congress so generously.

I think all of us would agree that it is both proper and desirable for the Federal Government to sponsor and assist medical and other health-related research. And over the years I have consistently supported legislation for this important purpose. At the same time, I believe these Federal programs, like all others, should meet the tests of efficient and economical administration, and I have not hesitated to say so.

Appropriations for the NIH programs have not followed the usual course whereby the President's requests are either approved as submitted or in a somewhat modified form, or they are reduced or denied entirely by the Congress. Instead, except for last year, the President's budget recommendations for NIH have been consistently increased by the Congress during the past 12 years—in many years by more than a third. While this unusual situation is not in itself cause for alarm, it certainly suggests the need for careful appraisal of the administration, and the results, of the programs involved. Administrative decisions, I might add, are of extraordinary significance in shaping the character of these programs because the statutory language is extremely broad and general with respect to the Surgeon General's authority to support medical research and training.

When Congress enacts legislation establishing a scientific program, it must of necessity leave considerable room for administrative interpretation if it is to avoid an overly rigid statute. All of the specifications of a program in a technical area cannot be spelled out in advance. When Congress grants a Federal agency such broad statutory authority, the Congress assumes a corresponding special responsibility for reassuring itself and the public that these programs are administered efficiently, objectively, and in accordance with the intended legislative objectives.

The Congress maintains surveillance over the programs of the Federal departments and agencies in a variety of ways. The annual appropriation process is perhaps the best known of these methods. In addition, the Committees on Government Operations select particular programs or problems for intensive study from time to time, and the appropriate legislative or subject matter committees may review a program more or less comprehensively in connection with proposed amendments to the enabling statute.

In 1959, our subcommittee initiated the searching study of the NIH grant programs which resulted in House Report No. 321, 2 years later. That report was accepted by officials of the Public Health Service and elsewhere in the Government as a constructive report—an objective one. Our study was directed to two ends: (1) understanding the nature and administration of these rapidly growing programs, and (2) evaluating the effectiveness of the agency's policies and arrangements for assuring that public funds were being spent prudently and for their intended purposes. It is expressly the statutory responsibility of our committee to inquire into matters of this kind.

I shall not spend time in a detailed discussion of NIH's past administrative shortcomings. This information is available in the committee's reports and hearings. Nor shall I attempt to evaluate the progress which NIH has made to correct its management weaknesses.

However, for the benefit of those who like to dream romantically of the years around 1959 as the golden age of research grants, I would like to describe briefly how NIH policies and practices looked then in terms of responsible public management.

While NIH had developed an elaborate advisory system for the technical review of project applications, it had made very inadequate arrangements for the fiscal management and accountability of grants. For example, there was no formal review of project requirements; and payments for the continuation years of grants were made automatically upon request without any reference to the investigator's actual needs—except when he needed more money. Moreover, institutions were paid, upon request, the maximum indirect cost rate authorized by law, even when overhead rates were obviously lower.

As the NIH programs expanded, there was inadequate separation of advisory and executive functions, with NIH relying increasingly upon its consultants for the performance of purely executive functions. This was evident in the agency's dependence upon study section members for considering the budget requests of grant applicants.

Our committee and the **Kistiakowsky** Committee are in complete agreement that, in its words, "Detailed budget considerations should be the responsibility of agency staffs alone" and "questions of administrative responsibility and agency policy must be dealt with by full-time staff members, and the agency itself must assume responsibility for the final decisions with regard to awards of grants and contracts."

While NIH had liberalized its grant policies over a period of years, it had indiscriminately extended these same policies, designed essentially for basic research, to other inappropriate areas—to organizations operating for profit, to support of meetings and conferences of professional societies, and to service-type functions such as indexing and language translation. Early in our study, for example, we found that NIH gave profit-making organizations title to equipment which they purchased from grants without, as far as we could determine, ever having given any formal consideration to the appropriateness of that practice.

We should bear in mind that although NIH has justified its grant policies in terms of the needs of the investigator doing basic research, only about one-third of the research NIH supports is classified as basic research.

Our committee recognized the value of study sections for the merit rating of research proposals. In so doing, it called attention to certain of their limitations, including NIH's need for special advisory machinery to review large grants that are beyond the competence of regular study sections. We found that grants intended for the support of an entire program or division of a research institution were being assigned for review to regular study sections, despite the fact that some members frankly expressed their inability to evaluate requests of this kind. One such grant at that time was three-quarters of a million dollars. A broader review mechanism has since been established.

In essence, NIH made the fundamental error of assuming that because it shared a community of interest with institutions and organizations in which health research was performed, it could therefore rely upon their individual policies for the management of Federal grants. Moreover, the agency made a very inadequate effort to formalize and communicate its grant policies. NIH depended on the grantee institutions to monitor grants; but it did not attempt to reach a clear understanding on the responsibilities the latter were expected to assume in the management of grants; nor did NIH take adequate steps to make certain that grantee institutions were both capable of and in fact effectively discharging their responsibilities in this connection.

I believe it time for plain talk on the subject of Government support of science. Ever since the issuance of the "Public Health Service Grants Manual," admittedly prompted in large measure by the work of our subcommittee, I and many other Members of Congress have been bombarded with letters and duplicated resolutions from grantees, their institutions, and their professional societies warning of the threat to scientific freedom and productivity posed by this document and the regulations they implement.

For the most part, the complaints have centered around two specific items: (1) accounting for professional worktime charged to grants, and (2) freedom of the investigator to make changes in his project. I should like to discuss these items in some detail because they have considerable significance for the larger issue of mutual understanding and trust that is involved here.

The requirement for establishing the time or effort a professional worker devotes to a project was adopted by the Public Health Service, only after the Comptroller General had produced conclusive evidence that Federal research grants were being used in some instances to pay the entire salaries of medical school faculty members engaged partly in nonresearch activities.

To my knowledge, there was agreement in this situation on the part of the institutions involved, the Department of Health, Education, and Welfare, and the Comptroller General that NIH research grants are in the nature of cost-reimbursement-type arrangements and are not intended to be unconditional contributions for use by grantees to support activities other than grant projects. However, differences of opinion have arisen as to the method by which institutions should account for the project time of faculty members whose salaries are charged in part to grants.

Let me state simply that I do not believe this is a real issue. In principle, the Government is responsible for reimbursing an institution for the agreed upon percentage of an investigator's time that is devoted to a grant-aided project.

In practice, the Public Health Service is simply asking each institution to maintain, on a quarterly basis, an internal record of the estimated percentage of time or effort such investigators have in fact expended on their Government-supported projects.

Frankly, I see nothing unreasonable about this minimum accounting for salary charges to grants; it is equally difficult to see any burden being placed upon the investigator who is called upon to make an intelligent and reasonable estimate once every 3 months of the proportion of his total worktime that is to be charged to a Government project. If a man can estimate his time when he submits a grant application, he should be able to estimate his time at least as well in the light of actual experience. No one is suggesting mathematical precision in allocating time between functions.

I hope those of you who are concerned with this matter will seek to work out suitable arrangements with your institutions and the Public Health Service, rather than spend your valuable time further arguing the futility of reporting systems. I can understand scientists becoming temporarily upset upon the initiation of new reporting requirements, but as a rational consideration the Government is certainly entitled to this modest accounting for public funds.

The "Public Health Service Grants Manual," as originally issued, contained a fairly restrictive provision governing the ability of the investigator to modify the direction of his research. I want to make it perfectly clear that we were never consulted in any way about this, or about any other provision in the manual for that matter; and, further, that this provision contrasts sharply with the position taken by our committee in House Report No. 312.

In our report, issued in 1961, the committee recognized the scientific merit of permitting the investigator free rein to pursue a new lead or to discontinue an unpromising inquiry, and explicitly stated that it did not propose that advance approval be required for initiating changes in research projects.

Instead, the committee suggested that those long-term projects which were found to have made major deviations from their original research objectives should be reviewed for continuation through the normal study section-council mechanism. Such a procedure, the committee felt, would be fully protective of public funds, and consistent with the ideals of scientific freedom. Previously, NIH had permitted investigators unlimited freedom to change an approved project once the grant had been awarded, a practice which was not in accord with a project system.

As NIH and other Public Health Service investigators undoubtedly know, the revised edition of the "Grants Manual" which was distributed on January 15, 1964, and became effective on April 1, provides modified language to describe the changes allowable in research projects. This liberalized language, I understand, was the result of extensive consultation with grantees.

Just a few weeks ago I received a letter from the president of one of the large national health associations expressing the concern of his organization over this very section of the "Grants Manual." However, for some reason he quoted the original January 1, 1963, policy statement rather than the modified 1964 language. I find this letter from a leading health organization baffling as well as misleading, since I have been assured by the Public Health Service that the organization was supplied copies of the revised manual last January, and, in fact, that it maintains a liaison arrangement with the advisory health council to NIH in its field.

The practicing politician in a democratic society does not and should not discourage people from expressing their discontent with Government. Indeed, that is one of their basic rights. However, he may expect more of some people than of others.

In this instance, one would expect an affluent health organization that elects to comment unfavorably on Government policies to do so on an informed basis.

Much has been said about the extra paperwork required of grantees since the issuance of the "Grants Manual." While there is reason to believe much of the complaint has been exaggerated, and made in some cases by persons who are not well informed, I am wholly sympathetic to the principle of requiring the reporting of only such information as is needed and used in an agency's program.

We found in our study of the NIH programs that numerous reports were required of grantees, but some were simply filed upon receipt. Unfortunately, the fact that report data can, and should, serve program purposes was not fully appreciated by the agency. This became very evident when the subcommittee tested the adequacy of NIH's grant policies and procedures for insuring the prudent expenditure of public funds by means of an audit of all grants made to a profit-making organization. The misuse and waste of public funds in that case has been well documented by our committee; so there is no need to present the details here.

The significant point is that a great deal of the subcommittee's field audit findings merely confirmed information available in NIH's inactive files, but NIH had no effective machinery for evaluating and acting on such information.

Some have described this test audit as a "single instance," and "not typical," because the grantee in this instance was a company operating for profit. I emphatically disagree with that interpretation. The subcommittee demonstrated what could, and did, occur undetected under the existing NIH policies and procedures which were applicable alike to all grantees

A Government agency can reduce the administrative burden on the investigator and on his institution by more than one method. It can be lightened by increasing interagency cooperation and uniformity of practice, as well as by decreasing reporting requirements. It makes good sense to aline the requirements of those Federal agencies supporting basic research, in such matters as the preparation of research proposals, accounting, and progress reporting, and to reduce the need for multiple support of the same principal investigator by interagency agreements, as proposed by the Kistiakowsky Committee.

Our committee has expressed the belief that similar advantages can be achieved through the development of more uniform policies and procedures for the training programs supported by NIH. The committee recognized that some variation in policies and practices may be necessary in view of the individualized nature of NIH training programs. However, many of the differences observed by the committee appear to be due to lack of central direction and coordination. To the extent these differences are not essential to the success of the programs concerned, they are very likely to cause Government waste and inefficiency, as well as to impose an unnecessary administrative burden on educational institutions.

Our committee, furthermore, has expressed the view that certain grant policies should be handled on a uniform Government-wide basis, not according to the predilections of each agency or its divisions. Among these, the committee identified the policies governing salaries paid from Federal research funds. The committee favored, too, the adoption of a uniform Government-wide policy for indirect costs.

Government science agencies share a special problem of having to be both dependent on and independent of their scientific advisers. In the case of NIH, this problem is especially serious because such a large proportion of the agency's consultants are also its grantees.

And the problem becomes even more acute when the agency, in order to gain the confidence of the scientific community or for other reasons, allows executive responsibilities to be exercised by advisers who are themselves beneficiaries of its programs.

What safeguards are available to minimize the dangers of a conflict of interest in this situation? One safeguard has already been mentioned; namely, that executive responsibilities should not be exercised by consultants. Limiting the terms of service of scientific advisers is another.

While NIH formally limits the term of its consultants, in practice the agency has developed a dependence upon a group of senior consultants whose services it has retained for long periods by rotating them among the councils and other advisory panels.

I should like to make a few remarks about the role of scientific advisers in the administration of research grants.

In House Report No. 1958, our committee observed that according to the NIH criteria for rating grant projects, the average quality of such projects has been steadily declining in recent years.

The proportion of the best projects has declined while there has been a corresponding increase in the proportion of supported projects in the lowest priority group.

The committee could not escape the conclusion that the large annual increases in the NIH appropriation in past years had probably contributed to the increasing support of lower quality research. It reached this conclusion even though it was aware that all projects supported by NIH were found by consultants to possess scientific merit.

The main question raised by this development, in the committee's judgment, is whether or not it is good public policy and in the best interest of science that every project found to be technically sound by specialists in a particular field or discipline should receive support, regardless of its relative quality. The committee also thought attention should be given to the related question of whether NIH needed to strengthen its own professional staff capability for determining if the projects recommended by its scientific consultants should be supported in the light of broader policy considerations.

A year or so after our committee issued its report, I was delighted to discover Dr. Alvin Weinberg's splendid article, "Criteria for Scientific Choice," which appeared in the winter, 1963, issue of "Minerva." I thought his article so penetrating and thought-provoking that I promptly requested his permission to make it widely available by printing it in the CONGRESSIONAL RECORD—where it appeared in the RECORD for October 22, 1963.

Dr. Weinberg's observations on the weaknesses of advisory panels are certainly applicable to NIH. Dr. Weinberg wrote:

"The panel system, however, suffers from a serious weakness. Panels usually consist of specialized experts who inevitably share the same enthusiasms and passions. To the expert in oceanography or in high-energy physics, nothing seems quite as important as oceanography or high-energy physics. The panel, when recommending a program in a field in which all its members are interested, invariably argues for better treatment of the field—more money, more people, more training.

"The panel system is weak insofar as judge, jury, plaintiff, and defendant are usually one and the same.

"The panel is able to judge how competently a proposed piece of research is likely to be carried out; its members are all experts and are likely to know who are the good research workers in the field. But just because the panel is composed of experts, who hold parochial viewpoints, the panel is much less able to place the proposal in a broader perspective and to say whether the research proposal is of much interest to the rest of science."

The review procedures of NIH provide a mechanism for evaluating how well a particular research project is likely to be done. But NIH panels, composed of specialists and advocates of the field under review, do not bring to bear what Dr. Weinberg calls the "external" criteria, concerned with the question of whether the research should be supported at a given level or even supported at all, in terms of its importance relative to other fields of science.

Our committee has noted a tendency for institutions to permit project grants to be spent less carefully than an institution's own funds. It found, at the same time, that the policy statements issued for the NIH grant programs did not adequately inform the investigator, or his institution, of the obligations which accompany the discretionary handling of public funds.

I am suggesting that it is basically the Government's responsibility to establish adequate rules for its programs.

Otherwise, if left to the individual scientist or institution, the preference quite often might be for one's own equipment or facilities. The decision as to whether or not something is necessary for a project may be conditioned by who is paying the bill.

I am reminded in this connection of the experience of the Bureau of Public Roads in reimbursing the States for the cost of relocating utility facilities after passage of the 1956 act creating the Interstate Highway System. Prior to that time it was the practice for the States to require the utilities to move their own poles in connection with highway construction. However, when Congress enacted a grant program with 90 percent Federal matching, 10 States promptly passed laws authorizing utility relocation at public expense—but the laws were applicable only to projects on the Interstate System where the 90-to-10 matching was available.

I am pleased to say that the concluding statement of the Academy's Committee on Science and Public Policy with respect to the responsibility of the investigator in accepting Federal funds is fully in accord with the thinking of our committee.

I want also to associate myself with that committee's emphasis on the individual investigator. If NIH were supporting principally the personal research of individual scientists, I suspect the agency's management responsibilities would be much easier. I have great respect and admiration for the investigator who devotes his life to his work; we are all indebted to men of this kind.

In closing, I want to endorse the recommendation of the Kistiakowsky Committee for a selective program of research grants to weaker educational institutions. This important recommendation is quite similar to the proposal advanced by our own committee for a special developmental-type grant. We recommended that NIH initiate such a grant, for a limited time, as a direct means of stimulating research capability in those universities and professional schools which have training responsibilities in scientific fields related to health, but are not actively engaged in health research.

This is a constructive proposal for assisting the weaker institutions which have derived very little research support from project grants and none from the general support grant. Unfortunately, it does not appear to have been given any serious consideration. I am hopeful that the recommendation of the Kistiakowsky Committee for this purpose will fall on more receptive ears.

Again, I want to express my appreciation for the opportunity which this occasion has afforded me to make some observations and comments on Federal support of science in the context of the National Institutes of Health experience. All of us—scientists, the public and their political representatives—are vitally interested in the same objectives in connection with biomedical research. Society, therefore, will surely profit if science and Government continually strive to understand each other's needs and responsibilities and if they seek, insofar as possible, to accommodate their differences with an open mind.

## ARMENIAN MARTYRS' DAY

Mr. SISK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, April 24 marked the 49th anniversary of one of the world's great tragedies, the slaughter of 3 million Christian Armenians by the Islamic Turks in 1915. April 24 is Martyrs' Day to Armenians throughout the world, including a great many who reside in the district I represent in California.

This was a terrible genocide, having its roots in the conflicts of religion which extend back through the crusades. It arose because the Turks of that day were determined to establish a religious state, embracing all Islam, and because the Christian Armenians were an obstacle to that ambition.

May I at this time pay tribute to the fortitude, the will to survive, the raw courage of the remnants of the Armenian nation, who have survived this catastrophe and preserved their traditions and faith of thousands of years and have reestablished their roots throughout the world, to the great benefit of the nations and the communities in which they reside.

I think too, we can draw a lesson from this tragedy. We see here the direct and terrible climax of state-sponsored, state-established religion. We see a religion, possessing the police and military power of a nation, used to oppress and wipe out another religion. We see the awful power of religious emotion, armed with political authority, to slaughter all those who were to them, "nonbelievers."

May we heed this lesson and once again give fervent thanks and gratitude to the founders of our Nation, whose first thought to maintain our freedom was embodied in the first amendment to the Constitution, forbidding Congress to make any law respecting the establishment of a religion. Let us preserve and protect that principle. Let us keep religion out of politics and politics out of religion. God forbid that we should tamper with or weaken that principle.

## SUBCOMMITTEE ON NASA OVERSIGHT OF THE COMMITTEE ON SCIENCE AND ASTRONAUTICS

Mr. HECHLER. Mr. Speaker, I ask unanimous consent that the Subcommittee on NASA Oversight of the Committee on Science and Astronautics be allowed to meet this afternoon if the House is in session at the time.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## PRAYER AND BIBLE READING AMENDMENTS

Mr. BECKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, in testimony the other day before the Committee on the Judiciary in hearings on the prayer and Bible reading amendments, the gentleman from California [Mr. SISK] attributed the great wave of support for this to the "rightwing radicals" of the Nation. I am wondering if he includes His Eminence, Francis Cardinal Spellman, Rev. Billy Graham, Dr. Norman Vincent Peale, Dr. Poling, Lions Clubs, Knights of Columbus, the American Legion, and thousands of other groups in this country. Tomorrow before the committee I will introduce hundreds of other names. It seems to me when you have no argument to offer, you start yelling rightwing and leftwing. It seems to me when people start yelling rightwing radicals, they must be looking awfully far from the left, and I am afraid the gentleman from California is doing just this.

## ARMENIAN MARTYRS' DAY

Mr. AUCHINCLOSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. AUCHINCLOSS. Mr. Speaker, on Friday last, April 24, one of the most tragic events of World War I was commemorated.

Forty-nine years ago, while the world's attention was riveted elsewhere, the Turks massacred many of their Armenian subjects. For milleniums this Christian people had lived peacefully in the mountains of eastern Asia Minor on one of the crossroads of the world. Throughout the centuries they had been invaded, ravaged, and subjected to foreign rule. While sometimes they were able to form their own state, for the past 500 years they had been under foreign domination, most of this time under the Ottoman Turks.

However, the Armenians never became identified with their overlords, but instead remained first and foremost Armenians. As the 19th century progressed, they suffered more and more at the hands of corrupt government officials and under the burden of an unequal system of taxation. Banditry and robbery plagued them. In these oppressive circumstances, it is not surprising that a strong yearning for freedom sprang up among the Armenian people. The Turks, suspicious of their Armenian subjects, became more severe with them.

Their victimization of the Armenian nation culminated in the massacres of 1915. They secretly and cold-bloodedly planned the annihilation of this minority. On April 24, they suddenly arrested leading Armenians in all branches of public life and sent them in small groups to their deaths. Then, the Turks proceeded to exterminate the remaining, helpless populace. In the following months 600,000 Armenians were seized and killed. Almost as large a number were lucky enough to escape to the surrounding countries. Today less than 50,000 Armenians are left in Turkey where prior to World War II there had been some 2 million.

Armenians all over the world will never forget this terrible act of genocide which was done against them in their homeland. It is our hope that this kind of crime will never be repeated. Meanwhile, we pay tribute to the memory of these hundreds of thousands of untold martyrs who perished in the flames of World War I.

## EXTENDING RENEGOTIATION ACT OF 1951

Mr. SISK from the Committee on Rules, reported the following privileged resolution (H. Res. 705, Rept. No. 1346) which was referred to the House Calendar and ordered to be printed:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 10669) to extend the Renegotiation Act of 1951, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

## AMERICAN SUGAR INDUSTRY

Mr. BYRNES of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. Langen] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LANGEN. Mr. Speaker, now is the time for positive action to protect the American sugar industry. With this in mind, I am today introducing legislation that calls for a 1½-million ton increase in the domestic sugar quota.

My bill would make it possible to build four or five additional sugarbeet plants in such areas as my own Red River Valley. It calls for 300,000 additional tons of domestic sugar for new beet expansion in addition to 820,000 tons to be allocated to the present growers. This would not only provide for needed new expansion but would also protect present growers from a possible cutback and provide our older growers with the possibility of expanding their acreage.

It became necessary to introduce this legislation because of the inadequacy of the present quota and because the door was slammed shut on valley sugarbeet expansion last week when the final allotments were made under the present sugar act. The last two allocations went to areas in Maine and Arizona.

The Maine allocation went to an area that was developed at taxpayer expense by the Area Redevelopment Administration in direct competition with established growing areas. It was the second such example this year, so it is obvious that we need new legislation if the sugarbeet industry, developed by local initiative, is to endure.

I have long advocated a greater share of the U.S. sugar consumption for domestic growers. The increased quota called for in my bill would assure the country of an adequate sugar supply. We are left to the mercy of the world market under current conditions, and we are forced to bid at unreasonable price levels to keep a steady flow of sugar to the grocers' shelves. Recent supplies on the world market have proved inadequate, forcing consumer prices up.

Immediate action is needed on this bill if we are to provide the opportunity for additional plants, help our present growers maintain their present production with the possibility of expansion, and provide an adequate supply of sugar for our needs at a reasonable price.

## PERSONAL EXPLANATION

Mr. BYRNES of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. Talcott] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. TALCOTT. Mr. Speaker, during the week of April 13–17, I was granted an official leave of absence to attend the fifth meeting of the board of governors of the Inter-American Development Bank in Panama.

On Tuesday, April 14, on roll No. 111, I am recorded as not voting. This vote was on H.R. 10809, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies. I favored the bill and would have voted yea had I not been absent on official business.

On Wednesday, April 15, on roll No. 114, I am recorded as not voting. This vote was on S. 2394, to facilitate compliance with the convention between the United States of America and the United Mexican States, signed August 29, 1963. I favored the bill and would have voted yea had I not been absent on official business.

## MASS TRANSPORTATION BILL

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. O'Neill] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. O'NEILL. Mr. Speaker, it is a privilege for me to be able to insert into the Record at this point an article on that most important piece of legislation, the mass transportation bill, currently pending before the Congress of the United States.

It was written by my very good friend, and the most able chairman of the Massachusetts Transportation Committee of the Greater Boston Chamber of Commerce, Robert M. Jenney. I commend it to the attention of my colleagues in the House:

### Mass Transportation: A Program for Action

(By Robert M. Jenney, chairman, Massachusetts Transportation Committee)

In spite of spending huge sums of money on highways the attempt in American cities to rely solely or mainly on private-auto transport has manifestly failed. The proof of this is in the fact that billions are in the process of being spent by our sister metropolitan areas to create, expand or improve their rapid transit systems.

We already have the nucleus of the ultimate system needed to relieve our ever-growing traffic strangulation. But we have been moving at a snail's pace since the formulation of the Coolidge report in 1945. The principle of which is still valid today—namely, radial rapid transit extensions.

The nucleus of our system has a replacement value of $1,500 million. Many do not realize what a tremendously valuable asset we already have in this transit plant. Its existence was a vital factor in the selection by NASA of Boston for its new space center.

San Francisco is in the process of spending close to a billion dollars for rapid transit and other cities are following suit. So you see our problem is not unique. The fact that we aren't doing anything about it is, however, tragically unique.

Three-quarters of our Nation's vast population now live in high-density urban regions. We now live in great metropolitan complexes which have evolved out of core city structures with satellite communities. The interdependence of the people comprising these communities upon each other knows no city or town boundary lines. The increased flow of traffic which now characterizes the metropolis is but a symptom of the times. Americans have been increasingly mobile people since the turn of the century. No amount of crying in the wilderness about the perils of traffic stagnation is going to change that. With a projected population of 230 million in this country by 1980 we can no longer be parochial in our attitudes about regional problems and mass transportation is a regional problem. This is further aggravated by the fact that our automobile population is growing at a faster rate than our human population.

The 78 cities and towns of the standard metropolitan area of Greater Boston include Topsfield and Hamilton on the north to Walpole and Sharon on the south: from Framingham on the west to Pembroke and Duxbury on the southeast.

The realization already dawned that autos and cities simply don't go well together, and a city's core has to have fast, high capacity mass transit service in order to survive. This need has been brought about by a combination of factors which have not even begun to build up to their ultimate peak. These factors include, besides the explosive population growth, the revolution in the standard of living which affords so many citizens the opportunity to be mobile. This year alone it is estimated that new car sales will exceed 8 million.

By being a marketer of petroleum products many have a bearing on an oft expressed opinion of mine that we certainly need more and better roads. However, my occupation should also lend emphasis and credulity to my statement that we desperately need an expanded rapid transit system to give some balance to a critically unbalanced situation.

We can say categorically now—that we know a problem exists and we know generally what the solution is. The question, apparently, still begging an answer in some people's minds is—whose problem is it?

I say it belongs to the 78 city and town areas of Metropolitan Boston and to a lesser but still important degree to the entire State. If suburbanites are to work in a city or use the cultural and other advantages of a city—no matter how indirectly—they must help pay the costs involved.

The Federal Highway Act of 1962 clearly expresses the need for overall transport planning and development in urban areas and will require cities to come up with plans tying in road with rail and other transportation developments or Federal highway grants will be held up after 1965.

I know many suburban residents are vigorously disdainful of what they term

"Boston's" problem. They point out that they don't work in Boston and couldn't care less about their ability or inability to commute to the capital city. Our modern metropolitan society is more complex than this, however. We are all interdependent; one with the other; city to city; town to town; a crisscrossing of community interests tying all 78 cities and towns into one great metropolitan complex.

How many firms would have located on Route 128 and elsewhere within that famous perimeter if the central city was Sheffield, Adams, or Conway, Mass., instead of Boston?

How many A.B.'s, B.A.'s, Ph. D.'s; engineers, doctors, and lawyers would have matriculated out of this area had it not been for the many great and eminent universities thriving in the shadow of Beacon Hill?

How many suburban residents—throughout Massachusetts—haven't at one time or another had occasion to be thankful for the world-famous medical facilities in Boston?

We could go on and on with similar items of community interest—but suffice it to say that we are a metropolitan community in fact if not by political boundaries. We need each other and will rise or fall depending upon our common realization of that fact.

I have stated that this metropolis is complex. Being complex it acts upon and in turn is itself acted upon by many facets of our modern society. However, were I to isolate the one factor that does more than any other to influence the "actor" and the "reactor" I would have to call it transportation.

Transportation is the one thing that keeps this complex of interests so useful to so many people. It is most effective when it enables people to move freely, and in great numbers, in, out, and around the core area. The most efficient way to accomplish this, of course, is by rapid transit. But we are not—I repeat—not arguing for rapid transit or any other form of mass transit to the exclusion or detriment of a person's freedom of choice to use his automobile. What we are saying is that to attain this freedom in fact—because we don't have it now—we must coordinate and balance the mixture of highways and rapid transit facilities.

The ultimate and really vitally necessary objective, then, to the socioeconomic survival of our metrocomplex is the successful coupling in tandem, of our present commuter transport dichotomy: the highway and the rail.

To those who still resist the extension of rapid transit to their community because of some innate fear of burdensome deficits I say—be not afraid. Think of this in terms of what you cannot afford not to do.

For example according to a recent highway department study—you—the taxpayers are currently subsidizing the automobile at the rate of some $76 per vehicle. That's $76 in excess of the revenue realized by gas, excise, and other automotive taxes and fees.

In addition it has been demonstrated that rapid transit, as a bookkeeping operation, isolated from the so-called surface and feeder lines comes very close to breaking even. So to paraphrase a famous President—the only thing we have to fear is fear itself.

The time for piecemeal solutions is past. We cannot resolve any one segment of our transportation muddle on a sectional basis. What is a critical problem today on the south shore is also a growing problem to the north. We have procrastinated to the point where we are faced with the traditional problem—solving method of our area "solution by crisis."

We have to face up to the realities of the problem-solving process. The final decision will be made on Beacon Hill. It has to be a comprehensive solution involving the entire metropolitan area. No section of this area has the necessary number of votes in the legislature to carry the ball alone. But, the 78 cities and towns of the metropolitan area have within it over half of the legislators serving in the general court. The conclusion is inescapable. Joined together we can realize a comprehensive solution to our metropolitan transportation problem.

There are some who will say we should wait for Federal aid in the form of the long-awaited mass transit bill now pending in Congress.

This is not the cureall for our problem. With or without that bill we must face up to our own problem and solve it within our own region. Waiting will not make the problem any less critical—as a matter of fact it will make any solution more costly. If and when (and it's a big if at this date) the mass transit bill passes, we would be in a better position to take advantage of any available aid therein because we would have a head start as, compared to other areas competing for such aid by adopting a comprehensive solution or transit plan now.

Others will maintain that only those who use a transit system should be required to support it. We can dispose of that argument quite quickly. First of all it is well known that a self-supporting fare structure for rapid transit is prohibitory and self-defeating. Secondly the "user" theory cannot logically be applied to a public facility such as this. It is somewhat like saying the only one who should pay taxes for police and fire protection are the victims of arson and robbery. The facts are that we're all only too happy to pay for this protection whether we use it or not. The common denomination between these public services and the availability of public mass transit is the fact that it, too, benefits users and nonusers to a very substantial degree.

Let me say also here, that it is the best thinking of many people I have talked to that the only hope we have for a comprehensive rapid transit solution this year is the Governor's support behind such a proposal.

What we are hoping for then—is for the Governor to introduce such a bill in this legislative session. If he does—we would be in a very good position to see a major beginning to the end of this burdensome problem.

## SETTING THE RECORD STRAIGHT ON DALLAS

The SPEAKER. Under previous order of the House, the gentleman from Texas [Mr. ALGER] is recognized for 60 minutes.

Mr. ALGER. Mr. Speaker, no man who has ever been a Member of this House has been privileged to represent a finer city nor a greater people than the Representative of the Fifth District of Texas. For 10 years I have been honored by the people of Dallas County as their Representative to Congress. It is an honor of which I have tried to prove worthy because Dallas is my native city, the city of my birth; because of the trust the people have placed in me; because of the fine contributions Dallas has made to the fulfillment of the American dream; because Dallas is a city of growth and progress in the finest American tradition.

Since I was first elected to Congress in 1954 the population of the district has nearly doubled from slightly over 500,000 to nearly 1,200,000. People from all over America have moved to Dallas because it is a good place to live, to work and to play; an excellent community in which to raise a family. Industries have moved to Dallas, creating new job opportunities for thousands of workers, because the relationships between the various segments of our population have always been good; because of a responsible populace; because of good laws and better than average law enforcement; because of the type of people and type of community leadership Dallas has been a good place for business and industry to prosper.

It is not my purpose today to defend Dallas. Dallas needs no defense. I hope that I shall be able, in my pride in my community, to constrain my enthusiasm for my city so as not to have you think that this is just another Texan succumbing to the braggadocio popularly attributed to Texans. My purpose in asking for this time is to set the record straight—a record which has been mangled by one of the most concentrated smear campaigns ever launched against an American city.

### ATTACKS WELL PLANNED

The attacks on Dallas did not begin with the tragedy of November 22. They were instigated long before that time by some for political reasons, by some who found it profitable in dealing in sensationalism, by some leftwing, radical extremists who despise Dallas for its independent spirit, its advocacy of private enterprise, and the initiative of its people which has enabled them to move ahead in economic and social progress without Federal aid, Federal direction or Federal control.

Long before the tragic death of President Kennedy, Dallas, its leadership and this Representative were subjects for continued attack by Drew Pearson. The Communist Worker has always railed against Dallas. Other publications have repeated a false account of a so-called "Johnson demonstration" which took place in the 1960 campaign.

Following the death of President Kennedy at the hands of a Communist assassin, nationally syndicated columnists and commentators have had a field day in what amounts to an attempted lynching of an entire community. In addition to stepped-up attacks by Pearson and the Worker, there was a recent editorial in the Saturday Evening Post, several columns by Marquis Childs, and articles in Look and Pageant, to name a few.

All of these editorials and articles have been highly charged with emotionalism; facts have been distorted or delibertately ignored; and the good deeds and the fine aspects of Dallas and its people have been completely blacked out. It is for this reason, I take the floor today, so that the lies and the smears may be exposed and the true record of Dallas be made known for fair-minded people to judge.

### THE 1960 INCIDENT

Let us begin with the 1960 incident. This involved the then Senator from Texas, Lyndon Johnson. It is with regret and sorrow that I must come before you to expose the myth that has been carefully cultivated and deliberately repeated by those who know better. This has been done for political reasons. In their zeal to defeat this Representative, some of my opponents and those who support them see nothing wrong in perpetuating a falsehood even though in doing so they fail to discredit me, but do downgrade Dallas and insult a wonderful group of wives and mothers, patriotic citizens who did nothing more than express political opposition to a candidate and the ideas he espoused.

The background for the resentment of Dallas citizens against the Democratic ticket and the candidate for Vice President was based on a full page newspaper advertisement in the Dallas papers on Thursday, November 3, implying endorsement of Senator Johnson and carrying the name of some 3,500 Dallas people. Hundreds of these names were used without authorization. Many active opponents of Senator Johnson were listed, including Republican workers and party officials. Even the names of many long-deceased persons were used in the ad.

### GOOD PEOPLE INCENSED

The ad brought violent reaction. Immediately after the endorsement ad appeared the Dallas newspapers were flooded with wires, phone calls, and personal visits by people whose names were used without their consent. Relatives of the decreased were particularly incensed at the insult to the memory of their loved ones.

At this point in the RECORD I would like to include news stories from the Dallas Morning News and the Dallas Times Herald for the several days following the appearance of the ad, detailing the protests from persons whose names were used without authorization.

[From the Dallas (Tex.) Morning News, Nov. 4, 1960]

### MANY PROTEST THEIR NAMES BEING LISTED IN JOHNSON AD

(By Hilton Hagan)

The hottest political story in Dallas Thursday was ignited by a full-page advertisement welcoming Senator Lyndon B. Johnson to town.

Scores of persons hotly protested—many of them violently—at the use of their name among the 3,500 names contained in the advertisement.

The ad, sponsored by the Dallas County Citizens for Kennedy and Johnson, appeared about noon in the Dallas Times Herald, and almost immediately, protests began pouring into the News.

A check by one long-time resident revealed that the advertisement contained names the same as those of at least 12 Dallas residents, now dead.

Henry E. Williams, Jr., speaking for the committee, said the names used in the ad were compiled through a mailing of more than 4,000 letters last week to "Dallas citizens who have expressed friendship and support for Senator Johnson in recent months."

The letter signed by Williams, who is chairman of the committee, said in the last paragraph: "If you do not wish your name included, will you please call or wire me no later than 6 p.m., Wednesday, November 2."

The letter was dated November 1.

Several persons who protested the use of their name said they had called and asked that their names not be used.

The committee said it had struck 300 names off the original list.

One of the names listed was that of Paul O'Rourke, former Republican county chairman. He said he did not give permission for the use of his name.

At midnight Thursday, the News still was receiving telephone calls from irate citizens complaining of the unauthorized use of their names.

These callers and others reached in a random spot check of the list Thursday who said they had not authorized use of their names totaled more than 135.

A statement released by Williams Thursday night said:

"Last Monday, we mailed out letters to over 4,000 Dallas citizens who expressed friendship and support for Senator Johnson in recent months.

"We requested permission to use their names on an advertisement welcoming Senator Johnson to Dallas, and asked that they notify us if they did not wish their names to be included on the list.

"Less than 300 citizens asked that their names be withheld. Many times this number called to urge us to publish the ad.

"The method of securing names is not new or novel. We made no attempt to solicit names from people who had not expressed friendship and support for the Senator.

"We employed this method in the interest of time. We intended no deception. And checks show that the advertisement represents the sentiment of the great majority, all of whom were given the opportunity to withdraw use of their names. If mistakes were made, we regret any embarrassment.

"However, since the advertisement appeared, we have received calls from hundreds of additional friends of the Senator asking that their names be included in future endorsement of the Senator."

The ad, however, left many of the persons listed hopping mad.

Max Clampitt, paper company executive and civic leader, said he did not sponsor it and "I hope he never comes to Texas."

Ralph Wood said he called his wife and she found the letter in the garbage. "The damage is done. Personally I think it's the dirtiest trick I ever heard of."

R. L. Thomas, banker and former school board president, said: "No, indeed I didn't authorize it. I've been working very hard for Nixon and I have a Nixon sign in my front yard."

Mrs. Claud C. Westerfield, wife of the former State senator, said she was protesting "to high heaven."

Arthur S. Baron said he would not vote for Johnson "for dogcatcher."

Mayor R. L. Thornton said late Thursday that he had just gotten back in town and had no knowledge of the advertisement. Had he authorized the used of his name? "Not that I know of."

Dan Lane, treasurer of the Republican Men's Club, said he "certainly did not authorize the use of my name, and did not appreciate seeing it on the ad."

Here are names—and a few of their comments—of persons who protested the use of their names in a full-page Lyndon Johnson advertisement in the Dallas Times-Herald Thursday.

Douglas Goodheart: "I signed a petition for the local county committee for Johnson for President last spring, but I certainly don't support 'that bunch.' "

Mr. and Mrs. Arthur S. McCarthy: "We turned down the request to use our name on the list."

Clarke Etheridge: "I got a letter from Henry Williams forwarded from my old address. I didn't get it in time to let him know I didn't want my name used."

Carroll H. Maxwell, Democratic precinct chairman of Precinct 129: "But I've never voted for Lyndon Johnson and never intend to."

Retired Methodist Bishop H. A. Boaz—said he contributed to Johnson for President, but doesn't support the Kennedy-Johnson ticket and didn't authorize use of his name.

Dr. Milford O. Rouse, vice-speaker of the American Medical Association's house of delegates: "I never gave a cent to the Johnson campaign and I have no idea how my name got on the list."

Kenneth Murchison, Sr.—did not authorize the use of his name.

Kenneth Murchison, Jr., his wife reported, "we're Nixon-Lodge people."

Dudley K. Woodward, former chairman of the board of regents of the University of Texas: "We gave no authorization or consent to include our name."

C. M. Butler: "I'm not even opening Kennedy-Johnson mail."

Travis T. Wallace: "I'm hell and gone the other way. My name was used without permission."

Nelson Waggener: "I certainly didn't authorize it because I'm voting for Nixon. I remember one letter that started, 'Dear Johnson Supporter.' "

Eric G. Schroeder: "I should say not."

Bedford Wynne: "Someone called and asked, and I said, 'No.' "

Toddie Lee Wynne, Jr., in Hong Kong.

J. W. Lindsley, Jr.: "I never voted for him and I never will."

John B. Mills: "I just got back from Phoenix, Ariz., 2 hours ago. I certainly didn't authorize the use of my name."

F. K. Buckner: "I haven't voted Democratic in 40 years."

Kenneth C. Stephenson: "It's one of the most underhanded things I've seen."

Lawrence Neely: "I've been active in Republican politics for 12 years. My wife works at Republican headquarters."

John W. Mayo: "The use of my name was totally unauthorized."

Hoard L. Allen: "I did not authorize it. In fact, I have an Alger sign in my front yard."

Cliff W. Cassidy Jr.: "I called them last week and told them not to run it."

Mrs. Leo Corrigan Jr.: "No; I certainly did not" (authorize use of her name).

Robert B. Cullum: "I think it's outrageous."

Mrs. Trammell Crow: "I'm sure Mr. Crow didn't put our names on it."

Criminal District Judge J. Frank Wilson: "I don't want my name on that. I'm voting for Dick Nixon and so is my wife. They'd sure better come up with another Frank Wilson."

Mrs. George Ripley: "I'm working my fool head off for Nixon."

Mrs. Cedric Burgher: "I'm sure my husband definitely wouldn't want it on there."

The Reverend Harlin J. Roper, pastor of Scofield Memorial Church: "I wouldn't vote for Johnson for garbage collector."

Dr. J. Gilmore Brau: "I did not want my name on that list."

Milton F. Brown: "I don't know how it got on there."

H. Leslie Hill: "I supported Johnson for President but not for Vice President."

Lanham Croley: "Damndest thing I ever heard of."

Norman Campbell: "I think Johnson is a turncoat."

Doug Bergman: "They called. I told them not to use my name."

Jack Estes, former circulation manager of the News: "There are seven Jack Estes in the phone book. I want no part of it."

Mrs. Mary Cox: "I am distressed to death."

Donald Gay: "If I should attend this advertised rally, I shall be carrying a Nixon sign."

Don E. Stewart: "I'm planning to file a suit in the morning."

James A. Martin: "Certainly we are not welcoming Johnson."

Edward B. Brooks: "Definitely not for Lyndon Johnson."

R. M. Johnson: "I do not endorse Lyndon Johnson."

Mrs. D. R. Graham: "I know they're desperate, but I didn't know they were that desperate. I don't want my name connected with it."

Fred S. Harless: "They called me and I expressly forbade them to use my name. I told them I was voting for the other side. I'm pretty upset about this."

Dr. O. Reynolds Young: "I didn't authorize my name to appear. I don't want my patients to get the wrong idea."

John H. Depew: "My name appears on the bridge of Lyndon's nose, and I'd like to get off of there."

Mr. and Mrs. Dillon E. White, Jr.: "I have never voted Democratic since I was old enough to vote."

Largent Parks: "At first I considered taking civil action, but after consulting my attorney I have decided it is a matter for Federal criminal action."

S. S. Staley, Jr.: "I called and told them to take my name off. They assured me it would be done, but it still ran."

Also Mrs. Dinna Anderson, Robbie S. Arrington, Will Baggett, Mr. and Mrs. Arthur N. Bishop, Mr. and Mrs. C. C. Hayley, Mrs. C. O. Davis, Mr. and Mrs. John A. Cunningham, Mr. and Mrs. Robert H. Beyers, Dr. and Mrs. Robert W. Webb, Mrs. Sewart Carrell, Largent Parks, Jr., Dr. Byron Landress.

Mrs. Margaret Evans, H. L. Freear, Leonard B. Brown, Robert B. Billings, Dick Cosby, Paul Crenshaw, Tom T. Pollard, Raymond Willie, the Reverend Paul H. Garrett, Mrs. F. J. Koenig, C. F. Girand, Ed Verger, John Hewitt, Arthur S. Barron.

Mrs. Dave Bruton, Jr., John McKee, Mrs. J. Edwin Jennings, P. J. Goodnight, Dave E. Wicker, Jr., Mrs. Timothy Carroll, M. M. Myers, Dr. Harold Cheek, Tom L. Fiedler, J. Peyton Dewey, Jr., W. C. Barns, Ken Carter, W. C. Brandes, Mrs. Peter Bernays, Carroll Neaves, Jay Minton, R. S. Hyekmseth, Mr. and Mrs. Ed Wicker, S. S. Staley, Jr., Mr. and Mrs. W. H. Bradfield, Sr., Dr. C. W. Billings.

Harold Parnell, Avery Mays, Gordon Hall, Howard Parker, Sidney G. Terry, Mrs. Ross Madole, Dr. R. Alton Reed, Robert W. Finklea, C. Russell Smith, Jr., Walter Monroe, Jr., Fred B. Asche, Jr., Mr. and Mrs. Carl McCleskey, Mrs. Joe B. Ashby, Sr., Mr. and Mrs. Duncan Boeckman, Mary Virginia Dupies.

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[From the Dallas (Tex.) Morning News, Nov. 5, 1960]

### Calls Continue To Come in Over Names in Political Ad

Dozens of persons continued to call the News Friday protesting the use of their names in a political ad for Senator Lyndon Johnson which appeared in the Wednesday edition of the Dallas Times Herald.

Sentiment expressed to the News by Mrs. O. M. Marchman, Sr., was typical of many whose names appeared in the ad without their authorization.

"I don't flatter myself that my name on an unauthorized list would have any effect to get votes for Mr. Johnson, but I sincerely hope that my protest against such low tactics and misrepresentation will cause some undecided voter to come out definitely for Nixon-Lodge," she said.

Others, like Arthur G. Carson, agreed that they are Democrats. "But I thoroughly dislike their putting a brass collar around my neck by putting my name in that ad."

Troy E. Veytia complained of the scant time permitted by the local committee to withdraw one's name.

"I do not think this is fair * * * I called Mr. Williams' wife at 6:45 p.m. November 2 requesting my name be stricken—but it was too late," he said.

All of those who called the News, however, did not protest use of their names.

John D. Ferris, a college classmate of Republican Wendell Willkie, complained that his name was not on the ad.

"I gave permission for use of my name but somehow it was deleted—I felt slighted that it wasn't used," he said.

But Frank P. Yates, whose wife's name was in the ad, said: "I think it is the most preposterous thing to get a man elected I ever saw. I got a sign in my yard and on my car for Nixon."

"I want to add my timber to the fire," said Mrs. James T. Seybold. "My husband died in April, yet his name is on the list."

Others who protested unauthorized use of their names included: Gale Arthurs, Mrs. Tommie Jones, Mrs. Glen S. Bixby, Mrs. Harold L. Patterson, Mr. and Mrs. Dick Dixon, Ben H. Mitchell, Fitz C. Buchanan, Mrs. Emma Luckett, Mrs. Leo J. Hoffman, Mrs. Harry R. Clancey and Mr. and Mrs. Paul B. Callaway.

Also, R. D. Bennett, C. L. Ten Eyck, Mrs. Elizabeth Carp, Derrell D. Randolph, Joe H. Keith, Mrs. C. O. English, Mr. and Mrs. Walter J. Klinar, Mrs. George W. DeArmond, W. R. Glasgow, Dr. Julian Mardock, Joseph E. Chastain, Mr. and Mrs. Richard D. Eisenman, Jack L. Helm and Dr. and Mrs. Lee Hudson.

Mrs. Davis Spangler and Mrs. William J. Lewis told the News their husbands' names were in the ad and both are dead. And A. F. Whiddon said his brother, D. G. Whiddon, is deceased as is K. K. Meisenbach, both of whose names were used.

J. M. McTeer protested use of his wife's name. "She's been seriously ill for many months and is unable to sign her name to any list, nay or yea."

"I think I shall go home and put up an Alger-Nixon sign," said H. H. Bashford after his precinct chairman told him his name was on the list and asked, "What are you going to do about it?"

Other comments:

The Reverend Barney Thames: "I've been scandalized."

Mrs. Paul Woods: "I wouldn't vote for him (Johnson) for garbage collector."

Mrs. Roderic B. Thomas: "My husband is on a hunting trip in Louisiana. I'm fighting for him while he's gone."

Peter Bernays: "I've never given 'friendship and support' to LBJ, thus refuting Mr. Henry E. Williams, Jr."

Mrs. G. D. Combs: "I am Democrat precinct chairman 215 but I am not supporting Kennedy and Johnson."

Mrs. Lois Mills Durden: "I am for Nixon-Lodge."

Mr. and Mrs. A. D. Speck: "We are very puzzled how they got our name. We have always been anti-Johnson. We are very embarrassed. We are for conservative government."

Other protestors were: Welsey Gilliland, Spencer Allen Chance, R. K. Harlan, Dr. Henry Ash, Mrs. Arch A. Beasley, D. B. Stricklin, Lon Sailers, Maurice Beck, Mrs. William H. Jameson and Ray D. Barrett.

Also, A. L. Meadows, Harry I. Maxson, George Horsworthy, Dr. David G. Hubbard, R. H. Dooley, Don Houseman, the Reverend and Mrs. A. A. Taliaferro, the Reverend and Mrs. Miller M. Cragon, Garvin M. Moore, R. V. Lynch, Keith Balor, Gene Howard, Eugene McElvaney, Barney R. Shields and Robert E. Peake.

Leonard Andrews, former chairman of public relations for the Dallas County Republican Executive Committee and 1952 manager of Dallas County Eisenhower headquarters, was irate over use of his name.

Other comment:

W. C. Schoeller: "Heavens, no. I was at a Republican meeting last night."

Mrs. H. Gifford Till: "I want to protest to high heaven. I'm so mad I could spit."

Dr. C. B. White: "In the words of Harry Truman, 'Hell, no'."

Mrs. Eugene C. Hodges: "I'm very upset. I'm having a relapse. Was practically well and at home and now I'm back in the hospital again."

C. B. Kloppe, Sr., a former Dallas city councilman: "I think it is dirty politics."

The Reverend R. F. Curl: "I've taken no stand on either candidate and received no letter."

There were these further protestors: George Young, Mrs. L. D. Patterson, Dr. Howard C. Coggeshall, Dr. and Mrs. Harry J. Renken, Mr. and Mrs. C. H. Collier, Jr., Prof. J. W. Harkey, Robert Thompson, E. M. Edwards, Mrs. P. E. Williams, J. C. Webb, C. B. Burton, George A. Jackson, Kenneth E. Bewly, Mr. and Mrs. James W. Harrison, Jr., Jasper N. Fallis, Harry Salis, and Mr. and Mrs. James C. Bishop.

Also, Harry Green, Joseph R. Varley, Marvin Collier, D. A. Hulcy, Jr., and Charles Elbert.

H. B. Houston said the name of his brother, I. T. Houston, Sr., was used and he's been dead 3 years.

Mrs. H. Gifford Till said the name of another dead man, W. K. Rawler, was on the ad.

And Mrs. Davis Spangler told the News the name of Dr. Spangler was used and he too is deceased.

Still other comment:

Walter J. St. John: "I wouldn't vote for Johnson for sheepherder."

Neil Lyons: "I'm almost speechless. I've been campaigning very strenuously for Nixon-Lodge and Alger."

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[From the Dallas (Tex.) Morning News, Nov. 6, 1960]

### Protests Continue on Name Use in Ad

Complaints of unauthorized use of names in the full-page advertisement in the Dallas Times Herald Thursday, supporting Senator Lyndon Johnson, continued to keep the telephones busy at the Dallas News Saturday.

Some persons, whose names had appeared among more than 3,000 "Friends of Lyndon Johnson," said they did not notice one line in the letter from Henry E. Williams, Jr., of the Dallas County Citizens for Kennedy and Johnson group, that said: "If you do not wish your name included, will you please call or wire me no later than 6 p.m., November 2."

David H. Dickey said, "I am not supporting Mr. Johnson for Vice President, or for any of the other offices he might be running for. I have a Nixon sticker on my car."

Shannon M. Murchison wrote: "I find that I did write to Senator Johnson on April 14, 1958, congratulating the Senate (not Mr. Johnson directly) on approval of Senate Resolution 434 for modernization of Federal budgeting. I am in no way supporting Mr. Johnson in his campaign for Vice President of the United States."

Mrs. Tommie Lazarus, 5425 West Amhearst, said: "I won't vote for him to be a ballot-box stuffer."

Barefoot Sanders, director of the Dallas County Democrats for Kennedy and Johnson, maintained that his organization had nothing to do with the controversial advertisement.

"The Dallas County Kennedy-Johnson Campaign Committee, which is the official campaign organization for the Kennedy-Johnson ticket," he said in a statement, "did not authorize, sponsor or approve the full-page ad in Thursday's Times Herald; greeting Senator Johnson and bearing several thousand names. We do not condone the use of any person's name on a political ad or in any other way without express permission from that person.

"I am certain Senator Johnson, as well as Senator Kennedy and the national Democratic Party, feels the same way."

Meanwhile, the Reverend Baxton Bryant, a loyalist Democratic spokesman said the use of the unauthorized names was regrettable.

"But I believe it has already served one good purpose: At our conventions and other functions the Senator has been led to believe certain fence-straddlers are his friends.

"In times of decision, a man sometimes is able to learn who are his friends. This would tend to show the necessity for allowing Democrats, rather than Republicans, to run over Democratic Party conventions."

Others who objected to use of their names in the ad or whose relatives disclosed were dead include:

Dr. Luther Holcomb, executive director of Greater Dallas Council of Churches. Mr. and Mrs. C. W. Boller, 6900 Baltimore Drive (Mr. Boller died in 1944); De-Witt Ray Sr.; Berry W. Smith, 3319 Burlingdell; David H. Dickey and H. E. Thompson, Dickey Printing Co., 2206 South Harwood; Dr. and Mrs. Harold Boehning, 3936 Southwestern; Mrs. Zedrick Moore; Alex D. McNabb, 5521 Richmond, attorney and Democrat precinct 154 chairman; Edward M. Simpson, 4307 Manning Lane; Preston Lockhart, 2121 West 10th (died last May); Mrs. M. M. Hood, 4219 Junius; Walter Clark, 930 Turner; Charles E. Logan, 730 Ridge; Mrs. Layton Bailey, 3527 University; W. Howard Beasley; Mr. and Mrs. H. H. Vibrock, 1501 Inwood, and Mrs. Tommie Lazarus, 5425 West Amhearst.

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[From the Dallas (Tex.) Times Herald, Nov. 4, 1960]

### Readers Protest Name Use in Ad

Hundreds of readers have protested to the Times Herald that a full-page political advertisement published Thursday included the unauthorized use of their names and did not correctly reflect their political views.

More than 3,500 names of Dallas residents appeared in the advertisement sponsored and paid for by the Citizens for Kennedy-Johnson of Dallas.

The Times Herald accepted the advertisement in good faith from the Kennedy-Johnson group.

It regrets the embarrassment and inconvenience caused those readers whose names appeared without their express permission.

Scores of persons, including former Dallas County Republican Chairman Paul O'Rourke, reported that the letter received from the Kennedy-Johnson group left the burden on the recipient of the letter.

Violent objection came on this point.

Its last paragraph stated that the recipient should notify the Kennedy-Johnson headquarters by 6 p.m. Wednesday if he did not want his name included on the list. Many of the letters, thought to be just more political appeals. were tossed into wastebaskets without reading.

The letter also asked for contributions to help defray expense of the advertisement.

Scores said they either did not see the letter or fished it out of wastebaskets after the protest storm struck. Many others told the Times Herald that they telephoned or wrote, according to instructions in the letter, and specifically requested that their names be omitted. But they appeared in the advertisement anyway, they said.

The Times Herald will gladly publish a list of all persons who properly identify themselves to this newspaper as being among those who were improperly listed in the Citizens for Kennedy-Johnson advertisement.

The names of such persons will be published daily, with appropriate explanation, until the list has been exhausted.

The list contained names of persons who have been deceased several years.

A spokesman for the Times Herald said:

"Over a period of years we have dealt in honesty and good faith with responsible persons of both local political parties.

"It is regrettable that such trust would be misplaced to the point that individuals are embarrassed and this newspaper's integrity questioned because of political trickery.

"We denounce such tactics and will further strengthen rules that will insure complete accuracy and fairplay in all political advertisements.

"We regret particularly the stress that has come to the families of deceased persons whose names appeared on the published list."

Those who have informed the Times Herald that they did not give authorization for use of their names in the order the names were received, and names of those deceased, included:

Eric G. Schroeder, Mrs. Roderic B. Thomas, J. B. Sowell, Paul Emery, Mr. and Mrs. Robert A. Beyers, Mrs. Thomas L. Amis, Dr. and Mrs. Robert W. Webb, C. C. English, Mr. and Mrs. Dillion E. White, Jr., Pat O. Eckels.

Mrs. Timothy Carroll, N. Alex Bickley, Norman E. Campbell, Mr. and Mrs. Duncan Boeckman, Herbert V. Wales, J. W. Lindsley, Jr., Charles Shields, Dr. Martin S. Buehler, Dr. and Mrs. J. Gilmore Brau, Truett A. Bishop.

Mr. and Mrs. William F. Alexander, Jr., Mr. and Mrs. William H. Bowie, James H. Edmondson, Mr. and Mrs. Jas. W. Cantwell, III, Mrs. Sam J. Adams, J. W. Blanton, Sr.

Mr. and Mrs. Eugene de Kieffer, Mrs. Nicholas Thomas, Mr. and Mrs. Walter T. Moreland, J. M. Hollingsworth, Mrs. David Crowley, Leonard B. Brown, Mrs. Wofford Cain, Bruce Thomas, Mrs. J. Edwin Jennings, Mrs. A. L. Frew.

Mr. and Mrs. Dick Dixon, Mrs. H. L. Freear, Carlos A. Hedstrom, Jr., C. C. Hayley, Alex B. McNabb.

W. B. Oldham, Mrs. Claude C. Bartel, Mrs. A. L. Frew, Pat O. Eckels, E. H. Ames, Mrs. William F. Meador, Tommie Jones, David Bruce Fagg, C. J. Bucher, H. H. Kadahe, Mr. and Mrs. E. C. Dicken, Mrs. Abbie E. Carter, Mrs. Richard R. Livingston, Gus R. Hellmuth, Mr. and Mrs. Lionel C. Hardie, Dr. Chas. P. Pitts, Channon Murchison.

David Bruce Fagg, Troy E. Veytia, Sterling C. Couch, Sr., James Perry Brashear, Donald L. Britton, Paul Woods, R. O. Carter, Edmond G. Peterson, Mr. and Mrs. C. H. Collier, Jr., Mrs. H. Gifford Till, A. D. Speck, W. A. Taylor, Doc Swalwell, Leo J. Hoffman, Hon. B. Fite, Neal Lyons, Lester J. Sack, Hugh T. Matthews.

C. H. Connell, Mrs. J. C. Oehler, Mr. and Mrs. C. G. Weakley, Mrs. Lloyd B. Sands, E. J. Hunter, Neal Lyons, Mrs. L. C. Patterson, H. H. Bashford, Joseph R. Varley.

James W. Campbell, D. A. Hulcy, Jr., Mrs. Frank P. Yates, William F. Kilschnick, Mrs. S. C. Bovell, W. G. Ragley, Jack Estes, R. L. Thomas, Carl Gallagher, Carson Sullivan, Willis M. Tate, Avery Mays.

Mr. and Mrs. B. L. Smith, J. G. Harris, Peter Bernays, Chas. Elbert, Mr. and Mrs. E. L. Tucker, Henry S. Jacobus, W. H. Jack, O. R. Rains, Geo. H. Karnes, James C. Bishop, Wm. T. Weaver, R. O. Carter, H. L. Gharis, Ray Smith, H. T. Nelson.

C. B. Burton, Ralph Soape, E. W. Hahn, Jr., Joseph E. Chastain, Mrs. Fowler Summers, H. H. Kadane, David S. Leventhal, Paul Wisdom, Jr., Mr. and Mrs. Thomas W. Saling, Mr. and Mrs. Shelley Coleman, Mrs. Ju'Nam Chew, Howell H. Watson, Roy C. Lee.

F. K. Buckner, Mrs. J. Edwin Jennings, J. E. Williams, Mrs. Laura L. Williams, Don E. Stewart, W. H. Robertson, Mr. and Mrs. Arthur N. Bishop, Jr.

Mrs. Harold L. Patterson, R. A. Goodson, Mrs. Wally B. Hoffrichter, Mrs. Mary R. Miller, Frank Cain, Arch M. Lyles, Wallace R. Langston, Wesley Gilliland, Mr. and Mrs. S. E. Graves, Mr. and Mrs. Alvin W. Owsley.

Mr. and Mrs. Leo B. Dorris, Mrs. J. C. Phelps, Mr. and Mrs. A. D. Speck, Raymond P. Locke, Mr. Richard J. Baker, W. W. Caruth, Jr., Mrs. Lois Mills Durden, Chester A. Oehler.

Neil L. Newton, Mr. and Mrs. George A. Jackson, Charles H. Bolton, W. E. Spangler (deceased), D. A. Lacy, John B. Cowden, Jr., A. L. Stieber.

Ernest E. Wright, Jr., Kenneth E. Bewley, J. C. Webb, Harry Salis, Walter A. Edwards, John J. Evans, E. W. Sharpe, R. K. Harlan, Dr. and Mrs. Paul C. Laird, Ann Yeager Barnes, Arthur Segelhurst, T. M. Lucas (deceased).

Homer M. Gibbs, Mr. and Mrs. William H. Fogarty, Rev. and Mrs. Miller M. Gragon, Jr., Rev. and Mrs. R. E. Abbitt, Mr. and Mrs. B. B. Simms, Jr., William M. Johns, Mrs. Goldie Tucker, Powell D. Harris, C. J. Bucher, Mr. and Mrs. James W. Harrison, Jr., Richard L. Thomas, L. A. Ott, Mr. and Mrs. E. C. Dicken.

Robert Thompson, Ballard Burgher, Dr. Howard C. Coggeshall, Lynn W. McWhorter, David H. Dickey, H. E. Thompson, Floyd B. Ford, Miss Alma Ploeger, and Orion F. Newman.

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[From the Dallas (Tex.) Times Herald, Nov. 5, 1960]

### Protesters of L.B.J. Ad Add Names

More names were added Saturday to the list of several hundred Dallas residents who have objected that their names appeared without permission in a full-page advertisement.

The advertisement, published Thursday in the Times Herald, was sponsored and paid for by the Citizens for Kennedy-Johnson of Dallas.

Additional names of persons protesting inclusion in the advertisement include:

Fitz C. Buchanan, Gayle D. Fogelson, Mrs. O. M. Marchman, Sr., Garvin M. Moore, Lewis R. Pomeroy, Jr., R. D. Bennett, Dr. F. Lee Lemly, Arch S. Abbey, G. J. Winston.

Charles Estill, I. P. Nelson, Jr., Mr. and Mrs. David O. Eisenlohr, Wm. J. Brown, J. V. Oberholtzer, G. E. Griffin, Sr. (deceased), Mrs. Robert E. Russell, Colby G. McDonough, W. R. Glasgow, Mrs. F. E. Dumoulin, Dr. Raymond F. Courtin, Lawrence S. Pollock, Leslie L. Jacobs, Henry S. Jacobus.

R. Vincent Lynch, Keith Baker, R. K. Harlan, Ray Zauber, John Patton, Jr., Gordon Thomas, Rev. R. F. Curl, I. N. Davis, Walter C. Blair, C. R. Miller (deceased), Mrs. G. G. Pierson, the Reverend A. A. Taliaferro, R. Maurice White.

James K. Beach, Mrs. Cliff E. Fryman, Jack D. Dillard, Mr. and Mrs. Edwin M. Turner, Mrs. J. Edwin Jennings, Lester O. Taylor, Alva D. Drake, Mrs. Larry J. Crabb, Mrs. R. E. Joyner, Harry D. Tremain (deceased), Lynn W. McWhorter, P. O. Ellis.

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[From the Dallas (Tex.) Times Herald, Nov. 6, 1960)

### More Protest Names Appearing in Dem Ad

Dallas residents continued to call in Saturday asking that their names be removed from a list published Thursday in a full-page advertisement regarding vice presidential candidate Lyndon Johnson.

Several called, however, saying they wanted their names to remain on the list in the advertisement, presumably because several were removed through misrepresentation.

Mrs. Edward Stern of 7235 Westlake Drive said she did not telephone an objection to use her name in the ad published by the Citizens for Kennedy-Johnson group. Mrs. Stern said the use of her name in the ad was with her approval.

The list of persons who asked their names be removed Saturday, plus names of some persons deceased, includes:

Mrs. Joe Asby, Sr., William C. Blalock, W. A. McLaughlin (deceased), Marshall Ware (letter), Preston Lockhart (deceased), H. A. Cates, Mr. and Mrs. John H. Crowson, Marvin F. Poer, Mr. and Mrs. John A. Brogden.

Tom Brown, Mr. and Mrs. David B. Franks, Shannon Miller, F. T. Abernathy, Tom W. Grace (deceased), Mrs. Warren B. Hunter, T. D. McVey, Lester O. Taylor, Mr. and Mrs. C. Rudine.

Miss Betty L. Rudine, Mrs. Tommie Lazarus, Gordon Ramsden, W. O. Beene (deceased), J. R. Lawley, Tom A. Greer, Mrs. Viola Littlefield, Mrs. Layton W. Bailey, Sr., Mr. and Mrs. H. H. Vibrock, W. A. Philpott, Jr., Mr. and Mrs. E. A. Morrison, George C. Huth.

W. Frank Dyer (deceased), Leo V. Ryan, Charles P. Aberg, Jr., Hal C. Dyer, Mrs. Harvey King, J. C. Moore, Mrs. Clayton Hall, Miss Dorothy Gerlach, Charles H. Pickett, J. Cal

Courtney, Bruce M. Steere, Arthur S. Baron, Dr. Juanita Wade.

Mrs. Warren B. Hunter, Lester O. Taylor, C. W. Moller (deceased), Mrs. C. W. Boller, Dr. and Mrs. Donald G. Brooking, Mr. and Mrs. Ira B. Sanford, Max P. Curtis, Mr. and Mrs. A. D. Schumm, Frank Wilson (deceased).

Mrs. Frank Wilson, Clifford W. Wheeler, H. H. Harrison, Mrs. Leon Spencer, Louise Schawe, Mrs. Leon Spencer, Mrs. G. O. Dobson, I. P. Nelson, Jr., Mrs. Harold C. Boehnig, Mrs. M. J. Jacoby, James R. Vestal, W. R. Kelly, K. K. Meisenbach (deceased), John H. Huett, Arthur G. Carson, Berry W. Smith.

Mr. and Mrs. Cliff Cassidy, Jr., James B. Thomas, J. A. Haynes (deceased), Carl H. Hunt, Mrs. Joe K. Bywaters, M. M. Killough, Lawrence B. Jones, Herschel Forester, Merrill D. Tate.

Now as to what took place on the following day. The Republican Party had scheduled a Nixon-Lodge tag day for downtown Dallas. Republicans had staged such a tag day for a number of years in support of my candidacy. The 1960 event was arranged for early in September and more than 300 young ladies had volunteered at that time to take part. The visit of Senator Johnson was arranged only a few days prior to his arrival and it was coincidental that the two events coincided. The Johnson party arrived at noon in downtown Dallas. Our tag day girls were already at the Baker Hotel for a previously scheduled pep talk which I was on hand to give. In addition, a large crowd of Johnson supporters were on hand to greet their candidate both at the Baker Hotel where a room had been set aside for the Senator and Mrs. Johnson, and at the Adolphus Hotel across the street where his luncheon meeting was to take place. There were also the regular noonday crowds and the many people who came just to see the candidate for Vice President. The narrow streets and the hotel lobbies were jammed, but it was a good natured crowd, with much laughter and bantering between the partisans, and the usual jostling that takes place in any crowd at a football game or other popular event.

The tag day girls did have some signs expressing their views on the newspaper ad which had aroused such resentment and on the policies advocated by the Kennedy-Johnson ticket. To my personal knowledge there were no insults, there was no spitting, and I know of no instance of anyone pulling Mrs. Johnson's hair. The libel which has been consistently repeated since that day puts me in the Adolphus Hotel at the head of a group which abused and insulted Mrs. Johnson. I was never inside the hotel, had no contact with either the Senator or Mrs. Johnson, nor suggested the participation or the conduct of anyone in the demonstration.

### STORY BUILDS

It is interesting to note that the first accounts of the event made no mention of "spitting" or "hair pulling." This hair pulling account was first given by the Senator after he had left Dallas, after the pictures of the crowd and the signs had appeared in newspapers across the country. He made this charge the next day in Houston, and this is the story that the defamers of Dallas have continued to use.

At this point in the RECORD I would like to include an account of the day by Dallas Morning News reporter, Sue Connally, which appeared in the News on November 7, 1960.

[From the Dallas (Tex.) Morning News, Nov. 7, 1960]

### CROWD ORDERLY, REPORTER FEELS; JAMMED HOWEVER

(By Sue Connally)

The hundreds of chanting, pressing people were a mob only in that too many people were packed into too small a place—the Hotel Adolphus lobby.

This was no frenzied throng bent on doing physical violence to anyone. As far as was possible in a milling group being pushed by the weight of sheer numbers into each other, the crowd was orderly.

In the bedlam, there was no fear of any injury—only a silent wish that spread upward from trampled feet that the end of the demonstration would come.

It was difficult to hold back from crashing into Mrs. Johnson. And occasionally when the inevitable happened, an apology would bring a brief smile that flickered across the tightly pressed lips that showed her suppressed anger.

Some have said that she was spat upon. This reporter did not see any such indignity. The only physical result suffered by the campaigning couple, as far this eyewitness saw, was a mussed hairdo by Mrs. Johnson.

Johnson could have avoided the situation. Time and again he refused normal police aid in clearing aisles and refused to enter by a private way.

If the Johnsons had arrived on time, they may have had no other reception than a placard-carrying, "We Want Nixon"-chanting group of Republican supporters lining the Baker Hotel's corner. Almost 40 minutes passed after his scheduled arrival time, and the uniformed Nixon-Lodge girls grew weary of waiting and began to scatter in small groups.

Many knew that he would eventually have to cross the Adolphus lobby and so began to congregate there and trade "We Want Nixon" chants with outnumbered, but just as vocal, "We Want Kennedy" screams from the opposition already settled there.

Before the Johnsons even arrived downtown, it was virtually impossible to thread one's way through the human jam at the Adolphus.

But the Senator himself waved off policemen outside the Adolphus entrance, who had carved an almost unobstructed path through the crowd upon his arrival.

Again, inside the entrance, his aids told policemen they weren't wanted. One yelled, "We don't want policemen, we don't want security men, we don't want anybody."

The Senator also disdained going through a side entrance into the ballroom. Hotel officials pressed him to go through a private room, but he told them, "I am not going through a private room. I am going to walk right through the lobby." And that he did.

Note the reference to the rejection of the normal help of the police.

I would also like to include my own statement in full, which was printed in the newspapers at the time:

I went downtown Friday, not to see Senator Johnson at all. I went for one purpose only—to say a word of encouragement and to express my appreciation to over 300 wonderful ladies, Nixon-Lodge volunteers, who had long scheduled last Friday for a street corner tag-day effort such as we have made in past campaigns. I addressed half of them before they set out at 7:30 in the morning, and at noon I planned to do the same thing, and only that, as they gathered at the Baker Hotel for a coffee break.

That Senator Johnson should have arrived at the same place in town at the same time was, as far as I am concerned, coincidental. That a number of the young ladies, who stanchly support Nixon, should have expressed their feelings with firm but courteous determination certainly didn't surprise me. As a matter of fact, I joined them. The sign I picked up and held aloft expressed my feelings precisely. I want to reemphasize, however, that the demonstration I saw, and in which I took part, was altogether good-natured and courteous.

It seems to me that nobody, least of all Senator Johnson, should be surprised that indignation toward him should be running mighty high among some of the finest people in Texas. Only 24 hours earlier we in Dallas had been treated to an example of the sort of political tactics involving the unauthorized use of other people's names—and even tombstone endorsements which Texans have come to recognize as a trademark of some Texas politicians and which all right-thinking people deplore.

It certainly was not my intention, nor that of anyone I know who was present, to insult Senator or Mrs. Johnson. If any such thing did occur—and I repeat, I observed none—I tender Mrs. Johnson my sincere apology.

I make no apology, however, for strongly expressing my own opinion of such tactics as the Johnson ad and of those who adopt them any more than I feel called upon to apologize for continuing to fight for the kind of government I believe in and which I firmly believe stands in jeopardy in the election.

I would like to remind my colleagues that during the 4 years the libel against me and against the people of Dallas has been repeated, no one has ever contacted me for my version of the incident before spreading the slander. Several have persisted in continuing the mischievous tale even after I have given them the above facts which they blithely choose to ignore.

### THE STEVENSON VISIT

The second incident which has been played up in the Nation's press as symbolic of "the climate of hate in Dallas," was the visit last year of Adlai Stevenson. Again, it is charged, Mr. Stevenson "was attacked, hit on the head with a picket sign and spat upon." The facts, as later developed, showed that one young man did spit on the U.N. Ambassador and a policeman, and that Mr. Stevenson was bumped on the head with a picket sign. He, himself, asked that the woman carrying the sign not be held. She insisted, both to the newspapers and in a letter to me, that she had no intention of hitting Mr. Stevenson, that she dropped the sign when she was jostled by the crowd. Incidentally, although the Republicans are repeatedly charged with having engineered this affair, the lady in question is a registered Democrat and a relative of one of our Democratic colleagues from Texas. The young man was not from Dallas, but a student at North Texas University.

Yet, screaming headlines across the country called Dallas a city of shame and demands were made and met by city officials for an apology to Adlai Stevenson. Why the double standard in reporting on events in Dallas and events in other communities?

### THE DOUBLE STANDARD IN REPORTING

Only a day after the Stevenson visit to Dallas, the Chief Justice of the Supreme Court was picketed and insulted in New York City and the same New York Times that demanded an apology from Dallas, said New York City "has no need to apologize for the actions of a few."

In the recent primary campaign in Wisconsin, Gov. George Wallace of Alabama was hit in the face by pickets carrying signs favoring the civil rights bill. Not only was there no demand that the city of Kenosha apologize, but the press largely failed to even report the incident. I have here an editorial from the Dallas Morning News of April 21, 1964, which I would like to include in the RECORD at this point.

[From the Dallas, Tex., Morning News, Apr. 21, 1964]

### SHAME OF KENOSHA

In good humor, may we add our comments to those of the Chicago Tribune which delivered a polite editorial spanking to the city of Kenosha, Wis., where Gov. George Wallace, of Alabama—campaigning against the civil rights bill—got clipped on the kisser by placard-carrying pickets who obviously were in favor of the bill.

Says the Tribune: "If Adlai Stevenson gets bopped by a placard carried by a picket and the incident happens to occur in Dallas, we may expect a great outcry about the shame of Dallas and screeching from every liberal about the radical right."

The Tribune wagers an editorial bet: that there will be no imputation of guilt when the locale of a similar incident happens to be Kenosha, and the man who gets clipped with the placard is Governor Wallace.

So far the Tribune's bet holds good. It all becomes the proposition of whose ox is gored. The liberals like Adlai Stevenson and the United Nations, about which he spoke in Dallas; therefore they screeched and condemned an entire city when he received rude treatment.

But most liberals don't like Governor Wallace, and do like the civil rights bill; therefore they remain quiet when the same treatment is accorded the Governor of a Southern State in Yankeeland.

Fairness, dignity, and courtesy would require that the Governor be allowed to have his say in the land of milk, cheese, and Ramblers—and under the same proposition Ambassador Stevenson deserved the dignity due him here.

There is too much of this bopping, bullying, and braying by hotheads and the emotionally unstable who have forgotten that American ideal of free thought and the freedom to express it.

Kenosha, Wis., is not a city of shame or guilt, just because a hothead clipped the Governor. The great majority up there are decent, homeloving, God-fearing people who listened to Governor Wallace's pitch with understanding—and 25 percent in the area even voted for him.

The issues, serious and puny, that face us all can be solved peacefully and with tolerance. Bopping with signs, lying down in trenches, and defying the law with rifle clubs solve nothing.

In the New York Daily News of April 22, 1964, there is a news story to the effect that Jewish students and teachers were the victims of an unprovoked attack by a Negro mob in an "anti-Semitic demonstration."

### NEGROES GANG UP ON PUPILS AT JEWISH SCHOOL; 17 HURT

Two rabbinical teachers and at least 15 young pupils at a Brooklyn Hebrew school were roughed up in two separate, unprovoked attacks yesterday by Negro boy and girl teenagers, 50 of them in one of the assaults. The Negroes first taunted the students with anti-Semitic insults.

The two melees—watched with apparent indifference by scores of passersby and several dozen passengers on two buses which stopped at the scene—occurred outside the United Lubavitcher Yeshivoth, a Hebrew grammar-high school, 1352 Bedford Avenue, at the corner of Bergen Street, in the Bedford-Stuyvesant section.

#### DURING LUNCH PERIOD

The first encounter was at 12:30 p.m., as between 100 and 125 students aged 6 to 13, stood outside the school during lunch recess.

The half-hundred Negroes—some carrying sticks, bottles, chains, and switch-blade knives—turned from Bergen Street into Bedford Avenue and immediately began shouting epithets.

Rabbi Abraham Barnetsky, frail, 46-year-old fifth-grade teacher, tried to break up the battle and was kicked and knocked to the ground. As students went to his aid, and others battled their attackers, the casualty list of bruised and cut students rose.

#### THE PEACEMAKER

Finally, Leo Berkman, 43, a building department inspector, of 3301 Nostrand Avenue, Brooklyn, stopped his car, jumped out and grabbed one of the assailants as the others fled. He made a citizen's arrest of Bernard Lane, 15, of 243 Monroe Street, Brooklyn.

Lane was held overnight in the Manhattan Youth House for arraignment today in Brooklyn Children's Court on a third-degree assault charge.

At 2:55 p.m., a group of 10 Negro youths came along and beat up Samuel Lipsker, 10, of 1459 Montgomery Street, Brooklyn, as he stood outside the school. They then ran off.

#### GUN THREAT

Rabbi Samuel Schrage, principal of the school, said that some of the Negro youths threatened to return at night with guns.

Also injured during the earlier fracas was Rabbi Isidore Kolodny, an instructor at the school.

In Chicago, we remember that a youth was killed by a Negro mob, the mayor of the city was booed off the platform at a civil rights rally, and even the Negro student James Meredith was insulted by his own people for lack of "militancy." In New York 37 good citizens peeked from their windows and watched a woman stabbed to death and not a single one tried to help or even took time to call the police. Tourists to Washington are being warned not to go out alone at night and local residents have become so fearful of the vicious street attacks, murders, and rapes, that nighttime activities here are being seriously curtailed. In Cleveland a white demonstrator for civil rights was crushed under the wheels of a bulldozer and a Negro child was killed during a school boycott. In North Carolina, there were killings during a racial demonstration. Last week at the opening of the World's Fair, there were wild demonstrations and people were hauled off to jail hurt and bleeding. Suppose any of these things had happened in Dallas? What would the headlines have been? Yet, has any other city been called a "city of shame"? Has any other people been accused of inspiring a "climate of hate"?

### ALL GOOD PEOPLE SHOCKED BY ASSASSINATION

The people of Dallas felt the same grief, the same horror at the death of President Kennedy as good people in all parts of the world. Forgotten in the attacks on Dallas, following the assassination, was the fact that prior to the fateful shot by a Marxist, a self-avowed Communist, President Kennedy was receiving one of the most sincere and enthusiastic receptions of his career by all the people of Dallas. There were those who disagreed with him politically, but there were few who failed to honor the Office he held and to extend to him the warmth and hospitality of a great community.

Typical of the misrepresentation and the exaggeration of incidents surrounding the assassination were the news stories played up in every paper in the country about Dallas schoolchildren cheering the news of the death of the President. This story was immediately discredited by a complete report by the superintendent of schools, Dr. W. T. White, but few papers even bothered to note Dr. White's statement of fact that of 142,000 children in school in Dallas on the day of the assassination, only 13 "showed evidence of not understanding or appreciating the tragedy of the moment."

I would like to include Dr. White's report at this point.

DALLAS INDEPENDENT SCHOOL DISTRICT,
DALLAS, TEX., *December 17, 1963.*

The Honorable BRUCE ALGER,
*Congress of the United States,*
*House of Representatives,*
*Washington, D.C.*

DEAR BRUCE: Enclosed is a statement which gives information requested by you relating to the action of schoolchildren in Dallas upon hearing that the President had been assassinated.

I hope this statement is sufficient for your needs.

Sincerely yours,

W. T. WHITE.

### THE PRESIDENT CAME TO SEE US

When the President of the United States announced he was to visit Dallas, the citizens of our community made elaborate, careful plans for his pleasure and honor. Schoolchildren and parents were advised that the children would be excused to leave school during the motorcade to see the President when requests were made by parents. Thousands of schoolchildren lined up along the route of the President to greet and cheer him. One large high school located 10 miles from the route of the motorcade reported that half the student body assembled with other greeters.

The people of Dallas were so warm and friendly that Mrs. John Connally, the wife of our Governor, remarked just before the assassination, "Mr. President, you can't say the people of Dallas don't love you today." The President was reported to have been pleased with that remark.

Throughout our school system, radios and television sets in the buildings were turned on to follow the motorcade. As it became apparent that something had happened to the President, principals in the schools began to condition the faculty and the students for what might turn out to be a very sad tragedy. When the fateful moment arrived, the principals tactfully and factually reported over the loudspeakers or in person what had happened, insofar as they knew. Uniformly, principals have advised me that teachers and children were shocked, deeply grieved, and unashamedly shed tears. Some of the children expressed deep resentment and anger that anyone would harm the President. There was not a single instance of disrespect or lack of understanding on the part of a class in any school.

I am aware of the publicity that was datelined in Dallas referring to a fourth-grade class that cheered upon receiving news of the death of the President. I have determined beyond the shadow of a doubt that no class engaged in clapping or other obnoxious conduct. The minister who made the CBS statement regarding a "fourth-grade class in the north Dallas area" refused to talk with me either to confirm or deny the source of his information.

On Friday, November 22, 142,000 children were accounted for as being at school, being at home ill, or being excused to witness the motorcade. Of this number, 13 showed evidences of not understanding or appreciating the tragedy of the moment. The 13 were immediately counseled by their teachers, and most of them were helped to attain an acceptable attitude. One teenage boy was somewhat belligerent. These children were not congregated in the same building, but were scattered throughout the district. The cause of their misunderstanding is undetermined.

It is grievous to think that student bodies in a city of 750,000 who have shown true feelings of sympathy and sadness, because our President was killed in our city by an acknowledged Marxist, should be maligned and defamed. The children's parents and teachers, if we may judge by the behavior of the children themselves, have done a fine job in teaching them citizenship, respect for authority and high officials, and the proper understanding of the sacred integrity of individuals.

The principals and teachers have my highest commendation for the manner in which they calmed the students, sympathized with them in their sadness and resentment, and directed them in the attainment of a frame of mind which enabled them to complete the day and to return to their homes with a feeling of security.

All of us in the schools are deeply hurt and, I fear, resentful, because the teachers and children have been misrepresented as to their behavior in a time of stress. Proud as we are of our community, of the parents, and of the children, we deplore statements or suggestions which low-rate them as to character and decent attitudes.

W. T. White,
*Superintendent of Schools.*

It is to the everlasting shame of those who would use such a tragic occurrence for political gain. In their spite, in their greed for office, in their plotting to discredit a whole community, there are those who take these three unrelated events out of the whole history of Dallas and create a chain of events to give the impression that Dallas and all its people must be held accountable for the President's death. I say to you that those who engage in the ganging up on Dallas, whether they be local residents of our community or writers from other parts of the country or the world, they do so with an ulterior motive—for some it may be political, for others it is certainly subversive and the false propaganda thus created is used by the enemies of the United States to hasten the time of our destruction.

Again, I repeat, I regret that it has been necessary for me to go into the detail of these events and to openly dispute some who have lent dignity and credulity to the misinformation and the falsehoods which have been circulated about Dallas and its people. In the face of the fury of the attacks upon my city, it would be cowardly for me to remain silent for a longer time. I offer these facts, not to discredit, not to open old wounds, but in justice to the people I represent, to spread the facts upon the open record so that fairminded people, people who believe in justice, may judge for themselves what kind of a city Dallas is and what kind of people live there.

### DALLAS AN AMERICAN CITY

A report of this kind would be far from complete if I failed to point out to you the positive facts which make Dallas a great American city. I would like to remind you that Dallas has had no racial demonstrations, that integration has proceeded peacefully because of the desire of the people there, not because of force or laws or demonstrations. I may point out, too, that there are those who resent this and are determined that Dallas will be the scene of racial violence. In spite of the progress being made in Dallas; in spite of the good relationships which exist between the majority of our people, the agitators of racial violence plan to create an issue as reported in the following Associated Press dispatch:

Dallas.—Massive racial demonstrations will break out in Texas this summer unless the pace of integration is stepped up, an official of the National Association for the Advancement of Colored People (NAACP) predicts.

Clarence A. Laws, of Dallas, regional secretary for the southwest division of the NAACP, said talks are already underway about the need for a demonstration in Dallas.

He said in an interview that Dallas demonstrations are a certainty "unless this school situation is resolved."

Laws referred to vocational high schools in Dallas that teach some 70 skills and trades. The schools bar Negro applicants, he said: "We hope something can be resolved without demonstrations," Laws added.

Laws cited three main areas that would spark summer demonstrations in Texas under present developments: school desegregation, opportunities for employment on a merit basis, and public accommodations.

Regardless of what further tactics will be used to discredit Dallas, I can assure you that the goodness that abounds in the hearts of the majority of the people of Dallas will not be tainted and we will continue to meet the problems of this day and this hour with courage and in the fullness of human understanding.

### EXCELLENT ECONOMIC CLIMATE

Dallas is a good place for industry because we have never had the violence in connection with strikes and labor problems associated with so many cities. Responsible management and responsible labor have been able to meet across the bargaining table in the best spirit of collective bargaining and the community as a whole has gained through continued high employment, good wages, and excellent working conditions.

Economically the past 10 years have become known as Dallas' Golden Decade. To recount the growth and progress of the community during that time, I can do no better than to repeat, as a part of these remarks, a statement I made in the House on February 7, 1963. That statement follows:

### Big D Growth and Private Enterprise

The story of Dallas is the story of America, the growth and progress of a great community under the private enterprise, free economy system—capitalism. The skyline of Dallas in 1963, the tremendous increase in homebuilding and homeownership, the humming factories, the crowded stores, the expanding highways, the thousands of new automobiles, the effectiveness of its schools and colleges, the ever-increasing opportunity for its people to achieve ultimate happiness is the story of what free men and women can accomplish through their own initiative, vision, ability, and willingness to venture and to work. The present status of Dallas, one of the great metropolitan centers of this Nation with growth and progress over the past decade second to none, has been accomplished through the efforts of the people themselves, through their own hustle and sweat and their own investment, without Federal aid.

The spirit of Dallas is ably set forth in an editorial in the Dallas Times Herald of February 3, 1963. Quoting from that editorial: "People are moving to Dallas County. Our bank deposits are the largest in our history. We are the only city in the Nation with three bank skyscrapers under construction. One thousand, one hundred and seventeen new businesses opened in Dallas in 1962 and the pace continues. We are still the religious leader of the Southwest—with the Nation's three largest Protestant churches located here. We are still the cultural capital of the Southwest. We are still the home of the Nation's largest State fair. Our new fine arts center at SMU; our graduate research center; our new courthouse complex; the new Presybyterian Hospital; the new St. Paul's Hospital are just a few of the irons we have in the fire—and there are more to come."

### THE DISTRICT I AM HONORED TO REPRESENT

This is the Dallas of today. I am proud that during the greater part of this decade of growth and progress of my native city, I have been honored to represent the people of the Fifth District of Texas, Dallas County. In the 8 years since I was elected to Congress Dallas growth is shown in these almost unbelievable figures: Population up 57.85 percent; employment up 75.22 percent; bank deposits up 115 percent; construction up 73.82 percent; residential construction up 108.74 percent; postal receipts up 134.85 percent; electricity consumption up 245.44 percent; natural gas consumption up 97.49 percent; automobile registrations up 97.49 percent; effective buying income up 99.95 percent; per family income up 26.42 percent; retail sales up 116 percent; wholesale sales up 77.79 percent. On top of this fantastic growth we find we are still going up as shown from these figures depicting our progress from 1961 to the close of 1962: average income up 9 percent; bank deposits up 3 percent; consumption of electricity up 14.4 percent; construction up 19 percent; employment up 11 percent; natural gas sales up 9.4 percent; new motor vehicle registrations up 28 percent; number of telephones up 6.2 percent; postal receipts up 4.5 percent; retail sales up 2.5 percent. Total business activity in Dallas reached new record levels in 1962 and projections by business leaders, together with economic indicators, show that 1963 levels will be even bigger. This is capitalism in action. This is the reward of free enterprise. This is the record of what people can do for themselves.

### CANNOT BE MATCHED BY COMMUNISM

The Dallas record is unmatched by any community in America and cannot even be approached by many areas where growth and development has been predicated upon Federal handouts and Federal planning and Federal direction. The Dallas story could never be told under a totalitarian system, no Socialist or Communist state could ever come close to its achievement. It takes a hustling economy to support a city like Dallas and only a free people, inspired by the incentives offered, in a free society, to get ahead, can accomplish the miracle of Dallas.

### MORE JOBS FOR MORE PEOPLE

What does this tremendous record mean to the people themselves, those who are helping to make the record? The growth and progress of Dallas means more jobs for more people. Dallas Chamber of Commerce figures show that on January 1, 1963, the total civilian labor force was 494,430; of this number 476,340 were gainfully employed as follows: nonagricultural 465,340; manufacturing, 103,280; nonmanufacturing, 362,060; agricultural, 11,000; unemployed, 18,000; involved in labor disputes, 90. Let a bureaucratic controlled community match that record of achievement. The 1960 census showed there were 951,527 people in Dallas County and 1,083,601 in the metropolitan area. In the 2 years since the census was taken, Dallas County now has over a million residents making the Fifth Congressional District the largest in the United States. The single word that describes Dallas best is "growing." Growing in population—growing in opportunity, growing in aspiration—growing in strength and in character—growing in freedom. The secret of Dallas growth, if it is a secret, is the same philosophy upon which this Nation of ours was founded and upon which we developed, in the space of some 186 years, to be the most powerful, the most effective, the greatest country in the world offering a better standard of living and greater opportunity for our people than any other country in the whole course of human history—the philosophy as expressed in our great founding documents "that all men are created equal, endowed by their creator with certain unalienable rights, that among these rights are life, liberty, and the pursuit of happiness." In this stirring declaration there is no hint of the present-day philosophy some government leaders would like us to adopt, that "all men must look to a centralized bureaucracy for the achievement of all their goals." Dallas didn't wait for political favor nor Federal permission to get out and build this great community. Our local far-sighted leadership, in true American and Texas style, dreamed their own dreams, took their own risks, suffered their own losses when they occurred, and created their own great city.

### LEADERSHIP CHANGES

An important factor in the growth of Dallas is that its leadership has never been static. Each generation, each decade, yes, each year has produced its own leadership to keep a constant stream of new and vigorous blood flowing into the lifestream of the community. These leaders have not been handpicked by a select group, they have not been the heir apparents of a controlled hard-core dynasty, they have come from the people, imbued with the strength that only leaders from the people can have. Because of this strength, the ever-changing and ever-broadening community leadership, the vision and the hope and the initiative of our people, the future of Dallas, under the private enterprise system, will continue to set the course of every community whose people have the courage to do and dare and spit in the eye of the 20th century pessimists who would turn back to 18th century feudal philosophy as a means of progress. Dallas is proud. Dallas is prosperous. Dallas is growing. Dallas is happy. Dallas is free.

The economic health of Dallas has continued since that time. Figures at the end of 1963 and in the first quarter of 1964 show that we are still growing. People are still moving to Dallas because it is a good town and offers splendid opportunities for all.

At this point, I would like to insert a report I received on last Friday in response to a request from me to the president of the Dallas Chamber of Commerce, Mr. Robert B. Cullum. I hope you will take careful note of the objectivity of Mr. Cullum's views. I am glad to say that most of Dallas people are able to view their city with the same pride and yet with the same recognition that we share common problems with other communities and that our task of building a better city is never finished.

DALLAS CHAMBER OF COMMERCE,
*April 23, 1964.*

Hon. BRUCE ALGER,
*House Office Building,*
*Washington, D.C.*

DEAR BRUCE: Thank you for your telegram of April 21. The chamber, of course, welcomes the opportunity to provide facts about Dallas. And, as president of the chamber, I am happy to summarize my convictions about the character of Dallas.

First, let us give you some economic facts. Here are a few indicators of Dallas economic progress.

1. Employment: The Texas Employment Commission reports that as of April 1, 1964, 96.4 percent of the total labor force in the Dallas, standard metropolitan area (Ellis, Collin, Denton, and Dallas Counties) was gainfully employed. The 3.6-percent unemployment rate is regarded as a low and healthy one.

A total of 71,240 new jobs were created in the Dallas metropolitan area between March 1960 and March 1964. For the most recent 12-month period, March 15, 1963–March 15, 1964, a total of 22,950 new jobs have been created.

Even more important than the statistics themselves is the fact that the employment increases have been well distributed in the economy—manufacturing jobs, nonmanufacturing jobs, trade, insurance, finance, construction, services. It is most important to Dallas that its growth be achieved in the balanced, diversified pattern which has made its economy so strong.

2. Population: The chamber estimates—conservatively, we think—that the population total of the city of Dallas has increased by 105,400 persons since the April 1960 census; that the County of Dallas has increased by 213,600; and that the Dallas standard metropolitan area has increased by 293,000. The support of these estimates is found in the number of new dwelling units authorized by building permits—74,610—in the Dallas metropolitan area in the years 1960–63, inclusive; of which 22,332 were authorized between March 1, 1963, and February 29, 1964.

3. Other indicators: The Dallas Post Office—exclusive of other post offices in the area—had total receipts of $26.9 million in 1959, $37.1 million in 1963—an increase of $10.2 million.

The airlines serving the Dallas airport, Dallas Love Field, enplaned 1.3 million air passengers in the fiscal year 1960, 1.9 million in the fiscal year 1963—an increase of 600,000 passengers.

The April 21, 1964, National Bank Call revealed that Dallas city banks had total resources of $4.1 billion—an increase of $1.5 billion over the total resources reported in the corresponding bank call in 1960.

It is obvious, therefore, that Dallas is in good economic health. The chamber confidently expects continuing significant economic progress for both Dallas County and the Dallas metropolitan area in the longer range future, as well as short range.

The other points suggested in your telegram, relating to the character of Dallas, are not susceptible to precise definition and measurement as the economic data are. However, I have strong convictions and I believe they are rooted in appraisals as objective as an informed citizen can make of his community.

I have humble pride in this community's solid progress in good racial relations, and in the tolerance and understanding which prevail among Dallasites of different religious faiths. Leaders among both whites and Negroes have worked hard and sincerely to achieve understanding, and to extend opportunities in education, employment, and cultural activities to those who previously had not shared fully in such opportunities. There is real concern for, and tangible evidence that the community is working to improve, living conditions for families of all races. I would add that in these areas spiritual, social, and interracial interests, Dallas approach is not in the "do-gooder" pattern, but, rather, in the spirit of genuine concern of neighbors for neighbors, and in the tradition of pitching in to help the neighbor who needs help.

Dallas is also carefully nurturing, and sincerely proud of, its cultural and educational resources. As our community matures in perspective, it places increasing emphasis upon music, the other performing arts, and the fine arts. Right now, we are in the midst of a $678,000 campaign for the community arts fund—an annual subsidy, through public subscription, for those cultural enterprises which are the hallmarks of a community's greatness.

I hope these facts and convictions serve to illuminate the Dallas profile. Dallas also has problems, as, I am sure, all major cities have problems. Some of these problems should be named: lack of employable skills among our 3.6 percent of the labor force who are unemployed; too many adults who failed to complete their basic schooling; too many substandard dwelling units; and unsatisfied requirements in public transit. It is true that Dallas may compare favorably with other cities in these problem areas, but that fact is important only for perspective. As a community, we are not satisfied, and we are working on our problems.

There are, of course, all kinds of people in Dallas, just as there are all kinds of people in the human race. We have some extremists—extremists of the left and extremists of the right, many of them undoubtedly sincere people whose perspective has somehow become warped. But those who really know Dallas will agree, I think, that the great mass of its citizens belong to neither extreme. In Dallas, the newcomers outnumber the old-timers. They have been drawn here from all parts of America—North, South, East, and West—and they represent a fusion of viewpoints found only in the large growth centers which are, by virtue of their growth, melting pot cities.

Bruce, I have sought to give you facts and to put things in perspective. We think it serves no useful purpose, but would merely prolong the attacks, to try to answer some of the harsh and untrue things that have been said about Dallas. The gross distortions defeat themselves, because they are recognized by informed people. The more subtle distortions carry no weight, either, with reasonably minded people who have had experience with Dallas and its people. For these reasons, we feel that it is not a service to Dallas to undertake direct answers to some of the things which have been said or writ-

> ten about Dallas. I feel that I should give you the benefit of our thinking in this regard.
>
> Nowhere has the grief over the death of President John F. Kennedy been felt more deeply, or more universally, than in Dallas. The fact that inscrutable providence decreed that the transient murderer should commit his crime within our community adds to our burden of grief, as any of us would be burdened should a tragedy befall a guest within our home. But, despite our grief over the tragedy which befell Dallas guest last November 22, the people of Dallas have the continuing tasks of molding this into the best community we can make it through our collective efforts.
>
> I am sure that in any use you make of this letter you will be careful to keep that use within the complete context of the letter. That is my only request, but, naturally, one to which I attach great importance.
>
> Sincerely,
>
> ROBERT B. CULLUM,
> *President.*

### DEEP SPIRITUAL FOUNDATION

Dallas is a God-fearing city with a deep and well grounded spiritual foundation. If you permit me, for just a moment to sound like the traditional Texan I would like to point out that the Highland Park Methodist Church in Dallas is the largest Methodist Church in Methodism. The Highland Park Presbyterian Church has the largest congregation of its denomination west of the Mississippi. The largest Baptist congregation in the world attends the First Baptist Church in Dallas, and the East Dallas Christian Church is one of the largest of its denomination in the world, and its benevolent program exceeds all others of its denomination. Temple Emanual has one of the largest reformed Jewish congregations in the United States. The Dallas-Fort Worth diocese of the Catholic Church is a major center of that faith in the Southwest. Seventy-five percent of the population in Dallas are church members.

More important than the size of the various religious denominations is the spiritual strength of the people which has imbued in our citizens the courage of the defenders of the Alamo, and the love of God and country which has marked the response of Texans and Dallasites to every human catastrophe when our aid and comfort and effort were needed.

### EDUCATION AND CULTURE

Dallas is an outstanding center of education for all people of all colors and creeds. It is the home of Southern Methodist University; the University of Dallas, a Catholic institution; Bishop College, a renowned Negro school; the Southwest Medical Center, a division of the University of Texas; the newly created Graduate Research Center to meet the new demands of the space age.

In the way of medical research and treatment, Dallas has two unique institutions which are private, free enterprise institutions devoted to medical service—the Wadley Research Institute and Blood Bank, and the Children's Medical Center.

Wadley Research Institute and Blood Bank function: Provides valuable research into blood and blood diseases, teaches graduate students, administers to patients on an outpatient basis, and operates a blood bank.

Wadley is the only private institution in the United States which provides the four functions of research, teaching, blood banking, and caring for patients under one roof.

It is one of the 10 largest leukemia treatment centers in the world and the leading private blood-treatment center in the South.

Wadley supplies blood to 23 hospitals and clinics in Dallas and to 11 cities within a 200-mile radius of Dallas. They treat from 22 to 45 people on an outpatient basis per day from 38 States and 4 foreign countries.

Last year, their graduate school produced four Ph. D.'s and five master degrees.

Through the research at Wadley, the following contributions have been made to the saving of human lives:

Wadley discovered the process for large-scale production of potent anti-RH serum—this sounds technical, I know, but what it means is that until Wadley discovered this process, many lives were being lost as a result of transfusions. With the discovery of this process for anti-RH serum, there are no deaths from transfusions. This discovery at Wadley, as you may remember, has won worldwide acclaim and certainly made the Wadley Research Center world famous.

Wadley discovered the cure for one fatal blood disease, "thrombotic thrombocytopenic purpura," which had a toll of about 1,200 lives a year in the United States until Wadley found the cure.

Wadley discovered the "little d" factor in the blood—like discovering a new element in the blood which opened many new avenues of research.

And, as officials at Wadley say:

> All this wonderful work at this fine institution has been made possible only because of the people in Dallas who provide the necessary money and interest.

Wadley is strictly a private, independent, nonprofit institution.

Children's Medical Center: One of the few children's hospitals in the country, serving children from birth through 15 years of age.

Money to operate the center comes from private patients, endowments and gifts and 43 percent of the budget is from the United Fund—so, this is also a private institution, supported by the people of Dallas.

The center serves both private and charity patients—and in addition to the regular program of diagnosis and treatment of illness, the center has 22 speciality clinics, from allergy to urology, which provide specialized treatment to both private and charity patients.

The center is the principal teaching facility of the Department of Pediatrics of the Texas Southwestern Medical School to train interns, residents, et cetera. And is very important to Dallas as a teaching center because more than 70 percent of the pediatricians practicing in the Dallas area have been trained at the center.

The outstanding fact about the center is that everything is geared to the child.

The Children's Medical Center pioneers in two areas of medical science:

First. The Regional Congenital Heart Disease Center: This is the only center in the Southwest for open-heart surgery for children; and, as such, is very important to the children of the Southwest since congenital heart disease is a big problem in children and a sad one, but the Children's Medical Center offers hope that these children can be cured and lead a normal life.

Second. The new Children's Medical Center which is now being built in Dallas will have a children's psychiatric center—something sorely needed in the Southwest. Children's Medical Center presently devotes quite a bit of research to this, but the new center will have a whole floor devoted to the mental health of children. Actually, the mental health of children is an area of medicine which is just now being developed in the world and the Children's Medical Center will play a leading role in future improvement and development in this field.

To sum up, this private institution, because of the great strides it has made in diagnosis, treatment, and investigative research of children's diseases, has not only benefited thousands of children in Dallas and the Southwest, but has contributed to the welfare of children throughout the Nation.

These two medical research centers, built with private contributions, are leading the way in their fields in the Nation.

The people of Dallas, rich and less rich, private citizen and public office holder, the individual and the industrialist, have left no stone unturned in expanding the cultural horizons bringing art, music, good plays within the reach of all. Culture in Dallas is best described in a recent pamphlet issued by the Dallas Chamber of Commerce and I include it at this point in my remarks:

> #### Culture in Dallas
>
> Dallas reputation as the cultural center of the Southwest is borne out in the enthusiasms of Dallasites, fashionable, friendly, and culture conscious, who provide an atmosphere in which the best art forms can thrive.
>
> Dallasites patronize varied museums and over 35 privately owned galleries which offer permanent collections covering all media and periods of art.
>
> The Dallas Museum of Fine Arts located in a picturesque museum setting at Fair Park, exhibits annually. An extensive collection features regional, American, southwestern, European, and Central and South American works of art. Last year the museum staged its most ambitious exhibition to date, "The Arts of Man," described as art history brought to life and spanning 3,000 years.
>
> Recognized as one of five regional art centers in the country, the museum boasts among its works, Andrew Wyeth's "That Gentleman."
>
> Galleries are active in presenting the works of not only world renowned masters but also talented southwestern artists.
>
> A museum setting at Fair Park includes, in addition to the Dallas Museum of Fine Arts, the first health and science museum of its kind in the Southwest and second in the Nation. Its famous transparent man and more recently acquired woman create great interest along with other electronic, three dimensional exhibits on the human body, nutrition, good health practices, and disease recognition and prevention.
>
> The Texas Hall of State brings alive the adventurous past of the Lone Star State in four regional rooms honoring each of the Texas areas, and its curved Hall of Heroes holding statues of famous Texas soldiers and statesmen. The Dallas Historical Society,

which has charge of the building, draws from a collection of three quarters of a million objects to create special exhibits of historical interest.

The aquarium, fourth largest in the Nation, with over 3,000 fish and 255 species of amphibians, fish, and other aquatic animals, harbors a number of fish native to Texas such as the Rio Grande perch.

The museum of natural history represents every section of Texas unbelievable variety of wildlife in realistic dioramas.

The 7½-acre Dallas Garden Center has many beautifully planned gardens and includes a scent garden for the blind with herbs, scented plants, and braille markers.

One of the world's 50 most prominent zoological gardens, the Dallas Zoo maintains an average of 900 mammals, reptiles and birds on 50 acres in Marsalis Park. A recent acquisition, the Onager or wild ass of the Bible, is only 1 of 80 in existence in the world.

Striking emotional chords in art-loving Dallasites are the musical achievements of the 64-year-old Dallas Symphony Orchestra. Inspiring its audiences with the world's great music in a 6-month season of regular concerts, the symphony has also added to its schedule a series of dollar concerts, cosponsored by the Dallas Morning News which are held in the 10,000-seat Dallas Memorial Auditorium.

The Dallas Civic Opera, one of the four leading opera companies in this country, has earned the respect of music enthusiasts the world over for its successful combination of the modern visual techniques of the American stage with the traditional excellence of European operas.

Counted among the "opera firsts" the Dallas Civic Opera has presented for local audiences have been the 1957 performances of "Italian Girl in Algiers," first production in the United States since 1919, and the 1960 production of "Alcina" starring Joan Sutherland, marking the first time this Handel masterpiece had ever been given in the United States. More than a score of European opera singers have made their American debuts in Dallas Civic Opera productions. Brilliant designers, stage, costume and artistic directors, have found in the Dallas Civic Opera a perfect showcase for their talents.

Following the winter excitement associated with the Dallas Civic Opera is the famed Metropolitan Opera annual spring visit. Presented under the auspices of the Dallas Grand Opera Association, the Metropolitan has thrilled Dallas audiences for 20 years with a full schedule of operas in a fast-paced week that also includes many of the social highlights of the year.

Dallas' reading public keeps the Dallas Public Library staff busy circulating its 500,000 books which yearly achieve a distribution of over 2 million. The library's services, including an outstanding film library and record collection, are offered directly to Dallasites through its downtown building, seven branch libraries and three bookmobiles.

Legitimate theater received a boost in Dallas with the opening of the Dallas Theater Center in 1957. The center, widely known as the last completed building project of Frank Lloyd Wright and the only public theater built by him, provides Dallas with a resident company of actors, a graduate school of drama, a children's and teen theater, center civics—adult evening education program and a laboratory for developing new techniques in film, light, and sound.

Many of the nine plays produced each season are added to the repertory schedule of the center.

Little Theater has had a long and illustrious history in Dallas dating to the early 1920's.

For more than a decade, beginning in 1947, the Margo Jones Theater was known nationwide as a playwright's theater where the careers of unknown writers were furthered by the production of their plays.

Margo Jones' use of the arena theater can be credited with the current popularity of the arena movement in this country.

A high standard of little theater productions and the enthusiastic participation of many talented Dallasites is presently carried on by Theater Three and the Pearl Chappell Playhouse.

Theater Three, which opened its doors in downtown Dallas in 1961, has presented over 20 plays in the round, including "Two for the Seesaw" and "Julius Caesar."

The Pearl Chappell Playhouse, operating in association with the 46-year-old Dallas Academy of Speech and Drama, utilizes proscenium staging. Special critical plaudits were awarded the Playhouse for long-run staging of the "Fantasticks" and "Threepenny Opera."

The maturity of Dallas cultural seekers is noted in their acceptance and support of a host of lecture-recital-concert series. These series afford discerning audiences with the opportunity to see and hear some of the world's top figures.

One such group is the community course which presents seven programs for $7 on a season ticket basis in McFarlin Auditorium. Leading figures who have graced its stage include men from the field of letters such as Thomas Mann, Sinclair Lewis, Carl Sandburg; from the theater, Charles Laughton, Sir John Gielgud, Katharine Cornell, and from the political realm, Great Britain's Sir Clement Attlee and former Secretary of State Dean Acheson.

The Civic Music Association, showcasing such artists as Glenn Gould, Issac Stern and Regine Crespin, features seven seasonal concerts in McFarlin Auditorium.

The Dallas Chamber Music Society has enthusiastic audiences for a five-season presentation of leading quartets and ensembles in the Highland Park Town Hall.

The Sunday concert series, in the Dallas Museum of Fine Arts, displays the vocal and instrumental talent of local and regional performers in free concerts. Friday Forum makes its home in the Fine Arts Theater for weekly morning programs with a special appeal to women.

The Dallas Civic Ballet Society, Dallas Civic Chorus, Dallas Chamber Music Society, concerts by the American Guild of Organists, SPEBQSA, and many more combine to present an impressive cultural panorama.

Summer Bandshell Concerts, performed in the State Fair Park Bandshell, are a favorite of Dallasites who enjoy the free concerts on summer evenings. The concerts are cosponsored by the American Federation of Musicians, the City of Dallas Park Board, and the State Fair of Texas.

The best of Broadway usually finds its way to Dallas in touring dramatic and musical productions.

Four of Broadway's best reach Dallas yearly through the efforts of the Dallas Broadway Theater League. In its fifth season, the league has availed Dallas audiences of the talents of Eva LeGallienne in "Elizabeth the Queen" and of Dame Judith Anderson in readings from "Medea" and "Lady Macbeth." Other outstanding productions have included "Sunrise at Campobello," "Dark at the Top of the Stairs," and "Thurber Carnival." Dallas Summer Musicals, formerly the State Fair Musicals, provides thousands of Dallasites and visitors with a 12-week summer season of six Broadway hits. Stars for the productions are selected from a full spectrum of motion picture, television, operatic, and stage personalities, providing original and exciting casting. Musicals hot from Broadway such as "The Unsinkable Molly Brown" are combined in a season with perennial favorites like "Showboat" and "South Pacific." Big-time shows, such as the 1963 "How to Succeed in Business Without Really Trying," fill the fair dates in the State Fair Music Hall during October.

The world of Dallas children sparkles brightly with symphonies, plays and exhibits planned just for them. The Dallas Symphony features a number of children's concerts in its busy seasonal schedule. The Dallas Theater Center and Theater Three produce lavish plays, some original, which hold the rapt attention of hundreds of the younger set.

Dallas Civic Opera student opera matinees, children's art classes sponsored by the Dallas Museum of Fine Arts and Dallas Museum of Contemporary Arts, and other special museum programs, such as the Junior Science Academy summer classes and Planetarium shows sponsored by the Health and Science Museum, foster interests which help increase the art enjoyment of Dallas children as they grow older.

Educational organizations like Southern Methodist's Arden Players, Opera Workshop, the SMU String Quartet, and the University Orchestra at SMU; plus informal adult art courses, exhibition space and physical facilities offered by SMU, Dallas College and other area institutions enrich Dallas cultural opportunities immensely.

Mr. Speaker, in the entertainment field, just today I am able to report that the two Dallas major newspapers have now agreed not to accept sensational or salacious advertisements concerning motion pictures. This is the result of the PTA's sustained effort to uplift the moral climate of the city of Dallas.

This is the story of Dallas, Tex.—the story of an American community, the triumphs, the dreams, the sorrows, and the tragedies of its people. It is a city made of the same stuff as thousands of American cities and hamlets across the land. Dallas, as much as any community in America, is American. There are good people and bad people, but the good that is in the people far outweighs the few in number who do not measure up.

Dallas mourns the death of President Kennedy. Our people do not condone violence. They are not a discourteous people. But they are a brave people, an honest people. They believe there is room in this free land of ours for differences of opinion and that these differences can be voiced without hatred and without bitterness. The people of Dallas will not be intimidated into denying their beliefs, in diluting their patriotism because of a campaign to silence them or to force them to support a principle in which they do not believe. It is the Communists, of course, who frequently assassinate those who disagree.

### DALLAS PEOPLE WILL NOT BE SILENCED

The people of Dallas have faith in the American dream; we are confirmed constitutionalists; we are convinced that America should be a government of law, not of men; we are proud exponents of the private enterprise system; we are avowed enemies of the Communist philosophy and the worldwide Communist conspiracy which has as its goal the destruction of our country.

Dallas will proudly stand on its own feet, but will gladly join with all other communities in the United States in expounding and expanding the freedoms of all Americans.

We will not be silenced. We remember well that the Communist manifesto of 1960 sets forth as a new policy of the

Kremlin the silencing of the anti-Communists in the United States. The people of Dallas believe in the freedom to express political differences of opinion and we will not be silenced by Communist-inspired attacks, or by the leftwing extremists or liberals who challenge any opposition to their thinking as spreading hate. The people of Dallas will continue to debate the issues we face in a reasonable and logical manner, without bitterness, without rancor, because we believe this is the American way of participating in good government.

I want to thank my colleagues for their patience in listening to me. On behalf of the people of the fifth district I invite all of you to come see us in Big D. You are always welcome.

As an appropriate conclusion to these remarks I would like to include several statements and fact sheets about Dallas, its progress and its hopes for the future.

[From the Dallas Morning News, Apr. 23, 1964]

### Dallas Banks' Record Deposits Tops All State Area

Dallas County bank deposits this spring topped all previous figures, generally regarded by bankers as a reflection of the economic good times the Nation has been enjoying.

As of April 15 of this year, the 61 banks in Dallas County had deposits totaling $3,363,291,507.68, up from $2,96,874.717.12 last spring.

That was a gain of more than $396 million in the past year, or an increase of 13 percent.

It continued to top Houston's area deposits by $320 million. Harris County, with $3,043,110,000 in deposits this spring, had a growth for the year of only $170 million.

Dallas County this spring had 15 banks that it did not have a year ago, 9 of them in the city and 6 of them in the county. (The total number of banks was 39 in the city and 22 in the county.)

It was also interesting to note that 11 of the new banks in the county were national banks, only 4 were State chartered.

The deposits were reported by bankers in response to calls for statements of condition from National and State banking authorities.

Virtually all reporting cities showed records for the spring report if they did not show the greatest funds in history.

Here were some of the reports comparing this spring with last spring, with a notation where deposits are the highest in history:

Harris County (Houston) $3,043,110,000 and $2,872,717,000.

Wichita Falls $225,809,000 and $210,188,000 (record).

Odessa, $81,402,000 and $71,755,000 (record).

Midland, $171,237,000 and $157,305,000 (record).

Bryan, $35,900,000 and $31,520,000.

Longview, $64,384,000 and $59 million (record).

Orange County, $51,552,000 and $49,244,000.

Gainesville, $22,758,000 and $22,523,000.

Plainview, $33,277,393 and $30,064,676.

Austin, $384,598,000 and $363,216,000 (record).

Tarrant County (Fort Worth), $962,853,000 and $877,456,000.

Del Rio, $18,605,000 and $18,503,000.

Amarillo, $250,702,000 and $222,496,000.

Abilene, $134,443,000 and $125,299,000.

Victoria, $113,633,000 and $106,432,000.

Beaumont, $185,433,000 and $180,510,000.

Corpus Christi, $197,944,000 and $173,625,000 (record).

Laredo, $50,986,000 and $47,770,335 (record).

El Paso, $319,299,068 and $311,241,782.

Borger, $25,094,000 and $22,676,000.

Port Arthur, Nederland, Groves and Port Neches, $116,447,000 and $105,726,000.

Navarro County (Corsicana), $39,341,000 and $36,708,000.

Bexar County (San Antonio), $877,121,000 and $825,219,000.

Tyler, $112,300,000 and $102,171,000.

Kilgore, $17,851,000 and $17,630,000.

Winkler County (Kermit), $11,636,000 and $10,759,000.

Big Spring, $39,971,000 and $39,706,000.

Denton, $56,555,000 and $50,522,000.

*Deposits in Dallas banks*

| | Apr. 15, 1964 | Mar. 18, 1963 |
|---|---|---|
| Republic National Bank | $1,131,148,371.56 | $1,037,950,793.84 |
| First National Bank | 1,010,756,948.16 | 924,780,202.84 |
| Mercantile National | 426,370,917.20 | 340,446,952.14 |
| Texas Bank & Trust | 123,930,682.93 | 107,343,080.94 |
| Exchange Bank & Trust | 55,783,097.83 | 43,614,512.99 |
| Oak Cliff Bank & Trust | 51,388,380.42 | 45,245,447.46 |
| Preston State Bank | 44,235,803.27 | 40,959,644.93 |
| National Bank of Commerce | 31,024,217.86 | 31,282,380.29 |
| Hillcrest State | 27,721,837.46 | 25,097,037.69 |
| Empire State | 26,545,627.12 | 25,512,971.82 |
| American Bank & Trust | 21,405,524.43 | 20,937,356.88 |
| Merchants State Bank | 21,069,602.36 | 20,424,696.05 |
| Wynnewood State Bank | 20,272,265.98 | 17,715,983.78 |
| Lakewood Bank & Trust | 20,143,633.15 | 16,890,145.93 |
| Greenville Avenue State | 20,020,048.27 | 18,351,780.15 |
| Grand Avenue State | 18,996,261.14 | 17,712,943.70 |
| South Oak Cliff State | 15,002,708.80 | 12,481,642.83 |
| First Citizens | 14,341,620.26 | 12,878,723.20 |
| Industrial National Bank | 13,957,768.33 | 12,857,549.24 |
| Park Cities Bank & Trust | 13,661,505.57 | 11,957,159.78 |
| Fair Park National Bank | 13,151,466.42 | 11,706,283.68 |
| Grove State Bank | $12,399,200.21 | $11,009,440.63 |
| Bank of Services & Trusts | 11,334,892.10 | 8,091,852.82 |
| City Bank & Trust | 8,226,325.70 | (1) |
| East Dallas Bank & Trust | 8,046,216.10 | 6,265,005.32 |
| Bank of Dallas | 7,722,640.29 | 5,663,830.84 |
| North Dallas Bank & Trust | 6,561,720.39 | 4,691,709.27 |
| Northwest National Bank | 5,878,823.57 | 5,206,346.83 |
| Citizens National Bank | 4,190,604.19 | (1) |
| Trinity National Bank | 3,632,843.87 | 1,122,849.97 |
| Casa Linda National | 2,916,529.53 | 2,358,891.67 |
| Buckner State Bank | 2,690,518.10 | 2,426,582.57 |
| White Rock National | 2,597,608.52 | (1) |
| Hillside National Bank | 2,488,262.40 | (1) |
| Commercial National Bank | 1,482,802.55 | (1) |
| Inwood National Bank | 1,195,157.82 | (1) |
| Hampton State Bank | 741,707.24 | (1) |
| Community National Bank | 729,494.00 | (1) |
| Commonwealth National Bank | 398,068.09 | (1) |
| Total | 3,204,161,703.19 | 2,842,953,797.11 |

[1] New bank.

*Deposits in Dallas County banks*

| | Apr. 15, 1964 | Mar. 18, 1963 |
|---|---|---|
| Irving Bank & Trust | $24,798,922.08 | $18,418,023.32 |
| First National, Garland | 21,693,714.16 | 18,382,837.85 |
| Southwest Bank & Trust, Irving | 15,594,696.53 | 12,569,298.69 |
| Citizens State, Richardson | 13,621,725.77 | 11,925,974.83 |
| Grand Prairie State | 11,376,089.17 | 11,020,686.86 |
| First Bank & Trust, Richardson | 10,889,147.74 | 6,199,561.59 |
| First National, Mesquite | 10,603,563.37 | 8,675,882.64 |
| First National, Grand Prairie | 9,248,586.02 | 8,606,669.60 |
| Garland Bank & Trust | 6,166,807.78 | 6,564,131.62 |
| First National, Lancaster | 5,979,445.36 | 5,674,408.87 |
| Dallas County State, Carrollton | 5,550,374.58 | 5,034,028.56 |
| Central Bank & Trust, Farmers Branch | 4,608,811.36 | 3,316,112.28 |
| Seagoville State | $3,912,572.45 | $3,297,126.96 |
| First National, Duncanville | 3,233,419.62 | 2,290,100.95 |
| First National, Irving | 2,632,637.36 | 1,263,134.55 |
| Mesquite State | 1,774,861.68 | 682,940.88 |
| First National, Carrollton | 1,401,050.92 | (1) |
| Lewisville National | 1,396,954.19 | (1) |
| Midway National, Grand Prairie | 1,367,695.41 | (1) |
| First National, Richardson | 1,274,664.20 | (2) |
| DeSoto State | 1,228,294.80 | (1) |
| First Bank & Trust, Cedar Hill | 775,769.94 | (1) |
| Total | 159,129,804.49 | 123,920,920.01 |

[1] New bank.

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[From the Dallas Herald, Mar. 30, 1964]

### It's Great To Live in Dallas

There is no thoroughly satisfactory explanation for Dallas' development during the last 100 years from a tiny frontier settlement into the showplace of the Southwest. Equally unexplainable is the pride this city generates in its residents, both old and new, and the compelling necessity most feel to give voice to this feeling even to an occasional point of swagger.

Dallas has none of the natural resources or geographical advantages normally associated with growth to metropolitan status—no harbor, no navigable waterway, immediate proximity to rich mineral deposits. Yet, it has caught and passed in population, income and industrial capacity many urban complexes far more richly endowed.

Why?

Theories advanced would fill a book. They range from advocacies of the "pluck and luck" formula to those which argue that Dallas owes its progress to "adventurous sons of adventurous sons" who settled here in frontier time and devoted themselves in unison to community building for mutual benefit.

Each probably has some thread of truth. There is no doubt that one hamlet in the rich agricultural area of north and east Texas was bound to emerge as the center of finance, trade and industry. And, since Dallas had no real advantages over dozens of other towns, it must be assumed that its position was achieved by the overwhelming enthusiasm, superior planning, and continuing teamwork of its people.

This, then is our heritage—a great, clean, well-governed city, relatively free of major tensions, and offering maximums in economic, social, cultural, educational, and recreational opportunity.

We know that it's great to live in Dallas—that it always has been and always will be.

Why?

Well, first, the people—Dallas people are truly different. As a whole, their attitudes combine the courtesy and graciousness of the Old South with the friendliness, and informality of the West. Northern and Eastern States have sent us able thousands who have added crispness and drive.

And we are still close enough to the frontier to retain great respect for individual rights, courage, and enterprise.

We have been accused of fostering large extremist groups. This is fantasy. Dallas is basically moderate. Extremism occurs so far in the fringes of our society, both left and right, that most of us never know it is there. It is quite possible that a moderate-to-radical is an extremist.

Next, the social structure. Men and women in Dallas are what they make themselves, and what they are themselves, not what their families have been for generations. There is no frozen strata here. The individual towers over tradition.

Economic opportunity must be placed high on the list of Dallas' advantages. In this growing, changing, developing community, the progress any person may make is limited only by individual initiative and ability.

Dallas is clean, physically, free from smoke and smog. The air is pure and the horizons wide. And Dallas is clean in many ways. There is no organized crime. Virtually complete integration of the races has been effected with extreme smoothness. Scandal is almost unknown in our local governments. We have excellent schools, more than 500 churches, 3 universities, unsurpassed shopping facilities, 2 fine newspapers, access to 5 television channels, over 20 radio stations, the South's busiest and best airport, developing research and technical centers.

We are ringed by lakes and more are being created every year. We enjoy the highest caliber college and professional football—with adequate exhibitions of other sports. Our Texas State Fair is a showplace with its museums, musicals, and Hall of State. We have the Dallas Theater Center, the symphony, the Metropolitan Opera.

Our climate is occasionally severe, but, normally, it is mild, with long, delightful springs and autumns, and we are well insulated against its extremes of heat and cold.

James K. Wilson has grown up with Dallas. Like the community, this firm started small, with its people working together to create something bigger and better for mutual benefit.

The institution, as it stands today, is the proud result of 28 years of effort.

We are proud of James K. Wilson.

We are proud of Dallas.

We think it's great to be in business in Dallas.

We think it's great to live in Dallas.

ALEX J. COCHRANE,
*President.*

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### DALLAS: A CENTER OF DYNAMIC AND DIVERSIFIED GROWTH—INDUSTRIAL DALLAS, INC.

All major indexes reflect the fact that Dallas is one of America's most dynamic growth centers.

In population increase, expansion of business activity, gains in effective buying income, and other standard measurements, Dallas has experienced a sustained growth tempo exceeding that of Texas, the Southwest, and the United States.

In 1940 the city of Dallas, ranking as the 31st largest municipality in the Nation, was basically a regional business center; its economy had little influence outside the Southwest. In 1962—after experiencing two decades of a growth rate excelled by no major inland city, and by only two major seacoast cities—Dallas ranks 13th nationally in population, and has an economic influence even more significant than its size. For example, in number of companies with a million dollars or more in assets, Dallas ranks 10th nationally with 346 million-dollar firms headquartered here.

The Dallas standard metropolitan area has experienced a growth rate as spectacular as that of its central city. In 1950 when the U.S. Government, through the Bureau of the Budget, standardized the definition of metropolitan areas, the Dallas metropolitan area was defined as Dallas County, with a population of 614,799. In 1959, because of the tremendous growth of workers commuting from surrounding counties, the Bureau added three additional counties—Collin, Denton, and Ellis—to the Dallas standard metropolitan area. The 1960 U.S. census of population gave the four-county metropolitan area a population of 1,083,601 which ranked it 20th nationally among the 212 standard metropolitan areas. This compares with a national rank of 24th among the 168 standard metropolitan areas designated in 1950.

Newark, N.J., and Paterson-Clifton-Passaic, N.J., were broken off from the New York area in 1960 as separate standard metropolitan areas, and both ranked above the Dallas area in population. In other words, in 10 years Dallas moved ahead of the following six standard metropolitan areas in population: Atlanta, New Orleans, Portland, Providence, Cincinnati, and Kansas City.

Even more significant than these measurements of growth is the development of Dallas' diversified character. Dallas is in the fortunate position of having many economic "eggs" in its basket—of drawing its strength from many sources. No single industry or group of industries dominates the Dallas economy. Its root structure draws nourishment from trade, from finance, from insurance, from the world cotton market, from the worldwide resources of the petroleum industry, from trade shows and convention business—and from manufacturing enterprises embracing the range from women's fashions to space age electronics, from food products to missiles, from geophysical equipment to automobiles. This highly diversified base gives Dallas a stable economy, resistant to recessions and quickly responsive to upswings.

Still another major aspect of Dallas' diversified growth during the last two decades has been the evolution of relatively small branch operations of national concerns into fully integrated management operations for vast territories. Illustrative of this trend has been the growth of Sears, Roebuck's operation at Dallas from a mail order house into an autonomous regional headquarters, directing from Dallas the operations of 242 Sears retail and catalog stores and all related functions, including buying, distribution, and banking in 11 States.

The diversified growth of Dallas must also be related to the growth of the markets which Dallas serves.

The Dallas home market, of course, is the Dallas standard metropolitan area.

Next comes the Dallas urban district, which includes nine north Texas counties within a 50-mile radius of Dallas and which represents a concentration of population and business activity unequalled anywhere in the southern half of the United States, east of Los Angeles.

Beyond the Dallas standard metropolitan area and the Dallas urban district are the broader markets—Texas and the Dallas Southwest—for which Dallas is the dominant center for management, distribution, banking, and business services.

Dallas has a major stake in the growth and economic progress of each of these market units. Not only is Dallas' own economy diversified, but its crisscrossing root system derives nourishment from the population and business growth in all of the market units it serves.

In the sixties Dallas' economic growth sets the pace for Texas:

*Bank debits (city)*

[In thousands of dollars]

| | Year 1961 | Year 1959 | 2-year change |
|---|---|---|---|
| Dallas | 36, 949, 150 | 31, 519, 353 | 5, 429, 797 |
| Fort Worth | 9, 587, 409 | 9, 431, 246 | 156, 163 |
| Houston | 33, 004, 937 | 27, 740, 663 | 5, 264, 274 |
| San Antonio | 7, 622, 308 | 7, 223, 238 | 399, 070 |

Source: Federal Reserve Bank.

*Manufacturing employment (metropolitan area)*

| | September 1962 | March 1960 | 2½-year change |
|---|---|---|---|
| Dallas | 103, 920 | 96, 040 | 7, 880 |
| Fort Worth | 49, 500 | 54, 870 | −5, 370 |
| Houston | 90, 600 | 95, 550 | −4, 950 |
| San Antonio | 24, 470 | 24, 715 | −245 |

Source: Texas Employment Commission.

*Bank deposits (metropolitan area)*

[In thousands of dollars]

| | December 1961 | December 1959 | 2-year change |
|---|---|---|---|
| Dallas | 3, 137, 202 | 2, 646, 440 | 490, 762 |
| Fort Worth | 876, 978 | 765, 142 | 111, 836 |
| Houston | 2, 798, 802 | 2, 320, 920 | 477, 882 |
| San Antonio | 752, 522 | 654, 124 | 98, 398 |

Source: Published bank call data from each area.

*Family housing units authorized by building permits (metropolitan area)*

| | 1st 9 months 1962 | Year 1961 | Year 1960 | 2 years 9 months total |
|---|---|---|---|---|
| Dallas | 15, 612 | 17, 974 | 12, 667 | 46, 253 |
| Fort Worth | 3, 581 | 4, 399 | 4, 377 | 12, 357 |
| Houston | 18, 645 | 11, 411 | 8, 078 | 38, 134 |
| San Antonio | 3, 786 | 3, 396 | 3, 273 | 10, 455 |

Source: "Construction in Texas," published by Bureau of Business Research, the University of Texas.

*Total value of building permits issued (metropolitan area)*

[In thousands of dollars]

| | 1st 9 months 1962 | Year 1961 | Year 1960 | 2 years 9 months total |
|---|---|---|---|---|
| Dallas | 287, 247 | 311, 720 | 169, 285 | 768, 252 |
| Fort Worth | 72, 287 | 76, 865 | 95, 688 | 244, 840 |
| Houston | 294, 599 | 231, 178 | 293, 285 | 819, 062 |
| San Antonio | 51, 591 | 63, 623 | 57, 082 | 172, 296 |

Source: "Construction in Texas," published by Bureau of Business Research, the University of Texas.

*Postal receipts (city)*

| | Year 1961 | Year 1959 | 2-year change |
|---|---|---|---|
| Dallas | $30, 635, 986 | $26, 870, 059 | $3, 765, 927 |
| Fort Worth | 9, 797, 660 | 8, 898, 409 | 899, 251 |
| Houston | 21, 290, 808 | 19, 185, 930 | 2, 104, 878 |
| San Antonio | 9, 142, 899 | 7, 711, 045 | 1, 431, 854 |

Source: Postmaster of each city.

**Dynamic growth is reflected in building activity: In the past 10 years, 1952–61, building permits have been issued for 122,985 new dwelling units in Dallas County:**

*New dwelling units authorized*

| | |
|---|---|
| 1952 | 9,127 |
| 1953 | 8,516 |
| 1954 | 14,414 |
| 1955 | 15,811 |
| 1956 | 8,000 |
| 1957 | 8,701 |
| 1958 | 13,494 |
| 1959 | 15,373 |
| 1960 | 12,813 |
| 1961 | 16,836 |
| 10-year total | 122,985 |
| Yearly average | 12,298 |

Source: Construction in Texas, supplement to the Texas Business Review; Bureau of Business Research, the University of Texas.

**Dynamic growth is reflected in population:**

*Population growth*

CITY OF DALLAS

| | |
|---|---|
| 1940 | 294,734 |
| 1950 | 434,462 |
| 1960 | 679,684 |
| Jan. 1, 1962 | 713,700 |
| | *Percent gain* |
| 1940–50 | 47.4 |
| 1950–60 | 56.4 |
| 1960–62 | 5.0 |

DALLAS COUNTY

| | |
|---|---|
| 1940 | 398,564 |
| 1950 | 614,799 |
| 1960 | 951,527 |
| Jan. 1, 1962 | 1,010,500 |
| | *Percent gain* |
| 1940–50 | 54.3 |
| 1950–60 | 54.8 |
| 1960–62 | 6.2 |

*Population growth*—**Continued**

DALLAS STANDARD METROPOLITAN AREA [1]

| | |
|---|---|
| 1950 | 743,501 |
| 1960 | 1,083,601 |
| Jan. 1, 1962 | 1,143,200 |
| | *Percent gain* |
| 1950–60 | 45.7 |
| 1960–62 | 5.5 |

[1] The U.S. Bureau of the Budget defined standard metropolitan areas for the first time in 1950. At that time, the Dallas standard metropolitan area was defined as Dallas County. In 1959, the Budget Bureau expanded the Dallas standard metropolitan area to include Collin, Denton, and Ellis Counties.

Sources: 1940, 1950, and 1960 U.S. population censuses, U.S. Bureau of the Census.

Sales Management magazine's "Survey of Buying Power," June 1962.

*Among the Nation's 20 largest standard metropolitan areas Dallas has the 3d largest percentage increase in population between 1950 and 1962*

| 1962 rank | Standard metropolitan area | Population | | | Percent gain | | 1962 rank | Standard metropolitan area | Population | | | Percent gain | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 1950 | 1960 | Jan. 1, 1962 | 1950–60 | 1960–62 | | | 1950 | 1960 | Jan. 1, 1962 | 1950–60 | 1960–62 |
| 1 | New York | 9,555,943 | 10,694,633 | 10,902,400 | 11.9 | 1.9 | 11 | Cleveland | 1,465,511 | 1,796,595 | 1,856,600 | 22.6 | 3.2 |
| 2 | Los Angeles | 4,367,911 | 6,742,696 | 7,137,900 | 54.4 | 5.9 | 12 | Baltimore | 1,405,399 | 1,727,023 | 1,793,300 | 22.9 | 3.8 |
| 3 | Chicago | 5,177,868 | 6,220,913 | 6,401,300 | 20.1 | 2.9 | 13 | Newark | 1,468,458 | 1,689,420 | 1,734,000 | 15.0 | 2.6 |
| 4 | Philadelphia | 3,671,048 | 4,342,897 | 4,464,600 | 18.3 | 2.8 | 14 | Minneapolis-St. Paul | 1,151,053 | 1,482,030 | 1,537,400 | 28.8 | 3.7 |
| 5 | Detroit | 3,016,197 | 3,762,360 | 3,886,800 | 24.7 | 3.3 | 15 | Buffalo | 1,089,230 | 1,306,957 | 1,353,300 | 20.0 | 3.5 |
| 6 | Boston | 2,410,572 | 2,589,301 | 2,625,000 | 7.4 | 1.4 | 16 | Houston | 806,701 | 1,243,158 | 1,319,500 | 54.1 | 6.1 |
| 7 | San Francisco-Oakland | 2,240,767 | 2,783,359 | 2,879,800 | 24.2 | 3.5 | 17 | Paterson-Clifton-Passaic. | 876,232 | 1,186,873 | 1,245,800 | 35.5 | 4.9 |
| 8 | Pittsburgh | 2,213,236 | 2,405,435 | 2,449,700 | 8.7 | 1.8 | 18 | Milwaukee | 956,948 | 1,194,290 | 1,235,500 | 24.8 | 3.5 |
| 9 | St. Louis | 1,719,288 | 2,060,103 | 2,126,500 | 19.8 | 3.2 | 19 | Seattle | 844,572 | 1,107,213 | 1,153,000 | 31.1 | 4.1 |
| 10 | Washington | 1,464,089 | 2,001,897 | 2,098,100 | 36.7 | 4.8 | 20 | Dallas | 743,501 | 1,083,601 | 1,143,200 | 45.7 | 5.5 |

Sources: 1950 and 1960 U.S. Census of Population, U.S. Bureau of the Census. Sales Management magazine's "Survey of Buying Power."

**Dynamic growth reflected in building activity:**

*In the 10-year period 1952–61, Dallas County has spent over $2,250,000,000 on buildings*

| Year | Dallas County building contract awards | | |
|---|---|---|---|
| | Residential | Nonresidential | Total |
| 1952 | $134,687,000 | $50,713,000 | $185,400,000 |
| 1953 | 102,567,000 | 58,962,000 | 161,529,000 |
| 1954 | 122,351,000 | 69,835,000 | 192,186,000 |
| 1955 | 148,524,000 | 82,532,000 | 231,056,000 |
| 1956 | 99,620,000 | 87,076,000 | 186,696,000 |
| 1957 | 113,935,000 | 93,992,000 | 207,927,000 |
| 1958 | 147,475,000 | 107,614,000 | 255,089,000 |
| 1959 | 171,635,000 | 93,096,000 | 264,731,000 |
| 1960 | 161,987,000 | 81,420,000 | 243,407,000 |
| 1961 | 199,903,000 | 98,726,000 | 298,629,000 |
| 10-year total | 1,402,684,000 | 823,966,000 | 2,226,650,000 |
| Yearly average, 1952–62 | 140,268,400 | 82,396,600 | 222,665,000 |

Source: F. W. Dodge Statistical Research Service.

*In the 10-year period 1952–61, Dallas County completed 71,000,000 square feet of nonresidential building space*

| Year | Contracts awarded for new square feet of floor area, Dallas County | | | |
|---|---|---|---|---|
| | Manufacturing buildings [1] | Commercial buildings [2] | Other nonresidential buildings [3] | Total nonresidential buildings |
| 1952 | 833,000 | 1,325,000 | 2,135,000 | 4,293,000 |
| 1953 | 292,000 | 2,160,000 | 2,486,000 | 4,938,000 |
| 1954 | 506,000 | 2,166,000 | 3,531,000 | 6,203,000 |
| 1955 | 824,000 | 2,240,000 | 3,741,000 | 6,805,000 |
| 1956 | 993,000 | 3,002,000 | 2,933,000 | 6,928,000 |
| 1957 | 1,111,000 | 3,773,000 | 2,141,000 | 7,025,000 |
| 1958 | 991,000 | 4,994,000 | 2,819,000 | 8,804,000 |
| 1959 | 1,082,000 | 6,551,000 | 2,076,000 | 9,709,000 |
| 1960 | 978,000 | 3,961,000 | 2,775,000 | 7,714,000 |
| 1961 | 1,181,000 | 4,370,000 | 3,030,000 | 8,581,000 |
| Total | 8,791,000 | 34,542,000 | 27,667,000 | 71,000,000 |

[1] Includes processing and mechanical buildings, plus drycleaning, laundries, and miscellaneous light manufacturing buildings.

[2] Includes commercial warehouse, office and loft, bank, garage, store, and restaurant buildings.

[3] Includes educational-science, hospital-institutional, public, religious, social recreational, and miscellaneous nonresidential buildings.

Source: F. W. Dodge Statistical Research Service.

*Among the Nation's 20 largest standard metropolitan areas the Dallas area ranked 7th in new dwelling units authorized by building permits during 1960 and 1961*

| Standard metropolitan area | New dwelling units authorized | | | | Population rank, 1962 | Standard metropolitan area | New dwelling units authorized | | | | Population rank, 1962 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1960 | 1961 | 2-year total | Rank | | | 1960 | 1961 | 2-year total | Rank | |
| Los Angeles-Long Beach | 81,443 | 92,501 | 173,944 | 1 | 2 | St. Louis | 12,030 | 10,808 | 22,838 | 11 | 9 |
| New York | 66,712 | 94,755 | 161,467 | 2 | 1 | Cleveland | 11,574 | 10,370 | 21,944 | 12 | 11 |
| Chicago | 40,478 | 42,281 | 82,759 | 3 | 3 | Boston | 9,866 | 11,924 | 21,790 | 13 | 6 |
| San Francisco-Oakland | 27,687 | 32,497 | 60,184 | 4 | 7 | Houston | 8,178 | 11,499 | 19,677 | 14 | 16 |
| Washington, D.C | 20,327 | 26,106 | 46,433 | 5 | 10 | Baltimore | 6,762 | 10,628 | 17,390 | 15 | 12 |
| Philadelphia | 19,091 | 22,338 | 41,429 | 6 | 4 | Seattle | 7,395 | 8,865 | 16,260 | 16 | 19 |
| Dallas | 13,772 | 17,634 | 31,406 | 7 | 20 | Pittsburgh | 8,951 | 6,794 | 15,745 | 17 | 8 |
| Detroit | 14,997 | 14,419 | 29,416 | 8 | 5 | Paterson-Clifton-Passaic | 6,870 | 7,785 | 14,655 | 18 | 17 |
| Minneapolis-St. Paul | 12,468 | 13,586 | 26,054 | 9 | 14 | Milwaukee | 8,165 | 6,432 | 14,597 | 19 | 18 |
| Newark | 11,597 | 12,381 | 23,978 | 10 | 13 | Buffalo | 3,993 | 3,342 | 7,335 | 20 | 15 |

Sources: Construction Review, March 1962 issue and "New Housing Units Authorized by Local Building Permits," Annual Summary, 1960–61, July 1962, both published by U.S. Department of Commerce.

**Diversified growth is reflected in effective buying income:**

*Growth in effective buying income*

| Year | City of Dallas effective buying income, dollar volume | National rank | Dallas County effective buying income, dollar volume | National rank | Dallas standard metropolitan area effective buying income, dollar volume | National rank |
|---|---|---|---|---|---|---|
| 1950 | $816, 337, 000 | 24 | $1, 070, 810, 000 | 24 | $1, 196, 552, 000 | 24 |
| 1961 | $1, 639, 668, 000 | 12 | $2, 321, 484, 000 | 20 | $2, 526, 662, 000 | 22 |
| Percent gain 1950–61 | 100. 9 | ---------- | 116. 8 | ---------- | 111. 2 | ---------- |

Source: Sales Management Magazine's Survey of Buying Power.

**Diversified growth is reflected in employment:**

*Growth in employment*

| | Dallas standard metropolitan area nonfarm employment growth [1] | | | |
|---|---|---|---|---|
| | 1950 | | 1962 | |
| | Number employed | Percent of total | Number employed | Percent of total |
| Total nonagricultural | 297, 159 | 100. 0 | 461, 120 | 100. 0 |
| Manufacturing, total | 55, 784 | 18. 8 | 103, 920 | 22. 5 |
| Furniture, lumber, and wood products | 3, 038 | 1. 0 | 3, 380 | . 7 |
| Fabricated metal products | 2, 908 | 1. 0 | 5, 400 | 1. 2 |
| Machinery (except electric) | 4, 754 | 1. 6 | 9, 020 | 2. 0 |
| Electrical machinery and equipment | 1, 387 | . 5 | 20, 640 | 4. 5 |
| Transportation equipment | 7, 923 | 2. 6 | 14, 630 | 3. 2 |
| Food and kindred products | 8, 143 | 2. 7 | 14, 660 | 3. 2 |
| Apparel and finished products | 8, 234 | 2. 8 | 11, 670 | 2. 5 |
| Printing and publishing | 5, 826 | 2. 0 | 7, 670 | 1. 7 |
| Chemical and allied products | 2, 398 | . 8 | 3, 300 | . 7 |
| All other manufacturing | 11, 173 | 3. 8 | 32, 126 | 7. 0 |
| Nonmanufacturing, total | 241, 375 | 81. 2 | 357, 200 | 77. 5 |
| Mining | 3, 363 | 1. 1 | 8, 950 | 1. 9 |
| Construction | 29, 473 | 9. 9 | 31, 710 | 6. 9 |
| Transportation | 17, 123 | 5. 8 | 24, 150 | 5. 2 |
| Communications | 6, 449 | 2. 2 | 6, 990 | 1. 5 |
| Utilities | 3, 624 | 1. 2 | 5, 660 | 1. 2 |
| Wholesale trade | 17, 502 | 5. 9 | 46, 200 | 10. 0 |
| Retail trade | 60, 005 | 20. 2 | 79, 890 | 17. 3 |
| Finance—insurance—real estate | 19, 592 | 6. 6 | 36, 320 | 7. 9 |
| Business and personal services | 27, 408 | 9. 2 | 37, 810 | 8. 2 |
| Professional services | 17, 127 | 5. 8 | 22, 440 | 4. 9 |
| Government (including public education) | 21, 453 | 7. 2 | 41, 730 | 9. 0 |
| Private households and miscellaneous | 18, 256 | 6. 1 | 14, 800 | 3. 2 |

[1] Including self-employed and unpaid family workers.

Sources: 1950—U.S. Census of Population, 1950. 1962—Estimates of Texas Employment Commission for Month of September 1962.

**Diversified growth is reflected in banking activity:**

*City of Dallas bank deposits and clearings*

| Year | Deposits as of December | Annual bank clearings |
|---|---|---|
| 1952 | $1, 665, 933, 825 | $17, 531, 945, 000 |
| 1953 | $1, 848, 060, 115 | $18, 512, 732, 000 |
| 1954 | $2, 022, 362, 385 | $19, 353, 106, 000 |
| 1955 | $2, 142, 319, 751 | $21, 678, 567, 000 |
| 1956 | $2, 202, 580, 277 | $22, 672, 478, 000 |
| 1957 | $2, 089, 323, 441 | $23, 679, 236, 000 |
| 1958 | $2, 473, 143, 847 | $24, 685, 541, 000 |
| 1959 | $2, 471, 093, 229 | $27, 689, 157, 000 |
| 1960 | $2, 672, 186, 526 | $27, 811, 935, 000 |
| 1961 | $2, 927, 485, 661 | $30, 072, 667, 000 |
| Percent gain, 1952–61 | 75. 7 | 71. 5 |

Source: Dallas Clearing House Association.

**Diversified growth is reflected in savings and loans:**

*Dallas savings and loan associations have increased assets by 116.5 in 6 years*

| Year | Total assets | Withdrawable shares | Total loans |
|---|---|---|---|
| 1961 | $421, 763, 594 | $402, 962, 568 | $408, 091, 804 |
| 1960 | $358, 449, 979 | $342, 220, 892 | $350, 474, 938 |
| 1959 | $312, 686, 381 | $295, 742, 936 | $303, 781, 885 |
| 1958 | $267, 722, 394 | $254, 471, 968 | $261, 038, 288 |
| 1957 | $288, 585, 027 | $221, 332, 702 | $222, 911, 487 |
| 1956 | $194, 771, 181 | $183, 763, 993 | $191, 181, 137 |
| Increase, 1956–61 | $226, 992, 413 | $219, 198, 575 | $216, 910, 667 |
| Percent increase, 1956–61 | 116. 5 | 119. 2 | 113. 5 |

Source: The 14 savings and loan associations operating in the city of Dallas.

**Diversified growth is reflected in wholesale trade:**

*Growth of wholesale trade in Dallas County*

| Year | Dollar volume | Number of establishments |
|---|---|---|
| 1939 | $479, 834, 000 | 1, 084 |
| 1948 | 2, 126, 967, 000 | 1, 611 |
| 1954 | 2, 991, 777, 000 | $2, 078 |
| 1958 | $3, 979, 838, 000 | $2, 569 |
| Percent increase: | | |
| 1939–48 | 343. 3 | ---------- |
| 1948–54 | 40. 7 | ---------- |
| 1954–58 | 33. 0 | ---------- |

Source: U.S. Bureau of the Census.

**Diversified growth is reflected in retail trade:**

*Growth of retail trade*

| Year | City of Dallas, retail sales | | Dallas standard metropolitan area, retail sales | |
|---|---|---|---|---|
| | Dollar volume | National rank | Dollar volume | National rank |
| 1948 | $621, 858, 000 | 18 | $790, 981, 000 | 19 |
| 1954 | 960, 815, 000 | 16 | 1, 207, 685, 000 | 17 |
| 1958 | 1, 144, 472, 000 | 13 | 1, 472, 860, 000 | 17 |
| 1960 | 1, 280, 802, 000 | 13 | 1, 651, 682, 000 | 15 |
| 1961 | 1, 303, 681, 000 | 13 | 1, 682, 781, 000 | 15 |
| Percent increase: | | | | |
| 1948–54 | 54. 5 | ---------- | 52. 7 | ---------- |
| 1954–58 | 19. 1 | ---------- | 22. 0 | ---------- |
| 1958–61 | 13. 9 | ---------- | 14. 3 | ---------- |

Source: U.S. Bureau of the Census for census years 1948, 1954, and 1958. Sales Management magazine's "Survey of Buying Power" for 1961 data.

**Diversified growth is reflected in service activities:**

| Type of service | Dallas County service receipts | | Percent of increase, 1954–58 |
|---|---|---|---|
| | 1954 | 1958 | |
| Hotels, motels, tourist courts, camps | $18,068,000 | $25,736,000 | 42.4 |
| Personal services | 40,930,000 | 56,143,000 | 37.2 |
| Miscellaneous business services | 45,868,000 | 75,082,000 | 63.7 |
| Auto repair, auto services, garages | 19,089,000 | 34,292,000 | 79.6 |
| Miscellaneous repair services | 20,963,000 | 19,693,000 | −6.1 |
| Amusement, recreation, including motion pictures | 39,997,000 | 38,849,000 | −2.9 |
| Total | 184,915,000 | 249,695,000 | 35.0 |

Source: U.S. Census of Business, Selected Service Trades, 1954 and 1958.

**Diversified growth is reflected in manufacturing activity:**

*The rate of postwar manufacturing growth in the Dallas metropolitan area far exceeds that of Texas, the Southwest, and the Nation as a whole*

| | Wage and salary employment in manufacturing industries [1] | | | | |
|---|---|---|---|---|---|
| | 1947 | 1954 | August 1962 | Percent change | |
| | | | | 1947–54 | 1954–62 |
| Dallas metropolitan area | 42,249 | 81,263 | 103,100 | 92.3 | 26.9 |
| Texas | 297,053 | 419,218 | 495,900 | 41.1 | 18.2 |
| Southwest (Dallas primary market [2]) | 557,831 | 749,062 | 852,500 | 34.3 | 13.8 |
| United States | 14,294,304 | 16,125,550 | 16,931,000 | 12.8 | 5.0 |

[1] Excludes self-employed and unpaid family workers.

[2] Texas, Arkansas, Louisiana, Oklahoma, and New Mexico.

Source: 1947 and 1954—Censuses of Manufactures for those years, published by U.S. Bureau of the Census. Data for August 1962 from "Employment and Earnings," published by U.S. Department of Labor.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. ALGER. I yield to the gentleman from Missouri.

Mr. CURTIS. I want to commend the gentleman for taking the floor at this time, and also having taken the floor to express himself in what I consider in such a scholarly and objective manner. I have followed this story of the defamation of Dallas for a number of years, partly because of the interest I have in the gentleman in the well, whom I regard as one of the ablest Representatives in the Congress and certainly a man whose integrity is unimpeachable. I say that because, as my colleague in the well knows, as all men do, we differ on certain things, as our voting record in certain instances shows. When a situation like this occurs it is very important that members of the other political party assume their responsibilities and speak out against these kinds of improper debating techniques.

I well recall when I took the floor of the House a number of years ago the time when some of my Republican colleagues were insinuating and some actually were saying, in their enthusiasm for their point of view, that certain Democratic leaders were soft on communism. To rebuke my own colleagues, not that I am in position to rebuke anyone, to propound the proposition that this was improper debating, that it was the use of the ad hominem fallacy, I urged them to desist. However, I asked my Democratic colleagues to urge the same restraint on their Democratic colleagues who in their overzealousness accused some of the Republicans of lacking in humanitarianism, which also is ad hominem argument. I regret that no Democratic member responded to my pleas and to this day Democratic spokesmen persist in using the fallacious argument that Republicans are not interested in people.

The point I am making is that the gentleman from Texas [Mr. ALGER] takes the floor of the House to set the record straight. Certain people will interpret that as being a Republican point of view, when we know that all that is being expressed here is an American point of view. A Democrat can make this point more forcefully because this change of partisanship could not be made. We want straightforward debate. Certainly we in America disagree. But we know how to debate things on a proper level, which is exchanging our points of view, marshaling our facts, giving our reasons, and so forth. The gentleman's statement here is in the best traditions of America, the traditions I have seen him observe throughout his career in Congress.

That is one reason the gentleman carries so much influence with his colleagues, and I think anyone here will carry influence of that nature if he adheres to proper procedures. But I do call upon the leaders of the Democratic Party, if they disagree with these statements of facts, and think they are not facts, or disagree with the arguments in any way, to come forward and debate this thing straightforwardly. If they agree with this exposition of the gentleman from Texas [Mr. ALGER] then it is very important that they come forward and join ranks as Americans, because they have the best opportunity to put at rest this kind of dirty defamation that is going on in regard to one of its cities.

Why am I so concerned? Because if this can happen to Dallas it can happen to St. Louis, it can happen to any city in this country. If this can happen to the gentleman in the well of the House as far as personal defamation is concerned it can happen to any Member of Congress of whatever party, and if it can happen to people in Congress it can happen to our citizens. So it gets down to the very vitals of our society.

Then I will say this. The gentleman just lightly touched upon it. This is in the nature of a thesis and requires documentation, but it seems that this antihate group in this country are the ones who seems most intent on spreading hate. Is it not so typical? Going back to the old experience of the pickpocket in the crowd, the one who yells pickpocket the loudest is a pickpocket himself, seeking to divert attention.

Then I want to mention one other thing, if the gentleman will yield further. He discussed the defamation of Dallas, which was beginning before the assassination of our President. I participated in several of the discussions on the floor of the House as this defamation centered around an issue in Dallas on the proposed Dallas Federal Building.

Mr. Speaker, I would ask unanimous consent to revise and extend my remarks and also include extraneous matter.

The SPEAKER pro tempore (Mr. O'BRIEN of New York). Without objection, it is so ordered.

There was no objection.

Mr. CURTIS. Under permission to extend my remarks, I am going to put in the RECORD the colloquy that occurred at that time. Because here was a situation, that the gentleman from Dallas had presented, that the Dallas Federal Building had been approved following normal congressional procedures whereby various public works are either approved or disapproved. It met and followed certain standards.

Incidentally, I think it would be well if we all understood, and the press could help us a lot in this understanding, that over a period of years the Congress has developed some pretty good procedures for testing what public works projects are economically sound, whether Federal buildings are economically sound or whether, indeed, they are pork barrel because there can be such a thing as pork barrel. There can be something that is uneconomical in this area. In politics we run into this problem and people get overenthusiastic about a project in their own community and understandably they should argue the case for their community. But the Congress has set up guidelines and so has the executive department to evaluate the merits of the various projects.

As I understand the story, and it is here to be rebutted again if there is any honest rebuttal, as it was 2 years ago and 4 years ago when it came up and was not rebutted. The Dallas Federal Building was approved by a Democratic controlled Congress, as being economically sound. Indeed, uneconomical not to proceed with it. But partisan politics, and I will use that term because those who have been responsible for this have not come forward with any other explanation, partisan politics intervened and has put the Dallas Federal Building on the shelf.

Now why again was I concerned as a Member of Congress from St. Louis with the Dallas Federal Building? Because if this kind of improper procedure can be used against one Congressman whatever district he is representing, whether he is Democrat or Republican, the same thing could happen to any Congressman or any of us, and the same thing could happen to any community.

If there is a justifiable reason for not proceeding with the Dallas Federal Building or any other building or any other project or any other public works, let us have it out on the record. But let us not have projects either started or stopped for narrow partisan reasons in this instance simply because Dallas happens to decide to select a Republican as their Congressman.

I want to say here to the gentleman from Dallas that his demeanor and the manner in which he has handled this very difficult problem of the Federal Building in Dallas has been exemplary. He has laid the record out. He has pointed to it. He has worked hard to move the matter forward. He has done nothing himself that was discreditable. But those who were responsible for the holdup still stand and should be answerable to the Congress, and I will say to the general public and certainly to the people of Dallas, they are Democrats and Democrat leaders. Is this, indeed, the way responsible Democrats wish their party to act?

As a part of this, and I am going to put this in the Record, the colloquy I previously referred to. Now I will mention a name because the gentleman from Texas [Mr. Brooks] was chairman of a subcommittee that investigated certain aspects of the Dallas Federal Building and the colloquy that occurred between Mr. Brooks and myself on the floor of the House is worthy of rereading. The issue was proper congressional procedures. Defamatory material, material that was defamatory of certain individual citizens of Dallas, was issued in a public press release by the gentleman representing another section of Texas, where he was acting as chairman of the subcommittee charged with doing this kind of investigation.

There was no repudiation, I regret to say, on the part of the gentleman from Texas [Mr. Brooks] or by any of the Democratic leadership, of this kind of improper operation against the rules of the House, nor were there any Democrat Representatives from the State of Texas who stood up to defend the fair name of Texas. In my judgment that was an issue, too, and remains an issue every day Democrat Representatives fail to take the floor to make the record straight.

So indeed the gentleman is all too correct, I fear. There has been a concerted effort to defame Dallas as a city. There has been a concerted effort to defame the gentleman in the well of the House.

I hope that my colleagues realize I would make this same speech and make the same remarks if this involved one of my colleagues from the Democratic side of the aisle and if it were Republicans who had been guilty, as I regard guilt to exist here, of this kind of impropriety.

So far as the reporting profession of this country is concerned, I believe there is a tremendous burden upon the fourth estate not only in this area but also in all areas involving the debate of public business which goes on in the well of the House and in the well of the Senate, to report to the people what are the issues and where the honest differences of opinion lie, so that the people of this country can participate in the dialog which goes on in this great legislative branch of the Government.

I believe there are many members of the press who do understand fully this responsibility and who are doing their best to live up to it. Perhaps it is because the occurrences which placed such grave responsibility on the shoulders of those of the fourth estate, are so recent, but whatever the cause, certainly the weakest link in representative government today is the reporting back to the people of what the debates and the dialog in the Congress are all about—reporting back to the people, if you please, what is the issue in regard to Dallas, Tex. Has there been defamation, as has been alleged here, or are these degrading stories accurate?

Let us move this dialog forward.

The gentleman from Texas, from Dallas, is performing a public service far beyond that which involves the city he so well represents. He is performing a public service for all of us in the Congress and for the entire Nation. I personally commend him and congratulate him.

Here follows the excerpts from the Congressional Record to which I referred in my remarks:

### FEDERAL BUILDING SITE AT DALLAS, TEX.

The Speaker. Under previous order of the House, the gentleman from Texas [Mr. Alger] is recognized for 15 minutes.

Mr. Alger. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include a GAO report and other material.

The Speaker. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. Alger. Mr. Speaker, I feel compelled to take the floor today inasmuch as there have been certain developments concerning my district relative to site acquisition for a Federal building, and even more importantly, before I get into the subject, as to its merits or demerits, the action of one of the committees of this House.

I have here a release listed as coming from the Brooks subcommittee of the Committee on Government Operations. This release has gone out across the country. It lists the various subcommittee members at the bottom. I am not sure whether they had anything to do with this or not. I have spoken to several who have not even seen this release.

Let me call your attention to specific statements in the release. By the way, I invited the gentleman from Texas [Mr. Brooks] to be present, as well as the gentleman from Alabama [Mr. Jones] in case we get further into his field, the matter of the Federal building itself.

The release goes on to say: "For several months we have had under investigation the method utilized by the GSA in acquiring a site in downtown Dallas."

I understand there has been only one meeting in this so-called investigation.

Then the release goes on to speak of an acquisition procedure with peculiar moral and ethical overtones. Later in the statement he mentions justifiable complaints of property owners; and he uses the words "in collusion with their own government" of certain people in Dallas in collusion with their own government. Then later in the release he speaks of it being very questionable procedure. It seems to me the questionable procedure is found in the language here used.

Further, I want to ask my colleagues what correct procedure is when a Member of Congress, in this case the gentleman from Texas addressing you, goes to a committee of Congress, in this case the Government Operations Subcommittee, asks for certain information, and finds it is refused to him? That occurred to me yesterday. Mr. Ed Brooks, a brother, and employee of the committee, said "No" when I asked the question. "We haven't authorization to let anyone see it."

I call this to your attention, because I believe it is contrary to the rules of the House. I read from Public Law 601—79th Congress, chapter 753, 2d session, page 27, subsection (d) of section 202 of the Reorganization Act: "All committee's hearings, records, data, charts and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the subcommittee, and such record shall be the property of the Congress, and all members of the committee and of the respective Houses shall have access to such records."

Furthermore, I then spoke to the Comptroller General and I think I can safely say to you that he was somewhat troubled over this, because in the past these GAO reports have been sent simultaneously to the Congressman in whose district the project was located. In this case he sent it to the committee for them to release through its chairman. I think this is irregular; I think it contrary to good procedure.

As to procedure in the release of the subcommittee statement, here in hand, I am not sure whether it was given out by the Brooks subcommittee as a subcommittee or whether by Mr. Brooks himself, alone. I have spoken to several members of the subcommittee and they are not acquainted with this release.

Mr. Curtis of Missouri. Mr. Speaker, will the gentleman yield?

Mr. Alger. I yield.

Mr. Curtis of Missouri. Would it not be easy to find out at this time just what it was? The gentleman from Texas, I believe, is on the floor. The gentleman could ask him as to whether it was issued by the subcommittee or himself.

Mr. Alger. I will be glad to yield to the gentleman from Texas [Mr. Brooks] to enlighten me.

Mr. Brooks of Texas. It was in reply to numerous requests apparently brought about by very keen interest in the expenditure of $43 million by the Federal Government in Dallas, in the gentleman's district. The statement was issued to clarify the situation.

If the gentleman will read the entire report he will realize that the Committee on Government Operations, as such, is wholly without authority to build any buildings or to disapprove any construction, or to authorize anything.

Mr. Alger. I do not yield further, Mr. Speaker. The gentleman is encroaching on my time. He is not answering the question, which was: Is this a statement by him or is it a statement by the subcommittee membership?

Mr. Brooks of Texas. To be more specific, did I write the statement? The answer is "Yes." Does it reflect what the subcommittee has done over several months in intensive study of letters from people in the gentleman's district who are concerned that their property is being taken away from them for the benefit of the nearby and adjacent landowners? The answer is "Yes."

Mr. Curtis of Missouri. The gentleman is still not answering the question. Did the subcommittee authorize the chairman to issue this statement, or was this done on the gentleman's own authority?

Mr. Brooks of Texas. As chairman of the subcommittee, as the chairman of most all subcommittees, when they are continually asked about studies and about legislation or a study, it seems only fair to me to give them an answer and tell them, as chairman of the subcommittee, what the report reflects. The report that I gave to the press indicated clearly further study is to be made before any official subcommittee action would be taken. I wrote a letter to that effect to the Administrator of GSA.

Mr. Alger. The gentleman is not answering the question, which is a very simple question.

Mr. Curtis of Missouri. I think it is obvious the answer is that the gentleman issued the press release on his own authority. I read the press release, and I notice the names of five members of the subcommittee at the bottom. I think one point has already been established. It was issued by an individual.

Mr. Alger. Let the gentleman direct his answer to that question.

Mr. Brooks of Texas. When people ask you for something you try to give them a substantial statement. I did that. At the bottom of the news release, as is customary on every statement made by a subcommittee, you point out for the benefit of people who are interested, the public and members of the press and Members of Congress; yes, the gentleman himself was interested in each instance, in the names of the subcommittee members.

Mr. Alger. I thank the gentleman for his statement.

We have the answer finally and specifically; namely, that it is Mr. Brooks' own statement. Of course, he is entitled to his own opinion. He is not speaking for the subcommittee members, although the release with members' names added makes this appear a subcommittee report. This is irregular and unfair procedure.

I learned with some surprise that the GAO made a report last April 4. This is the one I could not get. That report, so far as I understand it, and I've studied it, gave a clean bill of health to the site acquisition. Let me quote briefly from it, because you see, 14 businessmen in Dallas right now are under attack by Mr. Brooks through the statement released by the gentleman from Texas, wherein he alludes to peculiar moral and ethical overtones in the land acquisition.

Here are the questions that Mr. Brooks asked the GAO and also the answers.

First, an opinion on whether or not the alleged bid by the syndicate was a proper responsive one, inasmuch as the syndicate was neither owner nor agent for the property it was offering to the Government.

Here is the answer, only part of which someone underlined in this particular copy: "Presumably, as you suggest, the guarantee offered was not made without some motive on the part of the guarantors, such as enhancement of the value of their own properties. However, there is nothing in the record to indicate that they would personally benefit in any manner different in nature from the benefits which would normally be expected to accrue to any owners of property in the vicinity of the site selected."

Further on is: "Accordingly, in answer to your first question, it is our opinion that the proposal of the syndicate was not illegal from that standpoint."

And so on.

The second question was: "An opinion on the legality of this condemnation policy in which a private, profitmaking group offered the Government property it did not even own and agreed to share the condemnation costs with the Government."

Here is part of the answer by the GAO: "As we pointed out in the answer to the question, in view of the provisions of 40 U.S.C. 298, such a guarantee would not appear to be legally objectionable in the absence of other considerations even though the syndicate might profit from selection by GSA of one of the suggested parcels."

Mr. Brooks of Texas. Would you read the sentence ahead of that?

Mr. Alger. I will be glad to have the gentleman do that.

Mr. Brooks of Texas. Starting with: "Because of the particular and unusual circumstances leading up to the selection of the site, it is understandable that the former owners of the property taken might question the propriety of the action taken."

Mr. Alger. It was of interest to me that the gentleman underlined or someone else underlined this copy I have, which is no doubt the part that they wanted to be read. I had tried to read the entire thing in context, and therefore I have asked permission to put in the entire statement so that every Member can take a look at it.

Now, Mr. Speaker, I had nothing to do with the site selection; that is not a Congressman's province. I know nothing firsthand about the transaction. I was not a party to it, and I was not on this committee studying the acquisition. What disturbs me is that the release put out today by the gentleman from Texas [Mr. Brooks] as the head of this subcommittee apparently relates not at all to the statement made by the GAO. Perhaps it is possible to lift out a sentence of the GAO report and twist it a little bit and then come out with this kind of a statement, but I think that is a very inaccurate way to put it before this body. It is possible that an investigation might show there was something improper, and I am not here to criticize or say that this was right or it was wrong. I am simply calling to the attention of the House the facts as stated in this GAO report, and I hope you will read the GAO report which I will put into the Record.

Mr. Curtis of Missouri. Mr. Speaker, will the gentleman yield?

Mr. Alger. I yield to the gentleman from Missouri.

Mr. Curtis of Missouri. I think it might be well to ask the gentleman who issued this statement why he waited from April 4 until the end of August to issue any statement and why his committee did not act on this thing instead of his acting as an individual.

Mr. Brooks of Texas. Would the gentleman yield for a unanimous consent request before answering his question?

Mr. Alger. I would like to have the gentleman answer the question.

Mr. Brooks of Texas. May I make a unanimous consent request first so that I am sure I will have adequate time to answer the gentleman? I ask him to yield for that purpose.

Mr. Alger. I yield.

Mr. Brooks of Texas. Mr. Speaker, I ask unanimous consent that the special order I received today follow the gentleman from Texas [Mr. Alger].

Mr. Alger. Why not add it onto my time and we can share it?

Mr. Brooks of Texas. I would not want to impose.

Mr. Alger. It would be no imposition. Mr. Speaker, reserving the right to object, does the gentleman agree that we might share the time? I certainly would be willing to split it equally as I have tried to split it up to this point.

Mr. Brooks of Texas. I will yield when I complete my statement.

Mr. Alger. Is that agreeable to the gentleman?

Mr. Brooks of Texas. I will handle the time.

Mr. Alger. I withdraw my reservation of objection, Mr. Speaker.

The Speaker. Is there objection to the request of the gentleman from Texas [Mr. Brooks]?

There was no objection.

Mr. Brooks of Texas. Would the gentleman mind repeating the question?

Mr. Curtis of Missouri. With the report coming to your subcommittee on April 4, your subcommittee took no action until the end of August, when you issued a personal statement. Why the delay and why the personal statement?

Mr. Brooks of Texas. Of course, you know that the Committee on Government Operations has rather wide jurisdiction. We have been occupied with a lot of matters which we have been working on pretty steadily both in the subcommittee and in our personal capacity as Members of Congress. The report from the GAO was not received for some time after the study had been inaugurated. As a matter of fact, I did not look over the report until one of my Republican colleagues, whom we hold in high regard, called it to my attention.

Mr. Curtis of Missouri. Mr. Speaker, a point of order. I think the gentleman's words should be taken down as improper where he says that he was using this as a vehicle to get reelected.

However, Mr. Speaker, I will withdraw that if the gentleman will proceed properly.

Mr. Brooks of Texas. I will point out that if I had a proposal to build a $43 million building in my district I would be working with the Republicans and the Democrats, and anybody who thinks that it would not help me get reelected is foolish.

Mr. Curtis of Missouri. I withdraw the point of order, Mr. Speaker.

Mr. Brooks of Texas. I think the issues have been stated. The real question is: Is it an ethical, moral, fair way of doing business for the Government to be paid by a third party to condemn the property of another party—especially when it raises the value of the third party's property?

Mr. Hoffman of Michigan. Mr. Speaker, will the gentleman yield?

Mr. Brooks of Texas. I yield.

Mr. Hoffman of Michigan. The gentleman is not charging the gentleman from Dallas [Mr. Alger], with anything improper, is he? And had no intention of it; he is just giving him a little bit of good political advice.

Mr. Brooks of Texas. I am just trying to help him, to be fair to him.

Mr. Curtis of Missouri. Mr. Speaker, will the gentleman yield for a little clarification?

Mr. Brooks of Texas. I yield to the gentleman from Missouri.

Mr. Curtis of Missouri. I think the gentleman from Texas has misconstrued the matter. There is no complaint about this subcommittee going into this investigation; quite the contrary. I know very well that the subcommittee is doing that. The question revolves around the subcommittee's action itself and whether or not there has been a violation, I may say, of the House rules, including issuing derogatory information about citizens of this country without the committee itself acting upon that information. Let me ask the question I wanted to ask.

Mr. Brooks of Texas. Another question?

Mr. Curtis of Missouri. Yes. The question I wanted to ask is this: After you received these letters requesting an investigation and started to proceed, did you call in the people on the other side so as to get their views in a hearing to find out what they had to say?

Mr. Brooks of Texas. Yes; on February 8——

Mr. Curtis of Missouri. No; I said after.

Mr. BROOKS of Texas. You asked me if we had. I will answer your question. You ask it, I will answer it. We got some letters, got some calls. We then held a hearing. We got some more letters. People felt they were being abused in that Dallas deal and they wanted us to help.

Mr. CURTIS of Missouri. What was the date of the hearing?

Mr. BROOKS of Texas. The date, I believe, was February 8, when we heard Karl Wallace, Public Buildings Commissioner from the GSA, and other GSA officials. The meeting was attended by two Republicans and two Democrats.

Mr. CURTIS of Missouri. The letter you wrote was after the hearing.

Mr. BROOKS of Texas. We got a letter after that. We got one before and we got one afterward.

Mr. CURTIS of Missouri. The question I asked was: Did you gentlemen after you got these letters complaining about the situation, and got the gravaman of their complaint, did the committee call people on the other side for a hearing?

Mr. BROOKS of Texas. There was no need to call anyone else. The agency making the contract was the focal figure in our study. The facts spoke for themselves. We got a complete report from the GSA, and we subsequently requested and obtained a detailed report from the General Accounting Office.

Mr. CURTIS of Missouri. Mr. Speaker, will the gentleman yield further?

Mr. BROOKS of Texas. I yield for one further question.

Mr. CURTIS of Missouri. I just wish to clear up a point. The gentleman, then, is saying that the committee itself did not call any witnesses on the other side, that you relied simply upon the GAO report. Am I correct in that?

Mr. BROOKS of Texas. The committee has relied on undisputed factual evidence, substantiated by the General Services Administration and the GAO as to the actual terms of the contract under which the General Services Administration selected the site. A certain group had offered $310,600 as an inducement to the Federal Government. The terms of the contract were confirmed to us by the GSA and the GAO. There is no doubt about the facts; they are all contained in the contract. I have a copy of this contract before me right here.

Mr. CURTIS of Missouri. The gentleman is so wrong when he says that. Of course, he should call the other side before issuing any statement.

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## PROCEDURE OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Missouri [Mr. CURTIS] is recognized for 10 minutes.

Mr. CURTIS of Missouri. Mr. Speaker, previously there was a colloquy between the gentleman from Texas [Mr. ALGER] and the gentleman from Texas [Mr. BROOKS] involving committee procedure. My concern with the situation as expressed in that debate was my concern, which I think I have shown over a period of years, in the House procedures, that we follow as best we can the best procedure. I regret to say that the gentleman from Texas [Mr. BROOKS] and the gentleman from Mississippi [Mr. SMITH], who participated, attempted to get the debate off on a tangent, and far from talking about the issue involved, indulged in regrettable personalities. I hope when the time comes to revise their remarks they will look them over very carefully.

The issue was not, as the gentleman from Texas [Mr. BROOKS] sought to put it, whether the subcommittee of which he is chairman of the Committee on Government Operations, should have been investigating the situation. Quite the contrary. There is complete agreement that that was a matter that the congressional committee should investigate. But I emphasize that it should be a committee. There has been a great tendency, as I have observed here in the House, for committees actually to want to usurp what is really the decision of the House and to fail to recognize that a committee is really the handmaiden and creature of the House, designed to gather information and then report to the House with its advice.

In a similar provision, regrettably, there is sometimes the tendency on the part of whoever happens to be a chairman of a committee or of a subcommittee to usurp what is really the power of the committee and to act as the chairman without consultation or regard for what the committee itself would do. In this area I think we find the gravamen of the complaint that has been registered on the floor of the House. It was clearly established that the gentleman from Texas when he issued a press release in which he had the names of all the subcommittee attached to the bottom did not take this up with the subcommittee at all. It was never discussed there. It was simply a statement issued by himself, yet, in the guise of being committee action. The more serious matter though was that this press statement actually contained accusations which were derogatory of certain citizens of the United States who were involved in this matter that the committee was investigating. We have been through this matter many, many times. In fact, we had new rules established several years ago for our committees to follow so that we would not unintentionally impugn the reputations of some of our citizens without being very careful that we had given them certain rights to come before the committee; they had a right to answer; and even then there would have to be committee action before the material or the information upon which the derogatory statements might be made was issued to the press.

In this instance, of course, the chairman on his own admission, under my interrogation, has never called before the subcommittee the people on the other side, the people who were charged with either misfeasance or nonfeasance and, yet, again the chairman took it upon himself in complete violation of the rules of the House, I might say, to issue this statement. The second or the third major point, of failure to follow correct procedures, I think, lies in the failure of this subcommittee to act promptly upon this information that they gathered. They submitted the question to the General Accounting Office for investigation, apparently, back in February. A report was made on April 4 and, yet, it was not until just today or the day before yesterday that the chairman, without, again I say, referring the matter to the subcommittee, issued a press release. But, no action was taken apparently by the subcommittee during these almost 5 months of elapsed time. The gentleman from Texas [Mr. BROOKS] stated that the subcommittee was busy. I daresay it was busy. On the other hand, it is going to be quite interesting when this committee files its statement, and I hope it does, of the number of meetings it held during this period of 5 months and its activities, just to put it against this situation of letting a matter that contained, apparently, according to the chairman, derogatory information in regard to certain citizens of this country, without acting upon it, and then waiting until the last day and issuing not a report to the House, if you please, but actually issuing a press release.

Mr. ALGER. Mr. Speaker, will the gentleman yield?

Mr. CURTIS of Missouri. I yield to the gentleman from Texas.

Mr. ALGER. I want to commend the gentleman and to thank him for getting to the heart of the problem which possibly earlier we did not do as completely as I had hoped; namely, this matter of procedure. We did not get into the details of the project. I had not so intended although I would welcome the opportunity to get into the details of site acquisition. I was concerned about this press release that went out which purported to be the opinion of the subcommittee, but which now has been clearly stated to be just that of the subcommittee chairman.

Second, the fact that I was denied a GOA report by the gentleman from Texas [Mr. BROOKS] and in that denial I represented all other Members of the House who similarly could be denied. I want to thank the gentleman for pointing this out to the House.

Mr. CURTIS of Missouri. I think it was quite clear that that is exactly what he was talking about, and he was discussing this from the standpoint of committee procedure and felt it had been very unfair; it had created damage to the reputations of people in his community. The tragedy of this was that the gentleman from Texas [Mr. BROOKS] did not answer these charges, but attempted to divert the attention of the House to entirely extraneous matters and then resort to something which I thought was very unfortunate; that was, to attack the integrity of the gentleman from Texas [Mr. ALGER] by suggesting that his interest in this matter was something other than what he had stated on the floor to be, a question of procedure. The gentleman from Mississippi echoed those statements. I know the gentleman from Texas [Mr. ALGER] very well, and I think most Members do, and we all respect him for a man who has strong beliefs. I disagree with him on some of those beliefs, but I have yet to see him make an act that was improper other than in a sincere effort to benefit the people of his community generally. Instead of having a debate that could have been sensible, and discussing the issues here, by resorting to that kind of attack, it made this whole matter regrettable.

I trust that those who are interested in House procedure will read the debate on this matter, and consider the issues we have tried to bring out here, because the precedents of the House are not available for one party over another. They are the basis of democratic government in this country, and I know every one of us on both sides are very jealous that those precedents be followed, and when they are shown to be wrong that they be corrected, so that we can conduct the affairs of this Nation in the best procedure possible.

I yield back the remainder of my time, Mr. Speaker.

Mr. ALGER. I thank the gentleman very much for his contribution. I can assure him and my other colleagues that even as I recall the need for the debate being moved forward, and the challenge being made by Mr. Khrushchev, who said that they would bury us—and a Communist buried our President—many people have not yet gotten that message, and we do not debate publicly, I fear, many of the great issues before us. It is only in that context—of preserving all that I hold dear not only for my city but also for my country—that I make my remarks.

I thank the gentleman for his contribution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ALGER. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. I, too, join in commending the gentleman from Texas for taking the well of the House this afternoon; and I also commend the gentleman from Missouri [Mr. CURTIS] for the sequel to these remarks, which developed through his insight and his discussion of this important issue of factual reporting.

I must say to the gentleman from Texas, as a fellow Republican from Illinois, I was somewhat distressed to learn of the account of those activities of the campaign in 1960. I was inclined to believe them, because I thought it was factual reporting from Texas.

I am glad to have the record set straight here this afternoon for all of the American people. While I was inclined at a later time to ask permission to revise and extend my remarks in the CONGRESSIONAL RECORD with a very timely editorial, I am going instead to ask that I be permitted to extend my remarks at this point in the RECORD, including an editorial from the Peoria Journal Star entitled "Johnson Overexposed," which is an account of one of my good newspaper editors from Peoria who spent last week in Washington and then went back home and factually reported to the people. I would like to see more of this. Again I commend the gentleman from Texas for taking the floor this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The article referred to by Mr. MICHEL is as follows:

[From the Peoria Journal Star, Apr. 24, 1964]

### JOHNSON OVEREXPOSED

Having just returned from Washington and having seen the President three times in the course of routine activities, not counting his other appearances on TV, the settlement of the railroad strike problem and the public announcement of it struck us in a peculiar way.

Let's just report the bare sequence. It's a clue to how busy a President is and how his schedule must be controlled and arranged by somebody behind the scenes.

Last Thursday, I attended a Presidential press conference. The railroad negotiations were underway, Laos was exploding, the Secretary of State was in Vietnam, and the President delivered a substantial and detailed written statement on domestic legislation he is seeking to get through a Congress now deadlocked in filibuster over the civil rights bill.

Friday, with all these same things and many others still boiling, we attended a reception at the White House, and the President delivered a rather lengthy prepared address in the rose garden, and then proceeded from a buffet and reception line to an hour and half or more of dancing in the ballroom.

The convention closed Saturday, and I remained for a series of press briefing in Washington.

Henry Slane, president of the Peoria Journal Star, proceeded to the publishers convention in New York.

Monday, President Johnson flew to New York, addressed the publishers convention at length with a written speech, which some say was the most important statement he has ever made on foreign policy.

Tuesday, he was back in Washington, reading a long speech to the press briefing gang in the White House rose garden. Mr. Rusk had just returned from explosive Vietnam and was waiting for a full report and discussion of that problem with the President.

Wednesday, the President was back in New York delivering another written address opening the New York world's fair.

Thursday, he suddenly appeared on national network television with that amazing coincidence of a solution of the railroad strike taking place "before our eyes" just at news broadcast time, and the President appearing miraculously with a very excellent prepared script on how terrible the crisis was and how permanently he had solved it.

You come away, recognizing that the time involved in just the activities with which you have had some personal contact, is staggering. It is like keeping up with a three-ring circus.

And you wonder who is doing the work, who is making the decisions, and who is writing the scripts and the speeches that roll off so fast.

But what really disturbs this observer after such a direct exposure is the power of the President of the United States to suppress the actual news temporarily, get a script prepared, grab the nationwide services of the "private" TV networks, perfect the timing and go before the American people with such a neat performance.

The truth and the news ought to be what really went on, but the news media of TV is not only hiding what went on "backstage" but has become part of the stage management helping to present the illusion witnessed by the American people out front.

This power of the President to use the whole electronic national network which is licensed by his Government for dramatic public presentations in an election year is more important, and more shattering than his close personal connection with a great TV empire in Texas, and specifically with a rich and privileged station in Austin where his would-be competitors labor under disadvantages and restraints thus far via the decisions of the Federal Communications Commission which he now appoints.

We are always afraid of such power, so concentrated.

We are especially afraid of it when it coolly brushes over the reality with the thin story that the properties are really owned by Mrs. Johnson, and have been placed in "trust."

President Kennedy insisted that his financial interests be shifted, even though in trust, into securities not involved in Government decisions or regulations. President Eisenhower placed his in a special trust where not even he was aware, nor any member of his government, as to what the financial interests were.

President's Johnson's wife's properties are well-known, in a field under direct Government regulation, and placed in "trust" under the management of close, personal friends.

It is not the same thing, and when power is used that loosely it worries us that his much greater powers of President may also be used in a questionable way.

Apparently it also worries the whole TV industry, so intimately under Government regulation, because when he says "Jump!" they surely jump.

President Johnson won't debate any candidate in this election.

Why should he? He can use his power and position to get tremendous advantageous and preferential "exposure" over any opponent * * * and stage it for effect, too.

And real, effective, genuine democracy will bleed if this happens, because as the founder of President Johnson's party, Thomas Jefferson, pointed out, a true democratic society depends on free information and free expression more than on the Constitution or the ballot box.

When news and information is largely controlled and rigged, democracy, itself, is rigged.

As a survivor in the part of this system that is still free, we worry.

—C. L. DANCEY.

Mr. ALGER. Mr. Speaker, I thank the gentleman, and I hope that our remarks indeed will be reported, but I have no illusions in thinking as I stand here today trying to set the record straight that I have the opportunity to be heard as compared with the control of the press and news media which are in the hands of the President. I have no illusions that much if any part of my statement will be printed. I am not kidding myself that the things I have said here will be heard much outside of this room today.

Mr. DEROUNIAN. Mr. Speaker, will the gentleman yield?

Mr. ALGER. I yield to the gentleman from New York.

Mr. DEROUNIAN. The gentleman will recall that I was one of the first Members he met socially when he came to the House in 1955. I can say without fear of contradiction, since I sit next to him on the very important Committee on Ways and Means, that he is a gentleman who applies himself continuously to his congressional district. I have seen him in his office until midnight. He is always doing something constructural. He relaxes less than he should. I also know the gentleman has not only stuck up for his city and his State but for his country. He is incorruptible and does not submit to pressure groups of any kind. He does not even submit to pressure from his own chamber of commerce when he thinks they are wrong. I say to him that I have been very distressed in reading what some communication media have said about Dallas, because I spent some time there during the war and my wife is a Texan from the south-central part of the State and I know Texans. This very tragic murder occurred there, it is true. But should we condemn Dallas forever? In New York City, which is a neighboring city to my district, we have murders there by the hundreds every year and no one suggests we boycott New York City. So I think it is time that we steadied our hand a bit in this country about the city of Dallas. I am delighted that the gentleman made his presentation today to clear the air and the record. I, for one, am very happy that the gentleman has come to the Congress, because I think I am a better Member of Congress for having known him.

Mr. BOB WILSON. I am impressed by the spirited, informative address by our colleague from Dallas. I am hopeful that perhaps his airing of the facts about this much-maligned city will clear from the air the aroma of a peculiar type of hatemonger that in some twisted way finds satisfaction in heaping abuse on Dallas.

These same people may overlook the astonishing crime rate here in Washington, pretend that New York's Central Park is not a lethal jungle and ignore Chicago's frequent gangland killings. But, because of the tragic event of last November 22, brought on by the sick mind of a man not even a resident of that city or State, they have branded Dallas a city of shame.

What I am trying to say, Mr. Speaker, is this: All cities have their problems and it does no one any good to single out one or another for castigation or blame. It would be much better if those who waste their energies in attacking Dallas would devote some thought to helping us clean up the undesirable elements which infest all of our cities.

The people of Dallas have built a thriving, handsome city. No amount of carping by caustic critics can erase the solid civic accomplishments outlined by our colleague, the gentleman from Texas [Mr. ALGER].

We in the House have become better aware of the attributes of this beautiful city through the persuasive representation of Dallas' own Congressman, BRUCE ALGER. He is truly an ambassador of good will from Dallas, and I deem it a privilege to stand and work beside him here on the floor.

An informative column from Newsweek magazine on April 27 by Raymond Moley covers some of the problems of getting a true perspective on the problem. Under unanimous consent I include this column as a portion of my remarks today:

[From Newsweek magazine, Apr. 27, 1964]

### IN DEFENSE OF TWO CITIES

(By Raymond Moley)

It is one of the most familiar marks of pseudointellectualism to draw categorical conclusions from isolated instances. Superficial commentators, even far removed, may fatten up their dispatches by drawing an indictment of a city because of some event that happens to take place within that specific municipality.

Two cities which I have visited this spring have suffered keenly from such prejudicial publicity and the generalizations derived therefrom. These are Birmingham and Dallas. Moscow and Peiping, taking their cue from our own published accounts, have seized upon the names of these two cities as weapons in their propaganda war against the United States.

The events that brought attention to these cities were quite different. For more than 2 years Birmingham was a target of groups and individuals concerned with enlarging the rights and opportunities of Negroes. Dallas has been misrepresented because it was the scene of President Kennedy's assassination and the wretched Ruby case.

Birmingham is a growing community which derives its strength from large industries that serve the Nation. It ranks with northern and western cities not only in its economic promise, but in cultural concerns. In viewing its downtown area or its beautiful suburbs, one might think himself in Omaha or Columbus.

#### SIGNS OF PROGRESS

A year before the Birmingham demonstrations of April 1963, a committee of 100 business and professional leaders set to work amicably to adjust race relations. This group had the help of a biracial subcommittee. Distinct progress was being made. Later, Washington sent Kenneth C. Royall and Earl H. Blaik to survey the situation, to make recommendations, and report. They carried out their mission with sympathy and understanding. The only changes they recommended were the formation of another civic committee and the employment of some Negroes in the police department. The first suggestion was complied with. The second was accepted and some progress was made, although it was difficult to find Negroes with the essential qualifications to be police officers.

It is a matter of doubt whether some of the crimes for which Birmingham is blamed were actually committed by people from Birmingham or even by citizens of Alabama. Birmingham has been invaded by many unsavory outsiders. A Federal grand jury indicted eight men in September 1963 for acts of violence. Three were from northern cities, two were from Georgia, and only one was a resident of Birmingham.

#### LINGERING RESENTMENT

Meanwhile, distinct progress has been made in integration. Negroes are now able to avail themselves of bus service on an equal basis. They can use parks and community houses, lunch counters, and the municipal golf course. Three of the city's schools are integrated.

The four months' publicity bath of Dallas has been concluded with the end of the Ruby trial. But in the course of a luncheon with about 20 business and professional leaders and public officials, I learned from some fairly frank expressions that resentment still lingers concerning the manner in which media of communication have characterized the city. There has been an altogether unjustified charge that Dallas is the center of extremism "of the right." There is no more extremism in Dallas than in dozens of other cities over the Nation, although the city has shown notable conservative tendencies in its elections. It has a Republican mayor and has elected a Republican Member of Congress in several elections. Its city government is far above the national level in efficiency. The assassination was the act of an individual who might have been present in any city in which the President appeared, even in Washington, the scene of the violent deaths of two earlier Presidents.

A Birmingham citizen commented that while the ninth commandment condemns bearing false witness against a neighbor, a greater sin is to bear false witness against a whole city. I would suggest to people in the North and West that there is glass in all our houses.

Mr. MARTIN. Mr. Speaker, one of my closest friends and one of the people in government whom I admire the most is BRUCE ALGER, who represents the city of Dallas in the Congress. Having been in the food manufacturing and distributing business for many years before entering public life, I had the opportunity to know the great city of Dallas well. I have also had a chance to work with many of its civic and business leaders for whom I have great respect and admiration.

Congressman ALGER is one of those rare people whom we have the opportunity occasionally to meet, to know, and to work with. He stands solidly on conviction. His philosophy of life and government is heavily interwoven with the heritage, history, and sacrifices which make up the great American consensus.

The city of Dallas has much to give to the well-being of the great country. Her built-in resources and the skills of her manpower make Dallas high on the asset list on the American balance sheet. I think BRUCE is fortunate in representing this great area and equally do I think Dallas has fine representation in the Congress of the United States.

Mr. LIPSCOMB. Mr. Speaker, I want to join in commending Congressman BRUCE ALGER for his statement today to the House of Representatives in behalf of Dallas, Tex. Certainly his comments should help put to rest the unfounded attacks that have been made against that outstanding American city. It is typical of this hardworking Member of the House to assume the burden of helping set the record straight.

BRUCE ALGER has established a reputation as being devoted to advancing the cause of constitutional government and to preserving freedom for all citizens and the economy against the encroachments of centralized government.

The people of Dallas are very fortunate in having Congressman BRUCE ALGER representing them in the U.S. Congress. I am happy to join with colleagues in the House today in congratulating BRUCE ALGER on the fine job he is doing for his district, State, and Nation.

Mr. McINTIRE. Mr. Speaker, I rise to salute our distinguished colleague, BRUCE ALGER, and to commend him highly on his very effective and devoted work as a Member of Congress and Representative of the Fifth District of Texas.

I have visited Dallas many times and particularly admire the city and its people. The city is dynamic, the people very friendly, and certainly, as a visitor, I have always had great admiration for its spectacular growth. The fine attainments of the past give promise of even greater accomplishments in the future for the city of Dallas.

I am happy to join in warmest tribute to a good friend and colleague as well as pay my sincere respects to Dallas, Tex.

Mr. WESTLAND. Mr. Speaker, on the occasion of the commendable effort by my colleague, BRUCE ALGER, of Texas, to set the record straight with regard to the city of Dallas and the tragic event of last November, I would like to take this opportunity to express my admiration for the representation Congressman ALGER has provided not only the people of his district in the State of Texas, but all the citizens of the United States.

I have been privileged to become well acquainted with BRUCE ALGER during the years we have served together in Congress and through personal acquaintanceship and observance of his untiring efforts on behalf of the best interests of his country, am convinced that he has distinguished himself as one of the best informed and most sincere defenders of our security and well-being.

The people of the district he represents in Texas and of the entire State can be proud of the representation he has provided and grateful for his efforts on behalf of them and their fellow Americans.

Mr. CEDERBERG. Mr. Speaker, I want to commend my colleague, BRUCE ALGER, for his forthright presentation in setting the record straight on the city of Dallas. Certainly, all of us who are familiar with the great contribution this city has made to the State of Texas and the Nation recognize that during the past months this city has been unjustly criticized. The city of Dallas has been well known over the years for its contributions to our religious, educational, and cultural heritage. The people of Dallas can be justly proud of the progress they have made, and I know that in spite of recent events Dallas will continue to be the great American city for which it is well known.

Mr. WYMAN. Mr. Speaker, it is neither fair nor reasonable that the happenstance of a tragic presidential assassination that occurred in Dallas should blacken the city's name. This could have happened in any city. As it turned out, President Kennedy was the victim of the poisonous venom of Marxist hatred, and surely this venom is brewed in the snake of communism, not in an American city.

I hope the report of the Assassination Commission helps to remove the unfounded stigma that many columnists, editorial writers, and others seek to fasten upon Dallas because of Oswald's foul deed. I hope too that this report will fully explain Oswald's visit to Mexico City and whether or not, while he was there, he was in contact with any representatives of Castro's Cuba and whether or not this had anything to do with the assassination of an American President.

Marxist-Leninism's doctrine, embracing the use of violence to overthrow this country, is a tenet that cannot be dispelled even by thinking the "unthinkable thoughts" that some contend we must think to achieve coexistence with communism in an ever-narrowing world living in the shadow of nuclear obliteration. Of course, the mess we are in today largely results from our turning the other cheek as Communist aggression has succeeded in country after country, place after place ever since the end of World War II. No wonder our allies hesitate to side with America the way we retreat, fail to act after talking big, and even dissipate the rallying point that was the confrontation of the so-called quarantine of Cuba in October of 1962.

It behooves all Americans to study well and carefully the tenets of Marxism-Leninism, including some important individuals who have much to do with American foreign policy. These tenets have not changed. Nor can they, whether espoused by a Russian Communist or a Chinese Communist.

From some sources it has been suggested that daring to think unthinkable thoughts about matters such as Communist dedication to the destruction of America is courageous. In a very similar way, some of the attacks on the city of Dallas have been equally infamous.

Mr. Speaker, about the only thing one can say of such talk is that it does not take courage to talk like a coward.

## GENERAL LEAVE TO EXTEND

Mr. ALGER. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include extraneous matter on the subject of my remarks today on the floor of the House.

The SPEAKER pro tempore (Mr. O'BRIEN of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

## THE WORLD'S WORST TIMEKEEPER

The SPEAKER pro tempore (Mr. O'BRIEN of New York). Under previous order of the House, the gentleman from Tennessee [Mr. FULTON] is recognized for 15 minutes.

Mr. FULTON of Tennessee. This Nation has again entered that confusing, confounding season of consternation during which each year we, as a Nation, observe to a limited and varying degree, the practice of advancing our clocks by 1 hour. This is the saving time season, the season of the great time scramble which has earned this Nation the dubious honor of being the World's Worst Timekeeper. The annual time scramble began this year yesterday morning, at 2 a.m. local time, Sunday, April 26.

At that time this is what happened.

Some 24 States, either in toto or on a local option basis, advanced their clocks by 1 hour. Involved were over 100 million Americans living in areas stretching from Maine in the East to far California and from northern Minnesota southward to New Mexico. By the end of October there will be 16 States which will have observed statewide daylight saving time, 13 which will have observed it on a local option basis, and 21 States which have not observed it at all.

In addition, of the 29 States which observe daylight saving time, only 21 advanced their clocks together while only 14 of the 29 return to standard time in October.

For a more detailed illustration of the confusion caused by this crazy-quilt patchwork of time switching, I direct your attention to the following data prepared by the Committee for Time Uniformity.

### I. EXTENT OF OBSERVANCE IN 1963 OF DAYLIGHT SAVING TIME IN THE UNITED STATES[1]

### STATES OBSERVING DAYLIGHT SAVING TIME

Statewide: California, Connecticut, Delaware, Illinois, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont, Washington, West Virginia, and Wisconsin.

Total, 16.

Not Statewide: Colorado, Idaho, Indiana, Iowa, Maryland, Michigan, Minnesota, Missouri, Montana, New Mexico, Ohio, Pennsylvania, and Virginia.

Total, 13.

### STATES NOT OBSERVING DAYLIGHT SAVING TIME

Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming.

Total, 21.

### II. EXTENT OF UNIFORMITY IN DAYLIGHT SAVING TIME SWITCHOVER DATES

(a) Switch from standard to daylight saving time: Of the 29 States observing daylight saving time on both a statewide and local option basis, all except the following five States switched to daylight saving time the last Sunday in April:

State: Colorado.

Area: Aspen, Colo. Daylight saving began: May 26.

State: Michigan. Year-round in isolated areas.

State: Minnesota. Except for border municipalities given local option, balance of State controlled by dates in State law. Daylight saving began fourth Sunday in May.

State: Montana. Anaconda (Deer Lodge County) and Butte (Silver Bow County), daylight saving began Memorial Day.

State: Virginia. Portions of Virginia other than Bristol and 10th election district (adjacent to Washington, D.C.), daylight saving began Memorial Day.

(b) Switch from daylight saving to standard time:

1. Statewide observance: Of the 16 States observing daylight saving time on a statewide basis, all except West Virginia and Wisconsin returned to standard time on the fourth Sunday in October. West Virginia and Wisconsin used instead the fourth Sunday of September.

2. Nonstatewide observance: Of the 13 States observing daylight saving time on a nonnationwide basis, three of them (Minnesota, Montana and New Mexico) returned to standard time in September. Montana and New Mexico observe daylight saving time in very limited areas.

Nine other States (Colorado, Idaho, Indiana, Iowa, Maryland, Michigan, Missouri, Pennsylvania, and Virginia) return to standard time on varying dates ranging from August to October, with some Idaho and Michigan communities even observing daylight saving time on a year-round basis.

Only in Ohio did the counties observing daylight saving time switch back to standard time on the fourth Sunday in October.

3. States observing both the April–October, switchover dates: Fifteen of the 29 States observed the switchover dates of the last Sundays in April and October.

Mr. FULTON of Tennessee. Mr. Speaker, the extremes to which this nonuniform clock tinkering can be carried are ludicrous. We are all, no doubt, familiar with that 35-mile stretch of highway between Steubenville, Ohio, and Moundsville, W. Va., which caricatures this situation. Until 1963 when the State of West Virginia made daylight saving time mandatory on a statewide basis, one could travel this 35-mile length of highway and actually change his clock seven times to conform to local time observance customs.

This is a rare and extreme case. It has been rectified. But it proves just how far the confusion can be extended and for lack of better and more efficient regulation, leaves us with the distinct possibility such a situation could reoccur in many areas of our country again and at any time.

The confusion of these time changes on a nationwide basis has a very decided adverse effect on our commerce, banking, communications, transportation, and on other phases of our national activity.

The transportation industry is especially affected by this annual time-change affliction. The motor bus industry estimates it loses $250,000 a year just in printing costs necessitated by the moving of the clock forward in various areas. The printing of timetables to conform with these time changes costs the Nation's railroads, by their estimates, over a million dollars annually.

In addition to these monetary manifestations, there are innumerable difficulties in shipping and passenger transport which are posed by the nonuniformity of time. From what I have been able to ascertain, there is no solution in sight, nor is there likely to be, unless the Congress accepts this problem as national in scope and takes appropriate steps to solve it. And, it would be well for us to act now before the situation further deteriorates.

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[1] These data have been derived from 1962 reports received from the individual States, as adjusted by 1963 reports received as of April 25, 1963.

There is precedent for action by the Congress in this field. I recall the Congress determined during World War II that this Nation could not afford to endure the annual time scramble because of its critical impact on the economic efficiency of our defense effort and to remove this impact, year-round daylight saving time was legislated.

Along with precedent it is my conviction the Congress has the constitutional authority for such action under the weights and measures clause.

During the first session of this Congress, I introduced a bill which would simply and finally put an end to this annual time scramble and ensuing confusion. This bill, H.R. 6284, would vest in the Congress the responsibility for regulation of the Nation's time. As originally introduced, H.R. 6284 would require that all clocks in the Nation be moved ahead 1 hour on the last Sunday of May each year. They would revert to standard time on the first Sunday in September.

However, because these dates are not in harmony with the date of execution in the majority of those States which observe daylight saving time, it is my intention to amend H.R. 6284 whereby the effective dates would be 2 o'clock antemeridian on the last Sunday in April of each year and shall end at 2 o'clock antemeridian on the last Sunday in October of each year. This would terminate the annual time scramble confusion.

There would appear to be a valid and demonstrated need for saving time. The purpose of daylight saving time is to save daylight during the summer months. This is especially important in our large trade areas and it will be noted that New England, along with New York and New Jersey, by population our Nation's largest and one of the Nation's most important trade areas, with nearly 34 million inhabitants, annually observes daylight saving time.

In the Midwest, the important lake-trade States of Wisconsin, Illinois, Indiana, and Ohio, with a combined population in excess of 28 million persons, annually observe daylight saving time.

The entire length of our west coast, with its important trade centers, observes daylight saving time. Over 20 million Americans are affected by these annual time changes in the three Western States of Washington, Oregon, and California.

In all, over half our States and half our population favor fast time during the summer, and this in areas where time has a direct effect on trade and commerce. This fast time can be viewed as almost a necessity in these areas.

Now, it would be ideal if there were no necessity for uniformity of time, if one State could have this time, another State a different time, with no effect on any institutions outside its borders.

Unfortunately, the conduct of today's business, commerce, and communications, both public life and private, in one part of the Nation is bound integrally and often intricately to all other areas of the Nation.

H.R. 6284 recognizes, if not the necessity at least the high desirability of providing daylight saving time for those areas I have previously mentioned.

Today, though my district of Nashville is only 500 miles to the west of Washington, there is a 2-hour time difference. If I leave my office here before 8 in the evening, people who call at 6 p.m. Nashville time find me gone and suspect me of being derelict in my duty unless they realize the timelag.

If I were to fly home this evening, I would arrive three minutes after I leave, according to airline schedules. When it is noon in Washington it is 10 a.m. in Nashville, some 500 miles to the west. Yet it is also 10 a.m. in the Texas Panhandle, over 1,500 miles to the west, or half way across the continent.

In essence then, H.R. 6284, as amended, would end the time confusion in this country by setting up a uniform schedule of saving time which would be observed across the Nation in every locality for 6 months each year. Control would be taken from the Interstate Commerce Commission, which has indicated a willingness to relinquish this prerogative, and would be vested in the Congress.

This, to my thinking, is the simplest and most comprehensive solution to the problem.

## THE IMPORTED MEAT AND MEAT FOOD PRODUCTS LABELING ACT

Mr. LONG of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. FULTON of Tennessee. I yield to the gentleman from Louisiana [Mr. LONG].

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, this body is well aware of the controversy that has raged in recent months over the depressed market for American-produced beef. We have seen discouraging reports that during this year, our farm income will drop, while production costs rise; we have learned to our dismay that related industries, all dependent on a healthy agriculture, are expecting serious slowdowns in sales.

The beef industry has been under particular stress; and the Congress has been asked to do something.

To be completely fair, our Government is already doing something. This February our country negotiated voluntary import restrictions to cut back on the meat being brought in from Australia and New Zealand.

Despite this move, however, our cattle producers say that the amount of beef imported is still too high. I think there can be little doubt that the flow of imported beef has had an effect on reducing the price of beef, though I would like to make it emphatically clear, that I do not believe this is the whole reason.

At this time I think we should clear the air a little on just what is and what is not responsible for the beef situation. Before I do, however, I would like to discuss for a moment why I think that import quotas—while perhaps the surest solution—are not necessarily the best solution.

Like many of my colleagues, I have introduced a measure calling for limitation of imports; but I recognize some dangers in that approach.

For one thing, I fear that following this course may set a precedent which could harm our bargaining in the avenues of world commerce. We are entering some crucial talks at the Kennedy round, and I have been told by competent authority that placing new import restrictions on these Commonwealth countries, before the ink on a voluntary restriction program is completely dry, will hurt our attempts to bargain effectively. To maintain our firm posture as an international force, we must trade; and anything that impairs a free flow of goods is a danger to that posture.

If this sounds as though I am arguing against my own import quota bill, perhaps I am. But I emphasize that unless some other way is found to stem the flow of this imported meat, we should enact quota restrictions immediately.

With your indulgence, I would like to present some facts regarding the beef import situation and its effect on our markets.

The Library of Congress tells me that, since 1955, the importation of beef and veal has grown consistently. Starting in 1955, 229 million pounds came into the country. It dropped slightly in 1956 to 211 million pounds. In 1957 it went to 395 million pounds, and from then on it snowballed. In 1958 the total was 909 million, in 1959 1,063 million pounds. In 1960 it took a drop back to 775 million, but did not stay there long. In 1961 the total grew to 1,037 million, then to 1,445 million pounds in 1962. The preliminary figures for 1963 were estimated at 1,750 million pounds—over seven times the 1955 total.

In 1963 the import of beef and veal represented 11 percent of the U.S. production.

Assistant Secretary of Agriculture Roland R. Renne said in a recent speech that in 1962 and 1963, over half of the beef moving in world trade was imported into the United States. And the thing that has encouraged this growth has been the import restrictions placed on other major markets.

The United States is the only major beef market without any quantitative restrictions and with a very nominal fixed import duty. Therefore, the door has been left ajar for what I feel is an abuse of our domestic market, to the detriment of the U.S. cattle raiser, and with little apparent effect on what it costs the consumer.

The voluntary limitation agreed upon February 17 does not reduce this flow greatly; it freezes it at the 1962 level, about 6 percent below the 1963 imports.

Most of the beef which comes into this country is of standard or utility grade, used primarily for hamburger, lunch meat and sausage. Much of the meat produced in my State of Louisiana is of this grade, also.

The president of the Wisconsin Packing Co., Floyd Segel, says that, and I quote:

> Low-grade imported meat has a subtle but serious effect on cattle production in the United States. Cows are a normal source of

> manufacturing meat. With cheaper beef flooding the United States, domestic cow prices at the packinghouses have been poor. As one result, instead of culling many old cows from their herds, ranchers have left them around for another year to get still one more hundred-dollar calf from them. The result: more calves on the range and, in turn, more animals crowding the feed bunkers.

Some of our producers blame all the decline in fed-cattle prices—which has been as much as 25 percent at times—on the imports.

However, there is another fact to be considered here, and I think we ought to realize it; according to the Department of Agriculture, the production of fed beef increased by 11 percent in the United States last year. If we accept the experts' estimates that there is usually a 13- to 14-percent drop in prices when production increases by 10 percent, we have to realize that not all the blame can be laid on the imports.

From 1962 to 1963 there was an increase of 1.1 billion pounds of beef sold for slaughter from U.S. herds, and an increase of about 300 million pounds of imported beef and veal. This means that the imported meat really accounted for about 20 percent of the increased beef and veal marketed in this country.

Since the production and marketing of fed beef was substantially higher in 1963 than in 1962, it is clear that this increased marketing added to the volume of imports, has been responsible for the drop in prices.

The question is, Which way to go now? With the present quotas, imports will drop a little, but I do not think this is going to solve the problem entirely. I have already discussed the shortcomings of import restrictions.

One positive step that we can take, which would not impair our trade agreements and yet which would substantially reduce the amount of foreign-produced meat sold in this country is the bill which I am introducing here today. Titled the "Imported Meat and Meat Food Products Labeling Act," this measure has two purposes:

First. To positively and clearly outline provisions for the protection of American consumers by telling them when the meat they are purchasing is a foreign product; and

Second. An unwritten purpose—to foster and promote, through the application of this act, the consumption of domestic beef.

Unlike many measures which have been drawn to accomplish the same ends, this bill does not place an undue burden on the merchant; its provisions are temperate and enforceable. I believe this would be good legislation, even if there was no problem in our domestic beef industry.

I believe it is the inalienable right of a consumer to know when he is buying an imported product. This theory has been carried through successfully in practically every other imported item offered for sale by our merchants. And yet this meat, which by its sensitive nature should receive especially careful handling, is allowed to go on the dinner plates of unsuspecting Americans without the purchaser ever knowing it was imported. If the housewife chooses to buy hamburger meat made primarily from Australian beef, she has the right to do so. But she should at least have the freedom of choice.

Much has been said—much more will be spoken in the weeks ahead—about the problems besetting our domestic markets. I am afraid that there is a tendency to blame everything on the imported product. We cannot live in an isolationist world, importing only those things that will not compete with our own industry. But we can show our faith in the American system of enterprise by proving to the world that we can compete—given a fair chance.

The bill I am offering today is an attempt to get that "fair chance" for our people, consumer and producer alike. I commend it to your careful consideration.

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## BRITISH USE UNITED STATES TO PROTECT THEIR OWN INTERESTS

Mr. ROGERS of Florida. Mr. Speaker, will the acting majority leader yield?

Mr. FULTON of Tennessee. I yield to the gentleman from Florida.

Mr. ROGERS of Florida. Mr. Speaker, the visit of British Foreign Secretary Richard Butler to the United States is reportedly to seek U.S. support for British policies in Malaysia, Cyprus, Africa, and the Middle East.

Apparently they want to be assured of U.S. support should Indonesia attack Malaysia, which is a former British colony. The British wish to warn that such an attack would involve the United States as well as Great Britain.

Thus the British seek to use this Nation to protect interest in their own area of interest. However, have we received similar cooperation from Britain in our efforts to curb Castro? Certainly not.

Castro is obviously weaker now than he has been for some time. Just last Friday Cuba was forced to purchase 20,000 tons of sugar in the international market. This is pitiful testimony in light of the fact that sugar was long the sole principal crop of the Cuban economy.

Mr. Butler's attempts to seek U.S. support for British policies in Malaysia, Cyprus, Africa, and the Middle East warrant U.S. consideration, but only after we have received greater support from the British for our policy of stemming communism from Cuba. A first step would be to stop British shipping to Cuba.

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## AMERICA'S FOREMOST ECONOMIST, LEON H. KEYSERLING, TESTIFIES ON BAD EFFECTS OF TIGHT MONEY AND HIGH INTEREST RATES IN A 12,000-WORD CRITIQUE OF THE FEDERAL RESERVE SYSTEM PRESENTED WEDNESDAY, APRIL 22, 1964, TO THE DOMESTIC FINANCE SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY

The SPEAKER pro tempore (Mr. O'BRIEN of New York). Under previous order of the House, the gentleman from Texas [Mr. PATMAN] is recognized for 60 minutes.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, the other day the Subcommittee on Domestic Finance of the House Banking and Currency Committee, of which I am chairman, had before it a great American, the Honorable Leon H. Keyserling. He is an economist of the highest order who holds many noteworthy titles. He was Chairman of the President's Council of Economic Advisers during the Truman administration. And while he held that position one fact is outstanding—interest rates were kept at a reasonable level. If we had had the Truman interest rates since 1952, instead of the increased rates that have plagued us, our country would be saving billions of dollars every year on the cost of interest on the national debt alone.

There is not a man in America who knows this story better than Leon Keyserling. As a matter of fact, I do not believe there is a superior authority to his in the field of monetary science in the entire world.

Mr. Keyserling is a dedicated person. You will find him working in the public interest wherever he happens to be—whatever the task before him.

Mr. Speaker, Mr. Keyserling presented our committee with a 12,000-word document on our monetary system, interest rates, full employment, and credit. It is a critical evaluation of the Federal Reserve System. It is so outstanding, and it so impressed the Members of Congress who were present, that I am putting Mr. Keyserling's entire presentation in the RECORD for the benefit of all the Members of the U.S. Congress.

Of all the testimony that has come before our Subcommittee on Domestic Finance since we began hearings on the Federal Reserve System on January 21 of this year, the most erudite, penetrating, and significant, has been that of Mr. Leon Keyserling. Had his policies been in effect, rather than the tight money, high-interest-rate policies of the Eisenhower regime, this Nation might well have avoided three depressions—those of 1953–54, 1957–58, and 1959 and 1960.

In July of 1953, interest rates on Government securities began to rise. The growth of the money supply fell steadily beginning in January 1953, and by July was at an annual rate of less than 1 percent. When money becomes tight to all and unavailable to many, a depression is inevitable. We had a depression which did not end until August of 1954 and which cost America billions of dollars and thousands of our citizens their jobs.

The next economic disaster began in July of 1957 and lasted until April of 1958. Interest rates had started to rise in the middle of 1956. The yield on long-term Government securities rose from 2.85 percent in February 1956 to 3.73 percent by November 1957. The growth of the money supply fell below 1 percent in the spring of 1956. It went to 2 percent at the end of that year, but then fell back again. By the spring of 1957 the money supply was actually decreasing, and it was to continue to decrease until the beginning of 1958.

The most recent recession began in May of 1960 and lasted until February of 1961. Once again we find interest rates rising and the growth of the money supply falling just before the downturn. Interest rates started to rise in the spring of 1959 and peaked in the winter months of 1959 and 1960. And too, the money supply, beginning in late 1959, began to decline once again and continued to fall until June 1960.

It is these depressions, or recessions as the big financial people prefer to call them, that need not have occurred had Leon Keyserling's ideas been in effect. Instead, we had credit, interest rates, and volume of money, determined by the Federal Open Market Committee of the Federal Reserve System, operating independently, uncontrolled, and even at variance at times with the official policy of the U.S. Government.

Bear in mind, Mr. Speaker, that the volume of money, that rate of interest, are crucial factors in the determination of consumer spending on durable goods, on housing, and all business borrowings and investment. It is this power that rests in the hands of the Federal Reserve System, as our financial structure is now constituted. Leon Keyserling deplores this. The policies enunicated by him call for a healthy economy, including full employment, stable prices, and maximum production.

In recent months the volume of money has been increased at a rate which most experts deem essential for our economy to achieve the goals of the Full Employment Act. Some say the Fed generated this recent expansion of the money supply only in order to take the steam out of the critical testimony we have heard about its policies from the experts who testified before our subcommittee. Others say this recent expansion is just a "happy accident," citing the fact that the Open Market Committee has claimed it has been tightening up in the past year. We do not know which of these explanations is correct. Furthermore, the Congress has no means of finding out because the Open Market Committee will not let us see the minutes of their proceedings.

But we do know that if the Federal Reserve acts—whether deliberately or passively—in such a way that the growth of the money supply again falls and interest rates again rise, we are going to have another recession.

As you know, Mr. Speaker, President Johnson has, on several important occasions, stressed the great need for low interest rates. In the Economic Report of the President, in his budget message, and more recently, in his March 7 press conference, President Johnson very emphatically stated the case that higher interest rates might offset some of the benefits of the tax cut and otherwise deprive the Nation of ample, low-cost capital vitally needed for continued economic expansion and fuller employment without inflation. High interest rates, Mr. Speaker, add greatly to the Government's debt burden even in times of prosperity. But when high interest rates contribute toward lagging economic activity, the day of the $600 billion national debt cannot be far off.

Mr. Speaker, last Wednesday, April 22, we were privileged to hear Leon H. Keyserling, one of the Nation's foremost experts on our free enterprise economy, testify on the Federal Reserve System. Mr. Keyserling's presentation was tremendously effective.

Mr. Speaker, I only wish that all Members of Congress, particularly, could have heard America's foremost economist, the Honorable Leon Keyserling.

Mr. Keyserling's text I will read into the RECORD as follows:

### THE PREVALENT MONETARY POLICY AND ITS CONSEQUENCES

(Testimony of Leon H. Keyserling,[1] before the House Banking and Currency Committee, Wednesday morning, April 22, 1964)

Mr. Chairman and members of the committee, I appreciate highly this opportunity to testify in the course of your thorough and commendable examination of the monetary policies of the Nation. As you know, this is a subject upon which I have been working with considerable concentration for many years.

I want to state emphatically at the outset that my criticism, throughout this testimony, of prevalent monetary policy implies no criticism whatsoever of President Johnson or his administration. The Federal Reserve System and the Federal Reserve Board, which determine this monetary policy, have evermore insistently in recent years asserted their "independence" of the executive branch. Those who assert this "independence" cannot have their cake and eat it too. Since they take policy steps which appear to be compatible with the policies of the administration when they so desire, and take policy steps clearly in conflict with the policies of the administration when they so desire, they cannot in fairness ask that the blame for those of their own policies which turn out to be erroneous be shared with the administration. Second, even to the extent that the administration may have some persuasive power or influence at some times with respect to the Federal Reserve Board, President Johnson clearly has not been in office long enough—especially in view of his manifold other problems—to have effected thus far appreciable changes in Federal Reserve policies—policies which have been adhered to so vigorously and even dogmatically ever since the sharp changes in these policies which commenced with the so-called accord between the Federal Reserve Board and the Treasury in March 1951. Based upon the heartening innovations which President Johnson has thus far made in national economic policies, especially the war against poverty, I am convinced that in due course he will use his great influence to help bring monetary policy into line with his own sound and humane objectives for the U.S. economy. Meanwhile, I do commend the President and the administration for their efforts to achieve improved coordination between the policies of the Government and those of the Federal Reserve Board.

I recognize that there are many and profound differences of opinion, with respect to monetary policy in general and the Federal Reserve System in particular, among experts and other informed people. I respect the views of those who differ with me on this difficult subject. But in fairness to myself as well as to others, I should state the fact, well known to this committee, that in recent years a wide range of experts and other informed people in many walks of life have become increasingly critical of many aspects of the prevalent monetary policy and of the Federal Reserve System and Board. Indeed, it seems to me surprising that this temperate and well-reasoned criticism, so largely vindicated by actual economic and financial developments, has thus far had so little impact upon the actual policies of the Federal Reserve System and Board. The line between warranted steadfastness and unwarranted obstinacy is a hard one to draw, but in the final analysis this line will need to be drawn by the Congress of the United States which is charged with evaluation and supervision of the policies of the Federal Reserve System and Board. This committee is now contributing importantly toward fulfillment of that great responsibility.

My testimony divides rather naturally into the following parts:

First, I shall depict the direct costs of tight money and rising interest rates since 1952, how these increased costs have borne down upon all levels of government, individuals, and private economic groupings, and how alternative utilization of the huge amounts involved in these increased costs would better serve the interests of the economy, the Nation, and the people. I shall also project into the future these direct costs, if the prevalent monetary policy were to continue.

Second, I shall analyze the damaging effects of the prevalent monetary policy upon the U.S. economy as a whole to date, primarily in terms of our objectives for adequate economic growth and the reduction of unemployment, but with due regard also for other priorities of our national needs.

Third, I shall discuss our current and prospective economic problems and needs, and relate these to the prevalent monetary policy.

Fourth, I shall attempt to answer some of the main arguments advanced in support of the prevalent monetary policy, particularly the argument that it is useful on the ground of preventing or restraining inflation, and the argument that it is necessary or desirable toward the end of dealing with our gold and balance-of-payments problem.

Fifth, I shall make a few general policy suggestions, although I think that the policy implications will emerge clearly from my economic and financial analysis.

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[1] Former Chairman, Council of Economic Advisers; consulting economist and attorney; president, Conference on Economic Progress.

## A. THE DIRECT COSTS OF TIGHT MONEY AND RISING INTEREST RATES

### THE RISING COSTS OF THE FEDERAL GOVERNMENT

My chart 1[2] shows that, comparing 1963 with 1952, the interest rates on new borrowings by the U.S. Treasury rose 82.3 percent for 3-month bills, 81.2 percent for 9- to 12-month issues, 74.6 percent for 3- to 5-year issues, and 49.3 percent for long-term bonds. While rising consumer prices are in themselves no justification for rising interest rates, it is important to note that consumer prices rose only 15.4 percent over the same span of years.

Within this long-term upward movement of these interest rates, the fluctuations on a yearly basis have tended to conform to the fluctuations of the business cycle. The extent to which this means that monetary policies have responded to the business cycle, and the extent it means that the business cycle has been affected by monetary policies, will be discussed subsequently in my testimony.

Generally speaking, the peak of these interest rates was reached in 1959. But it seems likely that, before the upward movement of the economy which commenced early in 1961 comes to an end, the 1959 peak will be exceeded if the current intentions of the monetary authorities are not altered. In fact, on long-term bonds, the 1963 interest rate was practically the same as in 1959.

Commencing with early 1961, the intention was declared to lift short-term interest rates sharply, in order to deal with the gold and balance-of-payments problem—which I shall discuss in detail later on—while it was claimed that long-term interest rates would be held or reduced to accelerate economic growth at home and reduce unemployment. The fact, however, is that interest rates on long-term bonds and 3- to 5-year issues moved upward, comparing 1963 with 1961, illustrating the virtual impossibility of limiting the rise in interest rates to short-term issues. Indeed, it appears that the only reason why interest rates on long-term issues have risen less since 1961 than interest rates on short-term issues is that the latter were reduced much more than the former from 1959 to 1961. In 1963, the spread between the interest rates on long- and short-term issues was greater than in 1959.

The impact of various changes in interest rates for new borrowings by the Treasury upon the computed average interest rate on the total Federal public debt has depended upon the changing distribution of this debt among different types of securities. In the overall, comparing 1963 with 1952, as shown by my chart 2, the percentage increase in average interest rates on the total Federal public debt was 45.2 percent. The peak thus far was in 1963, when the computed average interest rate was about 10 percent higher than in 1961, and even more above the 1959 level. The bottom right-hand box in this chart brings forth my first main fact with respect to the cost of rising interest rates: for the period 1952–63 as a whole, the actual interest charges on the U.S. public debt have been $15.7 billion higher than they would have been if 1952 rates of interest had been maintained.

### THE RISING COSTS TO STATE AND LOCAL GOVERNMENTS

Chart 3 shows that, comparing 1963 with 1952, the interest rates on new borrowings by State and local governments went up 47.7 percent; the computed average interest rate on total debts outstanding went up 23 percent; and the actual interest charges for the period, as a whole, were $2.3 billion in excess of what they would have been if interest rates had been maintained at 1952 levels. In view of the relative fiscal vulnerability of State and local governments compared with the Federal Government, it is highly probable that the burden of rising interest costs has hurt them much more.

### THE RISING COSTS ON TOTAL PRIVATE DEBTS

Chart 4 shows that, again comparing 1963 with 1962, the computed average interest rate on the total interest-bearing private debt rose 19.3 percent, entailing for the period as a whole interest costs $32.1 billion in excess of what they would have been if the 1952 levels of interest rates had been maintained, I shall shortly detail the impact of this upon various types of private borrowers.

### THE $50.1 BILLION TOTAL COST TO DATE

Chart 5 indicates that the computed average interest rate on all public and private debts combined rose 39.7 percent, comparing 1963 with 1952. This computed rate was higher in 1963 than in any previous year since 1952, and more than 7 percent above the 1959 period. For the 1952–63 period as a whole, the interest paid on total public and private debts was $50.1 billion higher than if interest rates had been maintained at 1952 levels.

### THE RELATED PROBLEM OF INCOME DISTRIBUTION

Rapidly rising interest rates have a profound effect upon the distribution of income, because in the overall those who lend money are in much higher income groups than those who borrow money. My chart 6 shows that total private and public interest payments rose from about 5.2 percent of total gross national product in 1952 to about 8.3 percent in 1963. Measured in uniform 1963 dollars, gross national product rose only 39 percent from 1952 to 1963. Total personal income rose only 44.4 percent, and wages and salaries only 45.4 percent, while farm proprietors' net income fell 23.8 percent. Meanwhile, dividend income rose 54.8 percent, and personal interest income rose 108.3 percent. I shall have much more to say later on about the economic and social consequences of these highly differentiated income trends within the American economy.

### THE RISING COSTS TO HOME OWNERS, CONSUMERS, AND FARMERS

Let us now examine in more detail how the cost of rising interest rates have borne down so heavily upon important sectors of our people. Comparing 1963 with 1952 as shown on my chart 7, the interest rates on new home mortgages have risen 27 percent, or from 4.29 percent to 5.45 percent, in the case of mortgages insured by the FHA; 31 percent, or from 4.05 percent to 5.30 percent, in the case of new home mortgages involving the Veterans' Administration; and 13 percent, or from 5.20 percent to 5.90 percent, in the case of conventional housing. It is to me most disturbing that by far the biggest lifts in interest rates have applied to types of housing conducted under Federal legislation which was designed initially for the prime purpose of bringing housing costs within the means of our middle- and low-income families. I shall stress later on in my testimony the damaging consequences of these housing interest rate policies upon economic growth and employment. Suffice it to say at the moment, as shown in the lowest right-hand box on the chart, that the rising interest rates on 1 to 4 family nonfarm home mortgages during the period 1952–63 as a whole have cost homeowners $6 billion more than they would have had to pay if their interest rates had been held at 1952 levels. This $6 billion alone is enough to cover the capital cost of between one-half a million and a million new homes for middle- and low-income families.

Carrying this particular analysis one step further, my chart 8 shows that, viewing a new home in 1963 valued at $10,000 the total mortgage payments by the homeowner would range from $576 higher in the case of a 10-year mortgage to $2,196 higher in the case of a 30-year mortgage, than if the 1952 level of interest rates had been maintained.

Taking another example, my chart 9 shows that, due to rising interest costs, those who borrow in the form of consumer credit have paid out almost $2.6 billion more in interest during the period 1953–63 than they would have paid if the 1952 levels of interest rates had been maintained. Projecting ahead, the same chart shows that this type of borrower, if prevalent monetary policies continue, will pay out more than $5.5 billion in excess—compared with 1952 rates—interest during the period 1964–70, thus involving an excess interest toll of more than 8 billion for the period 1953–70.

Similarly, my chart 10 indicates that those paying interest on the farm mortgage debt have paid out almost half a billion dollars in excess interest costs during the period 1953–63 and would pay out more than another 1¼ billion in excess interest costs during the period 1964–70 if prevailing monetary policies persist. These estimates are horrible to contemplate, particularly in view of the terrible deflation in the farm income during the past decade and still in process.

### ADVERSE EFFECTS UPON SMALL BUSINESS

The policy of tight money and rising interest rates has very different effects upon different business firms, depending upon their size. There are several reasons for this, the most important of which is that smaller firms depend much more upon borrowing than larger firms. My chart 11 shows that, in 1963, debts as a percentage of assets of manufacturing corporations were only 24.6 percent in the case of all manufacturing corporations, but 39.8 percent in the case of manufacturing firms with assets under $1 million. The same chart estimates that manufacturing firms with assets under $1 million paid out almost one-half billion dollars in excess interest costs during 1953–63, and would pay out more than another $900 million in excess interest costs during the period 1964–70 if prevailing monetary policy persists.

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[2] The charts referred to in the study have not been reprinted for the RECORD. They will be in the printed copy of the hearings of the committee.

The top half of chart 11a depicts the rate of after-tax profits on stockholder's equity, with respect to manufacturing corporations. During almost all of the period since 1947, and during all of the period since 1952, the rate of profits for small- and medium-size business has been very much lower than for large business. In 1963, the rate was 8.2 percent for firms with assets under $1 million and for firms with assets ranging from $1 million to $100 million, while the rate was 10.3 percent, or more than 25 percent higher, for firms with assets over $100 million.

Of far greater significance, certainly in evaluating the consequences of unavailable or excessively costly credit, is the lower half of the chart dealing with business failures. Looking at failures per 10,000 firms in all size classes, the number of failures rose from 14.3 in 1947 to 33.2 in 1953 and 56.3 in 1963. Arranging these same 10,000 firms by size class, the number of failures of firms with current liabilities under $100,000 rose from 12.8 in 1947 to 30.2 in 1953 and to 47.7 in 1963, while the number of failures of firms with assets of $100,000 and over stood at 1.5 in 1947, 3.0 in 1953, and 8.6 in 1963. For the period 1947–63 as a whole, more than 90 percent of the firms failing had liabilities under $100,000.

### BENEFICIAL EFFECTS UPON BANK EARNINGS

Of course, the monetary policy under review has not been bad for everybody. My chart 12 shows that, comparing 1963 with 1952, while total national production measured in curent dollars rose 69 percent, the earnings of Federal Reserve member banks on their loans rose 179 percent, and their earnings on U.S. Government securities—really windfall earnings—rose 82 percent. Their net current earnings rose 92 percent, and their net profits after taxes rose 105 percent. Their cash dividends declared rose 113 percent.

### HOW THE EXCESSIVE INTEREST PAYMENTS TO DATE COMPARE WITH THE COSTS OF REDUCING POVERTY

Somewhat earlier in my testimony, I set forth my estimate that interest payments on total private and public debts during the period 1953–63 as a whole were $50.1 billion higher than that would have been if the 1952 levels of interest rates had been maintained. Later on in my testimony, I shall show how the regressive distribution of income resulting from these higher interest rates, along with other regressive policies, have done grave damage to the whole economy. But first, let us examine how this $50.1 billion in excessive interest payments might have been put to better use by means of alternative national economic policies.

As a starting point, in view of the high current interest in the poverty problem, let us assume that our national policies had held interest rates at the 1952 level, and utilized other policies and programs to direct a $50.1 billion flow of additional income into the hands of those who need income supplementation far more than the recipients of higher income payments. My chart 13 shows the number of Americans living in poverty in 1961—about a fifth of a nation. The bottom half of my chart 14 shows that, if the $4.6 billion average annual amount of excess interest payments during 1953–63 had been used to supplement the incomes of multiple-person families with incomes under $4,000 in 1961, this would have lifted the average $2,513 income of these families by $442. If the same amount of excess interest payments had been directed to the 6.3 million multiple-person families with incomes under $3,000, it would have lifted the average $1,849 income of these families by $730. If the same amount had been applied to the 3.2 million multiple-person families with incomes under $2,000, it would have lifted the average $1,217 income of these families by $1,438. This should give pause to those who have so blithely assented to the rising interest rate policy. It should indict those who have been responsible for this policy.

### EXCESS INTEREST COSTS TO DATE COMPARED WITH OUTLAYS IN THE FEDERAL BUDGET

Another way of looking at the problem is to contrast the excess interest costs with those outlays in the Federal budget which are closely related to the war on poverty in particular and to human advancement in general. My chart 15 undertakes this demonstration, dealing both with annual averages during the period 1953–63 and with 1963 alone. In 1963, for example, the excess interest cost of more than $3 billion on the Federal public debt was not far from twice as large as the proposed fiscal 1965 budget outlays for education or health services and research, a great deal larger than the proposed fiscal 1965 budget outlay for public assistance, and more than 2½ times as large as the proposed fiscal 1965 budget outlay for labor, manpower, and other welfare services. If one looks at the averages for the whole period under review, as shown on the same chart, the comparisons are even more startling. And if one looks at the more than $9.3 billion excess interest costs on total public and private debts in 1963 alone, this figure comes to almost one-third more than the total of all proposed Federal outlays in the fiscal 1965 budget for education, health services and research, housing and community development, public assistance, and labor, manpower, and other welfare services. It is, of course, true that this entire $9.3 billion in excess interest payments in 1963 did not flow from the Federal Government; but nonetheless, national monetary policies provided the push for the increases in all private and public interest rates. It follows that alternative national economic policies could have given the push for combined Federal, State, and local action, and private action also, which would have directed this $9.3 billion toward the economically more constructive and socially more worthy purposes to which I have just referred. To take one illustration: Three-quarters of our more than 18 million senior citizens live in poverty. Even a portion of this increased interest cost, if replaced by higher payroll-tax collections under the old-age insurance system, would lift millions of these old people out of poverty.

### THE TREMENDOUS THREAT OF RISING INTEREST RATES IN FUTURE

All that has transpired thus far is only prelude, when we consider the upward movement of interest rates since early 1961 as already depicted, and when we confront the declared intention of the money managers to persist in this same policy in the future, at least so long as the economy in general continues to move upward.

My chart 16 looks ahead to 1970. It estimates that, for the period 1964–70, inclusive, the interest charges on the Federal public debt alone will be $27.3 billion higher than if 1952 interest rates had been maintained. It estimates, for the same period ahead, that the interest charges on total public and private debts at all levels will be $88.7 billion higher than if 1952 interest rates had been maintained. I do not now claim that interest rates can be pushed backward easily or quickly to the 1952 levels. Yet, my estimates of where we are going in the years ahead under prevalent monetary policies should serve as a strong warning of the need to commence at once a drastic change in these policies.

### HOW TO FINANCE THE WAR AGAINST POVERTY

My chart 17, in the lower half, shows how the amounts involved in excess interest costs, averaging an estimated $12.7 billion a year during 1964–70, could be used instead toward the reduction of poverty. If applied either to multiple-person families with incomes under $4,000 a year, or to multiple-person families with incomes under $3,000 a year, or to multiple-person families with incomes under $2,000 a year, this huge amount could lift most of the families in the first of these three groups above the poverty level, or lift all of the families in either the second or third group above the poverty level. If applied to all three of these groups simultaneously, in the form of direct income supplementation and needed public services, it would go a very long way toward the eradication of poverty in the United States by 1970.

### HOW TO FIND ROOM IN THE BUDGET FOR WHAT WE NEED TO DO

My chart 18 estimates that the excess interest costs on the Federal public debt alone would average almost $3.9 billion a year during the years 1964–70 inclusive, if the prevalent monetary policy continues. This is very much more than the proposed fiscal 1965 budget outlays for education and health services and research combined. It is much more than one-third higher than the proposed fiscal 1965 budget outlays for public assistance. It is much more than three times as high as the proposed fiscal 1965 budget outlays for labor, manpower, and other welfare services. The same chart estimates, for total public and private debts, an average annual excess interest cost of almost $12.7 billion for the years 1964–70 inclusive. This is more than

$5½ billion more than the total proposed fiscal 1965 budget outlays for education, health services and research, housing and community development, public assistance, and labor, manpower, and other welfare services.

We are now confronted with a situation where the entire "poverty package" has an annual magnitude of about $1 billion for fiscal 1965, or about half a billion more than was spent for programs included within this package in the immediately preceding fiscal year. Even with a Federal budget no larger than that now being proposed, how much more we could afford to do with respect to the things we need most to do, if only a larger degree of rationality could be injected into our monetary policies.

### TRENDS IN DEBT MANAGEMENT

Before moving into a discussion of the hurtful effects of the prevalent monetary policy upon the U.S. economy in general, as distinguished from the hurtful effects of the rising interest costs which I have already depicted, I would like at this point to say a few words about the management of the national debt.

One of the strongly avowed purposes of the drastic changes in monetary policy following the March 1951 accord between the Federal Reserve Board and the Treasury was to shift from short-term maturities toward long-term Government borrowing, as outstanding obligations became due and required refinancing. It was asserted that the increase in the average length of maturity of outstanding Federal obligations which would result from this shift would be in aid of general economic stability and price stability. It is not my purpose here to discuss the merits or demerits of this objective; the only point I wish to make here is that this avowed objective of the new monetary policy is not being achieved.

My chart 19 shows that, comparing 1963 with 1952, the portion of the marketable, interest-bearing, Federal public debt outstanding having a maturity within 1 year rose from 33 to 41.9 percent. The portion having a maturity of 1 to 5 years fell from 34.1 to 28.5 percent, and the portion having a maturity of 10 to 20 years fell from 18.3 to 4.1 percent. Meanwhile, the portion having a maturity of 5 to 10 years rose from 9.9 to 18.4 percent, and the portion having a maturity of 20 years and over rose from 4.7 to 7.1 percent. In the overall, the average length of maturity fell from 5.67 to 5.08 years.

My view is that it may well be desirable under certain conditions to shorten the average length of maturities, if this policy is used to reduce rather than increase interest costs to the Government. But the shortening of maturities under the prevalent monetary policy has been accompanied by efforts, achieved at least in part, to lift short-term interest rates faster than long-term interest rates. So long as this policy persists, shortening the maturities obviously accentuates the rising interest costs.

A second avowed purpose of the new monetary policy was to place a larger portion of the outstanding Federal debt outside of the banking system, and preferably in the hands of individuals. This aim was explained on the ground that the relatively large portion of the national debt which had been placed in the hands of banking institutions during World War II monetized the debt, in that it provided a base for expansion of the money supply and credit, and thus contributed to inflation. Again without commenting on the merits or demerits of this avowed objective, it can hardly be said that progress toward this objective has been made.

My chart 20 indicates that, comparing 1963 with 1952, the percentage of the total outstanding Federal debt held by the banking system declined from 36.1 to 33.4 percent. This might seem to represent some progress toward the avowed objective, if it were accounted for by a larger percentage of the outstanding debt being held by individuals and business concerns outside the banking system. But this has not been the case. Again comparing 1963 with 1952, the percentage of the outstanding debt held by individuals declined from 25 percent of the total to 21.4 percent, and the percentage held by insurance companies and other corporations declined from 13.4 to 10.1 percent.

These declines have been compensated for by the portion of outstanding Federal obligations held in U.S. Government investment accounts, which rose from 17.1 percent of the total in 1952 to 19.1 percent in 1963; by the portion held by State and local governments, which rose from 4 to 6.8 percent; and by the portion held by miscellaneous investors, which rose from 4.5 to 9.2 percent.

The trend toward holding Federal obligations in Government investment accounts is more or less a required bookkeeping transaction, resulting from legal mandates rather than from monetary policy. The increasing holdings of Federal obligations by State and local governments probably represents in large part their desire to get the advantage of rising interest rates on Federal issues—on earmarked and temporarily idle funds—to compensate them in small degree for the much larger amounts in interest which they are paying out to those from whom they borrow. The sharply increasing holding of Federal obligations by miscellaneous investors may well reflect in part the deplorable fact that the prevalent monetary policy in its unpredictable aspects has at times tended to make the prime obligations of the Federal Government more speculative than common stocks.

### B. DAMAGING EFFECTS OF PREVALENT MONETARY POLICY UPON U.S. ECONOMY AS A WHOLE—THE CENTRAL IMPORTANCE OF INCOME DISTRIBUTION

There are those who argue that the rising interest costs as already depicted are not really hurtful. They say that, when any borrower pays a higher interest rate, the lender collects that much more, so that one effect cancels out the other. From the social point of view, this argument is heartless; the damage to the poor man who pays more in interest when he buys a car on time is not canceled out by the benefit to the giant firm which collects more interest from him. And in terms of overall economic performance, the argument is nonsense, because the problem of income flows and income distribution is central to the whole problem of this overall economic performance.

The main theme I shall now develop is that undesirable and regressive income distribution trends have played a dominant part in the unsatisfactory performance of the U.S. economy since the end of the Korean war in early 1953. The trends in interest rates have contributed substantially to these undesirable income distribution trends. Moreover, tight money and rising interest rates in general, by feeding and overexciting those sectors of the economy which have been moving relatively too fast, while starving and repressing those sectors of the economy which have been lagging behind, have contributed mightily to the entire economic disequilibrium.

### UNSATISFACTORY GENERAL ECONOMIC TRENDS, 1953–1963

Before entering the phase of my analysis which substantiates the foregoing statements, let us take a quick look at the unsatisfactory trends in our economic performance since the beginning of 1953. The most characteristic feature of this poor performance has been the chronic rise of unemployment and idle plant, as shown by my chart 21. The true level of unemployment, taking into account full-time unemployment, the full-time equivalent of part-time unemployment, and the concealed unemployment resulting from the abnormally low growth in the labor force due to scant job opportunity, rose from 4.9 percent of the civilian labor force in 1953 to 9.4 percent in 1963, or from 3.2 to 7 million. Even full-time unemployment rose from 2.9 to 5.6 percent of the civilian labor force, or from 1.9 to 4.2 million. Meanwhile, the deficiency or gap representing the difference between actual production and maximum production rose from 0.3 percent of maximum production in 1953 to 11.7 percent in 1963, or from a nominal dollar figure to $76.5 billion, measured in uniform 1962 dollars.

Chart 22 shows that the amount by which the true level of unemployment exceeded the level consistent with maximum or full employment rose from 0.3 million in 1953 to 3.7 million in 1963, accompanied by very serious increases in the duration of unemployment among those afflicted by it.

Chart 23 estimates, in uniform 1962 dollars, the vast losses suffered by the Nation in consequence of these shortfalls in employment and production. During the period 1953–63 as a whole, we forfeited an estimated $494 billion of total national production, measured in 1962 dollars, and 29 million man-years of employment opportunity. Practically every important sector of the economy suffered accordingly, and the average American multiple-person family forfeited an estimated $7,800 of income during the period as a whole.

Chart 24 depicts the low and irregular growth rate of the U.S. economy which has been the counterpart of the deficiencies in employment and production. The top box on this chart shows an average annual growth rate of only 2.9 percent in real terms during the period

1953–63, compared with an average annual growth rate well in excess of 4 percent required during this period, as revealed by historic experience and current analysis, to maintain reasonably full employment and production. The second box on the chart shows the fairly rhythmic pattern of recessions, booms, and stagnations which has marked the period under review as a whole. The third box on the chart shows that, despite a much-heralded economic upturn which has now lasted about 3 years, we have really been once again in a period of economic stagnation since fourth quarter 1961. This becomes particularly apparent when we recognize that, while an average annual growth rate of about 5 percent would probably be adequate in view of the new technology and automation to maintain reasonably full resource use after it is restored, we need an annual growth rate of between 8 and 9 percent for at least 2 years to get back to full economic restoration. A rate of growth averaging less than half this needed amount since fourth quarter 1961 explains why unemployment was higher in 1963 than in 1962 despite the economic recovery since early 1961.

### ADVERSE IMPACT OF MONETARY POLICY ON ECONOMIC GROWTH

My chart 25 compares the trends in total national production with the trends in the nonfederally held money supply. While total national production expanded at an average annual rate of only 2.9 percent during this period, the nonfederally held money supply expanded at an average annual rate of only about 1.8 percent. My own view, again based upon historical observation and current analysis, is that the nonfederally held money supply would have needed to expand at an average annual rate well above 4 percent to have floated about the same average annual rate of economic expansion—that rate being required for sustained maximum employment and production.

The thesis that the movements in the money supply were merely responsive to the business cycle, and not causal factors in themselves, cannot be supported upon analysis of the year-by-year trends. For it is apparent that, during the years 1955–57, and again during the years 1958–60, extraordinarily drastic restraints upon the nonfederally held money supply took place, and in the judgment of most economists gave much force to the economic downturns of 1957–58 and late 1960–early 1961.

Despite the almost compelling weight of this evidence, I am inclined to attach more importance to the income and incentive aspects of the policy of tight money and rising interest rates than to the mere trends in the size of the nonfederally held money supply. Theoretically, at least according to the classical economics, a restrictive monetary policy should result in lower prices, while not greatly affecting the levels of production and employment. But this theoretical or classical analysis neglects the whole problem of economic equilibrium, turning upon the relative incomes and incentives flowing to different sectors of the economy. The policy of tight money and rising interest rates during most of the period under review has been defended primarily on the ground that we needed to increase the rate of investment in producers' facilities relative to the demand for ultimate products, and that therefore we needed through higher interest rates to encourage more saving for investment purposes while restraining the private consumer outlays and public outlays which constitute demand for ultimate products. This whole defense of the monetary policy is founded upon a basically erroneous analysis of what our economic problems really have been and still are. I now move on to explain why this is so.

### THE NATURE OF THE CHRONIC ECONOMIC DISEQUILIBRIUM

Chart 26 shows that investment in plant and equipment was deficient during the period 1953–63 as a whole, as practically everything was deficient in an inadequately growing economy. But the chart also shows that, during each period of economic upturn, the rate of advance of investment in plant and equipment far outran the rate of advance of demand for ultimate goods and services represented by total private consumer expenditures and total public outlays for goods and services combined. This has continued to be true during the current economic upturn. From first quarter 1961 to fourth quarter 1963, investment in plant and equipment increased 6.9 percent, while demand for ultimate goods and services increased only 4.3 percent. To be sure, there have been within the decade sharp cutbacks in investment when the so-called overcapacity resulting from the recurrent investment binges became sufficiently burdensome, and these sharp investment cutbacks did help to bring on the ensuing periods of stagnation and recession. The same danger now confronts us again, although I never pretend to be competent to make exact forecasts as to timing.

Coming now to the income distribution side of the picture, it is abundantly clear that the recurrent and almost chronic disequilibrium between investment in producer facilities and demand for ultimate goods and services has had its roots in unsatisfactory income flows and income distribution. Charts 27 and 28—based upon my equilibrium model analysis which has been corrected from year to year in terms of actual economic developments—show the dominant role of the deficient rate of growth in private consumer spending, and how this deficiency has stemmed from seriously inadequate growth in total personal income after taxes. In addition, the distribution of total personal income, with too much going to those at the top who save relatively more, and too little going to those lower down who spend all of their incomes or actually dissave, has aggravated the deficiency in total consumer spending.

My charts 29 and 30 indicate the great significance of the deficiency in wages and salaries, as this bears upon the deficiency in total personal incomes, and show also how wage rate increases, especially the past 5 or 6 years, have lagged very seriously behind productivity gains. This phase of my discussion is particularly important, because we are still pursuing national policies which incorrectly assume that restraint rather than adequate expansion is central to the wage problem. I might add at this point that all of the most recent figures on productivity and wages, now emanating from various Government departments, substantiate in full what I have been saying on this subject for a number of years.

Chart 31 shows how the decline in Federal budget outlays, when measured as a percent of total national production and when measured on a per capita basis related to the whole population, has contributed to the inadequacy of demand for ultimate products. It is not my purpose, in this particular testimony, to develop this point at length. It is enough to say here that, if the billions of dollars in the Federal budgets which have been devoted to excess interest payments during the period under review, had instead been devoted to the kinds of programs earlier depicted in my testimony, a total budget of the same given size would have provided infinitely more stimulus to the economy. I shall develop this particular point further as my testimony proceeds.

### ADDITIONAL SAVING, INDUCED BY TIGHT MONEY AND RISING INTEREST RATES, IS NOT NEEDED

Contrasted with the fundamental income deficiencies which explain the deficiencies in private consumer outlays, and equally in contrast with the deficiencies in public outlays which have resulted in part from inadequate public revenues due to the long economic stagnation, the severe fluctuations in investment in plant and equipment have at no time been caused by inadequate profits nor by inadequate funds available for borrowing for investment purposes. As I have already said, this dissolves completely the most basic and persistent of all the arguments advanced for the tight money and rising interest rates policy—that it has been needed to induce sufficient saving for investment purposes. If anyone may be disposed to think that I am overstating the prevalence of this particular argument, I would refer him to the testimony of Chairman Martin, of the Federal Reserve Board, before the Senate Finance Committee in 1957, when that committee was conducting a comprehensive examination of the financial condition of the United States. Although this was just a few months before the start of the 1957–58 recession, when I was warning the committee of its arrival because of the "overcapacities" almost everywhere relative to demand for ultimate products, Chairman Martin—for whom I have great personal respect and regard—was once again repeating the old refrain that we needed more saving and investment and less consumption. One could easily cite many other instances, in point of time, when the exponents of the tight money and rising interest rates policy have reiterated this same position.

As this position has not yet been laid to rest, it will pay to take a look at my charts 32, 33, and 34. The first of these charts shows the tremendous upsurge in investment before the 1957–58 recession. This upsurge, to the very point of termination, was fortified in general by large increases in profits after taxes, which in turn were fed in general by excessively rising prices. The second of these charts shows how, despite some reductions in prices, and despite a generally downward movement in profits after taxes from excessively high levels, the investment boom in plant and equipment surged forward again at tremendous speed during the period immediately preceding the late 1960, early 1961 recession. This demonstrates that the main motivation to investment is not the immediate profit picture nor the availability of other funds, but the current judgment among business managers as to the outlook for demand for their products. In this instance again, their estimates proved far too exuberant, because they did not look sufficiently at what was happening to consumer incomes and spending and to public outlays. The third of these charts shows a slightly downward movement in prices during the current economic upturn through fourth quarter 1963, huge increases in profits after taxes, and investment trends lagging far behind the advance in profits after taxes. This is an extremely clear demonstration of the proposition that even an excessive availability of investment funds will not be accompanied by compatible investment trends, so long as "overcapacity" is so severe and so long as the deficiency in current and prospective demand for ultimate products is so large relative to existing productive capacities.

The amplitude or redundancy of funds available for investment is illustrated by my charts 35, 36, and 37, depicting key profits after taxes, profits-sales ratios, and the portion of corporate funds drawn from internal sources, such as depreciation and amortization, and retained profits and depletion allowances.

In summary of this phase of the discussion, what the U.S. economy needs, to get moving as it should, are those programs and policies which would vastly expand the incomes and outlays of private consumers, with special concentration upon the two-fifths of our total population who live in poverty or deprivation. Supplementary to this but not of minor importance, we need large increases in Federal public outlays; and if there are reasons why such increases are not "practical," we should at least relieve the Federal budget of the excess interest toll so that we would be able to "afford" more of those programs which make so much more sense. The tight money and rising interest rates policy being as already depicted so heavy a burden upon both private consumption and public consumption—which is what public outlays really are—this policy should be reversed as promptly as possible. The candid promise by the money managers that this policy will be pushed still further ahead in the near future is nothing short of appalling.

### C. CURRENT AND PROSPECTIVE ECONOMIC PROBLEMS AND NEEDS, RELATED TO THE PREVALENT MONETARY POLICY

### MAGNITUDES OF THE ECONOMIC TASKS AHEAD

Now let us look at the tasks and policy issues confronting us now and in the future. They really converge upon one question: Can we shake ourselves clear of the low rate of economic growth and the chronically rising tide of idle manpower and plant which have been with us now for 11 years? For if we do not do so, if the record of these 11 years persists in the future, the costs will be even more staggering than they have been to date.

My chart 38 estimates that, if we do not attain a high enough economic growth rate to better, substantially, this 11-year record, we shall forfeit during the 7-year period 1964–70, inclusive, about 40 million man-years of employment opportunity and about $697 billion of national production, measured in 1963 dollars. Every private and public sector of the economy would lose accordingly. Multiple-person families on the average would lose about $9,000 in income during this period as a whole. We would become increasingly unable to raise enough public revenues, at existing tax levels, to service our great public needs. The war against poverty, so nobly initiated, would become a nightmare of disillusion. Further increases in unemployment would expand human suffering and exacerbate racial tensions.

Let none accept the complacent notion that we are out of the woods. As I have already indicated, this complacency results in large measure from comparing our most recent ecnomic growth rate with the even lower growth rate which immediately preceded, instead of recognizing the size of the growth rate required to bring economic restoration. Chart 29 estimates that, to acheive reasonable restoration even within 2 years from now, and as an integral part of reasonable goals for 1970, we need by 1966 to lift the true level of employment by about 8 million above the 1963 level, to reduce the true level of unemployment by almost 3½ million, and to lift the annual rate of total national production—measured in 1962 dollars—by $148.5 billion. Despite the glowing optimism of the moment, the U.S. economy during the past couple of years now is expanding at little better than half the rate required to reach these objectives. I would also like to call to the attention of the committee, without going into more detail just now, that the chart also presents my estimates of the relative expansions needed in the main sectors of the economy. The programatic significance of these estimates by sectors are explicit in the estimates themselves, and I shall stress some aspects of these later on in my testimony.

### THE KEY IMPORTANCE OF THE STRUCTURE OF SPENDING, IN VIEW OF THE NEW TECHNOLOGY AND AUTOMATION

It is of course true that an adequate volume of expansion in total production, which means also an adequate expansion of employment, depends upon an adequate expansion of total spending, for total spending equates with gross national product. But quite aside from the fact that no private nor public intentions are now in motion to generate an even nearly sufficient expansion of total spending, there has been great or almost universal neglect of the unassailable proposition that the achievement of sufficient spending must depend upon the structure or internal composition of this spending. Otherwise, we could maintain maximum economic activity by spending for one purpose alone, if the figure was high enough.

The problem of the structure of spending becomes acutely significant when we grasp the true meaning of the accelerating advance in technology and automation. In some sectors of the economy, this advance is so rapid, and promises to become so much more rapid, that no practical increases in spending for the products turned out by these sectors—in practical terms of the wants and needs of our people—can contribute a major portion of the 22½ to 25 million new job opportunities which we need during the next decade.

This is clearly demonstrated by chart 40. If we look at the amount of product that could be turned out by 100 employed workers in the base period 1947–49, the same amount of product was turned out in 1962 by less than 52 people, working in agriculture or in mining, less than 63 working in all manufacturing, less than 60 working on the railroads, and less than 48 working in motor vehicles and other transportation equipment. No matter how much the demand for these products may be stimulated—and it is essential that they should be stimulated vigorously by programs pointed toward rising living standards and improved income distribution—the increased demand for these products will at best increase net employment opportunity relatively slightly in these types of production. This thesis is reinforced by examination of relative employment trends during the post World War II period among production workers and total civilian workers, as well as by relative unemployment trends among wage and salary workers, as depicted on charts 41, 42, and 43.

In chart 44, I have set forth my estimates of goals for total civilian employment in the main sectors of the economy both private and public, for the period ahead to 1970, taking into account both relative trends in technology and automation and viable patterns of demand for goods and services. These employment projections are reconciled with all my other projections. They indicate that employment opportunity in agriculture will continue to go down; that employment opportunity in mining can hardly be increased; that employment opportunity in manufacuring could by 1970 rise at best by about 14 percent above the 1962 level; and that the largest opportunities for percentage increases in employment opportunity are in contract construction, the service industries, and government.

### THE VITAL ROLE OF PUBLIC SPENDING

But the economy has not and will not adjust automatically to these required patterns of employment opportunity. Sufficient expansion of employment opportunity in Government depends upon public programs. Sufficient expansion of employment opportunity in contract construction depends primarily on vast programs of urban renewal and housing. These call for large additional public outlays plus mixed ventures involving combined public and private efforts, with adequate stimulation of the private efforts being contingent upon monetary and interest rate policies very different from those now prevailing. Sufficient expansion of employment opportunity in the service occupations depends primarily upon herculean efforts in such fields as education and health services and facilities; and these also manifestly require large increases in public as well as private outlays.

And these efforts are not needed only to combat unemployment. They are needed because our cities are decaying at their core; because one-fifth to one-fourth of our people are still living in urban and rural slums; because at least half of our people are denied adequate medical care at costs within their means; and because countless numbers of young people are prevented by financial handicaps from carrying forward their education as far as their abilities and the technological and scientific trends in the economy warrant. These evils point to the fields where expansion of output can be increased enough faster than the technological trends in these same fields to combine a massive onslaught upon unemployment with major service of the Nation's needs. Besides, what other efforts could do so much to stamp out the manifestations and causes of poverty?

We are now living, I hope temporarily, in a national climate of opinion which many believe estops the Federal budget from its essential participation toward these objectives. But it is none too early to state again and again what the fulfillment of these objectives requires of the Federal budget as the prime instrument of national economic policy.

My charts 45 and 46 attempt to do this. The first of these charts sets forth my estimates, both as a percentage of total national output and on a per capita basis related to the total population, of the needed expansion of Federal budget outlays through 1970 in those main areas of performance which make up the Federal budget. The second of these two charts sets forth my estimates of the appropriate dollar size of the total Federal budget, and of its main components, between now and 1970.

### THE PREVALENT MONETARY POLICY ENTAILS THE BIGGEST WASTE IN THE FEDERAL BUDGET

I hasten to add that fulfillment of the programs which I have set forth for the Federal budget does not necessarily require that the total budget grow as rapidly as I suggest. I have projected a considerable increase in defense outlays, not because I urge this as necessary, but rather because I want to stress the point that meeting our domestic public needs does not depend upon cutbacks in defense outlays. It may be, however, that much larger cutbacks in defense outlays than have thus far been undertaken will become safe and desirable. More important, in earlier parts of my testimony I pointed out how large a portion of the need for larger domestic programs in the Federal budget could be served without adding to the total size of the budget, if only we would reverse the prevalent monetary policy. In this connection, I recall to the attention of the committee my earlier chart 18, containing my estimate that the excess interests costs on the public debt will average almost $4 billion a year during the period 1964–70, if the prevalent monetary policy continues. This $4 billion would go a long way toward covering the vital needs of which I am now speaking.

And I do not refer here only to the human and social preferability of using Federal dollars to educate people or to help the poor, rather than using these Federal dollars to overstuff the coffers of those who lent us back our own money. I refer also to the fact that higher and higher interest payments actually have a pernicious effect upon the whole U.S. economy for reasons already stated, while the same amount of increases in Federal spending for the other purposes I have mentioned would have a very high "multiplier" effect upon private production and employment.

### THE HIGH POTENTIALS OF HOUSING AS AN ECONOMIC STIMULANT AND SOCIAL GOOD: BARRIERS IMPOSED BY THE PREVALENT MONETARY POLICY

Probably the best single illustration of the point just made is in the housing field, to which I have already referred. My chart 47 depicts the very important role of housing the U.S. economy, and indicates how the extraordinary instability of housing starts has contributed over the years to general economic instability. Chart 48 demonstrates that the problem of substandard housing is intimately associated with the income problem. This conclusion is reinforced by chart 49, which shows that the current housing activities of the Government—aside from the publicly assisted low-rent program—lead to building primarily for middle and upper middle income groups, with almost no building under these insurance programs for low-income groups. So long as this condition persists, the so-called housing market is recurrently saturated, and the sustained volume of housing at levels required to help renovate our cities, to bring decent homes to slum dwellers, and to make its signal contribution to the reduction of unemployment, remains virtually impossible. Chart 50 indicates the size and nature of the private enterprise and public enterprise and mixed enterprise housing efforts which we should undertake between now and 1970.

But how can the private and mixed-enterprise aspects of this needed housing effort get going, when the very important factor of interest costs in the housing picture are rising so incontinently as I have already shown on my charts 7 and 8? And how can the required volume of publicly assisted housing and urban renewal get going, so long as a Federal budget drained by ever-rising interest costs consequently does not have "room" for the needed housing and urban renewal efforts?

### RELATIONSHIP BETWEEN MONETARY POLICY AND THE RECENT TAX CUTS

I come now to the relationship between our evolving tax policies as an aspect of overall fiscal policy and our prevalent monetary policy. The people have been entirely right who have pointed out the gross inconsistence between the huge and deliberately contrived Federal deficits involved in the recent tax reductions, designed for the purpose of stimulating economic growth and employment, and the prevalent monetary policy which its managers declare will be further tightened to "counteract" in part the stimulative consequences of the tax reductions—which these money managers look upon as "inflationary."

But an even more important and valid argument against the prevalent monetary policy, in the context of the recent tax reductions, has been largely overlooked. I submit that one of the most basic reasons why we need a more stimulative monetary policy is that the tax cuts are not likely to help the economy nearly as much in the long run as many analysts expect. While I do not want to belabor again a point which I have made several times recently before several committees of the Congress, my chart 51 shows a distribution of the recent tax cuts between the investment function and the consumption function which I think misses the entire problem of economic equilibrium as I have discussed it earlier in my testimony. Chart 52 depicts a distribution of the personal tax cuts which seems to me to trend in a regressive rather than a progressive direction. And chart 53, by viewing the whole nationwide tax situation and not merely the Federal tax situation, shows how really regressive our nationwide tax policies as a whole have become. This underscores the need for a much more progressive Federal tax policy to serve as a balance wheel.

I am very much concerned that, while the recent tax cuts in the short run may generate an unbalanced boom of the type we have already experienced since 1953, it will in the long run prove disappointing in terms of its avowed purposes. We cannot now undo any part of the recently enacted tax legislation; but this is all the more reason why we need to undo the prevalent monetary policy.

### D. REFUTATION OF ARGUMENT THAT THE PREVALENT MONETARY POLICY HELPS TO RESTRAIN INFLATION AND TO COPE WITH THE GOLD AND BALANCE-OF-PAYMENTS PROBLEM

The argument that, at any time since early 1953, the policy of tight money and rising interest rates has been helpful toward restraining inflation—or helpful enough toward restraining inflation to outweigh its many other damaging effects—will not stand the test of empirical observation.

### ASIDE FROM WAR ERAS, THE INFLATIONARY PROBLEM HAS BEEN GREATLY EXAGGERATED

First of all, the propensity of the U.S. economy toward inflationary trends has been greatly exaggerated in support of undesirable national economic policies. As shown by chart 54, most inflation in the U.S. economy has been due to war. Looking at the three decades 1929–58, exclusion of the periods affected by World War II and reconversion and by the Korean war, indicates that both consumer prices and wholesale prices have in the other years as a whole averaged annually a slight trend downward, while industrial prices showed practically no average annual change. Carrying this chart forward from 1958 through 1963, which I have not had the time to do for the purposes of this testimony, would not to any significant degree alter this demonstration. The bottom half of the same chart depicts the period of the so-called "new inflation," 1952–55, which I shall deal with in more detail shortly.

### INFLATIONARY TRENDS DURING WORLD WAR II AND RECONVERSION

Chart 55 depicts economic trends during World War II, 1939–45. During that period, with all of our productive resources strained, total national production grew at an average annual rate of 9.1 percent in real terms, and industrial production grew at an average annual rate of 11.8 percent. To generate this phenomenal expansion of output, the nonfederally held money supply grew at an average annual rate of 15.7 percent, Federal budget expenditures measured in uniform dollars grew at an average annual rate of 49.4 percent, and the Federal deficit measured in 1957 dollars averaged about $60 billion annually. Under these circumstances, there was a substantial amount of price inflation, as indicated on the chart. But the average annual rate of price advance was much less than one-third as great as the average annual increase in the nonfederally held money supply, indicating clearly that the very rapid increase in the money supply did more to help expand production than it did to push prices upward. Most of the price inflation occurred in the early stages of the conflict, before the effective imposition of controls.

Chart 56 depicts economic trends during the reconversion period 1945–48. The average annual increase in prices was several times as high as during the World War II period, despite a downward movement in total production and in industrial production, despite Federal budget expenditures moving downward at an average annual rate of 35.5 percent and a Federal deficit averaging only about one-eighth the size of the deficit during the World War II years, and despite a nonfederally held money supply expanding at less than one-third the rate of the price inflation. This demonstrates clearly that many factors other than the money supply and the trends in Federal budget outlays enter into the movement of prices. The serious price inflation during this reconversion period was occasioned by the premature abandonment of controls, and by the availability of excess purchasing power relative to available goods, resulting from the decision to finance only about half of the war through taxation and to finance the balance through borrowing which became available in the form of so-called saving immediately after the war.

### INFLATIONARY TRENDS DURING THE KOREAN WAR

Chart 57 shows economic trends during the first years of the Korean war; it omits 1952 and 1953 because prices were virtually stable after 1951. The excessive price inflation during this period was obviously not generated by any comparable increase in the nonfederally held money supply. Rather, the excessive price inflation was generated in part by phenomenal growth in total national production and in industrial production.

But, throughout this period, the rate of unemployment was rather high and our productive facilities were not under unusual strain, so that most of the inflation, mainly in the administered price areas, was due to speculative and unjustified price increases, for the most part immediately following the Chinese entry into the contest.

### THE NEW INFLATION, 1952–58, AND ITS CAUSES

Chart 58, which is the most significant with respect to the problem of the relationship between the trends in prices and the trends in the nonfederally held money supply, depicts the period of the so-called new inflation, 1952–58. During the period 1952–55, the growth rate in total national production and in industrial production was reasonably high, and the nonfederally held money supply expanded at an average annual rate of 3.6 percent. Nonetheless, there was almost no price inflation. In sharp contrast, during the period 1955–58, averaging practically no advance in total national production and a decline in industrial production, and with an average annual increase in the nonfederally held money supply the same as in the period 1952–55 just described, all types of prices increased rather rapidly. And during the period 1956–58, with both national production and industrial production moving downward on the average, the inflation of consumer prices was 10 times as fast as during the period 1952–55, industrial prices moved up much faster, and wholesale prices moved up at an annual rate of 2.1 percent, contrasted with a nominal downward movement during the period 1952–55.

The examination of this period of the so-called new inflation indicates the fallacy and self-defeating results of the attempts during recent years to restrain price inflation by repressing the growth rate of the economy and thereby spawning excessive idleness of manpower and plant. It follows that a monetary policy which is so tight or repressive that it has seriously injurious effects upon production and employment aggravates rather than restrains price inflation. The reason for this is that the price inflation in the most recent years has been a selective and administered price inflation, resulting not from classical causes but rather from the attempts of those who administer prices to compensate for inadequate production and sales by higher profit margins per unit. This conclusion is reinforced by my earlier analysis of price and profit trends. Translating this analysis into a general proposition: An optimum and steady rate of economic growth, accompanied by reasonably full employment, results in the long run in far less price inflation than either the hyperactivity of wartime or the erratic ups and downs in an economy averaging an abnormally low rate of economic growth with chronically rising idleness of manpower and plant.

Thus, the recurrent efforts of the prevalent monetary policy to restrain inflation by injuring the basic performance of the U.S. economy is self-defeating even in terms of restraining inflation. It is subject also to the indictment that, preoccupied with the threat of inflation even during periods when there has been no such threat, it has sacrificed huge amounts of economic progress which would be of far more worth to the Nation than any realistic appraisal of the possible adverse effects of any increased inflationary pressures which a more acceptable economic performance might have generated—even if one does not accept fully my thesis that a more acceptable rate of economic performance would have meant less inflation in the long run.

### THE NEW CROSS OF GOLD

In late 1952, when it became palpably foolish to attempt to justify the prevalent monetary policy on the ground of any imminent inflationary threat, the money managers found and have since stressed a new "justification" for the policy: the gold and balance-of-payments problem.

The main arguments in support of the new cross of gold, upon which the U.S. economy has now become impaled, start with the proposition that the unduly large outflow of gold is connected with our unfavorable international balance of payments. Then it is said that this unfavorable balance is due largely to our competitive disadvantage in world markets, in that we do not export enough more than we import to cover our foreign aid programs, our military expenditures abroad, et cetera. And it is said that this competitive disadvantage arises in that our prices are too high because our production costs are too high; that our costs are too high because wages are too high relative to productivity; that productivity is too low because investment in plant and equipment is too low; and that investment is too low because profits are too low. Utilization of the prevalent monetary policy to deal with these alleged difficulties through attempts to promote a higher ratio of saving and investment to GNP is therefore founded upon essentially the same errors in economic analysis which were used to justify the same prevalent monetary policy in earlier years.

### WE ARE NOT UNDULY "PRICED OUT OF WORLD MARKETS"

Actually, we have not been and are not now faced by an inadequate share of world markets, in terms of the flow of goods; in other words, we are not competitively "priced out of world markets." This, and other aspects of the U.S. balance of payments, 1947–63, are shown in my chart 59. Our international exchange of goods or "trade" proper has shown a very substantial "surplus" in our favor all along, representing excess of our exports over our imports. In 1963, our exports of goods and services exceeded our imports of goods and services by $5.3 billion. We should indeed strive for a larger absolute volume of exports in an expanding world economy. But we could not even try to obtain an appreciably larger share of world exports, without acting counter to our own avowed interest in living standards which must rise even faster in most other parts of the world than in the United States, because the living-standards gap is still so great and is so real a menace to world peace and free institutions. To attempt again, as we did during the 1920's, to export unemployment to other countries, by refusing to admit that in the long run we must import practically as much as we export, would again bring down the economic roof over our own heads.

Even if it were to be conceded, contrary to reality, that we need to expand our share of worldwide exports, and that high prices due to excessive business costs and low productivity, and inadequate profits and investment, stand in the way, the next question is why these barriers exist. As shown by what I have already said, these barriers stem from the slack use of resources and low economic growth which result primarily from underconsumption—that is, from the very policies including the prevalent monetary policy, which have prevented fuller use of resources and much higher economic growth. And insofar as some prices are too high, this is because we have substituted excessive per unit profits, at an inadequate volume of sales and low capacity use, for the larger aggregate profits which would result from lower prices, higher volume of sales, and higher capacity use. This gets us back again to the underconsumption thesis. Moreover, even now, our per unit real production costs and labor costs are in general lower than elsewhere in the world, because we still lead in technology and industrial development. Also, in general, our prices and real labor costs have been rising less than elsewhere.

### THE REAL REASON FOR THE EXCESSIVE GOLD FLOW

As we have been maintaining a quite favorable balance of trade in goods and services, the unfavorable balance of payments and excessive gold outflow—aside from our military outlays overseas and our foreign aid which are dictated by other compelling considerations—result largely from outflow of certain types of American capital, and from withdrawal of foreign capital from the United States. In 1963 alone, the net outflow of U.S. private capital was $4.2 billion, or more than a billion higher than our total unfavorable balance of payments. And capital is not looking primarily for differentials in interest rates; it is looking primarily for investment and profit opportunity in an expansionary economic environment. The plain fact is that our record during the past decade has been very poor when compared with that of Western Europe, Japan, and some other countries, in terms of rates of economic growth, levels of idle manpower and plant, and frequency of recessions and periods of stagnation.

During the year 1958, marked by economic recession, the gold drain was more than $2¼ billion, although the overall deficit in our international balance of payments was only about $3½ billion. With our economy moving upward in 1959, the drain upon our gold reserve was less than three-quarters of a billion, although the overall deficit rose to $3¾ billion. In 1960, with the overall deficit rising only slightly to somewhat less than $4 billion, the gold flow rose to $1.7 billion, the rising ratio of the gold flow to the unfavorable balance of payments again reflecting recessionary trends. To illustrate more sharply, in fourth quarter 1960, with the recession upon us, the gold drain rose to an annual rate of almost $3.7 billion, measured against an overall unfavorable balance of payments at an annual rate of about $5.7 billion. The year 1961 and 1962 showed an average annual unfavorable balance-of-payments position reduced to $2.3 billion, and an average annual gold drain reduced to $0.8 billion, with the sharp reduction both in the unfavorable balance of payments and in the ratio of the gold flow to the unfavorable balance of payments being responsive to the economic recovery movement. In 1963, the unfavorable balance of payments was about $3.1 billion, and I do not yet have figures for the size of the gold drain for 1963 as a whole. These comparisons make abundantly clear that the tendency to translate dollars held abroad into gold mounts with diminishing confidence in the performance of the American economy, and falls with increasing confidence in that performance.

### THE LACK OF QUANTITATIVE PERSPECTIVE

The most optimistic estimates are that improved economic policies might add a few billion dollars a year in the near future to oversea demand for American products. Considering that, in 1963, total demand for our products was running at an annual rate about $76.5 billion below the level consistent with maximum employment and production, the overwhelming opportunity to solve this problem is by lifting the production and living standards of our own people. It makes no sense to embrace policies which cause us to lose scores of billions of dollars of production and sales in the United States, with corresponding unemployment and idle plant, in an attempt to expand our sales overseas by a few billion dollars at most. Such policies are analogous to sticking a finger in a small hole in the dike, while we drive battering rams through the dike at manifold other points. Indeed, since we must in the long run import practically as much as we export, purchases by the American people must expand practically as fast as our technology and plant and labor force grow. There is no other way to prevent chronic unemployment from continuing to rise at home.

### DIRECT MECHANISMS TO REDUCE THE GOLD FLOW

Subsidiary to the main attack upon our own chronically poor economic performance, we need improved international mechanisms, guided by perceptive leadership which thinks and acts in modern economic terms, for the financing of international economic transactions and the settlement of international accounts. Application on the international front, with appropriate modifications, of something similar to what our own Federal Reserve System can be at its best, would among other things achieve an appropriate setoff of short-term against long-term claims. Taking the latter into account, the position of the United States is not unsatisfactory. Of course, our worldwide economic position is not the same as it was shortly after World War II, and we should abandon any idea that we can remain something approximating the banker for the world, or even for the Western World.

### E. POLICY SUGGESTIONS

The analysis which I have undertaken, relating as it does to the main economic and financial aspects of the prevalent monetary policy, does not lend itself to refined nor detailed policy suggestions. There are many highly technical and relatively secondary aspects of monetary policy and its execution, which fall outside of my range of interest and to a degree outside of my range of competence.

The heart of what I have said, however, is that the prevalent monetary policy, enthroned now for about 13 years, needs profound reconstruction and revision at its very foundations. This policy rests upon erroneous economic and financial analysis, and consequently points entirely in the wrong direction. The only way to improve this policy as much as it needs to be improved is to change its direction drastically.

### NEEDED EXPANSION OF THE NONFEDERALLY HELD MONEY SUPPLY

The required drastic change, for which the details of implementation are readily available to the Federal Reserve System and Board once the change is decided upon, is to move toward an expansion of the nonfederally held money supply sufficient to facilitate the needed amount of U.S. economic growth. As I have already indicated, this needed amount of economic growth is in excess of 5 percent a year after full economic restoration, and 8 to 9 percent a year for at least 2 years until our productive resources are brought into reasonably full use and until unemployment is reduced to levels consistent with maximum employment. In sharp contrast, as I have already depicted, the average annual growth in the nonfederally held money supply was only 1.8 percent during the period 1953–63, and only about 2.6 percent during the 2-year period 1961–63. It was only 3.8 percent, comparing 1963 with 1962, and the money managers have indicated every intention to tighten up further in the near future.

### CONNECTION BETWEEN TIGHT MONEY AND RISING INTEREST RATES

The money managers have insisted, on various occasions, that the rising interest rates are merely a byproduct of the decisions with respect to the rate of expansion of the nonfederally held money supply. I do not concede entirely the complete validity of this point; there are some choices available to the money managers, as to interest rate movements at any given rate of expansion of the nonfederally held money supply. In any event, the money managers can hardly claim with good grace, as they have sometimes attempted to claim, that the rising interest rates are an "unfortunate" byproduct of the restrained growth of the money supply. For on other occasions, and in fact usually, they have affirmatively established the objective of rising interest rates as an economic good in itself, on the ground that interest rates had become far too low, and that higher interest rates would help the whole economy by inducing a higher ratio of saving and investment to total gross national product. This thesis is unsupportable. It follows that the money managers must assume full responsibility, both for the excessive tightness of the money supply and for the onerous burden of the rising interest rates. And granted for the purpose of simplification that a sufficiently liberalized expansion of the money supply would be accompanied by a vigorous movement toward lower interest rates, how can this be brought about?

### AVAILABLE MEANS, TOWARD REVERSING THE PREVALENT MONETARY POLICY

This consummation, devoutly to be sought, can be brought about only by outside pressures exerted against the Federal Reserve System and Board—pressures of sufficient intensity and vigor and promptness to induce the System and the Board to do, in the interests of the economy, the Nation, and the people, what they still appear to have no intention of doing.

It would not be proper for me to attempt to spell out in detail the exact measures by which these pressures can and should be exerted.

The Congress of the United States is charged with the supervision and control of the policies of the Federal Reserve System and Board. This power may be exercised by an appropriate combination of legislation and other methods. The power of the Congress is by no means limited to legislation.

The power of the President over the Federal Reserve System and Board includes not only his power to recommend legislation to the Congress, but also his power of appointment with respect to the membership of the Federal Reserve Board, and, above all, his power as the prime spokesman of the needs of the economy, the Nation, and the people. There have been times in the past when this Presidential power has been brought effectively to bear upon monetary policy. And while I have said at the outset that it would be unfair to President Johnson, for a variety of obvious reasons, to imply any criticism of him for not having exercised these particular powers to date in his administration, I am hopeful that in due course these powers will be exercised. Indeed, my confidence in the President on this score runs very high.

Last but not least, there is the power of an informed public opinion—informed as to the great if not irretrievable damage being done for so long to all of our personnel, business, and nationwide interests by the prevalent monetary policy. The hearings before this committee can help to inform the American public—a public disposed to act when it is sufficiently alerted.

### SHOULD THE FEDERAL RESERVE SYSTEM AND BOARD BE "INDEPENDENT"?

The puniest of all arguments, in opposition to the exercise of the three great powers just mentioned, is that the Federal Reserve System and Board should be "independent." This nice-sounding term avoids all the real issues. Should the Federal Reserve System and Board be independent of the Nation's needs? Should the System and Board be independent to the degree that they can follow, without check, profoundly important national economic policies and objectives which are in conflict with, rather than in aid of, those pursued by the Congress, the President, and the people? Should the independence of the Federal Reserve System and Board from political interference shield it from intervention by those who, under a democracy, exercise the political function of conducting the processes of Government? If it was not undue political interference, during wartime, for the instrumentalities of Government to determine the prices and wages received by almost every businessman and worker; if it is not undue political interference for the instrumentalities of Government at all times to determine the amount of taxes paid by all individuals and business organizations paying taxes at all, how then can it be called undue political interference for these same instrumentalities of Government to concern themselves with the management of the people's money? These questions answer themselves.

### MONETARY POLICY IN THE PERSPECTIVE OF THE RECENT HUGE TAX CUTS

The President and the Congress, in the Nation's interest as they see it, have recently undertaken a contrived Federal deficit of unparalleled size. This tax action, for all practical purposes, is irreversible for many years to come. It will confront the Government with many thorny problems for many years to come. Can it be argued with any rationality, under the circumstances, that the Government has no direct and proximate interest in the extent to which the management of the people's money—which in fact is created by the Government—advances or impedes the objectives of this momentous step in tax and fiscal policy?

I submit, in conclusion, that we have moved far beyond the point when any one impregnable citadel of policy formulation, affecting profoundly the totality of our objectives as an economy, a nation, and a people, can remain independent of that ultimate responsibility to the people through their Government which is the very hallmark of our democracy and our free institutions.

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## ANSWER TO THE BILLION-DOLLAR BLACKJACK

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, on March 9, 1964, over 15 daily newspapers in Iowa carried an advertisement attacking the civil rights bill which was passed by this House. The ad appeared in at least seven newspapers in the first district of Iowa alone. Many of the papers while carrying the ad, refuted it in an editorial. One of those papers was the Des Moines (Iowa) Register. I placed that editorial in the RECORD Wednesday, March 18, under the title "Smokescreen on Civil Wrongs." Since then civic and service organizations have gone on record as favoring civil rights. One of the groups in Iowa speaking out on the civil rights issue was the Iowa chapter of the Daughters of the American Revolution. I plan to place in the RECORD a copy of the newspaper story telling of that group's stand on civil rights.

One hundred years ago, when the 13th, 14th, and 15th amendments were adopted, all of them ended with the section: "The Congress shall have power to enforce this article by appropriate legislation." The Congress is using this power today if the civil rights bill is passed to implement the spirit and intent of those amendments.

Because of the controversy that has arisen recently over certain parts of the civil rights bill, much of it inspired by the advertisement, I have had prepared an extensive and lengthy explanation of the sections of the civil rights bill that have been subject to the most attack. The statement was done in conjunction with a House Judiciary staff attorney who is an expert on the bill and its ramifications. The article takes the charges and what I believe to be innuendos and answers them with the provisions of the bill as they have been interpreted by competent lawyers both in and out of Congress. We have stated them as briefly and correctly as we can. I ask unanimous consent that the statement be inserted in the body of the RECORD at this point and I invite all of the Members of the House to read it.

A major lobbying effort was launched in 1963 to defeat the enactment of civil rights legislation during the 88th Congress. The organization spearheading this drive calls itself the Coordinating Committee for Fundamental American Freedoms, Inc.

The officers of the coordinating committee are: William Loeb, chairman; J. J. Kilpatrick, vice chairman; John C. Satterfield, secretary-treasurer; and John J. Synon, director.

According to lobbying reports, and public records, the principal financial contributor to the coordinating committee, since its organization in the third quarter of 1963, is the Mississippi State Sovereignty Commission. The following receipts have been reported by the coordinating committee:

Third quarter, 1963: Receipts, $23,000; contributions by Mississippi State Sovereignty Commission, $20,000.

Fourth quarter, 1963: Receipts, $110,000; and contributions by Mississippi State Sovereignty Commission, $100,000.

First quarter, 1964: Receipts, $192,500; and contributions by Mississippi State Sovereignty Commission, $142,500.

It may be seen then that the Mississippi State Sovereignty Commission is the principal and almost sole supporter of the coordinating committee. What, it may be asked, is this sovereignty commission?

The sovereignty commission is organized under the laws of the State of Mississippi. The State has itself contributed sizable sums of State revenue to the sovereignty commission. The commission also acts as a conduit for receipt of private contributions which are passed on to the coordinating committee. Through this device, private citizens are encouraged to claim a tax deduction, on the funds so contributed upon the questionable theory that the funds are to serve a "public purpose."

The Governor, attorney general, president of the State senate, and speaker of the State house of representatives are ex officio members of the sovereignty commission. Additional members are: three citizens appointed by the Governor, two members of the State senate appointed by the president of the senate, and three members of the State house of representatives appointed by the speaker of the house of representatives. The Governor of Mississippi is the chairman of the commission.

The Mississippi Sovereignty Commission is financed by funds regularly appropriated by the Mississippi Legislature and is empowered to contribute funds and other assistance to State and private organizations who have the same objectives and purposes as the commission. The duties of the commission, as stated in most general language is, quoting from the law establishing the commission:

> To do and perform any and all acts and things deemed necessary and proper to protect the sovereignty of the State of Mississippi, and her sister States, from encroachment thereon by the Federal Government or any branch, department, or agency thereof; and to resist the usurpation of the rights and powers reserved to this State and our sister States by the Federal Government or any branch, department, or agency thereof.

According to the public record, in carrying out its duties, the Mississippi sovereignty commission has also contributed large sums of money to various white citizens councils to support their activities that many believe are racist in Mississippi and in other States. In fact, some members of the State Board of Mississippi White Citizens Councils have been and probably presently are members of the sovereignty commission, thereby forming somewhat interlocking boards of directors.

Beginning apparently in the third quarter of 1963, the coordinating committee launched its campaign to discredit and defeat civil rights legislation. Initially, the major assault was directed toward the House Judiciary Committee and the House of Representatives itself. Today, the committee's efforts are aimed at detouring the legislation in the U.S. Senate.

The coordinating committee has distributed thousands of pamphlets and letters throughout the country attacking the bill. The pamphlet most widely circulated by the committee is entitled "Unmasking the Civil Rights Bill." It has also inserted in many of the Nation's daily newspapers paid advertisements condemning the proposed legislation. One advertisement in particular has attracted wide attention. Its heading is: "$100 Billion Blackjack—the Civil Rights Bill." The coordinating committee has also managed, with some success, to generate favorable editorials in newspapers; to persuade certain organizations to denounce the bill; and even to encourage local citizens to write the wives of Congressmen to induce the wives to have their husbands oppose the bill.

Two basic techniques are apparently used by the coordinating committee to induce opposition to the the civil rights bill.

One technique is to interpret the bill's provisions in what I believe to be a strained manner. Words and phrases, it seems to me, are stretched to imaginative lengths. Each title has attributed to it I believe untenable applications.

Secondly, it is quite apparent that scare tactics are employed: The Federal Government, they say, is going to interfere with social security and veteran pensions of the needy. The conduct of education on the local level is to be threatened. Seniority rights of union members and job opportunities of white citizens are to be placed in jeopardy. The Attorney General, in particular, and the Federal Government, in general, are to be handed dictatorial powers.

When the bill was originally before the House Judiciary Committee, the coordinating committee devoted considerable expense and effort to sidetrack the bill by circulating a pamphlet entitled, "Blueprint for Federal Regimentation." In this pamphlet, the tactics of scare and exaggeration, it seems to me, were utilized to a considerable extent. In addition, a strawman was conveniently set up and knocked down. This strawman took the form of the House Judiciary Subcommittee bill which was so broad and far reaching that neither the full committee nor the Attorney General favored it.

Today, the key vehicles of attack by the coordinating committee apparently involve the insertion in newspapers throughout the country of the paid advertisement, "$100 Billion Blackjack," and the circulation of the pamphlet, "Unmasking the Civil Rights Bill," both referred to previously. Since both of these items contain similar charges, concentration will hereafter be placed upon the advertisement.

The advertisement starts off modestly by asserting that the civil rights bill, enacted by the House, is a "Socialists" bill designed to "destroy" the right of American citizens "to determine for themselves how they will live." In the entire full-page advertisement, not one word is included which demonstrates that the coordinating committee, or its officers, recognize the inequality Negro citizens have had to suffer through their entire lives. Individual dignity and individual rights are subverted to a plea for protection of property rights and the status quo. The designs of Mephistopheles are minor compared to those which the coordinating committee attribute to the Federal officials and Federal judiciary who are to administer and interpret the legislation and to the Members of Congress who support it.

It was Lincoln who said to the Congress on December 1, 1862:

> In giving freedom to the slave, we assure freedom to the free, honorable alike in what we give and what we preserve. We shall nobly save, or meanly lose, the last best hope of earth.

This quote has been paraphrased often to read:

> Whenever freedom and opportunity is gradually extended to those who have less than others, we, the givers, have more of both.

I am sure that the truth of this statement will be proved once more with the implementation of the provisions of the House-passed civil rights bill.

### CUTOFF OF FEDERAL FINANCIAL ASSISTANCE

As the title of the advertisement denotes, the coordinating committee's major attack is directed at title VI of the bill.

Title VI provides for the cutoff of Federal financial assistance where such assistance is used in a racially discriminatory manner. Tax moneys of all Americans go to provide the funds for financial assistance. Therefore, such assistance should be distributed without discrimination among all Americans.

The advertisement maintains that almost the entire Federal budget—thus the $100 billion figure—will be affected by title VI. In actuality, only a small percentage of that amount is involved since Federal financial assistance is only a small percentage of the total budget. The purchase of a missile by the Department of Defense or the construction of a satellite for NASA do not constitute financial assistance. In addition, the greater portion of assistance funds will not be affected since most States are free of racially discriminatory practices in the administration of such assistance.

The advertisement asserts that title VI empowers each Federal department or agency to "make its own regulations to manipulate Federal funds"; to "define for itself" the term "discrimination"; and to "apply its own penalties." Obviously, the inference to be drawn by the reader is that each Federal department or agency is to become a law and master unto itself with the power to trammel the rights of citizens underfoot.

The fact is that through the efforts of Congressman William McCulloch and other Republicans of the House, the House encased title VI in safeguards and limitations.

In the first place, it must be recognized that action may only be taken under title VI if a recipient of Federal financial assistance is engaging in the discriminatory application of such assistance. Generally, a recipient will be a State or political subdivision. Thus, title VI is directed toward assuring that a school district, for example, which receives impacted school funds will operate its schools on a desegregated basis. An entire State is not to be made to suffer for the aberrant practices of one school district. And, a school district will have no reason to suffer if it merely follows the dictates of the Constitution, namely, that all persons shall be treated equally.

Where a department or agency does find a need to become involved in a case of suspected discrimination, action may only be taken pursuant to regulations approved by the President—not merely by the department or agency alone.

Equally important, every effort must be made to secure compliance by voluntary means. If that fails, a formal hearing must be conducted where the recipient may demonstrate an absence of discrimination. Only where it has been shown that a person has been "excluded from participation in * * * denied the benefits of, or * * * subjected to discrimination under" a program of financial assistance, may funds be denied or terminated. Even there, however, Congress may be notified 30 days in advance of any action to cut off funds and a party aggrieved by the action has the right to seek judicial redress in a Federal court.

Thus, a department or agency may not take irrational and misguided action. Ultimately, the President, the Congress, the judiciary, and the people will oversee responsibility for the action.

The advertisement goes on to charge that through title VI, Federal officials will be able to force people to "knuckle under to executive direction" through the "use of the blacklist, cancellation of contracts, foreclosure, and other punitive means."

What is meant by "other punitive means" is unknown. The same is true of "blacklists" unless, by that it is meant that, once a recipient has been found to be engaging in racial discrimination, it may receive no additional funds until it ceases discriminating.

### HOUSING

The use of the word "foreclosure" is even more puzzling. Generally, the term is associated with the foreclosure of mortgages. But, the House, again under the leadership of Congressman WILLIAM McCULLOCH, specifically amended title VI to prohibit the termination of contracts involving insurance or guarantees, such as FHA or VA mortgages. Housing, then, would not be covered under the title except, perhaps in the case of public housing and urban renewal.

### BANKS AND SAVINGS AND LOAN INSTITUTIONS

The same may also be said of the operations of banks and other lending institutions. The primary way the Federal Government could allege control over the operations of these institutions is through Government insurance or guarantee programs, such as FDIC. These programs have been exempted from title VI. Therefore, it cannot be seen how the coordinating committee can charge that the civil rights bill controls the approval and foreclosure of loans by these institutions.

### EDUCATION

The coordinating committee, in its advertisement, also relies upon title VI when it charges that the civil rights bill will permit the Federal Government to interfere in the "handling" of students and teaching staffs by public and private schools and colleges. Unless mistaken, the basis for this charge is grounded in that phrase of title VI which states that "no person * * * shall * * * be subjected to discrimination under any program receiving Federal financial assistance."

The argument is made that where a school receives assistance through the school lunch program, impacted area funds, or the Defense Education Act, the Federal Government may, pursuant to title VI, take action to assure that the teachers employed by or students admitted to such school are also subjected to governmental control. And, through the use of the word "handle" the coordinating committee undoubtedly intends to connote the impression that the civil rights bill directly authorizes governmental interference in the conduct of educational instruction.

The fact is, though, that title VI is limited in its operation to the grant or withholding of funds. No accompanying dictation or supervision is authorized. Thus, if a school district, or school board is ultimately found to have committed racial discrimination, then the Federal Government may elect to withhold or refuse to grant additional Federal funds until such practice is discontinued. No additional action may be taken.

Stress must also be made that "religion" has been purposely omitted in title VI. The effect of this is to preclude action under the title as concerns the hiring of school personnel or the admission of students on religious grounds.

In a related fashion, attention should be drawn to title IV which involves education. In this title, the Attorney General is empowered to implement the Supreme Court decision—now 10 year old—striking down segregation in public schools by being authorized to institute civil actions to desegregate public schools. The Commissioner of Education is also authorized, under the title, to dispense technical and financial assistance to aid local governments, school boards and school personnel in coping with problems of desegregation, but only if the school board or other unit of government requests such assistance. Nothing in the title permits the Federal Government to interfere with educational instruction, the employment of school personnel, or the admission of students. Perhaps, even more important, the House specifically provided that the title did not authorize the Attorney General or Commissioner of Education to transfer students outside their school district to create "racial balance."

Finally, title VII on equal employment would require educational institutions having 25 or more employees, to hire teachers without regard to race, sex or religion. But, as shall be more fully discussed later, this provision cannot be interpreted, however, as permitting the Federal Government to interfere in educational instruction, admission of students, or seniority rights of school personnel. Equally important, title VII specifically exempts educational institutions which are wholly or partially owned, supported, controlled or managed by a religious association.

### SOCIAL SECURITY AND VETERANS' BENEFITS

The coordinating committee has also indicated that title VI would enable the Federal Government to gain control over the lives of individuals through the manipulation of social security and veterans' benefit programs. This could not occur.

Programs of this nature involve the direct transmission of financial assistance from the Federal Government to the individual recipient. Objective standards have been incorporated into the statutes authorizing these financial benefits. An individual would or would not qualify for the benefits on the basis of concise facts which could have no relation to race. An agency of the Federal Government, therefore, would have no basis for practicing racial discrimination among recipients even if it so wanted to. Similarly, no intervening State or local agency of government or private entity lies between the Federal Government and the financial recipient. So, again, there would be no means for the practicing of discrimination. Under these conditions title VI would not afford any means for manipulating this assistance, as the coordinating committee charges.

It seems very cruel to deliberately frighten those individuals who depend upon welfare benefits by indicating that the civil rights bill will threaten the distribution of this assistance. It is one thing to challenge the civil rights bill in those areas where it would affect existing operations or programs. How different a matter and unfortunate it is to generate fear and false impressions in areas not affected by the bill.

### FARMERS

In the same manner, the coordinating committee indicates that title VI will directly interfere with the operations of farmers.

Basically, title VI is dedicated to guaranteeing fair treatment to farmers in the receipt of Federal financial assistance—not the subjugation of farmers under the iron hand of dictatorship. In those programs where a farmer is qualified under the law to receive financial assistance, the title provides that he shall receive his proportionate share irrespective of his race or color.

All farm programs are not covered, as the coordinating committee implies, because many do not involve financial assistance or involve insurance or guarantees which are exempt under the bill. And, to those that do apply, many involve direct assistance between the Federal Government and the farmer where discrimination could not conceivably occur. Only where an intervening State or local governmental agency exists could the misapplication of assistance even potentially occur. If it does, and if voluntary corrective action fails, then funds to that State or local agency of government would be terminated until distribution is conducted without regard to race or color.

The coordinating committee maintains that the civil rights bill would authorize Federal interference with membership in farm organizations. The basis for this charge is unfathomable. Farm organizations are private in nature and do not receive Federal financial assistance. Title VII—Equal Employment—which will be discussed more fully later, requires a farm organization, having 25 or more employees, to operate its employment practices in a nondiscriminatory manner. But, membership in a farm organization by a farmer does not involve employment. Therefore, neither titles VI, VII or the other titles of the bill would interfere with membership by farmers in farm organizations.

Finally, the coordinating committee asserts that the civil rights bill will invade a farmer's right to hire or fire his employees or tenants.

It is correct that, under title VII, a farmer with 25 or more employees may not refuse to hire or proceed to discharge an employee solely because of his race, sex or religion. But, nothing in the title would permit the Federal Government to dictate preferences or quotas to a farmer or interfere in any of his employment practices not associated with the above categories of discrimination.

The coordinating committee maintains that the provisions of title VI will also enable the Federal Government to interfere in a farmer's employment practices. The basis for this contention undoubtedly rests on the interpretation of section 601 which provides:

> No person—shall, on the ground of race, color, or national origin—be subjected to discrimination under any program or actively receiving Federal financial assistance.

According to the argument, this language must be interpreted to mean that neither the farmer who received financial assistance, nor the tenants or employees of the farmer are to be subjected to racial discrimination.

A reasonable analysis of title VI, however, would avoid such a strained interpretation. Programs of Federal financial assistance are created to aid farmers. Therefore, the persons to be protected under the title are the farmers and not other individuals who may, in one way or other, have personal or business contacts with the farmers. Merely because a farmer hires or fires a tenant or employee has nothing to do with Federal financial assistance. Title VI, then, would not apply to a situation of this nature and the drafters and supporters of the title have so stated on more than one occasion.

### EMPLOYMENT AND LABOR UNIONS

Reference has been made above to the employment practices of schools and farmers. It has been indicated that, whereas title VI would have little or no effect on these categories of endeavors, title VII would have to some degree. In this regard, it is necessary to turn to the operation of title VII and the charges made against it.

Title VII provides that there shall be created an Equal Employment Opportunity Commission to receive complaints and conduct investigations relating to alleged discrimination in employment practices by employers, labor organizations, or employment agencies because of race, sex, color, religion, or national origin. If the Commission cannot settle a dispute through voluntary means, it may only seek to eliminate a discriminatory practice by instituting a civil action in the U.S. district court. In such action, the Commission would be required to shoulder the burden of proof and would have to establish discrimination through a preponderance of the evidence. If an employer or labor organization can demonstrate that it took particular action regarding an employment practice for any reason other than that involving the above-described categories of discrimination, then the court would have no authority to take action. And, if the evidence does support the charge that the practices of an employer or labor organization were based upon discrimination, the court would only have authority to enjoin further discriminatory practices and to require that the employer or labor organization hire, not fire, accept for membership or protect the membership of the individual who was discriminated against.

The coordinating committee has charged that title VII would enable the Federal Government to dictate to businessmen, schools, farmers, other employers and labor organizations, whom they must hire or accept for membership, and also permit the Government to impose quotas and preferences upon employers and labor organizations in favor of minority groups. The coordinating committee also maintains that title VII will authorize the Federal Government to interfere with the seniority rights of employees and union members.

Title VII does not grant this authority to the Federal Government. To make such assertions, as the coordinating committee does, is not only an unfortunate misinterpretation of the title's operation but is a cruel thing to do because it generates unwarranted fear among those individuals who must rely upon their job or union membership to maintain their existence.

An employer or labor organization must first be found to have practiced discrimination before a court can issue an order to prohibit further acts of discrimination in the first instance. Adequate administrative and judicial procedures have been provided in the title to assure that an order of court is only founded upon clear and conclusive evidence of discrimination. For the Commission to request or a court to order preferential treatment to a particular minority group would clearly be inconsistent with the guarantees of the Constitution.

Twenty-five States have enacted fair employment legislation which is as broad or broader than that proposed in title VII. Most of these States authorize a commission to issue and enforce its own orders against employers and labor organizations which have been found to discriminate. In contrast, as described above, a Federal court is the only governmental organ authorized to enforce the provisions of title VII and, then, it may only do so pursuant to a trial where the Federal Government has the burden of proving discrimination by a preponderance of the evidence.

Finally, title VII provides that the Federal Equal Employment Commission is to turn over complaints it receives to State commissions where State laws are effective and the State commissions are effectively administering the laws. This means that in many States where effective enforcement is possible title VII need not even apply.

### RIGHT TO JURY TRIAL

Turning to another charge, the coordinating committee maintains that the civil rights bill will allow people to be jailed without trial by jury. It would seem that only a desire to generate fear and to defeat civil rights legislation would prompt a statement of this nature.

The titles of the Federal civil rights bill contain no primary criminal penalties for the violation of its provisions. This is contrary to many of the State civil rights laws. Enforcement of the Federal civil rights bill will be through the issuance by Federal courts of civil orders preventing acts of discrimination. Historically, in accord with Anglo-Saxon jurisprudence, and also in accord with the Constitution of the United States, civil orders of this nature are issued by Federal courts sitting without juries. If, and only if, an individual deliberately and knowingly continues to violate the order of the court—following a trial—could the court issue an order of fine or jail term. This additional order of a criminal nature would not be for violation of a provision of the civil rights bill, but for violation and contempt of the court order. A court must have this authority to protect its sanctity and preserve its respect. Every State court has, and regularly relies upon, such authority.

In spite of this historic and constitutional precedence, however, the House of Representatives provided the added privilege of jury trial in two key titles. In title I on voting, the jury trial provisions of the 1960 Civil Rights Act are made applicable. These provide that where an individual has been found to be in criminal contempt of court and thereby fined more than $300 or jailed for more than 45 days, the defendant shall be automatically entitled to a new trial before a jury. Similarly, in title II relating to public accommodations, the same privilege has been granted.

It must be stressed that only those who knowingly violate court orders issued pursuant to the civil rights legislation need fear any criminal penalties. And an order of criminal contempt is only issued by a court when an individual willfully seeks to hinder or obstruct the administration of justice or willfully attempts to bring the court into disrespect.

### FALSE CHARGE OF STAR CHAMBER PROCEEDINGS

The coordinating committee continues its citation of charges by stating that title V of the civil rights bill will allow the Federal Government "to hold star chamber sessions and to imprison those who disclose, without permission, what went on behind its closed doors."

The foundation for the charge is impossible to comprehend.

Title V merely provides for slight amendment to the authority and functions of the Civil Rights Commission. This Commission, which was established in 1957, has no authority to issue orders. Its functions are to conduct investigations and make recommendations and reports to the President, Congress and the public. Title V would extend the life of the Commission for 4 additional years. It is also granted the added authority to act as a clearinghouse for information and to investigate allegations that fraudulent voting practices, such as vote stealing, have occurred in certain elections.

The basis for the coordinating committee's charge is founded upon language that was incorporated in the original law establishing the Civil Rights Commission in 1957. This language provides that if the Commission "determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person" it shall first receive such evidence or testimony in private session. The clear purpose of this provision is to protect innocent persons from being subjected to abuse. Those who release this evidence or testimony without permission of the Commission may be subject to a misdemeanor. But for a person to be found guilty of a misdemeanor, he is entitled to a trial by jury in open court with the right of counsel. This is the antithesis of the star chamber proceeding.

The coordinating committee creates the impression that this is a new device, founded upon some diabolical intent of Congress to turn the Civil Rights Commission into a star chamber tribunal.

The purpose, as stated above, was to protect innocent witnesses from being subjected to defamation or degradation. Since its inception, the authority has not been misused. Added proof of this fact is that committees of Congress, including the Senate Internal Security Committee, has this authority and has found the need to use it on more than one occasion. And, by keeping in mind the fact that the Commission is only a factfinding agency, it is difficult to see how this authority could be disabused in the future.

When one thinks of a star chamber proceeding, one has in mind a court or other tribunal with the power to order an individual to jail or to his death without the right to counsel or the benefit of public awareness of the trial and punishment. The factfinding duties of the Civil Rights Commission can, in no way, be likened to star chamber proceedings. To suggest such a comparison is only additional evidence that the coordinating committee is seeking to frighten the people of America in its effort to prevent the grant of equal rights to all Americans.

In typical manner, the coordinating committee charges that the civil rights bill will permit the Federal Government to interfere with the right of State and local governments to:

First. Handle local and State elections;

Second. Regulate local parks, swimming pools and other recreational facilities;

Third. Regulate hotels, restaurants, motion-picture houses and stadiums.

Taking one charge at a time, the civil rights bill does not permit interference with the right of State and local governments to conduct elections. Nor does any provision authorize interference with voter qualifications established by or pursuant to State law.

### VOTING

Title I, voting, only provides that when a State or local government conducts an election, it must do so fairly so that a citizen will not be denied the right to vote because of his race, color, religion, or national origin. Title I also establishes certain procedural safeguards to assure that, when a State or local government administers its voter qualifications, it does so without discrimination.

One of these safeguards involves the requirement that literacy tests be in writing since overwhelming evidence exists that registrars in certain Southern States have used oral literacy tests as a means to disqualify Negro voters. Similarly, the title provides that where an applicant for registration has taken a State literacy test and has been rejected for illiteracy, the Attorney General, if he subsequently brings a suit charging discrimination by the registrar shall have the procedural right to a presumption in the court that the rejected applicant is literate to vote if he has completed the sixth grade of school. This provision in no way restricts the State's right to require voter applicants to take literacy tests and grants the State the right to prove in court that the applicant was rejected because of illiteracy, and not because of the color of his skin. Finally, the title provides that an applicant shall not be denied the right to vote merely because he has committed a minor error or omission on an application form where such error or omission is not material to the applicant's having met the State's qualification requirements. This provision will not permit an individual to vote if he does not otherwise meet the State's qualifications for voting such as age or residency requirements.

Due to the complicated nature and length of time necessary to decide voter discrimination cases, the House, with Congressman WILLIAM MCCULLOCH leading the way, also inserted in title I the provision that cases of this nature could be tried before three-judge district courts if the Attorney General or the defendant—such as the State registrar—so request. Appeals from a three-judge court go directly to the Supreme Court in order to expedite the proceeding.

Three-judge district courts have been authorized by Federal law for over half a century. They may be empaneled to hear antitrust, transportation, constitutional law, and other categories of cases. One of the three judges must be a district judge from the district wherein the case arose. Another must be a circuit court judge residing in the circuit which encompasses the above district court. The third member of the panel may be a judge of either the above-mentioned circuit or district courts.

In those States where election laws are administered without racial or religious discrimination, there will be no cause for the Federal Government to file a voter discrimination case or to apply the procedural safeguards established in title I. Unfortunately, however, a limited number of States in the South have been found to deny Negro citizens the right to vote. For example, 200 counties in the South presently have fewer than 15 percent of Negroes of voting age registered to vote. When an attempt is made to register, every conceivable device is resorted to in order to prevent registration. Economic or physical coercion, discriminatory application of qualification tests and standards, and slow downs by registrar are but a few of these practices. The Constitution specifically mandates that citizens be permitted to vote without racial discrimination. It is the duty of the Congress and the American public to enforce this mandate.

### PUBLIC FACILITIES

The second charge in this category involves the allegation that the civil rights bill permits the Federal Government to interfere with the right of States and local governments to regulate parks, swimming pools, and other public facilities.

The Supreme Court for a number of years has ruled that a State or local government may not operate public facilities in segregated manner. Since the tax moneys of all citizens in a community contribute to the construction and operation of these facilities, the Court has stated that the Constitution requires all citizens to have access to them on an equal basis.

For a number of years, private citizens have had the right to institute suit to open up public facilities to members of all races and religions. Many suits have been brought and many facilities have been desegregated. But, in spite of the clarity of legal rulings, thousands of facilities remain closed to citizens because of their color. Suits by individuals are costly and time consuming. In some communities, the institution of a suit by an individual could jeopardize that individual's economic or physical well being. For these reasons, the civil rights bill authorizes the Attorney General, upon receipt of a signed complaint and evidence of an individual's inability to bring suit, to institute a civil action to open up such public facilities to all citizens.

In this one sense, then, and in this sense only, the civil rights bill permits the Federal Government to "interfere" with the operations of public facilities. This would not seem to be unwarranted interference. When, however, a State or local government operates its public facilities, as most do, without regard to race, color, religion, or national origin, then this provision would in no way interfere with the regulation of these facilities by the State or local government.

### PUBLIC ACCOMMODATIONS

The third charge involves the accusation that the civil rights bill will permit the Federal Government to interfere with the right of State and local government to regulate hotels, restaurants, motion-picture houses and stadiums.

The irony in this accusation is that it boldly acknowledges the right and practice of States to regulate the operation of public accommodations, but rejects even limited rights to the Congress of the United States in instances where the constitutional rights of citizens are being violated. Equally ironic is the fact that the coordinating committee apparently sees no harm in the State regulation of public accommodations, but sees a total destruction of the concept of private property and free enterprise when Congress merely seeks to assure that the traveling public receive equal treatment regardless of race or religion.

Title II—public accommodations—provides that owners or operators of: first, places of lodging; second, eating establishments; third, places of entertainment; and fourth, gasoline stations shall serve customers without regard to their race or religion. Also included are places of business, such as barbershops, which are located within one of the above four specified categories of business, such as hotels, and which hold themselves out as serving the patrons of the specified establishments. In this regard, it does not seem unreasonable to provide that if a hotel accepts a Negro as a guest the barbershop located in the hotel and leasing space there, upon the approval of the hotel, should serve the Negro guest.

In the early days of our Nation, as in England, the common law provided that innkeepers and other operators of public accommodations were required to serve every traveler who was otherwise well behaved and capable of paying. Surely, our law has taken a backward step by permitting the weary traveler to be turned away tired and hungry.

Of equal importance, convincing evidence has been presented which discloses that interstate commerce is being jeopardized through the segregated operations of public accommodations in a few States. Negroes, constituting 10 percent of the Nation's population, are most reluctant to travel in those States which fail to protect the traveler. In addition, many national business organizations have been reluctant to set up or expand operations in those States permitting segregated public accommodations because of the harmful consequences this condition has upon employee relations.

Aside from the power of Congress to enact title II pursuant to its authority under the commerce clause, it also has the authority under section 2 of the 14th amendment.

The coordinating committee readily assumes that State and local governments have the authority and, in fact, do regulate public accommodations. Where this occurs, title II provides that the above specified categories of public accommodations shall be free of discrimination if discrimination is enforced or required by action of the State or local government. Similarly, there is provided that all establishements shall be free from discrimination if State or local law, ordinance or regulation require segregation.

The Constitution provides that:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States—nor deny to any person within its jurisdiction the equal protection of the laws.

An examination of this provision, together with the court cases which have interpreted it, clearly reveals that Congress has the authority to enact title II.

Under the American system of government, private property rights are highly respected, but individual rights are sacred. Owners of businesses serving the public are free to serve whom they please so long as they do not discriminate among customers solely because of the color of their skin or their religion. States and local governments must respect this constitutional requirement. They may not interfere with the rights of proprietors of business or the rights of individual citizens by requiring forced segregation.

Thirty-two States recognize this principle and have enacted legislation which is as broad or broader than that prescribed in title II. This means that the Federal civil rights bill should have no application in this regard in those States. Congress can require no less respect for the Constitution in those States which have, as yet, failed to recognize this principle.

### WORD DEFINITIONS

Elsewhere, in the advertisement, the coordinating committee maintains that the words "discrimination," "race," and "religion" are not only undefined, but that each department and agency would have the power to determine for itself what such terms shall mean.

In the first place, the words "race" and "religion" have fairly accepted definitions. But, these together with the word "discrimination" have been defined by the courts in the context of their use.

Contrary to the statement by the coordinating committee, the courts and not the departments or agencies will be the final arbiter of the definition of these words. Initially, departments and agencies must apply such words in their administration of the legislation. But, judicial review is authorized in each title of the civil rights bill where definition would be essentially required. Therefore, departments and agencies will not be permitted ultimately to apply their own interpretation. These words already have received judicial definition and relative uniformity will continue to occur as necessary through further judicial interpretation.

### THE CHARGE OF DICTATORSHIP IS UNFORTUNATE BECAUSE IT HAS FALSE IMPLICATIONS

In concluding, the coordinating committee charges that the enactment of the civil rights bill is nothing more than the creation of socialism in the United States and will convert the President of the United States into a dictator.

This charge is an insult to the President of the United States and to the overwhelming number of Congressmen and Senators who have either voted for or who support the bill. The charge is also in error as it relates to the operation of the proposed legislation.

As described above, multiple administrative and judicial safeguards surround each title of the bill in order to protect individual and property rights. The great majority of the States have enacted legislation which is generally more sweeping in nature. If the coordinating committee is to condemn the President and the Congress of the United States, then it must also condemn a majority of the States, their chief executives, their legislators, and their citizens who have endorsed such legislation.

The fact is that the coordinating committee represents a minority interest which is preventing any form of civil rights legislation. Under the American system, it has the right and in this instance it has been given its right to present its position. But, also under the American system, it has long been accepted that every citizen, regardless of race, color, religion, or national origin shall be treated as an equal. This is the extent of the purpose and intent of the civil rights bill. Rights are to be provided equally to all Americans. Rights are not granted to a few at the expense of many. Totalitarianism is not bred when a nation's government and its people are dedicated to respecting and protecting the inherent equality of the individual. Only when a government or a people consider one race or one class of persons superior to another is there sown the seed of dictatorship and moral decay. When every American, who believes in the American way of life, is accurately informed of the scope and operation of the bill, there is no question that its passage and enforcement will be assured.

## SERBIAN ORTHODOX CHURCH

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that the gentleman from California [Bob Wilson] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOB WILSON. Mr. Speaker, for some time now the Serbian Orthodox Church has been involved in a wrangle over alleged Communist influence within its organization. This problem revolves around whether mother churches in Communist bloc countries are in fact exerting influence on member churches in this country which could be considered dangerous from the standpoint of our internal security.

It is not really the place for someone who is not a member of a faith to become involved in the internal political problems of any religion. However, in this case the many devoted members of the Serbian Orthodox Church have found themselves in the middle of a dispute which is complicated not only by political factors and factions within several European countries but also by the even more complex pressures and influences of international politics.

My constituents who are members of the Serbian Orthodox Church are alarmed over the direction that this conflict is going and feel, and I think legitimately so, that the church is being unfairly sullied. I think it is only right to help clear the air on this whole controversy.

For this reason I was happy to direct an inquiry to the State Department asking clarification on some of the charges which have been raised. At the conclusion of my remarks I wish to include the response from Mr. Frederick G. Dutton, Assistant Secretary of State.

DEPARTMENT OF STATE,
*Washington, January 21, 1964.*

The Honorable BOB WILSON,
*House of Representatives.*

DEAR CONGRESSMAN WILSON: Thank you for your letter of January 14, addressed to the Secretary, in which you expressed concern at the charges leveled at the Serbian Orthodox Church to the effect that it is heavily infiltrated with Communists. You asked whether this organization is purely religious or whether it is a political-religious combination.

The extent to which the present Yugoslav Government effectively controls or influences the administration and organization of the Serbian Orthodox Church, both within and outside Yugoslavia, is not subject to precise calculation at any given time. Various governments ruling Serbia or (after 1919) Yugoslavia may be presumed to have had influence on the Serbian Orthodox Church in varying degrees depending on the circumstances affecting the government and the church or its leading personalities at any particular moment. On various occasions before World War II, religious representatives of the Serbian Orthodox, Roman Catholic, and Moslem faiths may also be presumed to have brought their personal weight or the weight of opinion of their respective faiths to bear on political issues confronting the government of the period.

It would be accurate to say, however, that the Serbian Orthodox Church in Yugoslavia is now generally much freer to run its internal religious affairs in accordance with its constitution and its regulations than in the immediate postwar period although it does not enjoy the freedom and privileged position which it had in prewar Yugoslavia when, for example, the King used to be crowned by the Patriarch of the Serbian Orthodox Church. In recent years, basic relations between church and state have been determined by law. Other laws have been promulgated concerning social welfare provisions for ministers of religion, the protection of religious monuments having historic and artistic value, and so forth. A Federal agency, the Federal Commission on Religious Questions, maintains relations with the religious denominations—Serbian Orthodox, Roman Catholic, Moslem, Old Catholic, and so forth—at the Federal level, and there are similar bodies at the republic level for each of the six constituent republics. The Federal Commission reports directly to the Federal Executive Council, the principal executive organ of the Yugoslav Government.

Although in the postwar period the influence of the Yugoslav Government on the actions of Serbian Orthodox bishops had often been apparent, relations between church and state have recently been largely normalized, and the principle of separation of church and state is provided for in the Constitution of the Yugoslav State. While never tolerating political activity on the part of the Serbian Orthodox clergy (or the clergy of any other faith), the Government has apparently been increasingly disposed to leave strictly religious affairs to the administration of the Serbian Orthodox Church. It is not possible to indicate how much the Government may have influenced the Serbian Orthodox hierarchy, if at all, in any specific decision, but it is generally considered that the hierarchy is resolutely trying to defend the prerogatives and the rights of the church and of its adherents to the best of its ability.

If I can be of further assistance to you, please do not hesitate to let me know.

Sincerely yours,

FREDERICK G. DUTTON,
*Assistant Secretary.*

Mr. Speaker, in addition to this I requested information concerning any Communist affiliation of certain members of the Serbian orthodox hierarchy from the House Un-American Activities Committee. I wish to also insert a copy of the letter that was sent me from the distinguished chairman of that committee. I believe that this information is important in this case:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON UN-AMERICAN ACTIVITIES,
*Washington, D.C., October 2, 1963.*

Hon. BOB WILSON,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR COLLEAGUE: In reply to your letter of September 26, 1963, a check of the public files, records and publications of this committee has failed to reveal any information concerning Stefan Lastavica, a Serbian orthodox bishop in charge of the western diocese.

With kindest regards, I am,

Sincerely yours,

EDWIN E. WILLIS,
*Chairman.*

Mr. Speaker, the intervention of any nation in the religion of its people is a very delicate matter. I think that we especially appreciate that right now as we begin hearings on the several so-called prayer amendments to our own Constitution. I hope that no branch of our Government will become needlessly involved in the internal matters of the Serbian orthodox or any other church.

I believe this present controversy is one which can and will be resolved by the members of this faith without the intervention of outsiders. It is my firm belief also that the people who make up the Serbian Orthodox Church in this country are loyal Americans and will, if they see it is necessary, approach our Government for assistance.

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## THE EFFECTS OF AUTOMATION AND TECHNOLOGICAL CHANGE

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. CURTIS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CURTIS. Mr. Speaker, deep concern is being expressed in various quarters, particularly among organized labor, about the rapid rate of technological change—sometimes loosely termed automation—taking place in our society. Certainly technological advancement creates the need for adjustment. Technological change may displace individual workers, contribute to the decline of certain industries and firms and speed the economic decline of an entire area.

But this is not new; it has been going on since the earliest days of our history. What may be new and different in the current situation is the pace and nature of today's technological change. Economists differ on how far reaching these differences are, but there is general agreement that changes now taking place are fundamentally altering both the demand for labor and the nature of work in our society.

A key question is whether our rapid rate of technological change creates more jobs than it eliminates. Judging by history, I believe this is its effect. I would agree, however, with a recent editorial in the St. Louis Post-Dispatch that cautioned against asserting "unquestioningly" that technological change will have a net favorable impact upon employment opportunities in our society. I have stated that technological change does create more jobs than it displaces and sought to advance the reasons supporting this contention. Let those who disagree advance their reasons so the dialog can move forward.

In this connection, a recent Department of Labor study on technological trends in 36 major American industries points out that historically reduced labor per unit of output, basically the result of technological advancements, has generally been a major source of expansion in markets and employment because of its impact in reducing costs and prices. In other words, technological advancements have resulted in lower prices, wider markets, and more employment to satisfy the increased demand.

In the March 1964 "Manpower Report of the President and a Report on Manpower Requirements, Resources, Utilization, and Training" by the U.S. Department of Labor, part II, Chapter I: Productivity, Changing Technology, and Employment, it is stated:

> Yet automation is generating jobs as well as eliminating them—in part through direct creation of new jobs, in part through stimulation of economic growth. And it can be convincingly argued that, according to the record of economic history, the longrun effect of technological advance has so far been to increase employment, as well as to raise per capita income, and to remove much of the drudgery from work.

Chapter I goes on to point out in detail the areas where new jobs and new employment are created.

An important study by Dr. Yale Brozen, professor of economics, Graduate School of Business, University of Chicago, discusses in some detail the favorable employment effects of automation. His study entitled "Automation—the Impact of Technological Change," was written for the American Enterprise Institute for Public Policy Research, and published by that organization in March 1963.

In his study, Dr. Brozen states that:

> The primary effect of automation is not a reduction in the number of jobs available. Rather, it makes it possible for us to do many things which otherwise could not and would not be done.

Dr. Brozen says that those who fear a great rise in unemployment as a result of automation think in terms of a given list of goods to be produced. By enabling us to do more than we would otherwise do, however, technological change enables us to pay men more and, at the same time, provide more jobs. His study estimates that between 1951 and 1961, 20 million new jobs were created and 13 million jobs were destroyed, leaving a net gain of 7 million jobs.

There has been no unemployment caused by technological change. What has happened, according to Professor Brozen, is that some people are unemployed who would have been at work but for automation; others are at work who would have been unemployed but for the same automation. Automation changes who is unemployed but it does not increase unemployment. If anything, it has decreased the total number of unemployed.

One way to minimize the displacement effects of automation is to reduce the rate of increase in employment costs. A high rate of increase in employment costs diverts investment to modernization, which causes frictional unemployment by substituting machinery for men. Dr. Brozen estimates that approximately one man is released for every $35,000 of investment in modernization. He points out that more investment will go to expansion if there is a slower rise in employment costs. He estimates that one new job will open up for every $16,000 or $17,000 of expansion investment.

According to the study, employers are tending to hire fewer less skilled, less educated people because of high minimum wage rates set by laws, by government administrators, and by agreements between unions and employers. Under these rates, less skilled personnel are not sufficiently productive to justify employing. With a less rigid wage structure, a smoother adaptation to automation could take place by the acceptance of lower wage jobs by some individuals as well as by attaining higher skill levels.

Avoidance of displacement requires a higher rate of savings and investment as well as by a less rapid rise in employment costs. The study shows that a larger flow of savings could provide as much capital as employers find it necessary to use for modernization and leave a larger amount available for job-creating expansion. Dr. Brozen points out that in this situation, we could have our cake—higher wage rates—and eat it—no unemployment—too. In addition, it is clear that the more free and flexible labor markets are, the fewer will be the strains and difficulties in making the necessary adjustments.

One of the most interesting sections of the Brozen study discusses the shift in the structure of industry employment. It points out that between 1870 and 1960 the percentage of the total work force employed in the primary industries of agriculture, forestry, fishing, and mining fell from 54 to 10 percent. At the same time, the secondary or fabricating industries, including manufacturing and construction, has risen from about 20 percent of our work force to about 33 percent in 1960.

Dr. Brozen suggests that the secondary or fabricating industries now face the same fate faced earlier by the primary industries. He notes:

> Just as people might be said to have had their fill of primary products and did not want much of the extra primary product which could be produced with the increased productivity of a given labor force, they now have their fill of secondary products and do not want much of the extra product which can be produced with the increased productivity.

The fact that secondary demand is not moving as fast as productivity and income means that people must be spending their extra income for other goods. What has happened is that we have reached levels of income at which consumers desire the products of the so-called personal service and life-enriching industries, including education, entertainment, travel, research, and medicine. The shift in demand to the services of these industries, which has gone on in the past and which is now becoming even more dramatic, is one of the most persuasive signs of the real and meaningful economic growth that has been occurring in our country.

These changes, which are being accompanied by a change in the occupational mix in the secondary industries as well, are altering the nature of the demand for labor. The growing need is for higher levels of skill and education, a development which has led to an increased emphasis on vocational education, improving the quality of our schools, Federal programs to spur manpower training and retraining, and an increased emphasis on the importance of on-the-job training and retraining in the private sector.

The complex manpower problems which our society now faces are likely to grow more difficult with the passing years. In large part these problems are a byproduct of the outstanding successes of our free enterprise system. Whether we meet the challenge of automation and overcome its accompanying human and social problems—and the manner in which we do so—will determine whether our free economic system as we now know it will survive.

## SPECIAL ORDER GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to Mr. O'KONSKI (at the request of Mr. BYRNES of Wisconsin), for 1 hour, on April 29.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. RYAN of New York and to include extraneous matter.

Mr. ZABLOCKI.

(The following Member (at the request of Mr. BYRNES of Wisconsin and to include extraneous matter:)

Mr. DON H. CLAUSEN.

(The following Member (at the request of Mr. ALBERT) and to include extraneous matter:)

Mr. POWELL in two instances.

## ADJOURNMENT

Mr. FULTON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 17 minutes p.m.) the House adjourned until tomorrow, Tuesday, April 28, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1982. A communication from the President of the United States, transmitting a draft of a proposed bill entitled "A bill to amend the Alaska Omnibus Act"; to the Committee on Interior and Insular Affairs.

1983. A letter from the Associate Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, transmitting a report on title I, Public Law 480 agreements signed during March 1964, pursuant to Public Law 85–128; to the Committee on Agriculture.

1984. A letter from the Administrator, General Services Administration, transmitting a notice of a proposed disposition of approximately 11 million pounds of molybdenum contained in molybdenum disulphide now held in the national stockpile, pursuant to 50 U.S.C. 98b(e); to the Committee on Armed Services.

1985. A letter from the Secretary of the Treasury, transmitting a report of the audit of the exchange stabilization fund for the fiscal year ended June 30, 1963, pursuant to section 10 of the Gold Reserve Act of 1934, approved January 30, 1934, as amended; to the Committee on Banking and Currency.

1986. A letter from the Comptroller General of the United States, transmitting a report on the review of the unnecessary cost to the Government in the leasing of electronic data-processing systems by the Boeing Co. Airplane Division, Wichita, Kans., Department of Defense; to the Committee on Government Operations.

1987. A letter from the Secretary of the Interior, relative to the Westlands Water District relating to the San Luis Unit of the Central Valley project pursuant to Public Law 86–488; to the Committee on Interior and Insular Affairs.

1988. A letter from the Assistant Secretary of the Interior, transmitting a proposed amendment to concession contract No. 14–10–0100–327, relating to a partnership operating as Signal Mountain Lodge to provide facilities to the public in Grand Teton National Park, pursuant to 70 Stat. 543; to the Committee on Interior and Insular Affairs.

1989. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report to the Committee on Science and Astronautics of the House of Representatives pursuant to section 1(d) of the National Aeronautics and Space Administration Authorization Act, 1964 (77 Stat. 141, 142), and the first paragraph of the general provisions of the Independent Offices Appropriation Act, 1964, applicable to the National Aeronautics and Space Administration (77 Stat. 425, 439); to the Committee on Science and Astronautics.

1990. A letter from the Chairman, Eleanor Roosevelt Memorial Foundation, transmitting the annual report for 1963 of the Eleanor Roosevelt Memorial Foundation, pursuant to Public Law 88–11; to the Committee on the Judiciary.

1991. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of the orders entered in the cases of certain aliens who have been found admissible to the United States, pursuant to the Immigration and Nationality Act; to the Committee on the Judiciary.

1992. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in cases in which the authority was exercised in behalf of such aliens, pursuant to the Immigration and Nationality Act; to the Committee on the Judiciary.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, pursuant to the order of the House of April 23, 1964 the following bill was reported on April 24, 1964.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. H.R. 10041. A bill to improve the public health through revising, consolidating, and improving the hospital and other medical facilities provisions of the Public Health Service Act; with amendment (Rept. No. 1340). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted April 27, 1964*]

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLATNIK: Committee on Public Works. H.R. 8078. A bill to amend the act of July 26, 1956, to authorize the Muscatine Bridge Commission to construct, maintain, and operate a bridge across the Mississippi River at or near the city of Muscatine, Iowa, and the town of Drury, Ill.; with amendment (Rept. No. 1342). Referred to the House Calendar.

Mr. WILLIAMS: Committee on Interstate and Foreign Commerce. H.R. 9689. A bill declaring a portion of Bayou Black and Bayou Terrebonne, La., nonnavigable waterways of the United States; with amendment (Rept. No. 1343). Referred to the House Calendar.

Mr. ROGERS of Texas: Committee on Interior and Insular Affairs. House Joint Resolution 733. Joint resolution to designate the powerhouse on Clear Creek at the head of Whiskeytown Reservoir, in the State of California, as Judge Francis Carr Powerhouse; without amendment (Rept. No. 1344). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. House Concurrent Resolution 45. Concurrent resolution expressing the sense of the Congress that the Administrator of the St. Lawrence Seaway Corporation should cooperate with other governmental authorities in the United States and with Canadian authorities to reduce oil pollution; without amendment (Rept. No. 1345). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 705. Resolution for consideration of H.R. 10669, a bill to extend the Renegotiation Act of 1951, and for other purposes; without amendment (Rept. No. 1346). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 9720. A bill authorizing a study of dust control measures at Long Island, Port Isabel, Tex.; without amendment (Rept. No. 1347). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works. H.R. 10392. A bill authorizing the Commissioners of the District of Columbia to locate a portion of a vehicular tunnel under parts of the U.S. Capitol Grounds and the U.S. Botanic Garden grounds, and for other purposes; without amendment (Rept. No. 1348). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. S. 920. An act to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis; without amendment (Rept. No. 1349). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. S. 1005. An act to amend paragraph (2)(G) of subsection 309 (c) of the Communications Act of 1934, as amended, by granting the Federal Communications Commission additional authority to grant special temporary authorizations for 60 days for certain nonbroadcast operations; without amendment (Rept. No. 1350). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. S. 1193. An act to amend section 309(e) of the Communications Act of 1934, as amended, to require that petitions for intervention be filed not more than 30 days after publication of the hearing issues in the Federal Register; without amendment (Rept. No. 1351). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. Report pursuant to House Resolution 55 pertaining to ideological operations and foreign policy; without amendment (Rept. No. 1352). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POFF: Committee on the Judiciary. H.R. 6385. A bill for the relief of Wolfgang Seidl; without amendment (Rept. No. 1341). Referred to the Committee of the Whole House.

Mr. BLATNIK: Committee on Public Works. H.R. 9934. A bill to authorize the construction of a dam on the St. Louis River, Minn.; with amendment (Rept. No. 1353). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLEVELAND:

H.R. 11023. A bill to establish a national cemetery in New England; to the Committee on Interior and Insular Affairs.

By Mr. FEIGHAN:

H.R. 11024. A bill to amend title II of the Social Security Act to increase old-age and disability insurance benefits by $35 a month (and other monthly benefits proportionately), and to provide that full benefits (when based upon attainment of retirement age) will be payable to men at age 62 and women at age 60; to the Committee on Ways and Means.

H.R. 11025. A bill to amend title II of the Social Security Act to permit payment of child's insurance benefits after attainment of age 18 in the case of a child attending school; to the Committee on Ways and Means.

H.R. 11026. A bill to amend title II of the Social Security Act to increase the benefits payable thereunder to the widows and surviving children of deceased insured workers, and to increase disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 11027. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. FULTON of Pennsylvania:

H.R. 11028. A bill authorizing construction of flood control projects on Chartiers Creek, Pa.; to the Committee on Public Works.

By Mr. HERLONG:

H.R. 11029. A bill to authorize the advancement of funds for preconstruction planning of the flood control project for Four River Basins, Fla.; to the Committee on Public Works.

By Mr. JOHNSON of California:

H.R. 11030. A bill for the relief of certain persons having summer homes in the Pinecrest Recreation Area, in the Stanislaus National Forest; to the Committee on Agriculture.

By Mr. LANGEN:

H.R. 11031. A bill to increase the amount of domestic sugar which may be marketed, and for other purposes; to the Committee on Agriculture.

By Mr. LONG of Louisiana:

H.R. 11032. A bill to protect consumers by requiring that imported meat and meat food products made in whole or in part with imported meat bear a label showing the country of origin of such imported meat; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN:

H.R. 11033. A bill authorizing construction of flood control projects on Chartiers Creek, Pa.; to the Committee on Public Works.

By Mr. PELLY:

H.R. 11034. A bill to repeal the retailers' excise taxes on jewelry, furs, cosmetics, and luggage; to the Committee on Ways and Means.

By Mr. VINSON:

H.R. 11035. A bill to authorize the extension of certain naval vessel loans now in existence; to the Committee on Armed Services.

By Mr. WHALLEY:

H.R. 11036. A bill to amend title 18 of the United States Code to expand the powers of arrest of the Secret Service; to the Committee on the Judiciary.

By Mr. ASPINALL:

H.R. 11037. A bill to amend the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs.

By Mr. RIVERS of Alaska:

H.R. 11038. A bill to amend the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs

By Mr. GILL:

H.R. 11039. A bill to authorize the Secretary of the Interior to make a loan and grant to the State of Hawaii for the construction of the Kokee water project, Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA:

H.R. 11040. A bill to authorize the Secretary of the Interior to make a loan and grant to the State of Hawaii for the construction of the Kokee water project, Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CHARLES H. WILSON:

H. Con. Res. 295. Concurrent resolution to request the President to initiate discussion of the Baltic States question before the United Nations with a view to gaining the independence of Lithuania, Latvia, and Estonia from the Soviet Union; to the Committee on Foreign Affairs.

### MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States relative to inclusion of State Highway Route 190 into the Federal forest highway system; to the Committee on Public Works.

Also, memorial of the Legislature of the State of Massachusetts, memorializing the President of the Congress of the United States relative to continuing the public housing program at a minimum of the levels authorized in the Housing Act of 1949; to the Committee on Banking and Currency.

Also, memorial of the Legislature of the State of Massachusetts, memorializing the President and the Congress of the United States relative to enacting legislation granting medical assistance to the aged under the Federal Social Security Act; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of Massachusetts, memorializing the President and the Congress of the United States relative to enacting legislation providing that sums deducted for retirement purposes from salaries of State employees and pensions paid retired State employees shall be exempt from Federal income taxation; to the Committee on Ways and Means.

### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred to as follows:

By Mr. CHARLES H. WILSON:

H.R. 11041. A bill for the relief of Stanislav F. Granec; to the Committee on the Judiciary.

By Mr. SIBAL:

H.R. 11042. A bill for the relief of Mrs. Mary J. Roscoe; to the Committee on the Judiciary.

By Mr. RYAN of New York:

H.R. 11043. A bill for the relief of Stella Kakavelas; to the Committee on the Judiciary.

By Mr. SISK:

H.J. Res. 1010. Joint resolution authorizing the expression of appreciation and the issuance of a gold medal to Henry J. Kaiser; to the Committee on Banking and Currency.

### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

870. By the SPEAKER: Petition of Dorothy E. Cotter, city clerk, City of Yonkers Council, Yonkers, N.Y., petitioning consideration of their resolution with reference to rejecting the proposed joint resolution and to oppose any other measures proposed which would amend the present provisions of the Sugar Act of 1948, as amended, relating to domestic quotas; to the Committee on Agriculture.

871. Also, petition of Seijiro Kohagura, Ginowan City, Okinawa, for early solution of the problem of pretreaty claims; to the Committee on Foreign Affairs.

872. Also, petition of Koho Arakaki, Gushikawa-son, Okinawa, for early solution of the problem of pre-peace-treaty claims; to the Committee on Foreign Affairs.

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# EXTENSIONS OF REMARKS

## Togo Independence Day

EXTENSION OF REMARKS
OF
**HON. ADAM C. POWELL**
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Monday, April 27, 1964*

Mr. POWELL. Mr. Speaker, April 27 celebrates another anniversary of Togo's independence. On this memorable occasion, we take pleasure in extending warm felicitations to His Excellency the President, Nicolas Grunitzky; and His Excellency the Togo Chargé d'Affaires to the United States, John Abalo.

Today marks the fourth anniversary of Togo's independence from France. Before that date, this small west African Republic had been under German protection and then after World War I under the French. In 1956 it became an autonomous Republic within the French Union. In a remarkably smooth transition, Togo began its independent life with a democratic form of government under the leadership of a prime minister and legislature 4 years ago.

Togo itself is a small, narrow country of 22,000 square miles which stretches northward from the Bay of Guinea to the boundary of Upper Volta. On the west it borders Ghana and on the east Dahomey. Hilly rather than mountainous, its coastal lagoons in the south give way to alternate stretches of forest, fertile land, and arid plain further inland. Its more than 1 million citizens are divided between different ethnic groups whose diverse languages have left French the only practical medium in commerce, government, and the schools. Most still follow traditional religions, although others have become Christians or Muslims.

In a series of economic and social development plans, Togo has continued the progress begun under the French. The emphasis has been on agriculture, which still remains the basis of the economy and the area of endeavor for most of the population. Industry is still little developed, although some factories, the most important that of phosphates, have been established. Local handicrafts and cottage industries still flourish in parts of the country. France remains Togo's primary trading partner, although the United States is also active.

Under a new constitution democratic forms of government have been preserved at both the national and local levels, which was approved in a referendum last year. Voters elect a national assembly and a president who is both chief executive and head of state.

We heartily extend our congratulations to Togo on its fourth birthday. It has large problems to face, but it has done much toward their solution already. Let us hope it will do even more in the future.

## MacArthur, a Christian Soldier and a Man of Peace

EXTENSION OF REMARKS
OF
**HON. DON H. CLAUSEN**
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Monday, April 27, 1964*

Mr. DON H. CLAUSEN. Mr. Speaker, Gen. Douglas MacArthur was a man whose integrity and honor was akin to Lincoln's, whose love of America and desire to protect and defend it could be compared to our revered George Washington, whose single strength of purpose was like the Rock of Gibraltar, whose principles were as strong as a Thomas Jefferson's, yet also a man who had the flare and stature of a De Gaulle, matched with the courage of a Winston Churchill.

Truly here was a man who earned the respect, the admiration, the love of fellow Americans and people worldwide. Typical was the outpouring of affection from a grateful people on his return from Korea. If ever there lived a man who made his mark in this world and goes on to lead another army—God's army in another world to which we who are Christians believe and aspire—that man was Douglas MacArthur.

This man, for all his strength and courage was often a lonely man—as was Lincoln—for it takes courage and strength to stay with one's beliefs. Human nature being what it is—at times somewhat fragile—misunderstandings often arise. This man knew what it was to have his character maligned—but this did not deter or cause him to deviate from his stern code of ethics and Christian beliefs.

I have nothing but respect and admiration for this man of strength—this man of ideals—this man of courage—who fought for what he believed in—fought courageously and well. We who have been privileged to know him, to live in his lifetime, have learned much from this man who was not afraid to stand up and be counted for what he believed. He placed duty, honor and country above all else. Here was a man who was a man. May we all strive for the promotion of our American ideals of religious liberty and freedom for all, as this man did.

This man was a symbol, typifying the spirit and strength of America.

It takes wisdom to know that when you are fighting a battle whenever or whatever it may be you are in it to win—not to sit idly by and await sure defeat. In General MacArthur's own words, "In war there is no substitute for victory." We here in America are in a battle over two ideologies—the religious ideology as opposed to the Communist antireligious ideology. Which is to win? With God's help, we are. We have but to take a lesson from the books of history—such as the life and service of a noble and fine American—an honorable man—Douglas MacArthur. We can take heart, we can take courage.

My tribute to Douglas MacArthur's memory is that here was a man who loved liberty and freedom—who was devoted to the cause of right and justice. A man who respected the inherent dignity and freedom of man—who treated his fellow man with dignity and honor. His code was "Duty, honor, and country." He defended, guarded and protected America's hallowed traditions of liberty and freedom, of right and justice. Douglas MacArthur died with the approbation of his own conscience—able full well to look any and all straight in the face—to hold up his head with dignity and honor. He did not seek to harm his fellow man. He sought only to save him. May his soul rest in peace—the peace he fought for on this earth, but regrettably did not achieve—he will find in another world. There he will lead another Army—an Army of Christian believers. All America echos "A job well done."

## Wisconsin Officials Back Antipiracy Measure

EXTENSION OF REMARKS

OF

### HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 27, 1964*

Mr. ZABLOCKI. Mr. Speaker, recently my colleague from Wisconsin [Mr. REUSS] and I introduced legislation to curb the pirating of industries from established manufacturing centers through the use of tax-exempt municipal revenue bonds. Our bills are H.R. 10547 and H.R. 10549.

We took this action following a particularly blatant example of freebooting which occurred in our home city, Milwaukee. On March 12, 1964, the Cutler-Hammer Corp., announced that it would move part of its manufacturing operations to Bowling Green, Ky.

This latter city had promised to build the Cutler-Hammer Corp. a new plant financed by securities exempt from Federal taxes. As a result, an estimated 750 jobs will be lost to our area. Of course, the impact of such a loss goes much farther than just 750 jobs. It also affects others in nonmanufacturing jobs who serve the 750 worker households.

Recently, the Milwaukee Association of Commerce issued a memorandum describing the effects of industrial relocations. The memorandum points out that for every 750 workers lost to an area, 490 other jobs are affected. At this point, I wish to insert the association of commerce study.

The memorandum follows:

THE ECONOMIC EFFECT OF INDUSTRIAL DEVELOPMENT EXPANSIONS OR RELOCATIONS

Since the recent announcement by Cutler-Hammer that it will relocate some of its Milwaukee operations in a new manufacturing facility at Bowling Green, Ky., questions have been raised regarding the economic effect of this move. The company has announced that the new plant will employ about 750 persons, but has not indicated how many jobs, if any, will be affected in Milwaukee.

If, however, 750 manufacturing workers are gained or lost in this area because of any type of plant relocation, the following would result: $5,325,000 in personal income per year will be gained or lost; $2,482,500 in retail sales per year will be gained or lost; $1,717,500 in bank deposits will be gained or lost; 750 households comprising 2,693 people will be gained or lost.

The following number of nonmanufacturing jobs to serve the 750 households would be gained or lost:

| | |
|---|---|
| Wholesale and retail trade | 143 |
| Professional and related services | 105 |
| Business and personal services | 46 |
| Construction | 38 |
| Finance, insurance and real estate | 30 |
| Transportation, communications, and public utilities | 15 |
| Agriculture | 7 |
| Other businesses | 106 |
| Total | 490 |

These statistics show how these dollars earned by the industrial employee turn over again and again. Although one community may be primarily affected by a plant moving in or out, all communities in the metropolitan area and the business enterprises located in them will feel the effect.

Mr. Speaker, because of our concern over the effects of plant piracy, and the growth of the use of tax-exempt bonds for industrial development purposes, Representative REUSS and I introduced bills which would not allow firms taking advantage of tax-exempt financing to deduct their rent in computing Federal income taxes.

In order to acquaint interested persons with our proposal, we prepared a fact sheet entitled, "Combating Piracy in the Marketplace," which follows.

COMBATING PIRACY IN THE MARKETPLACE: A FACT SHEET ON H.R. 10547 AND H.R. 10549

(Identical bills, introduced by Representative HENRY S. REUSS and Representative CLEMENT J. ZABLOCKI, Democrat, of Wisconsin, to curb the tax-exempt financing of industrial or commercial facilities used for private, profitmaking purposes)

MUNICIPAL ABUSES OF TAX EXEMPTION PRIVILEGES

H.R. 10547 and H.R. 10549 are aimed at correcting blatant abuses of the Federal tax exemption privileges which have been granted to State and local government units. These privileges increasingly are being used to assist municipalities in pirating plants from established industrial centers, thereby creating unemployment and distress in those communities. The "freebooting" practice works this way: Government units or their dummy authorities use the traditional privilege of issuing securities exempt from Federal taxes to borrow money cheaply and build industrial plants or other commercial facilities. They then offer the facilities on long-term leases to private corporations, attempting to lure them from their established locations.

This is a gross misuse of the tax exemption privilege. When the Federal Government sacrifices tax revenues on municipally issued securities, it provides a subsidy to local government. This burden on the Federal taxpayer can be justified only when the subsidy benefits public facilities and services like schools, roads and sewers. When the subsidy results in "state socialism"—permitting local governments to own and operate industrial facilities in competition with private enterprises—it must be stopped.

HOW THE LOOPHOLE IS EXPLOITED

A State, city, county or their chartered entities can use this tax exempt privilege in one or all of four ways to build up an alluring deal for a private business corporation:

First, a local government with a good credit rating can borrow money 1 to 2 percent cheaper than even the most solid industrial corporations. When the local government uses this cheaper money to build a new, modern plant for a business on a lease agreement, a business can get an efficient, economical layout at a far lower cost than if it financed its own construction.

Second, a company occupying leased quarters can charge off all of its rental costs as a "business expenditure" for tax purposes. When a firm is dealing with a local government, rather than a private landlord, these expenditures can be manipulated. It can elect to pay a high annual rent over a short period of time, or a low annual rent over a longer period—whichever will benefit the company more as a tax deduction.

Third, when business property is owned by a local government and leased the lessee is under no legal requirement to pay local property taxes during the term of the lease.

Fourth, the local government issuing the bonds can offer to sell them to the corporation leasing the new plant. This enables the corporation to earn tax-free income at the same time that it enjoys lower rental cost due to tax exempt financing. When steps one and four are combined, the company is, in effect, paying rent with its left corporate hand and taking it back as tax-free interest payments with its right hand. The financial gain in this situation is very substantial and very attractive.

WEEDLIKE GROWTH OF THE TREND

The attractiveness of these tax-subsidized lures has resulted in a weedlike increase in tax-exempt industrial revenue bonds. Since 1957 the level of borrowing has risen rapidly to an annual rate well over $100 million in 1963. As the tide of tax-exempt bonds rises, one State after another has decided that it had better get in the swim. In 1960 only 9 States allowed local governments to use these bonding practices; today 27 States have passed authorizing legislation. If nothing is done to stop this movement, every State in the Union will be forced to follow suit—if only for its own self-protection. The resultant cutthroat competition will be at the expense of the Nation's taxpayers.

A CLOSE-TO-HOME EXAMPLE

On March 12, 1964, the Cutler-Hammer Corp. of Milwaukee announced that it would move part of its manufacturing operations to Bowling Green, Ky., sometime in 1965. Some 800 skilled workers will lose their Milwaukee jobs as a result. While the company stated that lower wages and taxes in the new location were responsible for its decision, an important reason could well be the offer by the city of Bowling Green to build a new factory for the electrical equipment company. The city council on March 13, 1964, voted to authorize the issuance of $6,500,000 in tax-free revenue bonds to build a plant for Cutler-Hammer Corp.

THE PROPOSED LEGISLATIVE REMEDY

The companion measures introduced by Representatives REUSS and ZABLOCKI would amend the Internal Revenue Code of 1954 so that whenever proceeds from tax-exempt State or local government industrial revenue bonds are used to construct facilities for rent to private industries, such firms may not deduct the rent paid in computing Federal income tax liabilities. The bills would apply to all revenue bonds issued on or after January 1, 1964.

The proposal is limited to revenue bonds, because such bonds have been most widely used to borrow capital for plant construction and subsequent rental to business concerns. While it is no less damaging to the public interest for States and local governments to issue general obligation bonds for the same purpose, the practice is not widespread. Should it become so, it may be necessary for Congress to consider seriously the removal of tax exemption privileges for all State and local government securities.

H.R. 10547 and H.R. 10549 currently are pending before the House Ways and Means Committee. Representatives Reuss and Zablocki have requested Chairman Mills of that committee to obtain a report on the measures from the Treasury Department, and to hold hearings at the earliest possible date.

Mr. Speaker, this fact sheet recently was sent to a number of Wisconsin residents interested in the industrial development and welfare of their region and State. It was an attempt to alert them to the dangers of plant piracy and enlist their support for H.R. 10547 and H.R. 10549. At this point I wish to include some of the letters we have received in reply.

The letters follow:

City of Green Bay,
Industrial Development Authority,
*April 16, 1964.*

Dear Congressman Zablocki: Thank you for the fact sheet on H.R. 10547 and H.R. 10549 introduced by you aimed at curbing the tax exempt financing of industrial facilities, the passage of which may slow up the pirating of Wisconsin industries.

Naturally this legislation is of interest to every individual such as myself who is concerned with Wisconsin's industrial development.

Without the pirating of our Wisconsin industries by other States we have enough to contend with through our Wisconsin tax structure but when municipalities in especially the Southern States will offer land without cost and authorized bond issues in the millions to build new plants, we here in Wisconsin just cannot compete.

While we have not felt this particular phase of pressure against our industrial development efforts here in Green Bay, from the newspapers the last month it certainly has affected Milwaukee.

You state that the bill is currently pending before the House Ways and Means Committee. It will probably draw heavy opposition from southern Representatives because if the ability to float tax exempt revenue bonds to build industrial plants is removed from them there may be a sudden stop to northern plants moving into the South.

Please keep me informed as to the progress of these bills before the committee.

Yours truly,
Industrial Development Authority,
R. C. Breth, *Secretary.*

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City of Two Rivers,
*April 15, 1964.*

Dear Congressman Zablocki: I read with great interest your fact sheet on H.R. 10547 and H.R. 10549. I am in substantial agreement with this legislation as it affects revenue bonds for financing of new industrial plants.

In the past 5 years I have become deeply concerned over the increasing use of supposedly public dollars for private industrial use and the somewhat popular front to eliminate the tax-exempt status of State and local bonds. It is essential, in my judgment, that every means possible be exerted to preserve the tax-exempt status of State and local government bonds and, possibly, the best method is by enactment of a Federal statute to curb present-day abuses of industrial financing through issuance of revenue bonds.

I have informed several industrialists in Two Rivers of your bill since they have informed me that they intend to expand their operations in the State of Mississippi for tax purposes under a rental arrangement. Also, another consideration for southern expansion is low electrical rates as provided by REA, and to this there is, apparently, no answer.

I would urge you to be extremely sensitive to the preservation of the tax-exempt status of State and local bonds for valid school and public works purposes during hearings on H.R. 10547 and H.R. 10549.

Very truly yours,
Robert L. Broucek,
*City Manager,*
*City of Two Rivers.*

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Brown County Board of
Harbor Commissioners,
*Green Bay, Wis., April 21, 1964.*

Gentlemen: Your thoughtfulness in mailing to me the fact sheet on H.R. 10547 and H.R. 10549 is very much appreciated.

The manipulations such as described therein had not previously come to my attention. I quite heartily agree that effective action should be taken immediately, to preclude the spread of these iniquitous practices.

Wisconisn has perhaps already suffered extensively through the pirating of our industry by other States. I am glad to know that you propose to do something about it.

Respectfully,
John F. Sainsbury,
*Brown County Port Director.*

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New Berlin, Wis.,
*April 13, 1964.*

Dear Mr. Zablocki: The New Berlin Chamber of Commerce, of which I am the president, roundly approves your bills H.R. 10547 and 10549, and will support them in every way we can.

Our organization has been active in the field of industrial development for our area and for the State of Wisconsin. We have worked diligently and believe we have obtained some accurate answers.

First, we believe that working to attract large, well-financed companies, although it should not be entirely neglected, is jousting with the wind. If we have what they want they will seek us out.

Second, we do believe that the source of industrial expansion with which we can work effectively is the small- and middle-sized industry. We know they are not likely to move from the State. We know that progressive, well-managed small industry will create a magnetic force to help attract large industry to the State. One of the major requirements of large industry are good, well-financed subcontract and service facilities. But most of all, if we act now, we will retain our high national ranking for skilled labor, technically trained personnel, and sound management abilities. With the resources we now have available in Wisconsin, given some financial help, we can pull our State up by its bootstraps industrially.

Very truly yours,
John Carr.

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Oshkosh, Wis.,
*April 16, 1964.*

Hon. Mr. Zablocki: Re your letter "the Pirating of our Industries," I agree with you on the need for remedial action to curb the use of State and municipality credit for manufacturing facilities, but let's look at ourselves in Wisconsin a bit. We as a State have been rather notorious in throwing curves and roadblocks at industry in the form of high taxes, etc. I feel it behooves us as a State to put ourselves in a more favorable tax climate as it applies to industry. Why try to clobber industry here? This in itself is encouragement to look elsewhere. The tax climate here has continually been under fire. Political hay is made with who should pay (sources of tax revenues). Neighboring States meanwhile benefit. The long-term result of industry being unhappy in Wisconsin of course will be losses of jobs, losses of State tax revenues. This economic vitality we need, so necessary to provide the growth and advances we all want to see in Wisconsin.

I agree with your analysis but I do say, "Let's not blame it all on the financing opportunities of other States. Let's look at Wisconsin objectively."

I am enclosing sheets from a recent publication that is rather typical extolling the advantages in competing States. The competition is tremendously fierce and I do not believe that Wisconsin as a community has really awoke to the real need of improving its competitive position.

Sincerely,
H. E. Olsen.

Mr. Speaker, I ask my colleagues in this body to make a thorough study of their own congressional districts with regard to plant piracy. Many will find that established industries in their communities are vulnerable to the practice. One good method of correcting the situation and ending freebooting in the marketplace is enactment of the proposal embodied in H.R. 10547 and H.R. 10549. It is my hope that my colleagues will give this legislation their close attention and strong support.

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## Sierra Leone Independence Day

EXTENSION OF REMARKS

OF

### HON. ADAM C. POWELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 27, 1964*

Mr. POWELL. Mr. Speaker, today Sierra Leone celebrates another anniversary of her independence. On this memorable occasion, we take pleasure in extending warm felicitations to His Excellency, the Prime Minister, Sir Milton Margai; and His Excellency the Sierra Leone Ambassador to the United States, Gershon B. O. Collier.

April 27 commemorates the third anniversary of the independence of Sierra Leone from the United Kingdom. By mutual agreement the colonial status of this West Africa country whose connection with Britain extends back to 1787 was changed to membership in the British Commonwealth of Nations. Jubilant celebrations in the capital Freetown marked this great event in Sierra Leone's history. This nation was well prepared under the able leadership of Sir Milton Margai to shoulder its democratic responsibilities. Beginning with the early 1900's, the Sierra Leoneans had experienced more and more self-government Since independence they have demonstrated that they understand the workings of democracy. In the country's unicameral legislature, which is elected by universal adult franchise, a vocal opposition is assured all of its rights.

Sierra Leone itself is a potentially rich country of 28,000 square miles whose

**mountains, swamps, plains, and plateaus lie wholly within the tropical rain forest area. Shaped roughly in the form of a circle, it is bordered by Guinea on the north and east, Liberia on the south, and the Atlantic Ocean on the west. Like most African nations, the majority of the country's 2,500,000 inhabitants earn their living from agriculture, although minerals, particularly diamonds, have outstripped agricultural produce in value of exports. The country hopes that a new 10-year development plan, which will emphasize agriculture, but also benefit other facits of the nation's economy and welfare, will double the standard of living. Thus, the Sierra Leoneans have not only shouldered the responsibilities of democracy, but have also undertaken the development of their state.**

**We salute Sierra Leone on its independence day. We are sure that its present economic well-being and political equilibrium will continue and will be an example to other new African states. Prime Minister Margai and other responsible leaders can be proud of their record so far.**

## The American Pledge

EXTENSION OF REMARKS

OF

### HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 27, 1964*

**Mr. RYAN of New York. Mr. Speaker, Attorney General Robert F. Kennedy delivered a most impressive speech at the American Jewish Committee Herbert H. Lehman Human Relations Award dinner on April 16, 1964, in New York City. In an eloquent statement supporting the civil rights bill, the Attorney General pointed out:**

> We cannot solve our problems with a law or in an instant, but we can begin to weld laws and men together in an effort to provide a basis for the pledge that America makes to all men.

**I urge all my colleagues to read the following address:**

[From the New York Post, Apr. 26, 1964]

BECAUSE IT IS RIGHT

(By Attorney General Kennedy)

For weeks now, almost every night the light on top of the dome of the Capitol in Washington has burned late into the evening. Many of the high school students who visit Washington at this time of the year know it means that the Senate is still in session. People all over the country know that the debate over the civil rights bill is continuing. However extended it may appear to be, it is sufficient to realize the significance of the debate.

There are great wrongs in America to be righted and there are millions who appreciate daily that civil rights are more of a goal than a reality. The legislation now before the Senate can do a great deal toward making civil rights a reality. The civil rights bill can help insure equal voting rights. It can help insure and extend their educational and employment opportunities. It can help remove the insult of segregated public accommodations so irrational that in one community, a drugstore which allowed Negroes to be served required them to take Pepsi Cola instead of Coca Cola, to stand rather than sit, and to drink from a paper cup rather than a glass.

More generally, the civil rights bill can also demonstrate to all of our citizens that the Congress of the United States, like Presidents Kennedy and Johnson and like the Supreme Court, is committed to the pledge of equality on which this country is founded. Two centuries ago, Montesquieu wrote, "In the state of nature indeed all men are born equal, but they cannot continue in this equality. Society makes them lose it. And they recover it only by protection of the law."

The Negro's experience in America demonstrates the wisdom of his words and the deeds for the civil rights bill. But not this law nor any law can be a solution. The deep social wound of segregation was cut for too long by too many knives of prejudice to be healed by a single poultice.

The civil rights bill, like law in general, can give us an orderly framework for the resolution of discord and dispute among men. Each new outburst of racial fanaticism in our cities gives evidence of how important that framework can be.

One of the principal aims of the civil rights bill is that it elevates this conflict from the streets to the courts. We must recognize that law can only provide orderly ground rules. It cannot play the game.

Law also can offer us a moral precept to the extent that laws are founded on morality and on logic. They can lead men's hearts and minds but, once again, this aspect of law can have meaning only to the extent that the constituents of law are moral and are rational.

You and I, reflecting on our own heritage in America, know our forebears faced the realities of prejudice when they came to this country—whether in signs proclaiming, "No Irish need apply," or in unexplained rejection of applications to medical schools. We know that systematic exclusion of Irish or Jews or Italians, or any other ethnic group, has ended not only because laws changed but because men's minds did.

"The problems of our society," President Johnson said last week, "will not automatically disappear with the passage (of the bill). They will still have to be dealt with by all Americans. The civil rights bill can only chart in law the directions that we must take as individuals."

So I come to you today as the chief law enforcement officer of the United States to talk not of Federal enforcement of laws but of individual obedience to their moral statutes. Such obedience must exist at many levels, and, like all responsibilities in a democracy, it must begin with the individual citizen. As John D. Rockefeller III observed in a recent speech: "America, we must remember, is no more than the sum of ourselves."

I think it is necessary for us to start by asking ourselves whether we are satisfied with the present ingredients of America's social arithmetic. I am thinking of two recent examples in this State.

The first occurred only this week in Albany. We all read about it. A distraught young man perched on a narrow 12th-floor ledge ready to jump off for 2 hours. Friends sought to coax him to safety, but the crowd below had a different appeal. "Jump, jump, jump," it chanted. One spectator expressed the hope that the youth would jump on this side. We couldn't see him if he jumps over there."

The other case occurred one night last month. A young woman was stabbed to death over a period of a half hour outside her apartment in Queens. Thirty-eight neighbors looked out and heard what was going on during that time. None came to her rescue. None even called the police. By way of explanation, one of the witnesses said later, "I didn't want to get involved." No further comment is necessary.

Individual concern and individual responsibility deserve better homage in a land which prized individualism and whose greatest hero is Abraham Lincoln.

Charles Morgan, Jr., the young Birmingham attorney, whose own conduct is an example of the point, tells an illustrating anecdote in his new book, "A Time to Speak." "No one knows," he writes, "who will next be called to commit himself or in what way. It might be someone like the tall and lanky soldier in Jackson, Miss., the one with the long southern drawl, who told a white man assaulting Negro Andrew J. Young: "Man, if you want to fight, fight me, I am your size and I am white."

We can reflect on the individual responsibility demonstrated by 200,000 Negroes and whites in the March on Washington last summer. There was dire warning of angry crowds, of violence and of riot. All of us saw what happened instead. A London newspaper called it "the gentle flood."

Individuals can at another level help to flesh out the bare framework established by statute. Consider the example of leadership established by the hundreds of southern businessmen who have acted to desegregate their establishments in the past year.

Last spring and summer, President Kennedy, then Vice President Johnson, and other administration leaders met with almost 1,500 businessmen, ministers, attorneys, and other leaders from all over the country. The purpose of the meeting was to seek voluntary abandonment of discriminatory practices. The progress since then demonstrates that racial attitudes in many parts of the South are not part of a monolithic irrationality.

A recent survey of 556 cities states that significant progress has taken place in the past few months in desegregation of such facilities as theaters, restaurants, hotels, motels and lunch counters. There now has been at least some desegregation in nearly 70 percent of these cities, and almost two-thirds of that progress has come since last May.

It is easy for us in the North to patronize the South. It is so much easier to see the morality of problems in Birmingham if you are sitting in Boston. What the southern businessmen have done can serve as an example for us in the North in coming to grips with problems that are different only because they are our own. The desegregation of these public accommodations in the South comes because their owners plainly acknowledge economic dangers of inaction. They also have recognized the moral need for accommodation.

For half a century the doctrine of "separate but equal" was perverted by citizens, communities and local governments into a license not for simple racial segregation but for racial discrimination. For example, the number of white and Negro students in Mississippi is approximately equal. In a recent year, this State spent more than $45 million for white schools and $26 million for Negro schools. And this is the case despite the fact that "separate but equal" has been outlawed for a decade. The lesson is plain that law is not enough.

How can the law be enough when it requires that Negroes and whites not be served in the same room without a solid 7-foot partition between them. How can it be when it requires a motel not to turn away a weary motorist, or a hospital to reject an injured child. Whatever law is passed, whatever statute is enacted without public understanding, it is mere piety. Neither sober statutes nor individual responsibility alone are enough. Men and their laws must march together. What happens when they do not is evidenced from the experience of the past 10 years. The cost of defiance touches every aspect of community and national life.

Five years ago, rural Prince Edward County, Va., closed its public schools rather than desegregate them. How can we measure the cost of that defiance? How did it affect the Negro child whose future has been permanently crippled because he cannot learn to read? How did it affect the white child sent to segregated private schools? How did it affect the citizens of the city who walked past the vacant public school building while children were left to linger in the streets and fields? And how did it affect Virginia?

The point is that the cost of defiance is beyond measure. They touch generations yet unborn. They scar our history.

The lesson of Prince Edward County is the lesson of the entire country. Where were we after the 1954 school decision? Where was the pulpit, the press, the public officials? The answer is that there was a vacuum and a weakness of leadership—a vacuum that existed until it was filled finally by demagogs, with strident slogans of "segregation forever" and "massive resistance." When a whole generation and a whole area is told by its leaders that a Supreme Court decision is a "nullity," how can it be expected that the mortar of public respect will be added to the bricks of law?

Rarely in history are nations presented with a second chance to atone for fundamental failure. I wonder, however, if that isn't exactly the opportunity America has today. When the civil rights bill passes this year, 10 years after the Brown decision, we can have a new leadership of the kind that southern businessmen, public officials, newspapermen, and clergymen have already demonstrated. And we can have a new slogan—not "massive resistance" but "massive compliance" in the spirit of a nation governed by God's law and men of understanding.

The Prince Edward school case is still in the courts, and public schools there are still closed, but Negro children are being educated in a free, private school system which resulted from the efforts of private individuals, private foundations, and leaders and citizens of Virginia.

Not long ago, one of the teachers in the free school system was asked how her students responded. It reminded her, she said, of her childhood on the farm. When you set a chicken on the ground after holding it in your hands, it sits motionless. Only after it is sure of its freedom does it dash away. Her students were like that for the first month, she said—not moving. They moved only when they felt secure in their freedom. When they were secure, they leaped ahead in their desire and their capacity to learn. The freedom of those students—and the spirit of the establishment of their schools—must be the freedom and spirit of our time.

We cannot solve our problems with a law or in an instant, but we can begin to weld laws and men together in an effort to provide a basis for the pledge that America makes to all men.

Benjamin Muse, the Virginian writer, says in his new book about integration in the past decade, "The unrest will end sometime because it is inevitable that in America justice and humanity in time will prevail."

Let us join today in His service. Let us join in the faith in law and in man that President Kennedy expressed last June when he said, "I ask you to look into your hearts—not in search of charity for the Negro, which he neither wants nor needs, but for the one proud, priceless quality that unites us all as Americans—a sense of justice. This year of the Emancipation centennial, justice requires us to secure the blessings of liberty for all Americans, not merely for reasons of economic efficiency and domestic tranquility, but above all, because it is right."

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# SENATE

## Tuesday, April 28, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

Rabbi Dr. Meir Felman, Judea Center, Brooklyn, N.Y., offered the following prayer:

God of the nations, ruler of all mankind, we thank Thee for the blessings of citizenship in this great Nation, conceived in liberty and dedicated to the sublime concept that all men are created equal.

As we accept these blessings, we ask Thy help to prove ourselves worthy of them. As we enjoy the rewards earned by the labors of our Founding Fathers, may we understand that the tasks they so nobly advanced are never finished; that liberty, justice, brotherhood, and peace are not possessions or accomplished facts, but ever goals to be reached, a ceaseless process demanding our best energies, our consecrated zeal, and our consuming love.

Bless our glorious land which has become the hope and safety of all the nations of the earth. Our country has ever been the land of the free and the home of the brave. America stretcheth forth her hands to the poor; yea, she reacheth forth her hands to the needy.

In every generation Thou hast raised up prophets of righteousness and champions of liberty: godly men who broke the shackles of the enslaved and infused new courage into faint hearts. Ours is the firm belief that hatred and bigotry are but momentary aberrations in the conscience of mankind. May our love for justice, which recognizes neither rich nor poor, strong nor weak, class nor mass, color nor creed, ever inspire us so to labor and toil that we may proclaim liberty throughout the land and to all the inhabitants thereof. Amen.

### THE JOURNAL

On request of Mr. HART, and by unanimous consent, the reading of the Journal of the proceedings of Monday, April 27, 1964, was dispensed with.

### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

### ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. HART. Mr. President, I ask unanimous consent that there be a morning hour, under the conditions which prevailed during the past week.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### CALL OF THE ROLL

Mr. HART. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 174 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
McCarthy
McClellan
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morton
Mundt
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Alaska [Mr. BARTLETT], the Senator from Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alabama [Mr. HILL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Montana [Mr. MANSFIELD], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Georgia [Mr. RUSSELL], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from West Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Mississippi [Mr. EASTLAND], the Senator from Louisiana [Mr. ELLENDER], the Senator from North Carolina [Mr. ERVIN], the Senator from Indiana [Mr. HARTKE], the Senator from North Carolina [Mr. JORDAN], the Senator from

Wyoming [Mr. McGee], the Senator from Maine [Mr. Muskie], the Senator from Wisconsin [Mr. Nelson], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater], the Senator from New Mexico [Mr. Mechem], the Senator from Massachusetts [Mr. Saltonstall], and the Senator from Pennsylvania [Mr. Scott] are necessarily absent.

The Senator from New York [Mr. Javits], the Senator from Texas [Mr. Tower], and the Senator from North Dakota [Mr. Young] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### Report on Guarantees for Certain Transactions by Export-Import Bank of Washington

A letter from the Secretary, Export-Import Bank of Washington, Washington, D.C., reporting, pursuant to law, on its guarantee with respect to certain transactions relating to the sale of soyabean meal and soyabeans by the Central Soya Co., Inc., of Fort Wayne, Ind., to Hungary; to the Committee on Appropriations.

### Report on Procurement Receipts for Medical Stockpile of Civil Defense Emergency Supplies and Equipment Purposes

A letter from the Secretary of the Department of Health, Education, and Welfare, reporting, pursuant to law, on the actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ended March 31, 1964; to the Committee on Armed Services.

### Proposed Concession Contract in Badlands National Monument, S. Dak.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract to operate Cedar Pass Lodge and provide related facilities and services for the public in Badlands National Monument, S. Dak. (with an accompanying paper); to the Committee on Interior and Insular Affairs.

## PETITION

The ACTING PRESIDENT pro tempore laid before the Senate copies of letters to certain State and Federal officials from C. R. Mead, of Los Angeles, Calif., to accompany a former communication from him relating to his disbarment from U.S. courts, which were referred to the Committee on the Judiciary.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

S. 2778. A bill to provide for the free entry of stone imported for use in the construction of the Sheldon Memorial Art Gallery at the University of Nebraska; to the Committee on Finance.

By Mr. METCALF (for himself and Mr. Mansfield):

S. 2779. A bill to provide for the establishment of a mint of the United States in the State of Montana; to the Committee on Banking and Currency.

(See the remarks of Mr. Metcalf when he introduced the above bill, which appear under a separate heading.)

By Mr. COTTON:

S. 2780. A bill for the relief of Norman A. Sargent; to the Committee on the Judiciary.

(See the remarks of Mr. Cotton when he introduced the above bill, which appear under a separate heading.)

By Mr. COTTON (for himself and Mr. McIntyre):

S. 2781. A bill for the relief of the State of New Hampshire; to the Committee on the Judiciary.

(See the remarks of Mr. Cotton when he introduced the above bill, which appear under a separate heading.)

## ESTABLISHMENT OF A U.S. MINT IN THE STATE OF MONTANA

Mr. METCALF. Mr. President, silver, copper, and nickel—metals used in the production of U.S. currency—are found in great abundance in Senator Mansfield's and my State of Montana.

Unemployment is also a problem there. Due to automation and new methods in Montana's major industrial complex, the Anaconda Co., many of our State's trained industrial workers are out of work. A number of Montana counties are also designated as eligible areas for area redevelopment assistance.

Recent testimony before the Banking and Currency Committee concerning my bill, S. 2671, to decrease the silver content in silver coins, revealed that there is a great need in this country for additional minting facilities. Approximately 4.1 billion coins will be minted this fiscal year. But we will need an annual production of at least 5.1 billion by 1970, 9.6 billion by 1980. The shortage in minor coins at the present time is the most critical in the history of the mint. The demand is increasing at a rate that has outstripped the capacity of both existing mints, even at three-shift, 7-day operations. Even with the planned expansion of mint facilities in Denver and Philadelphia, we will continue to run behind in production of needed coins.

One of the major objections to the minting of more silver dollars—which we in Montana and the West love so well—is that their minting would interfere with the minting of smaller coins.

Mr. President, the combination of these factors leads me to introduce, on behalf of Senator Mansfield and myself, a bill to provide for the establishment of a U.S. mint in the State of Montana.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). The bill will be received and appropriately referred.

The bill (S. 2779) to provide for the establishment of a mint of the United States in the State of Montana, introduced by Mr. Metcalf [for himself and Mr. Mansfield], was received, read twice by its title, and referred to the Committee on Banking and Currency.

## NORMAN A. SARGENT

Mr. COTTON. Mr. President, I send to the desk for appropriate referral a bill for the relief of Norman A. Sargent, of Effingham, N.H., in the amount of $265.

This bill would provide reimbursement for expenditures by Norman A. Sargent for expenses incurred by him in the acquisition of a grave site for his son, Donald A. Sargent, who died while serving in the Armed Forces and whose remains were never recovered. While applicable statutes, erroneously in my judgment, make no provision for expenses incurred by survivors memorializing the loss of a loved one, under the present circumstances, the record is clear in this case that the father was advised incorrectly by an appropriate agent of the Federal Government that he was, in fact, entitled to reimbursement under the law for acquisition of a grave site to do honor to his son's memory. In this connection, it is indicative of the confusion surrounding the matter that the Social Security Administration, which now denies any obligation, actually made partial reimbursement to Mr. Sargent and has expressed willingness to waive recovery of so much as has been paid him to date.

The equities in this case would seem to be clear. It reflects a situation where an individual citizen, necessarily untutored in the complexities of the law, understandably placed reliance on assurances of those charged with administration of the law and proceeded in good faith to his financial detriment.

In my judgment, this is a deserving matter and it is my hope that it will receive sympathetic attention at the earliest possible time.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2780) for the relief of Norman A. Sargent, introduced by Mr. Cotton, was received, read twice by its title, and referred to the Committee on the Judiciary.

## RELIEF OF THE STATE OF NEW HAMPSHIRE

Mr. COTTON. Mr. President, on behalf of myself and my colleague from New Hampshire [Mr. McIntyre], I introduce, for appropriate referral, a bill for the relief of the State of New Hampshire.

This bill provides for the reimbursement to the State of New Hampshire by the Federal Government of moneys in the total amount of $23,292.50. This sum represents satisfaction of a judgment returned against and paid by the State of New Hampshire, occasioned by certain personal injury and property damage resulting from the collision between a private automobile and a military vehicle operated by the New Hampshire National Guard.

The record is clear that the accident occurred while the military vehicle was engaged on an active duty training mission, authorized by the National Guard Bureau, Department of Defense, in the neighboring State of Massachusetts. In view of the fact that the vehicle was under Federal as opposed to State direction and control, there is no question but that New Hampshire is entitled to the relief sought and both Senator McIntyre and myself hope that this deserving request will receive affirmative consideration at the earliest possible time.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2781) for the relief of the State of New Hampshire, introduced by Mr. Cotton (for himself and Mr. McIntyre), was received, read twice by its title, and referred to the Committee on the Judiciary.

## RELIEF OF CERTAIN YUGOSLAV REFUGEES—AMENDMENT (AMENDMENT NO. 552)

Mr. KEATING submitted an amendmen, intended to be proposed by him, to the joint resolution (S.J. Res. 144) for the relief of certain Yugoslav refugees, which was received, ordered to be printed, and referred to the Committee on the Judiciary.

## ADDITIONAL FUNDS FOR SPECIAL MILK PROGRAM FOR CHILDREN—ADDITIONAL COSPONSORS OF BILL

Under authority of the Senate of April 20, 1964, the names of the following Senators were added as cosponsors of the bill (S. 2751) to provide additional funds for the special milk program for children, introduced by Mr. Proxmire (for himself, Mr. Hart, Mr. Humphrey, Mr. McCarthy, and Mr. Prouty) on April 20, 1964: Mr. Aiken, Mr. Jackson, Mr. Keating, Mr. Lausche, Mr. Long of Missouri, Mr. Magnuson, Mr. Nelson, Mr. Scott, and Mr. Williams of New Jersey.

## ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Record, as follows:

By Mr. DOUGLAS:

Addresses by President and Mrs. Lyndon B. Johnson to fund-raising dinner of Democratic Club of Cook County, McCormick Place, Chicago, Ill., April 23, 1964.

## IMPORTS OF BEEF

Mr. EDMONDSON. Mr. President, in recent months farmers and ranchers throughout this Nation have become justifiably alarmed over the staggering increases in the importation of beef and beef products into this country. Imports have grown at such rapid rates that this problem has escalated into a major threat to the domestic cattle industry.

According to figures for last year, imports now account for approximately 11 percent of our domestic consumption of beef. As imports have increased, prices have gone down.

On January 1, 1964, the total value of cattle in my State of Oklahoma was 10 percent less than the total value of cattle herds on January 1, 1963, and this drop in value occurred even though the total numbers of beef cattle had increased by 5 percent.

The American cattle industry, like many other American industries, has been experiencing a very severe profit squeeze in the past decade.

According to figures published by the Department of Agriculture last fall, the price paid by cattle producers for feed has increased approximately 5 percent over that paid in the years 1957–59. Prices paid by cattle producers for commodities and services, interest, taxes, and wage rates have increased approximately 6 percent over the same base period.

At the same time, prices received by cattlemen for livestock and livestock products have fallen by over 3 percent. Of prime importance in the decline of cattle prices is the overwhelming increase in imports.

Mr. President, something must be done to impose realistic restrictions on beef imports. My belief in this fact has prompted me to join in bills and amendments previously introduced which would impose such restrictions. Some of these amendments are now being considered by the Finance Committee under the leadership of the distinguished senior Senator from Virginia [Mr. Byrd].

I urge quick action on these measures.

Some will argue, Mr. President, that our present trade policy will not permit the legislation that is needed. A report from the Department of State to the Finance Committee on S. 2525, one of the bills I am proud to sponsor, states, for example, that enactment of this legislation would seriously impair our position at the forthcoming GATT negotiations.

It is suggested by this report that a solution to the problem would be the negotiation of long-term agreements to increase the access of beef exporting nations to the Common Market, Japan, and other meat-importing countries. This proposal ignores the crisis in the domestic cattle industry. I maintain that until this so-called long-term solution is achieved, we must enact reasonable and fair restrictions on the importation of beef.

In all fairness, I want to point out that I do not believe the administration has been completely unfeeling toward the plight of the American cattle producer. I do not feel as do some, even in my own State, that the Department of Agriculture has turned its back on the cattle industry. Efforts of the administration to relieve the price squeeze the cattlemen are in should be acknowledged.

The programs of buying domestic beef for school lunches, the policy of procuring American beef for troops overseas, the cooperative promotion program with the cattle industry, and the voluntary agreements with some of the major exporting countries are all signs of concern on the part of President Johnson and Secretary Freeman.

However, these efforts are not enough.

The announcement that Australia and New Zealand would not ship to this country in 1964 the quantities of beef provided in the agreements is not enough. The programs undertaken by the Department of Agriculture can be canceled and voluntary reductions by exporting countries can be replaced by increases without warning.

We need legislation.

Cattlemen will admit that their business is historically a cyclical industry. Now they are near the peak of the cycle. The competition of imports with the canner and cutter grades of cattle depresses the cattle market severely. So long as imports remain at a high level, there will be a void in the cycle of cattle production which will prevent natural price recuperation.

American cattlemen are traditionally—and perhaps inherently—self-reliant. They have not sought Government supports for their industry.

They have let their industry regulate itself. When caught in a price squeeze, they have buckled down and sought to overcome it by efforts to promote the domestic consumption of beef.

I commend the industry for this effort at self-help. By this praiseworthy program of extending domestic consumption, the American beef market has become even more attractive to foreign producers.

We must not reward this effort with indifference. We must reward it with judicious action—action in the form of beef import quotas.

I do not ask the enactment of unreasonable restrictions. The domestic cattle industry does not ask, and does not want, unreasonable restrictions. All that is sought is a reasonable limit on imports so that domestic producers may have an orderly market free from distortion so that they may enjoy the just rewards of their labor.

If we are to help this American industry help itself, we must act now. For this is the hour of need.

## REPUBLICAN CRITICAL ISSUES COUNCIL SUPPORTS CIVIL RIGHTS

Mr. KEATING. Mr. President, in a ringing and forthright statement released yesterday, the Republican Citizens Committee's Critical Issues Council emphasized the need for a twofold approach to ending discrimination in American life. The council, founded as a result of suggestions by President Eisenhower, and headed by Dr. Milton Eisenhower, recounts the Republican Party's historic commitment to the cause of civil rights and stresses the need for legal measures and affirmative steps by the Government and the public for increasing equal opportunity in the areas of voting, education, employment, public accommodations, the administration of justice and housing.

The council particularly emphasized two points which I have made often in discussing civil rights. One is the need to implement the 2d section of the 14th amendment and reduce the representation in Congress of States which do not allow all their citizens to vote. The other point is the responsibility and obligation of the President and the executive branch, even without legislation, to cease the distribution of Federal funds to be used for segregated activities.

Mr. President, this statement represents the dedication and commitment of the Republican Party to the cause of civil rights. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### REPUBLICANS AND CIVIL RIGHTS: A CONTINUING COMMITMENT

For more than three centuries, Americans have dreamed a strange and wonderful dream. They have dared to seek strength for society by giving freedom to its members. They have liberated common men and women and have discovered uncommon faith and power. They have dedicated themselves to the importance of the individual and have achieved unparalleled greatness for the Nation.

Today, the character of American life is on trial. If we are to maintain our greatness, we must sustain our dream.

Yet, for 1 out of 10 Americans, the dream has been distorted. For members of several minority groups—particularly Negroes—the meaning of equal opportunity is not yet complete. And because we have failed to pursue the American dream as zealously as we might, our society pays an appalling price.

More than half of Negro adult males have less than a grade-school education; school dropout rates continue to increase. Contributions which might have been made to science, medicine, education, industry, and the arts never will be realized. Denied opportunity is often a contributing factor in broken homes, juvenile delinquency, and drug addiction. Crime rates among Negroes rise four times faster than among other groups. Out of wedlock births are 10 times as high.

In our economy, according to the Council of Economic Advisers, we lose from $13 to $17 billion from our gross national product each year because of unrealized opportunity among nonwhites—92 percent of whom are Negroes. Negro unemployment rates are twice those of whites.

Around the world—and particularly in the United Nations—our failure to expand individual opportunity at home frustrates our efforts to lead peoples who are largely nonwhite.

This is but part of the price we pay for a dream distorted. The promise of individual opportunity must now be redeemed.

#### THE REPUBLICAN RECORD

Throughout the last 100 years, the Republican Party frequently has spoken of society's reliance on individual opportunity. The Republican response to civil rights problems has been shaped by this basic concern. Born out of a devotion to human rights, the party of Lincoln ended slavery and gave shape to the 13th, 14th, and 15th amendments on which present civil rights programs rely so heavily. Republican leadership after the Civil War created the first civil rights legislation to forge lasting equality for the Negro. But the task was herculean; the attention of the Nation drifted. As the years passed, early Republican efforts were neutralized and new patterns of discrimination arose. In the 20th century, the voices of reaction exercised a powerful influence in the Democratic coalition. Presidential influence was muffled, legislative action paralyzed. Not until the Republican administration of President Dwight D. Eisenhower did the Nation again give its serious attention to civil rights.

From 1956 to 1960, President Eisenhower presented the most constructive civil rights proposals in more than 80 years. In some respects, they outdistanced even present recommendations. Unfortunately, a Democratic Senate seriously compromised the legislation. Nonetheless, the Civil Rights Commission was established, and the right to vote strengthened.

Moreover, President Eisenhower's executive action brought the completion of integration in the active Armed Forces (but not the State-dominated national guard) and Veterans' Administration hospitals; the abolishment of segregation in the District of Columbia, in bus and train interstate travel, in schools on military posts, and in the ranks of civilian employees at naval bases. The Eisenhower Committees on Government Contracts and Government Employment, under the chairmanship of Vice President Nixon, settled more than 1,000 complaints of discrimination. The Civil Rights Commission issued the most complete report in Government history on the plight of the Negro. The President's stand at Little Rock further legitimatized the quest for racial justice. President Eisenhower's civil rights commitment had a profound moral and educational effect on the American people.

Meanwhile Republicans were practicing what they preached about State responsibility. In 16 of the 18 States which forbade discrimination in public accommodations before World War II, Republicans controlled the governorships, the legislature, or both when the laws were passed. Since the war, 19 of the 25 State fair employment statutes were enacted under Republican governors or legislatures. In the first four States to pass such legislation, Republicans controlled both houses of the legislature and the governorship. Today, in State after State, Republican governors forcefully articulate their devotion to the cause of civil rights.

In the last 4 years, Republicans in Congress have consistently supported progressive civil rights programs. Voting records show that Republican efforts to end discrimination in Federal aid programs far outdistance those of Democrats. Furthermore, when the House passed the new civil rights bill last February, 138 of 172 Republican Congressmen voted for the measure. This 78 percent proportion compares with only 59 percent for the Democrats. Thus has the party of Lincoln honored its platform promise of 1960. "We pledge the full use of the power, resources and leadership of the Federal Government to eliminate discrimination based on race, color, religion or national origin and to encourage understanding and good will among all races and creeds."

But far more important than the resources of the past are the policies for the future. Republicans will continue the commitment which began a century ago. We will translate unity of purpose into unity of action. We will resist any present temptation to duck the implications of the Lincoln legacy, the Eisenhower example, or the 1960 platform. As we seek to fulfill what our past has promised we will spell out the specifics of a Republican approach to civil rights.

#### A TWOFOLD APPROACH TO CIVIL RIGHTS

The formal patterns of segregation and discrimination are only symptoms of a problem which lies deep in the soul of our society and in the hearts of men. Legislation can treat the symptoms, but laws alone cannot cure the deeper illness. Antidiscrimination statutes can end the legality of segregation, but they alone cannot produce meaningful integration.

Accordingly, this analysis of civil rights problems is divided into two parts. First considered are those legal measures which strike down formal patterns of discrimination. Second is the more subtle challenge: How can the Negro be fully integrated into American society? What affirmative actions, private and public, will enable him to utilize the privileges which the law guarantees?

It is true that laws cannot be used to compensate Negroes for opportunities long denied. Nor can governments legislate human understanding. Antidiscrimination legislation will only begin to meet the civil rights problem. But that beginning can be most significant. For only when obvious symbols of legal inferiority are removed can understanding grow between peoples. Only when there exists the chance for a good education, a good job, a good home can Negro enterprise be adequately stimulated. Only when the validity of the Negro's protest is acknowledged in law and remonstrance is transferred from streets to courts can the walls of suspicion and fear be lowered.

It is important therefore to destroy the legal barriers which today set race against race. But the misunderstandings of centuries and the handicaps of prolonged deprivation will not disappear overnight. Once the door of individual opportunity is unlocked, we must also stand ready to encourage and welcome our fellow citizens as they walk through it.

As this twofold analysis proceeds through several areas of civil rights concern, it will be stressed that the law can be no more effective than the men who enforce it; administrative performance must match legislative promises. The importance of State responsibility and local experience will also be underlined. Proven institutions will be used as a basis for new actions. Glib diagnoses or extremist recommendations will be avoided in a search for commonsense, multifront solutions to a profoundly complex and critically important problem.

#### PROTECTING THE RIGHT TO VOTE

In over 250 counties in the United States, 6 out of every 7 Negroes are denied the right to vote. In 100 counties containing over a third of southern Negroes, 92 percent of the nonwhites are unable to exercise the franchise. In many Southern counties, virtually no Negroes are on the voting lists; a total of over 600,000 nonwhite citizens are denied a ballot. Despite 140 private registration drives and some 60 Federal lawsuits, Negro registration in these counties has increased barely 3 percent since 1956.

All of this happens in flagrant disregard of constitutional guarantees. It violates the Federal voting laws of 1957 and 1960. It abuses the basic right of citizens to participate in the democratic process.

#### TIGHTENING THE VOTING LAWS

Why have so few been registered to vote? In the first place, loopholes have developed in the 1957 law which must constantly be patched. In 1959, the Eisenhower administration asked for preservation of voting records and authorization for Federal voting referees so that more than one Negro at a time could be qualified to vote in each case. But not until 1960 did Congress adopt these proposals and give the Justice Department practical power to protect voting privileges.

The present voting laws, however, are still inadequate. Therefore, provisions of the current civil rights bill that would set uniform and minimal registration requirements for both Federal and State elections should be supported. State registration officials should be required to apply equal standards and procedures to all who seek to register and to disregard immaterial errors or omissions in the applications. Literacy tests should be administered in writing, with the presumption (rebuttable in court) that an individual who completed the sixth grade in school is sufficiently literate to vote.

#### ENFORCING LEGAL PROTECTIONS

In such ways, the law must be tightened. But merely tightening the law will not be enough. The greatest obstruction to enforcement of the right to vote is the difficulty of successfully prosecuting cases.

The Justice Department must strive continually to match civil rights promise with performance, particularly in recommending those who will serve as judges in the Federal courts. Legal scholars have observed that the record of the Eisenhower administration in appointing conscientious protectors of civil rights to southern judgeships was far superior to that of the subsequent Democratic administration.

The chief judge of the court of appeals should be allowed to appoint a three-judge court to hear voting cases at the district level, in order to assure a prompt and fair determination of individual rights, as provided in the current civil rights bill.

Finally, the Civil Rights Division of the Justice Department should be more adequately staffed. It is distressing to note that only 40 lawyers presently handle all voting cases. It is even more disappointing to realize that just last December, southern Democrats crippled the effort of Senator KENNETH KEATING, Republican, of New York, to provide increased staffing for these cases. Even the best voting laws will be useless unless there are enough good lawyers to enforce them.

### A NONJUDICIAL RESORT

The civil rights bill now in Congress may not be enough to assure the Negro's right to vote. Tighter laws and more adequate prosecution will help, but even at its best, judicial enforcement will be a painfully slow and narrow-gaged method of protecting voter rights. As the bipartisan Southern Regional Council explains, the judicial approach is strictly a long-range proposition, "a matter of years and years." Through delay and defiance, through frustration and repression at the local levels, the Negro can still be denied his right to vote.

What can be done if judicial enforcement continues to be inadequate? The Constitution itself provides an important alternative. Under the 14th amendment, State representation in Congress can be reduced in proportion to the numbers of voters systematically denied the franchise. If Negroes are counted when representation is determined, then they should be allowed to vote. If they cannot vote, they ought not to be counted for purposes of representation. Republicans have recognized that it may be necessary to implement this alternative. To do so would require reliable and official voting information. Partly for this reason, the new civil rights bill should require the Census Bureau to gather registration and voting statistics based on race, color, and national origin under the supervision of the Civil Rights Commission. The voting census is a unique Republican proposal and we recommend its adoption.

Despite the concern of many of its members, the Democratic Party is handicapped in the area of voting rights. The strength of the party depends in many cases on maintaining the status quo in the South. Of 16 Senate chairmanships, 10 are held by Southern Democrats. Republicans will therefore have to take the lead in demanding effective voter protection and vindicating constitutional guarantees. Furthermore, the Republican Party should seek out Negro leadership in all sections of the country. Thus, the party can directly serve as a vehicle for integrating Negro citizens into the mainstream of American life.

### THE QUEST FOR EQUALITY IN EDUCATION

The individual's right to a good education is fundamental to his development. No avenue of opportunity is more important to the Negro than that of the schools. But present educational opportunities are not meeting economic and social demands.

In 1954, the Supreme Court condemned separate educational facilities as "inherently unequal." It ordered that they be desegregated "with all deliberate speed."

Yet, 10 years later, 91 out of every 100 Negroes in Southern and border States will attend segregated classes. Incredible as it may seem, only 1 percent of Negro children in the Old South go to school with white children. Voluntary desegregation has virtually ended. At the present rate of the progress, the moderate Supreme Court compliance recommendations of 1955 will not be carried out until 2063. In fact, the number of segregated school districts has actually increased since 1959.

### ENDING LEGAL SEGREGATION

Again, what can be done to enforce the law of the land? The Government today has no power to initiate actions to desegregate schools. Cases must be filed by parents who are often discouraged by outrageous delays and prohibitive expense. As a remedy, the Justice Department should be given the power to initiate suits on behalf of children denied admission to segregated public schools. President Eisenhower originally requested such a law in 1957, and Republicans have frequently renewed his request. Such action was pledged in the 1960 Republican platform and should be retained in this year's civil rights bill.

In addition, Federal technical assistance should be given to help State and local agencies desegregate their school systems. Temporary aid is particularly needed when States cut off funds to integrating schools.

But here again judicial enforcement alone can be painfully slow. As experience in voting litigation shows, case-by-case actions, even by the Government, can be frustrated by obstructionist tactics. The record of futility is clear. The time has come to end the delay.

Therefore the present civil rights bill should include, as it does not at present, a provision whereby every school board which has failed to achieve desegregation must file with the Secretary of Health, Education, and Welfare a plan for at least first-step compliance with the Supreme Court order in the following school year. If necessary, the board's plan would be enforced with the assistance of a Federal court order.

### AFFIRMATIVE EFFORTS TO EXPAND OPPORTUNITY

Ending formal school segregation will enhance educational opportunity, but it will by no means guarantee it. Most Negroes will still obtain inferior educations. Neighborhood patterns often produce racial imbalance in schools almost as severe as in formally segregated systems. This happens frequently in large northern cities; it confronts us with the thorny problem of de facto segregation.

Unhappily, much mutual misunderstanding has prevailed on this problem to date. Whites certainly need to recognize the Negro's basic complaint of inferior schools. However, the most productive answer to inferior schools is an attack on the problem of quality itself rather than the use of widespread pupil shuffling.

The human and financial cost involved in such proposals can be enormous, and they are potentially destructive to the social benefits of neighborhood schools. Many school boards have made valiant efforts to find sounder solutions to de facto segregation and, hopefully, their examples will be influential.

Accordingly, State and local agencies should develop comprehensive programs significantly to bring all schools up to high standards irrespective of the color of the students. To assist in this effort, the U.S. Commissioner of Education should be authorized to study the lack of educational opportunity at all levels, as provided in the current civil rights bill. Support also is warranted for special enrichment programs to meet the problems of culturally deprived children. New York City's higher horizons program is one notable pioneering effort. If properly utilized, the Nation's educational systems can become our most effective tool for breaking cultural barriers and opening individual opportunities.

### OPENING EMPLOYMENT OPPORTUNITIES

Equal opportunity in education will never be fully attained until racial barriers are breached in the job world. A desirable job at the other end of the line is one of the strong motivating factors for education and self-improvement.

Yet the plain fact is that Negroes do not have the opportunity for employment enjoyed by whites. One out of every four of the long-term, hard-core unemployed is nonwhite. Even this figure can be expected to increase as the labor market shifts to demand complex new skills in the age of automation.

Countless Negroes are denied the chance to acquire capacities indispensable for our advancing technology. Some labor unions and employers control apprenticeship programs to keep Negroes from qualifying for jobs. In many vocational schools, Negroes learn to lay bricks and repair shoes while whites study electronics, photography, or drafting. Millions of Federal dollars are spent to train highly skilled technicians under the National Defense Education Act.

Yet in the South only 4.5 percent of the enrollees in these programs are Negroes; even where they comprise almost half the population. In the six border States, Negro enrollments are less than 1 percent, and in the North only 2.3 percent of over 32,000 enrollees are Negroes. The Manpower Development and Training Act and the Area Redevelopment Act are specially designed to retrain the unemployed, yet administrators admit that the programs have as yet been of only limited value to Negroes. Educational background, poor job prospects, and overt discrimination all contribute to this deadlock.

But limited opportunity for training and education are not the only barriers to equality and employment. Willful discrimination still remains a major barrier to Negro advance, even though "white only" signs may not be openly displayed. In field after field, equally trained Negroes get only half their share of jobs. The appalling fact is that the average college-educated, nonwhite American will earn less in his lifetime than the average white pre-high-school dropout. One out of four Negro college graduates is forced into overcrowded blue-collar occupations. Despite the efforts of international labor leaders, several large local unions are still more than 98 percent white.

Perhaps the most shocking example of discrimination in the job market occurs in the U.S. Department of Labor Employment Service offices, established during the depression to help the unemployed find jobs. The Civil Rights Commission has found blatant discrimination in the placement procedures of a number of offices in the North and South.

### STRIKING DOWN OVERT DISCRIMINATION

Unquestionably, artificial barriers of discrimination stifle initiative, waste talent, and corrupt the private enterprise system. The cost in economic loss, welfare expense, and social disorder has been staggering.

For this reason Republicans have taken the lead in establishing fair employment practices commissions in the large urban States. Gov. Thomas Dewey and the late Senator Irving Ives guided the Nation's first enforceable FEPC law through the New York Legislature in 1945. In the next 2 years, Republican lawmakers in New Jersey, Wisconsin, Massachusetts, and Connecticut kept alive the momentum that has produced similar laws in a total of 25 States. But much work still remains. Many of the State laws are inadequate; several are poorly enforced. Because many laws do not deal effectively with union discrimination or apprenticeship programs, numerous job markets are still restricted. Still the greatest problem is that most Negroes live in States with no fair employment laws at all. Moreover, the national character of a highly mobile labor market makes any State enforcement difficult.

To break this formal pattern of job discrimination, most Republicans in Congress favor Federal fair employment legislation. It should be made unlawful for employers, labor organizations or employment agencies to discriminate on the basis of race, religion, or national origin. The law should cover both unions and employers, both hiring mechanisms and training programs. Exemptions should be clearly provided for religious groups or other employees for whom ethnic or religious considerations are genuine occupational qualifications. The law must be clearly drawn and carefully administered so as to equalize opportunities for all qualified applicants. It must not be used to encourage discrimination in reverse, through quota systems or other devices which would unduly favor less qualified workers.

Administration of the law should be centered in an Equal Opportunity Employment Commission with bipartisan membership. The law should expressly require extensive utilization of existing and effective State machinery. It is imperative that Federal officials cooperate closely with existing State FEPC's. Conciliation and persuasion should be emphasized; only when these methods fail should compulsory relief be sought. State experience shows that the overwhelming majority of cases can be settled on a voluntary basis.

### ADDITIONAL POSITIVE ACTIONS

An effective fair employment law can open doors of opportunity, but it is chimerical to expect that this action will in itself end the crisis in Negro employment. Long-range solutions will require great strides in education and at least the following affirmative actions:

Special efforts should be made to involve Negroes in the benefits of Federal-State manpower retraining programs. It is important to equip Negroes with the new skills that will be required in a labor market revolutionized by automation.

Educators should give greater attention to vocational education at the high school and post-high-school level. These programs should be nondiscriminatory and designed to give the Negro, as well as the white, vocational training for the skills of tomorrow's labor market.

Businessmen and union leaders should actively seek qualified Negroes in high schools, colleges, trade schools, and employment offices. Reports the chairman of a large corporation in Connecticut: "Businesses which have entered upon an active program of integration have learned, as we have learned, that qualified Negroes or other minority group members can be assimilated into the work force without real difficulty, and that they will pay their way in efficiency and loyalty as well as, and sometimes better than, those who have never experienced prejudice or felt any pressing need to prove themselves."

Increased training and open competition in the job market should produce real motivation for the Negro to succeed—not only on the job, but also in the schools and neighborhoods of American communities. Restoring open competition in the job market is imperative to the continued growth and prosperity of the American free enterprise system.

### EQUAL ACCESS TO PUBLIC ACCOMMODATIONS

The Negro has no more poignant reminder of second-class status than his exclusion from theaters, restaurants, hotels, and other public accommodations. Dean Erwin N. Griswold of the Harvard Law School, a Republican appointee to the Civil Rights Commission, put it this way: "The Negro in a segregated city is entirely excluded from the mainstream of community life; he must build his own minority society or have none at all. * * * (F)or the Negro traveler, the road may be more like a desert and each inviting sign a mirage, or worse yet, a humiliating rebuff to him, his family or companions."

It is distressing to note that many servicemen at southern bases are virtually excluded from the surrounding communities. One Air Force installation in Alabama, which trains foreign nationals as well as Americans, has had to issue "passports" to colored foreigners so that they may travel unmolested in the community. "For the American serviceman," testifies Dean Griswold, "neither his uniform nor his birthright is enough."

Sound race relations cannot be established while this pattern of humiliation persists. As a symbol of racial injustice, segregated accommodations have been the focus of protest demonstrations which often result in further misunderstandings.

While segregation in accommodations is sometimes defended as a private business decision, it is often exactly the opposite. Managers and store owners testify that their willingness to integrate is frequently frustrated by community pressures. The proprietor is not always free to exercise his best business judgment. Several national companies have reported millions of dollars in lost sales because of local race problems.

Although they are privately owned, institutions which regularly accommodate the community are an essential part of what we have come to regard as our public life. For over 500 years, Anglo-Saxon law has recognized that the right to serve the public carries with it a social responsibility. Over the past century, 32 States have passed enforceable laws protecting the right of citizens to equal treatment in public accommodations. Republicans have contributed significantly to these laws in no less than 26 States.

Nonetheless, 18 States still have no public accommodations laws, nor can it be realistically expected they soon will take such action. If the national marketplace is to be truly open, it must be open everywhere. What is immoral must now be made illegal. To encourage a recourse other than street demonstrations, an effective remedy should be provided in Federal law.

### A STATUTORY PROPOSAL

Discrimination in public accommodations because of race, color, religion or national origin should be made illegal. It should be stipulated in any law, however, that before relief would be granted, those that bring the complaint must show that discrimination is based solely on ethnic or religious considerations. Wide State experience demonstrates that alarmist predictions of wholesale interference with personal decisions are unfounded. This successful record needs far greater publicity than it has received.

Essentially private establishments should not be affected by the law. Facilities occupied by the proprietor which offer no more than five rooms for rent should be specifically exempted. Private clubs and religious institutions should not be covered.

It is also important that the new bill require maximum cooperation with local agencies and strong encouragement of voluntary action. The Attorney General should not be authorized to bring a Federal suit until local and State officials have been given a reasonable time to settle the complaint. Voluntary progress will not be stifled. To the contrary, persuasion and conciliation will become more effective. Under the tough New York State law, 98 percent of the cases are settled before they get to court.

To emphasize the moral nature of the commitment, the Federal statute should be based on the 14th amendment, which guarantees equal protection of the law to all citizens. A law based on the commerce clause, such as the administration has proposed, gives an unfortunate priority to commerce hindered, rather than rights denied. Nonetheless, the use of both sections would give the court a dual constitutional base.

### AFFIRMATIVE COMMUNITY ACTION

When these legal remedies are available, tensions will be reduced. Living with the law can open people's minds and weaken community prejudice. However, private affirmative action must accompany legal directives. Leaders in all sections of the country should exercise strong local leadership in the quest for racial harmony. Churches, schools, business and professional men must contribute to public acceptances of necessary social change. Religious leaders have a special responsibility to spell out the moral issues involved in discrimination. Interracial committees and human relations councils have made a good start in many areas of the North and South. Leaders of all races must continue to build a climate of understanding and good will.

### THE ADMINISTRATION OF JUSTICE

Last year in Birmingham the constitutional right to petition and protest was repeatedly denied to American citizens. The tools of oppression were flagrantly misused dogs, clubs, and firehoses.

This year thousands of Negroes line the streets in southern cities seeking to register for the vote. They are seldom successful. Sometimes the queues are forceably dispersed. Confusion and delay plague the courts while white citizen's councils control local voting registrars.

In 1961, 315 freedom riders were arrested for gathering in a Mississippi bus terminal. Their constitutional right to unsegregated travel on common carriers had been clearly outlined since 1946. And in 1960 the Supreme Court had specifically applied this principle to terminal facilities. As Columbia University Law Professor Louis Lusky writes, "If the Federal law, which clearly precludes the remotest possibility of successful prosecution under local segregation statutes, could be frustrated in these circumstances, it could be frustrated in just about every case conceivable. But frustrated it was." Constitutional rights were denied through obviously groundless Mississippi breach of peace prosecutions. The cost so far has been over $2,000 for each individual who desired to appeal his sham conviction. Even though 3 years have elapsed many cases have not gone beyond the State circuit courts; few have reached the Mississippi Supreme Court, let alone the Supreme Court of the United States. It took 27 months for the Federal court of appeals to enjoin future unconstitutional arrests of this sort, but the court has refused to interfere with the pending cases.

In other freedom rider cases, the Constitution was abused less subtly. The weapon of oppression was mob violence. In Alabama, buses were set afire by wrathful klansmen while, as the Civil Rights Commission tells us, police officers stood by unmoved. Law enforcement broke down, and cherished rights were forfeited.

These cases are not unique. Similar incidents have occurred in other localities. But these instances do provide a striking example of how the tools of justice can be used to destroy constitutional liberties. Both through positive repression and through frustrating inaction, administrators of justice have repeatedly abused the rights of citizens.

Such abuses are not limited to the South. The northern counterpart comes more often in various forms of police brutality. Although Negroes feel the brunt of official mistreatment more than others, still nearly half the allegations of police brutality come to the Justice Department from whites.

Civil rights demonstrations must always be peaceful; respect for law and order must be maintained. When violence occurs, police departments should use appropriate measures to prevent disorder. Unconstitutional use of enforcement techniques is the exception rather than the rule in this country.

Nonetheless, the significance of any such abuses must be understood. When police departments ignore cherished freedoms, a cloud of suspicion envelops the entire legal system. When courts ratify these abuses, the individual is often helpless. The rights of all are weakened when the rights of a few are denied. The security of all is threatened when a few lose respect for the law.

To protect constitutional liberties whenever they are threatened by State and local officials, the following recommendations are offered:

### CRIMINAL REMEDIES

The Justice Department should accelerate enforcement of criminal statutes already available. Several Department officials have quietly called upon the Attorney General to increase these prosecutions, noting that most actions are now brought in the North, even though most of the abuses take place in the South.

The present criminal statutes (18 U.S.C. 241–242) should be made more specific in order to be truly effective. They should spell out prohibited abuses in detail. The Supreme Court and the Civil Rights Commission have long recommended such improvements. Yet the present administration has given virtually no support to Republican efforts to strengthen these laws.

### CIVIL REMEDIES

The individual can seldom afford the time and expense necessary to bring civil actions to vindicate his constitutional rights. Congress, therefore, should empower the Attorney General to initiate civil proceedings to prevent denials of any rights, privileges, or immunities secured by the Constitution. This broad power was first sought by President Eisenhower in the ill-fated title III of the 1957 Civil Rights Act. Although the Civil Rights Commission and Republican legislators have since repeated the proposal, the Democratic administration has actually opposed it.

Federal law should make State, county, and city governments jointly liable in damages for the misconduct of their officers. Now when victims of official misconduct do manage to obtain civil judgments, the victories are hollow, since individual policemen seldom have money to satisfy the court awards.

### COURT REFORMS

Congress should facilitate Federal court action to break the demoralizing deadlock which occurs when constitutional rights are ignored in Southern States courts. Today, these courts are immunized from Federal intervention by outmoded doctrines and judicial timidity. Even when the Federal judiciary does undertake this duty, the litigation often is so complex and expensive as to be useless to the individual. Several procedural reforms are needed, but receive very little attention in the current bill:

Congress should affirm and clarify the right to remove to the Federal courts any State court proceeding involving race discrimination in which it is shown that denial of constitutional rights is reasonably to be anticipated. Removal orders, however, should be fully appealable.

Congress should restrict the judicial "absention" doctrine as it applies to civil rights cases so that district judges will have less reason to wait for dilatory State rulings on clearly unconstitutional statutes—while defendants without bail are unjustly incarcerated.

Congress should clarify the authority of Federal courts to halt obviously groundless State court prosecution and injunction proceedings the only purpose of which is to effectuate racial discrimination or stifle protest against it.

### OTHER AFFIRMATIVE PROPOSALS

Reforms in our legal system are not the whole answer. To forestall abuses of justice before they occur, Americans must continually demand the highest standard of police and judicial administration. Increased attention must be given to the selection and training of law enforcement officers.

More nonwhites can be hired by law enforcement agencies. In many communities biracial committees can effectively work to improve police-community relations.

"Due process of law"—"Equal protection of the laws"—these are constitutional concepts which have a special place in the traditions of America. All citizens must accept their responsibility to keep the vigil for liberty through determined leadership at all levels of government.

### EQUAL OPPORTUNITY IN HOUSING

The place at which the Negro lives governs the shape of his life. Neighborhood patterns determine school composition and cultural experience. Nothing is as discouraging to aspiring Negroes than to be forced back into an urban ghetto.

Segregated housing is a basic civil rights problem. While overt discrimination is not the only factor producing this situation, it is a critical one. Where discrimination impairs housing markets, the opportunity of an individual to locate his home according to his economic means is denied. Moreover, sellers, banks, and real estate agencies fear financial catastrophe unless they yield to discriminatory patterns. Even the largest home developers experience heavy risks when they attempt to sell on an open occupancy basis.

Fair housing laws equalize the conditions under which all developers and other sellers can compete in the housing market. Yet only a handful of States provide this protection. Republicans have led recent breakthroughs in New York, Minnesota, and Oregon. State legislation to prohibit ethnic or religious discrimination in the buying, selling, and leasing of both public and private housing should be encouraged.

Many people fear decreased property values and lowered cultural standards will result from such legislation. Yet, experience in States with open housing laws indicates that just the opposite is the result. These laws have reduced fear and suspicion and have curbed the "blockbusting" techniques sometimes practiced when normal access to certain neighborhoods is denied.

What should be the Federal role in ending discriminatory housing? Unquestionably, the Federal Government is already the most important single factor in the housing market. Financing and construction by the Veterans' Administration and Federal Housing Administration and insurance of savings deposits by Federal insurance corporations carry Federal influence into every part of the country. But this influence has often served to perpetuate discriminatory patterns.

Not until November 1962, after the congressional elections, was the famous Presidential housing order signed. This long promised "stroke of the pen" was designed to end discrimination in federally financed housing. But it has had a very selective application. Federally financed housing projects started before the order have not been affected. Moreover, the order does not cover most conventional mortgages from federally assisted lenders. It thus discriminates against certain types of mortgage institutions. Leading savings and loan association officials argue that all lenders must be within the order if competitive equality is to be preserved. The President has the power to change the order, but, the current civil rights bill would not require him to do so. The housing order should be extended in order to restore normal competitive conditions in home financing and sales in every part of the country.

### PROVIDING POSITIVE OPPORTUNITIES

Laws and Executive orders which bar discrimination will allow the Negro to live where his pocketbook can take him. But new ideas and voluntary initiative are required to achieve real housing integration. The new approach to urban renewal which Republicans have suggested in Congress is exemplary. Building on recent experiences in New York State, they have called for rehabilitation of scattered private housing rather than construction of massive new apartment complexes. Low cost rentals would make units available to low-income families on a nondiscriminatory basis.

Ultimately, the whole community must answer the challenges of neighborhood integration. The stakes are high. If present demographic trends continue, the next 20 years may see a radical transformation in America's urban civilization. It is possible that solid white suburbs will surround solid black city centers, producing Negro majorities in 7 of our 10 largest cities. Steps must be taken to relieve the tensions which set race against race in urban America. Real estate brokers, bankers, teachers, clergymen, and local government officials should join in this difficult task. The health of society will depend in no small measure upon our response.

### DISCRIMINATION IN FEDERAL AID PROGRAMS

The Federal Government should stop spending money for the construction or operation of projects that discriminate against minority groups. Today, many Federal programs actually perpetuate discrimination in local communities. The following are typical examples:

Research grants by government agencies—running into several hundred million dollars a year—are channeled partly into institutions which continue to segregate their facilities to the detriment of Negro education.

Vocational education grants perpetuate segregated programs in southern high schools, despite a strong protest by Republicans in Congress when the bill was passed in 1963.

Segregated medical facilities continue to operate under Hill-Burton Act construction grants. To date numerous segregated hospitals have been constructed with over $100 million in Federal funds in 14 Southern States.

The Federal judiciary already has taken some steps to halt these discriminatory practices—using the precedent of the 1954 school desegregation decision. It would be better, however, for Congress to relieve the Federal courts of the final responsibility for this constitutional adjustment.

If Congress will not act, the President must. Republicans repeatedly have stressed that the President already possesses the power to ban the use of Federal funds in all discriminatory programs through Executive orders. However, Congress should clarify the President's power in this area and thus guard against political abuse in its exercise. Congress should make it mandatory—not just permissive—for the President to cut off funds to certain discriminatory projects. Under Republican proposals, each executive agency should first seek voluntary integration. Any recipient who lost Federal aid would be able to obtain judicial review of the action.

If these comprehensive provisions fail of passage, they should be made one of the key civil rights issues in the 1964 campaign. Discrimination in federally assisted projects can no longer be shrugged off as a necessary evil.

### CONCLUSION

The recommendations in this paper represent a continuation of a commitment which began a century ago. We have outlined here a Republican faith set to action—the faith of a national party united in a common respect for the dignity of man.

We have tried to be realistic, understanding the incredible complexity of the civil rights challenge. We have recognized that the Negro is trapped in a vicious circle of discrimination and deprivation. His educational deficiencies lead to economic handicaps. Cultural barriers aggravate racial prejudice. Problems in voting, education, and public accommodations are inextricably intertwined with those of jobs, housing, and justice. We must seek to meet this complex challenge with courage on many fronts and at all levels.

Above all else we affirm the importance of the individual. We do not use this concept as a means of fleeing social responsibility—we desire no empty individualism. Nor do we seek an excuse for reducing all men to a common level—we want no masked collectivism.

We do ask that our society now fulfill the promise of the American dream: the right of all men to achieve their individuality, the opportunity for every man to be uncommon.

(NOTE.—Not every member of the Critical Issues Council, its advisers, or Republican Citizens Committee necessarily subscribes to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.)

## ANNUAL REPORT OF THE AMERICAN CANCER SOCIETY—SUCCESSFUL TREATMENT OF COLLEEN McNEILL

Mrs. NEUBERGER. Mr. President, all of us in Oregon are proud of the program of the American Cancer Society. It takes on personal meaning when one of our neighbors receives lifegiving aid. The story of such a family is related in the annual report of the American Cancer Society which I now call to the attention of my colleagues.

The successful treatment of this case of Colleen McNeill is due to the cooperation between a devoted ophthalmologist, Dr. Merrill Reeh, and the American Cancer Society. I take this opportunity to pay Dr. Reeh the tribute he deserves.

Mr. President, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

It is people who make our society what it is. One of its reasons for existence is to help people—people in terrible need of help. So perhaps a simple letter neatly written on lined note paper, signed by Mr. and Mrs. T. G. Wright, from Fossil, Oreg., can best convey the meaning of service. Mrs. Wright wrote to the society in behalf of her husband and herself:

"I am writing to thank you for the wonderful gift given our daughter, Colleen McNeill, through the American Cancer Society, the Oregon chapter, Senator MAURINE NEUBERGER and Dr. Merrill Reeh. We are so very grateful for all the assistance, and the happiness it has brought to Colleen is truly heart warming. The orbital prosthesis was most successful and looks so natural it is almost unbelievable. Everyone in this community certainly is praising your organization for making this possible for Colleen."

People were helping people. Mrs. McNeill, young mother of three children, had lost an eye to cancer. She became terribly sensitive about her appearance, and for a while it seemed as though she would become a recluse. The family lacked the means for a trip to Baltimore for an orbital prosthesis. Help came from the American Cancer Society.

As a result, the young wife and mother was transformed not only in appearance, but in her entire outlook toward life. Mrs. Wright wrote to Senator MAURINE NEUBERGER, who had brought this case to the attention of the society, describing how Colleen McNeill's neighbors went all out to make it possible for her husband to accompany her for the prosthesis work in Baltimore. Mrs. Wright wrote:

"Colleen is so happy, it has really made a change in her life; not that she has complained about her handicap, but this work has certainly boosted her morale, and she looks 10 years younger. It is so natural, almost unbelievable; Mr. Wineberg (who made the prosthetic appliance) is truly an artist. It is all so wonderful I can't find words to express our feelings."

## ADDRESS BY JOHN KENNETH GALBRAITH BEFORE THE ASSOCIATION FOR ASIAN STUDIES

Mrs. NEUBERGER. Mr. President, I pick up a magazine and see an article written by John Kenneth Galbraith about our program to combat poverty.

I call the attention of the Senate to a recent speech before the Association for Asian Studies, 16th annual meeting.

Mr. President, I ask unanimous consent to have the address by John Kenneth Galbraith printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, my friends, I much appreciate your invitation to speak today. And I appreciate it even more as the result of coming to know so many of your members in these last years. Our disposition is to attach a good deal of importance to practical economic, political, social, and diplomatic experience in areas of oversea study. I have emerged from these last years, which have been fairly rich in practical experience, with an enhanced respect for the role of scholarship.

In any given month—unlike important executives investigating investment opportunities they come in the hot weather—numerous scholars and specialists pass through India. And a goodly number are in residence in one capacity or another each year. A college professor is perhaps more naturally an object of attention from such visitors than a professional diplomat. I was struck repeatedly with how rewarding and profitable was this association. I was equally struck, as an ambassador, with how often I turned to and how much I depended on highly specialized work in history, history of art and architecture, anthropology, politics and even, I am obliged to say, economics. I sometimes wondered why some should toil and others should reap. Whatever the advantage of experience we need to bear in mind that its portable endowment is rarely equal to that of systematic scholarship.

I was also impressed during my years in India with another of the yields of scholarly enterprise in the Asian field. That is the training it is supplying to the younger generation of men and women coming into the Foreign Service. My association with half a dozen of these younger officers—well grounded in the history of the area, conversant with languages, attracted by and knowledgeable on both classical and modern literature, intensely curious about political and social developments, and enjoying the respect of both the Indian official and scholarly community—was one of the most attractive features of service in India. I believe that all were products, directly or indirectly, of the modern development in Asian studies. There could not be a better advertisement. A little later I will have some sharper things to say about scholars and experts. Do bear in mind that I began well.

### II

In the brief moments allowed a luncheon speaker, I thought I would say a few words about our present political relation to the Asian scene. What I have to say will also have some overtones of application to Latin America and perhaps other areas. I intend, in the end, to urge your responsibility and appeal for your vigilance in insuring sound, prudent and progressive policies in the parts of the world which are your special interest and concern.

The problem we face has a simple dimension. It is how to sustain an amicable and sympathetic relationship between societies that are drastically different in character, culture and, above all, in political liberty and economic well-being. The most important circumstance dividing the United States from Asia, Africa, and Latin America is the difference in political dignity, social prestige and economic fortune and the difference in the ease and difficulty by which improvement is won. In the United States, as also in Western Europe, economic gain, to dwell on this for a moment, is now nearly painless; certainly it is much less painful than the unemployment which results from the absence of economic growth. It is part of our vanity that progress is something we have earned; it proceeds from the excellence of our economic policies and the purity of our souls. In fact it is the nearly inescapable byproduct of the need to maintain full employment.

In most of the rest of the world economic progress is equally wanted, vastly more urgent and far more painful. In important countries, of which the two great nations of the Asian subcontinent are prime examples, this advance is in a relentless race with population. The consequences of frustration have now been so often cited that they have the character of a cliché. If governments are governing for the few or accomplishing little for the many, there is little to lose from a change. Men will try to protect themselves in office by diverting attention and passion to the sins of neighbors or racial or religious minorities. The result is insecurity, disorder, disintegration. Although someone who should know better in the U.S. Government will always explain it was an agent of Mao Tse-tung—of late Castro has been getting even more of this action—no sensible person can be in doubt as to ultimate cause. The escape from poverty and movement to social and political equality will not solve all problems; but without the hope of such change, there will be no solution at all. This is not bookish theory or airy idealism as the political John Waynes would have it. It is the stark social reality.

In the last 15 years we have gone far to accommodate policy to this reality. I would judge that we have gone farther in the great countries of Asia than anywhere else. The obvious requirement is a wide-spectrum diplomacy which identifies our economic, political, cultural, and educational efforts with the economic and social and political aspirations of the people of the country. We have needed to back this identification with some of the savings that come so easily to us and with such difficulty to the countries involved. As was perhaps inevitable in any effort of such magnitude and novelty, we have fumbled on occasion. We have been a little too open in the hope of quick and brilliant solutions. We may have underemphasized the importance of such stodgy fundamentals as popular education. But there is no question that in India and Pakistan, as in lesser measure in the smaller countries of the area, the United States is intimately identified with the hope for progress. We have been able to provide something of the reality.

The battle is not yet won. And it is a battle that must be won not only in Asia but also in Africa and Latin America where the problems are in many ways more difficult. Success in this effort is indivisible. Failure in any one region will profoundly affect both the spirit and the weapons available elsewhere.

One of the dangers is impatience—an unwillingness, given especially the case of change in the United States, to accept the slow progess and inevitable setback in other lands. With benefit of hindsight I think that we economists have been partly to blame with unduly optimistic images of "takeoff" and "sustained growth." We may have raised false hopes. We should have seen sooner how long and patience-demanding will be the task.

A second danger comes from the failure of men of liberal disposition and good will in these last years to rally to the support of the AID program. We have come to assume that all requests for funds—even the astringently conservative one which President Johnson has just transmitted—will be butchered by men who do not pretend to the slightest knowledge of the purposes of the program and give every indication of caring less. We have left the defense to those who have the difficult task of administering the program. I hope this year the President and able leadership of the AID organization, not to mention the Congress, will know that the AID program has the active support of all who share this view.

But not all of the danger is from Congressman **Passman**. I have referred to the need for a broad-spectrum diplomacy toward the poorer countries—one that leaves no doubt that the United States is a reliable friend of economic progress, social justice, and personal liberty. I have said that this is the best hope of stability. It is also our only hope for influence in these countries. If we are known to support such progress, leaders and governments can, in turn, accord us their support. Those who attack us will risk alienation. (The Communist Party in India never found it profitable to attack President Kennedy. To do so was to attack a friend of India and thus to lose credibility.) But if we are not on the side of liberty and economic progress it is we that will risk alienation. Others will replace us in the hopes of the people and their leaders. We will have deserved our fate.

But nothing more profoundly characterizes American foreign policy than a recurrent nostalgia for past error. One must admire the broad preparation and eclectic outlook of the younger members of our Foreign Service. Our foreign policy is passing into good hands. But, perhaps naturally enough, there still lurks in an older generation a yearning for the days when diplomacy concerned itself with gentlemanly arrangements between foreign office and foreign office, when democracy and affluence were the natural prerogative of Americans and when for the lesser races one accepted dictatorship and poverty if not as a just, at least as an inevitable, desert and the order of things. Life was very much simpler then, at least up to the deluge. And that, as I have noted, could be attributed to the machinations of the Communists.

The evidence against such a course is, to be sure, overwhelming. Two Presidents, Franklin D. Roosevelt and John F. Kennedy, identified themselves overwhelmingly with the wide spectrum of concern. They won unparalleled prestige and influence for themselves and for the United States. The last experiments with the other diplomacy won a less enchanting response for Mr. Nixon in Lima and Caracas. I do not think we run a serious risk of reversion. We have in President Johnson an admirable sensitive political leader. He can be counted on to see where greatness lies. But elsewhere the inability to see the sources of past achievement or the foundations of past disaster inspires a certain perverse admiration. It is perhaps a little like the yearnings of some politicians for the end of all income taxes—a tribute to man's capacity for romantic escape but also a trifle irresponsible.

There are other threats to national policy which should also be urged. As George Kennan has said, far too much of our policy is made not in light of our interest but in fear of the American right. Courage in the face of domestic enemies is far rarer than in handling foreign ones. Thus the tendency for our China policy to stay permanently on dead center. Thus the further consequence that we invest our diplomatic capital in futile rescripts to the French or footless petitions to China's Asian neighbors to not shake hands with the demon. (Also any Asian country that is feeling neglected by the United States is coming to know that it has a sure-fire formula for winning consideration. A faint enigmatic smile toward Peiping and we are brought promptly to attention and the next plane may well unload a delegation. This does not entirely become the grandeur and majesty of the United States.) I have been mildly unkind to one traditional view of diplomacy. A word needs to be said of my colleagues on political appointments. The function of the political leadership of the State Department is, of course, to run political interference for those whose careers are permanently committed to the service. On occasion, I fear, some have considered it their function to set the professionals an example of impeccable caution in not arousing the modern conservatives. I wonder, as a matter of pure scholarship, if it is even wise policy for those involved. It trades a quiet life today for very bad marks in the history books. And the Kennedy years seem fated to produce an unparalleled volume of history very soon.

Here I come to your problem—and your task. The influence of the American right-wing rests not on its nowhere but on its near-monopoly of articulate objection. When any policy is under consideration in the State Department it is the only voice that is considered because, with rare exceptions, it is the only voice that will ever be raised. Scholars, those who speak generally for a rational view, liberal, and men of good will, have a habit of acquiescence. The action may not be to their liking; often it is not. But they argue with what they assume to be the only expedient course. Stream pollution or an invasion of personal rights brings them alive; a retrograde stop in foreign policy and they remain silent.

This is wrong. You are wrong. I venture to think it is an abdication of professional responsibility. Others do speak and by speaking very perceptibly they press policy in their direction. No one seeks to suppress the men who want a retreat to the 18th century, who would rather spend $50 on armaments than 5 cents on foreign aid, who attribute all evil to Castro or believe they can solve all ills with a gun. They are entitled to their say. But it is extremely important that any movement in their direction should elicit even more hideous noises from the learned and sensible men. You, of course, are learned and sensible men.

## EFFECT OF THE ENACTMENT OF THE PENDING CIVIL RIGHTS BILL ON EXISTING IDAHO LAW

Mr. JORDAN of Idaho. Mr. President, in nearly a century of proud existence as one of the United States, Idaho has been almost completely free of discrimination. To insure the continuation of this freedom, the State legislature in 1961 passed a law making it a misdemeanor offense to practice discrimination in places of public accommodation and in employment practices. It is a simple and uncomplicated law and was drafted to meet only the needs of the people of Idaho. But because of the wide publicity attaching to the civil rights bill we are debating today, and with the argumentation, pro and con, that has flooded my State, more and more Idahoans have written me expressing genuine concern. One thing they want to know is what effect the enactment of the pending civil rights bill would have on Idaho's existing law?

As the lawyers among us must particularly appreciate, the question of State-Federal jurisdiction is a most delicate one. So in an effort to obtain an answer to this question and to clarify the intent and meaning of the legislation before us, I turned for assistance to some of the foremost proponents and opponents of the bill. Earlier this month I addressed the following question to Senator **Thomas H. Kuchel**, Republican, of California, and Senator **Hubert Humphrey**, Democrat, of Minnesota, who are comanagers of the bill, and to Senator **Sam J. Ervin, Jr.**, Democrat, of North Carolina, recognized as one of the Senate's leading constitutional lawyers who opposes the bill:

> With the passage of the civil rights bill in its present form—particularly sections 205 (a) and (b) of title II, sections 708 (a) and (b) of title VII, and section 1102 of title XI—am I correct in assuming that the Federal law with regard to discrimination in employment and public accommodations will totally occupy the field and that the Idaho law will only provide an additional legal cause of action? What position then does the State cause of action occupy as opposed to the Federal—is it concurrent, exclusive, limited, or what?

I have received completely responsive replies to my letters and I want to take this opportunity to say thank you to my colleagues for taking the time out of what I know are very busy schedules to answer my questions concerning the comparison of our Idaho statute with the proposals included in the present civil rights bill.

I was reluctant to ask for these opinions because I know how little time in the day is left to a Senator who attends committee meetings, answers constituent mail, et cetera, and still manages to be on the floor for some 12 hours a day. But because of my high regard for these able Senators I did ask, and they were, as always, most gracious and obliging and I am indebted to them for their courtesy.

As I compare their replies I find a significant area of agreement between both proponents and opponents. All agree that the Idaho statute is much stronger and broader in coverage than title II—public accommodations—and title VII—fair employment practices—of H.R. 7152, the bill now before the Senate, except that the Idaho statute does not cover discrimination in employment by reason of sex.

They agree also that section 1102 seems to be a statement of congressional intent—that preemption of State law is not intended by the act.

Senator ERVIN, a renowned constitutional lawyer, and chairman of the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, warns, however, that a Federal Commission will determine whether the State is doing an effective job and "that the bill offers no enlightenment as to the rules the Commission shall follow in making this decision."

Hon. Burke Marshall, Assistant Attorney General, Civil Rights Division, Department of Justice, who provided the research and analysis for Senators KUCHEL and HUMPHREY, points out, on the other hand, that H.R. 7152 "preserves all the rights and duties existing under State fair employment laws."

Mr. Marshall states further:

> Section 708(b) specifically directs the Federal Commission to seek written agreements with State fair employment agencies which are effectively exercising their powers to cede enforcement authority to the State agency. Where such an agreement has been entered into, neither the Commission nor a private individual may bring suit under the Federal statute. Thus, it is to be expected that discrimination in employment would be handled by State officials under the Idaho law and that title VII will have but little effect within the State.

Mr. President, believing it will be helpful to the rest of my colleagues on both sides of the aisle to have the benefit of these replies, I ask unanimous consent to have printed at this point in the CONGRESSIONAL RECORD the replies I have received from Senators KUCHEL, HUMPHREY, and ERVIN.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 23, 1964.

Hon. LEN B. JORDAN,
*U.S. Senate, Washington, D.C.*

DEAR LEN: Enclosed is a copy of the letter I have received from Assistant Attorney General Burke Marshall concerning the impact of the Federal FEPC law as contained in title VII of H.R. 7152 in the State of Idaho. I hope this discussion will prove useful to you as you consider the legislation pending in the Senate.

It is my understanding that Senator KUCHEL has received a similar letter and will be forwarding it to you.

Let me know if any questions remain unanswered. I want to do everything I can to clarify this question for you.

Best personal regards.

Sincerely,

HUBERT H. HUMPHREY.

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APRIL 24, 1964.

Hon. LEN B. JORDAN,
*U.S. Senate, Washington, D.C.*

DEAR LEN: I was most interested in your letter of April 10 calling to my attention the 1961 Idaho statute seeking to eliminate discriminatory practices in employment and public accommodations. I thought it best to get an official statement from the Department of Justice as to the relationship, if any, between the Idaho statute and the House-passed civil rights bill once the latter is enacted.

I enclose an extensive reply from Assistant Attorney General Marshall dealing with this matter. As you will note, he points out that the Idaho statute is, in fact, much stronger and more comprehensive than title II (public accommodations) and title VII (fair employment practices) of the bill now before us. I am sure you will be pleased to note the concluding comments of Mr. Marshall that "it is to be expected that discrimination in employment would be handled by State officials under the Idaho law and that title VII will have but little effect within the State."

I hope this information is helpful.

With kindest regards,

Sincerely yours,

THOMAS H. KUCHEL.

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DEPARTMENT OF JUSTICE,
*Washington, D.C., April 22, 1964.*

Hon. THOMAS H. KUCHEL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KUCHEL: This is in response to your request that I furnish you with materials which will assist you in preparing an answer to a letter from Senator LEN B. JORDAN, dated April 10, 1964, concerning the effect of titles II and VII of H.R. 7152 on the Idaho civil rights statute.

Section 18–7301 of the Idaho Code (1963 Supp.), which was enacted in 1961, bars discrimination in places of public accommodations. This statute covers any place of public resort, accommodation, assemblage, or amusement, including any place for lodging, eating, or garaging or servicing automobiles. In addition, Idaho law bars discrimination in places where only beverages are sold, or where personal services, medical service or care is made available, and in public libraries and educational institutions wholly or partially supported by public funds, schools of special instruction, nursery schools, day care centers and children's camps. Thus, the Idaho statute is considerably broader than title II of the proposed Federal law, which covers basically only lodging and restaurant facilities, places of amusement, and gasoline stations.

It is to be noted, too, that Idaho law makes it a misdemeanor offense to deny to another person rights protected by that statute. As you know, H.R. 7152 does not provide for criminal penalties. Thus, as concerns enforcement, too, the proposed Federal legislation would be considerably less stringent than the Idaho statute.

Section 205(b) of the bill now before the Senate makes it clear that no individual and no State or local agency will be precluded from asserting any right created by any other Federal or State law not inconsistent with title II, or from pursuing any remedy, civil or criminal, which may be available for the vindication of such rights. This, of course, includes rights and remedies created by the Idaho law. Moreover, section 1102 of H.R. 7152 expresses in unequivocal language the intent of Congress not to occupy the field in which any title of the act operates, to the exclusion of State laws on the same subject matter.

Section 205(a) of the proposed Federal law vests in the district courts of the United States jurisdiction of proceedings instituted pursuant to title II and it provides that such jurisdiction shall be exercised without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law. Thus, failure of the aggrieved person to avail himself of the remedies afforded by Idaho law would not prevent him from bringing actions under title II, provided, of course, that the case came within the relatively more limited coverage of title II. Any such actions would not seek damages, but merely injunctive relief against acts of discrimination which are in any event prohibited by Idaho law. Further, if the aggrieved party complained to the Attorney General, the Attorney General would in the usual case be required, under section 204(c), to notify the appropriate State or local officials and afford them a reasonable time to act under Idaho law.

Section 18–7301 of the Idaho Code also bars discrimination on account of race, creed, color, or national origin in employment. Thus, title VII of H.R. 7152, which deals with the same subject, would have little impact within the State except in the area of discrimination in employment on account of sex, which is covered by H.R. 7152 but not by the Idaho law.

In all respects, the Idaho statute is considerably broader than title VII. Under the Idaho statute a person aggrieved has a choice of seeking relief in a civil action, of reporting the discrimination to State law enforcement authorities who could prosecute the offender criminally, or of pursuing both remedies at the same time. Under title VII, on the other hand, complaints would have to be made to a commission with no enforcement powers other than the authority to bring a civil action in Federal court. A private party could sue only if the Commission did not do so and then only if a member of the Commission gave his written consent. Criminal prosecution is excluded under the proposed Federal law.

The Idaho law is also broader in coverage than title VII of H.R. 7152. The Idaho statute applies to all employers and labor unions, regardless of size, while the Federal law would apply initially only to employers with 100 or more employees and to labor unions with 100 or more members, and eventually only to employers and labor unions with 25 or more employees or members. In addition, the Federal law would apply only in industries affecting interstate commerce. There is no comparable limitation under the Idaho statute.

Section 708(a) of H.R. 7152 preserves all the rights and duties existing under State fair employment laws. Section 708(b) specifically directs the Federal Commission to seek written agreements with State fair employment agencies which are effectively exercising their powers to cede enforcement authority to the State agency. Where such an agreement has been entered into, neither the Commission nor a private individual may bring suit under the Federal statute. Thus, it is to be expected that discrimination in employment would be handled by State officials under the Idaho law and that title VII will have but little effect within the State.

Sincerely,

BURKE MARSHALL,
*Assistant Attorney General,*
*Civil Rights Division.*

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS,
*April 20, 1964.*

Hon. LEN B. JORDAN,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JORDAN: This is in reply to your letter of April 13, 1964, concerning the effect of the pending civil rights bill on the Idaho law which prohibits discrimination in employment and public accommodations. You specifically mention sections 205 (a) and (b) of title II, 708 (a) and (b) of title VII, and 1102 of title XI.

I shall attempt to answer each of these inquiries separately and then offer a few comments which I hope will be helpful to you.

1. Sections 205 (a) and (b) of title II:

Section 205(a) vests jurisdiction over actions brought pursuant to title II in the Federal district courts. Section 205(b) provides that the remedies provided by section 205(a) shall be exclusive. This means that any action brought pursuant to title II may only be brought in Federal district courts.

Ordinarily State and Federal courts have concurrent jurisdiction to enforce Federal law. However, Federal legislation often limits the jurisdiction of the State courts, providing that Federal courts shall be the only forum available to enforce the provisions of the particular legislation. In such a case, the Federal courts have exclusive jurisdiction.

Enactment of title II would not preclude enforcement of Idaho's law prohibiting discrimination in public accommodations. Section 205(b) specifically provides that State law "not inconsistent with this title" shall continue in effect.

The Idaho law prohibiting discrimination in public accommodations appears to be broader in scope than title II of the pending civil rights bill. For example, the Idaho law prohibits discrimination in places where medical services are made available.

The pending bill does not cover medical services (except to the extent that they may be offered in places which are covered).[1] Passage of the pending bill would not preclude an action brought under the Idaho law by an Idaho citizen in a State court alleging discrimination in a place which offers medical services.

If an individual alleged discriminatory treatment which violated both State law and title II, he could not go into State court and request relief under title II and under State law. He would be limited to asserting his rights under State law.

I notice from the copy of the pertinent Idaho statute which you enclosed with your letter that no civil remedy is provided. Rather it is a misdemeanor to violate the law. If no civil remedy is provided by other Idaho law, either judge-made or by statute, then an individual would have to go into Federal court to vindicate his title II rights while the proper Idaho official would institute a criminal prosecution to vindicate violation of Idaho law.

In the event that Idaho does provide civil relief, that relief could still be obtained in State court if the bill passes.

To summarize, Idaho could continue to enforce State law in State courts if the pending bill passes. Any action brought under title II could only be brought in Federal courts. Federal courts, then, would have exclusive jurisdiction over actions brought under this title of the pending bill.

2. Section 708 (a) and (b) of title VII:

Section 708(a) provides that no person will be relieved of "any liability, duty, penalty, or punishment" provided by State law.

Therefore, any Idaho law which prohibits discrimination in employment would continue in effect. For example, denial of the right to work in Idaho would still be a misdemeanor under 18–7303. Section 708(a) taken alone would make Idaho law concurrent with Federal law to the extent that it is not inconsistent with Federal law.

Section 708(b) provides that where the Commission finds that the State is doing an effective job under State law of eliminating discrimination in employment, the Commission shall refrain from bringing actions in that State in all classes of cases in which it feels the State is doing an effective job.

Therefore, if the Commission should find that the State was doing an effective job in all cases covered by title VII, then the State would have exclusive jurisdiction over discrimination in employment. If the Commission should find that the State was only doing an effective job in a certain class of cases, then the State's jurisdiction would be exclusive as to cases of such a class and concurrent as to other classes.

Parenthetically, I should point out that the bill offers no enlightenment as to what rules the Commission shall follow in making this decision. Whether or not State law will be relied on is left to the unbridled imagination of the Commissioners. Thus, a handful of men would have absolute discretion to decide whether a State is to be left free to apply its own law in this regard or be subjected to Federal jurisdiction.

As with title II, section 707(d) provides that jurisdiction to enforce title VII rights shall be in the Federal courts.

Thus, while State courts would continue to have jurisdiction to enforce State laws, the Federal courts would be the only forum to enforce any rights granted by title VII.

3. Section 1102 of title XI:

This section is a general antipreemptive declaration. Its purpose, I suppose, is to make clear to the courts that the intent of Congress is not to occupy exclusively the field in this area.

The courts have sometimes construed a congressional intent to preempt the field in certain areas, thereby nullifying State law in that area. I am thinking specifically of the *Nelson* case, 350 U.S. 497, in which the Supreme Court held that the Smith Act precluded Pennsylvania's enforcing its own sedition law.

However, in *Colorado Anti-Discrimination Commission et al.* v. *Continental Air Lines, Inc.*, 372 U.S. 714 (1963), the Supreme Court upheld the application of a Colorado statute which prohibited discrimination in employment to an airline which was regulated by Federal law. The airline had contended that since the Civil Aeronautics Act of 1938 and other Federal statutes and Executive orders prohibited racial discrimination in employment with airlines, the State laws were preempted.

The Court disagreed, stating that there was no intention of the Federal Government to preempt the field by its Executive orders or legislation.

Section 1102 seems to be a statement of congressional intent that preemption is not intended by the act.

4. General observations:

There is a difference, of course, between preemption of State law and limitation of jurisdiction of State courts. The former precludes the application of State law, the latter precludes use of State courts to litigate certain classes of cases. The pending bill apparently does not purport to limit the former. It does, however, affect the latter.

In answer to your specific questions, Federal law will not totally occupy the field. Idaho law will exist concurrently with Federal law and, in the case of title VII, Idaho law will totally occupy the field if the Commissioners so determine.

However, the Federal courts will be the exclusive forum in which to enforce any actions brought under titles II or VII.

Idaho law may be limited in the sense that if it is found to be inconsistent with Federal law then it is unenforcable. However, section 1102 of title XI seems designed to express clearly the intent of Congress that State law shall not be preempted. Thus, the fact that State law might provide different remedies or be broader or narrower in scope than Federal law should not cause such law to be struck down.

Judicial construction in this area is difficult to predict, however. Many constitutional scholars were surprised at the Supreme Court's decision in the Nelson case that the Smith Act preempted State law. In conformity with that decision, it is not inconceivable that the courts would construe the pending bill to preempt State law.

I hope these lengthy observations will be helpful to you. It is impossible even in a letter of this length to discuss all the ramifications of this bill. For example, I have not even attempted to consider how the doctrine of pendent jurisdiction will be affected by the bill. That doctrine holds that when a Federal court has jurisdiction of a cause of action which is supported by both Federal and State laws, the Federal court can grant relief under State law even though it would not have had jurisdiction to do so absent an allegation arising out of Federal law. This doctrine, of course, conceivably could give Federal courts jurisdiction over enforcement of State antidiscrimination laws.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,
*Chairman.*

Mr. HUMPHREY. Mr. President, first I express my thanks to the distinguished Senator from Idaho for his comments and for placing in the RECORD the exchange of correspondence which I feel will be very helpful to the Senator. We tried to respond in a manner which would be informative to the Senator, and I hope it will be of some help.

Mr. JORDAN of Idaho. I am very grateful for the assistance.

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## CIVIL RIGHTS AND OUR NATIONAL PURPOSE—AN ADDRESS BY HON. KATHRYN GRANAHAN, TREASURER OF THE UNITED STATES

Mr. HUMPHREY. Mr. President, recently the Treasurer of the United States, the Honorable Kathryn Granahan, addressed the Hadassah, Temple Beth Hillel, Wynnewood, Pa., on "Civil Rights and Our National Purpose."

This is a moving and eloquent message, deserving of careful study by every Member of the Senate. Therefore, I ask unanimous consent that this address be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### CIVIL RIGHTS AND OUR NATIONAL PURPOSE

Our meeting of last November, as you recall, was postponed because of the unfortunate and tragic death of President John F. Kennedy. At that time, I had planned to speak with you about the two most important problems facing us as a people and as a nation: One was the President's tax reduction bill; the other was the omnibus civil rights bill. Since that time the former has been passed. The latter passed the House of Representatives and is currently being considered by the U.S. Senate. It is, to use a familiar American word, being filibustered. It will not, however, be filibustered to death. It will be passed, as President Johnson recently said, because we feel that Negroes and other nonwhites have too long been denied their rights.

In your publication "Facts About Hadassah," which your program chairman sent me, I was delighted to read that one of the objectives of Hadassah is to keep its members informed so that they may better understand and protect our democratic heritage and institutions at home as they work to strengthen the role of democracy as a force for freedom and peace abroad.

These are noble and essential objectives. If, as a nation, we are to solve the complex problems of our age through our democratic processes, then every educated citizen will have to devote a portion of his or her daily life to understanding these problems, which can come about only through an intelligent discussion and analysis of them, and to creating concerted group action on local and national levels leading to constructive social and economic legislation.

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[1] Under title VI, the Department of Health, Education, and Welfare could probably adopt a regulation prohibiting racial segregation in hospitals and other medical facilities built with funds under the Hill-Burton Act or similar Federal acts.

There is something far more important than understanding our problems, however, and then passing constructive legislation to solve the challenges inherent in them. We must achieve a mental and emotional discipline to eliminate those intellectual and emotional prejudices we possess—prejudices that have so far precluded a rational approach to the examination of many of our problems. Without a frame of reference that is free of such prejudices there can be no honest or permanent solution to these problems, and we will continue to approach them with a view to achieving temporary solutions evolved from political or social expediency. Solutions that are nothing more than a patchwork of hastily conceived actions compound rather than simplify our problems. We have had more than enough of such actions.

We are today a nation of some 190 million people, but we are not a nation of 190 million people with the same ethnic origin, possessing the same cultural heritage, or sharing a common religious faith. We are a nation composed of people who came and are still coming from practically every country in the world. We are a nation of more than 20 million Negroes, more than 5 million Spanish-Americans. We are a nation of more than 65 million Protestants, 45 million Catholics, 6 million Jews. We are a nation whose social, political, cultural, religious, and legal institutions were constructed from the thoughts and aspirations of peoples possessing different cultures and dissimilar religions.

These institutions are nurtured by the spirit of all our people. Their strength rests not alone on the respect and love our people have for them, but by the faith our people share in common that these institutions exist not for a privileged few, but for all: The poor as well as the rich, the uneducated as well as the educated, the Negro as well as the white, the religious as well as the atheistic.

In our lifetime, we have witnessed religious prejudice; we have also witnessed the slow growth of a religious tolerance nurtured by people of all religious faiths. We now experience and enjoy a religious tolerance that is a monument to the noble aspirations of our people—a tolerance that elected a Catholic President, a tolerance that now permits a man with Jewish ancestry to be considered for the Presidency. The development of this tolerance is a slow, painful process. Its maintenance requires continuous care and devotion.

In our lifetime we are witnessing the rise of the Negro people from economic subjugation, from social degradation, from denial of civil rights. The rise has been sudden, the movement swift. We might better describe what has been happening as a revolution in race relations. Such revolutions the world over have several things in common: The rights and dignity of human beings have been too long suppressed, the suppression too long ignored, and the problems engendered by the intolerance of one group electrified with the passionate emotion of the other. Such explosions usually stun, confuse, and injure. They also destroy ways of life, once accepted customs, old-established social and economic patterns.

Negroes and whites have never really learned to live with each other, yet we must. We have never—as a nation, as a community of people—learned to recognize each other as individuals possessing the feelings thoughts, aspirations, and sensitivity common to all human beings. For over a century there has existed a well of prejudices toward the Negro, and from this well we have drunk deeply. Our minds have been cluttered with misinformation, distortions, falsehoods, and myths. Having been brainwashed, many of us now find ourselves trying to clarify our thoughts, substitute reason and logic for passion and emotion, and evolve a human relationship that will afford Negroes opportunities we have long taken for granted as our inalienable right. It is most difficult.

What we call the civil rights problem is so vast in scope and so thoroughly rooted in the fabric of our society that it is extraordinarily difficult for us to contemplate it as a whole or even to give it definition. Each of its numerous constituent parts is a complex problem in itself. These problems range from the political disfranchisement wrought by the poll tax to the deliberate denial of educational opportunity through the use of school district gerrymandering and discriminatory placement tests; from denial of equal job opportunities to restrictive covenants, and other means of maintaining racial segregation; from the denial of human dignity in day-to-day social relations to exclusion from participation in the management of our Nation's problems, and the formulation of political decisions that affect us all.

The civil rights problem is intermeshed with other problems that confront us. It is directly related, for instance, to President Johnson's war on poverty program. We all know that unemployment has been significantly reduced since 1960, but it is still too high. About 5½ percent of our labor force is now unemployed. The rate of nonwhite unemployment, however, is more than double that of white unemployment. According to the Council of Economic Advisers, 44 percent of the country's nonwhite families—about 8 million people—are poor. Most of these are Negroes.

The civil rights problem is directly related to the problems of our metropolitan centers, the faces of which are blighted with inexcusable slums, zooming crime rates, delinquency, drug addiction, and other forms of personal and social disorganization. The solution to these are other correlated problems of growing magnitude lies not in curtailing relief and specialized services, but in curing the deep-rooted conditions that produce them. Many of these conditions are directly related to the Negro unemployment problem, but just as many result from the oppressive and stultifying feeling of resignation that is conditioned by the formidableness of the restrictions placed against his full participation in our society.

Civil rights is also related to our educational problems—the problems of providing equal primary and secondary educational opportunities to all, of admitting to professional schools all who are qualified, of absorbing and utilizing in our society the abilities, talents, and creative intelligence of all—regardless of their color.

The greatest single barrier to the solution of this enormous civil rights problem is the prejudice we hold as individuals, and as groups. There is also the matter of indifference, which in many respects has a more telling effect than prejudice. Far too many are deliberately or unconsciously ignoring the problem, either because of a mistaken belief that the problem is not theirs but somebody else's, or that it is too complex and enormous to solve and should, therefore, be handed over completely to Federal and local governments.

On the basis of recent history, it might be argued that civil rights fares better in the hands of Government than in the hands of the people, that the solution is nearer at hand when Federal power is exercised than when change is dependent upon shifts in public sentiment. But need I remind you that Government is people, and that Government ultimately reflects the attitude of the people it represents.

Government, as Henry Clay said, is a trust, and the officers of the Government are trustees, and both the trust and the trustees exist for the benefit of the people. If the attitude of our people toward civil rights remains basically one of prejudice or indifference, then the attitude of our Government will be no better and perhaps far worse. Such an attitude prevails today in the hearts and minds of far too many of our citizens, especially our educated citizens who constitute the leadership of our communities and governments at all levels. The civil rights bell that daily tolls its lamentations of misery, discontent, and injustice tolls not alone for the Negro. It tolls for the white equally as well.

What is now needed is an enlightened awareness on the part of every citizen. For Federal action alone faces a dim prospect. The problem will not be solved unless every citizen and every group—northerners as well as southerners, easterners as well as midwesterners and westerners—participate in discussions and actions toward this end. Unless we do, peaceful revolution in race relations, of which I spoke earlier, may become a racial explosion that may be too great to control, leaving in its wake irreparable scars on the landscape of our country and on the spirit of our people.

Hadassah is one group in America that has striven over the years—through its numerous volunteer activities—to improve the condition of minority groups. You have worked tirelessly and often without thanks to eliminate people's religious prejudices and to sow the seeds of racial tolerance.

The volunteer community work that you and your colleagues do sometimes seems to be a thankless and unrewarding task. But my friends, let me assure you that nothing is thankless nor unrewarding that brings human beings closer together. Volunteer work toward creating communities free of bigotry, intolerance, and hatred of people toward each other requires a special type of courage—the type President Kennedy referred to when he said that: "The most commendable and admirable acts of courage are those which go on day in, day out, month in, month out, year in and year out." This type of courage, which is expressed in many ways, constitutes our country's greatest spiritual strength.

The spiritual strength of our country—indeed, any country—is the most important strength we have. All other strengths—military strength, economic strength, technological and scientific strength—all are depended, in the final analysis, upon the individual and collective spiritual strength of our people. Without great spiritual strength our country and our people are weak—regardless of the formidableness of our weapons systems, our natural wealth, our ability to invent, design, and produce. Anything that adds to this strength, consequently, is good. Anything that detracts is detrimental. That is why it is so essential that each of us, as individuals and as groups, contribute, day in and day out, to strengthening the moral and ethical values of our society. In strengthening these, we strengthen the fabric of society itself, and we make more secure those cornerstones upon which our society and our democratic institutions rest.

There is a direct relationship between your volunteer activities and the spiritual strength of our country. Volunteer services and activities, of which yours is but one manifestation, express the altruistic desires of people to make their community and their country a better place in which to live. Such unselfish expressions on the part of people are imperative in a democratic society such as ours, where the strength and richness of government depends on the intellectual, spiritual, and physical contributions of its citizens. The voluntary efforts of the American people to improve their government, their environment, and the living conditions of their fellow Americans, especially those less fortunate, have helped mold the designs of our social, educational, and political institutions and given to them an enduring strength.

In recent years we have thought a great deal, read a great deal, and written a great deal about our national purposes. Many learned people, individually and in committee work, have delved into the many facets of our nature in an attempt to define our national purpose. Yet, no one seems to know exactly what our national purpose is. Few can agree on an acceptable definition that states with precision and clarity precisely what it is we should be working for through successive generations.

Perhaps it is not possible to state our national purpose. Certainly it is difficult. There would be many, moreover, who would disagree with any national purpose definition unless it expressed their own personal point of view. Some people might even think that it is not necessary to have a national purpose.

It seems to me, however, that it is essential that we have a national purpose and that we have a historical awareness of such a purpose so that our lives will have greater significance and meaning to ourselves, to one another, and to our society.

If we examine the brief life of our country, populated by displaced peoples from all over the world, I think we can see our national purpose. I think it is clearly laid out in the pattern we have pursued in establishing our unique political, social, and religious institutions. We have expressed it in many ways. People have glimpsed it in their daily lives just as they have read it in books and seen it in motion pictures. They have breathed it as one breathes air. They have felt it as one feels rain. They have touched it as one touches a flower.

We pursue it today just as our forefathers pursued it, just as every generation has pursued it down the dark, labyrinthine passageways of time. The Constitution phrased it "life, liberty, and the pursuit of happiness." We have clarified it by adding "a decent life," "liberty with justice," "happiness for all, regardless of race, creed, or color." We have added to it by searching for the truth in all our undertakings and living by the truth honorably and decently. We have strengthened it here at home by encouraging it abroad, by planting it in the hearts and minds of peoples everywhere. As we nurtured it abroad, we cultivated it here at home.

Even if we do not always live by it, we never lose sight of it. It has been, and will continue to be, our pole star. Always we turn toward it, however slowly. Always we move closer, however imperceptibly. Anything less of a national purpose than this degrades the character of our Nation. Anything more of a national purpose than this strengthens our Nation and our people and rises that much more toward the heights of human perfection.

President Lyndon Baines Johnson said in his first address to the Congress shortly after President Kennedy's death that if we wish to create a living memorial to this great President, then we should pass those legislative measures that President Kennedy believed in and, indeed, died for. Since that time President Johnson has worked tirelessly not only to insure the success of the late President Kennedy's legislative program, but to supplement this with important legislative measures of his own. The important legislative measures that have already been passed by the Johnson-Kennedy administration and those important measures and programs that will soon, we hope, be put into effect, such as civil rights, medicare, and the war on poverty program, are all vitally related to our national purpose.

I sincerely hope that we may grow wise from the mutual sorrow we all share for John Fitzgerald Kennedy, and that the wisdom born from this sorrow will enable all of us, as President Johnson said, to substitute love for hate, tolerance for bigotry, tenderness for violence in all our undertakings. Only then will the energy, the faith, the devotion which we bring to our endeavors light our country and all who serve it. Only then will the glow from that fire * * * truly light the world.

## SOME OBSERVATIONS ON THE STRATEGIES OF PROTEST—REMARKS BY WILLIAM L. TAYLOR, U.S. COMMISSION ON CIVIL RIGHTS

Mr. HUMPHREY. Mr. President, I call to the attention of the Senate some unusually penetrating observations by Mr. William L. Taylor, General Counsel, U.S. Commission on Civil Rights, dealing with the various strategies of protest in the civil rights movement.

Mr. Taylor makes the excellent point that not every violation of the law is therefore an act of civil disobedience. When the violation is committed under a claim of legal right with the intention of seeking redress in the courts, it can hardly be termed civil disobedience. Mr. Taylor points out that under our judicial system it is frequently necessary to violate the law in order to vindicate one's legal rights. If a person challenging a law that is unconstitutional cannot show that he has violated it, the courts may say that the case is a hypothetical one which is not ripe for decision.

This is the distinction which sets apart quite clearly such acts as sit-ins, freedom rides, and other nonviolent demonstrations from the more violent, nondirect acts of civil disobedience which have been criticized from many quarters in recent days. I believe this distinction is a relevant one and I urge my colleagues in the Senate to read Mr. Taylor's address with some care.

These remarks were delivered at the 16th annual conference of the National Civil Liberties Clearing House.

Mr. President, I ask unanimous consent that the remarks of Mr. Taylor be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### SOME OBSERVATIONS ON THE STRATEGIES OF PROTEST

(Remarks of William L. Taylor, General Counsel, U.S. Commission on Civil Rights, at the 16th annual conference of the National Civil Liberties Clearing House, Washington, D.C., March 20, 1964)

When I was first asked to discuss civil disobedience from a lawyer's standpoint, it seemed to me that there was something incongruous about the assignment. If a person, following the dictates of his conscience, chooses to disobey a law and then to accept the penalty rather than to contest his rights in court, the lawyer is almost irrelevant to the process. He may feel impelled as a citizen to take a position on the issues which gave rise to the act of civil disobedience or on the act itself—but as a lawyer he has no role to play.

On reflection, however, there may be a few observations that a lawyer can make about civil disobedience which will help to promote a useful discussion of the issues. For example, there is a question of definition. Civil disobedience is a term that is being bandied about a good deal in connection with protests against racial injustice and it is obvious that not everyone who uses it means the same thing. Segregationists tend to use civil disobedience as a catchall phrase to cover any protest against the practice of racial discrimination. But civil rights advocates may disagree even among themselves about what they mean when they talk about civil disobedience. Arriving at definitions can be a tedious and sometimes unproductive process—but if we agree on what we are talking about, it may be possible at least to avoid some needless arguments about our conclusions.

One aspect of civil disobedience has already been alluded to—a willingness to accept the penalty. Ghandi, talking about his first essay into civil disobendience, said "None of us had to offer any defense. All were to plead guilty to the charge of disobeying the order." Martin Luther King, drawing on Ghandi, says "Most important, they (the violators of law) willingly accept the penalty, whatever it is." This willingness to accept the penalty is based upon a principle crucial to the philosophy of civil disobedience—that the violation of unjust laws is justified by the fact that these laws themselves violate a higher law, which may be called moral law, natural law, or divine law, depending on the point of view of the interpreter. But if the appeal of the law violator is not simply to moral law, but to positive, articulated law such as the Constitution of the United States, it is not civil disobedience we are dealing with, but something else.

What I am suggesting is that not every violation of law is an act of civil disobedience. If a violation is committed under a claim of legal right with the intention of seeking redress in the courts, it can hardly be termed civil disobedience. In fact, under our judicial system, it is frequently neecssary to violate the law in order to vindicate one's legal rights. If the person challenging a law as unconstitutional cannot show that he has violated it, the courts may say that the case is a hypothetical one which is not ripe for decision.

By this test, sit-ins in places of public accommodation, the most popular and effective means of direct community action, are not acts of civil disobedience. The great majority of the sit-inners have not pleaded guilty; they have acted under a claim of legal right, or at least, of immunity from prosecution for their acts.

The character of sit-ins as appeals to law rather than acts of civil disobedience is not changed by the fact that large numbers of protesters have been involved. While the ordinary test case may involve a single violation of a law by one person or a small group, there is no reason why a law cannot be tested by larger groups in a more dramatic manner as long as they are willing to incur the additional legal expense that these larger protests entail. Nor do the sit-ins become acts of civil disobedience simply because they are direct appeals to the conscience of the community as well as to the law of the land. One of the proudest aspects of our heritage is the part that legal controversies play in educating and stirring the conscience of the Nation even while they are being resolved in the courts.

This is not to suggest that sit-ins could not become civil disobedience. If Congress fails to pass a public accommodations law and if the Supreme Court were to rule that

State trespass laws can be validly applied to enforce the racially discriminatory policies of proprietors of public places, sit-ins might then become acts of civil disobedience. Or if sit-ins suddenly became an effort to fill the jails rather than to test the law, they would take on a different character. But these things have not happened yet.

It is even clearer that the freedom rides were appeals to law, rather than acts of civil disobedience. The right to equal treatment in interstate transportation terminals had been established for many years at the time the freedom rides took place and the violators of law were not the riders who sought to exercise their rights, but the police and bus company officials who sought to deny them. The result of the freedom rides was Federal action to vindicate the law by putting these violations to a halt.

Similarly, it would be grossly inaccurate to characterize many of the street demonstrations and marches to protest discrimination that have taken place during the past months as acts of civil disobedience. For the most part these protests have been marked by restraint; they have been peaceful and orderly, and there has been no effort to obstruct traffic. As such, the protesters, far from violating any law, have been exercising their rights of free speech, free assembly and freedom to petition for a redress of grievances, all protected by the 1st and 14th amendments to the Constitution. This was made clear by the Supreme Court just last year when it reversed the breach of peace convictions of 187 Negroes who marched on the South Carolina State House to make their grievances known to the public and to the legislature. The Court said that this was "an exercise of basic constitutional rights in their most pristine and classic form."

Picketing and other noncoercive efforts to persuade the public not to patronize business establishments which follow policies of racial discrimination are also expressions of free speech protected by the Constitution. When properly conducted, they violate no valid law and thus cannot be classed as a form of civil disobedience.

One of the newest types of direct actions, the rent strikes in New York, is also more appropriately classified as an appeal to legal processes rather than as a form of civil disobedience. The protesters there have argued that when a landlord violates the housing codes by permitting his apartments to become breeding places for blight and disease he has, in effect, evicted his tenants and relieved them of any obligation to pay rent. A court in New York recently recognized this claim and ordered the rents due to be paid into court as security for the landlord making the necessary repairs.

Thus, almost all of the major forms of direct community action—sit-ins, freedom rides, demonstrations, picketing and rent strikes—in my judgment are properly understood as actions well within the framework of our legal system, rather than as civil disobedience.

There have been, however, random activities by civil rights groups which have not been conducted under any claim of legal right or immunity. When, in New York, demonstrators physically block the access of trucks to a construction project in protest against the discriminatory practices of management and unions; when in California they rearrange the shelves of a supermarket in protest against employment policies; when they sit down on the Triborough Bridge during rush hour, it is generally acknowledged that they are acting in defiance of admittedly valid laws and not pursuant to any constitutional right or immunity. Are these then acts of civil disobedience? Reverend King says that civil disobedience is the violation of unjust laws—laws which are "out of harmony with the moral law of the universe." On the other hand, he says, the devotee of nonviolent social action feels a "moral responsibility to obey just laws."

Gandhi defines civil disobedience more broadly to encompass not only a refusal to obey bad laws, but also a violation of laws which work no hardship where the breach "does not involve moral turpitude and is undertaken as a symbol of revolt against the state." But in Gandhi's view, such resistance is justified only in a corrupt or tyrannical state. The "Triborough Bridge" type demonstrations have taken place in Northern States which not only have rid themselves of unjust racial laws, but have adopted laws to prohibit discrimination. In such States, the protest is not directed against the power of the State in enforcing unjust laws, but against its weakness in failing to act vigorously enough to remedy unjust conditions. It is questionable at least whether the government in such States can be ranked with Britain's iron rule of India or the slavery-sanctioning United States which Thoreau found tyrannical and unendurable.

It is also questionable whether some of the activities mentioned would fit Gandhi's requirement of deeds which do not involve moral turpitude. Gandhi condemned mass picketing which obstructed traffic, and damage to property as acts of violence rather than disobedience. Thus, on two counts, questions may be raised about characterizing these interferences with traffic and communication as acts of civil disobedience. It is possible that some of these activities are more properly understood simply as defiance of law rather than civil disobedience.

What then is civil disobedience? Is it possible to have true civil disobedience in a society in which unjust racial laws are almost always unconstitutional also? Two situations may warrant closer examination. The first is the developing technique of school "boycotts" in the North to protest against de facto segregation and second-class education. The theory of the boycotts must be that while compulsory attendance laws are valid, it is unjust to use them to compel children to attend schools in which they receive unequal and inferior education. The objection to such schools does not depend on whether a court would say they are operated in an unconstitutional manner. In the circumstances, we would appear to be dealing with a situation of civil disobedience.

But in practice, the school "boycotts" have not really been boycotts at all, but 1-day stayouts, designed to protest substandard educational conditions in a dramatic way. Thus, whatever one may think of their wisdom in particular circumstances, the boycotts at least until now have been more closely akin to exercises of free speech and assembly than to acts of civil disobedience. It is true then an unexcused absence even for 1 day may be a violation of the law, but it is the sort of technical violation that goes on all the time and that school administrators prudently overlook.

The second situation involves the violation of court injunctions in the South. Increasingly southern officials have resorted to local courts to obtain orders prohibiting all forms of protest and demonstrations, including those clearly protected by the 1st and 14th amendments to the Constitution. It is clear that these injunctions violate the Constitution and that ultimately they will be dissolved in the courts of legal appeal. The issue is whether protesters have a legal obligation to obey these injunctions until they are overturned. There are conflicting theories in American law on this question. On the one hand there is the opinion expressed by Mr. Justice Frankfurter that no one is entitled to be the judge in his own case and that even invalid court injunctions must be obeyed as long as there are orderly legal processes for testing them. On the other hand, it is generally recognized that rights can be as effectively destroyed by restraining their exercise during the period of time it takes to test a court order as by prohibiting their exercise altogether. If violation of an unconstitutional statute cannot be punished, why should an unconstitutional court order be any more sacrosanct? This question is particularly relevant to a situation in which courts are being used as instruments of lawlessness. When, in the past, injunctions against labor unions were prevalently used as instruments of repression, means were found to remedy that situation. So here we have a challenge to the judicial system and perhaps to Congress to respond so quickly to lawless injunctions as to make violation unnecessary or else to define more precisely the rights and obligations of people faced with such invalid orders. Until this happens the law is not certain enough to enable us to characterize violation of an unconstitutional injunction as either a legal right or an act of civil disobedience.

These distinctions are important for several reasons. The fact that all of the major forms of protest against racial discrimination have been well within the scope of legally protected activity enables us to avoid some tough problems we would face if they were not. At least since 1954, the case for equal justice has been built not simply on its moral rightness but upon the principle of respect for law. It is true that there has been a great deal of defiance of law, but there has also been progress which has resulted in large measure from our tradition of obeying even those laws with which we do not agree. We have come to appreciate that it is not necessary to secure changes in attitudes in order to secure changes in actions, and that acceptance may come simply from habitual obedience to a law which is sound and just and workable. Again this year, if Congress passes the civil rights bill, thousands of employers and proprietors will be asked to give at least grudging acceptance to laws which many of them will think unjust.

It is difficult to see how we can have it both ways. To embrace a philosophy which says that each man must decide for himself which laws he will obey is to forfeit a major instrument for achieving equal justice under law. This is not to equate all acts which violate the law. Obviously there are important differences between the "obstruction by any means" tactics of some of those bent on defying desegregation laws and acts of civil disobedience which are based in their execution as well as in theory on a set of ethical concerns and standards. But, while we recognize these distinctions, there is no escaping the fact that a philosophy of disobedience implies that the rule of law is bankrupt and that each man should be the judge of his own case.

To say this in no way suggests that man must resign his conscience or forfeit his right to revolution against a despotic government. It merely says there are principles of forbearance that qualify Thoreau's observation that "the only obligation which I have a right to assume is to do at any time what I think is right" and that he was seriously wrong in saying that "law never made man a whit more just."

The distinctions drawn between various forms of protest may also help us to assess their effectiveness. There is little argument that the most successful form of protest thus far has been the sit-in in places of public accommodation. The sit-ins are simultaneous appeals to conscience, to law, and to economic self-interest. While it is difficult to assign a value to each of these appeals, I think it is true to say that if any had been lacking, the sit-ins would have been much less effective. At the other end of the scale, I would question the effectiveness of such violations of admittedly valid laws as are exemplified by the Triborough Bridge sitdown. These are clearly not appeals to law, and if they are appeals to conscience, the message may be lost on most of the public by the remoteness of the act from the injustice protested and by the harm, ranging from petty annoyance to serious injury, which may flow from the protest. More and more such demonstrations tend to play upon society's fear of disorder, rather than on its conscience or even its economic self-interest. It is at least doubtful that such techniques can prove effective and, even if they can, whether the victory will be anything more than pyrrhic.

Finally, by distinguishing among protests which are legally protected, those which may be termed civil disobedience and those which are simply lawless, we may help to define better the obligations of government. If civil disobedience in a Ghandian sense ever comes to the United States, it will be a protest not against a national government so strong and tyrannical that it enforces unjust laws, but so weak that it is unable to enforce its just laws. It will come because there are places in the United States where the writ of Federal law does not run, where Federal officers ignore their oaths of office and where lawless local officials violate the constitutional rights of citizens with impunity. It will come because in these and other places in the United States, government has been unable to establish the basic conditions for economic and social justice. But all of us who have lived through the past decade are witnesses to the changes that law and conscience can work in American society. And many of us retain the faith that the conditions for equal justice can be established by all of the legitimate techniques available to a free people, rather than by those which are symbols only of despair, revolt or lawlessness.

## THE NEGRO AND HOUSING

Mr. HUMPHREY. Mr. President, one of the most important problems affecting race relations in this country is the question of housing, and perhaps no other facet of this problem arouses so much emotion and so much misunderstanding. Unscrupulous individuals have capitalized on this fear and misunderstanding in order to make money out of people's distress. It is refreshing, therefore, to see the numerous instances whereby intelligent citizens' groups have been formed to provide an orderly and reasonable method of welcoming Negro families into former all white neighborhoods.

"A Letter From the Publisher" in the May issue of Pageant magazine signed by Gerald A. Bartell, publisher, details the successful action taken by a group of white citizens in Westchester County, N.Y., in welcoming a Negro family.

Mr. Bartell's eloquent and timely letter is recommended reading for every American concerned with the improvement of relationships between the races in America.

Mr. President, I ask unanimous consent that "A Letter From the Publisher" of Pageant magazine, entitled "When a Negro Family Moves in Down the Street," be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

### WHEN A NEGRO FAMILY MOVES IN DOWN THE STREET

In the private Westchester community of Usonia—designed by Frank Lloyd Wright and built by the followers of the architectural genius—there is a colony of New York City commuters composed mainly of professional people. Usonia was conceived as a blueprint for the suburban community of tomorrow, striking a proper balance between creature comforts and esthetic identification with nature.

Through the years, the community grew as additional families applied for permission to buy lots and build homes in the Wright tradition. Recently, only one building site was left.

One day—all in proper form—an application was received from an eligible family for permission to buy and build on this last remaining site. A few days later, an application—also in good order—came from another family, this one Negro. Both applications were acceptable, but the white family had asked first. At considerable trouble, the residents voted to obtain an additional site, and invited both applicants to join the community. Simple fair play, in this case, was not enough. The Negro, who labors under many handicaps, was entitled to better than an even break. In Usonia, the residents did for the Negro family what they would not have done for an ordinary white family.

It's a good omen, but just an omen. In other communities, the Negro is given a somewhat more grudging welcome. The "White Only" symbol of property values is woven deeply into the fabric of neighborhood society. Bigotry and superstition aside, there may be a real fear of losing substantial equity in a home with the last mortgage payment in sight. Blockbusting and panic selling can do it.

But it need not happen. It is not happening where neighborhoods are conditioned to the inevitability of new Negro neighbors who are seeking the right to live where they choose. Negroes, like whites, tend to find their own economic and social levels. Negroes are not looking for the brass band treatment, but only for acceptance on the same terms accorded other Americans.

The intemperate word should be silenced by moderation and intelligence. The quality of property values must be strained by human decency, and difficulty transitions can be rendered painless, even pleasant.

One day, we may not easily recall the exact color of our neighbors down the street. Usonia is a symbol of that coming day.

GERALD A. BARTELL,
*Publisher.*

## JOHN F. KENNEDY FELLOWSHIPS PROPOSAL

Mr. HUMPHREY. Mr. President, I wish to call to the attention of the Senate a dynamic educational program, introduced by Jack D. Gordon, member of the Dade County, Fla., Board of Public Instruction, that will go into effect this fall to upgrade schools in the greater Miami area.

The program, which memorializes our late President John F. Kennedy, is in my opinion a format that can be employed effectively by other metropolitan areas faced with the problem of upgrading the education of culturally deprived children.

Acceptance of the John F. Kennedy memorial program by the Dade County Board of Public Instruction is another in a series of noteworthy accomplishments by Mr. Gordon, who has established himself as a public-spirited civic servant during the years he has served on the board that operates the Nation's seventh largest public school system.

Official Washington has long been aware of Jack Gordon's excellent work in Africa and Central America as housing finance consultant for the U.S. State Department's Agency for International Development—AID—and for the United Nations. In his community he has earned the respect of his fellow businessmen as president of Washington Federal Savings & Loan Association and chairman of the executive committee of Jefferson National Bank of Miami Beach.

Now, Mr. President, his home community of Dade County is coming to recognize that Mr. Gordon is a man of singular vision and constructive activity in the field of education.

Mr. President, I should like to share with my colleagues the words of Mr. Gordon in his unique proposal to the Dade County Board of Public Instruction:

> The problems of the predominantly Negro schools are the same as all our schools and therefore cannot be cured by a policy declaration that "we are integrated." We must face the fact that by and large we whites have systematically created and perpetuated a social order which made it impossible for any great number of Negro citizens to receive an education for themselves or provide an opportunity for their children. The problem, therefore, is how to provide the kind of quality education demanded by the times in which we live to all children, recognizing that the problem is made more difficult in those schools where the student body and faculty are the end products of over a hundred years of systematic deprivation of education.
>
> We can no longer simply aim at closing today's gap in achievement between white and Negro students because we have a long way to go in raising the standards of our best schools. We have to raise all our school standards and achievements if we are going to produce people who can cope with the unknown problems of the 1980's and 1990's, to say nothing of the 21st century.
>
> It, therefore, seems imperative to me that we take some imaginative and dramatic steps to modernize our educational system and that we expend some extra effort to correct past injustices.

Mr. President, I ask unanimous consent that the text of the editorial, "Help for Underprivileged," by Jack Kassewitz, chief editorial writer of the Miami News, Miami, Fla., commenting on Mr. Gordon's proposal, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### HELP FOR UNDERPRIVILEGED

At times, over the past 3 years, Jack D. Gordon could be the most irritating and exasperating of all the seven members on Dade's school board. More often Mr. Gordon also could be the most challenging and constructive member of the board. And at all times, there was Jack Gordon, Devil's advocate.

But when he put aside his disputatiousness and his interminable discourses on matters academic, Jack Gordon repeatedly proved he was a sound thinker, a person with vision and a determination to help make this an outstanding school system.

His latest venture into the realm of tomorrow actually started last December when he proposed a school program memorializing John F. Kennedy. The late President, a champion of civil rights, knew, like so many others, that lack of quality education is a basic cause of an underprivileged man's plight today.

Gordon, also a strong supporter of this belief, time and again tried to make the point to his confreres on the school board. But only a couple would put aside their personality conflicts to comprehend.

Now the board, with modifications, has agreed to launch an extensive program, both honoring Mr. Kennedy and making more school services available to students in the less-fortunate areas of the community.

Some 50 service awards, valued at $500 each, will be given to 50 Miami-Dade Junior College students who agree to serve as leaders in a program of preschool classes. One must show a proclivity for teaching and to demonstrate need of financial aid.

Five consultants experienced in working with disadvantaged children in other urban school systems will join the faculty of the junior college to instruct the volunteers who later will work in the distressed areas.

And then, the school board agreed to seek out teacher interns from Florida universities who also will work in the poorer school areas. By training interns especially for this work, the school administration hopes they in turn will stay in the same schools to teach after graduation.

Gordon's original idea was to establish 100 teaching fellowships to bring to the school system bright young college graduates who would help upgrade the schools. He proposed to name the fellowships after Mr. Kennedy because his greatest contribution was his ability to challenge young people to direct their energy toward helping others.

The school board bought half of the Gordon idea when it established the 50 awards. Now the hope is that leading business and civic organizations in the country may be interested in underwriting another 50 individual fellowships.

The Kennedy Fellowships offer an exceptional opportunity to young teachers who will dedicate themselevs to bettering the lot of their fellow man. Mr. Gordon is to be commended for his persistence, the school board for its decision.

## GABRIEL KERENYI

Mr. BEALL. Mr. President, I ask that the Chair lay before the Senate the amendment of the House of Representatives to Senate bill 1341.

The ACTING PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1341) for the relief of Gabriel Kerenyi, which was, on page 1, line 3, strike out "section 212(a) (4)", and insert "section 212(a) (1)".

Mr. BEALL. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

## TRIBUTE TO THE HARTFORD COURANT ON ITS 200TH ANNIVERSARY

Mr. RIBICOFF. Mr. President, one of our Nation's great newspapers is now celebrating its 200th birthday. The Hartford Courant has a deserved reputation for accurate reporting and fair coverage. Last Thursday the General Assembly of Connecticut unanimously approved a resolution congratulating the Courant on its anniversary. I would like to insert in the RECORD a story from the Courant itself, April 24, 1964, describing this event. Mr. President, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### LEGISLATURE HONORS THE COURANT WITH SPECIAL TRIBUTES ON ANNIVERSARY

The general assembly Thursday paid special tribute to the Courant on its 200th anniversary, noting that "the existence of this truly great newspaper antedates the existence of the general assembly itself."

Both the House and the Senate unanimously approved the congratulatory resolution introduced by State Senator Samuel Lebon, Democrat, of Hartford.

The resolution declared that "the affairs and interests of this august body have been chronicled wisely, fairly, and with complete competency since its inception by the Hartford Courant."

It called attention to the fact that the Courant has printed every major news event before and since it first printed the Declaration of Independence in 1776 and has enlisted as subscribers most of the great American figures beginning with George Washington.

"This mirror of public activity has attracted contributions from America's greatest writers, including Mark Twain," the resolution continued.

"The Courant has also made lasting contributions to America and its way of life by upholding constitutional provisions such as freedom of the press in the Jefferson libel case," it declared.

The resolution added that "this deep concern for public service is most responsible for our being here now to participate in this history-making session."

This was reference to the court case initiated by Jack Zaiman, political writer for the Courant, asking the U.S. district court to order an at-large election of U.S. Representatives unless the legislature revised congressional district lines according to equal population.

#### WELL EARNED TRIBUTE

The general assembly accorded to the Courant "a fitting and well earned tribute to this fine, honest, and most diligent newspaper for its unlimited amount of contribution to America as well as to the State of Connecticut during this year in which it will celebrate its 200th anniversary, and wish it continued success in its vigilant concern for the rights of man and its insatiable search for the ultimate truth."

In the house, both Majority Leader Louis J. Padula, Republican, of Norwalk, and Minority Leader William T. Shea wished the newspaper a very happy birthday.

In the senate, Senator Lebon extended "congratulations to a great paper. Over 50 years ago I sold this newspaper and I've watched it grow into one of the State's and Nation's great newspapers."

Senator Minority Leader Peter P. Mariani, Republican, of Groton, added that "each of us here owes a debt to the paper for transmitting our thoughts to the public."

Senator T. Clark Hull, Republican, of Danbury, said: "We wouldn't be here today if it weren't for the Hartford Courant." He added his congratulations.

## AIR POLLUTION IS ERODING WORLD'S STONE ART

Mr. RIBICOFF. Mr. President, a recent article in the New York Times, entitled "Air Pollution Is Eroding World's Stone Art," is another serious reminder of the vast ramifications of the problem of air pollution.

The article discloses the fact that air pollution is increasing the rate of erosion of thousands of pieces of priceless antique sculpture and monuments. This worldwide situation is grim enough when applied to the decay of stone treasures. But if polluted air does this to stone, what does it do to our lungs, our tissues, and our blood?

This is a danger we cannot run away from. We cannot close the windows of our houses and escape the contamination of dirty air. Breathing is a fact of life. The choice is not voluntary. We cannot live without breathing air—we can only make the air we breath safer to live with.

Pollution of our environment has reached staggering proportions. Factories, cars, diesel engines—all our modern industrialization—increasingly permeate our atmosphere with filth. We cannot stop the progress of civilization. We can, however, face up to the seriousness of the possible consequences to the health of our Nation. We can make a concerted effort to reduce all forms of pollution of our environment.

Mr. President, I ask unanimous consent that the New York Times article be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### AIR POLLUTION IS ERODING WORLD'S STONE ART—RAVAGES OF WEATHER AND TIME HASTENED—CONCERN GROWS

(By Milton Esterow)

Air pollution is hastening the work of weather and time in eroding outdoor stone art works in many parts of the world.

The deterioration of some of the finest monuments of antiquity and thousands of pieces of sculpture and carvings in the open and on public buildings and cathedrals is causing increasing concern.

The rate of decay, according to conservation specialists, has accelerated in recent years because of air pollution resulting from the rapid pace of 20th century industrialization.

In Rome, the Coliseum, the Arch of Titus and many frescoes have been damaged recently.

In France, statutes have been removed from the exterior of cathedrals and replaced with copies.

In Florence, the situation is described as disastrous.

In Athens, workmen check the Acropolis daily and fill in small cracks with cement.

In West Germany, the state of North Phine Westphalia is spending $4 million annually to preserve disintegrating monuments.

And at the Cloisters in Fort Tryon Park, nearly all works of great value are kept indoors.

"The world has so many problems of stone preservation that I can't begin to discuss them all," James J. Rorimer, director of the Metropolitan Museum of Art, which operates the Cloisters, said yesterday.

"I have letters from almost every country in Europe that asks 'What do you do to save stone?' The first answer is that you put it indoors."

Indoors, the problems of stone are comparatively minor, because the environment can be controlled. Outdoors, the remedy for decay caused by industrial pollutants is a simple one—wash the stone with water regularly.

However, it is expensive. To wash Trinity Church would cost $15,000 to $20,000. The bill for a 50-story skyscraper might be in 6 figures. Except for water scrubbings, there is no generally accepted method to prevent decay.

Historic and cultural monuments from ancient Greece to the Renaissance are not the only ones affected. Jean Carpeaux's statue of the dance at the entrance to the Paris Opera, completed in 1869, is seriously threatened. A copy is being made. When it is completed, it will take the place of the original, which will be displayed in one of the foyers of the opera house.

### MANY STUDY PRESERVATION

A growing number of Government officials, museum directors, scientists, and those interested in preserving are studying methods to protect these works.

The most extensive research program was started several months ago at the Conservation Center of the New York University Institute of Fine Arts, 1 East 78th Street.

The institute is a graduate school devoted to research and teaching in art history and archeology and museum personnel training.

"Because of these activities, we embarked on the study of conservation," Craig H. Smyth, director of the institute said. "The field of conservation as a whole has not been a university concern up to now."

The center was established in 1960 with a grant of $500,000 from the Rockefeller Foundation. Activities in stone are supported by the university and the foundation. Other foundations, including the Alfred P. Sloan Foundation, have indicated that they will support the program.

In France, experiments are underway in several university laboratories. Additional laboratories are being constructed at the Universities of Nancy and Strasbourg.

In Britain, the Building Research Center at Garston, Watford, is looking into the problem.

Another organization is the International Center for the Study of the Prevention and Restoration of Cultural Property in Rome. The center was created by the United Nations Educational, Scientific, and Cultural Organization in 1958.

### WORLD SURVEY UNDERWAY

The International Council of Museums, a branch of UNESCO, is making a worldwide survey of stone decay.

"Something must be done if we value these things," Mr. Smyth said. "The technical knowledge of the 20th century has not been brought to bear on conservation."

Seymour Lewin, professor of chemistry at New York University and a fine-arts professor at the institute, who is conducting stone research, said:

"The rate of decay has increased greatly. The situation is getting more serious all the time. It's at its worst in highly industrialized cities. Many buildings have noticeably deteriorated in the last 20 years."

Dr. Lewin added: "The problem is not unlike that of finding a Salk vaccine for stone diseases. We want to find out how the process of decay is taking place and develop a technique to prevent it—to modify the surface of stone chemically so that it will be resistant to various elements.

"The technique should be inexpensive so that it can be used universally. It must be long lasting and easy for unskilled labor to apply.

"Our point of view is the same in principle as dentistry's addition of fluoride, which makes teeth more resistant to bacteria. Our approach is to make stone more resistant to corrosive agents."

### CARELESSNESS BLAMED

In some cases, deterioration is due to lack of care in the handling of stone by builders. "Speedy construction doesn't lend itself to good workmanship," a specialist in stone preservation said. "You've got to keep the stone dry during the course of construction. If the stone is put on soaking wet, particularly limestone, it causes staining, which damages the stone."

However, the industrial age is considered the major villain. Industrial smoke produces corrosive elements that cause the stone to powder, crumble, flake, crack, or chip.

Then there are automobile exhaust fumes and traffic vibration. "Weathering"—wind, rain, heat, snow, and frost—hasten deterioration. Plant growths and pigeon droppings are also harmful.

Industrial fumes bring sulfur compounds into the atmosphere. These are converted into oxides of sulfur that, in combination with water, produce sulfuric acid, one of the strongest and most corrosive acids. Soot and dust particles deposited on the stone absorb the acid.

Frost also causes decay by freezing water in the pores of the stone, causing it to crack.

New York Times correspondents overseas found growing concern in many areas. Following are their reports:

### ITALY

A severe winter, with days of below-freezing temperatures, did considerable damage to the Roman Forum.

In Florence, Ugo Procacci, superintendent of monuments, said that the situation was disastrous, and that it would cost billions of lire to help. When Mr. Procacci was appointed to the post not long ago, he told a friend, "I've been asked to preside at a disaster."

He said that the more serious cases of deterioration were at the Ponte Vecchio, the Pitti Palace, the Palazzo Strozzi, and the basilica of San Lorenzo.

Venice has many problems. Increased motorboat traffic on its canals is speeding deterioration by damaging foundations as a result of wave action. In addition, the salt air contributes to decay.

The Government spends about $10 million annually in restoration. Throughout the country, there are many chapels with ancient frescoes that are decaying.

### GREECE

The main concern is for the Acropolis in Athens with 2,400-year-old monuments like the Parthenon. "After a cold rainy night, you can see fallen pieces of stone around the base of columns," one observer said.

One corrosive agent is a mouldy lichen carried by winds. It forms incrustations on marble and creeps into cracks, causing splintering and peeling. Until an effective cure is found, stopgap measures are taken—workmen visit the Acropolis daily and fill in cracks with cement or put back the largest of the fallen splinters.

### FRANCE

There is a sense of urgency over the deterioration of "les vieilles pierres," as old stone works are called because of the interest of Andre Malraux, Minister of Cultural Affairs.

Mr. Malraux is credited with having started a campaign several years ago for washing public buildings and monuments. A contest is being conducted over the French National Radio Network. Frenchmen are invited to submit a résumé of what they have done to save or improve monuments or distinctive historical buildings. Prizes include an Air France vacation trip.

The Church and Cloister of Moissac is in poor condition. Statues have been removed from the exterior of the Strasbourg Cathedral and replaced by plaster casts. The originals are on display in a building adjoining the cathedral.

### ENGLAND

D. B. Honeyborne, an official at the Building Research Center in Garston, Watford, said that the main cause of decay was not only industrial fumes but also seaborne salt.

Britain's anti-pollution acts, which are aimed at banning coal fires, may cut down some pollution.

At Oxford University, a restoration program has been under way for 6 years and has already cost $4.2 million. The program is expected to continue another 5 years. Stone erosion was so bad in some cases that façades could be scraped through with a fingernail, disclosing the rubble behind. Hugh Arber, secretary of the Oxford Historic Buildings Fund, said that the quality of the stone may have been more significant than fumes.

In London, the statue of Nelson is given a scrubdown regularly, but the column on which it stands is not touched. It is believed that regular scrubbings might make the column less able to support Nelson.

### WEST GERMANY

The postwar expansion of West German industry has generated air pollution and made stone decay a major problem throughout the country.

In the State of North Rhine-Westphalia, which contains the industrial Ruhr, corroded arches and stone girders in churches and other buildings are constantly being replaced.

Stone sculptures that had been outside the Cathedral of Xanten on the lower Rhine have been placed inside. At the Cathedral of Cologne, stone works are repaired by permanently assigned teams of masons and architects. Sculptures have been replaced by plaster casts at the Brühl Palace near Cologne.

Government antidecay programs have been started in all West German States. Some observers say that many valuable old buildings are being ignored and doomed to ultimate destruction.

### BELGIUM

René Sneyers, a chemist and member of the International Museum Council, has been assigned by the Government to recommend techniques for treating Belgian buildings and monuments.

"The situation here is very serious," he said. The Government conducts a maintenance program for historic stoneworks. The Hotel de Ville—Brussels' historic City Hall—in the Grand Place has been completely renovated over the years. The structure was built in the 15th century.

Work is going on at such landmarks as the Cathedral of St. Michel and St. Gudule. Both columns supporting the massive façade of the church are being replaced. Otherwise, Mr. Sneyers said, statues and other stone carvings over the entrance would crash to the street in a few years.

Mr. Sneyers is conducting an extensive study of stone art works for the museum council. He has sent questionnaires to 82 specialists in 33 countries. He began the project in September in Leningrad, where he examined the restoration being done at St. Isaac's Cathedral. The cathedral was built in the 18th century and was being overhauled when Mr. Sneyers was there.

### AUSTRIA

The most notable example of decay is St. Stephan's Cathedral in Vienna. The original building was burned in 1285. While elements of that structure remain, the cathedral was rebuilt in the following two centuries. No noteworthy single works of sculpture are decaying, but the edifice as a whole is suffering. The base of the main spire, which rises 450 feet above the heart of the city, has been in splints of metal scaffolding, and much of the church has been in a state of slow repair since World War II.

### SPAIN

There are not many stone art works. However the Government is worried about castles in Spain. Two years ago it formed the Sociedad de Amigos de Castillos (Society of Friends of Castles), which is trying to persuade Spaniards to purchase castles on the condition that they restore the structures. The Government is restoring some castles itself, converting a few into hotels and encouraging village officials to help.

### AND IN NEW YORK

Here in New York, Mr. Rorimer said of the Cloisters: "Things are generally under special roofs, glass skylights or enclosed in winter to protect them from the elements. Where the capitals are unprotected during the winter, duplicates are available should replacements be required in the years to come. These are duplicates of originals and were made in the 14th and 15th centuries."

Most of the apse from the Church of San Martin at Fuentiduena, north of Madrid, which was put up at the Cloisters in 1961, is indoors. Cast stone reproduction of two of the most important sculptures from the apse have been made and placed outdoors. The originals are indoors.

Egyptian sculptures in the Metropolitan Museum have been washed with water in large vats and treated with wax or other substances to harden the surface. Some have been steam cleaned or washed with soap to remove soluble salts.

"Every region has its own characteristic problems," Dr. Lewin said. "What might be true of New York would not be true of Cairo or New Delhi. For example, in Egypt, stone decay is not much of a problem. It is dry and warm, and because of an absence of a great deal of industry, there is no worry about air pollution.

### DANGERS OF DAMPNESS

"On the other hand, temples in the Orient are deteriorating not because of the industrial environment, but because of the natural environment—exposure to high humidity, fungi, lichens."

There are hundreds of types of stone. Among those commonly used are limestone, marble, granite, and sandstone.

Within each kind of stone there are significant differences. Some of the stone in the Strasbourg Cathedral has been deteriorating rapidly. Yet other sections of the cathedral made apparently of similar stone are in much better condition.

Another example is the Washington Monument, which is having its first cleaning in 30 years. The lower third of the shaft is a lighter grayish white than the top two-thirds. The difference exists because work on the monument, which was begun in 1848, was interrupted between 1854 and 1880 for lack of funds. When work was resumed, the marble came from the same Maryland quarry, but it was from a different stratum.

The monument has not been subjected to much decay because of its flat surface. Rain washes it effectively, and layers of grime and acid do not have a chance to build on it.

Because of the differences in stone, the search for a remedy is difficult. The ancient Greeks used resins. Today, a major waterproofing technique is to spray or brush on silicic acid or synthetic resins. Another treatment is to impregnate the stone with wax. White beeswax is melted and brushed or sprayed onto the stone.

"Sometimes impregnation with wax or silica does more harm than good," Dr. Lewin said. "It forms a sort of skin on the surface of the stone to make it water repellent. But moisture sometimes gets trapped beneath this layer. When winter comes, the moisture freezes and causes the surface to crack. In a way, the silica or the wax prevents the stone from breathing.

### TECHNIQUES DEFECTIVE

"The trouble with most of the techniques is that the surface stays solid, but the deterioration process is not stopped. It's like tying a band of iron around the stone. The stone is still subject to decay but the pieces do not fall away."

A company here specializing in stone restoration is Nicholson & Galloway of 101 Park Avenue. It has restored many buildings, including Brooklyn's Borough Hall, Carlisle Cathedral in Britain and the Fifth Avenue Presbyterian Church.

"Stone is definitely deteriorating much quicker than in the past," said John Nicholson, head of the company. "There are a number of churches that have shown more advanced decay in the last 10 to 20 years than in the first 80."

The company does general maintenance work on Rockefeller Center's limestone exteriors. In the last decade all masonry joints of all buildings at the center have been repointed. Mortar between the stone blocks is cut out generally to a depth between three-fourths of an inch and 1 inch, and new mortar is put in.

"Repointing is similar to dentistry," according to a Nicholson & Galloway promotional booklet. "If cavities in building stone are neglected, an operation may be required."

## THE MAPLE INDUSTRY AND THE KENNEDY ROUND

**Mr. PROUTY.** Mr. President, during the past year I have been in constant correspondence with the Tariff Commission, the House Ways and Means Committee, and with Gov. Christian A. Herter, the President's Ambassador for Trade Negotiations, in behalf of constituents who are engaged in one of Vermont's most important industries, the production and manufacture of maple sirup and its derivative products.

At present, the Vermont delegation in the Congress is engaged in correspondence with the Department of Agriculture over a difficulty arising from a maple products exhibit at a trade fair held in Stockholm, Sweden, last summer.

Mr. President, the maple industry has been hard pressed in Vermont. Being the largest producer of maple and maple products in the United States, Vermont has been the hardest hit of any State.

This problem stems, for the most part, from the differential which exists between import duties on maple and maple products imposed by the United States and Canada.

The Canadian tariff on American maple products amounts to roughly 17½ percent, which is more than three times the American rate of 1½ cents a pound on maple sirup and 2 cents per pound on maple sugar products. This, coupled with the higher wages demanded, and received, by labor in this country makes it impossible for the Vermont maple people to compete with the lower salaries prevailing in Canada when they are coupled with the fact that this country permits duty-free importation of Canadian maple.

Our constituents realize, but it is not easy for them to accept or condone, the fact that administration trade policy is based upon the attitude that "we do not negotiate to raise tariffs."

In their effort to try to work out their own problems so as not to interfere with the administration's foreign trade policy, the maple people in my State have been making great efforts to expand in the world market. Only last summer they participated, at the request of the Department of Commerce, in an American exhibit at a Stockholm trade fair. They were encouraged to ship as large a quantity of maple products as they could assemble, because they were led to believe that it would all be sold. This they did, only to learn that the rules of the trade fair prohibited sale of any products at all. Vermont's congressional delegation has for a year been working on the claim which they have pending at the Department now for rectification of this difficulty. It is presently under negotiation.

Mr. President, I bring this subject up at this time to illustrate what I consider to be a valid point. The American people engaged in any industry, whether it be chicken farmers, cottongrowers, or domestic coal producers, can only do so much in their effort to survive in the face of foreign competition.

The American people are to be admired for not having grumbled too loudly over the adverse effect which our Government's foreign trade policy has on so many of their businesses.

However, Mr. President, these people can go it alone only so far. It then becomes necessary for some action to be taken. These people do not want subsidy. They do not want unemployment compensation. They simply want action which will provide them with no advantage. They simply want and, indeed, they need, an equalization of the American economic climate which will permit their efforts to be competitive in international trade.

They do not insist that American tariffs be raised, if such procedure is not acceptable to our foreign trade negotiators. But, they are rightfully entitled to some alternative quid pro quo for the hardships imposed upon them by our policy of constant reduction of tariffs.

Mr. President, in addition to maple sirup, I have been directly involved over the past year through correspondence with Ambassador Herter on behalf of the spring clothespin and the cedar fence manufacturing industries of Vermont.

These two industries have also been hurt considerably as a result of tariff negotiations under our Government's foreign trade policy. Ambassador Herter has assured me that their difficulties are being considered by his negotiating team.

Mr. President, the Kennedy round of tariff negotiations among Western nations begins on May 4. I have urged Ambassador Herter to consider the difficulties which Vermont maple producers are having with Canadian imports.

I look forward to these negotiations with hope that our negotiating teams will have faith in the American ability to compete successfully in an atmosphere of fair competition.

## THE CIGARETTE ADVERTISING CODE

**Mr. MORTON.** Mr. President, this morning's newspapers carry the announcement of the adoption by the cigarette manufacturers of America of a cigarette advertising code.

This code will go into effect as soon as it has been cleared with the Antitrust Division of the Department of Justice. In my opinion, the Department of Justice will give the green light to the program, and will do so promptly.

The code is quite short and is meaningful. It is stated in clear, unambiguous language.

Article 1 deals with definitions.

Article 2 deals with the code administrator. It describes the qualifications which are to be found in the person who takes on the position of administrator, and outlines his authority.

Article 3 deals with advertising clearance.

Article 4, which is probably the most important article in the code, deals with advertising, restricts certain advertising, prohibits some forms of advertising, especially prohibits any advertising directed toward groups under 21 years of age, and also prohibits any manufacturer from advertising his cigarettes by way of testimonials from athletes or famous actors, or others who might have a particular appeal to young people.

Article 5 goes into the procedures to be followed in the event of a violation of the code, and permits the administrator to levy a fine of up to $100,000.

I commend the industry for this forward step.

I ask unanimous consent that the code, which is quite short, may be printed in the Record at this point in my remarks.

There being no objection, the code was ordered to be printed in the Record, as follows:

### Cigarette Advertising Code

### STATEMENT OF PURPOSES

The purposes of this code are to establish uniform standards for cigarette advertising and to provide means whereby compliance with this code can be ascertained promptly and fairly and on a consistent basis.

### ARTICLE I—DEFINITIONS

Section 1. "Advertising":

(a) Means all forms of advertising in, or primarily directed to, the United States, Puerto Rico, any territory or possession of the United States, or any military installation of the United States, including, but not limited to, radio, television and cinema commercials of all types, newspaper and magazine advertisements, billboards, posters and signs, subway and rail or bus car cards, automobile and truck decals, posters and signs, calendars, pamphlets, handbills, matchbook advertising, and point of sale display material of all types;

(b) Includes any written material or article or excerpt therefrom, not otherwise advertising, when used for promotional purposes;

(c) Includes labeling; namely, the display of written, printed, or graphic matter upon any portion of the package, carton, or other container in which cigarettes are packaged or shipped by the manufacturer; but

(d) Does not include the entertainment portion of any television or radio program.

Section 2. "Cigarette" means any roll of tobacco wrapped in paper or in any substance other than tobacco.

Section 3. "Representation" means any statement, reference, or claim, express or implied, direct or indirect, whether in oral, written, printed, or graphic form, or in any combination of such forms.

### ARTICLE II—THE CODE ADMINISTRATOR

Section 1. There shall be a code administrator who shall be a person of recognized independence, integrity, and intellectual achievement to the end that decision by him shall command public confidence and respect. The administrator shall have all of the powers and authority necessary and proper to enable him to discharge effectively the responsibilities entrusted to him by this code.

Section 2. The administrator shall have complete and final authority to determine whether cigarette advertising complies with the standards of this code and to enforce this code in all other respects.

Section 3. The administrator shall appoint a staff adequate and competent to assist him in discharging his duties.

Section 4. Neither the administrator nor any member of his staff shall be an officer, director, employee, or stockholder of any manufacturer of tobacco products, nor shall any such person have any financial interest in the business of any such manufacturer.

Section 5. The administrator is authorized to convene scientific advisory panels to enable him to carry out his duties. Persons selected for such panels shall be of independence, integrity, and competence in their particular areas of scientific discipline. In selecting such persons, the administrator may consult with appropriate governmental and private agencies such as the U.S. Department of Health, Education, and Welfare; National Academy of Sciences; National Research Council; American Medical Association; Scientific Advisory Board of the Council for Tobacco Research—U.S.A.; medical and scientific societies; colleges and universities; and nonprofit research institutes.

Section 6. The administrator shall by regulation establish procedures for the administration and enforcement of this code including, without limitation, procedure for:

(a) The submission to him of proposed cigarette advertising which, together with any supporting data or documents, shall be kept confidential, except as otherwise provided in article IV, section 4, of this code or as agreed to by the submitting party;

(b) The submission of protests by parties subject to this code concerning any determination by him;

(c) Hearings in connection with all submissions and protests; and

(d) Reconsideration by him of any of his determinations.

### ARTICLE III—ADVERTISING CLEARANCE

Section 1. No cigarette advertising shall be used unless such advertising shall first have been submitted to the administrator and determined by him to be in compliance with the standards of this code; provided that by regulation promulgated by the administrator specified advertising may be excepted from the requirement of such submission but not from the requirement of compliance with the standards of this code.

### ARTICLE IV—ADVERTISING STANDARDS

Section 1. All cigarette advertising and promotional activities shall be subject to the following:

(a) Cigarette advertising shall not appear (1) On television and radio programs, or in publications, directed primarily to persons under 21 years of age; (2) in spot announcements during any program break in, or during the program break immediately preceding or following, a television or radio program directed primarily to persons under 21 years of age; (3) in school, college, or university media (including athletic, theatrical, and other programs); (4) in comic books, or comic supplements to newspapers.

(b) Sample cigarettes shall not be distributed to persons under 21 years of age.

(c) No sample cigarettes shall be distributed or promotional efforts conducted on school, college, or university campuses, or in their facilities, or in fraternity or sorority houses.

(d) Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success or sexual attraction.

(e) Natural persons depicted as smokers in cigarette advertising shall be at least 25 years of age and shall not be dressed or otherwise made to appear to be less than 25 years of age. Fictitious persons so depicted in the form of drawings, sketches or any other manner shall appear to be at least 25 years of age in dress and otherwise.

(f) Cigarette advertising may use attractive, healthy looking models, or illustrations or drawings of persons who appear to be attractive and healthy, provided that there is no suggestion that their attractive appearance or good health is due to cigarette smoking.

(g) No cigarette advertising shall contain a picture or an illustration of a person smoking in an exaggerated manner.

(h) Cigarette advertising shall not depict as a smoker any person well known as being, or having been, an athlete.

(i) Cigarette advertising shall not depict as a smoker any person participating in, or obviously having just participated in, physical activity requiring stamina or athletic conditioning beyond that of normal recreation.

(j) Testimonials from athletes or celebrities in the entertainment world, or testimonials from other persons who, in the judgment of the administrator, would have special appeal to the persons under 21 years of age, shall not be used in cigarette advertising.

Section 2. No cigarette advertising which makes a representation with respect to health shall be used unless:

(a) The administrator shall have determined that such representation is significant in terms of health and is based on adequate relevant and valid scientific data; or

(b) If the administrator shall have determined it to be appropriate, a disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the administrator; or

(c) The administrator shall have determined that the representation with respect to health in such advertising is not material.

Section 3. The inclusion in cigarette advertising of reference to the presence or absence of a filter, or the description or depiction of a filter, shall not be deemed a representation with respect to health unless the advertising including such reference, description, or depiction, shall be determined by the administrator to constitute, through omission or inclusion, a representation with respect to health. If the administrator shall have determined that such advertising constitutes a representation with respect to health, the provisions of section 2 of this article shall apply.

Section 4. No cigarette advertising shall be used which refers to the removal or the reduction of any ingredient in the mainstream smoke of a cigarette, except that it shall be permissible to make a representation as to the quantity of an ingredient present in the mainstream smoke or as to the removal in toto of an ingredient from the mainstream smoke, or as to the absence of an ingredient normally present in the the mainstream smoke, if:

(a) The administrator shall have determined that such representation is significant in terms of health and is based on adequate, relevant, and valid scientific data; or

(b) A disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the administrator; or

(c) The administrator shall have determined that a disclaimer is unnecessary for the reason that the representation in such advertising has no health implication or that such implication is not material; and

(d) The quantity of such ingredient is determined and expressed in accordance with uniform standards adopted by the administrator for measuring the quantity of the ingredient present in the mainstream smoke, provided that, until such uniform standard is so adopted, the quantity of such ingredient may be determined and expressed in accordance with any recognized scientifically valid method disclosed to the administrator without any requirement of confidential treatment.

Section 5. Any advertising determined by the administrator to be in conformity with the code may include the following legend: "This advertising (label) conforms to the standards of the Cigarette Advertising Code."

ARTICLE V—PROCEDURES IN EVENT OF VIOLATION OF CODE

Section 1. Any person, firm, or corporation subject to this code, who violates any provision of this code, shall, in the discretion of the administrator with respect to each such violation, pay to the office of the administrator as liquidated damages, and not as a penalty, a sum, not to exceed $100,000, as determined by the administrator after consideration by him of all relevant facts. The administrator shall establish regulations for the determination of such violation and for the assessment and payment of such damages. No sanction shall be imposed without affording a hearing to the alleged violator. Upon written request from the administrator, an alleged violator of the code shall promptly deliver to the administrator any material and documents in its possession which are relevant and material to a determination by the administrator as to whether the code has been violated.

Section 2. Nothing herein contained shall be construed to give any person, firm, or corporation, other than the administrator, any cause of action.

Section 3. In the event of a violation of this code, the administrator in his discretion may make public the fact of such violation in such manner as he may deem appropriate.

**Mr. COOPER.** Mr. President, I associate myself with the statement of my colleague from Kentucky [Mr. Morton].

The report in January of the Advisory Committee to the Surgeon General, on the subject of smoking and health, has received the serious consideration of the people of our country—and it should receive such attention. Nevertheless, the report itself admits that the Advisory Committee's findings were derived from prior reports that it did no research, and that no substantial new evidence was collected by the Committee. It follows that much research must be done to determine whether there is a definite and conclusive causal relationship between smoking and health, and a great deal of research will be necessary to determine, if this is true, what elements in tobacco or in the oxidation of the tobacco—that is, in the mainstream smoke—can be removed or corrected.

With this background, I believe that the cigarette advertising code proposed by the industry is a very important development. The response by the industry is constructive. It holds particular promise for making possible an orderly presentation of facts as new research is undertaken and as significant information is scientifically developed.

The language of the code is clear. Its meaning is plain. It is short. It is strongly directed against appeals to youth.

Although we cannot know at this time the details of its administration, its purpose and provisions commend support for the code by all segments of the tobacco industry, including tobacco growers, and lend themselves to public understanding.

All of us should be glad to see this development, for it is a responsible effort on the part of the industry. It is an example of the type of voluntary effort by an industry which takes into account the interests of the public as well as the best interests of the industry itself.

I believe very strongly that this initiative by the industry should receive support. It should be given a full chance to show what it can accomplish before any action by an agency of the Government, such as that proposed by the Federal Trade Commission, is undertaken.

## ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

**Mr. HUMPHREY.** Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 10 a.m. tomorrow.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). Without objection, it is so ordered.

## DESERVED AWARDS TO MICHIGAN CONSERVATIONISTS

**Mr. HART.** Mr. President, an editorial from the Escanaba, Mich., Daily Press, which was reprinted in the April issue of Michigan Out-of-Doors, details the several high honors that have come recently to outstanding Michigan conservationists and to its foremost conservation organization, the Michigan United Conservation Clubs.

The tributes are well deserved, and I am proud to spread them upon the Record. I ask unanimous consent that the editorial referred to above be inserted in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From Michigan Out-of-Doors magazine, April 1964]

### Grand Slam

Michigan, whose conservation department has received a considerable amount of critical fine shot in its rear from the public, made almost a grand slam of honors at the meeting of the National Wildlife Federation in Las Vegas this week. The federation unites the efforts of State conservation agencies nationally.

The federation:

1. Elected Circuit Judge Louis McGregor, of Flint, as its new president. Judge McGregor is a past president of the Michigan United Conservation Clubs and was chairman of the subcommittee on conservation law codification of Governor Romney's Special Study Committee on Conservation in 1963.

2. Cited Robert C. McLaughlin, conservation commissioner and native of the Upper Peninsula, for outstanding service as general chairman of Governor Romney's Special Study Committee on Conservation which recommended reorganization of the Michigan Conservation Department.

3. Honored Game Division Chief Harry Ruhl with the Aldo Leopold Medal for his outstanding achievements in game management.

4. Gave its Distinguished Service to Conservation Award to the Michigan United Conservation Clubs. It was the third time that MUCC had won the award.

It was made for outstanding accomplishment in seeking solutions to conservation problems at local, State, and national levels. The Michigan group was cited for its 1963 record of leadership training clinics, annual meetings, regular attendance at board meetings, top-quality conservational journalism in its Michigan Out-of-Doors, a well-trained and able staff (headed by James L. Rouman of Escanaba as full-time executive director), and sound conservation resolutions and programs.

This shower of honors on Michigan's largest organization of conservation clubs is not a surprise to persons familiar with its activities. It is a dedicated guardian of the public interest in the State's resources. If an oil slick is killing off ducks wintering on the Detroit River you can expect to find the MUCC demanding immediate remedy. If a wilderness is going to be violated for commercial purposes its fire brigade rolls into action. If the hunters fall behind scientific knowledge and reject modern aid to wildlife, it tries to educate them.

It has been so successful in the very difficult business of organizing a large group of the State's outdoor sportsmen into an effective federation that when it speaks the legislators in Lansing listen. Its voice has been used with vigor and good sense. It has prevailed despite a true democracy within its membership which makes many conservation issues internally controversial.

It has had leadership from men like Paul Herbert, Paul Windler, Judge McGregor, and James Rouman and it has influenced Michigan importantly in giving new dimensions to conservation. MUCC has helped create the new image of conservation in Michigan as the use and preservation of the State's natural resources. It is much more concerned today with the preservation of the purity of the State's waters than with laws regulating the snaring of rabbits.

One of the State's great problems is conservation education, the creation of public awareness of the value of the State's possessions and of the need for keeping them useful. MUCC works valiantly to serve this need. Michigan's conservation program would be much poorer without its guidance and vigilance. It deserves the honors which the National Wildlife Federation has given it.

## DOES MICHIGAN HAVE ENOUGH PARK LAND?

**Mr. HART.** Mr. President, those of us who are trying to assure that future generations will have clean waters and unspoiled areas of green for refreshment of body and spirit, are often met with the cry that "Michigan has enough public land now."

This argument is presented and answered in firm fashion in the article from the Michigan United Conservation Clubs' publication Michigan Out-of-Doors for April 1964. I ask that this article be inserted in the Record at this point. It demonstrates the need for such proposals as the Sleeping Bear Dunes National Lakeshore and the Pictured Rocks National Lakeshore, both of which are being urged by the senior Senator from Michigan and myself.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Michigan Out-of-Doors magazine, April 1964]

### Does Michigan Have Enough Park Land?

Mr. Russell E. Waugh, of the Monroe club, wrote us this month asking that MUCC "be of definite service to the people of Michigan in helping to develop a realistic and practical recreation area plan for our State."

Said Waugh, "Michigan has more than 6 million acres in State and Federal forests. If any park expansion is warranted, this is the property that should be utilized for this purpose—or used as exchange media—so that no additional total acreage is acquired."

He continued, "This study (Governor's Committee) indicates that one of the standards used for determining park lands is 10 acres of parks per 1,000 population in cities, plus 10 acres per 1,000 outside cities. This would mean that Michigan, with its 6 million people, would need 120,000 acres of park land. We presently have 180,000 acres. Based on the most liberal usage factors, we just do not need additional park lands.

"Let's not allow MUCC to succumb," he urges, "to the continual hue and cry for more recreational area just because it seems the popular thing to do." He warns that "Michigan might well end up being one big Yellowstone."

Chief Arthur C. Elmer, of the parks and recreation division, answers that New York's $175, New Jersey's $60, Pennsylvania's $70, and Wisconsin's $50 million park land acquisition programs, for example, are not based on the premise that "it is the popular thing to do."

"We are turning away," Elmer points out, "some 40,000 potential camping parties every year; many of these could go to State forest campgrounds, but they want State parks and the facilities provided, even though it costs them money they would not have to pay in a State forest campground."

Elmer admits that "we have 311.4 million acres of State land, but it is not State park land and not amenable to intensive development. We have 180,000 acres of park land, but only a small part of it is suitable (or should be used) for intensive development."

The parks division, Elmer notes, has the responsibility of acquiring areas that should be preserved, for example, the 60,000-acre Porcupine Mountains State Park.

"We need to acquire lands surrounding some of the key waterfalls, scenic overlooks, archeological and geological features, and other lands which should be protected and preserved for public use," he states. "We need to buy land now, or we will be buying subdivision for park purposes by the year 2000 or before, at prohibitive prices.

"Lands which we bought for less than $100 per acre in southeast Michigan in the 1944–50 era," he points out, "are now costing $500-$1,000 per acre."

"We need and will use every possible potential park site in the presently owned State-owned land program of the department," he concludes, "but we still need much more."

## A CENTURY OF EMANCIPATION IN THE U.S.A.

Mr. HART. Mr. President, on March 26, Wayne State University Press, in Detroit, published a book of essays selected from the year-long Emancipation Centennial Observance held during 1963 at Wayne State. The title of the book is "Assuring Freedom to the Free: A Century of Emancipation in the U.S.A."

In this book some of the outstanding historians and social scientists of our time survey the significant history of the American Negro from 1863 to 1963, describe and analyze recent social changes in the position of the Negro in American life, and consider some of the organized movements creating these changes.

The eloquent address given by then Vice President Johnson at Wayne State in January 1963 serves as an introduction to the volume.

It is edited by Arnold M. Rose, professor of sociology at the University of Minnesota, and one of the foremost authorities on race relations in the United States.

The postscript is by Clarence B. Hilberry, president of Wayne State University.

Other contributors are John Hope Franklin, professor of history at Brooklyn College; Carleton L. Lee, professor of philosophy and religion at Central State College of Ohio; Broadus N. Butler, member of the liberal arts faculty at Wayne State; Gunnar Myrdal, author of the classic "An American Dilemma"; G. Franklin Edwards, professor of sociology at Howard University; HHFA Administrator Robert C. Weaver; Donald B. King, associate professor of law at Wayne State; Charles W. Quick, professor of law at Wayne State; James Q. Wilson, lecturer on government at Harvard University; Rayford W. Logan, chairman of the department of history at Howard University; Whitney M. Young, Jr., executive director of the National Urban League; and C. Eric Lincoln, professor of social relations and administrative assistant to the president at Clark College in Atlanta.

Publishers Weekly termed this "A cohesive collection of articulate essays on the history of the American Negro" and I recommend it to my colleagues.

## NEVADA HIGH SCHOOL STUDENT WINS NATIONAL WRITING CONTEST

Mr. BIBLE. Mr. President, we are all aware of the fine work carried on by the President's Committee on Employment of the Handicapped. My State of Nevada has always been active in the program to provide jobs for persons with physical handicaps, and has often led the way. Thus it was particularly gratifying to learn that a high school student from Reno captured first place honors in the nationwide "Ability Counts" writing contest sponsored by the President's Committee. He is Donald J. La Voy, who will be presented the first place 1964 award Thursday here in Washington, probably by the President personally. In addition to the honor of winning first place in competition with students from the other 49 States and Territories, Mr. La Voy will also receive the $1,000 Judge Robert S. Marx Award contributed by the Disabled American Veterans.

Donald J. La Voy is an 18-year-old senior at Reno High School. He is the son of Lt. Col. and Mrs. John La Voy, of Reno. His father, it should be noted, commands a helicopter squadron now on duty in South Vietnam. Donald La Voy plans to study medicine after high school graduation. He is the second national winner from Reno High School, incidentally. Both he and his predecessor were guided by the same teacher, Mrs. Mabel Brown.

Mr. President, the "Ability Counts" theme by Mr. La Voy is not only an example of fine composition, but a compassionate portrayal of the great good that has stemmed from the program to hire the handicapped in Nevada. I ask unanimous consent that it be printed in the Record after my remarks.

There being no objection, the essay was ordered to be printed in the Record, as follows:

### How Handicapped Workers in My Community Are Proving That "Ability Counts"

(By Donald Joseph La Voy, Reno High School, Reno, Nev.)

The sovereign seal of the State of Nevada is designed to represent the outstanding industries of the State. The plow, the sheaf of wheat, and the sickle are symbols of the agricultural resources of Nevada. Because Nevada's mineral wealth is among the most extensive in the Nation, the quartz mill, the mine tunnel, the miner, the carload of ore, and the team-drawn ore cars are appropriate symbols of the State's mining industry. In 1964, as Nevadans celebrate their State's centennial year, they may well pause to contemplate the golden fruit of the wealth of Nevada.

The utilization of great resources has required a distinguished labor force. In demanding times, the labor force of the State has proved her most precious asset. Working shoulder to shoulder, the handicapped have added both strength and dignity to that force; they have proved that "ability counts." A spirit of good will and cooperation presently characterizes the relationship between employers and the agencies aiding handicapped citizens. Gov. Grant Sawyer, Nevada's progressive young leader, has said, "This cooperative effort has up to now enabled Nevada to do an adequate job in meeting its responsibilities in this challenging field. Nine hundred and ninety-six handicapped persons were accepted by Nevada employers in 1962—an increase of 62 percent over 1961. This was the largest number of partially disabled workers ever placed in a single year. In 1963 more than 750 placements had been effected by August 31. Statistically speaking, Nevada has for several years placed a higher percentage of handicapped workers than most other States and for several months during 1962, we led all other States in providing jobs for handicapped veterans."

The statistics cited by Governor Sawyer demonstrate the impressive results of rehabilitation that can be measured in dollars and in the added strength the handicapped give to the labor force. Handicapped workers are productive: they often surpass the production records of other employees. They are careful: the safety records of the handicapped are as good as those of other employees. They are regular and reliable workers: their job attendance records equal those of other workers doing the same type of work. Most important, they are capable: many handicaps, physical or mental, do not interfere with the work in which the disabled person uses his best abilities. The records of thousands of physically and mentally handicapped persons in wartime and peacetime have proved that "It is not what a man has lost, but what he has left that is important."

In my community admirable, useful, and productive citizens who were once handicaped are proving that ability counts. Among the most distinguished employees of the State are several physically handicapped individuals. The administration of State business requires that an employee be mentally capable, but very few of these jobs require that an individual possess physical perfection. Mr. Donal O'Callaghan, director of the State of Nevada Department of Health and Welfare, devotes mind and energy to myriad problems. Much interested in the problems of youth, he at one time served as Clark County's juvenile probation officer. He is not in any way hampered in the pursuit of his duties by the loss of a leg. Mrs. Bruce Barnum, a double amputee, is chairman of the Capitol Area Committee of the Governor's Committee on Employment of the Handicapped. A full-time public school teacher, Mrs. Barnum works closely with the Nevada Division of Rehabilitation in directing handicapped young people to the proper agency through which they may receive aid. She devotes her spare time to securing additional rehabilitation services for the young.

Blind since birth, Mr. John Ruiz, an excellent administrator and an acknowledged scholar, heads the Bureau of Services to the Blind. Mr. Ruiz participates in panel discussions designed to inform the public of the needs of the handicapped individual. He frequently cites the data incorporated in a comprehensive study made in 1956 proving that the efficiency of blind workers is at least as good as that of their sighted competitors. According to the study, absence, safety, and tardiness records favored the blind.

A victim of severe, crippling polio, Mr. Maynard Yasmer completed high school and college in a wheelchair. As a counselor for the State of Nevada Division of Rehabilitation, he has rendered distinguished service to his community. For his remarkable contribution to the work of rehabilitation, he was recently awarded a trip to Denmark, where he will study the rehabilitation programs of the country.

Mr. Pat Peeples must be counted as one of the State's outstanding ranchers. Although he lost one foot in an accident with his hay baler, he has not curtailed even his physical activity. He loves to play baseball, and he is the pitcher on the local team. It is said that only a mighty fast man can equal his performance in running the bases.

During the year just ended 119 disabled Americans were restored to activity, employment, dignity. Their contribution to the labor force of the community is indisputably great. For the handicapped individual, aside from the opportunity of increased income, the satisfactions inherent in productivity are also great. In utilizing the potential of all individuals, the community extends to them the equality of opportunity so basic to our American democracy and so esteemed by American citizens. Given the opportunity to prove their worth, the handicapped acquire their rightful status in our socity. The community thus furthers and secures our democracy by demonstrating the inherent dignity of the individual as a basic tenet of that democracy. Our late beloved President Kennedy eloquently asserted this fact when he said, "Utilization of physically handicapped persons in productive employment is sound and necessary, both for the contribution handicapped citizens can make to our national productivity and for the sense of independence and well-being which they can derive from doing a job."

## POLISH CONSTITUTION DAY

Mr. KEATING. Mr. President, Poland is proud of its great and glorious history, and the people and friends of Poland are fully justified in the pride which is theirs. The Poles are well known as diligent and skillful workers, and also as accomplished masters in the arts and sciences. The sons and daughters of Poland are no less famous as brave and courageous warriors for great human causes. They have, as individuals and as a nation, struggled hard for independence and freedom.

During the latter decades of the 18th century, Polish independence was under serious threat from Russia, Prussia and Austria. At that time the government machinery was revamped in the hope of increasing in powers of resistance against their foes. It was at that time that the constitution of 1791 was formulated, framed and adopted.

The Polish Constitution of 1791 was an important document in which many of the old abuses of monarchial government were eliminated and a type of limited monarchy was introduced. Parliamentary representation was expanded and peasants were placed under the protection of the law. Freedom of conscience was guaranteed and religious toleration was established. This constitution was, at the time, far in the vanguard of constitutional development in eastern and central Europe. It was a pioneering document, a landmark in the history of Poland as well as in that of other East European peoples.

Because of international complications and the eventual partition of Poland in 1795 there was little chance to carry out the provisions of this constitution. Nevertheless, it is an epochmaking document, and on May 3, the 173d anniversary of its adoption, we will be proud to join all friends of Poland in the celebration of that anniversary, the Polish Constitution Day.

Poland today is a victim of Soviet imperialism. But even the iron hand of Communist control cannot kill the Polish love of freedom or quench the great spark of Polish individualism. We join on this occasion in commemoration of Poland's past achievements and in hope of Poland's ultimate liberation from foreign tyranny.

The PRESIDING OFFICER. Is there further morning business?

Mr. STENNIS. Mr. President, what is the parliamentary situation? Is the morning hour closed?

The PRESIDING OFFICER. If there is no further morning business, the morning business is closed.

## CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 516, as modified, proposed by the Senator from Illinois [Mr. DIRKSEN] for himself and the Senator from Montana [Mr. MANSFIELD], as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE] for himself and other Senators, inserting a new title at page 54 after line 7, relating to criminal contempt.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 175 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Boggs
Brewster
Burdick
Cannon
Case
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Fong
Gore
Gruening
Hart
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Mansfield
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. THURMOND. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may be permitted to speak from the desk of the senior Senator from Arkansas [Mr. MCCLELLAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, one of the foremost issues presented by H.R. 7152 is whether the protections afforded in traditional criminal procedures, including jury trials, shall be cast aside and criminal penalties authorized to be imposed through injunctive proceedings. Will a Federal judge be vested with the authority to charge a man with a crime, prosecute him for it, conduct his trial, find him guilty and sentence him? Will the Congress constitute judges to act as grand juries, prosecutors, and petit juries, as well as judges?

This issue is by no means a new one. It has been the focal point of controversy between rulers and liberty loving individuals for centuries.

We would do well to remember the history of the jury as a legal concept as an instrument of justice. Its growth parallels the rise of the law from a morass of medieval superstition and physical torture.

On the other hand, we must remember the history of the injunction, backed by the power of the court to make findings of fact and to convict without the benefit of a jury. This device made its appearance in modern form as a legal weapon of despotic English kings, frustrated in their attempts to secure unjust convictions of their political enemies in the regular courts.

The Peace of Wedmore concluded between Alfred the Great and Guthram the Dane in A.D. 878, insured that "if a king's thane be charged with the killing of a man, if he dares to clear himself, let it be before 12 king's thanes."

The injunction was hammered out by the infamous Court of Star Chamber, and, about 1720, it began to creep into the usage of the common law courts.

It was part of the monumental struggle between the 18th century English kings and Parliament. The kings dreamed of the sway and prerogative enjoyed by their Stuart predecessors; Parliament fought to retain the rights won from the throne in the glorious revolution of 1688.

The jury, according to modern historians, stems from the medieval idea of trial by compurgators.

A defendant could be subjected to trial by mortal combat. Or he could be forced to undergo trial by ordeal.

Or he could take a third choice. He could recruit as many of his friends and neighbors as possible to come into court to swear to his virtue and character. The court's decision depended on who had the most character witnesses, the defendant or the plaintiff.

Because of this curious custom, in the early days there was confusion between what we now call the jury and what we now call the witnesses. In many cases, in medieval trials, these were the same people.

But gradually, as England began to develop the foundations of its mighty traditions of justice, the concept of an independent accusing body, not a part of the court, began to take hold.

Mr. TALMADGE. Mr. President, will my able friend the Senator from South Carolina yield at that point?

Mr. THURMOND. I shall be pleased to yield to the able Senator from Georgia on the condition that I shall not lose my right to the floor, and with the understanding that after resuming my speech, the resumption will not constitute another speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I yield.

Mr. TALMADGE. My distinguished friend from South Carolina is making a most able speech about the origin and history of judicial proceedings, not only in our own country, but also in England and in all areas into which Anglo-Saxon law has spread.

The lead editorial published in the Washington Sunday Star on April 26, was a very outstanding editorial with reference to criminal contempt. A most interesting paragraph of the editorial reads as follows:

> Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should ever have such power.

Does my able friend from South Carolina agree with that conclusion of the Washington Star?

Mr. THURMOND. Mr. President, the Senator from South Carolina heartily agrees with that statement. It makes no sense for a judge to have the rights and powers of a grand jury, prosecutor, witnesses, to conduct the trial sitting as a judge, and then to sit as a jury and make a determination as to a defendant's guilt. Such a procedure is so foreign to Anglo-Saxon jurisprudence that if a man were tried in such a way and it were not under the contempt-of-court procedures, we would hardly consider it ordinary.

In some cases, the procedure of punishing for contempt has gone entirely too far. In my judgment, we have long needed to clarify the situation, so that, as the Constitution provides, a defendant shall have a trial by jury.

I heartily agree with the remarks of the able Senator from Georgia, who is an astute student of history, and who has had great experience in government.

Mr. TALMADGE. The Senator has pointed out that in a criminal contempt proceeding the judge exercises every concept of the court from the indictment to the finding of guilty, including a determination of the facts and imposition of the sentence. Does the Senator believe that one man, no matter who he may be, ought to have such power and responsibility?

Mr. THURMOND. I certainly do not think so. Any man who would desire such power should not be trusted with that power. The power is too great to repose in any one individual. No man should be given all those powers; and no man, in our usual system of jurisprudence, possesses them. Ordinarily, in our system of jurisprudence, if there is reasonable cause to believe that a man has committed a crime, the case is brought before a grand jury. The grand jury makes the determination as to whether there is sufficient evidence to warrant a trial. Frequently a grand jury throws out a case and does not even hold a defendant for trial before a petit jury, which jury would ordinarily then determine his guilt or innocence.

Also, the prosecutor, if he should feel that there is not sufficient evidence in the case, has the duty to act on his own initiative. Of course, some prosecutors seem to think it is their obligation to prosecute every defendant in all cases. However, such procedure does not represent, in a true sense, the proper role of a States' attorney. If a prosecutor does not have sufficient and proper evidence to convict a defendant, and feels that there is no real merit in the case, a genuine lawyer and a high principled prosecutor will not even try the case.

Of course, the defendant has a lawyer to defend him. He may place witnesses on the stand. The judge hears all the evidence. After the evidence is in, the judge himself can throw the case out, without even allowing it to go to the jury. But if the case goes to the jury, those 12 men will make a determination as to whether the man is guilty. Even after the case has been tried, and after the judge has reflected upon the decision of the jury, if he is convinced that evidence was admitted which was improper, he can give the defendant a new trial, or reconsider the matter and nolle-pros the case then.

So there are all those safeguards to protect a defendant. But under the proposed procedure for criminal contempt cases, none of the protections which have been the rights of all American citizens under our system of Anglo-Saxon jurisprudence are afforded.

Mr. TALMADGE. In other words, one judge can say, "I am the law," and do as he sees fit.

Mr. THURMOND. That is what it amounts to practically. It amounts to as much power as a king, emperor, or potentate could exercise in a country where there was a dictatorship. It amounts to as much power as the Communists exercise behind the iron curtain today, if they see fit to do so. It is utterly foreign to our way of thinking. It is so foreign to the administration of justice as it has been known to lawyers in the United States that it is hardly believable that the Congress should consider for 5 minutes even passing a bill of the nature being proposed on this occasion.

Mr. TALMADGE. I quote from the recent dissenting opinion of Justice Goldberg in the case of United States against Barnett, in which Justice Goldberg stated:

> For example, in *Green* v. *United States, supra,* and *Collins* v. *United States,* 269 F. 2d 745, sentences of imprisonment for 3 years were imposed; in *Piemonte* v. *United States,* 367 U.S. 556, a sentence of imprisonment for 18 months was imposed; in *Brown* v. *United States,* 359 U.S. 41, a sentence of imprisonment for 15 months was imposed; in *Nilva* v. *United States,* 352 U.S. 385, a sentence of imprisonment for 1 year and 1 day was imposed; and in *Levine* v. *United States,* 362 U.S. 610, a sentence of imprisonment for 1 year was imposed.

There was no trial by jury in these cases cited by Mr. Justice Goldberg.

Does the able Senator from South Carolina think that comports with the sixth amendment, which states that every accused in a criminal matter shall have the right of a speedy trial by a jury of his peers in the district court of the district in which he resides?

Mr. THURMOND. The Senator from South Carolina feels that it does not comport with the constitutional provisions. It is not in accord with the provision in the original Constitution, article III, section 2, paragraph 3, which reads as follows:

> The trial of all crimes—

It does not say "some"; it says "all" crimes—

> except in cases of impeachment, shall be by jury.

It does not say "may be" by jury. It says "shall be" by jury. This provision of the Constitution is as clear as crystal. Any fifth-grade schoolchild can understand it.

It is difficult to reason why Members of Congress should propose a bill that would deny the right of trial by jury. It would affect not only the South, but all people in this country, including white people, Negroes, yellow people, Chinese, and Japanese.

I realize that the bill is aimed at the South, but if the bill is passed, this so-called civil rights bill will affect the rights of every citizen in this country.

Mr. TALMADGE. The just and the unjust alike.

Mr. THURMOND. That is correct. The able Senator referred to the sixth amendment. He is correct. That also provides a right of trial by jury. That provision reads:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.

So it can be seen that in the original Constitution there was imbedded the right of trial by jury.

In the first 10 amendments, known as the Bill of Rights, it was provided in the sixth amendment.

Our forefathers, because they had not been allowed a trial by jury in many instances—and that is set out in the Declaration of Independence as one of the grievances—wanted to be sure there would be no question that when anybody in the United States was tried for a crime, he would have the right of a trial by jury. They knew how they had suffered without a trial by jury. They knew how tyranny had resulted. They knew how they had been tried by military courts, and other courts, without a trial by jury. They were trying to insure this precious right, which is one of the most valuable rights contained in the Bill of Rights to the Constitution.

Mr. TALMADGE. Does not the seventh amendment provide for a jury trial in all civil controversies involving the sum of more than $20?

Mr. THURMOND. The Senator is correct. The seventh amendment provides that where the value in controversy exceeds $20, "the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

They were trying to protect themselves not only in crimes, to make sure there would be a jury trial where a crime was involved, but also when there was a controversy involving property valued at more than $20. They wanted to insure that a judge would not have the power to hear a case, if a man wanted a jury trial, when the value of the property involved was more than $20, because if he were denied the right of a trial by jury, he could have his property confiscated, practically, by a judge or someone conducting the trial without a jury.

Mr. TALMADGE. So the jury trial provision, appearing in three places in the Constitution of the United States, was designed to protect both property and personal liberty.

Mr. THURMOND. That is correct. It was designed to protect the individual rights of a citizen so that he could not be punished or fined or put in jail without a jury trial, and so that his property could not be taken away from him, and his property rights would not be jeopardized if the value involved were more than $20.

Mr. TALMADGE. Does the Senator think that in the almost 1,000 years following Runnymede, and in the almost 200 years following the Declaration of Independence and the adoption of the Constitution, the Senate ought to be seriously debating the right of trial by jury which is guaranteed by the Constitution?

Mr. THURMOND. I have been amazed that any Senators should come forth with a bill that would attempt to deny the people the right of trial by jury. I have been utterly astonished that in this modern day, when it is alleged that we are going to give the people more rights and that we want to help individuals, it is proposed to turn around and do the opposite, and try to deny a person the right of trial by jury.

Mr. TALMADGE. Does not the Senator think the right of trial by jury is the greatest civil right possessed by all 190 million Americans, regardless of race, religion, or area of residence?

Mr. THURMOND. I do not know of any right that is more important or more precious to any individual than the right of a trial by jury. A man's very life can be taken under such a provision if he is prosecuted for a crime without a trial by jury. His liberty can be taken without a trial by jury. He can be placed in prison, not only for days, weeks, and months, but for years. He can be placed in a cell, in a dungeon, without a trial by jury. My mind cannot imagine anything more important to any individual than the right to a trial by jury.

Mr. TALMADGE. Is not denial of that right the system that is used in totalitarian and Communist governments where dictatorships oppress the rights and liberties of the people?

Mr. THURMOND. That is the system that is practiced in dictatorships. It is practiced behind the Iron Curtain today. It is even practiced in countries which are not behind the Iron Curtain, in countries which are under dictatorships.

That was one of the reasons our forefathers came here originally. They came here to get away from oppression and tyranny. They came here to enjoy their freedom. They came here to establish a government that would protect the rights of individuals. They fought the American Revolutionary War. They alleged in the Declaration of Independence why they fought that war. They alleged why they separated from Great Britain. One of the main reasons was that they were denied the right of a trial by jury.

Our forefathers established this Government in 1787 by writing a Constitution which was adopted when nine States ratified it. After George Washington was elected President, and he took office in 1789, the Constitution went into effect. We had a Government. Our Constitution contained the right of a trial by jury from the very beginning of our Government.

In order that there may be no question, however, the Bill of Rights consisting of the first 10 amendments, was added. In the Bill of Rights—and that is significant to me—there was again provided the right of a trial by jury. Our forefathers were taking no chances.

Mr. TALMADGE. They wanted to make it absolutely certain. Is that correct?

Mr. THURMOND. They wanted to be certain that there was no question about the right to trial by jury. They did not want it to be construed in any way whatsoever that by the adoption of any of these amendments to the Constitution, they were in any way derogating, preventing, or obstructing the right of a trial by jury.

Mr. TALMADGE. Is it not true that the first 10 amendments are the real civil rights of all American people?

Mr. THURMOND. The Senator from Georgia is putting his finger right on the finest collection of civil rights in the world.

Mr. TALMADGE. Are they not a prohibition against Government power?

Mr. THURMOND. The first 10 amendments to the Constitution say, "You shall not. You shall not do this. You shall not do that."

They all prohibit the usurpation of power by the Government. They protect the rights of the individual.

Mr. TALMADGE. Yet the pending civil rights bill is exactly the opposite, in that it is an attempt to enlarge Federal power. Is it not?

Mr. THURMOND. That is exactly right. I do not know of any bill that has been introduced in the Senate in the 10 years that I have been here—and I have never heard of any being introduced, and I have never read in history of any being introduced since the Government was founded in 1789—which would even compare with the proposed civil rights bill in depriving individual citizens of their rights.

Mr. TALMADGE. Is it not true that 5 of the 11 sections would deprive all American citizens of their right to a trial by jury?

Mr. THURMOND. That is correct. Title I, title II, title III, title IV, and title VII would all deprive citizens of the right to a trial by jury.

Mr. TALMADGE. The bill would deprive them of both their liberty and property without the right of a trial by jury. Would it not?

Mr. THURMOND. That is correct.

Mr. TALMADGE. I quote certain language from the substitute amendment, as modified, offered by the distinguished majority and minority leaders:

> *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury, the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days.

Is it not true that under that provision, before a judge would even inquire into a criminal contempt proceeding before hearing one word of evidence, or even before the defendant is arraigned before the court, the judge would have to first make a decision as to the guilt or innocence of the accused?

Mr. THURMOND. I do not see how it could be construed in any other way. A judge would have to decide first as to the guilt or innocence of the accused, before he could make a determination as to whether he would even hear the case. It seems to me that they are going at it backward.

**Mr. TALMADGE.** Then the judge would have to make a decision as to what sentence he would impose before he even heard the proceedings. And that would determine whether or not he would impanel a jury. Is that not correct?

**Mr. THURMOND.** That is correct. If the judge were to impose a sentence of more than 30 days, the defendant could ask for a jury trial. If the judge were to impose a sentence of less than 30 days, the individual who was being prosecuted would not have a jury trial. So that determination would have to be made by the judge before he could proceed with the case.

**Mr. TALMADGE.** Thus, the judge would prejudge the case before he heard one bit of the evidence. Is that not correct?

**Mr. THURMOND.** The only conclusion that could be reached is that he would have to prejudge the issue involving the accused person before he would even hear the evidence, and before he could decide whether or not he would be accorded a jury trial.

**Mr. TALMADGE.** Does the Senator think the constitutional right of a trial by a jury can be weighed on a dollar-and-cents basis?

**Mr. THURMOND.** I do not think so. I do not understand the logic of the reasoning behind this amendment. It is sought to deprive the people of the right of a trial by jury. Back in 1957 when I spoke for 24 hours and 18 minutes, it was in opposition to this very theory, namely, that a defendant could be deprived of the right of a trial by jury. I did not speak on the race question, the Negro versus the white, or on some other ancillary subject. I spoke on the issue of a jury trial. Congress has no right to try to amend the Constitution by a statute, to deprive the people of the right of a trial by jury.

Congress did this in 1957, and now it is trying to do it again, and on a broader scale. There is more involved now than was involved at that time. There are a great many facets to this bill. It is more dangerous than any previous measure.

**Mr. TALMADGE.** Is it not true that under the provision of the substitute amendment, a judge could put a man in jail for 30 days without a jury trial, but if he sentenced him to jail for 30 days and 1 second, he would be entitled to a jury trial?

**Mr. THURMOND.** That is correct. I do not know of any such exception in the Constitution. The Constitution makes no such exception. In effect, the bill is an attempt to amend the Constitution. The Constitution is clear. It provides:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

It does not mention any 30-day exception. The sixth amendment contains a similar provision:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

There is no exception with reference to 30 days.

If the proponents of this amendment propose an exception of 30 days, they can propose 15 days.

**Mr. TALMADGE.** Or 15 years?

**Mr. THURMOND.** Or 15 years.

**Mr. TALMADGE.** Or life?

**Mr. THURMOND.** They could make the period for life, if they could amend the Constitution at all in this manner. Instead of making the period 30 days, if this theory is valid, they could make it 30 years.

**Mr. TALMADGE.** I ask the Senator further, under this same substitute provision, is it not true that a judge could fine a man $300 without a jury trial, but if he fined him $300 and 1 cent, the man would be entitled to a jury trial?

**Mr. THURMOND.** Mr. President, I do not see how any other conclusion could be reached, because it is provided that if the punishment is a fine of more than $300, or more than 30 days in jail, he would get a jury trial. If the fine were $300.01, he would get a jury trial. If the fine were $300, he would not get a jury trial.

**Mr. TALMADGE.** Therefore, a 1-cent or a 1-second difference would determine whether a defendant would get a jury trial.

Does the Senator believe that the constitutionality of a jury trial can be weighed in terms of 1 second in time or 1 cent in money?

**Mr. THURMOND.** I do not.

**Mr. TALMADGE.** I agree with the able Senator. I thank him for yielding to me. I congratulate him on delivering a very forceful speech in favor of real constitutional civil rights of all Americans, whoever they may be, or wherever they may be.

**Mr. THURMOND.** I thank the able Senator from Georgia for the penetrating questions he has asked, which have brought out some important rights of individuals concerning jury trials, which constitutes the bedrock of the Constitution and the principles upon which this country was founded.

The accusing jury became the forerunner of the grand jury of our law. It was instituted by King Henry II in 1166.

Henry II required that in every county—

> Twelve men of every hundred, and four men of every township had to swear to make true answer to the question whether any man is reputed to have been guilty of murder, robbery, larceny, or of harboring criminals since the King's coronation. Those who were thus accused must go through the ordeal—that is, trial by the ordeal of fire or water—and even if successful there, that is to say, though the judgment of God is in their favor, they must abjure the realm.

That great document of human liberty, the Magna Carta of Great Britain, the bedrock of our freedom, states:

> No freeman shall be taken or imprisoned, disseized or outlawed or banished, or in any ways destroyed, nor will we pass upon him, nor will we send upon him, save by the lawful judgment of his peers or by the law of the land.

This accusing jury preceded by nearly two centuries the petit jury, according to the historian, Walter Clark. Clark frowns upon the old tradition that jury trial comes from Magna Carta. Through an extensive reading of early records, he concludes that the grand jury is, as we have said, almost a century older than the rights given in Magna Carta, and the petit jury a century or so more recent.

Sir James Stevens, in his "History of the Criminal Law," says this:

> The steps by which the jury ceased to be witnesses and became judges of the evidence given by others, cannot now be traced without an amount of labor out of proportion to the value of the result. * * * Trial by jury as we know it now was well established at least so far as civil cases were concerned, in all its essential features, in the middle of the 15th century.

The institution had acquired its essential features, then, before the end of the Middle Ages.

Another legal historian, Macclachlan, uses these words:

> Introduced originally as a matter of favor and indulgence, the jury thus gained growth with advancing civilization, gradually superseded the more ancient and barbarous customs of trial by battle, ordeal, and wager of law, until it became both in civil and criminal cases, the ordinary mode of determining facts for judicial purposes.

Although it is difficult to give precise dates to the evolutionary stages of any concept so involved as this, it is nonetheless clear that the jury system in the modern sense was well established by the 17th century. The first colonists to America brought this institution with them, and made it the cornerstone of their legal systems.

In the following century, when German kings appeared on the English throne, bringing German ideas with them, a new phase in the ancient struggle between Crown and Parliament ensued.

The kings began to use, through their courts, a weapon developed with great effect by the star chamber of the Stuarts. Star chamber, hated and feared by the people of England, had been abolished in 1641, but the memory of its ruthlessness remained.

It is only after 1720 that we find examples of summary trial in which the judge himself convicted on grounds that his own order had been disobeyed or that his own dignity had been violated.

If this change in usage had a sharp effect in Britain, it was doubly sharp in the American Colonies, which had been developing their own parallel institutions for generations.

Suddenly to be served with notice that the king's judges would and could avoid juries in cases of political necessity had an electric effect upon the colonies. The motive was all too clear. In cases touching political issues, let alone the ordinary run of court cases, the uncertainties of the juries' disposition was manifest. It represented an undependable element in the efficient and centralized system of rule that George I, George II, and George III envisioned.

The Bill of Rights enunciated by Parliament for the protection of the common people and signed by William and Mary upon their ascension to the British throne made illegal the pretended power of the suspending of laws or the execution of laws by regal authority without the consent of the people through their Parliament.

The jury was one of the fundamental institutions in the eight centuries during which our concept of justice evolved. The jury became a symbol of the emergence of law from medieval brutality and superstition.

On the other hand, the injunction began its modern career as the instrument of an ambitious and despotic throne, and in English history it has a fatal association with star chamber procedures. It was revived when later English kings began looking for the means to tighten their rules.

The injunction and summary trial, as much as any other course, led to the American Revolution. It is not by accident that the word "jury" appears through all the fundamental documents of our Nation.

The Declaration of Independence sets out the reasons for the American revolt. Among these reasons, it charged:

> The King has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws, giving his assent to their acts of pretended legislation.

The specific acts of false legislation are listed, and among them we see these:

> Depriving us, in many cases, of the benefits of trial by jury;
>
> Abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;
>
> Taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments.

This ringing accusation was the summation of a whole catalog of wrongs; one of the chief wrongs there represented was the use of the King's courts to solve the King's political problems through indiscriminate orders and summary trials.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. THURMOND. I am pleased to yield to the able and distinguished Senator from Georgia.

Mr. TALMADGE. The Senator from South Carolina and I had a colloquy about the origin of the constitutional precept guaranteeing right of trial by jury. My attention has just been called to two provisions that antedate the Constitution. I quote from a footnote in the case of *Green* v. *United States,* 356 U.S. p. 209:

> As early as 1765 delegates from nine colonies meeting in New York declared in a Declaration of Rights that trial by jury was the "inherent and invaluable right" of every colonial—43 Harvard Classics 147, 148.
>
> In 1775 Jefferson protested: "[Parliament has] extended the jurisdiction of the courts of admiralty beyond their ancient limits thereby depriving us of the inestimable right of trial by jury in cases affecting both life and property and subjecting both to the decision arbitrary decision [sic] of a single and dependent judge"—2 Journals of the Continental Congress (Ford ed.) 132.

Is not the entire bill a throwback to the archaic restrictions that the Colonies protested and that Thomas Jefferson protested, and which were among the principal reasons why the War of the Revolution arose?

Mr. THURMOND. The Senator is correct. Before the Revolutionary War, the grievances that are recited in the Declaration of Independence had been increasingly building up. The able Senator from Georgia has cited a specific instance that occurred in 1765, which proves that the right of trial by jury was then being challenged and that the Colonies were being denied that right. That very incident, along with others, brought on the American Revolution.

Mr. TALMADGE. Is it not true that Blackstone lauded trial by jury "as the glory of the English law. It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals."

Mr. THURMOND. That is true. Blackstone made that statement; and many other great writers and legal students have taken a similar position. The right of trial by jury has been handed down through the centuries as a fundamental right.

Today we would not think of going into a courthouse to try a case and having the right of trial by jury challenged. If we were to try a case in court today in Washington, D.C., or Atlanta, Ga., or Aiken, S.C., or anywhere else in the United States, and walked into the courtroom and the judge said, "I will try the case; you may not have a trial by jury," eyebrows would be raised to such an extent that one would wonder whether he was in a courthouse of the United States of America.

Mr. TALMADGE. He would think he was in Nazi Germany; would he not?

Mr. THURMOND. He would certainly think he was in a dictator country. He would immediately resent such action and would undoubtedly express himself in strong terms. If the judge insisted on trying the case without a jury, the lawyer would, of course, appeal the case and undoubtedly would have the decision reversed.

Yet such a bill is before Congress, and we are asked to do away with the very precept which, down through the years since the Constitution was adopted, has been guaranteed to us as a right. It is now proposed that Congress take that right away. We have no power to take it away.

It is amazing to me that any Member of Congress should even suggest that the people be deprived of the right of trial by jury; yet that is what is proposed in the bill.

Mr. TALMADGE. And all in the name of civil rights.

Mr. THURMOND. In the name of civil rights. "Civil rights" is a nice term that seems to glow. If "civil rights" were written on a bill, probably half the Members of the Senate would sign it without even reading it, because they think of civil rights as being something wholesome; they think of civil rights as something to correct injustices; they conceive of civil rights as being a measure to offset discrimination. All one has to do is write "civil rights" on a bill and he will immediately get tremendous support, even though people do not even know what is in the bill. I doubt whether half the membership of the Senate today have read the bill. If they have, it is inconceivable to me that they could support it. If they understood the Constitution, how could they violate their oaths, which they stood at yonder rostrum and took when they became Senators? They held up their hands and said they would support the Constitution of the United States. The Constitution provides that a person charged with a crime shall be entitled to a trial by jury. But the so-called civil rights bill now before the Senate would deprive him of the right of trial by jury in these cases.

Mr. TALMADGE. Yet that is the greatest civil right all Americans have, is it not?

Mr. THURMOND. I do not know of any that is more important.

Mr. TALMADGE. I thank the Senator from South Carolina; I fully agree with him.

Mr. THURMOND. I thank the able Senator from Georgia.

Mr. President, the origin of trial by jury has increasingly become a matter of interest to legal students and legal scholars. As a result, much research on this subject has been accomplished. One of the most outstanding presentations on the origin and development of trial by jury was presented by Dr. Robert H. White, in an address to the Tennessee Bar Association, in June 1961. Dr. White is the Tennessee State historian. Dr. White had this to say on the subject:

> In all probability, there is no subject more profitable than a study of the history of jurisprudence. Since the beginning of time, each unit of the human race has struggled along on its allotted path through joys and griefs, triumphs and failures, all fashioned and grooved for the most part by a somewhat invisible network of habits, customs, mores, and statutes which surround society on every side and silently guide its daily life. And so, the history of jurisprudence becomes the history of man. The lawgiver and the law dispenser are the custodians of all that we highly prize—liberty and freedom. Cyrus and Alexander, Genghis Khan and Attila have passed away; their names are all but forgotten. But the laws of Confucius, Mohomet, and Justinian still live and will sway the destinies of future races as they have in the almost limitless past. Man and law exert a mutual reaction, and in the one we may vision the image of the other.
>
> From the beginning of recorded history there have been difficulties, arguments, conflict, and trouble. How were these problems settled prior to the rise of the jury system? This inquiry calls for a bird's-eye sketch of the mode of settlement of all such conflicts before the jury system was born. In presenting a brief sketch of the modes of settling such disputes, let us glance for a moment at the status of society during the Dark and Middle Ages. First of all, let us be reminded that the ability to read was confined largely to the clergy. The art of papermaking was not discovered until the 11th century, and printing had to wait some three centuries more. What few documents there were had been written on papyrus or

parchment. Private persons rarely owned so much as one book. Most monasteries, which constituted the principal libraries, usually possessed only one copy of the prayer book. Alfred the Great complained that there was scarcely one of his priests who understood the liturgy of the mother tongue, and that the clergy were still more ignorant. In the ninth century a high church dignitary asserted that there was not a complete copy of Quintillians's Institutions in all of France. Even so late as the middle of the 15th century, when Louis XI borrowed a copy of a medical book from the medical faculty at Paris, he had to deposit a considerable quantity of silver plate as a pledge for the safe return of the book. This deplorable condition of Middle and Western Europe had resulted from invasion by the barbarian tribes usually referred to as the Huns, Goths, and Vandals. With a degree of ferocity unparalleled in the history of mankind, those barbarians sacked Rome and laid waste the culture and customs that had given the Queen City such renown. For 10 centuries and more, the effects of this ruthless invasion were manifest in the greater part of Europe. Total strangers to Christianity, these rapacious hordes forced upon their conquered victims pagan rites and heathen ceremonies, which had been inherited from past centuries. Among those ceremonial rites and customs were fantastic efforts to discover the truth by resorting to a mode of trial that is coeval with the dawn of recorded history.

Let us now consider for a moment the oldest mode of trial, that of the ordeal. The antiquity of this mode of trial cannot be questioned. Moses, about the year 1450 B.C., outlined a procedure whereby the faithfulness or unfaithfulness of a wife might be ascertained. The jealous husband brought the accused wife to the priest who took some holy water into which dust from the floor of the tabernacle had been sprinkled. Then under oath the priest caused the accused woman to drink of the bitter water, assuring her that she would escape harmless if she were innocent. But, if guilty, then the bitter water would according to the Scriptural account "cause her belly to swell and her thigh shall rot." No penalty was invoked against the jealous husband even when the wife emerged from the ordeal scot free.

The basis upon which the ordeal was grounded was that the Almighty when called upon, would detect and punish the guilty and hold harmless the innocent. Whoever escaped unhurt from the ordeal in whatsoever form administered was considered to have been acquitted by the judgment of God. Sacred history abounds with numerous instances of the trial by ordeal, such as detecting the thief Achan for example. The runaway Jonah fell victim to the casting of the lot which, according to Solomon was directed by Jehovah, for, said the wise man, "The lot is cast into the lap, but the whole disposing thereof is of the Lord." Profane history abounds with countless examples of trial by ordeal. Charlemagne, one of the greatest rulers of his time, incorporated into his "Capitularies" the following maxim, In ambiguis, Dei judicio reservetur sententis, a translation of which is "Let doubtful cases be determined by the judgment of God."

Something like 500 years before the birth of Christ, we find definite proof that the ordeal had crept into literature. Sophocles, the author of the tragedy "Antigone," had those accused of the crime of burying an accursed corpse exclaim "we are ready to take red-hot iron in our hands—to walk through fire." Throughout the Dark and Middle Ages, fire and water were the two agencies most often employed in the trials by ordeal. Hincmar, a celebrated churchman of the ninth century, recommended boiling water inasmuch as it combined the elements of both fire and water—one representing the deluge, a penalty inflicted upon the wicked of old; the other was concerned with the fiery doom of the future, the day of judgment when hell would receive her own.

Trial by hot iron was a favorite mode by which disputed questions or various accusations were settled. One method consisted of placing on the ground at irregular distances 6, 9, and sometimes 12 red-hot ploughshares. The accused was then made to walk over them barefooted and blindfolded, an obliging churchman guiding the culprit over the short but perilous distance. A classic example of this type of ordeal has been preserved by noted English authorities, setting forth the details as carried out about the middle of the 11th century. Queen Emma, the mother of Edward the Confessor and the wife of King Ethelred, had been accused of adultery with Alwyn, the bishop of Winchester. His brother bishops entered a plea that Alwyn and Emma be pardoned for their indiscretion. The bishop of Canterbury, however, opposed whitewashing and hurled this challenge at the clerical fraternity: "My brethern Byshoppes, how dare ye defende her that is a wild beaste and not a woman." Queen Emma, disturbed over the plight in which she and Alwyn were involved, announced that she was "readye to abyde all lawful and most sharpest tryall." The powerful ordeal of fire was then invoked. The time and place of purgation were appointed, and the king and a host of his lords were on hand to witness the outcome of the fiery test. The dramatic scene is thus pictured by the ancient chronicler in picturesque language:

Then she was blindfolde, and led unto the place between two men, where the Irons lay glowing hote, and passed the IX shares unhurt. Then at the last she sayde, good Lord, when shall I come to the place of my purgation. When they uncovered her eyes, and she sawe that shee was past the paine, she kneeled downe and thanked God. Then the King repented him, and restored unto her, and the Byshop also, that which before he had taken from them, and asked them forgiveness."

Some commentators have inferred with some probability of truth that the nine ploughshares which "lay glowing hote" glowed with nothing more dangerous than daubs of red paint. In this typical ordeal by fire, the trial consisted not in an attempt to convince the judges of the truth of your assertion, but in the performance of a task which had been imposed upon you. If you perform the task, God is on your side. If the accused Emma were actually blindfolded and received no aid or suggestion on the part of her guides, then it was due to the law of mere chance that she escaped without a scorched foot.

Another species of ordeal that dealt with heat related to that of boiling water. One of the general regulations required that the water be brought to the boiling point. The accused was then required to pluck from the bottom of the vessel with his bare hand a stone or a ring that had been tossed into the seething cauldron. Next, the hand was wrapped in a cloth to which was affixed a seal. Three days later the seal was broken and all awaited the dread question—was the hand clean or foul? A blister "as large as half a walnut" proved fatal. In that ignorant and superstitious age, men were unable to weigh testimony, against testimony, to cross-examine witnesses, to piece together facts, and arrive at the truth. Recourse was had to the supernatural by appealing to the judgment of God.

Unquestionably craft and trickery in administering the ordeals of various types helped pave the way that led to the downfall of the custom. But ingenuity devised another mode of trial that was widespread and of lengthy tenure. Its general name was canonical compurgation. As its name implied, it was a clergy-administered procedure. The modus operandi consisted of the accused being able to bring forth a certain number of neighbors, friends, or even bloodkin who would testify under oath that they believed the accused had sworn the truth. The origin of this custom is to be traced to the unity of families. Inasmuch as the offender could summon his kindred around him to resist the attack of the injured party, so he took them to court to defend him with their oaths. The number of compurgators varies, but usually the number 12 was most frequently used. However, there were variations as to number, high-born persons being required to enlarge the number of compurgators. Let's sketch one of the most noted cases wherein canonical compurgation was relied upon by the accused, a case referred to by numerous historians.

In 584, a she-devil by the name of Fredegonda had strangled to death the wife of Chilperic, a king of France. Later, she married the king and had him slain by a hired felon. The thing that sorely vexed the vixen were some nasty whispers that her baby, Clotaire, had been sired by a court lackey. Of quick and positive temperament, she decided to repair her battered reputation and secure the throne to her offspring. Accompanied by 3 bishops and 300 nobles she appeared before an altar containing the sacred relics. Hear the verdict: "Alors Frédégonde jura, et fit jurer par trois cents témoins, par trois éveques en particulier, que Clotaire était vraiment fils de Chilpéric. Cette preuve suffit pour dissiper les soupcons."

Quite obviously, direct and competent evidence on such intimate matters is difficult to obtain. But in order to clear away the disturbing rumors, Fredegonda resorted to the ceremony known as canonical compurgation. The rabble called it church-swearing. It was not an idle ceremony; neither was it a form of peacock pageantry nor a political demonstration. It was the serious observance of an accepted custom performed in a solemn manner and supported by strong religious sanction. For centuries, this form of trial held sway in all the civilized countries of Middle and Western Europe. The distinguished author of "The History of the Decline and Fall of the Roman Empire" pointed out that this obscure concubine (Fredegonda) established her chastity by the oaths of 300 gallant nobles and 3 bishops all of whom swore that the 4-months-old infant prince had been actually begotten by her deceased husband. An exceptionally able authority has asserted that the origin of compurgation is traceable to prehistoric times and that the custom was not formally abolished until the 19th century.

Shakespeare is authority for saying that "The course of true love never did run smooth." The same may be said of jurisprudence. The idea of law was of early birth, but justice was unusually slow in discovering some method of expressing itself. Some means of insuring truth in human testimony has been a thing desirable in every age, but the search has been almost as baffling as the search for the philosopher's stone. And it might be added that the experiments have been well-nigh as numerous. Oaths constituted the bedrock upon which canonical compurgation was based. But oath taking in the Dark and Middle Ages proved not to be an unqualified success. So widespread did perjury become that it presented an insurmountable obstacle in the path of justice. Causes were decided by the quantity of the testimony, and not at all by the quality. Twenty false witnesses, or compurgators, were worth more than 19 truthful ones. A dozen forgeries, backed by powerful swearing, were valued above 11 genuine documents. Some of the oaths of the Middle

Ages were products of ingenuity and are entitled to high rank as works of imagination. But those oaths proved to be unsatisfactory. In the course of time, so little confidence came to be placed in a man's oath that Gundobald in the year 501 issued an edict to the Burgundians in which he stated his reason for granting the right of trial by battle. Said Gundobald: "We do this to prevent our subjects from attesting by oath what they are not certain of, nay, what they know to be false." As is obvious, Gundobald's edict was offered as an antidote to perjury. Apparently he thought his subjects might as well risk their bodies as their souls. Consequently, he reintroduced the judicial combat which had temporarily been laid aside during the heyday of ordeals and canonical compurgation. Very soon after issuing his edict, the privilege of judicial combat was inserted into almost every European code and held sway for something like 13 centuries, England finally abolishing Wager of Battle in 1819.

Time will not permit discussion of certain peculiar trial procedures characteristic of our mother country, England. Among those strange and curious devices would be enumerated Wager of Battle, Wager of Law, Benefit of Clergy, Sanctuary, Peine Forte de Duré, and Deodands. Attention must now be centered upon the assigned topic, "the Origin and Development of Trial by Jury."

In doing research upon the origin of trial by jury, I was impressed with the force of the second verse in the first chapter of Genesis—"and darkness was upon the face of the deep." With the assertion of one antiquarian who was trying to trace the origin of the jury system I am in hearty agreement, "Son origine se perd dans la nuit des temps."

In attempting to deal with this intricate and baffling subjects, it is necessary for lack of time to compress a long story into a few paragraphs. An excellent summary of the opinions of leading legal writers as well as conventional historians regarding the origin of trial by jury was set forth by an Englishman, William Forsyth, in his excellent book entitled "History of Trial by Jury." As to trial by jury in England, from which country we in America received it as a heritage from the mother country, Forsyth cites a statement by a high commissioner that "in England it is of a tradition so high that nothing is known of its origin, and of a perfection so absolute that it has remained in unabated rigor from its commencement." Spelman was uncertain whether to attribute the origin of jury trial to the Saxons or the Normans. Du Cange and Hickes credited the Normans with the honor of originating the system. That monumental authority on English common law, Sir William Blackstone, utilized a sort of safety valve of escape by calling it "a trial that hath been used time out of mind in this (English) nation and seems to have been coeval with the first civil government thereof." Meyer regarded the jury as partly a modification of the Grand Assize established by Henry II and partly an imitation of the feudal courts erected in Palestine by the Crusaders. Reeves, certainly, one of the most distinguished law writers of England, believed that when Rollo led his compatriots into Normandy that they carried with them the mode of trial by jury, and that when the Normans invaded England they substituted trial by jury for the Saxon tribunals. Another eminent writer, Sir Francis Palgrave, stated that in criminal cases the jury system was unknown in England until set up by William the Conqueror subsequent to his invasion of England in 1066. Various writers, according to Forsyth, attribute the origin of the English jury to a recognition of the principle that no man ought to be condemned except by the voice of his fellow citizens. Forsyth committed himself to the belief that trial by jury did not owe its existence to any positive law, that it was not created by any act of parliament, but grew out of usages and customs of society that eventually passed away. Forsyth concluded his observations by saying that "the jury does not owe its existence to any preconceived theory of jurisprudence, but that it gradually grew out of forms previously in use and was composed of elements long familiar to the people in general."

With such a diversity of opinion on the part of so many learned men, most of whom confessed that they were unable to pierce the dark veil enveloping the early history of trial by jury, it behooves anyone to be exceedingly wary about asserting that this or that is the sine qua non regarding the actual origin of "the great palladium of liberty and justice"—trial by jury.

As to the development of trial by jury, the term naturally suggests to our mind 12 men or women summoned into court to listen to the testimony of witnesses, give a true verdict "according to the evidence," and acting as judges of those questions of fact that are in dispute. But something like seven centuries had to elapse before trial by jury took this form. Originally, the jurors were called in, not to hear, but to give evidence. They were witnesses in fact. They were the neighbors of the parties and were presumed to know before they came into court the facts about which they were to testify. At the close of the 11th century, when the so-called jury system was inaugurated, the population was sparse and neighbors really knew more of the doings of their neighbors than we of the present day. As population increased and everyday activities grew more complex, it developed that neighbors knew little or nothing of the facts in dispute. It was then that witnesses who did know some facts were called in to supply the requisite information. Thus it was that the jury laid aside its old character and acquired one entirely new. The very thing that qualified a man for jury service in the olden times, at a much later date disqualified him.

As to fixing the number of jurors, there was in early times great variety. A learned law writer, James Bradley Thayer, attributes the number 12 as being probably established during the reign of Henry II, although even then the number was not always uniform. As time moved on, the requirement of 12 on the petit jury seemed to have become the settled rule. Toward the middle of the 17th century, Thayer cites an interesting reason for the number 12 by quoting from Duncomb's "Trials per Pais," written in 1665:

"And first as to their [the Jury's] number twelve: and this number is no less esteemed by our law than by Holy Writ. If the twelve apostles on their twelve thrones must try us in our eternal state, good reason hath the law to appoint the number of twelve to try our temporal. The tribes of Israel were twelve, the patriarchs were twelve, and Solomon's officers were twelve. I Kings, IV, 7. * * * Therefore not only matters of fact were tried by twelve, but of ancient times twelve judges were to try matters in law, in the Exchequer Chamber, and there were twelve counsellors of state for matters of state; and he that wageth his law must have eleven others with him who believe he says true. And the law is so precise in this number of twelve, that if the trial be by more or less, it is a mistrial."

An able English author of several works dealing with jurisprudence, Luke Owen Pike, does not appear to rely upon religious or Scriptural authority regarding the alleged sanctity of the number 12. His comment was as follows:

"As both Normandy and the north of England had been conquered by Scandinavian chiefs, it is by no means improbable that some old Norse or Danish superstition lurks under the modern preference of the number 12 for a jury."

With reference to the unanimity of juries, permit me to conclude by giving two opposing viewpoints. A caustic comment on the requirement for unanimity in rendering a verdict was expressed one and one-third centuries ago in a London law magazine. In part, the criticism was as follows:

"To us it is a matter of no small astonishment, that so many centuries should have gone by since the establishment of the present jury system, and that during all that time so very little should have been said or written upon a rule, which must startle by its absurdity every man who investigates it in theory, and which, if we mistake not, would startle yet more fearfully any man who could take a comprehensive view of its workings in practice.

"Suppose that in any deliberative assembly held within the four seas, from the House of Lords down to the humblest club inclusive, it were proposed that the mode of taking the opinions of the members should be as follows: first, that the members should bind themselves by oath to vote according to their consciences; secondly, that they should hear the arguments and evidence for and against each of the propositions brought before them; thirdly, that they should submit to be locked up without meat, drink, fire, or candle, till they were unanimous; fourthly, that in case of an irreconcilable difference of opinion, this process of blockade and famine should continue till nature or conscience gave way, 'whichsoever might first happen.' Suppose, we repeat, that such a proposal as this were made to any assembly whatever out of Bedlam, how, we beg leave to ask, would it be received? Surely the proposer might think himself well off, if he were only laughed at for his folly, and received no serious mark of indignation from those whose consciences he had assumed to place under the dominion of hunger, thirst, and cold.

"And yet this is the very plan which the law of England adopts with respect to the decisions of juries. The jurors first take an oath, that they will well and truly try the issue joined between the parties (or, in cases of felony, well and truly try and true deliverance make, between the king and the prisoner), and true verdict, give, according to the evidence, so help them God. After the evidence has been heard, and each man has formed his conscientious opinion upon it, he is required, however complicated and doubtful the question may be, to reconcile that opinion with those of his brother jurors, upon pain of imprisonment and starvation; and lastly, in case of inability to do this, he is imprisoned and starved accordingly, till, like a soldier at the halberts, or a heretic on the rack, he can endure no more."

Although discussing the question of unanimity, both pro and con, Forsyth had this to say on the pro side:

"One advantage resulting from the rule no doubt is that if any one juror dissents from the rest, his opinion and reasons must be heard and considered by them. They cannot treat these with contempt or indifference, for he has an absolute veto upon their verdict, and they must convince him or yield themselves, unless they are prepared to be discharged without delivering any verdict at all. This furnishes a safeguard against precipitancy, and insures a full and adequate discussion of every question which can fairly admit of doubt; for if all at once agreed upon the effect of the evidence, it may be reasonably presumed that the case is free from difficulty, and too clear to admit of any difference of opinion."

Time will not allow discussion of certain procedures connected with the further development of trial by jury. These features embrace the challenging of jurors, instructions to jurors by the court, and the protection of jurors from extraneous influences, all of which are familiar in present-day practice.

May I attempt to summarize some of the impressions gained from the research I have made in regard to trial by jury?

1. William the Conqueror introduced the jury system into England during the latter half of the 11th century.

2. The jury system, as known to us, is a heritage bequeathed by England.

3. The nature and function of the jury have been completely reversed. Originally, the jurors were witnesses; now they are judges of the facts.

4. The number of jurors has been changed from time to time, though the number 12 has predominated. According to Sir Patrick Devlin, English aversion to the decimal system may have been a factor in the selection of the numeral 12. The English, as is well known, decreed that 12 pennies make a shilling instead of 10, 11, 13, or some other digit.

5. The jury is a judicial tribunal.

6. Unanimity in rendering a verdict is for the most part a prerequisite.

7. A jury reaches a decision without announcing publicly any basis for such decision. The jury simply says yes or no, and is therefore a sort of oracle deprived of the necessity of being ambiguous or offering any explanation.

8. Eccentrics do not turn up on juries often enough to warrant the overturn of a traditional and well-tried method.

9. Although the jury has sometimes been charged with being "unaccustomed to severe intellectual exercise or to indulge in protracted thought," yet it has proved to be a practical, workable mode of settling controversial issues.

10. The jury is a safeguard against harsh or repugnant laws. If the law is too harsh and the penalty too severe, the jury simply declines to be a party for the enforcement of such laws—they vote to acquit.

Let us be thankful indeed for the jury system, even though it may retain some defects and imperfections. When trial by jury supplanted the fantastic theories and superstitious beliefs that underlay ordeals, compurgation, and the judicial combat, something was taken from the dominion of superstition and force and placed in the realm of commonsense and justice. And what is justice?

Let me conclude by citing the eulogy on justice by the renowned English clergyman Sydney Smith. Speaking of justice, in 1824, he said:

"Truth is its handmaiden, freedom is its child, peace is its companion; safety walks in its steps, victory follows its train; it is the brightest emanation of the Gospel; it is the greatest attribute of God."

The history and value of the jury system was not lost from the sight of the American colonists.

When the Revolution was won at last, the men who drafted the Constitution remembered the jury issue.

Let me remind Senators of article III, section 2, of the Constitution, which reads in part:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

When they placed in article III, section 2, the emphatic and unambiguous declaration that "the trial of all crimes shall be by jury," the founders of our Government intended these plain English words to mean exactly what they said. They believed that this constitutional declaration possessed sufficient vigor to thwart the efforts of those who would convert courts of equity into courts of star chamber and rob Americans of their right of trial by jury by the devious device of extending the powers of equity beyond their ancient limits.

The Bill of Rights further reinforced the protections against arbitrary actions in criminal prosecutions. Among others, these are pertinent:

> Article V: No persons shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger.
>
> Article VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.
>
> Article VII: In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

These words were born in a revolution. Let us never forget why they were put into the Constitution.

If they had dreamed that Americans could be constitutionally robbed of their right of trial by jury by perverting injunctions and contempt proceedings from their historical uses to the field of criminal law, the people of the United States would have rejected the Constitution out of hand. If one is tempted to question the validity of this assertion, let him read Judge Story's affirmation that the omission from the original Constitution of the guaranty of jury trial in suits at common law later embodied in the seventh amendment raised an objection to the Constitution which "was pressed with an urgency and zeal, wellnigh preventing its ratification."

The tradition and the guarantee of the right to trial by jury was enshrined in the immortal words of Jeremiah S. Black before the Supreme Court in the case of *Ex parte Milligan*, as follows:

> I do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. I only say that it is the best protection for innocence and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and borne it better, than any other legal institution that ever existed among men. England owes more of her freedom, her grandeur, and her prosperity to that than to all other causes put together. It has had the approbation not only of those who lived under it, but of great thinkers who looked at it calmly from a distance, and judged it impartially. Montesquieu and de Tocqueville speak of it with an admiration as rapturous as Coke and Blackstone. Within the present century, the most enlightened states of continental Europe have transplanted it into their countries; and no people ever adopted it once and were afterward willing to part with it. It was only in 1830 that an interference with it in Belgium provoked a successful insurrection which permanently divided one kingdom into two. In the same year, the revolution of the barricades gave the right of trial by jury to every Frenchman.
>
> Those colonists of this country who came from the British Islands brought this institution with them, and they regarded it as the most precious part of their inheritance. The immigrants from other places where trial by jury did not exist, became equally attached to it as soon as they understood what it was. There was no subject upon which all the inhabitants of the country were more perfectly unanimous than they were in their determination to maintain this great right unimpaired. An attempt was made to set it aside and substitute military trials in its place by Lord Dunmore, in Virginia, and General Gage, in Massachusetts, accompanied with the excuse which has been repeated so often in late days; namely, that rebellion had made it necessary, but it excited intense popular anger, and every colony from New Hampshire to Georgia made common cause with the two whose rights had been especially invaded. Subsequently, the Continental Congress thundered it into the ear of the world as an unendurable outrage, sufficient to justify universal insurrection against the authority of the Government which had allowed it to be done.
>
> If the men who fought out our revolutionary contest, when they came to frame a government for themselves and their posterity, had failed in insert a provision making the trial by jury perpetual and universal, they would have covered themselves all over with infamy as with a garment; for they would have proved themselves basely recreant to the principles of that very liberty of which they professed to be the special champions. But they were guilty of no such treachery. They not only took care of trial by jury, but they regulated every step to be taken in a criminal trial. They knew very well that no people could be free under a government which had the power to punish without restraint. Hamilton expressed in the Federalist the universal sentiment of his time, when he said that the arbitrary power of conviction and punishment for pretended offenses had been the great engine of despotism in all ages and all countries. The existence of such power is utterly incompatible with freedom. The difference between a master and his slave consists only in this: that the master holds the lash in his hands and he may use it without legal restraint, while the naked back of the slave is bound to take whatever is laid on it.
>
> But our fathers were not absurd enough to put unlimited power in the hands of the ruler and take away the protection of law from the rights of individuals. It was not thus that they meant to secure the blessings of liberty to themselves and their posterity. They determined that not one drop of blood which had been shed on the other side of the Atlantic, during seven centuries of contest with arbitrary power, should sink into the ground, but the fruits of every popular victory should be garnered up in this new Government. Of all the great rights already won, they threw not an atom away. They went over Magna Carta, the Petition of Right, the Bill of Rights, and the rules of the common law, and whatever was found there to favor individual liberty they carefully inserted in their own system, improved by clearer expression, strengthened by heavier sanctions, and extended by a more universal application. They put all those provisions into the organic law, so that neither tyranny in the Executive, nor party rage in the Legislature could change them without destroying the Government itself.

Mr. President, the contrast between injunctive proceedings and trials by jury is stark and impressive. Prof. Felix Frankfurter, in discussing injunctive proceedings, said:

> The heart of the problem is the power for all practical purposes, of a single judge to issue orders, to interpret them, to declare disobedience, and then to sentence.

Professor Frankfurter elaborated, as follows:

> The restraining order and the preliminary injunction invoked in labor disputes reveal the most crucial points of legal maladjustment. Temporary injunctive relief without notice, or, if upon notice, relying upon dubious affidavits, serves the important function of staying defendant's conduct regardless of the ultimate justification of such restraint. The preliminary proceedings, in other words, make the issue of final relief a practical nullity. * * * In labor cases, complicating factors enter. The injunction cannot preserve the so-called status quo; the situation does not remain in equilibrium awaiting judgment upon full knowledge. The suspension of activities affects only the strikers; the employer resumes his efforts to defeat the strike, and resumes them free from the interdicted interferences. Moreover, the suspension of strike activities, even temporarily, may defeat the strike for practical purposes and foredoom its resumption, even if the injunction is later lifted. Choice is not between irreparable damage to one side and compensable damage to the other. The law's conundrum is which side should bear the risk of unavoidable, irreparable damage. Improvident denial of the injunction may be irreparable to the defendant. For this situation the ordinary mechanics of the provisional injunction proceedings are plainly inadequate. Judicial error is too costly to either side of a labor dispute to permit perfunctory determination of the crucial issues; even in the first instance, it must be searching. The necessity of finding the facts quickly from sources vague, embittered, and partisan, colored at the start by the passionate intensities of a labor controversy, calls at best for rare judicial qualities. It becomes an impossible assignment when judges rely solely upon the complaint and the affidavits of interested or professional witnesses, untested by the safeguards of common law trials—personal appearance of witnesses, confrontation, and cross-examination.
>
> But the treacherous difficulties presented by an application for an injunction are not confined to the ascertainment of fact; the legal doctrines that must be applied are even more illusory and ambiguous. Even where the rules of law in a particular jurisdiction can be stated, as we have tried to state them, with a show of precision and a definiteness of contour, the unknowns and the variables in the equation—intent, motive, malice, justification—make its application in a given case a discipline in clarity and detachment requiring time and anxious thought. With such issues of fact and of law, demanding insight into human behavior and nicety of juristic reasoning, we now confront a single judge to whom they are usually unfamiliar, and we ask him to decide forthwith, allowing him less opportunity for consideration than would be available if the question were one concerning the negotiability of a new form of commercial paper. We ease his difficulty and his conscience by telling him that his decision is only tentative.

Professor Frankfurter stated:

> Since the charge of criminal contempt is essentially an accusation of crime, all the constitutional safeguards available to the accused in a criminal trial should be extended to prosecutions for such contempt.

In contrast to the injunctive process, it is useful to compare some of the thoughtful analyses of the jury system. One such discussion appears in De Tocqueville's book "Democracy in America," under the title, "Trial by Jury in the United States as a Political Institution." In this early discussion of the jury trial in the United States, De Tocqueville stated:

> Since my subject has led me to speak of the administration of justice in the United States, I will not pass over it without referring to the institution of the jury. Trial by jury may be considered in two separate points of view; as a judicial, and as a political institution.
>
> My present purpose is to consider the jury as a political institution; any other course would divert me from my subject. Of trial by jury considered as a judicial institution I shall here say but little. When the English adopted trial by jury, they were a semibarbarous people; they have since become one of the most enlightened nations of the earth, and their attachment to this institution seems to have increased with their increasing cultivation. They have emigrated and colonized every part of the habitable globe; some have formed colonies, others independent states; the mother country has maintained its monarchical constitution; many of its offspring have founded powerful republics; but everywhere they have boasted of the privilege of trial by jury. They have established it, or hastened to reestablish it, in all their settlements. A judicial institution which thus obtains the suffrages of a great people for so long a series of ages, which is zealously reproduced at every stage of civilization, in all the climates of the earth, and under every form of human government, cannot be contrary to the spirit of justice.

Mr. TALMADGE. Mr. President, will my able friend the Senator from South Carolina yield at that point?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Georgia with the same understanding under which I yielded to him previously.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I yield.

Mr. TALMADGE. I am sure that the Senator from South Carolina is aware that the amendment for which the substitute was offered, and of which he is a cosponsor, was adopted by the Senate line for line and word for word on August 1, 1957.

Mr. THURMOND. That is correct.

Mr. TALMADGE. The Senator is also aware of the fact, is he not, that at that time the amendment was cosponsored by the late President Kennedy and the distinguished majority leader, the Senator from Montana [Mr. MANSFIELD]?

Mr. THURMOND. That is true.

Mr. TALMADGE. The Senator is also aware of the fact, is he not, that the amendment was adopted by the Senate at that time by a vote of 51 to 42?

Mr. THURMOND. I believe those are the correct figures for the vote.

Mr. TALMADGE. The Senator is aware of the fact, is he not, that the then Senator Kennedy made a fine, logical, forceful, and persuasive argument in favor of the amendment on the floor of the Senate?

Mr. THURMOND. I recall that he made a very fine statement at that time.

Mr. TALMADGE. The Senator is also aware of the fact, is he not, that the present President of the United States, Lyndon B. Johnson, when he was a Senator from Texas, made the concluding argument, which was a very persuasive, logical, and erudite statement?

Mr. THURMOND. That is true.

Mr. TALMADGE. I quote from the words of the present President when he spoke on the subject, and I ask the Senator from South Carolina if he recalls the language:

> But I do not believe that our people will accept the concept that a man can be branded a criminal without a jury trial. That is stretching the processes of the law too far.
>
> If we were to insist upon criminal contempt proceedings without a jury trial, we would be inviting the very violence we seek to avoid. In my opinion, we could make no greater mistake. This amendment has been carefully drawn. It leaves the Federal courts with the full power to enforce compliance with legitimate court orders. It does not touch, in any manner, the coercive authority the judiciary properly should have.
>
> It says only that a man cannot be branded as a criminal in the sight of his fellow man without a trial by jury.
>
> North, South, East or West, our people will respond to laws that are enacted fairly and after reasonable consideration. Those who will not respond can be handled under the ordinary proceedings of criminal contempt.

Does the Senator recall that language?

Mr. THURMOND. I recall the address that the present President of the United States delivered at that time. The language seems to ring in my ears now.

Mr. TALMADGE. Does not the Senator believe that our President was correct when he made that able, eloquent, forceful, and logical speech to the Senate?

Mr. THURMOND. I believe he was correct then. I believe that the position that he took then is the correct position today. I regret it, if there has been any deviation from that position, because the statement made at that time is in accord with the Constitution of the United States.

Mr. TALMADGE. Does not the Senator believe that the Senate at the present time should heed those eloquent words of our President?

Mr. THURMOND. It would be well to heed the words the President uttered at that time. They were sound, and could well be followed today.

Mr. TALMADGE. I quote further from the President's speech to the Senate in 1957 and ask the Senator if he recalls the following language:

> It was Thomas Jefferson who said, "They [the juries] have been the firmest bulwark of English liberties."

Does the distinguished Senator agree with those words of our President?

Mr. THURMOND. I certainly do.

Mr. TALMADGE. The President further said:

> It was Alexander Hamilton who said: "The more the operation of the institution [trial by jury] has fallen under my observation, the more reason I have discovered for holding it in high estimation."

Does the able Senator agree with that logical expression of the President at that time?

Mr. THURMOND. It was a very logical statement. I only wish that the American people today would heed the words that were uttered at that time by President Johnson.

Mr. TALMADGE. I quote further from the President:

> It was the late Senator Walsh, of Montana, who said, "There is not an argument that can be advanced or thought of in opposition to trial by jury in contempt cases that is not equally an argument against the system as we know it."

Does the distinguished Senator think the President was correct when he quoted Senator Walsh?

Mr. THURMOND. I believe the President was following a sound course when he made that speech in 1957. I believe it would be a sound course for the American people today to follow those words and heed them.

Mr. TALMADGE. I quote further from the President:

> It was the late Senator George Norris, of Nebraska, who said, "A procedure which violates this fundamental right of trial by jury in criminal cases, even though it be a case of contempt, violates every sense of common justice, of human freedom, and of personal liberty."

Does the able Senator agree with those eloquent words of our President?

Mr. THURMOND. I certainly do agree with those words. I would like to hear those words spread around the Nation today. I should like to see the President himself, even today, speak along the same lines, because what he said at that time was sound, just, right, and in accord with the Constitution of the United States.

Mr. TALMADGE. I quote further from our President:

> These quotations could be continued into the evening, but it would be pointless to do so. The tradition of trial by jury is deep within the heart of our liberty-loving people.
>
> Repeal that right and our laws will become ineffective, except to incite disobedience. Recognize that right, and we shall have one of the strongest and most effective laws in our history.

Does the able Senator think that the President was correct when he made that statement and gave that advice to the Senate in 1957?

Mr. THURMOND. I certainly think so. It is my sincere hope that the Congress will not see fit to pass the proposed unconstitutional piece of legislation, but if it should do so, I hope that the President of the United States will see fit to follow his own words which were uttered in 1957 and veto the proposed legislation in order to protect the right of trial by jury and abide by the constitutional provisions to that effect.

Mr. TALMADGE. Does not the able Senator believe that the Senate ought to follow the words of wisdom given to us by the late President John F. Kennedy and our present President, Lyndon B. Johnson, and enact a real civil right, guaranteeing to all Americans, of whatever color, whatever religion, and in whatever area they may be, the right of trial by jury in criminal contempt cases?

Mr. THURMOND. I certainly do. The words concerning trial by jury that were used at that time by former President Kennedy and by President Johnson were sound and constructive. They were in accord with the principles of our government as laid down by the Founding Fathers in the Constitution. Any deviation from those words and from the constitutional provisions would have the effect, in a measure, of amending the Constitution of the United States without following the procedure provided in the Constitution for its amendment.

Mr. TALMADGE. I thank my able friend for yielding. I agree with him completely.

Mr. THURMOND. I thank the distinguished Senator from Georgia for calling these matters to the attention cf the Senator from South Carolina and for propounding the pertinent questions which he asked.

I continue reading:

> But to leave this part of the subject. It would be a very narrow view to look upon the jury as a mere judicial institution; for however great its influence may be upon the decisions of the courts, it is still greater on the destinies of society at large. The jury is, above all, a political institution, and it must be regarded in this light in order to be duly appreciated.
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> By the jury I mean a certain number of citizens chosen by lot and invested with a temporary right of judging. Trial by jury, as applied to the repression of crime, appears to me an eminently republican element in the government, for the following reasons.
>
> The institution of the jury may be aristocratic or democratic, according to the class from which the jurors are taken; but it always preserves its republican character, in that it places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the government. Force is never more than a transient element of success, and after force comes the notion of right. A government able to reach its enemies only upon a field of battle would soon be destroyed. The true sanction of political laws is to be found in penal legislation; and if that sanction is wanting, the law will sooner or later lose its cogency. He who punishes the criminal is therefore the real master of society. Now, the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judges. The institution of the jury consequently invests the people, or that class of citizens, with the direction of society.
>
> In England the jury is selected from the aristocratic portion of the nation; the aristocracy makes the laws, applies the laws, and punishes infractions of the laws; everything is established upon a consistent footing, and England may with truth be said to constitute an aristocratic republic. In the United States the same system is applied to the whole people. Every American citizen is both an eligible and a legally qualified voter. The jury system as it is understood in America appears to me to be as direct and as extreme a consequency of the sovereignty of the people as universal suffrage. There are two instruments of equal power, which contribute to the supremacy of the majority. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. The Tudor monarchs sent to prison jurors who refused to convict, and Napoleon caused them to be selected by his agents.
>
> However clear most of these truths may seem to be, they do not command universal assent; and in France, at least, trial by jury is still but imperfectly understood. If the question arises as to the proper qualification of jurors, it is confined to a discussion of the intelligence and knowledge of the citizens who may be returned, as if the jury was merely a judicial institution. This appears to me the least important part of the subject. The jury is preeminently a political institution; it should be regarded as one form of the sovereignty of the people: when that sovereignty is repudiated, it must be rejected, or it must be adapted to the laws by which that sovereignty is established. The jury is that portion of the Nation to which the execution of the laws is entrusted, as the legislature is that part of the Nation which makes the laws; and in order that society may be governed in a fixed and uniform manner, the list of citizens qualified to serve on juries must increase and diminish with the list of electors. This I hold to be the point of view most worthy of the attention of the legislator; all that remains is merely accessory.
>
> I am so entirely convinced that the jury is preeminently a political institution that I still consider it in this light when it is applied in civil causes. Laws are always unstable unless they are founded upon the customs of a nation: customs are the only durable and resisting power in a people. When the jury is reserved for criminal offenses, the people witness only its occasional action in particular cases; they become accustomed to do without it in the ordinary course of life, and it is considered as an instrument, but not as the only instrument, of obtaining justice.
>
> When, on the contrary, the jury acts also on civil causes, its application is constantly visible, it affects all the interests of the community; everyone cooperates in its work: it thus penetrates into all the usages of life, it fashions the human mind to its peculiar forms, and is gradually associated with the idea of justice itself.
>
> The institution of the jury, if confined to criminal causes, is always in danger; but when once it is introduced into civil proceedings it defies the aggressions of time and man. If it had been as easy to remove the jury from the customs as from the laws of England, it would have perished under the Tudors; and the civil jury did in reality at that period save the liberties of England. In whatever manner the jury be applied, it cannot fail to exercise a powerful influence upon the national character; but this influence is prodigiously increased when it is introduced into civil causes. The jury, and more especially the civil jury, serves to communicate the spirit of the judges to the minds of all the citizens; and this spirit, with the habits which attend it, is the soundest preparation for free institutions. It imbues all classes with a respect for the thing judged and with the notion of right. If these two elements be removed, the love of independence becomes a mere destructive passion. It teaches men to practice equity; every man learns to judge his neighbor as he would himself be judged. And this is especially true of the jury in civil causes; for while the number of persons who have reason to apprehend a criminal prosecution is small, everyone is liable to have a lawsuit. The jury teaches every man not to recoil before the responsibility of his own actions and impresses him with that manly confidence without which no political virtue can exist. It invests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge toward society and the part which they take in its government. By obliging men to turn their attention to other affairs than their own, it rubs off that private selfishness which is the rust of society.
>
> The jury contributes powerfully to form the judgment and to increase the natural intelligence of a people; and this, in my opinion, is its greatest advantage. It may be regarded as a gratuitous public school, ever open, in which every juror learns his rights, enters into daily communication with the most learned and enlightened members of

> the upper classes, and becomes practically acquainted with the laws, which are brought within the reach of his capacity by the efforts of the bar, the advice of the judge, and even the passions of the parties. I think that the practical intelligence and political good sense of the Americans are mainly attributable to the long use that they have made of the jury in civil causes.
>
> I do not know whether the jury is useful to those who have lawsuits, but I am certain it is highly beneficial to those who judge them; and I look upon it as one of the most efficacious means for the education of the people which society can employ.
>
> What I have said applies to all nations, but the remark I am about to make is peculiar to the Americans and to democratic communities. I have already observed that in democracies the members of the legal profession and the judicial magistrates constitute the only aristocratic body which can moderate the movements of the people. This aristocracy is invested with no physical power; it exercises its conservative influence upon the minds of men; and the most abundant source of its authority is the institution of the civil jury. In criminal causes, when society is contending against a single man, the jury is apt to look upon the judge as the passive instrument of social power and to mistrust his advice. Moreover, criminal causes turn entirely upon simple facts, which commonsense can readily appreciate; upon this ground the judge and the jury are equal. Such is not the case, however, in civil causes; then the judge appears as a disinterested arbiter between the conflicting passions of the parties. The jurors look up to him with confidence and listen to him with respect, for in this instance, his intellect entirely governs theirs. It is the judge who sums up the various arguments which have wearied their memory, and who guides them through the devious course of the proceedings; he points their attention to the exact question of fact that they are called upon to decide and tells them how to answer the question of law. His influence over them is almost unlimited.
>
> If I am called upon to explain why I am but little moved by the arguments derived from the ignorance of jurors in civil causes, I reply that in these proceedings, whenever the question to be solved is not a mere question of fact, the jury has only the semblance of a judicial body. The jury only sanctions the decision of the judge; they sanction this decision by the authority of society which they represent, and he by that of reason and of law.
>
> The jury, then, which seems to restrict the rights of the judiciary, does in reality consolidate its power; and in no country are the judges so powerful as where the people share their privileges. It is especially by means of the jury in civil causes that the American magistrates imbue even the lower classes of society with the spirit of their profession. Thus the jury, which is the most energetic means of making the people rule, is also the most efficacious means of teaching it how to rule well.

Mr. President, those who work with the law have gained from their experience a unique appreciation of the jury system. Such an appreciation was reflected in an address by Mr. David F. Maxwell, former president of the American Bar Association and a member of the Philadelphia Bar, to the Federation of Insurance Counsel in June, 1957. Mr. Maxwell stated:

> Any discussion of this broad subject must of necessity center around the right of trial by jury as the nub. Therefore, today I will confine my remarks to a discussion of the jury as an integral part of the American system of justice.
>
> Evolving from a dread of inquisition which in earlier times led men to endure the pain of pressing under great weights rather than submit to it, trial by jury emerged into a bulwark of religious liberty and a guard against the oppression of constructive treason.
>
> By this evolution, trial by jury became the means to vest finally the whole power of our Republic and of the several States, in the people—the butcher, the baker, the man with the hoe, and the man who runs the store or waits on the counter in that store.
>
> Blackstone explained this for us in his commentaries. You recall how he put it: "When an issue is joined by these words 'and this the said A prays may be inquired of by the country' or 'and of this he puts himself on the country'."
>
> The words "puts himself on the country" meant just what they said. They confirm this power in the people as individuals—a power not to be taken away by any device if freedom is to live.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. THURMOND. I yield under the same conditions as before, and I ask unanimous consent to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. When Blackstone referred to a defendant putting himself upon the country, he did not mean "putting himself upon the judge," did he?

Mr. THURMOND. The Senator's interpretation is correct. Blackstone, when he spoke about "putting himself upon the country," was referring to a man putting himself upon a jury of his peers, usually 12 in number. As I said a few moments ago, the figure 12 was derived from the 12 Apostles and other historical factors. Of course, he was referring to the jury system.

Mr. TALMADGE. The able Senator from South Carolina is rendering an outstanding service to the Senate and the country. They owe him a deep debt of gratitude for addressing himself to the origins of the jury system from medieval days up to the present time. He has discussed eloquently trials by torture, fire, boiling water, hot coals, the rack, and the wheel, and other medieval forms of superstition and tyranny.

It is inconceivable to me, in this modern age, that the Senate should even consider turning back to a system under which one man, appointed for life, selected by the Attorney General of the United States, and removable from office only by impeachment, would arrogate unto himself the right of jury trial, which is guaranteed to citizens by the Constitution of the United States in three separate places. I am utterly amazed that an amendment would be offered as a substitute for the amendment offered by the Senator from South Carolina and other Senators, which substitute would authorize a judge to jail a person in a criminal contempt case and to fine him $300 without a jury trial, when the Constitution of the United States authorizes a jury trial even in civil matters if the value of the property involved in the litigation is $20 or more.

If the property has a value of a secondhand wheelbarrow or a second-hand suit of clothes or an automobile tire, or has an almost nominal value, the litigants are entitled to a jury trial in a civil matter. Yet under the proposed amendment in a criminal case, in which, as the late President Kennedy said, a person would be held up as a common criminal before his neighbor and his country, a person would not be guaranteed the right of a trial by a jury of his peers.

I commend the Senator on the great speech he is making. In my judgment it will go down through the annals of time that the distinguished and able Senator stood on the floor of the Senate pleading for the greatest civil right in all human history, the right of a person to be tried by a jury of his peers.

Mr. THURMOND. I wish to express my gratitude to the able Senator from Georgia for his kind remarks. The distinguished Senator from Georgia has rendered his country a great service during the debate on the so-called civil rights bill, at various times, by pointing out the weaknesses of the bill and by pointing out the unconstitutionality of the bill, as well as by analyzing the bill in simple terms, so that the American people can understand it.

I commend him. He is a student of history and a student of government. What he has done in this debate has been of great service to our country. Again I wish to thank him.

I continue to read from the article in the Pennsylvania Bar Association Quarterly:

> Our ancestors recognized this when they protested violently against the "abuses and usurpations" by George III "depriving us in many cases of the benefits of trial by jury." So it was that they caused this precious right to be firmly imbedded in our Constitution where in article VI of the Bill of Rights trial by jury is guaranteed in criminal cases and in article VII provision is made for jury trial "in suits at common law where the value in controversy shall exceed $20."
>
> Now, in this age of brainwashing tyranny more than ever before we need to reevaluate this sublime function of trial by jury—to see it again in its true light as the ultimate protection afforded our citizenry against the invasion of their personal freedoms.
>
> Too many persons today are prone to view trial by jury solely as a factfinding device and hence expendable if as good or better method can be devised. They are influenced by the thoughts of Mr. Justice Holmes as expressed in "The Common Law." As he put it:
>
> "A judge who has long sat at nisi prius ought gradually to acquire a fund of experience which enables him to represent the commonsense of the community in ordinary instances far better than an average jury—furthermore, the sphere in which he is able to rule without taking their opinion at all should be growing."
>
> Such contention presupposes the ability of the trial judge to discard foibles and prejudices built up within himself through his personal experience and background. For instance in the field of personal injury litigation is it not true that a man who ascends the bench steeped in the practice of defending casualty company suits will look with a jaundiced eye upon plaintiff's claims or conversely that a lawyer donning judicial robes after having long specialized in the trial of plaintiffs' cases will naturally be sympathetically inclined to the injured party in such causes? It is these very human frailties which make statistics so misleading. We are told that when jury verdicts are compared with those of judges

there is little difference on the average, yet such studies show that there is less variation between one jury and another than between one judge and another. It hardly consoles an injured plaintiff receiving inadequate treatment from one judge to know that had his case been called before another judge, the award would have been much higher. It is in these areas that public citizens called from every walk of life can mete out more even justice than can the most competent and experienced judge. It was his long experience in the trial or review of thousands of cases that prompted Chief Justice Robert Von Moschzisker of the Pennslvania Supreme Court to say some years before his death: "in the ordinary case, the general finding of a jury is the most acceptable device so far conceived for the practical administration of law and justice."

Endorsement for such views may be found among authorities so diverse as the late Joseph H. Choate, of New York; or the Right Honorable Sir Travers Humphreys; or Viscount Simon, late Lord Chancellor of England; or former Associate Justice Samuel F. Miller, of the U.S. Supreme Court, to mention only a few.

Critics of the jury system blame it for the congestion in court dockets. Such eminent jurists as Hon. David Peck, presiding justice of the Appellate Division, First Department of the Supreme Court of New York, and the Honorable Campbell McLaurin, chief justice of Alberta Province, Canada, have been blasting away at the jury system. It is their view that the jury is responsible for the law's delays and eliminating it would expedite the trial of a case.

Yet the accomplishment of the late Chief Justice Arthur T. Vanderbilt, of New Jersey, and of Judge Irving R. Kaufman, of the U.S. District Court for the Southern District of New York, in clearing trial dockets in their respective jurisdictions without disturbing the institution of trial by jury would negate such a charge. Even Justice Peck in a recent newspaper release reported salutary progress in relieving the lists in the city of New York.

Nor should we be deceived by such causes celebre as the Dennis case in the U.S. District Court for the Southern District of New York. It is true that this was an exceedingly protracted and expensive case. A like case in the Soviet Republics, the trial of the arch terrorist L. P. Beria, Stalin's hatchetman, took only the span of a few days.

The length of the Dennis case tends to prove our thesis that the institution of trial by jury is the means of reserving power to the people rather than the contrary. It tends to uphold trial by jury as a factfinding device rather than to detract from it. It shows how seriously our people regard the administration of justice.

Furthermore as Judge Kaufman pointed out, long and complicated nonjury actions can likewise cause "a veritable log-jam" as our colleagues specializing in the trial of administrative law cases can no doubt confirm.

Nevertheless it has been the blind acceptance of the theory that the panacea for court congestion lies in the elimination of the jury system which has led to the extension of arbitration as the most expeditious means of settling disputes. It has recently been reported that more than 30 trade associations have adopted arbitration and business of the American Arbitration Association is booming. In Pennsylvania, the legislature in 1952 adopted what is commonly known as the Compulsory Arbitration Act applying to all counties outside of Philadelphia. This act provides in brief that a court of common pleas may by rules of court decree that all civil cases with some minor exceptions, where the amount in controversy is $1,000 or less shall first be submitted to and heard by a board of three arbitrators who are members of the bar of the court. **As this goes to press,** I received word that Governor Leader had signed a supplementary bill passed by the current Legislature of Pennsylvania, extending the privilege to the Municipal Court of Philadelphia County.

In Soviet Russia, arbitration is not new. To resolve disputes between the various state corporations which operate the Soviet economy, there is Gozarbitrazh or State System of Arbitration. In this compulsory medium of arbitration a jury of sorts is used, consisting of two lay members of the people's court. At regular intervals the Soviets conduct an election to choose these so-called jurors or lay judges. Seventy persons designated by the Communist Party are listed on the ballot. They are the only candidates and are usually elected by at least 99 percent majority. "Usually"?—I should have said "always." Thus elected, these representatives of the people constitute the panel. Two by two in rotation the members of this panel serve for about 10 days in court. Russians do not complain about this system. They had better not at the risk of suffering the same fate as 20 million of their fellows who from time to time have been displaced and uprooted by a decision of the arbitrators.

Considering the Soviet system, there is grim irony in what Hon. David N. Edelstein, U.S. District Court for the Southern District of New York, observes musingly: "Litigation and indeed the legal profession would be of no consequence in the lives of men if there existed some mechanical or scientific method of determining objectively what in fact had occurred upon the occasion giving rise to the dispute between human beings."

I submit that the Soviets have anticipated the judge somewhat by their foolproof, super deluxe blue ribbon jury system. The Soviet plan may not be scientific but it certainly is mechanical.

The Soviets claim to have established a people's republic. They claim that the power in Russia belongs to the people. Their constitution says so too. But what good is power if you can't use it? There is, I think, a direct relation between the fact of 20 million persons being relegated to forced labor and the absence of an appeal to the country or a trial by jury as we know it.

What is the difference between the Communist controlled arbitration method of settling disputes and our own jury system? When Alfred First united England under one rule, the first section of his code of laws provided that the King should be obedient to suffer right as well as his other people should be. King Alfred put himself under the law. In the Soviet Union the state is the law. There is no power over the state reserved to the people by such an institution as trial by jury. That is why a minority of fewer men than you can count on the fingers of one hand—the executive committee of the Presidium of the U.S.S.R., can rule absolutely over 200 million people.

So let us in this country take warning. The question of the jury's efficiency as a factfinding body is secondary. The facts in a given lawsuit can be found in any number of ways. But the jury alone is able to function as the thin wedge of reserved power that separates our system of law from the monolithic, totalitarian despotisms behind the Iron and Bamboo Curtains.

The jury as the "appeal to the country" of which Blackstone spoke, is the touchstone of American liberty and it is the institution of trial by jury which, for that reason is, as Blackstone said "the glory of our law."

Speaking more directly to the lawyers here today, do not the facts I have put before you convince you beyond all doubt or skepticism of the folly of encouraging dubious experiments looking to changes or substitutions for our system of trial by jury? Should you not, instead, resolve with all the firmness at your command to do nothing that might further jeopardize this institution. Should you not do all in your power to make trial by jury the respected, practical and useful institution which it has been in the past, and which it can be again, everywhere in America, if you put your effort into it?

I think also that we ought to make clear to the people of America the facts of life about justice. We ought to make clear to them the value of dignity and decorum in the courtroom—especially in the courtrooms most of them sooner or later encounter—that is, the traffic courts, the police courts, the magistrates' courts. We ought to make clear to them the importance of observing the sanctity of an oath, and of observing the commandment, "Thou shalt not bear false witness." We ought to let them know the invaluable service they render when they serve on a jury in any of our courts, and how important it is to observe impartiality and to do justice when called upon. We should explain that the delays that occasionally make them restless as lawyers consult at side bar are for their good, and the good of the litigants, and not just to waste time, and we should see to it that such consultations do not waste time. We ought by example and precept demonstrate that trials are held not to display tricks of forensic or legalistic skill, but in order that right and justice shall be done. We ought to lean over backward in the observance of the ethics of our profession, so that at no time will we by our conduct or actions cast discredit on the administration of justice.

And everything I have had said so far applies with equal force to both bench and bar. Two things we should do above all—first, let us make the people realize that the law does not furnish balm for every wound. The hazards of life cannot always and forever be shifted onto others, insurance companies, banks, hospitals, or other public institutions or private citizens. For every wrong, the law tries to provide a remedy, but every wound is not necessarily a wrong. You don't just apply to the court to make Jones or Smith pay for your mistakes. If they are your mistakes, you have to bear the consequences yourself, as well as you can, because the law protects Jones and Smith as much as it protects you, and some day you may be in their shoes, with respect to someone else. Second, let us unceasingly explain to the people the true nature of this priceless heritage that is trial by jury. Surely at times it is long-drawn out, inconvenient, tedious. Surely it requires sacrifices of the litigants, the witnesses, the members of the jury. Surely, at times it is painful and even calamitous and always its outcome is uncertain. This is the price we pay for a mighty right. This is our tax which is the toll for the power that the institution of trial by jury has reserved to "We, the people." It is, in the old Saxon phrase, the "wir for our folkright."

In a sense, it was to safeguard trial by jury that American soldiers during this century gave up their lives, shed their blood, and endured indescribable hardships in farflung regions of the world. It is trial by jury that secures the blessings of liberty to ourselves and our posterity. It is trial by jury that is the chief target of the foreign enemies who would destroy us, and whose encroachments and alarms now have us so near the precipice of total atomic warfare.

Trial by jury preserves us from concentration camps, preserves our free elections, gives meaning to our habeas corpus, our freedom of speech, our right to travel unmolested, and to be secure in our persons and effects against unreasonable search and seizure.

The current wave of encroachments on it is subtle and insidious. In the mother country of our law, England, those encroachments progressed so silently and pervasively that even the question whether jury trial should be abolished in criminal trials was debated in

> the House of Commons. Fortunately, jury trial was preserved there, though in diminished stature, and severely restricted in civil cases.
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> I do not think that those who, in the United Kingdom, favor abolition of trial by jury, have anything to teach us. I think that, instead, if we follow their beckoning, we will wind up and down the mill trail that leads only to some unhappy form of total state control. Let us cherish this institution of liberty, trial by jury, as we would our mothers, and never let it be taken from us.

Mr. President, it is refreshing to realize that there are those who hold the jury system in the proper respect and understand its lofty roll in a free society. Unfortunately, however, this realistic appreciation of the value of the jury trial does not everywhere prevail, for the very bill we are now debating in this body illustrates how easily the jury system can fall prey to powerful forces of expediency.

Mr. COOPER. Mr. President, at this point will the Senator from South Carolina yield?

The PRESIDING OFFICER (Mr. WALTERS in the chair). Does the Senator from South Carolina yield to the Senator from Kentucky?

Mr. THURMOND. I am pleased to yield to the able and distinguished Senator from Kentucky, Mr. President, with the understanding that I shall not thereby lose the floor, and with the further understanding that my subsequent remarks will not be held to constitute a second speech by me. I ask unanimous consent that I may yield with those understandings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Very well; I yield.

Mr. COOPER. I thank the Senator from South Carolina for yielding.

Let me say that I have enjoyed, and have been very much impressed by, the scholarly speech which the Senator from South Carolina has been making on the development of the system of trial by jury.

Mr. THURMOND. I thank the Senator from Kentucky.

Mr. COOPER. I appreciate the sincerity of the Senator from South Carolina's argument that the privilege of trial by jury—and in that connection, I emphasize the word "privilege," as distinguished from "constitutional right"—should be accorded to individuals who are charged by a court with having denied the constitutional rights of other citizens.

The Senator and his colleague make a strong case for according to individuals the privilege of a trial by jury even when such individuals are in contempt of the orders of a court in a civil action as would be the case under this bill.

I would like to see the same emphasis placed upon securing the constitutional rights of our fellow citizens, denied by those who are in contempt of court. As examples, I refer to the right to vote, the right to use public facilities, and the right to attend desegregated schools. We are trying to secure these rights, under law.

I have spoken before on the subject of providing jury trials in contempt proceedings in exchanges with other Senators. I do not wish to take up too much time on the subject today, but in order that the issue may be clear in the RECORD, I would like to point out again that, while there is without question, a constitutional right of trial by jury in criminal cases, and also under the seventh amendment, for suits at common law, which are civil cases where the amount involved is more than $20, I believe it is unquestioned that in the type of proceedings which might be initiated under the bill, there is no constitutional right of trial by jury. I do not mean that Congress could not provide trial by jury in cases arising under this bill. I emphasize only that there is no constitutional right to jury trial in such cases.

This has been true during our history as a republic. The United States Code provides that in the type of proceeding which would arise under the bill—proceedings in the nature of a case in equity—the court can enforce its orders and, if necessary, punish those who violate the orders of the court.

Mr. THURMOND. In reply to the distinguished Senator from Kentucky, I do not think there is any question that in criminal contempt there is a right of trial by jury. Article III, section 2, paragraph 3 of the U.S. Constitution provides the answer. The paragraph states:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

The sixth amendment to the Constitution provides, in part—

> In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial, by an impartial jury.

It seems to me that those provisions of the Constitution provide the answer for the punishment of any crime, regardless of what crime it may be—whether murder, assault, larceny, criminal contempt, or any other crime. If an act is a crime, under article III, section 2, paragraph 3 of the Constitution and the sixth amendment to the Constitution, and accused person is entitled to a trial by jury. The Constitution does not state that he "may" be entitled to a trial by jury. The Constitution states that he "shall" be entitled to a trial by jury.

I share the deep concern of the Senator from Kentucky about preserving the constitutional rights of people. The able Senator from Kentucky has been a judge. He was a member of the highest trial court in the State of Kentucky. He has tried many cases. Any man who has ever worn a robe on the bench feels a deep, sincere concern for the constitutional rights of the people; even if he has not worn the judicial robe, as an American citizen he should feel such a deep desire and concern.

The Senator from Kentucky has spoken of voting rights. He has referred to title I of the bill. There are now on the statute books nine Federal laws which could be used to punish people who interfere with others who desire to vote. There are six civil laws on the statute books which are designed to protect the right to vote. Those laws are in addition to State laws. Every State in the Nation has laws on the subject. So there is no question that there is now ample law on the statute books to protect the right to vote. There is ample Federal law and State law to protect the right to vote.

If the proposed so-called civil rights bill should pass and a man should be denied the right to vote, he would have to go into court to seek his remedy. That is no more and no less than he would have to do at the present time. He could go into court now and seek his remedy. No further remedies are needed. The law is on the statute books. If the zeal of the Attorney General to see people vote is so great, all he need do is enforce present law. Those who wish to see others vote who are not voting could pursue other courses to interest them in registering.

Those engaged in the recent voter registration campaign in the District of Columbia had a difficult time attempting to persuade people to register. Until the last few days only a handful of people registered. Finally those in the campaign went from house to house, almost, and exerted every effort possible to encourage people to vote, and they increased the size of the vote list.

I know of no rights in relation to voting which would be improved by the passage of the bill. There are now on the statute books all the laws that are needed if there is a desire on the part of the States or the Federal Government to enforce them, or if an individual cares to proceed to enforce his own rights. As I have stated, if a man claims he has been denied the right to vote, he would still have to go into court if the bill should pass. That is exactly the procedure he would have to pursue if the bill does not pass. I see nothing to be gained by the bill. I see something to be lost by citizens if the bill passes. Under the Constitution of the United States the subject of the qualification of voters is covered in article I, section 2.

Article I, section 2, of the Constitution, in part provides:

> The electors—

That means the voters, of course—

> in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

In other words, the Federal Government has adopted as qualifications for voting in Federal elections the same qualifications the States have established for State elections.

The bill before the Senate would change that, and where there was a literacy test—such as the State of New York had several years ago—such a State literacy test would be stricken and a sixth grade education would be substituted in lieu thereof.

The Senator from Kentucky is an able lawyer. He was a distinguished jurist. He knows full well that Congress cannot enact a law that would have the effect of amending the Constitution of the United States. If the Senate should pass the bill before it, containing title I, the effect would be not only to strike down the qualifications the States have fixed for voting in State elections, but the qualifications which the States have adopted and which have been adopted as the qualifications for voting in Federal elections. The bill would have the effect of striking all that down and substituting in lieu thereof another criterion for voting. Congress cannot do it.

If that is a wise proposal, perhaps the people of the country and Congress might decide to have such a uniform provision adopted through one of the procedures outlined in the Constitution for amending the Constitution. Personally, I would rather leave it to the State of Kentucky, the State of South Carolina, the State of North Carolina, and the other States, to fix voting qualifications. For example, the State of Georgia allows 18-year-olds to vote. In my State 18-year-olds cannot vote. In only a couple of States are 18-year-olds allowed to vote. That is a matter for the people of Georgia and the other States to determine. I do not believe that the people of the Nation as a whole should fix the age at which the people in each State may vote. That is a matter for each State to decide for itself.

Likewise, the people of each State should determine the qualifications otherwise for voting. With respect to the literacy requirement, if the bill is passed it will have the effect of striking down; for example, the law of Kentucky, which fixes the qualifications for voting, and substituting in lieu thereof other qualifications for voting. I do not think it can be done under the Constitution. I do not think it would be right to do it. I do not think it would be wise to do it by even a proper procedure. But even if I thought it would be the wise thing to do, I do not think it could be done by a statute enacted by Congress.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I ask unanimous consent to yield to the Senator from North Carolina on the same conditions under which I yielded to the Senator from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Has not the Senator from South Carolina heard the argument advanced by the able and distinguished Senator from Kentucky and other Senators, that Congress ought not to give a right of jury trial in criminal contempt cases at this time because under the law as it has existed since 1789 there has not been a law authorizing trial by jury in all criminal contempt cases?

Has the Senator from South Carolina not heard that argument advanced by those who oppose the pending jury trial amendment?

Mr. THURMOND. The Senator from South Carolina has heard that argument advanced.

Mr. ERVIN. I ask the Senator from South Carolina if he agrees with the Senator from North Carolina that, if that argument has any validity whatever, it ought to impel those who advance it to vote against the bill, because there is no such law as drastic as the bill before the Senate now.

Mr. THURMOND. I agree with the able Senator from North Carolina.

Mr. COOPER. Mr. President, will the Senator yield under the same conditions he yielded a few moments ago?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the able Senator from Kentucky on the same conditions under which I yielded to him a few moments ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, I have great respect for the Senator from North Carolina, but I do not believe he heard the comments I addressed to the Senator from South Carolina. The Senator should not attribute to me, if I may say so, a particular meaning of my statement, which was not intended.

I did not say, and have not said, that merely because a rule has been in effect since the beginning of this Republic—holding that there is no constitutional right to trial by jury in contempt cases arising in an equity proceeding—that Congress would not have the authority to change the rule. Congress can provide for trial by jury.

I have raised this question on the floor on several occasions because the implication of many speeches has been that there is a constitutional right of trial by jury in this type of contempt proceeding.

I know my friend from North Carolina, able lawyer that he is, would not make that statement. I believe he will agree with me that there is no such constitutional right.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina on the same conditions under which I yielded to him a few moments ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I should like to propound a question to the Senator from South Carolina. Will the Senator from South Carolina accept my assurance that I did not intend to say that the able and distinguished Senator from Kentucky was in error in saying that there had been no constitutional right of trial by jury in contempt cases since 1789?

Will the Senator from South Carolina accept my assurance that I did not intend to make any statement to that effect about the able and distinguished Senator from Kentucky, who is an extremely able lawyer?

Mr. THURMOND. I am pleased to accept the statement of the Senator from North Carolina.

Mr. ERVIN. Will the Senator from South Carolina accept my assurance that what I intended to infer was that the able and distinguished Senator from Kentucky was insinuating that, since there has been no constitutional right to a trial by jury in criminal contempt cases since 1789, Congress should not at this date enact a law giving a person in a criminal contempt case the right of trial by jury?

Will the Senator from South Carolina accept my assurance that that is what I intended to infer in my previous question?

Mr. THURMOND. I accept the statement that what the Senator said then is what he has just said.

Mr. ERVIN. I ask the Senator from South Carolina if he did not interpret the assertion implicit in my previous question in this way: That if it is a valid argument to say in the year of our Lord 1964, we should not pass a law to abolish the legal inequity against persons charged with criminal contempt, we should not pass a foolish law like the pending bill because we have not had a foolish law like it since 1789?

Mr. THURMOND. I think I understand that statement.

Mr. ERVIN. I will ask the Senator some questions in reference to the questions asked by the Senator from Vermont [Mr. AIKEN] on the floor yesterday.

Does the Senator from South Caroline agree with the Senator from North Carolina that, according to Blackstone's Commentaries upon the laws of England, it was once customary in England to punish entire communities when a person suffered a wrong in a community?

Does the Senator from South Carolina agree with the Senator from North Carolina that Blackstone's Commentaries inform us of that truth?

Mr. THURMOND. The Senator is eminently correct. I quoted certain passages from Blackstone in my address, along other lines, before the Senator from North Carolina entered the Chamber.

Mr. ERVIN. Does the Senator from South Carolina agree with Sir William Blackstone and with the Senator from North Carolina that the law which punished the innocent for the sins of the guilty was abolished by the common law of England as soon as the first faint streaks of the dawn of civilization appeared over England?

Mr. THURMOND. I agree with the Senator from North Carolina as to what Blackstone said and what the Senator from North Carolina has said.

Mr. ERVIN. I ask the Senator from South Carolina whether he agrees with the Senator from North Carolina that title VI of the bill—that is the title relating to cutting off Federal aid—would resurrect and put into application in the United States, in the year of our Lord 1964, the rule which visited the sins of the guilty upon the innocent, which rule was abolished when the first faint streaks of the dawn of civilization appeared over humanity?

Mr. THURMOND. I agree with the Senator's statement. Title VI of the bill would cut off funds for an entire program, not merely for one individual, but for any number of individuals who might be involved in a program in connection with which it is alleged by some Federal bureaucrat that discrimination exists. The discrimination would be determined by a bureaucrat. The bill does not define "discrimination." One bureaucrat may define it in one way, another bureaucrat may define it in another way. I think it is one of the most dangerous and unfair sections in the bill.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ERVIN. I would prefer, if I may, to propound some more interrogatories.

Mr. BAYH. May I ask the Senator a question?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Indiana on the same conditions under which I yielded to the Senator from North Carolina.

Mr. BAYH. I thank the Senator. If the Senator from South Carolina or the Senator from North Carolina would prefer that I wait until the colloquy is over, I shall be happy to do so. Since the Senator from North Carolina had touched upon a specific point which had not been discussed previously, I thought perhaps it would contribute to the continuity of the record if I were to pose my question on this particular point at this time. However, if the Senator prefers, I shall be glad to wait.

Mr. THURMOND. The Senator may proceed.

Mr. BAYH. On the matter of visiting the sins of the guilty on the innocent, the title to which the Senator refers is directed at discrimination which is condoned by the elected State officials involved.

They are elected by the majority of the people of the State. Whom does one hold responsible for State practices, if not the elected officials? The people of the State elect them.

The section deals specifically and solely with practices in which discrimination is involved. It would not carte blanche remove all Federal funds.

Mr. ERVIN. Since the Senator from Indiana is looking at me as he propounds his interrogatory——

Mr. BAYH. I am merely asking a question in response to the statement.

Mr. ERVIN. I ask unanimous consent that the Senator from South Carolina be permitted to allow the Senator from North Carolina to reply to the interrogatory, without the Senator from South Carolina losing any of his rights to the floor, and without the Senator from South Carolina having any remarks which he may subsequently make on this date constitute another speech on the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I say to the able and distinguished junior Senator from Indiana that I do not agree with his interpretation of title VI. The application of title VI is not restricted to the action of State or local officials. It applies to any person, any firm, or any corporation which may be participating in or carrying out in any way any program or activity which is receiving Federal financial assistance.

For example, this title applies to private hospitals which receive funds under the Hill-Burton Act, or which receive money for medical grants under any of the various programs which the Department of Health, Education, and Welfare is administering. Under this provision, if a hospital were receiving grants under the Hill-Burton Act, it could enlarge its facilities so that it could extend its services to other patients. Perhaps some official of the hospital may segregate patients of one race in one ward and patients of another race in another ward.

Under the existing conditions, the Federal Government could cut off all grants that it had contracted to give to that hospital, and deprive the people of that community of enlarged facilities for the services of the sick and injured in that community.

Furthermore, many other activities are covered by the bill. If, in the administration of the loan program of the Farmers Home Administration, some Federal official, who has no connection with the State, practices discrimination in passing upon or approving loans to farmers so that they might improve their barns, their cribs, and their dwelling houses, the Federal Government could cut off all the activities in the area. It would have such authority under this section. At least, the Department of Agriculture could adopt regulations which would authorize it to cut off all of the aid to farmers through the agency of the Farm Home Administration in that area.

In the administration of disaster relief in times of disaster, if it were to be held that discrimination existed, aid could be cut off in the disaster area to all persons hurt by a natural disaster, under regulations authorized by this provision. If it were found that the State received Federal aid for its schools, and the State had failed to desegregate every school district within its jurisdiction, the Federal Government would be authorized to adopt regulations under title VI to cut off the school lunch program to all children in the entire area of the State.

This proposal covers the whole face of the earth. It would authorize the adoption of any kind of regulation by the agency administering the program which it thought would be proper under section 601.

Mr. THURMOND. I heartily agree with the interpretation of the distinguished Senator from North Carolina on that question. I believe that a thorough study of the bill and a proper analysis of it would cause anyone to reach the same conclusion.

Mr. BAYH. Mr. President, will the Senator yield further?

Mr. THURMOND. I yield to the distinguished Senator from Indiana again on the same conditions under which I yielded to him previously.

Mr. BAYH. I thank the Senator from South Carolina. I appreciate the response from the Senator from North Carolina to my question.

It is difficult for me to compete on the floor in debate with such a learned constitutional scholar and student of this bill. I do not think there is a great deal to be gained from further argument. Despite the eloquence of the Senator, I am certain the Senator from South Carolina is not going to persuade the Senator from Indiana that it would be wise, right, and just for all the taxpayers of a given State, or of the entire country, to give their tax funds, and then have the tax funds distributed in such a way that only a few people could receive the benefit. Whether it be in connection with farm loans, or the enlargement of hospitals, or whether it be to provide for disaster relief the record may show that those of a given color are receiving more equitable treatment than those of another color. Yet there is no discrimination when the tax funds are collected. If discrimination exists in the distribution of benefits, it seems to me there is proper justification for the section under discussion.

Perhaps I am being naive, but it is difficult for me to believe that the Federal Government would close down a whole school lunch program in a State because a few schools were discriminating.

Mr. THURMOND. Then why give the Federal Government such power?

Mr. BAYH. The power authorized in the bill would not be confined to a few schools. The bill is designed to fit a general statewide policy involving the existence of discrimination.

Mr. THURMOND. Oh, yes; it is a general statewide policy. Why not punish the individual who has done wrong? Why punish everyone connected with the school lunch program, for example, or why punish everyone connected with the social security program or the welfare program, the old-age assistance program, the aid to the blind program, or the program for dependent children? Why punish everyone indiscriminately? Why not punish the individual who is responsible, or who has done the wrong?

The Senator says that the Federal Government would not do it. Perhaps it would not do it. However, if it had such power, it could hold a hammer over the heads of people. It may not do it today, but who knows whether someday it might do it? Why give it that power? Why not punish the individual who did the wrong, the individual who acted without propriety?

There are any number of laws on the books now to take care of such situations. I presume the Senator refers to people who hold public office of honor and trust. The States can punish the guilty people who use their office in an improper way. They can be punished for any offenses they commit. If they are guilty of misfeasance or malfeasance in office, they can be punished for it. Why give such power to the Federal Government? Why give the Federal Government the kind of power that is proposed to be given in title VI?

Mr. BAYH. I am sure the Senator from South Carolina may think that this is a change of pace for the Senator from Indiana, but I believe, wherever possible and wherever individual rights are not involved, that States rights should be protected. I believe it would be much more palatable to those of us who believe in States rights if the States were allowed to correct errors in the communities in which they occur. The Federal Government should not have the power to hold a hammer over the heads of the communities. Instead, let the State officials have the responsibility for correcting the evil.

Mr. THURMOND. The Senator is now talking good sense.

Mr. BAYH. But——

Mr. THURMOND. The Senator is in favor of letting the States correct these situations and keeping the Federal Government out. I am delighted to hear the

Senator say that. I commend the distinguished Senator from Indiana for making that statement. That is exactly right. Why plunge the Federal Government into this field and give it vast powers to do these things, when the State can exercise the power much better? I am sure the Senator from Indiana would be willing to trust the officials of his State to handle that power in his State. If he is willing to trust the officials of Indiana to handle that power in his State, I presume that he would extend the same courtesy to the officials of South Carolina, the officials of Kentucky, and the officials of North Carolina to handle that power in their respective States. I am sure he would not impugn the motives of any of his officials, any more than he would impugn the motives of our officials.

Mr. BAYH. I appreciate the statement of the Senator from South Carolina. I should like to answer his question, "Why not let the States do it?" I should like to answer that question briefly. I am sure we shall not agree, but I believe the RECORD shows that with respect to the number of hospital beds available, the number of loans made to farmers, the number of classrooms available in schools, and with respect to the whole gamut of such availability, the State officials in certain areas of this country have not been enforcing the law in such cases. If State officials would enforce the law, there would be no need for the Federal Government to become involved.

Mr. THURMOND. Now the Senator is changing his tune.

Mr. BAYH. No; I am not.

Mr. THURMOND. Now he wants to bring the Federal Government back into the picture. I was very proud when he said we should let the States handle these matters. But now, since he wants to inject the Federal Government into it again, I challenge him to prove the statements he has made. I challenge him to cite an instance in South Carolina where such conditions exist.

Mr. BAYH. First, I should like to set the RECORD straight as to what I said a moment ago, before I received the high compliment from the Senator from South Carolina, which I hope he will not retract.

I said that in my estimation it would be much better to let the State agency which controls the distribution of Federal funds straighten up its own house first. I do not have with me the record showing where discriminatory practices are involved, but I shall be happy to submit the facts for the RECORD.

When such discrimination does exist, it seems to me that we have no alternative to asking the Federal Government to protect the tax money, which comes from all the citizens of the United States.

Mr. THURMOND. I do not know of any case in which discrimination exists. Perhaps there is some discrimination somewhere. There probably is some somewhere. So long as man breathes the breath of life there will be discrimination. Discrimination exists in every country of the world. It exists in Russia, where their officials jump on the United States because of segregation. Russia segregates her people. She separates the white race from the other races. That is done regardless of what the Soviet Government says. I was reading about it only a few days ago. I believe I put the statistics in the RECORD.

There probably is some segregation, but segregation does not necessarily mean discrimination. I would not say that there is no discrimination anywhere in the United States. There probably is some discrimination.

I invite the attention of the distinguished Senator from Indiana to the demonstrations which took place in New York City a few days ago, at the World's Fair, when policemen beat men over the head with their billies. Was that depriving anyone of his rights?

Mr. BAYH. I would be glad to discuss this subject at length with the Senator, if I thought it would add anything to the discussion of the bill.

Excesses of the kind the Senator has referred to do not help the cause of equal opportunity for all our citizens. They have happened not only in New York, but in other places also. Demonstrations accomplish their purpose when they are carried out properly and correctly; if they are not carried out properly, they do not accomplish their purpose.

When the law-enforcement officers in New York were trying to maintain law and order, I am sure they were not taking a great deal of pleasure in beating anyone over the head, but were merely trying to restore law and order.

Let me nail this point down. Does the Senator believe, when Federal tax funds are distributed in such a way that better treatment is given in hospitals to patients of one color than to patients of another, that that is discrimination? Does he feel that such discrimination should exist?

Mr. THURMOND. I think all people should have equal treatment, regardless of color.

Mr. BAYH. Does the Senator believe that the same pattern should be applied to voting, so that no citizen will be prohibited from voting if he is qualified to the same extent that a white person is qualified?

Mr. THURMOND. I believe every qualified person should be permitted to vote. I challenge the Senator to show any discrimination in South Carolina with respect to the privilege of voting. If the Senator has some information in this regard I would like to have him present it.

Mr. BAYH. I appreciate the Senator's courtesy in permitting me to enter this colloquy. If that condition does not exist in South Carolina, the Senator from South Carolina does not have anything to worry about in connection with title VI.

Mr. THURMOND. That is not the question at all. When I was Governor of South Carolina I led a movement to remove the poll tax as a prerequisite to voting. The poll tax as a prerequisite to voting was removed.

We did it 15 years before the Federal Government acted. When I came to Washington, and the same question was to be voted on as a constitutional amendment, I voted against it. It did not affect South Carolina, and it could not have, because we had already repealed our own poll tax law. But I voted against the constitutional amendment because I did not see any use in shifting that power from the States to the Federal Government. In my judgment, the more powers that can be kept at the State level and the more rights that can be kept for the individual citizens, the better off the people of the country will be.

The so-called civil rights bill is a power-shifting bill. It is not a true civil rights bill. It is a power-grab bill. It takes rights away from the States. It takes away from the State level the constitutional rights belonging to the States and brings them to Washington.

Under title I, the Federal Government would set the qualifications for a person voting in a State or in a Federal election. The bill would establish a sixth-grade education as being sufficient evidence of literacy when States have prescribed a different literacy requirement before a person can vote. The bill takes away from the people at the State level—such as the legislatures of Indiana and South Carolina—the right to fix qualifications for voting. The bill would take such power away from the States and let Congress fix the qualifications, in violation of the Constitution of the United States.

In the matter of public accommodations, the bill would take away from individual citizens the right to sell to and serve whomever they please, and would bring to Washington the power to say whom they shall serve and to whom they shall sell. In that respect, also, the bill violates the Constitution.

In 1875, a Federal statute was passed almost identical with title II. In 1883, the Supreme Court held the statute unconstitutional. In spite of that decision, title II is in the bill. It is claimed that what is proposed under title II can be done upon the theory of interstate commerce. It cannot be done on that theory, either, because the Supreme Court has rejected that contention, too. It made this remark in that decision:

> Of course, no one will contend that the power to pass it—

That was the Civil Rights Act of 1875—

> was contained in the Constitution before the adoption of the last three amendments.

I revert to the situation in New York, because I want my views to be clarified. I asked the distinguished Senator from Indiana [Mr. BAYH] if he felt that the civil rights of those demonstrators were injured or destroyed on that occasion. I have not charged that they were. I am sure the officers used no more force than was required. So far as I am concerned, I am willing to leave it to the officers of the city of New York to handle their own problems. They know better how to handle them than does the Senator from Indiana or the Senator from South Carolina. I do not believe we should be legislating to tell the people of New York how to handle their problems. They know how to handle them better than we do.

But here is a contrast or a parallel: In South Carolina, people were parading around the State capitol, and because they were disturbing the peace, the law-enforcement officers in Columbia had to arrest a few of them. They were violating the law, and they were placed in jail. Subsequently, they were duly convicted. They appealed their cases to the Supreme Court of the United States, and the Supreme Court turned them loose.

So long as it is in the South, and demonstrators are committing a violation of the law, it is a civil rights demonstration. In New York, the same pattern of activity is a civil wrongs demonstration. It cannot be done in the North. It is wrong. But in the South, they are parading for civil rights. It is civil rights in the South. The same standard ought to apply to people throughout the country.

The police at the New York World's Fair a few days ago were a hundred times more violent. They hit the demonstrators over the head with billies. I do not criticize the police for doing that; perhaps they had to do so. But they used a hundred times more force than did the law-enforcement officers at the State capitol in Columbia, S.C., when the demonstrators there violated the law in virtually the same way.

I have sought to make my position clear on that subject, because I wanted the able Senator from Indiana to understand that I am not criticizing the law-enforcement officers of New York. I am sure they did no more than they had to do, in order to preserve law and order. The law-enforcement officers in Indiana, South Carolina, and other States, may have to use force at times to maintain law and order. Law and order must be maintained. What distinguishes a civilized society from an uncivilized society is whether law and order are maintained.

That is the first essential. When a victorious army enters a country, the very first essential action is to establish a military government of law and order. There must be law and order. I wanted to make that plain.

Mr. President, I now yield to the able and distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senator from South Carolina may be permitted to yield to me, so that I may reply to a statement of the Senator from Indiana [Mr. BAYH] about title VI, without the Senator from South Carolina losing any right he may have to the floor, and with the understanding that any subsequent remarks he may wish to make will not be counted as another speech on the pending matter.

Mr. JAVITS. Mr. President, reserving the right to object, may we have some idea as to how long the intercession by the Senator from North Carolina will be? I have no desire to object, but I think we have normally taken that precaution.

Mr. ERVIN. I cannot answer that question.

Mr. THURMOND. Mr. President, on the conditions set forth by the Senator from North Carolina, I ask unanimous consent that I may yield to him for a question that he wishes to propound.

Mr. JAVITS. Mr. President, reserving the right to object, I repeat my question: Can the Senator from North Carolina give us some concept of the time he will take?

Mr. THURMOND. Mr. President, I have yielded to the Senator from North Carolina to ask a question or to express an opinion. I have the floor, Mr. President.

Mr. JAVITS. I object.

Mr. THURMOND. If the Senator from New York wishes to object, that is his privilege.

Mr. ERVIN. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I am pleased to yield to the Senator from North Carolina for a question, on the condition that I will not lose the floor and that the resumption of my speech will not be considered as another appearance.

The PRESIDING OFFICER (Mr. WALTERS in the chair). The Senator from South Carolina has a right to yield for a question.

Mr. ERVIN. Has not the Senator from South Carolina yielded at some length to the able and distinguished junior Senator from Indiana, to enable the able and distinguished junior Senator from Indiana to contest, in a friendly and verbal fashion, remarks made by the Senator from North Carolina on the floor of the Senate?

Mr. THURMOND. I yielded for that purpose. I yielded to the distinguished Senator from Indiana, who is my friend, and I shall be glad to yield to him again.

In a previous debate on the floor of the Senate, I yielded to the distinguished Senator from New York [Mr. JAVITS] for as long as he wanted me to yield to him. I am amazed that he has raised such an objection now.

I also yielded to the distinguished Senator from Minnesota [Mr. HUMPHREY]. The Senator from Minnesota and I debated for at least an hour, and the Senator from Minnesota can certainly talk faster than I can. I am sure he used several times more words than I did, because the Senator from Minnesota was not asking questions only of the Senator from South Carolina, but was also asking questions of the Senator from New York. The Senator from New York and the Senator from Minnesota—as the RECORD will show—did not limit themselves to questions only, but expressed their opinions, as well. I did not raise any point about that. They made forceful statements. I raised no point.

But if this is the way the Senator from New York wants to play the game, that is up to him.

Mr. JAVITS. Mr. President, will the Senator yield, since he has mentioned my name in this connection?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the Senator from New York on condition that I will not lose the floor and that when I resume my speech it will not constitute a second appearance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. This is nothing but a misunderstanding of fact. The Senator from South Carolina did not allow me to explain my point, because he cut me off on the reservation of my right to object.

I could not agree more with the Senator from South Carolina. It is refreshing and proper that we have debate, give and take, questions, and statements. Lately we have begun to take some precaution with respect to intercessions. I know that the Senator from North Carolina will not abuse the privilege for a moment. That is all I wished to have an opportunity to state. I hoped the intercession would not constitute another long speech. We have previously taken that precaution by asking Senators, as a matter of courtesy, if they expected to speak at any length. Senators have generally replied in the negative; that they would speak briefly; and that was the end of that.

With that explanation, I need no assurances, because I know what will happen. If the Senator from North Carolina will renew his unanimous-consent request of the Senator from South Carolina, I shall make no objection.

So if the Senator from South Carolina will renew his unanimous-consent request for the Senator from North Carolina, I shall make no objection.

Mr. ERVIN. Mr. President, before that is done, I wish to propound a question to the Senator from South Carolina.

Mr. THURMOND. Mr. President, when I finish yielding to the Senator from North Carolina, I shall be pleased to yield to the Senator from New York, if he wishes me to do so, or to any other Senator.

I have been pleased to yield to Senators. I did not know there was a desire to become so technical in connection with the statements Senators might make, or to ask how long a Senator would yield. I thought full and free debate was desired; and that is what I am trying to give assurance for, so far as I am concerned.

Mr. JAVITS. We have certainly had it.

Mr. THURMOND. Mr. President, I now ask unanimous consent that I may yield to the Senator from North Carolina, with the understanding that I shall not thereby lose my right to the floor, and that my subsequent remarks will not constitute a second speech by me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Will the Senator from South Carolina accept my assurance that when we are fighting for the preservation of constitutional government in America and when we are fighting for preservation of the basic economic, legal, personal, and property rights of all Americans, I find it difficult to specify, in advance, how long my remarks in connection with such a fight may be.

Mr. THURMOND. Mr. President, I can readily understand how difficult it is to specify the exact number of minutes which will be required to explain the bill or to analyze it or to answer questions in connection with this complex bill, which has many ramifications. It is a very vague bill. I have seen editorial after editorial and article after article in which it has been stated that the bill is so complex and vague that even lawyers have difficulty in interpreting it; and I know of the great concern of the Senator from North Carolina in connection with the bill and with the preservation of the Constitution. I truly realize his deep concern in connection with this important matter.

Mr. ERVIN. I should like to propound a parliamentary inquiry to the Chair: Has the Senator from New York withdrawn his previous objection to the unanimous-consent request?

The PRESIDING OFFICER. The Senator from New York states that he has withdrawn his objection.

Mr. THURMOND. I saw him nod his head. I would rather have him speak out, so his statement will be on the record.

Mr. JAVITS. Mr. President, will the Senator from South Carolina yield for a parliamentary inquiry?

Mr. THURMOND. I shall be pleased to yield for that purpose, Mr. President, on the same basis on which I yielded previously to the Senator from North Carolina and other Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, if a unanimous-consent request is made, and if no Senator objects, does that mean that any Senator who previously reserved the right to object has ipso facto withdrawn any such reservation of the right to object?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. I thank the Chair.

Mr. THURMOND. Then, Mr. President, it has now been formally stated for the RECORD, and is entirely clear. Therefore, at this time I yield to the Senator from North Carolina, under the conditions under which I agreed a few minutes ago to yield to him.

Mr. ERVIN. I wish to give the Senator from Indiana [Mr. BAYH] my views in regard to the matter he discussed.

Title VI describes certain things which are called "discrimination" but it does not even define "discrimination." Those who drew up the bill were in too much of a hurry to include the definition. In section 602 the bill states: "Each department and agency" and there are probably 50, 60, or 70 of them——

Mr. BAYH. Mr. President, will the Senator yield in that connection, so that I may ask him to read——

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senator from Indiana be allowed to make a statement to the Senator from North Carolina in regard to this particular matter, without causing me to lose my right to the floor, and without causing my subsequent remarks to be counted as a second speech by me, and without causing me to lose any other rights I may have.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I shall try to be patient, and not interrupt the Senator from South Carolina, because I know it is disconcerting to him to be interrupted. But I wish to point out that the language in section 601 has become very well known throughout the land, and also in the Senate Chamber, and also from the extensive debate; so I think the courts would have no difficulty determining what we mean by discrimination or exclusion on the ground of race, color, creed, or national origin. However, I shall try to be more patient.

Mr. ERVIN. Mr. President, the Senator from Indiana has shown remarkable patience. As a general rule, the supporters of this bill are a very impatient group; they are in a hurry to get the bill passed.

A moment ago the Senator was discussing with the Senator from South Carolina [Mr. THURMOND] the term "discrimination."

Those who drew up the bill were so impatient that they discriminated as between bills in the Senate. They discriminated for all other bills, by requiring that committee hearings be held in regard to them; they discriminated against the pending bill, because they have refused a committee hearing in regard to it. To the contrary, they have had the bill brought directly before the Senate without reference to a committee.

So there is discrimination of all kinds.

With respect to section 601 of title VI, on page 25, to which the Senator from Indiana has called attention, I point out that it has two definitions of "discrimination" and then an undefined phrase.

Section 601 states:

> Notwithstanding any inconsistent provision of any other law—

Incidentally, that would repeal approximately 200 laws, or more; no one knows exactly how many—

> no person in the United States shall, on the ground of race, color, or national origin—

Here, I digress to point out that under this provision there could be discrimination on the ground of religion, but not on the ground of race, color, or national origin.

Now I shall read again the first part of section 601:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in—

Now I omit some words, and then resume—

> any program or activity receiving Federal financial assistance.

The second is: "be denied the benefits of any program or activity receiving Federal financial assistance."

And the third is: "be subjected to discrimination under any program or activity receiving Federal financial assistance."

The third is no definition at all, because the dictionary says, and the judicial decisions are, that "discrimination" means treating one man differently from another. But the only qualification given at this point in the bill is that one must not be treated differently from another on account of race, color, or national origin.

Mr. BAYH. I say to the Senator from North Carolina that I agree heartily that one treated differently on those three grounds——

Mr. THURMOND. Mr. President, I believe I have the floor. In order to preserve my rights and not have them jeopardized, I ask unanimous consent that the Senator from Indiana be allowed to reply to the Senator from North Carolina, and that in that connection I shall not lose my rights to the floor, or have my subsequent remarks held to constitute another speech by me; and I ask unanimous consent that they may carry on a colloquy here, if they wish to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I was trying to make a statement, not carry on a colloquy.

Mr. BAYH. Then let the Senator from North Carolina proceed. I was going to agree with him. I hope the shock will not be too great.

Mr. ERVIN. Under this provision, if a contractor were carrying out a contract with a hospital, under the Hill-Burton Act, and if a lady of one race came to work, and the administrator tipped his hat to her; and if, thereafter, when a lady of another race came to work, he did not tip his hat to her, the second lady could charge that he was treating them differently; and then, under this provision, the Hill-Burton contract with the hospital could be canceled.

Mr. BAYH. Does the Senator from North Carolina really believe that action would constitute an offense under this section?

Mr. ERVIN. That is what the bill says; it says "be subjected to discrimination"—which means that one person is treated differently from another.

And the bill says: "on the ground of race, color, or national origin."

Mr. BAYH. But the entire intention in connection with the bill, insofar as hospitals are concerned, is to make sure that all persons are treated equally by them, in accordance with their desires to be treated in the hospital. So certainly any question about whether a person tipped his hat or did not tip it would have nothing to do with "discrimination."

Mr. ERVIN. I do not like to disagree with the Senator, but this bill covers a multitude of things besides hospitals. The constant agitation about race has impaired the minds of some people even in respect to hospitals. Some people have gotten so lost in agitation that they would rather see a patient die than to see him cured in a segregated ward.

Mr. BAYH. I cannot speak for those who drew the bill, but speaking as the Senator from Indiana, I wish to say that the reason for the bill has, in my estimation, nothing to do with tipping one's hat. I shall take my seat and let the Senator finish his statement and try not to interrupt him again. I agree with the Senator that the question is not whether every patient would be treated equally, because they would have different diseases. But if the patients had the same disease, a difference in color, race, or nationality should not result in different treatment for those patients. We would try to treat them equally, depending upon what medical science would be available in a particular hospital.

Mr. ERVIN. The Senator overlooks virtually all of the coverage of the title which we are now discussing. If a person were subjected to a different treatment in any respect from one of another race in any Federal program, the charge of discrimination could be made. The dictionary and the decisions so state. The only reason I have commented on the subject is that the Senator from Indiana suggested that I should read the provision. I have read it.

I now proceed to the point to which I wish to call attention in title VI. There is no language in that title which states what would constitute an act of discrimination. There is no specification. In article I of the Constitution of the United States there is the provision that "All"—and it is one of the few places in the Constitution in which the word "all" is used—

> All legislative powers herein granted shall be vested in a Congress of the United States.

Under the Constitution none of that power is vested in the President. None of it is vested in the Secretary of Health, Education, and Welfare. None of it is vested in the Secretary of Labor. None of it is vested in the Department of Justice. None of it is vested in any of the other agencies or departments of the Government. The Supreme Court of the United States has held in many cases that Congress cannot delegate its legislative power to the President or to any executive department or agency.

The Supreme Court has held that Congress makes an unconstitutional delegation of its legislative power to the President or to an executive department or agency whenever it undertakes such action. It declares that there are four tests by which we can determine whether Congress has made an unconstitutional delegation of its legislative power.

These four tests are as follows:

First. Whenever the Congress attempts to leave to the President or to an executive department or agency the power to say whether or not there shall be a regulation on a specific subject at all.

Second. Whenever the Congress leaves to the President or an executive department or agency the power to say what the regulation shall prohibit or what it shall permit.

Third. Whenever the Congress leaves to the President or an executive department or agency the power to say what persons shall be covered by the regulation and what persons shall be excluded from the regulation.

Fourth. Whenever Congress leaves to the President or the executive department or the executive agency the power to say what the punishment shall be for violation of the regulation.

I respectfully submit that title VI violates each of those four tests laid down by the Supreme Court of the United States for the determination of the question whether there has been an unconstitutional delegation of the power of Congress to legislate.

I base that statement on the fact that section 601 would undertake to create about 30, 40, 50, 60, or 70 separate legislative bodies, all of them members of the executive department of the Government, with the power to make regulations having the force of law.

Section 601 provides in part:

> Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

For these reasons, we do not even know what laws we would be authorizing if we should pass title VI.

My good friend, the Senator from Indiana [Mr. BAYH], has said that he had a great deal of confidence in the Federal Government. I have more confidence in the Senate than I have in any other agency of the Federal Government. I have some confidence in the House. I have more confidence in the Congress than I have in the President because, unfortunately, all the weight of political pressure groups falls upon the President, a single individual, with no one to assist him in the rejection of unwise and ill-considered action. He must make his final decisions without the benefit of debate. It was for this reason, I think, that the Constitution vested the power to make laws in the Congress rather than the President. For an equally good reason, they refused to vest the power to make laws in the Supreme Court.

The members of the Supreme Court hold office for life and are beyond the reach of the people. So the Founding Fathers placed the power to make laws in the Congress. If people do not like the kind of laws Congress makes, they can get rid of Members of Congress and elect new ones in their stead. They can remove Representatives at the next election, and all Senators within 6 years.

I have more confidence in the Senate than in any other governmental body. I am satisfied that if this bill were not a so-called civil rights measure, the Senate would not waste a moment considering it because the bill does not provide what the regulations should be. The bill does not provide who should be covered by the regulations. It does not provide what the punishment should be under the regulations. It does not define what would constitute violations of the regulations. It does not define what would be prohibited and what would be permitted by them. The proposed legislation provides that all those things would be determined by executive departments or agencies of the Government.

I do not believe that the Senate would consider for 5 minutes a provision like title VI if it were not incorporated in what is called a civil rights bill.

An old Roman Emperor named Caligula loved to apprehend Romans for violating his laws. He wrote his laws in very small letters and hung them high on a wall so that his people could not read them. While his action was a ridiculous thing for a lawmaker, it is not half as ridiculous as that proposed by the advocates of title VI of the bill. The bill would not write the laws out at all. If a Roman in Caligula's day had had a long ladder and a powerful magnifying glass, he could have climbed the ladder and read what the law was. But no one knows what regulations would be made by the executive departments or agencies under the authority they would be given by title VI.

The laws which Congress would permit the Federal administrators to make under title VI would not be concealed in small letters hung high on a wall. They would be concealed at the time of the passage of the bill in the craniums of 50, 60, or 70 separate Federal administrators of departments and agencies. Indeed, insofar as those laws are now concerned, the craniums in which they will be concealed at the time of the bill's passage are completely empty. We cannot even find out while the debate lasts, if we could invade their craniums, what regulations and laws would be passed by them under title VI.

The Federal Constitution divides the power of the Government among those who are concerned with the passage of laws and those concerned with the enforcement and interpretation of laws. Congress has the power to make the laws, and the courts have the power to interpret the laws. The bill would not only allow executive departments and agencies to exercise the legislative power and make laws, but it also provides that they shall enact the roles of prosecutors and judges in proceedings to determine whether there have been violations of their laws, a procedure which would certainly be inconsistent with the principle that the roles of lawmaker, prosecutor, and judge should never be combined in a single department or agency.

Then when it comes to obtaining court reviews, there are as many different kinds of reviews provided as there are varieties of Heinz pickles. Why should there not be one system, according to one set of procedures, instead of having a different set of procedures for virtually every executive agency and department?

I did not intend primarily to talk about these phases of title VI, but I shall now answer a very crucial question raised by the able Senator from Vermont [Mr. AIKEN] yesterday. He asked the question:

> Why not enact a law to punish the guilty, rather than a law under which the consequences of the punishment are visited on the innocent?

We already have such a law on the statute books. Section 601 of title VI refers to denial of participation in Federal programs and denial of benefits of Federal programs. I wish to read section 242 of title 18 of the United States Code, which statute has been on the lawbooks for generations.

It creates two crimes. I will read the part which creates the crime which is committed every time a State or local official excludes anybody from participation in a Federal program to which he has a right under Federal law, or denies him the benefit of a Federal program to which he has a right under Federal law:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States—

Omitting some words not germane—

> shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

There is no need for a new law to apply to a State or local official who denies any citizen of the United States, of any race or color, participation in any program in which he is given the right to participate by act of Congress, or which denies to him the benefits of any program in which he is entitled to benefits under an act of Congress. So no further laws are needed so far as State and local officials are concerned.

Instead of enacting a law delegating the power of Congress to some 30, 40, or 50 separate Federal departments or agencies of the executive branch of the Government, and instead of setting up a system under which there will have to be appointed new Federal officials as numerous as locusts to go abroad in this land and harass people, all that would have to be done would be to enact a law like the one I have just read and make it applicable to individuals in charge of these programs.

That would be the sensible thing to do. That would be the normal course of action in the case of any bill except a so-called civil rights bill. But those who advocate civil rights bills do not like the statute, because under the statute those who make charges must go into court and prove what they allege. So, instead of having a trial before an impartial court and an impartial jury, the proponents of H.R. 7152 want to have a trial in the first instance before one of the underlings of the department or agency which makes the law in the first place. Then they want to regulate the procedure so that if a lawyer wanted to qualify to practice in cases under section 603 of title VI, he would have to know about as many different varieties of procedure to get into court as there are varieties of Heinz pickles.

I thank the Senator from South Carolina for yielding.

Mr. THURMOND. I compliment the Senator from North Carolina for bringing out the point he has made.

Mr. BAYH. Mr. President, may I make one——

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Indiana with the understanding that I do not lose the floor, and with the further understanding that upon resumption of my speech, it will not count as another appearance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I thank the Senator from South Carolina.

I appreciate once again having listened to the eloquence of my illustrious friend and fellow member on the Judiciary Committee, the Senator from North Carolina [Mr. ERVIN]. I shall have to leave the Chamber on a matter of business very shortly, but I should like to make one last comment, not to extend the colloquy beyond need.

It should be pointed out that there are certain safeguards in the section. For example, no such rule, regulation, or order shall become effective unless and until approved by the President. A hearing is involved. Indeed, before the implementation, or during the implementation, if voluntary acquiescence is not obtained, a report by the head of each agency shall be filed with the committee of the House or Senate having legislative jurisdiction over the program or activity involved. No action shall become effective until 30 days have elapsed after the filing of such report.

I have enjoyed my joint discussion with my friends from South Carolina and North Carolina on the question of State and Federal intervention. As I said before, I would much prefer to have a program policed by an agency of a State government. However, when there are areas in this country where the States apparently refuse to do so, I am at a loss to know what to do.

The Senator from South Carolina and the Senator from North Carolina have pointed out that there are numerous laws on the books. That is true. But the laws have not prevented discrimination.

I emphasize that I am not looking for special privilege for any member of any minority race, but I believe it is apparent to every Member of this body that we have the duty to see to it that citizens are treated equally and are given equal treatment under federally assisted programs—not special privileges, but equal treatment.

I am at a loss as to how to deal with this problem unless there is a law like this. When the people of the country, of all races, national origins, and religions, pay their taxes into a general fund, and those funds are used to establish and further State programs, and citizens who pay their taxes are not given equal treatment, I do not believe the suggestion of the Senator from North Carolina would solve the problem.

Mr. THURMOND. Will the Senator from Indiana tell me where that has taken place?

Mr. BAYH. I have in my possession a statement that was read into the RECORD on the 7th of this month by the distinguished Senator from Rhode Island [Mr. PASTORE], in which he disclosed some rather good examples that were brought out in the 1960 report of the Civil Rights Commission on equal protection of the laws in public higher education. If the Senator wishes me to do so, I will read it.

Mr. THURMOND. I have an idea where it came from. I want to give the Senator some information concerning another allegation from the same source. Down in South Carolina, simply because a number of counties did not have many Negroes registered to vote, they took it to mean they were deprived of the right to vote. The Attorney General sent the FBI down there. The FBI searched and searched, and never found any deprivation of the voting privilege for those who were qualified. Not a single sworn complaint has come from my State that I know about. The proponents admitted that no sworn complaint had come from South Carolina. If the Commission cannot find facts—and they did their best to find some complaints in South Carolina, my home State—they will insinuate that there is something wrong, anyway. The Civil Rights Commission is a vicious commission. It has made statements that are not true. It has made insinuations that are not true. The reason I know that is that it made statements in connection with my own State.

Another illustration of that fact is that, for example, there was not a single Negro registered to vote in Graham County, N.C. The Commission said there was discrimination there. The able Senator from North Carolina has informed me that there is not a single Negro living in Graham County, N.C.

Mr. BAYH. Does the Senator from South Carolina care to refute the statistics? I shall be glad to read a few of them to the Senator. This is a matter of record. I think it is easy enough to check the number of dollars that are distributed to a State, and in what manner they are distributed.

Mr. THURMOND. Mr. President, if these are figures from the Civil Rights Commission, I would not put any faith in what that Commission said. I just gave the Senator two illustrations. One illustration was to the effect that in my State it claimed that there was discrimination in voting. It sent the FBI down there. It did not find any discrimination. And yet the Commission says there is discrimination. The Commission insinuates that the officials are not doing their duty.

The Senator from North Carolina [Mr. ERVIN] has mentioned another illustration. I do not place any faith in the Civil Rights Commission. It is purely a Commission which is organized for political expediency.

I do not wish to see anyone who is entitled to vote denied the right to vote. I do not wish to see anybody denied his right to facilities of any kind. Again, I tell the Senator that this is a power-shift bill. It would take power from the State level and bring it to the national level. It would take power away from individual citizens and bring it to the national level.

As I stated a few moments ago, the bill would take away from the States the right to fix their voting qualifications. It would take away from individuals the right to determine to whom they want to sell and whom they wish to serve. It would bring that power to Washington.

The bill would take away from the States the right to control State facilities in the respective States, and bring that power to Washington. The bill would take away from the States the right to control educational policies, and bring that power to Washington. This bill would take away from individuals the right to hire and fire employees whom they feel are good employees or bad employees. It would take away the power of the individual to promote his business, and bring that power to Washington. It would give that power to a bureaucratic commission.

This is a power-shift bill. No bill has ever been introduced in Congress that would shift as much power as this so-called civil rights bill. Civil rights? I believe in civil rights. I think every right-thinking person believes in civil rights. But because of the clamor that some of the minority groups are making, and because of the demonstrations in which they are engaging, they are misleading many people into thinking that they are being mistreated.

Again I say that there is no provision in the bill which, if enacted into law, would give the kind of relief the Senator hopes to obtain. I know the able Senator from Indiana is a sincere man. I know that he does not want to see discrimination exist. But what could be done under this bill that cannot be done under the present law? If a person says he is discriminated against, if this bill were to be passed, he would have to bring a lawsuit and go into court. He can do that under the present law. If he says he is discriminated against, he can bring a lawsuit under the present law.

Mr. BAYH. If he can afford it.

Mr. THURMOND. Why pass this bill and shift all the power from the State level and the individual citizens to the National Government, when relief is already provided in these areas under present law? In addition, the bill would deprive people of the right of a trial by jury.

I shall now continue with my remarks on the right of a trial by jury. I hope the distinguished Senator will listen to these remarks. The Senator is an able lawyer. I am sure he believes in the right of a trial by jury. I hope he will benefit from the few remarks I have to make.

Mr. BAYH. May I make one last comment? As I said, I have a matter of business back in my office. I must leave the Chamber. Basically, I reiterate what I said before. I do not believe that the bill would be necessary if all of our citizens were utilizing the power which they have, to see that all citizens within their jurisdiction are being treated equally. Insofar as they do not do that, we must implement the law with this bill. But so far as States which are already operating satisfactorily, and seeing that their citizens are being treated equally, I do not think we have any power to interfere. It would be ridiculous for the Federal Government to try to become embroiled and involved in a situation which was already being handled equitably by the State.

I am certain we shall never have complete agreement. But I want the RECORD to show, as I close my remarks, that I believe that is the reason this bill is needed.

Mr. THURMOND. Mr. President, under the present law, if a man claims he cannot vote, he can go into the State courts and obtain relief. He can go into the Federal courts and obtain relief. There are nine Federal laws now.

Mr. BAYH. And they have not been working.

Mr. THURMOND. Then the Attorney General of the United States is not doing his duty.

Mr. BAYH. In some cases, the Attorney General of the United States does not have anything to do. The individual involved must initiate the suit. We all know the costs involved in bringing one of these cases. That is one of the reasons for bringing the Attorney General into these cases at an early date—to let the defendants have the financial resources to protect their individual rights.

Mr. THURMOND. Any person who is discriminated against now can obtain relief. We know of suits that have been brought in various parts of the country by individuals who claim they have been discriminated against in the matter of voting rights. We know of suits that have been brought in various parts of the country by persons alleging discrimination involving the use of public facilities. We know of suits that have been brought all over the country in which discrimination was alleged to exist in educational facilities. We know of suits that have been brought in almost every facet of public life.

The argument about not being able to obtain relief is a lot of "hokum." Suits have been brought. They have been decided. People can read the decisions.

Everyone under the law has a right to go to court and obtain relief. If he claims he cannot obtain it in the State courts, he can go to the Federal court. If the bill is enacted, a complainant must still go into some State court or Federal court. Why pass this bill and shift all the power to Washington and unbalance the checks and balances which are in the Constitution?

Our forefathers who wrote the Constitution provided a delicate system of checks and balances therein. They provided a check and balance among the three branches of Government—the legislative branch, which makes the laws; the executive branch, headed by the President, which administers the laws; and the judicial branch, headed by the Supreme Court, which interprets the laws. That is the separation of power. There is also a division of power between the State government level and the Federal Government level.

When our forefathers wrote the Constitution they delegated certain power to the Federal Government and reserved other power at the State government level. The civil rights bill seeks to unbalance this power in terms of centralization of power at the Federal level.

It would take power away from the States. It would take power away from the individual citizens. It would bring this power to Washington, to the National Government. It would centralize power in the Federal Government.

In my judgment, such a concentration of power would be a great mistake.

Mr. President, it is my firm belief that the provisions of titles I, II, III, IV, and VII of H.R. 7152, by the authorization of injunctive relief, and specifically, the authorization of summary proceedings in the nature of criminal contempt without a jury trial, contravenes those provisions of the Constitution which guarantee a trial by jury in all crimes except impeachment, and in all criminal prosecutions; to wit, article III, section 2, of the Constitution, and article VI of the Bill of Rights.

In reaching this conclusion, I am not unaware of the apparent conflict between the unqualified guarantee of a jury trial in the language of the Constitution and the practices which have prevailed, both in the Federal and State courts, with respect to the trial of cases of criminal contempt without a jury. This conflict was sharply pointed up by the divided opinion of the Supreme Court in the case of Green against the United States, decided in 1958, and more recently, in the case of United States against Barnett, the decision in which was handed down only this month.

Both of these cases have to do with the question of whether a person has a right, either constitutionally or by statute, to a trial by jury in a proceeding for indirect criminal contempt.

It is of particular importance, Mr. President, in considering these two cases, to keep in mind that both of them concern criminal contempt rather than civil contempt. In both cases there was involved a punitive punishment. In both cases the U.S. Government was, or claimed to be, the moving party. In both cases the penalty involved was, or would be, either a fine paid to the court or imprisonment for a fixed period. In both cases the burden was on the Government to prove the cases beyond a reasonable doubt. In neither case would the Government compel the defendant or defendants to testify against themselves, and, Mr. President, once commenced, these cases could not have been settled out of court. These are the traditional marks of a direct criminal contempt proceeding.

Mr. President, in both the Green case and the Barnett case, the members of the Court, both those in the majority and those dissenting, recognized, at least tacitly, that there was an apparent conflict between the categorical language of the constitutional guarantee of a jury trial in a criminal prosecution and the historical practice of trying criminal contempt cases without a jury. In both cases there was a sharp division of opinion. Although I am more sympathetic to the dissenting opinions in each case—but not necessarily entirely in agreement—one must acknowledge that both the majority and minority views were founded on a firm basis in historical precedent.

The difference between the majority and minority views was the result of confusion which arose in the interpretation of what was the common law in England at the time of the ratification of the U.S. Constitution with regard to the legality of summary trials by courts in Great Britain. It is generally conceded that the confusion and differences arise from what is commonly referred to as an "historical error."

Mr. President, the basic jury trial controversy involved first in the Green case, and more recently in the Barnett case, revolves around a determination of the actual intention of the framers of the

Constitution with regard to the criminal contempt problem. The court, in laudable adherence to the doctrine of stare decisis, has followed the early decisions of the Supreme Court which held, generally, that the framers of the Constitution meant that the right to a jury trial should be accorded as it existed in the common law. The confusion stems from the difficulty of determining what was the understanding of the framers as to the common law of England at the time of the Constitution's adoption. Both majority and minority opinions of the Court assume that if the common law, at the time of the ratification of the Constitution, permitted summary trials in criminal contempt cases, then the framers of the Constitution intended to exempt such proceedings from the jury trial requirements that they wrote in the Constitution, but not otherwise.

On most points there would be little difficulty in determining what was the prevailing understanding of the common law at the time, but such is not the case with regard to the matter of jury trials and criminal contempt proceedings. The difficulty centers primarily on an undelivered opinion in the case of the King against Almon, which was written in 1765. The opinion was undelivered since the prosecution in the case was abandoned because of a procedural mistake. The case was unpublished until 1802 and not cited until 1811. The statement was made in the undelivered opinion that summary proceedings had derived in the common law of England from "immemorial usage." The confusion arises from the fact that Blackstone, in his "Commentaries," repeated the theme of the undelivered opinion in Almon's case to the effect that such summary proceedings derived from "immemorial usage." Blackstone was, of course, widely known to the framers of the Constitution, and, therefore, his commentaries are a logical source of evidence as to the understanding of the framers of the Constitution as to what was understood to be the common law.

To members who concurred in the majority views of the court in the Green case, the "immemorial usage" statement in Blackstone's "Commentaries" appears to have been conclusive as to the intention of the framers of the Constitution. They seem not to have been influenced by the fact that Blackstone, in his commentaries on the Almon doctrine, commented that summary procedures were "not agreeable to the genius of the common law in any other instance."

In point of fact, Mr. President, it now appears almost conclusive that the undelivered opinion in Almon's case, quoted in Blackstone's "Commentaries," was almost totally inaccurate. Summary proceedings were by no means derived from "immemorial usage" in the common law.

The doctrine of Almon's case was refuted largely due to the work of Sir John Fox in a work entitled "The History of Contempt of Court," published in 1927. Fox concluded from his studies: First, that by 1887 there was probably no valid basis for summary punishment of a libel on the court by a stranger to the proceedings; second, that summary punishment for resistance to a lawful writ or process of the court was doubtfully grounded, although, an adequate common law basis extended for summary punishment of out-of-court contempts committed by an "officer" of the courts.

The incidence and effect of this so-called historical error on the view of constitutional guarantees of jury trials as they applied to criminal contempt proceedings is set forth in an article in volume 57 of the Michigan Law Review in a comment on the right to jury trial in indirect criminal contempts in Federal courts. The article states:

> Any defective common law basis of the doctrine in Almon's case would be immaterial if it were possible to define with certainty the intent of the constitutional framers with regard to the criminal contempt problem. It does not appear, however, that there was any discussion in the Convention or in any of the State ratifying conventions dealing with this issue. Apparently the Convention rejected establishment of jury trial in every case whatsoever. It is clear that jury trial was important to the colonials and that deprivation of jury trial was a principal grievance against the King. But evaluation of the extent of "jury trial" as written into the Constitution invites a great deal of inference and guesswork.
>
> Unpublished until 1802 (when it was included in a posthumous edition of Wilmot's Notes) and not cited until 1811, Almon's case could hardly be said to have itself influenced the colonial lawyers. Its significance lies in the fact that it had been incorporated by Blackstone in his "Commentaries," in which the author repeated Wilmot's theme that summary proceedings had derived from "immemorial usage." Blackstone was widely known to the colonials, so that even a misstatement by him would shed light on the possible intent of the Convention. Justice Harlan's majority opinion in Green indicates the belief that Blackstone's statement (or misstatement) of the law on this point expressed the prevailing views in the American Colonies. Perhaps Justice Harlan's conclusion is too sweeping, since Blackstone also commented that summary procedure was not agreeable to the genius of the common law in any other instance. It is at least conceivable that this last phrase had an even greater influence on colonial lawyers than Blackstone's statement of the Almon doctrine.
>
> Moreover, the views of some of the other authorities available to the colonials should perhaps be considered. For example, a widely used law dictionary said that the summary nature of an "attachment" for contempt would be contrary to the jury trial provision in Magna Carta, and "must be for a contempt in the face of the court" or else for a contempt committed by officers of the court. Gilbert's "History and Practice of Common Pleas," in its third (1779) edition, included a notation by the commentator that an English statute, which Gilbert had cited as confirming the power to commit for contempt after summary hearing, was properly meant to apply only to killing in resistance to process; the commentator added that Magna Carta's guarantee of jury trial would have been logically breached by any "Commitment for contempt merely ex officio." Conversely, nonjury procedure was supported by Hawkins' important work, "Pleas of the Crown," in which the author noted that contempts both direct and indirect were punishable by attachment, which required the contemnor to present himself to the court, answer interrogatories concerning his offense, and, unless he denied the charges (which purged him of contempt and left him to normal jury trial for perjury), be liable to judicial conviction.
>
> The foregoing discussion of authorities available to the colonial lawyers shows that some contemporary sources were at hand which could possibly have been interpreted to weigh against the use of summary procedure. But it is difficult to conclude with any conviction that such materials were so interpreted. A survey of the relevant decisions by colonial and State courts in the period between the writing and the publication of Wilmot's opinion in Almon's case, 1765 to 1802, is no more conclusive as an indication of the thinking of lawyers and judges of that period. In the year Almon's case was argued, a Massachusetts chief justice entrusted a contempt by publication to the grand jury for indictment, but he explicitly informed them that the court had power to proceed summarily if it had so decided.
>
> Thirty years later, the South Carolina court drew a distinction between direct and indirect contempts and prescribed jury trial in the latter type. Some other cases allowed a summary procedure, but most of these involved direct contempts or contempts by officers of the court, which were both historically punished by summary procedure. The cases of this period are so sparse and inconclusive that they furnish no adequate illumination of the constitutional scope of jury trial.
>
> Perhaps the language of the Judiciary Act of 1789, enacted by a Congress whose judiciary committee included members of the then recent Constitutional Convention, and who "no doubt shared the prevailing views in the American Colonies of English law," could be instructive. Justice Harlan, indeed, feels the act buttresses the validity of summary procedure. Some difficulties arise, however, from the wording of the act. It authorized summary punishment of "all contempts in any cause of hearing before * * * the courts." The more probable interpretation of this phrase would apply the preposition "before" as merely describing the "cause or hearing," and thus make the act applicable to all contempts. Yet it is arguable that a possible interpretation would apply this preposition to "contempts," and thus limit summary procedure to direct contempts. In the only Supreme Court decision affected by the 1789 act, habeas corpus was refused a witness whose contempt had been refusal to answer a question under oath, i.e., a direct contempt. In 1831, Federal Judge Peck construed the act to apply to a lawyer who had published a criticism of an opinion while an appeal was pending, and thereby raised a furor that caused his own impeachment by the Senate. A result of this famous impeachment, which ended in a one-vote acquittal, was revision of the Judiciary Act in 1831. The revised act recognized the validity of summary proceedings in both direct and indirect contempts, but sought to exclude remote newspaper criticism by limiting the contempt power to acts committed in the presence of the court "or so near thereto as to obstruct the administration of justice." Neither the authors of this new legislation, nor the prosecutors of the impeached Judge Peck, disputed the fundamental validity of summary proceedings.

Mr. President, out of this confusion grew the practice in the Federal judiciary of trying criminal contempt cases without a jury. The development of summary procedure in indirect contempts is summarized in the same article from volume 57 of the Michigan Law Review, which I quoted earlier. This summary states:

> After the Judiciary Act of 1831, summary procedure became firmly entrenched in a series of Supreme Court decisions rejecting jury trial starting with In re Savin in 1869. Although the Court took note as early as 1914 of the questionable common law back-

ground, the weight of stare decisis gradually mounted. At present, three principal strains are discernible in the law of indirect criminal contempts: (1) establishment and enforcement of minimal procedural standards, but not including jury trial; (2) gradual reduction of the area where the criminal contempt power can be exercised; (3) increasing severity in actual punishments inflicted under the criminal contempt power.

In 1925 the Court laid down basic requirements for judicial handling of an indirect contempt, including notice, hearing, right to counsel, right to present witnesses and to cross-examine others, and, when not impracticable, hearing of the contempt charge by a judge other than the one involved in the offense. The Court demonstrated its willingness to enforce this last, discretionary safeguard in 1954 when it overruled a conviction for a direct contempt on grounds that the judge had sufficient time to assign the trial to another more impartial arbiter. Almost all the constitutional guarantees save jury trial thus have been extended to the indirect contemnor. And when certain indirect contempts are also made crimes under State of Federal statutes, the Clayton Act of 1914 furnishes the alleged contemnor with an optional jury trial. Although an attempt was made to attack this delimiting legislation as an unconstitutional abridgement of the inherent contempt power of the Federal judiciary, the Courts sustained the Clayton Act provision in 1924.

Lagging somewhat behind the establishment of procedural standards came gradual narrowing of the limits within which the contempt power can be exercised. This circumscription was foreshadowed by the uneasiness with which some justices had earlier regarded the contempt power. The trend was given its start in 1941 with the decision in *Nye* v. *United States*. When the phrase "so near thereto as to obstruct the administration of justice," which had previously been defined in terms of causal relationship, was redefined to mean the immediate geographic vicinity. In 1945 Justice Black ruled on behalf of the Court that perjury in and of itself did not qualify as a criminal contempt, and added that criminal contempt should be always strictly construed. Judicial confinement of the power was most sharply etched in 1956 when a 7-2 majority led by Justice Black held that, contrary to the earlier accepted meaning, an attorney was not a court "officer" within the second clause of the Judiciary Act and therefore his misbehavior was not punishable summarily. A coincident trend involved closer scrutiny by the Court of contempt proceedings within the States. The 14th amendment guarantee of due process was construed to require "imminent" rather that "likely" obstruction to justice in order to have actionable contempts, and minimal procedural guarantees were imposed. Echoing the Court's restraining attitude, lower Federal courts have in scattered cases begun to show a tendency to curb their contempt powers.

As the Court has increasingly restricted the sphere of application of the contempt power and increasingly regulated the manner of its application, a gradual intensification of the severity with which contempts are punished has taken place. The most severe punishments have been inflicted in the past decade, when sentences up to 4 years have been approved by the Court.

In the Green case petitioners argued that courts were without power to sentence for more than 1 year for a conviction produced from summary proceedings. In rejecting this contention the Court said the severity of punishment was in the hands of the trial judge, absent any abuse of discretion.

Thus, Mr. President, the so-called historical error was the foundation for what has become an all too common practice of summary proceedings in cases of indirect criminal contempts. In practice, there have been more and more of these summary trials for indirect criminal contempt, and as the punishments administered have increased in severity, the courts have been inclined to afford in such cases certain of the elements of due process to the offender. The Supreme Court has consistently held that when contempts occur outside the court's actual presence, the contemnor is entitled to the constitutional guarantees of notice and hearing, right to counsel, and the right to present his own witnesses and cross-examine others. The case law on this subject is restated in the "Federal Rules of Criminal Procedure," rule 42.

The courts have declined, however, to accord to the contemnor in such cases either the constitutional right to indictment by a grand jury as a condition precedent to trial, or the right of trial by jury.

Mr. President, the case of Green against the United States, if carefully examined, will reveal that the issue revolved around the constitutional guarantee of grand jury indictment as a condition precedent to trial, rather than the issue of trial by jury, despite the fact that the discussion in the opinion centers around the issue of denial of trial by jury. The Court in the Green case stated:

> Indeed, the petitioners themselves have not contended that they were entitled to a jury trial.

Thus, the question of a jury trial in that case of indirect criminal contempt was not urged by the contemnors, and could not have been, therefore, the primary issue in the case.

Mr. President, a careful reading of both the case of Green against the United States and United States against Barnett reveals that the Court centered its discussion around an imagined distinction as to the severity of the punishment administered. As can be seen from the majority opinions in those cases and from the dissenting opinions in those cases, attempts by the Court to draw a distinction between those cases of indirect criminal contempt in which a jury trial must be afforded, on the basis of the severity of the punishment which, after conviction, is inflicted, inevitably lead to hopeless confusion.

Mr. President, quite obviously the courts have, in tolerating and utilizing summary proceedings in trials of indirect criminal contempt, created a monster which is causing them no end of difficulty. Attempts to resolve the matter on the basis of the severity of the punishment amount to nothing more or less than conscience-inspired efforts to mitigate the impact on the public of what now approaches a procedure resembling those of the Star chamber. It is too late for the court to conjure up a distinction based on the severity of punishment, for even as early as the Green case, the punishments permitted had reached the level of 4 years imprisonment. In the Green case the punishment involved was imprisonment for 3 years.

There is no sound basis for attempting to draw a line, in terms of severity of punishment, as to when the full elements of procedural due process will or will not be accorded. To do so is to ignore the fact that conviction and punishment are entirely separate and distinct matters. To do so is to ignore the fact that in both the theory and the practice of legal jurisprudence, it is assumed that conviction by a court carries with it a distinctive stigma in the eyes of society, which in the great majority of cases is every bit as much, or more so, a deterrent to illegal acts as is the punishment which might be inflicted subsequent to conviction. When the stigma of conviction ceases to act as a deterrent, then the totality of the body of respect for the law will deteriorate, and the law must then depend for its observance upon brute force and the severity of penalty. Such an eventuality would set back for centuries the administration of law, the orderliness of society, and the enlightenment of penology.

Unfortunately, there appears to be no rationale by which the court can, at this late date, graciously extricate itself from the tragic and confounding dilemma into which it has reasoned itself.

Mr. STENNIS. Mr. President, will the Senator from South Carolina yield for a question?

The PRESIDING OFFICER (Mr. McINTYRE in the chair). Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. THURMOND. I yield for a question.

Mr. STENNIS. First, I congratulate the Senator from South Carolina on his important contributions in connection with the debate on this highly important and very complex subject.

Mr. THURMOND. I thank the Senator from Mississippi.

Mr. STENNIS. Will the Senator from South Carolina yield for a question? First, and as a background for the question, I wish to read two short paragraphs.

Mr. THURMOND. Mr. President, I ask unanimous consent that in yielding to the Senator from Mississippi, I shall not lose the floor, and that my subsequent remarks will not be counted as a second speech by me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. As a background for my question, I should like to have the Senator from South Carolina consider an editorial published recently in the Washington Evening Star, which is supporting the bill, and has constantly been a supporter of the bill. The editorial is entitled "Contempt"; and it has to do with the point the Senator from South Carolina has been discussing.

I now read briefly from the editorial:

> The only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.
>
> Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

> Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

That is a quotation from Mr. Justice Black.

I continue to read from the editorial:

> No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

If I may comment on the last paragraph, in which the editorial writer says he hopes the Senate will not wind up "with a cheap 'compromise' because it is afraid of some voters," but "will insist"—and that is what the Senator from South Carolina is doing; he is insisting—"upon jury trials in all cases of criminal—as distinguished from civil—contempt," I point out that the Senator from South Carolina is not yielding any ground; he is insisting on exactly what this editorial writer—who supports the bill as a whole—demands in the name of justice for the American people.

Does the Senator from South Carolina agree with the editorial? If he does, does he not think it is one of the finest statements on this matter? Does he not also think it is a nonlawyerlike statement, and can readily be understood? If he agrees with the statement, I wish he would comment on it. If he does not agree, I wish he would give his answers as to why he does not.

**Mr. THURMOND.** Mr. President, I am heartily in accord with the statement of the able Senator from Mississippi, who was a distinguished judge on the highest court in his State prior to his coming to the Senate. I think the statement is a sound one.

I have before me a very brief statement on that very point:

The Washington Evening Star has editorially pinpointed the issue involved in the Senate debate on the matter of jury trials. On Sunday, April 26, in a lead editorial entitled "Contempt," the editor of the Evening Star pointed out:

> Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.

This is not a position which has been arrived at by the editor of this newspaper on the spur of the moment. On April 2, 1958, the Star published a similar editorial, entitled "Trial by Jury." Mr. President, I ask unanimous consent that these editorials. one entitled "Trial by Jury," published on April 2, 1958, in the Washington Evening Star and the other entitled "Contempt," published on April 26, 1964, be printed at this point in the RECORD, in connection with my remarks.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Apr. 2, 1958]

### TRIAL BY JURY

It is too bad that the Supreme Court's latest opinions on the right to a jury trial in criminal contempt cases were not available during last summer's debate on the civil rights bill. For some of the things said, especially by the dissenting justices, would have curled the hair of those liberals who opposed jury trials in civil rights cases.

The case before the court involved two Communists—Gilbert Green and Henry Winston. They were among the 11 Communist leaders convicted under the Smith Act. After their conviction had been upheld by the Supreme Court they jumped bail and went into hiding. When they surrendered 5 years later they were charged with criminal contempt for violating a lower court order, tried without jury and sentenced to serve 3 additional years. The majority opinion conceded the right of Congress to provide for jury trials in any or all criminal contempt prosecutions. But Congress had made no such provision in this type of case, and the majority upheld the conviction.

Justice Black, joined by Chief Justice Warren and Justice Douglas, wrote a powerful dissent. Justice Black said the facts of this case "provide a striking example of how the great procedural safeguards of the Bill of Rights are now easily evaded by the ever-ready and boundless expedients of a judicial decree and a summary (without jury) contempt proceeding." He contended that in all criminal contempt prosecutions, whether Congress has agreed or not, the accused is entitled by the Constitution to be tried by a jury after indictment by a grand jury. Then Justice Black added this:

"Summary trial of criminal contempt, as now practiced, allows a single functionary of the State, a judge, to lay down the law, to prosecute those whom he believes have violated his command (as interpreted by him), to sit in 'judgment' on his own charges, and then within the broadest kind of bounds to punish as he sees fit. It seems inconsistent with the most rudimentary principles of our system of criminal justice, a system carefully developed and preserved throughout centuries to prevent oppressive enforcement of oppressive laws, to concentrate this much power in the hands of any officer of the State."

This is a persuasive statement of the principles which led the Senate to adopt an amendment guaranteeing jury trials in all criminal contempt actions arising under the civil rights law. It is an eloquent rebuke to those who, through political pressures in the House, forced adoption of a so-called compromise which limits jury trials to cases in which the penalty exceeds 45 days in jail or a $300 fine.

The argument in support of this phony compromise was that southern juries could not be trusted to convict the guilty. But Justice Black scorned this argument. What will the "liberals" say now? Will they say that the dissenting justices are reactionary, or that they are not concerned with civil liberties? They will not say this if they will read the opinion. And we hope they will read it, for if they do it may clear their minds of some of the nonsense they were spouting last summer when the jury trial issue was up for debate.

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[From the Washington Evening Star, Apr. 26, 1964]

### CONTEMPT

The Senate is beginning to talk in terms of compromise in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.

We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to. Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.

The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt. Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense.

The civil righters argue that southern juries (why only southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.

If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order. It might be 30 days or 45 days, or it might be 10 years. The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. For the only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.

Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

**Mr. STENNIS.** Mr. President, I thank the Senator from South Carolina for his response.

I have other questions to ask——

Mr. GRUENING rose.

**Mr. STENNIS.** Mr. President, if the Senator from Alaska wishes to submit some matter, of course, I am always glad to accommodate him.

**Mr. GRUENING.** No, Mr. President; I do not wish to interrupt. I have a speech to deliver when it is convenient for me to do so; but, of course, in the meantime I defer to the Senator from South Carolina, who has the floor.

**Mr. STENNIS.** Very well. We certainly shall consult later with the Senator from Alaska.

**Mr. GRUENING.** I thank the Senator.

**Mr. STENNIS.** Mr. President, will the Senator from South Carolina yield further to me?

**Mr. THURMOND.** I am glad to yield to the distinguished Senator from Mississippi, on the same conditions under which I previously yielded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. STENNIS.** With reference to the extent and scope of the bill in creating certain new crimes—and they would be crimes, because the contempt process would be brought in to cover sins that anyone might commit under the bill, and a trial would be had, but without a jury. By means of the scope and extent of the bill in creating these new charges which could be made against people for discrimination, is not the bill very broad in its entire concept and in the creation of many phases of discrimination which could actually be converted into crimes?

Is not the field in which we are now moving a very broad, new one?

**Mr. THURMOND.** The Senator is eminently correct.

**Mr. ERVIN.** The Senator has already mentioned the origins of the law of contempt. Is not the field of which we are now speaking one of the broadest fields in which the application of the power of contempt would ever have been applied, if the bill should pass?

**Mr. THURMOND.** The so-called civil rights bill which is before the Senate would appear to devise a plan which would punish everyone guilty of discrimination by order of a judge rather than after a jury trial. This is true under five titles of the bill. They are title I, title II, title III, title IV, and title VII. In those titles crimes would be created, and there is no provision in the bill which would permit jury trials in cases arising under those titles. A man would be denied the right of trial by jury under these provisions of the bill. When one first reads the bill, he would hardly detect the true impact of these provisions.

For example, referring to title I, which appears on page 2 of the bill, there is reference to the 1957 Civil Rights Act. Unless a layman—or even a lawyer—reading the bill were to go back to the 1957 act, he would not know what the punishment was or how it was arranged. But, as the Senator will remember, the 1957 statute provided that if the punishment were 45 days imprisonment or less, or $300 fine or less, the accused would not get a jury trial.

So under title I the accused would be denied the right of trial by jury.

If the Senator desires me to do so, I shall go through each of the other titles and point out the applicable provision.

**Mr. STENNIS.** The Senator has called attention to the number of instances in which charges could be brought against someone who might fall into the clutches of the Attorney General or the Department of Justice. I invite the Senator's attention particularly to section 302 of the bill, which begins on page 13, line 4, of the bill. I shall read that section and question the Senator about the power and extent of that section. Section 302 provides as follows:

> SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.

I should like to ask the Senator a question based upon his experience upon his experience as a judge, his background as a lawyer, and his knowledge as a student of the Constitution. Can the Senator from South Carolina think of any broader power in that field than one which would permit the Attorney General to intervene in a suit and would confer all the rights to relief as if the Attorney General had instituted the action?

**Mr. THURMOND.** No. A man could bring a suit for relief. The Attorney General could intervene in that suit in the name of the United States. The U.S. Government could then practically take the case over and remove it from the control of the litigant. The Attorney General could take it out of the hands of the man's own attorneys and proceed in the case. The bill would give the most far-reaching privileges to the Attorney General of any statute that has ever been placed on the statute books.

**Mr. STENNIS.** I am glad to have the Senator's opinion. Section 302, to which reference was made, appears under the title "Desegregation of Public Facilities." But when the language of the section is read, would the power granted be limited to cases arising under the title of "Desegregation of Public Facilities," or, so far as the Senator can determine, would the Attorney General's power be limited to public facilities?

**Mr. THURMOND.** The section provides:

> Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws—

The section is not limited to public facilities.

**Mr. STENNIS.** The Senator is eminently correct. There is no limitation on the power which would be granted once the Attorney General might enter into the suit. In the first place, the suit could be any kind of a suit, so long as it related to a denial of equal protection of the laws because of race, color, religion, or national origin. Then the Attorney General would have the same power and would be entitled to the same relief as if he had instituted the action.

**Mr. THURMOND.** If there were a claim that there had been a denial of the equal protection of the laws on account of race, color, religion, or national origin under that section, the Attorney General could enter the suit. He could intervene.

The Attorney General could intervene in a suit even if the person who brought the suit should object. If the attorney for a party to a suit should object, the Attorney General could still come into the suit and practically take it over.

**Mr. STENNIS.** The measure would make it mandatory on the judge to let the Attorney General intervene, since the word "may" is used in the section, would it not?

**Mr. THURMOND.** The statute would give to the Attorney General the right or privilege, at his discretion, to intervene in the case. I do not see how, under such a statute, a judge could prevent the Attorney General from intervening.

**Mr. STENNIS.** That is the point which I wished the Senator to cover.

**Mr. THURMOND.** Even if the judge felt that an injustice would result, the judge would be forced to permit the Attorney General to intervene in the suit if it involved a claim of the denial of equal protection of the laws on account of race, color, religion, or national origin.

**Mr. STENNIS.** If the Senator will yield further, the point which we are now discussing is one of those which, as we have argued repeatedly, has not been fully considered by any committee after the language was put together.

I am told—and the RECORD partly supports the statement—that, as originally written in the bill, title III was opposed by the Attorney General himself. He so testified in an open hearing. At that time title III was not written as it is now. But there is no record that the Attorney General has ever changed his mind about it. The provision is in the bill, which has been passed by the House. It is now before the Senate without much of an explanation.

Would not the broad language to which the Senator has referred give power to the court to try, without a jury, a man who might be charged with having violated an order of the court, and committing a crime in so doing?

**Mr. THURMOND.** As a lawyer, that is my opinion.

**Mr. STENNIS.** Under the bill as it is now written, the judge would be permitted to give an accused man, the United States being a party to the suit, an unlimited penalty if the court should find him guilty. Is that not correct?

**Mr. THURMOND.** In my opinion, the Senator is correct.

**Mr. STENNIS.** The Senator mentioned a moment ago the limitation of a fine of $300 or a term of imprisonment of 45 days, which is the penalty in the present law with reference to some cases. That limitation would not apply, would it?

**Mr. THURMOND.** The limitation of a $300 fine or 45 days imprisonment would apply to the punishment for contempt under title I and under title II, but as to titles III, IV, and VII, the punishment would appear to be unlimited.

**Mr. STENNIS.** There is no limitation, then, in the bill or in present law except what the Senator has mentioned with reference to the power to punish.

Mr. THURMOND. The Senator is correct. As I stated a few moments ago, some judges have put people in jail for 4 years for contempt. If a judge could put a defendant in jail for 6 months, why could he not put him in jail for 1 year? If he could put a man in jail for 1 year, why could he not put him in jail for 5 years? If he could put him in jail for 5 years, why could he not put him in jail for 10 years? Where would the limit be?

Mr. STENNIS. The Senator is correct. I believe there is a general statute that in proceedings involving criminal contempt, even where the United States is not a party, there is a limitation on the punishment that can be prescribed. As I recall, that limitation is a term of imprisonment of not over 6 months in jail, and a fine of not more than $1,000. But the case we are discussing is a case in which the United States is a party.

Mr. THURMOND. That would not appear to apply here.

Mr. STENNIS. The Senator is eminently correct.

Let me ask the Senator a question or two about a title in which the jury trial question is not involved, but which has to do with the FEPC provision; namely, title VII.

I invite the attention of the Senator to title VII because it is of the utmost concern to all of us in many areas of the country. I refer to the so-called FEPC title.

The bill before the Senate is supposed to be a bill against discrimination. Is it not true that the FEPC title provides that after 2 years of operation it would apply only to employers having 25 or more employees? Twenty-five is the cutoff point; is it not?

Mr. THURMOND. That is correct.

Mr. STENNIS. We are talking about people having the right to a job, or the right to be considered for a job, rather than the employer having that right. I refer to the owner of a business, who has worked and built up his little business, whatever it is, whether it be a beauty parlor, a little manufacturing plant, or a small enterprise, into which he has put his life labor and savings. He has always had the right to pass on the question of who his employees should be, who would make the best workers, who would help him make his business grow and develop his undertaking best. Would not the bill take that right away from him if he had 25 or more employees, but leave employers with fewer than 25 employees free from the provisions of the bill? Therefore, would it not discriminate against those with 25 or more employees?

Mr. THURMOND. The purpose of those who support the bill is purportedly to eliminate discrimination. The very situation the Senator has cited shows that the bill itself is discriminatory. In other words, it applies the FEPC provisions to an employer who has 25 or more employees, but does not apply them to an employer with 24 or fewer employees. Why fix the number at 25? Why not 24? What are the facts, or what is the basis for cutting it off at that point? It seems to me that the bill itself would promote discrimination in the very provision the Senator has mentioned.

Mr. STENNIS. That is correct. It means that we are to say to an employer with 24 employees, who has developed his business, and who has always had the right to employ whomever he pleased, "You still have that right." Then we turn around, and in the next breath say to an employer who has 25 or more employees, "We are going to take away your right to select the employees you think are best for you, and we are going to tell you, through a Federal agency, whom you are to employ." Is that not correct?

Mr. THURMOND. That is correct.

Mr. STENNIS. That right would be taken away from the employer and transferred to an employee who gets a special privilege.

Mr. THURMOND. That right is to be taken away from an employer who is an individual or the agent of a corporation, and brought to Washington, to the National Government, and placed in the hands of a bureaucrat. Furthermore, the Federal bureaucrat in whose hands that power would be placed would be able to define "discrimination" as he desired. The way he defined the word "discrimination" might be altogether different from the interpretation placed upon it by another Government agent.

An agent in the National Government would be able to place on the word "discrimination" his own interpretation, because the bill does not define "discrimination."

Therefore, the particular Government bureau or agency, charged with enforcement of the FEPC section would have the power to make that interpretation. Different agents in the same bureau might even place different interpretations on it. It would cause all kinds of trouble. The interpretation placed on "discrimination" even by people in the same agency might be different at different times or if there were a change in personnel.

Mr. STENNIS. There is one thing certain about the bill. It would take away from an employer the right to make his choice, and give it to someone else in a Government agency.

Mr. THURMOND. The bill does that, without question. I do not think any proponent of the bill would deny that charge.

Mr. STENNIS. If the Senator will yield for another question, is it not also certain that the Government would say to a manufacturing plant owner, if he had 25 or more employees, not only whom he might employ, but, what is perhaps more vital, whom he must promote and treat specially?

Mr. THURMOND. That is true. The Government would tell him whom he might hire, whom he could fire, whom he might promote, and whom he might demote. To my way of thinking, it would hamstring any individual or corporation doing business. It might force on an employer an employee he might not want at all. It might force an employer to hire a mediocre person instead of the higher type, loyal person he would prefer.

Mr. STENNIS. By the same token, and by the same law, might not an employer with 25 or more employees be compelled to promote someone he might not think was worthy of being promoted; and might not the Government even determine whom he might discharge and whom he must not discharge? Would not his hands be tied on that point?

Mr. THURMOND. That is the way I interpret the provision. The bill seems to be based on equality, on the basis that everybody is equal. Therefore, the first man who applied would be given the job, although a much more competent person, who might have submitted his application 5 minutes later, could not be hired, if a bureaucrat in Washington said the first man was qualified.

To my way of thinking, the provision would result in slowing down production in America to a great extent. Furthermore, it would provide a wedge for disloyal people to get into the employ of certain employers. It might even allow persons of questionable loyalties to be placed in sensitive positions, because many American corporations are doing sensitive work for the Government.

Mr. STENNIS. The Senator is correct.

If I may ask one further question, if we are to take away from an employer the right to say whom he shall employ, whom he shall promote, and whom he may fire, and control his business to that extent through a Government agency, are we not about to take his business away from him?

Mr. THURMOND. In my opinion, if an employer is not allowed to choose his own employees, to look around and exercise discretion and a choice of one man over another, because of his skill, his appearance, his personality, his strength, mental or physical, or whatever quality the employer wants in a man, and choose one over another because he is better qualified for a particular skill or particular position, we are going to hamstring industry. We are going to promote incompetence.

Production would be lowered. Initiative would be stifled. Ingenuity would be destroyed. We shall ruin the imagination of people, who wish to better themselves, to the extent that they will feel there is no initiative, and that promotion is based on a seniority system. Therefore, in my judgment, we would bring about a situation that would have exactly the opposite effect of what our private enterprise system has done—namely, made this country the greatest nation in the world.

Mr. STENNIS. I was about to ask the Senator if he did not think that the very heart and soul of our private enterprise system—which has played a major part in developing our great country—would be stifled and almost snuffed out by the operation of the bill which we are discussing, through controlling the employer rather than letting him operate his own business.

Mr. THURMOND. I believe that is well demonstrated. Last year the gross national product in Russia was something over $200 billion. Throughout the entire Communist world—all the countries in the Communist world, including Russia—the gross national product was only some $400 billion. In the United States alone, it was over $600 billion.

In other words, the United States outstripped the entire Communist world to the tune of over $600 billion, as compared with some $400 billion. That is because their people did not have incentive. Their people cannot own a home, a farm, or a factory. In a Communist country, the people are paid a set wage. They receive their wage, and that is all they can get. In our country, the people know that if they work hard, if they prepare themselves, if they become skilled, they can be promoted; they can make more money; they can give their families more of the comforts and luxuries of life. In our country, people have incentive. In my opinion there is no comparison in the results.

This is true because we have the benefits of the highest degree of liberty afforded by any government in the world. In a Communist country, the people have no freedom. We have freedom to employ whom we wish—a freedom that encourages people to go forward, to strive to gain, and to reach the top.

Mr. STENNIS. The Senator has given a fine illustration. If I were to set out to communize America, I would first pass a Federal FEPC law and enforce it.

Mr. THURMOND. I do not know of a more effective step which could be taken to socialize this country and bring about what the Communists call equality than what the bill would bring about.

In my opinion, there is no such thing as equality except in two ways. There is equality before the law. There ought to be for every man, regardless of his race, his color, his national origin, or his previous condition of servitude. The only other way in which we have equality is in the eyes of God. In short, there is equality before the law and in the eyes of God.

There is no equality in any other way. There cannot be. God did not make us that way. Even if we had equality tonight, by tomorrow night, we would not be equal. By tomorrow night, some people would have worked harder or studied more. They would strive more. They would exercise their muscles and develop themselves better physically. They would develop themselves mentally by studying more. They would acquire more religious faith. The fact that we have freedom does not develop equality. Alexander Hamilton noted that freedom itself tends to develop inequality.

We do not want equality. We want to leave people free. If people do not want to work hard, they have the freedom not to work hard. If people want to strive and get ahead, why not let them get ahead? This is the land of freedom. Why not let people go as far as their ability will permit them to go?

Mr. STENNIS. And continue to expand and grow in our system, rather than retarding the people.

Mr. THURMOND. Yes.

Mr. STENNIS. Are we not told that the main purpose of the FEPC title is to equalize employment, to increase employment among Negroes, and to attempt to balance employment?

Mr. THURMOND. Yes.

Mr. STENNIS. I want to read some figures to get the opinion of the Senator as to whether or not that statement is carried out.

In Mississippi, there is no FEPC law. Still, we have the highest ratio of Negro population to white population in the entire Nation—42 percent.

So far as concerns the unemployment rate in Missisippi for 1960—that is the latest year for which I have available official figures—for nonwhites, the rate of unemployment was 7.1 percent of the civilian labor force.

Referring now to the table which appears on page 109 of the hearings of the Employment and Manpowe: Subcommittee of the Committee on Labor and Public Welfare, we find that the national rate of unemployment among nonwhites was 8.7 percent—higher than that in the State of Mississippi. That is the national average.

In New York—that is the bellwether State for the FEPC, it being the first State to enact the FEPC—the nonwhite unemployment rate was 7.4 percent—higher than Mississippi, and slightly under the national average.

In Minnesota, which has a State FEPC law, the nonwhite rate of unemployment was 12.8 percent—above Mississippi, and above the national average.

California is another State that is strongly sponsoring this bill. The unemployment rate for nonwhites in California was 10 percent—that is nearly 3 percent above Mississippi, and 2½ percent above the national average.

In Montana, the rate was 24.8 percent. The nonwhite unemployment rate in Montana was more than three times what it was in Mississippi.

In Pennsylvania, the nonwhite unemployment rate was 11.3 percent.

In Rhode Island, the nonwhite unemployment rate was 10 percent. That is another State which has an FEPC law. All the States which I have mentioned, except Montana, have some type of FEPC law.

Of the 25 States which are listed as having FEPC laws in 1960, 24 of them had a higher percentage of unemployment among the nonwhites than did the State of Mississippi, which has the highest rate of colored population as compared to white population in the Nation.

I repeat that all but 1 of these 25 States that have the FEPC had a higher percentage of unemployment among nonwhites than did Mississippi.

Is not the conclusion clear there that FEPC laws at the State level have not brought the results that we are told they would? And have not States like Mississippi gotten along better in spite of their much higher Negro population?

Mr. THURMOND. Mr. President, there is no question about it. The figures the Senator gave show this situation very clearly. For example, California, which has an FEPC law, has an unemployment rate for nonwhites of 10 percent. Mississippi, which has no FEPC law, shows unemployment of only 7.1 percent for nonwhites.

Mr. STENNIS. The Senator is correct.

Mr. THURMOND. I believe these figures speak for themselves. Take Illinois, for example. That State has an FEPC law. The nonwhite unemployment rate is 11.5 percent.

Of course, the Senator is familiar with a ruling which was made in Illinois some time ago, under its FEPC law, to the effect that an employer cannot consider the capability of a prospective employee. He could not be given a test to determine whether he was capable to do the work. The company had to employ the first person who applied and could not give its prospective employees a test of their capability because it was said that such a test tended to discriminate against minority groups.

Minnesota has an FEPC law. The nonwhite unemployment rate in that State is 12.8 percent.

Some of those who are so concerned about Negroes in the South should be a bit concerned about Indians and other nonwhite people in their own States. In Montana, the nonwhite unemployment rate is 24.8 percent. Those people are not Negroes. Why are the proponents so interested in the Negroes of the South and not interested in some people who are not Negroes? It is because there is a big Negro vote, and the Negroes vote en bloc in this country. That is why they are so interested in the subject, and that is why they say that Congress must enact the so-called civil rights bill. Most of the Negroes are located in the South, and therefore it seems to me that the people who press for the enactment of this kind of law want to punish the South, while at the same time they are not looking after the problems in their own States. The figures show that to be a fact. There is a larger percentage of nonwhite unemployment in their States than there is in the Southern States.

Mr. STENNIS. The Senator is undoubtedly correct in his conclusions. Is it not also correct to state—with all deference to the States and to the Senators who represent them—that States like New York, Minnesota, California, Pennsylvania, Rhode Island, and other States, under the terms of the pending bill would be taken out from under its operation? They will not be bound by the terms of the bill; is that correct?

Mr. THURMOND. The Senator is correct. In other words, the bill provides that if a State has a fair employment practice law, it will not come under the operation of the pending bill. They want to continue to handle the situation themselves, and to have the enforcement conducted by the States themselves. They do not want the power of the Federal Government to be used in their States to enforce the law.

Mr. STENNIS. But after they exempt themselves from the operation of the act, if the bill is passed, they want to give the Attorney General the power to intervene in cases in which alleged nonequality or discrimination is involved, and bring the accused to trial without a jury, while at the same time they exempt their States so far as title VII

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is concerned, and will not permit the same things to happen in their own States. Is that not correct?

Mr. THURMOND. The Senator is correct. I am bitterly opposed to the FEPC provision. I cannot imagine any kind of legislation which would be more un-American and would deprive people of their freedom more than the so-called FEPC law would.

It is my judgment, as I said a few moments ago, that it would do more to slow down America and delay its progress than any other piece of legislation that could be conceived by the mind of man.

If we must have such a law, let all States come under it, and particularly let those States that like it so much, as shown by the fact that they have passed similar laws, come under the Federal law, too.

Mr. STENNIS. In other words, let them be bound by their own act.

Mr. THURMOND. I would like to see all States covered by the FEPC law, if we must have it. So long as people say that they are in favor of an FEPC law, let them come under the Federal law, too.

It would be a sad day for America if the Federal Government were to be given such vast power. The trouble is that the States that already have FEPC laws are not enforcing such laws. They keep them on their statute books so they can tell minorities, "We have an FEPC law in our State." The very fact that the nonwhite unemployment figures are so high in their States tends to show that they are not enforcing the FEPC laws. They do not want the Federal law to be effective in their States, because they know that it might be enforced. Therefore they would exempt themselves from the application of the Federal law. That is what was done in writing the bill.

We should treat all sections of the country on an equal basis. The so-called civil rights bill is aimed at the South. There is no question about it. On the other hand, the other provisions in the bill would have a vital effect on every citizen of this country.

Consider title II, for example. That deals with the right of a man to sell to or serve anyone he pleases on his own private property. That title would affect every citizen in the country—North, South, East, and West.

I believe it is a terrible blunder for us to consider the so-called civil rights bill. I do not know of anyone who is qualified to vote who cannot vote. If he is not allowed to vote, and he is qualified, he can go to court and obtain relief. If we pass the bill, he will still have to get a court order if he is refused the right to vote. Therefore, what would he gain by the passage of the bill? We should not tell people whom they can serve or sell to on their own private property. If a person wishes to cater exclusively to lawyers or doctors or women or boys or men or girls or white men or black men, he should be permitted to do so. It is his own business. That is freedom. That is the problem we now face. Every time Congress enacts this type of law it chips away a little more of the freedom of the people. By bringing all that power to Washington, to regulate, regiment, and control the lives of the people, we are thereby destroying their freedom. Our forefathers came to America to seek freedom.

Mr. STENNIS. The freedom to which the Senator has referred is one of the crowning civil rights of all civil rights; is that not correct?

Mr. THURMOND. The Senator is absolutely correct.

Mr. STENNIS. It is freedom to use one's own property, to make a living, and to try to do something for one's family.

Mr. THURMOND. I believe that to be the ultimate aim of government. Some people have the idea that the purpose of government is to give benefits to people, or to provide welfare for people who are in need. Other people feel that the ultimate aim is to keep peace.

To my way of thinking, much as we should desire to help people in need, and much as we should keep the peace, that is not the ultimate aim of government.

Those of us who have been through a war, and have seen people shot down all around us, and veterans who know the horrors of war, know that peace is not the ultimate end of government. The ultimate aim is to give people freedom. That is what we fought for. That is why we fought the American Revolution. That is why we fought the War of 1812. That is why we fought the War Between the States. People thought that they were fighting to preserve the Union. The South thought that it was fighting for freedom and the preservation of its rights under the Constitution. The North and South both thought they were right. World War I was fought to keep the Kaiser from taking over the world, we thought. World War II resulted from Hitler and Mussolini wanting to take over the world.

Now we are faced by the monster of communism. We hope that we shall not have to fight a war with the Communists. If we remain strong and let the Communists know that we have the power and the will to win, we can avoid war. Otherwise we may be plunged into war.

All down through history, this country has fought to preserve its freedom. If we pass a bill like the bill before us now we are going back on our forefathers and the purposes for which they came here.

Mr. STENNIS. I thank the Senator for his comments and for yielding to me. I should like to ask him one further question.

The proponents say that we are dealing with rights—the right of employment, the right against discrimination, the right here and the right there. If we are actually dealing with rights, is it not correct to say that certain rights exist, whether or not there is any connection with interstate commerce? If we are dealing with rights, we ought to amend the Constitution and let those rights apply to everyone, whether interstate commerce is involved, or whether Mrs. Murphy's boardinghouse is involved, or not. Is that not correct?

Mr. THURMOND. The Senator is absolutely correct. In the first place the Supreme Court has held an act similar to title II to be unconstitutional. It was passed in 1875 and held unconstitutional in 1883.

It is claimed that this title is proposed on the theory of the commerce clause. There is no merit in that contention, because the decision in the Civil Rights Cases of 1883 contains language that shows that this theory is not valid. The power of Congress to enact such legislation under the commerce clause was considered by the Supreme Court in that case in 1883. A number of arguments were advanced to the court as grounds for the constitutionality of the 1875 public accommodations bill.

I read from my individual views, which accompanied the report of the Committee on Commerce:

> The preamble of the act of 1875 is very short and concise. It contains no recitals of great length, nor does it refer to any particular provision of this Constitution as authority for its passage. Therefore, in the brief for the United States before the Supreme Court, every possible argument was made. In the second paragraph of the brief resort was had to the commerce clause.

This is what the brief of the lawyer for the U.S. Government contained:

> Inns are provided for the accommodation of travelers; for those passing from place to place. They are essential instrumentalities of commerce (especially as now carried on by "drummers"), which it was the province of the United States to regulate even prior to the recent amendments to the Constitution.
>
> The Supreme Court rejected this contention summarily. In answer to its own rhetorical question as to whether Congress had the power to enact the law, the Court said.

And I want the Senator to catch this language, because it is so clear:

> Of course, no one will contend that the power to pass it—

That is, the bill similar to this title—

> was contained in the Constitution before the adoption of the last three amendments.

They were the 13th, 14th, and 15th amendments. The 13th amendment abolished slavery; it prohibited involuntary servitude. The 14th amendment provided for the equal protection of the laws. The 15th amendment dealt with voting.

> The commerce clause had been a part of the Constitution from the date of its ratification and therefore the Court was saying that the commerce clause did not empower Congress to enact the Public Accommodations Act of 1875.

Just as the Court held then that Congress did not have the power to enact such a law, so Congress does not have that power now, and it will not have such power until the Constitution has been amended. A constitutional amendment can be offered; and if Congress proposes it and three-fourths of the States ratify it, and it becomes a part of the Constitution, Congress can then attempt to enact such a law. I hope that will never be done. But that is the only way it can be done legally and constitutionally, because the Supreme Court has already decided that such a law would be otherwise unconstitutional.

Mr. STENNIS. I thank the Senator from South Carolina for his fine exposition. I appreciate also his yielding to me.

Mr. THURMOND. I commend the able Senator from Mississippi. He has rendered a fine service to our country in propounding the penetrating questions that have resulted in the debate on these subjects. I compliment him especially on his questions relating to FEPC, which I believe is about the most despicable piece of proposed legislation that has been presented to Congress throughout its history.

Mr. STENNIS. I heartily agree with the Senator, and I thank him again.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the Senator from Kentucky.

Mr. President, I ask unanimous consent that I may yield to the able Senator from Kentucky with the understanding that I will not lose my right to the floor, and with the further understanding that the resumption of my speech shall not constitute another appearance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. I know that the Senator from South Carolina has been on his feet a long time, and that he may be speaking longer, and I do not want to take too much of his time.

Mr. THURMOND. I would have finished before now, but several Senators intervened and wanted to ask questions and to debate. I was glad to accommodate them. I am always glad to yield to any Senator.

Mr. COOPER. I appreciate that. I was interested in the Senator's use of the term "freedom" with respect to the bill. It made me wonder—whose freedom and what freedom? Freedom is not absolute. Freedom is not unlimited. Under our Constitution one aspect of freedom is that the equal protection of the laws under the 14th amendment, and under the 5th amendment, shall be accorded to all citizens. But whether it is provided in the laws or not, freedom means at least that all shall have equal privileges, immunities, and rights as citizens. In our country there is no question—as the Senator from South Carolina has admitted again and again in his speech today—that the right of all citizens to vote should be equally protected.

The Senator may not agree with me, but the Supreme Court has held that there is an equal right to attend a desegregated public school. The Supreme Court has held also that there is an equal right to use public facilities constructed and operated by any subdivision of government. The equality of use of such facilities and public schools is an aspect of freedom for everyone, whatever his color, race, or creed.

The purpose of the bill is to assure freedom and equality under law to all citizens.

The Senator knows my friendship and respect for him. But with respect to the subject I have mentioned, the Senator's argument is based upon the assumption that freedom is assured equally to all citizens throughout the States. But I must say we know that is not true throughout all the States. The purpose of the bill, certainly as far as voting rights—the right to attend a desegregated public school and the right to use public facilities—are concerned, is to assure freedom. If the States prevent the exercise of such rights, the Federal Government has not only the right, but the duty, to make it possible for persons to enjoy the equal freedom of which the Senator has spoken.

The Senator may disagree with me about public accommodations. We have discussed the 1883 case. It is my view that, whether it is liked or not, when people go into business and hold their business out to the public, the public means the public—all citizens.

When we consider the field of employment, I would have to say that I do not believe that the right to employment is a constitutional right. Congress, if it desires, under the interstate commerce clause, under its power to regulate commerce, can legislate with regard to employment. But I do not claim that it is a constitutional right.

Mr. THURMOND. The Senator knows that in the 1883 decision the Supreme Court held otherwise.

Mr. COOPER. I have read that case at least 10 times. The case has been misquoted more than any other case I can think of.

The Court said that it was not passing on the issue of State action. It merely said that the statute which Congress passed was unconstitutional, because its language did not refer to State action at all. The Court expressly said it was not passing upon the issue as to whether Congress could pass a law with respect to the equal right to use public accommodations.

Mr. THURMOND. It was not necessary to go that far.

Mr. COOPER. The Court said so.

Mr. THURMOND. It was the other point that was being pressed. But the Court said in the same opinion in which it passed on the question of so-called public accommodations, as proposed in 1875:

> Of course, no one will contend that the power to pass it—

That is, the Civil Rights Act of 1875—

> was contained in the Constitution before the adoption of the last three amendments.

Mr. COOPER. That was a reference to the 13th, the 14th, and the 15th amendments. But they are now parts of the Constitution.

Mr. THURMOND. Of course "the last three amendments," as referred to there, are the 13th, 14th, and 15th amendments; but the commerce clause had been part of the Constitution from the date of its ratification. Therefore, when the Court said:

> Of course no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments—

The Court was saying that Congress did not have the power to pass the law, because the commerce clause was part of the Constitution from its very beginning; the commerce clause was incorporated as part of the Constitution in 1787.

Mr. COOPER. The case turned upon the 14th amendment, although the Court did discuss the commerce clause.

We know that the courts have passed on the commerce clause in dozens of cases since 1883, and I must say they have enlarged its scope.

But my point grows chiefly out of the claim that the bill would take freedom from the people. The converse is true. The bill is intended to specify that equal rights, under the Constitution shall be assured. That is freedom.

Mr. THURMOND. I wish to comment on that point.

Mr. COOPER. I can understand why arguments would be directed against certain parts of the bill, because they deal with matters of policy which Congress undertakes to legislate upon, under the commerce clause.

But as for the sections of the bill which deal with constitutional rights, I am at a loss to understand why it would be argued that they should not be protected. If they are denied in parts of the country, Congress should take action to protect them and assure them.

We are in a difficult situation; it has existed for 100 years, and it is difficult to obtain agreement on that situation. I know that is true in my own State.

But the issue is before us, and it will continue to be before us. We shall not get anywhere by acting as if nothing had happened in the last 100 years, or by arguing for the status quo, or by arguing that the bill will take freedom from people, when the purpose of the bill is to secure the freedom granted by the Constitution. Even if they were not grounded in the Constitution, we must give some respect to the rights of others, difficult though that may be.

Mr. THURMOND. On the point the Senator has raised as to the Court's decision, I wish to say that the wording came from a decision in 1883:

> Of course no one will contend that the power to pass it—

The reference is to the Civil Rights Act of those days, which was a public-accommodations measure similar to title II of the pending bill—

> was contained in the Constitution before the adoption of the last three amendments.

The reference was to the 13th, 14th, and 15th amendments.

I read further:

> The commerce clause has been a part of the Constitution since the date of its ratification.

Therefore, the Court was saying that the commerce clause did not empower Congress to pass the 1875 law. I take the position that the Supreme Court has construed the matter; it handed down its decision, and held that act to be unconstitutional; and the Court said it could not be enacted under the commerce clause, either.

Another decision on this subject was the decision of the court of appeals in the case of Williams against Howard

Johnson. In that case, the plaintiff contended that the failure of the restaurant to serve him constituted a burden on interstate commerce, and therefore was unconstitutional. The circuit court of appeals held that although the restaurant was on an interstate highway built with Federal funds, the restaurant had a right to choose those whom it would serve on its premises. That decision was handed down in 1959, and is right in line with the decision of the Supreme Court in 1883.

As to the matter of facilities, and so forth, of course the Senator knows that, with regard to facilities, and also with regard to schools, case after case has been brought in an attempt to desegregate facilities in various of the States; and he also knows that if a person feels aggrieved, he can bring a suit at any time. Under the bill it would still be necessary to bring a suit. So what would be gained by the bill? Would anything which does not already exist be brought about by means of the bill? What could be accomplished under the bill, that could not be accomplished under laws already on the statute books?

Today, any person can bring a suit at any time, if he wishes to enter a school or any other public facility. That has been done in many cases. It has been done in my State. My State has admitted Negroes to colleges there. The State is not defying those court orders; the State has obeyed them.

Last year, a circuit judge handed down a sweeping order of integration, to be applied in Charleston, S.C. I think recently he has seen that he went a little too far, and he has made some modifications of his order. But there has been no defiance of his order. If people there wish to go to separate schools, they have a right to do so, if they prefer to do so. And if there is a nearer school, and if people apply for permission to send their children to it, if their children are not admitted there, they can bring suit. So, if the bill were passed, it would still be necessary to bring suit.

Therefore, what would be gained by passing the bill and having it enacted into law? I know of nothing that would be gained by means of the bill, other than the provision of the bill which would give the Attorney General the power to bring suit in the name of the United States of America in any case in which he might see fit to do so—in other words, to bring into any suit the great power of the Federal Government, and to do so at any time. That would enable the Attorney General to play politics in any State in which he might wish to do so, and to do it on the theory that that would be helpful to the administration he represented, for the purpose of gaining minority bloc votes.

So I think the bill would be a wedge and would open a door for a tremendously large political play to be made in the future by some political party.

I do not want to have anyone denied his rights. I want everyone to have his rights. But I oppose the plan to enact legislation which would transfer power from the State level to the Federal level, and would break the delicate balance provided by the Constitution, and written into the Constitution by its authors, and would transfer such power from the individual citizens to the National Government—which would be done by title II, the so-called public accommodations title. Furthermore, title VII would tell an employer whom he could fire and hire and promote and demote; thus Congress would not only be unbalancing the delicate system of checks and balances written into the Constitution, but also would be destroying some of the fundamental principles on which our Nation was founded.

Mr. TOWER. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the able Senator from Texas, with the understanding that I shall not thereby lose my right to the floor, and with the further understanding that my subsequent remarks will not constitute a second speech by me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Does the Senator from South Carolina know of any Federal law which provides, for example, that if a man accused of the commission of a crime under the laws of a State were denied due process—perhaps because the indictment was improperly drawn, or perhaps because he was not adequately represented by counsel, or perhaps because the witnesses in his behalf had not been made available to him—the Attorney General could intervene in behalf of the citizen who under such circumstances had been denied due process?

Mr. THURMOND. In some cases the Attorney General has intervened as amicus curiae—a friend of the court.

Mr. TOWER. But he has not been able, in effect, to engage himself as the defense counsel for an accused person.

Mr. THURMOND. That is exactly correct. If the bill is passed, the Attorney General of the United States would in effect be made a private lawyer for every person who comes along and says that he wishes a suit brought. In other words, the Attorney General would be a plaintiff's lawyer. Furthermore, the Attorney General would not be required to wait until a student, a parent, or anyone else might request him to bring a suit, but on his own initiative he could enter a case.

Mr. TOWER. Does not the Senator from South Carolina think it is a little peculiar that we should make the Attorney General, in effect, the private lawyer for aggrieved persons in connection with one particular type of breach of rights, either alleged or real, and not in many other cases of rights that are guaranteed by the United States?

Is it not a little inconsistent to single out one right, privilege or immunity and say, "This right is greater than any other. Therefore, only under those circumstances will the Attorney General intervene"? Does the Senator from South Carolina see the possibility that we might be setting a precedent, and that there might be continued demands on the Congress to further enlarge the function, responsibility, power, and discretion of the Attorney General to the extent that he would be able to intervene in almost any kind of suit in which a sovereign State was a party?

Mr. THURMOND. I see no need to give the Attorney General that much power. As the Senator has suggested, it would possibly set a precedent so that in the future more power might be given to the Attorney General to enter other fields of litigation. The Attorney General could become embroiled in almost every category of litigation. Under the terms of the bill he could be embroiled in many fields, including voting, so-called public accommodations, public facilities, education, withholding funds from States, and the Fair Employment Practices Commission.

In the future, if Congress wanted to go further, it could well be said that the precedent was set in the 1964 Civil Rights Act.

It might be said, "Why should we not go into those fields, too?" It might be claimed that some people ought to be represented. Or the Attorney General might wish to represent some people. The bill would allow him to enter a suit whether an individual citizen requested him to do so or not.

A few moments ago I was discussing with the Senator from Mississippi [Mr. STENNIS] an extremely broad provision in the bill. I am not sure whether the Senator from Kentucky [Mr. COOPER] was in the Chamber at the time. I invite the attention of the Senator from Kentucky, as well as the Senator from Texas, to section 302 of the bill, which appears on page 13. It reads as follows:

> SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.

That language would not limit action to the field of public facilities, in which title this particular provision is incorporated. That is a broad section that would allow the Attorney General to intervene in any suit in which he might feel it advisable for him to do so under the conditions set out here.

To my way of thinking—and the Senator from Mississippi [Mr. STENNIS] felt the same way—the provision is very dangerous.

Mr. TOWER. Mr. President, will the Senator yield further for a question?

Mr. THURMOND. I am pleased to yield to the Senator from Texas.

Mr. TOWER. I intend my statement as no implied reflection on the present Attorney General, but we do not know what the disposition of Attorneys General in the future will be. Is it not possible that a politically oriented Attorney General might go around looking for litigation to initiate? In effect, he could be operating under a provision of the bill which is virtually a license for barratry, which, I believe, is forbidden in every State of the Union and which is forbidden under Federal law. That is the business of going out and looking for lawsuits to start. It seems to the Senator from Texas—and I should like the comment of the Senator from South Carolina—that the effect of the bill would be virtually a license for a politically oriented Attorney General to seek to make some political gain out of such action.

**Mr. THURMOND.** I believe the Senator is eminently correct. I can visualize that at some time there might be an Attorney General who would be politically oriented and who would use the provision for the very purposes specified by the Senator from Texas.

**Mr. TOWER.** I thank the Senator from South Carolina.

**Mr. THURMOND.** I commend the able Senator from Texas for the penetrating questions which he has asked and for his vision and foresight in seeing the dangers that are involved in the proposed legislation. It is a pity that if a bill is introduced and called a civil rights bill, it can immediately gain a great following or attract numerous supporters, when in reality it is not a true civil rights bill. In my opinion, the bill would bring about a power shift. I do not know of any true civil rights that the bill would provide. If there are any, they are very minor. They certainly would not warrant the great shifting of power that is proposed and provided for in the bill.

Mr. President, the Talmadge amendment, in which a number of us have joined as coauthors, would accord the right of jury trial in all cases of indirect criminal contempt. Thus would the line be drawn clearly, concisely, and logically, rather than being left to the uncertain discretion of men as to when the punishment involved was too severe for one to have been denied what we all know in truth were intended to be his constitutional rights of due process.

Let me hasten to add that although it is the Court over the years that has provided the invidious and illogical rationale that steered us into this dilemma, the Congress has acquiesced in and even sanctioned this inexcusable parody on procedural due process. This can be illustrated by the statutes now on the books dealing with criminal contempt.

The first important statutory restriction upon the contempt power of the Federal courts was the act of March 2, 1831, now incorporated in title 18, United States Code, section 401.

This act was prompted by the acquittal of Judge James H. Peck, a U.S. district judge, in an impeachment trial. He had imprisoned and disbarred an attorney named Lawless for publishing a criticism of one of his opinions in a case on appeal. Congressman James Buchanan, who had charge of the prosecution of Judge Peck in the Senate, and who later became President, was author of the bill. During the trial in the Senate he told that body:

> I will venture to predict, that whatever may be the decision of the Senate upon this impeachment, Judge Peck has been the last man in the United States to exercise this power, and Mr. Lawless has been its last victim.

For the history of this legislation see the famous case of *Nye* v. *United States,* 313 U.S. 33, 61 S. Ct. 810, 85 L. Ed. 1172 (1941).

The Nye case construed the provision limiting the contempt power to "the misbehavior of any person or persons in the presence of said courts, or so near thereto as to obstruct the administration of justice" to have a geographical and not a causal connotation. It held that acts committed more than 100 miles from the place where the district court in question was located were not within the contempt power as limited by this act. Chief Justice Hughes, Mr. Justice Stone and Mr. Justice Roberts dissented.

Title 18, United States Code, section 401 is as follows:

> Power of court—A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—
>
> (1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;
>
> (2) Misbehavior of any of its officers in their official transactions;
>
> (3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

The chief importance of the Nye case is that it clearly recognizes the authority of Congress to limit the contempt power of the lower Federal courts. Cf. *Cammer* v. *United States,* 350 U.S. 399, 76 S. Ct. 456, 100 L. Ed. 474 (1956). The latter case held that a lawyer is not a court "officer" within the meaning of 18 United States Code 401.

The Clayton Act—October 15, 1914—now partly appearing at 18 United States Code 402 and 3691, guarantees the right, upon demand, to a jury trial where the contemptuous act is also a crime under any Federal or State law. It has certain important exceptions.

Title 18, United States Code, section 402 is as follows:

> Contempts constituting crimes—
>
> Any person, corporation or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.
>
> Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of 6 months.
>
> This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law. As amended May 24, 1949, c. 139, sec. 8(c), 63 Stat. 90.

Title 18, United States Code, section 3691 is as follows:

> Jury trial of criminal contempts—
>
> Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.
>
> This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

The Norris-La Guardia Act (Mar. 23, 1932), now partly codified in 18 United States Code 3692, guarantees the right to a jury trial in contempt cases arising out of certain labor disputes. It is as follows:

> Jury trial for contempt in labor dispute cases—
>
> In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed.
>
> This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders or process of the court.

For other provisions of the Norris-La Guardia Act see 29 United States Code 101 et seq.

Title 18, United States Code, section 3285, which imposes a 1-year limitation on criminal contempt cases, is as follows:

> Criminal contempt—
>
> No proceeding for criminal contempt within section 402 of this title shall be instituted against any person, corporation or association unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act.

It should be noted that, under the Clayton Act (18 U.S.C. 402 and 3691), a "criminal contempt" is an act that is also made a crime under Federal or State laws. This is somewhat narrower than "criminal contempt" as used earlier in this article.

Title 18, United States Code, sections 3771 and 3772 give to the U.S. Supreme Court power to prescribe rules governing contempt proceedings before and after verdict, as well as other types of criminal cases.

Rule 42 of the Rules of Criminal Procedure has been promulgated under the authority of said sections, and is as follows:

> (a) Summary disposition. A criminal contempt may be punished summarily if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of

> the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.
>
> (b) Disposition Upon Notice and Hearing. A criminal contempt except as provided in subdivision (a) of this rule shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the U.S. attorney or of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to a trial by jury in any case in which an act of Congress so provides. He is entitled to admission to bail as provided in these rules. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a verdict or finding of guilt the court shall enter an order fixing the punishment.

Indeed, in 1957, the Congress inexcusably added fuel to the fire of confusion by suggesting to the courts the illogical and principle-defying attempt to draw a line based on severity of punishment between cases where the basic right of a jury trial would be granted and cases where it would be denied. I refer, of course, to the so-called split-level jury trial provision incorporated in the 1957 Civil Rights Act.

Section 151 of the Civil Rights Act of 1957, which pertains to voting rights, provides:

> In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceedings for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of $300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.
>
> This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.
>
> Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

It is indeed fitting, therefore, that Congress should resolve the confusion on the basis of a sound distinction as is proposed by the Talmadge, et al. amendment, granting a jury trial in all cases of indirect criminal contempt, without disturbing the well-settled authority of the court to deal summarily with cases of direct criminal contempt and valid cases of civil contempt.

The line of distinction between the types of contempt is well established. It is explained clearly in a memorandum placed in the Record by the Senator from Georgia on April 21. That memorandum states, in part:

> The contempt can be direct (arising out of acts committed in the physical presence of the court) or constructive (arising out of acts committed out of the physical presence of the court).
>
> There are two types of contempt proceedings—civil and criminal. The distinction is based on the character and purpose of the suit. If remedial, it is civil contempt. If punitive, it is criminal contempt. The following rules generally apply:
>
> Criminal: (1) Punitive punishment, (2) plaintiff is U.S. Government, (3) imprisonment for fixed period, (4) fine paid into court, (5) proved guilty beyond a reasonable doubt, (6) defendant cannot be compelled to testify against himself, (7) case cannot be settled out of court.
>
> Civil: (1) Remedial, (2) plaintiff is the original plaintiff in the injunction suit, (3) imprisonment only to coerce, (4) fine is paid to plaintiff, (5) proved guilty by a preponderance of the evidence, (6) case can be settled out of court.

The language of the amendment also adheres strictly to the established distinction evolved in the case law between direct and indirect criminal contempts. A direct contempt, the trial of which the amendment excepts from the jury trial requirement, is one committed in the "presence" of the court. The language of the amendment includes the three distinct and separate definitions of "presence," which are: First, actual presence, which means in the sight or hearing of the court, under such circumstances that the facts are known to the judge without confession or collateral inquiry; second, such presence that includes any place where court or grand jury sessions are held, including hallways and rooms for witnesses and jurors; and, third, such "presence" that is sufficiently near to the court to obstruct the administration of justice, which means within hearing distance of the court, but not necessarily under such circumstances that the judge knows from firsthand evidence who is responsible for the contempt. The exempted direct criminal contempt also includes that feature of contempt found by Sir John Fox to have a firm basis in the common law for which summary proceedings were applicable; namely, the disobedience of any officer of the court of the writ or process of court, regardless of the geographical location of the act of disobedience in relation to the physical presence of the court.

Mr. President, the law on indirect criminal contempt in South Carolina was settled at the early date of January 1796, in the case of Lining against Bentham. This early decision has stood as the prevailing law in South Carolina since that time, and has neither been overruled nor modified. The decision in this case is as follows:

> William Lining Against James Bentham, a Justice of the Peace for Charleston District
>
> Motion for a new trial.
>
> This was a special action on the case, against defendant, for oppression in the execution of his office, as a justice of the peace, by committing the plaintiff to prison, and depriving him of his liberty, etc.
>
> It came out in evidence, on the trial of this cause, that one James Duncan had been guilty of a breach of the peace; and that upon an application to Mr. Bentham, as a magistrate, by the person injured, he issued his warrant against the offender, in order that he might be apprehended, and bound over to answer for the offense; and in the meantime, to be of good behavior. That Duncan was taken by virtue of this warrant, and carried before the defendant, as a justice of the peace; who ordered him to enter into a recognizance with good security for his apearance at the then next court of general sessions of the peace, etc. for Charleston district, and also for his good behavior.
>
> The plaintiff, William Lining, was present, and offered himself as surety for Duncan, but not being a freeholder in the district, or even a householder in the city; and being perfectly unknown to the defendant, he refused to accept of him; upon which the plaintiff got into a violent passion, and accused the defendant with gross partiality, and abuse of power, in his office as a magistrate, accompanied with very abusive and disrespectful language to his face, and in the presence of a number of bystanders. Whereupon the defendant immediately committed him to the common gaol of the district of Charleston, for his contemptuous behavior; it was, therefore, for this supposed injury that this suit was commenced.
>
> On the trial, Duncan, the first aggressor, was called upon as a witness by the plaintiff, in order to extenuate his conduct, and to show that he had not behaved in so disrespectful a manner, as to justify the defendant in committing him to gaol, which was objected to by defendant's counsel on two grounds: First, because it would be forming a precedent for two culprits to confederate together, in order to overturn and destroy the power and authority of a magistrate, in the due execution of his authority, in preserving the peace of the community; and, secondly, because it would be allowing parol testimony. to contradict the proceedings of a judicial officer, plainly and distinctly set forth in the warrant of commitment, and the facts contained in it as the reasons and grounds for the exercise of such a necessary act of power. It was further urged on behalf of the defendant, that the superior courts of law were bound to protect magistrates and the inferior tribunals established in the country, for the maintenance of peace and good order, unless they were guilty of flagrant abuses of power, for the purposes of oppression.
>
> For the plaintiff, in reply, it was contended, that if the testimony of witnesses, who were present at the time and place where the supposed contempt was offered to the magisterial authority of defendant, was refused, and the record or commitment alone, was to be conclusive evidence of the contempt; it would put the citizens of this country very much in the power of magistrates, who might deprive them of their liberties, without the possibility of guarding against the imprisonment of their persons, and that, too, in the most summary and expeditious manner, before they could have an opportunity of vindicating themselves; and although they might afterward be discharged from such imprisonment, they must in the first instance, be compelled to undergo the ignominy and disgrace, of being confined within the walls of a prison.
>
> Grimke, J. who tried this case, observed, that he considered it as an important one, involving in it the power and authority of the justices of the peace, throughout the State, on the one hand; and the personal liberty of the citizen, on the other. That unless magistrates were treated with respect,

and their authority supported against high handed offenders, the public peace could not be maintained; while at the same time he was bound to say, that the liberty of the citizen was one of the primary objects of the laws of our country. To distinguish, therefore, correctly between the abuse of power, and a proper and well-timed exertion of it, would require the good sense and sound discretion of the jury on this occasion. That every man who was taken before a magistrate, was bound to behave himself with respectful deference to his authority, and to submit to his decisions (until he could have redress, if injured, from higher authority) and no man was justifiable in flying in the face of the magistrate's authority, and treating him with contumely and abuse; even if he was mistaken in his opinion, upon any subject of which he had jurisdiction. That, if magistrates, however, under color of office, should injure or oppress their fellow citizens, they were liable to be punished in a criminal court for their misconduct.

That as soon as Duncan was carried before the defendant, it was clearly within his province, to determine whether to bail, or commit him for want of bail. It was also within his province, to determine who was, or was not, a proper person to be accepted as bail; and having done so, it was the duty of the parties to submit to the defendant's decision.

With respect to the admission of Duncan, who was the original aggressor, as a witness, he was of opinion, that on strict principles of law, the objection was a good one; as it was easy to foresee, that it would be enabling and encouraging confederates, in opposition to lawful authority, to swear for each other; yet he thought it better on the whole, to let such witness be sworn and leave his credibility to the jury, than to reject him on the ground of incompetency; with liberty to defendant to move for a new trial, in case a verdict should be against him.

Duncan was then sworn, and substantially contradicted everything which had been alleged by the defendant, as a justification for his conduct; after which, the jury retired, and soon after returned into court with a verdict 3l. sterling, for the plaintiff, and costs of suit.

The present was, therefore, a motion to set aside this verdict, and for a judgment of nonsuit, or a new trial.

The grounds taken on this motion, were nearly the same as those taken on the trial of the issue. But it was now further contended on the part of the defendant. First, that as he acted in his judicial capacity as a justice of the peace, and not in his ministerial one, he was not liable in this action. Secondly, that parol testimony, ought not to have been admitted to contradict the matter contained in the warrant of commitment for the contempt.

The counsel, in support of the motion, on the first ground urged, that there was a wide distinction, between the ministerial, and judicial acts of a magistrate. That is in his ministerial acts, in putting the laws in force, against offenders of every description, he was bound to see, that the nature of the charge alleged, was such as the party was liable to be prosecuted for; and that supported by the oath or affidavit of the party injured or aggrieved, or some other reputable person on his behalf; also in causing them to be apprehended and brought forward to answer the charges against them, he was to proceed regularly at his peril: and if any person was injured by him, by any irregular or improper proceedings, he was liable in this special action on the case for damages. But in his judicial capacity, as a judge, he was liable only by indictment, at the suit of the State; and that too only in cases where he acts corruptly or oppressively. In all these cases he is liable to be punished by the court, according to the nature of the offense—2 Comyn, 615. 2 Hawk. 85.

In the present case it was said, that the magistrate had been guilty of no irregular conduct, in issuing his warrant, and causing the party accused of the assault to be brought before him; so far he acted ministerially. When the offender was brought before him, then his judicial functions commenced, by determining what was to be done with him afterwards; whether to be bailed, or committed. He, it appears, was of opinion, very properly, that being a bailable offense, he should be admitted to bail; but at the same time, when the plaintiff in this action was offered as surety for Duncan, he was further of opinion, that he was not a proper person to be accepted as security, not having the qualifications requisite by law, to qualify him for being such bail. It was therefore upon the determination of this last point, that the plaintiff got into a passion, and vilified and abused the magistrate. He was therefore most evidently, in the legal exercise of his judicial authority, when this contemptuous behaviour was offered to him, and that too for an opinion which he had but a moment before delivered on the subject. This, therefore, it was contended, brought the defendant within the rule of law laid down in the above authorities; and totally exempted him from all responsibility, in the present form of action.

It was also urged, in justification of the magistrate, that it was not only lawful and proper for him to exercise the power of commitment, but that there was no other method, sufficiently speedy and effectual, to protect the magisterial authority from the insults and contempts of disorderly men, and that he would have been unworthy of the trust reposed in him by his country, if he had not committed him.

2. Upon the ground of the admission of Duncan as a witness to contradict the warrant of commitment, it was argued, that it was admitting parol or inferior testimony to contradict the written judgment or decision of the magistrate, under his hand and seal; which was the highest evidence the nature of the thing was capable of. That while sitting in his judicial capacity, he constituted an inferior court of competent powers to vindicate his own authority; and that his proceedings were to be taken and deemed in law as conclusive evidence of what passed before him, touching the contempt offered.

Against the motion, it was urged on behalf of the plaintiff, that if the doctrine contended for by the defendant was established as the law of the land, that the magistrate's commitment alone was to be conclusive evidence of contempts, it would put the citizens of the country very much in the power of magistrates, who might deprive them of their liberties without a trial by jury, which was secured to every freeman by Magna Carta and our own Constitution. That such an exercise of power was against another well-established maxim of law, that no man should be a judge in his own cause, or determine any point in which he was personally interested.

The judges, after hearing counsel on both sides, and having fully considered this case, were unanimously of opinion on the first ground, that a special action on the case was not a proper remedy. But if there had been any just cause of complaint on the part of the plaintiff, it should have been preferred by way of indictment in the court of sessions; and if he had been convicted of corruption or oppression, in his judicial capacity as a magistrate, it would have been the duty of the court to have punished him, by fine or imprisonment, or, both, according to the nature of the offense.

That it is very evident from the whole complexion of this case, that Mr. Bentham was acting in his judicial capacity, as a justice of the peace, when this contempt set forth in the commitment was offered to him; and the law is equally clear, that a justice of the peace is not answerable in an action for what he does by virtue of his judicial power—2 Hawk. 85; Carth. 494; 3 Burn, 33.

With regard to the power of a magistrate to commit for insults or contempts offered to him while in the due execution of his office, it is incidental to magisterial authority; and without such power, he could never vindicate or support the laws, which are entrusted to his management, and over which he has jurisdiction. That a magistrate, sitting in judgment touching a matter within his jurisdiction, constituted a court in law, though an inferior one, and he was bound to protect the authority of such court. And one general principle, incidental to all courts, as well superior as inferior, was a power to commit for contempts, either by word or deed, offered in the presence of the judge, and in the face of such court. And this is not against Magna Carta, or the law of the land, but forms a part of the common law, which is recognized by the terms of our Constitution—5 Vin. tit. Contempts, 447; Lill. Pract. Reg. 305. Gilb. Hist. C.B. 20, 21; 2 Hawk. 96. 112, 113.

The judges were further of opinion, that Duncan should not have been admitted as a witness on the trial to criminate the magistrate, as he was a party in the complaint then before the justice of the peace; and it had a tendency, as had been justly observed in the argument, to encourage culprits to confederate together, to destroy the power and authority of the magistrate; and the more especially, too, as his testimony went to contradict the highest evidence or record of the contempt, set forth in the commitment under the hand and seal of the magistrate.

That with respect to the last ground insisted on by plaintiff against the present motion, that of a man's not being a judge in his own cause, the maxim was in general a true, and legal one, in every private matter in which a justice of the peace may be interested. But in the present instance, the public peace and good order was principally concerned; and he did not act in his own private case, but as a public officer in support of the peace, and this forms an exception to the above maxim of law. For it is clearly laid down in all the books of authority upon this head, that if any contempt is shewn to the authority of a magistrate, or insult offered to his face, while in the execution of his office, he may act as a judge in such cause, and commit the offender; though he may proceed less summarily, if he pleases, by indictment. The true rule of distinction seems to be this, that where contumelious words are spoken, or other insult is offered to a justice of the peace, and in his presence, he may commit; but when spoken behind his back, he ought to proceed by indictment—3 Burn, 33; Salk. 698; 3 Mod. 139; 2 Show. 207.

Verdict set aside and new trial ordered; but the case was never afterward brought forward.

Madam President (Mrs. NEUBERGER in the chair), the Talmadge amendment would correct a very sore spot in our generally fine judicial procedure, and resolve an area of confusion which is thwarting the spirit of the Constitution, as it applies to the right of jury trials.

The issues as to the denial of a jury trial which arise by virtue of the provisions of H.R. 7152, however, present a far more significant and far-reaching conflict with the Constitution than do those at issue in the Green and Barnett cases. To be sure, the issues as to jury trials in criminal contempt cases arising in those cases would also arise in connection with cases which would stem from the enactment of H.R. 7152. In this instance, however, there are additional factors which make the inclusion of a provision for jury trials even more essential in order to achieve harmony with the Constitution.

Madam President, H.R. 7152 attempts to create new rights for certain citizens. Most of the rights which the bill attempts to create, and particularly those in the so-called public accommodations field and the employment field, had they existed at all in common law, would have fallen into the category of implied contract rights, for they are of this nature. Relations between merchant and customer, and between employer and employee are contractual, although the contract may be implied, rather than specific.

The situation would be bad enough if the bill only attempted to create such rights, and went no further. If that were the case, the so-called rights created by the bill would be enforcible by means of private, or civil, litigation. Enforcement of the so-called new rights would be at the instance of the person aggrieved by his commencing a civil action against the person whom he believed to have violated his rights and caused him damage.

The bill goes much further, however, than just attempting to create new rights and new contractual responsibilities. The bill provides that the new class of so-called rights which it creates shall be enforced, not by civil actions as is normally the method of enforcing contractual rights, but by the United States, through injunctive procedure.

The effect, Madam President, is to convert what would rationally be a matter for civil remedy into a new class of criminal prosecutions which utilize the summary proceeding of the Star Chamber. It should be emphasized that the abridgement of the so-called rights attempted to be created by the bill is not specifically made into a crime, but a procedure is prescribed which will result in criminal sanctions to enforce something in the nature of a contractual right without providing the safeguards of due process, including trial by jury, to those accused of abridging the so-called rights created under the bill.

Madam President, the fact that H.R. 7152 provides that the enforcement of the so-called rights created by the bill will be in actions in which the United States may bring the suit has special significance. The fact that the suits will be prosecuted by the United States operates to circumvent the existing statutory provision for jury trials in indirect contempt proceedings.

Mr. TOWER. Madam President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield to the able Senator from Texas.

Mr. TOWER. The Senator from South Carolina has referred to rights which would be created by the bill. I should like to know the thinking of the Senator from South Carolina on the question of whether it would be consistent and consonant with the Constitution to have Congress create additional rights which are not already granted in the Constitution. Does not it appear to the Senator from South Carolina that that would do some violence to the 10th amendment, which provides that—

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

And, further, the provision in the ninth amendment that—

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

To me, this part of the bill attempts to deal with powers retained by the people. Therefore, I ask this question: Does Congress have a right to create new rights which are not specifically set forth in the Constitution, and which, indeed, both precedent and tradition seem to indicate, are not within the purview of congressional power?

Mr. THURMOND. Madam President, there is no question that the bill calls for a shift in power. Title I, which deals with voting, would shift the qualifications of voters from the States to the National Government. The bill provides that, in connection with a literacy requirement, any one with a sixth-grade education shall be held to meet the requirement, whereas at the present time each State fixes its own qualifications for voting, and the Federal Government adopts the State qualifications for voting, as the qualifications for voting in Federal elections.

Therefore, that provision would bring about a shift of power. In fact, in my judgment, the bill would violate the Constitution. But even if it could be constitutionally done, power would be unwisely shifted from the State level to the Federal level.

Title II, which is the so-called public accommodations title, would take away from the individual citizen the power that is left to him to sell to and to serve whomever he pleases, and shift that power to the Federal Government. Who would tell the individual citizen whom he is to serve, and to whom he may sell?

Title III pertains to public facilities. Questions relating to that subject are now left with the States. Of course, there have been court actions brought in various parts of the country on the subjects dealt with under titles III and IV, but essentially questions related to those titles are left with the States, so that the States may control their own facilities, including their own State parks. The bill would shift the power from the State level to the Federal level, as an examination of title III and title IV would demonstrate.

Title V pertains to the Civil Rights Commission, with which Senators are familiar.

Title VI pertains to the withholding of funds, which, I believe, if tested, would prove to be unconstitutional. Under that title a whole category of people could be punished for an alleged discrimination by perhaps one individual.

I am reminded of the laws passed in olden days in which a whole country or a whole segment of a country would be punished for a crime committed by one individual or only a few individuals.

Title VII pertains to the Equal Employment Opportunities Commission, or the Fair Employment Practices Commission, which would take away from the individual his right to hire, fire, promote, and demote whomever he pleases, and would transfer that right to the National Government.

There is no question that the bill would transfer powers from the State governments to the National Government. It would deprive individual citizens of their rights, and would give that power to the National Government.

The bill is designed to create rights for individuals who do not have such rights now. For example, if two men should apply for a job, the employer could now choose whichever one he wished. If the bill should pass, the employer would not be allowed to exercise that right. He would be required to take the first man who might apply, if he follows the law, or if some Government bureaucrat says that the applicant is qualified, even though he may not be the most competent man, even though he may not have the full confidence of the employer, even though he may be objectionable to the employer, and even though the employer might doubt his loyalty to him.

The employer would be required to hire that applicant if he should apply first if some Government bureaucrat should say that he must be hired. There may be a lawsuit or a contest. Normally that would be the case.

I have pointed out how the bill would create for people rights that are not provided in the Constitution. When we do so, I believe we violate the Constitution. We violate the Constitution when we attempt to give rights to people which the Constitution does not give to them, and we deprive other people of their rights. For example, the right to hire and fire. In that case the fundamental right of a person to run his own business would be violated.

The fifth amendment to the Constitution provides that a citizen shall not be deprived of his life, liberty, or property. A man would be deprived of his property when he is told how he must use his property. A man would be deprived of his rights when he would be told whom he could hire and fire.

I believe the Senator from Texas has stressed a very important point that could be of great significance if the bill should be passed.

Mr. TOWER. I thank and commend the Senator from South Carolina.

Madam President, the two statutory requirements as to jury trials are 18 United States Code 402 and 18 United States Code 3691. 18 United States Code 402 provides:

> Any person, corporation, or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was com-

> mitted, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.
>
> Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000 nor shall such imprisonment exceed the term of 6 months. This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or in behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in comformity to the prevailing usages at law. As amended May 24, 1949, c. 139, Sec. 8(c), 63 Stat. 90.

Title 18, United States Code, section 3691 provides:

> Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in other criminal cases.
>
> This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

In both statutes, an exception is made to the requirement for a jury trial in cases where the suit or action is brought or prosecuted in the name of the United States.

Thus, the obvious effect of H.R. 7152 is to create a new type of action, which employs star chamber proceedings for the enforcement of so-called "rights" which, if they can exist at all, are in the nature of contractual rights.

It is quite significant that in labor disputes cases, the contemnor is entitled to a jury trial regardless of whether the contempt was committed in a case brought by, on behalf of, or in the name of the United States. The provisions of the Norris-LaGuardia Act, 18 United States Code 3692, provides:

> In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed.
>
> This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders or process of the court.

Madam President, I have no quarrel with the provisions of this statute except that it is limited in application to one class of indirect criminal contempt, rather than being applicable to all indirect criminal contempts.

Madam President, Congress has too often considered the matter of jury trials from the viewpoint of political consequences, rather than from the standpoint of the demands of justice and the requirements for protection of the individual.

The right to a trial by jury is no fit subject for compromises. It is true that Congress has previously compromised the principle of jury trials laid down in the Constitution, but no multiplicity of wrongs will make a right.

There is not even a basis in reason for the so-called compromise which has now been offered on jury trials. In 1957, the so-called compromise of the jury trial was based on a punishment level of $300 fine or 45 days imprisonment. Now it is proposed that the level be set at $300 fine and 30 days imprisonment. I suppose that the reduced level of punishment is intended to make the authors of the amendment appear gracious and magnanimous.

As I have previously pointed out, there is no logical basis for basing the right to a jury trial on the severity of punishment inflicted. Conviction and punishment are two entirely different matters. The stigma of conviction is not mitigated by a light sentence. An unjust conviction is no less unjust because the sentence of the court was mild.

If it is unjust for a judge in cases of indirect criminal contempt to be vested with the power to act as prosecutor, judge and jury, then it is unjust in all cases, whatever the sentence of the court.

The pending substitute amendment, or compromise, as it is called, is well named, for it is completely "compromising." The very fact that the amendment has been offered is an admission that it is wrong, unjust, and out of harmony with the Constitution, for a person to be denied a jury trial when charged with indirect criminal contempt. The rationale of the "compromise," however, is that a little bit of wrong is all right; that a little bit of injustice is permissible; that it is all right if only a little bit of one's constitutional rights are denied.

Yes, Madam President; "compromise" is the correct and descriptive label for the pending substitute amendment. It is not a just compromise of the level of punishment at which a jury trial will be denied; it is a compromise of a fundamental principle of justice.

I cannot believe that the "compromise" is designed for the protection of the principle of jury trials. It is designed to give the appearance of reasonableness to an unreasonable bill, and thereby induce Senators to vote for cloture.

Not only would this new variation of the split-level jury trial compromise a fundamental principle of justice through due process; it would compromise the Senate, itself. The Senate should have no part of it.

Judges should either have star chamber powers or they should not have such powers. Judges should either have the power in indirect criminal contempts to charge a man with a crime, prosecute him for it, conduct his trial, find him guilty and impose the sentence, or they should not have such power. Justice either requires that a man be given a jury trial in cases of indirect criminal contempt or it does not so require.

There is no such thing as confining justice to the flagrant cases, and permitting injustice in the minor cases. If the Senate departs from the principle of justice in any case, it commits an injustice.

H.R. 7152 is an extreme and drastic bill. It is, in many particulars, in conflict with the Constitution. It constitutes a monstrous blow to individual liberty. It contains a frightening concentration of power in the National Government.

This should be quite enough of a package to inflict on the American people to satisfy even the most radical zealot.

To compromise the right of jury trial in the same blow will but add insult to injury by the addition of one more deception.

If there must be some token change in the bill, some device by which a sufficient vote for cloture can be seduced, then let it be one of the other tokens which have been proposed, of which there are several, arrived at with much ado to make sure they do nothing.

If the Senate does pass this bill—and it is my fervent prayer that it will not do so—let it not also compromise itself by giving a judge the power to inflict small doses of injustice.

Let the Senate vote down the "compromise" of jury trials, and face the issue squarely, once and for all, as to whether the Constitution—and more important, justice—requires that jury trials be accorded in cases of indirect criminal contempt.

## FURTHER LOSS OF AMERICAN JOBS AND THE COMING OTTAWA CONFERENCE

During the delivery of Mr. THURMOND's speech,

Mr. SYMINGTON. Mr. President, thanks to the courtesy of the Senator from Vermont, the Subcommittee on Canadian Affairs of the Senate Foreign Relations Committee met yesterday morning to hear representatives from the State Department and the Department of Commerce in connection with the loss of automotive parts business as the result of the recent Canadian tariff manipulation.

As a result of this meeting, I earnestly hope that the Department of State realizes the seriousness of this problem, and its effect on a major component of American industry.

We have been discussing this problem with State and Treasury and Commerce since last September, even prior to the installation of this tariff trick, as a result of some of my constituents, primarily Mr. Jack F. Whitaker, president of the Whitaker Cable Corp. of Kansas City, obtaining advance information of the plans of the Canadians.

I presented that this tariff rebating scheme could only benefit Canada in dollars as well as jobs at the expense of both income and employment in the United States.

I also presented that the policy would appear to be a subsidy to Canadian manufacturers; and if so, the Treasury Department could impose now a countervailing duty under section 303 of the Tariff Act of 1930.

As of April 24, the Treasury Department has notified us that they are considering whether or not the Canadian system is a "bounty or grant" within the meaning of this section of the Tariff Act; and that the matter is on the agenda for the interministerial meeting scheduled to take place in Ottawa later this week.

If this tariff action is not a subsidy, then it is a rebate; and the latter is legally contrary to our tariff agreements.

As the plan has been developed, Canadian manufacturers will not only be producing for their own market, but also for the market in this country—and it has been reported that Canada expects to gain some 60,000 jobs, again at the expense of the industry in this country.

Shipments of automotive parts from Canada were some $8 million in 1962, $32 million in 1963, and will approach $100 million during 1964. In addition, if the present policy is allowed to stand, the real jump in Canadian business will occur in 1965.

In an effort to meet this condition, we understand that one of the large American automobile producers is now constructing an engine plant in Canada.

Recently the piston and pin standardization group, another trade association whose members consist of the U.S. manufacturers of pistons and pins used in internal combustion engines, have joined with the automotive parts association in protest against this Canadian action. We have also heard from several unions in protest against this loss of jobs, including the machinists and the auto workers.

If there are further developments such as Studebaker moving its entire automobile production to Canada as a result of this tariff manipulation, not only will thousands of additional jobs be lost in this country, but there can only be a further dollar outflow from the United States; and that can only further increase our unfavorable balance of payments.

There are now rumors that, if this Canadian scheme is successful in the automotive industry, it will be applied to other industries such as aircraft and chemicals.

At the meeting yesterday morning I presented a letter as of April 20 from the Eaton Manufacturing Co. of Cleveland, Ohio, in which it was pointed out that this policy would result in a loss to their business of some 800,000 man-hours, $11 million in business.

In this connection, the Ottawa meeting later this week is of the utmost importance. If the Treasury decides the matter comes within the meaning of section 303 of the Tariff Act, unless the Canadians are willing to base their position on efficiency, reciprocal action can and should be taken by the United States.

I believe this Government should do whatever is necessary to protect these jobs, especially as their loss is in spite of the superior efficiency of American manufacturers.

Unless the Ottawa meeting results in a correction of this unfortunate development, I plan to request an open hearing by the Senate Foreign Relations Committee. We cannot afford to lose more jobs as a result of this unilateral tariff action.

## OUR SEATO ALLY PAKISTAN, AND THE WAR IN SOUTH VIETNAM

During the delivery of Mr. THURMOND's speech,

Mr. GRUENING. Mr. President, among the valid reasons why the United States should get out of its unilateral engagement in South Vietnam is that our SEATO allies have run out on us. We are carrying on that war—and it is a war—all alone and getting our American boys killed. Britain, France, Australia, New Zealand, Thailand, and Pakistan are partners in the Southeast Asia Treaty. But no British boys are in the firing line; no French boys are in the firing line; no New Zealand boys are in the firing line; no Thai boys are in the firing line; no Pakistani boys are in the firing line. Only American boys. American boys are being killed in combat. But no British boys; no French boys; no Australian boys; no New Zealand boys; no Thai boys; no Pakistani boys.

Recently President Johnson urged their participation at least by a show of flags. But what has been the response? It has been negative.

The latest rebuff comes from Pakistan. The New York Times devotes a column to it under the heading "Pakistan Rebuffs United States on Saigon Aid."

I ask unanimous consent that this article from the New York Times of April 28 be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRUENING. Mr. President, now the details of this Pakistan refusal to play its part are interesting. Addressing the National Press Club, according to the Times account, Pakistan's Foreign Minister Tulfikar Al Buitto stated that on the contrary Pakistan would pursue its program of normalizing relations with Communist China and the Soviet Union despite its defensive alliances with the United States.

We may well ask just what value to the United States is this defensive alliance. All it has done apparently is to cost Uncle Sam a lot of money and to have created dissatisfaction with the United States in India, another large-scale beneficiary of U.S. aid.

The New York Times story goes on to say Mr. Bluitto's comments were interpreted "as an indication that on Asia policy the United States and Pakistan were still at odds and that their relations continued to be troubled."

Well, Pakistan is in Asia. India is in Asia. South Vietnam is in Asia. So, if Pakistan is at odds with us on our Asia policy, just what good is our defensive alliance with Pakistan and what results have come from our ladling out to Pakistan of $1⅓ billion?

Yes, my friends, that is the amount to date. It consists for the 14 years ending in 1963 of $710.5 million in grants and $623.2 in loans.

Now what are the terms of these so-called loans? We are loaning our taxpayers' dollars at three-fourths of 1 percent.

Moreover, these so-called loans are repayable in 40 years, with no repayment of principal for the first 10 years. There is, of course, a great question whether they will ever be repaid.

They include loans for so-called "commodity assistance"; that one is for $15 million.

Then there is a loan of $90 million for iron and steel imports.

There is a loan of $31 million to help Pakistan rehabilitate its railroads.

There is a loan of $26 million to build a thermal electric power generating station—a profitmaking enterprise as soon as it is built.

There is also an $8,600,000 loan to expand Pakistan's power system.

There is a $2,100,000 loan for airport airways equipment.

There is a $30 million loan for "general commodities."

There is a $2 million loan for "feasibility studies."

There is a $10,800,000 loan for salinity control and reclamation.

There is a $3,600,000 loan at three-fourths of 1 percent for the Chalna Anchorage project.

Let it be clear that this Anchorage project is not Anchorage, Alaska; it is an Anchorage project in Pakistan.

Anchorage, Alaska, has not been offered any loan at three-fourths of 1 percent.

I ask unanimous consent that two tables showing the loans and grants made to Pakistan totaling $1,333.7 million and one showing the development loans be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRUENING. Mr. President, a fine ally—this Pakistan. The more we give them the less they cooperate.

There is a second valid reason why the United States has no business in Vietnam. We are pretending that we are there to help and advise the government—that of self-imposed Nguyen Khanh—on winning its war against the opposing Vietcong. But our 15,000 or more boys who are presumably there as advisers are in combat. That's why they are losing their lives.

A graphic account of how these so-called advisers are involved in combat is the posthumously published story of one of them. He was Capt. Jerry Shank, of Indiana. Extracts of some of his letters to his wife are published in the current issue of U.S. News & World Report. They are the testament of one of the American boys, sent to South Vietnam supposedly as an adviser and killed there on March 24 of this year.

I quote a few of the passages:

[From U.S. News & World Report, May 4, 1964]

### A CAPTAIN'S LAST LETTERS FROM VIETNAM: "WE ARE LOSING, MORALE IS BAD; IF THEY'D GIVE US GOOD PLANES * * *"

(This is an American pilot's own story of the role of U.S. troops in South Vietnam. They are far more than "advisers" to South Vietnam's armed forces. Americans are in the thick of a "hot war," a shooting war. And, often, they are fighting with obsolete weapons against a Communist enemy who is highly skilled and well armed. A vivid picture of the war, the elation and excitement, the frustration and bitterness, emerges from the pilot's letters home—a correspondence ended by his death in combat.)

November 27, 1963: Sunday all hell broke loose with the VC (Communist Vietcong guerrillas). We had a big airborne operation against them—both choppers and parachutes. I woke up at 4:30 to fly my first night attack—darker than hell. * * * By 9 o'clock in the morning we had launched 12 sorties, which is a lot for our little operation. The Vietcongs got one chopper and one B–26 that day, but we (T–28's) hurt them bad.

* * * * *

December 21, 1963: It's so mixed up over here—there are over 3,000 Air Force in Vietnam, yet there are only 50 combat crews (B–26 and T–28). What a ridiculous ratio. Also, the Army tried to show the Air Force is no good and vice versa. Ridiculous. Down at Soc Trang, Army and Air Force will die for each other, but up with the colonels and generals it's a big fight for power. And most of these idiots don't even have any idea of what it's like out in combat. * * * They're trying now to find out why we pick up so many hits. The dumb b------s. We get hit more now because the VC have very fine weapons. There are Chinese over here now.

I think the next few months will tell. Either the VC will quit or this will turn into another Korea. I hope it doesn't take the United States too long to realize this.

* * * * *

December 22, 1963: Flew another mission today. We escorted three trains across no man's land and then struck some VC's. Our FAD (the guy in the L–19 who tells us where to hit) received three hits, but we got them. I'm credited with destroying a .50-caliber antiaircraft gun. Bombed him out of this world. I guess I'm a true killer, I have no sympathy and I'm good. I don't try to rationalize why I do it. No excuses. It's a target and I hit it with the best of my skill. It's a duel; only, I repeat, only the best man wins. You can't afford to be second.

* * * * *

January 3, 1964: Down at Soc Trang, one of the airmen came up with the idea of putting chunks of charcoal in our napalm tanks. Napalm is a gasoline which is jelled into a mass about the consistency of honey. We carry two tanks of it, each weighing 500 pounds. When you drop it, it ignites and spreads fire about 200 to 300 feet. With charcoal in it, the charcoal is thrown about another 200 feet farther, like a burning baseball, and does further damage to VC houses. We've had it at Soc Trang and it works real well.

Tomorrow three birds are going out with one-half of their load of straight napalm and the other half with charcoal napalm (Madam Nhu cocktails). A photo ship is going along to take pictures. If higher headquarters thinks it's all right, then they'll buy us the charcoal. So far we've been buying it ourselves or else "borrowing" it from the kitchen.

* * * * *

January 7, 1964: Morale's at a big low over here, especially among the combat crews. It's the same old stuff we got in MATS. No consideration for the crew.

Lost two guys today. One was a pretty good friend of mine. The only guess is—the airplane just came apart. B–26—third or fourth that have done that now. * * * Pretty bad day—just hard to find any good news to write. Can't even talk to anybody—nobody has anything to say. Just a blue day.

I don't know what the United States is doing. They tell you people we're just in a training situation and they try to run us as a training base. But we're at war. We are doing the flying and fighting. We are losing. Morale is very bad.

We asked if we couldn't fly an American flag over here. The answer was "No." They say the VC will get pictures of it and make bad propaganda. Let them. Let them know America is in it.

If they'd only give us good American airplanes with the U.S. insignias on them and really tackle this war, we could possibly win. If we keep up like we are going, we will definitely lose. I'm not being pessimistic. It's so obvious. How our Government can lie to its own people—it's something you wouldn't think a democratic government could do. I wish I were a prominent citizen or knew someone who could bring this before the U.S. public. However, if it were brought before the average U.S. family, I'm sure all they'd do is shake their heads and say tch-tch and tune in another channel on the TV.

* * * * *

January 20, 1964: I have never been so lonely, unhappy, disappointed, frustrated in my whole life. None of these feelings are prevalent above the other. I guess I should say loneliness overshadows the others, but that's really not true.

I am over here to do the best job possible for my country—yet my country will do nothing for me or any of my buddies or even for itself. I love America. My country is the best, but it is soft and has no guts about it at all.

I'm sure nothing will be done over here until after the elections. Why? Because votes are more important than my life or any of my buddies' lives. What gets me the most is that they won't tell you people what we do over here. I'll bet you that anyone you talk to does not know that American pilots fight this war. We—me and my buddies—do everything. The Vietnamese students we have on board are airmen basics. The only reason they are on board is in case we crash there is one American adviser and one Vietnamese student. They're stupid, ignorant sacrificial lambs, and I have no use for them. In fact, I have been tempted to whip them within an inch of their life a few times. They're a menace to have on board.

* * * * *

February 17, 1964: All B–26's are grounded, so we are the only strike force left.

A B–26 crashed at Hurlburt last week. Another came with the wing just coming off. Finally, the Air Force is worried about the airplanes—finally, after six of my friends have "augered in."

* * * * *

February 21, 1964: Tuesday evening ——— ——— got shot down. He fell in his airplane next to a Special Forces camp and got out without a scratch. The airplane burned completely up, though. [Another airman] was going in on his seventh strafing pass and never came out of it. Don't know what happened—whether he got shot or his controls shot out. That was two airplanes in 2 days. Kind of shook us up.

Not only that, the B–26's have been grounded since Monday because the wings came off one again at Hurlburt. So after the last crash the whole USAF fighter force is down to six airplanes. This should set an example of how much Uncle Sam cares. Six airplanes. Might as well be none.

Rumor now is that B–26's will fly again only with greater restrictions. * * * I'm pretty well fed up. Poor B–26 jocks are really shook. That airplane is a killer.

I ask unanimous consent that the full text of "A Captain's Last Letters From Vietnam" from the May 4 issue of U.S. News & World Report be printed in full at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 3.)

Mr. **GRUENING**. Mr. President, there is a third valid reason why the United States should get out of its unilateral, needless, and tragic involvement in South Vietnam, with its mounting toll of American lives.

Reviewing the past history, the failure of the French with their large army and heavy losses, and our own failure to date to prevent the war from going from bad to worse, is the obvious conclusion that we cannot win. To have even the slightest chance to win, the United States would have to engage in a full-scale major war, with ground forces of several hundred thousand men, backed by the most modern missilry and airpower. Even then, in that remote and difficult terrain, attainment of victory would be far from assured and the costs in human life and treasure staggering. We might indeed be inviting a far larger war.

But a new aspect forces itself upon our attention. Do we really want to win? That issue has been thrust into public consciousness by an article by Jim Lucas, veteran war correspondent for the Scripps-Howard newspapers.

I ask unanimous consent that his article in the Washington News of April 27 entitled: "U.S. Fails To 'Go All-Out for Victory,'" be printed at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 4.)

Mr. **GRUENING**. Mr. President, Mr. Lucas quotes an American major as saying:

> We're really not trying so much to train these people to win their war; rather we're training ourselves.

And Lucas goes on to state that:

> The United States is—and has been for the past 3 years—using Vietnam as a sort of military test laboratory, an extension of Aberdeen Proving Grounds, Fort Benning, Fort Bragg, and all the others back home.

What a shocking reason for sacrificing the lives of our young Americans.

Meanwhile, we are facing other dire aspects of our unilateral exposure in this tropical trap. It is lucidly set forth in an article by Hanson W. Baldwin, the knowledgeable military expert of the New York Times, which appeared in that publication on April 28, headed: "Terrorism in Vietnam: Violence Against Civilians Complicates U.S. Efforts and May Force Policy Shift."

I ask unanimous consent that this article be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. GRUENING. Mr. President, let us hope that this, as well as all the other valid reasons, do force a policy shift. It is time that our civilians and dependents were evacuated. It is being contemplated in neighboring Laos, where our misguided policies in the Far East are reaping their bitter fruit.

The development in Laos were discussed in an article in the April 28 issue of the New York Times, in a United Press dispatch from Vientiane, Laos, headed: "U.S. Dependents in Laos on Alert to Leave." I ask unanimous consent that this article be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 6.)

Mr. GRUENING. Mr. President, my mail continues to run almost unanimously in favor of my position, first stated on the floor of the Senate on March 10, that the United States should get out of South Vietnam.

I share the view so well repeatedly expressed by the able senior Senator from Oregon that we should bring the United Nations into the picture, arrange for a cease-fire, and work for a negotiated peace. I repeat my view that South Vietnam is not worth the life of an American boy.

On a previous day I introduced some 50 letters from all parts of the country supporting my position. I ask unanimous consent that another 50 be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 7.)

## Exhibit 1

[From the New York Times, Apr. 28, 1964]

### Pakistan Rebuffs United States on Saigon Aid—Bhutto Reiterates Program of China and Soviet Links

(By Hedrick Smith)

Washington, April 27.—The Foreign Minister of Pakistan rebuffed today President Johnson's suggestion that Asian allies of the United States contribute more to the war against Communist guerrillas in South Vietnam.

The Foreign Minister, Zulfikar Ali Bhutto, also said at a National Press Club luncheon that his country intended to pursue its program of normalizing relations with Communist China and the Soviet Union despite its defensive alliances with the United States.

During the last 18 months Pakistan has signed several agreements with Communist China to demarcate their borders, exchange commercial airline service and provide for economic trade.

Mr. Bhutto's comments were interpreted as an indication that on Asia policy the United States and Pakistan were still at odds and that their relations continued to be troubled.

There were new indications of the continuing coolness. Contrary to custom for foreign dignitaries, no ranking State Department official was on hand for Mr. Bhutto's luncheon address.

Earlier, the Pakistani Government refused to permit five Pakistani newsmen to come to the United States to cover the meetings of the Central Treaty Organization. The meetings start tomorrow.

#### LACK OF FOREIGN EXCHANGE

Mr. Bhutto, who is here to attend the sessions, said at the luncheon that "sheer lack of foreign exchange" had prevented Pakistan from allowing the newsmen to come.

But qualified sources said Washington had proposed their visit and had offered to fly them here and pay their expenses. Ten newsmen from Iran and Turkey have arrived under a similar arrangement.

Britain is the other member of the treaty organization. The United States is a member of certain leading organs of the organization and is represented at its meetings by observers.

The sources said Pakistan's refusal to permit the correspondents to come was apparently an effort to prevent their reports from giving the appearance at home of heavy dependence by Pakistan on U.S. aid. An informant here said it was "another sign of their lukewarm attitude toward CENTO."

Last fall a large part of the Pakistani Navy took part in a training exercise with elements of the United States, British, Iranian, and Turkish fleets, but there was an almost total news blackout in Pakistan on the exercises, officials said.

Most recently, Washington was disturbed by Foreign Minister Bhutto's decision not to attend the Southeast Asia Treaty Organization's ministerial meeting in Manila. He chose instead to attend the preparatory talks for an African-Asian conference sponsored by Communist China.

In the recent discussions in Manila the United States was reported to have urged its allies to carry a larger share of the Vietnamese war effort. Last Thursday, President Johnson said at a news conference he hoped to see some more flags represented in the Vietnamese conflict.

Mr. Bhutto told a questioner today that it would "be dishonest to say we could make a contribution" to the war in Vietnam. He said the "menace" of a Western-armed India made it impossible. The Indians and Pakistanis are involved in a bitter dispute over the status of Kashmir.

Pakistan, which has yet to commit forces to Western alliances, is one of two members of the Southeast Asia Treaty Organization that have not sent some military, technical, or economic aid to the Government of South Vietnam. The other is Thailand.

## Exhibit 2

*Loans and grants made to Pakistan under the Agency for International Development and predecessor agencies*

[In millions of dollars]

| Year | Loans | Grants |
|---|---|---|
| 1949–52 | ---------- | 10.6 |
| 1953–57 | 103.0 | 227.3 |
| 1958 | 38.6 | 54.3 |
| 1959 | 63.2 | 99.5 |
| 1960 | 102.0 | 96.6 |
| 1961 | 27.2 | 97.0 |
| 1962 | 207.1 | 33.0 |
| 1963 | 169.4 | 4.9 |
| Total | 710.5 | 623.2 |
| Total of loans and grants | 1,333.7 | |

*Development loans made to Pakistan (repayable in dollars)*

| Borrower and purpose | Repayable, number of years | Interest rate (percent) | Amount |
|---|---|---|---|
| GOVERNMENT OF PAKISTAN | | | |
| Commodity assistance | 45 | 2½ | $15,000,000 |
| Iron and steel imports | 40 | ¾ | 90,000,000 |
| 4th railways project | 40 | ¾ | 31,000,000 |
| General commodities imports | 40 | ¾ | 42,000,000 |
| Expansion of power system | 40 | ¾ | 8,600,000 |
| Thermal electric power-generating station | 40 | ¾ | 26,000,000 |
| Malaria eradication program | 40 | ¾ | 3,800,000 |
| Airport and airways equipment | 40 | ¾ | 2,100,000 |
| Salinity control and reclamation project No. 2 | 40 | ¾ | 10,800,000 |
| General commodities (2d) | 40 | ¾ | 30,000,000 |
| Chalna anchorage project | 40 | ¾ | 3,600,000 |
| Feasibility studies | 40 | ¾ | 2,000,000 |
| Total | ------ | ------ | 264,900,000 |

## Exhibit 3

[From U.S. News & World Report, May 4, 1964]

### A Captain's Last Letters From Vietnam: "We Are Losing, Morale Is Bad; If They'd Give Us Good Planes"

(This is an American pilot's own story of the role of U.S. troops in South Vietnam.

(They are far more than "advisers" to South Vietnam's armed forces.

(Americans are in the thick of a "hot war," a shooting war. And, often, they are fighting with obsolete weapons against a Communist enemy who is highly skilled and well armed.

(A vivid picture of the war, the elation and excitement, the frustration and bitterness, emerges from the pilot's letters home—a correspondence ended by his death in combat.

(Air Force Capt. "Jerry" Shank is dead—a combat casualty of the war in Vietnam.

(While he lived and fought "Jerry" Shank wrote to his wife and family in Indiana every chance he got—sometimes twice a day. Those letters make up a moving "battle diary" of a war in which more than 15,000 Americans are fighting and dying in combat against the Communists.

(Excerpts from his letters are presented here with the permission of his widow. All references, by name, to his Air Force companions have been eliminated to spare them any possible embarrassment.)

November 14, 1963: We're using equipment and bombs from World War II and it's not too reliable. This is an interesting place here. Everybody works together, officers and enlisted. We're out there lifting bombs and such. Every possible time, we give the men a chance to ride. On a test hop or something like that—it gives them a little motivation. We can't take them on missions, 'cause we have to have our VNAF [Vietnamese Air Force] student pilot along.

We 23 Air Force run the whole T–28 war in the Mekong Delta. This will give you some idea of Uncle Sam's part in the war.

November 22, 1963: Been real busy with the armament job—really makes a day go fast. Got all kinds of problems—can't get parts or books or charts describing the different bombs and systems. The Air Force hasn't used any of this equipment since Korea, and everybody seems to have lost the books. The main problem is personnel—no good officers or NCO's over here that really know their business. Most of them are out of SAC [Strategic Air Command] and have dealt only with nuclear weapons. This doesn't apply over here; what we need is someone from World War II. Some days it's like beating your head against a brick wall.

November 27, 1963: Sunday all hell broke loose with the VC [Communist Vietcong guerrillas]. We had a big airborne operation against them—both choppers and parachutes. I woke up at 4:30 to fly my first night attack—darker than hell. * * * By 9 o'clock in the morning we had launched 12 sorties, which is a lot for our little operation. The Vietcongs got one chopper and one B–26 that day, but we (T–28's) hurt them bad. There is far more detail to this, but I don't want to put it in a letter.

I'm up to 20 missions now and am real confident in myself. I do good work, I feel like a veteran and I feel like a different man. I think I am older.

I have changed my opinion about the VC. They are not ornery little fellows. They are mean, vicious, well-trained veterans. They are killers and are out to win. Although this is called a dirty little war and it is far from the shores of old United States of America, it's a big, mean war. We are getting beat. We are undermanned and undergunned. The United States may say they are in this, but they don't know we need help over here.

If the United States would really put combat people in here we could win and win fast. It seems to be the old story of a halfhearted effort.

December 4, 1963: I have debated for a week and a half now over telling you of Black Sunday—November 24, 1963. I'm going to tell you, and if you don't want to hear about these things again, well, say so. You do have a right to know.

This was not a typical day. We flew 20 sorties. But the VC hurt us bad. All in all that day, 23 airplanes were hit, one B–26 crew lost their lives, three choppers crashed. The VC won.

What they had done was pull into the little village and commit their usual atrocities, then pull out. But all they had were small arms and rifles on them. So headquarters thought they would teach this little group of VC's a lesson and sent this operation I spoke of in after them.

But the crafty little b———s withdrew from the town into foxholes and bunkers and hiding places they had been secretly building for a week. Also, they had many friends in there plus large antiaircraft guns, and all sorts of machineguns. So when the first wave of troops went in, they thought it was just a routine chase of VC's. But they soon ran against the VC wall and we pilots soon discovered that they had more weapons than pistols and homemade guns. Shrewd plan—and they won.

We could have won but I could write a chapter on that. I hope you were able to follow that, Connie. A lot happened that day and it happened fast and furious. It's not a good thing to tell a wife, but she has to know—no one else will say it—no one else can or will, I guess. There are no heroes over here but there are a lot of fine men—America better not let us down. We can use help. We can win, but America must come over, for the Vietnamese will never hack it alone. We've either got to get in all the way, or get out. If we get out the VC will be in Saigon the next day.

December 14, 1963: I do get a kick out of the Vietnamese people. They're poor, dirty, and unsanitary according to our standards, but they're happy and some are hardworking.

December 16, 1963: The VC's [Communist guerrillas] sure gave them a rough time.

The VC are kind of a Mafia. They terrorize and then they sell "insurance" so that the people will not be harmed again. They strike especially villages where Americans have been seen. They terrorize these villages and then blame it on Americans by saying, "If Americans hadn't come to your village, we would not have plundered and killed, so if you don't want it to happen again, pay us money and don't let Americans into your village."

So you see, they gain from this. First of all, they get money or food; second, they instill a dislike for Americans—dirty b———s. But I do like the Vietnamese I've met and talked to. They are friendly, happy, and childlike—good people.

December 21, 1963: We got a briefing today of the total result of that operation on November 24. I'll repeat it briefly.

The air power got credit for 150 to 200 killed. No one can be sure of the amount, for the VC carry off all their dead and wounded. They never let you know for sure how bad you hurt them.

Anyway, there were approximately 700 VC's dug in with three 50-caliber antiaircraft guns and three 30-caliber antiaircraft guns, plus many hundred other machineguns. They were waiting for us, but we hurt them even though we lost. We lost because we had them trapped and they got away.

It's so mixed up over here—there are over 3,000 Air Force in Vietnam, yet there are only 50 combat crews (B–26 and T–28). What a ridiculous ratio. Also, the Army tried to show the Air Force is no good and vice versa. Ridiculous. Down at Soc Trang, Army and Air Force will die for each other, but up with the colonels and generals it's a big fight for power. And most of these idiots don't even have any idea of what it's like out in combat. * * * They're trying now to find out why we pick up so many hits. The dumb b———s. We get hit more now because the VC have very fine weapons. There are Chinese over here now.

I think the next few months will tell. Either the VC will quit or this will turn into another Korea. I hope it doesn't take the United States too long to realize this.

December 22, 1963: Flew another mission today. We escorted three trains across no man's land and then struck some VC's. Our FAD (the guy in the L–19 who tells us where to hit) received three hits, but we got them. I'm credited with destroying a 50-caliber antiaircraft gun. Bombed him out of this world. I guess I'm a true killer. I have no sympathy and I'm good. I don't try to rationalize why I do it. No excuses. It's a target and I hit it with the best of my skill. It's a duel; only (I repeat) only the best man wins. You can't afford to be second.

December 30, 1963. Well, here goes. I got shot down yesterday. We were escorting a C–123 and I picked up three slugs in my airplane. One went into my fuel strainer and I lost all my fuel. I made it to a field called Pan Tho and landed safely. Me and the airplane are both okay, not a scratch except the three bullet holes. No sweat.

January 3, 1964. Down at Soc Trang, one of the airmen came up with the idea of putting chunks of charcoal in our napalm tanks. Napalm is a gasoline which is jelled into a mass about the consistency of honey. We carry two tanks of it, each weighing 500 pounds. When you drop it, it ignites and spreads fire about 200 to 300 feet. With charcoal in it, the charcoal is thrown about another 200 feet farther, like a burning baseball, and does further damage to VC houses. We've had it at Soc Trang and it works real well.

Tomorrow three birds are going out with one-half of their load of straight napalm and the other half with charcoal napalm (Madame Nhu cocktails). A photo ship is going along to take pictures. If higher headquarters thinks it's all right, then they'll buy us the charcoal. So far we've been buying it ourselves or else "borrowing" it from the kitchen.

January 7, 1964: Morale's at a big low over here, especially among the combat crews. It's the same old stuff we got in MATS. No consideration for the crew.

Lost two guys today. One was a pretty good friend of mine. The only guess is—the airplane just came apart. B–26—third or fourth that have done that now. * * * Pretty bad day—just hard to find any good news to write. Can't even talk to anybody—nobody has anything to say. Just a blue day.

I don't know what the United States is doing. They tell you people we're just in a training situation and they try to run us as a training base. But we're at war. We are doing the flying and fighting. We are losing. Morale is very bad.

We asked if we couldn't fly an American flag over here. The answer was "No." They say the VC will get pictures of it and make bad propaganda. Let them know America is in it.

If they'd only give us good American airplanes with the U.S. insignias on them and really tackle this war, we could possibly win. If we keep up like we are going, we will definitely lose. I'm not being pessimistic. It's so obvious. How our Government can lie to its own people—it's something you wouldn't think a democratic government could do. I wish I were a prominent citizen or knew someone who could bring this before the U.S. public. However, if it were brought before the average U.S. family, I'm sure all they'd do is shake their heads and say tch-tch and tune in another channel on the TV.

January 9, 1964: Had a good target today finally. Felt like I really dealt a blow to the VC. On my second bomb I got a secondary explosion. This means after my bomb exploded there was another explosion. It was either an ammo dump or a fuel-storage area. Made a huge burning fireball. You really can't tell when you roll in on a pass what is in the huts and trees you are aiming at. Just lucky today, but I paid them back for shooting me down.

January 15, 1964: Another B–26 went in yesterday. Nobody made it out. A couple of guys I knew pretty well "bought the farm."

One of the new guys busted up a 28 (T–28) also yesterday. He thought he had napalm on but he had bombs. So at 50 feet above the ground he dropped a bomb. It almost blew him out of the sky. But he limped back to Bien Hoa and crashlanded. The airplane burned up, but he got out all right.

That news commentary you heard is absolutely correct—if we don't get in big, we will be pushed out. I am a little ashamed of my country. We can no longer save face over here, for we have no face to save.

We are more than ever fighting this war. The Vietnamese T–28's used to come down here to Soc Trang and fly missions. But lately, since we've been getting shot so much, they moved up north. I kid you not. First they didn't want to come to Soc Trang because their families couldn't come. Second, because they didn't get enough per diem [additional pay]. Third, because they didn't want to get shot at. There were a couple of more reasons, but I can't remember them. These are the people we're supposed to be helping. I don't understand it.

January 20, 1964: I have never been so lonely, unhappy, disappointed, frustrated in my whole life. None of these feelings are prevalent above the other. I guess I should say loneliness overshadows the others, but that's really not true.

I am over here to do the best job possible for my country—yet my country will do nothing for me or any of my buddies or even for itself. I love America. My country is the best, but it is soft and has no guts about it at all.

I'm sure nothing will be done over here until after the elections. Why? Because votes are more important than my life or any of my buddies' lives. What gets me the most is that they won't tell you people what we do over here. I'll bet you that anyone you talk to does not know that American pilots fight this war. We—me and my buddies—do everything. The Vietnamese "students" we have on board are airmen basics. The only reason they are on board is in case we crash there is one American "adviser" and one Vietnamese "student." They're stupid, ignorant sacrificial lambs, and I have no use for them. In fact, I have been tempted to whip them within an inch of their life a few times. They're a menace to have on board.

January 26, 1964: I've done almost nothing all week. I needed the rest very badly. I actually think I was getting battle fatigue or whatever you call it. I've got 50 missions, almost all without any kind of a break, and it was telling on my nerves and temper. I feel real good today after all that sleep. I kinda hate to go to work tomorrow, for we start 2 weeks of combat again. But I'm rested for it now and am ready.

January 31, 1964: All you read in the paper is the poor leadership of the Vietnamese, but we are just as bad. Everyone over here seems to be unqualified for his job. Like me—I'm a multipilot, but I'm flying TAC fighters. We have no fighter pilots in our outfit. I'm not complaining, but, if the Air Force was serious, they would have sent over experienced fighter people. The same on up the line.

February 2, 1964: I'm getting to like Vietnam. Maybe I didn't say that right. I think it is a pretty country. These little villages in the Delta are about as picturesque as you'll find. Tall palm trees, fields of rice, and all kinds of flowers. The people seem happy enough, if it wasn't for the terror of VC raids.

February 6, 1964: We scrambled after a fort under attack. We hit and hit good, but it got dark so we headed up here for Bien Hoa. Pretty hot target and we both were hit. Coming in here to Bien Hoa they warned us that VC were shooting at airplanes on final approach. Well, we made a tight, fast approach and held our lights (it was pitch black) until almost over the end of the runway. I forgot my landing gear and went skidding in a shower of sparks down the runway. Airplane's not hurt too bad. I'm not even scratched. My pride is terribly wounded. That was my 62d mission. I thought I had it "wired" after that much combat experience. Then I go and goof so badly.

February 17, 1964: All B–26's are grounded, so we are the only strike force left.

A B–26 crashed at Hurlburt last week. Another came with the wing just coming off. Finally, the Air Force is worried about the airplanes—finally, after six of my friends have "augured in."

February 21, 1964: Tuesday evening ——— ——— got shot down. He fell in his airplane next to a Special Forces camp and got out without a scratch. The airplane burned completely up, though. [Another airman] was going in on his seventh strafing pass and never came out of it. Don't know what happened—whether he got shot or his controls shot out. That was two airplanes in 2 days. Kind of shook us up.

Not only that, the B–26's have been grounded since Monday because the wings came off one again at Hurlburt. So after the last crash the whole USAF fighter force is down to six airplanes. This should set an example of how much Uncle Sam cares. Six airplanes. Might as well be none.

Rumor now is that B–26's will fly again only with greater restrictions. I'm pretty well fed up. Poor B–26 jocks are really shook. That airplane is a killer.

February 24, 1964: We're down to five airplanes now, all of them at Soc Trang. We have actually got nine total, but four are out of commission because of damage. The B–26's aren't flying yet, but they've been more or less released. I don't know what the United States is going to do, but whatever it is, I'm sure it's wrong. Five airplanes can fight the war—that's just ridiculous. Tell this to my dad. Let him know, too, how much the country is letting everyone down. * * * We fight and we die but no one cares. They've lied to my country about us.

February 29, 1964: We've got a new general in command now and he really sounds good. Sounds like a man who is out to fight and win. He's grounded the B–26's except for a few flights. But they have to level bomb, not dive bomb—no strain for the aircraft that way. He has ordered B–57's (bombers—jets) to replace them, and has asked for immediate delivery. He has also demanded they replace the T–28's with the AD–6. The AD–6 is a much more powerful single-engine dive bomber. It was designed for this type of work and has armor plating. We are pretty excited about all the new airplanes. We can really do good work with that kind of equipment.

March 13, 1964: McNamara (Secretary of Defense) was here, spent his usual line, and has gone back home to run the war with his screwed-up bunch of people. We call them "McNamara's Band." I hope and pray that somehow this man does something right pretty soon.

Just one thing right will help immensely. He did send a representative over here. All he did was make the troops sore.

One of our complaints was that we can't understand the air controller, so he suggested that we learn Vietnamese. We said we didn't have that much time, so he suggested we stay here for 2 years. A brilliant man. He's lucky to be alive. Some of the guys honestly had to be held back from beating this idiot up. This man McNamara and his whole idiot band will cause me not to vote for Johnson no matter how much I like his policies.

McNamara is actually second in power to Johnson. But, as a military man, he finishes a definite and decided last—all the way last.

Rumors are fast and furious. Nothing yet on B–57's. Rumors that B–26's are all rigged up with extra fuel tanks for long overwater flights. B–26 should never fly again, even if rejuvenated. Also a rumor that B–26 pilots will get instruction in the A–1H—another single-engine dive bomber. All is still in the air—all rumors.

March 22, 1964: Been flying pretty heavy again. We've only got 20 pilots now and 11 airplanes. It keeps us pretty busy. Also got two more airplanes they're putting together in Saigon, so we'll soon be back up to 13 airplanes again. Hope these last for awhile.

(That was Captain Shank's last letter. He was killed in combat 2 days later.)

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EXHIBIT 4

[From the Washington Daily News, Apr. 27, 1964]

## COMMENT: WE'RE REALLY TRAINING OURSELVES IN VIETNAM—UNITED STATES FAILS TO GO ALL OUT FOR VICTORY

(By Jim G. Lucas)

CAN THO, SOUTH VIETNAM, April 27.—One often overlooked factor that contributes to the long drawn out, no-win war in South Vietnam is this:

The United States is—and has been for the past 3 years—using Vietnam as a sort of military test laboratory, an extension of Aberdeen Proving Grounds, Fort Benning, Fort Bragg, and all the others back home.

As one American major here told me: "We're really not trying so much to train these people to win their war; rather, we're training ourselves."

In that light it can be more easily understood why we've run 35,000 to 40,000 American military personnel through the mill here in 3 years—though we've never had more than 16,000 men here at any one time.

### ONE YEAR

The normal assignment is for 1 year. It's damned unpleasant duty in a terrible climate. And practically no man, if he's on duty outside of Saigon, would want to stay longer.

But this doesn't help win the war. In fact, it slows it up.

Ambassador Henry Cabot Lodge, in a recent interview in Life magazine, made the point that U.S. advisers should be sent here for at least 2 years and preferably longer.

He's right—though I'll make no friends among U.S. servicemen in the field by saying so. And neither has the Ambassador.

But all this criticism back home of the South Vietnamese for appearing indifferent to whether they win the war needs a new examination in face of our own policy of seeming not to go all out for victory.

Especially so when it comes to committing our personnel to any needful lengthy periods.

### TYPICAL

Take the case of a typical American adviser to a South Vietnamese battalion. He would be a captain.

Fresh out from the United States, our man needs 3 to 4 months to get acquainted, learn his job, scout the terrain, and establish an effective working arrangement with the commander of the Vietnamese unit.

Beginning the fourth month, if he's any good, he knows what he's about.

But—

U.S. Army policy is to yank him out of the field after 6 months and give him a staff job, probably in Saigon.

That means he's had at most 2 months to do a cracking job with his unit in the field.

I know one Vietnamese battalion commander who said he had had—"put up with" was his phrase—no less than 11 U.S. advisers in 2 years.

Each, of course, wanted to change something basic in the way the battalion was being run.

But our Army's policy is to keep shuffling the advisers along—evidently so that more Americans can get the guerrilla-warfare experience, and also because the Army says it feels sorry for the poor guys undergoing the jungle heat and all that.

Actually, I think three out of five of our battalion advisers—as pros eager to do their job—want to stay on longer in their field assignments. They feel they're just starting to prove themselves.

But the Army says they can't. It needs their slots to train more Americans how to advise Vietnamese battalions.

Maybe our Army is getting overinfused with a peacetime posture—or maybe it's the old question of whether we are in a real war or not.

A soldier's life is traditionally a hard one. Soldiers exist chiefly for one reason: To fight and win wars. Meanwhile, there are many fringe benefits in their contracts.

True, long family separations—when the national interest dictates—are also written into their contracts.

Most understand this. So do their wives. Some don't, however—especially when there's no formal war on.

Could it be that we are basing our personnel policies here in Vietnam on the clamor of this minority?

Somewhere along the line we've got to buckle down.

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EXHIBIT 5

[From the New York Times, Apr. 28, 1964]

## TERRORISM IN VIETNAM: VIOLENCE AGAINST CIVILIANS COMPLICATES U.S. EFFORTS AND MAY FORCE POLICY SHIFT

(By Hanson W. Baldwin)

The beginnings of a campaign of terrorism by the Communist forces in South Vietnam complicate the problems faced by the United States in the undeclared war there.

The Pentagon and State Department must try to find the best answer to a new and dangerous technique that threatens, from a standpoint of morale, if not physically the American presence in South Vietnam. The terrorist campaign so far has been episodic and intermittent, but it could blossom into full-scale viciousness that might be effective against U.S. morale. The terrorism is directed essentially against noncombatants, but precisely because it marks women and children for death or maiming it strikes at the morale of the combatants.

In a recent book, "Modern Warfare—A French View of Counterinsurgency," Col. Roger Trinquier describes terrorism as the principal weapon of what he calls modern warfare. It is warfare without uniforms, silent, deadly, stalking: the thrown bomb, the attack in the night. The targets are homes, restaurants, schoolhouses, theaters, playing fields—any place where a few people are gathered.

Terrorists are usually organized in cells and three-man teams; the terrorist may know his teammates but probably no others in the clandestine organization.

The French in Indochina and Algeria and the British in Palestine and Cyprus experienced years of this kind of warfare—warfare in which every man is a potential enemy, death lurks in every doorway, and vigilance can never be relaxed.

There is no good and simple answer to terrorist tactics. The defensive reactions are obvious: Barbed wire, barracades, wire netting over windows, intricate pass systems, and inspections, armed guards everywhere. These measures can reduce, but not eliminate terrorist acts.

In 1957 French paratroopers, among them Colonel Trinquier, eliminated terrorists from the city of Algiers. But they did it with what Bernard B. Fall describes in the introduction to "Modern Warfare" as "cold ferocity" and the employment of torture, "the particular bane of the terrorist."

Torture forced terrorists captured in the act to disclose the names of their teammates or cellmates and led to the destruction of the underground terrorist organization.

However, these Draconian measures backfired against the French. Many in France were horrified at the methods employed and world opinion was effectively mobilized against Paris, in part because of the "cold ferocity" of the paratroops in Algiers.

In South Vietnam, U.S. military men are not in full control and command (as the French were in Algeria). They are essentially advisers. Therefore, effective defense against terrorism will be handicapped—as the war itself has been handicapped—by what amounts to a dual command system.

Moreover, the United States is unlikely to adopt the ruthless measures employed by the French paratroopers, although the first American schoolchild killed by a terrorist bomb may challenge this restraint.

A campaign of terrorism, if pressed, could hasten basic policy decisions in Washington.

To combat terrorism—in fact, to put the waging of the counterinsurgency struggle in South Vietnam on a sound footing—most military observers believe it essential to establish a unified U.S.-South Vietnamese command, with U.S. officers acting in command as well as advisory roles. The commitment of some U.S. tactical air units and battalion-size combat ground units may also be necessary.

If the terrorist campaign is intensified, two U.S. military police units withdrawn from South Vietnam just before Christmas—ironically, just before the terrorist campaign started—may have to be returned. Counterintelligence specialists may also be needed.

Finally, if worst comes to worst, the U.S. dependents in South Vietnam may have to be withdrawn. However, if this were done without compensatory measures, the action might appear to represent the beginning of a "scuttle-and-run" policy, with loss of prestige to the United States and damage to the morale of the American and South Vietnamese forces.

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EXHIBIT 6

[From the New York Times, Apr. 28, 1964]

### UNITED STATES PUTS DEPENDENTS IN LAOS ON ALERT TO LEAVE—SAYS WITHDRAWAL IS POSSIBLE IF POLITICAL CRISIS GROWS—FRANCE AND BRITAIN ALSO ACT—TENSION RISES IN CAPITAL

VIENTIANE, LAOS, April 27.—The United States, Britain, and France placed their dependents in Laos on emergency alert today for immediate removal should the political crisis worsen.

New fears and tension filled the capital as Gen. Siho Lamphouthakoul, chief of security forces, appeared to have seized effective power in defiance of diplomatic pressure to restore the status quo.

He and Gen. Kouprasith Abhay led rightwing generals in a coup d'etat 8 days ago against the coalition regime of the neutralist Premier, Prince Souvanna Phouma. Since that time, the other officers have dropped into the background, leaving Siho Lamphouthacoul as an apparent strongman prepare to "go it alone."

The U.S. Ambassador, Leonard Unger, ordered American women and children to stay off the streets and to keep their suitcases packed.

#### CIRCULAR DISTRIBUTED

"Circumstances in Vientiane may at some time require actual evacuation," the U.S. Embassy said in a circular distributed to members of the American community. "This is not contemplated at present but, as a preparation for any eventuality, the normal preemergency steps should be taken."

It ordered American parents to keep their children out of school unless schools were close at hand. It instructed women to stay indoors unless they had to go out for medical treatment or to purchase necessities.

Each family was ordered to pack a suitcase of a maximum of 50 pounds. U.S. Government employees reported for work and, although shops were open and business went on, an air of tension filled the city.

The French Ambassador, Pierre Millet, in a similar order, told members of the French community to pack their belongings and obtain visas for Cambodia and Thailand.

The British Embassy told its community to be ready to move out on 24-hour notice.

There was speculation that the alerts were designed to bring new pressure on the junta to restore Prince Souvanna Phouma to power. All three countries maintain diplomatic missions here and the United States is a major contributor of foreign aid to Laos.

#### RETURN OF MINISTERS URGED

VIENTIANE, April 27.—The Vientiane radio broadcast an appeal today to all Cabinet ministers, including those of the pro-Communist Neo Lao Hak Xat Party, to return and get the coalition Government working properly.

The statement was issued in the name of Gen. Phoumi Nosavan, rightwing Vice Premier, who publicly dissociated himself from the rightwing army junta that seized power last week.

It said the new Government lacked power because of a separation of ministers.

The statement added that Prince Souvanna Phouma, who is also Defense Minister, would have full power to unite the armed forces, including rightwing troops.

Each minister would have full responsibility for his department, the broadcast said, and the Interior Minister would be fully in control of the policy.

The Foreign Minister, it went on, would follow a neutral policy and would not support leftists or be controlled by foreign embassies.

The statement added that Prince Souvanna Phouma would move his office to the Defense Ministry and both rightwing and neutralist forces would dissolve their "special military Cabinet."

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EXHIBIT 7

LITTLE COMPTON, R.I.,
*March 21, 1964.*

DEAR SENATOR GRUENING: Thank God Alaska has become a State, so that we can have two more sensible and courageous Senators—there never seem to be enough.

Today on the radio I heard that you criticized the war in Vietnam—but no details. If the AP doesn't carry it, will you send me a copy? Please keep hammering, to give the Vietnamese an end to bloodshed, a guaranteed neutrality, and a chance to vote what they want—which incidentally will give the United States and free world more prestige in Asia, after all we lost by supporting a torturing dictator there for 8 years. True patriotism requires opposition to the military policy, and I thank you for your courage in this.

Sincerely Yours,
MRS. JESSIE LLOYD O'CONNOR.

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HEWLETT, N.Y.,
*March 25, 1964.*

Hon. Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: You are to be commended for your courageous statement regarding our involvement in Vietnam.

The day after I saw this, I also noted a photo in the New York Times which showed a Vietnamese child burned when one of our napalm bombs hit his village. We are fighting to save Vietnam and its people are destroyed in the process. We also risk a much larger war with China.

There must be some honorable way out of the swamps of Vietnam. Perhaps neutralization is the answer, or having the U.N. handle the problem. All our efforts have only produced more Vietcong and more corpses. You, at least, have the wisdom and the courage to suggest another alternative.

Sincerely yours,
SAUL SCHINDLER,
*Chairman, Five Towns Committee for a Sane Nuclear Policy.*

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WALNUT CREEK, CALIF.,
*April 7, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: We simply want you to know we were ever so glad to hear you speak out for withdrawal of U.S. troops from Vietnam. We have long been concerned over our right to be there and what is and is not necessary for U.S. security. It seems that provoking and prolonging wars in one small country after another can only add to our insecurity.

We are grateful for what you have said.

Sincerely,
Mr. and Mrs. ROBERT RANDOLPH.

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SAN FRANCISCO, CALIF.,
*March 25, 1964.*

Senator GRUENING,
*Washington, D.C.*

DEAR SENATOR GRUENING: This is to support your position regarding a negotiated settlement in South Vietnam.

I am in favor of having that whole area neutral if it can be arranged.

Sincerely,
MRS. VIOLA SURIAN.

WASHINGTON, D.C.,
*April 8, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I congratulate you on your stand on Vietnam and earnestly wish you well—you and Senator MORSE and all others who work to achieve a negotiated settlement in this disastrously cruel war.

Sincerely yours,
MARIAN E. SITTLER.

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ADELPHI, MD.,
*March 17, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am enclosing a letter which was written on behalf of the Committee on Vietnam of the Women Strike for Peace.

We are writing others of the same substance to other national news media.

We are glad that someone is attempting to bring about some kind of change in this unhappy area of the world.

Sincerely,
MRS. BERNIECE THOMPSON.

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COMMITTEE ON VIETNAM,
WOMEN STRIKE FOR PEACE,
*March 17, 1964.*

The WASHINGTON POST,
*Washington, D.C.*

DEAR EDITORS: In the last month there have been some very important speeches made by various Senators on Vietnam. Some of them have been given attention in the Post. Not until Senator MORSE accused the press of a blackout, though, did his speeches get any notice and then only a very small fraction of the important points which he brought out; and it was on page 5.

Senator GRUENING made a very informative speech. Senator KEATING asked some very pertinent questions, which were in the Post.

There are always front page assertions by politicians who are running for office, but how often does a politician running for office ever say anything. These men in the Senate are saying something. It is very important that the public know the substance of these speeches. The America people know far too little about Vietnam.

The reporters on TV and radio are telling us one thing while our officials in Washington are telling us another. While all this is going on Governor Rockefeller and Senator GOLDWATER are playing football with the whole works and not telling us anything. How can the voter make an intelligent decision on the basis of such contradictions as these?

This kind of flagrant abuse of one of the most important elements of the democratic process, education of the electorate, is most irresponsible, especially in an election year.

Our Committee on Vietnam obtained these speeches from the Senators who made them, but how many people will read them if they have to gain access to them in this way? Every one of these speeches should have had front page notice and the general substance of them should have been on radio and TV.

Is it possible that the Bobby Baker case (which was in the news extensively) can be more important than Vietnam where lives are being lost and a million and some dollars a day are being spent?

Sincerely,
MRS. BERNIECE THOMPSON.

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CRESCENT CITY, FLA.,
*March 19, 1964.*

MY DEAR SENATOR GRUENING: May we express our gratitude for your courageous stand on South Vietnam. We hope that you will continue to advocate the withdrawal of our armies there, and for a negotiated peace, and for the creation of a neutral zone in all southeast Asia.

Sincerely,
EVELYN TULLOS.
WILL TULLOS.

---

PATERSON, N.J.,
*March 23, 1964.*

The Honorable Senator ERNEST GRUENING:

I wish to thank you for your timely and courageous position on the question of our withdrawal from South Vietnam as being in the best interests of our Nation.

Respectfully yours,
ALBERT SMITH.

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HUNTER COLLEGE OF THE
CITY UNIVERSITY OF NEW YORK,
*New York, N.Y., March 22, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. SENATOR: Please accept my hearty congratulations and warm thanks for the stand you have taken on the Vietnam issue.

* * * * *

Sincerely yours,
JOHN SOMERVILLE.

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HARTFORD, CONN.,
*March 21, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SIR: I wish to congratulate you on your intelligent stand concerning our terrible foreign policy in South Vietnam.

I urge you to continue your efforts in this regard and hope that you may influence your fellow Senators and other members of the U.S. Government.

Very sincerely,
HERBERT N. SCHWARTZ, M.D.

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EAST ELMHURST, N. Y.

DEAR MR. SENATOR: I read your remarks on South Vietnam and was happy to hear that a voice of opposition was being raised. It is certainly not reasonable to undertake to follow the policies which proved so disastrous to the French.

Sincerely,
JOSEPH SHILL.

---

HANCOCK, MICH., *March 23, 1964.*

Hon. Senator GRUENING,
*Washington, D.C.*

DEAR SENATOR: Having read in the press your splendid criticism of our dirty Vietnamese war, I together with other citizens want to commend you and hope you can wake up other Members to see the downright crime in sacrificing American boys in this unjust affair. Will carry this clipping with me and have as many of my friends read this as possible and will also write to our two Senators, MCNAMARA and HART.

Kindest regards and best wishes.
JOHN AUERBACK.

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MENLO PARK, CALIF.

DEAR MR. GRUENING: Thank you heartily for your outspoken advocacy of reason and justice in the Vietnam situation.

I should think that the French ought to know about the utter futility of trying military ways in that unhappy land.

I believe there is simply no tolerance left in the world for the old military methods. Science has truly outlawed war as a tool for settling men's differences. Now it is indeed time to give Christ's teaching serious thought.

Sincerely,
ANN B. SIMS.

---

LOS ANGELES, CALIF.,
*April 18, 1964.*

DEAR SENATOR GRUENING: I heard the talk you made about the situation in South Vietnam over our 24-hour KNXT radio station. Every word you said, we agree with 100 percent.

Everybody used to scream when Dulles was alive with his "brinkmanship."

But it seems like things get worse and worse lately.

Except for what you said, Senator MORSE, Senator BARTLETT, Senator MANSFIELD, and too few others, the people making U.S. policy in this Vietnam business seem to be losing their sanity.

Why should U.S. troops precipitate a full-scale American war—possibly nuclear—out of Vietnamese problems.

I say let's get out of there and let them settle their own business.

Can you send me your speech?

MRS. M. SIEGEL.

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SANTA BARBARA, CALIF.,
*March 17, 1964.*

Senator ERNEST GRUENING,
*U.S. Capital,*
*Washington, D.C.*

DEAR SENATOR: I saw in the Christian Science Monitor of March 16, 1964, that you and Senator MORSE, of Oregon, want to stop the war with China over Vietnam.

I agree. Thank you for your stand.

Yours truly,
MRS. CATHERINE SEGGIE.

---

HIGHLAND PARK, N.J.

DEAR SENATOR GRUENING: Your recent comments on the Vietnam question are most heartening. Please continue. Perhaps if you and the few others who seem to be honest about the situation talk long enough—some of our "responsible" newspapers will pick up the clue and attempt to give us a better idea of what's really going on there.

Sincerely,
MRS. A. SCULLY.

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PORTLAND, OREG.,
*March 14, 1964.*

DEAR SENATOR GRUENING: Thank you for your talk over Capitol Assignment, and your words about sacrifice of young American lives in Vietnam.

As a reserve medical officer in World War I and II, I have seen many of our young boys die and it hurts me to hear of the deaths; no one seems to give a damn, and what are the countries doing to us that we have helped since.

J. GUY STROHM,
*Colonel, Marine Corps, Retired.*

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NATIONAL ELECTRICAL
CONTRACTORS ASSOCIATION,
ANCHORAGE, ALASKA, *March 24, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senate,*
*New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: I have read with great interest your newsletter No. 10.

I wish to take this opportunity to make a personal comment and applaud your stand on the needless expenditure of American manpower and money in South Vietnam.

* * * * *

I am particularly proud to be represented by a Senator who has the courage to speak out against the many evils of our foreign assistance program.

Yours truly,
JOHN A. SCHEFFER.

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SANTA ANA, CALIF.

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: Have just read an Allen-Scott report in our local paper the Santa Ana Register, where you and several other Senators are very much concerned over the actions of McNamara over in South Vietnam; namely, promising that U.S. aid will from now on be total, unlimited, and without conditions.

Senator, I agree with you and your concern; you are to be congratulated. Stick with it and do not give up until you get the answers to all of your questions.

I always thought the Senate and the Congress had something to say about how our country was run; looks like now we have some civilian appointees who think they are running things, and if we do not like it we can lump it.

One thing for sure Senator if I had a son or a grandson in the service over in South Vietnam I would raise H____, I would start asking questions, and I would not stop until I got the answers.

Where is our wonderful U.N. peace army Senator? Over in Cypress maybe.

* * * * *

Sincerely,

CLAUDE MASTIN.

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WASHINGTON, D.C., *March 21, 1964.*

DEAR SENATOR GRUENING: Your realistic understanding that U.S. troops do not belong in Vietnam and your courage in urging that the real facts in that tragic situation be brought to the attention of the American people is greatly appreciated.

As you continue your efforts in this direction you may be pleased to know that you have the strong support of many of us, of whom I am only one.

With thanks and appreciation.

JANET N. NEUMAN.

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BERKELEY, CALIF.

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

MY DEAR SIR: This is with reference to your speech, reported in the New York Times of March 21, insisting on the withdrawal from South Vietnam. I wish to compliment you on that speech very heartily. It is unfortunate that of the papers I have seen the New York Times is the only one in which your's and Senator MORSE's speeches are reported.

Yours respectfully,

J. NEYMAN.

---

LOS ANGELES, CALIF.,
*March 16, 1964.*

Hon. Senator GRUENING,
*Senate Office Building,*
*Washington, D.C.*

MY DEAR MR. GRUENING: I commend you for speaking out against our undeclared war in South Vietnam.

I quote you daily "No one American life is worth all of Vietnam."

I wish we had more men like you, also like your colleagues Senator MORSE and Senator MANSFIELD, who have the courage to speak the truth and let themselves be heard.

The news, as of today is appalling—six American lives lost over the weekend. When will our people wake up and let themselves be heard.

Sincerely yours,

IDA MESSINGER.

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BROOKLYN HEIGHTS, N.Y.,
*March 22, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senate, Washington, D.C.*

MY DEAR SENATOR: It was gratifying to read of your remarks in the Senate on March 10 concerning our involvement in South Vietnam and the need to withdraw.

Considering the extent of our commitment and responsibility in that bloody and tragic situation, it will require both courage and magnanimity to get out: we hope your words will help imbue a sense of both among our leaders.

Please continue your efforts to educate your colleagues and the American public.

Yours very truly,

SHEILA MENASHE.
LOUIS MENASHE.

---

DALLAS, TEX.,
*March 29, 1964.*

Senator ERNEST GRUENING,
*Washington, D.C.*

DEAR SENATOR GRUENING: Thank you very much for your words in opposition to U.S. fighting in South Vietnam (or anywhere else). We heard you on NBC program "Sunday" March 29. Very good.

We teach our children that the noblest thing a man can do is fight and die for his country. Thus taught, there is nothing wrong with a man who volunteers to die for his country, but there is something radically wrong with a country which asks a man to die for it.

Thank you again—speaking out as you and Senator MORSE did today takes courage.

Sincerely,

EULA M. MCNABB.

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SHORT HILLS, N.J.,
*March 30, 1964.*

Hon. ERNEST GRUENING,
*Washington, D.C.*

DEAR SENATOR: I want to congratulate you on your courageous and realistic stand on the neutralization of southeast Asia and the withdrawal of our troops from that area.

Very truly yours,

A. ROSS MEEKER.

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NEW YORK, N.Y.,
*March 24, 1964.*

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am writing to applaud your recent statements calling for a withdrawal of our forces from the conflict in South Vietnam. Clearly, no purpose is being served by our continued participation in that country's situation, nor is our participation morally or strategically defensible.

The suggestions that we "escalate" the conflict, and that we invade North Vietnam, combined with the news of the recent attack upon a Cambodian village are alarming in their implications.

Although I am not one of your constituents, I wish to assure you not only of my admiration and support, but to assure you that many other citizens feel as you do on this subject. To many concerned persons our policy in southeast Asia seems one not only doomed to failure but one which, instead of defeating communism, is leading the natives of war-torn areas into an embracing of Communist doctrine.

Assuredly, a peaceful solution could be worked out by the convening of the Geneva Powers, implemented, perhaps, by a U.N. peacekeeping force.

I am grateful to you for your wisdom and courage.

Sincerely,

M. CLAIBORNE MEBEL.

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VAN NUYS, CALIF.,
*April 1, 1964.*

SENATOR GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am in complete agreement with your stand on South Vietnam.

Please continue to fight to see that we get out of South Vietnam and stay out of North Vietnam.

Very truly yours,

R. MOREE.

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THE UNIVERSITY OF MICHIGAN,
COLLEGE OF ENGINEERING,
*March 24, 1964.*

Senator GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: My thanks go to you for opposing the continued presence of American troops in Vietnam. Supporting a dictatorial military government against a rebellious people strikes me as being little different from the crushing of the Hungarian revolt by the Russians.

Please keep it up—you are desperately needed.

Sincerely yours,

E. F. MASUR.

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NEW YORK, N.Y.,
*March 22, 1964.*

Senator ERNEST GRUENING,
*Washington, D.C.:*

Honor and glory to you for your courageous stand regarding our policy in South Vietnam.

There is hope for mankind when men like you are in the Senate.

* * * * *

Millions of decent people in the United States of America and, yes, in the rest of the world are behind you.

Keep up your good work.

Respectfully,

W. MANEALOFF.

---

BERGEN, N. DAK., *March 25, 1964.*

Hon. Senator ERNEST GRUENING,
*Washington, D.C.*

DEAR SENATOR GRUENING: I wish to say that I am fully in agreement with you on the situation in Vietnam. The Vietnamese should settle their own problems. We, here in the United States, would strongly resent any foreigners sending troops here to solve our problems. We must do this ourselves if we are to get satisfaction. I hope that you will organize some action, together with those of similar thinking, to bring our soldiers back from Vietnam, which does not belong to us, but to the Vietnamese. It is impossible for me to believe that the cornerstone of American democracy is located in Vietnam. It is rather in our Congress where the civil rights bill must be passed to give justice and equality a firmer hold in our country.

Sincerely yours,

WILLIAM MOXNESS.

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BERKELEY, CALIF.,
*March 23, 1964.*

Senator ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: We heartily support your courageous opposition to the war in South Vietnam. U.S. intervention has prolonged this barbaric and unpopular war for over 5 years.

Sooner or later the American people will come to recognize the shameful activities the U.S. Government has undertaken in southeast Asia under the cloak of anticommunism.

We urge you to continue demanding an immediate withdrawal of all American troops from South Vietnam and the starting of negotiations aimed at reuniting the Vietnamese people.

It is good to see that dissenting voices can still be heard in the U.S. Senate.

Sincerely yours,

THOMAS F. MAYER.
SARA C. MAYER.

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DELAWARE, OHIO,
*March 30, 1964.*

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR MR. GRUENING: You have our full and continued support in your stand for a review of our Vietnam policy.

The time has come for our Government to enter into negotiations to end the war in South Vietnam. The continuance or enlarging of the present hostilities can only mean more bloodshed and even escalation into a nuclear war.

With best wishes,

ROBERT W. MULADORE.

St. Louis, Mo., *April 17, 1964*.

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: Thank you for your Senate speech on March 4 in regard to our efforts in South Vietnam.

If more people like you will speak out, perhaps, our elected leaders will realize that the people of the United States are not behind this thankless effort in South Vietnam.

Sincerely yours,

H. Lorine Pickett.

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Bronx, N.Y.,
*April 18, 1964*.

Senator Ernest Gruening,
*The Senate,*
*Washington, D.C.*

Dear Sir: It is a long time since I read in the New York Times of March 21, 1964, the report of your speech on March 10, 1964, with respect to U.S. policy in South Vietnam. However, your words have remained with me, and I feel impelled to write to you.

You expressed in your speech, clearly and (I am glad to note) with passion, thoughts and sentiments that I have had about this matter for a long time. You spoke for me, better than I could, and, obviously, more effectively. I believe that you have probably also spoken for many Members of Congress, who have not yet had the courage to speak as you did, but who may have been inspired by your speech to shed their fears of State Department reaction.

I ask that you continue to respond to Mr. Rusk in the same manner as reported in the New York Times, and hope that Senator Morse will also continue to respond in the manner reported in the New York Times. I did not vote for Mr. Rusk. No one voted for Mr. Rusk, or for anyone else in the State Department. I insist that people who are voted for, and elected, be permitted to express their views.

I am grateful to you for the new hope you have given me that the immoral policy of the United States with respect to South Vietnam may yet be discontinued before more lives are senselessly destroyed.

Very truly yours,

Julius Goldstein.

---

Davis, Calif.,
*April 16, 1964*.

Hon. Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: I want to congratulate you on the very sensible remarks you have made recently on Vietnam and southeast Asia. It has long been a source of great concern to me that our country has been supporting a government in Vietnam that was not elected and does not properly represent the people, and that our military forces have been involved in the inhumane tactics that have been common in this senseless war.

President de Gaulle's imaginative and bold call for neutralization of South Vietnam should be given support. I hope that you will continue to urge consideration of it.

Sincerely,

Mary E. Bolton.

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Eugene, Oreg.,
*March 30, 1964*.

Hon. Ernest Gruening,
*Washington, D.C.*

Dear Senator Gruening: I have read your March 10 Vietnam speech which you sent at my request.

I like it. I fully agree with your position. Your direct and unequivocal language is most appropriate, and your supporting evidence convincing.

Such a speech was at least 2 years overdue in the Senate. As soon as practicable after this error has been corrected, I would like to see the rest of Mr. Dulles' Asian blunders liquidated.

Much of the money we are squandering in Formosa, Korea, and Japan, could be usefully employed in a federally operated program for the exploration and development of Alaskan resources, to equal or excel Russia's work in Siberia.

Many thanks for your speech.

Y. H. Todd, Sr.

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Christiana, Pa.,
*April 19, 1964*.

Dear Senator Gruening: I wish to add my voice to those who support your stand on South Vietnam. Our participation in and encouragement of this dirty war has already done irreparable damage to the American image. We have needlessly inflicted suffering of the most grotesque variety upon millions of innocent people. In the light of this fact what right do we have to be critical of a Hitler or a Stalin?

The American Government has a moral obligation not only to its own people and the tormented people of South Vietnam but to the entire world as well to negotiate a peaceful settlement in this area immediately.

With respect and admiration, I am,

Sincerely yours,

Jack Lindeman.

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Waukesha, Wis.

Dear Senator Gruening: I wish to express my gratitude to you for your courageous stand on Vietnam policies.

Of the five newspapers and seven magazines which come to our house only one made any mention of your speech as concerns Vietnam, that was the Guardian. It frightens and angers me to think that matters of such importance are being suppressed by our various news media.

Again, thank you Senator. Men such as yourself offer us a way of light in an otherwise darkened world.

Sincerely,

Olga Martin.

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Livingston, N.J.,
*April 19, 1964*.

Dear Senator: I was very pleased to read recently of your statements concerning the war in Vietnam and our participation in it.

Would that there were more Senators of courage like you. We would then be guaranteed peace in our world.

Keep up the good work for peace.

Very truly yours,

Leon M. Mosner.

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Ketchikan, Alaska,
*April 11, 1964*.

Hon. Ernest Gruening,
*U.S. Senate, Washington, D.C.*

Dear Senator Gruening: Congratulations on your stand toward our policy in South Vietnam. It is encouraging to hear and read that you are asking for withdrawal of our American troops from there. I so heartily agree with you and do hope you can get it over to the American people as am sure many are unaware of the situation there. Last night just one news report stated four of our men had been killed that day. No doubt we have lost a couple hundred there already.

I wonder if Secretary McNamara and Richard Nixon had young sons there if they would be so anxious to carry on such a useless war.

More power to you and keep up your good work.

Sincerely,

Mrs. Louis Salazar.

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Oneonta, N.Y.,
*April 19, 1964*.

Hon. Ernest Gruening,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Gruening: I salute you on your statement concerning our policy in South Vietnam. Quite apart from any consideration as to the potential benefit to U.S. short- or long-run interests that might result from a withdrawal of our military support and direction of General Khanh's war against the Vietcong, is the categorical imperative of insisting on morality and reason in government conduct. Of course, the greater the immorality and unreason, the more urgent the imperative.

To put it another way, Senator, I believe our country is characterized by two attitudes: one is a callous unconcern for virtually anything that doesn't touch immediate interests; the other is a "We're-doing-God's-work-here kind of sanctimonious arrogance. One runs up against both in trying to appeal, as you have, to the very opposite of these postures. So it's hardly surprising when your remarks and those of Senator Morse, on a subject of the first importance, get the silent treatment from most of the news media.

All the same, there seems to be a growing uneasiness over the running of foreign policy. It may just be (one may as well be optimistic) that we're on the edge of an awakening. However it is, you spoke well and courageously, Mr. Gruening. I fully share your view that we should never have intervened as we did in South Vietnam, and we should pull out forthwith. There can be no strategic justification for using napalm bombs on Vietnamese villages and propping up governments that practice murder and torture as a matter of course. It's a grand feeling to be proud of one's country and one's government. I'm proud that voices counseling decency are still heard in the Senate, even if by only a few. Please persist in this worthwhile cause, Senator. There is no alternative.

Respectfully,

Stanley E. Weisberger.

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Los Angeles, Calif.,
*March 31, 1964*.

Senator Ernest Gruening,
*U.S. Senate, Washington, D.C.*

Dear Sir: I am extremely pleased to learn of your voluble protest to the U.S. intervention in Vietnam. Also, I understand that Senator Bartlett supports your position.

I have written letters to McNamara, Rusk, and Senator Kuchel in this regard.

Please continue your position—for in the final analysis the fate of the world lies in the hands of our top leadership. The people are ignorant of the facts, for the newspapers suppress so much.

I would appreciate receiving a copy of your speech.

Sincerely yours,

Ann Adams.

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Forest Hills, N.Y.,
*March 27, 1964*.

Dear Senator Gruening: While I am not one of your immediate constituents, I would like to congratulate you on your speech this week on Vietnam.

As one citizen, I feel your call for an approach to peaceful solutions there was in the deepest and most long-range interests of our country.

Very truly yours,

James H. Durhin.

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Portland, Oreg.

Dear Senator Gruening: Several members of Women's International League for Peace and Freedom met at my house today to read literature on Vietnam. And I want to commend you for your remarks on Vietnam in the Senate on February 20, 1964. A copy was sent to me from F.C.N.L. in Washington, D.C.

I believe the problem should have been taken to the U.N. before 1954 and I believe the United States wanted to do so. However, that was not done then but I believe it should be done now.

In my opinion we should never have given in there in the first place. And I agree with Senator Morse that we should withdraw all military personnel and weapons at once.

* * * * *

Thank you and sincerely yours,
Mrs. K. C. Tanner.

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New York, N.Y.,
*March 21, 1964.*

Senator Ernest Gruening,
*The Capitol, Washington, D.C.*

Dear Sir: I am writing to you to indicate my approval of your remarks calling for the withdrawal of American troops from the Vietnam mess. Time after time, the New York Times correspondents have indicated that the reason for the Government's failure to win the war against the guerrillas has been the unpopularity of the various South Vietnamese governments with the very people they are supposed to save. Unfortunately most newspapers, including the very Times, and the U.S. Government continue to propagate the nonsense that the major reason for the Vietnam conflict lies in some sort of "alien or foreign supported" infiltration. We evidently have forgotten how effective our own Swamp Foxes and local guerrillas (Minute Men, Mountain Boys, etc.) were against the local Tories of 1776 and the foreign soldiery that forced the American Revolution to continue for 7 longer years that it should have.

At this moment your opinions are unpopular with the administration. Amongst the grassroots there are more who support you than support Secretary Rusk or the Defense Secretary. You are one of the few who has shown the integrity and courage to speak out properly on this issue. I believe you are right, and I believe that a mountain of evidence could be found to prove that we never should have attempted to impose our wills on those people in the first instance.

Do not lose heart. Do not backtrack. Do not betray the need to air this entire issue before the American people.

You are the first Senator I have written to. I am sorry that I am not in Alaska to provide you with political support.

Sincerely yours,
John E. Chiaradia.

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Miami, Fla.

Honorable Senator: I commend you on your stand on withdrawing troops from Vietnam.

Sincerely,
Mary E. Pettersen.

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Lemont, Ill.,
*March 20, 1964.*

Hon. Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: I am grateful for your courageous statements against the continuing of the war in South Vietnam.

Please spare a moment to read the enclosed copy of my letter to the editor, Daily News-Miner, Fairbanks, Alaska, and please continue your efforts toward an immediate, peaceful settlement of the war in South Vietnam.

Very sincerely yours,
Mary Phillips.

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Lemont, Ill., *March 20, 1964.*

Editor, Letters to the Editor Column,
*Daily News-Miner, Fairbanks, Alaska.*

Sir: My heartiest congratulations and deepest gratitude to the citizens of Alaska for electing two of the wisest and most courageous statesmen in the U.S. Senate: the Honorable Messrs. Ernest Gruening and E. L. Bartlett.

I am particularly grateful to both of them for their outspoken stand against continuing the pointless, cruel, futile war in South Vietnam. The South Vietnamese people obviously are sick unto death of the war and would immediately negotiate a settlement of it, if it were not for the presence and advice of some 15,000 U.S. special forces in their country.

May Messrs. Gruening and Bartlett and their many enlightened colleagues, including Senators Morse, of Oregon, Williams, of Delaware, Case, of New Jersey, and others continue their efforts until the administration's policymakers consent to reevaluate their policies and put an end to the war in South Vietnam. Negotiations should begin now.

Very sincerely yours,
Mary Phillips.

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Bronx, N.Y., *March 31, 1964.*

Hon. Senator Ernest Gruening,
*Senate Building,*
*Washington, D.C.*

My Dear Senator: This is to express my thanks and my admiration for the courage with which you tackled the question of our engagement in Vietnam. The daily press and the other media have built up this matter so strongly in the prevailing official direction that it cannot be very popular to express an opinion that goes contrary to this trend.

I am convinced that this adventure is much too costly measured in lives and money as that it could justify the goal. Many of my friends raise the same doubts.

A great nation as ours can very well afford to confess a mistake or blunder, and will by that not lose the esteem of its citizenship nor of the world. It might not be easy to make a turn, but it should be done.

That you showed us some realities and tries to open a road to reason, is something to be grateful for.

Wishing you success.

Very sincerely yours,
Rudy Bleston.

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Washington, D.C.,
*April 3, 1964.*

Senator Ernest Gruening,
*U.S. Senate*

Dear Sir: I fully support your stand on U.S. participation in the war in South Vietnam. It is not our war. It is a civil war to be fought (if need be) and solved by the people and Government of South Vietnam. Day by day we spend more money and involve more Americans in this civil war.

Since Poland, Canada, and India were designated to comprise the International Control Commission without authority to enforce agreements made by Geneva convention I feel these countries should be provided with authority to enforce these agreements.

The United States could then pull out of South Vietnam and really abide by our word, namely that we would honor the Geneva convention agreements.

Sincerely,
Mrs. Carol W. Rende.

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Mount Vernon, N.Y.,
*April 1, 1964.*

Senator E. Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: I should like to commend you for your strong stand to end the war in Vietnam. Your support of Senator Morse and your constant requests for reevaluation of Asian policy, for public information on policies and your pledge to continue to work until the war ends serve the best interests of peace throughout the world.

Very truly yours,
Mrs. Anne Phillips.

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Winnetka, Ill.,
*April 2, 1964.*

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Gruening: It is encouraging to note the fact that you have spoken up in the Senate on our participation in the Senate Vietnam conflict. I heartily agree with you and hope that you will try to get your point of view before the public. Unfortunately, the mass media at the present time is not doing its job in presenting the facts to the public.

The television documentary of April 1 only serves to reinforce my conviction that all human values are being violated by our presence in South Vietnam.

I would like to receive your recent comments, on the Vietnamese war, in the Senate.

Yours sincerely,
Sarah Shoresman.

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Washington, D.C.,
*April 6, 1964.*

Dear Senator Gruening: I want to commend you and the other Senators who have courageously spoken out against the part our country is taking in the war in Vietnam. This action on your part will give voice to the opinions and feelings of millions of inarticulate Americans.

Be assured that you are supported by many people who are more than happy because of your efforts on their behalf and for the true welfare of our country.

Sincerely,
Lucile A. Reese.

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New Rockford, N. Dak.,
*April 6, 1964.*

Senator Ernest Gruening,
*Washington, D.C.*

Dear Senator: As a reader of the Congressional Record I have learned to have a very high regard for you and your thinking. I was very happy when you spoke on the South Vietnam situation.

I do not believe we have any business half way around the world when we have so many problems right here at home. I assure you it gives many of us a lift to read what you and Senator Morse and others had to say and we here support your position. I read many letters introduced in the Record by Senator Morse and must say I agree with those letters. * * * It seems like our country is supporting every reactionary country around the globe.

Yours,
Oliver Rosenberg.

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Portland, Oreg.,
*March 27, 1964.*

Senator Ernest Gruening,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator: Your recent comments concerning the war in South Vietnam are welcome. It is time we realized there will be no military victory. Our foreign policy has been anything but realistic. We cannot expect the world to conform to our image. It won't.

Very truly yours,
Mrs. O. G. Rogers.

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Washington, D.C.
*March 18, 1964.*

Senator Ernest Gruening,
*Washington, D.C.*

Dear Senator Gruening: Your letter of yesterday, accompanied by tearsheets of your speeches and other material, from the Congressional Record, arrived today. I want to thank you for it. I also want to thank you for copies of your press release of March 10 which your office sent my wife, Margaret, in response to a phone request.

I have not had time to read the material, but Mrs. Russell has covered most of it and has told me some of the important aspects of it. For one thing, the forthright and direct statement that we should get out of Vietnam. Perhaps I should do better to call it a demand. You have quoted from a wide variety of sources in your speeches, indicating how generally people who have expertise or personal contact with southeast Asia, are in accord in describing the terror and torture, but above all, the futility of our operations as advisers to the Vietnamese oligarchy.

The chronology, exhibit 4, starting on page 4666, is a very valuable contribution to understanding what has gone on in Vietnam, according to Mrs. Russell. She says that having that data made so accessible is an important weapon in the hands of those who would try to change our policy and practices in that unfortunate country.

It is difficult for me to understand how come there is any significant number of Vietnamese left in the country. You would think they would get out rather than endure the rapine, indignities, and slaughter that has beset them. I suppose the reason they remain is that they have no place to go. That is unfortunate.

We have noticed that more Senators are getting in line with you on this effort to bring sanity into our southeast Asian actions. Not only Senators, but a few Congressmen as well. And, of course, a lot of public figures of one kind or another, Walter Lippmann among them, and also James Reston.

* * * * *

Sincerely,

RALPH RUSSELL.

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OAKLAND, CALIF.,
*March 31, 1964.*

Senator GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: In view of the fact that only the National Guardian among several much larger publications which I read regularly reveals the fact that it is you who first had the courage to agree with Senator MORSE that we never did have any business in Vietnam and it published only your last name. You will please excuse me for doing likewise. This is just to congratulate you.

What is wrong with our news media that seems to be "calling the kettle black" when they blame Government officials for supressing news and when we have to wait for the little Guardian to learn such news?

Sincerely,

THELMA K. SHUMAKE.

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ROCHESTER, N.Y.,
*April 7, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: Congratulations on your stand on South Vietnam.

Amid what seems to me general moral decline and a completely unrealistic and inhuman foreign policy, voices like yours give me some small hope.

Sincerely yours,

DOROTHY A. STEWART.

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JACKSONVILLE, FLA.,
*March 26, 1964.*

Hon. ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I wish to take this occasion to thank you for your recent statements concerning some phases of our foreign policy. These statements in my opinion are shared by many, many Americans, and are very timely.

It is unfortunate that we do not have more men of the caliber of you and your honorable colleague, Senator WAYNE MORSE.

Keep up the good work.

With best wishes for your continued good health and success.

Very truly yours,

R. C. SMITH.

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MASSAPEQUA, N.Y.,
*April 3, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I wish to register approval of your stated attitude toward the current situation in Vietnam. Recognizing that the presence of U.S. troops there is contrary to the 1954 Geneva Conference, that the proposed general election has been discouraged, and that the political and military situation there is steadily deteriorating in the direction of the danger of multinational conflict. I urge you to use all your efforts toward insuring that the U.S. Government indicate its desire to participate in a reconvened conference and consider neutralization under international guarantees.

Sincerely,

KATHARINE K. SMITH.

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PHILADELPHIA, PA.,
*April 5, 1964.*

Senator ERNEST GRUENING,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRUENING: If you have reprints of your foreign policy speech in March, in which you protested the U.S. policy in South Vietnam, I should very much appreciate having a copy. I am shocked—but perhaps should not be surprised—to learn that your speech was virtually ignored by important members of the press.

I hope very much that the debate on South Vietnam continues and that it leads to revision of our policy—which I consider untenable on moral grounds alone.

I know that a business letter should deal with only one point—but I do want to express my concern about the great distress which your State has so recently experienced.

Sincerely,

MISS MARGARET SHEETS.

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## RESIDUAL FUEL OIL IMPORT CONTROLS

Mr. KENNEDY. Mr. President, since March 1959, residual fuel oil import controls have been the subject of much controversy and discussion before this body.

I have followed developments closely and with considerable interest, since I am well aware how essential the availability of this fuel is to Massachusetts, to all of New England, to Florida, and to other east coast areas in between. On several occasions, I have joined with other Senators from affected areas in requesting the Secretary of the Interior to consider the economic welfare of the 50 million consumers with a direct interest in this program. I am pleased to report that I am in complete agreement with a recent statement by the Senator from Rhode Island [Mr. PASTORE], made on this floor on March 24, in support of the "Wise procedures of Secretary Udall of the Interior in allocating desperately needed import of residual oil."

I think the Secretary is to be commended for his actions, often in the face of heavy pressure, and sometimes bitter criticism, from certain special interests who seek to make controls even more stringent.

However, in spite of everything that has been done to date, the basic hardships arising from the Government's control of imports of this fuel still remain. The ultimate solution should be, of course, the complete removal of residual fuel oil import controls. This, I am firmly convinced, could take place without endangering in any way the security of this country—a position, I may point out, supported by the Director of the Office of Emergency Planning, who on February 13, 1963, after almost 2 years of investigation, reported to the President that—

> A careful and meaningful relaxation of controls would be consistent with national security and the attainment of hemispheric objectives which contribute to the national security.

This recommendation still stands.

Many proponents of controls argue that their removal would have a damaging effect on the domestic petroleum industry, and particularly on domestic production of residual fuel oil.

Protection of a vigorous and healthy domestic petroleum industry in the interests of the national security was, of course, the main reason for imposing controls originally. The OEP, in its investigation, considered this in detail, and, as I mentioned earlier, concluded that a relaxation was consistent with national security. Thus, any attempt to justify maintenance of residual controls on the same grounds which necessitate crude oil controls is, I feel, misleading and unfair.

With regard to recent claims that domestic producers of residual oil are being hurt by imports, I fail to see the logic in such statements. On several occasions it has been necessary to increase allowable imports, mainly because domestic production has fallen off substantially, year after year, and gives every indication of continuing this trend. I would never suggest the adoption of any program which would be detrimental to American industries or products. However, I am informed that the potential demand for residual oil in our area is more than enough to absorb the domestic supply, making the resort to imports quite justifiable.

We had hoped these controls might have been dropped entirely this year; but early in March, Secretary Udall, in announcing that restrictions would remain in effect, set new quotas for the 1964–65 fuel year, which began on April 1.

Allowable imports, according to Mr. Udall, are to be increased by 11 percent, which amounts to 63,000 barrels daily, and makes the daily import quota 638,000.

This increase will be helpful, but in no way does away with the basic inequities in the system. These can be eliminated only by complete removal of controls or by some modification whereby consumers would once again have the benefit of open competition for their business.

The fact that this will not come about because of this increase is, I think, clearly evident from statistics which have been furnished to me.

I have been advised that during this year, domestic supplies available for east coast consumption will decline by 32,000 barrels daily. Considering this factor, together with the urgent need to rebuild stocks, which had become dangerously low, we can expect then, at the most, not an 11-percent increase, but merely a 3-percent increase, and that total residual oil available during the year to east coast consumers will amount to 830,000 barrels a day.

This is a very modest increase, and certainly much less than the expected growth in competitive coal and gas consumption on the east coast.

The need for this vital heating and industrial fuel is actually growing. Throughout the country, there is a trend to build more apartment houses and fewer one-family and two-family homes. A few, short years ago, multiple dwelling units accounted for less that a quarter of all new residential construction; today, they are more than one-third. Virtually none of the new apartment houses on the east coast are heated with coal. In the northern part of the east coast, the prevailing fuel is residual oil. The supply of this fuel must be permitted to grow; and the only possible source of growth is imports.

Or let us consider the needs of east coast utilities. In the second half of 1963, these utilities burned 191,000 barrels a day of residual fuel oil, an increase of nearly 13 percent over consumption in the same period of 1962. For the fuel year 1964–65, the Interior Department foresees a growth of about 16 percent, to 217,000 barrels. Thus, by the end of 1964, total residual fuel oil consumption of east coast utilities is likely to be more than 50,000 barrels more than the consumption in the last half of 1962.

According to the Petroleum Industry Research Foundation, Inc., east coast utility consumption will rise to such an extent that by the first half of 1966, the bulk of the entire increase in imports may have to be channeled into the utility sector.

Mr. President, those of us concerned with the demands for this fuel have too often concentrated our attention on the problem after the summer months, when the need increases. I think it might be a wiser course to begin now to analyze the facts and to develop sound programs for eventual removal of these import controls.

I think we should continue to stimulate the attention of the Secretary of the Interior on this important issue, not just let the matter lie dormant until the winter is upon us.

Finally, I think we should frame our thinking within the scope of the entire market of fuel. What we in New England want is a reasonable cost for our power and for our heat. Residual oil provides a competitive spur toward achieving that goal.

There is still much to be done to reduce our expenses for energy; and we are hopefully seeking solutions to this problem. For the time being, residual oil is an essential addition to New England's fuel-supply market, as it is to those markets up and down the east coast. Our task is to obtain the fullest advantage of its resources available.

Mr. PASTORE. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. I commend the Senator from Massachusetts for his very timely statement, which has been very eloquently delivered before the Senate; and I associate myself with all he has said.

Mr. KENNEDY. I appreciate the comments of the Senator from Rhode Island.

Mr. THURMOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 176 Leg.]

Aiken
Allott
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hayden
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Mansfield
McCarthy
McGee
McGovern
McIntyre
Metcalf
Monroney
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Smith
Sparkman
Stennis
Symington
Thurmond
Tower
Williams, N.J.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

## ECONOMIC DEVELOPMENT OF APPALACHIAN REGION

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair) laid before the Senate a communication from the President of the United States, transmitting a draft of proposed legislation to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian Region, which, with the accompanying papers, was referred to the Committee on Public Works.

Mr. STENNIS obtained the floor.

Madam President, I ask unanimous consent that I may yield to the Senator from New York without losing my right to the floor, and that the resumption of my remarks shall not constitute another appearance on the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRESIDENT ANTANAS SMETONA OF LITHUANIA

Mr. KEATING. Mr. President, it is most appropriate that the national organizations supporting Lithuanian freedom and self-determination gather on May 3 this year to honor Antanas Smetona, first and only President of the independent Republic of Lithuania.

Antanas Smetona's life was devoted to the welfare of his nation and offers the world an outstanding example of bravery and dedication in the face of extreme adversity.

When Lithuania was struggling against the foreign powers which sought to divide and conquer it, unity, cooperation, and stability were the important needs of the nation. The National Council of the Lithuanian National Assembly displayed admirable political understanding by electing Antanas Smetona its President in 1917, for he embodied these necessary virtues.

In the anxious months ahead President Smetona provided wise moral and political leadership by his own actions and through the pages of his newspaper Lietuvos Aidas.

Lithuania's declaration of independence of February 16, 1918, promulgated by the National Council, bears the patriotic imprint of President Smetona.

During the following 3 years while Lithuania fought against Bolshevik invasions, President Smetona was the outstanding member of the group of patriots including J. Staugaitis, S. Silingas, Augustinas Voldemaras, Mykolas Slezevicius, and many others, who built an army out of nothing and led the nation to victory over all enemies.

From 1922 until 1940 through every crisis, President Smetona maintained the office of President of the Republic, giving continuity and substance to Lithuanian sovereignty. In the final days of the Republic, when Soviet Russia was exerting every effort to subvert and conquer Lithuania, President Smetona stood firm, resisting to the very last the suppression of his nation. Only when there were few left with the heart to resist the overwhelming Communist invasion did he leave the country to organize resistance from abroad.

Unhappily, it is the 20th anniversary of his death in exile that is commemorated, May 3, 1964. In death as in life, Antanas Smetona is the symbol of Lithuanian independence and the example of patriotic devotion which has always characterized the Lithuanian people. His death removed from the scene one of the great national leaders of this century. He is due the highest honor and gratitude from everyone who desires a free Lithuania. Let us not forget his dedication, and great abilities. Let us carry on his struggle.

Mr. STENNIS. Madam President, I ask unanimous consent that I may yield to the Senator from Illinois without losing my right to the floor and that my resumption of my speech will not count as an additional appearance on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. I thank the Senator from Illinois.

## WILMETTE, ILL., HUMAN RELATIONS COMMITTEE URGES ENACTMENT OF CIVIL RIGHTS BILL NOW BEFORE SENATE

Mr. DOUGLAS. Madam President, the fact that we are now debating a significant civil rights bill is not merely a reflection of the increased demand by Negroes that they actually be allowed to enjoy the rights guaranteed to them by the Constitution; it is an accurate representation of the deep concern of the large majority of Americans of all races that equal justice under law be made a reality.

The widespread support for effective civil rights legislation can be seen in the growth in all sections of the country of temporary and semipermanent groups of community leaders seeking to improve relations among members of their communities. These groups properly recognize the importance of action on the local level to correct the injustices of racial discrimination, but in most cases their experience leads them to support as well supplementary Federal action in the form of effective civil rights legislation.

I have received, for example, from the corresponding secretary of the Wilmette, Ill., Human Relations Committee—Wilmette is a wealthy suburb of Chicago—a resolution adopted April 22 petitioning the Congress to enact the civil rights bill now before us. The Wilmette Human Relations Committee is a large body of citizens representative of their community. This resolution was submitted to the committee's annual meeting and was passed unanimously by the 150 persons in attendance.

This expression of support for the civil rights bill from Wilmette is indeed heartening. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

WILMETTE HUMAN RELATIONS COMMITTEE,
*Wilmette, Ill., April 22, 1964.*

RESOLUTION ON THE CIVIL RIGHTS BILL NOW BEFORE THE U.S. SENATE

We, as citizens of the United States and residents of Wilmette, Ill., and members and supporters of the Wilmette Human Relations Committee, have during recent months given much time and discussion to the issues arising from the abridgement and limitations of human and civil rights in many American communities.

We deeply regret the resulting spread of racism and the shaping of discriminations against many fellow American citizens. We hold that such racial heritages as color of skin or slant of eye over which inherited racial characteristics citizens have no control, should not be used to curtail citizens rights.

We realize that these currently widespread types of discrimination are clear violations of the elemental rights of American citizens who are protected by the Constitution and Bills of Rights of the United States. Since the violations of these basic civil rights have been permitted to persist and spread throughout many American communities the results must now be met and corrected by constructive action of the Congress of the United States.

Therefore, we feel justified in earnestly petitioning the present Congress to enact legislation that will bring about early and effective changes in the resulting moral and economic conditions arising from these current denials of the full rights of so many American citizens. We are convinced that the present civil rights bill (Calendar No. 386, already passed by the House) now before the Senate with its varied and specific provisions and sections will go far toward reducing the existing discrimination and in developing better conditions wherein all American citizens may share equally in the full and complete rights guaranteed by the American Constitution and Bill of Rights.

We are agreed that the time has come in the development of the American way of life when the majesty and rule of law must be used effectively to emancipate our American communities and all American citizens from these current unjust and unfair racial discriminations and urgently request the U.S. Senate to pass this civil rights bill now under debate at the earliest possible date.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunities, and for other purposes.

Mr. STENNIS. Madam President, in discussing further the point regarding the jury trial amendment, the clearest and most pointed statement I have read from a layman's standpoint, and the most easily understood by one not versed in law, is reflected in an editorial entitled "Contempt," published in the Washington Star of Sunday, April 26, 1964. Since it has already been printed in the RECORD, I shall not read all of the editorial; but having identified it, I shall read two or three short paragraphs, enough to set forth the distinction between civil contempt and criminal contempt and to get the editorial writer's points in connection therewith.

> If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury.

Madam President, I wish to emphasize that the Washington Star, is supporting the enactment of a bill, but not the bill in its present form. So this editorial comes from a friend of the bill—a proponent of a civil rights bill. I continue to quote:

> And he can be kept in jail until he complies with the order. It might be 30 or 45 days, or it might be 10 years. The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings.

I digress from the editorial for a moment. The editorial writer is saying that anyone who refuses to obey a lawful court order is subject to sentence by the judge without a jury, and that the sentence could run up into the years. As the editorial writer says, it might be 10 years. Under present law, if the Government is a party to a suit, even in a criminal case, the sentence could be unlimited.

But for contempt for failure to obey a court order, there is no limit, and the amendment does not affect that. I continue to read from the editorial:

> The only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge tells him to do. This will be a very effective sanction.
>
> Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Madam President, those are not my words; they are the words of a proponent of a civil rights bill.

I read further from the editorial:

> Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of jury trial means that a judge—

And now the editorial writer quotes from the opinion of Mr. Justice Black—

> "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty."

The editorial continues, as follows:

> He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

That is the end of the quotation from Mr. Justice Black; and those are the words of Mr. Justice Black, not my words.

I read further from the editorial:

> No one could put it better. We hope the Senate—

Here, the reference is to the amendment now pending—

> instead of winding up with a cheap compromise because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

Madam President, that editorial sets forth in clear, concise, and down-to-earth language the distinction. Civil contempt cases pertain to the right of a judge to see that his order is carried out; and, in that connection, he has unlimited power of punishment, without a jury trial; and for an unlimited period of time he can insist upon the carrying out of his order. But when there is a situation in which a person, in failing to comply with the order of the court, has committed or is alleged to have committed a criminal act in connection with the failure to carry out the order, the question is whether the judge can, without a jury, try that person for the alleged criminal offense, and can inflict a penalty apart from the one prescribed by law for that particular crime. That question is now before the Senate.

Furthermore, the editorial writer passed on the proposed substitute—I say with all deference to the proposed substitute for the Talmadge jury-trial amendment—by calling it "a cheap compromise," and by stating that he hoped the Senate would not be afraid of some voters, but would "insist upon jury trials in all cases of criminal—as distinguished from civil—contempt."

That is exactly the position taken by the Talmadge amendment. It does not yield on this principle; it does not compromise on it. Those of us who support the Talmadge amendment stand our ground for the principle of allowing a jury trial in what is, in effect, a criminal case.

As pointed out so clearly by Mr. Justice Black, of the U.S. Supreme Court, in such a case the judge has concentrated in himself the power to charge a man with the commission of a crime, the power to prosecute him for it, the power to conduct the trial, and the power to find him guilty.

Mr. Justice Black added:

> It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury.

I am sure Mr. Justice Black did not intend to discredit judges, as such; and neither do I. But his comments illustrate how this matter arose and developed from the early days, when contempt cases were not used to prosecute and to enforce criminal law. The application then was very limited, and the cases arose very seldom. That was true of any kind of contempt case.

I had the privilege of serving as a trial judge for almost 11 years, in a court of unlimited jurisdiction. In it, we had all kinds of civil cases and criminal cases, literally thousands of witnesses, many participating lawyers, many litigants, many persons who were tried for the most serious kinds of crimes, and literally hundreds and hundreds of officers, under the orders of the court. It is no credit to me to point out that in those 11 years we never had before us anyone who had to be cited for contempt of court in any way; and the only time I ever had to do anything about any such subject was when, one day, a drunk came stumbling into the courtroom, while the court was in session—the doorman had temporarily left. I merely told the deputy sheriff to take the drunk to jail, but to turn him loose when he sobered up. That experience of some 11 years was characteristic of the experience of all the courts in operation as originally intended, and in which the original contempt procedure really grew up.

But in modern times the use of the injunction has been vastly expanded; and today the injunction is used in a great number of far-reaching matters, including antitrust suits, suits under the Taft-Hartley Act, and a great many other suits. Never before has the ground been sown with the many possibilities of obtaining injunctions or similar rulings in connection with contempt charges which could develop under the provisions of this bill.

So the bill would be a spawning ground for injunctions, right and left, almost everywhere; and we find that almost every page of the bill would confer additional power on the Attorney General.

Madam President, if we are to let the injunction process be continually expanded—although I do not think we should—at least Congress should insist on standing on principle, regardless of the subject matter involved—whether civil rights or any other subject—and should insist that the right of jury trial be preserved.

This question must be decided by Congress. I do not say there is an absolute constitutional right in all such cases to have a jury trial. As I have explained, however, the law has developed in the other way. But in every one of these matters of criminal contempt, the spirit of the Constitution cries out in loud tones for a jury trial, even under contempt procedure. So, Madam President, when proceedings are brought against a man or a group of men or a group of women who may be charged with violation of a part of the criminal code, and if they are to be tried under contempt proceedings, certainly there should be a jury trial.

Therefore, Madam President, this amendment does not ask for any really new principle. The amendment merely demands that we not abandon one that is time-tested and proven. I believe that the right of jury trial, more than any other civil right, is responsible for the continued protection of free men everywhere, regardless of race, religion, national origin, sex, or any other consideration.

However, as certain as it is that we are standing here, if we continue to expand the field of criminal contempt, without the safeguard of a jury trial, or even the safeguard of a grand jury indictment requirement, the safeguard of instructions to juries, and the requirement of proof beyond a reasonable doubt, we shall be destroying our system of criminal law, and we shall be destroying our system of personal, individual justice, and we shall tear down the citadels of freedom that we are supposed to be strengthening, rather than weakening.

I do not believe that there is anyone—there may be a few exceptions—who has ever been connected with a court or who has had the responsibility of carrying on a court or who has practiced law in a courtroom in which cases are tried and fought out before a jury who does not have high regard for the jury system. We all know that at times there may be a miscarriage of justice. Mistakes might be made by a jury. I am sure that there are occasions when willful acts are committed by a jury.

Madam President, those acts certainly do not condemn the system. Many times their decisions commend the system.

But underlining all of that point of view is a basic situation, based upon human experience. The human frailties of all of of us create a need for an underlying impartial tribunal that is taken from the body of the people and is beyond the reach of influence, coercion, and intimidation. A group of people selected from a county, even when a unanimous vote for a verdict is required, will most likely reach a conclusion which is just, or near that which is just. Then a judge who is experienced, within the limits prescribed by the statute, can estimate what the punishment should be.

When that principle is abandoned and, for any reason, especially under the pressure of proposed civil rights legislation, we take from the people that protection and resort to shortcuts, we are inviting trouble.

We are tearing down our fundamentals of protection. We are throwing ourselves to the wolves for a repetition, in time, of the very conditions out of which our practice of having a jury system grew. That system has been well developed under the common law of England and the common law of the States of the United States, as well as the statutory law resulting from experience.

Madam President, to repeat a statement that I have previously made, I look upon the pending bill not merely as embracing a racial question affecting Negroes or any other group of color, but as one involving constitutional principles. Constitutional questions are presented. I believe the bill presents a constitutional crisis. Adoption lock, stock, and barrel of the 11 titles of the bill under the guise of protecting the rights of one particular group would mean that we would run roughshod over the rights of many others and fail to protect them. We would take rights away from one group and give the power over to another group in the way of privileges. Far more harm than good would come from trying to use that method of straitjacket legislation.

I believe there is a way out of the problem which is presented and which has been with us a long time. I believe it is the only way out. The leaders of the two principal races should work together at local levels voluntarily, without any coercion and without any legal whip over their backs or their heads. There should be no whip hand of any kind by any bureau, court, or any other body which would represent power. I believe that the way out is through local leaders from each race working voluntarily together. For a century that is what has been going on in the South. No group of people in all the history of the world has made such progress and has come as far in so relatively a short period of time as have the colored people in our area of the country. They deserve great credit. They are making further strides every year and every day. They are taking advantage of the increased opportunities that all people enjoy, but particularly those of that group. In Mississippi we have the finest kind of racial relations. There are some exceptions, of course. There are always exceptions. But generally—and through the years I have been in intimate contact with both races and an officer of some organizations—the finest progress has been made. It has been steady and sustained. A great many Negro youths have taken advantage of it. Adults have done so, also. The finest kind of spirit exists in our schools. There are more than 8,500 colored schoolteachers, most of them well trained. They have the greatest pride in their schools including the school buildings and the rooms where they teach. They have lunch programs. I have visited in those schools and made talks before them and conversed with them. They have pride in their achievements and their programs. They have free schoolbooks, free transportation, and the finest kind of equipment and opportunity.

Conditions were developing very rapidly and fast. The progress would have continued, but now elements of strife have come in and uncertainty has resulted. There will occasionally be an outbreak, although violence is rare. But good progress is still being made, even though there is an erosion of the good spirit of leadership from both races that once existed at the top.

We have colored doctors; we have the teachers that I have already mentioned; we have some lawyers. Most of the lawyers are respected. There are many other leaders in that group. I know how it came about. I do not claim to have been a part of the process. I know that my parents and others were involved. I knew how they felt, and I think I know how the colored people feel. I know that at the present time some strife and enmity are coming into our State. Those coming into the State of Mississippi see our fine school buildings, the transportation facilities, the lunchrooms, the schoolbooks, and all the things that the people have; but the agitator points out, "Yes, but you do not have enough. Someone over yonder has something better than you have. You are being mistreated. You are being discriminated against."

My goodness alive. Negroes have more opportunity than they have ever had. More is being done for them—and I am glad it is—than it has been possible to do previously, and, so far as these programs are concerned, far more than was done for any preceding generation of white people.

The agitation and unrest are hurting the very ones that people with good intentions think they are helping. They are hurting the colored people and other people with lesser opportunities. The only way for them to go up is to work for it. They have the opportunity to make progress.

I mention this factor with emphasis, because there is a way out and there is a way up. Human nature being what it is, it is the only way.

I remember as a little child reading in the Bible about the conflict between the Jewish people and the Arab people in what is now called the Near East. I am sorry to say that strife still exists there, although improvement has been made. The improvement has not come about by reason of passing laws. Improvement will not come through coercion.

A law can be enacted that will take over a man's body or take him over physically, but his mind is not won over that way. His cooperation is not won. Instead we meet with the man's resistance.

Before I get to the question of the jury trial amendment, let me say that there is concern about people who have agitated this question throughout the Nation. The bill represents a transfer of power from the local level of government, be it county or State. Whatever level it is, it is power, under our form of government, that is in the hands of the people. The people exercise that power when they elect members of the State legislatures and State governors and State public officials.

This power is gradually being swept away from them and transferred to Washington, in one way or another, and made a part of the Central Government. The power never gets back to the home people. Only in an indirect way, and only in a small number of instances, are the people still able to use that power. Of course, they take part in elections for the President of the United States and for two of their Senators and a Representative in the House. But we all know from experience that once power is brought to Washington, it never gets back to the local level.

People now sneer at States rights; but call it what one will, it is political power that is vested in the people back home. And they lose that power when it gets to Washington, where it is exploited by pressure groups. Those groups move in on the President of the United States in every possible way. They move in on Members of the House and the Senate. I refer to economic groups and other groups. They move in on members of the Cabinet and other officials.

Anybody who has a real appreciation of power in the Federal Government knows exactly what I am talking about. The pressure forces itself into presidential campaigns. It forces itself into the rooms where the party platforms are written. The groups make their demands and get promises from those running to become Members of the House or Senate, and from the President of the United States. It becomes a Federal power, and finally blossoms into a larger and larger bureaucracy, with more and more power in Washington and less and less at home.

The commonsense of what I call the common people—and I use the term "common people" as a complimentary term—are conscious that there is a danger in giving up this power. Even though there may be a plausible ground given for the people's giving up that power, they know that all the power goes in the same direction and never comes back to them.

That is a major reason, I believe, why there is so much concern about the passage of the bill.

Regardless of what anyone may argue, there has never been a bill put together that has had so much express, as well as implied, power written in the lines, as well as between the lines, as the measure now before the Senate.

### JURY TRIAL AMENDMENT

Madam President, I wholeheartedly support amendment No. 513 offered by the distinguished Senator from Georgia [Mr. TALMADGE] in which I joined as a cosponsor, to secure basic and fundamental rights by providing for trial by jury in criminal contempt cases. I was privileged and pleased to join him in presenting this amendment.

None of us, I am sure, need to be reminded of the supreme and vital importance of the right to a jury trial in cases where an individual's liberty is at stake. This is one of the basic and fundamental bulwarks of our system of government which has made our Nation great and our people free. It should not and must not be trifled with.

Yet, little by little, over the past years we have been encroaching upon and chipping away at this fundamental civil right of all Americans. We have done it in the provision in section 402 of title 18 of the United States Code which denies the right of trial by jury in criminal contempt cases brought by the Federal Government. We did it when we passed the Civil Rights Act of 1957, under which an alleged contemnor has only the right to demand a jury and a trial de novo in criminal contempt cases when, after having been found guilty without a jury, the judge assessed punishment of more than 45 days in jail or a fine of more than $300.

I wish to comment now upon the straddled position, the hybrid that the proposed substitute for the Talmadge amendment really presents, even though it is taken in part from present law. It is seriously proposed, under the guise of protecting the right of trial by jury, that Congress enact something that will be the law of the land in this vast bill by providing that the judge, in the trial of a criminal contempt case, will not have to give the defendant a jury trial unless the punishment is to be more than $300 or more than 30 days in jail.

To any lawyer, that is a ridiculous proposal on its face. When such a case comes before the judge, before he has heard the evidence, he will have to make a decision as to whether or not he will give the person more than 30 days in jail or fine him more than $300. In other words, before he tries the case, he must decide on the punishment. The proposal is downright ridiculous on its face. It reverses all the principles and practices of a judicial proceeding.

Under the amendment proposed as a substitute for the Talmadge amendment, the trial will not be a judicial proceeding. It will not be a proceeding according to what is ordinarily called due process of law. It will be a question of bringing a matter into court on the basis of the extent of the imprisonment involved.

They say to the judge, "You must decide at this time what the punishment will be in this case, before you know whether or not to call in a jury."

The word will get around as to what the law is. If the judge decides to call in a jury, the jurors will know that the judge has already found the man guilty, and that the judge thinks he is so guilty that he is going to give him more than 30 days in jail or impose a fine of more than $300. The jurors stay around the courthouse. They know what is going on.

It is the most ridiculous proposal—even though it came into the present law in 1957 as a compromise—that I have ever seen written on the statute books. This purports to be a method of administering justice to an individual American citizen under the law. It does not contain, topside or bottom, the ordinary rights of a defendant in court. It does not touch, topside or bottom, what we refer to as due process of law. It is a provision that ought to be removed from the present law, and removed from this bill.

**Mr. SPARKMAN.** Madam President, will the Senator yield?

**Mr. STENNIS.** I yield.

**Mr. SPARKMAN.** The Senator referred to the fact that this provision was written into the law in 1957. Does the Senator recall what the Senate wrote into that bill?

**Mr. STENNIS.** The Senate wrote in a provision—I can give the Senator the substance of it—that in all criminal contempt cases the defendant would be entitled to a trial by jury. That is about all it provided. Nothing was provided relating to punishment. A right was involved.

Mr. SPARKMAN. Was the Talmadge amendment identical with the provision, written into the 1957 act?

Mr. STENNIS. The Talmadge amendment which was offered, and for which a substitute is proposed, contains identically the same language. It provides that all persons charged with criminal contempt shall have a right to, and can demand, and obtain a jury trial. It also protects the defendant with reference to punishment.

Mr. SPARKMAN. Does the Senator remember that the provision which the Senator has described so well as being a conviction even before trial, was written in the bill on the House side? The Senate adopted a number of amendments. The House accepted several of them, but wrote substitute language in the bill and sent it back to the Senate and insisted that the Senate accept it.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. In other words, this body has never initiated any such proposal as this.

Mr. STENNIS. The Senate has never initiated any such proposal. It never agreed to any such proposal in a conference between the Houses, where there is a free conscience, and a give-and-take attitude.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. The Senate accepted it under the pressure of trying to obtain a bill. Those of us who are arguing for a jury trial tonight, voted against that provision.

Mr. SPARKMAN. That is correct. Has the Senator noted the reports over the radio and in the newspapers concerning the so-called compromise amendment which has been offered? Has the Senator heard the expression that trial-by-jury amendments have been presented, and that it is believed they will be accepted, and this will speed the enactment of this bill?

Mr. STENNIS. The Senator from Mississippi has certainly noticed it and been grievously concerned about it.

Mr. SPARKMAN. I, too, have been concerned. It seems to me that the wrong impression has been given to the people of the country. The impression has been created that those who are pushing this bill have proposed a trial-by-jury amendment, and that some Senators are fighting that amendment. Actually, what we are fighting against is not a trial-by-jury amendment at all.

Mr. STENNIS. The Senator is correct. We are fighting for a trial-by-jury amendment, one that is real, actual, judicial, one that represents due process of law, and—if I may use the term—one that is an honest trial-by-jury amendment, which would really give a trial by jury to a man accused of a crime.

Mr. SPARKMAN. And is it not guaranteed in the Constitution?

Mr. STENNIS. The spirit of the Constitution demands it. As I pointed out a few minutes ago, before the Senator entered the Chamber, there has grown up a system of law regarding contempt which is outside the regular processes. Now it is reaching out and taking over the criminal jurisdiction. The proponents are trying to do it without following the Constitution, really.

Mr. SPARKMAN. That is the point I wished to make.

Mr. STENNIS. Yes.

Mr. SPARKMAN. I was in the Senate Chamber when the Senator made that point. That is one of the things I wish to bring out. Congress, by enacting that provision in 1957, added to the difficulty. Now an effort is being made to add to it still further. Are we not getting further and further away from the constitutional right of a trial by jury?

Mr. STENNIS. The Senator is correct. We are edging further and further away. A damaging concession was made in the 1957 act, on the jury trial issue. It impaired the right of a jury trial in all matters. It is compounding grave error to try to do it again.

Mr. SPARKMAN. In the Barnett case the court divided 5 to 4. I do not remember just what the division was in the Green case.

Mr. STENNIS. There was a lively division.

Mr. SPARKMAN. There was a division in the Green case.

Mr. STENNIS. Yes.

Mr. SPARKMAN. But in the Barnett case, there was a bare majority of the court.

Mr. STENNIS. Yes.

Mr. SPARKMAN. I am sure the Senator noticed that. That was on a question of certification sent up from the court of appeals. The court said that if the court should levy a penalty greater than would be levied in petty cases, it would be looked upon with disfavor. Is that correct?

Mr. STENNIS. The Senator is correct. I am glad the Senator brought out that point.

Mr. SPARKMAN. Does not the Senator feel that the slim margin in that decision, and the word of caution by the majority of the Court indicate that even the Court recognize that it is on thin ice?

Mr. STENNIS. The Court said in effect, with fair warning, and with emphasis, that the law ought to be cleared up, and that it was rendering a technical opinion because of the history of contempt cases. The Court said that the question ought to be cleared up and made positive. It said that it would not allow any such decision to stand if it involved more than a petty matter.

Mr. SPARKMAN. I am sure that the Senator noticed Justice Black's comment, that it would give some little gleam of hope that perhaps the Court was getting around to the point where it might no longer recognize the right of the judge to be the accuser, the prosecutor, the judge, and finally the jury to fix the punishment.

Mr. STENNIS. Those resounding words will go down through the years; and they will topple over the idea of bringing a defendant into court and trying him without a trial by jury.

This is from material I quoted before:

> Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

That is what Justice Black said.

The Senator mentioned the opinion of the majority of the Supreme Court in the Barnett case. The footnote in the Barnett case states:

> Some members of the Court are of the view that without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

That is the point the Senator has brought up.

Mr. SPARKMAN. Yes.

Mr. STENNIS. This decision is almost an apology, a warning to the country that we will not tolerate this much longer. Congress has an opportunity to do something about it.

Mr. SPARKMAN. I think the Senator hit the nail on the head when he said that the decision in this case was almost an apology. Since our earlier colloquy, I have had an opportunity to look up the division in the Green case. It was 5 to 3. Justice Frankfurter concurred with the majority, with a separate concurring opinion, in which he stressed the fact that Congress had the power to establish limitations, or to say that there should be a right to trial by jury. This, to my mind, would be a reaffirmation of what is in the Constitution. Nevertheless, he took the position that Congress ought to act on it.

Mr. STENNIS. Yes. I am glad the Senator brought that point out. I hope that he will develop it further in his speech on this subject, which I hope he will make sometime soon.

Mr. SPARKMAN. I hope to do so.

Mr. STENNIS. And bring out in his excellent way what the Justices said. This matter is on our doorstep now.

Mr. SPARKMAN. I am sure the Senator will recall that in both the Green case and the Barnett case Chief Justice Warren agreed with Justice Black, who wrote the principal dissenting opinion. Justice Douglas concurred in both cases. Justice Goldberg was not on the Court at the time of the 1957 decision. Speaking of Justice Frankfurter's decision, the Senator will recall that in an article published in the Harvard Review a good many years ago, Justice Frankfurter, in conjunction with someone else, whose name escapes me at the moment, made the very clear statement, if I recall it correctly, that every trial of a person which would subject him to a criminal penalty should be a trial by jury.

Mr. STENNIS. Yes. I remember that the Senator mentioned that to me once before.

(At this point Mr. RIBICOFF took the chair as Presiding Officer.)

Mr. SPARKMAN. The Senator remembers that.

Mr. STENNIS. There is no doubt about it. This system has been tried for hundreds of years. It has been copied in other countries around the world. The distressing thing is that we are trying to tear down at home this mudsill of freedom and protector of the right of all people regardless of race or color.

The greatest protection that the so-called minority groups have ever had or ever will have, is the right of trial by jury. It insulates them from oppression.

Mr. SPARKMAN. A trial by jury of his peers.

Mr. STENNIS. A jury of his peers. It insulates the minorities. It protects them. I know. I have seen it work. It is the right of every American citizen.

Mr. SPARKMAN. Will the Senator yield for another question?

Mr. STENNIS. I yield.

Mr. SPARKMAN. My thoughts go back to the Magna Charta, in 1215. If someone were to ask the Senator from Mississippi today what was the greatest concession or grant in the Magna Carta, would not his answer be the right of trial by jury?

Mr. STENNIS. Unquestionably. I have thought about that many times. I have thought about it during the deliberations of juries in court.

Mr. SPARKMAN. It was the barons who obtained the Magna Carta from King John, was it not?

Mr. STENNIS. Yes.

Mr. SPARKMAN. They were the leaders in England.

Mr. STENNIS. Yes.

Mr. SPARKMAN. They were of the upper class. They were on a level just below that of royalty.

Mr. STENNIS. Yes.

Mr. SPARKMAN. They were trying to get something for the people that would work. They were responsible for the people. The first demand that they made of King John was that before a man could be deprived of life or property or liberty he should be given the right of being tried by a jury of his peers. Is that not correct?

Mr. STENNIS. The Senator is correct. He has stated it in a fine way.

Mr. President, if section 402 of title 18 of the United States Code and the Civil Rights Act of 1957 encroached upon and whittled down the right of trial by jury, H.R. 7152 in its present form would trample ruthlessly and heedlessly upon this right. It is amazing to me that proponents of the pending bill, who cast themselves in the role of protectors of basic rights, should put themselves in the completely inconsistent position of urging the denial of one of the greatest protections against tyranny and arbitrary governmental action which the mind of man has ever devised.

The most frequent argument against a trial by jury in criminal contempt cases is one which is, in effect, an argument against the jury system itself. This argument is that there will be times when a jury will not convict and, therefore, the defendant must be denied his basic civil right to a jury trial. Those who make this argument indict and attack the jury system itself in all cases—not merely those involving an alleged violation of civil rights.

I, of course, do not deny that there are cases in which a guilty man has been set free as a result of a jury's verdict. Every lawyer who has been involved in jury trial certainly knows that juries sometimes make mistakes. This happens in cases of murder, larceny, burglary, and other crimes. However, my experience makes me conclude that juries reach the correct decision far more often than they are given credit for.

In any event, the occasional mistakes of juries and the resulting miscarriages of justice is a price which Americans have always willingly paid for the preservation of this basic right of a free people. No real American has ever urged that an alleged murderer be denied a trial by jury because juries sometimes acquit a guilty person. No one in the Senate has ever said that an alleged thief should be tried only by a judge because thieves sometimes escape punishment when the jury errs.

I recall that the Senator mentioned that in the Barnett case the Supreme Court of the United States divided 5 to 4. The court of appeals, which heard that case, divided 4 to 4. Four of the judges voted in favor of a jury trial. That shows that even the judges of the court of appeals, the ones who voted in favor of not having a jury trial, grudgingly voted the way they did, and thereby indicated that the jury system is still the best system that has been developed.

No one would consent to the abolition of it. I am sure that not one Senator would dare commit himself to an abolition of the jury system.

Even with its fallibilities the jury system is the best which has yet been devised. None of us would consent to its abolition. I believe that it should be preserved in all cases where there is an adversary proceeding involving a factual dispute. Its preservation is essential where an individual's liberty is at stake. I refer, of course, to criminal matters.

It is well to point out also that, just as juries occasionally err, Federal judges are not themselves clothed with infallibility. All humans make mistakes and juries have no monopoly on judicial mistakes. All of us who have engaged in trying cases have seen cases in which a judge has made a clear and fundamental mistake. If this were not true, the books would not be full of cases which were reversed on appeal to a higher court. Unfortunately, on occasion most of us have also come in contact with a biased and prejudiced judge who drove relentlessly to a preconceived conclusion. But it is not because of that that I plead for jury trials. Therefore, the argument that juries will sometimes not convict affords no valid basis for striking a blow at the jury system itself.

It has been long established that every citizen accused of a crime in the ordinary way has the constitutional right to a trial by jury. This right was established in article III of the Constitution which provides:

> The trial of all crimes, except in the case of impeachment, shall be by jury, and such trials shall be held in the State where the Federal crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

That refers to the ordinary criminal trial. Every statute we write on the subject of criminal law falls within this provision.

This constitutional right was further affirmed by the sixth amendment which states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Mr. President, even the question of the district in which a man is to be tried is explicitly set forth in the Constitution. The Constitution even goes so far as to provide that not even the boundaries of the district can be changed; that they must have been ascertained not by a judge, but by law; and that Congress cannot touch those provisions. So a criminal trial cannot be touched, even in minor particulars.

But now it is sought to establish a new body of law, entirely outside the constitutional provision for a jury trial. The proposal is ridiculous on its face. It is proposed to extend the operations of contempt proceedings.

What is proposed, in effect, is to create new crimes. The bill would create new crimes right and left. But it is not proposed to provide for trials under the Constitution; the trials would be under a system that has grown up outside the common law and outside the ordinary law of the land, because technically the courts have held that these are questions for a judge to decide. With all deference, that is ridiculous on its face. It is a contradiction of terms. It is contrary to due process of law. It pollutes the judicial system itself to require a judge to pass upon the amount of punishment a man is to have before the judge tries the case.

Let it not be said that a judge is not a party to the case. He is. Judges have done very well in administering the law of contempt; but certainly a judge is a party to the case. There is no way to get around it, because human nature is involved. He is a party to the case. It is the judge's order that is involved, and he has been permitted to have a person brought before him and punished, even for the criminal part—not the disobedience part—of the order. The judge can punish a defendant for the criminal part of his act.

The judge is the grand jury, he is the trial jury, he can be the prosecuting attorney, if he wishes to be. Then, as judge, he can fix the punishment.

Now it is proposed to let a judge decide, before he lets a case go to a jury, what the punishment will be, because if it is above a certain amount, he will have to permit a jury trial.

I wonder if a judge, in making a decision about how much the punishment will be and, therefore, where the trial will be—whether before the judge or a jury—would permit a defendant his entitlement to counsel and representation before the judge on that question. Would the judge take testimony in open court? Would the witnesses be under oath? Where would the judge get his information about what the punishment should be? Would he read the newspapers? Or would he go into chambers and talk to the Attorney General or the Attorney General's representative? Where would he obtain the data and the facts on which to operate? He must decide that the punishment will be within certain borders before he proceeds. Where will he go to get the evidence?

Mr. SPARKMAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Alabama?

Mr. STENNIS. I will yield in a moment. First, I wish to raise this point: Will the defendant be permitted to have the assistance of counsel, if he wishes it? This is a serious question.

Mr. SPARKMAN. The Senator is correct. Ordinarily, when a judge shows prejudice, the defendant can ask that the judge recuse himself. Would a defendant be entitled, under this provision, to ask a judge to recuse himself for having shown bias or prejudice?

Mr. STENNIS. That is open to question. I would not want to answer by saying that he would be cut off from doing that; but there is not much room for it.

Mr. SPARKMAN. The Senator referred to a provision in article III of the Constitution with respect to trials of crimes, except impeachment, and how they should be tried. I was interested in reviewing that point in Madison's Notes. As the Senator will recall, James Madison made an invaluable contribution to history by keeping copious notes of the Convention. He wrote in his notes:

> Section 4 was here amended as to read:
>
> "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the legislature may direct."

Then he wrote in his notes:

> The object of this amendment was to provide for trial by jury of offenses committed out of any State.

In other words, it is quite obvious—and this could be substantiated by other notes of Madison, giving a discussion by various delegates to the Convention—that this provision relating to crimes committed outside the States was written into the Constitution—and he gave particular emphasis to that point—because the delegates obviously thought that since trial by jury was already protected by the laws of the individual States and by custom and tradition—that is, in criminal cases—the first matter of concern was the question of offenses committed outside any State.

Does the Senator agree that the delegates apparently thought they would be duplicating—that they would be saying something that was clearly understood to exist in the law?

Mr. STENNIS. Yes.

Mr. SPARKMAN. Therefore, it was not until the Bill of Rights came into being that the sixth amendment provided, in writing, the guarantee of the right of trial by jury. Madison's Notes implied, as I read them—and I wonder whether the able Senator from Mississippi agrees—that it was clearly understood that the right of trial by jury was insured to every person, regardless of who the person involved might be—so much so that it was felt that it was not necessary to state it again.

Mr. STENNIS. Yes.

Mr. SPARKMAN. So it was not until the people insisted that that provision be included in the Bill of Rights—it was a part of the old Magna Carta—that it was written into the sixth amendment. Does the Senator from Mississippi agree?

Mr. STENNIS. I agree wholeheartedly; and it was inconceivable to them that there would be any interpretation except on the basis of what was then the practice and was one of the things for which they fought, and was reflected in the Declaration of Independence; and certainly it was the practice of every State in the Union at that time, without exception.

In stating that the right of trial by jury should apply to each title of this bill which provides for punishment, I am aware that the actions under this title are technically designated as civil actions, and that it is claimed punishment is limited to that for contempt. I am also aware that many of the proponents make the argument that punishment for contempt, being of a civil nature, and necessary to maintain the dignity of the court, should not come within the provisions of our Constitution that provide for trial by jury for criminal acts.

This bill establishes new crimes. While it may not specifically say so in that exact language, it nevertheless makes it a crime to discriminate in the area of voting, education, public accommodations, employment, and in any program to which the Federal Government contributes financially. The method of providing criminal punishment for committing acts prohibited by this so-called civil rights bill is a reversal of the ordinary legal procedure. The proponents of the bill have attempted to evade the requirements of the Constitution that a jury trial be accorded persons accused of an ordinary crime by providing that acts made unlawful by this bill shall be enforced by injunction. This is a most improper method of enacting a criminal statute; and that approach, in itself, is to be condemned.

Mr. President, I wish to repeat that the proponents of the bill have attempted to evade the requirement of the Constitution that a jury trial be accorded all persons accused of an ordinary crime, by providing that the acts made unlawful by the bill shall be enforced by injunction. This is a most improper method of enacting a criminal statute; and that approach, in itself, is to be condemned.

Nevertheless, it has been argued that the failure to provide a trial by jury is not a violation of the Constitution for the reason that persons accused of violating this section are not, in fact, entitled to the constitutional protection of a jury trial which is given a person accused of a crime.

It matters not what it is called or how it is approached or how skillfully the language is used to hide it. A violation of the acts prohibited in the various titles of H.R. 7152 is a criminal offense. Any attempt to make it appear otherwise is merely a subterfuge used by those who advocate its passage in order to circumvent the ordinary judicial procedures.

This bill attempts to place in the hands of the Attorney General the power to try citizens of the United States by the injunctive process for crimes for which they are now punishable only when convicted by a jury. Any doubt of this can be immediately dispelled by reference to title 18, United States Criminal Code, section 241, which provides:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws or the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than 10 years, or both.

It is true that this section deals with a conspiracy; and to constitute a crime, a conspiracy must be proved. However, the fact remains that this type of discrimination, for which a jury trial is now required, could be punished under the terms of H.R. 7152 without a jury trial. No restriction or requirement for providing a conspiracy is contained in section 242. That section provides simply:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, territory, or district to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Under this criminal statute it is a crime punishable by fine and imprisonment to, under color of custom, willfully deprive any person of any rights, privileges, or immunities accorded and protected by the Constitution or laws of the United States. This broad language covers almost the entire spectrum of what is now called distcrimination. Since it is the stated purpose of H.R. 7152 to "guarantee constitutional rights to all citizens of the Nation" it is inescapable that acts of discrimination prohibited in H.R. 7152, so far as color or race is involved, are violations of section 242; and the person accused of violating that criminal statute is entitled to a trial by jury.

The question, therefore, is not only whether jury trial should be granted under H.R. 7152; the much more serious question is whether a jury trial for acts now criminal under section 242 is to be denied.

Mr. President (Mr. McGee in the chair), I have additional points to make with reference to this highly important matter, about which I am deeply concerned; and I wish to discuss it further.

I think it is a tragedy that we have a statute such as the one already on the law books. I do not believe it is valid. It is a "split-level" punishment statute, as regards such cases of contempt. I believe it is tragic to perpetuate that grievous error, and also to fool ourselves and fool the Nation into believing that the substitute amendment applies the principles of a real jury trial, because it does not. Instead, it makes a mockery of criminal procedure, and does violence to due process of law, and takes the judge out of his role of a proper criminal officer, and allows him to decide the degree of guilt before he has heard the evidence, and permits him to proceed—if he is of a mind to do so—to reach that decision without giving the defendant the benefit of counsel, and even without hearing the witnesses on behalf of the defendant. The judge can make up his mind in advance that, regardless of what the facts may justify, he will not punish the defendant by sentencing him to more than 30 days in jail or by requiring him to pay a fine of more than $300, and thus can try him without a jury. But if the judge makes an honest effort to determine the gravity of the matter and to decide on the punishment on the basis of what he thinks the proper punishment might be in the event of conviction, there is no protection here for the defendant, not even to permit him to have the right of having counsel or to have the right of having witnesses in his behalf heard. I believe it is a monstrosity and a reflection on the judicial system. I wish to discuss those points further. I shall not further impose on the Senate tonight.

I yield the floor.

## RECESS TO 10 A.M. WEDNESDAY

Mr. RIBICOFF. Mr. President, if there is no further business to come before the Senate this evening, I move that, in accordance with the order previously entered, the Senate stand in recess until 10 o'clock on Wednesday morning.

The motion was agreed to; and (at 8 o'clock and 13 minutes p.m.) the Senate took a recess, under the order previously entered, until Wednesday, April 29, 1964, at 10 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate April 28 (legislative day of March 30), 1964:

### ATOMIC ENERGY COMMISSION

James T. Ramey, of Illinois, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1969. (Reappointment.)

### SUBVERSIVE ACTIVITIES CONTROL BOARD

Leonard L. Sells, of Virginia, to be a member of the Subversive Activities Control Board for the remainder of the term expiring August 9, 1964, vice James R. Duncan, resigned.

### TEMPORARY ALASKA CLAIMS COMMISSION

The following-named persons to be members of the Temporary Alaska Claims Commission:

Maurice Oaksmith, of Alaska.
Ray Ward, of Virginia.
W. C. Arnold, of Alaska.

### COAST GUARD

The following named officers of the Coast Guard for promotion to the grade of rear admiral:

Capt. Charles P. Murphy
Capt. Joseph R. Scullion

The following-named officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant:

Max H. Casper
Lloyd D. Wilson

The following-named officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant (junior grade):

Robert W. Davis
Richard F. Young
Paul Resnick
Arthur C. Foster
Fred M. Lane
Timothy J. Howard

The following-named persons to be permanent commissioned officers in the Regular Coast Guard in the grade of ensign:

Richard Lee Anderson
Robert Leo Armacost
David Neil Arnold
George Allen Bachtell
Jerry Craig Bacon
Kenneth Wilson Pates
Robert Bates
Richard Jay Beaver
William Donald Bishton
Leo John Black, Jr.
Walter Francis Bodner, Jr.
Harry Edward Choate Budd, Jr.
Richard Victor Butchka
Donald Glenn Campbell
Harold Joseph Capell
James Conrad Card
David Elmer Clements
Raymond Edwin Cunningham, Jr.
Robert Thomas Dailey
Ronald Judge Davies
Stephen Henry Davis
Robert Ray Dudley
Stephen Ray Edmondson
Douglas Bright Engel
Dennis Michael Fairbrother
James Warren Featherer, Jr.
Burton Fredrick Folce, Jr.
William Walter Furrer
Thomas Henry Galligan
Gilbert Thatcher George
John Alfred Gloria
Fred Harry Halversen
Robert Earl Hammond II
Robert Lee Hanna, Jr.
John Richard Harrald
Richard Walter Hawkins
Robert James Heid
Peter Joseph Heistand
Morris Deen Helton
Richard Dennis Herr
Andrew Ford Hobson
Larry Richard Hyde
Richard Stephen Jaronbek
Timothy Virgil Johnson
F. Michael Kien
James William Kunkle
William Richard Ladd
James Matthias Landt
Philip Roland Laut
Martin Lars Lindahl
Arnold Herman Litteken, Jr.
Frank Robert Long
James Milton Loy
Anthony James Lutkus
Richard Edward MacDonald
William George MacDonald
Joseph Michael Maka
Paul Andre Martin
Steven Cecil Martin
Thomas Joseph McCarthy
John Harold McGowan
Edward Vincent McGuire
Michael Joseph Meehan
Earl Joseph Meiers, Jr.
Berne Carre Miller
Martin Conner Miller
James Alfred Monahan
Larry Allan Murdock
Charles Whitacre Murray
John Norman Naegle
Paul Wallace Needham, Jr.
Gary Charles Nelson
Thomas Nunes
Lewis Wentworth Parker
Gordon Grant Piche
Terrance Ross Pietenpol
Stephen Philip Plusch
Donald Francis Potter
Paul Terry Potter
David Leon Priddy
Richard Bernard Ralph
Harold Gaynor Reed
Walter Charles Reissig
William Ellis Remley
Grant Winston Risinger
Frank Elliott Rockwell
Alan Dale Rosebrook
Gary Russell
Thomas Rutter
Norman Thomas Saunders
William Munter Senske, Jr.
James Robert Sherrard
Michael Bruce Stenger
Robert Lynn Sundin
Jerry James Surbey
Kenneth Wells Thompson
William Hepburn Thompson
Peter King Valade
Ronald Arthur Walrod
Richard Carson Waterman
George Ernest Watts
Joseph James Wehmeyer
Thomas Alfred Welch
William Everett Wheelock
William Robert Wilkins
Ralph Carl Yetka
David Zawadzki
Kurt Gustav Zimmerman

The following-named persons to be chief warrant officers, W-4, in the U.S. Coast Guard:

Walter R. Goldhammer
Donald A. Nystrom
Leroy F. Lander
Seymour Alexander
Harold D. Gallery
Philip J. Crawley
Frederick M. Rummel
Sidney Cruthirds
Bernard Hogan
Rudolph T. Lenac
Arnold J. Anderson
Hubert Craven
Joseph A. Del Torto
Leo C. Horner
Lewis H. Keeton
Robert N. Piland, Jr.
Curtis J. Olds
Robert L. Roberts
John W. Babcock
Walter H. Becker
Wilbur T. Hutchinson
William R. Bentler
Charles M. McHenry
Robert J. Krueger
Warren E. Riley
Peter J. Monk
Santiago P. Quinones, Jr.
George C. Werth
Thomas O. Cameron, Jr.
John C. Carney
Edmond S. Cinq Mars
Glenn C. Furst
William Maki
Alva W. Henderson
Herbert H. Oakes
Christopher D. Elling
Frederick D. Dubrucq
Kenneth T. Outten
Robert S. Gaddy
James D. Walters
Buford A. Norris
Wendell C. Leatherman
Philip L. Regan
Millard W. Foster
Carl A. Simon
Raymond C. Buday
Richard R. Spencer
Boyd M. Smith
Frank E. Smith
Albert Solberg
Raymond J. White
John H. Forbing
Burton B. Watkins
Herman J. Lentz
John C. Horton
William O. Caverly
William T. Dickinson
Henry T. Hutchins
Harold A. C. Duchene
Joseph W. Ellis
Earl R. Gard
Norman W. Zelck

Donald H. Bangs
Starr C. Burgess
Carl F. Michael
Frank B. Wright
Wendell M. Cahill
Michael O'Connell

The following-named persons to be chief warrant officer, W–3, in the U.S. Coast Guard:

Edgar S. Hutchinson
David A. Corey
John B. Thwing, Jr.
Kenneth E. White
Richard A. Schnase
Richard G. Nelson
Franklin E. Thrall
Edward L. Bailey
Charles W. Mason
John F. Curry
Peter D. Corson
William R. Lipham
William H. Dotson
Kenneth G. Allen
Axel J. Hagstrom
David L. Abbott
John H. Hancock, Jr.
Francis M. Coonrod, Jr.
Donald L. Alsup
Robert J. Ross
John B. Friel
Cyril D. Maxwell
Julian W. Howell
John F. Sutton
Galen B. Nielsen
Norvon B. Freeland
Dale R. Foster
Walter Hamilton
Billy G. Read
Emerson E. Chambers
Thomas L. Wedgewood
William T. White
Kenneth O. Robertson
James G. Wilcox, Jr.
Robert J. Descoteaux
William W. Thurmond
Roland D. Moriarty
John J. Smith, Jr.
Neal G. Nelson
John P. Sanken, Jr.
Robert Casper
Arthur W. Lee
Harold U. Wilson, Jr.
Earle K. Hand
John J. Janda, Jr.
John W. Colton
Gordon H. Dickman
Albert L. Olson, Jr.
Carl L. Lane
James H. Scott
Donald L. Sherman
George P. Asche
Paul L. Lamb
James W. Brawley, Jr.
William Senn
Milton J. Stewart
Johnnie Cox
George F. Garvy
Harold E. Geck
Robert E. Larose
John J. Clayton
Robert E. Nielsen
Frederick W. Huease
William H. Thorrington
Patrick M. Shellito
Donald B. Fish
Keith R. McClinton
William H. Westin
Clarence A. Long
John E. Kenny
Richard K. Mitchell
James V. Eigo
Raymond G. Herrington
Harold I. Baker
Paul C. Carman
John W. Forster
Myron E. Chesley
John A. Ritter
Michael H. Bower
Alfred L. Hunt
Alvadore C. Grant
Elliott J. Echols
James L. Reynolds
Joseph J. Glynn
Ernest B. Roark
Edward F. Mattingly
Fay K. Thompson
Edward L. Wyman
Fred Pilatsky
Keith R. Bruhl
John W. McKinn
Maurice K. Nelson
Hershel A. Drury
Donn W. Repper
Robert J. W. Collins
Marion K. Reynolds
Carl B. Kaiser
Leroy P. Phelps
Orval K. Halsey
Zigmund F. Golaszewski
Donald C. Ebert
Milton M. Midgette
John Sabath
Karl C. Teater
Theodore L. Turgeon
James C. Bond
Johnnie P. Gilbert
Leon D. Shea
William L. Patterson
Lyle G. Tilden
Joseph W. Dunhour
Donald S. Grisham
Wilbur J. Davis
Louis E. K. Pall
Robert R. Harber, Jr.
Walter A. Evans
William M. Price, Jr.
Charles T. Buckner
Robert L. Sellers
Charles E. Shook
Frederick Jones
James R. Comerford
Edward H. Askew, Jr.
Don E. McDonald
Frank H. Buzzee, Jr.
John C. Lippincott
Norvel E. Cosby
Baker W. Herbert
Paul H. Johannes
George M. Bruner
Herman Schmidt
Norman F. Muench
Lee R. Green
Jesse H. Burgess
Lester M. H. Roehr
Raymond J. Moen
Kenneth C. Oliver
George A. Menge
Leo O. Madden, Jr.
Hubert A. Anderson
Edward A. Liles
Reckner B. Moe
Marion O. Simmons
Charles W. Price
Calvin W. Pratt
John E. Dunn
Robert H. McGinnis, Jr.
Thomas E. Bockman
Phillip E. Thompson
Arnold M. DeShaw
Joe D. Wright, Jr.
Curtis W. Chamberlain
Robert E. Calimer
James P. McBride
Thomas H. Renfroe
Herbert L. Shuey
John W. Hammack
Lavern G. Ketcherside
Wilfred J. Sellers
George V. Stauffer
Hal H. Watts
Floyd L. Stormer
Sidney M. Sanderlin
Francis X. Dollard
Daniel D. Wiesman
Merlin J. Powers
Edmond R. Harless
Sidney D. Reece
Wayne H. Wiley
Robert H. Fashbaugh
James R. Dugger
Robert G. Brubaker
Robert E. Stephen
Harold O. Stockman
Robert A. Atkinson
Leroy T. Coleman
Archie C. Yano
William A. Liming
Clifford H. Brunner
Willard S. Foust
Gustav R. Froelich, Jr.
Richard B. Robinson
Edward W. Kinsey
John E. Williams
Clarence E. Curry
Harold Rapp, Jr.
Robert L. Hood
James N. Neville
Stanley P. Sleda
John H. Kittila, Jr.
Magnes L. Campbell
"C" "D" Cofield
Robert J. Whitman
Joseph A. Sporl, Jr.
Vincent G. Carlson
Harold E. Whitwer
Gordon W. Leamons
Harvey W. Willson
Victor Loher
William A. Izzo
Ralph C. Howland
Glenn R. Cox
Clyde F. Skiles
John R. Quinlivan
William J. Merritt
Richard M. Van Gee
Ralph E. Baumann
William L. Taylor
Paul R. Saylor
Laurin J. Wiersema
Edwin L. Brusstar, Jr.
Ivey N. McClure
Joseph A. Kalczynski
Francis J. Taddei
Homer T. Austin, Jr.
Delaney J. Elliott
John H. Lee
Marvin L. Olson
Robert W. Oviatt
Elizabeth F. Splaine
Harold F. McPherson
Chester R. Brooks
Robert H. Piper
Earl F. Hauser
Sam Haas, Jr.
Herbert M. Collins
Melvin W. Ellis, Jr.
Herbert V. Parkin III
Herbert W. Bagg
Valentine Gaida

The following-named persons to be chief warrant officer, W–2, in the U.S. Coast Guard:

Alfred G. Howe
Robert W. Talley
Cyrus E. Potts
Donald E. Grant
Ted R. Cox, Jr.
Charles E. Fulcher
Alfred E. Schreiber
Edward J. Flynn
William C. McKinley
Owen M. Halstad
Hugh L. Franklin
Donald Burmeister
Thomas J. Hummel
Norman E. Haynie
Orrin E. Starr
George P. Fredriksen
James C. Myers
John P. Higman, Jr.
Herbert E. Roche
Charles C. Stephenson
John S. Drozdz
John E. Cutright
William S. O'Neill
Ian D. Maxwell
Jack W. Beatty
Clarence A. Hall
Thomas A. Fillmore
William E. McLaughlin
William D. Franklin
Paul E. Morin
John Gunsaullas
Eugene A. Emert
John W. Wyant III
Travis B. Hiers
Ralph W. Gentry
William B. Johnson
John A. Bateman, Jr.
Robert C. Knowlton
Lewis C. Moch, Jr.
Ronald A. Sands
Henry E. Prentiss
Chester E. Duffey
Paul S. Johnson
Hebert J. Nuse
Maurice A. Rowe
Alfred E. Janz, Jr.
Gary M. Vaughn
William D. Jackson
Sherman M. Weeks
George M. McWilliams
Rex W. Coulson
Danny H. Perry
James A. Bachtell
James C. Sawyer
Jack E. Arrington
Kenneth W. Capel
Royce P. Stoops
Guy F. Edwards
Gordon R. Mortensen
Harold J. Warren
Warren M. Nix
Donald P. Ivins
Lloyd F. Lawrence
Geoffrey L. Landmesser
Aloysius J. Ralph
Conrad A. Pasbrig
Adrian D. deZeeuw
Jack L. Brolliar
David L. Trax, Jr.
Chester V. Barrett, Jr.
Robert H. Staikoff
Kirk D. Rose
Oren A. Dinsmore
John H. Freie
Vincent H. W. Anderson
Charles M. Saylor
Andrew J. Mullins
Alan R. Hinds
Howard I. Chitwood
John L. Nelson
Emory H. Haynes
Daniel A. Sutyak
Edgar T. Southworth
Ray B. Wallace
Charles C. Miller
Stanley D. Anderson
Chester M. Miller
Harold T. Collins
William R. Shrader
William C. Ray
William H. Speas
Donald O. Tilton
John C. Baker
William F. Hatcher
Harry M. Mohler
Paul G. Terry
Chester Morgan
William Chestnutt

# HOUSE OF REPRESENTATIVES

## Tuesday, April 28, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Proverbs 14: 34: *Righteousness exalteth a nation, but sin is a reproach to any people.*

O Thou God of all grace and goodness, may we now come to Thee in prayer with joyous gratitude for our many blessings and with renewed trust in Thy divine providence.

Inspire us with a more willing and wholehearted obedience to Thy laws and a greater reverence to the moral and spiritual imperatives which Thou hast ordained.

Grant that our democratic way of life may be a steadfast pursuit of those lofty principles of justice and righteousness which are the foundation stones of the noblest civilization.

Help us to prove that democracy which we proclaim and practice is that of a clear and convincing witness of the ways of brotherhood and good will toward all mankind.

In Christ's name we invoke Thy blessings. Amen.

### THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1341. An act for the relief of Gabriel Kerenyi.

### GOVERNMENT COMPETITION IN THE DISSEMINATION OF NEWS

Mr. FINDLEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Speaker, events of the past 3 weeks focus attention on a strange program undertaken last August by the Agricultural Marketing Service, U.S. Department of Agriculture. This program put the U.S. Government in a joint business venture, competing for the first time in history with private wire services in the dissemination of news.

Recent developments are: First, the disclosure of a letter from the Administrator of AMS to American Telephone & Telegraph Co., dated April 9, 1962, which shows that the steps already taken are but part of the master plan for a nationwide network.

Second, the disclosure of a letter from Eric Ridder, publisher of the New York Journal of Commerce, to the House Appropriations Agriculture Subcommittee. This letter challenges the validity of statements made last fall by Agriculture Secretary Orville L. Freeman to justify the new market news service.

Third, editors and publishers across the Nation have become deeply disturbed over the danger to press freedom represented by a vast centrally controlled propaganda apparatus. The American Newspaper Publishers Association issued a report by its Federal laws committee on April 20, backed by the ANPA board of directors, stating that the committee has decided to "continue efforts to get the Government out of the news wire business either through legislative, executive, or judicial means."

Last weekend newspapers from coast to coast carried news stories and editorials on this subject.

## SUBCOMMITTEE ON PUBLIC LANDS, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. BARING. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs be allowed to meet this afternoon if the House is in session at the time.

The SPEAKER. Is there objection to the request of the gentleman from Nevada?

There was no objection.

## TRIBUTE TO J. EDGAR HOOVER

Mr. WILLIS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. WILLIS. Mr. Speaker, there have been few Government officials in the history of our country who, throughout their public life, have been held in such high esteem by the American people as the Director of the Federal Bureau of Investigation, J. Edgar Hoover. His service to the country, while acknowledged by all people, has had special meaning for the Committee on Un-American Activities and all those persons, organizations, and governmental agencies working in the field of national security. It is for this reason that the Committee on Un-American Activities has approved a resolution commending Mr. Hoover on the occasion of his 40th anniversary as Director of the Federal Bureau of Investigation. The anniversary will take place on May 10.

Mr. Speaker, I send to the Speaker's table the resolution and will ask unanimous consent of its consideration next week.

We all have some differences, one with another, on many issues, but this is one issue on which I and the committee feel the House of Representatives can cast a unanimous ballot.

## LIMITATION OF DIVERSITY JURISDICTION

Mr. SMITH of Virginia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 695 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1997) to amend subsection (c) of section 1332 of title 28, United States Code, relating to diversity of citizenship. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Virginia [Mr. SMITH] is recognized for 1 hour.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. SMITH].

Mr. Speaker, this rule makes in order the consideration of the bill H.R. 1997, which relates to the subject of the removal of causes under the constitutional provision in the case of diversity of citizenship, which enables a litigant, where the suit is between two citizens of different States, to move the case to the Federal court. This bill refers to a very minor subject and I think is uncontroversial. It seems that under the laws of certain States in the Union, particularly in damage suits where there is an insurer against the damage, they may sue the insurance company directly. That involves only the States of Louisiana and I believe Wisconsin, where they have peculiar laws of their own which permit a litigant to sue the insurance company directly.

I do not know of any objection to that bill.

However, Mr. Speaker, I should like to discuss another bill that is pending before the Committee on the Judiciary on the same subject. That is one where corporations, by reason of the legal fiction that they are citizens of the State where they are incorporated, have the privilege of removing causes in any State in which they are not incorporated. Under that legal fiction making corporations citizens, they come in under this clause which permits, in cases of diversity of citizenship, the right to remove causes from a State court to the Federal court. As a result, when a corporation is involved in business in many States, in any of those States if it sues for damages it may remove the cause to the Federal court when, if the case were between two citizens of that State, they would have the right to try it in the State court.

This creates an extra burden on the Federal courts, which are already overburdened. I was seeking to have that disability removed so that if a corporation is doing business in a State it would have to abide by the forum of the State courts rather than moving the cause into the Federal courts.

I had hoped that the Committee on the Judiciary would report that bill also and I still hope it may be given consideration in that committee.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Virginia. I yield to the gentleman.

Mr. CELLER. Mr. Speaker, I think the gentleman raises a very interesting and important point. I will say to the gentleman that the Judiciary Committee will give earnest consideration to that matter and at the next meeting of that committee I shall make it my business to place the bill H.R. 1834, mentioned by the gentleman, on the agenda for consideration by the committee.

Mr. SMITH of Virginia. I thank the gentleman. I hope the gentleman will give it favorable consideration.

Mr. Speaker, permit me to give a simple illustration of what happens in these matters. Let us take, for example, the Sanitary Grocery Co. which does business all over the United States. If a customer of that store comes in and slips on a banana peel and sues the Sanitary Grocery Co., it can remove the case from the State court into the Federal court, thereby burdening the Federal court. There are a great many of those cases.

Now, Mr. Speaker, if the same customer goes into the corner grocery store and slips on a banana peel and the corner grocery store is sued, why the case has to be tried in the State court.

Mr. Speaker, I can see no earthly reason why the Federal court should be burdened with all of that litigation which has no business in the court, except by reason of a legal fiction that a corporation is a citizen of a State.

I simply want to make it clear that they shall be considered citizens of the State in which they are incorporated or in which they do business.

However, Mr. Speaker, this is not relevant to this case today. I have no objection to this bill and I hope that the rule will be adopted and that the bill will be passed.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Virginia [Mr. SMITH], House Resolution 695 provides for an open rule with 2 hours of general debate for the consideration of H.R. 1997, which bill has to do with limiting the diversity jurisdiction of Federal courts under the direct action statute.

Mr. Speaker, I believe this is one of the best bills I have ever seen come out of the Committee on the Judiciary. I doubt that we will have any of the usual controversy on this measure.

Mr. Speaker, I am amazed as an attorney that there are two States where a plaintiff can sue an insurance company without having to sue the defendant. In the State of California in a tort case if either the plaintiff's or the defendant's attorney indicates that the defendant is insured, that constitutes immediate grounds for a motion for a mistrial, and out of the court you go.

Not only that, Mr. Speaker, but in using these particular State statutes in Wisconsin and Louisiana they have been during the past 10 years permitting these actions to be brought to the Federal court against insurance companies. This bill will stop those actions insofar as the States of Louisiana and Wisconsin are concerned from the Federal court jurisdiction only. It will not stop the State law. They can still follow the State regulation.

Mr. Speaker, I believe this is a good bill. I know of no objection to the rule. I urge its adoption.

**Mr. SMITH** of Virginia. Mr. Speaker, I move the previous question.

The previous question was ordered.

The **SPEAKER**. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## LIMITATION OF DIVERSITY JURISDICTION

**Mr. CELLER.** Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1997) to amend subsection (c) of section 1332 of title 28, United States Code, relating to diversity of citizenship.

The **SPEAKER**. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1997, with Mr. ULLMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The **CHAIRMAN**. Under the rule the gentleman from New York [Mr. CELLER] will be recognized for 1 hour and the gentleman from Ohio [Mr. MCCULLOCH] will be recognized for 1 hour.

The Chair recognizes the gentleman from New York.

**Mr. CELLER.** Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has been explained by the distinguished members of the Rules Committee who have already spoken. It concerns what is known technically as the issue relating to diversity of citizenship under the law.

In Louisiana, where for example a man, citizen of Louisiana, owning an automobile is insured and an accident occurs and action is brought, the person injured, as the plaintiff, has the right to bring a direct action against the insurance company without even mentioning as a party the so-called tort-feasor also a citizen of Louisiana. Since the foreign insurance company usually has its principal place of business outside the State or is incorporated outside that particular State where the action occurs, and where the plaintiff and defendant reside, under the law the case may be brought in the Federal court.

**As a result of that practice**, in the particular State of Louisiana, and more particularly in the eastern district of Louisiana where New Orleans is situated, there is—and I use the word advisedly—a stupendous amount of these negligent cases filed in the Federal court that is clogging the calendars so that the judge in that particular court has about 150 percent more cases before him than the average caseload of any judge throughout the United States. If this situation continues we will undoubtedly have a very earnest and a very compelling plea from the delegation from Louisiana to increase the number of judges. For example here is an official report:

### THE JUDICIAL BUSINESS OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

The eastern district of Louisiana has four judgeships, two of which were established by the omnibus judgeship bill of 1961. Court is held at New Orleans, where three judges reside, and at Baton Rouge, where the fourth judge makes his headquarters. Until September 1961, when the two judges authorized by the omnibus act were appointed, the district had only two judges

### VOLUME OF CIVIL BUSINESS

More civil cases are filed per judgeship in this district than in any other district in the country. This has been true for a good many years. The flow of all civil cases and private civil cases during the last 7 fiscal years is shown in the following table:

*Civil cases commenced and terminated, by fiscal year, and pending at end of fiscal year*

TOTAL CIVIL CASES

| Fiscal year | Commenced | Terminated | Pending June 30 |
|---|---|---|---|
| 1956 | 1,192 | 967 | 1,811 |
| 1957 | 1,417 | 1,281 | 1,947 |
| 1958 | 1,798 | 1,187 | 2,558 |
| 1959 | 1,616 | 1,385 | 2,789 |
| 1960 | 1,610 | 1,516 | 2,883 |
| 1961 | 1,681 | 1,406 | 3,158 |
| 1962 | 1,778 | 1,503 | 3,433 |
| 1st quarter 1963 | 534 | 413 | 3,554 |

PRIVATE CIVIL CASES

| Fiscal year | Commenced | Terminated | Pending June 30 |
|---|---|---|---|
| 1956 | 1,009 | 780 | 1,599 |
| 1957 | 1,236 | 1,088 | 1,747 |
| 1958 | 1,622 | 1,041 | 2,328 |
| 1959 | 1,452 | 1,217 | 2,563 |
| 1960 | 1,454 | 1,322 | 2,695 |
| 1961 | 1,524 | 1,267 | 2,952 |
| 1962 | 1,615 | 1,375 | 3,192 |
| 1st quarter 1963 | 476 | 365 | 3,303 |

The above figures show an almost uninterrupted increase in cases filed. The Jurisdiction Act of 1958 reduced slightly the volume of cases commenced in 1959 and 1960. However, filings in fiscal 1962 almost equalled the 1958 figure, and the filing figure for the first quarter of 1963 portends a new record for the full year. The number of cases pending at the end of the year has increased substantially each succeeding year. The 3 433 civil cases pending on June 30, 1962, represented 2¼ years work on the basis of 1,503 terminations during the year.

### CASELOAD PER JUDGESHIP

In 1962, when 1,778 civil cases were commenced, the average per judge was 445. However, the average per judgeship on a weighted caseload basis was 459. This figure more accurately reflects the actual caseload because it takes into consideration the amount of time the various natures of suit claim of the judges in order to be disposed. This average per judgeship civil figure of 459 for the eastern district of Louisiana is 150 percent greater than the national average of 185 cases per judgeship in 87 districts. The second heaviest average caseload per judgeship in the 87 districts is in the eastern district of Virginia. No other district comes anywhere near to approaching the eastern district of Louisiana's civil caseload. The eastern district of Virginia, with a civil caseload of 356 per judgeship, is over 100 cases lower.

When the weighted criminal caseload figure is added to the weighted civil average, the eastern Louisiana average caseload per judgeship in 1962 rises to 512. The district's unenviable position at the head of the list of average caseloads per judgeship is shown in the following table, which shows the 5 highest and 5 lowest averages in the 87 districts.

*Combined civil and criminal weighted caseload*

| | Rank order | Average per judgeship |
|---|---|---|
| Louisiana, eastern | 1 | 512 |
| Virginia, eastern | 2 | 431 |
| Texas, western | 3 | 404 |
| Vermont | 4 | 383 |
| Georgia, southern | 5 | 381 |
| Average, 87 districts | | 242 |
| South Dakota | 83 | 124 |
| Hawaii | 84 | 123 |
| Alaska | 85 | 107 |
| Nevada | 86 | 99 |
| Delaware | 87 | 75 |

The following table shows the average civil caseload per judgeship (unweighted) for cases filed from 1956 to 1961 for the eastern district of Louisiana and nationally.

*Civil caseload per judgeship*

| Fiscal year | Number of judgeships | Louisiana, eastern | 86 districts |
|---|---|---|---|
| 1961 | 4 | 420 | 173 |
| 1960 | 2 | 805 | 221 |
| 1959 | 2 | 808 | 215 |
| 1958 | 2 | 899 | 259 |
| 1957 | 2 | 709 | 236 |
| 1956 | 2 | 596 | 225 |

### REASONS FOR HEAVY CASELOAD

The heavy civil caseload of the district is due entirely to the great number of private cases filed. As far as cases in which the United States is a party are concerned, the district receives fewer than the average for the 87 districts.

A number of factors peculiar to the district or the State of Louisiana contribute to the filing of a huge private civil caseload. One factor is the recent growth of the port of New Orleans to the second port of the Nation. This maritime growth has flooded the local district court with admiralty actions. Another factor is the Louisiana direct action statute which permits a suit directly against a tort feasor's insurance company without making the insured a party defendant. Diversity of citizenship is established in these cases if the insurance company is incorporated in another State and does not have its principal place of business in Louisiana, even though all the persons involved in the accident are residents of Louisiana. Another factor favoring the Federal court as a desirable forum is the fact that the State appellate court is not bound as the Federal appellate courts are by the findings of a jury in a lower court. Also, there is a decided preference among New Orleans lawyers to use the Federal court rather than the State court, despite the fact that a trial may be had in the State court in a matter of a few weeks.

### TYPES OF CIVIL CASES COMMENCED

Only 163 or 9 percent of the 1,778 civil cases filed in eastern Louisiana during 1962 involved the United States. The remaining 91 percent were actions between private parties. This 91 percent ratio of private cases compares with 67 percent nationally, and strikingly indicates the tremendous impact private cases have upon the eastern Louisiana dockets.

As would be expected as a result of the effect of the direct action statute, tort cases predominate among the private suits. In 1962, 1,261 or 78 percent of the 1,615 private cases filed were tort actions. Their nature was as follows:

| | *Cases filed* |
|---|---|
| Personal injury: | |
| Marine | 489 |
| Motor vehicle | 431 |
| Employers' Liability Act | 6 |
| Other | 219 |
| All other tort actions | 116 |
| Total | 1,261 |

The number of private civil and diversity of citizenship cases filed during the last 7 years is shown in the following table:

*Civil cases filed*

| | Total, all civil | Total, private | Total, diversity |
|---|---|---|---|
| 1962 | 1,778 | 1,615 | 811 |
| 1961 | 1,681 | 1,524 | 790 |
| 1960 | 1,610 | 1,454 | 733 |
| 1959 | 1,616 | 1,452 | 743 |
| 1958 | 1,798 | 1,622 | 1,027 |
| 1957 | 1,417 | 1,236 | 764 |
| 1956 | 1,192 | 1,009 | 635 |

### PENDING CIVIL CASES

The 3,419 civil cases pending June 30, 1962, present a formidable problem to effect their disposition. Not only is there a tremendous number of cases, but among them are many difficult natures of suit and a more than usual number of old cases. The following table shows the number of cases pending on June 30, 1962, by jurisdiction categories and the length of time they have been pending (land condemnation suits excluded):

*Civil cases pending June 30, 1962*

| | Total | Less than 1 year | 1 to 2 years | 2 to 3 years | 3 to 5 years | 5 years and over |
|---|---|---|---|---|---|---|
| Total | 3,419 | 1,427 | 881 | 511 | 433 | 167 |
| U.S. Cases: | | | | | | |
| Plaintiff | 102 | 57 | 13 | 11 | 15 | 6 |
| Defendant | 125 | 35 | 34 | 22 | 18 | 16 |
| Private cases: | | | | | | |
| Federal question | 1,668 | 680 | 430 | 261 | 238 | 59 |
| Diversity | 1,524 | 655 | 404 | 217 | 162 | 86 |
| 5th circuit, all districts | 10,285 | 6,171 | 2,079 | 1,029 | 710 | 296 |

A comparison of the total civil cases pending in eastern Louisiana and in all the district courts of the fifth circuit shows the exceptional congestion in the eastern district. Of the 1,006 cases 3 or more years old, 600, or 60 percent, are in the eastern district.

The number of civil cases pending in this district on June 30, 1962, was exceeded by only three districts—the southern district of New York with 24 judges, the District of Columbia with 15, the eastern district of Pennsylvania with 11. The following table of civil cases pending in districts having four or more judges shows the tremendous burden which Chief Judge Christenberry and his three associates are carrying:

| District | Number of judgeships | Number of civil cases pending on June 30, 1962 |
|---|---|---|
| New York, southern | 24 | 11,673 |
| District of Columbia | 15 | 9,984 |
| Pennsylvania eastern | 11 | 4,181 |
| Louisiana, eastern | 4 | 3,433 |
| Illinois, northern | 10 | 2,664 |
| New York, eastern | 8 | 1,867 |
| California, northern | 9 | 1,804 |
| California, southern | 13 | 1,733 |
| Massachusetts | 6 | 1,475 |
| Texas, southern | 5 | 1,458 |
| Florida, southern | 7 | 1,316 |
| Ohio, northern | 7 | 1,188 |
| Michigan, eastern | 8 | 991 |
| New Jersey | 8 | 986 |
| Maryland | 4 | 983 |
| Pennsylvania, western | 8 | 954 |
| Missouri, western | 4 | 747 |
| Texas, northern | 5 | 744 |
| Connecticut | 4 | 716 |
| Minnesota | 4 | 562 |

There is no reason why just because there is this so-called privilege of direct action, bringing a case against the insurance company without mentioning the tort-feasor as the defendant, there is no reason why that should exist with the result of having this plethora of cases coming into the District court.

Those cases in almost all of the States of the Union, except Wisconsin and Louisiana, are brought in the State courts and there is no reason why these actions should not be brought in the State courts and jurisdiction foreclosed as far as the Federal courts are concerned. Let me read the statutes of those two States:

### LOUISIANA DIRECT ACTION STATUTE: WEST'S LSA TITLE 22, SECTION 655

No policy or contract of liability insurance shall be issued or delivered in this State, unless it contains provisions to the effect that the insolvency of bankruptcy of the insured shall not release the insurer from the payment of damages for injuries sustained or loss occasioned during the existence of the policy, and any judgment which may be rendered against the insured for which the insurer is liable which shall have become executory, shall be deemed prima facie evidence of the insolvency of the insured, and an action may thereafter be maintained within the terms and limits of the policy by the injured person, or his or her survivors mentioned in revised civil code article 2315, or heirs against the insurer. The injured person or his or her survivors or heirs hereinabove referred to, at their option, shall have a right of direct action against the insurer within the terms and limits of the policy; and such action may be brought against the insurer alone, or against the insured and insurer jointly and in solido, in the parish in which the accident or injury occurred or in the parish in which an action could be brought against either the insured or the insurer under the general rules of venue prescribed by article 42, Code of Civil Procedure. This right of direct action shall exist whether the policy of insurance sued upon was written or delivered in the State of Louisiana or not and whether or not such policy contains a provision forbidding such direct action provided the accident or injury occurred within the State of Louisiana. Nothing contained in this section shall be construed to affect the provisions of the policy or contract if the same are not in violation of the laws of this State. It is the intent of this section that any action brought hereunder shall be subject to all of the lawful conditions of the policy or contract and the defenses which could be urged by the insurer to a direct action brought by the insured, provided the terms and conditions of such policy or contract are not in violation of the laws of this State.

It is also the intent of this section that all liability policies within their terms and limits are executed for the benefit of all injured persons, his or her survivors or heirs, to whom the insured is liable; and that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insured or additional insureds under the omnibus clause, for any legal liability said insured may have as or for a tort-feasor within the terms and limits of said policy. [As amended acts 1962, No. 471 section 1.]

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### WISCONSIN DIRECT ACTION STATUTE: WEST'S WSA, TITLE XI, CHAPTER 85

85.93 Accident Insurance, Liability of Insuree.

Any bond or policy of insurance covering liability to others by reason of the operation of a motor vehicle shall be deemed and construed to contain the following conditions: That the insurer shall be liable to the persons entitled to recover for the death of any person, or for injury to person or property, irrespective of whether such liability be in praesenti or contingent and to become fixed or certain by final judgment against the insured, when caused by the negligent operation, maintenance, use or defective construction of the vehicle described therein, such liability not to exceed the amount named in said bond or policy.

It is interesting to read excerpts from an opinion of Mr. Justice Frankfurter, a concurring opinion in the Lumbermen's Casualty Co. v. Elbert case, 348 U.S. page 48. Before I read these excerpts, may I say that this bill was considered very carefully, yet the gentleman from Wisconsin [Mr. KASTENMEIER] reserved very knowingly his wisdom on the basic problem of this bill. I respect him for his wisdom and foresight. His issue is basically different from the major issue of the bill. It has the approval of what is known as the Judicial Council, those members of the court of appeals of the fifth circuit; it has the approval of the Judicial Conference of the United States, and it has the approval of the Department of Justice, so that we have well-nigh unanimous approval for the presentation of this bill.

**Mr. GROSS.** Mr. Chairman, will the gentleman yield?

**Mr. CELLER.** I yield to the gentleman from Iowa.

**Mr. GROSS.** I am not quite clear as to why there are the unusual number of cases in the Federal Court in the Eastern District of Louisiana. Why? Is it because of the absence of State law on this subject?

**Mr. CELLER.** It is because of the State law that these cases are brought in the Federal Court and there is one of the largest metropolitan areas in the United States. The State law say where you are insured against accident, because you have an insurance policy, an action can be brought not against you, it can be brought solely against the insurance company if the plaintiff so desires, and because the insurance company is not a citizen of that State the action is brought in the Federal Court.

Here is the excerpt from that opinion in the Lumbermen's Casualty Co. against Elbert case:

> A legal device like that of Federal diversity jurisdiction which is inherently, as I believe it to be, not founded in reason, offers constant temptation to new abuses. This case is an instance. Here we have not an out-of-State litigant resorting to a Federal court to be sure of obtaining for himself the same treatment which State courts mete out to their own citizens.
>
> Here we have a Louisiana citizen resorting to the Federal court in Louisiana in order to avoid consequences of the Louisiana law by which every Louisiana citizen is bound when suing another Louisiana citizen. If Florence R. Elbert, the present plaintiff, had to sue the owner of the offending automobile which caused her injury, or if she were suing an insurance company chartered in Louisiana, she would have no choice but to go, like every other Louisiana plaintiff who sues a fellow citizen of Louisiana, to a Louisiana State court and receive the law as administered by the Louisiana courts.
>
> This case, however, stirs anew an issue that cuts deeper than the natural selfishness of litigants to exploit the law's weaknesses. My concern is with the bearing of diversity jurisdiction on the effective functioning of the Federal judiciary. Circuit Judge Rives agreed with the district judge that this kind of action has no business in a Federal court.
>
> Since diversity jurisdiction is increasingly the biggest source of the civil business of the district courts, the continuance of that jurisdiction will necessarily involve inflation of the number of the district judges. This in turn will result, by its own Gresham's law, in a depreciation of the judicial currency and the consequent impairment of the prestige and of the efficacy of the Federal courts.

Mr. SMITH of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. SMITH of Virginia. What you are correcting here is where a corporation under the law of a State can be sued directly in a damage suit.

Mr. CELLER. It is limited to tort cases, as authorized by State statutes.

Mr. SMITH of Virginia. Yes, but why should there be any difference with a corporation that is doing business all over the State of Virginia? Why should it be permitted to have the special privilege of going into the Federal courts?

Mr. CELLER. There are other ramifications than what the gentleman has indicated, and the diversity issue is an age-old question. As I said to the gentleman, the Committee on the Judiciary not only because of his interest in the question of diversity of citizenship but because of the interest displayed by many others will go very maturely into this subject and strive to come to some sort of reasonable conclusion on this matter. As I promised the gentleman, we shall do that.

Mr. SMITH of Virginia. I thank the gentleman very much. It has been about 6 years that I have been trying to extract that promise from the gentleman.

Mr. CELLER. As the gentleman recalls, we raised the amount in controversy. One of the gentleman's bills raised the amount from $3,000 to $10,000. That cut down the number of cases.

Mr. SMITH of Virginia. That does not affect the principle of this thing at all.

Mr. CELLER. We also followed the gentleman's admonition and advice on the question of the principal place of business of the corporation. The gentleman may remember that. We achieved the gentleman's wishes in that regard. Let the gentleman keep plugging away, and we will give him the proper consideration.

Mr. SMITH of Virginia. I do not understand really any reason why a corporation that is doing business in a State should have the special privilege of going into the Federal court when everybody else has to go into the State court.

I know the gentleman has a disagreeable duty to perform every year in recommending another flock of Federal judges because of the great amount of business that the Congress is pushing on them all the time by this legislation. We know that the Federal courts are way behind in their work so why burden them with this stuff that could be better disposed of by the State courts and have these cases handled just as the cases of other citizens are handled. I just cannot understand the objection to it.

Mr. CELLER. There are many small corporations that, if they have to be sued in these State courts, would have to have legal talent in the various and diverse jurisdictions of the State courts. There is also the historic basis for diversity jurisdiction.

Mr. SMITH of Virginia. Do they not have to have legal counsel when they go into a Federal court?

Mr. CELLER. Of course.

Mr. SMITH of Virginia. Yes, and they have to have legal counsel there; do they not?

Mr. CELLER. Yes, that is true. But I think the American Bar Association and many others have at one time frowned upon what you seek. We will again study their views on this matter.

Mr. SMITH of Virginia. I would like the gentleman to know, I am not thinking about the American Bar Association, or the corporations that have to be sued. I am thinking about the plain justice of the thing. I am thinking about the situation where you are getting the Federal courts so cluttered up that they are 2 or 3 years behind on their dockets.

Mr. DENTON. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. DENTON. I want to agree with what the gentleman from Virginia says. When I started practicing law, the law provided that when the insurance company was authorized to do business in a State, it could not remove the case to a Federal court. In other words, before they could do business in most States, they had to agree not to remove the case to a Federal court. The Chief Justice wrote an opinion and held that that statute was unconstitutional. As a result of that these insurance companies in all these cases have been able to remove their cases to the Federal courts causing a tremendous increase in the business of the Federal courts. I live in Indiana. If one corporation is organized or incorporated in the State of Indiana, they cannot remove their case to the Federal court, but other State corporations doing business in Indiana or authorized to do business in Indiana can remove their case to a Federal court. I remember trying one case in Evansville and at that time the law in the Federal court and the State courts could be different and there was a different law in both States. They tried a case in one case involving a foreign corporation and one against a domestic corporation where one law applied and they tried a case in the Federal courts where another law applied. That is the situation that prevailed. It is not fair. It is not right to permit some people to remove their case to a Federal court. That has caused a great increase in the Federal court business and has caused us to hire more and more judges. I certainly agree with the gentleman from Virginia that when a corporation is authorized to do business in a State, they should not be able to remove their case to a Federal court and they should be considered a domestic corporation for that purpose.

Mr. CELLER. I will say to the gentleman from Indiana that it is not as simple as that. If I may be permitted to indulge in a cliche, may I say it all depends on whose ox is gored. If you are usually a plaintiff or usually a defendant, in either situation you have certain views, one antithetical to the other. For example, in the Federal courts, appeal may be made only on questions of law, usually in the State courts, as in Louisiana; for example, the appeal authorities can test a case on the facts as well as the law. So that if you are a plaintiff in Louisiana, you may want to go into the State courts, but if you are a defendant you may want to go to the Federal court. So you have a difference of opinion among the lawyers as to just what the procedure should be.

Mr. DENTON. I will say that there is no reason in the world why there should be that situation where one jurisdiction can determine an appeal on a question of fact and another jurisdiction only on questions of law. In my State we would not have to make that decision. I think it is very unjust to have a domestic corporation have to stay in a State court and a foreign corporation be able to go to a Federal court. That was never intended that the Federal court should exercise that authority or that jurisdiction, I do not believe.

Mr. MATHIAS. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MATHIAS. Mr. Chairman, the distinguished gentleman from Ohio, the ranking minority member of the Committee on the Judiciary, has unavoidably been called from the Chamber. He has, however, asked me to express for him—and I take this opportunity to express for myself—agreement with the statement which has been made by the chairman of the Committee on the Judiciary. Both the gentleman from Ohio [Mr. McCulloch] and I wish to associate ourselves with the views which have been expressed by the chairman of the committee.

We feel that this will not tamper with the Louisiana law and will merely change the Federal statute on this subject. We feel it is a desirable change to be made in the Federal statute.

The CHAIRMAN. Does the gentleman from Maryland have an additional request for time?

Mr. MATHIAS. Mr. Chairman, I have no additional request for time.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Chairman, I will not take 5 minutes, but I wish to say that there was some opposition, mild as it was, to this particular piece of legislation in the Judiciary Committee.

This bill will affect the State of Wisconsin as well as the State of Louisiana. While there is not great interest in this bill in the State of Wisconsin, there is some. Wisconsin's two incumbent Federal district judges wrote in favor of this bill, but chiefly as an indication of support for the Federal judges in Louisiana in their predicament.

We have a direct action statute in Wisconsin which antedates the Louisiana provision by 7 years and serves to expedite court action on negligence cases. The thrust of this bill will be to repeal that statute's reasonable and limited impact on Federal diversity jurisdiction in these cases. This is not especially welcome to us in Wisconsin. Our direct action statute has been a progressive institution for expediting court treatment of negligence cases. It has worked well in our State courts and has opened up the Federal courts to a limited number of negligence actions.

While I cannot say that the bill would seriously affect Wisconsin practice, were there a choice we would rather have the law remain as it is.

I attended the hearings on this in the subcommittee, and it was quite clear that peculiarities of Louisiana law place a substantial burden on the Federal courts.

It occurs to me, however, it would have been best had the State of Louisiana changed its direct action statute in this respect, rather than seeking a change in Federal law to accommodate its unique situation. As it is, this change in the Federal law will correct the intolerable situation in Louisiana at the expense of the useful and thus-far tolerable situation in Wisconsin.

I believe the House would do well to ponder on this bill as a precedent for future legislation. Assume that two States—let us say the State of the gentleman from Virginia [Mr. Smith] and another sister State—adopt comparable laws regarding contribution among joint tort feasors, and this law is strongly opposed by some people in the sister State. I am sure the gentlemen would agree it would be better for the sister State to change its own law, rather than to come to the Congress seeking a bar against contribution in Federal courts, thereby adversely affecting the State of Virginia.

So in this action the House is to take today, I believe there should be a note of warning held out as well as perhaps a helping hand to the State of Louisiana.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the chairman of the committee.

Mr. CELLER. I assume this does not involve much of a problem in the State of Wisconsin, the gentleman's State?

Mr. KASTENMEIER. It does not.

Mr. CELLER. Is not the reason for that the fact that the appellate court in Wisconsin is bound, as is the appellate court in the Federal judiciary, on findings of fact by the jury?

Mr. KASTENMEIER. Yes. Furthermore, the Wisconsin law is confined to automobile negligence cases and not all forms of tort cases. This limits further the number of instances in which diversity jurisdiction is sought under our direct action statute.

Mr. MATHIAS. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes. I will yield to the gentleman from Maryland.

Mr. MATHIAS. The gentleman indicated, as I understand his remarks, that in Wisconsin the review of the appeal is limited to a review of the law and excludes a review of the facts. Am I accurate in that?

Mr. KASTENMEIER. I think that is an accurate statement.

Mr. MATHIAS. I think this makes appropriate some scrutiny of the organic laws of Louisiana and the constitution of Louisiana which provides in article 7, section 29, that:

> SEC. 29. JURISDICTION
>
> Section 29. The courts of appeal, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases, civil and probate, of which the civil district court for the parish of Orleans, or the district courts throughout the State, have exclusive original jurisdiction, regardless of the amount involved, or concurrent jurisdiction exceeding $100, exclusive of interest, and of which the supreme court is not given jurisdiction, except as otherwise provided in this constitution, and all appeals shall be both upon the law and the facts.

But here comes the pertinent clause:

> and all appeals shall be both upon the law and the facts.

Now, quoting from a letter from the Deputy Attorney General, he advises under date of May 20, 1963, addressed to the distinguished chairman of the committee:

> Plaintiffs in such cases take advantage of the Federal diversity jurisdiction in order to avoid the Louisiana rule in the State courts pursuant to which an appellate court is not bound by the findings of a jury but can review the judgments of the lower courts on questions of fact as well as of law.

This seems to imply that this situation of the constitution and the State law in Louisiana has created a backlog of cases and a greater burden on the Federal judiciary than otherwise would be the case. What is the gentleman's feeling on that?

Mr. KASTENMEIER. Yes. The gentleman is correct. The Louisiana law is quite different in this matter. The testimony before our subcommittee was that the law and constitution of Louisiana were such as to make the Federal courts the preferred forum for virtually all negligence cases. This preference is apparently widespread, since there was testimony that it would be very difficult to change Louisiana law internally. But I would point out that these very differences between Wisconsin and Louisiana law indicate that it would have been better for the State of Louisiana itself to alter its own law. By coming to the Federal Government to seek the change, it jeopardizes practice under a direct action statute in another State with an entirely different set of surrounding circumstances.

Mr. MATHIAS. If the gentleman will yield on that, of course, the right of a State to establish and maintain its own constitution is one of the rights of membership in the Union, and this is inviolate. What we do here, I think, is to avoid making that request on the State of Louisiana and we have an alternative solution which maintains the State's rights intact in this matter.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. Boggs].

Mr. BOGGS. Mr. Chairman, I trust that this legislation will be passed and passed without too much difficulty. The answer to the distinguished gentleman from Wisconsin is that the legislation here under consideration involves the Federal courts and involves the jurisdiction of the Federal courts. It is the responsibility of Congress to spell out these questions of jurisdiction.

The further answer is that if we fail to spell this out in this particular instance, it could very well be that 48 other States would enact statutes similar to this one. The net effect would be that the Federal district courts, for all practical purposes, would become State courts in all tort matters.

The effect of what happened in my State is made quite evident by a study of the caseload of the Federal judges in Louisiana, particularly in the eastern district. I am sure someone has pointed out that these judges carry the heaviest caseloads in the Nation, almost double that of any other jurisdiction in the United States. Either we must pass this legislation or we will have to appoint a half a dozen or a dozen more Federal judges in the State of Louisiana to take care of this litigation, that ought to be in the State courts.

That is the only issue involved here. I could talk about it at great length but there is no other issue involved. I trust the House will pass the bill.

Mr. CELLER. Mr. Chairman, I have no further requests for time.

Mr. MATHIAS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (c) of section 1332 of title 28, United States Code, is amended to read as follows:

"(c) For the purposes of this section and section 1441 of this title, a corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business: *Provided further,* That in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business."

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, insert:

SEC. 2. The amendment made by this Act to section 1332(c), title 28, United States Code, applies only to causes of action arising after the date of enactment of this Act.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. ULLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1997) to amend subsection (c) of section 1332 of title 28, United States Code, relating to diversity of citizenship pursuant to House Resolution 695, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks in the RECORD on the bill just passed; and that I have unanimous consent to include certain extraneous matter in my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## NATIONAL RAISIN WEEK

Mr. SISK. Mr. Speaker, I ask unanimous consent to proceed for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, it is again my privilege to call the attention of the Members to the fact that this is National Raisin Week. To help celebrate the 87th anniversary of the raisin industry in this country, my colleague, the gentleman from California [Mr. HAGEN] and I again have the pleasure to invite the Members to enjoy raisin pie at lunch in the House dining room on Wednesday, April 29.

In years past, I have reviewed for the Members the importance of the raisin industry to the health of our people and our national economy. Today, I would like to highlight the story of America's great raisin industry. In order that the Members may know this story in full, my colleague and I are sending them a copy of this booklet, "Raisinland, U.S.A." We are also happy to send each Member sample packages of raisins, together with an attractive raisinland recipe booklet.

The story of California's raisin industry is, in fact, the story of courageous, determined men and women and an unexpected, unusually hot spell in the San Joaquin Valley in the summer of 1873.

All of us are familiar with the saga of the forty-niners and how they crossed the "desert" or "badlands" in search of gold. The goldfields were in the Sierra mountain range. To reach the gold, the forty-niners went through the San Joaquin Valley to the mountains.

The valley was a hot, dry, flat plain, where almost nothing grew and nobody lived. In the summer, the temperatures climbed to 120° and higher. And there was no water.

By 1860, however, many of the forty-niners were finally convinced that they would never make their fortunes mining for gold in the Sierra. The big gold strike had played out.

So hundreds of them, many ex-farmers, decided to move down into the floor of the valley. They were certain that the land in the valley was the most unproductive land on earth. But there was only one way these settlers could make a living. They had to make things grow on the land.

The first problem was water. Without water, there was no hope.

Remember, the average rainfall in the San Joaquin Valley is only about 9 inches a year—and none of this falls during the summer growing season.

The settlers knew there was water in the Sierra Nevada Mountains. They began to dig canals—all the way from the High Sierras to the valley floor. The job was done with scrapers and mules and the strong backs of men. Some of these first canals are still in use today.

The canals paid off. For the land in the San Joaquin Valley was found to be deep and fertile. Water had changed the "badlands" into an agricultural gold mine.

Now, let us go back to the beginning.

Since a raisin begins life as a grape, the story of California raisins must include the story of California's grape industry. It began long before the forty-niners came to California.

The first grapes were brought to California by the first missionaries—the Franciscan Fathers. They established many missions along the coast. And they planted vineyards beside their missions so they would have grapes to use as fruit and in making their sacramental wines.

Then, in 1851, a rancher in San Diego started to grow an Egyptian grape called the muscat of Alexandria. This is important—because the muscat was the first "raisin-type" grape in California. And not all grapes can be dried into raisins.

By 1861, grapes were doing very well, and the Governor thought they might be a profitable agricultural industry for the State. So he sent a committee to Europe to learn what the people there knew about grapes. The committee brought back about 200,000 grape cuttings—including cuttings of many "raisin-type" grapes. These were planted throughout California.

The sunny climate and the rich, irrigated soil of the San Joaquin Valley turned out to be ideally suited to growing grapes. By 1870, the San Joaquin Valley was producing the finest grapes in the world.

Up to this time, however, all of California's grape crop was sold simply as grapes for table use or wine. It was not until 1873 that the raisin industry began—and it began just by chance.

In 1873, just before the harvest in September, the San Joaquin Valley had an unexpected, unusually hot spell. It became so hot, so suddenly, that the grapes dried on the vines before the growers could pick them. For the first time, the San Joaquin Valley had a crop of raisins.

However, the growers were not very happy about their new crop. Today, almost everybody knows and likes raisins. Back in 1873, very few people knew about them. So the growers in the San Joaquin were afraid they could not sell this strange new crop.

One enterprising grower, however, refused to see his year's work wasted. After tasting them—and getting a delightful taste surprise—he packed up all of his "dried grapes" and shipped them to a friend in San Francisco. This friend was a grocer—and he was determined to sell the raisins.

The morning the raisins arrived, the grocer heard that a ship had just arrived from Peru. This gave him an idea. He put his raisins up for sale—and he called them "Peruvian delicacies" because of their exotic flavor. The raisins sold immediately, and everybody wanted more.

So, the raisin industry that began by chance in 1873 produced 500 tons of raisins 5 years later. Ten years later, the valley was yielding 14,000 tons of raisins a year. Today, the normal crop in the San Joaquin Valley is 250,000 tons of raisins, bringing the growers an income of approximately $50 million a year.

Mr. Speaker, it is with genuine pride that my colleague and I salute the California Raisin Advisory Board and the raisin industry on its 87th anniversary. We hope that all of the Members will have an opportunity to enjoy the raisin pie and the sample packages of raisins that have been provided by the California Raisin Advisory Board.

## NORTH PLATTE PROJECT: NEBRASKA AND WYOMING

**Mr. ULLMAN.** Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

**The SPEAKER.** Is there objection to the request of the gentleman from Oregon?

There was no objection.

**Mr. ULLMAN.** Mr. Speaker, last fall I began a series of short speeches on the vital importance of reclamation to the West and to America, pointing to some of the great successes reclamation has scored over the past half century.

As we enter another growing season, the great benefits of reclamation are once again brought clearly into focus. In my area this year, farmers are already looking forward with confidence to a good water year. They cannot do this because of any powers to prophesy what the rainfall is going to be; to the contrary, if a prediction were made on that score, the only safe guess would be "mighty dry," particularly by any easterner's standards. An optimistic summer rainfall estimate for some of my most important farm counties would be 3 inches—and that is total for May through August. The reason farmers are facing the year with confidence is that their water is already on the ground, in the snow pack of the Rockies and Cascades and High Wallowas. The snow has been measured, and they know that the dams and irrigation works constructed over the years since the Reclamation Act of 1902 will contain and distribute enough water to bring a good harvest.

Time was, Mr. Speaker, when the snow in the hills would have meant little or nothing to the farmer, except as a flood danger. Before the dream of reclamation was translated into hardheaded projects, only the most hopeful would try to get a crop from the semiarid land, and in most years, even they were doomed to bitter disappointment. Reclamation has meant the difference, and will continue to mean the difference, between dryfarming for a hardy few and intensive diversified farming for many.

It is extremely important that we not be lulled into a sense of complacency by the significant progress reclamation has made thus far. Our work has really just commenced. The population explosion that we hear so much about should increase our urgency in turning the vast expanses of still-untilled land throughout the West into productive farmland. We must not allow the pressure to cut expenditures to dissuade us from this kind of sound investment—investment in the future of America.

Today, in this fifth in the series begun last year, I wish to call attention to the North Platte project in Nebraska and Wyoming.

### North Platte Project, Nebraska-Wyoming

Were it not for modern television, only the students of early Americana and the residents of the arid West would be familiar with such words as Laramie, Cheyenne, Rawhide, or Scotts Bluff. To the average TV watcher, these words conjure up visions of six-shooters, raiding Indians, and burning homesteads. To those, however, who like their history to show some continuity into the present, these words bring to mind the latter-day reality of thriving and prosperous irrigation farms, cities and towns in the North Platte River Valley in Nebraska and Wyoming. The key to this reality has been the North Platte Federal reclamation project which took up where the six-shooters left off, and turned the North Platte Valley from a land suitable mostly for grazing into an economic asset contributing in large measure to the growth and stability of the West.

Agriculture is the only basic income-producing activity in the North Platte Valley. Because of its geographic location, the water required to grow crops was available, in the early days, only in springtime, drying to a trickle in the riverbed at the beginning of summer. Intensive farming was consequently limited to such early maturing crops as grain and hay. The fury of flood and the searing of drought alternated to destroy the crops and farmlands of the early pioneers. It was apparent, by the turn of the century, that the valley would not prosper unless the water from spring floods were conserved and applied to the land when and where needed in the course of the growing season.

The North Platte project, one of the first five projects authorized under the Reclamation Act of 1902, was designed to make the necessary water supply available to the thirsty land. Pathfinder Dam, the initial feature, was constructed and in operation by 1909, delivering project-stored water from a 1 million acre-foot reservoir. The economy of the valley boomed. In 1910 the first sugar beet factory was built in Scotts Bluff, Nebr. By 1912 nearly 1,000 newly irrigated farms had been established on the project, and in that year a second rail line was brought into the valley. Between 1912 and 1914 the valley's population rose 50 percent. By 1914 there were 14 banks in the project area, and 3 more were opened during the next 6 years.

The town of Scotts Bluff, located in the approximate geographic center of the project, started life alongside a railroad terminus as a hamlet of 450 people. By 1930, 2 years after all project water diversion and conveyance facilities had been constructed and were placed in operation, the hamlet had grown into a prosperous and economically stable town of 8,465 people. Scotts Bluff County grew to be the fourth largest county in the State during the same period, and became center of trade for the valley.

Water resource development through reclamation has transformed the North Platte Valley from a prairie land into a stable and highly diversified production area which year after year returns dividends many times the size of the original investment in the North Platte project. In 1962, full or supplemental irrigation water supplies were served through project facilities to 3,141 farm units, providing income and livelihood directly to a farm population of 15,000 people. A total of 213,487 acres of project lands was irrigated in that year to grow crops valued at $27.7 million—despite devastating hailstorms which ravaged much of the harvest. In a more normal year such as 1961, project lands have produced harvests valued in excess of $35 million. Sugarbeets, dry edible beans, forage and cereals for livestock, and vegetables for western markets currently are the principal crops.

The gross value of crop production on the North Platte project from 1908 to the present now stands at $729.6 million, or more than 23 times the $31.5 million of project costs through June 30, 1962. These costs include expenditures for rehabilitation and betterment of irrigation works undertaken only in recent years. Nevertheless, nearly 73 percent, or $23 million, has already been repaid to the Treasury, and payments by project irrigators as well as revenues from the sale of project-produced power continue on schedule.

The economic wealth created by the North Platte Federal reclamation project has contributed importantly to the well-being of business in the West and on Main Street, United States of America. The irrigated land on the project outproduces the nearby dryfarmed land by more than 13 times. Only 10 percent of the four-county area is irrigated, but these lands produce 91 percent of total income payments. The irrigated area and the towns located on it support 27 times as many people and supply 40 times the income of an adjacent dryland area of equal size. Irrigation farming is estimated to have increased tax revenues nearly 20 times. Purchases by project farmers run in the neighborhood of $50 million annually, thereby stimulating business and creating product demand in many States and areas far removed from the project.

Sugar factories, packing plants, creameries and processing plants have flourished in the area largely as a result of irrigation. Research by the University of Nebraska indicates that the area has experienced a substantial and consistent increase in manufacturing employment, representing a much greater diversity of economic activity than had existed heretofore. Such diversity reflects itself in greater stability of incomes and benefits the local economy by rendering it less sensitive to "boom" and "bust" cycles.

The increase in income made possible through irrigation farming and through the consequent diversification of economic activity translate into greater spending by all economic units. It is no surprise, therefore, that Scotts Bluff County, at the economic center of the North Platte project, registered general gains in the 20-year period 1939–58: retail sales increased by $35.6 million to a total of nearly $50 million in 1958; wholesale trade grew from $8.2 to $61.8 million; value added by manufacturing rose from $2.9 to $14.5 million; and bank deposits doubled to reach nearly $33 million in 1958. Estimates for 1963 indicate that all of these indicators continue on the upswing and that retail sales, for example, will approach nearly $60 million for 1963.

These indicators measure the wisdom of public expenditure for western water resource development through reclamation. There are other measures—less susceptible of monetary measurement—but no less important to the American public. In 1962, for example, a total of 198,930 visitor days of recreation use were reported on the three principal reservoirs of the North Platte project. The recreationist had available for his use 52,088 acres of land and water surface, 151 miles of shoreline, and 30,000 acres of public hunting grounds.

The North Platte project, like so many others, has proved the value of reclamation, and has made what were once just dreams, come true. The work of reclaiming arid and semiarid land is barely begun, Mr. Speaker, and must continue to receive the full support of the Congress.

## URBAN RENEWAL LAWS OF THE DISTRICT OF COLUMBIA

**Mr. ELLSWORTH.** Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. Kyl] may extend his remarks at this point in the Record and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Kansas?

There was no objection.

**Mr. KYL.** Mr. Speaker, in the recent urban renewal hearings before the House

District Committee the question was raised if Georgetown would be affected by S. 628, a bill to amend the urban renewal laws of the District of Columbia. Upon close examination of the record, I find the question was answered out of context. The committee was assured that "the action plan" for downtown Washington did not extend west of 15th Street. This is a true statement, the action plan does not extend west of 15th Street. However, the question if Georgetown would be included in the "program" was left unanswered.

I will answer it here today. The definitions included in this bill (S. 628) can be applied to Georgetown to create an urban renewal area and according to the Comptroller General any area of Washington, which would include Georgetown, could be classified as "slum or blighted" and included in an urban renewal program. I thought the RECORD should be clear on this point.

I might hasten to add that I know of no contemplated urban renewal program for Georgetown. However, you can never tell when some chosen instrument developer here in Washington may want to build a modern high rise "glass palace" apartment right in the middle of Georgetown and under S. 628 as it passed the Senate they can do just that.

Most of us are fed up with District of Columbia urban renewal—probably the worst urban renewal program in the country. Soon we are going to get a chance to correct this situation. S. 628 as it passed the Senate should be renewal. Our District of Columbia Committee has a series of amendments to this bill designed to protect the citizens and businessmen of Washington and Georgetown. I hope you will join me in supporting our committee to amend this bill.

## THE FEDERAL BUDGET—THERE MUST BE A BETTER WAY

**Mr. ELLSWORTH.** Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. CURTIS] may extend his remarks at this point in the RECORD and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Kansas?

There was no objection.

**Mr. CURTIS.** Mr. Speaker, in the April issue of the Morgan Guaranty Survey there is an excellent analysis of the need for a better means of congressional review of the budget. Under the present budgetary system, the chances of subjecting the spending process to some meaningful control are slim.

The most glaring defect in the present arrangements is that Congress considers the national budget in unrelated fragments rather than considering both receipts and expenditures as a unified whole. One result of this process is a loss of any sense of weighing the merits of one proposed expenditure against those of others and establishing a scale of priorities. The Survey article suggests that the Joint Committee on the Legislative Budget, created under the Legislative Reorganization Act of 1946, should begin actively functioning again.

Another major change suggested by the Survey would be the consolidation of our major appropriations into a single measure. Also suggested is giving the item veto to the President. Congress also needs to keep closer tabs on the timing of proposed expenditures by demanding from Federal agencies more precise spending timetables.

I ask unanimous consent that this report and review of the Federal budget, and the means to improve congressional consideration of it, be included in the RECORD at this point:

### THE FEDERAL BUDGET: THERE MUST BE A BETTER WAY

Last fall, just after the House Ways and Means Committee had voted its approval of the tax-cutting bill, committee chairman WILBUR MILLS issued a strongly worded public statement asking his congressional colleagues, the administration, and the entire Nation to consider carefully the measure's extraordinary economic and fiscal implications.

In principle, he noted, two roads are open to a government bent on stimulating the economy. One is to spend more; the other, to tax less. Making it clear he concurred in the choice of the later, Representative MILLS declared: "We want it understood that we don't intend to try to go along both roads at the same time."

Mr. MILLS was pointing up a connection—between tax reduction and control of Federal spending—that many advocates of a tax cut have stressed all along. Businessmen, not surprisingly, are among those holding this view; interestingly, so are the Democratic members of the Joint Economic Committee of Congress. In their economic report issued early in March, the latter put considerable emphasis on expenditure control, asserting that "necessary expansions in welfare programs" should be financed "largely out of reductions in other programs with lower priorities or out of reductions made possible by increased efficiency in managing the public's business." President Johnson has spoken repeatedly in favor of frugality, and his budget for fiscal 1965, while it projects the second largest peacetime spending total in history, is far tighter than anyone outside Government would have predicted prior to its presentation.

The good intentions now rampant will get their test as pressures for costly new governmental programs mount during this election year. Even if the will to economize stays strong, however, the chances of subjecting the spending process to some meaningful control are slim under the present budgetary system. Getting a grip on governmental outlays will be difficult if not impossible until the methods prescribed by law and custom for managing the Federal purse are brought into line with the present-day size and complexity of the job.

The last basic reform of the budget process occurred in 1921, when both Federal revenues and outlays were less than one-twentieth of their present dollar size. The Budget and Accounting Act of that year, which President Harding signed, had its origins in a study commissioned by President Taft in 1909. Later the House of Representatives appointed a Select Committee on the Budget, and its work led finally to the 1921 law which, dealing chiefly with the executive branch, for the first time prescribed formal annual budgetary procedures.

### SPLIT VISION

Another modernization is long overdue, particularly in the congressional budgetary process. The most glaring defect in the present arrangements is that they don't force Congress to consider the national budget—both intake and outgo—as a unified whole. The overwhelming tendency of the system is, instead, to break the budget up into unrelated fragments.

In neither House nor Senate deliberations is there any effective link between revenue and expenditure matters. In the House, tax bills go to the Ways and Means Committee; in the Senate, to the Finance Committee. In both cases they are considered apart from questions of spending. Moreover, the appropriation proposals put forward in the President's budget, instead of being considered by Congress in a single bill, are divided up into a dozen or more different measures. These are considered separately by the 12 Appropriations Committee subcommittees—agriculture, defense, public works, etc.—in each of the two branches of Congress.

The various subcommittees finish their work at different times, so that the appropriations total comes before the parent committees and the full Congress in individual pieces. For most of the participants in the process, it is impossible to consider individual appropriations packages as part of a grand total. Largely lost is any sense of weighing the merits of one proposed expenditure against those of others and establishing a scale of priorities.

Even if all the regular subbills were taken up at the same time, the picture visible to Members of Congress still would not be complete. In almost every session, the legislators vote large supplemental appropriations—often in response to needs that have arisen suddenly and unforeseeably. Congressional focus on the total spending process also is blurred by the various ways (exhibit 1) in which the granting of financial authority bypasses the Appropriations Committees—which should have a hand in all such grants.

### BUDGETS THAT JUST HAPPEN

The piecemeal approach taken by Congress gives the annual budget exercise a haphazard character which, if fully realized, would shock most taxpayers. Surpluses of deficits are not planned. They just happen. Reasons and responsibility for the way the budget turns out are hard to pin down.

No one in Congress or outside pretends to believe the system is ideal. Too many, however, feel nothing substantial in the way of reform can be put through. Rationalizing, some argue that Congress achieves a kind of coordination of revenue and expenditure decisions even in the absence of formal machinery for that purpose. Individual Congressmen, in this view, gather a knowledge of the total budget trend from talking with fellow members and reading the flow of official documents. Thus they are said to be prepared and able to take a deliberate hand when revenue and appropriations bills reach the stage of full House or Senate debate, if not before. If the results are often unsatisfactory, the argument goes, that fact is due more to the legislators' concern with political realities than to any lack of information about the total fiscal situation.

The cynicism in this rationale is leavened with a good measure of truth, but the apology for the status quo still is far from wholly persuasive. The facts gathered by an individual Congressman through conversational osmosis, or even by inspired digging can hardly match what he would get it the dissemination of budget information were systematized.

Moreover, the notion that one or a few Congressmen might act decisively to change a revenue or appropriations measure on the floor ignores the dominant role of committees in Capitol life. Major alterations to such measures during floor debate are a rarity, largely because of the strong tradition of deferring to the specialists who have put the legislation through the committee mill.

Members who were outvoted in committee usually are disinclined to press their views before the full chamber.

### OLD 138

Congress itself has recognized that the fragmented treatment of budgetary matters is unsatisfactory. It has made several efforts in the postwar years to integrate its procedures. The most ambitious attempt occurred with enactment of the Legislative Reorganization Act of 1946. Section 138 of that law provided for joint meetings, early in each session of Congress, of four committees: House Ways and Means, House Appropriations, Senate Finance, and Senate Appropriations.

The combined group was designated the Joint Committee on the Legislative Budget and was directed to examine the budget proposals made by the President. By February 15 of each year it was to submit to the full Congress in the form of a concurrent resolution (1) its own estimates of anticipated receipts and expenditures for the ensuing fiscal year and (2) its recommendation as to the maximum amount to be appropriated for expenditure. If accepted by both House and Senate, the concurrent resolution presumably was to be binding on Congress during the remainder of the session.

The experiment, undertaken in a spirit of buoyant hope, fizzled out quickly. In only two congressional sessions—those of 1947 and 1948—were the provisions of section 138 followed. Since then they have been ignored, even though the law is still on the books.

In 1947 the joint committee's recommendation for an appropriations ceiling was accepted in a resolution adopted by the House but was amended in the Senate. When the conference committee that was appointed to reconcile the differences could not agree, the legislative budget of that session simply died. In 1948 both Chambers reached agreement on an appropriations ceiling, but the concurrent resolution was couched in extremely general terms. As Harvard Prof. Arthur Smithies has noted, it provided no real guidance to the financial committees. Congress responded by simply ignoring its own self-imposed ceiling, voting total appropriations $6 billion higher than the specified ceiling and thus making the whole procedure look pointless.

The disappointing career of section 138 is blamed chiefly on the unrealistic timetable imposed on the joint committee by the statute. No group could be expected to evaluate the executive budget and come up with a meaningful alternative 3 weeks after the President submits his proposals.

Recognizing the need for more time, Congress amended section 138 in 1949 to extend the deadline to May 1. Unfortunately, however, the mehcanism has never received a trial on the new basis. This is sheer self-flouting by the legislative branch, since the act doesn't merely authorize but "directs." Last year Congressmen JOHN W. BYRNES and THOMAS B. CURTIS, both members of the House Ways and Means Committee, urged Congress to comply with its own law. All that would be required to start the system functioning again, Mr. CURTIS points out, would be for the chairmen of the four constituent committees to agree to convene a joint meeting. They wouldn't have to bring in all members of the four committees, now numbering an unwieldly 118; the law provides that the work may be done by "duly authorized subcommittees." By keeping section 138 in suspended animation, Congress is sacrificing the integration of money raising and money spending that the very composition of the joint committee would make possible. It also is giving up the vital principle of the "legislative budget," intended by section 138 as a congressional counterpart to the President's annual estimates of income and outgo.

If Congress some day has the good sense to call the joint committee back into active being, it can greatly increase that body's value by providing it with a high-grade permanent staff, something section 138 in its present form unfortunately does not include. The ill-fated concurrent resolution produced by the committee in 1948 presumably would have been a better document with the benefit of competent staff work aimed directly at giving Congress a total budgetary plan, something no committee staff presently is assigned to do.

Mere proliferation of committees and staffs is not, of course, the key to more effective congressional operation in the budgetary field. This fact is the principal basis for criticism of a well-intentioned bill repeatedly introduced by Senator JOHN L. MCCLELLAN, head of the Committee on Government Operations. The McClellan bill proposes a Joint Committee on the Budget—to be composed of members drawn in equal number from the House and Senate Appropriations Committees—with a staff of wide-ranging function. This committee and its staff would have the general duty of studying any and all matters that pertain to the budget and of informing Congress—and especially the appropriations committees—of the results of its analyses.

Appealing in principle, this arrangement could be disappointing in practice. The work outlined for the committee is extremely broad—perhaps too broad to be brought into a clear focus. With a membership drawn only from the appropriations committees, it would not bring together the intake and outgo sides of the budget. The staff provided for the committee, meanwhile, would be in danger of becoming simply an adjunct to the staffs of the appropriations committees.

The McClellan proposal, introduced in each Congress since 1950 (current version: S. 537) gets wide Senate support. Last year 76 Members joined in sponsoring it. Significantly, however, several senior members of the Senate Appropriations Committee were not among those so lending their names. In the House, where suspicion of Senate ideas on budget matters is traditional, the measure year after year is ignored. While S. 537 is meant to improve the budgetary process in Congress, its passage would have the unfortunate effect of repealing section 138 and thus sacrificing the concept of the legislative budget. Even a dormant 138 is better than none at all.

### ONE BUDGET, ONE BILL

Properly ending the bits-and-pieces approach to budgetary matters in Congress presupposes another major change: the consolidation of all appropriations into a single measure, instead of the usual dozen or more bills. The omnibus approach has long been advocated by Senator HARRY F. BYRD, who argued that it was a necessary supplement to section 138. As he and other legislators have pointed out, there can be no real hope of adhering to an overall plan so long as the work on separate bills is completed at different times. What is needed is a last opportunity, prior to final action on any particular appropriations request, to reexamine each spending program in the light of all the others.

The omnibus approach received a trial, if an inconclusive one, in 1950. The year before, the Senate had approved a resolution calling for use of a consolidated bill. The House took no action, but Representative CLARENCE CANNON, chairman of the House Appropriations Committee, simply announced in the spring of 1949 that in the following session of Congress his committee would employ an omnibus bill. "No special enactment or change in rules is necessary," he stated.

Mr. CANNON made good on his promise, and House as well as Senate did its appropriating in a single package. Outbreak of the Korean war at midyear brought huge supplemental appropriations, so that there was not a definitive test of the omnibus method. In the budget go-round on nonmilitary appropriations, however, the cuts made by Congress in the executive branch's requests were deeper than usual, strengthening the contention that the unified approach is an aid to control of spending.

Further evidence of the procedure's effectiveness was the hostility it aroused in some quarters. Mr. CANNON was quoted as saying that the device of the consolidated bill was opposed by "every predatory lobbyist, every pressure group seeking to get its hands into the * * * Treasury, every bureaucrat seeking to extend his empire." Open criticism centered on the fact that the bill was not signed into law until September 6, 2 months after the beginning of the fiscal year. This wasn't appreciably later than the normal time for completion of the total appropriations process under the piece-by-piece system, but it did mean that all Federal agencies, rather than only some, had to go through Juy and August of the new fiscal year dependent for funds on continuing resolutions, temporary measures by which Congress allows Federal agencies to make expenditures at the same rate as in the previous fiscal year. An impression exists that operating under this stopgap type of spending authority hurts an agency's performance, but no one ever has proved that it does serious harm.

The chief drag on the 1950 experiment was the attitude of many of the chairmen of the appropriations subcommittees, who felt that the omnibus procedure gave undue influence to the chairmen of the two parent committees. This sensitive vigilance over prerogatives is one of the toughest obstacles any reform effort will have to overcome. The consolidated procedure hasn't been tried again since 1950. At the start of the 1951 session of Congress, the House Appropriations Committee voted down its chairman—an unusual rebuff—on the continued use of the omnibus approach.

As the Tax Foundation, in a recent study of budgetmaking, says of the 1950 test of consolidation: "The 1-year experiment does not appear to have furnished conclusive evidence as to the advantages and disadvantages." The haste with which the House backed off from Representative CANNON'S initiative, like the irreverent burial of section 138, testified to the distaste most legislators have for change in the budgetary rituals. Only strong public pressure is likely to induce another try at consolidation of the appropriations bills, or to exhume consolidation's logical accompaniment, the legislative budget concept embodied in section 138. In both Houses of Congress there are dedicated advocates of budget reform, but without a greater show of voter concern they can expect to make little or no headway against their change-resistant colleagues.

### BALANCING THE POWER

Besides being a pocketbook issue for taxpayers, the Federal budgetary process is a key point of confrontation in the constant testing of power that goes on between the legislative and executive branches. Public attention, which fixes on matters of the budget only sporadically at best, tends to concentrate on the President's role. It is the Chief Executive who delivers an annual budget message, estimating revenues to be received and proposing expenditures to be made. And it is the executive branch that from time to time reports the accomplished fact of surplus or deficit within a given period.

Accordingly, credit or blame for budgetary performance falls largely to the President and his administration. In fact, however, the basic responsibility lies with Congress. The Constitution gives the legislative branch control over Federal taxation and over the provision of funds to be spent by the Federal Government.

That there is not closer identification of Congress with the budgetary function in the public mind can be explained partly in simple terms of packaging: the President presents at one time a total fiscal picture, expressible in a single sum; Congress strings its budget act out in a dozen or more installments. Also, the executive branch approaches its budgetary tasks with vastly better organization. Its pitch for funds is carefully prepared and closely coordinated. The very pattern of budget events gives the Executive the initiative at the outset, and this tactical advantage is maintained more or less throughout the process.

Some political sicentists worry that the balance between the two branches would swing too far in the opposite direction if Congress used the one-bill approach to budget appropriations. The specific object of their concern is the President's ultimate weapon, the veto. No Chief Executive, they hold, could afford to veto an omnibus budget bill: however objectionable some features of the package might be to him, he could not risk choking off funds from the whole Government by sending the entire appropriations bill back to Congress.

The counterforce commonly suggested as an offset to this leverage is the power of item veto, which the President does not now have although the Governors of some 40 States do. This would allow him to reject parts of an omnibus budget bill while approving the rest.

President Eisenhower—and a number of his predecesors—unsuccessfully urged Congress to take steps to grant the item veto. It is not specifically denied either by the Constitution or by statute; in fact, some students of constitutional law believe that the President already has the right of selective veto. In practice, it seems unlikely that any President would risk the joust with Congress that an attempt at vetoing in part would be sure to bring on—and equally unlikely that Congress would ever present the Chief Executive with item veto power.

### NO VIOLENCE TO VETO

Actually, impairment of the President's veto weapon resulting from congressional use of an all-in-one appropriations bill does not look especially formidable in the light of the recent record of Presidential vetoes of money bills. Chief Executives have been sparing in their employment of the right to decline. President Kennedy vetoed no appropriations measures. President Eisenhower vetoed three: one veto, prompting Congress to rewrite the "independent offices" appropriation for fiscal 1959, led to elimination of a $590-million item he considered unnecessary; the other two, applied to successive versions of the public works money bill for 1960, can be credited—although the second was overridden—with reducing the total by about $30 million. President Truman vetoed two appropriations bills. He was sustained once and overridden once, but both vetoes reflected objection, not to appropriations aspects of the bills, but to the inclusion of nonappropriations matters in money legislation.

Moreover, appropriations legislation typically is written in a way that makes the use of the item veto impracticable. "Items, especially in so-called pork barrel appropriations," Dr. Robert A. Wallace has observed in a searching study of public finance, "rarely represent items at all, but, rather, are lump-sum amounts. The item, rivers and harbors and flood control, in the civil functions of the Army appropriation bill, may amount to as much as $500 million. The individual project allocation is set forth in committee reports, which indicate legislative intent but do not have the force of law."

Concern for the integrity of the veto, therefore, is not a valid objection to strengthening of the congressional mechanism for budgetmaking. In fact, the President has at his disposal, quite apart from veto power, a means for dealing with appropriations items that he regards as objectionable. This derives from the fact—frequently overlooked—that appropriations are permissive rather than mandatory; they grant authority to spend, but they do not literally require that the expenditures be made.

Presidents have employed the discretion so afforded in three ways: (1) they have delayed using funds and meanwhile appealed to Congress to reconsider the merits of the intended use; (2) they have spent less on specific projects than has been provided; and (3) on occasion they have "impounded" an appropriation completely—that is, simply refused to use the money. Perhaps the most celebrated instance of impounding occurred in 1949 when President Truman refused to use funds for an Air Force buildup which Congress desired but which he believed to be unnecessary.

Admittedly, a President who regularly employed this power to frustrate congressional intent would not be able to sustain workable relations with Congress. For the extreme and presumably infrequent instances that would be likely to evoke a response as drastic as veto, however, the ability to impound should be an adequate Presidential resort.

Indeed, use of the consolidated approach to budgetry might well reduce the number of clearly outrageous appropriations tucked into the legislation that reaches the President's desk. The worst offenses invariably come in the "pork barrel" category, and in this connection Representative CANNON has said of the one-bill budget: "Logrolling will be impractical as all the cards will be on the table at one time and any attempted trades will be too apparent to withstand the light of publicity."

### THE WRONG TARGET

Far too little energy is being devoted to budgetary reform, making it all the more regrettable that some of the best-intentioned efforts have been aimed in unpromising directions. Considerable steam has been put, for instance, behind proposals that assume the chief problem in controlling expenditures to be the huge carryovers of obligational authority from one fiscal year to the next. Often one-fourth or more of the Federal Government's annual outlays are made under obligational authority carried over from previous years.

A characteristic reaction, which has been expressed in a number of legislative proposals, is to demand that the entire Federal budget be put on a current-year basis, with no carryover of funds from one year to another. This is the concept known as the annual accrued expenditure budget. Under it there would be no grants of obligational authority in the present sense, only appropriations for making expenditures—and they would be good just for 1 year. For procuring items that are a long time in the process of manufacture or construction, Congress would grant contract authorizations, but they too would be subject to annual review. As delivery time approached, a current-year appropriation would have to be obtained in order to make payment. Federal agencies, in preparing their individual budgets, would estimate the expenses actually to come due during the coming fiscal year, instead of projecting their use of obligational authority (some of it carried over and some of it newly requested) as they do under the present system.

Supporters of the accrued expenditure budget idea believe it is the only way to put Congress in charge of Federal spending on an effective annual basis. They stress the importance of avoiding being locked into future spending. What neither accrued expenditure nor any plan can do, however, is eliminate the practical need to let Federal agencies make advance commitments when procuring—as many of them often do—items subject to long "leadtimes."

### CONTRACTS WITHOUT OBLIGATION?

Granting power to make such commitments but insisting it does not constitute obligational authority is hardly more than a semantic illusion, since annual review of contracts once signed would be perfunctory and Congress eventually would be under a moral obligation to appropriate funds with which to fulfill the contracts. If it had any effect at all, an increasing use of contract authority might well tend to encourage spending rather than restrain it. The House Appropriations Committee has said with respect to contract authorization: "Far from contributing to economy and retrenchment, it tends to the opposite effect. Psychologically, the situation can be likened to a charge account at the store—relatively easy to open because it is not necessary to have the cash in hand." In the case of appropriations bills, the use of contract authorization has been declining in recent years, and some advocates of more orderly control of spending feel it would be unfortunate if that trend were to be reversed.

The accrued expenditure approach, in short, would not rid the budget of the awkward bookkeeping that results from large backlogs of commitments, whatever they may be called. Nor does it in itself hold especial promise of bringing the actual volume of Federal spending under more effective control. The way to restrain Government spending is not by making it impossible for Government to spend. Economizing is a harder job than that. Government has functions to perform, and they require the outlay of money—some of it committed long in advance of actual expenditure. Deciding what the functions should be, how much they are worth, and what must be forgone in order to perform them—this is the real essence of congressional responsibility for the size and content of the Federal budget.

What Congress could do—and badly needs to—about the spilling over of obligational authority from year to year is to keep closer tabs on the projected timing of expenditures. It needs to look not only to the upcoming fiscal year, but on out to the final stage of spending. This is largely a matter of demanding from Federal agencies more precise spending timetables. Considerable progress has been made in recent years in improving long-term projections, especially in the case of defense programs, but there still are many areas in which grants of long-term spending authority are not backed up by satisfactory working estimates of future year-by-year cash flows.

### GOOD GUYS AND BAD GUYS

The folklore of budgetary criticism has a habit of oversimplifying the whole subject into a battle between good guys (the legislative branch) and bad guys (the executive branch) in which the bad guys are trying to take over the public purse and the good guys—for some reason that is never quite made clear—are powerless to stop them.

The facts are more complicated. Actually, no budgetary power has been, or can be, taken from Congress that it has not itself given up. It has had to yield some measure of control for the sheer sake of workability—Congress cannot administer a budget, and the job of the executive branch, after all, is to execute. The truly grievous surrender of control by Congress has resulted from that body's failure to equip itself with an adequate method of budgetary operation.

It could go a long way toward correcting the lack by doing the following:

Start complying with section 138 of the Legislative Reorganization Act of 1946 by reactivating the Joint Committee on the Legislative Budget; equip the joint committee with a top-grade staff.

Adopt the technique of a consolidated appropriations bill, so that Congress is forced to look at the spending picture as a whole.

Reexamine cases in which financial authority now is granted without review by the Appropriations Committees; keep close watch on further applications of this approach. (Professor Smithies proposed some years ago a rules change to require that all bills granting financial authority receive the scrutiny and comment of the Appropriations Committees.)

Chiding some of his colleagues recently for what he took to be too vague an approach to expenditure control, Senator WILLIAM PROXMIRE said: "Economy is a particular area where generalities fail us." He might have added that, under the present congressional mode of operation, specifics also will "fail us" because there is no adequate way of dealing with them. There won't be until Congress gives itself the tools to do its budget job.

If the outfitting seems discouragingly difficult to accomplish, it may be worth recalling that 12 years elapsed between the time President Taft initiated a study of reform possibilities and the day President Harding signed the Budget and Accounting Act of 1921. In the interlude, there were many discouraging episodes, including the veto by President Wilson of a bill similar to the one that finally became law.

Hopefully, response to the present need will proceed at a brisker pace, for the price of procrastination is much higher in an era of $100 billion annual budgets. But the fact that reform is certain to be a long and painful task should not deter Congress from getting on with the work. A logical next step, now as in 1919, would be the appointment by Congress of a select committee of its members to give the urgent business of change a high-level launching.

### EXHIBIT 1

### HOW THE MONEY COMES TO BE SPENT

Before a Government agency may pay out funds, Congress ordinarily must do two things: first, authorize an activity (for basic constitutional functions, like maintaining Armed Forces, this step is not necessary); second, empower a designated official to spend money in connection with the activity.

The latter is done by granting "obligational authority," most commonly through an appropriations bill, known in the nomenclature of budgetry as a "money" bill. This actually confers a two-stage authority: it lets some unit of Government place orders, sign contracts, or otherwise make commitments; and it allows the money to be spent at the time payment comes due.

Most money bills run for a given fiscal year; the power to commit expires at the end of the period, although the spending authority lasts until obligations incurred during the period have been paid. In some cases, however, Congress makes "multiple-year" appropriations, extending beyond the immediate fiscal year the authority both to spend and to commit. It even grants "no-year" authority, running for an indefinite period, and "permanent" appropriations which automatically renew the commitment and expenditure authority from year to year. Although a money bill customarily is for a specific amount, some grants of authority to commit and spend leave the amount open.

Obligational authority also is given in the form of contract authorizations. These are used when the lag between making a commitment and paying the bill is likely to be long. They convey only the right to incur obligations; authority to spend the money must be sought separately later. In practice, of course, giving authority to contract binds Congress eventually to give the spending authority. The Government, in order to continue doing business, must make good on its contracts.

Still another kind of obligational authority lets a Government unit commit and disburse funds borrowed directly from the public or indirectly through the Treasury (which in turn may get the funds by selling Government obligations to the public).

In principle, Congress keeps the authorization of an activity separate from the granting of related obligational authority. This division is designed to facilitate orderly control and regular review of expenditures. The separation, however, is not rigorously observed. For instance, obligational authority often is conferred by the same statute that creates an activity. This is especially true of contract authorizations and grants of the right to borrow from the public or the Treasury. Many of the outlays made under such authority bypass the Appropriations Committees, in theory the needle's eye through which all Government expenditures ought to pass. The granting of funds via such detour is often called "backdoor" financing.

The control Congress is supposed to exert over the budget is diluted also by the practice of making "permanent" authorizations to commit and spend, and by the granting of authorizations in indefinite amount.

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## THE HUMAN RESOURCES DEVELOPMENT ACT

**Mr. ELLSWORTH.** Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. FRELINGHUYSEN] may extend his remarks at this point in the RECORD and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Kansas?

There was no objection.

**Mr. FRELINGHUYSEN.** Mr. Speaker, it may be of interest to the Members to know that I have today introduced an antipoverty bill (H.R. 11050). I offer this bill as a sound alternative to H.R. 10440, the administration's poverty package. It differs in major respects from the recommendations made last month by President Johnson. It is my hope that my bill will provide a sharp contrast with Mr. Johnson's recommendations, and thus will dramatize the serious weaknesses of the administration's approach.

Unlike the administration's proposal, my bill would not establish a new Federal agency. The proposed new agency, I might add, would have almost unlimited authority to allocate almost $1 billion as its Director sees fit. The only limitation in the distribution of funds would be that no less than eight States could be aided. Under my bill all 50 States would receive funds, under a formula based on the population of the State, its per capita income, and the number of unemployed.

My bill would rely on the 50 States to alleviate poverty in accordance with specific State plans. In testimony before the House Committee on Education and Labor this morning Mr. Shriver, without even an opportunity to read my bill, made it clear that the administration repudiates such a suggestion. He has already, therefore, rejected the tested system of relying on our States for suggestions as to ways in which the Federal Government may help States meet their own problems. He rejected as "wooden" and "restrictive" my plan to allocate funds equitably among all 50 States, and also repudiated any idea of meaningful State responsibility.

As we all know, allocation of Federal funds to all 50 States is standard practice. For example, Federal grants-in-aid are made on this basis in the recently passed Vocational Education Act, the College Academic Facilities Act, the National Defense Education Act, and many others. Indeed, this is the standard method, used in numerous Federal programs, in such fields as health, education, welfare, water pollution control, medical assistance of the aged, and medical facilities, to mention only a few.

It appears—at least on the basis of Mr. Shriver's testimony today—that the administration has lost faith in our traditional and time-tested concept of State-Federal partnership as a means to promote the general welfare. I hope this is not the case, Mr. Speaker, as I believe most Members feel as do I that our States are not anachronisms, to be bypassed and ignored, but a vital part of our governmental structure.

In any event, Mr. Speaker, my bill represents a serious effort to define further Federal responsibility in the alleviation of poverty. It would authorize a 3-year program, with $500 million to be made available each year to the 50 States. This approach, I might point out, contrasts with the $1 billion price tag in the first year for the administration bill, with no price tag of any kind thereafter. In my bill, furthermore, meaningful matching by the States or communities would be required in the second and third year, in contrast to the excessively large Federal share contemplated in H.R. 10440.

There are other differences in the two bills, Mr. Speaker. I trust that the House Committee on Education and Labor will explore these differences and in due course come up with sound legislation which can receive—and deserve—substantial support. As they have in the past, Republicans stand ready to help. It was on this basis that Republicans helped strengthen the vocational education legislation and the manpower development and training act, among others. The time is short, but not so short that we must be stampeded into accepting ill-considered but far-reaching legislative proposals.

In conclusion, Mr. Speaker, I would like to submit a brief analysis of my bill together with a chart showing the allocation of funds to the various States under H.R. 11050.

### THE HUMAN RESOURCES DEVELOPMENT ACT

(By Mr. FRELINGHUYSEN)

### BRIEF SUMMARY

1. Authorizes a broad gaged 3-year, $1.5 billion program to combat poverty.

2. Funds are allotted to the States on the basis of population, per capita income, and number of unemployed persons in each State.

3. States desiring to take part (a) designate a broadly representative State agency to administer the program and (b) submit to the Secretary of HEW a State plan designed to attack poverty.

4. The State plan provides for a coordinated State attack on poverty, involving both State and community action programs in the following fields:

(a) Special educational, work-study, vocational workcamp, and similar activities for out-of-school, unemployed youths, or for youths who need help to remain in school;

(b) Special remedial and other educational programs, and social and health programs for schools in economically or socially depressed areas, (including nonsectarian programs of a similar nature in private schools);

(c) Broad programs of social and economic redevelopment, in urban areas and rural areas, including health, housing, employment, and education, and

(d) Special programs to aid the aged and other groups of citizens to prevent dependency.

5. Federal funds must be matched one-third and one-half, respectively, in the second and third year. No matching required in the first year; reasonable value of contributed goods and services counted for matching.

6. Requires Federal agencies to conduct thorough studies of problems of use of Selective Service tests; rapid reporting of job availability; causes of unemployment; causes of educational failure, etc., and report back to the Congress within 1 year.

7. Provides for coordination of existing Federal antipoverty programs through the Secretary of HEW, and for relating such programs to the State plans developed under this act; establishes a National Advisory Council to assist the Secretary; establishes a Federal Commission on Poverty composed of agency heads, Members of Congress, and public members to study existing Federal antipoverty programs and recommend coordination, combination, or revision of Federal laws.

Estimated distribution of 500 million with 50 percent on the basis of population; 25 percent on the basis of State products (population and per capita income) with limits of 25–75 percent; and 25 percent on the basis of number of unemployed persons.

| | *Estimated State amounts* [1] |
|---|---|
| United States and outlying parts | $500,000,000 |
| 50 States and District of Columbia | 491,342,579 |
| Alabama | 9,330,273 |
| Alaska | 653,768 |
| Arizona | 3,917,958 |
| Arkansas | 5,221,486 |
| California | 43,819,236 |
| Colorado | 4,771,790 |
| Connecticut | 6,439,419 |
| Delaware | 1,104,436 |
| Florida | 15,080,652 |
| Georgia | 10,983,732 |
| Hawaii | 1,704,423 |
| Idaho | 1,942,707 |
| Illinois | 25,080,408 |
| Indiana | 12,015,352 |
| Iowa | 6,639,612 |
| Kansas | 5,370,013 |
| Kentucky | 8,574,822 |
| Louisiana | 9,543,120 |
| Maine | 2,675,962 |
| Maryland | 8,100,750 |
| Massachusetts | 13,537,190 |
| Michigan | 21,695,274 |
| Minnesota | 9,338,188 |
| Mississippi | 6,370,191 |
| Missouri | 11,451,681 |
| Montana | 1,827,252 |
| Nebraska | 3,517,464 |
| Nevada | 875,602 |
| New Hampshire | 1,541,425 |
| New Jersey | 16,841,570 |
| New Mexico | 2,612,249 |
| New York | 44,816,443 |
| North Carolina | 12,611,117 |
| North Dakota | 1,690,074 |
| Ohio | 26,327,499 |
| Oklahoma | 6,491,896 |
| Oregon | 4,764,487 |
| Pennsylvania | $33,652,292 |
| Rhode Island | 2,502,803 |
| South Carolina | 6,669,959 |
| South Dakota | 1,767,887 |
| Tennessee | 10,292,317 |
| Texas | 26,542,529 |
| Utah | 2,498,730 |
| Vermont | 1,078,998 |
| Virginia | 10,516,105 |
| Washington | 7,749,656 |
| West Virginia | 5,779,635 |
| Wisconsin | 10,029,335 |
| Wyoming | 920,024 |
| District of Columbia | 2,062,788 |
| American Samoa | 100,000 |
| Canal Zone | ------------ |
| Guam | 176,632 |
| Puerto Rico | 8,271,739 |
| Virgin Islands | 109,050 |

[1] Minimum of $100,000.

Sources: Total population: Department of Commerce, Bureau of the Census, "Current Population Reports," series P–25, No. 273, resident population as of July 1, 1963, for 50 States, District of Columbia, and Puerto Rico; for American Samoa, Guam, Virgin Islands, series P–25, No. 272, population as of July 1, 1962.

Unemployed persons: U.S. Department of Labor, "Manpower Report of the President," table D–3 p. 234, unemployment data for 1962. Data for American Samoa, Guam, Virgin Islands not available and arbitrarily assigned $25,000 for this part of the allocation.

## GOOD DAY FOR AMERICA

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Beckworth] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. BECKWORTH. Mr. Speaker, for 10 years I served on the Interstate and Foreign Commerce Committee which handles oil and gas and transportation matters. At one time I was a second ranking member of this committee. I was chairman of the Transportation Subcommittee of this committee.

I know how very difficult controversies between labor and management can be in the transportation field. Moreover, we all are aware of how serious and how economically crippling a major railroad strike would be.

I join with Publisher Carl Estes, of the Longview Morning Journal, in extending my congratulations to the President for the splendid job of work he has done in helping to bring to the railroad industry this settlement. President Johnson deserves the praise of all of us for the leadership he has displayed in connection with this significant crisis.

I include "Good Day for America," an editorial that appeared Friday morning, April 24, 1964, in the Longview Morning Journal:

### Good Day for America

(An editorial by Carl L. Estes)

We are in hearty accord with President Lyndon B. Johnson that Wednesday, April 22, 1964, was a good day for our country and our system of government, and we hasten to give him personal credit for making it so.

It was his astute ability and great leadership that played the key role in breaking the deadlock in the nearly 5 years of negotiations in the railroad work rules dispute, thus preventing a threatened strike that would have had disastrous effects on the nation's economy.

President Johnson has been noted for years—as a U.S. Senator, majority leader and Vice President—as a man of tremendous persuasion and achievement, but his most recent accomplishment will go down in history as one of his finest performances. In removing the infection that has been festering on the American economy more than four and a half years, he provided the opportunity to prove that the free enterprise system—the American way—really functions.

He was able to demonstrate that when men work together honestly, reason together honestly, consider the welfare of each other and the needs of the Nation, there can be only one result: victory for everyone concerned. In the railroad dispute agreement it was a victory for collective bargaining and industrial democracy, and a great personal triumph for Lyndon B. Johnson.

It is a well-known fact that the President had the confidence of both management and labor before he entered the picture and the outcome, while very gratifying, was not surprising. Employer and employee alike are the beneficiaries of the booming economy that has characterized the first six months of the great Texan's administration.

We liked the statement he made after the settlement was reached, and we admired the pride and eloquence in which he made it. "I tell you quite frankly there are few events that give me more faith in my country and more pride in the free collective bargaining process," he said. "Both the railroad companies and the unions operated in full freedom of spirit. This agreement proves that dedicated men, under the proper leadership, can resolve their differences and show the world how the great American free enterprise system works. We are proud of our Government, and we are proud of our country."

The President gave credit to the railroad men—company management and union leadership—"for this common victory for collective bargaining and industrial democracy." But had it not been for Lyndon Johnson, more than likely there would have been a strike, or emergency legislation to keep the trains rolling. The President had no intention of having a brake applied to the robust economy which the Nation is enjoying and for which he is largely responsible. In one way or another his influence and power would have been exerted in an emergency. The country is grateful that the solution came in the manner that it did—through a meeting of minds of capable and conscientious men, under the encouragement and leadership of the Chief Executive.

That is the way that President Johnson wanted the matter handled, and it is to his everlasting credit that an amicable settlement, satisfactory to both sides, was reached.

Yes, Wednesday, April 22, 1964, was a good day for our country and our system of government, thanks to our friend, the President. We salute him for his brilliant performance.

## SO-CALLED RIGHT-TO-WORK LAWS

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. Roosevelt] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, promoters of so-called right-to-work laws now seek to impose this anticollective bargaining legislation on the backs of the working people of Oklahoma.

This campaign is now in its bitterest phase with a referendum election to be held May 5.

One of the most ardent of the promoters of this antiunion proposal is E. K. Gaylord, owner of the Oklahoma City Daily Oklahoman, the Oklahoma City Times, radio station WKY, and television station WKY-TV. I might add that Mr. Gaylord also owns the biggest weekly farm paper in the State. Mr. Gaylord has in effect a stranglehold on press, radio, and television coverage in the principal city of Oklahoma.

This effective newspaper and radio and television monopoly is being used to advance the cause of right to work in Oklahoma.

Merely supporting, editorially, the cause of so-called right to work would not be bad, merely mistaken. But the Gaylord empire in its wisdom has ruled off the air and out of its newspaper columns any mention of public figures who might be against imposition of this antiunion law on the working men and women of Oklahoma. They have censored any use of the statements, voices, mention of the position of such leading figures as the late President John F. Kennedy, former President Harry S. Truman, Adlai Stevenson, former Vice President Richard Nixon, Gov. Nelson Rockefeller, of New York. All of these public figures oppose, or opposed, so-called right-to-work laws.

The Gaylord monopoly has also banned the voice and the name of my mother, Mrs. Eleanor Roosevelt, who was cochairman until her death of the National Council for Industrial Peace which opposes such laws.

Ignoring the fact that people in public life make statements on the record on vital issues for the purpose of stimulating public discussion and debate and that such statements are dedicated to public interest, the Gaylord emperors of the press, petty tyrants of propaganda, have seen fit to censor the statements of these leading figures.

Mr. Speaker, as a Representative from California I would ordinarily not intervene in such matters in Oklahoma. But they have touched me sorely by seeking to bar my mother's voice from being heard on an issue on which she held views from which she never deviated. Under unanimous consent, I include the following statement which I have recorded for the people of Oklahoma, and make it a part of the permanent RECORD of this House:

> In 1958, in California, the proponents of so-called right to work tried to foist off on the people of my home State the monstrous lie that my father, President Franklin Delano Roosevelt, was a supporter of so-called right-to-work laws.
>
> My mother, Mrs. Eleanor Roosevelt, answered that slander. She told the people of California, "A check of my husband's papers in his library at Hyde Park will show that no tortured phrase or out-of-context quote can substantiate such an allegation. Further, the American public understands very well that Franklin Delano Roosevelt would never have supported such a reactionary doctrine."
>
> My mother was forthright in her opposition to so-called right-to-work laws. She was a founder and cochairman with the late Gov. Herbert H. Lehman, of New York, of the National Council for Industrial Peace, which opposes such anticollective bargaining legislation.
>
> Never once did she equivocate or falter in her opposition to this reactionary antiunion doctrine. Not once did she leave her feelings in doubt.
>
> Now, Oklahoma, the right-to-work promoters, the same organization that sought to claim my father, Franklin Delano Roosevelt, as a supporter, seeks to keep the people of Oklahoma from learning her reasons for opposing these laws. The communications empire of the principal supporters of right to work in Oklahoma City has ruled that the voice of my mother may not be heard expressing her opposition in her own words.
>
> These promoters of reaction have no shame. They sought to besmirch the reputation of my father, now they seek to silence the voice of my mother.
>
> For the record let me say that shortly before the fatal illness which claimed her life, my mother, Mrs. Eleanor Roosevelt, wrote to Mrs. Ima B. Finley, of Oklahoma City, and said:
>
> "One of the many reasons why I oppose the so-called right-to-work laws is because it represents the kind of extremism our President (John F. Kennedy) has warned the Nation to avoid. The sad fact is that the confusion and doubts raised in the minds of our people by the so-called crusaders of the radical right is being used by adroit manipulators to achieve their own selfish ends.
>
> "Actually, the so-called right-to-work law does not guarantee a job to anyone. Its real purpose is to prevent the organization of workers into unions of their choice and to weaken unions which already exist."
>
> My mother stated her case against so-called right to work in numerous radio and television interviews. I can testify that she never changed her attitude and until the moment of her death believed strongly in the need for business and labor to work harmoniously together for the good of all—without the need of repressive legislation such as so-called right to work.
>
> The people of Oklahoma have a right to hear her voice and reasoning against such legislation. Arbitrary decisions to limit public information by little "emperors of the press" do no service to freedom.

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## MINORITY VIEWS OF THE JUDICIARY COMMITTEE ON THE SO-CALLED CIVIL RIGHTS BILL

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. WAGGONNER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. WAGGONNER. Mr. Speaker, the Shreveport Times, on February 16 of this year devoted two pages of their editorial section to reprinting the minority views of the Judiciary Committee on the so-called civil rights bill. Because the controversy still rages as to what this bill actually contains and will bring about if it is passed and becomes law, I insert this complete report in the RECORD so that it will have the distribution that the liberal controlled press of the Nation will not give it.

There are still those in authority who, in an attempt to confuse the public for political reasons, are still saying that this bill will have no effect on businesses, unions and the property rights of the individual. This is a vicious and terrible trick to play on the people; to mislead them into thinking this is some sort of innocuous measure to insure that Negroes will have the right to go to school or vote in the South. Nothing could be further from the truth because this right and privilege exists today.

This measure is a mammoth grab of Federal power; an unprecedented invasion of private rights and the words of the distinguished Members who wrote this article will attest to it.

### SIX MEMBERS OF THE HOUSE ANALYZE JOHNSON'S RACE RIGHTS BILL

The Times presents herewith a question and answer analysis of President Johnson's "Negro rights" bill—usually referred to as "the civil rights package."

The analysis was prepared by six Members of the House of Representatives. Each of them is a member of the House Committee on the Judiciary, through which the bill—originally President Kennedy's—was railroaded without hearings.

Each also is an attorney and an expert on legislation of this type.

Their analysis was written when the bill still was pending before the House Rules Committee and thus refers to it as a measure reported when actually the bill has passed the House and now is before the Senate. They emphasize that this is not a measure to provide justified and constitutional rights for Negro citizens, but an all-out Government attack on the private and property rights of just about everyone—farmers, homeowners, bankers, labor unions and members, individual workers, hotels, restaurants, theaters, teachers and schools—public and private—veterans, social security, and individual workers.

The House Judiciary Committee members signing this analysis are Representatives E. E. WILLIS, of Louisiana; E. L. FORRESTER, of Georgia; WILLIAM M. TUCK, of Virginia; ROBERT T. ASHMORE, of South Carolina; JOHN DOWDY, of Texas; and BASIL L. WHITENER, of North Carolina. The text of their statement has been distributed nationally by the Coordinating Committee for Fundamental American Freedoms which includes William Loeb, New Hampshire newspaper publisher as chairman; and John Creighton Satterfield, former president of the American Bar Association, as secretary.

Question. Was the civil rights bill railroaded through the House Judiciary Committee?

Answer. This legislation is being reported to the House without the benefit of any consideration, debate, or study of the bill by any subcommittee or committee of the House and without any member of any committee or subcommittee being granted an opportunity to offer amendments to the bill. This legislation is the most radical proposal in the field of civil rights ever recommended by any committee of the House or Senate. It was drawn in secret meetings held between certain members of this committee, the Attorney General, and members of his staff and certain select persons, to the exclusion of other committee members * * *.

As stated above, the full committee substitute for H.R. 7152 was railroaded through the Committee on the Judiciary without opportunity by members of that committee to discuss, debate, or amend the 56-page mimeographed document. While this document was being forced through the committee wholly without study, it was hailed as moderate legislation and as a compromise when in truth and in fact it was no less extreme and vicious than the subcommittee proposal. In coordination with these statements, the reported bill was denounced, publicly, by civil rights political pressure groups for the apparent purpose of creating the impression the substitute measure was, in fact, a "watered down" version of the unacceptable subcommittee proposal.

Now that we, as members of the committee, have had some opportunity to compare the reported bill with the subcommittee proposal, we find that the bill, as reported, is no compromise at all. It actually broadens and strengthens many powers conferred upon the Attorney General in the subcommittee proposal and grants new sweeping and unlimited authority to the President, while retaining all of the most vicious and harsh provisions of the subcommittee proposal * * *.

Question. What civil and property rights of 180 million citizens are impaired by this civil rights bill?

Answer. In truth and in fact, the bill, under the cloak of protecting the civil rights of certain minorities, will destroy civil rights of all citizens of the United States who fall within its scope. Congress would abnegate its duty to consider and protect all of the Nation's citizens.

If the proposed legislation is enacted the President of the United States and his appointees—particularly the Attorney General—would be granted the power to seriously impair the following civil rights of those who fall within the scope of the various titles of this bill:

1. The right of freedom of speech and freedom of the press concerning "discrimination or segregation of any kind" "at any establishment or place," as delineated in the bill (secs. 202–203).

2. The right of homeowners to rent, lease, or sell their homes as free individuals (secs. 601–602).

3. The right of realtors and developers of residential property to act as free agents (secs. 601–602)

4. The right of banks, savings and loan associations, and other financial institutions to make loans and extend credits in accordance with their best judgment (secs. 601–602).

5. The right of employers "to hire or discharge any individual," and to determine "his compensation, terms, conditions, or privileges of employment" (title VII).

6. The seniority rights of employees in corporate and other employment (title VII, title VI via sec. 711(b)).

7. The seniority rights of all persons under the Federal civil service (sec. 711(a)).

8. The seniority rights of labor union members within their locals and in their apprenticeship programs (title II, title VI via sec. 711(b)).

9. The right of labor unions to choose their members, to determine the rights accorded to their members, and to determine the relationship of their members to each other (title VII, title VI via sec. 711(b)).

10. The right of farmers to freely choose their tenants and employees (title VI and title VII).

11. The right of farm organizations to choose their members, to determine the rights accorded to their members, and the relationship of their members to each other (title VI and title VII).

12. The right of boards of trustees of public and private schools and colleges to determine the handling of students and teaching staffs (title IV, title VI, title VII).

13. The right of owners of inns, hotels, motels, restaurants, cafeterias, lunchrooms, soda fountains, motion picture houses, theaters, concert halls, sports arenas, stadiums, and other places of entertainment to freely carry on their businesses in the service of their customers (title II, title VI, and title VII).

14. The right of the States to determine the qualifications of voters in all Federal elections and many State elections (title I).

15. The right of litigants to receive evenhanded justice in the Federal courts; this legislation places civil rights litigants (particularly the Attorney General) in a special category with preferences and advantages not afforded parties in any other form of litigation (sec. 101(d), title IX).

Question. What will Federal inspectors dictate to you—or else you will be penalized or go to jail?

Answer. The depth, the revolutionary meaning of this act, is almost beyond description. It cannot be circumscribed, it cannot be said that it goes this far and no farther: The language written into the bill is not of that sort. It has open-end provisions that give it whatever depth and intensity one desires to read into it. In the language of the bill, "The President is authorized to take such actions as may be appropriate to prevent * * *" sec. 711(b)), and "each Federal department and agency * * * shall take action to effectuate * * *" (sec. 602). This vests, of course, almost unlimited authority in the President and his appointees to do whatever they desire.

It is, in the most literal sense, revolutionary, destructive of the very essence of life as it has been lived in this country since the adoption of our Constitution. Because this is true, the undersigned members of this committee believe it wise to demonstrate, by example, the effects of this legislation on people; to demonstrate, by example, the meaning of lost liberty; to demonstrate, by example, the power in this bill to completely dominate the lives of even the least of us.

To this end, there follow nine examples of the effect of the bill upon persons covered by it. There might be offered innumerable examples, because this bill encompasses directly or indirectly nearly every American.

### FARMERS

For more than 30 years, the American farmer has been under Federal regulation in many programs involving financial aid. Whether these regulations have served him well or poorly is a matter of divided opinion. In any event, regulation per se is nothing new to the farmer. But this is a different kind of control. It is not related to the purposes for which the financial aid was rendered.

If this bill is enacted the farmer (regardless of the number of his employees) would be required to hire people of all races, without preference for any race. If experience has taught the farmer that a member of one race is less reliable than a member of another race, does less for his pay, he will no longer be allowed to hire those he prefers for this reason. If he is of the belief that members of one race are more prone to accident, less trustworthy, more neglectful of duties, are, in short, less desirable employees than those of another race, he will no longer be allowed to exercise his independent judgment. Under the power conferred by this bill, he may be forced to hire according to race, to "racially balance" those who work for him in every job classification or be in violation of Federal law.

The penalty for such violation can mean being excluded from every direct and indirect Federal "benefit." It can mean the calling of his bank loans, being shut off by blacklisting from the agencies of Government that recruit labor, the right to purchase supplies from farmer-associated businesses which may, themselves, be dependent in one degree or another on Federal financial assistance. In short, he will become a pariah, an outcast. He will employ those people a Federal inspector says he shall employ or his farm will be deprived of every vestige of Federal "aid," without which few farms, today, can successfully operate.

The agencies required to police farmers, under the directions of the Attorney General and the Commission on Civil Rights, are all **(1) banks for cooperatives, (2) Federal land banks, (3) Federal intermediate credit banks,** (4) production credit associations, (5) the Agricultural Stabilization and Conservation Service, (6) the Commodity Credit Corporation, (7) the Federal Crop Insurance Corporation, (8) the Agricultural Marketing Service, (9) the Farmers' Home Administration, (10) the Soil Conservation Service, and all other agencies or departments having to do with Federal financial assistance in the field of agriculture.

### HOMEOWNERS

The right of homeowners in the United States to freely build, occupy, rent, lease, and sell their homes will be destroyed by this bill. Title VI will be construed by the administration to cover "land to be developed for residential use" and "the sale, leasing, rental, or other disposition of residential property and related facilities * * * or the occupancy thereof," whenever there is involved FHA or GI financing, financing by a national bank or any bank or savings and loan association covered by the FDIC or any other type of Federal financial support. The quotations are from Executive Order No. 11063, mentioned below.

Federal personnel (not the homeowner or his wife) will make decisions as to the personnel building the home, the renting of a single room or several rooms, as well as the rental, leasing, or sale of the home whenever race, color, or national origin is concerned. Federal personnel will also dictate the actions of realtors, developers, attorneys, and the lending institutions.

What of the right of property? What if the person who seeks to rent a room, lease or buy a home, is not, in the eyes of the homeowner, trustworthy or desirable? If race, color, or national origin is involved—and, by the nature of things, these must be involved—the Federal inspector (not the homeowner or his wife) makes the decision. The alternative—foreclosure, blacklisting, cancellation of any Federal benefits under any program.

Already, without any legislative authority whatsoever, the President has issued Executive Order No. 11063 dated November 20, 1962, purporting to put all of the above into effect concerning an estimated 30 percent of the homebuilding in the United States. This has been done in spite of the fact that Congress, on six different occasions, defeated amendments to then pending housing acts granting the President authority to so act. If this bill is passed, it will validate that order. Moreover, it will give the President carte blanche to subject every homeowner to Federal control.

### BANKS

A dispassionate study of the power granted in his bill will convince a reasonable person that no bank could operate under its provisions without undue hardship.

If a bank under this bill were to deny employment, a loan, a line of credit or a sales contract to a person, it would have to prove its decision was based on facts that did not, in any way, discriminate against the rejected applicant because of his race. Among the penalties that could be imposed on the bank would be the cancellation of the bank's Federal Deposit Insurance and its right to handle GI, FHA, and other Government-insured money. The power granted in the bill goes further. If a small businessman, for instance, has been held in violation of the Federal civil rights law, under the provisions of this bill the bank can be required to cease doing business with the culprit, or else lose its FDIC protection for all its customers.

To illustrate, assume a bank extends a line of credit to finance construction of an apartment house. Assume a tenant is denied the privilege of leasing one of the apartments because his credit or character, in the opinion of the management, would make him an undesirable tenant. If the Federal inspector decided this amounted to discrimination, the FHA guarantee could be canceled.

The agencies required to police banks and bankers, under the direction of the Attorney General and the Commission on Civil Rights, are all national banks, the Federal Deposit Insurance Corporation, the Federal Reserve System, the Federal Housing Administration, FNMA, and all similar agencies.

Among the institutions and agencies which would be required to conform to the act and police business and professional establishments are all banks, savings and loan associations, and other financial institutions served by the FDIC or the Federal Reserve System, the agencies administering GI, FHA, FNMA, SBA, and all other loans and programs involving Federal financial assistance. Withdrawal of protection or credit, foreclosure of loans, blacklisting, and similar sanctions may be expected.

### LABOR

To millions of working men and women, union membership is the most valuable asset they own. It is designed to insure job security and a rate of pay higher than they otherwise would receive. As none knows better than the union member, himself, these two benefits are dependent upon the system of seniority the unions have followed since their inception. Seniority is the base upon which unionism is founded. Without its system of seniority, a union would lose one of its greatest values to its members.

The provisions of this act grant the power to destroy union seniority. * * * With the full statutory powers granted by this bill, the extent of actions which would be taken to destroy the seniority system is unknown and unknowable.

To disturb this traditional practice is to destroy a vital part of unionism. Under the power granted in this bill, if a carpenters' hiring hall, say, had 20 men waiting call, the first 10 in seniority being white carpenters, the union could be forced to pass them over in favor of carpenters beneath them in seniority, but of the stipulated race. And if the union roster did not contain the names of the carpenters of the race needed to "racially balance" the job, the union agent must, then, go into the street and recruit members of the stipulated race in sufficient number to comply with Federal orders, else his local could be held in violation of Federal law.

Neither competence nor experience is the key for employment under this bill. Race is the principal, first, criterion.

Specific penalties are provided for violation of this bill (title VII). However, in addition, the President "is authorized to take such action as may be appropriate to prevent the committing or continuing of an unlawful employment practice" in connection with title VI of the bill (sec. 711 (b)). This, of course, amounts to practically unlimited authority. Unions held in violation of this bill may lose their rights and benefits under such labor statutes as the National Labor Relations Act, the Railway Labor Act, the Davis-Bacon Act, the Walsh-Healey Act, and other legislation beneficial to labor. Representation rights and exclusive bargaining privileges could be canceled and unions could be denied access to NLRB or National Mediation Board procedures.

Moreover, this bill affects unions from the other end, that of the employer, since the law applies to the employer, as well; it extends to railroads, motor carriers, airlines, and steamship companies handling mail or other Government shipments, enterprises receiving loans from the Small Business Administration, construction contractors financed through FHA or GI home loan insurance, the rural electrification program and practically all others (secs. 601, 602).

Consequently, however meticulous a local union may be as pertains to its racial practice, if a contractor, for example, has been adjudged guilty of discrimination and must, therefore, hire 100 or 1,000 workers of a given race—in preference to all others—before his job becomes "racially balanced," it means the local which supplies his labor can send him only union members of that particular race—and the members of other races will sit until that number has been employed. If the union does not have among its membership the number required, it must recruit membership of that race to supply the contractor's needs. This is a specific instance of the Federal Government interfering in the contract rights of unions and employers.

By threat of contract cancellation and blacklisting, contractors could be forced to actively recruit employees of a specified race and upgrade them into skilled classifications, although this would displace union members in the skilled trades. Where skilled tradesmen of the specified race were not available from union sources, the agency could direct that they be recruited from nonunion sources, notwithstanding existing union shop or exclusive referral agreements.

### INDIVIDUALS

Union members are not the only working people affected by this bill. All employees of private industry and apparently those under Federal civil service will be affected. Assume that a nonunion individual is employed by a corporation which has more than 20 people on its payroll (title VII), or is employed by a smaller corporation which has an SBA, FHA, or other federally supported loan or contract (title VI, sec. 711 (b)). Assume that his firm, in his job classification, historically has employed people only of his particular race, whatever that race may be. Assume that a demand is made that his firm abide by a Federal regulation requiring racial balance in his department. To comply—unless unneeded employees are to be hired—somebody has to go. Who?

* * *

### HOTELS

Places of public accommodations do not cater by custom to one race in preference to another solely from proprietary preference. People are in business to make money and in certain areas they have learned, or have reason to believe, it is more profitable to serve only one race or another. In other areas, proprietors have learned it is more profitable to serve all races, indiscriminately. A host follows the customs of his community else he suffers, economically.

To force him to abandon his practice, to run counter to prevailing opinion, is to injure his business and his property. He does not, and he cannot, set custom. He follows it or suffers.

Under the provisions of this bill, the proprietor's right to decide whom he will or will not serve, as that decision pertains to race, color, religion, or national origin, is stripped from him (title II). Moreover, if a customer proves objectionable, the owner can have him removed from his premises only at peril of being in violation of the race laws. For, under this act, the proprietor, if challenged, must prove he did not remove the objectionable customer because of his race, but because of some other reason. This is a perversion of the basic principles of our law. * * *

How can a restaurant operate successfully if its owner is not given freedom of choice in the selection of waiters, chefs, and cashiers? Although a restaurant serves, and advertises as its specialty, genuine southern dishes, under this bill the owner could not hire only Negro chefs if covered by sections 601, 602, or title VII. He could not, even though the success of his business depended on such chefs; even though his patronage was built upon the belief the food was being prepared by Negro chefs whose culinary art with "southern" specialties is world renowned. He could be forced instead to hire in a "racially balanced" manner—so long as the potential employee had a modicum of skill—else be in violation of law. And a modicum of skill, it need not be added, is insufficient to attract clientele to a restaurant whose reputation is built upon the culinary art of southern Negro chefs.

### THE PRESS

Race, as the first criterion of employment for newspapers, periodicals, radio and television, applies under this bill, as well as for other elements of our commerce. If a job applicant can write and there is an opening and if he is of the race called for to balance the makeup of the staff, that person must be employed in preference to someone of another race.

What such employment practices would do to the character of the newspaper or program is immediately apparent to those who earn their living in the world of mass media. Yet, that is the sense of this bill. The bill grants the power to make it mandatory that the staff of a newspaper be thoroughly integrated, racially and religiously, else the owners are in violation of Federal law.

If the owners of a television station prefer an announcer of a certain race to enunciate its commercials, it is denied that choice. Announcers, as well as commentators, actors, and supporting staff, must be racially balanced, despite the fact the use of members of a certain race may, demonstrably, cause diminished sales to both station and sponsor.

Even so, this destruction of the right of free choice, serious as it is, is not the most fearsome feature of this bill as it applies to the press.

Title II, section 203, says: "No person shall * * * incite or aid or abet any person to do any of the foregoing," i.e., deny or attempt to deny any person any right or privilege described in the title.

Read that language as you will, if this becomes the law it means that no editor could with impunity editorialize in opposition to its provisions.

If a citizen takes a position in direct opposition to some provision of this title and a newspaper writes an editorial in support of that position, indeed, urges others to take similar stands, is that newspaper inciting, or aiding, or abetting? It would seem so (sec. 203(a)(e)).

The fact of the matter is this: If a person stands in a public square or before a civic club and advocates that segregation is best for either race and urges that it be maintained—and his stand is editorially supported by a newspaper—both would be in violation of Federal law and both would be subject to fine and imprisonment (sec. 202, 203(a)(e)), if they continue to exercise freedom of speech and of the press. Under such a circumstance, what becomes of the right of free speech? Or freedom of the press? Of course, this violates all constitutional concepts.

### SCHOOLS

The proposed legislation ultimately would result in total Federal control of the education processes in the United States.

Under provisions of this bill, the President and his appointees in Federal agencies would have the right to dictate pupil assignments in local schools and to approve the faculties (secs. 601, 602, 711(b), title IV). The alternative would be the loss of all Federal aid (sec. 602). The child who is given lunch through Federal grant must also study under a federally approved faculty. This applies to every school, public or private, benefiting from programs involving Federal aid.

The power contained in this bill to cut off Federal funds is not merely a negative power. Those who have already accepted Federal funds can be compelled, in various instances, by foreclosure, injunction, and blacklisting, to meet the current Federal standard (secs. 601, 602, Executive Order No. 11063).

The bill gives the Attorney General the power to institute school integration suits, not only against individuals but against States and local governments as well (sec. 407). This action gives to one man a power which has never before existed; previously the Attorney General could only intervene in private suits. This new power needless to add, can affect the rights of local school boards where no parents or pupils have filed any suits. Under this power the defendants could be deprived of the right of trial by jury. In any contempt actions arising out of U.S. suits, local school officials would be tried by the very judge whose order was allegedly disobeyed.

### VETERANS

Title VI amends every act authorizing veterans benefits, veterans and civil service pensions, health and welfare programs, unemployment compensation, and social security benefits so as to subject them to the controls and sanctions provided in the bill such as "the termination of or refusal to grant or to continue assistance under such program" (sec. 602).

Question: How does this drastic legislation bring about these results?

Answer: In brief, the proposed bill now reported to the House by the committee does the following:

1. Amends every Federal statute setting up or appropriating money for any program or activity involving Federal financing by a mandatory requirement that every Federal department and agency "shall take action to effectuate" the purposes of the act (secs. 601–602). Persons with less than 25 employees are not excepted from this title of the bill. This makes available to the President and his chief law enforcement officer, the Attorney General, enormous and unlimited funds for sociological manipulation in the field of civil rights.

2. The various definitions contained in the bill, particularly titles II and VII, would extend "interstate commerce" so as to encompass substantially all intrastate commerce and thus bring under Federal control all phases of commerce, whether interstate or intrastate. Actions of any persons under color of local custom or usage, or which are encouraged, fostered, or required by any State or political subdivision thereof are classified as "State action" and subject to Federal control. This authority, if granted, would extend Federal control into the business and the home of almost every individual in the United States (secs. 201 to 202).

3. The reported bill creates an Equal Employment Opportunity Commission to police and control the hiring, discharge, and terms of compensation, conditions, and privileges of employment of all persons employed by any business or industry "affecting commerce" and which has 25 or more employees (title VII). The administration's original bill was much more limited, in that it applied only to employers involved in programs and activities financially assisted by the Federal Government. The Commission is to be supported by $2,500,000 for the first year and $10 million per year thereafter. The power granted by this title, if invoked, would destroy seniority in unions, corporate employment and apparently in civil service. Precedents destroying seniority have already has been set in limited fields by Executive orders and administrative regulations. The exception of employers who have less than 25 employees (the exception is fixed at 100 employees for the first year and 50 employees for the second year) does not apply to those participating in any program or activity receiving Federal financial assistance by way of grant, contract, or loan under title VI coupled with section 711(b).

4. The reported bill draws under Federal control inns, hotels, motels and other lodging houses, restaurants, cafeterias, lunchrooms, soda fountains, gasoline stations, motion picture houses, concert halls, theaters, sports arenas, stadiums, and other places of exhibition and entertainment. It also includes any other establishment located within the premises of a covered establishment or on the premises of which a covered establishment is located (title II). It destroys the right of owners of such establishments to serve whomsoever they please. If this action is proper, it should logically apply across the board. Hence the exception of lodging establishments actually occupied by the proprietor which contain not more than five rooms for rent is clearly included for political purposes. This constitutes one form of discrimination.

5. A combination of (a) conferring new powers upon the U.S. Commissioner of Education (title IV), (b) requiring action by every agency and department of the Federal Government administering activities or programs involving Federal financial assistance (title VI), and (c) granting unlimited authority to the President to take whatever action he deems to be appropriate concerning employment in such programs (sec. 711 (b)), results in the following: Public and private schools and colleges benefiting from any Federal financial programs are placed under Federal control in the handling of pupils and the selection of faculty members insofar as they relate to race, color, or national origin and desegregation or discrimination in connection therewith.

6. The bill is designed to divest from State authorities and invest in Federal authorities the determination of the qualification of voters in all Federal elections and many State elections (title I). It has been framed to include all State and local elections where any Federal election is held as a part thereof. It appears that this title would affect the election of State or local officials in 46 States ("The Book of the States, 1962–63" (pp. 23–25). These are Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

7. The power of the Attorney General to file suits in the name of or in behalf of the United States is broadened so that, if this bill is enacted, such suits could be filed by him affecting voting (under existing authority), "places of public accommodation" (sec. 204), all public facilities (sec. 301), education (sec. 407), and, apparently, all programs and activities assisted by Federal financing (sec. 711(b)).

8. The orderly and usual procedures in litigation in Federal courts are varied to place civil rights actions in a special preferred category (sec. 101(d), sec. 203, sec. 707, and title IX).

The most flagrant and dangerous departure from accepted rules of civil procedure is embodied in title IX. Under existing law, certain civil or criminal actions brought in the State courts may be removed to the Federal court in the district and divisions in which the action is pending. The law of removal provides that immediately upon the filing of a removal petition by the defendant and the posting of a minimum bond, the State court is divested of jurisdiction to proceed. No process of any kind can issue by the State court, no depositions can be taken, hearings scheduled or in process must be suspended and the State court is powerless to maintain the status quo. Title 28, section 1447(d) presently provides that an order of remand to the State court is "not reviewable on appeal or otherwise." This enables the State court upon remand by the Federal district court to promptly resume jurisdiction and proceed with the disposition of the case and the enforcement of its orders. Any Federal questions are reviewable by the Federal courts through regular channels.

Title IX would add to section 1447(d) the words, "except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise." Thus the jurisdiction of the State courts (in these cases alone) could be nullified for months by the simple filing of a petition to remove, followed by an adverse order of the U.S. district court, even though followed by an adverse judgment of the U.S. court of appeals upon the appeal. This seemingly simple amendment would permit the whim of the civil rights litigants (and none other) to destroy the efficacy of State courts. For all of the years past this right has been reserved to the U.S. district courts, on the motion to remand, and not to the litigant.

It should be noted that the administration bill contained references to "racial imbalance" in connection with desegregation in public education. The subcommittee proposal and the reported bill have omitted this reference. It appears that this action is a matter of "public relations" or semantics, devised to prevent the people of the United States from recognizing the bill's true intent and purpose. Ostensibly, the administration intends to rely upon its own construction of "discrimination" as including the lack of racial balance, as distinguished from a statutory reference to "racial imbalance." * * *

The method which the administration intends to employ to attain "racial balance" is illustrated by the standards proposed by the Secretary of Labor on October 25, 1963, pursuant to 29 U.S.C. 22, concerning union apprenticeship programs. These standards require, "The selection of apprentices on the basis of qualifications alone * * * unless the selections otherwise made would themselves demonstrate that there is equality of opportunity," and "The taking of whatever steps are necessary, in acting upon application lists developed prior to this time, to remove the effects of previous practices under which discriminatory patterns of employment may have resulted."

It will be noted that the word "discrimination" is nowhere defined in the bill.

Question. Is it political propaganda that this bill is "moderate" or "watered down" or is it as harsh and vicious as prior proposals?

Answer. We will compare in detail, title by title, the reported bill with the subcommittee proposal which was rejected as extreme and unacceptable. Before doing so, we will make a short comparison of the most radical departures in the reported bill from the earlier administration bills and the subcommittee proposal.

On February 28, 1962, the President transmitted his long-awaited civil rights message to the 88th Congress and on April 4 the chairman of this committee introduced the Civil Rights Act of 1963 as H.R. 5455 and 5456. The legislation thus recommended and introduced included only an extension of the life of the Commission on Civil Rights for 4 years, certain amendments of its duties and the unconstitutional provisions concerning voting later embodied in title I of H.R. 7152, including the temporary voting referee provision. This was the sum and total of the legislation recommended as necessary in the field of civil rights by the President. Every legal, constitutional, and public policy reason which may have existed for civil rights legislation on June 10 also existed on February 28 and April 4. Yet on June 19 President Kennedy transmitted another message to Congress on civil rights and on June 21 there was introduced H.R. 7152 as the administration bill embodying new radical and far-reaching proposals.

Later, even more radical, unconstitutional, and vicious proposals were added in this substitute proposed by Subcommittee No. 5. As the reported bill has been widely hailed as a moderate and watered-down bill, we summarize for the convenience of the House the most far-reaching provision thereof added to either H.R. 7152 as introduced or to the subcommittee proposal.

1. The reported bill changed the words "any election" in the subcommittee proposal back to the words "any Federal election" used in the administration bill wherever they appeared in title I. However, there was inserted a definition that "the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives" (sec. 101(c)). Hence, as detailed elsewhere herein, the reported bill is thus drafted to make the provisions of title I concerning voting applicable to election of State or county officials in 46 States.

2. There was added in the reported bill in section 101(d) the unprecedented provision that, "in any proceeding instituted in any district court of the United States under this section the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case." This did not appear in any previous version of the bill.

3. There was added in the reported bill section 202 which did not appear in any previous version of the bill. This section would make unlawful "discrimination or segregation of any kind on the ground of race, color, religion, or national origin" "at any establishment or place," if either purports to be required by any rule, order, etc., of any State or any agency or political subdivision thereof. This section is not limited to public places or facilities. As hereinafter pointed out, under the penal provisions of section 203, this amounts to an unconstitutional abridgement of freedom of speech, freedom of the press, and attempted Federal control of State and municipal judges and law-enforcement officers.

4. The reported bill brings forward the language inserted in the subcommittee proposal, making it the mandatory duty of every Federal department or agency to utilize the funds provided for Federal financial assistance in every program or activity to enforce civil rights requirements (sec. 602). Such mandatory requirement did not appear in the administration bill. The purported moderation of the section consisted chiefly of changing words describing such assistance from "by way of grant, contract, loan, insurance, guaranty, or otherwise" to the words "by way of grant, contract, or loan." As hereinafter pointed out, those signing this report have not been able to ascertain any program involving Federal insurance or guaranty that does not involve a contract. Hence this change appears to have little or no effect.

5. The reported bill is drawn to attempt to utilize the dual basis of interstate commerce and State action for its regulation of places of public accommodation and to classify such places as subject to governmental regulation, as was the subcommittee substitute (sec. 201). As detailed elsewhere in this report, as to State action, the words "authorization, permission, or license" have been changed to "custom or usage," and the words "compelled, encouraged, or sanctioned" by a State have been changed to "required, fostered, or encouraged" by action of a State. As to interstate commerce, the reported bill broadens some of the language attempting to make all commerce interstate commerce. There does not appear to be any moderation of this title, but a strengthening of its provisions, with the exception that its coverage has been narrowed to the named establishments and the catchall phrases of the subcommittee proposal have been omitted.

6. There has been added to the reported bill a provision as section 711(b) giving the President unlimited powers of enforcement concerning Federal financially assisted programs and activities in relation to the provisions of title VII, equal employment opportunity. This did not appear in the subcommittee proposal. The change from administrative procedures before a board within the Equal Employment Opportunity Commission to proceeding before a master in the Federal district courts is discussed elsewhere herein.

7. As hereinafter detailed, the powers of the Attorney General to file suits in the name of the United States within the scope of the various titles of the bill exceed the powers requested in the administration bill and, in a number of instances, are broadened beyond the subcommittee proposal, but title III of the subcommittee proposal, extending the right of filing of such suits far beyond the scope of the bill has been deleted.

8. There are brought forward into the reported bill from the subcommittee proposal numerous provisions attempting to nullify State administrative and court proceedings and giving preference in the Federal courts of civil rights litigants, as hereinafter detailed.

9. The effect of the bill upon public and private schools and colleges (title IV and title VI) has not been "moderated." It has been extended and harshened by the addition of section 711(b), giving the President unlimited powers.

Question. Is this bill constitutional?

Answer. The destruction of individual liberty and freedom of choice resulting from the almost limitless extension of Federal Government control over individuals and business, rather than being in support of the Bill of Rights, is directly contrary to the spirit and intent thereof.

Judge Learned Hand, in 1958, said in his "Oliver Wendell Holmes Lectures":

"The Bill of Rights is concerned only with the protection of the individual against the impact of Federal and State law."

Dean Roscoe Pound, dean emeritus of Harvard University School of Law, said in 1957 in his "The Development of Constitutional Guarantees of Liberty":

"Analytically the bills of rights are bills of liberties. They define circumstances and situations and occasions in which politically organized society will keep its hands off and permit free, spontaneous, individual activity; they guarantee that the agents and agencies of politically organized society will not do certain things otherwise than in certain ways."

In determining whether this bill should be adopted, it must be remembered that when legislation is enacted designed to benefit one segment or class of a society, the usual result is the destruction of coexisting rights of the remainder of that society.

If this bill is enacted, the basic and fundamental power of the States and the power of our local governments to regulate business and to govern the relation of individuals to each other will have been preempted.

In all the years Congress has pondered the equities of civil rights legislation, no committee has ever suggested for the Executive such totality of power as is embodied in this package of legislation. Grant it, and our fireball of liberty will spin into darkness, suffocate. For our Republic cannot live without breath and the breath of our Republic is personal liberty and personal responsibility.

E. E. Willis,
E. L. Forrester,
Wm. M. Tuck,
Robert T. Ashmore,
John Dowdy,
Basil L. Whitener,
*Members of Congress.*

## EXTENSION OF THE RENEGOTIATION ACT

Mr. CURTIS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CURTIS. Mr. Speaker, tomorrow we debate the extension of the Renegotiation Act, H.R. 10669. A recent article written by Russell A. Stuart, a member of the Renegotiation Board from 1956 until 1963, appeared in the Federal Accountant of March 1964 entitled "Renegotiation No Longer Needed." This is important material for the House to consider and I shall have occasion to refer to it in the debate. Accordingly, I ask unanimous consent to have it inserted at this point in the Record.

There is also a recent book published by Division of Research, Graduate School of Business Administration, Harvard University, in 1964, entitled "The Weapons Acquisition Process—Economic Incentives," by Frederic M. Scherer. This entire book is well worth reading but pages 252 to 266 discuss the impact of renegotiation. I ask unanimous consent that these 14 pages be reproduced in the Record at this point so that they, too, may be referred to during the debate tomorrow.

[From the Federal Accountant, March 1964]

### RENEGOTIATION NO LONGER NEEDED

(By Russell A. Stuart)

(Coverage of the Renegotiation Act expires under existing law on June 30, 1964, but on six previous occasions the life of this act was extended by last-minute action either shortly before or shortly after it was due to expire. Here in a forthright review of the achievements of the Board on which he recently served, the Honorable Russell A. Stuart concludes that renegotiation has long since served its purpose and should, like the English farthing, now be allowed to expire with grace)

Over the years the U.S. Government has become by far the largest single purchaser of American products and for more than 170 years of peace and war Government procurement has been the subject of active congressional interest. In 1792, the First Congress made the Treasury Department responsible for all Federal procurement but 6 years later the responsibility for purchasing military supplies was transferred to the War and Navy Departments, thereby establishing a policy which has continued unchanged until the present day. In 1809, the first Federal statute to require advertising for bids was enacted, providing in part:

"All purchases and contracts for supplies or services which are or may, according to law, be made by or under the direction of either the Secretary of the Treasury, the Secretary of War, or the Secretary of the Navy, shall be made either by open purchase, or by previously advertising for proposals respecting the same."

Because of prevailing world conditions, defense needs are largely responsible for the current phenomenally high volume of Federal procurement. Defense procurement, it seems, has always been difficult to manage effectively and often has been the target of congressional criticism. The sheer magnitude of defense procurement today makes control difficult and the highly complex nature of modern weapons accentuates the problems which confront those responsible for defense procurement, both in the Department of Defense and elsewhere.

### CONGRESSIONAL EFFORTS TO LIMIT PROFITS BY STATUTE

Efforts to limit profits by statute began in 1913 shortly after the 16th amendment to the Constitution of the United States empowered Congress to tax income, from whatever source derived, without apportionment among the several States. As this article is written with a sympathetic feeling for the taxpayer, reverence for the Government and a forbearant understanding of the contractor, the history of the Nation may be assumed to have started in 1913. Almost immediately thereafter the United States became embroiled in World War I bringing among other problems that of how to finance the war. Procurement in those years was priced by the simple formula of cost plus; percentage of cost, 10 percent then being a very popular fee. This type of contract allowed the contractor a profit based on a percentage of actual cost and it soon became obvious that these contracts gave contractors an incentive to maximize costs for in so doing they maximized their fees as well. Rising labor and material costs, and the ensuing wild scramble to load contract costs in the absence of price control, eventually prompted Congress to outlaw this uneconomic type of contract.

During the period from 1920 to 1940 the evolving concept of profit control crystallized in the form of the Vinson-Trammell Act of 1934 and the Merchant Marine Act of 1936, in which profit limitations were established at 12 percent for aircraft and 10 percent for ships. It was believed at the time that these acts would provide a workable basis for eliminating unwarranted profit on Government contracts but they failed in this objective even in peacetime. The acts remained in effect for 6½ years, to August 31, 1942, and for the entire period refunds on ships totaled only $7.5 million and on aircraft the magnificent sum of $70,000 was realized. A special Senate committee established to investigate the munitions industry concluded, after studying the first 2 years of operation under these acts, that the cost of administering them was excessive. It was felt that the accounting burden of auditing every voucher of every contract defeated the purpose of the acts and Congress therefore suspended them largely for this reason.

The suspension occurred 3 years after Hitler's troops had marched through the Polish corridor in October 1939, setting aflame the fires of World War II. At the outbreak of hostilities the Nation still had no workable system of profit control but on April 28, 1942, statutory "renegotiation" came into being as an entirely new method of combating the long unsolved problem. Renegotiation of war and defense contracts has since been in operation although for the relatively brief period of approximately 2½ years between 1945 and enactment of the 1948 act new contracts were not subject to renegotiation. In 1951 a superseding act, the Renegotiation Act of March 23, 1951, created for the first time a Renegotiation Board as an independent agency within the Federal Government. Subsequently the 1951 act has been extended six times, most recently through June 30, 1964.

### SCOPE AND PURPOSE OF RENEGOTIATION

Renegotiation is designed to recapture any excessive profits made on contracts with the Government. In the process of renegotiation an endeavor is made to determine what part, if any, of the profits realized from defense contracts and subcontracts is excessive. The renegotiation proceedings, which are relatively informal, are conducted in a manner intended not to be adversary in nature. They focus on a contractor's total receipts or accruals under all renegotiable contracts and subcontracts during an entire fiscal year and the Board's determination as to the existence and amount of any excessive profits is based on an application of judgment to such of the facts and circumstances of any individual case as come within the purview of six statutory factors:

"1. Reasonableness of costs and profits, with particular regard to volume of production, normal earnings and comparison of war and peacetime products.

"2. The net worth, with particular regard to the amount and source of public and private capital employed.

"3. Extent of risk assumed, including the risk incident to reasonable pricing policies.

"4. Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance.

"5. Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turnover.

"6. Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted."

Not all Government business is subject to renegotiation. The act as presently amended applies only to contracts with the Department of Defense, the Army, Navy, and Air Force, the Maritime Administration, the Federal Maritime Commission, the General Services Administration, the National Aeronautics and Space Administration and the Atomic Energy Commission. Each holder of a contract or a subcontract subject to the act who has renegotiable receipts or accruals in excess of $1 million in a fiscal year is required, within 4 months following the close of the fiscal year, to file with the Renegotiation Board a standard form contractor's report showing sales, costs, and profits. In this report sales and costs are required to be so divided that the profits on renegotiable business are segregated from profits on nonrenegotiable business.

In due time, the Board's accounting staff analyzes the data these reports contain and compares them with the corporation's published financial statements as a means of determining the propriety and accuracy of the profits acknowledged to be applicable to renegotiable business. Occasionally members of the staff examine a contractor's books and records to establish the accuracy and completeness of the data submitted to the Board. When affiliated groups are involved, the task of unraveling the various intercorporate relationships to establish the correct amount of renegotiable business, and revenues and costs allocable thereto, can be a rather time-consuming project. If it is concluded that excess profits exist, the contractor is invited to a conference at which an attempt is made to reach agreement on the amount to be refunded. In the event no agreement is reached, the Board makes a unilateral determination appealable to the Tax Court of the United States.

### ACHIEVEMENTS OVER THE YEARS

During and immediately following World War II, renegotiation recoveries approached almost unbelievable sums. In order to measure renegotiation benefits objectively, however, some common denominator is necessary and for this purpose "net cash recovered" seems most appropriate. Determinations of excessive profits are made before taxes but State and Federal taxes already paid reduce the amount so determined to a "net cash recovery" basis. Since passage of the Renegotiation Act of 1951, gross excessive profits determinations have amounted to about $900 million before deductions for State and Federal income and excess profits taxes—equivalent to a net recovery of $413 million after tax deductions. These recoveries were obtained at a cost of less than 15 percent of the net recovered and in themselves present a most impressive record of Board performance.

The annual reports of the Renegotiation Board have consistently included price reductions and voluntary refunds made by contractors in addition to the sums determined by the Board to be excessive profits. In the early days of renegotiation under the 1942 and 1943 acts, reductions and refunds might properly have been credited to the work of the Price Adjustment Boards but the Renegotiation Board itself is entitled to no such credit. During the period of the Board's operation price reductions have been directly identified with procurement and voluntary refunds have been insignificant.

A more revealing picture is provided by examining "net cash recoveries" under the 1951 act year by year in relation to cash expenditures on defense procurement:

[Dollar amounts in millions]

| Fiscal year | Net cash recovery [1] | Net defense procurement expenditures | Percentage |
|---|---|---|---|
| 1953 | $5.0 | $29,200 | 0.0171 |
| 1954 | 57.0 | 10,900 | .5229 |
| 1955 | 80.0 | 13,600 | .5882 |
| 1956 | 73.0 | 16,100 | .4534 |
| 1957 | 72.4 | 17,900 | .4045 |
| 1958 | 54.0 | 22,100 | .2443 |
| 1959 | 29.3 | 24,500 | .1196 |
| 1960 | 25.4 | 22,900 | .1109 |
| 1961 | 8.0 | 24,700 | .0323 |
| 1962 | 3.8 | 28,100 | .0132 |
| 1963 | 4.8 | 29,000 | .0166 |
| Total | $412.7 | $239,000 | .1726 |

[1] No allowance has been deducted for State income tax credits which further reduce, although but slightly, the net cash recovered. For convenience in computation, the Federal income tax credit is computed at 75 percent in the excess profits year 1953 and at 52 percent each year thereafter.

These comparisons graphically expose how insignificant the Board's efforts have become in recent years. Over the last 5 years the rate of recovery averaged less than six one-hundredths of 1 percent and in 1963 dropped to seventeen one-thousandths of 1 percent.

In all fairness it should be pointed out that these comparisons are not fully valid because the totals for procurement expenditures include two categories of expenditures which are not subject to renegotiation:

"1. Payments to contractors who receive less than the $1 million a year minimum which subjects them to renegotiation generally; and

"2. Payments for commercial articles and services which by statute are exempted from renegotiation proceedings."

Although these categories cannot be measured precisely, the nature of defense procurement is such that neither of them has any significant impact on the overall comparisons. Under the Renegotiation Act the exemption for commercial articles and services is self-executing with respect to articles and services meeting prescribed conditions. The Board did, however, grant $479 million of non-self-executory exemptions in fiscal year 1963 and $344.5 million in fiscal year 1962. These influences lessen to some degree the validity of the expressed relationships of net renegotiation recoveries to defense procurement expenditures but do not change the fact that in the broad perspective the Board's efforts fade into insignificance.

The Board's seventh and eighth annual reports, covering the years 1962 and 1963 respectively, indicate that the trend in refund determinations since 1953 has been influenced by a number of factors, some of which briefly are as follows:

"Emergency procurement buildup attributable to the Korean conflict, which was reflected in filings as late as 1958.

"Increased use since 1958 of cost-reimbursement contracts, which generally result in lower profits than other types of contracts.

"Higher statutory minimums for receipts subject to renegotiation—$25,000 to June 30, 1953; $500,000 to June 30, 1956; and $1 million since June 30, 1956.

"Legislative exemptions.

"Recessionary conditions prevailing during some of the later years."

Although there has been no recession in defense procurement spending, some of these factors possibly account in part for the precipitant decline in excessive profits determinations during the latter years. In view of the upward trend in defense expenditures, why the decline in excessive profits determinations? Is the Board at fault? No, because the Board has always applied itself diligently in administering the Renegotiation Act. Is it the fault of Congress in having created such an act and in later adopting amendments thereto which have tended to diminish its coverage? Again the answer is "No," because in these amendments Congress only reflects the will of the people as it interprets their will to be—it had itself little or no choice in adopting this legislation.

### IMPORTANCE OF "NONPRICE COMPETITION"

In the fiscal year which ended June 30, 1962, some two-thirds of all net defense procurement fell into the category of "nonprice competition." Defense procurement for the year totaled $28.1 billion, of which 64.4 percent consisted of:

| | *Percent* |
|---|---|
| Follow-on contracts with the same source after earlier design competition | 34. 6 |
| Single-source negotiated procurements attributed to lack of design specifications | 23. 3 |
| Contracts negotiated on the basis of design competition and follow-on with the same source after price competition | 6. 5 |
| Total procurement classified as nonprice competition | 64. 4 |

The remaining 35.6 percent represented procurement awarded under formal advertising and negotiated price competition—generally recognized to be the soundest methods of procurement. Recently the Department of Defense has been placing decidedly more emphasis on competitive procurement procedures and has announced that in 1965 it will endeavor to place 39.9 percent of all procurement under conditions of price competition. Even if this goal is achieved, and the very commendable progress made in this direction indicates that it may, 60 percent of all procurement still will be noncompetitive insofar as price is concerned. Obviously a reduction from 64.4 percent to 60 percent over the 3-year period is a progression in the desired direction, but will price competition ever win the race against nonprice competition? Rapidly changing weapons system concepts and the forces influencing them do not seem conducive to any such realization in the foreseeable future.

Shoes, shirts, pants, and the general run of what are commonly known as quartermaster items, standard commercial items, and some parts, subassemblies and subsystems can always be acquired on the basis of competitive bidding. But complex space and missile systems which require tooling expenditures to produce even a prototype fall into quite a different category—there is neither enough time nor enough money to build competitive prototypes and test them in competition domestically. The competition that counts is provided by foreign adversaries who are not likely to slumber while the Department of Defense equivocates.

Steps have been taken to protect the public interest in instances where competitive bidding is not feasible. In this respect the armed services procurement regulation recognizes 17 exceptions to the general rule that procurement must be placed on a fully competitive basis by formal advertising. Ten of these exceptions require that a written determination of finding be made at the Assistant Secretary of Defense level and that a copy of the determination be filed with the General Accounting Office. In fiscal year 1963 written determinations of this type covered 94 percent of all contracts awarded on a sole-source basis. It would thus seem that there are many instances in which the precise rules of formal advertising are not practicable.

Public Law 87–653 dated September 10, 1962, requires contractors to certify in writing that the cost data they have supplied are the most current, complete, and correct data available. This law further requires that a contractor agree to accept an appropriate downward adjustment of the contract price in the event the cost information be compiled and supplied was inaccurate, incomplete, or not current. It can be assumed that these provisions are being followed; if not, the Comptroller General can be relied upon to expose the laxity.

### COSTS, NOT PROFITS, THE REAL PROGRAM

What basically is wrong with renegotiation is the fact that it does not get down to the real problem—cost. Price is made up of cost plus a profit, and where profit is 10 percent of the price, cost is 90 percent. Since costs always form by far the largest part of price, the cost area is where limitations are most needed. When costs are adequately controlled, profits become a minor probelm.

The Renegotiation Board has no effective means of determining what costs should be nor is it feasible by legislation to give the Board this responsibility without duplicating functions already assigned to the Department of Defense. To be sure, the Board in making a determination has the authority—indeed the obligation—in any given case either to disallow costs which appear unreasonably high or to regard costs as high by factor evaluation. But this is not adduced by a process of compiling fact upon fact; it is determined by comparisons the reliability of which are at times questionable.

If, as many now recognize, the problem is one of costs it can only be solved by more efficient procurement management. Last year the Senate Committee on Appropriations admonished the Department of Defense in 1963 to tighten its supervision over cost control activities. The Senate committee was placing the responsibility where it properly belongs. When more than 60 percent of all procurement is negotiated, the most effective point at which costs can be hammered down is on the anvil of negotiation for this clearly is a procurement responsibility. Again when follow-on contracts are let, procurement personnel sit at the vantage point where they have the only real opportunity to secure the ever lower prices inherent in continued production.

Closer cost surveillance by the Department of Defense means of course that contractors will be compelled "to live" in a more intensified relationship with this agency. They are not likely to rebel over such an arrangement, however, because defense business is for them such good business.

### INCENTIVE CONTRACTING

Recently the Defense Department has been endeavoring to cut back on the use of cost-plus-fixed-fee contracts which in the preceding decade had swelled from 15 percent to over 40 percent of all defense procurement. As the cycle unfolded procurement authorities became increasingly apprehensive that costs were getting out of hand under many cost-plus-fixed-fee contracts and proposed the use of incentive contracts whereby contractors share in cost savings and in quality and performance evaluations of the systems under construction. Incentive contracting goes back at least to 1907 [1] and has been in continuous use in defense procurement for some 20 or more years. Until recently, however, it has not been highly regarded because of its one major weakness, the target estimate in any given case. Substantial doubt as to the reliability of costs in the trial period and an inability to conduct prompt audits unfortunately tinged the incentive contract with suspicion [2] until a 1962 amendment to the Armed Services Procurement Act made contractors legally responsible for furnishing accurate cost data. With the advent of this safeguard, the incentive form of contract has been completely legitimatized and is now highly favored throughout the Department of Defense.

In a bold stroke, Defense Secretary McNamara caused more than $1 billion in cost-plus-fixed-fee contracts to be converted during fiscal year 1962 into various types of incentive contracts. A possible saving of as much as $100 million has been attributed to his decisive action in this area. There remains, however, a major administrative task because incentive contracts tend to be rather complex.

As used in defense procurement, incentives may relate to weapons system performance, time of completion and costs, and all three are often combined in one contract. Whenever incentive features are included in a contract, somebody must keep the performance score. Defense officials are well aware of the importance of scorekeeping and early last year inaugurated a new standardized system of recording contractor performance every 6 months, with appropriate provision for keeping these records current. According to authoritative reports, this system is being applied to all prime contractors and will make pertinent data on performance available for immediate reference.

### INCENTIVE PROVISIONS AND RENEGOTIATION

The fact that most incentive contracts are expected to run for 2 to 3 years [3] interjects still another complication into the renegotiation process. Obviously no weapons system can be evaluated until it is a reality, but renegotiation is required to be on a fiscal year basis. The Renegotiation Board cannot very logically renegotiate profits that are not yet to be determined by events that have not yet occurred.

Since long-term incentive contracts cannot be renegotiated on the fiscal year basis prescribed in the Renegotiation Act, it may be necessary to resort to some special accounting agreement providing for renegotiation on a completed-contract or percentage-of-completion basis. This alternative is not compatible with the Board's responsibility to evaluate other types of contracts within the specified fiscal year. Although the Renegotiation Board normally evaluates on a fiscal year basis and is required to look separately at cost- and incentive-type contracts, it is charged by statute with making an overall determination based on the total contract mix.

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[1] Irving Kalikow in an article in the March 1963 issue of "The Federal Accountant" noted that the War Department in 1907 included an incentive factor in its contract with the Wright Bros. The contractors were to receive a 10 percent bonus for each mile the plane, the subject of the contract, would fly in excess of 40 miles per hour. A similar penalty was applicable for each mile under the target. The plane flew 42.25 miles per hour and the Wright Bros. received a $5,000 bonus.

[2] For a more complete analysis of this subject see Lloyd, Glen A. "Pricing in War Contracts." Law and Contemporary Problems, School of Law, Duke University, 10 (autumn 1943).

[3] In the May 4, 1963, issue of the Saturday Evening Post, Gen. Thomas D. White, retired Air Force Chief of Staff, in his article, "The Defense Intellectuals," says with respect to modern weapons, "the time from concept until they are operational runs from 5 to 10 years."

Difficult as this problem may be, there is another even more troublesome. Stated bluntly, the Renegotiation Board is in no position to evaluate contractor performance in the manner required by incentive provisions. It has not now and never can be expected to have means of monitoring weapons systems performance. The procuring organization is the only group possibly qualified to pass expert judgment on a system in determining whether a given contractor shall be penalized or rewarded. The Renegotiation Board is not qualified to do this and should not be called upon to do this.

The formidable magnitude of this problem is indicated by the fact that all major contractors in the United States are involved. Of the 100 leading contractors in the United States, at least 90 percent hold prime weapon systems contract. Other contractors in the medium-sized range hold about 10 percent of all prime contracts. The contract surveillance required in these cases is so highly specialized that only the Department of Defense itself has the proper resources to undertake this function. Fortunately that Department is aware of these responsibilities and has proceeded to carry them out in a most commendable manner.

### SUBCONTRACTOR CONSIDERATIONS

In the aggregate prime contractors expend about 50 percent of their gross contract receipts with subcontractors, including suppliers of subsystems, subassemblies, parts and services. These subcontractors may be divided generally by size into three classifications:

Large prime contractors who serve also as subcontractors.

Medium-sized contractors.

Small contractors.

Some of the 100 large prime contractors, such as General Motors, General Electric and a number of the airframe companies, crisscross as subcontractors on such items as propulsion units and subassemblies for prime contract installation in planes or missiles. Provision already exists for measuring their performance because as weapons system prime contractors they are "on the performance list" for which the modus operandi recently was established in the Department of Defense.

The last classification, the small companies typified as "small business," presents no great problem for, while in the aggregate the amount expended with them is several billion dollars annually, slightly over half of all manufacturing firms in the United States fit this definition and it is at this level that competition is keenest. The likelihood of overpricing among these companies is relatively remote except in isolated cases for limited periods.

It is the medium-sized subcontractor which presents the most difficult problem in cost surveillance. If renegotiation were abandoned, the prime contractors would have to become more diligent in dealing with these firms. But the problem here needs a finer focus: the 10 percent of companies in this intermediate zone, previously referred to as weapons system prime contractors, are already "on the performance list." In the lower range of this medium-size group at least 10 percent of the companies will be influenced by the competitive characteristics which govern the small business segment.

The subcontracting problem can thus be reduced to the middle band of the medium-sized group. With the close costing practices now being implemented, closer supervision will penetrate from the prime contractor down to the low-tier subcontractor. The awards on penalties on incentive contracts are handed out on the basis of cost savings and performance and no prime contractor can afford to play ostrich when the pendulum can swing either way—to provide a bonus or a penalty.[4]

### RENEGOTIATION COSTS

Proponents of renegotiation are fond of stating that renegotiation activities have cost the Government nothing. They point out that even in the lowest recovery year the Board's activities yielded a net cash return of $3.8 million at an operating cost of $2.5 million, representing more than $1 million gain—even today not to be dismissed lightly. But thinking along this line completely obscures the fact that renegotiation is not an effective "process" for limiting profits. As the late Aldous Huxley once said, "Facts do not cease to exist because they are ignored."

The harassment to which contractors are subjected by renegotiation is a hidden but very real part of the cost of securing what frankly must be rated as an extremely low yield. Last year, of the 4,608 above-minimum returns screened by the Renegotiation Board, 86.4 percent were determined at headquarters to reflect no excessive profits. Of 3,618 filings for 1962, 89 percent were disposed of at headquarters without assignment to a regional board; for 1961, 75 percent; and for 1960, 73 percent. After all this paper work, only 48 determinations of excessive profits were made in 1963 and 41 in 1962. Thus a mere one percent of all contractors who filed in these years were found to have made excessive profits.

If there were no alternative to the Renegotiation Board, everybody interested in economy in Government should campaign for a stay of execution; fortunately, the Department of Defense is well able to control the profits of contractors effectively through procurement management. Secretary McNamara and his civilian and military staff have brought to the fore new techniques in procurement which make completely obsolete concepts long since proved ineffectual in profit limitation. It is sincerely hoped that Congress in its wisdom will adopt a forward look regarding this neglected problem by accrediting to the Department of Defense full authority to manage its own procurement, in awareness that costs come before profits and that control must be administered at the source to be effective.

Now is the time to eliminate forever that persistent ghost which has so often haunted those who have participated in the renegotiation arena—namely, will the Board's judgment be unfair to the efficient producer? A typical case could be the contractor who manufactured and sold to the Government an article for $950 per unit at a profit of 25 percent, while another contractor produced the identical article and sold it to the Government for $1,000 per unit at a profit of 10 percent. The chances are that the price of the $1,000 unit would not be reduced through renegotiation, while in all probability the first contractor would be subjected to a further reduction of the $950 price by a determination of excessive profits—the result of his efficiency.

### LIKE THE ENGLISH FARTHING, NO LONGER NEEDED

Renegotiation of war and defense contracts has for more than two decades contributed substantially not only to the coffers of the U.S. Treasury but to the development of better methods of procurement. It has performed its task; its service is worthy of recognition. But better methods of procuring defense requirements at the lowest feasible cost have been developed and the passing of the obsolete should provide no cause for regret. Improvements on the other hand should be, and are, welcomed.

One of the coins of the British realm was the farthing, which represented one quarter of a penny. After approximately 200 years, coinage of the farthing was recently discontinued because it had no practical value in the world of today. And so it is with renegotiation and the specious arguments advanced on its behalf. Far, far better for all concerned to permit renegotiation honorably to take its place by the outdated farthing, to be revered only in the afterglow.

### The Impact of Renegotiation

Another potential constraint on profit realizations is the group of profit limitation and renegotiation laws covering defense contracting. The Vinson-Trammell Act provisions applicable to aircraft production require that contractors refund any profit exceeding 12 percent of the price of all contracts completed during a taxable year.[1] However, contractors covered by the Renegotiation Act are exempted from Vinson-Trammell Act coverage and, therefore, we shall focus on the impact of renegotiation here.[2]

The compulsion for, enactment of, and administration of the various excess profit laws have a long and stormy history.[3] Renegotiation in particular, enacted originally in 1942 and periodically revised and extended since then, has been a subject of almost continual controversy.[4] As Professor Miller has observed:

"The net effect of renegotiation upon procurement is perhaps more hotly debated than any other aspect of the procurement policies pursued during World War II."[5]

In more recent years the debate has subsided little. Indeed, there is an extensive literature on renegotiation, and here no attempt will be made to cover in detail issues already fully explored by other authors.[6] Rather, in this section I shall merely define the basic issue of renegotiation's impact upon automatic contractual incentives, summarize the principal positions found in the literature, and add the insights provided by our case studies.

The principal objective of renegotiation is to eliminate excessive profits on defense

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[4] As this article goes to press Air Force procurement officers are advised in late revisions of Air Force Procurement Instructions, paragraph 1054.206, that basic responsibility for subcontractor pricing rests with the prime contractor.

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[1] 10 U.S.C. 2382. Procurements of scientific equipment for communications, target detection, navigation, and fire control are exempted if designated for exemption by the appropriate service Secretary. For naval vessels, the profit limitation is 10 percent. 10 U.S.C. 7300. The Vinson-Trammell Act was originally passed in 1934 (48 Stat. 505, 3) and has been amended periodically.

[2] All firms whose defense and space sales exceed $1 million in a given year are subjected to renegotiation.

[3] For a most interesting history dating back to the French and Indian War, see Richards C. Osborn, "Background and Evolution of the Renegotiation Concept," Procurement and Profit Renegotiation, edition, J. Fred Weston (San Francisco: Wadsworth, 1960), pp. 13–42. A 20th century legislative history is found in J. P. Miller, "Pricing of Military Procurements," pp. 162–174 and 236–239.

[4] The currently applicable statute is the Renegotiation Act of 1951, as extended and amended, 50 U.S.C. Appendix sections 1211–33.

[5] Ibid., p. 179.

[6] See, for example, Miller, "Pricing of Military Procurements," the collection of papers in Weston (ed.) "Procurement and Profit Renegotiation," and the periodic hearings on renegotiation of the House Committee on Ways and Means and the Senate Committee on Finance, which have responsibility for initiating extension of the act.

contracts.[7] The administrative mechanism for accomplishing this objective is after-the-fact review of contractors' defense activities on an annual total (as opposed to contract-by-contract) basis to determine if profits have been excessive. Obviously, the interpretation given the word "excessive" is of crucial importance. On this point the Renegotiation Act provides several general criteria:

"In determining excessive profits favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in use of materials, facilities, and manpower; and in addition, there shall be taken into consideration the following factors:

"1. Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;

"2. The net worth, with particular regard to the amount and source of public and private capital employed;

"3. Extent of risk assumed, including the risk incident to reasonable pricing policies;

"4. Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

"5. Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turnover;

"6. Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the board from time to time as adopted."[8]

In brief, the Renegotiation Board presumably considers efficiency, reasonableness, financial structure, risk, contribution to the defense effort, and character of the contractor's business in ruling on profits.

### RENEGOTIATION AND INCENTIVES FOR EFFICIENCY

The principal objective of automatic contractual incentives is to encourage cost control and cost reduction, assuming that optimal time-quality-cost tradeoffs are also secured. This purpose is paralleled in the Renegotiation Board's efficiency criterion. However, there are two situations in which renegotiation might impair incentives for efficiency:

"1. When the efficiency criterion is administered ineptly in renegotiation; that is, if good performance is not consistently rewarded with relatively high allowed profits and poor performance penalized by relatively low allowed profits.

"2. When the several criteria unrelated to efficiency swamp the efficiency criterion, limiting the extent to which profit can vary to correlate with efficiency variations."

Professor Miller's analysis of the World War II experience indicates that for both of these reasons renegotiation did not provide a positive incentive for efficiency, and may in fact have impaired the working of other incentives:

"The theory of renegotiation was that allowable profits should be determined in such a way as to reward the contractor who in the light of all circumstances controlled his costs well and sought to use labor and materials efficiently. For greater efficiency the contractor was to receive greater reward in dollar terms. It has been widely alleged, however, that renegotiation far from rewarding efficiency placed a premium on the incurring of high costs. It has been pointed out that renegotiators were often not in a position to distinguish effectively between an efficient and an inefficient firm because of the absence of adequate tests of relative efficiency. Moreover, it is quite widely believed that the range of allowable profits in terms of which the boards operated was too narrow to allow for significant variations in rewards. There is a general belief that once the pattern of allowable profits had been established, a contractor could expect about the same rate of profit on costs in subsequent years that he had been allowed in his initial renegotiation. Consequently it was argued that far from being rewarded for efforts at cost reduction the contractor had a positive incentive not to reduce his costs any more than necessary."[9]

He concluded that:

"It is extremely difficult to negotiate contracts with appropriate incentives to efficient production so long as there is in the background a scheme for recouping excessive profits such as renegotiation. This difficulty remains and becomes intensified in peacetime when patriotic motives for efficiency are inevitably weaker. The extension of renegotiation to peacetime operations threatens to weaken the incentives to efficient production."[10]

More recently, the defense industry has presented a united front for repeal or at least amendment of the Renegotiation Act, arguing that it nullifies the incentive effects of fixed-price-type contracts.[11] Industry briefs alleged that renegotiation has often eliminated all or most of the incentive profits realized by weapons makers.[12] From this an Aircraft (now Aerospace) Industries Association statement concluded:

"This treatment by the Renegotiation Board removes the contractor's incentive to strive for the very cost reductions for which the procuring agency provided the incentive. Thus, the now obsolete Renegotiation Act acts as a dead hand on the incentive to reduce costs."[13]

A Machinery and Allied Products Institute brief argued:

"The fact is that the mere existence of the renegotiation process is a built-in drag on, and a disincentive to, increased efficiency in defense production. Faced with the certainty that profits beyond some point, the determination of which surpasseth all understanding, will be extracted from him in the laborious, painful, and costly process of renegotiation, a defense contractor has no substantial incentive to strive for superior performance. Indeed, he may reasonably feel that special efforts which result in reduced costs and increased profits will do little more than increase the refund to the Government."[14]

Another industry group, recommending that the Renegotiation Act be amended to exclude incentive-type contracts, stated:

"The uncertainty of renegotiation must be eliminated before defense contractors can appropriately accept and effectively use the incentive philosophy. At the present time many defense contractors are not interested in accepting an incentive-type contract. The Defense Establishment has in most cases the power under the present economic and cold-war status to force the incentive-type contract upon its vendors. This, however, does not accomplish the objective. Cost reductions do not come easy. They are not, as some have said, just windfalls. They are the result of hard work, concentrated planning and the exploitation of ingenuity. Many defense contractors might not go to this trouble, whether they have an incentive-type contract or not, if there is any question as to whether they can retain the results of their efforts."[15]

Perhaps the most ardent critic of renegotiation during the late 1950's has been William M. Allen, president of the Boeing Co., who stated in one of his many appearances before a congressional committee:

"Now when we get an incentive contract we go to our supervisors, and we say we have this contract, this is the target. Here is an opportunity to save the Government money and to make some for ourselves in additional earnings. We have an incentive plan in our company which is shared in by all supervisors. This last year 8,000 supervisors shared in it. Now, when I say that to my people, and I have had this experience, I have had a foreman raise his hand and say, 'But having done this what about those boys that second-guess us?'

"There is not any answer to that. That is an example of how to kill incentive in industry and in defense industry. The Renegotiation Act is not being administered in accordance with its intention. No one, certainly I do not, wants to earn earnings beyond what are reasonable and proper. But this matter of incentive is all important, and I only cite it as an example. We must have it. We must have that incentive. We must preserve competition. That is the American way. And it is not being done."[16]

The former chairman of the Renegotiation Board responded to these industry criticisms as follows:

"It may sometimes happen that a determination of excessive profits by the Board either approximates or exceeds the amount of the contractor's incentive profits. Apparently the (Aircraft Industries) association believes it useful, as a forensic expedient, to charge that in any such cases the Board has taken away the entire amount of the contractor's incentive profits. This is a snare and a delusion. Incentive profits as such are not eliminated. The Board does not, and indeed could not consistently with the act, isolate profits resulting from the operation of contract incentive provisions and consider such profits separately and apart from the target profits realized on such contracts. The Board's determination is based upon an evaluation of the contractor's entire profits under incentive contracts during the fiscal year, not just the profits realized under the incentive formula, and upon a review of profits from all other renegotiable business performed by the contractor under other types of contracts. Indeed, in more than one case, excessive profits realized under incentive-type contracts have been offset in the Board's determination by deficient profits realized in other segments of the contractor's business. One must not be misled by any numerical similarity between incentive profits and excessive profits; if it exists, it is purely coincidental."[17]

### THE INCREMENTAL NATURE OF INCENTIVE PROFITS

Nevertheless, the industry spokesmen appear to have the sounder case, at least in terms of the reward theory of automatic contractual incentives. Whether or not the specific profits eliminated in renegotiation were so-called incentive profits is essentially irrelevant. The evidence available on renegotiation actions of the 1950's suggests strongly that more weight was placed on criteria such as overall reasonableness of profits and return on investment than on the efficiency criterion; the efficiency criterion tended to be swamped by other considerations. The amount of profit variation permitted in renegotiation to reflect efficiency differences was at best small, and the emphasis placed upon criteria other than efficiency tended to place a rough ceiling on company profits. To a contractor, incentive profits are incremental profits, since they are contingent upon reducing actual costs once contract pricing provisions have been negotiated. They need not be secured, and they will not be secured unless discretionary cost reduction efforts are deemed worthwhile. When contractor management in fact believes that any incremental profits beyond a certain total amount or rate cannot be retained after renegotiation, those profits will have little lure, and there will be little or no automatic contractual incentive for the incremental cost reductions potentially associated with them.

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[7] 50 U.S.C. appendix sec. 1211.

[8] 50 U.S.C. appendix sec. 1213(e).

[9] "Pricing of Military Procurements," pp. 181–182.

[10] Ibid., p. 238.

[11] It is curious that the attack on renegotiation of the late 1950's and early 1960's has emphasized the impact on fixed-price incentive contracts even though, as we have seen in ch. 6, such contracts provide weaker profit-cost correlations than firm fixed-price contracts.

[12] House, Committee on Ways and Means, "Hearings, Extension of the Renegotiation Act" (1958), pp. 79–80.

[13] Ibid., p. 81.

[14] Ibid., p. 130.

[15] National Security Industrial Association, Report of Task Group 8, "New Approaches to Contracting," Report of Cost Reduction Study (June 15, 1962), p. 168.

[16] Senate, Committee on Armed Services, "Hearings, Inquiry Into Satellite and Missile Programs" (1958), pp. 1262–1263.

[17] Statement of Thomas Coggeshall in "Hearings, Extension of the Renegotiation Act" (1958), p. 167.

This notion may be illustrated by a hypothetical example. Let us assume that on the basis of net worth, volume of sales, character of sales, past precedents, and other considerations, the Renegotiation Board believes that Alpha Co. profits on the order of $10 million are reasonable. Efficiency is also considered by the Board, but it is given less weight than the combination of other factors, so that a variation of $2 million to reflect efficiency will be permitted. That is, profits of $11 million will be allowed if the firm performs very efficiently, while profits of $9 million will be allowed in the event of poor performance. Assume further than in a given year, Alpha Co. has contracts which will yield total profits of $11 million if target costs are just met and $13 million if a 10-percent average underrun is achieved.[18] Even if it attains a sufficiently high level of efficiency to achieve the 10-percent underrun, Alpha can expect to retain none of the $2 million in incremental incentive profits, and so those profits must have zero utility to the company. Obviously, incremental profits for even larger underruns would also have no net value to Alpha. At best, the firm can expect to receive more favorable consideration in the Renegotiation Board's determination of where in the $9–$11 million range its profits should lie.

Of course, recognition by contractors that they must be efficient to gain favorable treatment in renegotiation could create an incentive for efficiency partly offsetting the automatic contractual incentives eliminated through renegotiation. But the effectiveness of this substitute incentive depends upon the renegotiation Board's ability to convince contractors that it can make valid efficiency judgments—a problem to be considered further in a moment.

In a recent key decision on the reasonability of refunds required by the Renegotiation Board, the U.S. Tax Court handed down a dictum which suggests a failure to understand that automatic contractual incentives operate on an incremental basis:

"Simple arithmetic demonstrates that the 8-percent profit factor (on total costs) is of more importance dollarwise than the 20-percent factor (on underruns and overruns) until cost underruns approach 40 percent at which point the two factors take on equal weight. It is only at this point, which we think is unrealistic, where real incentive to produce at low cost begins to exist under such contracts."[19]

In other words, the court argued that only when the amount of profit obtained through the contractor's 20-percent share of underruns became as large absolutely as the original target profit (8 percent of target cost) did incentives for efficiency take effect. But such reasoning, emphasizing the absolute amount of profit awarded in the target and incentive categories, completely overlooks the basic reward theory of automatic contractual incentives; continuous correlation of increments of profit with increments of cost reduction.

### COST PADDING AND INEFFICIENCY

Still the possibility remains that underruns yielding so-called incentive profits may actually be due to the negotiation of pessimistic cost targets instead of increased efficiency, and in this respect the Renegotiation Board's actions are at least partially vindicated by good intentions, if not good theory. The Board has tried to distinguish between profits gained at the bargaining table and profits gained through efficiency measures. In 1958 it amended its regulations to include the following profit determination criterion:

"1. The Board will take into consideration the extent to which any differences between estimated costs (target costs) and actual costs are the result of the efficiency of the contractor.

"2. The contractor may furnish, or the Board may require the contractor to furnish:

"(a) A breakdown of the estimated costs;

"(b) A corresponding breakdown of its actual costs; and

"(c) The reasons for any variances between such breakdowns with particular reference to whether such variances are attributable to the performance of the contractor or to other causes."[20]

There are, however, two problems in implementing this regulation. First, underruns may be caused not only by efficiency or deliberate cost padding, but also by good luck on cost factors which at the outset of a production effort could be predicted only within a range of uncertainty. As we have seen, on fixed-price incentive contracts actual cost outcomes have tended to be normally distributed around the mean outcome, with standard deviation of roughly 10 percentage points. The Renegotiation Board is clearly justified in recouping profits gained due to a persistent underrun bias in the mean outcome. But outcomes which by chance are more favorable than the mean will also give rise to incentive profits not justifiable on strict efficiency grounds, and such profits are subject to recapture by the Renegotiation Board. On the other hand, outcomes which by chance prove less favorable than the mean bring about profit reductions which, unless favorable and unfavorable outcomes cancel out within a single fiscal year, will simply be ignored in renegotiation, pulling down the contractor's long-run average profit rate. For the Renegotiation Board to recoup profits gained purely by chance, but to ignore low-profit outcomes due to chance, is plainly inequitable. But more important, such a practice is likely to discourage the acceptance of contracts with strong profit-cost correlations. By consistently accepting high sharing proportions a contractor has much to lose and little to gain if random overruns lead to low profits or losses while random underruns yield profits which tend to be recouped.[21]

Second, it is questionable whether the Renegotiation Board is able to make discerning efficiency judgments. Appointments to the headquarters board, which rules on the most important cases, are made on a political basis. Board members sometimes have no prior experience with the weapons acquisition process and as a rule no technical competence.[22] Although normally the specific considerations underlying Renegotiation Board determinations are not released, it was possible to learn the Board's evaluation of prime contractor performance in one program covered by our program evaluation experiment.[23] The Board considered the principal contractor's performance in that program as a favorable factor, deserving of enhanced profits. And yet the program received the lowest contractor performance ranking of the eight programs in our evaluation sample. Even modest familiarity with the program in question would have revealed that it was inefficiently conducted. Likewise, the Board's efficiency judgments in renegotiating North American Aviation profits for 1953 and 1954 were sharply criticized by the U.S. Tax Court in an appellate decision:

"Respondent [the Board] argues that in the performance of most of its major contracts petitioner was inefficient in its operations; that the quality of its products was deficient; that it failed to reduce costs and was not economical in the use of materials, facilities, and manpower.

"The evidence of record is overwhelmingly to the contrary. It shows that in each of these categories petitioner was at or near the top of the aircraft industry.

"[The] Deputy Director of Procurement and Production of the Air Force—testified that "North American's efficiency, both as to cost to produce and initial technical design far surpassed any other manufacturer."

"Respondent contends that the airplanes built by petitioner, particularly models F–86D and F–86F, which were produced in large quantities, the F–100, and some of the other Air Force and Navy models, were of inferior quality. The evidence as a whole refutes this contention. All of these airplanes admittedly fell short of perfection—and all of the witnesses agreed that no perfect airplane has ever been built—but they were the best of their types produced up to that time."[24]

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[18] These figures are chosen to reflect the average experience with renegotiation in fiscal years 1956 through 1960, when refunds ran between 13 and 16 percent of renegotiable profits for those firms which paid any refunds at all. Thus, a 15-percent refund on profits of $13 million would leave the company with slightly more than $11 million—a profit level considered by the Renegotiation Board to be proper for efficient operations in this example. The incentive profit figures assume operation under fixed-price incentive contracts (17 percent contractor sharing) with a target cost of roughly $120 million and a target profit rate of about 9.2 percent.

[19] "In the Matter of Boeing Airplane Co.", 37 U.S. Tax Court Reports 613, 649 (January 10, 1962). Appeals to clarify the decision on this point were denied.

[20] U.S. Renegotiation Board, Regulations, 1460.9.

[21] Deviations from targets due to technological uncertainty have been emphasized here because the equities are clear cut. However, as the mathematical appendix to this chapter shows, recouping profits gained through the contractor's good luck at the bargaining table may also discourage the acceptance of high sharing proportions. And if bargaining advantage in the target-setting process is randomly distributed in the long run, one might argue that it is inequitable to recoup any profits but those gained through an average underrun bias.

[22] The backgrounds of the first four Kennedy administration appointees are as follows: Herschel C. Loveless was former Governor of Iowa. Thomas D'Alesandro, Jr., was former mayor of Baltimore. William M. Burkhalter was a lawyer specializing in Government contract law and securities law. Jack Beaty was associated with a food and drug brokerage firm since 1942.

[23] Cf. Chapter 4 supra.

[24] "In the Matter of North American Aviation, Inc.," 39 T.C. No. 19 (Oct. 25, 1962).

Although this is meager evidence, it certainly raises doubts about the Board's ability to make "efficiency" evaluations.

Apparently this deficiency has been recognized by the Board. In 1961 and 1962 arrangements were worked out to build up data on contractor efficiency in procurement agency contract files and to provide the Board with "more precise and discriminating reports than heretofore furnished" for use in evaluating contractor performance.[25] When conflicting opinions or self-serving procurement agency briefs are presented, however, the Board will probably be in no position to make sound independent judgments.

### CASE STUDY EVIDENCE ON RENEGOTIATION'S EFFECTS

Thus far the question of renegotiation's impact on contractual incentives has been examined mainly on the basis of published statements and theoretical considerations. The evidence provided by our case histories contrasts sharply with what the declarations of industry spokesmen imply.

During the course of our 12 weapons program case studies many contractor representatives were questioned as to why particular technical decisions were made or not made, how certain contractual arrangements influenced their behavior, what factors incited or impeded specific cost reduction efforts, and so on. In this essentially nondirective interviewing, the subject of renegotiation was simply never broached by contractor personnel as a factor relevant in specific decisions or actions. To be sure, a few interviewees (notably those in top management positions concerned with financial matters) spontaneously raised general objections to renegotiation, including the objection that it reduced the incentive for cost control and cost reduction. Yet in no instance was a direct link established between renegotiation and any particular operating action or inaction, even when company representatives were pressed to support their generalizations with specific examples. In short, our case study research suggested that the existence of renegotiation was not a significant consideration in weapons program operations and decisions.

There are at least two possible explanations for this somewhat surprising finding. First, the field interviews for our case studies were conducted during 1958 and 1959, a period of declining waepons industry profits.[26] As table 8.3 shows, the average profit rate on all renegotiable sales of defense contractors fell from 6.4 percent before taxes in fiscal year 1956—the first year for which comprehensive data are available—to 4.8 percent in 1958 and 4.2 percent in 1959. Table 8.3 also manifests a steady decline in the volume of sales subjected to excessive profit determinations and in the amount of profits declared to be excessive. Since there is a lag of approximately 3 years between the time when profits are accrued and the time when they are renegotiated, the refunds demanded in fiscal years 1961 and 1962 should be associated with earnings reported in 1958 and 1959. Total refunds during 1961 and 1962 amounted to only 1 percent of all renegotiable profits realized by contractors during 1958 and 1959.

TABLE 8.3.—*Sales, profit, and refund statistics of renegotiation, 1956–62*

[Dollars in millions]

| Fiscal year | All firms filing renegotiation reports | | | Firms required to make refunds | | | |
|---|---|---|---|---|---|---|---|
| | Renegotiable sales | Renegotiable profits | Profit rate (percent) | Renegotiable sales | Original profit rate (percent) | Total refunds | Allowed profit rate (percent) |
| 1956 | $29,838 | $1,897 | 6.4 | $7,854 | 12.1 | $153 | 10.2 |
| 1957 | 28,657 | 1,638 | 5.7 | 8,661 | 10.9 | 151 | 9.1 |
| 1958 | 27,100 | 1,310 | 4.8 | 6,796 | 11.1 | 113 | 9.4 |
| 1959 | 26,578 | 1,118 | 4.2 | 4,279 | 10.4 | 61 | 9.0 |
| 1960 | 28,853 | 1,156 | 4.0 | 4,583 | 8.8 | 53 | 7.6 |
| 1961 | 25,084 | 909 | 3.6 | 1,554 | 8.6 | 17 | 7.5 |
| 1962 | 29,262 | 916 | 3.1 | (1) | (1) | 8 | (1) |

[1] Not available.

Source: Annual Reports of the Renegotiation Board. All profit data are before taxes.

These results suggest that contractors had little reason to expect the loss of incremental incentive profits as a result of renegotiation. Yet this explanation is not altogether consistent with the fact that, during the same period, industry spokesmen were publicly arguing most vigorously that renegotiation eliminated incentive profits and hence weakened incentives for cost reduction. It may well be that industry briefs were influenced more by emotion and memories of the post-Korean defense profits boom than by sober analysis of the weapons industry's actual position during the late 1950's.

Second, it is possible that renegotiation captured mainly profits of low utility with only a minor influence on contractor behavior. As table 8.3 shows, companies required to make refunds through renegotiation were still allowed to retain average before-tax profit margins ranging from 10.2 percent of sales in 1956 to 7.5 percent in 1961. Incremental profits above these allowable margins may have had rather low utility to contractors. If so, all that renegotiation did was weaken already feeble contractual incentives for cost reduction. Such an explanation is consistent with the findings of earlier sections.

In sum, it would appear that renegotiation had fairly little net impact upon contractor behavior in recent weapons development and production programs. Even if statutory renegotiation did not exist, many (although undoubtedly not all) defense contractors would probably consider it disadvantageous to accrue and retain large profits on fixed-price type contracts. Repealing the Renegotiation Act could eliminate the quasi-illegality of windfall profits, but it could not eradicate the suspicions that high profits were obtained not through increased efficiency, but by taking advantage of Government negotiators at the bargaining table. Most firms intending to remain active in defense contracting are likely to view the potential injury that these suspicions could inflict upon their Government relations as more serious than the loss of incremental profits through renegotiation. In such cases the effect of renegotiation in weakening contractual incentives is clearly redundant and of secondary importance.

## TARIFF CUTTING SPREE OPENS MAY 4 IN GENEVA, SWITZERLAND

The SPEAKER. Under previous order of the House the gentleman from West Virginia [Mr. MOORE] is recognized for 60 minutes.

Mr. MOORE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOORE. Mr. Speaker, in about a week American industries and the workers employed by them will stand on the brink of an economic precipice and look into a yawning chasm spreading out below them.

This chasm has been prepared for them by the promoters of the tariff-cutting conference which will convene on May 4 in Geneva to carry out the intemperate provisions of the Trade Expansion Act of 1962.

Mr. Speaker, I cannot conceive of a more ill-conceived, ill-drawn, and ill-starred piece of legislation than the Trade Act of 1962; and to confront the industry of this country with the butchery prepared by the State Department's world economic planners at a time when our balance of payments appears to be poised for a better showing is beyond comprehension. I say "when our balance of payments appears to be poised for a better showing"; and that is the most that can be said at present. The few bright rays that have broken through the clouds can be very quickly blotted out again; but let that pass.

I would like to say as emphatically as any utterance can be made that very important and numerous elements of American industry simply cannot stand the further tariff cuts being prepared for them at the present time. Too many of them are already poised on the rim of ruin or decline, pressed by rising imports invited by previous intemperate tariff cuts. Industry after industry appearing before the Tariff Commission during last December, January, February, and March testified to the injury that has already been visited upon them by imports. Many of these industries need some defense, as it is, against imports stimulated by past tariff cuts, and cannot face further tariff cuts without a sense of deep discouragement and dismay.

The pleas against further tariff reductions were not at all confined to the small industries, although their pleas were numerous.

Mr. Speaker, the steel industry and the chemical industry, each of them very large, both expressed great concern over the prospects of further tariff cuts. They were joined by the textile industry, the beef and meat industry, the dairy industry, the fruit and vegetable industry, the machine tool, the leather, the distilling, wine, shoe, garment, woolens, lead and zinc, cutlery, copper and brass, electrical machinery, and numerous other industries, none of them very small.

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[25] U.S. Renegotiation Board. Release No. 3–62, Apr. 17, 1962. Par. 1–319 was added to the "Armed Services Procurement Regulation," requiring Government contracting officers to maintain detailed files on performance in each contract for use by the Renegotiation Board.

[26] Reasons for this decline included the increasing use of cost reimbursement contracts, with consequently lower negotiated and realized profit rates; increased contractor absorption of research, proposal preparation, and other costs; and the negotiation of generally tighter cost targets due to increasing competition. Cf. pp. 142, 150, and 215–216 supra. See also Peck and Scherer, pp. 208–209.

The flat glass, glassware, and pottery industries were also there. They are important to my home district; and I know that they cannot withstand further tariff cuts.

The steel industry is one of the best examples of the newcomers to the fold of industries that suffer from import competition. This is one of our largest industries and one that traditionally exported more than it imported. It is one of our basic industries, and when this industry, with all its resources, is damaged by our trade policy, the effects are not confined to its own premises. If the steel industry is in jeopardy we may be sure that many other industries are in equal jeopardy or in an even less enviable position.

Let me point out, Mr. Speaker, that the steel industry has been a supporter of the trade policy, no doubt convinced that its export markets justified the program of reducing world trade barriers. If world markets could be opened we could no doubt greatly increase our sales of steel all over the world—or so it seemed. Reduction of our own tariffs could therefore have been justified. We would in any case stand off foreign steel in our own market. Some such reasoning led the industry to support the trade program.

Events did not bear out the great hopes that rode on this policy. Steel productive capacity was built upward in a number of other countries year after year since the days of the Marshall plan. Our share of the world tonnage slipped from approximately 50 percent in the early fifties to a little over 25 percent in 1963.

Moreover, since 1958 our steel exports have been receding while our imports have been rising. We are now confirmed in our position of net importers of steel. In 1963 imports reached 5½ million tons while our exports had dropped to a little over 2 million tons. Possibly half of our export tonnage, moreover, was attributable to foreign aid and other tied sales. In other words, we are worse off competitively than the foreign trade figures show.

The world steel capacity is now greater than steel consumption justifies, just as it has been in this country for years.

Today Japan is the No. 1 steel exporter of the world even though her steel output was in the magnitude of only 30 million tons in 1963 compared with our output of nearly 110 million tons. Our share of world trade in steel has declined from about 15 percent from 1950–57 to less than 5 percent in the past 2 years.

Mr. Speaker, I cite these facts to demonstrate the unenviable position in which the domestic steel industry finds itself as a result of our trade policy. Yet, there is more to the story.

In the past, indirect exports of steel were one of our mainstays. Our share of world trade in that is also declining, although in tonnage the indirect exports are rising a little. Indirect imports are increasing.

As a result of this competitive situation our steel companies have instituted a modernization program. This consists of continuous casting and conversion to oxygen furnaces, among other things. The purpose is to become more competitive at home and in foreign markets with other countries. Yet, one of the sure results will be rising unemployment. Already employment in the industry has shrunk greatly. In 1952 domestic steel output was 93.1 million tons with 519,000 workers employed. In 1962, or 10 years later, 402,000 workers, or 117,000 fewer workers produced 98.3 million tons or 5½ percent more steel than 10 years before with 22 percent smaller work force.

It is clear, therefore, that it has not been inefficiency in the steel industry that brought about the decline in exports and the increase in imports. When the number of workers was cut by more than 20 percent and this smaller number produced 5 percent more steel, how much more efficiency would have been necessary to hold the domestic market and to maintain exports? Perhaps those who cry for greater efficiency think that it would have been better if the industry had increased its productivity to the point of dismissing another 100,000 workers. Then the industry might have been able to stave off imports and might have held its export market; but that is not even certain. In any case to do so would have aggravated yet more the already highly deplorable unemployment conditions.

Mr. Speaker, the dilemma of the steel industry is clear; and it does not stand alone. I have spoken at this length about steel for that reason.

The industry is under great pressure to adopt more productive processes, and that means one thing certain; namely, making more steel with fewer workers. In other words, what we face here is shotgun automation. Automate or die, is the order of the day. Automate and disgorge tens of thousands of workers or imports will drive you into bankruptcy.

Unfortunately when this imperative command is followed we do not recoup the market. We might hold our own but even so we would not rehire a single worker.

In the face of this gloomy prospect our State Department is hellbent to slash in half what is left of our tariff. By what economic sophistry can such a course possibly be justified?

There is an answer; and it is being given by many industries. This is to invest overseas. Several billions of dollars of such investments have been made in recent years.

I do not say that foreign investments as such are bad. I say that when our trade policy drives our firms overseas as a haven from import competition and as a means of selling in foreign markets the trade policy should be changed. The trade policy is at fault and not the foreign investment.

Assume now that the steel industry would follow the pattern of some other American industries and should invest a half billion dollars overseas. The companies could perhaps save themselves and their investors in this manner, but I ask you, Where would it leave the steelworkers? What good would come to them from this effort of the industry to save itself?

There would be no greater market for steel created in this country by the flight of capital. The effort to hold the domestic market through modernization would also not increase the market. It would very effectively displace scores of thousands of workers; and they would increase the already heavy burden on the retraining and redevelopment agencies of the Government.

What has been said about the steel industry applies also to important segments of the chemical industry, the flat glass and glassware and the pottery industries.

Glassware and pottery are labor-intensive industries but they are not more vulnerable today than the most technologically advanced industries. The reason for this is that other industrial countries have caught up with us in technology in a number of industries.

The chemical industry, of which important segments are in my district, is a case in itself and is entitled to full attention on its own merits.

I say that we should protect the flank of these industries from the type of competition that causes the dilemma. It is not a question of shutting off imports but of controlling them so that the domestic industry could have some assurance of a market should it invest in plant expansion rather than mere modernization. Expansion means hiring workers. Modernization, when it is forced as a means of holding a present market, means dismissing them. Expansion means new jobs. There is a big difference; and the difference has a direct bearing on our trade policy.

If we consider now the proposal to cut our tariffs in half or at all, we can see the dangerous error that is about to be perpetrated.

Mr. Speaker, I include with my remarks a statement by George M. Parker, the president of the American Flint Glass Workers Union of North America, before the Tariff Commission, reciting the full story of the job decline in the handmade glassware industry:

### U.S. FIGURES DO NOT TELL FULL STORY ON JOB DECLINE IN THE HANDMADE GLASSWARE INDUSTRY

The U.S. Tariff Commission requested that seeming contradictions in the various elements of testimony concerning the handmade glassware industry be resolved. Most of the basic questions raised have been answered competently in a supplemental brief filed by Mr. J. Raymond Price on behalf of the American Handmade Glassware Industry. Some additional comment on the job situation in the handmade glassware industry, however, seems in order.

For some time the union has suspected that the employment figures supplied by the U.S. Department of Labor did not fully reveal industry job trends. This suspicion was confirmed in correspondence we received from the U.S. Department of Labor which states in part: "The points you raised in your letter about the products included in the industries glass containers, 3221, and other pressed and blown glassware, 3229, are completely correct. SIC 3221 includes all glass containers including any new products which properly fit within the broad industry classification. Similarly, 3229 includes fiber glass; it does not include rock wool instillation. There is no way we can eliminate the employment in the newer products from the employment in these plants devoted to what you call the 'traditional' ware."[1]

In other words, new industries often located far from previous glass manufacturing centers are producing new products for new markets, and in the process providing jobs which, while they may bear little technical relationship to traditional glass skills, are included in employment totals which thereby inadequately reflect industry trends.

### THIRTY-NINE PERCENT OF REMAINING SKILLED WORKERS LAID OFF

Glass nose cones for missiles may provide new jobs, for example, but these bear little relationship to the kind of jobs which are disappearing as imports take over portions of the domestic market previously supplied by U.S. manufacturers. Fiber glass is a relatively new industry which is providing some of the millions of jobs America must find for its expanding work force, but it has little relationship to the traditional glass industry.

Our survey of skilled employment among domestic hand glass producers (exhibit A), while made January 31, 1962, depicts the current state of this industry. It shows 39 percent of our members laid off with 1 skilled worker in 5 unable to find any kind of employment. For the overwhelming majority of these plants, employment has not picked up, and the workers who were laid off then have not been absorbed by any of the newer industries thrust, for lack of a better classification, into SIC 3221 and 3229.

Further, our survey of jobs lost as specific plants closed (exhibit B) and analysis of current employment in existing plants (exhibit C) in no way conflict with Bureau of Labor Statistics data.

### FIFTEEN CLOSED PLANTS ONCE MADE TYPE OF WARE BEING IMPORTED

Significantly, the 15 hand glass plants which closed since 1950 were capable of producing the kinds of glassware being imported. The final compilation will show that handmade glassware imported during 1963 had a U.S. wholesale value of approximately $30 million[2] and represented the production of approximately 3,000 men and women.

The 15 domestic producers going out of business since 1950 provided 2,859 jobs. It is impossible for us to escape the conclusion that our members' jobs are, in effect, being exported to low-wage glass producing countries.

### IMPORT-EXPORT TOTALS UNDERSTATE JOB LOSS

In 1962, the U.S. Department of Labor published twin studies on "Employment in Relation to U.S. Imports" and "Domestic Employment Attributable to U.S. Exports." The comparison year was 1960. According to these studies, only 4 of 20 manufacturing classifications had an unfavorable job balance.

According to the studies, in 1960, U.S. stone, glass, and clay exports accounted for 11,800 U.S. jobs while stone, glass, and clay imports were the equivalent of the output of 23,200 jobs.

In other words, we had a 2-to-1 unfavorable job balance. The other categories with the unfavorable job balance were textile mill products, apparel and other finished goods (and contemplated action on raw cotton prices can make the U.S. industry more competitive in these two areas), and leather and leather products (and apparently a quota system on shoes, the chief offender, is in the offing).

This leaves the stone, glass, and clay industries, where we buy far more than we sell, as industries also deserving special attention.

Actually, the U.S. Labor Department job content studies tend to understate the situation particularly insofar as the GATT negotiations are concerned. For example, in 1962, some 40 percent of all U.S. stone, glass, and clay exports went to Canada. From industry sources, we gather that in many instances these were goods started here and sent to Canadian subsidiaries for completion.

We are submitting with this testimony as our exhibit D a chart which shows that in 1962, the United States bought $235 million worth of stone, glass, and clay imports and sold $168 million worth of exports.

America's export share of the total trade declined slightly from the 1960 level, and was approximately 40 percent of the total dollar volume. Since the direct job content of the imports was twice that of the exports, it appears that we tended to sell those things with a relatively low job content and import finished products with a relatively high job content.

When the Canadian figures are removed from the totals, the contrasts become more startling. In our exhibit D we show that non-Canadian imports in these categories amounted to $217 million and non-Canadian exports only $90 million.

### CATEGORYWISE REDUCTIONS NOT JUSTIFIED FOR GLASS

While, largely because of captive situations, we were able to sell Canada more glass than we bought, for the rest of the world the unfavorable balance of trade was almost 2 to 1 in 1962, with non-Canadian glass imports totaling $88,845,418 and non-Canadian exports totaling $47,723,567.

Any category-wide reduction can only serve to further broaden the already unfavorable balance of trade in the glassware industry. The trend is most adverse in the handmade segment. What applies to glass in general applies even more to handmade glassware in particular. Handmade glass exports are virtually nonexistent and cannot be considered a factor in the GATT negotiations. Imports of handglass, however, are a substantial item.

Lowering tariff barriers may increase trade with Europe, but it will be in one direction only. In 1962, Western Germany sold the United States approximately $24 million worth of stone, glass, and clay products, while we sold her only a little over $4 million worth. In the European country paying the highest wages, we were able to sell only about a sixth as much as we bought.

The contrasts with the much lower wage paying Japan are even sharper. Japan sold America more than $63 million worth of glass and clay products. U.S. producers and firms sold Japan $3 million worth of glass and clay goods. In these categories, we bought 21 times as much as we sold to Japan.

### UNITED STATES CHIEF MARKET FOR JAPAN

According to the United States-Japanese Trade Council, 41 percent of all Japanese flat glass exports, 38 percent of all Japanese glass products exports, and 56 percent of all that reviving land's household pottery exports were sold to the United States in 1962.

We do not have the employment figures for glass, but according to figures secured from the U.S. Department of Labor, Japanese employment in ceramic, stone, and clay products increased by 23,000 workers between 1955 and 1962. We believe glass did as well.

During this same 7-year period, employment in the Belgian pottery, glass, and ceramic industries increased substantially, by about 8,000 production workers. In the same period, Italian employment in the glass and ceramic industries increased by some 16,000 while in Germany fine ceramics and glass accounted for an increase in employment of about 24,000.

The latest figures are submitted as our exhibit E.

During this same 7-year period total employment in all phases of the U.S. stone, glass, and clay industries increased by approximately 1 percent. U.S. Department of Labor figures show a gain of fewer than 6,000 workers.

Since the bulk and perhaps all of this increase stems from new industries thrust into glass SIC classifications, clearly the glass industry in general, and the handmade glass industry in particular has not been providing the new jobs needed to keep a growing America prosperous.

More than half of the traditional handglass industry jobs have disappeared since 1950. While not a major industry, it is an important industry from a defense and a cultural standpoint, and an economically vital industry to those Appalachian areas where much of it is concentrated.

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[1] Letter from Edgar I. Eaton, Assistant Manpower Administrator for Trade Adjustment Assistance, to Stone, Glass, and Clay Coordinating Committee dated Mar. 10, 1964.

[2] U.S. wholesale value figured at 250 percent of declared foreign value.

EXHIBIT A.—*Analysis of employment in hand glass industry plants organized by American Flint Glass Workers Union, as of Jan. 31, 1962*

| Local union No. | Location | Total membership | Employed in trade | Employed elsewhere | Unemployed |
|---|---|---|---|---|---|
| | Press department: | | | | |
| 2 | Glassport, Pa | 45 | 26 | ------ | 19 |
| 10 | Moundsville, W. Va | 62 | 40 | 2 | 20 |
| 13 | Bellaire, Ohio | 79 | 50 | 10 | 19 |
| 16 | North Martsville, W. Va | 38 | 27 | ------ | 11 |
| 20 | Port Jervis | 14 | 11 | ------ | 3 |
| 21 | Pittsburg | 2 | 1 | 1 | ------ |
| 22 | Willstown | 34 | 34 | ------ | ------ |
| 29 | Marion, Ind | 12 | 10 | ------ | 2 |
| 31 | Lancaster, Ohio | 77 | 20 | 33 | 24 |
| 33 | Walburg, Canada | 2 | ------ | 1 | 1 |
| 34 | Bellaire, Ohio | 13 | 10 | 1 | 2 |
| 36 | Monaca, Pa | 11 | 10 | ------ | 1 |
| 39 | Tiffin, Ohio | 16 | 11 | 1 | 4 |
| 44 | Vineland, N.J | 28 | 20 | 8 | ------ |
| 45 | Point Marion | 11 | 10 | 1 | ------ |
| 46 | Millville, N.J | 14 | 12 | 2 | ------ |
| | Press department—Con. | | | | |
| 50 | Muncie, Ind | 16 | 13 | 3 | ------ |
| 52 | Swissvale, Pa | 18 | 18 | ------ | ------ |
| 73 | Lancaster, Ohio | 2 | 2 | ------ | ------ |
| 80 | Coraopolis, Pa | 1 | 1 | ------ | ------ |
| 86 | Jeannette, Pa | 8 | 5 | 3 | ------ |
| 90 | Baltimore, Md | 4 | ------ | 4 | ------ |
| 92 | Fort Smith, Ark | 2 | ------ | 2 | ------ |
| 95 | Morgantown, W. Va | 18 | 8 | 7 | 3 |
| 96 | Toronto, Ohio | 11 | ------ | 11 | ------ |
| 102 | Mount Pleasant | 51 | 30 | 16 | 5 |
| 103 | Grapeville, Pa | 72 | 53 | 2 | 17 |
| 105 | Newark, Ohio | 41 | 25 | 8 | 8 |
| 107 | Dunkirk, Ind | 85 | 31 | 53 | 1 |
| 126 | Wellsburg, W. Va | 11 | 10 | ------ | 1 |
| 140 | Chicago, Ill | 6 | 5 | 1 | ------ |
| 144 | Huntington Park, Calif | 13 | 6 | 7 | ------ |

**Exhibit A.**—*Analysis of employment in hand glass industry plants organized by American Flint Glass Workers Union, as of Jan. 31, 1962*—Continued

| Local union No. | Location | Total membership | Employed in trade | Employed elsewhere | Unemployed |
|---|---|---|---|---|---|
| | Press department—Con. | | | | |
| 147 | Kenova, W. Va | 6 | 6 | | |
| 157 | Hunt, W. Va | 1 | | 1 | |
| 165 | Wellsburg, W. Va | 4 | 4 | | |
| 35 | Total | 830 | 509 | 169 | 152 |
| | Percentage | | 61 | 20 | 19 |
| | Punch and stem dept.: | | | | |
| 10 | Moundsville, W. Va | 64 | 42 | 7 | 15 |
| 13 | Bellaire, Ohio | 34 | 11 | 5 | 18 |
| 24 | Mount Pleasant, Pa | 47 | 47 | | |
| 39 | Tiffin, Ohio | 73 | 34 | 21 | 18 |
| 77 | Morgantown, W. Va | 54 | 40 | 2 | 12 |
| 101 | do | 32 | 20 | 4 | 8 |
| | Punch and stem dept.—Con. | | | | |
| 102 | Mount Pleasant, Pa | 3 | | 2 | 1 |
| 7 | Total | 307 | 194 | 41 | 72 |
| | Percentage | | 63 | 13 | 24 |
| | Chimney department: | | | | |
| 9 | Mansfield, Ohio | 8 | | 1 | 7 |
| 33 | Walburg, Canada | 1 | | 1 | |
| 39 | Tiffin, Ohio | 6 | | | 6 |
| 70 | Brownwood, Tex | 4 | 4 | | |
| 4 | Total | 19 | 4 | 2 | 13 |
| | Percentage | | 21 | 11 | 68 |

| Department | Number of members | Working in glass plants | Laid off regular job | By percent | Working elsewhere | Unemployed | By percent |
|---|---|---|---|---|---|---|---|
| Pressed | 830 | 509 | 321 | 39 | 169 | 152 | 19 |
| Punch and stem | 307 | 194 | 113 | 37 | 41 | 72 | 24 |
| Chimney | 19 | 4 | 15 | 79 | 2 | 13 | 68 |
| Total | 1,156 | 707 | 449 | 39 | 212 | 237 | 20 |

**Exhibit B.**—*Handmade glassware manufacturing companies which have gone out of business since 1950*

| | Typical employment in 1940's | Year closed doors | Latest available data on unemployment rate in community [1] |
|---|---|---|---|
| | | | *Percent* |
| Anco Glass Co., Toronto, Ohio | (2) | (2) | 6.0 |
| DeMuth Glass Co., Brooklyn, N.Y | 121 | 1950 | 5.1 |
| A. H. Heisey & Co., Newark, Ohio | 157 | 1956 | 5.7 |
| Gill Glass & Fixture, Philadelphia, Pa | 78 | 1950 | 5.8 |
| American Glass Corp., Greensburg, Pa | 159 | 1953 | 7.0 |
| Paden City Glass Co., Paden City, W. Va | 231 | 1951 | [3] 4.5 |
| Victory Glass Co., Jeanette, Pa | 195 | 1952 | 7.0 |
| Duncan & Mille Co., Washington, Pa | 157 | 1955 | 7.0 |
| Gleason-Tiebout Co., Brooklyn, N.Y | 90 | 1954 | 5.1 |
| Sneath Glass Co., Hartford City, Ind | 195 | 1954 | 5.1 |
| Cambridge Glass Co., Cambridge, Ohio | 352 | 1954 | [3] 5.1 |
| Cumberland Glass Co., Mount Savage, Md | 20 | 1963 | 6.5 |
| U.S. Glass Co., Tiffin, Ohio | 400 | 1963 | [4] 4.3 |
| U.S. Glass, Glassport, Pa | 400 | 1963 | 7.0 |
| Inland Glass Division, La Grange Park, Ill | 304 | 1963 | 4.0 |
| Total | 2,859 | | |

[1] Figures are for November 1963, unless otherwise specified.

[2] Not available.

[3] As of October 1963.

[4] As of August 1963.

Sources: Payroll information is from AFGWU records. Unemployment rate secured from U.S. Department of Labor, Bureau of Labor Statistics.

**Exhibit C.**—*Average production employment in typical plants in handmade glass industry*

[Figures are from American Flint Glass Workers Union records. The AFGWU represents the production workers only]

| | 1950 | 1955 | 1960 | 1962 | 1963 | Latest data on community unemployment rate (percent) |
|---|---|---|---|---|---|---|
| Blenko Glass Co., Milton, W. Va | 107 | (1) | (1) | (1) | (1) | 8.2 |
| Bryce Bros. Co., Mount Pleasant, Pa | 426 | 233 | 232 | 196 | 197 | 7.0 |
| Fenton Art Glass Co., Williamstown, W. Va | 239 | 139 | 198 | 187 | 216 | 4.5 |
| Fostoria Glass Co., Moundsville, W. Va | 744 | 523 | 439 | 440 | 377 | 7.5 |
| Houze Glass Corp., Point Marion, Pa | 573 | 394 | 324 | 229 | 122 | [3] 13.1 |
| Imperial Glass Corp., Bellaire, Ohio | 662 | 542 | 476 | 461 | 344 | 7.5 |
| Indiana Glass Co., Dunkirk, Ind | 597 | 491 | 511 | 465 | 426 | (1) |
| Morgantown Glassware Guild, Morgantown, W. Va | 273 | 169 | 174 | 181 | 169 | 4.4 |
| Rainbow Art Glass Co., Huntington, W. Va | (1) | (1) | (1) | (1) | 57 | 8.2 |
| Seneca Glass Co., Morgantown, W. Va | 226 | 122 | 143 | 98 | 97 | 4.4 |
| Smith Glass Co., Mount Pleasant, Pa | 239 | 236 | 192 | 215 | 78 | 7.0 |
| Viking Glass Co., New Martinsville, W. Va | 238 | 201 | 199 | 189 | 181 | 4.5 |
| Westmoreland Glass Co., Grapeville, Pa | 203 | 201 | 135 | 243 | 209 | 7.0 |
| Daugherty Glass Co., Buena, N.J | (1) | (1) | (1) | 95 | 91 | 9.1 |
| Sinclair Glass Co., Marion, Ind | (1) | (1) | (1) | 30 | 22 | [3] 9.7 |
| Warren L. Kessler, Inc., Bethpage, N.Y | (1) | (1) | (1) | 30 | 21 | 5.1 |
| Davis Lynch Glass Co., Star City, W. Va | 81 | 102 | 113 | 119 | 129 | [3] 4.4 |
| Quality Glass Co., VanVoorhis, W. Va | 44 | 46 | 38 | 37 | 36 | [3] 8.4 |
| Scandia Glass Co., Kenova, W. Va | | (1) | (1) | 25 | 24 | 8.2 |
| Pilgrim Glass Co., Ceredo, W. Va | | (1) | (1) | | 32 | 8.2 |
| Thomas Industries, Fort Smith, Ark | 82 | 50 | 138 | 95 | 63 | 4.1 |
| Lancaster Glass Corp., Lancaster, Ohio | 266 | 531 | 510 | 469 | 460 | 3.7 |
| Crescent Glass Co., Wellsburg, W. Va | 133 | 108 | 91 | 105 | 100 | 6.0 |
| Gillinder Bros., Inc., Port Jervis, N.Y | 198 | 179 | 181 | 175 | 166 | [4] 4.3 |
| Jeanette Shade & Novelty, Jeanette, Pa | 102 | 101 | 103 | 101 | 94 | 7.0 |
| Kopp Glass, Inc., Pittsburgh, Pa | 127 | 134 | 138 | 121 | 125 | 7.0 |
| Phoenix Glass Co., Monaca, Pa | 320 | 413 | 470 | 363 | 381 | 7.0 |
| Rodofer-Gleason Glass Co., Bellaire, Ohio | 185 | 164 | 183 | 174 | 162 | 7.5 |
| Consolidated Lamp & Glass Co., Coraopolis, Pa | 176 | 116 | 99 | 89 | 10 | 7.0 |
| Beaumont Co., Morgantown, W. Va | 161 | 184 | 152 | 149 | 139 | [3] 4.4 |
| Eagle Convex Glass Co., Clarksburg, W. Va | 101 | 117 | 104 | 102 | 107 | [4] 6.9 |

[1] Not available.

[2] Figures are for November 1963 unless otherwise specified.

[3] As of August 1963.

[4] As of October 1963.

**Exhibit D.**—*Stone, glass, and clay imports and exports as summarized in U.S. Department of Commerce annual reports*

[Imports: Subgroup code 550, 560, and 570 FT 110 summaries; Exports: Subgroup code 520, 530, and 540 FT 420 summaries]

| Import code | Export code | Group | 1960 | | 1961 | | 1962 | |
|---|---|---|---|---|---|---|---|---|
| | | | Imports | Exports | Imports | Exports | Imports | Exports |
| [1] 550 | 520 | Stone, cement, lime | $32,381,678 | [1] $5,124,699 | $32,508,466 | [1] $6,108,371 | $43,376,996 | [1] $5,865,073 |
| 560 | 530 | Glass and glass products | 81,557,344 | 84,070,814 | 79,849,558 | 83,940,486 | 89,659,288 | 93,009,982 |
| 570 | 540 | Clay and clay products | 101,996,234 | 67,976,949 | 89,869,282 | 64,634,145 | 102,546,828 | 69,247,357 |
| | | Total | 215,935,256 | 157,172,462 | 202,227,286 | 154,683,002 | 235,583,112 | 168,122,412 |

**Exhibit D.**—*Stone, glass, and clay imports and exports as summarized in U.S. Department of Commerce annual reports*—Continued

COMPARISON OF 1962 IMPORTS AND EXPORTS BY SELECTED NATIONS

| Import Code | Export Code | Group | Canada |  | West Germany |  | Japan |  |
|---|---|---|---|---|---|---|---|---|
|  |  |  | Imports | Exports | Imports | Exports | Imports | Exports |
| 550 | 520 | Stone, cement, lime | $13, 814, 580 | $3, 378, 758 | $1, 134, 596 | [1] $25, 055 | $441, 128 | $52, 512 |
| 560 | 530 | Glass and glass products | 1, 004, 870 | 45, 376, 415 | 14, 040, 256 | 2, 629, 942 | 13, 470, 136 | 1, 207, 945 |
| 570 | 540 | Clay and clay products | 3, 201, 103 | 28, 919, 203 | 8, 823, 334 | 1, 494, 789 | 49, 713, 710 | 2, 088, 435 |
|  |  | Total | 18, 020, 553 | 77, 674, 376 | 23, 998, 186 | 4, 149, 786 | 63, 625, 974 | 3, 348, 892 |

[1] Certain stone, cement, and lime category products included in the subcode 550 import summaries are carried in other than the subcode 520 comparable export summary. These are principally gypsum and certain types of plaster of paris products. In 1962, their aggregate value was $1,300,000 of which $471,000 went to Canada.

Source: U.S.Department of Commerce, Bureau of the Census, FT 110 and 420 Summaries.

**Exhibit E.**—*Employment in stone, clay, and glass products industries, 1955, and latest period available*

| Country and industry | 1955 | Latest period | Date of latest data |
|---|---|---|---|
| BELGIUM |  |  |  |
| Pottery, clay | 10, 784 | 12, 111 | July 1963. |
| Glass | 19, 379 | 24, 502 |  |
| Cement | 4, 407 | 3, 649 |  |
| Ceramics | 7, 813 | 9, 542 |  |
| FRANCE |  |  |  |
| Glass | 36, 613 | 33, 893 | 1961. |
| Tile and brick | 22, 500 | 21, 993 |  |
| Porcelain | 5, 700 | 5, 518 |  |
| Pottery, earthenware | 11, 000 | 11, 865 |  |
| Cement | ---------- | 11, 460 |  |
| Refractory materials | ---------- | 7, 116 |  |
| Abrasives | 3, 592 | ---------- |  |
| GERMANY, FEDERAL REPUBLIC |  |  |  |
| Fine ceramics | 83, 903 | 91, 066 | 1962. |
| Porcelain | ---------- | 32, 172 |  |
| Stoneware, pottery. | ---------- | 8, 791 |  |
| Earthenware | ---------- | 2, 082 |  |
| Ceramics (bath, etc.). | ---------- | 5, 462 |  |
| Technical glass | ---------- | 13, 529 |  |
| Construction materials. | ---------- | 17, 471 |  |
| Abrasives | ---------- | 11, 559 |  |
| Glass | 72, 915 | 90, 037 |  |
| ITALY |  |  |  |
| Abrasives | 4, 825 | 6, 742 | Nov. 1962. |
| Brick | 55, 050 | 64, 475 |  |
| Glass | 22, 092 | 28, 264 |  |
| Ceramics | 24, 454 | 34, 077 |  |
| Cement | 18, 314 | 15, 905 |  |
| Plaster and lime | 5, 749 | 4, 534 |  |
| UNITED KINGDOM [1] |  |  |  |
| Bricks, fire clay, and refractory goods. | 84, 100 | 73, 200 | 1963. |
| Pottery | 77, 400 | 66, 700 |  |
| Glass | 75, 400 | 78, 600 |  |
| Cement | 16, 000 | 17, 400 |  |
| Abrasives and other building material. | 92, 500 | 112, 300 |  |
| JAPAN [2] |  |  |  |
| Ceramic, stone, and clay products. | 260, 919 | 284, 000 | Dec. 1962. |

[1] October each year.

[2] Regular workers in establishments of 30 or more workers.

Source: National statistics. Prepared by Division of Foreign Labor Conditions, Bureau of Labor Statistics, U.S. Department of Labor, January 1964.

Mr. Speaker, I include a statement by Enoch R. Rust, vice president of the United Glass & Ceramic Workers of North America International Union, with respect to communities where plate glass workers reside, which face serious problems as a result of job decline:

### The Communities Where Plate Glass Workers Reside Face Serious Problems as a Result of Job Decline

The United Glass & Ceramic Workers of North America International Union represents the overwhelming majority of production workers in the plate, rolled, wire, and laminated glass industries. We know from our day-to-day contacts that the work force in these industries is declining and that our members find it impossible to find comparable jobs in their towns.

We are concerned with action on many fronts to stimulate jobs in the domestic industry and a part of this overall struggle is working against the potential diversion of domestic jobs overseas.

Currently the plate glass industry is in the midst of enormous changes. All of them are costing our members jobs. Among these changes are:

Change in manufacturing processes. We have been hit hard by automation without a corresponding increase in consumption. The result: Fewer jobs.

Change in product specifications. The automobile industry, for example, is now using tempered glass where it previously used laminated glass. This alone has cost several thousand jobs.

Increased imports, not only in the form of plate glass, but in finished products with plate glass, particularly automobiles.

Moreover, from all indications, the worst lies ahead. From our contacts with trade unions abroad and from personal observation we conclude that more imports are to be headed toward our shores in the future as European and Japanese glass-producing capacity increases. Moreover, a new manufacturing process appears certain to make inroads into the plate glass industry starting within a year, and this may have a profound impact on the whole character of the industry.

The net result is that communities where plate glass jobs are a vital part of primary income are in trouble now, and the current shortage of glass jobs is likely to become more acute in the years just ahead.

Prior to 1957, two companies, Libbey-Owens-Ford and Pittsburgh Plate Glass, produced all the plate glass manufactured in this country, and in order to keep vital information from these companies the Government released no figures about them. Since then, additional competitors have entered the field.

From our union records, it is possible to reconstruct what has happened to the plate glass jobs in these companies. Our payroll records show:

*Decline in plate glass jobs in 2 companies*

|  | January 1956 employment | January 1964 employment | Job decline | By percent |
|---|---|---|---|---|
| Libby-Owens-Ford and Pittsburgh Plate Glass | 17, 272 | 10, 305 | 6, 967 | 40. 3 |

In 8 short years, 40.3 percent of our jobs disappeared, with the chief loss resulting from new manufacturing techniques and from change in product specifications.

#### PLATE GLASS INDUSTRY DEPENDS ON AUTOMOBILE INDUSTRY

One of the peculiarities of the domestic plate glass industry is its absolute dependence upon the American automobile industry. Our figures show that in 1962, almost 60 percent of the total domestic output went to the automobile industry and that in no time during the 6 years for which statistics are available has the portion of the total going to the automobile industry been less than 55 percent. (See exhibit C.)

Three customers dominate this industry: General Motors, Chrysler, and Ford. The number of jobs held by our members hinges on the amount and the kind of glass our companies supply automobile manufacturers.

Domestic production of all types of plate glass in the past 8 years has not risen substantially. In 1957, the figure was 576 million square feet and in 1962 the figure was 576 million square feet. Moreover, there has been a falling off of the amount of glass being used by the automobile industry. (See exhibit C.)

The ability of the domestic industry to maintain its hold on the automobile business is absolutely essential to its economic health and to the well-being of employees. Imports already have started to make some inroads into the automobile industry. Precise figures are not available, but we know that the Chrysler Corp. is now using some imports on its products, an extremely ominous development from our viewpoint.

Even more significant than the decline in the number of square feet of plate glass going to automobiles is the change in the type of glass used. Previously the automobile industry relied heavily on laminated glass, a process involving considerable production time. Much of this has been replaced with tempered glass, a product produced with considerably fewer men.

The glass industry has been characterized by constant changes in production methods, including such developments as twin grinders which do the job as well, with fewer men.

#### JOB LOSS CONCENTRATED ON SEVERAL COMMUNITIES

The result of this is the job decline detailed in our exhibit A. It shows, for example, that in the small communities of Creighton and Ford City, Pa., the decline in Pittsburgh Plate Glass jobs has been 65 and 46 percent, respectively, in just 8 years. PPG is the largest employer in both communities. (See exhibit A.)

When the primary source of incomes goes down, of course, the butcher and grocer and restaurant owner also lose out. These communities are in a labor area with 7-percent unemployment. The possibilities of these unemployed glassworkers finding suitable jobs are indeed remote.

Crystal City, Mo., is a community literally built around the PPG plant. In 1956, PPG

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supplied some 2,624 breadwinners (supervision and clerical employees) in this tiny community with well-paid jobs. In 1964, the employment level is only 1,127, a decline of 57 percent.

Libbey-Owens-Ford is the biggest employer in the small town of Ottawa, Ill. In 8 years, union records show that 1,342 jobs, some 53.5 percent of them, have disappeared.

The two biggest employers in Toledo are Kaiser-Willys, where Jeeps are made, and much of the production is on Government contracts, and LOF. A third major employer, the Rossford Army Ordinance Depot, is closing. So far, the changes in the plate glass industry have hit less severely in Toledo than elsewhere but still 1,130 jobs—1 in 5—have disappeared. Toledo, incidentally, recently qualified for special U.S. consideration in Government projects.

### PILKINGTON GLASS THREATENS TO TAKE MORE JOBS

Probably the most significant development in the glass industry is float glass process developed by the Pilkington Bros., Ltd., in the United Kingdom. Under the conventional processes of producing plate glass, the grinding and polishing account for many of the jobs and much of the cost.

As we understand it, float glass possesses many of the characteristics of plate glass, but it is produced without any grinding or polishing. We do not know the extent to which it will replace plate glass, but since it can be produced more economically than plate glass, clearly its impact will be felt.

Both Pittsburgh Plate Glass and Libbey-Owens-Ford are licensed to use the float method in America. Three European producers also have been licensed by Pilkington as well.

The float process is not just another technological improvement. It is a radical departure from conventional production methods. We do not yet have the figures on how many fewer men will be required to produce a million square feet of float glass than are now needed to produce a million square feet of the glass it will replace. We do know, however, that the output per man is expanded. We do not yet have a complete picture of all the applications, but we are certain they will be many.

Moreover, as our domestic and foreign producers experiment with the process, the existing applications are likely to be expanded and output per man further increased.

In short, with float glass production about to become a serious factor, we feel this is no time for creating additional problems within the industry.

### FOREIGN COMPETITION LIKELY TO INCREASE

To the best of our knowledge, no comprehensive survey has been made of present and probable European and Japanese glassmaking capacity. We do know, however, that new plants are being built.

This winter First International Vice President Leland Beard attended an international glassworkers convention in Europe. While overseas, he devoted 18 days to inspecting as many glass plants as he could, including three plate glass factories.

In his formal report to the union executive board, Vice President Beard made these observations:

1. The West German and French plants have the same equipment one finds in the most automated domestic plate glass plants.

2. Workers, and in some instances works managers, told him that there was no unemployment in the glass industry and he could see the plants were operating at full capacity. One German plant was importing workers from as far away as Turkey, Greece, and the island of Crete because of the need for more glassworkers.

3. In some European plants production goes directly into cases marked for export to the United States and thence to high-speed barges which carry them directly to the loading docks.

4. In several instances he was told by union and company officials that a shortage of workers was holding up planned expansion.

5. A day of reckoning lies ahead for European glass producers. As their productive capacity increases and markets become glutted, the pressures will mount to step up sales in the profitable American market, and that means trouble for domestic producers and workers.

With firsthand information that Europe, particularly Germany, is booming with jobs for all while the domestic industry is not expanding output and America has serious unemployment problems, we think a clear need exists to prevent the further erosion of our jobs overseas.

### OVERSEA PRODUCERS SHOW THEY CAN INVADE PLATE GLASS MARKET

The ability of the oversea glass producers to invade the U.S. market has been amply demonstrated in other segments of the industry.

We cannot read the minds of oversea producers, but there appears to have been little effort to sell plate glass in this country before 1950, and as late as 1954, plate glass imports were small.

Since then, however, the pace has been stepped up with the imports now the equivalent of approximately 15 percent of the total domestic construction, housing and nonautomotive industrial markets. Having established a beachhead in the rest of the market, the importers are now moving in on auto, and this is a time for us to start sounding the storm warnings.

We note that in the first 6 months of 1962, the cents-per-square-foot charge for imported plate was 41.9 and that for the comparable 6-month period in 1963, this average price had fallen to 34.9 cents.[1]

The clear implication is that the oversea producers are beginning to step up the pace of competition.

That they can produce for lower costs than the American industry is apparently unquestioned. Our studies of wage costs show that the American worker in a plate glass plant receives at least four times the wage of a worker in a West German or Belgian plant and, of course, many times the wage received by a worker in the growing Japanese glass industry.

The pace of plate glass sales to fabricators and the automobile industry probably can be stepped up whenever the European and Japanese production capacities exceed current demand. That time may lie just ahead, and our industry is in an extremely vulnerable position.

### LOW WAGE IMPORTS UNFAIR COMPETITION AS ROLLED AND WIRE GLASS INDUSTRY RECORD SHOWS

The future of the plate glass industry may well have been traced by the past history of the rolled and wire glass segment of the industry. In these, imports were at first only a minor factor until foreign suppliers got the feel of the market, and then imports zoomed.

As a result, three domestic producers have been forced out of business in recent years, and three more communities have new job problems (see exhibit B).

A relatively high direct labor cost is generally regarded throughout the glass industry as the chief reason these plants failed. New processes overseas helped speed their demise.

In plate glass, we now also have the relatively high direct labor content, and an enormous spread in the wage costs between American workers and their oversea counterparts. (A similar spread exists among those furnishing services used by the producers, including supplies and maintenance.)

We urge you, gentlemen, to read the "handwriting on the wall." Clearly, if tariff walls are lowered, in either plain plate glass or wire and rolled, more glass will be imported into the United States, which will mean the immediate demise of one industry and perhaps fatal injury to the other. More of our jobs will be exported abroad.

Accordingly, we urge that no further tariff concessions be made in the glass industry, for they will cost us jobs at a time when America has no jobs to spare.

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[1] U.S. Department of Commerce.

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EXHIBIT A.—*Decline in plate glass employment in 2 principal producing companies according to union payroll records*

| Plate glass locals | Production employment |  | Job decline | By percent | Prevailing rate of unemployment in labor market (percent) |
|---|---|---|---|---|---|
|  | January 1956 | January 1964 |  |  |  |
| PITTSBURGH PLATE GLASS CO. |  |  |  |  |  |
| No. 12, Creighton, Pa. | 3,733 | 1,310 | 2,423 | 65.0 | 7.0 |
| No. 14, Ford City, Pa. | 2,761 | 1,499 | 1,262 | 46.0 | 7.0 |
| No. 63, Crystal City, Mo. | 2,624 | 1,127 | 1,497 | 57.0 | 4.1 |
| No. 180, Cumberland, Md. |  | [1] 687 | [1] (687) |  | 6.5 |
| Total | 9,118 | 4,623 | 4,495 | 49.0 |  |
| LIBBEY-OWENS-FORD |  |  |  |  |  |
| No. 19, Ottawa, Ill. | 2,524 | 1,182 | 1,342 | 53.5 | (2) |
| No. 9, Toledo, Ohio | 5,630 | 4,500 | 1,130 | 20.0 | 4.4 |
| Total | 8,154 | 5,682 | 2,472 | 30.0 |  |
| Pittsburgh Plate Glass-Libbey-Owens-Ford combined totals | 17,272 | 10,305 | 6,967 | 40.0 |  |

[1] New plant.
[2] Not available.

Source: Union records. Latest available unemployment statistics secured from U.S. Department of Labor and are for November 1963.

EXHIBIT B.—*Decline in jobs in rolled glass*

| Year | Number of production and related workers |
|---|---|
| 1955 | 1,117 |
| 1956 | 1,100 |
| 1957 | 1,086 |
| 1958 | 856 |
| 1959 | 812 |
| 1960 | 779 |

Source: P. 20, U.S. Tariff Commission Report on Escape-Clause Investigation, No. 7-102 TC Publication 21.

EXHIBIT D.—*Imports as percentage of nonautomotive-plate consumption*

[In millions of square feet]

| Year | Combined nonautomotive and mirror plate consumption [1] | Imports including colored glass [1] | As a percentage of nonauto-mirror consumption [2] |
|---|---|---|---|
| 1957 | 213.0 | 27.9 | 13 |
| 1958 | 211.5 | 23.1 | 11 |
| 1959 | 226.0 | 36.7 | 16 |
| 1960 | 232.9 | 34.2 | 15 |
| 1961 | 241.7 | 36.1 | 15 |
| 1962 | 255.1 | 37.6 | 15 |

[1] Source: U.S. Department of Commerce.
[2] Our computation.

EXHIBIT C.—*Analysis of U.S. plant class consumption showing dependence of domestic industry on automobile industry*

| Year | Apparent total U.S. consumption [1] | Nonautomotive plate consumption [1] | Mirror plate consumption [1] | Apparent auto consumption [2] | Domestic production [2] | Auto consumption as a percentage of production |
|---|---|---|---|---|---|---|
| 1957 | 586.0 | 157.0 | 56.9 | 372.1 | 576 | 64.5 |
| 1958 | 472.5 | 155.7 | 55.8 | 261.0 | 464 | 56.0 |
| 1959 | 707.3 | 165.6 | 60.4 | 481.3 | 692 | 69.5 |
| 1960 | 621.6 | 171.2 | 61.7 | 388.7 | 604 | 64.0 |
| 1961 | 531.1 | 177.5 | 64.2 | 289.4 | 511 | 56.5 |
| 1962 | 597.0 | 187.0 | 68.1 | 341.9 | 579 | 59.0 |

[1] Source: U.S. Department of Commerce.
[2] Our computation.

Mr. Speaker, I include also a statement by Felix C. Jones, the general president of the United Cement, Lime & Gypsum International Union, who testified to the fact that 5,000 jobs have faded away by reason of imports in that industry:

### FIVE THOUSAND CEMENT INDUSTRY JOBS FADE AWAY

While the United States is growing, and industry figures show, building with cement, employment in the cement industry has been steadily declining. New manufacturing techniques and equipment have brought efficiency increases at a faster rate than production has expanded.

Approximately 5,000 jobs have disappeared in a 5-year span, a decline of 13 percent in the work force while production was increasing by 12 percent.

In 1958, the industry had 1 production worker for each 8,370 barrels produced; in 1963, 1 worker for each 10,850, an increase in efficiency of about 30 percent in 5 years.

Here are the applicable figures:

| | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|---|
| All cements (thousand barrels) [1] | 307,068 | 335,452 | 312,292 | 320,751 | 331,823 | 345,002 |
| Hourly workers [2] | 36,700 | 36,200 | 34,900 | 32,200 | 32,100 | 31,800 |

[1] Figures secured by Bureau of Mines. 1963 figure is estimated.
[2] Figures secured from Bureau of Labor Statistics. 1963 figure is estimated.

Of the 4,900 jobs disappearing since 1958, union records show that approximately 1,500 jobs have been eliminated in the northeastern section of the country where foreign competition is felt the most keenly.

Other areas have been adversely affected by the increased trade barriers raised by Canada and Mexico so that traditional markets have disappeared. Dumping, however, is one of the most pressing problems because of its unpredictability.

In 1961, Victor H. Thomas, seventh general vice president of the United Cement, Lime & Gypsum Workers International Union, made a study of imported portland cement in the Fall River, Bridgeport, and Providence areas. The study was made because the union became convinced that a substantial portion of these imports stemmed from dumping.

Mr. Thomas concluded that in just these three New England port areas, the 1959 and 1960 imports were equivalent to 636,961 manhours of domestic production. His findings are attached as exhibit A.

### CEMENT INDUSTRY TRADE A ONE-WAY STREET

Because of the weight factor and of the general availability of the basic ingredients, the cement industry does not lend itself to marketing over broad areas except where plants are located near ocean-going transportation. Coastal markets can be penetrated, particularly as the cement is used as ballast, or enjoys an exceptionally low rate.

The fact that substantial quantities of cement are shipped to America, but American companies can sell little abroad is prima facie evidence that lowering the tariff barrier can only further depress jobs in the United States.

The ratio is less unbalanced in white nonstaining cement. Whereas in portland cement, we bought six times as much as we sold, in nonstaining white cement, preliminary figures show we exported $609,857 worth in 1963 and imported $1,442,396, placing purchases slightly more than twice the value of sales.

When imports from Norway increase by 240 percent in a 2-year period, the impact on domestic production and the U.S. work force is such that a logical explanation seems badly needed. Under existing law, there is no protection against a foreign nation flooding the domestic market. Certainly we are not charging that Norway is dumping cement. We simply do not know.[1]

The monthly FT 110 reports on import statistics issued by the U.S. Department of Commerce furnish some clues as to the difficulty of policing selling practices. Many countries alternate months of no sales to the U.S. market with irregular bursts of substantial activity.

Sweden, for example, had 1963 cement sales in excess of $100,000 each for the months of February, June and August with no recorded U.S. sales for the months between. Israel was not a factor in the U.S. cement market during the first quarter of 1963, followed by $110,000 in April sales and, after another month's absence, $220,000 in June. Belgium producers sold the United States $102,000 worth of cement in January 1963, and had no other month in which sales were even a fourth of that amount.

Regardless of whether dumping exists, such irregular import patterns can produce production and employment fluctuations in segments of the domestic industry.

In Canada our sales have declined steadily from the 168,677-barrel level which prevailed in 1958 to the 29,867-barrel level of 1962. Our cement going to Canada faces a tariff of 30 cents a barrel. Canadian cement coming to the United States has a tariff of only 8 cents a barrel. This difference helps accounts for the steady increase in Canadian sales to the United States while corresponding sales to Canada have been declining.

In Mexico, a parallel situation exists. Sales to Mexico, at the 221,241-barrel level in 1958 have fallen to the 13,177-barrel level which prevailed in 1962. Mexico put a tariff of $1.58 on U.S. cement; pays only 8 cents on the cement it sells us.

Where a nation has its own producers in the general area of use, the American product is not likely to penetrate. While the labor cost is not the major component, the differential between American wages and those of Mexico and the Scandinavian countries and, to a lesser extent, Canada, preclude cement as a logical major U.S. export item.

Here are the comparable figures:

| | U.S. bought (imports), standard portland cement, hydraulic [1] | | | U.S. sold (exports), standard portland cement [2] | | |
|---|---|---|---|---|---|---|
| | 1960 | 1962 | 1963 | 1960 | 1962 | 1963 |
| Canada | $2,394,108 | $3,014,820 | $3,798,961 | $181,330 | $49,192 | ([3]) |
| Mexico | 15,474 | 183,891 | ([3]) | 18,464 | 27,180 | ([3]) |
| Norway | 665,324 | 2,278,573 | 1,807,870 | | | ([3]) |
| Japan | 108,322 | 1,455 | ([3]) | | 1,878 | ([3]) |
| Total | 8,734,666 | 10,844,705 | 8,533,766 | 552,512 | [4] 1,301,076 | $1,462,260 |

[1] U.S. Department of Commerce FT-110 annuals for 1960 and 1962. 1963 figures computed from monthly FT-110 reports.
[2] U.S. Department of Commerce FT-420 annuals for 1960 and 1962. 1963 figures computed from monthly FT-410 reports.
[3] Not available.
[4] 1962 figures include $843,205 worth of portland cement sent to Korea.

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[1] The U.S. Tariff Commission did find "injury" had been done to the domestic industry in 1961 dumping cases against exporters from Sweden, Belgium and Portugal; made a similar finding against the Dominican Republic in 1963. Eleven other charges brought since 1960 resulted in findings of "no dumping."

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Here is an industry in which across-the-board concessions can only harm U.S. producers, their work force, and the communities where cement workers are a substantial source of primary income.

### CEMENT UNEMPLOYMENT CREATES POCKETS OF UNEMPLOYMENT

Many small communities are dependent on the cement industry. When the local plant is adversely affected by imports, the hardship is very real. A cement plant does not often make minor temporary reductions in force. Instead, it shuts down altogether. It usually stays idle until a sufficient backlog of orders has been achieved to make firing up the kiln worthwhile.

In event of atomic attack, the speed with which America could bounce back would depend, in great measure, on the capacity of the domestic cement industry. In turn, this will depend on establishing and preserving equitable trade conditions along our borders and coastline.

Three types of actions are needed to protect and strengthen the domestic cement industry:

1. Present antidumping procedures must be strengthened and made more workable.
2. Our cement must not face inequitable tariff barriers. Unless the Canadian and Mexican tariff are brought down, ours must go up.
3. Under no circumstance, should the minimal 8-cent-a-barrel duty on imported cement be further reduced.

### EXHIBIT A

*Manpower and wages—Impact of cement dumping in selected areas*

| | Barrelage | Equivalent man-hours [1] | Equivalent wages [2] |
|---|---|---|---|
| Providence-Fall River: | | | |
| Swedish imports: | | | |
| 1959 | 228,007 | 48,001 | $122,883 |
| 1960 | 248,835 | 51,412 | 136,242 |
| 1959-60 | 476,842 | 99,413 | 259,125 |
| Total tainted imports: | | | |
| 1959 | 552,075 | 116,226 | 297,539 |
| 1960 | 586,721 | 121,223 | 321,241 |
| 1959-60 | 1,138,796 | 237,449 | 618,780 |
| Total imports: | | | |
| 1959 | 658,118 | 138,551 | 354,691 |
| 1960 | 628,333 | 129,821 | 344,026 |
| 1959-60 | 1,286,451 | 268,372 | 698,717 |
| Bridgeport: | | | |
| Total tainted imports: | | | |
| 1959 | 405,179 | 85,301 | 218,371 |
| 1960 | 436,741 | 90,236 | 239,125 |
| 1959-60 | 841,920 | 175,537 | 457,496 |
| Total imports: | | | |
| 1959 | 887,561 | 186,855 | 478,349 |
| 1960 | 879,621 | 181,740 | 481,611 |
| 1959-60 | 1,767,182 | 368,595 | 959,960 |
| Providence-Fall River-Bridgeport: | | | |
| Swedish imports: | | | |
| 1959 | 228,007 | 48,001 | 122,883 |
| 1960 | 248,835 | 51,412 | 136,242 |
| 1959-60 | 476,842 | 99,413 | 259,125 |
| Total tainted imports: | | | |
| 1959 | 957,254 | 201,527 | 515,909 |
| 1960 | 1,023,462 | 211,459 | 560,366 |
| 1959-60 | 1,980,716 | 412,986 | 1,076,275 |
| Total imports: | | | |
| 1959 | 1,545,679 | 325,406 | 833,039 |
| 1960 | 1,507,954 | 311,561 | 825,637 |
| 1959-60 | 3,053,633 | 636,961 | 1,658,676 |

[1] 1959: 4.75 barrels per hour. 1960: 4.84 barrels per hour.

[2] 1959: $2.56 per hour. 1960: $2.65 per hour.

Source: Compiled by United Cement, Lime & Gypsum Workers International Union.

Mr. Speaker, I include also a statement by Sam H. Scott, of the United Stone & Allied Product Workers of America, who testified to the long-range job decline in the marble industry in America:

### LONG-RANGE TRENDS IN MARBLE INDUSTRY LEADING TO STEADY DECLINE IN JOBS

Despite the increased use of marble, the domestic marble industry has been marked by a general decrease in jobs. In 1930, the industry furnished employment for 6,087 workers[1] but by 1956 the total was down to 2,510.[1]

There was a slight gain in 1957, but the subsequent work history shows that the increased use of marble has not been reflected in marble quarry jobs. Here are the most recent figures:

| | *Men working daily* [1] |
|---|---|
| 1958 | 3,126 |
| 1959 | 3,071 |
| 1960 | 3,093 |
| 1961 | 3,119 |
| 1962 | 2,706 |

[1] Table No. 10 Forrest T. Moyer report, Bureau of Mines Minerals Yearbook, 1962.

In 1962, the change in the reporting form which the Bureau of Mines sends to the industry has the effect of minimizing the actual job decline. As of 1962, the industry began reporting shipments instead of production. Since domestic producers are beginning to use their sales and distribution systems for handling imported marble, their shipment figures inadequately reflect the true condition of the domestic industry.

The industry in short, is beginning to function as an importer.

Moreover, the trend is toward importing polished or rubbed slabs rather than blocks or even slabs. Instead of bringing in the raw material so that the final work is performed by American journeymen, the finished product is being imported.

### SIXTY-NINE PERCENT OF SLAB IMPORTS ARE RUBBED OR POLISHED

The trend is not new, but it has been accelerating. Whereas in prior years, the bulk of the marble came to America in an unrubbed, unpolished state, preliminary figures for 1963 show that for marble slab imports alone, 69 percent (dollar value), of the slab imports arrived in finished form.

The comparison below shows the trend:

*Selected marble imports in dollars*

| Year | Not rubbed, not polished [1] slabs, marble, brecca, onyx | Rubbed or polished [2] slabs, marble, brecca, onyx | Total value |
|---|---|---|---|
| 1959 | $1,147,635 | $1,453,635 | $2,601,270 |
| 1963 | 1,693,562 | 3,801,649 | 5,495,202 |

[1] Department of Commerce FT-110 1959 annual classifications 5090000 and 5090100 and monthly FT-110 reports for 1963.

[2] Ibid. classifications 5090010, 5090020, 5090110, and 5090120.

In 1959, a substantial portion of the marble imports came in block form. This means that the sawing as well as the rubbing or polishing was done in America.

Note the decline in block imports as sawed or dressed slab imports increased:

*Selected marble imports by volume*

| | 1955 | 1959 | 1961 | 1963 |
|---|---|---|---|---|
| Block (in cubic feet) | 222,363 | 154,204 | 123,358 | 109,356 |
| Slabs or paving tile (superficial feet) | 1,183,324 | 3,420,359 | 4,136,448 | 5,569,567 |

Source: "Chapters on Stone," Minerals Yearbooks, U.S. Department of the Interior, 1963 figures secured directly from Perry G. Cotter, Division of Minerals, U.S. Department of Interior, Bureau of Mines.

### WE ARE EXPORTING JOBS TO 50-CENT-AN-HOUR COUNTRIES

Some of the Italian marble being imported has color tones and qualities which cannot be duplicated in American quarries, but this is not the main problem.

The trend from block imports to polished or rubbed slabs simply means that work that formerly was done in America by American workers enjoying the traditional American standard of living is now being done, for the most part in Italy, by workers making approximately 50 cents an hour.

At the same time, as a result of automatic equipment, domestic productivity has increased substantially although no precise measurement of this increase is available to us.

The 1963 tariff calls for only 1½ percent ad valorem difference between sawed slabs and finished marble. It was generally assumed by the marble industry that the tariff on finished marble before the annotated tariff of May 24, 1962 (effective August 31, 1963), was 21 percent ad valorem. The duty now appears to be closer to 7 percent ad valorem.

In short, the marble industry now has an even greater incentive for importing rubbed or polished slabs ready for use.

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[1] Table No. 4, Marble, Bureau of Mines Information Circular No. 7829.

In 1957, the importation of marble in other than block form represented the equivalent of approximately 141 American jobs. In 1962, the figure was 544 jobs, in short, a substantial segment of the industry.[2]

For a more detailed breakdown of the trend toward importing slabs and finished marble, see exhibit A.

### EVERYBODY BENEFITS EXCEPT WORKING PEOPLE

According to the U.S. Statistical Abstract, between 1950 and 1961, marble sales in the United States increased from $10,932,000 to $30,960,000.[3]

The new uses for marble and its greater acceptance as a building material have been extremely helpful to marble quarriers and owners in Italy. We are advised that quarry employment in Italy is at an alltime high and that quarry profits are up.

The trend has also benefited importers who are bringing in marble in ever larger quantities.

It has benefited at least some of the domestic marble producers because they have been able to augment their domestic sales with the sale of imported marble.

Even contractors have benefited. Using marble generally means a higher priced building or residence, and the builders' profits thus also increase.

The American marble quarry worker has not benefited. Many simply have been unable to find jobs. Although sales have trebled in a decade, the number of jobs has declined.

For the smaller communities built up around marble quarries in America and for craftsmen, the marble boom imposes a growing sense of frustration. If the individual and his community are feeling the impact of marble imports today, what will lie ahead if tariffs are reduced still more and the present boom subsides?

While this is a small industry, it is one of those traditional industries America can ill afford to see wiped out.

### HOW WILL WE EXPLAIN WASHINGTON MARBLE?

It is an important industry to those sections of America where the quarries are located. It is an important industry to those American workmen possessing the finishing skills which have been handed down from father to son for many generations.

Washington, D.C., is a monument to the importance of the domestic marble industry. Here, annually, hundreds of thousands of visitors gaze in awe at a concentration of marble buildings unparalleled in history, a magnificence unrivalled even by ancient Rome.

To visitors from Kansas and visitors from Afghanistan, Washington has been a reminder that marble is indeed a typically American product. The present trends, unchecked, can make Washington emerge as a monument to American's ability to give away whole industries to prospering oversea friends while unable to find enough jobs for American wage earners.

EXHIBIT A.—*Trends in marble imports*

| Year | Sawed or dressed, over 2 inches thick | | In blocks, rough, etc. | | Slabs or paving tiles | | All other manufactures | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Cubic feet | Value | Cubic feet | Value | Superficial feet | Value | Cubic feet | Value | Cubic feet | Value |
| 1955 | 317 | $6,639 | 222,363 | $1,154,018 | 1,183,324 | $842,242 | -------- | $1,289,949 | -------- | $3,292,848 |
| 1956 | 900 | 10,589 | 225,449 | 1,189,036 | 1,715,452 | 1,232,619 | -------- | 1,989,318 | -------- | 4,421,562 |
| 1957 | 2,305 | 7,432 | 216,461 | 1,210,567 | 2,029,529 | 1,537,328 | -------- | 2,430,440 | -------- | 5,185,767 |
| 1958 | 525 | 5,037 | 172,136 | 988,345 | 2,419,163 | 1,859,966 | -------- | 2,198,397 | -------- | 5,051,745 |
| 1959 | 3,544 | 25,191 | 154,204 | 923,189 | 3,420,359 | 2,626,554 | -------- | 3,047,945 | -------- | 6,622,879 |
| 1960 | 8,512 | 48,048 | 116,278 | 773,905 | 3,436,011 | 2,861,890 | -------- | 3,302,944 | -------- | 6,986,787 |
| 1961 | 11,244 | 104,096 | 123,358 | 791,638 | 4,136,448 | 3,456,596 | -------- | 3,766,892 | -------- | 8,119,222 |
| 1962 | 6,152 | 52,031 | 151,774 | 1,069,021 | 5,017,957 | 4,477,470 | -------- | 5,421,769 | -------- | 11,020,291 |
| 1963 | 5,331 | 35,736 | 109,356 | 814,426 | 5,569,567 | 5,539,576 | -------- | (1) | -------- | (1) |

[1] Not available.

NOTE.—Data on p. 1 of BDSA letter, on "Granite, Dressed, Polished," are from this same series of tables, except that the word "Polished" doesn't appear in the tables and as indicated, the 1962 data are for the first half of that year as shown in footnote 1 of the table in the 1962 chapter.

Source: Chapters on stone from 1956, 1957, 1959, 1961, and 1962 Minerals Yearbook, U.S. Department of the Interior, quoting Bureau of the Census. 1963 figures secured directly from Bureau of Mines.

**Mr. DERWINSKI.** Mr. Speaker, will the gentleman yield?

**Mr. MOORE.** I yield to the gentleman from Illinois.

**Mr. DERWINSKI.** I wish to commend the gentleman from West Virginia for asking that we reanalyze and produce what he is obviously calling for, a legitimate, consistent interpretation of the type of negotiation we should be conducting on behalf of our American exporters and on behalf of hard-pressed American industry.

I hope the gentleman will see fit to keep producing his figures and keep calling them to the attention of the Members of the House so that this discussion will roll on and perhaps have the practical effect that the gentleman calls for.

**Mr. MOORE.** I thank the gentleman very much.

**Mr. FOREMAN.** Mr. Speaker, will the gentleman yield?

**Mr. MOORE.** I yield to the gentleman.

**Mr. FOREMAN.** I would like to join my colleague and commend him for his initiative in bringing this discussion to the floor of the House today, particularly in view of the fact of the trade discussions that will be going on on May 4 in Geneva. There are a good many items of major concern to people across America insofar as tariffs are concerned. Particular concern is expressed by the folks of Texas, the State which I have the opportunity to represent, on the increasing beef imports and the situation that faces us today with an alltime high in beef imports and the deteriorating situation that faces the beef and livestock growing industry in Texas and across the country. In fact, I have just recently introduced legislation, H.R. 10644, designed to establish a realistic set of import quotas for beef, lamb, and goat meat and pork. These quotas are set up by averaging the imports of these meat products over the last 5 years. The bill will allow an increase in imports once the market price of the affected products reach the parity price. Beef importation has been increasing at a dangerous rate for the last several years. In 1956, import equaled 1.6 percent of the domestic production, but jumped to over 12 percent in 1963. These imports have had a very detrimental dangerous effect upon our domestic livestock industry, and if allowed to continue, could seriously affect our State and national economy.

**Mr. MOORE.** May I interrupt my colleague just to make an observation. Of course, the executive branch of the Government made no effort at all to control beef imports. They have agreed that imports are not going to come into the country at any greater level than they did in 1963. 1963 was the year that destroyed the American marketplace for American beef. So I say they made no effort at all in behalf of those individuals who now are pressed because of this vast amount of imported beef coming into the country. They absolutely just said it is OK to bring it in at a level that it was brought in in 1963 which was the largest percentage year of imports of beef that the country has ever experienced.

**Mr. FOREMAN.** That is certainly true. In fact, in 1963 beef imports were some 106 percent above the beef imports for 1961. So what the State Department has said in agreeing to set these voluntary levels at the 1963 import levels is that we are going to stabilize a deplorable damaging beef import situation for the livestock growers of this country.

Another major item of concern to me and to people across the country in the cotton growing areas and the textile mills has been this business of continuing, growing, and increasing cotton imports. We have gone to many foreign countries, and through our improved methods and through foreign aid programs, we have helped these countries develop a cotton and develop a fabric that is in direct competition with us in this country. Now they are coming in and actually taking our business away from us. I think, again, when we hear all this conversation about war on poverty, one of the best ways to carry on a war on poverty is to keep American producers producing, whether it is beef or cotton or steel or oil. One of the most

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[2] Based on productivity rate at the Georgia Marble Co.

[3] Chart No. 1023, Statistical Abstract of the United States, 1963.

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vitally important products in this country today that is faced with this import problem is the oil business. I know the gentleman from West Virginia has joined me previously in discussions we have had concerning the problem of high level of oil imports from other countries that are stifling and holding down the encouragement and exploration and development for new oil and gas reserves in this country. This is particularly important to my State of Texas in view of the fact that a great number of people are employed in the oil industry there. Secondly, through the taxes that come from oil, oil and gas production and oil products, it helps us to keep the fine schools that we have in our State of Texas and other States across the country. These oil taxes help us to build our great super highways and to finance our States and Federal Governments.

So we have many things that are involved here that we are talking about. I certainly commend the gentleman from West Virginia for his timely discussion of this vitally important matter and for bringing this to the attention of the House and bringing it out at such an opportune time prior to the trade negotiations that will be taking place in Geneva on May 4. I am pleased, indeed, to join the gentleman and my colleagues in this discussion.

Mr. **DERWINSKI**. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. **DERWINSKI**. Mr. Speaker, may I remind the House that the Trade Expansion Act of 1962 gives the President no blanket authority in negotiations, but rather restricts him to a maximum 50-percent reduction in tariffs. If he fails to get enough concessions for the 50 percent, then he would have to bargain on a lower scale of tariff reduction. But there is an exception applicable to steel. Where the duty on any item is below 5 percent, this percentage may be bargained down to zero, staged over a 5-year period.

There is grave cause for concern in the U.S. steel industry, over the new round of negotiations beginning in Geneva next month—May—under the General Agreement on Trade and Tariffs—GATT. The Trade Expansion Act of 1962 permits across-the-board reductions in already low tariffs on steel products. The steel industry fears the possibility that negotiators may use this authority in bargaining for an opening up of the European markets to American farm surpluses.

Foreign steel producers need no additional help to sell steel mill products in the United States. They already have the advantages of low labor costs and low production costs, attained by modern steelmaking plants, financed largely since World War II by American dollars and aid. They have easy entry into the U.S. market, with low steel tariffs and no other artificial barriers or impediments to sale of steel in this country—such as exist abroad. In addition, they are assisted in actually dumping their surplus steel, at incremental cost or even below cost, because of lax enforcement and interpretation of our antidumping laws. What we need is strict enforcement of antidumping laws and an equalization of trade barriers, putting the steel industry on an equal footing with its foreign competitors.

In addition to generally higher average tariffs against U.S. steel exports, many foreign countries maintain a multitude of nontariff trade barriers and restrictions to limit their imports and expand their exports. These include various excise taxes, surcharges on imports, documentation charges, import licenses, quotas, foreign exchange controls, customer formalities, and exclusive trade agreements. At the same time, their exports may be encouraged by tax refunds, allowances or credits, accelerated depreciation on exports, and by various forms of financial assistance, both direct and indirect.

In the case of Japan, the United States industry has found it difficult if not impossible to compete successfully in the sale of its products in that country except on the occasion when special circumstances enable the American industry to make a sale to a particular customer to fill a special need. However, if the U.S. industry would find a way to enter that market, it would fully expect that the Government of Japan, as well as the governments of other countries similarly situated, would exercise the controls available to them either to limit or bar any significant participation on the part of the U.S. industry that would work to the detriment of their own steel industries.

This fact was just recently emphasized by the action of the European Iron and Steel Community, increasing rates of duty on steel products coming from outside the Community, putting Community members in a better bargaining position in the GATT negotiations. It is a well-known fact the governments of the principal steel producing nations support and encourage the export of the products of their steel industries. I cannot determine the extent to which such support takes the form of tax refunds, allowances, or credits, except for excise taxes, or the form of depreciation allowances or concessions on exports, or other forms of financial assistance, both direct and indirect, that are frequently utilized by foreign competitors in promoting their trade.

It is almost axiomatic that free trade cannot flourish among the nations of the free world unless fair competitive practices are observed. Among the most vicious and destructive of these practices, and one that is almost universally condemned, is the practice of predatory pricing; that is, the practice of quoting a price that is always lower than the one quoted by the competitor with the result of driving, or threatening to drive, him from the marketplace.

Our Antidumping Act was passed in 1921 to deal with the practice of the predatory pricing of exports to the United States. That act is based on one of the major principles that underlie our antitrust laws. Congress has on two occasions, in 1956 and 1958, amended the Antidumping Act for the purpose of attaining greater certainty, speed, and efficiency in its application to the practice of dumping of foreign products in this market in those instances where a domestic industry is likely to be injured, or is prevented from being established.

During the past 6 years imports of steel mill products have risen from 1.707,130 tons in 1958 to 4,100,448 tons in 1962, and 5,644,739 tons in 1963. Except for the period of the 1959 steel strike, which lasted from July 15 to November 7, virtually all of these imports have, according to all reports, been sold at prices that would induce the purchaser to buy the imported product rather than the product of the domestic manufacturer.

It is of utmost importance that our representatives at the trade negotiations appreciate that it is this practice of underpricing the domestic producer by whatever amount is necessary to take the customer's business and in disregard of article VI of GATT that is enabling foreign producers to preempt and capture increasing shares of the U.S. market. This is the practice that has already virtually driven some products of the American producer, such as wire rods, standard pipe, and concrete reinforcing bars, from markets adjacent to ports of entry in this country that are easily accessible to the foreign producer.

The steel producers of other nations have in their respective countries the means of maintaining stable prices on their domestic sales. Thus, in the United Kingdom maximum prices are established by the Iron and Steel Board. In the European Coal and Steel Community, steel producers are required to list their prices with the high authority of the Iron and Steel Community and price discrimination among domestic customers is discouraged. In Japan, the larger companies post agreed-upon prices under their collective open sales system of pricing for the purpose of stabilizing them.

To the extent the steel producers of other nations are able through such arrangements to maintain their established level of domestic prices, they will find it possible and desirable to seek even higher rates of operations than their domestic markets and normal export outlets will support by dumping their excess production in open export markets. This practice finds support in the governments of such steel producing countries for several reasons. It contributes to an improved balance of trade and earns foreign exchange that in countries like Japan is used to buy required raw materials from other nations. Such practice also permits the better utilization of a work force which most mills are required by law or by practice to maintain regardless of the need for their services. Since the maintenance of established prices on each mill's domestic shipments provides the means of covering fixed charges, excess production can then be sold in the export market at prices that will recover only the incremental costs of such excess production and yet contribute significantly to these goals.

The United States affords by far the largest and most attrative market, both actual and potential, for the dumping of excess steel production. The modest rates of duty levied by the United States on steel imports constitute the only Government-imposed cost of entering this market and encourage the foreign steel producer to devote his activities in the export market to the gaining of additional customers in this country. And this trend will be increased as the foreign steel producer loses traditional markets that he has been serving in nations that are now developing and expanding their own steel industries.

For these reasons, foreign steel producers are expected at the coming trade negotiations to exert every effort to remove all barriers that stand in the way of their free access to every market in this country, whether it is an import duty, the Antidumping Act, the Buy American Act, or other legal or competitive obstacle. The representatives of the major steel producing nations at the trade negotiations will most energetically seek these goals on behalf of their producers.

I must remind our representatives at the trade negotiations to be mindful of the fact that American industry is subject to antitrust laws that are directed against predatory and discriminatory pricing, as well as price fixing and other collusive practices. I remind them to be aware that while some foreign countries and the Common Market do have some laws applicable to restraints of trade, they are not nearly as strict as our own laws. Also, that there do exist cartel arrangements to establish common prices, to allocate markets and particularly export markets, and otherwise serve the collective interests of the participating producers. Reports of the functions and activities of these cartels are regularly found in both Japanese and European trade journals.

It is expected that the subject of buy American will be raised by the Japanese in the form of a proposal that our laws in this area be repealed. Reports indicate that the Japanese are not satisfied with their position as the leading exporter of steel products to the United States but hope to expand their markets in this country. They appear determined to invade the field of government procurement in the same fashion as they have invaded the private sectors of our markets—by quoting whatever prices may be necessary, however low they may be, to obtain the volume of business they are seeking.

I must remind our representatives at the trade negotiations to be aware of paragraph 8(a) of article III of the General Agreement on Tariffs and Trade that appears to exclude from the area of trade negotiations existing legislation dealing with preferential purchasing by Government. This provision reflects the principle that governments should determine how their interests can best be served in purchasing with public funds their own requirements of materials and supplies. The principle recognizes that governments derive tax revenues from the sale of the goods and services of their own industries and that, concerned as they are with matters of employment, balance of trade, and other domestic political considerations, there remains no permissible area of consideration of national preferential purchasing for the negotiators of the General Agreement on Tariffs and Trade.

I also remind our representatives to note that Japan and other critics of buy-American legislation confine their own government purchases generally to domestic suppliers. Late in 1963, the Japanese Government moved in the direction of confining by Government edict the purchasing of materials with public funds to domestic suppliers. In the case of steel, we would think this move unnecessary since no foreign steel company has to my knowledge been successful in selling its products to the Japanese Government. France has also criticized buy-American legislation but generally confines its purchases through either official or unofficial practices to its own domestic suppliers.

Mr. Speaker, may I remind the House that in 1962 I voted in favor of the Trade Expansion Act, supporting the principle that the freest possible flow of trade throughout the free world would be mutually beneficial to the United States and other lands. However, it is apparent that our trade negotiators have consistently disregarded the intent of Congress in passing the 1962 act, and I have recently introduced a bill, H.R. 10508, which terminates the Trade Expansion Act at the close of 1965. The purpose of this bill is to bring about what I feel to be is a needed congressional review of the negotiations conducted by our representatives.

I also wish to reemphasize the service which the gentleman from West Virginia [Mr. MOORE] has provided by leading the House in a discussion of this very timely and vital subject.

Mr. MOORE. I thank the gentleman.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I am happy to yield to the gentleman from Illinois.

Mr. ANDERSON. Mr. Speaker, I also wish to join in commending my colleague, the gentleman from West Virginia, for taking the well of the House today to bring to the attention, I hope, not only of the Members of this body but also of a considerable segment of American opinion the vast importance of the negotiations which will take place shortly at Geneva, the so-called "Kennedy round."

The gentleman has called attention to the effect of imports on one of our great industries, the steel industry. I represent a district which has a steel mill, a steel plant, so I likewise have had experience with the effect that imports have had on the sales of that industry.

I am also greatly interested in another industry which has been affected by imports, which uses the end product of the steel industry, about which the gentleman from West Virginia has talked; that is, the screw and fastener industry of this country.

About 1 year ago hearings were conducted before the Finance Committee of the other body on the subject of a package-marking bill, a bill which had the modest objective, I believe, of requiring that imported articles coming to this country in bulk, before being redistributed through normal channels of trade in this country, should be properly labeled and marked as coming from foreign sources, to designate their foreign origin.

I regret very much that on the 31st of December of last year the President of the United States, with a pocket veto, defeated what was the express will not only of the Senate but also of the House of Representatives, and that he did not permit that legislation to become law.

Mr. MOORE. May I interrupt the gentleman to ask a question. Did not that legislation of which the gentleman speaks pass the House of Representatives unanimously?

Mr. ANDERSON. I believe the gentleman is correct. If the gentleman will yield further, I do not believe there was a single dissenting vote, at least on the record, on that measure.

Mr. MOORE. Yet the President of the United States subjected that legislation to a pocket veto.

Mr. ANDERSON. That is correct. If the gentleman will yield further, in those hearings to which I referred it was pointed out that the American wood screw market had been usurped to the extent of about 75 percent by foreign wood screws. That is the extent to which these imports have taken over the American market.

The gentleman will also find, I believe, with respect to other types of fasteners, if he examines the period 1958 to 1962, that foreign imports of screws from Japan have just about doubled.

This is an important industry, not only for northwestern Illinois but other parts of the country as well. It is an industry employing many people. As the gentleman has pointed out with respect to the steel industry, it employs literally thousands and thousands of American workers.

I commend the gentleman for the task he has undertaken, of calling to our attention the importance that the negotiations be conducted in such a way that we keep uppermost in mind the importance of our industry, though not simply the protection of American industry against any competition. We do not seek that. We do not seek to return to any unrealistically high level of tariffs, such as we perhaps had in 1929 or some past period in American history.

As the gentleman has said, with the unemployment rate still above 5 percent in this country, and considering all of the talk about pockets of poverty not only in Appalachia, the gentleman's region, but also in my State of Illinois and in other parts of the country, we certainly have a right to expect that this administration, as it proceeds in the conduct of its negotiations, will keep in mind the interests of the American public and of the American workingman.

I thank the gentleman for yielding.

Mr. MOORE. I thank the gentleman.

I make the additional observation that there are some who will sort of "pooh-

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pooh" what we do today, based upon the fact that they believe we are protectionist-minded people or protectionist-minded Members of Congress, and that we wish to go back to the days of our country's history mentioned by the gentleman.

I am sure the gentleman realizes that I seek to emphasize that the United States of America is a low-tariff country today. When we take into consideration the tariffs of the other countries of the world, we realize the United States has reduced its tariff barriers to practically nothing, yet on May 4 it is proposed to cut the remainder in half.

It would seem to me that, without question, anybody who looks at the record could never expect to go back to the high-tariff time in our Nation's history but, actually, we would like a little more equitable share of the American market for the American industry with some slight protection.

**Mr. ANDERSON.** If the gentleman will yield further, I have one more brief observation.

In the colloquy that occurred a moment ago between the gentleman from Texas [Mr. FOREMAN], and the gentleman now in the well, reference was made to the state of the livestock industry in this country. I think it bears out particularly well the truth of the observation which was made by the gentleman from West Virginia now that we maintain unrealistically low levels with respect to other countries in the world and, moreover—and this is with particular reference to the livestock industry—I think I am correct in saying that other than the United States there is only one other country, namely, Canada, that does not have some kind of nontariff protection for its domestic livestock industry. That is one of the reasons why some of the Members of this House, including myself, have been concerned about the so-called voluntary agreements which have been mentioned between this country and New Zealand and Australia. We think something further ought to be done to give a reasonable quota protection to the American livestock industry.

**Mr. MOORE.** I agree with the gentleman. Let me make this observation: If the Geneva meeting does, on a broad area, reduce our tariffs, I predict it will mean the mass flight of further American capital into the various other nations of the world to construct new and more modern manufacturing facilities covering the scope of our American marketplace as far as goods produced are concerned, to the extent that it cannot help but mean a further loss of jobs here in the United States. We have already had $2 billion worth of our American investments in manufacturing facilities in various countries of the world. I do not say per se all foreign investments are bad, but I say when our trade policy drives our firms overseas as a haven from import competition and as a means of selling in foreign markets, then the trade policy should be changed. If it is not, then what we seek to do with a legislative war on poverty in America is a futile undertaking because, while we may pinpoint some Federal enactment to an area which is now a poverty area in America, by permitting the outflow of American capital and the construction of American plants in all areas of the world and which produce every conceivable type of manufactured goods, we will create new pockets of poverty in this country. It is an endless cycle, and I do not think we can ever hope to cope with it from the standpoint of the Federal Government with its doubledealing in jobs for our workers.

**Mr. PELLY.** Mr. Speaker, will the gentleman yield?

**Mr. MOORE.** I will be happy to yield to the gentleman from Washington.

**Mr. PELLY.** What the gentleman just said indicates to me a result of this Congress having abrogated its constitutional responsibility over taxation. Congress may keep what our Founding Fathers had placed definitely under our responsibility; namely, the power to tax. Furthermore, the Constitution specifically provides sole authority over regulating foreign commerce is in the legislative branch. That is why my lumber industry and my fishing industry are in trouble and other industries that the gentleman and others have mentioned here today are in trouble.

**Mr. MOORE.** Let us assume the steel industry would follow the pattern of some other American industries and should invest half a billion dollars or a billion dollars overseas. These companies could perhaps save themselves and their investors by doing it in this manner, but I ask you where would it leave our steelworkers in America and, more than that, where would it leave this country when you are dealing with a basic industry like steel, in the event that it would find itself in a world conflict where it would have to have steel production of this Nation at its highest capacity? Why, it is another way to destroy the Nation. To me there is a national defense significance in any tariff negotiation which would in any way seek to destroy a basic industry like steel in America. If you cause it to go overseas, it would be pretty difficult to get it over here in this haven of democracy to refine it into some weapon of war if it was needed. By that time it will all be over with. It will strip America of its really great piece of artillery in time of war which is its steelmaking capacity.

**Mr. BRAY.** Mr. Speaker, will the gentleman yield?

**Mr. MOORE.** I yield to the gentleman from Indiana.

**Mr. BRAY.** Mr. Speaker, I want to congratulate the gentleman from West Virginia for bringing this most important matter, the welfare of America and American labor and American business and American farmers, to the attention of Congress at this time, because I also believe that we are to receive or have received a message on the great war on poverty. Yet at the same time there are segments of our Government which are now making plans for taking away protection of American industry and getting no protection back in return. It seems so utterly inconsistent that at the same time we are talking about a war on poverty we are taking steps that will increase, in enormous degree, the poverty already existing in America.

The war on poverty is certainly going to be a very big war if we continue to make it so by our actions in the matter of the protection of American jobs and American industry.

Mr. Speaker, the much-heralded Kennedy round of tariff cuts is soon to get underway. Some of us in the Congress who have had a continuing interest in tariff problems cannot help reflecting on the background of this situation.

When President John F. Kennedy took office, his so-called trade expansion program was supposed to be among his first objectives. As we all know, it was not approved until mid-1962. Its advocates at that time insisted its passage was vital, and that any delay could not be tolerated.

Yet here we are almost 2 years later, and what do we find? We find that preliminary discussions did not begin until May 1963. And we find that after a mostly fruitless year, the negotiations are about to begin in the Kennedy round.

It may strike some of us as indicating some lack of purpose or some lack of sincerity on the part of those in the administration who said that this legislation was vital, and needed immediately in 1961 and 1962.

On the other hand we should perhaps say, "Thank goodness that some American workers and some American industries have been accidentally given this extra reprieve." For the toll of American jobs which are lost because of import competition continues, and we are simply led to wonder, "Who will be next?"

Currently we are told of the impending war on poverty. Workers from American industries which have been seriously hurt or destroyed by import competition could tell us where that war should begin. I am thinking of the stone and glass workers, the coal, steel, auto, and transportation industries, the shoes and garment industries, textile, the tile, latex, sewer pipe, electric motors, batteries, electric equipment, wood and veneer industries and workers, and too, meat and agricultural products are greatly injured by import competition.

If we want to begin a real war on poverty—on its causes and not just its effects—we might begin by affording adequate protection to those industries which currently are feeling the threat of import competition and which may soon fail because of it.

And then we hear of the administration's program for the Appalachian region. You can look over this area and see many of the victims of unfair import competition in the last several years.

You see coal mines, closed because of the importation of residual fuel oil. You see glass factories, closed by imports from countries where labor rates are only a small fraction of what American labor is paid. You see pottery plants, shoe factories, bicycle manufacturers, and a host of other industries that have had to close some or all of their doors because the unfair competition of cheap foreign labor has been more than they could survive.

Yes, Mr. Speaker, we could begin the war on poverty by simply extending adequate protection to American workers and industries. Every American worker that I know would much rather that we help him keep his job, rather than give him special assistance after his job has been destroyed. Whatever actions we take to combat present pockets of poverty, we should not ignore the ones which threaten to be created because of continued unfair competition.

As this threat spreads to more and more industries, more and more workers and more and more areas, I sense that the demand for protection is increasing. Now would be an excellent time to heed this demand, and to protect existing jobs even as we seek to create new jobs for those now jobless.

Mr. MOORE. Mr. Speaker, may I say to the gentleman that he was on the floor when we discussed and debated and the Congress finally passed the Trade Expansion Act of 1962. One of the great features of that act as represented in the debate was the fact that it had something in it for an American industry that was forced out of business. The gentleman will recall the financial assistance provision of the Trade Expansion Act of 1962. We were told that any American industry that was forced to the wall as a direct result of the import competition would be entitled to technical assistance and financial aid until it could get either into another business or where it could compete or until such time as it could get itself back in a position of competition in the market in which it was then engaged.

But we find when we look at the administration of the act that the Tariff Commission has had before it 13 specific cases in which American industry has asked for the benefits of those particular sections of the Trade Expansion Act and the Tariff Commission has denied them in every single instance.

Mr. BRAY. That is correct. At that very time I said on the floor of the House that we could not trust our State Department to take care of negotiations for farmers, labor, business, and the economy of America. I am very proud and happy that I voted against that bill because later action has shown that it was a very good vote.

Mr. MOORE. I thank the gentleman for his contribution.

Mr. BETTS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman.

Mr. BETTS. Mr. Speaker, I want to commend the gentleman for the position he has taken on this very important subject. I think it is long overdue.

Mr. Speaker, in the near future the General Agreement on Tariffs and Trade will open its meeting in Geneva for a long tariff-cutting session under the so-called Kennedy round. The session is scheduled to open May 4.

The negotiations for the United States will be conducted by the staff of the President's Special Representative for Trade Negotiations, as provided in the Trade Expansion Act of 1962. The conference will proceed under an authority granted by Congress to the President that exceeds any previous grant of power. Beyond a general sweeping authority to reduce the tariff by 50 percent, the President has authority to eliminate the tariff on items on which the tariff is now 5 percent or less, on certain tropical products and a long list of agricultural products.

Never before has our industry faced so formidable an array of power in the hands of the President in this field. Nearly 4 months of hearings were held before the Tariff Commission and the Trade Information Committee. The largest number of witnesses ever to appear before the Tariff Commission on the eve of an international tariff conference occurred during these 4 months. The great majority of the witnesses cautioned against further tariff cuts and a great many made strong pleas for removal from the list of products on which the tariff is to be cut.

Mr. Speaker, it is safe to say that on no previous occasion have the misgivings been as great as on this occasion. Yet, the Tariff Commission is limited to an expression of opinion about the probable economic consequences of further tariff cuts on each item. The peril point findings of the Commission which since 1950 guided the American negotiators were eliminated by the Trade Expansion Act of 1962.

Despite the strong pleas made by scores of alarmed industries, the policy of our Government appears to be to subject what remains of our tariff to the most ruthless treatment to date under GATT. Recently Under Secretary of State, Mr. George W. Ball, speaking before the United Nations Conference on Trade and Development in Geneva, March 25, alluded on two occasions to the so-called Kennedy round. In one instance, referring to the demand of the less-developed countries for tariff reductions by the industrial nations on products of the former, he said:

> The industrial countries have done much in recent years to reduce these barriers. More can be achieved by deep, across-the-board tariff cuts in the Kennedy round—and we are prepared to have these benefits accorded to the developing countries without asking reciprocity.

Elsewhere in the same speech Mr. Ball, speaking of the removal of nontariff barriers, again paid his respects to the Kennedy round. He said:

> But tariffs have become less of a barrier to exports and this will be true all the more after the Kennedy round.

Both of these quotations leave little or no doubt about what Mr. Ball anticipates from the Kennedy round. Deep across-the-board cuts may be expected if Mr. Ball's anticipations are met. Few people in the Government are in a better position to know what is expected from that round than Mr. Ball. He was a chief architect of the Trade Expansion Act of 1962 and the act embodied much of his internationalist philosophy.

I think we may as well be prepared to see our tariffs more deeply cut in the Kennedy round than on any other occasion if the present intent of the State Department is carried out; for let us not forget that it is still the State Department that writes our trade policy and not Mr. Herter, the President's Special Representative for Trade Negotiations.

Mr. Speaker, the State Department trade policy has changed very little since 1945 when that Department took the lead in organizing an international trade organization that was to function under the auspices of the United Nations. The plan at that time was to lead this country into an international organization which was to regulate not only our foreign trade but many of the economic factors that determine the flow of trade. The multination organization was to be the center from which far-reaching decisions would be made—decisions that might have the power of life or death over our industries.

The intent remains the same to this day. International planning is to be substituted for our own decisions, governmental or private. The field of decisions by private enterprise would be narrowed to the point of virtual disappearance. In its place would be the overriding decisions reached by the international organization promulgated at a point far removed from the Halls of Congress. The regulation of our foreign commerce would be lost for good so far as Congress is concerned. The mere fact that the Constitution expressly confers that power on the Congress has never more than faintly impressed the State Department in recent years.

Mind you, we became a member of the OECD—Organization for Economic Cooperation and Development—in 1961. While the OECD does not now intrude much into the field of trade it is vested with the power to do so; and if GATT, which is the present instrumentality for trade negotiations, should no longer fill the needs, OECD could replace that organization and substitute its superior powers for those of GATT. Since GATT was never submitted to Congress for approval and is therefore operating without legitimate sanction of the United States, the OECD, having the advantage of Senate ratification, may be expected in time to replace GATT.

Mr. Speaker, it must be clear now that the complaints against congressional abdication of its power in the field of tariffs and trade in the past 10 or 15 years were well founded. We in the Congress now find ourselves on the outside looking in, whereas the reins of foreign commerce regulation and tariffmaking should be firmly in our hands.

We have lost nearly all influence over the trade negotiations through a broad delegation and, further, as a result of the stretching of the delegated powers by those who exercise it.

That is why I take this occasion to express concern over what may be expected to happen under the Kennedy round. If what has been said by Mr. Ball and others is true, and this country undertakes to cut the greater part of our tariffs by another 50 percent, it will be a calamitous development.

I say it would be calamitous for the very reason cited by the many industries that appeared before the Tariff Commission. Many of these industries are already overexposed to import competition. They need a remedy against what

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is already happening and now they are to be exposed to a yet sharper import competition. It could be said that there seems to be a determination to drive some of our industries to the wall as an earnest fee to induce faith in our liberal trade policy in other countries. It is much more important to the State Department that other countries have faith in that Department's promises of reducing our trade barriers, promises it has no shadow of a right to make, than it is that our industries have faith in their economic future. To the State Department the future of our industries is of seemingly no concern compared with what Mr. Sukarno or others like him think about us.

Yet it is of course the industrial base of this country that nurtures the State Department itself.

Our trade policy has already produced the effect of driving many of our industries to premature automation as a means of remaining competitive with imports or at least striving to do so. A good part of our employment problem may be ascribed to the pressure to become more efficient through installation of more laborsaving devices.

Now this pressure is to be increased vastly. The lower wages abroad are to be given an additional advantage in our market. The foreign exporters will come into a position to capture an ever-growing share of our market for product after product. We will then be driven to a feverish course of automation that will displace workers under conditions that will not soon see their reemployment. Thus will we compound the erroneous policy under which our industry in great part is already operating.

Oh, it will be said this country is prosperous and we enjoy an export balance of $5 billion in our trade. What is there to worry about?

Mr. Speaker, we must not lose sight of the trends that are unfolding before our very eyes. Japan is now the leading shipbuilder of the world. She has become the leading fishery nation of the world. She is leading textiles manufacturers. Last year she became the leading steel exporter of the world.

This is not said by way of criticism of Japan. That country has made a most remarkable recovery. It is said by way of contrast. In recent years this country has shifted from a net exporter of steel to a net importer; from a net exporter of automobiles to a net importer; from a net exporter of textiles to a net importer; from a net exporter of shoes to a net importer; from a net exporter of typewriters to a net importer. We have lost relative position in a number of products, and the list is growing. Some of the adverse movement is rapid and increasing in momentum.

Our $5 billion export surplus is spurious, considering our foreign aid shipments, export of farm products for foreign currencies, our outright grants, and our heavy subsidization of the exports of important agricultural products.

The fact is, Mr. Speaker, that in foreign trade we are in an unenviable and deteriorating position. The trend is running heavily against us.

The European Common Market no less than Japan, both with their labor-cost advantages over us, are coming rapidly into a more formidable competitive position vis-a-vis this country. Our much-vaunted superior industrial know-how has been internationalized in the past 10 years. Our capital has emigrated in a heavy flow and we enjoy less protection on the average than most of the countries with which we compete thanks to our 80-percent tariff reduction in the past 30 years. Why should we be called on for further tariff reductions when we have not only outdone the other countries but when it is they that have the lower production costs?

Mr. Speaker, I say it would be an act of unforgiveable economic stupidity and danger to proceed with the Kennedy round toward further deep tariff reductions. The best thing that we could do would be to let the round go by, while we keep our powder dry.

**Mr. BOW.** Mr. Speaker, will the gentleman yield?

**Mr. MOORE.** I yield to the gentleman from Ohio.

**Mr. BOW.** Mr. Speaker, I, too, would like to commend the gentleman from West Virginia for bringing this matter to the attention of the House. He has made an excellent statement. Particularly I agree with that portion of his statement in which he said that if we really want to have a war against poverty we should protect American industry, we should do those things which would give the American workingman a regular job, a steady job, with dignity, not the stopgap protection that takes care of him for a few months here and a few months there. Let us establish real jobs.

What we have been doing with this program as it has operated is that we have exported American jobs. The American workingman's job has been exported under these trade agreements that have been entered into. I think the gentleman is quite correct.

Also the gentleman said one other thing that I think is very significant. That is the fact that by doing this we have cut down the flow of American private funds in domestic enterprises. American funds have gone abroad to build plants.

May I point out to the gentleman in addition to that, that American aid has gone abroad, the American taxpayers' dollars have gone abroad to build modern plants so that they may compete with us. We have lowered the tariff and we have built their plants so that they may compete and take these jobs away from the American workingmen.

Mr. Speaker, I think this is a very serious matter and if we are really going to make a fight against poverty let us do everything we can to put the American workingman back to work, to give him permanent work at decent wages. That will be the answer to poverty and it will spread throughout the country.

I do not believe the American workingman wants handouts. I do not think he wants the dole. I do not think he wants any more "security." I think he wants a permanent job so that he may support his family with dignity. That is what we can do if we protect these industries.

Mr. Speaker, it is sometimes said that the Trade Expansion Act of 1962 has not yet been tested because no tariff reductions have been made under it.

It is true that the tariff-cutting authority delegated to the President under the act has not yet been exercised. The Geneva Conference is only scheduled to open on May 4 next. Nevertheless a record has already been made under the new act; and that record is one of abject failure.

When the trade expansion bill was before Congress much was made of the proposed new remedy for any serious injury to industry or labor that would result from the new tariff cuts or from those made in the past. Adjustment assistance was the watchword. It was to replace the escape clause as a remedy. The idea seemed to be that under the new policy injury would be inflicted, as it had already been afflicted by past tariff cuts, but with a difference.

Under the previous policy, going back to 1934, any intent to injure domestic injury by tariff reductions was strongly disavowed, not once but time and time again; not only by minor officials but by three Presidents and half a dozen Secretaries of State and a succession of other Cabinet officers over a period of 25 years. This was the period, 1934–60, of a series of bilateral trade agreements, about 29 in number, from 1934 to 1947, and then 5 broad tariff-cutting conferences under GATT. Duties were reduced an average of 80 percent during that quarter century. Tariff reductions were negotiated item by item on the grounds that the competitive conditions affecting individual products differed from those affecting other products. That was in keeping with the facts of the case.

Under the new act tariffs are to be reduced regardless of consequences. If the drastic cuts result in injury to domestic industry this is simply too bad; but the good will outweigh the evil of it. The new world order demands a subordination of local domestic interests to the enlightened foreign policy that by its nature must override all other considerations. This may be a little difficult to understand since the sacrifice of local selfish interests here presumably will help similar local selfish interests in other countries; or where else would the benefits come to rest? Perhaps foreign interests that are to benefit are neither local nor selfish but noble, whereas ours answer inevitably to the former description.

The new policy marked a drastic change from its predecessor. The no-injury policy of the past quarter century was given up for one of compensated injury. Industries, frankly, were to be hurt by the new policy; but when they were hurt enough they would be compensated; and the same would hold for labor. There was to be one feature of liberalization. In order to gain compensation it was not necessary that a whole industry or a segment of it be injured. An individual company could apply for relief; and so could the workers in a company. One of the two could even apply without the other. Thus a union of workers might gain relief while the company went on its way. This provision seemed to be made especially to fit the situation in which a company might succeed in meeting import competition at the expense of labor; that is, the company might save itself through automation by reducing its cost of production; or it could go into business overseas while in both cases labor would take the brunt of the punishment. Organized labor let it be known in 1962 that it would not support the trade expansion bill unless it contained the adjustment assistance provisions; and these were duly written into the bill and passed.

Subsequently as the new cases came before the Tariff Commission cries of anguish went up. As each case was decided it turned out to be a rejection. Not a single Commissioner of the six was able to find injury as required by the criteria contained in the act. This happened not only in 1 case but in each one, 12 in all. Each one was rejected unanimously by the Tariff Commission. One case is still before the Commission.

The result was that the substitute for the escape clause was in fact a dead letter. As a matter of record the 12 cases that have been decided are listed by name and type of case, as follows:

| | Commission finding | Vote |
|---|---|---|
| Applications made by industry: | | |
| Household chinaware | No injury | Unanimous. |
| Earthenware | do | Do. |
| Hatters fur | do | Do. |
| Softwood lumber | do | Do. |
| Whisky | do | Do. |
| Umbrellas | Pending | Pending. |
| Applications made by firms: | | |
| American Ceramic Products, Inc | No injury | Unanimous. |
| Industrial Biochemicals, Inc | do | Do. |
| Applications made by workers: | | |
| Employed by New Jersey Zinc Co | do | Do. |
| Employed by Philco Corp | do | Do. |
| Employed by iron ore mines | do | Do. |
| Employed by Indian Head Mills | do | Do. |
| Employed by Winburn Tile Manufacturing Co | do | Do. |

This is the record under the much-vaunted adjustment assistance program.

Mr. Speaker, the record under the old escape clause itself was not good. From 1951 to October 11, 1962, when the new law went into effect, 99 cases were processed by the Tariff Commission. The Tariff Commission itself decided against the applicants; that is, made a majority or unanimous finding of no injury in 58 cases. It found affirmatively in 41 cases. Of the 41 cases which were sent to Presidents Truman, Eisenhower, and Kennedy, 26 were rejected and 15 were promulgated.

In other words, approximately 40 percent survived the Tariff Commission investigations and resulted in recommendations for tariff increases or imposition of import quotas. The remaining 60 percent failed to obtain a finding of injury. Of the 40 percent that did go to the White House, 15 were successful, representing 37 percent of the 41 cases; but only 15 percent of the total cases.

The chances were about 1 to 6, in other words, that an industry would succeed in an escape-clause action. This was a low batting average, to be sure, but it was still much better than under the present act when the batting average is zero. This is not the whole story, since all the decisions under the new law have not only been negative but unanimously so. While a failure is a failure, under the old law a number of the rejections by the Commission were by majority vote rather than unanimous.

Mr. Speaker, such has been the record under the Trade Expansion Act. It is dismaying to contemplate further drastic tariff cuts under the forthcoming Geneva Conference when it is clear that American industry and labor have no remedy against the serious consequences that are sure to develop.

Many industries, facing such a dreary outlook, will find it undesirable to carry out any plans for expansion they might have had. No responsible directorship of a company would approve outlays for new plant and equipment when the market outlook was one of threatening disaster. In the industries that already suffer from sharp import competition the most likely recourse would be to pull in their horns and to undertake modernization rather than expansion.

Modernization would be the natural course and would be undertaken if financing were available, because only by this route could the rising competition be met.

Modernization would mean installation of laborsaving equipment; and this would reduce employment. Thus might the companies save themselves; that is, they might hold their own but the net contribution of this defensive operation to the national economy would be unemployment.

The number of industries finding themselves in this position would be great indeed if the present plan to make deep cuts across the board is carried out. If we are seeking a depression, this is the way to find it.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, I commend my distinguished and able colleague from the State of West Virginia for bringing this matter to the attention of the House this afternoon.

Mr. Speaker, I wish to congratulate my colleague from West Virginia on the statement he has made. He has expressed strong misgivings about the tariff cuts that are being readied for American industry, and particularly those in his district.

I can assure you, Mr. Speaker, that I have a concern no less profound than the gentleman from West Virginia [Mr. MOORE] has expressed. The President has authority to reduce existing tariffs by 50 percent. Coming on top of the cuts made in the past, many industries are already struggling under competitive handicaps with imports. Additional tariff cuts would greatly increase the exposure because the present duty rates are already at the peril point.

In my district are a number of chemical operations that are doing a great job in taking up some of the unemployment caused by the decline of the coal industry. Were it not for this rescue, this jobless situation would be worse than it is. Certainly we should do nothing that would discourage the expansion of the new industry that has moved in. On the contrary, we should encourage it in every way possible. This would lighten the load on the Government in its efforts to rehabilitate the Appalachian region through retraining, redevelopment, and similar programs. The new industries offer growing employment and greater tenure of jobs.

It would not only be a pity, it would be economically unfortunate, if the future of these industries were darkened by making them more vulnerable to import competition. Instead of leading to more expansion it would produce uncertainty and hesitation. Already we have waited many years for recovery from the shambles created by widespread unemployment. We would not look with favor on measures that would have the effect of throwing us back instead of helping us forward.

We also have a glass industry in my district but it has declined in recent times. Imports were a strong contributing factor and we hope that the measure of protection that was provided by the escape-clause action of 2 years ago will not be disturbed by being revoked. Were it revoked the industry would become subject to further tariff reductions, and this would be a calamity.

Mr. Speaker, it has been said many times that low foreign wages are at the root of our trouble with imports and I will confirm this even though it is repetitious to do so. Too many times economists have told us that low foreign wages do not create a competitive advantage for imports. They have spoken from a base of theory and not from experience and they are now out of focus more than ever before. They have based their claim that low wages are not an advantage in competition on the grounds that our labor is much more productive and therefore offsets our higher wages.

Today this contention does not fit the situation because of the phenomenal increase in productivity that has taken place abroad. In many industries foreign plants are as modern as ours or even more modern. Their productivity is therefore also high and is still rising as they gain experience and broader markets. At the same time their wages at their highest remain far below ours.

The highest levels abroad are generally well below our legal minimum wages.

It, therefore, should be clear to everyone that low foreign wages today pose a greater threat to our industries than before. Foreign wages, moreover, will be a long time catching up with our levels.

It strikes me, therefore, as a most inopportune time to contemplate deep tariff cuts. I know of no surer way to cast a pall of gloom and uncertainty over many of our industries than to wield the knife on our tariffs in the oncoming GATT Conference. Hardly a surer way could be found to step up the opening of new plants abroad by our industries, in place of expanding more at home. Hardly a surer way could be found to create yet stronger pressure for more and more automation as a means of remaining competitive in foreign markets.

These pressures would not cause more, but less, employment in our own industries.

I want to thank my colleague for yielding to me and also to congratulate him for the expression of his great concern over the effects of more tariff cuts in the offing.

Mr. MOORE. I thank the gentleman.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, my recollection has been refreshed from listening to the gentleman from West Virginia [Mr. Moore] today. Roughly 2 years ago, we were sitting here together in this Chamber discussing this legislation as it had been introduced and as it was under consideration at that time.

Mr. Speaker, I recall the gentleman from West Virginia having expressed great concern about what would happen in his own good State of West Virginia, as well as to this Nation, if this legislation, the Trade Expansion Act, were successfully passed and enacted to the law.

Mr. Speaker, we spent several hours discussing this matter. The gentleman from West Virginia, as he has so many times in the past, expressed great concern for the people in his State and expressed his concern as to what the effect of its passage would ultimately be on employment.

Mr. Speaker, I am reminded also of a quote which I cannot verify, but which has been reported, that John L. Lewis of the old United Mine Workers said that if the Trade Expansion Act were passed here in this body in 1962 it would become known as the "Job Destruction Act of 1962."

Mr. Speaker, I believe the wisdom of those remarks has been borne out not only as the result of what is going on today but what will go on at the Geneva Conference, which again confirms the remarks of the gentleman from West Virginia [Mr. Moore].

Mr. Speaker, I would like to again commend the gentleman and to point out the fact that much concern has been expressed across the country from time to time by many people relative to the role of the State Department in this overall plan. I have become so concerned about the problem that tomorrow I am going to introduce some legislation in this area, with the hope that it might help improve some of these serious problems.

Mr. MOORE. Mr. Speaker, may I say to the gentleman from Ohio that during the period of time we have discussed over the years on this floor either extensions of or amendments to the Trade Expansion Act, does he not feel that if the American people and the American worker fully realized that the executive branch of the Government; that is, the State Department and the whole kit and caboodle, were using their tax dollars to buy votes on the floor of this Congress in favor of a trade expansion bill, they, the taxpayers and workers, would revolt and the Congress would never have passed the bill. But for the activity of the executive branch of Government in buying off certain segments of industry and attempting to give certain consideration to areas that were experiencing difficulty in order to get those representatives to come along and string along for another 5 or so years in support of the existing legislation, does the gentleman not recall on more than one occasion—I can recall when some of our colleagues from the South had problems with reference to the cotton and textile industries and were interested in protecting their industries, and we in the Congress have just got the bill of what it cost the American taxpayers, to enact into law the 1962 Trade Expansion Act, which is some $2 billion as the price which they, the executive branch, paid for that extension of the Trade Act.

Mr. Speaker, I do not contend that this is an action which only takes place under the present administration or when the present party is in power. I sat on the floor of this House and I watched the Eisenhower administration pour $90 million into the Rocky Mountain States in order to take care of the votes of those Congressmen in that area who had very serious question and concern for their industries. Why was this done? To insure the passage of trade legislation and giving again to the executive branch of the Government another 3 or 5 years during which to deal away at the conference tables of the world various parts of the American market.

Mr. DEVINE. I certainly agree with the gentleman.

Mr. McINTIRE. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Maine.

Mr. McINTIRE. Mr. Speaker, I wish to commend the gentleman from West Virginia for his presentation and the opportunity which his presentation affords each of us to express our own concern and to express our joint efforts in the direction of the serious problem of imports.

Mr. Speaker, the gentleman has just made reference to the matter of the preliminaries to the Trade Expansion Act. I served on the Vincent committee in connection with cotton.

The agreements which were entered into there, while they have been helpful to cotton, nevertheless there was a firm understanding that they would immediately proceed to negotiations in relation to wool. As far as I know up to this date nothing has been done under that general understanding.

Having voted against the Trade Expansion Act during the times it has been brought up during my service in the House, I want to say I am very much concerned about the fact we are seeing other industries besides cotton and wool, and those important to West Virginia, under very serious stress by virtue of imports. I refer, for example, to our boot and shoe industry, and other industries in the northeast, and particularly in Maine.

I wish to commend the gentleman for opening up this subject and giving us an opportunity to express some views here today.

Mr. MOORE. I thank the gentleman.

Mr. WALLHAUSER. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New Jersey.

Mr. WALLHAUSER. Mr. Speaker, I wish to commend the distinguished gentleman from West Virginia in his effort to focus the spotlight on a very important problem. Industry is one of the foundation stones on which our great country stands, and I think it must be protected at all costs. I wish to join with the gentleman from West Virginia in his effort to call the attention of the American people to this problem.

It is important that we do not inflict serious injury on our industries. We must be careful that imports do not rise to an extent of adding to the unemployment of our workers. It is also important that we do not discourage expansion of our industries. This must be accomplished within the framework of a desirable foreign trade.

I would like to stress the fact that I am not opposed to competition, and neither are our industries. I need not emphasize that we have the Sherman-Clayton Act, the Federal Trade Commission Act, and other laws that support fair competition.

While we believe in competition at home, I think it is right to insist that it be fair competition. Mr. Speaker, in the 12th Congressional District of New Jersey, which I have the honor to represent, many industries form an important part of our economy. Therefore, I am of the firm conviction that, unless we give reasonable protection against imports, we will lose both production and employment.

As an example, the chemical industry is both an outstanding producer and an employer of labor. I find it hard to believe that this country is disposed to offer further tariff reductions on chemicals, either directly or indirectly, through elimination of the American selling price.

We must preserve our economy against disruptive foreign competition, and we must face up to our responsibility to keep workers employed and to allow industry to expand.

Again, I wish to thank the gentleman from West Virginia [Mr. Moore] for yielding to me and congratulate him for an excellent statement.

Mr. MOORE. I thank the gentleman.

Mr. Speaker, what I have said about the steel industry and its particular difficulty today from the standpoint of this import competition can also be said of other industries. There are industries in this Nation that have been long fighting the battle of foreign imports and competition. They have been driven to the wall. Some of them have been able to sustain themselves, some of them have gone under. Glassware and pottery are quite important, as far as jobs in my congressional district are concerned. They are labor-intensified industries, but they are not more vulnerable than the technologically advanced industries. The other industrial countries have caught up with us today in technology in a number of industries.

I recall the observation of the gentleman from Ohio, [Mr. Bow], when he said that they have exported our dollars, we have exported our industries and, in addition to that, I feel we have set up programs that have exported the American know-how. So that they have all the keys to our success in mass production methods. It is not any secret when you talk about the steel industry, the most modern steel mills today are not in America; they are in other nations of the world, built by American capital, schooled by American steelmen, and all of these techniques are as well applied there by those individuals as if they were learned during the hard core of training and development in the infancy of the industry in America. They have started out on the top of the ladder. They have had none of the difficulties of cost of discovery, and other things. They have had handed to them all of our know-how, all of our techniques, they have imported our capital, so they do not have any investment, so why should they worry?

Mr. Speaker, what has been said about the steel industry applies to important segments of the chemical industry, flat glass, glassware, pottery, and others. I think we should protect these industries from the type of competition that causes the dilemma. It is not a question of shutting off imports, but of controlling them. The domestic industry should have some assurance of a market should it invest in a plant which would produce jobs rather than a mere modernization and further automation of their industrial facilities which reduces jobs.

Expansion, in my opinion, means hiring workers, and to me, our war on poverty in this country, should mean providing additional jobs.

I have a lot of these economic problems in my State of West Virginia, and when I look at these legislative proposals to take care of poverty, there is not any job opportunity written into any one of them. They have forfeited this generation of Americans. They are trying to educate the next generation, but they have forgotten the generation that is now unemployed. What difference does it make when you talk about manpower retraining and rehabilitation, whether or not an individual is an unemployed coal miner or steelworker, or whatever the case might be, or whether or not he is an unemployed retrained welder or mechanic? What difference does it make if a job is not available in a sound American industry?

So it seems to me the key to our difficulties in the areas of poverty as well as our difficulty at this proposed tariff-cutting spree is that we have to have the executive branch of the Government understand that jobs are the answer to poverty as it exists in America today. Those jobs can be provided by incentive through legislative enactment here in the Congress of the United States which would encourage the locating of industries in the poverty areas of the United States, and at the same time to curtail those grand world expansionists that are now about to approach the conference table in Geneva and barter away another several tens of thousands of American jobs by cutting down our tariffs. If we consider now a proposal to cut our tariffs in half, or at all, I believe we concede the dangerous error that is about to be perpetrated. I hope that those who carry the responsibility for this Nation after the Geneva Conference begins in May fully understand and appreciate that now there are more industries in America being adversely affected by our present trade policy to the extent that they cannot compete at our present tariff level. If we are to cut the tariffs in half or materially reduce them, we will be forced to the position where these American industries cannot compete and will necessarily go out of business.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I want to commend the gentleman for bringing this important subject to the floor of the House today, and particularly for bringing to the attention of the House Members not only the practices which have been engaged in by our officials but also the practices which are occurring in other nations which pose a challenge which this Nation has to meet. I know the subsidies which are provided by some foreign nations which result in dumping of those goods here and making it impossible for the free enterprise system to meet the challenge of that kind of foreign-subsidized competition pose a problem which we cannot meet. We cannot always meet them at the negotiating table. It is important we bring it to the attention of the Congress. There can be no doubt but that constructive legislative action is going to be necessary in order to curtail some of these practices and bring them into line so that our free enterprise system can flourish and grow without these artificial barriers which are hampering it at the present time.

Although President Johnson has not referred to it in his declared war on poverty, the rapid increase of imported products is threatening the livelihood of millions of Americans.

In recent weeks I have been visited by steel producers, automotive and electronic parts manufacturers, cattle raisers and others, all of whom complained about this rising tide of imports.

Particularly disturbing are the practices of some foreign nations which provide subsidies and thus render it virtually impossible for American producers and manufacturers to meet this type of foreign competition. This practice prevails mainly with respect to steel imports. The industry calls it "dumping," but what is really meant is that foreign steel is subsidized to the point where the American steel producer cannot meet the competition.

Of more immediate concern is the threat of livestock imports from New Zealand and Australia. Cattlemen throughout the Nation, including again our 12th district, are suffering from this foreign competition. For instance, beef imports from Australia which totaled 18 million pounds in 1958 had skyrocketed to 517 million pounds in 1963. Beef imports from New Zealand also showed a sharp increase.

The Congress has responded to these threats to our economy in a variety of ways. After threatening legislation to protect the livestock industry, the administration has reached voluntary agreements with Australia and New Zealand to restrict future imports to the 1962–63 level. This will still keep the price of imported beef below the domestic price, and force lower prices on American cattlemen. They would like protection in the form of a tariff on imported beef.

With respect to steel dumping and foreign subsidies on parts manufacture, the answer may be found only in legislation now pending in the Congress. Many bills have been introduced aimed at curbing steel dumping. Hearings on these bills are underway, and may come to the House floor in the near future.

Meanwhile the General Association on Tariffs and Taxes has opened its meeting in Geneva, Switzerland. Here, representatives of Western European nations are meeting to seek reductions in tariffs in the hope of promoting greater international trade. Persons familiar with the development of the European Common Market are aware of the shrewd, arm's-length dealing of the European negotiators.

Many in the Congress regret that so much authority over imports, exports, tariffs, and other aspects of international trade have been surrendered to an executive department with strange attitudes toward American business interests.

Mr. MOORE. I thank the gentleman.

Mr. Speaker, I yield to the gentlewoman from Illinois [Mrs. REID].

Mrs. REID of Illinois. Mr. Speaker, the 15th Congressional District in the State of Illinois, which it is my privilege to represent, is the home of one of the most diversified groups of manufacturing industries in the Nation. This district has in the past enjoyed a relatively low unemployment rate, below 4 percent. Of the employed civilian labor force, 38 percent are on the payroll of manufacturing establishments. These industries serve the Nation through the great Chicago rail and St. Lawrence Seaway transportation center.

My district is composed of five counties—De Kalb, Grundy, Kane, Kendall, and La Salle. Kane County has the largest concentration of manufacturing industries, with La Salle County a close second. Between March 1959 and March 1962, La Salle County sustained a decline in manufacturing employment of 1,163 workers, 7 percent of the employed work force in that county.

These employment figures are taken from the publication County Business Patterns of the Bureau of the Census. This report, analyzing business information by counties, is published every 3 years; hence, there are no later data than 1962. I believe, however, that the change in employment from 1959 to 1962 as reported in this publication is fairly representative of the trend in employment at the present time.

While manufacturing employment did not decline in Kane and the other counties during this period, particular industries in those counties did suffer losses of employment. The food processing industry sustained a loss of employment in De Kalb, Kane, and La Salle Counties of 167 workers. The fabricated metal products industry also suffered losses of employment in De Kalb and Kane Counties of 1,055 workers. Other industries have failed to experience a growth in employment or have had slight losses of employment. These include the lumber products industry in Kane County, which gained 1 employee; the metal household furniture industry in Kane County, which lost 28 jobs; and the miscellaneous manufacturing group in Kane County, which lost 128 jobs.

The largest employer of manpower in La Salle County is the glass industry. Particularly severe import competition has harmed the flat glass industry in that county. The second largest employer in that area was the jeweled watch industry. Import competition sharply reduced employment in Elgin and then drove the factory into the Deep South in quest of lower wages as part of an effort to remain competitive against the fierce import competition of the Swiss watch cartel.

But flat glass and jeweled watches, while classical examples of industries severely injured by imports, are not the only recipients of increasing import competition. In nine of the basic industry groups represented in manufacturing activity in my district imports have sharply increased as the balance of trade of the United States in those products has deteriorated.

In food processing, imports rose from $1.6 to $1.9 billion; in textiles, from $439 to $705 million; in apparel, from $192 to $376 million; in lumber products, from $440 to $595 million; in furniture, from $18 to $33 million; in paper, from $948 million to $1.1 billion; in stone, clay, and glass products, from $170 to $254 million; in primary metal products, from $947 million to $1.4 billion; and in miscellaneous manufactures, from $254 to $421 million—between the years 1958 and 1962.

When one looks a little deeper into the import data, it is astonishing the number of industries in a district such as mine where rapidly increasing imports are posing the problem of market disruption and loss of employment. Import statistical classifications differ from the Standard Industrial Classifications which are used to identify and record economic activity in domestic industries. Nevertheless, the Department of Commerce has been able to group import classifications so as to correspond to certain of the four-digit Standard Industrial Classifications.

Selecting those four-digit industries located in my district, I have examined the trend of imports from 1958 to 1962, the latest year for which the Department of Commerce has made a compilation of imports by industries. I find that each of the industries present in my district, with the exception of two, has sustained a sharp increase in imports during that period. These industries and the rate of increase in imports during this period are as follows:

| | *Rate of increase (percent)* |
|---|---|
| Inorganic chemicals, n.e.c | 7.4 |
| Explosives | 150.0 |
| Glass containers | 100.0 |
| Brick and structural clay tile; structural clay products | 40.0 |
| Rolling and drawing | 61.1 |
| Lighting fixtures | 387.5 |
| Bottled and canned soft drink | 100.0 |
| Plastics materials | 171.1 |
| Switchgear and switchboard apparatus | 62.5 |
| Flat glass | 48.1 |
| Pottery products | 9.7 |
| Gray iron foundries | 156.0 |
| Malleable iron foundries | 45.5 |
| Hardware, n.e.c | 151.6 |
| Electron storage batteries | 218.2 |
| Watches and clocks | 26.3 |
| Games and toys | 61.1 |
| Brooms and brushes | 104.0 |
| Edge tools | 36.8 |
| Fabricated structural steel | 183.7 |
| Motors and generators | 62.0 |
| Telephone and telegraph apparatus | 230.0 |
| Meatpacking plants | 165.8 |
| Bread and related products | 114.3 |
| Thread mills | 42.9 |

While some of these industries experienced increases in exports, it is significant that the balance of trade increased in only 5 instances out of the 22 industry groups for which complete export and import data were available. In the other 17 instances, the U.S. balance of trade in the manufactured products concerned deteriorated.

In addition to the above facts and figures on industry as a whole in my congressional district, I have received specific information from a few individual companies. Matthiessen & Hegeler Zinc Co. in La Salle reports that zinc dust imports have risen from a mere 38,000 pounds in 1960 to 5,216,000 pounds in 1963—displacing business ordinarily enjoyed by them in supplying four large chemical companies. This company feels that in order for them to reestablish their position with these customers it would be necessary for zinc dust to be placed under the quota or to have imposed a duty of approximately 1 cent per pound on the product. Furthermore, this company has lost approximately 2,990,500 pounds of business due to foreign imports of rolled zinc in calendar year 1963—and that in an effort to keep the mills running and provide continued work for their employees they have been forced to reduce their selling price in some instances to retain customers. The estimate of this marginal business—which contributes nothing to their profits—is 2,573,358 pounds of rolled zinc.

Thatcher Glass Manufacturing Co. of Streator—with 800 employees, Owens-Illinois Glass Co. plants at St. Charles and Streator—with a total of 3,014 employees, and the Lockwood Glass Co. of Ottawa report that there will be serious impairment of production and loss of employment if tariffs on glass products manufactured by them are cut any further during the forthcoming round of trade agreement negotiations.

The Elgin National Watch Co. has joined with the Bulova and Hamilton Watch Cos. in filing a petition for tariff adjustment under sections 301(a)(b) of the Trade Expansion Act of 1962 in their fight for survival in the face of the flood of foreign imports. Employment in U.S. watch production has declined 55 percent below the 1953 level—and a great number of the workers who lost their jobs during this period were employees of Elgin National Watch Co.

And, of course, I have received many, many letters from individual livestock producers in the 15th district, pointing out the huge financial loss being suffered as a result of excessive importation of meat; and I have been working diligently with some of my colleagues in seeking legislative action to establish quotas on meat imports. The voluntary and unrealistic quotas negotiated by the Department of Agriculture are so high that in practice they result in no quotas at all.

Mr. Speaker, it is plain to me from a study of the widespread penetration of imports of manufactured articles competitive with the products manufactured in my district that at present rates of duty we are faced with loss of employment and disruption of domestic markets by swiftly increasing import competition. The escape clause procedure which allowed the President to provide relief from damaging imports for two of the industries in my district; namely, flat glass and jeweled watches—was repealed in the Trade Expansion Act.

The nine petitions for tariff relief which have been brought by industries, firms, and workers under the tariff adjustment provisions of the Trade Expansion Act, resulted in failure because of the impossibly strict language of the new act.

It is now evident to everyone that there will be and can be no tariff adjustment in the future unless and until the Congress enacts a major reform of the tariff adjustment provisions of the Trade Expansion Act. There is no assurance that this can be accomplished. Meanwhile, the flat glass and jeweled watch industries have been called upon to defend their entitlement to retain the tariff relief previously granted. We may well discover that not only is relief impossible in the future, but that the new act is being used as an instrument for unraveling the assistance granted to industry in the past.

Mr. Speaker, I cannot remain silent in the face of the sharply increasing import trends affecting the people of my district, to which I have referred in these remarks. It is obvious that no further incentive is required by way of tariff reduction or otherwise to stimulate foreign producers to direct an increasing portion of their output to the U.S. market. It is evident from the record of employment losses in La Salle County in my district, where the most badly injured industries are located, that imports are contributing to unemployment in this country. We cannot solve the problems of poverty if we fail to regulate imports in a way which permits present employers of manpower to maintain their labor force intact, and which encourages an expansion of domestic output for the future. No businessman in his right mind, faced with mounting import competition from plants as modern and as efficient as his own, with workers who are paid from one-third to one-fifth the wages which he must pay his workers, could sensibly make plans for the expansion of his capacity and the employment of new workers.

If my colleagues will take the trouble to inquire deeply into the imports of manufactures in the categories competitive with the industries located in their districts, as I have done, I am confident that they will discover, as I have, that without any consideration of the effect of the Kennedy round of tariff reductions, their industries and districts are being adversely affected by swiftly increasing imports under present rates of duty. Not a further reduction in duty, but some new means of import regulation is what we require if we are to move forward at the economy-boosting, job-creating rate so urgently demanded by the President.

Mr. Speaker, I do not consider myself to be a protectionist. My concern is not in protecting our industries as such against fair competition. My concern is definitely to protect jobs. If this be protectionism, let those who may be in favor of eliminating jobs for their fellow Americans make the most of it.

Mr. MOORE. I thank the gentlewoman.

Mr. Speaker, I yield to the gentleman from New York [Mr. ROBISON].

Mr. ROBISON. I appreciate the gentleman from West Virginia's yielding to me. I am not sure I agree with all of his conclusions or the conclusions that have been expressed by others who have participated in this worthwhile discussion. This is partly because I was one of those here who voted for and supported the Trade Expansion Act of 1962. I make no apologies for that fact and am prepared to defend it if necessary.

I must say that with the trend of the foreign imports in my district I am not one who is looking forward with any degree of optimism to the forthcoming negotiating round.

I should like to commend the gentleman for the discussion he has precipitated here today. I should also like to call his attention to what I think is an important corollary; that is, the result of the small business investigation into the foreign trade opportunities in the small business field, in which the gentleman and I have had an opportunity to participate.

This report has been printed and is available to all as House Report No. 1303, 88th Congress, 2d session.

If the gentleman will recall, one of the things we were concerned about during the course of these hearings was whether or not the trade adjustment provisions set up under that act were being so narrowly construed by the Tariff Commission as to be practically useless. The gentleman remembers that; does he not?

Mr. MOORE. I recall that. That was the day Mr. Ben D. Dorfman, I believe, testified before the committee with respect to the interpretation or implementation of the act. On the day of the hearings, I think the act was relatively new and it had not been tried too much at the time. But I recall very well the day and the individual the gentleman refers to.

Mr. ROBISON. I think it should be made a part of the record in this discussion that this conclusion that the committee reached was a unanimous conclusion.

The report reads as follows:

> It appears to the committee that the reasoning which the Tariff Commission has applied to the act in this regard (that is speaking with respect to the adjustment provision)——

Mr. MOORE. That is the financial assistance and adjustment allowances that are within the act of 1962?

Mr. ROBISON. That is correct.

If I may read the language of the report:

> It appears to the committee that the reasoning which the Tariff Commission has applied to the act in this regard indicates a negative attitude toward the adjustment assistance provisions of the act. If such an attitude exists and is not corrected, it could have the effect of nullifying assistance provisions and thereby endangering the entire foreign trade program.

Mr. MOORE. I thank the gentleman.

Mr. ROBISON. Mr. Speaker, the developments in foreign trade in products affecting my district have become a matter of grave concern to me. I supported the enactment of the Trade Expansion Act of 1962, but in doing so I did not forfeit my right or responsibility to follow foreign-trade developments closely and to speak out when adverse trends threaten to affect the welfare of the people in my district.

Manufacturing employment has been declining in Broome, Chemung, Tioga, and Tompkins Counties in New York State. These counties make up the 33d Congressional District of New York, which I have the honor to represent.

From March 1959 to March 1962, the latest date for which such data are available, a total of 4,064 jobs were lost in the industries located in these counties. This loss of jobs represents nearly 7 percent of the total manufacturing employment in the district. The manufacturing industry payrolls are vitally important to the economic welfare of all of the people in my district. Employees of manufacturing establishments represent 39 percent of the employed civilian labor force in my district. Agriculture, by contrast, excluding self-employed farmers, provided employment for only 3 percent of the employed civilian labor force.

The nationwide level of unemployment, in excess of 5 percent, which is causing the administration concern is clearly reflected in the unemployment rate in my district. In the Binghamton area, one of the five metropolitan labor-markets in the district, unemployment in January of 1964 was equal to 5.2 percent of the labor force. In my district as a whole, the unemployment rate has been in excess of 4 percent.

During the same period in which this loss of manufacturing employment has taken place, imports of many of the products manufactured by the industries located in my district have increased strongly. Our balance-of-trade in these products is becoming increasingly adverse.

The principal industries in my district from the point of view of employment are, in their general order of importance: Leather products, including shoes, 9,500 workers; instruments and related products, including photographic equipment, 3,800 workers; rubber and plastic products, 1,500 workers; fabricated metal products, 2,500 workers; paper and allied products, 1,300 workers; electronic products, 1,000 workers; stone, clay, and glass products, including pressed and blown glass products—several thousand workers—data not published to prevent disclosure of confidential business information.

Between 1958 and 1962, imports increased in these categories by the following percentages: Leather products, including shoes, 19 percent; instruments and related products, including photographic equipment, 65 percent; rubber and plastic products, 194 percent; fabricated metal products, 72 percent; paper and allied products, 17 percent; electrical and electronic manufactures, 117 percent; stone, clay, and glass products, including pressed and blown glassware, 50 percent.

In all of these categories except instruments, the U.S. balance of trade deteriorated between 1958 and 1962.

A closer look at particular industries within these groups reveals the significance of these increasing import trends on my district.

In Broome County, die-cut paper and paperboard are manufactured. Imports of these commodities increased by 35 percent, 1958 to 1962. In Broome and Tioga Counties, the manufacture of footwear and related products is of great importance, employing more than 9,500 workers. Imports of all kinds of footwear increased 141 percent from 1958 to 1962. At least as a partial result, employment in Broome County in footwear manufacture declined by 1,009 jobs from March 1959 to March 1962.

In Chemung County, glass containers are manufactured. Imports increased 100 percent, while exports declined 26 percent from 1958 to 1962. Gray-iron castings are also made in that county. Imports increased 156 percent, exports declined 2 percent.

Fabricated structural iron and steel products are also made in Chemung

County. Imports increased 183 percent while exports declined 67 percent from 1958 to 1962. Imports of metal cutting machine tools increased by 60 percent, of general industrial machinery by 107 percent, and of typewriters by 67 percent. Each of these products is also made in Chemung County. Because of the disclosure problem when a small number of companies is involved, the employment figures for those industries in Chemung County are not published. Total manufacturing employment in that county, however, declined by 3,617 workers from March 1959 to March 1962. The heavy and increasing imports in these categories of manufactures undoubtedly contributed in some measure to this loss of employment.

While U.S. exports increased in some categories of manufactures made in my district—notably in metal cutting machine tools, general industrial machinery, typewriters, and power transmitting equipment—the overall effect of various economic forces, including the impact of foreign trade, on manufacturing industries in my district has been that decline in employment of over 4,000 jobs.

These damaging import trends are occurring at existing rates of duty. In the face of declining employment and these increased imports, the people in my district must now face the possibility of a further reduction in duties. Moreover, it would appear that the United States has committed itself to reduced duties by 50 percent, the largest reduction in many years, and on an across-the-board basis. The so-called linear reductions to which the United States agreed in a resolution adopted by the General Agreement on Tariffs and Trade in May of 1963, preclude any but a bare minimum of exceptions. And each item which our negotiators seek to reserve or except from the negotiations must be justified by them before the other members of GATT.

Under this procedure, it seems remote that the import-sensitive categories of manufactures, in which employment is already declining, stand much of a chance to remain at present tariff levels. The possibility of securing any regulation of the increasing imports to prevent further losses of employment seems to be out of the question until the Congress considers and adopts basic amendments to the tariff-adjustment provisions of the Trade Expansion Act. So far, no industry, firm, or group of workers has been able to secure a favorable decision for tariff adjustment assistance from the Tariff Commission.

I do not understand how any Member of this body can feel sanguine about the forthcoming trade agreement negotiations if they understand the employment deterioration occurring in their districts under the impact of increasing imports, and the practical absence of any procedures which can selectively protect the interests of their constituents, either in the forthcoming negotiations or, subsequently, by escape-clause action.

Mr. MONTOYA. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman.

Mr. MONTOYA. Mr. Speaker, I have listened with great interest to the remarks made here this afternoon on the threat that imports pose to the many industries throughout the country.

I number myself among those who favor a maximum of trade that can be enjoyed without seriously injuring our own industries and agriculture. I do not believe that we should be called on to sacrifice these industries to the mere theory that trade as such will solve our economic problems.

Under some circumstances imports can do more damage than is generally realized by those who are not in the line of fire. Imports that break prices or take away a growing share of the market do much more damage to the economy than meets the eye.

We are often asked how many workers are displaced by imports, as if that were the only measure of the damage.

Mr. Speaker, the effect of low-cost imports does not stop at that point. Often the worst effect is found in the discouragement of investment. Jobs that would come to life if the import competition were not there, do not materialize. Industries do not grow when they are faced by a sure or threatening blight.

Also, when imports break domestic prices, the damage can be far reaching, as we have recently witnessed in the case of the rapid rise in beef and lamb imports. A whole industry can be pushed into a depression, with consequences that reach out in many directions. In other instances, as in the case of petroleum, expansion of an industry may be retarded if imports are not controlled and kept within reasonable bounds. The same can be said for lead and zinc.

The cause of the competitive damage is nearly always the same. Foreign wages are so low in relation to ours that the foreign producers can undersell us with little difficulty. Their cost of production is well below the costs in this country and there is nothing we can do about it. We have minimum wage and maximum hour laws here but we cannot legislate for other countries. Therefore they can ship goods in here that were made abroad by workers whose wages would be in violation of our Fair Labor Standards Act. As I say, there is nothing we can do by way of legislating a floor under foreign wages; but we can and should do something to prevent goods made under such conditions from disrupting our market and bringing distress to our industries.

By all means, let us have import competition; but let it be fair competition. We are under no obligation to open our markets to competition that would bear the mark of unfairness if it arose within our own borders.

Let us have trade but let it flow on a fair competitive base. Otherwise, instead of benefiting our economy it will inflict harm wherever it meets our goods and undersells them.

Mr. Speaker, I wish to add my voice to those who would caution Mr. Christian Herter, the President's Special Representative for Trade Negotiations, to adhere to the early trade agreement policy as initiated by President Roosevelt and Secretary of State Cordell Hull, who made a cardinal principle of the careful approach to avoid inflicting injury on our industries.

Even though the Trade Expansion Act does not now demand such care, our better judgment should tell us that it was sound policy and that we should adhere to it. Therefore I would repeat the caution, and recommend that we adhere to the original policy. Our industries are more exposed now than they were when the policy of caution was pursued because of the successive cuts in our tariff. Caution is therefore even more called for now than 20 and 30 years ago.

Recklessness such as would be involved in across-the-board cuts of 50 percent, which are demanded by those who are out of range of fire, cannot be contemplated in all good sense. Therefore the watchword to Mr. Herter should be: Take it easy.

Mr. MOORE. I thank the gentleman from New Mexico.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman.

Mr. WHITTEN. May I join in commending the gentleman for making it possible for many of us to contribute a little bit here today.

As you know, I have had the privilege of serving as chairman of the Subcommittee on Agriculture Appropriations for some several years now. A few months ago we asked for a committee investigation of this whole problem, which is going on at the present time. Up to this point it seems one of the major problems arises from the fact that we promoted, in effect, the Common Market. Now we are begging them not to freeze us out. The breakup of the British Empire has left each of the countries in an individual position. England has closed down to a great degree on letting Australian and Argentine beef into England. Our country has completely opened the doors for beef imports. All of the extra beef that used to go to England before has been coming into this country. When they tried to tell us that the total amount is only a relatively small percentage, it is completely misleading, because it is the extra car that has to be sold that breaks the markets for all cars.

So just a few percentage points can break the market for the whole thing. So far as price supports for the livestock industry are concerned and people differ with me, but I say as long as you have price supports on grain, in effect, you have price supports that help hold up the price of cattle. But the thing that I do not see—that we cannot live under, under any circumstances—is a foreign policy and a domestic policy which do not let us use section 32 whereby we can limit imports and assess taxes, when these imports reach such proportions that they will seriously threaten an existing agricultural program. May I point out here, and I am sure I am thoroughly sound when I say that section 32 is by experience applicable as much to existing agricultural programs as are supports on basics.

So, under section 32, quite clearly the programs are being jeopardized, and in my opinion this thoroughly warrants action under section 32, which is essential if we are to protect American agriculture and industry.

I thank the gentleman.

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I am happy to yield to the gentleman from Oklahoma.

Mr. STEED. Prior to the adoption of the amendments to the Reciprocal Trade Agreements Act some 2 years ago, the gentleman from West Virginia, as a member of the Select Committee on Small Business, participated with me in some far-reaching hearings on the matter of oil imports. We were able to show, through our research, the dangerous and serious impact of the program in that field both on the balance of payments and in respect to the destruction of a key, essential, and indispensable American industry. We were unsuccessful in trying to inject into that program those things we believed to be necessary to protect the Nation's security by giving the domestic oil industry and coal industry a new lease on life, which it needed, and the condition has continued to become worse, as we predicted it would. Since that time we have seen an almost identical situation with respect to the details on the matter of beef imports, now affecting one of the most important segments of agriculture. We find this same thing is hitting hard in the textile areas and in respect to the glass industry.

Mr. MOORE. I interrupt the gentleman to say that it is hitting the steel industry today. Today the United States of America is a net importer of steel.

Mr. STEED. The gentleman from West Virginia has helped to document all of these things. I congratulate him for the job he is doing today in helping bring to the attention of the House and of the country the serious aspects of this situation.

Because I have participated with the gentleman in this work, I know he has as fine a background for the presentation he is making as has any other Member of the House, because of his many years of earnest research and detailed work, being exhibited today in the presentation the gentleman is making. I wish to associate myself with his remarks and his statements. I still hope that through these methods we will be able to find some way to bring some remedies to these problems, which continue to be serious and which are threatening much of the economy of our country.

Mr. MOORE. I thank the gentleman from Oklahoma.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I commend the gentleman from West Virginia for the outstanding job he is doing today in focusing the attention of the people of this country on the effects imports are having on American industry. I join wholeheartedly in the gentleman's remarks.

## OIL IMPORT PROBLEM

Mr. Speaker, today we have what is commonly known as the mandatory oil import program which sets the level for foreign oil imports. This limitation program, which came into being in early 1959, was the outgrowth of considerable effort by many Members of Congress who are interested in the welfare of the U.S. petroleum industry. This program was instituted because our Government desires to have a strong and healthy domestic petroleum industry. When the program was announced back in 1959, the President declared:

> The new program is designed to insure a stable, healthy industry in the United States capable of exploring for and developing new hemisphere reserves to replace those being depleted. The basis of the new program, like that for the voluntary program, is the certified requirements of our national security which make it necessary that we preserve, to the greatest extent possible, a vigorous, healthy petroleum industry in the United States.
>
> In addition to serving our own direct security interests, the new program will also help prevent severe dislocations in our own country as well as in oil industries elsewhere which also have an important bearing on our own security. Petroleum, wherever it may be produced in the free world, is important to the security, not only of ourselves, but also of the free people of the world everywhere.

Mr. Speaker, there is little doubt that without these limitations the domestic petroleum-producing industry would be in shambles today. However, I must point out to my colleagues that we do not have, as the President desired, today a "stable, healthy industry in the United States capable of exploring for and developing new hemisphere reserves to replace those being depleted." Much of the domestic petroleum-producing industry is just barely hanging on.

Even with import limitations, the market for domestic oil is severely depressed. An upward adjustment of 50 cents per barrel in the price of crude oil would be required merely to offset the inflation of the past 15 years. The purchasing power of your oil dollar has been reduced to less than 85 cents since 1948. This is inconsistent with the value of petroleum to the national economy. More important, it threatens the future development of reserves needed for national security.

Reasonable and effective limitations on U.S. oil imports are compatible with healthy development of petroleum resources by U.S. nationals and others in allied nations of the free world. Oil production in Canada, Venezuela, Africa, and the Middle East continues to increase, but unhealthy conditions persist in the domestic industry. The oil import program can and should be strengthened to assure necessary expansion of U.S. petroleum supplies.

The continuing decline in U.S. exploration and drilling since 1956 constitutes ample evidence that the level of imports under the mandatory program has been set too high. For example:

First. Exploratory drilling last year was 34 percent below the 1956 level.

Second. Development drilling has declined 22 percent since 1956.

Third. The number of rotary rigs last year was 43 percent below 1956.

Fourth. Development drilling is further down this year, below last year by an additional 9 percent.

Fifth. Exploratory drilling so far this year continues at about the same depressed level.

Sixth. Since 1957, crude oil prices have declined about 6 percent, whereas the cost of drilling wells has increased continually and substantially.

Seventh. In addition, the purchasing power of a barrel of crude oil has gone steadily down for 15 years and now is 50 cents a barrel less than in 1948. In contrast, the general economy during this time has increased very substantially and so has the cost of doing business.

A most serious threat to the program at this time appears to be increased imports from Canada. It is understood that strong efforts are now being made to further substantially increase imports from Canada. During the past year, imports from Canada have been fairly well stabilized as a result of an understanding reached between our Government and that of Canada. Since that time, however, there has been a change in the Canadian Government and the position of the present Government is uncertain. This becomes a vital matter since any increase in Canadian imports, without a commensurate decrease from other sources, would present a serious threat to the effectiveness of the entire present program.

Mr. Speaker, since oil and gas provide about 75 percent of our energy used in this country, we cannot permit the already excessive imports to increase. The total level of imports today is way too high, running more than 2 million barrels per day. Imports of crude oil and crude oil products, excluding residual fuel oil, are now well over 1,300,000 barrels per day. This is entirely too much in view of the fact that we have a large shut-in oil producing capacity and a domestic crude oil market that is growing only about 1½ percent per year. In past years, the domestic producing industry enjoyed a growth of two to three times the present rate. To make any effective improvement in the health and welfare of the domestic producing industry, we need a substantial reduction in oil imports of at least 250,000 barrels per day.

Mr. Speaker, this is the situation that exists throughout the United States.

I would now like to point out the great concern of what is happening in my own State of Kansas.

The oil and gas producing industry in Kansas is an important segment of the State economy. More than one-fifth of the land area of the State is under lease for oil or gas and petroleum is currently being produced in all but 15 of our 105 counties. The value of oil and gas produced in Kansas last year exceeded $425 million—almost 85 percent of the total value of all mineral production.

This industry, so vital to the economy of our State, has been in trouble for several years. Like the industry in other States, most petroleum activities reached a peak in 1956 and have been going downhill ever since.

For example, the number of rotary rigs active last year was down 57 percent from the 1956 level. During the same period, wildcat or exploratory wells drilled declined almost 25 percent and total well completions 17 percent. Through April 18 this year, total completions are down another 17 percent and wildcats another 19 percent.

These declines have taken place because there has been no incentive to look for new oil reserves. Kansas production in 1963 was 12 percent below the 1956 level despite an overall increase of more than 20 percent in U.S. oil consumption. Combined with the decline in production have been several crude oil price cuts, the latest occurring just a few days ago.

These declines in petroleum activity have had another serious effect on the economy of our State. Since 1956 the number of persons employed by this industry has declined by 3,500 or more than 25 percent.

Since 1957, we have had either a voluntary or mandatory oil import program in effect in this country. This program has been invaluable and there is no question but that without it the oil industry in Kansas would be completely dead. However, it has not achieved the announced objective of maintaining a vigorous, healthy domestic producing industry in the United States and the time has come when the program must be tightened up and imports actually reduced if the industry in Kansas and the other producing industry is going to survive.

Mr. Speaker, in view of all that has happened, I am hopeful that the executive department of the Government will take the necessary actions to bring the level of foreign imports into proper balance with domestic production.

### PETROLEUM PINCH—MORE SMALL OIL FIRMS SELL OUT AS COMPETITION MOUNTS, PROFITS SUFFER—DRILLING COST RISE, CRUDE SAG SQUEEZE INDEPENDENTS; BIG CONCERNS ARE EAGER TO BUY—JUSTICE DEPARTMENT STEPS IN

(By James C. Tanner)

In recent days M. H. Robineau, president of Frontier Refining Co. in Denver, has quietly passed the word in the oil industry that his concern, with an annual volume of $44 million, is up for sale. The reason, according to Mr. Robineau: "I've been in this business 40 years but I've got to be realistic. It's getting murderous for the independent refiner."

In deciding to sell out, Frontier is joining a growing list of independent oil companies who are giving up the struggle. With crude oil prices sagging, production costs climbing and major companies intensifying their fight for customers, the squeeze on many smaller oil companies has become too much to withstand. "Many independents are operating in the red—those making a profit, like ourselves, are an exception," notes Mr. Robineau. In the past 3 years, oil company mergers have run at a $1 billion annual clip (based on selling prices) and many industry officials look for the figure to go even higher this year.

In most cases the independents are having little trouble finding buyers. For some of the same reasons that the independents feel compelled to quit the business, fully integrated major oil companies are ready to take them aboard. Rising real estate and construction costs, for example, often make a merger or purchase of a smaller company a less expensive way for a big firm to establish a strong regional marketing setup than to go out and build their own chain of stations.

#### EXPLORATION COSTS SOAR

The same holds true of finding crude oil. Exploration costs have soared to such an extent that major firms often regard acquisition of independents as a cheaper way to get oil than by hunting for it themselves. The steep rise in drilling costs points up what firms face in oil exploration. Last year, according to the trade publication Petroleum Engineer, the average deep oil well cost $695,984 to drill, a 6 percent increase from 1962 and 27 percent above the $550,000 average of 1953. Yet, only one in nine expensive wildcat wells ever strikes oil.

Mergers are increasing in many industries, of course, largely reflecting company efforts to diversify. But the trend seems more pronounced in the oil industry and can generally be traced to a different reason: A cost-price squeeze.

"Since 1957 the prices which the company can obtain from its domestic oil have declined approximately 6.5 percent while operating costs have increased approximately 20 percent," says Lawrence S. Reed, president of Houston-based Texas Gulf Producing Co. The company's stockholders this month will vote on a proposal to sell its assets to Sinclair Oil Corp. Directors of Texas Gulf, big independent with interests in Libyan and Peruvian operations and with large U.S. reserves of oil and natural gas, decided to recommend sale of the company for $250 million rather than continue the "increasingly costly and discouraging" search for oil and gas.

"For many, it's become more profitable to sell than to continue in business," comments Minor S. Jameson, Jr., executive vice president of the Independent Petroleum Association of America. Though the cost-price squeeze, low production allowables by States and declining rates of return are the immediate factors bringing the sellouts, Mr. Jameson says the independent oilman's woes are more basic. The growing worldwide surplus of petroleum, a slackening in the rate of growth in U.S. oil consumption, an upheaval in gasoline marketing policies and the increasing intrusion of the Federal Government into the economic affairs of the industry are at the root of the oil merger trend, he declares.

#### A DROP IN MEMBERSHIP

As an indication of the extent of such consolidations, the Texas Independent Producers and Royalty Owners Association reports the number of oilmen in the State has dropped to 6,200 from 6,600 in the past 5 years. "Even more significant is the growing number of operators who have pulled in their horns on drilling and exploration but are not yet on the dropout list," adds an association official.

The merger trend hasn't escaped the attention of Government officials. The Justice Department, in fact, currently is trying to break up one combination—the $385 million sale of assets of Honolulu Oil Co. to Pan American Petroleum Corp. and Tidewater Oil Co.

Now in Federal court in San Francisco, the case is being watched closely by much of the industry because of pretrial remarks made by Government attorneys. "What we * * * propose to show," said the attorneys in a brief, "is that the acquisition is part of a trend which, if not stopped, threatens an undue restriction in the number of independent producers and independent refiners by concentrating ownership of domestic production in the hands of 20 or so large integrated oil companies."

Oilmen don't dispute the trend though they dispute Justice Department conclusions that it may be unduly restrictive on the independents. Sellouts will continue to climb, says one oil company executive, adding: "The only limiting factors are the Justice Department—and the supply."

#### OLD BREAKUP PLAYS A PART

Ironically, much of the motivation for today's consolidations on the marketing side dates back to the Government-enforced dissolution of the old Standard Oil combine a half century ago. It left some powerful oil companies with only regional markets—a pattern they are trying to break. And, many have found, a quick, painless way to market their brands coast to coast is by acquisition.

Standard Oil Co. of California chose this way to break into five Southeastern States formerly outside its marketing area, with the 1961 acquisition for $170 million of Standard Oil Co. of Kentucky.

Now, Humble Oil & Refining Co., chief domestic subsidiary of Standard Oil Co. (N.J.), is following the same route by proposing to buy the west coast refining and marketing facilities of Tidewater Oil for $329 million. Humble 3 years ago began an effort to push into the Far West by building its own stations. It so far has 800 in this region—250 of them in California. With the acquisition of the Tidewater facilities, Humble would pick up 3,900 additional stations, bringing its U.S. total to about 34,000.

"It's hard to justify any big advertising program in an area unless you've got at least 5 percent of the market," says one oil industry executive, putting his finger on the major problem of trying to enter a market by building up from scratch. With the purchase of the Tidewater facilities, "Humble will become a big factor on the west coast in one fell swoop," notes a competitor. "It would have taken years to do it any other way."

#### WANT MORE CRUDE

In today's fiercely competitive atmosphere, oil companies want not only to have their own outlets for their refinery production but also to be self-sufficient in crude oil supplies. Many integrated oil companies are deficit refiners; that is, they process more crude oil than they are able to produce and have to buy much of the crude from independent producers.

E. L. Steiniger, chairman of Sinclair Oil, says that purchase of Texas Gulf Producing's vast oil reserves will help "to enable the company to compete on more equal terms with competitors now more favorably situated." Following the Texas Gulf acquisition, Sinclair will be able to produce about half of its refinery requirements compared with about 43 percent now, says Mr. Steiniger.

Just getting 100 percent of their crude oil needs now is not enough for many companies, one oil executive contends. "Most would like to have double the reserves they need now, as a floor for future growth," he says. "That's why everybody has been trying to make a deal with Superior Oil Co."

Superior is one of the few independent domestic producers large enough to go abroad in the search for oil. But for some time it has been unable to find markets for all its foreign petroleum and in late January plans were announced to sell its Venezuelan subsidiary to Texaco, Inc., which has extensive refinery facilities, for about $125 millions.

Much of the glow of foreign crude is beginning to rub off as market competition worsens and governments abroad get more fickle about such matters as oil royalties. This has played a role in intensifying interest in obtaining more U.S. crude as insurance in case oversea supplies are cut off.

Not all the sellouts, of course, can be blamed on a sag in profits by independents. Many independent companies do well despite industry problems—often because they have themselves pursued an active policy in acquiring smaller firms. But the fierce bidding for properties often pushes the price high enough to make a sellout more attractive than continuing in business. Shell Oil Co., which has been wanting to expand in the Southeast, last month bought the refining and marketing properties of El Paso Natural Gas Products Co., a subsidiary of El Paso Natural Gas Co., for $37 million, though El Paso by no means was a poverty case. Its 1963 net income, according to W. S. Noel, president, varied little from the $3,563,283 earned in 1962. "We thought it was a good sale for us to make," he says.

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[Special to the Wall Street Journal]

### Oilmen Reject Shutdown

Oklahoma City.—Independent oil producers from Kansas proposed that wells in Kansas, Oklahoma, and Texas be closed to protest a decline in crude oil prices. But independents from Oklahoma and Texas yesterday declined to go along with the suggestion.

The Kansas Independent Oil & Gas Association called a meeting of independents from the three States after several major buyers of Kansas crude recently reduced the top price by 5 cents a barrel to $3. Crude prices in most of Oklahoma were cut by the same amount last year.

George Bruce, president of the Kansas group, told Texas and Oklahoma producers that he would "almost gamble that a 10-day shutdown would restore the price." But representatives of Texas and Oklahoma producer associations said they didn't believe their State laws would permit a well shutdown. Bruce Street, president of the Texas Independent Producers and Royalty Owners Association, added that he "doubted it would be in the best interest of the producers to do this."

L. S. Youngblood, president of the Oklahoma Independent Petroleum Association, blamed rising oil imports for the price erosion, and representatives of the three groups agreed to push for a Federal study of oil imports and their influence on domestic crude prices. The groups also voted to ask Interior Secretary Udall to review off-shore leasing of oil development rights and to consider bringing offshore oil production under market demand proration systems practiced by some States.

About 120,000 barrels of Kansas' 305,000 barrels daily crude production and two-thirds of Oklahoma's 545,000 barrels daily production are currently under the $3 posting.

Mr. SKUBITZ. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. CAHILL. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I am happy to yield to the gentleman from New Jersey.

Mr. CAHILL. I, too, join my colleagues in commending the gentleman from West Virginia for bringing to the attention of the House and the country this very vital subject. All of us in the Congress, I am sure, are vitally interested in the unemployment problems of this country. In the district that I represent, the First District of New Jersey, the unemployment problem is becoming extremely acute. One of the basic reasons for it is low-cost imports that the gentleman referred to and which he indicates demands immediate attention.

I want to say to the gentleman that while I voted for the trade bill, I had the hope at that time it would not in any way harm American industry. Since that time I have been deeply concerned by the impact of imports on some of our basic industries.

A few months ago I voiced concern in this Chamber over the effect of foreign imports on some of our industries.

I cited the closing of Du Pont's indigo dye plant, located in my district, which the company said was brought about in large part by an increase in low-priced foreign imports.

I have joined in the discussion today because I have become increasingly concerned over attacks by the Europeans, particularly the Deutsche Verband, on the American selling price system of valuation. It is my intent to serve strong notice that American selling price as applied to the so-called coal tar or benzenoid segment of the organic chemical industry is not negotiable. It is the law of the land, originated by this body in the Custom Act of 1922, continued in 1930, and affirmed again in 1956. Any attempt to rescind it is a matter for our deliberation, not that of the Geneva bargaining group.

Simply stated, American selling price is a system in which the amount of duty is a percentage of the value of the American article rather than the foreign value of a competitive import. It was devised by the House Ways and Means Committee and incorporated into the Tariff Act of 1922 in order to give our fledgling dye and intermediate industry a fair start in life. The basic reason then, as it still is today: it is a great equalizer—a practical method of eliminating undervaluation.

In the debate preceding the adoption of the Tariff Act of 1922, Congressman Longworth, of Ohio, led the support for the American selling price provision for coal tar chemicals, saying:

> My advocacy—my sincere advocacy—of this industry has been for the medicinal possibilities of it and the absolute necessity of it, if we are to be prepared for war or for any serious danger to this country. I do not believe any system of protective duties, no matter how high, can adequately protect this industry. I do not think any duty, no matter how high, can prevail against the cutthroat methods that Germany has employed and doubtless will continue to employ in the disposition of their chemical products in this and other foreign markets.

Again in 1930 the committees of Congress gave consideration to possible revisions of the rate but concluded that the needs of the industry and its importance to the welfare of the country justified retention of the American selling price provision and the ad valorem rates established in the 1922 act. As the Ways and Means Committee of the House stated in its report of the bill:

> The chemical industry has undergone striking developments during the 7 years in which the present tariff act has been in operation. New processes have reduced costs and rendered old methods obsolete. Many new products have been developed. The ability of America to apply research to the solution of manufacturing problems and the development of new products has been most gratifying, and gives us every reason to believe that we are on the threshold of even greater and more far-reaching achievements in the course of the next few years.

As recently as 1956 in the Customs Simplification Act, Congress again authorized retention of American selling price. Nor have the intervening 8 years lessened the need for this protection. This was brought dramatically to my attention by recent studies showing that European prices on many benzenoid chemicals are such that foreign companies can ship into this country, pay present duties based on American selling price, and still undersell American manufacturers who are making marginal profits in this field.

Gentlemen, it is not my intention to argue the pros and cons of various customs valuation procedures. I am simply stressing that American selling price is not up for "grabs" at the bargaining table. It owes its very existence to this Congress and any thought of its abolition should be a matter for our most serious consideration.

Mr. MOORE. Mr. Speaker, I ask unanimous consent that the gentleman from Montana [Mr. Battin] may extend his remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. BATTIN. Mr. Speaker, I am honored to represent the Second or eastern District of Montana, an area larger than several of our States and one in which livestock raising is a major industry. In fact, many of my constituents depend entirely on cattle and sheep for their livelihood.

Some 60 percent of all Montana lands are rangelands and are valuable only for livestock production and many Montana communities are wholly dependent on the cattle business. Feed and forage on these rangelands is valuable as the end product of beef, veal, lamb, mutton, or wool—but principally beef from quality cattle.

The Montana Stockgrowers Association has testified before the Senate Finance Committee and the U.S. Tariff Commission as to the very real and damaging effects beef imports have had on Montana cattlemen and the severe loss to the Montana economy generally. Cattle exported from the State are actually the source of Montana's principal income.

And, gentlemen, when imports of beef and beef products run at a rate of more than twice the cattle equivalant of all the cattle produced in Montana each year, then I fail to understand how anyone can say beef imports are not the major factor in the presently depressed condition of the cattle market. In fact, I would like to quote from a letter I received from a Montana banker, a former cattleman himself and now a vice president of one of the leading banks in the State. He wrote:

> Finally, Jim, we in the banking business know that, if the situation continues and the price of livestock remains at the current status or tends to decline even further, we will have to take a very close look at many of the loans we now have on the books. I have lived in Montana all of my life, having been in the livestock business, both in the trading of livestock throughout the western United States and as a rancher myself, and also as an agricultural banker. I cannot see how the State of Montana, which depends primarily on agriculture and livestock production, can go along with the program as it exists today without a serious loss to the Montana economy. If this continues, the $1½ million per month lost to the Montana economy, as stated by the Montana Stock Growers Association, will be only a drop in the bucket.

Another Montana banker wrote me as follows:

> Our bank finances over 300 ranchers in this area and we have over 7,000 depositing ranch customers in our bank. We are vitally concerned with the overall operations of these people as agriculture is one of the largest economic forces in our State. We are deeply concerned over recent actions in the House of Representatives in the handling of this import situation. It seems to us that this is a matter of appeasement and that Australia and New Zealand are dictating to us and we are passively accepting their terms. I am sure that you would agree that a cutback in imports of one-quarter pound of meat per person per year will certainly not be of any significance to American producers. I realize the necessity of trading with other countries but certainly we should have some say in regard to the basis of our trade negotiations with them in regard to both imports and exports.

And I would like to quote a few paragraphs from the many hundreds of letters I have received from Montana cattlemen during recent months:

> As cattlemen, we are deeply disturbed at the reported settlement on beef import quotas with New Zealand and Australia and the subsequent failure of the amendment to the farm bill.
>
> Our industry has been operating at a loss most of the years out of the last ten, and the outlook presently seems even more difficult than during the last few years. It is our strong belief that the cattle industry now needs some Government help in protecting it from ultimate failure due to the lack of any profits. We believe there must be an answer to some of the problems over which we as cattlemen have no control.

Another rancher puts it this way:

> Competition in agriculture today is extreme. In order to survive a farmer or rancher must have a certain amount of volume and a quality product. In order to have volume he must have land. Land values are at their highest. Investment companies and businessmen buy ranches in order to have deductions from their income tax and still have a sound investment; and corporation farms are paying premiums for all sizes of acreages. And now the unseen competitor, our "friends" from "down under," are selling their wares (red meat) to a point that has hurt the American cattleman. We are still paying property taxes on high land and cattle values and buying equipment that hasn't declined any in price.

Here are others:

> Montana and the livestock industry cannot afford to be used (as pawns) in the international trade agreements.
>
> We are buying labor, supplies, and equipment at prevailing U.S. prices. As you know, Montana depends heavily on property taxes for its county and State revenue. Property taxes are continually climbing, and the ranchers are paying a considerable proportion of these taxes to support schools and government in Montana. Our cost of production is comparatively fixed by these costs. I repeat—we just cannot compete with countries that have much lower costs of production than we do.

A Shelby rancher who also operates a feedlot offered some very real statistics: He wrote this letter in December and prices are even lower now than they were at that time:

> I live 10 miles from Shelby and operate 11,700 acres, chiefly livestock. I raise cows and calves and also fatten cattle. I have 190 steers and heifers now in the feedlot and will market them beginning in January. I also winter 130 steers and 220 calves for later feeding placement. * * *
>
> Let me give an example how price range affects me: 190 cattle to be marketed at 1,100 pounds means $1,045 with every half-cent variation in price. The price drop since they were put on feed is about 3 cents per pound so it involves a serious loss. Right now I will be taking a slight loss or perhaps a break-even price. * * *
>
> The last 2 years have been near disastrous to cattlefeeders in particular. Our costs are so high that we cannot make anything and stand a good chance of a loss. We do not want any control system on livestock, but feel we should have some legislation to protect our investment and guarantee a reasonable profit.

Another rancher said:

> If this country is going to continue to provide foreign aid to most of the countries in the world, I think it is imperative that the domestic industries which provide the bulk of these funds be kept on a sound economic basis.

Now it seems obvious to me that cattlemen have suffered a real loss from low cattle prices during the past year and that these low prices are likely to continue for some time in view of increased domestic production on top of imports. And it seems obvious, too, that the cattle industry should not be expected to contribute 10 or 11 percent of its market to foreign meat produced at costs far below ours.

In any study of tariffs it becomes immediately obvious that this Nation in the last 30 years has steadily reduced its import duties on most goods coming into the country. Most of us have no quarrel with our Tariff Commission, which bases its decisions on a realistic appraisal of the impact cheaply produced oversea goods may have on our domestic economy.

However, it seems that some of our diplomats give priority to agreements with other countries to the detriment of our domestic economy and the welfare of our own citizens. Foreign trade must be a two-way street, and tariff rates and quotas should be based on agreements that are wholly and completely reciprocal. Neither can we allow uncontrolled imports of one commodity such as beef to wreck a domestic industry because we may have a favorable balance of overall exports over imports.

Surely we cannot say that because some country buys some of our surplus wheat we should buy all of their surplus beef.

Land costs, labor costs, and other costs that go into most of the beef we import are far less than ours.

The AFL–CIO executive council last February urged the United States to take the lead in wiping out what it called unfair international trade competition based on the exploitation of labor. Heavy imports of goods from a country whose wage costs are far below those of the United States "may undercut standards of American workers," the council said.

The day of free trade among all nations may come and I hope it does if at the same time the people who produce the cheap imports can raise their standard of living to something comparable to ours in which case I believe their costs would more nearly approximate ours and then there could be true competition between our producers and theirs for the world market.

But until that happy day arrives, we cannot expect our ranchers and cattlemen to lower their standard of living to that of a rancher in some other part of the world.

I believe you gentlemen will agree that there now exists a condition of unfair competition between domestic and imported beef and beef products and that it is time this Congress took some effective action to impose realistic quotas before another self-supporting and one of the few remaining independent segments of our agriculture goes the route of bankruptcy or subsidy.

**Mr. MOORE.** Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. GLENN] may extend his remarks at this point in the RECORD.

**The SPEAKER.** Is there objection to the request of the gentleman from West Virginia?

There was no objection.

**Mr. GLENN.** Mr. Speaker, the glass container and closure manufacturing industry in my district is a vital part of the total economic well-being of my constituents. The industry is likewise a very important factor in the entire national economy—a significant employer in areas of high unemployment, with demonstrated capabilities for contributing to the national defense.

The forthcoming negotiations threaten to strike a serious blow to the remaining tariff protection this industry has. I wish to urge the minimal remaining protection be retained for this industry's product. Their protection has been successively reduced over a period of years to levels ranging from 6 to 10 percent ad valorem. During the period of these reductions, the production capabilities of foreign competitors have been expanded at an accelerating rate, frustrating the domestic producers' efforts to sell in the markets of Latin America, Europe, Africa, the Middle and Far East. Among the competitive advantages of these foreign producers are tariff levels often ranging from 25 to 50 percent ad valorem, in some cases 10 times greater than existing domestic protection.

The domestic industry is entirely capable of supplying domestic demand for the present and in the foreseeable future. In addition to recent substantial tariff reductions through trade agreement negotiations, legislative, and administrative changes have further reduced tariffs. The impact of these reductions upon the domestic industry has not yet been fully ascertained.

In my Second Congressional District of New Jersey there are over 10,000 persons who are dependent on the glass industry in the tricity area of Bridgeton, Vineland, and Millville, and this industry furnishes millions of dollars of additional business through the purchase of raw materials and chemical supplies for glass container manufacturing, and such services as warehousing and trucking. They also pay millions of dollars in local and State taxes.

For the foregoing reasons, I submit that further reductions in this industry's tariff protection are entirely unjustified, and should be expressly excluded from consideration during the forthcoming round of trade agreement negotiations.

### GENERAL LEAVE TO EXTEND

Mr. MOORE. Mr. Speaker, I ask unanimous consent that general leave be given to all Members desiring to extend their remarks on the subject matter of my special order.

The SPEAKER pro tempore (Mr. CAMERON). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HALL. Mr. Speaker, nothing in this world of ours seems to be forgotten faster than the bright promise of a piece of legislation whose proponents claim it will lead us to the promised land.

Who among us can forget the deluge of adulation that poured forth from our TV network screens in support of this administration's trade and tariff bill in 1962? It almost was as though any producer of TV specials who did not predict utopia if the trade bill were only passed, stood in danger of being ostracized. The Common Market was the wave of the future, we were told, and the trade bill was the key to our entry.

In the light of this impassioned support for the Kennedy trade and tariff bill, it was too much to expect that the Nation would listen to the reasoned arguments of those who saw in this bill more fault than virtue.

The bill is now the law of the land. The massive machinery that was put into motion to achieve its approval has long since turned its attention to new issues, attaching to them the same false promise of legislating prosperity and happiness.

The party is over. A few empty glasses may still be found here and there, but by and large, it has been over a year since any of those same television specials dared remind the American citizen that what once glittered was indeed not gold. All this need not alarm either the proponents of the trade bill or their fan club, for who remembers the slogans of yesteryear? Whatever happened to the "challenge of the Common Market"?

Eliot Janeway, writing in last week's Washington Star, reminds us, too late and too little I fear, of the moral of the tale, that we should not be slogan happy. The Common Market has taken on a new look, to those who just opened their eyes. And on reflection it has not looked so new after all. It was European nationalism, merchandised in the United States as liberalism.

If the passage of this legislation were so vital to the American economy in 1962, why have there not been more TV specials showing how promise failed to turn into performance in 1964? Is it because such followup reporting might show that we have virtually lost what was once a promising market for American poultry products? Is it because only the opponents of the bill—men like Congressman GLENN CUNNINGHAM of Nebraska—had the foresight to state what the effects might be on our domestic beef producing industry? Is it because hindsight now reveals that our domestic shoe industry has lost thousands of jobs and stands in danger of losing still more thousands because of the increasing flood of low wage shoe imports? What of our domestic watch industry, or even steel fabrication?

Is it because the "relief" clause of the bill has been shown to be a sham, with 12 of the 13 cases brought before the Tariff Commission rejected, while the 13th case remains to be decided?

In one "fell swoop" in 1962, not only was a further 50-percent cut in tariffs authorized, but even more drastic provisions and authority by MAN, was adopted. One was based on the anticipated British joining of the Common Market and would have intemperately stripped the tariff completely from broad lines of products. Luckily this provision, though in the law, has become virtually inoperative because of Britain's failure to become a member of EEC.

The 50-percent cut was sharper than the reductions authorized during the whole preceding decade and a half, combined.

The intemperate zeal, however, did not stop there. The preceding 28 years of policy that called for caution and held the President's knife-wielding authority within moderate limits, was tossed overboard. The peril point provision was repealed outright and the escape clause was emasculated. A substitute that implied acceptance of injury as a foreseen result of further tariff reduction was adopted. It was called adjustment assistance and was in the nature of hospital relief of expected casualties.

Let us hope that this triumph of State Department zeal for international economic planning, reached its zenith with passage of the 1962 act and that sobering second thoughts have by now tempered the shortsighted enthusiasm that insisted on holding the feet of American industry to the fire.

Mr. Speaker, what should have been obvious in 1962 is something that can now no longer be hidden.

It can no longer be concealed; for example, that many leading American industries, after successive tariff reductions since 1934, amounting to an average of 80 percent, are now confronted by economic facts of life that will not yield to more juggling. Was that why the State Department planners were so eager to get in their last lick?

A number of industries have moved from a long-established position of net exports to one of net imports. Among these are steel, cotton textiles, petroleum, shoes, typewriters, sewing machines, automobiles, and so forth. These are great American industries. Others are moving in that direction ominously, as if caught in an irresistible current. Beef is the most recent example.

These industries are operating under two pressures. One is the rising import competition that has progressively captured a greater share of the domestic market. Since this competition derives its advantage principally from lower costs of production abroad, based in turn on low wages, it gives rise to the second pressure. This is the need of domestic industry to become more efficient and thus to reduce costs. Only in this way can domestic industry hold its own and avoid being driven out of business. Cost still is the sum of production plus delivery.

Unfortunately, the only way of reducing costs appreciably is through modernization, and this means automation or installation of laborsaving machinery and equipment. Even this does not guarantee immunity from import competition, because other countries now also have the means of gaining greater productivity through modern technology. We have lost the monopoly or semimonopoly that we one time had on advanced technology. Our standards of living and our labor force are not yet accommodated to reduction, including wages.

The installation of modern machinery abroad, means giving greater effect to the lower wages paid. While wages are rising in some of the countries of our industrial competitors further than in this country, wages here are not standing still. The gap is still so great, that it would require several decades for substantial elimination of the difference.

It must be clear that import competition is not the same as fair domestic competition. The latter was the objective of various legislative enactments from the Sherman Antitrust Act to the Robinson-Patman Act and, in the labor field, the Fair Labor Standards Act, et cetera. Import competition may confront domestic industry with prices that in this country could be achieved only by abolition of the minimum wage laws, child labor legislation, collective bargaining, and restrictive immigration laws. Since all domestic competition operates under these laws, it is conducted from an equal or nearly equal base and so produces beneficial results, by making industries dc their best.

Import competition, for the reasons stated, is very different and may be very deadly—the exposure of the whole spectrum of domestic industry to such competition is not only unjustified, but dangerous to the economy. It will blight many of our industries and dampen plans for expansion so that increased employment such as would otherwise take place will not come about. Many industries, knowing that they have no remedy under the Trade Expansion Act of 1962, will look to greener fields abroad, as they have already been doing.

How can they be expected to do otherwise if they wish to survive? Twelve of the thirteen cases that have been brought under the 1962 act before the Tariff Commission for relief from import injury have not only been rejected, but rejected unanimously. The 13th case has not been completed. This has happened in the administrations of both parties.

Mr. Speaker, anyone today who finds fault with White House legislative proposals stands the risk of being labeled a reactionary. But I submit that whatever else one believes, there are two sides to every story. In this instance, reasoned opposition to the trade and tariff bill was not reaction. It was based on real, not imaginary concern. The results to date have upheld the validity of that opposition. I only hope these results will be borne in mind by this administration when it meets in Geneva on May 4 for the "Kennedy round" of tariff negotiations. Otherwise, our troubles are just beginning. I ask unanimous consent to insert the following article from the April 20 edition of the Washington Star.

### WHAT HAPPENED TO THE SLOGANS OF YESTERYEAR?

(By Eliot Janeway)

NEW YORK.—Who remembers last year's ringing phrases? What's happened; for example, to "the challenge of the Common Market?"

A learned historian once summed up the Holy Roman Empire as being neither holy, nor Roman, nor an empire. Just so, in this exciting year of decision and change, "the challenge of the Common Market" is no longer very much of a challenge—nor of a Common Market.

It wasn't so long ago that representative and responsible American opinion was willing to concede that the European Common Market was the wave of the future. From the perspective of 3,000 miles of ocean, it seemed like a brave new experiment in economic liberalism—that is, in free trade. Moreover, it was flourishing, while we were admittedly dissatisfied with our own performance.

U.S. corporate money poured into the Common Market, and investment funds followed. Dollars rode the wave of the future, out of the United States and into the Common Market. We cramped ourselves into a balance-of-payments squeeze, while the Common Market countries rolled in liquidity—our liquidity. The public relations victory that the Common Market countries scored in the United States turned out to be very profitable—for them.

The turning point came when French President Charles de Gaulle slammed the door shut in Britain's face, notwithstanding Britain's acquiescence in all of his conditions. The universal reaction was one of shock at General de Gaulle's brutal assertion of power. The Common Market took on a new look which, on reflection, didn't look so new after all. It was European nationalism, merchandised in the United States as liberalism.

In terms of international competition, the implication was that the British economy had suffered a body blow; while the Common Market was expected to continue on and on and up and up.

But things haven't worked out this way. On the European side of the English Channel, distress and squeeze are being suffered. In every stock exchange in Europe, the party is over—apparently for sometime to come. Every bond market in Europe is in full retreat, a sure sign of money trouble.

The distress is greatest where the boom was strongest—in Italy. The United States has just had to organize a billion dollar rescue operation for the lira. The No. 1 growth company there—the Montecatini Chemical combine—has passed its dividend; and is under pressure to sell off new plants. This is happening at the very time when the profit margins of U.S. chemical manufacturers are enjoying a sharp recovery.

Even Olivetti needs a new injection of capital. When it took over Underwood it was invading the United States. Now, like just about everyone and everything in Italy, it, too, is overextended; and control is passing to the moneylenders.

As for Britain, her economy is far from reeling into recession. On the contrary, just as Italy's boom has run out of gas, Britain's has charged forward under a new head of steam.

There's a moral to this tale for Americans: not to be slogan-happy. In 1962, the Kennedy administration warned Britain to yield to all of General de Gaulle's nationalistic conditions on pain of inviting a depression. At the same time, it warned Congress to pass the trade bill opening the United States up to imports on pain of running the same risk.

But as things have worked out, Britain and ourselves seem to have done all right without the Common Market, while the answer men "over there" have some tough questions to grapple with.

Mr. TALCOTT. Mr. Speaker, I join with my colleagues in commending the gentleman from West Virginia [Mr. MOORE] for initiating this important discussion which the Congress should be discussing thoroughly so that it may better effect its constitutional obligations. The gentleman from West Virgina [Mr. MOORE], is one of the ablest and most knowledgeable Members of Congress on this subject. We should pay close attention to his comments.

Many industries have complex, complicated situations so that the import difficulty is not either quickly nor easily made clear.

The beef import problem of my district is made too complicated by our Departments of Agriculture and State. The Departments' confusion prevents ready understanding and therefore postpones necessary executive and congressional action.

Let me tell of the plight of the mushroom producer. The example is simple, clear and probably applicable to other industries.

The U.S. producers of mushrooms can produce mushrooms here more efficiently than any other country in the world. We can produce the highest quality mushrooms. We can produce more pounds of mushrooms per square foot than any other country.

But, some other countries can produce them more cheaply—because of lower labor, materials and land costs, expenses and taxes.

In the last 3 years, 35 percent of the mushroom market has been taken over by foreign imports—35 percent of the industry lost in 3 years. This can happen to other, larger, more basic industries.

There are 35 percent of this industry's employees who can expect unemployment—unnecessarily. These unemployed contribute to our "poverty complex"—unnecessarily.

The "beef import" problem is not too much different in detail, although larger in magnitude.

I thank the gentleman for yielding.

Mr. MOORE. Mr. Speaker, I conclude by saying that I sincerely hope those who are at the bargaining table representing the United States of America, as these tariff discussions and negotiations begin in Geneva, fully take into consideration that at every step of the way, that in every reduction which they make, or in every concession they make, they are in substance dealing away the jobs of American workers in so many, many industries.

The SPEAKER. The time of the gentleman from West Virginia has expired.

### TARIFF REDUCTION ON TOMATO PRODUCTS

Mr. GLENN. Mr. Speaker, one of the greatest agricultural projects in my south Jersey area is the growing and canning of tomato products. Not only do we have many small canners, but in addition, we have the large canneries that contract each year for farmers' acreage growth of tomatoes. With a reduction in the tariff on canned tomato products, unquestionably the large canners would cut down on their acreage requirements for growing tomatoes and the small canners would be very vitally affected to the extent of even closing up, in that some do almost exclusively the business of canning tomatoes. It is not only a big industry in south Jersey but it is also a very large industry for the whole mid-Atlantic area in that 51 percent of the mid-Atlantic food processors can tomatoes to the extent of some 6 million cases annually of whole tomatoes and more than 15 million cases of tomato products. Many farmers in my area have always looked to tomatoes as the main source of revenue, as the climate and soil is very conducive to the growing of the famous Jersey tomatoes, and they have more and more depended on canneries to purchase their entire crop in order to have a productive year. Thousands of jobs are provided both directly in the growing and harvesting of tomatoes on the farm and processing in the canneries, and many other businesses such as trucking, materials, and other local business are indirectly dependent on the ability of the canner and the farmer to continue in this line of production and endeavor. The loss, or even partial loss, of the canned tomato markets in this area would dry up these jobs. The local income derived from the total expenses of the business in the whole mid-Atlantic area of over a quarter of a million dollars annually would be seriously affected.

Many of the small canners in the area have obtained aid from the Small Business Administration, so that it is indicative that the U.S. Government's policy has been to recognize the desirability of preserving and strengthening these small businesses and these small farmers.

It is ironical that while the Government recognizes and aids these small businesses, the tariff policy, if reductions are permitted, will not only undermine the efforts of these Government agencies but also destroy the sources of repayment of many Government loans.

As a part of American agriculture, the canners and growers of tomatoes asked their Government to allow them to continue to operate under the conditions which have demonstrated that the high living standards of the American people must be maintained with the protection of Government if the high level of American economy is to continue.

Please keep in mind that tomato and other vegetable farmers receive no subsidation from the Government in the growing of their products. They must compete in the open market place for a return on their products and it is becoming more and more difficult for the small producers and farmers to meet competition from large operators. With further reductions in tariff protection they would find it difficult to meet domestic competition let alone foreign competition, which could be ruinous.

I therefore submit that of all the considerations on tariff reductions that will be considered in the forthcoming round of trade agreement negotiations, that of the reduction of tariffs on canned tomato products should be expressly excluded from consideration, as any such reductions would be entirely unjustified.

## BEEF IMPORTS

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANDERSON. Mr. Speaker, the problems confronting the livestock industry in the United States today are very serious.

Recent receipts from the sale of choice steers in the Chicago market brought $22.75 per hundred pounds—down $2 per hundredweight from a year ago and $6 less than the same date in 1961.

In recent weeks, heavy prime steers sold at the lowest levels since OPA controls were ended 18 years ago.

Many cattlefeeders lost from $20 to $50 per head on every steer they marketed in recent months.

This kind of market has sharply depressed prices for feeder cattle. Its impact is also felt in the dairying areas of the country. Cows which would have been culled and shipped to market are instead being kept in the herds, adding to the already more than ample supply of dairy products. With cow prices low, dairymen say they are not thinning their herds as they normally would, thus adding to excess milk output.

Recordbreaking importations of beef and veal, coupled with the delayed results of Mr. Freeman's corn-dumping program, have literally wrecked the cattle market.

Cattlefeeders are quitting the business due to depressed beef prices, and are signing up former feed-growing areas. The result is serious dislocations in the agricultural segment of our economy.

Already 11 percent of meat reaching American tables comes from foreign sources. I have seen figures which show that the meat importations from Australia and New Zealand, at the 1963 rate, displace over 8½ million head of cattle in the United States. This takes into account the slaughter cattle, breeding cattle to produce the slaughter cattle, and breeding cattle to replace the second herd. Considering 5 acres per head to produce the pasture, hay and grain to maintain that many cattle, it would take over 43 million acres of land to feed that many cattle. Hence, this is a matter of sizable proportions.

Meat imports from these two countries increased 90 percent in 1962 over the already high rate of 1961. Again in 1963, meat imports increased 110 percent over what they were in 1961.

Every time Members of Congress endeavored to secure relief for the hard-pressed domestic livestock producer who was caught up in this suicidal cost-price squeeze, the administration took some diversionary tactic to close the door against the kind of action that could provide the much sought after relief. The Johnson administration negotiated a secret executive agreement with these two countries that not only guaranteed to them continued permission to flood our markets with recordbreaking amounts of meat imports, but also reserved to them that part of the anticipated growth in our domestic meat consumption. When the Senate attempted to deal with this problem by writing in an amendment to farm legislation on the Senate floor, the Democratic leadership of the Senate headed it off.

Present tariff and trade policies do not favor the American farmer. The only protection afforded livestock raisers in the United States is a flat 3 cents per pound tariff. This was reduced from 6 cents a pound in 1948. When first imposed at 6 cents per pound, American farmers were receiving 3.7 to 8.7 cents per pound of beef cattle.

A tremendous percentage of farm income comes from cattle sales. It is rather evident that here is a segment in our American economy that has been and continues to be severely injured. They cannot wait the 30 years or so for the noble objective of the Trade Expansion Act to be achieved.

Australia, the largest exporter of beef and veal and mutton to the United States prohibits imports of cattle and sheep and imports of hog and pork products from the United States under a health restriction. Also, the Government's Tariff Board in that country has the authority to impose emergency tariffs or other types of import controls whenever it is deemed necessary to protect domestic producers against competition from imports.

New Zealand, the largest exporter of lamb and second largest exporter of beef and veal to the United States, prohibits imports of most meat and other packinghouse products.

France and Germany, in the matter of total value of meat production, both protect 95 percent of such production against imports by nontariff trade barriers.

One of the reasons why we are receiving such heavy shipments of meat from Australia and New Zealand is because of trade restrictions imposed by the Common Market which is protectionist in character and which uses complex systems of high tariffs, flexible tariffs and/or quotas, import licenses and/or certificates, and gate price systems, innovations which serve to further bar American farm products and meat from their shores.

Adding insult to injury, Secretary of Commerce Luther H. Hodges, speaking in Fargo, N. Dak., advised American cattlemen to quit whining about beef imports and get to work selling beef to other countries. How can they in the face of the above? How can Mr. Hodges, President Johnson, and Secretary Freeman continue to disregard such facts?

This is small consolation to the farming population which has seen actual net farm income drop $340 million from 1962 to 1963 and a further drop of about $650 million is seen for 1964. This would put net income for the current year $92 million below the last Eisenhower year—even though there has been an increase of more than $1 billion in Government payments to farmers.

## GENEVA TRADE NEGOTIATIONS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from South Dakota [Mr. BERRY] is recognized for 60 minutes.

Mr. BOW. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Ohio.

Mr. BOW. Mr. Speaker, before the gentleman speaks—and I know he is going to speak on this same question of trade and the effect of foreign trade on the United States—before we leave too far behind the thought of the distinguished gentleman from West Virginia [Mr. MOORE], throughout these remarks there has been some pleading that something be done about this and that, and we find some way to do something about it. We are worried about what the negotiators at Geneva might do. We talk about the failure of the Tariff Commission to do certain things. I should like to point out, as I have before to the House on many occasions, we have to accept a great deal of responsibility here in the House of Representatives for what is going on and what has happened. If we want to change it, we have to do something here in the House of Representatives to bring this responsibility back where it belongs. I refer to section 8 of article I of the Constitution, and I quote section 8 or a part thereof:

> The Congress shall have power to lay and collect taxes, duties, imposts, and excises.

This a constitutional responsibility of the Congress of the United States. Under the trend of the Government that we have seen for so many years many of the powers of Congress have been delegated to the Executive, and we are now reaping the harvest. We do not stand up to our responsibilities under the Constitution when we delegate these powers. Here is the authority. The Constitution says that we, the Congress, shall do these things.

Just a little history, if the gentleman will permit me to proceed further. It became difficult for Congress to cover all these tariff cases because of the logrolling that went on. So the Congress established as a branch of the Congress, the Tariff Commission. The Tariff Commission is a branch of the Congress. That is where the responsibility should be. But we have been delegating powers from time to time away from the Tariff Commission so that they are no longer able to do those things which Congress expected them to do as an arm of the Congress. That was a mistake that was made.

The first speech that I made on the floor of this House 14 years ago was on the question of the Trade Expansion Act along this same line. I hate to take the position, "I told you so," but at that time, in the first speech that I made here, I made reference to this constitutional provision and I suggested what would happen if the Congress were to lose control, for the Congress represents the people of the United States.

This House of Representatives represents the people. We know more about what the people think and the effect of these things upon the people. What happens when you delegate this kind of power to the State Department and to other executive departments of the Government? The power is used many times for trading in foreign affairs. They become more interested in what they are doing for other nations than in what they are supposed to do for the United States of America.

I would plead with my colleague that the next time we have the opportunity, let us bring back to the Congress our constitutional responsibility. Let us begin to follow the Constitution of the United States and let the Representatives of the people here on this floor accept their responsibility. Then I suggest the Nation will be in much better condition.

I thank the gentleman for yielding.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Ohio. Certainly I want to say that I agree with what he has said and I agree with everything that the gentleman from West Virginia [Mr. MOORE] said.

Mr. Speaker, I have reserved this hour of time for a further expression of concern over the oncoming tariff-cutting conference in Geneva under the auspices of the General Agreement on Tariffs and Trade.

The reason for affording this opportunity is twofold, Mr. Speaker. One is that tariffmaking and the regulation of foreign commerce are two functions of Congress clearly set forth in the Constitution. Therefore, Congress must be concerned about the manner in which the delegated authority of the 1962 Trade Expansion Act is exercised by the President.

The second reason is that that act stripped the Tariff Commission of its previous function of making peril point findings before negotiation of new trade agreements got underway. It was the function of the Commission to determine the points below which tariff rates could not be cut without exposing domestic industries concerned to serious injury.

While the Tariff Commission did hold hearings in the present instance, running for 4 months beginning with December last year, its report will not even have the effect of a recommendation. It will simply be a summary of the Commission's judgment about the "probable economic effect" of tariff cuts and has no binding effect on the President. He may totally disregard the Commission's judgment; nor is he under any obligation to explain such disregard.

Mr. Speaker, more witnesses representing more industries appeared before the Commission this time than on any previous occasion and expressed deep concern, and some of them actual alarm, over the prospect of further tariff cuts. Many of these industries, including the beef, veal, and lamb industry, already face distressing import competition; and the prospect of yet deeper cuts up to 50 percent could hardly be faced with equanimity. The opposition from other industries was both widespread and intense against further exposure to import competition. Great industries have become alarmed at the outlook, among them, beside the meat industry, lumber, steel, boots and shoes, chemicals, coal, petroleum, wool, textiles, glass, pottery, fisheries lead and zinc, tools, confectionery, bicycles, brass products, tile, dairy products, a variety of hardware products, and so forth.

The hearings, to repeat, went on for 4 months. Unfortunately, the press seemed to tire of reporting the hearings and the public was necessarily left with the impression that nothing much was going on and that there was very little excitement over the approaching tariff-slashing conference.

This was an unfortunate impression because it is far from the true state of affairs.

It is for this reason that the opportunity of echoing the widespread opposition of much of agriculture, industry, and labor to further tariff-cutting in the face of distressing import competition is justified.

The point is clear enough. The Trade Expansion Act of 1962 deprived the affected industries and agricultural and labor groups of any real day in court. The hearings could best be described as window dressing and nothing better. As observed in the Bulletin of the European Free Trade Association—EFTA:

> The hearings have served the purpose of gathering information and giving the wide range of industrial and commercial interests concerned the opportunity to blow off steam.

Since this was said by Europeans we can well believe it, but it is not necessary to have the truth echoed from far away to recognize it at close hand.

I myself went before the Commission. The witnesses were ticked off like so many sheep running through a chute. The whole procedure was a farce pure and simple and I doubt that it fooled many witnesses.

Mr. Speaker, the free trade doctrinaires who still inhabit the State Department have long been determined to convert this country to free trade regardless of the consequences to many of our important, no less than scores of smaller, industries. They seem to be wholly indifferent to the sharp protests and words of alarm coming from the affected parties. Doctrine overrides every other consideration. International relations are raised above the level of domestic interests on the economic flagpole. We in this country must sacrifice our industries on the altar of free trade, so that other countries can sell more products in this country and push our industries to one side.

Mr. Speaker, such a policy cannot be continued much longer. Except for our heavy subsidies of exports and our giveaway programs, we would not even now have an export surplus. So far as clean, unsubsidized, straightforward private foreign trade is concerned, we are running a deficit instead of the much-touted $5 billion surplus, which in fact is a fraud.

Mr. Speaker, I hope that the President will take a look of his own at the underlying economic facts that shape our foreign trade, taking into account the higher wage costs here, the fast-rising productivity abroad, the rapid rise in foreign investment by many of our industries seeking safety from foreign competition, the pressure for automation caused by import competition, and similar inescapable facts, before giving the final go-ahead to the knife wielders of the State Department.

Let no one be deceived that the State Department has been replaced in this operation. The appointment of a special representative for trade negotiations is no more than a blind. The State Department now as before is still calling the shots. It is their philosophy that continues in the saddle, just as it has been in the saddle since World War II.

Mr. Speaker, the time for genuine alarm is here. The welfare of our industries and farms and labor as menaced by rising imports can no longer be dismissed as the expression of local selfish interests. The whole country is dotted with industries whose future is at stake.

We will ignore their future at our national peril.

Mr. Speaker, let us take the case of agriculture as an example. We are told that the American farmer is in serious shape because of overproduction. We are told that because of automation in the agricultural industry, and because of new-found fertilizers, agricultural overproduction has produced a very serious farm problem.

This is not true. The truth is there is no farm problem. It is simply an import problem.

You can take almost any farm commodity and find that the situation is the same. But, because just now, excessive imports have broken the price of beef, let us take beef as the first example.

Because of the fact that England and the Common Market countries are interested in protecting their farmers and their agricultural economy, they increased their tariffs, or, if you please, their import duties and import taxes from 58 to 118 percent ad valorem on beef. While they were doing this, the United States maintained its tariff and import taxes at a level of an average of 3 cents per pound or approximately

11 percent. The result, of course, is that this country became the "dumping ground" for the beef from the free world countries. In fact, 60 percent of all beef offered for export by the rest of the free world is dumped onto the American market.

In 1960, our imports of beef amounted to 1.7 billion pounds live weight. In 1961, it moved up to 2.4 billion pounds. In 1962, it went up to 3.9 billion pounds. And, in 1963, it hit the peak of 4.1 billion pounds. Transposed into 1,000-pound beef, this means that 4.1 million head of 1,000-pound beef was imported into this country last year.

Now what does this mean to American agriculture and American farmers and ranchers? It means this—according to the Department of Agriculture, on a nationwide basis, it requires 28 acres to produce and market a 1,000-pound beef. If, however, we take just 20 acres as a round figure. this means that for every 1,000-pound beef that was imported, some farmer, some rancher, some beef producer was forced to take 20 acres of his farm out of production in order to make room for this 1,000-pound beef that was imported. In other words, the 4.1 million head required the American farmer and rancher to take 82 million acres out of production in order to make room for this import level.

Now, you say, this is not true. This is not a true picture of what happens in import competition, and it does seem just a little out of line, I will admit, because the entire national wheat base for 1964 is only 49.5 million acres. Here the American farmer is required to take 82 million acres out of production just to make room for beef imports.

Let us then take another example as an illustration of what beef imports have been doing to the American farmer and American agriculture generally. I think it is generally considered that the States of South Dakota, North Dakota, Wyoming, Montana, and Idaho are some of the principal beef-producing States of the Nation. In 1962 South Dakota produced 1,300 million pounds; North Dakota, 600 million pounds; Wyoming, 400 million pounds; Montana, 900 million pounds; and Idaho, 650 million pounds. In other words, those five beef-producing States of the great Northwest produced a total of 3,850 million pounds of beef and put it on the market. The 1963 beef imports were 4.1 billion pounds, or, if you please, 250 million pounds more than the beef produced and marketed in the five States of North and South Dakota, Wyoming, Montana, and Idaho.

The point I would make is that if you do not like to use the figure of 82 million acres which must be taken out of production to make room for foreign beef imports, then possibly you would prefer to use the fact that five of the great beef-producing States in the Northwest were unable to produce and market as much beef as was imported in 1963. Or, putting it another way, the beef producers of America were forced to take an area the size of these five States out of beef production in order to make room for these foreign imports which you should remember come into this country and onto the American tables at full market price.

If you prefer to go farther south, Texas is, of course, considered the greatest beef-producing State in the Nation. Yet, in 1962, Texas produced and marketed 3,577,000 head which is 523,000 head less than the 1963 beef imports. In other words, American agriculture must reduce an area larger than the great State of Texas.

In giving this picture in a more realistic fashion, let us put it another way. The 4.1 million head is equal to the total of all beef produced and marketed in 1962 in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, and Indiana combined. These 19 States represent almost one-fifth of the land base, probably one-third of the Nation's population, and one of the great segments of agriculture in America. Yet, the farmers of America were forced to take out of production an area the size of these 19 States in order to make room for just beef imports last year.

Should American agriculture have some kind of protection against this kind of dumping of beef onto the American market in direct competition with the American farmer? Is it fair to expect the American farmer himself, through his own family finances and economy, to finance this world beef production by taking more and more of his acres out of production? Is it fair to ask the American farmer to finance this whole program of world beef trade out of his own pocket?

Of course it is not. So what do we do? Instead of providing tariff protection or import tax protection to cover the increased cost of beef production in this country, Congress passes laws, humorously referred to as "farm relief legislation" in which we say to the farmer, "The United States must be a good neighbor. They say we must open our market to all kinds of agricultural imports regardless of what it does to you and your business, and therefore, if you will squeeze down your acreage by about 25 percent out of your own pocket, Congress will dig into the American Treasury and rent from you an additional 25 percent, in which the taxpayers will pay you a nominal rental for this acreage—just enough to keep you from going completely broke, but not enough so that you can accumulate any amount of wealth. We will let you use a certain amount of your land for the production of corn, wheat, beans, and beef, but if we make this payment to you, you must agree that you will stay within these acreage limitations, that even though this land belongs to you, you must agree not to use it for your own benefit because, as a good neighbor, you must let the people of Australia, New Zealand, Ireland, Germany, France, Belgium, the South American countries use all their acreage and then ship it in here to prevent a surplus from accumulating in their countries. They cannot be asked to reduce their acreage because this would not be acting as a good neighbor on our part. So you must cut down your acreage in order to let them produce all that their land will produce. And, so that they will not flood the market of their own home country, you must let them ship it over here and put it onto the American tables. As a good neighbor, you can use probably half of your own land, the balance must be idled, to bring about a great feeling of friendship between the farmers of these foreign countries and the United States."

Thousands of additional acres are taken out of production through lamb imports. In 1963 there was 145 million pounds imported compared with 5 million 6 years before. Nearly 1 pound was imported for every 4 pounds produced in the United States last year.

### EXPORTS VERSUS IMPORTS

The administration, through the State Department and the Department of Agriculture, as well as the Department of Commerce, has contrived a set of figures which is intended to show that the United States has a favorable balance of trade insofar as agriculture is concerned. In their propaganda program they break down this so-called trade into the various States and they propagandize the farmer on the wonders that exports are doing for them.

As an example, they point out that in 1961, American agricultural imports amounted to $3.6 billion, and that same year agricultural exports amounted to $4.9 billion. They point out that in 1962, agricultural imports amounted to only $3.8 billion and that agricultural exports amounted to $5.1 billion; that in 1963 agricultural imports amounted to $4 billion and that agricultural exports amounted to $5 billion. They say, therefore, that there is a favorable balance of trade and that the farmers of America are real fortunate to be able to permit imports to come into this country in order that they can enjoy all of these exports. Let us take a look at the record.

Of the $5 billion agricultural exports, they forget to point out that $1.5 billion was given away under Public Law 480 and Public Law 655. Of the remaining $3.5 billion, they forget to point out that $700 million was very highly subsidized in order to get rid of it at all. By that, I mean some 60 cents a bushel on wheat, 8½ cents a pound on cotton and whatnot, which leaves a balance in the 1963 agricultural exports and the only part which moved competitively in foreign markets, of $2.8 billion. This is a far cry from the $5 billion they would have the American farmer believe he is exporting annually.

It should be remembered that of the $4 billion of American agricultural imports, every dime moved into the American market, onto the American tables, and onto the American backs in full competition to domestic production while only $2.8 billion of our exports moved into this same competitive field. There is no favorable balance of trade insofar as agriculture is concerned. These figures are nothing but a hoax to mislead the farmer and the American public.

Another fallacy of their balance-of-trade figures and another example of the hoax that is being perpetrated upon the

American public is the fact that both imports and exports are computed on the basis of the dollar value free on board the point of shipment. In other words, a cow in Australia is worth about $50 in comparison with the same cow in the United States being worth about $100. By using the free-on-board dollar value, two cows can be shipped from Sydney, Australia, while one cow is being shipped from New York City. Practically twice as much meat is being imported for the same dollar value as is being exported. It should be remembered that this same hoax is used in the computation of all exports and imports insofar as the dollar value is concerned. This is part and parcel of the international fraud that is being perpetrated upon the American people.

### ANOTHER HOAX

The Department of Agriculture and the economists of the Nation are working overtime with a set of figures trying to prove that beef imports, since they only amounted to 11 percent of the beef domestically consumed last year, could only account for a very small percentage of the drop in price of beef in this country.

The Department and the economists try to point out that since only 11 percent of the beef consumed was imported, that therefore it could not possibly be more than 11 percent of the cause of the drop in price. Some of them, of course, go a little farther and say that it might have been as much as 20 or 25 percent.

I would like to point out that if you fill a glass with water, one drop more will cause the glass to run over, and 11 percent more will spill water all over the place. The domestic production of beef in 1963 was just about enough to fill the domestic needs. Every pound of beef that was imported, therefore, was a surplus that spilled all over the place and broke the domestic price.

Just one drop would have been bad, but 11 percent ruined the domestic beef prices. They dropped from 25 to 30 percent under 1962, and 1962 certainly was no bumper year insofar as beef prices were concerned.

In 1963, gross cash income from cattle marketing fell more than $350 million, and helped to account for a decline of 3 percent in the net farm income in 1963. This figure of loss was partially, at least, responsible for the farm parity ratio dropping to 76 percent in December of 1963, the lowest since the depression days of the 1930's. Interestingly enough, during this same period, imports of beef, veal, lamb, and mutton reached alltime highs. No one can conscientiously say there is not a definite relationship between the decline in prices, the decline in income and increased imports.

By the same token, no one can conscientiously say that by cutting back 6 percent from the 1963 level, that beef prices can hope to regain their former price level. When the domestic beef market became saturated, the law of supply and demand naturally forced prices down, and 6 percent of the 1963 level is not going to be of sufficient amount and sufficient value to permit the prices to go back to even the 1962 level. It should also be remembered that the agreement with Australia, New Zealand, and Ireland gives to the foreign importers a 4-percent growth factor increase in 1965 and in 1966 so that in 2 years under the agreement, they will be importing more than they imported in 1963 which broke the American market.

There is another hoax that is being perpetrated upon the American people and that is the argument being used by the Department of Agriculture that beef imports are all low grade beef and, therefore, do not materially affect American and domestic competition. No one should be stupid enough to believe this. Suppose most of it does go into hamburger, as the Department of Agriculture tries to get the American people to believe. If the price of hamburger is cheap, will not the American public be eating more hamburger, and will not the New York steak cuts be a drag on the market? A man who has just finished a pound of hamburger does not really have too much of an appetite for a big, juicy, New York cut steak.

Imports of low grade beef are definitely felt by fed cattle producers. Low cow prices, resulting from competition with imports, cause low culling rates by the livestock producers, who hold more cows back from the market for breeding purposes, resulting in more calves and in turn more animals on feed. In this manner, imports have the effect of increasing the numbers of cattle on feed and depressing fed cattle prices.

While the American beef producer is worrying about imports, the May 4, 1964, issue of U.S. News & World Report carries this interesting item:

> Cattle producers in Australia and New Zealand, where most beef imports come from, are chortling over the voluntary agreement they got from the Johnson administration. Quotas are based on 1963 shipments that were so large they can't even be approached again in 1964, giving the foreign beef producers a high ceiling under which to play in the future, when herds can be expanded to quota levels.

This is particularly interesting in view of the item of news coming from Argentina reporting that the Government of that country is urging their people to set aside 3 days each week to eat no beef in order that this meat can be exported to the United States. Possibly, Argentina is planning to take up some of the slack in the Australian and New Zealand sales during the coming year.

Mr. Speaker, as I said at the outset, there is no farm problem. It is simply an import problem. Under the law, as it exists today, Congress has pretty much delegated its tariff making and its authority to regulate foreign commerce to the President and actually through him to the international organization known as GATT. As a result, Congress must be deeply concerned about the manner in which this delegated authority is exercised by the President.

The Trade Expansion Act of 1962 also stripped the Tariff Commission of its power and authority to protect industries such as the agricultural industry through the provisions of the "Peril Point." In previous laws, when an industry such as agriculture gets into the position that it is today, as a result of cheap foreign imports, it could go to the Tariff Commission and ask for relief by virtue of the point of peril to which the industry had reached as a result of imports, and the Commission would determine the points below which tariff rates could not be cut without seriously affecting the economy of that industry.

Under existing law, however, the industry must show that it is the reduction in tariff rate that has created the injury to the industry. This cannot be done in the beef industry because it is not primarily caused by a reduction in the tariff rate inasmuch as our tariff rate has remained at the same level while the other countries of the free world have increased their tariff rates. This has resulted in beef being dumped onto our market and under the law as it exists today, we probably have no relief except as we come back to Congress, asking Congress to reassume the authority delegated to it in the Constitution, and reassert its duties and prerogatives by providing legislation which will protect this industry and, by the same token, place agriculture in a position to once again operate as a free enterprise venture without the need of government regulation and control and domination of the industry.

Mr. Speaker, it is time for action.

Mr. THOMSON of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Wisconsin.

Mr. THOMSON of Wisconsin. Mr. Speaker, I rise to commend the gentleman from South Dakota and to join with him in his views on the importation of beef. Many of the farm families I represent in southwestern Wisconsin are becoming increasingly concerned about the attitude of the Government in permitting the flooding of the American market with beef, particularly from Australia and New Zealand.

I joined the gentleman from South Dakota in visiting the chief negotiator in the field of trade and tariff, Christian Herter, who took the position that the importation of beef was unimportant on the domestic scene in America. I believe he in fact negotiated a quota which would permit the continuation of imports at the astounding rate that the gentleman has just given to the House and, in addition to that, provided for a percentage increase in the immediate future.

The people I represent are very much disturbed about this condition, but it is not only in the field of beef. We have in the area I represent a small woolen textile mill, and that small woolen textile mill is almost on the rocks because of the imports of woolen fabrics.

We have in that district a rubber footwear manufacturer. In the last 4 or 5 years the imports of rubber footwear have taken 30 percent of the market, and the jobs of the people in that industry are in peril.

The lead and zinc producers in southwest Wisconsin, where more lead and zinc is produced than in any area east of the Mississippi River, are struggling for existence.

The dairy farmers in that area are hard pressed by the imports of various kinds of cheese.

Mr. BERRY. And these imports have materially increased in the past year; have they not?

Mr. THOMSON of Wisconsin. There has been a tremendous increase.

It affects not only the beef industry, it affects the small manufacturers in this area. I think it is a matter of increasing national concern. So I am very pleased that the gentleman from South Dakota and the gentleman from West Virginia have taken the time to bring to the attention of the House and the people of America a matter which is of extreme interest to each person in this country.

I join you in the hope that the result of these special orders will be to alert the people of America to the end that this Government begin to pay a little more attention to the welfare of the people of this country rather than exert all their concern for the people in foreign countries.

Mr. BERRY. I thank the gentleman from Wisconsin.

Mr. PELLY. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Washington.

Mr. PELLY. In our Pacific Northwest lumber industry we have had real problems from imports, particularly from Canada. We had to put up with a situation where they devalued their money, we had to contend and compete with lower-cost stumpage, we had cheaper freight rates and all other kinds of impediments to our being able to compete. We thought, perhaps, however, we had one quality to our timber which made our competition possible, and that was that we just produced a better product. We had hoped, of course, we could at least have labeling of any imports that came into our country. Last fall we were terribly distressed that even that was denied, and the President denied labeling for imports. This has been very distressing. At the time the Trade Expansion Act was up, the Baker amendment was put in. Some of us hoped that some of the situations could come back to the Congress, where this whole matter of regulation really belongs, but that has not worked out. So it is that in connection with the law which has been on the books with regard to dumping foreign products there has been trouble. I think some of us today are introducing legislation to try to bring that legislation up to date to make it more effective.

I am very pleased to join with the gentleman in this discussion of a problem that is so serious. If we were in a large industry such as the textile industry, we might be able to make an agreement along the line so that we could get some compensatory benefits. But the lumber industry and the fishing industry and apparently from what the gentleman says, the beef industry, have been unable to get any sort of sympathetic assistance from the administration. So I am very happy that the gentleman has brought this matter to the attention of the Congress, and I join with him in the hopes that we may have from our Government some help for the industries that we are supposedly the guardians of. I often think of the statement of Daniel Webster to the effect that the principal reason for the Constitution was the protection of industry. But it just has not worked out in that way. The very safeguards that were written into the Constitution, as have been pointed out earlier, have been delegated to the executive branch.

Again, Mr. Speaker, I thank the gentleman for yielding and commend him for his very fine statement.

Mr. BERRY. I thank the gentleman from Washington. As the gentleman from Ohio said originally, these were obligations that were placed by the Constitution on the Congress and the Congress has yielded through legislation this authority to the executive branch and the executive branch, in turn, has yielded this authority pretty much to the international organization known as GATT.

Mr. LANGEN. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Minnesota.

Mr. LANGEN. First, I want to compliment the gentleman from South Dakota [Mr. BERRY], for the very excellent and precise manner in which he has laid before this House the extent to which imports have adversely affected our entire national economy in almost every conceivable field that you can think of.

Coming from Minnesota we, of course, are primarily concerned with its relationship to agriculture although we do have an equal concern, certainly, in the area of the iron ore industry. We have seen that industry depleted and now we have an area in Minnesota that is recognized as being very severely depressed with the need for all of the economic get-well programs to have been put into practice there—and with little or no effect up to this date, I might add.

But in that connection, I want to put some additional emphasis on one point, particularly as it refers to agriculture. Reference has already been made to the extent to which beef, pork, and other agricultural products have adversely affected the markets and the economic opportunities for farmers throughout the Nation.

I should call to your attention particularly the report by the Department of Agriculture as of February 1964, entitled "Farm Income Situation." This is a very thorough and very complete report and points out the extent to which agriculture in general has suffered.

First of all, we have a general decline of about 3 percent in income. We have reached the lowest parity levels since 1939—and it almost goes back to 1934. Relating that specifically to Minnesota, which I think is pertinent, we note that on a per farm basis, and that is after we lost 174,000 farms throughout the Nation in 1963, we still find that the per farm income has dropped 6 percent.

I call to your attention the reasons they give for this drop.

The report says:

> The total cash receipts were slightly lower, as sizable declines were realized from sales of cattle, calves, hogs, dairy products, and eggs.

Every one of these products is involved in an import situation which has adversely affected the market.

You know the unique part of this is that you find the same Department having told the Nation that beef imports have affected the market very little and have caused little market disturbance, and most of the price decline has come from increased production.

But let me call attention to some of the facts with respect to this experience. You know in January last year when the Congress began to direct some attention to this problem, and we had an amendment over in the other body, and it became necessary for someone to do something about it—and what did they do? They started a beef buying program at that time designed, as they said, to bolster the market and to help the beef producers.

Let us look briefly to see what has happened since the beginning of January. Through March 26 of this year they bought 44.8 million pounds, or 2½ percent of the amount of beef we imported in 1963. It is rather unique to me that they anticipate that buying 2½ percent of the imports is going to improve the market, but that the other 97½ percent will not depress the market.

I should like to relate that same reasoning to the entire year of 1963, because we had a beef purchasing program going on all during that time. During the year 1963 we bought 10 percent of the amount of beef that we imported. Actually, to me this represents as great a folly as anyone could possibly conceive; that is, that the Federal Government should be participating in a program of buying beef supposedly for the purpose of improving our own market and stabilizing the agricultural economy, when the reality is that we buy only 10 percent of the amount we import.

In that instance, can we say that we are being of any assistance to American agriculture? No. The fact is, the entire amount of assistance is to foreign agriculture.

We have seen many examples of this.

Mr. BERRY. I wish to say, before we leave this point, that the Department of Agriculture, as the gentleman indicates, is trying to justify the use of imports. This is like having a glass of water, sitting on the table, which is full. One drop more will make the glass run over. Eleven percent more will spill water all over the place.

There is additional production in this country. The "glass" is full. If we add 11 percent more, it will spill all over the place. They cannot get away from that.

Mr. LANGEN. That is quite true. What an appropriate analogy the gentleman makes in this instance. That is exactly what the experience has been, not only in regard to beef, but also in regard to many other products.

Let me make another point, to indicate the wisdom of what the gentleman from South Dakota was saying only a few moments ago, in relationship to what the foreign countries are doing that affects our markets and prices in this Nation.

During the month of February I received from my district many letters, wires, and telephone calls from people complaining about the price of eggs. The price of eggs was down. They reached a low of 21 cents a dozen and were 24 cents a dozen for a long time. All of us know a person cannot produce eggs profitably at that price. The people were urging that we ought to encourage the Department of Agriculture to buy eggs in order to bolster the market. I did what I could to so encourage the Department. Since then they have gone into the egg-buying program and, as I understand it, they have bought some $900,000 worth of eggs.

But the unique feature is that during the time we were experiencing the price decline, in the month of February, I discovered that we had also started importing eggs from Denmark during that month, and we received some 300,000 dozen during the month of February, although we had not imported eggs from Denmark for the several years prior thereto.

Why is it, even with a depressed market, we find eggs coming in from Denmark? The fact is that Denmark is a big egg producer. Denmark has been exporting eggs to foreign countries for years.

However, it was the other countries that by virtue of tariffs, restrictions, and duties closed off their markets. They were then left with a surplus and nowhere to go but the United States. This has been the experience in all of these instances, whereas the gentleman has said we have become the dumping ground for surplus agricultural commodities produced all over the world.

This very same thing is true in beef. I want to point out the real danger in all of this. Certainly we have experienced enough adverse effects now in that the farmers have suffered a price decline, a reduced income, and a loss of their markets. Still it could be even more serious than this because what is going to happen, just as sure as I am standing here, if we permit this kind of condition to prevail and the markets continue to be depressed, is that we are going to get restrictive programs in all of these areas. We have already seen them proposed in the dairy products field. We have had suggestions in the beef industry. We have noted suggestions that have related restrictions to the production of every one of the agricultural commodities, even, I believe, to some kind of evaluation of the total unit production on a farm.

This can only mean one thing, and that is further Government restriction and price support programs. This to me projects the possibility that farmers are going to be placed in even a greater straitjacket than they are now in. The folly of this to me is completely unacceptable because you know as we have seen this go on, the unique part of it is we keep saying to our farm people that they have raised too much so therefore they have to cut down, and if they cut down we will provide some kind of payment or assistance. However, while we are doing this, do we ever say we are going to reduce imports by at least the same percentage? I have never seen it happen anywhere.

Therefore, it becomes a matter in which our agriculture, and our own farm people, have to pay the full price and bear the burden of the effects of these imports. Then, in turn, the taxpayer has to pick up the tab for the expense of the whole thing.

It would seem to me we might at least get to the point where we would say to the foreign countries that we are asking our producers to reduce 10 or 20 percent or whatever it is and we are going to have to reduce imports by at least the same amount. This would be a very minimum and just requirement.

Mr. BERRY. I want to commend the gentleman for his comments and I would like to say there that he has certainly made a very complete study of the effects of imports, agricultural imports particularly. I said a minute ago that if you figure on the basis of 20 acres, which the Department of Agriculture indicated is required to produce and market 1,000 pounds of beef, this means the American farmer had to take 82 million acres out of production. Now, there are only 49 million acres in the entire wheat allotment for 1964, and here we involve 82 million acres.

Let us use some other figures for just a moment at this same point if the gentleman will permit. As I stated a minute ago, if you take the States of North Dakota and South Dakota, Wyoming, Montana, and Idaho, add their production all together, you will find they produced 3.85 billion pounds or, if you please, 250 million pounds less than was imported. In other words, the farmers of the rest of the Nation had to reduce production by an area the size of those five States or even more so.

I want to use another example.

The State of Texas is considered a great beef-producing State, yet the farmers were forced to reduce production by an area the size of the State of Texas.

Let us go one step further, because the Department of Agriculture is so anxious to make us believe that imports mean nothing. The beef that was imported in 1963 is equal to the beef produced and marketed in 1962 in the States of Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North and South Carolina, Georgia, Florida, Ohio, and Indiana. This is about one-fifth of the land area of the United States and it probably represents about one-third of the population of the United States. And yet we imported more beef, or as much beef, as was produced in these 19 States in 1963.

So, as the gentleman from Minnesota [Mr. LANGEN] has said, American agriculture has got to squeeze down an area the size of those 19 States to make up for what was imported. And we say to our American farmer, "Mr. Farmer, you have got to be a good neighbor. You do not dare to make our foreign friends reduce their acreage. We have got to be a good neighbor and let this stuff come in, and so you have got to cut down part of your production. Then the Government will pay you for some of the acreage that you cut down and we call this diversion payment, so that all of the taxpayers help a little bit in meeting the problem that the farmer has."

Mr. Speaker, I yield further to the gentleman from Minnesota [Mr. LANGEN].

Mr. LANGEN. Mr. Speaker, what a very convincing set of figures and statistics the gentleman has just presented to the House. I suppose that this is sufficient evidence to alert all of us to the fact that some attention needs to be directed to this subject. It is for this reason that a very short time ago I suggested to the Tariff Commission, to the State Department, and to the Department of Agriculture as well as our team of negotiators at Geneva that what we ought to have is a complete review of our entire agricultural foreign distribution policy at this point, because I do not see how we can possibly approach the problem of negotiating without having reviewed completely the effects on our own economy and the relationship that exists between the movement of these goods from one country to the other. We have seen the extent to which there is an interrelationship. I am wondering whether agriculture is properly represented in these negotiations. I noted just the other day that one of the foreign countries had sent a separate group of officials to this conference primarily for the purpose of looking out for the interests of agriculture in their country.

Mr. Speaker, I believe the time has come when the United States should do the very same thing, because the extent to which agriculture has been hurt by an inadequate import-export policy has certainly been evidenced here today, sufficiently so that it would warrant some rather drastic steps to be taken in this field.

I would suggest to the Congress that we might well discuss and direct our attention to this problem during the course of the session. It has already been pointed out that this is a proper assignment for congressional consideration.

Again, Mr. Speaker, I thank the gentleman for yielding.

Mr. BERRY. I thank the gentleman very much.

Mr. SHORT. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from North Dakota.

Mr. SHORT. Mr. Speaker, I thank my colleague and my neighbor and good friend from South Dakota for yielding to me.

Mr. Speaker, I want to commend the gentleman for taking the time to bring this question again to the attention of the Members of the House.

We have just heard from the gentleman from Minnesota one of the best and most understandable dissertations on the realities of the inconsistencies of our trade policy that I have heard articulated recently. I commend the remarks of the gentleman from Minnesota to the Members of the House when they have an opportunity to read the RECORD tomorrow.

Mr. Speaker, this entire trade policy that we have, particularly in relation to agriculture, is as someone has long ago put it, "a sight to behold."

I believe very few people realize what is going on. As my friends from Minnesota has just said, we certainly ought to have someone at the GATT conferences that are about to commence in Geneva.

We have heard some very scholarly, some very complete, some very detailed and very effective dissertations on the problem and dissertations pointing out the realities of the problem of imports adversely affecting domestic industries. I believe we have indicated here this afternoon beyond any question of a doubt the simple fact that there is a very real problem to be dealt with. This is a problem and a responsibility not only of the legislative branch, as was so properly pointed out here a few minutes ago by the gentleman from Ohio, but I believe it is also a responsibility of the executive branch of the Government.

I will say to my colleagues that I am amazed that the executive branch of the Government does not seem disposed to do something which is a little more objective in the way of dealing with these problems that are our problems, yours and mine. Coming from agriculture's beef-producing States like North Dakota and South Dakota, we know that this problem is very real for our livestock producers and feeders.

Mr. Speaker, I do not want to reiterate in different words the matters that have already been discussed here this afternoon. I think we have come to the point where we have to start talking about what are we going to do.

Mr. Speaker, we have the problem and we know it. We are aware of it. I think we have to review just a little bit how this situation was so spectacularly brought to the attention of those of us engaged in the livestock business. In late 1963 and early 1964 livestock prices experienced a drastic drop. Many of us who are engaged in the livestock business, as I am and have been all my life, are well aware of the degree to which prices are down. It is a very spectacular one and a very uncomfortable one, I can assure the Members of the House.

Mr. Speaker, the livestock industry went to the Department of Agriculture which is supposed to be the branch of our executive branch of the Government which represents itself to be the friend of the farmer and the friend of those in agriculture. The livestock people asked, "Is there not something that we can do in the way of getting the exporting countries to restrain themselves a little bit in these excessive and rapidly expanding exports into the United States?" The Department of Agriculture told them in effect, "Just leave it to us. We will negotiate something."

Well, Mr. Speaker, pretty soon USDA came up with a proposal. They said they had talked to representatives of Australia and New Zealand and that they had come to an agreement which they thought was going to solve the problem for us and one which they were sure the industry would be satisfied with. They proposed a quota be fixed at the average of the 1962 and 1963 imports, which were the highest in history. But here is the important thing to understand: This level of imports plus a 3.7-percent growth factor, which by 1966 would have wiped out any reduction that would have accrued for 1964.

Mr. BERRY. More than wiped it out.

Mr. SHORT. It would have more than wiped it out. The livestock industry said, "Well, this is no relief. We are just as well off if not better off with no quota."

The Department of Agriculture said, "This is an equitable proposal," and they went ahead and negotiated and executed these agreements with no one in the livestock industry that I know of endorsing the idea.

The livestock industry said "This is not going to bring us any relief. I guess our only alternative is to go to Congress."

So they came to Congress, people from all over the United States, from every one of the major cattle-producing States, they called on their Congressmen and asked "Is there anything you can do?"

Many of us had introduced bills, having some reservations as to how much good this was going to do unless there was a disposition on the part of this administration to support legislation.

Shortly the livestock people came back again. This price problem was becoming more acute, prices were going down, imports were going up. Feeders were experiencing some terrific losses. Every Congressman was hearing from his livestock people in his State, and the Congressman was becoming aware of the situation.

After some encouragement from certain people in high places in this administration and in this legislative body, there were about 70 bills introduced in the House of Representatives, which were referred to the Committee on Ways and Means.

Some of us were encouraged that maybe we were going to have a thorough analysis before the Legislative Committee on this proposal. Maybe we were wrong. Maybe we were asking for something that did not make sense. We thought we did, and I for one still think we did.

Right here maybe I had better explain what the livestock people were asking in the way of legislation. It seems to me it was reasonable. They were not asking for any payments, they were not asking for any increase in the tariff, they were not asking for price supports. They were simply asking that import quotas be applied based on the average of the last 5 years, including 1963, the highest in history, and that these quotas could only be exceeded at times when prices were depressed. In other words, the livestock industry was not asking for anything when prices were good as they have been over most of the last several years. They did not feel they had any cause for complaint about imports when they were enjoying good cattle prices, but because of the ups and downs in livestock production they felt they must have something positive, and a quota is the only thing that is a positive restraint, that could be resorted to when our supply was up and our prices were depressed until such time as we have worked off the excess supply and our prices started to recover.

The voluntary agreement that the Department of Agriculture and the Department of State were so proud of wiped out any possibility of relief coming from this agreement by incorporating a 3.7 percent growth factor that would give to the foreign import countries the benefit of all the cutbacks that were made by our own domestic producer. This seemed to me to be ridiculous. Should this important segment of our domestic economy cut production so as to improve prices and hand reductions and the higher price to a foreign country?

What happened to the bills which were introduced? From the best information I can obtain the Ways and Means Committee has decided that no hearings would be held. Because of what? It might open up, and it certainly ought to be opened up, the similar propositions of this problem as it has been reiterated this afternoon as it affects industry after industry after industry in these United States of America. I think it is about time it ought to be opened up. I think it is about time that we here in Congress start taking a little firmer and perhaps a little more belligerent stand on this. It is our responsibility, if no one else wants to exercise their responsibility, to protect the welfare of our domestic economy. This is the goose that lays the golden eggs—so far at least—that enables this country to share its wealth with most of the other nations of the world.

To me it seems completely and utterly ridiculous that we now have before this Congress a bill purporting to deal with the subject of poverty that has no section dealing with the real problems of excessive imports. This bill is receiving a lot of consideration by a committee before which hearings are now being held, the Committee on Education and Labor; it has received a lot of favorable comment by the President of the United States and it is on the priority list of legislation that must be passed this session. But how do we go about removing poverty? We do it by creating more real jobs, and one of the ways of creating more jobs, or at least saving some of the jobs we have, is to give reasonable protection to our domestic industries.

I appreciate the gentleman's yielding to me and I appreciate his taking this time to bring this matter to the attention of the Congress, for I believe the Congress ought to start doing something about this problem now as this seems to be the only place where there is a chance of something being done. Downtown today our cattle people from all over the United States are appearing before the Tariff Commission. This is pure and simple window dressing, because nothing will come of it.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include therein a dissertation on this problem from the president of one of our small-town banks in western North Dakota in which he gives some figures on the results of the decline in cattle prices in our area of western North Dakota; and I should also like to place in the RECORD a presentation prepared by the North Dakota Stockmen's Association on this subject and its effect on the economy of our State of North Dakota stemming from some research work that was done by an economist at our State university.

The **SPEAKER** pro tempore. It is so ordered.

There was no objection.

Mr. **SHORT**. Mr. Speaker, much has been said here today about imports and their impact on this or that industry. I am only generally aware of the effect of imports on many of these industries but in one case of recent high interest and concern I have some firsthand knowledge. I refer, of course, to beef imports.

Very often we pay little attention to the complaints we hear, because the world is full of complaints, until trouble hits home. Then we look into the details and inform ourselves in a manner that we do not have the time or occasion to do in cases that are more remote from us.

Mr. Speaker, I can assure you that the impact of the sharp rise in imports of beef on the cattle industry is no small matter and that the widespread complaints are well-founded. The cattle industry is suffering from an over-supply bearing on the consumer market. Little wonder that the price of beef broke when heavy imports were superimposed on an adequate supply of domestic beef.

Naturally foreign beef is cheaper than our beef just as many other foreign products are cheaper than those produced in this country. There should not be any mystery about this. It should in fact be expected. Foreign wages are so far below those prevailing in this country that goods can be made more cheaply abroad, especially in recent years when productivity has risen so rapidly abroad while wages, although coming up, still remain far below those paid in this country.

What then is the purpose of exposing our industries, not, indeed, to fair competition, of which we have a great deal at home, but competition that derives its competitive advantage from the fact that wages which would be illegal in this country are the regular and accepted order in the countries of origin?

I am a strong believer in both trade and in competition. However, the conditions of trade and the character of competition must be taken into account before we give either our blessings. Trade of itself is not necessarily a great good. Otherwise we would not condemn the opium trade. Trade is good if it serves a good and not a destructive purpose.

And so also with competition. There is such a thing as cutthroat competition, characterized by dumping; or, as it was once practiced in this country, by exploiting child labor and engaging in sweatshop operations. We have outlawed child labor and driven the sweatshops out of business by establishing minimum wages.

In the field of competition we have insisted on the element of fairness. We did not indiscriminately promote competition. We undertook to assure the fairness of a healthy competitive rivalry and legislated accordingly through antitrust laws, ant monopoly acts, and so forth.

Yet, Mr. Speaker, while we cannot legislate for foreign countries, much competition arises there that, were it here, would run afoul of our laws.

Many of our laws have increased the cost burdens of our industries. The Fair Labor Standards Act, the laws that established obligatory collective bargaining, minimum wages, and farm price supports, have raised our costs of production to our international competitive disadvantage. Yet we ask our industries to carry these burdens and at the same time to compete with imports that do not carry similarly onerous burdens. This amounts to insistence of meeting unfair import competition without recourse, and the result is not difficult to apprehend.

Mr. Speaker, insistence on unimpeded or less and less impeded imports is nothing more than insistence on an international leveling process. Our industries will be pulled down while industries abroad will be helped. Let no one rise and say that our advanced technology gives us protection enough. This cliche no longer answers the difficulty. We are undersold because other countries enjoy distinct cost advantages over us and if we stubbornly insist on treating our industries in this fashion, our whole economy will pay the piper.

It will not only be the cattle industry. It will be scores of other important industries, such as steel, chemicals, textiles, shoes, lumber, minerals, oil, and so forth.

I hope that the eager hands of our free traders are halted by reflection on the realities of international competition rather than harkening to theoretical economics.

I am happy to join in the chorus of voices demanding caution on the eve of the greatest tariff-cutting conference that we have yet faced. Imprudence could easily result in a forced change of policy in the years ahead but only after much unnecessary suffering.

It seems to me that if we are to attack poverty in this country we are making our task vastly more difficult if we create conditions that will shrink many of our industries. This is exactly what we will do if we insist on making them yet more vulnerable to imports.

Poverty is not overcome by confronting industries with a type of competition that would be both illegal and grossly unfair if it originated in this country. We actually contribute to poverty by displacing many who are presently employed and generating an unfavorable market outlook for industry. The new jobs we need will not thus be lured into being. They will be discouraged and the problem of poverty will plague us more than ever.

### A Bank Looks at the Present Cattle Market

(Prepared by W. E. Davidson, Jr., president, American State Bank of Williston, N. Dak.)

Some facts:

(a) 1963 cattle imports were large enough to satisfy all American consumers for 1 month. In other words, one-twelfth of our meat consumption was imported.

(b) 1963 was a good crop year but farm income declined 3 percent, while general consumer income climbed 5 percent. The forecast is a further decline for farmers of 5 percent in 1964. This will result from higher expenses, lower prices for wheat and cattle.

(c) Fat steers the first week in February 1964, were down 15 percent compared to the first week of February 1963. Fed heifers were down 12½ percent, replacement stock down 10 to 20 percent. The reasons are:

1. Imports were 1¾ billion pounds in 1963. This is the same as 4 million cattle on the hoof in the United States.

2. Cattle inventories in the United States are dangerously high. This is related to the historic cattle cycle.

(d) With no imports the same number of cattle here would have consumed 20 billion pounds of surplus feed grain and created 100 million man-hours of labor.

(e) Australian imports have increased in 10 years by 32,000 percent.

(f) Imports are utility meats used for hamburger, lunch meats, and sausage.

(g) More than half the farms in the United States have livestock. They use 1 billion acres of land and consume 70 percent of harvested crops. The cash return exceeds the combined sales of six basic crops (wheat, corn, cotton, tobacco, rice, and peanuts).

(h) There are 38 States which raise livestock. Only 13 are major producers of wheat and only 8 or 9 cotton.

What has happened:

(a) Growers are keeping cull cows for one more calf. This is adding to existing overpopulation.

(b) Production of fed beef in the United States was 11 percent higher in 1963 than in 1962.

(c) The feeder who purchased a yearling steer in the fall of 1962 and marketed it in the spring of 1963 lost $20. This does not include labor, overhead and interest.

(d) Steers that were bringing $25.72 in 1963, in January 1964, were bringing only $21.63—a drop of $4.09.

(e) Heifers that were bringing $24.94 in 1963, in January 1964, were bringing $21.02—a drop of $3.92.

(f) Import beef is lean and good color and much tenderizer is used on it. It makes good hamburger. It is boned and makes less work for the packers.

(g) Imports come mainly from Australia, New Zealand, and Mexico; 82 percent of Australian meat exported comes to the United States. These countries can pay the 3-cent-a-pound duty and still undersell the U.S. feeder because their taxes, cost of land and labor costs are so much less than in the United States. For instance, in Australia a packer pays $106 for a 1,000-pound steer—in the United States he would pay $180. For a prime yearling, $112 in Australia and $188 in the United States.

(h) There is a new meat agreement with Australia. It is a farce. Any decrease in the present agreement will be offset by increases of $3.7 percent agreed upon for 1965 and 1966.

(i) We have not felt the full effect of meat imports. American ranchers are operating in Australia already. We have felt only 25 percent of the Australian potential so far. Australian land costs are about 11 cents per head per year while in the United States the cost is about $25 per acre. With new American techniques, Australian cows are calving 70 percent versus 90 percent in parts of the United States. The United States shipped 7.6 million bushels of corn to Mexico in 1963. The U.S. Government gives them 3 years to pay at 4½ percent interest. This all indicates that American capital and techniques and taxpayers' money is helping to break American feeders.

(j) Low cost imports and low prices for American beef have not been reflected in reduced prices to consumers. Hamburger that was 49 cents 8 months ago is 49 cents a pound today. This involves in the situation the most potent force in America—the housewife.

(k) The large packers and chainstores are the market for fed cattle—they control the market. If they are buying meat cheap, they are not passing the savings on to the consumer. Certainly someone is buying beef awfully cheap.

(l) Imports are utility meats. The U.S. Government is buying for its various subsidized programs utility meats raised by American feeders. Evidently the Department of Agriculture feels this process will satisfy the American feeder. Informed sources say this policy will have very little if any effect on the prices paid for American beef.

(m) American feeders are feeding plainer cattle and trying to keep costs down, and thus compete with imports. Thus, the quality of American beef is deteriorating.

(n) Choice fed beef is in practically no demand. On the Chicago market recently, 23 cents was paid for prime 1,100- to 1,200-pound beef, but only 20 cents for prime 1,600 pounds.

(o) As the United States built cattle herds the growers fed calves cheap feed and sold them to stockers for, say, 25 cents. With stockers pulling out of the market, growers must sell to feeders who have been hurting and will pay only 18 to 20 cents.

(p) The situation worsens when we consider that wheatgrowers will receive in 1964 from 20 to 25 cents less per bushel for their wheat. Cattle feeders have subsidized their losses by diversified farming income and now this income is to be reduced.

(q) The Bureau of Census has completed its first major revision of census projections since 1958. The dominant factor in the future size of the Nation's population is birth rate. This has been declining since 1957, and the decline is gaining momentum. From 25.3 births per thousand people in 1957, it has declined to 22.2 at the end of 1962. The census revision indicates there will be 3 million less population in 1970 and 10 million less in 1980 than previously estimated. This all will affect meat consumption.

What can result from all this?

The feeder-farmer has lost much of the working capital he has accumulated. A continuation will force them out of the business when they no longer have capital and credit. This means they spend less and pay less taxes. Many are postponing spending already. This affects business. Younger farmers may be encouraged to leave the farm. The cattle growers are going to increasingly feel the squeeze already experienced by the feeders. They will experience the same problems. Another group will join the nonspenders. The Doane Service is usually optimistic. They feel we have not seen the bottom of the cattle market. I agree.

What can be done?

(a) Feeders can go on a continuous feeding program. Sell when the feeders are ready and not hold for a better market. They probably will not lose much at 1,000 to 1,100 pounds, but they will at 1,400 pounds. Those who hold only add to the cattle population which is partly the cause of the problem.

(b) Lamb feeders made money in 1963.

(c) The lighter the feeder cattle, the better off is the feeder.

(d) Much of the problem has been caused by the feeders and growers. They have been selling cattle instead of butchering. Holding culls for just one more calf.

(e) Every cattle cycle has seen an elimination of some growers and feeders before there is an upturn.

(f) The straight feeder has been hurt the most, especially the one who does not raise most of his own feed. Those who have supplemental income such as wheat, beets, etc., have fared better.

(g) If there is widespread drought, there will be more cattle dumped on the market and prices will go down more than expected. Those who hold cattle will pay more for feed they must purchase.

(h) Feeders will become much more cautious in their buying, and if they keep proper equities, have feed and are experienced, they will find feeder credit available as before.

(i) Unless the Federal Government will restrict imports to the 1958–63 average cattle prices will not turn upward during the course of the ordinary cattle cycle. This is the only nation that does not have import quotas on cattle. We cannot then hold the present Congress and administration blameless for the condition of the market. They can correct the situation by imposing a 1958–63 average quota. This could be done by Congress. We can expect no relief from them because they likely will be tied up with civil rights until after the election. The situation can be corrected by the President and done so immediately. The tariff act gives him this power. If he will act, the forces of supply and demand will enable the cattle industry to emerge from the very real crisis now existing. Cattlemen are no more interested in a Government control program now than they have ever been.

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### STATEMENT OF KARNES JOHNSON, REPRESENTING THE NORTH DAKOTA STOCKMEN'S ASSOCIATION

My name is Karnes Johnson. I am president of the North Dakota Stockmen's Association, 107 South Fifth Street, Bismarck, N. Dak. The North Dakota Stockmen's Association represents nearly 3,000 cattle producers and feeders and is generally accepted as the spokesman for the beef cattle industry in North Dakota. We appreciate the opportunity to present our views before the U.S. Tariff Commission concerning the current beef cattle situation.

#### IMPORTANCE OF BEEF TO NORTH DAKOTA

Cattle and calves are normally expected to account for about 24 percent of the annual agricultural income for North Dakota, and, since roughly 80 percent of our State's total income is derived from agricultural sources, the economic importance of beef is readily apparent.

North Dakota annually expects to derive about $125 to $130 million from the sale of cattle and calves. Any reduction in this anticipated income causes monetary hardship to hundreds of local North Dakota communities. Yet, this is precisely what has happened to that North Dakota income which is derived from the sale of cattle and calves, and the following table shows the extent of decline:

*Gross income from cattle and calves*

| Year: | *In millions* |
|---|---|
| 1961 | $133,963 |
| 1962 | 125,834 |
| 1963 | [1] 115,043 |

[1] Preliminary estimate subject to revision and almost certain to be substantially less than quoted here.

NOTE.—Above figures from Agricultural Statistics No. 10, North Dakota Crop and Livestock Reporting Service, USDA and North Dakota State University cooperating (May 1963).

#### EXCESSIVE IMPORTS OF FOREIGN BEEF A FACTOR

The North Dakota Stockmen's Association submits that importation of foreign beef, chiefly from Australia and New Zealand, has been allowed, and encouraged, to increase during the past several years to a level which is exerting a depressing influence on domestic market prices for beef cattle.

While the price-depressing effect of increasing imports is difficult to determine with complete accuracy, we do know imports are to blame for a certain amount of the current domestic beef market depression.

With the assistance of Dr. Fred L. Olson, of North Dakota State University (see reference table appended) we have attempted to put an approximate dollar loss to North Dakota's total beef cattle income due to imports.

#### CHOICE STEERS

We have calculated that North Dakota producers have lost an average of about $8 per year per 1,000-pound steer due to the price-depressing influence of foreign beef imports over the 1958–62 period. This $8 represents about 30 percent of the total price decline for choice steers from the 1958–62 average to 1963. When we multiply $8 times a calculated 200,000 average annual number of 1,000-pound steers marketed from North Dakota we come up with $1,600,000. This is revenue which would have accrued to our State's economy had imports been restricted to a point where they did not influence the domestic market.

#### UTILITY COWS

In making a similar calculation for utility cows (that class of beef which is deemed to be in closest competition with imported beef) we found that the 1958–62 average price-depressing factor was $1.27 per hundredweight, or $11.43 per 900-pound cow. Multiplying $11.43 times an approximate average annual 150,000 head of utility cows marketed in North Dakota, we find an average annual loss of over $1,700,000. According to Dr. Olson, over 90 percent of the price decline for utility cows from the 1958–62 average to 1963 was due to the influence of high-level imports.

When this $1,700,000 loss is added to the previously calculated $1,600,000 loss on choice steers we arrive at an average annual loss of $3,300,000 to the North Dakota beef industry and to our State's economy.

#### FEEDER CATTLE

But this is by no means the total injury * * * in addition to the above loss—there is that market depression occasioned by lower prices for feeder cattle. Dr. Olson has calculated that a drop of $1 per hundredweight on choice fat cattle has about a $2 per hundredweight depressing effect on the price of feeder cattle.

Without attempting to assign any accurate total dollar loss due to the influence of imports upon feeder cattle marketings from North Dakota—it is, nevertheless, apparent such loss is very significant when it is known that our State annually markets over 600,000 head of this class cattle.

Based upon the foregoing testimony, it is our contention that an ever rising level of beef importation from the 1963 level will cause an average annual loss in income to North Dakota of about $5 million compared to the 1958–62 level of imports.

(NOTE.—This considers the $3.3 million calculated loss from marketings of steers and utility cows and assumes a loss on sale of feeder cattle of at least $1.5 million.)

We're quick to acknowledge that imports of beef are not the only factor contributing to a currently depressed cattle market and readily concede that high domestic beef supply must share equal, or greater, responsibility for the depression. However, the domestic cattle industry can and will (given time) bring domestic production into line with consumption at acceptable prices to producers; on the other hand, only the Federal Government is capable of taking the action necessary to restrict imports to the point where they do not cause hardship to the domestic beef cattle industry.

SUMMARY

In summary, then, we submit that imports at present levels have caused a portion of the reduction of domestic beef prices on all three of the above classifications of cattle (fat steers, utility cows, and feeder cattle) and that such price reduction is, in turn, causing economic hardship to the total North Dakota economy. We find it difficult to justify any reduction in domestic beef cattle prices occasioned by foreign imports. Neither do we believe that the recently signed quota agreements with Australia, New Zealand, and Ireland will bring about needed adjustments, because they are based upon the highest possible historical average.

*Reference table—Cattle prices at Chicago: Actual,[1] by level of imports, and imports held constant at the 1956 and 1963 level*

[In dollars per hundredweight]

CHOICE STEERS

| Year | Imports at level of— | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1956 [2] | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 [3] |
| 1956 | [22.30] | | | | | | | 19.57 |
| 1957 | 24.69 | [23.83] | | | | | | 21.70 |
| 1958 | 30.08 | | [27.42] | (1) | | | | 26.52 |
| 1959 | 30.49 | | | [27.83] | | | | 26.88 |
| 1960 | 27.98 | | | | [26.24] | | | 24.69 |
| 1961 | 26.93 | | | | | [24.65] | | 23.78 |
| 1962 | 31.10 | | | | | | [27.67] | 27.47 |
| 1963 [4] | 27.11 | 26.17 | 24.72 | 24.75 | 25.43 | 24.81 | 24.13 | [23.96] |

UTILITY COWS

| Year | 1956 [2] | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 [3] |
|---|---|---|---|---|---|---|---|---|
| 1956 | [11.37] | | | | | | | 8.15 |
| 1957 | 14.80 | [13.61] | | | | | | 10.69 |
| 1958 | 22.88 | | [18.41] | (1) | | | | 16.87 |
| 1959 | 22.04 | | | [17.79] | | | | 16.25 |
| 1960 | 18.02 | | | | [15.68] | | | 13.43 |
| 1961 | 19.23 | | | | | [15.66] | | 14.29 |
| 1962 | 20.39 | | | | | | [15.51] | 15.24 |
| 1963 [4] | 20.20 | 18.58 | 16.25 | 16.31 | 17.47 | 16.46 | 15.36 | [15.10] |

[1] The actual prices are on the diagonal in brackets.

[2] The prices that would have existed from 1956 to 1963 had imports been constant at the 1956 level.

[3] The prices that would have existed from 1956 to 1963 had imports been constant at the 1963 level.

[4] The 1963 prices that would have existed with imports that existed each year from 1956 to 1963 are read across the bottom of the table.

NOTE.—The above statistical table was prepared by Dr. Fred L. Olson, extension farm management economist, North Dakota State University.

**Mr. BERRY.** I thank my colleague from North Dakota for his remarks.

**Mr. EDMONDSON.** Mr. Speaker, will the gentleman yield?

**Mr. BERRY.** I yield to the gentleman from Oklahoma.

**Mr. EDMONDSON.** I thank the gentleman for yielding. I share his concern about the problem of the rising importations of commodities from foreign countries and their effect on many industries in our country. In fact, earlier today I attended the hearings now in progress before the Tariff Commission on the beef situation.

**Mr. BERRY.** I thank the gentleman.

**Mr. BEERMANN.** Mr. Speaker, will the gentleman yield?

**Mr. BERRY.** I yield to the gentleman from Nebraska.

**Mr. BEERMANN.** Mr. Speaker, I want to thank the gentleman from South Dakota and the gentleman from West Virginia for taking the time to discuss this problem today. I am sure that these gentlemen join me in wishing that effective action had been taken to rectify the existing situation so that we could report to the Members of the House that the cattle industry was again in excellent condition. Unfortunately, there has been no effective action and the cattlemen continue to suffer.

A little over 3 months ago, on January 23, I joined a number of my distinguished colleagues in describing conditions in the cattle industry. Since that time an agreement has been signed with Australia and New Zealand to limit imports from those countries. Although the Agriculture Department characterized this as a substantial rollback of meat imports, the highest 2-year average in history was used as the basis for a 6-percent reduction. This can hardly be called effective action.

Recently the Secretary of Agriculture has announced that Australia and New Zealand will not be exporting as much beef to this country. I wish to make clear for the record that Australian officials have stated that this was not due to any action by officials of the U.S. Government but solely because of more favorable markets elsewhere. But, how effective will this limited curtailment be in relieving the American cattle industry? I assert that it will be of as little assistance as the aforementioned agreement, for although meat imports were at an alltime high last year, they are breaking all records this year. As evidence of this increase, Mr. Speaker, I would like to have an item from the Stockman's Journal of Tuesday, April 14, 1964, placed in the RECORD at this point:

IMPORTS BREAKING RECORDS IN 1964

Data on the amount of meat and meat food products inspected when offered for importation in January and February, indicate that early 1964 import tonnage has broken all previous records by a wide margin.

The amount inspected during the 2 months reached a total of 256,325,421 pounds, an increase of about 79 million pounds or 44 percent when compared with the 176,869,823 pounds inspected when offered for importation in January and February of 1963.

This tonnage was up almost 100 million pounds, or 63 percent from the 1962 volume, and stood 134 percent greater than in January and February of 1961. This was an increase of 147 million pounds when compared with 2 months of 3 years ago.

Following is shown the amount of meat and meat food products inspected when offered for importation. Figures are in millions of pounds:

Total meat imports

| | 1964 | 1963 | 1962 | 1961 | 1960 | 1959 | 1958 |
|---|---|---|---|---|---|---|---|
| January | 150 | 68 | 101 | 57 | 71 | 79 | 57 |
| February | 106 | 109 | 56 | 52 | 53 | 63 | 44 |
| March | ----- | 128 | 111 | 65 | 54 | 71 | 50 |
| April | ----- | 74 | 101 | 65 | 75 | 100 | 63 |
| May | ----- | 101 | 62 | 50 | 56 | 67 | 66 |
| June | ----- | 102 | 99 | 94 | 62 | 97 | 67 |
| July | ----- | 114 | 100 | 49 | 67 | 86 | 72 |
| August | ----- | 175 | 102 | 78 | 80 | 106 | 86 |
| September | ----- | 115 | 128 | 131 | 81 | 102 | 82 |
| October | ----- | 138 | 109 | 95 | 50 | 64 | 70 |
| November | ----- | 115 | 138 | 104 | 33 | 63 | 76 |
| December | ----- | 99 | 162 | 65 | 60 | 79 | 81 |
| Year | ----- | 1,338 | 1,269 | 906 | 742 | 977 | 814 |

Mr. Speaker, now I would be the first to admit that there has been considerable difference of opinion as to what is causing the depressed conditions in domestic cattle markets. The Department of Agriculture and several other Government agencies have maintained that overproduction is mainly to blame. A number of farm organizations, Members of Congress, and apparently the President feel that the entire food marketing industry is to blame and is in need of investigation. With these various theories in mind, what kind of action is forthcoming?

Well, the Department of Agriculture responded in typical fashion and has launched a beef purchasing program. As for investigations, many months ago the Senate Finance Committee requested that the Tariff Commission look into the impact of meat imports. These hearings by the Tariff Commission are finally starting today, but the Commission has stated that only a report will result from these hearing and no action will be taken. Finally, we have the variety of suggestions for investigations of the food marketing industry. Although there are existing institutions for investigating possible unfair trade practices, antitrust violations, et cetera, an investigation by a commission has been proposed. It seems fair to say that a commission that probably will not reach a conclusion for about 2 years can do little to correct existing conditions. I submit that the answer to the plight of the American cattle industry will not be found in a long, drawn-out investigation of the food marketing industry. Conditions in this industry have not substantially changed over the past few years and I do not believe that today's problems in the cattle industry will be found in this investigation. Rather, I believe we must look to external influences.

Over 3 years ago, I specifically told the Secretary of Agriculture if he continued to dump corn at the rate he was dumping it then, he was going to wreck the livestock business. The fruits of his labors can now be seen in the overproduction that he chooses to hold out as the reason for depressed cattle markets. The other external influence is plain for all to see. It should be obvious that when 11 percent of the meat being consumed on American tables has been imported that a substantial portion of the market is lost to American producers. As I believe that these external influences are the reason for depressed markets, it is time for effective action to curtail these external influences.

Although a number of courses of action would normally be available, it is apparent that the cattlemen can expect little help from the executive branch. The Departments of State and Agriculture have negotiated with exporting nations and achieved little. The Tariff Commission proposed only to find facts and take no action. The President looks to a drawn-out Commission study. What course is now available? A great many bills have been introduced to curb beef imports and remove one of the external influences that is depressing domestic markets. To date, there has been no action on these measures. To these Members who ask why the Congress should act on these bills, I simply ask them to consider the impact of a depressed cattle industry on all segments of the economy. How many tractors, trucks, cars, TV sets, refrigerators, or other items not immediately needed do you think will be purchased so long as cattlemen continue to lose money? And I would make one final point to all the Members, Mr. Speaker: I believe policies of the executive branch have contributed to this condition and have prevented any effective action to correct it. Before you pass this off as another problem, I counsel you to take a long look over your shoulder and see what new executive policy is in the making and which industry will next be sold down the river.

Mr. BEERMANN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Illinois.

Mr. COLLIER. First, Mr. Speaker, I should like to commend the gentleman from South Dakota for having taken this special order. I also commend those who have participated in the discussion here today, because I think it clearly points out the necessity of an agonizing reappraisal of many of our trade and tariff policies. While a good part of the discussion here today was directed to agricultural commodities, I think it is necessary to cite the fact that we are also suffering, as everyone here today knows, from problems created by the import of certain goods. One could probably cite scores of U.S. industries that have been badly injured by trade policies where revision is long overdue.

I cite one as an example, the electronics industry, where U.S. imports have increased 65 percent from 1958 until 1962. And by the end of 1963, 72 percent of all of the radio sets sold in this country will be foreign manufactured. Bear in mind that since there is understandably great concern over poverty which stems primarily from unemployment, that 43 percent of the total cost involved in the production of electronic components, television sets, and radios, goes into wages and salaries. It just seems to be good sense in dealing with the problem of poverty and the grave problem of unemployment which the country faces today that we had better face up to the danger inherent in our present trade policies.

Two years ago, as all of us know here, we passed what was known as the Trade Expansion Act of 1962. After almost 2 years it is probably difficult for almost anyone to understand how the title of that bill possibly applies to this legislation because there has certainly been no expansion of U.S. trade in these years. In fact, our balance of payments has continued to shrink; nor has there been any increase in jobs, which was part of the glowing harvest that was predicted by the ardent proponents of the Trade Expansion Act of 1962. The economy of the country certainly has not been improved through this legislation.

So I repeat again, from the discussion here today and from the facts and figures in industry after industry that a reappraisal of our entire trade and tariff policies as it effects our stature in the world of economic affairs is overdue for an overhauling.

Mr. BERRY. I thank the gentleman from Illinois.

Mr. CHENOWETH. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman.

Mr. CHENOWETH. Mr. Speaker, I want to commend the gentleman from South Dakota for taking the time today to discuss this most important issue. I wish to associate myself with him in his effort to curb foreign imports of cattle, beef and veal, and also sheep and mutton. It is generally recognized that these imports have greatly depressed our domestic markets and some relief is imperative if these industries are to survive.

Mr. Speaker, I appeared before the U.S. Tariff Commission in December in opposition to further tariff reductions on cattle, beef and veal, and meat products related to the sheep industry. I wish to include my statement as a part of my remarks:

### STATEMENT OF J. EDGAR CHENOWETH, MEMBER OF CONGRESS FROM COLORADO, BEFORE THE U.S. TARIFF COMMISSION

Mr. Chairman and members of the Commission, I appreciate this opportunity to appear before you today. I am here to strongly urge the Commission to recommend against the inclusion of cattle, beef and veal, and all meat products related to the sheep industry, in the proposed trade agreement negotiations in 1964. I feel that any further reduction in the duties on these products would have a most disastrous effect on our domestic cattle and sheep industry.

I shall confine my remarks principally to the cattle industry, although I understand the Commission is also hearing witnesses in behalf of the sheep industry. I have a copy of the statement filed by the Colorado Wool Growers Association urging that all meat products related to the sheep industry be removed from the negotiation list for the 1964 conference. I concur fully in this statement and I hope the Commission will take favorable action on this request. What I say about the cattle industry will also apply to the sheep industry.

Mr. Chairman, I would like to present just a few facts on the importance of the cattle industry to Colorado. Colorado ranks 12th in the Nation in the production of cattle. The cattle-feeding operations are now recognized as one of the major feeding areas in the Nation, and are still growing. At the present, all segments of the cattle industry in Colorado are facing critical problems. The cost of production is increasing and cattle producers face a very serious cost-price squeeze. I cannot overemphasize the importance of the cattle industry to Colorado, which is seriously threatened by the large increase in foreign imports of cattle, beef, and veal.

I would also like to present a few figures on our sheep industry in Colorado. Our State ranks sixth in stock sheep numbers and first in lamb feeding. Colorado, in 1962, ranked second nationally as a sheep and lamb slaughter center. In our State, the income from lamb accounts for nearly 80 percent of sheep industry income. Nearly 4,000 Colorado individuals and families derived a part of their 1963 income from sheep.

Mr. Chairman, I have the honor of representing a district in Colorado where the production and feeding of cattle is one of our most important industries. I am receiving letters almost daily from stockmen in my district, and other parts of Colorado, complaining over the increase in the imports of cattle, beef, and veal. These complaints have greatly increased in recent months.

It is the general feeling among the cattlemen of Colorado that these imports are having a most depressing effect on cattle prices in our State. The cattle feeders in Colorado took a heavy loss this year because of the sharp decline in cattle prices. I feel that this decline in prices is largely attributable to the unprecedented increase in foreign imports in recent years.

Mr. Chairman, I feel that the Commission should take steps to increase the present duties on the imports of cattle, beef, and veal, and also establish quotas on these imports, particularly where the imports exceed the usual amounts. However, I realize that the hearing today is concerned only with further reductions in tariffs on these imports, and the effect such reductions would have on our domestic cattle industry. I regret that it will not be possible for the Commission, under this procedure, to recommend these increased duties and the establishment of quotas.

Mr. Chairman, at a time when we should be seriously considering an increase in these duties, it is inconceivable to me that the Commission would recommend that these products be retained on the list for negotiation next year, which would make possible even further reductions in these tariffs. After hearing the statements which will be presented in behalf of our domestic cattle industry, and also our domestic sheep industry, I respectfully submit that the Commission can come to only one conclusion, and will find that any further reduction in these duties will have a most disastrous and ruinous effect on these important domestic industries.

I will not take the time of the Commission to recite the figures showing the alarming increase in the imports of cattle, beef, and veal into this country. The effect of these imports on the cattle industry of Colorado will be given you by Mr. Bob Johnston, Jr., president of the Colorado Cattlemen's Association, and others. I am advised that these imports of cattle, beef, and veal into the United States have more than tripled in the 5-year period from 1957 to 1962. The total imports have increased from 395 million pounds in 1957 to about 1.5 billion pounds in 1962.

It is obvious that if this rapid increase in imports continues the cattle industry of the country is threatened with further substantial losses, and perhaps eventual extinction. As a Member of Congress representing a cattle district, I cannot sit idly by and permit this to happen without raising my voice in protest. I do not need to remind the Commission of the importance of the cattle industry to the economy of our Nation, and I feel it deserves our full protection.

This is why I am here today, Mr. Chairman. I feel the situation is constantly becoming more critical and that immediate relief is necessary. I am not suggesting that all imports of cattle, beef, and veal be suspended. However, I do feel that unusually large imports of recent years are a direct threat to our domestic cattle industry, and steps should be taken to reduce the same. A quota system would be the logical solution to this problem, and I hope such a system can be established in the near future.

Mr. Chairman, the present duties on these imports should not be the subject of discussion in the negotiations next year, with the possibility that these duties might even be further reduced. I therefore respectfully submit that cattle, beef, and veal, and also all meat products related to the sheep industry, should be removed from the list. It is unthinkable that there should be any further reduction in these duties at a time when we should be making every effort to increase the present tariffs.

Thank you for your courtesies, Mr. Chairman. I appreciate your interest in protecting our domestic cattle and sheep industries, both of which are in dire need of the relief which they are seeking in this hearing today.

Mr. Speaker, I appeared before the U.S. Tariff Commission again today and recommended a reduction of imports of cattle, beef, and veal. I also suggested to the Commission a quota system on beef and meat products, as well as an increase in present import duties. I believe this is the only practical solution to this most perplexing problem.

**Mr. BERRY.** I thank the gentleman from Colorado.

**Mr. CUNNINGHAM.** Mr. Speaker, will the gentleman yield?

**Mr. BERRY.** I yield to the gentleman.

**Mr. CUNNINGHAM.** Mr. Speaker, I join with the gentleman in his remarks. In 1962 when we debated the so-called Trade Expansion Act, I made the statement that representing as I do the largest meatpacking and livestock center in the world, that if this act was passed, it would cost upwards of 10,000 jobs in the packinghouse and livestock industry. I made the further statement that this would open the floodgates to meat imports into this country. I made that statement. It is part of the official record in 1962. Now I do not know how many jobs we have lost, but we have lost a considerable number of jobs. The fact remains that in addition to losing jobs in the packinghouse industry as a result of this trade expansion act, we have opened the floodgates to the import of foreign beef into this country just as I predicted 2 years ago.

**Mr. BERRY.** I thank the gentleman from Nebraska for his contribution.

**Mr. DON H. CLAUSEN.** Mr. Speaker, will the gentleman yield?

**Mr. BERRY.** I yield to the gentleman from California.

**Mr. DON H. CLAUSEN.** Mr. Speaker, I am proud to associate myself with the remarks of the gentleman from South Dakota.

Mr. Speaker, I appreciate the opportunity to speak on import problems. As we review the effect of trade agreements relating to agriculture and other commodities, I find myself even more concerned over current problems the agricultural interests of my district now are facing.

I have always valued the prospects of a free world market. I considered the desirable goals to which trade expansion could lead. Exporting U.S. production—the fruits of the advanced technology of our private enterprise in the American way—would help to make a better life for people all over the world while improving our image as a "can do" nation.

Likewise, the importation of products unique to us from other parts of the world would be pleasing. But when we get down to the details, that is where the doubts arise.

Instead of announcing all-out support of the Trade Expansion Act, I found myself calling it dangerous. If used fully, without cautions, it could be just that. California, with its many specialty products as well as its first ranking among the States in farm production, could be badly hurt.

If trade expansion were to become a political football, California's specialty products, linked as they are to the political base of one State, would have a difficult time, indeed, fending against the major crops grown over an area covering several States.

As a professional pilot with more than 10,000 hours in the air, I long ago learned the value of caution. I learned not to plunge headlong into a fogbank without knowing what conditions existed below. I like to see a little blue sky, then head for it.

Perhaps that one word—caution—sums up my thinking on trade expansion. The Supreme Court of the United States put it another way—deliberate speed. Whatever you want to call it, this should be the hallmark of our efforts to expand trade.

As you may note by now, it is my intention to speak only generally about this problem. Certainly, you already have most of the statistics and technical arguments at your command. Those you do not have will be presented very soon by the industries involved, I am sure.

It is important that trade expansion be accomplished with a minimum of disturbance to our economy. This is most important. The United States has the most advanced economy in the world because of the private profit factor—the knowledge of every American that his own mind, body, and effort would be the most accurate measure of his success.

As our economy has advanced, so has all of the factors involved—specifically, the costs of production. It is obvious that our producers cannot compete with those of other countries with a lower economic level. To force such a situation would cost us profits and jobs, and tend to gradually reduce our economic level to a world average.

Thus, it is clear to me that a measure of protectionism is needed. Hopefully, it can be relaxed as the economies of other countries advance to near our level rather than lower our economy to theirs.

True, protectionism is largely considered to be a bad word, much as colonialism is in another area of world politics. But in retrospect, Mr. Speaker, was it wise to free some of these colonies suddenly when they were not prepared to govern themselves? Or should the transition have been more deliberate with more preparation?

Likewise, should not our economy be protected to a degree while we help other countries raise their economic levels to ours?

Beef and veal is a case in point. The Departments of State and Agriculture announced in February that they had entered into agreements with Australia and New Zealand to limit beef and veal imports into the United States from those countries.

These agreements set our beef and veal imports from those countries at the 1962–63 average—a time in which these imports had increased 128 percent. These imports amounted to 11 percent of the U.S. market and, because California is the major State of entry, they took 20 percent of the California market.

The increase in Australian and New Zealand beef and veal imports created a depressive cycle, Mr. Speaker. As prices went down, U.S. cattlemen and feedlot operators began holding their cattle, hoping for an improvement in prices. At the same time, imports increased—mainly in hot dog and hamburger meat. This is the market in which cattlemen as well as dairymen dispose of their cows.

Further, these agreements imposed a commitment on the U.S. Government that largely impedes discussion of beef and veal in the Kennedy round of GATT negotiations.

I think it is clear that the cattle industry—the principal segment of agriculture that is not subsidized by the Federal Government—should not be weakened in this way. This is the industry that consumes 75 percent of all farm produce in the United States. The threat to this major segment of our economy comes from a country that subsidizes its cattle industry by providing very cheap lands while our cattlemen are caught in the real property tax spiral to support local government.

The American cattlemen do not oppose the sharing of the U.S. market. They only want this market to be shared on a fair basis to maintain our economy.

I do not know what other considerations were involved in the negotiations with Australia and New Zealand. Regardless of what they were, it is ridiculous for us to use our cattle industry as a pawn in any negotiations.

Our economy is our strongest bargaining point in attempting to achieve world peace. These trade negotiations should be used carefully to maintain our strength while expanding trade and helping our friends.

The first step should be a careful inventory of our markets. Then quotas should be set to maintain our cattle industry and give them a share of the market growth. And quotas should be set on imports so that they can become a helpful part of the economic picture rather than a hindrance.

We cannot maintain our economic leadership in the world without carefully husbanding the major features responsible for this high level of economy.

The American people's willingness to pay a good price makes this only the first area of competitive onslaught. How can the Japanese people, for instance, have a continuing proper diet of meat when major stocks of beef and veal are dumped into the American market at prices the Japanese cannot pay. Japan could handle the bulk, if not all, of Australian and New Zealand beef production at the right price.

If caution is not used in this and other areas, we face a constant increase of imports in many areas at a pace too rapid for our economy to handle. We must slow down this pace and ease more gradually into freer world trade.

When I say slow down, I do not mean this in the literal sense. I simply suggest caution. We must give consideration to all factors in this rapidly changing world complex, with respect to free trade.

Mr. Speaker, I would like to join with my colleagues in urging extreme caution on the part of our negotiators in the forthcoming Tariff Conferences at Geneva.

I was one of a number of Representatives who appeared at hearings before the Tariff Commission earlier this year and again today pleading for consideration of the problems of domestic industry and in opposition to further tariff reductions. I hope that our pleas were not wasted and that favorable consideration will be given to them.

The sheep industry of the United States is a good example of an industry that has already been hit by tariff cuts—an industry that needs more protection from import competition and not less. I am concerned because my own State of California is the third largest State of the Nation in sheep population; and sheep, lambs, and wool are also important to the economy of my district.

Duties on those grades of imported raw wool competing with our own domestic production were reduced 25 percent commencing January 1, 1948. This was done in spite of strong protests of the domestic sheep industry and predictions of the adverse economic effect such reductions would have on our industry. When that reduction went into effect in 1948, we had 34,337,000 sheep in the United States. Five years later, on January 1, 1953, that number had dropped almost 2½ million head. Furthermore, the sheep industries' predictions on the adverse economic effect of this tariff reduction were well borne out by the investigation of the Tariff Commission made in 1953 after 5 years of operation under the reduced tariff.

This investigation resulted in a Tariff Commission recommendation for a 10-cent-per-pound increase in duties on imported raw wool. The administration did not act on these recommendations, but did submit to Congress a proposal which was later passed as the National Wool Act of 1954. Price assistance to growers under this program is limited to 70 percent of the tariff duties on wool and wool manufacturers. In order for the National Wool Act to function properly today, it is extremely important that duties on wool and wool manufacturers be held at least at present levels.

During the first few years of the operation of the Tariff Act of 1930 duties on raw wool amounted from 85 to 90 percent on an ad valorem basis. Today with duty reductions and changes in our economy the tariff on an ad valorem basis is only 20 to 25 percent.

In other words, the United States has already made a most substantial sacrifice for the benefit of foreign countries shipping wool here—a sacrifice they should highly appreciate instead of constantly requesting even further cuts at the expense of our domestic sheep industry.

Sheep producers in my district, like those all over the Nation, are also extremely concerned with the heavy influx of wool cloth imports to our shores. This wool cloth is coming from countries with wage and production costs below ours—in some cases drastically below ours. This has resulted in liquidation of a number of our woolen mills.

Since our domestic growers can only sell wool to domestic mills, they are naturally concerned with liquidation of these mills and consequently shrinkage of production capacity in this country. Efforts are now underway in high levels of Government to solve this problem of wool cloth imports and in view of this, it would certainly be inconsistent and indefensible to consider in the forthcoming trade negotiations further tariff reductions in wool cloth imports.

Last, but certainly not least, is the competition faced by our sheep industry from increased imports of dressed lamb and mutton at tariff rates already so tragically low that they do not begin to meet the differences in cost of production here and abroad. Congress is becoming more and more aware of the need for controlling imports of dressed meats and any further reduction in the already extremely low tariffs on dressed lamb and mutton would be the crowning blow to an industry in need of more—not less—tariff protection.

One of the important reasons for easing into freer world trade is the constantly increasing international thinking and action of private enterprise. As major cattle producers operate both in the United States and Australia, so do lumber companies own timber and sawmills in both the United States and Canada. They are only using private initiative and broad thinking in taking advantage of local trade benefits and restrictions throughout the world.

In the case of the lumber industry, which is another major economic factor in my district, special problems have arisen. Artificial restrictions have been placed on U.S. lumber producers, making it difficult for them to compete with Canadian lumbermen.

One of these is the Jones Act, which requires that U.S. lumber producers use more expensive U.S. shipping from the west coast to east coast markets. The Canadian producers, not restricted in this way, have gained a big chunk of the east coast lumber market by using less expensive shipping.

In all fairness, some action should be taken to offset this and other restrictions which have put American lumber producers at a disadvantage in their own American markets. All they want is the opportunity to compete on an even basis.

In the long range, however, even broader steps must be taken. Again, a full and careful inventory of world lumber markets and potential markets along with world timber resources is necessary.

The Canadian and United States lumber industries should get together and go after these markets with all of their creative and promotional abilities. The fight should not be limited to provincial haggling over allocation of present markets. The long-range solution may be just beyond the horizon—beyond the continental limits of this country. Promotion of hemispheric solidarity is absolutely essential as we join in combating the subversive political economic and ideological offensive of the Soviet Union. Too, we must not forget the recent visit of General de Gaulle to Latin America seeking similar economic opportunities. Indeed, we must keep alert.

My observations lead me to believe that we must vigorously propose a more rigid and business-like trade policy. Our domestic producers are perfectly willing and able to compete on even terms. However, as we proceed through the transition associated with trade expansion and world trade we have every right to expect reciprocity in dealing with other countries.

We must be fair in our dealings with people from other lands, factual in the presentation of our case, but most important of all, firm in the conduct of international trade negotiations thereby regaining the position of respect expected of a world leader.

Mr. Speaker, at this point I include in the RECORD the statement of Bill McMillan, the executive director of the American National Cattlemen's Association before the U.S. Tariff Commission in Washington, D.C.

### STATEMENT OF BILL MCMILLAN, EXECUTIVE DIRECTOR, AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION, BEFORE THE U.S. TARIFF COMMISSION, WASHINGTON, D.C.

### IDENTIFICATION OF THE AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION

The American National Cattlemen's Association is a nonprofit organization operating on a national level for the promotion and advancement of the cattle industry in the United States. It represents 38 State cattlemen's and cattle feeder's associations, thousands of individual members and over 100 breed, regional and local associations throughout the country. It is a voluntary organization representing beef cattle producers and feeders of all kinds nationally. The list of the organizations affiliated with the American National Cattlemen's Association (which is attached hereto as exhibit A) will demonstrate the breadth of the American National Cattlemen's Association representation.

### NATURE OF STATEMENT

This statement demonstrates that the conditions of competition between domestic and imported beef and beef products are such that the producers of domestic beef should be granted prompt relief as a result of the sharp increase in imported beef and beef products and will make recommendations as to the manner in which such relief should be given.

### *A. Summary of reasons for the sharp increase in beef and veal imports*

Beef and veal imports to the United States have increased so drastically in recent years that we have become the largest importers of beef and veal in the world. This has had a serious effect on the economy of the beef cattle industry.

The underlying reasons for the glut of imported beef and veal may be listed as follows:

1. The United States with its large consumer demand offers higher prices (U.S. prices though low to U.S. producers are still high compared to prices in other countries) lower tariffs and fewer restrictions than any major meat importing nation.

2. The modification in October 1958 of British Commonwealth agreements freed Commonwealth countries to ship cheaply priced meats to the United States.

3. Increasing production of beef and veal as well as lamb, mutton and poultry products in the United Kingdom made that country less dependent on Australia and New Zealand for meat supplies. British prices also declined. This coupled with action by Great Britain toward curbing imports influenced her suppliers to ship more meat to the United States.

4. Production of beef cattle has been expanding at a continuously rapid rate in Australia and New Zealand. This expansion will continue because of Government assistance programs and large investments of both domestic and foreign capital. Much of this production, particularly the Australian is dependent on export markets notably the United States. These and other countries have definite plans and programs to secure an even greater share of the U.S. market.

5. European Common Market restrictive import policies have severely reduced that market to nonmember exporting countries. The mere possibility in 1962 that Great Britain might join EEC spurred Australia and New Zealand to increased efforts to penetrate further the United States market.

6. Increased competition in the British market and the attractiveness of the United States market have caused increased imports from Ireland.

7. In 1962 and 1963 imports from Central American countries increased sharply. This increase will continue. These countries are building new slaughter plants and arranging to meet U.S. sanitation requirements with the aid of U.S. capital.

8. In summary—all meat-exporting countries are anxious to increase exports to the United States because of high prices and to increase their balance of payments.

If U.S. meat imports were governed by essentially the same duties and restrictions as those applied by other countries, much of the special attractiveness of the U.S. market to exporters and U.S. importers would vanish.

American cattlemen are willing to go a long way to develop international trade; however, it must be set up fairly as a two-way street and not in such a fashion that the U.S. livestock industry bears the burden while other segments of the economy obtain the major benefits.

### *B. World production and trade in beef*

World production of beef and veal has shown a steady upward trend in the past decade rising in 1962 3 percent over 1961 to give a world total about 25 percent greater than the 1951–55 average. In 1963, output rose in nearly all important producing countries, including Australia, United States, United Kingdom, and others. Production in the United Kingdom, normally the world's largest importing nation for meat, has shown steady growth from a prewar average of 578,000 tons of beef and veal to over 950,000 tons in 1963. Production is also increasing in all of the EEC countries of Europe, especially France, where output rose from 1,219,000 tons in 1958 to 1,694,000 tons in 1963. (See table 1.)

TABLE 1.—*Production of beef and veal in selected countries*

[In thousands of tons]

| Country | 1958 | 1959 | 1960 | 1961 | 1962 [1] | 1963 [1] |
|---|---|---|---|---|---|---|
| United States | 6,480 | 6,513 | 7,069 | 7,295 | 7,281 | 7,733 |
| U.S.S.R | 2,672 | 3,175 | 3,200 | 2,854 | 2,760 | 2,962 |
| Argentina | 2,501 | 1,914 | 1,883 | 2,079 | 2,080 | 2,262 |
| Brazil | 1,265 | 1,241 | 1,178 | 1,245 | 1,334 | (2) |
| France | 1,219 | 1,284 | 1,404 | 1,548 | 1,633 | 1,694 |
| West Germany | 940 | 958 | 1,003 | 1,048 | 1,226 | 1,248 |
| United Kingdom | 813 | 718 | 820 | 891 | 919 | 950 |
| Australia | 958 | 794 | 669 | 836 | 956 | 961 |
| Canada | 587 | 563 | 619 | 641 | 643 | (2) |
| Italy | 454 | 510 | 513 | 617 | 675 | 720 |
| New Zealand | 249 | 252 | 251 | 298 | 279 | 287 |
| Uruguay | 212 | 215 | 259 | [3] 261 | 270 | (2) |
| Netherlands | 206 | 211 | 234 | 231 | 280 | 299 |
| Denmark | 150 | 145 | 151 | 141 | 177 | 194 |

[1] Source: Economic Research Service—Foreign 72: 1964—The Western Europe Agricultural Situation; 1964—The Western Hemisphere Agricultural Situation.

[2] Not available.

[3] Estimated.

Source: "The Beef Situation," Bulletin No. 8, Bureau of Agricultural Economics Canberra, Australia, June 1963, p. 16.

Accurate production figures are not available for all countries for 1963 but trends in beef cattle numbers would indicate further increases in most countries.

### World Cattle Numbers—A Record High in 1963

World cattle numbers increased to 1.1 billion head in 1963, 19 million head more than the previous year and 99 million head, or 10 percent, above 1956–60.

This record high in numbers is attributed principally to high prices generally received for beef and veal resulting from increasing demand by consumers worldwide as per capita incomes have risen. Also, improvements in range husbandry, production techniques and feeding practices in most producing countries have influenced the upward trend.

Table 2 shows cattle numbers and trends in the eight major exporting countries compared with the U.S. and world total. Australia, New Zealand, and Mexico, all major exporters to the United States, have had significant increases in cattle numbers of 12, 31, and 22 percent, respectively, since 1956–60. Each of these countries has programs underway to boost livestock production and expand processing and marketing facilities.

TABLE 2.—*Cattle numbers in important exporting countries, 1956–60 and 1963*

| Country | Average number, 1956–60 | 1963 | Increase |
|---|---|---|---|
| | *Thousand head* | *Thousand head* | *Percent* |
| Brazil | 68,820 | 78,080 | 13 |
| Argentina | 43,375 | 42,000 | −3 |
| Mexico | 19,320 | 23,500 | 22 |
| France | 18,086 | 20,680 | 14 |
| Australia | 16,673 | 18,600 | 12 |
| Canada | 10,254 | 11,206 | 9 |
| Uruguay | 7,414 | 8,617 | 16 |
| New Zealand | 5,852 | 7,690 | 31 |
| Total, 8 exporting countries | 189,794 | 210,373 | 11 |
| United States | 93,899 | 103,794 | 11 |
| World total | 979,465 | 1,078,420 | 10 |

Source: U.S. Foreign Agricultural Service: Livestock and Meats. May 1963.

**Table 3 shows cattle numbers and slaughter by year for the United States, Argentina, Australia, and New Zealand:**

TABLE 3.—*Cattle and calves: Numbers and slaughter in the United States, Australia, New Zealand, and Argentina*

| | Number on hand (1,000 head) | | | |
|---|---|---|---|---|
| | United States, Jan. 1 | Australia, Mar. 31 | New Zealand, Jan. 31 | Argentina,[1] June 30 |
| 1951–55 average | 91,333 | 15,300 | 5,468 | 42,338 |
| 1956 | 95,900 | 16,500 | 5,600 | 46,940 |
| 1957 | 92,860 | 17,257 | 5,809 | 43,980 |
| 1958 | 91,176 | 16,892 | 5,886 | 41,355 |
| 1959 | 93,322 | 16,257 | 5,973 | 41,203 |
| 1960 | 96,236 | 16,503 | 5,992 | 43,398 |
| 1961 | 97,534 | 17,332 | 6,446 | 43,200 |
| 1962 | 100,002 | 18,070 | 6,660 | 42,500 |
| 1963 | 103,736 | 18,600 | 6,690 | 42,000 |
| 1964 | 106,488 | | | |

| | Slaughtered (1,000 head) | | | |
|---|---|---|---|---|
| | Calendar year | Year ending — June 30 | Year ending — Sept. 30 | Calendar year |
| 1951–55 average | 32,536 | 4,100 | 2,078 | 8,759 |
| 1956 | 39,374 | 4,900 | 2,406 | 11,664 |
| 1957 | 38,136 | 5,000 | 2,455 | 11,962 |
| 1958 | 32,870 | 5,300 | 2,421 | 12,278 |
| 1959 | 30,614 | 5,900 | 2,185 | 9,148 |
| 1960 | 33,449 | 5,000 | 2,191 | 8,837 |
| 1961 | 33,336 | 4,400 | 2,400 | 10,121 |
| 1962 | 33,535 | 4,900 | 2,370 | 10,887 |

[1] Imports into the United States of all fresh, chilled, and frozen unprocessed beef and veal from Argentina prohibited because of hoof and mouth disease quarantine.

Source: U.S. Department of Agriculture, Foreign Agricultural Service and estimates.

Table 4 illustrates that cattle numbers in the 6 EEC countries have likewise shown steady expansion the past 3 years from 48,300,000 head in 1960 to 50,400,000 in 1962. Final figures for 1963 are preliminary, but show increases in France and rather steady growth in other EEC countries.

TABLE 4.—*Cattle numbers in the European Economic Community*

[In millions]

| Country | Census month | 1960 | 1961 | 1962 | 1963[1] |
|---|---|---|---|---|---|
| France | October | 19.4 | 20.0 | 20.0 | 20.3 |
| West Germany | June | 13.1 | 13.4 | 14.0 | 13.7 |
| Italy | January | 9.4 | 9.9 | 9.6 | 9.6 |
| Netherlands | May | 3.5 | 3.6 | 3.8 | 3.8 |
| Belgium | May | 2.7 | 2.7 | 2.8 | 2.6 |
| Luxembourg | May | .2 | .2 | .2 | .2 |
| Total | | 48.3 | 49.8 | 50.4 | 50.2 |

[1] Preliminary based on ERS–Foreign 72, "The 1964 Western Europe Agricultural Situation."

Sources: Commonwealth Economic Committee reports and FAO Monthly Bulletin of Agricultural Economics and Statistics, March 1963.

### World Meat Imports—1954–62

As shown by table 5, shipments of meat (including beef and veal) from leading exporting countries were 7.5 billion pounds in 1962, an increase of 1.1 billion pounds over 1961 and 21 percent above the 1956–60 average.

Principal importers of this meat were United Kingdom, 3.8 billion pounds, or 46.1 percent; United States, 1.8 billion pounds, or 24 percent; and countries in the EEC, 800 million pounds, or 8.2 percent.

TABLE 5.—*Total world meat imports, carcass-weight equivalent, 1953–62*

| Country | 1954 | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|---|---|---|---|---|---|---|---|---|
| | Billion pounds | | | | | | | | |
| United States | 0.4 | 0.4 | 0.4 | 0.6 | 1.1 | 1.4 | 1.0 | 1.3 | 1.8 |
| United Kingdom | 2.9 | 3.3 | 3.3 | 3.5 | 3.4 | 3.4 | 3.5 | 3.3 | 3.8 |
| European Economic Community[1] | .3 | .4 | .7 | .7 | .7 | .7 | .9 | .7 | .8 |
| Other | .8 | .5 | 1.0 | 1.1 | 1.2 | 1.1 | 1.1 | 1.1 | 1.1 |
| Total | 4.4 | 4.6 | 5.4 | 5.9 | 6.4 | 6.6 | 6.5 | 6.4 | 7.5 |
| | Percent | | | | | | | | |
| Percent United States of world total | 9.1 | 8.7 | 7.4 | 10.2 | 17.2 | 21.2 | 15.4 | 20.3 | 24.0 |

[1] Belgium-Luxembourg, France, Germany (West), Italy, and the Netherlands.

Source: U.S. Department of Agriculture. Handbook of Agricultural Charts. Agriculture Handbook No. 258, 1963, p. 54.

The United States is taking an even larger share of world meat imports increasing to 24 percent in 1962 compared with 14.8 percent in 1956–60. Meanwhile, imports by the United Kingdom declined from 56.6 percent of the total to 46.1 percent.

Australia, Argentina, Denmark, and New Zealand were the principal exporting countries in 1962, each shipping over 1 billion pounds. Final figures for 1963 are not yet available but preliminary figures indicate increased volume of shipments from each of those countries except Argentina.

### United States Now Largest Beef and Veal Importing Nation

In recent years the United States has replaced the United Kingdom as the world's leading importer of beef and veal. The U.S. share of world beef imports increased from 26 percent in 1950 to 51 percent in 1962. Still larger imports in 1963 raised the U.S. percentage of the world total to approximately 56 percent.[1]

### Beef and Veal Imports Have Risen Faster Than U.S. Production

Nearly 1.7 billion pounds (carcass weight) were imported by the United States in 1963. As shown by table 6, this was an increase of 20 percent over 1962 and represented 11 percent of U.S. production in 1963—a sharp contrast to a few years earlier (1956) when imports were equal to only 1.5 percent of U.S. production.

Not only have beef imports generally increased at a faster rate than domestic production since 1956, but they have increased more in absolute terms.

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[1] Foreign Agriculture, Feb. 17, 1964, p. 7, FAS, USDA.

TABLE 6.—*U.S. imports of cattle and beef compared with meat production, 1940–63*

| Year | U.S. imports | | | | Beef and veal production, total | Imports as percent of total production |
|---|---|---|---|---|---|---|
| | Dutiable cattle [1] | Beef equivalent of live cattle [2] | Beef and veal [3] (carcass weight) | Total cattle and beef (carcass weight) | | |
| | *1,000 head* | *Million pounds* | *Million pounds* | *Million pounds* | *Million pounds* | |
| 1940 | 630 | 173 | 168 | 341 | 8,156 | 4.2 |
| 1941 | 733 | 204 | 257 | 461 | 9,118 | 5.1 |
| 1942 | 653 | 188 | 212 | 400 | 9,994 | 4.0 |
| 1943 | 630 | 156 | 226 | 382 | 9,738 | 3.9 |
| 1944 | 341 | 90 | 190 | 280 | 10,850 | 2.6 |
| 1945 | 489 | 131 | 128 | 259 | 11,940 | 2.2 |
| 1946 | 516 | 141 | −20 | 161 | 10,816 | 1.5 |
| 1947 | 54 | 24 | 64 | 88 | 12,037 | .7 |
| 1948 | 419 | 173 | 356 | 529 | 10,498 | 5.0 |
| 1949 | 412 | 153 | 254 | 407 | 10,773 | 3.8 |
| 1950 | 438 | 157 | 348 | 505 | 10,764 | 4.7 |
| 1951 | 220 | 91 | 484 | 575 | 9,896 | 5.8 |
| 1952 | 138 | 47 | 429 | 476 | 10,819 | 4.4 |
| 1953 | 177 | 62 | 271 | 333 | 13,953 | 2.4 |
| 1954 | 71 | 35 | 232 | 267 | 14,610 | 1.8 |
| 1955 | 296 | 93 | 229 | 328 | 15,147 | 2.1 |
| 1956 | 141 | 43 | 211 | 254 | 16,094 | 1.5 |
| 1957 | 703 | 221 | 395 | 610 | 15,728 | 3.9 |
| 1958 | 1,126 | 340 | 909 | 1,249 | 14,516 | 8.6 |
| 1959 | 688 | 191 | 1,063 | 1 254 | 14,588 | 8.6 |
| 1960 | 645 | 163 | 775 | 938 | 15,835 | 5.9 |
| 1961 | 1,023 | 250 | 1,037 | 1 287 | 16,341 | 7.9 |
| 1962 | 1,232 | 280 | 1,440 | 1,720 | 16,311 | 10.5 |
| 1963 [4] | 834 | 180 | 1,679 | 1,859 | 17,330 | 10.7 |

[1] Includes milk cows.

[2] Estimated at 53 percent of the live weight of all dutiable imports of cattle.

[3] Canned and other processed meats have been converted to their dressed weight equivalent.

[4] Preliminary estimates.

Source: U.S. Department of Agriculture. "Livestock and Meat Situation." May 1963.

**Imports of live animals, mainly feeder cattle, from Mexico and Canada increased from 1,046,498 in 1961 to 1,271,697 head in 1962 with some decline in 1963. (See table 7.) Live cattle imports can be considered complimentary to the beef production program in this country. Most of them eventually end up in U.S. feedlots for finishing before slaughter and distribution into the U.S. meat trade. Unlike imported beef, these cattle utilize U.S. feed grains, labor, transportation, provide a base for local taxes and thus, contribute to the U.S. economy.**

TABLE 7.—*Imports of cattle and calves from Canada and Mexico*

| Month | Canada | | | Mexico | | |
|---|---|---|---|---|---|---|
| | 1961 | 1962 | 1963 | 1961 | 1962 | 1963 |
| January [1] | 22,321 | 23,371 | 29,253 | 68,909 | 82,886 | 105,876 |
| February | 8,618 | 14,694 | 15,383 | 47,411 | 83,777 | 71,382 |
| March | 9,837 | 24,412 | 11,997 | 59,976 | 83,568 | 58,070 |
| April | 14,744 | 27,411 | 22,422 | 65,741 | 73,673 | 84,077 |
| May | 18,560 | 32,784 | 17,533 | 32,109 | 50,970 | 46,297 |
| June | 13,822 | 16,870 | 11,480 | 8,311 | 15,085 | 15,326 |
| July | 32,867 | 14,476 | 9,205 | 3,944 | 8,748 | 14,681 |
| August | 59,886 | 21,978 | 10,090 | 11,061 | 16,547 | 10,154 |
| September | 65,101 | 28,402 | 12,888 | 16,319 | 25,594 | 15,798 |
| October | 122,866 | 101,066 | 44,173 | 43,396 | 71,273 | 18,740 |
| November | 110,327 | 135,561 | 64,089 | 78,986 | 129,043 | 45,386 |
| December | 27,352 | 57,757 | [2] 18,000 | 104,034 | 131,751 | [2] 70,000 |
| Total | 506,301 | 498,782 | [2] 266,513 | 540,197 | 772,915 | [2] 555,787 |

[1] January figures for 1964 are: Canada, 15,000: Mexico, 48,000.

[2] Unofficial estimate.

Source: Livestock Market News, weekly summaries from Animal Inspection and Quarantine Division of Agricultural Research Service, Feb. 6, 1964.

### *C. U.S. imports of beef and veal by country of origin*

**Approximately 90 percent of U.S. beef and veal imports (product weight) came from five countries in 1963. Australia and New Zealand supplied 47 and 21 percent, respectively. Argentina supplied 8 percent, and Ireland and Mexico each supplied about 7 percent.**

**Other important suppliers included Nicaragua, Canada, Uruguay, Costa Rica, and Guatemala. Table 8 shows a very rapid increase in imports from Australia, New Zealand, and Ireland, as well as sizable recent shipments from Central American countries.**

TABLE 8.—*Beef and veal: U.S. imports by country of origin, product weight, 1957–63*

[In thousands of pounds]

| Country | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|---|---|
| Australia | 5,531 | 17,715 | 224,034 | 144,684 | 233,878 | 441,719 | 516,923 |
| New Zealand | 50,114 | 183,672 | 161,617 | 130,723 | 154,447 | 213,594 | 235,699 |
| Argentina | 99,454 | 216,723 | 128,573 | 52,650 | 65,248 | 55,912 | 87,431 |
| Ireland | 6,544 | 23,775 | 41,984 | 52,793 | 64,449 | 70,725 | 72,969 |
| Mexico | 13,046 | 75,032 | 48,939 | 39,116 | 53,384 | 59,290 | 72,925 |
| Nicaragua | | 40 | 5,768 | 10,127 | 14,577 | 15,795 | 24,504 |
| Canada | 45,518 | 53,616 | 22,564 | 18,884 | 32,321 | 19,361 | 17,226 |
| Uruguay | 11,581 | 9,548 | 12,945 | 10,753 | 14,781 | 16,126 | 16,055 |
| Costa Rica | 805 | 2,806 | 9,840 | 15,335 | 8,719 | 8,111 | 15,163 |
| Guatemala | | | | | 1,927 | 12,268 | 14,773 |
| Paraguay | 5,782 | 14,385 | 14,098 | 9,988 | 10,081 | 8,167 | 12,283 |
| Brazil | 3,447 | 13,619 | 36,007 | 9,023 | 16,303 | 17,206 | 10,921 |
| Honduras | | 409 | 1,509 | 3,391 | 5,542 | 9,324 | 9,336 |
| Denmark | 700 | 2,472 | 3,428 | 4,536 | 6,489 | 7,630 | 6,146 |
| United Kingdom | 1,567 | 20 | 1,708 | 2,119 | 1,317 | 6,900 | 3,978 |
| Haiti | | | | | 402 | 2,765 | 2,732 |
| Dominican Republic | 946 | 4,143 | 5,369 | 5,494 | 3,829 | 739 | 13 |
| Others | 15,809 | 1,248 | 3,965 | 2,989 | 1,878 | 1,833 | 3,351 |
| Total | 262,844 | 619,223 | 722,348 | 512,605 | 689,572 | 967,515 | 1,122,419 |

Source: U.S. Department of Agriculture, Foreign Agricultural Service, Livestock and Meat Products Division. Feb. 14, 1964.

### Australian, New Zealand, and Irish Exports Diverted From the United Kingdom to the United States

**Since 1958, shipments of beef and veal from Australia and New Zealand have shown a marked shift from the United Kingdom to the United States. Prior to 1958, the United Kingdom took the big share but by 1962 the percentage sent to the United Kingdom had declined to about 17 percent of the total, and in 1963, the United Kingdom percentage declined to 38.7 million pounds or 10 percent of Australia's total exports. In 1962, Australia exported 549 million pounds of beef and veal, 79 percent of which came to the United States. In 1963, the United States received 517 million pounds or 84.8 percent of Australia's total beef and veal exports.**

**The United States has taken nearly 90 percent of New Zealand's beef and veal exports the past 3 years, while shipments to the United Kingdom have declined to only 7.9 percent or 9.1 million pounds.**

**The main reason for the shift in Australian exports from the United Kingdom to the United States was the 1958 modifications of the United Kingdom-Australian Meat Agreement. Under the 15-year agreement, Australia's exports of meat to countries other than the United Kingdom, British colonies**

and dependencies were limited to a small free quota to be determined periodically. This agreement was effective in limiting exports to the United States, as well as to other areas. In October, 1958, this agreement was altered materially. The lower quality grades of beef and veal as well as all grades of mutton and lamb were removed from quota restrictions. Since 1960, there have been no restrictions with respect to destinations for meat exports from Australia, so they have skyrocketed in the United States.

Another reason for the shifting of more exports to the United States is high prices for beef and veal; thus the United States has acted as an economic magnet drawing larger and larger shares of the exportable surpluses of beef from Australia, New Zealand, and Ireland. This in combination with the extremely low tariff and nontariff barriers of the United States accounts for one of the major reasons for our disproportionate share of the total world imports of beef and veal. (See tables 9, 10, and 10a.)

TABLE 9.—*New Zealand production and exports of beef and veal*

[In thousands of tons]

| | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|
| Production [1] | 234.1 | 236.2 | 236.5 | 281.8 | ----- |
| Total exports | 89.1 | 98.8 | 95.3 | 115.8 | ----- |
| Percent exported to United Kingdom | 7.4 | 20.3 | 11.2 | 7.9 | ----- |
| Percent exported to United States | 68.3 | 56.3 | 65.8 | 89.4 | ----- |

[1] For 12 months ending Sept. 30 of year stated.

TABLE 10.—*Ireland production and exports of beef and veal*

[In thousands of tons]

| | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|
| Production | 85.0 | 98.4 | 126.8 | 110.5 | ----- |
| Exports, total | 34.7 | 47.2 | 73.5 | 58.9 | ----- |
| Percent exported to United Kingdom | 6.8 | 15.2 | 32.8 | 20.3 | ----- |
| Percent exported to United States | 19.6 | [1]28.6 | [1]36.1 | [1]34.7 | ----- |

[1] Including U.S. forces overseas.

Source: Commonwealth Economic Committee, "Meat," various issues, and intelligence bulletins.

TABLE 10a.—*Australian production and exports of beef and veal*

[In thousands of tons]

| | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|
| Production [1] | 906.4 | 751.9 | 632.8 | 791.1 | 904.0 |
| Total exports [2] | 227.8 | 188.2 | 134.0 | 204.9 | 254.2 |
| Percent exported to United Kingdom | 67.1 | 43.4 | 30.3 | 17.0 | 10.1 |
| Percent exported to United States | 22.7 | 46.8 | 57.2 | 73.8 | 82.1 |

[1] For year ending June 30.
[2] Chilled and frozen beef and veal only.

Sources: 28th Annual Report of Australian Meat Board, 1963, p. 98. Bureau of Agricultural Economics, Canberra, "The Beef Situation," No. 8, June 1963, p. 39.

A third reason why exports from these three prominent suppliers of the British market shifted to the United States is the fact that home production of beef and veal in the United Kingdom increased significantly from 537,000 tons in 1946–47 to an excess of 950,000 tons in 1963. (See table 1.) Production of lamb and mutton, as well as poultry and pig meat, also greatly increased in the United Kingdom during those same years, with result that British farmers and the government took action in 1963 to close their trade doors somewhat on beef imports.[3]

These three developments undoubtedly had and will continue to have a great influence on the proportion of total beef and veal exports sent to the United States by Australia, New Zealand, and Ireland, who formerly sent their largest shipments to the United Kingdom.

### *D. Relation between United States imports and exports of beef and veal and other livestock products*

#### Imports

The value of beef and veal imports increased over 10 times in the 7 years from 1956 to 1963. In 1956, imports were valued at $29.3 million. The value increased to $301.6 million by 1962 and $355.3 million in 1963.

The quantity of beef and veal imports during that same period likewise increased over 10 times from 111.9 million pounds (product weight) in 1956 to 947.8 million pounds in 1962 and to 1,122 millions pounds in 1963. (See tables 11 and 12, respectively.)

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[3] Ioanes, Raymond A., "Current Developments Affecting the Foreign Trade Outlook," USDA, Nov. 18, 1963, p. 4.

TABLE 11.—*Livestock, meat and meat products: U.S. imports by value, annual, 1955–63*

[In millions of dollars]

| Commodity | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|---|---|---|---|
| Beef and veal | 35.6 | 29.3 | 59.3 | 152.8 | 225.5 | 173.6 | 228.4 | 301.6 | 355.3 |
| Pork | 107.7 | 94.6 | 97.9 | 125.8 | 114.3 | 115.7 | 114.9 | 127.6 | 138.8 |
| Lamb and mutton and goat | .6 | .3 | .8 | 5.5 | 13.5 | 10.9 | 13.5 | 16.2 | 18.4 |
| Other canned, prepared, or preserved meat | 2.1 | 2.2 | [1] 4.1 | [1] 32.5 | [1] 27.0 | 8.5 | 11.3 | 10.6 | 10.4 |
| Variety meat, edible, fresh, frozen | .1 | (2) | .1 | .5 | .8 | .6 | .5 | 1.2 | 1.9 |
| Casings, sheep, lamb, goat | 10.5 | 12.2 | 11.6 | 10.2 | 6.4 | 7.8 | 7.1 | 10.0 | 11.8 |
| Other natural casings | 2.7 | 2.9 | 4.1 | 4.2 | 3.9 | 4.7 | 6.1 | 5.8 | 5.5 |
| Lard | (2) | | | | | (2) | (2) | (2) | (2) |
| Tallow and grease [3] | .2 | 1.1 | .4 | .2 | .1 | .1 | .1 | .1 | .1 |
| Wool: | | | | | | | | | |
| Apparel (clean content) | 108.6 | 113.4 | 101.5 | 79.5 | 80.9 | 66.2 | 76.5 | 106.4 | 114.7 |
| Carpet (clean content) | 125.0 | 101.9 | 88.2 | 61.4 | 123.2 | 111.9 | 107.8 | 89.1 | 95.9 |
| Hides and skins [4] | 44.5 | 52.3 | 38.0 | 42.1 | 80.8 | 64.7 | 59.5 | 59.8 | 56.3 |
| Livestock: | | | | | | | | | |
| Cattle | 28.5 | 15.6 | 70.9 | 137.3 | 88.8 | 62.2 | 100.8 | 116.6 | 74.1 |
| Sheep | .2 | .1 | .3 | .7 | .7 | .4 | (2) | .3 | .4 |
| Hogs | .3 | (2) | .1 | .4 | .1 | .2 | .1 | .1 | .1 |
| Total | 466.6 | 425.9 | 477.3 | 653.1 | 766.0 | 627.5 | 726.6 | 845.4 | 883.3 |

[1] Mostly cured and salted beef from Argentina.
[2] Less than $50,000.
[3] Includes edible and inedible tallow, oleo oil and stearin, animal oils and fats not elsewhere classified, stearic acid, animal fats and greases not elsewhere classified, and animal oils.
[4] Nearly all are sheep and cambretta skins.

Source: Livestock and Meat Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, October 1963.

TABLE 12.—*Livestock, meat and meat products: U.S. imports by quantity, annual, 1955–62*

| Commodity | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|---|---|---|---|---|---|---|---|
| | Million pounds | | | | | | | |
| Beef and veal | 118.5 | 111.9 | 232.5 | 477.8 | 626.2 | 491.3 | 665.3 | 947.8 |
| Pork | 162.3 | 139.4 | 133.0 | 182.8 | 174.9 | 171.3 | 173.7 | 203.8 |
| Lamb and mutton and goat | 2.3 | 1.4 | 3.5 | 23.9 | 56.8 | 49.7 | 55.8 | 78.0 |
| Other canned, prepared, or preserved meat | 5.3 | 5.5 | [1] 15.2 | [1] 141.4 | [1] 96.2 | 21.3 | 23.9 | 23.1 |
| Variety meats, edible, fresh or frozen | .2 | .1 | .3 | 2.1 | 2.3 | 1.8 | 2.0 | 3.1 |
| Casings, sheep, lamb and goat | 4.7 | 5.5 | 5.0 | 4.9 | 4.5 | 5.1 | 4.6 | (3) |
| Other natural casings | 8.1 | 8.9 | 11.6 | 11.4 | 10.1 | 10.6 | 11.9 | (3) |
| Lard | (3) | | | | | (3) | (3) | 0.1 |
| Tallow and greases [4] | 3.3 | 1.7 | 5.2 | 1.9 | 2.4 | .2 | 1.0 | 2.0 |
| Wool: | | | | | | | | |
| Apparel (clean content) | 125.0 | 101.9 | 88.2 | 61.4 | 93.1 | 74.1 | 90.3 | 126.9 |
| Carpet (clean content) | 136.0 | 143.1 | 121.0 | 122.5 | 191.5 | 153.9 | 157.4 | 143.5 |

TABLE 12.—*Livestock, meat and meat products: U.S. imports by quantity, annual, 1955–62*—Continued

| Commodity | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|---|---|---|---|---|---|---|---|
| | Million pieces | | | | | | | |
| Hides and skins [5] | 52.9 | 55.5 | 44.0 | 44.9 | 64.6 | 50.3 | 45.7 | 46.3 |
| | Thousand head | | | | | | | |
| Livestock: | | | | | | | | |
| Cattle | 314.4 | 159.4 | 727.9 | 1,152.4 | 708.8 | 663.2 | 1,042.7 | 1,250.0 |
| Sheep and lambs | 7.6 | 3.2 | 17.8 | 39.8 | 75.5 | 49.8 | 1.0 | 20.8 |
| Hogs [6] | 6.6 | .4 | .7 | 9.1 | 2.4 | 6.2 | 3.2 | 3.3 |

[1] Mostly cured and salted beef from Australia.

[2] Not available in pounds.

[3] Less than 50,000 pounds.

[4] Includes edible and inedible tallow, oleo oil and stearin, animal oils and fats (not elsewhere classified), stearic acid, animal fats and greases (not elsewhere classified), and animal oils.

[5] Nearly all are sheep and cambretta skins.

[6] 200-pound equivalent.

Source: Livestock and Meat Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, October 1963.

On the other hand, the total value of imports of all livestock, meats, and meat products merely doubled from 1956 to 1963, increasing from $425.9 million to $883.3 million.

EXPORTS

The value of beef and veal exports declined more than half during the period 1956 to 1962 as shown by figure 3 (not printed in RECORD). Exports declined from $27.7 million in 1956 to $11.8 million in 1963.

In terms of quantity, beef and veal exports declined from 89.3 million pounds in 1956 to 27.1 million pounds in 1962. During the same period, the value of total exports of all livestock and livestock products declined very slightly from $365 million to $319 million. Figure 4 (not printed in RECORD) emphasizes the widening disparity in import-export values since 1956.

During this period, there has been an increase in exports of variety means, hides and skins, and inedible byproducts, such as tallow and greases. These products generally make up the bulk of our exports, while edible meats (frozen, canned, and processed) and wool, make up the bulk of U.S. imports. (See tables 13 and 14.)

TABLE 13.—*Livestock, meat and meat products: U.S. exports by value, annual, 1955–63*

[In millions of dollars]

| Commodity | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 | 1963 |
|---|---|---|---|---|---|---|---|---|---|
| Beef and veal | 10.8 | 27.7 | 28.9 | 8.7 | 10.9 | 11.6 | 12.1 | 12.6 | 11.8 |
| Pork | 17.1 | 19.3 | 27.7 | 20.6 | 20.9 | 20.9 | 20.7 | 18.6 | 38.3 |
| Lamb and mutton (except canned) | .2 | .3 | .7 | .5 | .4 | .7 | .6 | .8 | .6 |
| Sausage, bologna, franks | 3.2 | 3.1 | 5.6 | 2.3 | 1.9 | 1.9 | 1.5 | 1.3 | 1.4 |
| Meat, meat products, canned, not elsewhere classified | .8 | .8 | 2.2 | 1.5 | 1.1 | .5 | .4 | .4 | .5 |
| Baby food, canned | .2 | .3 | .5 | .7 | .7 | .7 | .5 | .4 | .4 |
| Horsemeat (all kinds) | 2.6 | 2.9 | 2.0 | 1.1 | .5 | .3 | .5 | .6 | .3 |
| Variety meats | 13.2 | 18.6 | 18.7 | 15.9 | 19.5 | 25.2 | 27.2 | 25.5 | 31.9 |
| Sausage casings, natural, hog | 4.3 | 4.3 | 6.9 | 8.4 | 8.4 | 7.6 | 11.8 | 11.7 | 9.3 |
| Sausage casings, natural, not elsewhere classified | 4.3 | 3.3 | 3.2 | 3.4 | 2.6 | 2.7 | 3.2 | 2.7 | 3.1 |
| Lard | 76.1 | 79.5 | 74.5 | 52.0 | 60.2 | 60.6 | 46.7 | 40.6 | 48.5 |
| Tallow and greases [1] | 109.1 | 122.9 | 121.0 | 97.4 | 116.0 | 115.2 | 134.6 | 106.8 | 122.3 |
| Mohair | 6.2 | 13.5 | 11.8 | 11.9 | 21.6 | 15.6 | 14.9 | 11.1 | 14.2 |
| Hides and skins | 58.5 | 56.9 | 64.9 | 53.4 | 60.1 | 73.3 | 80.7 | 77.1 | 68.3 |
| Livestock: | | | | | | | | | |
| Cattle and calves | 12.4 | 10.0 | 12.0 | 7.9 | 15.7 | 10.4 | 0.9 | 7.8 | 10.6 |
| Sheep and lambs | .5 | 1.1 | .7 | .4 | .5 | .7 | .8 | 1.0 | 1.0 |
| Hogs | .4 | .5 | .3 | .1 | .5 | .5 | .6 | .3 | .3 |
| Total | 319.9 | 365.0 | 381.6 | 287.2 | 341.5 | 348.4 | 365.8 | 319.3 | 362.8 |

[1] Includes edible tallow, inedible animal greases and fats, inedible animal oils, n.e.c., neatsfoot oil stock, oleic acid or red oil, and stearic acid.

Source: Livestock and Meat Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, October 1963.

TABLE 14.—*Livestock, meat and meat products: U.S. exports by quantity, annual 1955–62*

| Commodity | 1955 | 1956 | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|---|---|---|---|---|---|---|---|
| | Million pounds | | | | | | | |
| Beef and veal | 40.7 | 89.3 | 88.6 | 24.8 | 27.4 | 29.4 | 29.9 | 27.1 |
| Pork | 66.3 | 75.6 | 78.0 | 54.2 | 70.9 | 69.4 | 68.3 | 63.7 |
| Lamb and mutton (except canned) | .4 | .6 | 1.3 | .7 | .8 | 1.5 | 1.6 | 2.2 |
| Sausage, bologna, and frankfurters | 7.4 | 6.9 | 9.9 | 4.2 | 3.5 | 3.4 | 3.3 | 2.4 |
| Meat and meat products, canned, not elsewhere classified | 2.6 | 2.5 | 7.4 | 5.3 | 4.5 | 1.7 | 1.2 | 1.3 |
| Baby food, canned | .5 | .6 | 1.1 | 1.7 | 1.7 | 2.2 | 1.2 | 1.1 |
| Horsemeat (all kinds) | 13.5 | 11.2 | 7.2 | 3.9 | 1.4 | 1.0 | 1.5 | 1.7 |
| Variety meats | 69.5 | 99.4 | 91.2 | 69.6 | 91.3 | 121.1 | 123.9 | 125.1 |
| Sausage casings, natural, hog | 8.0 | 7.3 | 8.4 | 8.3 | 11.0 | 9.3 | 11.6 | 12.4 |
| Sausage casings, natural, not elsewhere classified | 11.1 | 10.2 | 10.1 | 8.4 | 7.4 | 6.7 | 6.6 | 5.8 |
| Lard | 562.1 | 611.4 | 501.3 | 386.5 | 604.2 | 620.0 | 416.6 | 422.1 |
| Tallow and greases [1] | 1,302.6 | 1,501.7 | 1,391.8 | 1,119.4 | 1,488.3 | 1,724.3 | 1,826.1 | 1,616.9 |
| Mohair | 6.1 | 11.8 | 10.0 | 13.2 | 18.6 | 13.5 | 13.5 | 12.5 |
| | Million pieces | | | | | | | |
| Hides and skins | 10.3 | 8.9 | 11.2 | 9.3 | 7.9 | 11.3 | 12.6 | 11.4 |
| | Thousand head | | | | | | | |
| Livestock: | | | | | | | | |
| Cattle and calves | 34.9 | 36.9 | 43.9 | 25.6 | 50.7 | 32.2 | 24.0 | 19.3 |
| Sheep and lambs | 26.1 | 60.4 | 36.0 | 17.5 | 21.9 | 36.4 | 27.9 | 37.3 |
| Hogs | 4.2 | 10.3 | 3.9 | .9 | 12.7 | 6.6 | 8.2 | 3.3 |

[1] Includes edible tallow, inedible animal greases and fats, inedible animal oils, not elsewhere classified, neatsfoot oil stock, oleic acid or red oil, and stearic acid.

Source: Livestock and Meat Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, October 1963.

Comparison of U.S. imports with U.S. exports over the past 7 years definitely shows a rapidly rising trend for imports and a stationary or declining trend for most exports except variety meats and inedible tallows. The major ingredients in variety meats exported are pork rather than beef.

### *E. U.S. tariff rates and other nontariff import controls are extremely liberal as compared with other countries*

Today, the United States is the only major beef market in the world without any fixed quantitative restrictions (quotas).[3] The United States also has the lowest fixed import duty (3 cents per pound) of any important beef importing nation. Most other countries exercise controls and restrictions over trade in livestock and meats in addition to having higher imports duties than the United States.

The U.S. Tariff Act of 1930 established an import duty of 6 cents per pound on beef and veal. In 1947, this duty was reduced to 3 cents. The United States also reduced tariff duties on cattle under 200 pounds from 2½ cents to 1½ cents per pound. The rate on cattle betwen 200 and 700 pounds remained at 2½ cents and on those weighing over 700 pounds, it was reduced from 3 to 1½ cents a pound for not over 400,000 head entering in a 12-month period with not more than 120,000 per quarter. On cattle entering in excess of this, the duty is 2½ cents per pound. (See table 15.)

Table 15.—*U.S. livestock tariff duties*

| Product | Tariff Act of 1930 | 1963 present rate of duty |
|---|---|---|
| Sheep and lambs; [1] | | |
| Not for breeding | $3 per head | 75 cents per head. |
| For breeding | Free | Free. |
| Lamb, fresh, chilled, or frozen | 7 cents per pound | 3½ cents per pound. |
| Mutton, fresh, chilled, or frozen | 5 cents per pound | 2½ cents per pound. |
| Beef and veal, fresh, chilled, or frozen | 6 cents per pound | 3 cents per pound. |
| Cattle, weighing each— | | |
| Under 200 pounds | 2½ cents per pound [2] | 1½ cents per pound. |
| 200 or more but under 700 pounds | do | 2½ cents per pound. |
| 700 pounds or more; Cows imported especially for dairy | 3 cents per pound | 1½ cents per pound. |
| Other | do.[3] | 1½ cents per pound. |
| Cattle for breeding | Free | Free. |

[1] There are no quotas on imports of lamb, mutton, or livestock.

[2] For not over 200,000 head entered in the 12-month period beginning Apr. 1 in any year. (2½ cents per pound for any in excess of limitation.)

[3] For not over 400,000 head entered in the 12-month period beginning Apr. 1 of any year, of which not over 120,000 shall be entered in any quarter beginning Apr. 1, July 1, Oct. 1, or Jan. 1, and 2½ cents per pound for such "other" cattle entered in excess of any of the foregoing limitations.

Source; U.S. Tariff Commission. Tariff Schedules of the United States, Annotated, 1963. Tariff Commission Publication 103.

Table 16 shows present tariff duties imposed by most major competing nations including the United Kingdom and Common Market countries compared with the United States. France has the highest rate of any country listed (31.5 percent ad valorem), with Italy, West Germany, and the United Kingdom each having 20 percent ad valorem. U.S. tariff on beef and veal is 3 cents per pound, approximately equivalent to 10 percent ad valorem, which is the lowest rate of any country listed. Britain allows her Commonwealth countries, including Australia, New Zealand, Canada, and others, to ship beef and veal and other farm products into Britain duty free or under a preferential treatment compared to other nations. The EEC countries are also developing their common agricultural policy which is definitely moving toward lower internal barriers for members nations but higher external tariff rates (presently indicated at 20 percent ad valorem) for all outside countries. The common policy of EEC will further encourage meat production in all the Common Market countries and restrict meat imports by both tariff and nontariff barriers. Thus, the United States is the only major country which offers practically a free market for beef and veal imports. It is not surprising that imports have increased greatly under such conditions in world trade.

Table 16.—*Import duties and controls for boneless beef and veal in selected countries*

[Percent ad valorem unless specified per pound]

| Country | Import duty (general) | British [1] preferential | To members of EEC |
|---|---|---|---|
| United Kingdom | 20 percent | Free | 20 percent. |
| Canada | 8 cents per pound | 3 cents per pound | 8 cents per pound. |
| France | 31.5 percent | | Free. |
| Benelux countries | 12 percent | | 9.6 percent. |
| Italy | 20 percent | | 16 percent. |
| West Germany | 20 percent | | 15 percent fresh; 7.5 percent frozen. |
| Japan | 10 percent | | |
| United States | 3 cents per pound | | |

[1] British Commonwealth countries are allowed to ship meat into Great Britain free duty.

Source: British Commonwealth, Economic Committee report "Meat—A Review of Production, Trade, Consumption, and Prices." Compiled in the Intelligence Branch of the Commonwealth Economic Committee, London, 1962.

### U.S. Tariff of 3 Cents Per Pound Has Very Little Effect

Considering current U.S. price levels and trading conditions in other world markets, the present tariff of 3 cents per pound on beef and veal has very little restraint on beef imports. The U.S. market is more accessible and offers more total net returns to the major exporting nations, encouraging far more imports which react unfavorably on prices for U.S. producers.

The wholesale price index in the United States has increased from 47.3 in 1930 to 100.3 in 1963.[4] Thus, it has more than doubled. Since, during this same period, tariff rates on beef and veal were cut from 6 to 3 cents (see table 17), the present tariff rate is equivalent to less than 1½ cents in terms of 1930 prices. U.S. prices for canner and cutter cows averaged about $14 per hundredweight for 1963, compared with $7 in 1930. This reflects the general price inflation and indicates that the present tariff rate of 3 cents per pound has become completely ineffective as a deterrent to beef imports.

Table 17.—*Cattle, beef, and veal ad valorem equivalents of the 1930 and 1962 rates of duty*

| Commodity | Ad valorem equivalent of— | | | |
|---|---|---|---|---|
| | 1930 rate based on value of imports in— | | 1962 rate based on value of imports in— | |
| | June 18-Dec. 31, 1930 | January-June 1962 | June 18-Dec. 31, 1930 | January-June 1962 |
| Cattle, less than 70 pounds | 39.6 | 13.1 | (1) | 12.9 |
| Cattle, 700 pounds or more | 33.5 | 14.6 | (1) | 7.3 |
| Beef, fresh, chilled, or frozen | 58.4 | 19.0 | 29.2 | 9.5 |
| Veal, fresh, chilled, or frozen | 35.7 | 17.0 | 17.8 | 8.5 |
| Canned beef | 39.6 | 20.0 | 20.0 | 15.0 |
| Beef and veal pickled or cured | 38.2 | 20.0 | 19.1 | 10.0 |
| Prepared or preserved meats not specifically provided for [2] | 37.0 | 20.1 | 18.5 | 10.1 |

[1] Not available.

[2] Contains some items other than beef and veal.

Source: Compiled from official statistics: U.S. Department of Commerce.

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[3] Except for the recent voluntary agreement signed with Australia and New Zealand, Feb. 17, 1964, and with Ireland, Feb. 25, 1964.

[4] Economic Report of the President, January 1964, p. 256.

### Other Nations Protect Their Producers Far Greater Than the United States

A recent report prepared by the Economic Research Service, USDA,[5] shows that all major nations that trade with the United States practice a much higher degree of protectionism for farm products through use of nontariff barriers than does the United States. These nontariff controls on imports include such devices as quotas, embargoes, variable levies, monopolies, import licensing, bilateral agreements, and preferential treatments of various types. Such devices tend to be arbitrary trade barriers. Many imports move at the discretion of the respective governments, and are often used for exchange control. Unlike fixed tariffs, these nontariff controls in the past have been subject to very little reduction as a result of international arbitration and negotiations under GATT.

Using nontariff import controls as the criteria, the Economic Research Service study found selected countries listed in table 18 to be protecting their domestic agricultural production from outside competition far more extensively than the United States. The United States used such protective devices on 26 percent of its agricultural production; whereas, the percentage for Australia was 41 percent; West Germany, 93 percent; France, 94 percent; and New Zealand, 100 percent.

TABLE 18.—*Comparison of the proportion of agricultural production benefiting from nontariff import controls in United States and selected important agricultural countries*

| | *Percentage of agricultural production protected by nontariff controls* |
|---|---|
| United States | 26 |
| United Kingdom [1] | 37 |
| Canada | 41 |
| Australia | 41 |
| Italy [2] | 63 |
| Belgium [2] | 76 |
| Japan | 76 |
| Netherlands [2] | 79 |
| Greece [2] | 82 |
| Denmark [1] | 87 |
| Austria [1] | 91 |
| West Germany [2] | 93 |
| France [2] | 94 |
| Switzerland [1] | 94 |
| Norway [1] | 97 |
| New Zealand | 100 |

[1] European Free Trade Association countries.

[2] European Economic Community countries.

Source: "Agricultural Protection by Nontariff Trade Barriers," U.S. Department of Agriculture, Economic Research Service, Report 60, September 1963, p. 3.

American agriculture repeatedly has been accused, both at home and abroad, of maintaining a highly protectionist trade structure. The facts show that this is definitely not true. The United States is among the most liberal countries in the world in its agricultural import policies, and many other countries are taking advantage of it. Farmers of the United States carry out their production operations with far less protection from competitive imports than do farmers of practically all other countries. Why should they be discriminated against by the further lowering of United States trade barriers, while other countries—especially the EEC countries—are becoming more protectionist?

Robert Marjolin, vice president of the EEC, in a recent statement (U.S. News & World Report, Mar. 9, 1964, p. 30) stated that "I doubt that any guarantee can be given to the United States that American farm exports to the Common Market can be held to a fixed level. Farm output in Europe is growing too rapidly to allow any guarantee on imports."

At the same time that this attitude was expressed by other nations, our own U.S. Departments of State and Agriculture signed a 3-year agreement with Australia, New Zealand, and Ireland granting them continuing access to United States markets for their beef and veal with an annual growth in shipments allowed of 3.7 percent per year for 1965 and 1966.[6] The rollback of 6 percent for 1964 was based on the average volume shipped to the United States by each country during 1962–63, which years had the highest volume on record. The volume allowed for 1965 and 1966 will increase 3.7 percent each year above this base. This agreement is unfair to the U.S. livestock producers who have to bear the burden of increasing imports while U.S. producers of industrial products enjoy the advantage of increased reciprocal sales of their products to these countries.

### "Adjustment Assistance" Under 1962 Trade Expansion Act—Not Practical for U.S. Livestock Industry

The Trade Expansion Act of 1962 authorizes assistance to industries, firms or workers as the case may be, upon a finding by the Tariff Commission, that as a result of concessions granted under trade agreements, products are imported into the United States in such quantities as to be the major factor in causing or threatening serious injury to the industry or firm or workers. In its investigation, the Tariff Commission must take into account all relevant economic factors, including (1) idling of productive resources, (2) inability to operate at a level of reasonable profit, and (3) unemployment or underemployment. Such investigations naturally are very time consuming and serious injury may be caused to an industry from increased imports before findings can be summarized, approved by proper authorities and remedial assistance started. The type of assistance provided for under the act of 1962 includes: (1) technical assistance to aid the industry in reorganization or modernizing to meet competition, (2) financial assistance in the form of loans, guarantees of loans or agreements for deferred participation in loans, and (3) tax assistance in the form of special carry back of operating losses, etc.[7]

The assistance to workers would include: (1) retraining workers for other types of employment, (2) adjustment allowances in the form of compensation for partial or complete unemployment, and (3) relocation allowances to assist families in moving to other areas, and so forth.

This type of assistance is far more applicable to industrial plants and manufacturing industries but not to the livestock industry. Requirements to be met for this type of assistance in lieu of tariff or quota protection against imports would be very difficult, if not impossible, for the livestock industry to meet. In the first place, it is not a single, well-defined composite industry under centralized management. The livestock industry varies greatly from area to area throughout the United States. Also, various segments of the industry which would be affected are very closely interrelated including range livestock producers, cattle feeders, packers, processors, handlers, and retailers, each of which has varying interests and would be variously affected by imports. It would indeed be difficult, if not impossible, to ascertain the specific impact of imports on each separate segment of the total industry, demonstrate specific injury and set up an assistance program effective for each segment.

The producer end of the beef cattle industry could be helped very little by the assistance provisions outlined in the act of 1962. One very important fact is that if imports injure the range livestock industry to the extent that producers cannot meet their costs and must liquidate in favor of cheaper meat from foreign sources, many of the range resources cannot be readily shifted to some alternative use. Much of the area used by livestock for grazing could not be used effectively for other purposes and therefore, this basic grazing resource would be lost or reduced in value. The cattle industry in the United States cannot relocate of retool for an alternative use for its basic "plant," which is grazing land. If imports from foreign countries where production costs are much less result in significant liquidation and idling of productive resources in U.S. livestock areas, then to the extent that these resources are forced out by use of competing imports, this country and these livestock areas will be lost to the Nation.

Livestock production contributes vitally to the total economy of many areas throughout the United States. Reduction in livestock production would reduce amounts of feed grain and other concentrates utilized, which would intensify already existing surplus problems for food grains. Many other types of economic activity including trucking, rail transportation, financing, insurance, meat packing, and other forms of employment related to livestock would be curtailed. A strong and prosperous livestock industry is very important to the local economy and tax structure of many rural counties. Reduced economic returns from livestock have repercussions in many segments of rural America, as well as in the urban centers where livestock marketing and meat packing and distribution are important.

The production resources of grazing land, farm pastures, and lands producing feed grains are very basic to our U.S. economy. From wise use of these basic resources comes much of our wealth. The opportunity and incentive for continued growth and development of these resources should not be curtailed by allowing imports to displace or reduce effective use of these resources.

If the beef cattle industry is to be subjected to imports that will result in definite injury and, if after adequate investigation, the industry were to be given "assistance" from the Government to try to compensate for the damage, then indeed the industry would be subsidized. The amount of such subsidy for each producer or segment of the industry would be very difficult to determine, difficult to administer, and is not wanted by producers in the industry. Such subsidy would reduce the incentive toward efficiency to meet competition among domestic producers and would probably result in further loss of markets to foreign producers.

The beef cattle industry is not asking for a subsidy in the form of monetary assistance nor is it asking for any increase in tariff duties. The industry is firm, however, in its request that realistic quotas on imports be established at a fair volume and enforced in such a manner as to prevent serious injury to the United States industry.

### *F. Rapid increase in cattle numbers and production in Australia illustrates potential of many exporting countries*

Other countries are undertaking similar programs, but the activities in Australia graphically illustrate that Government's involvement in expanding their beef production. Greatly increased outlays of private capital as well as public funds are being expended to expand the industry.[8]

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[5] "Agricultural Protection by Nontariff Trade Barriers," USDA, ERS, Foreign Report 60, September 1963.

[6] For details, see copy of meat agreement, signed Feb. 17, 1964, with Australia and New Zealand and Feb. 25 with Ireland.

[7] "Implementing the Trade Expansion Act," U.S. Department of State, Bureau of Public Affairs, outline No. 4, June 1963, pp. 14–16.

[8] "Australia's Livestock and Meat Industry," FAS–M–63, USDA, October 1959, p. 13.

Cattle numbers have increased steadily in Australia since the early 1950's, with the exception of 1959. There has been a steady increase in numbers to 18,600,000 head in 1963. This is a 12-percent increase over the 1956–60 average. Nearly all the rise is in beef cattle; dairy cattle numbers increased by only 145,000 head. The ratio between breeding stock and total beef herd numbers has been rising steadily since 1955 and in March 1963 stood near 50 percent.

The growth of the breeding herd and the increase in calf numbers indicate faster expansion in the future. Producers are turning off younger, leaner animals, allowing for further expansion in breeding herds, thus, greater numbers will be coming off for slaughter.[9]

### Government Programs Stimulate Expansion

Among these programs currently being conducted in Australia with public and private capital are:

1. Pasture improvement through planning of mixtures. Pasture areas are one-third larger than the land area in all crops.[10]

2. Rapid increase in supplemental feed production such as grain sorghums, alfalfa, and barley.

3. Reclamation of new lands including improvement of 20 million acres of the brigalow area.[11]

For example, a recent report prepared by the Stanford Research Institute for the Australian Development Research Foundation, states: "This clearing problem has been overcome recently by a carefully controlled technique of pulling, burning, and seeding from the air of pasture crops—regrowth is no problem if there is frequent cultivation for crops.

"The remaining uncleared two-thirds of the brigalow country is the most important of Queensland's undeveloped areas. The size of an individual "farm unit" in the brigalow area has been defined as that quantity of land necessary to graze 800 head of cattle, plus 350 acres for cultivation—the proposal is based upon development of more than 7 million acres of scrub country west of Gladstone for beef and fodder crops.

"The Bureau of Agricultural Economics has just completed a survey of the economics of clearing 4.25 million acres of scrub south of the Comet-Bluff Railway, and is now making a similar survey of 3.5 million acres to the north. Beef production in the first of these areas is now valued at 1 million Australian pounds but it is estimated by the Bureau of Agricultural Economics that two-stage development could lift production value to nearly £7 million per year. "The Commonwealth Government has given £7.25 million and the state has put in £5 million to partially develop about 4.3 million acres into about 350 blocks, each approximately 10,000 acres in size. The area presently has 125,000 cattle worth annually £1.04 million. The Federal loan is repayable in 25 years."[12]

4. Large-scale programs to control pests and diseases, particularly the 3,500-mile dingoproof fence and the control of rabbits.

5. Long-term Government leases of public lands.

6. Decided tax advantages such as handling as operating expenses reseeding, water development, etc., rather than as capital improvements.

Also, greatly accelerated depreciation allowances are provided for, such as 40-percent depreciation for the first year and 20 percent for the next 4 years for a total depreciation of 120 percent to be written off in 5 years against ordinary income. This contributes to their decidedly lower cost of production. For example, Mr. D. B. Jennings of Pastoral and Development, Ltd., Melbourne, was quoted in the Queensland Country Life, February 20, 1964, issue, as saying, "Considerable publicity has been given to the proposed approach by the Queensland and W. A. governments to the Commonwealth to set up a Northern Development Authority and provide it with $22,500,000 to $45 million per year * * *. One of the items which we can produce cheaper than most countries in the world is meat, as the United States has found out. Yet this is one of a number of commodities where we could increase our production considerably and cut our costs proportionately with genuine land development."

7. Significant amounts of foreign capital have been attracted to Australia. For example, the Pastoral and Development, Ltd., and other processors are expanding their facilities. Again, quoting from the Queensland Country Life of December 5, 1963 * * *: "Kilcoy Meatworks Plans Big Expansion: A 50,000-pound expansion program ($11,250,000), anticipated for the Kilcoy Meatworks to cater for an increased American market, will benefit graziers and farmers in the Brisbane Valley and South Burnett. Kilcoy-killed meat has already received favorable comment from the United States for the cut meat and hamburger trade."

8. Considerable investments have been made on new and improved roads and transportation facilities.

It is obvious from these incentives that the production potential in Australia is very large with the cost per unit of production far below that faced by U.S. producers. Unless there is U.S. Government intervention the domestic producer will lose more and more of our market to Australia and other countries gearing up for continued expansion of beef and veal imports.

### *G. The impact of imports on the U.S. industry*

The large and increasing beef and veal imports are a major cause of the depressed prices now prevailing on the U.S. cattle market. Their effect is both direct and indirect.

1. The lower prices for imported beef have automatically depressed the U.S. price for this grade of meat.

2. By taking over a large part of the market formerly supplied by cows and "two-way cattle" they have greatly reduced the demand for domestic beef for use as manufacturing meat since cows no longer wanted by domestic buyers for manufacturing meat are not being purchased for slaughter, and "two-way cattle" go to swell the overflowing ranks of feeder cattle, thus increasing both the cow herd and fed beef available to the U.S. market.

3. The rapid drop in prices has had the natural effect of causing feeders to hold back the marketing of their cattle, resulting in increased poundage.

In general, imported frozen boneless beef can be obtained by a user on an average of 2 to 3 cents per pound cheaper than similar domestic beef.[13] The importation of boneless lean beef affords some firms opportunity to blend and merchandise more profitably some of the fat obtained from domestically produced beef. If excessive quantities of imported boneless lean beef were not available for that use, demand for domestic cow beef, forequarters of fed beef, and "two-way grass cattle" would increase, and there would be no so-called shortage of manufacturing-type beef.

It has been reliably estimated that the value of ground beef from a choice steer normally would approximate 15 percent of the retail value of the carcass, or approximately 25 percent of that carcass ends up as ground beef. Thus, the imported boneless beef that is used in hamburger is directly competitive with domestic cow beef and fed beef so used. The Australian Meat Board study in this country during 1963 indicates that approximately 60 percent of the total beef and veal imports from Australia are used in ground form. This gives some idea of the extent of foreign competition for ground beef.

In recent years Australia and New Zealand have also expanded their shipments of frozen beef cuts, loins, strips, quarters, etc. to U.S. ports, and especially to Hawaii. A Market News Report issued at Corvallis, Oreg., November 1, 1962, stated, "Included in the imports at Portland are such cuts as flanks, top and bottom rounds, New York strips, rib eyes, top sirloins, and sirloin tips, which reportedly are being readily accepted by restaurants and chains." Reports from the Commonwealth Bureau of Census and Statistics on Australian Overseas Trade, 1961–62, showed that Australia exported to the United States 1,332 tons of frozen bone-in beef. And it further reported that some of the statistics for boneless frozen beef included "T-bone steaks and cut rib roasts with bone in."

The Economic Research Service of the USDA examined the likely effects of imports on domestic cow prices and on the prices of choice steers based on available data from 1948 to 1962. This analysis was published in the November issue of the Livestock and Meat Situation, 1963. The study indicated that beef imports do affect the price of both cows and fed cattle, but have relatively less effect on fed cattle prices than on cow prices. This USDA study found that a 1-pound increase in per capita imports of beef and veal combined with domestic production of cow beef would lower choice steer prices by 15 to 20 cents per hundredweight and cow prices by 15 to 20 cents per hundredweight. Per capita imports of beef and veal increased another 2 pounds in 1963. The USDA's study indicated that if the 1963 imports had been restricted to 1962 levels, choice steer prices would have been about 30 to 40 cents per hundredweight higher and cow prices would have been about $1 per hundredweight higher.

It should be pointed out that the USDA analysis referred to above was based on the period 1948 to 1962. During the first 10 years of that period (1948–58) imports were of relatively little significance, amounting to about 3.5 percent of the U.S. production. Also, the analysis did not include 1963, a year when imports were the highest on record, equal to nearly 11 percent of the U.S. production which was also a record. Regression analysis based on the last 6 years of higher imports would show a greater impact of imports on U.S. prices.

Between 1957 and 1963, per capita imports of beef and veal increased by about 8 pounds. Applying the above USDA analysis, if we had been able to roll back imports in 1963 to the 1957 level, choice steer prices would have been from $1.20 to $1.60 per hundredweight higher and cow prices about $4 per hundredweight higher in 1963 than actually developed.

The study did not give consideration to the problem of two-way cattle. Two-way cattle are usually thought of as fleshy animals weighing from 800 to 1,000 pounds that are suitable for either slaughter or for further feeding. They are not as highly finished as normal slaughter cattle. If boneless beef and veal imports had not been so high, supplying large quantities of manufacturing beef to the U.S. market, packers and cow boners would have bid higher prices for Holstein steers and other grass cattle. These animals would have thus been bid away from the feedlots, reducing the number going on feed and prices for feeder cattle and fat cattle would have been improved. This reasoning obviously cannot be measured statistically, but many stockmen know that many of these cattle normally go for boning and manufacturing meat purposes. In recent years they have gone into the feedlots swelling the supplies of cattle on feed instead of going into manufacturing meat outlets.

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[9] "The Beef Situation," Bureau of Agricultural Economics, Canberra, Australia, June 1963, p. 3.

[10] "Australia's Livestock and Meat Industry," FAS–M–63, USDA, October 1959, p. 13.

[11] Op. cit., p. 11.

[12] "The Development of Australia"; prepared for Australian Development Research Foundation, GPO Box 3381, Sydney, Australia, prepared by Stanford Research Institute, Menlo Park, California, by J. B. Condliffe, Project No. 1E–4271, pp. 375–376.

[13] See weekly issues of the National Provisioner, which reports the prices for manufacturing meats both domestic and imported.

Cow prices in the United States declined about $3 per hundredweight between 1958 and 1960, and then remained rather stable until the last half of 1963. Prices for slaughter cows in mid-March 1964, were approximately $2 below the year previous at most U.S. markets.[14]

Beef imports directly affect cow prices, discouraging liquidation of older range cattle. This has contributed to a buildup of cattle numbers. Had it not been for heavy imports, packers would have been aggressively bidding on these cattle for slaughter.

The buildup of cattle numbers also is attributable in major part to encouragement by USDA statements, such as that of August 5, 1963, which said:

"The trend for fed-cattle prices appears to be favorable, the U.S. Department of Agriculture reported today.

"If increasing demand for beef continues, as it has during the last 10 years, cattle production might be increased in the next several years by about 20 percent with prices remaining at about the average for 1960–63, the Department said. This would call for increased grassland for the production of feeder cattle. * * *

"Cattle feeding will be a more important source of beef production in the future. However, the cow-calf operation is necessary to provide an increasing supply of feeder animals. Grassland and forage are still the most important feed input in feeder cattle production. Thus, increasing demand for feeder cattle will require more grazing and forage land for expansion of beef cow herds. Land for this purpose can be made available through the Department's cropland conversion, Great Plains conservation, and agricultural conservation programs, among others."

The low year for numbers in the present cattle cycle was 1958. Since then beef cow numbers have increased roughly 32 percent. The duration of this increase has been 6 years. In each of the two previous cattle cycles numbers leveled off or declined after 6 years of increase in cow slaughter. There is no magic to the 6-year time period that assures that this will happen again. Many factors such as the supply of grass, feeder-cattle price levels, etc., have a lot to do with the leveling off or decline in cattle numbers. Especially important is the supply of feed.

With cattle numbers at such high levels, however, a severe drought and short feed supplies and/or the discouraging effects of the current low prices for cattle could touch off a disastrous liquidation of cattle in this country. If increased killing of cows occurs in the face of continued large volume of imports, prices of all cattle will decline even further than they have at present.

Any student of beef cattle cycles knows that cow liquidation at a higher than normal rate always breaks the price of beef, all the way along the line; not only for cow beef. The high volume of foreign imports this past year has maintained the equivalent of a high rate of cow-slaughter pressure on the U.S. price of beef. Foreign imports exert more downward pressure on prices than most people realize. Many users of this meat have a preference for the imported product over the domestic supplier from rough cuts because of cheaper price and also because it absorbs more water. They can use more and cheaper backfat for sausage purposes and thus achieve a lower cost combination. One pound of hamburger made out of foreign beef will carry more water which consumers buy at hamburger prices.

Since foreign beef makes up 11 percent of total U.S. consumption, the addition of extra water means that the sales of foreign beef at retail are in reality higher than the 11 percent figure indicates.

Normal cow liquidation plus foreign beef hamburger and blend, plus extra water, combine to give a higher "cow-slaughter equivalent" than is generally thought to exist. This phenomenon has a very definite depressing effect on beef prices.

Prior to 1959, when prices for domestic manufacturing meats declined, imports declined also because there was less profit above freight and tariff costs with only a limited amount of free meat in world trade channels. This has not been true since 1959 nor will it likely be the case in the future.

This point is based on five criteria:

1. Modification of the United Kingdom-Commonwealth agreement in 1958 on meat exports.

2. Establishment of working agreements with Argentina by the U.K to reduce their imports and increased home production of beef and veal has limited access by the Commonwealth countries to the U.K. market.

3. The general climate of protectionism adopted by the EEC with the desire to become self-sufficient has placed increased pressures on the U.S. market.

4. United States has lower tariff and nontariff barriers to trade and generally higher meat prices.

5. Exporting countries have lower cost of production and in some cases great potential for future expansion of beef production. If these countries continue their unprecedented high levels of imports this will force more liquidation in the United States, further lower domestic prices and delivering a greater share of our market to foreign shippers.

Figure 5 (not printed in Record) shows the relation between U.S. cow slaughter and utility cow prices at Chicago, 1945–63. It will be noted that during the 4-year period 1949–52, cow slaughter averaged about 4 million head—about the same as the average the past 4 years (1960–63). Prices of utility cows, however, averaged about $20 per hundredweight during the first 4-year period, whereas they averaged only about $15.50 the last 4-year period, even though cow slaughter was relatively the same. Imports of beef and veal during the earlier 4-year period averaged less than 5 percent of U.S. production, whereas the last 4-year period imports averaged nearly 9 percent of U.S. production.

Australian and New Zealand producers profess not to desire to adversely affect prices for U.S. producers and themselves in this market. However, it must be realized that because of conditions developing elsewhere in the world markets, including United Kingdom and the EEC, both Australia and New Zealand have become dependent upon the United States as an outlet for their increasing production. Unless alternative markets can be obtained to take additional beef supplies at prices equivalent to or higher than those in the United States, these countries will continue to ship large quantities to the United States even though prices decline significantly below present levels. Preliminary estimates indicate that U.S. cow prices would have to drop at least $2 to $3 per hundredweight below present levels or alternative markets would have to rise before it would be unattractive, if not uneconomical, for Australia, for instance, to ship beef here.

It is a real concern to U.S. cattle producers that governments in Australia, New Zealand, the United Kingdom, Central America and other countries are promoting the expansion of the cattle industry in these countries with the ultimate goal of increasing sales on the U.S. market. U.S. producers are not alone in these fears. Producers in Mexico and Canada have expressed similar concern.

If significant liquidation of the U.S. cattle industry were to develop, it would allow foreign imports to gain an even greater and more permanent foothold. Reduced livestock production in the United States would adversely affect beef producers in general as well as producers of feed grains. Such a trend would eventually mean fewer steers and heifers for feeding and marketing as high quality beef. Eventually beef prices would rise and U.S. consumers would pay higher prices for meat. In the meantime, much of the U.S. market would have been lost to foreign producers and some of our basic range and cropland resources would not be utilized efficiently.

The impact of imports on one segment of agriculture cannot be assessed entirely in isolation from interrelated parts. Losses in some markets for agriculture may involve gains in others. For example, expansion of red meat production in Europe has resulted in expanded markets for U.S. feed grains to that area. But at the same time, this development has contributed to more U.S. imports of meat from Australia, New Zealand, Ireland, and other countries because of more difficult access and declining markets for their meat in Europe.

Thus one segment of U.S. agriculture may benefit while another loses. How are these relative benefits and burdens to be assessed and made equitable?

Important in the whole situation is the degree to which exporting nations can be induced to place shipments into alternative markets. In the absence of Government intervention, however, exporters will be reluctant to do this until U.S. prices are such that their net returns are greater in alternative markets.

### Specific Examples

Imports tend to have their largest impact on the prices nearest the ports of entry, such as Honolulu, Los Angeles, San Francisco, New York, Seattle, the gulf coast and at other ports. There are the price-making markets for a good part of the meat trade. Increased supplies landing in these ports of entry depress prices beyond that which would occur if such supplies were spread more evenly throughout more markets.

For example, official inspection reports made by the USDA for meat and meat products entering the four Pacific coast ports of Seattle, Portland, San Francisco and Los Angeles for the month period of August 26 through September 28, 1963, showed a total of 23,195,978 pounds of beef imported (608,322 pounds of this was beef cuts and 43,000 pounds were in beef carcasses, the remainder was boneless beef and veal). When this volume is converted to live animal weights, it is equivalent to 52,632 head of cattle weighing 950 pounds each. This volume was equal to 21 percent of the total cattle and calves slaughtered in California during the month of September (245,000 head of cattle and calves slaughtered, September 1963). The impact of this large volume of imports on the Pacific coast very definitely depressed prices for domestic cattle sold in these markets.

The impact of a given quantity of imports upon domestic prices is considerably greater than a like quantity of domestic beef of the same class because of the lower prices at which it is offered for sale. Although exporting countries are attempting to distribute their products through channels that would not allow price cutting, there are many cases where imported meat has been purchased at a net cost from 3 to 5 cents per pound below similar domestic beef. When a foreign supply is available at prices below the domestic price the price injury due to imports or threat of imports is greater than the actual volume of increased supplies would indicate. The psychological effect of actual and rumored imports also is price depressing. The fact that imports are on the way in increasing volume is a psychological phenomenon that can and is used by buyers to unduly depress prices paid for livestock. The impact is greater on prices to the individual producer who has cattle for sale at that time than on the market structure as a whole.

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[14] See Western Livestock Roundup, monthly issue March 1964.

Hawaii's beef cattle industry has been severely injured due to excessive beef imports, especially cuts from New Zealand. Unless some relief is granted to limit imports to that State, its third most important agricultural enterprise will be forced out of business, creating serious economic losses in the State since vast land areas in the islands are suitable only for utilization of grass by beef cattle.

The Hawaiian import situation is in many ways a preview of what can happen to the mainland domestic cattle industry.

In 1954 the imported beef and veal on a carcass weight equivalent basis from New Zealand and Australia into Hawaii amounted to 4.6 percent of the total market supply. The imports from Australia and New Zealand in 1963 into Hawaii have jumped to 29.9 percent or 16,694 million pounds compared to 1,538 million pounds or 4.6 percent in 1954. Another way to put this is that in 1963 the estimated per capita consumption of beef in Hawaii was 93.6 pounds. Of this total, 28 pounds were imported from Australia and New Zealand. In 1957 the per capita consumption of Australian and New Zealand beef was only 9.7 pounds. In 1963 alone, Australia and New Zealand increased their exports to the Hawaiian market by over 22 percent. These and other available data point out the seriousness of the Hawaiian situation and act as a prolog to what may well happen to the U.S. market generally.[15]

### *H. Future outlook for imports*

U.S. producers and processors can expect continued heavy imports of boneless beef and veal. (Imports of beef and veal for 2 months, January-February 1964, amounted to 186.8 million pounds as compared to 122 million pounds the same months of 1963.[16]) A high volume of imports is likely despite the fact that the U.S. Government signed voluntary agreements with Australia, New Zealand and Ireland during February to roll back the imports 6 percent below the 1962–63 average. The agreements assured each of the three countries an increase of 3.7 percent over the base period for imports in 1965 and another 3.7 percent increase in 1966. Thus, by 1966, each of these three major exporting countries may be shipping in a higher volume than in 1963. (Fig. 6 (not printed in RECORD) shows imports projected to 1966 under terms of the recent agreements.)

The likelihood still exists that there will be increasing imports from Mexico, Nicaragua, Guatemala, and other Central American countries who as yet are not limited by trade agreements. Several Central American countries have taken measures to encourage meat exports to the United States. New and modern slaughter plants have been built in Guatemala, Honduras, and Costa Rica (some with aid of U.S. capital both public and private). A new shipping service which brings beef and veal in refrigerated trailers from Guatemala to the United States, appears to be successful. U.S. imports of beef and veal from Guatemala increased from 1.9 million pounds in 1961 to 12.3 million in 1962, and 14.8 million in 1963. A report issued in Foreign Agriculture, March 2, 1964, page 16, states: "That two export slaughter plants in Guatemala have been issued quotas to slaughter 50,000 head of cattle for export in 1964. Last year, these plants killed only 42,000 head." Cattle numbers on farms in Guatemala, Mexico, and Costa Rica are continuing to go up; and there is much interest in breed improvement and increased production from present herds. Because of their expanding livestock industries and their proximity to U.S. markets, these Central American countries can be expected to increase their meat shipments to the United States.

New capital from the United States as well as Australia has been invested in the development of land and facilities for beef production and slaughter with the idea of exporting the product to the United States.

Three different quotations from Australian sources indicate that country's awareness of importance of the U.S. market as an outlet for Australian beef and veal.

According to Sir William Gunn, member, Australian Meat Board, "Australia expects her beef production to increase as a result of recent substantial investment in the industry. This would mean increased supplies for export; and unless alternative markets could be developed, the United States could anticipate increased quantities."[17]

The Queensland Country Life Weekly, published in Brisbane, Australia, November 7, 1963, states the Australian position quite clearly. "The figure for local Australian consumption for the year ending June 30, 1963, has been given as about 53 percent, leaving a surplus of 47 percent for export. This trend means that local consumption in spite of increased population is unable to keep pace with increased production, and so year by year our dependence on the export market increases. Not only must we hold our present export market for beef, but every year we must find a market for additional quantities of beef."

Unless more profitable alternative markets can be found, Australia will continue to ship beef to the United States as long as our trade policy permits.

A quotation from the Australian News Weekly Round Up issued in New York City, February 19, 1964, quotes Mr. John McEwen, Australian Minister for Trade and Industry as follows: "The agreement recently signed between United States and Australia has been welcomed by trade and political authorities. This agreement represents a new phase in the trading relations between Australia and the United States. For the first time the Australian meat industry has secured a firm assurance of continued access into the U.S. market together with a guarantee that it will enjoy a proportionate share of this rapidly expanding American market which over the past decade has grown about two-thirds." Mr. McEwen states further in this same article, "Over recent months, there has been growing pressure in the United States from cattle producers and in Congress for the U.S. administration to impose very restrictive quotas on imports. Thus, in our major export market we have been living more and more precariously with no security of continued access and no knowledge of when we might have to face sudden and severe restrictions of such an order as to threaten the whole stability of the industry in Australia." Mr. McEwen said, "That the provision for growth in the world's largest meat market represented the first major breakthrough for agricultural exporting countries in their fight to get an assurance of expanding access to the major world markets." The above quotations indicate how the Australians view the United States market for their beef. Both Australia and New Zealand rely primarily on exports of meat and livestock products to earn dollars with which to purchase industrial products from this and other countries. They must export to live. The incentive to export beef to the United States is and will continue to be very great.

The EEC is moving toward low internal barriers but high external barriers. Agricultural and trade policies of the EEC countries encourage meat production within those countries and restrict meat imports. If the European countries reduce their imports of beef from Southern Hemisphere countries, this will throw increasing world trade pressures on the United States in the future.

Attempts to increase the home production of meat animals in Great Britain, together with large exportable supplies of beef in Argentina and other South American countries, will limit England as a market for Australian and New Zealand beef.

Most of the beef-exporting countries will continue to try to sell beef to the United States. This is likely to continue to be a relatively favorable price market and is a means of getting "dollar exchange." The United Kingdom, Japan, and other cash markets offer opportunities for only limited amounts of beef in the immediate future. Over a longer period of time, incomes may expand enough in Europe and Japan to provide a larger beef market. But in the next few years, U.S. producers and processors can expect continued heavy imports of beef for processing, hamburger, and other uses. Changes, as a result of Government intervention or marked shifts in competing factors not now foreseen in the world market, would alter this forecast. At current price levels, the 3-cent tariff is not acting as much of a restraint on beef imports; and the voluntary agreements signed with the three countries mentioned above will not likely limit imports after 1965 unless renegotiated downward.

The countries signing the agreements in February "* * * reaffirmed their intentions to continue efforts under the GATT to negotiate broader international arrangements to expand access of meat-exporting countries to all major world markets. The present agreements could be "incorporated in such broader arrangements."[18]

Much larger quantities of beef would be moving into the United States from some countries at the present time if it were not for regulations relating to health and sanitation. Such regulations are aimed at keeping certain diseases out of this country and to insure that imported meat has been slaughtered and processed under the clean and healthy conditions which are required by domestic sources.

The above is a realistic appraisal of the future situation facing the United States beef industry. Unless U.S. producers have some guarantees of protection against the rising trend of imports, they see nothing ahead except the gradual erosion of their domestic market in favor of foreign meats.

### *I. Recommendations for a realistic import policy*

A realistic import policy based on present cost, production and trade conditions in this and foreign countries should be an import quota based on the average volume of imports of all types of beef, veal, and mutton into the United States for the 5-year period 1959–63. Such an average volume would be the equivalent of about 7.5 percent of U.S.

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[15] Beef, 1963; Prepared by Hawaii Cattlemen's Council, Inc.

[16] U.S.D.A. Market News Weekly Summary, Mar. 17, 31, 1964.

[17] "Hot Irons," issued by California Cattlemen's Association, Oct. 2, 1963.

[18] "Livestock and Meat Situation," USDA, March 1964, p. 19.

production. Table 19, below, shows that it is more than fair since it is based on years when imports have been increasing rapidly. Further provision could be made to allow some increase in the annual quota over the base as the U.S. market grows as reflected in increasing prices for livestock. The quota allowable each quarter could be related to parity prices for beef cattle in the United States.[19] For example, when prices reach the parity ratio considered as a base then the quota for imports would be increased according to a formula geared to U.S. production. On the other hand, as U.S. prices declined the import quota would revert to the quantity in the base years.

Table 19.—*U.S. production of beef and veal and imports from Australia and New Zealand, 1959–63*

[In millions of pounds, carcass weight]

| Year | U.S. production | U.S. imports | | Imports of beef, veal, and mutton from Australia [1] | Imports of beef and veal from New Zealand |
|---|---|---|---|---|---|
| | | Beef and veal | Imports as percent of production | | |
| 1959 | 14, 588 | 1, 063 | 7. 2 | 262 | 162 |
| 1960 | 15, 835 | 775 | 4. 9 | 177 | 131 |
| 1961 | 16, 341 | 1, 037 | 6. 3 | 274 | 154 |
| 1962 | 16, 311 | 1, 445 | 8. 9 | 505 | 214 |
| 1963 [2] | 17, 400 | 1, 679 | 9. 6 | 577 | 244 |
| 5-year average, 1959-63 | 16, 095 | 1, 200 | 7. 5 | 359 | 181 |

[1] Mutton included because of inclusion in meat agreement signed Feb. 17, 1964.

[2] Estimated and subject to revision.

Such an import policy seems fair and could hardly be criticized by American consumers or handlers of imported meats as unduly adverse to their interests. It would, however, protect domestic producers against abnormally high imports in certain years and still allow a sizable volume of imports to come in.

Figure 7 (not printed in Record) shows beef cattle prices in relation to parity by months for the past 3 years—the last half of 1963, cattle prices declined and on February 15, 1964, were 73 percent of parity, while prices for all farm products were 78 percent of parity. Feed prices, on the other hand, generally increased through 1963.

The buildup of increased livestock production abroad, pointed at United States markets on a continuing basis and based on production costs much below anything that can be achieved in this country, strikes fear into the heart of United States cattle producers. They must have protection by a quota system rather than by increased tariff duties, which would not be very effective under current world trading conditions.

If U.S. meat imports were governed by essentially the same duties and restrictions as those applied by other countries, much of the special attractiveness of the U.S. market to exporters would vanish. For the United States to persuade other meat importing countries to improve access to their markets in order to relieve pressure on United States will be very difficult. Such policy will not relieve pressure on U.S. cattle prices soon enough to avoid hardship.

Many and varied items have been discussed in our brief which have a direct bearing on the economic dilemma now facing the beef cattle industry. Not the least of these is the "magnetlike attractiveness" the U.S. market has for the world's surpluses of beef and veal.

With only the most casual review of the existing tariff and nontariff barriers now being utilized by the major importing and exporting countries, it is obvious that the United States ranks at the bottom. This is all the more important to the domestic beef cattle industry in the face of the great potential production existing in other nations.

Results made to date achieved by our own Government in their negotiations through GATT and other agreements indicate that the trend our policy is taking is not to the country's advantage. The theory of "market access" and "market sharing" is commendable but has and likely will not be accomplished to the degree necessary.

It is our earnest hope that this Commission will report to the Committee on Finance of the U.S. Senate that the U.S. beef cattle industry is faced with a situation due to foreign imports which is critical to the industry and that protection in the form of statutory quotas based on the average of import levels for the period 1959–63 is essential to its future as a healthy and important part of the United States economy.

It is our judgment that enactment of this type of legislation would strengthen the United States hand at the upcoming GATT negotiations and would indicate to other countries that we desire true reciprocity. It is inconceivable to us that this country would be willing to sacrifice the beef cattle industry with its multiplicity of uses of other agricultural products, not to mention its sizable purchases of other goods and services such as machinery and vehicles, steel, petroleum products, rubber, and chemicals.

Realistic trade policy should be our guide—equity our goal.

### Exhibit A

### State Associations Affiliated With American National Cattlemen's Association

Alabama Cattlemen's Association, E. H. Wilson, Box 1746, Montgomery.

Alaska's Stock Growers Association, Mrs. Mary Epperson, Box 103, Anchor Point.

Arizona Cattle Growers Association, Bill Davis, Adams Hotel Lobby, Phoenix.

Arizona Cattle Feeders Association, Wade Lacy, 4851 East Washington, Phoenix.

Arkansas Cattlemen's Association, Mary Hinkle, 314 East 5th Street, North Little Rock.

California Cattlemen's Association, J. Edgar Dick, 659 Monadnock Building, San Francisco.

California Cattle Feeders Association, George Tucker, 972 South Goodrich, Los Angeles.

Colorado Cattlemen's Association, Dave G. Rice, 4675 Lafayette Street, Denver.

Colorado Cattle Feeders Association, Neil Skau, Jr., L. V. Exchange Building, Denver.

Florida Cattlemen's Association, Art Higbie, Box 646, Kissimmee.

Georgia Livestock Association, J. O. Robertson, Jr., Route 1, Box 73A, Athens.

Hawaii Cattlemen's Council, Inc., R. H. Cox, Honolulu Armory, Honolulu.

Idaho Cattlemen's Association, Leon L. Weeks, 414 Simplot Building, Boise.

Idaho Cattle Feeders Association, Frank H. Shields, Box 2014, Boise.

Kansas Livestock Association, Glen Pickett, State Office Building, Topeka.

Kentucky Cattlemen's Association, Nelson Gay, University of Kentucky, Lexington.

Louisiana Cattlemen's Association, A. P. Parham, Box 14535, Baton Rouge.

Maryland Beef Cattle Producers, Inc., Amos R. Meyer, University of Maryland, College Park.

Mississippi Cattlemen's Association, David R. Pingrey, Box 450, Macon.

Missouri Livestock Association, James E. Ross, 130 Mumford Hall, Columbia.

Montana Stock Growers Association, Ralph Miracle, Box 1679, Helena.

Nebraska Stockgrowers Association, Robert Howard, Post Office Drawer 40, Alliance.

Nevada State Cattle Association, W. C. Behrens, 2140 Riviera Street, Reno.

New Mexico Cattle Growers Association, Roy W. Lilley, Box 617, Albuquerque.

New York Beef Cattlemen's Association, M. D. Lacy, Cornell University, Ithaca.

North Carolina Cattlemen's Association, W. B. Austin, Box 2954, Raleigh.

North Dakota Stockmen's Association, Clair Michels, 107 South 5th Street, Bismarck.

Oklahoma Cattlemen's Association, Ellis Freeny, 236 Livestock Exchange Building, Oklahoma City.

Oregon Cattlemen's Association, George W. Johnson, Box 176, Prineville.

South Carolina Cattlemen's Association, L. L. Lewis, 934 South Main Street, Columbia.

South Dakota Stockgrowers Association, Jack McCulloh, 426 St. Joe Street, Rapid City.

Tennessee Livestock Association, J. W. Houston, Box 1071, Knoxville.

Texas and Southwest Cattle Raisers Association, Joe Fletcher, 410 East Weatherford, Forth Worth.

Utah Cattlemen's Association, Sherman D. Harmer, Newhouse Hotel, Salt Lake City.

Virginia Beef Cattlemen's Association, Allen K. Randolph, Keene.

Washington Cattlemen's Association, Dave Foster, 6th Avenue and Nanum, Ellensburg.

Washington Cattle Feeders Association, J. C. Courtright, Box 654, Warden.

Wyoming Stock Growers Association, Dean Prosser, Box 216, Cheyenne.

Mr. BERRY. I thank the gentleman from California.

Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and following my remarks to include statements by the gentleman from Wyoming [Mr. Harrison], the gentleman from Arizona [Mr. Rhodes], and the gentleman from Wisconsin [Mr. Laird].

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. HARRISON. Mr. Speaker, I wish to lend my support to the great concern that has been expressed here today about further tariff reductions or bindings of existing rates or liberalizing import quotas.

The position of many industries in this country after years of tariff reduction is such that a further lowering of rates would place them in serious economic jeopardy.

In my State we have four products that are basic to our economy and they are all menaced by imports. One of them is beef.

The story of this product has been told extensively before Congress in the past few months. The extreme pressure of imports, which in the past year, rose to record heights and took 11 percent of our market, led to a "voluntary" arrangement under which Australia and New Zealand are curtailing their exports; but this is not anything solid or anything that will restore confidence in the industry. It is not based on law. The beef industry of this country cannot be left to the whims of foreign exporters.

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[19] See H.R. 10334 by Congressman Herlong.

Moreover, Mexico and Ireland, two other sources of cattle and beef imports, are not a part of the reduced export arrangement.

In view of the hard-pressed position of the beef industry in the face of imports, it seems unthinkable that anyone would propose further tariff reductions during the forthcoming GATT negotiations. Yet meat and meat products as well as live cattle are on the list for further reductions.

Unfortunately the President's Special Representative for Trade Negotiations agreed to a condition of negotiations that leaves little hope that many products will be reserved or taken off the list. It was agreed by him with GATT representatives that the products that would be removed from the list would be kept at a bare minimum, and this means very few. Nevertheless, I would still hope that commonsense would prevail and that note be taken of the beleaguered state of the beef and meat industry and that no further tariff cuts be offered.

Another industry important to my State is wool, mutton, and lamb. Lamb imports have been pressing on the American industry and unless corrective steps are taken soon, the same debacle that befell the beef industry may be expected to hit lamb and mutton.

Again, it should be clear under the circumstances that to expose lamb and mutton to further tariff cuts would be a serious error and would threaten the future of the industry.

An equally serious source of injury, although indirect, comes from the sharp rise in the imports of woolen goods in recent years. The imports come principally from England, Japan, and Italy; and while efforts are underway to negotiate an international agreement this is a very slow process. Meantime the industry suffers the consequences of a level of imports that has captured some 20 percent of our domestic market.

It would seem that no warning should be necessary to the President's Special Representative, Mr. Herter, about further tariff cuts on woolens, and yet they are on the list and subject to a 50 percent cut. Therefore nothing can be taken for granted.

I wish to protest most vehemently any policy that would permit a further tariff cut under these circumstances.

Mr. Speaker, yet another important product for Wyoming is oil. I need not tell you that imports of oil are under quota restrictions as a result of a finding that the national security was at stake under an unrestricted condition. As a result the Trade Expansion Act reserved petroleum from the list of items to be negotiated for further tariff reductions. It would, of course, be a strange procedure now to weaken the national security by negotiating on the tariff or quotas and to weaken this protection. Yet, that is being proposed in some quarters despite the clear language of the Trade Expansion Act.

As in the other cases, it seems that the State Department, in disregard of the orderly solution of our import difficulties, insists on exposing these various industries to yet greater import pressure in contradiction of past action or pending action by the Government that recognizes the difficulties and tries to do something about them.

A fourth industry that is a source of strength to our economy in Wyoming is timber. Imports of this product have also risen greatly in recent years, principally from Canada. Nothing has so far been accomplished to halt this growing threat, despite some meetings and conferences with Canadians. It must be clear that another tariff cut again would aggravate what is already a serious problem.

It passes understanding, Mr. Speaker, when we contemplate the point to which the executive branch would go to carry out the free-trade doctrine in complete disregard of the hard economic realities. Everyone knows that our higher costs place us at a competitive disadvantage in industry after industry and that we cannot overcome the combination of low wages and rapidly rising productivity abroad.

For this reason I give my most emphatic support to the words spoken here this afternoon against further tariff cuts under the circumstances I have outlined so briefly.

Mr. RHODES of Arizona. Mr. Speaker, as we all know, on May 4, 1964, the formal Kennedy round of negotiations of the General Agreement on Tariffs and Trade will begin.

In addition to the careful studies and investigations of many private and State groups, two others, on the national level, have been conducting investigations and hearings. I refer to the Tariff Commission and the Trade Information Committee. Their findings will be passed on to the President who will then give instructions to Mr. Christian A. Herter, the President's Special Representative, and our negotiating team.

Along with other legislators in this and the other body, I have previously submitted a statement to the Tariff Commission. But simply submitting statements is not enough. The Members of Congress should make their positions clear on the floor of the House. In this way, Mr. Herter and his team will have no doubt as to the views held by the various Members who rise and speak today.

Let me say at the outset that I realize these negotiations hopefully call for mutual give and take as well as mutual trust and respect among the negotiating parties. I further realize that much general good can come out of this round of talks. But there are certain areas of trade that in our own national interest we should keep out of negotiations aimed at lowering tariffs or increasing imports. Two of these areas to which I refer are the importation of copper and the importation of beef.

At this moment the domestic copper industry is in a disadvantageous position as opposed to the copper industries of other nations. Hence, any reduction in tariff rates would accentuate this disadvantage. A reduction would, in fact, imperil the domestic industry. By chain reaction this would affect adversely the economy on both the local and national levels. This, in turn, endangers the national security.

The copper industry is important to my State of Arizona. So let us examine the effects of tariff reduction on that State. The effects on other copper producing States would be very much the same.

Roughly 15,000 people are employed by the mines, the smelters, and the related production units. These workers are united with many others to form a mining community. And usually these communities are single-industry communities. When we tally up all the people in these mining communities, we come up with a figure of some 200,000 people being directly involved in the copper industry. This is just in one State. At present, the mines and smelters are operating at 85-percent capacity. To reduce the tariff rate would be to reduce, in the end, the operating capacity. Men would lose jobs, and in these single-industry communities businesses would be forced to close. Any reduction forced, or caused by the tariff policy of this country can destroy not only the economy of the community, it can destroy the community itself. This has happened in my State. I do not want it to happen again.

Then there arises the question of national economy. A recent article in Pay Dirt, a mining publication, reports that in the year 1962 some 28,500 copper mine workers throughout the country earned a total of $178,877,400. The importance of these earnings to the Nation's economy is obvious. Add to this figure the earnings of smelter workers, the earnings of the employees of the factories that manufacture mining equipment, trucks, and even office equipment, and it becomes plain that the copper industry is a heavy contributor to the whole economy. It follows, then, that adverse effects on the copper industry will, through a chain reaction, affect many other areas of the national economy. As I have said before, though copper mining and its suppliers are but a part of the American total economy, any part affects the whole.

Third, and vital to all of us, is the national security. The present low tariff rates tend to encourage the importation of copper from producers outside the country. The result, of course, is reduced demand for domestically produced copper. This in turn forces American mines and smelters to cut back their production. In some cases a complete shutdown of operations is the ultimate result. Here lies the danger. Once a mine or a smelter is shut down, it cannot be placed back in production overnight. This timelag poses a dangerous threat to the overall national defense production—production that must be able to swing into full operation in times of national emergency.

Because of these vital reasons, I most strongly urge that the President and Mr. Herter exclude copper tariff rates from their discussions during the Kennedy round of trade and tariff negotiations.

Now to the second area that I contend is not negotiable during the Kennedy round of tariff negotiations. I speak of the importation of beef. I should point out that this issue strikes particularly close to home. My State of Arizona is the eighth largest State in cattle production and my district, Maricopa County, is the third largest cattle feeding county in the world.

Our present tariff rates are among the lowest in the world. As a result, imports of beef and beef products have been steadily increasing over the past several years. And so today we find our domestic cattle industry in a dangerously precarious position.

The economic viability of this industry must be maintained—not endangered. The domestic cattle industry has proven in the past that it is able to provide for the needs of our people without subsidy. By all indications it can continue to do so—even with an expanding population. This capability must be maintained. Not only must it be maintained in the event of a national emergency when we would have to rely on our own supply, but also to assure a strong overall national agricultural economy. The cattle industry is an important sector in this overall agricultural economy, as well as to the economy as a whole. For example, the industry provides a large market for feed grains, hay and silage that is produced on farms all over the Nation. The cattle industry also provides markets for the nonagricultural economy through its needs for veterinary services, electrical power, trucks, and building supplies, to name but a few.

I am not suggesting that we stop beef importation. I am suggesting that rather than tampering with the tariff we work out a quota system that would permit continued imports but not at a level that places our domestic industry in jeopardy. I have introduced a bill, H.R. 10424, and others have introduced similar bills, that would work out an equitable quota system. This is what we think needs to be done.

Again I say, it is for these vital reasons that discussions of beef tariff rates, like copper tariff rates, should be excluded from the Kennedy round of tariff negotiations.

Mr. LAIRD. Mr. Speaker, in Wisconsin, we have 3,681 employees in the hardwood plywood industry. Any action taken by the negotiation team in Geneva to reduce the tariff on hardwood plywood would directly conflict with programs now under consideration and under development by the Area Redevelopment Agency for relieving the unemployment problem in the Wisconsin-Minnesota area.

The Area Redevelopment Agency is considering a wood products complex, and has already participated in efforts to relieve the unemployment situation in our area. A reduction in the tariff on hardwood plywood would result in greater pressures upon these employees in the State of Wisconsin.

Since the foreign producer of hardwood plywood has, in the past, benefited from U.S. trade concessions, as well as U.S. financial assistance, we cannot see how the trade negotiation team in clear conscience could consider or tolerate any reduction in the tariff on hardwood plywood.

In our State, 2 hardwood plywood mills closed their doors in 1962–63, causing 120 employees to be out of work. We are quite concerned that further tariff reduction would cause other plants to close their doors.

The foreign producer already has more than a fair share of the domestic market, and therefore no further concession would be justified.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. BERRY. I yield to the gentleman.

Mr. HALL. Mr. Speaker, I commend the gentleman from South Dakota [Mr. BERRY] on what he has said here today on this pressing problem.

I want to point out this involves dairying as well as feeders and beef growers and goes back not only to the trade and tariff act of 1962 but even beyond that, to the dumping of cheap corn in 1961 from the Commodity Credit Corporation. It involves many areas of imports.

I would very much like to urge hearings to be held by the Committee on Ways and Means on these many bills that have been submitted by right thinking Members of the Congress.

## URBAN AREAS BENEFIT FROM SOIL CONSERVATION

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, I wish to call the attention of this body to a situation which I think deserves our concern. It is a matter involving an item on which our very lives depend, yet we tend to regard it lightly if at all. Especially is this true in our great cities, daily growing in size and population. I refer to our soil and water resources which literally are the essence of our being.

Soil and water conservation programs are well advanced in the United States and are growing in popularity and number particularly in our rural areas and to a degree in the urban areas. But in the city we are a sophisticated lot. We take for granted such ordinary things as soil and water. True it is that the facilities for practical domestic use, the metal and concrete, deprive us of the exciting beauty of a meandering stream or the cool, clean smell of freshly turned earth, but this should not blunt so completely our awareness of water and soil and their role among urban people. Wordsworth might have been referring to us when he wrote:

> The world is too much with us—little we see in nature that is ours.

As our population increases and our urban areas expand, as greater demands are made on our available land, soil and water conservation becomes a critical subject with which all of our people ought to be concerned. Fortunately, one group in our society—our farmers—realize more fully the significance of these resources. In our total interest, urban sophisticates should share this appreciation. Farmers and ranchers and other landowners, as stewards of the soil, have a more thorough understanding of the responsibilities that accompany the bountiful rewards from these resources. This awareness needs to penetrate our urban thinking to the extent that city and country people become partners in the job of resource conservation.

It is not incongruous as it might have appeared some years ago for city and country people to be equally concerned with and involved in a common effort. The gap in communication is no longer there and in a matter so vital, where there is mutual need, it would be advantageous to encourage a cooperative, long range program to conserve and develop these resources.

Conservation of the soil and water is more than simply building some reservoirs in which to store up water for a nonrainy day, or practicing crop rotation to avoid wearing out the soil. It begins on the premise that while land and water are limited in supply they can serve mankind amply with proper use, care and development. It extends to the concept of continual development of our resources for greater and diversified production. It is the business of city people as much as of country people to be concerned and to help maintain these resources for the enjoyment and benefit of future generations.

With an expected population increase to 274 million, or double what it is now by 1980, we need to expand our conservation efforts. There is the matter of our soil, which, because of population expansion, has dwindled from 2,000 acres per capita of 300 years ago to about 10 presently. Only 2 acres of these 10 acres per capita are used for crop production. This fact, coupled with serious soil erosion makes it the more imperative that soil conservation pervade the total society, that it become an all inclusive way of life.

In some places, city people, through bitter experience, know about soil that leaves the land during floods and ends up in city streets and homes as so much mud. How many realize, however, that steady soil erosion results in stream clotting sedimentation, that our soils leave the fields of the countryside to wash away in silt and sediment which build up in the bottom of our reservoirs, raise the floors of harbors and navigational channels? How many know that annually Government and private interests, at tremendous cost, dredge from our waterways and harbors about 380 million cubic yards of sediment, more than the total amount of soil excavated for the Panama Canal?

Of course, everyone knows that we must have water for drinking, cooking, washing and to grow the food we eat, but how many people know or stop to think about the amount of water each of us uses daily? Our daily per capita industrial consumption was 849 gallons in 1960, as reported by the Senate Select Committee. It is anticipated this will increase by 1975 to 1,193 gallons. Per capita municipal consumption of 147 gallons per day will increase to 185 gallons in 1980, and domestic consumption of 60 gallons per person daily may reach 85 gallons in another decade or so.

Water conservation and soil conservation are one and the same. For they both involve management of the land wherein is the soil and on which the water falls.

Albeit at times the end result is questionable, the word has been pretty well spread that careless campers often cause forest fires, or that litterbugs are costly, and their activities unsightly. Somehow, it must be driven home also that land and water are indispensable, that man can at no time in his life do without them, and it is urgent that we treat them accordingly.

Construction sites, new expressways, and housing are familiar to urban dwellers. They know of our vast highways that traverse the sweep of rural landscape separating urban places, but not so familiar is the fact that a consideration of soils figured into the building of those fascinating ribbons of concrete; nor do many know or linger to reflect that a survey of the soil is beneficial, indeed prerequisite, in solving problems of drainage, sewage disposal, housing developments, and the like.

It would probably be interesting as well as enlightening to the average citizen of our great cities to know of the work of our Soil Conservation Service in the Department of Agriculture and how it has benefited them. In its nearly 30 years of existence the Soil Conservation Service has had a tremendous impact on our soil and water resources, and the results of their work with landowners and operators have affected residents of the city more than they know. Take for example the farmer who, because of conservation practices introduced on his land, is able to provide farm employment for his sons and other farmhands who otherwise would seek employment elsewhere, probably in the cities. Multiplied many times, this helps restore and raise the local economy to a healthy state. It enables local residents to purchase more goods and services from cities. It leaves job vacancies in urban communities thereby reducing job competition. There are benefits beyond these in improved and abundant foodstuffs that come from advanced farming methods.

One U.S. farmer today can provide food and fiber for himself and 28 other people, twice as many as about 10 years ago. This abundant production, provided by technical advancement, has brought about a new trend in agriculture—the idea of multiple land use. Land can be used for crops and forage and trees. It can also be used for shooting preserves or ponds for fishing and other water sports. These additional land uses can be planned as income-producing activities, eliminating the need for overproduction by providing farm recreation or vacation accommodations which offer to the urban dweller a place to get away from the "maddening crowd," drink up unpolluted air, and recall for those who once knew, the relaxation and uncluttered simplicity of country life.

Many are doing this now and the experts predict many more city people will be seeking rural recreation. A new interrelationship is developing between the urban and rural resident. If properly assisted, it will lead to better understanding of conservation.

In a sense, an awareness of resources conservation has almost been thrust upon the urban dweller through his concern for the growing problem of water pollution. Sewage and detergents are spoiling the beauty and sanitation of many of our rivers and streams that heretofore have offered recreation to city folk. More and more they are becoming concerned about this to the extent we are hearing protests from individuals and community groups. The conditions which prompt this concern are bad, but they may be blessings in disguise if they open sufficient eyes to the hazard of continued apathy or disregard for our soil and water resources.

Look at the mass of steel and concrete which is gradually overlaying our soil and grass and open spaces. There is a conservation job to apply if we are to prevent the complete obliteration of nature from our cities. There are not enough parks, far too little natural plants and shrubs, not enough playgrounds. These are things city people know and understand, and to this extent a glimmer of the conservation concept filters through. There ought to be a permanent program, comparable to something like the National Safety Council, to conduct in our urban centers an eye catching, sustained educational drive on resource conservation.

Another urban benefit from a so-called farm program is the soil survey. No longer are soil surveys peculiar to agriculture. They are used by builders to locate good sites—homebuilders as well as builders of highways, factories, and airports. They are used by public utilities and by city planners as a basis for decisions regarding urban development.

Indeed, soil and water conservation benefits each and every citizen—and in many ways.

These benefits alone should be impressive enough to influence all thoughtful citizens. In addition there is, of course, posterity and the responsibility that rests on all of us to pass on to succeeding generations sufficient natural resources for their survival. Thus we all share in stewardship over what God has entrusted to us. It remains for all of us to reach that understanding and to know what stewardship requires of us.

## WATERSHEDS IN THE OHIO RIVER VALLEY

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, during my years in Congress I have taken the floor on numerous occasions to speak in favor of more comprehensive legislation in the area of upstream watershed projects. The recent Ohio River Valley flood, however, illustrated the need for more upstream watershed projects far better than most case histories.

During this spring our Nation witnessed one of the most severe floods in the history of the Ohio River Valley. But even in the wake of these terrible reports on damage, some as high as $180 million, there is a ray of long-range hope for those who have so long advocated stopping floodwaters where they originate—in the upstream watersheds. The reports are now coming into Federal agencies, and these reports reveal that the flood would have been much more destructive had it not been for the small watershed projects throughout the nine-State area of the river basin.

The upland watershed projects in the Ohio River Valley came through the destructive March storm with a gratifying record in their basic mission—the retardation and control of water runoff and silt loads. Reports from the area on project performance indicate effective functioning of the combined structure-land treatment program under every test last month. Damages to completed and supporting installations were reported negligible.

Flights over the flood area provided graphic evidence of project effectiveness. Controlled watersheds stood out in sharp contrast to the immediately adjoining, but uncontrolled, watersheds. Where Public Law 566 structures and land treatment had been applied, water was being held in the upper reaches of streams and fields. Unprotected adjacent watersheds, subject to the same storm conditions, were flooded and contributed to the estimated damage.

The floodwater detention capacity of these projects allowed for a controlled runoff of excess water from the hundreds of watersheds in the valley. The Soil Conservation Service now has 70 authorized watershed projects within this region and additional watershed projects are planned. Some 3,900,000 acres of valuable farmland, some of the richest in the Nation, were protected from flooding by these structures. Were it not for the SCS projects and the ones constructed by private capital, the devastation could have exceeded $200 million.

One town in Indiana which was completely inundated during the 1957 Ohio River flood was completely spared of floodwaters by two retarding structures placed above the town. Damage from the 1957 flood to this town was $680,000. The damage last month was practically nonexistent.

A speedup in this program would be a sound investment in the future, because these watershed projects are needed to bring about a tremendous reduction in flood losses. The manner in which these projects hold floodwater and sediment damages to a minimum emphasizes the effectiveness of the small watershed projects. This is a program where all levels of government and people can work together in the best interests of all the people. We must attack this problem in the proper perspective—it is much easier to stop the water upstream with watershed retarding structures than it is to do so with the larger dams constructed at great expense to retard the raging waters of mighty rivers. Only with the upstream project can we arrest the large amounts of soil erosion now taking place.

The entire future of this program depends upon the amount of attention given to it by the people who live on the land and by the legislative bodies in every State of the Union and in Congress. Only with adequate understanding by the people and adequate funds and authority can the dedicated soil conservation experts in administrative offices and in the field take the urgent message of soil and water conservation to the people.

## AN OMINOUS THREAT TO PRESS FREEDOM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Illinois [Mr. FINDLEY] is recognized for 30 minutes.

Mr. FINDLEY. Mr. Speaker, events of the past 3 weeks focus attention on a strange program undertaken last August by the Agricultural Marketing Service, U.S. Department of Agriculture. This program, begun without legislative authority or even public hearings, put the U.S. Government in a joint business venture, competing for the first time in history with private wire services in the dissemination of news.

The AMS launched what it called the New Market News Service, under which any subscriber could tap directly into the farflung Government-leased wire network of USDA at nominal cost.

This is not a partisan issue and must not become one. It strikes at the heart of our constitutional system, and if permitted to go unchallenged, could weaken the press freedom guaranteed under the first amendment.

Recent developments are:

First, the disclosure of a letter from the Administrator of AMS to American Telephone & Telegraph Co., dated April 9, 1962, which shows that the steps already taken are but part of the master plan for a nationwide network.

Second, the disclosure of a letter dated April 10, 1964, from Eric Ridder, publisher of the New York Journal of Commerce, to the House Appropriations Agriculture Subcommittee. This letter challenges the validity of statements made last fall by Agriculture Secretary Orville L. Freeman to justify the New Market News Service.

Third, editors and publishers across the Nation have become deeply disturbed over the danger to press freedom represented by a vast centrally controlled propaganda apparatus.

The American Newspaper Publishers Association issued a report by its Federal law committee on April 20. Backed by the American Newspaper Publishers Association board of directors, the committee announced it will "continue efforts to get the Government out of the news wire business either through legislative, executive, or judicial means."

Last weekend newspapers from coast to coast carried news stories and editorials on this subject.

The administrative decisions launching the USDA New Market News Service were made before Lyndon B. Johnson became President. Since taking office, the President has been confronted with many problems, and I suspect he is even today completely in the dark about these ominous developments.

Since he probably is not informed on this matter and has had no opportunity to acquaint himself with all the facts and circumstances, I have today supplied him with a complete review.

I am hopeful the President, given the facts, will take prompt action to halt this program.

On August 27, 1963, I introduced H.R. 8269 "A bill to prohibit the U.S. Department of Agriculture from participating in activities which are in competition with private news services engaged in dissemination of news or other information." This bill was referred to the Committee on Agriculture and my distinguished chairman, the gentleman from North Carolina [Mr. COOLEY], advised me as follows:

> HOUSE OF REPRESENTATIVES,
> COMMITTEE ON AGRICULTURE,
> *Washington, D.C., August 30, 1963.*
>
> Hon. PAUL FINDLEY,
> *U.S. House of Representatives,*
> *Washington, D.C.*
>
> DEAR PAUL: I have read with great interest your letter of August 23. In addition, Secretary Freeman has provided me with a copy of his letter to you of August 26. I concur in the views expressed by Secretary Freeman and I shall not, therefore, arrange for hearings to be held on H.R. 8269, introduced by you on August 27, or on any similar bill.
>
> Hoping that the Secretary's explanation is satisfactory with you and with kind regards, I am
>
> Sincerely yours,
> HAROLD COOLEY,
> *Chairman.*

Since that time considerable data has been uncovered and compiled concerning the establishment of USDA's New Market News Service. This entire wire news service was quietly planned in the spring of 1962 and accomplished by USDA as a joint business venture between the USDA and the American Telephone & Telegraph Co. To the best of my knowledge and belief this New Market News Service has never been authorized by the Congress. I can find no legislative history indicating that Congress ever intended or envisioned wire news dissemination by USDA. This program, if carried to its ultimate, could put our great private news gathering agencies like Associated Press or United Press International out of business.

Even the most erudite and inquisitive reporters in Washington have missed the fact that this program poses an ultimate threat to their jobs. Reporters should not be criticized too severely because it was difficult to penetrate the smokescreen laid down by the Department in its contradicting statements concerning the new news service.

The Department and A.T. & T.'s sales bulletins state that this news service is available to anyone who subscribes. They carefully hide the fact that this New Market News Service eliminates the reporter—the fellow who has a nose for news, digs in deep, verifies the facts, and writes them up without fear or favor. He has to be big enough to question and probe kings, presidents, secretaries, and Congressmen; strong enough to brush off bribes; tough enough to withstand pressure and threats; courageous enough to write the truth as he sees it; not slanted to official viewpoint, but crisp with clarity and bristling with integrity. Government employees, by the very nature of their employment, cannot possibly be reporters in the great tradition of the free press. They are writers, not reporters. There is a big difference. It is as big as the difference between dictatorship and freedom.

During the past few days all of you have received a communication from Eric Ridder, publisher of the Journal of Commerce which I am incorporating in the RECORD at this point; together with the text of an editorial which appeared in the Journal of Commerce on April 2, 1964:

> THE JOURNAL OF COMMERCE,
> *New York, N.Y., April 22, 1964.*
>
> Hon. PAUL FINDLEY,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN FINDLEY: On August 20 and September 10, 1963, I sent you editorials entitled "The American Tass." At that time I facetiously referred to them as "whimsies." Little did I know that the plan and real intent had actually begun 15 months previously.
>
> Although I foresaw the danger involved in the establishment of a New Market News Service by the Department of Agriculture, I did not fully realize the true nature of this action nor the speed with which it was being put into effect without authorization by Congress.
>
> The Department, itself, in a letter to A.T. & T. dated April 9, 1962, which has recently come to light, stated:
>
> "We can envision within a few years public extension drops from coast to coast for most all products."
>
> Enclosed is another editorial entitled "The American Tass, Part 3: The Case of the Reluctant Dragon." I hope you will read it.
>
> This entire matter has been made unduly complicated by the misleading, confusing, and contradictory statements of the Department and therefore should be investigated by Congress.
>
> Do you know any reason why the Congress should hesitate to at least direct the discontinuance of this new news service until it has had an opportunity to fully investigate the matter in public hearings?
>
> Sincerely yours,
> ERIC RIDDER,
> *Publisher.*

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> [From the Journal of Commerce and Commercial, New York, Apr. 21, 1964]
>
> THE AMERICAN TASS—PART 3: THE CASE OF THE RELUCTANT DRAGON
>
> The Department of Agriculture has shown no signs as yet of abandoning the market wire service on perishables it opened last summer under an arrangement with the American Telephone & Telegraph Co. But neither has it done much to dispel the mysteries surrounding this curious operation. These continue, in fact, to deepen.

We described this operation at the time as an "American Tass" (the reference being to the Soviet news agency) for the reason that we saw in it precisely what the American Newspaper Publishers' Association saw in it—the first in what could develop into a series of Government wire services operating under conditions that could drive private services to the wall.

When this and other newspapers warned last year that USDA's move could well foreshadow further moves into competition with private services, Assistant Secretary George L. Mehren reacted with indignation. He found such charges "wholly false" and the products of "gross misrepresentations."

Since then documents have been discovered indicating that Department officials have envisaged a far larger and more comprehensive service than they offer today.

Well back in 1962 USDA's marketing chief was informing A.T. & T., in fact, that "we can envision within a few years public extension drops (subscribers) from coast to coast for most all products."

So the dragon is hardly dead. He may seem dormant for the moment, reluctant to venture any farther from his cave until he can get a better measure of what opposition is likely to show up. It stands to reason that the less there is, the more we shall presently see of the dragon himself.

As a result of this letter I contacted Mr. Ridder and he advised me that he had submitted a statement with documentation to Chairman JAMIE WHITTEN, of the House Appropriations Agriculture Subcommittee, for inclusion in the printed hearings. At my request, he sent me a copy of his statement which I include in full:

APRIL 10, 1964.

Hon. JAMIE WHITTEN,
*Chairman, House Appropriations Agriculture Subcommittee, the Capitol, Washington, D.C.*

DEAR MR. CHAIRMAN: It is regretted that we did not know sooner that your subcommittee intended to close its hearings on the 1965 Department of Agriculture budget on April 10, 1964.

It is unfortunate that due to the rules of the House Appropriations Committee a transcript of the Department's testimony concerning the AMS New Market News Service could not be available. We understand that your subcommittee has requested written answers to questions it proposed to the Department but that these answers will not be available until your hearings are published.

Therefore, in accordance with your suggestion "urging everyone who can possibly do so to submit a statement to be printed in the record" I am enclosing pertinent information and data to be printed in the record.

Mr. Chairman, it is my conviction that your subcommittee has not received from the Department of Agriculture all of the facts and circumstances involved in the establishment of this new news service as a joint business venture between A.T. & T. and the USDA.

For example:

1. The contract between A.T. & T. and the General Services Administration is a standard one page short form, and on its face makes no mention of the service for the New Market News Service. The true nature of the new service and the agreements that govern it are contained in an exchange of letters in 1962 between USDA and A.T. & T. plus obvious oral agreements that are embodied in the A.T. & T.'s Blue Printed Copy of AMS–510. (Copies of these letters labeled "Exhibit 1," attached for the record.)

It is obvious from our investigation that this entire arrangement and its true nature has not been made available to your subcommittee. Mr. Smith in his letter to A.T. & T. states, "We can envision within a few years, public extension drops from coast to coast for most all products."

Your attention is directed to another major item in Mr. Smith's letter which states, "We are requesting approval of the privilege for the extension system for 5 days a week, for the same periods as now in use on our regular circuits. These periods cover the usual marketing hours and, therefore, we would not have use for the service on a 24-hour-per-day basis."

Mr. Chairman, the fact is that A.T. & T. is now furnishing the service on a 7 day 24-hour-per-day basis. Please note the use of the words "on our regular circuits". To us this language means establishment of a service and at substantial cost to the taxpayer other than that in use on regular circuits prior to August 1, 1963.

Another major point which should be considered by your subcommittee is contained in the reply of August 7, 1962, by A.T. & T. to USDA. The letter states:

"We have been advised that a modification of our extension service has been approved." Who granted this approval? The General Services Administration, the FCC, or the executive board of A.T. & T.? Please note that Owen Bell, Jr., of A.T. & T., who signed the letter, was not the individual who negotiated the contract.

Mr. Chairman, inasmuch as the true nature of this joint business venture has not been fully disclosed to your subcommittee, an investigation of the entire matter is warranted.

2. With respect to the phrase in the A.T. & T. letter: "so that appropriate tariffs provisions may be made."

Mr. Chairman, we submit the following information:

A.T. & T. purported to file "communications" tariffs for the new news service on or about June 30, 1962, to become effective August 1, 1963. (This was done although as stated below the FCC has no jurisdiction over charges for news services). It was done under the guise of complying with the May 29, 1963, FCC decision in the *Private Line Rate* case (dockets 11645–46). When PAM News Service and the American Newspaper Publishers Association objected and pointed out that the FCC decision had nothing to do with authorizing this new news service, the Commission permitted A.T. & T. to file revised tariffs withdrawing the tariffs as originally submitted and concurrently, to file new tariffs for the new news service without any tie-in to the FCC decision in the Private Line Rate case. The new tariffs nevertheless quoted rates that were numerically the same as those prescribed by the FCC in its decision. In the meantime, the Seventh Circuit U.S. Court of Appeals (July 31, 1963), enjoined the application of all of the rates prescribed by the Commission pending decision on an appeal brought by three meatpacking firms. This injunction is still in effect and the appeal is still pending and will be decided later this year. Nevertheless, AMS–510, which is the USDA and A.T. & T.'s joint sales publication, continue to cite applicable charges for the service which were enjoined by the Seventh Circuit Court.

Mr. Chairman, USDA had knowledge of this court action but still it went ahead and established the New Market News Service. When a Government agency ignores a ruling of a Federal court of appeals the only recourse left is for congressional action directing the entire matter to be held in abeyance and this can be accomplished either by a denial of funds or legislative mandate.

3. The establishment of this New Market News Service has been made unduly complicated by USDA's confused and contradictory statement. We fully appreciate that the time of Members of Congress is limited due to the pressure of their many duties and responsibilities. In an effort to clarify the system as it existed prior to August 1, 1963, we offer the following information.

PAM News Service, and its predecessors, prior to August 1, 1963, had a written contract with the USDA which spelled out the terms and conditions under which the contract could be canceled. To my knowledge, PAM News Service and its predecessors have never violated the contract. Under the contract, PAM News Service obtained market news on fruits and vegetables from USDA. The information was furnished to PAM News Service from the wire room of the USDA office in Washington. PAM News Service paid the USDA for this information.

In addition, PAM News Service paid the long lines division of A.T. & T. for mileage and equipment in both the USDA and the PAM News Service office. The market information as received from USDA was not given in an orderly fashion, consequently PAM News staff members had to reorganize the material. Furthermore, the information obtained was not wholly adequate and, therefore, PAM News Service hired its own reporters in the field to obtain additional and more prompt information on market news which was furnished to PAM News subscribers. PAM News subscribers were furnished market news by Western Union long lines direct from PAM News Service offices. This type of service using basic USDA market information was and is available to anyone who subscribed.

When PAM News Service inaugurated this Fruit and Vegetable Market News Service, several regional reporting firms came into being, utilizing the PAM News information and further supplementing it for the particular region.

The USDA market news today is being provided at a substantial additional cost to the taxpayer for a specialized market news service which is unwarranted because of existing private news services. The actual cost to the taxpayer has not as yet to the best of our knowledge been furnished to Members of Congress or the appropriate committees of Congress.

In addition, USDA grants A.T. & T. a complete monopoly over this New Market News Service. By inaugurating this new type of service, the USDA and A.T. & T. have placed PAM News and other reporting services at a financial disadvantage which could destroy privately owned and operated market news services which have existed at no cost to the Government and taxpayer. In fact, the Government was paid for the information on market news it furnished. This new news service was accomplished by a highly questionable technique because USDA has not made available the following vital information:

(a) The estimated cost to USDA of this New Market News Service.

(b) The actual cost of the establishment of this new news service to USDA as charged by A.T. & T. (It has been in effect since August 1, 1963.)

(c) The actual additional cost to the taxpayer for the training of personnel, salaries, and number of personnel to be used in screening out the information (administrative messages) which is not intended to be received by private subscribers to the New Market News Service.

PAM News Services, in order to obtain the USDA basic market information had to subscribe to A.T. & T.'s service. However, PAM News Services does not have any written contract today with either USDA or A.T. & T. as called for in AMS–510. Therefore, PAM News, or any other subscriber to this New Market News Service does not know their legal obligations either to USDA or A.T. & T. Neither do we know whether or not A.T. & T. can arbitrarily or legally cancel the service. PAM News is currently paying A.T. & T. for this news service but is not being charged the 8-percent excise plus local sales taxes. However, PAM News must charge its subscribers the 8-percent excise and local sales taxes. This is gross discrimination against us and other private news services. (See attached ruling in our behalf of the Internal Revenue Service rendered to Senator HARRY F. BYRD, dated March 4, 1964 (exhibit II).)

A.T. & T. has obtained subscribers to this new news service by the unfair competitive practice of not collecting an excise tax required by Federal law to be collected, whereas PAM News has collected such tax and local sales taxes from its subscribers. The Federal Register notices and AMS–510 deliberately withheld any information to the public as to the required excise tax and local sales taxes thereby serving to mislead and misinform the public and potential subscribers to the detriment of PAM News.

The USDA official bulletin AMS–510 contains the following provision:

"The new service is available to all who want it, and no application need to be made to USDA to receive service. However, USDA reserves the right to cancel at any time the connection of any or all subscribers who abuse the service by misinterpretation of reports, or for any other reason when, in its sole judgment, such cancellation is desirable."

The Secretary has stated that the above-quoted language doesn't mean what it actually says. One of the major difficulties with the Secretary's statement is that AMS–510 remains as published and has not been revised to include whatever intention the Department had. This is in spite of the fact that AMS–510, the A.T. & T., and USDA publication has been outstanding since July 1963. Furthermore, nothing has been published in the Federal Register setting forth rules and regulations pertaining to cancellation procedures of the service.

In 1956 the Attorney General obtained a consent decree against A.T. & T. which forbids A.T. & T. from engaging in any service other than a communications service. It is forbidden from engaging in a news service such as that furnished by AP, UPI, PAM, or any other news agency even though communications facilities are utilized in providing news services. A.T. & T.'s AMS–510 proves that A.T. & T. is engaged in providing a news service. A.T. & T. is, therefore, violating the consent decree.

The fact that A.T. & T. has filed tariffs with the FCC for the new news service does not make the new news service a legitimate communications service. This is a gimmick and flagrant attempt to defeat the consent decree. The FCC has no authority to regulate the charges for news services even where communications facilities are involved.

For example, PAM News does not file any tariffs with FCC nor does AP, UPI, or the New York Stock Exchange, etc., nor are they required to do so. Thus, A.T. & T. is violating the consent decree by furnishing a news service and is attempting to cover up such violations by filing tariffs with the FCC for such news service so as to make it appear a communications rather than a news service. This coverup is similar to an unsuccessful attempt by A.T. & T. some years ago to file a communications tariff with the FCC for the lease and maintenance of mobile radio systems which were also forbidden by the decree and which the Department of Justice successfully stopped.

Mr. Chairman, you and the other members of the subcommittee, who are lawyers, know the difficulties faced by a private individual or organization complaining to the Department of Justice or a Federal court of any violation of a consent decree.

However, the circumstances in the establishment of this joint business venture by A.T. & T. and USDA is unique because a Federal agency (USDA) is directly involved. We feel that your subcommittee should request the Department of Justice to investigate this entire matter immediately in order to prevent a miscarriage of justice at taxpayers' expense which might take years of litigation to correct.

Mr. Chairman, on July 12, 1963, in a letter to you, Mr. S. R. Smith, Administrator, stated:

"We received replies from over 100 organizations or persons. About two-thirds of them favored the proposal. The remaining one-third was split about evenly between those opposing the proposal and those who did not take a position either way." (Letter July 12, 1963, attached for the record, exhibit III.)

Again in his report to Senator HOLLAND, the Secretary states:

"This notice received wide circulation—102 replies were received; 68 favored the proposal, 19 opposed, and 15 were noncommittal." (Refer to CONGRESSIONAL RECORD, vol. 109, pt. 13, p. 18007.)

Mr. Chairman, we have these replies. By actual count and giving the Department the benefit of any doubts we found there were 118 replies received; only 49 favored the proposal, 22 opposed, and 47 requested more information. Certainly these statistics without even a clear majority in favor do not support or substantiate the claims of USDA that the new market news service is in great demand by the industry.

At the time the announcement of this new market news service appeared in the Federal Register we objected because this allowed only 14 working days for one of the largest industries (agriculture) to submit its comments from all segments of the industry which would be affected by this new market news service. Our request for an extension of time was refused. (Attached documents submitted for the record, exhibit IV.)

In the light of these facts we cannot understand the Department's urgency to establish this new market news service. Perhaps there is an adequate explanation but in our opinion the Department has a duty to prove the necessity for this new news service and do so unequivocably. To date this has not been done because Mr. George L. Mehren, Assistant Secretary of Agriculture recently stated:

"I cannot honestly say that its absence prior to August 1 was a grave or crippling deficiency in the operations of the market news service."

Yet the same Mr. Mehren on November 5, 1963, issued a press release in which he stated:

"Until now, the Department has not given a general public answer to the irresponsible charges made against the market news service, even though we have been concerned that the gross misrepresentations alleging censorship, propaganda, and other wholly false charges could undermine support for a respected public service which has been available since 1915." (Press release submitted for the record, exhibit V.)

Relative to the denials by USDA that it is not operating a joint news service system with A.T. & T. we submit for the record a letter dated September 20, 1963, from Stanford Smith, general manager of the American Newspaper Publishers Association to Senator WILLIS A. ROBERTSON together with a reproduction from the USDA's New Market News Service dated September 18, 1963 (exhibit VI). We think that your subcommittee will agree that the first item is definitely a news story reporting a policy and action by the U.S. Government. The Secretary has stated:

"If cancellation of the service to an individual subscriber should arise, the established procedures for withdrawal of other voluntary fee services provided under the Agricultural Marketing Act of 1946 (i.e. inspection, grading, and classing services) would be followed. (CONGRESSIONAL RECORD, vol. 109, pt. 13, p. 18008.)

Mr. Chairman, we submit,

(a) The Agricultural Marketing Act has absolutely no application with respect to the establishment of the New Market News Service.

(b) There is absolutely nothing voluntary about the new news service as explained above.

(c) The Agricultural Marketing Act applies to inspection of beef, hogs, chickens, and food products. It definitely does not apply to a news service. The Congress should direct the Secretary to spell out in the Federal Register the terms and conditions which would apply for cancellation of a subscriber to this New Market News Service.

The Secretary relies for statutory authority for the New Market News Service upon an enactment of Congress in 1862 which established the Department. He says that the statute authorized the Agriculture Department to "acquire and diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word."

This reliance by the Secretary flies in the face of and is diametrically opposed to the fundamental public policy set forth by Congress in the 1946 law creating the U.S. Information Service which is:

"UTILIZATION OF PRIVATE AGENCIES

"In carrying out the provisions of this chapter it shall be the duty of the Secretary (of State) to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country." (Jan. 27, 1948, c. 36, title X, 1005, 62 Stat. 14 (22 U.S.C. 1437).)

It is apparent and obvious that the policy of the USDA is at odds with the intent expressed by Congress in the above-quoted statute. Thus, the USDA policy will discourage or destroy services of private news agencies in the dissemination of agricultural news rather than to encourage such private news agencies.

Such joint business activities of the USDA and A.T. & T. point ultimately toward the Government taking over the entire business of disseminating agricultural news. This would then provide the propaganda device so repugnant to our democratic way of life.

In conclusion, Mr. Chairman, we respectfully submit to your subcommittee for consideration the following recommendations to be submitted to Congress in your report:

1. That the USDA be directed to cancel its New Market News Service as set forth in AMS–510. And to follow congressional policy established by the 1946 law governing USIA.

2. That USDA and A.T. & T. be directed to discontinue its sales activity in this joint business venture until the entire matter can be thoroughly investigated and public hearings be held by the House Agriculture Committee.

3. That the Congress review and amend the statutory enactments upon which this USDA–A.T. & T. news service has been commenced so as to bring such statutes into harmony with the proscriptions of the first amendment to the U.S. Constitution and the antimonopoly laws.

4. That A.T. & T. be directed to comply with the law as set forth in the ruling of the Commissioner of Internal Revenue requiring the collection of taxes.

5. That the Department of Justice investigate the violation of its consent decree by A.T. & T. notwithstanding the fact that another Federal agency (USDA) is involved.

Thank you, Mr. Chairman, for the opportunity to submit this statement and these pertinent exhibits in the printed record of your subcommittee.

Sincerely yours,

ERIC RIDDER.

Mr. Speaker, last September Secretary Freeman, after a meeting with a subcommittee of the Senate Appropriations Agriculture Subcommittee, submitted a statement which was published in the CONGRESSIONAL RECORD, volume 109, part 13, pages 18006–18008. This report allegedly refuted published comments by the American Newspaper Publishers Association concerning the New Market News Service. The ANPA has answered Secretary Freeman as follows:

AMERICAN NEWSPAPER PUBLISHERS
ASSOCIATION,
*New York, N.Y., March 23, 1964.*

Hon. SPESSARD L. HOLLAND,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HOLLAND: Many newspapers are concerned that U.S. Department of Agriculture has entered the business of operating a news wire service as a joint venture with the American Telephone & Telegraph Co.

Because this subject has been presented for consideration by several committees of the Congress, we ask that the attached American Newspaper Publishers Association statement be placed in the CONGRESSIONAL RECORD as our answer to a USDA statement which you inserted in the RECORD on September 25, 1963.

We believe our statement provides information of interest to many Members of the Congress. In summary:

1. The new USDA news wire service defeats an announced purpose of Congress to explore the possibility of coordination with and use by the Weather Bureau of these same facilities to reduce costs to the Government.
2. Assistant Secretary of Agriculture George L. Mehren has acknowledged that he "cannot honestly say that its (the new market news wire) absence prior to August 1 was a grave or crippling deficiency."
3. The new USDA news wire service is contrary to public policy set forth by Congress in the law creating the U.S. Information Agency, requiring it to encourage maximum use of private news agencies rather than operating a domestic news agency itself.
4. The censorship provision in USDA publication AMS 510 still exists, and no specific rules and regulations have been set forth in the Federal Register or in the A.T. & T. tariffs.
5. Arrangements between USDA and A.T. & T. result in a monopoly for A.T. & T. in supplying this new market news wire service to the exclusion of any other carrier.
6. USDA has incurred added costs to operate a new market news wire service which is not needed.

We believe the Congress should require termination of this new market news wire service, as it is a venture which is contrary to public policy, it is competitive with private business; and it adds unnecessary costs to the Government.

Sincerely yours,

STANFORD SMITH,
*General Manager.*

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STATEMENT OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION ON NEW MARKET NEWS SERVICE OF U.S. DEPARTMENT OF AGRICULTURE, MARCH 23, 1964

This statement has been prepared by the American Newspaper Publishers Association in response to a letter and statement submitted by Secretary of Agriculture Freeman to Senator SPESSARD L. HOLLAND commenting in detail on ANPA opposition to entry of USDA into the news wire business. The aforementioned letter and statement were printed in the CONGRESSIONAL RECORD, volume 109, part 13, pages 18006–18007.

ANPA has not previously sought an opportunity to respond to the Secretary's statement. We had hoped that the problem would be solved through the continuing interest of Members of the Congress and many newspapers. However, this has not occurred but instead the controversy continues.

In view of the fact that committees of the Congress have recently indicated interest in reviewing the facts surrounding the entry of USDA into the news wire field, we now make this statement in reply to the Secretary for the information of all Members of the Congress.

We shall take up the Secretary's response to each of the six arguments of ANPA.

### ANPA ARGUMENT NO. 1

"Under our concept of freedom it is improper for the Government to engage in the business of news gathering and dissemination. It can too easily become a propaganda agency."

The Secretary disagrees with this. He thinks that it is entirely proper for the U.S. Government to get into the business of news gathering and dissemination and to do so by entering into exclusive business agreements with a single large communications company. Official publication AMS–510 graphically portrays the New Market News Service for what it is; namely, a joint business venture of the USDA and the American Telephone & Telegraph Co.

In this document as reproduced by A.T. & T., the seal of A.T. & T. and the seal of USDA Agricultural Marketing Service are shown in equal prominence on the last page of the document describing the new news service. This document emphasizes that all applications for the service are to be made through either the sales offices of A.T. & T. or through A. T. & T.'s so-called USDA Agricultural Marketing Service Section; that subscribers to the service pay all charges for the entire service directly to the A.T. & T.; that the USDA, however, can approve or disapprove all contracts between a subscriber and A.T. & T.; that the facilities used in the "New Market News Service" are owned by the A.T. & T.; and that USDA can order the service to any subscriber discontinued for any reason it sees fit.

By getting into this news business, the Secretary of Agriculture has created a situtation that tends to defeat an announced purpose of Congress. In 1962 the 87th Congress directed a joint Department of Agriculture-Weather Bureau survey to explore the possibility of coordination with and use of existing market news service facilities in disseminating weather information. The Secretary says that the New Market News Service is an outgrowth of that action. However, by going into the business of this news service, USDA thwarts the possibility of any such coordination and use of market news service facilities for weather purposes. This is so because the market news service facilities are now preempted for use in the new business venture and cannot be shared with or used by the Weather Bureau for weather purposes. Thus, the New Market News Service should be promptly discontinued if for no other purpose than to permit the coordination with and use by the Weather Bureau of these facilities thereby preventing wasteful duplication of facilities now leased by the Government from A.T. & T. and thereby lowering costs to the Government. What has now been done is in derogation of such weather use. (See p. 11 of 87th Cong., 1st sess., H. Rept. No. 497.)

There is no demonstrated public need for the USDA to enter into this market news business. Although a USDA press release of November 5, 1963, purports to establish the dire public need for the new market news service by the use of such extravagant phrases as "the food industry of this Nation literally could not function today without this market information," the writer of that November 5 release (George L. Mehren) subsequently stated under oath on January 3, 1964, that:

"I would say that prior to August 1, 1963, by far the best food system in the world and, by far, the best food distribution system that this country has ever developed did emerge in the absence of the drop system. Consequently, in all honesty, I would say that, while the drop system was completely consistent with our statutory directives, completely consistent with the basic policies of market news generally, I cannot honestly say that its absence prior to August 1 was a grave or crippling deficiency in the operations of the market news service."

### ANPA ARGUMENT NO. 2

"Government should not engage in any enterprise in competition with existing private ownership which is able to provide satisfactory service, as the U.S. Department of Agriculture will be doing in this case."

Although the Secretary first says that there is no such private ownership, he further says that there is a privately owned news service named PAM News Corp., which could be affected competitively by the entry of the Government into this new business depending upon what value the customer will place on PAM's service in comparison with the new Government service. Thus, the new news service seems to be directed toward an existing private news agency specifically and all private news agencies generally.

The facts are there are many privately owned news agencies located throughout the United States that were and are doing a highly competent job in informing the public of agricultural marketing news. This is admitted by the USDA when its officials now say that the new news service honestly is not essential.

What is most disturbing about the Secretary's position is that he seems to be diametrically opposed to the basic public policy expressed in the above-quoted argument of ANPA.

This fundamental public policy has been set forth by Congress in the law creating the U.S. Information Service in the following language:

"UTILIZATION OF PRIVATE AGENCIES

"In carrying out the provisions of this chapter it shall be the duty of the Secretary [of State] to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country." (Jan. 27, 1948, c. 36, title X, par. 1005, 62 Stat. 14 (22 U.S.C. 1437).)

It is increasingly apparent that the new policy of the USDA is at odds with that expressed by Congress in the above-quoted statute. Thus, the USDA policy will discourage or destroy services of private news agencies in the dissemination of agricultural news rather than encourage such private news agencies. The USDA policy will thereby discourage rather than encourage the maximum number of different private agencies in the business of disseminating agricultural news.

Such business activities of the USDA point ultimately toward the Government taking over the entire business of disseminating agricultural news. This would then provide the propaganda device so repugnant to our democratic way of life.

### ANPA ARGUMENT NO. 3

"The announcement sets up a system of censorship by giving the Department of Agriculture authority to cancel the service of anyone who allegedly abuses the service by 'misrepresentation' of reports, or for any other reason when, in its sole judgment, such cancellation is desirable."

Official bulletin AMS 510 contains the following provision:

"The new service is available to all who want it, and no application need be made to USDA to receive service. However, USDA reserves the right to cancel at any time the connection of any or all subscribers who abuse the service by misinterpretation of reports, or for any other reason when, in its sole judgment, such cancellation is desirable."

In his reply the Secretary says that the above-quoted statement from official bulletin AMS 510 doesn't really mean what it actually says. He concedes that the language is subject to misinterpretation and he then describes some procedures which he says would have to be followed in canceling the service. However, AMS 510 still has not been revised to include within it the language that the Secretary says was intended even though AMS 510 has been outstanding since July 1963.

Moreover, so far as ANPA has been able to determine, nothing has been published in the Federal Register to set forth the rules and regulations which the Secretary says would apply but which are not in AMS 510 even though many months have elapsed since the Secretary's statement.

Additionally, none of the rules that the Secretary says would apply are contained in the tariffs of A.T. & T. filed with the Federal Communications Commission. These tariffs are required by law to set forth the terms and conditions under which any service may be terminated.

### ANPA ARGUMENT NO. 4

"Future expansion of this service—as is indicated in a Department of Agriculture background memorandum—could easily lead to a complete national news wire in direct competition with Associated Press and United Press International."

In his answer to this the Secretary states that the USDA is not authorized to engage in the operation of a complete national news wire. This bare assertion that the USDA is not authorized to operate a complete national news wire is out of harmony with the assertion made elsewhere in his statement as to the alleged statutory basis upon which the new news service is being rendered.

The Secretary relies for statutory authority for the new news service upon an enactment of Congress in 1862. He says that the statute authorized the Agriculture Department to "acquire and diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word."

If the Secretary is correct in his contention that the above-quoted 1862 statute authorized the news service then it would seem to follow that the same statute authorizes a complete national news wire. It is difficult to see how any news would not be "useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word."

### ANPA ARGUMENT NO. 5

"The announced plan has monopolistic implications in that only A.T. & T. wires can be used although the present privately owned news service in this field uses wires leased from Western Union. FCC policies and actions have been aimed at preserving competition in the leased wire field between A.T. & T. and Western Union."

The Secretary's answer to this argument follows:

"The USDA obtains its leased wire services under a contract (TPS 72907) made by the General Services Administration for all civil Federal agencies. USDA has no jurisdiction over the awarding of contracts to provide these long line services."

The facts are that the New Market News Service which gives a monopoly to A.T. & T., was established after a direct exchange of letter between USDA and the American Telephone & Telegraph Co. There was first a letter from the USDA to the A.T. & T. dated April 9, 1962, proposing the service and a letter from A.T. & T. to USDA dated August 7, 1962, agreeing to the establishment of the new news service.

Following this exchange of letters between A.T. & T. and USDA, the AMS 510 bulletin was published setting forth the monopoly granted by USDA to A.T. & T.

No agreements were sought by USDA with any communications carrier except A.T. & T. and, as shown by the AMS 510, the agreement is an exclusive one in which the only communications carrier involved in providing or selling the new news service is A.T. & T. This is contrary to efforts made by other Government agencies at preserving competition between A.T. & T. and Western Union. The privately owned competing news agency, PAM News Corp., used wires of Western Union.

### ANPA ARGUMENT NO. 6

"The American taxpayers should not be expected to pay for news wire service to anyone."

The Secretary states that the New Market News Service is being paid for entirely by the private subscribers at no additional cost to the taxpayers.

In order to provide this service it was necessary for the USDA to assign personnel to screen out press releases and administrative material that are not supposed to go out to subscribers, and it was necessary for the Department to acquire coding and decoding equipment none of which would have been necessary but for the establishment of the new news service.

Moreover, the new news service is preventing the Government from realizing the cost savings that should have resulted from the utilization by the Weather Bureau of the excess capacity in the wire line facilities now utilized for the New Market News Service. As stated by the Secretary elsewhere in his statement, "there is no opportunity for use of the market news leased wire circuits to transmit any significant amount of other traffic."

There can be no question, therefore, that this unnecessary New Market News Service is costing the taxpayers money.

### CONCLUSION

This New Market News Service represents a departure without congressional sanction from the fundamental concept that the Government should not engage in the business of selling a news service but instead should rely on and encourage news dissemination through the diverse privately owned news services. In this respect it represents a threat to a free and independent press. Furthermore, it is clearly in conflict with the intent of the Congress.

We, therefore, urge the Congress to require by law, in a way that cannot be misinterpreted, the discontinuance of this New Market News Service and require USDA to encourage the maximum participation of private news agencies in the widest possible dissemination of agricultural news.

STANFORD SMITH,
*General Manager.*

Mr. Speaker, in conclusion, I beg of my colleagues to give this matter deliberate and careful study. Why cannot the Congress hold public hearings? What will we say to our constituents if this New Market News Service is not halted until it has been thoroughly investigated by the Congress?

Mr. Speaker, I now wish to insert at this point in the RECORD several news stories which appeared in print the last few days:

[From the Daily News, Apr. 24, 1964]

### FEDERAL MARKET WIRE BLASTED BEFORE ANPA

Federal invasion of the news agency field, as evidenced by the recent creation of a marketing wire service by the Agriculture Department, was held up to the American Newspaper Publishers Association yesterday as an insidious new threat to freedom of the press.

Stanford Smith, ANPA general manager, told the publishers at the closing business session of their 4-day convention at the Waldorf-Astoria, that newspapers face "pressures not anticipated in the Constitution."

The Agriculture Department's service, sold by leased wire to commercial subscribers, Smith said, represents a shocking encroachment on private enterprise.

The service, which is subject to cancellation by the Government, also carries a built-in apparatus for censorship, he warned, because it can be denied at will to any user whose attitude displeases the Government.

### GENE ROBB ELECTED

"The chief danger to a free press is from government; big Government, especially," Smith declared.

"I do not think the American people want the Federal Government in the news business in any form or fashion," Smith went on. "The ANPA will continue to do its part to keep this topic before the public until this improper venture is terminated."

At its business meeting, ANPA elected Gene Robb, publisher of the Hearst papers in Albany, as president for a 2-year term, succeeding Irwin Maier of the Milwaukee Journal and Sentinel. J. Howard Wood of the Chicago Tribune was elected vice president.

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[From the New York Times, Apr. 24, 1964]

### ANPA CHIEF SCORES U.S. STEPS TOWARD CURBS ON FREE PRESS—MANAGER SAYS PUBLISHERS ARE RESISTING ACTIONS OF AGENCIES POSING THREATS

(By Peter Kihss)

Federal steps toward interference with a free press are being resisted by the Nation's publishers, Stanford Smith, general manager of the American Newspaper Publishers Asssociation, asserted here yesterday.

Mr. Smith assailed the Department of Agriculture for setting up a market news wire service with a "made-to-order apparatus for Government propaganda"; the Federal Trade Commission for a "power grab to control cigarette advertising" as a precedent that could control any advertising, and the National Labor Relations Board as objecting to articles and advertising bearing on union representation elections.

The association ended its 78th annual meeting at the Waldorf-Astoria Hotel by electing a new president, Gene Robb, publisher of the Albany Times-Union and the Knickerbocker News. Mr. Robb said it was the duty of newspapers to fight for "freedom under law."

### CHRYSLER TO SPEND BILLION

Lynn A. Townsend, president of the Chrysler Corp., was the chief speaker at the dinner of the Bureau of Advertising of the ANPA, at the hotel last night, closing the press week meetings here. Mr. Townsend reported that his corporation would spend $1 billion for plant and equipment in 4 years through 1967.

Mr. Smith declared that "indirectly, governments in other countries have killed a free press by measures which restrict the supply of newsprint; by laws which restrict its income from advertising and circulation; by labor laws which give unions an unreasonable authority in the management of the newspapers' affairs."

The Agriculture Department started to sell its market news wire to commercial subscribers last August. Mr. Smith said that the service enabled Government officials to "select the information they want to make available" and to move it on a nationwide network.

Alleging lack of jurisdiction the Federal Communications Commission has rejected a publishers' association petition to suspend American Telephone & Telegraph Co. rate tariffs covering the Department's service. A Federal court injunction against the Agriculture Department and the A.T. & T. is being sought in Washington by the competing private PAM News Corp., which the publishers' group said had 300 subscribers as against the Department's 70.

The Federal Trade Commission, Mr. Smith contended, "claim power to decide what cigarette makers must say in their advertising," and such power, he argued, would enable it "to put the advertising of any and all industry under its thumb."

In a Chlorox Chemical Co. case, Mr. Smith said, the Trade Commission had "proceeded generally to classify brand name advertising as so much hogwash."

The National Labor Relations Board, he went on, had described "such constitutionally protected rights" as discussion of issues in a union representation election in news stories, editorials, and advertising as "destroying the laboratory conditions deemed necessary in the conduct of Board elections."

This had involved comments in the Orangeburg (S.C.) Times and Democrat about a Kelsey-Hayes Co. contest. A new election last Friday had been won by the International Association of Machinists after a vote lost by the union last year was set aside by the Board.

In another case, Mr. Smith said the Board had set aside an election lost by a union "because a local newspaper, public officials, members of the clergy, civic organizations, and others voiced their opinions either for or against the union."

### ATTACKING NEWS LOGJAM

The publishers' association, Mr. Smith went on, was "working toward breaking the logjam on news that exists at some places on the Federal level so that the people will know what their elected and appointed officials are doing."

This, he said, was being done by supporting a bill by Senator EDWARD V. LONG, Democrat, of Missouri, to require administrative agencies to publish their substantive rules and to make available their records for public use. This would except matters affecting national security or personal privacy.

Recent meetings with State Department officials, Mr. Smith said, have left the association "moderately encouraged" in efforts "to remove U.S. barriers" to travel of American newsmen to Communist China.

In the final day's session, Irwin Maier, outgoing president, who is publisher of the Milwaukee Journal and the Sentinel, stressed "the stable, enduring nature of the newspaper business." Eighty percent of 1,846 dailies in the United States and Canada are 50 years old or older, he said, including 355 more than 100 years old.

In a panel discussion on new talent, Bernard Kilgore, president of the Wall Street Journal, said that that newspaper's foundation had spent $800,000 in 6 years to provide graduate study for 1,675 high school teachers and advisers in journalism and workshops for 600 to 800 of them. It has also spent $250,000 in 4 years in the form of $500 scholarships to permit 430 college students to work as summer interns on 238 newspapers.

### CITES LOCAL NEWS VALUE

In a discussion of newspaper content, Eugene S. Pulliam, publisher of the Indianapolis Star and the News, declared that "local news is the biggest single circulation-holder there is." He urged newspapers to "follow the tax dollar and report it," with full continuing details on education and highway programs.

Lee Hills, publisher of the Detroit Free Press, proposed that newspapers, television, and radio cooperate in establishing a national center for collection of election returns. Newspapers, he said, could use savings to pay for analyses beyond the "spot advantage" broadcasters would have on news.

A record registration of 1,563 was reported for the publishers' convention, which adopted a new bylaw to permit its annual meeting to be held elsewhere than New York City if the board of directors so decided.

In addition to electing Mr. Robb as president, the association elected J. Howard Wood, of the Chicago Tribune, as vice president; it reelected St. Clair Balfour, Southern Newspapers, Toronto, as secretary, and elected Joyce A. Swan, Minneapolis Star and Tribune, as treasurer.

Elected as directors were Peyton Anderson, Macon (Ga.) Telegraph and News; Jack R. Howard, Scripps-Howard Newspapers, New York; Mr. Maier and Mr. Pulliam. Reelected as directors were Eugene C. Bishop, Peninsula Newspapers, Palo Alto, Calif.; Barnard L. Colby, New London (Conn.) Day; John T. Jones, Jr., Houston (Tex.) Chronicle; William F. Schmick, Jr., Baltimore Sun, and Walter W. White, Lincoln (Nebr.) Star.

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[From the Washington Daily News, Apr. 24, 1964]

### PUBLISHERS TOLD PRESS' CHIEF DANGER IS BIG GOVERNMENT

NEW YORK, April 24.—The chief danger to a free press is from big government, the American Newspaper Publishers Association was told.

In a report to the final session of the 78th annual ANPA meeting yesterday, Stanford Smith, general manager, said that government can interfere with a free press without the necessity of license.

### SOME STEPS ALREADY

"The Federal Government has already taken some steps in that direction, and they have been vigorously opposed by ANPA and many newspapers," Mr. Smith said.

"The Government has invaded the news wire field. A shocking thing happened last August 1. On that date the Department of Agriculture started operating a joint venture with American Telephone & Telegraph Co., selling a market news wire service to commercial subscribers over a nationwide leased-wire teletype network."

Mr. Smith said the ANPA still is trying to get American newsmen cleared to travel in Red China and now is moderately encouraged by the expressed desire of Government officials to remove U.S. barriers.

Since 1958, he said, the ANPA has been participating in Federal communications proceedings involving rates on leased news wires.

"Action by the ANPA and United Press International convinced the FCC that it should seek more information and not saddle the press with a previously announced decision which would have required the purchase of all leased wires on a basis of 24 hours per day, 7 days per week, regardless of the needs of the user and at greatly increased rates.

"This would have imposed a financial burden on many newspapers of such magnitude that it is quite likely many special leased news wires would be canceled entirely."

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[From the New York Journal-American, Apr. 23, 1964]

### PUBLISHERS TOLD PERIL TO FREE PRESS

The chief danger to a free press is from big governments, the American Newspaper Publishers Association was told today.

In a report to the final session of the 78th annual ANPA meeting, Stanford Smith, ANPA general manager, said, that government can interfere with a free press without the necessity of license.

"The U.S. Federal Government has already taken some steps in that direction, and they have been vigorously opposed by ANPA and many newspapers," Mr. Smith said in an address prior to election of officers of the 882-newspaper association.

"The chief danger to a free press is from government. Big government, especially * * * we've had to oppose government action and intervention in some areas and we have, in others, been able to work in cooperation with Government agencies * * * for all concerned in the public interest."

### LIST BATTLES

First in the field of these activities was this:

"The Government has invaded the news wire field. A shocking thing happened last August 1. On that day the Federal Government entered the news wire service business in competition with privately owned news agencies. On that date the U.S. Department of Agriculture started operating a joint venture with American Telephone & Telegraph Co., selling a market news wire service to commercial subscribers over a nationwide leased wire teletype network.

"Although this matter is now being tested in court by PAM News Corp., with which the new Department of Agriculture wire competes directly, the Government continues in the news wire business while the case drags its way through the courts.

### STRONG PROTEST

"All contracts for the service are subject to approval by the Agriculture Department, which also reserves the right to cancel in its sole discretion—an obvious apparatus for censorship.

"ANPA has objected strenuously to this new form of agricultural news wire, and we will continue to do so. We believe that this market news wire provides a made-to-order apparatus for Government propaganda, in the same fashion that the Russian Government uses Tass."

Mr. Smith said the ANPA still is trying to get American reporters cleared to travel in Red China and now is moderately encouraged by the expressed desire of Government officials to remove U.S. barriers.

Gene Robb, publisher of the Albany Times-Union, was elected president of the ANPA.

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[From the New York Herald Tribune, Apr. 24, 1964]

### PUBLISHERS DECRY U.S. FARM WIRE

(By Marshall Peck)

The American Newspaper Publishers Association yesterday presented a "strenuous objection" to the recent introduction of a market news wire service by the U.S. Department of Agriculture.

"We believe this market news wire provides a made-to-order apparatus for Government propaganda," said ANPA General Manager Stanford Smith, "in the same fashion that the Russian Government uses Tass."

### SHOCKING

Mr. Smith, speaking at the closing general session of the 78th ANPA convention, at the Waldorf-Astoria, attacked the Government news wire in an address on "The Federal Government and the Newspaper Business."

Mr. Smith said: "A shocking thing happened last August 1. On that day the Federal Government entered the news wire service business in competition with privately owned news agencies."

The tough ANPA stand on the Agriculture Department wire centers on its charge that if news releases are sent out, in addition to routine department information, "Government officials can select the information they want to make available."

Assistant Secretary of Agriculture George L. Mehren, contacted by the Herald Tribune in Washington, said the news wire was no more than an extension of the service provided by telephone and mail to the public since 1912. "Its sole purpose in life," he said, "is to disseminate Department of Agriculture information on commodities, livestock, and agricultural facts and figures."

NEW OFFICERS

The Government service is free to anyone who wishes to pay American Telephone & Telegraph hookup costs. One private market news wire, the PAM News Corp., which the Government said used both department material and independently gathered market news, filed a suit for an injunction to halt the Federal wire in November.

Gene Robb, 54, publisher of the Albany Times-Union and Knickerbocker News, was chosen ANPA president yesterday, and J. Howard Wood, of the Chicago Tribune, vice president. According to precedent, Mr. Wood will become president 2 years from now.

The delegates voted to permit the board of directors to consider holding the annual convention in a city other than New York sometime in the future, but next year's meeting is scheduled at the Waldorf-Astoria. The board will survey the membership about holding a convention in another city in the United States or Canada.

## CIGARETTE ADVERTISING CODE

The SPEAKER pro tempore. Under previous order of the House, the gentleman from North Carolina [Mr. COOLEY] is recognized for 15 minutes.

Mr. COOLEY. Mr. Speaker, I am pleased to note that the cigarette manufacturers of America are making a determined effort to live up to their public responsibilities.

On Monday, April 27, this major segment of the tobacco industry announced the voluntary adoption of a cigarette advertising code, which will govern all forms of cigarette advertising, whether on television or radio, in magazines, newspapers, or elsewhere.

This code:

First. Makes it absolutely clear that the tobacco industry believes that cigarette smoking is a custom for adults only. The code not only rules out any cigarette advertising on radio or television programs directed chiefly at young people, it also will eliminate the use of athletes or other heroes of the young in advertising.

Second. Sets up rigid standards for any advertising statements having to do with health. No statements about health may be made in cigarette advertising unless they are significant in terms of human health and are based on valid scientific data, as determined by the administrator of the code.

Following the issuance on January 11 by the Public Health Service of the report "Smoking and Health," the Federal Trade Commission opened public hearings on cigarette advertising. In these hearings the representative of the Tobacco Institute told the Commission that the cigarette companies had been working on voluntary advertising guidelines for some time. He urged that the industry be given the opportunity to complete these rules. Furthermore, he reminded the Commission that all interests would be better served if the tobacco industry were permitted to provide for its own self-regulation.

Now the cigarette companies have fulfilled this promise.

Mr. Speaker, I believe they should be applauded and supported for their conscientious efforts toward self-regulation.

It is hoped that the Federal Trade Commission, the Justice Department and other Federal agencies will take note of this code and give their support.

It is my hope also, Mr. Speaker, that the House may soon consider and vote upon the resolution—House Joint Resolution 915—approved unanimously by the House Committee on Agriculture authorizing the Secretary of Agriculture to undertake research into the quality and health factors of tobacco and other ingredients and materials used in the manufacture of tobacco products. This resolution seeks, through a crash research program, to give maximum assurances of health to the millions of our citizens who, irrespective of any repressive measures, will make their individual choices to continue to smoke cigarettes.

Mr. Speaker, the code developed by the nine major cigarette manufacturers provides built-in provisions for enforcement. An independent administrator will be appointed who will have "complete and final authority to determine whether cigarette advertising complies with the standards of this code and to enforce this code in all other respects."

Should any company violate the code in any manner, that company can be required by the administrator to pay a penalty of up to $100,000.

The code provides that this administrator will be an outstanding person of "recognized independence, integrity and intellectual achievement."

While some have suggested that the cigarette companies either could not or would not develop a meaningful code, it is very apparent upon reading the code that the companies have agreed to a strong, realistic set of regulations. Furthermore, they have provided a sensible and sound mechanism whereby compliance with the code can be enforced.

Mr. Speaker, I believe this is an outstanding demonstration of private industry living up to its responsibilities.

I believe that such cooperation by the tobacco industry, in combination with thoroughgoing research as proposed in House Joint Resolution 915, is the only effective means of providing maximum assurances of health for the millions of adults who prefer to continue smoking.

## ARMENIAN MARTYRS' DAY, 1964

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York [Mr. HALPERN] is recognized for 20 minutes.

Mr. HALPERN. Mr. Speaker, inasmuch as the House was not in session on last Friday, April 24, I am taking this opportunity to pay tribute to the helpless victims of a wholesale genocide committed by the Ottoman Turks against the Armenian people in the year 1915.

The First World War was deadly and destructive to all combatant states, and also to all peoples who did not want to be involved but were drawn into it against their desires and national interests. All suffered the dire consequences of that war. In the end some nations suffered much and lost a great deal, both in the number of human beings and in material possessions, but fortunately they were able to make good a part of their material losses. Many nationality groups, especially in Europe, were also able to regain their liberties and reestablish their own national states as sovereign and independent nations. To these people freedom came as a reward for their sufferings and for their steadfast loyalty to the forces of democracy. The Armenian people, as subjects of the warring Turks, had begun to pray for the victory of democratic forces against tyranny at the very start of the war. Therein alone they saw their safety, their salvation, and their eventual freedom from the oppressive yoke of their Turkish overlords. But fate had something different, something terrible and altogether horrifying, in store for them. And that is what began to unfold before them early in 1915.

On April 24 of that year the Turkish Government began to carry out its seemingly long-planned and carefully concealed design of eliminating the Armenian element in the Ottoman Empire. In one bold inhuman stroke the government seemed to be prepared to do this by all means at its disposal, and get rid of some 2 million Armenians by means of massacres, famine, and starvation, forced exposure to physical hardships and even by the sale of Armenian women and children in slave markets in distant parts of the Ottoman Empire. The machinery of carrying out this diabolical scheme was put to work on April 24 by the wholesale arrest and imprisonment of all prominent and well-known leaders in Armenian communities. In this first batch of catch were some 1,000 Armenians, including clergymen of all ranks, intellectuals, businessmen, and merchants, artisans of many trades, and men in other professions. In a matter of a few days, even before these unfortunates were aware of what was happening, they all were bundled off, in separate groups and under heavy guards, for deportation to destinations unknown to them. Soon they were murdered at places designated by the government in Constantinople.

By this time, early in May, other Armenians of lesser prominence were dealt with in a similar manner. And before long Armenian communities were deprived of their leaders in all walks of life. This process of weeding out the able-bodied males from these communities continued for a while until there remained none except those lucky few whom the government regarded as indispensable experts and specialists, such as engineers, physicians, and so forth. Then began the wholesale deportation of

Armenians from their homes to the south, to the deserts of Syria, Iraq, and beyond. At the same time, beginning in June, massacres also were ordered, and in many areas these were carried out against all Armenians, irrespective of age and sex. This was something unheard of on such a scale even in the Turkey of ruthless sultans and heartless wild Kurds. Not a single Armenian community—except that of Constantinople—was spared from this wholesale destruction and certain death. The exception made in the case of the Armenians in Constantinople was due to the humanitarian and superhuman efforts of the Ambassador of this country, the late Henry Morgenthau. The holocaust continued unabated for months, and before the end of that fateful year the once prosperous and growing Armenian communities were no more. Their builders and rightful owners were either dead, or about to die from hunger and suffering, and their families sold to the Arabs in the desert and to the Kurds in the mountains. In sum, probably 1 million Armenians met their death in the hands of their implacable foes, the Turks and the Kurds, while some 500,000 were taken into Turkish, Kurdish, and Arab homes as slaves and servants. Fortunately the remainder made good their escape to the neighboring countries, especially to Persia and to Russia in the Caucasus.

Yes, the First World War had its bitter lessons for many peoples, but the Armenian people in Turkey had to learn the very worst of these lessons in the year 1915, beginning on that fateful April 24. From that day to this day April 24 is a day of mourning, a memorial day for the Armenians in all parts of the world, the blackest day in their long, eventful, and tragic history. On the observance of the 49th anniversary of that sad event they all pay solemn tribute to the memory of those who were the innocent and helpless victims of that wholesale genocide.

## COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report on S. 627.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## PRAYER IN THE PUBLIC SCHOOLS

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. MATTHEWS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, I should like to present my views on the important matter of prayer in the public schools, and I submit here for the RECORD the testimony which I gave last week before the House Committee on the Judiciary:

### STATEMENT BY CONGRESSMAN D. R. "BILLY" MATTHEWS, EIGHTH DISTRICT, FLORIDA, BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY, IN BEHALF OF HOUSE JOINT RESOLUTION 707, APRIL 23, 1964

Mr. Chairman and members of the committee, I welcome this opportunity to join with you today in seeking a solution to the problem created by the unfortunate decisions of the Supreme Court in *Engel* v. *Vitale*, 370 U.S. 421 (1962) and *Abington School Dist.* v. *Schempp*, 374 U.S. 203 (1963). As we all know, the Court, in these two cases, held unconstitutional a simple and denominationally neutral prayer as well as Bible reading and/or recitation of the Lord's Prayer when used as part of opening exercises in the public schools of New York, Pennsylvania, and Baltimore, Md., respectively. In the belief that these decisions have "misapplied a great constitutional principle" and run counter to our religious heritage, I have introduced a joint resolution (H.J. Res. 707) proposing an amendment to the Constitution of the United States permitting (1) on a voluntary basis the offering of prayers and the reading of the Bible in our public schools, and (2) preserving the right of reference to God in governmental exercises, by denying an absolute divorcement of religion from every aspect of American public life.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Mr. Chairman, these, the opening words of the first amendment of the Constitution of the United States sought to avoid, not to borrow trouble. For the greater portion of our constitutional existence, they have served most effectively to create an atmosphere of mutual respect and noninvolvement that has permitted both church and state to flourish and thrive. In stark contrast to this singularly wholesome experience, the Supreme Court, in recent years, has sought to give that amendment a construction never intended by the framers of the Constitution. The decisions in the prayer cases are based on the erroneous assumption that the first amendment was designed to effect an absolute divorcement of religion from every aspect of American public life. As Dean Griswold, of the Harvard Law School, has so brilliantly pointed out, "Absolutes are likely to be phantoms eluding our grasp. Even if we have embraced them, they are likely to be misleading. If we start from absolute premises, we may find that we only oversimplify our problems and thus reach unsound results. It may well be that absolutes are the greatest hindrance to sound and useful thought—in law, as in other fields of human knowledge * * * absolutism * * * is more likely to lead us into darkness than light."

The trend toward absolutism, so apparent in the recent decisions of the Court, springs from an almost hypnotic fascination with the term "wall of separation between church and state". That term, repeated ad nauseam by a highly articulate but infinitesimal minority is not a term found in either the Federal or State constitutions. Rather, the term is a symbol used to describe the relationship between law and religion, between government and church, between the civil community and the religious. In light of our constitutional experience, separation of church and state rests on the premise that "the structure of our Government has for the preservation of civil liberty, rescued the temporal institutions from religious interference. On the other hand, it has secured religious liberty from the invasion of the civil authority." *Watson* v. *Jones*, 13 Wall. 679, 750 (1871). In brief, it is not the state's business to operate a church or to prescribe an official belief for its citizens, and it is not the function of the churches to run the government. Each within its respective sphere is given free rein to pursue its own lofty aims. This has been the American way and its service to the cause of freedom is beyond question. Because it is not the state's business to interfere with or intervene in religious matters, whether by restricting the exercise of religious freedom or by using its coercive power to compel belief, separation while assuring the freedom or religion for the individual and churches also assures freedom for the nonconformist and nonbeliever. Similarly, by assuring the freedom of the state from ecclesiastical domination, the separation principle protects against the imposition by church, through the state, of its beliefs and views upon the civil community.

Keeping in mind the timeless character of this problem and the disastrous results that inevitably followed in the wake of attempts at or actual domination of one over the other, we can be eternally grateful for our tradition of separation. This is particularly true in a land such as ours marked by a whole host of diverse religious bodies. And our experience pays eloquent tribute that religious life of the community prospers when "government * * * shows no partiality to any one group and * * * lets each flourish according to the zeal of its adherents and the appeal of its dogma." *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952).

However, it is equally clear, that the American experience of separation of church and state and neutrality has not meant that "government show a callous indifference to religious groups" or "be hostile to religion." *Zorach* v. *Clauson*, 343 U.S. 306, 314 (1952). On the contrary, our experience admirably demonstrates that consistent with the concept of separation the state "follows the best of our tradition" when "* * * (it) encourages religious" sentiments or "cooperates with religious authorities." These last words are those of the Supreme Court in *Zorach* v. *Clauson*, 343 U.S. 306, 313, 314 (1952).

It becomes apparent that any attempt to describe the relationship in terms of "the wall of separation of church and state" would constitute not only a gross oversimplification but is very misleading. The neat division suggested by this metaphor is impossible to apply and is belied by the facts. The facts, Mr. Chairman, all boil down to an awareness by government of the place of religion in American life. This awareness is "reflected in countless practices of the institutions and officials of our Government" (Stewart, J., dissenting, *Engel* v. *Vitale*, 370 U.S. 421, 446 (1962)), such as the opening of sessions of the Senate and House of Representatives with prayer by the chaplains; the administration of oaths to witnesses which include the use of the Bible or the phrase "so help me God"; the opening of sessions of court with the traditional cry; chapel service in military academies; religious services in Federal prisons and hospitals; the issuance of religious proclamations by the President; payment of GI bill educational benefits to church-operated schools; governmental aid to church-operated hospitals; tax exemptions for religious organizations; the use of chaplains in the Armed Forces; the requirement that the President, Members of Congress, and the Justices of the Supreme Court subscribe to an oath in which the aid of the Deity is invoked; the inscription "In God we trust" appearing on our currency; the singing of our national anthem which proclaims our trust in God; and the recitation of the Pledge of Allegiance which contains the words, "one nation under God."

All of these practices are in jeopardy because of the Supreme Court's decisions in the recent prayer cases. Justice Douglas has said he does not believe it is constitutional for government to finance a religious exercise. Congress must legislate in this uncertain area to guide future decision of the Supreme Court. Section 2 of my resolution, identical with other resolutions you are considering, accept this challenge. It states, "Nothing in this Constitution shall be deemed to prohibit making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceedings, activity, ceremony, school, institution, or place, or upon any coinage, currency or obligation of the United States."

In light of the rich and beneficent tradition, it is little wonder that the opinions in the prayer cases were viewed with alarm by the American people. They concluded, and I believe rightly so, that these decisions portended the eventual removal of every vestige of the American spiritual heritage. This was all the more disconcerting because for more than a century and one-half, the Justices themselves had conditioned them to believe that religion had a place in our public life.

Thus, as early as 1844, in the case of *ViDal et al.* v. *Girard's Executors*, 43 U.S. 127, 198, we have the Supreme Court acknowledging Christianity as part of our common law.

Mr. Chairman, in more recent times the Court has held that there was no antagonism between the first amendment and the transportation of students to parochial schools at public expense (*Everson* v. *Board of Education*, 330 U.S. 1 (1947)), or the release of children during normal school hours for religious instruction (*Zorach* v. *Clauson, supra*). These decisions reject the view that state and religion need be, and I quote the Court "aliens to each other—hostile, suspicious, and even unfriendly." (*Zorach* v. *Clauson, supra*, at 312.)

In the Zorach case, which upheld the constitutional validity of the New York released-time program, the majority of the Justices on the Court said: "We are a religious people whose institutions presuppose a Supreme Being" (p. 312).

Later on in the opinion, the Court makes a very interesting statement—a statement which I believe is closer to the views of the framers of the first amendment than those uttered by the Court in recent months. It states:

"The first amendment * * * does not say that in every and all aspects there shall be a separation of church and state. Rather, it studiously defines the manner, the specific ways in which there shall be no concert or union or dependency one on the other. Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly * * *. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; "so help me God" in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies, would be flouting the first amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session * * *" (pp. 312–313).

The Court concluded its opinion by saying: "We find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence" (p. 311).

In light of these decisions, it is easy to understand the confusion among the general public occasioned by the rulings in the various prayer cases. The American people had concluded, justifiably so, that there was no conflict between the first amendment and the public acknowledgment of the existence of a Supreme Being, that is to say, public prayer. As we have noted, these decisions went to great lengths to reinforce two views: First, that "we are a religious people"; second, that there is "no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence" (*Zorach* v. *Clauson, supra*).

These conclusions found a basis not only in the cases, but in the commentaries of renowned scholars, of constitutional law, both past and present. It is easy enough to dismiss and decry the emotional outburst that followed the prayer rulings as a misunderstanding on the part of the public. The observations and conclusions of men steeped in constitutional law and constitutional history cannot be treated so lightly.

One of the greatest of these authorities, Joseph Story, himself a member of the U.S. Supreme Court, thought that while the establishment clause inhibited Congress from giving preference to any Christian sect or denomination, it was not intended to withdraw the Christian religion as such from the protection of Congress. Thus, in his "Commentaries on the Constitution," he wrote: "Probably at the time of the adoption of the Constitution, and of the amendment to it, * * * the general, if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation if not universal indignation."

Elsewhere in his monumental treatise, he states: "The first amendment was designed to 'disestablish the state church,' to prohibit any State from forcing citizens to pay taxes to support any particular church or sect as was done in so many States at that time; and to prohibit the National Government from favoring any one sect at one time. It was not done," and I quote the learned author, "to prostrate Christianity but only to exclude all rivalry between the Christian sects."

This view was shared by the men who wrote the Bill of Rights and when they also wrote in the ordinance of 1787, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be forever encouraged."

Somewhat later, Thomas M. Cooley wrote in the "Principles of Constitutional Law": "By establishment is meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others. It was never intended by the Constitution that the Government should be prohibited from recognizing religion * * * where it might be done without drawing any invidious distinctions between different religious beliefs, organizations, or sects."

Mr. Chairman, I have reviewed some of the situations in which Government has recognized the significance of religion in our national life. I have also endeavored to show that the Court was no less aware of our spiritual heritage than the other branches of Government. Certainly nothing in this heritage points to a wall of separation so absolute that it casts Government in the role of an antagonist.

I hope, and yes, I earnestly pray that the committee will give prompt consideration to these proposals, proposals which I believe are designed not only to restore the beneficent practice of public prayer, but to nudge the Court back onto the construction of establishment and free exercise and away from the false standards of wall of separation with all the erroneous results that flow therefrom. As the Court said in the Zorach case, the problem of separation of church and state, like many constitutional problems, is one of degree.

Many times in my Eighth Congressional District of Florida I have stated that there are two outstanding differences between our way of life and that of communism. First, as Jefferson said we are endowed by our Creator with certain unalienable rights; and secondly we believe in the right of private property. If we create an absolute wall of separation between church and state, we mock the noble declaration that our rights come from the Creator.

I am disappointed that so many of our preachers, priests, and rabbis oppose this amendment. Perhaps they need better to evaluate the differences between religion and sects. This amendment proposes to give no faith an advantage; it suggests no departure from procedures that for over 150 years have given us smooth sailing in the sea of church and state relationships. This amendment merely strives to keep what we've had during the existence of our Republic. Simply stated it envisions a Government at least neutral to religion and not hostile to religion. Surely we cannot strive for less in a Government whose very existence depends upon the great majority of its citizens following the tenets of religion as opposed to dialectical materialism.

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## HIGH SCHOOL CLASSMATES HONOR CARL ALBERT

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Oklahoma [Mr. Steed] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. STEED. Mr. Speaker, Congressman Carl Albert has received many due honors from his fellow Oklahomans. But a week ago he was given a tribute that must have meant something special. Eighty-seven other members of his McAlester High School class of 1927 joined in honoring him at their class reunion.

No one could have commented more aptly than did President Johnson and Mr. Albert's first-grade teacher, Mrs. Lottie Ross.

In a wire the President said:

> The year of 1927 proved a good year for Oklahoma and the Nation. That was the year McAlester High School released Carl Albert.

Mrs. Ross, who spoke at the reunion, was Mr. Albert's first-grade teacher at Bug Tussle. Before he finished the fourth grade she was telling people: "Carl's going to grow up to be a great man." Last week she added: "And I have lived to see that day."

The McAlester News-Capital described the reunion in the following article April 20:

### Albert Honored at 1927 Reunion

If the U.S. President never knew of McAlester, Okla., he does now.

For Lyndon Baines Johnson dispatched a telegram here Saturday in tribute to Majority Leader Carl Albert, and his high school classmates of 1927.

"The year of 1927 proved a good year for Oklahoma and the Nation," Johnson said in the telegram.

"That was the year McAlester High School released Carl Albert."

The cap-and-gown crew of 36 years ago stood and introduced themselves at the McAlester Country Club class reunion Saturday night, and listing their home residence.

When Albert took the floor, he first gave his home as McAlester; then corrected himself to say Bug Tussle.

All but 5 of the surviving 88 1927 graduates of McAlester High rallied around Albert for the reunion.

Although the little giant climbed to national prestige through his speaking ability, he had little to say at the homecoming.

His eyes swept the crowd, and with a pinkish facial tint, he observed:

"The men are all older, and seems as if the girls are getting prettier."

Albert expressed his appreciation and added: "I'm so happy we are together, I'm speechless."

Under the guidance of Albert's speech teacher in high school and at Oklahoma University, Mrs. Perril Brown, classmates turned back the clock to days gone by.

Charles Casteel, of Hartshorne, acted the role of Albert depicting a modest farm boy's reaction to major turning points in his illustrious career.

They included speech debating championships, selection for a Rhodes scholarship, and his first trip to Washington.

Mrs. Brown, and Albert's first grade teacher at Bug Tussle, Mrs. Lottie Ross, played prominent parts on the program.

For Mrs. Ross, she said, Albert's accomplishments fulfilled her early expectations.

"Carl's going to grow up to be a great man," she told of predicting before Albert finished the fourth grade. "And I have lived to see that day."

Mrs. Brown held similar memories. She had heard of the studious boy from Bug Tussle before he enrolled in her freshman speech class.

She guided him to many debate championships, then became his speech instructor at Oklahoma University.

Mrs. Brown retired 5 years ago as a speech professor at Oklahoma University.

She attributed Albert's success to "a combination of many things."

"Keen intelligence and hard work," she said. "His parents, teachers and God," probably played the most prominent role.

Former U.S. Senator Josh Lee, also one of Albert's early-day speech instructors at the university, was on hand to help roll out the red carpet for the visiting Congressman.

Several of Albert's classmates briefly recalled schoolday incidents.

Among them were: Dr. L. N. Dakil, Attorney Charles Tucker, master of ceremonies; Margaret Doolittle, and many others.

Classmen came from afar, New York City, California and Cut Bank, Mont.

Marvin Owen, of Cut Bank, traveled 2,000 miles for the gathering, good for a prize for the farthest distance. The door prize went to Mrs. Cecil Ferguson.

Most of those who did not attend sent messages. Among them was U.S. Senator Mike Monroney.

## WRIGHT PATMAN: MAN OF COURAGE

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Oklahoma [Mr. Steed] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. STEED. Mr. Speaker, our colleague, Congressman Wright Patman, of Texas, has amassed a record for diligent work and conscientious service equaled by few during his 35 years in this House. He is the champion of the small business, of individual enterprise, of the farmer and of many another cause.

Sometimes he has been called a "Populist." This is a real compliment, for the Populist tradition means men who are not afraid to voice unorthodox views in championing what they believe to be the interests of the people. We will always need men like this. Whether one agrees or disagrees with the gentleman from Texas [Mr. Patman] on a given issue, it can never be questioned that he is contributing to an intelligent dialog on subjects of real importance.

William V. Shannon, of the New York Post, gave an interesting analysis of the views of the gentleman from Texas [Mr. Patman] in the following article, April 21:

### House Gadfly

(By William V. Shannon)

The House of Representatives is a fascinating place because, despite the distortions of malapportionment, one-party districts and the seniority system, it provides a mirror image of the extraordinary range and complexity of American society. Much more than their solemn, ambitious, self-conscious brethren in the Senate, the Members of the House demonstrate by their passions, eccentricities and one-man crusades what a diverse and interesting people we are.

One of the many colorful figures in the House is Representative Wright Patman, of Texas. Now 70, he has been in the House since 1929, but through a quirk in the seniority system he only last year became chairman of a major committee, Banking and Currency.

Patman is the scourge of bankers and of Wall Street, and the self-appointed champion of the veteran, the small businessman, and smalltown America. He comes from Texarkana and represents Texas' First District, which lies in rather poor farming country along the Texas-Arkansas border.

The first is rural, Bible Belt territory where long ago in Patman's youth the Populists and later William Jennings Bryan were strong. Patman can well remember the campaign of 1908 when he was 15 and Bryan ran for the White House for the third and last time. To hear Patman speak, and he is a ringing orator of the old school is to conjure up in one's imagination the campaigns of Bryan, when honest men cried out against the tyranny of the eastern-owned railroads and banks over the impoverished farmers and struggling, small businessmen of the South and West.

Patman has nothing to do with the oil-rich, industrialized Texas of Houston and Dallas. From time to time, the new tycoons have entered candidates against him in the Democratic primary but never with much success. "A fellow can make money from the big boys if he wants to run against me," Patman remarks.

He is unabashedly in favor of Government spending, Federal subsidies and cheap money. He is proud that he pushed through the House in 1936 over President Roosevelt's veto the bill to pay a cash bonus to veterans of World War I. He is currently backing a proposal to pay a $100-a-month pension to all veterans who served 90 days or longer in World War I, regardless of need or service-connected disability.

He is also conducting a massive inquiry into the operations of the Federal Reserve Board, which he has long contended is under the domination of big bankers and not responsive to Congress and the President.

Many liberals are unwilling to enlist in Patman's crusades against the Federal Reserve and for more generous veterans' pensions. But it is a mistake to dismiss him lightly as just an anachronism or a patron of lost causes.

His willingness to attack fashionable bogeys such as inflation and wild Government spending has an educational and therapeutic effect. Patman is fearless in tackling spokesmen for big business and meeting their arguments head on. His success in the past year in battling with Edwin Neilan, the outgoing president of the U.S. Chamber of Commerce, demonstrates that rough-and-tumble political debate still has its uses.

Neilan was making great headway last year in his criticisms of big government. He made headlines when he described Congressmen as "bagmen" who traded principles and votes to get Federal benefits for their hometowns. He wrote a widely reprinted magazine article entitled "Let's Say 'No' to the Veterans." He assailed public housing, aid to education and the "farm mess." The Government, he said, was "seducing" farmers with subsidies.

In a series of speeches in the House over the past 3 months, Patman counterattacked Neilan. He revealed that in November 1949, Neilan applied for and received a bonus of $225 for World War veterans provided by the State of Delaware.

"He was neither unemployed nor needy nor disabled in any way when he accepted a soldier's bonus from his State," Patman said. He noted also that Neilan's war service had been spent at the Philadelphia Navy Yard, "within commuting distance of his home."

Patman disclosed that Neilan who is a banker, also owns a farm at Bear, Del., for which he accepted Federal agricultural subsidies in 1959, 1961, 1962 and 1963. Neilan rather lamely countered that he had not accepted any subsidies since September 1963, when he began his attacks on Federal aid programs.

Patman observed caustically that Neilan had not sent any of his subsidy checks back to the U.S. Treasury. He also read with relish an editorial from the Delaware State News of Dover, Del. (March 19), which asked the question:

"If a man of means and morals like Neilan, who heads a bank and the U.S. Chamber, can be seduced, what chance is there for the rest of us poor, unprincipled working stiffs?"

Because of Neilan's initially favorable publicity splash, there had been rumors that the U.S. Chamber of Commerce might depart from normal practice and reelect him to a second term. Patman's speeches killed that idea. Last week Neilan quietly stepped down from the presidency and returned to his Delaware bank.

## CHARTER FLIGHT PROBLEMS

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Maryland [Mr. Friedel] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FRIEDEL. Mr. Speaker, last week I learned of a situation concerning the Civil Aeronautics Board which invites not only confusion to the scheduled airlines of the United States but possible inconvenience and added expense to the traveling public.

The CAB, if allowed, would require groups of American tourists planning trips abroad to deal with small, nonscheduled airlines rather than with larger, better-equipped commercial carriers.

The Washington Daily News recently pointed out how this proposed CAB plan would work. I quote from the News:

> As one example, a club wishing to charter a flight from Washington to New York for the World's Fair now can choose the best offer from all air carriers serving the area. Under the proposed changes, it would have to offer the business first to one of the nonskeds, and could use a well-known line only if the nonsked turned the charter flight down.
>
> Friends of the small lines tried to achieve similar changes through law a few years ago. Congress said "No." Now they apparently have prevailed on the CAB to do by executive fiat what they could not get by the legislative process.

Mr. Speaker, Parade magazine of Sunday, April 26, appearing in the Baltimore News-American, carried a most important article entitled "The Charter Flight Racket—Will It Spoil Your Vacation?"

Mr. Speaker, this illuminating article tells of the many unfortunate Americans who were deserted by shoestring airline operators, bilked out of money by nonexistent carriers and, in many instances, left stranded in areas many thousands of miles from home without friends and without funds.

I hope that before such situations are allowed to exist at Friendship International Airport and other airports in the United States, a long, hard look will be taken at the latest CAB charter proposition.

Mr. Speaker, I ask unanimous consent that the Parade article be made a part of the RECORD.

## THE CHARTER FLIGHT RACKET: WILL IT SPOIL YOUR VACATION?

(By Robert E. Mackin)

This summer a recordbreaking number of Americans will leave for vacations in Europe. And many of them, hoping to slice their transatlantic fare of about $400 in half by getting on a charter flight, will trade their dreams of a carefree vacation for a nightmare of delay, confusion, and vanished funds.

Group charter flights and arrangements have been plagued the past few years by redtape, bungling, and dishonest dealings, which have left passengers high and dry, stranded at domestic and foreign airports, with little or no recourse.

Although the great majority of travel agents and charter flight promoters are completely honest, there have been many situations—and there promises to be at least as many this year—in which charter flight passengers find themselves left without return passage, or, in fact, never get off the ground in the first place.

For example, last year more than 90 passengers had been booked in Palo Alto, Calif., for a charter flight to London and Athens. They had paid fares ranging from $399 to $521 for transportation from the west coast to Europe. But in New York everything ground to a halt. The passengers had to sweat out 4 days in recordbreaking New York heat while State and Federal officials tried to unwind the redtape that was binding them to the ground.

Two passengers, a husband and wife, both students at a California State college, and their infant son, were forced to take refuge in an airport utility building at New York International Airport.

And another student slept for 4 nights in a cheap movie house in Times Square.

### FIFTEEN DOLLARS FOR SOMETHING OR OTHER

Slowly, the full story emerged. The group had been formed hastily, then contacted a local travel agency to arrange passage. Some of the vacationers paid $399 for their round trips to London, while Athens-bound travelers shelled out $521.

After arriving in New York, they suddenly found they had no plane for Europe. (Says one, "The first hint we had that anything was wrong was when we were transferred from one airport—La Guardia—to International and were charged $15 additional for something or other." The two airports are not far from each other.)

At International Airport, the group received word that they would not be allowed to depart because California travel agents who arranged the flight had failed to comply with regulations of the Civil Aeronautics Board.

This was when the passengers first learned of the CAB's "affinity" clause, which specifies that an organization may book passage at reduced rates only if its members have been affiliated for at least 6 months for a purpose other than travel. The affinity clause is the backbone of the whole charter business.

Many of the California group admitted that they had only come together in the organization in order to take advantage of the inexpensive charter rates to Europe, a clear violation of the rules.

Only after days of worry and anxiety for the passengers and tedious negotiations by New York State officials, was transportation to Europe made available for about 75 of the Californians. But by then, 14 of the group had given up in disgust and gone back home.

The impact of the scandal was felt immediately in California when Attorney General Stanley Mosk called for a full investigation and discovered that 1,200 other residents of the State had booked passage from the same agency. They all faced the possibility of being stranded in Europe.

"They have paid for their return passage," he declared, "but they have little assurance they'll be brought back home." Many of them, finally, had to pay higher fares for regularly scheduled flights in order to return to their jobs or to school on schedule. Others were forced to arrange new special charters from Europe in order to get home.

Although it is the affinity clause, and the difficulty of policing it, that makes most of the difficulties in charter travel, much of the blame can be leveled at shenanigans of some tour promoters and organizers.

The Palo Alto group situation has its counterpart in other debacles, and theirs was not the only occasion when travelers have been stranded.

### THEY NEVER TOOK OFF

A recent scandal occurred when passengers who signed up through a New York travel promoter for vacations in Israel and Europe found no return passage had been arranged. The operator of the agency refused to give back their money and declared bankruptcy. Yet he continued to promote another flight, and again failed to engage an airline.

In other instances, flights have been canceled at one or the other end of the journey; some never even take off. In some cases fares are refunded and only the vacation time is wasted. In others participants never get to see their money again.

Outright theft of money can occur. In one case, members of several fraternal organizations in New York City paid more than $20,000 for charter passage to Europe on an airline. The promoter took the money, later admitted the airline existed only in his imagination. He did not have a single plane.

A favorite dodge of charter chiselers is to have potential travelers sign affidavits attesting to membership of more than 6 months' duration in an organization. Thus two schoolteachers recently paid $340 each to a promoter for round-trip jet flight tickets to London. But the agent refused to give them their tickets or tell them the name of the airline. Pressed for details, he said they would meet the rest of the group in Manhattan, then be taken by bus to the airport. He also refused to tell them exactly when and where to meet. "If I tell you the details now, there's a chance the trip might be canceled," he said.

Only a few days before the anticipated flight, one of the girls said she wanted to go directly to the airport and that she would not need his private bus. He refused to tell her where she was to go once she reached the airport.

Only 24 hours before the scheduled departure, the trip was canceled. The teachers disclosed they had signed improper statements attesting that they belonged to an organization for more than 6 months; but, they said, "The name of the organization was left blank to be filled in by the agent."

Some groups have found flights delayed for reasons ranging from larceny to broken windows.

A contingent of students was grounded in New York last summer after their airplane developed engine trouble. Examination of the aircraft also revealed a broken window. The flight was held up pending arrival of another plane from Montreal; and when the second plane arrived, it was found to have a broken window also.

The flight, which finally got off the ground 2 days late, left to the loud cheers of the students.

In another case, two young men were offered round-trip passage from New York to Paris for $285 by a firm specializing in what it advertised as "cheap, cheap transportation to Europe." A flight was scheduled to depart in less than 2 weeks. All the would-be passengers had to do to complete reservations was to sign up for a 4 to 6 months' membership in the YMCA some time before departure.

The Paris-bound boys were never told that at the very moment they were making their inquiries, the company with which they were dealing was facing charges in State Supreme Court by New York Attorney General Louis Lefkowitz, who alleged the firm was carrying on its business in a fraudulent and illegal manner.

There is little doubt that the growing demand for economy air fares has attracted fly-by-night operators and incompetents into the $80 million charter flight promotion industry.

But the real problem is not just that the dishonest operators have flocked to a lucrative business. Even more to blame is the rusty system under which all travel agents and tour organizers must operate in planning charter flights, according to experts.

### VIOLATIONS ARE THE RULE

The affinity rule is not only discriminatory against nongroup passengers, charges Milton Marks of Dayton, Ohio, who is president of the American Society of Travel Agents, "but it represents a serious enforcement problem."

"We have received so many documented or otherwise credible reports of irregularities that we believe it probable that violations are the rule, not the exception," Marks says. He adds that his organization reported 178 illegal charter flights to the CAB in one 18-month period.

The rules are disregarded because the economic inducement of reduced charter fares is so great and because the "traveler sees no particular reason—certainly no ethical reason—why he or she should adhere to the regulations," Marks contends.

ASTA has proposed that the affinity rule be discarded and that reasonable discount rates be allowed any group regardless of the length of time it has been in existence.

California Attorney General Mosk also believes "the public would be best served," if the affinity rule were discarded. He says that "CAB regulations invite the public to participate in collusion with tour promoters."

There is plenty of incentive for this collusion, he points out; for example, the single passenger fare from San Francisco to London is $778—yet charters fly the same route for as little as $398.

Mosk emphasizes that the major problem is not the legitimate travel agent. But there is no legal safeguard, he says, against travel agents or any individual who promotes charter or group travel and accumulates large sums of money without supervision. He points out that the Palo Alto promoter who stranded the 90-odd passengers in New York last July did a $400,000 business in a single year. He was not bonded or subject to any more regulation than the corner bakery.

### WHO'S TO BLAME?

Mosk suggests a bonding and licensing system that will insure top professional standards for travel agents and provide air passengers with assurances that agents they deal with are financially sound.

New York State Attorney General Lefkowitz also has asked for legislation requiring licensing and bonding of all travel agents.

ASTA maintains on the other hand that the snarls are really due to ambiguous CAB policies which lead to endless confusion and promote petty larceny by the many economy-minded passengers. And a fringe element of promoters is operating outside the ethics of the society and the regulatory framework with impunity, ASTA charges.

But legislative committees and administrative bodies move slowly, and there are not likely to be many more safeguards this year than last. What can you do to protect yourself from vacation disappointments this year? Experts suggests the following steps:

Remember that you are assured an on-time departure and an uninterrupted vacation if you deal with one of the thousands of reputable, financially secure travel agents or group tour promoters. If you are not sure about someone you're dealing with, check the Better Business Bureau or the American Society of Travel Agents.

Abide by the affinity rule, as long as it is still part of the Government's regulations. Don't try to get off the ground with hastily organized groups set up only to get around CAB regulations. Turn down the offer of any group that offers you a ticket to Europe unless you have been a bona-fide member of the organization for at least 6 months.

If you are aiming for a vacation of this sort, and you are a member of any long-established fraternal organization such as the Elks, the Lions, Rotary, or Kiwanis, check with them first. They may be arranging a group flight that can accommodate you.

Check the airline itself. The CAB can tell you if an air carrier has been cleared to fly charter groups.

Be sure your contract states that you can get a refund if the flight is canceled for any reason. Beware of clauses that permit the promoter to keep any of your money in case of cancellation.

It may take a little more time to be as careful as you should. But don't trade in your vacation for an ordeal just because you didn't look around enough. Get all the facts—then pay your money, and relax.

## EULOGY TO A "TOWERING" AMERICAN: GENERAL OF THE ARMY DOUGLAS MacARTHUR

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Hawaii [Mr. MATSUNAGA] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MATSUNAGA. Mr. Speaker, a great general and an outstanding leader of men was lost to us through the recent death of General of the Army Douglas MacArthur. The history of men and nations rests—in large measure—on the achievements of towering individuals. General MacArthur was a true patriot of his country, with noble purpose and immense dignity. As a "soldier's soldier" he evoked the affection and respect of the men under his command. His fire and eloquence inspired his troops and held spellbound those who were fortunate to have met and listened to him.

The human frailties attributed to him appear dwarfed in insignificance by his unmatched dedication to his office, his men, and his country. General MacArthur symbolized—as few leaders and statesmen have—the spirit of nationalism so necessary in time of war. His wartime leadership was closely interwoven with the hopes, fears, and aspirations of the American people. The personification of courage, military gallantry, steadfastness of purpose, he lived and breathed the role of a national hero both during and after World War II. His keen military mind and his intuitive anticipation of the enemy's strategy were undoubtedly major factors which contributed to our country's victory in the battles in which he led our forces.

As a victor in the war with Japan, General MacArthur declared and put into practice his belief that we should seek not vengeance but the opportunity to democratize Japan so that world communism could be held at bay behind a firm defensive line. He believed and advocated that we should work unceasingly to abolish forever all wars between nations. As Supreme Commander for the Allied Powers from August 1945 to 1951, he performed the near miracle of creating a viable democracy on the ruins of an authoritarian system as rigid as the world has ever known.

Yes, an "Old Soldier" has passed away, but he has not just "faded away." His memorable words concerning the qualities of a soldier, "duty, honor, country," will continue to inspire the man in uniform. His life and his deeds surely fitted his own prescription. The world will not see his like for a long time to come. We have lost a national hero.

## TO IMPROVE EMPLOYMENT OPPORTUNITIES FOR BLIND PERSONS

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Nevada [Mr. BARING] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. BARING. Mr. Speaker, today I am introducing a bill to improve employment opportunities for blind persons by making certain changes in the Randolph-Sheppard Vending Stand Act.

First. My bill would establish an Appeals Board, the members of which would be named by the President. It would be the function of this Board to conduct public hearings on issues and controversies growing out of the operation of the State vending stand programs authorized under the provisions of the Randolph-Sheppard Act.

Such a Board would serve as a recourse to which officials of these State programs might appeal when they believe the objectives of the Federal vending stand law are not being carried out by departments and agencies of the Federal Government.

Second. My bill would grant the exclusive assignment of vending machine income to blind vending stand operators.

Mr. Speaker, in 1936, Congress passed the Randolph-Sheppard Vending Stand Act.

This Federal law was adopted to give blind persons the opportunity to earn a living, to provide them with the chance for remunerative employment at a time in our Nation's history when jobs for the physically fit were very scarce, when they were just about totally nonexistent for men and women without sight.

This Federal law was adopted for the purpose of "enlarging the economic opportunities for the blind." It was intended to open up a limitless number of job possibilities for trained and qualified blind people, to expand existing possibilities of employment for these people.

And finally, the Randolph-Sheppard Vending Stand Act was adopted by Congress as an encouragement to blind persons in their efforts to help themselves, for the purpose of "stimulating the blind to greater efforts in striving to make themselves self-supporting."

How were these fine objectives to be accomplished? What does the Randolph-Sheppard Act do to further the employment opportunities of blind persons?

This Federal law provides that "blind persons licensed under the provisions of this act shall be authorized to operate vending stands on any Federal property where such vending stands may be properly and satisfactorily operated by blind persons."

Adopted by Congress to serve such high purposes, how has the Randolph-Sheppard Act worked over the years?

Are thousands of blind persons engaged in running vending stands in Federal buildings and on Federal property throughout the country? Are all blind persons who want to earn their living given the chance, if they seek such a chance, to operate a vending stand business under this Federal law intended and expected to provide them with such a chance?

An examination of the figures for the past fiscal year will give the answer to these questions.

The report on the operations of the State vending stand programs operated under the Randolph-Sheppard Act, issued by the Federal Office of Vocational Rehabilitation, Department of Health, Education, and Welfare, states that as of

June 30, 1962, there were only 672 vending stands on Federal property—an increase of only 16 over the previous year.

This report reveals that there are only 721 blind persons operating vending stands on Federal property—an increase of only 14 over the previous year.

Mr. Speaker, I do not imagine there is any one person in the entire United States who could tell us exactly how many Federal buildings there are, how many Federal installations and bases, parks and reservations—but I am sure that all will agree that they must number in the many thousands.

Yet, only 672 suitable locations have been found. After more than 26 years' operations, the Randolph-Sheppard Vending Stand Act gives employment now to only 721 blind persons.

Mr. Speaker, there is no doubt at all in my mind that this program which was expected to achieve so much has become static in terms of new stand locations developed on Federal property, even though the nationwide potential for stand locations has not been approached.

As an illustration of this condition, from 1958 to 1961, only 35 new stands were established on Federal property in contrast to 238 new stands in non-Federal locations.

During this same period of time only 57 new blind operators were placed in stands on Federal property, in contrast to 277 new blind operators placed in stands in non-Federal locations.

I have been advised that the reason that the Randolph-Sheppard Act has failed so utterly to fulfill its great promise, the cause of these very discouraging statistics, is that Federal departments and agencies have refused to accept the purposes of the act, have failed to further these purposes—rather, they have denied the establishment of stands on suitable locations on Federal property; they have cooperated with officials of State licensing agencies by refusing to allow the location of a vending stand in the lobby of a Federal building, but have offered instead a room buried away in the bowels of the building, completely hidden from the sight, knowledge, or convenience of patrons of the building.

When differences or even disputes have arisen between officials in control of Federal property and those in charge of State vending stand programs, the State authorities have had no regularized means available to them to protest against the unreasonable, unwarranted, yes, even unlawful actions of the Federal officials.

Mr. Speaker, I believe there should be a mechanism created to permit the fair and full consideration of issues and disputes which develop in the operations of the Randolph-Sheppard Vending Stand Act.

The first provision of my bill offers such a mechanism. I believe it is important and necessary that a statutory appeals process be established to consider, impartially and objectively, all questions which arise under the Federal Vending Stand Act, and the decisions of such an appeals authority should be binding on all parties with full and equal effect.

The bill I am offering contains such a proposal for such an appeals authority and, I believe, if this proposal is enacted into law, if a Presidentially appointed Appeals Board is created by statute, the Randolph-Sheppard vending stand program would have a growth that would be astonishing.

I believe that such a Board would actually not have to conduct many hearings. I am sure its very existence would resolve many differences. For its very existence would serve both as notice and warning to those who would treat Federal law with indifference—it would serve as a stern reminder to those who object to blind persons earning a living in a Federal building over which they exercise supervisory control—and, I think, this warning would result in increased cooperation, and, of overwhelmingly great importance, increased opportunities for trained and qualified blind persons to earn their living.

But creation of a Presidentially appointed Appeals Board would not solve all of the problems besetting the vending stand programs being operated in the States under the Randolph-Sheppard Act.

It would not remove the greatest threat to the livelihood of blind vending stand operators and to the very continued existence of this program as a job-opportunity program for qualified and trained blind persons.

For the gravest danger to this program comes from the rapidly multiplying numbers of mechanical vendors of coffee and sandwiches, of soda and cigarettes.

Yes, Mr. Speaker, the blind, too, are threatened by the onrush of automation.

I have never believed that the way to protect the livelihood of people from the economic consequences of technological developments was to fight them, to deny the advantages resulting from such developments to the public generally, to outlaw them, to restrict their use and application, to protect and preserve jobs no longer required.

Nor do I suggest this approach to the calamitous challenge of the vending machine to the blind vending stand operator. Rather, I propose that the blind operator be granted the exclusive right to the income from vending machines which reduce the business of his stand, which draw customers—and income—away from him.

The regulations promulgated under authority of the Randolph-Sheppard Act provide "for the assignment to the—blind—operator of the income from vending machines within reasonable proximity to and in direct competition with the vending stand."

This provision of regulations is further explained thus:

> If a vending machine vends articles of a type authorized by the permit (to operate the stand in that location) and is so located that it attracts customers who would otherwise patronize the vending stand, such machines shall be considered to be in reasonable proximity to and in direct competition with the stand.

Too often this provision of the Federal Vending Stand Act regulations is construed narrowly and restrictively by those in supervisory control of Federal property, to the extreme disadvantage of the blind vending stand operator, and results in increasing losses of income, in diminished earnings to the blind operator.

Mr. Speaker, must a vending machine be only a few feet or yards from a vending stand location to be in reasonable proximity to the stand?

Must the vending machine be across the lobby of a Federal building to be in direct competition with the blind-operated vending stand?

Of course, the answer to these questions is "No." Emphatically "No."

A machine which dispenses soda and is located on another floor or a different area of the building is in reasonable proximity and in direct competition if employees working in the building or patrons passing through it would buy their soda from the vending stand if there were no machine in the building available or convenient to satisfy their want.

In fact, Mr. Speaker, any machine located anywhere on the same premises where there is a vending stand takes income away from the blind operator.

When Congress adopted the Randolph-Sheppard Act, more than 26 years ago, it opened up Federal buildings as possible locations for blind-operated vending stands to provide blind persons with the chance to earn a living in premises not previously available as sites for nongovernmental business purposes.

I believe it is the responsibility of Congress to protect the preference it granted to blind persons—I believe Congress should take such statutory action as seems necessary to assure the continuation of this source of employment for trained and qualified sightless men and women.

My bill, enacted into law, would serve to strengthen the Randolph-Sheppard Act—and it needs strengthening very much.

It would serve to give meaning and much-needed effectiveness to its purposes.

Most of all, however, it would make it possible for large numbers of blind people to earn their living, to use their talents, abilities, and training gainfully and productively.

But not only would my bill, as Federal law, provide additional stand locations in Federal buildings for trained blind operators, it would also give more blind operators an opportunity to earn a living.

These sightless men and women—operating vending stands—quickly and correctly selecting an asked-for brand of cigarette from the myriad of brands on the counters and shelves, pouring scalding coffee without damage to themselves or danger to others, handing out change accurately and unhesitatingly—in short, operating their businesses as would any other businessman—these people serve as constant proof of the capabilities of men and women without sight, the ability of such people to function without sight in our world of sight, living and working in cooperation and competition with sighted people.

From such demonstrations will come, eventually, I hope, a time in our society when blind people will not need to live under a constant compulsion to prove themselves—when they will not need special Federal legislation to assure them a fair and equal opportunity to earn a living—a time when blind people will be hired on their merits, according to their qualifications, for work which they are competent to do.

But, Mr. Speaker, until that happy and more hopeful time arrives, it is most urgently necessary that we of Congress protect the Randolph-Sheppard Vending Stand Act which today offers the promise of employment to blind persons, which provides a means by which they may earn a living and support themselves today.

## NATIONAL COUNCIL ON THE ARTS AND NATIONAL ARTS FOUNDATION

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. THOMPSON] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, I take this time to advise the many interested Members that the Special Subcommittee on Labor, of which I am the chairman, has reported H.R. 9587, a bill to create a National Council on the Arts and a National Arts Foundation.

As most of my colleagues know, the Committee on Education and Labor is presently considering the omnibus antipoverty bill. As soon as the committee has disposed of this bill, it is my intention to request the gentleman from New York [Mr. POWELL] to place H.R. 9587 on the committee's agenda. The many Members on both sides of the aisle who are interested in this legislation have my assurances that I shall pursue this matter vigorously in order to have it placed on the House Calendar in ample time for action before we adjourn.

Mr. Speaker, H.R. 9587 is identical to S. 2379, adopted on a voice vote by the Senate in December 1963, so this body will have the opportunity to send the bill directly to the White House.

Identical bills, introduced by the gentleman from Minnesota [Mr. FRASER], the gentleman from Connecticut [Mr. MONAGAN], the gentleman from Pennsylvania [Mr. FULTON], the gentleman from New York [Mr. LINDSAY], and the gentleman from South Carolina [Mr. MCMILLAN], as well as similar bills introduced by the gentleman from Rhode Island [Mr. FOGARTY], the gentleman from Massachusetts [Mr. BOLAND], the gentleman from Pennsylvania [Mr. DENT], the gentleman from New York [Mr. FARBSTEIN], and the gentleman from New Jersey [Mr. WIDNALL] attest to the bipartisan nature of this proposal and the mounting appraisal of the electorate for favorable action now. Similarly, S. 2379 enjoyed bipartisan support in the other body. Cosponsors in the Senate were Messrs. HUMPHREY, CLARK, COOPER, JAVITS, LONG of Missouri, METCALF, PELL, RANDOLPH, RIBICOFF, SCOTT, and KENNEDY.

The action by the subcommittee followed 4 days of open hearings. Our hearings served to emphasize the persistent, but heretofore deplorably unsuccessful, strivings by countless legislators from all geographies of the Nation, to gain official recognition and aid for the arts. These worthy ambitions date back to the 46th Congress in 1877, when history records that the creation of a Federal Arts Council was first proposed.

Successive Congresses, more recently with the official endorsements of former Presidents Eisenhower and Kennedy, have failed to achieve concurrence by both the House and the Senate on various proposals akin to the legislation herein proposed. The Johnson administration supports the basic principle of the bill just reported by my subcommittee. Little wonder, therefore, that all the witnesses heard by the subcommittee emphasized that recognition by Congress of its responsibilities in this area is long overdue.

This brief observation, Mr. Speaker, about the urgency of this long-delayed recognition of and conservation of our Nation's talented human resources:

Much of the supporting testimony on H.R. 9587 directed attention to the inevitable trend toward more leisure time. Bluntly, the question was asked if our cultural arts are to be encouraged and enabled to play their important role in enriching these leisure hours through their civilizing contributions.

Specifically, it was asked if this House of Representatives is now prepared to help make this vital contribution possible, and to do so before other wholly material endeavors and influences preempt all of the leisure time of our people, and particularly our young people.

These were thought-provoking and timely questions. An affirmative answer is provided by H.R. 9587.

Now, Mr. Speaker, I have alluded to mounting interest in this legislation. Permit me to give brief documentation.

Witnesses testifying in behalf of the whole of organized labor, as well as business and financial entities, educators, representatives of Federal and State Governments, the Senior Citizens Council, talented artists and many others, documented for this record a widespread and growing nationwide approval for the proposed legislation.

Apart from scores of long-established groups already supporting actively H.R. 9587, testimony from many sources revealed a current movement for the creation of a permanent nationwide citizens committee dedicated to the premise that government, at the Federal and all other levels, shares a responsibility for the health and proliferation of the Nation's cultural arts. Its aim, the testimony developed, will be to make this conviction known to Members of Congress.

Notably and significantly, the current hearings generated no expressions of hesitance or alarm that the modest subventions proposed by this legislation might trend toward state control or undue influence upon the arts. There was general acceptance by witnesses that the safeguards written into this bill are absolute.

The National Council on the Arts will consist of a Chairman, and 24 members, appointed by the President, by and with the consent of the Senate, in staggered 6-year terms. The members will be selected from among private citizens widely recognized for their broad knowledge, experience, and profound interest in the arts. The Chairman will be appointed by the President by and with the advice and consent of the Senate. This Chairman shall have the collateral responsibility of advising the President with respect to the activities of the Federal Government in the arts. He shall not serve in excess of 8 consecutive years.

The National Arts Foundation shall be governed by a board of trustees consisting of 21 members appointed by the President, by and with the consent of the Senate, and will be selected by the same criteria as apply to the Council. The Foundation will handle the allocation of grants-in-aid, and the Director of the Foundation will be appointed by the President, also by and with the advice and consent of the Senate.

The bill, while not a giant step toward the full fulfillment of the cultural and artistic needs of our Nation, is a long-overdue step in that direction.

It gives legislative sanction to a Federal Council on the Arts, a concept already established by Executive order by President Kennedy last June, which was first proposed by President Eisenhower in 1955. It authorizes an appropriation for the present fiscal year of $5 million, and for subsequent years of $10 million. The foundation may not be set up until 90 days following establishment of the Council. This is in accord with a Bureau of the Budget recommendation that there be an appropriate waiting period between the formation of the two bodies.

Grants-in-aid will be dispensed only on a matching basis to individual States and State agencies. Fifty percent of the total funds available will go to the States, and 50 percent to nonprofit professional groups meeting foundation standards of excellence. The matching grant principle will also be applied to groups, except that no more than 20 percent of the total group funds may be used without this limitation in cases when particular groups may not have met full matching-grant requirements.

Throughout the hearings I have just described, there was a persistent note of immediacy, a plea for action now, a veritable groundswell, if you please, Mr. Speaker. It exceeded by far all such expressions advanced in the long legislative history of this effort in which I, and so many of my colleagues in both bodies, have been associated intimately. Our subcommittee mail also reflects this changing climate in a changing world that cries out for the better and substantive things of life, in an environment where man no longer is content to live by bread alone.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. **Hosmer** (at the request of Mr. **Byrnes** of Wisconsin), for today through Thursday, April 30, on account of official business.

Mr. **Flynt** (at the request of Mr. **Stephens**), for today and tomorrow, on account of illness.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. **Findley**, for 30 minutes, today; and to revise and extend his remarks and to include extraneous matter.

Mr. **Cooley** (at the request of Mr. **Boggs**), for 15 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. **Halpern** (at the request of Mr. **Ellsworth**), for 20 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. **Harding** (at the request of Mr. **Patten**), for 60 minutes, April 29; to revise and extend his remarks and to include extraneous matter.

Mr. **O'Konski**, for 60 minutes, Thursday, April 30; vacating his special order of 60 minutes for Wednesday, April 29.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the **Congressional Record**, or to revise and extend remarks, was granted to:

Mr. **Ostertag**.

Mr. **Roosevelt**.

Mr. **Brademas**.

Mr. **Alger**.

Mr. **Kastenmeier** to revise and extend his remarks and to include extraneous matter during debate on H.R. 1997.

Mr. **Don H. Clausen** and to include a statement together with certain pertinent tables, together with his remarks today in the body of the **Record**.

(The following Members (at the request of Mr. **Ellsworth**) and to include extraneous matter:)

Mr. **Wydler** in two instances.

Mr. **Pelly** in two instances.

Mr. **Glenn**.

Mr. **McClory**.

Mr. **Lindsay** in two instances.

Mr. **Talcott**.

(The following Members (at the request of Mr. **Patten**) and to include extraneous matter:)

Mr. **Dingell**.

Mr. **Reuss**.

Mr. **Sickles**.

Mr. **Hébert**.

## ADJOURNMENT

Mr. **PATTEN**. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 57 minutes p.m.) the House adjourned until tomorrow, Wednesday, April 29, 1964, at 12 o'clock noon.

## COMMITTEE EMPLOYEES

April 20, 1964.

JOINT COMMITTEE ON DEFENSE PRODUCTION

To the Clerk of the House:

The above-mentioned committee or subcommittee, pursuant to section 134(b) of the Legislative Reorganization Act of 1946, Public Law 601, 79th Congress, approved August 2, 1946, as amended, submits the following report showing the name, profession, and total salary of each person employed by it during the 6-month period from July 1 to December 31, 1963, inclusive, together with total funds authorized or appropriated and expended by it:

| Name of employee | Profession | Total gross salary during 6-month period |
|---|---|---|
| Harold J. Warren | Clerk and counsel | $8,615.04 |
| George T. Ault | Professional staff member. | 6,264.48 |
| Edward O. McCue III. | do | 5,775.30 |
| Janice M. Maguire | Secretary | 3,302.94 |
| Edward Hart | Professional staff member. | 2,691.15 |
| Philip F. Patman | Assistant to chairman. | 832.20 |

| | |
|---|---|
| Funds authorized or appropriated for committee expenditures | $69,550.00 |
| Amount of expenditures previously reported | |
| Amount expended from July 1 to Dec. 31 | 27,789.03 |
| Total amount expended from July 1 to Dec. 31 | 27,789.03 |
| Balance unexpended as of Dec. 31, 1963 | 41,760.97 |

Wright Patman,
*Chairman.*

January 14, 1964.

JOINT COMMITTEE ON IMMIGRATION AND NATIONALITY POLICY

To the Clerk of the House:

The above-mentioned committee or subcommittee, pursuant to section 134(b) of the Legislative Reorganization Act of 1946, Public Law 601, 79th Congress, approved August 2, 1946, as amended, submits the following report showing the name, profession, and total salary of each person employed by it during the 5-month period from August 1 to December 31, 1963, inclusive, together with total funds authorized or appropriated and expended by it:

| Name of employee | Profession | Total gross salary during 5-month period |
|---|---|---|
| Edward M. O'Connor | Staff director | $7,868.75 |

Michael A. Feighan,
*Chairman.*

December 31, 1963.

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

To the Clerk of the House:

The above-mentioned committee or subcommittee, pursuant to section 134(b) of the Legislative Reorganization Act of 1946, Public Law 601, 79th Congress, approved August 2, 1946, as amended, submits the following report showing the name, profession, and total salary of each person employed by it during the 6-month period from July 1 to December 31, 1963, inclusive, together with total funds authorized or appropriated and expended by it:

| Name of employee | Profession | Total gross salary during 6-month period |
|---|---|---|
| Colin F. Stam | Chief of staff | $10,749.96 |
| L. N. Woodworth | Economist | 9,052.26 |
| G. D. Chesteen | Corporate auditor | 8,398.80 |
| Nicholas A. Tomasulo | Attorney | 8,351.82 |
| Robert R. Smyers | do | 8,159.04 |
| James H. Symons | Statistical analyst | 8,083.80 |
| Grace T. Gunn | do | 7,609.02 |
| Robert J. Moody | Attorney | 6,504.24 |
| Lynn L. Stratton | Legislative assistant | 6,264.48 |
| James M. LaMarche | Administrative assistant. | 6,189.24 |
| Thomas P. Kerester | Attorney | 5,894.22 |
| Thomas L. C. Vail | do | 5,733.90 |
| Joseph E. Fink | Statistical clerk | 5,578.80 |
| A. F. Connaughton | do | 5,578.80 |
| Harrison B. McCawley. | Attorney | 5,387.46 |
| Bertha S. Harris | Stenographer and assistant clerk. | 4,007.16 |
| Cleo H. Fonelli | do | 4,007.16 |
| G. Norton Nager | Attorney | 3,752.58 |
| Evelyn W. Hunter | Clerk-stenographer | 1,220.08 |
| Blanche F. Nagro | do | 3,617.16 |
| Joanne B. McDermott | do | 3,400.44 |
| Geneva A. Kneile | do | 789.17 |
| Jacqueline S. Pfeiffer | do | 2,939.94 |
| Ila Coe | do | 2,799.06 |
| June M. Matthews | do | 2,799.06 |
| Nicki Rae Fairfax | do | 2,501.10 |
| Gloria J. McCabe | do | 1,736.88 |
| Mildred Feldt | do | 2,338.56 |
| CONTRACT PERSONNEL | | |
| Russell M. Oram | Tax consultant | 3,862.00 |
| Dale H. Flagg | do | 4,500.00 |
| P. W. Meekins | do | 4,500.00 |

| | |
|---|---|
| Funds authorized or appropriated for committee expenditures | $337,690.00 |
| Amount of expenditures previously reported | 159,434.95 |
| Amount expended from July 1 to Dec. 31, 1963 | 156,306.19 |
| Total amount expended from Jan. 1, to Dec. 31, 1963 | 315,741.14 |
| Balance unexpended as of Dec. 31, 1963 | 21,948.86 |

W. D. Mills,
*Vice Chairman.*

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1993. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Crop Insurance Corporation, Department of Agriculture, for the fiscal year ended June 30, 1963 (H. Doc. No. 196); to the Committee on Government Operations and ordered to be printed.

1994. A letter from the Secretary, Department of Health, Education, and Welfare, transmitting the report of actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes for the quarter ending March 31, 1964, pursuant to the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1995. A letter from the Administrative Assistant Secretary, Treasury Department, transmitting a list of the negotiated purchases and contracts made by the Coast Guard under clause 11 of subsection (a) since November 19, 1963, pursuant to section 2304e of title 10, United States Code; to the Committee on Armed Services.

1996. A letter from the Secretary, Export-Import Bank of Washington, transmitting a report that Export-Import Bank of Washington on April 17, 1964, issued its guarantee with respect to certain transactions dealing with Hungary, pursuant to title III of the Foreign Aid and Related Agencies Appropriation Act of 1964, and to the Presidential determination of February 4, 1964; to the Committee on Foreign Affairs.

1997. A letter from the Comptroller General of the United States, transmitting a report on the review of the procurement of B–58 aircraft components disclosed overpricing of cost-plus-incentive-fee purchase orders issued to Sperry Gyroscope Co., Division of Sperry Rand Corp., Great Neck, N.Y., by Convair, a division of General Dynamics Corp., Fort Worth, Tex., under Department of the Air Force prime contracts AF 33(038)–21250 and AF 33(600)–32841; to the Committee on Government Operations.

1998. A letter from the Assistant Secretary of the Interior, transmitting a proposed concession contract to authorize Mr. E. N. Nelson to operate Cedar Pass Lodge and provide facilities for the public in Badlands National Monument, pursuant to 70 Stat. 543; to the Committee on Interior and Insular Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONNER: Committee on Merchant Marine and Fisheries. S. 1988. An act to prohibit fishing in the territorial waters of the United States and in certain other areas by persons other than nationals or inhabitants of the United States; without amendment (Rept. 1356). Referred to the Committee of the Whole House on the State of the Union.

Mr. WILLIS: Committee on the Judiciary. House Joint Resolution 950. Joint resolution granting the consent of Congress to an amendment to the compact between the State of Ohio and the Commonwealth of Pennsylvania relating to Pymatuning Lake; without amendment (Rept. No. 1359). Referred to the House Calendar.

Mr. WILLIS: Committee on the Juidiciary. H.R. 7651. A bill to provide authority to protect heads of foreign states and other officials; with amendment (Rept. No. 1360). Referred to the Committee of the Whole House on the State of the Union.

Mr. HENDERSON: Committee on Post Office and Civil Service. H.R. 8373. A bill to clarify the application of certain annuity increase legislation; without amendment (Rept. No. 1361). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10483. A bill to authorize the sale of 58.19 acres of Eastern Shawnee tribal land in Oklahoma; without amendment (Rept. 1362). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONNER: Committee on Merchant Marine and Fisheries. S. 627. An act to promote State commercial fishery research and development projects, and for other purposes; with amendment (Rept. No. 1363). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASHMORE: Committee on the Judiciary. H.R. 6442. A bill for the relief of Jasper E. Tate; without amendment (Rept. No. 1354). Referred to the Committee of the Whole House

Mr. ASHMORE: Committee on the Judiciary. H.R. 8709. A bill for the relief of Eugene R. Wooster, Jr.; without amendment (Rept. No. 1355). Referred to the Committee of the Whole House.

Mr. WILLIS: Committee on the Judiciary. H.R. 9833. A bill granting a renewal of patent No. D–162,975, relating to a medal of the American Legion; without amendment (Rept. No. 1357). Referred to the Committee of the Whole House.

Mr. WILLIS: Committee on the Judiciary. H.R. 9834. A bill granting a renewal of patent No. D–161,955, relating to a plaque of the American Legion; without amendment (Rept. No. 1358). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOLE:

H.R. 11044. A bill to establish the Joint Committee on Defense and Space Contracts, and for other purposes; to the Committee on Rules.

By Mr. FOGARTY:

H.R. 11045. A bill to provide for the establishment of a National Council on the Arts, a National Arts Foundation, and a National Institute of the Arts and Humanities to assist in the growth and development of the arts and humanities in the United States; to the Committee on Education and Labor.

By Mr. HAGEN of California:

H.R. 11046. A bill to permit the withdrawal from social security coverage of policemen, firemen, and district attorney investigators in Kern County, Calif.; to the Committee on Ways and Means.

By Mr. McFALL:

H.R. 11047. A bill for the relief of certain persons having summer homes in the Pinecrest Recreation Area, in the Stanislaus National Forest; to the Committee on Agriculture.

By Mr. McLOSKEY:

H.R. 11048. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. MORRISON:

H.R. 11049. A bill to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FRELINGHUYSEN:

H.R. 11050. A bill to authorize a 3-year program to assist States and communities to mobilize and coordinate human and financial resources to combat the causes of poverty in the United States, and to assure coordination of Federal, State, and local programs designed to eliminate or alleviate the effects of poverty; to the Committee on Education and Labor.

By Mr. PELLY:

H.R. 11051. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. REIFEL:

H.R. 11052. A bill to declare that 80 acres of land acquired for the Flandreau Boarding School is held by the United States in trust for the Flandreau Santee Sioux Tribe; to the Committee on Interior and Insular Affairs.

By Mr. ROUSH:

H.R. 11053. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 11054. A bill to amend the Agricultural Marketing Agreement Act of 1937 to permit the issuance of marketing orders for onions for canning or freezing; to the Committee on Agriculture.

By Mr. BARING:

H.R. 11055. A bill to amend the Randolph-Sheppard Vending Stand Act to eliminate "set-aside" charges on the income of blind vending stand operators; to the Committee on Education and Labor.

By Mr. CORMAN:

H.R. 11056. A bill to provide for the presentation by the United States to the people of Mexico of a monument commemorating the independence of Mexico, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DOLE:

H.R. 11057. A bill to require public disclosure of certain information concerning the award of contracts entered into by the Armed Forces and by the National Aeronautics and Space Administration, and for other purposes; to the Committee on Armed Services.

By Mr. ELLSWORTH:

H.R. 11058. A bill to authorize the appropriation of $150,000 for the acquisition of the Huron Cemetery, Kansas City, Kans.; to the Committee on Interior and Insular Affairs.

By Mr. FRIEDEL:

H.R. 11059. A bill to amend the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to enforce the duty imposed on each carrier to provide adequate service in connection with the transportation authorized by its certificate of public convenience and necessity; to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of California:

H.R. 11060. A bill to impose import limitations on certain meat and meat products; to the Committee on Ways and Means.

By Mr. MONTOYA:

H.R. 11061. A bill to confer jurisdiction on U.S. district courts to hear and render judgment on certain claims; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 11062. A bill to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926; to the Committee on Interior and Insular Affairs.

By Mr. ROONEY of New York:

H.J. Res. 1011. Joint resolution proposing an amendment to the Constitution of the United States permitting the offering of prayers and the reading of the Bible in public schools in the United States; to the Committee on the Judiciary.

By Mr. PATMAN:

H. Con. Res. 296. Concurrent resolution providing for printing as a House document the publication entitled "Our Flag"; to the Committee on House Administration.

## MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of Alaska, memorializing the President and the Congress of the United States relative to requesting the expansion of Federal programs to meet the effects of the natural disaster on the State school system, which was referred to the Committee on Education and Labor.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEERMANN:

H.R. 11063. A bill to provide for the free entry of stone imported for use in the construction of the Sheldon Memorial Art Gallery at the University of Nebraska; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 11064. A bill to provide for the conveyance of certain real property of the United States situated in the State of Virginia; to the Committee on Armed Services.

By Mr. WILLIS:

H. Res. 706. Resolution of congratulations on 40th anniversary of J. Edgar Hoover as Director of the Federal Bureau of Investigation; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

873. By Mr. HOEVEN: Petition of members of the United Church Women of Sioux City, Iowa, urging support of House Joint Resolution 702, a bill to authorize an amendment to the Constitution with respect to prayer and Bible reading in public schools; to the Committee on the Judiciary.

874. By Mr. McFALL: Petition of the San Joaquin County Bar Association in support of H.R. 9567, for the creation of a new Federal judicial district to be known as the eastern district of California; to the Committee on the Judiciary.

875. Also, petition of the San Joaquin County Bar Association in support of S. 1057, to provide that there will be public defenders in Federal courts throughout the United States; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## New York Times Election Handbook, 1964

EXTENSION OF REMARKS

OF

### HON. JOHN V. LINDSAY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. LINDSAY. Mr. Speaker, a group of New York Times political reporters have produced a very useful, and very readable, book called "The New York Times Election Handbook." In a presidential election year one finds quite a few election fact books appearing on the book stalls, some good, some bad. This one is the best that I have seen.

Statistics can be dreadfully dull, but this book presents all the election statistics that one would normally want or need in a handy reference way, and also in a way that gives them flesh and blood. The men who contributed to this small volume are not only good reporters, they are political scientists and good students of American history. The book is fair—I doubt that even the most partisan party affiliate would claim that it is seriously loaded—and yet it does not bore the reader to death by presenting candidates, issues, political strategy, and history as so much cold oatmeal. Even the most mundane political discussion can raise somebody's hackles, and yet this discussion has lively content without offense. The book might even settle some living room or office political squabbles about what happens where and when in a presidential year and is there a precedent?

For example, how many times and why was a presidential election thrown into the House of Representatives because no candidate received a majority of the electoral college vote? How does the electoral college work in the first place? How many Vice Presidents have succeeded to the Presidency? Who is up this year in the States and who won last time?

Good marks go to Harold Faber for skillful editing and to the following contributors: James Reston, Tom Wicker, Alvin Shuster, John D. Morris, Warren Weaver, Jr., Joseph Loftus, Claude Sitton, Edwin L. Dale, Jr., Max Frankel, Cabell Phillips, Robert H. Phelps, Irvin Horowitz, and John Corry.

The book is paperback, 192 pages, including tables and index, published by McGraw-Hill, costs 95 cents and is worth it.

## Heritage Edition of the Atlantic City Press

EXTENSION OF REMARKS

OF

### HON. MILTON W. GLENN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. GLENN. Mr. Speaker, as Representative of the Second District of New Jersey, I would like to take this opportunity to congratulate the Atlantic City Press of Atlantic City, for the wonderful 144-page heritage edition of the paper published on April 12. This edition was the largest of its kind ever attempted in my district and it gave a vivid portrayal of the historic background of Atlantic, Cape May, and Cumberland Counties, which comprise my district, as well as the rich heritage of surrounding counties such as Ocean, Salem, and Burlington, as well as New Jersey itself, on this, its tercentenary year.

Many of the best writers in south Jersey are represented in this gigantic effort and the material and pictures used show without a doubt the historic importance of this part of southern Jersey, not only in the Revolutionary War, and pre-Revolution days, but through the War of of 1812, the Civil War, and the Reconstruction period.

It points out how nationally known industries began with the germ of a thought born in Egg Harbor City and Vineland, and how one man—Eugene Grace—the son of a small village storekeeper in Cape May County proved that America is still the great land of opportunity by working his way from a one-room schoolroom to the most powerful steel position in the world.

This combined effort of all the departments of the Atlantic City Press is to be commended as a civic undertaking to tell the world in picture and story about the great coastal counties of our State of New Jersey.

I know this edition will be cherished by the many whose ancestors move through its pages, by the schools for its educational value, and by those outside the State who discover our many moments of great history.

Its editor in chief, William McMahon, deserves credit for a thorough job of assembling this great historical masterpiece. I found this edition fascinating reading and I again want to congratulate the publishers and the various departments whose combined efforts produced one of the truly great historical collections of my district.

## A Bill To Strengthen the Antidumping Act

EXTENSION OF REMARKS

OF

### HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. PELLY. Mr. Speaker, because of the dumping in the United States of substandard low-wage-produced fish products and because of the ever-increasing imports of foreign lumber, I am joining with other Members of the House in introducing amendments to the Antidumping Act.

Mr. Speaker, this legislation which I have introduced jointly with other Members is designed to improve the effectiveness of the Antidumping Act of 1921. There is great need for tightening loopholes and assuring fairer, more effective procedures in connection with this law.

My bill represents a merging of proposals embodied in several amendments introduced during the 1st session of this 88th Congress plus a few proposals which add to, modify, or delete various provisions.

The bill is intended, Mr. Speaker, to return the Tariff Commission to its pre-1963 standards by stipulating that a finding of injury to an industry would result if "in any line of commerce in any section of the country" the complainant can show that he has been more than significantly injured by dumping. This would be true regardless of the presence of other causes of injury. Also, meeting other foreign competition and lack of predatory intent are specifically excluded as dumping defenses.

Mr. Speaker, I believe this modified antidumping legislation is constructive and vitally needed to insure that international trade is conducted on a fair and equitable basis. Further, I believe that hearings should be held on this important matter as soon as feasible. It has growing industry and labor support which certainly justifies hearings at an early date.

It is the responsibility of Congress, under the Constitution, to provide guidelines for the administration of a law so vital to our domestic economy as one concerned with injurious dumping. We are particularly aware of the pressure of foreign countries to have our U.S. markets opened up to their exports while retaining their own restrictive measures to limit entrance of U.S. exports. I mention this not in a spirit of protectionist fervor, but in an effort to state what I am sure is discernible as to the underlying realities of international trade.

Mr. Speaker, in this connection let me point up that I am not against full and fair international trade. In closing, let me emphasize, too, that I believe it is imperative for the Congress to act in this field as quickly as possible and my belief is shared, I am sure, by the fishing and lumber interests in my State of Washington who have suffered so from dumping of foreign imports.

## Maj. Gen. Joseph A. Teece, U.S. Army, Retired

EXTENSION OF REMARKS

OF

### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. McCLORY. Mr. Speaker, a distinguished citizen of the 12th Congressional District of Illinois and of the Nation, Maj. Gen. Joseph A. Teece, U.S. Army, retired, is being honored on May 2, 1964. The occasion marks his retirement as vice president of Fansteel Metallurgical Corp. of North Chicago, Ill. However, General Teece is receiving recognition for much more than his distinguished service as a business executive; he is being honored primarily as a military and civic leader whose influence in the community, the State, and Nation has redounded to the benefit of mankind.

As an 18-year-old lad in Kewanee, Ill., Joseph A. Teece heard that the National Guard was being called to Federal service. He left work at once to answer the call. A private at the start of World War I, he rose to the rank of sergeant as a member of the 33d Infantry Division in the American Expeditionary Force. Following the Armistice he served in the army of occupation.

In 1924, he reenlisted and rose through the ranks of the 129th Infantry Regiment to lieutenant colonel and executive officer of the 129th. On March 5, 1941, Lieutenant Colonel Teece was again inducted into Federal service. His career in World War II is a saga of distinguished achievement. He saw active service in north Africa, in the Asiatic-Pacific theater, and in the Italian and Sicilian campaigns. Later he served more than 2 years with the Nationalist Army in China.

Wounded in the north African campaign, he was awarded the Purple Heart Medal. General Teece has also been decorated with the Bronze Star, the Silver Star, the Legion of Merit, the EAME Theater Ribbon with three bronze battle stars, six oversea bars, the Victory Medal, the Illinois Long and Honorable Service Medal with Silver Bar and Palm, and two decorations from the Chinese Combat Command.

Following his release from Federal service in May 1946, General Teece was called upon to command the 44th Infantry Division of the postwar Illinois National Guard. Two years later he was given the additional responsibility of commanding general of troops, Illinois National Guard, filling both assignments until 1950 when he was placed on the State retired list as a lieutenant general of the line. With an illustrious military career spanning 33 years and two great wars, General Teece turned to a new career in civilian life.

General Teece waged a tireless war against prejudice and bigotry. He served with distinction as a member of the Illinois Commission on Human Relations. He has been awarded a citation for meritorious service by the Waukegan Chapter of B'nai B'rith.

In the past 14 years General Teece has served two terms as president of the Fort Sheridan Chapter of the Association of the U.S. Army, and as president of the Waukegan-North Chicago Chamber of Commerce, director of the Illinois Chamber of Commerce, president of the North Chicago Rotary Club, and organizer of Junior Achievement of Waukegan. Currently, he is chairman of the Waukegan Port Authority and Waukegan Airport, a director of the Lake County Civic League and of two important citizens groups affiliated with Lake Forest College. He holds memberships in other civic groups including the Dahringer Post, American Legion.

Mr. Speaker, I am pleased to call to the attention of the House this record of distinguished service of my esteemed friend, Joseph A. Teece. On May 2, 1964, as some 500 friends and admirers gather at this affair honoring him, I know that we—in the House of Representatives, in behalf of all of the people of our Nation—also join in honoring this citizen and soldier.

## Result of Questionnaire, 1964

EXTENSION OF REMARKS

OF

### HON. HAROLD C. OSTERTAG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. OSTERTAG. Mr. Speaker, more than 6,700 residents of the 37th Congressional District of New York, which I am privileged to represent, responded to my questionnaire on national issues this year. Their replies were very informative and helpful. The answers to the questionnaires were recently tabulated and released, and under unanimous consent to have the results reprinted in the RECORD, I insert for the information of my colleagues in the Congress:

| | Percentages | | |
|---|---|---|---|
| | Yes | No | Undecided |
| 1. Do you favor Federal civil rights legislation to— | | | |
| (a) Bar discrimination in places of public accommodations? | 71.5 | 24.6 | 3.9 |
| (b) Withhold Federal funds in programs where discrimination exists? | 64.4 | 28.8 | 6.8 |
| (c) Prohibit discrimination in employment practices? | 73.2 | 21.5 | 5.3 |
| 2. Should Congress— | | | |
| (a) Enact the administration's medicare program to pay hospital and nursing costs (but not medical) for all persons over 65, financed by an increase in social security taxes and by funds from general tax revenues for the persons not under social security? | 39.0 | 53.9 | 7.1 |
| (b) Expand the present program of Federal-State aid to persons over 65 who need help to meet medical and hospital costs? | 65.3 | 24.5 | 10.2 |
| 3. Should the reduction of Federal personal and corporate income taxes be accompanied by a comparable reduction in Federal spending? | 86.4 | 8.2 | 5.4 |
| 4. Do you favor Federal aid for education to— | | | |
| (a) Construct public elementary and high schools? | 52.0 | 43.5 | 4.5 |
| (b) Pay public schoolteachers' salaries? | 29.6 | 65.0 | 5.4 |
| (c) Support nonpublic schools? | 25.4 | 70.8 | 3.8 |
| 5. Do you favor amending the Constitution to permit offering of prayers in our public schools and other public places? | 85.2 | 12.9 | 1.9 |
| 6. Should Congress create a Youth Conservation Corps and a National Service Corps as Federal programs designed to provide opportunity for youth? | 69.3 | 24.6 | 6.1 |
| 7. Do you favor the proposed Quality Stabilization Act to permit manufacturers to set minimum retail prices for sale of their goods to the public? | 29.3 | 62.3 | 8.4 |
| 8. Should the Federal Government continue to spend $5,000,000,000 annually for space exploration, including a manned flight to the moon? | 39.2 | 54.7 | 6.1 |
| 9. Do you favor the sale of our surplus wheat to Communist nations— | | | |
| (a) If our Government subsidizes the price and guarantees credit? | 12.4 | 76.3 | 11.3 |
| (b) If we make no price or credit concessions? | 52.7 | 39.1 | 8.2 |
| 10. Do you favor amending the Constitution to provide that Congress elect a new Vice President if that office becomes vacant? | 74.8 | 21.7 | 3.5 |

## Rumania

EXTENSION OF REMARKS

OF

### HON. JOHN V. LINDSAY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. LINDSAY. Mr. Speaker, May 10 marks the independence and founding of the Rumanian Kingdom.

This day is observed by Rumanians everywhere. It is remembered silently and prayerfully by Rumanians held in captivity. We salute this brave people, cut off as they are from their heritage, a heritage of rich culture and fierce independence. It is the record of a people deeply committed to principles of freedom, free institutions, and liberty.

The forcible seizure of Rumania by the Soviet Union and Rumania's enslavery by force reminds us all that our work is not done. There can be no rest until slavery everywhere is ended.

Mr. Speaker, we join in saluting the Rumanian people and recommiting ourselves to the liberation of captive peoples everywhere.

## In Florida: A Portent of Things To Come for California

EXTENSION OF REMARKS

OF

### HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. TALCOTT. Mr. Speaker, I am paraphrasing reporter Jack Pickett of the California Farmer somewhat. The difficulty California farmers are facing should be known to all Americans who depend on California farmers for the very food they eat daily.

From our friends in Florida we have received reports that echo some of our own problems. Southern Florida is suffering from a drastic shortage of farmworkers to harvest their big crop of vegetables.

To meet the situation the Florida State Employment Service did the following things:

First. Radio spot announcements and TV coverage publicizing the urgent need for farmworkers.

Second. Newspaper publicity concerning farm labor demands, including Negro newspapers.

Third. Handbills distributed in residential areas where farmworkers live.

Fourth. Transportation provided by employers on a regular basis from day-haul pickup points to the farms.

Fifth. Personal contacts by appropriate local office staff members with leaders of farm labor groups in the community to solicit assistance in recruiting.

Sixth. Personal contacts by appropriate local office staff members with schools to organize supervised youth placement programs.

The sad part of this story is the total result of all this effort. We quote J. W. Evans, president of the Florida Fruit & Vegetable Association:

> So far, all reports indicate that these efforts have produced only few additional workers and disappointing results in meeting this emergency.

As the emergency continued a representative of the U.S. Department of Labor visited the area and he advised the growers to start a house-to-house canvass for help.

All we can say to our friends in Florida is, "Let us reason (and commiserate) together; we have the same problem, but we haven't felt the same shock yet."

Also we might add that in California we have an even bigger problem than you have in Florida, so we were quite interested in a recent news release quoting Secretary of Labor Wirtz. He is supposed to have told a closed congressional hearing that we should not wind up the bracero program if the Department of Labor is supposed to replace the bracero through domestic labor programs put in its hands.

Wirtz claims it would be impossible for his Department to handle the big job of replacing 200,000 braceros, half of them in California, on the budget proposed by the President.

In California we have somewhere between 200 and 225 men in the farm placement service handling this type of farm labor placement. Traditionally, only 10 to 25 percent of the farmers of this State have relied on the farm placement service for the farm help.

If we throw the load of obtaining domestic labor on the shoulders of the farm placement service we concede that they would have to greatly expand their personnel. Unfortunately, it takes almost 2 years to train a new man into this job.

I sorely wish that people like the Secretary of Labor had tried to think of these things before they so eagerly ganged up to kick the bracero program in the head. Now I trust they will give some immediate thought to the dangerous situation developing throughout California.

## Long Island-Built Spacecraft Makes First Lunar Reentry

EXTENSION OF REMARKS

OF

### HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. WYDLER. Mr. Speaker, on April 14 the so-called Project Fire of NASA was launched and completed. The spacecraft used in this experiment was built by the Republic Aviation Corp. on Long Island. This company is one of those which has been a consistently outstanding producer of defense aircraft for our Nation. It is soundly and firmly established in the aerospace field. The spacecraft they built functioned perfectly and the mission was a success. To me this proves again the dependability and capability of Long Island industry to perform essential functions for our Nation's defense and space programs.

The 579th manmade object to be sent aloft since the Soviets launched Sputnik 1, October 4, 1957, might well have been one of the most significant because it promises to unlock an important barrier to the safe return of American astronauts from a lunar journey. The object—a 200-pound, blunt-nosed spacecraft, built by one of our companies on Long Island, Republic Aviation Corp.—reentered the atmosphere at 25,730 miles an hour, which is more than 7,000 miles an hour faster than the Project Mercury spacecraft. The 21-inch-long instrument-laden vehicle was launched from Cape Kennedy at 4:42 p.m. e.s.t. on April 14, rocketed to a peak altitude of more than 500 miles, then arched back into the earth's atmosphere more than 5,000 miles downrange. The entire flight took some 32 minutes. The objective of the space agency, NASA, in this test was to learn more about the complex physical and chemical changes which occur during the reentry period when temperature of the gases in front of the vehicle hit 20,000 degrees—which is about twice as hot as the surface of the sun. This marks the first time that the reentry speed of a test flight matched the reentry speed of an actual return flight from the moon.

We read and hear a great deal these days about the complexities and cost of space research and this reentry shot provided some tangible evidence of this. For example, the Republic people explained to me that it took approximately 2 years to design and build the spacecraft itself. Quality control inspections, in which all of the more than 3,000 parts in the vehicle were checked and inspected at least once, represented between one-quarter and one-half million dollars in costs.

During the critical phase of reentry—a period of some 42 seconds—over 100,000 different temperature measurements were recorded and telemetered to ground stations at the rate of some 2,000 a second.

According to officials of NASA's Office of Advanced Research and Technology, the reentry phase of space flight brings a spacecraft into one of the most severe and difficult combinations of environmental conditions it is called upon to survive. It is against this backdrop we must evaluate the performance of Republic, a company which has long been a major producer of frontline military aircraft and is right now making the evolutionary transformation to space. Herbert A. Wilson, Jr., of NASA and Project FIRE program manager, in congratulating the Republic team, told them that they were definitely in the space business. He said the spacecraft's hardware performed very well during the blazing reentry.

The technological competition to share in space exploration is as keen as anything that exists today. Only the qualified stand a chance and the homework necessary to qualify represents substantial expenditures in research, facilities, and, most importantly, in time and experience. In Republic's case, which I feel is fairly typical, Project FIRE was the culmination of effort that began 5 years ago. Work on the problems of lunar reentry dates back to 1958 when the company undertook a study program for the Air Force involving development of a manned lunar observatory. This experience served as a base for more extensive study generated by two subsequent NASA programs, Project Calorie—later canceled—and Project Apollo. Through knowledge gained in such areas as trajectory analysis, heat transfer, structures and materials, electronics, data collection, transmission, and analysis, Republic scientists were able to use an overall systems approach in their proposal for Project FIRE. The contract was awarded in May of 1962.

Republic's space research capability itself stems from the launching of a multimillion-dollar expansion of research and development facilities and human resources 6 years ago to change emphasis from aeronautical to aerospace objectives.

Although in these 5 years the company has received over 200 space-oriented contracts, the result of entering 44 new technological areas—Project FIRE marked the debut of the company at the critical barrier of the launch pad.

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## The 1964 Questionnaire Results

EXTENSION OF REMARKS

OF

## HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. PELLY. Mr. Speaker, as has been my practice for a number of years I again have given the residents of the First Congressional District of Washington, which I am honored to represent, the opportunity to express their views on some of the important issues facing our country.

In late March I mailed approximately 100,000 copies of a questionnaire which was prepared by the Department of Political Science of the University of Washington to my constituents. This questionnaire was unique in that it gave the respondent the opportunity of expressing himself in varying degrees as to his feelings. The response to this poll was most gratifying in that the return, according to the independent research organization which tabulated the results, was excellent.

Many different conclusions can and probably will be drawn from the tabulation of this questionnaire, which I believe will be of interest. Inasmuch as the language used was totally prepared by a disinterested group of political science professors there is no question of bias.

Mr. Speaker, believing that the Members of the House and other readers of the RECORD will be interested in the views of the residents of the First Congressional District of Washington I include hereafter the tabulation of my 1964 congressional questionnaire:

### THE 1964 QUESTIONNAIRE RESULTS

### I. MOST IMPORTANT ISSUE

The three most frequently indicated important issues before the country today were named in the following order of importance:

1. Civil rights.
2. Foreign affairs.
3. Unemployment.

### II. YOUR OVERALL VIEWS (IN PERCENT)

1. In your opinion, how good a job is the President doing now?

(1) Excellent, 9.8; (2) good, 32.7; (3) fair, 29.4; (4) poor, 19; (5) just don't know, 5.3.

How strongly do you hold this view?

(1) Very strongly, 40.7; (2) fairly strongly, 50.9; (3) don't care too much, 2.1.

2. In your opinion, how good a job is the Congress doing now?

(1) Excellent, 1.7; (2) good, 21.8; (3) fair, 40.6; (4) poor, 26.2; (5) just don't know, 4.9.

How strongly do you hold this view?

(1) Very strongly, 41.5; (2) fairly strongly, 50.1; (3) don't care too much, 1.

### III. ISSUES BEFORE THE CONGRESS (IN PERCENT)

These questions give you a chance to express your general feeling about certain issues. You should answer the question about Federal aid to education, for example, on the basis of your general feeling about the desirability of such aid. Do not answer on the basis of your view about some specific kind of school aid, such as aid for college facilities construction. Of course, different things are important to different people, so we don't expect everyone to have an opinion on all these issues.

1. One issue before Congress is Federal aid to education. Supporters argue that the funds would help relieve crowded classrooms, and that we must educate our children now if we are to remain strong in the long run. Opponents argue that such a program would lead to Federal control of education, and raise difficult questions about aid to parochial schools. How do you feel about Federal aid to education?

| | *Percent* | *Total percent* |
|---|---|---|
| (1) No opinion | 0.4 | ---- |
| (2) Very much in favor | 27.2 | 41.9 |
| (3) Somewhat in favor | 14.7 | |
| (4) Neutral | 2.7 | ---- |
| (5) Somewhat opposed | 14.4 | 53.1 |
| (6) Very much opposed | 38.7 | |

2. The creation of a Department of Urban Affairs has been proposed. Supporters argue that cities need help to deal with such problems as housing, transportation, and delinquency. Opponents argue that an Urban Affairs Department would lead to more Federal involvement in local affairs. How do you feel about a Department of Urban Affairs?

| | *Percent* | *Total percent* |
|---|---|---|
| (1) No opinion | 1.7 | ---- |
| (2) Very much in favor | 13.9 | 24.8 |
| (3) Somewhat in favor | 10.9 | |
| (4) Neutral | 5.3 | ---- |
| (5) Somewhat opposed | 16.1 | 66.4 |
| (6) Very much opposed | 50.3 | |

3. The medicare program is before Congress again. Supporters argue that retired persons need help to meet high medical costs, and that the program would use the reliable social security system. Opponents argue that the needy aged already have some help, and that the social security deduction is too high now. How do you feel about the medicare program?

| | *Percent* | *Total percent* |
|---|---|---|
| (1) No opinion | 0.6 | ---- |
| (2) Very much in favor | 33.3 | 46.5 |
| (3) Somewhat in favor | 13.2 | |
| (4) Neutral | 3.8 | ---- |
| (5) Somewhat opposed | 11.7 | 47.3 |
| (6) Very much opposed | 35.6 | |

4. The foreign aid program is an important foreign policy issue. Supporters argue that new nations need help to avoid falling to communism, and that military aid is important to U.S. security. Opponents argue that the program has been badly administered, and that we have been throwing money down "rat holes." How do you feel about foreign aid?

| | *Percent* | *Total percent* |
|---|---|---|
| (1) No opinion | 0.4 | ---- |
| (2) Very much in favor | 13.3 | 33.6 |
| (3) Somewhat in favor | 20.3 | |
| (4) Neutral | 2.6 | ---- |
| (5) Somewhat opposed | 24.2 | 60.1 |
| (6) Very much opposed | 35.9 | |

5. Some people say Congress needs to be reorganized. Supporters argue that the present system gives too much power to a few old men. Opponents argue that the present system prevents "railroading" a bill through without necessary debate. How do you feel about congressional reorganization?

| | *Percent* | *Total percent* |
|---|---|---|
| (1) No opinion | 6.8 | ---- |
| (2) Very much in favor | 27.7 | 46.6 |
| (3) Somewhat in favor | 18.9 | |
| (4) Neutral | 11.8 | ---- |
| (5) Somewhat opposed | 13.7 | 31.1 |
| (6) Very much opposed | 17.4 | |

### IV. OPTIONAL FACTUAL INFORMATION

It is helpful to have some background information for tabulation.

Sex: (1) 72.1 male; (2) 22.5 female.

Age: (1) 7.7 under 30; (2) 43.5 30 to 50; (3) 47 over 50.

Marital status: (1) 6.7 single; (2) 81.3 married; (3) 3.1 divorced, and (4) 7.2 widowed.

Political preference: (1) 18 Democratic; (2) 46.8 Republican, and (3) 29.1 Independent.

NOTE.—Each column does not necessarily add up to 100 percent inasmuch as some persons did not answer all questions.

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## Washington Report

EXTENSION OF REMARKS

OF

## HON. BRUCE ALGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. ALGER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following newsletter of April 25, 1964:

### WASHINGTON REPORT

(By Congressman BRUCE ALGER, Fifth District, Texas)

APRIL 25, 1964.

### DEFENSE APPROPRIATIONS APPROVED

The House unanimously approved the Defense Department appropriation bill this week (H.R. 10939). The amount approved was $711,733,000 below the request of the President. An unusual feature of this appropriation bill—it was $460,743,000 less than we have spent to date for fiscal year 1964. The usual practice is to cut the appropriation bills below the budget request but up them over the spending for the previous year. In this case we made an actual cut in spending.

The committee report showed:

1. The funds appropriated will continue the maintenance of the strongest Military Establishment in the peacetime history of the United States.

2. The amounts provided will sustain and increase the military strength of the country.

3. Funds are provided to feed, clothe, and equip an armed force averaging 2,687,000 men and women in uniform; to support a total of 687 military installations; to maintain about 875 active naval vessels; maintenance of over 30,000 military aircraft; and the procurement of 2,655 additional military aircraft.

4. The bill provides funds for the construction of 53 new naval vessels and the conversion of 7 existing naval vessels and $1.6 billion for the procurement of Army equipment of all types.

### WEAPONS SYSTEMS OF THE FUTURE

One of the most intriguing, and unfortunately for news value, highly classified parts of the Defense budget is that relating to research and development leading toward future weapons systems. Some points that can be stated in this area:

1. The most spectacular development in the past few years has been in the field of intercontinental ballistic missiles, including the Polaris.

2. The possibility of the development of a defense against the ICBM was heavily discounted in committee hearings. There is yet today no operational system which can make a nation invulnerable to attack from intercontinental ballistic missiles.

3. The current superior qualitative and quantitative military position which the United States holds is gratifying. But it must be noted being ahead does not necessarily insure that one will stay ahead.

4. Possible areas of development; a deathray type of weapon evolving from laser research; nerve gases resulting from chemical and biological research; space platforms from which weapons can be launched; orbiting weapons which could deorbit enemy space weapons.

### ANTISUBMARINE WARFARE

Many in Congress have urged greater emphasis by the Navy on antisubmarine warfare.

There are essentially three fields of antisubmarine warfare.

1. Protection of the continental United States from submarine-launched ballistic missiles.
2. Protection of merchant shipping.
3. Protection of the naval fleet.

The most difficult area is the protection of the continental United States and much greater development must be made in this field.

This is a mere summary of the far-reaching Defense appropriation bill, but it gives some indication of where we stand in this vital matter.

### REVIEW OF THE DRAFT

President Johnson's announcement that he is ordering a complete study of the military manpower requirements and Selective Service is welcomed. For a number of years a group of Republican Congressmen, under the leadership of Congressman TOM CURTIS, have conducted a comprehensive review of the military manpower procurement system. This week this group presented some of its findings on the floor of the House.

It is my belief that such a study is needed, but I argee with the committee recommendation that it should be conducted by Congress. As Congressman CURTIS stated:

"* * * a special Congressional committee to review this matter would be best because it is not just a question of the Military Establishment. That is the important thing, of course. We are trying to get manpower for the Military Establishment. But this has tremendous implications to the civilian society, and economic consequences, and it becomes very important that the committees that are concerned with this very problem of employment, and this so-called war on poverty, be included."

An overall study should be aimed at eliminating the draft and making careers in the military service more attractive so that our military manpower needs can be met through volunteers.

### THE RAILROAD SETTLEMENT

The whole Nation is glad there will be no railroad strike. It should be pointed out, however, that round-the-clock meetings in the White House under constant pressure from the administration is not collective bargaining. Acceptance of this procedure will put the Federal Government squarely in the middle of labor relations from now on. It should also be noted in the settlement, the unions gained almost all their demands and the real issue, the cost of featherbedding to the American railroads and eventually the consumer has not been settled.

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## Armenian Martyrs' Day

EXTENSION OF REMARKS

OF

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. DINGELL. Mr. Speaker, April 24 was Armenian Martyrs' Day. We recognize this day in memory of those 2 million Armenian men, women, and children who in 1915 were the victims of the old Ottoman Empire's World War I commitments and desire to retain a static Pan-Islamic society.

As a result of Ottoman persecution, within 2 years over 800,000 Armenians lost their lives and nearly a million were forced to escape to the Soviet Union, thus depriving the Empire of some of the best of its own society: the educators, the skilled artisans, and the merchants. In Russia and in other parts of the world today, these people remain, a residue of hate and animosity against Turkey that need never have been created.

The attack on Armenia in 1915 was the final gasp of an intellectually and socially bankrupt regime. It revealed the Ottoman Empire for the "sick man of Europe" that it really was, degenerate, outdated, and corrupt. It left a difficult legacy for modern Turkey, a bad memory. It foolishly alienated a progressive and valuable minority. It inflamed religious differences which should have been laid to rest centuries before. This one, single event in Turkish history stands out as a continuing reminder of the need for tolerance and understanding toward all minorities.

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## Address of Hon. Richard Bolling, of Missouri

EXTENSION OF REMARKS

OF

## HON. CARLTON R. SICKLES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. SICKLES. Mr. Speaker, in a recent speech, the gentleman from Missouri, Congressman BOLLING, cited a number of important reasons why we in Congress cannot be content to rest on our laurels because of the beneficial programs enacted in the "education Congress of 1963." As he so cogently points out, we cannot enter the space age with a substantial portion of our educational facilities and teachers' salaries more suited to the era of the little red schoolhouse. I commend his remarks to my colleagues:

TEXT OF REMARKS BY RICHARD BOLLING, CONGRESSMAN, FIFTH DISTRICT, MISSOURI, BEFORE THE MISSOURI ADULT EDUCATION ASSOCIATION, APRIL 3, 1964, ST. LOUIS, MO.

Today America is reaching for the stars. We have broken the bonds that have tied man to the earth through the ages. We have sent men to orbit the earth in the silent space outside our own atmosphere. And before this decade is finished it is very likely that man will travel to the moon.

After that—who knows? No dream is too big. The universe is our oyster. Here we stand in the spring of 1964 with head tilted, arms outstretched, eagerly ready for new worlds to conquer.

It's a heroic posture.

But let's look at it a little more closely.

We stand with the door of the space age open before us and our feet are nailed firmly to the floor of the little red schoolhouse.

The plain, unhappy facts are that while we are looking eager-eyed ahead to the adventures of tomorrow we are overlooking the sad reality of an educational machine geared to yesterday's problems.

Let me point out to you a small indicator of the paradox confronting us. In just the past few years we have seen new words gaining great currency in our society. There are such words as "astronaut," "liftoff," "reentry," and "dropout."

Kids have always dropped out of school, and in the past it was not an overriding national tragedy. In good times most could find jobs within the limits of their skills or knowledge. But in this age of rapidly advancing technology there are fewer and fewer jobs for those with little knowledge or low skills. We see the result in the unemployment figures that are so painfully high. It is also reflected in the rising incidence of delinquency and crime.

And it shows, too, in one of the most appalling statistics I have seen. I refer to the fact that just about one-quarter of all selective service registrants fail to pass the preinduction mental tests. In Missouri, incidentally, the figure for failures is 13.4 percent.

And who can help but be shocked by the fact that in this, the richest and most progressive Nation in the world, 24 out of every 1,000 citizens past the age of 14 cannot read or write. In Missouri, 17 out of each 1,000 of our people are illiterate.

Another bleak picture is that of the thousands of bright, eager youngsters whose brains and talents are desperately needed—who cannot go to college simply because they cannot afford it.

And what of those who do stay in school and have the means to go to college? What do they find? I'll tell you what they find. They find overcrowded classrooms, antiquated laboratories, outdated libraries, and understaffed, underpaid, and overworked faculties.

With the rising population the situation in our schools, already serious, will become critical.

For example, in 1950 there were just over 2¼ million students enrolled in institutions of higher learning. Today there are nearly twice as many and it is estimated that by 1975 there will be nearly 9 million students looking for a college education.

Where are we going to put them? Who is going to teach them?

To meet the needs that are already upon us, it has been estimated that the institutions of higher education should invest an annual average of $1 billion more than is now being spent. It is pretty well established that local and State governments cannot provide the additional funds that are needed now. Private contributions cannot possibly supply the funds.

The late President Kennedy, who realized so well the problems in this sphere said "education is the right, the necessity and the responsibility of all."

I would like, if I may, to state this another way. Education and its problems transcends local, county, and State lines. It is a national problem.

Congress has tried hard to work out the problems of education. In the 1st session of the 88th Congress bold steps were taken in recognition of the necessity for national response to national educational needs. President Johnson has referred to this Congress as the "Education Congress of 1963." This Congress enacted major legislation to provide for training facilities and student aid for the medical professions, training for teachers of handicapped children, major new provisions for expanding and updating vocational education, expansion and extension of the important National Defense Education Act and substantial assistance to colleges and universities for construction of academic facilities.

This latter legislation has been cited by President Johnson as "the most significant education bill passed by Congress in the history of the Republic."

The Higher Education Facilities Act of 1963 provided for $1.2 billion of matching grants and loans during the next 3 years to assist institutions of higher education to build academic facilities so that they may expand their enrollment capacity. It provides especially for strengthening the growth of public community colleges and technical institutions and for the expansion of graduate facilities.

As President Johnson said on signing this act: "We will help to build 25 to 30 new public community colleges every year.

"We will help to construct the technical institutes that are needed to close the gap in this crucial area of trained manpower.

"We will help to build graduate schools and facilities in at least 10 to 20 major academic centers.

"We will help to improve the quality of library facilities in our own universities and colleges."

There is no doubt about it. The Higher Education Facilities Act of 1963 was a pretty good bill. But let's face it. It was not the universal cure-all for the ills facing education.

Then there is the question of teacher's pay. It is ludicrous to me that the men and women to whom we turn over the Nation's children are among the lowest paid of any professional group and in many cases are paid less than semiskilled workers.

It is unbelievable to me that American parents are unmoved by the fact that the average salary for classroom teachers in the public schools is under $6,000 a year. Incidentally, you probably know that the average in Missouri is only $5,488, well below the national average.

I wish I could promise you that Federal aid to teachers' salaries is forthcoming. There are many of us in Washington who are urging such legislation, but the facts compel me to say to you that currently the prospects for such legislation are pretty remote.

But I am optimistic about future education legislation. The needs in the field have been recognized, as was demonstrated with the passage of last year's bill. There will be more legislation. There has to be.

As long as youngsters drop out of school, as long as youths are deprived of a college education because they haven't the financial means to get it, as long as students are turned away from overcrowded campuses, and as long as teachers are overworked and underpaid, we must devote all the time, energy, and imagination required to solve the problem.

Together let us tear down the little red schoolhouse and create an educational launching pad befitting our bold plans for flight into the future.

## Armenian Martyrs' Day

EXTENSION OF REMARKS

OF

### HON. JAMES ROOSEVELT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. ROOSEVELT. Mr. Speaker, the Armenian people had become victims and martyrs throughout their long and eventful history. During centuries of their subjection to Turkish rule in their homeland they suffered much and sometimes put up with inhuman treatment, including wholesale massacres. But the tragedy that was ushered in by the wholesale and unexplained arrests by Turkish authorities of some 1,000 prominent Armenians on April 24, 49 years ago, was the most appalling. On that day the cream of the Armenian community, clergymen, men of letters, teachers, merchants, and prominent men in all walks of life, were rounded up by the Turkish police, imprisoned and held incommunicado, then bundled off in small groups and under heavy guard deported to distant parts of the Ottoman Empire to be put to death there.

Sad and stunning was this shocking event; even more tragic was what followed it. Gradually a large-scale tragedy began to unfold itself which involved the fate of the entire Armenian community in Turkey. On a carefully and most secretly prepared plan, some 2 million Armenians of the country were uprooted from their homes in the spring and summer of 1915. Some of these met their death in massacres, others were starved to death, and still others died due to indescribable hardships. And by the end of fateful 1915, the Armenian community in Turkey had ceased to exist; it had vanished through the diabolical and inhuman machinations of the then Turkish Government.

That is the awesome meaning of April 24 of 1915 to the Armenian people, and that is why its 49th anniversary is being observed as a day of mourning, as their Memorial Day, in all Armenian communities throughout the world.

## Address by the Honorable Dean Rusk, Secretary of State, at Dedication of the New Law School, Valparaiso University, Valparaiso, Ind., Saturday, April 25, 1964

EXTENSION OF REMARKS

OF

### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. BRADEMAS. Mr. Speaker, the people of the State of Indiana were honored on April 25 with the appearance of Secretary of State Dean Rusk and Chief Justice of the United States Earl Warren at the dedication of the new Law School at Valparaiso University in Valparaiso, Ind.

Secretary Rusk's address was primarily a report on a 10-day trip across the Pacific Ocean from which he had only recently returned. I am pleased to make a part of the RECORD the important and timely remarks of Secretary Rusk concerning the current situation in the western Pacific:

ADDRESS BY HON. DEAN RUSK

President Kretzmann, Dean Stalland, Mr. Chief Justice, Congressman Halleck, members and friends of Valparaiso University, it is a great pleasure for me to be once more in Indiana and to be here at Valparaiso University in company with my friend from across the aisle, Congressman CHARLES HALLECK. One who has been deeply concerned for many years with foreign policy must pay respect to the indelible imprint which he made upon the history of our times while serving his country as majority leader in the 80th Congress at a time when we were picking up once more, on a bipartisan basis, our heavy responsibilities for the maintenance of peace through such measures as aid to Greece and Turkey, the Marshall plan, and the beginnings of NATO. It was a special pleasure for me to respond to your kind invitation because it was so strongly endorsed by this distinguished public servant.

Please accept my warmest congratulations and best wishes as you dedicate this law school, an occasion celebrated by the presence of one of the greatest of our legal statesmen, the Chief Justice of the United States. It was my own personal aspiration to become a lawyer but a World War intervened. I have continued to marvel at the role of law in enlarging the freedom of those who are within its compass. I have long felt that the nature of our legal order has been much too much neglected in the education of the ordinary citizen. One can only express some measure of astonishment, for example, that the most pervasive and compelling aspect of our social environment is given so little attention in undergraduate or liberal arts education.

In our relations with the rest of the world, the building of a decent world order is our principal preoccupation—the subject of most of our effort, the content of most of our cables, the commitment of all of our representatives abroad. Little by little that decent world order is coming into being, and law is being given its chance to lay a healing hand upon disputes and to enlarge the area of freedom by allowing more confident prediction about what others will do. Therefore, it is a very special pleasure for me to be a part of this dedication event.

#### TRIP TO PACIFIC

There are many aspects of our foreign policy which I might discuss with you. But I shall make my talk tonight primarily a report on a 10-day trip across the Pacific, from which I returned Monday evening.

The security of the United States—and of the free world as a whole—is deeply involved in the western Pacific. The vital contribution to freedom being made by Japan, the Republic of Korea, and the Republic of China is, I believe, generally recognized in the United States. We have a defensive alliance with each of those nations. All three were ratified overwhelmingly by the U.S. Senate. Only two Senators voted against the mutual security pact with Japan and only six against the security pacts with the Republics of Korea and China.

Southeast Asia also is vital to our security. Including the island countries off its shores, it has more than 200 million people. It contains rich agricultural lands and valuable mineral resources. Parts of it are relatively lightly populated. Standing at the crossroads between two oceans and two continents, it is a region of great strategic importance, not only to all the people who live in the great arc from Karachi to Tokyo but to the free world as a whole.

Our interest in the defense of that region is recognized through three defensive alliances: our direct mutual security pact with the Republic of the Philippines, ANZUS (our defensive alliance with Australia and New Zealand), and SEATO, the Southeast Asia Treaty Organization. All three of these treaties were ratified overwhelmingly by the Senate.

The Communists are eager to take over southeast Asia. They are trying hard to do so by means short of the overt type of aggression they attempted in Korea 14 years ago. They are attempting to win by subversion—and, in South Vietnam, by acts of terror and guerrilla warfare.

#### VIETNAM

This assault on the Republic of Vietnam was organized and is directed, supported, and supplied by the North Vietnamese Communist regime in Hanoi. Hanoi also directed, and continues to support, the Communists' threat to Laos, where there is presently an uncertain "peace."

The North Vietnamese spearheads of aggression are supported by the Communist regime in Peiping, which rules some seven hundred million people. And the assault on

Vietnam is supported, at least verbally, by Moscow. For, in the upside down jargon of the Communists, this is a so-called "war of national liberation"—and a form of aggression which has the blessing of the Soviet as well as the Chinese Communists.

Fourteen years ago the Communists launched an open aggression against the Republic of Korea. Had that aggression been allowed to succeed, Japan would have come under a more direct threat and the psychological effects of an unchallenged Communist aggression would have been felt all over the world. Probably most of the free countries on the periphery of the Communist world in Asia would have felt it necessary to submit to Communist domination.

Since the Korean war, no Communist state has again ventured an all-out direct aggression. But they have not abandoned the technique of aggression through guerrilla warfare, sustained by infiltrating trained men and arms across national frontiers. That is the technique they are using in southeast Asia.

If the Communists were to succeed in their assault on South Vietnam, the consequences to us, and to the free world as a whole, would be very serious. The rest of southeast Asia would be in jeopardy, and saving it would be more costly, in blood and treasure, than defeating the aggression in South Vietnam. And, the loss of southeast Asia as a whole to the Communists would bring about a major shift in the balance of power. The south Asian subcontinent would be flanked and Australia would be directly threatened. Such an immense victory for the Communists might well undermine the will of free peoples on other continents to defend themselves.

These, very briefly, are the reasons why President Eisenhower decided to assist the Republic of South Vietnam; why, when the Communists stepped up their assault, President Kennedy decided to increase our assistance; and why President Johnson has increased it further and has promised that we will continue to help the Republic of Vietnam until this aggression against it is defeated.

### SEATO MINISTERS MEET

The threat to southeast Asia was, of course, the principal subject before the meeting of the SEATO Council of Ministers, which I attended in Manila last week. This defensive alliance was signed in Manila nearly 10 years ago, following the Geneva accords which brought to a close the war in Indochina in which France had been engaged. The purpose of the Manila Pact was to curb further Communist aggression in southeast Asia, and by a protocol, the protection of SEATO was extended to the three non-Communist states of former Indochina, should they request it. Cambodia and Laos have renounced that option. South Vietnam has not requested assistance from SEATO but is receiving help not only from the United States, but, on a small scale, from other individual SEATO members.

At the meeting in Manila last week, the eight SEATO members considered all aspects of the attack on South Vietnam. None suggested that the free nations should turn their back and walk—or run—away from this aggression. France was already committed to what it calls a political solution—that is, to some form of so-called neutralization. But it did not submit any specific proposal along that line. The consensus of the other members was that so-called neutralization of South Vietnam would be only a device for turning it over to the Communists.

Indeed, seven of the eight members of SEATO had little difficulty in arriving at some clear-cut pronouncements concerning the assault on the Republic of Vietnam.

They agreed that it is an aggression and that it is "directed, supplied, and supported by the Communist regime in North Vietnam, in flagrant violation of the Geneva accords of 1954 and 1962."

They agreed that "the defeat of the Communist campaign is essential not only to the security of the Republic of Vietnam but to that of southeast Asia," and that "it will also be convincing proof that Communist expansion by such tactics will not be permitted."

They also agreed that "the members of SEATO should remain prepared, if necessary, to take further concrete steps within their respective capabilities of fulfillment of their obligations under the treaty.

It should be noted that the seven members who agreed on these and related declarations are the regional members—Thailand, the Philippines, Pakistan, Australia, and New Zealand—and the two others which maintain military forces in the area: Great Britain and the United States.

The communique adopted at Manila was by far the strongest ever issued by a SEATO Council. It demonstrated that SEATO is far from moribund. It is a warning which Hanoi and Peiping would do well to heed.

### THE PHILIPPINES

While in the Philippines I had the opportunity to talk at length with President Macapagal and his colleagues in the Philippine Government.

The Republic of the Philippines is a vigorous, thriving democracy, committed to constitutional procedures, combining political stability with economic and social progress. Under President Macapagal's strong leadership, it is shouldering increasing responsibilities for preserving peace in southeast Asia.

The Philippine people have not forgotten Bataan and Corregidor, and General MacArthur's return to the Philippines. They remember that Filipinos and Americans fought side by side. They know that freedom does not come cheap but is for the strong in spirit.

We Americans are rightfully proud of our association with the Government and people of the Philippines, who share so fully with us a dedication to democracy and human rights.

### REPUBLIC OF CHINA

At Taipei I had the opportunity to discuss with President Chiang Kai-shek and the members of his government a wide range of matters of common interest. The Republic of China is a rampart of freedom in the Western Pacific. We support it as the Government of China and we remain firmly opposed to any proposal to deprive it of its rightful place in the United Nations and to seat the Chinese Communists in its place.

The Republic of China continues to make remarkable economic and social progress. Its land reform and programs for rural development have been among the most successful in the world. Its citizens have achieved levels of well-being which contrast dramatically with the misery of their kinsmen on the mainland.

Many developing countries could profit from study of the programs of economic and social improvement which have been applied successfully on Taiwan. Also, the Republic of China is educating and training increasing numbers of men and women in various professions and skills which are in short supply in most parts of the world. These provide an expanding reservoir of technical advice and assistance on which other free nations are increasingly drawing.

In the people of the Republic of China we have talented, vigorous, and resolute allies dedicated to freedom.

### OUR POLICY IN SOUTH VIETNAM

In Vietnam, I talked at length with General Khanh and his colleagues as well as with Ambassador Lodge, General Harkins, and other members of our American team. These talks reinforced my confidence in the will and the ability of the Government of the Republic of Vietnam to lead the people of that country to victory and a better life.

Our policy is to assist the Government and people of South Vietnam in achieving those objectives. As President Johnson said in New York Monday: "The statement of the SEATO allies that Communist defeat is essential is a reality. To fail to respond * * * would reflect on our honor as a nation, would undermine worldwide confidence in our courage, would convince every nation in south Asia that it must now bow to Communist terms to survive.

"So let no one doubt that we are in this battle as long as South Vietnam wants our support and needs our assistance to protect its freedom."

Our appraisal of the morale and capabilities of the Government and people of South Vietnam is not exclusively American. Seven members of SEATO—all of whom have representatives in South Vietnam—joined in saying: "The Government and people of the Republic of Vietnam have given eloquent testimony to their determination to fight for their country."

The SEATO Council also expressed its confidence in the "program of political and administrative reform, military action, pacification, and economic and social development recently instituted by the Government of the Republic of Vietnam." That favorable judgment was further reinforced in my own mind by what I saw and heard in Vietnam. General Khanh has both vigor and breadth of view. He believes that defeating the Communists requires a combination of military, political, economic and social programs. His objective is not only to root out the Communists but to improve the living standards of the Vietnamese people.

Actually, between the end of the Indo-Chinese war in 1954 and 1959, South Vietnam made great economic and social progress. Its achievements left the vaunted Communist paradise in North Vietnam far behind. Almost certainly that is why Hanoi reactivated the assault on South Vietnam in 1959.

The Communist campaign has, of course, held back South Vietnam's overall economic development. But I saw at first hand that progress continues even in the midst of war. I visited a modern synthetic textile plant and a modern papermaking plant near Saigon. About 200 miles northeast of Saigon I visited a "New Life" hamlet. This is in a relatively secure province—and one which General Khanh described as a "pilot province," an example of what can and will be done elsewhere as the Communists are rooted out. I visited also a large dam and hydroelectric installation built by the Japanese as part of their reparations agreement. This installation will also provide water for irrigation.

I believe that economic and social development should be accelerated in the relatively secure areas of the country. I discussed with General Khanh and his colleagues various ways in which our aid program might be improved and in which other free nations might provide useful assistance, both military and civilian. There is need for more people of several professions and vocations—not least, for more physicians. I believe that several free nations are prepared to send more help, both in people and in critical material.

The Vietcong have scored some gains in the last few months. They took advantage of two successive coups and the resultant turnovers in South Vietnamese administrative personnel to increase their efforts. They recaptured some of the more exposed strategic hamlets. They have managed to launch a few rather large-scale attacks, although they continue to rely chiefly on assassinations and small assaults.

General Khanh's objective is not only to "clear" but to "hold." With American assistance, he is moving ahead with training and equipping of local self-defense forces for villages and hamlets in the less-exposed areas, thus releasing regular troops for offensive actions against the Vietcong. He is increasing his security forces by some 50,000 men. I believe that his efforts are beginning to show results.

We can all take deep pride in the performance of the American military men who are training and supporting the South Vietnamese. We should take pride also in our civilian officials and their families, who work amid danger.

The Vietnamese people are energetic, intelligent, and quick to learn. They have a great economic potential. When they have won the peace and security which they are fighting for, and so fully deserve, they can become, I believe, one of the most prosperous people in that part of the world.

### LAOS

In Laos, we support the Geneva agreements of 1962 calling for a neutral independent country. We continue to support a government of national union with Prince Souvanna Phouma as Premier. However, we recognize that the Communist Pathet Lao and their North Vietnamese allies have not honored the Geneva agreements. There are still North Vietnamese military personnel in Laos in violation of these agreements; and they assist the Pathet Laos in attacks on Government forces. The Communists exclude the National Government from the areas which they control and refuse to allow the International Control Commission to perform its peace supervision functions in those areas. The Communists also are actively at work trying to subvert areas under non-Communist control. And they still move men, weapons, and other supplies from North Vietnam to South Vietnam over the "Ho Chi Minh Trail" through Laos, in violation of the Geneva agreements.

There could be peace in Laos and throughout southeast Asia if Hanoi and Peiping would comply with existing agreements to which they solemnly subscribed. The issue of peace is just that simple.

### WESTERN PACIFIC

Everywhere that I went on this trip to southeast Asia, my heart was warmed by the manifestations of friendship for the United States. And I have had the same experience during the two visits I have paid to Japan and Korea as Secretary of State.

Also I have found in the western Pacific countries widespread recognition of the economic failures of communism.

The notion that communism is a shortcut to the future for developing countries has been shattered by experience. Communism in China and North Vietnam is not only brutal but an abysmal economic failure. The Soviets have done better but their growth rate has dropped below that of Western Europe and the United States, not to mention Japan. And they have developed serious difficulties in feeding themselves. Indeed, Communist methods are a sure-fire means of reducing farm production.

While Communist China and North Vietnam are bogged down in a morass of misery, most of the nations of the western Pacific continue to advance economically and socially. Japan, which had a large industrial base before the Second World War, keeps on forging ahead in production and living standards and is making increasingly significant contributions to the technical and economic advancement of other free Asian countries. Australia and New Zealand enjoy high living standards, of course, and are contributing positively to both the security and the well-being of countries to their "far north." The Philippines, Thailand, the Republic of China, and Malaysia have made noteworthy economic progress and, as they continue to surge forward, are able to increase their assistance to other countries.

Despite their economic failures—indeed, perhaps all the more because of these failures—the Asian Communists remain dangerous. Desperation might lead them to deeds which rational men would shun.

The dispute between Moscow and Peiping is partly about the means of promoting the Communist world revolution. The free world must take care not to let any Communists anywhere suppose that they can profit from aggression or militancy.

Most of the leaders and peoples of free Asia know that the free nations are far stronger than the Communist nations. In particular, they realize the power of the United States. What they are not always certain about is the resolve of the free world, including the United States, to deter or defeat aggression. They know that the foremost Communist objective is to get the Yankees to go home. They sometimes fear that we may in fact go home.

Our Armed Forces west of Alaska and Hawaii number in the range of 200,000 men. We have them there for the same reason that we have military forces in Western Europe and elsewhere: to protect the security of the United States, which is inseparable from that of the free world as a whole.

Our programs of military and economic assistance to the free nations of Asia serve the same end. We must take care that they are strong enough, well enough financed, to do the job.

On the trip from which I just returned, I gave renewed assurances that the United States has no intention of accommodating the Communists—of assisting their campaigns for world domination—by bringing the Yanks home. I said that we are in the western Pacific to stay until that part of the world is safe for freedom.

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## Civil Defense

EXTENSION OF REMARKS

OF

## HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. HÉBERT. Mr. Speaker, last fall the House passed H.R. 8200. That bill provided for shelter in Federal buildings and authorized payment toward the construction or modification of approved public shelter space in the buildings of State and local governments and nonprofit institutions.

The Senate Armed Services Subcommittee has deferred action on H.R. 8200 until other decisions on continental defense are made, primarily on the basis that "ballistic missile defense and the shelter program have been closely related, and it is believed that a decision as to both should be similarly related."

My subcommittee is disappointed that the Senate took this action. It is evident from our hearings that a decision on the shelter program can be made independently of other decisions on continental defense. The fallout shelter program can stand alone and will contribute far more to the savings of lives per dollar spent than any other active defense program. It is not dependent on an antiballistic-missile system for its effectiveness.

The views of this committee have not changed as a result of the Senate action. We still think that the shelter program is absolutely necessary. The Department of Defense will again submit a shelter bill next year and the committee will hold hearings on it early in the next Congress. In view of this I will not schedule hearings on the Department's recent request for authorization of additional amounts based on passage of H.R. 8200.

The action of the Senate need not detract from the current momentum of the civil defense program. A full report was recently made to the Armed Services Committee describing actions which could be taken pending a further decision by the Congress on this program.

The Department of Defense has informed us it will expand existing shelter capacity and improve habitability of existing shelters by purchasing and placing in the shelter new portable ventilation equipment kits. In our hearings last summer, we were informed of accelerated research on a cheap, durable and portable ventilation kit to increase existing shelter capacities. This research has now paid off. The equipment can be bought and put in places at a cost of $2.50 per person sheltered. The kits which are either power or bicycle pedal operated can easily be installed in an emergency by persons who have no particular mechanical aptitude. The kit is only 21 by 27 by 39 inches in size. Much of the space already located by the National Shelter Survey which has adequate protection but which could not be used because of inadequate ventilation can now be put to use.

As a further measure to assure usability of fallout shelter space, minor adaptations to the water systems of major buildings will be made which will permit trapping of water in the pipes and making it available to the shelter areas. This will provide an adequate emergency water supply for the shelterees and will make usable many spaces which are not now available because of lack of stored water. Another measure will be to install telephone jacks on a one-time basis in the shelter areas. This will permit communications between the shelter areas and the command and control points.

I understand also that the Department of Defense is to adopt a number of other measures to identify and make usable the fallout protection afforded by existing structures.

As an extension of the shelter survey, the Department plans to find out how much shelter is afforded in home basements and inner cores of small multifamily units and other buildings not covered in the survey.

The information will be analyzed by using computers. It will be particularly useful in rural and suburban areas where the greatest shelter deficit exists.

Also, the Department proposes to make available professional community shelter planning services to local governments for the purpose of creating a working shelter system, determining what each citizen should do in time of emergency and getting that information to the people. The job will consist of identifying specific areas of shelter deficit and the most economical methods of overcoming the deficit, and to assign people to specific shelters.

Last week the Secretary of Defense transferred the civil defense program and the Office of Civil Defense from the Department of Defense to the Secretary of the Army. This was done because the civil defense program is now fully operational and has become an integral part of continental defense. The delegation and civil defense will retain its civilian character. It will not be made a part of the military structure. Nevertheless, civil defense must work closely with the military. General Wheeler recently said:

> Speaking both for myself as a professional soldier and for the Joint Chiefs of Staff, a fallout protection oriented civil defense is clearly a necessary element of the total U.S. national security effort. Our potential enemies have a clear capability for nuclear warfare, and we cannot discount the possibility that such a war may occur. Prudence and plain commonsense dictate that we be prepared for it. An adequate program of civil defense should give our population a reasonable degree of protection as well as increasing the credibility of our military deterrent posture.

The Alaskan experience with civil defense in the recent staggering earthquake underscores the validity of a soundly based, sensible civil defense program. Civil defense at the State and local government level, throughout those disaster afflicted communities, was the nerve center of life saving, rescue and relief operations. Civil defense communications and warning systems were the first to be restored, or in many cases were unaffected. Communications and other equipment purchased with the financial assistance of the Federal Government served as the essential link between State and local government and disaster areas in need. Civil defense organization and training made available to the governor of the State, and to local authorities, an organized system for the immediate and effective arrangements to coordinate the relief efforts of local government departments, to conduct relief operations, and to reassure the public that the Government was in command of the situation and that requests for assistance were receiving prompt attention and effective coordination. The military assistance so promptly and effectively provided was channeled to the places of most immediate need and the men and materials needed for relief operations were more effectively used because of civil defense organization and training. The same pattern would exist, and would be followed in the unlikely event of a nuclear attack. The Alaskan experience underscores the soundness of the proposal to make civil defense equipment and personnel available to combat local disasters.

These steps show progress in the civil defense field. While the progress is not as rapid as the Armed Services Committee thinks it should be, nevertheless, it is probably adequate.

All the foregoing actions, which are an extension of the current survey of the marking and stocking program, can be accomplished without additional legislative authorization. In addition to these measures, two additional actions to strengthen the civil defense program not requiring additional legislative authorization will be taken by the executive branch. The heads of all Federal departments and agencies responsible for Federal civilian and military building programs will design shelter features into new Federal buildings and will construct these features where they can be incorporated without added cost. Where the shelter features require additional funds for their accomplishment, specific authorization will be requested from the appropriate authorizing committee of the Congress, with an indication of the cost of the shelter feature. Upon enactment of the authorization for the construction, appropriations will then be requested from the Congress for the construction.

H.R. 8200 required that shelter features be incorporated into existing Federal buildings as well, and would have authorized appropriations for this purpose. Until the Congress has an opportunity to enact specific legislation for the broad program of shelter in existing buildings, this program will not be undertaken. Thus, in each instance the Congress will be authorizing and appropriating funds for the shelter features.

The Defense Department's regulations on the use of civil defense equipment and supplies acquired with Federal financial assistance will be modified to authorize their use in local disaster. Likewise, regulations will be modified to specifically authorize State and local civil defense personnel supported by Federal funds to engage in local disaster relief activities as the circumstance dictates. H.R. 8200 would have provided for this by legislation as a means to strengthen the civil defense program at the local level, and thus it was an appropriate matter for the congressional enactment. Technically, however, it is a measure now available under the existing authority in the Federal Civil Defense Act.

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## Weltner Discusses the Need for Action To Make Our Cities Beautiful

EXTENSION OF REMARKS

OF

### HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. REUSS. Mr. Speaker, the 1960 census of population found 2 of every 3 Americans living in our metropolitan areas. Most of the increase in our population is occurring in these urban centers. Since the end of World War II, we have spent billions of dollars in our cities, building anew and restoring.

But have we built cities which are beautiful tributes to our civilization? Have we translated our vast outlays, our mastery of technology, and our architectual and planning skills into the best possible environment for our city dwellers. The answer, of course, is in the negative. So it is time to look for the causes and the cures of our failure.

Our very able colleague from Georgia [Mr. WELTNER] dealt with these questions in a masterful address to the Georgia chapter of the American Institute of Planners on April 24 in Atlanta.

I believe many Members will find his address, entitled "Urban Design, Planning and Politics," of great interest. It follows:

#### URBAN DESIGN, PLANNING, AND POLITICS

Thank you for your kind introduction and also for the invitation to speak to the Georgia chapter of the American Institute of Planners. The title of my remarks has already been given "Urban Design, Planning, and Politics," but my subject is the disorganized, disorderly, dirty place where the vast majority of the citizens in the United States live—cities. My first proposition is that cities are ugly and getting worse every day.

We have become so accustomed to this ugliness, to the jarring visual impact of our cityscapes, the dull monotony of the suburbs, that I think, even to planners, the point bears repeating. The present urbanization of America has the potential of being a damning indictment of man's sin against his surroundings.

You may be familiar with Peter Blake's new book, "God's Own Junkyard." The photographs in that book make one indisputable point. We live in an awful and ugly world of our own making. And we have become inured to it. Seeing the photographs, separate and individual, brought home the frightening fact that I had reached the point that I am not aware in the normal day of the mess we live in.

I won't belabor this point, for I am sure you, as professionals, agree that cities are unbeautiful, ungainly sights.

But there is, as I have mentioned, a damning quality to this ugliness—an indictment against us, for we have built our own ugly hells. Since 1946, the first peacetime year after World War II, total construction in the United States has amounted to approximately $725 billion.

This enormous expenditure of money for new buildings, new homes, new suburbs, new cities could have made the United States a handsome nation. We might have built a world of which we would have been proud. Rather we have built manmade vistas that reflect tinsel and shabbiness, disorder and distress, monotony and money.

The larger part of this construction has been in the private sector of our economy, a fact I will discuss later, but much of it has been financed from public funds.

For instance, since 1941, the public housing program, has cost the American Federal taxpayer $1.3 billion for low-income housing across the Nation. And what do we have to show for it? What kind of housing have we built? What has been the visual impact of this publicly financed addition to the cityscape.

Dull, monotonous piles of dirty red brick with pounded dirt yards. The ubiquitous chain fence, the concrete-covered play yard. And if that seems to be a hard judgment, just see what kind of visual image your mind's eye creates if you think of the new high-rise public housing projects in our large cities. Those 15- to 20-storied buildings—4 or 5 all the same—and those little metal framed windows which open on the vista of the other monotonous facades across the concrete and metal playground.

And some planner planned for these eyesores to stand together—a vertical ghetto. And some architect designed those tiled tunnels, those filing cabinets for human beings, and some local public housing authority board approved the project.

The Nation, through FHA, VA, and GI loans, has insured $57 billion of residential construction across the Nation. And what do we have to show for these publicly supported programs?

Those rows and rows of monotonous houses—with the same size living rooms, the same size bedrooms, and often the same colored paint on the same fronts, facing across a street to another row of this sameness.

And some planner planned the sites, and some architect designed the house, not the houses, they're all the same house, and the bureaucrats approved it.

Since 1949, we have had an urban renewal program, federally assisted. To date, more than $3.7 billion of Federal funds have been committed to this program.

The program holds promise but the present realization is small. In most cities, the urban renewal director has to take you on a tour, or you would miss the newness entirely. And often the new land use is questionable, the plan is bad, and the buildings are new shiny ugliness in place of old dirty ugliness.

The Urban Planning Assistance program has committed approximately $60 million of Federal funds since its inception in 1954. We have plans for parks, plans for sewers, streets, and schools, plans for rapid transit systems, master plans and minor plans—the shelves of the planning commissions across the Nation are overloaded with plans. Soon planning commissions will have to apply for planning funds to make plans for storing plans.

We have got to put these plans into practice—we need realities instead of more reams of paper.

My point is that the Nation has expended tremendous sums of private money in the building of cities.

The taxpayers have invested millions and millions of dollars, not only of Federal funds, but also of State and local funds to save our cities, to house our people, to bring order and beauty to our growing manmade environment—and in Peter Blake's terms, we live in "God's Own Junkyard," our suburbs are slurbs and our cities are slums.

Somebody is responsible for the sight of our cities. The title of this talk might well have been, "Who's Responsible, the Professionals, the Politicians, or the Public?" For someone is responsible. Perhaps everyone of these groups is responsible, but that easy generalization leaves us with the conclusion that we hold no individual responsible.

Let me make a layman's assumption at this point. As our economic system is based on profit, our cities must meet three criteria if they are to be considered successful.

They must show a profit.

They must be a place where people can work and live, not simply exist in servitude.

They must be something of which we can be proud. By this I mean, they must be pleasing to eye. As they are the monuments of urban civilization, they should reflect the best, not the worst.

First, let us consider profit. We can assume that business will take care of itself. Many of the atrocities that have been committed on cities are done in the name of profit.

It is easy enough to lay the blame for the present state of our cityscapes and the poor quality of urban design at the doorstep of private enterprise. But this is an easy laying of the blame.

Is it or is it not true that "It don't have to be ugly to make money?" Or as a slogan, can it be proven that "Good design and planning is good business?"

As I see it, the task of answering these questions is your responsibility. If good planning is good business, then the businessman can have both beauty and a profit.

This task, your task, can't be accomplished by articles by architects and planners to architects and planners in the pages of Architectural Forum, The Journal of Housing, or the Journal of the American Institute of Planning. The businessman doesn't see these magazines. You are talking to yourselves.

And how about the politicians? City councils across the country, Congressmen and Senators, governors and mayors aren't committed to the concept of good design. They react. They react to what they know and what they feel the public wants.

The planners have taught the politicians some certain basic concepts. For instance, most cities have zoning laws. And, as you well know, most zoning laws fall far short of the ideal.

In Houston, they don't have a zoning code. There you get a tall, handsome building next to a one-floor hamburger stand with a big sidewalk-overhanging sign, and then a greasy garage.

In Atlanta, we have a zoning code. And here you have a tall, handsome building next to a one-floor hamburger joint, adjoined to a greasy garage.

And you know why as well as I. The "variance"—the way to do anything you want—with the approval of the zoning committee.

How many times at a zoning committee meeting is there a representative of the local chapter of the AIA or the AIP registering the complaint that the variance is against the best interest of the public, that it doesn't fit the "master plan" that is gathering dust somewhere?

Have you ever been to a zoning commission hearing where the local chapter of the AIA or the AIP was not only protesting, but suggesting alternatives—a hamburger stand that could bear some architectural relationship to the tall, handsome building?

At the Federal level, as I have pointed out, there is an interest and concern about cities. The passage of urban renewal, public housing, and planning legislation points this out.

My fellow southerner and colleague, ALBERT RAINS of Alabama, has made a great record as a friend of cities. His retirement at the end of this year will be a great loss to cities.

But just interest and concern is not enough—there must also be knowledge. With the multiple demands upon every Congressman, that is not easy to gain.

I am not shunning this responsibility, but I want to point out how hard it is, the knowledge has to be sought out, for it is rarely given.

One story in this regard may suffice. Last year, my committee held 2 weeks of hearings on the Urban Mass Transportation Act. During those hearings HENRY REUSS of Wisconsin, a ranking Democratic member, seemed to be a lost voice in the wilderness. One day he asked:

"In all honesty, I wish we had a philosopher or two among our witnesses. What I wanted was a Frank Lloyd Wright, if he were alive, or a Lewis Mumford. I don't think we want to prolong our hearings, but I would suggest that letters be addressed to Lewis Mumford, Frederick Gutheim, the president of the American Institute of Architects, and perhaps one of two others whose names will occur to the committee, to ask if they will rather promptly file statements."

Certainly, the committee was at fault for not having called up these professionals. But is it to much to expect that they would come forward uncalled, on this important subject?

Let me bring this matter a little closer to home. Last year, Senator JOSEPH CLARK of Pennsylvania introduced a bill on housing, urban renewal, and community development for purposes of discussion to assist in the formulation of the new housing and community development legislation this year.

I sent approximately 10 planners, many who are here tonight, copies of Senator CLARK's bill asking for their comments and criticism. Though a number of you acknowleded receipt of this bill, I received only one detailed discussion of this legislation, and that was all. This, mind you, from the Atlanta planners. Consequently, we offered little assistance, little guidance in the drafting of the housing bill proposed this year, H.R. 9751.

When this bill was introduced, I again sent it to 10 to 15 planners and others in the field of public housing and urban renewal. This time, the same person who had replied the first time replied again. Another person wrote that his position and comments would be the same as whatever NAHRO decided at its convention a month later.

I wanted to know what Atlanta planners who would have to work with this legislation thought about it. I wanted to know its relation to Atlanta's problems and programs. Only one planner was concerned enough to help me in assessing the merits of this bill.

Perhaps every planning and design school should require its students to take a course in practical politics. It might be titled "How to put your plan into practice" or "You and the city council."

There are notable examples that professionals can convince politicians that "good design is good politics." Edmund Bacon, head of city planning in Philadelphia, drew a plan. But he didn't stop there. He also found himself a politician, Richardson Dilworth, and convinced him that "good design is good politics." The result was not a dream gathering dust on a shelf somewhere, but Penn Center.

Another example which comes to mind is Ed Logue in New Haven and his well-known convert, Mayor Richard Lee.

I briefly touched on the politicians, and the public as profit seekers, but what about the public simply as the people? They simply don't know, they haven't been taught, just as politicians haven't been taught.

There is a very pertinent Scripture that speaks to this problem:

> "How then shall they call Him, in whom they have not believed?
> And how shall they believe in Him of whom they have not heard?
> And how shall they hear without a preacher?
> And how shall they preach except they be sent?"
>
> —Romans 10: 14–15.

And the preachers are the professionals, and the professionals are you.

When the public is aroused, when it is taught, the results border on the miraculous. Will anyone who cares about cities ever forget that great victory in San Francisco? The people would not allow that double-decked expressway to ruin a magnificent vista of city hall.

The art of the planner and the architect is a ubiquitous one. If plans are to be more than dust gatherers, they must be translated into new cities. And these cities are the habitat of people. They cannot avoid the ugliness of the cities; they can only live in them. They cannot ignore the effect that slurbs and slums, disorder and poor design have upon them. They become apathetic and disinterested.

Not everyone is responsible. Each one is responsible. The politician has the responsibility to learn, the public the responsibility to speak out. But the great and historic responsibility belongs to the professional, to you.

History does not blame the audiences when generations pass without a single notable play or poem—it speaks of the dearth of poets and playwrights. And history will not look upon the manmade desecration of landscapes and hold the politician and public to account—it will speak of the failure of the professionals—the planners, designers, and architects.

Your art is not academic. It cannot be contained in plans and renderings of cities that never rise. Your conversations cannot be among yourselves in professional journals and conferences.

A plan, never initiated, never explained, never taught will be a poor defense to history's indictment.

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## Addresses by President and Mrs. Johnson at Fundraising Dinner of Democratic Club of Cook County, Ill.

EXTENSION OF REMARKS

OF

### HON. PAUL H. DOUGLAS

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

*Tuesday, April 28, 1964*

Mr. DOUGLAS. Mr. President, the largest Democratic dinner in the history of Illinois and, I believe, in the history of the country, was held last week in Chicago. No fewer than 6,500 persons were present, and they welcomed President and Mrs. Johnson with great enthusiasm.

I ask unanimous consent that the remarks of Mrs. Johnson and of President Johnson be printed in the Record.

There being no objection, the addresses were ordered to be printed in the Record, as follows:

Remarks of the President and Mrs. Johnson to Fundraising Dinner of the Democratic Club of Cook County, McCormick Place, Chicago, Ill.

Mrs. Lyndon B. Johnson. Mr. Mayor, Governor Kerner, Senator Douglas, when I first received your invitation, my husband suggested that I might come out and speak in his place. But I told him I thought that was carrying the policy of women in government too far.

It is always good to come to town where Mayor Daley is host. Starting out on this trip, I was apprehensive we might be hit by lightning, for reasons you can understand. But Lyndon said, "Don't worry. I have telephoned Dick Daley and he has taken care of it." I am glad to be here because Mayor Daley is one of the warmest and closest friends we have ever had, and I certainly do not need to tell you here in Chicago he is one of the best friends the people of this country have ever had.

There are other members of my family who are better at making speeches than I am, but I hope you will not mind. I hope my husband will not mind, if I tell you some of the things he might find it hard to say.

Any leader who has been in public life for 30 years tries to look down the decades to the future of his country. Some of the things which are closest to his heart are that every child in this country should be able to use all the abilities God gave him. We want him to grow up with a fair chance to provide a decent life for his family and for his children. In a country as free and rich as America, no one should be held back because he was born in a poor family or in a poor neighborhood, or because of the color of his skin.

This is not an idea which belongs to any one party or to any one part of the country. It is as true and important here in your great city as it is on the plains of Texas. It is simply what the America you and I believe in, the America Lyndon believes in, is all about.

I am glad to be here just to let you know and to let Senator Douglas know, and to let all of the delegation of the State know, how grateful my husband is for your support in his effort to build that kind of America.

Thank you.

The President. Mayor Daley, Senator Douglas, Mayor and Mrs. Daley, Governor and Mrs. Kerner, my dear friend Bill Dawson, distinguished guests at the head table, my fellow Americans, a funny thing happened to me on the way out to Chicago. I passed Dick Nixon coming back from Vietnam, and Barry Goldwater, and Nelson Rockefeller going out. Harold Stassen was trying to hitchhike a ride, and Bill Scranton insisted that he doesn't plan to go, but if he changes his mind, he will just walk. I see in the papers that Barry and Rocky have decided to cut down on their appearances in California. This reminded me of the fellow down in Texas who said to his friend, "Earl, I am thinking of running for sheriff against Uncle Jim Wilson. What do you think?"

"Well," said his friend, "It depends on which one of you see the most people."

"That is what I figure," said his friend.

"If you see the most, Uncle Jim will win. If he sees the most, you will win."

A lot of Republicans have not decided who they want to be their nominee. One old man was asked how he was going to vote in the California primary. He said, "Well, I haven't decided yet, but I will tell you this: When I do make up my mind, I am going to be awfully bitter." And I think that is the dilemma that the Republicans face.

On the way out here today, I read where I would be coming into Goldwater country tonight. I read that in one of your newspapers. I find that pretty hard to believe. As I look around and see Mayor Daley and Otto Kerner, who drew more votes unopposed in the Democratic primary than two of the most formidable Republicans combined can draw in that primary, and I see out here tonight the Democrats who turn out here in Cook County for the largest Democratic dinner that I have ever attended, I know, I think I know, and I think you know, this is Democratic country. It is Democratic country tonight, and it is going to be Democratic country come November.

Since last November, this Nation has watched the Democratic Party at every level face the most exacting tests that any party has ever faced in our times. From city hall to the Halls of Congress, from the State house to the White House, the people have seen Democrats hold this Nation on a sure and steady course. They have seen this party keep faith with the young warrior who led us so valiantly and who was taken from us so prematurely, the beloved late President John Fitzgerald Kennedy.

I believe that when November comes, the people will express their approval with a decisive victory at all levels for the party of all the people. I believe that Chicago and the great State of Illinois will lead the way for the rest of the Nation.

It makes me feel mighty good to be here with you good people this evening. I want to pause just a moment to express my deepest gratitude and the gratitude of my family for the great sacrifice that each one of you have made, not only to buy a ticket to come here, but to come here and endure us all evening.

This is a memory that I shall not forget. This is a loyalty that I shall always treasure, and this is a friendship that I will try to return.

It is good tonight to be here with all of you and, particularly, with my old and trusted friend, Dick Daley. I don't ordinarily like to repeat what my wife has said, but I am going to, by saying that he is one of the great mayors of our land, and one of the great Americans of all time.

I am glad to come before this audience to say, "Thank you for your great Democratic Governor, for the great Democratic delegation that you have sent to Congress, led by that fighter for the people at all times, the senior Senator from this State, Paul H. Douglas, my good friend. I want you people of Chicago and Cook County to know that the people in this country have no better friends and my administration has no more loyal supporters than the Illinois delegation in the Congress that represents the Democratic Party.

There is an empty chair in this hall tonight, as Bill Dawson reminded us, and an emptiness in all of our hearts, because our country lost one of its finest public servants and I lost one of my oldest friends when death took from us last week that great American, Tom O'Brien.

I never come to Chicago without thinking how great has been our past and how greater still can be our future, for the story of Chicago cannot be told in statistics alone, in charts which show an incredible growth from 4,470 people in 1840 to 3,550,404 in 1960, an explosion which in the last decade has made Chicago the third fastest growing city in absolute growth in all of America. Behind those statistics is the story of individual men and women, pioneers and builders, struggling for jobs and decent homes, driven by the dream of education for their children, longing for a chance to live out their days in freedom and peace. Brick by brick, street by street, building by building, neighborhood by neighborhood, these sturdy pioneer people built Chicago, and people like them built all America. So tonight it is more important to look ahead to where America can go than to spend any time looking back where America has been. We must not abandon our future with a hopeless shrug of the shoulder, saying that everything has been done which can be done, confessing that the new demands of America, the demands of our cities and our suburbs are beyond the pale of our help. There are those in this country who say "There is nothing we can do," or, worse still, "There is nothing we should do." So resigned and so committed, they lay the ax of indifference to the strong oaks of hope, to urban renewal, to low-rent public housing, to aid for public schools, to relief for our hospitals, to medical care for our aging, to air pollution control, to mass transportation assistance, and to a decent poverty program for all of our poor people. Every blow of their ax strikes not at the political agenda of a political party, but it strikes at the agenda of all of America's future.

So I say to you this is not the attitude that built the America we love. This is not the way to the America that we want to build, and it is not the philosophy of the Democratic Party that I have the honor to speak for.

Woodrow Wilson, a great Democrat, once said, "The success of a party means little unless it is being used by the Nation for a great purpose." And that purpose tonight is clear. We have been called upon to build a great society of the highest order. We have been called upon—are you listening?—to build a great society of the highest order, a society not just for today or tomorrow, but for three or four generations to come. And if the Democratic Party serves that purpose, we do not have to worry about success at the polls come November.

If we do not serve that purpose, all our worrying will not help us to win the people's allegiance, for we will not be worthy of their trust, or worthy of their votes.

So let us, as party and people, think not only of the next election, but let us think tonight and plan for the next generation.

Much depends on what we do to solve the problems of our great cities. For it was Aristotle who said "Men come together in cities in order to live, but they remain together in order to live the good life." Today, more than two-thirds of the American people live in metropolitan areas, but all of us know that too few of those people really live the good life. And all of us know, too, that as long as any Americans live in inadequate homes, and go to inadequate schools, and enjoy second-class citizenship for any reason, eat too little food, get too little work, breathe polluted air, play in cramped and crowded parks—as long as these conditions exist, the vindication of democracy is beyond us and the good life is just a mockery.

To some the indication of democracy in an urban nation is an unreal and impossible goal, for they have been numbed by the magnitude of the task. Only last week a man came to see me in the White House and said to me, "Nothing we do will help. The population explosion is submerging our cities in a sea of futility. The harder we work, the more there is to do."

I feel sorry for that man. I treat him with compassion. I feel as sorry for any American who has lost faith in the capacity of the American people. I feel sorry for the country, too, when even one citizen loses hope. For while we stand tonight on the very edge of a great society, timid dreams and faint resolve will never help us to achieve it. Almost 4 years ago a brilliant young Senator named John Kennedy came to Chicago and he talked about moving this country toward new goals, and he said, "There are 5 million homes in the United States, in the cities of this country, that lack plumbing of any kind. Fifteen million American families live in inadequate housing. The average social security benefit is less than $78 a month for someone who is retired and out of work, and he has to pay food, housing and medical care out of that pittance. Anyone who says there is nothing left to do, that all the things that had to be done were done by Truman or Roosevelt, then I think he was wrong. We in our time still have responsibilities left if we are going to build a stronger society."

What John F. Kennedy said in Chicago on the night of October 1, 1960, I repeat in the same city tonight, April 23, 1964, as the continuing pledge of the Democratic Party and this administration. We are going to build a great society, and we have just begun to fight.

Last night we demonstrated the strength and the substance of our democratic system. The railroad conflict was settled. The world saw and will long remember how reasonable and responsible men respond to challenge and to need, and to leadership. After almost 5 long and dreary years, the railroad men, the company management, the union leadership, with full freedom of spirit, last night won a great victory for free collective bargaining in the American way. And I was never prouder of America than I was last night. Last night proved the lively spirit of the democratic process, but it does not lessen our concern for other problems that confront us today, for the business of building the great society is undone until we have attacked and demolished the inequalities that infect us, and the inadequacies that afflict us. We have attacked and we will continue to attack, the prejudice and the discrimination that give a Negro child only one-half as much chance of finishing high school; that give a Negro child only one-third as much chance of getting to college as other children born in this country; that give him on the average 7 years less to live.

Yes, we are attacking and we will continue to attack not only discrimination, but we will attack the causes of unemployment which now sends 4 million Americans to look for relief instead of work.

Last month, I am proud to tell you, employment in this Nation rose by 172,000 jobs, and unemployment dropped from 5.7 percent a year ago to 5.4 percent.

And if the Democrats will stay behind me and the Republicans will help us just a teeny bit, our war on poverty will make another big dent in those unemployment figures.

We have attacked with three major education bills, and we will continue to attack, the demands of education. Every single year college youngsters in America increase at the rate of 300,000 a year, a rate equal to the entire enrollment of 60 new State colleges every year, Governor Kerner. I do not have to remind you that children whose education suffers from overcrowded classrooms, or suffers from inadequate teachers, can never gain back what they have once lost.

We cannot, in a good society in America, tolerate a second-class system of education anywhere.

We have attacked, and we will continue to attack, the need to preserve our natural resources. One of the great preservers of resources of this Nation of all time is that gray-haired man of wisdom who sits at this table tonight, but who constantly leads the fight to preserve our natural resources in the Senate of the United States, your own beloved PAUL DOUGLAS. He knows, and I know, and you know, that we need more parks and more beaches, and more playgrounds for our little children, more recreational facilities for all American families.

Last year, 94 million people used our public parks. This year the number will be 99 million people who will visit our public parks. More people have more time, thank God, to enjoy more of America's beauty than they have ever had before, and if we, God willing, have another Democratic administration, we are going to give them still more time to enjoy that beauty.

I remind you tonight that beauty is not inexhaustible and it does not automatically replenish itself. Every inch of our natural heritage is a resource which once lost cannot be recovered. My administration is determined that unborn generations will not be denied the privileges of enjoying their Nation's natural beauty.

We have attacked and we will continue to attack the needs of our aging citizens. Ten percent of our population tonight is over the age of 65. Every year that percentage is increasing. What is going to happen to these people, your mothers and fathers, your uncles and your cousins, and your aunts? Who is going to help them live out their days in the dignity that they deserve, in the twilight of their career? Do we want to deny their hopes? Do we want to degrade their lives? This administration's plan for medical care for the aging asked the average worker for $1 per month from the worker's paycheck, and $1 per month from his employer, and nothing from the Government. Surely our people ought to have this chance to contribute $24 a year for a period of 40 years that will be multiplied by the interest earnings by 3.75, that will ultimately provide each person with almost $4,000 to take care of his medical care after 65. It seems to me that in our way of life we ought to have a chance to provide for people a decent life in their old age.

We have the manpower, we have the means, we have the money to do all that must be done to realize our greatest dreams. All we need now is the will. Let it never be said of the Democratic Party or of America that while the men of past had convictions, the men of today have only opinions. We have our convictions, we know what we want for America. We want an America committed not only to the defense of freedom for our own people, but to the extension of freedom to all people. We want an America that is willing to live in harmony with every other nation that respects human dignity and human liberty. We want an America that always keeps its guard up, but always has its hand out. We want an America that is seeking diligently the day "when nation shall not lift up sword against nation; neither shall they learn war any more."

This week we took a specific step in that direction when we decided to reduce the production of fissionable material for atomic bombs. With that decision, we and the Soviet Union took one step back from the precipice. We will continue to search for new ways to build the common interest while, you may be sure, seeking all ways of preserving the national interest. We are going to go as far as is prudent and as fast as is possible to bring peace to this troubled world. The America we want is an America where every citizen, whatever his race or religion, is treated with equal respect and enjoys equal opportunities to develop his capacity and to provide for the well being of his family. The America we want is an America where no home is unsafe or unsanitary, where children can play in parks and playgrounds, where every family can live in a decent home, in a decent neighborhood, where the water is clean, the air is pure, and the streets are safe at night, and where every man can worship God freely according to the dictates of his own conscience. This is the kind of America that we believe in, and this is the kind of America to which we are dedicated.

I have come here to Chicago tonight under the auspices and the invitation of your great mayor to ask your help, to ask the help of each of you to building that kind of an America, not only for our children, but for generations yet unborn. Thank you.

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## Constitutional Amendment on Prayer

EXTENSION OF REMARKS

OF

### HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 28, 1964*

Mr. WYDLER. Mr. Speaker, on April 22, my colleague, the gentleman from New York [FRANK J. BECKER], appeared before the Judiciary Committee to make a statement in favor of an amendment allowing prayer in public schools and other public places. As you know, this was the culmination of a long and sometimes lonely struggle by Congressman BECKER. His statement is worthy of note and I am, therefore, pleased to spread it in the RECORD so all may have the benefit of his words.

The statement follows:

STATEMENT BY CONGRESSMAN FRANK J. BECKER TO THE HOUSE COMMITTEE ON JUDICIARY, APRIL 22, 1964

Mr. Chairman, members of the Judiciary Committee, at long last it becomes my happy privilege to appear before this honorable committee. Needless to say, the purpose of my appearance is to give support to a proposed constitutional amendment designed to guarantee permanently the right to pray and read Holy Scripture in the public schools of our Nation. My interest in this sacred matter is intensified by the fact that the same forces which initiated the campaign to outlaw devotions in our schools are now determined to eliminate the words "under God" from the Pledge of Allegiance and the words "In God We Trust" from our coins and currency. This fraternity of secularists, if given further leeway, will remove chaplains from our armed services, our legislative assemblies, both State and National, and create in the minds of our children and young people the feeling that a tribute to God in relation to the affairs of our Nation is a misdemeanor, if not a crime.

My resolution (H.J. Res. 693) is designed to make it constitutional to refer to and rely upon Almighty God in all matters related to our existence as a nation. Such a constitutional amendment would preserve inviolate the right to sing in a schoolhouse every stanza of our national anthem. Who could have dreamed that the day would come in our Nation when a stanza from the "Star-Spangled Banner" would be vetoed by people in positions of authority over our children.

Indicative of the grassroots sentiment favorable to this project is the fact that 111 Members of the House have introduced resolutions to amend the Constitution substantially consistent with my Resolution 693. Fifty-eight Members of the House introduced identical resolutions to House Joint Resolution 693.

I have no arbitrary vanity concerning the language used in my resolution, but I must say that it wasn't drawn up hastily. It was not written in its present form until after a meeting with Members of the House who had previously introduced resolutions following the first Supreme Court decision of June 25, 1962. A committee of six members was formed and asked to draw up a proposed amendment on which all could agree. The committee was composed of three Democrats and three Republicans as follows: **HORACE KORNEGAY**, **WALTER BARING**, **DON FUQUA** (Democrats); **FRANK J. BECKER**, chairman, **DELBERT LATTA**, and **WILLIAM CRAMER** (Republicans).

Through the months numerous meetings were held. The committee conferred with some of the great constitutional lawyers of the Nation, including law professors and legislative counselors.

Why are we here today? What is the true basis for this historic discussion?

"The U.S. Supreme Court ruled 6 to 1 that the reading of an official prayer in New York public schools violated the first amendment to the Constitution. With only Justice Potter Stewart dissenting, the Court said on June 25, 1962, in *Engle* v. *Vitale* that the reading in public schools of a nondenominational prayer drafted by the New York Board of Regents[1] constituted 'an establishment of religion' under the first amendment—although this amendment merely says that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'

"A year later, on June 17, 1963, the Supreme Court held 8 to 1 in two cases decided together that reading of the Bible and recitation of the Lord's Prayer in classrooms, under direction of the local board of education, was unconstitutional. The actions were held to violate the 1st amendment as it applies to the States through the 14th amendment, which prohibits State infringement of the individual's constitutional rights.

"The two 1963 cases—*Abingdon Township* (Pa.) v. *Schempp* and *Murray* v. *Baltimore* (Md.) *School Board*—involved the constitutionality of State or local statutes that require a religious exercise at the beginning of a schoolday, from which any students who objected could be excused. Again, Justice Stewart was the lone dissenter."

In the first decision of the Supreme Court relative to these matters, which was made on June 25, 1962, a member of this committee assured us that this decision would not bar prayers in public schools—it would merely forbid the use of an official prayer. To me that did not seem to be the case, and as it has turned out, it was merely the first step in forbidding reference in our schools of any reliance upon God Almighty.

The second decision of the Court rendered on June 17, 1963, relative to the Pennsylvania and Maryland cases confirmed my observation and there is little doubt in my mind that steps now being taken in the courts will eventually forbid any reference to one's reliance upon God Almighty and one's belief in a Supreme Being. Unless constitutional guarantees are established, devotions will be outlawed in all public institutions.

I am confident that every member of this committee is aware of the fact that for 22 months I have urged the chairman to hold hearings in consideration of these resolutions and the subject in general. It is my deep, personal, and humble opinion that nothing could be more important. The welfare and the entire future of our beloved America depends upon how we handle the most dynamic tradition in our national life—dependence upon Almighty God.

Through these months I have been inspired by the fact that groups have sprung up all over the United States who are concerned over this matter and are determined that this Nation, under God, shall not permanently and officially outlaw in our public institutions the very attributes of faith which have made us great.

I don't need to remind you that I have spoken frequently on this subject—under the 1 minute rule. In every instance I have pressed for hearings before this committee. I had hoped and prayed that it would not be necessary for us to use the discharge petition rule, and for more than 1 year we tried to avoid this necessity.

Some of us have been criticized on the grounds that the discharge petition called for only 4 hours of general debate. This gives rise to the question: How many bills which come before the House are permitted more than 4 hours of general debate? The answer is obvious; namely, very, very few. The rule required that all points of order be waived opening the matter to amendments. This being the case anyone could offer amendments and speak under the 5 minute rule, as we all know. Originally we assumed that only Members of the Congress would appear before this committee, but in fulfillment of requests which have come from nonmembers of the House, time for their appearance has been granted.

It is assumed that many statements pro and con will be made before this committee during these hearings. Some of the witnesses will represent organizations and churches which enroll millions of people. Let us not forget, however, that the Members of this Congress represent all the people of the United States and no one can appear before this committee who represents as many people as the combined membership of the Congress. The Members of this Congress surely are aware of the fact that the vast majority of our people favor a constitutional amendment which will guarantee permanently the right of prayer and scriptural devotions in our public schools.

With 111 Members having introduced resolutions in substantial agreement with my resolution and with 164 Members of Congress already having signed discharge petition No. 3, who can deny that there exists an overwhelming sentiment favorable to this proposition?

I am confident that every member of this committee, like myself, is aware of the unpopularity of the discharge petition, because frequently this technique is employed by people unwilling to play the game in this complex program of legislative endeavor. I am confident that no member of this committee would deny the fact that but for the unpopularity of the discharge petition idea, the petition already signed by 164 Members would bear many, many more names. Any Congressman experienced in detecting rumblings when he puts his ear to the ground, so to speak, should have no difficulty in realizing how public sentiment supports this measure.

The Constitution of the United States makes provision for amendments. The Congress in this instance is not being asked to amend the Constitution, but merely provide the means whereby an approved proposed amendment will be prepared by Congress to be submitted to 50 State legislatures for their approval or disapproval. The wisdom of our Founding Fathers is certainly demonstrated in this formula because after a measure has been approved by the Congress of the United States and then approved by the legislative assemblies of the several States, who could deny that it was the will of the people, and who here is going to deny the right of the people to pass on this life and death issue involving the fabric of our culture, the warmth of our souls and the dynamics of our traditions. If we ignore the compulsion which comes from the hearts of the people concerning this matter, we will be put in the position of throwing off the switch which connects a central dynamo to the lights of a great Nation.

Superficial observers would have us believe that a Supreme Court decision is completely final. Such people even insist that we accept it as not only final but sacred. It is obvious that the Supreme Court itself does not accept this viewpoint because they have reversed numerous decisions made by earlier Supreme Courts. If the present Court does not recognize the sacredness of earlier decisions, how can they expect those of us who honor and respect the Constitution of the United States to define their decisions as final and sacred?

In the first case known as *Engle* v. *Vitale* involving the State regents prayer of New York, the New York State Supreme Court, which is indeed the highest court in the State, and the New York State Court of Appeals, all made up of jurists of the highest caliber, ruled in favor of the regents prayer. Only the Supreme Court of the United States in a six to one decision reversed the State courts.

To carry on a discussion of whether the Supreme Court correctly interpreted the 1st and 14th amendments to the Constitution would be an exercise in futility. I must, however, respectfully disagree with the Court's determination and as a Member of this Congress I will continue in the future, as I have done in the past, to do everything possible to overcome the devastating effects of this decision with which I so vigorously disagree.

Concerning the offering of prayer and the reading of Scriptures in the public schools, I quote from an address by the late Cardinal Gibbons, before the Chicago Women's Education Union, in 1922:

"The men and women of our day who are educated in our public schools will, I am sure, be much better themselves, and will also be able to transmit to their children an inheritance of truth, virtue, and deep morality, if at school they are brought to a knowledge of Biblical facts and teachings. A judicious selection of Scripture readings, appropriate presentation of the various Scripture incidents, born of reflection on the passages read and scenes presented, cannot but contribute, in my opinion, to the better education of the children in our public schools, and thus exercise a healthy influence on society at large, since the principle of morality and religion will be silently installed while instruction is imparted in branches of human knowledge."

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[1] Prayer text: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessing upon us, our parents, our teachers and our country."

I ask to insert herewith a statement by the Reverend W. Hamilton Aulenbach, D.D., rector of Christ Church and St. Michael's, of Philadelphia. The statement was published in Christian Economics under the date of February 18, 1964. I only quote the last two paragraphs but commend the reading of the article which is not lengthy.

I quote this rector who debated with the atheist who was responsible for initiating the protest against Bible reading. Her will in the matter was later confirmed by the Supreme Court.

Said Reverend Aulenbach: "Arrogant, vulgarly, disrespectfully, she disdains God. She spits at the mention of the phrase 'Nation under God.' "

Continuing Reverend Aulenbach says: "Don't you devoutly wish to put 'thanks to God' back into Thanksgiving Day and the Bible and prayer back into our public schools, and Christ, the Redeemer of man, back into Christmas? If you refuse to be eternally vigilant, our Nation ceases to be a nation under God and becomes a disillusioned nation worshipping only man himself. How strange that the Supreme Court could decide (and rightly so) for racial integration and then decree religious integration to be a crime."

### "THE PRICE OF LIBERTY

"(By Rev. W. Hamilton Aulenbach, D.D., rector, Christ Church and St. Michael's, Philadelphia)

"The price of liberty is eternal vigilance. Americans don't dare even for one moment cease to be alert in their thinking, their doing, their living, their vigilance, if our Nation is to continue a new nation under God. This Government of the people, by the people, for the people—you and you, and I—increasingly secularized cannot long endure without our 'invisible means of support'—God.

"For years this rector has protested vigorously—and does so now—taking 'thanks to God' out of Thanksgiving for spectacular 'welcome to Santa Claus' parades and important—believe it or not—public school high school games at church time. Believing one with God is a majority, this one rector fought against the minority's desire to remove Christmas carols from our public schools a decade ago. Prominent public school officials in some instances vehemently disagreed.

"It was natural that next, prayer was outlawed in New York State and Bible reading and the Lord's Prayer in our Nation's schools actually made a crime punishable by fine and imprisonment. Bible reading and the Lord's Prayer a crime. How degenerate. Actually the Supreme Court was in this instance not qualified to make the decision it did. It was completely unable to distinguish between public worship—a must in our American democracy—and church-state worship not at all a present threat in our land. As a member of Houston Post of the American Legion, your chaplain has year after year talked to the young in Germantown's public schools. Always at the time allotted for Bible reading the pupils were quiet, reverent, meditative listeners, when well chosen passages from the Bible were read well by either teacher or pupil. It was integrated worship which could offend only the atheist. No one else.

"How strange the Supreme Court could decide—and rightly so—for racial integration. And then decree religious integration was criminal. Even the President of the United States was caught up in the belief. Now all go to our homes and our churches to pray. Never in public. He with the Supreme Court advocated making religious ghettoes of church and home where each in his own sectarian way separated from the sectarian ways of his fellowmen could worship only his own sectarian God. Apparently this recent misinterpretation of our Constitution did nothing to provide as did once the public schools for some form of the worship of God, the Father, for the far too many children from godless, spiritually indifferent homes. Let them spiritually fend for themselves, was the implication.

"Our course, our secularization does not end here. On the campus of California State University, a person occupying a campus house cannot bring in his own clergyman to his own home to conduct a service of worship. The clergy involved in any kind of work on the campus cannot be listed as clergymen in the campus telephone directory. In our own State of Pennsylvania, the State department of justice has ruled out baccalaureate services in public schools as unconstitutional. Criminal. Can you imagine such a thing? This rector debated with the atheist responsible for taking her atheistic protest against Bible reading to the Supreme Court. Arrogantly, vulgarly, disrespectfully, she disdains God. She spits at the thought of a 'nation under God.'

"When this rector—your chaplain—carried his protest to Washington, D.C., both Senators and Representatives who felt the Supreme Court decision was the product of confused minds insisted only the people could have this decision reversed. They explained their mail did not indicate today's Americans were concerned. Could this really be so? Don't you devoutly wish to put 'thanks to God' back into Thanksgiving Day? And Bible reading and the Lord's Prayer back in our public schools. And Christ, the Redeemer of man, back into Christmas.

"If you refuse to be eternally vigilant—the price of liberty—then our Nation instead of continuing a 'new nation under God,' becomes a disillusioned nation worshiping only man himself. This can only mean the end instead of the constantly refreshing beginning." Reprinted from the Liaison, American Legion Post No. 3, Germantown, Philadelphia, Pa.

Now with your indulgence I would like to read into the record one of the finest sermons on the subject we are discussing entitled "Should We Have Religious Practices in the Public Schools?" This sermon was preached by a dear friend of mine, Rabbi Bernard Zlotowitz:

### "SHOULD WE HAVE RELIGIOUS PRACTICES IN THE PUBLIC SCHOOLS?

"(By Rabbi Bernard Zlotowitz, Sermon Preached by the Rabbi on Shabbos Chol Hamoed Pesach, Friday Evening, April 20, 1962, Union Reform Temple, Freeport, N.Y.)

"The purpose of the Passover holiday is to make us conscious of the importance of freedom and the worth of the individual. Passover cautions us not to take for granted the privileges we enjoy as free men and women. The seder and its ceremonial symbols serve to remind us that the bread of affliction and the shackles of slavery must once and for all be destroyed so that the dignity of the human being will be raised to a godly level and all the peoples of this earth regardless of their color, race, or creed will be truly recognized as children of God created in His image.

"It is, therefore, fitting and proper at this season of our joy and gladness when we commemorate the exodus from Egypt and our redemption from slavery to examine once again the religious ideals of our faith and the high principles of our country.

"To be more specific, let us consider whether prayers and Bible reading in the public schools, or for that matter any religious celebration, is in keeping and in harmony with our religious tradition and American heritage—or whether it is a violation of our Constitution and all that we hold dear and sacred.

"Our religion has its roots in the belief in one God who taught us through His prophets and seers that freedom of the individual is paramount and is the ideal of mankind. God himself took us out of the land of Egypt—out of the house of bondage to make us a kingdom of priests and a holy nation—where brotherhood would reign supreme and godliness reach unprecedented heights.

"Similarly, our own Nation was founded 'in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.' And in order to put teeth into this preamble, the first amendment to the Constitution which the States ratified was the declaration that 'Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.'

"The Founding Fathers knew only too well the dangers inherent in an established church. The experiences of the countries of the European continent were only too vivid in their minds.

"They fully realized that the freedom of the individual could never be complete if there was an official church recognized by the state. This the Founding Fathers wanted to avoid at all costs. They wanted a separation of church and state; and this they achieved.

"But by no stretch of the imagination did the founders of our country ever desire the separation of religion from government. The founders were a godly group of men and this was to be a godly country. Religion imbued them with a spirit of love and high ideals. The Bible inspired them.

"The Liberty Bell bears the biblical inscription: 'Proclaim liberty throughout the land unto all the inhabitants thereof.' The Declaration of Independence refers to the Deity as the source of liberty. Listen to the words of this great document: 'When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that tney should declare the causes which impel them to separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights. * * *'

"From these significant examples we can readily recognize that the founders of this Nation were a godly people and not a godless people. That they wanted a godly nation and not a godless nation. They always sought Divine help in all their deliberations just as the Houses of Congress do today. In fact, there are official chaplains in the Government, who bring spiritual aid and comfort to the representatives of the Government.

"The President of the United States takes a Bible, places his hand on it and raises his other hand to God and swears under an oath to God that he will uphold the Constitution and the laws of the United States. Governors, mayors, judges, and all people who hold public office take an oath to God that they will fulfill the duties of their office to the best of their ability. A nonbeliever cannot hold a public office in our land. The wheels of justice would be at a standstill if witnesses were not 'sworn in.'

"The laws of perjury are based on swearing falsely. Our currency reads: 'In God We Trust.' Even the pledge of allegiance has been modified to read: "This Nation, under God.'

"All this is in keeping with the spirit of our Founding Fathers. For they realized, as we do, that God and religion cannot be divorced from life. It is as much a part of us as the air we breathe. It was Justice

Warren who pointed out when he spoke at the Biennial Convention of the Union of American Congregations in Washington last November—that we are a religious country by virtue of the fact that there is separation of church and state. Thus, in the opinion of the Chief Justice of the United States, our country is a religious nation because we do not recognize one church as the official church, but rather we recognize all houses of worship be they Protestant, Roman Catholic, Jewish, or any others.

"We recognize the vital role that religion plays in making our life meaningful. Yet today in our community and in some other communities, a group has seen fit to challenge this concept of our American way of life and to undermine it. Today there is a movement afoot to attempt to supress God in our schools, and to make the mention of God's name subversive in any public school.

"In fact, the matter has gained such serious proportions that the Supreme Court of the United States heard arguments on this issue early this month, and I understand that sometime in the fall, it will render its decision on whether public schools are permitted to have Bible readings and prayer.

"It now behooves us to ask: What is the function of the public school? The purpose of the public school is to teach our young to grow into useful and responsible citizens by preparing them properly for life. This can only be accomplished by having schools transmit our culture and our heritage which in this country is Judeo-Christian. We Jews live in a country where we are a minority—a very small minority at that. The overwhelming majority of the citizens of this Nation are of the Christian faith—and as such, exert a great influence over us. I need only point out as I have on numerous occasions in the past, that we are unduly influenced by Christians not only in our schools which is minute as compared to the influence generated through the mass media of advertising, TV, radio, movies, newspapers, magazines, our business associations, and indeed our whole environment.

"The emphasis on Christmas, for example, is so strong that we have tried to offset this in our homes by overemphasizing the importance of Chanukah, and making of a minor holiday—one not mentioned in the Bible—a major festival. It seems that today we Jews observe three high holidays a year—Rosh Hashanah, Yom Kippur, and Chanukah.

"But to get back to my point—the objectives of the school system is to convey our culture to our offsprings for their well-being as well as for ours. Toward this end, the school gears its curriculum to teach English, citizenship, government, American history, European history, geography, mathematics, sciences, and many other courses which are basic to living a good life in this country. And along with these courses of instruction, the school, in keeping with its desire to reflect the needs of the communty, observe what we term religious practices.

"The schools close down during Christmas and Easter because these are religious holidays to the majority in our community. The schools are closed on Saturdays and Sundays because these are religious days. The schools plan no functions on Sunday because it is a religious day. In some parts of this State these schools close on Rosh Hashanah and Yom Kippur because they are holy days.

"In reflecting the needs of the community and in perpetuating its heritage, the school celebrates holidays as does the community. In doing so, it attempts to explain, as it should, what the community is doing and what its citizens believe. Our children, as part of the total community, should understand the community in which they grow up, and where they will eventually earn a livelihood, marry, rear their own children, and make their contribution to community life. The school, if it is to fulfill its obligation, should explain the beliefs of its citizens, be they Christian, Jewish, Moslem, or any other faith. The Jewish child should know about Christmas and Easter as the Christian child should know about Chanukah, Rosh Hashanah, Yom Kippur, and Passover. Each child should know and understand the others religious observances. This makes for better relations in the community. This is the school's moral obligation. This is its civic duty. This is its responsibility. The community of which we are a part is a religious community. Nearly everyone believes in God. Nearly everyone worships God. And in keeping with its principle and ideals and goals, to mirror the needs and desires of the community, the school is fulfilling its duty in transmitting our culture and beliefs by having a prayer at the opening of the school day, and/or reading a passage from the Bible, because as a community, we believe in prayer and in the Bible.

"In New York State the following prayer is offered in the public schools: 'Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country.' Now, what is wrong with this prayer? Yet some see great danger to our American way of life if the recitation of this prayer is permitted to continue. In fact, they have gone so far as to take this issue into the courts, and thank God, the New York courts have sustained this prayer. It is now before the Supreme Court where arguments as I noted earlier, have already been heard and a decision is to be rendered as to its constitutionality.

"I wonder why these groups don't object to the teaching of the Golden Rule and ethics and morals. After all, these are also religious teachings having their roots in the Bible.

"I think the school would be derelict in its duty if it did not transmit our culture in its entirety. For this is its function and responsibility. I admit that there are abuses connected with religious practices in the schools, and they do at times seem to be sectarian in character rather than nondenominational. But the solution does not lie in eliminating these prayers or Bible reading or holiday celebrations, but rather in correcting these abuses. One does not tear down a house if the roof leaks. He merely repairs the roof. Let us do the same. Let us repair the damage where necessary, but in doing so, let us not destroy the structure. Let us not throw out the baby with the bath water. And let us pray, that in the teachings of this holiday of Passover, we may yet find the truth that will guide us to a solution that will benefit ourselves, our community, and our country. Amen."

I inserted this in the CONGRESSIONAL RECORD when it was sent to me by Rabbi Zlotowitz in 1962. I believe you must agree with me that his reasoning is clear evidence that we must amend the Constitution to restore the right to pray and read from the Bible in our public schools and preserve for all time the heritage of our reliance in a Supreme Being in our public life.

It has been argued by some that children mumbling a prayer in school is meaningless, and reading passages from the Bible, which they do not understand, a waste of time. If this be true, then many of our educational programs involving the memorizing of poems and the reciting of classics are also meaningless.

I am impressed by the fact that the same fraternity of cynics who campaign against tribute to God are cool toward many other of our traditions, such as the Pledge of Allegiance to the Flag and the devout phrase contained therein, "under God." Naturally, belief in a Supreme Being is meaningless to an atheist, but the negative dynamic of atheism did not build America. I am further impressed by the fact that this fraternity of cynics, atheists and unbelievers who would abolish any mention of deity in our schools and other public institutions manifest opposition to what we call patriotism. If we display enthusiastic affection for the Stars and Stripes, we run the risk of becoming the objects of scornful, materialistic sophisticates who want to brand us as being "chauvinistic." Because of this and numerous other circumstances I find my enthusiasm increased by the nature and personnel of the opposition.

To illustrate: I would like to quote the text of the letter sent out by the Free Thought Society of America, Inc., 4547 Harford Road, Baltimore, Md. This society in responding to a circular which related to the anti-God movement as a national emergency had this to say:

"GENTLEMEN: One of our members sent us a tract that your organization is passing out entitled 'National Emergency.'

"Buddy, you ain't seen nothing yet. This is more than an emergency for you superstitious Neanderthals.

"You are absolutely correct, we fully intend to destroy superstition in the United States of America for once and for all.

"We threw superstition out of the schools, we will throw the chaplains off the battleships, and we will teach American children that Tyrannosaurus was not in Noah's ark.

"The exploitation of sex by the church is another era that has passed.

"Defiantly,

"GARRY DE YOUNG,
*"Vice President."*

The periodical known as the American Atheist magazine in commenting on some of the sacred slogans, such as "In God We Trust," carried the following blasphemous couplet:

"To fool little children it is a must.
But if we had no men to fight,
No Army, Navy, airplane might,
We'd trust old Jehovah and Mary hail
As far as we could throw a bull by the tail."

I do not question the sincerity of good people opposed to this amendment, but I think if they would make a deeper survey of the question they might be shocked to find what strange and obnoxious company they are keeping.

The American Humanist Association, which is fighting the prayer amendment, reveals on its letterhead the names of Mrs. Madalyn Murray and Corliss Lamont.

A periodical known as the Scholastic Teacher carries an article by one Shad Polier, chairman of the Governing Council of the American Jewish Congress. In the article Mr. Polier says: "BECKER is conducting a one-man crusade which has turned some people's discontent with a historic Supreme Court decision into the most serious challenge to the integrity of the Bill of Rights."

He should rightfully refer to the Supreme Court decisions concerning this matter. These decisions constitute the factor which has created great discontent among our people. Why should I be condemned for calling on the people to exercise the constitutional formula in the preservation of their inalienable rights? Has it become treason to respect the decisions of the American people as expressed through the legislatures of the several States? If we are to deny ourselves the right of amendment as provided in the Constitution, then we are to deny ourselves the rights guaranteed by the Constitution. Could that be the intent of Mr. Polier?

I am confident no one here needs to be refreshed on the words of the Constitution which read as follows: "The Congress whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by convention in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided,* That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

This Constitution, which Blackstone referred to as "the greatest document ever struck off by the hand of man," speaks for itself. In advocating the exercise of the right guranteed in this article, my judgment is supported by 110 other Members of Congress.

My responsibility in this matter requires that I answer further the words of Mr. Polier of the American Jewish Congress, who in his statement summarizes five reasons for opposing this and similar amendments. I shall answer categorically his attacks as summarized in his article.

Mr. Polier makes his points in support of a series of resolutions which were adopted at an official gathering of the American Jewish Congress in opposition to the amendment advocated by myself and others.

1. "It threatens the integrity of the Bill of Rights."

The AJC resolution charged that adoption of the Becker amendment would set a precedent for "further assaults" on the Constitution whenever the Supreme Court handed down an unpopular decision protecting civil liberties. The Bill of Rights is America's most precious heritage, the resolution declared. "It would be disastrous if disagreement with this or that Supreme Court decision should lead to the step-by-step destruction of the basic guarantees of American freedom."

My comment on this attack is: Are the people of the United States to be compelled to submit to a nine-man oligarchy and deprived of their right to dissent or disagree with Supreme Court decisions? If such is to be the case, we will lose the inherent rights which we have enjoyed for 180 years. If we are to be compelled to agree with all court decisions, the American people would gradually and silently submit to a nine-man dictatorship. How can the integrity of the Bill of Rights be imperiled by the exercise of those rights. It would be interesting to know if earlier decisions of the Supreme Court which have been reversed by the present Court are as sacred to Mr. Polier as this decision which seems to him a pet decision. In this connection it might be well to remind ourselves that in 1891 the Supreme Court of the United States passed down a decision declaring the United States to be a Christian Nation (*Holy Trinity Church* v. *United States*).

2. "It threatens the principle of church-state separation."

Since the adoption of the first amendment 172 years ago, the AJC said, "our country has escaped much of the bitter religious conflict and sectarian strife that has divided other nations. This has been due in large measure to the concept of the separation of church and state, one of the truly great contributions the American people have made to Western civilization. The Becker amendment is a direct assault upon this principle."

The answer to this criticism should be obvious to every mature-minded observer. Down through the years devotional exercises in schools, graduation ceremonies, inaugurations, Fourth of July celebrations, etc., etc., have been a fundamental part of what we might refer to as "Americana." The Pledge of Allegiance, "The Star-Spangled Banner," Washington's Farewell Address, the Declaration of Independence, public documents, etc., etc., all fitted into this pattern of America's tradition of faith.

Why now at this late date, knowing these exercises have only brought strength and goodness to our people are we to be challenged and denied this humble right confirmed by time and rich experience?

One of the most confirming facts in this connection is that through all these years America has developed the most harmonious spirit among religionists of all beliefs of any nation on earth. Nowhere in the world is it safer to be a part of a microscopic minority than in the United States. Even in this desire to preserve a custom enjoyed by the majority, I know of no one who desires to compel the minority.

I know of no man advocating this formula for the protection of devotional exercises who has even the faintest desire to weaken the traditional opposition which our people have to the combining of church and state.

3. "It threatens the principle of religious freedom."

While the Becker amendment speaks of school prayers and Bible reading on a "voluntary basis" the resolution declared, "every educator knows and many courts have recognized that it is unreal to speak of voluntary action on the part of young children in the public schools." The resolution quoted from the opinion of Supreme Court Justice Brennan, in the Bible-prayer case, holding that excusing children from prayer exercises "subjects them to a cruel dilemma."

I yield to no one in my support of religious freedom, and I can remember no dilemma faced by any student during my years in school when the Lord's Prayer was said every day I attended school. No one suffered a dilemma when passages were read from the King James version of the Bible, although I am a Roman Catholic. There were Catholics, Protestants, and Jews in my school, but we never thought of one another as such.

My three children attended public schools and were never faced with any dilemma when they participated in reciting the Lord's prayer and listened to the reading of passages from the King James version of the Bible. In fact, it is my deep conviction that they became better citizens and better people through these devotional practices. Our individual beliefs never interfered with our friendship, and I am certain they never will. I am confident that anyone reading the opinion of Supreme Court Justice Potter Stewart concerning the Supreme Court decision must admit that he made many telling and valid points in his minority opinion.

4. "It threatens the integrity of the public school system."

The resolution warned that the introduction of school prayers "would divide the children in every classroom into groups of Protestants against Catholics, Christians against Jews, believers against nonbelievers." The resolution added: "If there is one place which should be kept entirely free of sectarian strife and religious rivalries, it is the public school—the chief instrumentality of our Nation to promote and preserve the unity of the American people."

I think it would be extremely difficult to find a situation where sectarian strife was introduced into a public school because of the prayer issue. I have done some careful research on this subject and I find not one single instance until the question was raised in the Herricks School case on Long Island by a handful of people, and I am convinced that this issue is now being raised to prevent the adoption of the proposed amendment. When we refer to the "unity of the American people" how can this unity be fostered and preserved if the will of the great majority of the American people is to be thwarted. How can we outlaw a sacred practice which has been a part of our lives for 180 years without frustrating an overwhelming majority of the American people. The fact is that the two Supreme Court decisions have created more disunity among our people—in fact, almost the first disunity among our people—concerning such matters. I am confident that no member of this committee could think of planning an address before his constituents opposing the right of tribute to a deity without anticipating unhappy reactions, disunity, and vigorous opposition.

I raise this question: Are we to become so illogical as to believe that the way to promote unity among our people is to outlaw God, step on God, ridicule God, and deny God in our public institutions in a land where we owe this same God a debt of gratitude for the abundance which has been bestowed upon us?

A realistic appraisal of this situation should convince any mature observer that every time a step is taken in the courts seeking to rule out tribute to God it increases the bitterness and the disunity among our people. I have spent a lifetime endeavoring in my humble way to cement relationships among our people. I have never failed to defend the rights of all the people in their freedom to worship according to the dictates of their conscience. I challenge any individual to contradict this fact.

Yes, I must confess that I believe in God and I believe in the principles of peace and I believe that peace on earth among men of good will is the cornerstone of our God-inspired civilization. Like everyone else, my days on this earth are numbered, and some day I shall receive my summons. I claim no superior wisdom concerning the eternal destiny of man or when and how I shall face my Creator, but when I face Him whether it be on my knees in church or before the judgment bar of eternity, I shall never be compelled to confess that I gave any encouragement whatsoever to those who would forbid our little children to pay tribute to their Divine Creator.

5. "It is not helpful, but rather hurtful to religion."

The resolution said that "whatever is good and meaningful in prayer must be inevitably lost by its mechanical repetition in an atmosphere devoid of the religious spirit which only the home and church can provide." A sectarian school prayer would abridge the religious liberty of children adhering to other faiths, the A.J.C. declared. A "nonsectarian" prayer would "Not only infringe upon the rights of those affiliated with no religious body but would pose the danger of a new, public school religion which, in seeking to be least offensive, will succeed only in being least meaningful—and yet most pervasive."

In my judgment this argument is fallacious. Much of the early education of children is mechanical and repetitive, such as the multiplication tables, the quotation of classical poetry, and the repetition of axioms. These truths are embedded in the minds of the children and frequently do not flower into full meaning until the child begins to develop maturity. The school is an educational organization, and no book has been more a part of our civilization than the Holy Bible. Who would contend that education should not include the history of Shakespeare, the great American poets, Dickens, Thackery, etc., etc. Are we to permit a little handful of oversensitive atheists to carve out of our educational system an understanding of the book and the document which has meant more to our way of life than all the other volumes combined—the Holy Bible.

In a sense I am indebted to the American Jewish Congress, and I have taken this time to discuss their arguments against the constitutional amendment, because I believe that they have summarized the logic of the opposition as completely as any group or any organization whose comment on the subject has been brought to my attention. We should all be thankful that we live in a land where each of us can disagree on subjects such as this without in any way imperiling or sacrificing our personal liberty.

At this time I would like to read from an article by Dr. Jonas Simon, chairman of the Jewish Institute of Research entitled "The High Court and the Court on High." This was written after the first Supreme Court decision involving the *Engle* v. *Vitale* case.

[From the Congressional Record,
July 16, 1963]

### "THE HIGH COURT AND THE COURT ON HIGH

"(By Dr. Jonas Simon, chairman, the Jewish
Institute of Research)

"(Dr. Jonas Simon is an educator, writer, and lecturer. He was delegate to the first International Peace Conference after World War I at Berne, Switzerland; invited to conferences on educational and religious problems by the late President Charles W. Eliot of Harvard University; champion in the fight against calendar reform; interviewing on this matter the foreign delegations of the United Nations in 1945 at San Francisco. He is chairman of the Jewish Institute of Research, Inc.)

"The existence of the Creator, proclaims the believer, is the supreme truth, His word the law of all laws, His will the constitution of constitutions. The constitutionality, therefore, of man-made constitutions is subject to its congruency with the constitution of mankind, the advice of the Creator, who behind the scene of all human turmoil is directing the fate of mortal man.

"If 'Separation of Church and State' does not fall into line, if it will or can be abused as a separation from religion, it has to be cleared legally without vacillations and self-contradictions and, if necessary, to be adjusted by amendments.

"Apparently, it was never meant to be a tool in the hand of atheists or any irreligious groups to undermine and to control the masses of believers in these United States. Therefore we witness now the widespread commotion against the recent decision of the Supreme Court. Even the wisdom of America, the schools of higher learning in this country have grown on the fundamental basis of outspoken religious institutions.

"Also from a political angle the recent Supreme Court decision and its timing was to many a source of deep regret and disappointment. This is a time when our citizenry is sorrowfully concerned about the possible cleavage of its unity through the appearance of the Birch Society on the American scene. It should not have been burdened with additional perils of a dividing character.

"It is also a time, when wise and well informed men of vision weigh gravely the spreading moral decline in all strata of society with no end in sight. The tremendous endeavors for the uplift of American life of an energetic, youthful, and industrious president through domestic and foreign devising were not in a position to change this tragic state of affairs. Evidently, entirely different systems are to be applied to cure this cancerous malady.

"In this fatal period, the Jews of the old historical traditions will set the example for their Jewish brothers to respect and to give preference to the rights of the majority of their co-Americans. They on their part will take on their shoulders as they have done through the centuries, all the sacrifices required to give their children an education of excellence in their own way. Such is the nobleness of the Jewish genius and the expression of its responsibility."

With your indulgence I should like to read an article by the renowned evangelist, the Reverend Billy Graham, which was published in the Chicago Sun-Times, April 8, 1964. It is our hope the Reverend Graham will be able to testify before this committee during these hearings:

### "GRAHAM HERE, BACKS SCHOOL PRAYER BILL

"[From the Chicago Sun-Times, Wednesday,
Apr. 8, 1964]

"(By Dolores McCahill)

"Evangelist Billy Graham said Tuesday he supports the Becker amendment to legalize prayer and Bible reading in public schools on a voluntary basis.

"Graham gave his views on several topics—including the fact that he has no present plan for a second crusade in Chicago—at a press conference in the Pick-Congress Hotel.

"He came to Chicago for a Tuesday night address to the National Association of Evangelicals, holding its annual convention in the hotel, and talk Wednesday to the National Association of Broadcasters.

"Language in the constitutional amendment proposed by Representative Frank J. Becker, Republican, of New York, is very close, in some phases, to a resolution by the executive committee of the NAE. The association is composed of some 40 small, conservative Protestant denominations with a total membership of approximately 2 million.

"Graham told reporters he has been trying to raise public opinion for the amendment, asserting:

"'We are reaping a whirlwind in delinquency. Young people do not know what is right or wrong any more. Our young people are not being taught moral values; they are at sea morally.

"'We have removed moral law from the young people. The Ten Commandments could be read and said every day in our schools, Protestants, Catholics, and Jews all agree on the Ten Commandments.

"'I think the schools have read so much on the Supreme Court decisions they think there can be no teaching of religion in the school at all. I say moral values are part of our education. In the secondary schools, I think they have the right to teach the Bible objectively under terms of the Court decisions, but how to do it objectively causes much discussion.

"'I back the Becker amendment. A great many Protestant leaders and most Roman Catholic leaders back it, I believe. What we have seen is only the beginning of what we face. The Supreme Court itself is opened with prayer. If there is a movement by a small minority to remove the idea of God completely from our national life, I think it extremely dangerous.'

"The evangelist said he was very thrilled and satisfied with the record of his Chicago crusade in 1962, and has no plan to hold another one here."

Regardless of our religious affiliation, we must all recognize the fact that Reverend Graham is a man of great influence. Not only does he influence millions of American people, but he speaks for millions of American people. Many of these millions would be only too willing to leave the whole matter up to his judgment.

No man could speak with greater authority concerning the will of the Catholic community than His Eminence Francis Cardinal Spellman. I would like to quote in part the statement made in behalf of His Eminence Francis Cardinal Spellman, archbishop of New York, Senate hearings, July 26 and August 2, 1962:

"After careful study I have come to the conclusion that the recent decision of the U.S. Supreme Court in *Engel* v. *Vitale* * * * was a grave error in judicial judgment, a decision out of line with the conscience and religious heritage of the American people and one which foreshadows an ominous tendency to undermine cherished traditions of this Nation (p. 140).

"The root of the Court's error was that it lost sight of the fact that those who drafted the clauses intended not to prefer irreligion and godlessness over religion, but to make certain that Government, while cooperating with all religions, did not establish a state religion or prefer any one religion over others. * * * I respectfully suggest that this committee propose a constitutional amendment which would restore the original concept of the no-establishment clause."

I should like to comment briefly on the staff study report which was made at the direction of the chairman of this committee. This report threw up numerous roadblocks relating to the consummation of a proposed amendment. I do not desire to oversimplify the problem, but doesn't it seem reasonable for us to raise this question: "How was prayer and Bible reading implemented in the school system prior to June 25, 1962?"

Inasmuch as we had no trouble and there was no discord in America concerning this program, why couldn't we revert to the pre-June 25, 1962, formula as practiced throughout the Nation in numerous communities. The research staff which wrote the report threw up imaginative roadblocks with apparent ease, but the anticipated hazards suggested by the research staff appear to be figments of the imagination, because none of these projected hazards caused any trouble prior to the Supreme Court decision of June 25, 1962.

The members of this committee and the Members of Congress should be reminded that the Governors Conference which represents the 50 States of the Union passed resolutions in 1962 and 1963 supporting an amendment to the Constitution to permit prayer and Bible reading in public schools. In both instances the resolutions were passed almost unanimously.

The first amendment to the Constitution, as we all know, reads as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for redress of grievances."

How the High Court can use this first amendment to support their decisions concerning this matter is beyond my understanding. Congress has never passed any legislation prohibiting the free exercise of religion, and I know of no Member of Congress who so desires. It can be logically concluded, however, that the Supreme Court has made decisions which limit the free exercise of religion.

It is well to refresh ourselves on a portion of the 14th amendment which reads as follows: "Nor shall any State deprive any person of life, liberty, or property, without due process of law."

The decisions of the High Court which pertain to this question have deprived millions of Americans of their traditional liberty; namely, the right to pray and honor God anywhere, not only on private property, but on public property.

I covet for every member of this committee and every Member of Congress the opportunity to read a magnificent book by Rev. Charles Wesley Lowry, D.D. The title of the book is "To Pray or Not To Pray." We anticipate with pleasure the testimony of Dr. Lowry before this committee during these hearings.

As indicated earlier in this statement, prayers and devotional exercises are a part of the cultural bloodstream of our Nation. Invocations, devotions, oaths taken on the Bible, etc., etc., are as American and as universal as a taste for apple pie, or ice cream, or watermelon. And I hope you will forgive me for this superficial reference in my attempt to emphasize and indelibilize the idea that prayer and devotions in our public institutions is not something that a handful of religious fanatics has imposed upon us, but is a traditional part of our nature as Americans. I have been in meetings where prayers have been offered by believers of a wide variety, including Quakers, Jews, Catholics, and intensely evangelical Christians. Greek audiences made up of not only these classifications of believers, but many, many other classifications of believers invariably stand in respectful attention and in solemn quietness as these individuals have spoken to God in their own independent manner. It created no controversy, it brought on no contention, because the natural reaction of an American audience is to respect all men who converse with God, regardless of their vocabulary or their credo or background.

A constitutional amendment can easily provide for the release of students whose parents prefer that they not be subject to the customary devotions which have characterized our public institutions down through the generations. Even though such a formula to permit release were provided, I would almost be willing to wager that there wouldn't be 100 such instances in their entire population of the United States.

It is important to all of us that we recognize the priority of this sacred project. We who represent the American people are concerned and burdened by the Herculean problems that beset us, such as poverty, crime, destitute old age, etc., etc., but as for me there is no impoverishment, there is no destitution, there is no inflation or deflation, there is no loneliness in old age, or privation in childhood, or impoverishment in family life, that can equal the destitution which would befall America if we ever permit ourselves to officially outlaw the name of God in our public institutions. I may be old-fashioned and sophisticated cynics may brand me as a "Neanderthal," but I am so convinced of the importance of this program that I believe that if the elected representatives permit this denial of God and this outlawry of God to be fulfilled either by opposition or neglect that the same curse will befall our Nation which has befallen all nations and civilizations of the world that forgot and disobeyed God Almighty.

The right of our people, young and old, to pray together in any building or on any facility provided by any subdivision of government, whether it be Federal, State or local, is essential to the fulfillment of the objectives set forth in the preamble of the Constitution: "Promote the general welfare, secure the blessings of liberty to ourselves and our posterity."

At this point, I wish to insert a statement by a college student. I highly recommend that you read his very fine remarks.

I am taking the liberty of inserting herewith a list of those organizations and groups throughout the United States who are supporting an amendment to the Constitution. While many of these people cannot come to Washington to testify at these hearings, I am sure we will all want to take account of their viewpoints, and as far as I am concerned I am very thankful for their support.

I have not taken it upon myself to invite people or urge people to come before the committee to testify on behalf of the amendment. There were perhaps one-half dozen people who asked me to submit their requests to testify before this committee and I have done so. It is my understanding that they have written to the committee, asking to testify, and have been granted time for such testimony.

I have had magnificent support from Members of the House of Representatives and numbers of my colleagues will appear before this committee. These will include many of the 164 who have signed the discharge petition No. 3.

In conclusion I would like to say that ever since June 25, 1962, I have worked as hard and as diligently in support of this cause as my time and energy would permit. In all my activities in relation to this project I have risen above partisan politics and have sought the cooperation of every partisan segment of the Congress of the United States and of the Nation in general. Congressmen who will appear before this committee at my behest are men and women who have disagreed with me on the normal political issues, but faith in God is a nonpartisan matter, and when we fall to our knees and address our Maker, He does not question us concerning our political affiliations. He merely says: "Come to Me all ye that are weary and are heavy laden and I will give you rest."

To the best of my ability I have kept this effort on the highest level possible and have lived up literally to the rules of the House in every conceivable way in the handdling of the discharge petition. I shall continue this effort until the desired results are achieved. It is my earnest hope that this task can be completed by this Congress before the year is up. When this Congress adjourns, I shall retire, but I shall never cease to give my energies and my support to this sacred project.

I believe that I can safely say that nothing in my life has ever been or ever will be more important than this outside of my personal faith. I may sound presumptuous, but the surveys which I have made, the contacts that I have consummated and the mail that I have received lead me to believe that an overwhelming majority of the American people feel exactly as I feel concerning the matter.

I take this opportunity to thank the thousands upon thousands of people all over the United States who are working in support of this cause. They will continue to do so. Thousands of volunteers, organized and unorganized, have given freely of their time and effort without hope of financial reward or without even having their expenses paid by individuals or organizations. The devotion and the dedication and the consecration of these people gives one a new faith in the fabric of American life. I actually believe that millions of these people would give their lives, if necessary, to preserve the right to honor God and His word in our public institutions.

The members of my personal staff here in Washington have served this cause beyond the line of duty. They are indeed dedicated people, and I want this record to show my deep appreciation for these loyal and self-respecting individuals who have stood at my side during these months and years. They have carried an extra burden brought about by our heavy mail coming in from all over the Nation. An amazing number of telegrams and telephone calls have come to our office and have been processed with patience and courtesy by these wonderful people who have worked all hours of the night and through weekends and are continuing so to do. They love God, and because they love God they love this cause. It has never been necessary for me to bring pressure upon my helpers in order to handle this increased load. They have carried their share of this inspiring burden because of their dedication to this sacred project.

I am sure that not one person on this committee resents the heavy mail which he has received because of this activity. Occasionally I am blamed for the generating of this heavy mail, but I am not the guilty party. In fact, there is no guilt. This mail has been spontaneous and has come from the hearts of the American people. You will never receive a mail concerning any subject which more sincerely represents the hearts and souls of our people than the mail you have received in connection with this effort to guarantee the right of devotions in our public institutions. I would dread to try to estimate the volume of the mail that would pour into this place if this committee or this Congress were to go on record as vetoing the rights of our people to preserve sacred devotions in our schools and other institutions.

I am confident that most of the thinking on this subject has matured in the minds of the Members of this Coungress. I see no reason why our decision needs to be prolonged or delayed. Why can we not act promptly and quickly in this matter? I am old-fashioned enough to believe that a special blessing will come to the Congress of the United States and to the individual Members of this Congress who cooperate in the fulfillment of a formula which, in my judgment and the judgment of most of our Congressmen, represents the warm, passionate, inspired desires of a God-fearing people.

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# HOUSE OF REPRESENTATIVES

### Wednesday, April 29, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Romans 8: 31: *If God be for us, who can be against us?*

O Thou gracious Benefactor, whose blessings cannot be numbered and whose treasury of goodness is inexhaustible, may our minds and hearts always go out to Thee with feelings of adoration and gratitude for day by day Thou dost provide for all our needs.

We humbly confess that we are conscious of many failures and are aware that we have been recreant in the discharge of our responsibilities and unfaithful to the sacred vows of our high vocation.

In the midst of the world's struggles and tensions may we cleave with increasing tenacity of faith and courage to the abiding truth that nothing can impede the progress and ultimate triumph of the kingdom of reason and righteousness.

Grant that through our influence and example, our dedication and devotion, the cause of brotherhood and good will shall be advanced and peace shall be the glorious possession of all mankind.

Hear us in the name of the Prince of Peace. Amen.

## THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

## PUBLIC LANDS SUBCOMMITTEE

Mr. BARING. Mr. Speaker, I ask unanimous consent that the Public Lands Subcommittee of the Committee on Interior and Insular Affairs have permission to sit this afternoon during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Nevada?

There was no objection.

## TRIBUTE TO HON. CLAIR ENGLE

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. O'HARA of Illinois. Mr. Speaker, during his service in this body and our association together I delighted in and was enriched by my warm friendship with the junior Senator from California. The news of the affliction that hit him in the flower and prime of a brilliant career came to his many friends in the House unexpectedly out of the dark, and our hopes and prayers were with him for a speedy and complete recovery. Until yesterday, when CLAIR ENGLE announced his retirement for the time from political competition, I think all his former colleagues in the House fully expected him to be renominated, reelected, and to continue for years to come his outstanding service in the other body for the people of his State and Nation. The courage with which he faced the problems of his illness was matched by the courage of his fine and noble wife, and to both go the every good thought and wish of their many friends in the House.

Mr. Speaker, it is my prayer that the political career of CLAIR ENGLE is only on vacation while he is resting and recovering from his operation. Our country can ill afford to lose his dedicated service.

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## SUBCOMMITTEE ON NASA OVERSIGHT

Mr. HECHLER. Mr. Speaker, I ask unanimous consent that the Subcommittee on NASA Oversight of the House Committee on Science and Astronautics have permission to sit this afternoon during general debate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

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## THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. ROSENTHAL. Mr. Speaker, I ask unanimous consent to take from the Speakers' desk the bill (S. 1605) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes, and to concur in the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

On page 6, lines 9 to 12, of the House engrossed amendment, strike out "All data submitted to the Secretary or to an advisory committee in support of a petition under this section shall be considered confidential by the Secretary and by such advisory committee". and insert "All data submitted to an advisory committee in support of a petition under this section shall be considered confidential by such advisory committee: *Provided*, That this provision shall not be construed as prohibiting the use of such data by the committee in connection with its consultation with the petitioner or representatives of the United States Department of Agriculture, as provided for herein, and in connection with its report and recommendations to the Secretary".

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. CURTIS. Mr. Speaker, reserving the right to object, I assume this has been cleared with this side?

Mr. ROSENTHAL. Yes, it has been cleared with the ranking member of the Committee on Agriculture, and with the minority leader.

Mr. HOEVEN. Reserving the right to object, Mr. Speaker, I want to say that this matter has been cleared with the minority and is perfectly agreeable to us.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

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## COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit today during general debate and during the balance of the week on the prayer bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

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## INTERNATIONAL LABOR ORGANIZATION CONFERENCE

Mr. BOLLING, from the Committee on Rules, on behalf of Mr. SISK, reported the following privileged resolution (H. Res. 687, Rept. No. 1364) which was referred to the House Calendar and ordered to be printed:

*Resolved*, That the Speaker of the House of Representatives is hereby authorized to appoint a member from the majority and a member from the minority of the Committee on Education and Labor to attend the International Labor Organization Conference in Geneva, Switzerland, between June 17, 1964, and July 9, 1964.

He is further authorized to appoint as alternates a member from the majority and a member from the minority of the said committee.

Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the aforesaid delegates and alternates from the Committee on Education and Labor of the House of Representatives engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided*, (1) That no member of said committee shall receive or expend local currencies for subsistence in an amount in excess of the maximum per diem rates approved for oversea travel as set forth in the Standardized Government Travel Regulations, as revised and amended by the Bureau of the Budget; (2) that no member of said committee shall receive or expend an amount for transportation in excess of actual transportation costs; (3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee in any country where counterpart funds are available for this purpose.

That each member of said committee shall make to the chairman of said committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished and the cost of transportation if furnished by public carrier, or if such transportation is furnished by an agency of the United States Government, the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

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## INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BOLLING, from the Committee on Rules, on behalf of Mr. DELANEY, reported the following privileged resolution (H. Res. 707, Rept. No. 1365), which was referred to the House Calendar and ordered to be printed:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2214) to amend the International Development Association Act to authorize the United States to participate in an increase in the resources of the International Development Association. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

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## EXTENSION OF RENEGOTIATION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 705 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10669) to extend the Renegotiation Act of 1951, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio

[Mr. BROWN], and pending that I yield myself such time as I may consume.

Mr. Speaker, there is controversy over the content of the bill whose consideration is made in order by this resolution, but to the best of my knowledge there is no controversy whatever over the resolution itself.

Mr. BROWN of Ohio. Mr. Speaker, as the gentleman from Missouri has explained, House Resolution 705 makes in order the consideration of H.R. 10669, a bill to extend for 2 years the Renegotiation Act of 1951, with certain amendments thereto, under an open rule, providing 2 hours of general debate, with the usual provision for offering amendments under the 5-minute rule.

As the gentleman from Missouri has explained, there is no controversy over the rule itself. The request for the rule was unanimous by representatives from the Committee on Ways and Means, which has jurisdiction over this measure, but it will be noted in the report on the bill that there was a minority report filed by, I believe, 10 members of the committee, and certain amendments will be offered to the measure when it comes up under the 5-minute rule.

I would like at this time, Mr. Speaker, to yield the balance of my time to the gentleman from California [Mr. SMITH], my colleague on the Committee on Rules.

Mr. SMITH of California. Mr. Speaker, my district has a large amount of small business. So in speaking on H.R. 10669 I hope the Members will consider it in terms of their interests in the small business firms in their districts and in the light of commonsense as to the bad effects renegotiation has on those small businesses.

I particularly hope that my remarks will reach the hearts and minds of Members on both sides of the aisle. Where the interests of small business are concerned, it makes no difference to which party we belong. Members of the majority and minority are certainly in favor of small business. All Members have many valued small business firms among their constituents.

Without amendment, H.R. 10669 will continue the harms which these small companies suffer as the result of the Renegotiation Act. I am convinced of this because of facts obtained from small businesses, and from facts which I obtained directly from the chairman of the Renegotiation Board. These facts were not covered in the annual reports issued by the Board to the Members of this body. Nevertheless, they are a part of the records of the Board and I owe thanks to Chairman Hartwig for his graciousness in responding to my inquiries regarding them.

I should also point out that these facts—which show a serious downturn in the profits of small firms subject to renegotiation—were not available to me in time for me to present them to the Ways and Means Committee to consider prior to their reporting of the bill. There were no public hearings on this proposed extension of the act, and there was, therefore, no opportunity for small firms to come forward and testify to the troubles they have been experiencing.

Mr. Speaker, this was a serious error. A short while ago, the chairman of the Senate Select Committee on Small Business, took note of the fact that the number of manufacturing concerns in this country has dropped continuously since 1957. In the last 7 years, there has been a net decrease of 19,000 small manufacturers in the business population. This is a drop of almost 6 percent in the face of an expanding population and in spite of the fact that every other kind of small business has shown an increase.

Many of us have felt that part of this decline might be due to the declining share of Government procurement going to small firms. Based upon figures from the Renegotiation Board, there is no doubt that it is not just the amount of Federal dollars that go into orders from small business, it is the conditions under which such orders are placed, and the negative effects of just such laws as the one we are now asked to extend.

### FLIGHT OF SUBCONTRACTORS

Most small manufacturers who take part in Federal procurement must necessarily make their sales as subcontractors. It is obvious that a small firm cannot bid on furnishing the Government with submarines, intercontinental missiles, or aircraft carriers. But they can make parts for these items and sell them to the large prime contractors. The question is: Can these small firms, as subcontractors, expect to make enough money to stay in business?

From the figures, I am convinced that they are extremely lucky if they can.

In his letter to me of April 6, 1964, Chairman Hartwig informed me that—out of the 2,410 filings in fiscal 1963—935 represented companies which performed subcontracts only. That represents 39 percent of all the companies required to file reports, but it represents less than 5½ percent of the total renegotiable sales.

The amount of renegotiable sales represented by these subcontracts was $1,689,741,000. The amount of profit before taxes on these sales was only slightly more than $15½ million. In brief, Mr. Speaker, these subcontractors averaged less than nine-tenths of 1 percent profit before taxes.

In very simple terms, these figures show that the average subcontractor now subject to renegotiation, after a year of hard work for his entire company, can expect to wind up with about one-quarter of the amount he would make if he invested his money in Government E bonds. He could go down to his bank, buy some E bonds, and sit on the back of his lap for an entire year, and he would make four times as much as he could expect to make working as a subcontractor to the same Government.

Now, you may say, averages do not prove anything. I do not hold that viewpoint. The figures I have quoted include the companies that do very well, and also the companies that have experienced losses. I think the average, however, clearly indicates what a company can expect as year-to-year experience. The fact that a company makes a reasonable profit in one year, but less than reasonable profits—or perhaps losses—in other years, hardly seems justification for us to swing at him with renegotiation and take away a chunk of his survival money in the one year when he beats the averages.

The truth is, if we take just those subcontractors which managed to make a profit, Mr. Hartwig's 1963 figures show that they had total sales of $1,251 million and profits of only $64.5 million. That was an average—for the profitable subcontractors—of only 5.2 percent before taxes. After taxes, they would be lucky to wind up with as much as 3 percent, since the corporate tax rate has been more than half of everything over $25,000 per year.

At the same time, if we look at the subcontractors who experienced losses, we find those companies lost $49 million on gross renegotiable sales of $438 million. Their average loss was 11.2 percent.

### OTHER SMALL FIRMS

Not all small firms make their sales exclusively as subcontractors. Unfortunately, the Renegotiation Board does not keep a tally to tell which of the companies it covers are in small business categories. At least half of them would be in that category, I am sure. However, the only thing the Board could provide me was a comparison between the profit experience of companies whose renegotiable sales exceeded $5 million and those which were under that figure. It is pretty safe to say that practically all of the companies with sales under $5 million are actually small business. There will be a few small companies with renegotiable sales over that figure. There will be a few large firms, whose business is mostly commercial, with renegotiable sales under $5 million. Commonsense indicates these will balance out.

So, I asked Chairman Hartwig to give me the profit picture on renegotiation reports of firms over $5 million and under $5 million. In fiscal 1963, the average profit of firms doing more than $5 million in renegotiable business was nearly three times what it was for firms under $5 million. The firms with over $5 million averaged—before taxes—3.2 percent, which certainly is not a very high profit rate. But the companies under $5 million averaged only 1.2 percent before taxes. After taxes, it would be surprising if they had an average net profit of as much as one-half of 1 percent on their sales.

### RENEGOTIATION HURTS ALL

I urge you not to be misled by the false argument that renegotiation only touches those firms which really have excessive profits. That is not the case. Neither does it affect only those companies whose renegotiable sales are in excess of the present statutory floor.

Every company subject to renegotiation review—whether its sales have been profitable or not—must keep the records, prepare the reports, go through all the paperwork and redtape that is unavoidable. This extra burden of overhead expense also applies to many companies which wind up the year under the statutory floor. If there is any chance that they may exceed the present minimum of $1 million, they must obviously keep the special records required to separate their renegotiable from their commercial business. If they are near the borderline, they must make careful checks to be sure their figures are accurate.

And the minute one of these small companies has an even reasonably good year, making as much as perhaps 12 percent before taxes, it is then set to spend a year or more of spending money for legal counsel and special accounting costs, wondering whether it will be allowed to keep what it has earned.

### IS A 6-PERCENT PROFIT EXCESSIVE?

One small firm of my acquaintance formerly averaged a fairly consistent yearly profit of between 7 and 8 percent after taxes. It was not required to make renegotiation refunds at those figures and it should not have been. But, about 4 years ago as the result of cancellations of some Government programs in which it had made some heavy private investment, its profit rate fell to less than 2 percent. In fact, in 3 of the last 4 years, its profits did not exceed 5.2 percent after taxes. But, in the other year, its profit went up to 6.4 percent. On that basis, the Renegotiation Board assigned the case for review. This small company has been required to go through the entire renegotiation procedure, submitting special reports, having analyses prepared by its accountants, and meeting with representatives of the Board. Even at this time, it has been asked to submit a further lengthy report and it does not know whether the Board will decide it has had so-called excess profits or not.

What this means, Mr. Speaker, is simple enough. The number of cases which the Board has, has dwindled so much, that the members of the Board are compelled to work over even the borderline cases to provide any possible justification for their existence.

Every one of us knows that the major companies, on commercial sales, are making after-tax profits from 8 to 12 and even 14 percent. We are grateful when business is profitable. It means expanding economy and more jobs. It means the Government collects more in taxes.

I submit that the subjection of a small company to prolonged and costly renegotiation, when the after-tax profit is only 6.4 percent is an example of the sheer idiocy to which this act has been carried. Incidentally, on its renegotiable sales, that company's profits were actually only 5.1 percent after taxes. It was their profit on commercial business which brought them up to 6.4 percent.

### ANOTHER PERFUNCTORY EXTENSION

The lack of open hearings on this proposed extension has bothered me. I agree with the minority report which indicates that all of us—on both sides of the aisle—are involved in a "perfunctory extension"—that we are remiss in not having probed more deeply into the negative effects of continuing the renegotiation procedure. If this bill does pass, I sincerely hope it will not do so without adoption of the proposed amendment to raise the statutory floor. I think it would be better if this floor were raised to $5 million immediately, rather than $3 million this year and $5 million next year. I also feel there should be a complete exemption of any firm whose entire business is performed on subcontracts at fixed prices. However, the amendment proposed is at least a minimum necessary step in the right direction. It may be the best we can do. I shall support it and hope you will too.

I know of no objection to the rule and reserve the balance of my time, Mr. Speaker.

Mr. BOLLING. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

### CALL OF THE HOUSE

Mr. CURTIS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOLLING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 119]

Alger
Ashbrook
Ashley
Ashmore
Avery
Bass
Battin
Blatnik
Broomfield
Bruce
Buckley
Burleson
Cannon
Casey
Cederberg
Celler
Daddario
Davis, Ga.
Dent
Dorn
Dowdy
Duncan
Edmondson
Edwards
Elliott
Farbstein
Feighan
Flood
Flynt
Forrester
Gallagher
Garmatz
Gill
Grant
Griffin
Hanna
Harvey, Mich.
Hays
Hemphill
Holland
Hosmer
Huddleston
Hull
Ichord
Jarman
Johansen
Johnson, Pa.
Jones, Ala.
Jones, Mo.
Kee
King, Calif.
Kirwan
Landrum
McDade
Madden
Martin, Calif.
Martin, Mass.
May
Miller, Calif.
Milliken
Nix
O'Hara, Mich.
Pepper
Pilcher
Pool
Powell
Rains
Reifel
Rogers, Tex.
Rooney, Pa.
Roosevelt
Senner
Short
Shriver
Slack
Stafford
Stephens
Teague, Tex.
Thompson, N.J.
Toll
Vanik
Watson
Weaver
Westland
Wickersham
Williams
Winstead
Wright

The SPEAKER. On this rollcall, 343 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Mr. MILLS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10669) to extend the Renegotiation Act of 1951, and for other purposes.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10669, with Mr. Hardy in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arkansas [Mr. Mills] will be recognized for 1 hour and the gentleman from Missouri [Mr. Curtis] will be recognized for 1 hour.

The Chair recognizes the gentleman from Arkansas [Mr. Mills].

Mr. MILLS. Mr. Chairman, I yield myself 25 minutes.

Mr. Chairman, I believe the purpose of this legislation can be explained quite briefly and without utilizing unduly the time of the Committee. This bill, H.R. 10669, has two purposes. First, it will extend the Renegotiation Act for 2 additional years, that is, until June 30, 1966. Second, it adds the Federal Aviation Agency to the list of departments and agencies whose contracts may be subject to the act.

### PURPOSE OF RENEGOTIATION PROCESS

As members will recall, the overall purpose of the Renegotiation Act, as declared in the opening section of the act, is to eliminate "excessive profits" from contracts made with the United States and from related subcontracts, in the course of the national defense program and related programs. To accomplish this purpose, the act prescribes certain factors that are to be taken into consideration in determining whether or not profits are excessive, and the Renegotiation Board is authorized and directed to eliminate and recapture for the Government such excessive profits. Under the statute, renegotiation is conducted, not with respect to individual contracts but with respect to the receipts or accruals of the contractor under all renegotiable contracts and subcontracts in an entire fiscal year. The existence and the amount of excessive profits are determined in the light of the factors which the statute sets forth. The presence of the renegotiation process itself also serves to stabilize procurement negotiations, making it possible for the Government to contract at lower prices as contractors voluntarily refrain from attempting excessive profits on these contracts.

The Renegotiation Act has effectively accomplished its objectives over the period of time in which it has been in existence. Since 1951, when the act was first approved, until June 30, 1963, over $2 billion of excessive profits were recovered for the Government—$871.6 million by formal findings of the Renegotiation Board, and $1.2 billion by the voluntary act of contractors and subcontractors. This does not include, of course, the savings which have resulted from closer contract pricing. Obviously, this act has served the national interest by saving the taxpayers money on these contracts.

Permit me to refresh the recollection of Members by stating that these contracts involve items on which careful cost estimates, in the very nature of things, cannot be prepared at the time that the contracts are entered into. With the constantly changing technology in the defense and space fields, the uncertainties, and the absence of prior production and cost experience, it seems obvious that accurate costing and pricing are difficult if not completely impossible. There is, therefore, no traditional marketplace to guide the pricing for this very large part of governmental procurement. The Renegotiation Act therefore has served a very valuable purpose by limiting profits to reasonable levels in an area where the normal market competitive processes are not functioning.

### ADDITION OF FEDERAL AVIATION AGENCY CONTRACTS

Mr. Chairman, permit me to point out that not all Government business is subject to the Renegotiation Act. The act applies only to contracts with those agencies of the Government which are named in the act, and to related subcontracts. In addition, there are certain exemptions which are set forth and certain types of contracts are excluded from renegotiation completely.

The agencies which are presently subject to the Renegotiation Act are the Departments of Defense, Army, Navy, Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, the National Aeronautics and Space Administration, and the Atomic Energy Commission. The Committee on Ways and Means has included a provision which would extend the application of the act to contracts entered into by the Federal Aviation Agency, and related subcontracts, with respect to any excessive profits received or accrued after June 30, 1964. It should be pointed out that the total prime contracts entered into by the Federal Aviation Agency are currently running at about the rate of $165 million per year, and substantial amounts of material purchased by this Agency are sufficiently similar to items purchased by other Departments whose contracts are presently subject to renegotiation that the Committee on Ways and Means felt justified in extending the act to this Agency. Such items as electronic information aids, computers, and radar purchased by the Federal Aviation Agency are identical to some of the complex items purchased for the national defense or space programs, and the Committee on Ways and Means was advised that the Federal Aviation Agency generally contracts for these items with many of the same contractors who supply the space and defense programs.

Mr. Chairman, this is the only substantive amendment to existing law contained in the bill which is now before the committee except the provision for extension of the act for 2 additional years.

### FURTHER EXTENSION IS JUSTIFIED

Mr. Chairman, it is the position of the majority of the Committee on Ways and Means that a failure to extend this essential law could be considered as unjustifiable. Despite all the energy and ingenuity that have been poured into the effort to perfect our procedures and techniques for the purchase of defense and space equipment, the procurement departments are still unable to come to the Congress and demonstrate, or even claim, that they are able in all cases to guarantee against the realization of excessive profits. Indeed, they have come to us repeatedly over the years and said exactly the opposite. For example, in connection with the extension of the Renegotiation Act to 1962, the Department of Defense made the following statement to the Speaker:

> The purpose of renegotiation is to eliminate excessive profits from defense contracts and subcontracts thereunder. In large-scale procurement programs involving the purchase of many different types of specialized items, many of unprecedented nature, past production and cost experience are not always available for accurately forecasting the costs of such items. Today, particularly, we are witnessing rapid developments in the aircraft, missile, and space fields. Pricing policies and contracting techniques of the procuring agencies cannot guarantee in all cases against excessive profits.

The reasons for this inadequacy are not hard to find. They are inherent in the very nature of the material and services procured in our vast defense and space programs. The weapons and equipment of former years have given way rapidly in recent times to different, more complex, and more sophisticated products of our advancing technology, and research is proceeding along unprecedented scientific frontiers. Necessarily, in these areas, adequate production and cost experience is lacking. As a result, formal advertising and competitive bidding procedures are not usable in such cases. By far the great preponderance of our defense and space procurement is accomplished by negotiation, and under circumstances that preclude effective competition. In these negotiations, involving to so great an extent the forecasting of future costs for new items and new projects, it is impossible for the parties, however fairminded and well-intentioned they may be, to arrive at contract prices that embody realistic costs and reasonable profits.

Mr. Chairman, at this point, I want to discuss the economic basis of renegotiation.

The committee report gives as a general reason for its favorable action the following:

> Modern aircraft, missiles, space vehicles, and other specialized items associated with defense and space exploration are characterized by changing technology and increasing complexity. In the procurement of such items, prior production and cost experience is not generally available for accurately forecasting cost. As a result, the vast governmental expenditures made in the defense and space areas are often made under circumstances that cannot, regardless of the diligence of the procurement officials, guarantee against excessive profits.

The minority report characterized renegotiation as a "crutch" for the procurement agencies. It urges the procurement agencies to adopt, and to use, available procedures that would protect Government against excessive profits on the part of its prime contractors. In turn, these contractors should be required to exercise the same business judgment in the letting of subcontracts as they exercise in their nonrenegotiable business. In place of renegotiation:

> The marketplace should be permitted to take over. Renegotiation is no substitute for competition.

With these conflicting views the basic issue is joined. The minority regards the procurement market as essentially the same as ordinary competitive markets, with the built-in protection to the buyer that is presumed to go with competition.

The majority rests its case on the changing technology, the uncertainties, and the absence of prior production and cost experience which make accurate costing and pricing difficult, and perhaps impossible, for much of Government procurement. In short, there is no traditional market place to guide pricing for a large part of governmental procurement. Therefore, renegotiation is a substitute for the competitive forces that are largely absent and that limit profits in the ordinary markets of the economy.

As Peck and Scherer state the matter "The Weapons Acquisition Process," 1962:

> It is not only that a market system does not now exist in the weapons acquisition process. We can state the proposition more strongly. A market system in its entirety can never exist for the acquisition of weapons. Page 57.

Basically high cost in a context of vast uncertainly—uncertainty as to cost and to an assured end purchase—force both the Government and industry to rely heavily on cost—reimbursable contracts and negotiated prices. There is virtually no market analog for this practice.

Uncertainty and the contrast between the private and procurement markets were stressed in the following statement:

> Uncertainty is a characteristic in production for civilian markets, but firms handle their own development costs for new products, risk their own capital for new facilities, and bear the burden of their own standby facilities. Those that survive and grow pass these costs on in the price of their products. Why shouldn't the plane manufacturers pay for development costs for the B–70, or for new missiles? Among other things they cannot pass on the costs of uncertainty when they sell to the Government at * * * negotiated prices. Many a weapon is born to die unused in the helter-skelter of technological change. The good ones cannot pay for the bad ones * * *. The costs of uncertainty are thus passed on to the Government by way of research and development contracts which pay for the good, the bad, and the indifferent ideas in this uncertain business of weaponry. (Arthur E. Burns, "The Cost of National Defense," Human Events, Jan. 14. 1960.)

Uncertainty, complexity, and high cost give the procurement market a set of characteristics that differ fundamentally from the "private competitive market." The minority opinion simply seems unaware of the basic facts of economic life in weapons acquisition and space exploration procurement. Indeed, if this view prevailed the relative safety of cost reimbursable contracts and negotiated prices would be denied to Government contractors. Under these circumstances no contractors could afford the enormous financial risks that are inseparable from the uncertainties in much of the weapons and space business.

The general economic setting described above lays the basis for renegotiation. But the economic basis for renegotiation can be elaborated and the following points spell out the necessity for the process.

First. The bulk of the procurements are made on the basis of negotiated prices. Such negotiated prices arise from the fact that the product, process, or service being procured often have no market norms to guide the negotiators.

There are no prices in the competitive markets to guide the negotiators in such cases because there are no comparable products or services in the private markets. Pricing something that does not exist and whose feasibility is sometimes in question depends upon the judgment of the negotiators. The price negotiated is simply outside any known market. The absence of competitive norms requires a substitute to assess the profit outcome. That substitute is renegotiation.

Second. Competition over a substantial part of the Government procurement market is weak, and at times nonexistent. On the costly advanced weapons and space systems the contractor winning the research and development contract is usually the only one capable of the follow-on contracts. At this point price competition is virtually or completely nonexistent.

The selection of Western Electric for the Nike program illustrates this point. Once selected, much of the work was subcontracted on down to the third and fourth tier. The absence of competitive pressures throughout the subcontracting chain resulted in profit margins and a pyramiding of profits termed "excessive" by the McClellan subcommittee. A significant point is that the procurement market in such cases is inherently insulated from the normal competitive forces at work in commercial markets. Again, renegotiation is the means available to help correct for the weakening of competition.

Third. Cost estimates are characterized by a high degree of uncertainty, particularly for new products and systems. Studies made by the Department of Defense, and by private research groups, show that initial targets are frequently wide of the mark. Even with the best of intentions and with skillful personnel, the costing of the new, or the unknown, is a hazardous business. No comparable uncertainly is typical of the commercial market. If fixed prices were negotiated in the face of great uncertainty, contractors might suffer heavy losses or gain substantial profits. To guard against the former, cost reimbursable contracts are negotiated; to protect against the latter, redeterminable prices and renegotiation redress the balance.

Fourth. Negotiated prices may be influenced by an imbalance in negotiating skill and power. This can and does work both ways. However, as a rule industry negotiators have the advantage of a more intimate knowledge of the technology involved and probable costs. A margin for contingencies is often concealed in their cost estimates, partly because of the uncertainties inherent in much of the contractual work. In addition to this, there are elements of game playing involved in the negotiating process. As industry negotiators put it, they sometimes lay a few "easter eggs" in their cost proposals for the Government negotiators to find. Finding them, the Government negotiators score their points but the contractor still winds up winning the game.

The possibility of such imbalance in negotiating prices on Government business argues for an after-the-fact review; that is, for the renegotiation process.

Fifth. Some of the major Government contractors work with Government plant, equipment, and progress payments. Others rely entirely or largely on their own capital and financing. The pattern is mixed, yet the facts are that the negotiated fees have clustered closely within a percentage range. The profit outcome, measured as a return on invested capital, shows as a consequence sizable differences. As past experience shows, the use of Government plant and equipment has resulted in the finding of excessive profits by the Renegotiation Board.

Similarly substantial differences among contractors in the extent of subcontracting lead to considerable differences in profit outcomes. Again, it is necessary to review profits after the fact to ascertain whether substantial subcontracting yields reasonable or excessive profits.

Sixth. Government business is negotiated on a contract-by-contract basis, with each contract negotiated independently of others and without reference to the financial outcome of the other contracts. Moreover, such contracts often extend over several years. Given this fact it is impossible for Government negotiators to be certain that the negotiated prices are fair or that the profit outcome of a contractor from all his contracts in any particular fiscal year will be reasonable. This can only be ascertained through the renegotiation process.

Briefly, the reasons set forth above argue against the contention that the marketplace can guarantee reasonable profits from this complex Government business. The Government procurement market is different and renegotiation is a means of filling a void left by the attenuation of the normal competitive forces.

Mr. Chairman, I urge passage of this bill as reported by the committee, and rejection of the amendment which will be offered by the minority.

Mr. EVINS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Tennessee.

Mr. EVINS. Mr. Chairman, I wish to associate myself with the remarks which have been made by the distinguished gentleman from Arkansas, the chairman of the Committee on Ways and Means, in feeling that this Renegotiation Board should be extended.

I know from our hearings before the Committee on Appropriations with reference to the refunds that have been brought into the Treasury from the renegotiation of contracts with the Government, as the gentleman stated there is a great difference between private contracting and Government contracting.

I am certainly pleased that the Space Agency which has an enormous budget, the Atomic Energy Commission, and now the Federal Aviation Agency have also been brought under the jurisdiction of the Renegotiation Board.

I point out that the monetary returns from these renegotiations already completed amount to almost $1 billion—$871 million; and voluntary refunds, which is the more important part—once they know that the policeman is on the beat and the Government is overlooking these contracts—have been enormous and amount to about $1,187 million. In other words, more than $2 billion have been returned on excessive profits and high Government contracts.

Mr. MILLS. I thank my distinguished friend from Tennessee for his observation.

Now, Mr. Chairman, there seems to be additional difference of opinion——

Mr. BYRNES of Wisconsin. Before the gentleman proceeds, could I ask the gentleman to yield for a question?

Mr. MILLS. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I have reference to the figures that were used as refunds that were accomplished through renegotiation as to what years they cover. I think it would be more appropriate if we had the figures, Mr. Chairman, relating to last year rather than accumulative figures that were carryovers from the Korean war and so forth.

Mr. MILLS. I yield to the gentleman from Tennessee to supply the answer to that question.

Mr. EVINS. From 1951, I will say to the gentleman from Wisconsin, to 1963.

Mr. BYRNES of Wisconsin. $2 billion?

Mr. EVINS. More than $2 billion.

Mr. BYRNES of Wisconsin. I would suggest though that the gentleman—and I will supply it for the RECORD if the gentleman will permit—that the figures are much more revealing as they relate to 1962 and 1963, which is the situation with which we are now confronted, rather than the wartime period and the contracts emanating from that speedup in the Korean war situation.

Mr. MILLS. I want to respond briefly to my friend the gentleman from Wisconsin [Mr. BYRNES] observation.

It is true—and let me have my friend's attention—that the presentation to our committee by the Renegotiation Board did not point up a great amount of recoveries through the process of renegotiation itself, in the last fiscal year, say. Something like $10 million, as I believe the figure was.

Mr. BYRNES of Wisconsin. That $10 million should be reduced.

Mr. MILLS. That was before taxes.

What I wanted to get the gentleman's attention on is this: We lose the point of this whole thing if we merely look to that one isolated figure. That is what the Renegotiation Board decided constituted excessive profits in the process of studying these contracts, and redetermining price. It should be pointed out also without any requirement, any compulsion, any element of contractual obligation, the contractors—at the same time the Renegotiation Board recaptured the $10 million—voluntarily turned back $28 million. Would they have done that if their business had not been subject to renegotiation? I do not know. But I certainly would argue that all of them would not have turned it back. The gentleman from Wisconsin and I, neither one of us, no one of us on the floor, can prove or disprove just what the effect of the right to renegotiate contractors' business in a fiscal year has to do with the initial contract price which he suggests to the Department in the first place.

If the contractor knows that he is subject to renegotiation, if he makes an excessive profit, then is he not going to be mindful of that when he advances the initial price to the Department of Defense for this particular work if he has some idea of what it ought to be?

I say we do not look just at one figure in determining what the effect is, for I know that my friends to the left are greatly interested in the cost of Government operations; I know they are greatly concerned about the elimination of waste just as I am; I know that they are concerned that the Government use the taxpayers' dollars to get the greatest benefit from those dollars percentagewise that the Government can obtain. If we only recovered approximately $10 million through the operation of this agency—if that is all it was—would we want to say that we do not want it recovered in the interest of economy? Would we not want to have this agency continue into the future as a brake upon that person who might be somewhat unmindful of the public interest when he proposes a new contract with the Government where he may well know what his costs and what his pricing should be?

I think we can go along with this on the basis of it being an arm of the Government looking after the fact into the business of procurement to help us to get these goods for the taxpayers as cheaply as they can be obtained.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Missouri.

Mr. CURTIS. I placed in the RECORD some matter, and I called the gentleman's attention to it yesterday.

Mr. MILLS. I had an opportunity to look at that after the gentleman called my attention to it.

Mr. CURTIS. There is an article by one of the board members from 1956 to 1963, and I would like to read one paragraph from this.

Mr. MILLS. Would the gentleman do that in his time?

Mr. CURTIS. Yes.

Mr. MILLS. Ask me a question. I cannot use any more time right now.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. CURTIS. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, I wanted to call the attention of the gentleman from Arkansas to this particular paragraph in the article by Russell A. Stuart, because it pertains to the point he was making. I did not want to take up the gentleman's time because I have time of my own. It appears on page 9329 in the first column. I should like to read it.

> The annual reports of the Renegotiation Board have consistently included price reductions and voluntary refunds made by contractors in addition to the sums determined by the Board to be excessive profits. In the early days of renegotiation under the 1942 and 1943 acts, reductions and refunds might properly have been credited to the work of the Price Adjustment Boards but the Renegotiation Board itself is entitled to no such credit. During the period of the Board's operation price reductions that have been directly identified with procurement and voluntary refunds have been insignificant.

I only wanted to point that out because, although the gentleman is certainly entitled to make his point, there are those who argue that this kind of reduction coming from other sources should not be accredited to the Renegotiation Board.

Now I should like to direct my attention to the crux of the matter.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Arkansas.

Mr. MILLS. I would point out that the table in the article refers to percentages, but it also includes dollar amounts, which are significant.

Mr. CURTIS. No. The point the gentleman was making, as I understood the point, is that in trying to evaluate the effect of the Renegotiation Board we should not look just at the amount of the refund but we ought to look at these voluntary turnbacks. I was simply presenting the argument that these come from other sources and should properly not be considered in the Renegotiation Board's results. By making this statement I do not want to try to create the impression that this decides the matter. Indeed, it is a matter of discussion and is not a completely proven point at all.

The point I would like to make, though, and I think the gentleman's statement was a very good statement in behalf of the renegotiation process—I could not agree more with what was said here, that you cannot rely completely on the marketplace techniques as a process when you are dealing with new materials, new weapons, contracting for things about which no one has accurate information as to what the costs are. The issue is, Do you need a Renegotiation Board? Is this the kind of technique to handle your renegotiation? We are all in accord that you do have to renegotiate in these kinds of contracts; call it redetermination or what you will, certainly the process must be gone through to go over the contract in the light of experience to find out what is a fair and more reasonable evaluation of your cost and, indeed, of your profit.

The question perhaps can be best brought out by referring to this material I have put in the RECORD on page 9328 of the RECORD of April 28, 1964. I will just read this because I think it will save time.

> Mr. CURTIS. Mr. Speaker, tomorrow we debate the extension of the Renegotiation Act, H.R. 10669. A recent article written by Russell A. Stuart, a member of the Renegotiation Board from 1956 until 1963, appeared in the Federal Accountant of March 1964 entitled "Renegotiation No Longer Needed."
>
> This is important material for the House to consider and I shall have occasion to refer to it in the debate. Accordingly, I ask unanimous consent to have it inserted at this point in the RECORD.
>
> There is also a recent book published by Division of Research, Graduate School of Business Administration, Harvard University, in 1964, entitled "The Weapons Acquisition Process—Economic Incentives," by Frederic M. Scherer.

Incidentally, the gentleman from Arkansas in his remarks referred to an earlier study by Professor Scherer in 1962.

Continuing my quotation:

> This entire book is well worth reading but pages 252 to 266 discuss the impact of renegotiation.

And I have those 14 pages of that book put in the RECORD at that point.

Now let me read from Professor Scherer's book on page 9333 in the very first column. It is the second full paragraph and starts out:

> Second, it is questionable whether the Renegotiation Board is able to make discerning efficiency judgments. Appointments to the headquarters board, which rules on the most important cases, are made on a political basis. Board members sometimes have no prior experience with the weapons acquisition process and as a rule no technical competence. Although normally the specific considerations underlying Renegotiation Board determinations are not released, it was possible to learn the Board's evaluation of prime contractor performance in one program covered by our program evaluation experiment.

Now relating this same point to a point made in Mr. Stuart's article, he points out, and this appears on page 9331 in the center column, at the tail end of the second paragraph :

> The procuring organization is the only group possibly qualified to pass expert judgment on a system in determining whether a given contractor shall be penalized or rewarded. The Renegotiation Board is not qualified to do this and should not be called upon to do this.

I think this is the essence of the dispute here.

I want to make sure that the term "political appointment" does not receive an improper connotation. By saying political appointment, it is in no sense meant to reflect other than credit, I might say, on the members who are appointed to the Renegotiation Board. These are distinguished men. We are simply relating what their competence is in the particular area in which they are called upon to act. The point is when you renegotiate a contract, who is best qualified to do this kind of renegotiating? I submit the persons most qualified are those who have done the original negotiating. In other words, our military procurement officers and not some independent board of men however fine they may be and however generally qualified they may be they would not be qualified to go into these very detailed and intricate problems.

Let me suggest this that the technique of renegotiation is not confined to the governmental sector. We have in the private sector corporations contracting with each other from time to time in regard to new kinds of material or a new kind of equipment on which there are no real honest cost estimates because it is that new. They put into their own contracts a provision for redetermining the cost or renegotiating or whatever you might call it. Because the men best qualified to do it, of course, are those who originally negotiated the contract.

I want to emphasize strongly that we are not talking about fraud here. We are talking about honest, competent people and we are talking about what is the best method and who are those best qualified to engage in this redetermination process. I think we can handle the fraud—which we do in other ways. But this is a question of who is best suited to redetermine.

Mr. EVINS. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman.

Mr. EVINS. I think the best agency to reconsider and redetermine the matter would be an independent agency, one that is separate and apart from the contracting officer himself. We have had some instances where people in a contracting agency later secured jobs and employment with the very firm with whom they were contracting. I think we should have a separate board and an independent agency separate and apart from the original negotiating officer.

Mr. CURTIS. I thank the gentleman. Indeed, the gentleman is addressing his attention to a basic issue. This is a worry we all have. There is a real basis for the statement.

I merely observe that I believe the techniques which have been developed in the Military Establishment actually improve over that. The gentleman is directing his attention to a question which is not exactly one of fraud but certainly one of a conflict of interest, which is of concern.

I have a counterargument. I would suggest, if the gentleman has not had an opportunity to do so, that he read the two studies to which I referred which I put in the CONGRESSIONAL RECORD. They point out how to gain in efficiency and to lower cost through the process of renegotiation, using the people who were originally involved to do the renegotiation.

The gentleman makes a good point. The point I made to the chairman of the committee and to my colleagues on the committee is, if this should be permanent law, then let us make it permanent law. The gentleman is saying that he believes this is the kind of process we should follow at all times. We should note that the Renegotiation Act was an emergency act. All we have done is continue it every 2 years. This is about the seventh time.

Along the lines of the argument made by the gentleman from Tennessee—and it was a good argument—I would say, if that is the better way, then this should be a permanent law and not one of the things kept on an emergency basis. Then it should be designed as a permanent agency. I submit, of course, that is not the case, and I believe that is another argument against this process.

Mr. EVINS. I am in favor of efficiency, using a contracting officer of the Department of Defense, to which the gentleman has addressed himself, but I believe also there is an advantage in using an independent agency to make an appellate review or a separate review.

I would be in favor of having a permanent agency. I would be in favor of a 4-year extension rather than a 2-year extension.

I am impressed by the fact that there are large space contracts, involving more than $5 billion a year, and there is a continuing need for the Renegotiation Board.

A few years ago the Tennessee Valley Authority was included under the renegotiation process, because of conspiracy in the uniformity of bids and purchases generated. I am not opposed to that. I would prefer to have the contracts looked over.

Rather than to have a diminishing of activity by the Board, I would feel the activity should be increased.

Mr. CURTIS. The gentleman is addressing himself to something entirely different, really, and that is fraud. I do not believe that the renegotiation process is the way to take care of fraud or violation of the antitrust laws. There are better measures.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. I yield to the Chairman of the Committee on Armed Services.

Mr. VINSON. The gentleman is somewhat critical of the method used. No doubt the gentleman recognizes the fact that the law gives any contractor the right to appeal to the tax court if he is not satisfied with the situation. Therefore, it corrects any errors that might have been made in the first instance by the Renegotiation Board.

Mr. CURTIS. I believe the gentleman has misconstrued what I have been talking about. I am trying to figure out what is the best method of procurement in this area involving such large sums of money, many billions of dollars—possibly as much as $30 billion a year. What are the best methods?

There is certainly no question about the fact that the contractor can appeal to the Tax Court.

I believe the best way to get across the point is to refer to the studies I have mentioned.

Of course, all of this cannot be covered in the debate, but I hope that all Members are interested in this subject—I feel certain they are, for this really goes to the heart, in my judgment, of how we can get better efficiency and get better materials in our procurement process, and will read the material that I have put in the RECORD. I refer to the article by Mr. Stuart, who is deeply concerned about all of this, as are we all, and the entire book by Frederic M. Scherer, which is on this subject.

There are a lot of areas where the gentleman from Georgia [Mr. VINSON] and myself would agree, and also the gentleman from Arkansas [Mr. MILLS]. There are other areas where we would tend to disagree. But what I am seeking to do is to direct attention to the part that the Renegotiation Board plays in this process. In my judgment it is actually ending up in more inefficient contracting with the Government not getting the best return for its dollar.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. Yes. I am glad to yield to the gentleman from Arkansas.

Mr. MILLS. Will my friend from Missouri not admit with me that the article to which he refers in the CONGRESSIONAL RECORD contains many "ifs" and "qualifications"? At the very last paragraph, where he sums up, for example, he uses the words "appears" and "probably" and so on. These are qualifications. I do not think he is saying in this article, as I have read it hastily, that the renegotiation process is all bad. Perhaps there are better ways of accomplishing the purpose—and I assume that is what he is trying to point out—but we have not come up with those ways yet.

Mr. CURTIS. Yes. I think he says we have, but what he is saying is he is definitely sure the Renegotiation Board technique of renegotiation is not good and the methods we have developed, particularly incentive contracting—his discussion on this point begins on page 9330—the way it has now been developed is now better. Originally, when incentive contracting started out, as he points out, it was inadequate and had difficulties, but it has been perfected in the last couple of years, and he feels this clearly shows the line on which we should be proceeding. The Renegotiating Board technique actually is fouling up that process.

Mr. MILLS. The legislative committee involved in this and the distinguished chairman of it, who is most concerned with it, said that procedure was not that effective in its view.

Mr. CURTIS. There is a lot of differences of opinion, I grant, and I grant that the gentleman from Georgia is deeply concerned in it. So is the Joint Economic Committee which moved into this field not of military procurement alone but of all Government procurement because it is so vast and because of the economic impact that it has. I have been in this field, deeply concerned with it ever since I served on the Bonner subcommittee when I first came to Congress. I was the coauthor of the McCormack-Curtis amendment which was directed to procurement methods in the Military Establishment. There are differences of opinion and honest ones among those who have tried to study this subject.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. Yes. I yield to the chairman of the committee.

Mr. VINSON. Let me get this across to the gentleman from Missouri. Does he recognize the fact that the reason why this bill was conceived and written into law is on account of the types of contracts that would be made? Negotiated contracts?

Mr. CURTIS. That is right.

Mr. VINSON. The gentleman does not find any objection to that, does he?

Mr. CURTIS. No.

Mr. VINSON. Does the gentleman know any method that has been devised up to date to ascertain excessive profits better than the method we have already written into law for the last 10 years?

Mr. CURTIS. Of course I do, and that is what I have been trying to say to the gentleman.

Mr. VINSON. Let us try to get it out so we can see what the effect is of the gentleman's argument.

Mr. CURTIS. I am sorry I cannot get it across any better, but I would be repeating myself if I went over it again.

Mr. VINSON. The gentleman is merely saying that the officers who make the renegotiation may not be the proper ones because they do not have as much facts about it as the contracting officer who made the individual contracts. Now, he loses sight of two things. You do not renegotiate on individual contracts. You renegotiate on the annual business. You lose sight of that.

Mr. CURTIS. No; I do not lose sight of it, and the gentleman knows in order to evaluate, the Renegotiation Board, of course, in considering the total of all of the business a company has, it has to go into these contracts in detail to find out what the situation is.

If they were just doing the way the gentleman described it would be even worse than it is. Of course, the board tries to get into the details of the various contracts that the contractor has. The gentleman is pointing out another error, in my judgment, of the Renegotiation Board technique.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. I yield.

Mr. MILLS. The gentleman from Missouri, as I understand it, is more concerned with the type of negotiation initially carried on by Government agencies with the contractor.

Mr. CURTIS. No.

Mr. MILLS. I thought the gentleman felt that there were better ways of contracting than those presently used.

Mr. CURTIS. Oh, yes. I do happen to think that, but let me say that we are bound to have negotiation in many of these contracts, particularly of this kind dealing with new type materiel. Let me see if I cannot clarify this. We have to have the process of renegotiation. The question is, should the renegotiation be done through redetermination clauses in the contracts and thus done by the people who did the original negotiating, or should the renegotiating be done by an independent board? The gentleman from Tennessee pointed that out, and he pointed out the argument, which I think is legitimate, that one might use, that an independent board is necessary. I am trying to point out the other side of the coin and the damage that results in good, efficient contracting, from the fact that you do have an independent board that of course does not have this detailed knowledge and cannot have, that the original negotiators have. This is a very technical field. And I again say, rather than to try to repeat arguments that are well set out in these two articles here, if we could have a debate after this material were absorbed, I think we could move forward.

Mr. MILLS. The point that I was trying to make is this. Is it the gentleman's opinion that the type of amendment described in the minority report would to any extent correct the problem that the gentleman is talking about?

Mr. CURTIS. Yes, it would help phase it out.

Mr. MILLS. How does the gentleman think it would correct the problem?

Mr. CURTIS. By simply putting a higher ceiling on the contracts it covers.

Mr. MILLS. You are still going to phase out and eliminate the negotiated contracts which I thought my friend said would have to be renegotiated by somebody.

Mr. CURTIS. I say they will be renegotiated as they are now, thank goodness, through price redetermination clauses and renegotiation clauses in the contracts originally entered into. And the people who do the renegotiating are the people who did the original negotiating.

If it is a question of fraud that we are concerned about—and I am concerned about it—or the too close relationship, which could result—a conflict of interest, this is a concern that I have recognized as arguments for an independent board. I say, though, that balancing it off indicates that we do a much better job in this tremendous billion dollar business if we emphasize this other process which gives us lower costs. And then, as far as fraud is concerned we should be watching for that in any phase of our negotiations or in any contracting.

Mr. Chairman, I simply wanted to say one other thing aside from the basic figures of how this thing has been phased down automatically. This is shown on page 9329 of the CONGRESSIONAL RECORD of yesterday as well as in the minority views. This board process was important during emergency periods when careful contract proceedings could not always be followed and in my judgment still would be important in time of war where you have to procure in a very rapid fashion and there then is a reason for this emergency technique.

But when you can make your procurement in an orderly way I submit that it should be done in this way. This board process has phased down where the only thing that is creating a problem—those who are dealing with it have learned to live with it—is in the area of silence. How many of our contractors will not negotiate with the Government, on contracts because of this unfair and cumbersome renegotiation technique? There is also this business of getting private capital into some of these munitions enterprises and moving Government capital out. Under the Renegotiation Board over a period of years we have had a very unfortunate experience in this area. Government capital remains in and private capital does not supplant it. Then finally, I call your attention to the remarks and arguments advanced by Congressman SMITH of California during the discussion on the rule as to the deleterious effect the Board technique has on small business.

Mr. Chairman, I am concerned about the impact, the deleterious impact, which this has on small business. I am a little bit surprised and disappointed about the statement of the gentleman from Tennessee [Mr. EVINS] whose interest in small business is great and who is chairman of the Small Business Committee, that he has not gone to bat for them on this matter as one of the things that needs to be eliminated for the benefit of small business.

Mr. MILLS. Mr. Chairman, I yield 20 minutes to the distinguished chairman of the Committee on Armed Services the gentleman from Georgia [Mr. VINSON].

Mr. VINSON. Mr. Chairman, had I been a member of the Committee on Ways and Means as is the distinguished gentleman from Missouri and felt as he has stated here today, I certainly would have exercised my rights to have sought to correct the errors in this legislation at that time.

Mr. Chairman, my philosophy of life has always been when I present an indictment I try to present a good one and a cure.

Now, Mr. Chairman, the gentleman has pointed out what he conceives to be the weakness of the methods of renegotiation. Yet his only solution that he offered here today and which is offered in an amendment is to raise the ceiling from $1 to $5 million.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. VINSON. Yes.

Mr. CURTIS. I do not offer that amendment for that purpose.

Mr. VINSON. Well, anyway, that is what the gentleman is supporting.

Mr. CURTIS. No. Let me make my position clear, if I may. I think this bill should be defeated.

Mr. VINSON. That is right.

Mr. CURTIS. But I am saying this: Sometimes you want to phase out, and one way of phasing out would be to put in the $5 million ceiling.

Mr. VINSON. That is right. To those who do not probably have the courage that the distinguished gentleman from Missouri has to defeat this legislation outright, who think it would be a step toward accomplishing that purpose by saying—and I see the gentleman nodding.

Mr. CURTIS. That is right.

Mr. VINSON. To say that we will do it in a piecemeal fashion. All right.

Mr. Chairman, I have been living with this problem for a long, long time. As a matter of fact, before renegotiation came into being, as chairman of the Naval Affairs Committee, I saw on some of the contracts that were being made the enormous profits that were being made by contractors. So about 35 or nearly 40 years ago I introduced a bill to seek to limit the profits of shipbuilders and other doing business with the Navy. We sought to grant to them a fair and equitable profit not to exceed 10 percent on shipbuilding. Later on when we began to make the great contracts for naval aviation and with the great responsibility which was involved in that effort, we raised that figure to 12 percent for the aviation companies.

Mr. Chairman, the business of the Department of Defense became so large that it became necessary to try to approach the matter in a broader manner by the passing in 1951 of the Renegotiation Act.

That has been extended at various periods. Every 2 years, every 3 years, we have a renegotiation bill before the House.

Let us understand exactly what the renegotiation bill is designed for, what it can accomplish, and what it does accomplish.

I regret very much, I might say, knowing the distinguished gentleman from Missouri as well as I do, and the ability and efficient service he has rendered to his district and the Nation, that at last he has concluded that in this field we should not legislate. I was hoping that this bill could become permanent law, but it has not been made that. So it is far better to extend it from year to year. This is a field that must be legislated in if you are going to protect the taxpayers of this country. I am not opposed to people making profits, I am not opposed to the private enterprise system. But I do not want to see the day come when the Congress bows and permits great corporations to make enormous profits at the expense of the taxpayers. That is the primary reason why we must legislate in this area and authorize renegotiation to avoid excessive profits.

Let us see what it does. This bill seeks to do one thing, extend this act by 2 years to June 30, 1966. The act was passed in 1951, and it certainly has justified its existence. I will prove to you, with the money that has been returned to the Treasury of the United States and to the taxpayers of the United States why, in my judgment, this should be a permanent statute instead of a temporary statute, but at least this deserves the full support of the House. Let this be on the statute books for at least another 2 years.

It was just pointed out by the gentleman from Tennessee [Mr. EVINS] that we are embarking into the space age with enormous contracts involving billions and billions of dollars. Are they going to go on unchaperoned? Are you going to turn them loose and let the sky be your limit? I was hurt when I heard my good friend say that this was a step toward writing off the statute books this sound and worthy act.

Why is it necessary to have renegotiation, or this kind of a bill? Today, 87 percent of all contracts made in the Department of Defense, and all through the years—a few years ago it was 93 percent—are negotiated contracts. That is the reason you have to have something like this. The contractors, the naval officers, the Air Force officers, sit down at a table and try to work out an agreement as to what will be a fair contract for the contractor and for the Government.

Should that be the end of the matter? Should it stop there, and we say "That is all right; Uncle Sam will pick up the tab, leave it alone, do nothing further about it," when millions and millions and billions of dollars are involved?

We say a fair and impartial board should be created, appointed by the President, confirmed by the Senate. We said it is not going to be on an individual contract, it is going to be on your total business with the Government. You do business amounting to over a billion dollars with the Government in the Department of Defense and we will take it all in one package overall and not on individual contracts.

What has been the result? My recollection is since the creation of this act over $891 million has been determined as excessive profits by an impartial board, whose members have been confirmed by the Senate, and who have said to these corporations in the last 10 years, "You have overcharged the taxpayers that much money."

In addition, the very law on the statute books has been a warning that has caused over $1.2 billion to be returned by the contractors voluntarily without ever being renegotiated. Is that the kind of law you want to strike off the books by steps, 87 percent being negotiated contracts? The Board held $892 million to be excessive profits, with all the rights to appeal to the Tax Court, with $1.2 billion ultimately being brought voluntarily into the coffers of the Nation because these contractors knew, clear conscience told them, that their profit was too high?

Let me say one thing further. About 20 years ago I was conducting an investigation right along this line. The president of one of the large manufacturers of aircraft appeared before our committee. We had had some audits made of his business. He was subpenaed to appear. When he came before the committee he said, "I want to read a statement," and he read a statement along these lines:

> To the SECRETARY OF THE NAVY:
>
> I have been so busy trying to meet my obligations under the contract I have not had time to look into the profits, but since this investigation has been going on we have had an opportunity to look into them, and we found that we have overcharged the Government $100 million, and therefore I enclose a check for all of it.

What are you going to do? Are you going to wipe this off piecemeal? That is the wrong thing to do. You know it and I know it. I do not think this kind of legislation should be passed.

I hope this House will vote down this amendment overwhelmingly, because, although I do not need to say it because it has already been said, it is the first step to kill the law. They do not want to take the responsibility of killing it by a meat-ax approach. They want to nibble it away and slice it off instead of knocking it in the head.

Mr. Chairman, I will extend my remarks in the RECORD because I do not want to trespass upon your time and patience any further.

I appeared before the Committee on Ways and Means 2 or 3 years ago when this bill was under consideration. I know what it would mean in the cost of articles if you wipe this law off the statute books.

Something has been said here about small business. The expression "small business" is oftentimes used—it is an appealing name. But every small business I have ever known has done its level best as quickly as possible to get to be a big business. But I say to you, it would not be of any advantage to small business to wipe this limitation off the books.

Let me say this:

The proponents of this motion contend that it is designed to help small business. Nothing could be further from the truth. I am advised by the Renegotiation Board that if the $5 million floor had been in effect in 1963, approximately 60 well-known corporations having gross sales in excess of $1 million each would have been eliminated from renegotiation.

It is evident, therefore, that this amendment is not designed to help small business but, in fact, it is designed to help the large business corporations of America.

Now let me ask my good friend, the gentleman from Iowa a question. Let us analyze this motion that the report says is going to be made by the minority to recommit the bill with an amendment. They say that they do not want excessive profits made above $5 million. Therefore, it is all right to make excessive profits from $1 million up to $5 million. Why are you going to cut it off at $5 million?

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. VINSON. I yield to the gentleman.

Mr. GROSS. Did I understand the gentleman to say that in 1963, 60 well-known corporations in this country overcharged the Government? Is that the import of what the gentleman said—let me put it that way?

Mr. VINSON. No, I said this:

> The proponents of this motion contend that it is designed to help small business. Nothing could be further from the truth. I am advised by the Renegotiation Board that if the $5 million floor had been in effect in 1963, approximately 60 well-known corporations having gross sales in excess of $1 million each would have been eliminated from renegotiation.

That is the weakness of going to the $5 million provision.

Mr. GROSS. That presupposes, does it not, that they did overcharge the Government on their contracts?

Mr. VINSON. No, not by any means.

Mr. GROSS. Then what is the meaning of it?

Mr. VINSON. That is an answer to the argument that the amendment is designed for small business.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. VINSON. I yield to the gentleman from Arkansas.

Mr. MILLS. In addition to the point made by the distinguished gentleman from Georgia, the Renegotiation Board compiled some statistics, dated April 24, 1964, with respect to a breakdown of the numbers of filings for fiscal 1963 with the Board involving companies doing $5 million or more of business with the Government and doing $5 million or less of business with the Government. Those doing business of less than $5 million involved 1,237 such filings. It is quite significant that 327 of the 1,237 were subsidiary corporations owned by some of the major corporations of the United States. They are directly owned, so those types of subsidiary operations would be let out by the amendment if the total business of all of the group was under $5 million.

Mr. VINSON. Now let us analyze what would be the effect if Members supported the motion to recommit, to provide the $5 million limit. Would you not then say you had no concern about the excessive profit any contractor might make up to $5 million? Is that not what you would say by your vote? Of course you would.

I commend my friend the gentleman from California [Mr. GUBSER]. He appeared before the Ways and Means Committee and he frankly admitted in his testimony that he was opposed to the act. I respect that kind of courage, but I cannot find myself in accord with those who say, "I want to kill it, but I want to kill it by degrees."

If you are going to do anything, do a worthwhile job, do not do a half-handed job.

So when I read my colleague's testimony I said, "He has the courage of his convictions. He is not dodging around. He is not trying to do something in a roundabout way. He meets the issue." That is what I want to meet.

We cannot justify saying to the American people, "Every contractor in America, in making a contract with the Government, through the Department of Defense, has carte blanche, and the sky is the limit, provided the business is only in the amount of $5 million."

What would happen? Contractors could split contracts. A contractor could say, "My corporation is not large enough to take a $10 million contract. We can do only one-half of it." And the balance of the contract would be given to someone in the same kind of business, for the other $5 million.

What would be the result? Exorbitant profits might very well result.

Members are asked by the minority of the Ways and Means Committee to grant an exemption of $5 million to every contractor who signs up with the Department of Defense.

**Mr. CURTIS.** Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. BYRNES].

**Mr. BYRNES of Wisconsin.** Mr. Chairman, I shall try to aproach this issue without flag waving and without trying to wrap myself in the cloak of having some extra special attitude toward exorbitant profits.

Of course we are all against exorbitant profits. We are all trying to see to it—and I assume that the chairman of the Committee on Armed Services is trying to see to it—that we get the goods and services for the Defense Establishment at the least possible cost to the Government. That is what is more important, really, than whether somebody makes a profit. The Government should get the product at the lowest possible cost. I would assume the gentleman agrees with that.

**Mr. VINSON.** That is right. That is right.

**Mr. BYRNES of Wisconsin.** Well, this is one of the problems, and I will refer to it in my remarks, Mr. Chairman, that concerns me a great deal. It is the emphasis here on profits rather than the emphasis on getting these goods and services at the lowest possible cost to the Government. We are being asked here today to extend for the seventh time the expiration date of the Renegotiation Act, and again for a 2-year period.

There must be serious question about this act, and its workings, or we would have made it a permanent law long ago. We must assume from this fact that renegotiation is not a good law. If we accept that premise, we should also be taking some steps to bring renegotiation to an end. The claim is made that renegotiation is still needed as a temporary expedient. A temporary expedient, enacted at the time of the Korean hostilities, and already extended on six separate occasions in 12 years loses its temporary character.

Renegotiation may be needed as a "crutch" by the Government agencies to correct sloppy procurement through the renegotiation process. But, for how long? It is time that we remove this "back stop" and make the procurement people responsible for their actions.

No one questioned the need for renegotiation during World War II. All procurement was on a "crash" basis. There was not sufficient time to check prices. Renegotiation was allowed to expire immediately after World War II. It was revived in 1951—because of the Korean hostilities—at a time when it was feared by many that those hostilities might bring about the same type of "crash" procurement which existed during World War II.

The Korean hostilities ended more than 10 years ago. Instead of taking steps to phase out the renegotiation process, we have been broadening its scope. In fact, the extension before you today adds another agency to those whose contracts are subject to renegotiation.

We are adding the Federal Aviation Agency—not on the basis of any "crash" program embarked upon by that agency—not on the basis that the agency is concerned with the national defense—but because we are told that the FAA will be buying equipment similar to equipment purchased by the Department of Defense. No one has been able to tell us why the FAA could not in the first instance buy that equipment at fair prices.

In proposing that we bring an end to renegotiation, I am not defending the right of any Government supplier to make "excessive" profits. The term "excessive" is self-serving. It would make it appear that anyone who opposes the renegotiation process, is defending excessive profits. That is the fallacy upon which this act has been extended time and time again.

What are "excessive" profits? This act does not define what is excessive. Neither the procurement agencies nor the Renegotiation Board can tell you what are excessive profits. In the final analysis, excessive profits are merely those profits which the Renegotiation Board decides are more than the company should be allowed to make.

The Board has the sole discretion to make that determination, without any standard, formula or meaningful guidelines in the act. The Board merely substitutes its judgment for that of the marketplace.

This very concept of having a Federal bureaucracy—and I say this without any reflection on any members of the Renegotiation Board—look at a contractor's business after the fact—and say that the contractor earned too much profit—is completely repugnant to all of the American concepts of business and free enterprise.

Profits are measured by the difference between the contract price and the cost of the goods or services.

The contractor who does a good job—and I wish the gentleman from Georgia would listen to this, because it seems to me his committee should investigate this as far as procurement practices are concerned in the Armed Services Committee—the contractor who does a good job will always have more profit than the contractor who does a poor job, both selling the same goods and services at the same price.

**Mr. VINSON.** That is what is known as the incentive aspect.

**Mr. BYRNES of Wisconsin.** Provided you let the incentive aspect work without voiding it through the renegotiation process at the end. That is my point. The renegotiation will always take normal profits from the efficient and leave the inefficient alone.

**Mr. VINSON.** That is correct.

**Mr. BYRNES of Wisconsin.** Absolutely. I do not think that is the basic concept we should use as a guide for Government procurement if our desire is to get goods and services at the lowest possible price to Uncle Sam.

Mr. Chairman, you may be told that any aggrieved contractor has a right of appeal to the Tax Court—that the Renegotiation Board does not have sole discretion in determining excessive profits. But, what guidelines can the contractor rely upon as a basis for his appeal? There are no meaningful standards established in the Renegotiation Act. With no definition of "excessive profits," the right of appeal has no effect.

The Renegotiation Board, in its annual report for 1963, points with pride to the fact that under the 1951 act there have been 3,608 determinations of excessive profits, of which 3,262 have been agreed to and only 123 ultimately appealed to the Tax Court. Of these appeals in only nine cases has the determination of the Renegotiation Board been reduced by order of the Tax Court. Does this mean that the Renegotiation Board is so allwise that it is 99 percent correct in all cases? That is what the Board would have you infer from the statistics. In my mind, the statistics only serve to prove the inadequacy of the appeal procedure. Why are there so few appeals from the determination of the Renegotiation Board? Why have so few of these appeals been decided favorably to the contractor? The answer is obvious. Contractors have come to realize that there is no meaningful appeal from a determination by the Board; that they might as well accept it. That is the type of procedure which we are extending today.

I am not saying that any saving Uncle Sam can make is immaterial.

Mr. Chairman, if we can save $500, if we can even save some money by turning out the lights, as far as I am concerned, that is a saving and I am all for it.

But, Mr. Chairman, let us look at really how important these so-called savings are that have been made as the result of findings of excessive of profits by the Renegotiation Board and what relationship they bear to the overall procurement picture.

For fiscal year 1963, renegotiation produced some $10 million in refunds before taking into account the credit which is allowed to contractors for the taxes paid on the so-called excessive profits. So far as the U.S. Treasury is concerned all we recouped was about $5 million. Now, that is seventeen one-thousandths of 1 percent of the sales or prices that were subjected to renegotiation.

Mr. Chairman, I do not think when one looks at this so-called savings in the overall picture, one can say that it is significant in terms of the magnitude of the operation. And, let us remember this: The cost to the individuals preparing forms and all the rest of the paraphernalia that has to be submitted as part of this renegotiation process—and those costs are taken as deductions against profits for renegotiation and Federal tax purposes—I wonder sometimes how much we have saved in the overall picture.

Again, I repeat for the benefit of the gentleman—if there are excess profits, I am not trying to defend excess profits—but you should look at this from the standpoint of the Government and whether we get our goods at the lowest cost possible. I do not think the present system reflects any great savings.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of Wisconsin. Certainly.

Mr. VINSON. I would like for the gentleman from Wisconsin to clear up for the RECORD his thinking on this matter: I judge from his remarks that he does think there is some justification for renegotiation or for the operation of a statute similar to this, does he not?

Mr. BYRNES of Wisconsin. If that is a generalized question, I believe it would be better if the gentleman asked the question at the conclusion of my remarks, because I do have some more points to make and I may answer his question in the meantime.

Mr. VINSON. If the gentleman will yield further, I think this is just as good place as any other place to answer the question, because I do not see anything in the RECORD where the gentleman is trying to correct the defects which he is pointing out.

My point is this, Mr. Chairman: I think this is a valid point to make. The gentleman from Wisconsin and other members of the Committee on Ways and Means, which committee has jurisdiction over this matter, if this is not a perfect law and if it should be changed, I will ask the gentleman why does he not bring in the amendments to change the law and to improve the law?

Mr. BYRNES of Wisconsin. Let me finish my statement. I hope I can come to that question. If I forget to do so, I hope the gentleman will remind me to answer it.

Mr. Chairman, let us examine this fact. The Board looked at about $31 billion in prime contracts and subcontracts, involving about 3,500 contractors. More than half of these—now mark this, I say to the gentleman from Georgia—were cost-plus-fixed-fee contracts or contracts containing clauses permitting the contracting parties to renegotiate the price. You do not have to have the Renegotiation Act to cover those contracts.

Mr. VINSON. That is correct.

Mr. BYRNES of Wisconsin. All right. So, over half of them that still have to go through the renegotiation process were encumbered by this act.

You have the authority—the contracting parties have the authority, the Defense Department or the Aerospace Agency or anyone else—to take care of any excessive profits that develop. Excessive profits could and should have been avoided in those cases. I would suggest that what might very well be done is in those cases where there was found to be an excess profit by the Renegotiation Board in these types of contracts that the Committee on Armed Services might call in the Department of Defense and say, "What happened to your cost-plus-fixed-fee contracts that allowed this to happen?" Also, "What happened to the right to renegotiate the price that is in your contracts? Why was not that done so you did not have this excessive profit?"

Presumably, there was no need to protect either the Government or the contractor on the other contracts of about half of the total of $31 billion which were nonredeterminable fixed-price contracts, because the contracting parties must be presumed to have known what they were doing. Otherwise the parties would have reserved the right to renegotiate the price in those contracts. Prior knowledge of the product and its probable cost is inherent to all fixed-price contracts.

Mr. Chairman, that brings up one of the things I would recommend. But that is not within the jurisdiction of the Committee on Ways and Means. I would suggest that all legislative committees having authority and jurisdiction over agencies or departments which are making large procurements say to them that they have to carry these repricing clauses in contract for the unusual items, and see that the clauses are enforced.

The Renegotiation Act is not the only protection against excessive profits—whatever that means. There are better tools already available to protect the Government. The procurement agencies have developed contracting clauses to meet all types of situations. If the contract involves something new or novel, which cannot be priced in advance, there are clauses providing for an audit and the fixing of a price after a portion of the contract has been completed—when the parties are capable of accurately estimating costs. In some cases, contracts may provide that a new price can be fixed by negotiation even after the contract has been fully completed.

Contracting procedures provide for in-plant audits by the contracting agencies of a contractor's overhead estimates, labor estimates, and for the examination of all purchase orders. The contractor must prove adequate bids have been solicited for subcontract work; that the costs entering into the proposal have been arrived at on a sound and realistic basis; and, that the resulting profit is within the prescribed limitations.

We should leave the contracting parties to the settlement of their differences—including provisions for repricing—at the time the contract is being negotiated—and not have the Renegotiation Board come in after the fact and substitute its judgment for the judgment of the contracting parties.

I find it hard to believe that the Government is not capable of dealing with the major contractors in our defense and space programs—the areas cited as justification for renegotiation. There is fierce competition for these projects. The Government should be capable of negotiating realistic prices with these prime contractors with the aid of the appropriate contract clauses.

These prime contractors are also largely dependent on Government business for survival. In fact, the relationship—or dependency—is such that the prime contractors can and should be compelled to negotiate equally realistic prices with their subcontractors and suppliers.

That is the way the free enterprise system should operate—if we take away the renegotiation "crutch" and make the parties to the contract responsible for their actions—that is the way it will operate. The Government will save money in the end.

I am prepared to recognize that after some 14 years of renegotiation, we may not be able to make the transition overnight. That is why an amendment should be adopted to make the transition gradual—by increasing gradually the amount of business of a contractor to be exempted from the renegotiation process.

At present, the first $1 million of Government sales is exempt. For the calendar year beginning January 1, 1965, I would make that exemption $3 million, and for the calendar year 1966—assuming we extend the act again—I would make the exemption $5 million. This would exclude about two-thirds of the contractors presently subject to renegotiation.

It would not exclude any of the major prime contractors—but only small business—some 2,400 companies which supply components.

I offer this as a first step. Once the departments have learned to get along without renegotiation in these smaller cases, I believe they should be required to get along without renegotiation in all cases.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Georgia.

Mr. VINSON. I will say to the gentleman, and also inform the House, that year before last when the distinguished gentleman from Louisiana [Mr. HÉBERT] was chairman of an investigating committee, these types of contracts were looked into, and as a result of our looking into them we recovered some $75 million.

Mr. BYRNES of Wisconsin. You did not need the Renegotiation Act, did you?

Mr. VINSON. I would not have had jurisdiction to make the inquiry that the Renegotiation Board can do far more effectively than a committee of the Congress.

Mr. BYRNES of Wisconsin. I think the gentleman is missing my point. His committee has jurisdiction over the Defense Department, which is the biggest purchaser of renegotiable items. There are contract provisions which permit the Defense Department to make adjustments so far as costs and profits are concerned. Why should there ever be a situation then where we need the Renegotiation Board to make that determination? The basic point I want to make is that the Renegotiation Board is not the only one who can guard against "excessive profits," whatever those words may mean. There are better tools already available to protect the Government. The procurement agencies have developed contract clauses to meet various types of situations.

I want to pay my compliments to the Secretary of Defense, who I understand is moving very vigorously in this area of cost accounting. He is doing a commendable job in that area. I do not think that these agencies need the backstop of the Renegotiation Act. I think they will do a better job of getting lower prices for Uncle Sam if you take this from them.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. CURTIS. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. BYRNES of Wisconsin. I am in favor of the amendment that will be proposed. I think all of the legislative committees and all of the agencies involved should have the time to make a real review and study of the procurement process. If they come to the conclusion when this act expires they have done the best that they can, and they can show we still have to have this act, we can continue it. But I see no need for all of the small contractors, who are basically subcontractors, having to go through this onerous renegotiation procedure. The gentleman from Georgia used a fine statistic that proved nothing. He said the Board named 60 contractors who were big, not small, businesses and who had more than $1 million, but less than $5 million in contracts. They would be removed if we had the $5 million limitation in this amendment. I would like to know from the gentleman whether any one of those 60 that would be removed was found to have had excessive profits, and required to give back to Uncle Sam a part of the contract price? That is the important statistic. It is not who is subject to renegotiation, it is who has earned profits that require renegotiation. We have people subject to renegotiation against whom there has been no finding of excessive profits, yet we put them through this task. If there are excessive profits, there are few that could not have been recouped by the procurement agency through a provision in the contract. I think we ought to begin phasing out the Renegotiation Board, and give the legislative committees a chance to look at the agencies under their jurisdiction. In 2 years we will know whether or not to allow the act to expire.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Georgia.

Mr. VINSON. Why did not the gentleman and the other Members of the minority that is so critical of this bill try to improve it?

Mr. BYRNES of Wisconsin. I will tell the gentleman. As I just stated, the improvements should come through the procurement processes of the various agencies. We have no jurisdiction over the Defense Department to tell them what they should do by way of their contracts, but the gentleman has. You have an opportunity to correct any deficiencies in procurement by Defense. Other committees have jurisdiction elsewhere. We suggested in our Republican views that the Appropriations Committee of this House, and the various subcommittees of that committee, take a look at procurement contracts. In other words, the legislative committees having jurisdiction should pay special attention to this during the next 2 years.

Mr. VINSON. May I call the gentleman's attention to the fact that during 1960 the Committee on Armed Services after long hearings recommended the continuation of the Renegotiation Act notwithstanding the fact that we are trying to police these things all the time. And it is signed by distinguished Members ARENDS, BATES, OSMERS, BRAY, and BECKER.

Mr. CURTIS. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. GUBSER].

Mr. GUBSER. Mr. Chairman, if we pass this bill we will literally throw away almost $10 million a year. In the pretense of saving money we will be doing what amounts to trying to fill a bucket which leaks faster than we can fill it. This will be a frustrated attempt at trying to solve a 1964 problem with a 1951 solution.

This law has outlived its usefulness and it is unnecessary. The net result of the act is a financial loss to the taxpayers. For this reason, it should not be extended beyond its expiration date of June 30.

The original purpose of the Renegotiation Act was to prevent excessive profits to defense contractors at a time when procurement of defense items was on a crash basis. With the need for securing these items in a hurry, proper negotiation and supervision of the contracts was not possible. But today when defense procurement is reasonably stable even though it is at a high level, this act is unnecessary.

It has been said that over $800 million has been saved due to renegotiation since the act became law, but of greater significance would be what has happened in recent years as defense procurement policies have improved and contract supervision has improved. Excessive profit determinations have declined from a high of $167 million in 1955 down to just $7.8 million in 1962 and $10.1 million for the fiscal year 1963. In just 8 years this is a reduction of almost 94 percent from the 1955 high. It is worth noting that this low level of refunds in 1963 occurred in a year when the Board reviewed the largest amount of renegotiable sales since it began to make its annual reports to the Congress in 1956.

Clearly, the reason for this decline is that Government contracting agencies are doing a better job now, that defense procurement is reasonably constant from year to year and not on a crash basis.

One week ago today it was my not too pleasant duty, as I saw it, to stand in the well of this House and severely criticize Secretary McNamara, on a question of defense policy. Today it is my more pleasant duty to compliment him on his management of the Defense Department and his monitoring of contracts for procurement of military items.

Eighty-seven percent of our contracts are negotiated contracts today. We admit that. But to say that the proposed motion to recommit will allow excessive profits up to $5 million is to completely ignore the fact that the Defense Department as of this day is monitoring every contract during its performance. It is to ignore the fact that the Armed Services Committee of the 87th Congress passed Public Law 653 which absolutely requires that all items of cost in excess of $25,000 in every negotiated contract be made public during the course of the negotiation.

These contracts, these costs, are down in black and white during the negotiations and there is a continuous or a constant audit during the performance period of the contract and there is absolutely no possibility for excessive profits. If this were not the case, why then have we sunk to a point where out of 3,893 contractors subject to renegotiation doing a volume of business in excess of $31 billion the Renegotiation Board only found excessive profits to the extent of $10.1 million in fiscal year 1963?

As you know, catalog items are not subject to renegotiation. Almost all other procurements are either on a fixed-price basis or subject to a redetermination clause written into the contract.

Under the terms of Public Law 87-653, as interpreted by the General Accounting Office, even catalog items which are exempt from renegotiation are required to be submitted as cost data during the process of negotiating a contract.

The cost of renegotiation is far greater than what appears on the surface. A contractor who deals partly with the Defense Department and partly through normal commercial channels must employ special accounting procedures for that portion of his sales which are renegotiable. This takes weeks of preparation and contributes greatly to overhead. My study has shown that the additional expenses incurred by contractors in preparing, filing, and supporting their renegotiation reports amount to six-tenths of 1 percent of renegotiable sales. During fiscal year 1963, the Renegotiation Board processed 3,893 contractor filings and assignments. The Board claimed refunds of $10.1 million with operating expenses of $2,243,000 for the year. An analysis of these figures will show that the Renegotiation Board is a financial drain on the taxpayer rather than a means of saving money.

Since contractors are given credit for income taxes paid on excessive profits which must be refunded, the $10.1 million shrinks to $4,989,000 after the 52 percent deduction. Thus, when the $2,243,000 operating expenses are deducted, we have what appears to be a net saving of approximately $1,746,000.

But what does renegotiation cost the contractor and how much of this is passed along to the Government through increased prices?

The figures which I have presented to the Committee on Ways and Means, and which have not been challenged and which I will submit for the RECORD show that if each contractor incurred only an average cost of $450 additional because he had to submit to renegotiation, the entire so-called profits of the Renegotiation Board would be completely wiped out.

I will submit figures for the RECORD which actually show that with the cost of renegotiation, tax items and other matters taken into consideration, the net loss to the taxpayer during the fiscal year 1963 because of renegotiation was actually $9,321,000. A contractor who deals partly with the Defense Department and partly through normal commercial channels must employ special accounting procedures for that portion of his sales which are renegotiable. This takes weeks of preparation and contributes greatly to overhead. My study has shown that the additional expenses incurred by contractors in preparing, filing, and supporting their renegotiation reports amount to six-tenths of 1 percent of renegotiable sales. During fiscal year 1963, the Renegotiation Board processed 3,893 contractor filings and assignments. The Board claimed refunds of $10.1 million with operating expenses of $2,243,000 for the year. An analysis of these figures will show that the Renegotiation Board is a financial drain on the taxpayer rather than a means of saving money.

Since contractors are given credit for income taxes paid on excessive profits which must be refunded, the $10.1 million shrinks to $4,989,000 after the 52-percent deduction. Thus, when the $2,243,000 operating expenses are deducted, we have what appears to be a net saving of approximately $1,746,000.

But what does renegotiation cost the contractor and how much of this is passed along to the Government through increased prices? Most defense contractors sell at least 25 percent of their volume to the Government. On this basis, at least 25 percent of the contractor costs of renegotiation filings will be included in their prices of items sold to the Government. Thus, if each of the 3,893 contractors were forced, because of renegotiation, to increase their prices to the Government by an average of $450 total, the alleged net savings of $1,746,000 would be completely dissipated. Since the average net cost is obviously more than $450, the result is a net loss to the Government. Based on these figures, the net loss from renegotiation to the Government for fiscal year 1963 might be summarized as follows:

| | *Thousands* |
|---|---|
| Renegotiation expenses of 3,893 defense contractors (based on 0.06 percent of sales or $31 billion x .0006) | $18,700 |
| Above cost paid for by the Government in form of reduced income tax (52 percent of above) | 9,724 |
| Add amount charged to Government in form of increased prices to recover expenses (represented by 25 percent of 48 percent of 18,700,000) | 2,244 |
| | 11,968 |
| Add 1963 operating expenses of the Renegotiation Board | 2,342 |
| Total outlay by the Government | 14,310 |
| (Deduct) recoveries—1963 refunds net of tax | (4,989) |
| Net loss to Government as result of 1963 renegotiation | 9,321 |

If the Members will check with representatives of industry, I am confident that the figures I have given you will prove to be conservative. I think an investigation will show that I could have pointed to a much higher loss of taxpayers' funds.

As my final argument, Mr. Chairman, I point to the Armed Services Procurement Regulation 3–808.1 of July 17, 1963, which states:

> It is the policy of the Department of Defense to utilize profit to stimulate efficient contract performance. * * * Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Furthermore, low average profit rates on defense contracts overall are detrimental to the public interest. Effective national defense * * * requires that the best industrial capabilities be attracted to defense contracts. These capabilities will be driven away from the defense market if defense contracts are characterized by low profit opportunities. Consequently, negotiations aimed merely at reducing costs by reducing profits, with no realization of the function of profits, cannot be condoned * * * the profit objective must be fitted to the circumstances of the particular procurement. * * * This will result in a wider range of profits which, in many cases, will be significantly higher than previous norms.

Armed Services Procurement Regulation 3–808.1 then goes on to spell out guidelines, rules, and regulations for the implementation of this policy. In these implementing regulations, the profit objective is stated to be "that part of the estimated contract price which, in the judgment of the contracting officer, is appropriate for the procurement being considered." This will be a part of the record of negotiation and will be subject to redetermination. Why, then, should it be renegotiated? Furthermore, is not the old renegotiation principle a possible contradiction of the new procurement policy as outlined in Armed Services Procurement Regulation 3–808.1?

Mr. Chairman, the Renegotiation Act is obsolete and no longer serves its original purpose. It is expensive and adds to rather than reduces the cost of defense procurement. The Defense Department can adequately protect the taxpayer and is doing so. Furthermore, this act flies in the face of newly established procurement policy. The act should be allowed to expire on June 30.

Mr. **CURTIS**. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BROYHILL].

Mr. **BROYHILL** of Virginia. Mr. Chairman, I rise in opposition to the pending legislation. I oppose H.R. 10669. I oppose extension of the Renegotiation Act as this bill contemplates. I oppose further broadening of the insidious reach of the act as this bill contemplates.

The stated purpose of renegotiation is to recapture "excessive" profits. It is supposed to save taxpayers money. But, Mr. Chairman, the renegotiation process in practice has quite the opposite effect. It costs the taxpayers money. It enables high-cost operators to procure Government contracts and make a profit at the taxpayers' expense. On the other hand, a more efficient operator who could perform the contract at less cost to the Government and at a greater profit to himself, will find part of his profit recaptured through renegotiation, because in the opinion of the Renegotiation Board his profit is excessive.

This sort of system kills initiative. It tends to make the proficient contractor unwilling to undertake Government projects, thereby making it still easier for high-cost, low-efficiency operators to perpetuate their own great raid on our Federal Treasury.

This sort of system is alien to free enterprise. In my judgment the contractor who can perform a contract for the Government at the least cost to the Government should be permitted to perform that contract free from fear that his earnings are going to be taken away from him by a Federal agency which has been legislatively blessed with statutory hindsight.

This sort of system chokes off research and development. By discouraging efficiency in contract performance, earnings suffer. And it is from earnings that American industry is able to engage in greater research and development, improve facilities, and develop laboratories to keep us in front of our international competitors.

It has been said that it is financial incentive which lubricates the great economic machine of the free world, and that the renegotiation process is a handful of sand which retards the efficiency of the machine and obstructs the flow of scientific thought and new product development.

If there are excessive profits in Government contracts, competition is the best method to get them out. Conversely, any artificial limitation on profits, such as the renegotiation process, is the most effective means of destroying competition.

As I have indicated, the stated purpose of renegotiation is to recapture "excessive" profits. But, Mr. Chairman, our Government procurement officers themselves, in their contracting functions could do much to keep "excessive" profits out of their contracts. Unfortunately, the protective backstop of the Renegotiation Act tends to stifle their initiative to take a hard-nosed attitude in working out prices. They tend to rely on the renegotiation process to keep unreasonable profits out of contracts where they never should be in the first place.

I firmly believe that terminating renegotiation, not extending and broadening it, is the best way to get unfair profits out of Government contracts.

Now, Mr. Chairman, let us look briefly at the scorecard of the Renegotiation Board for 1963. This will show us what a pitiful role renegotiation plays in the performance of its stated objective—the recapture of "excessive" profits.

In its eighth annual report to the Congress, the Renegotiation Board reports that it received filings from contractors and subcontractors representing $31.2 billion of renegotiable sales. Of this tremendous volume of sales to the Government, the renegotiation process recaptured "excessive" profits of barely $10 million, a ratio of only thirty-two thousandths of 1 percent of renegotiable sales.

But, that is not the whole story. Federal income taxes were paid on that profit and when it is recaptured an income tax adjustment must be made. For 1963 the report indicates this adjustment was $4.9 million. Thus, of the $10 million recaptured as "excessive" profits in 1963, one-half actually comes from the tax collector and only the remaining one-half comes from the contractor.

In effect, on the basis of reports received from 3,487 contractors in 1963, the renegotiation process recaptured "excessive" profits, not of $10 million, but only $5 million. The ratio of the $5 million recaptured to the $31.2 billion of sales is a disheartening sixteen thousandths of 1 percent.

And the story is still not complete, Mr. Chairman. To recapture this limited amount involved expenses of the Renegotiation Board totaling $2.3 million in 1963. This is 46 percent of the net recoveries for 1963.

So, after taking into account the tax adjustment and the expense of the renegotiation process to the Government, the net amount recaptured is only $2.7 million. At this point the ratio of recapture to sales has dwindled to only nine thousandths of 1 percent.

If the Eighth Annual Report of the Renegotiation Board included data on the amount of expenses incurred by contractors in complying with the renegotiation process, which are all tax deductible, and if we knew more about the sums lost to the Government because of work done by less efficient contractors, we would be led inevitably to the conclusion that the renegotiation process costs the taxpayers of our country more, much more, than it saves them.

I have outlined my objections to renegotiation. I am convinced that, wealthy as our country is, we cannot afford the luxury of statutory renegotiation. By lessening competition, it not only chokes off initiative both on the part of private contractors and Government procurement officers, but it also retards scientific and technological advances which are so essential to our country's continued freedom.

Mr. CURTIS. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. WILSON].

Mr. WILSON of Indiana. Mr. Chairman, a few days ago I noticed a request for proposal for 200 dynamotors, DY/96–VRC, in the Commerce Business Daily. These dynamotors are power supply units designed to drive the SCR–506 radio set, now replaced by the GRC–19 which will be replaced by the GRC–103.

This procurement request was issued by the Department of the Army Procurement Division, Sacramento Army Depot, Sacramento, Calif. The requisition number—authority to purchase—was A 6259F–4024–0117. The request for proposal number was AMC–04–170–64–132. The negotiated price range runs from 200-odd dollars to somewhat less than $400.

I wish to invite the attention of the members of the House Ways and Means Committee, which committee is charged with the responsibility of funding this Government, and also the members of the Appropriations Committee, who are responsible for the judicious expenditure of money, to what is going on in this procurement.

All the Sacramento Army Depot needs to do is to pick up the telephone and call WE 8–3731, Columbia Electronic Sales, Inc., Los Angeles, Calif., where 200 of these sets may be bought for $10 each. These sets are identical to those which the Army is trying to buy. In fact, they are Army surplus.

Mr. STEPHENS. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois [Mr. LIBONATI] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LIBONATI. Mr. Chairman, the extension provided in H.R. 10669 of the Negotiation Act of 1951 which authorizes the Government to recover moneys determined as excess profits on certain Government contracts and related subcontracts. The act expires on June 30, 1964, and hereunder is extended for 2 years until June 30, 1966. The Federal aviation contracts are included as well as related subcontracts, accruing or paid after June 30, 1964, to contractors or subcontractors.

The need for a renegotiation system of determination of costs and profits in the fields of modern aircraft, missiles, space vehicles, and other procurements. The production of items and costs cannot be fully ascertained because of no prior basis to fix a contract price and the actual cost to the contractor. In most instances the specifications for instrumentation are general in specificity necessitating sometimes experimentation and research for the final practicability of the instrumentation for use for desired results. Also substantial amounts of material purchased by the Federal Aviation Agency are somewhat similar to the items purchased by the other departments under the act and even as to making purchases from the same contractors.

To terminate this practice in the public interest under this act would create a void in the operation of doing business under conditions where costs cannot be determined. The act serves as a protection to small business and facilitates the consummation of contracts with contractors who otherwise would encounter delays because of the inability of the Government or themselves to reach basic cost figures agreements. The act is a protection to both industry and the Government—and also protects the public interest. Chairman CARL VINSON and the committee have rendered the people of the Nation a great service in recommending the continuation of the life of the Renegotiation Act.

Mr. CURTIS. Mr. Chairman, I have no further requests for time.

Mr. MILLS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 102(c)(1) of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1212 (c)(1)), is amended by striking out "June 30, 1964" and inserting in lieu thereof "June 30, 1966."

§ 2. Application to Federal Aviation Agency

(a) IN GENERAL. Section 103 of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1213), is amended—

(1) by inserting "the Federal Aviation Agency," after "the National Aeronautics and Space Administration," in subsection (a) thereof; and

(2) by inserting "the Administrator of the Federal Aviation Agency," after the Administrator of the National Aeronautics and Space Administration," in subsection (b) thereof.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts with the Federal Aviation Agency, and related subcontracts, only to the extent of the amounts received or accrued by a contractor or subcontractor after December 31, 1963.

Mr. MILLS (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Chairman, there is one committee amendment.

The CHAIRMAN. The Clerk will read the committee amendment.

### COMMITTEE AMENDMENT

The Clerk read as follows:

Committee amendment: On page 2, line 12, strike out "December 31, 1963" and insert "June 30, 1964".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. CURTIS

Mr. CURTIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CURTIS: On page 1, after line 6, strike all material beginning on page 1, line 7, to and including page 2, line 12.

Mr. CURTIS. Mr. Chairman, the purpose of this amendment is quite simple. It simply knocks out the extension of the Renegotiation Act to include the Federal Aviation Agency. In other words, in line with what we have been advancing on our side, this act, if it were to be extended, simply should be cut down and phased out rather than being expanded. This gives the House an opportunity to exercise its judgment on whether or not there should be an expansion of this program to include the Federal Aviation Agency. This amendment was offered in committee and debate was had on it. The arguments that the Renegotiation Board technique should be extended to include an agency that has never been covered certainly do not stand. The Agency itself is perfectly capable, I think, of putting renegotiation clauses into the contracts if they feel, in the light of their procurement needs, that they are going to have to procure materials on which cost estimates are not readily available.

Mr. Chairman, I yield back the balance of my time.

Mr. MILLS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it should be borne in mind that the Renegotiation Act applies with respect to contracts entered into at the present time with the following departments and agencies: the Department of Defense, Departments of the Army, Navy, Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, the NASA, and the Atomic Energy Commission.

The committee acted to include the Federal Aviation Agency's contracts in this instance with respect to the period involved in this 2-year extension of the Renegotiation Act at the request of the Federal Aviation Agency itself, and after hearing the Renegotiation Board and representatives of that Agency.

Mr. Chairman, this Agency is now in the process of purchasing from contractors certain types of equipment which are also being purchased, identical types of equipment that are being purchased, by the Department of Defense and the Departments of the Army, Navy, and Air Force. For example, this Agency is purchasing now electronic information aids, computers, radar equipment, and equipment used in aviation that will be usable, of course, for defense planes as well as for commercial and private planes and navigation. The fact that the same people will be producing the same type of equipment for two separate agencies of the Government we felt justified the inclusion of both agencies of Government that were in the process of making these purchases. About $165 million worth of business is involved here. That business could involve, in the opinion of the Renegotiation Board or you or me or anyone else, elements of excessive profits. If there are those elements of excessive profits that we would agree existed for the same type of equipment which is involved in renegotiation with other agencies, equipment that is not all readily obtained in the marketplace where competition keeps the price down, then we think that the Agency should be included.

Mr. Chairman, I would suggest, therefore, that the amendment offered by the gentleman from Missouri [Mr. CURTIS], be defeated by the committee.

Mr. GROSS. Mr. Chairman, I move to strike out the necessary number of words.

Mr. Chairman, I have not made up my mind, as one individual in this House, whether to vote to continue this Renegotiation Act. I just do not know as of this minute. I wonder if this is to go on endlessly and forever. I can understand that in time of war, crash programs and contracts are entered into but are sloppy contracts still being made? What is the necessity for continuance of the Renegotiation Act if a lot of sloppy Government procurement contracts are not being made? Perhaps someone can help me out of the predicament in which I find myself.

Mr. MILLS. Mr. Chairman, does the gentleman want me to try to help?

Mr. GROSS. Yes. Certainly. I welcome the help of the gentleman from Arkansas.

Mr. MILLS. I do not want to say that renegotiation is necessary because of sloppy contracting. Maybe there is some element of that in it, but I want to proceed on the basis that these are able people in these departments that are in the first instance entering into these contracts with the contractor outside.

The gentleman asked the question whether this is a permanent thing. The committee has never seen fit to make it permanent. The committee has taken it for 2-year periods, sometimes 3 years, I believe, in the past, because the committee has wanted to review the operations under it and have the chance to ask questions periodically about what has taken place.

The gentleman from Iowa must bear in mind the fact that as of now when we look to see whether we want to kill it or continue it, that the Department of Defense, for instance, is procuring in the present fiscal year a total of around $23 billion of things that the contractors supply. In 1965 it is estimated that it will be around $21 billion. In NASA this year they are procuring around $3.4 billion in this same general type of material for which there is not competition in the marketplace. And in 1965 it is estimated that the figure will be $3.8 billion. Certainly these two agencies alone would suggest that there is justification for a review of that much of Federal contracts to determine whether or not in this 2-year period these initial contracts embody prices that result in unwarranted or excessive profits in the course of these 2 fiscal years for which this program would be applied. How much longer it would go I do not know. I am just as anxious as anyone to see the time when we can justifiably terminate it, but I do not see that that day is today.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield.

Mr. CURTIS. Mr. Chairman, I am very happy that the gentleman brought out these very sizable figures that the Defense Department is spending, and these are subject, in effect, to renegotiation through renegotiation clauses written into the contracts.

As a matter of fact, the Renegotiation Board in all of the contracts, not only in Defense, in 1963, had a net cash recovery of $4.8 million which demonstrates quite clearly that the real weight of this thing is—and thank goodness it is—through the renegotiation clauses contained in the contracts.

And this is what we need to emphasize. There is another way this procedure was used and was necessary. That was during the war years when we had to procure very rapidly and could not rely upon normal procurement practices. As the gentleman has pointed out very ably, this is the inconsistency of continuing something that was an emergency thing for war purposes, during peacetime years and on a 2-year basis.

Mr. GROSS. Mr. Chairman, I have in mind the TFX fighter plane contract—not specifically a contract, because I understand that the money is being expended today on the basis of a letter of intent—to General Dynamics at Fort Worth, Tex. There has been competent testimony that these TFX fighter planes could have been built by Boeing for at least $400 million less than is proposed to be paid on the basis of the letter of intent under which it is going to be produced by General Dynamics at Fort Worth.

If this is true, is Secretary of Defense McNamara embarking on what amounts to a contract to build this new fighter plane knowing that it is going to cost at least $400 million more in the one plant than in another?

Is this the reason why or one of the reasons why we must maintain the Renegotiation Act and the Renegotiation Board, in order to recover the $400 million?

If this is true, why was a contract or letter of intent written to this particular firm in the first place?

Now, Mr. Chairman, I would like someone to throw a little light on that contract, call it whatever you desire.

Mr. MILLS. Mr. Chairman, if the gentleman will yield, the only part of that question to which I can respond on the basis of any firm information which I have is that we are not proposing an extension of renegotiation for 2 years because of the report to which the gentleman refers. But, if there is developed in connection with the TFX letter of intent prices that result in undue and excessive profits, that would be recouped during this 2-year period by the Renegotiation Board. But that is only one of many payments that will be made by the Department of Defense that would be subject to this act.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Of course, I yield to the gentleman from Georgia.

Mr. VINSON. I believe that the example that the distinguished gentleman gives is very pertinent as to the justification for continuing renegotiation.

Mr. GROSS. No; I will not agree that this particular case is a real justification for continuing the act. I say that the $400 million ought to be saved now in the awarding of the original contract.

Mr. VINSON. If the gentleman will yield further, I think the example used and the reference to the type of contract just mentioned involving an estimated $400 million difference between it and another, I think represents a complete justification or a valid reason why there should be renegotiation.

Let me say this to the gentleman: You must bear in mind that 87 percent of all Department of Defense contracts are negotiated contracts.

Mr. GROSS. Yes.

Mr. VINSON. And as long as the weaponry of the defense of this country is so technical and complex, it is absolutely essential that we continue to have negotiated contracts. As long as that situation exists there has to be something somewhere, either a Renegotiation Board or some other method that might be developed, to continue looking over all of these transactions in order to have them scrutinized for possible excessive profits.

Mr. GROSS. Experts have already looked over this particular contract and testimony has been given under oath that this contract or award, whatever you want to call it, will cost $400 million more in one plant than it will the other.

Mr. Chairman, it seems to me that this is where the action should be started, to save the taxpayers money and not at some future time with the Renegotiation Board.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent (at the request of Mr. CURTIS) Mr. GROSS was granted permission to proceed for an additional 3 minutes.)

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. CURTIS. I think the gentleman is developing a very good point. I would say to the gentleman from Georgia [Mr. VINSON] that the whole point that the gentleman from Wisconsin [Mr. BYRNES] was trying to emphasize on the cost element and the fact that in this instance—and the gentleman from Georgia recognized that this would encourage the inefficient contractor—here we have a situation of a letter of intent which has nothing to do with the problem. But you can award through the Renegotiation Board technique to the inefficient contractor. There is nothing mandatory about giving it to the contractor who might perform the contract more efficiently and deliver a better quality job.

So, the gentleman is indeed making the very point that the gentleman from Wisconsin [Mr. BYRNES] was attempting to project.

Mr. VINSON. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. I yield further to the gentleman from Georgia.

Mr. VINSON. May I point out this? It is true that the profit that was determined by the Renegotiation Board in 1963 was only in the neighborhood of $10 million but that is evidence as to why we are making better contracts and a greater savings has occurred as a result of it. But we have not reached the point of such efficiency in our contracting procedures that will permit us to do away with the Renegotiation Act.

Mr. GROSS. Had the TFX contract been properly awarded the saving of $400 million would have made the recovery of $10 million last year look small by comparison. And it could have been accomplished by one stroke of a pen. I am not minimizing the saving of $10 million but I would also like to save 40 times that amount.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. CURTIS].

The amendment was rejected.

### AMENDMENT OFFERED BY MR. CURTIS

Mr. CURTIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CURTIS:

Page 2, after line 12, insert:

"§ 3. Minimum Amounts Subject to Renegotiation

"(a) IN GENERAL.—Section 105(f)(1) of the Renegotiation Act of 1951, as amended (50 U.S.C. app., sec. 1215(f)(1)), is amended by inserting 'for $3,000,000 in the case of a fiscal year ending after December 31, 1964, or $5,000,000, in the case of a fiscal year ending after December 31, 1965' after 'June 30, 1956' each place it appears.

"(b) COMPUTATION.—Section 105(f)(3) of such Act is amended—

"(1) by inserting after the first sentence the following new sentences: 'In the case of a fiscal year beginning before January 1, 1965, and ending after December 31, 1964, the $3,000,000 amount shall be reduced to an amount equal to the sum of $1,000,000, plus the amount which bears the same ratio to $2,000,000 as the number of days in such fiscal year after December 31, 1964, bears to 365. In the case of a fiscal year beginning before January 1, 1966, and ending after December 31, 1965, the $5,000,000 amount shall be reduced to an amount equal to the sum of $3,000,000, plus the amount which bears the same ratio to $2,000,000 as the number of days in such fiscal year after December 31, 1965, bears to 365.';

"(2) by inserting 'the $3,000,000 amount, the $5,000,000 amount,' after 'the $1,000,000 amount,' in the second sentence; and

"(3) by striking out '$1,000,000' each place it appears in the last sentence and inserting in lieu thereof '$5,000,000'."

Mr. CURTIS. Mr. Chairman, this is the amendment that was discussed previously. It will be included in a motion to recommit if it is not adopted now. This is the attempt to phase out the Renegotiation Board technique. For those who do not feel it would be wise to completely eliminate this process but would like to see what happens in a phasing out, this would be an opportunity and, certainly, in my judgment, it would improve the situation considerably. I think we would be wise to eliminate the whole procedure at this time. The $5 million figure will certainly remove the problem that small business has in this area.

Mr. Chairman, I would like to emphasize one other point in regard to excess profits that was very well made by the gentleman from Wisconsin [Mr. BYRNES]. Nobody, of course, is in favor of excess profits. The difficulty is how to determine excess profits.

I well recall my first experience as a member of the Committee on Ways and Means back in 1953 when we had up for consideration the excess profits tax. That was its title. I remember quite well that four of us were determined that that should be eliminated from our laws because it was a misnomer and damaging to our economy. The design, of course, was to eliminate excess profits, but based on experience, as was well testified to, we could not have designed a tax to get at the new company, the small businesses, more adequately than through this so-called excess profits tax. We were not successful in our effort to defeat extension of the excess profits tax for 6 months, but I am happy to report that 6 months later there was no voice anywhere asking that this very poor tax be extended. The word did get around you were not for excess profits because you were against the mislabeled act; you were for removing a tax imposed upon new and growing businesses whatever else their volume might be.

Anyone reviewing the history will come to that conclusion. The removal of the excess profits tax was based upon our desire to do the right thing. This eventually prevailed. Since 1954 no one has ever suggested we reimpose the excess profits tax.

I approach this present problem in a very similar fashion. The label of course of the Renegotation Board to eliminate excess profits, is an appealing one, and something we are all concerned about doing. What I have said, and other Members on this side, have said, is to present a case of why this is an erroneous label. Actually, if we are going to get at the real problem, which is to get goods and material, particularly these high-priced materials, at the lowest cost to the Government, we have to establish good, original negotiation practices, we have to have good negotiators, and good Government procurement officers. At the same time, the process I have described as the solution, as I see it, lies in the renegotiation clauses in the contracts under which renegotiation will occur conducted by individuals most familiar with the subject matter of these very, very complicated items that the Defense Department, the Space Agencies, and others must procure.

The record is being made here for this purpose, and I hope when this matter does get to the other body there will be some calm, reflective judgment cast upon it, that we all will look into the record and read some of the studies that have been made by scholars who have no interest in anything but to suggest the best procurement practice we can follow for the Government.

I think that we will see an end of this kind of procedure. It does not fill the bill. I would urge that, certainly, by putting the ceiling at $5 million we will remove the problem that the small businesses do have. We will still have the protection the majority may feel there is need of if there is some doubt. It certainly will be catching the bigger contracts which the larger companies are involved in. I would urge that we adopt this amendment putting a ceiling of $5 million on the contracts.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Iowa.

Mr. GROSS. Percentagewise there could be as much fat or more fat in a $1 million contract than there would be in a $5 million contract; is that not true?

Mr. CURTIS. Yes, that certainly is true; but the fact remains, as some of these studies show, it is not in the small-business area. Usually the small businesses do not get negotiated contracts. They get advertised bids. But the gentleman is making an accurate statement. But there is no problem here in the smaller contracts. If there is a problem, it is in the larger contracts.

Mr. MILLS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been endeavoring to determine what it is that the gentleman from Missouri and others have in mind in offering this increase in the floor for determining whether or not a contractor's business with the Government will be, as suggested, reviewed after the fact. We have heard about the suggestion that it is necessary in order to protect small business. It should be borne in mind, Mr. Chairman, that the increases in the floor from the original $250,000 to $1 million eliminates from the renegotiation feature 7,500 small or so-called small contractors. It should be borne in mind, Mr. Chairman, that in connection with the renegotiation amendments of 1956 when we raised the floor from $500,000 to $1 million we also provided other arrangements and language in the interest of taking care of the situation involving small business.

Mr. Chairman, this amendment does not apply just to small business. This amendment applies to any contractor, individual or corporate, who does no more than $5 million of business in the course of a fiscal year with the agencies of Government covered by the Renegotiation Act. That could be the 60 large corporations that the chairman of the Committee on Armed Services referred to in the course of the debate. It could be the number of subsidiaries of big business that I referred to that when grouped might be eliminated. Even though the whole family tree in this process is taken into consideration by the Renegotiation Board, if here are five subsidiaries and all of them do just under $1 million worth of business each they are let out. But I am told there are 327 subsidiaries of big business out of 1,237 that were subject to review in the 1963 fiscal year that cannot necessarily be called small business. On the other hand, there were 117 out of 504 in the $5 million and under filings who suffered losses that were affiliated with big business. These also cannot be said to be small business just based on these filings in that category.

So we cannot look at this, Mr. Chairman, on the basis of it being an amendment to eliminate small business from it.

I would suspect, Mr. Chairman, it is thought that this would apply primarily to businesses whether they are big, medium sized or small that are not the prime contractors but are the subcontractors on this Government business.

Mr. Chairman, I would call to the attention of the membership of the House a study that was made by the McClellan subcommittee of the other body with respect to this problem of dealing with subcontracts wherein that committee found there was need for review of these types of operations and contracts and mentions specifically, as I pointed out, Western Electric as an example, where they had gone down through three or four tiers of subcontractors.

Mr. Chairman, I just do not believe that the prime contractor can be charged with the full responsibility of policing in this area of this evergrowing technology every subcontract that he has, to police it in order to determine that there are no excessive profits made by the subcontractor to whom he makes a payment and, in turn, charges the Department of Defense.

I hope, Mr. Chairman, that this amendment will be defeated. There may be a reason, Mr. Chairman, for a review of the negotiation of contracts, a continuing review, as the chairman of the Committee on Armed Services has said his committee in the past has done. But I call attention to the fact, Mr. Chairman, we are looking at a situation after the fact of contract—after the fact of payment. I appreciate the point made by the gentleman from Iowa that it is just as possible for excessive profits to occur to one with no more than $5 million of Government business as it is with $10 million of business. I request the defeat of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VINSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to make one point with reference to a question that I believe was propounded by the distinguished gentleman from Iowa. I, too, propounded a similar question to the Department of Defense. I requested the Department of Defense to give me the names of a few corporations whose annual business during 1963 with the Department exceeded $1 million but was less than $5 million. My purpose in asking this question was to determine what kind of corporations might be exempted under the proposed $5 million.

Here are some of the names of corporations that would appear to be exempted under the proposed $5 million provision:

Air Reduction Corp.
Allegheny Ludlum Steel.
Allied Chemical.
Aluminum Co. of America.
American Brake Shoe Co.
American Chain & Cable Co.
American Cyanamid Co.

And so forth. That answers the question of the gentleman. None of these corporations could hardly be called small business concerns.

Mr. BYRNES of Wisconsin. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, with respect to the companies named by the gentleman from Georgia, I would suggest the gentleman might have also given us some information as to what kind of procurements these were. They certainly do not sound to me, as the gentleman mentioned them, as being companies involved in these highly questionable areas where we are procuring something that we know nothing about.

I will say to the gentleman, I am sure he cannot point to a single prime contractor dealing in highly technical goods or services that will be exempted from renegotiation under the $5 million limitation.

I am sure all of your big Government contractors will still be subject to renegotiation, and there can be no question about it.

Mr. VINSON. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. VINSON. As I stated, the reason I got this information was in response to a question by the gentleman from Iowa. I always try to anticipate what the brilliant gentleman from Iowa is going to inquire about and, therefore, I got the information. But I am sorry I failed to anticipate that perhaps the gentleman from Iowa might ask the kind of question that you are raising.

Mr. BYRNES of Wisconsin. In my high regard for the gentleman from Iowa, I know he would want all the facts. That is why I made the suggestion that the gentleman might have included some additional information.

With respect to the fundamental question which we tried to resolve through this amendment, let me read from the study of this matter made by Mr. Russell Stuart, which appeared in the RECORD of yesterday. Mr. Stuart was a member of the Renegotiation Board for a number of years. I quote the excerpt:

> The harassment to which contractors are subjected by renegotiation is a hidden but very real part of the cost of securing what frankly must be rated as an extremely low yield. Last year, of the 4,608 above-minimum returns screened by the Renegotiation Board 86.4 percent were determined at headquarters to reflect no excessive profits. Of 3,618 filings for 1962, 89 percent were disposed of at headquarters without assignment to a regional board;

The point is that as we continue this process we are constantly harassing the contractors, though there is no need for them to go through this operation. Our amendment would change this in two steps. The exemption would not reach the $5 million mark until 2 years from now. The first stage would be $3 million. The point is that we should at least gradually try to eliminate those areas where there is a potential for harassment and where the procedure is not serving a real purpose.

When the gentleman cites the names of companies which have been before the Renegotiation Board, they would do well to tell us whether, after all the paperwork and all the other work put in by the companies themselves and by the Renegotiation Board, there was ever any finding as to excessive profits. In most cases, there is simply a dismissal from the beginning, though all of them must go through the paperwork and all the other details involved.

On this basis, I believe the amendment should be adopted.

Mr. BARRY. Mr. Chairman, I rise in support of the amendment.

One of the reasons why I favor the amendment, and the elimination of as many contractors as possible being subjected to renegotiation, is that I believe this will improve our procurement policy and the efficiency of procurement officers in the various bureaus which buy material subject to renegotiation at present.

In the war some 20 years ago it was my experience to be in the Office of the Under Secretary of the Navy, assigned to the Price Adjustment Board. At that time I had occasion to trace companies which had been subject to renegotiation, and found that those particular companies were accepting business at a much higher rate of profit on new contracts made even though they had recently been renegotiated. As a consequence of that discovery, we set up at that time the Price Revision Division in the Navy Department. That Revision Division is now a repricing apparatus within the contract structure of procurement.

If the contracts that are presently being made and the subcontracts now being negotiated by prime contractors include the clause that prices are subject to revision during the process of the fulfillment of the contract, I see no reason to hold a whip hand, as the gentleman from Arkansas stated, after the fact. This means that after a contractor has completed the job he has contracted to do, at a price that he contracted to do it for, he cannot report his profits to his stockholders with certainty. He cannot say to his board of directors, "Let us use our capital and insure the future of our company by investing the money we have made on this contract," because he does not know the amount the company has to invest, since its profits are subject to renegotiation.

Therefore renegotiation holds a whip over the heads of management of any corporation. This amendment could be a salutary thing for many businesses that are today hobbled and crippled because they are subject to domination which is totally unnecessary. It is an unnecessary procedure if there is, first of all, a high caliber procurement policy and, secondly, a provision permitting the repricing of each individual item in a contract.

Much has been said about the impossibility of determining prices at the time a contract is made. I submit that the costs can be determined because most corporations have internal auditors and separate their Government business from their regular business. Corporations do not wait until the end of the year to call in their accountants to figure their earnings on Government business.

I submit that the President of the United States has been encouraging business to develop their own internal resources to promote the economy. One of the things that is crippling the economy is the renegotiation strangulation around the neck of small business.

This amendment will go a long way to phasing out the renegotiation process, which should have been terminated long before this. I suggest the amendment be agreed to.

Mrs. GRIFFITHS. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Missouri. Apparently the theory of the minority has its basis in the belief that the contracting officers do an excellent job and therefore there is no longer a need for renegotiation. Contrary to the idea that renegotiation was set up to recapture extraordinary profits, I would like to point out it was set up at an extraordinary time, and that time has never ceased. The largest percentage of the American taxpayer's dollar is still being spent through the Defense Department. I disagree violently with the theory that we have adequate purchasing procedures or that the contracting officers are adequate for the job they are doing. All anyone has to do is to read the reports of the Comptroller General and you will be advised from week to week of the serious inadequacies of the procurement department of the Defense Department. The procurement officers in my judgment, have not been well trained, and they are not well paid. On that day on which they are well trained, unless they are well paid, they will be hired away by private industry because it would be cheaper for private industry to hire them than to reduce the prices they secure from the Government.

The McClellan committee recently came out with a report which pointed out that in many of the instances of procurement the actual profit paid was 33 percent on costs. It has further pointed out, and correctly so, that once a source of supply has been set up in these exotic procurements, it is really impossible to change that source of supply. Both the contracting officer and the seller know this. It diminishes the contracting officer's power to negotiate.

I would like to point out further that in the matter of asking the procurement officer to recheck purchase prices either through escalation clauses or other types of procurement clauses you are asking the man who made the original error, originally granted a price that was too high to redetermine and reduce that price. And, Mr. Chairman, it will not work. The best opportunity you have to save money for the American taxpayer, inadequate as even it is, is to have a different and totally objective board, like the Renegotiation Board, set up to reexamine procurement.

Renegotiation is obviously meant to be and is a saving to the American taxpayer.

The minority has almost convinced me of one point, but not the point which they intended. I am impressed that there have not been more appeals from the Renegotiation Board, not because the appeal has lost, but because it was entirely possible that the Renegotiation Board itself should do a more thorough job.

It is perfectly obvious that in place of raising the floor we should be lowering it. There is no reason for any contractors to be let out of renegotiation. It is a practical tool of procurement.

The extraordinary times, Mr. Chairman, in which we live, the exotic items which are purchased, and the total amount of the American taxpayers' dollar that is spent—these are the reasons that we need to protect the taxpayers' dollar, not alone through good procurement but when that fails, and it does fail, we need an objective and completely free Renegotiation Board to renegotiate the whole problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. Curtis].

The question was taken; and on a division (demanded by Mr. Curtis) there were—ayes 29, noes 71.

So the amendment was rejected.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask one question of the gentleman from Arkansas [Mr. Mills] and that is whether the Renegotiation Act covers expenditures under letters of intent.

Mr. MILLS. It covers any business done by contractors with these specified departments, of course, in these fiscal years. It is based upon payments by the Departments.

Now, if there is just a letter of intent and no payment is ever made, the letter of intent would not result. However, this deals with payments which are made in dollars.

Mr. GROSS. Then the answer is "Yes, it does cover letters of intent where expenditures are made under letters of intent?"

Mr. MILLS. That is right.

Mr. BARRY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. BARRY. Mr. Chairman, I would like to ask the gentleman from Arkansas [Mr. Mills] if there is anything in this bill to put the employees of the Renegotiation Board on notice that it will end at the expiration of the next 3 years?

Mr. MILLS. The bill is only for a 2-year period. Without some further congressional action, it will expire June 30, 1966.

Mr. BARRY. Is there anything which the Committee of the Whole could consider putting in the bill to let procurement officers know that this will be the last 2-year period, in order that they might get prepared for its expiration?

Mr. MILLS. We have no jurisdiction over procurement officers.

Mr. BARRY. I realize that, but does not the gentleman think it would be forward looking if we established in this bill at this time some kind of machinery or some kind of setup whereby these procurement officers could expect to have 2 years from now in order to prepare themselves for some other type employment?

Mr. MILLS. We can make that determination at that time, as to whether we want to extend it for a longer period of time.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. COLLIER. I take this moment to take exception to what my dear friend the gentlewoman from Michigan [Mrs. GRIFFITHS] said with regard to being able to secure competent people in the field of procurement. I, for one, am not convinced that there is not available in this country today, if we already do not have competent people, the opportunity to secure such people to handle the functions of procurement in a manner and to the extent that is not required through the renegotiation of contracts. Further than that, I think it goes without saying that in the process of securing competent people it is possible to get people who are experts in specialized areas of procurement.

As one who spent some 17 years in private industry and particularly in areas where the problems of procurement arise, I think we should and could do a better job in securing this type personnel in order to provide some insurance policy against the need for renegotiation in the areas of procurement within the provided limitations.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. I thank the gentleman very much for yielding.

Having raised this question, I spent 4 years as a purchaser for the Department of the Army and I feel that the gentleman from Illinois [Mr. COLLIER] has taken a kind attitude. I am sure, too, that there are very competent people available, and I hope to live long enough to see some of them employed.

Mr. COLLIER. Mr. Chairman, will the gentleman from Iowa yield further?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. COLLIER. Might I further suggest that if these people become so highly trained that they become so attractive to private industry that we would risk loosing them, then it would seem to me that the same degree of competence that would be developed in employees on the Renegotiation Board would also make them just as attractive to private industry as well.

Mr. GUBSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, since we are building a record here which may have some import in future years, it strikes me that as the debate concludes, there is one point that should have been emphasized more than it has been. I have reference to recent legislation concerning procurement by the armed services which was written into law in the 87th Congress as the result of the bill, H.R. 5532, authored by the gentleman from Louisiana [Mr. HÉBERT] and which is today Public Law 87-653.

Mr. Chairman, before we talk about the import of that bill let us paint just a little more background.

It has been pretty generally shown in this debate today that of the $31 billion in negotiable sales which were renegotiated during the fiscal year 1963, the determination of excessive profits was only $10.1 million.

You must deduct 52 percent of this which represents the tax credit to the contractor. This brings the "savings" down to a little over $4 million. From that you deduct the expenses of the renegotiation board. This leaves a balance of less than $2 million. Then you deduct from that the estimated cost of six-tenths of 1 percent on renegotiable sales, which is added to the price the Government pays on renegotiable items because of the costs incurred by the contractor in submitting to renegotiation.

Then you have a total net loss to the taxpayers of more than $9 million.

Some will answer that the mere existence of renegotiation suggests a threat, similar to a police threat, which may prevent unreasonable and excessive profits.

This argument overlooks the existence of Public Law 87-653, which provides that in every negotiated contract all cost data in excess of $25,000 is required by law to be presented to the contracting officers. The GAO has a case pending in the courts right now where they interpret this law to mean they have the right to require cost data for catalog items, which are exempt under the Renegotiation Act. My point is that with this law and with present procurement practices you have every conceivable built-in safeguard to protect the taxpayers against excessive profit.

Let me add one point: Under Public Law 87-653, as implemented by the Armed Services Procurement Regulations, any overestimate by the contractor in cost is not credited to him. He must refund or rebate it. Any underestimation of cost is charged against him, and is his loss. This is entirely a one-way deal for the Government. If he reports costs which are not realistic he is penalized if his estimate is low and not rewarded if he is high. The taxpayer and the Government have a case of "heads I win, and tails you lose."

I submit to reality because I know what is going to happen to this bill, but let us remember this point. The Armed Services Committee and the Congress have passed legislation which would take care of everything that the Renegotiation Act takes care of. You cannot add a single safeguard with the Renegotiation Act that is not in the present law, and which is not the present practice of the Department of Defense. This bill maintains a bureau which was designed to solve a problem in 1951, a bureau which has outlived its usefulness, is completely obsolete, and which will result in a net loss to the taxpayers of more than $9 million a year.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. HARDY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10669) to extend the Renegotiation Act of 1951, and for other purposes, pursuant to House Resolution 705, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. CURTIS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CURTIS. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CURTIS moves to recommit the bill (H.R. 10699) to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Page 2, after line 12, insert:

"§ 3. Minimum Amounts Subject to Renegotiation

"(a) IN GENERAL.—Section 105(f)(1) of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1215(f)(1)), is amended by inserting 'or $3,000.000, in the case of a fiscal year ending after December 31, 1964, or $5,000,000, in the case of a fiscal year ending after December 31, 1965' after 'June 30, 1965' each place it appears.

"(b) COMPUTATION.—Section 105(f)(3) of such Act is amended—

"(1) by inserting after the first sentence the following new sentences: 'In the case of a fiscal year beginning before January 1, 1965, and ending after December 31, 1964, the $3,000,000 amount shall be reduced to an amount equal to the sum of $1,000,000, plus the amount which bears the same ratio to $2,000,000 as the number of days in such fiscal year after December 31, 1964, bears to 365. In the case of a fiscal year beginning before January 1, 1966, and ending after December 31, 1965, the $5,000,000 amount shall be reduced to an amount equal to the sum of $3,000,000, plus the amount which bears the same ratio to $2,000,000 as the number of days in such fiscal year after December 31, 1965, bears to 365.';

"(2) by inserting 'the $3.000,000 amount, the $5.000.000 amount,' after 'the $1,000,000 amount,' in the second sentence; and

"(3) by striking out '$1,000,000' each place it appears in the last sentence and inserting in lieu thereof '$5,000,000'."

Mr. MILLS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that those Members speaking on the bill in the course of the debate today may have permission to revise and extend their remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

## BILL TO RELIEVE WORKING POOR OF SOCIAL SECURITY BURDEN

Mr. CAREY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CAREY. Mr. Speaker, today I have introduced a bill to directly alleviate poverty and abate injustice among the working poor.

My bill is as simple as the recipe for ham and eggs. It would put an immediate end to payroll deductions for social security from the wages of persons and families who are below the floor levels of income defined in the poverty program.

No one of good will nor any expert can dispute that a person or family with earnings of $2,000 a year or less is impoverished by our standard of living.

To deduct even the price of a loaf of bread from such persons for any program is indefensible.

Yet, I was astounded to learn that the bald fact is that we are hitting our country's thinnest pocketbooks, the wallets of the working poor, for $900 million annually. It is curious that this is just about the size of the poverty program.

After intensive inquiry, I have learned from actuaries in social security that one-eighth of the employee fund, $900 million out of $7 billion annually, is exacted from persons who earn $2,000 a year or less.

Let me emphasize that the $2,000 a year level in my bill is actually $1,000 a year less than the $3,000 criterion of poverty as set forth in H.R. 10440, the Economic Opportunity Act, or poverty bill.

It is plain that working people, one floor below the surface of survival, in the cellar of destitution, are supporting the total employee contributions to the social security system to the extent of 13 cents on the dollar.

How can we justify taking $900 million from the destitute to be deposited in trust for security in the future when they have no financial security now?

On any yardstick a person or family whose earnings are at this level can ill afford to pay any tax and social security is a tax.

We recognized in the recent tax reduction bill that persons in minimum income levels should be exempt from Federal income tax as a matter of policy. Why should not the same policy obtain as to social security tax?

I am not proposing this as a substitute for the poverty program in H.R. 10440, but rather as an extension of its aims.

There cannot be an excess of effective tools in the work to reduce poverty.

The President's program, broadly drawn, is under consideration. It involves an entirely new structure and system of programs ranging from school aid to rural grants and loans. It will take much analysis and evaluation.

The program is so vast that it invites intensive analysis and it is my concern that we may become so engaged in diagnosing poverty that some patients may expire while we decide on the type of remedy.

That is why I have introduced this bill which would serve as a simple starter in direct alleviation of poverty.

My bill would authorize a 2-year moratorium on the collection of social security taxes on incomes of persons who have earnings of $2,000 or less.

Recognizing the principle that those who cannot afford the bare necessities should not pay taxes, my bill would extend this to the social security tax as well as income tax for a 2-year period.

Frankly, this bill was inspired by an article which appeared in the New York Daily News which I insert at this point in the RECORD:

[From the New York Daily News, Mar. 23, 1964]

### TOTAL OF $41.54 IN TAKE-HOME PAY FOR A FAMILY OF SEVEN—RELIEF HELPS, BUT TOTAL SPELLS OUT POVERTY

(By Thomas Toolen)

Typical of New York's poverty-stricken families—as cited by the mayor's council on poverty yesterday—is that of a 52-year-old father of five who earns $43.75 a week as a messenger for a midtown advertising firm. The department of welfare picks up the tab for his rent, electricity, and gas.

The messenger is William Johnson, who lives in a drab, but neat and clean three-room apartment on the fourth floor of a six-story tenement at 236 East 28th Street. His wife is Adelina, 31; his children are Rose Marie, 9; Rita Lee, 8; William V., 7; Regina, 6; and Ruby Ann, 5.

Regina entered Bellevue Saturday night for an operation to alleviate partial blindness in both eyes, a condition she has had since birth.

"We make the best of things," Johnson told the News. "If I could get some assistance, I'd sure be happy. But we can get along as long as we have enough food."

#### TAKE HOME IS $41.54

Out of his weekly $43.75, social security withholding is $1.59 and State disability insurance is 22 cents. That leaves a take home of $41.54, of which he keeps about $5 for lunch and other necessities.

The monthly rent and utilities cost the welfare department $44.85, or $538.20 a year. Considering this as income, it brings Johnson's annual gross earnings to $2,812.20 and net earnings to $2,698.28.

This is far below the $4,000 substance minimum which some authorities say is needed for New York City families of four or more.

#### PENNIES FOR ICE CREAM

Most of Johnson's money goes for food for their youngsters, who seem small for their ages. Once in a while, there are a few pennies left for candy or ice cream for the kids, but usually not.

The family drinks 3 quarts of milk a day. They get some clothing from welfare agencies, but buy most of it themselves. They have a radio, but no television set. There are two beds in the living room and one in the bedroom.

Asked what he thought of the "war on poverty," Johnson said:

"Anything would help. We couldn't be any worse off than we are now."

It is apparent from the article that while the family is receiving public assistance of $538 per year in order to survive, the father is paying social security tax of approximately $84 per year into the Federal trust fund. This amounts to a total of about 2 weeks' wages from a man who is well below the yardstick level of $4,000 for a family of four or more to live in dignity.

My bill would not impair the social security structure because the employer would continue to pay his share into the fund and the moratorium would extend for only 2 years.

This remedy would increase the family purchasing power immediately and boost consumer industries with a favorable effect on employment.

It would be the aspiration of the program to encourage the beneficiary to increase his earning power by energizing his motivation toward higher income.

The individual's entitlement under social security would not be suspended since the employer contribution would continue. The employee contribution could be reimbursed from Treasury funds.

This benefit would entail no new bureaus or offices or management. Hopefully, other measures against poverty will follow but this is a way to begin in a simple approach without delay.

The key concept of the bill is that it rewards the worker no matter how meager his wages as long as he does some kind of work.

Since one aim of the poverty bill is to help the nonworking poor to gain employment it follows that the working poor are entitled to every consideration possible.

This is in keeping with the Mr. Dooley philosophy of the poor which he expressed thus:

> Yis, I know th' wur-ruk iv relif is goin' on, but what th' lads need is th' relief iv wur-ruk. Manny a man doesn't know anny betther thin to think he's servin' Gawd best be poundin' slag fr'm day break to sunset an' thin goin' home too tired to stand or set or lay down. We've hammered it into their heads that they's some connection between a pickax an' a dish iv ham an' eggs and' bedad they can't be made to believe that wan ain't the' fruit iv the other.

My bill is a 2-year ham and egg approach to poverty which is based on simple justice.

It is wrong to tax a family for anything until the family has the means to feed and clothe and shelter itself at the minimum level of dignity.

I can well appreciate that consideration of this bill would require a review of the entire schedule of social security benefits.

Frankly, I believe such a review is timely, not only for the working poor but for elderly persons who are finding it increasingly difficult to subsist on present benefits.

I ask that the text of the bill be printed in the RECORD at this point.

H.R. 11068

A bill to amend the Internal Revenue Code of 1954 to provide a two-year moratorium on social security taxes in the case of employees and self-employed individuals whose income is below certain levels or who are receiving public assistance

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a)(1) subchapter A of chapter 21 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new section:

"SEC. 3103. EXEMPTION FROM TAX IN CERTAIN CASES DURING TEMPORARY PERIOD

"(a) IN GENERAL.—No tax shall be imposed under section 3101 on the income of any individual with respect to wages paid during any payroll period beginning on or after July 1, 1964, and ending on or before June 30, 1966, if—

"(1) the annualized rate of the wages paid to such individual during such payroll period, when reduced by an amount equal to $600 multiplied by the number of exemptions allowed such individual as a deduction under section 151 (other than exemptions allowed by reason of subsection (c) or (d), relating to age or blindness) for the taxable year in which such period begins, is $2,000 or less; or

"(2) such individual (or his spouse or children if any), during such payroll period, receives any amount as aid or assistance under title I, IV, X, XIV, or XVI of the Social Security Act, or any amount as public or supplemental assistance under a State or local general assistance or other public assistance program.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) ANNUALIZED RATE.—The annualized rate of the wages paid to any individual during any particular payroll period is the total amount of the wages which such individual would be paid during the calendar year in which such period begins if the entire year were divided into payroll periods equal in length to that particular period and such individual were paid wages in each such period equal in amount to the wages paid to him in that particular period.

"(2) NUMBER OF EXEMPTIONS.—The term 'number of exemptions allowed such individual' for any taxable year means, with respect to any payroll period beginning in such year, the number of exemptions which (on the basis of facts existing at the beginning of such period) may reasonably be expected to be allowable to such individual for such year, as determined in accordance with the same standards as those applicable to the determination of withholding exemptions under section 3402(f)(1).

"(c) REGULATIONS AND FORMS.—The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out this section, including provision for the use of such forms and the establishment of such procedures as will facilitate the administration of this section and assist employers in determining the cases in which deductions of tax from wages are required in any given payroll period."

(2) The table of sections for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3103. Exemption from tax in certain cases during temporary period."

(b) Section 3101 of such Code (relating to rate of tax) is amended by striking out "In addition to other taxes," and inserting in lieu thereof "Except as provided in section 3103 in addition to other taxes".

SEC. 2. (a)(1) Chapter 2 of the Internal Revenue Code of 1954 (relating to tax on self-employment income) is amended by redesignating section 1403 as section 1404 and by inserting after section 1402 the following new section:

"SEC. 1403. EXEMPTION FROM TAX IN CERTAIN CASES DURING TEMPORARY PERIOD.

"(a) IN GENERAL.—No tax shall be imposed under section 1401 on the self-employment income of any individual for any taxable year beginning on or after January 1, 1965, and ending on or before December 31, 1966, if—

"(1) the amount of such income for such year, when reduced by an amount equal to $600 multiplied by the number of exemptions allowed such individual for such year as a deduction under section 151 (other than exemptions allowed by reason of subsection (c) or (d), relating to age or blindness), is $2,000 or less; or

"(2) such individual (or his spouse or children if any), during such taxable year, received any amount as aid or assistance under title I, IV, X, XIV, or XVI of the Social Security Act, or any amount as public or supplemental assistance under a State or local general assistance or other public assistance program.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out this section."

(2) The table of sections for chapter 2 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1403. Exemption from tax in certain cases during temporary period.

"Sec. 1404. Miscellaneous provisions."

(b) Section 1401 of such Code is amended by striking out "In addition to other taxes," and inserting in lieu thereof "Except as provided in section 1403, in addition to other taxes".

SEC. 3. The amendments made by the first section of this Act shall apply only with respect to wages paid during payroll periods beginning on or after the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act. The amendments made by section 2 of this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

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## CIGARETTE ADVERTISING CODE

Mr. WATTS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WATTS. Mr. Speaker, responsibility and sincerity have been forcibly demonstrated by the cigarette manufacturers in announcing a cigarette advertising code. This comprehensive code, announced on Monday, is specific, meaningful and enforcible. It fulfills the promise made during the recent Federal Trade Commission hearings that the tobacco industry was preparing advertising guidelines to regulate its own advertising.

The agreement, among the nine cigarette manufacturers, voluntarily imposes ironclad criteria for all forms of cigarette advertising in all media. Enforcement is provided for through an administrator who will oversee the firm standards and who will be able to assess substantial penalties of up to $100,000 if there is any deviation. The authority of the administrator of the code is to be absolute. Moreover, he will be independent of any individual company or segment of the industry.

Such a determined effort by the tobacco industry to meet its responsibilities should be applauded by reasonable citizens everywhere. Already, recognition of the good faith behind the code has been forthcoming from some critics.

LeRoy Collins, president of the National Association of Broadcasters issued a statement on Tuesday, which said:

> We applaud the action of the U.S. tobacco companies in establishing a cigarette advertising code that can deal responsibly with the issue of cigarette promotion as it affects our youth and as it may involve health claims.
>
> In moving decisively in this manner, the tobacco companies have demonstrated the will to provide important self-regulation and self-discipline in serving the public interest. In doing so, they are contributing meaningfully to the future of the whole of American free enterprise.

Furthermore, Howard H. Bell, code authority director of the National Association of Broadcasters, announced yesterday that because of the comprehensive nature of the code the NAB's code authority has decided not to issue its own cigarette advertising guidelines. Mr. Bell said:

> The NAB code authority commends the action of the tobacco manufacturers in adopting a cigarette advertising code. Its provisions embrace the areas of concern to us based on the television code's present restrictions on cigarette advertising appealing to youth or involving health claims.

These statements by Governor Collins and the code director testify to the comprehensive nature of this code and the provisions for its enforcement.

It will be recalled that Governor Collins in the past has been a strong critic of cigarette advertising.

In addition, Senator MAURINE NEUBERGER, in remarks delivered to the Senate Monday, commented favorably on the code, saying it "appears to impose standards and enforcement procedures far beyond the meager efforts of the recent past."

She outlined specifically these provisions of the code:

> First. Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction.
>
> Second. Testimonials from athletes or celebrities in the entertainment world, or from other persons who might have special appeal to persons under 21, shall not be used.
>
> Third. Cigarette advertising shall not appear in school, college, or university media, or in comic books or comic supplements to newspapers.
>
> Fourth. Sample cigarettes shall not be distributed to persons under 21.
>
> Fifth. Promotional efforts shall not be conducted on school or college campuses or in fraternity or sorority houses.
>
> Sixth. Cigarette advertising shall not appear on television and radio programs, or in publications, directed primarily to persons under 21.

Seventh. Persons depicted in advertising as smokers must be at least 25 years of age and must appear to be at least that old.

Mrs. NEUBERGER also praised the code saying that it "sets stringent standards and tests" for filter claims. She said:

> Most important, the tobacco industry agrees to the prior submission of all advertisements to an independent czar, who has been given complete and final authority to approve or disapprove all advertisements and to impose fines up to $100,000.

While there has been emphasis in the press on the provisions of the code that relate to young people, the code actually goes far beyond that.

As Mrs. NEUBERGER pointed out, the code provides for restrictions on filter advertising. Also the code states that no cigarette advertising shall make statements with respect to health unless these statements are "significant in terms of health" and are "based on adequate relevant and valid scientific data."

In an editorial comment yesterday, the WTOP radio and television stations in Washington stated:

> The decision by all the major tobacco companies to set standards for cigarette advertising is a welcome and statesmanlike decision.

The WTOP editorial also said "the cigarette advertising code agreed to by the nine tobacco companies appears to go a long way toward imposing the restrictions which commonsense—and conscience—demand."

I believe this strong, realistic move toward self-regulation by the cigarette companies should be welcomed by all concerned.

Voluntary action by industry has always been preferable to action by the Government. Therefore, I urge the Federal Trade Commission and other interested Federal agencies to support the tobacco industry in this effort to regulate its own advertising. Specifically, I urge the Federal Trade Commission to withhold its proposed trade regulation rules for the reason that they are no longer necessary.

The tobacco industry has demonstrated that it will fulfill its responsibilities voluntarily. This is the American way.

It is my confident opinion that these nine tobacco companies having taken this great step in adopting this fine code of self-regulation will evidence their clear intention of full compliance by selecting as administrator a person of national prominence, whose integrity, ability, and sincerity to a strict administration of this code cannot be questioned.

## VOTER RIGHTS IN FLAGLER COUNTY, FLA.

Mr. MATTHEWS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a newspaper article.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, on January 28, this year, Mr. Burke Marshall, Assistant Attorney General, of the Civil Rights Division in the Justice Department, appeared before a subcommittee of the Committee on Appropriations, House of Representatives, to make requests for the appropriations for the Department of Justice. On page 152 of these hearings Mr. Marshall inserted certain information as requested by the committee, which follows:

### Counties Alleged To Deny Voting Rights to Negroes

> Statistical and other information available to this Division indicated that there was reason to believe that in the counties and parishes listed below, Negroes may have been denied their voting rights because of discrimination by voting registrars or through intimidation by private individuals or public officials. In some of the counties listed, no investigation has yet been made by the Department to determine whether this is so, or whether, if so, the discriminatory practices have ceased. In others, action has been taken, either by investigation, records analysis, negotiation, or litigation. Included are the 10 counties and parishes listed in table A of the report of the Civil Rights Commission, Civil Rights 1963, in which denials of voting rights were found—Florida—Flagler.

Now, if Mr. Marshall meant to say that Negroes had been denied their voting rights because of discrimination by voting registrars or through intimidation by private individuals or public officials in Flagler County, Fla., which is in my congressional district, he is guilty of an unconscionable error. Please note the following article which appeared in the Daytona Beach, Fla., Evening News, on April 22, 1964, issue:

### Voter Rights Denied in Flagler?

> Flagler County has been cited by a top U.S. Justice Department official as one of 189 counties in 8 southern States where "the right to vote is denied to thousands of Negroes."
>
> Flagler officials, however, said they knew of no investigation by any Federal agency of the county's voting list.
>
> The list of counties where voter discrimination allegedly is practiced was submitted to a U.S. House Appropriations Subcommittee by Assistant Attorney General Burke Marshall, head of the Justice Department's Civil Rights Division.
>
> In testimony given January 28 to the subcommittee and released yesterday, Marshall said the FBI photographed 250,000 pages of voting records in southern counties last year in connection with Federal voting discrimination cases.
>
> According to the Associated Press in Washington, Marshall said 58 cases were pending under the 1957 Civil Rights Act, which bars denial of voting rights for racial reasons.
>
> Marshall said FBI agents photograph the records, which are obtained from local voter registrars, sometimes by court order. The records then are analyzed by the Civil Rights Division.
>
> Flagler County supervisor of registration, Mrs. Gladys Deen said she knew nothing of any such probe in Flagler. Similar denials came from Emil Smythe, county clerk, Julia Harvey, deputy clerk, and Sheriff Homer Brooks.
>
> Brooks said he had checked with the district FBI agent, who told him there had been no investigation. The agent was not available for comment.
>
> There were 126 Negroes on Flagler voter rolls in 1962. No current figures could be obtained today.
>
> Other Florida counties charged with violating Negro voting rights were Gadsden, Lafayette, Liberty, and Union. Counties in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee also were cited.

Mr. Speaker, our supervisior of registration in Flagler County, Fla., has held that office for over 20 years, and is ready to state under oath that no FBI or other Federal agents have investigated the voters lists in her custody during that period of time, or taken photographs of any of the voting records. Her statement is corroborated by other Flagler County officials who are equally unaware of any such investigation. It is further substantiated by the fact that in September 1962, Flagler County, which is a very small county in Florida, had 140 registered Negro voters, and as of April 5, 1964, their number had increased to 294 out of a total of 2,157 registered voters in the entire county. In view of these figures, I resent even an implication that Negroes are denied the right to vote in Flagler County.

It is unfortunate, indeed, that Mr. Burke Marshall of the Civil Rights Division of the Justice Department considered it unnecessary to give my people an opportunity to present their side before releasing such faulty information to a committee of Congress.

I am calling upon Mr. Marshall to apologize to the people of Flagler County for stating or inferring that they have denied voting rights to any of our citizens before substantiating this charge with evidence.

## MONTANA POWER CO. PROSPERS FROM BONNEVILLE POWER

Mr. HARDING. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. HARDING. Mr. Speaker, for many years southern Idaho has been the only part of the Columbia River Basin that has not been included in the Bonneville Power marketing area. Even though the mighty Snake River has furnished 25 percent of the water to generate power at the many Bureau of Reclamation and Corps of Army Engineer dams on the Columbia River, southern Idaho has been unable to take advantage of this cheap power.

Two private power companies, the Idaho Power Co. and the Utah Power & Light Co., who have a near monopoly on the power distribution in southern Idaho, have been successful in keeping Bonneville Power Administration and its low-cost power out of the reach of southern Idaho power consumers.

After President Kennedy was elected in 1960, Senator FRANK CHURCH, Congresswoman Gracie Pfost, and I were joined by nearly all of the Democratic officeholders in Idaho, in the State capital, and in the legislature in urging the Secretary of Interior to include southern Idaho in the Bonneville Power marketing area. After conferring with President Kennedy and carefully scrutinizing the results of a year-long study on this proposal, Secretary of the Interior Stewart Udall signed the executive order which extended the Bonneville Power Administration marketing area to include southern Idaho.

President Johnson has continued to work with the Secretary of the Interior and the Members of the Idaho congressional delegation to make southern Idaho a full partner in realizing the benefits of the cheap power of the Bonneville Power Administration area of service.

The Idaho Power Co. and the Utah Power & Light Co. have been protesting this action in one of the largest propaganda campaigns ever waged against the people of Idaho. Vested interests have used newspaper advertising, door-to-door solicitations, personal appearances by power company officials before service clubs, and every other means of propagandizing our people. The theme has always been the same. Idaho Power Co. and Utah Power & Light Co. will probably be put out of business by this new competition of BPA. Actually, this is far from what has been the experience of the private power companies in the areas presently served by Bonneville Power Administration.

In an earlier speech, I discussed the increased profits and lower power rates that private power companies in Oregon and Washington have enjoyed as a result of cooperating and competing with Bonneville Power Administration. Today, I would like to point out what has happened in western Montana.

Western Montana is also part of the Columbia River Basin. However, Montana Power Co. was able to prevent the original inclusion of western Montana in the Bonneville Power Administration marketing area which was first established in 1937. In 1950 Bonneville Power Administration was extended into western Montana and plans were made for transmission lines from Spokane, Wash., to Anaconda, Mont.

J. E. Corette, president of the Montana Power Co., came to Washington to testify before the Senate Appropriations hearings in 1949 to oppose these transmission lines. Mr. Corette stated:

> I don't believe that in the long run we can pay from 2 to 3 mills per kilowatt-hour in taxes ($6,100,000) and possibly live in competition with overall Government power.

In the same year, Mr. Corette appeared before the House Appropriations Committee and stated that there was no reason to build transmission lines into the area giving as his reason, "There is a power surplus in Montana.

Mr. Speaker, these are the same charges that Idaho Power Co. and Utah Power & Light Co. are making today in southern Idaho and in telegrams, resolutions, and letters to the Appropriations Committees of this Congress.

Because Congress did in its wisdom authorize the transmission line from Spokane, Wash., to Anaconda, Mont., I believe we should look back and see what happened to the black predictions made by Montana Power Co.'s president, J. E. Corette, when he was a vice president testifying in the 1949 appropriations hearings.

Mr. Corette stated that his company could not pay $6 million in taxes and compete with Bonneville. The 1960 annual report of the Montana Power Co. revealed that in that year the company's tax bill was not just $6 million in taxes, but $16 million. The report also revealed that:

> Investment in plant reached a new high of $235 million, reflecting the constant growth that led to gross additions of nearly $126 million in 10 years.

The president of the power company also testified that there was a surplus of power in the area served by Montana Power Co. and it did not make sense to build transmission lines into an area where power was already in surplus. However, within a year after the transmission lines were completed, Montana Power Co. signed a contract with the Bonneville Power Administration to buy 50,000 kilowatts of power being transmitted over the new transmission lines. The company is still purchasing this power from Bonneville Power Administration.

Mr. Speaker, the record proves that all of the gloomy predictions of what BPA was going to do to the Montana Power Co. turned out to be just "so much power company propaganda." When the Congress of the United States in its wisdom extended the Bonneville Power Administration marketing area to western Montana in 1950, it paved the way for the Montana Power Co. not only to increase the taxes that it was paying from $6 million in 1950 to $16 million in 1960, an increase in taxes of over $10 million, but it also enabled Montana Power Co. to purchase cheap power from Bonneville Power Administration and in turn to pass this cheap power on to its own customers.

I foresee, Mr. Speaker, in spite of all of the predictions of gloom by the Idaho Power Co. and the Utah Power & Light Co., if this Congress in its wisdom authorizes the transmission lines which President Johnson and Secretary Udall have requested from Umatilla County, Oreg., to Caribou County, Idaho, that within 10 years the Idaho Power and Utah Power & Light companies will be paying more taxes than they have ever paid before. They, too, will be using the transmission lines to acquire low-cost power from Bonneville to pass on to their customers. And southern Idaho will enjoy an industrial boom, with many new taxpaying industries taking advantage of the low-cost power expanding, building, and providing jobs for Idaho citizens.

That, Mr. Speaker, is why, despite the pessimistic forecasts of the two private power companies presently serving southern Idaho, I will do everything within my power to obtain Bonneville power and its cheap power rates for the power users of Idaho.

## A NEW DEPARTMENT OF FOREIGN AFFAIRS

Mr. DEVINE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DEVINE. Mr. Speaker, one of the most common questions about the operation of our Government in Washington is "Why isn't something done about the State Department?"

Almost daily there is a demand that an investigation be made of the State Department, or its personnel.

Our foreign policy seems to continue in a muddle, with apparently 120 different foreign policies for each of the 120 foreign nations. Prior to the present administration, our foreign policy was described as "firmness with flexibility." Today it appears to be "compromise and acquiescence"; and the American people are at a loss to understand our policy, or complete lack thereof.

And actually who can point out any place in the world where we are winning today? Certainly not South Vietnam, Cuba, or even Panama. Laos is pretty well down the drain, and Sukarno has clearly enunciated the total lack of Indonesian affection for the United States.

Persons returning to our country from oversea trips report with monotonous regularity that the image of the United States is at an alltime low, and that European and other nations no longer trust or respect the United States. This statement is made categorically, notwithstanding reports to the contrary from the White House and State Department.

Over 100 billion U.S. taxpayer dollars have been invested in the foreign aid or mutual security programs, directed and administered in large measure by the Department of State. Policy decisions are made daily by that huge unidentified army of unelected bureaucrats, buried in the classified civil service ranks at sub-Cabinet levels. To ferret out those responsible for the endless failures and perplexing philosophies that lead us down the road to obscurity is a monumental task. And this does not apply just to the current administration, but goes back through at least five Presidents.

Accordingly, in order to tackle a monumental problem, severe and abrupt steps must sometimes be taken. I have today introduced a bill to abolish the State Department and at the same time authorize the President to create a new Department of Foreign Affairs. No power is taken from the President whatsoever; but, to the contrary, this legislation will remove the shackles from the Chief Executive and give him an opportunity, for the first time in generations, to have a free hand to create a Department to deal with our international relations. He will not be burdened with the career, sedentary, odd-ball, self-satisfied empire-building bureaucrats that have infested the State Department to a point where, rather than the executive or legislative branch of the Government, they dictate U.S. policy and direction.

The President will make the decisions, from the Secretary of the Department of Foreign Affairs, under secretaries, assistant secretaries, with the advice and consent of the Senate, and all the rest of the way down to the lowest levels in employee selection. There will then be no excuse for policy decisions of a nature that do not serve the best interests of the United States.

## OBSERVANCE OF JEFFERSON'S BIRTHDAY SPONSORED BY PEORIA ADVERTISING AND SELLING CLUB

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include addresses of the Governor, the president of the University of Illinois, and the president of Bradley University.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Speaker, on Monday, April 13 it was my good fortune to attend a very special observance of Thomas Jefferson's birthday, sponsored this year by the Peoria Advertising and Selling Club. This special commemoration of the birthday of one of our most esteemed Founding Fathers would never have come about in the Peoria area if it were not for one Kenney Williamson, a soft spoken but very enterprising and most successful businessman who is a partner in the Reuling and Williamson Massachusetts Mutual Life Insurance agency in Peoria.

It was a very inspirational program and one which moved the audience deeply. It would be my fond hope that observances of this kind would grow and spread throughout the country, for it certainly gave all of us a fuller understanding and better appreciation of the ideals for which Jefferson stood.

I would ask unanimous consent, Mr. Speaker, that an editorial from the Peoria Journal Star entitled "Two Centuries Plus 21" appearing on Jefferson's birthday, Monday, April 13, be reprinted at this point, followed by the very eloquent and appropriate remarks of the three distinguished speakers of the day in the order they were delivered. First are the remarks of Dr. David D. Henry, president of the University of Illinois followed by the remarks of Dr. T. W. Van Arsdale, Jr., president of Bradley University and capped by the remarks of the Honorable Otto Kerner, Governor of the State of Illinois.

[From the Peoria (Ill.) Journal Star, Apr. 13, 1964]

### TWO CENTURIES PLUS 21

Two centuries ago Thomas Jefferson came of age. He was 21.

Our Nation was as yet unborn, but it was to be born by the immortal declaration he would write "with his own hand."

Jefferson was 33 when he wrote the Declaration of Independence. He was 60, and a long war, the hammering out of a Constitution, and the evolution of political parties had made this Nation a reality, when he closed the purchase of the vast western areas called "Louisiana" from Napoleon—for $15 million.

Thus one man played the key role in declaring the infant Nation free, and the same man took the long leap across the Mississippi River and made it a huge, continental country with tremendous potential.

Momentous as each of these actions were in shaping the land in which we live, they were only a part of what he did for us.

Because Jefferson was not a "specialist." He was a whole man who realized that a free society must be made up of many and varied parts, and no part of that kind of a total society escaped his interest.

He was the first great voice for a public school system, proclaiming education as an absolute essential in a free and democratic society. He also gave higher education a direct boost and example by founding, designing the basic buildings, and serving as first rector of the University of Virginia.

He was largely responsible for the Bill of Rights, as the functional and legal certification of the new doctrine born here in his words originally that all men "are endowed with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness."

His persuasion produced the vital pattern of admitting new Western territories as new States, rather than colonial provinces.

He played a significant role in laying out the Capital City of Washington, and the construction of West Point and the Library of Congress. He even designed West Point uniforms still worn by cadets today.

A Governor, a President, a Secretary of State, an architect, a lawyer, a musician, inventor, author, philosopher, and farmer, Jefferson understood the needs of a free society to be truly free, and to develop in many and varied ways.

In one thing, however, he failed.

Jefferson said: "Commerce between master and slave is despotism. Nothing is more surely written in the 'Book of Fate' than that these people are to be free." And he sought to abolish slavery at the outset.

Americans did not follow Jefferson in his efforts to live up to his own dictum, "All men are created equal," and "all have certain 'inalienable rights,' " which transcended any differences of color.

How dearly have we paid for that failure, and the bill is not yet in.

Thomas Jefferson deserves our attention, but more than that we need to study the wisdom and the principles of this man who understood so much of what human society could be, in so many ways, because the job is still unfinished.

Yet even his birthday has been too often ignored.

Peoria's Kenney Williamson was struck by this fact 4 years ago when he happened to be in New Orleans, and a columnist at the end of the comments of the day, added: "And, by the way, this is Thomas Jefferson's birthday."

In New Orleans, the then major city of the Louisiana Territory which became part of the United States by Jefferson's act, this hit Mr. Williamson square between the eyes.

They are celebrating the birthday in New Orleans now because Peoria's Ken Williamson grabbed some top people down there and shook them up and here in Peoria we have three distinguished speakers appearing to pay tribute to Thomas Jefferson because of Mr. Williamson's indignation 4 years ago. We're glad it happened.

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### JEFFERSON DAY REMARKS BY PRESIDENT DAVID D. HENRY, UNIVERSITY OF ILLINOIS, PEORIA, APRIL 13, 1964

He who reminds us of our past, performs a public service. Common ideals and aspirations are the cement of unity within a democratic society. Public ceremonies for their repetition and understanding are essential for that popular acceptance which makes them meaningful in our lives. Frequently, they are best understood when reflected in the life, work, and words of a great public leader like Thomas Jefferson.

Our thanks are due to Mr. Kenney Williamson for his dedication to the idea of developing a renewed appreciation of Jefferson for our time.

Pehaps from this citizen effort and a community's response to it will ripple out into the State and Nation personal inspiration and reassurance for renewed civic enterprise consonant with the Jeffersonian tradition in democratic endeavor for the improvement of American society.

My assignment: to comment upon Jefferson's ideas on education. Such comment must begin and end, however, with Jefferson as political leader and statesman, for education, with him, was the means of fulfillment of the democratic ideal; and his influence upon education grew out of the acceptance of his political philosophy rather than directly from educational ideas expressed. We must start, then, with these premises which he expressed many times:

"I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man." (Inscription on frieze of main entablature of the Thomas Jefferson Memorial.)

"I am not an advocate for frequent changes in laws and institutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed more enlightened, as new discoveries are made, new truths discovered, and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the time. We might as well require a man to wear still the coat which fitted him as a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

"And say, finally, whether peace is best preserved by giving energy to the Government, or information to the people. This last is the most certain, and the most legitimate engine of government. Educate and inform the whole mass of people. They are the only sure reliance for the preservation of our liberty."

Best known among Jefferson's contributions to education development is the thought included on the inscription on his tombstone:

"Here was buried Thomas Jefferson, author of the Declaration of Independence, of the statute of Virginia for religious freedom and father of the University of Virginia."

This judgment as to what was most important in his career would justify our giving the whole time in our comment to his ideas on higher education. His ideas on breadth of curriculum, structure of university government, qualifications for academic appointment and performance and the need for public support are relevant to the issues which now confront the people of Illinois and the people of the Nation as they consider how to make continuingly effective wide educational opportunity and to guarantee the harvest for social progress of the dividends from an enlarged investment in education.

However, we would miss the significance of Jefferson's ideas on education were we to concentrate upon his establishment of one of the early public universities in America, the first to be broad and scholarly in the European tradition, a model for many to follow.

This was but the capstone of 40 years of effort for 4 basic thoughts, and the only one to come to fruition in his lifetime: these 4 were the components of a total plan and they were "part and parcel of his revolutionary political thinking."

Free elementary schools for all citizens.

Free education of a more advanced nature for a selected group of poor boys, through a series of residential "grammar" schools—the well-to-do would pay tuition.

A university education for a selected few, at public expense, who would serve the state.

University education for all adequately prepared and who could afford to pay.

A fifth was later added—

The establishment of a national university. These were radical ideas in their time and were not to be fully accepted until late in the 19th century and fully implemented only in the 20th.

One of Jefferson's early efforts to advance these ideas was in a Virginia legislature "Bill for the more general diffusion of learning." (1779). Had it been adopted, he later said: "Worth and genius would thus have been sought out from every condition of life, and completely prepared by education for defeating the competition of wealth and birth for public trusts. Although this law has not yet been acted on, (1813) I have great hope that some patriotic spirit will, at a favorable moment, call it up, and make it the keystone of the arch of our Government."

Hence, Jefferson anticipated widely available free elementary education, the need for the high school, the use of scholarships for the poor, and freely available university education. But these were to come out of the political forces which Jefferson generated rather than directly from his involvement in educational activity, although the establishment of the University of Virginia was an achievement of the first order.

Yet, his ideas are relevant today, even more meaningful than he could have anticipated. Even the revolution in world affairs since 1945 brings us closer to Jefferson's concept of the requirements for survival and growth of a democratic society: universal public education and the need for colleges and universities as a part of the social and governmental structure of our times.

"Sir, a crusade against ignorance. Establish and improve the law for educating the common people. The tax which will be paid for this purpose is not more than the thousandth part of what will be paid to kings, priests, and nobles who will rise up among us if we leave the people in ignorance."

* * * * *

"It is an axiom in mind that our liberty can never be safe but in the hands of the people themselves, and that, too, of the people with a certain degree of instruction. This is the business of the state to effect, and on a general plan.

"I do most anxiously wish to see the highest degree of education given to the higher degrees of genius [he wrote in 1795] and to all degrees of it, so much as may enable them to read and understand what is going on in the world and keep their part of it going on right."

* * * * *

"I have indeed two great measures at heart without which no republic can maintain itself in strength. (1) That of general education to enable every man to judge for himself what will secure or endanger his freedom. (2) To divide every county into hundreds of such size that all the children of each will be within reach of a central school in it."

* * * * *

"If the condition of man is to be progressively ameliorated, as we fondly hope and believe, education is to be the chief instrument in effecting it.

"I look to the diffusion of light and education as the resource most to be relied on for ameliorating the condition, promoting the virtue, and advancing the happiness of man."

* * * * *

"The diffusion of information, I deem [one] of the essential principles of our Government and consequently [one] which ought to shape its administration."

These are indeed words for our time, echoed in the conclusion of the President's Commission on National Goals, in 1960:

"The development of the individual and the Nation demand that education at every level and in every discipline be strengthened and its effectiveness enhanced."

Thus, Thomas Jefferson speaks to us in 1964.

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### Jefferson: An Educated Man in the Most Exquisite Sense

(By Dr. T. W. Van Arsdale, Jr., president, Bradley University)

Certainly, formal education's most important objective must be that of creating within each individual a knowledgeable and abiding curiosity to serve him throughout life, thereby assuring for him satisfaction in continuing education and learning.

At first glance, then, education, in Thomas Jefferson's case, might have been considered to have failed because he was, alas, "a dropout."

The record reveals that Jefferson left college before finishing. And yet, he left college at the age of 20 with a superior knowledge of Latin, Greek, and French, to which he soon added, after leaving college, Spanlish, Italian, Anglo-Saxon, and Gaelic, not to mention a remarkable familiarity with higher mathematics. As a matter of fact, throughout his life he made practical use of the calculus and natural sciences with an ability possessed at his age only by men who have rare natural taste and ability for those studies.

But Thomas Jefferson was an educated man for the simple reason that he never considered himself educated. After he left college, he studied to become an expert violinist, he studied to become a proficient singer and dancer, and he studied to become an excellent horse breeder and horseman.

It is perhaps significant to note here that he never used tobacco, never played cards, nor gambled—evidence, indeed, of his seriousness of purpose and his contempt for the ephemeral in life.

His initial professional vocation was that of law. In those times, one read law under the tutelage of a licensed attorney. Jefferson completed his readings in the remarkable time of 16 months. Even so, he abandoned the practice of law 7 years after his admission to practice because it did not satisfy his ranging intellect and curiosity. From his letters we learn that, ironically, he entertained a sardonic opinion of lawyers: "whose trade it is to question everything, yield nothing, and talk by the hour."

Thomas Jefferson was often attacked as an atheist in matters of religion whereas he was actually a deeply reverent person. I suppose that his philosophy of religion could be considered similar to that of the Unitarians of today. Certain it is that he compiled his own Bible readings from the Bible and he read in them assiduously. It is a well-known fact, too, that he fought the state-church concept vigorously, and this must have taken some courage because his home State of Virginia did have a state church during his lifetime.

Much has been said and written of Thomas Jefferson as President of the United States, as Ambassador, and as an economic philosopher.

However, he was, besides these expertises, an architect who created Monticello and the initial buildings of the University of Virginia; the inventor of an exact formula for the construction of moldboards for more efficient plows, and a man whose range of interests included: geography, geology, botany, zoology, ethnology, agriculture, plantation administration, medicine and surgery, mathematics, acronautics, invention, government, education, languages, and literature.

Actually, Thomas Jefferson was never truly happy except when in the country at his beloved Monticello. He delighted in gardening and experimented enthusiastically and successfully in varieties and rotations of crops. He kept meterological tables diligently for most of the years of his life. It is a curious fact that for the 8 years of his Presidency of the United States, he tabulated with painful accuracy the earliest and latest appearances of more than 30 vegetables in the Washington markets.

When he served our country abroad, he sought out varieties of grasses, trees, rice, and other products for possible American experimentation and, after his return from France received yearly for 23 years from Paris a box of many varied seeds which he distributed to public and private gardens throughout the United States.

It is perhaps most significant that Thomas Jefferson was a founder of the President of the American Philosophical Society and its president for nearly a score of years.

If indeed, formal education's most important objective is to create within each individual a knowledgeable and abiding curiosity to serve him throughout life, Thomas Jefferson is the epitome of the realization of this objective. For Thomas Jefferson never ceased studying and learning in a remarkable variety of disciplines. He is and remains, therefore, an educated man, in the most exquisite sense of that term.

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### Remarks of Gov. Otto Kerner, Prepared for Delivery at Peoria Advertising and Selling Club Thomas Jefferson Birthday Luncheon, Noon Monday, April 13, 1964, Hotel Jefferson, Peoria, Ill.

I am honored to have been invited here today to take part in this luncheon which quite appropriately is being held in honor of one of America's most talented and intellectual minds—Thomas Jefferson. I have long been an admirer of Mr. Jefferson, whose words and deeds I feel have left an indelible mark on the American scene. This mark is as bright and shining today as it was when this dynamic American stamped it in the political heart of this Nation.

This thought is not mine alone—it is shared by many others. For instance, 110 years ago a very famous Illinois political figure was speaking here in Peoria. In that speech, that very famous gentleman who was our own beloved Abraham Lincoln, said, and I quote: "Mr. Jefferson—the author of the Declaration of Independence, and otherwise a chief factor in the Revolution—who was, is, and perhaps will continue to be, the most distinguished politician of our history."

A century has elapsed since Illinois' most famous son spoke those words here in this very town. Yet, what he said about this marvelous man of history, this apostle of Americanism, this father of religious liberty, is as true today as it was when Lincoln uttered it.

Why do we honor Jefferson? To try to put it as simply as possible, I believe we honor him because he is immortally linked with the idea and reality of American democracy. He was the first great scholar in American politics and has been described as "the greatest political genius that has ever been elected to the Presidential chair."

No man ever despised tyranny more thoroughly, or loved freedom more unrelentingly than this noble-hearted patriot. He struck the chord of this thought himself when he penned these famous words: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Of all Jefferson's famous quotes, it is these words that were selected to be inscribed in the beautiful memorial that has been erected in his honor in Washington, D.C. It is only right that these words were inscribed on the monument for all to see, because it is these words that so completely express his love of freedom.

Jefferson is mostly remembered by every school boy and girl as the author of the Declaration of Independence. This, more than any other legacy he left for posterity—and there are many—is his most famous contribution to American democracy. This document—our so-called charter of individual liberties—formulates for all time the philosophy of the democratic process of self-government as we know it and live it.

The Declaration of Independence expresses what Jefferson believed to be the hard core of democracy. This core is the idea of liberty. I daresay no man ever had a clearer conception of freedom nor conveyed his conception more completely or accurately to his contemporaries or preserved it better for posterity.

The idea of individual freedom that Jefferson wove into the Declaration of Independence embodies the very principles upon which our democracy stands. These principles are "the equality of all men in the eyes of nature and the law; the inalienable rights of all to life, liberty, and the pursuit of happiness; the function of government as a guarantee of those rights; its just powers derived from the consent of the governed."

Jefferson was convinced, as we today are also convinced, that our form of government is the best yet devised by society. He believed that we exist as living proof that a government designed to rest continually on the will of the people, is a practical government and should shine forever as a beacon to all mankind. Today, as yesterday, the United States of America stands out as the freshest and most noble experiment in self-government. An experiment that time and change has proved to be of enduring value.

The success of our American experiment in self-government has cast us in our present role of leader of the free world. A role we must continue to play every day to the very best of our abilities if the free world, if democracy itself, is to survive the long twilight struggle with communism.

The indelible mark that Jefferson left on the American scene is a many-faced stamp. No tribute to him would be complete without mentioning that it was Jefferson who advocated a complete system of public education which he viewed as a safeguard to democracy. Although Jefferson was the first great exponent of a democratic nation where the people rule, he believed most firmly in an educated people.

"If a nation expects to be ignorant and free, in a state of civilization," he wrote to Col. Charles Yancey in 1816, "it expects what never was and never will be."

We remember him, too, as the founder of the University of Virginia, which he established at Charlottesville to "promote popular education as an essential condition to the safety of the Republic."

Jefferson was also an artist, musician, architect, landscape gardener, lover of painting and sculpture. Today, 138 years after his death, his artistic spirit lives in the exquisite beauty of Monticello, in the stately lines of the University of Virginia, and in the capitol of Virginia. In addition, Jefferson played an important role in establishing and designing the Nation's Capitol.

Personally, I consider Jefferson's first inaugural address his most important political manuscript. In it, he stated his conception of what Government should be—a conception that I wholeheartedly endorse.

"A wise and frugal government," he said, "which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned" is the sum of good government. I daresay there is not another document where we can find a simpler statement on the political philosophy of American Government, or one that more clearly outlines the political principles of self-government on which this country was founded.

No tribute could fully embrace the many contributions Jefferson made to his country or even begin to allude to them. So great was Jefferson's sphere of influence, in politics and government, in the arts, in the humanities, in law, that it is nearly impossible to touch upon it.

I believe the best summation of Jefferson's great mental genius was made by our own late President John F. Kennedy, when, at a White House dinner honoring all living Nobel Prize winners in the Western Hemisphere he said, "I want to tell you how welcome you are to the White House. I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone."

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## ROCHESTER'S 130TH ANNIVERSARY

Mr. HORTON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Speaker, today it is my pleasure to call the attention of my colleagues to a milestone in the life of a great American city, my home community of Rochester, N.Y.

On April 29, 1834, Rochester was granted its first city charter. In the ensuing 130 years, the Flower City has grown into a thriving, vital, and progressive metropolis.

In 1812, when this Nation still was struggling to maintain its independence, the site which was to become Rochester was but a virgin forest. It was 1812 when Rochester's first permanent settlers arrived. They were in the vanguard of many successive waves of westward migration across New York State.

Even the earliest pioneers discovered Rochester's magnetic qualities. The abundant water supply of the Genesee River made the site an ideal spot for a settlement.

Early Rochesterians harnessed the Genesee River, and Rochester gained stature as a milling center. This activity served the wheat-growing lands to the south of Rochester which were America's first "breadbasket." In fact, before Rochester became famed as the Flower City for its world renowned floral festival, the city was known as the Flour City in recognition of its milling commerce.

The construction through Rochester of the cross-State Erie Canal in the 1820's assured the city a position of economic leadership. The waterway, at first derided as "Clinton's Ditch," forged an important link in the lifeline of our country. The Erie Canal put Rochester in direct contact with both the eastern and western development of the United States.

As the Nation grew, so did Rochester. First incorporated as a town in 1817, then as a city in 1834, Rochester regularly added new dimensions to the life of her government, her private enterprise, and her people. The Erie Canal brought not only goods to Rochester, it brought people. People of diversified backgrounds and interests came to the "banks of the Genesee," found a ready welcome, and made it their home.

The panic of 1837 did not spare Rochester. It struck a heavy blow at the city's financial underpinnings, but throughout the 1840's, Rochester's economy surged back. Aiding this economic recovery and contributing to the financial future of Rochester was the location of many new industries in the community. Again the waterpower of the Genesee River was a major factor in attracting these business concerns.

During the Civil War period and the next decade, Rochester remained somewhat of a static city. The lure of the West no longer allowed Rochester to be a beneficiary of America's westward expansion. A growing America was passing Rochester by.

However, the situation was not long-lived. The depressed conditions which gripped much of the East were alleviated by the revival of high-wage industries. As national conditions improved, Rochester's industries were able to expand and find new markets.

In the second half of the 19th century, Rochester experienced all the growing pains of industrialization. Yet, the city met its problems, profited from them, and continued to grow and prosper.

Like many of America's cities, Rochester enjoyed great growth in civic affairs. Intellectual and cultural activities became a dominant force in the lives of its citizens. Sports and public amusements were introduced and with other outlets gave Rochesterians an increasing identity with community life.

Rochester always has demonstrated its ability to cope with the challenges of a changing world. Its present stature bears witness to its success in keeping abreast of the times.

If there is one characteristic of Rochester which more distinguishes the city than any other, I believe it is the dynamism of its citizens in their collective actions. Civic, religious, and social organizations exist in every American community. Yet, in Rochester they exhibit a response to community needs which I feel is considerably above and beyond the kind of activity usually associated with common effort. There never has been a hurdle which Rochesterians working together could not clear.

Rochester is proud of her past and prepared for her future.

The history of Rochester has been faithfully recorded by our present city historian, Dr. Blake McKelvey. Rochester is the only city in the country that maintains a full-time city historian and it is the only city to have its history written in such full detail.

Dr. McKelvey has authored a four-volume history of Rochester. This project consumed 20 years and is considered one of the most definitive historical accounts of an American city ever published.

From Dr. McKelvey's fourth and most recent volume, "Rochester: An Emerging Metropolis, 1925–1961," published by the Christopher Press, Inc., of Rochester in 1961, I would like to quote one paragraph from the epilogue which I find a vivid description of contemporary Rochester:

> Rochester has emerged as a full-fledged metropolis. It has made inescapable local, regional, national, and international commitments. Its calendar is crowded with the activities of organizations, both official and voluntary, that have accepted responsibilities arising from insistent old problems or are assuming the promotion of fresh undertakings. Enterprising industrialists have marshalled its productive energies and are constantly endeavoring to enlist new talents and to exploit new inventions. Hard-sell merchants have created a lush consumer market and are daily enticing residents to a more lavish gratification of private material desires. Alert communication agencies promote these efforts and inform readers and listeners of local and far-distant events. Civic, social, and cultural institutions in profusion serve special community needs and seek to fulfill widely shared aspirations.

At my request, Dr. McKelvey has prepared a brief statement relating to the significance of today's 130th anniversary of Rochester's city charter grant. I take pleasure in sharing his eloquence with my colleagues in the House:

### One Hundred and Thirtieth Anniversary of the Grant of Rochester's City Charter, April 29, 1834

Anniversaries have the peculiar merit of strengthening our ties with the past and prompting a hopeful glance toward the future. Community anniversaries are especially rewarding in this respect for they not only revive our interest in old traditions but also remind us of their flexibility, a necessary ingredient for continued growth.

Thus on the 130th anniversary of the grant of a city charter to Rochester, we are refreshed by rereading the inaugural address of our first mayor. We are interested to see that he, too, was looking back over the 22 years that had elapsed since the first settlers had arrived. He rejoiced to note that "the men who felled the forest that grew on the spot where we are assembled, are sitting on the council board of our city." Recalling their mutual struggles and the hardships they had overcome together, he faced the future with confidence that their combined counsels and exertions would achieve further progress.

Looking back, 13 decades later, when the new city has become an emerging metropolis, we, too, are proudly conscious of the fact that our generation, like its predecessors, has contributed to the city's growth and to the formation of its character. And, as we see many unsolved problems around us, we feel strengthened by the hope that a continued reliance on citizen counsels and exertions will secure us at least as bright a future.

## GIVE TO THE SURVIVING CHILDREN OF THE "THRESHER"

Mr. **WYMAN**. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The **SPEAKER**. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. **WYMAN**. Mr. Speaker, the nuclear submarine *Thresher* came up to periscope depth for the last time at 6:23 on the morning of Wednesday, April 10, 1963, in an area known as Wilkinson Deep, 220 miles off Cape Cod. The last communication *Thresher* had with the outside world was at 9:13 that same morning when it is believed she messaged the U.S.S. *Skylark*, a submarine rescue ship:

> Experiencing minor difficulties. Have positive up angle. Am attempting to blow.

That night our Nation was shocked to hear the announcement by the Chief of Naval Operations, Adm. George W. Anderson, that *Thresher* had been lost at sea.

On November 22, 1963, the President of the United States, John F. Kennedy, was shot at 12:30 p.m. as he rode through the city of Dallas, Tex. He died shortly thereafter. His accused assassin, Lee Harvey Oswald, was an admitted Marxist.

Today, 5 months after the cowardly deed, the people of the United States have contributed some $60,000 to the widow of Mr. Oswald.

Today, more than a year after the tragic loss of the submarine *Thresher*, the people of the United States and some foreign countries have contributed just over $140,000 to the *Thresher* memorial fund for the education of the 194 children left fatherless.

We are a great people—a people with a heart of gold, but I cannot for the life of me understand this situation. Sixty thousand dollars to a single family, the survivors of an assassin of our President and less than $1,000 to each of the 194 children whose fathers made the supreme sacrifice so that we might continue to live free.

Perhaps the finest answer to be found by bringing this tragic situation to the attention of the American people would be a real expression of appreciation of heroism of these 129 men who gave their all. No more practical means of doing this can be found than giving generously to this fund for the education of their now fatherless children.

I also want to bring to your attention two articles which appeared on the front page of the Portsmouth Periscope on April 17 of this year. Both articles concern the *Thresher:*

### Contributions to Submarine 593 Memorial Fund Over $140,000 Mark

The *Thresher* memorial fund is over the $140,000 mark and contributions have been received from all over the United States and foreign countries.

Education of the children of the men lost on the 593 is the main objective of the fund. There are 194 children, 11 of whom were born after the *Thresher* was lost.

The executive committee for the fund is the Old Colony Trust Co., Boston, which plans to make it possible for *Thresher* families to apply for educational assistance or relief. Whether the need is for special help for a retarded child or financial assistance for advanced studies, or special equipment for the handicapped, any of the children who would normally turn to a wage earning parent can turn to the *Thresher* fund and get the same help and understanding.

If funds permit, a similar assistance will be given to members of the submarine service and their dependents in memory of the *Thresher* and the men lost on the 593.

The Portsmouth area memorial fund, sponsored by the Shipyard Development Association, has received a total of $31,253.82 which has been turned over to the Old Colony Trust Co.

Contributions for the fund will always be accepted. The address is U.S.S. *Thresher* Memorial Fund, Post Office Box 388, Portsmouth, N.H.

### Navy Remembers 129 Families of Men Lost on 593

The Navy remembered each of the 129 families of the men lost on the *Thresher* on the first anniversary, April 10, with special mementos.

Each family received a specially published book, containing pictures, tributes and messages of condolence from all over the world, an 18-inch model of the *Thresher* and the ship's plaque.

The book, published with a special appropriation from the Department of Defense, will be distributed only to the next of kin of the submarine's 129 victims.

## READER'S DIGEST MISINFORMS PUBLIC REGARDING AREA REDEVELOPMENT ADMINISTRATION

Mr. **WHITE**. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The **SPEAKER**. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. **WHITE**. Mr. Speaker, the Schweitzer basin Area Redevelopment Administration project in Sandpoint, Idaho, is, without a doubt, one of the best examples of how a community benefits from an Area Redevelopment Administration loan. The project from its inception had bipartisan and total support from the community leaders. As it developed, Schweitzer basin gained wider and more enthusiastic support. By the time the project was completed, there were few doubters about the many benefits that the Schweitzer basin ski area would bring to a county suffering an economic depression from the declining lumber trade.

Despite the overwhelming success that the Schweitzer basin ski area has become in one season, and despite the enthusiasm of the local people for the project, one of America's third-rate monthly magazines chose to single it out as a bad investment by the ARA. The Reader's Digest which, lately, in its search for circulation, has advertised sex and immorality on its cover, printed a pack of lies in its May 1964 article entitled "Is This the Way To Fight the War Against Poverty?" I was present at Schweitzer basin at the time the irresponsible magazine's reporter interviewed Sandpoint people regarding Schweitzer basin. There was no dissenting voice in the chorus of praise for Schweitzer. This so-called reporter must have obtained the material he wrote about in New York, because it was evident to all present at Schweitzer that he obtained not one iota of information even faintly resembling what he had written. It was further evident that he had come with a preconceived purpose of slander.

Mr. Speaker, I would like to insert this statement by the Mayor of Sandpoint regarding the unfortunate article.

### Statement of Mayor Floyd Gray

The people of Sandpoint have been greatly disturbed by the Reader's Digest article, feeling it is biased. It also contains half-truths and untruths. The very fact that some 700 people, most of them residents of this city of less than 5,000, are stockholders in Schweitzer basin, would seem to speak for itself that they would not be a party to a plan to run two other local men out of business, as one of them is quoted as saying.

Officially, as mayor, I am gravely concerned by the Digest statement that the "Sandpoint water supply was condemned by the State." This is a lie. It is detrimental to our efforts to attract new business and industry on the strength of an ample supply of clean, pure water.

The Digest said this resulted because the city "contributed $32,000 toward building a road into the new ski area." The truth is that while the road built by the city became part of the access road in the Schweitzer basin, it was built because the city had to complete a watershed logging contract with the State of Idaho. The magazine failed to tell this whole truth. The statement did not mention that this so-called contribution has returned $36,194 in stumpage receipts to the city to date.

The Digest created the impression that the people of Sandpoint raided the Federal Treasury to deal what it called a crushing blow to two local men. It did not mention that this depressed community by bonding and public contributions raised approximately $460,000 to participate with ARA, and that it is obligated to repay the $345,000 borrowed from ARA. Nor does it mention the new winter jobs created, nor the new improvements by private capital which are direct results of a going ski area. One of the latter is a $500,000 motel facility, on which construction is scheduled to begin in May.

Far from being the horrible example that the Reader's Digest holds it up to be, the Schweitzer basin ski area is an outstanding example of how people can help themselves if capital not available from private sources is provided.

The ARA loan here has produced far more results than Uncle Sam has gotten from a lot of his expenditures, and he is going to get his money back.

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## ADRIFT IN A CHANGING WORLD

Mr. ADAIR. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include a statement by Representative MORSE.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ADAIR. Mr. Speaker, last Thursday evening in Boston, Mass., one of my colleagues on the House Foreign Affairs Committee, the Honorable BRAD MORSE, addressed the Boston University Law School alumni dinner on the state of our foreign policy. The Congressman's address, "Adrift in a Changing World," showed a commendable grasp of the realities of the contemporary world. He has reviewed the discouraging trend of events in recent years, pointed out the forces that have brought about this trend, and indicated a compelling need for the application of principle and consistency to the complex problems which face us.

I look forward to hearing the additional foreign policy remarks which Congressman MORSE is preparing for delivery here in the House, and I would like to call the attention of my colleagues to his April 23 address by including them at this point in the CONGRESSIONAL RECORD:

### ADRIFT IN A CHANGING WORLD

The steadily deteriorating state of the world into heightened disorder, and actual violence in many areas, is a source of mounting concern to the American people. Each day the headlines tell of some new crisis, some new thrust by forces hostile to liberty.

Congress has an important responsibility to assess the significance of these events, to recommend policy approaches that will illuminate the dialog on world affairs, and to suggest possible openings to reverse this disturbing trend. In recent years, the House of Representatives has become increasingly involved in foreign affairs: foreign assistance, our participation in international organization, the Peace Corps, the Arms Control and Disarmament Act of 1961; this list will be expanded in the future to meet the challenge of a world that is changing so quickly that today's news is tomorrow's history.

I do not suggest that I have a packaged solution for the complicated problems we face, nor do I wish to assign partisan blame for specific events. Instead, I will express my thoughts on these issues and continue to search for explanations and answers.

This evening I would like to outline the chaotic world context in which our Nation must operate at the present time.

Ever since Communist imperialism launched its assault on the free world, following a brief period of euphoria after World War II, a major concern of the United States has been the unity and strength of the Western alliance. Today that alliance is beset with internal conflicts.

Militarily, a great debate rages over the proposed methods of joint nuclear control. There is continuing debate over required NATO force levels and the responsibilities of individual nations to contribute to the realization of these levels. Swift, coordinated Western responses to Soviet actions in and around Berlin have proven impossible of achievement.

Economically, the Western nations are split into two great blocs: the nations of the Common Market, who look inward to a tightly integrated continental economy, and the nations of the Free Trade Association, which, with the United States, look outward to an interdependent Atlantic Community. The Western alliance is far from agreement on mutual tariff levels and trade terms. The United States takes a comparatively strict view of what constitutes "strategic materials" not exportable to the Communist bloc; the other nations of the alliance, dependent on and eager for increased trade, take a very different view. When our allies, Britain and Canada, trade with Cuba, we take crude steps to retaliate; but at the same time our Government underwrites a massive grain sale to Russia.

The question of the recognition of Communist China also splits the alliance. The United States refuses to countenance the aggressive Peiping regime; Britain has recognized it for years. Now President de Gaulle has extended his recognition, over vigorous U.S. protests.

Two NATO allies now face each other with drawn swords over the Cyprus question. This inflammation of ancient Greek-Turkish rivalry threatens to undo the laboriously constructed southern flank of NATO, inviting Soviet penetration of the entire Mediterranean area.

If NATO is in a state of disarray, the state of our other alliances, SEATO and CENTO, can only be described as chaotic. SEATO member Pakistan is flirting with Red China.

Britain is preoccupied with the crisis in Malaysia as are Australia and New Zealand. The Philippines is presently inclined to support Indonesia against Malaysia. France is talking of neutralization of its former Indochinese dependency and making efforts to reassert its influences in that area.

In our own hemisphere, a Communist base has been established only 15 minutes air time from our own shores. The Organization of American States has as yet to take any concerted and effective action against Cuba. The American effort to act unilaterally apparently came to a disastrous end at the Bay of Pigs. It seems clear, too, that in the long run our trade embargo of Cuba, while annoying to the Castro regime, will not be able to cripple it mortally.

The political situation in Latin America is so unstable that when the Government of Venezuela changed hands constitutionally this year it was considered a landmark. Pro-Communist elements seem to be gaining strength in Chile—perhaps even enough to gain control of the national government through the electoral process in the near future. Poverty, illiteracy, corruption, and tyranny in Haiti make that nation vulnerable to Communist penetration. The passing parade of Communist agitators, embassy-stoners, and military juntas that we read about in the daily papers shows little sign of ceasing.

In an area of major concern to the U.S. national security—Panama—Communist-led elements have fanned the flames of Panamanian nationalism. As a result of their efforts, a relatively minor incident developed into a bloody riot. Only recently, after weeks of delicate negotiations, has it been possible to reestablish relations and move toward a negotiated solution of our joint problems.

The recent bloodless revolution in Brazil appears to be a setback for the Communists, who had supported many of the policies of ousted President Joao Goulart. But even the new regime has taken steps that cause concern for individual liberty in Brazil, and the nation continues to be beset with the underlying causes of discontent: poverty, illiteracy, disease, unemployment, and galloping inflation. To suppose that these forces will dissipate would be to ignore all the lessons we have learned from our experiences in Latin America and the rest of the developing world.

Turning to Africa, Ghana and Mali are drifting toward the Communist orbit. The revolutionary government of Zanzibar has ousted the American space tracking station and now provides the Soviet Union and Communist China with their first real toehold on the dark continent. The border disputes between Somali and her neighbors, Kenya and Ethiopia, could become explosive.

Law and order suddenly collapsed in Kenya and Tanganyika, requiring rapid interventon by British troops. There have been uprisings in Togo and Gabon. The smoldering racial problems in southern Rhodesia, southwest Africa, and the Union of South Africa threaten to blow up at any time.

When U.N. forces are withdrawn from the Congo at the end of June, the unsteady government of Adoula will have to meet the supreme test of holding the modest gains that have been made during the presence of U.N. forces.

In southeast Asia the prospect is even more discouraging. The United States finds itself committed to a costly, difficult war in Vietnam, a war in which the price of victory may be higher than we are now prepared to pay. Communist guerrillas move unimpeded through the jungles of Laos, where the so-called neutralist government cannot long be expected to survive continual Communist subversion.

Indonesia vows war against Malaysia while its economy steadily deteriorates. Indonesia has as great an economic potential as any developing country. But Sukarno is an emotional individual, more concerned with his personal position, than he is with the development of his country. Increasingly, Indonesia gives evidence of fragmentation as the neglected outer islands of that farflung country resent, and even revolt against, the central authority in Java.

Burma steadily degenerates into authoritarian socialism.

Cambodia, after insisting on the withdrawal of American aid, now threatens open allegiance with Hanoi and Peiping unless the United States takes steps to guarantee Cambodian neutrality. Relations were hardly helped when the anti-Communist forces supported by the United States in South Vietnam attacked a Cambodian village due to an "error in mapping and location." Last week a delegation of the Cambodian military met with Premier Khrushchev in Moscow.

And in the midst of all this disorder, the United Nations, shackled with financial problems, plagued with rabid, unreasoning anticolonialism among its members, struggles not so much to shape world affairs as merely to survive.

I have no doubt that every one of us can think of further examples of the problems that face the United States in its conduct of foreign relations, and I have no wish to produce a complete encyclopedia of the world's ills. I have given this cursory review only to provide the background for some conclusions which I believe to be pertinent.

The first conclusion is one which no intelligent person can deny: world communism's insatiable hunger for power continues unabated. I do not charge that agents of Peiping and/or Moscow are behind every uprising that occurs; but I believe it is abundantly clear that whenever there is discontent, whenever law and order break down, whenever angry men take up guns and spears against their neighbors, Moscow and Peiping stand ready to intervene. Their unchanging goal is to bring new peoples into the Communist empire. This fact, free America must never forget.

Nor can we deny the appeal of Communist propaganda in the face of human misery, economic confusion, and social revolution. Taking advantage of these conditions, and feeding on latent racial hostilities, communism thrives while Western cautions of patience and perseverance stir little response.

The second conclusion is that the force of nationalism is a prime cause of the turmoil and unrest in the world today. In its rawest form it is exemplified by the bloodthirsty revolutionaries of Zanzibar; in its most highly developed form, we see it personified in General de Gaulle. Whatever its form, nationalism which is something quite different from honest patriotism, inevitably aggravates the difficulties of international cooperation, and works against the establishment of that minimum of world order upon which the future of civilization in the long run must depend.

Our dismay when individual nations assert their independence and seek to carve out a place for themselves in the world is ironic; we have encouraged the very forces that make nationalism possible. It was a keystone of our post-World War II foreign policy to strengthen the countries ravaged by war and to create the political stability that would enable the newly independent states to develop and progress.

We must not overlook the effect of the Cuban missile crisis in encouraging nationalism of the West and the public airing of dirty laundry in the East. The feeling encouraged by the Cuban crisis that neither the Soviet Union nor the United States is prepared to push the nuclear button has increased the choices available to other nations.

General de Gaulle represents more than a "hair shirt" for American policy. He embodies some widely held and well-founded forces at work in the world today. American policy must do more than fretfully await the inevitable passing of his mantle of leadership.

Obviously, we do not want another international crisis to be the price of Western unity. Free world solidarity will be achieved through the declaration and pursuit of coherent goals. We can no longer expect other nations to follow our lead as a matter of course but must win their support and confidence by acting like the leader of the forces of freedom.

For one thing, we seem to be conducting our foreign policy matters on an ad hoc, piecemeal basis. We have no overall policy on East-West trade; instead, we have a handful of little policies, one for each country or group of countries. This makes it possible for us to embargo shipments to China while we sell wheat to Russia, but it does not provide us with any coherent formula for advancing the overall interests of the United States and the causes to which we are devoted.

Closely related to our ad hoc approach to foreign policy is our seeming inability to foresee the nature of tomorrow's crisis. The perfect case in point was the Berlin wall. Another was the crash program of Soviet nuclear testing in September, 1961. Are we prepared for the next crisis? I hope so, but history leads me to believe that we are not.

We seem to be plagued with contradictions in our practices as well. We sell wheat to Russia, but won't sell wheat to China. Yet until recently we have sold arms to the white government of the Union of South Africa, which carries on a flourishing wool trade with Peking and Soviet European satellites.

We cut off token amounts of aid to Britain, France, and Yugoslavia because those nations allow trade with Cuba, but Spain, which also trades with Cuba, continues to receive U.S. aid. One day the State Department invited American consumers to boycott British goods; 3 days later the Department said it disapproved of consumer boycotts because they interfere with our diplomacy.

These defects in the conduct of our foreign relations are by no means minor. Yet they pale in comparison to the one central fact that faces us today: we have no coherent foreign policy goals. We have no basic principles—clearly and forcefully enunciated—from which to derive the right course of action in specific instances. We have fallen short of raising a standard which will win the respect of the people of the world.

In the weeks ahead, on the floor of the House, I hope to suggest some policies and principles that will enable us to halt the current drift in our world position. Tonight I have only outlined the dimensions of the problem—no solution will be forthcoming until we begin to make decisions on policy within a framework of principle.

Foreign policy is more than a manipulation of power. Realism has an important place in our foreign policy but so do the principles of law, order, justice, and magnimity. Flexibility of response is not inconsistent with coherence of purpose.

If idealism in foreign policy means the idealism of our first great Secretary of State, Thomas Jefferson; of Elihu Root, Henry Cabot Lodge, Charles Evans Hughes, Henry Stimson, Dwight Eisenhower, and John Foster Dulles—if this be idealism, I am proud to plead guilty.

Two years ago on the floor of the House, I said "The Soviets have a world view that provides them a basic fabric—a frame of reference—for developing specific policies for the day to day conflict with the free nations. We need to establish a comparable set of goals for U.S. foreign policy, through free discussion and cooperative effort. We need a set of priorities without which our foreign policy will degenerate to a series of barren responses to crisis of the moment." Two long years have passed, and we are no closer to defining a clear statement of our national goals. Sadly, our foreign policy has degenerated to "barren responses to crisis of the moment."

I firmly believe that embedded in the history and traditions of the American people are the elements of a principled, responsible foreign policy, a foreign policy that can win the hearts and minds of men everywhere. But those principles need clear enunciation. They must be written, as Daniel Webster once said of the principles of liberty and union, "in letters of living light," so that they may guide America in its role as world leader in the cause of freedom and justice.

This is not a simple task. It is a task involving an understanding of American history, of Western civilization and of the diverse civilizations that make up the present world. It involves a careful rethinking of America's position in the world today and the responsibilities which necessarily ensue. But despite its difficulty, despite the complexity of the facts of human existence in the 20th century, we cannot afford to shirk. The clear definition of the basic principles and goals of our foreign policy, coupled with the intelligence and the will to apply them to the world around us, is the first step we must take to restore America to the position of leadership in the building of a better world order for the future.

## THE BEEF IMPORT SITUATION

**Mr. NELSEN.** Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

**The SPEAKER.** Is there objection to the request of the gentleman from Minnesota?

There was no objection.

**Mr. NELSEN.** Mr. Speaker, I take this time to alert the Members of the House and the livestock industry as to the situation we appear to be faced with in the Congress of the United States in our attempt to deal with remedies in the interest of American agriculture and in this case, the livestock farmer.

We have witnessed some inexcusable conduct in dealing with this problem. First, we passed a Trade Agreements Act with extensive promises that the interests of the American farmer would be protected. Since the passage of this bill, our country has been flooded with imports particularly damaging to the agricultural economy of our country, and beef imports from Australia and New Zealand have increased to 11 percent of the domestic consumption in the past year. Members of Congress sought to bring about some restrictions by legislation. Their efforts have been opposed by the Administration and the Secretary of Agriculture, and the argument has been advanced that such action would be damaging to our trade negotiations in the Kennedy round in Geneva, Switzerland. At the same time, our State Department negotiates a quota and gives a green light to a long-term, oppressive level of imports.

Members of Congress have been flooded with letters from livestock feeders from all parts of the country and obviously there is a mad scramble to get off the hook by those who voted against the Hruska amendment to the wheat-cotton bill which would have put a limitation on beef imports. The rumor persists that the game being played by the politicians is to let the Senate pass a bill to fix quotas on livestock imports on a basis which will give the American producer a chance to survive, and that the game then will be to lose the bill in the House next summer when everyone is rushing to adjourn Congress. This rumor which was referred to in the May issue of the Farm Journal has not been denied. It behooves us to keep a close watch on this situation if we wish to protect the interests of the American farmers who are the victims in this political game.

To point up the problem, livestock feeders of Rock County, Minn., for example, have presented figures to show that the drop in market price of livestock has meant a loss to them of $651,960 in a single year. They adopted a resolution urging that the agreements on imports be renegotiated so as to get the allowable import figure back to 5 percent of our domestic production. Their position was endorsed by the Luverne Chamber of Commerce, and I support that demand unless the administration abandons its maneuvers to defeat the quota bills now in committees in the Senate and House.

I include the Farm Journal statement together with an editorial which appeared in the Rock County Star Herald be printed in the RECORD at this point in my remarks. I also include the resolution adopted by the livestock feeders of Rock County, Minn.

[From the May 1964 issue of the Farm Journal]

Keep an eye on these political shenanigans over beef imports. The Senators who voted down (46 to 44) the Hruska amendment to curb beef imports are feeling the heat back home. They find they misjudged farmers' feelings. Now they want to "get on record" with another vote—especially those who are running for reelection this fall. This includes Majority Leader MANSFIELD, Democrat, of Montana, who voted against the Hruska amendment.

So look for the Senate to vote to curtail meat imports. But that's only the first act of the play. The second will be played in the House. The strategy at present is to let the Senate's meat import bill "get lost" in the House in the closing rush to get to the political conventions. That way the Senators get off the hook, and the administration keeps its agreement giving Australia and New Zealand a high share of our market.

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[From the Luverne (Minn.) Rock County Star Herald, Apr. 16, 1964]

A MILLION-DOLLAR LOSS IN BUYING POWER

Are the livestock man's hurts real or are they imaginary, as Secretary Freeman says?

At the meeting of the livestock feeders last week in Luverne there were 218 in attendance.

Of this number 154 reported they had 21,732 head of cattle on feed.

They had experienced a $3 per hundred drop in price in 1963 from 1962. (We must remember that 1962 was not a profitable year.)

Livestock feeding is no business for the careless. You have the cost of your feeder cattle, the feed, the labor, taxes, veterinary fees, death loss, and the overhead and cost of equipment.

At a most conservative figure the loss, at the rate of $3 per hundred, for the 21,732 head of cattle owned by the 154 feeders was a body jolt to the economy of Rock County.

That per hundred meant a loss of $651,960 to those 154 feeders.

A livestock expert estimates, conservatively, that the loss of buying power in Rock County caused by the $3 per hundred price drop would be well over a million dollars.

If business and labor in the Twin Cities were hurt in like proportion there would be a protest march on the State capitol 10 miles long. Yet—too many city people blame the farmer for the high cost of food, they have the idea he is living "high on the hog" and is a big "bawl baby."

How wrong they are. The farmer needs immediate and sympathetic action or our city cousins will be crying, too.

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Whereas the production of red meat represents the most important single segment of the agricultural economy of the United States and accounts for the major share of the national farm income, and

Whereas the high level of beef imports which now amounts to 11 percent of the total consumption of beef in this country, and is causing a very adverse effect on the prices paid the beef producers, and is causing them, as well as the whole national economy, losses of millions of dollars: Therefore be it

*Resolved*, That the State Department and the Department of Agriculture take immediate steps to renegotiate and investigate under section 301 of the Trade Expansion Act the recent trade agreement with Australia, New Zealand, and other countries exporting beef to us, and get this allowable import figure back to a more realistic level of 5 percent of our domestic consumption. We also feel that a good share of this regulation could be controlled by a more variable tariff on meat imports. These things must be regulated to allow cost of production plus a fair profit to the producer of meat in the United States.

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## TENNESSEE-TOMBIGBEE WATERWAY

Mr. SELDEN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. SELDEN. Mr. Speaker, as an Alabamian and as chairman of the House Inter-American Affairs Subcommittee, I am greatly interested in recent discussions concerning the use of nuclear power to excavate for the proposed Tennessee-Tombigbee Waterway. The Atomic Energy Commission's Division of Peaceful Nuclear Explosives has given serious study to the matter of nuclear excavation in its Project Plowshare program.

The Tennessee-Tombigbee Waterway has been approved by the U.S. Corps of Engineers and authorized by the Congress. Use of nuclear explosives in digging a key segment of this vital 253-mile waterway through northeast Mississippi and west Alabama has been suggested as a pilot operation for excavation of a new, larger interoceanic canal in the Central American area.

In this regard, it is of historic note that Alabamians had a pioneering role in creating the existing interoceanic link between the Atlantic and the Pacific. Alabamians like Dr. William Crawford Gorgas and former U.S. Senator John Tyler Morgan were prime contributors in creating and helping construct the Panama Canal. Senator Morgan was in fact called the father of the isthmian canal idea.

One of Senator Morgan's hopes in seeing the interoceanic canal developed was that it would be of major economic benefit to Alabama and the southeastern United States. It would, therefore, be wholly appropriate if construction of the Tennessee-Tombigbee Waterway were to serve as a pioneer project to create a new and greater interoceanic canal. For the Tennessee-Tombigbee Waterway is expected to increase southeastern area commerce with Latin America on the scale of Senator John Tyler Morgan's dream.

The Montgomery, Ala., Advertiser, in an April 18, 1964, editorial, furnished much useful background information regarding this important subject. I, therefore, insert this editorial, entitled, "Plowing With Bombs in Mississippi" and written by Tom Johnson, into the CONGRESSIONAL RECORD:

PLOWING WITH BOMBS IN MISSISSIPPI

COLUMBUS, MISS.—In Tishomingo County north of here, where a hilly divide separates the Tennessee and Tombigbee River Basins, the world's first practical use of nuclear explosives could take place. Though the Atomic Energy Commission doesn't know all that it wants to know about radioactive fallout and the hazards of ground shock, the Tennessee-Tombigbee Waterway Development Association is banking that the answers will soon be forthcoming and it wants to be No. 1 on the list when the AEC starts blasting.

The possibility of a series of nuclear explosions in east Mississippi near the Alabama line has advanced to the point that Tennessee-Tombigbee developers could hardly talk about anything else at their meeting here this week with nuclear scientists. Even the small talk of the women was about radioactivity, roentgens and nuclear cratering. They were ready to start blasting tomorrow, provided a nuclear charge could be manufactured out of hairpins and lipstick tubes.

The most popular men at the meeting where Dr. Gerald Johnson, associate director of the famed Lawrence Radiation Laboratory in California (where Dr. Edward Teller, the H-bomb's developer, also works), and John S. Kelly, head of the Peaceful Nuclear Explosives Division of the AEC. Kelly is overall supervisor of Project Plowshare and Dr. Johnson is the scientific director.

Along the 253-mile stretch where the waterway developers hope to link up the Tennessee and Tombigbee Rivers, most of the excavation would be with conventional explosives. But there is a 5-mile cut through the Tishomingo Divide where conventional blasting methods would be almost prohibitively costly.

But with nuclear charges placed in row so that one crater overlapped another, one lick on the plunger would create a ferocious explosion, gouging out a trench 173 feet deep, 150 feet wide and 5 miles long. Farmers and backwoodsmen would have been safely removed beforehand, but wherever they waited—in Red Bay, Ala., or Tupelo, Miss.—they would feel the thunder in the earth.

When the explosive is first detonated, it develops heat that rolls back the earth underground and creates a cavity lined with molten rock. As the pressure and heat build, the cavity grows toward the surface of the ground. The earth lifts in a dome over the cavity, ruptures and spews violently into the air. Kelly's description of this brought back a line from Milton—"a shout that tore hell's concave."

The area would be uninhabitable for several weeks, but when the residents and the engineers returned, they would find a gorge ready made, needing only a minimum of work to make it a serviceable canal.

Nuclear blasting is economical for several reasons: (1) unlike conventional explosives, which only loosen the earth, a nuclear charge completely expels the dirt and rock to the side, eliminating costly earth-moving equipment; (2) a string of nuclear explosions develop still more efficiency because the adjacent explosions reinforce each other; (3) the cost of nuclear explosives doesn't vary much with the magnitude of the blast, thus a four-megaton charge may cost $500,000 but a blast 250 times as great costs only twice as much.

The Tennessee-Tombigbee waterway has been pronounced feasible by the U.S. Corps of Engineers and authorized by Congress. It has drawn the support of four States—Kentucky, Tennessee, Alabama, and Mississippi, and attracted friends all over the East and the Midwest, including the powerful Mississippi River Valley Development Association.

The waterway's attraction is irresistibly simple—it would create a shortcut to the Gulf of Mexico (see mileage table) and create profuse economic benefits to the entire American heartland.

But Congress has never appropriated any money, and the project is stalled. That's another reason the waterway developers have seized on making it a nuclear experiment. They hope to persuade Congress that the Tennessee-Tombigbee is the logical forerunner of a new nuclear-blasted Panama Canal.

Since the canal crisis, Washington (and particularly Congress) has rediscovered Project Plowshare (the name given to developing nuclear energy for peaceful purposes). There is no question that a new canal must be built because the present one is hopelessly inadequate, even if the United States and Panama live happily ever after. It is too narrow for large tankers and aircraft carriers, and its series of locks make any passage slow and difficult.

Dr. Johnson has estimated that a new sea-level canal, dug deep enough to eliminate the use of locks, would cost $3.5 billion and take 14 years to build by conventional blasting methods. With nuclear explosives, the job could be done in a third of the time and at a seventh of the cost.

But there is a hitch: The nuclear test ban treaty prohibits any nuclear explosions for whatever purpose if they deposit radioactive debris across another nation's frontier. In the confined tightness of Central America, it would obviously be impossible to build a nuclear-dug canal under these terms.

That means any nuclear explosion must take place in the interior of the United States on a project like the Tennessee-Tombigbee. Even this, however, is not guaranteed allowable under the treaty, because it is possible that some small but measurable amount of radioactivity might still be detected in another country.

The Plowshare scientists don't really know yet what they can do under the treaty and hardly know what to say about it. They can't attack it (always excepting Dr. Teller) because they are working for a government that signed it, and yet under its terms they can't comply fully with the Atomic Energy Act of 1946 which directs them to develop the atom for peaceful purposes.

Dr. Johnson said in Columbus this week that the AEC hopes to persuade other nations of America's peaceful intentions and thereby, perhaps, get a change of wording in the treaty that will make Plowshare possible everywhere.

By that time, too, Johnson expects the United States to know more about the cratering characteristics of various soils and to have developed a "clean" bomb that shrinks fallout.

Then, if all the words fall into rhyme, Tishomingo County, Miss., and west Alabama may expect a benign but earth-quivering rerun of the "shout that tore hell's concave"—all perfectly harmless.

—Tom Johnson.

*Mileage chart*

| From— | To— | Miles via Mississippi | Miles via Tennessee-Tombigbee | Miles saved via Tennessee-Tombigbee |
|---|---|---|---|---|
| Birmingham | Cincinnati | 1,942 | 1,119 | 823 |
| Calvert City, Ky | Mobile | 1,091 | 668 | 423 |
| Chattanooga | New Orleans | 1,376 | 881 | 495 |
| Chicago | Tampa | 2,079 | 1,840 | 239 |
| Decatur, Ala | Birmingham | 1,779 | 526 | 1,253 |
| Houston | Guntersville | 1,497 | 1,184 | 313 |
| Huntsville | Cape Kennedy | 2,200 | 1,410 | 790 |
| Kansas City | Demopolis | 1,817 | 1,086 | 731 |
| Knoxville | Mobile | 1,721 | 902 | 819 |
| Louisville | Pascagoula | 1,335 | 1,084 | 251 |
| Minneapolis | Tuscaloosa | 2,229 | 1,498 | 731 |
| Nashville | New Orleans | 1,097 | 982 | 115 |
| Paducah | Mobile | 1,074 | 685 | 389 |
| St. Louis | Pensacola | 1,226 | 987 | 239 |
| Sheffield | Galveston | 1,340 | 1,027 | 313 |

## RESIDUAL FUEL OIL IMPORT RESTRICTIONS IN NEW ENGLAND

**Mr. ELLSWORTH.** Mr. Speaker, I ask unanimous consent that the gentleman from Maine [Mr. McIntire] may extend his remarks at this point in the Record and include extraneous matter.

**The SPEAKER.** Is there objection to the request of the gentleman from Kansas?

There was no objection.

**Mr. McINTIRE.** Mr. Speaker, on March 19 of this year I spoke before the Kennebunk, Maine, Rotary Club and discussed New England's futile fight to end residual fuel oil import restrictions, stressing the point that in my State of Maine there is no competition with domestic residual production and that consumers in Maine were almost 100 percent dependent upon imported fuel.

This situation has removed all competition from the market and has penalized the Maine consumer particularly. I fail to understand why Maine and New England should suffer the economic burden of fuel unavailability at a competitive price.

This, of course, has had a regressive effect on the economies of the various States composing the New England area, for the relatively high costs created by controlled imports of residual oil have a detrimental effect on business operations. In effect, it is a dollars-and-cents proposition, one which can be measured off in terms of absence of expanded business operations and additional jobs.

And at this point I am proud to say that in Maine we have a good supply of able Maine workers who prefer pay checks to unemployment assistance.

From time to time I have read with considerable interest statements alleging residual oil import controls were necessary to our national security to preserve a vigorous, healthy domestic petroleum industry; in fact, the Secretary of the Interior recently has stressed this point over and over in spite of a contrary finding by the Director of the Office of Emergency Planning.

I think, Mr. Speaker, that Mr. Udall's contention and all other claims that imports of residual fuel oil are hurting American industries were effectively smashed by an article written by Mr. Jeff Hunnicutt, which appeared in the Oil Daily on April 27, 1964. This article pointed out as follows:

> Answer to future industrial requirements for residual fuel oil lies in greater, not lesser volume of imports as technological revolution in Nation's refineries continues to shrink domestic output with each passing year.

In concluding his article, Mr. Hunnicutt made the following observation:

> In light of these developments, it should be increasingly clear to the regulatory bodies in Washington that industry's requirements can only be met through greater imports of residual fuel, and that the coal interests—clamoring for increased restrictions because of what they term "a growing flood of heavy fuel oil"—are in reality only whistling in the dark at an increasingly nebulous ghost.

In view of these conclusions which are universally shared by those who have examined the problem objectively, I strongly urge the administration to remove these import controls on residual oil in the interests of 50 million consumers.

These consumers submit this petition for action to both our President of the United States and our Secretary of Interior.

Mr. Speaker, under unanimous consent I insert Mr. Hunnicutt's article of April 27 into the RECORD at this point:

### PETROLEUM TECHNOLOGY/ECONOMICS: RESIDUAL-IMPORTS BATTLE TO BE ACADEMIC AS A RESULT OF NEW REFINING SCHEMES

(By Jeff Hunnicutt)

ANSWER TO FUTURE INDUSTRIAL REQUIREMENTS FOR RESIDUAL FUEL OIL LIES IN GREATER, NOT LESSER, VOLUME OF IMPORTS AS TECHNOLOGICAL REVOLUTION IN NATION'S REFINERIES CONTINUES TO SHRINK DOMESTIC OUTPUT WITH EACH PASSING YEAR

If the catalyst people and the researchers of new and revolutionary petroleum refining techniques have their way, the hue and cry now being raised in Washington by the coal interests to tighten restrictions on residual fuel imports may, at some point down the road, turn out to have been nothing more than an academic exercise.

The plain fact is that supplies of domestic resid available to the fuel-oil-hungry east coast have been shrinking with each passing year as technological advances within the oil refining industry have enabled refiners to take more and more higher value products from the barrel of crude, all at the expense of the bottom of the barrel: residual fuel oil.

Too, the technological revolution in petroleum refining hasn't really caught fire yet, though it does appear to be building up a substantial head of steam. And if refinery modifications and additions already announced by major oil companies do materialize within the time span anticipated, it is entirely conceivable that the end of this decade will find the bulk of resid available to American industry is that which we are able to import from Venezuela and the Caribbean area.

To get a feel for the rate at which domestic output of residual fuel east of the Rocky Mountains has been declining, consider that of all crude charged to refineries in 1945, 27.2 percent was ultimately sold as heavy fuel oil. By 1955, this figure had shrunk to slightly more than 15 percent; by 1960 to 11 percent, and last year to just under 9 percent. Figures have been projected to show that by 1970, residual fuel output—as a percentage of crude oil charged—will have further diminished to 5 percent and possibly lower.

Reason for the decline is obvious: gasoline, kerosene and distillate fuels command higher prices in the marketplace and catalytic cracking—and later, hydrogen treating and hydrocracking—have enabled refiners to increase output of gasoline, as a percentage of crude charged, by nearly 4 percent, kerosene and distillate fuels by 10 percent during the same period. These percentages will continue to grow.

As an example, a hydrocracking unit which went on stream in California last year in conjunction with a coking unit is capable of converting 92 percent of crude charged to gasoline, kerosene, and No. 2 fuel oil. Hydrocracking capacity in the United States as of the first of the year was 72,000 b/sd. An additional 30,000 b/sd is scheduled to go onstream before year's end, 52,000 b/sd in 1965.

Nor is this all. Catalyst manufacturers have recently come up with a rash of new super catalysts for use in the industry's existing 4.5 million b/sd fluid catalytic cracking units which are calculated to cut resid yields even further.

Davison Chemical division of W. R. Grace & Co. says its new XZ-15 (for "experimental zeolite-like 15 percent alumina) catalyst has demonstrated ability to increase conversion on a West Texas heavy gas oil by 7.0 volume percent, gasoline yield by 10.5 volume percent, with the shift yields "coming primarily at the expense of $C_4$ and lighter gases and heavy fuel oil."

Esso Research & Engineering says its new catalyst, for use in fluid cat cracking units—and as yet unnamed—can increase gasoline production 15 to 20 percent, that it permits maximum selectivity and "enables refiners to obtain greater yields of more valuable products and less of others."

While all this is of tremendous value to the domestic refining industry, it offers scant encouragement to heavy industry along the Atlantic Seaboard and in New England—which vastly prefers residual fuel to coal for its operations—and whose requirements for the heavy fuel oil are going to be met one way or another, come what may.

In light of these developments, it should be increasingly clear to the regulatory bodies in Washington that industry's requirements can only be met through greater imports of residual fuel, and that the coal interests—clamoring for increased restrictions because of what they term "a growing flood of heavy fuel oil"—are in reality only whistling in the dark at an increasingly nebulous ghost.

## CAPITALIST CORPS PROPOSED

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. FINDLEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. FINDLEY. Mr. Speaker, the real success story of American private enterprise is little known around the world. The publicity it receives too often is derogatory propaganda fed by the Communists. Through the years Khrushchev has done his best to make capitalism a dirty word. We are doing too little to defend it. We are doing too little to help our neighbors abroad discover the progress which can flow from capitalism and the free economic system it embodies.

In our Voice of America broadcasts and all the other myriad contacts of the U.S. Government with people abroad we should tell the great success story of capitalism, a one-word expression for American private enterprise. Simple human interest stories of personal achievement can help to change our image abroad and at the same time motivate others to build their own road to progress. The "rags to riches, sink or swim, log cabin to White House" success story typical of the Horatio Alger series of years ago needs to be updated and told over and over again to people in the developing countries. What better examples than the success stories of yesterday's farm boys of lowly circumstances named Lyndon B. Johnson, Dwight D. Eisenhower and Harry S. Truman.

Telling the individual success stories of Mr. and Mrs. Average American is important. I am sure that some of this is already being done, but I am sure also that it can be accelerated and made more effective. This is a part of the task.

We need to export know-how in the private enterprise system, and I am glad President Johnson has suggested a step in this direction.

In the President's message to Congress March 19 on foreign aid, he included this statement:

> Wherever possible, we will speed up the transition from reliance on aid to self-support * * * we must do more to utilize private initiative in the United States—and in the developing countries—to promote economic development abroad. * * * Accordingly, we are encouraging the establishment of an Executive Service Corps. It will provide American businessmen with an opportunity to furnish, on request, technical and managerial advice to businessmen in developing countries.

This statement contains a hopeful note. I am encouraged that the President proposed the establishment of the Executive Service Corps, as it suggests activity by Americans in the field of business development paralleling the more general work of Americans in the Peace Corps.

In his statement to the Foreign Affairs Committee on April 13, 1964, Mr. Seymour M. Peyser, Assistant Administrator for Development Finance and Private Enterprise, Agency for International Development, said:

> Our Agency has served as the spearhead of the movement to bring the Executive Service Corps into being. A survey prepared for AID led to the formulation of a businessman-to-businessman plan by which U.S. managerial skills could be made available to private businesses in developing countries. Research revealed a need for such a program, and that a source of such manpower exists, principally among retired persons. A private nonprofit organization has already been formed by business leaders and associations. It is proceeding rapidly to make the idea a reality.
>
> AID has thus far furnished assistance to this private group by providing temporary administrative personnel and has expressed its willingness to consider a contribution of partial financing. The special expertise of other agencies of Government will also be made available to the Corps as it is required and requested.
>
> The nine-man Advisory Committee on Private Enterprise in Foreign Aid, as provided for in the 1963 Foreign Assistance Act, is now in the process of formation. In the language of the statute it will "make recommendations for achieving the most effective utilization of the private enterprise provisions of this act."

I hope the Committee on Foreign Affairs will spell out this hopeful idea more fully in the authorization bill now under consideration.

Two years ago, I proposed a Peace Corps-type program encouraged by the U.S. Government but carried out by a U.S. business community. Its objectives:

First. Inform underdeveloped countries about the private enterprise system, what it is, what it has achieved, what makes it tick, by means of lectures, fairs, seminars, literature, and text material.

Second. Arrange exchanges of managerial personnel at various levels to promote understanding and to develop techniques and know-how.

Third. Establish within U.S. business and industrial enterprises schools which business leaders in underdeveloped countries can attend at little or no cost.

My suggestion was that this entire program be initiated, controlled, and carried out by the U.S. business community rather than by the U.S. Government. This would place the program in the hands of people experienced in the marketplace system, who have firsthand practical knowledge of selling, developing capital, meeting payrolls, and adjusting to consumer demands.

Career Government employees, of course, usually do not have this practical, firsthand experience and could not be expected to give it the same knowledgeable and effective direction as could result from the efforts of people who have spent their productive years in successful private enterprise endeavors.

Since first proposing this idea in 1962, I have corresponded with several members of the business council and with other industrial leaders. I have found, for example, that the Lockheed Corp., established within its own enterprise a training school primarily for the benefit of leaders in the developing countries. I talked last week with a Chicago businessman who is working with businessmen in Brazil to carry out a private enterprise housing development there. No doubt the U.S. business community is already engaged in many little known but important activities which help to train developing countries in the private enterprise system.

With much the same motivation, I am sure, the President has proposed the Executive Corps and has given it the very limited and somewhat hazy scope suggested by Mr. Peyser.

It needs a different name, and more specific objectives.

To me, the name Executive Service Corps has the wrong ring. It sounds too much like the country club set, limited in membership to those with a big bankroll. Most of the people who head corporations and other private enterprise firms in the United States do not think of themselves as executives, and would prefer a different label even if they qualified.

They are all a part of this thing called American capitalism. They are capitalists. As a stockholder in the Pike Press, Inc., Pittsfield, Ill., a country printing firm, I am a capitalist and proud of it. My 15-year-old son owns five shares of General Motors Corporation stock. He too is a capitalist.

So are literally millions of Americans who take part in owning and operating business firms.

Khrushchev does his best to make capitalism a dirty word, but why should we yield the definition to him?

Let us rename this hopeful promising program the Capitalist Corps instead of the Executive Service Corps.

By its effective work in helping the developing countries build their own road to success, we will elevate capitalism in the eyes of world. Call a spade a spade. Let our program be known as the capitalist program, and let it contest toe-to-toe with communism for the economic leadership of the developing countries.

The same inspiration could be imparted to the Capitalist Corps as a calling for businessmen and women of all ages, as has occurred in the Peace Corps.

And the same opportunities for building good will would result. Indeed, the training of volunteers for the Capitalist Corps—carried out of course by the business community itself—would be comparatively easy. All that is needed is the encouragement and motivation which could readily be provided by the President himself.

Let the President raise the standard, and I am sure the U.S. business community will respond enthusiastically and effectively.

I suggest as objectives the items mentioned earlier:

First. Inform underdeveloped countries about the private enterprise system, what it is, what it has achieved, what makes it tick. Do this by means of lectures, fairs, seminars, literature, and text materials.

Second. Arrange exchanges of managerial personnel at various levels to promote understanding and to develop techniques and know-how.

Third. Establish within U.S. business and industrial enterprises schools which business leaders in developing countries can attend at little or no cost.

What will be the role of Government?

First of all, encouragement. AID officials could assemble and distribute information on what has already been done by U.S. businessmen in this general area, and encourage others to follow suit.

Second, recognition. The President could properly recognize and praise the initiative of those in the business community who take part. Citations and awards could help to establish capitalism's image at home and abroad at the high level it deserves.

Third, tax incentive. In determining taxable income, individuals and business firms should be permitted to deduct expenses incurred as members of the Capitalist Corps. I am confident Internal Revenue already permits such deductions, but this point should be clarified by legislation if need be.

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## EXPERIMENT IN INTERNATIONAL LIVING: FRANCES P. BOLTON HONORED

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. Cleveland] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, our distinguished and beloved colleague Frances Payne Bolton, of Ohio, has received a fitting and significant honor, the Experiment in International Living's sixth annual citation for outstanding service and contributions to international understanding. Earlier this year, in the Congressional Record—February 13, pages 2866–2867—I outlined the activities and purposes of this outstanding organization in promoting international understanding by means of a program of sending visiting American students abroad for home visits with foreign families and of bringing foreign students into our American homes. I pointed out that Mrs. Bolton through the Payne Fund was instrumental in establishing the Experiment back in 1931, and she has continued to take an active and important part in the development of the Experiment through the years. Mrs. Bolton's faith and interest in the Experiment has helped insure its success.

### GORDON BOYCE ALSO HONORED

Since its founding the Experiment through the leadership of Dr. Donald B. Watt and Dr. F. Gordon Boyce has grown in size and reputation until its work is now internationally famous and highly praised around the world. Boyce was recently awarded the Officer's Cross of the Order of Merit, West Germany's highest civilian decoration, for his efforts toward the peaceful rebuilding of Germany and its international relations. He has been a moving force in getting West Germany to participate in the activities of the Experiment in International Living.

The Experiment in International Living has its headquarters in Putney, Vt., with an international training and orientation center in Brattleboro. Under leave to extend my remarks I would like to include here for the benefit of my colleagues an article about the citation award given to Representative Frances P. Bolton that appeared in the May 16 issue of the Brattleboro, Vt., Daily Reformer:

### REPRESENTATIVE BOLTON HONORED: RECEIVES CITATION FROM EXPERIMENT

Washington.—Frances Payne Bolton, Congresswoman from Ohio's 22d District, received the Experiment in International Living's 6th annual citation for outstanding service and contributions to international understanding at a reception and dinner given in her honor last evening at Decatur House. The award was presented to her by Gordon Boyce, Experiment president, on behalf of the organization's board of trustees.

Cited for her progressive and early stand on social welfare issues, Mrs. Bolton was singled out for her role as the Experiment's first benefactor. It was a grant from the Payne Fund in 1931 which enabled Dr. Donald B. Watt, Experiment founder, to attend a conference on problems of international government in Geneva. A year later he launched his first program in international understanding based on personal diplomacy.

From the beginning, Mrs. Bolton has demonstrated a persistent faith in the Experiment's objectives and has generously supported many of its major efforts. In 1962, the Payne Fund, of which she is chairman, contributed $25,000 toward the purchase of Sandanona, the Experiment's international training and orientation center in Brattleboro, Vt.

Since the opening of the center, some 3,400 individuals, including incoming and outbound Experiments, Peace Corps volunteers and language students, have prepared for international experiences through training provided at the facility. In addition, it has played host to Ambassadors, Government officials involved in the State Department's cultural exchange programs, educators and universities, and representatives and volunteers who administer and support Experiment programs in more than 90 countries.

Last evening's presentation was the highlight of a round of activities for members of the organization's board of trustees who are attending their spring meeting at the Washington Cathedral. Rev. Bayard S. Clark, canon of the cathedral and an Experiment trustee, is hosting the working sessions.

Previous recipients of the citation include the Chester Bowles family; the Clarence Gamble family; the Reverend James Robinson, founder of Crossroads Africa, and Mrs. Robinson; and R. Sargent Shriver, Jr., Director of the Peace Corps.

## FURTHER TARIFF CUTS

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. WHALLEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. WHALLEY. Mr. Speaker, I wish to join the concern expressed here this afternoon over further tariff cuts in the forthcoming GATT Conference that is scheduled to convene May 4 in Geneva.

There are several important industries in my district that have been hard hit by imports even now, as a result of past tariff cuts. It goes without saying that if the tariffs were reduced again the condition would be greatly aggravated.

The President was authorized in the Trade Expansion Act of 1962 to cut existing tariffs another 50 percent and it looks as if very, very few items would be exempted beyond those reserved by the statute itself—certain escape clause and national security items.

I have in my district the manufacture of manmade fibers and the imports in recent years have risen rapidly. The industry is overexposed as it is, without more tariff reductions. The coal industry, as Members well know, has been injured by imports of residual fuel oil; and the import quota has been liberalized from time to time to the detriment of the coal industry.

The steel industry is another that has suffered from import competition. Its exports have suffered for the same reason, that is, lower costs of manufacturing abroad because of lower wages. Again, further tariff reductions would increase the industry's difficulties.

A similar condition exists for the hard hit electronic tube producers.

The refractories industry is another employer of labor in my district. It is expressing concern over imports in recent times.

Mr. Speaker, none of these industries can stand another tariff cut without suffering reverses and losses. Most of all, the workers will feel the consequences. The companies will be forced to install laborsaving machinery and the effect will be to displace workers and these may find it hard to find other work.

The State of Pennsylvania has already suffered greatly from imports that compete with many lines of products manufactured there. To be sure, there are other contributing causes of unemployment beside imports. One of these is mechanization and automation. Yet the pressure of imports brings about the need for more and more laborsaving installations. Therefore imports contribute more to unemployment than may appear on the surface.

Imports produce yet another adverse effect on employment. In casting a doubt over the future prospects of business in many industries, imports put a damper on plant expansion or the building of new plants. When the outlook for greater sales is dark, no industry in its right mind will expand. It therefore will not have openings for additional workers and therefore will not help put the new workers, who are coming on the scene each year, to work.

This is the problem.

Imports, of course, are necessary if we are to export; but imports that come in at a great cost advantage upset our market and do much more damage to our economy than the good that is done by exports. Imports of competitive finished products, let me repeat, create pressure for lower costs in the domestic industries. This pressure results in displacement of workers and we aggravate our unemployment problem. Then we need redevelopment assistance from the Federal Government, retraining programs and special legislation to attack poverty.

Mr. Speaker, when we reduce tariffs under present circumstances we go a long way toward creating our own unemployment problem, blighted areas and centers of distress in localities that depend on one industry.

Since we have already reduced our tariffs some 80 percent, it is about time that other countries match our record before we go farther down that road.

## WORLD TRADE COMPETITIVE FACTORS IN STEEL

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. DAGUE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. DAGUE. Mr. Speaker, while precise information as to the number of man-hours used in the production of a ton of steel in the European Coal and Steel Community countries and Japan is not available, enough is known to indicate that whatever the advantage enjoyed by the American industry, it is not nearly enough to offset the differences in hourly employment costs.

At the same time, the proportion of modern to older equipment, largely financed by the United States since World War II, has grown faster in the steel industries of other countries than in the United States, with efficiency in the utilization of labor increasing more rapidly than in the United States.

United States tariffs on steel carry ad valorem duty rates averaging about 6 percent, lower than any other major product group except inorganic chemicals, agricultural machinery, and fertilizers. Steel tariff rates are from a half to a third of those of other industrial imports.

The differential which is indicated between the rates in the United States and in other countries is, in fact, understated, since the ad valorem tariffs on steel mill products are imposed on a c.i.f.—cost, insurance, and freight—basis rather than on the f.o.b. value, as is the case in the United States. In a tariff study by the Committee for Economic Development, it is brought out that this difference in procedure means that countries which levy on a c.i.f. basis obtain a 10-percent increase in their effective tariff protection as compared to the United States.

These are factors which, I hope, will be constantly kept in mind by Christian Herter, the President's Special Representative for Trade Negotiations, and by our other participants in the upcoming trade negotiations at Geneva, under the General Agreement on Tariffs and Trade.

In approaching these tariff negotiations, it is important not only to consider both the average and the distribution of the existing rates, but also what reductions in specific rates will accomplish—especially in view of the existing capacity-demand imbalance throughout the world.

Furthermore, there seems to be a definite question as to whether the rates on the treaty products of the European Coal and Steel Community will even enter into the 1964 negotiations. The Community just recently promulgated higher tariffs in member countries, and there are indications the Community countries would like even higher steel tariffs than those existing to protect against cheap imports from third countries.

It is difficult, if not impossible, to build up a case for any further lowering of U.S. tariff rates on steel products. Any lowering of U.S. tariff rates on steel products is likely to increase unemployment among U.S. steelworkers and cause further deterioration of America's balance-of-payments position.

In addition to the negotiations on steel mill product tariff rates, the steel industry and its hundreds of thousands of employees also have a vital stake in tariff negotiations on the many products that utilize steel as a material.

The United Kingdom, Japan, and Canada will not be the primary negotiating partners of the United States in the 1964 GATT sessions. However, under the most-favored-nation principle, the rates negotiated by the United States and the European Economic Community will be extended to all GATT signatories. Clearly, the British, Japanese, and Canadians should be expected to reciprocate such concessions on steel related goods as well as on steel mill products.

There are many barriers to trade in addition to tariff restrictions. These include transactions taxes and import equalization taxes, surcharges in addition to tariff rates, import licensing and quotas, foreign exchange controls, customs formalities, and exclusive supplier agreements, all of which tend to discriminate against U.S. exports of steel products.

The incidence of such barriers varies from country to country. Japan, for example, still has import licenses and foreign exchange controls which can be invoked at any time to curb imports. In Western Europe, the widespread use of transactions taxes bears unfairly on imports from countries, like the United States, which depend less on such indirect taxes on sales and more on direct taxes on personal and corporate net income. Existing European practice is to levy such taxes on imports and to rebate them on exports.

Transactions taxes have an even greater adverse impact on trade between a country levying them and one like the United States which does not apply them nationally. U.S. goods entering the French market, for instance, already carry their full share of the burden of U.S. business taxes, including that on corporate income. But they are then liable not only for whatever the French tariff may be, but also for a 25-percent transactions tax on the c.i.f. duty paid value plus a 2-percent customs stamp tax. French exports competing with U.S. goods in world markets, conversely, are exempt from previously paid transactions taxes. In other words, U.S. exports, fully taxed, compete with products from countries which exempt exports from some part of their equal burden of taxation.

Roger Blough, chairman of United States Steel Corp., in a speech a few months ago noted that we speak easily about oversea markets, but asked:

> What is it really like out there? How is business carried on? What are our exporting counterparts abroad up to? How do we look at them?

He said:

> Actually, there appears to be a substantial difference in outlook and in selling philosophy. Whenever we discuss the nature and meaning of competition, we are really discussing the factors which ultimately determine the value of the merchandise delivered and the price paid at the delivery point—

Said Mr. Blough. To gain a more acceptable share of international trade, he continued, U.S. manufacturers must be more competitive "and this means competitive in value delivered at the price paid."

In summary, this is what Mr. Blough had to say on the subject:

> The foreign producer, usually starting with some apparent natural cost advantages, is often financially assisted in various ways and is also encouraged by his government to engage in dual pricing, and if this results in discriminatory pricing with respect to his domestic buyers, so be it. The end justifies the means.
>
> In contrast the relationships between American business and Government are rather different. Because of existing attitudes important mutual problems may remain unsolved. Even the administration of existing laws and regulations designed to apply in the case of imports are sometimes affected by an atmosphere in which differing national objectives seem to create conflicts among respective departments.
>
> Thus many U.S. corporations end up at the short end of the competitive stick. Their opposite international numbers enjoy prearranged positions which are supported by their government in a manner which would not be acceptable or perhaps even permissible in the United States. At the same time U.S. manufacturers are in many cases impelled by costs, or by commercial, legal, and other considerations, to price their own goods under a system not required of foreign producers.

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## STUDENTS AROUND THE WORLD SUPPORT CIVIL RIGHTS MOVEMENT IN THE UNITED STATES

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, I would like to take this opportunity to mention a group of messages and petitions from students throughout the world dealing with the movement for civil rights in the United States. These petitions, telegrams, and letters, from students in 27 nations, were presented to me by the U.S. National Student Association, the recognized national union of students in the United States, in hopes that this demonstration of international sentiment would aid in overcoming discrimination in our country.

I feel that this shows the degree to which the United States is being watched in other lands as it strives to make good its noble aspirations toward true liberty for all men of every race, creed, color, and religion. The amount of interest and the type of concern shown by students is, in many countries, a real indication of the nature of what that country's governmental concern will be in the not-too-distant future. And in every instance, the views expressed by these students are significant in making us aware of the universal appeal of those seeking their freedom. Therefore, it would be wise for us here to take note of this expression of opinion, for the future good of the United States and for the greater benefit of mankind.

I want to emphasize the point that what we do in civil rights is watched around the world. I believe that our foreign policy should advocate the gradual extension of freedom through the entire world. Often our efforts in implementing our foreign policy are clouded due to uncertainty and the indecisiveness with which we pursue our objective. Therefore, I submit that through the action taken by the House of Representatives in passing the civil rights bill, this body has reasserted the principles of freedom and equality on the home front that we must unceasingly assert on the international scene. This is a necessary and important step and I hope that our foreign policy will be pursued with the same character of determination to extend and preserve freedom that has characterized the action of this House.

In view of the fact that the U.S. Congress is still considering a civil rights bill of paramount importance, one which must pass in order to preserve the fabric of our free society, I feel it appropriate at this time to present some of these messages to you.

The United Federations of Hungarian Students, formed after the Hungarian revolt in 1956, sent a message, a portion of which follows:

> Having received your statement on February 1, "Civil Rights Day" in the United States circulated by COSEC on the 31st of January, I would like to express the solidarity of all Hungarian students with USNSA on behalf of the International Secretariat of the UFHS.
>
> I very much hope that the discussion on part of the USNSA executive and of congressional leaders will accelerate the process of the bill's going through legislative channels.

The international vice president of the National Union of Basutoland Students says:

> I am in duty bound to acknowledge with thanks receipt of your urgent call for student action.
>
> We at this College who come from all over Southern Africa, are the chief victims of racist tyranny of this century and know only too well the degradations, torture and other inhumanities which people of African origin endure in the United States of America. We request you not to relent in your struggle to wipe out all forms of human separatism.
>
> Let the royal law of love to one's neighbor be our guide in words and actions.
>
> Enclosed please find petition forms duly signed by 85 students.

These signatures are particularly moving in that there are only about 150 students in all of Basutoland.

The Confederation of Iranian Students sent this message:

> The Confederation of Iranian students pledges all solidarity with the U.S. National Student Association, the Negro people and student body in their struggle for the full realization of equality for all and the speedy solution to a situation which we condemn in the strongest possible terms.
>
> We have always admired the brave and everlasting principles laid down in the Constitution of the United States of America. It has been the basic belief and hope of millions of suppressed that "all men are created equal and are endowed with the inalienable right for life, liberty, and the pursuit of happiness."
>
> Iranian students throughout the world join with the U.S. National Student Association to emphasize in an urgent plea to the Congress of the United States of America that the whole world is watching with anxiety the passage of the civil rights bill now pending before the U.S. Congress.
>
> Confederation of Iranian Students has in the past and will continue in the future its full support and solidarity toward the actions of USNSA for racial freedom in the United States. CIS associates itself with USNSA's endeavor to fight against all kinds of discrimination and requests our petition be communicated to the U.S. Congress.
>
> With every good wish and personal regards.

The University Center of the National University of Nicaragua says:

> With the hope that this letter reaches you February 1 or before, if possible, in the name of the University Center of the National University of Nicaragua, I am expressing our active feeling of solidarity with the democratic movement against racism.
>
> In a powerful country such as the United States the effect of racial discrimination is noticed as one of the worst problems, reaching a maximum when it is a question of a country that approaches the lead in knowledge and principles, knowing that all people are of the same flesh and that the entire world sees that this powerful Republic speaks of equalities, is a member of the United Nations, and supports the principles of "human rights," but it doesn't enforce them.
>
> Hoping that our vote serves in this noble cause and we are waiting until the U.S. congressional representatives understand that the millions of people throughout the world are watching the manipulation of those laws and if they wish to attain the peak in world relations; their actions and behavior create, little by little, an international distrust.

The National Union of Iraqi Students sent the following letter:

> It is a privilege for the National Union of Iraqui Students to participate, even physically, in this historic anniversary and day when a human being is liberated from his chains and dreadful thoughts, and gains once more his self dignity and respect and becomes the master of his destiny regardless of his race, religion, or belief.
>
> We must together accelerate all our efforts against racial discrimination and propound an understanding policy to block all attempts of prejudice to ruin people's cooperation and solidarity.
>
> The NUIS is very glad to see its brothers in the United States celebrating their triumph, and anticipating the victory of the whole world against these oppressive, unhuman forces.

David E. Jenkins of the Canadian Union of Students sent the following telegram:

> The Canadian Union of Students gives its wholehearted support to the U.S. National Student Association on this International Day of Solidarity with students struggling against racial discrimination in the United States. CUS has long given its support to USNSA programs to combat this great injustice, and CUS will continue to give its support. At its 27th National Congress in late 1963 the following resolution was passed by student leaders from all across Canada:
>
> "This congress notes that citizens of Negro descent are denied fundamental human rights by certain State governments and private agencies in the United States, and that students of Negro descent are in many cases barred from full educational opportunities. This congress, therefore, condemns the policy of racial discrimination practiced by these governments of the United States to remedy these abuses of the Constitution of the United States; supports the U.S. National Student Association in its efforts to protect against racial segregation and in its constructive policies and programs to remedy the situation; and mandates the CUS board of directors to protest vigorously to the appropriate authorities on any violation of the rights of Negro students, anywhere in the United States."
>
> Since that time 14,000 Canadian students have signed the petition urging the U.S. Congress to pass the civil rights legislation now before it. Once again we state our unqualified support.

These telegrams were also received by USNSA, National Union of French Students:

> Sommes solidaires de votre lutte pour adoption du projet de loi sur les droits civils.

The Nation Union of Nigerian Students:

> NUNS congratulates USNSA for fight racial equality in United States. Condemns discrimination against millions of American Negroes. Calls on U.S. House of Representatives expedite action passing civil rights bill.

The National Union of Ethiopian University Students:

> Our solidarity with students struggling against racial discrimination.

The National Union of Australian University Students:

> Australian students send greetings congratulations. Assurances continued wholehearted support for your splendid efforts on historic International Day of Solidarity with students fighting against racial discrimination in the United States of America.

Messages have also been sent by students from Morocco, England, Wales, and Northern Ireland, Finland, New Zealand, Malaya, Guatemala, Lebanon, Tunisia, Catalonia, Sweden, Mexico, Indonesia, Greece, Brazil, Angola, and South Africa, all urging progress in achieving civil rights for all Americans.

## EXCESSIVE IMPORTS

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. SAYLOR] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SAYLOR. Mr. Speaker, it is reassuring to find so many of our colleagues in accord on the desirability and necessity of taking action to protect the economy of the United States against excessive imports.

A decade ago we in the House had a good team effort in motion on this subject, but our forces were split by the usual administration maneuverings before the final vote on a bill to enact a sound legislative barrier against the illicit intrusion of foreign commodities on our markets.

In the years that followed there have been series of attempts to reorganize the many interests and regions seriously injured by unjust foreign competition, but in every instance the crusade falls short because of divisional splits created by promises, threats, and pressure generated by the State Department and exerted by the White House. This manner of obstructing legislation to protect American markets has not by any means been the exclusive tool of a single political party. Parallel or identical manipulations of this nature were utilized through both Democratic and Republican administrations. They are equally abhorrent regardless of the political stripes of those responsible for this interference with proper and honest legislative process and procedure.

I have been among those eager to defend the domestic economy against disproportionate alien encroachment and have sought for principle and logic in the formulation of our international trade policies. I have time and again asked substantial elements of industry, agriculture, and labor to unite on demanding rational trade laws. It is discouraging to see the circle of patriots fragmented by the desperate and disdainful tactics of the combined diplomatic-political combo that must share responsibility for much of the unemployment prevalent today.

Because of the Pennsylvania primary election yesterday, I was unable to participate in the discussion on imports in the House yesterday. On my return today I was highly pleased at the large number of constituencies represented in that protest. It was particularly gratifying to find that every area of the Nation had a spokesman protesting the widespread economic damage that is being inflicted by our absurd foreign trade program. It occurs to me that we may have the nucleus of an unprecedently strong and effective group of bipartisans capable of projecting the sort of activity that will hold back the torrents of products from abroad and bring a measure of relief to many thousands of unemployed persons in this country.

Among our colleagues who spoke of the need for a revised foreign trade policy were representatives of New England, New York, and New Jersey, whose economic difficulties attributable to too much foreign competition include cotton, shoes, leather products, photographic equipment, rubber and plastic products, fabricated metal, paper, steel, and allied products, electronic equipment, stone, clay, glass, and organic chemicals. A tabulation of unemployed in these and other constituencies heard from yesterday would amplify the major reason for depressed conditions in each of the States involved. And the way to a quick acceleration of business therein is obvious.

But evidently, Mr. Speaker, that answer to surplus labor and poverty is not acceptable to the administration. Relief will come through legislative action alone, and there is no use fooling ourselves otherwise. Furthermore, these statements made yesterday and today—these demands and appeals for relief from the inequitable burdens of foreign competition—will have fallen on fallow ground unless each and every Member of Congress involved in this effort is determined to resist any and all blandishments, vows, and warnings that are as certain as tomorrow to come from the White House once this collection of dedicated and conscientious Representatives of the people get to a point where we have the horses to put freetraders on the run.

I recognize that the gentlemen from the Atlantic seaboard may have a problem in affiliating themselves with those of us who represent coal mining areas. We seek to cut back the flow of foreign residual oil. Some of your large fuel consumers—those who are more interested in dollar profit than the Nation's economic and defense structures—have created the impression in your areas that free access to seaboard markets by international oil supporters is essential to assured fuel supplies at reasonable prices. This allegation is, of course, without foundation. Coal at the mine has dropped more than half a dollar a ton—about 10 percent—during the last 15 years of general inflation and higher operating costs. Railroads, through the introduction of the unit train, knocked approximately one-third of the transportation costs for coal from Appalachian mining areas to the Atlantic coast during the past 12 months. We can get you all the fuel you need if given the opportunity. In so doing, our miners and railroaders will be better able to buy your shoes, woolen goods, television sets, and pharmaceuticals. We want to buy from you to keep your people in employment even if it costs us more than if we were to buy from your competitors abroad. How about the same consideration?

Mr. Speaker, while I do not propose to put my colleagues in the embarrassing position of meeting publicly with a Member of Congress who believes that Americans in my district have the right to expect the same protection from foreign competition as American fishermen and textile workers are demanding, I nevertheless propose to confer with some of my Republican and Democratic friends to find out whether there might not be a willingness to make a reappraisal of this whole silly business so that we can get down to working on legislation that will open new job opportunities all along the line. I think that the discussion that took place here yesterday and today has been most helpful, and I do not propose to permit the beneficial effects to evaporate. It is time that we get together and support legislation that will be mutually helpful—to the North, to the South, to the Pacific Coast, Rocky Mountains, and New England, as well as to the long-neglected communities in Pennsylvania.

## DISTRIBUTION OF DEMOCRAT CONVENTION PROGRAM

Mr. **ELLSWORTH**. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. OLIVER P. BOLTON] may extend his remarks at this point in the RECORD and include extraneous matter.

The **SPEAKER**. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. OLIVER P. BOLTON. Mr. Speaker, under leave to extend my remarks, I would like to bring the following matter to the attention of the House.

In the April 6 edition of the Democrat National Committee's publication, the Democrat, Chairman John Bailey announced plans whereby this year's Democrat convention program would gross several million dollars in revenue. At that time, Mr. Bailey said, "it marks the first time that the publication will be distributed outside a convention, where it was available previously only to delegates and other registered officials."

In making public the decision of the Democrat National Convention Committee, Chairman Bailey said the program will be dedicated to the memory of the late President Kennedy. He estimated that several hundred thousand copies will be available for distribution at $10 a copy by State central committees, Democratic women's groups, and Young Democrat Clubs.

It had previously been reported that in addition to the sales price of $10 per copy, advertising in the program would run to $15,000 per page, as compared to a high of $5,000 per page in previous convention programs. Businessmen who have been approached to buy ads said they have been advised that the party's goal was to sell 200 pages of advertising. All told, it seems evident that the goal from direct sales and advertising will approach between $5 and $10 million.

This power play is a distinct departure from the past convention procedures of both parties. Heretofore, program receipts of about $200,000 have been turned back to the nonpartisan convention committee of the host city as part of its bid for attracting the convention in the first place. With the total cost of national conventions usually not exceeding $1 million, it is difficult to believe that several million dollars in program receipts will be used to underwrite the cost of this or any other future Democrat convention.

With this in mind, on April 18 last, I called upon President Johnson to abandon this promotion on the basis that the entire procedure was a clear violation of the Hatch Act, the Corrupt Practices Act, and therein, section 608(b), title 18 of the United States Criminal Code, which states:

> Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

I pointed out that while the Federal Corrupt Practices Act has produced relatively few precedents and many evasions, its interpretation with regard to the sale of convention programs is unusually clear.

On August 17, 1940, then Attorney General of the United States and later Supreme Court Justice Jackson stated that sale of the Democrat National Committee's convention book would be a clear violation of the Criminal Code. In doing so the Attorney General backed up the late Senator Hatch's comment of August 12, 1940, when he said:

> Whether the Democratic Party through its National committee, State committee or local organizations, sells the book, it is encouraging violations of the law. I don't think my party's committee wants to encourage violations which can lead to penalties of $5,000 fines. The only thing to do now is to discontinue the book and obey the law.

Mr. Speaker, on the day following my statement, Chairman Bailey refused to budge from his former position in this matter. He reiterated that all proceeds from the sale of the book and advertising would be used to underwrite costs of the convention. Yet on the same day that Chairman Bailey was making his statement here in Washington, the Democrat State chairman of Ohio, Mr. William Coleman was quoted as saying:

> For each $10 program sale made in Ohio, the State committee would receive $4.

He also said that the Ohio committee proceeds could be used for "political education" as opposed to direct political use.

To me, this was most enlightening. Here in Washington, we have Chairman Bailey claiming that the millions of dollars in proceeds would be used to underwrite the costs of the convention in Atlantic City, while at the same time, his Ohio chairman is admitting that 40 percent of the proceeds would inure to the coffers of State central committees. By this, am I to understand that the Ohio Democrat Committee is going to be asked to foot part of the bill for the Atlantic City convention? And what kind of political education will the Democrat Committee of Ohio embark upon? Frankly, in my opinion, Mr. Coleman's remark merely confirms my original suspicion that the proceeds from sale of this convention program were never intended for anything other than direct political use in this election year. His statement also confirms that not only is the program a violation of the spirit of the law, but also a violation of the letter of the law, as well.

Mr. Speaker, times have certainly changed. Back in 1940 when confronted with the exact same situation, the Democrat National Committee publicly acknowledged its error and promptly halted all sale of the convention program.

With the 1940 precedent in mind, how can Chairman Bailey claim that "the legality of selling program books has long been established." From the record of debate in the House and Senate leading up to the 1940 amendments to the Corrupt Practices Act, it is clear that the Democrats' national sale of convention programs in 1936 provided the major legislative impetus.

The present undertaking flies in the face of this recognized interpretation of the law. Worse yet, it is being promoted as a tribute to the memory of the late President Kennedy. I am sure the fact that books about our late President are currently first, second, and third in the national bestsellers lists has not been lost on such experienced promoters as George C. Bevel, Jr., the former publicity chief for the 1960 Citizens Committee for Johnson, who is actively soliciting advertising space for this year's program.

Following last November's tragedy, most Americans—Republicans and Democrats alike—have been sickened by the multi-million-dollar industry of macabre souvenirs and glossy magazine covers spawned by get-rich-quick ghouls with dollar-sign eyes. Can the Democrat Convention program be far different? How many Democrats would pay $10 for a convention program were it not for the well-advertised dedication?

Obviously, the Democrat chairman is in a spot. On the basis of the 1940 action of his own party, he should halt the entire operation. If he feels the promotion is too far along to do this, however, may I respectfully suggest that his party could comply fully with the restrictions of the law and still accomplish his publicized goals if all receipts from the advertising and sale of any such program were turned over to the Kennedy Memorial Library at Harvard or the Joseph P. Kennedy, Jr., Foundation. Were such a determination made public prior to the national sale, many Independents and Republicans, as well as Democrats, might well purchase a copy.

Mr. Speaker, for the benefit of my colleagues, I would like to insert the statement by the distinguished late Senator from New Mexico, the Honorable Carl Hatch, made on the floor of the Senate on August 12, 1940, when a similar matter was then under discussion:

> A week ago today I took the floor to criticize and condemn what I thought was, and what I characterized as, an open, flagrant

violation, or rather evasion of the bill Congress recently passed, as well as the one it passed last year, relating to political activities. In that instance I criticized and condemned a flagrant evasion of the terms of the bill relating to campaign contributions as laid down and expressed in the opinion of Mr. Fletcher, general counsel for the Republican National Committee. I did not hesitate to say that I thought the scheme was vicious and bad, and was destructive of the principle and intent of the law. I am of the same opinion today.

But, Mr. President, over the weekend there has developed another situation. In fairness I feel compelled today to take the same attitude I took 1 week ago today, except that on this occasion my criticism goes to the actions of the committee of my own party, the Democratic National Committee, with reference to the so-called convention book.

I had heard about that book for some time. I knew about the instance of the last campaign, in 1936. I had hoped that would not be repeated in this campaign. I read in the press the statements made by members of the committee as to the reasons for the publication and sale of the campaign book this year; and I say now, Mr. President, that I think what the national committee of my own party is doing today, or proposing to do, with the publication and sale of the convention book, amounts to just as much of an evasion of the law, an evasion of its principle and purpose, as the plan which Mr. Fletcher conceived, and which I denounced last week.

Every word I used in denunciation of the plan proposed by Mr. Fletcher I use today in connection with the Democratic convention book. I wish to point out, Mr. President, exactly where the vice in the sale of the convention book lies.

I think probably it is entirely correct, from the standpoint of strict legal construction, that advertising which had been contracted for and paid for before the book was published is probably not a technical violation of the act. The contracts having been made before the act became effective, and being completed transactions, a law reaching backward would probably be in the nature of an ex post facto law. So, technically, that contention may be correct. So far as the so-called Hatch law is concerned, such advertising may not be a violation of the provisions of that particular law. However, last week I said that I did not care about the technical construction placed upon the act by Mr. Fletcher and his committee. This week I do not care about the technical construction placed upon the act by members of my own party. If it is bad in the one case, it is bad in the other. Even though the advertising in the convention may be technically legal under the so-called Hatch Act, in my opinion it clearly amounts to an evasion, if not a violation, of the Corrupt Practices Act, insofar as advertising was solicited from corporations, and corporations paid for advertising in the convention book.

I know the terms of the Corrupt Practices Act. I have it before me. I know that it relates only to contributions. Corporations are forbidden to make contributions to campaigns; and, again, technically there may be no violation of that law, because the corporation buys advertising space. But I say, as I said about Mr. Fletcher's plan, that it is an evasion of the law, because no corporation will buy advertising space in a campaign book for its value from an advertising standpoint. In my judgment, it amounts to at least an indirect contribution to the campaign fund and an evasion of the Corrupt Practices Act. So much for that.

I do not wish to talk long on this occasion. I merely wish to make clear and definite the fact that I do not apply to the Republican Party a rule which I do not also apply to the Democratic Party. However, at this time I wish to mention particularly the exact conditions of the sale or distribution of the book.

It was said that the national committee proposes to sell the book for 25 cents a copy. The proceeds of the sale naturally—it could not be otherwise—would inure to the benefit of the Democratic National Committee and the candidates on the Democratic ticket. As Attorney General Jackson pointed out, unfortunately the sale is not prohibited; but the buying is prohibited, whether the sale is made directly by the Democratic National Committee, or indirectly, through State and local committees, as is suggested in one news dispatch on my desk, wherein it is said the national committee does not propose to sell the books itself, but to send them to State and county committees and let them sell them for a price not to exceed 25 cents. Possibly, so far as the selling agency is concerned, such a transaction would be strictly legal. However, every person who bought the book would be violating a criminal statute enacted by the Congress.

The Corrupt Practices Act provides that:

"It is further declared to be a pernicious political activity, and it shall hereafter be unlawful for any person, individual, partnership, committee, association, corporation, and any other organization or group of persons, to purchase or buy any goods, commodities, advertising, or articles of any kind or description where the proceeds of such a purchase, or any portion thereof, shall directly or indirectly inure to the benefit of or for any candidates for an elective Federal office (includes the offices of President of the United States and presidential and vice-presidential electors) or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party: *Provided*, That nothing in this sentence shall be construed to interfere with the usual and known business, trade, or profession of any candidate."

So I say, Mr. President, that whether a sale is made by the national committee, by a State committee, or by a local or county committee, every person who buys one of the books is violating that provision of the law. I do not think the national committee of my party or any other party wants to sponsor sales which subject the purchasers to penalties consisting of fines of as much as $5,000 or 5 years in the penitentiary.

There is but one thing to do about the convention book, Mr. President. Regardless of what the cost may be, or what effect it may have, it should be discontinued at once. Last week I said to the Republican National Committee, "Obey the spirit as well as the letter of the law." This week I say to the Democratic National Committee, "Obey the spirit as well as the letter of the law."

## TRADE NEGOTIATIONS IN GENEVA

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. KEITH] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. KEITH. Mr. Speaker, I would like to associate myself with the growing contingent of Members who have expressed serious concern over the forthcoming trade negotiations in Geneva, starting May 4, the so-called Kennedy round of the General Agreement on Tariffs and Trade.

It would be fair to say, I believe, that never before has domestic industry been so apprehensive. The new act could permit drastic cuts in tariffs and cuts that could be made without prior regard to the resultant injury to our own domestic interests. We have abandoned the no-injury approach for one of compensated injury. The Trade Expansion Act was meant to give the President more flexibility in trade negotiations, but imprudently implemented it could mean irreparable damage to our economy and to our labor force.

U.S. negotiators, therefore, must go to Geneva with the foreknowledge that many of our most important industries have a marginal existence now and cannot tolerate a new surge of imports.

The combination of cheap labor, cheaper raw materials, and cheaper transportation, coupled with low duties or no duties and high or unlimited quotas, has brought some of our basic industries to their knees. Many of them are among the greatest employers in a nation long-suffering from the economic impediment of rising unemployment.

I would not pretend to be an expert on GATT, but I can speak with assurance when I say that the most important employers in my district—textiles, shoes, fishing, copper and brass fabrication, and many others—cannot exist much longer in the face of a national policy that seems bent on giving every competitive break to foreign manufacturers, while at the same time they are burdened by Federal taxes approaching a confiscatory level in some instances. The cruel irony and one of the great economic follies of our time is that much of the taxload American industry carries—these taxes are a part of the cost of doing business and result in a growing disadvantage in meeting foreign competition, here and abroad—results from Federal spending programs designed to artificially prop up the economy and create make-work projects for unemployed laborers who have lost their jobs because of foreign competition. This vicious circle threatens to strangle many important industrial areas of the Nation. No amount of Federal money, no amount of public works projects, could restore the prosperity and jobs created by the industries now threatened by the prevailing flood of imports.

There should be no thought of granting further trade concessions in industries such as these.

I will not impose on the time of my colleagues by citing all the many statistics available to support my position. The facts regarding the impact on the textile industry, for example, have been well developed in proceedings before the House in recent weeks. Suffice it to say that the wool and cotton textile industries are at a crucial crossroads. Their ultimate survival depends to a great extent on the trade policies of the Federal Government. This industry, which is the largest single manufacturing employer in the Nation, has seen imports climb 1,100 or more percent in the past 15 years, while exports have dropped by almost half in that same period.

Shoe imports have increased at an alarming rate. From 1955 to 1962, the increase was over 600 percent. This is up from 8 million pairs a year to more than 55 million pairs in 1962. Based on current trends, the import level is expected to reach 125 million pairs in 1965.

Shoe factories in some 600 communities across the land are jeopardized by this trend. A work force of some 240,000 men and women, with a payroll of more than $750 million a year, is endangered by imports from nations where the average wage per hour for shoe workers is as low as 35 cents for a 16-hour day. The result of this kind of competition can be seen in Brockton, Mass., long known as the Shoe City, where unemployment is 9 percent of the work force, or approximately 50 percent above the national average.

The fishing industry is beset by many problems, but one of the most serious is the mounting flow of imports. Combined with our generally ineffectual level of tariffs on fish and fish products and the fact that many foreign nations heavily subsidize their fishing operations, the American fisherman is finding it nearly impossible to compete with imports and still earn a decent living.

Last year, for the first time in American history, imports exceeded domestic production.

One encouraging sign we have seen in this regard, I should report, is the recent decision of the U.S. Tariff Commission to recommend withholding groundfish fillets from further negotiations. The groundfish industry on two previous occasions was found to suffer substantially from the impact of imports and relief was recommended by the Commission. In both cases the administration failed to provide the recommended relief.

One plant in my district, in a "redevelopment area," employs some 800 workers in the manufacture of copper and brass mill products. The Copper & Brass Foreign Trade Association has filed a brief with the Tariff Commission opposing further reduction of tariffs on copper and brass mill products. This industry, as many Members know, has been hard hit by imports over the past decade, principally in the last 5 years. The result has been a case of meeting the foreign price or facing an increasing loss of business—both alternatives are inviting ruin and, needless, to say, in the case of the plant in my district, a loss of 800 jobs.

The domestic copper and brass mill industry has seen its production drop 300 million pounds annually in the last 10 years, in the face of increasing national prosperity and an overall increase in the use of its products. These products are generally standard here and abroad. The difference is in the cost of wages. American manufacturers pay seven times as much as wages paid in Japan in this industry, five times as much as in Italy, and so forth.

Over the years, the duty, which was thought to be inadequate in the first place, has been negotiated steadily downward while inflation in the interim period has made the available duties much less on an ad valorem basis. For example, the average duty on brass tube in 1934 was equal to 50 percent ad valorem. Today it is only 7 percent. I could go on with such examples, but the problems facing this industry should be obvious, and it should be equally obvious that it cannot stand further trade concessions.

Mr. Speaker, I have only mentioned a few industries and cited a few examples of the problems the people in my district will face if the United States disregards domestic industry in the questionable pursuit of "better foreign relations." Time has long since past when we should start thinking in terms of protecting our interests at home.

## NEW INTERAGENCY COMMITTEE FORMED TO DEVELOP UNIFORM POLICY ON BANK MERGERS

Mr. STEPHENS. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MULTER. Mr. Speaker, I note that a new Interagency Committee composed of the Treasury Department, the Federal Reserve Board, the FDIC, the Office of the Comptroller, and the Justice Department, has been formed to establish guidelines for appraising the competitive effects of any contemplated bank merger in the light of each of the agencies' regulatory requirements. The Committee will also seek greater uniformity in the merger application forms used by the bank supervisory agencies.

Mr. Speaker, I was the one who first got this idea going among the agencies 3 years ago, after the first bad publicity appeared in the press. I am delighted to see that while it usually takes from 6 to 8 years to implement a new idea in Government, this one only took 3 years.

I still believe, however, the only really effective way to accomplish harmony between these agencies on this and the many other problems plaguing the banking industry, is to enact my bill setting up a new Banking Commission.

## A STIRRING TRIBUTE TO PRESIDENT JOHN F. KENNEDY

Mr. STEPHENS. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. JOELSON] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOELSON. Mr. Speaker, on April 25, 1964, I had the pleasure of participating in an Arbor Day program of the pupils, faculty, and Parent-Teachers' Association of Public School 25 in Paterson, N.J. At that time, four beautiful young magnolia trees were planted in honor of our late President, John F. Kennedy, in front of the school.

Under the direction of Principal Andrew J. Donnelly, the project was headed by Henry J. Focacci, a science teacher. Mrs. Benjamin Monello, president of the PTA, also took a leading part.

A plaque was placed in the school commemorating the fine occasion.

President John F. Kennedy has received many tributes. His picture is on the 50-cent piece, and airports and other places are named after him. However, knowing of his love for the youth of America and his vigorous spirit, I think this is the type of memorial which would have meant more to him than ceremonies of more pomp and greatness.

The participants are to be congratulated for pausing to honor our great lost President on Arbor Day.

## LET'S DROP TROPICAL FRUITS AND FRESH VEGETABLES FROM GATT TARIFF NEGOTIATIONS

Mr. STEPHENS. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. FASCELL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FASCELL. Mr. Speaker, within the next few weeks U.S. representatives will engage in tariff negotiations under authority granted by the Trade Expansion Act of 1962. The purpose of these negotiations is, among other things, to maintain and enlarge where possible foreign markets for American products. None of us, I am sure, would argue against the merits of such negotiation; however, I must attack the wisdom surrounding the selection of certain items which have been listed for consideration for possible tariff reduction.

Among these ill-chosen items are most fresh, chilled, or frozen vegetables; citrus fruits and juices; and certain other fruits. Most of these commodities are produced in substantial quantities by the State of Florida which, as you all know, supplies much of this country's fruit and vegetable supply.

Agriculture in Florida is almost a billion dollar business. Historically, sale of Florida fruits and vegetables make up 55 to 60 percent of the total cash farm receipts. The fruit and vegetable growing industry has always been a high-risk enterprise but, in spite of this, the United States is, you will all agree, generally well supplied with fresh vegetables and fruit.

The situation at present with regard to tariffs on these items does not appear to be unfair to either domestic consumers or foreign producers. Import duties for all U.S. agricultural imports are among the lowest in the world with the ad valorem figure averaging 6 percent.

With import duties at their present levels, U.S. imports of fruits and vegetables have risen sharply over the past 3 years. Sharper increases, such as could be expected in event of proposed tariff reductions would be severely detrimental to the Florida fruit and vegetable industry as well as that of the Nation.

Such reductions would intensify competition from foreign countries where wages are only a small fraction of those presently paid by our producers. It is an announced Government policy to discourage foreign labor programs in this country on the basis of alleged possible adverse effects on domestic workers. If these tariff reductions are adopted you will really see some adverse effects on domestic workers for our domestic producers cannot meet such a forced and unfair competition.

Aside from the greatly higher wage rates and attendant labor costs in the United States, foreign producers have other cost advantages over our own producers. They do not have the freeze problem and consequent frost protection costs that we must meet nor do they practice the extensive and costly control of plant pests and diseases which we are obliged to do.

In this proposal the Federal Government is in direct conflict with itself. Enlargement of foreign markets for American goods is a worthy and desirable goal, but surely not at the expense of an important segment of American agriculture and most of the migrant labor force. Florida would be more seriously affected than most other States since our geographical location forces us to produce at the same time our chief foreign competitors are in production.

I strongly urge that import duties be left at present levels. The fruit and vegetable growers do not ask us to eliminate their competition but they deserve the privilege of remaining on a somewhat equal production-cost basis with their foreign competition.

Earlier this afternoon, members of the congressional delegations, both House and Senate, from Texas, California, Arizona, and Florida met with the Honorable Christian Herter. A lengthy and informative discussion was held on all aspects of this problem, with particular emphasis on the firm recommendation that tropical fruits and mixed fresh vegetables be dropped from the forthcoming GATT negotiations.

I strongly concur with this recommendation which was extended in unison by all those present at this 4-State delegation conference. We were extremely pleased to hear Mr. Herter's assurances that the protestations of representatives of all those whose interests might become the subject of negotiation at the GATT conference will be received and accorded full consideration.

## GATT TARIFF CUTS THREATEN JOBS

The SPEAKER. Under previous order of the House, the gentleman from Florida [Mr. SIKES] is recognized for 60 minutes.

Mr. SIKES. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and include extraneous matter and certain tables.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, it is evident that many Members of this body are uneasy about adverse developments in foreign trade which contribute to unemployment and which constitute a threat to the industrial well-being of the United States. Our uneasiness is not helped by the evidence of actions taken thus far under the Trade Expansion Act. The Tariff Commission has heard nine cases under the so-called adjustment assistance and escape clause provisions of the law. Regrettably, the handling of these cases indicates that no relief can be expected by any sector of the American economy, whether it be labor, individual business firms, or industries.

The Common Market countries have demonstrated in the poultry case and in their negotiations in preparations for future discussions that they intend to protect the interests of their farmers, manufacturers, and industrial workers whether the United States likes it or not. By contrast, instead of acting in accordance with our own determination of the magnitude of injury which the Common Market's action in raising poultry tariffs imposed on U.S. interests, our executive department referred the matter to a panel set up by the General Agreement on Tariffs and Trade where U.S. rights were determined by foreign interests rather than by the President as is required under the Trade Expansion Act.

When the Trade Expansion Act was being debated in the House, many of us called attention to the fact that imports were rising swiftly under existing rates of duty, that the United States had given far more than it had received by way of tariff reduction in the many trade agreement negotiations since World War II, and that a breathing spell was required so that congressional action could be based upon an actual knowledge of the patterns of trade which emerged following the Dillon round of tariff reductions which went into effect in 1962 and 1963.

Our advice was not heeded. The executive department and those cooperating with it in this body were almost frantic in their haste to get the Trade Expansion Act on the lawbooks.

Subsequent to its enactment the Common Market closed its doors to membership by the United Kingdom, and proceeded to raise its duties on agricultural commodities as part of its program of making the Common Market countries self-sufficient in agricultural production. On many occasions responsible officials of the Common Market have stated for the public record that the Common Market will not negotiate the level of its variable import duties on agricultural products or in any way grant assurances to the United States or other traditional suppliers of agricultural commodities to Western Europe of continued and increasing access to that market.

When Governor Herter attempted in a commendably direct manner to teach the Common Market a lesson by withdrawing U.S. duty concessions in retaliation for the substantial loss of our exports of poultry caused by the Common Market's increase in poultry duties, the free trade press and economic interests in our own country joined with Western European countries to raise a falsetto of shrill criticism against the United States. The very possibility that the United States would insist upon the full enjoyment of its trade agreement rights called into action the most determined propaganda activities of these foreign countries and, I regret to say, of a wide section of the American press. The result was that the United States beat a hasty retreat into the waiting sanctuary of the General Agreement on Tariffs and Trade, who obligingly set up a committee to scale down the dimensions of the proposed U.S. action to the point where the Common Market and the internationalist press were sufficiently mollified.

Meanwhile, the American market, now open on an increasing scale to European and Asiatic imports, has suffered a steady penetration by such imports. My interest in this subject is not academic. My responsibility as a Member of this body is to represent the interests of the people of my district and to defend those of the Nation as a whole. They continue to be adversely affected by increased imports in product categories competitive with the manufacturing activities located in my district. What is happening in the First District of Florida is not unique; it is being repeated throughout the length and breadth of the United States. And I wish to stress the fact that these developments are occurring now where the United States is shorn of the benefit of any practicable escape mechanism. It is extremely difficult now to protect the interests of our workers or of our economy.

I stated in my remarks during the debate on the Trade Expansion Act of 1962, as I stated in my appearance before the Rules Committee in my opposition to a closed rule on that bill, that the so-called safeguards of the trade expansion bill would not work. The record shows now conclusively that they have not worked.

Prospects for the future are no more encouraging. In effect our Government has committed us to a proposed 50-percent reduction in duty by agreeing to a resolution adopted by the ministers of the GATT countries a year ago. Thus, we face the prospect of further deep reductions in duty well knowing that we have jettisoned every effective means of attempting in the future to regulate on any basis, moderate or extreme, the increase in imports to protect jobs in America. But we must stage vigorous protests at every available level.

Manufacturing activity occurs in my district in eight basic industry categories: food; apparel; lumber; paper; chemicals—chiefly manmade fibers—stone, clay, and glass products; machinery, and primary metal products. In most of these categories U.S. imports have increased swiftly and we have an adverse balance of trade.

For example, in food and allied products, imports increased 19 percent from 1958 to 1962, and in the latter year the Nation had an adverse balance of trade of $459 million.

In apparel and related products, imports increased 96 percent from 1958 to 1962, and in the latter year we had an adverse balance of trade of $262 million.

In lumber and wood products, imports increased 35 percent from 1958 to 1962, and the Nation's adverse balance of trade in the latter year was $469 million.

In paper and allied products, imports increased during that period by 17 percent, and we had an adverse balance of trade in 1962 of $757 million.

In stone, clay, and glass products, imports increased by 50 percent, 1958 to 1962, and our adverse balance of trade in the latter year was $64 million.

In primary metal products, imports increased 49 percent during the period mentioned, and by 1962 our adverse balance of trade was $686 million.

There is an equally grave problem in the fields of beef cattle and fruit and vegetable production.

Record level imports combined with high domestic production have sent the prices of domestic beef to disastrously low levels, causing millions of dollars of losses to our Nation's economy. Florida's beef cattle producing industry, one of the most important to our State's economy, has been very adversely affected. Amazingly, much of the import problem has been brought about through the use of foreign aid to stimulate cattle production in other countries.

In 1963 imports of beef and veal amounted to well over one and one-half billion pounds or roughly 11 percent of our total production. Converting these imports to live cattle equivalents, they amount to over three million head of cattle or roughly four times the total beef cows in the State of Florida, on January 1, 1964. Had these cattle been produced in the United States, they would have consumed many millions of pounds of feed grains, thus relieving some of the storage cost to the Government, not to mention the contributions they would have made to the local and State economies.

In 1957 imports of beef and veal on a carcass weight equivalent basis was only 376 million pounds and had risen to 1,679 million pounds, an increase of over four times as much in only 6 years. Paradoxically, the United States is the biggest producer of beef and veal; yet in 1963 we imported over 56 percent of the total exports of beef and veal in world commerce. We have the highest dollar market in the world for beef and veal, and the lowest degree of tariffs of any of the major beef producing countries.

Historically, the cattle industry has been able to cope with the cattle cycle, but we have never had the combination of record domestic production and record imports. Certainly it is time that this country recognizes that in order to meet our many commitments at home and abroad we must maintain our basic industries, of which cattle is one. Other countries afford reasonable degrees of protection from unfair competition from abroad and the cattle industry requests no more or less than this. A realistic policy should be our guide and equity our goal in international trade.

Shrimp fishing is an important means of livelihood to many in my State. Shrimp in all forms are on the free list, and the efforts of many of us in Congress to secure some regulation of shrimp imports have been a failure up until now. The opposition of the executive department and the reluctance of the Ways and Means Committee to consider specific commodity import regulation have been very detrimental to the shrimp fishermen of the United States. In 1950, imports of shrimp reached 40 million pounds. By 1961, this had tripled with imports scaling 126 million pounds. Last year, 1963, imports of shrimp reached an alltime record of 152 million pounds. Though the Tariff Commission in its investigation of shrimp imports in 1961 found that the imposition of a moderate duty under a tariff quota system would stabilize economic conditions in the shrimp industry without penalizing the American consumer, action has still not been taken at this late date to help this the most important of our fisheries.

Farming interests throughout the Nation are also vitally affected. The principal farm commodities produced in my district are cotton, cash grains, poultry, and livestock. Elsewhere in Florida, producers of fruits and vegetables have encountered an aggravated situation and there are no prospects to date of steps within the executive department which will provide any measurable degree of relief.

The problems of Florida fruit and vegetable producers have intensified with each passing day. In December of last year a delegation from Florida testified before the Tariff Commission. In an effort to protect their investments and to insure that they and other producers would not be forced out of business by foreign competition they asked that a number of fresh fruit and vegetable products be removed from consideration for possible tariff reduction. But, approval has not been forthcoming. It is obvious that reduction in the tariffs of these agricultural products will intensify competition from low-wage foreign countries whose workers receive only a small fraction of those presently being paid in the United States.

Labor costs are not the only production costs which are disproportionate in many foreign nations having climatic conditions which permit competition with Florida fruit and vegetable production. Frequently their soils require less fertilization. They do not practice extensive and costly control of plant pests and diseases. Irrigation practices are less extensive and less costly. Very significantly many of them do not have workmen's compensation, social security, or heavy income taxes. Added to these items is the problem of loans or grants to encourage large-scale production through foreign aid from the United States.

Let me turn now to the most important single manufacturing activity in my district. Imports of manmade fibers increased 16 percent, 1958 to 1962. They took a further sharp jump in 1963, increasing by 24 percent over the 1962 level. In 1963, our favorable balance of trade in manmade fibers was $109 million, down $20 million from the preceding year.

In the face of declining manufacturing employment and the adverse foreign trade trends which affect the majority of industries throughout the Nation, I am extremely concerned about the effect on the welfare of the people of the United States if the administration goes forward with its plan of reducing duties by 50 percent on the products of these industries.

The recently enacted one-price cotton bill will help the textile mills which use cotton. Because their welfare is important to the welfare of the cotton farmer, I voted for that legislation. The paramount economic and employment interest in my district, however, is not cotton, but manmade fiber.

The two major measures which have been taken to improve the position of the cotton textile mill and the cotton farmer in competition with foreign-produced cotton textiles can have a harmful effect on the manmade fiber industry. The one-price cotton bill was intended to make cotton more competitive at home with rayon and other manmade fibers. The quotas put into effect under the Long Term Cotton Textile Arrangement limit the quantity of cotton textiles which foreign textile mills can export to the United States. There is no similar limit on manmade fiber textiles, however. The effect has been to induce a shift from the exportation of cotton textiles to textiles containing manmade fibers.

The manmade fiber industry will, therefore, be affected on two fronts. At home there can be a substantial drop in demand for rayon and other manmade fibers as textile mills turn their attention to the use of cheap cotton. From abroad imports of manmade fiber textiles may be stepped up as foreign producers escape the effect of U.S. quotas on cotton textiles.

Since there is no immediate prospect of quotas on manmade fiber textiles, the effect of all this can be to place manmade fiber textiles under increasing heavy pressure from large-scale imports in the U.S. market. This development will also discourage domestic mills from using manmade fibers of domestic origin. Textile mills producing manmade fiber fabrics—and these include the mills which primarily produce cotton, woolen, and worsted textiles—will find that part of their business adversely affected. This could neutralize the intended benefit to them of the two-price cotton legislation.

A 50-percent reduction in duty on manmade fibers, filaments, and yarns, fabrics and apparel, would quickly erase the overall economic benefit intended for the textile industry. Even though the benefits would be lost, the cost to the American taxpayer—ranging from $300 million to $600 million a year—would continue. So a further reduction in these duties would not only be harmful to textile interests generally; it would also be responsible for an annual waste of taxpayer money in the order of $300 million or more.

In my district, two major plants of the manmade fiber industry—the principal source of capital investment and employment in the manufacturing sector in my district in recent years—would be harmed.

Mr. Speaker, the United States alone of the major industrial nations of the world has an unemployment rate of 5 percent or more. The countries of

Western Europe and Japan are experiencing actual labor shortages. Japan's unemployment rate was less than 1 percent in 1962 and 1963. Germany's unemployment rates has been below 1 percent since 1960, and it has not been as great as 5 percent at any time in the period 1956 to date.

The Netherlands, Switzerland, and the United Kingdom have similarly low unemployment rates. Belgium and Italy have the worst record in Europe, with 2.3 percent and 2.5 percent unemployment, respectively, in 1963. It is very plain to see that the unemployment rate in the United States is twice the worst record in Western Europe and five times or more as bad as the situation in the other major industrial countries.

In view of the concern of the Government at the present time for unemployment and poverty problems which are interrelated, and in view of the vigorous rate of increase of imports in the manufacturing areas to which we must turn for a substantial part of the jobs required to correct these urgent problems, it is the height of folly for the United States to go forward with plans for a 50-percent reduction in our import duties unless the administration is willing to reserve from those negotiations tariffs pertaining to the product categories which are experiencing these trends.

It is not too late for these decisions to be made in view of the determined protectionism of the Common Market. Action along these lines should help considerably to improve the climate for the negotiations. I urge full and considerate review of the entire question of tariff reductions. The future of American industry and agriculture, the security of American workmen, demand a more realistic policy.

### GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks following the remarks I shall make on the subject of tariffs and reciprocal trade and to include extraneous matter and tables.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, I am going to pause in my statement to yield to some of my colleagues who are directly and seriously concerned, as I am concerned, with this matter.

At this point I yield to the distinguished gentleman from Georgia [Mr. STEPHENS].

Mr. STEPHENS. Thank you very much for giving me this opportunity to associate myself with you in the remarks that you have made. I am especially interested in one aspect of these negotiations, that is, dealing with the organic dyes and dye intermediates. I want to point this out so you can see what effect frequently there is on a very small segment of our society when often realistic negotiations have not been conducted.

In Augusta, Ga., in my district, I have a chemical company called the Augusta Chemical Co. I received a telegram from Mr. Henry I. Gilbert, the president of that company. He asked me if I would not try to do what I could to see that some reserve of dyes and dye intermediates was made in the tariff negotiations. He points out:

> Augusta Chemical is the only Georgia manufacturer of these products. We employ approximately 70 people. Their jobs will be endangered by increased competition of foreign goods if import duties are reduced, because we are a small company and specialize in products for the textile industry. We would be unable to convert our plant and its almost half a million dollars of annual payroll into other fields.

I think even though that is a small concern, there should be a real and realistic effort made to preserve this enterprise.

I would also like to observe that there is machinery now for realistic tariff protection. If we had carried out what is now the legal machinery, I do not believe we would have had a long fight here in the Congress in trying to protect the people who object to the two-price cotton system. That should have been worked out, in my opinion, through the operation of the tariffs and tariff negotiations rather than having us be embroiled in it, because the machinery is there and it has been there.

Also, in my State of Georgia we probably have the largest poultry business in all of the world. Because of the unrealistic attitude that has been taken toward the tariffs and the European Common Market's attitude toward their tariff barriers which they have raised around poultry, there has been a loss of over 20 million pounds of poultry meat to the economy as income from that shipping.

I would like to see something done to give us the protections that they are placing around themselves. We have the machinery to do it.

I agree with everything you have said, that this is the time for us to have some real solid negotiations in this matter.

I thank the gentleman from Florida for yielding to me.

Mr. SIKES. I thank the gentleman for his contribution, and I yield now to my distinguished friend, the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Back in August 1962, as the distinguished gentleman from Florida indicated, we passed the Trade Expansion Act of 1962. The title of the bill, as I mentioned yesterday, apparently has no great significance in the light of the history of the bill. There were many of us, as you will also recall, who were severely criticized for not having been willing at that time virtually to abdicate the responsibility that this House has in controlling rather than offering a blank check to the executive in the establishment of duties and tariffs and particularly in those areas where it remains in the best interests of American industry and the American economy of this country that we retain this authority. At any rate, there are numerous industries, as the gentleman from Florida knows, which are suffering, some of which are no longer around to suffer, as a result of some rather unrealistic trade policies that have been established over the years.

So I join with my distinguished friend from Florida in hoping that whatever action is taken and whatever the position of this country may be in the GATT conference, it be done with some realization of the problems that have been created in this country in unemployment in many of our basic industries as a result, I believe, of tempering a trade policy with foreign policy. I sometimes feel that too often the heavy hand of the State Department prevails in the actions that we take in our trade policies.

I thank the gentleman.

Mr. SIKES. The gentleman and I have been jointly concerned about a situation in which we see the State Department apparently deciding many of our policies on tariffs and trade. To my great regret I find in altogether too many instances the State Department is international minded rather than American minded.

Mr. Speaker, I yield to the distinguished gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a Representative from the State of Rhode Island, I am deeply interested in the future of industries located there and in the employment opportunities provided by these industries.

It is for this reason that I am greatly concerned about the reductions that are proposed in the Geneva Conference that is due to open on May 4. Several industries in my district are already faced with injurious import competition and I do not understand how they can be subjected to further tariff cuts without disastrous consequences.

It stands to reason that if the imports are already high or pressing on an industry, lowering of the duties will increase the plight of the companies which are struggling to survive. Among these industries are textiles, including woolens, cottons, and lace—costume jewelry, silver flatware, copper wire, rubber and canvas footwear.

If these industries are to be materially hurt by imports beyond the present degree of such injury, the outlook for both industry and employment will not be bright and there will be little or no incentive to expand. If the outlook is that imports will capture an ever-increasing share of our market, no industrial directors would undertake expansion of facilities. It would be a foolhardy undertaking if they did expand since the increased output would not find a market in competition with imports.

Consequently, employment would stand still in number of workers while lagging in relation to population growth. The result would mean unemployment. The burden on other industries to employ more than their share of the rising wage force would increase.

Unfortunately, the more likely response of industries that are confronted with rising imports is to modernize their plants rather than expand them. The pressure to modernize is all the greater as imports encroach on the market. It becomes imperative to lower costs of production, and the surest way of doing this is to introduce more productive machinery and equipment.

The result of modernization and improvement of mechanical efficiency is to reduce the number of workers required. That is the very purpose of mechanization. It is the surest, if not the only way, to reduce costs materially.

Under more favorable circumstances the installation of more productive machinery leads to rising sales; but not necessarily so when modernization is in response to pressure from imports. It then becomes a question of holding one's own in the market. Imports will already be absorbing the increased demand that responds to lower prices because imports make headway precisely because they do offer lower prices. Under these circumstances plant modernization and greater efficiency succeed only in adding to the unemployed.

Further tariff reductions would only aggravate this pressure toward automation without giving our industries the means of recapturing the home market or a sufficient part of it to support expansion of operations.

Mr. Speaker, if our wages were as low as those in other countries we would have no difficulty competing. Our foreign competitors pay wages that would be illegal in this country. The resulting competition is not fair competition. It comes with an advantage that our industry can hope to overcome only through hiring fewer and fewer workers. I would call it unfair competition, an unfair handicap over our producers.

Wages in our lace industry are high because the required skills are high. It is an industry that still gives employment to artisans whose skills would be wasted in the repetitive tasks of the production line.

We should be glad that there remain some industries which call for personal types of skill. The race toward fragmented jobs that demand no artistic skill is on at almost breakneck speed and needs no stimulus from the Government to help it. Lace manufacturing is labor intensive. We should be glad, to repeat, that we have some of these industries left and should not open them for slaughter unnecessarily.

Mr. Speaker, looked at from any angle at all, further tariff cutting on the products of the textile industry, jewelry, and copper wire could have only unfortunate effects. It would not help the economy of Rhode Island. To the contrary, it would expose it to sure and severe erosion, for the reasons I have set forth.

I therefore am moved to caution against such reduction as contrary to the best interests of my home district.

Mr. SIKES. Mr. Speaker, I yield to my distinguished friend from North Carolina [Mr. HENDERSON].

Mr. HENDERSON. Mr. Speaker, I thank the gentleman from Florida for yielding to me.

At this point I want to commend him for securing the opportunity not only for himself but others of us who are interested and concerned about the problem under discussion today. I certainly want to thank my good friend from Florida for his longtime interest in this problem, not only his awareness of it but his very effective leadership.

Mr. Speaker, I, perhaps, can talk about several of the industries that will be discussed here this afternoon as the import tariff situation affects them.

Mr. Speaker, it is my frank opinion that many industries which are fighting against any tariff increases and which scream that additional decreases in import tariffs will ruin and bankrupt them are simply crying "Wolf."

An examination of the record in many instances would reveal that they have been singing this song for a long time. They have been deploring the situation and saying that any further cuts would put them out of business. The facts have not borne them out. Despite cuts over the years, their industries remain vibrant and healthy.

This is not the case with the hardwood plywood industry. In that industry, the absolute destruction of the domestic manufacturer is a clear and present danger.

In 1951, domestic production of hardwood plywood accounted for 91 percent of domestic consumption. Today, the domestic producer's share of the market is less than 47 percent.

During the last 10 years, 126 hardwood plywood firms in the United States have ceased operations or changed ownership. Of these, 81 have gone completely out of business; and of the 81 which have completely folded, 14 have been in my State of North Carolina.

These are not phony figures, but are taken from the authenticated records of the Hardwood Plywood Institute.

It is increasingly obvious that here is an American industry teetering on the brink of destruction by imports and yet it employs many thousands of persons and serves a national need which could not be otherwise met in time of national emergency or shortage of shipping.

Moreover, of all the hardwood plywood plants now in operation in the United States, only 10 would not qualify as small business under criteria of the Small Business Administration.

For the most part, they are located in or very near our so-called depressed areas of chronic and persistent unemployment. Their logging operations are largely carried on in such areas including large sections of Appalachia about which the President has expressed much deep and recent concern.

While the industry, by modernization, updating of equipment and sales techniques and painstaking cost accounting studies, has greatly increased its efficiency during this 10-year period in order to hang on by the skin of its teeth, only so much can be done by increased efficiency. Beyond that, the industry is faced with a daily wage rate in the Japanese plywood industry of $2.32 and a Federal minimum wage in the United States of $1.25 per hour, and in one domestic plywood company of $2.50 per hour average.

I believe that I can say without fear of successful contradiction, that any further decrease in the import tariff on hardwood plywood will literally and quickly put more plants out of business, and that any considerable increase will simply wipe out domestic hardwood plywood production.

Our negotiators should keep these factors constantly in their minds and see if they cannot bargain in less critical industries and products.

Mr. Speaker, I would like to again commend the gentleman from Florida [Mr. SIKES] for affording us this opportunity to discuss this very serious problem this afternoon.

Mr. SIKES. I appreciate the gentleman's contribution.

Mr. KNOX. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my distinguished friend the gentleman from Michigan [Mr. KNOX].

Mr. KNOX. Mr. Speaker, I have listened with great interest to what has been said here this afternoon and want to add a little of my own. I agree that it would be very unwise to make further tariff cuts at a time when many of our industries are already suffering from more than enough import competition.

I am convinced that a good part of our unemployment troubles comes from this source. When companies see imports biting into the domestic market and taking a growing share of it right from under their eyes they are forced to do one of two or three things.

They may try to compete by cutting their prices, but unless they have wide enough a margin of profits, they may be unable to make such an adjustment. Sometimes when this is tried the foreign exporters simply reduce their own prices and restore their competitive edge to what it was before.

Instead of simply cutting prices the domestic manufacturer who is not in a position to do so in any case, may decide to modernize his plant by installing laborsaving machinery. He will hope thus to cut his costs to a point that will make him competitive with imports. This may be a false hope but it may be his only hope of remaining in business.

He is now confronted with the unpleasant fact that in order to become competitive in this manner he is forced to displace workers with the very machines that are to help him stay in business.

This is the dilemma, very painful to every manufacturer who knows how precious employment is to our economy—this is the painful dilemma that has faced and is facing many industries in this country.

Too many people, economists included, think that because competition was and is good for the domestic economy, import competition is equally good. This may in some cases be true but is much more likely to be false. Why?

It is because there may be a great difference between internal competition that comes from other companies in the same industry or from other industries that offer product competition, such as glass and paper, glass and tin, lumber, iron ore, and plywood, or similar competing items, on the one hand, and competition from abroad, on the other. The reason for this is clear enough.

The industries within this country are subject to the same laws with respect to competition—Sherman Act, Federal Trade Commission Act, Robinson-Patman Act, et cetera—minimum wage and overtime law—Fair Labor Standards Act—child labor legislation, social security, collective bargaining, et cetera. Therefore, competition among them is fair competition, or it may be forced to become fair.

Foreign industries that export to this country are not subject to these laws. Therefore, they may enjoy competitive advantages that are of a magnitude too great to fall under the qualification of fairness. Generally speaking, low foreign wages, wholly free from the laws that sustain the high wages in this country, bestow such advantages.

These advantages would not exist if the foreign industries were subject to the same laws that bind our industries. There is not an industry in this country that would be unable to compete with imports if its operations were conducted on the same basis as foreign industries, especially so far as wages are concerned.

The more we reduce tariffs the wider we open the gates to imported goods that are produced under conditions that would be illegal in this country.

In doing so we are fostering unfair competition and denying to our industries the protection that would assure them the benefits of our own laws of fair competition. These laws are converted into a burdensome handicap in attempts to compete with imports that are not burdened in the same manner. We put weights on our industries that they can carry in competition with their domestic rivals who carry the same weights, but that places them at a distinct disadvantage in competition with foreign rivals who do not carry similar weights.

By exposing our industries to unfair foreign competition through tariff reductions we make the position of many of our industries untenable or at least very weak. It is under these circumstances that the industries that are capable of it take another way out. They shift a part of their operations overseas as a matter of self-preservation. Labor, small business, and agriculture, with some exceptions, take the consequences. Unemployment becomes inevitable.

During the past decade the import impact has become more serious because of the great foreign technological advancement. Low foreign wages have come to mean a sharper competitive advantage because of the highly productive machinery that has been installed in many of the industrial countries. Foreign wages continue to lag far behind those in this country and this condition bids fair to continue several decades at best.

Our industries therefore have three reasons for continuing to invest abroad.

One is to supply foreign markets from within. This is in lieu of exports from this country. For a time this process will stimulate exports of machinery, equipment, and parts; but this will be a passing phase.

Another purpose is to export to third countries from abroad because of lower costs of manufacturing. This practice, again, strikes back at this country in the form of diminished exports.

Third, by operating abroad domestic industries can bolster their earnings position and thus avoid going out of business in this country.

In some cases a fourth incentive is present. Some of the domestic companies manufacturing abroad export some of their output to this country, particularly if the products are not directly competitive with their own American output; but they may compete with other domestic producers.

The twin effect of imports, that is, accelerated automation at home, often forced by imports and therefore out of season, and curtailment of investment at home in favor of foreign investment, act as depressants on domestic expansion and employment.

Instead of improvement, except as a temporary and largely artificial phenomenon, we may expect a relative shrinkage of exports and a relative rise in imports.

The effects of rising imports are becoming more detrimental to employment in this country because our imports have been shifting more heavily toward finished products. Nearly half of our total imports now consist of finished goods or foodstuffs compared with a little under 33 percent in 1955. This represents close to a 50-percent increase in the share of total imports consisting of finished goods in 8 years. Moreover, the total 1955 imports were $11.3 billion compared with $17 billion in 1963, so that in terms of dollars finished product imports have increased from about $3.7 billion in 1955 to $8 billion in 1963, or an increase of well over 100 percent.

It is, of course, imports of finished goods that disturb employment most in this country. This great increase in finished goods imports accounts for the phenomenon that we have witnessed; namely, less domestic investment in domestic manufacturing plants from 1957 to 1963—in terms of stable dollars—and more investment abroad.

As the imports of finished goods rise, the impact on labor is greater than a mere increase in imports in which finished goods remain at the same percentage of the total.

Our exports have been heavily concentrated in machinery and equipment and, in the past few years, in farm products.

Mr. Speaker, the exported machinery and equipment builds up productivity abroad, and we will feel the consequences both in the form of more imports of finished products at home and rivalry in foreign markets abroad.

The conclusion from all this has only one possible impact. It clearly overcomes the theoretical argument for more tariff-cutting under present circumstances. The authorization for further drastic tariff cuts should be held in abeyance, and domestic industry should be given grounds for greater confidence in the future. Only in that way can we hope to meet the unemployment problem.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I thank my colleague, the gentleman from Florida [Mr. SIKES], the dean of our delegation, for taking this time during which to bring this very important matter of trade before the House of Representatives. I know of his longtime interest in this field, and the gentleman certainly should be commended for his long and untiring efforts in an attempt to acquaint many of us with the implications that result as the result of the policy now being pursued.

Mr. Speaker, the deep crisis that the American cattleman has suffered in the last year or so and is continuing to suffer is having a very detrimental effect not only to the economy of this country but also to farm incomes.

The continued increase in beef imports combined with an increase in domestic cattle production has aided in bringing this about. This year approximately 11 percent of all the meat consumed in this country will have come from foreign countries. This is an alarming rate that has caused serious economic conditions within our domestic cattle market.

Mr. Speaker, I am well aware that this great country must import and export with as many of our allies as possible. However, I think serious thought must be given to our trade policies when they have an adverse effect on certain segments of our economy.

This year already almost 43 million pounds of liveweight of beef have come into Florida ports. This is causing grave economic effects upon our cattlemen in Florida.

The question has been asked, "Would a restriction on beef imports result in higher prices for the consumers to pay for quality beef?" I think it has been made unmistakably clear that with quotas placed on imported beef, the result would not be higher prices to the consumer. Furthermore, Mr. Speaker, the American housewife would be much more assured of a quality product for the price she is paying than what she is getting from the imports that are presently coming into our country in such large amounts.

The American consumer must be well aware that the imported meat does not, and I must repeat, does not, meet the same health standards that are demanded of our domestic meat. The domestic slaughterhouses and stockyards are subjected to rigid inspection by both the U.S. Department of Agriculture, and almost all of our State governments, and many local governments. There is on-the-spot inspections of the health of these animals prior to slaughter and also a very careful examination of this meat after slaughter by these very highly qualified meat inspectors. This, Mr. Speaker, is not required of imported beef which comes into this country. There has been recent disclosure in Florida of some meat that even contained horse meat which, I am sure, no housewife would knowingly want to purchase. There are many serious diseases that could not only come into this country but also could be contacted by people who were consuming this meat.

It is my understanding that Australia, which is the largest exporter of beef to the United States, does not permit cattle imports into her country from the United States because of a health restriction. New Zealand, likewise a large exporter to the United States, prohibits imports of many meats and other related products. I feel as though the American housewife, when informed of the true facts about the lack of inspection that this imported beef has, will likewise become interested in the consequences of the continuation of this large-scale importation into our country.

The American cattlemen do not object to the rigid requirements for meat inspection because it is their desire to produce for the American housewife the highest quality of disease-free beef possible. The U.S. Department of Agriculture and many State departments of agriculture recognize this need for on-the-spot inspection, but this is not required of the imported meat.

I have introduced H.R. 10355 which would impose import limitations on certain meats and meat products. I feel as though this is a reasonable bill and will give protection to the consumers and to the cattlemen of this country. While we in this country have been attempting to grant freerer trade between all nations, it appears that many of our neighbors have taken advantage of this and have begun to tighten their restrictions on the amount of goods that the United States may ship into their native lands.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Speaker, I too desire to commend the gentleman from Florida for taking this time and making it possible for others of us in the House to state our views concerning foreign trade, or what we are pleased to call foreign trade.

In all too many respects the Trade Expansion Act of 1962 is a snare, a delusion and a boobytrap for industry and agriculture and labor in this country. I join with the gentleman from Florida [Mr. SIKES], and the gentleman from Illinois [Mr. COLLIER], in saying that I am convinced the State Department has used its powers to bring about the setting of the boobytrap for the rest of this country.

Mr. Speaker, I again wish to commend the gentleman.

Mr. Speaker, it is time that our foreign trade balance be examined in the light of the facts rather than used unconscionably as propaganda material.

We are constantly told, for example, that the United States is in a good competitive position in international trade as witness the export balance of $5 billion in our trade with other countries.

I repeat it is about time that this bloated figure be pricked by the hard edge of irrefutable facts, and reduced to its proper size.

Nineteen hundred and sixty-three exports were $21.9 billion while imports were $17.1 billion, leaving a favorable balance of $4.8 billion. Call it $5 billion.

This balance is supposed to be proof that we are comfortably competitive in world markets.

It cannot be denied that we have enjoyed a handsome surplus in our exports of goods. On the other hand, it can be denied very effectively that his surplus indicates that we are competitive in foreign markets and with imports in this country.

The reason for this contradiction of what appears on the surface to be undeniable lies in the character of a large part of our exports.

In the first place, our official export figures include shipments under foreign aid, Public Law 480 and exports of subsidized commodities. The inclusion of these figures does nothing to advance the thesis that we are competitive. It tends rather to conceal the fact of noncompetitiveness in very important sectors of our export trade.

In the second place, dollar import statistics are based on foreign value and not on physical quantity. We may export $1 million in shirts and import shirts to an equal value; but in number of shirts what is a balance in value, that is, a million dollars of exports balanced by a million dollars of imports, might turn out to be something very different. The million dollars of exports might represent 750,000 shirts valued at $1.33 each, while the million dollars of imports might easily mean 2 million shirts.

In terms of employment the balance would be quite unfavorable.

Numerous examples of this could be cited. In other words, the $17 billion of 1963 imports by this country, if valued on the basis of our exports, might easily rise to $30 to $35 billion. In terms of employment it will be seen that we were on the losing end of the equation rather than the gainer.

I want to emphasize that an even dollar balance between our imports and exports would be an unfavorable balance in terms of employment. If we manufactured here the finished goods that we import we would be employing many more workers than the number needed to make the exports that would balance the imports in value.

But let us get back to our total export value of $21.9 billion. Here we find included, to repeat, foreign aid shipments as well as Public Law 480 exports. These goods would not be exported otherwise. They are not private commercial exports. They are really shipped by the taxpayers, at least paid for by them.

Then, we do a considerable export as a result of subsidization. The principal items are wheat, wheat flour, raw cotton, and cotton textiles. These goods are subsidized to the extent of the difference between the domestic price and the world price. Therefore when we export wheat, cotton, and so forth, we do not prove that we are competitive. The subsidization amounts to 25 to 35 percent of the domestic value. This margin shows the extent of our failure to be competitive. How then can we properly include these exports in our export statistics in such a way as to make it appear that we have a competitive advantage? The practice represents outright misrepresentation unless full explanatory notes accompany the statistics. You can look in vain for any such enlightening explanation. Why? Because it would not support the official trade policy.

It is an unsavory commentary on our official statistics when the facts that should accompany them, if misinterpretation is to be avoided, are suppressed. What is the purpose of import statistics? Are they to conceal or to reveal the true state of affairs?

If we strip our exports of the aid-tied shipments, of Public Law 480 sales, and of the subsidized items, and so forth, we will find the $5 billion surplus dissolving into the air.

Mr. Speaker, there is another defect in foreign trade statistics that are used in comparing our imports with the imports of other countries. Our import statistics, as already noted, are based on foreign value, without addition of marine insurance, ocean freight, and similar charges. The import statistics of most other countries are based on CIF values, which include insurance and freight.

The difference varies, depending on the distance of shipments; but an allowance of 10 to 15 percent would not seem excessive. Our $17.1 billion imports, if presented on a CIF basis would then come to $19 billion or more.

So obscurely are our import statistics presented and so inflated are our export figures that in reading them wholly false conclusions are reached with respect to the competitive stance of our industry in world markets. This false reading has unfortunately been employed in high places to tell the American people that we have nothing to worry about so far as our trade policy is concerned. After all, if it were unhealthy or bad for our industry, agriculture, and for employment, how explain our fat surplus?

Mr. Speaker, to make such claims is to play on the ignorance of the public, an ignorance for which the public itself is not responsible but which is carefully nurtured by the governmental statistical reports themselves.

In a matter of such great importance, I say that unless this misuse of statistics is not soon remedied, the whole trade reporting system of the Government should be investigated by Congress. The false impressions created by existing methods of concealment have gone too far and the agencies and departments responsible should be called and indeed be held responsible, severely rebuked and corrected.

Mr. Speaker, the statistical reporting on trade has for some years now been a device of concealment rather than revelation of pertinent facts. We have been kept in the dark too long on the trade restrictions of other countries, the level of their tariffs, and so forth.

We in Congress and the public have been carefully deprived of information on foreign tariffs and quotas, and so forth, which would make it possible to compare the present tariffs and other trade restrictions with those of previous years. Without such information the effectiveness of our so-called tariff bargaining cannot be judged.

No doubt the reason for this concealment lies in the extremely poor bargains that we have struck in the various trade conferences in which we slashed our tariffs more or less unilaterally, and got very little in return.

This is all beginning to show now in our dealings with the Common Market and especially the foreign barriers against our exports of agricultural products.

Mr. Speaker, I repeat that this is a subject that is very much in need of a thorough airing through a congressional investigation. The record is a sorry one, and we should put up with it no longer.

Mr. SIKES. Mr. Speaker, I appreciate the contribution of my friend from Iowa.

I now yield to the distinguished gentleman from Florida [Mr. MATTHEWS].

Mr. MATTHEWS. Mr. Speaker, along with my colleagues I would like to thank the gentleman from Florida, the dean of the Florida congressional delegation, for giving many of us here this afternoon the opportunity to express our concern about the trade policies of this Nation.

I have voted for most of the trade policies that have been presented to us by different administrations, both Republican and Democratic. I do not know in the future just what my position will be because each year along with many of my colleagues I become more and more concerned about what seems to be a tendency to overlook the best interests of some of our own American industrial and agricultural groups.

I realize that we must trade, but I also realize that we in America cannot continue to compete with foreign production when we operate on an entirely different base. As has been pointed out this afternoon, we pay higher wages and have stronger inspection procedures and safeguards. We are not permitted to go into other nations to export our products without facing impossible barriers. If we are to have reciprocal trade and equal trade it ought to be reciprocal and it ought to be equal.

I particularly emphasize the problems in Florida of the feed cattle industry. As my colleague from Florida [Mr. FUQUA], has pointed out, we are facing grevious problems. I do not believe it would be wrong to say that the cattlemen of the State of Florida are almost panic stricken. In other parts of the country the problem concerns imports from Australia and New Zealand. In Florida the problem is largely with imports from Latin American countries.

We feel like we simply cannot survive unless some favorable action is taken, not what we think would be unfair action. At the present time the cattlemen from all parts of America are before the Tariff Commission. As the gentleman from Florida knows, they are trying to get the Tariff Commission to consider the problems of the tariff.

I along with many others have introduced legislation imposing quotas on beef. But time is short. We simply feel we cannot survive unless we are given a more favorable opportunity to compete. The nations of the world want the American market. We do not want to take markets away from them, we just want to keep the American market.

Mr. Speaker, I ask unanimous consent to extend my remarks on this subject at this point, and I further ask unanimous consent to include at the conclusion of the remarks of the gentleman from Florida [Mr. SIKES] some remarks of my own concerning the problems facing the fruit and vegetable producers of Florida. At the present time Congressmen from Arizona, California, and Florida are pleading for consideration with Mr. Herter, the Special Representative for Trade Negotiations in connection with the competition we might run across from vegetables produced in foreign areas. We do not have in this country any of the government-subsidy programs that are present in other countries. The areas in our country have stood on their own, but they are not going to be able to compete unless we give them this objective consideration.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. MATTHEWS. Mr. Speaker, the total imports of beef to ports servicing Florida in the weeks of March 14 and 21 of this year amounted to 39,755,122 pounds with 36,938,640 pounds coming from Latin America. The total for the period January 1, 1964, to March 26, 1964, is 108,615,557 pounds to Florida ports alone. In 1963 the record 1,750 million pounds of foreign beef arrived in the United States. This beef converted to steaks, roasts, hamburger, and so forth, could supply the beef needs of every American family for more than a month.

Imports in 1963 were equivalent to 3,750,000 head of cattle. This means that a like number of American cattle in 1963 was not sold. This import poundage mixed with fats and fatty meats from U.S. cattle—formerly sent to rendering plants—equals a displacement of 5,250 million pounds of beef, further intensifying the problem. A loss of more than 20 billion pounds of feed grains—largely surplus—that would have been used if these cattle had been produced in the United States should be of great significance to all Members of Congress who are constantly trying to cut down the holdings of our feed grains in Commodity Corporation warehouses. This terrific import of beef means a loss of more than 100 million man-hours of labor that would have been required to produce, slaughter, and process these cattle. This amounts to a U.S. labor loss of from $6 to $25 per animal. These imports mean the loss of untold millions of dollars in expenditures that would have been made by U.S. producers through allied industries. This would include all industries participating in the production of cattle and in the handling of same from the farm to the processor or consumer.

Beef consumption this year will run 95 pounds per person in the United States, and of this total, imports already constitute 9.5 pounds per person. If 1964 imports increase as the trend in the past —the trend seems to be moving upward, contrary to importers' prediction—import beef will constitute about 12 pounds of this 95-pound total in 1964.

Recent imports of beef have been expanded and altered to where 25 percent of total imports are now primal cuts. The construction of modern feed lots and packing and processing plants in Mexico is specific proof of the trend to increase percentage of primal cuts being brought into the United States. One of the new feed lots ships to the United States more than 2,000 head of top quality fed cattle each week. It is no wonder, Mr. Speaker, that many producers are thinking twice before spending moneys on pasture improvements, replacement of equipment and buildings, upgrading their herds, and so forth. A recent check of producers in south Florida revealed that the first three producers contacted withheld about 9,000 head of calves from the market in 1963 because of unrestricted imports, and now have about 18,000 head of calves which must be disposed of in the near future. This practice and that of retention of cull animals and feeders will have an effect on the market soon that will further complicate the import problem being faced by cattlemen throughout the Nation.

One distressing fact about this whole matter of foreign imports of beef is the fact that nations abroad, cattlemen fear, are being told that they should gear their beef industry in order to supply the United States with a total of beef equal to at least 10 percent of the U.S. production in order to meet the U.S. consumer demand. It is feared that countries throughout the world are entering upon crash programs to build up their beef exports to the United States, and then work out some voluntary agreement for a guaranteed percentage of our market.

Cattlemen have asked the U.S. Government not to depend on the voluntary beef quota arrangements with New Zealand and Australia, not to consider a growth factor in any agreement that would be negotiated, and to use the average imports of beef for the years 1958 to 1962 as a level for negotiation for a quota percentage. This was later changed to the average for the years 1959–63. This recommendation, by the way, was not accepted and the voluntary quota arranged with New Zealand and Australia was based on the average for the years 1962–63, putting the quota substantially higher since imports increased sharply these 2 years. The Nation's cattlemen also recommended that any quota arrangement entered into should embrace all countries rather than just New Zealand and Australia. This recommendation was rejected, and may I emphasize that our problem in Florida is with imports from Latin America. May I repeat again that the total imports for just 2 weeks of March 14 and 21 of this year amounted to 36,938,640 pounds.

To give relief to the American beef industry, Mr. Speaker, along with many other Members of the House I have introduced a bill establishing a quota for beef imports. The number of my bill is H.R. 10366. I am pleased that the Secretary of Agriculture has used section 32 funds to buy beef products and, of course, I think this is very helpful and should be continued. There should be a development of a more effective promotion program for all meats set up so the countries exporting to the United States would participate in promotion of beef and other meats in the United States. Certainly, too, we should consider voluntary agreements, but based on the great needs of the American beef industry if it is to survive. Mr. Speaker, the cattle industry is of tremendous importance to the United States. In Florida, agriculture generates 16.5 percent of the State's income and agriculture received but 3.7 percent of the general revenue funds for regulation, and so forth. The cattle industry is a major part of the great agriculture industry in Florida. We must take every step we can to protect this great industry, not only in Florida but throughout the whole Nation.

One of the tremendous problems we have in the United States is, of course, the cost of production. Our beef cattle production costs are much higher in this country than they are in other nations. For example, the costs in Florida of producing a calf vary from $25 to $60, whereas the cost of producing a calf in most foreign countries runs under $8. Recent studies of the production of cattle in Australia and New Zealand reveal a cost of producing cattle at about 5 cents per pound or $5 per hundredweight. Cost of production in the United States steadily climbs because of increasing taxes, inflation, costs for preventing introduction of diseases from foreign sources, costs to regulate and inspect the beef industry, and let me point out that these costs are constantly increasing. Our beef cattlemen are, therefore, faced with unfair competition if we permit unrestricted imports of beef into this country. Many industries related to the beef industry are having financial problems because of unrestricted beef imports.

I could go on in great detail, Mr. Speaker, to emphasize the problems facing our cattle industry, but during the past few months much of this information has already been given to the House. I do hope an overwhelming majority of our colleagues will help those of us who represent areas where the beef industry is facing peril to impose limitations on imports of beef products. Such limitation will be good for the American taxpayer, for the American cattle producer, for the American economy as a whole, and ultimately for the American consumer.

Mr. DOLE. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Kansas.

Mr. DOLE. Mr. Speaker, I commend the gentleman from Florida [Mr. SIKES] for calling the attention of the House to this important subject. I also commend the gentleman from Florida [Mr. MATTHEWS], as well as the gentleman from South Dakota [Mr. BERRY] and the gentleman from West Virginia [Mr. MOORE], both of whom took the floor yesterday to talk on this subject, for pointing out the problems with relation to tariffs.

Mr. Speaker, I am from Kansas, which ranks fourth in the country in cattle population. Yesterday I attended a meeting of the livestock producers, which was attended by representatives from the States of Iowa, Kansas, Missouri, and the Dakotas. This was not a partisan meeting in the strict sense of partisanship so far as they were concerned. They were concerned about the reluctance of the Congress to do something to help the livestock industry.

There have been many, many bills introduced on this subject. I know I have introduced bills, and the gentlemen who have preceded me have introduced legislation, and many other Members have introduced legislation that would impose reasonable quotas on beef imports. It is hard for the farmer and the livestock producer to understand, particularly those who are losing money, why some action is not being taken by the Congress.

I can cite the recent example of the cotton bill, when in the other body by a very narrow vote the so-called Hruska amendment was defeated. They feel there is a bipartisan responsibility for this great industry of ours. I certainly concur in these views. I know the gentleman from Florida concurs in these views. We think it is time something be done. I trust that the debate this afternoon, together with other discussions that may occur in the future, will stimulate the Congress and the proper authorities to take this into consideration immediately and give this great industry some immediate relief.

Mr. Speaker, Kansas is one of the leading livestock States of the country, standing fourth in cattle population, with over 5 million head. My own district is a heavy cattle producer and depends heavily on cattle to bolster the declining income from wheat and feed grains.

The sharp increase in beef imports from Australia, New Zealand, and elsewhere that reached record levels in 1963 hurt the livestock industry of my district, along with the industry as a whole. The decline in prices led to a total loss estimated at some $400 million in 1963. The loss per head in many cases exceeded $30.

Western Kansas is not suited to a diversity of crops, and because of its arid condition, much of it is often spoken of as a one-crop area. Forage crops, however, can be produced successfully, and this fact makes it possible for many farmers to feed from 30 to 40 head of cattle and in some cases as high as 300 to 400 head.

It is easy to understand why the price decline in cattle fell with harsh effects on the farmers in that area. It is also easy to understand why western Kansas is concerned over the GATT negotiations that are to open in Geneva on May 4 and under which present low tariffs could be cut in half. It must be clear to any one taking the time to reflect, that the present duty is already too low, or the great flood of imports that has sorely afflicted the cattle raisers would not have occurred.

To propose cutting the tariff still more not only does violence to commonsense; it would represent the death knell to much of our cattle industry and would do severe damage to the many farm areas in which cattle represent an important source of income.

The American market acts as a veritable magnet drawing in beef from abroad because of the lower costs at which beef can be produced in other countries. This condition need not be expected to change in the immediate years ahead. Therefore unless some substantial restrictions are placed on imports, our industry will continue to be plagued and the future will be uncertain.

Such arrangements as were recently made with Australia and New Zealand with respect to meat imports do not guarantee the solid kind of assurance that we need in order to face the future with confidence.

Most incomprehensible of all developments is the likelihood of a further tariff cut in the course of the GATT Conference that opens next week in Geneva. While it seems inconceivable that further tariff reductions might be made, we continue to read that our negotiators are bent on carrying forward with a very broad list of products, including beef, meat products, and live cattle. The exceptions are to be kept to a "bare minimum," to quote from an agreement reached nearly a year ago in GATT.

Mr. Speaker, it does not seem possible that our State Department could perpetrate such an act, but we have seen what they have done in the past and we know how ready they are to trade the welfare of our domestic industries for fancied diplomatic advantages. Therefore we cannot feel safe in assuming that beef and cattle will be left out. Incredible as it would seem, it is a possibility on the grounds that import quotas, such as they are, in the view of the State Department, now give us adequate protection.

I not only cannot go along with that; I say that we need something more substantial. We need something that gives us a right, based in law; not something wrapped up in an international arrangement that may leave us holding the bag at any time. The cattle industry cannot furnish this country as it has done all along with all the beef it needs of high quality, if it is to be subjected to deadly competitive onslaught from abroad, subject only to regulation that is to be exercised by our competitors and not ourselves.

Mr. Speaker, I am in hearty accord with what has been said here, expressing concern over further slashing of our tariffs, and wish to thank the gentleman from Florida [Mr. SIKES] for yielding to me.

Mr. ASHMORE. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from South Carolina.

Mr. ASHMORE. I commend our good friend from Florida for taking this time today to discuss this subject. It is time that we who are aware of the situation resulting from these imports should bring this matter not only before the Congress but the people of this country. Particularly I think it is wise that we let the representatives of the Congress of the United States who are going to the Geneva Conference to negotiate on these important problems, know our feelings on this problem. I understand there are two Members of the other body and two of this body who will sit in on that Conference and at least be permitted to express their views to our representatives there. We want those gentlemen from the House and the other body to realize that this is a problem that is important to the people of this country.

I have the deepest concern with reference to cheap imports coming into this country at low tariff rates.

The GATT Conference, I believe, begins on May 4. So the time is short and I am delighted that there are a number of Members of this body, my colleagues, here today to express their concern with reference to this subject.

I wish to speak primarily, Mr. Speaker, with reference to the imports of glassware and chemicals in the southeastern region of this Nation. The chemical industry is rather young and somewhat new, but it is growing rapidly and it will continue to grow and mean a great deal not only to the people in the area I represent but to the people everywhere in the United States, if they can operate at a profit. But we want a fair deal. The glass dealers and manufacturers and the chemical manufacturers are not afraid of fair competition whether it be from American manufacturers or from foreigners. But we do want fair competition. I think the main trouble with the reciprocal trade acts in the past and with legislation dealing with this subject has been that too much leeway has been given to our representatives to negotiate in such a manner that there is little and sometimes no reciprocity involved. The reductions are too much from our side and not enough from the other side.

If my memory serves me correctly, there has been within recent years a 50-percent reduction in many, many items that are controlled by the tariff.

Then later there was a 20-percent reduction. If I am correct, I would ask the gentleman from Florida this question. I believe there is a basket full of other items that will be discussed at the upcoming GATT Conference for another 50-percent reduction; is that not correct?

Mr. SIKES. The gentleman is correct—another 50-percent reduction.

Mr. ASHMORE. Yes, in other words, we have already had one 50-percent reduction and then another 20-percent reduction—and now there may be another 50-percent reduction.

Mr. SIKES. Yes. Another 50-percent reduction is in prospect. This is a most serious matter.

Mr. ASHMORE. Then there cannot be much more left, can there?

Mr. SIKES. That is correct.

Mr. ASHMORE. It is getting down to where we are on the verge of just about letting everything come in practically free and letting our own manufacturers and our own industries and our own workmen, many of whom are out of employment—as I say, our manufacturers and industries and workmen have to compete with a situation like that. Plus the fact that our wage rate in all these industries, whether it be plywood, textiles, chemicals, glass, watch manufacturing, or whatever it might be run on an average from 10 to 20 times what the wage rate is in many of the foreign countries. So we have to use some commonsense and good sound judgment if our own manufacturers and our own people are to be protected.

I would urge our representatives at this upcoming conference to bear these things in mind and to remember that we have unemployment in America and to remember also that the President only a few days ago recommended that we spend practically a billion dollars or maybe more than that, I do not remember the exact amount to try to get rid of poverty in this country. How can we remove poverty and unemployment if at the same time we are going to continue to put our people out of work. It just is not reasonable. It is not rational. It is not fair. It is not just. I hope we can prevent any further damaging reductions in these tariff rates.

Mr. Speaker, it is with the deepest concern that I wish to speak about the potentially injurious effects of possible tariff concessions to be negotiated by the United States in the forthcoming GATT talks starting on May 4 at Geneva. Since our special representative on trade negotiations has had his assistants in Geneva for several weeks preparing for preliminary discussions and laying the ground rules under which the formal tariff concessions will be evaluated, I think the time is ripe for us in Congress to take cognizance of what is going to happen there after May 4 and what may be the possible effects of such tariff trading on certain vital domestic industries.

I do not wish to be a tariff scaremonger or to be accused as an out-and-out protectionist, but I view with considerable alarm the deleterious results that will accrue to many of our most vital industries, especially in the small business field, if uncontrolled tariff concessions on our part are to be the order of the day at Geneva. The tariff cuts will affect small industries in every State. I am, of course, particularly concerned in what will happen to two of them in my district in South Carolina. They are the glass and chemical industries. Tariff cuts of 50 percent on the items these two industries manufacture will allow foreign competitive products to be imported on such advantageous terms and in such quantities that these two industries might as well shut up shop as they will be unable to meet the low foreign prices. When sales go down, production is diminished and unemployment follows. This is the end result I wish to obviate.

Mr. Speaker, we remember how in 1962 President Kennedy proposed that his Trade Expansion Act be a "bold new" instrument to meet our foreign trade challenges of the 1960's. This House passed his request overwhelmingly because he wanted to reach some "accommodations" with the burgeoning European Common Market countries, with England, with our 61 GATT trading partners and associates, with Japan, with the underdeveloped world and even with the Sino-Soviet bloc.

In this new instrument of "accommodation" the President was given authority to negotiate "on a reciprocal basis" reductions of 50 percent on almost all individual tariffs. This reduction is merely a continuation of past practices. We have had the "Torquay round" in 1951 with a 50-percent cut. Then the "Dillon round" with 20 percent. And now the "Kennedy round" with another 50 percent is in the offing. In the last 30 years we have reduced our tariffs overall by over 70 percent so that today we are one of the lowest tariff countries in the world. In 1934 our ad valorem tax averaged 51 percent on all dutiable imports—today it is under 12 percent. Now our special negotiator is all set not only to grant up to a 50-percent cut on individual items but also to cut tariffs across the board on overall categories on "basket" groups. This may be done, regardless of the fact that in many cases such a total cut will cause irreparable injury to many industries. Such cuts can be made because we have abolished the one safeguard we had beyond which limit a tariff on a specific product cannot be cut; namely, our "peril point" safeguard. This provision was the warning limit beyond which a tariff cut would hurt a domestic producer because excessive competitive imports could simply eliminate a local manufacturer of a specific product.

This "peril point" limit was established by the Tariff Commission after due cognizance had been taken of the effect a tariff cut would have on the volume of imports, the competitive effect of increased imports, and the well-being of the American company producing a like products. This safeguard is gone and under the terms of the new 1962 negotiating authority the State Department may grant cuts on our tariffs that can hurt a segment of an industry, without damaging that industry as a whole throughout the Nation. As a relief against excessive imports we have the escape clause appeal to be directed to the Tariff Commission. "Injury" must be proved on a broader base to the total industry before the Tariff Commission can make a recommendation to the President's Trade Policy Committee for a remedy. In many cases before such remedy can become effective a small industry may already be driven to the wall. Its companies either diversify or go out of business. It is also true that in most cases where injury has been claimed before the Tariff Commission no recommendations for help have been given, or if such a remedy is proposed, in most cases it has been denied by the President. Most of you here can cite cases where this has happened.

On the other hand, an industry affected by imports can ask for "adjustment" assistance in various forms, either as a loan to a plant, a loan for diversification, or retraining of workers for other skills. These remedies sound very plausible, but how much easier would it not be if we could simply protect an industry before injury begins. As often stated, there is no businessman in the United States who denies a foreign company fair competition in our domestic markets. But to insure fair competition there must be reciprocal trade concessions, an equalization of costs, particularly in the wage structure, and no undue advantage accruing from too heavy cuts in our import duties.

Sometimes we have used friendly persuasion in asking foreign exporters not to swamp our domestic markets with their particular products. Thus we arrived at voluntary export quotas of textiles from Japan, and voluntary meat totals from Australia and New Zealand. On the other hand, when we asked Belgium to curb its excessive exports of flat glass and carpets, it immediately retaliated by raising duties on certain chemicals and foodstuffs. Yet we simply did what had been implicitly agreed upon under waivers by the signatories of the General Agreement on Tariffs and Trade in 1947.

We all remember the latest "chicken" war which has resulted in a drastic cut in our poultry exports. In part we have received some compensation for this drastic loss of exports to Europe by the Common Market allowing us to raise our duties on a few import items from Europe. But this is not what we want. We want "fair" competition. We have been in the forefront of establishing such "fair" competitive conditions and have a right to demand reciprocal action from our trading partners. However, in the light of what we have been told, our special representative at the GATT meetings is going to sit down and bargain on over 1,100 items on which our tariffs are in disparity with those of the GATT countries. Not only on such a stupendous number of items, but in many cases one item may be an all-inclusive category—particularly a section of the chemical industry—but, of this, more later.

Mr. Speaker, may I draw your attention to the fact that our special representative at Geneva is going to agree not only to institute cuts in many of our tariffs, but also he will be under great pressure to minimize or abolish many of our so-called trade or import barriers—notably our American selling price principle and import quotas.

I am seriously concerned about this fact of having some import barriers abrogated. We know that President Johnson has said that tariff bargaining will not take place unless there are real reciprocal concessions. He specially wants our negotiator to achieve some kind of accommodation whereby our agricultural products are assured of a European market on competitive terms. He has warned that the tariff bargaining will be of a protracted nature and that we will concede nothing unless we achieve some quid pro quo of equal value for every concession we make. The very nature and extent of such bargaining can be measured by the number of staff members we will have at Geneva for 1 year—142—and the expense for 1 year—$1.9 million.

But what worries me more in the forthcoming bargaining sessions is the fact that in some fields our State Department negotiators are going to discuss reductions of tariffs on items or of methods of arriving at duties for which they would appear to lack legal authority. The legality of bargaining on the American selling price principle is under dispute. During the next few months we are going to hear much about the American selling price, the Buy American Act, the Anti-Dumping Act, and other pieces of legislation which can only be abolished or changed by specific acts of Congress. Here I wish to throw out a word of warning that all of us, who have industries in our legislative districts which might be affected adversely by tariff cuts, better be alert to the effect such tariff cuts will have on our districts. Also to be alert as to possible bargaining on procedures for which we as legislators have the prime and ultimate responsibility.

I am particularly happy to know that in these forthcoming tariff negotiations we will have four Congressmen who, although being present only in an advisory capacity, will be there as observers able to alert the leadership of both our Houses if bargaining goes beyond the terms stated in the Trade Expansion Act of 1962 or concerns procedures under the jurisdiction of Congress. Our four advisers are Representatives CECIL KING, of California; Representative TOM CURTIS, of Missouri; Senator JOHN WILLIAMS of Delaware; and Senator HERMAN TALMADGE, of Georgia. These men were well chosen for they are conversant with our American tariff problems. We know that they will do everything in their power to prevent our negotiators from giving unreciprocated concessions and, above all, will expect that American national interest, American manufacturers, and American workmen receive due consideration before any tariff cuts are made.

Mr. Speaker, I stated that I was vitally concerned about two industries in my district.

The Laurens Glass Works, Laurens, S.C., has been located there since 1910 and is currently employing around 800 people per year—many of them second-generation employees. Sales average around $15 million per year; the payroll is $5 million. This company also has a plant near Henderson, N.C. The glassworks makes mostly carbonated beverage bottles and other glass jar containers, such as detergent bottles. As companies go, it is very small, compared for example, to Owens-Illinois, whose sales total $500 million per year.

Glass container manufacturing is highly organized—wages are quite high; in fact, labor rates in this industry are the fourth highest in South Carolina—following paper, chemicals, and printing. Products from this South Carolina factory are shipped to users from New York to Florida and to Texas.

Currently the tariff on glass containers made by automatic machinery is 10 percent ad valorem—reduced from the 25 percent ad valorem of 1930. The tariff on containers made otherwise is 32 percent ad valorem—reduced from the 75 percent ad valorem of 1930.

What will a 50-percent reduction in tariffs on glass containers mean?

It will mean that the small protection afforded by the 10-percent tariff will be cut in half. Profits on glass bottles are minute indeed. Abolish the competitive base and foreign imports with their low-wage content will flood this country.

My people in Laurens are worried. Retrenchment will be rampant. Once you start the economic rolldown the effect multiplies. Cutbacks in production will have economic repercussions that cannot easily be offset by area redevelopment programs, adjustment assistance, or even war on poverty expenditures. Here is one instance where I submit that our "peril point" be the current tariff and that no reductions be allowed.

Mr. Speaker, the other industry in my district which will be directly affected by tariff cuts is the chemical industry. This industry is comparatively young in my State and area, and just when it is beginning to have an economic impact it is threatened by forces beyond its control, forces which will undercut its competitive base by allowing cheaper imports, directly competitive with its products, to swamp its markets.

Why should the forthcoming tariff reductions affect this industry and have such deleterious results on so many Americans? Simply because tariffs on chemicals are subject to a special valuation principles known as the American selling price. Foreign imports of dyes, dry colors, naphthols, benzenoid salts, bases, and intermediates are not only subject to a specific duty per pound but also an added percentage of the value of the same article manufactured in the United States and sold at a specific price in the domestic market. The tariff on most imported chemical intermediates is 3½ cents per pound plus 25 percent of the price of the American competitive product. On most dyes the tariff is 3½ cents per pound plus 40 percent of the price of the competitive American product. It is this American selling price which has become the bone of contention in international tariff bargaining especially on the part of Germany, Switzerland, Italy, and Japan. The contention is that the American price is artificially high, stifles competition and raises import duties beyond "fair" competitive levels. As such, therefore, foreign exporters and domestic importers contend that the American selling price is an "import hindrance" and should be subject to negotiation. This they intend doing at Geneva, declaring that such a trade barrier is contrary to the expressed American policy of liberalization in trade matters. Foreign competitors will demand through their governmental representatives in GATT that the United States abolish entirely this American selling price principle and substitute in its place a so-called reasonable ad valorem duty.

The American synthetic organic chemical and dyestuff manufacturers oppose such action. I support them in their opposition. Yet the suspicion remains that our special representative at Geneva may wish to consider negotiating this principle away. As the law now stands, he cannot do this. The principle is enshrined in our Tariff Act of 1930, sections 336, 402, and 402A, and can only be eliminated by direct legislative enactment of Congress. The chemical industries, however, fear that our special representative may reduce the percentage of the ASP valuation in the import duty. By doing this he will take away the protective advantage enjoyed by American producers. Since European labor rates are approximately one-third or less than American rates in this industry, and since a major percentage of the price of the item is due to labor, the foreign imports will enjoy a distinctive advantage if the ASP percentage is reduced.

Benzenoid chemicals and dyestuffs are absolutely vital to American industries, such as paper, textile, leather, film, auto, plastics, and medical supplies.

The American chemical industry as a whole is in a flourishing condition, well able to compete at home and abroad. But it is the coal-tar segment with its benzenoid chemicals, or the synthetic organic chemical part of the whole industry, that will be seriously hurt by imports if the duties are cut as contemplated. This basic segment of the chemical industry operates on very narrow profit margins. Even with currently existing duties foreign competition is severely depressing price structures. If there be any precipitous linear tariff reductions on the 1,900 intermediate chemicals and the 1,700 dyes, the effects on the domestic companies producing these items will be serious indeed.

Because of excessive imports of intermediates and dyestuffs, the total American industry is operating at only 60 percent of capacity today. It is a specialized industry, tailoring its "batch" operations to the desires of individual customers.

Our textile industries in the South depend on them, but if imported dyestuffs can be bought at lower prices you can be sure that our domestic companies will not get the business. There are 41 companies producing dyestuffs in the United States and the import competition that will result from price advantages gained through reduced tariffs will exploit the domestic market at the expense of domestic industry.

Mr. Speaker, I wish to reiterate my concern about the negotiation on "basket" items in the organic chemical and dyestuff fields.

If there were a product-by-product approach our American producers can at least fortify themselves by demanding reciprocal advantages in foreign markets for items we can produce and export profitably. But I think there is going to be "blind" trading if the "basket" provisions of our chemical tariff schedules are not carefully scrutinized. Unless this is done most carefully I do not see how our special representative can avoid bestowing inadvertent largess to foreigners at the trading table.

I wish also to draw attention to section 221 of the Trade Expansion Act of 1962. This section specifically requires the Tariff Commission to advise the President of the probable economic effect of modification of duty with respect to each article. I suggest that to bargain on basket items is contrary to the letter of the law that demands information by article if tariff negotiation is to take place concerning that article. I am sure that no effective tariff bargaining at Geneva can take place without adequate expert advice being available to our tariff negotiators.

The American Synthetic Organic Chemicals Manufacturers Association stands ready to provide such expert advice to our special representative at Geneva. In the interest of fair competition I submit that this offer be accepted and the advices offered, followed out.

Mr. Speaker, I am sure there are many other industries that will also be adversely affected by tariff cuts in the future. My colleagues will no doubt mention them in the coming days. It is imperative that we express our congressional concern that tariffs not be cut below levels that will entail serious harm to industries which are vital to our national economic well-being. We are discussing the President's war on poverty to the tune of just under $1 billion. If the pending tariff negotiations make import conditions so advantageous to foreigners that they can displace our domestic manufactures then the $1 billion will certainly not be sufficient to offset the dire results that will follow. The question to me is not how much money we will need after the event to help our people, but what we can do today to prevent such a potential injury. The answer is, do not cut our tariffs beyond the danger point level, avoid bargaining on basket schedules, get reciprocal concessions, and, above all, establish fair competitive conditions for imports and exports. In these ways I hope we can insure the survival of many of our essential industries.

Mr. Speaker, I ask unanimous consent to include at this point in the Record a statement by my colleague, the gentleman from South Carolina [Mr. McMillan].

The SPEAKER pro tempore (Mr. Philbin). Without objection, it is so ordered.

There was no objection.

### JEWELED WATCH ESCAPE CLAUSE MATTER

Mr. McMILLAN. Mr. Speaker, there are only three jeweled watch companies left in the United States: Elgin—Illinois and South Carolina; Hamilton—Pennsylvania; and Bulova—New York. There is also a nonjeweled watch industry, the principal members of which are U.S. Time Corp.—Connecticut, Illinois, and Georgia—and General Time Corp.—Connecticut, Arkansas, and Texas.

The Senate Armed Services Committee report of 1954 covered both jeweled and nonjeweled industries and found both important to national security.

The tariff increase of 1954 was requested by the jeweled watch industry, but it also was and it is important to the nonjeweled industry.

In 1953 the jeweled watch industry also included Waltham which stopped making watches in 1959. The industry produced 2,301,000 movements and employed 5,900 watchworkers. It now employs less than 3,000 watchworkers and makes only about 1,500,000 movements.

Imported jeweled movements run a little over 8 million annually, mostly Swiss, making a total of 9,500,000, so the U.S. industry supplies less than 16 percent of our own markets.

The Tariff Commission gave the President a regular annual report on the condition of the watch industry in July 1963, in which it said that the long-term trend of the industry is down.

In 1958 the U.S. jeweled watch industry applied to OCDM for a quota under the so-called "national security" clause of the Trade Agreements Act. OCDM said the industry was not essential and denied a quota, although the jeweled watch companies were then engaged in research and development and/or production for every U.S. missile than being produced, as well as other items. That report put Waltham out of business. The report was largely due to State Department pressure and tortured the facts.

Now the Swiss cartel is pressing State and Governor Herter's office to reopen the escape clause case and the Herter office has persuaded the Tariff Commission to hold hearings—set for May 12, 1964. The cartel not only is pressuring our Government to have the escape clause rates reduced but also to have watches put on the list for further cuts at GATT. If unchecked the State Department, the Swiss Government and the cartel working together may achieve either or both steps. The Herter office and State are yielding to Swiss threats to withhold some Swiss items from the GATT negotiations.

Any duty reduction will put all three U.S. companies out of production. They actually need increased duties, but have not asked for them yet.

The U.S. industry is also threatened by rapid increase of duty-free imports of jeweled watch movements from the U.S. Virgin Islands. Section 301 of the Tariff Act permits duty-free entry of articles "manufactured" there if U.S. value is at least twice the cost of foreign parts. Over a dozen companies are completing assembly of Japanese, French or German movements in the islands and bringing them into the United States with no duty. Chairman Mills has introduced a Treasury-sponsored bill to restrict this practice but it is not strong enough. This matter will be discussed with Mr. Mills.

The Department of Justice has just obtained a decree in an antitrust suit begun against the Swiss cartel in 1954—which the State Department opposed all the way—*U.S.* v. *Watchmakers of Switzerland Information Center, et al.* (U.S.D.C.S.D.N.Y.). Yet the Herter office and State are trying to get the President to turn over to this very cartel the remaining 15 percent of the U.S. market by a duty reduction.

The jeweled watch companies are now doing vital research and development and production for missiles and satellites, as well as many other military items. For example, they are doing important research and development and production for Sandia Corp. and timers and safety devices on practically all current missiles. They are developing the programing and timing systems for Apollo, the lunar exploratory nodule, and Tiros. A complete classified list is rather startling and can be supplied if needed.

The President should be advised, first, of the precarious economic situation of this industry in its battle with the Swiss cartel; second, that the Herter office and State are following a course which will sacrifice an essential industry to a judicially determined cartel that already has 85 percent of the U.S. market; third, that the Tariff Commission hearings set for May 12 should be canceled or at least postponed until after the GATT negotiations; and fourth, that the present loophole for duty-free imports of watches from the Virgin Islands must also be closed to prevent loss of the U.S. industry.

### PLYWOOD INDUSTRY

In South Carolina, there are 17 hardwood plywood mills. Since 1957, 6 mills closed their doors, and 10 ceased operations in the past 10 years. We can't say for certain that these mills, which were closed, would have continued operations had the imports not made such inroads in the U.S. market, but the inferences are overwhelming that many of these mills and many of these jobs would have remained available to our citizens had tariff concessions not been granted to the foreign producers. We are now faced with the possibility of granting further concessions in an industry in which the domestic market is already occupied more than 50 percent by the foreign producers. We cannot see how further concessions could be considered necessary or justified to increase trade. All that further tariff reduction would do would be to sacrifice domestic industry to the foreign producer. It is doubtful that the U.S. consumer would reap any benefit from a tariff reduction, for the importers have admitted that the tariff reduction, if any, will only result in increased profits to the foreign producer. However, these increased profits enable the foreign producer to continue plant modernization and automation, thereby forcing more and more of our domestic producers out of business through competitive disadvantage.

It is noteworthy that U.S. dollars were used to develop, promote, and improve the hardwood plywood industry in the Philippines, Japan, and Taiwan.

Having thus established competition with ourselves, we are now placed in the position of perhaps granting an additional market to the foreign producer by reducing further the tariff rates.

Some companies have sought area redevelopment funds in our State in order to enter the hardwood plywood business. However, they were unable to obtain local financing because those people in the local community are aware of the problems which this industry has faced. Further tariff reduction would give an impetus to imports which could destroy an industry which has already suffered much.

In addition, the problem extends beyond the plant managers and employees, because if our domestic hardwood plywood industry is demolished, the farmers in our area will not have any market for their logs, the sale of which quite often means the difference to them between a loss year and a meager profit or break-even year.

I therefore urge that our negotiators in Geneva demonstrate their integrity and good faith by reserving hardwood plywood from any tariff reduction.

One of my constituents provides an excellent example of what the domestic producer has tried to do to compete with imports. He ceased making stock panels when importers invaded his market for stock panels and door skins. He then turned to manufacture of cut-to-size plywood. These are drawer sides, drawer bottoms and other similar components primarily for the furniture industry. When he found that imports had begun to invade this market, to his detriment, he then turned to specialty items and is now faced with imports invading his specialty-item market. He has learned that when he develops a new market and a new product, he has only a limited length of time in which to benefit from his efforts, because as soon as he has developed the product and the market, the importer comes in and undercuts this market. Further tariff reductions would accelerate the speed in which the new markets which he is successful in developing would be taken from him.

First. Reduction in tariff rates would place further strain on Federal programs for fighting poverty, relieving unemployment, and aiding labor surplus areas. Most hardwood plywood mills are located in or adjacent to distressed areas of substantial and persistent unemployment. The raw materials used in the manufacture of hardwood plywood come from areas of substantial and persistent unemployment. Procuring areas for logs may range as high as 300 miles away from the mill. A substantial amount of hardwood plywood logs come from Appalachia.

Second. Foreign producers already dominate the domestic hardwood plywood industry. Imports in 1951 amounted to 8 percent of the market. Imports in 1962 amounted to 58 percent of the domestic market. In 1951, imports accounted for approximately 67 million square feet of hardwood plywood. In 1962, imports accounted for approximately 1.438 billion square feet.

Third. The hardwood plywood industry in the United States has been unable to export significant amounts of plywood because it has been effectively foreclosed from foreign markets due to threat of log embargoes, foreign customs problems, and labor and shipping costs.

Fourth. The foreign producers are actually in disagreement over whether they need further concessions in order to enhance their position in the U.S. market.

Fifth. As the African nations and other newly emerging countries develop industry, increasing pressures on the domestic hardwood plywood industry will be felt.

Mr. BROYHILL of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman.

Mr. BROYHILL of North Carolina. Mr. Speaker, I join my colleagues in commending the gentleman from Florida for taking this time to give our colleagues an opportunity to comment on the trade policies of our country. I have been very impressed with the great number of Members who have been expressing sincere concern over the trade policies of this great land of ours and in particular I have been impressed with the long list of industries that have been named here which have been harmed and hurt very badly by these policies.

I should like to ask the gentleman from Florida if he can name one industry or any one group of industries which has been helped in any way through tariff reductions or through any reciprocity which may have been gained in negotiations with another country.

Mr. SIKES. That is a most interesting question. So far as I have been able to determine, the whole subject of tariff reduction benefits is a one-way street, in which our manufacturers, our farmers and our workmen have not been privileged to participate. I do not know of any American industry which has benefited in this process.

That is a serious allegation. If there are American industries which have benefited, I shall be glad to yield to anyone who wishes to contribute information on that point. I do not know of any.

Mr. BROYHILL of North Carolina. That is certainly shocking information. We in the Congress should have something to say and something to do about it. We should meet our responsibility to the American people.

Mr. SIKES. I thank the gentleman from North Carolina.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Idaho [Mr. WHITE].

Mr. WHITE. I wish to compliment the gentleman, also, for taking this time to bring such an important matter before the House.

I represent a district in Idaho which has many of the basic industries of our State, producing industries of our economy, which economy depends almost entirely on the basic products extracted from the soil. We depend upon lumber, agricultural products, wool, mutton, beef, and also the metallic products extracted from the earth.

Each of these basic industries is at present being hurt in a serious manner by imports.

Several Members have talked about the adverse effects on the cattle industry. This is a problem of real consequence in my area. However, I should like to direct my remarks to imported metals.

Only recently in the Committee on Interior and Insular Affairs we had before the committee some State Department people, who talked about the subject of stockpile disposal. Mr. Getzin, who will represent us at the Kennedy round in Geneva on some of the negotiations which will take place, was asked specifically what concerned him the most—the producing industries of the United States, the consuming industries of the United States, or the foreign economies? He listed them in the following manner, and was quite explicit. He said that his first responsibility was to the foreign economies; second, to the consuming industries of the United States;

and third, to the producing industries of the United States.

I submit, Mr. Speaker, that the basic wealth of the United States is still dependent upon the producing industries, and any negotiations which are entered into which will in any way hurt these industries will hurt the entire economy of the United States.

I was at Geneva with the lead-zinc study group. At that time we talked to representatives of all the producing countries which produced lead and zinc, and they said that we owed them a share of our market. We talked about stockpile disposal. They said, "Do not dispose of your stockpile." Our State Department said, in retaliation, "We will not dispose of these stockpiles unless we give you an opportunity to know what we are doing."

I believe it would be only fair to give to our producing industries in the United States the same consideration that the foreign economies are given.

Again I compliment the gentleman from Florida. I believe the points which have been made are most meritorious. I believe they should be brought before the Congress and particularly before the people who will represent this Government at Geneva. I hope that in the coming negotiations we will not bargain away all of our protections for our basic industries and our prospects for continuing prosperity.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Illinois [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to extend my remarks following those of Mr. SIKES and include four separate tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANDERSON. Mr. Speaker, yesterday I had occasion to make some remarks on the floor of the House of Representatives expressing my concern at the tariff-cutting negotiations that will commence in Geneva on May 4, 1964, in the so-called Kennedy round. I wish to repeat very briefly what I said on that occasion; namely, that I certainly do not expect our Government to return to a posture of protectionism in the sense that it once existed. Indeed, quite to the contrary I think that we should make an effort in the direction of reducing tariff barriers; provided, however, that such efforts are made on a reciprocal basis. I must confess that I feel we have all too often been outnegotiated and outmaneuvered in the tariff-cutting that has taken place under GATT as well as in the bilateral negotiations which we have undertaken. As a result American industry today is suffering because it is being shut out of export markets, and at the same time our domestic economy is required to absorb an increasing volume of foreign-made goods which flow to our shores not simply because of the operation of the old economic principle of comparative advantage, but because of the unrealistically low level of duties on such goods and/or very often the complete absence of any quotas.

I recently had occasion to read an account of some of the difficulties that American manufacturers are experiencing in their efforts to penetrate the Latin American market. The extent to which the governments of many Latin American countries go in attempting to block out American-made products is truly a formidable barrier. The means employed include unreasonable licensing requirements, ambiguity of tariff classifications, excessive requirements for percentage deposits required of importers seeking licenses for U.S. imports, discriminatory rulings on documentation proofs, and other complicated and confused limiting requirements.

In addition to these factors six countries of Western Europe have formed the Common Market which is proving to be merely a regional device for erecting a common tariff wall against U.S. imports instead of proving to be the open sesame for American products which the proponents of the Trade Expansion Act of 1962 spoke so glowingly.

Mr. Speaker, I represent a district in Illinois where the screw and fastener industry is a very important component of our economy. One need take only a very cursory look at the record to discover the enormous injury that has been done to many of these industries because of a failure on the part of the American Government to be as vigilant in looking out for the interests of this important American industry as the governments of many foreign countries have been with respect to their own domestic industries.

In November and December of 1963 imports of screws, bolts, nuts, rivets, and related products averaged 10,554,000 pounds per month. This amount is 446 times over the same kinds of imports in January 1951 at which time they amounted to 236,835 pounds. The monthly average of shipments of bolts and nuts entering the United States of America for the first 11 months of 1963 showed an increase of 6,041 percent over the year 1950. Although we have enjoyed a 55.6 percent increase in overall economic growth in the United States of America during the period of 1951–63, we have witnessed during this same time frame a decline of 60 percent in domestic sales of split rivets.

During the 1930's the imports of wood screws into this country amounted to only 0.84 percent of U.S. manufacturers' sales of wood screws during this period. In the first 11 months of 1963 wood screw imports averaged 82.34 percent of U.S. manufacturers' sales. The reductions that were made in U.S. import duty rates on wood screws in 1947 when the duty was reduced to 15 percent and the further duty reduction to 12½ percent in 1951 are in large part responsible for the enormous increase in these imports.

I think it should be pointed out, Mr. Speaker, that the common garden variety of screws, nuts, rivets, and wire goods item is the volume item of the domestic industry. The production of these products keeps thousands of people employed; however, it is only when they can be produced in sufficient volume to make mass production of these products profitable that a high level of employment can be maintained. Although it is difficult to compare foreign prices and labor costs with those which obtain in this country, I have been informed that prices of foreign rivets, nuts, screws, and so forth, run between 30 and 45 percent below domestic prices for comparable items. Foreign manufacturers are able to lay down goods in American ports of these prices because of far lower labor costs. Mr. Speaker, at this point in my remarks I ask unanimous consent to include in the RECORD a chart which compares the hourly rates and fringe benefits paid U.S. factory workers engaged in the production of screws and nuts, rivets and fabricated wire goods with the low hourly wage levels that prevail in foreign countries:

*Tabulation comparing hourly wage rates and fringe benefits paid to factory workers in the United States engaged in the production of screws and nuts (all varieties), rivets (all kinds and varieties), and fabricated wire goods with low hourly wage levels prevailing in foreign countries*

NOTE.—All data shown here for foreign countries has been converted to U.S. dollars at current exchange rates]

| | Hourly paid factory workers | |
|---|---|---|
| | Male workers | Female workers |
| U.S. HOURLY WAGE RATES FOR ALL EMPLOYEES IN PLANT [1] | | |
| Straight time hourly rate paid | $2.529 | $2.082 |
| Average hourly fringe benefits paid | .604 | .604 |
| Total | 3.133 | 2.686 |
| Average number of hours worked per week | 43.3 | 40.5 |
| Average weekly take-home pay before social security and other deductions, but not including fringe benefits indicated above | $117.25 | $87.77 |
| LABOR RATES PAID IN FOREIGN COUNTRIES | | |
| France: | | |
| Average hourly rates paid | $0.716 | $0.647 |
| Wage supplements paid | .389 | .333 |
| Total | 1.105 | .980 |
| Germany: | | |
| Average hourly rates paid | .883 | .613 |
| Wage supplements paid | .309 | .215 |
| Total | 1.192 | .828 |
| Italy: | | |
| Average hourly rates paid | [2] .546 | [2] .546 |
| Wage supplements paid | [2] .404 | [2] .404 |
| Total | [2] .950 | [2] .950 |
| United Kingdom: | | |
| Average hourly rates paid | .980 | .563 |
| Wage supplements paid | .137 | .078 |
| Total | 1.117 | .641 |
| Japan: | | |
| Average hourly rates paid | [2] .342 | [2] .342 |
| Wage supplements paid | [2] .051 | [2] .051 |
| Total | [2] .395 | [2] .393 |

[1] Based on 3d quarter 1963 screw industry labor rate survey; fringe benefit costs partly estimated from prior surveys.

[2] Represents overall male and female plant average rates.

I would also like to include a chart showing a comparison between foreign and U.S. labor costs on a per-straight-time-hour-worked basis:

*Comparison of foreign against U.S. labor costs on a per-straight-time-hour-worked basis*

[In U.S. dollars]

| | Male workers | Percent each bears to U.S. rate | Female workers | Percent each bears to U.S. rate |
|---|---|---|---|---|
| United States | $3.133 | | $2.686 | |
| France | 1.105 | 35.3 | .980 | 36.5 |
| Germany | 1.192 | 38.0 | .828 | 30.8 |
| Italy | [1].950 | 30.3 | [1].950 | 35.4 |
| United Kingdom | 1.117 | 35.6 | .641 | 23.9 |
| Japan | [1].393 | 12.5 | [1].393 | 14.6 |

[1] Represents overall male and female plant average rates.

Mr. Speaker, I also ask unanimous consent to include at this point in the RECORD two charts which represent a 34-year statistical history of the American wood screw industry. They clearly illustrate, I believe, the severe hardship that the importation of foreign products has caused:

*34-year statistical history of the American wood screw manufacturers reveals the severe hardship caused by the massive imports of foreign-made, low-labor-cost wood screws*

| | Number of gross wood screws (monthly average volume rates shown for each period indicated) | | Percent imports to U.S. manufacturers' sales [1] | Number of times imports have increased over prewar levels |
|---|---|---|---|---|
| | U.S. manufacturers domestic shipments | Total imports coming into the United States | | |
| 10-year peacetime period (1930 to 1939, inclusive) | 2,472,267 | 20,677 | 0.84 | |
| 10-year wartime period (1940 to 1949, inclusive) [2] | 3,540,541 | 328 | .001 | |
| 10-year postwar period (1950 to 1959, inclusive) | 3,186,506 | 562,183 | 17.64 | 27.2 |
| 3-year U.S. prosperity period (1960 to 1962, inclusive) | 1,829,890 | 991,908 | 54.21 | 48.0 |
| 1963 average rate for 1st 11 months | 1,422,541 | 1,171,295 | 82.34 | 56.6 |

[1] Wood screw imports data from U.S. Department of Commerce.

[2] During World War II, wood screws were a high priority item when U.S. manufacturers furnished screws for the war effort and to all of our allies.

NOTE.—It should be noted above that imports during the 1st 11 months of 1963 represented 82 percent of the domestic manufacturers' volumes during the same period.

*Comparison of wood screw orders received and shipments made by U.S. manufacturers to domestic consumers compared with importations of wood screws (reports from 14 U.S. manufacturers)*

| Year | Domestic monthly average | | Imports of wood screws into United States (monthly average gross) | Percent imports of domestic | |
|---|---|---|---|---|---|
| | Orders (gross) | Shipments (gross) | | Orders | Shipments |
| 1928 | 4,658,837 | 4,900,829 | 7,879 | 0.17 | 0.16 |
| 1929 | 4,651,367 | 4,740,092 | 29,204 | .63 | .62 |
| 1930 | 3,126,982 | 3,038,209 | 17,596 | .56 | .58 |
| 1931 | 2,293,745 | 2,339,854 | 12,923 | .56 | .55 |
| 1932 | 1,570,658 | 1,627,570 | 5,342 | .34 | .33 |
| 1933 | 2,397,476 | 2,303,708 | 10,671 | .44 | .46 |
| 1934 | 2,254,589 | 2,277,835 | 14,491 | .64 | .64 |
| 1935 | 3,140,866 | 2,891,017 | 27,155 | .86 | .94 |
| 1936 | 3,049,753 | 3,031,882 | 43,852 | 1.44 | 1.45 |
| 1937 | 2,344,171 | 2,654,333 | 48,782 | 2.08 | 1.84 |
| 1938 | 1,925,929 | 1,936,490 | 13,918 | .72 | .72 |
| 1939 | 2,749,412 | 2,621,773 | 12,042 | .44 | .46 |
| 1940 | 2,803,477 | 2,668,931 | 2,229 | .08 | .08 |
| 1941 | 4,540,936 | 4,351,851 | 11 | | |
| 1942 | 3,810,778 | 3,812,598 | None | | |
| 1943 | 3,744,580 | 3,791,818 | None | | |
| 1944 | 3,153,931 | 3,247,862 | None | | |
| 1945 | 3,337,249 | 3,119,669 | 5 | | |
| 1946 | 5,253,600 | 3,936,848 | 41 | | |
| 1947 | 3,874,916 | 4,210,695 | 156 | | |
| 1948 | 3,029,845 | 3,637,110 | 57 | | |
| 1949 | 2,674,422 | 2,628,030 | 776 | 0.3 | 0.3 |
| 1950 | 4,992,249 | 4,239,436 | 146,689 | 2.94 | 3.46 |
| 1951 | 4,053,356 | 4,365,027 | 528,214 | 13.03 | 12.10 |
| 1952 | 3,238,101 | 3,301,706 | 394,448 | 12.18 | 11.95 |
| 1953 | 3,530,049 | 3,578,088 | 460,141 | 13.03 | 12.86 |
| 1954 | 3,405,458 | 3,362,306 | 336,896 | 9.89 | 10.02 |
| 1955 | 3,255,423 | 3,147,195 | 744,026 | 22.86 | 23.64 |
| 1956 | 2,829,452 | 2,807,322 | 816,558 | 28.86 | 29.09 |
| 1957 | 2,393,595 | 2,408,141 | 605,489 | 25.30 | 25.14 |
| 1958 | 2,290,339 | 2,201,109 | 603,836 | 26.36 | 27.43 |
| 1959 | 2,453,429 | 2,454,731 | 985,537 | 40.17 | 40.15 |
| 1960 | 1,914,835 | 1,922,138 | 972,422 | 50.78 | 50.59 |
| 1961 | 1,902,043 | 1,930,188 | 804,826 | 42.31 | 41.70 |
| 1962 | 1,614,901 | 1,637,345 | 1,198,476 | 74.21 | 73.20 |
| 1963 | 1,441,717 | 1,419,717 | 1,149,921 | 79.76 | 81.00 |
| BY MONTHS | | | | | |
| 1962—January | 1,869,431 | 1,708,619 | 1,268,043 | 67.83 | 74.21 |
| February | 1,907,720 | 1,723,653 | 829,327 | 43.47 | 48.11 |
| March | 2,030,880 | 1,866,167 | 994,482 | 48.97 | 53.29 |
| April | 1,779,919 | 1,801,915 | 953,540 | 53.57 | 52.92 |
| May | 1,549,715 | 1,725,179 | 1,036,515 | 66.88 | 60.08 |
| June | 1,361,002 | 1,652,605 | 1,186,437 | 87.17 | 71.79 |
| July | 1,432,479 | 1,461,473 | 1,841,179 | 128.53 | 125.98 |
| August | 1,623,656 | 1,575,312 | 1,302,519 | 80.22 | 82.68 |
| September | 1,325,942 | 1,522,483 | 1,063,252 | 80.19 | 69.84 |
| October | 1,646,514 | 1,677,076 | 1,195,846 | 72.63 | 71.31 |
| November | 1,589,072 | 1,628,790 | 1,634,771 | 102.88 | 100.37 |
| December | 1,262,487 | 1,304,870 | 1,075,797 | 85.21 | 82.44 |
| 1963—January | 1,416,059 | 1,392,712 | 1,132,683 | 79.99 | 81.33 |
| February | 1,450,130 | 1,452,774 | 1,239,688 | 85.49 | 85.33 |
| March | 1,521,136 | 1,356,738 | 1,289,863 | 84.80 | 95.07 |
| April | 1,387,766 | 1,417,517 | 887,693 | 63.97 | 62.62 |
| May | 1,591,447 | 1,396,714 | 1,031,126 | 64.79 | 73.83 |
| June | 1,228,858 | 1,339,465 | 1,029,071 | 83.74 | 76.83 |
| July | 1,344,841 | 1,268,087 | 2,449,707 | 182.16 | 193.18 |
| August | 1,346,714 | 1,421,793 | 918,667 | 68.22 | 64.61 |
| September | 1,381,729 | 1,521,807 | 963,393 | 69.72 | 63.31 |
| October | 1,722,802 | 1,593,924 | 1,088,009 | 63.15 | 68.26 |
| November | 1,529,643 | 1,486,417 | 854,343 | 55.85 | 50.70 |
| December | 1,379,477 | 1,388,657 | 914,812 | 66.32 | 65.88 |

Mr. Speaker, we often hear bold and brave statements made by officials in the U.S. Department of Commerce and others in the administration to the effect that all American businessmen have to do today is to get out and sell. Their rousing exhortations to use American "get up and go" and salesmanship are about as fervent as the words of the college coach during a locker room huddle in the middle of a tight ball game. These bland declarations of faith in the ability of American business to compete abroad despite the figures I have already recited on comparative labor costs very blithely ignore some other important impediments to achieving this goal. Our Government seems to be quite unaware that particularly with respect to the field with which I am dealing in these remarks that nontariff restrictions such as embargoes, license requirements which cannot be met, plus special rulings against imported screws, nuts, bolts, wire goods, and so forth, in many foreign countries make exports to those countries virtually impossible. As a direct result of such trade hindrances plus the high level of duties assessed on American products reaching foreign ports many screw and fastener manufacturers have been compelled to almost completely yield up the export market.

It should certainly not be necessary to spend a great deal of time emphasizing the essentiality of the screw and fastener industries to our national security. If we permit these great and vital industries to go down the drain by being literally flooded out by a tidal wave of low duty imports while our own products are being shut out of foreign markets we will have only ourselves to blame.

In conclusion, I hope that as a result of the rising tide of concern not only by business but by labor as well that this administration will finally awaken to its duty. We simply cannot afford to do in the forthcoming round of GATT negotiations what we have done in the past; namely, ignore the plight of American industries. If this administration really wants to make a significant advance in its much heralded war on poverty it had better pay some attention to the thousands upon thousands of

American workmen who may be displaced from their jobs never to find reemployment perhaps in their lifetime. We must act now firmly and decisively in this field of tariff negotiations. I repeat, we do want to see international trade prosper and flourish, but that cannot be permitted to occur at the sole expense of the American producer. Let us first attempt to redress the present competitive disadvantages of our native American industry. Let us first begin to stabilize our domestic production by removing the threat of increasing low cost and low wage imports. Then as this segment of our economy regains a healthy condition we can proceed on a reciprocal basis to make those trading arrangements which will be to the mutual advantage of the United States and those countries with whom she engages in world trade. We simply cannot continue the present downward path toward complete destruction of our domestic industry.

Mr. SIKES. Mr. Speaker, I yield now to the distinguished gentleman from Pennsylvania [Mr. Dent], a longtime student of this serious problem and one of the most active and vigorous fighters in this Congress for the cause of American industry and the American workman.

Mr. DENT. Mr. Speaker, I thank the gentleman from Florida.

I want to say that I am not going to take too much of his time, because I have an hour later myself. However, at this time I want to say that we are beginning to realize in this country this is a far cry from the trade philosophies of the Adam Smith theory which were embraced by our early American leaders inasmuch as there was no other trade philosophy on the horizon at that time. However, all of us know the Adam Smith philosophy was in answer to the then mercantilism that had prevailed in the entire and known civilized trading world. However, in this day and age, in the face of the innovations and in the face of all the manufacturing processes and techniques that have come forth through the ingenuity and the science of man, there is no such thing as a free trade area unless in that free trade area the 7 or 8 necessary ingredients are all prevailing. It is impossible to unite two unlike economies—a high-cost economy and a low-cost economy—in a free-trade world. It is impossible in an automated world to try to work out a trade agreement. It is even more impossible to try to inculcate into an export-import philosophy the idea of nationalistic patriotism. Thomas Jefferson long ago said that commercialism knew no patriotism. In this day and age, presented as we are with the greatest crisis in our history, regardless of all other economic crises that we have gone through, a crisis brought on whereby in the midst of prosperity we have pockets of poverty and each and every succeeding month has seen our unemployment become more chronic and static and each and every succeeding month has seen the innovation of automation prompted by importation which is taking its toll of the lifegiving jobs of America, I say that we must do something to stop this trend. If any Member of this Congress has an opportunity to go to the World's Fair in New York, I would ask him particularly to take a look at the Japanese trade display there. This fair in New York is nothing more or less than an exposition of trade ventures. If you go there, you will find that the Japanese are no longer the exporters of inferior products, and are no longer competition to be set aside as something inferior to that which we produce. They have, by the method of copying and the method of additional science, been able to take every American product that was once a mainstay of this economy and make it into a better product at a cheaper price. For my birthday this year I received a new Zenith marine-type radio that has a position finder on it for those of us who like to go out and fish at night, so that we can know where we are at night. It is not cheap. I understand it cost $99.95 plus tax. I owned that thing from my birthday on March 10 until about the middle of April before I had the opportunity to try it out. Here, lo and behold, is an American Zenith radio, and I find upon inspection that it was made in Japan. There is nothing sacred.

There is nothing we have in this country that can guarantee us tomorrow that every field of endeavor will not be invaded. The old idea that we need not worry about cheaper products is no longer a protective covenant. There is nothing that will put this country back, no matter how many billions of dollars we spend in our efforts to wipe out the pockets of poverty, unless we consider the damage done to the economy by the imports, first by direct job displacement and second, by the added impetus to the automation of our industries. They are not automating to produce for use, but are automating to produce for protection. And that is the very serious thing that we are faced with.

I am very fearful—and I want to say this to the gentleman from Florida—that the observers that we will have at the GATT conferences in the main will be observers looking for contracts, looking for licenses, looking for franchises to produce their goods overseas and to return them to the United States.

The story of Studebaker happens to highlight the picture because it is a well-known product. How many Members of Congress know that although the Studebaker move was made only within recent days, its stock has already increased $1.75, because within 11 days after they moved, they shipped into the United States Canadian-made products with a greater profit and the American people will not benefit 1 cent on any trade that is measured in dollar volume.

When we start to measure trade equations in jobs, in man-hours, in taxes, in production within the community, then we can say that trade can be on a reciprocal basis. But as long as we measure it in dollars we are doomed to what we have now. Instead of having pockets of poverty we will have pockets of prosperity with poverty prevailing all over the Nation.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Washington [Mr. Tollefson].

Mr. TOLLEFSON. Mr. Speaker, I thank the gentleman from Florida.

Mr. Speaker, I want to applaud the gentleman from Florida and all the others who have spoken on this important subject. Especially I want to commend the gentleman from Florida who has taken the lead in bringing to the attention of the House and of the American people this important and timely subject. He has taken the floor many times in years past.

When I first came here I voted to support or voted in favor of extending the reciprocal trade legislation that was then on the books. But within a few years' time I was compelled to change my voting and I have since then voted against further extension of the reciprocal trade legislation and also against the Trade Expansion Act. My reason for that has been that I have seen what has happened under our trade policy.

It is my privilege to serve on the House Committee on Merchant Marine and Fisheries and I have seen what has happened to the American fishing industry because of cheaply produced foreign fish and imports. Just within the past month it was brought to my attention that as of now better than 50 percent of the domestic consumption of fish comes from foreign imports. The percentage figure has been increasing over the years now it has passed the 50 percent figure.

I can remember when we had 160,000 American citizens engaged in taking fish. That figure is now down to about 125,000, meaning that about 35,000 fishermen have gone out of business. That does not include the loss of employment in associated industries.

I do not know what that figure would be, but it has come about because of our trade policy which has permitted increased amounts of cheaper produced products to come into this country.

Mr. Speaker, I come from the great State of Washington where we are interested in fisheries, of course, and we know fish and fishing firsthand. And we know firsthand what has happened to our fishing industry there.

Furthermore, Mr. Speaker, we are much interested in our State in lumber production. About 10 years ago the Western States of the United States, Oregon, Washington, and California, had about 80 percent or more of the waterborne lumber market on our eastern coast. That figure in the last 10 years has almost reversed itself. At the present time the Canadians on the west coast, the British Columbia people, now supply our eastern seaboard with waterborne lumber, to the extent of some 70 percent. As a consequence of this some of our small lumber mills have gone out of business and men have lost employment.

Mr. Speaker, in the upcoming GATT meetings it is my understanding that one of the matters to be considered will be the possibility or the advisability of further reducing the tariff on imports of softwood plywood from Canada. Mr. Speaker, if the present tariff should be lowered to any degree, it would play havoc with the plywood industry in our area and with the plywood industry throughout the entire United States. How many men would eventually lose their jobs as a result of it, I cannot predict. But our plywood industry would be seriously damaged if the tariff is lowered further.

Mr. Speaker, an interesting thing in connection with the lumber problem, the Canadian duty on imports of American lumber is several times higher than our duty on the importation of Canadian lumber.

Mr. Speaker, I want to again commend the gentleman from Florida for bringing to the attention of the House today this very timely and important subject.

Mr. BENNETT of Florida. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT of Florida. I compliment the gentleman on bringing this matter to the attention of the House of Representatives and to the country. I have just come from a conference with Gov. Christian Herter in which I urged that in representing our country, in tariff negotiations he do his best to protect Florida's citrus and cattle industries. I would like to say something here concerning the beef industry. The beef industry in our country is one of great magnitude, and Florida has been a major producer of beef since it entered the Union in 1845. As a matter of fact, Florida supplied most of the beef for the Confederacy during the Civil War, and it was estimated that as of the last agricultural census in 1960, Florida had 1.3 million beef cattle and calves on farms and ranches.

The operators of Florida's 5,800 livestock ranches and other beef cattle farms have more than 700,000 acres in improved pastures, and this industry is an important part of the State's economy. Imports of beef are increasing at an alarming rate, with 1.8 billion pounds of foreign meat imported in 1963, threatening not only Florida's beef industry, but that of other States. Legislation has been introduced to help solve this problem and I urge that speedy action be taken to remedy this threat to the economy of our country. I would like to include in the RECORD at this point a resolution from the agricultural commissioners of five Southern States, dated April 9, 1964, supporting this legislative action.

Thank you.

The resolution follows:

> Whereas, the beef cattle industry is of major importance to the economy of the Nation; and
>
> Whereas current levels of foreign beef shipments to the United States are causing adverse economic impact on our domestic beef cattle industry resulting in losses of millions of dollars to producers and to the Nation's general economy; and
>
> Whereas this situation places in jeopardy the economically stable and efficient domestic beef cattle industry: Therefore be it
>
> *Resolved,* That we the commissioners of agriculture,[1] together with the presidents of the States cattlemen's and livestock associations and agricultural and business leaders from the States of Florida, Georgia, Alabama, Mississippi, and Louisiana make the following recommendations relative to the importation of beef:
>
> That the Congress support and pass legislation on importation of beef similar to the provisions contained in H.R. 10334 and like bills both in the House and Senate of the United States; also
>
> That such action be taken immediately in order to provide permanent legislative relief to the cattle industry of the United States.
>
> The above resolution was approved and adopted at a meeting held in the auditorium on the second floor of the State Office Building, Montgomery, Ala., 9 a.m., April 9, 1964; be it further
>
> *Resolved,* That copies of the resolution be sent to the President of the United States, Congress, USDA, commissioner of all other States, State Department, U.S. Tariff Commission, all State cattle associations, American National Cattlemen's Association, Ways and Means Committee, Senate Committee on Finance, and to the Governor of each State.

Mr. LENNON. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from North Carolina [Mr. LENNON].

Mr. LENNON. Mr. Speaker, I wish to commend the distinguished dean of the Florida delegation and to say to him that many segments of our American industry, and agriculture as well, are grateful for what the gentleman has brought about here today on the floor of the House.

Mr. Speaker, I wish to join in the expression of concern about further sharp tariff reductions in those instances where domestic industries already face distressing import competition.

I think it is highly desirable that these expressions be made at this time for several reasons.

The GATT Conference which is to open on May 4 could result in disaster to many of our industries. We have been cutting our tariffs for 30 years now, and the rates on many products have been cut to the quick. The average reduction in the protective effect of our tariffs has been 80 percent. Few if any other countries have cut as deeply as we. Our average rate of dutiable items now is only 12 percent. The other countries, moreover, use many more nontariff barriers to imports than we do. Our import quotas are pretty much confined to agricultural items—wheat, wheat flour, cotton, sugar, peanuts, dairy products—and to a couple of minerals—petroleum and lead and zinc—and to cotton textiles.

This country is beyond doubt in the forefront of liberal trade among the nations of the world. This in spite of the high cost of production that puts many of our industries at a competitive disadvantage with imports. Other countries have lower costs not only because of their lower wages but because of the great improvement in their technology during the past decade.

We are more vulnerable to low-cost imports than many other countries. Yet, whenever the other countries find themselves vulnerable, they quickly put on restrictions, as witness the Common Market's duty increase on poultry and eggs, and later also on steel.

During the hearings before the Tariff Commission and the Trade Information Committee that ran for 4 months, from December 1963 through March of this year, more witnesses protested further tariff cuts and appealed for elimination from the negotiation list, than ever before. Unquestionably more industries are now exposed to destructive import competition than at any previous time. Industry has spread greatly in the other industrial countries and many of our industries that were formerly immune to import competition are now exposed to distressing low cost imports.

Among the products that formerly were on a net export basis but are now imported in greater quantity than they are exported are steel, cotton textiles, automobiles, typewriters, sewing machines, petroleum, beef, and so forth.

The competitive position of this country is not good despite the so-called overall export surplus of $5 billion. This surplus is spurious as a measure of our competitive standing because it includes Public Law 480 exports, exports under foreign aid, and exports of subsidized farm products. If these and similar exports were subtracted we would find that we do not enjoy an export surplus.

The protracted hearings before the Tariff Commission, while providing an opportunity for protests and expression of concern and alarm by a long list of industries, really represented little more than a chance to blow off steam. The Commission was stripped of nearly all its power in 1962 and the President need pay no attention to their report. The Commission no longer has even the power of recommendation in these hearings.

It is for this reason that I am happy to participate in this discussion. The tariff and foreign commerce are the functions of Congress and when the Tariff Commission, which is a creature of Congress, is stripped of its power, Members of Congress have every reason to give expression to the concern of the domestic industries.

Several years ago the hardwood plywood industry in my district was much concerned about imports but nothing was done. Now many of these companies are importers and have managed to survive, but the workers of course had no such means of defending themselves.

The textile industry has been heavily afflicted by imports and as a result of great efforts it now enjoys the protection of quotas, but textile products are subject to 50-percent tariff reduction under the GATT Conference that is to open next week. This would be a calamity because of the lower prices to which our industry would be exposed. Such reductions would go far to nullify the benefits of the international agreement by which exports to this country are limited.

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[1] Commissioner Doyle Conner, Florida; Commissioner Phil Campbell, Georgia; Commissioner A. W. Todd, Alabama; Commissioner Si Corley, Mississippi; Commissioner Dave Pearce, Louisiana.

Mr. Speaker, I am happy to join with my colleague in hoisting the storm signals and hope that the sentiment expressed here will greatly moderate the zeal of the State Department in wielding the tariff cleavers.

Mr. SECREST. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Ohio [Mr. SECREST].

Mr. SECREST. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SECREST. Mr. Speaker, I am one of the few people still in Congress or back in Congress who voted against the original reciprocal trade agreement bill which passed, I believe initially, in 1934. I did it at that time because I represented a district in Ohio where thousands of people earned their living in china factories, potteries, and other handmade glass factories.

Mr. Speaker, within my district in Ohio are located two of the largest U.S. producers of both ceramic mosaic and glazed wall tile, the Mosaic Tile Co. at Zanesville, Ohio and the Oxford Tile Co. of Cambridge, Ohio. These two items have a high labor content and are particularly susceptible to imports from low wage rate countries such as Japan and Mexico.

This administration and especially the U.S. Tariff Commission is very familiar with the serious injury already caused the domestic producers of ceramic mosaic tile which is used principally on floors. In 1955 imports amounted to 5 million square feet. By 1960 they had zoomed to 28.3 million square feet. At this point the Tariff Commission instituted an escape-clause investigation and unanimously found these imports were causing serious injury to the domestic industry. When the President in 1961 rejected the unanimous recommendation for a tariff increase, imports again climbed and in 1963 amounted to 49.7 million square feet or 56 percent of all U.S. consumption of this item.

The situation for this item is so serious that the Tariff Commission in its report to the President of April 22, 1964, found that ceramic mosaic tile must be reserved from negotiation under the Trade Expansion Act.

While this industry has been afforded no relief from its serious injury the economic impact of imports has been recognized and no further tariff cuts will be made on this item.

Only half the problem has been recognized, however, since glazed wall tile imports increased a staggering 1,520 percent in the last 10 years from 3.4 million square feet to 54.3 million square feet in 1963. Glazed wall tile, the comparison product to ceramic mosaic tile—85 percent of the mosaic tile produced in the United States is by manufacturers who also produce wall tile—is the pivotal article in a financially depressed ceramic tile industry. Any further tariff concession on wall tile which attracts more imports will so weaken this segment of the industry as to cause the collapse of the entire domestic tile industry.

This industry has already experienced sharp declines in number of workers, man-hours of employment, prices, and profits. The growing foreign penetration at present duty levels does not represent any natural competitive ascendancy of a superior product but rather the flooding of a market with a product selling at one-half the price of the like domestic item.

The domestic glazed wall tile industry fears that the experience of their mosaic tile operations represents the handwriting on the wall. Having gained the ascendancy in the mosaic market, the Japanese producers have set their sights on the whole U.S. tile industry. The buildup of a huge Japanese production capacity is now being leveled at the wall tile industry with full force. Japan now accounts for 98 percent of all imports of mosaic tile and 65 percent of wall tile.

There should be no modification in the present duty on glazed ceramic wall tile. To do so would defeat the express purpose of the Trade Expansion Act of 1962 in that it would neither stimulate the growth of the U.S. industry nor strengthen economic relations with foreign countries as the Japanese now take all the market they choose at present tariff levels.

### STATEMENT OF GLAZED WALL TILE MANUFACTURERS OF THE UNITED STATES BEFORE THE U.S. TARIFF COMMISSION

This statement is submitted pursuant to the announcement of October 22, 1963, of public hearings to be held in accordance with section 221(b) of the Trade Expansion Act of 1962.

The Glazed Wall Tile Manufacturers of the United States (hereinafter referred to as the association) is an association of domestic producers who account for approximately 90 percent of the glazed floor and wall tile manufactured in the United States. Association members are listed in appendix I.

The tiles appear in the "Tariff Schedules of the United States" (T.S.U.S.) under the following designation:

"SCHEDULE 5. NONMETALLIC MINERALS AND PRODUCTS

"*Part 2. Ceramic products*

"Subpart B. Ceramic Construction Articles

"Item No. 532.24. Other glazed ceramic floor and wall tiles."

The association vigorously opposes any reduction in the existing duties on glazed floor and wall tile. As the association will demonstrate any concession in the wall tile duty will directly result in serious economic injury, as defined by the act to the entire ceramic tile industry. Wall tile is the pivotal article in the financially depressed ceramic tile industry. As the keystone commodity in the marketing structure of the full range of ceramic products listed in schedule 5, part 2, subpart B, any further weakening of this segment of the industry will result in the collapse of the entire domestic tile industry, an industry which we hasten to point out that was pioneered in this country where its products have attained the highest consumer acceptance.

#### THE PRODUCT

The word "tile" encompasses a rather wide range of varied but related items. Note the following passage from the "Tariff Classification Study":

"The term 'tile' in its broadest usage includes not only relatively thin flat pieces but also hollow articles such as drainpipes, hollow building block, and flue linings."

The glazed wall tiles produced by association members are customarily three-eighths inch thick and have a facial dimension in excess of 6 square inches. The face of the tile is always glazed with a glasslike substance on top of the clay-type body.

#### INDUSTRY

The glazed wall tile industry is comprised of approximately 37 producers, who maintain manufacturing facilities in 14 States.

Total glazed wall tile industry sales are approximately $90 million annually. The industry employs nearly 6,000 production and related workers and more than 1,500 people in other capacities. Production payrolls are more than $25 million annually. Association members recently conducted a survey to determine the relevant facts necessary to a meaningful presentation before this committee. It is estimated that survey respondents account for more than 80 percent of the domestic production with all major producers included. The survey results are tabulated in appendix II.

Certain meaningful trends become immediately apparent from this data. In the 5 years 1958-62 covered by appendix II total employment has dropped; man-hours worked have dropped; wages paid have increased; average net price per square foot has dropped and net operating profits have dropped.

In view of the fact that new construction has risen tremendously during this same period, the declining state of the wall tile industry is even more disconcerting than the data would seem to indicate. This picture of slow deterioration is the direct result of rising imports.

#### IMPORTS

During the last 10 years wall tile imports have increased a staggering 1,520 percent, from 3,350,000 square feet to 54,343,000 square feet, spurred primarily by a huge increase in Japanese and Mexican shipments.

Appendix III depicts glazed wall tile imports 1953-63. These statistics tell eloquently the impact made by low cost tile. Japan and Mexico, classical low-labor-cost countries have led this assault. The rise in the domestic consumption of these imported tiles is not based on superior quality or design, but on cost. The growing foreign penetration as such does not represent the natural competitive ascendancy of a superior product, but rather that of a cheaper product.

Table I below presents a comparison between the average selling price per foot of domestic tile and the average foreign value per foot of imported tiles:

*Table I*

[In cents]

| Year | U.S. price per square foot | Foreign value per square foot |
|---|---|---|
| 1963 | ---------- | 22.2 |
| 1962 | 50.97 | 23.6 |
| 1961 | 53.0 | 24.5 |
| 1960 | 56.3 | 25.3 |
| 1959 | 56.64 | 25.0 |
| 1958 | 57.51 | 26.6 |

Source for foreign value: Department of Commerce FT-110 reports.

This data, while not wholly comparable, amply pinpoints the competitive price factors which threaten the industry. The surging use of imported tiles is eminently understandable in light of these price differentials. To date Japanese efforts have been primarily in the field of ceramic mosaics, but they are now starting a concentrated drive on the glazed wall tile market. In 1963 alone, the Japanese increased their wall tile shipments by 34 percent over 1962. The association feels that this trend toward accenting increased shipments of wall tile will manifest itself with growing severity in the future. Recent State Department analyses confirm the growing emphasis by Japanese tile manufacturers on wall tile. The American wall tile market is so attractive that other related industries in Japan such as the pottery industry, are turning to the production of wall tile.

The Commission might well take notice of the important reaction following the most recent decrease in duty in 1958. The total of all foreign shipments rose nearly 100 percent in 1 year, while those from Japan increased by 130 percent immediately after those concessions. A reduction in duty of 50 percent at this time will not make our domestic markets any more available to importers than they are today.

Furthermore, if history repeats itself, as it can only do by all indications, the Japanese will soon drive all other world producers out of the market. Clearly the Trade Expansion Act should not be implemented to produce a windfall for one nation at a price of domestic decimation. To do so would be a perversion of the spirit of the legislation.

### THE MOSAIC TILE PICTURE

The production of ceramic mosaic tile is closely related to that of ceramic wall tile. Many of the ceramic wall tile producers are also producers of mosaic tiles, with approximately 85 percent of the mosaics being produced by companies who also produce wall tile.

The domestic mosaic tile industry instituted an investigation in 1960 before the U.S. Tariff Commission in an effort to stem the rising flood of imports and preserve the domestic industry from total destruction. After extensive hearings, the Tariff Commission concluded on May 10, 1961, that mosaic tiles were being imported in such great quantities that the domestic industry was suffering serious injury. Despite the unequivocal nature of the Tariff Commission report, the President chose not to implement their recommendation for an increase in duty.

In justifying his refusal to act in accordance with the Commission's counsel the President noted that certain factors independent of tariff and customs adjustment were potential and probable sources of industry relief. Principal among these was a self-imposed quota adopted by the Japanese during the course of the investigation.

Developments since 1962 have proven the complete error in the President's assessment of the problems, the trends, and the viability of the quota. Note the relevant import statistics on mosaic tile, before and after the hearing:

*U.S. import for consumption of ceramic mosaic tile*

[In thousands of square feet]

| Year | All countries | Japan |
|---|---|---|
| 1955 | 5,082 | 3,171 |
| 1956 | 9,277 | 5,690 |
| 1957 | 7,700 | 5,532 |
| 1958 | 12,401 | 9,191 |
| 1959 | 24,620 | 19,025 |
| 1960 | 28,337 | 22,193 |
| 1961 | 25,289 | 21,829 |
| 1962 | 37,373 | 35,165 |
| 1963 | 49,667 | 48,437 |

Sources: U.S. Department of Commerce FT-110 reports and TC preliminary data; 1955–60 U.S. Tariff Commission Report 7-100; 1961–62.

These data reveal that with the subsidence of the potential curbs on their imports inherent in the 1961 investigation, the Japanese assault on the U.S. market was recommenced with renewed vigor. As a result the Japanese have virtually raided the domestic market and now take over 60 percent of its total. Under the foregoing circumstances it is only natural that the Japanese producers are now turning to the wall tile markets. Import statistics on wall tile previously discussed, fully attest to this trend. Note especially the tremendous increase in Japanese imports which occurred after the adoption of mosaic tile quotas.

### DISCUSSION

The foregoing facts make it abundantly clear that the prime concern of the domestic wall tile industry lies in the preservation of a reasonable portion of its domestic market. The tremendous cost advantages possessed by Japanese producers have resulted in an ominous disruption of our domestic markets. The facts eloquently portray the growing flood of Japanese imports and their deleterious effect on the American industry.

The domestic wall tile industry, which as stated, also accounts for 85 percent of the domestic production mosaic tile fears that the experience of their mosaic operations represents the handwriting on the wall.

Japanese imports of mosaic tile accounted for less than 7 percent of domestic consumption in 1959, but by 1963 had come to dominate the market, accounting for more than 60 percent of consumption.

No domestic industry can suffer such radical competition and loss of its markets and survive. The survival of the mosaic tile industry is primarily due to their continued ability to sell wall tile. If the wall tile industry is assaulted in a like fashion, the whole domestic ceramic tile industry will surely fall.

It is these very developments which the association sees building up. Having gained the ascendancy in the mosaic market, the Japanese producers have set their sights on the whole U.S. tile industry. Import data vividly portrays the growing emphasis on and acceleration in wall tile imports.

The very sources of the injury which was found to have decimated the mosaic segment of the tile industry, namely, the huge Japanese production capacity, are now being leveled at the wall tile industry with full force.

### CONCLUSIONS

1. The association respectfully submits that the evidence adduced on this record presents a clear case of a domestic industry which will suffer serious injury if tariff concessions are negotiated.

2. Accordingly, the association urges the Tariff Commission to advise the President to offer no modification in the present duty on glazed ceramic wall tile. To do so would defeat the express purpose of the Trade Expansion Act of 1962 in that it would neither stimulate the growth of U.S. industry nor strengthen economic relations with foreign countries.

3. Any tariff reduction in wall tile will simply place domestic producers at even greater competitive disadvantage. With a reduction in U.S. duties, foreign producers will either reduce prices further, or, more likely, maintain existing prices, but reap greater profits. Either way no new trade will be developed, as the Japanese now take all of the market they choose. In fact, a tariff reduction will probably drive out the other GATT member nations now participating in our markets.

Respectfully submitted.

GLAZED WALL TILE MANUFACTURERS
OF THE UNITED STATES.

### APPENDIX I

### ASSOCIATION MEMBERSHIP

American Olean Tile Co., Lansdale, Pa.
Cambridge Tile Manufacturing Co., Cincinnati, Ohio.
Claiborne Sales Co., Inc., Palestine, Tex.
Florida Tile Industries, Inc., Lakeland, Fla.
International Pipe & Ceramics Corp., Los Angles, Calif.
Jackson Tile Manufacturing Co., Jackson, Miss.
Mid-State Tile Co., Lexington, N.C.
Misceramic Tile, Cleveland, Miss.
Monarch Tile Manufacturing, Inc., San Angelo, Tex.
Mosaic Tile Co., Cleveland, Ohio.
National Tile & Manufacturing Co., Anderson, Ind.
Oxford Tile Co., Cambridge, Ohio.
Pomona Tile Manufacturing Co., Los Angeles, Calif.
Robertson Manufacturing Co., Trenton, N.J.
Stylon Corp., Milford, Mass.
U.S. Ceramic Tile Co., Canton, Ohio.
Wenczel Tile Co., Trenton, N.J.
Wheeling Tile Co., Wheeling, W. Va.

(NOTE.—Companies which are not members of the association but participated in the survey shown in appendix II are as follows: Atco Ceramics Corp., Keyport, N.J.; Aztec Ceramics, Inc., San Antonio, Tex.; Orange County Ceramic Tile Manufacturing Co., Huntington Beach, Calif.; Pacific Tile & Porcelain Co., Paramount, Calif.)

### APPENDIX II

*Glazed wall tile*

| | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|---|---|---|---|---|
| 1a. Average number of employees | 5,896 | 6,571 | 6,068 | 5,830 | 5,615 |
| 1b. Man-hours worked | 11,616,017 | 13,077,077 | 12,193,938 | 11,456,058 | 11,401,005 |
| 2a. Net operating profits before income tax | $8,215,562 | $10,033,111 | $7,288,600 | $5,714,189 | $7,050,717 |
| 3. Percentage of total use of productive facilities | 68.85 | 82.2 | 77.57 | 73.7 | 79.17 |
| 4. Average net price per square foot (in cents)[1] | 57.51 | 56.64 | 56.3 | 53 | 50.97 |
| 5a. Wages paid | $21,839,043 | $25,609,998 | $24,113,888 | $23,073,542 | $23,834,245 |
| 5b. Average hourly wage[2] | $1.786 | $1.85 | $1.89 | $1.937 | $2.014 |
| 6a. Sales (in dollars) | $73,349,779 | $85,457,867 | $80,698,432 | $75,469,743 | $78,682,791 |
| 6b. Sales (in square footage) | 118,700,160 | 138,828,846 | 132,342,864 | 132,014,148 | 142,523,669 |
| 7. Inventories (in square feet) | 21,966,035 | 23,476,342 | 22,878,537 | 27,951,094 | 29,119,139 |
| 8. Capital investment for modernization, expansion, etc | $3,240,834 | $4,886,599 | $2,872,415 | $1,990,306 | $2,021,038 |

[1] If average net price is computed on footage sold versus net sales in dollars the following appears: 1958, 59.9 cents; 1959, 59.9 cents; 1960, 58.8 cents; 1961, 55.26 cents; 1962, 53.4 cents.

[2] If the average wage be computed on the basis of total man-hours versus total wages paid the following appears: 1958, $1.88; 1959, $1.944; 1960, $1.965; 1961, $2; 1962, $2.08.

APPENDIX III.—*U.S. imports for consumption of glazed floor and wall tile, 1953–63*

[Quantities in square feet]

| | Japan | Mexico | Other | Total |
|---|---|---|---|---|
| 1953 | 96, 750 | 15, 382 | 2, 234, 066 | 2, 346, 198 |
| 1954 | 189, 727 | 208, 153 | 2, 951, 967 | 3, 349, 847 |
| 1955 | 1, 302, 185 | 3, 348, 825 | 6, 433, 310 | 11, 084, 320 |
| 1956 | 3, 187, 095 | 4, 356, 621 | 6, 445, 144 | 13, 988, 860 |
| 1957 | 2, 540, 851 | 3, 352, 633 | 3, 310, 794 | 9, 204, 278 |
| 1958 | 4, 615, 036 | 4, 803, 733 | 2, 450, 563 | 11, 869, 332 |
| 1959 | 10, 641, 240 | 6, 451, 356 | 4, 882, 283 | 21, 974, 879 |
| 1960 | 19, 519, 261 | 7, 745, 696 | 7, 538, 156 | 34, 802, 513 |
| 1961 | 23, 445, 097 | 8, 070, 436 | 7, 975, 753 | 39, 491, 286 |
| 1962 | 26, 259, 910 | 8, 763, 958 | 10, 479, 494 | 45, 503, 362 |
| 1963 | 35, 155, 425 | 9, 934, 317 | 9, 293, 553 | 54, 343, 295 |

Source: U.S. Department of Commerce FT-110 reports.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. SIKES. Mr. Speaker, I now yield to the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Mr. Speaker, adding, if I may, one further observation to the remarks I made earlier, may I say it would be my hope that the feelings and the sentiments expressed by many Members of this House in the last 2 days will tend to temper some of these decisions which are likely to be made in the GATT Conference, and further to make the final observation if there is any wholesale liberalization or lowering of tariffs in this Conference, every Member of this House and the other body as well will very shortly receive some loud complaints on an equally wholesale basis from their constituents.

Mr. MATTHEWS. Mr. Speaker, we in Florida are greatly concerned about tariff reductions on agricultural imports. A delegation from Florida testified before the Tariff Commission on December 13, 1963, and specifically asked that the following items be removed from consideration for possible tariff reduction: Schedule 1—Animal and Vegetable Products, Part 8—Vegetables, Subpart A—Vegetables Fresh, Chilled or Frozen, items 135.30–137.63 which covers cabbage, carrots, celery, corn (on the cob), black-eyed peas, cucumbers, endive, eggplant, okra, peas, peppers, potatoes, radishes, squash, tomatoes, and other vegetables. Also Schedule I—Animal and Vegetable Products, Part 9, Subpart B—Edible Fruits, items 146.30–147.37 and items 147.90 and 148.60 covering avocados, strawberries, citrons, grapefruit, lemons, limes, mandarin oranges, and other fresh citrus, mangoes, cantaloupes, watermelons, and papayas, and also Part 12, Subpart A—Fruit Juices, items 165.25–165.35, lime and other citrus juices.

Reductions in the tariff of the above-named agricultural products will intensify competition from low-wage foreign countries where peons are used to produce and harvest these crops at wages which are only a small fraction of those presently being paid American workers and such foreign supplemental workers who have to be imported into the United States to meet the harvest manpower shortages which we have experienced since World War II. It is difficult for any thinking American to reconcile our Government's position wherein the U.S. Department of Labor is trying to do away with all foreign labor programs in this country on the allegations of possible adverse effect to domestic workers, and on the other hand adopting tariff reductions which are driving our agricultural industries and capital to these foreign countries with the attendant result that those who remain in this country will be put out of business.

One of the problems we have in the United States is, of course, the tremendous cost of production. Foreign countries, such as Mexico, other Central and South American countries, the Bahamas, West Indies, and others already enjoy much lower cost of production than we have in Florida and many areas of the United States for the following reasons:

First. Labor costs are very low—many cases less than $1 per day.

Second. Their soils require less fertilizer and cultivation.

Third. They do not practice the extensive and costly control of plant pests or diseases which we do.

Fourth. Their irrigation practices are not as extensive nor as costly as ours.

Fifth. They do not have the freeze problem nor frost protection costs that our producers have.

Sixth. They do not have workmen's compensation, social security, and tax expenses that we have in the United States.

In addition to the producers, we have many agriculturally oriented and related businesses, such as fertilizer, chemicals, container manufacturers, rail and truck lines which will be seriously affected by this reduction in tariff. In fact the whole complex of our economy will be adversely affected by these tariff reductions.

My State of Florida would probably be more seriously affected than most other States since our geographical location forces us to produce at the same time our foreign neighbors are in production. However, our Florida producers are attempting to solve their own problems with the aid of State and Federal marketing agreements and orders, voluntary cooperatives, voluntary advertising groups, and so forth. Unfortunately, these foreign areas will reap the harvest of their efforts unless something is done.

Mr. Speaker, our Florida farmers are asking only that we leave the import duties where they presently are. They are not advocating complete elimination of their competition, but they are attempting to remain on a somewhat equal production-cost basis with our foreign neighbors. I could go on in greater detail, Mr. Speaker, to emphasize the problems facing our farmers, and much of this information has already been given to the House. I firmly believe that by allowing the tariffs to remain at present levels, we will not only be helping the American farmer, but also the economy of the United States, and ultimately the American consumer.

Mr. BARING. Mr. Speaker, my district, which is the whole State of Nevada, has a vital interest in the tariff question and I am equally concerned, with Members from many other States, over what will happen in the Geneva tariff-cutting conference opening on May 4.

Mineral products are one of the mainstays of Nevada's economy, such as lead and zinc. Another item that is under great pressure from imports is beef, and this is another product that is an important element of income. Minerals and cattle have in common excessive exposure to import competition. Lead and zinc have been afflicted for years, but beef was not hard hit until the past few years. Then came the avalanche of 1963. Imports rose sharply and prices fell. In 1963 imports took about 11 percent of the whole domestic market.

There are those who minimize the effect of imports but anyone should know that when a domestic industry is fully capable of supplying the national needs and does so, as the cattle industry of this country was doing, an addition of 10 percent to the supply will inevitably break the market; and this is what happened with beef. Lift the greater part of this weight from the market and it will come back.

In a wholly ineffective effort to meet the problem, our State Department negotiated a soft agreement with Australia and New Zealand whereby those countries would have retained almost the whole of the record exports they had achieved in 1963 and thereafter would have enjoyed a growth factor equal to the increase in consumption in this country. This was an arrangement rather than an agreement, but held out little hope for our industry.

A short time ago both Australia and New Zealand were reported by our Secretary of Agriculture as taking steps of their own to reduce their shipments to us, Australia by 29 percent and New Zealand by 22 percent, in 1964, compared with 1963.

While this will represent a very welcome relief if actually carried out, these promises do not provide our cattle industry with enforceable rights at law or in the form of a duly executed agreement. It leaves the industry on tenterhooks, not knowing what the future holds. Such uncertainty creates a very unwholesome climate for any industry, cattle growing not excepted.

Mr. Speaker, considering how sorely beset the beef industry already finds itself, even if not all the difficulty is caused by imports, it does not seem possible that the President's Special Representative on Trade Negotiations could contemplate further tariff cuts.

This applies not only to cattle but to lead and zinc. As I have said, lead and zinc are veterans of the import problem.

The trouble in each instance comes down to the matter which is the common complaint of all industries; namely, low foreign wages. Economists of the State Department and other Government departments can say all they will to the effect that low foreign wages do not give foreign countries a great competitive advantage in our market. It is only a reflection of their competence. Scores of industries, including thousands of companies that are actually on the firing line, make better witnesses than the economists who are doing their best to advance their theories of free trade. They do not have their investments at stake.

Low foreign wages accompanied by higher and higher productivity abroad make most of our import troubles and there is nothing we can do about either factor. Therefore, if we are to assure our industries a future we have to regulate the imports. The alternative is very clear. If we do not do it we are responsible for creating conditions under which our industries cannot survive. There is no point in blinding ourselves to the obvious and the inevitable. We either come to the rescue of these industries or we lose them. If we serve them with further tariff cuts as is now proposed, we give them notice not of indifference but of outright unfriendliness. I do not think that is the proper posture of government.

Since before statehood the livestock industry has been basic to Nevada's economy. Most of the forage and cereal grain produced are marketed through livestock. In 1960 the total agricultural production marketed by Nevada ranchers and farmers totaled $56,892,000. Livestock income was $45,307,000 or approximately 80 percent of the total agricultural income. Even today, during the serious livestock depression brought about by beef, veal, and mutton imports and related factors, the livestock industry in Nevada represents around 70 percent of the total agricultural income.

To further show the importance of the rural economy to the State of Nevada the following table is presented, based on 1962–63 property valuations:

*Property valuations by area for agricultural counties in Nevada, 1962–63*

| | Rural | Urban |
|---|---|---|
| Northeastern counties (Elko, Eureka, Humboldt, Lander, and White Pine) | $36,353,623 | $27,762,794 |
| West central counties (Pershing, Churchill, Lyon, and Douglas) | 25,881,030 | 15,138,914 |
| South central counties (Esmeralda, Lincoln, Mineral, and Nye) | 10,442,244 | 7,982,659 |

The 13 livestock and agricultural counties show an excess rural over urban valuation of $21,792,530; therefore the serious livestock depression influences the entire State's economy, and especially in 13 of the 17 total counties of our State.

*Beef cow numbers in Nevada, January 1 inventories*

[Number in thousands of head]

| Year: | |
|---|---|
| 1950 | 260 |
| 1955 | 300 |
| 1960 | 264 |
| 1961 | 272 |
| 1962 | 269 |
| 1963 | 266 |
| 1964 | 280 |

Beef cow numbers as shown from the above table, reached a peak in 1955. The increased 1964 January 1 inventory is a result of favorable range and deeded land forage and the results caused by the 1,000,750,000 pounds of foreign beef that flooded the United States market in 1963. The depressing effect of a cattle market, and especially the cow market, is resulting in the holding of old cows for just 1 more year each year. Low feeder cattle prices have also resulted in more heifers held for breeding than is required to maintain a basic cow herd, therefore resulting in a buildup of the cow herd due to holdover of old cows that would have normally gone to market for processing meat under normal prices and the extra replacement heifers not sold as feeders.

Depressed livestock markets have further reduced the net profit of our Nevada livestock industry. A study by the University of Nevada's Agricultural Economics Department estimated that the cash receipts in 1962 from marketing of cattle and calves was reduced by $4.8 million as a result of a 10-percent level of beef imports. The 1963 ratio of index of prices received to the index of prices paid for interest, taxes, and farm wages was 78. This is the lowest index since 1931–34 period, that is, the years of total business depression.

In conclusion may I suggest that immediate legislative action be taken to curb beef, veal, and mutton imports in all forms. The livestock industry has been very cooperative and willing to work with legislators in solving this serious problem. Only through reducing and maintaining control of meat imports can the livestock industry begin to function and return to normals of production and prices. Congressman A. SYDNEY HERLONG's bill, H.R. 10334, would establish definite import quotas on meat, meat products, and animal imports from New Zealand and Australia, using the average of the years 1959–63 as a base period. Some 50-odd Members of Congress have introduced similar bills.

I repeat that I am wholeheartedly in support of the protest that is being expressed here this afternoon.

**Mr. PELLY.** Mr. Speaker, I should like to point out that the respective lumber imports of the United States and Canada from each other reflect the existing disparity in tariffs and other inequities as between the two countries.

For example, on softwood species the rate in duties is approximately $8 per thousand levied by Canada as compared with $1 per thousand charged by this country.

From 1958 to 1962 United States exports of lumber to Canada declined by nearly 50 percent. Meanwhile the volume of Canadian exports to the United States from 1957 to 1962 nearly doubled.

Surely, in all fairness, our American lumbermen are entitled to tariff reciprocity.

Mr. Speaker, at this point I ask unanimous consent to include a tabulation of imports and also one of lumber mill employment from 1947 to date which points up the plight of the softwood lumber industry due to the disparity in tariffs and other inequities.

*Comparison of U.S. softwood lumber, imports, production, and apparent consumption, 1947–63* [1]

[In millions of board feet]

| Year | Production | Apparent [2] consumption | Imports | Imports as percent of— | |
|---|---|---|---|---|---|
| | | | | Production | Apparent consumption |
| 1947 | 27,937 | 26,682 | 1,096 | 3.9 | 4.1 |
| 1948 | 29,010 | 28,576 | 1,659 | 5.7 | 5.8 |
| 1949 | 26,472 | 27,366 | 1,432 | 5.4 | 5.2 |
| 1950 | 30,633 | 33,452 | 3,143 | 10.3 | 9.4 |
| 1951 | 29,493 | 30,336 | 2,255 | 7.6 | 7.4 |
| 1952 | 30,234 | 32,293 | 2,269 | 7.5 | 7.0 |
| 1953 | 29,562 | 30,821 | 2,533 | 8.6 | 8.6 |
| 1954 | 29,282 | 32,001 | 2,858 | 9.8 | 9.8 |
| 1955 | 29,815 | 32,390 | 3,331 | 11.2 | 10.3 |
| 1956 | 30,231 | 32,294 | 3,135 | 10.7 | 9.7 |
| 1957 | 27,100 | 29,617 | 2,716 | 10.0 | 9.2 |
| 1958 | 27,379 | 30,347 | 3,157 | 11.5 | 10.4 |
| 1959 | 30,509 | 33,510 | 3,746 | 12.3 | 11.2 |
| 1960 | 26,672 | 29,005 | 3,636 | 13.6 | 12.5 |
| 1961 | 26,066 | 29,670 | 4,006 | 15.4 | 13.5 |
| 1962 | 26,812 | 31,170 | 4,578 | 17.1 | 14.7 |
| 1963 [3] | [4] 27,611 | 32,277 | 5,057 | 18.3 | 15.7 |

[1] Includes railroad ties; production includes sawed ties only; imports include ties assumed to be softwood.

[2] Production plus imports minus exports, plus or minus change in stocks. Softwood retail stocks estimated as 80 percent of total retail stocks.

[3] Preliminary; subject to revision.

[4] Based on data compiled by National Lumber Manufacturers Association.

Source: Forest Products Division, Business and Defense Services, U.S. Department of Commerce.

*Lumber employment*

(Sawmills and planing mills)

| | |
|---|---|
| 1947 | 492,100 |
| 1948 | 474,600 |
| 1949 | 431,700 |
| 1950 | 462,900 |
| 1951 | 472,800 |
| 1952 | 439,300 |
| 1953 | 415,900 |
| 1954 | 376,000 |
| 1955 | 393,100 |
| 1956 | 378,600 |
| 1957 | 331,600 |
| 1958 | 311,000 |
| 1959 | 319,900 |
| 1960 | 295,000 |
| 1961 | 269,000 |
| 1962 | 267,000 |
| 1963 | 262,000 |
| 1964 | 260,000 |

*Lumber employment*—Continued

(Sawmills and planing mills)

Source: Bureau of Labor Statistics, U.S. Department of Labor, Employment and Earnings.

**Mr. PURCELL.** Mr. Speaker, on October 29, 1963, I presented to the House a series of 10 recommendations of the Independent Petroleum Association of America for improvement on the oil imports program. For more than 5 years, a mandatory oil import program has been in effect. Without it, there would have been a complete deterioration of the domestic oil-producing industry. This program, even though it has provided some assistance, has never been given the strength it should have to provide adequate protection for the oil industry.

I have heard since I became a Member of the House pleas for more adequate import control from the steel industry, the leather industry, the glassware and pottery industry, and many others. Because of the huge increases in meat imports in recent months, we now find a most serious financial crisis developing in our domestic livestock industry.

Mr. Speaker, beef imports in 1963 were more than double those in 1961. These imports constituted approximately 11 percent of the beef consumed in this country last year. Prices of domestic beef have been reduced drastically in recent months. We have reports of beef producers with very good past records now losing $40 or $50 per head and even more, because of the present market situation. The economic impact of this crisis is being felt throughout the livestock producing areas of our country.

Other factors have helped to contribute to this situation. We do have an oversupply of cattle at the present time and weather has been a factor in this problem. However, I am firmly convinced that the single most important factor in the present decline in livestock prices is the increasing level of beef imports.

Mr. Speaker, we hear a lot of talk that any controls on these imports of beef would be contrary to our trade policy. I submit that unless we take a much more firm stand at the coming GATT negotiations, we will be placing our livestock industry, and many of the others I mentioned, in real jeopardy.

I have observed that the Common Market countries have told us that they cannot agree with our requests for concessions for political reasons. That is, that the citizens of these countries would react against such concessions by rejection of their political leaders. This has been particularly true in agriculture. The farmers say the European farmers have enough political power in Europe to throw out of office any political group which gives the kind of concessions the United States needs to maintain our agricultural industry at the necessary level.

Although they are diminishing in numbers every year, I believe the farmers and livestock producers in this country still wield a great deal of political power. If we continue to back down in matters of world trade at the expense of our domestic livestock industry and other phases of agriculture, I believe that we, too, will see political reprisals.

I respectfully urge those who will represent the United States at the bargaining table to stand up for American industry. American agriculture, as far as I can determine, has lost out in every world trade agreement so far. I hope we can reverse this course.

Mr. Speaker, I am becoming convinced that unless some action is taken to relieve our domestic livestock industry of the heavy burden of huge shipments of cheap imported beef, the Congress will act on this matter by passing legislation similar to H.R. 10370, a bill I have introduced to impose import limitations on meat and meat products.

Thank you, Mr. Speaker.

Mr. MARSH. Mr. Speaker, in talking with Virginia businessmen—including our agricultural businessmen—about our international trade policies, I have found a widespread concern over the quality of background information quickly available to our negotiating teams during the course of negotiations.

With due regard for the experience and earnestness of our representatives in these trade talks, it is believed their bargaining ability is being hampered by failure to adopt, as a matter of consistent policy, a practice of including industry representatives on the staff teams backing up the chief negotiators.

I should emphasize that this apprehension is being expressed not only by individuals who take issue with basic concepts of our trade policies but also by many who support, in principle, the objectives of our Government's efforts in this area.

There is no question but that the evident reluctance to bring agriculture and industry fully into the negotiation process at the staff level has operated to multiply doubts and misunderstandings.

It is not suggested seriously, of course, that our trade agreements be hammered out by nongovernmental bargainers. What is being urged—and I must state that I find nothing illogical or impracticable about it—is that individuals of competence and standing in the business communities—agricultural and industrial—be kept close at hand, in advisory capacity, throughout the course of direct dealings with the representatives of other governments, or associations of governments, such as the European Economic Community.

It may be said that such an arrangement is not necessary, because our governmental trade experts go into these talks with the benefit of complete information as to the economic effects of trade concessions proposed to be offered or sought. Assuming, for the moment, that such is the case, it cannot be contended seriously that every possible modification of such concessions, every innovation brought to the fore at the bargaining table, can be appraised fully from the standpoint of its effects on domestic interests, by a staff drawn from the Government sector.

The ready availability, for on-the-spot consultation, of citizens who have day-to-day exposure to the problems of producing or trading in a particular commodity surely could be of substantial benefit to our negotiating teams.

Too often, the impression has been created at home that the interests of a substantial segment of American agriculture or industry are being bargained away by persons who simply cannot be experts on everything, but refuse to acknowledge that they could use a little help.

Here in the Congress, we must have the benefit of information as to the effects legislation may be expected to have on those elements of the private sector proposed to be subjected to the legislation. We take formal testimony from industry, of course, but I am confident we would not amend substantially a proposed act without ascertaining from industry what its views of the effects of the change were. On occasion, the general welfare might require an enactment disadvantageous to a particular industry, but we would not vote in ignorance of the effects.

In the plea for industry representation on trade negotiation staffs, there is no intent to substitute special-interest judgments for the judgments of those charged with the decisionmaking responsibility in Government. The hope is that these decisions, affecting as they may the futures of thousands of American business establishments, their employees, and the farmers of the United States, will not be made at the trade negotiation tables without recourse to background knowledge which could be made available from those who have to wrestle daily with the problems of producing, processing, fabricating, and selling.

Mr. STEED. Mr. Speaker, I am deeply concerned at the mounting pressures to which the domestic glass container industry is being submitted. I am convinced that further tariff reductions in this field could mean the destruction of this segment of our economy. This is an industry that employs some 60,000 persons in 109 plants. Its payroll is estimated at $400 million. It makes up some 45 percent of our domestic glass industry. In my own district it has been a way of life for many of our people at Sapulpa, Okla., for decades.

I believe it has made and is making a reasonable effort to meet competition. Tariff rates are already about 50 percent below those of the tariff of 1930 in this area. The industry is not asking for complete protection.

But we see a pattern that has become evident in too many parts of the American economy in the last few years. Imports are cheaper because of the extreme low cost of labor in some countries abroad—barely one-seventh in the glass container industry in Japan compared to the United States. And now foreign competitors are obtaining the modern production techniques which alone have enabled our industry to keep afloat.

The American industry even now is operating at only 77 percent of capacity, and inventories are rising. Sales continue to show some increase, but earnings are at their lowest level in 8 years. I believe the domestic glass container people will do well to hold their own under existing tariffs, much less to face smaller ones. This group is making its contribution to our economic health, and I trust it will receive your due consideration.

Mr. GURNEY. Mr. Speaker, for the past several months two of Florida's vital industries have been faced with virtual extinction.

Our $2 billion citrus industry, on which close to 1,200,000 persons depend for their livelihood, could be wiped out if, through lower tariffs, foreign citrus products are allowed to flood our domestic markets.

These 1,200,000 people who make their living in the Florida citrus industry represent one-quarter of the entire population of Florida.

Another growing business of the State of Florida, our beef cattle industry, is presently suffering unfair competition from foreign producers, particularly in Latin America and Australia and New Zealand.

From January through March 26 of this year more than 108 million pounds of Latin American beef and beef products arrived in Florida ports.

One hundred and eight million pounds in just 3 months.

Mr. Speaker, the members of the Florida congressional delegation have been actively seeking relief for these two important segments of Florida's economic structure.

The solution to these two problems can be quickly and easily effected by the proper administration of the tariff and nontariff restrictions instituted many years ago to protect domestic industries.

In the case of citrus and citrus products, the Florida delegation is meeting this afternoon with Mr. Christian Herter, the President's Special Negotiator at the "Kennedy round" of tariff discussions this year in Geneva.

We hope to have citrus and citrus products removed from the list of negotiable items to prevent our most vital agricultural industry from being the victim of some bargaining concession by our negotiators.

In the matter of beef imports, the delegation has introduced legislation to reduce the tremendous inflow of foreign meat products by an amount large enough to offer genuine protection to domestic industry.

Why should Florida's citrus and beef industries receive this special attention? Why cannot we just rely on the law of supply and demand?

The reason we cannot, Mr. Speaker, is that the United States, with its higher costs of production, simply cannot compete in an unregulated international market with nations whose labor and production costs are a fraction of ours. We must maintain constant and vigilant control over the balance between foreign and domestic products which are offered in our local marketplace.

These foreign countries, such as Mexico, other Central and South American countries, the Bahamas, West Indies, and others, enjoy these important advantages:

First. Labor costs are much lower—many cases less than $1 per day.

Second. Their soils require less fertilizer and cultivation.

Third. They do not practice as extensive and costly controls of plant pests as the United States.

Fourth. Their irrigation practices are less extensive and less costly.

Fifth. They do not have the freeze problem nor the costs of frost protection.

Sixth. They don't pay workmen's compensation, social security or other fringe benefits.

Seventh. Many of these foreign industries are government subsidized, while ours is self-supporting.

We can learn a dramatic lesson from the plight of the California and Arizona lemon growers. The value of their lemon crop has decreased from a peak of $40 million for the 1952–53 season to less than $20 million annually for each of the past 4 years.

U.S. lemon growers enjoyed a profitable business until about 7 or 8 years ago, primarily because of a strong protective tariff.

But then, the barriers were lowered at the insistence of Italy. Concessions were granted by our negotiators without any apparent regard for the welfare of our own people. This same sad fate is in store for Florida's citrus industry unless the negotiators are prohibited from relaxing our tariff restrictions on foreign citrus.

The $2 billion Florida citrus industry can stay in business only if the present tariff structures are maintained.

We are trying to protect Florida's citrus industry from ruin and also that of Texas, Arizona, and California, and we are trying to rescue Florida beef industry and also those of many other States which is floundering as the result of an unfair foreign invasion of the domestic market.

While we stand here today talking about the seriousness of the beef situation, a free tour is being planned at taxpayer's expense, to send a group of investors to Latin America to increase beef production.

Furthermore, the U.S. Government will guarantee any investment.

This guarantee will cover insolvency, political risks, war or expropriation. The Government is using tax dollars from cattle producers and all of us to help foreign producers put us out of business.

Incredible, but true.

The voluntary agreement to limit imports with Australia and New Zealand was woefully inadequate, and furthermore, did not appreciably help the Florida market. We are feeling the pinch from Latin-American imports.

During the 2-week period from March 14 through March 29, nearly 40 million pounds of foreign beef was unloaded in Florida ports, 90 percent of it from Latin America.

What can be done to rescue our beef industry?

Enact legislation as H.R. 10356, which will systematically reduce beef imports and save our domestic producers from further losses.

This bill is now in Ways and Means. Prompt consideration and a report on this bill by the committee will be greatly appreciated by your Florida colleagues.

Mrs. HANSEN. Mr. Speaker, I wish to thank the distinguished gentleman from Florida for his statement and compliment the Members of this House who have described very well the effect of increasing imports of lumber on our domestic timber-products economy.

At the present time we have heard considerable about the war on poverty. Here in many of our Nation's lumbering communities is a good target for that war. Mills have closed, men and women are unemployed, stark want exists.

At the present time the wood products industry ranks fourth among manufacturing industries in the number of people employed. Employment in the forest products industry and occupations directly relating to the distribution of forest products, totals over 3 million employees and represents about 6 percent of total nonagricultural employment throughout the Nation. A healthy lumber industry is vital to the strength of the Nation's economy.

But there is not any question about it; the situation is well recognized. This vital historical industry is faced with serious problems created by the constantly increasing imports of wood products into this country. Total lumber production in 1961 was 31.7 board feet or 4.2 billion board feet below a 13-year average for the period 1949 to 1963.

Softwood lumber production was down with an estimated production of 27.5 billion board feet in 1961, which was about 1.8 billion board feet below the 1949–61 average.

A species breakdown shows that softwoods, which accounted for 2,162 million board feet of the national figure declined 12.1 percent from May 1963, and 5.4 percent from June of last year. Hardwoods, however, rose 1 percent over May 1963, and 9.8 percent over June 1962, to 709 million board feet.

June softwood shipments from the mills were 2,319 million board feet, down 11.5 percent from May and 4.9 percent from June a year ago. Hardwood shipments, amounting to 646 million board feet, slid 3 percent below the preceding month but rose 6.8 percent above June of last year.

Canada is the major source of U.S. lumber imports. Her shipments to this country average about 95 percent of all lumber imported into this country from abroad. Between 1954 and 1961 Canadian imports of softwood lumber increased from 2,748 million board feet to 3,941 million an increase of about 50 percent.

In 1949 Canada supplied about 5 percent of total U.S. softwood lumber needs and by last year this had increased to about 17 percent.

My district has been damaged particularly badly by those increasing Canadian softwood lumber imports.

Here in the Pacific Northwest is an abundance of raw material. It has the finest sawmills and remanufacturing plants that American inventive genius can devise. It has excellently trained, skillful and hard-working employees. Management is alert to the necessity for changes in techniques and to the necessity for being alert to altered market conditions.

In short here in the Pacific Northwest is an ideal arrangement for a healthy and vigorous wood products industry—one which would contribute considerably to reducing our Nation's unemployment and to eliminating these "pockets of poverty."

But this great region has been damaged. The Douglas-fir region of western Washington and Oregon produced an average of 9.1 billion board feet of lumber in the 10 years from 1951 to 1960. In 1961 it began to feel the blows of steadily increasing imports of foreign-made lumber.

A look at the figures will show how badly the Douglas-fir region has been hurt. In 1960 the industry produced 8 billion board feet, a drop of 1.1 billion board feet from the 10-year average. In 1961, it produced 7 billion board feet, a drop of 2 billion board feet below the 10-year average.

Just how much is 2 billion board feet of lumber? It takes over 10,000 loggers, sawmill and planing mill workers 1 full year to turn out that volume of lumber. These men and women would earn over $60 million in wages. Thus, through reduction in employment in western Oregon and Washington as a result of Canadian imports, 10,000 men and women are not working and the economy has lost $60 million in wages.

This is a staggering loss to an economy and think of what the tax loss to local, State, and Federal governments has been.

In British Columbia, the Province to the north, where similar species of softwood are grown and harvested, lumber production each year is setting new records. Now they produce about 6 billion board feet of lumber and the biggest customer is the United States. The coastal region of British Columbia in 1961 shipped 1.3 billion board feet to our domestic market. The interior region sent 1.4 billion board feet. It is expected that by 1975, British Columbia will increase its softwood production to a total of 8 billion board feet. And this expectation is backed by the fact that production in this Province has increased 152 percent during the past 15 years.

For a brief period last year our west coast producers of softwood lumber were able to ship lumber to Puerto Rico under a special exemption to the Jones Act which allowed shippers to use foreign bottoms. A little over 5 million board feet of lumber was shipped during the short period the law was effective. This is 5 million board feet that was being supplied formerly by British Columbia producers.

Bills have been introduced to extend this exemption but to date nothing has been done.

Not long ago there were reports that the tariff negotiations with foreign nations were going to result in a 50-percent reduction in the existing 20-percent tariff now applying to softwood plywood imports. The 20-percent tariff on plywood averaging $70 is $14 per thousand board feet and if this is halved to $7 and if one considers the devalued Canadian dollar, the tariff falls to $1.75 per thousand.

It is perfectly obvious that enactment of the Puerto Rican exemption would be of immense help to employment in our lumber mills in the great Pacific Northwest. It is also obvious that our negotiators at Geneva must be well informed about the effect upon our Nation's economy of unwise moves to make it possible for foreign competition to destroy more jobs in the lumber market.

Mr. HERLONG. Mr. Speaker, the cattle industry of this country is facing a very critical situation. At the same time we have a domestic oversupply, we have also beef imports running at the highest level in history.

The United States can no longer afford the luxury of providing a free market for more than half of the world's exportable supply of beef. That is what it is doing now. The recent agreement with the principal exporters of beef to the United States: New Zealand, Australia, and Ireland, is based on the 2 highest years, with a built-in growth factor which would allow the exports of these countries to the United States to increase at the rate of 3.7 percent a year, regardless of our domestic supply situation.

The European Common Market is going the route of protectionism.

Other participants in the General Agreement on Tariffs and Trade have notoriously failed to live up to their agreements. The "chicken war" with West Germany is a prime example.

We need import quotas to be set at the level spelled out in my bill, H.R. 10334, to bring to the cattle industry the stability which it does not now have. The quotas set up in my bill would give foreign exporters an extremely generous share of the American beef market and at the same time assure the domestic producer that his market would not be flooded with imports.

Mr. SENNER. Mr. Speaker, the economic foundation of my district rests heavily on the copper mining, livestock, and lumber industries. All three are under heavy assault by cheap imports. It is absolutely essential that corrective action be taken quickly and vigorously.

During the past few months I have, like so many of my distinguished colleagues, called attention again and again to the desperate situation that confronts these vital industries. Today my remarks will be confined to the copper industry whose problems, although generally similar to those plaguing livestock and lumber, have certain somewhat unique features.

I represent an area which produces a significant portion of this Nation's copper ore. During 1962, my home State led the Nation by producing 52 percent of the total national copper production.

In Arizona many communities are entirely dependent upon a vigorous copper industry. Indeed, it has been estimated that mine employee expenditures indirectly affect over 200,000 other Arizonians whose services are closely related to our copper economy.

My own hometown of Miami, Ariz., is the site of four mining operations—the Inspiration Consolidated Copper Co., the Miami Copper Division, the Copper Cities, and the Castle Dome. I have personally seen the effects which disregard for copper tariffs can have on American lives.

Mr. Speaker, the displacement of employees brought about by cheap foreign imports consists of more than mere statistics. I have seen my classmates, my neighbors and my friends left with little hope of continuing to live in the community that had been home for two generations and more.

Aside from the human factor in these mining towns, however, there is an even greater responsibility which should concern us—the national security. I have watched these mines come under armed guard during wartime and other periods of emergency. I say this to emphasize the extent to which these facilities are protected in times of unquestioned need and to urge that we prudently demonstrate equal concern during peacetime.

For those of my colleagues who are unfamiliar with the technicalities of a mining operation—and I have had some firsthand, blister-producing experiences in this field—let me assure them that mines cannot be started overnight, not even small ones. Once an operation is shut down, its reactivation is a time consuming and costly proposition.

During the past decade the Nation's domestic copper producers have been able to supply an average of almost 93 percent of our country's consumption demand. We must continue to help create an atmosphere within which our domestic industry will not be unreasonably jeopardized by lowering tariff safeguards beyond the point where our domestic mines will not be on a marketing price level with foreign producers.

While I recognize the principle that international trade is a two-way street. I am equally confident that the specialized situation in which our copper industries find themselves warrant special attention.

The peculiar U.S. low-grade ore combined with high production costs should be carefully considered in addition to the other important factors previously mentioned so that stumbling blocks to fuller development and location of needed copper resources are removed.

We must take such steps as are necessary to provide reasonable assurance that American copper will be available whenever America demands it.

Mr. PHILBIN. Mr. Speaker, I am pleased and privileged to join my distinguished colleagues in this vital discussion on one of our greatest domestic needs at this time—relief for our workers and industries beset by the flood of cheap imports from abroad—and wish to compliment and commend the gentleman from Florida [Mr. Sikes] and the gentleman from Texas [Mr. Fisher] for arranging this special time so that Members of the House may be heard on the import problem.

On many occasions I have addressed the House on the steadily widening impact of foreign imports and the excessive foreign migration of American capital upon the economic well-being of our people.

It is, therefore, a source of satisfaction to me to note that some of our national leaders are just now beginning to realize the danger of these trends and the devastating effects they are producing on the American economy.

Just recently, I joined with a number of my colleagues in introducing revised legislation to secure relief for many of our industries from the dumping of cheap imports into the American market. The presence of dumping, cutthroat competition, and other injurious trade practices are wreaking havoc with a growing number of American industries and the time has come where immediate relief must be provided before ruinous foreign competition finishes off many more of our affected industries.

It is obvious to any thinking citizen that our Nation with its high wage scales and standards cannot approach, notwithstanding our high productivity and efficiency, the cutthroat competition resulting from the extremely low wage scales, low material and overhead costs, and low standards that prevail in many parts of the world.

While it is our strong desire to promote sound trade and business relations with other nations, it is imperative that we recognize that such relations must be predicated on respective national interests and mutual benefits and not upon benefits on one side and detriments on the other, as have been so much the case in some trade agreements.

Our American textile industry is a good case in point. Our shoe industry is another case where relief from cheaply produced imports is long overdue. These and many other industries are suffering disastrous results from oversea competition, not only here, but in the world market as well.

The serious danger is that the effects of this unfair competition resulting from low wages and low standards is spreading, as I have warned in the past, to many new industries in this Nation and is causing serious unemployment in many fields of endeavor, notwithstanding the general prosperity in the country at large.

Mr. Speaker, again let me express my warm appreciation to the able gentleman from Florida [Mr. Sikes] and the distinguished gentleman from Texas [Mr. Fisher] for this opportunity to let me participate in this helpful discussion on imports and to let me once again voice in this House my strong, emphatic protest against policies and laws that have brought these threatening trade developments to our doors.

It is long since past time for urgently needed relief. Let us have it before greater irreparable damage is done to our great free economy.

Mr. HUDDLESTON. Mr. Speaker, the steel industry sent its first team to Washington last February to express its concern over the trade negotiations beginning in May at Geneva, under the General Agreement on Tariffs and Trade. And well might they be concerned, if we recall what happened in the last GATT negotiations when the United States made 32 concessions for lower tariffs on steel and got back only 3 concessions in return.

There were 11 presidents or chairmen of the board testifying for steel, as well as the top officers of the American Iron & Steel Institute. The Trade Information Committee, an interagency organization, held the hearings to develop information on foreign trade restrictions, and to identify those restrictions whose modification or elimination would most benefit U.S. exports.

But we must keep in mind, as the steel executives are so well aware, the purpose of the new U.S. round of tariff negotiations under GATT. That purpose is, as provided by our Trade Expansion Act of 1962, to drastically cut tariff barriers hampering trade. The United States has served notice that it is willing to negotiate tariff cuts on approximately 87 percent of all import commodities.

Steel could well be the pawn used to gain concessions for farm or other products. And that is what bothers the steelmen. The U.S. steel industry has in a few short years found its position in world trade severely reversed—from a net exporter with a substantial margin of exports, to a net deficit in steel trade with an alarmingly increasing rate of imports over exports. Last year, foreign steel claimed 7.2 percent of the domestic market, and the percentage keeps climbing as the foreign producer takes a greater and greater share of the market in product by product.

This country's balance of payments and employment in steel and related industries are feeling the effects of these mounting imports of steel, which in 1963 exceeded 5½ million tons. At the same time, U.S. exports of steel have stagnated at around 2 million tons—and most of this tonnage sold under the protection and financing of our AID program.

John P. Roche, president of American Iron & Steel Institute, estimated that the domestic industry would have provided more than $300 million in wages and salaries for over 40,000 workers in 1962—when we imported 4,304,000 tons of steel—if it could have maintained its 1953–57 average participation in world steel trade and had suffered no further erosion of domestic markets by imports.

Factors listed by Mr. Roche as responsible for the shift of the United States from the position of a net steel exporter to a net steel importer included first, the rapid rise of steelmaking capacity and productive efficiency abroad, second, discriminatory pricing practices by foreign producers shipping to this country, third, the relatively low level of U.S. tariff rates on steel products, and fourth, the multiplicity of nontariff trade barriers among our major foreign competitors. The latter include import equalization taxes, import licensing, quotas, and foreign exchange controls.

Differences in tariffs and nontariff charges are even more pronounced than published figures show, Mr. Roche said. He explained that ad valorem duties of major foreign steel sources are imposed on a cost, insurance and freight value—c.i.f.—whereas in the United States duties are based on the f.o.b. value at the foreign point of shipment. Countries levying on a c.i.f. basis thus obtain a 10 percent average increase in their effective tariff protection compared to the United States.

The tariffs and trade barriers, taken together, "constitute a governmentally determined 'cost of entry' which is weighted against the American steel producer," he said.

Mr. Roche recommended that U.S. negotiators at the GATT meeting "should aim to equalize 'costs of entry' between the United States and our principal competitors so that foreign exporters do not have an unfair advantage and U.S. exports have an opportunity to compete in the markets of the world."

If that is done, he said, the American steel industry would be in a position to recapture markets it has lost at home to foreign steel and also to become a significant factor in export markets.

If "these reasonable objectives" are not attainable by our negotiators, the United States should not offer steel products for tariff reductions at the GATT negotiations, he said.

He suggested that a withholding of steel products from tariff reductions "would still leave substantial inequities for which correction should be sought."

The domestic steel industry deserves the backing of our negotiators in the GATT meetings. The industry deserves a fair deal in competing with foreign producers for markets abroad and here at home. The industry wants no more—and no less—than equal consideration. The industry asks that "costs of entry" in international steel trade be equalized to eliminate "unfair advantages" now held by foreign producers over U.S. mills.

Such equalization could lead to a reduction in the rising flow of foreign steel into U.S. markets and to a broadening of export business for American companies.

Mr. ROUDEBUSH. Mr. Speaker, I wish to join my colleagues in expressing deep concern about the new tariff cuts that are scheduled to begin early in May under the so-called Kennedy round.

As other Members have said, this is not the time to inflict further tariff cuts on our industries that are already experiencing a hard battle with imports.

What seems not to be understood, clear as it is before our very eyes, is that a country such as ours, with its high wage costs in relation to the wages prevailing in competing countries, is not in the same position to make further tariff cuts as are the other countries.

In the first place, no other country can show a record of deeper tariff cuts than those that we have already made. Our average tariff has been reduced at least 80 percent and we have a minimum of import quotas. Aside from a few farm products—sugar, cotton, wheat, wheat flour, peanuts, and dairy products—and a couple of mineral products—oil, and lead and zinc—we have only one industrial product subject to quotas—cotton textiles. Other countries use all sorts of restrictions on imports in addition to the tariff.

In other words, we have one of the most liberal trade practices in the world.

In the second place, our wages, as everyone knows, are much higher than those in the rest of the world. Only Canada comes close to our levels. In the past it was always said that our high wages did not make us noncompetitive because of our highly productive machinery and our manufacturing efficiency.

Today that claim no longer holds. Other industrial countries, notably Japan and European countries, have an abundance of modern machinery and nothing has been more striking than the fast rise of productivity in those countries. The increased productivity then gives competitive effect to their lower wages.

This country is surrounded economically by sources of imports at costs that many of our industries cannot hope to meet.

The mere fact that other countries may be in a position to make further tariff reductions does not apply to this country. This is the country that stands on the economic plateau. It is our industries that are becoming more vulnerable as productive efficiency abroad catches up with us while their wages continue to lag far behind us.

While wages have risen considerably abroad, they have not stood still here. Therefore the wage gap persists.

Mr. Speaker, in my district are a number of industries that are deeply concerned over import competition. Are we going to drive these industries more and more to foreign investment as a means of survival? Among the industries that are facing rising imports are pharmaceuticals, fine wire, steel products and electronics, especially transistors. They had a chance to go before the Tariff Commission to tell their story, but we well know that the Tariff Commission has been stripped of its power, and that the hearings were little more than window dressing, fulfilling the requirements of law.

Mr. Speaker, I hope that notice will be taken of the many sincere expressions of alarm that have been heard and that this country will take its cue in Geneva from the needs of our industries and the competitive position of this country. I do believe, in fact, I feel sure that further tariff reductions at this time would not be in the best interest of this country.

**Mr. DORN.** Mr. Speaker, many times as I have spoken on the matter of import competition, I have never felt more acutely the need for hoisting the storm signals than now. When the new GATT conference opens in Geneva next Monday, American industry, no less than agriculture and the workers who are employed by both branches of production, will face a potentially disastrous outcome of the negotiations.

Nobody knows today, Mr. Speaker, what this outcome will be, but we need only harken back to negotiations of the past to feel the deepest misgivings. The President is vested with far-reaching authority and it could be used in a manner that would do great injury to our economy. The State Department, we can be sure, will be inclined to go all the way. That is why they asked for so much authority. Tariffs could be cut another 50 percent and in some cases could be eliminated altogether; and therein lies the danger.

It is not necessary on the other hand that the President exercise the full measure of his authority. His special representative for trade negotiations has indeed been made aware of the growing number of industries that are registering their complaints and worries. More industries than ever before appeared before the Tariff Commission and the Trade Information Committee during the recent hearings that ran for 4 months. One after the other made strong appeals to be dropped from the President's list on which negotiations are to proceed. The evidence in most instances was that imports were already a threat or already causing injury and that additional tariff reductions would produce ruinous results.

My special concern is over textiles, including cotton, wool, and manmade fibers, beef and hardwood plywood because there are products of my district, but I am well aware that other industries are no less sorely afflicted.

We have heard a great deal about beef recently and there is good reason for the concern. The facts are well enough known. What is needed now is action that will restore the beef industry to its rightful economic position. To deny that the swelling flood of imports were not the major contributing factor to the recent sharp decline in prices is to contradict the obvious. Our domestic supply was fully sufficient to feed the American population. When low-wage foreign imports insisted on crowding in with their lower prices the results could have been foretold. The prices broke and distress settled over the cattle ranches and feeding lots throughout the country.

Mr. Speaker, the State Department with its international economists and free-trade doctrinaires has been entirely too eager to expand imports regardless of the consequences to our own industries.

We saw a similar situation in hardwood plywood when imports swelled to a high tide. There simply was no inclination to support the domestic industry. It went twice before the Tariff Commission to tell its tale of woe, which was real. No tariff increase was forthcoming and now imports have captured over 40 percent of our total market. The Tariff Commission could not understand that serious injury lurked in such a trend for the simple reason that domestic production also increased. It did increase but the market growth was largely supplied by imports.

Mr. Speaker, it takes a peculiar kind of blindness to fail to see what will happen when imports gain rapidly on a domestic industry in supplying a growing market. It means that our own industry cannot grow as it should if it is to carry its share of employment. The industry may even be forced to discharge workers because it finds it necessary to reequip its plants with laborsaving machinery. Yet even if it should succeed in holding to a trend of growth sufficient to keep its workers on the payroll it will not hire its share of the new workers who come into the work force each year. A pool of unemployment then develops and we wonder why the problem is so stubborn.

No industry that faces the kind of import competition that gains relentlessly in the share of the market it supplies need be expected to expand to meet a bright future that does not exist. The future in such a case is not bright and the industry would be reckless indeed and unworthy of trust if it should expand in the face of virtually unimpeded import competition, particularly—and note this please—particularly when the likelihood of gaining relief under administrative remedies such as the escape clause, section 22 of the Agricultural Adjustment Act, and so forth, are virtually dead letters, as they are today.

Since 1962 the remedy that was supposed to be at hand for industries that were battered by imports has been a complete failure. Not a single case has survived the Tariff Commission. Case after case, including four or five brought by labor unions, have been turned down. There are those who blame the Tariff Commission, but when the unanimity of its findings in all 12 cases is taken into account, the Commission can hardly be used as a scapegoat. The law is too stringent to be of any use.

The climate that thus faces the many industries that are vulnerable to import competition, for reasons that should need no repetition, is cloudy or even gloomy. Not only is there no remedy against serious injury from imports, Mr. Speaker, further tariff cuts are now to be added to those of the past. If this is done and if the outlook for a remedy remains as dark as it is now, we will be threatened with an economic setback in this country. Make no doubt of it.

Mr. Speaker, the cotton textile industry which is the principal employer of labor in my district has won what might be regarded as a breathing spell. However, we are still awaiting action on manmade fibers and woolen imports. These industries are now threatened with a 50-percent cut in what is left of the tariff. It seems to me that to carry out such action would be to undo what has been done to help the cotton industry back onto its feet and would impose still further a grave injustice on the manmade and woolen industries that did not benefit from the help extended to the cotton industry. I would not believe such a step to be possible—if I could forget similar contradictory actions of the past; but there is not enough evidence of a change to provide reassurance. Therefore we must be alert to the possibility even though it seems an illogical and backward step.

I join the numerous Members who have and will yet express the strongest concern over the new GATT tariff-dismembering spree; and trust that the executive branch will listen. If it does not, and does indeed cut the tariff freely it will soon undo the benefits of the tax reduction, higher depreciation allowance and the investment incentive of recent tax legislation and lead the country into an economic crisis, if not a debacle.

**Mr. PEPPER.** Mr. Speaker, the sixth round, known as the Kennedy round, of tariff negotiations under the General Agreement on Tariffs and Trade will begin next month. U.S. trade policies have become increasingly liberal since GATT came into being following World War II. Farm products have played an important part in these trade negotiations which is as it should be, for not only is the United States the world's largest exporter of agricultural commodities, but it is also the world's second largest importer of farm products. Agricultural commodities in fiscal year 1963 made up about one-fourth of both our total exports and imports.

It is good that American agriculture is efficient enough and flexible enough to permit the United States such a broad base for trade negotiations, but at the same time we should beware lest we unjustly penalize the very sector of our economy which has rewarded this Nation so richly.

Such a penalty is currently in the offing in the proposal to consider for possible tariff reduction imports of certain vegetables and fruits, all of which are produced on a large scale by U.S. fruit and vegetable producers and particularly by Florida producers.

Reductions in the tariff on these items will intensify competition from foreign countries where peon labor is used to produce and harvest these crops at wages which are only a small fraction of those paid American workers. Additional factors all add up to much lower costs of production in these foreign countries.

Florida would be more seriously affected than most other States since its geographical location forces it to produce at the same time the most serious foreign competitors are in production. If Florida producers are forced to meet increased competition of this type the gains of many years will be erased. My people will either have to lower their standards or go out of business. The conditions of migrant workers, which we have struggled so long to improve, would be worse than ever.

Such action, as is currently proposed, is obviously not in the best interests of Florida fruit and vegetable producers nor, I believe, to the U.S. economy.

Fruit and vegetable imports, with duties at present rates, were at record levels last year, yet no complaints were heard from domestic growers. Therefore, it is apparent that existing rates do not discourage imports when the demand exists. This is healthy competition, good for producer and consumer alike. Let us not risk spoiling the delicate balance which presently exists between the domestic supply and price situation, and the level of fruit and vegetable imports. Leave the import duties where they are.

Mr. BATES. Mr. Speaker, I wish to join with my colleague on the important matter of trade relationships between the United States and other countries. It is to our advantage, of course, to exchange goods with other countries but such action should be considered more than a theoretical experience. Steps in this field affect the lifestream and the very economic existence of many communities in the United States.

In my district, we are concerned about increased imports of hats, shoes, fish, dyes, woolen goods, and electronic items. It is the belief of my people that a degree of reasonableness is mandatory in this field and that no industry should be eliminated because of a national policy of expanded trade. This thinking is in tune with repeated expressions in the law but, somehow, injury has too often meant total destruction in the minds of some of our negotiators. I sincerely trust that our representatives in the so-called Kennedy round will show due deference to this law and the plight of our people.

I was pleased to see the recent announcement by the Tariff Commission that no further reductions would be made on the tariffs on groundfish fillets and that this item has been placed on the reserve list. Unfortunately, even the present tariff has afforded little protection and imports have soared from 9 million pounds in 1940 to 221 million pounds in 1962.

A reduction in the tariff on men's and women's fur felt hat bodies would not only be destructive to the industry but would be unconscionable. Two Presidents of the United States and the Tariff Commission have granted or recommended relief for this industry. Excepting for a technicality having to do with a description of the product—not the facts in the matter—this item would have been assigned to the reserve list. As a matter of fact, a staff memorandum from the Ways and Means Committee specifically listed this item as one which would be so considered. Certainly no reductions should be made on the tariffs on this commodity.

In recent months, at White House meetings with both President Kennedy and President Johnson, we have attempted to impress upon them the need for protection for the shoe industry. Both were sympathetic to this problem and I sincerely trust that the recommended action will be implemented and the results favorable to this industry.

Likewise, in regard to the other items previously mentioned, I trust that our negotiators will study the history of these industries and the need for adequate protection. It certainly would be inconsistent for our Government to advocate programs which would tend to reduce the number of unemployed and at the same time condescend to trade concessions which would throw American workers out of their jobs.

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## INTERNATIONAL TRADE

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas [Mr. FISHER] is recognized for 60 minutes.

Mr. FISHER. Mr. Speaker, it is a year and a half since the Trade Expansion Act of 1962 was passed.

It will be recalled that one of the cardinal features of the act was adoption of adjustment assistance as the prime remedy under the escape clause as a substitute for tariff increases or imposition of import quotas.

The concept of adjustment assistance had previously been proposed in bills that were introduced in both Houses of the Congress. It was based on the principle that domestic industry that was or would be injured by increased import competition resulting from tariff reductions, should be compensated by the American taxpayer. The basis for such a proposal lay in the view that the tariff reduction had been made or would be made for the good of the country as a whole and, this being the case, any damage suffered by particular industries should be made good by the country as a whole, that is, the taxpayer.

The proposal represented a new departure from the previous principle. This was that there was no intent to injure a domestic industry by reducing the tariff. If nevertheless a tariff reduction resulted in increased imports and as a result inflicted serious injury on a domestic industry the remedy would be in the form of raising the tariff or imposing an import quota. Since the damage was not intended, its actual occurrence could only be the result of an error or of unforeseen developments. Therefore the damage would be undone by restoring the duty to its previously higher level or to an intermediate or even higher point or by limiting imports by a quota.

Under the new concept it would be the purpose to cut the tariff regardless of any injury that might be done to the domestic industry concerned. Increased foreign trade is thus given a priority over the welfare of domestic industry. Imports, in other words, are given the right of eminent domain in the domestic market and the domestic industry must give way if it cannot compete under the lower tariff rates.

Another departure from the past policy consisted of elimination of the peril point findings by the Tariff Commission on the eve of any new tariff-cutting conference, as a guide to our negotiators. Since it was the policy from President Roosevelt through Truman and Eisenhower, to exercise care in reducing the tariff, the peril point approach was adopted by Congress after GATT was established in 1947. The peril point findings by the Tariff Commission after public hearings were to determine the lowest level to which the tariff could be cut without causing serious injury. The findings preceded actual tariff negotiations and represented the caution prescribed by public policy.

With the new policy of cutting the tariff regardless of injury there was no longer any purpose of a peril point finding. The theory was that the benefits of further duty reductions would be so great that the injury done to individual industries would be outweighed, and these injuries must be suffered in behalf of the greater national good.

Organized labor made adoption of the adjustment assistance principle a condition of its support of the legislation; and, as we all know, the adjustment assistance provisions were written into the act.

Quite aside from the alien concept of deliberately injuring legitimate enterprise in behalf of a highly doubtful doctrine, it has developed that not a single case of the 12 that have come before the Tariff Commission has received a single vote of any Tariff Commissioner. Twelve cases have been rejected by unanimous vote of the Commission. One case is pending.

This is a striking record indeed. A triple zero batting average is a phenomenon among independent agencies, particularly for a bipartisan agency such as the Tariff Commission. It should be clear that the State Department authors of the 1962 Trade Act were a little too anxious to bridle American industry. To denounce the Tariff Commission for the record of strikeouts will hardly hold water when under the preceding escape clause nothing approaching unanimity was achieved. With the exception of two Commissioners, that is, those appointed in 1962 and 1963, the members voting since 1962 were the same as before. The two new Commissioners came on the scene after the

Trade Expansion Act of 1962 and, of course, were presidential appointees, as are all the Commissioners.

To charge the Tariff Commission with a willful wrecking of the 1962 act therefore is to make a highly improbable assumption. This could only be an assumption holding that the Commissioners were determined to sabotage the act. In turn this would have meant bipartisan collusion.

Of course, such an assumption is ridiculous. The legislation was bad and intemperate and we should not seek to make a scapegoat of the Tariff Commission. We should thank them for the degree of independence they have shown.

Mr. Speaker, the style of legislation represented by the Trade Expansion Act could have come only from authors who are so absorbed with world economic planning that the health of American industry is secondary to them. It is about time that this fact were recognized. No other source could have concocted the kind of legislation represented by the 1962 Trade Act. The philosophy it represents regards domestic industry, including agriculture and the workers in both fields, as clay in the hands of the international planners who would make over the world to conform to their own theories.

The hundreds of industries that went before the Tariff Commission and the Trade Information Committee from December 2 through March of this year with their pleas against further tariff reductions, based on facts of competition, might as well have saved their breath so far as prevailing against the hard core of international planners is concerned. These are not interested in what they regard as the "selfish" interests of the industries and farms that produce the goods of America and give employment to the workers of this country. To the international planners these industries and farmers are grist for the philosophical mill.

The public hearings, as we have heard this afternoon, were therefore properly described by a European publication—Bulletin of the European Free Trade Association—as the occasion for "blowing off steam." They could not be much more.

Unquestionably the hearings produced much information; but to what purpose? I ask, to what purpose?

Mr. Speaker, the conditions accepted by the President's Special Representative for Trade Negotiations, in the preliminary negotiations that began nearly a year ago, were such that I fear the hearings became a hollow exercise.

It is hard to believe that the terms laid down by GATT and the EEC should have been accepted by the Special Representative. These conditions just about shut off any possible influence that might otherwise have been exercised by the Tariff Commission, which is an agency of Congress and represents about the only link left whereby the influence of Congress can be expressed.

To be more specific, let me say that among the conditions accepted by the United States as rules governing negotiations were, first, that the tariff cuts be "linear" or across-the-board; that is, all items in broad categories would be reduced by the same amount such as 50 percent. Why then hold hearings on all the different items as if the tariff on some might be reduced less than others? Second, the exceptions, according to the agreement, were to be held to a "bare minimum." Please note that this requirement is highly restrictive. A minimum is small but a bare minimum is still smaller. In other words, virtually all the products that appeared on the President's list on which hearings were held will be kept on the list for negotiation and they will be subject to "linear" or across-the-board reductions.

Third. This is not yet the end of it. Such reservations of items as we may seek to make; that is, a list of items to be withheld from negotiation wil be subject to "confrontation and justification." This means simply that the other countries of GATT may challenge any reservations that we propose.

This makes it clear that the grand hearings before the Tariff Commission were mere exercises in letting off steam. The testimony presented by the many industries will, I fear, hardly affect the outcome.

Mr. Speaker, it now appears that American industry has been trussed up to an unthinkable degree and will be delivered, hand-tied, and speechless, to the negotiating teams of GATT.

In my judgment the forthcoming round of tariff reduction is the worse obstacle to the solution of our employment problem for the very reason that it will: First, encourage more and more automation at home (a) to reduce costs and (b) to remain competitive with imports; second, stimulate more and more foreign investment while curtailing expansion at home; while third, promoting imports and discouraging exports, and thus producing cumulative unemployment.

My own district in Texas has a big stake in the so-called Kennedy round. Beef and lamb imports have hurt the livestock industry and cannot stand further tariff reductions. The woolens industry is in distress for the same reason, and to cut the tariff further would be insane. Tile is also manufactured in my district and has been sorely beset by imports.

Mr. Speaker, hardly a month goes by that the press does not report at least one additional woolen textile mill closing its doors because of low-cost imports of competitive products. In fact there have been nearly 300 such plants closed in this country in recent years. Vast numbers of skilled employees are put out of work.

The reason for this is self-evident when we examine the wage rates being paid in competitive countries. The average hourly wool textile wages in these countries follow:

| | |
|---|---|
| United States | $1.83 |
| Britain | .64 |
| Italy | .30 |
| Japan | .26 |

Despite this record of low wages with which our industry must compete, we never know when further adverse tariff concessions may be made.

The encouragement of international trade is, of course, desirable, but the very survival of American industries should come first. International trade should be a two-way proposition.

In view of what has happened in the past, it appears that the very best step that we could take would be to move for a suspension of the negotiations at Geneva.

Mr. UTT. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman.

Mr. UTT. Mr. Speaker, I wish also to associate myself with the remarks of the gentleman from Texas and also with the remarks of the gentleman from Florida [Mr. SIKES], and those who have spoken on this subject. But I am afraid it is an operation in futility. Because if I were a negotiator, I would look more to the record in the House that was made when the Trade Expansion Act was passed and to the record in the other body and I would have before me the vote in the other body of 78 to 8 in favor of the Trade Expansion Act. Most of those who have spoken today and those who spoke yesterday are Members who voted against the Trade Expansion Act, and I do not know whether we have converted anybody.

But the first people who come to me for help are those who voted for the Trade Expansion Act. I had two letters yesterday from Members of the other body lamenting the fact that there was great unemployment in steel and that imports were closing down steel mills in Pittsburgh and in Gary, Ind. Of course, I checked the record of each of those Members from the other body and they had voted in favor of the Trade Expansion Act. Yet, they are the first ones to complain.

Then I just came from a meeting with Governor Herter where we were discussing the citrus imports and the possibility of lowering the tariff on citrus. More than half of those who were present and attended that meeting were lamenting the fact that maybe they were going to reduce the tariff on citrus, had voted in favor of the Trade Expansion Act.

To me it is like locking the barn door after the horse has been stolen. I believe we shall have to go into the basic reasons for these heavy imports, and trace it back not only to the Trade Expansion Act of 1962 but also to the Reciprocal Trade Acts, which we have extended from time to time, all of which I have opposed.

I took the floor at the time of the passage of the 1962 Trade Expansion Act, and indicated what would happen to California agriculture if the Trade Expansion Act were passed. That has come true. California agriculture has been hurt badly, though most of the California delegation voted in favor of the Trade Expansion Act.

We are always trying to cure something after we give ourselves the disease.

I believe these statements on the floor are important for the RECORD. I hope that they will be viewed by our negotiators in GATT. We shall have to change our basic concept of international trade.

I know that at the present time steel imports are the main reason for our lack of operating capacity in the steel mills. While pig iron is selling at about $70 a ton domestically, imports have been coming in at around $60 a ton. Now they are beginning to come from East Germany into east coast and south coast ports at $35 a ton, made by slave labor in East Germany. I cannot understand how that can be done. There is a terrific import tariff on pig iron—about 20 cents a ton. It does not hold a candle to the price of steel.

I certainly hope that our negotiators in GATT will begin to protect the American industry, American farmers and American laborers from being eased out of jobs every time we lower tariffs and permit uncontrolled imports to this country.

I thank the gentleman for yielding to me.

Mr. FISHER. I thank the gentleman from California for his interesting and valid observations.

Mr. HARDING Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Idaho.

Mr. HARDING. I wish to say to the gentleman from California that I see absolutely no inconsistency in supporting the Trade Expansion Act and in coming to the floor today and asking that the negotiators at Geneva use wisdom in representing the interests of the United States.

I further believe that the best way that those of us who come from agricultural States could further depress our agricultural economy would be to restrict agricultural trade throughout the world. If we erect trade barriers at the borders of the United States and protect our domestic agriculture from any competition and at the same time stopping any outgoing trade we certainly would not be acting in the best interests of American agriculture.

I supported the Trade Expansion Act. I am interested in more liberal trade throughout the world, provided that our Government acts to see that it is a two-way street. The type of practice to which I object is the reduction of trade restrictions on commodities coming into this country from countries which are simultaneously erecting barriers and restrictions against our exports entering their country.

I can give an example of what I am speaking about today. In Idaho we produce an excellent potato, as most of my colleagues know. We have been able to process that potato and ship it to markets in Europe where it has been more than competitive. Some of the European countries including Sweden and Switzerland have not been content to combat Idaho-processed potatoes merely with high tariffs, but they have actually established import quotas which greatly restrict the Idaho potatoes which can enter those countries for sale.

I feel that our trade negotiators presently have all the legislation and all the authority they need to open up the markets for Idaho potato producers and, if necessary, to close some of our markets to those countries who are unwilling to reciprocate in lowering trade restrictions.

I voted for the Trade Expansion Act because I realize that there are two directions that trade progress can go. We can either seek a more liberalized trade throughout the world with more freedom of markets or we can hamper trade with market restrictions such as tariffs and quotas. While I am hopeful that our negotiators will work for more liberalized trade, I want them to do it realistically. We cannot just open the doors in the United States to the products produced in foreign countries if those countries do not open the doors to their markets for products produced in the United States. It is time we did see some reciprocity and if we do not we should show we mean business by closing our markets accordingly to noncooperators.

I want to point out to the gentleman that I see no inconsistency at all in supporting the Trade Expansion Act and coming in here and asking for our negotiators at Geneva to represent American industry effectively.

Mr. UTT. Mr. Speaker, will the gentleman yield for a moment so I may reply to the gentleman from Idaho?

Mr. FISHER. I yield to the gentleman from California.

Mr. UTT. The gentleman from Idaho misunderstood me on the restricting of trade. I believe in a much freer flow of trade, but the history of the last 30 years has been that the negotiators have not been creating two-way streets. We are opening up our markets to other countries without demanding those other countries open up their markets. The European Common Market is not a free trading area except within the area itself. It is an exterior protective tariff and quota system erected against American products. When our negotiators will trade on an equal basis, I am perfectly willing to do it, but I am tired of our negotiators letting hardboard come in from Canada for a few dollars a thousand board feet when we have to pay three times as much to put our hardboard into Canada. That is not reciprocal trade in my estimation. When I discuss it with the State Department, they say that we do not trade item by item. We may let bananas go free into Canada and we will trade hardboard for bananas. To me that is not equal trade at all. I think the history of the negotiations at Geneva will indicate our negotiators will not pay any attention to what the Members of Congress have to say about their negotiations.

Mr. HARDING. Mr. Speaker, if the gentleman would yield further, I would like to say in reply that we have in the White House of the United States a great President, in whom I have great faith. I know that he reads the transcript of what is going on up here in Congress, so I am sure he is aware of the concern expressed here today. I am confident that the President of the United States will see that there is going to be equal concern expressed by our negotiators at Geneva.

Mr. FISHER. Mr. Speaker, I share the estimation of the President expressed by my good friend from Idaho. I think, Mr. Speaker, we can all agree that the Trade Expansion Act is not very different from many other laws enacted by the Congress. It is a matter of how they are administered and in whose hands they are and what the motivations are and what their approach is when they go down to carrying out the intention of Congress. So we have the problem facing us repeatedly in these international negotiations with respect to international trade.

Mr. Speaker, I yield back the balance of my time.

## MEMORIAL TO RACHEL CARSON

The SPEAKER pro tempore (Mr. PHILBIN). Under previous order of the House, the gentleman from Maryland [Mr. MATHIAS] is recognized for 30 minutes.

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MATHIAS. Mr. Speaker, in her book "Silent Spring" Rachel Carson predicted that man might slowly poison himself with pesticides. Miss Carson's pen has been stilled by death, but her controversial book stirred a growing concern in men's minds about the use of pesticides and other chemicals which may be harmful to the human consumer.

Mr. Speaker, I ask unanimous consent to include at the points indicated certain extraneous material which relates to Miss Carson's work as well as a copy of H.R. 10011.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MATHIAS. Mr. Speaker, on April 24 the U.S. Department of Agriculture canceled the registration of heptachlor for the treatment of alfalfa. This is a step vitally affecting the great agricultural community of America and is of intense interest to Maryland farmers. Our dairymen, cattlemen and other farm operators are increasingly concerned with the side effects of the use of agricultural chemicals. The work of Rachel Carson in bringing the danger of indiscriminate use of pesticides to the attention of the country has thus shown its practical value in the working world. Under unanimous consent I insert at this point:

### USDA CANCELS HEPTACHLOR USE ON ALFALFA

The U.S. Department of Agriculture today canceled the registration of heptachlor for treatment of alfalfa.

This action was taken because the Food and Drug Administration has found amounts of heptachlor epoxide in milk. Improved analytical procedures, which are 10 times as sensitive as those used before, made possible detection of minute amounts of residue. Heptachlor epoxide is the metabolic product resulting from ingestion of the insecticide heptachlor.

Heptachlor is used to control the alfalfa weevil, a pest of alfalfa.

Upon being advised of the findings of the Food and Drug Administration, and since there is no tolerance for heptachlor or heptachlor epoxide in milk, USDA withdrew its recommendation at the same time it canceled registration.

It is a singular coincidence that this action of the Government should follow closely upon the death of Rachel Carson. Miss Carson was my constituent as a resident of Silver Spring in the Sixth Congressional District of Maryland. She was one of my fellow citizens of whom I was very proud, and her death is much regretted by all of us who learned so much from her and from her works.

Under unanimous consent I insert at this point an article reporting Miss Carson's death which appeared in the Washington Evening Star on April 15, 1964:

### RACHEL CARSON IS DEAD—NOTED AUTHOR-BIOLOGIST

Cancer has stilled the pen of Rachel Carson, the controversial author who predicted that man might slowly poison himself with pesticides.

Miss Carson, 56, author of the international bestseller "Silent Spring" died yesterday at her Silver Spring home, 11701 Berwick Road.

In that, her most recent book, the biologist-writer aroused worldwide concern by arguing that man, in tampering with nature, could inadvertently snuff out all life.

The book helped inspire a White House report last year which called for stronger Federal laws on pesticides and new steps regulating their control.

#### BOOKS ON THE SEA

Miss Carson achieved literary prominence in 1951 when she published her second book, "The Sea Around Us," winner of the national book award for nonfiction. Her first book "Under the Sea Wind" had not achieved much prominence.

She followed the second book about a year later with "The Edge of the Sea."

But it was "Silent Spring," her fourth book, that projected the quiet spinster into the consciousness of the whole world.

She was read, not only by fellow biologists, nature lovers, gardeners, and homemakers, but by statesmen and leaders the world over.

Her warning read, in part:

"These sprays, dusts, aerosols are now applied almost universally to farms, gardens, forests, and homes—nonselective chemicals that have the power to kill every insect, the good and the bad, to still the song of birds and the leaping of fish in the streams, to coat the leaves with a deadly film, and to linger on in the soil—all this though the intended target may be only a few weeds or insects. Can anyone believe it is possible to lay down such a barrage of poisons on the surface of the earth without making it unfit for all life?"

#### PRAISED IN SENATE

Senator RIBICOFF, Democrat, of Connecticut, told the Senate today that all mankind owes a debt to Miss Carson.

Senator RIBICOFF, former Secretary of Health, Education, and Welfare, is presiding over a Senate investigation of possible dangers as well as benefits, of various pesticides. The inquiry was set off by publication of "Silent Spring."

"This gentle lady, more than any other person of her time, aroused people everywhere to be concerned with one of the most significant problems of mid-20th century life—man's contamination of his environment," Senator RIBICOFF said.

"We mourn a great lady," he concluded. "All mankind is in her debt."

A native of Springdale, Pa., Miss Carson received a bachelor's degree at Pennsylvania College for Women, and a master's degree from Johns Hopkins University, where she later taught biology.

She also taught for a time at the University of Maryland.

Miss Carson was also the recipient of honorary degrees from Oberlin and Smith Colleges, and Drexel Institute of Technology, in addition to her alma mater.

She was to be inducted next month into the National Academy of Arts and Letters, to which she was elected last fall.

She was working in the Interior Department as editor in chief of all the Government fish and wildlife publications when "The Sea Around Us" made the best seller list.

When she resigned from Government service about a year later to devote herself to writing full time, she was presented the Distinguished Service Award from the Department of the Interior.

#### LAUDED BY UDALL

Interior Secretary Udall lauded her last night as "the kind of woman who make men proud, a scientist of rare courage and ability, and a world renowned author whose eye was trained to the destiny of generations she would never see."

He said that "in her life and in her writing, she embodied the highest concept of reverence for the land. As an alumna of public service, she devoted the last years of her life to saving mankind from the subtle dangers of man's misuse of his own environment."

Miss Carson's "Silent Spring" was meticulously researched and documented. She spent 5 years studying various pesticides and weedkillers and observing their effects on other forms of life before she typed a line of the book.

In addition, she collected data from other sources throughout the world.

#### ANGRY REACTION

The book brought an immediate reaction from the chemical firms producing the insect and weedkillers.

Miss Carson was accused of presenting a one-sided case, and the manufacturers undertook a widespread advertising campaign defending their products as safe "when used as directed."

Miss Carson learned that she had cancer about 5 years ago.

Although she never married, she did adopt a grandnephew, Roger Christie, 10, of the home address.

Conscious of this concern, I introduced a bill in the House of Representatives on February 18, to create a U.S. Botanical Survey. The bill provides for mapping vegetation, investigation, and basic research of plant life and soils under natural and disturbed environments. The survey would be administered by the Department of Interior and provide for coordination of all botanical research projects of the Federal Government.

I believe it is time to inventory and evaluate our natural resources in order to formulate a policy for the most efficient use of our land and water as well as arrive at a more knowledgeable understanding of the effect of pesticides and chemicals upon natural vegetation.

Over the years we have learned how to increase our abundant harvests. We have learned about irrigation and how it can turn a desert into a garden. We have learned that fertilizer and the careful use of the soil increases productivity. We have also learned to use pesticides and chemicals and that some of them have side effects which are counteracting the great progress we have made in our agricultural economy.

I suggest that passage of the Mathias bill (H.R. 10011) or one of the similar proposals offered by my colleagues to create a U.S. Botanical Survey would be a fitting memorial to Miss Rachel Carson who projected the dangers of misuse of agricultural chemicals upon the consciousness of the world with "Silent Spring."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby established within the Department of the Interior a United States Botanical Survey (hereinafter referred to as the "Survey") which shall be administered under the supervision of a Director appointed by the Secretary of the Interior.

SEC. 2. In order to inventory and evaluate the natural resources of the United States, to assist in the formulation of policies for efficient land, water, and pesticide use, to provide basic data for governmental and scientific use, and for related purposes, the Survey is authorized—

(1) to survey and map the existing vegetation of the United States, its territories, Commonwealths, and possessions;

(2) to investigate in detail the plants, soils, and environments of natural and disturbed plant communities;

(3) to initiate taxonomic and floristic studies, and to assist in the coordination of such studies in various colleges, universities, and similar educational and scientific institutions throughout the United States;

(4) to publish basic research data, maps, monographs, charts, and professional papers;

(5) to provide botanical services to those departments, agencies, and instrumentalities of the Federal Government requiring such services; and

(6) to coordinate botanical research projects of the Federal Government in order to avoid duplication of effort and conflict of interests.

SEC. 3. The Director is authorized to appoint and fix the compensation, in accordance with the civil service laws and the Classification Act of 1949, of such employees as he finds necessary to carry out his functions under this Act.

Mr. Speaker, I shared the honor of representing Miss Carson with our distinguished colleague from Maine, STANLEY R. TUPPER, in whose district she maintained a summer home.

## TOWARD PEACE

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York [Mr. RYAN] is recognized for 10 minutes.

Mr. RYAN of New York. Mr. Speaker, President Lyndon B. Johnson on March 24, 1964, warned:

> In a matter of moments you can wipe out from 50 to 100 million of our adversaries or they can in the same amount of time wipe out 50 to 100 million of our people, taking half our land, half of our population in a matter of an hour.
>
> So general war is impossible and some alternatives are essential.

Seeking alternatives, President Johnson on April 20 announced a further reduction in our production of enriched uranium by 15 percent, making a total cut of 40 percent during the coming 4 years. In addition, the 20 percent cut in plutonium production announced in

January will continue to be in effect. On the same day Chairman Khrushchev announced that the Soviet Union would decrease the production of fissionable material and discontinue construction of two big new atomic reactors for producing plutonium. Khrushchev also said that more fissionable material would be allocated for peaceful uses.

Mr. Speaker, these steps, which take us further down the road toward peace, show that we are in the process of developing the alternatives to war which the President called essential. My concern about the search for peace led me in early 1961 to join in sponsoring the Peace Agency bill, which became the prototype for the Kennedy administration's Arms Control and Disarmament Agency which was enacted in September 1961. As the governmental fountainhead for arms control and disarmament proposals, the Agency was instrumental in the successful negotiations for a test-ban treaty and developed the various arms control and disarmament proposals which the United States has put forth at Geneva.

Despite the splendid and vitally important work of the Arms Control and Disarmament Agency, Congress has not provided the Agency with sufficient funds. Last year Congress cut the Agency's fiscal year 1964 budget request by one-half allocating only $7.5 million out of the requested $15 million. This year the Agency has requested $11 million for fiscal year 1965. Public opinion must be mobilized in support of the Agency if it is not to experience another unfortunate and drastic cut at the hands of Congress.

The academic community can help to rally support. Recognizing that arms control and disarmament questions are more political, economic, and social than technical, the Agency has recently appointed a Social Science Research Advisory Board. The Board, which is composed of a distinguished group of social scientists and headed by Erwin Griswold, dean of Harvard Law School, will actively serve as consultant to the Agency.

In a further effort seeking alternatives and eventual disarmament under effective international control, I have cosponsored a resolution with Senator JOSEPH CLARK. The resolution (H. Con. Res. 221) calls upon the President:

> To formulate as speedily as possible specific and detailed proposals for the implementation of the foreign policy objectives of the United States regarding the establishment of an international authority to keep peace under conditions of general and complete disarmament effectively guaranteed by adequate inspection and controls.

The resolution goes on to suggest that:

> In formulating such proposals, the President is requested to consider whether the development of effective international machinery for the supervision of disarmament and maintenance of peace * * * may best be achieved by revision of the Charter of the United Nations, by a new treaty, or by a combination of the two.

The "planning for peace" resolution is presently pending before the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

Although the United States has no more important international goal than general and complete disarmament under effective international control, many fear the economic effects of disarmament. Professors Emile Benoit and Seymour Melman, of Columbia University, and John Ullman, of Hofstra University, among others, have pointed out that properly planned arms reduction and disarmament could be a great boon to the economy, leading to a fuller life for all our citizens. However, planning must begin now. Although we have not yet achieved a disarmament or arms control agreement, there is an increasing belief that it may no longer be necessary for the maintenance of national security to continue the past heavy spending to develop and stockpile weapons. President Johnson has already cut the defense budget by about $1 billion and further cuts are sure to come. Former Deputy Secretary of Defense Roswell Gilpatric has said that by 1970 it can be cut 25 percent. Even without an overall reduction in defense spending, anticipated shifts and modifications in the defense program may cause painful dislocations. The Federal Government must be prepared to meet these economic disruptions.

Mr. Speaker, because of today's budget cutting and hopefully tomorrow's disarmament treaty—a growing number of House Members have introduced a bill initiated by Senator GEORGE McGOVERN to create a National Economic Conversion Commission. My bill, H.R. 10608, would establish a National Economic Conversion Commission in the Executive Office of the President, consisting of various members of the Cabinet and also the Chairman of the Atomic Energy Commission; the Director of the United States Arms Control and Disarmament Agency; the Chairman of the Council of Economic Advisers and the Administrator of the National Aeronautics and Space Administration.

The bill provides the following duties for the Commission:

> (1) institute a study, a report of which shall be submitted to the President and to the Congress within one year after enactment, of the appropriate policies and programs to be carried out by the departments and agencies of the Federal Government for economic conversion capability, which study shall include possible schedules of public and private investment patterns resulting from various degrees of economic conversion, and the anticipated effects upon income and employment of such patterns;
>
> (2) convene a National Conference on Industrial Conversion and Growth, within 1 year after enactment, to consider the problems arising from a conversion to a civilian economy, and to encourage appropriate planning and programing by all sectors of the economy to facilitate the Nation's economic conversion capability;
>
> (3) consult with the Governors of the States to encourage appropriate studies and conferences at the State, local, and regional level, in support of a coordinated effort to improve the Nation's economic conversion capability;
>
> (4) promulgate regulations for the appropriate departments and agencies of the Federal Government, which shall specify the character and duties of the industrial conversion committees established pursuant to the bill;
>
> (5) make such recommendations to the President and to the Congress as will further the purposes of the legislation.

Mr. Speaker, in short, the proposed Commission would study the conversion problem, make recommendations for action and later convene a National Conference on Industrial Conversion and Growth. It would also encourage States to undertake regional studies and conferences.

Further, each defense contractor would be required to set up his own committee to plan for conversion into peacetime work. The bill specifically provides, "each defense contract or grant hereafter entered into by the Department of Defense or any military department thereof, or by the Atomic Energy Commission, shall contain provisions effective to require the contractor to set up an industrial conversion committee which shall be charged with planning for conversion to civilian work arising from possible curtailment or termination of such contract or grant."

Mr. Speaker, in the nuclear age when nations have the power to destroy each other and civilization as we know it, we must do everything we can as a Nation and as a people to end the arms race and preserve and enrich the human race. I will continue to work toward that goal.

## FACTS, FIGURES, AND LOGIC OF OUR TRADE POLICIES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Pennsylvania [Mr. DENT] is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, I join my distinguished colleagues in this presentation of facts, figures, and logic of our trade policies.

This Congress ought to notify the Tariff Information Commission and the Tariff Commission that it is opposing any further deterioration of U.S. job opportunities by concessions and other considerations before the free trade GATT organizations in the forthcoming tariff reduction talks in Europe. From testimony presented by Pittsburgh Steel Co.'s President Allison R. Maxwell, Jr., we learned that:

> The loss of 900 jobs at the Monessen plant of Pittsburgh Steel Co. can be attributed to imports of steel rods and wire products.

This serious loss of gainful jobs spells the difference between a healthy community and an underemployed.

Added to this, the impact of imports has affected the production and jobs at another Monessen plant, the Page Wire Mill, which has suffered from the losses due to imports by the American Chain Cable Co.

A review of the testimony before the Tariff Commission by R. E. Uptegraff, Jr., of Scottdale; Jones & Laughlin Steel Co., and others representing U.S. Steel; Pennsylvania Rubber Co., division of U.S. Rubber at Jeanette on tennis balls, the Latrobe Steel and Vanadium Alloys of Latrobe, just to mention a few out of the hundreds of witnesses, shows a serious need for a reevaluation of our trade policies.

The iron and steel industry has testified that 50,000 jobs were lost in the exchange of steel trade in the last year of unprotected trade deals.

The time is fast running out for our U.S. economy. We are shifting from being a self-sufficient Nation industrially to a provider of markets for competitive goods and a supplier to other Nations of raw materials generally subsidized by tax money.

MEMO ON FOREIGN TRADE IN STEEL

Seven years ago, in 1957, 1,155,000 tons of foreign-made steel were imported into the United States. Last year, in 1963, that influx had risen to about 5,500,000 tons. Conversely, in 1957, 5,348,000 tons of American-made steel were sold in foreign markets. Last year, the volume of these exports had dwindled to 2,180,000 tons.

Together, this increase in imports and decline in exports resulted in a net loss of about 7,500,000 tons of finished steel mill products to American producers.

This is a matter of concern not merely to the steel industry. It is a matter of significant importance to the Nation. In terms of unemployment, it represents a loss of more than 50,000 jobs with payrolls of about $400 million. In terms of the serious problem of the international balance of payments, it means a direct loss of nearly $1¼ billion to the American economy.

Today there is a worldwide effort to reduce or eliminate international trade barriers, and the success of this effort is much to be desired; but it seems clear that free trade cannot flourish among the nations of the world unless and until unfair and destructive trade practices are eliminated.

To protect America from such unfair and destructive trade practices is the purpose of the antidumping laws which conform generally to the antidumping provisions of the GATT agreements to which all the leading steel-producing nations of the world are signatories. But the interpretation of these laws by the Government agencies responsible for their execution and enforcement has nullified them to the point of virtually legalizing dumping in this country.

An example is the recent case involving 2-inch galvanized pipe imported from Luxembourg. In Luxembourg it was being sold domestically for $32.58 per 100 feet; but it was being sold for export to the United States at $22.60 per 100 feet—or 31 percent less than the price in the producers' home market. The Treasury, however, declined to consider the Luxembourg price as a basis of comparison on the grounds that little of the pipe was sold in that country.

However, nearly 14 percent of this pipe was being sold in Belgium at the same price prevailing in Luxembourg—$32.58 per hundred feet; but the Treasury rejected consideration of these sales as well; and turned instead to sales in other third countries in Europe and overseas where it was in reality merely comparing the dumping price in those countries with the dumping price in the United States.

On the basis of these calculations the Treasury reached the astonishing conclusion that Luxembourg pipe was not being dumped in the United States.

Our own experience leads us to believe that most of the 5,500,000 tons of foreign-made steel which came into the United States last year was sold here at prices lower than those prevailing in the country of origin; and that it was thus being dumped here in contravention of the spirit and the purpose of our antidumping laws and the provisions of the GATT agreements. This, in our opinion, is the principal explanation of the sharp and disturbing increase in steel imports in recent years.

In further appraisal of the reasons for the deterioration of America's position in foreign trade in steel, the following facts should be noted:

Since the Tariff Act of 1930, levies on imported steel products have been generally reduced by something in excess of 60 percent. At the same time, our Government, from 1945 to 1963, has provided nearly $1¾ billion in grants and loans to foreign steelmakers to build or improve their plants and facilities.

In many countries abroad, American-made products are subject not only to tariffs, but to excise taxes as well; but products coming into the United States from foreign countries are subjected only to the tariff. As an example of the disadvantages imposed by this arrangement upon the American exporter of steel, take 2-inch welded galvanized pipe.

Coming from Germany, Belgium, France, or the United Kingdom, it pays a levy of $1.10 per 100 feet to get into the American market. But American exports to Germany pay levies of $9.06 per hundred feet; to Belgium, $9.95; to France, $18.71; and to the United Kingdom, $8.60. In other words, levies imposed by these foreign countries upon this kind of American-made pipe are from about 8 to 17 times as heavy as the levies imposed upon similar foreign-made pipe coming into the United States.

Clearly it is the responsibility of the American steel producer to keep his products competitive with those of foreign producers; and to this end the American steel companies have invested some $17 billion in improved and more efficient facilities since the end of World War II. They expect to spend at least another $1½ billion for this purpose in the present year.

But to maintain a competitive climate that will enable American producers to meet foreign producers on an equal footing—playing under the same ground rules—is something that only the Government can do.

We do not seek tariff advantages over foreign producers; we do seek the removal of tariff and trade disadvantages to American trade with these same foreign nations. We do seek standards of fair competition in international trade. For if standards of fair competition can be established in international trading in steel products, they would prove to be a great stimulus to trade and to healthy competition. A vital part of this fair competition is to make effective the spirit and the purpose of the antidumping laws through proper interpretation and enforcement.

Gentlemen, the remarks I have just made are the verbatim transcript of a message delivered in March to the President, by Roger M. Blough, chairman of United States Steel. In support of Mr. Blough's stand on the issue of foreign trade barriers, was Mr. David McDonald, president of United Steelworkers Union.

I sincerely hope all of us here take this information and use it to remind us of how much harder work we in Congress and the agencies of Government have ahead of us for equalizing trade opportunities.

The recent cotton subsidy bill is a case in point.

No nation can survive by charging the American workers, farmer, and small businessman $42.50 in taxes to keep the Japanese and other cotton buying textile producers in full production while our textile industry begs for another added $42.50-a-bale subsidy to stem the tide of imports.

The attrition in the textile industry is measured by hundreds of plants closed down and hundreds of thousands of workers in all branches of the industry out of work in spite of the multibillion dollars poured into domestic and foreign subsidies to keep our cotton industry alive.

In the hearings on extension of the minimum wage and overtime pay for U.S. workers, the main opposition comes from management spokesmen who say that we cannot afford any advancement in our social order because of cheap labor imports. Free trade knows no restraints.

Commercialism has no patriotism so Thomas Jefferson put it many years ago.

For as long as this generation of Americans can remember we have been fighting Communists. We have been hammered with barrage after barrage of arguments against dealing with the Commies.

At one stage in our lives we were in danger of being persecuted for just talking to a person suspicioned of being a Commie. Guilt by association was accepted as a weapon in our arsenal of defense against Commies.

We panicked when Sputnik I hit the ceiling and started a space race to reach the moon that cost us billions and billions.

Every time we seem to be getting back to earth by reducing our budget the Russians light another firecracker and away we go like a scared mare at a train whistle.

We have come a long way. Some say we are ahead in the space race, we have created an anticolonial world. Independent nations are being carved out of old colonial empires as fast as the Commies can take them over.

One thing puzzles this member of this generation of Americans. For all these years we have been steeled against trading with the enemy and now the so-called Western Allies, NATO nations, Atlantic Alliance, SEATO, and above all, our pals Great Britain and France, Italy, and Japan are bidding for Russian and Red China business and trade harder and louder than two old maids at an auction of worthless bric-a-brac.

The idea that we can sell peacetime and nonstrategic materials is about as flimsy an excuse as ever conceived to hide the truth. The truth, simply put, is that this greedy grab for trade dollars is making this and other nations lose their source of values.

Long ago Adam Smith condemned mercantilism and praised free trade. In our generation we have seen the beneficiaries of mercantilism take over the free trade theory and bastardize it into the greatest booster of mercantilism, profiteering exploitation in all trade history. In the end it may be the cause and not the cure for world dissention, misunderstanding, and even war.

Already the clouds of angry words and threats of retaliation are being hurled across the borders; yes, even across the seas.

In the most basic of all economic doctrines the protection of one's welfare comes first. This is true whether we speak of personal or national welfare.

Following this simple economic fact, the French insisted on raising tariffs on imported chickens. The reason, of course, was sound unless the French wanted to stop raising chickens, burn their feed grains, and put their farmers on relief.

This would have been the end result if this or any other nation insisted upon dumping chickens into France at a price below its farmers' cost of production. Any student knows that with our facilities and feed grain production we can supply the whole world with chickens. The French know this but they also know that farmers must work and even if we do allow the French to sell us machinery, aluminum products, glassware, and so forth, to get the money to buy our chickens—the George Ball plan—the farmers will still own their farms and will still be out of work.

The fact that we will have to put our industrial fabricators and glass workers on to the relief rolls does not seem to faze the freetraders who seem to believe that the sale of chickens, subsidized cotton, wheat, tobacco, and peanuts makes up for closed factories, depressed areas, and an increasing number of pockets of poverty.

What happened when France insisted upon its own farmers having a market for their chickens? Why, the most natural of all things happened—the freetraders, the promoters of world peace and good will, started literally screaming for retaliation. They demanded, and got, an eye for an eye and a tooth for a tooth, and the end is not in sight.

We are demanding a higher tariff on French brandies, et cetera, to make up for our loss in chicken sales.

This is, of course, the answer to all this trade doubletalk and exposes for all who will open their eyes to the facts of life, that competitive trade is a commercial venture, based upon profits and nothing else.

There is a place for world trade and when it is carried on under the simple but economically sound rules of need instead of greed, the world will enjoy an atmosphere of good will and better understanding.

Let us look at the part the Commies are playing in this trade war. The Russians are "breaking up that old gang of ours" by dangling large orders before our eyes.

Orders for wheat, machinery, fertilizer, in fact at this moment the stampede to sell to Red China and Russia is threatening the very lives of our allied salesmen who are pushing each other around trying to get to the Russian cash register.

We will not forget the wheat deals very soon. Our friends, the Japanese, are using it as a perfect cover to push the Red China trade. The British are willing to sell the Russians all they can supply and I suppose as much as we will give them for "no money down and pay when you you get it."

The French are pushing a Red China trade deal, the Italians are in Russian oil. Everbody is giving Castro a little lift directly or indirectly—the Canadians are a little disturbed because the United States is spragging their deals to ship to Castro and to sell uranium to France.

This is all peanuts when it comes to the next Russian maneuver. Right now the Reds are dangling the biggest carrot ever before the Western mules.

This time, it is a rumored order for $40 billion worth of fertilizer and machinery. The Western allies are falling over each other trying to nail the order down.

The peace dove is having severe competition from the vultures of greed, profit, and mercantilism.

In the end we will come back home poorer and wiser. We will find that to best help our friends we must know how to help ourselves.

An industrial complex that has to resort to artificial respiration to stay alive is not much of an example to offer as a world pattern. We had the formula but we lost it. It is probably too late but it is worth a try for us to get back into the world competition ball game wearing some of our old uniforms and using some of our old plays. We cannot do much worse.

This sounds like isolationism and will be used by some of our profiteering free traders as an example of foggy thinking. The truth, however, will show that no other formula has worked in our generation. We have tried the new—let us take the best from the new and add it to the old and we will come closer to being right than we have been in a long time.

Automation will disrupt our economy bad enough but when automation in cheap labor countries starts to pour its products over our market countries—look out.

No one really wants to shut off imports in all goods except perhaps, the free traders who will certainly shut off needed imports if we follow their line of thinking since we will not have consumers to buy imports or domestic goods.

Recently an editorial from station KDKA, Pittsburgh, Pa. again proved my philosophy of lower wages and lower standards for U.S. workers if we passed the Trade Expansion Act as a free trade bill rather than a protective trade bill.

I said as far back as 1958 that the only result of free trade to our economy would be unemployment. Automation would be stepped up, wage and hour agreements would be scaled downward in order to save the industry from going out of business or moving to foreign cheap labor areas.

The Studebaker move is one of recent date. The enormous expenditure in Canada by all U.S. automakers under pressure from Canadian officials who know the value of local payrolls and this editorial certainly points up what we can expect if our negotiations at GATT giveaway meetings come home with a lot of slogans and wishful thinking.

From Harold C. Lund, KDKA, April 1964:

> Pittsburgh has lost more than its share of industries simply because management and labor were unable to resolve their differences. With big steel and coal setting the wage scale in this heavy-industry area, labor insisted that fabricators and other plants keep pace. Industry was reluctant to modernize and expanded elsewhere.
>
> Fortunately for Pittsburgh, this labor-management impasse has been broken. In fact, the pattern has been reversed by two wage agreements that are without precedent in this area.
>
> Blaw-Knox steelworkers agreed to less pay and shorter vacations. Allis-Chalmers auto workers extended their present contract 2 years without any pay increase. Allis-Chalmers also, is launching a multimillion-dollar modernization and expansion on land that will be cleared in the North Side redevelopment area by the city of Pittsburgh.
>
> The new contracts mean that these old, established manufacturing companies will continue to operate in Pittsburgh, and they can become competitive with other plants in the Nation. Thus, 2,500 production jobs have been saved; and, with improved operating conditions, even more workers may be employed.

This type of agreement simply means that production will increase, workers' income will be lowered, and the consumption dollar from this industry will shrink. The end result will inevitably be more agreements of the same kind and the standard of our living scale will be lowered.

U.S. exporters and industry know that trade is a one-way street with the foreign countries enjoying it most. Most complaints by U.S. exporters center on three types of European restriction: internal taxes on top of tariffs, high-cost-base methods of figuring ad valorem duties and taxes, and discriminatory gimmicks against marketing, packing, and advertising.

### SUPER TAXES

Auto industry witnesses pointed to taxes in the first category, including an Italian road tax and a French horsepower tax that inhibit any expansion of U.S. auto sales in those countries.

In Italy, the road tax, based on size and weight of car, runs $170 for a U.S. compact car compared with $17 for an Italian Fiat and $44 for a Volkswagen.

In France, there is a surtax of around $60 per 2-gallon container of grain spirits. All U.S. whiskys, gins, and vodkas are made from grain spirits, while most French liquors come from spirits distilled from fruit—brandy.

### RIGGING THE RULES

Exporters say the sharpest limitation on volume of U.S. exports, especially to the EEC, comes from the method of determining a product's final cost for ad valorem duties and taxes. France was singled out as a prime offender. It has the biggest "value added" or "turnover" tax on steel products, textiles, and appliances, with West Germany not far behind.

These taxes apply also to French manufacturers who sell domestically, but the amount is figured on a higher base for imports. The Institute of Appliance Manufacturers cited an example of how European cost-plus figuring can add to a U.S. product's final sales price.

Take the case of a U.S.-made refrigerator shipped for sale in France. The French customs service starts off by charging duty based on the cost plus all shipping charges. To this base of, say $232.40, it adds 13-percent duty—$30.31. To that total it adds a 2-percent tax stamp charge—another 60 cents. And to that it adds a 25-percent value-added tax (charged an all refrigerators, local or foreign-made)—another $65.80.

The United States in contrast, bases its duties on cost plus freight alone. The base itself is lower, and extra taxes and charges are not pyramided on one another. Compared with the French base price, U.S. duty would be figured in this case on a base of $207.25. No tax stamps and no extra taxes are added. And the duty itself, though it varies widely among different types of refrigerators, is almost always lower. Even if the U.S. duty were comparable to the French levy of 13 percent, and if the same percentage stamp tax and value-added tax were applied in the United States, these charges would add a total of $79.29 to the refrigerator's base price—substantially below the $96.61 added by the pyramiding French charges.

### RESTRICTIVE GIMMICKS

The category of discriminatory marketing devices affects a lesser volume of trade but includes some of the most bizarre gimmicks.

In France, for example, the Government—to help its wine and brandy makers—prohibits any advertising of distilled spirits made from grain, which means chiefly United States and British whiskies. Canada, to protect its own whisky producers, forces U.S. distillers to use bottles of a different size than Canadians use.

It would take more time than allotted to really cover the steel industry in all its phases and the impact, direct or indirect of imports of steel and steel products.

Some interesting events of recent months show how the adverse effect of steel imports work against wage negotiations as well as growth prospects for both labor and industry. When we raise prices to meet wages, taxes and service in our high cost economy, we will find our ports loaded with competitive goods at prices which force wage cuts, automation and runaway factories—see KDKA editorial.

James P. Gannon, Wall Street Journal staff reporter, covered this phase very well in the following article:

### FOREIGN METAL ENTERS UNITED STATES AT A RECORD PACE: OVERCAPACITY ABROAD A SPUR

American steelmakers, who thought early this year that they were beginning to bring competition from low-priced foreign metal under control, are now having to think again.

In the first 8 months of 1963, foreign steel entered the United States at a record rate of 3.5 million tons, up 24 percent from a year earlier. The imports accounted for 6.4 percent of all steel becoming available in the United States during the period, against 5.6 percent in all 1962 and a mere 1.5 percent in 1957. For all 1963 imports now are forecast at 5 million tons—higher even than the 4.4 million tons brought in during 1959, when a 116-day strike at U.S. mills forced many American steel users to shop abroad.

The foreign metal is reaching from coastal areas into the U.S. heartland; last month a 62-car freight train chugged into Columbus, Nebr. (population 12,500), with 3,400 tons of galvanized steel from Britain. American buyers, who long concentrated their purchases from foreign mills on such things as nails and barbed wire, now are also buying such products as steel sheet, on which U.S. mills had thought they held a strong competitive advantage.

### WHIRLPOOL TOYS WITH IMPORTS

And comments from steel users indicate the import tide is likely to surge still higher in coming months. Example: Whirlpool Corp., which now uses only U.S.-made steel, is "toying around with a trial run on some foreign steel to get familiar with it," says Charles Dyson, chief purchaser for the refrigeration appliance division at Evansville, Ind. The company wants to be ready to use low-priced foreign metal if competition in the appliance industry forces it to seek further cost-cutting measures, he explains, and it may buy 500 to 1,000 tons from oversea mills next year.

All this is quite the opposite of what most U.S. mills had expected. Though a rise in imports and an accompanying drop in U.S. steel exports had already wiped out the jobs of an estimated 50,000 American steelworkers by last year, many U.S. executives looked for imports to top out in 1963, and perhaps begin to decline. They reasoned that foreign mills had saturated the American market for those products they found easiest to sell. The U.S. mills also had high hopes for a drive they had begun to stop foreign mills from "dumping" steel in the United States at prices lower than those charged abroad.

U.S. mills largely blame their failure to get the U.S. Government to act favorably on their "dumping" complaints. The U.S. mills took care to leave prices unchanged on those products in which import competition had been heaviest. But, say many importers, price boosts on products foreign mills had found it difficult to sell in the United States, tempted the oversea producers to take another shot at these markets. "With the price increases on flat-rolled steels here, the mills abroad are showing more interest in exploring the market," says a New York importer.

So foreign mills have been cutting prices on many of the products U.S. mills raised. One west coast warehouse man says he now buys one type of Japanese cold-rolled sheet for $148.78 a ton, tariffs included, or $4 less than a month ago. The U.S. product costs him $170.60.

European mills also have cut prices on cold-rolled sheet "a couple of percent" in the last month, says a New York importer. Cold-rolled sheet is used in a wide range of consumer products, such as appliances. Foreign imports of hot-rolled sheets rose 175 percent from the 1962 period to 184,221 tons while cold-rolled sheet imports shot up 211 percent to 88,640 tons, and galvanized sheet imports jumped 85 percent to 147,509 tons. Foreign mills had had difficulty selling all these products in the United States before, because they often must be rolled to exacting customer specifications, and users had preferred to have this job done by mills close to their home base.

Another reason for the import rise is that expansion of mills in Europe and Japan has given steel producers there a severe case of that old American steel ailment, excess capacity. This has been aggravated by failure of steel demand overseas to measure up to expectations. In the European Common Market, particularly, steel output has been stalled at the level of the past 3 years, leaving some capacity idle and pinching profits of the mills.

American executives were aware of this when they forecast a leveling off in 1963 U.S. steel imports. But they thought the foreign mills' troubles would cause them to cut back on American sales. The Americans reasoned that foreign mills had been selling in the United States at extra-low prices, subsidizing these sales out of home-market profits, and that a drop in home-market profits would give them less scope for such maneuvers.

Instead, it's now clear the foreign mills' home-market troubles have made them drive harder for American sales to put their capacity to work. "They're hungry for business since their economies are not up to normal," says a New York importer. An Inland Steel Co. official, too, blames the rise in imports of flat-rolled steel on "a combination of a vast expansion of flat-rolled capacity and a weakening of demand abroad."

The drive for American sales has led some foreign mills to cut prices on products U.S. mills didn't raise, accenting their price advantage there. A New York importer says he now sells German wire rod for $95 to $98 a ton, down from a peak of $110 to $113 early this spring. The price of U.S. wire rod has not been raised, but it already was far higher than the foreign product, at $142.50.

### IMPORTS VERSUS IMPORTS

In some cases, say importers, foreign mills have been cutting prices to fight each other, as well as American mills, for U.S. sales. A Houston importer lays much of the import price cutting on "the intensive efforts of the Japanese to sell in the American market"; Japanese mills, he says, often undercut European mills' prices in the United States. American imports of Japanese steel in the first 8 months of 1963 rocketed to 1,230,060 tons, nearly double the 624,245 tons imported in the 1962 period.

Though imported steel prices fluctuate widely and often, they now are about $30 to $40 a ton below American prices on many products. This is their principal lure for buyers. "We don't import steel, we import prices," says a New York importer.

U.S. mills find it difficult to fight foreign steel prices because their wages are much higher than those paid in oversea mills. But they had hoped to stop the foreign price cutting by filing complaints of foreign "dumping" with the U.S. Government. The Government, if it finds steel or other foreign products are being dumped, can raise tariffs to bring their price in the United States up to the same level as the price charged to the foreign producer's home market customers.

### "DUMPING" DRIVE FIZZLES

However, the antidumping campaign has met with "indifferent success so far," concedes Roger M. Blough, chairman of United States Steel Corp. And many other steel men find it a complete fizzle.

The U.S. Treasury Department did rule last spring that some European mills were indeed dumping wire rods in the United States. But the Tariff Commission nevertheless refused to raise tariffs on the wire rods, ruling that the imports weren't hurting U.S. mills enough to justify such action. Later the Treasury cleared Japan of dumping wire rod, and Belgium of dumping wire mesh. Other cases are pending, but American steel men don't expect much success.

"The foreigners have had a very fine demonstration of how hard it is to prove anything under our dumping law, and, of course, this has encouraged them," says an Inland Steel official. Since the Treasury last May found Japanese mills innocent of dumping wire rods, U.S. imports of wire rods have jumped to an average of 80,000 tons a month, from an earlier monthly average of 51,000 tons.

### IMPORTS SNOWBALLING?

With the U.S. mills thus defeated on several fronts, steel imports now seem to be having a snowballing effect: Several companies are beginning to buy foreign steel to keep their prices in line with those of competitors already using the lower-priced metal. This is particularly true of steel warehouses—distributors who buy steel in large quantities and resell it principally in small lots.

Maas-Hansen Steel Corp., a Los Angeles warehouse, began buying Japanese sheet this fall, abandoning a longstanding policy against handling foreign steel in order to "survive," says Arthur F. Maas, Jr., vice president. "We sat here for several years and watched the loss of customers and kept thinking this import business wouldn't last, but it has," he says. Now, he reports, the foreign metal in less than 3 months has taken 15 percent of his company's sales because "we've brought back many customers who we had lost to others who handled imported steel."

### WHERE IT GOES

The president of a Minneapolis warehouse predicts his company will sell 60 to 70 percent more foreign steel this year than it did in 1962. Until early 1963 the only imports on this company's shelves were concrete reinforcing bars; now it also stocks foreign structural steel and other items. "One of our biggest competitors had been selling foreign steel in these lines, and pricewise he was beating us all hollow," said the president.

Importers and warehousemen say much of the imported steel is sold to small fabricating shops that fashion it into such diverse products as fencing, coat hangers, dairy tank trucks and kitchen sinks. But some bigger companies are turning to foreign steel, too. Commonwealth Edison Co., big Chicago power company, says about 7 percent of all the steel it has bought this year has been imported, against 1.6 percent in all 1962. The company is buying many steel transmission line towers, prefabricated and ready to erect, from an Italian firm at prices 15 to 25 percent below U.S. costs, an official says.

There still are some things that might slow the import rise. Though Commonwealth Edison is buying foreign steel, some other big users, such as auto and appliance makers, fear they might jeopardize important relationships with their American suppliers if they follow suit. In periods of tight supply U.S. mills are inclined to give delivery priorities to their most loyal customers. "If you want to use foreign steel, you have got to burn some bridges behind you," says one U.S. steelman.

Steel Facts takes cognizance of the situation in steel:

### High Imports and Low Exports Plague Domestic Steel Industry

Foreign steel producers sent nearly 2.4 million net tons of steel mill products into the United States in the first half of this year, according to Government statistics. That was a near-record total, and an increase for the sixth consecutive half-year.

The only half-year with a larger import total was the strike-affected second half of 1959, when domestic users received nearly 2.5 millions tons of foreign steel.

Meanwhile, exports of steel mill products from the United States totaled only 996,000 tons, a decline of about 58,000 tons from the second half of last year and a gain of about 37,000 tons over the first half of 1962.

In August, statements expressing concern about the flow of foreign steel into this country were issued by the head of a leading steel company and the president of the United Steelworkers of America, following a meeting with President Kennedy in his Oval Room office.

Steel companies and their employees are especially concerned about the dumping of foreign steel in the United States since unfair competition of this type gives undeserved advantages to foreign producers, thereby reducing job opportunities in the American steel industry and contributing to this country's balance-of-payments deficit. Steel executives believe that stronger antidumping legislation is needed.

According to a report on "World Competition in Steel," issued recently by American Iron & Steel Institute, the domestic steel industry in 1962 would have provided $360 million in wages and salaries for an estimated 50,000 additional workers, if it could have maintained its 1953–57 average participation in world export trade and had experienced no further erosion of its markets by imports.

### UNITED STATES OF AMERICA AT A DISADVANTAGE

The institute asserted that companies in the United States suffer from disadvantages with respect to employment costs, tariff structures, nontariff trade barriers, export subsidies, tax structures, and regulatory policies.

"These forces have made competition difficult and will continue to do so," the report said.

Among the most recent and significant import increases are those in sheet and strip, and in tinplate. Comparing half-year average imports since 1958 with those for 1954–58, inclusive, total sheet and strip imports have increased eightfold. In the case of tin mill products—prior to 1959, domestic users took insignificant amounts from foreign sources, frequently less than 100 tons per half year. However, imports have averaged nearly 27,500 tons per half year since 1958, and reached a record of more than 65,000 tons in the first 6 months of 1963.

Using the same basis of comparison, imports of wire rods have increased sixfold; total pipe and tubing, fourfold; wire nails, twofold; and heavy structural shapes, also twofold.

Records were set in imports of steel wire rods (366,000 net tons) and pipe and tubing (355,000 tons) during the first 6 months of 1963. The tonnage of imported wire rods accounted for more than 37 percent of the available supply (shipments plus imports, minus exports) in the United States during that period.

The following table compares first-half exports of some major steel products during the past 2 years.

[In net tons]

| Exports of— | 1st half 1963 | 1st half 1962 |
|---|---|---|
| Sheet and strip | 281, 100 | 290, 981 |
| Tin-mill products | 196, 346 | 208, 821 |
| Pipe and tubing | 104, 695 | 97, 353 |
| Structural shapes | 69, 871 | 73, 594 |
| Plates | 64, 626 | 38, 825 |
| All other | 279, 390 | 250, 708 |
| Total mill products | 996, 028 | 959, 282 |

Through 1957, the United States was a substantial world net steel exporter. In the period 1958–62, U.S. exports of steel mill products were somewhat more than half the volume in the period 1953–57, and represented only 6 percent of total world trade, as compared to 14 percent in the earlier period. Imports into the United States nearly tripled in volume, rising to 9 percent of world imports, compared to 4 percent in the earlier period. In the latter period, the United States changed from a net exporter to a net importer of steel mill products.

The passage of a Senate bill designed to improve the current antidumping law is one of nine recommendations in the institute's report on world competition in steel. The other recommendations cover tariff structures, nontariff trade barriers, export subsidies, tax structure credit and insurance coverage, regulatory policies, tied loans, and the financing of new foreign steel capacity by the U.S. Government.

The report pointed out that the issues of tariffs, nontariff trade barriers, export subsidies, and tax structure should be considered as a group by the U.S. Government in forthcoming trade negotiations.

The institute report was submitted to the Business and Defense Services Administration of the Department of Commerce at the latter's invitation. The 36-page report was designed to help create a better understanding of the factors affecting American steel producers in competing for world markets, often against steelmaking nations that were not large participants in foreign trade in steel mill products a few years ago.

While we discuss lower tariffs the whole outside trade world looks for means to first, stop imports, second, bluff the United States into opening up our market for their benefits.

### France Urges Increase in Steel Tariffs

(By Joseph E. Dynan)

Paris, November 6.—France is urging her Common Market partners to increase the trade bloc's tariffs on steel—a step which could make the chicken war look like chicken feed.

If the other five nations don't go along, France could act unilaterally through a loophole in the six-nation steel-coal treaty. Such action would endanger European economic unity.

The French Government proposed the steel tariff increase on October 7 at a ministerial meeting of the Coal-Steel Pool. The West German Government, at the time still headed by Konrad Adenauer, supported the French. The question is due to be decided at a meeting in Luxembourg December 2.

The French proposal—to return to the tariff schedule that prevailed before 1958—would virtually double the tariff on certain types of steel imported by the six nations—France, West Germany, Italy, Belgium, the Netherlands, and Luxembourg.

It remains to be seen whether West Germany's new chancellor, Ludwig Erhard, will continue to back up the French demand, described by one source as "assez vif" rather vehement.

The United States stanchly opposes any increase in European steel tariffs and is considering taking the matter to the Organization for Economic Cooperation and Development (OECD), it was learned here today. The OECD links the United States and Canada with Western Europe in an institution designed to remove trade barriers.

Although a relatively small amount of steel is affected—about 3 million tons—the United States was reported to feel that any hike in steel tariffs could have a disastrous effect on Western commerce. Not only is steel an important commodity, but steel prices directly affect a whole range of other products.

The United States also feels that a rise in European duties on steel would have an extremely adverse effect on the forthcoming "Kennedy round" of trade negotiations next year within the framework of the General Agreement on Tariffs and Trade (GATT) in Geneva.

Washington has launched the Kennedy round talks to lower tariffs and commercial barriers generally as a setting for an "Atlantic partnership" in world trade.

U.S. Vice President Lyndon B. Johnson took the matter up with officials of the Steel-Coal Pool this week when he arrived in Luxembourg on a visit to the Benelux nations. Johnson told leaders of the six-nation community the Kennedy administration hopes they will continue a policy of low tariffs on steel.

The present steel tariff schedule is a complicated one, varying according to types of steel and from country to country. Present rates average out between 5 and 7 percent. The French want to boost the rates to between 9 and 12 percent.

The Community now produces almost 73 million tons of steel a year, exports about 12 million, and imports about 3 million tons of specialized steels.

About 300,000 tons a year comes on the Community Market from the United States mostly at what is described as a low price. France contends that these 300,000 tons are disorganizing the Community Market by undercutting Community prices.

The average price of steel in the Community is about $100 a ton. As of last January, the German price was $101.30, the French price $96.60.

The issue comes under the steel-coal treaty and not under the Common Market treaty linking the same six countries. This means individual states, such as France, have a leeway for independent action which is lacking under the Common Market accord.

The steel-coal treaty wipes out tariffs on steel and coal traded within the six-nation area, but unlike the Common Market treaty it makes no provision for a joint tariff on imports from outside. It only requires the six nations to give advance notice of any changes in policy.

In practice, the six steel-coal nations agreed in 1958 to aline their steel tariffs somewhere near the lowest existing level—the Benelux tariffs which averaged between 4 and 6 percent. France and Italy then had the highest rates—averaging between 9 and 12 percent. West Germany's rates were about 1 percent lower.

Mr. Speaker, in keeping with the tone of this open discussion this afternoon on the matters of trade and the U.S. job economy, I want to put before Congress the never ending fight of our glass industry and its workers for survival in our production economy.

The following presentation gives a very positive picture of the declining influence of this major industry in the needed growth of our economy.

We may find ourselves in the dismal situation of a production prosperity with a poverty complex.

Production alone does not create a prosperous economy. Production needs investment, payrolls, sales, and profit. All must be represented in the total economy and no combination of less than the total five ingredients can make our Nation prosperous, powerful, and above all, a contented Nation with contented people.

In line with the pleas of the glass industry, the combined action of the seven related industries and their unions again points up the seriousness of this major problem.

Prosperity and poverty have for too many generations gone hand in hand. If we are to meet the challenge that so often has destroyed the upward climb of civilized nations, we must wipe out poverty in the midst of prosperity.

In every era of high attainment by civilized nations the time arrived when the prosperity of some out of profits created by all has been the breaking point of that civilization's growth and expansion.

When goods are produced for profit alone without due consideration of production for consumption and the payment of wages and income to insure consumption, the greedy grab for profits and survival by converting industries' leads to monopolies, short cuts in the distribution system, utter disregard for job protection and eventually, the downfall of the industrial complex and the Nation itself.

In our plans for expansion with the hope that this will meet foreign competition we are dreaming the dreams of the profiteers who sail the seas of the competitive trade carrying only one life preserver for themselves. What good is increased production that creates a surplus of goods as well as a surplus of unemployment?

Automation and importation are the hydra-headed monsters when the goods they spew into the marketplace are surplus and beyond the needs of the peoples within the economy. When they produce for need they are a blessing, but when they produce for greed they are a curse.

Surely in this advanced age of our existence, people must still be the first concern of our Government, otherwise, why government? If the law of the jungle represented by price competition between unlike cost economies is to prevail, then all laws governing human behavior are null and void. In the long run, governments die, but people live on.

Let us not lose what we have gained in personal rights, privileges, freedoms, and dignity. Let us make use of our great potentials and create where we can, a better place for all of us to live in. The stories of steel, glass, wheat, cotton, and beef are just a blueprint of disaster for all products and all industries.

### THE COMMUNITIES WHERE PLATE GLASS WORKERS RESIDE FACE SERIOUS PROBLEMS AS A RESULT OF JOB DECLINE

The United Glass & Ceramic Workers of North America International Union represents the overwhelming majority of production workers in the plate, rolled, wire and laminated glass industries. We know from our day-to-day contacts that the work force in these industries is declining and that our members find it impossible to find comparable jobs in their towns.

We are concerned with action on many fronts to stimulate jobs in the domestic industry and a part of this overall struggle is working against the potential diversion of domestic jobs overseas.

Currently the plate glass industry is in the midst of enormous changes. All of them are costing our members jobs. Among these changes are:

First. Change in manufacturing processes. We have been hit hard by automation without a corresponding increase in consumption. The result: Fewer jobs.

Second. Change in product specifications. The automobile industry for example, is now using tempered glass where it previously used laminated glass. This alone has cost several thousand jobs.

Third. Increased imports, not only in the form of plate glass, but in finished products with plate glass, particularly automobiles.

Moreover, from all indications, the worst lies ahead. From our contacts with trade unions abroad and from personal observation we conclude that more imports are to be headed toward our shores in the future as European and Japanese glass producing capacity increases. Moreover, a new manufacturing process appears certain to make inroads into the plate glass industry starting within a year, and this may have a profound impact on the whole character of the industry.

The net result is that communities where plate glass jobs are a vital part of primary income are in trouble now, and the current shortage of glass jobs is likely to become more acute in the years just ahead.

Prior to 1957, two companies, Libbey-Owens-Ford and Pittsburgh Plate Glass, produced all the plate glass manufactured in this country, and in order to keep vital information from these companies the Government released no figures about them. Since then, additional competitors have entered the field.

From our union records, it is possible to reconstruct what has happened to the plate glass jobs in these companies. Our payroll records show:

*Decline in plate glass jobs in 2 companies*

| | January 1956 employment | January 1964 employment | Job decline | By percent |
|---|---|---|---|---|
| Libbey-Owens-Ford and Pittsburgh Plate Glass | 17,272 | 10,305 | 6,967 | 40.3 |

In 8 short years, 40.3 percent of our jobs disappeared, with the chief loss resulting from new manufacturing techniques and from change in product specifications.

### PLATE GLASS INDUSTRY DEPENDS ON AUTOMOBILE INDUSTRY

One of the peculiarities of the domestic plate glass industry is its absolute dependence upon the American automobile industry. Our figures show that in 1962, almost 60 percent of the total domestic output went to the automobile industry and that in no time during the 6 years for which statistics are available has the portion of the total going to the automobile industry been less than 55 percent. See exhibit C.

Three customers dominate this industry: General Motors, Chrysler, and Ford. The number of jobs held by our members hinges on the amount and the kind of glass our companies supply automobile manufacturers.

Domestic production of all types of plate glass in the past 8 years has not risen substantially. In 1957, the figure was 576 million square feet and in 1962 the figure was 576 million square feet. Moreover, there has been a falling off of the amount of glass being used by the automobile industry—see exhibit C.

The ability of the domestic industry to maintain its hold on the automobile business is absolutely essential to its economic health and to the well-being of employees. Imports already have started to make some inroads into the automobile industry. Precise figures are not available, but we know that the Chrysler Corp. is now using some imports on its products, an extremely ominous development from our viewpoint.

Even more significant than the decline in the number of square feet of plate glass going to automobiles is the change in the type of glass used. Previously the automobile industry relied heavily on laminated glass, a process involving considerable production time. Much of this has been replaced with tempered glass, a product produced with considerably fewer men.

The glass industry has been characterized by constant changes in production methods, including such developments as twin grinders which do the job as well, with fewer men.

### JOB LOSS CONCENTRATED ON SEVERAL COMMUNITIES

The result of this is the job decline detailed in our exhibit A. It shows, for example, that in the small communities of Creighton and Ford City, Pa., the decline in Pittsburgh Plate Glass jobs has been 65 and 46 percent respectively in just 8 years. PPG is the largest employer in both communities—see exhibit A.

When the primary source of incomes goes down, of course, the butcher and grocer and restaurant owner also lose out. These communities are in a labor area with 7 percent unemployment. The possibilities of these unemployed glassworkers finding suitable jobs are indeed remote.

Crystal City, Mo., is a community literally built around the PPG plant. In 1956, PPG supplied some 2,624 breadwinners—supervision and clerical employees—in this tiny community with well-paid jobs. In 1964, the employment level is only 1,127, a decline of 57 percent.

Libbey-Owens-Ford is the biggest employer in the small town of Ottawa, Ill. In 8 years, union records show that 1,342 jobs, some 53.5 percent of them, have disappeared.

The two biggest employers in Toledo are Kaiser-Willys, where Jeeps are made and much of the production is on Government contracts, and L-O-F. A third major employer, the Rossford Army Ordinance Depot, is closing. So far, the changes in the plate glass industry have hit less severely in Toledo than elsewhere but still 1,130 jobs—1 in 5—have disappeared. Toledo, incidentally, recently qualified for special U.S. consideration in Government projects.

### PILKINGTON GLASS THREATENS TO TAKE MORE JOBS

Probably the most significant development in the glass industry is float glass process developed by the Pilkington Bros., Ltd., in the United Kingdom. Under the conventional processes of producing plate glass, the grinding and polishing account for many of the jobs and much of the cost.

As we understand it, float glass possesses many of the characteristics of plate glass, but it is produced without any grinding or polishing. We do not know the extent to which it will replace plate glass, but since it can be produced more economically than plate glass, clearly its impact will be felt.

Both Pittsburgh Plate Glass and Libbey-Owens-Ford are licensed to use the float method in America. Three European producers also have been licensed by Pilkington as well.

The float process is not just another technological improvement. It is a radical departure from conventional production methods. We do not yet have the figures on how many fewer men will be required to produce a million square feet of float glass than are now needed to produce a million square feet of the glass it will replace. We do know, however, that the output per man is expanded. We do not yet have a complete picture of all the applications, but we are certain they will be many.

Moreover, as our domestic and foreign producers experiment with the process, the existing applications are likely to be expanded and output per man further increased.

In short, with float glass production about to become a serious factor, we feel this is no time for creating additional problems within the industry.

### FOREIGN COMPETITION LIKELY TO INCREASE

To the best of our knowledge, no comprehensive survey has been made of present and probable European and Japanese glassmaking capacity. We do know, however, that new plants are being built.

This winter First International Vice President Leland Beard attended an international glassworkers convention in Europe. While overseas, he devoted 18 days to inspecting as many glass plants as he could including three plate glass factories.

In his formal report to the Union executive board, Vice President Beard made these observations:

> 1. The West German and French plants have the same equipment one finds in the most automated domestic plate glass plants.
>
> 2. Workers and in some instances works managers told him that there was no unemployment in the glass industry and he could see the plants were operating at full capacity. One German plant was importing workers from as far away as Turkey, Greece, and the island of Crete because of the need for more glassworkers.
>
> 3. In some European plants production goes directly into cases marked for export to the United States and thence to high-speed barges which carry them directly to the loading docks.
>
> 4. In several instances he was told by union and company officials that a shortage of workers was holding up planned expansion.
>
> 5. A day of reckoning lies ahead for European glass producers. As their productive capacity increases and markets become glutted, the pressures will mount to step up sales in the profitable American market, and that means trouble for domestic producers and workers.

With firsthand information that Europe, particularly Germany, is booming with jobs for all, while the domestic industry is not expanding output and America has serious unemployment problems, we think a clear need exists to prevent the further erosion of our jobs overseas.

### OVERSEA PRODUCERS SHOW THEY CAN INVADE PLATE GLASS MARKET

The ability of the oversea glass producers to invade the U.S. market has been amply demonstrated in other segments of the industry.

We cannot read the minds of oversea producers, but there appears to have been little effort to sell plate glass in this country before 1950, and as late as 1954, plate glass imports were small.

Since then, however, the pace has been stepped up with imports now the equivalent of approximately 15 percent of the total domestic construction, housing and nonautomotive industrial markets. Having established a beachhead in the rest of the market, the importers are now moving in on auto, and this is a time for us to start sounding the storm warnings.

We note that in the first 6 months of 1962, the cents per square foot change for imported plate was 41.9 and that for the comparable 6-month period in 1963, this average price had fallen to 34.9 cents—U.S. Department of Commerce.

The clear implication is that the oversea producers are beginning to step up the pace of competition.

That they can produce for lower costs than the American industry is apparently unquestioned. Our studies of wage costs show that the American worker in a plate glass plant receives at least four times the wage of a worker in a West German or Belgian plant and, of course, many times the wage received by a worker in the growing Japanese glass industry.

The pace of plate glass sales to fabricators and the automobile industry probably can be stepped up whenever the European and Japanese production capacities exceed current demand. That time may lie just ahead, and our industry is in an extremely vulnerable position.

### LOW WAGE IMPORTS UNFAIR COMPETITION AS ROLLED AND WIRE GLASS INDUSTRY RECORD SHOWS

The future of the plate glass industry may well have been traced by the past history of the rolled and wire glass segment of the industry. In these, imports were at first only a minor factor until foreign suppliers got the "feel" of the market, and then imports zoomed.

As a result, three domestic producers have been forced out of business in recent years, and three more communities have new job problems—see exhibit B.

A relatively high direct labor cost is generally regarded throughout the glass industry as the chief reason these plants failed. New processes overseas helped speed their demise.

In plate glass, we now also have the relatively high direct labor content, and an enormous spread in the wage costs between American workers and their oversea counterparts. A similar spread exists among those furnishing services used by the producers, including supplies and maintenance.

We urge you, gentlemen, to read the handwriting on the wall. Clearly, if tariff walls are lowered, in either plain plate glass or wire and rolled, more glass will be imported into the United States, which will mean the immediate demise of one industry and perhaps fatal injury to the other. More of our jobs will be exported abroad.

Accordingly, we urge that no further tariff concessions be made in the glass industry, for they will cost us jobs at a time when America has no jobs to spare.

EXHIBIT A.—*Decline in plate glass employment in 2 principal producing companies according to union payroll records*

PITTSBURGH PLATE GLASS CO.

| Plate glass locals | Production employment | | Job decline | By percent | Prevailing rate of unemployment in labor market (percent) |
|---|---|---|---|---|---|
| | January 1956 | January 1964 | | | |
| No. 12, Creighton, Pa | 3,733 | 1,310 | 2,423 | 65.0 | 7.0 |
| No. 14, Ford City, Pa | 2,761 | 1,499 | 1,262 | 46.0 | 7.0 |
| No. 63, Crystal City, Mo | 2,624 | 1,127 | 1,497 | 57.0 | 4.1 |
| No. 180, Cumberland, Md | (1) | 687 | (687) | ------ | 6.5 |
| Total | 9,118 | 4,623 | 4,495 | 49.0 | ---------- |

LIBBEY-OWENS-FORD

| Plate glass locals | Production employment | | Job decline | By percent | Prevailing rate of unemployment in labor market (percent) |
|---|---|---|---|---|---|
| | January 1956 | January 1964 | | | |
| No. 19, Ottawa, Ill | 2,524 | 1,182 | 1,342 | 53.5 | (2) |
| No. 9, Toledo, Ohio | 5,630 | 4,500 | 1,130 | 20.0 | 4.4 |
| Total | 8,154 | 5,682 | 2,472 | 30.0 | ---------- |

COMBINED TOTALS

| | Production employment | | Job decline | By percent |
|---|---|---|---|---|
| | January 1956 | January 1964 | | |
| Pittsburgh Plate Glass and Libbey-Owens-Ford | 17,272 | 10,305 | 6,967 | 40 |

[1] New plant.

[2] Not available.

Sources: Union records. Latest available unemployment statistics secured from U.S. Department of Labor and are for November 1963.

EXHIBIT B.—*Decline in jobs in rolled glass—Production and related workers*

| | |
|---|---|
| 1955 | 1,117 |
| 1956 | 1,100 |
| 1957 | 1,086 |
| 1958 | 856 |
| 1959 | 812 |
| 1960 | 779 |

Source: P. 20. U.S. Tariff Commission Report on Escape-Clause Investigation, No. 7-102, TC Publication 21.

EXHIBIT C.—*Analysis of U.S. plate glass consumption showing dependence of domestic industry on automobile industry*

| Year | Apparent total U.S. consumption [1] | Nonautomotive plate consumption [1] | Mirror plate consumption [1] | Apparent auto consumption [2] | Domestic production [2] | Auto consumption as a percentage of production |
|---|---|---|---|---|---|---|
| 1957 | 586.0 | 157.0 | 56.9 | 372.1 | 576 | 64.5 |
| 1958 | 472.5 | 155.7 | 55.8 | 261.0 | 464 | 56.0 |
| 1959 | 707.3 | 165.6 | 60.4 | 481.3 | 692 | 69.5 |
| 1960 | 621.6 | 171.2 | 61.7 | 388.7 | 604 | 64.0 |
| 1961 | 531.1 | 177.5 | 64.2 | 289.4 | 511 | 56.5 |
| 1962 | 597.0 | 187.0 | 68.1 | 341.9 | 579 | 59.0 |

[1] Source: U.S. Department of Commerce.

[2] Our computation.

EXHIBIT D.—*Imports as percentage of nonautomotive plate consumption*

| Year | Combined nonautomotive and mirror plate consumption [1] | Imports including colored glass [1] | As a percentage of non-auto-mirror consumption [2] |
|---|---|---|---|
| | *Million square feet* | *Million square feet* | |
| 1957 | 213.0 | 27.9 | 13 |
| 1958 | 211.5 | 23.1 | 11 |
| 1959 | 226.0 | 36.7 | 16 |
| 1960 | 232.9 | 34.2 | 15 |
| 1961 | 241.7 | 36.1 | 15 |
| 1962 | 255.1 | 37.6 | 15 |

[1] Source: U.S. Department of Commerce.

[2] Our computation.

### COMPOSITION OF THE STONE, GLASS, AND CLAY COORDINATING COMMITTEE

The Stone, Glass, and Clay Coordinating Committee—S.G. & C.C.C.—is composed of seven trade unions affiliated with the AFL–CIO. They have a combined membership of approximately 250,000 production workers. They are primarily concerned with the welfare of these working people and their dependents, approximately 1 million Americans, and they are also concerned with the impact of tariff reductions on the communities where these working families reside and upon the industries wherein they earn their livelihood.

The identities of these unions, their chief officers and their headquarters addresses are:

Mr. George M. Parker, president, the American Flint Glass Workers' Union of North America, 204 Huron Street, Toledo, Ohio.

Mr. Lee W. Minton, president, the Glass Bottle Blowers Association of the United States and Canada, 226 South 16th Street, Philadelphia, Pa.

Mr. E. L. Wheatley, president, the International Brotherhood of Operative Potters, Post Office Box 752, East Liverpool, Ohio.

Mr. Felix C. Jones, president, the United Cement, Lime, and Gypsum Workers International Union, 7830 West Lawrence Avenue, Chicago, Ill.

Mr. Ralph Reiser, president, the United Glass and Ceramic Workers of North America, 556 East Town Street, Columbus, Ohio.

Mr. Sam H. Scott, president, the United Stone and Allied Products Workers of America, 289 North Main Street, Barre, Vt.

Mr. Howard P. Chester, president, the Window Glass Cutters League of America, 1078 South High Street, Columbus, Ohio.

The men and women who are members of these unions use their skills to produce the broad range of stone, glass, and clay products sold in America. Supplemental statements will give our views on specific segments of these industries, but this presentation seeks to establish a general framework applying to all.

These industries tend to have many characteristics in common. They are old industries. Most of them are in transition adapting to new marketing conditions and/or new technological developments and/or new product specifications. These industries tend to have a high direct labor cost despite a rapid modernization program. To hold a production job in them takes a good many years of seniority.

### THESE INDUSTRIES ARE LOCATED IN AREAS WHERE THERE ARE NOT ENOUGH JOBS

These industries are concentrated in areas with a moderately high to substantial rate of unemployment. Many of the plants are in smaller towns where they are likely to be the dominant employer. Since these communities already are suffering from job shortages, any additional unemployment, regardless of the causes, tends to compound their woes.

Most of these industries utilize materials found in abundance here in America and in many other parts of the world. The skills involved are traditional American skills. The chief market for the stone, glass, and clay products these people make is here in America. The only substantial advantage enjoyed by oversea producers is a lower wage level.

Because of the relatively high direct labor content, and the great difference between American and foreign wages, these industries are particularly vulnerable to low wage imports.

We import a great deal more than we export of stone, glass, and clay products so we are, in effect, exporting stone, glass, and clay jobs.

### UNITED STATES IS EXPORTING STONE, GLASS, AND CLAY JOBS

Despite the enormous amount of research conducted on the balance-of-payments problem, relatively little has been done on the job balance. Neither the Department of Commerce nor the Department of Labor was able to supply the S.G. & C.C.C. with figures showing the trends in this direction.

In 1962, however, the Department of Labor did produce parallel studies for a single year—1960—one showing "Employment in Relation to U.S. Imports," and the other, "Domestic Employment Attributable to U.S. Exports."

According to these studies, only four manufacturing classifications had an unfavorable balance between "Employment Attributable to Exports"—heading, table 2, "Domestic Employment Attributable to U.S. Exports, 1960"—and "Hypothetical Employment Required to Produce and Market in the United States—Products Considered 'Competitive' with Domestically Produced Goods"—heading, table 4, "Employment in Relation to U.S. Imports, 1960." Footnote 2, both charts. Ibid.

According to these studies the balance for "Stone, Glass, and Clay Products" stood as follows:

DIRECT EMPLOYMENT IN THOUSANDS

1960: Jobs attributable to exports, 11.8; hypothetical jobs "taken" by imports, 23.2.

In short, we had a 2-to-1 unfavorable job balance in the direct employment required to "produce, transport, and market" stone, glass, and clay products.

The four manufacturing classifications with this adverse job balance are: (1) textile mill products, (2) apparel and other finished products, (3) leather and leather products, and (4) stone, glass, and clay products.

### STONE, GLASS, AND CLAY PRODUCTS NEED SPECIAL CONSIDERATION

U.S. raw cotton marketing practices are currently under review with an eye toward easing the domestic problems. A quota arrangement is also being pressed in cotton products. Quotas are also being considered for the shoe industry, so that without presuming to predict the future course of these developments, it is entirely possible that the stone, glass, and clay products classifications may be the only one with an unfavorable job balance and with no relief in sight.

The fact that of the 20 manufacturing classifications only 4 have an adverse job balance in the import-export relationship certainly is indicative of the need for special consideration.

Moreover, these figures do not take into account the sweeping changes which are taking place in some segments of this industry. The whole glassmaking industry, for example, is in the midst of enormous technological changes as well as changes in product specifications. While, as will be developed, imports are the chief cause of job loss in the pottery industry and the unprecedented contraction in the hand and pressed glass industry, the impact of additional imports can be just as devastating on the plate glass industry communities with imports, product change, and technological developments producing a cumulative effect of woe piled upon woe.

Whether the imports be polished marble and granite—perhaps marketed by a domestic producer—pottery, ceramic tile, glass of any kind or cement dumped in the northwestern section of the country, any increase in the inflow of stone, glass, and clay products without a commensurate increase in exports can only serve to broaden the existing job deficit.

These industries will, of course, speak for themselves, but in constant contact with these industries, the S.G. & C.C.C. unions fail to find one where there appears to be any hope on the part of managements or trade associations for increasing exports.

For the workers in these unions, any increase in trade in stone, glass, and clay products appears to be a one-way proposition, and their prevailing view can be summed up, "We get their goods, they get our jobs."

### AFL–CIO FOREIGN TRADE POLICY STRESSES JOB PROTECTION

Like the other unions affiliated with the AFL–CIO, the seven trade unions composing the stone, glass, and clay coordinating committee understand the necessity and desirability of increased commerce among the nations of the free world. This trade, however, must be mutually beneficial.

The AFL–CIO itself, while consistently supporting the general theory behind GATT negotiations, holds the establishment of proper safeguards for the individuals and industries involved as a vital consideration.

Labor's official position on foreign trade was spelled out in a resolution passed unanimously at the AFL–CIO's 1963 convention last November in New York City. It had this to say about labor's continued support for the Trade Expansion Act of 1962.

First:

> Trade policy does not exist in a vacuum. The United States exports only about 4 percent of its total product. Both exports and imports create jobs. While trade expansion is vital to the U.S. economic health, an effective trade policy cannot ignore the importance of full employment at home. A fully employed domestic economy is essential to the national interest and to successful progress of liberal trade. It is unrealistic to expect the United States to turn its major efforts toward 4 percent of the economy while 96 percent is operating at less than full use.

Second:

> The national interest not only demands efforts toward full employment and effective assistance to those affected adversely by imports at home, it also requires efforts to improve the economic and social well-being of workers overseas. It is therefore important that the United States not base its trade competition on low wage standards, here or abroad.

Third:

> The President should reserve sensitive items in advance from inclusion in GATT negotiations.

Fourth:

> Labor's support was based on adequate assistance or relief for those adversely affected by imports. Its continued support for liberal trade depends on the fulfillment of this premise * * *. If the Tariff Commission does not show that it can effectively administer the law, the Trade Expansion Act must be amended.

The entire AFL–CIO resolution is attached as exhibit A.

### RETRAINING PROGRAM A COMPLETE FAILURE

Under the prevailing trade theories, industries with natural advantages export to nations who can produce certain goods less efficiently who, in turn, presumably export their specialties.

We do not happen to believe our industries are ones which should be marked for extinction under this approach. Stone, glass, and clay products are produced as efficiently in America as any place in the world. We have the required raw materials, traditional know-how, modern equipment, available fuels, and transportation and nearness to market. We do, of course, have higher wage costs.

Even if we agreed, however, that our industries should be sacrificed and that the promised retraining, relocation, and income maintenance for displaced workers and Federal assistance for affected industries would turn into garden spots those Ohio River Valley areas where many stone, glass, and clay plants are located, the fact is the aid, promised in return for labor support of the Trade Expansion Act of 1962, has not materialized.

To date, not one industry and not one worker has qualified for assistance under section 301 of the act. A dozen applications have been made. Unions, business associations, and individual companies have tried. In each instance, the Tariff Commission has denied assistance. There is a growing feeling that the Tariff Commission's position is that if it granted such aid, it would be admitting it erred in establishing the tariff involved.

While the GATT negotiators may fervently wish they had such a retraining program as a hole card, it is our opinion that you do not and that as a consequence the relationship between imports and S.G. & C.C.C. jobs, cannot be minimized.

For evidence, we submit, as exhibit B, the list of the 12 applications for relief under section 301 of the act, along with the Tariff Commission's decision. Whether the reason the act does not provide this relief lies in the interpretation and administration of it or in the wording itself is not nearly so important as the fact that it is not working, and there is no reason to believe that the men holding any jobs traded away in Geneva would be compensated for their sacrifice.

### WE ARE LOSING JOBS TO LOW-WAGE COMPETITION

While European and Japanese wage levels have been rising more rapidly than U.S. wages from a percentage standpoint, the dollar spread actually has been growing. A Belgian glassworker receiving 72 cents an hour may receive a 6-percent increase and thereby have his hourly earnings boosted by 4⅓ cents. His American counterpart, securing $4 an hour may receive only a 2-percent increase, but he would get 8 cents more.

A pottery worker making $2.26 an hour in America may get a 2-percent increase and add 4.52 cents to his hourly rate, while his Japanese counterpart, with a base of 36 cents an hour, or less, may get a 6-percent raise and add only 2.16 cents to his hourly rate.

Attached, as exhibit C, is a more detailed sampling of competitive wages, but the inescapable facts are that stone, glass, and clay imports are rising because the lower oversea wage levels are providing foreign manufacturers with some clear advantages over the American counterparts, and that as a result we are losing jobs.

### STONE, GLASS, AND CLAY INDUSTRIES ARE GROWING OVERSEAS WHILE DECLINING IN THE UNITED STATES

The incredible economic recovery of Western Europe and Japan has brought about a rapid expansion in the productive facilities in glass, ceramic, and pottery companies. To the best of our knowledge, no precise measurement of this increase exists.

In the supplemental briefs, we will explore this situation in more detail, but there is considerable evidence that overseas industry is building at the expense of domestic producers while overseas workers are securing employment at the expense of American workers.

For example, since 1950, fully half of the American hand and pressed glassware plants have closed their doors while the West German, Japanese, and Italian producers were nearly tripling their exports to America—see supplemental brief.

The history of the earthenware and domestic china industry since 1950 can be written in terms of American producers going out of business while Japanese producers took over—see supplemental brief.

In the plate glass industry, widespread unemployment has been augmented by a sharp upturn in imports—see supplemental brief.

While existing domestic facilities have been modernized, we are alarmed over the trend toward our industries investing more heavily abroad. We are also alarmed over the beginnings of a trend for U.S. companies to retreat from manufacturing while utilizing the sales and distribution systems to handle imported products.

Some companies may be able to protect profit margins by adopting an attitude of "If you can't lick 'em, join 'em," but working people cannot.

### INCREASED TRADE NOT AN END UNTO ITSELF

We are concerned that balance-of-payments considerations and the desire to keep nations out of the Communist orbit not obscure the basic domestic considerations.

Last year the U.S. State Department issued a brochure—U.S. Balance of Payments, Questions and Answers, Department of State Publication 7392, revised—in which it observed, "An Advisory Committee on Labor and Management Policy was created to encourage productivity gains in U.S. industry, to advance automation, and to encourage sound wage policies and price stability—all directed to the end that U.S. goods may compete effectively in the world market."

This sounds suspiciously like a policy of depressing wages, if need be, in order to compete overseas, of making the 4 percent of our business accounted for by foreign trade more important than the 96 percent which is purely within the United States.

We gather that the U.S. Chamber of Commerce policy of unrestricted free trade has at its base a desire to pit American wages against overseas wages in order to give American business the extremely short-range advantage of lower costs in some areas, apparently without regard to the also resulting lowered domestic selling opportunities.

This dangerous philosophy appears to be reflected in the 1964 annual report of the influential Committee for Economic Development, in which Emilio G. Collado, who is also a vice president and director of Standard Oil of New Jersey, urged "continued efforts by private business and by labor groups to make our production more competitive internationally," without making mention of the need to narrow the dollar gap between European and Japanese wages and American wages, by raising their wages as an essential element of this competition.

We have not opposed automation as such, any more than we oppose foreign trade, as such, but if either or both produce widespread unemployment, the "savings" become more apparent than real for there is no "efficiency" in meeting the subsistence needs of the unemployed and no increase in the gross national product when purchasing power is diminished.

### WE ARE EXPORTING MATERIALS WITH A LOW JOB CONTENT

It can be argued that the increased foreign trade will stimulate more jobs in America, and that on the balance, labor benefits. We are concerned, however, with the changing pattern in the job content of the imports and exports.

Attached as exhibit D is a sampling of some of the trends in this regard. It shows that we are exporting more agricultural products and raw materials, items with a relatively low labor content, and importing more finished goods, items with a high labor content.

We tread with some trepidation on the extremely complex balance-of-payments problem noting that in 1962, the United States exported $20.5 billion in goods and imported $16.1 billion, giving us a favorable trade balance of some $4.4 billion, which was offset by such noncompetitive items as U.S. military expenditures of $3 billion, U.S. grants and loans abroad of $3 billion, and an outflow of U.S. private long-term capital of $2.8 billion, with a resulting net deficit in the balance of payments of $2.2 billion.

We are now in the midst of an effort to offset the deficit by expanding still further the spread between what we sell and what we buy. With rare exception, the industries where we are employed cannot help in this indeavor. By and large, they see no potential for expanding exports.

Moreover, the inroads made in these industries have the net effect of adding to the flow of long-term U.S. capital abroad.

Corporate volume may be maintained by increasing foreign sales through foreign production, but this will not protect American wage earners.

### JOB DEFICIT MUST BE CONSIDERED

The job deficit is at least as important as the dollar deficit. We are on the verge of a domestic job crisis. Despite enormous increases in productivity, we are slipping behind on the job front. In short, we cannot afford to be exporting jobs at this delicate moment in America's history.

To do so now is only to increase unemployment in areas which cannot absorb additional workers; to condemn more thousands of workers with skills made obsolete by imports to the industrial scrap heap without retraining, without relocation, without hope for a future.

One of our chief items of export should be the American ideal. We must show the world that we can make the American free enterprise system and American democratic government responsive to the needs of people.

Exporting jobs in a period of serious unemployment to nations with full employment can only make our way look ridiculous in the eyes of the world.

### UNEMPLOYMENT: STILL OUR NO. 1 PROBLEM

The past year has been characterized as one in which America ran swiftly just to stand still. We reached all manner of economic milestones. We had new highs in gross national product; new highs in factory output, and new highs in domestic consumption. But we did not create as many new jobs as we had newcomers to the labor market.

According to the U.S. Department of Labor, America wound up 1963 with 4.057 million unemployed, approximately 5.3 percent of the civilian labor force. Some economists place the figure much higher citing underemployment flowing from short workweeks, and so forth, but whatever the precise figure, the startling fact is that in time of boom we do not have enough jobs.

President Johnson has made unemployment the No. 1 domestic problem. It is being cited as one reason a domestic tax cut is needed. In a yearend statement, Commerce Secretary Luther Hodges called upon the "private sector of our economy" to help ease unemployment.

The ability of our industries to answer the administration's call will depend on whether it is also U.S. policy for them to be able to compete, not for the overseas market, but simply for the right to sell to workers enjoying the American standard of living the products of stone, glass, and clay workers who also enjoy the same standard of living.

Lowering the tariff barriers in the stone, glass, and clay industries at this time in our economic development can only serve to reduce American jobs at a time when the job balance must be a consideration at least as important as the flow of gold.

Accordingly, we urge you to hold the line on stone, glass, and clay products.

### EXHIBIT A

INTERNATIONAL TRADE—RESOLUTION NO. 212

This covers the substance of Resolution No. 10 (Book I, P. 8).

U.S. strength at home and abroad requires effective and realistic trade policies. The AFL–CIO has consistently supported expanding trade in the national interest, because the economic, political, and military position of the United States is involved: The Atlantic partnership and a strong U.S. alliance with the European Economic Community are vital segments of America's foreign policy. Healthy progress of developing nations is essential to the goals of the free world. However complex these political and economic relationships may be, expanding international trade—the exchange of goods and services among free nations—is an essential ingredient for a strong United States in a strong free world.

The Trade Expansion Act of 1962, passed with the support of the AFL–CIO, was designed to help the United States bargain more effectively and realistically with other free world nations for a mutual lowering of trade barriers. For this purpose, U.S. negotiators are empowered by the law to engage in reciprocal or give-and-take bargaining with greater leeway than ever before. The law requires hard bargaining, with specific provisions to insure two-way negotiations. The act grants authority, sets limitations, and establishes rules for trade policies for

5 years. At the same time, the Trade Expansion Act clearly provides that the national interest abroad must not ignore the needs and problems of those affected by import competition at home.

The promise of the Trade Expansion Act must be fulfilled. Part of this promise is already taking shape: Signs that hard bargaining will help the United States get effective results in the General Agreement on Tariffs and Trade negotiations in 1964 have already been evident in preliminary negotiations. U.S. negotiators should be congratulated on their efforts to get effective results in preliminary negotiations.

The new and flexible powers of the act have given the United States an ability to deal with change. Some unexpected problems have arisen—the veto of Britain's entry into the Common Market, the difficulties of the "chicken war" and other one-sided trade barriers threatened or imposed by other countries, the preliminary roadblocks posed to negotiations by some Common Market relationships. While some of these problems was expected, the new law provided enough authority so that the United States could negotiate from a position of strength toward the furtherance of the objective of successful negotiations. Despite the difficulties regarding agriculture, the disparities issue and nontariff barriers to trade, negotiations are expected to proceed under the GATT in May of 1964. Along with such new problems the law provides for efforts to remove the many types of existing nontariff restrictions that hamper U.S. trade abroad.

Part of the promise of the Trade Expansion Act has not been fulfilled. The AFL–CIO supported that law with the understanding that adequate assistance or relief for those adversely affected by imports is essential if the American labor movement is to continue its support for a liberal trade policy. The new law provides for safeguards at every stage of negotiations. Prenegotiation safeguards include hearings on the probable economic effect of changing tariffs on every item the President might include on the negotiations list. The President is empowered to withhold sensitive items. The President is also authorized not only to lower but also to raise barriers if circumstances so require in the interest of expanding trade. During negotiations, safeguards include express provision against trading a U.S. tariff reduction for the removal of an unjustifiable barrier abroad. After negotiations, the law specifically provides for escape clause actions for injury to industries and for trade adjustment for workers and firms hurt by import competition, as well as for orderly marketing procedures.

The power to prevent or to cure injury is within the provisions of the current law. However, the administration of the statute by the Tariff Commission has indicated that the new concept of trade adjustment assistance—a "constructive, businesslike" approach to liberal trade, in President Kennedy's words—has become meaningless. Three AFL–CIO unions have sought relief under the trade adjustment provisions. Their petitions have not only been denied, but the Tariff Commission has also expressly stated that trade adjustment petitions must be considered on identical terms with escape clause petitions.

The law clearly recognizes that some injury can occur in expanding trade relations and that the Government has responsibilities to those who may be or have been affected by import competition.

The AFL–CIO believes the law can be effectively administered without amendment. If it is not so administered, however, then an amendment will be necessary.

Trade policy does not exist in a vacuum. The United States exports only about 4 percent of its total product. Both exports and imports create jobs. While trade expansion is vital to U.S. economic health, an effective trade policy cannot ignore the importance of full employment at home. A fully employed domestic economy is essential to the national interest and the successful progress of liberal trade. It is unrealistic to expect the United States to turn its major efforts toward 4 percent of the economy while 96 percent is operating at less than full use.

The national interest not only demands efforts toward full employment and effective assistance to those affected adversely by imports at home, it also requires efforts to improve the economic and social well-being of workers overseas. It is therefore important that the United States not base its trade competition on low labor standards here or abroad. Trade with the developing nations is vitally important to their well-being and our own. It can be and must be accomplished for mutual benefit.

At the same time, we must take account of the economic characteristics of certain industries and avoid action which would add to the level of hard-core unemployment in the United States. Some industries are particularly vulnerable to the unfair competition of imports from low-wage countries. They were traditionally sweated industries which cannot survive against competition based on substandard wages and working conditions. Most of their work force is composed of employees for whom alternate employment opportunities are highly limited.

The United States is now in a position to carry out a trade policy appropriation for the 1960's. It has the Trade Expansion Act of 1962 for trade policy. This law and other U.S. Government policies should be effectively administered for the national interest: Therefore be it

*Resolved*, The AFL–CIO calls upon the President and the Congress to carry out the promise of the Trade Expansion Act of 1962. If American labor is to continue its support for liberal trade in the national interest, then the national interest must be served. That includes the President's promise in New Orleans in 1962 that "No one is going to be sacrificed to the national interest with a medal or an empty grocery bag." For these purposes, we recommend the following comprehensive program:

1. The President should negotiate with hard bargaining at the forthcoming GATT negotiations for lower tariffs and removed restrictions on as many items, across-the-board, as negotiators can achieve in reciprocal bargaining. However, the President should reserve sensitive items in advance from inclusion in negotiations and remove from the bargaining list products of industries, such as textile and apparel, for which the President has already recognized the need for special trade programs.

2. American export expansion should be encouraged through appropriate Government and private action. Export expansion, however, should not receive priority over domestic needs. Special tax incentives or other subsidies are not needed for promotion of exports.

3. The trade adjustment assistance program should be made effective through administrative action, or amendments to the current provisions should be adopted by the Congress as soon as such action is feasible. The Nation cannot afford to wait until the end of the GATT negotiations, starting in 1964, to find out whether this program is working. If the Tariff Commission does not show that it can effectively administer the law, the Trade Expansion Act must be amended. Labor's support was based on adequate assistance or relief for those adversely affected by imports. Its continued support for liberal trade depends on the fulfillment of this premise.

4. The administration should act to relieve problems of market disruption under existing U.S. laws. The need for multilateral international action should be recognized for industries so affected. Agreements similar to the Cotton Textile Agreement should be concluded for wool and other textiles and apparel products and for other items affected by market disruption. Enforcement of the Cotton Textile Agreement should be strengthened.

5. No American industry should be subject to unfair competition from the foreign sale of raw materials, such as cotton, to users abroad at prices below the U.S. domestic price.

6. One-sided discriminatory actions to impose trade barriers should be protested by the United States whenever they occur. If, after the U.S. protests added restrictions, the Common Market or any other nation increases its tariff and establishes quotas on a one-sided basis, the United States has an obligation to reciprocate.

7. The United States should seek, in every possible way, the promotion of improved labor standards in international trade. Productivity advances and expanded markets of exporting industries should be accompanied by improved wage and living standards. This aim should be sought not only to protect American workers against unfair competition, but also to assure workers in other countries a fair share of the increased returns resulting from expanded trade. The United States should seek to obtain annual reports by member countries of the GATT on labor standards in exporting countries and extend its efforts in the ILO for the inclusion of fair labor standards in international trade.

8. The United States should seek removal of nontariff barriers to trade in other countries.

9. The United States should seek to help the developing countries in their efforts toward better trade and development patterns. These efforts should be designed to help those nations have more effective relationships within the GATT and to help those nations not included in the GATT to improve their trade and development prospects.

This is the resolution passed by delegates to the 1963 AFL–CIO convention in New York City.

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### EXHIBIT B

### DECISIONS BY THE U.S. TARIFF COMMISSION ON PETITIONS FILED UNDER SECTION 301 OF THE TRADE EXPANSION ACT

CASE NUMBER, REPORT NAME, AND BASIC DECISIONS REACHED

W–1, Zinc Workers, (1) no import increase.

W–2, Radio Workers, (1) import increase, but (2) not due to trade concession.

W–3, Iron Miners, (1) trade concessions not major factor causing increase (no decision as to whether or not there was an increase).

W–4, Indian Head Workers, (1) import increase, but (2) not due to trade concessions.

W–5, Winburn Tile Workers, (1) imports not due to trade concessions.

F–1, American Ceramic Products, (1) import increase, but (2) not due to trade concession.

F–2, Industrial Biochemicals, (1) former slight increase in imports now in decline, (2) imports not a major factor in injury, (3) petitioner not eligible to file as it is a new firm not in business at the time of the concession.

I–1, Household China, (1) import increase, but (2) not due to trade concession.

I–2, Earthenware, (1) import increase, but (2) not due to trade concession.

I–3, Hatter's Fur, (1) import increase, but (2) no injury.

I–4, Softwood Lumber, (1) import increase, but (2) not due to trade concession.

I–5, Whisky, (1) import increase, but (2) not due to trade concession.

### EXHIBIT C

*Average hourly earning or wage rates in glass and food industries in selected countries*

| Country and date | Average hourly earnings in national currency and U.S. equivalent | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Glass | | | | Food and kindred products | | | |
| | Men | U.S. equivalent | Women | U.S. equivalent | Men | U.S. equivalent | Women | U.S. equivalent |
| Belgium (in Belgium francs), October 1962 | [1] 35.89 | 0.72 | 21.49 | 0.43 | 31.55 | 0.63 | 21.45 | 0.43 |
| France [2] (in new francs), October 1962: | | | | | | | | |
| Highly skilled worker | [3] 3.65 | .74 | | | 3.57 | .73 | | |
| Skilled worker | 3.17 | .68 | 2.81 | .57 | 3.14 | .64 | 2.68 | .55 |
| Semiskilled worker | 2.71 | .55 | 2.50 | .51 | 2.79 | .57 | 2.49 | .51 |
| Special laborer | 2.41 | .49 | 2.18 | .44 | 2.53 | .52 | 2.31 | .47 |
| Common laborer | 2.28 | .47 | 2.18 | .44 | 2.36 | .48 | 2.17 | .44 |
| Germany, Federal Republic (in deutsche marks), August 1962 | 3.56 | .89 | | | 3.28 | .82 | 2.12 | .53 |
| United Kingdom (in pence), October 1962 | 83.5 | .98 | 49.6 | .58 | 75.4 | .88 | 46.5 | .59 |
| Japan (in yen), 1962 | [4] 140.4 | .39 | | | [4] 120.0 | .33 | | |

[1] Flat glass.

[2] Wage rates in the Paris area, highest of 5 wage zones in France.

[3] Ceramics, stone, clay, and glass.

[4] Men and women; calculated from monthly figures.

Exchange rates:
1 Belgian franc equals US$0.02.
1 new franc equals US$0.204.
1 DM equals US$0.25.
1 penny equals US$0.0117.
1 yen equals US$0.002778.

NOTE.—In most instances, pottery, hand glass, and ceramic wages probably are below those listed for food and kindred products. It is the view of S.G. & C.C.C. that truly accurate wage comparisons have not been compiled partly because of the broad industrial classifications used.

Sources: Official country statistics.

Prepared by Division of Foreign Labor Conditions, Bureau of Labor Statistics, U.S. Department of Labor, September 1963.

**Mr. Speaker, I shall at this time try to cover a few industries that are suffering from overexposure to unfair foreign low waged, low priced competition:**

### UNITED STATES OF AMERICA VERSUS U.S. MUSHROOM INDUSTRY

AMERICAN MUSHROOM INSTITUTE,
*Kennett Square Pa., April 22, 1963.*

Hon. JOHN H. DENT,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN DENT: In legal terms this branch of America's agriculture has been indicted, found guilty, and sentenced to be destroyed if it cannot survive the several assaults made on it by its own Government.

A benevolent Government in 1930 provided a helpful tariff which allowed our industry to survive the depression. Under the Reciprocal Trade Treaty Act the duty on canned mushrooms has been reduced four times; a fifth reduction is scheduled for July 1, 1963. Under the Trade Expansion Act of 1962 the President is empowered to further reduce the latest authorized tariff cut by 50 percent and, under certain computation, remove all tariffs.

Earliest tariff reductions were made in favor of France; later amendments made further reductions applicable to all "most favored nations." This became an open invitation to Japan and Formosa to expand their mushroom industry.

The foreign aid zealots probably point with pride to one of their greatest triumphs in the meteoric development of the Formosan mushroom industry with U.S. money. Early in 1961 the New York Times carried an article stating that through American advice and assistance Taiwan's farmers expected to produce mushrooms with an export value of $1,300,000 and that they expected to double their exports, mainly to the United States in 1962. From no reported exports of canned mushrooms to the United States prior to 1961, Taiwan in 1962 shipped $3,041,000 worth, and at an alltime low price. The result is chaos in our domestic industry and the probability of widespread financial collapse.

The United States provided counterpart funds in the amount of $1,693,643 to Formosa to assist its farmers in developing standards and procedures in the mushroom canning process and in the application of sanitary practices in producing, harvesting, and market handling of mushrooms. Another grant of $109,300 was provided for research on improved strain selection.

Our Agency for International Development (AID) report that "any possible contamination of the mushroom is safeguarded by soaking and rinsing in chlorinated water at the mushroom collection centers before shipping to the canneries." In terms quite well known to American mushroom producers this is simply a bleaching process which results in a product of a more attractive color than it otherwise could have. Being volatile, chemical tests do not show its presence upon later examination. In the United States the Food and Drug Administration would have our own canners indicted and heavily fined as well as confiscating such a product. Our Government cannot inspect what goes on offshore so our injury from this competition is further aggravated.

Recourse to and relief provided under the Tariff Commission, the Department of Commerce, and any other agency under the Trade Act of 1962 and earlier acts have generally been denied American industries who have requested relief. To most applicants it has been an expensive experience with a roadblock at the destination marked "No."

So our resourceful and self-sufficient mushroom industry is marked for destruction through the acts of our own Government. Our protests have been in vain. It would appear that the Congress should plan to appropriate funds to compensate mushroom growers and canners for their growing and processing facilities which are only adapted to mushroom use; to retrain the mushroom farmer and his laborers for some other skill and to move them and their families to where these new skills are needed.

As an alternative you Members of the Congress may have a solution which could avert the disaster which faces several thousand citizens dependent on the sorely afflicted mushroom industry.

This organization represents 700 mushroom growers located in 25 States whose livelihood is dependent on a healthy industry. To be healthy we must have early relief from the subsidized foreign competition.

We hope you will give thought to our problem. Thanks.

Yours very truly,
WALTER L. GMUER,
*Executive Director.*

**P.S.—You will be interested in the reprint from our local paper.**

**[From the Kennett News & Advertiser, Mar. 14, 1963]**

### THE OTHER SIDE OF THE SUCCESS STORY

Time magazine presented a happy picture of Formosa's success story in the March 8 issue. The article of the U.S. Government's role in the development of the Formosan economy, how American aid ($3 billion since 1949) has been dispensed wisely and put to work intelligently.

"To the surprise of Asia, the relief of the United States and the embarrassment of Red China," the article stated, "Formosa's economic effort is succeeding. So much so, in fact, that this week Howard Parsons, the new director on Formosa for the U.S. Agency for International Development, told the Taipei press: 'Within a few years, Taiwan will be in position to maintain a viable economy without special economic assistance from the U.S. Government.'

"Probably the strongest single force in the Formosan economy is the United States-Chinese Joint Commission on Rural Reconstruction, which has worked on some 3,000 economic projects and carried out a much-needed distribution of farm land that has benefited half a million Formosan families. The Commission created a whole new export industry by teaching farmers in 1959 to raise mushrooms; this year Formosa will export 1 million cases of mushrooms worth $10 million * * *."

Time readers were probably much impressed with the wise use of American dollars. Few of them realize that Formosa's entry into the mushroom export business is having serious repercussions in the United States—particularly in the Kennett Square area. The U.S. Government has been extremely miserly about allocations for mushroom research in America; in fact, the program is the most miserably supported that you will ever find in a mushroom-growing country. When the Fifth International Mushroom Congress was held in Philadelphia last fall, the American mushroom industry practically apologized to the rest of the world for not being able to show more than it did. Whatever progress has been made in this country has been due mainly to the efforts of a handful of scientists and the resourcefulness of the mushroom growers themselves. The U.S. Government has done practically nothing to develop the industry, but it is now going all out to wreck it.

If we could climb a high mountain peak from which we could survey and consider the many problems of the world, perhaps we could find justification for the killing of an American industry to help the peoples of a less fortunate country. We don't think the U.S. Government or the U.S. Agency for International Development has climbed such a peak. It is proceeding with the development of the economics of other countries without any thought to the efforts such development might have in the United States. Other people should be helped, but we don't think that such assistance should come at the expense of any segment of the American population—large or small. Where lies the wisdom in the spending of millions of dollars to help a foreign country if such assistance creates a problem of much greater magnitude in the country that is financing the project?

The U.S. Agency for International Development is doing a bangup job in other countries. We hope it can come home soon to direct the retraining of American workers.

### MUSHROOMS

The mushroom industry is probably considered expendable by our economists and yet this, like other small segments of our total economy, are as necessary as the firing pin weighing less than an ounce on a 40-pounder.

Just this past week I received the following information from Walter W. Maule of the American Mushroom Institute. The information is contained in a plea for Government assistance for the Mushroom Research Experiment Station at Beltsville to discover, if possible, some means to combat imports.

Prior to that I had been impressed with the mushroom industry's problems because of the concentration of this industry in a few eastern counties of my State of Pennsylvania.

I believe it will help to put the problem into proper focus by including some mushroom industry correspondence at this point:

### Economic Aspects

America's mushroom industry has largely developed and expanded through the ingenuity and self-reliance of the mushroom farmers themselves. We acknowledge the valuable assistance from Government scientific research. The only way that the domestic industry can hope to hold its acquired position will be through lowered costs. Such lowered costs can only come through increased yields resulting from intensive research along the lines aforementioned.

The American mushroom grower has been placed in a serious economic position through actions of our own Government.

1. Under the foreign aid program Taiwan was provided grant counterpart funds up to November 1962, in the amount of NT $1,802,943 in order to assist in developing their mushroom growing and canning industry. Possibly no grant under this program was so spectacularly successful to the recipient nor have such an impact on any U.S. industry as the injury being done our domestic mushroom growers and canners through the export from Formosa to this country of many million canned pounds of low-priced mushrooms.

2. The protection afforded under the Tariff Act of 1930 has been almost eliminated through repeated reductions of the tariffs on canned and dried mushrooms. The imports of canned and dried mushrooms in 1963, converted to a fresh basis, amounted to about 30 million pounds. This represents about 20 percent of our domestic production and an amount equal to about 70 percent of that processed in the United States.

Walter W. Maule.

In case you have any illusions about the enormity of the AID effect on American industry and labor read Jack Anderson's documented column on steel and AID.

### Steel Aid Abroad Boomerangs

(By Jack Anderson)

More details can now be told about the foreign aid fiasco in steel—how American generosity has built up foreign steel industries, putting dozens of our own mills out of production and thousands of workers out of work.

By unofficial count, 179 foreign steel plants have received American loans or grants since World War II. This aid has enabled them to install machines and adopt techniques more modern than our own.

Thus the U.S. steel industry through its tax payments not only has helped to finance its foreign competitors but has obligingly provided them with better equipment.

No wonder the American share of the world's steel output has dropped from 46 percent in 1950 to 25 percent today. U.S. steel products have been pushed out of two-thirds of their former markets, causing a sharp production slump.

Foreign mills built at American expense are now turning out wire and rod so cheaply, for instance, that imports have captured 30 percent of the U.S. market. Even steel plate, the "bread and butter" of the industry, is beginning to roll in from abroad.

### STEEL FRANKENSTEIN

Typical example: With the best of intentions, Uncle Sam helped to rebuild Japan's war-wrecked steel industry until it is now taking customers away from U.S. mills.

From 1955 until 1960, 10 great Japanese steel works received foreign aid grants amounting to $155,300,000. Nine more mills were granted. Export-Import Bank loans totaling $121,100,000.

The Yawata Iron and Steel Co., for example, received a $5,300,000 grant in 1955, a $26 million loan in 1957, another $20 million grant in 1959, and still another $26 million loan in 1962. Its blast furnaces are now producing more steel than most American mills.

Even as French President Charles de Gaulle was tightening the screws on American products, Uncle Sam doled out four separate loans totaling $6,556,000 to France's giant Union Sud du Nord steel works in 1960–61. A smaller $66,000 grant went to Miferma, another French steel company.

Dictator Franco got $59,513,000 in grants for nine Spanish steel plants, the largest an $18 million grant for the Altos Hornos Viscaya works in 1961. The Empresa NAC Siderurgica mills received several American grants, the latest a $6,600,000 payment last year.

In Latin America, Mexico and Argentina received the most U.S. aid. Altogether 22 Mexican steel plants collected $90,780,236 from Uncle Sam, then promptly began shipping steel plate across the border to U.S. customers. Another 22 Argentine plants received $88,580,560 in U.S. handouts.

### STEEL FOR REDS

The only Communist country whose steel production got a U.S. boost was Yugoslavia. Uncle Sam granted the Yugoslavs $15 million to purchase a U.S. steel mill in 1961. Earlier, Yugoslavia's Niksic Iron Works was given $5,610,000 in American counterpart funds.

The largest single grant was arranged in 1959 by Tom Dewey, the two-time GOP presidential candidate, for Turkey's Eregli Steel Mill. Amount, $129,600,000.

The loan was granted, incidentally, while Vance Brand was the Government's development loan chief. He promptly retired from the loan fund to become a high-paid consultant and later a director of Koppers, the company that did the engineering on the Turkish steel plant.

Even our prosperous northern neighbor, Canada, once received a $5,700,000 Export-Import loan to aid her steel industry.

Around the world, foreign steel mills have been subsidized by the American taxpayers. Unhappily, the American desire to better the world has reached the point that we are in danger of crippling the goose that lays the golden eggs.

### OIL

For years oil producers have been playing both sides of the street in world trade.

One group wants unlimited imports, another group wants restrictions.

The IPAA offers a 10-point program which when analyzed simply means "protection against imports." Their statement follows:

### IPAA's 10 Points To Tighten Import Program Restore Industry Vigor

IPAA said that the mandatory oil import program has been in effect almost 5 years. Without it, there would have been complete deterioration of the domestic producing industry. But the program has not accomplished its basic objectives of maintaining a healthy domestic industry, capable of supplying future U.S. peacetime and emergency requirements.

"By every measure, exploration and development in the United States have continued to decline," the association said. In order that the import program achieve its basic objectives, IPAA will push for these changes:

1. Ratio of imports (excluding residual fuel oil) in districts I–IV should be reduced. For 5 years under the import program, imports have been generally stabilized at a relationship between 12 and 13 percent of domestic production.

"The continuing declines in U.S. exploration and drilling are clear evidence that imports have been at an excessive rate in relation to domestic production. Reductions in this ratio should be made so that a proper balance is reached that will encourage the necessary expansion of U.S. petroleum resources," IPAA said.

2. The level of district I–IV imports (excluding residual fuel oil) should be based on actual domestic production during the corresponding period of the previous year—as was done under the program for the first half of 1963—rather than the present method of using estimates of future production.

3. The quantity of overland imports for each allocation period should be based on certifications from importing companies, rather than estimates by the Interior Department.

4. Finished petroleum products now being imported into the United States for military uses should be supplied from domestic sources.

5. Pending proposals to exempt the asphaltic content of imported crude oil should be rejected as an unnecessary action that would undermine the import program.

6. The district V program can be improved and strengthened. Present excess shipments to district I–IV that serve to increase imports by increasing demand should not be included in the calculation of district V demand for import quota purposes. Calculation of supply should be based on the full availability of domestic supplies from all U.S. areas, including the maximum capacity of pipelines into district V.

"The program should serve to encourage the expanding use of domestic oil produced in district V and should operate so as to increase the movement of oil from other domestic areas of oversupply into this deficit area," IPAA said.

7. Imports or withdrawals from bonded warehouse for fueling commercial aircraft should be included within the maximum

allowable import level. These imports, particularly jet fuel, have been increasing.

8. Imports of light finished products are unnecessary and should be supplied by domestic oil. These imports should be phased out of the import program.

9. In the interest of equity, imports should continue to be allocated to all refiners, and historic allocations should be progressively reduced until eliminated.

10. All actions to circumvent the intent and purpose of the oil import program should be opposed, including:

(a) Misclassification of imports as "overland" when tankers are used from foreign sources.

(b) There should be no provision for the importation of unfinished oils which developed as a means of circumventing the voluntary import program.

(c) The import program should be administered so as to prevent increases in imports of light finished products from Puerto Rico.

The association is gravely concerned as to the rapid expansion of natural gas imports. These imports constitute a potentially serious threat to the markets for both domestic oil and domestic natural gas.

The officers of the IPAA are directed to maintain close surveillance of this problem in order that the association may pursue policies that will prevent excessive expansion of gas imports relative to domestic petroleum production.

## FOREIGN INVESTMENTS

Balance of payments and dollar trade volumes do not tell the story of trade when you equate payments and imports with exports and job losses.

The foreign investments by American companies tells the story in its true light. Profit is the prompter of trade, not peace and good will:

### The Push Overseas Keeps Going Strong—Worry Over Payments Deficit Plays No Part in Corporate Plans—Capital Outlays This Year Will Climb 8 Percent to $3.6 Billion With Manufacturers Leading the Way

The push by U.S. companies to expand facilities abroad is still on. The fifth annual McGraw-Hill economics department survey of oversea operations of U.S. companies, released this week, shows that manufacturing and petroleum concerns will sink $3.6 billion into oversea plant and equipment this year—up 8 percent from 1962. And investment plans already on the books for 1964 are only 1 percent below this year's figures.

Different paths: The new survey shows divergent trends for manufacturers and oil companies.

Petroleum, the traditional leader in oversea investments, appears to be on the brink of a new investment slowdown. True, the $1.8 billion that the industry plans to invest this year is 10 percent above 1962's level. But plans for 1964 are down 5 percent from this year and proposals for 1965 are also lower.

By contrast, oversea investment plans on manufacturers' books continue to grow. The $1.8 billion they expect to spend this year is 6 percent above last year's outlays. And plans for a further 3-percent gain in 1964 are already scheduled.

Close watch: Because the new McGraw-Hill survey gives the first statistical clues to 1964 investment thinking by U.S. corporations—at home or abroad—its findings will be studied carefully by economists. Here are the inferences they are likely to draw:

For the short run, the survey gives definite signs of the return, to moderate bullishness in general investment planning that is now generally expected. The $3.3 billion that companies actually spent overseas in 1962 is some 8 percent below what businessmen expected to spend that year, according to last summer's survey. The sharp increase in 1963 spending plans is conclusive evidence that the hesitation in capital spending is over. Foreign capital spending targets, like domestic plans, were trimmed last year in the wake of the slowdown in the U.S. economy and the stock market crash.

For the longer run, the survey indicates that oversea spending by U.S. companies will continue high, at least for the next 2 years. Because the rush overseas has been continuing at a brisk pace for at least a decade, some economists had been looking for oversea spending to taper off (Business Week, Sept. 8, 1962, p. 27). The results of this year's survey indicate that they were wrong.

Ringing doorbells: Over the past few weeks, Business Week reporters have talked with officials of more than a score of U.S. companies with large oversea operations about their plans for foreign investment. The point that stands out is that all can see strong reasons for continuing to spend heavily abroad—whether they are already entrenched and are seeing fat profits from their investments or whether they are relative newcomers to international business whose earnings from abroad are still lean or nonexistent.

President Alonzo B. Kight, of Borg-Warner International Corps., organized as a subsidiary in 1934 is still bullish about the potential for foreign as compared to domestic profits. He says "foreign profits will eventually taper off," but he also notes that "if you compare our company's sales as a percentage of gross national product in oversea markets with the U.S. level, you can see we still have plenty of growth ahead."

W. T. Kiehl, assistant vice president for international operations at Rockwell Manufacturing Co., a relative newcomer to foreign operations, admits his company doesn't yet earn as high a rate of return abroad as it does at home. Nevertheless, he says, "Rockwell is stepping up foreign spending to increase our volume overseas.

Do it there: Nearly all officials agree that having a plant in a country is vital to increasing sales there. B. A. Olerich, vice president and general manager, international operations, for Ampex Corp., whose 1964 investment plans call for more than doubling our existing facilities abroad, views foreign manufacturing as a necessary extension to our export sales. He points out that Ampex has done well in Britain, where it established its first foreign factory.

Du Pont Co. agrees. Says a spokesman: "When you have built a substantial export market abroad, you are faced with a single decision: To build production facilities in the market or else lose that market to foreign competition."

Price pressures: Petroleum companies blame pressure on prices and a squeeze on profits per unit sold for their decision to hold spending in rein. Company executives say they have managed to keep the rate of return on investment up because of greater volume and cost-cutting efforts.

Balance of payments: One unanimous point of agreement: Any potential troubles for the dollar that may come from the U.S. balance-of-payments deficit is having no influence on corporate investing plans overseas.

Assents Senior Vice President Howard C. Harder, of Corn Products, Inc.: "We've been through Peron and Hitler and a few other obstacles. We're not going to start worrying now about possible U.S. Government moves. We look at foreign investment as a long pull, not a 5-year thing." In fact, companies worry more about possible moves by foreign governments than by the possibility of U.S. controls. "Our investment plans depend on considerations of political and economic stability—not on possible remedies for Kennedy's balance-of-payments problem," says a Houston executive.

The payoff: Many companies point out that their own operations help rather than hurt the U.S. balance of payments. A Gillette Co. spokesman cites figures that show income from abroad over the past 15 years has totaled $184 million in addition to exports of $44 million. During the same period, Gillette's capital outflow abroad has been $29 million. "We're doing a good bit to keep the payments balance as healthy as it is," says the spokesman.

This view, that foreign investment helps rather than hurts the U.S. payments balance, gets statistical confirmation from the recent Brookings Institution's study on the subject. It indicates that earnings repatriated from overseas by U.S. companies have been greater than net outflow every year since 1950—except 1957—when oil companies were investing heavily abroad.

And the outlook is for even greater net inflows during the next decade. "The U.S. balance of payments has already felt the strain of adjusting to an increased level of capital outflows, and now is moving to a position where it will reap the benefits," says the Brookings report.

[In millions of dollars]

| | 1962 actual | 1963 expected | 1964 planned |
|---|---|---|---|
| Manufacturing industries | 1,715 | 1,822 | 1,877 |
| Food and beverages | 113 | 151 | 142 |
| Paper | 64 | 81 | 68 |
| Chemicals | 282 | 324 | 330 |
| Electrical machinery | 126 | 145 | 123 |
| Stone, clay, and glass | 40 | 46 | 34 |
| Primary metals | 144 | 161 | 169 |
| Machinery | 200 | 222 | 255 |
| Rubber | 87 | 96 | 108 |
| Miscellaneous manufacturing including textiles | 79 | 84 | 67 |
| Other metalworking | 71 | 74 | 77 |
| Transportation equipment including autos | 509 | 438 | 504 |
| Petroleum industry | 1,622 | 1,784 | 1,695 |

## PRINTING

The end is not in sight. We talk of unemployment, and think of coal miners, steelworkers and glassworkers. No one seems to want to admit to the full impact to imports.

Let us examine this printing industry:

[From the Wall Street Journal, Apr. 16, 1963]

### Printing Overseas—More U.S. Firms Have Books, Catalogs, Other Items Produced Abroad—Lower European Wages Trim Art Volumes' Cost—Japan Gets Greeting Card Jobs—American Printers Alarmed

(By A. Kent MacDougall)

New York.—This month Viking Press here will publish a two-volume art book set titled "Art: U.S.A.: Now." Between the original idea for the survey of contemporary American painting and its appearance on bookstore counters, there lies a remarkable odyssey.

The books were written by a professor at the University of Illinois and edited by a New York art dealer. The plates for the color illustrations were made in Milan, Italy. The books were printed in Lucerne, Switzerland, and bound in Stuttgart, Germany. From Stuttgart the finished books, which will sell for $30 a set, were shipped to New York.

Viking went abroad to produce the art books because labor costs were lower there. If the books had been printed in the United States, says Bryan Holme, a Viking official, "the bookstore price would be closer to $50 than $30, and practically nobody would buy it."

Viking is one of the many American firms trying to save money by having printing jobs done overseas. Besides books, foreign plants are printing catalogs, greeting cards, calendars, cigar bands, stock certificates, and other items for U.S. customers. American tariffs on printed matter are generally too low to discourage imports. Viking, for example, paid only 8 percent duty to bring in its art books, and this rate will drop to 7 percent July 1.

American lithographers, who specialize in multicolor printing, are fighting foreign competition especially, vigorously. The Amalgamated Lithographers of America, a 40,000-member union, has inserted clauses in most of its contracts prohibiting employers from using foreign-made printing plates. One Long Island, N.Y., firm, Consolidated Lithographing Corp., is plugging for a Federal law requiring that imported cigar bands be stamped with country of origin. Consolidated claims it has lost business because of a "tremendous increase" recently in the use of Dutch-made bands by U.S. cigarmakers. The imported bands cost 30 to 35 percent less than U.S.-made bands.

Industry sources expect U.S. imports of printed matter to reach $70 million this year, up from $59.6 million last year and more than double 1958's $34 million. Exports, while bigger, are growing at a slower pace. They're expected to hit $172 million, up from $160 million last year and 56 percent above 1958's $110.8 million.

### BOOK IMPORTS TRIPLE

Imports of books written by Americans and printed abroad have tripled in the last 5 years. Many of the imports are lavishly illustrated works requiring hundreds of precisely made plates. Some U.S. platemaking companies "do superb work, but they charge a premium for it," asserts Paul Steiner, president of Chanticleer Press in New York. "In Europe you get the best for less."

Chanticleer often employs Viennese platemakers who, according to Mr. Steiner, earn a third to a half as much as American platemakers. Viking says the bill for its Italian-made color plates was about $40,000. It estimates U.S.-made plates of comparable quality would have cost $70,000.

Some U.S. publishers arrange to print illustrated books abroad in cooperation with foreign publishers. This is the case with Art: U.S.A.: Now, which will be issued by German, French, and Italian publishers as well as by Viking. While the text, a relatively minor cost item, is in a different language in each edition, the same illustration plates were used for all the books. Such a joint venture allows the press run to be increased and spreads out the cost of the plates. The total press run for Art: U.S.A.: Now was 20,000 copies, of which 10,000 in English will be marketed in the United States.

Several concerns here, including Chanticleer, specialize in arranging European production of multilingual editions of American-written books. Chanticleer supervised the overseas production of a heavily illustrated seven-volume World of Nature series published here by Doubleday & Co., and abroad in eight foreign languages by European publishers.

### PAINSTAKING TYPESETTING

Many U.S. books are partly rather than wholly manufactured overseas. This is frequently true of complex technical books, for which publishers often have type set abroad. An example is "Theory of Flow and Fracture of Solids", a $25 physics book published this year by McGraw-Hill Book Co., a subsidiary of McGraw-Hill Publishing Co. Replete with tables, graphs, formulas and equations, the book demanded painstaking typesetting. The job was done in Belfast, Northern Ireland, for $7,100, compared with a U.S. printer's estimate of $10,900. Page proofs were then mailed here and photographed to produce the plates from which the book was printed.

Overseas production of American magazines is impractical because of tight deadlines, but some magazines occasionally use editorial and advertising inserts printed abroad. The March issue of Horizon, a hardcover bimonthly devoted to the arts, contains an eight-page spread on Venetian architecture that was printed in Switzerland and then shipped here and sown into the magazine.

Mark Cross Co., a New York retailer of leather goods, had its 1962 mail-order catalog printed in Switzerland. The cost for 215,000 copies, including shipping and duty, was $39,000. This was about the same as the company paid for its U.S.-made catalog the previous year, says a Mark Cross spokesman, "but we got better quality—you can almost feel the texture of the leather."

E. J. Korvette, Inc., a New York headquartered discount store chain, now buys its engraved stock certificates in Britain. "A year ago we discovered we could save about 25 percent by having our certificates printed in London," says Joseph H. Lamm, Korvette executive vice president and controller. On a typical order of 60,000 certificates, Korvette saves more than $2,000.

American Greetings Corp. of Cleveland farms out production of elaborate Valentine's Day cards to Italy. The filigree cards, which sell for 50 cents and $1, are "too intricate for us to print here in the relatively small quantities we can sell," the company explains.

Slow to realize their potential as a producer of low-priced printed matter, Japanese printers are now beginning to do considerable work for U.S. firms. Graphics International, Inc., a Los Angeles concern that serves as a broker between Japanese printers and their U.S. customers, expects to handle $1 million of business this year. In 1960, its first full year of operations, volume was $96,000.

Graphics International's Japanese printing projects include greetings cards and table decorations for Hallmark Cards, Inc., calendars for firms to distribute to their customers and children's photograph record jackets for Walt Disney Productions.

For a food processor's ad in a trade magazine, Graphics International had a Japanese printer turn out an elaborate insert that popped open to show a supermarket interior complete with stand-up shoppers and display racks. This job entailed much laborious folding and gluing by hand. The Japanese women who performed the task earned 20 to 25 cents an hour. "The least an American girl would take for this kind of work is $1 an hour," says Waldo H. Hunt, Graphics International president.

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Some U.S. firms complain that confusion occasionally arises over instructions when printing jobs are sent abroad, with the result that the wrong type size or layout is used. Proofreading may also present problems, since foreign proofreaders unfamiliar with English are less likely than proofreaders here to spot errors in English text.

Walker & Co., a book publisher here, blames "bureaucratic redtape and shipping delays of up to 4 months" for its decision to stop printing mystery novels in Poland. Fifteen Walker mysteries were printed in Poland last year and this year from type set in Britain. "Savings were more apparent than real when all cost factors were included," says a Walker spokesman. The firm is now considering printing its mysteries in Tokyo from type set in Vienna.

While we are losing ground and steel capacity is already in surplus we find our foreign competitors going all out increasing their facilities. They appear to have only one object in mind, produce for the U.S. market.

The Japanese have found our market an easy outlet for their overproduction and now we find not only our friends but also our enemies pouring steel for sale in the U.S. marketplace.

Even the underprivileged nations have found an outlet for the steel produced in many cases in mills built by U.S. dollars. Mushroom or steel, there is no difference when it comes to commercial trade profits.

### JAPANESE STEEL EXPORTS IN 1963 SET RECORD HIGH

Japanese steel exports in the 1963 calendar year—including ordinary steel materials, zinc sheets, secondary and semifinished products—totaled 5,638,194 metric tons in terms of shipments made, according to the Japan Iron & Steel Federation.

This exceeds by 36.5 percent the previous high of 4,131,000 tons registered in 1962, and is an expansion that reflects the increased emphasis by steel makers in boosting exports to compensate for the increase in the import of raw materials.

By country, the biggest increase was to the United States which took 1,795,742 tons.

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[From the Wall Street Journal]

### CONGOLESE AND REDS CRACK INTO U.S. STEEL MARKETS

CHICAGO.—Though most of the low-priced foreign steel pouring into the United States comes from the highly industrialized lands of Western Europe and Japan, some of it has a more unusual origin.

According to U.S. Commerce Department reports, American factories last year imported 326 tons of steel plate from the Congo. More recently imports have included wire rods from Argentina, concrete reinforcing bars from Formosa and Hong Kong, and cast iron pipe from India—where the United States recently contemplated extending foreign aid to build a new government-owned steel mill.

Communist nations are taking a bit of the American steel market, too. Recent imports include galvanized sheet from Poland, and wire nails from both Czechoslovakia and Yugoslavia.

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## THE REQUIREMENTS MERRY-GO-ROUND IN GOVERNMENT RESEARCH AND DEVELOPMENT

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California [Mr. HOLIFIELD] is recognized for 30 minutes.

Mr. HOLIFIELD. Mr. Speaker, the Federal Government's research and development program in science and its application has skyrocketed in the recent decade to an estimated $15 to $16 billion annually.

Congress as a whole is becoming increasingly conscious of this large allocation of funds. This concern was expressed recently by the establishment of a special committee of the House under the chairmanship of the distinguished gentleman from Alabama, the Honorable CARL ELLIOTT. This special committee has been charged with a herculean task of analyzing and evaluating the thousands of projects which cause the expenditure of this huge sum.

Some of the standing committees of the House such as Science and Astronautics and the Joint Committee on Atomic Energy, which are jointly responsible for about one-half of the total sum of $16 billion, have been concerned for several years about this problem.

As vice chairman of the Joint Committee on Atomic Energy, I have struggled with the current budget of approximately $2.6 billion which we authorize.

The United States has been forced by the rapid pace of its own technology to ever-increasing budgets in research and development. Another pressure, of course, has been the race in armament between the U.S.S.R. and the United States. Since the launching of sputnik in 1957, we the Congress of the United States have supported a scientific program designed to make us first in military capability and first in the exploration of space. In our haste to be first there is no doubt that we have in some cases overspent or spent unwisely. We have duplicated expensive projects among agencies. We have financed projects in some instances that never should have been started In other instances we have continued financing projects that for one reason or another should have been terminated at a particular point.

In the recent 2 or 3 years and because of our errors made in haste and waste, a new factor has been introduced by the agencies and the Budget Bureau. This factor is the use of a new formula of justification for the continuation of existing scientific research and development programs on the basis of a potential using agency's "requirement." In other words, unless there is a requirement for a particular device for general or specific missions by a using agency of Government, the allocation of funds is to be denied.

On the face of the proposition this seems to be a reasonable formula, but a deeper exploration of the past history of research and development causes us to question the formula. Admitting that there is a need for budgetary control in the interest of economy, there are other factors involving national security in the new and scientific age, with which we must be concerned. In an effort to economize through budgetary restrictions, we must not lose the freedom to explore various scientific avenues of exploration. We must not in the pursuit of economy, freeze scientific curiosity to the point where discovery and development is precluded. We must not practice a procedure of cancellation of partially developed projects, unless there is a clear determination that the project is technologically impossible of completion or there is a clear conclusion reached that finishing a project will result in an obsolete device or an unneeded device. This problem needs intensive study and debate if we are to act wisely. We must establish standards for guidance in order that congressional committees charged with scientific areas of research and development can choose and initiate needed projects and reasonably attainable goals in the first place. In the second place, we must again have policy standards for either terminating projects or continuing them to completion and demonstration of useful function.

A perceptive and constructive contribution in thinking about this problem has been made by Commissioner James T. Ramey of the Atomic Energy Commission.

In a speech at the American University on April 20, Mr. Ramey has considered at some length the "requirement" factor.

Under unanimous consent, I include herewith Commissioner Ramey's remarks under the title of "The Requirements Merry-Go-Round in Government Research and Development":

## THE REQUIREMENTS MERRY-GO-ROUND IN GOVERNMENT RESEARCH AND DEVELOPMENT

### INTRODUCTION

(Remarks by James T. Ramey, Commissioner, U.S. Atomic Energy Commission, before the ninth Institute on Research Administration of the American University, Washington, D.C., April 20, 1964)

I am very pleased to have the opportunity of participating in your ninth Institute on Research Administration here at American University. Your theme concerning policies affecting operational problems in Government-sponsored applied research and development is one which merits very thoughtful discussion. With the growth in recent years in Government-supported research and development, these policies can spell the difference between near stagnation and striking advances in this Nation's technological forward movement.

In January, President Johnson said:

"This generation of Americans is challenged to live a life of high adventure. If we are to keep our trust in freedom, we must in these last four decades of this century undertake explorations in many realms, realms which dwarf all of those of the last four centuries.

"We must participate in the high adventure of advancing man's knowledge of both the universe about us and the capacities within us.

"We of this land must commit ourselves to a demanding life of dedicated participation in the forward movement of the times in which we live."[1]

### THE "REQUIREMENTS" PROBLEM

My remarks today will be concerned with one important area of technology in which this country is striving to move forward—atomic energy. In particular, I should like to discuss a growing problem which is threatening to restrain the forward movement of much of our atomic energy program.

This problem is the growing tendency to hold back the developer's program until a specific mission or requirement is formally established by a user (such as the Defense Department or NASA), despite the fact that the user very often is not in a position to establish such a requirement unless the program is permitted to move forward to the point of demonstrating its value. On the one hand, we are told we must have a formal requirement before we can proceed with the development of a device, and, on the other hand, we have difficulty finding a requirement until we have demonstrated a developed device.

I have adopted Congressman MELVIN PRICE's nomenclature[2] for this chicken-and-egg dilemma, and called it the "requirements merry-go-round."

### ATOMIC DEVELOPMENT PROGRAM ACHIEVEMENTS

A logical starting point for this discussion is the legislative charter for the atom, the Atomic Energy Act of 1954, as amended. In sections 1 through 3 of this act, the Congress declared it to be a national policy that the atom will be used for making the maximum contribution to common defense and security, to improve the general welfare, and increase the standard of living. The AEC was directed by Congress to carry out these broad national policies in part by carrying forward research and development directed toward utilization of atomic energy for medical, biological, agricultural, health, and military purposes. The Commission was also directed to undertake the developmental work for other purposes, including industrial uses, the generation of energy, and the demonstration of the practical value of atomic facilities for industrial or commercial purposes.[3]

Under this charter and its predecessor, the Atomic Energy Act of 1946, tremendous advances have been made in this country. Nuclear weapons were developed which have long provided the backbone of our deterrent against all-out Communist aggression. Senator CLINTON ANDERSON has often noted that the development of nuclear warheads small enough and light enough for ballistic missiles preceded the development of missiles by several years. Should we have waited for a requirement before we developed and tested these devices?

Submarine nuclear propulsion plants which revolutionized underwater warfare were developed under Admiral Rickover's direction. The combination of the nuclear submarine and missiles equipped with nuclear warheads in Polaris-type submarines represents one of today's most effective weapons systems in the arsenal for defense of the free world. Yet this was an application of reactor and warhead technology which was not conceived by anyone at the time work was carried forward on both projects in the late 1940's and early 1950's.

Another very important development has been the utilization of atomic energy in space. The United States, through its SNAP program, achieved a substantial lead over other countries by being the first to use atomic energy in space. The SNAP program refers to our nuclear auxiliary power systems which use either radioisotopes or reactors as the power source. This leadership would seem to be a popular and worthwhile objective supported by everyone. Yet the "requirements merry-go-round" threatened to sabotage this important advance before it was launched several years ago.

Referring to this incident, Congressman CHET HOLIFIELD last month stated:

"That was Transit No. 4. After much opposition, we succeeded in accomplishing this and on June 28, 1961, the United States obtained a 'first.' They did this by having this Transit No. 4 in orbit. It is still in orbit today and still producing electricity and it was ready 2 years before June 28, 1961.

"If we hadn't had opposition from the executive branch, we could have put it in flight almost 2 years prior. And I want to point out again, at that time there was no firm requirement for such a device. This was done on the initiative of the Atomic Energy Commission, and they are to be complimented for going ahead, and now it is a useful device."[4]

I should like to point out that since 1961 when the new administration gave the go-ahead to the launching of the first SNAP unit, several units have been launched and are performing successfully.

An increasing portion of the atomic energy effort is being directed toward the peaceful applications of atomic energy. Much effort is going into the use of atomic energy in research and treatment for serious diseases in people, in developing better strains of plants and combating diseases which plague agriculture, and in many applications of radioisotopes in the field of industry, such as food irradiation and fine-calibrated gages. In an intriguing program called Plowshare much effort is being devoted to the development of nuclear explosive devices for moving tremendous quantities of earth and rock at low cost and making possible tunnels, canals, harbors, and better roadways, particularly in mountainous areas. As you may have seen in the newspapers, the application of Plowshare devices in a sea level canal in Central America looks promising.

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[1] President Lyndon B. Johnson—Remarks at the dedication ceremonies of the National Geographic Society Building, Washington, D.C., Jan. 18, 1961, at p. 2.

[2] Congressman MELVIN PRICE, "The U.S. Nuclear Space Program—A Critique and a Hope," address to the Atomic Industrial Forum, Chicago, Ill., Nov. 6, 1961, at p. 5.

[3] Sec. 31, Atomic Energy Act of 1954, Public Law 83-703, 42 U.S.C. 2051.

[4] Hearings, "AEC Authorization Legislation Fiscal Year 1965," Joint Committee on Atomic Energy, 88th Cong., 2d sess., 1964, at p. 257.

Another area to which I attach particular importance is that of producing electric power from nuclear energy. Nuclear power has now reached the point at which certain plants soon to be constructed hold promise of being economically competitive in several of the higher cost areas of this country. The recent announcement by the Jersey Central Power Co. that it is contracting for a 500- to 600,000-kilowatt nuclear plant which will produce electric power in the 4- to 5-mill per-kilowatt-hour cost range is most heartening. However, much remains to be done to realize the true potential of atomic energy in stretching our natural resource base in the production of large supplies of low-cost power to meet the spiraling requirements of this country in the coming decades. The development of improved converter and breeder reactors and the application of nuclear power to desalting sea water are items of our unfinished business.

I believe this list of accomplishments is impressive, and certainly in consonance with President Johnson's admonition that we commit ourselves to dedicated participation in the forward movement of these times. However, the atom has just begun to be developed. If we can maintain our momentum, the late 1960's should see us well on the way to major new applications of atomic energy, many of which cannot now be clearly foreseen, and most of which at this stage cannot be assigned specific missions on a definite time scale. If rigid employment of the requirements criterion grows, many of these important uses may never be realized in our generation.

### THE REQUIREMENTS SYSTEM—HOW IT WORKS

Just what is this requirements system that is beginning to cause so much trouble? It is the system under which a user (such as DOD or NASA) must have a firm mission or requirement, and must then express to the developer far in advance a firm requirement for a device or component to be used in that mission. Its exact form varies with time from one program area and agency to another.

The system had its beginnings in production of off-the-shelf items under fixed-price contracts, where it has long served an important, if not essential, role. Thus the military had to establish a requirement for a gun or tank, which we expressed in terms of production of many units, and which involved relatively little development. The concept was then used for the early weapons systems which involved more development, and, as time passed, for other developmental efforts.

### THE BUDGET PROCESS AND THE REQUIREMENTS SYSTEM

Budget specialists began to look for the existence of a specific requirement as a useful tool for maintaining fiscal control in research and development work. It became a means of preventing premature commitments to courses of action which involved ultimate expenditures considerably beyond anticipated resources. One of the inarticulate premises of the latter day requirements system is to prevent a development project from reaching the stage of hardware development where the so-called military-industrial complex might overpromote it in various quarters, and thereby prematurely launch a large and expensive production program.

Unfortunately, under pressure of tight budgets and frequent budget and program reviews, the requirements gimmick has become a device for crippling important development projects before they have an opportunity to demonstrate their worth to this Nation, and where there is no threat of snowballing into expensive production programs.

Thus, for example, the requirements system has been refined to the stage where there must be a virtual requirement for the development of a prototype device, and for taking such a device to the ground test or flight test stage. There was much moaning and groaning when the production requirement for the supersonic bomber, the B–70, was cut back to the RS–70 requirement of the development and testing of several prototype planes. In atomic energy work I can tell you that we would be pleased to be confined initially to the development of prototypes. But we are finding that even prototype or development requirements are now being cut back because of the alleged lack of a mission. As will be discussed later, the requirements system is particularly difficult where AEC is conducting jointly financed development projects with the Defense Department or NASA.

### THE SCIENTISTS AND THE REQUIREMENTS SYSTEM

Certain scientists also began turning to the requirements system as a lever in advising on hard choices between alternate courses of major technological development. The system has been abused to the point where it is now becoming a substitute for sound technical analysis. It places the scientific adviser in the mainstream of the budget process, and permits scientific veto without an analysis of technical merits of the project as such.

Many scientific advisers, who have not had experience with or understanding of engineering development, react to the requirements system in two complementary ways. One type is usually against going ahead with any development project to the hardware stage. The other type seems to have a predilection for advanced or exotic developments. This type often prefers such a long-range course rather than moving into the hardware development stage with intermediate projects which offer perhaps less than a quantum jump toward a long-range goal, but which have fewer technical uncertainties and offer a far more reasonable steppingstone toward the long-range goal. This then results in an all-or-nothing approach, often determined by scientific advisers having no program responsibility and not accountable for possible failure to carry out the statutory directives of Congress in pursuit of our national policies.

Now I, of course, favor a vigorous basic research program in atomic energy which investigates, at the laboratory stage, the outer limits of science and technology. But this tendency either to do nothing or to force atomic energy hardware development into uncertain areas of technology results in problems which tend to favor the established conventional technology. Thus, some of the scientists unwittingly join hands with those who are opposed to major advances in technology. This strange situation reminds one of the unholy alliance of a few years back between the bootleggers and the ministers, both of whom were against legal alcohol but for entirely different reasons.

### THE REQUIREMENTS SYSTEM AND ECONOMY IN DEVELOPMENT WORK

Let us now examine just how the requirements system results in delays and other problems which hold back the atomic energy program.

The time span for development is often too short if we are required to wait until requirements are made firm before proceeding beyond the stage of early research. It is only by the sheerest coincidence that a user's schedule will ever fully mesh with an orderly development. Engineering tends to be inadequate, certain steps are bypassed, and short cuts are taken because of the press of time. Technological problems which have not been thoroughly dealt with rise to plague the project as it moves forward into its later stages, resulting in delays and lack of confidence in the project.

After a requirement is established, the user's plans and requirements normally change with the passage of time, thus presenting a moving target, making systematic and orderly development difficult. The technical requirements for the SNAP 10–A project, which is our first reactor powered auxiliary powerplant for space, were very specific, but they were changed once since December 1960 to increase the power requirement by 40 percent—from 300 watts to 500 watts. Now the requirement for a 500-watt nuclear power source has been removed. But the general technology must still be developed.

The uncertainties associated with the requirements system can result in a very costly method of operation. A stop-and-go type of development, or one which is constantly shifting to meet changed requirements, is highly inefficient and expensive. The aircraft nuclear propulsion program (ANP), several years ago, is a classic example of high costs resulting from uncertainties and frequent changes in program objectives of the potential user. Projects ofttimes find themselves in limbo for an extended period of time waiting to see whether a requirement will jell. In the meantime, the full burden of overhead continues to tally up dollars which should be used more productively.

A sudden withdrawal of a requirement because of a temporary budget setback or other transitory reason can have a seriously damaging impact upon a research and development organization, resulting in loss of highly qualified personnel.

The prospect of sudden death for a project because of lack of a formal requirement sometimes prompts people to try to generate a requirement prematurely. This adds to the general waste and confusion of the "requirements merry-go-round."

### THE CURRENT STATUS OF THE REQUIREMENTS MERRY-GO-ROUND

A look at several project cutbacks in recent months illustrates the casualty list which is resulting from the "requirements merry-go-round."

Requirements previously stated for three of our SNAP efforts have been canceled by the prospective users. These are the SNAP 2, 4, and 10–A. In addition, flight test plans have been suspended for the SNAP 8, and for the Rover nuclear rocket program.

The requirement for an Army power reactor, the Military Compact Reactor, has been reevaluated and, although reaffirmed, the project is stalled until the Army can gain approval of the eventual logistic system in which it would be used.

Follow-on requirements, despite successful progress of the reactor technology have not been forthcoming for the Pluto nuclear ramjet project. This very successful reactor technology will be phased out next year without an opportunity to demonstrate its full potential because of the lack of adequate support by the user agency.

As I have indicated, the changes in the research and development requirements situation have apparently been the result of changes in the budget picture for development efforts in the DOD and NASA. This is in turn affected by the concern expressed in some quarters of the Congress as to the increases in the total research and development program of the executive branch.

In the atomic energy bailiwick, some of the leading Members of the Congress have become concerned about the effect of the requirements system on research and development. Senator **Pastore**, chairman, Joint Committee on Atomic Energy, recently pointed to the need for the various agencies to get going lest Congress should have to bang heads together.[5] Vice Chairman **Holifield**, in an extended "dialog" with Dr. Donald F. Hornig, Director of the Office of Science and Technology, indicated that unless the executive branch took more of a balanced interest in development projects, Congress might consider applying a "requirements system" for expensive basic research machines, such as multi-bev accelerators for high energy physics research.[6] The Joint Committee has recommended that AEC proceed with the flight testing of the SNAP 10–A auxiliary powerplant.

### CONCLUSIONS

I think it is clearly time for the Government to free itself from this "requirements merry-go-round" in research and development, and relegate the requirements system to its earlier and more appropriate role in the field of production items.

1. The most important step we can take in that direction is to establish the principle that developers should carry promising developments through the demonstration stage, including flight test where aerospace activities are involved.

This approach provides a potential user with a clear-cut basis on which to make an intelligent decision with respect to specific missions. Meaningful cost analyses are made possible through the practical demonstration of technology, and the elimination of stop-and-go project management can cut waste in expensive technology.

In support of this philosophy, the AEC stated in its February 1964 SNAP report:

"Where Commission responsibility for power system developments involve first-of-a-kind technology and equipment, the program should extend through the demonstration phase, including ground and flight testing as necessary, and should encompass programs for the resolution of safety problems."[7]

I am glad to say that NASA has indicated that it is in agreement with this approach.

2. In research and development, more attention should be paid to the broad concept of potential missions rather than specific requirements or missions. No one would want to embark on a development which had no apparent future use; although, as I have pointed out, once a device is developed people see uses which no one could ever have conceived of originally. But particularly with projects which will involve expensive hardware, there should be some potential range of uses in sight before a large hardware project is undertaken.

3. Initially, new technology should be directed toward a range of applications rather than directed toward a specific mission with a specified time scale which is likely to change and may not be representative of the user's principal needs in that area. At the same time, efforts should not be proliferated in the early stages among a large family of varied types. The technical effort becomes diffused, and the cost of correcting early problems is at times duplicated. Once a practical demonstration occurs, then a family of applications can be developed which are better adapted to the needs of the user.

4. Each development project should have an objective rather than a requirement. The objective should normally be stated in terms of achieving successful prototype tests in the appropriate environment. Such an objective is an excellent means of organizing a project and motivating its scientific and engineering personnel.

5. Projects, once undertaken, should be carefully staffed and vigorously managed. Line responsibility should be clearly established under a project manager armed with sufficient authority to move ahead without being overwhelmed by redtape and endless project reviews by advisory groups and committees of assorted types. Continuity of key personnel must also be assured.

6. In seeking greater freedom to move ahead with important projects which have much to offer the future of this country, we must also demonstrate our will to be very selective in choosing them, and to be very forthright in cutting back or canceling those that get on the sick list. Budget requests cannot afford to be burdened with moneys for projects which become stalled, and can no longer achieve their objectives. Every dollar must be channeled into those projects which are moving forward satisfactorily, or into new projects in which we have full confidence of ultimate success.

In conclusion, let me say that I am an optimist about achieving the great possibilities of atomic energy. Speaking in terms of potential missions, atomic energy development has the potential of:

(a) Further increasing our national defense through improved atomic weapons and military and naval reactors;

(b) Providing a virtually inexhaustible resource of energy for peaceful purposes for succeeding generations;

(c) Providing the only means for propulsion and servicing of manned spaceships for missions beyond the moon and to and from the planets;

(d) Providing large quantities of pure water from the sea at reasonable cost for domestic and industrial uses.

I am hopeful that we may continue with an orderly development program to achieve these potentials. It will be interesting to see how the procedures evolve for such developments as applying nuclear energy to desalting sea water. It is now premature to establish specific and detailed requirements for an application that is extremely promising, but nonetheless some years away from practical application. Very good relationships between AEC and the Department of Interior have been established to carry on a joint effort. Yet any day I expect to hear the budgeteers begin searching for a formal requirement in determining whether meaningful funds and efforts can be allocated to this important work. If we become enmeshed in the "requirements merry-go-round" this country will delay by many years providing communities in the United States and abroad with the benefit of large supplies of fresh pure water.

In speaking of the broad requirements problem which affects many areas, of which atomic energy is only one, Dr. Ed Welsh, Acting Chairman of the Space Council, recently said:

"If we had required a clear-cut prior mission, we would probably have developed no airplanes, no spacecraft, or, in fact, no wheel."[8]

Unless we bring the requirements system back into perspective, progress toward major new applications of atomic energy may grind to a snail's pace, and this Nation's leadership in atomic energy will be threatened. With the active consideration being given to this problem in various places, including this conference here at American University, I hope we can get back on the right track.

## PREPARING THE ECONOMIC SOCIETY FOR ACCELERATING DEFENSE CUTBACKS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York [Mr. **Halpern**] is recognized for 15 minutes.

Mr. HALPERN. Mr. Speaker, last March 2 I addressed the House on the urgent consequences of steadily decreasing defense cutbacks. I am privileged to have joined in sponsoring legislation for the establishment of an Economic Conversion Commission, and I very much hope that these various measures will be granted hearings before the House Committee on Interstate and Foreign Commerce.

I wish to repeat that trends clearly visible only last summer will accelerate. In this situation, it would be foolhardy not to bring a national consciousness to bear upon the effects of defense cutbacks so that we may realize the inherent benefits and not be scourged by widespread stress and hardship. Only by coordinated planning and preparation as time progresses can we insure the advantages as against isolated, stubborn resistance which is, under the circumstances, readily understandable.

All of us noted the announcement of the Secretary of Defense last Friday that 63 relatively minor alterations, discontinuances, and consolidations of military installations across the land will result in an estimated saving of $68 million, but that 10,056 jobs are affected. These are civilian jobs. And at a time when all economic indicators are pointing upward, we are yet plagued by an unemployment rate of 5.4 percent of the labor force.

It is anticipated that the existing efficiency or cost reduction drive in defense operations will continue. Of course, this operation is not identical to the genuine reduction of defense expenditures which is expected in the years ahead. But the local effects are the same in many respects, though perhaps on a lesser scale.

I also noted the encouraging prospects for conversion of plutonium production facilities into civilian electric powerplants. The Atomic Energy Commission considers this technically feasible. Private and public utility groups have expressed a desire to invest their funds into studying the proposition at some locations.

In addressing ourselves to the problems of civilian conversion, we begin with the realization that the huge defense budgets of the postwar years have distorted the economy and brought forth an unreal situation. It is estimated that 10 percent of our gross national product involves production on defense.

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[5] Hearings, "AEC Authorization Legislation, Fiscal Year 1965," Joint Committee on Atomic Energy, 88th Cong., 2d sess., 1964, at p. 535.

[6] Hearings, "AEC Authorization Legislation, Fiscal Year 1965," Joint Committee on Atomic Energy, 88th Cong., 2d sess., 1964, at p. 1525.

[7] Report, "Systems for Nuclear Auxiliary Power," by the Atomic Energy Commission, February 1964, at p. 17.

[8] Dr. Edward C. Welsh, "Space: Progress and Posterity," address to the National Space Club, Washington, D.C., Mar. 20, 1964, at p. 2.

Certainly, this essential artificiality has created many vested interests and patterns of production and pricing which are not wholly valid for the peacetime consumer-demand free enterprise system. The harmful effects of shifting the trend can be eased, and a great opportunity grasped, if we face the problem seriously and plan to meet it.

An illuminating and informative editorial on the subject appeared in the Washington Evening Star last Friday, April 24, and I ask unanimous consent to include the column with my comments as follows:

### SWORDS INTO PLOWSHARES

When Chairman CARL VINSON of the House Armed Services Committee was first elected to Congress half a century ago, the U.S. budget for defense amounted to $348 million.

The annual outlay has grown from that wartime year to a staggering $52 billion annually, more than half the total Federal budget. Its impact on the economy is steady and immense. We spend more on defense than the combined governmental budgets of Great Britain, Italy, West Germany, and France.

What would happen, some thoughtful persons have begun asking, if disarmament should suddenly begin in earnest? What if a technological breakthrough eliminated our whole concept of arms? How could the economy stand the loss of so many billions of dollars for weapons and supplies?

Such fears prompted hearings last year by Senator JOSEPH S. CLARK's Subcommittee on Employment and Manpower. The testimony increased our understanding and our fears. Some industries such as aircraft manufacturers, it turned out, are anywhere from 75 to 100 percent dependent on military orders. Furthermore, they are clustered in a few areas like San Diego, Los Angeles, and Seattle. The word "disarmament" carries a disturbing meaning for these cities.

If a major cut in defense spending should come, it would bring what Professor Murray L. Weidenbaum, of Stanford Research Institute, calls "a yet unresolved problem of major proportions." One has only to read the history of Krupp in Germany under the Versailles Treaty to comprehend the meaning, a company that was obliged to manufacture such exotic items as stainless steel dentures for Russians to stay in business.

The defense industry leaders already suggest some civilian projects where their massive engineering competence would be put to work. Among these are mining of the ocean floor, air and water pollution control, and technical aid to underdeveloped countries. (Krupp, in fact, today enjoys a prosperous business selling such aid, constructing and staffing whole factories abroad.)

It is none too soon to begin planning for a conversion. The continued high level of arms spending already seems to be distorting the economy of what is supposed to be a peace-loving nation.

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## RESIDUAL OIL IMPORTS—A NEBULOUS GHOST FOR THE COAL INTEREST

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Massachusetts [Mr. CONTE], is recognized for 15 minutes.

Mr. CONTE. Mr. Speaker, on April 22, the gentleman from Pennsylvania spoke in considerable detail with regard to the report of the President's Appalachian Regional Commission and, as is customary with those who oppose imports of this fuel essential to the economy of the east coast and to the security of our Nation, they sought to blame residual fuel oil imports for the joblessness and desperation which exist in his State and other coal-producing States.

I think it is most significant that the Appalachian report made no such conclusion and, in fact, agrees with the position taken by myself and other Members of this body representing areas which must have residual oil.

I refer to page 19 of the Appalachian report; this is in chapter 2 entitled "The Legacy of Neglect" and I quote:

> With the construction of long-distance pipelines for oil and natural gas and with the replacement of the steam locomotive by the diesel, the exploitation of Appalachia's coal deposits was dramatically slowed. The simultaneous introduction of new machines for both underground and strip mining, drastically reducing the manpower requirements in coal mining, further aggravated the drop in regional income from the resource.

This position, I think, is further substantiated by the following item from the March 24, 1964, issue of the New York Herald Tribune captioned "A New Raise in Coal Mines":

> Yesterday was the biggest day soft-coal miners have had since December 2, 1958, when their leader, John L. Lewis, swung a new contract bringing them up to $24.50 a day for common mucking. Yesterday, the United Mine Workers, now led by W. A. (Tony) Boyle, signed the first new pact since 1958. This one brought miners up another dollar a day, starting April 1, and a second dollar starting next January. The maxim in this industry is that you buy peace at the expense of jobs. Mr. Lewis accepted certain automated devices to raise the salary of his men from about $14 a day in 1950 to the $24.50 figure. But there were 450,000 workers in the Appalachian mines in 1950. In 1958 there were 186,000. Yesterday there were 150,000 according to press service figures. The next pact adds $25 to vacation pay, bringing it to $225 for the 2 weeks provided. The miners will now get 7 holidays a year and will get doubletime pay if they work on holidays. Another provision is the payment of 80 cents a ton royalty for handling coal on which a royalty has not previously been paid. The UMW operates its welfare funds with these royalties, which are often hard to collect. A ruinous rash of picketing in Perry County, Ky., revolves around this issue.

It was also interesting to me to note that the Appalachian report also agrees with another position I have taken and which I stated before this body on February 10, 1964, when I said:

> I cannot help but wonder how much better off they (the unemployed poverty-stricken residents of the Appalachian area) might be today, if the coal barons, while draining the area's economic lifeblood, had thought a little of the future of the people and returned some of their profits to the area from whence they came instead of salting them away in outside interests.

Quoting again from page 20 of the Appalachian report, I find my position stated thusly:

> Where a society depends primarily on the extraction of natural resources for its income and employment—as did the people of Appalachia—it is extremely important that a high proportion of wealth created by extraction be reinvested locally in other activities. The relatively low proportion of native capital did not produce such a reinvestment in large sections of the region. Much of the wealth produced by coal and timber was seldom seen locally. It went downstream with the great hardwood logs; it rode out on rails with coal cars; it was mailed between distant cities as royalty checks from nonresident operators to holding companies who had bought rights to the land for 50 cents or a dollar an acre. Even the wages of local miners returned to faraway stockholders via company houses and company stores.

At this point I would like to make it clear, beyond a shadow of a doubt, that I am in complete agreement that something must be done, and done now, to ease the wretchedness and human misery which exist in this particular region and elsewhere throughout our land. It must be done now particularly for the little children of these areas. Who, I ask you, would not be moved to action by a description such as this:

> And, of course, scurrying through this desolate, man-made hell are the wide-eyed, beautiful children—children whose crime it has been to be born under the baleful zodiac of greed and indifference.

This is a quote from an article by Richard Starnes, datelined Marrowbone Creek, Ky., April 10 and entitled "A Man Can Stand and Look Across the Threshold of Hell."

But if we are to get on with the task I think we should first be honest with ourselves, look at the facts objectively and then, working together, get started on the job that must be done.

What are the facts, then, with regard to coal production and consumption?

It is true that in factories, offices, and homes, and in other traditional uses of coal, consumption has been decreasing—not due primarily to residual oil—but rather to a combination of factors—principally the availability of cheaper, cleaner, easier to use competitive fuels.

Anthracite coal production, for example, last year was only 19,300,000 tons as compared to 63,700,000 tons in 1944. Still there were areas of New England last winter suffering because of its unavailability.

The most dramatic decline of all though, in the use of coal was brought about by the diesel rail engine. In 1944, railroad usage was a vital component of coal's market, using 132 million tons. By 1960, the total was down to 2,100,000 and, in fact, today is so insignificant that railroad usage figures are not even published.

What, then, is the main reason why coal production reached 452 million tons in 1963, the best figure since 1957. The main reason, of course, is because coal's best customer, the electric utilities, bought 209 million tons of bituminous coal in 1963 compared with only 76,700,000 in 1944. All of this, naturally, is reflected in the increased profits of the major coal companies.

In light of these figures it is ridiculous for industry spokesmen to oppose so vigorously residual fuel oil imports—which are needed most in those areas where coal has never been or cannot be competitive and where oil is used for those purposes where coal, if it were available, could not be considered.

Let us take a look then at another aspect of the situation—coal's stake abroad which statistics prove is certainly much greater than the competition coal receives from residual fuel oil imports on the U.S. east coast.

During 1963, residual fuel oil imports amounted to the energy equivalent of about 50 million tons of coal. Earlier I presented figures which prove that the only growing market for coal on the east coast is the utility market. During 1963 less than 20 percent of residual oil imported was used by utilities. The balance went for other uses, such as ships bunkering, space heating and industrial uses—markets where the role of coal is insignificant.

In the utility market where residual fuel oil and coal might be in competition, only 10 million tons—or 2.2 percent of total U.S. production—were involved.

On the other hand, during 1963, coal exports exceeded 40 million tons—equivalent to 9.5 percent of total U.S. coal production—a ratio of exports to production well above the average for all U.S. industries.

This export amount, I have been reliably informed, represents only a portion of the potential export market—a potential which hinges to a great extent on a more liberal attitude toward residual fuel oil imports.

On this point, Robert R. Nathan Associates, under contract with the U.S. Department of the Interior, reported:

> The foreign market for U.S. coal could reach an estimated 73 to 125 million metric tons in 1970, depending largely on the extent to which the foreign nations relax their barriers to the entry of imported coal and other protective measures for their coal industries. These projected levels of imports represent, respectively, a 100-percent and a 250-percent increase in U.S. coal exports over those in 1962 and an additional $350 million to $900 million foreign exchange earnings.

The report further states that "U.S. bituminous coal has become competitive with indigenous coal in all of the major coal markets of the world"—and that—"the competitive advantage of U.S. coal is expected to be enhanced in the future."

Compared to this export potential, the competitive pressure of imported residual fuel oil on the U.S. east coast is insignificant for the coal industry.

So, then, I respectfully request the President, the Secretary of the Interior, and anyone else responsible for the administration of the residual fuel oil import program, to reappraise the situation and to take appropriate action to remove residual fuel oil import restrictions for the good of the coal industry and its potential export market, for the good of the domestic petroleum industry which has been refining less and less residual each year, for the economic welfare of the 50 million east coast consumers, but above all in the interests of the national security of our Nation so that all sections, all industries, all our citizens working together—with misleading issues behind them—may live in prosperity and security with poverty and deprivation a ghost of the past.

## KATYN FOREST TRAGEDY—JUSTICE?

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. DERWINSKI] may extend his remarks at this point in the RECORD, and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. DERWINSKI. Mr. Speaker, 24 years ago this month the Soviets perpetrated the Katyn massacre in which they murdered over 15,000 Polish Army officers.

Despite frantic Communist attempts to place the blame for the murders on the Nazi forces, it is now a matter of history that the Soviet secret police committed the mass murders of Polish officers and civilian intellectual leaders in the Katyn Forest near Smolensk.

I bring this matter to the attention of the House, Mr. Speaker, due to the fact that the most effective exposé of this great Soviet atrocity was presented to the world by a select House committee under the chairmanship of our colleague RAY MADDEN. The committee also included two other distinguished colleagues still serving in the House—DAN FLOOD and ALVIN O'KONSKI.

Soviet authorities refused their cooperation to the committee for obvious reasons, yet as I have pointed out, irrefutable proof was established placing the guilt on the Soviets.

Unfortunately, appropriate steps have never been taken by either the United Nations, the World Court, or any other international body against the U.S.S.R. for the crime at Katyn.

Mr. Speaker, I raise this point for special reasons; not only to call attention to the anniversary of this tragic event, underlying as it does the basic hypocrisy of the Soviet Government, but more importantly, to dramatize the effectiveness of a select committee when given direct responsibility in target areas such as this.

Many Members of the House are supporting our stanch colleague, DAN FLOOD, in urging the creation of a special House Committee on the Captive Nations. This committee is vitally needed and would serve a role at least as great, if not overwhelmingly greater, than did the Select Committee on Katyn.

The 15,000 Poles who were murdered by the Soviets at Katyn are symbols of the tragedy that exists behind the Iron Curtain, and until the principle of self-determination of peoples has been restored to the captive lands of Eastern Europe our own freedom and that of our free world allies remains in danger from the Communist conspiracy.

The Committee on Rules has before it numerous resolutions calling for the creation of a Special Committee on the Captive Nations. I urge members of that committee to give immediate consideration to the establishment of such a committee. Certainly, the memory of the tragic victims of Katyn and the millions of others who perished under Communist tyranny call for active and sustained interest on the part of this House.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ICHORD (at the request of Mr. ALBERT), for today and tomorrow, on account of official business.

Mr. FLYNT (at the request of Mr. MORRISON), for today, on account of illness.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. HARDING, for 1 hour, on tomorrow.

Mr. RYAN of New York, for 10 minutes, today; and to revise and extend his remarks and include extraneous matter.

Mr. DENT (at the request of Mr. ALBERT), for 60 minutes, today; and to revise and extend his remarks and include extraneous matter.

Mr. HOLIFIELD, for 30 minutes, today; and to revise and extend his remarks and include extraneous matter.

Mr. HALPERN (at the request of Mr. ELLSWORTH), for 15 minutes, today.

Mr. CONTE (at the request of Mr. ELLSWORTH), for 15 minutes, today.

Mr. PATMAN, for 60 minutes, on Monday, May 4, 1964, and to revise and extend his remarks and include extraneous matter; vacating his special order for Thursday, April 30.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. PEPPER.

Mr. MONAGAN and to include extraneous matter.

Mr. BOLLING and to include a speech.

Mr. RHODES of Pennsylvania and to include extraneous matter.

Mr. PHILBIN in three instances.

(The following Members (at the request of Mr. ELLSWORTH) and to include extraneous matter:)

Mr. DAGUE.

Mr. SCHNEEBELI.

Mr. BARRY.

(The following Members (at the request of Mr. STEPHENS) and to include extraneous matter:)

Mr. DINGELL.

Mr. MOORHEAD.

Mr. LENNON.

Mr. JOELSON.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1341. An act for the relief of Gabriel Kerenyi.

## ADJOURNMENT

Mr. STEPHENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Thursday, April 30, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1999. A communication from the President of the United States, transmitting a draft of proposed legislation, entitled "A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region"; to the Committee on Public Works.

2000. A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1964 in the amount of $30 million for the Veterans' Administration, $12 million for the Department of Agriculture, and $311,356 for the District of Columbia. Offsetting these increases are decreases in the amount of $45,400,000 for the Department of Defense in supplementals now pending in the Congress (H. Doc. No. 197); to the Committee on Appropriations and ordered to be printed.

2001. A letter from the Comptroller General of the United States, transmitting a report of the review of the unnecessary costs to the Government in the leasing of an electronic data-processing system by the Chrysler Corp., Defense Operations Division, Center Line, Mich., Department of the Army; to the Committee on Government Operations.

2002. A letter from the Secretary of the Interior, transmitting the Annual Report of the Division of Coal Mine Inspection, Bureau of Mines, for the calendar year January 1 through December 31, 1963, pursuant to 66 Stat. 692; 30 U.S.C. 451–483; to the Committee on Education and Labor.

2003. A letter from the Assistant Secretary of the Interior, transmitting a draft of a proposed bill entitled "A bill to amend the law establishing the Indian revolving loan fund"; to the Committee on Interior and Insular Affairs.

2004. A letter from the Assistant Secretary of the Interior, transmitting a draft of a proposed bill entitled "A bill to provide for the disposition of funds from judgments in favor of the Nehalem Band of the Tillamook Indians and the Tillamook Band of the Tillamook Indians"; to the Committee on Interior and Insular Affairs.

2005. A letter from the Secretary of the Treasury, transmitting a draft of a proposed bill entitled "A bill to validate certain payments of per diem allowances made to members of the Coast Guard"; to the Committee on the Judiciary.

2006. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report to the Committee on Science and Astronautics of the House of Representatives, pursuant to section 1(d)(2) of the National Aeronautics and Space Administration Authorization Act, 1964 (77 Stat. 141, 142) and the first paragraph of the general provisions of the Independent Offices Appropriation Act, 1964, applicable to the National Aeronautics and Space Administration (77 Stat. 425, 439); to the Committee on Science and Astronautics.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 687. Resolution authorizing the Speaker to appoint delegates and alternates to attend the International Labor Organization Conference in Geneva; without amendment (Rept. No. 1364). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 707. Resolution for consideration of S. 2214, an act to amend the International Development Association Act to authorize the United States to participate in an increase in the resources of the International Development Association; without amendment (Rept. No. 1365). Referred to the House Calendar.

Mr. BONNER: Committee on Merchant Marine and Fisheries. H.R. 10053. A bill to amend section 502 of the Merchant Marine Act, 1936, relating to construction differential subsidies; with amendment (Rept. No. 1366). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUCKLEY:

H.R. 11065. A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region; to the Committee on Public Works.

By Mr. DAVIS of Tennessee:

H.R. 11066. A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region; to the Committee on Public Works.

By Mr. PERKINS:

H.R. 11067. A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region; to the Committee on Public Works.

By Mr. CAREY:

H.R. 11068. A bill to amend the Internal Revenue Code of 1954 to provide a 2-year moratorium on social security taxes in the case of employees and self-employed individuals whose income is below certain levels or who are receiving public assistance; to the Committee on Ways and Means.

By Mr. FINO:

H.R. 11069. A bill to establish within the Library of Congress a translation bureau for the purpose of translating into English and indexing articles of a scientific nature appearing in foreign journals and periodicals received in the Library of Congress; to the Committee on House Administration.

By Mr. DEVINE:

H.R. 11070. A bill to abolish the Department of State and transfer its functions and responsibilities to a new department; to the Committee on Government Operations.

By Mr. GILL:

H.R. 11071. A bill to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit; to the Committee on Banking and Currency.

By Mr. LEGGETT:

H.R. 11072. A bill to promote fair competition among subcontractors and to prevent bid peddling on public works contracts by requiring persons submitting bids on those contracts to specify certain subcontractors who will assist in carrying them out; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 11073. A bill to establish a National Economic Conversion Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WINSTEAD:

H.R. 11074. A bill to make certain exceptions in the appellate jurisdiction of the Supreme Court of the United States and of the U.S. courts of appeals and to the jurisdiction of the district courts of the United States in actions relating to the public schools; to the Committee on the Judiciary.

H.R. 11075. A bill to establish qualifications for persons appointed to the Supreme Court; to the Committee on the Judiciary.

H.R. 11076. A bill to amend title 28 of the United States Code to establish certain qualifications for persons appointed to the Supreme Court and to provide that persons who have held certain Federal and State offices shall be ineligible for appointment to any Federal judgeship within 5 years after leaving such offices; to the Committee on the Judiciary.

H.R. 11077. A bill to limit and regulate the appellate jurisdiction of the Supreme Court of the United States; to the Committee on the Judiciary.

By Mr. ABELE:

H.R. 11078. A bill to impose import limitations on certain meat and meat products; to the Committee on Ways and Means.

By Mr. BROTZMAN:

H.R. 11079. A bill to amend section 7701 of the Internal Revenue Code of 1954 to clarify the tax status of certain professional associations and corporations formed under State law; to the Committee on Ways and Means.

By Mr. BROYHILL of North Carolina:

H.R. 11080. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax for a portion of amounts paid for certain educational expenses incurred at an institution of higher learning or vocational training; to the Committee on Ways and Means.

By Mr. COOLEY:

H.R. 11081. A bill to amend the Federal Power Act with respect to the jurisdiction of the Federal Power Commission over nonprofit organizations and over the transmission and sale of certain electric energy; to the Committee on Interstate and Foreign Commerce.

By Mr. FINO:

H.R. 11082. A bill to amend the Civil Service Retirement Act to bring within the purview of the involuntary separation provisions of section 6(d) thereof for retirement purposes certain classified and postal employees who have been reduced in grade or salary standing; to the Committee on Post Office and Civil Service.

By Mr. ROBERTS of Alabama:

H.R. 11083. A bill to amend the Public Health Service Act to extend the authorization for assistance in the provision of graduate or specialized public health training, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT:

H.R. 11084. A bill to amend section 7701 of the Internal Revenue Code of 1954 to clarify the tax status of certain professional associations and corporations formed under State law; to the Committee on Ways and Means.

By Mr. HARRISON:

H.R. 11085. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. SICKLES:

H.R. 11086. A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region; to the Committee on Public Works.

By Mr. KEOGH:

H.R. 11087. A bill to amend section 165(g)(3) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. OLSEN of Montana:

H.R. 11088. A bill to provide for the establishment of a mint of the United States in the State of Montana; to the Committee on Public Works.

H.R. 11089. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. QUIE:

H.R. 11090. A bill to restrict imports of beef, veal, and mutton into the United States; to the Committee on Ways and Means.

By Mr. WINSTEAD:

H.J. Res. 1012. Joint resolution proposing an amendment to the Constitution relating to the terms of office of judges of the Supreme Court of the United States and inferior courts; to the Committee on the Judiciary.

H. J. Res. 1013. Joint resolution proposing an amendment to the Constitution of the United States reserving to the States exclusive control over public schools; to the Committee on the Judiciary.

H.J. Res. 1014. Joint resolution providing that the United States shall not participate in any civil action except as a party to such civil action; to the Committee on the Judiciary.

H.J. Res. 1015. Joint resolution to restore to the States certain rights affected by recent Supreme Court decisions; to the Committee on the Judiciary.

By Mr. QUIE:

H.J. Res. 1016. Joint resolution to establish a National Commission on Food Marketing to study the food industry from the farm to the consumer; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON:

H. Con. Res. 297. Concurrent resolution to request the President to initiate discussion of the Baltic States question before the United Nations with a view to gaining the independence of Lithuania, Latvia, and Estonia from the Soviet Union; to the Committee on Foreign Affairs.

By Mr. ROOSEVELT:

H. Res. 708. Resolution expressing the sense of the House of Representatives with respect to the continuation of recent efforts on the part of the President to secure a universal condemnation of anti-Semitism; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. KELLY:

H.R. 11091. A bill for the relief of Mrs. Raisia Stein and her two minor children; to the Committee on the Judiciary.

H.R. 11092. A bill for the relief of Mrs. Aranka Mlinko; to the Committee on the Judiciary.

By Mr. ST. ONGE:

H.R. 11093. A bill for the relief of Zenaida Legaspi Mayuga; to the Committee on the Judiciary.

H.R. 11094. A bill for the relief of Paciencia Mallari; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

876. By Mr. PHILBIN: Petition of Mrs. Jeanette Vincent of Leicester, Mass., and others, urging support of an amendment to the Federal Constitution to safeguard public reverence; to the Committee on the Judiciary.

877. By the SPEAKER: Petition of Charles W. Winegarner, and others, Citizens Congressional Committee, Los Angeles, Calif., petitioning consideration of their resolution with reference to filing a third request for an amendment to the Constitution of the United States which will forever guarantee the protection of our Christian traditions and the right of our people to pray and honor Holy Scripture in their institutions; to the Committee on the Judiciary.

878. Also, petition of Harry H. Meiners, Jr., Reformed Presbyterian Church in North America, General Synod, Las Cruces, N. Mex., petitioning consideration of their resolution with reference to declaring itself to favor the reading of the Bible without comment and the praying to Almighty God in the public schools, and preserving fully the Christian liberties and traditions throughout our national life; to the Committee on the Judiciary.

* * *

# SENATE

### WEDNESDAY, APRIL 29, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

Rev. William P. Coovert, O.M.I. Provincial of the Oblate Fathers, St. Paul, Minn., offered the following prayer:

Almighty God, in whose hands rest all authority and the rights of all peoples, look with favor on these in authority over us. Let the light of Your divine wisdom direct the deliberations of the Senate. Let the proceedings and laws framed by them for our rule and Government reflect both Your justice and Your mercy.

O God of Nations, bless these United States of America with a clear knowledge and faithful observance of Your holy law. Give our Nation the wisdom to know the right, the courage to live the right, and the charity to share the right with all Your children the whole world over.

Finally, we pray You, God of Mercy, to remember the souls of our forefathers, especially those who, when living, were Members of the Senate. May their souls and the souls of all the faithful departed through the mercy of God, rest in peace. Amen.

## THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, April 28, 1964, was dispensed with.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

## EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of John H. Kamlowsky, of West Virginia, to be U.S. attorney for the northern district of West Virginia, which was referred to the Committee on the Judiciary.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 1997) to amend subsection (c) of section 1332 of title 28, United States Code, relating to diversity of citizenship, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 1997) to amend subsection (c) of section 1332 of title 28, United States Code, relating to diversity of citizenship, was read twice by its title and referred to the Committee on the Judiciary.

## ORDER FOR RECESS TO 10 A.M., TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 177 Leg.]

Aiken
Allott
Bayh
Beall
Bennett
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dominick
Douglas
Ellender
Fong
Gore
Gruening
Hart
Hayden
Hickenlooper
Holland
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Lausche
Long, Mo.
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smith
Sparkman
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Alaska [Mr. BARTLETT], the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alabama [Mr. HILL], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Mississippi [Mr. STENNIS] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE], the Senator from Maryland [Mr. BREWSTER], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from North Carolina [Mr. ERVIN], the Senator from Indiana [Mr. HARTKE], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Wisconsin [Mr. NELSON], the Senator from Florida [Mr. SMATHERS], the Senator from Georgia [Mr. TALMADGE], the

Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. DIRKSEN. I announce that the Senator from Delaware [Mr. BOGGS], the Senator from Arizona [Mr. GOLDWATER], and the Senator from New Mexico [Mr. MECHEM] are necessarily absent.

The Senator from Nebraska [Mr. HRUSKA] is absent on official business.

The Senator from California [Mr. KUCHEL], the Senator from Kansas [Mr. PEARSON], and the Senator from Texas [Mr. TOWER] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

## TRANSACTION OF ROUTINE BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that there may be a morning hour under the same condition that prevailed yesterday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CHANGE IN LEGISLATIVE BUZZER AND SIGNAL LIGHT SYSTEM, EFFECTIVE MAY 1, 1964

Mr. JORDAN of North Carolina. Mr. President, a change in the buzzer and signal light system will go into effect on May 1. I should like to have this information placed in the RECORD so that Senators may become well acquainted with it.

The Committee on Rules and Administration recently approved a change in the legislative buzzer and signal light system to be effective on May 1, 1964. Senators and committees have been notified by letter. I think it would be appropriate also to place a description of the new system in the CONGRESSIONAL RECORD and ask unanimous consent that this be done.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

### U.S. SENATE LEGISLATIVE BUZZERS AND SIGNAL LIGHTS

#### PRESESSION SIGNALS

One long ring at hour of convening—one red light to remain lighted at all times while Senate is in actual session.

| | |
|---|---|
| 1 Ring | Yeas and nays |
| 2 Rings | Quorum call |
| 3 Rings | Call of absentees |
| 4 Rings | Adjournment or recess |
| 6 Rings | Morning business concluded |

Where lights exist they will correspond with rings. (Effective May 1, 1964.)

SERGEANT AT ARMS,
*U.S. Senate.*

Mr. JORDAN of North Carolina. Mr. President, I should like to make a brief explanation. Experience has shown that the current five-ring signal, which was used exclusively for closed door sessions, has been used only once in approximately 18 years, so that it was never an important part of the bellringing system.

The six-ring signal, which is now in effect, to indicate a legislative session after executive or open doors, has been used very infrequently.

On January 30, the Senate adopted a change in rules permitting committees to sit while the Senate was in session during the morning hour. However, there is no signal system in effect to notify committees of the conclusion of a morning hour, and this has caused some confusion.

The committee, therefore, made this change, in order that a proper signal may be given when the morning hour is concluded—a signal which can be heard in all committee rooms to notify members of committees of the conclusion of the morning hour, beyond which time committees may not legally set.

The only effective change to be made in the signal system is the six-ring signal that morning business has been concluded.

The reason the committee did not agree on a five-ring signal is that a four-ring and a five-ring signal can be easily confused. A four-ring signal, of course, indicates recess or adjournment. Many people might believe that the Senate had adjourned, so the six-ring signal will be placed in effect on May 1 to signal the conclusion of the morning hour.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### REPORT ON CONTRACTS FOR EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK

A letter from the Administrative Assistant Secretary of the Treasury, transmitting, pursuant to law, a report on contracts for experimental, developmental, or research work, for the period November 19, 1963, to April 24, 1964 (with an accompanying report); to the Committee on Armed Services.

### REPORT ON UNNECESSARY COSTS TO THE GOVERNMENT IN LEASING OF AN ELECTRONIC DATA PROCESSING SYSTEM

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on unnecessary costs to the Government in the leasing of an electronic data processing system by the Chrysler Corp., Defense Operations Division, Center Line, Mich., Department of the Army, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### AMENDMENT OF LAW ESTABLISHING THE INDIAN REVOLVING LOAN FUND

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the law establishing the Indian revolving loan fund (with an accompanying paper); to the Committee on Interior and Insular Affairs.

### DISPOSITION OF FUNDS FROM JUDGMENTS IN FAVOR OF CERTAIN INDIANS

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the disposition of funds from judgments in favor of the Nehalem Band of the Tillamook Indians and the Tillamook Band of the Tillamook Indians (with an accompanying paper); to the Committee on Interior and Insular Affairs.

### REPORT OF DIVISION OF COAL MINE INSPECTION, BUREAU OF MINES

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Division of Coal Mine Inspection, Bureau of Mines, for the calendar year ended December 31, 1963 (with an accompanying report); to the Committee on Labor and Public Welfare.

## PETITION

The ACTING PRESIDENT pro tempore laid before the Senate a letter, in the nature of a petition, from Mrs. M. W. Smith, of Provo, Utah, relating to enactment of the civil rights bill, which was ordered to lie on the table.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on the Judiciary, without amendment:

S. 2088. A bill for the relief of Tomoe Ishikawa Westley (Rept. No. 988);

S. 2105. A bill for the relief of Martin Morales Salvador (Rept. No. 989);

S. 2225. A bill for the relief of Christiane Antoine Bronas (Rept. No. 990);

S. 2233. A bill for the relief of Margaret Rose Owen (Rept. No. 991);

S. 2336. A bill for the relief of John Richard Dolby (Rept. No. 992);

S. 2338. A bill for the relief of Kalliope Kostides (Rept. No. 993);

S. 2410. A bill for the relief of Erich Hoffinger (Rept. No. 994);

S. 2499. A bill for the relief of Leobardo L. Gonzalez (Rept. No. 995);

H.R. 1252. An act for the relief of Bozena Gutowska (Rept. No. 1001);

H.R. 1266. An act for the relief of John Kish (alias John Mihai) (Rept. No. 1002);

H.R. 1435. An act for the relief of Leon Llanos (Rept. No. 1003);

H.R. 1439. An act for the relief of Ioanna Ganas (Rept. No. 1004);

H.R. 3654. An act for the relief of Paolo Armano (Rept. No. 1005);

H.R. 5083. An act for the relief of John Stewart Murphy (Rept. No. 1006);

H.R. 6133. An act for the relief of Miss Carmen Rioja and child, Paloma Menchaca Rioja (Rept. No. 1007);

H.R. 6568. An act for the relief of Frances Sperilli (Rept. No. 1008);

H.R. 6837. An act for the relief of Mrs. Eleonora Vasconi (nee Trentanove) (Rept. No. 1009);

H.R. 8469. An act for the relief of Dr. Salim Akyol (Rept. No. 1010); and

H.R. 9573. An act for the relief of Wolfgang Stresemann (Rept. No. 1011).

By Mr. JOHNSTON, from the Committee on the Judiciary, with an amendment:

S. 858. A bill for the relief of Miladin Kljajin (Rept. No. 996);

S. 2219. A bill for the relief of Helen Marghitsa Georgalas (Rept. No. 997);

S. 2342. A bill for the relief of Mr. and Mrs. Toros Torosian (Rept. No. 998); and

H.R. 1382. An act for the relief of John Gatzopi Overbeck and Mary Gatzopoulos Overbeck (Rept. No. 1012).

By Mr. JOHNSTON, from the Committee on the Judiciary, with amendments:

S. 2436. A bill for the relief of Mihajlo Radosavljevic (Rept. No. 999); and

S. 2449. A bill for the relief of Dorothy Eyre (Rept. No. 1000).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with amendments:

S. Res. 308. Resolution to print as a Senate document a compilation of certain speeches, or selections therefrom, of General of the Army Douglas MacArthur; considered and agreed to.

(See reference to the above resolution when reported by Mr. JORDAN of North Carolina, which appears under a separate heading.)

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. RANDOLPH (for himself, Mr. COOPER, Mr. DOUGLAS, Mr. GRUENING, Mr. MORSE, Mr. BEALL, Mr. BREWSTER, Mr. BYRD of West Virginia, Mr. CLARK, Mr. MORTON, Mr. SCOTT, Mr. WALTERS, and Mr. YOUNG of Ohio):

S. 2782. A bill to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian Region; to the Committee on Public Works.

(See the remarks of Mr. RANDOLPH when he introduced the above bill, which appear under a separate heading.)

By Mr. INOUYE:

S. 2783. A bill for the relief of Matsusuke Tengan; and

S. 2784. A bill for the relief of Pauline D. McLaughlin; to the Committee on the Judiciary.

By Mr. MORSE (for himself, Mr. JAVITS, Mr. BEALL, Mr. HARTKE, and Mr. HUMPHREY):

S. 2785. A bill to establish a Peace by Investment Corporation, and for other related purposes; to the Committee on Foreign Relations.

(See the remarks of Mr. MORSE when he introduced the above bill, which appear under a separate heading.)

By Mr. DIRKSEN:

S. 2786. A bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended; to the Committee on the Judiciary.

By Mr. WILLIAMS of New Jersey:

S. 2787. A bill for the relief of Matilda Berger; to the Committee on the Judiciary.

## RESOLUTIONS

### EXTENSION OF AUTHORITY OF COMMITTEE ON RULES AND ADMINISTRATION TO INQUIRE INTO FINANCIAL OR BUSINESS INTERESTS OF OFFICERS OR EMPLOYEES OF THE SENATE

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported an original resolution (S. Res. 319) extending the authority of the Committee on Rules and Administration granted by Senate Resolution 291 to inquire into the financial or business interests of any officer or employee or former officer or employee of the Senate; which was considered and agreed to.

(See the above resolution printed in full when reported by Mr. JORDAN of North Carolina, which appears under a separate heading.)

### PERCY G. DENBOW

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported an original resolution (S. Res. 320) to pay a gratuity to Percy G. Denbow; which was considered and agreed to.

(See the above resolution printed in full when reported by Mr. JORDAN of North Carolina, which appears under a separate heading.)

## APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1964

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the message from the President of the United States in submitting to the Senate the Appalachian Regional Development Act of 1964 be printed in the RECORD, and also that the bill which I shall introduce shortly be printed in the RECORD, together with a section-by-section analysis of the bill.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I introduce for appropriate reference, the measure which is entitled the Appalachian Regional Development Act of 1964.

Cosponsoring this measure are Senators COOPER, BEALL, BREWSTER, BYRD of West Virginia, CLARK, MORTON, SCOTT, YOUNG of Ohio, and WALTERS of Tennessee.

Mr. President, I ask unanimous consent that the bill remain at the desk until the close of business on Monday next, May 4, 1964, so that Senators who wish to join Senators representing the 10 States which the Appalachian region included in the bill may be given an opportunity to act as cosponsors.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the message, bill, and section-by-section analysis will be printed in the RECORD, and the bill will lie on the desk, as requested by the Senator from West Virginia.

The bill (S. 2782) to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region introduced by Mr. RANDOLPH (for himself and other Senators), was received, read twice by its title and referred to the Committee on Public Works.

The message from the President is as follows:

THE WHITE HOUSE,
*Washington, April 28, 1964.*

Hon. CARL HAYDEN,
*President of the Senate pro tempore,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I am today sending to the Congress for its consideration a bill designed to make possible the economic development of the Appalachian region.

Appalachia straddles a 10-State area of more than 165,000 square miles, with more than 15 million Americans in residence. The general economic progress of the Nation has passed Appalachia by—for reasons which are cheerlessly clear:

(1) Difficult—and in some instances—impossible access.

(2) Inadequate control of water—which breeds both floods and scarcity of water for industrial and recreational purposes.

(3) A mineral base of coal, timber, and agriculture sorely in need of creative attention.

The visible lag of Appalachia justifies the special programs I respectfully request you to consider.

But behind the description of the need of a region lies the desolation of a people.

I have seen the despair and the hopelessness in the faces of these citizens. What exists in this area is a challenge to the ingenuity as well as the compassion of the Congress.

The rollcall of deficiencies in Appalachia is not a happy catalog. In this region too little human potential is realized. Too ineffective a use of physical resources is a result. There is a shortage not only of promise, but of hope.

The investment I ask the Congress to make is as rooted in fiscal common sense as it is in human compassion.

The Federal Government alone spends over $41 million in welfare relief in this area every month—nearly one-half billion dollars a year. With some 8.5 percent of the U.S. population, Appalachia receives 17 percent of all surplus commodity foods distributed to the needy throughout the country.

This bill I submit to the Congress is the result of a year's study by the State governments and top Federal officials. It aims not merely at the symptoms of economic malnutrition, but at its causes. To label the region luckless or unblessed is no answer. Our response must be to put to this task the planning, the priority, and the money required to assist those who want and need help for themselves and their families. To this bill I attach a copy of the report of the President's Appalachian Regional Commission, appointed by President Kennedy.

The initiative and concern demonstrated by State governments is encouraging. They came together, bound by a common problem and allied in a common goal. They approached the solution without regard to partisan politics.

I met with the Appalachian Governors. I was witness to their sincerity—and their determination—to commit State resources to this attack on inadequacy. The Federal Government should not stand aloof from their efforts.

The Governor of Ohio has advised me that his State which was originally tendered an invitation by the Council of Appalachian Governors and the President's Appalachian Regional Commission to join with the other nine States of the region in a joint effort to lift the economy of the area has decided to participate in the program. It is both appropriate and desirable that those portions of Ohio lying within Appalachia join with the remainder of the region and accordingly the bill I am sending to the Congress reflects this.

The programs are basic. They focus on clear and primary needs—such as access to the land—construction of public works—and improvement of mineral and land use:

1. A developmental highway system of 2,350 miles, with a total cost of $920 million and fiscal year 1965 cost of $90 million. Although the Federal and State contribution would be on a 50–50 basis, where the States are unable to meet this formula, the Federal share could rise to 80 percent.

2. An acceleration of water facilities construction with emphasis on flood control, industrial, and recreational impoundments and sewage treatment. Fiscal year 1965 cost would be $45.8 million.

3. A pasture improvement program to convert marginal farmland to pasture for livestock production. Fiscal year 1965 cost would be $22 million.

4. An assistance program for timber management, manufacturing and marketing. Fiscal year 1965 cost would be $6.7 million.

5. Expanded programs for promoting new uses of coal, improved mining practices and land restoration following mining operations. Fiscal year 1965 cost would be $13 million. This figure includes a $10 million increase over the amount originally recommended by the Appalachian Regional Commission based on my strong views in which I am joined by the Council of Appalachian Governors that the $10 million should be added.

6. Stepped-up human resources programs, with those programs administered by the Office of Economic Opportunity to be han-

dled by that Agency when it is established. Fiscal year 1965 cost would be $71 million of which $34 million would be administered by the Office of Economic Opportunity.

7. Establishment of a Federal-State Regional Commission for comprehensive planning to guide all levels of government and private agencies in their continuing attack on the economic distress in the region.

This entire program—estimated at $228 million plus $34 million included in the antipoverty program—was included in the contingency item of $500 million in my 1965 budget submitted to the Congress last January.

This is an active beginning to end an old problem in Appalachia. It is the judgment of both the experts who labored on the details of the program and the Governors who monitored the plan every step of the way that this program will work visible improvements in a very short time.

I strongly urge the Congress to attach to this bill the urgency and the need that is so plainly written on the faces of Appalachian citizens. They are looking to you and to me for help so they can help themselves.

Sincerely,

LYNDON B. JOHNSON.

**The bill (S. 2782) to provide public works, and economic development programs, and the planning and coordination needed to assist in the development of the Appalachian region, was ordered to be printed in the RECORD, as follows:**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Appalachian Regional Development Act of 1964."

### FINDINGS AND STATEMENT OF PURPOSE

SEC. 2. The Congress hereby finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. The State and local governments and the people of the region understand their problems and have been and are prepared to work purposefully toward their solution. The Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed. It is, therefore, the purpose of this Act to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis.

### TITLE I—THE APPALACHIAN REGIONAL COMMISSION

#### *Membership and voting*

SEC. 101. (a) There is hereby established an Appalachian Regional Commission (hereinafter referred to as the "Commission") which shall be composed of one Federal member appointed by the President, by and with the advice and consent of the Senate, and one member from each State in the Appalachian region as defined in section 502 (hereinafter referred to as the "Region"). The Federal member shall be a Cochairman of the Commission. Each State member shall be the Governor, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the Commission shall elect a Cochairman of the Commission from among their number.

(b) Decisions by the Commission shall require the affirmative vote of the Federal member and of a majority of the State members (exclusive of members representing States delinquent under section 105). In matters coming before the Commission, the Federal member shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

(c) Each State member shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the State which he represents. The Federal member shall appoint an alternate for himself without regard to the Classification Act of 1949. An alternate shall vote in the event of the absence, death, disability, removal, or resigation of the State or Federal member for which he is an alternate.

(d) The Federal member shall be compensated by the Federal Government at the rate set forth in section 106(a) of the Federal Executive Pay Act of 1956 (5 U.S.C. 2205(a)). His alternate shall be compensated by the Federal Government at not to exceed the maximum scheduled rate for grade GS–18 of the Classification Act of 1949, and when not actively serving as an alternate for the Federal member shall perform such functions and duties as are delegated to him by the Federal member. Each State member and his alternate shall be compensated by the States which they represent at the rate established by the law of such State.

#### *Functions of the Commission*

SEC. 102. Where relevant to carrying out the purposes of this Act, the Commission shall—

(a) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State and local planning in the region;

(b) conduct and sponsor investigations, research, and studies, and, in cooperation with Federal, State, and local agencies, sponsor demonstration projects;

(c) review and study, in cooperation with the agency involved, Federal, State, and local public and private programs, and where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(d) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation, and work with State and local agencies in developing appropriate model legislation;

(e) encourage the formation of local development districts;

(f) encourage private investment in industrial, commercial, recreational, and other appropriate projects;

(g) serve as a focal point and coordinating unit for Appalachian programs; and

(h) provide a forum for consideration of problems of the region and proposed solutions, and establish and utilize, as appropriate, citizens' advisory councils and conferences.

#### *Recommendations*

SEC. 103. The Commission may, from time to time, make recommendations to the President and to the State Governors and appropriate local officials with respect to—

(a) the expenditure of funds by Federal, State, and local departments and agencies in the region in the fields of natural resources, agriculture, education, training, health, and welfare, and other fields related to the purposes of this Act; and

(b) such additional Federal, State, and local legislation or administrative actions as the Commission deems necessary to further the purposes of this Act.

#### *Liaison Between Federal Government and the Commission*

SEC. 104. The President shall establish such procedures and make such arrangements as he deems necessary to provide effective and continuing liaison between the Federal Government and the Commission, and to obtain a coordinated review within the Federal Government of the plans and recommendations submitted by the Commission pursuant to sections 102 and 103.

#### *Expenses of Commission*

SEC. 105. For the period ending on June 30 of the second full Federal fiscal year following the date of enactment of this Act, the expenses of the Commission shall be paid by the Federal Government. Thereafter such expenses shall be paid equally by the Federal Government and the State in the region. The share to be paid by each State shall be determined by the Commission in accordance with such formula as it shall deem equitable. No assistance authorized by this Act shall be furnished to any State or to any political subdivision or any resident of any State while such State is delinquent in payment of its share of such expenses.

#### *Administrative powers of Commission*

SEC. 106. To carry out its duties under this Act, the Commission is authorized to—

(a) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(b) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Commission to carry out its functions: *Provided,* That such compensation shall not exceed the salary of the Federal member of the Commission as provided in section 101; and *Provided, further,* That no member, alternate, officer, or employee of the Commission, other than the Federal member of the Commission and his alternate and Federal employees detailed to the Commission under subsection (c), shall be deemed a Federal employee for any purpose;

(c) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with the Commission, on a reimbursable or, where appropriate, nonreimbursable basis, such personnel within his administrative jurisdiction as the Commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status;

(d) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency;

(e) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(f) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible;

(g) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation;

(h) maintain a temporary office in the District of Columbia and establish a permanent office at such location in the region as it may select and field offices at such other places as it may deem appropriate; and

(i) take such other actions and incur such other expenses as may be necessary or appropriate.

*Information*

SEC. 107. In order to obtain information needed to carry out its duties, the Commission shall—

(a) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its procedings and reports thereon as it may deem advisable, a Cochairman of the Commission, or any member of the Commission designated by the Commission for the purpose, being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(b) arrange for the head of any Federal department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to the Commission, on a reimburseable or, where appropriate, nonreimbursable basis, such information as may be available to or procurable by such department or agency; and

(c) keep accurate and complete records of its doings and transactions, which shall, to the extent not prohibited by law, be made available for public inspection during ordinary office hours.

*Personal financial interests*

SEC. 108. (a) Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of the Commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Commission may expect from such State member, alternate, officer, or employee.

(c) No State member or alternate and no officer or employee of the Commission, including any person serving it pursuant to section 106(d), shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services to the Commission, from any source other than his State, in the case of a member or alternate, or the Commission or a source referred to in section 106(d), in the case of an officer or employee. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(d) Notwithstanding any of the preceding provisions of this section, the Federal member and alternate of the Commission and any Federal officers or employees detailed to duty with it pursuant to section 106(c) shall not be subject to such provisions but shall remain subject to the provisions of sections 202 through 209 of title 18, United States Code.

(e) The Commission may, in its discretion, declare void and rescind any contract, loan, or grant in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or of any of the provisions of sections 202 through 209 of title 18, United States Code.

## TITLE II—SPECIAL APPALACHIAN PROGRAMS

### *Part A—New programs; development highways and access roads*

SEC. 201. (a) The Secretary of Commerce (hereafter in this section referred to as the "Secretary") is authorized to assist in the construction in the region of development highways (not to exceed a total of two thousand three hundred and fifty miles in length) that, in conjunction with the Interstate and other Federal aid highways in the region, will provide a system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access. The Secretary is also authorized to assist in the construction in the region of local access roads (not to exceed a total of five hundred miles in length) that will serve specific recreational, residential, industrial, or other like facilities or will facilitate a school consolidation program. Assistance under this section shall be provided within the amounts appropriated therefor, and otherwise in accordance with those provisions of title 23, United States Code, that are applicable to Federal aid primary highways and are not inconsistent with the purposes of this Act or the provisions of this section.

(b) As soon as feasible, the Commission shall submit to the Secretary its recommendations with respect to (1) the general corridor location and termini of the development highways, (2) the designation of local access roads to be constructed, (3) priorities for construction of the local access roads and of the major segments of the development highways, and (4) other criteria for the program authorized by this section. The Secretary shall have authority to approve in whole or in part such recommendations or to require modifications or revisions thereof: *Provided*, That in no event shall the Secretary approve any recommendations for any construction which would require for its completion the expenditure of Federal funds (other than funds available under title 23, United States Code) in excess of the appropriation authorizations in subsection (d). Assistance under this section shall be extended only pursuant to and in accordance with such recommendations of the Commission as are approved by the Secretary. All development highways so approved, if not already coincident with the Federal-aid primary system, shall be added to such system without regard to the mileage limitation set forth in title 23, United States Code, section 103(b).

(c) Federal assistance to any construction project under this section shall not exceed 50 per centum of the costs of such project, unless the Secretary determines, pursuant to the recommendation of the Commission, that assistance in excess of such percentage is required in furtherance of the purposes of this Act: *Provided*, That in no event shall such Federal assistance exceed 80 per centum of such costs.

(d) To carry out this section, there is hereby authorized to be appropriated (1) the sum of $460,000,000, and (2) the further sum of $185,000,000 to be used only to pay for Federal assistance in excess of 50 per centum of the costs of a construction project pursuant to the provisions of subsection (c), both sums to remain available until expended, when so specified in the appropriation Acts.

*Demonstration health facilities*

SEC. 202. (a) In order to demonstrate the value of adequate health and medical facilities in the region, the Secretary of Health, Education, and Welfare is authorized to make grants for the construction, equipment, and operation of multicounty demonstration health facilities, including hospitals, regional health diagnostic and treatment centers, and other facilities necessary to health. Grants for such construction (including initial equipment) shall be made in accordance with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291-291z) and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States: *Provided*, That grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act and shall not be taken into account in the computation of the allotments among the States made pursuant to such provisions relating thereto.

(b) Grants under this section for construction (including initial equipment) shall not exceed 80 per centum of the costs thereof, and shall not exceed $41,000,000 in the aggregate. Grants under this section for operation (including equipment other than initial equipment) of a project may be made up to 100 per centum of the costs thereof for the partial fiscal year and the first two full fiscal years following the commencement of such operations; for the next three full fiscal years, such grants shall not exceed 50 per centum of such costs. No grants for operation of a project shall be made after five full fiscal years following the commencement of such operations.

*Pasture improvement and development*

SEC. 203. (a) In order to promote fuller utilization of one of the region's important natural resources, the Secretary of Agriculture is authorized to make grants to assist in the improvement and development of pasture land for livestock in the region. Grants to any person under this section shall not exceed 80 per centum of the costs of improving and developing twenty-five acres of pasture land utilized by such person.

(b) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and is authorized to utilize the facilities, services and authorities of the Commodity Credit Corporation: *Provided*, That such Corporation shall not make any expenditures to carry out the provisions of this subsection unless funds specifically appropriated for such purpose have been transferred to it.

*Timber development organizations*

SEC. 204. In order that the region shall more fully benefit from the timber stands that are one of its prime assets, the Secretary of Agriculture is authorized to—

(a) provide technical assistance in the organization and operation, under State law of timber development organizations having as their objective the carrying out of timber development programs to achieve improved timber productivity, better quality timber and an increased return for landowners through (1) continuity of management, cutting practices, and marketing, (2) the administrative or physical consolidation of small holdings into efficient management units, and (3) other appropriate means; and

(b) provide not more than one-half of the initial capital requirements of such organizations through loans under the applicable provisions of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926 et seq.).

### *Part B—Supplementations and modifications of existing programs; vocational education facilities*

SEC. 211. In order to provide basic facilities to give the people of the region the training and education they need to obtain employment, the Secretary of Health, Education, and Welfare is authorized to make grants for construction of the school facilities needed for the provision of vocational education in areas of the region in which such education is not now adequately available. Such grants shall be made in accordance with the provisions of the Vocational Education Act of 1963 (77 Stat. 403), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States: *Provided*, That grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the allotments among the States made pursuant to such provisions relating thereto.

### *Sewage treatment works*

SEC. 212. In order to provide facilities to assist in the prevention of pollution of the region's streams and to protect the health and welfare of its citizens, the Secretary of Health, Education, and Welfare is authorized to make grants for the construction of sewage treatment works in accordance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States: *Provided*, That grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the allotments among the States made pursuant to such provisions relating thereto.

### *Technical assistance to timber and wood products industry*

SEC. 213. In order to assist in the application of principles of product diversification, strong capital structure, aggressive marketing, and trained labor and management to the timber and wood products industry, the Secretary of Agriculture is authorized to provide technical assistance to locally established organizations engaged in timber production and wood products manufacture and marketing, as part of his mandate under the organic Act of May 15, 1862 (5 U.S.C. 511).

### *Fish and wildlife restoration*

SEC. 214. In order to provide for demonstration of strip mine reclamation and other needed improvements to the lands of the region, the Secretary of the Interior is authorized to initiate and accelerate fish and wildlife restoration projects in the region in accordance with the provisions of the Act of September 2, 1937 (16 U.S.C. 669 et seq.) and the Act of August 9, 1950 (16 U.S.C. 777 et seq.), without regard to any provisions therein relating to apportionments among the States and to limitations on the availability period of funds: *Provided*, That the expenses of projects under this section shall be paid solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the apportionments among the States made pursuant to such provisions relating thereto.

### *Amendments of Housing Act of 1954*

SEC. 215. (a) Section 701(a) of the Housing Act of 1954 (40 U.S.C. 461(a)) is amended by striking the word "and" in paragraph (4), by substituting for the period at the end of paragraph (5) the phrase "; and", and by adding a new paragraph (6) to read as follows: "(6) The Appalachian Regional Commission established by title I of the Appalachian Regional Development Act of 1964, for comprehensive planning for the Region, as defined by section 502 of that Act."

(b) Section 701(b) of the Housing Act of 1954 (40 U.S.C. 461(b)) is amended by adding before the phrase "for not more than 75 per centum of such estimated cost" the phrase "or the Appalachian Regional Commission,".

### *Supplements to grant-in-aid programs*

SEC. 216. In order to enable the people and communities of the Region to take maximum advantage of designated Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, the Secretary of Commerce is authorized, pursuant to specific recommendations of the Commission approved by him and after consultation with the appropriate Federal officials, to allocate funds appropriated to carry out this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of such grant-in-aid programs. Funds so allocated shall be used for the sole purpose of increasing the Federal contribution to projects under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law: *Provided*, That the Federal portion of such costs shall not be increased in excess of the percentages established by regulations promulgated by the Secretary of Commerce: and *Provided, further*, That from and after the beginning of the third full fiscal year following the date of enactment of this Act, such regulations shall in no event authorize the Federal portion of such costs to exceed 80 per centum thereof. The term "designated Federal grant-in-aid programs," as used in this section, means such of the Federal grant-in-aid programs authorized by this Act and such other existing or future Federal grant-in-aid programs assisting in the construction or operation of facilities, as the Secretary of Commerce may, in furtherance of the purposes of this Act and after consultation with the Commission, designate as eligible for allocation of funds under this section: *Provided*, That in no event shall the term include the program for the construction of development highways and access roads authorized by section 201 of this Act or any other program relating to highway or road construction.

### *Part C—General provisions; State and local expenditures*

SEC. 221. No State and no political subdivision of such State shall be eligible to receive benefits under this Act unless the aggregate expenditures of public funds within and for the benefit of the area within the State located in the region are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act.

### *Consent of States*

SEC. 222. Nothing contained in this Act shall be interpreted as requiring any State or political subdivision of a State to engage in or accept any program without its consent.

### *Limitation on expenditure of funds*

SEC. 223. Programs authorized under any section of this title, other than sections 201 and 216, shall be carried out under plans recommended by the Commission and approved by the President or such Federal official or officals as the President may designate.

## TITLE III—ADMINISTRATION

### *Research and demonstration projects and grants for administrative expenses*

SEC. 301. The Secretary of Commerce is authorized—

(a) either directly or through arrangements with appropriate public or private organizations (including the Commission), to provide funds for investigation, research, studies, and demonstration projects which will further the purposes of this Act; and

(b) either directly or through arrangements with the Commission, to make grants for administrative expenses to local development districts. The amount of any such grant shall not exceed the difference between existing non-Federal funds provided for administrative expenses and the total funds needed for an expanded program and shall in no event exceed seventy-five per cent of such expenses in any one fiscal year. The non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services. Only local development districts which meet the requirements of subsections (a) and (b) of section 403 shall be eligible for assistance under this section.

### *Use of available facilities*

SEC. 302. To the fullest extent practicable in carrying out the provisions of this Act, the Federal officers and employees involved shall use the available services and facilities of other departments, agencies, and instrumentalities of the Federal Government, but only with their consent and, where appropriate, on a reimbursable basis. The foregoing requirement shall be implemented to avoid the duplication of existing staffs and facilities in any department, agency, or instrumentality of the Federal Government.

### *Delegation by Secretary of Commerce*

SEC. 303. The Secretary of Commerce is authorized to delegate his functions under this Act, to the extent he deems appropriate, to the Administrator of the Appalachian Development Corporation appointed pursuant to section 402. The authority hereby granted shall be in addition to, and not in limitation of, any authority now existing or otherwise granted by this Act.

### *Annual report*

SEC. 304. Not later than six months after the close of each fiscal year, the Commission shall prepare and submit to the Governor of each State in the region and to the President, for transmittal to the Congress, a report on the activities carried out under this Act during such year.

### *Review by independent committee*

SEC. 305. The programs authorized by this Act shall be reviewed by an independent committee appointed by the Secretary of Commerce. The committee members shall be composed of both private citizens and Federal, State, and local officials, and shall be compensated by the Commission. The committee shall examine the effectiveness of such programs and make recommendations with regard to their continuation and modification. Such examination shall begin at the start of the Commission's fifth year of operations, and such recommendations shall be made within ninety days thereafter.

## TITLE IV—APPLICATION DEVELOPMENT CORPORATION

### *Creation of corporation*

SEC. 401. In order to provide financial assistance to local development districts in the region, there is hereby created as an agency of the United States, subject to the direction and supervision of the President or the head of such department or agency as he may designate, a body corporate to be known as the Appalachian Development Corporation (hereinafter referred to as the "Corporation"), which shall have succession until dissolved by Act of Congress.

### *Management*

SEC. 402. The management of the Corporation shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate provided in section 106(a) of the Federal Executive Pay Act of 1956 (5 U.S.C. 2205(a)).

### *Local development districts*

SEC. 403. (a) As used in this title, the term "local development district" means (1) an incorporated body, organized and chartered under State law, (2) an agency or instrumentality of a State or local government, or (3) an agency or instrumentality created through an interstate compact, which body, agency, or instrumentality possesses the powers reasonably necessary to the performance of functions and the conduct of activities contemplated under this title and whose charter or authority shall include the economic development of counties, or parts of counties, or other political subdivisions within the region, or (4) an association or combination of such bodies, agencies, and instrumentalities.

(b) The charter or authority establishing a local development district shall state in general terms the objects for which the district is established, the name assumed by the district, the area or areas in which its operations are to be carried on, the place where its principal office is located, and, where applicable, the amount and classes of its shares of capital stock.

(c) Wherever appropriate, the operations and activities of a local development district may be undertaken in cooperation with other investors, lenders, financial institutions, and public agencies and instrumentalities, incorporated or unincorporated.

(d) Each charter or authority establishing a local development district, and amendments thereto, shall be forwarded to the Corporation prior to any application for financial assistance pursuant to section 404. The Corporation may prescribe such rules and regulations for the eligibility of local development districts for financial assistance as it deems necessary.

### *Financial assistance*

SEC. 404. (a) The Corporation is authorized to purchase the obligations of, or make loans to, local development districts upon such terms and conditions as the Corporation may deem appropriate. For purposes of this title, the purchase of such obligations and the making of loans shall be referred to as "financial assistance." Prior to extending financial assistance, the Corporation shall consider the views of the Commission and other appropriate agencies regarding the financial assistance sought. The Corporation shall make such examinations and require such reports of the organization, financial condition, operations, and activities of each local development district as it shall deem neecssary and appropriate, and may impose charges for the cost of such examinations.

(b) Approval of financial assistance to a local development district shall be subject to the following restrictions and limitations:

(1) The project for which financial assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project;

(2) The project is consistent with plans approved by the Commission;

(3) The financial assistance is not otherwise available on reasonable terms from private sources or from other Federal programs;

(4) There is reasonable assurance of the retirement or repayment of the financial assistance;

(5) The amount of the financial assistance, plus the amount of other funds available for such projects, are adequate to assure the completion thereof;

(6) The local development district agrees to purchase stock in the Corporation as determined under section 405; and

(7) The financial assistance will not be used in relocating establishments from one area to another, or to finance the cost of industrial plants, commercial facilities, machinery, or working capital.

(c) No obligations shall be purchased and no loans shall be made which have maturity dates in excess of forty years, but the Corporation may authorize deferment of the initial principal repayments for not to exceed five years.

(d) The financial assistance extended under this section shall bear interest at a rate determined by the Corporation which shall not be less than the sum of (1) the current average market yield on outstanding marketable obligations of the United States of comparable maturities as determined by the Secretary of the Treasury, plus one-quarter of 1 per centum, and (2) allowance for administrative expenses and losses.

(e) The Corporation is also authorized to make temporary advances, bearing the same rates of interest as prescribed in subsection (d), to a local development district prior to the completion or permanent financing of the project involved.

### *Preferred and common stock*

SEC. 405. (a) The Corporation shall have nonvoting common stock, and initially shall also have nonvoting preferred stock to which the Secretary of the Treasury shall subscribe as provided in subsection (b). All stock of the Corporation shall have a par value of $100 per share, and shall not be transferable except on the books of the Corporation and then only to a State in the region or to a local development district. At the option of the Corporation such stock shall be retirable at par value at any time. With respect to the nonvoting preferred stock held by the Secretary of the Treasury, the Corporation shall pay into miscellaneous receipts of the Treasury dividends for each fiscal year, or portion thereof, from the date or dates the capital represented by such stock is initially transferred to the Corporation until such stock is retired, at rates determined by the Secretary of the Treasury on such date or dates, taking into consideration the current average market yield to maturity on marketable obligations of the United States, with a remaining maturity period of fifteen years or more, outstanding on such date or dates. Such dividend payments may be deferred with the approval of the Secretary of the Treasury, but any dividend payments so deferred shall themselves become cumulative.

(b) Within the limits of appropriations available therefor to the Secretary of the Treasury, the Corporation is authorized from time to time to issue and deliver to the Secretary of the Treasury, and the Secretary of the Treasury is authorized and directed to accept and make payment for, subject to call by the Corporation, preferred stock of the Corporation having an aggregate par value of $50,000,000, and for such purpose there is hereby authorized to be appropriated the sum of $50,000,000 without fiscal year limitations.

(c) Each local development district which sells its obligations to, or borrows from, the Corporation shall subscribe and pay for shares of common stock of the Corporation in an amount at least equal to one share for every $10,000 worth of obligations thus sold and funds thus borrowed, or fractions thereof. Such dividends as may be declared by the Corporation in its discretion shall be paid by the Corporation to the holders of its common stock, but in any one fiscal year the Corporation shall not pay dividends applicable to such common stock which exceed in the aggregate 5 per centum of the par value of the outstanding common stock of the Corporation: *Provided*, That pending the retirement of all the outstanding preferred stock of the Corporation such percentage with respect to any one fiscal year shall not exceed the percentage rate of the dividend applicable to the preferred stock of the Corporation for that fiscal year.

(d) The Secretary of the Treasury shall permit the retirement of the preferred stock held by him in the manner provided in this subsection. Funds of the Corporation, after repayment of any borrowing from the Treasury, shall be available to retire the preferred stock held by the Secretary of the Treasury as rapidly as the Corporation shall deem feasible. Concurrently with the retirement of the last of such outstanding shares of preferred stock, the Corporation shall pay into miscellaneous receipts of the Treasury an amount equal to that part of the retained earnings of the Corporation which shall be deemed to have been earned through the use of the capital represented by the stock held by the Secretary of the Treasury from time to time. The amount of such payment shall be determined by applying to such retained earnings the percentage which is equivalent to the proportion borne by the paid-in capital represented by the Secretary of the Treasury's stock to the total paid-in capital of the Corporation, computed monthly from the date of the initial transfer to the Corporation of the capital represented by such preferred stock to the retirement of the last of the outstanding shares of preferred stock of the Corporation.

(e) As promptly as practical after all of the preferred stock of the Corporation held by the Secretary of the Treasury has been retired, the President shall transmit to the Congress recommendations for such legislation as may be necessary or desirable to make provisions for the transfer to the owners of the outstanding common stock of the Corporation of the assets and liabilities of the Corporation and its management and control.

### *Issuance of obligations to public*

SEC. 406. (a) For the purposes of this title, the Corporation shall have the power to issue obligations to the public. The aggregate amount of obligations of the Corporation outstanding at any one time shall not exceed such amounts as may be authorized from time to time without fiscal year limitations in appropriation acts and as are necessary to carry out the purposes of the Corporation, and no additional obligations of the Corporation shall be issued to the public at any time if, as a result, the total amount of such outstanding obligations would thereby exceed ten times the sum of the Corporation's capital and retained earnings. Such obligations of the Corporation shall not be obligations of, nor shall the payment of the principal thereof or interest thereon be guaranteed by, the United States, and the Corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Corporation. The Corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price. Such obligations of the Corporation shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(b) The Corporation is authorized to borrow from the Treasury such amounts as may be necessary to redeem its obligations issued under subsection (a) and such amounts as may temporarily be required to meet current requirements pending the issuance of its obligations which have been authorized in accordance with the procedures provided in subsection (a). Such borrowings from the Treasury shall be upon such terms and have such maturities as may be determined by the Secretary of the Treasury, taking into consideration the current average market yield, during the month preceding the making of the loan to the Corporation, of outstanding marketable obligations of the United States having maturities comparable to those of the loans being made to the Corporation. For the purpose of this section the Corporation may issue to the Secretary of the Treasury obligations to be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations. The Secretary of the Treasury is authorized and directed to purchase any obligations issued by the Corporation under the authority of this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sales of any securities issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.) and the purposes for which securities may be issued under that Act are extended to include any purchases of obligations of the Corporation hereunder. Interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. Deferred interest shall not be charged against any limitation imposed under this section on the amounts the Corporation is authorized to borrow from the Treasury.

### *Receipts and deposits*

Sec. 407. (a) Any receipts from the activities of the Corporation shall be available for payment of all obligations and expenditures of the Corporation. Moneys of the Corporation not required for current operations shall be deposited in the Treasury, or invested in obligations of, or guaranteed as to principal and interest by, the United States, or credited to the appropriation or account from which advanced where it shall be held for future advances.

(b) Appropriations are authorized for payment to the Corporation in the form of a grant of such amounts as may be necessary to cover losses estimated in the annual budget program of the Corporation and actual losses of prior years not previously appropriated for, but only when the Administrator determines that such losses are so extraordinary that they cannot be recovered from future income of the Corporation.

### *Tax exemption*

Sec. 408. The Corporation, including its franchise, income, capital, retained earnings, loans, advances, mortgages or other security holdings, sales and purchases, notes, and other instruments by it or issued to it by its borrowers, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that the Corporation is authorized to make payments to State and local governments in lieu of property taxes upon real property which was subject to State and local taxation before acquisition by the Corporation. Such payments may be in the amounts, at the times, and upon the terms the Corporation deems appropriate, but the Corporation shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such real property in the condition in which it was acquired.

### *Contribution to employee funds*

Sec. 409. The Corporation shall contribute to the civil service retirement and disability fund a sum as provided by section 4(a) of the Civil Service Retirement Act (5 U.S.C. 2254(a)), except that such sum shall be determined by applying to the total basic salaries (as defined in that Act) paid to the empolyees of the Corporation covered by that Act, the per centum rate determined annually by the Civil Service Commission to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in said section 4(a). The Corporation also shall contribute at least quarterly, to the employees' compensation fund, the amount determined by the Secretary of Labor to be the full cost of benefits and other payments made from such fund on account of cases arising from injuries to its employees. The Corporation also shall pay into the Terasury as miscellaneous receipts that portion of the cost of administration of the respective funds attributable to its employees, as determined by the Civil Service Commission and the Secretary of Labor.

### *Use of other Federal agencies*

Sec. 410. The Corporation may, with the consent of the entity concerned, accept and utilize, on a reimbursable or nonreimbursable basis, the officers, employees, services, facilities, and information of any other department, agency, or instrumentality of the Federal Government.

### *Offices*

Sec. 411. The Corporation shall maintain its principal office in the District of Columbia and shall be deemed for purposes of venue in civil actions to be a resident thereof. Offices may be established by the Corporation in such other place or places as it may deem necessary or appropriate in the conduct of its business.

### *General powers*

Sec. 412. To carry out the specific powers and duties herein authorized, the Corporation shall have the general power to—

(a) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(b) adopt, amend, and repeal by-laws, rules, and regulations governing the conduct of its business and the performance of its powers and duties;

(c) acquire in any lawful manner, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate to carry out the purposes of the Corporation;

(d) accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any purposes herein authorized;

(e) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States, or with any State or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation;

(f) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers, attorneys, agents, and employees as shall be necessary to carry out the purposes and powers of the Corporation; vest them with powers and duties and define their authority; and obtain services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a);

(g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject only to this title and the laws specifically applicable to Government corporations;

(h) sue and be sued in its corporate name, and complain and defend in any court of competent jurisdiction: *Provided*, That nothing herein shall be construed to exempt the Corporation from the application of sections 507(b) and 2679 of title 28, United States Code, or of section 367 of the Revised Statutes (5 U.S.C. 316); and *Provided, further*, That no attachment, injunction, or other similar process, mesne or final, shall be issued against the Corporation with respect to its property or against the property of the Corporation;

(i) use the United States mails in the same manner and upon the same conditions as the executive departments of the United States;

(j) execute, in accordance with its bylaws, rules, and regulations, all instruments necessary or appropriate in the exercise of any of its powers;

(k) have, in the payment of debts out of bankrupt, insolvent, or decedents' estates, the priority of the United States except where such priority is specifically waived by the Corporation;

(l) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(m) appoint such advisory committees as it deems necessary for the purposes of this title; and

(n) take such other actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it: *Provided*, That the Corporation shall undertake no new types of activities not included in its annual budget program or other authorization.

### *Annual report*

Sec. 413. The Corporation shall submit to the President for transmission to the Congress at the beginning of each regular session of the Congress an annual report of its operations under this title.

### *Amendment of Government Corporation Control Act*

Sec. 414. Section 101 of the Government Corporation Control Act (31 U.S.C. 846), is hereby amended by inserting the words "Appalachian Development Corporation;" after the words "Saint Lawrence Seaway Development Corporation;".

### *Effective date of title*

Sec. 415. This title shall be effective on July 1, 1965, or such earlier date as may be determined by the President.

## TITLE V—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

### *Authorization of appropriations*

Sec. 501. In addition to the appropriations specifically authorized to carry out certain programs and purposes of this Act, such amounts as may be necessary are hereby authorized to be appropriated, without fiscal year limitations, to carry out the remaining programs and purposes of this Act.

### *Definition of Appalachian region*

Sec. 502. As used in this Act, the term "Appalachian Region" or "the Region" means that area of the eastern United States consisting of the following counties: In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Jackson, Jefferson, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston; in Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield; in Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clay, Clinton, Cumberland, Elliott, Estill, Floyd, Garrard, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe; in Maryland, the counties of Allegany, Garrett, and Washington; in North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancy; in Ohio, the counties of Adams, Athens, Belmont, Brown, Clermont, Gallia, Guernsey, Highland, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Noble, Pike, Ross, Scioto, Vinton, and Washington; in Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming; in Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White; in Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe; and all the counties of West Virginia.

### *Severability*

SEC. 503. If any provision of this Act, or the applicability thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

The section-by-section analysis, presented by Mr. RANDOLPH, is as follows:

## SECTION-BY-SECTION ANALYSIS OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1964

This is the section-by-section analysis which in summary fashion describes the Appalachian Regional Development Act of 1964. Please note that this bill does not contain the entire special Appalachian program for fiscal 1965 described in the report of the President's Appalachian Regional Commission. The bill only contains provisions covering the programs which require new authorizations or modifications to existing authorizations.

Some of the additional programs described in the report and not included in the bill, which will be begun or supplemented in fiscal 1965, are: An expansion of Corps of Engineers and Soil Conservation Service water control projects; the construction of additional national forest development roads; supplementation of research programs seeking uses for Appalachian hardwoods; acquisition of additional lands in the national forest system; provision of an Appalachian plant materials center; extension of loans to farmers participating in the Appalachian pasture improvement program through the Farmers Home Administration; and an expansion of mapping and hydrological studies of the Geological Survey. This is not an inclusive listing of the programs that may be supplemented. Funds to carry out the Appalachian program will be provided in a special Appalachian supplemental appropriations bill.

The proposed bill is entitled the "Appalachian Regional Development Act of 1964." Section 2 of the bill sets forth the congressional findings of a lag in the economic growth of the Appalachian region (hereafter called "the region") and states that it is the purpose of the act to promote the economic development of the region and to establish a framework for joint Federal and State efforts to attack the region's common problems on a coordinated regional basis.

### TITLE I—THE APPALACHIAN REGIONAL COMMISSION

Title I provides for the creation and operation of a joint Federal-State commission to plan and coordinate the various special activities and undertakings involved in the development and improvement of the region.

Section 101 establishes the Appalachian Regional Commission (hereafter called "the commission"), composed of one Federal member and one member from each State in the region. Decisions by the commission shall require the affirmative vote both of the Federal member and of a majority of the State members. The Federal member shall be appointed by the President, with the advice and consent of the Senate, and shall receive a salary (at present levels) of $20,000 annually. Each State member shall be the Governor of the State or his designee (unless State law otherwise provides) and shall be compensated by his State as provided by State law.

Section 102 sets forth in detail the planning and coordinating functions of the commission, and defines the activities which it will undertake, including research, and demonstration projects and studies of public and private programs in the region.

Section 103 authorizes the commission to make recommendations to the President, State Governors, and local officials concerning the expenditure of public funds and other governmental activities in the region, as well as any needed legislation.

Section 104 requires the President to make arrangements for effective liaison between the Federal Government and the commission and for a coordinated review within the Federal Government of the commission's recommendations.

Section 105 provides that the commission's expenses will be paid by the Federal Government during the first 2 full fiscal years and equally by the States in the region and the Federal Government thereafter. Each State's share will be determined by the commission. No State or any political subdivision or resident thereof shall receive assistance authorized by the act while that State is delinquent in its payments.

Section 106 sets forth a number of necessary administrative powers of the commission.

Section 107 authorizes the commission to hold hearings and to make arrangements to obtain information from other Federal agencies.

Section 108 applies to the State members and employees of the commission substantially the same conflict-of-interest standards that apply to the Federal member under existing Federal law (18 U.S.C. 208 and 209).

### TITLE II—SPECIAL APPALACHIAN PROGRAM

Title II deals with special Federal programs to assist in the economic development of the region. Part A authorizes four entirely new programs. Part B modifies, and authorizes supplementation of, certain existing programs so as to increase their impact and effectiveness in the region. Part C contains important general provisions.

### *Part A—New programs*

Section 201 authorizes Federal assistance for the construction of 2,350 miles of development highways in the region, designed to open up areas whose development has been inhibited by lack of adequate access, and 500 miles of local access roads. Such Federal assistance shall be extended only in accordance with recommendations of the Commission approved by the Secretary of Commerce. Appropriations are authorized of $460 million to pay up to 50 percent of the costs of such construction, and of an additional $185 million to pay up to 80 percent of such costs for projects where both the Commission and the Secretary of Commerce find such additional assistance is required.

Section 202 authorizes grants for the construction and operation of multicounty demonstration health facilities. Construction grants shall not exceed 80 percent of costs or a total of $41 million. Operation grants may be up to 100 percent of costs for the first 2 full fiscal years and up to 50 percent for the next 3 full fiscal years.

Section 203 authorizes the Secretary of Agriculture to make grants of up to 80 percent of the costs of improving and developing pasture land for livestock in the region (but not more than 25 acres per person), and to utilize both local committees under the Soil Conservation and Domestic Allotment Act and the Commodity Credit Corporation in carrying out the program.

Section 204 authorizes the Secretary of Agriculture to provide technical assistance to timber development organizations (designed to improve timber productivity and quality and to increase the return to landowners) and to provide, through loans, up to one-half of the initial capital requirements of such organizations.

### *Part B—Supplementations and modifications of existing programs*

Section 211 modifies the Vocational Education Act of 1963 so that grants may be made thereunder for construction of vocational education facilities in the region without regard to the provisions of that act relating to appropriation authorization ceilings or to allotments among the States.

Section 212 modifies the Federal Water Pollution Control Act so that grants may be made thereunder for construction of sewage treatment works in the region without regard to the provisions of that act relating to appropriation authorization ceilings or to allotments among the States.

Section 213 is intended to make it clear that as part of his general mandate under the Organic Act of May 15, 1862, establishing the Department of Agriculture, the Secretary of Agriculture is authorized to provide technical assistance to locally established organizations engaged in timber production and wood products manufacture and marketing.

Section 214 modifies the two acts authorizing fish and wildlife restoration projects so that grants may be made thereunder to demonstrate strip mine reclamation without regard to the provisions of those acts relating to apportionments among the States and to limitations on the availability period of funds. This section, like sections 211 and 212, also provides that grants thereunder may be made only out of funds appropriated to carry out the Appalachian Regional Development Act of 1964 and not out of the regular appropriations for those other acts.

Section 215 amends the Housing Act of 1954 so as to make the Appalachian Regional Commission eligible to receive comprehensive planning grants under that act.

Section 216 authorizes the Secretary of Commerce, pursuant to recommendations of the Commission approved by him, to increase the Federal funds available under designated Federal grant-in-aid programs (excluding roadbuilding programs) above the maximum percentage otherwise authorized by the applicable law, but, after 2 years, in no event in excess of 80 percent. The practical effect, of course, is to decrease in such cases the amount of matching funds that a recipient of a grant-in-aid must supply.

### *Part C—General provisions*

Section 221 requires the States and their political subdivisions to maintain public expenditures in the region in order to receive benefits under the act.

Section 222 insures that no State or political subdivision thereof will be required to engage in or accept any program without its consent.

Section 223 requires that all programs under title II (other than the highway program and the supplementation of Federal grant-in-aid programs established by secs. 201 and 216) shall be carried out under plans recommended by the commission and approved by the President or his designee. Sections 201 and 216 are excluded from these general provisions because similar but more detailed provisions for the development and approval of program plans are specifically contained in those sections.

### TITLE III—ADMINISTRATION

Section 301 authorizes the Secretary of Commerce to provide funds for research and demonstration projects and for up to 75 percent of the administrative expenses of local development districts.

Section 302 requires all Federal officials to use, as far as practicable, available Federal services and facilities in carrying out the act, so as to avoid duplication.

Section 303 authorizes the Secretary of Commerce to delegate his functions under the act to the administrator of the Appalachian Development Corporation appointed under section 402.

Section 304 provides for the preparation and submission of an annual report by the commission to the State Governors and to the President, for transmittal to Congress.

Section 305 provides for a review, after 5 years, of the programs authorized by the act. The review shall be made by an independent committee appointed by the Secretary of Commerce, which shall make recommendations for the modification and continuation of such programs.

### TITLE IV—APPALACHIAN DEVELOPMENT CORPORATION

Title IV provides for the creation, management, and financing of the Appalachian Development Corporation and describes its authorities and powers. The corporation would initially have mixed Federal and non-Federal ownership, although provision is made for eventual complete non-Federal ownership. So long as the Federal Government participates in the financing of the corporation, it would be managed as a Federal agency.

The corporation's main function would be to provide funds to local development districts in the Appalachian region. Such districts would include State-chartered corporations and State and local government instrumentalities organized to provide a broad range of development activities. In those cases where they cannot obtain funds elsewhere on a reasonable basis, such districts could obtain loans from, or sell their obligations to the corporation to secure funds for public facilities and other projects. Their obligations would be repaid from revenues derived from their projects or from taxes and special assessments.

Section 401—Creation of corporation: This section creates the corporation as a body corporate and an agency of the United States. It would have succession until dissolved by the Congress. The corporation would be a separate legal entity subject to direction and supervision by the President or the head of such agency as he may designate. The President is thus given the customary and necessary flexibility to delegate his supervisory powers to an agency head.

Section 402—Management: This section vests the management of the corporation in an administrator to be appointed by the President subject to Senate confirmation. The administrator would exercise the powers and functions of the corporation and be responsible for the conduct of its day-by-day affairs. He would receive compensation at a rate provided in section 106(a) of the Federal Executive Pay Act; that is, $20,000 per annum and the equivalent of an assistant secretary.

Section 403—Local development districts: Subsection (a) defines the term "local development district" to mean a State-chartered corporation, a State or local government agency or instrumentality, an interstate compact agency or instrumentality, or an association of such units which possesses the powers necessary to carry out activities under the title and which has as a purpose the economic development of areas in the Appalachian region.

Subsection (b) requires the charter of each local development district to set forth its objectives, name, area of operations, location of principal office and, where applicable, its amount and classes of capital stock. Subsection (c) authorizes local development districts to act cooperatively with other public and private lenders and institutions. Subsection (d) requires each district's charter or authority, and amendments thereto, to be submitted to the corporation in advance of the application for financial assistance. It also authorizes the corporation to prescribe the conditions under which districts will be eligible for financial assistance.

Section 404—Financial assistance: Subsection (a) authorizes the corporation to furnish two types of assistance to local development districts. It may either make loans to, or purchase the obligations of those districts. The obligations might or might not be tax exempt depending on the authority of the districts. Before extending financial assistance, the corporation would seek the views of the Appalachian Regional Commission and other appropriate agencies as to the guidelines and policies it might follow and the priority areas in which it should extend assistance. It would also be empowered to make necessary examinations of, and secure reports from the districts and charge for such examinations.

Subsection (b) sets forth other general conditions for the extension of financial assistance by the corporation. Assistance is to be extended only if it will improve employment opportunities, average levels of income or economic and social development on a continuing basis; if the project being aided is consistent with general plans approved by the Appalachian Regional Commission; if assistance is not otherwise available on reasonable terms; if there is reasonable assurance of repayment; if the assistance, together with other available funds, is adequate to complete the projects involved; if the district agrees to purchase corporation stock; and if the assistance will not be used to relocate establishments or finance the cost of industrial and commercial facilities, machinery, or working capital.

Subsection (c) limits the term of any financial assistance provided by the corporation to 40 years, but authorizes the corporation to defer initial repayments of principal for up to 5 years. Subsection (d) specifies that any financial assistance shall bear interest equal to the current average market yield on outstanding marketable U.S. obligations of comparable maturities plus one-quarter percent and an allowance for administrative expenses and losses. The objective, therefore, is to make the corporation fully self-sustaining in the long run and to have it earn a sufficient rate of interest to cover all costs. Subsection (e) authorizes the corporation to make temporary advances at the same rate of interest, but only until the project is completed or permanent financing provided.

Section 405—Preferred and common stock: Subsection (a) provides that the corporation shall have nonvoting common and preferred stock having a par value of $100. Its stock would be retirable at par at the option of the corporation and would be transferable only to a State in the Appalachian region or to a local development district. The latter arrangement is in keeping with the concept of eventual non-Federal ownership of the corporation.

Subsection (b) authorizes $50 million to be appropriated after fiscal 1965 which, when available, would be used by the Secretary of the Treasury to pay for the preferred stock of the corporation at the option of the corporation.

Subsection (a) requires the corporation to pay dividends into the Treasury on its stock held by the Secretary at rates determined by the Secretary taking into consideration the current average market yield to maturity on marketable U.S. obligations having a maturity period of 15 years or more. Thus, the Treasury would recover its costs in purchasing corporation stock. Provision is made for the deferral of dividend payments, but deferred dividends would become cumulative.

Subsection (c) requires each local development district to purchase at least one share of the corporation's common stock for every $10,000 worth of financial assistance, or fractions thereof, it receives from the corporation. Dividends may be paid on such stock at rates not in excess of 5 percent.

Subsection (d) permits the corporation to retire its preferred stock as rapidly as it deems feasible after repayment of any other funds borrowed from the Treasury. Concurrently with the retirement of the last share of preferred stock, the corporation must pay into the miscellaneous receipts of the Treasury an amount equal to that part of the corporation's retained earnings which have been earned through use of the capital represented by the preferred stock.

Subsection (e) requires the President to transmit to Congress recommendations for the transfer of the corporation's assets, liabilities, and management to the owners of its common stock after the preferred stock has been retired.

Section 406—Issuance of obligations to public: Subsection (a) authorizes the corporation to sell its own obligations to the public in amounts which will not exceed amounts authorized in appropriation acts and 10 times the sum of the corporation's capital and retained earnings. Its obligations would not be guaranteed by the United States and would not be exempt from any taxation. The corporation would use the funds thus secured to make loans to, and purchase the obligations of, local development districts.

Subsection (b) authorizes the corporation to borrow from the Treasury amounts necessary to redeem its obligations sold to the public and to meet current requirements pending the sale of authorized obligations to the public. This form of indirect guarantee will enable the corporation to market its own unguaranteed obligations at a reasonable rate. The corporation would pay interest on its borrowings at rates determined by the Treasury. The Treasury would be authorized to use public debt transactions to purchase the corporation's obligations under this subsection.

Section 407—Receipts and deposits: This section contains standard language creating a revolving fund for a business-type program. The corporation's receipts would be available for payment of its obligations and expenditures. It also contains standard language regarding the deposit and investment of corporation funds not required for current operations. Finally, it contains an authorization for appropriations to cover unrecoverable losses.

Section 408—Tax exemption: This section exempts the corporation, its franchise, capital, earnings, income, and security holdings from taxation, but authorizes the corporation to make payments in lieu of taxes on its real property.

Section 409—Contribution to employee funds: This section contains language requiring the corporation to make necessary payments to cover the costs, including administrative expenses, of providing civil service retirement and employees' compensation benefits to its employees.

NOTE.—The first sentence of this section should be deleted if the retirement financing bill (S. 1562) now before the Congress is enacted before this bill.

Section 410—Use of other Federal agencies: This section authorizes the corporation to use the personnel, services, facilities and information of other agencies with their consent on a reimbursable or nonreimbursable basis.

Section 411—Offices: This section requires the corporation to maintain its principal office in the District of Columbia and to establish other offices as may be needed.

Section 412—General powers: This section provides the corporation with a series of general powers that are standard in corporate-type activities or necessary for this corporation's operations. Included are powers relating to the corporate seal; bylaws, rules and regulations; acquisition, use, and disposal of property; acceptance of gifts; entrance into contracts and other necessary business transactions; employment and compensation of personnel subject to civil service and classification laws; employment of experts and consultants; determination of the character of and necessity for its obligations and expenditures; suing and being sued; use of U.S. mails; execution of instruments; corporation priority in the payment of debts; collection and compromise of obligations; and appointment of advisory committees. The corporation would also be given the standard authority to take other necessary actions to carry out its powers; provided, that it may not undertake new types of activities not included in its annual budget program or other authorization.

Section 413—Annual report: This section requires the corporation to prepare an annual report of its operations.

Section 414—Amendment of Government Corporation Control Act: This section amends the Government Corporation Control Act to include the corporation in the listing of wholly owned Government corporations. This action will make the corporation subject to the budget, audit and certain general controls applicable to other wholly owned corporations. For example, it will have to submit an annual budget program, which shall be a business-type budget, to the President.

Section 415—Effective date of title: The title would be effective July 1, 1965, or such earlier date as the President might determine.

### TITLE V—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

Section 501 authorizes the appropriation of such amounts as are necessary to carry out the act.

Section 502 lists the counties that are included in the term "Appalachian region" as used in the act. These counties are the 340 counties listed in appendix A of the report of the President's Appalachian Regional Commission.

Section 503 is the usual severability clause.

Mr. RANDOLPH. Mr. President, this measure is the product of study and deliberation by the Governors and their representatives at the Conference of the Appalachian Governors, and by officials of many departments of the executive branch of the Federal Government.

At the request of the late President John F. Kennedy, on April 9, 1963, the President's Appalachian Regional Commission was formed, consisting of a representative designated by each of the Governors of the Appalachian States and the representative of each of the heads of the major Federal departments and agencies.

The President charged this commission to prepare a comprehensive action program for the economic development of the Appalachian region.

Following the death of President Kennedy, President Lyndon B. Johnson reaffirmed the commitment of the administration to the economic development of Appalachia and directed the early completion of the report of the President's Commission. This legislation is the outgrowth of that lengthy and comprehensive study of the Appalachian region.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that I may be permitted to proceed for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Appalachia, as encompassed in this bill, is a highland region which sweeps diagonally across 10 States from northern Pennsylvania to northern Alabama, and includes all of the State of West Virginia—the only State which is totally within the region. It embraces an area of approximately 165,000 square miles, with a population of approximately 15 million. Despite the rich mineral and natural resources of the region, and a stock of people who are strong in their determination to work out their problems with the aid of the Government, a changing technological and urban civilization has left much of Appalachia in an economic and social backwater.

The administration's program, as embodied in the proposal now being submitted to the Senate will do much to bring this region back into the mainstream of American prosperity and economic development.

I am gratified that already several Members of the Senate, including the Senator from Oregon [Mr. MORSE], the Senator from Alaska [Mr. GRUENING], the Senator from Illinois [Mr. DOUGLAS], and other Senators have indicated that they desire to join in cosponsorship of the measure.

I wish to express my personal and official thanks to the Senator from Kentucky [Mr. COOPER], who is the ranking minority member of the Public Works Committee, to which this measure, I am sure, will be referred, for his careful and constructive attention to this problem in his own State of Kentucky and throughout the region.

If appropriate, I should like to yield to the Senator from Kentucky at this point; or he may wish to be recognized in his own right.

Mr. COOPER. Mr. President, I am very glad to join the distinguished senior Senator from West Virginia in introducing the proposed Appalachian Regional Development Act of 1964, which will be referred to the Committee on Public Works, on which we both serve.

My colleague from West Virginia, Senator RANDOLPH, has been a great fighter for the development of his State and the entire Appalachian region. We have worked together on other measures to help the people of this region, and we will work together to secure early action in the Public Works Committee, and in the Senate, on this important bill.

Last Friday, I had the opportunity to visit in eastern Kentucky, in the heart of this area, with the President of the United States, who saw firsthand the conditions that exist there. The promptness with which the President has acted deserves similar dispatch and decision on the part of the Congress.

I need not point out that we have read and heard much about Appalachia in recent months. One of the best and recent books about this region—"Night Comes to the Cumberlands"—was written by my fellow Kentuckian, Harry Caudill, who lives in eastern Kentucky and knows its problems intimately, and the attention of the Nation has been called to problems that exist in this region.

I do not think that the problems of eastern Kentucky, and of similar areas in the Appalachian Mountains, are new ones, but a good part of the distress does stem from recent technological changes directly affecting the coal mining industry. These changes and the ever widening use of machinery have displaced thousands of miners—many of whom will never find work in the mines again. But even before the problems in the mining industry had reached their present stage, this area, with its rough though beautiful terrain, with its lack of roads, and with its valleys ravaged by almost annual floods, had been isolated from the main forward thrust of development in the United States.

In this region live people of pioneer stock, ever faithful to our needs in war, and loyal to our country through many generations. There are no stronger, dignified, or more intelligent people in any region of the United States, and they remain determined and uncomplaining. Some parts of the area in which these people live have reached a degree of prosperity, but many thousands of people, because of the conditions I have described, have been passed by, while other Americans in other sections of our country were achieving increasingly higher standards of living.

I have lived in eastern Kentucky all my life, on the edge of this area I am describing. I have traveled eastern Kentucky many times, visiting every county and community, and I think this section of Kentucky is typical of our entire Appalachian region. I can say to the Senate that, despite the fact that our country is affording most of its people the highest living standards in our history, thousands of people—and thousands of families—in eastern Kentucky and throughout the Appalachian region are living under conditions which are worse than those that prevailed during the depression of the 1930's. A great country, of justice and compassion, cannot allow this situation to continue.

I shall not take time now to detail the proposals in the bill. As the Senator from West Virginia [Mr. RANDOLPH] has said, they represent the constructive thought and the recommendations of President Kennedy, and now those of President Johnson, as well as the ideas of the Governors of the States involved, and the suggestions of many interested citizens. They also incorporate proposals which many of us have made here in the Congress, and I am pleased that these proposals have been brought together under the leadership of Under Secretary of Commerce Franklin D. Roosevelt, Jr. I am also pleased that the President has requested $228 million in funds already in the budget submitted for fiscal year 1965, and these funds would enable this program to get underway this year.

The bill would provide for cooperative Federal-State-local government action, and it would provide for both private and public participation in the development of communications, agriculture, timber, public facilities, and industrial financing. This development, vigorously prosecuted, will in time provide a foundation for economic growth, and it will serve to relieve the heavy unemployment in this area—unemployment which has reached rates unknown in any other part of the United States.

The message of the President also emphasizes flood protection and water resource development, and it calls for increased funds for accelerated construction of facilities to accomplish these objectives. This acceleration is absolutely essential to the development of the Appalachian region, for year after year the river basins of eastern Kentucky and the rest of Appalachia are ravaged by floods which bring a tragic loss of life, cause millions of dollars of property damage, and discourage local investment and enterprise. I am glad to say that, since 1953, flood protection facilities with an estimated cost of over $100 million have been constructed or placed under construction on the rivers of eastern Kentucky, and we have begun to make it a safer area in which to live and work. But still other projects in eastern Kentucky and throughout Appalachia must, as the President urges, be initiated and accelerated.

For many years, I have made proposals which would assist in the development of the Appalachian region, and I ask unanimous consent that excerpts from my remarks in the Senate on September 14, 1959, along with my separate views which were included in the March 23, 1960, report to the Senate by its Special Committee on Unemployment Problems, of which I was a member, be inserted in the RECORD following the conclusion of my remarks today.

The President has also included, in his message, support for coal research and development, and because coal is still the major resource and the basic industry in the area, I want to recommend again that TVA be requested to locate a steamplant at Artemus in southeastern Kentucky on its land. This steamplant could be built under the TVA Self-Financing Act, without necessity for additional appropriations, and it would do much to utilize all of the resources in the region for the people who live there.

I conclude by saying I am very happy that these recommendations and requests have been made, and I am very pleased to join with Senator RANDOLPH in introducing this legislation. I am very glad that the bill is being cosponsored by all of the Members of the Senate from the Appalachian area, including my colleague, Senator MORTON, who has worked to help develop the region. I thank the distinguished Senator from West Virginia, Senator RANDOLPH, who will lead our fight, and I know I speak for the people of eastern Kentucky and all Kentucky in voicing our appreciation for the interest and early action of President Johnson.

There being no objection, the views of the Senator from Kentucky [Mr. COOPER] and the remarks were ordered to be printed in the RECORD, as follows:

### REPORT OF SPECIAL SENATE COMMITTEE ON UNEMPLOYMENT PROBLEMS, MARCH 23, 1960

### ADDITIONAL VIEWS OF SENATOR JOHN SHERMAN COOPER

While joining in the conclusions and recommendations of the minority, I wish to state my disagreement with the section relating to foreign competition. The recommendations are far reaching and seem, in some instances, to be in conflict with the policy of expanded international trade, and certainly require greater study than our committee has given to this subject.

I also have reservations on the section dealing with migratory farm labor. This subject is now under study by a subcommittee of the Senate Committee on Labor and Public Welfare. There are problems regarding migratory labor and domestic farm labor that deserve full consideration by both the Committee on Labor and the Committee on Agriculture.

I desire also to make recommendations regarding a particular type of depressed area—the coal mining area, where technological changes in the industry have caused wide unemployment—and also what I shall call underdeveloped areas, where there is chronic unemployment as well as underemployment.

#### *Legislation for the assistance of depressed areas*

Legislation to assist depressed areas having high rates of unemployment should be enacted by the Congress this year.

The bill should include rural as well as urban areas. As local governments in the depressed areas are the first to exhaust tax resources, the contribution by the Federal Government should be along the lines of the Douglas bill, which I cosponsored, if an effective response from local communities is to be secured. Whatever the specifics of the various bills proposed to the Congress, the important objective is to secure the enactment of some form of legislation, as the programs will move slowly at their commencement.

#### *Executive action to assist depressed areas and underdeveloped areas*

If a bill providing assistance to depressed areas is enacted, it cannot be assumed that industries will be induced to locate in such areas. It is necessary that the Federal Government, in cooperation with the States, establish programs to develop the natural resources of the depressed areas, and to provide the basic industrial requirements which will attract industry to these regions.

My observations and studies of depressed areas, such as the coalfields of eastern Kentucky, West Virginia, and Tennessee, lead me to the obvious conclusion that they are underdeveloped regions, compared to other areas of the United States.

I recommend that the executive branch of the Government coordinate and direct existing programs of its departments and agencies to provide immediate aid to the unemployed, whether in urban or rural areas, and, in cooperation with the States, that it initiate plans for the development of the resources and industrial requirements of these underdeveloped areas.

To carry this recommendation into effect, I urge that the President form a task force of officials in the departments and agencies of the Government, whose existing programs are applicable to such areas. It should be directed by a chairman who will give full time to its work.

I suggest the following examples of immediate action that could be taken by the executive branch:

(1) The Department of Labor should increase the number of employment offices in labor surplus areas, even if on a temporary basis. These offices should make a concerted effort to locate every employable person and, if necessary, funds should be provided, or requested of the Congress, to transport employable persons to areas where job opportunities exist.

(2) The Department of Agriculture should establish a home garden program in depressed rural areas. Hundreds of thousands of people are now living on surplus foods of limited and monotonous variety. The Department of Agriculture, through its agricultural extension offices in the States, would find enthusiastic cooperation from official, civic, and church groups in establishing a garden program. Such a self-help, local, and cooperative program, would raise the morale of the people of depressed areas, as well as supply a larger variety of food, fresh vegetables, and food for canning.

Turning to the longer term goals of an executive task force, I suggest the following programs which would develop the resources of the many depressed areas and enable them to meet requirements necessary for industrial investment.

#### *(1) Communication and transportation*

Many depressed sections, such as the mountainous coal-mine areas, are served by inferior roads and lack airports. This lack of communication and transportation inhibits development and discourages the location of industries. The Bureau of Public Roads in the Department of Commerce, in cooperation with the States, should give priority to the location and construction of better road systems in these areas and outlets to the markets which their resources serve. Similarly, the Federal Aviation Agency and the State aviation agencies should give priority to the establishment of necessary civil aviation airports.

#### *(2) Water resources development*

The establishment of industry depends to a large degree upon an adequate supply of water. The Corps of Engineers, Department of the Army, directs a large program of public works and river development. The executive branch and the appropriate committees of the Congress should give priority to the development of water resources in the underdeveloped and depressed areas when essential for flood protection and the provision of water for industry. Reservoirs would also provide recreation, and opportunities for the attraction of tourists.

#### *(3) The Soil Conservation Service*

The Department of Agriculture should consider amendments to the Small Watershed

Act, whose programs, by reason of the present cost-benefit ratio requirements, are usually unavailable to the mountainous coal-mining depressed areas.

### (4) *Development of farm and forest resources*

(*a*) The Department of Agriculture should expand its rural development program to embrace rural counties in depressed areas.

(*b*) The Department of Agriculture should, in cooperation with the States, press for the development of its forestry and agricultural programs in rural depressed areas, and particularly in depressed mining areas, for conservation purposes and to develop new sources of wealth.

### (5) *Department of the Interior*

I join with my colleagues of both the majority and minority in urging the establishment of a coal research program, either under an independent agency or under the Department of the Interior.

JOHN SHERMAN COOPER.

### REMARKS OF SENATOR JOHN SHERMAN COOPER IN THE SENATE ON SEPTEMBER 14, 1959

During the last year our country has made a remarkable recovery from the recession of 1958. Our Nation has reached new peaks in the gross national product, in total employment, in wages and personal income, peaks which the country has never before known. Yet it remains a fact that many areas of the country continue to be depressed, with large numbers of unemployed; and many other areas of the country can properly still be called underdeveloped.

The amendment before the Senate, which I shall subsequently introduce in the form of a bill, would ask the administration to establish an interagency committee composed of seven members, with two representatives from the Department of Commerce, one being from the Bureau of Public Roads, one from the Department of the Interior, one from the Department of Agriculture, one from the Corps of Engineers, and one from the Federal Aviation Agency. The Interagency Commission, in connection with the States and local bodies, would study and make a preliminary report to the President and Congress by March 1, 1960, on means by which the underdeveloped areas in the United States could advance their economic growth.

As we consider tonight aid for underdeveloped countries throughout the world, I press for action at home very sincerely, because I do not believe we can forget that in our own country there are many areas in which serious unemployment exists, and for which long-term plans for development should be established. At least the minimum necessities of such areas—roads, airports, water for industry, agriculture, and forestry, industrial development—could be planned, by the cooperative efforts of the Federal Government, States, State compacts, and private bodies.

The commission could select typical areas, such as the Appalachian regions, of which Kentucky, West Virginia, and Tennessee are parts, and where there is need for basic development.

I wanted to bring this matter to the attention of the Senate, and particularly to the attention of the administration, so that progress can be made before the next session begins. I believe that within the scope of existing programs such as Federal aid for roads, airports, agriculture, forestry, water development, and parks, long-range programs can be worked out to assist the underdeveloped regions and the depressed areas in the United States.

Mr. MORTON. Mr. President, I am happy to join with the distinguished Senator from West Virginia [Mr. RANDOLPH] in cosponsoring the proposed Appalachian Regional Redevelopment Act of 1964. I join with my colleague from Kentucky [Mr. COOPER] in paying tribute to the Senator from West Virginia for his leadership in an aggressive pursuit of a solution to the complex problems that prevail in Appalachia.

President Johnson's Appalachian program is a comprehensive and coordinated long-term attack on the many fundamental problems which underlie the chronic economic distress in the 9 Appalachian States and which have combined over the years to nurture a serious economic gap between more than 15 million citizens and their fellow Americans.

I am particularly pleased with the proposals which would eliminate Appalachia's inaccessibility through accelerated construction of major arterial and feeder highways, speed up water resource development and flood control, promote improved utilization of mineral and timber resources, step up construction of essential water and sewage facilities, and provide for the upgrading of our human resources.

The situation in eastern and southeastern Kentucky is part and parcel of the greater problem extending the breadth of Appalachia. Because of that, I feel there is considerable merit in the regional approach developed by the Appalachian Regional Commission and now embodied in the President's recommendations.

I have felt for several years that solution of our economic troubles in the Kentucky mountains, as well as Appalachia, was rooted in a working partnership of Government help and private enterprise. If discharge of our public responsibility leads to establishment of facilities basic to the stimulation of industrial and commercial growth, then I am confident that such private development will follow.

Mr. RANDOLPH. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I am happy to yield to the Senator from West Virginia.

Mr. RANDOLPH. I know that the Senator is gratified that President Johnson has proposed, in addition to the original $3 million request, another $10 million for the purpose of finding new uses for coal and for improved mining practices. I mention this especially because of the interest of the Senator from Kentucky in the economic well being of the producers and miners in the bituminous coal region of the State of Kentucky.

I congratulate the Senator from Kentucky for his courageous and constructive efforts and deeply appreciate his intense interest in the passage of the proposed legislation.

Mr. MORTON. I thank the Senator from West Virginia.

## OVERSEAS INVESTMENT

Mr. MORSE. Mr. President, I introduce, for appropriate reference, a bill known as the peace by investment bill. It is similar to one introduced in the 87th Congress by Senator JAVITS, and I am pleased that Senator JAVITS is among the cosponsors of the measure this year.

The principle of the measure is to provide the channel for private and small amounts of venture capital to be used for oversea investment. The Federal incorporation of the Peace by Investment Corporation would provide this channel. Its principle is the same as that we have sought to provide for small business through small business investment corporations.

An initial subscription of capital would come from the U.S. Government. Sixty-five million dollars would come from this source. Thereafter, the Corporation would be authorized to borrow from the Treasury up to $375 million.

Most of its capital, however, would come from the public sale of stock in amounts up to $10 billion. A portion of the public funds would be applied to retirement of the Treasury subscription.

It is evident that investment of this capital would require sound judgment of the prospects of the proposed investment. The Corporation would be authorized to establish an insurance system to protect outstanding investments against loss from any cause, including political or military events.

But the basic judgment of the wisdom of the investment would be an economic one, not a political one. Thereby it would avoid one of the principal disadvantages of our governmental aid program.

The criteria for the extension of oversea investment capital are set forth in section 3 of the bill. Specifically, the Corporation is to be guided by these criteria: each investment is in furtherance of an undertaking that is economically sound; the country in which the undertaking is located shall have had full information respecting it and an opportunity to express a judgment as to its desirability; the proposed investment is not in competition with nor duplicative of other private investments programs or foreign aid programs; each investment is in accord with the general international economic and political policies of the United States; the investment program must be consistent with the short-range and long-range policy of this country to maintain full production and employment; the investment program must be consistent with the short-range and long-range need of this country to maintain a sound balance-of-payments position; and the program must be mutually beneficial to the country to which the investment flows, taking into account not only purely economic considerations but also consideration of human improvement under free institutions.

The Peace by Investment Corporation would make possible a new source of private capital for investment abroad. It deserves the careful consideration of the Congress and the executive branch.

Mr. President, I may say, as chairman of the Subcommittee on Latin American Affairs, that turning over more of the foreign aid administration to the private segment of our economy, which I have been urging, along with the Senator from Minnesota [Mr. HUMPHREY], the Senator from New York [Mr. JAVITS], and other Senators, is the approach which is taken by the bill.

We are willing to consider amendments. Certainly as long as the U.S. Government is involved in the Corporation, funds expended by it should be limited by the same limitations on foreign aid. Perhaps the criteria will be considered as being too vague. I am willing to have them made more specific. I am not sure that they should not be. However, the objective is clear. We want the private segment of the economy to take up a larger part of the burden of exporting economic freedom to Latin America and to the other undeveloped areas of the world. This bill is designed to do that.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am pleased that Senator MORSE and Senator HUMPHREY, together with myself and Senators BEALL and HARTKE, have undertaken to join with the Senator from Oregon, who is the principal sponsor, in the introduction of the bill. The Senator from Oregon, with his responsibility as chairman of the Subcommittee on American Republics Affairs, will at least see to it that the bill receives the hearing it deserves.

In essence, the bill seeks to provide the American investor with an opportunity, at a low per-share price—the contemplated price is $5 a share—to raise $10 billion in peace shares, as they will be called.

The idea is projected on the same scale as the Marshall plan was projected. It will provide a massive amount of capital to be available at a specific time. The real problem with much of what we do in foreign aid is that we do it from year to year. That is endemic in our processes, our Constitution, and our laws. Although Members of Congress may think that the sums appropriated for foreign aid are a huge sum of money, when they are compared with what is needed in the world, they are very little. Hence, foreign aid does not have much impact. So far as it goes, I am all for it, although the Senator from Oregon, as everyone knows, has grave reservations.

But now we are joined together on the idea of introducing private enterprise into the U.S. foreign aid program on a major scale and providing, through this bill, an opportunity for individual American citizens to participate in this very important national effort. It is a unique and intelligently designed plan.

The fundamental background of the bill is the work of my brother, Benjamin A. Javits—I am very proud that he should have developed such an idea—in collaboration with Leon Keyserling, a well-known economist and former Chairman of the Council of Economic Advisers.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks excerpts from a booklet written by Benjamin A. Javits and Leon H. Keyserling entitled "The Peace by Investment Corporation."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Mr. President, I hope the Senator from Oregon [Mr. MORSE] may see fit, either through his own efforts or through some other subcommittee of the Committee on Foreign Relations, to arrange for hearings on the bill. I join him in welcoming the thoughtful attention of the American business and governmental community to the bill and share the hope that it may be improved and sharpened as an effective instrument of American foreign policy and in the development of inter-American relations.

Under the terms of the legislation introduced today, initial and temporary capital funds for the Peace by Investment Corporation, totaling $65 million, would be subscribed to by the U.S. Government through the Treasury. During the first 6 years of its operations, to obtain added funds for its investment purposes, the Corporation would also be authorized to borrow from the Treasury in amounts not exceeding $75 million in any 1 year, and in an aggregate outstanding amount not exceeding $375 million. During this initial period, the Corporation would function as an agency of the United States. But upon retirement of the basic portion of the original investment in the project by the Treasury, the Corporation would go through an orderly transition from an agency of the United States to private operation and management.

The bill contains provisions for the retirement of these initial subscriptions and borrowings with earnings in investments and with permanent capital funds obtained by offering stock for public sale, predominantly to small investors, at a price yielding $5 per share of the Corporation. The issuance of this stock would be authorized by the bill in a total amount of $10 billion, not more than half of which could be during the first 6 years of the Corporation's operation.

The plan also includes an insurance feature, designed to protect the investments of the Corporation and of private investors other than the Corporation in any oversea undertaking eligible for financial assistance by the Corporation on a sound actuarial basis against certain types of risk.

The establishment of the Peace Corps reflects growing realization that governments and diplomatic relations alone cannot bring enduring peace, without the consolidation and expansion of people-to-people relationships. Economic relationships are fundamental to human relationships, and private economic endeavors are inseparable from systems of human freedom. This measure is designed to establish and expand people-to-people relationships in the economic field; to encourage an expanded flow of private capital investment from the United States into economically sound enterprises in underdeveloped areas of the world in the interest of world peace through mutual economic progress; to enlarge the number of private investors participating in this flow of capital so as to forge more direct links among the peoples of the world; to reduce gradually thereby the need for U.S. public investment and grants overseas; to help redirect the total flow of capital from the United States so that increasing portions of this total flow go to the underdeveloped areas, and thus be in better harmony with the domestic economic needs of the United States and the effective management of its international balance-of-payments problems.

The onrushing Soviet economic challenge underscores a fact which has been evident since the end of World War II—that our own national and economic security depends upon our willingness and ability to play a substantial economic role in the advancement of industrialization, agricultural productivity, and living standards which are now so abysmally low in many areas of the free and noncommitted world. Undoubtedly, public funds from the United States, from other countries and from international agencies, will need to be continued for some years, and even enlarged. But it is obvious that the flow of private capital needs to be expanded enormously in the years ahead, if a stable productive structure is to be built on the foundations created with the help of public funds.

Equally important as the economic factors are the political and social factors. By demonstrating throughout the world, not only that we in the United States can help to make responsible sovereign governments work for the benefit of free peoples everywhere, but also that we can help to make responsible private enterprise work for the benefit of free peoples everywhere, we may by precept and example enlarge the appeal of our admixture of private enterprise and government in other areas of the world. And by making it possible for other peoples to rise out of near starvation to a degree of production which will make further improvement in living standards increasingly feasible through their own efforts, we shall have gotten closer to the heart of the problem of peace.

Further, the opening up of trade and market opportunities which will result from an improved technology in the underdeveloped areas can make an immense contribution to our own long-range economic advancement at a steady growth rate, with beneficent consequences in the form of business and farm prosperity, increased job opportunities, and better living standards here in the United States.

The basic criteria for the entire investment program contained in the bill require that the Peace by Investment Corporation make these findings:

First. That each specific investment is in furtherance of an undertaking which is economically sound, actually or potentially profitable, and consistent with the sound, long-range economic development of the country in which it is located.

Second. The country in which the undertaking is located shall have had full information with respect to it and opportunity to express a judgment as to its desirability.

Third. That the investment is not in competition with nor duplicative of other private investment programs or other public programs of the United States or of international agencies which give reasonable promise of accomplishing comparable results in accord with the purpose of this act.

Fourth. That each investment, taking into account the country in which it is located, is in accord with the general international economic and political policies of the United States.

Fifth. That the investment program in general is consistent with the short-range and long-range policy of the United States to maintain maximum employment, production, and purchasing power within the domestic economy;

Sixth. That the investment program in general is consistent with the short-range and long-range need of the United States to maintain a satisfactory balance-of-payments position; and

Seventh. That the investment program, in general and in its specific applications, is mutually beneficial to the country to which the investment flows and country from which it emanates, taking into account not only purely economic considerations but also consideration of human improvement under free institutions.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HUMPHREY. I am proud and pleased to join once again in the cosponsorship of this proposal. To me, it is an important development in a project which, if it is given an opportunity to operate, will bring forth wide participation on the part of thousands of American citizens for the economic development of an area of the world that is vital to the security of the United States—Latin America.

I compliment the Senator from Oregon for his willingness to introduce the bill, because through him, as chairman of the Subcommittee on American Republics Affairs, the bill will receive proper attention.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2785) to establish a Peace by Investment Corporation, and for other related purposes, introduced by Mr. MORSE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Foreign Relations.

### EXHIBIT 1

### THE SPECIFIC PROPOSAL: THE PEACE BY INVESTMENT CORPORATION

#### EQUITY INVESTMENT IN UNDERDEVELOPED AREAS

The main function of the Peace by Investment Corporation—an American corporation—would be to serve as an equity investment agency. As such, it would make available funds of a private capital nature, to assist in the financing of economic development projects and private business in underdeveloped countries deemed to contribute to the sound economic development of the country in which any project is located. It would finance directly, make loans, and engage in the purchase of securities. It would deal with governments and other official instrumentalties, and deal also with private ventures of a representative and sound character. Its purpose would be, as soon as feasible, to transfer undertakings and the securities representing them to local management and/or ownership.

As a necessary condition of such funds, the Corporation would have to find that such project met sound economic criteria. The Corporation would also be required to obtain the views of the country in which the affected enterprise would be located. A further criterion of assistance would be that loan financing or equity assistance would not take the place of funds which otherwise would flow readily for the same purpose. Findings would also be necessary that the investment program in general was consistent with the policy of the United States to maintain maximum employment, production, and purchasing power within the domestic economy; that the program in general was consistent with promotion of a satisfactory balance-of-payments position for the United States; and that the program in general was in accord wtih the general international economic and political policies of the United States.

#### INVESTMENT TRUST AND INSURANCE FUNCTIONS

In support of this major purpose, the Peace by Investment Corporation would also be authorized, as an investment trust, to purchase minor stock interests in enterprises in the United States already in being under effective management and engaged substantially in investment in underdeveloped countries, to the extent that such purchases were clearly desirable in conducting the financial functions of the Corporation on a sound and prudent basis. This would enable payment of dividends from the start.

In further support of its major purpose, the Corporation would be empowered to establish an insurance system, on an actuarially sound basis, to protect all or part of its outstanding overseas investments against loss arising from any cause, including but not limited to political or military events.

The Corporation would be empowered to establish a second and distinct insurance system to protect against loss for specific causes, not including mismanagement, all or part of the outstanding investments of private investors other than the Corporation in any overseas undertaking eligible for financial assistance by the Corporation. This insurance feature would help to encourage the far-flung development of investment in underdeveloped areas.

#### MAIN SOURCE OF FUNDS: CLASS B STOCK

The corporation would obtain capital funds for its operation basically by offering its class B capital stock for public sale, predominantly to small investors in the United States, and elsewhere to the extent feasible, at a price yielding $5 per share to the corporation. Not more than 300 million shares of this type of stock, totaling $1½ billion, could be sold in any one year, not more than 1 billion shares, totaling $6 billion, could be sold so long as the Corporation remained an agency of the United States, and not more than 2 billion shares could be sold in the aggregate. This would result ultimately in a maximum of $10 billion worth of class B stock.

#### INITIAL CAPITAL FUNDS: CLASS A STOCK AND OTHER OBLIGATIONS ISSUED FOR PURCHASE BY THE TREASURY

To provide initial and temporary capital funds for its operation, the Corporation would be authorized to issue class A stock of 65 shares of par value of $1 million per share, totaling $65 million. This class A stock would be subscribed to by the U.S. Government through the Secretary of the Treasury. The Corporation would also be authorized to obtain initial and temporary capital funds for its operations by issuing obligations to the U.S. Treasury. Such obligations would be authorized to be issued only during the first 6 years from the first date of issue, and only while the Corporation remained an agency of the United States. Such obligations could not be issued in excess of $75 million in any one year, nor could the total amount outstanding in the form of such obligations exceed $375 million at any time. Such obligations would be interest bearing and would have varied maturities not in excess of 20 years, with provision for retirement before maturity.

#### PROTECTION OF CLASS A STOCK, AND OF OTHER OBLIGATIONS ISSUED BY THE TREASURY

The proposal contemplates that one-fifth of the proceeds of the sale of the class B stock be earmarked in a special fund for the retirement of the class A stock which would have to be retired in full within 6 years or less from the date of original issue of class B stock. The special fund would also be earmarked for retirement of the other obligations held by the Treasury. If the special fund were not sufficient to retire all of the obligations held by the Treasury while the Corporation remained an agency of the United States, such obligations would thereafter bear interest at the rate of 4 percent, and would of course remain subject to retirement in accord with their maturity terms. The special fund would be invested in interest-bearing obligations of the United States, or in obligations guaranteed as to principal and interest by the United States.

#### MANAGEMENT OF CORPORATION DURING INITIAL PERIOD AND THEREAFTER

Until the class A stock was completely retired (within a period of 6 years from the initial issuance of class B stock), and until in the judgment of the Secretary of the Treasury there had been a sufficient retirement of other obligations held by the Treasury to justify transition to a private corporation, the Corporation would be an independent agency of the United States, and such class A stock would be the only stock of the Corporation having any voting power so long as any of it remained outstanding. During this period, the Corporation's management would consist of a Board of Directors of 15 members, consisting of a President and Executive Vice President appointed by the President of the United States, and 5 members appointed from private life by the President of the United States, all with the advice and consent of the Senate; 4 members appointed by the President of the United States from various U.S. agencies concerned with international economic development; and the Secretaries of State, Treasury, Commerce, and Labor, serving ex officio. This would facilitate coordination of effort. So long as the Corporation remained an agency of the United States, its basic obtaining of funds would be subject to careful supervision by the Secretary of the Treasury.

Upon final retirement of the class A stock, and upon retirement of a sufficient amount (as determined by the Secretary of the Treasury) of the other obligations held by the Treasury, the exclusive voting power of the Corporation vested in its class A stock would be transferred to the class B stock. At this stage, further legislation would be proposed, in order that the Corporation subsequently would function under private ownership and management.

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### SOME QUESTIONS AND ANSWERS ABOUT THE PROPOSAL

Since the commencement of work on the idea of the Peace by Investment Corporation a number of years ago, there have been many opportunities both in the United States and overseas to discuss this idea with businessmen, economists, and public officials. This effort to obtain the views of competent and experienced individuals has been expanded, through wide circulation of the proposal for the Peace by Investment Corporation.

In consequence, a number of issues with regard to the Corporation have been raised. Some of those which loom largest, or seem recurrent in the minds of many, are dealt with briefly in the following discussion.

1. Would there be adequate incentives for the public to buy stock in quantity?

While there are obviously many avenues to profitable investment throughout the world, the need for capital will not alone provide incentives. There must be growing opportunities for sales of products, both at home and abroad. The picture in these respects is brightening among the free nations, and should improve still more rapidly in the years ahead. And as the U.S. economy expands, our import requirements are expected to rise at even faster rates. This is also true of other industrialized countries.

Although prevailing rates of return on capital investment in many parts of the world have been considerably higher than the rates generally obtained in the United States, American capital has been hesitant to move overseas because of various uncertainties and risks. However, the Peace by Investment Corporation would provide some new and persuasive incentives:

(a) By making available a very large volume of funds for the specific purpose of insuring investment against a variety of risks;

(b) by providing for a diversity of private investment overseas, thus minimizing risks inherent in single project ventures or investment in one commodity field;

(c) by arranging for dividend payment from the start, in consequence of the proposed investment of the large amount of the Corporation's funds in large domestic corporations now engaged in oversea operations;

(d) by giving small investors an opportunity to participate in pooled investment projects, far greater in scope than any thus far attempted, under the skill management which investment of the contemplated magnitude and character would call forth;

(e) by meeting many of the objections to private foreign capital participation raised in the past by many foreign countries—primarily the objection to a majority control position of foreign capital in new developmental ventures. The objective of the Corporation would be to relinquish a dominant capital position as rapidly as possible.

2. What would be the consequences of the effort made to sell the Corporation's shares to the people of other nations?

Class A stock would be held solely by the U.S. Government. While the basic class B stock would initially be floated primarily in the U.S. market, it is believed on the basis of broad inquiry that these shares would increasingly be purchased by nationals of other countries. Through such provision of additional oversea local capital, the availability of dollars for global operations would be enlarged. And manifestly, such diversity of capital sources would increase further the safety of the operation, by giving more nations and peoples a direct stake in its success.

3. Would the activities of the Corporation overlap or duplicate other institutions in the general field—the Export-Import Bank, the International Bank of Reconstruction and Development, the International Finance Corporation, the Development Loan Fund, the International Development Association, and the Inter-American Development Bank?

These other institutions perform functions quite different from those which the Peace by Investment Corporation would undertake. The capital which all other existing institutions can supply is small in relation to the need, and even smaller relative to what should be available in the years ahead from private sources, including the Peace by Investment Corporation. In fact, most of these other international institutions explicitly have as one of their main functions the encouragement of an accelerated flow of private capital from other sources.

More specifically, the Export-Import Bank and the International Bank for Reconstruction and Development are both essentially banks. They engage only in making loans, at fixed rates of interest, and on agreed schedules of amortization. They do not advance equity or venture capital, nor do they participate in management functions. The Peace by Investment Corporation would advance venture capital, and would assume or develop initial managerial responsibilities. Both of these functions are essential to the speedy and voluminous encouragement of projects in underdeveloped areas.

The Export-Import Bank is designed primarily to aid the exports and imports of the United States. The purposes of the Peace by Investment Corporation would be far broader in scope, although its activities would also contribute collaterally to higher levels of U.S. foreign trade. The International Bank provides semigovernmental capital, and its loans cannot be made except as guaranteed by the governments of the countries to which its funds flow. The Peace by Investment Corporation's capital would not necessarily be guaranteed in this fashion, and this would greatly expand its useful investment opportunities.

In the summer of 1956, the Congress provided for the participation of the United States in a third institution in the international finance area, the International Finance Corporation, which is an adjunct of the International Bank. But the authorized capital of the IFC is extremely limited, totaling only $100 million, of which the United States has subscribed $35 million. Moreover, the IFC has not been authorized to invest in common stock. Nor can it assume managerial functions.

More important still, the IFC's participation in a venture is intended to be of limited duration and scope. It supplies capital only of a semiequity character, by means of which additional equity capital may be induced to come in. It seeks to revolve its funds by selling its investments to private investors, whenever and as soon as it can do so on satisfactory terms. The Committee on Banking and Currence of the House of Representatives, in submitting its favorable report on U.S. participation in the International Finance Corporation, stated:

"It is expected that the IFC will cooperate with private venture capital organizations in the financing of particular enterprises. Since the IFC can operate only in conjunction with private investors, the IFC would encourage and not compete with private investment. The experience of the IFC in dealing with foreign problems will be available to assist small firms and investors directly, and will render a valuable service for encouraging private investment abroad."

Thus, it seems that the House committee did not look upon the IFC as one more public or quasi-public institution designed to dominate the field. Rather, the IFC has been designed to provide marginal assistance only, in facilitation of the flow of much larger amounts of oversea private investment emanating from other sources.

For these reasons, there would be no conflict, but rather an essential meshing, between the activities of the IFC and those of the Peace by Investment Corporation. Without the latter, the IFC does not have the adequate support which it needs. With the Peace by Investment Corporation, the IFC would function more effectively in the short run, and the need for it would probably diminish in the long run. And certainly, the responsible view must be that public and quasi-public corporations are most effective when they are used as a bridge toward increasing reliance on private investment sources and machinery.

In October 1959, the Governors of the International Bank approved in principle a U.S. proposal for an International Development Association, to be closely affiliated with the Bank and to make loans on more flexible terms than does the Bank. U.S. membership was subsequently approved by the Congress. Original plans called for loans to be repayable, if necessary, by the borrowing country in its own currency, or in such currency of other members as it might hold. Some modification of this is now expected, and it seems likely that loans are to be repaid in the currencies advanced. But this institution, to be supported by contributions from many countries, will utilize only very small sums of U.S. capital. The U.S. Government had subscribed only $74 million to the IDA by the end of fiscal 1961, with an additional $62 million anticipated in fiscal 1962.

In 1957, the Development Loan Fund was established as a U.S. lending institution to provide loan funds to the less-developed countries, for development projects which do not qualify for loans from existing institutions operating under stricter banking criteria. Capital is provided on more favorable terms, often including the option to repay in the borrower's own currency. But here, too, the funds thus far made available have been small. By the end of fiscal 1960, while loan commitments of $1.4 billion had been made, only about $200 million had actually been transferred, with the expectation that an additional $700 million might be expended by the end of fiscal 1962.

The latest arrival on the international lending scene, the Inter-American Development Bank, emerged from the act of Bogotá in September 1960 by action adopted by 19 participating American states. The organizational plan called for total resources of $1 billion, of which $450 million were ultimately to be subscribed by the United States. Actual U.S. commitments were estimated at $80 million in fiscal 1960, as the first installment of the U.S. cash investment in the Bank, and with a further commitment of $110 billion expected in fiscal 1962. The United States also committed itself to make available a guarantee authority of $200 million, on the basis of which the Bank will sell its bonds to private investors.

So great is the need for development capital to speed productive economic growth abroad, that all funds thus far authorized go only a very short way toward approaching this need. Publicly authorized funds can never approximate this need.

An enormous potential volume of private capital is available for this vital purpose. The Peace by Investment Corporation can be a unique and unduplicating instrument to channel these private funds into investment overseas.

4. Could the proposed Corporation be expected completely to replace the U.S. governmental aid programs?

It is clear that private investment cannot and should not be expected to avoid the need for substantial governmental aid programs for many years to come. For example, a roadbuilding project, leading to an iron ore deposit, would not in itself ordinarily attract private capital, though it may be the necessary forerunner of later profitable private investment opportunities. We in the United States should all be well aware that many types of investment are intrinsically public in nature. These might be called foundational projects. But the foundation must be built upon, and here is where layers of quasi-private and purely private investment are needed. Moreover, as this private investment strengthens the economy involved, it becomes increasingly able to meet its needs for public investment from within. The need for public grants or credits from overseas, while now rising, can gradually decline.

5. Is the proposed Corporation wholly consistent with private enterprise?

Entirely. The proposal that the U.S. Government participate in the initial formation of the Corporation is put forward only as a temporary device to launch the Corporation. It is generally known that the mobilization of large amounts of private capital for developmental investments would be of prime importance to this country, to many other friendly nations, and to the cause of international peace. Nevertheless, private capital in the postwar years has moved into this field on a scale exceedingly small relative to the immense need. A bold move to initiate a vastly enlarged private capital flow is therefore urgent. And the Peace by Investment Corporation plan calls for the earliest feasible termination of Government participation. It is contemplated that within 7 years or even considerably less time, the Corporation would be of an entirely private complexion.

6. Would the participation of the Government in the early stages of the formation of the Corporation give it an unfair competitive advantage, relative to the smaller scale investment projects now in operation?

Not at all. When the Corporation, within a few years, moved into its entirely private phase, it would have no competitive advantages, and would operate no differently from any other private corporation. Government participation in the initial stage would merely set the stage for this later development. In addition, the need for capital is very much greater than will be met for many years to come, even with the anticipated activities of the Peace by Investment Corporation. And standing where we are now, the overwhelmingly salient fact is that the job which needs to be done is not being one in adequate volume or range. If it were being done, we could rest on our oars.

7. What would be the relation of the efforts of the Corporation to total U.S. foreign policy, and how could the relationship be maintained in both the governmental and private phases of the Corporation's existence?

In the initial period, during which Government participation would be involved, the activities of the Corporation would be integrated with those of other international finance operations in which the Government has an interest. The plan sets up specific machinery for close coordination.

When the Peace by Investment Corporation became a strictly private operation, its relationship to U.S. foreign policy would be the same as that of private groups in general. It would strengthen U.S. foreign policy, by helping to accelerate economic development abroad. It would help to realize the just aspirations of the people in the free nations, especially those which are as yet uncommitted in their political relationships. It goes without saying that the Corporation, even when functioning as a purely private body, would still be subject to the laws and policies of the United States. The Government of the United States has the power to abet or to impede any entity within its jurisdiction, depending upon the public judgment as to whether the interests of the people of the United States are being advanced or injured by the entity involved.

**Mr. JAVITS subsequently said: Mr. President, I ask unanimous consent that the Peace by Investment Corporation bill, introduced today by the Senator from Oregon [Mr. MORSE], may be made a part of my remarks.**

**The PRESIDING OFFICER. Without objection, it is so ordered.**

**The bill (S. 2785) was ordered to be printed in the RECORD, as follows:**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### GENERAL PURPOSES

SECTION 1. The recent establishment of the "Peace Corps" reflects growing realization that governments and diplomatic relations alone cannot bring enduring peace, without the consolidation and expansion of people-to-people relationships. Economic relationships are fundamental to human relationships, and private economic endeavors are inseparable from systems of human freedom. This measure is designed to establish and expand people-to-people relationships in the economic field; to encourage an expanded flow of private capital investment from the United States into economically sound enterprises in underdeveloped areas of the world in the interest of world peace through mutual economic progress; to enlarge the number of private investors participating in this flow of capital so as to forge more direct links among the peoples of the world; to reduce gradually thereby the need for United States public investment and grants overseas; to help redirect the total flow of capital from the United States so that increasing portions of this total flow go to the underdeveloped areas, and thus be in better harmony with the domestic economic needs of the United States and the effective management of its international balance-of-payments problems.

### PEACE BY INVESTMENT CORPORATION: BASIC FUNCTIONS

SEC. 2. There is hereby established a Peace by Investment Corporation (hereinafter referred to as the Corporation) with the following basic functions in accord with the purposes of this Act:

(1) As an equity investment agency, to purchase the securities and obligations of, or make loans to (a) any underdeveloped country or political subdivisions thereof, (b) any public agency or instrumentality of any such country, or (c) any private or semiprivate firm, corporation, or association doing or intending to do business wholly or mainly in any such country or countries for the purpose of financing or assisting in financing any undertaking to expand such industrial, mining, construction, or agricultural activity in such country or countries as will, in the judgment of the Corporation, further the purposes of this Act;

(2) As an investment trust, to purchase minor stock interests in enterprises in the United States already in being under effective management and engaged substantially in investment in undereveloped countries, to the extent that such purchases are clearly desirable in conducting the financial functions of the Corporation on a sound and prudent basis;

(3) To establish an insurance system, on an actuarially sound basis including such premiums as are required, designed to protect all or part of the outstanding investments under paragraph (1) of this section against loss arising from any cause, including but not limited to political or military events;

(4) To establish a second insurance system (distinct from that pursuant to paragraph (3) of this section), on an acutarially sound basis including such premiums as are required, designed to protect against loss for specified causes, not including mismanagement, all or part of the outstanding investments of private investors (other than the Corporation) in any undertaking eligible for financial assistance under paragraph (1) of this section.

### BASIC CRITERIA FOR INVESTMENT PROGRAM

SEC. 3. In carrying forward the investment program pursuant to paragraph (1) of section 2 of this Act, the Corporation shall be guided by these basic criteria, and shall make appropriate findings accordingly:

(1) That each specific investment is in furtherance of an undertaking which is economically sound, actually or potentially profitable, and consistent with the sound long-range economic development of the country in which it is located;

(2) That the country in which the undertaking is located shall have had full information with respect to it and opportunity to express a judgment as to its desirability;

(3) That the investment is not in competition with nor duplicative of other private investment programs or other public programs of the United States or of international agencies which give reasonable promise of accomplishing comparable results in accord with the purposes of this Act;

(4) That each investment, taking into account the country in which it is located, is in accord with the general international economic and political policies of the United States;

(5) That the investment program in general is consistent with the short-range and long-range policy of the United States to maintain maximum employment, production, and purchasing power within the domestic economy;

(6) That the investment program in general is consistent with the short-range and long-range need of the United States to maintain a satisfactory balance of payments position;

(7) That the investment program in general, and in its specific applications, is mutually beneficial to the country to which the investment flows and country from which it emanates, taking into account not only purely economic considerations but also consideration of human improvement under free institutions.

### BASIC FINANCING OF PEACE BY INVESTMENT CORPORATION

SEC. 4. (a) The Corporation shall have a capital stock consisting in part of sixty-five shares of par value of $1,000,000 per share of class A stock, which shall be the only stock of the Corporation having voting power so long as any of it is outstanding. This class A stock shall be subscribed to by the United States Government. The Secretary of the Treasury shall use the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, for the purpose of such subscriptions, and the purposes for which securities may be issued under such Act are extended to include such subscription. Payment under this paragraph to the Corporation for the subscription of the United States and repayments thereof shall be treated as public debt transactions of the United States. Certificates evidencing stock ownership by the United States shall be issued by the Corporation to the President of the United States or to such other person or persons as he may designate from time to time. Neither the provisions of the Securities Act of 1933, as amended, nor the provisions of the Securities Exchange Act of 1934, as amended, shall apply to the Corporation or to the original issue of its securities while class A stock is outstanding.

(b) The Corporation is authorized to increase its capital stock by offering for public sale two billion shares of class B stock at par value of $5 per share. This stock shall be placed on public sale to net the Corporation $5 per share, with an override not exceeding 30 cents per share to cover distribution costs: *Provided*, That not more than one billion shares of this class B stock in the aggregate, nor more than three hundred million shares in any one year, shall be sold so long as the Corporation remains an agency of the United States as provided in section 5(a) of this Act. The Corporation, with approval of the Secretary of the Treasury, shall by regulation determine the maximum amount of such class B stock which may be held at any time by any individual, and the maximum amount which may be held at any time by business enterprises and other organizations of various types and sizes.

(c) The Corporation is authorized to issue from time to time, for purchase by the Secretary of the Treasury, its notes, debentures, bonds, or other obligations: *Provided*, That the issue of such obligations shall not exceed $175,000,000 in any one year, nor shall the aggregate amount of such obligations outstanding at any one time exceed $375,000,000, nor shall any such obligations be issued more than six years from the date of the first issue, nor shall any such obligations be issued except so long as the Corporation remains an agency of the United States as provided in section 5(a) of this Act. Such obligations shall have such varied maturities, not in excess of twenty years, as may be determined by the Corporation with the approval of the Secretary of the Treasury, with periodic retirement of each obligation commencing in the first year subsequent to its original issue: *Provided*, That any such obligations may be retired at the option of the Corporation before maturity in such manner as may be stipulated therein. Each obligation purchased by the Secretary of the Treasury shall, so long as the Corporation remains an agency of the United States, bear interest at a rate determined by the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such obligation; and when the Corporation is no longer an agency of the United States, as provided in section 6 of this Act, each such obligation shall bear interest at the rate of 4 per centum per annum. The Secretary of the Treasury is authorized for the purpose of this subsection to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment by the Treasury under this subsection of the purchasing price of such obligations of the Corporation and repayment thereof by the Corporation shall be treated as public-debt transactions of the United States.

(d) One-fifth of the proceeds of the sale of class B stock issued under subsection (b) of this section shall be set aside by the Corporation in a special fund to be established by the Corporation. This special fund shall be utilized (1) to retire fully, within a period of 6 years or less from the initial issuance of such class B stock, the class A stock of the Corporation issued under subsection (a) of this section, and (2) to retire fully the obligations issued under subsection (c) of this section in accord with the terms of retirement contained in such obligations. This special fund shall be invested or reinvested by the Corporation in interest-bearing obligations of the United States or in obligations guaranteed as to interest and principal by the United States: *Provided*, That when the class A stock of the Corporation and the obligations issued under subsection (c) of this section shall have been retired in full, any balance remaining in this special fund shall be merged with other funds of the Corporation obtained through the sale of class B stock and shall thereupon be available for the general purposes of this Act.

(e) Except as otherwise provided in this section, all funds available to the Corporation pursuant to this section, and as earnings from its operations, shall be available for its general purposes under this Act.

### INITIAL MANAGEMENT OF PEACE BY INVESTMENT CORPORATION

SEC. 5. (a) Until the conditions set forth in Section 6 of this Act are fully met, the Corporation shall be an independent agency of the United States.

(b) The management of the Corporation during its existence as an agency of the United States shall consist of a Board of Directors (herein referred to as the Board), composed of (1) five members appointed from private life by the President with the advice and consent of the Senate, who shall collectively possess broad experience in various areas of economic endeavor; (2) the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor, to serve ex officio; (3) four members to be appointed by the President from various United States agencies concerned with international economic development; and (4) a President and Executive Vice President of the Corporation, as set forth below, who may be appointed from private life or from public service. All members, except those serving ex officio, shall serve at the pleasure of the President.

(c) The Board shall elect a Chairman from among its members. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment. A majority of the Directors shall constitute a quorum, and action shall be taken only by a majority vote of those present.

(d) The Board shall designate an executive committee of seven members, not more than two of whom (exclusive of the President and Executive Vice President of the Corporation) shall be members appointed from private life. The executive committee shall perform the functions and exercise the powers of the Board at such times and to such extent as shall be provided in the bylaws of the Corporation.

(e) Members of the Board appointed from private life shall receive $ ——— per diem when engaged in the actual performance of their duties, plus reimbursement for necessary travel, subsistence, and other expenses incurred by them in the performance of such duties.

(f) There shall be a President of the Corporation, to be appointed by the President by and with the advice and consent of the Senate, who shall receive a salary at the rate of $——— per annum, and who shall serve as chief executive officer of the Corporation, as a member of the executive committee, and as a member of the Board. The President of the Corporation shall, in accordance with the bylaws, appoint such officers and employees as may be necessary for the conduct of the business of the Corporation, define their duties, and fix their compensation.

(g) There shall be an Executive Vice President of the Corporation, to be appointed by the President by and with the advice and consent of the Senate, who shall receive a salary at the rate of $——— per annum. The Executive Vice President shall serve as President of the Corporation during the absence or disability of the President thereof or in the event of a vacancy in such office.

(h) No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any government, corporation, partnership, or association in which he is directly or indirectly personally interested.

(i) The President may also appoint an advisory committee to the Board, composed of individuals drawn from private and public life outside of the United States, who need not be citizens or residents of the United States.

### TRANSFER OF PEACE BY INVESTMENT CORPORATION TO PRIVATE OWNERSHIP AND MANAGEMENT

SEC. 6. (a) When the class A stock of the Corporation has been retired in full within the period of six years or less provided in section 4(d) of this Act, the Board shall transmit to the President of the United States, for submission to the Congress, recommendations for such legislation as may be necessary to provide for the orderly transition of the Corporation from an agency of the United States to a corporation under private ownership and management, including (1) appropriate provision for transfer to the owners of the outstanding class B stock of the Corporation the assets and liabilities of the Corporation, (2) appropriate provision for vesting in such owners of class B stock the exclusive voting power of the Corporation originally vested in the owners of class A stock, with each owner of class B stock being thereupon entitled to one vote per share, and (3) such additional provisions as may be necessary to protect any outstanding investments in the Corporation by the United States: *Provided*, That the Secretary of the Treasury, with the approval of the President, may defer submission to the Congress for the purpose of the transition pursuant to this section if he finds that an insufficient portion of the obligations purchased by the Secretary of the Treasury pursuant to section 4(c) of this Act have been retired to justify the transfer of the Corporation from public to private ownership and management.

(b) In connection with such transfer, a complete and final accounting shall be made by the Corporation and the Government, at which time the Government shall receive reasonable compensation for all Government services rendered the Corporation.

### GENERAL CORPORATE POWERS AND DUTIES

SEC. 7. (a) For the purpose of carrying out its functions under this Act the Corporation shall have succession in its corporate name; may adopt and use a corporate seal, which shall be judicially noticed; may sue and be sued in its corporate name; may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised; may make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business, and may purchase, discount, rediscount, sell, and negotiate (with or without its endorsement or guarantee) and guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness in carrying out its functions under this Act; may appoint and fix the compensation of such officers and employees as may be necessary for the conduct of its business, without regard to the civil service laws or the Classification Act of 1949, define their authority and duties, delegate to them such powers vested in the Corporation as may be necessary, require bonds of such of them as may be desirable, and fix the penalties and pay the premiums of such bonds; may assign or sell at public or private sale, or otherwise dispose of for cash or credit, upon such terms and conditions as shall be determined reasonable, any evidence of debt, contract, claim, personal property, or security held by the Corporation in connection with the the payment of loans or other obligations, and collect or compromise all obligations held by the Corporation; may set up or engage such subsidiary agencies in the United States or in underdeveloped countries as will facilitate the business of the Corporation and may enable such subsidiary agencies to sell class B stock or to sell their own stock for the purpose of buying class B stock; may acquire by purchase, lease, or donations such real property or any interest therein, and may sell, lease, or otherwise dispose of such real property, as may be necessary for the conduct of its business; shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this Act, and provisions of law specifically applicable to Government corporations; may pay dividends on class B stock out of profits or other earnings; shall be entitled to the use of the United States mails in the same manner and upon the same conditions as may be applicable to the executive departments of the United States Government until such time as it ceases to be an agency of the United States; and shall be subject to Federal taxation from the time that it ceases to be an agency of the United States. The foregoing enumeration of powers shall not be deemed to exclude other lawful powers necessary to the purposes of the Corporation.

(b) Notwithstanding the provisions of section 955 of title 18, United States Code, any person, including any individual, partnership, corporation, or association, may upon proper authorization act for or participate with the Corporation in any operation or transaction engaged in by the Corporation.

(c) Section 101 of the Government Corporation Control Act as amended (31 U.S.C. 846), is amended by inserting after "Saint Lawrence Seaway Development Corporation" the words "World Development Corporation".

### PENAL PROVISIONS

SEC. 8. (a) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to the moneys and property of the Corporation.

(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, makes false entry in any book of the Corporation, or makes false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both.

### REPORTS AND STUDIES

SEC. 9. The Corporation shall submit to the President for transmission to the Congress at the beginning of each regular session, a complete and detailed annual report of its operations under this Act.

SEC. 10. The Corporation, immediately upon its establishment, shall commence studies of additional measures, including tax measures, which would further promote the flow of private capital from the United States to underdeveloped areas of the world and be consistent with the economic and financial policies of the United States. Such studies shall be amplified in the light of the experience of the Corporation. As soon as practicable, and not later than three years after the establishment of the Corporation, it shall prepare for transmission to the Congress the initial results of such studies, including legislative recommendations.

### CITATION

SEC. 11. This Act may be cited as the "Peace by Investment Corporation Act of ———".

## PRINTING AS SENATE DOCUMENT A COMPILATION OF CERTAIN SPEECHES OF GENERAL OF THE ARMY DOUGLAS MacARTHUR

Mr. JORDAN of North Carolina. Mr. President, from the Committee on Rules and Administration I report favorably, with amendments, Senate Resolution 308, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with amendments.

The amendments were agreed to.

The resolution as amended, was agreed to, as follows:

*Resolved,* That there shall be printed as a Senate document a compilation, to be prepared by the Library of Congress, in cooperation with the Committee on Rules and Administration, of representative published speeches, or selections therefrom, of General of the Army Douglas MacArthur; and that there be printed, within the statutory limitation, such quantity of additional copies for the use of the Senate as may be determined by the Committee on Rules and Administration.

## EXTENSION OF AUTHORITY OF COMMITTEE ON RULES AND ADMINISTRATION TO INQUIRE INTO FINANCIAL OR BUSINESS INTERESTS OF EMPLOYEES OF THE SENATE

Mr. JORDAN of North Carolina. Mr. President, I send to the desk three resolutions unanimously reported by the Committee on Rules and Administration today. They have been accepted by the majority and minority. I ask unanimous consent that the first resolution be considered.

The PRESIDING OFFICER. The first resolution will be read.

The legislative clerk read the resolution (S. Res. 319), as follows:

*Resolved,* That S. Res. 291, agreed to February 10, 1964, is amended by striking out "April 30, 1964" and inserting in lieu thereof "May 31, 1964".

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. JAVITS. Mr. President, reserving the right to object, may we know what this is all about; also, whether the resolution ties into the Baker investigation; if so, in what way?

Mr. JORDAN of North Carolina. It would extend the authority of the committee to carry on its investigation without asking for more money.

Mr. JAVITS. For how long a time?

Mr. JORDAN of North Carolina. For 1 month.

Mr. JAVITS. Is that all the time the Senator needs to dig into this matter properly?

Mr. JORDAN of North Carolina. That is all we need now.

Mr. JAVITS. Was the committee divided on this question?

Mr. JORDAN of North Carolina. No; it was unanimous.

Mr. JAVITS. I have no objection.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 319) was considered and agreed to.

## PAYMENT OF GRATUITY TO PERCY G. DENBOW

Mr. JORDAN of North Carolina. Mr. President, from the Committee on Rules and Administration I report favorably Senate Resolution 320 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved,* That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Percy G. Denbow, brother of Irving C. Denbow, an employee of the Architect of the Capitol assigned to duty in the Senate Office Building at the time of his death, a sum equal to 6 months' compensation at the rate he was receving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

## CIVIL RIGHTS ACT OF 1963—AMENDMENTS

Mr. STENNIS submitted an amendment (No. 553), intended to be proposed by him, to the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, which was read, ordered to lie on the table, and to be printed.

Mr. JOHNSTON submitted two amendments (Nos. 554 and 555), intended to be proposed by him, to House bill 7152, supra, which were read, ordered to lie on the table, and to be printed.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 29, 1964, he presented to the President of the United States the enrolled bill (S. 1341) for the relief of Gabriel Kerenyi.

## DAVID S. TEEPLE, STAFF DIRECTOR, REPUBLICAN POLICY COMMITTEE

Mr. HICKENLOOPER. Mr. President——

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HICKENLOOPER. The purpose for which I rise is not morning business. I merely wish to announce the death of a close friend of a number of us. It may be that one or two other Senators may wish to say something. I make that explanation at this time because it is not morning hour business. I ask unanimous consent that Senators may proceed for a few moments along that line.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HICKENLOOPER. Mr. President, it is with a deep sense of grief and loss that I announce to the Senate, and to those who knew him, the sudden death of David S. Teeple, from a heart attack, at about 6:30 last night. He was staff director of the Republican Policy Committee.

Those of us—mostly on the Republican side—who knew him well share this sense of grief and loss. I have known him well and intimately for 18 years. He was with me when the staff of the Joint Committee on Atomic Energy was organized and established. He served in various private and public capacities since that time. For the past 2 or 3 years he was staff director of the Republican Policy Committee.

I presume my own great admiration and respect for him emphasize my views and my feelings, but no man in my acquaintance had a greater ability for perception of public issues, for an understanding of human beings, or a more innate sense of general fairness than did Dave Teeple. He was educated basically to become a teacher. He received a degree in teaching and school administration. After his war service, which was extensive, he started as a teacher, but later came with Government. He earned a master's degree in his chosen subject of research but, in the main, devoted his talents during his active life following his war service to Government, with an interlude of 5 or 6 years as a private consultant.

During most of his war service his talents were devoted, and very appropriately, to the intelligence services of our country in the Pacific and European theaters of war.

His talents were great, indeed, and contributed to many fine accomplishments.

I know of no man whose perception of basic qualities in human beings was greater. Dave Teeple had the ability to spot a phony in another county at midnight on a moonless night. His assessment of people was uncannily accurate. By the same token, though he was loyal to his convictions, he was fair not only to those who agreed with him, but to those who disagreed with him.

Dave Teeple's service as staff director of the Republican policy committee was conceded to be a public service, and not a mean service. He followed the principles of a dedicated public service. He was creative in his thinking. He was thorough and meticulous in his research, and in the clarity and vigor with which he presented his views.

Dave Teeple was a comparatively young man, in his late forties. He had suffered a massive heart attack in 1949, and apparently there had been a reasonably complete recovery. So far as I know, he had recovered from the coronary attack from which he suffered at that time. He had some remaining difficulties, but the attack last night occurred suddenly and without warning.

I could recite many details about Dave Teeple's history, but I shall not take the time of the Senate to do it. I take this opportunity as a matter of personal privilege because of my deep feeling of loss and because of my deep feeling for his fine family, his wife, Margaret, and his two fine sons, David and Ricky, who are just coming out of their teens and into the age of their higher education.

I feel a sense of personal loss that I cannot express. I know those of his friends who knew him, particularly those who knew him well, will join in this expression of a sense of loss.

Mr. SALTONSTALL. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I am glad to yield to the Senator from Massachusetts.

Mr. SALTONSTALL. Mr. President, 2 years ago, when the Senator from Iowa brought David Teeple into my office to meet me, the suggestion at that time was to make him staff director of the Republican policy committee, and the Republican conference of the Senate of which I am chairman.

I met Dave Teeple then. I liked him. I agreed with the Senator from Iowa that he would make a fine staff director.

It has redounded to my benefit to have him administer our staff work for the past 2 years. He quickly won my confidence by his careful attention to detail, the clarity of his expression, his careful supervision of committee and conference expenditures, and his care in bringing to our attention those problems which he believed we should give our close consideration.

We needed such a man to present tough questions that needed our decisions.

Dave Teeple represented the highest standards of a staff leader. We shall miss him very much in both the Republican conference and the policy committee.

I join sincerely with all Senators in expressing my profound sympathy to his wife and two children.

Mr. HICKENLOOPER. I thank the Senator from Massachusetts.

Mr. JAVITS. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. JAVITS. I wish to express my sympathy to Dave's family. I dealt and worked with him especially in the fields of economics and civil rights.

He was a fine and able man, who did his utmost to serve every Senator who appealed to him for any kind of assistance.

What struck me particularly about him was the feeling of kind affection he always had for every human being with whom he dealt.

His office was across the hall from mine, and I noticed many times how much the staff of the policy committee enjoyed working for Dave Teeple.

We have suffered a serious loss in the untimely passing of so young a man. I join other Senators in expressing deepest sympathy to his family.

Mr. HICKENLOOPER. May I express—not only for all the Republicans who knew him, but for myself—our own deep feeling of sympathy. I thank the Senator from New York for his remarks.

Mr. CARLSON. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. CARLSON. Mr. President, I associate myself with the remarks of the minority side in expressing their sincere regret at the untimely death of Dave Teeple.

Those of us who had an opportunity to know Dave Teeple found that he was not only an able and dedicated public servant, but one who had a thorough knowledge of the operations of government and was of great help in preparing material that dealt with the intricacies of our Government and its operations.

Personally I shall miss him very much. I extend my deepest sympathy to members of the family.

Mr. HICKENLOOPER. I thank the Senator from Kansas.

Mr. KEATING. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. KEATING. Mr. President, all of us who have known David Teeple and had an opportunity to work with him were deeply shocked by the news of his death.

It is men such as Dave Teeple who hold key staff positions in Congress who are often the unsung heroes in some of our most important accomplishments. Dave was a dedicated and devoted employee who performed an invaluable service to all the members of the Republican Policy Committee with a high degree of skill, unfailing courtesy, and scrupulous fairness. He was a person of unquestioned character who gave his full time and attention to the important duties which he performed. He leaves a gap which will be difficult to fill.

Words are always tragically inadequate at a time like this, but I hope it will be some comfort to his family in this hour of sadness to know of the deep respect and affection which all of us had for this fine public servant.

Mr. HICKENLOOPER. I thank the Senator from New York.

Mr. KUCHEL. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. KUCHEL. I mourn the sudden passing of Dave Teeple. It is extremely difficult for me, as I know it is for others, to have to realize that suddenly this fine young man has gone.

The Senator from Iowa [Mr. HICKENLOOPER], the chairman of our policy committee, can also testify to the dedication with which Dave Teeple discharged his labors. He was honest and forthright, always trying to serve someone. The length of a day's work meant nothing to him. He gave truly of himself, and always generously, during his happy days and months in the Senate working for the minority.

Like the Senator from Iowa and other Senators I rise to express my profound sorrow and to join other Senators in expressing to Mrs. Teeple and all of Dave's family our most heartfelt condolences.

Mr. HICKENLOOPER. I thank the Senator from California. I now yield to the distinguished Senator from Vermont [Mr. PROUTY].

Mr. PROUTY. Mr. President, I was deeply grieved to learn of the sudden death of David Teeple who for 2 years and 1 month has so ably directed the staff of the Senate Republican policy committee of which I am now a member.

Dave Teeple was not a "veteran politician" as we know that term. He was, in fact, a native of Washington, D.C., and had been a history teacher in the schools of this city. Then, during World

War II, he enlisted as a private, and won a battlefield commission in the South Pacific.

Shortly after I was assigned to the committee, Dave Teeple was appointed as staff director. He brought to that job a new freshness of approach to its problems. It has prospered under his leadership, both in the high caliber of its performance and of its value to the Republican membership of the Senate and our party nationally.

Mr. President, I join my colleagues in their expressions of sympathy and condolence to the family of David S. Teeple.

**Mr. HICKENLOOPER.** I thank the Senator from Vermont.

Mr. President, on behalf of the Senator from Arizona [Mr. GOLDWATER] I ask unanimous consent to have printed in the RECORD at this point a statement prepared by him on the death of David S. Teeple.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GOLDWATER

It was with profound shock that I learned this morning of the passing of an old and close friend, David Shea Teeple. In his 49 years of life, Dave made many contributions to all of us, Democrats and Republicans alike, although he was publicly identified politically with the minority party. His devotion and service far transcended partisanship, although he was an able and effective campaigner for Republican principles.

Before assuming his duties as director of the Republican policy committee 2 years ago, Dave's knowledge and background were responsible for many vital decisions and plans of such key agencies, departments, and bureaus of government as the U.S. Air Force, the Bureau of Consular Affairs of the State Department, and the Atomic Energy Commission. As a special consultant on atomic energy, he served private industry as well as our Federal Government and was one of the most respected men in his field.

Although some on Capitol Hill will remember Dave for his courtesy, ability, and cooperation during his service with the Joint Committee on Atomic Energy, the Senate Appropriations Committee, and the Republican policy committee, many of us will recall him, in addition, as a warm and true friend, whose passing leaves an unfillable void.

I am sure that I may speak for every Member of this body and our colleagues on the other side of the Capitol in saying that the entire Congress shares the grief of his death with Dave's widow, Margaret; his sons, David, Jr., and Richard Edgar; his father and brother, Richard H. Teeple, Sr., and Jr.

**Mr. HICKENLOOPER.** Mr. President, I yield the floor.

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## SHALL THE DOUBLE STANDARD PREVAIL?

**Mr. GRUENING.** Mr. President, on several occasions since the disastrous Alaska earthquake on March 27, I have raised the issue and spoken about it on the floor of the Senate—to find out why it is not possible for Alaskans who have suffered an unprecedented catastrophe to receive as favorable borrowing terms from our Government as are accorded to the people of foreign lands under the U.S. aid program.

The United States has, apart from tens of billions of dollars given in outright grants, loaned approximately a billion and two-thirds dollars abroad at three-fourths of 1 percent interest, mostly to the private sector, with a 10-year moratorium on capital repayments.

Under the Disaster Loan Act, the Small Business Administration is authorized, in what the President has declared to be a disaster area, to make loans to economic victims of the disaster, at rates not to exceed 3 percent; but there is no provision whatever in the act to estop the administrator from making loans at a lesser interest rate and with any other terms of repayment he sees fit to make. He has absolute authority to do so. The only restriction on him is that he cannot require the borrower to pay more than 3 percent.

On Saturday last, I placed in the RECORD a copy of my letter to Eugene Foley, the able Administrator of the Small Business Administration, pointing this out and that, in addition, American businesses that are rehabilitated before long create revenues in the form of taxes which return to the U.S. Treasury, whereas our foreign loans do not produce any such subsequent benefit. Mr. Foley has replied, giving his reasons for rejecting this argument, and I have answered him, giving him some additional facts and asking him to reconsider.

The fundamentally important issue of the double standard is now posed squarely: Shall the American victims of a major disaster—the worst that has befallen any State of the Union since the beginning of our Republic—receive treatment vastly inferior to that accorded for years to borrowers in scores of foreign countries who have suffered no disaster? Shall the American disaster victim be required to pay the maximum, when the law permits his enjoying a lower interest rate, such as we have given indiscriminately abroad?

Mr. President, I ask unanimous consent that Mr. Foley's letter of April 27 in reply to mine of April 20, and my reply to him of April 28 be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
*April 27, 1964.*

Hon. ERNEST GRUENING,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GRUENING: I am most appreciative of the kind remarks made in your letter of April 20. You will be pleased to know that our program in Alaska has moved forward with unprecedented speed. We will continue to do our best to see that the needs of the citizens of Alaska are met promptly and sympathetically.

The SBA disaster loan program has carried a 3-percent interest rate for every duly declared U.S. disaster since its inception in 1932 under the RFC. This interest rate, as you have pointed out, represents a partial subsidy or grant. It does not defray the cost of the money to the United States or the cost of operating the program. The 3-percent rate, however, is a compromise between a substantially higher rate that would be necessary to cover the costs of the disaster program and a nominal charge such as three-fourths of 1 percent.

I am not sure it is valid to compare SBA disaster loans with our foreign aid financing programs. Clearly the latter are established to meet the requirements of our foreign policies. In any event, current foreign assistance financing practices contemplate an accelerating shift from grants to dollar repayable loans and harder loan terms whenever feasible. As you know, the recent amendments to the Foreign Assistance Act now require that development loans carry a minimum interest rate of 2 percent after the initial grace period. For certain countries which have demonstrated a capacity to service loans at harder terms, the interest rates on loans to governments have been increased to as much as 3½ percent.

SBA disaster loans are made directly to private business and private individuals. If the comparison is useful, they should be compared with direct AID loans to private business or private persons. It has been the policy and practice of the foreign assistance agency to charge approximately 5½ percent on development loans to private borrowers (other than intermediate credit institutions where certain other considerations prevail). This policy has been applied almost without exception since 1957 when the Development Loan Fund was established.

Your letter of April 24 suggests that I am mistaken in my understanding of the practices of the foreign assistance agencies. I do not believe this to be the case although there may be some room for differing interpretation of the facts.

The soft terms of which you speak are applied to Government loans although, as you point out, the proceeds often are used for "industrial" purposes, i.e., a powerplant, a coal mine, or a railway owned by a Government entity. Typically, when the loan is made to an industrial entity through the Government, AID will require as appropriate harder terms to be applied to the subloan.

Some confusion as to the loan terms for private sector loans arises from the use of the so-called "two-step" procedure. This arrangement involves a combination of direct loans at hard terms to the private borrower with an option to repay to the Government. If this option is exercised, the transaction in its latter stages resembles a direct loan to the Government and the softer terms apply after the private borrower has repaid. Such arrangements are illustrated by the Tata Engineering & Locomotive Co., Ltd., and the NAPCO Bevel Gear of India, Ltd., loans referred to in your letter. The terms to these private borrowers were 5¾ percent, 10 years, and 5¾ percent, 9 years, respectively. When repaid to the Indian Government, these credits will be analogous to Government loans and repaid at the typical soft rate. The Tata Hydroelectric Power loan also described in your letter is, a similar transaction. It is one of the very few loans, however, where the private borrower paid less than the standard 5½ to 5¾ percent. In this instance, the private borrower paid 3½ percent.

We have concluded, under all the circumstances that it would be unsound to depart from our established interest rate policies.

To the extent that the total economy in Alaska has been impaired and consequently the ability of borrower to service debts has been lessened by SBA has taken the following steps to meet this problem: (i) interest may be capitalized for 1 year; (ii) grace periods on payments of principal will be allowed if needed up to 5 years; and (iii) when necessary, the total term of the loans will be periods up to as much as 30 years. In addition, we will refinance existing liens (which rarely are financed beyond 12 years in Alaska) under the same terms.

I believe that these terms will be more than ample to meet the needs of the people of Alaska. From my personal conversations with businessmen and bankers in Alaska, I believe they are of the same opinion.

Sincerely yours,

EUGENE P. FOLEY,
*Administrator.*

U.S. SENATE,
*Washington, D.C., April 28, 1964.*

Mr. EUGENE P. FOLEY,
*Administrator, Small Business Administration, Washington, D.C.*

DEAR MR. FOLEY: Thank you for your prompt reply to my letters of April 20 and April 24 with respect to the comparison I made of the lower (three-fourth of 1 percent per annum) interest charges collected on loans to the private sector abroad under our foreign aid program and the interest rates (3 percent per annum) proposed to be charged in the disaster areas of Alaska by the Small Business Administration.

I know you fully appreciate that in raising these comparisons between what we do abroad and what we do at home, I am not unaware of unappreciative of the sincere and speedy action you and your staff have taken and are taking to relieve the tremendous economic burden upon the private sector of Alaska which suffered such a disaster on Good Friday.

However, I would be remiss if I did not bend every effort to secure for the disaster stricken private sector of the Alaska economy the same terms and benefits which the Government of the United States accords to business and industry abroad.

You seek to differentiate loans to the private sector in foreign countries from loans to the disaster stricken private sector of Alaska on the ground that some of these loans abroad were "two step loans" under which the government of a foreign country borrows money from the United States under our foreign aid program at an interest rate of three-fourths of 1 percent per annum, repayable in 40 years with a 10-year moratorium on repayment of principal, and reloans that money to a private corporation in the foreign country at 5½ percent interest per annum. All you are saying is that the United States is willing to aid the private sector of a foreign economy at the rate of three-fourths of 1 percent interest per annum, but that the foreign government borrower is unwilling to aid its own private sector at that same rate, but insists on loaning out our money at a profit which goes into the treasury of that foreign country.

The point the foreign aid administrators seek to make is that the foreign government borrower would be unable to repay a loan in dollars if the terms of the loan were set higher. The U.S. loan at three-fourths of 1 percent per annum thus definitely enables the foreign government to purchase goods and services to be used by the private sector of its economy. Any loan by the United States at less interest rate than it is required to pay for borrowing money thus flows to the benefit of the foreign country and of the private sector of the foreign economy. The higher interest rates charged to the private sector by the foreign country in the reloaning process are on a par with any taxes levied by the foreign country on the private sector.

In asking you, therefore, to reconsider the decision enunciated in your letter of April 27, 1964, I must point out the differences in your interest rate policies as compared to those under the foreign aid program.

The law under which you operate permits you to establish the interest rate on disaster small business loans at any rate from 0 percent to 3 percent. However, you have exercised no discretion in this matter, despite the fact that borrowers in disaster areas will find themselves in differing economic situations. You have set the interest rate for disaster loans at the maximum permitted by law—3 percent per annum—for all cases.

On the other hand, in the foreign aid program, operating under authority substantially the same as yours, the program administrators have announced a policy of tailoring the interest rate to the ability of the borrower country to repay with a choice of interest rates of three-fourths of 1 percent, 3½ percent, or 5¾ percent.

Why should not a similarly flexible policy be established for disaster small business loans in Alaska, with interest rates ranging from three-fourths of 1 percent per annum to a maximum of 3 percent per annum depending upon the economic circumstances and prospects of the individual borrower?

I would appreciate your early consideration of this suggestion.

With best wishes, I am
Cordially yours,
ERNEST GRUENING,
*U.S. Senator.*

## OIL SHALE DEVELOPMENT IN UTAH, COLORADO, AND WYOMING

**Mr. DOMINICK.** Mr. President, sometime ago I discussed on the floor of the Senate problems that have arisen in connection with oil shale development in Utah, Colorado, and Wyoming. At that time I charged that the actions of the Department of the Interior would delay or wholly nullify the development of the most important petroleum resource in this country. Oil shale deposits in that region are estimated to hold more than 1 trillion barrels of oil. This is the largest known oil reserve in the United States, and probably the largest in the world.

Several other problems are involved in trying to determine whether development shall go forward. One is the use of the Rifle oil shale plant, which only 2 years ago was given to the jurisdiction of the Bureau of Mines, while the oil shale reserve attached to it was given to the jurisdiction of the Navy, with specific instructions that the plant should be used for research and development in the production of oil from shale. What happened? Practically nothing.

**Mr. SIMPSON.** Mr. President, will the Senator yield?

**Mr. DOMINICK.** I am glad to yield.

**Mr. SIMPSON.** I invite the Senator's attention to the fact that the Institute of Research of the University of Wyoming is in a similar situation with respect to the same type of oil research center as has been mentioned.

**Mr. DOMINICK.** I am delighted to hear that additional research is underway, because it will be most helpful. In the meanwhile, a large number of industries have tried to rent the plant to continue development work on the resource as contemplated by the Congress.

The Department of the Interior, through its Solicitor, took the position that the so-called Kennedy patent process, program, policy, or plan—whatever one wishes to call it—in terms of what use could be made of developments with Government resources behind them, became so tortuous that it was almost impossible for the private industries to go forward with it. I am hopeful that that problem can be solved, but it is not certain that it can. That is only one point.

The next question is whether it will be possible to obtain private land by patenting for oil shale patent applications that have been in contest since the early 1930's. Only the other day there was a decision in which applications for patents which have been filed on this natural resource were rejected on the most technical ground possible. The ground was that there had been no affidavits of individual assessment work filed back in the early 1930's; and that although the Supreme Court had said that the Government did not have jurisdiction to challenge this, nevertheless, the fact that the applicants had not appealed from the original adverse decision of the Department barred them from using the Supreme Court case. Therefore, all those applications were rejected.

In addition, it was pointed out that there were also a number of other defenses which would be used by the Department in the event the Court found the Department was wrong on this one technicality.

The third point is the question of the development of a leasing program on public lands containing oil shale. Executive authority is now available to the Secretary of the Interior to take action on this point, but he has flatly refused to do so. He has flatly refused to exercise this power, is still asking for proposals, and is still saying, not only publicly, but privately, as well, that it will be some time before any development will take place so far as public lands are concerned, with the ability to lease them for experimental and development work.

This morning I wish to go a little further into the question of the patent applications.

**The PRESIDING OFFICER.** Under the morning-hour limitation, the time available to the Senator from Colorado has expired.

**Mr. DOMINICK.** Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes, because I believe this matter is extremely important.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. DOMINICK.** In 1963, a lawyer very knowledgeable in regard to the oil shale problems wrote to Representative ASPINALL, as chairman of the House Interior Committee, and outlined the problems he was having in prosecuting patents for oil shale before the Interior Department, and pointed out very clearly that the Department was taking positions, one after another, calculated to do no more than delay decision as to whether the applications should be sent to patent.

For example, from 1958 to 1962, the Department claimed that certain claims were invalid because of lack of discovery and abandonment; but in 1963 the Department suddenly abandoned that argument entirely, and went back to the technical argument which has just been used as the basis for its recent decision—still reserving to itself the right to challenge whether there had been adequate discovery, whether the claims had been abandoned, and so forth.

Because I believe the letter outlines the problem very clearly I ask unanimous consent that it be printed in the RECORD, in connection with my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LESHER, SCHMIDT & VAN CISE,
*Denver, Colo., March 28, 1963.*

Mr. WAYNE ASPINALL,
*Chairman, House Interior Committee.*

DEAR CONGRESSMAN ASPINALL: Please accept my heartfelt thanks for your taking the time to visit with me on my recent trip to Washington and to discuss the ever-present problem of patenting the oil shale claims in western Colorado.

The complete frustration of shale claimants such as John W. Savage and Tell Ertl in attempting to process their patent applications through the Department of Interior arise from efforts so time consuming as to defy description. Amazingly enough, there is relatively little land left on which patent applications are pending or can be made, and yet we seemingly cannot obtain action that would clear up this problem once and for all from the Department of Interior.

We have been working in our office on one matter in which the Department of Interior filed a contest in 1958 alleging that the claims were void for lack of discovery and abandonment. This charge came only after the complete patent application had been made and the fees paid to the Government in support of said application. All through the hearing which commenced in September of 1960, the Department of the Interior vigorously contended that no discovery had been shown on any of the claims in question, even though a sample of oil shale from one of the claims involved was actually retorted at the hearing and oil produced therefrom. In all of their briefs filed in the matter, they continued this contention until in a reply brief filed on February 25, 1963, they suddenly switched their argument and stated: "In the proceedings below, contestant [the Government] vigorously argued that the contestee had not even shown a *Freeman* v. *Summers* 'discovery' on Hoffman No. 13. However, full candor upon the basis of the full record and the facts recited in the Freeman decision, contestant must now admit and concede that the contestee has established that a discovery within the Freeman criteria was made upon Hoffman No. 13, and that, within that criteria, the claim should have been declared to be valid."

This admission comes after 5 years of intensive work on the part of the contestee and his counsel and the expenditure of countless man-hours and dollars.

Amazingly enough, the regional solicitor for the Department is now asking the Department to overrule the *Freeman* v. *Summers* decision of some 30 years' standing and the decision which our clients and other shale claimants in western Colorado have in full faith relied upon and under which decision many thousands of acres of lands have been patented for oil shale in Colorado.

In February of 1962, the Department rejected some 17 applications for patent of oil shale lands on the grounds that contests had been filed against the claims in question in the late 1920's and the early 1930's alleging a failure to do annual assessment work. As is known to everyone familiar with the problems of oil shale in western Colorado, literally thousands of these contests were filed at that particular time. An appeal from one of these contests resulted in a decision by the U.S. Supreme Court in the case of *Ickes* v. *Virginia-Colorado Development Corp.*, 295 U.S. 639 (1935) which held that the Department of Interior was without jurisdiction to bring such contests. The Court stated "so far as the Government was concerned, the failure to do assessment work for any year was without effect." As a result of the Court's decision, the Commissioner of the General Land Office instructed the Register in Denver, Colo., by letter of July 29, 1935, as follows:

"On June 3, 1935, the Supreme Court decided, in the case of *Ickes* v. *Virginia-Colorado Development Corporation*, that the United States had no right to declare oil shale placers null and void because of failure on the part of the claimants to perform annual assessment work thereon, and on June 24, 1935, the Department, in the case of the Shale Oil Co., Denver, mineral application 042552, recalled and vacated its decision in the Virginia-Colorado Development Corporation case, and overruled its previous decisions in conflict with the Supreme Court's decision."

The instructions from Washington to Denver contained in the letter were "you are instructed to close out on your records and transmit to this office all contest cases involving solely the question of a failure to perform annual assessment work, and failure to resume work on oil shale placers prior to the date of a challenge by the United States to the valid existence of the claims, where no answer has been filed by the claimants."

Throughout the years, the Department continued to recognize the validity of the Supreme Court's decision in numerous replies to letters of inquiry from persons who became aware of the old contests. Furthermore, the Department of the Interior issued patents to approximately 65,000 acres of oil shale land in western Colorado where the identical charge had been filed (failure to do assessment work) where the claimants had failed to answer the charge, but which later was held to be without authority by virtue of the Supreme Court's decision.

Then suddenly in the spring of 1962, in a complete reversal of its previous position of almost 30 years standing, the Department suddenly claimed that the invalid proceedings in the early 1930's constitute "estoppel by adjudication" and "res judicata."

The Department seems determined to defeat the efforts of the shale claimants by administrative harassment. A further illustration of their attitude is illustrated by the fact that when a verified statement of mining claimant was filed pursuant to section 7 of the act of August 13, 1954 (68 Stat. 708), on August 27, 1962, the manager of the Colorado Land Office rejected the statement on December 21, 1962, on grounds identical to those used by the Department to reject patent applications in February of 1962. The land office manager states that the claims involved were subject to contest No. 12790 commenced June 10, 1931. He admits that service was attempted on only four of the eight claimants involved in the claims, and further states that the contest charges were the same that the Supreme Court held in the *Ickes* v. *Virginia-Colorado Development* case that the Department of Interior was without jurisdiction to bring. He further rejected the verified statement of mining claimant based upon contest No. 12790 despite the fact that contained in the official files of the Bureau of Land Management in Denver, Colo., was a letter dated August 16, 1935, from the register of the Denver office to the Commissioner of the General Land Office in Washington, D.C., transmitting the contest record in No. 12790 and stating:

"Your above-captioned letter of May 28, 1931, directed adverse proceedings against the Ohio Nos. 1 to 50, inclusive, oil shale placers, to which contest No. 12790 was assigned. Your letter 1290989 N CRB of July 29, 1935, in re the Mountain States Mineral Land Company, et al., instructed this office to close all cases of adverse proceedings against mineral locations or entries where the charge was failure to perform annual assessment work on the claims. Contest 12790 is closed on the records of this office under those instructions and the papers herewith transmitted.

"Claimants have not been advised of this action as they have not filed answer to the charges."

Further, the contest docket sheet of the Denver Land Office shows that an entry was made on August 14, 1935: "Case closed because of instructions given by letter (68583) 7-29-35 in contest 11823 under Supreme Court decision, June 3, 1935, *Ickes* v. *Virginia-Colorado Development Corp.* record to GLO, S.A.C. advised."

The Departmental action in light of their own records seems utterly fantastic. But even more fantastic is the thought of future processes required of these shale claimants to obtain the patents which are justly theirs.

The Department has given every indication that should the appeals taken to the Director fail, we would then have no choice but to continue on the administrative level in an appeal to the Secretary and then perhaps to the courts. Assuming that we would ultimately win this matter in the courts, we then must return to Departmental action which is indicated to be the filing of additional charges such as lack of discovery and abandonment on all of these claims. Assuming that this is done and taking prior experience as to the rapidity of hearing procedures, these claimants could conceivably be looking to 20 to 30 years of additional battling with the Department of Interior over matters which everyone in western Colorado has presumed were finally settled almost 30 years ago.

The regional solicitor in a letter of transmittal on February 26, 1963, to the Director of the Bureau of Land Management in transmitting a reply brief in one of the contests in which we were involved, stated: "Since preparation of this answer, the U.S. Circuit Court for the District of Columbia has reached a decision, dated February 14, 1963, in the case of *Gabbs Exploration Co.* v. *Udall*, No. 16803. Said decision is pertinent to some of the problems involved in subject contest and appeal, and your attention is invited thereto." This is a fantastic statement and certainly a most back-door method of attempting to bring in a nonapplicable court decision.

In all of the claims which we know of which are being processed before the Department, the only question that was raised in the contest back in the late 1929 era was "failure to perform assessment work" but, in the Gabbs case this charge was made together with the charge "and the claims have been abandoned." The Circuit Court in the District of Columbia stated in the Gabbs decision, supra, "It is true that the Supreme Court did hold that failure to perform assessment work may not be the basis for holding unpatented mining claims, invalid; however, this does not affect the charge that plaintiff's mining claims had been abandoned. The two charges are separate and distinct."

The Department obviously intends to attempt to smear the other shale claims pending before it with the Gabbs decision when in truth and in fact they are in no way related.

Unfortunately, due to the limited resources of people like John Savage and Tell Ertl who have literally devoted their lives in working to develop the full potential of oil shale development in Colorado, the Department of Interior may well, by its apparent program of delay and harassment, eventually defeat them. To us justice cries out that this must not be done. We earnestly request your help in telling our story to those persons who must ultimately understand this.

Sincerely,

RICHARD M. SCHMIDT, Jr.

Mr. DOMINICK. Mr. President, in addition, I have before me a memorandum from the Secretary of the Interior to the Director of the Bureau of Land Management. The memorandum is dated April 16, 1964, and it very clearly sets forth that the Secretary of the Interior has told the Solicitor's office and the Bureau of Land Management that there are at least eight separate defenses which should be considered by the Solicitor in trying to determine whether patent applications on oil shale are or are not valid.

No. 9, and I think this is important—is as follows:

> Pending contest proceedings which have heretofore been suspended for any reason should be reactivated, and diligently pursued in a manner consistent with these instructions.

The effect of the memorandum and the effect of that section are not only to cast doubt on the possibility of going ahead with private developments on the oil shale, but also to cast doubt on existing governmental patents on oil shale land.

**Mr. SIMPSON.** Mr. President, will the Senator from Colorado yield?

**Mr. DOMINICK.** I am glad to yield.

**Mr. SIMPSON.** Has the Senator from Colorado any figures with respect to the amount of money already spent at Rifle, Colo., and at the University of Wyoming and at other points in our State, with respect to the development of these resources?

**Mr. DOMINICK.** I have not, but I know that many millions of dollars have been spent there.

**Mr. SIMPSON.** I believe it would be well to have that information placed in the RECORD.

**Mr. DOMINICK.** If I can obtain it, I shall do so.

Mr. President, I ask unanimous consent to have the memorandum from the Secretary of the Interior printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., April 16, 1964.*

To: Director, Bureau of Land Management, Charles Stoddard.
Through: Assistant Secretary, Public Land Management, John Carver.
From: Secretary of the Interior.
Subject: Determination of rights to outstanding unpatented oil shale mining claims.

The decision regarding the validity of some 257 oil shale placer claims which were canceled in prior adverse proceedings has been issued today. Since several current oil shale cases have been suspended pending this decision, I am taking this opportunity to promulgate instructions to the Bureau of Land Management regarding the determination of rights to outstanding oil shale placer mining claims.

1. For the protection of both the public interest and interests of those who may have valid rights to the lands in question, the Bureau is directed to identify all remaining unpatented oil shale mining claims in the States of Colorado, Wyoming, and Utah, and to begin proceedings in each case in which it appears that the claim may be invalid. As to such cases which are not now the subject of contest or of patent application, the Bureau will, as soon as possible, initiate proceedings to test the adequacy of the discovery on which the claim is based and to assert any other ground for contest which might be justified by the facts.

2. In determining the validity of any given claim, the Bureau is instructed that the claimant had the burden of proving (1) that a valid discovery has been made prior to February 25, 1920, the effective date of the Mineral Leasing Act, or (2) that mineral had been exposed or found within the boundaries of the claim which, although insufficient to constitute a valid discovery, was connected with or led to a valid discovery after February 25, 1920, as a result of work being diligently prosecuted on said date and diligently continued thereafter to such discovery. See Mineral Leasing Act, chapter 85, section 37, 41 Stat. 451, 30 U.S.C. 193, and Oil and Gas Regulations, circular No. 672 (reprinted as amended to Oct. 29, 1920, 47 L.D. 437 (1920). And see, *Union Oil Co.* v. *Smith*, 249 U.S. 337, 346 (1919); *United States* v. *Ohio Oil Co.*, 240 Fed. 996 (D.C. Wyo. 1916), and *Starks* v. *Mackey*, 60 I.D. 309 (1949).

3. To qualify as valid, the discovery must have been such, on the date it was made, as would justify a person of ordinary prudence in the further expenditure of labor and means, with reasonable prospect of success, in developing a valuable mine. *Castle* v. *Womble*, 19 L.D. 455 (1894), *Chrisman* v. *Miller*, 197 U.S. 313 (1905).

4. In applying the test of discovery, the Bureau should observe the following guidelines:

(a) The fact that any given deposit of oil shale may be a valuable resource for future use does not render the discovery valid under the mining laws unless a person of ordinary prudence would be justified in the further expenditure of labor and means with the reasonable prospect of developing a valuable mine.

(b) The finding or exposure of an isolated bit of mineral or quantities of low-grade mineral, not connected with or leading to valuable mineral deposits, will not in itself be considered a sufficient discovery.

(c) The mineral deposit actually found or exposed by the locator must itself have been of such character as to meet the test of discovery without regard to other physical evidence or information not obtained from within the boundaries of the claim from which the existence of substantial values beneath the surface may be inferred.

5. In further contest proceedings, the Bureau will raise the question of the economic or commercial value of oil shale, as of the time the claims were located, as one of the elements in the application of the standard test of discovery discussed above. The lack of any economically or commercially feasible method of extraction and production of shale oil from oil shale is a relevant, although not necessarily decisive, consideration in determining whether a discovery was made. In this regard, the mere showing of an outcrop of the Mahogany Ledge, in circumstances which heretofore have provided the basis for patent, will no longer be accepted as prima facie evidence of compliance with the requirements of the mining laws. This does not mean that the claimant is required to demonstrate the immediate marketability of oil shale as in the case of certain nonmetallic minerals or widespread or common occurrence.

6. Priority should be given to the disposition of pending contest proceedings and claims involving land within the Naval Oil Shale Reserves Nos. 1 and 3.

7. Until further notice, appeals from decisions by the hearing examiner or land manager will continue to be referred directly to this office for consideration and final decision. Consideration should be given by the Bureau to other methods of expediting contests and appeals.

8. It is recognized that some expensive and difficult procedures may be necessary to assemble the geologic, economic, and other data necessary to carry out these instructions in full. The Bureau will cooperate with the Department of the Navy, the Solicitor's Office, the Bureau of Mines, and the Geological Survey in assuring that orderly and efficient procedures are followed in assembling the necessary data. It is also recognized that it may become necessary to secure the services of experts now outside the Government service to obtain necessary historical and economic data. However, where possible, the services of the experts in the Bureau of Land Management, Bureau of Mines, and Geological Survey should be fully utilized.

9. Pending contest proceedings which have heretofore been suspended for any reason should be reactivated and diligently pursued in a manner consistent with these instructions.

STEWART L. UDALL,
*Secretary of the Interior.*

**Mr. DOMINICK.** Finally, Mr. President, I have before me an editorial from the Daily Sentinel, at Grand Junction; the editorial is entitled "ASPINALL Blasts Interior on Shale." The editorial is particularly pertinent, it seems to me, because it points out very clearly the fact that in almost every instance in which the Department has had anything to do with oil shale, the net effect of its actions has been either to prevent immediate development of this resource or to postpone it so far into the future that it would seem to be almost impossible to get this resource developed into a useful product for American consumption.

I ask that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Grand Junction (Colo.) Daily Sentinel, Apr. 20, 1964]

### ASPINALL BLASTS INTERIOR ON SHALE

WASHINGTON.—Chairman WAYNE N. ASPINALL, Democrat, of Colorado, of the House Interior Committee issued a blast over the weekend accusing the Interior Department of giving him misinformation about the Interior Solicitor's decision rejecting 257–265 oil shale claim applications in western Colorado.

The decision was finally announced by Interior on April 17.

Both ASPINALL and Senator PETER H. DOMINICK, Republican, of Colorado, believe that the effect of the decision will be to prolong litigation of these particular claims for many years, because it was based on only one ground: That the claimants lost their interests in the claims because they did not appeal rulings of the Department in the early thirties voiding the claims for failure to do annual assessment work.

Thus, when the claimants go to court to appeal this opinion of Interior Solicitor Frank J. Barry, if the courts uphold any or all of the claims, the Department can later reject the claims on another ground. When that decision is appealed to the courts, and if the courts again uphold the claimants, the Department can, at an even later time, reject the claims on still a third ground. And so on.

It was exactly this situation which ASPINALL had sought to prevent. Richard M. Schmidt, Jr., of Denver, chairman of the Unpatented Claims Subcommittee of the Colorado Oil Shale Development Committee, was concerned about this problem several months ago and wrote a memorandum about it to the Colorado congressional delegation.

What ASPINALL and the rest of the Colorado congressional delegation sought was a decision from the Interior Solicitor stating all of the grounds on which the claims might be rejected by the Department and the Department's opinion on each ground. Then if the claimants appealed the Interior rulings in the courts, all departmental objections to the claims could be settled in one court test.

ASPINALL talked over this point with Interior Secretary Stewart L. Udall, with Interior Solicitor Frank J. Barry, and Wallace L. Duncan, the Barry aid who drafted the Interior Solicitor's opinion. ASPINALL said that it was his understanding that Interior had agreed to dispose of all objections to the claims in the Solicitor's ruling.

But public land law experts and Aspinall and Dominick and their legal aids all agree that the Solicitor's opinion issued April 17 did not do that.

"This opinion is different from that which I had been led to expect," Aspinall told the press on April 18. "Interior did not change its position on its initial draft on this opinion one iota from the way it stood early in the year.

"Instead of clearing title to these claims, this does absolutely the reverse of that. This opinion will have the effect of continuing to harass the claimants because of the long road of litigation ahead of them, so that they will finally give up and the Federal title to the land ultimately will be cleared on the public lands on which the claims are made," Aspinall said.

"This is another handicap in the development of these lands, in line with the ideology of the brainstormers who oppose patenting of public land. The Department is holding a club over the head of these claimants. It will take years to patent this land," Aspinall said.

Barry's opinion covered either 257 or 265 claims on either 39,712 acres or 40,992 acres of oil shale land in Colorado. Interior itself did not know on April 17 which figures were accurate on the claims covered by the Barry opinion.

Aspinall said that the Barry opinion proved the absolute necessity of establishing in this Congress a Public Lands Laws Review Commission (PLLRC) to review all public lands laws. Otherwise, he said, the Department will stop all patents on public lands and will "try to hold up the development of mineral resources by private enterprise." Aspinall is sponsor of the PLLRC bill which passed the House on March 12 by a vote of 339 to 29. It would take the Commission several years to make its study, come up with recommendations and get them approved in Congress, however. So, although the long-range effect of the PLLRC bill might aid the oil shale claimants, it would provide no immediate relief.

What upset Aspinall particularly about the Barry decision is that "this was the second time that I have been misled in recent weeks by officials in the Interior Department on direct questions which I have asked. The first time was by Buz Bennett relative to the filling of Glen Canyon Dam. The second time was by Barry and Duncan on this (oil shale) opinion.

"It is not the province of executive department officials to withhold information or to mislead a Congressman in answer to direct questions asked by that Member of Congress. I know that this has been done for years, but it has been practiced very, very little against me over the years," Aspinall said. N. B. Bennett, Jr., is Assistant Reclamation Commissioner. He is widely known as "Buz."

Mr. DOMINICK subsequently said: Mr. President, earlier today I discussed some information I had received about the oil shale problems in the West, which are extremely important. I did not have enough time then to finish the statement I intended to make. I ask unanimous consent that what I am about to say may follow immediately the remarks I made earlier today on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. I had said that the Secretary of the Interior, through his action in denying patent applications on oil shale land, based on a small technicality, without including any of the other defenses that were available with respect to those claims, has substantially delayed an opportunity to determine whether private industry can proceed to develop probably the greatest natural resource in the entire country.

As I previously stated, the United States has probably the greatest volume of reserves of oil or petroleum shale reserves to be found anywhere in the world. The action of the Department of the Interior has greatly delayed us.

I placed in the Record earlier today a memorandum from the Secretary of the Interior to the Director of the Bureau of Land Management. I wish to comment on that memorandum because if it is followed, I have little or no doubt that by a policy decision made largely through the Solicitor of the Department of the Interior the whole body of mining law of the United States will be changed, not only with respect to oil shale, but also with respect to every other mineral that exists.

As Senators know, there is now an opportunity for people to do exploratory work, and if they find valuable minerals, to locate a claim, do their work, and seek to take out a patent.

There has been an increasing tendency within the Department of the Interior to try to determine what is a valuable mineral, in terms of whether it can be produced immediately at a commercial profit.

Paragraph 4 of the additional tests which the Secretary of the Interior has instructed the Director of the Bureau of Land Management to use in determining whether new patent applications are valid reads as follows:

> 4. In applying the test of discovery, the Bureau should observe the following guidelines:
>
> (a) the fact that any given deposit of oil shale may be a valuable resource for future use does not render the discovery valid under the mining laws unless a person of ordinary prudence would be justified in the further expenditure of labor and means with the reasonable prospect of developing a valuable mine.

If one is dealing with oil shale in an area where the development work on economical methods of obtaining oil from the oil shale has not been completed, this directive immediately raises the question of whether the discovery is a valuable one, even if a pilot plant for processing the oil from the oil shale may be available.

Subsection (b) of paragraph 4 reads as follows:

> (b) The finding or exposure of an isolated bit of mineral or quantities of low-grade mineral, not connected with or leading to valuable mineral deposits, will not in itself be considered a sufficient discovery.

This would indicate to me that if there were a valuable claim and if one could see that it was extending into another area, he could not validly locate a claim in the adjoining area; he would have to do an enormous amount of work before he would be able to prove that the discovery was a valuable one and, therefore, was a valid location.

Subsection (c) reads as follows:

> (c) The mineral deposit actually found or exposed by the locater must itself have been of such character as to meet the test of discovery without regard to other physical evidence or information not obtained from within the boundaries of the claim from which the existence of substantial values beneath the surface may be inferred.

So far as I can determine, this means that the Department of the Interior is directing the Bureau of Land Management to ignore wholly any aspects of geology as a basis for evaluating a discovery, even when there is an outcrop of oil shale. I stress the point that this attitude has been taken by the Bureau, apparently at the direction of the Solicitor and the Secretary of the Interior, with regard to a number of other minerals, not even located in my own State; and those cases are even now being taken into court.

One of the most valuable oil shales is that in the so-called Mahogany Ledge, which is so loaded with oil that it is mahogany in color, and the oil can be taken out with a minimum of effort and expense. It is the most valuable type of oil shale to be found. Yet in this directive it is said:

> 5. In further contest proceedings, the Bureau will raise the question of the economic or commercial value of oil shale, as of the time the claims were located—

Most of them were located before the Mineral Leasing Act of 1920—approximately 40 years or more ago; therefore, it is necessary to project one's self back to that period of time, in considering this element, which is one of the elements to be considered—according to the memorandum—in the application of the standard test of discovery.

I read further from the memorandum:

> The lack of any economically or commercially feasible method of extraction and production of shale oil from oil shale is a relevant, although not necessarily decisive, consideration in determining whether a discovery was made. In this regard, the mere showing of an outcrop of the Mahogany Ledge, in circumstances which heretofore have provided the basis for patent, will no longer be accepted as prima facie evidence of compliance with the requirements of the mining laws.

In other words, in a memorandum prepared in coordination with the Solicitor and directed to the Bureau of Land Management, the Secretary of the Interior is, in effect, saying, "Disregard everything you have done for 30 years; this is a new edict by which we say that all the previous rules and precedents are to be wholly ignored."

Mr. President, in attempting to conclude this presentation on a subject which is so important to the entire oil and mining industry, I point out that it is essential that the proposed program be considered by all Members of Congress from States in which any mineral deposits are located, including deposits of minerals such as potash and pearlite, or any other mineral subject to the placer or lode mining claims, so as to determine how the new directive would affect them, for it seems to me that this is the first attempt by the Department of the Interior, without the benefit of congressional action, to amend the mining laws.

I believe this memorandum is a warning of a development which will require congressional legislation, in order to determine what route is to be taken in order to preserve some of the mining industry, because as certain as I am sure I am standing here, unless we do something in this area, the Secretary of the Interior, with the usual arrogance he has exhibited to Congress as a whole, will take further steps along this line, to prevent any further application of the standard precedents in connection with the mining laws.

## NATIONAL INTERRELIGIOUS CONVOCATION ON CIVIL RIGHTS

Mr. HUMPHREY. Mr. President, last evening the historic National Interreligious Convocation on Civil Rights took place in the Nation's Capital, in McDonough Auditorium at Georgetown University. It was a memorable and historic occasion.

The audience was much larger than had been anticipated. Persons had traveled from many States to attend this historic convocation. There were approximately 4,000 persons in the auditorium, and another thousand sought to obtain admission. Approximately 1,500 were in an adjacent hall, where the messages of the great spiritual leaders of the four great faiths—Catholic, Protestant, the Eastern Orthodox, and Jewish—were transmitted by loudspeaker to those who were unable to be present in McDonough Auditorium. The chairman of the convocation was the Most Reverend Patrick A. O'Boyle, archbishop, Catholic diocese of Washington and chairman, Interreligious Committee on Race Relations of Washington, D.C. Sponsoring organizations included the Commission on Religion and Race, National Council of Churches; Social Action Department, National Catholic Welfare Conference; and the Commission on Social Action, Synagogue Council of America. Never before in the history of this Nation has such a gathering of religious leaders of our four faiths taken place. It was truly a historic and moving occasion.

What was the driving force behind this convocation? Simply this: the prompt passage of an effective civil rights bill by the Congress. The urgent need for this legislation and the moral dimension of this issue brought these religious leaders to Washington to raise their collective voices in behalf of civil rights. Their message came through loudly and clearly; the time for action by the Senate on the civil rights bill has arrived. The religious leaders of America are to be highly commended for their courageous statement in behalf of human rights, freedom, and dignity.

It was a beautiful occasion. As the Senators who were there looked toward the interreligious choir, we saw America as it is—people of all races, colors, and creeds, lifting their voices in song—ancient hymns, beautiful spirituals, and patriotic songs, that tell the story of America's life, faith, and purpose. As I left the auditorium, I said to a friend that that was one of the most moving, inspiring, exciting, and exhilarating experiences of my life.

I only wish that every Member of Congress could have been present. The message was powerful. It had as its purpose a more beautiful and a more wonderful America.

Mr. President, I ask unanimous consent that the program outlining the events of the evening be printed in the RECORD, together with the list of sponsoring organizations and the participating choirs.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

NATIONAL INTERRELIGIOUS CONVOCATION ON CIVIL RIGHTS, TUESDAY, APRIL 28, 1964, 8 P.M., MCDONOUGH AUDITORIUM—GEORGETOWN UNIVERSITY, 37TH AND O STREETS NW., WASHINGTON, D.C.

### PROGRAM

Our National Anthem, Interreligious Choir and Assembly.

Opening prayer, Chairman of the Evening, The Most Reverend Patrick A. O'Boyle, archbishop, Catholic archdiocese of Washington, chairman, Interreligious Committee on Race Relations, Washington, D.C.

Opening remarks: "The Challenge of Religion," Bishop B. Julian Smith, vice chairman, Commission on Religion and Race National Council of Churches.

Address: "The Legislation of Morality and the Morality of Legislation," Rabbi Uri Miller, president, Synagogue Council of America.

"He Watching Over Israel" (from "Elijah"), Felix Mendelssohn, Interreligious Choir, Dean Warner Lawson, Howard University, conductor.

Address: "Religion and Race: 'Justice, Justice Shalt Thou Pursue,'" the Most Reverend L. J. Shehan, archbishop of Baltimore, representing Social Action Department, National Catholic Welfare Conference.

"Done Made My Vow," spiritual, arranged by Dean Warner Lawson, Interreligious Choir.

Address: "Human Dignity: 'Have We Not All One Father?'" The Reverend Dr. Eugene C. Blake, chairman, Commission on Religion and Race, National Council of Churches.

"America The Beautiful," Interreligious Choir and Assembly.

Concluding remarks, the Most Reverend Patrick A. O'Boyle.

Closing prayer, Rabbi Lewis A. Weintraub, president, Washington Board of Rabbis, cochairman, Interreligious Committee on Race Relations, Washington, D.C.

Sponsoring organizations: Commission on Religion and Race, National Council of Churches, Social Action Department, National Catholic Welfare Conference, Commission on Social Action, Synagogue Council of America with the cooperation of the Interreligious Committee on Race Relations, Washington, D.C.

Participating choirs: Catholic University Choir, Georgetown University Choir, Howard University Choir, Temple Sinai Choir.

Mr. HUMPHREY. Mr. President, each of my colleagues who attended the convocation last evening will in turn ask to have printed in the RECORD one of the messages. It is my privilege to ask unanimous consent to have printed in the RECORD the address of Archbishop Shehan of Baltimore. His address was entitled "Religion and Race: 'Justice, Justice Shalt Thou Pursue.'" The message was based in large part upon the life, the great works, and the great message of Pope John XXIII in his encyclical letter, Pacem in Terris. I hope that every Senator will read it.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### RELIGION AND RACE: JUSTICE, JUSTICE SHALT THOU PURSUE

(Address of the Most Reverend Lawrence J. Shehan, D.D., Archbishop of Baltimore, at the National Interreligious Convocation on Civil Rights, McDonough Gymnasium, Georgetown University, Washington, D.C., April 28, 1964)

When in the year 1958 the Catholic bishops of the United States declared that the heart of the race question is moral and religious, they were solemnly proclaiming that the settlement of the race problem which has vexed this country from the beginning is, for all of us, a sacred duty—a duty which can be fulfilled only on the basis of justice and in the spirit of charity.

Five years later, when Pope John XXIII issued his encyclical letter, "Pacem in Terris," he obviously was not thinking directly of this country with its particular problems; he was concerned about all the social ills and public discord which for so long have kept the modern world in turmoil. For the first time in history, a supreme pontiff was addressing not only his own children in Christ, but all men of good will. "Peace on earth, which men of every era have so eagerly yearned for, can be firmly established only if the order laid down by God be dutifully observed." That order, he tells us, must be founded on justice—on the system of rights and duties arising from the fact that each of us is a person endowed by God with intelligence and free will. "Man's rights and duties flow directly and simultaneously from his very nature, and are therefore universal, inviolable, and inalienable." Because he was speaking about all men everywhere, Pope John's words are all the more significant to us in our present crisis.

In his encylical, Pope John has given us the most explicit and detailed statement of men's rights and duties that is to be found in any papal document. He begins his enumeration by noting that not only does every man have the right to life and bodily integrity; he has the right also to the means necessary and suitable for the proper development of life: food, clothing, shelter, rest, medical care, and the necessary social services. "He has the right to respect for his person; to his good reputation; to freedom in searching for truth and in expressing and communicating his opinions; and in the pursuit of art; to be informed truthfully about public events."

"The natural law gives man the right to share in the benefits of culture; the right to a basic education; to technical and professional training. * * * Every effort," he says, "should be made that persons be enabled on the basis of merit to go on to higher studies, so that as far as possible they may occupy posts and take on responsibilities in human society in accordance with their natural gifts and the skills they have acquired."

In the economic field, each individual has the right to free initiative and to work; to healthful and wholesome working conditions, and—a thing especially to be emphasized—the right to a proper wage determined according to criteria of justice and sufficient according to available resources to provide for the worker and his family in a manner of living in keeping with the dignity of the human person. He has the right to make of his work the means to provide for his life and the lives of his children. He has the right to freedom of movement and to residence within the confines of his country. He has also the right to take an active part in public affairs and to contribute his share to the common good.

Particularly pertinent to our present situation in the United States are the words Pope John uses to close his enumeration of man's rights and duties: "The conviction that all men are equal by reason of their natural dignity has been generally accepted." In this section of his encyclical, the Holy Father once and for all condemned as absolutely untenable any argument for racial discrimination based on principle. Even more, he proclaimed the obligation not only of society to recognize those rights which are fundamental to the dignity of the human person, but also the duty of the individual to work toward a recognition in the order of civil society of those rights that are his as a human person. In Pope John's own words, "He who possesses certain rights has likewise the duty to claim those rights as marks of his dignity."

Such are the words that Pope John addressed to all of us a few short months before his death, in an effort to bring us peace on earth by the establishment of an order of justice among all men. The very fact that, by his fatherly voice and paternal wisdom, he had been able to bring together in charity those who had long been separated by the bitterness of doctrinal dissension gives him a special claim to be heard by us in this hour of racial bitterness and social strife. For two main reasons it is clearly necessary to have instituted here in the United States that order of justice outlined by Pope John: our grave problems which cannot be solved in an atmosphere poisoned by injustice toward a large segment of our people, and our opportunities, so full of promise, which can be realized only against a background of national concord and unity.

Our country, from the very beginning, has been committed to that equality based on human dignity of which Pope John spoke in his encyclical. "We hold these truths self evident," declared our Founding Fathers on that auspicious day of independence in 1776, "that all men have been created equal and have been endowed by their Creator with certain unalienable rights, among which are life, liberty, and the pursuit of happiness."

It was, however, almost a century later that this country, toward the end of its one great tragic internal conflict, took its first step to free its Negro people from the debasing institution of slavery. By its very title, the Proclamation of Emancipation was only a modest beginning in America's march toward that ideal proclaimed at the very moment of its birth. The 14th and 15th amendments were further significant steps in that march. There still remained, however, a long road to travel.

Now, after a number of slow and hesitant steps taken here and there through the years, the country as a whole is poised for another significant advance. The large majority by which the House of Representatives passed the civil rights bill, and the effective support the President has given that bill, give evidence that the thoughtful and responsible people of this country desire the passage of such legislation and the attainment of the goals which it seeks. All the indications are that the time for such action is now. Further delay in bringing about what we have come to recognize as a requirement of justice may well do irreparable harm to this Nation's whole future.

The truth is that the United States in this present hour is faced with problems and dangers as great as those which have confronted this country in any time of its history. Among all our problems, none is more serious than that of crime. The growing volume of this national evil is attested to by every report that issues from the Federal Bureau of Investigation. Most significantly, those reports show the alarming growth of serious crime at a constantly lowering age limit. Attempts to link race, as a cause, with crime are not only divisive but are unjust and totally lacking in objectivity. At the same time, it must be recognized that present racial dissension, suspicion, and overly emotional reaction prevent us from even examining some of the most significant aspects of the problem thoroughly, objectively, and at its roots. It is clear that, in this country as a whole and in each community, this problem can be met only when all the important elements can act in unison and with wholehearted cooperation. But under present conditions, this necessary united effort has become impossible.

Closely connected with the problem of crime is that of poverty—poverty on an alarming scale at the very time when this country is enjoying its period of greatest prosperity. The magnitude of the problem and the difficulty of dealing with its complex causes have led our President to make this the object of special consideration, not only of the Congress and of the executive branch of the Federal Government, but also of the whole Nation. And closely allied to both crime and poverty is the massive problem of unemployment, certain to grow worse, if left to itself, under the process of automation. But how is it possible to concentrate on these problems and to seek a rational solution if the masses of our people continue to be drawn farther and farther apart into opposing and even warring factions?

Much the same thing must be said about the problem of inferior quality in education. Not many months ago we were all greatly concerned about the widely publicized defects in our educational system. Now we are in danger of losing sight of this whole problem in the turmoil over segregation and discrimination. Nor can we afford to turn our eyes away from the festering sore our urban deterioration and neighborhod blight which, having its roots largely in racial discrimination, meets our eyes at every turn and threatens the whole culture of this Nation.

Most pressing of all our problems at the present moment, however, rising directly out of the soil of racial dissension, is the multiple threat to peace posed by an unreasonable extremism on both sides of the racial conflict. The incidents of the past few months should make it clear to us that this problem presents no idle threat. Nothing should bring home to us more clearly and more forcefully the need now to take the final steps in our country's advance toward the fulfillment of that ideal of justice and equality which was proclaimed by our Founding Fathers. Only in "peace which is the work of justice" can we give to all our major problems that undivided attention and unified effort without which a solution is impossible.

If, for a moment, we lift our eyes above the great problems which lie at our feet, we behold a vista of almost unparalleled opportunity. The intelligence and resourcefulness which, amid all our difficulties, have enabled this country to build an economy of unprecedented prosperity, should certainly enable us also to meet our problems of crime and of poverty, of unemployment, of inferior education, of urban blight, and of threatening extremism. They should enable us to build a better order in this country—an order of even greater promise for all. But that better order can be built only in peace and unity. And peace and unity can spring only from justice wrought in the spirit of charity.

Raising our eyes above the domestic scene, we can see a vision of even wider opportunity—opportunity of world leadership which no other nation in the world is in a position to supply. No one can doubt that this country emerged from the holocaust of World War II as the strongest and most influential nation on earth. There are some who maintain that we have dissipated our strength and have stupidly relinquished our leadership. But as a people we have done many good things; and not all of the mistakes have been made by our Nation. Our basic strength is still intact, and our position of leadership is still there, if we determine to use it.

Recently, a distinguished English Jesuit priest—theologian, ecumenist, and author—who has spent much time in this country, wrote these words which, while addressed to the problem of religious education in its relationship to the whole moral and social order, are equally applicable to our present problem: "I feel so convinced that the issue is of paramount importance," he said, "because America is now the leading country in the world and the almost sole defense of real liberty and true religion." To the unprejudiced eye, America is still the leading country in the world—but to exercise her position of leadership, she must have domestic peace and unity in justice.

Almost 200 years ago, our national forefathers were inspired by a noble vision and made a solemn commitment which they embodied in the Declaration of Independence. The sublimity of that vision not only brought them courage and endurance; it also invested this country with an influence altogether incommensurate with its then meager strength; and it brought hope to the downtrodden of many nations. Thirteen years later, having won their war of revolution, they translated their vision into our national Constitution—a Constitution which, in the words of one of its most distinguished students "ranks above every other written constitution by the excellence of its scheme, its adaptation to the circumstances of the people, the simplicity, brevity, and precision of its language, its judicious mixture of definiteness in principle and elasticity in detail."

That Constitution, however, was marred by one blot; it gave recognition to the institution of slavery. It took the Civil War to erase that blot. The 14th and 15th amendments gave to all our people justice in theory, if not then in practice; they laid the foundation for equal justice under the law. Now through its Congress, this Nation is laboring to give a more complete expression in terms of law to our original vision and commitment. Only in an order of justice shall we have peace. Only in peace shall we have national unity. Only in national unity can we accomplish our difficult tasks and make good our promising opportunities. Let us get on with our work. We must not be diverted from our vision by the hysterical cries of racists, or by the provocative and self-defeating gestures of those who, in the floodlight of national publicity, strive not for an order of justice but for the accomplishment of selfish aims. Under the protection of the God in whom we trust, let us go forward to the realization of the ideal of the original vision of our forefathers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUMPHREY. I ask unanimous consent that I may have an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the message by Bishop B. Julian Smith, of the Christian Methodist Episcopal Church, and vice chairman of the Commission on Religion and Race of the National Council of Churches, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

## THE CHALLENGE TO RELIGION

(An address to the National Interreligious Convocation on Civil Rights, Georgetown University, Washington, D.C., April 28, 1964, by Bishop B. Julian Smith, Chicago, Ill., of the Christian Methodist Episcopal Church; Vice Chairman, Commission on Religion and Race, National Council of Churches)

Mr. Chairman, honored platform guests, ladies and gentlemen, the program committee assigned me the task of making a brief statement on the subject "The Challenge to Religion." Since this is a National Interreligious Convocation on Civil Rights, the speaker assumes that what is expected of him is a statement dealing with the challenge of the civil rights struggle to the religious forces of the United States. The time allotted for the address is indicative of the fact that the discussion of the subject must be very limited.

One definition of the word "challenge" is "a call to take part in a fight." Perhaps it would not be out of place to think of our subject as a call to the religious forces of the Nation to take part in a fight for justice and equal opportunity for all people.

While we are concerned with the struggle for civil rights and human dignity of all oppressed people, in this discussion we should be thinking primarily of Negro-white relations in the United States. It appears to us that the Negro's struggle for civil rights and dignity presents organized religion with a threefold challenge:

1. A challenge to save itself by loosing itself in effective and dedicated service to those who are oppressed and kept down by the unjust use of power and authority.
2. A challenge to break the grip of paralyzing fear which has engulfed many individuals of good will, and to inspire them to become bold witnesses of their faiths.
3. A challenge to move jointly in the area of social action during the current crisis in race relations.

Let us now consider each phase of this challenge.

### I. THE CIVIL RIGHTS STRUGGLE IS A CHALLENGE TO ORGANIZED RELIGION TO SAVE ITSELF BY LOSING ITSELF IN SERVICE TO THOSE WHO ARE OPPRESSED AND KEPT DOWN BY THE UNJUST USE OF POWER AND AUTHORITY

Jesus said to the multitude and to His disciples: "Whoever would save his life will lose it; and whoever loses his life for My sake and the gospel's will save it." He also said: "You are the salt of the earth; but if salt has lost its taste, how shall its saltiness be restored? It is no longer good for anything except to be thrown out and trodden under foot by men." In this same sermon He charged His followers, "Let your light go shine before men, that they may see your good works and give glory to your Father who is in heaven."

Religion has spent much time in saving itself. Millions upon millions of dollars have been spent in the erection of modern buildings and equipping them with up-to-date facilities. Its teachers are trained in the use of the latest methods and techniques. The last quarter of a century has seen a tremendous increase in the number of persons affiliated with the church and synagogue. Statistics show that there are approximately 118 million people affiliated with Christian churches alone in this country. Indeed this is a mighty army. Great strides have been made in its program of recruitment and training of both clerical and lay leadership. It has been quick to respond to the needs and appeals of people around the world. A disaster anywhere in the world brings quick response from the religious forces of our Nation. They are easily aroused by the oppression and indignities suffered by people in other countries, most especially those who live in Communist countries. As our Master said to a group of religious leaders, "These things you ought to have done but without neglecting the weightier matters of the law, justice, mercy, and faith." We have a word to say to our own communities.

In too many instances and in too many places, organized religion has been a blind to oppression and indignities in its own houses of worship and communities; it has been deaf to the cries of the disinherited; it has not been aroused by the suffering of those who are forced to live in poverty, ignorance, and exploitation in the ghettos of our cities. It has been insensitive, indifferent, and hostile to the aspirations and hopes of Negro people. It has cut them off from the main streams of culture, even to the extent of closing the doors of the holy sanctuary to sons of God whose skin is black. It has sanctioned and supported racial segregation and discrimination not only in the community but in its own life and ministry. It has greeted with woeful silence the denial to the Negro of his elementary rights, such as equal opportunity for employment, education, housing, and voting rights. As a result of this denial and the emergence of automation the Negro constitutes a percentage of the unemployed, unemployable, and the relief roles all out of proportion to his percentage of population. The very persons who have been most persistant in denying these elementary rights to the Negro are the ones who are loudest in their claim that the Negro is not prepared to enter fully into the life of the community. It is he, also, who is most active in opposing any legislation or remedial measures proposed in our National, State, and city lawmaking bodies.

With a little modification the statement of President Johnson seems appropriate at this point. "No group of people has a greater responsibility in civil rights than organized religion. Its people are part of the power structure in many communities of our land. The leaders of States and cities and towns are in your congregations and they sit there on your board.

"Their attitudes are confirmed or changed by the sermons you preach and by the lessons you write and by the examples you set."

### II. THE CIVIL RIGHTS STRUGGLE IS A CHALLENGE TO ORGANIZED RELIGION TO BREAK THE GRIP OF PARALYZING FEAR WHICH HAS ENGULFED MANY INDIVIDUALS OF GOOD WILL AND TO INSPIRE THEM TO BECOME BOLD WITNESSES OF THEIR FAITHS

The emersion of the civil rights struggle to the forefront of our national life has placed many persons of good will in varying precarious positions. Many have had their livelihood taken away. Others have been socially ostracized. Still others have been silenced—dropped from the mainstream of their community life. Devious and varied pressures and threats on the person, family, and/or future of countless numbers of other people have been applied, both subtly and boldly.

Across this country of ours an atmosphere of fear has been created; in some sections almost a Gestapo climate exists. Organized religion cannot hope to move forward in this country without direct confrontation with these conditions that rob men of their freedom and circumvent their personal liberties.

Organized religion has two responsibilities in this regard: (1) to dispel the fear by confronting it with truth, and by bringing the full light of the doctrine of the brotherhood of man and the fatherhood of God to bear upon it, and (2) to inspire its communicants to become bold witnesses of their faiths.

To dispel the fear that has engulfed us, organized religion must enlarge the scope of its social concern and action programs to include working for social betterment for all people, in advance of crises that pit one group against another. Untruths and half-truths skillfully tossed around by some politicians, by race baiters, and bigots must be exposed to the whole truth. Speaking to some of his followers, Jesus said, "And you will know the truth, and the truth will make you free." It is at this point where the voice of organized religion should be loud and clear. Truth about race, truth about civil rights should be taught and preached with vigor by all religious groups. This is one of the imperatives of organized religion today.

Organized religion must make committed and dedicated followers—followers who are excellent examples of their faith. They must feel a personal responsibility for putting into their daily lives their faith's teaching on race and human relations. The clerk in a store, the waitress in a restaurant, the doctor in his office, the postman on his route, must be made conscious of the opportunities to bring God's kingdom a little nearer through daily relationships and interactions.

Americans must be made to know that their faith cannot be divorced from their daily behavior. In recent months we have had glaring examples of Governors of States and U.S. Senators living in sharp conflict with the beliefs of their churches. More than likely they have not heard the old Chinese proverb: "Be ill at ease when your words and deeds please the mob." Too many of our top leaders are pleasing the mob. What is organized religion saying to them? And what is it saying to the less prominent communicants who use cattle prodders, water hoses, and dogs on human beings? One must first degrade himself before he can degrade others. Is not religion to lift us above such barbarianism? Did not God give man liberty when he gave him life? When we protect our neighbor's liberty we protect our own.

A few years ago, in one of our leading church magazines, there appeared an editorial entitled, "When the Spider Walks." The writer points out that when the spider walks any place on his web vibrations are started at that point that go throughout the web. He then skillfully lifts up the fact that when injustice walks anywhere in the world it sends out vibrations that encircle the globe.

The same thing is true of justice and good will. When they walk anywhere in the world they send out their vibrations that in time encircle the globe. Organized religion must help its communicants to see this and to understand that they can make significant contributions to the overall struggle for human dignity. The vibrations of good will and justice, even in the remotest places, have their impact upon the civil rights struggle.

We are assembled here as a body of religious people to register our support for the passage of meaningful and effective civil rights legislation.

Where it became known that certain direct action groups were planning to institute "stall-ins" in connection with the opening of the World's Fair in New York City, immediately some of the responsible leaders of direct action groups, along with other national religious and political leaders advised against the "stall-in." Just as our leaders advised against "stall-ins" at the World's Fair, we in the name of our common Father, advise against "stall-ins" by the U.S. Senate against civil rights legislation.

### III. THE CIVIL RIGHTS STRUGGLE IS A CHALLENGE TO ORGANIZED RELIGION TO MOVE JOINTLY IN THE AREA OF SOCIAL ACTION DURING THIS HOUR OF NATIONAL CRISIS

In the past almost all religious bodies have passed resolutions setting forth their positions on the race question. Some have been weak and vacillating. Others have been strong and forthright. In January 1963 members of the great Jewish and Christian faiths met in Chicago in a National Conference on Religion and Race. This officially constituted interreligious conference declared that the practice of racial prejudice, discrimination, and segregation is a moral problem and as such is of concern to Americans of all religious faiths. In its appeal to the conscience of America, the conference made the following declaration: "We solemnly declare our common religious commitment to the essential dignity and equality of all men, our brothers, under the one God, our Father. We solemnly dedicate ourselves to cooperative action in making this commitment a vital factor in our civil, political, professional, commercial, social, private, and religious lives—particularly in the critical areas of voting, education, employment, housing, hospitalization, recreation, relief, and welfare services, and in all facilities and places of public necessity and accommodation, whether publicly or privately owned and operated."

For the first time in history the Catholic, Jewish, Protestant, and Orthodox religious bodies came together to speak jointly on any question. It was the Negroes' struggle for civil rights that brought these great religious bodies together. Who doubts but that God is using this issue as a means of bringing his children together in one fold. The position taken by this conference; the actions authorized, sent a thread of hope, not only to the millions of disadvantaged Negroes in this country but also to men of good will whose conscience has been aroused to the dimensions of the evils of segregation in American life.

The Negroes' struggle for human dignity also caused the National Council of Churches to take unprecedented action. In June 1963, the council authorized its president to set up a commission on religion and race. It said to its commission, "Now is the time for action—even costly action that may jeopardize the organizational goals, and institutional structures of the church, and may disrupt any fellowship that is less than fully obedient to the Lord of the church. Increasing numbers of Christians who are moved to witness to their convictions in this crisis may suffer personal indignities, alienation and physical suffering. But this may be the price required for the tardy obedience of Christ's people."

The General Board and the General Assembly of the National Council authorized this commission "to make commitments, call for actions, take risks in behalf of the National Council of Churches which are required by the situation and are consistent both with the substance and the implications of the actions and decisions of the National Council of Churches in the area of religion and race. The authorization to the commission includes:

1. The encouragement of negotiations, demonstrations and direct action in places of particular crisis.

2. The mobilization of resources to encourage legislative and executive acts in order to bring dignity, equality, and justice to all Americans.

3. The mobilization of the resources of the churches in order to put their own house in order by desegregating all of the institutions of the church.

4. The development and implementation of long term plans and strategies so that a continuing design of action will move us steadily toward the moral goal of full human rights for all.

The greatest challenge with which organized religion is faced today is to move together in cities, towns, villages and in rural areas with action designed to eradicate from American life racial prejudice, discrimination and segregation, bearing in mind that other moral problems are awaiting solution by the united effort of all those who love God and are dedicated to the cause of righteousness.

The Lord is saying to those who struggle, as he said through his prophet Habakkuk to the suffering Hebrews of ages ago, "For still the vision awaits its time, it hastens to the end, it will not lie, if it seems slow, wait for it, it will surely come, it will not delay."

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the Record certain press releases describing this momentous event, together with statements by Bishop Reuben K. Mueller, president of the National Council of Churches, and Rabbi Maurice N. Eisendrath, president of the Union of American Hebrew Congregations.

I also ask unanimous consent to have printed in the Record a press release describing the daily worship services that will be held at the Church of the Reformation, 212 East Capitol Street, in support of the civil rights bill. These services are sponsored by the Commission on Religion and Race and will continue until the bill is passed by Congress. I will discuss these services from time to time in the days ahead.

There being no objection, the press releases and statement were ordered to be printed in the Record, as follows:

APRIL 27

Washington, D.C.—Prominent religious leaders of the Nation are agreed that America's churches and synagogues "can make the difference" in bringing about passage of strong civil rights legislation.

In statements issued on the eve of the First National Interreligious Convocation on Civil Rights scheduled for Washington, April 28, leaders of the Protestant, Roman Catholic, and Jewish religious communities emphasized the necessity for continued interreligious support of the civil rights bill. Over 4,000 people are expected at the Georgetown University auditorium on Tuesday evening at 8 p.m.

Rabbi Maurice N. Eisendrath, New York, president of the Union of American Hebrew Congregations, Bishop Reuben K. Mueller, Indianapolis, Ind., president of the National Council of Churches and the Reverend John F. Cronin, S.S., Washington, D.C., from the National Catholic Welfare Conference with legislators and political analysts who have pointed to religious support of the bill as the factor which could guarantee passage.

"In former years, the role of religious groups was that of passive spectators, bleating occasional platitudes about brotherhood," Rabbi Eisendrath declared. "Today, religious leaders are in the frontlines of the battle, unafraid of the smoke and din of controversy and determined to press forward until the filibuster is broken and a civil rights bill, unweakened by amendments, is enacted."

Bishop Mueller pointed out that the churches of the Nation "are in the forefront of support for civil rights legislation. This support must grow and spread until the voices of the churches is overwhelmingly and unmistakably clear, for this is basically a moral and spiritual problem," he said.

Father Cronin sees the cooperation of the major faiths in the Interreligious Convocation as a "return to fundamentals. In the truest sense, it will represent the American conscience," which believes in justice and dignity for every citizen, he stated.

The three religious leaders expressed concern over the fact that many white supporters of civil rights legislation might allow themselves to be distracted by demonstrations with which they do not agree. Rabbi Eisendrath pointed out that no revolution is "polite and manicured" and that "mistakes, stemming from the depths of rage and despair, are inevitable."

It is the job of the religious community to keep in the forefront the basic injustices which need to be corrected and not allow themselves to surrender their convictions in a mood of irritation, they said.

They called for thorough study of the basic provisions of the present legislation while realizing that there are forces, both in and out of Congress, who "are obviously more interested in delaying and confusing the issue than in voting a just and effective bill."

The unique Interreligious Convocation on Civil Rights—cosponsored by the social action departments of the Synagogue Council of America and the National Catholic Welfare Conference and the Commission on Religion and Race of the National Council of Churches.

APRIL 28

In an unprecedented show of religious unity, Protestants, Catholics, and Jews met here in the First Interreligious Convocation on Civil Rights to call for quick passage of "strong and effective" civil rights legislation.

Prominent spokesmen from the three major faiths addressed an overflow crowd of ministers, priests, rabbis, and laymen who came by chartered bus, private car, plane, and train from the major cities on the eastern seaboard, and from as far west as Des Moines, Iowa, Chicago, Ill., and Norman, Okla.

The Most Reverend Patrick A. O'Boyle, Archbishop of Washington, and chairman of the convocation, said that "we are here to speak with one voice our deep religious convictions about the dignity of man and the rights of all men."

The convocation "is but a beginning," he said. The religious community of America is "embarked on a crusade that will not be ended until every American is given equal rights, equal opportunities, and full recognition of his human dignity," the Archbishop declared.

The unique interreligious meeting was cosponsored by the Commission on Religion and Race of the National Council of Churches, the Social Action Department of the National Catholic Welfare Conference, the Commission on Social Action on the Synagogue Council of America, with the cooperation of the Interreligious Committee on Race Relations, Washington, D.C.

Major speakers at the meeting were Bishop B. Julian Smith, Chicago, Ill., of the Christian Methodist Episcopal Church; Rabbi Uri Miller, Baltimore, Md., president of the Synagogue Council of America; the Most Rev. Lawrence Shehan, Archbishop of Baltimore; and the Rev. Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church in the U.S.A. and chairman of the Commission on Religion and Race of the National Council of Churches.

Bishop B. Julian Smith, told the interfaith audience that "Religion has spent too much time in saving itself." Leader of one of the Nation's prominent Negro communions, he declared that organized religion "has been insensitive, indifferent and hostile to the aspirations and hopes of Negro people."

"It has cut them off from the main streams of culture, even to the extent of closing the doors of the holy sanctuary to sons of God whose skin is black. It has sanctioned and supported racial segregation and discrimination not only in the community but in its own life and ministry," Bishop Smith charged.

The Bishop pointed to last years national interreligious conference on religion and race, and the emergency measures being taken by religious groups to meet the racial crisis as encouraging signs for the life of the country. He called for a direct confrontation of the "atmosphere of fear" the racial revolution has created.

On the legislation before Congress, he said, "Just as our leaders advised against 'stall-ins' at the World's Fair, we in the name of our common Father, advise against 'stall-ins' by the U.S. Senate against civil rights legislation."

Rabbi Uri Miller, speaking on the morality of legislation, struck out at those who say that "you can't legislate morals and laws cannot change attitudes." He cited recent studies which have shown that laws can help determine attitudes and even counteract prejudice.

"Law is the one way civilized communities have found to make effective the moral will of the community involved," the rabbi declared. Education and law are complimentary and dependent upon each other and legislation is a tool that must be utilized for the moral advancement of the American people.

"Civil rights legislation is basic to our progress; it is basic to peace within the American community; it is basic to the moral principles upon which this country is established," Rabbi Miller stated.

Archbishop Lawrence Shehan, urging early passage of the civil rights bill, said that "further delay in bringing about what we have come to recognize as a requirement of justice may well do irreparable harm to this Nation's whole future."

He was encouraged by the large majority by which the House passed the civil rights bill, and the support of President Johnson, along with evidence that the "thoughtful and responsible people of this country desire the passage of such legislation and the attainment of the goals which it seeks."

"The time for such action is now," Archbishop Shehan declared. "We must not be diverted from our vision by the hysterical cries of racists, or by the provocative and self-defeating gestures of those who, in the floodlight of national publicity, strive not for an order of justice but for the accomplishment of selfish aims."

The Reverend Dr. Eugene Carson Blake, echoed the archbishop's call declaring that "new Federal legislation must and will be enacted, and the time is now."

Dr. Blake sees two major forces opposing the enactment of legislation. On the one hand, those throughout the Nation who are represented by the "intransigent southern Senators who are using every legislative device to prevent the Senate from enacting the civil rights legislation now before it." They are united by ancient prejudices, long established customs and by fear and hate, he said.

On the other hand are those "who see no clear moral or spiritual issue before the Nation, who allow consideration of order, peace, or private profit to neutralize their too general moral commitment to justice or freedom."

Dealing with the issue of discrimination in education, Dr. Blake declared that the effect "is not much different when the segregated minority school is retained against the Constitution in a Southern State or is maintained by neighborhood racial ghettos in northern cities. The effect of this inequality of educational opportunity hurts boys and girls, produces teenage frustration, leading to crime and degeneracy."

He lashed out at those who feel the public accommodations section of the civil rights bill would interfere with rights of private property. "Where in the Holy Bible, in Old Testament or now, can one find a single passage to support the rights of property as against the rights of men."

Dr. Blake conceded that a businessman serving the public can legitimately require cleanliness, proper dress, sobriety, quiet, orderliness and courtesy from his customers. "But one thing he may not do and be a moral man," he declared. "He cannot require a dark man to turn white or to enter by another door. This is an insult to another man, his brother by God's creation. No man may use his property."

Music at the convocation was provided by an interracial, interreligious choir under the direction of Dean Warner Lawson, Howard University. Singers were drawn from Catholic University, Georgetown University, Howard University, and Temple Sinai choirs. Rabbi Lewis A. Weintraub, president, Washington Board of Rabbis gave the closing prayer.

Tomorrow, the Lutheran Church of the Reformation on Capitol Hill, daily worship services will begin as the next phase of the churches' drive for civil rights legislation. Sponsored by the Commission on Religion and Race of the National Council of Churches, more than 125 religious leaders from Protestant churches across the Nation have been invited to come as worship leaders. Spokesmen for the commission say they will continue "as long as necessary."

### APRIL 29 PHASE

The next phase of the churches' drive for strong and effective civil rights legislation gets underway tomorrow, Wednesday, April 29, with the first of continuing daily worship services on Capitol Hill.

More than 125 Protestant and Orthodox church leaders from across the Nation have been invited to participate as worship leaders in the 9 a.m. services, meeting Monday through Saturday, at the Lutheran Church of the Reformation, 212 East Capitol Street.

Sponsored by the Commission on Religion and Race of the National Council of Churches, local congregations of the 31 member communions of the council have been informed of the services in order to encourage attendance by the thousands of tourists who visit the Nation's Capital. Attendance is also being urged from congregations in the Washington area.

The services are being held to keep before our legislators the fact that civil rights is basically a moral and spiritual issue, a council spokesman said, and will continue as long as necessary. Following the 1-hour service, worshipers will be encouraged to go to the Capitol to discuss the pending civil rights legislation with their Senators.

The speaker on the first day will be the Reverend Dr. J. Oscar Lee, associate executive director of the Commission on Religion and Race of the National Council of Churches.

Speakers on succeeding days include: Bishop George Baber, Philadelphia, Pa., the African Methodist Episcopal Church, April 30; Dr. John C. Bennett, president, Union Theological Seminary, New York City, May 1; Dr. Benjamin Spock, Cleveland, Ohio, internationally known pediatrician, May 2.

During the next week the speakers will be, Monday through Saturday: Dr. Robert W. Spike, director of the National Council's Commission on Religion and Race; Dr. Evans Crawford, School of Religion, Howard University, Washington, D.C.; Dr. Truman Douglas, New York City, executive vice president, Division of Homeland Ministries, United Church of Christ; the Reverend Dr. Franklin Clark Fry, New York City, president, Lutheran Church in America; Dr. Edwin T. Dahlberg, former president of the National Council, now at Crozier Theological Seminary, Chester, Pa.; Dr. Norman Baugher, Elgin, Ill., general secretary of the General Brotherhood Board, Church of the Brethren.

### STATEMENT BY BISHOP REUBEN K. MUELLER, INDIANAPOLIS, IND., PRESIDENT OF THE NATIONAL COUNCIL OF CHURCHES

The single greatest moral issue our country faces today is whether America should provide equal opportunity, equal justice, and equal dignity for all of its citizens—or just some of them.

The great majority of America's churches and church members clearly believe and strongly support the principle of equal opportunity, justice, and dignity for all. This is why the churches are in the forefront of support for civil rights legislation, now under discussion in the U.S. Senate. This support must not falter or fail. Even as we move into a time when there is every indication that the frustration of many Negro Americans will find expression in more radical forms of public demonstration.

Representatives of the 31 Protestant and Eastern Orthodox member communions of the National Council of Churches have already registered their support of strong civil rights legislation. Also, the national council has joined with Catholic and Jewish spokesmen in joint testimony before the House Judiciary Committee in support of a civil rights bill.

But our past proclamations are not enough. The churches must strengthen their support of civil rights legislation. We can make the difference if this support grows and spreads until the voice of the churches is unmistakably and overwhelmingly clear, for this is basically a moral and spiritual problem. I urge every Christian to examine his conscience on this most critical issue, and then throw his fullest and strongest support behind this vitally important legislation.

### STATEMENT BY RABBI MAURICE N. EISENDRATH, PRESIDENT, UNION OF AMERICAN HEBREW CONGREGATIONS, IN CONNECTION WITH THE NATIONAL INTERRELIGIOUS CONVOCATION ON CIVIL RIGHTS, APRIL 28, 1964

I agree with those who have indicated that the crucial difference in the civil rights fight before the U.S. Congress in 1964, as opposed to past struggles, is the active participation of churches and synagogues and the extraordinary degree of unity among the faiths in pressing this fight in every local community. The faith groups have not only joined in united testimony in support of the civil rights bill but they have mounted an unprecedented campaign of letter writing, visits to Congressmen and Senators, and moral suasion in their local communities. In former years, the role of religious groups was that of passive spectators, bleating occasional platitudes about brotherhood. Today, religious leaders are in the front lines of the battle, unafraid of the smoke and din of controversy and determined to press forward, until the filibuster is broken and a civil rights bill, unweakend by amendments, is enacted.

The Interreligious Convocation, like the March on Washington, is another evidence that the religious conscience of America is aroused and will not be distracted or diverted from the main task—which is to make America truly American. Similarly, the spontaneous interfaith vigil by seminary students of all faiths 24 hours a day before the Lincoln Memorial is another expression of the new mood of relevance by American religious groups.

It is obvious that some of the civil rights demonstrations which have erupted in various parts of the country have been ill-considered and ill-timed. As President Johnson has indicated, civil wrongs do not advance civil rights, but the job of religion is to keep the eyes of the American people on the main objective and not to allow ourselves to surrender our convictions in a mood of irritation. No revolution is polite and manicured. Mistakes, stemming from the depths of rage and despair, are inevitable. It is our job to understand the deep human forces which are operating in American life and not to be unduly alarmed about every surface manifestation of these forces. The racial revolution cannot be won by Negroes alone—and must have the full and active support of religious leaders if it is to retain its moral and spiritual meanings as the paramount moral challenge in American life today.

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### Statement by the Reverend John F. Cronin, S.S., Assistant Director, Department of Social Action, National Catholic Welfare Conference

The keynote of the National Interreligious Convocation on Civil Rights might well be stated as a return to fundamentals.

It is time that we did so. For, as the great debate mounts in the Senate, and on a thousand street corners across the Nation, the dust of controversy tends to obscure the fact that the basic issue of civil rights is moral.

Many sincere Americans, in and out of Congress, may have reservations about specific provisions of the legislation now under consideration in the Senate. Others are obviously more interested in delaying and confusing the issue than in voting a just and effective bill.

Still others may have been blinded by the passion and eloquence of misguided leaders who recklessly gamble away the hard-won understanding and support of the white majority in an eruption of violence that threatens to alienate their friends while it delights their enemies.

This reaction has aptly been called the white backlash. It is a force to be reckoned with, but its effects can easily be exaggerated. The vast majority of fairminded citizens will not be shaken from their conviction that justice and equal opportunity for the American Negro are moral rights that will not be shouted down by the angry noise of local violence that is incidental to the basic issue.

This is the lesson of the Interreligious Convocation on Civil Rights, to which thousands of all religious faiths will lend their presence and support on Tuesday night. In the truest sense, it will represent the American conscience. It will give voice to the deeply held moral convictions of the grassroots, a voice that must overcome and forever silence the strident cries of prejudice and hate that have no place in a nation founded on the concept of dignity and justice for every citizen.

Mr. KUCHEL. Mr. President, last night, distinguished priests from the Roman Catholic Church and the Eastern Orthodox Church, leading clerics from the several Protestant Christian faiths, and outstanding rabbis from the American Jewish community joined in inviting their communicants and their members to a national interreligious convocation on the campus of Georgetown University. Approximately 6,500 citizens of all bloods and faiths responded. It was a moving occasion. Four distinguished leaders of their several religions delivered moving and eloquent addresses in which they urged the representatives of the American people to pass civil rights legislation. Also gathered there were young college students—again of all faiths and bloods—who sang together, to the delight of all who were present. I was very proud to be there with the distinguished senior Senator from Minnesota, the majority whip [Mr. HUMPHREY], and the two distinguished Senators from New York [Mr. JAVITS and Mr. KEATING].

One of the leaders who spoke was Rabbi Uri Miller, of Baltimore, president of Synagogue Council of America. He said, in part:

America stands today at a crisis in its moral development. History tells us in lesson after lesson that the evil society inevitably must perish. We must eradicate this evil from our midst. We must fulfill the dictates of our Declaration that "life, liberty, and the pursuit of happiness" be the portion of all our people. We must "insure domestic tranquillity," which we can only do by establishing justice. America must search with clean hands and a pure heart into a future in which God will shed His grace upon us, will confirm our soul with self-control, and crown our good with brotherhood.

Mr. President, that peaceful gathering of decent citizens, rich and poor, black and white, was a basic demonstration that the American people are good, and that under the leadership of men from church and synagogue, they urge Congress to take action. I join in urging that action.

I ask unanimous consent that the address delivered by Rabbi Miller be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### The Legislation of Morality and the Morality of Legislation

(By Rabbi Uri Miller, Baltimore, Md., president of the Synagogue Council of America)

We stand in the midst of a great battle for the American way of life. We are here to demonstrate by our presence and the sentiments we express our involvement in this battle. We wish our meeting tonight to speak to our legislators and to the American people in clear, loud, and unequivocal terms telling them that justice, freedom and equality must be the portion of every American citizen now.

The Jewish community of America which I have the honor to represent is vitally interested in the immediate passage of the civil rights bill and its implementation in American life. We feel that this is an issue where moral and spiritual factors should dominate the political process. It is these moral and spiritual factors that stimulate us to vigorous action in urging upon our legislators and our people the immediate passage of this bill.

The moral aspect of civil rights will be dwelt upon at greater length by my distinguished colleagues on the platform. Involved in civil rights is the dignity of man and his divine origin. Involved in the civil rights bill is the recognition that humanity as a whole is God's beloved child. Involved in the civil rights bill is the basic religious concept that all humanity has a stake in the liberty of every single person.

I have been assigned the particular area of the legislation of morality. Whenever legislation to gain racial equality is proposed, opponents always counter with the words to this effect, "You can't legislate morals. Laws cannot change attitudes. Remember prohibition. If you impose laws against people's will, disrespect for the law and violence will ensue. People must be educated first. Change men's hearts and then you can change their behavior. All we need is time." This position is predicated on the premise that education and law are mutually exclusive. These are well-intentioned persons—frequently good persons. It must be shown to them that there is a mutual relationship between education and law. We must demonstrate that law is the one way civilized communities have found to make effective the moral will of the community.

Judaism is primarily a religion of doing. While we have stressed education and made its adherents the aristocracy of Jewish life, nevertheless, according to our tradition, "not study, but doing, is primary." Why should a people who have stressed intellectualism and the spirit of free inquiry emphasize the law above everything else? The Talmud offers an answer in its famous dictum, "Mitoch shelo lishma ba lishma" (Pesahim 50b), the liberal translation of which is, "A man should always observe the law, even though his heart may not be completely in it, because in the act of observing the law he will learn to do it willingly for its own sake." Judaism has known since its inception what social scientists have only recently discovered: the human being tends to rationalize his own behavior. Judaism knows that it is easier for a man to preach what he practices than it is for him to practice what he preaches.

Judaism legislated for every possible moral and ritual action throughout a person's daily life. The pattern for righteous living must be prescribed by laws. Laws not only have a restraining or deterrent value; they provide the means by which society attains its goals. That is why the traditional education received by a Jew was education in Jewish legislation. In a very real sense, legislation offers an opportunity for the finest education.

Our Christian brethern share this need for legislation as the doorway to moral development. I quote from an editorial in Christianity and Crisis by Dr. John C. Bennett, president of the Union Theological Seminary in which he states: "It is better that a person treat his neighbor justly than it is for him to wait until he is compelled by law to do so. But it is also important to recognize the danger that narrow economic interests, fears in regard to personal status and sheer thoughtlessness may prevent us from treating our neighbors justly. No one of us is so good that he does not need a law to protect his neighbor from him, at least from his thoughtlessness."

The American way of life also has always stressed legislation. In the preambles of the Constitution, we are told that its purposes are "to establish justice, to insure domestic tranquillity, and to secure the blessings of liberty." I submit that to insure the domestic tranquillity is basically an area of sentiment and attitude. Domestic tranquillity means that you and I and every other American citizen should like each other; that we should live in peace and harmony. Certainly this domestic tranquillity is very definitely a matter of sentiment; a matter of feeling, a matter of emotion; yet this is the purpose of the Constitution—to insure domestic tranquillity.

What the Constitution is telling us is that we must act toward each other according to the law and if we act toward each other according to a just law we will feel toward each other in terms that can be described as domestic tranquillity.

This religious and American way of relating attitude and law is based on sound psychological principle. In any number of studies it has been demonstrated that a group situation determined by law will create the attitude it presupposes and requires for its implementation. I have particular reference to a recent study called "American Soldier—Combat and its Aftermath" (by S. A. Stouffer et al.). Here we are informed that soldiers who served in integrated companies during the Second World War although they came from segregated community backgrounds developed a philosophy of tolerance and of cooperation within their companies toward those who were different. There was no longer the tension, the hatred, the urge to segregation that had characterized them. They adjusted themselves to the situation. But after they had returned and lived for 6 months within the segregated communities from which they had originally come, their entire outlook reverted to their original point of view and they developed the same attitude of segregation, of intolerance for others that they had originally had. This study demonstrates to what degree the actual conduct of a person shapes his attitudes.

Let me repeat, law is the one way civilized communities have found to make effective the moral will of the community involved. Education and law are complementary and dependent upon each other and legislation is a tool that must be utilized for the moral advancement of the American people.

Therefore, our American legislation should reflect the fruits of our miral development. The American people have been delinquent for a hundred years in putting into practice the principles of the emancipation declaration. We cannot tolerate intolerance either morally or practically. Civil rights legislation is basic to our progress; it is basic to peace within the American community; it is basic to the moral principles upon which this country is established.

America stands today at a crisis in its moral development. History tells us in lesson after lesson that the evil society inevitably must perish. We must eradicate this evil from our midst. We must fulfill the dictates of our declaration that "life, liberty, and the pursuit of happiness" be the portion of all our people. We must "insure domestic tranquillity" which we can only do by establishing justice. America must search with clean hands and a pure heart into a future in which God will shed His grace upon us, will confirm our soul with self-control and crown our good with brotherhood.

Mr. JAVITS. Mr. President, I, too, attended that great convocation. I was on my feet this morning in the hope that I might say a word about it. Senators have spoken most glowingly of its moral impact, its beauty, and its amalgam of our Nation in the variety of ethnic background and racial character of those who attended. I join them fully in their statements about this greatly moving experience.

The convocation may very well make the difference between an effective civil rights bill and a washed out and emasculated one, such as we had in 1957 and 1960. Nothing arouses the conscience of Americans as does religious faith. Although I had known it before, the convocation last night was very clear, very glowing, and very direct evidence that the religious faiths of our country are fully enlisted in the struggle, and that they will be satisfied with nothing less than the bill which is before the Senate in its essence as a minimum.

The commitment made in the letter of invitation signed by Archbishop O'Boyle, Rev. Dr. Eugene Carson Blake, and Rabbi Uri Miller—three great leaders of their respective faiths—makes the following pledge:

> We have declared publicly that the legislation should be passed in a strong and just form in order that the Nation may have a national legal instrument which will make effective the new pattern of race relations which the aroused conscience of the American people now demands.

After going through that great spiritual experience last night, I express the hope that that will not only be true of the North, the Midwest, the West, and Pacific coast and the Southwest, but of the South as well. The people of the South are deeply religious. Religion is one thing that we very definitely share in common. The time has come when the people of the South, too, should listen to the voice of conscience which dictates that at long last the law should follow the Constitution and the dictates of the conscience of a decent and just America.

Mr. President, I ask unanimous consent that the most eloquent address of Rev. Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church in the United States of America, and chairman of the Commission on Religion and Race of the National Council of Churches representing both Protestant and Eastern Orthodox, be printed at this point in my remarks, together with a letter of invitation addressed to me and other Senators by these distinguished clergymen.

There being no objection, the letter and address were ordered to be printed in the RECORD, as follows:

NATIONAL INTERRELIGIOUS
CONVOCATION ON CIVIL RIGHTS,
*Washington, D.C., April 28, 1964.*

HON. JACOB JAVITS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR JAVITS: The present struggle for racial justice has brought our Nation to the point of its greatest internal crisis in the 20th century. We believe that the religious forces of the Nation must work with all Americans loyal to the Constitution to make effective its provisions of liberty and justice. The task of the churches and synagogues is now, as always, essentially a moral and spiritual task. Therefore we cannot watch the debate on civil rights legislation now in progress in the U.S. Senate as uninvolved spectators. We have declared publicly that the legislation should be passed in a strong and just form in order that the Nation may have a national legal instrument which will make effective the new pattern of race relations which the aroused conscience of the American people now demands.

In our continuing efforts to mobilize the religious forces of America in a nationwide campaign for racial justice, we have called the first National Interreligious Convocation on Civil Rights to be held in the Nation's Capital on April 28, 1964, at 8 p.m. in the McDonough Gymnasium, Georgetown University. Religious leaders of the major faiths from all sections of the country have been invited to attend, along with the men and women who are members of our churches and synagogues.

Your presence would lend added significance to this momentous occasion, and we extend an invitation to you and to your colleagues to join with us in this convocation. We are reserving a special section for Members of the Congress who will be able to attend, to make it as convenient as possible for you. It would be of great assistance to us if you would return the enclosed card indicating whether you will be able to join us. We believe that this gathering will set a new precedent for the Nation, and we look forward to your presence so that together we may give witness in behalf of freedom, justice, and equality for all Americans.

Sincerely yours,
Rev. PATRICK A. O'BOYLE,
*Archbishop of Washington.*
Rev. Dr. EUGENE CARSON BLAKE,
*Chairman, Commission on Religion & Race, National Council of Churches.*
Rabbi URI MILLER,
*Synagogue Council of America.*

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### HUMAN DIGNITY—HAVE WE NOT ALL ONE FATHER?

(By the Reverend Dr. Eugene Carson Blake, Philadelphia, Pa., stated clerk of the United Presbyterian Church in the United States of America and chairman of the Commission on Religion and Race of the National Council of Churches)

We are met here in Washington, representatives of the major religious institutions of this Nation, at a critical time in the life of the Nation and in the life of our churches and synagogues. We are in a contest, a long contest against those in our Nation who resist the new pattern of race relations which must be established if the United States of America is to survive as a citadel of freedom.

Those who are preventing the establishment of justice and equality between the races are of two categories:

1. A relatively small number of our fellow citizens who are clearly determined to continue the unjust, un-Christian, and irreligious laws and traditions which keep Negro Americans, and to a lesser extent all racial minorities of color, out of the main stream of American life, dependent upon the patronizing good will of the white majority. These, though scattered throughout the Nation are represented by the intransigent southern Senators who are using every legislative device to prevent the Senate from enacting the civil rights legislation now before it. These opponents of the new freedom and equality of men of all races are united by ancient prejudice, long established customs and by fear and by hate. These opponents of racial justice are strong because they are adamant and united; the long battle required to establish a new racial pattern does not seem to threaten their determination.

2. The second category who are also preventing the establishment of racial justice, freedom, and equality are of much greater numbers—they are those of our fellow citizens who are confused and fearful, some selfishly indifferent, content to sit on the sidelines, who see no clear moral or spiritual issue before the Nation, who allow consideration of order, peace, or private profit, to neutralize their too general moral commitment to justice or freedom. These are the Americans whom we must win to our side of the contest; we must by our speaking and by our acting draw them into a determined commitment to our just cause, a commitment that is strong enough to stand the strain of disappointment and frustration in the long battle which will continue long after we have won the legislative skirmish now taking place on Capitol Hill. For we will win this contest. New Federal legislation must and will be enacted, and the time is now. But important as is this legislation, I remind you that we in the churches and synagogues have a task that will continue long after the legislation is enacted. We must unite the community and the communities of our whole Nation to use the law as the national instrument to establish freedom and justice in all the land.

But we will not win the unconcerned or the uncommitted to our side, we will be divided and defeated unless with courage and moral insight the ministers, priests, and rabbis of the Nation, supported by the members of their congregations, make it perfectly clear that we face a moral and spiritual issue. Justice, equality, and freedom for all men are right. Segregation, discrimination, and prejudice are wrong. It is as simple as that. On the whole 1963 and 1964 have been marked by progress. More Americans than ever before are conscious of the need to act. There have been voluntary, uncoerced, widely scattered changes for the better in the racial pattern in all of the areas of our concern. But it is not enough. And as the battle continues, I note that even some of us who should be the leaders of the movement are weakening in our convictions. We become confused and shaken by the arguments of the opposition, we become fearful when we are asked to pay a price. As in war when casualties mount, the will to press on is shaken and men inside begin to wonder whether victory is worth the dreaded sacrifice.

Last August 28, the march on Washington marked the high peak of moral and spiritual determination of the American people, white and Negro, to make the Nation face up to revolutionary change in race relations. Since then the strains of battle have threatened the unity of our movement. We have allowed ourselves to be divided about such questions as the legality of demonstrations. We have been beaten in battles for ending de facto segregation of education in our northern cities. We have argued amongst ourselves as to which techniques are effective. The slowness of accomplishment has made some draw back and others reckless. Our unity is threatened, and our will is weakened because we forget the firm basis of morality upon which the cause is based. We who profess faith in the God who spoke through the prophets of Israel, and we who believe that that same God was revealed in Jesus Christ are united that by creation all mankind is one family. The prophet Malachi speaks for us all as he asks, "Have we not all one Father? Has not one God created us? Why then are we faithless to one another?"

The crisis of the Nation is no more severe than the crisis in our churches and synagogues. How can any of us ministers, priests, or rabbis, stand safely eloquent behind our pulpits, reflecting the moral confusions of American culture in our tactful balanced prose when God is thundering at His people, calling them to repent and to be saved? Never in the life of the Nation have the churches and synagogues through their best leadership been so fully united intellectually on any moral issue confronting the American people. But such intellectual unity will reveal the weakness and irrelevance of our pulpits, unless from them we speak and in the world we act to persuade our people to commit themselves to the new patterns of justice and freedom that must be established.

Let me then remind you now of the unargued, and, I believe, unarguable morality upon which civil rights legislation and civil rights action is based. In our several traditions, the Judeo-Christian convictions about God and man are one in asserting:

1. That God made man in his image, which is to say that man is not merely an animal of a complicated sort but is in essence a spiritual being. His worth is not in his vigor, weight, or cleverness, but in his origin. Because man, every man, is created by God, he must be treated, despite his sin, as a potential son of God, by covenant between God and man.

2. Right relations among men is based upon a personal concern for each one which we believe is not only our concern but that of God himself.

3. The most important ethical considerations, and perhaps the only ones, are directly related to the effect of our actions upon the life and well-being of other men—all other men.

Look with me then at the aims of two sections of the civil rights legislation assigned to me, education and public accommodations, in the light of our spiritual and moral agreement. Of all the disabilities put upon minority peoples by our present patterns of segregation and discrimination, these two, in education and in the standing insults to human dignity, are clearly the most immoral in the terms I have just described morality.

What has long been known by educators and has 10 years ago been established by the courts is that education of pupils involuntarily segregated by race has such bad effects on the educational process itself that equal educational opportunity is in fact not available to the segregated minority. And I remind you that the educational effect is not much different when the segregated minority school is retained against the Constitution in a southern State or its maintained by neighborhood racial ghettos in northern cities. The effect of this inequality of educational opportunity hurts boys and girls, produces teenage frustration, leading to crime and degeneracy. All of the learned discussions of the value of neighborhood schools is revealed to be quite irrelevant in the light of what segregated schooling is doing so some children of God. That the resolution of these problems will be difficult—North and South, all of us should know. That the problems must be solved and quickly in the name of God, let school boards and education commissioners remember. It will be costly. We must spend the money. But no religious man dare say that we do not have money or brains enough to do this job. I plead with you all, wherever you live, begin now if you have not already begun, to solve this school problem in your community. When school boards will not listen, as in Chester, Pa., or Cleveland, Ohio, demonstrations must be manned and pressed until the school boards listen or are replaced by an aroused electorate. One of our ministers gave his life, a few weeks ago, for that cause in Cleveland. Others must take his place.

The legislation before the Senate is aimed toward desegregated education in all the Nation. We are for that legislation. But an even greater task than passing the legislation is in each community of the Nation to renew and revive the educational opportunity of good desegregated public and private education for all the children of this land. It was One whom his disciples called rabbi who said to them: "Temptations to sin are sure to come; but woe to him by whom they come. It would be better for him if a millstone were hung around his neck and he were cast into the sea, than that he should cause one of these little ones to sin." And Jesus spoke here of offenses against little children. God forgive us our offenses against them through all these years.

Finally, as serious as offenses against opportunity for children, are offenses against the dignity of men. The legislation before the Congress with regard to public accommodations seems in one sense to be the least important title of the law. What good does it do a Negro to be accepted in a fine restaurant if he has a job so poorly paid he can't afford to eat out at all? How does being accepted in a motel fundamentally affect the life of any man? And white men ask, Don't Negroes really like to associate together? It is true that the right to vote, the opportunity for a good education, the chance at any job for which a man is qualified as well as promotion in the job by merit, and finally the opportunity to buy or rent a decent home in which to shelter and raise a family—all these seem of more fundamental and long-range importance than the right to eat a hot dog in a central city lunch counter. And yet, as far as morality is concerned, the right of human dignity is fully as important in race relations and perhaps even more important than all of these. Those of us who are white need to know what it does to a man's soul and spirit when he sees his wife insulted and his children's eyes beclouded when these senseless indignities are suffered, and he dare not protest for fear.

The argument against legislating a strong and universally enforcible public accommodations section to the bill is that such a law impairs the rights of business people to enjoy their property and to use it as they see fit. How can any Christian or Jew sit still when such an immoral argument is voiced? Where in the Holy Bible, in Old Testament or New, can one find a single passage to support the rights of property as against the rights of men? The only moral justification in our society for the rights of property is the protection it affords men against encroachment upon their freedom by other men or by Government. Have we learned nothing since the day Amos thundered against those who, for profit, degraded men? Have we become so enamored of things that we forget that we are men created by a just and loving God?

Let any man who wishes to use his property to serve the public and make his living by it, let any such man know now that he must serve all the public without discrimination. He may insist that his customers be clean. So be it. Any man can wash. He may require his customers to dress properly. So be it. In our affluent society even the poor can find a jacket or a dress to wear. He may require sobriety, quiet, orderliness and courtesy from those who wish his service. So be it. White people have no monopoly in any of them. But one thing he may not do and be a moral man—he cannot require a dark man to turn white or to enter by another door. This is an insult to another man, his brother by God's creation. No man may so use his property.

And unless we quickly understand what such standing insults in our society do to make peaceful men turn violent, and patient men lose their self control—we understand neither the first level of morals nor the depth of the crisis that race discrimination has brought to our once proud Nation.

Our task as churchmen is not to be expert in legislation or to tell the Congress how to legislate. But it is our task and it is our competence to cut through the fog of immorality that threatens every American home and every church and synagogue, and to say so that everyone can hear and heed—"Thus saith the Lord"—"Let justice roll down like waters and righteousness like an ever-flowing stream." "Woe to them who are at ease in Zion and to those who feel secure on the mountain of Samaria."

"Behold the days are coming saith the Lord God when I will send a famine on the land; not a famine of bread, nor a thirst for water, but of hearing the words of the Lord."

"He that hath ears to hear, let him hear."

Mr. JAVITS. Mr. President, I noted with the deepest feeling the presence of a number of my colleagues. I hope that other Senators will pay their respects to this greatly moving occasion, which it deserves, by reading what will be in the RECORD. I also wish to note the fellowship of Representative REID, of New York, and Representative RYAN, of New York, who joined us in the spectators' row at that great meeting.

Mr. KEATING. Mr. President, the struggle for civil rights is based on the most fundamental precepts of our religious heritage—belief in the dignity and worth of every human being.

This point was forcefully and eloquently demonstrated by yesterday's Interreligious Convocation on Civil Rights in which representatives of all the major faiths participated.

I wish every American and every Member of Congress could have been present at this inspiring and stirring convocation on the campus of Georgetown University. The speakers were eloquent and the overflow crowd of thousands obviously was deeply moved. Archbishop O'Boyle, of Washington, who presided, anticipated the common theme of all the participants in these words:

> We are diverse in religious heritage, but together we proclaim that all men are equal under God. It is the duty of government to protect and safeguard human rights, and to restore them when they have been denied.

We have now spoken more than 2,649,145 words during the 26 days of this debate, but there is little anyone could add to the messages of the clergy in support of this cause.

These selfless, dedicated men of God by their example as well as their words leave no room for the hate and hostility which can sometimes poison even the atmosphere of freedom.

They have given new clarity to the meaning of love, charity, and justice in our daily lives.

They have cast aside irrelevancies and technicalities and laid bare the noble purposes which are at the heart and soul of this issue.

They have reminded us that we must be for this bill because it is right not because of any clamor or pressure or other petty reason.

And they have reinforced our determination to pursue our cause without being distracted either by the militancy born of the frustration of some or the distortions born of the ignorance of others.

Mr. President, last night's proceedings deserve a place in the record of this debate and it is my privilege to ask unanimous consent that the opening prayer, remarks and concluding comments of Archbishop O'Boyle be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Opening Prayer, Remarks, and Conclusion

(By the Most Reverend Patrick A. O'Boyle, chairman of the evening, archbishop, Catholic Archdiocese of Washington, chairman, Interreligious Committee on Race Relations, Washington, D.C.)

#### INVOCATION

Lord Almighty, Creator and Ruler of the universe, infinite in power and majesty, Supreme Arbiter of history, you are nonetheless a God of love and mercy. We call you Father, and we are your children. Yes, all are your children; every people in every nation—those who revere your Name and those who in the blindness of their hearts refuse to hear your voice.

You have made man in your image. You have made him sacred, because the soul of man is as a spark enkindled by your Holy Spirit. There is in every man a priceless dignity which is your heritage. From this dignity flow the rights of man, and the duty in justice that all must respect and honor these rights.

You have given man an intellect, and he has the right to cultivate his mind by proper education. You have made man for society, and it offends you when men discriminate against their brethren, your children. Your command was that men should toil in the sweat of their brows, and it is not your will that some should be denied work or hindered in work because of race.

At this moment, the Senate of the United States is considering legislation to implement these rights of man. Enlighten the minds of these, our elected representatives, so that truth may prevail over error and prejudice. Strengthen their wills, so that they may vote what is right and just, disregarding unworthy pressures. May they listen to counsels of hope, and not of despair. May they side with the forces of love, and ignore those who are motivated by hate and distrust.

Guide also the people of this Nation to be responsive to your will. May they face the moral crisis of these days with high principle, seeking to heal, not to wound; to unite, not to divide; to build, not to destroy. Make us one people in spirit, as we are one under your Fatherhood. May we be worthy to be called your children. Forgive us the wrongs we have inflicted on our brothers. Unworthy as we are, we ask that in your mercy you will bless this Nation and its elected leaders and give us your peace, peace within our borders and in our cities, and peace in our dealings with all nations of the world, to the honor of your Holy Name. Amen.

#### CHAIRMAN'S OPENING REMARKS

With all my heart, I welcome this assembly. I welcome the distinguished members of the clergy, archbishops and bishops, presiding officers of church and synagogue, dedicated leaders of the laity. I welcome our Senators and Representatives, and the officials of the executive branch. You have honored us with your presence. I welcome all who have come here tonight, inspired by religious faith, to give testimony that we are indeed one under the fatherly care of the Almighty. I note many delegations who have come from a distance at great sacrifice. May God bless you for your generosity.

We are here tonight to speak with one voice our deep religious convictions about the dignity of man and the rights of all men. The bill now being considered by the Senate of the United States is called the civil rights bill of 1964. We are here tonight to state simply that other rights too must be proclaimed and that these are moral and religious. What our Congress considers in terms of public policy, we uphold in terms of human dignity. Those who oppress and degrade their fellow men do violence to the law of God.

We are diverse in religious heritage, but together we proclaim that all men are equal under God. It is the duty of government to protect and safeguard human rights, and to restore them when they have been denied. In our capacity as religious leaders, we scrupulously refrain from politicial action. But it is not political action to fight for the rights of our brethren and to insist that all men be equal before the law.

A religious assembly will not discuss a bill before Congress, title by title. But this assembly will discuss justice, equality, brotherhod. We will note that our segregated and prejudiced society has hurt and hurt grievously those whom we revere as our brothers. And where this evil can be remedied by law, we can and should tell our elected Representatives our conviction that such a law is a moral obligation. Our distinguished speakers this evening will address themselves to these profound and compelling moral and religious considerations.

I must also state how happy I am that we can meet here as one in this sacred cause. We are living in a majestic hour in world history. Too often in the past religion has served as on occasion of discord and division. Now, in our common and heartfelt struggle for the rights of our fellow men, we are forging bonds of friendship and understanding. May these bonds remain stronger than steel, more enduring than granite.

#### CHAIRMAN'S CONCLUDING REMARKS

My final words to you will be brief. From my heart I thank all who helped in forging this great act of faith that we have performed tonight. I thank our distinguished and eloquent speakers. They have made clear and unmistakable the moral and religious basis for civil rights. They have upheld in compelling terms the dignity of all men and their equality under God. Thank you, Bishop Smith, Rabbi Miller, Archbishop Shehan, and Dr. Blake.

I am most grateful and I speak your gratitude to the choir that performed so nobly under the direction of Dean Lawson. I thank all those who helped in arranging this magnificent assembly. I am particularly grateful to Father Bunn, and the officials of Georgetown University, for their generosity in making available to us all the facilities of the University. I thank the police officials who have sacrificed their time and energy to help us assemble on this great occasion.

This assembly is but a beginning. We are embarked on a crusade that will not be ended until every American is given equal right, equal opportunities, and full recognition of his human dignity. As citizens we shall do our utmost to secure a fair and comprehensive civil rights bill in this session of Congress. But we seek more. We seek to eradicate from our land the blight of poverty. We want to give to all not only job opportunity, but the training required in this age of technology. We want to replace our slums with decent housing, and to make housing available to everyone without discrimination or segregation.

It is hardly fitting that you should come here at such sacrifice merely to be spectators and listeners. I know that you want to show your faith in the ideals proclaimed tonight, not merely by your coming, but by some active participation in our common cause. I suggest that you show this solidarity by rising now to join Rabbi Weintraub in a prayer for the extension of human rights to all people in this country, for those who have sacrificed their lives to uphold the rights of their fellow men, and for the peace and harmony of our Nation. Rabbi Weintraub.

Mr. HUMPHREY subsequently said: Mr. President, earlier today I commented on the inspiring meeting held by the major faiths at Georgetown University last night in support of the civil rights bill.

I ask unanimous consent that at that point in the Record there may appear two articles, published in the New York Times and in the Washington Post, dealing with this subject.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Apr. 29, 1964]

### Interfaith Rally in Capital Backs Civil Rights Bill—4,000 Church Leaders Ask for Passage Now To End Nation's Moral Crisis—Lobbying Is Promised—Convocation Called a Start of Most Intensive Drive Ever Waged by Clerics

(By Ben A. Franklin)

Washington, April 28.—American religious leaders demanded tonight that the Senate pass the civil rights bill—immediately and intact—as a matter of primary morality.

They invoked the name of God in urging enactment of the measure.

Their call was not only for prayer, however. There were undisguised political implications, and church spokesmen said that "not since prohibition" had religion in this country "roused itself to political action for good or ill."

They said there was "no precedent" for the scale and unity of the "social action" program begun here tonight.

Speaking for Protestant denominations, the Reverend Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church, declared:

"We will win this contest. New Federal legislation must and will be enacted, and the time is now."

Catholic and Jewish leaders also insisted on immediate passage of the bill to "end the moral crisis" in the Nation and "to give complete expression, in terms of law, to our original vision and commitment."

More than 4,000 clerical and lay representatives of Protestantism, Roman Catholicism, and Judaism overflowed the 3,800-seat McDonough Memorial Gymnasium at Georgetown University for the rally.

Their activities were supplemented by seminarians of the three major faiths who were in the ninth day of an around-the-clock "silent vigil" for the civil rights bill at the Lincoln Memorial.

The rally, called The Interreligious Convocation on Civil Rights, was sponsored by the National Catholic Welfare Conference and the Synagogue Council of America.

Church leaders said the 2-hour convocation was "only the beginning of a concerted drive by religious groups for passage of the bill and of increasing efforts to further the

Negro revolution after the legislation is passed."

The leaders who voiced the statement and the audience to which it was addressed were mostly white.

Historians of the three major faiths asserted that denominational religion in the United States—long considered a conservative force—was "making a tremendous break with tradition."

They noted the "truly interreligious character of this campaign" and "the fact that the churches and synagogues are going to continue pushing until—and even after—the bill is passed."

Tomorrow the Protestant denominations begin a daily morning prayer service at the Lutheran Church of the Reformation on Capitol Hill.

The service is planned as an assembly point for the hundreds of clergymen the National Council of Churches said would come to Washington in the next few weeks to "frankly lobby" for the civil rights bill.

Administration spokesmen described the churchmen's impact on the civil rights debate as "highly favorable." The influence of church groups was considered important in passage of the civil rights bill by the House last February.

#### ARCHBISHOP PRESIDES

The convocation tonight was presided over by the Most Reverend Patrick A. O'Boyle, the Archbishop of Washington. In his invocation, he spoke directly of the civil rights debate.

"At this moment," he said, "the Senate of the United States is considering legislation to implement the rights of men. Enlighten the minds of these, our elected representatives, so that truth may prevail over error and prejudice."

The other speakers were the Reverend B. Julian Smith, of Chicago, bishop of the Christian Methodist Episcopal Church and vice chairman of the National Council of Churches' Commission on Religion and Race; Rabbi Uri Miller, of Baltimore, president of the Synagogue Council of America; the Most Reverend Lawrence J. Shehan, archbishop of Baltimore, and Dr. Blake. Bishop Smith is the only Negro in this group.

Dr. Blake said demonstrations against de facto school segregation, such as those in Chester, Pa., and Cleveland "must be manned and pressed until the school boards listen or are replaced by an aroused electorate."

"How can any of us ministers, priests, and rabbis," Dr. Blake asked, "stand safely eloquent behind our pulpits, reflecting the moral confusions of American culture in our tactful, balanced prose when God is thundering at His people, calling them to repent and be saved."

He declared that clergymen must "speak * * * and act to persuade our people to commit themselves to the new patterns of justice and freedom that must be established."

"Our task as churchmen is not to be expert in legislation to tell the Congress how to legislate," he said. "But it is our task and it is our competence to cut through the fog of immorality that threatens every American home and every church and synagogue."

Speaking of the defection of some liberal whites from the civil rights cause, Dr. Blake declared:

"We become confused and shaken by the arguments of the opposition, we become fearful when we are asked to pay a price * * * We have allowed ourselves to be divided about such questions as the legality of demonstrations."

He concluded that "unless we quickly understand that standing insults in our society * * * make peaceful men turn violent, and patient men lose their self-control, we understand neither the first level of morals nor the depth of the crisis that race discrimination has brought to our once proud Nation."

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[From the Washington (D.C.) Post, Apr. 29, 1964]

### SIXTY-FIVE HUNDRED ATTEND CIVIL RIGHTS CONVOCATION—FIVE CONGRESSMEN HEAR STRESS PUT ON MORAL ISSUE

(By Charles Rabb)

An estimated 6,500 persons, many of them clergymen of all major faiths, gathered at Georgetown University last night in an impressive show of support for the civil rights bill.

The National Interreligious Convocation on Civil Rights drew Protestant, Catholic, Eastern Orthodox and Jewish leaders from across the Nation.

It was a massive religious demonstration designed to show that support for the bill now before the Senate is widespread and embraces all major faiths.

The crowd for the unprecedented joint convocation, which marked the start of organized religion's push for an effective bill, filled McDonough Gymnasium. Still others heard the speeches in Gaston Hall, over loudspeakers.

The crowd, which appeared to be about 80 percent white, heard speaker after speaker stress that civil rights was a moral issue.

They came at the joint invitation of the Reverend Dr. Eugene Carson Blake, chief executive officer of the United Presbyterian Church; the Most Reverend Patrick A. O'Boyle, Roman Catholic Archbishop of Washington; and Rabbi Uri Miller, president of the Synagogue Council of America.

Five Congressmen were in the audience. All 535 had been invited. They included Senators HUBERT H. HUMPHREY, Democrat, of Minnesota, and THOMAS H. KUCHEL, Republican, of California, the bipartisan floor managers of the bill, and Senators JACOB K. JAVITS and KENNETH B. KEATING, New York's two Republican Senators. Representative WILLIAM F. RYAN, Democrat, of New York, was the sole House Member to attend.

#### JOHNSON SENDS REGARDS

President Johnson sent his "personal regards" to "those who are working for a country in which there shall be no discrimination where people are judged according to their merits and not according to considerations of ancestry, race, religion, or national origin."

The highlight of the evening for the crowd, which came here from as far away as Des Moines, was Dr. Blake.

In a speech interrupted frequently by applause, Dr. Blake told the convocation that the "unconcerned" and "uncommitted" must be won over to pass the civil rights bill.

"These are the Americans whom we must win to our side of the contest; we must by our speaking and our acting draw them into a determined commitment to our cause."

Dr. Blake said that since the march on Washington, which he called the "high" peak of moral and spiritual determination," there has been disunity among civil rights forces.

"Our unity is threatened, and our will is weakened because we forget the firm basis of morality upon which the cause is based," he reminded the audience.

Dr. Blake had strong words for "segregated" minority schools "retained against the Constitution in a southern State or maintained by neighborhood racial ghettos in northern cities."

He urged the audience to "begin now if you have not already begun, to solve this school problem in your community."

Dr. Blake drew applause when he said:

"If school boards do not listen in Chester, Pa., or Cleveland, demonstrations must be manned and pressed until the school boards listen or are replaced by an aroused electorate."

"One of our ministers gave his life a few weeks ago, for that cause in Cleveland. Others must take his place."

With respect to the public accommodation section of the bill, he asked:

"Where in the Holy Bible, in Old Testament or New, can one find a single passage to support the rights of property against the rights of man?"

"Justice, equality, and freedom for all men are right. Segregation, discrimination, and prejudice are wrong. It is as simple as that."

Rabbi Miller, of Baltimore, called civil rights legislation "basic to the normal principles upon which this country is established."

Taking issue with the people who say "you can't legislate morals," Rabbi Miller said:

"We must demonstrate that law is the one way civilized communities have found to make effective the moral will of the community."

The Most Reverend Lawrence J. Shehan, D.D., Archbishop of Baltimore, noted that Pope John in his encyclical letter, "Pacem in Terris," "once and for all condemned as absolutely untenable any argument for racial discrimination based on principle."

He said the problem of discrimination has diverted the Nation's attention from its original goals.

"Now, through Congress, this Nation is laboring to give a more complete expression in terms of law to our original vision and commitment," he said.

"Only in order of justice shall we have peace. Only in peace shall we have national unity. Only in national unity can we accomplish our difficult tasks and make good our promising opportunities. Let us get on with our work."

The convocation will be followed up by similar interfaith gatherings in other major cities. Beginning this morning the National Council of Churches will sponsor daily worship services on Capitol Hill, at which prominent clergymen will appeal for Senate action on the bill.

More than 125 Protestant and Orthodox church leaders from across the Nation have been invited to participate as worship leaders in 9 a.m. services, Monday through Saturday, at the Lutheran Church of the Reformation, 212 East Capitol Street.

Following the 1-hour service, worshippers will be encouraged to visit the Capitol for civil rights discussions with their lawmakers.

About the only jarring incident for civil rights supporters took place about an hour before the convocation started. Several students knelt in prayer at the Stump, a campus gathering spot, in a protest against the rights bill. A member of the faculty told them that it was a religious meeting, and not a political one, and ordered them to disband. When two students refused, their identity cards were taken.

Mr. HUMPHREY. Mr. President, I hope the addresses which have been placed in the RECORD by Members of the Senate will be carefully reviewed and studied.

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## CIVIL RIGHTS AND AMERICAN LEADERSHIP ABROAD

Mr. HART. Mr. President, several days ago, Adlai Stevenson spoke in San Francisco on "The Anatomy of World Leadership." It was an excellent and timely speech. One of his points was that the impact of America's example is a powerful instrument of our leadership.

Ambassador Stevenson cites two issues before America, the outcome of which unquestionably will affect our position of leadership in the world—civil rights and the war against poverty. Permit me to read what he says about civil rights:

> Civil rights—the equality of and dignity of the individual human being—is a universal issue, whatever form it may take within domestic jurisdiction. Indeed, after peace and war, it is the ultimate issue in almost all societies, the gut issue of the modern world. It is, I suppose, one of the things that makes the modern world modern.
>
> So when we in this Nation—tending our own business—make a reality of the bright promise of equal rights for all—when we break down the artificial and ignorant barriers that limit the lives of a minority race—when we put an end to intolerance and open our schools and our neighborhoods and our hearts to fellow humans regardless of race or other distinction we are, willy-nilly, exercising leadership in world affairs. We set an example for all to see—and in doing so we add immeasurably to the prestige and influence of our voice around the world—whether that was intended or not. We add to our stature in all things because we have added to the quality of our own life. Those societies which fully enfranchise all their members are also the most productive and stable—bright evidence that justice and morality constitute the most enlightened form of self-interest.

Mr. President, Ambassador Stevenson rightly calls civil rights "a universal issue"—"the gut issue of the modern world." Refugees are a most telling indictment of the world's condition. So too is the cultural and religious genocide practiced by the Soviet Government. The record of current events is spread with such examples.

The greatest challenge for America and the free world is to give significance and meaning to a sense of human dignity and human freedom, which is nonexistent in the Communist world. And there is no better place to put our greatest effort, than here at home—within our own society.

We cannot measure accurately the impact of America's example. It is an intangible thing. But no responsible person will deny that what America does for the cause of freedom and justice within its society, gives powerful substance to the moral and political leadership we claim in the world. The hope America historically aroused in the world, continues today. Little more assists our effort to make a better world, than the example we set within our own society. It hammers home to the world that we mean what we say—that our effort abroad in the cause of freedom and justice is not a hollow vessel—that we yield to none in the striving for the good society, for the people of all nations.

Mr. President, the civil rights issue is giving Congress and the Nation an opportunity to demonstrate dramatically that justice and morality do, indeed, "constitute the most enlightened form of self-interest"—at least for America. I hope that before too long, we have the good sense to pass the civil rights bill now our pending business, and get on with other urgent matters facing our society—and the world.

Mr. President, I commend Ambassador Stevenson's speech to my colleagues, and ask unanimous consent that it be made part of my remarks at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### THE ANATOMY OF WORLD LEADERSHIP

(Address by the Honorable Adlai E. Stevenson, U.S. Representative to the United Nations, at a luncheon of the Commonwealth Club, Sheraton-Palace Hotel, San Francisco, Calif., April 3, 1964)

I

I do not have to tell you that next year San Francisco will be host to a commemorative meeting of the General Assembly to mark the 20th anniversary of the signing of the Charter of the United Nations. But I can report to you that the members of the United Nations in general and the Secretariat in particular are more than grateful for the interest and generosity of San Francisco and the State of California which will make this meeting possible.

In the twilight of the war and the dawn of a new era, the Charter was born here in San Francisco. For those of us who were involved in that historic conference—and there are still some of us around—the memories are still there.

And this brings me to what Beardsley Ruml said about the U.N. in 1945. It was one of the better prophecies of our age and it goes like this:

"At the end of 5 years you will think the U.N. is the greatest vision ever realized by man.

"At the end of 10 years you will find doubts within yourself and all through the world.

"At the end of 15 years you will believe the U.N. cannot succeed. You will be certain that all the odds are against its ultimate life and success.

"It will only be when the U.N. is 20 years old that * * * we will know that the U.N. is the only alternative to the demolition of the world."

What a prescient bit of crystal-ball gazing that turned out to be!

And I think by now—19 years later—a great many people have arrived at the fourth stage in Ruml's 20-year prophecy—that stage where we know that "the U.N. is the only alternative to the demolition of the world."

II

Let me be emphatic: this is not said in any rhetorical sense. It is said in a very down-to-earth sense. The world abounds in conflicts between nations—some old and some new—some silly, some serious—some minor and some potentially climactic. A few of these conflicts may be defused by direct negotiation or by agreement to settle for the status quo, or even by the attrition of time. But many of them will require some changes—in boundaries or people of resources or leaders or in claims, practices, procedures, positions, or attitudes.

If change is not to be effected by the institution of war—which has been the great instrument of change through the ages—then it must be effected by institutions for peaceful settlement and peaceful change—meaning, inescapably by international organizations at the regional and global level. The only alternative to the disaster of war is the machinery of peace: because there is no way to exercise conflict from the human breast or the politics of nations. And international machinery for the peaceful resolution of conflict already has a better record than many people seem to realize.

During the past decade and a half there have been some 20 occasions when the armed forces of 2 or more nations engaged in active hostilities. In only one case did the fighting end the way wars have ended traditionally—by the surrender of one side to the other.

On at least 20 other occasions there has been minor fighting on disputed frontiers, or armed revolts in the outcome of which other states had a national interest. In no case has the fighting spread to international warfare.

Fifty-seven international disputes are now on the agenda of the Security Council of the United Nations. Some are settled, others dormant—and some are hardy perennials. One thing is clear about the 57 varieties of postwar disputes: far less blood has been shed than would have been shed if the disputes had not found their way onto the agenda of the U.N. Security Council.

The Organization of American States and—more recently—the Organization of African Unity have also dealt successfuly with violence in their areas.

Hostilities have been opened with gunfire and closed with cease-fires in the Far East, in the Western Pacific, in southeast Asia, in the Middle East, in the Mediterranean, and in Africa—in some areas more than once since the end of the Second World War.

And in the Caribbean, a year and a half ago, a nuclear giant got on—and then got off—a nuclear collision course.

Meanwhile, the most massive political transformation in history took place as the British, French, Belgian, and Dutch empires were dissolved, and the trust territories of the United Nations shifted from tutelage to independence, with astonishingly little bloodshed all around. The world has never seen such a spectacle of peaceful change.

But there are too many nuclear and conventional arms to doubt that grave danger to peace in our times still persists. There have been too many confrontations, too many close calls, too many pullbacks in the nick of time, too many rescue operations at 1 minute before midnight.

Yet, if the record so far is no guarantee of peace, it offers the hope that if hostilities break out somewhere tomorrow the next step will not be the sound of trumpets but the call to cease fire. That hope can be hardened if we and other members of the United Nations have the sense and the will to improve the machinery of peaceful settlement and cultivate the profession of peacemaking.

III

In recent weeks and months there has been a lively ferment about U.S. foreign policy in some of the scholarly and popular publications, in some of the columns and commentaries, and from some of the public platforms in Washington and elsewhere.

Conditions in the world are changing, we are told. I could not agree more. The President, the Secretary of State, and others have noted the point more than once, in both general and specific terms. Indeed I was speaking myself just last week at Princeton about the extraordinary change in world affairs and international relationships in the 3 short years since Dag Hammarskjold was killed, some of which have been discernible only since the resolution of the crisis over Soviet missiles in Cuba.

When President Kennedy took office a global stalemate, which was the logical outcome of the cold war, was virtually complete, but still being tested to see whether steel was backed by nerves. In the less than 3 years that were given to him, President Kennedy had to show force on three occasions.

First, he called up the Reserves to convince the Soviets we would no more give in to a third ultimatum on Berlin than we would on the previous two, though his first words in office included an offer to those nations who would make themselves our adversaries to begin anew the quest for peace.

Second, he was forced to resume nuclear testing in the atmosphere because the Soviets broke a moratorium in the futile search for an elusive nuclear superiority, though in that very announcement he insisted that in the long run, the only real security in this age of nuclear peril rests not in armament but in disarmament.

And third, President Kennedy was forced to throw an armored noose around Cuba to prevent a clandestine shift of the balance of power in Soviet favor—though in doing so he simultaneously mobilized the peacekeeping machinery of the Western Hemisphere and the United Nations.

Yet now, in the early months of President Johnson's administration we can see a much different and a much more complex and a somewhat more hopeful world emerging; a world which is no longer simply bipolar but in which multiple centers of power and influence have come into being; a world in which the most extreme forms of power are the least likely to be used; a world in which realities are eroding rigid political dogmas; a world in which there can be no ideological agreement but where there can be agreement on mutual survival; a world in which imperialism is dying, and paternalism is dying, too; a world in which old trading systems, monetary systems, market systems, and other elements of the conventional wisdom are being challenged and changed; and finally, a world in which fundamental issues of human rights—which have been hidden in closets down the long corridor of history—are out in the open and high on the agenda of human affairs.

We can see, in short, that the world was never as bipolar as it looked and that a misleading impression was created by the temporary weakness of other powers and by the challenge of Stalinist ambitions in the first postwar years.

But let us recall that there was nothing mythical about the physical annexation of occupied states in the Soviet empire—nor about the military pressures, the insurrections, the infiltrations and coercion and blackmail and propaganda that Stalin launched in the postwar world—nor about the more recent attempts at nuclear blackmail and power politics.

Let us agree that a cold war—unlike a hot one—does not have a sharp beginning and a sharp end: it is better understood as a state of affairs—a world condition.

Let us also agree that the changes we just noted—fundamental as they are—are not events but trends. They may continue in the same direction; they may become stalled; they might even be reversed for reasons beyond our control. And if the present leaders of the Soviet Nation have come to see that expansion by armed force is irrational in the nuclear age, the leaders of Communist China have gone to spectacular ends to make clear that they still live in the age of Stalin—with what dangers to all of us we can scarcely discern.

While we're at it, let me point out that it takes two to make a detente. We on our side may be encumbered by some myths but not by metaphysical dialectics. We may suffer from tired cliches but not from fixed dogma. We may conform to conventional wisdom but we are not bound to secular scriptures. I mention this not to score propaganda points but to suggest that if we have trouble adapting to new realities, think of the difficulties of men who have been taught the iron laws of history and the inevitability of events which stubbornly refuse to happen.

### IV

So our task is twofold.

On the one hand, let us by all means discard any obsolete labels—especially the black-and-white labels; let us try to be sure that the spade we still call a spade has not rusted away while our eyes were averted.

On the other hand—and at the same time—let us be sure to get a firm grip on our sense of direction in the world that is changing about us.

Let me say here and now that there has been a clear sense of positive direction at the base of our policies.

We recall that United States support helped Turkey stand up to Stalin's threats—and tend to forget that the main function of that aid was to help build up a Turkish economy overtaxed by its own defense requirements.

We recall that our aid helped the beleaguered Greeks to put down a Communist insurrection—and tend to forget that most of that aid was economic.

We recall that the Marshall plan made it possible for Europe to rearm and help build up NATO—and tend to forget that its purpose was directed "not against any country or doctrine but against hunger, poverty, desperation, and chaos."

And so it goes, for the point 4 program and all the rest. The positive, constructive, progressive, and hopeful driving force of our postwar foreign policy has been obscured by the confrontation of military alliances, by the arms race, and by recurrent crises.

Our consistent and forthcoming contributions to the work of the whole United Nations family of agencies which seek to build better lives for the undernourished two-thirds of humanity has been overveiled by political wrangling in the Security Council.

Our steady encouragement of the growth of regional organizations and institutions for economic and social and technical progress has been half hidden because we also were concerned with the physical security of the same areas.

Now we have reason to hope that with the test ban treaty * * * the resolution banning weapons of mass destruction in outer space * * * the installation of the hot line between Moscow and Washington * * * the first halting steps toward United States-Soviet cooperation in exploring the universe * * * and above all the hardening conviction about a mutual interest in survival * * * we have reason to hope, as I say, that the end of the cold war, in the particular form in which we have known it, may now be possible. Other rivalries may take its place in time—rivalries that will require a revision of tactics. But between the two thermonuclear powers we have reason to hope that additional areas of common interest can be identified and further agreements reached—until this particular cold war fades into history. One of the imperatives of our foreign policy is to hasten that day.

But my point here is this: to adjust to a world of lesser tensions from different directions does not require the painful discovery of shiny new policies—nor a sharp shift in our aims—nor a reexamination of our motives.

Our policies will—as they have in the past—seek: to help build up the capacity of the United Nations to effect peaceful resolution of conflict and change; to similarly support the growing capacity of regional organizations to handle their own family problems and move toward unity in the economic, social, and technical spheres; to step up the flow of resources and technology from the industrialized to the newly developing countries; to offer cooperation in such exciting new ventures as creating a World Weather Watch, a global system of satellite communications, the exploration of the universe, and in a thousand less spectacular jobs; to keep everlastingly at the search for the next safe steps toward arms control and disarmament; to insure the defensive strength of free and peaceful societies while the quest for peace continues; to hammer away at the manifold and sometimes tedious task of creating a world—in President Kennedy's phrase—that is "safe for diversity" because it rests on consent and not coercion.

Certainly we shall have to be adaptive and flexible, and even imaginative and inventive, as we pursue these ends. But there is nothing new in the ends. They are the ends we have pursued for better than a decade and a half. They are good ends and no degree of complexity—no evolution in world affairs—should be allowed to obscure them or to divert us from their pursuit.

But to take full advantage of the real mutations in power and influence will require us to be even clearer in our heads and even faster on our feet than we have been so far.

As realists we must see the world as it is, not as we might like it to be. And what do we see? We see the world as a neighborhood—interdependent in space, interdependent in communications, interdependent in economic life, and overshadowed by a fantastic Wagnerian possibility of instantaneous annihilation. We cannot conceal these fundamental facts. We dare not behave as though they did not exist. This is the reality science and technology have thrust upon us.

And when we look back and ask ourselves how have we hitherto dealt with the realities of our century, the answer is, I must confess, a little cheerless. Through two World Wars and a cataclysmic economic depression, we, the self-styled realists, produced a record of disaster. While every day the facts of interdependence were drawing our nations into closer and more vulnerable proximity, we marched with a sovereign illusion of state power boldly into shattering catastrophe.

I often think no war had been as tragic as that of 1939, for in retrospect, it seems almost a precise, sleepwalking repetition of the war of 1914—the same actors, the same pressures, the same causes and provocations. And all this for the reason that in 1919 the victors left intact virtually all the causes of violent nationalism and irresponsible sovereignty that had sparked the first conflict. America withdrew into an impossible isolationism. The League, the ancestor of the U.N., was crippled at its birth. The concert of Europe broke down. The old, uneasy, unstable balance of power returned.

Even so, the powers might perhaps have evaded the final tragedy if Europe and America had not also been compelled to act out on the economic stage the full consequences of separate, isolated nationalism.

But this is not the place to go into the multiple causes of the great depression, out of which sprang so many of the evils of Hitlerism, the demoralization of Europe, and the inevitable drift to war.

I make no apology for this brief excursion into our not-very-distant history, for, as George Santayana remarked: "Those who will not learn from history are destined to repeat it." And believe me, the world cannot afford to repeat its history from 1914 to 1945. In the nuclear age, total unabridged national sovereignty, operating blindly in the new era of growing interdependence can produce the final lethal catastrophe. If there is any realism in politics, any realism in economics, it must be to insure that such follies, such excesses, such disasters never reoccur.

Is this too big an order? Must men always behave in their individual interest in such a way that their collective interests invariably suffer? Of course not. And that brings me to some concluding words about the anatomy of world leadership. For the nature of leadership in a world safe for diversity—there's a subject on which some careful and perhaps painful rethinking will be needed in the years ahead—and not only here at home.

We have heard a great deal about leadership in the postwar world—leadership of the two contending blocs engaged in a struggle described as cold war. It is a simple statement of historical fact to say that for a number of years one side was led unquestionably by the Soviet Union and the other side was led unquestionably by the United States of America.

There was a fundamental difference in the character of the two leaderships: one was imposed by the leader and his Red Army; the other was imposed upon us by our resources and our capacity to act in a wartorn world. We have no apologies to make about our acceptance and performance of that role: indeed, we can be deeply proud of both.

But the days of unquestioned and unchallenged leadership are past. The fear of external threat, which is the cement of alliances, has subsided somewhat—and some of the followers have grown strong enough to strike out on their own.

And again there is a fundamental difference in the change that has occurred on the two sides. Communist China has broken away violently from the leadership of the Soviet Union in a split of unprecedented bitterness. There is hardly a Communist Party anywhere in the world which has not felt the divisive repercussions of that schism. Meanwhile the other members of the old Soviet bloc twist and turn and maneuver to put a bit more daylight between them and the old leader. That is just about the last thing that the Soviet leaders wanted to happen—and they have done their best to prevent it.

On our side an old friend within the alliance now sometimes declines to see things the way we see them for reasons which sometimes seem quite obscure to us from where we sit. Other old friends occasionally disagree—as we do with them—though very often when we talk things out we find our way to common ground.

But our differences—even when they persist—do not set us at each other's throats in alleys and villages around the world. A basic purpose of our whole postwar policy has been to help Europe get back on its feet, stand up on its own, and look us in the eye as equals. If we sometimes do not like what they say when they look us in the eye, let us not forget that we know something the Communists don't know: lasting unity can be attained only among nations that are not dominated by any member of the group. Lasting unity is created not by the overlordship of the strong but on leadership of the strong in a community in which every member is equal because he is free.

As the world of the two great blocs and the unalined states is breaking into a pluralism of power and prestige, the most powerful nation in the world still cannot throw up its hands and resign from a job which it never sought anyway.

Leadership always will be needed; leadership always will be welcomed—provided it is the right kind of leadership in the right places at the right time.

What is the right kind of leadership in a world in which the prevailing political passion is national independence? What is the right way to exercise national power in an age when the most powerful nations cannot use their most powerful weapons?

There is diplomacy, of course. There is joint military planning with close allies. There is common trade policy and development policy. There is technical cooperation and the export of science. There is information and cultural exchange. All these—and other tangible things—come to mind.

But what I have in mind is something less tangible than the spending of money and the organizing of resources. What I have in mind is leadership by attitude—and by example.

A wise Asian said not long ago that in our time, his people would expect Americans to make a great effort to understand them, without themselves making a great effort to understand the Americans. It is not easy for Americans to get used to a world in which they have to try hard to understand the sentiments and feelings and prides and prejudices of others—and then find that those others continue to cherish unfair, false, even outrageous opinions about the purposes and motives of the United States of America.

Put it this way: A man who serves as a leader in his community has to accustom himself to the fact that individual citizens and special interest groups will often berate him for his actions because they have not considered all the angles the leader must consider before he acts. Much of this criticism the leader will think unfair—yet while he never can give way to pressure merely because it comes from the weak, neither can he give way to the temptation of responding in kind, of lashing out at his adversaries, of talking or acting as irresponsibly as his less powerful but noisier critics. He has to do what he thinks is best—consulting all the elements of the community, but consulting his own independent best judgment as well.

His patience, his restraint, his self-control, his magnanimity, his compassion—in a word, his maturity—will be often and sorely tried. But this is the price of power. He either learns that simple lesson, or he stops trying to be a leader among his fellow men.

So it is with the leadership of a nation, among its fellow nations in a world not yet safe for diversity. We are, quite simply, too strong to react in kind to every ugly streetcry, every student placard, every irresponsible act. In this kind of world, wielding our kind of power, real toughness is not bluster but maturity. If we want to know how to act in such a world, we could do worse than to reread Kipling's "If."

Alongside the mature attitudes of the powerful leader, I would place the impact of example as an instrument of leadership in the world that is emerging. And this leads me directly to two issues before our society right now: civil rights and the war against poverty.

There was a time when some people lamented the exposure of racial discrimination in this country only because Communist propagandists could use it against us around the world. This was a mean and shallow view—an unworthy way to relate civil rights to foreign policy.

Then, when an aroused nation at last decided to do something definitive about equality for all our people, it was quite properly said that this was not being done to please a foreign audience but to cleanse our own conscience—to make our own society whole at last—to elevate the quality of our domestic life.

And so it is. But civil rights—the equality of and dignity of the individual human being—is a universal issue, whatever form it may take within domestic jurisdiction. Indeed, after peace and war, it is the ultimate issue in almost all societies, the gut issue of the modern world. It is, I suppose, one of the things that makes the modern world modern.

So when we in this Nation—tending our own business—make a reality of the bright promise of equal rights for all—when we break down the artificial and ignorant barriers that limit the lives of a minority race—when we put an end to intolerance and open our schools and our neighborhoods and our hearts to fellow humans regardless of race or other distinction we are, willy-nilly, exercising leadership in world affairs. We set an example for all to see—and in doing so we add immeasurably to the prestige and influence of our voice around the world—whether that was intended or not. We add to our stature in all things because we have added to the quality of our own life. Those societies which fully enfranchise all their members are also the most productive and stable—bright evidence that justice and morality constitute the most enlightened form of self-interest.

Much the same thing can be said about President Johnson's war on poverty. When the richest nation on the face of the earth—when the society which has produced the highest standard of living in history—turns as a matter of national priority to the needs of the underprivileged 20 percent, we likewise are indulging in world leadership. We are showing that no level of social accomplishment satisfies the free human spirit.

And poverty in nations, as President Johnson pointed out last week, is like poverty in families. Our foreign aid program is not a matter of doles and handouts. Whether the war on poverty is waged at home or abroad, the aim is the same—the creation of opportunity, the transfer of skills, and the investment of capital to help others to help themselves. Here again we are showing that it is up to the great and powerful to lead the way.

For in this new world of diversity that is shaping up, the true leader is not the one who gives orders, but the one who shows the way.

The true leader is not the one who embraces agreeable myths but who faces the facts even when they are ugly.

The true leader is not the one who expects followers, but who welcomes the company of all who wish to join him.

The true leader is not one who insists that his way is the only way, but who is ready to share his own experience for what it is worth to others.

These, it seems to me, are some of the parts of the anatomy of leadership that will be needed in a world which, indeed, is changing rapidly but which is concerned to the last with building a good society. The nation which leads the way to the good society need never fear for its influence in this world—for that nation will be setting the pace for all others.

I believe the emerging world society in which we have to operate offers us possibilities for creative improvement at home and for creative diplomacy and initiative abroad. That world is more plastic, more open to influence than ever before. Hence it is our duty and our opportunity to work in this new society for the great purposes that have always lain at the roots of America's domestic experiment—for a world in which life is held secure against arbitrary violence, in which the pursuit of happiness is not crippled by lack of education and the lack of skill, in which men can find the ultimate liberty—to seek truth as they see it and to express their infinite diversity, unified through brotherhood, not fear.

And that, it seems to me, brings world affairs into everyone's front parlor and everyone's backyard.

## PERSONAL STATEMENT BY SENATOR SIMPSON

Mr. SIMPSON. Mr. President, certain pieces of preliminary advertising for the so-called Project America, a Three-Part Program for Americans, have carried my name and picture, purporting that I am to be a principal speaker at an American preparedness program the evening of May 1. I should like the Record to show that I have no connection whatsoever with this program or with any of the three organizations sponsoring it—Americans for National Security, Government Educational Foundation, and Liberty Lobby. Another point on which I wish the Record to be crystal clear is that I completely disavow the attack by Liberty Lobby on the Republican leadership of the Senate and the House. At about the same time it mailed around the country its Project America liberty letter with my picture, Liberty Lobby distributed a brochure in which the Republican Senate-House leadership was lashed by invective of a type that has no place in the intelligent debate of political issues.

Upon learning that I had been falsely associated with the Project America program, I sent a letter to Mr. Stanley Andrews, executive director of the Americans for National Security at 300 Independence Avenue SE., Washington, D.C. My letter of April 10 elicited an apology from Mr. Andrews under date of April 15. I ask unanimous consent at this juncture in my remarks to have both letters printed in the CONGRESSIONAL RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 10, 1964.

Mr. STANLEY ANDREWS,
*Executive Director, Americans for National Security, Washington, D.C.*

DEAR MR. ANDREWS: I am very disturbed at reading in a liberty letter dated April 1964, that I am advertised as principal speaker at a so-called Project America program scheduled for May 1 in the Washington, D.C., area. My name and picture are used in the event's promotional material despite the fact that the arrangements prerequisite for their use were not made through my office. None of the three organizations participating in Project America—Liberty Lobby, Americans for National Security, and Government Educational Foundation—has received permission to use my name or picture in any manner in any form of advertising for Project America, and I am most certainly not scheduled as a speaker at any phase of the affair. In fact, I had longstanding commitments on this day in the Rocky Mountain West.

One of my assistants advises me that you called at my office several days ago and attempted to secure a commitment for this program. You were notified at that time that I could not and would not participate.

The unauthorized use of my name in promoting Project America is objectionable to me, not only because you have taken the liberty without my permission, but because you have associated me with a most vicious diatribe directed against the Republican leadership of the Senate and the House and the Commission investigating the assassination of President Kennedy.

I think you owe it to me to send me a letter, confirming your conversation of April 9 with a member of my staff, apologizing for this unauthorized use of my name and photograph.

Sincerely yours,
MILWARD L. SIMPSON,
*U.S. Senator.*

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AMERICANS FOR NATIONAL SECURITY,
*Washington, D.C. April 15, 1964.*

Hon. MILWARD L. SIMPSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SIMPSON: I herewith present my most deep and sincere apologies for any embarrassment incurring to you as the result of the entirely unauthorized use of your photograph and name in the preliminary program of Project America which was recently printed in liberty letter. The misunderstanding was entirely my fault. I have taken steps to make it clear that you did not have nor will not have any connection with the national defense seminar sponsored by the AFNS. I will also make such a statement the night of the program.

AFNS is dedicated only to issues relating to national defense. We opposed the signing of the nuclear test ban treaty (I testified against it) and have also opposed the activities of the U.S. Arms Control and Disarmament Agency. I knew and admired your stand on these matters.

As to the attack on the Republican leadership which appeared in liberty letter I completely disavow the opinions expressed therein or in any other publication of Liberty Lobby. AFNS takes no position on such matters and personally the views expressed are abhorrent to my way of thinking. It is a real source of embarrassment to AFNS and myself that our preliminary program was carried along with such material. I worked for 4 years in Senator LAUSCHE's office and have but the highest respect for the leadership of both the Republican and Democratic leaders.

Assuring you again of my deepest regret and personal apologies to you, I am

Sincerely yours,
STANLEY M. ANDREWS.

Mr. SIMPSON. Mr. President, Liberty Lobby also contacted me to apologize for the misunderstanding. The organization promised to explain its error in the unauthorized use of my name in an issue of its liberty letter to be distributed immediately prior to May 1. However, the letter which reached my office Friday said only that, "unfortunately, Senator MILWARD SIMPSON will not be with us as was announced. He has other commitments in the Rocky Mountain West." There is nothing in the liberty letter explaining the organization's unauthorized use of my name and office. The impression is created that I had simply canceled at the last minute to speak somewhere else—an impression which is, as I have explained, in complete contravention of the facts.

In reiteration, Mr. President, I say again that I am not in any way involved in the proposed Project America. Nor have I given any endorsement to the programs carried out by the organizations amalgamated under Project America.

## PEACEFUL USES OF SPACE CONFERENCE

Mr. SALTONSTALL. Mr. President, today marks the opening of the Fourth Annual Conference on the Peaceful Uses of Space, in Boston, Mass. This conference, with the full support of the National Aeronautics and Space Administration, seeks to explore the further contributions which can be made by the New England area to our Nation's space program.

Since the time when Dr. Robert Goddard developed and launched the first liquid fuel rocket in Worcester, Mass., New England has played a major role in our space science program. The cooperative efforts of our research institutions, universities, electronics and space science industries, and skilled scientists and technicians have contributed greatly to both military and peaceful advances in the use of outer space. Recently the National Aeronautics and Space Administration recognized New England's preeminence in this area by deciding to locate its new Electronic Research Center in the Greater Boston area. NASA wisely determined the close proximity to New England's research-industrial complex was vital if the objectives of the Center were to be successfully achieved.

This year's conference will emphasize such topics as current and future space mission plans, new developments in space technology, the role of the university and community in space research, and the problems of international cooperation in space. I believe that the exploration of these problems will contribute substantially to the Nation's effort to delve into the reaches of outer space, as well as aid New England's efforts in continuing its important role in the expansion of our peaceful space program. I wish all participating in this conference the best of luck in their endeavors.

## WHY CONSUMERS AS WELL AS SMALL BUSINESS NEED THE QUALITY STABILIZATION BILL

Mr. PROXMIRE. Mr. President, a large part of the controversy over the quality stabilization—the Humphrey-Kuchel—bill turns on the question of cost to the consumer. Opponents of the bill now and then refer vaguely to studies on the subject, but trying to pin them down to solid figures is like trying to nail a custard pie to the wall.

For example, Mr. Paul Rand Dixon of the Federal Trade Commission told the press this bill would cost the consumer "billions of dollars," then admitted in the hearings that he had no evidence to substantiate such a charge.

Lately we have been advised of a ploy in which the giant discounters take full credit for whipping up a frothy offering over the signatures of six New York economics professors. This document purported to be a fact sheet on the quality stabilization bill. I am sure every Member of Congress could sign in good conscience a protest against the bill described in this discounters' fact sheet, if such a bill existed. However, Mr. President, any resemblance between that sham bill presented to the economics professors around the country, and the real quality stabilization bill which has received such strong bipartisan sponsorship here, is strictly a figment of a discounter's imagination.

I do not blame the college professors for signing a statement that they would oppose the bill described to them over the signatures of six of their colleagues. I do blame them, however, for not being more inquisitive about the source and accuracy of the material presented to them.

These unsupported charges and unsubstantiated figures are designed to frighten, rather than inform, the public. Until recently, I have searched in vain among the voluminous propaganda issued on behalf of the giant discount chains for one solid attempt to deal in hard facts and cold statistics.

I am pleased to tell Senators I have finally found a nugget. I should like to give credit where credit is due. The Discount Merchandiser, a trade magazine for the discount stores, printed in its December issue under the title of "The Marrud Study," a remarkably thorough 48-page statistical evaluation of the Marrud chain of discount drugstores—more than 200 of them, according to the magazine. The editors claim this is the first time they ever have succeeded in getting a discount chain to reveal so much about its operation. The editors commend the president of the company for his statesmanship and express the hope that other discounters will follow suit.

Mr. President, I wish to say a fervent amen to that hope.

This "Marrud Study" shows some very interesting things about the so-called discount operation. It sheds new light on some of the ridiculous charges made by discounter propagandists that the quality stabilization bill will cost the public billions.

With the "Marrud Study" we have a little better opportunity to determine where the truth is.

The "Marrud Study" shows the mechanics of retail hocus-pocus which uses the left hand to attract the consumer's attention and the right hand to hike his price.

Let me cite some of the key items from this revealing report:

The first section of the study is made up largely of statements by Jacob E. Margolis, president of Marrud, Inc., a discount drug chain operating in more than 200 discount stores. Mr. Margolis makes the following points:

First. That his stores offer many items for bait at absolute cost and for loss-leader advertising.

Second. To make up for such loss-leader items, he sells hundreds of items at jacked-up prices.

Third. The Marrud stores do not offer the service of a prescription department.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **PROXMIRE**. I ask unanimous consent that I may have 3 additional minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PROXMIRE**. Here we have a picture of a so-called discount chain offering some items at a loss and making up the loss with higher prices on other items. The key question is how much does the public actually pay to this so-called discounter for the privilege of shopping in a self-service sales silo which has no prescription service or personal sales service such as does a well-attended, independent drug store? Is there an overall saving to the public?

The answer, very plainly, is "No." In 48 pages of statistics Discount Merchandiser proves conclusively that the public does not save money by shopping in this large discount chain. If this chain is typical, as the editors seem to feel it is, they do not save money by shopping in discount stores generally. In other words, Mr. President, the discounting of national brand items for use as store traffic bait has deceived consumers into believing they are saving money by abandoning the established merchants in our communities and taking their business to the giant discount chain. The Marrud figures show there is actually a net loss to the consumer, even when computed strictly in terms of price—without reference to quality service, or long-range effect on the community.

The average gross margin—commonly known as the markup—of the Marrud chain is 33.4 percent. According to the reputable annual Eli Lilly study of 2,300 pharmacies throughout the country, the average gross margin for all pharmacies in 1962 was 36 percent. In other words, the Marrud chain appears to be only slightly below the national average—2.6 percent. However, virtually all of the pharmacies included in the Lilly study offer vital prescription service—a service which Marrud finds too expensive for its taste. In the Lilly study, the class of pharmacies most nearly comparable to Marrud—a group of 113 stores whose prescription income amounts to less than 15 percent of their sales—has an average gross margin of 31 percent. In those stores in which prescription income is at a low level, the average markup across the country is 2.4 percent lower than that of this typical discounter.

The FBI saving opportunities study relied only on some 132 items. Projections from this pick-and-choose survey have led to the irrational conclusion that resale price maintenance could cost the consumers "$1 to $15 billion a year."

The "Marrud Study" covers 4,261 products—many times the number surveyed by the FBI. If we apply the same logic used by Mr. Dixon and project this average differential of 2.4 percent across the entire retail economy, we must conclude that unless this type of discounting is checked, it will cost the consumer 2.4 percent of $235 billion—to use the 1962 Department of Commerce figure for total retail sales—or an extra $5.6 billion annually.

Most of us here in this Chamber realize how silly such a claim would be on that kind of statistical base.

On page M-36 of the "Marrud Study," the enigma of the discount stores is solved in one simple table. I shall introduce this table into the RECORD in its entirety, but I should like to point up its salient features.

The table groups 3,765 products by the size of the markup:

| Gross margin range: | *Number of items* |
|---|---|
| 65 percent and over | 65 |
| 55 percent to 64 percent | 164 |
| 45 percent to 54 percent | 694 |
| 35 percent to 44 percent | 1,450 |
| 25 percent to 34 percent | 1,088 |
| 15 percent to 24 percent | 259 |
| Less than 15 percent | 45 |
| Grand total | 3,765 |

With the average gross margin at 33.4 percent, the median category is that group with a markup ranging from 25 to 34 percent. Items with a markup below this range I would call discount items. Items with a markup substantially above this range subsidize, by higher prices, the products Marrud bills below its average gross margin.

Mr. President, for every discounted item, there are eight items selling at jacked-up prices. For every customer who gets a bargain, there are eight who are charged an excess price. You may be sure that the advertised national brands will be found largely in the deep discount group, and the unknown, off-brand items, by, and large, will appear in the higher markup categories.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **PROXMIRE**. I ask unanimous consent that I may have 1 additional minute.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PROXMIRE**. Mr. President, I would strongly recommend that every Member of Congress obtain copies of the "Marrud Study" and the annual Lilly Digest and make their own comparisons. As I said at the outset, here for the first time are solid statistics from the discount opponents of the quality stabilization bill, and I say, out of their own mouths, they are condemned. They have proven beyond a shadow of a doubt the wisdom of Justice Brandeis when he said:

> Americans should be under no illusions as to the value or effect of price cutting. It has been the most potent weapon of monopoly—a means of killing the small rival to which the great trusts have resorted most frequently. It is so simple, so effective. Farseeing organized capital secures by this means the cooperation of the short-sighted unorganized consumer to his own undoing. Thoughtless or weak, he yields to the temptation of trifling immediate gain, and, selling his birthright for a mess of pottage, becomes himself an instrument of monopoly.

Reinforcing the "Marrud Study" is an item from the Discount Store News of February 24, 1964, in which a discounter is quoted as saying:

> If I sell an item for 5 cents more than you do and you see that I am selling, you'll soon add the 5 cents to your price. That's real price maintenance based on practice.

The "price maintenance" referred to in that statement is the price maintenance of the retail monopolist.

The evidence is clear, Mr. President. What is not clear is this: Has it become a matter of national policy to destroy the small and independent merchants and deliver the consumer and the manufacturer into the hands of a few large retailers?

Mr. President, I ask unanimous consent that a table titled "Gross Margin Structure" on pages M-36 and M-37 of the "Marrud Study," as published in the Discount Merchandiser of December 1963, be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

*Gross margin structure*

| Gross margin range | Number of items | Percent of items | Sales | Percent of sales | Gross profit | Percent of gross profit | Average gross margin (percent) |
|---|---|---|---|---|---|---|---|
| 65 percent and over | 65 | 1.7 | $71,324 | 1.0 | $49,778 | 2.1 | 69.8 |
| 55 to 64 percent | 164 | 4.3 | 231,712 | 3.3 | 136,531 | 6.0 | 58.9 |
| 45 to 54 percent | 694 | 18.5 | 654,762 | 9.4 | 320,252 | 13.9 | 48.9 |
| 35 to 44 percent | 1,450 | 38.5 | 1,529,372 | 21.8 | 606,213 | 26.4 | 39.6 |
| 25 to 34 percent | 1,088 | 28.9 | 2,854,636 | 40.9 | 850,661 | 37.0 | 29.8 |
| 15 to 24 percent | 259 | 6.9 | 1,475,048 | 21.1 | 309,971 | 13.5 | 21.0 |
| Less than 15 percent | 45 | 1.2 | 173,285 | 2.5 | 23,456 | 1.1 | 13.5 |
| Grand total | 3,765 | 100 | 6,990,139 | 100 | 2,296,862 | 100.0 | 32.9 |

## DREW PEARSON'S ARTICLE, "MORSE CAMPAIGNS FOR FORMER FOE"

Mr. MORSE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article, entitle "MORSE Campaigns for Former Foe," written by Drew Pearson and published in yesterday morning's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### MORSE CAMPAIGNS FOR FORMER FOE

(By Drew Pearson)

During the closing days of the 87th Congress, Senators WAYNE MORSE and MAURINE NEUBERGER, both Oregon Democrats, engaged in a terrific hassle with Representative MIKE KIRWAN, the cantankerous fellow Democrat from Youngstown, Ohio, over what they called KIRWAN's "fish hotel," the $10 million fish aquarium KIRWAN wanted to build in the Nation's Capital.

"It's a luxury the Capital cannot afford while there is an acute shortage of schoolrooms here," MORSE proclaimed.

While he was speaking, Senator JOHN CARROLL, Democrat, of Colorado, sent word that KIRWAN, a power on the Appropriations Committee, was already threatening to block public works funds for Oregon. And in the joint House-Senate session later, the furious Democrat from Ohio chopped $965,000 of Oregon projects out of the rivers and harbors bill.

#### MORSE'S THREAT

Following this, MORSE went to see President Kennedy, and told him: "I intend to make a motion for the expulsion of KIRWAN from Congress on the grounds of corruption. I shall make this motion on the grounds of legislative blackmail."

Later, thanks to the intervention of President Kennedy and top Senators, three of Oregon's public works projects were reinstated.

Tonight, believe it or not, Senator WAYNE MORSE, the man who wanted to expel KIRWAN from Congress, is going to Youngstown to urge his reelection.

(NOTE.—This column once described MORSE as a Senator who has never run from battle. But at the moment he has some additional pork barrel projects that he wants to get through KIRWAN's committee.)

#### NIXON BACKER WOOS LBJ

Sam Yorty, the ebullient and unpredictable mayor of Los Angeles, is now trying to woo the Johnson administration as hard as he tried to elect Richard Nixon President in 1960.

He has told his staff that he is coming to Washington today and plans to negotiate a giant hydroelectric power hookup by which his city will tap electric power from Bonneville Dam in Washington and Oregon.

Interesting backstage fact about the Yorty deal, however, is that he is trying to win Mr. Johnson over to doing monopoly business with Pacific Gas & Electric, biggest private power company in the world, and with Southern California Edison.

In fact, Yorty wants the Johnson administration, whom he claims as his fast and new-found friends, to spend Federal money to build part of the transmission lines which the private utilities would then use and dominate.

Behind all this is some of the most important jockeying for electric power in American history. The private utilities, belatedly, have come round to the realization that the huge intertie systems pioneered first in Sweden, then in the Soviet, will work.

Hitherto, power has not been carried over long distances in the United States. Power companies operated on their own in local regions on the theory that voltage dropped when carried too far. However, a delegation of U.S. Senators and power experts, visiting Siberia 3 years ago, found the Soviet was transmitting direct current over 1,000 miles, whereas alternating current in this country is transmitted only a little over 100 miles.

#### THE POWER SCRAMBLE

Since that time there's been a scramble by the big utilities in California to get long-distance hookups with the big power sources on the Columbia River. However, the Federal Government owns not only Columbia River power but the land over which the powerlines would have to pass. Furthermore, President Johnson, as a Senator, was a strong supporter of his friend Sam Rayburn's public power policy.

Apparently the precocious Mayor Yorty thinks he has the President in his pocket. He is coming to Washington, he confides to friends, to sell Mr. Johnson on building part of the big intertie system with U.S. dollars, then let the private utilities and the city of Los Angeles monopolize the line.

In contrast to the Yorty monopoly deal, International Utilities proposes to build an intertie transmission line across California and Nevada up to the Columbia River, at its own expense, then permit anyone to use it. For the first time in power history, a transmission line would be operated like an oil pipeline or a toll highway, with any company or government body using the facilities.

Mr. MORSE. Mr. President, this article sets Drew Pearson's batting average for yesterday's journalistic ball game at 500. That is a very good batting average, but the first time he went to bat in the first half of the article, in which he pays his disrespects to me, all he did was hit a high foul ball which was easily caught by the catcher. The catch was a putout and sent him to the bench where he belonged for that performance. But the second time at bat, he hit a line drive down the first base line for a sure hit. That is what he did in the second half of the column when he pointed out factually the attempt of the mayor of Los Angeles to serve the private utilities of the country in their attempt to scuttle sound, public power projects in the Pacific Northwest. Their attempt to scuttle the public interest in public dams is described by Pearson in his account of Mayor Yorty's scheme of having American taxpayers build the dams and generate the power, and then have the private electric utilities get control of the transmission lines.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired. The time for the morning hour has expired. Does the Senator from Minnesota [Mr. HUMPHREY] wish to make a request for additional time?

Mr. HUMPHREY. Mr. President, I yield additional time to the Senator from Oregon as he may request—3 minutes.

Mr. MORSE. With the cooperation of the Senator from New York [Mr. JAVITS], when I finish with this subject, we have a bill we wish to introduce.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senator from Oregon may proceed for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. I thank the Senator from Minnesota. I wish to point out that the mayor's group in Los Angeles wish to get control of the transmission lines, thereby doing irreparable damage to a sound public power program.

The article is very interesting. Drew Pearson has been carrying on a feud—which he has a perfect right to do, if he cares to do so—with Representative MIKE KIRWAN of the House; but, apparently, if one does not wish to join him in that feud he must expect this kind of criticism in Pearson's column.

I have stated, and repeat, I believe Drew Pearson is the greatest muckraker of our generation. We need muckrakers. We need muckrakers that have the independence and the courage to muckrake in connection with the things which they think need muckraking—including myself, if Pearson thinks I am wrong on following a course of senatorial action that needs to be muckraked.

But, of course, if he is going to criticize unfairly, as far as I am concerned, he will be answered. When I find him as fallacious as he is in this article I should set the record straight.

There is no question that Representative KIRWAN and I had a donnybrook a couple of years ago, in regard to the Kirwan bill to build an aquarium in the District of Columbia and in regard to the appropriations for certain Oregon public works projects. It is true that I opposed the Kirwan aquarium bill. I believed it was a mistake. I would oppose it again. But, after Congress authorized it, and it became the legislative policy of the Congress, I went along with the appropriations for it, because once it was established policy, appropriations were needed in order to implement the will of the Congress.

Tomorrow night, I am going out to discuss Representative KIRWAN's labor record in Youngstown, Ohio, because a good many of his labor friends are giving a dinner for him. They asked me to discuss his labor record, which I am proud to do, because his labor record is second to none in the entire Congress for his many years of service. I shall say favorable things about many other services he has rendered his Nation in his long tenure in the Congress. I shall say something about his labor record in a moment.

But Pearson says in his column:

> This column once described MORSE as a Senator who has never run from battle. But at the moment he has some additional pork barrel projects that he wants to get through KIRWAN's committee.

I say to Pearson, "Name those pork barrel projects."

When I fight for public works in my State, and for natural resources development, as I have for 20 years, I have been fighting for projects that Drew Pearson pretends he is for; namely, the conservation of God's gift of natural resources to our generation so that we can leave them in a sounder condition and shape than we found them. He has pretended all these years to be a great conservationist. I ask Pearson, "Am I to understand now, Drew, that these projects you have been supporting and which I have been supporting"——

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. I do not wish to stop yet. I ask Drew Pearson, "Are all these conservation projects that I have been supporting and defending for 20 years, and which you presumably have been supporting also, are they pork barrel projects? If so, name them. You cannot reconcile that charge with the second half of your article, because I am fighting against the Yortys in their attempt to turn the transmission intertie over to the private utilities."

The second half of Pearson's column deals with that subject matter, and he seems to be in agreement with me. Is that one of my pork barrels? No one in the Senate has fought harder to stop the private utilities taking over the transmission lines from public dams than I have. Name one of these pork barrels, Drew. Sure, I have some Oregon public works projects in this year's appropriations bill before both the House and the Senate. I always have had. But I should like to point out to the Senate that the Senator from Louisiana [Mr. Ellender], who is now in the Chamber, and who is chairman of the Subcommittee on Public Works, and who passes on the public works projects that we from Oregon fight for, will not name a single pork barrel project from Oregon because there are not any. He knows that when we come before his subcommittee we come only on the merits of each project. We never ask for a boondoggle. We ask only for projects that will expand and protect our economy and carry out our solemn trusteeship of God's gifts of natural resources to our Nation. We are greatly indebted to the Senator from Louisiana for the help he has given us in keeping faith with that trusteeship.

This Pearson column is based upon a very snide innuendo that if we have a quarrel with someone in the Congress, the quarrel should never end. Apparently Pearson thinks we should keep it going just for the sake of quarreling. The fact is, that in my quarrel with Representative Kirwan, the House itself put the Oregon projects back in the appropriation. Pearson's column leaves the impression that only three Oregon projects were restored—as though there were others. The fact is, that only three projects were really eligible under the bill. The House put back these three and the Senate approved. There were two other Oregon projects at the time that were not properly included in that appropriation bill. They belonged in a supplemental appropriation bill. As the Senate knows, we worked out an understanding that they would be considered in the next supplemental appropriation in the next session of Congress; and they were.

What am I supposed to do if I have a difference with a man and the basis of the difference is resolved? Keep on fighting him? I happen to be as much a professional as Representative Kirwan and others in this body. I oppose a man with whom I have an honest disagreement, and I work together with him the very next day on a project in which we are in agreement. My duty is to give my constituents vigorous representation but be professional and impersonal in fighting for their interests. Sometimes in the heat of battle we punch rather hard but personal hard feelings are no aftermath with me.

I am going out at the request of the labor friends of Representative Kirwan to bespeak this man's great record in the field of labor legislation; in fact to bespeak his overall great service over the years in the Congress. Mike Kirwan is the same as each of us. We all make mistakes now and then because of our human frailties, but Kirwan has proved his dedication to public service. His consistent voting record for most liberal causes, starting with the New Deal, entitle him to the testimonial dinner that is being given for him.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. MORSE. I state with great pride that at the age of only 8 years, let me say for the benefit of Mr. Pearson, Representative Kirwan joined the United Mine Workers Union, along with several other little boys. I have heard that dramatic story. Why did he join the United Mine Workers? Because in those days the United Mine Workers needed runners, they needed runners because the roads were bad and transportation facilities were poor. They needed runners to go from mine to mine to give warning that the coal operators' goons were on their way. Representative Kirwan was one of those boys who, at the age of 8, joined the United Mine Workers Union and was one of the runners that ran ahead of the employers' thugs and gave the warning that the goon squads were on their way to beat up and sometimes kill union miners.

I heard him tell that story to a luncheon gathering of labor leaders, when the papers were full of the controversy that was going on in labor about increasing the monthly dues from 75 cents to $1 a month, for political action. I heard Representative Kirwan tell that story about his early record in labor and how as a member of the Mine Workers Union in the great railroad strike of the nineties the miners contributed 1 day's pay per week for their fellow unionists in the railroad industry—a contribution from a sister union that helped the railroad workers battle for their economic rights. Kirwan then said to these present-day labor leaders, "Recently I have read in the newspapers of a controversy within unions represented at this luncheon reporting that you are all excited as to whether you should raise political contributions a month from 75 cents to $1—two bits—and I call it a two-bit performance on your part. You apparently do not know or have forgotten what went into winning your rights as free workers in this country by your predecessors back in the 1880's and 1890's and up to 1910 and later."

The deserved scolding Mike Kirwan gave those labor leaders produced results. They went back to their next meeting and voted the necessary 25-cent increase in political contributions to help fight unfair legislative attacks on the legitimate rights of free labor.

Mr. President, I shall go out to Youngstown tomorrow night and with pride tell about Mike Kirwan's legislative record. Then I shall send a copy of my speech to Drew Pearson.

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## TRAINING OF INDONESIAN MILITARY AND POLICE PERSONNEL AT U.S. GOVERNMENT EXPENSE

Mr. KEATING. Mr. President, last weekend I discussed briefly the information which had come to my attention charging that the United States is training Indonesian military and police personnel at U.S. Government expense. Shortly after I made my statement in which I also revealed that some of the Indonesian military were being trained in counterinsurgency—which of course means guerrilla warfare—the State Department seems to have released a different statement of the situation which purports to show that my charges were not founded on fact.

Mr. President, let me make it 100 percent clear that the information I have on the training of 280 Indonesian military and police personnel comes directly from the Department of State in a letter dated February 14 and signed by Frederick G. Dutton, Assistant Secretary.

Mr. President, on February 26 I asked the Department of State for a report on information contained in a letter which was sent to me on the stationery of the Rye High School in Rye, N.Y. That letter stated that the writer had read in some publication that the United States was presently training 160 Indonesians in this country—25 to 30 of them in "police tactics" and that seven Indonesians were graduated from Fort Bragg, N.C., last November with their major subject, guerrilla warfare.

Mr. President, I frankly could not believe that information was true, so I asked the State Department for a report on February 26. On March 21 I received a letter signed by Assistant Secretary of State Dutton, dated March 18, which commented in the most general and meaningless terms about U.S. relations with Indonesia and made no comment whatsoever on the specific charge on U.S. training of Indonesian army officers.

Mr. President, I ask that the text of that letter insofar as it refers to Indonesia be printed at this point in my remarks.

There being no objection, the excerpt from the letter was ordered to be printed in the Record, as follows:

Hon. Kenneth B. Keating,
*U.S. Senate.*

Dear Senator Keating: The basic objective of U.S. policy in Indonesia is to help to achieve and maintain a politically viable and economically strong nation which is truly independent. Because of Indonesia's strategic location between such nations friendly to the United States as, in the north—Malaya, Philippines, Japan—and to the south—Australia, New Zealand—it would be a major loss if Indonesia fell under the control of the Sino-Soviet bloc.

It is clear that Indonesian leaders are motivated by a strong nationalism which at times has been destructive of their economic interests, and has complicated our interest in Indonesia being stable and independent.

The Malaysian dispute has served to compound the difficulties for the Indonesia economy. The United States has suspended consideration of assistance to Indonesia's stabilization program since Indonesia policy of militant opposition to Malaysia, including extreme economic measures, has severely curtailed the chances of successfully carrying out such a program. No shipments of weapons and ammunition from the United States are being made. This country is urging the three Asian countries most directly concerned in the Malaysia dispute—Indonesia, Malaysia, and the Philippines—to get together and resolve the dispute peacefully.

If I may be of any further assistance to you, please do not hesitate to call on me.

Sincerely yours,

FREDERICK G. DUTTON,
*Assistant Secretary.*

Mr. KEATING. Mr. President, my curiosity was somewhat aroused by the obvious fact that this letter did not answer the question that had been raised and therefore on March 31 I directed a letter to Assistant Secretary Dutton asking for a specific answer to my question regarding the training of Indonesian troops.

On April 14 I received a reply to that letter. It states very clearly that first, 280 Indonesian military and police personnel are now being trained in the United States; second, 51 of these are police officers; third, 51 of them are working with the Indonesian civic action program, which might be considered a kind of peaceful government extension service activity; fourth, the others—and by my arithmetic that comes to 178—are taking career-type military courses, such as command and general staff school, finance, ordnance, supply, and communications; fifth, 7 Indonesians have studied what the State Department chooses to call counterinsurgency but which in common parlance is nothing more than guerrilla warfare or antiguerrila warfare.

Mr. President, I ask unanimous consent that that letter, which fully documents my statement be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
*Washington, D.C., April 14, 1964.*

Hon. KENNETH B. KEATING,
*U.S. Senate.*

DEAR SENATOR KEATING: Thank you for your letter of March 31 regarding the training of Indonesian military and police personnel in the United States.

Of the total of approximately 280 Indonesian military and police personnel now undergoing training in the United States, 51 are police officers. The police trainees are learning modern police organization and administration at the Agency for International Development (AID) International Police Academy, communications management at several civilian institutions, general military methods (but not guerrilla-type training) at army installations, police management at the University of Southern California, and management skills in middle-level civilian occupations under civic action.

The military personnel are undergoing training in a variety of fields. Fifty-one of them are in courses related to the Indonesian civic action program, 10 at Syracuse University, and the remainder in the Washington area. The others are career-type military courses such as command and general staff school, finance, ordnance, supply, and communications.

There are at present no Indonesian trainees at Fort Bragg. The seven who were previously there have been transferred elsewhere. The course they attended was not guerrilla warfare, but counterinsurgency.

If I may be of any further assistance to you, please do not hesitate to call on me.

Sincerely yours,

FREDERICK G. DUTTON,
*Assistant Secretary.*

Mr. KEATING. Mr. President, what is shocking to me was to read in the press yesterday that:

> The State Department denied today charges by Senator KENNETH B. KEATING, Republican of New York, that the United States was training Indonesian officers in guerrilla warfare in this country. It said the 280 Indonesian military and police officers now in this country were receiving training only in civic action operations and technical police functions.

Mr. President, it is not necessary for me to contradict that statement for it is contradicted by Assistant Secretary of State Dutton in his letter to me of April 14.

Mr. President, this attitude on the part of the Department of State, first the unwillingness to disclose the facts upon my initial inquiry, and secondly the effort of some officials in the Department to promote information which is simply not true, is shocking. More than half of the Indonesians being trained in this country are being trained in military activities which will assist Indonesia in waging guerrilla warfare and other belligerent activities against the State of Malaysia. In my view, assistance of this type does not warrant the support of the American taxpayers and is seriously detrimental to the long-term interests of American foreign policy.

Mr. President, I am again contacting the Department of State to protest against this program and against the inaccurate statements which State Department officials have made about it.

Mr. President, the American taxpayers will not stand for training Indonesian soldiers and guerrillas at taxpayer expense. It makes no sense whatever. It should be dealt with forcefully.

## SUPPORT FOR SENATOR GOLDWATER BY DISTRICT OF COLUMBIA YOUNG REPUBLICAN CLUB

Mr. CURTIS. Mr. President, it has been brought to my attention that although the new leadership of the District of Columbia Young Republican Club has been described as more liberal than in the immediate past, the rank and file membership of the local Washington club remains steadfast in its support for Senator BARRY GOLDWATER for President of the United States. The straw poll for Republican presidential nomination was taken April 27, 1964, at the monthly club meeting with the following results:

| | |
|---|---|
| Governor Wallace, of Alabama | 1 |
| GOP Illinois Gubernatorial Candidate Percy | 1 |
| Senator Thruston Morton, of Kentucky | 1 |
| Senator Margaret Chase Smith, of Maine | 1 |
| Governor Romney, of Michigan | 3 |
| Former Vice President Richard Nixon | 9 |
| Governor Rockefeller, of New York | 10 |
| Ambassador Henry Cabot Lodge | 26 |
| Governor Scranton, of Pennsylvania | 29 |
| Senator Barry Goldwater, of Arizona | 104 |

## PROFILE OF THE FARM PROGRAM

Mr. HUMPHREY. Mr. President, my friend, Mr. Pat DuBois, president of the First State Bank, of Sauk Centre, Minn., and chairman of the agriculture committee of the Independent Bankers Association for the past 3 years, has made several addresses recently before groups representing a wide variety of interests, on the general subject of the farm problem, and with particular emphasis on the problem of low net farm income.

Mr. DuBois is an outstanding member of the Minnesota Legislature. At the Independent Bankers Association's recent convention in Minneapolis he was unanimously elected second vice president of the association.

As a country banker, Mr. DuBois has extensive background, experience, and understanding of the problems of farmers throughout rural America, and his address is most provocative. It was published in the current issue of the Independent Banker, the magazine of the Independent Bankers Association, and because of its general interest and the competency of its author, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PROFILE OF THE FARM PROBLEM

(EDITOR'S NOTE.—The following article is adapted from an address by Mr. DuBois delivered at the Farmer-Citizens banquet in Evansville, Ind., sponsored by the Vanderburgh County Farmers Union. The same talk was given before the Minnesota 12th District Bar Association. Mr. DuBois emphasized that his remarks "do not necessarily represent the position of the Independent Bankers Association, but are rather the general feeling of the IBA's Agriculture Committee," and in some cases represent his personal opinions. The IBA Agriculture Committee has made an intensive study of the economy of rural America, has prepared numerous articles on the farm problem, has met with key agriculture officials in government, and through its chairman has presented testimony before congressional committees. It has also coordinated meetings with representatives of farm organizations and religious and government leaders to bring a united force to bear on the problems confronting agriculture. The meetings resulted in formation of an action committee comprised of leaders from the various fields. Mr. DuBois is president, First State Bank of Sauk Centre, Minn.)

(By Pat DuBois)

What we commonly refer to today as the farm problem is actually the problem of low net farm income.

This problem does not involve agriculture alone. Nor is it a problem affecting only 35 percent of the population of the United States which resides in the rural communities of 5,000 people and less and on the farms surrounding these communities.

It is a problem of national scope and of national importance, and with the income situation that prevails in this great industry today, it is rapidly becoming a national catastrophe.

The Independent Bankers Association has made an effort to bring together organizations whose objectives and whose thinking is at least similar and in some respects, the same. It has been and still is our candid hope that we may build an imposing and rather solid group effort to march toward a common goal. We thought of it, and I'm sure that you are thinking, that this has been tried before and by experts, but we submit that it may never have been tried before with the assistance of organized banking.

We wanted to learn something of the proposals of the farm groups and others and also discover a way in which the Independent Bankers Association could work harmoniously and effectively toward immediate improvement in farm prices and farm profits and do so in cooperation with those who are actively engaged in this work at the present time.

To understand the effect of low net farm income, we should analyze the disparity of income among the six major segments of our economy.

Other segments of the economy have profited long enough from underpayment to agriculture. To illustrate, let us make a comparison.

The years 1947 to 1949 are known as a parity period in our economic history, when the United States enjoyed approximate full employment, almost complete utilization of its raw material supplies and relative prosperity in all segments of the economy, including agriculture. Now let's compare these parity years with 1963, as follows:

Compensation of employees, up 148.8 percent.

Small business and professional income, up 73.7 percent.

Rental of persons, up 63.5 percent.

Net interest income, up 460.4 percent.

Corporate profits, up 86.5 percent.

Net farm income, down 16.9 percent.

National income (average) up 124.1 percent.

The thing about the operation of the economy of the United States since the 1947–49 parity period that stands out like a sore thumb is that all segments, except agriculture, participated in some part of an expansion of more than $265 billion in national income.

The fact that other segments show extreme variations of expansion is bad enough and should be cause for alarm, but the very obvious fact that farmers have not benefited, by one penny, in the $265 billion of total expansion is little short of criminal.

### FAILED TO PARTICIPATE

Since 1951 net farm income has declined annually on the average, while total national income has increased every year on the average and each segment except agriculture has likewise increased in total dollars earned.

In 1963 total national income was an estimated $478.4 billion, and 1947–49 average total national income was $213.1 billion. The increase in 1963 over 1947–49 is $265.3 billion.

Farmers failed to participate in one penny of the increase of $265.3 billion in national income over the 1947–49 average.

But, figuring the increase in national income each year from 1951, when net farm income began to decline, to the end of 1963, the cumulative increase in total national income in this 13-year period is more than one thousand billion dollars, and farmers have failed to earn even one red penny more of this as net farm income. And they called the drought of the 1930's a long dry spell.

### BOTH PROSPERED

During the course of the Independent Bankers Association study of the farm income situation and its relationship to country banks, we could not help but note that in the 1947–49 period both farmers and country banks prospered. Neither was in a position of exploiting the other and neither wanted to or needed to exploit the other. This was a desirable working relationship, an ideal economic circumstance that should be restored.

As a result of low net farm income and hastened by the recommendations of the Committee for Economic Development, people are leaving the rural areas at an accelerated pace.

In fact, with the rapid development of industry in the eastern and western portions of this country, the Midwest and Central United States have become a vacuum from which their people are being withdrawn. We are creating a mass concentration on the east and west coasts which may someday become the No. 1 social and economic problem of this country.

### RURAL BUSINESS HURT

What's happened to the diversification and decentralization that was so urgently recommended following World War II and the Korean conflict?

Low net farm income and outmigration are having a severe effect on rural businesses supplying the needs of agriculture. The agricultural producer is the customer of our rural business people. Every time we lose 10 or 12 farmers from our rural communities we lose the people who would spend the income to sustain one average size, smalltown business. Ten fewer farm families means 35 fewer people to buy shoes and groceries and overalls and shirts.

In addition, this outmigration from the rural areas is encouraged and comes at a time when adequate job opportunities are not available in the cities. Unemployment is now quoted at 5.7 percent of the labor force.

### TOTAL EFFECT

But even more important is the adverse effect of continued underpayment to agriculture on the total economy.

Gross farm income, the source of newly earned dollars entering our economy, in 1946–50 averaged $32.6 billion out of a national income of $212.4 billion.

To balance with wages and interest in 1963, gross farm income should have been 259 percent times $32.6 billion or $84.4 billion. The actual gross as given in the President's Economic Report in 1963 totaled $41.1 billion. This reveals that agriculture, the source of income for rural America, was short $43.3 billion.

### SHORTAGE BY UNDERPAYMENT

Statistics prove that the normal trade turn of each dollar of newly earned farm production is seven times.

Using the 1963 shortage of $43.3 billion and multiplying by 7, we find that the United States could and should have had an additional national income of $303.1 billion.

If agriculture in 1963 had received payment in direct ratio to its share of the 1946–50 income it would have received 259 percent or $84.4 billion.

Multiplying by 7, we find that the potential income with farm prices and income at parity would total $590.8 billion. Subtracting actual national income ($478.4 billion) the shortage by underpayment was $112.4 billion or 23 percent. This 23 percent loss of market for farm products is the reason for the so-called surpluses, for 4 million unemployed, and for 20 percent idle manufacturing plant capacity.

### DEBT HAS INCREASED

In the past 13 years, instead of correcting the underpayment to agriculture, we have permitted it to increase at a rapid pace. At the same time, public and private debt have increased rapidly to offset our operating loss resulting from underpayment to agriculture.

Net debt figures can be used to illustrate how we passed on the operating loss to future generations. In the year 1962, we offset the operating loss by increasing the net debt, public and private, from a total of $944.1 billion in 1961 to $1,017.3 billion at the end of 1962, an increase of $73.2 billion.

In passing I would like to point out that the debt increase from 1961 to 1962, as we borrowed from future income, was more than the entire income of the United States in 1939.

We have been and are substituting borrowed money for the lack of earned income.

### TALK NOT ENOUGH

It appears that responsible people are engaged in merely talking about agricultural problems. President Johnson, in his Economic Report, devoted but little space, recommending only that we needed improved commodity legislation for many of our major commodities; that the highly successful food-for-peace program requires new legislative authority and that we must provide research and development to continue the strength, adaptability and growth of American agriculture.

President Johnson's budget message states that he will recommend legislation on cotton and dairy proposals, legislation which will decrease by $230 million estimated expenditures of the Commodity Credit Corporation. Further, he proposes a reduction of $1.3 billion in Federal payments for farm commodity programs.

### TUMBLING DOWN

Chairman COOLEY, of the House Agriculture Committee, has stated, "We shall either make the farm program workable and effective or we shall bring the whole business tumbling down on our heads," further stating, "We are at the parting of the road and we must choose the right road. America cannot divorce itself from Agriculture nor can America prosper if agriculture is impoverished."

### NO ONE FARM PROBLEM

Senator EUGENE MCCARTHY said recently, "Agriculture is the oldest industry in the Nation and it remains one of the most important. Its welfare is the concern not only of farmers and rural communities but also of every major industry whose products find a market among farm and rural people. Agriculture is national in its base and national in its benefits—and the problems of agriculture are of national concern.

"There is no one farm problem. There are many problems of varying degrees of importance and intensity, some of them arising from within the agricultural economy and some of them impinging on it from the outside.

"Because of the diversity of our agriculture even farm programs sometimes conflict. This has made it increasingly difficult for farm leaders and farm groups to reach the kind of agreement which, in the past, has enlisted broad national support for specific farm programs."

### LOWEST PARITY LEVEL

Senator PROXMIRE, in the CONGRESSIONAL RECORD of January 14, covers extensively the farm problems in his home State of Wisconsin.

His people have told him of their serious problems. He said in his address to the Senate that in 1963, the farm parity index hit its lowest level in 25 years at 76. The ratio of what farmers receive to what they have to pay is now lower than it has been since August 1939—lower than it has been for an entire generation of Americans and farmers.

### RURAL POVERTY

Secretary Freeman has said that the American farmer is deserving of a better shake in the economy, especially in view of his unparalleled success in providing for the needs of his fellow Americans, as well as for millions of other people around the world.

Mr. Freeman is aware of the related farm income problem but with much wider ramifications, the problem of rural poverty. The existence of deep pockets of rural need is something that must not be tolerated by the greatest Nation in history.

### AGRICULTURE FORGOTTEN

Senator HUMPHREY has proposed that a bipartisan Presidential commission make a broad study of the Nation's agricultural policies. He proposes that a panel of 24 members look into such problems as surpluses, low-level farm incomes, and world trade in farm commodities.

Even the Minneapolis Star, in a lead editorial January 22, acknowledges that agriculture is forgotten and notes the brief attention it received in President Johnson's Economic Report and in the deep cut it got in his budget message.

Certainly, this is sincere talk on the part of responsible persons, but talk is not enough. Action on a totally effective program is required.

### JOIN FORCES

Farm organizations, whose entire existence is dependent on rural people and the family farm, have a basic responsibility. It behooves all organizations and people in rural America to join forces.

Let us not permit farm organization to be pitted against farm organization—farmer against farmer—cooperative against cooperative.

Are we not all farmers who make up the membership of the different farm organizations? Is it not farmers who support the various farm cooperatives? Is it not the farmers membership and funds that give farm organizations numerical strength and finance their activities?

### FIND PLANE

Let us not pit Republicans against Democrats—political party against political party. Let us, instead, find the strength and common good sense to present a workable solution in understandable form; a plan that is fair and sound; a plan that is devised by the best brains available in our farm organizations, business communities, and Government; a plan acceptable not to all, but to a majority of the truly rural people: farmers and ranchers and others residing in rural America and those representing rural communities in our Government. If we do these things, then we are on the move, and we will be heard and progress can be made.

### COMPOUNDS THE PROBLEM

The Government's attempt at legislation commodity by commodity, such as wheat, cotton, and dairy, is not a sufficient answer or remedy.

The commodity-by-commodity approach has a tendency only to compound the problem. What is needed now is action on a total agricultural program, a program that will treat all commodities with equal importance and relative position.

### THREE PLANS

Three plans for improvement of low net farm income have been proposed by farm organizations. Let us take a brief look at each.

1. The supply and demand theory of solving the farm problem has been supported by an influential group. It is my personal opinion that the supply and demand theory is not workable in our modern society.

The overwhelming flaw in our recent approaches to the farm problem can be stated simply.

The theory has been that Government protection against decline in farm prices or income was the reason why farmers were producing too much; that overproduction was depressing farm prices and incomes despite the expensive protection; that by eliminating 2½ million farmers we could split the same pie into lesser parts and everyone would benefit.

### ABANDON THIS APPROACH

In short, the effort has been to solve the farm problem by a steadfast backward movement toward letting farmers get whatever prices and incomes they could while producing whatever they would.

To put this in another way, we have sought to solve the farm problem by asking agriculture to return to the laissez faire economics of the 18th and 19th centuries.

This is an approach which all the rest of our economy—and all the rest of the thinking world—has abandoned since the great depression of the thirties, and abandoned still further in the face of the great problems of today.

In many major sectors of our economy, except agriculture, production is regulated or rationed, and prices and other incomes are deliberately fixed or administered. Frequently it is done through public action, or a mixture of private and public action.

Certainly, the power of huge industries to administer prices needs to be curtailed by much more private restraint and public scrutiny. Nonetheless, the substitution of order for chaos has brought great improvements in our economic structure during the past quarter century, and nobody now wants to cancel out these gains.

### EXPLOITED POSITION

These changes have liberated the U.S. economy in general from the periodic ravages of depression.

Under these circumstances, to thrust agriculture backward toward a complete laissez faire position which has not worked, while others are moving forward toward purposeful coordination, condemns agriculture by decree of national policy to an exploited position in American life.

The farmer is being forced to sell for what he can get, and to buy for what others ask.

### UNFORTUNATE RESULTS

The recent decision of wheatgrowers to accept less price protection in exchange for less production restraint is likely to have further unfortunate results. If we can learn even an iota from experience, we must know by now that the so-called "freedom for agriculture" means further depression of farm income, more surpluses, and more public costs.

2. Proponents of collective bargaining propose to apply to agriculture a program that has long been used by industry, labor, and professional people.

Under the collective bargaining scheme, farmers have banded together through the National Farmers Organization to provide strength in the marketplace. They propose to hold agricultural production off the market until it can be sold at a price judged fair by them.

### USED BY MANY

This method of gaining a favorable market has been used by industry, which sets the price of its manufactured items when planning its manufacture at a price level that assures a profit to the corporation.

Labor has withheld its force from the job until a suitable price for its service was assured.

Professional people establish fee schedules which are carefully observed by a majority, thus establishing a return from professional services which provides profit.

The banking industry, a most closely supervised business, requires that management earn a profit. In fact, supervisory authorities would look long and hard on management whose bank does not return a profit from the bank's operation. It becomes, therefore, necessary that charges be established and interest charged to assure profit.

### MARKETPLACE EQUALITY

It would seem, therefore, that no one could challenge the right of farm people to employ the collective bargaining scheme.

Collective bargaining would be a solution if farmers could band themselves together with sufficient numbers and adequate discipline. By so doing they could control enough of the supply of agricultural raw material and release it only when the demand is such as to provide the necessary price—a price which affords the real producer of raw material equality in the marketplace.

3. The theory of supply management appears to have the best opportunity to be a solution to the low farm income problem and its related effects.

Under this program, farmers and farm organizations should become responsible for the control of production.

Production controls would be established by farmers through their farm organizations, with an assist, if necessary, from Government. Controls could be on the 12 principal crops produced in the United States, all storable and representing 91 percent of the harvested acreage, with the exception of hay.

### COMING TO GRIPS

This would be coming to grips with the problem. Controls would have to be on the basis of reasonable supply needs—needs which should be sufficient to provide for normal consumption and backed up by a reserve of 60 percent of 1 year's normal production. This reserve would be a hedge against unforeseen demands or crop conditions which occur from time to time.

Without an adequate reserve of the basic farm commodities, this country could be in severe difficulty. The normal production and reserve could be stored by the farmer on his farm at his own expense and for so doing the Government should provide a price equal to parity.

### LOWER RETURN

Under a workable supply management program, the production of basic feed grains would be limited in keeping with reasonable needs and adequate reserves and would not become a surplus on the market, forcing prices lower and bringing cheap feed.

Historically, cheap feed has resulted in low livestock, poultry, and dairy prices and tends to feed upon itself, thus lowering the return to farmers.

### POSITIVE ACTION NEEDED

In order to eliminate low farm income and provide rural America with purchasing power comparable to the rest of the country, positive action must be taken. The problem must be identified in the minds of our citizens. We must make the problem that confronts rural America—low net farm income—as important to this country as the civil rights issue or the need for tax reduction.

We must muster the strength, gather the necessary support, and present the issue in a manner which will clearly show this problem in the same important light as the other major problems confronting our Government.

The domestic issue and the survival of our rural communities and rural people are equally as important as the foreign issue.

### SLOW MIGRATION

We must slow down the migration from our rural communities, especially at a time when there are not sufficient jobs to go around.

We must attract the lens of the television camera to the severe economic inequality that exists throughout rural America, and by so doing direct the eyes of millions of people and solicit their understanding and support.

### PRESENT THE DEMAND

It is said that when a people can no longer do for themselves, that it then becomes the responsibility of government to provide the necessary assistance. But it is up to us and thousands like us across the land to clearly present the demand and to insist that it be heard and acted upon by responsible persons in our Government.

The responsibility for leading the way is ours: The farm organizations, the rural business organizations, local divisions of rural government—in fact, all of the people of our rural communities. We are the people who make up approximately 35 percent of the population of the United States and who reside in the rural communities of 5,000 population and less and on the farms surrounding these communities.

### GOAL CAN BE REACHED

We are the people who have the responsibility and must assume the leadership so necessary, if we are to accomplish our goals and banish rural poverty by eliminating low net farm income.

President Kennedy, in his inaugural address, said, "United there is little we cannot do—divided there is little we can do."

The undertaking is tremendous, but our goal can be accomplished. Have we the guts and courage to do the job? I think so, and the Independent Bankers Association would like to help.

## NO ROOM AT THE INN: THE CONSTITUTIONALITY OF FEDERAL PUBLIC ACCOMMODATIONS LEGISLATION—A STUDY BY MARIANNE J. ROSENFIELD

Mr. HUMPHREY. Mr. President, recently I have had the opportunity to examine a most interesting study and analysis of the proposed public accommodations section of the pending civil rights bill. This study was undertaken by Miss Marianne J. Rosenfield, a senior at Smith College, as part of her seniors honors program.

This is an unusually perceptive and well-written thesis which helps to place the question of Federal public accommodations legislation in its proper perspective. I believe Miss Rosenfield should be congratulated for her scholarly and illuminating analysis of this major question of public policy.

I wish it were possible for every Member of the Senate to read her thesis in its entirety. While this is probably not possible, I do believe a reading of the final chapter would be a good substitute and, therefore, I ask unanimous consent that chapter 5 of this study, entitled "Is Justice To Be Blind or Colorblind?" be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Chapter V. Is Justice To Be Blind or Colorblind?

It is a curious coincidence of history that the second President Johnson, a southerner like his predecessor in 1865, is trying to implement the commands of the 14th amendment, which was passed during the administration of the first President Johnson. America is now struggling to complete the Civil War. By 1870 certain rights had been legally granted to the Negro, as an American citizen. Because the Negro is as yet unable to realize his rights fully, they must now be meaningfully accorded to him in fact. To date, "America has defaulted on * * * [her] promissory note insofar as her citizens of color are concerned." [1]

The adoption of the 13th, 14th, and 15th amendments was meant to guarantee the full enjoyment of civil rights to every citizen, regardless of race, color, or previous condition of servitude. Subsequent Jim Crow legislation has, however, in practice negated the intention of the constitutional amendments.

The history of Jim Crow contradicts the argument of voluntarism which maintains that racial discrimination, as the result of purely personal feelings, should be free from Federal regulations. Many States have not allowed individuals to choose their own independent racial policies. The States, manifesting their authority through laws, Executive orders, judicial opinions, or other public policies, have themselves required racial segregation. Even where custom and usage alone now perpetuate separation because of color, the practices are the results of earlier, formal State requirements. The practices of racial prejudice did not create the laws. Such legislation, inextricably linked with purely private activities, instead created the now rigid customs of racial segregation. Instead of being colorblind, as the elder Mr. Justice Harlan had counseled, justice became blind to the rights of many of her citizens.

In order to remedy some of the more blatant, public instances of racial discrimination, Members of Congress have introduced civil rights legislation. The current proposal would guarantee, among other rights, equal access, without regard to race or color,[2] to places of public lodging, refreshment, and entertainment.

The right of equal access to places of public accommodation is one of the specific rights which the 14th amendment protects in general terms. The words of the 14th amendment are proscriptive; every prohibition, however, implies through its logical converse the existence of positive rights. Refusal of service, solely on the grounds of race, at an establishment which allegedly serves the general public is clearly racial discrimination. But is there a constitutional right to be free of such discrimination? Since the general freedom from racial prejudice and the specific freedom to use facilities necessary for travel are two fundamental privileges and immunities of the national citizenship safeguarded by the 14th amendment, equality of access to places of public accommodation is constitutionally assured by the privileges and immunities clause of that amendment. Since segregated public facilities are inherently unequal and result from unequal protection, free access to public places, regardless of race, is a constitutional right under the equal protection clause of the amendment. Since the right to freedom from discrimination, the right to use public facilities as a concomitant of the right to travel, and the right to rent or lease property are basic parts of the liberty and property protected by the 14th amendment and since exclusion based on race is not consistent with due process of law, the due process clause of that amendment secures equality of access of public facilities.

Because an individual has a constitutional right, under the 14th amendment, to be free from denials of service, because of his race, one may wonder why there is any question about the validity of proposed public accommodations legislation. The answer rests in the judicial invalidation of a similar law of 1875, the Civil Rights cases. The Supreme Court, in that case, declared that the 14th amendment was designed to correct only State and not private discriminatory action. The Civil Rights cases, however, need not render unconstitutional proposed public accommodations legislation.

In line with the recent series of cases on race relations, the high Court could overrule the precedent of the Civil Rights cases. Although adherence to precedent is a guideline of American adjudication, it is not an inflexible requirement. Where the Court has found a precedent to be bad law, it has never felt it necessary to reaffirm rigidly old errors.[3] Indeed, as Mr. Justice Holmes phrased it: "It is revolting to have no better reason for a rule of law than that it was laid down in the time of Henry IV." [4] A look at the history of cases involving the guarantees of the 14th amendment implies that if the question of the constitutionality of public accommodations legislation were to arise before the Court now, the act would be upheld.

It would not even be necessary to make a complete break with earlier holdings. The Court could distinguish the present facts from those which led the earlier Court to find the Civil Rights Act of 1875 unconstitutional. Using the same criteria as Mr. Justice Bradley used in 1883, the Justices could now declare public accommodations legislation constitutional. The Court has repeatedly stated that no State action had been shown in the acts of proprietors of public establishments. Yet State action could probably be demonstrated to the satisfaction of the present Court.

The Court's failure to find State action in 1883 in no way precludes a finding of State action in 1964. Where State or local legislative, executive, or judicial activities prescribe racial segregation, the activities of public facilities in discriminating because of race constitute State action. The fact that the owners or managers of such establishments would have maintained the same policy even without direct State requirements does not lessen the sanction of the State. Even without formal State action, proprietors of public accommodations may formulate their policies according to State sponsored custom, to the direct results of State action, to State authority under color of law, to State-issued licenses, and to State inaction. These categories, separately or together, bring the activities of a place of public accommodation within the scope of State action for the purposes of the 14th amendment.

If such State action is shown in the actions of public facilities, the holding of the Civil Rights cases would require under its own legal test, that the protections of the

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[1] The Reverend Dr. Martin Luther King, Jr., speech delivered Aug. 28, 1963, at the Lincoln Memorial, Washington, D.C.

[2] Religion and national origin, also prohibited grounds for exclusion, are beyond the scope of this paper.

[3] *Smith* v. *Allright*, 321 U.S. 649, 665 (1944); *Glidden Co.* v. *Zdanok*, 370 U.S. 530, 543 (1962); *Gideon* v. *Wainwright*, 372 U.S. 335 (1963); cf. *Erie Railroad* v. *Tompkins*, 304 U.S. 64 (1938), which reversed *Swift* v. *Tyson*, 16 Pet. 1 (1842).

[4] Oliver W. Holmes, Jr., "The Path of the Law," 10 Harvard Law Review 457. 469 (1897), quoted by Albert Blaustain and Clarence Ferguson, Jr., Desegregation and the Law, p. 77. Also compare: "* * * constitutional precedents are accepted only at their current valuation and have a mortality rate almost as high as their authors." Robert H. Jackson, "The Task of Maintaining Our Liberties," 39 American Bar Association Journal 961, 962 (1953), quoted by ibid., p. 81.

14th amendment apply to public establishments. Whether or not the State must act, "it may not * * * keep its finger on the scale in favor of the caste system."[5] Neither a State nor any manifestations of the State may directly abridge or indirectly sanction the impairment of a constitutional right. The Court could either completely overrule that precedent or could use the very words of the opinion to distinguish the current situation from the facts of 1883. In either case, it could uphold the right of access to places of public accommodation, regardless of race or color, as a right guarded by the 14th amendment.

Although within the ambit of the 14th amendment, the proposed act must also be consistent with other provisions of the Constitution. Does the fifth amendment prohibit the public accommodations section as a Federal abridgement of property without due process of law? Does the 10th amendment reserve the authority to so legislate to the States? Before such a bill may be deemed constitutional, these last major arguments must be soundly met.

"Property rights are the first human rights."[6] They are basic to our entire scheme of government. The fifth amendment secures the right to property from Federal impairment without due process of law. Opponents of public accommodations legislation contend that ownership of property gives the owner absolute dominion over the use, disposal, and accessibility of his property. This bill would, they maintain, deprive Americans of their constitutional rights to property. In addition this legislation would violate the fundamental doctrine of the equality of all men before the law, since it would abridge the constitutional liberties of one group in order to benefit the constitutional liberties of others. The bill would place Negro civil rights in a preferred position with regard to property rights.

While property rights are admittedly basic to our system of government, the Constitution of the United States grants no absolute right to private property.[7] It, instead, establishes property rights which are subject to certain governmental regulations, abridgments, or limitations. The 5th and 14th amendments enjoin Federal and State impairment of property rights only when such impairment is contrary to due process of law. The fifth amendment further prohibits the taking of private property for public use under eminent domain, unless just compensation is tendered.[8]

By means of the 13th amendment, the Federal Government abolished slavery without any compensation to former owners. Since slaves were property and not human beings under the Dred Scott decision,[9] a property right was directly impaired by governmental action. In the 4th section of the 14th amendment, the Government further abolished all obligations for the war debts of the Confederacy. There is thus a clear and unchallenged constitutional precedent in the amendment itself, as well as in the rest of the Constitution, for finding that the right to private property is not absolute. It is a right limited in the interest of the general welfare, by due process of law, and by other specific conditions.

Furthermore, the individual's right to the use and enjoyment of his property is and has consistently been listed by the general interests of the whole limited community. As John Locke said:

"It would be a direct contradiction for anyone to enter into society with others for the securing and regulation of property, and yet to suppose his land, whose property is to be regulated by the laws of that society, should be exempt from the jurisdiction of that government to which he himself, the proprietor of the land, is a subject. By the same act, therefore, whereby any one unites his person, which was before free, to any commonwealth, by the same he unites his possessions which were before free to it also, and they become, both of them, person and possession, subject to the government and dominion of that commonwealth as long as it has a being."[10]

As a member of society, a man must part with some absolute rights which would be his were he living in isolation. It is the function of Government to limit man's absolute rights in the degree necessary to insure that he may live comfortably in relation with his neighbors. Private interests must be subordinated to the general good of the whole community.[11] A "private right must yield to the public need."[12] The extent to which such property be taken, regulated, or controlled is a matter of sound legislative discretion.[13]

Whether private property is subject to governmental regulation depends on the nature of its use, rather than on the nature of its ownership. When property is devoted to the general public or derives its meaning from serving the public, despite its private ownership, it may be subject to regulation in the public interest or in line with constitutional requirements. The Government requires no man to perform any service.[14] The Government may not compel a man, for instance, to be an innkeeper. Once a person voluntarily undertakes a position of public consequence, however, certain conditions may be placed upon the exercise of that public function.[15]

Both the States and Federal Government may regulate private property. The States have the authority to oversee and to impose limitations upon private property in the exercise of their police powers over the health, safety, and morals of the people.[16] The Federal Government also has a police power, under which it may subject property to conditions in line with constitutionally determined goals or with the public welfare. Congress has, for instance, required that a shipowner pay for the care of sailors if his ships bring them into this country with certain diseases.[17] Seat belts may not be sold by automobile dealers, unless they meet certain requirements of safety. Congress has legislated so that foods and drugs conform to certain standards of purity and of cleanliness. Social security payments are mandatory for most employed personnel. The Government demands the payment of a certain percentage of one's income in the form of taxation.

There is even a bill requiring that Latin American migratory workers be accorded access to public facilities, regardless of their race or national origin. There is no area which a public accommodations bill would cover which is not already subject to some regulation, under the power to tax, the right of eminent domain, the commerce clause, or the general welfare clause.

There are thus clear and substantial precedents for finding that the individual right to own, enjoy, and control one's property is not an absolute and unrestricted right. Congress may limit or qualify the right to private property as long as it observes the requirements of due process of law. Property is not an absolute privilege under our Constitution.

What, however, about the further argument that the States should enact any such legislation, if it is necessary, since the 10th amendment reserves to the States all powers not specifically delegated to the National Government? Does the authority of the State legislatures to pass such bills preclude the Federal Government from the same legislative tasks?

Clearly the States may pass statutes requiring that privately owned places of public enterprise be open to all, regardless of race. In fact, at least 30 States and the District of Columbia do have some legislation forbidding discrimination in places of public accommodation.[18] That such State laws do exist does not preclude the National Government from passing a similar law which would create a uniform standard and a national means of implementation. In fact the last section of the 14th amendment clearly authorizes this sort of legislation. This is not an exclusive power, reserved solely to the States, but one for which the State and the Federal Government share a concurrent power and responsibility.

As Chief Justice Marshall said, "To * * * [the Federal Government's] enumeration of powers is added that of making 'all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this Constitution, in the Government of the United States, or in any department thereof'."[19] Congress is not prohibited from passing public accommodations legislation by the 10th amendment, since the power to enforce the 14th amendment is specifically delegated to the United States by the Constitution in several provisions.

The first constitutional provision which may authorize public accommodations legislation states that "Congress shall have power to * * * provide for the common defense and general welfare of the United States."[20] According to Thomas Jefferson's interpretation of this clause, Congress may only tax in order to provide for the general welfare; providing for the general welfare creates no general power.[21] Congress has never based general legislation solely on this power; the power has never been tested in the courts. It is, therefore, within the realm of the possible that the general welfare clause may be a meaningful source of broad legislative power. It might vest in Congress the authority to pass the public accommodations section of the civil rights bill, in order to provide for the general welfare, as determined by national policy or constitutionally set standards.

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[5] "Supplemental Brief of the United States as Amicus Curiae," Supreme Court of the United States, October Term, 1963. *Griffin* v. *Maryland*, p. 110.

[6] James J. Kilpatrick, of the Richmond News Leader, in a lecture at Smith College, Wednesday, Dec. 4, 1963.

[7] In addition note: "The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases." *Nebbia* v. *New York*, 291 U.S. 502, 527, 528 (1934).

[8] Public accommodations legislation involves private property willingly granted to a public use, not taken for public use.

[9] 19 How. 393 (1857).

[10] John Locke, "The Second Treatise on Government" (New York; the Liberal Arts Press, 1952), pp. 68–69.

[11] As the commentator Kent asserted, there is a "general and rational principle that every person ought to use his property so as not to injure his neighbor, and that private interests must be made subservient to the general interest of the community." 2 Kent 340, quoted by *Munn* v. *Illinois*, 94 U.S. 113, 148 (1877) (Field, J., dissenting).

[12] *Nebbia* v. *New York*, *supra*, n. 7, at 525.

[13] See: *Shoemaker* v. *U.S.*, 147 U.S. 282, 298 (1893).

[14] The Government, of course, requires military service.

[15] Compare *United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947) in which Government employees may not actively participate in political affairs except to vote.

[16] *Slaughter-House Cases*, 83 U.S. 36, 78 (1873); *Munn* v. *Illinois*, *supra*, n. 11, at 125; *Buchanan* v. *Warley*, 245 U.S. 60, 74, 75 (1917); *Nebbia* v. *New York*, *supra*, n. 7, at 525; *Breard* v. *Alexandria*, 341 U.S. 622, 632, 633 (1951).

[17] *U.S.* v. *N.Y. and C. Mail SS Co.*, 269 U.S. 304 (1925)

[18] Alaska; Washington; Oregon; California; Idaho; Montana; Wyoming; Colorado; New Mexico; North Dakota; South Dakota; Nebraska; Kansas; Minnesota; Iowa; Wisconsin; Indiana; Ohio; Pennsylvania; New York; Vermont; New Hampshire; Maine; Massachusetts; Rhode Island; Connecticut; New Jersey; Delaware; Maryland; and the District of Columbia. The New York Times, Sunday, Oct. 20, 1963, IV, 2.

[19] *McCulloch* v. *Maryland*, 4 Wheat. 316, 421 (1819).

[20] U.S. Constitution, art. I, sec. 8, clause 1.

Another constitutional clause authorizes Congress "to establish post offices and post roads."[22] The judicial definition of a post road includes a public highway[23] or any land or waterway[24] over which mail is legally transmitted. The Supreme Court, in the Civil Rights cases, refers to this clause as one of "* * * those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, * * * as in * * * the establishment of post offices and post roads. In these cases, Congress has the power to pass laws for regulating the subjects specified in every detail and the conduct and transactions of individuals in respect thereof."[25]

The power to establish post roads, then, signifies "the right to exercise all the powers which made that power effective."[26]

When a hotel, restaurant, or other public facility is either near an artery of transportation or is necessary to the establishment or the full enjoyment thereof, Congress may constitutionally regulate such a facility. In specific circumstances, therefore, the constitutional power of Congress to establish post roads, by legislating "on the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof"[27] might serve to uphold the constitutionality of public accommodations legislation.

The Constitution also vests in Congress the broad discretionary power "To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."[28] Chief Justice Marshall's opinion in *McCulloch* v. *Maryland* remains the fundamental interpretation of this clause:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.[29]

In conjunction with the 5th section of the 14th amendment which provides that "Congress shall have the power to enforce, by appropriate legislation, the provisions of this article," there is a manifest authority and obligation upon Congress to legislate in such a way as to secure the guarantees of the 14th amendment. The very fact that the drafters of the amendment found it necessary specifically to authorize Congress to enforce the article when Congress already had adequate authority to do so under earlier provisions shows their awareness of the pressing need for Federal legislation in this area. The general permission of the necessary and proper clause and the specific intent of the last section of the 14th amendment both bestow upon Congress the power and the responsibility to legislate to implement constitutional goals.

The Constitution guarantees a right of equal access to places of public accommodation regardless of race. But the rights granted by the Constitution are not self-enforcing. The realization of the written guarantee depends upon the Government. "That which gives validity to a legal right is, in every case, the force which is lent to it by the State."[30] What the United States grants in the way of constitutionally guaranteed rights, it has the power and duty to protect. It is within the legislative discretion to determine the manner in which such rights may be meaningfully assured.[31]

The National Government "must be authorized to use the means which appear to itself most eligible to effect that object."[32] When necessary the Government may and must exercise all its potential power to protect the constitutional rights of its citizens.[33] Whether such legislation must take the form of prohibitions against agents of the State, against manifestations of public authority, or against owners of places of public accommodation, refreshment, or entertainment, the form of the prohibitions does not diminish the congressional power.[34] Where Congress has an obligation to protect and enforce rights, it must do so in a truly significant way.

In recent years it has been primarily the Supreme Court which has asserted and safeguarded constitutional liberties. But under the Constitution the responsibility for the enforcement of the constitutional commandments rests not only on the courthoues and the White House but also on the two Houses of Congress. Both by the nature of our system of government and by the specific intention of the 14th amendment, Congress should accept its rightful burden of creating the machinery for the effective implementation of fundamental rights.

One of the reasons for the lasting success of our basic legal document, the Constitution, is its great flexibility. It creates a framework of government, within which future generations are to live. Basic principles are established but the details of their achievements are left to subsequent administrations to determine. Under it, Congress is given the power to do what shall be necessary and proper for our governing. The structure of our whole system thus demands that Congress exercise its power and responsibility for maintaining the goals determined by the Constitution. The responsibility to enforce the 14th amendment is no less weighty than the duty to levy taxes, to regulate commerce, or to raise armies.

"The Constitution is a living and sensitive instrument which adjusts to the needs of the times."[35] The 14th amendment must not be interpreted so narrowly as to defeat the very ends it sought to achieve. Where the Constitution prohibits discrimination, the Supreme Court will not tolerate "sophisticated as well as simple-minded modes of discrimination."[36] Constitutional freedoms are to be protected from indirect as well as direct abridgment.

Legislation which implements the goals of the Constitution, such as the prohibition of racial discrimination in public places, must be passed if the Constitution is to have full meaning. "The ideas of right and remedy are inseparable. 'Want of right and want of remedy are the same thing'."[37] An interpretation which furthers constitutional rights is not a distortion of the meaning of the Constitution. It is, instead, the most valid interpretation.

If our Constitution is to realize its role as a living document and is not to become "* * * a tale told by an idiot, full of sound and fury, signifying nothing,"[38] Congress must accept its proper role as the implementer of the constitutional rights accorded by the 14th amendment. The great advantage of our system of Government is that revolutionary changes may be achieved, not on the streets in open fighting, but through the peaceful means of congressional debate and legislation. President Abraham Lincoln said it thus: "Let us have faith that right makes might, and in that faith, let us to the end, dare to do our duty, as we understand it."[39]

How long must a man wait for a room at the inn?

## A FREE AND PROSPEROUS AGRICULTURE

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point another important paper of the Critical Issues Council of the Republican Citizens Committee on the subject of agriculture. This paper provides an interesting analysis of the complex questions which confront our Nation in finding a meaningful solution to our agricultural problems.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In the second of a series of "Critical Issues Papers" released in Washington on April 17 last, the Republican Citizens Committee's Critical Issues Council, headed by Dr. Milton S. Eisenhower, urged a drastic reappraisal of the Nation's agriculture program, contending that the administration's approach is "reactionary, problem prone, depression bound," and too costly.

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[21] Edward S. Corwin (ed.), "The Constitution of the United States" (Washington, D.C.: The Government Printing Office, 1953), pp. 112–113.

[22] U.S. Constitution, art. I, sec. 8, cl. 7.

[23] *U.S.* v. *Kochersperger*, 26 Fed. Cases No. 15, 541 (1860).

[24] *Philadelphia B. and C.R.R. Co.* v. *U.S.*, 13 Ct. Cl. 199, aff'd 103 U.S. 703 (1880). Compare: "In fact post roads do not mean, as our Founding Fathers may have thought at the time, that they technically were roads somewhat like the King's Highway over which this feature of governmental service passed by the use of those roads by its agents. It has been given a much broader view and today it represents those arteries of transportation which are adaptable to the use of transporting mails." *Atchison, Topeka, and Santa Fe R. Co.* v. *Summerfield*, 128 F. Supp. 266 (D.D.C., 1955), judgment vacated on other grounds and case remanded, 229 F. 2d 277 (C.A.D.C., 1955), cert. denied, 351 U.S. 926 (1956).

[25] Civil Rights cases, 109 U.S. 3, 17 (1883).

[26] *Ex parte Rapier*, 143 U.S. 110, 134 (1892).

[27] Civil Rights cases, supra, n. 25, at 17.

[28] U.S., Constitution, art. I, sec. 8, cl. 18.

[29] *McCulloch* v. *Maryland*, *supra*, n. 19, at 420.

[30] Thomas E. Holland, "The Elements of Jurisprudence" (11th ed.; New York: Oxford University Press, 1910), p. 82.

[31] Compare: the *Civil Rights Cases*, *supra*, n. 25, at 21 (Harlan, J., dissenting).

[32] *U.S.* v. *Fisher*, 2 Cranch 358, 396 (1805).

[33] *U.S.* v. *Cruikshank*, 92 U.S. 542, 590 (1876).

[34] *U.S.* v. *Reese*, 92 U.S. 214, 254 (1876); *Strauder* v. *West Virginia*, 100 U.S. 303, 310, 311 (1880); *Ex parte Virginia*, 100 U.S. 339, 345, 346 (1880); *Logan* v. *U.S.* 144 U.S. 263, 293 (1892); and *U.S.* v. *Classic*, 313 U.S. 299, 320 (1941).

[35] "Brief for Petitioner," Supreme Court of the United States, October term, 1961, *Public Affairs, Inc.* v. *Rickover* and *Rickover* v. *Public Affairs, Inc.*, p. 58.

[36] *Lane* v. *Wilson*, 307 U.S. 268, 275 (1939).

[37] *Edwards* v. *Kearzey*, 96 U.S. 595, 600 (1878).

[38] William Shakespeare, "Macbeth," said by Macbeth.

[39] Address at Cooper Union, New York, Feb. 17, 1860.

Declaring that "a fresh, objective approach is needed," the council called for a new program embodying separate plans for commercial and low-income farmers.

In defining the agricultural problem, the council paper, which was drafted by a special task force under Mr. True D. Morse, former Under Secretary of Agriculture, emphasized these points:

1. Farm program costs are excessive. The net income of farmers in 1963 was $12.3 billion. Yet, Department of Agriculture expenditures in fiscal 1963 were $7.7 billion—more than half the income from farming.

2. Unrealistically high price supports have been a major factor in expanding output, retarding consumption, and worsening the imbalance.

3. As a result of higher yields, too much land and too much labor are being used for production of commodities in surplus.

The administration is "heavily committed to a control philosophy for agriculture," the council said. Yet, "for most commodities the Congress will not enact, the executive branch will not enforce, and the farmer will not accept the degree of production control required to balance supply with demand at the levels of price supports promised politically."

The paper said that the recent wheat and cotton provisions of the administration's farm bill moved in the wrong direction—toward greater Government controls and subsidies.

The administration's farm policymakers were criticized as trying to "apply to the dynamic sixties program that were developed for the stagnant thirties. Faced with a new and promising future, they have sought to recreate the past. They have been lamenting the shattered shell rather than applauding the hatched chick."

In proposing a new approach to the agricultural problem, the council emphasized that "no single farm program can meet the varied needs" of both the commercial and low-income farmer. "Price-support programs are of small help to rural people who have little to sell. On the other hand, operators of commercial farms have little need for programs designed for people with limited farming opportunities. A major need is to separate the commercial farms from small farms and * * * to fashion programs appropriate for each."

For commercial agriculture, the council's proposals included:

1. Accept abundance as a source of strength, and shift away from the idea that farm products should be made scarce.

2. Adjust price-support levels so that market prices would normally fluctuate above the support level.

3. Put more farm decisions in the hands of the farmer and less in the hands of the Government.

4. Institute a land use adjustment program aimed at shifting land from tilled crops to less intensive use.

5. Promote high-level domestic consumption and allow those sectors of the industry to expand that can do so profitably.

6. Encourage exports through the use of special plans and subsidies, at least until surpluses are worked off.

Describing underemployment and low income among small farmers as the greatest single economic problem in rural America, the council recommended that a rural development program should be strengthened to:

1. Improve rural educational opportunities.

2. Focus research and extension education on helping rural people adjust to change.

3. Promote off-farm employment opportunities in rural areas and improve employment information services.

The council stated that "in the farm policy setting of the years ahead it is the Government control portion and not the market system which is on the defensive," but warned that, "the transition to greater reliance on the market will have to be gradual. Through inept programs, the Government lost markets for farm products and piled up an enormous hoard. Government cannot now suddenly pull out, withdraw its support, dump its hoards, and expect farm people, unassisted, to bear the whole brunt of adjustment."

"But this is not an argument to wait," the council concluded. "The longer an adjustment is postponed, the greater the imbalance becomes and the more difficult it will be to correct."

In addition to Mr. Morse, members of the special task force were: Dr. William I. Myers, Ithaca, N.Y., poultry farmer and former dean, College of Agriculture, Cornell University; Dr. O. B. Jesness, St. Paul, Minn., former head, Department of Agricultural Economics, University of Minnesota; Allen B. Kline, Western Springs, Ill., Iowa farmowner and former president, American Farm Bureau Federation and Iowa Farm Bureau Federation; Albert K. Mitchell, Tequesquite, N. Mex., president, International Livestock Exposition, Chicago; Earl M. Hughes, Woodstock, Ill., former administrator, Commodity Stabilization Service and executive head, Commodity Credit Corporation; Homer Davison, Valparaiso, Ind., owner of farms in Indiana and Illinois, and former president, American Meat Institute; Earl Coke, San Francisco, vice president, Bank of America, and former Assistant Secretary of Agriculture; Senator James P. Kelly, president, Kemper Military School and College, Boonville, Mo., who owns and operates farms in Missouri; Dr. Don Paarlberg, former Assistant Secretary of Agriculture, Special Assistant to the President, and Food for Peace coordinator; professor of economics, Purdue University.

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## Critical Issues Council Paper No. 2

(By Critical Issues Council, Washington, D.C.)

### A FREE AND PROSPEROUS AGRICULTURE

Nowhere is the need for constructive leadership greater than in the field of agriculture. For too many years the standard procedure has been to offer political solutions to economic problems. The shortcomings of this approach are becoming painfully evident to a discerning public. A fresh, objective approach is needed. A sound agricultural program will prove to be good public policy and will receive growing support. Increasingly, the public is ready for realism.

### I. DEFINITION OF THE PROBLEM

Agriculture is in the midst of a scientific revolution. There have been more changes during the lifetime of men now living than during the preceding 2,000 years. American farmers have achieved a degree of efficiency unmatched in history. This has been a great help to consumers. Never before have so many been so well fed by so few.

But the scientific revolution has changed the established order. It is necessary, therefore, to replace outmoded concepts with programs suited to the modern day.

The major problems are:

1. Too many resources are committed to farm production. As a result of higher yields and greater efficiency, too much land and too much labor are being used for production of commodities in surplus. We are poised to produce appreciably more farm products than the market will take at price relationships that have in the past been considered satisfactory. The presence of excess resources in agriculture results in low per capita incomes for farm people.

2. Unrealistic price supports have aggravated the maladjustment. Price supports, originally initiated at modest levels, were later set at high levels to stimulate production for wartime needs. These supports have been a major factor in expanding output, retarding consumption, and worsening the imbalance. For some crops, price supports have stimulated production more than controls have restrained it.

3. Program costs are excessive. Taxpayers have been asked to bear farm program costs that are excessive by almost any measure. Despite a continued reduction in the farm population, the number of employees in the Department of Agriculture increased by 15,000 during the past 3 years. The net realized income of farm operators from farming in calendar 1963 was 12.3 billion. Expenditures of the Department of Agriculture in fiscal 1963 were $7.7 billion. Perhaps half of these expenditures were incurred through Government programs intended to support farm prices and control farm output. Only a part of this outlay went to farmers; much of it went for storage, transportation, and program administration.

These costs would be borne willingly if they were solving the problem, but they are not. Instead, we experience growing cost merely for carrying the farm program along as an unsolved problem.

### II. FARM PROGRAM FAILURES

The evidence of the past 30 years is clear. For most commodities the Congress will not enact, the executive branch will not enforce, and the farmers will not accept the degree of production control required to balance supply with demand at the levels of price support promised politically.

And this is on balance a good thing. If these controls were in fact written, administered, and accepted over a period of years, the chief losers would prove to be the producers of the controlled commodities themselves, who would find that they had simultaneously raised their production costs, lost their markets, and sacrificed their role as decisionmakers. Cotton is a dramatic example. Consumers as well as farmers are penalized by artificial prices and production controls.

There is a deadening of opportunity in a socialized approach to agriculture.

The present administration is heavily committed to the control philosophy for agriculture. Despite the sorry record of Government intervention in agriculture, administration leaders have sought to extend Government programs to more and more commodities. In this they have been rebuffed by the farmers and the Congress alike. The farmers emphatically rejected administration-backed efforts to apply compulsory controls to wheat and turkeys; the Congress refused to enact the administration's program of strict controls for dairy products and feed grains.

The administration's approach to agriculture has been reactionary, problem prone and depression bound. They have tried to apply to the dynamic sixties programs that were developed for the stagnant thirties. Despite the fact that food is abundant, they have tried to price it as if it were scarce. Faced with a new and promising future, they have sought to re-create the past. They have been lamenting the shattered shell rather than applauding the hatched chick.

The administration has made determined efforts to substitute Government decisions for individual farmer decisions. This has led some of our major commodities into deep trouble.

#### *Wheat*

In early 1963, the administration offered wheat farmers a choice, in referendum, between two alternatives: (1) high price supports coupled with stiff controls; and (2) low price supports with more freedom to make decisions.

In an effort to get farmers to vote for high supports and tight controls, the alternative involving freedom for farmers was deliberately made economically unattractive. Not only this; the administration made an all-out effort to get a "yes" vote from farmers, an action which was questionable on both legal and ethical grounds.

Despite this coercion, farmers voted against the proposal and in favor of freedom. As a result, wheat farmers were confronted with an indefensible set of rules, designed not to administer a wheat program, but to get them to vote against it.

After the referendum's defeat, more than 50 bills were introduced in Congress. For a long time the Secretary of Agriculture remained adamant in refusing to consider these bills. The administration then pushed through a bill which closely resembles the proposal the farmers had voted down.

### *Cotton*

The Agricultural Act of 1958 as passed by the Congress was intended to work in the direction of lower prices and fewer restrictions on the production of cotton. Thus the act reversed the long and fateful trend which had priced American cotton out of markets at home and abroad. U.S. cotton legislation has conceded virtually the entire growth in the textile market to the rivals of American cotton:

[Million bales]

| | 1928–30 | 1959–61 |
|---|---|---|
| U.S. cotton production | 14 | 14 |
| Foreign cotton production | 12 | 32 |
| World synthetic fiber production (equivalent) | 1 | 22 |

These figures show the tragic history of American cotton. While our cotton farmers stood still at a volume of 14 million bales, foreign cotton growers shot up their marketings by 20 million bales and synthetic fibers moved in to capture the equivalent of 21 million additional bales.

The intent of the act of 1958 was ignored by the administration. Instead of adhering to the expressed wish of the Congress, the Secretary of Agriculture boosted price supports for cotton. The result was to increase Government costs, curtail exports, shrink acreage allotments, and pile up surpluses. Thereupon, rather than follow the constructive policies begun in 1958, the administration encouraged the passage of legislation which continued the errors of the past, endeavoring to make these errors tolerable by the payment of yet another subsidy, this one to the cotton manufacturers.

### *Dairy*

Early in 1961 the administration boosted price supports for dairy products. This was done on doubtful legal grounds and was contrary to sound economics. The result was a trebling in the takeover of dairy products.

Whereas in 1960 only 3 percent of the national production of milkfat was purchased by the Commodity Credit Corporation, in 1962 almost 9 percent was so acquired. The administration then recommended Government controls on the marketing of milk, hoping thereby to rectify the imbalance which the Secretary himself created.

### *Feed grains*

The voluntary feed grain program, while credited with reducing stocks, has only managed to keep production at the same level as in 1960. The program has been extremely costly. Between October 1, 1961, and October 1, 1964, it is estimated that the carryover of feed grain will have been reduced by about 25 million tons. The cost for such reduction will be about $2.5 billion, about $100 per ton or about $3 per bushel of surplus reduction. This compares with $1.25 per bushel, the support price for corn.

Under the present program, it costs more per bushel to induce farmers to cut production of corn than it does to grow it.

We now have a situation in which we must pay perhaps half a billion dollars a year just to keep the surplus from increasing. A major reason for the high cost of the feed grain program is that price supports for corn have been boosted; corn production has been made more profitable, and a high inducement is needed to get farmers to refrain from growing it.

With a high price support, the Government, in effect, pays the farmer to grow more corn; with feed grain payments, it pays him to grow less. The program is consistent only in that it pays him.

The major buyers of corn are livestock farmers who need corn for feed. While the high price supports are a receipt to the farmer who sells, they are a cost to the farmer who buys.

## III. GENERAL CONSIDERATIONS REGARDING FARM POLICY

1. A growing economy is vital. The difficult adjustments through which agriculture is now going will be facilitated if the Nation experiences steady economic growth. An expanding productive economy means good markets for farm products and off-farm job opportunities for rural people.

2. Rising production costs are a major problem. The unsatisfactory level of net farm income is not attributable to any reduction in gross farm income, which has, in fact, been rising. Rather, the difficulty traces to high and rising production costs which have increased in each of the past 10 years. Farmers, and indeed all our citizens, should be protected against the several forces which improperly increase their costs. Inflationary fiscal and monetary policy and cost-boosting forces in the private sector are a matter of deep concern, needing constant study and wise action.

3. Better education is needed. Educational opportunities available to most farm people are not generally equivalent to those in urban areas. Much of the needed action should be at the local and State levels. Of prime importance is an aggressive program to urge both rural youth and adults to continue their studies far beyond the average schooling now attained.

The adjustments facing agriculture can be more readily made if educational opportunities are improved at all levels. Parity of education is a better program than parity prices.

4. Farm policy should emphasize the family farm. Family farms constitute 94 percent of all farms in the United States, and produce 70 percent of all farm products for sale. These percentages have not changed significantly for at least 30 years. The family farm promises to dominate agriculture indefinitely if a favorable economic climate is provided. The commercial family farm has met the problems posed by inflation, deflation, drought and war. It can continue to meet the problems associated with a scientific revolution if the operator is given the opportunity to make adjustments in the use of his land, labor and capital.

Farmer cooperatives, contractual arrangements and financial innovations can help give continuity and stability to the family farm.

## IV. FITTING THE PROGRAM TO THE NEED

Agriculture in the United States is immensely varied. There are two major divisions, based mainly on size and efficiency: commercial farming, mostly a family operation; and small-scale farming, also chiefly a family undertaking.

These two types can be found side by side in almost any area, though there tends to be a degree of geographical concentration. If farm sales of $5,000 be taken as the point of differentiation, the two types appear as follows:

| Categories of farms | Percent of total farms | Percent of sales of farm products |
|---|---|---|
| Farms with sales of $5,000 or more | 39 | 87 |
| Farms with sales of less than $5,000 | 61 | 13 |

Thus about 40 percent of the farms sell almost 90 percent of the products, while the remaining 60 percent sell only a little more than 10 percent.

The so-called farm problem is generated by the excess productive capacity of the larger commercial farms. Political commodity solutions are based on the false premise that price-support programs will solve the problems of low-income rural people and small farmers.

No single farm program can meet the varied needs of these two sectors. Price-support programs are of small help to rural people who have little to sell. On the other hand, operators of commercial farms have little need for the programs designed for people with limited farming opportunities. A major need is to separate the commercial farms from the small farms and from operations that are not farms at all, and to fashion programs appropriate for each.

### *A program for commercial agriculture*

The first thing to do is to free ourselves from a basic misconception about modern-day commercial family farming. What we have is not a depression-ridden agriculture, but an agriculture in transition to a highly efficient form.

The next thing is to recognize that farm programs should be concerned with people as well as with commodities. Farm programs and expenditures have been based largely on commodities. Programs which focus on commodities are impersonal, unrelated to special and unique individual circumstances. Programs which are concerned with people take individual aspirations into account. Farm programs should focus on the genuine needs of people rather than on the fancied needs of commodities.

A forward-looking program for commercial agriculture includes the following points:

1. Accept abundance as a source of strength. Agricultural capability is an asset which we have, which our friends need, and which our rivals lack. We must learn to think of our abundance not as an evil thing, but as good. The advantages of our abundance are fully evident to the rest of the world, particularly to the Communist bloc. We should make the fact of this advantage more clearly known to ourselves. This will require a shift away from the idea that farm products are or should be made scarce.

2. Adjust price support levels. If a better balance of supplies and markets is to be achieved, price supports must be suited to the special circumstances of each commodity. Price fixing in the name of supports should be avoided. Support prices should be so established that market prices would normally fluctuate above the support level, as has been true for soybeans. Supports of this type would permit and encourage the necessary adjustments in the use of resources. Supports should be based on a percentage of the moving average of the market price of previous years, with appropriate differentials by class and grade.

If markets have a larger role in establishing prices, consumption can increase and the support level will no longer serve as a ceiling.

3. Put more decisions in the hands of the farmers. Those commodities which rely

largely on farmer-made decisions—livestock, poultry, fruits, and vegetables—have experienced growing markets and reasonably good production adjustments. Such commodities account for three-fourths of the farm income. Those commodities which have relied most on Government-made decisions are badly out of adjustment. The difficulties encountered by the regulated commodities—such as wheat, corn, and cotton—have in most cases been aggravated rather than helped by Government programs. We should use methods that have been marked by success rather than those marked by failure.

4. Shift from tilled crops toward less intensive use of land. The basic problem in commercial farming is that increased productivity resulting from improved technology and farmers' skill in its adoption is yielding more output of some commodities than the market is ready to absorb at prices remunerative to farmers. The answer is not to control the farmer. The need is for a constructive and selective program of aids and inducements to farmers which will shift excess production resources—manpower, land and capital—not generally, but from surplus lines. Such shifts in some cases will be from crops to grazing; in others it will be from crops to forest products. Timber, including trees for wood pulp, are crops for which there is growing demand. A farm forestry program should be pushed. Our soil, forest, and water resources need not only to be conserved, but to be expanded and built up for pyramiding future needs.

A land-use adjustment program thus is needed, aimed at shifting land to achieve a balance. The land shifted to new uses should be of a type likely to be kept out of crops when the assistance is terminated and until markets supply the inducement for cropping.

Many farms are too small for modern farming. Consolidation of such farms into family units of economic size should be encouraged, not hindered. Migration from farms is of long standing. It has played an important part in making this Nation great. Farmers who have better opportunities elsewhere should be encouraged to take advantage of them. Every effort should be made to improve and increase such opportunities.

5. Promote high-level domestic consumption. The livestock industry should be kept free to expand to meet the needs of a growing and affluent population. Thus more farm resources can be kept in profitable use and consumer food preferences can be met.

The food requirements of our needy people should be met by programs of food donation, responsibly administered. The school lunch program is a good means of improving nutritional standards.

Research aimed at finding new uses for farm products should be increased.

6. Encourage exports. Every legitimate form of exports should be encouraged. Unaided sales for dollars should receive primary emphasis. Until adjustments are made and surpluses are worked off, it will be necessary to subsidize exports of those commodities which are priced above competitive levels. This is a practice of our foreign competitors.

Special export programs need to be continued. This includes exchange for foreign currency, credit sales, barter, and donation. Here the administration merits commendation for having recognized and promoted the food-for-peace program begun by the previous administration. The critical consideration is that we not injure ourselves, our friendly competitors, or the recipient nations. The U.S. aid program should be developed with reference to the basic need for such a program, not as an adjunct of farm policy or as a safety valve for the excess production generated by our farm programs.

We should do all we can to keep our competitive posture strong: tough realistic bargaining with the European Common Market and reasonable domestic price support levels, together with responsible fiscal and monetary policies.

### *A program for low-income farms*

By almost any objective measure, the greatest single economic problem in rural America is the underemployment and low income found among many small farmers and others living in areas of low productivity. Through improved education and other services the doors of opportunity need to be opened wider for these people. Here, again, the administration deserves credit for having promoted the rural development program begun under President Eisenhower. Unfortunately, there has been an erosion of the local initiative and responsibility which characterized the program as originally launched. A strengthened program for low-income people in rural areas, both farm and nonfarm, should embrace the following points:

1. Improve educational opportunities. The best form of adjustment assistance is adequate education and the open society, which permit changes to take place naturally, in accordance with the wishes of the individuals concerned. This includes general education, vocational training for agricultural, farm-related and nonfarm jobs, needed vocational retraining, and various forms of adult education. "Stay in school" programs should be promoted and strengthened. The most acceptable form of adjustment takes place between generations, and nothing facilitates adjustment so well as education.

2. Focus research and extension education on the need for continuing adjustment. Research emphasis should be shifted toward helping rural people make the adjustments called for by the tremendous changes now underway. As projected in the original concept of the rural development program, all appropriate activities of the universities and Government agencies, Federal and State, should be focused on this effort.

Marketing and farm business management should be stressed. Production research to attain better quality and lower costs must continue to be stressed. Adjustment assistance and counsel can be provided by industrial firms, banks and farm organizations as well as by educational institutions and governmental agencies.

3. Promote employment opportunities in rural areas. Off-farm employment opportunities in rural areas will permit operators of low-income farms to increase their incomes without leaving their home communities and without depopulating the countryside. Retraining, vocational guidance and improved information services regarding off-farm jobs should be provided. The expansion of industry in rural areas should be promoted by private organizations and businesses, and should be encouraged by Federal, State, and local units of government for sound economic, social and security reasons.

The leadership of every area should be encouraged and assisted in determining what are the important income and employment opportunities—farm, industry, forestry, recreation, tourists and retirement homes. Opportunities along these lines should be expanded in keeping with the program.

In the farm policy setting of the years ahead it is the government control program and not the market system which is on the defensive. The regulated portion of agriculture is in deep and costly trouble; the competitive part of agriculture is in far better adjustment. After 30 years of being on the defensive, it is time for those who believe in the market system to take the initiative and remove the control and adjust the support devices which are so costly and detrimental to us.

This move will be a step forward, not a step back. We need to emphasize "moving toward freedom," not "returning to the free market." We should work toward markets that are free from manipulation, free from misrepresentation, free from gross ignorance and free from senseless gyrations as well as free from government domination. It includes maintenance of fair and honest trading in the commodity markets. It includes supervision of grades and standards, accurate market price reporting and good outlook information. It includes an economic climate favorable to farmer cooperatives as well as to other private enterprise. It includes price supports at levels which normally permit price to fluctuate freely as determined in the market. It means the kind of market that intelligent people are now capable of creating and maintaining.

The transition to greater reliance on the market will have to be gradual. Through inept programs, Government lost markets for farm products and piled up an enormous hoard. Government cannot now suddenly pull out, withdraw its support, dump its hoard, and expect farm people, unassisted, to bear the whole brunt of adjustment. Much time and public money will be needed to extricate agriculture from its present difficult position.

But this is not an argument to wait. The longer an adjustment is postponed, the greater the imbalance becomes and the more difficult it will be to correct. The decision is largely in the hands of farm people. Others must help. To wait with a solution is to lose valuable time and money, and possibly to lose the opportunity to achieve a sound program.

(Not every member of the critical issues council, its task force, or Republican citizens committee necessarily subscribes in every detail to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.)

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### STATISTICAL APPENDIX

1. Expenditures of the Department of Agriculture have been rising:

| Fiscal year: | *Billion* |
|---|---|
| 1955 | $4.6 |
| 1956 | 5.2 |
| 1957 | 5.0 |
| 1958 | 4.9 |
| 1959 | 7.1 |
| 1960 | 5.4 |
| 1961 | 5.9 |
| 1962 | 6.7 |
| 1963 | 7.7 |

Source: Bureau of the Budget.

2. The farm population continues to decline, but the number of employees in the Department of Agriculture continues to rise:

| Year | Farm population | Number of employees in the Department of Agriculture |
|---|---|---|
| 1955 | 19,078,000 | 85,503 |
| 1956 | 18,712,000 | 89,398 |
| 1957 | 17,656,000 | 95,998 |
| 1958 | 17,128,000 | 101,139 |
| 1959 | 16,592,000 | 97,220 |
| 1960 | 15,635,000 | 98,694 |
| 1961 | 14,803,000 | 102,557 |
| 1962 | 14,313,000 | 110,511 |
| 1963 | | 116,268 |
| 1964 (estimated by U.S. Department of Agriculture) | | 115,000 |

Source: U.S. Department of Agriculture.

3. Farm production expenses have gone up each year:

*Production expenses*

| Calendar year: | *Billion* |
|---|---|
| 1955 | $21.9 |
| 1956 | 22.6 |
| 1957 | 23.4 |
| 1958 | 25.3 |

*Production expenses*—Continued

| Calendar year: | *Billion* |
|---|---|
| 1959 | 26.2 |
| 1960 | 26.3 |
| 1961 | 27.1 |
| 1962 | 28.2 |
| 1963 (estimated) | 28.6 |

Source: USDA.

4. Direct Government payments to farmers have been increasing:

*Government payments*

| Fiscal year: | *Million* |
|---|---|
| 1955 | $229 |
| 1956 | 553 |
| 1957 | 1,016 |
| 1958 | 1,089 |
| 1959 | 682 |
| 1960 | 693 |
| 1961 | 1,484 |
| 1962 | 1,736 |
| 1963 | 1,800 |

Source: USDA.

5. Net farm incomes have been fairly steady for a decade:

*Realized net income of farm operators from farming*

| Calendar year: | *Billion* |
|---|---|
| 1955 | $11.5 |
| 1956 | 12.0 |
| 1957 | 11.0 |
| 1958 | 12.6 |
| 1959 | 11.3 |
| 1960 | 11.7 |
| 1961 | 12.5 |
| 1962 | 12.6 |
| 1963 | 12.3 |
| 1964 (Projection by USDA) | 11.6 |

Source: USDA.

6. Despite expensive efforts to restrict crop acreage, crop production is at an all-time record:

*Crop production, index, 1957–59=100*

| Crop year: | |
|---|---|
| 1955 | 96 |
| 1956 | 95 |
| 1957 | 93 |
| 1958 | 104 |
| 1959 | 103 |
| 1960 | 108 |
| 1961 | 107 |
| 1962 | 107 |
| 1963 | 112 |

Source: USDA.

7. Surpluses, which rose and then dipped, are again at a higher level:

*Commodity Credit Corporation price support inventories and loans, end of fiscal year*

| End of fiscal year: | *Billion* |
|---|---|
| 1955 | $6.7 |
| 1956 | 7.7 |
| 1957 | 6.7 |
| 1958 | 6.3 |
| 1959 | 7.7 |
| 1960 | 7.3 |
| 1961 | 7.0 |
| 1962 | 6.7 |
| 1963 | 7.3 |

Source: USDA.

8. Farm prices have fallen relatively:

| Calendar year | Price indexes, 1910-14=100 | | |
|---|---|---|---|
| | Received by farmers | Paid by farmers | Parity ratio |
| 1955 | 232 | 276 | 84 |
| 1956 | 230 | 278 | 83 |
| 1957 | 235 | 286 | 82 |
| 1958 | 250 | 293 | 85 |
| 1959 | 240 | 297 | 80 |
| 1960 | 238 | 299 | 80 |
| 1961 | 240 | 302 | 80 |
| 1962 | 243 | 306 | 79 |
| 1963 (December) | 237 | 310 | 76 |

Source: U.S. Department of Agriculture.

9. The farmer's share of the retail dollar has declined:

| Calendar year: | *Percent* |
|---|---|
| 1955 | 41 |
| 1956 | 40 |
| 1957 | 40 |
| 1958 | 40 |
| 1959 | 38 |
| 1960 | 39 |
| 1961 | 38 |
| 1962 | 38 |
| 1963 (estimated) | 36 |

Source: USDA.

10. After having been reduced, the cotton carryover is again increasing:

[In millions of bales]

| Marketing year | Exports | Aug. 1 carry-over |
|---|---|---|
| 1955 | 2.2 | 11.0 |
| 1956 | 7.6 | 14.4 |
| 1957 | 5.7 | 11.3 |
| 1958 | 2.8 | 8.6 |
| 1959 | 7.2 | 8.7 |
| 1960 | 6.6 | 7.6 |
| 1961 | 4.9 | 7.2 |
| 1962 | 3.3 | 7.8 |
| 1963 (estimated) | 5.0 | 11.2 |
| 1964 (estimated) | ---------- | 12.9 |

Source: U.S. Department of Agriculture.

11. Government acquisitions of dairy products have increased, and program costs have risen:

| Fiscal year | Government acquisitions as a percent of total production | | Program costs |
|---|---|---|---|
| | Butterfat | Dry milk [1] | |
| | | | *Million dollars* |
| 1955 | 3.4 | 5.2 | 218 |
| 1956 | 3.5 | 7.0 | 206 |
| 1957 | 3.7 | 7.1 | 195 |
| 1958 | 3.9 | 7.3 | 99 |
| 1959 | 2.7 | 7.0 | 150 |
| 1960 | 3.1 | 8.2 | 170 |
| 1961 | 7.0 | 11.0 | 530 |
| 1962 | 8.6 | 12.0 | 447 |
| 1963 (estimated) | 6.4 | 11.0 | 400 |

[1] As a percent of milk solids not fat production.

Source: U.S. Department of Agriculture.

## HISTORY OF JAPANESE IMMIGRATION TO UNITED STATES

Mr. FONG. Mr. President, the inspiring history of Japanese immigration to the United States, and the contributions they and their American-born descendants have made to American progress and defense, is now being written under a project initiated by the Japanese American Citizens League.

It is a first-time study in depth of one of the outstanding success stories in American history. It will relate the struggles of immigrants who persevered in the face of discrimination and injustice. Although denied the privilege of naturalization until 1952 and although uprooted from their west coast homes and interned during World War II, the Japanese immigrants never lost faith in their adopted country. They reared their American-born children to become not only loyal and industrious citizens of the United States but, when tested in time of war, brilliant combat troops second to none.

The history now being compiled will chronicle the experiences primarily of the Japanese on the mainland United States, although portions will deal with the Japanese of Hawaii. But the success story applies equally as dramatically to the Issei immigrants and their Nisei sons and daughters in Hawaii, for they have made and are continuing to make notable contributions to the progress of their island State. Their conduct and record, particularly during World War II, were most outstanding.

It would be very appropriate if a study was undertaken of Hawaii's Japanese, similar to that being written of the mainland Japanese. This would preserve for posterity the first-hand accounts of Issei experiences in Hawaii.

This history project initiated by the Japanese American Citizens League is being partly financed by members and friends who have contributed more than $100,000. Headquarters of the JACL is in San Francisco.

In addition, a grant of $100,000 was made recently by the Carnegie Corp. of New York—a private philanthropic organization. The study is being carried out as an educational project at the University of California at Los Angeles.

A description of the project and the Carnegie grant has been published in the April 10, 1964, edition of the Pacific Citizen, official newspaper of the JACL. A most timely editorial titled "Melting Pot," praising the Japanese in the United States, is printed in the April 18, 1964, edition of the New York World-Telegram.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York World-Telegram, Apr. 18, 1964]

### MELTING POT

One of the most outstanding success stories in American history has been written by the Issei—Japanese immigrants who came to America early in the century.

For the first time, a study is being made of these people who have done much to enrich American economic and cultural life. It will probably be the last such study, for most of them are of advanced age.

The University of California, supported by funds from the Carnegie Corp. and the Japanese American Citizens League, will collect first-hand accounts of Issei experiences in the United States. This will be followed up by a later survey of their children and grandchildren, the Nisei.

Most minority groups have suffered discrimination and injustice upon their arrival in the United States, but none more so than the Issei. They met not only social discrimination, but in many States laws prevented them even from owning property. They could not become citizens, so were barred from occupations and professions requiring citizenship for license or membership.

In a dark page of American history, both Issei and Nisei were uprooted from their homes at the outbreak of World War II and interned behind barbed wire—this when we were fighting against the very idea of concentration camps.

Many Nisei, however, served with valor and distinction in World War II, and later in Korea, winning proportionately more battle decorations than any other ethnic group.

In 1952, with the passage of the McCarran-Walter Immigration and Nationality Act, the Issei were finally admitted to citizenship.

Far from being bitter about their treatment, the Issei have raised their children to be loyal and productive citizens. Juvenile delinquency among the Nisei is virtually nonexistent.

The Issei have taught us all a lesson in democracy.

[From the Pacific Citizen, Apr. 10, 1964]

### CARNEGIE ENDOWS $100,000 FOR JAPANESE HISTORY PROJECT

NEW YORK.—For the first time, and probably the only time, a national survey of the Japanese immigrants who came to the United States before 1924 is being made. The University of California at Los Angeles is sponsoring the survey, in part with the support of a $100,000 grant from Carnegie Corp. of New York, it was announced Tuesday. The educational foundation also announced six other grants totaling $1,361,000.

The survey, and the larger study of which it is a part, were initiated at the suggestion of the Japanese American Citizens League, which has itself raised more than $100,000 to support the study.

The JACL, recognizing the contributions that the Issei immigrants have made to American economic and cultural life despite the discrimination and injustices that they have suffered, was anxious to provide for the collection of firsthand accounts of the Issei experiences in the United States. Because of their advanced age—most of them are now in their seventies and eighties—the survey and interviewing must be completed soon.

#### NISEI SURVEY DUE

A subsequent survey of their American-born children and grandchildren, or Nisei, will enable the project staff to produce analytical studies of the two groups. The studies will be used in the preparation of the first comprehensive social history of the Issei and Nisei in the United States.

As a history of their difficulties and achievements and finally their integration into American society, the book will make a significant contribution to the American historical record.

It will also provide an understanding of these phenomena which, the JACL believes, can help persons and organizations working with other handicapped minorities in the United States and possibly even in other nations.

#### LEGAL DISCRIMINATION

The Japanese, when they came to this country, were subjected not to social discrimination but to legal and economic discrimination. In many States antialien land laws prevented them from owning real property.

Because they could not become naturalized citizens, they were barred from occupations that require citizenship for license or membership, as do law and architecture, for example.

During World War II, Issei and Nisei were interned behind barbed wire.

Only in 1952, when the McCarran-Walter Immigration and Nationality Act removed all racial restrictions to naturalization and provided immigration quotas for Asian countries, were the Issei admitted to citizenship and its concomitant privileges, including owning property and entering certain occupations.

Yet the Issei, through experimentation and hard labor, played a strategic part in transforming vast tracts of land once regarded as unfit for cultivation into outstanding farming and orchard areas, to the primary benefit of non-Japanese farmers.

#### ROLE OF THE ISSEI

The Issei introduced new crops and methods of cultivation in agriculture, horticulture, and floriculture on the west coast and in many other areas. They began new trends in art.

Despite their treatment in this country, they brought up their children to be good and loyal citizens. There has, for instance, been almost no juvenile delinquency among Nisei.

In World War II and the Korean war the Nisei, encouraged by the Issei, won proportionately more battlefront decorations than any other major ethnic group.

Since World War II, the JACL points out, widespread acceptance of Japanese Americans and their rapid advances in professions, the arts, industry, and Government service has proved that American democracy does not limit full citizenship to Caucasians.

#### OBJECTIVES OF PROJECT

The project staff is gathering information on the Issei's reasons for coming to the United States, their occupations, motivations, and achievements here, their relations with the Nisei, and the relations of both groups with the larger society. Analyzing this information will, they believe, help explain the Japanese American's acculturation and achievements in the United States.

Upon completion of the study, a permanent collection of Japanese American and related documentary materials and interviews will be established at UCLA.

T. Scott Miyakawa, visiting associate professor of sociology at UCLA on leave from Boston University, is directing the study.

The JACL, which has national headquarters in San Francisco and a Pacific Southwest office in Los Angeles, is helping the project locate documents, the names and addresses of Issei, and other information.

According to the JACL, 31 percent of the Japanese Americans in mainland America live in the Los Angeles area.

Carnegie Corp. of New York was founded by Andrew Carnegie in 1911 for the advancement and diffusion of knowledge and understanding among the peoples of the United States and certain Commonwealth areas. Its assets now total approximately $232 million at book value. Grants are made from income only.

## DEATH OF J. HYDE SWEET

Mr. CURTIS. Mr. President, Nebraska is mourning the passing of a prominent citizen, one who served his community, his State, and his Nation, with distinction.

Mr. J. Hyde Sweet, longtime publisher of the Nebraska City News-Press, died on April 4, 1964, at Wickenburg, Ariz., following a stroke. His death leaves a void not only among Nebraska newspapermen but also among a wide circle of friends and acquaintances engaged in other civic undertakings.

Hyde Sweet was recognized as one of the State's most vigorous newspaper editors. His column, "Kick Kolumn," was probably the most widely quoted in Nebraska.

Beginning as a printer's devil, typesetter, and janitor when he was 13 years old, Hyde Sweet began a family tradition of newspapering now carried on by his son, Arthur, who is managing editor of the News-Press. He joined the Press, predecessor of the News-Press, in 1909. The News and Press were merged in 1926, and the News-Press marked its 100th anniversary on November 14, 1954.

Always active in bettering his community and his State, Hyde Sweet served briefly in the U.S. Congress as well. He came to Washington in 1939 as secretary to First District Congressman George Heinke. When Congressman Heinke was killed in an auto accident in December of that year, Hyde Sweet was elected to complete the term. He did not seek reelection. As a freshman Congressman at the time, I recall with great respect that year we served together in the House. He was a great American in its finest sense.

It will be a long, long time, Mr. President, before the void left by J. Hyde Sweet's passing can be filled completely.

## CONSTRUCTION OF REHABILITATION CENTER FOR HANDICAPPED CHILDREN AND ADULTS BY WYOMING FRATERNAL ORDER OF EAGLES

Mr. McGEE. Mr. President, a fine example of what can be done by an organization dedicated to service and to helping those less fortunate than themselves is the drive now underway by Wyoming Fraternal Order of Eagles to construct a rehabilitation center for handicapped children and adults near Thermopolis.

An article describing this center and the drive to make it a reality was published in the May issue of the Eagles magazine. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A SHELTERED WORKSHOP IN WYOMING—WHEN THE JOB IS DONE WE CAN RIGHTFULLY BE CALLED FRATERNALISTS

(By Jack Williams)

The dream conceived at the 1960 State convention in Powell is nearing fulfillment for physically handicapped children and adults.

Because Wyoming Eagles, with compassion and unsurpassed love for their fellow man, determined to help crippled children and adults learn a new way of life—learn again to play, to be a useful force in their own communities, the Eagles Sheltered Workshop, nestled near the foothills of the Rocky Mountains in Hot Springs State Park near Thermopolis, will soon become a reality.

Here a man can learn a new way of life, a new way to earn a living not only for himself but, through gainful employment will be able once more to provide for his loved ones. Here a child, suddenly faced with the stark reality that he is "different" from his playmates can learn that life is not ended—a new door will be opened. That child can learn to play, that child can learn a trade and a hobby. But more important, the youngster—or adult—will know that even with a crippling handicap much is worthwhile, much can be done. A rich and full life lies ahead with all the dreams and desires within reach.

Through the untiring efforts of Wyoming Eagles, headed by Dr. H. L. Pieters and other dedicated leaders, the State donated about one and one-half acres of land in Hot Springs State Park where the Eagles Sheltered Workshop will soon be erected.

Already more than $22,000 of the $70,000 goal has been raised by Eagle aeries and auxiliaries in the State.

To help the program along, Gov. Clifford Hansen recently signed an official proclamation designating the week beginning April 26 through May 2, 1964, as Sheltered Workshop Week in Wyoming. This permits the committee to solicit funds over the entire State, with the proceeds earmarked for the Sheltered Workshop Fund for the Handicapped.

In signing the proclamation, Governor Hansen praised Wyoming Eagles for their sincere concern of the multiple problems facing children and adults who must suddenly adjust their lives because of crippling handicaps.

In urging widespread support for this great humanitarian program, Dr. Pieters and his committee emphasize that the workshop is not only for the handicapped in Wyoming but for the handicapped throughout the Nation.

The committee stated that membership in the Eagles is not a requirement for help through this program. Anyone is eligible, man, woman, boy or girl. The leaders in this project said: "Please do not sit back and say 'let Joe do it.' We all have a stake in this job until it is done. Please help."

Tentative plans call for the construction of the building, across the street from the noted Gottche Rehabilitation Center where the crippled in the State now are physically rehabilitated.

The Eagles Sheltered Workshop will complete the rehabilitation process by preparing the handicapped to hold down a job. Any trade or craft which an individual is capable of learning will be taught him at the Eagles Sheltered Workshop.

Any aerie or auxiliary wishing to be a part of this program can send donations to John Williams, Secretary of Aerie 2350, Green River, Wyo.

## CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 516, as modified, proposed by the Senator from Illinois [Mr. Dirksen] for himself and the Senator from Montana [Mr. Mansfield] as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. Talmadge] for himself and other Senators, inserting a new title at page 54, after line 7, relating to criminal contempt.

Mr. HUMPHREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 178 Leg.]

Aiken
Bayh
Beall
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Curtis
Dodd
Dominick
Douglas
Eastland
Ellender
Fong
Gore
Gruening
Hart
Hartke
Holland
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, La.
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smith
Sparkman
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. Walters in the chair). A quorum is present.

## THE WAR IN VIETNAM

Mr. MORSE. Mr. President, the disinterest of Pakistan in the Vietnam war should be a warning to the American people that the United States is pursuing a futile and hopeless war in South Vietnam known as "McNamara's War." The Secretary of Defense has approved the term "McNamara's War" as a proper label for the war—a label which the senior Senator from Oregon has attached to it for many weeks. The Senator from Alaska [Mr. Gruening] discussed it at some length yesterday afternoon.

I congratulate the Senator from Alaska again for his courage and his statesmanship. He pointed out how unreliable are not only Pakistan, but our other alleged allies in the SEATO treaty—New Zealand, Australia, Thailand, the Philippines, Great Britain, and France. I wish to pursue the point of view expressed by the Senator from Alaska for a few moments at this time.

Few nations in the world have received as much money from the United States as has Pakistan. When the foreign aid bill is reached this year, Pakistan will be included in the amendment that I shall offer seeking to bring to an end all foreign aid to alleged allies that are perfectly willing to take our money and then walk out on us.

We have extended this money to Pakistan on the theory that Pakistan was an ally against communistic expansion in Asia. We could not have been more wrong. After the statements of April 27 by her Foreign Minister, we know that Pakistan is no such thing. Least of all has she any intention of drawing upon herself the disapproval of Communist China by supporting a U.S. war effort in Vietnam.

The painful truth is that not one of our alleged allies has been willing to do so. They include the Philippines, Thailand, and Pakistan—all huge beneficiaries of our financial support. They have turned their backs upon involvement in Vietnam. The most that they have been willing to do is to encourage the United States to continue the struggle alone.

The abandonment of Vietnam to its fate by those countries is in keeping with the indifference of the Vietnamese people themselves. This is not a Pakistani war, a Thai war, a Philippine war, nor a war of the people of South Vietnam. It is McNamara's war. It is a war financed, directed, and largely fought by the United States for itself and for its stooge, General Khanh.

It is a war that we are conducting in behalf of a puppet government that we set up starting in 1954, and have now taken through three puppet dictators—Diem first, then Minh, and now our latest puppet, Khanh. No one else in Asia wants any part of it. Pakistan has made that crystal clear. They will take our money; but they will never stick their necks out for an American interest. They are more interested in entering into further treaty arrangements with Red China. The people of South Vietnam have been notably lacking in support of the war. The announcement of a new election in South Vietnam is the latest "gimmick" in the propaganda job that is being done on the American people. The Senator from Alaska [Mr. Gruening], the Senator from Louisiana [Mr. Ellender], and I, have been pointing out for weeks in the Senate that we are not supporting freedom in South Vietnam. This is not a government of freedom. It is a military dictatorship controlled by an American puppet. We are not supporting freedom in South Vietnam. We have been pointing out the lack of institutions of freedom in that country. Now we have seen the propaganda "gimmick" in the newspapers in the past few days, to the effect that there are to be elections.

That sounds good, but do not forget that Diem had elections too—the same kind of elections there are in Russia. The people vote for a ticket put up by the government, and the vote is "Yes."

So the announcement of new elections does not indicate that they will be any different from those staged by the Diem government when the only candidates that could be voted on were those chosen and placed on the ballot by the government itself.

These elections in South Vietnam have no more meaning than Communist elections, because in both cases the public can only vote "Yes."

Sooner or later the United States is going to have to give up this kind of protectorate in Vietnam. The only question is how much American blood and treasure will be spent before we do give it up.

It continues to be my fervent hope that my Government will recognize its legal and moral obligation to turn this matter over to the United Nations before the casualty lists really mount.

I ask unanimous consent to have printed in the Record two letters I have received on this subject, one from a sergeant stationed in South Vietnam, and another from a civilian who was associated with our aid program to South Vietnam, with their names deleted.

There being no objection, the letters were ordered to be printed in the Record, as follows:

April 20, 1964.

Senator Wayne Morse,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Morse: I have long applauded your forthright, independent stands on many issues and particularly your recent statements on the Vietnam situation.

I recently returned from Vietnam where I served for over a year as an adviser to the Vietnamese military construction program (under contract to an American architectural-engineering firm).

As a taxpayer and citizen I am concerned about the way our tax money is spent and submit the following random comments based on my experience in Vietnam to bolster, and encourage, your fight on behalf of the American taxpayer.

1. There are more than enough American military personnel there to adequately administer the military program. The reason that the program has been and is poorly administered stems from top echelon policies established by the Pentagon and/or the civilian foreign aid bureaucracy in Washington. For example, I found that the American military advisers dared not inquire too closely about known misappropriation of funds. The reason could be that they as individuals are operating a high school popularity contest or, they have had orders from their superiors to turn their backs to the graft and corruption.

2. On two or three occasions I reported to military advisers the theft or misappropriation of building materials but as far as I could determine the information was never passed on to higher echelons. Much of this material was going to the Catholic Church (during the Diem regime) and political officials—rather than to hospitals and living quarters for enlisted personnel.

3. Enlisted personnel and the people generally have no more respect for the military officer corp than they had for Diem and his cronies—which probably accounts for the lack of enthusiasm in carrying on the war.

4. Civilian contracts, many of which had at least some merit, were canceled to create slots for more American military advisers who either from lack of the proper training, or tradition, accomplished little or provided no concrete help to the Vietnam military or to the civilian economy.

5. Heavy construction equipment costing millions of dollars was sitting idle in warehouses and compounds—while thousands of our military sat around shuffling paper or did nothing. I would suggest that if the military must be in these areas that a "Seabee" type of corp be organized and utilized to provide some real help to the civilian economy.

6. Far too many radio and communications contracts have been let—these people are falling all over one another and creating nothing but confusion.

As I see it, there are four "vested interest" groups who are largely responsible for continuing the program in Vietnam—and other like areas. They are: the American military, the foreign aid bureaucracy, American industry (particularly the war industry), and the private capital boys. I do not suggest that the voices of these American citizens not be heard or considered but I do say that their present voices are being considered out of proportion to their numbers and against the present and long-range interests of the American people.

I have long been of the opinion that nationalism is a stronger force than ideology and I have little fear that simply because these countries adopt a "leftist" type of government that they will combine against us. History makes clear that Catholics have fought Catholics, Protestants have fought Protestants, republics have fought republics, and kingdoms have fought kingdoms—and witness the present difficulties between Russia and China.

———— ————.

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The Honorable WAYNE MORSE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MORSE: Speaking for myself and other GI's, we take our hats off to you on your stand concerning the Vietnam situation.

You seem to be the only one that is making any sense on this issue, and cannot understand why others, in the Government, oppose your suggestions. Probably they are the conservative, quiet type who dare not speak up against the war in Vietnam. To say anything against it seems to be inviting brickbats.

I believe that you have the support of many enthusiastic Americans in your crusade. We need more men of integrity in public office.

Admiringly yours,

———— ————.

Mr. MORSE. Mr. President, all the letters I have placed in the RECORD from time to time are in the files in my office for the inspection of any Senator, and for the inspection of the President of the United States, if he wants to have them sent to him.

I shall be adding to this list of letters a large number in the next few days. The Senator from Alaska put some 50 letters in the RECORD yesterday. In the next few days I shall put more in the RECORD. If I do not obtain unanimous consent to place them in the RECORD, I shall be delighted to read them, because every Senator should understand that our boys are not for the war in South Vietnam. Our boys are not being protected by the U.S. Government. Their lives are not being protected by the operations the Government is conducting there.

Read the letters. What kind of protection is given to an American pilot in a helicopter sent out over the battlelines in the jungles of Vietnam, with no more protection than the helicopter?

That is why these officers come to me. I wish the administration could have the benefit of what the officers say. It is not a formal war, but we are engaged in a military operation in South Vietnam. It is neither fish nor fowl. We are conducting a military operation in which we are denying American boys the protection they would have if we were really in a formal war. It cannot be justified. It is the unjustifiable killing of American boys. Every American boy who has been killed in the war in South Vietnam has been unjustifiably killed; and his blood is on the hands of the U.S. Government.

It is not pleasing to me to have to speak in such criticism of my Government, but I will not be silenced, for I know my Government is wrong.

I close by calling the attention of the President of the United States to article I, section 8 of the Constitution of the United States, setting forth the powers and authority of the Congress of the United States in regard to war. It reads in part as follows:

> The Congress shall have Power * * * To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

There is not a line in the Constitution of the United States that authorizes any President of the United States, at any time, to send the flag standing behind the Presiding Officer into a battlefront, followed by American boys, to die under that flag, without first declaring war.

The operation of the United States in South Vietnam is an illegal, unconstitutional operation. It cannot be justified by the President of the United States.

I call on him again, from the floor of the U.S. Senate, to send to Congress a declaration of war resolution, and let it be debated in Congress. Let Members of Congress be counted, as to whether or not they want to declare war in South Vietnam, to officially and legally send boys to their death in that war, and let the American people make their accounting of that kind of vote.

Mr. President, the Constitution cannot be torn. One cannot ignore the Constitution, even if he sits in the White House. The Commander in Chief is as liable under that Constitution as is anyone else.

I will not countenance the war in South Vietnam by remaining silent in the Senate. There has been too much silence in the Congress on the unconstitutional war in South Vietnam. There has been too much silence in the Congress about the unjustified slaughtering of American boys in South Vietnam.

We hear talk to the effect that this part of the world will go down to communism if we do not kill some more American boys in South Vietnam. Tell it to the American people. If the American people were allowed to vote in a referendum on this issue, the vote against the unjustifiable killing of American boys in South Vietnam would be, at a minimum, 5 to 1 against it. I believe the vote against it would be larger than that.

I repeat what I have said before. I have never made a criticism of American foreign policy, and I never will, without offering what I think is a more acceptable substitute. I repeat—and we shall have to repeat these elementary truths and facts—that the Government of the United States stands at this hour outside the framework of international law in South Vietnam. We cannot point to a single principle of international law that justifies American intervention in South Vietnam, but we have some international law obligations. We signed the United Nations Charter. We have a clear obligation to file a complaint with the United Nations if any country, or any group of countries, is violating international law and threatening the peace of the world.

The alibi of the Secretary of State, and the alibi of McNamara in defense of McNamara's war, is that the Geneva agreement of 1954 is being violated. The United States did not even sign it. The United States is not even a signatory to the Geneva agreement. South Vietnam did not sign them. South Vietnam is not a signatory to it.

I will tell the Senate what our international law obligation is. We said, as observers at Geneva, that we would recognize the principles of the Geneva accord as setting out principles of international law. So we are now saying that North Vietnam, possibly Cambodia, and possibly Red China, are violating the Geneva accord. South Vietnam is, too, with our help. If that is true, the violation is a threat to the peace. If there is a threat to the peace, the United Nations Charter ought to be put to work, and the United States ought to be before the United Nations with a resolution asking the United Nations to take jurisdiction and set up a peacekeeping corps in South Vietnam, separating the two sides that are making war, serving notice in that part of Asia that the United Nations is going to maintain the peace.

The President of the United States is calling for the flags of other nations. I say to the President that there is only one flag call he ought to be uttering. He ought to be calling for having the United Nations flag go to South Vietnam and have us support the maintenance of a peacekeeping corps in South Vietnam—for the maintenance of peace, not for the maintenance of war, but for bringing peace to bear in South Vietnam, as we support the United Nations operation in the Congo, as we support the United Nations operation in the Middle East, and as we support the United Nations operation in Cyprus—three other places where the peace of the world has been threatened. We are following a proper course in those places, because we are acting within the framework of international law. In South Vietnam, by unilateral military action, without authority from the United Nations, without any right under international law, the United States is making war. Secretary McNamara admits it. Secretary McNamara admitted the other day that he was perfectly willing to accept the situation as McNamara's war. He is perfectly willing to accept it as a war involving the United States, but it is an illegal war.

Until the President of the United States sends to Congress a declaration of war resolution, and that resolution or declaration is passed by Congress, in keeping with the Constitution, there is no justification, legally, or morally, for allowing a single American boy to be killed in South Vietnam.

I say to the American people: "Give this administration your answer."

I say to the American people, "Make clear to this administration that you want to stop the killing of American boys in an unnecessary and unjustifiable involvement of the Government of the United States in an illegal war."

I say to the American people, "Tell this Government to get back within the framework of international law, and stop a course of conduct that amounts to international outlawry." For that is the present program of the United States in South Vietnam.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the amendment of the House to the bill (S. 1605) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes.

## ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1341) for the relief of Gabriel Kerenyi, and it was signed by the Acting President pro tempore.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

**Mr. JOHNSTON.** Mr. President, twice before I have stood in the U.S. Senate to oppose attempts to abolish the right of trial by jury in criminal cases. Each time I have spoken on this subject I have thought of the terrible sacrifices and hardships that people went through over many hundreds of years to achieve this almost God-given right. The very thought of abolishing the right of trial by jury frightens the minds of those who understand the legal processes and the Constitution of the United States.

Mr. President, we are being asked in the U.S. Senate to compromise the American citizen's constitutional right of trial by jury and we in the U.S. Senate have no right to even consider such a compromise. We swore to uphold and defend the Constitution of the U.S. Government and those who seek to abolish or weaken the guarantee of trial by jury in all criminal actions seek to tear up a part of this Constitution and are not, in my opinion, upholding their sworn duty.

First the writers, whoever they were, of the civil rights bill before us sought to completely eliminate trial by jury in criminal contempt proceedings. Now, sponsors of the amendment before us are attempting to compromise the previously held position by stating that we shall guarantee trial by jury to everyone in criminal contempt proceedings except where the fine is 30 days or $300 or less.

Mr. President, the Constitution itself says in as plain language as can be written in English that all criminal prosecutions shall be tried by a jury, as pointed out by Mr. Justice Goldberg and Mr. Justice Douglas in their dissenting opinion as recently as April 6 of this year in the case of United States against Ross R. Barnett.

The Constitution, for those who may not have read it recently, states in article III, section 2, clause 3:

> The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Mr. President, how clearer can the English language be than it appears in our Constitution when it says, "shall be by jury"? This seems to be as explicit and as final as even death itself. There is no possible means to get around this language without utterly disregarding the Constitution. The practice of fining a man for contempt of court without a trial by jury is a judge-instituted, a judge-invoked, and a judge-enforced abridgement of the Constitution of the United States, and the U.S. Senate has no business fostering and furthering such practice in our halls of justice.

It is obvious that the Supreme Court will, as Justice Black has urged, throw this practice out "root and branch." In the meantime, the Senate of the United States should not allow this unfortunate and unconstitutional practice to be spread.

I said before, and I say again, that this is eating away at the Constitution and is a taking over by the Federal Government of certain rights which belong to the people and to the States. It is like termites eating away the foundation of a house. If this process continues, we shall find, in the not-too-distant future, all the privileges and rights given to the American people eaten away, by act after act of Congress.

I want to go into the case of the United States against Ross R. Barnett. In the footnote of the majority opinion delivered by Mr. Justice Clark, it is stated:

> Some members of the Court are of the view that, without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

This dictum by the Court simply means that the judge is placed in the ludicrous position of having to guess, first of all, whether a person has been guilty of a petty offense or not before he can determine whether or not to give the individual a trial by jury, all of which means the man is going to be tried in the mind of the judge before he is even offered a right of trial by jury. There is no specification as to what a petty offense is in criminal contempt, and we therefore leave our judges and the justice of the people at best in the middle of a great penalty guessing game. It is ridiculous, absurd, and again I say, unconstitutional to the core.

Getting back to the amendment before us, why—I ask why should a man fined 31 days for criminal contempt get the constitutional right of trial by jury while a second man, fined 30 days for the same offense, be deprived of this constitutional guarantee? Because of 1 day's difference in the fine we are going to give one man what the Constitution says is rightfully his and take away what is rightfully another man's. This is the worst form of discrimination in the world.

I ask any Senator, if he were a judge, to imagine someone coming before him under such a contempt charge. Would he not, as a judge, if he wished to dispose of a case quickly, decide in his mind that he would give the defendant 30 days, and in that way deprive him of the right of trial by jury? Sponsors of such proposals are taking away the most precious constitutional right an American citizen has in order to pacify the thundering mob in the street. Who would be advocating it if that were not so? Roman civilization fell because leaders turned a deaf ear to right, to law, to order, and listened to the thundering mob. In this instance, the U.S. Senate, if it compromises the smallest, minute part of this constitutional right of trial by jury, will be removing a foundation stone upon which this Nation was built. One compromise leads to another, and once the process is started no one in this Hall of Congress can say when or where it will stop, until some day Congress has turned over to the judges all of its authority and all of the rights of the people.

Mr. President, at this point in my speech I wish to read to the Senate the dissenting opinion of Mr. Justice Goldberg, in which the Chief Justice and Mr. Justice Douglas joined, in the case of the United States against Ross R. Barnett, and the dissenting opinion of Mr. Justice Black, with whom Mr. Justice Douglas joined.

Before reading the opinion by these members of the Supreme Court, members of the Supreme Court were so divided in regard to a matter so sacred to the people of the United States, do not Senators believe that we should at least not go forward with the taking away of the rights of the people?

Mr. Justice Goldberg, with whom Chief Justice Warren and Mr. Douglas joined in the dissenting opinion, wrote these words. They are the words, actually, of these three Justices of the Supreme Court, speaking to the people—not only speaking to the Senate, but to all 190 million people in the United States.

In response to the certified question, I would answer that defendants have both a statutory and a constitutional right to have their case tried by a jury.

### A. THE STATUTORY RIGHT TO A JURY TRIAL

Defendants claim that 62 Stat. 844, 18 U.S.C. 3691, entitles them to a jury trial in this case. That statute provides in relevant part that "the accused, upon demand therefor, shall be entitled to trial by a jury" whenever the alleged contempt "shall consist in willful disobedience of any lawful writ, process, order, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any act of Congress * * *," except if the alleged contempt is "committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States." The statutory right to a jury trial thus turns on three essential factors: (1) the source of the order; (2) the nature of the alleged violation; and (3) the character of the party that "brought or prosecuted" the "suit or action." I conclude for the reasons stated below that the district court was the source of the basic order in this case; that the nature of the alleged violation would make it a criminal offense under 74 Stat. 86, 18 U.S.C. 1509; and that the "suit or action" in the case was brought and prosecuted not by the United States, but by James Meredith, a private party. It follows that defendants have a statutory right to be tried for their alleged contempt by a jury of their peers.

#### *1. The source of the order*

The show-cause order entered by the court of appeals on January 4, 1963, specified three earlier orders which defendants allegedly violated.[1] The acts committed were alleged to be "for the purpose of preventing compliance with this court's [the court of appeals'] order of July 28, 1962, and of the similar order of the U.S. District Court for the Southern District of Mississippi, entered on September 13, 1962, and were in willful disobedience and defiance of the temporary restraining order of this court [the court of appeals] entered on September 25, 1962." A brief analysis of the background and content of each of these three orders is necessary to an understanding of the problem.

After James Meredith was denied admission to the University of Mississippi, he filed suit in the U.S. District Court for the Southern District of Mississippi, which denied the requested relief. On appeal, the U.S. court of appeals reversed the judgment and directed the district court to order Meredith's admission. The mandate of the court of appeals was then stayed by a single judge of that court. The court of appeals immediately recalled its mandate, issued a new one explicitly directing the district court forthwith to issue a permanent injunction compelling Meredith's admission to the university, and vacated the stay granted by the single judge. On July 28, 1962, the court of appeals, in aid of its appellate jurisdiction, issued its own preliminary injunction,[2] "[p]ending such time as the district court has issued and enforced the orders herein required and until such time as there has been full and actual compliance in good faith with each and all of said orders * * *." The court of appeals' preliminary injunction, which ran against "the defendants * * *, all persons acting in concert with them, as well as any and all persons having knowledge of the decree * * *," was substantially the same as the permanent injunction which the court of appeals directed the district court to enter. A single judge again stayed the mandates of the court of appeals, but on September 10, 1962, Mr. Justice Black, after consultation with the members of this court, vacated all the stays issued by the single judge of the court of appeals.[3]

Three days later, on September 13, 1962, the district court, declaring that the "matter was now before [it] by virtue of the mandate of the U.S. Court of Appeals for the Fifth Circuit and the mandate of Mr. Justice Black * * *," issued a permanent injunction as directed by the court of appeals.[4] This injunction was substantially identical to the preliminary injunction issued by the court of appeals on July 28, 1963.

At this juncture, therefore, two substantially identical injunctions appear to have been in effect: the "preliminary" one issued by the court of appeals on July 28, 1963; and the "permanent" one issued by the district court of September 13, pursuant to the mandate of the court of appeals. The show-cause order subsequently entered against defendants by the court of appeals alleges separate violations of both injunctions. It seems clear, however, that any act allegedly committed by contemners in violation of the preliminary injunction would necessarily have violated the permanent injunction as well. This Court has held that a single act or course of conduct alleged to be in violation of two identical orders cannot be punished as two separate contempts. See *Yates* v. *United States*, 355 U.S. 66. Also see *United States* v. *Costello*, 198 F. 2d 200. This is no less true if the two orders were issued by different Federal courts, especially if the earlier order was designated "preliminary" and the later one "permanent." I would conclude therefore that, at least for purposes of a contempt conviction, the preliminary injunction entered by the court of appeals on July 28, 1962, to protect its appellate jurisdiction, was superseded by the substantially identical permanent injunction entered by the district court on September 13, pursuant to the mandates of the court of appeals and Mr. Justice Black.

It is argued, however, that the preliminary injunction entered by the court of appeals on July 28, 1962, explicitly applied until James Meredith's "actual admission" to the university. This part of the court of appeals' order must be construed in the context of the other orders entered on July 28, 1962, and the immediately preceding days. During this time the court of appeals was attempting finally and definitively to secure James Meredith's admission to the university. To accomplish this, it concluded, correctly I think, that there should be no lapse in the operation of the substantive terms of the injunction until the desired end had been achieved. Therefore, the court of appeals announced the terms of the injunction which would be in effect from that time until Meredith's admission was secured. It also issued a mandate requiring the district court to incorporate these terms into a permanent injunction. The operative effect of these orders was that, in the event that the district court's permanent injunction failed fully to incorporate the substantive terms of the court of appeals' preliminary injunction, then the unincorporated provision would remain in effect as an order of the court of appeals. But in the event that the district court's permanent injunction fully incorporated the substantive terms of the court of appeals' preliminary injunction, then the injunction would become an order of district court. In this way, the court of appeals was assured that each of the substantive terms of its injunction would remain in effect from the time of the order until Meredith's admission and that none of the terms of the injunction would simultaneously be incorporated in orders of two courts. The district court's permanent injunction did in fact incorporate all the substantive terms of the court of appeals' preliminary injunction. Thus, so long as it remained in effect, as it did until Meredith's admission, it necessarily superseded the court of appeals' preliminary injunction. It follows from this, that defendant's acts which allegedly violated both the court of appeals' order of July 28, 1962, and the district court's order of September 13, 1963, must be deemed only alleged violations of the district court's permanent injunction of September 13, 1962. Any allegation of contempt of the court of appeals' preliminary injunction of July 28, 1962, must be deemed without legal significance for purposes of this proceeding.

The third and last order which defendants were accused of violating was "the temporary restraining order of this court [the court of appeals] entered on September 25, 1962."[5] That order specifically named defendant Barnett and others and temporarily restrained them "and all persons in active concert or participation with them" from "interfering with or obstructing" compliance with the court of appeals' order of July 28, 1962, and with the district court's order of September 13, 1962. It also restrained them from committing other designated acts which were not specifically covered by the earlier orders (e.g. instituting civil or criminal actions against Meredith). Defendants, however, were not accused in the show-cause order of violating the entire temporary restraining order of September 25, 1962, but only that part of the order restraining them "from interfering with or obstructing the enjoyment of rights or the performance of duties under the order of this court [the court of appeals] of July 28, 1962, in the case of *Meredith* v. *Fair*, and a similar order of the District Court for the Southern District of Mississippi in that case * * *." Each specified violation in the show-cause order related to the permanent injunction of September 13, 1963, and the preliminary injunction of July 28, 1962. Defendants, in their notice of "the essential facts constituting the criminal contempt charged," rule 42(b), Federal Rules of Criminal Procedure, received no notice that they were being charged with violating any provisions of the court of appeals' temporary restraining order of September 25, 1962, other than those derived directly from the earlier orders.

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[1] The show-cause order is printed infra, at 33, as app. A to this opinion. The relevant orders in this case are also reported in 7 Race Relations Reporter 739 ff.

[2] The "preliminary injunction" was actually "issued" on July 27, 1962, as part of an opinion signed by Judge Wisdom. The order, which is printed infra, at 36, as app. B to this opinion, is dated July 28, 1962.

[3] 83 S. Ct. Rep. 10.

[4] The district court's permanent injunction is printed infra, at 39, as app. C to this opinion.

[5] The court of appeals' temporary restraining order is printed infra, at 42, as app. D to this opinion.

With respect to the alleged contempt here charged, therefore, the court of appeals' temporary restraining order added nothing to the earlier orders, except to name specifically one of the defendants. But this was obviously unnecessary, as the Government must concede. Governor Barnett must be deemed included within the coverage of the earlier orders enjoining "all persons acting in concert with [the named defendants], as well as any and all persons having knowledge of the decree. * * *" Were this not so, Governor Barnett's alleged contempts of the earlier orders would have to fall, as would Lieutenant Governor Johnson's alleged contempt of all the orders he is accused of violating, since he was not specifically named in any of them.

Thus, unless form is to prevail over substance, we must conclude that there has been no independently alleged violation of the court of appeals' temporary restraining order of September 25, 1962. That order therefore has no bearing on whether defendants have a statutory right to a jury trial.

In sum, therefore, I conclude that the district court's permanent injunction of September 13, 1962, superseded and replaced the court of appeals' substantially identical preliminary injunction of July 28, 1963, and that the court of appeals' temporary restraining order of September 25, 1963, as it is relevant here, added nothing to the earlier orders. Thus, although the show-cause order alleged contempts of two orders of the court of appeals and one order of the district court, I would hold that for purposes of deciding whether 18 U.S.C. 3691 is applicable, defendants have been charged with violating only one order, which was issued by a "district court of the United States."

Even if I were to agree with the court, however, that defendants were effectively charged with contempt of all three orders, my conclusion would remain the same. The statute does not say in negative terms that whenever the alleged contempt "shall consist in willful disobedience of any lawful * * * order" of any court of appeals, the accused shall not be entitled to a trial by a jury. It says in affirmative terms that whenever the alleged contempt "shall consist in willful disobedience of any lawful * * * order * * * of any district court * * *, the accused * * * shall be entitled to trial by a jury." [Emphasis added.] Defendants here are charged with disobedience of an order of a district court. The fact that they are charged also with disobedience of orders of a court of appeals should not defeat their statutory right to a jury trial.

### 2. *The nature of the alleged violation*

The second relevant question in deciding whether defendants have a statutory right to a jury trial is whether "the act or thing done or omitted also constitutes a criminal offense under any act of Congress * * *." 18 U.S.C. 3691. This is not in dispute here. The question certified by the court of appeals specified that "the acts charged as constituting the alleged disobedience were of a character as to constitute also a criminal offense under an act of Congress * * *." While the court is not bound by the facts assumed in a certified question, it is clear here that contemners' alleged acts would constitute violations of 18 U.S.C. 1509.[6] The Government does not dispute this.

### 3. *The character of the party which brought the suit or action*

The third and final question in deciding whether defendants have a statutory right to a jury trial is whether the alleged contempt was "committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States" (18 U.S.C. 3691).

The Government contends that it entered the case on September 18, 1962, and that the court of appeals' temporary restraining order of September 25, 1962, which was issued on its motion, was thus an order entered in a suit or "action brought or prosecuted in the name of, or on behalf of, the United States." My previous conclusion—that the court of appeals' order of September 25, 1962, was of no legal significance so far as the charged contempts are concerned—provides a complete answer to the Government's contention. If I am correct in concluding that the only operative order was the permanent injunction entered by the district court on September 13, 1962, at a time when no one claims the United States had any formal interest in the case, then it necessarily follows that defendants are charged with contempt of an order entered in a suit brought in the name of, and on behalf of, a private party, and not the United States.

**Mr. ERVIN.** Mr. President, I wonder if the Senator from South Carolina will yield for several questions dealing with the very matter he has under discussion—that is, the provisions of existing laws relating to criminal contempts which deny all protections of the law to individuals involved in suits brought by the United States?

**Mr. JOHNSTON.** Mr. President, I want to protect my rights. I yield with the understanding that it will not take me off the floor, and that when I resume my remarks, it will not count as another speech. Since the questions deal with the remarks I have been making, I assume the questions will appear in the RECORD at this point.

**Mr. ERVIN.** Mr. President, I ask unanimous consent that the Senator from South Carolina be permitted to yield to me under the conditions enumerated by him.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. ERVIN.** Does not the Senator from South Carolina agree with the Senator from North Carolina that in any just system of laws there will be certain uniform laws applying in like manner to all litigants, regardless of the character of the litigants?

**Mr. JOHNSTON.** I answer the Senator from North Carolina by saying that any law which discriminates in any way in favor of or against any group of people is, in my opinion, wrong.

**Mr. ERVIN.** Does not the Senator from South Carolina agree with the Senator from North Carolina that the distinction which is made in existing law in respect to criminal contempts generally as between cases in which the United States is a party and cases in which individuals are parties is wholly incompatible with any system of justice?

**Mr. JOHNSTON.** The Senator has spoken a truth which exists in law. Having been for a number of years chairman of the Subcommittee on Improvements in Judiciary Machinery of the Committee on the Judiciary, I have noted that every time Congress amends the law in this way and sets up a different procedure or a different way of treating one class of litigants from another class of litigants, it really confuses our courts and confuses the people who have to deal with the subject. It is not in accord with the Constitution of the United States.

**Mr. ERVIN.** Does not the Senator from South Carolina know, as a result of his study of this problem, that Senator Borah offered an amendment to strike out the provision of the existing law, which makes this distinction between cases brought by the United States and cases brought by individuals or firms or corporations, and make the law uniform as to the United States, and all other litigants?

**Mr. JOHNSTON.** I know that. I believe that Senator Borah's proposal was correct.

**Mr. ERVIN.** Does not the Senator from South Carolina know that, in a speech advocating adoption of his amendment, Senator Borah pointed out, in his eloquent manner, that there was no reason whatever to give to the United States superior advantages over other litigants in the courts of the United States in proceedings for criminal contempts, and that there was no reasonable basis whatever for making any such distinction?

**Mr. JOHNSTON.** He said that. As to Senator Borah—and I think all Senators will have to join in this statement—he was one of the deepest thinkers and one of the men who protected the rights of the people as much as any Senator who has ever been in the Senate.

**Mr. ERVIN.** Does not the Senator from South Carolina recall that, unfortunately, Senator Borah's amendment to eliminate this discrimination in favor of the United States over other litigants in criminal contempt cases lost by a margin of three votes in the Senate?

**Mr. JOHNSTON.** I recall that.

**Mr. ERVIN.** I ask the Senator from South Carolina if it is not a perversion of justice to give any litigant, whether it be the Government, an individual, or a particular type of corporation, or any other litigant, a special procedural advantage over other litigants.

**Mr. JOHNSTON.** The Senator has spoken another truth. Whether they be large or small litigants, rich or poor litigants, white or colored litigants, they should all be treated alike.

**Mr. ERVIN.** Does not the Senator from South Carolina agree that in any country where there is a government of laws rather than a government of men, the laws must necessarily apply in like manner to all litigants under like conditions?

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[6] The statute provides in relevant part that:

"Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both."

Mr. JOHNSTON. That is true. If that is not done, there will be a breakdown in the courts of justice, and the people will look upon the courts as being favorable to one class as against another.

Mr. ERVIN. Does not the Senator from South Carolina favor the Talmadge amendment, which would abolish in all cases the special advantage in procedural rights that the United States has over other litigants in a criminal contempt proceeding?

Mr. JOHNSTON. I agree with the Senator. I am not for the substitute, as I have already stated. I am for the Talmadge amendment. It goes all the way and protects an individual and gives him the right of trial by jury.

Mr. ERVIN. I ask the Senator from South Carolina if the Talmadge amendment does not leave untouched the power of the court to compel obedience to its decrees by what we call a civil contempt proceeding?

Mr. JOHNSTON. It does.

Mr. ERVIN. Does the Senator from South Carolina agree with the Senator from North Carolina that there is no substance whatever to any argument that it is necessary to deny the right of trial by jury in a criminal contempt case because it would impair in any respect the capacity of the court to enforce its decrees by a civil contempt proceeding?

Mr. JOHNSTON. The Senator is entirely correct, as he usually is. Having been a great judge and having been on the Supreme Court of North Carolina, he comes to us very learned in the law. I am always glad to have him speak up in committee and on the floor of the Senate when any legal questions are involved.

Mr. ERVIN. Since I am required to couch whatever I say in the form of questions, will the Senator accept my assurance that I am deeply grateful for the high compliment he has paid me?

Mr. JOHNSTON. I think he knew before I said it what I thought of him.

Mr. ERVIN. Am I correct in my understanding that the Senator from South Carolina is in perfect agreement with the Senator from North Carolina that the Talmadge amendment would not affect in the slightest degree the power of the court to compel obedience to its decrees by a civil contempt proceeding?

Mr. JOHNSTON. That is correct. What we are fighting for in criminal contempt proceedings is the right of an individual to have a trial by jury.

Mr. ERVIN. Does not the Senator from South Carolina agree that the question of the right of trial by jury in criminal contempt cases has become acute only in recent years because of the increased tendency of judges to punish persons for criminal contempts rather than have them tried before juries for specific crimes arising out of acts or omissions that form the basis for the criminal contempt charges?

Mr. JOHNSTON. The Senator is correct. What I fear now, along that same line, is that if those who make this proposal get by with this effort and succeed in taking away the right of trial by jury, we shall find the courts making more laws. That is what it amounts to, in a way. The courts will enforce their own laws without a jury trial.

Mr. ERVIN. Does not Justice Goldberg, in his very illuminating dissenting opinion in the Barnett case, point out the fact that the present laws in respect to criminal contempts are judge-made and judge-maintained laws?

Mr. JOHNSTON. Judge Goldberg brings it out in a clear, concise manner to the Court. I am glad that this case came up at this time, because it shows how the right to a trial by jury in criminal cases is being denied.

Mr. ERVIN. Does not the third clause of section 2, of article III of the Constitution, provide this:

> The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Mr. JOHNSTON. It does.

Mr. ERVIN. I ask the Senator from South Carolina if, under the decisions of the Supreme Court, there is any law known to him which would require the court of appeals of the United States to try a criminal contempt case in the State in which the criminal contempt is alleged to have been committed?

Mr. JOHNSTON. According to the Supreme Court ruling, there could not be.

Mr. ERVIN. Inasmuch as the Senator has read from the opinion in the Barnett case, I should like to ask him if, under existing law, as he understands it, the U.S. court of appeals of the circuit cannot try that case in any part of the circuit?

Mr. JOHNSTON. If it were to be tried in any part of the circuit, it would have to be tried in the county in which the crime was committed.

Mr. ERVIN. Does not that circuit start on the Atlantic Ocean at the northeastern corner of the State of Georgia and embrace all the States between that point and the Gulf of Mexico to the South and Southwest to the western limits of the State of Texas?

Mr. JOHNSTON. It most certainly does. I invite attention to that part of the Constitution which the Senator just read. It will be noted that it refers to "crimes." Civil crimes have nothing to do with that. A prohibition is thrown around any trial in a criminal case without the right to a trial by jury.

Mr. ERVIN. Since the Senator from South Carolina has invited attention to this constitutional provision, I ask him if he did not make reference a moment ago to the sixth amendment which provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law,

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that that provision of the sixth amendment, and the provisions of the third article of the original Constitution, providing that a trial shall be held in the State where the crime shall have been committed, were placed in the Constitution to make certain that a man should not be tried at a place distant from the place where the witnesses are easily available to him?

Mr. JOHNSTON. That man is supposed to be tried in the community where he knows his peers and they know him.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that it is unjust, and in the nature of judicial tyranny, to have a law which permits a man to be tried by the U.S. court of appeals anywhere within a vast circuit, such as the circuit which starts at the northeast corner of Georgia and stretches to the western limits of Texas?

Mr. JOHNSTON. The Senator is entirely correct. This bill, of course, would give undue preference to the Attorney General's Office, as the Senator knows.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that even in the absence of preferential statutes, the United States has an overwhelming advantage over litigants and persons who may be prosecuted by it arising out of the fact that it is able to array the entire financial might and the entire governmental might of the United States against any person whom it prosecutes?

Mr. JOHNSTON. The Senator is correct. As the Senator has brought out, where money is involved a great vehicle is available to build up a case and obtain witnesses, and everything else. In addition, the name of the Government behind a case would add great prestige to it. I believe that is the reason, especially in civil cases as between different litigants only, why the Government would be involved in certain cases.

Mr. ERVIN. I ask the Senator if the fifth amendment to the Constitution does not provide this:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;

Mr. JOHNSTON. It most certainly does.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that the intention of those who wrote and ratified this provision of the fifth amendment was to give each person charged with a crime not only the protection of a trial by jury, but also the protection of the requirement of an indictment in every case, in which the crime charged is in the nature of a felony?

Mr. JOHNSTON. The Senator is correct. It would always give a person the right to know what he is charged with in detail, so that he would be able to come into court and answer the charges.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that under section 1 of title 18 of the United States

Code, every crime against the United States which is punishable by death or by more than a year's imprisonment constitutes a felony, and can be prosecuted only upon indictment by a grand jury?

Mr. JOHNSTON. The Senator is entirely correct. In each instance, that would be done to protect the individual.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that the Supreme Court held, in the Green case, that imprisonment for as much as 3 years for criminal contempt in that case—which consisted solely of jumping bond—was a permissible punishment for criminal contempt under existing law?

Mr. JOHNSTON. It did.

Mr. ERVIN. Does not the Senator from South Carolina recall that in the discussion of this matter in 1957, the Senator from North Carolina invited the attention of the Senate to a lower Federal court decision which upheld imprisonment for 4 years for criminal contempts, in a case tried without a jury?

Mr. JOHNSTON. I recall it distinctly. I recall that the Senator invited the attention of the Senate to the decision at that time.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that one of the most serious imperfections in existing Federal law is the fact that although under the Constitution, and section 1 of title 18 of the United States Code, any man charged with a crime punishable by imprisonment for more than 1 year cannot be placed on trial unless he is indicted by a grand jury, and cannot be punished unless he is convicted by a petit jury, these rights are denied to the accused in all criminal contempt proceedings arising in cases not covered by existing statutes relating to criminal contempt and in all cases brought by the United States? And does not the Senator from South Carolina agree with the Senator from North Carolina that a Federal court has upheld the validity of a sentence of 4 years in a proceeding for criminal contempt arising in a case brought by the United States?

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. I call the Senator's attention to another provision of the Constitution, embodied in the fifth amendment. I ask the Senator if this is not a part of the fifth amendment: "nor shall any person be subject for the the same offence to be twice put in jeopardy of life or limb;"

Mr. JOHNSTON. Yes.

Mr. ERVIN. I ask the Senator from South Carolina if that is not an additional protection which the Constitution throws around every person in order that he might not be punished twice for the same offense.

Mr. JOHNSTON. The Senator is entirely correct. In the legal field we know that as double jeopardy.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that it is a legal iniquity to permit any man to be punished twice for the same act or omission?

Mr. JOHNSTON. There is no question about it in my mind. It is wrong to try a man twice for the same offense. If we did not have that protection, a district attorney, if he were so minded, could keep pestering a man and trying him over and over again.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that under existing law, in respect of contempts, a man can be twice put in jeopardy under the contempt law, in that he can be first punished for civil contempt and then punished for criminal contempt?

Mr. JOHNSTON. The Senator is entirely correct.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that when the alleged contemptuous act or omission also constitutes a crime, an accused can be punished a third time for the crime based upon the same act or omission as the alleged civil and criminal contempts?

Mr. JOHNSTON. Yes.

Mr. ERVIN. Is it not true that there are many instances in which an alleged contemptuous act also constitutes crime, permitting an accused to be tried and punished a third time for the same act or omission?

Mr. JOHNSTON. There is no question in my mind that that is true.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that this is a legal iniquity and inconsistent with any legal system which is designed to promote the administration of justice rather than the infliction of double or triple punishment?

Mr. JOHNSTON. The Senator is entirely correct. All such cases are an infringement upon the rights of the States.

Mr. ERVIN. I ask the Senator from South Carolina whether it is not true that the seventh amendment to the Constitution provides that in suits at common law, where the value in controversy exceeds $20, the right of trial by jury shall be preserved?

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that when the Constitution of our country is so deeply concerned about the right of trial by jury that it provides there can be no determination of the issues of fact, except by trial by jury, in a suit at common law where the amount involved exceeds $20, Congress ought to provide the right of trial by jury for those who are charged with criminal contempt, for which a person can be punished by as much as 4 years imprisonment?

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. Does not the eighth amendment to the Constitution provide:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Mr. JOHNSTON. The Senator is correct. In a great many cases when an excessive bond is set, lawyers go to court and argue for a reduction of the bond, and often the bond is reduced.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that courts have held in a great many cases, including those which are brought by the United States, there is no limit whatever in the amount of the fine or the term of imprisonment which a judge can impose upon an accused in a trial for criminal contempt without a jury, except the nebulous and uncertain limit imposed by the eighth amendment with respect to cruel and unusual punishment?

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that under the interpretation of this phrase it is virtually impossible for any lawyer to determine what the limits are?

Mr. JOHNSTON. No lawyer can predict what a court may decide in that respect.

Mr. ERVIN. Is it not true that this is the situation in respect to all criminal contempt cases in which the United States is a party?

Mr. JOHNSTON. The Senator is correct.

Mr. ERVIN. I thank the Senator from South Carolina.

Mr. JOHNSTON. I thank the Senator from North Carolina for bringing out very plainly what we are facing in the bill in connection with jury trials.

I am glad, as I said a few moments ago, that the Barnett case was decided only a month or so ago, so that we might have the benefit of the opinion written by the Chief Justice and two associate Justices dealing with the matters now before the Senate.

I take up again, where I left off a few moments ago, the reading of the opinion:

> Even assuming, arguendo, that the court of appeals order of September 25, 1962, had some independent legal significance, I could not conclude, as the court does, that it was "entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States." The court of appeals' order authorizing the United States to participate in the case, authorized it to participate "as amicus curiae," not as a private party.

Bear in mind, Mr. President, that I am reading from the opinion of the Supreme Court. These are not my words. These are the words of Mr. Justice Goldberg, joined by the Chief Justice and Mr. Justice Douglas.

> It also authorized the United States "to submit pleadings, evidence, arguments, and briefs and to initiate such further proceedings, including proceedings for injunctive relief and proceedings for contempt of court." The Court of Appeals entered the temporary restraining order of September 25, 1962, on motion made by the United States pursuant to this authorization. But the applicable statute does not exempt from the protection of a jury trial "contempts committed in disobedience of any lawful * * * order * * * entered" upon motion by the United States. It only exempts contempts committed in disobedience of "any lawful * * * order * * * entered in any suit or action brought or prosecuted in the name

> of, or on behalf of, the United States." The touchstone of the exemption is thus the party who brought or prosecuted the basic suit or action, not the party upon whose motion the violated order was entered. This reading of the statute is buttressed by the repeated references in the congressional debates to suits where the United States is a "party." See, e.g., 48 CONGRESSIONAL RECORD 8780, 8785; 51 CONGRESSIONAL RECORD 9672, 14413, 15946.

Mr. President, that is one reason why we offer the record of the Supreme Court at this time. It is one reason why we are discussing this case. We want to bring into clear recognition exactly what we are facing, so that if similar cases should be tried in the courts, we shall have all the citations as they were brought to the attention of the Senate when the bill was under discussion on the Senate floor. These references are often useful and advantageous when such questions arise.

The dissenting opinion of Justice Goldberg for himself and on behalf of his associates is a long one. Sometimes I wish we could have Justice Goldberg with us to advise us in the debate. I do not think we could call it a filibuster to have him give his own long opinion, telling how injurious it is to a person not to have the right of trial by jury.

I continue to read from Justice Goldberg's dissenting opinion:

> The Government contends, however, that it was, in effect, a party to the suit, because of:
>
> "[t]he critical fact * * * that in instituting and prosecuting those proceedings the United States was asserting an interest of its own separate and distinct from that of the plaintiff in the original action. The interest of the United States was the sovereign's independent concern for preserving the integrity of its courts and vindicating their authority."

The Government again, according to the record of the Supreme Court, was trying to influence the Court in its decision, so to speak, because the Government was supposed to be a disinterested party. But we know how disinterested in this particular issue the Government may be. I continue to read:

> But this alone does not convert the United States from an amicus curiae into a party. A traditional function of an amicus is to assert "an interest of its own separate and distinct from that of the [parties]," whether that interest be private or public. It is "customary for those whose rights depend * * * on the outcome of cases * * * to file briefs amicus curiae, in order to protect their own interests." Weiner, Briefing and Arguing Federal Appeals (1961) 269. This court has recognized the power of Federal courts to appoint "amici to represent the public interest in the administration of justice." *Universal Oil Products Co.* v. *Root Rfg. Co.*, 328 U.S. 575, 581. In this case the Government was serving essentially in that capacity. Its ultimate interest—securing compliance with the courts' orders requiring Meredith's admission—was identical with the interest of the private plaintiff, and it was invited by the court to render necessary aid in that direction.
>
> The Government's argument thus goes too far. "After all, a Federal court can always call on law officers of the United States to serve as amici * * * to represent the public interest in the administration of justice." Ibid. The Government has "an interest of its own" in vindicating its authority in every instance where the orders of its courts are violated, no matter how private or insignificant the suit. (This is evidenced by the fact that criminal contempt proceedings are typically prosecuted by the sovereign, not the private litigant.) In this respect every criminal contempt proceeding is actually (or at least potentially) a "suit or action brought or prosecuted in the name of, or on behalf of, the United States." Such a reading would, of course, make the statute dead letter. It would bestow no "right" to a jury trial at all.
>
> We are dealing here with a remedial statute broadly designed to afford the right to a jury trial in all but a narrowly limited category of contempts constituting violations of criminal statutes. Accordingly, the statute should be construed to effectuate its basic purpose, and its exemptions should not be unduly expanded by judicial construction. The Government concedes that the precise problem involved here—the United States entering a private litigation as amicus curiae and obtaining the order allegedly violated—"did not arise in the course of the legislative history." In my view, therefore, since a reading of the statute inclines against applying the exception here, and since there are no countervailing policy considerations, the statutory exemption should be read so as not to apply to defendants.
>
> The foregoing satisfies me that the alleged contempt was of an order of a district court; that the alleged acts also constitute a criminal violation under an act of Congress; that the relevant order was not entered in a suit or action brought or prosecuted in the name of, or on behalf of, the United States; and that, accordingly, defendants are entitled to a jury trial pursuant to 18 U.S.C., section 3691. Insofar as there may be lingering doubts concerning the application of that statute to the circumstances here, I would resolve those doubts in favor of the statutory right to a jury trial in order to avoid the grave constitutional questions inherent in the practice of punishing contempts such as the one here charged without trial by jury. Since the Court has not accepted this statutory analysis, I must consider these constitutional questions.
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> ### B. THE CONSTITUTIONAL RIGHTS TO A JURY TRIAL
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> The Court, in denying defendants' constitutional claim to a jury trial, rests on the history of criminal contempts relied on in its past decisions. The most recent of these decisions is *Green* v. *United States*, 356 U.S. 165, which was decided by a closely divided Court.[1] The Court said:
>
> "The principle that criminal contempts of court are not required to be tried by a jury under article III or the sixth amendment is firmly rooted in our traditions." Id., at 187.
>
> "Against this historical background (of the power to punish criminal contempts summarily at the time of the Constitution), this Court has never deviated from the view that the constitutional guarantee of trial by jury for 'crimes' and 'criminal prosecutions' was not intended to reach to criminal contempts." (Id., at 186.)
>
> A review of the original sources convinces me, however, that the history relied on by the decisions of this Court does not justify the relatively recent practice of imposing serious punishment for criminal contempts without a trial by jury. My research, which is confirmed by the authorities cited in the appendix to the opinion of the Court, suggests the following explanation as to why criminal contempts were generally tried without a jury at the time of the Constitution: The penalties then authorized and imposed for criminal contempts were generally minor; and the courts were authorized to impose minor criminal penalties without a trial by jury for a variety of trivial offenses including, but not limited to, criminal contempts.
>
> ### *1. Criminal contempts at about the time of the Constitution*
>
> In 1821, this Court recognized that there were "known and acknowledged limits of fine and imprisonment" for criminal contempt. *Anderson* v. *Dunn*, 6 Wheat 204, 228.[2] What these limits were at about the time of the Constitution can best be derived from the contemporary statutory and case law.
>
> When the Bill of Rights was ratified, at least five of the Original Thirteen States had specific statutory limitations on the punishment which could be imposed summarily for criminal contempts. The Connecticut statute permitting summary punishment for certain types of contempts contained a proviso "[t]hat no single minister of justice shall inflict any other punishment [for criminal contempt than] * * * putting them in the stocks, there to set not exceeding two hours; or imposing a fine, not exceeding $5."[3] The Delaware statute permitted a contemner to "be fined in any sum not exceeding £5"; it did not permit imprisonment for criminal contempt.[4] The Maryland statute permitted the court to hold the contemnor in close custody until the said process, rule, or order shall be fully performed (civil contempt), but it permitted no punishment "exceeding £10 current money."[5] The New Hampshire provision permitted imprisonment for contempt not exceeding 10 days and a fine not to exceed £10.[6] The South Carolina statute permitted a fine not exceeding £10 for any contempt by word or gesture and a fine at the discretion of the said court, for anyone who shall strike or use any violence in the said courts;[7] it did not permit imprisonment.[8]

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[1] In *Green* v. *United States*, 356 U.S. 165, "petitioners [did] not contend * * * that they were entitled to a jury trial." Id., at 187. The Court did, however, explicitly consider the issue.

[2] See *Duane* v. *United States*, Fed. Case No. 14,997 (1801): "We confine ourselves within the ancient limits of the law [of criminal contempt], recently retraced by legislative provisions and judicial decisions."

[3] An Act Concerning Delinquents, May 1667, 1 Conn. Pub. Stat. Laws (1808), 231–232. The statute also permitted "imprisonment binding to the peace or good behavior to the next county court." Ibid. (County courts met twice annually, see id., at 208.) This was apparently a civil contempt sanction permitting imprisonment only until the contemptuous conduct terminated, limited in any event to about six months. The criminal contempt section was part of a more general title which permitted a judge to try "any matter of a criminal nature * * * where the penalty does not exceed the sum of seven dollars." Id. at 230.

[4] An Act against drunkenness, etc., apparently enacted in 1737. 1 Laws of Del. (1797), 173. The criminal contempt section is part of a general statute permitting trial without a jury for a number of petty offenses, e.g., "drunkenness" (five shillings); "prophane cursing and swearing" (five shillings and three hours in the stocks); blasphemy (two hours in the pillory "and be branded in his or her forhead with the letter B, and be publicly whipt, on his or her bare back, with thirty-nine lashes well laid on"). Id., at 173–174.

[5] Act of Nov. 1785, Chapter LXXII, 1 Md. Laws (Marcy 1811), 595–596.

[6] Act of Feb. 9, 1791, New Hampshire Constitution and Laws (1805), 95. See id., at 9. See also N.H. Acts and Laws (1696–1725), 15.

[7] Act of 1731, No. 552, Grimke's Laws of S. Carolina (1790), 129. It is unclear whether this discretion was limited by decisional or statutory law.

[8] Although finding no general statutory limitation on the punishment which could

Within a short time after the ratification of the Bill of Rights other States enacted statutes containing specific limitations on the punishments which could be imposed summarily for criminal contempts. These statutes, which appear to be codifications of existing practices and court decisions rather than newly created legislative limitations,[9] shed additional light on the practice at about the time of the Constitution.

The New Jersey statute permitted a contemner to be punished by a fine "not exceeding fifty dollars."[10] The Kentucky statute specified that "[n]o court or judge shall, for any contempt against such court or judge, pass judgment for, decree, order or inflict, or cause to be inflicted, any fine exceeding the sum of 10 pounds, nor any imprisonment exceeding one day, without the trial by jury to assess the quantity of such fine, and determine the duration of such imprisonment."[11] The Pennsylvania statute permitted an unspecified fine and if the contemner "shall be unable to pay such fine, such person may be committed to prison by the court for any time not exceeding three months."[12] The New York statute permitted a maximum fine of $250 and imprisonment for 30 days in summary proceedings for criminal contempts.[13]

The Alabama criminal contempt statute declared that:

"Whereas, the trial by jury in all penal, as well as criminal cases, is both a safe and adequate mode of investigation and decision, and should only be suspended in cases of absolute necessity. Be it enacted, that no court shall, for any contempt against such court, * * * inflict * * * any fine exceeding the sum of $20, nor any imprisonment exceeding 24 hours, without the trial by jury, to assess the amount of such fine, and determine the duration of such imprisonment."[14]

The Virginia statute was quite detailed. It contained the following proviso:

"That no court shall, without the intervention of a jury, for any such contempt of misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice therein, impose any fine on any person or persons, exceeding fifty dollars, or commit him, her or them, for a longer period than ten days; *And provided*, That in any case of aggravated contempt * * *, the court may impannel a jury, without any indictment, information or pleadings, in a summary manner, to ascertain the amount of fine or term of imprisonment, proper to be inflicted for such offense, and may impose the fine or imprisonment ascertained by the jury in manner aforesaid."[15]

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be imposed for criminal contempt in Massachusetts, I have found the following data which suggests that the punishments there imposed were probably not out of line with those imposed in the other colonies. See 1 Mass. Acts and Resolves (1692–1714), 282–283, Act of June 18, 1697, limiting to 10 shillings the punishment which could be imposed by a justice of the peace for criminal contempt in refusing to obey a summons; *id.*, at 335, Act of June 22, 1698, limiting to 40 shillings the punishment which any court could impose upon jurors who refused to obey a summons; *id.*, at 354–355, Act of Dec. 10, 1698, limiting to 40 shillings (or imprisonment for 48 hours, or "by setting in the stocks not exceeding four hours") the punishment for disobeying the order of a justice of the peace to assist in apprehending an offender. See also case of John Matthews, cited in Colonial Justice in Western Massachusetts (1639–1702): The Pynchon Court Record (1961), 243 (fine of five shillings for "refusinge to obey a summons"; "contemptuous and high carriage"; "commanding [the server of the summons] off his ground and holding up his sickle at him."); *Case of Samuell Fellowes, id.*, at 271 (1671) (fine of five pounds for "contemptuous carriage in Corte"); *Case of James Carver, id.*, at 288 (1678) (fine of 60 shillings for "horible abusive Cariage," including threats, striking the constable with his fist and "saying he would kill him and beate out his Braines etc."). But see *Thwing* v. *Dennie*, Quincey's Reports (Mass. 1761–1772), 338 (committed to prison for a period of time not specified in the court's opinion for "in a most savage Manner attempt[ing] to snatch" papers from the hands of his courtroom opponent, thereby tearing some essential documents); Act of Oct. 20, 1963, Mass. Colonial Laws (1671), 133, relating to the payment of fines for Prophanation of the Sabbath, Contempt or Neglect of Gods Publick Worship." The Act provides that: "in case any person or persons so sentenced, do neglect or refuse to pay such Fine or Mulct as shall be legally imposed on them, or give security in Court * * * every such person or persons so refusing or neglecting to submit to the Courts Sentence, shall for such his contempt be Corporally punished, according as the Court that hath cognizance of the case shall determine: And where any are Corporally punished, their Fines shall be remitted." Compare the penalties sometimes imposed by the "Court" of Assistants of Massachusetts Bay Colony, which was a legislative and executive body as well as a judicial tribunal (cases cited in the Appendix to the opinion of the Court).

Although finding no colonial statute designating the punishment for criminal contempt in Maine, I have found a rule of court promulgated in 1649 which states that contemners "shalbe fined according unto the discretion of the Court." 1 Maine Province and Court Records 137. I have found no rule permitting imprisonment for criminal contempt.

In 1647, the Rhode Island General Assembly enacted a statute prohibiting the "use [of] words of contempt against a chief officer, especially in the execution of his office." The penalty for this offense was being "bound to his good behavior, so to remain for three months space, or the next court following." Trial was by a jury of "his peers," and not by summary proceeding. R.I. Code of Laws (1647) 24. Cf. 52.

[9] See, *e.g.*, *Thew's case* (N.Y. Supreme Court, 1763), in Goebel and Naughton, Law Enforcement in Colonial New York (1944), 243 (fine of 200 pounds for contempt in refusing to answer questions); *Dobbs' and Pauling's case* (N.Y. Supreme Court, 1764), *ibid.* (fine 200 pounds for contempt in refusing to answer questions); *Mosier's case* (Suffolk Court of Oyer and Terminer, 1717), *id.*, at 606 ("John Mosier [was ordered to be] committed into ye sheriffs Custody and to suffer a weeks imprisonment for affronting the Kings Justices in Going to Hold court." He was released, however, the following day); *King* v. *Mary Richardson* (N.Y. Kings County Court, 1693), *id.*, at 605 (unspecified fine for unspecified contempt); *King* v. *Tiebout* (N.Y. Court of Quarter Sessions, 1695), *ibid.* (unspecified fine for unspecified contempt); *Tenbroek's case* (N.Y. Supreme Court, 1729), *id.*, at 606 (fine of 10 pounds for contempt in "having privately given victuals to the jury"); *Ferce* v. *Strome*, 1 Yeates' 303 (Pa. 1793) ("repremanded [and] dismissed without any fine" for failing to respond to subpoena); *Respublica* v. *Oswald*, 1 Dallas' 343 (Pa. 1788) (imprisonment for one month and fine of 10 pounds for contempt by publication); *Territory* v. *Thierry*, 1 Martin (La. 1810), 55 (imprisonment for 10 days and fine of $50 for "grossly and indecently abusive" contempt by publication); *State* v. *Noel*, T. U. P. Charlton's Reports 43, 65 (Ga. 1806) (fines of $50 and $10 for "contempts in disobeying the order of" the Superior Court); *Case of Priest and Bonet* (1702), cited in Scott, Criminal Law in Colonial Virginia (1930), 173 (three hours in stocks for fighting near the court); *Case of Thomas Smith* (1697), *ibid.* (one hour in stocks for threating the foreman of a jury); *Case of Matthew Kelley* (1773), *id.*, at 174 (fined 5 pounds for refusal to obey a warrant); *Case of Mary Russell* (Oct. 6, 1703), cited in *id.*, at 172 (ordered to jail until she gave bond for future good behavior for claiming that she had "received as little justice as she would have in hell with the devil sitting as judge"); *State* v. *Stone*, 3 Harris and McHenry's Reports (Md. 1792), 115 (fine of 20 shillings against a lower court judge for refusing to obey the mandate of a higher court); *State* v. *Keene*, 11 La. 596, 601 (fine of $50 and imprisonment "during the space of ten days," for a contempt described by the court in the following terms: "We do not remember a case of grosser contempt, and we doubt whether any are to be found in the books." The annotation of the official court reporter states that "The maximum punishment for a contempt of court, committed by a party to a suit, is ten days imprisonment and a fine of fifty dollars, and the costs." *Ibid.* *Monroe* v. *Harkness*, 1 Cranch (C.C. 1803), 157–158 (imprisonment for six days for violating an injunction); *United States* v. *Caton*, 1 Cranch (CC. 1803), 150 (fine of $5 and ordered to give security of $100 for his good behavior, for refusing to answer questions, behaving in an "insolent manner," and threatening "some of the grand jurors"); *Case of John Rousby*, Proceedings of the Provincial Court of Md. (1675), Arch. of Md. LXV 585 (fine of 100 pounds of tobacco for contemptuous speech by an attorney in court); *Case of John Cherman*, Proceedings of the Charles County Court of Md. (1660), Arch. of Md. LIII 84 (fine of 10 pounds of tobacco for contempt in "Prophainly taking the name of god in vaine in Open Courte"); *Case of Jon Seybrey*, Chancery Court Proceedings (Md. 1669), Arch. of Md. LI 8 (fine of 12 shillings, sixpense for failure to respond to summons); *Case of Lewis Morrice* (1698, New Jersey Court of Common Right), Journal of the Courts of Common Right and Chancery of East New Jersey (1683–1702), 311 (fine of 50 pounds for resisting arrest and denying the authority of the court); *United States* v. *Duane*, Fed. Case No. 14,997 (1801) (imprisonment for 30 days for aggravated contempt by publication); *United States* v. *Emerson*, Fed. Case No. 15,050 (1831) (fine of $5 for fighting and shouting in court); *United States* v. *Carter*, Fed. Case No. 14,740 (1829) (fine of $1 for threatening a witness); *United States* v. *Caton*, Fed. Case No. 14,758 (1803) (fine of $5 for refusing to answer questions and behaving in an insolent manner before a grand jury); *Weiberg* v. *The St. Oloff*, Fed. Cas. No. 17,357 (1790) (fine of $20 for "refusing to obey the process of the court, and in confining in irons a suitor whilst under the protection of the laws"). See also additional authority cited in the Appendix to the opinion of the Court.

[10] Act of June 13, 1799, Elmer, Digest of N.J. Laws (1838), 59.

[11] Act of Dec. 19, 1793, 1 Digest of the Stats. of Ky. (1822), 301.

[12] Act of Apr. 3, 1809, Laws of Pa. (1808–1812), 55–56.

[13] N.Y. Rev. Stats. (1829), 276, 278. More extensive punishment was permitted upon indictment and trial by jury.

[14] Territorial Act of 1807, Aikin's Digest of the Laws of Ala. (1833–1835 Supp.), 87–88.

[15] Act of Apr. 16, 1831, Supp. of the Rev. Code of Va. (1833), p. 144.

It will be noticed that the Virginia statute was quite explicit, and required that the alleged contempt be committed in the presence of the court—far different from the pending bill, under which the judge might be away on a fishing trip when someone might be charged with violating the order.

Mr. ERVIN. Madam President, will the Senator from South Carolina yield to me, to permit me to ask some questions, with the understanding that by so doing he will not lose the privilege of the floor, and with the further understanding that his subsequent remarks will not be counted as a second speech by him on this measure?

Mr. JOHNSTON. With that understanding, Madam President, I yield.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Without objection, it is so ordered.

Mr. ERVIN. I ask the Senator from South Carolina whether in the early days in this country the jurisdiction of courts of equity was not restricted to enforcement of only a few property rights.

Mr. JOHNSTON. That is entirely correct.

Mr. ERVIN. I also ask the Senator from South Carolina whether the tendency of Congress to multiply the number of cases in which equity has jurisdiction has not been one of the developments of the law during comparatively recent years.

Mr. JOHNSTON. That is true. The Senator from North Carolina will recall that the decisions used to be published in separate volumes—one volume marked "Equity"; the other volume marked "Law." But today, that no longer is done.

Mr. ERVIN. That is true.

Does the Senator from South Carolina agree with me that the development of what might be called government by injunction has been a comparatively recent development in the life of our Nation?

Mr. JOHNSTON. That is correct; and a great deal of it is more or less by means of a law passed, in effect, by a court. The judge then enforces that criminal act, without allowing the right of trial by jury.

Mr. ERVIN. Does not the Senator from South Carolina also agree with me that this new development, which we may well call government by injunction, originated in the field of labor?

Mr. JOHNSTON. That is correct.

Mr. ERVIN. Does not the Senator from South Carolina also recall the hard fight labor made to rid itself of government by injunction—that is to say, government by rules laid down by judges in injunctions, rather than government by rules laid down in lawbooks by legislative bodies?

Mr. JOHNSTON. That is true. In some cases, if the Senator will recall, outlandish fines were imposed on unions for violations of court orders.

Mr. ERVIN. Does not the Senator from South Carolina recall that as a result of the revolt of the conscience of America against government by injunction in labor cases the Norris-LaGuardia Act was passed, which virtually forbids the issuance of injunctions in labor disputes?

Mr. JOHNSTON. I do not believe that there is any question whatsoever that the exorbitant way in which the Government dealt with some of those cases brought about the passage of the Norris-LaGuardia Act.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that as a result of the revolt of the conscience of the Nation against the abuse of rule by injunction in labor cases, there was included in the Norris-LaGuardia Act a provision which would provide that contempt proceedings in all labor controversies shall be tried by a jury?

Mr. JOHNSTON. Yes. I think that is the reason the provision was inserted in the bill.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that in the light of the demand for government by injunction in the bill now before the Senate, and the fact that there have been such abuses of government by injunction in the labor field, the geology professor from North Carolina, Collier Cobb, spoke correctly when he said that wise men learn by the experience of others; fools learn by their own experience; but the majority of us learn neither by the experience of others nor by our own.

Mr. JOHNSTON. The Senator has made a statement that is worth listening to.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that any nation which fails to heed the lessons of history is due to repeat the mistakes of the past?

Mr. JOHNSTON. The Senator is entirely correct in that statement. When we study the history of the right of trial by jury over the past hundreds of years, and read about the blood which was shed in the endeavor, and the people who were punished for trying to obtain the right of trial by jury, and observe that now, when we have the right of trial by jury, it is proposed to let it slip through our fingers in the manner suggested, we must conclude that something is wrong with the thinking of the American people.

Mr. ERVIN. Does not the Senator from South Carolina believe it is rather peculiar that shortly after the conscience of the Nation revolted against the abuse of the injunctive process in labor cases, it should be proposed in the pending civil rights bill that government by injunction be established in virtually all business and commercial enterprises throughout the United States, as well as in the assignment of children to public schools and in the administration of the approximately 167 programs under which the Federal Government provides financial assistance to one cause or another.

Mr. JOHNSTON. The Senator is correct. The action that we have witnessed shows that someone has been failing to study history and ascertain the things that harmed us only a generation ago. Now it is proposed to tear down the barrier. The Senator from North Carolina and I, in our speeches to the Senate have warned that labor had better look out if the bill passes.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that, in view of the abuse of government by injunction in the labor field, it is rather shocking to hear some labor leaders advocate the passage of a bill of the character of the one now pending before the Senate, which would extend the rule of government by injunction to virtually all of the business and commercial enterprises in the United States?

Mr. JOHNSTON. The Senator is a prophet. He is bringing to our attention some points that I fear even the Senate and many people in the United States do not realize would be involved in the passage of the bill.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that the right of trial by jury is essential to the preservation of the right of the individual to be free from governmental tyranny?

Mr. JOHNSTON. That is the only way in which the individual can be protected against the Government.

Mr. ERVIN. Does the Senator from South Carolina agree with the Senator from North Carolina that it would be wise to have trial by jury in every case, because of the fact that trial by jury enables the great mass of our citizens to participate in the administration of justice, instead of having the administration of justice solely in the hands of a single professional class; namely, the lawyers?

Mr. JOHNSTON. The Senator is correct again.

Mr. ERVIN. I thank the Senator.

Mr. JOHNSTON. I thank the Senator from North Carolina for bringing out the pertinent points to which he has referred. His remarks have relevancy to the question under discussion, which is the right of trial by jury.

I continue to read from the opinion of Justice Goldberg, which was concurred in by the Chief Justice and Mr. Justice Douglas:

> The laws of other States similarly limited the maximum penalties which could be imposed summarily for criminal contempts.
>
> The available evidence of the practice in criminal contempt cases also suggests that punishments were trivial. This practice was described by Chief Justice Kent in 1809 as follows: "There is no such thing as an abuse of this power in modern times. The case probably is not to be found. An alarm cannot be excited at its existence, in the extent now laid down. * * * The tendency of the times, is rather to induce the courts to relax, than increase in the severity of their ancient discipline, to exercise their power over contempts with extreme moderation." In the case of *John V. N. Yates*, 4 Johnson's Rep. (N.Y. 1809) 317, 375–376. And, in 1916, the Supreme Court of Iowa summarized a century and a quarter of practice in criminal contempt cases in the following terms:
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> "The authorities may be searched in vain for any precedent, under our constitutional form of government, holding it to be in the power of a State to clothe its courts with authority to visit infamous punishment upon any person for contempt or in any proceeding whatever, other than the orderly process of trial." ***Flannagan*** v. ***Jepson***, 158 N.W. 641, 643–644.

Madam President, in just a moment I intend to go into the history of the right of trial by jury which I think is imperative in order to remind the Members of the Senate of what sarcifices and hardship the people who founded our Nation went through in order to gain this right. Before I do that, I want to read the proposed amendment offered by Mr. DIRKSEN and Mr. MANSFIELD in the nature of a substitute to a section of the civil rights bill now before us.

Madam President, the amendment before the Senate at the present time reads:

> SEC. 1101. CRIMINAL CONTEMPT PROCEEDINGS; PENALTIES; TRIAL BY JURY.—In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.
>
> SEC. 1102. Section 151 of the Civil Rights Act of 1957 (41 Stat. 638) is amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following: "*Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases."

Madam President, the right of trial by jury was not easily come by and the men who founded this country and who wrote the Constitution felt so strongly on this right that they, in the clearest of language, wrote it into the Constitution. As Mr. Justice Goldberg and Mr. Justice Douglas, together with the Chief Justice, pointed out in their dissenting opinion in the United States against Barnett, the States themselves, at the time the Bill of Rights was ratified, had specific statutory limitations on the punishment which could be imposed summarily for criminal contempts. Even then the Founding Fathers were preserving the right of trial by jury, and when they wrote the Constitution they made it even more clear that they were not willing to let this new Nation be founded without guaranteeing this right of trial by jury in all criminal cases. The right of trial by jury, to say the least, in this modern world, has been, is, and should always be a distinct American tradition as well as principle of law.

Madam President, I wonder if in title III, the thinking is not too close to Benito Mussolini's concept of the state, by which he meant, of course, a highly centralized dictatorial and corporate government, rather than making any reference to the traditional American concept of States as entities within a Federal union. Benito Mussolini—1883–1945—made this uncompromising statement on the State in his "The Doctrine of Fascism:"

> The keystone of Fascist doctrine is the conception of the state, of its essence, of its tasks, of its ends. For fascism the state is an absolute before which individuals and groups are relative. Individuals and groups are "thinkable" insofar as they are within the state. The liberal state does not direct the interplay and the material and spiritual development of the groups, but limits itself to registering the results; the Fascist state has a consciousness of its own, a will of its own, on this account it is called an "ethical" state. In 1929, at the first Quinquennial Assembly of the regime, I said:
>
> "For fascism, the state is not the nightwatchman who is concerned only with the personal security of the citizens; nor is it an organization for purely material ends, such as that of guaranteeing a certain degree of prosperity and a relatively peaceful social order, to achieve which a council of administration would be sufficient, nor is it a creation of mere politics with no contact with the material and complex reality of the lives of individuals and the life of peoples. The state, as conceived by fascism and as it acts, is a spiritual and moral fact because it makes concrete the political, juridical, economic organization of the nation and such an organization is, in its origin and in its development, a manifestation of the spirit. The state is the guarantor of internal and external security, but it is also the guardian and the transmitter of the spirit of the people as it has been elaborated through the centuries in language, custom, faith. The state is not only present, it is also past, and above all future. It is the state which, transcending the brief limit of individual lives, represents the imminent conscience of the nation. The forms in which states express themselves change, but the necessity of the state remains. It is the state which educates citizens for civic virtue, makes them conscious of their mission, calls them to unity; harmonizes their interests in justice; hands on the achievements of thought in the sciences, the arts, in law, in human solidarity; it carries men from the elementary life of the tribe to the highest human expression of power which is empire; it entrusts to the ages the names of those who died for its integrity or in obedience to its laws; it puts forward as an example and recommends to the generations that are to come the leaders who increased its territory and the men of genius who gave it glory. When the sense of the state declines and the disintegrating and centrifugal tendencies of individuals and groups prevail, national societies move to their decline."

I for one am not prepared to accept the views of the late and unlamented Benito Mussolini on the corporate state. I am sure that the proponents of title III are not prepared to do so either. But in their zeal for what they regard as civil rights—and what I regard as individual and national corruption, they have not only thrown away the rights of individuals and the rights of States of the American Union, but they have also thrown away a basic right which is so intimately intertwined with the rights of both individuals and the 50 States. That right is trial by jury, and I propose at this point to explain to them, in the light of history and in terms of the blood, sweat, and tears of mankind, the meaning of that right to trial by jury which the proponents of title III are willing to throw away with a wave of their mystical legislative wand.

The trail in history of the struggle leading to trial by jury as we know it today is marked by the blood of freedom loving men from the time of medieval England under William the Conquerer in the year 1066 until 1964 when street riots have coincided with the great debate over the civil rights bill of 1964. The struggle to get from under the kings and other despots of the ages, who ruled men with iron, prejudiced fists, is a long and bitter one worthy of every one of us to review at this time—a time that finds some of us in the United States eager to consider taking this right away from the American people, the inhabitants of one of the few remaining citadels of the truly free world. It is almost inconceivable—certainly I never thought I would see such an attack against the pillars of freedom in this country in my lifetime.

First, I wish to outline the English origins of trial by jury. Modern scholars agree that trial by jury as we know it today had its origin in medieval England in the first century and a half of Norman rule when William the Conqueror, beginning in 1066, and his heirs sought to strengthen their hold upon the foreign land which they had conquered.

The earliest trace of the jury is found in the sworn inquest, originally a Frankish, or perhaps even a Roman, practice whereby the ruler sent out his agents to question people throughout the kingdom on any matter of government or administration which interested him. William the Conqueror instructed his agents to summon a number of reliable, knowledgeable men in "every shire and hundred," put them on oath to tell the truth, and then ask about landholdings, property, previous tax assessments, and similar matters. These sworn inquests provided the material for the Domesday Book, which recorded the names and properties of all landholders.

The function of the jury as essentially a local factfinding board continued through the reign of Henry II in the inquest on sheriffs to inform the King about the conscientiousness of his representatives and through the reign of Richard I in the assessment by local juries of the Saladin Tithe of 1188, the first income and personal property, needed to finance Richard's crusade.

The scope of the jury was greatly expanded by Henry II as a means of indicting those who had violated the King's peace by robbery, thievery, murder, arson, or counterfeiting. In these assizes, the itinerant justices were assigned definite schedules and areas in which they were to try in the King's name all men accused by their neighbors of these misdeeds. Henry II also initiated three new actions whereby the decision of a jury would determine whether anyone had been wrongfully ousted from possession—as distinct from title—and if so, would immediately reinstate him.

Thus the jury was originally developed not to give a verdict but to supply evidence on oath, as witnesses do today. Insofar as this evidence amounted to an indictment, the juries were parallel to modern grand juries. Until the 13th century, the indictment by jury was followed by a trial by ordeal, battle, or compurgation—in which the accused endeavored to produce as many men as possible to swear to his innocence.

Only as the men came to doubt the validity of ordeals, only as the church refused to preside over the ordeals which thus could not be said to reflect God's will, and only as men became willing to accept the opinion of a second, deciding jury—which might contain the same personnel as the indicting jury—did trial by jury become universal. Ironically, however, all men were still thought to be entitled to God's verdict through ordeal rather than to be forced to rely upon a mere human decision, and trial by battle was not formally abolished in England until the 19th century.

Trial by jury was always a privilege offered only by the King in his courts. The feudal lords were not permitted to offer jury trials but were themselves the judges in their own courts. As a result, since many cases involved alleged malpractices by the lords, litigants relied more and more on the King's courts with their relatively impartial juries. This increased appeal to the royal courts, caused almost entirely by the innovation of jury trials, was perhaps the greatest single factor in the development of a strong central administration in England. This administration, moreover, was never wholly dependent upon the feudal classes for its services nor ever wholly divorced from the middle classes who helped to administer its justice.

Madam President, I submit that a very strong and lasting lesson should be learned from history and particularly on this point.

It will be noticed that we went from trial before the lords and masters to the King's court because of injustices. The local lord, so to speak, could not be counted on to be fair and impartial. Later the King's court, as will be borne out by the birth of the Magna Carta, was found to be unreliable and our ancestors soon learned that no one person, be he a local lord or magistrate, as in our day, or be he the King with supposed blessing of God Almighty, could be entirely entrusted with the justice of fellow men. So it came to pass that, under the Magna Carta, our first appearance of fair trial by a jury of peers was made.

Madam President, I cannot help thinking of the time, when as a young lawyer practicing law in South Carolina, I wished to have a case tried without a jury. I asked the judge to try it without a jury. It involved a misdemeanor. Two boys were being tried for stealing watermelons.

I went out to talk with my clients to get a few facts, and also to get paid before I got into the case—a lawyer knows how necessary it is to do that—and when we returned, I saw six men lined up in the courtroom. I said to the judge, "What are those six men doing there?"

The judge said, "That is your jury."

I said, "I did not ask for a jury."

He said, "Well, you have a jury."

I will not go into the details of that case to show how unfair judges can be. The first man that was drawn was one of the judge's constables. The constable was on the jury, and he stood there, when the next man was called to serve on the jury, and said, "We don't want him. He won't convict."

When that happened, I rose to a point of law, and I told the judge that I was not getting a fair trial for my defendants. I talked so much about it that I believe the jury became frightened a little. After they retired to consider their verdict, they returned. They did not remain out very long. They came back in about 5 minutes with their verdict of not guilty. My clients were acquitted of stealing the watermelons.

The foreman of the jury then said to me on the side, "Listen, young fellow, do not come down here in our county any more, saying you cannot get a fair trial."

I said, "I am glad I got this one. I am sure there was a reason for me getting it, but I got it."

He said, "Do not come down here any more, saying you cannot get a fair trial."

Then the judge called me to one side, and said, "I want you to know that I did not want to try this case. I did not think your boys were guilty and I did not want to convict them. However, you know, if I had found them not guilty I would never again be elected judge in this district."

I wonder if there are not judges in this day and age who perhaps are looking for a promotion. If they decide against the Attorney General, they may not get a promotion. We might as well face that situation.

The only way to protect a man under the bill now before the Senate is to provide a jury trial. Juries are provided so that justice can be had in a case. I am sorry to say it, but sometimes judges are "tied up" a little, and that sort of thing can happen.

In South Carolina there are 15 judges, who travel all over the State, going from one county to another, trying cases.

Therefore, a judge does not sit permanently in one county, except that he stays in his county in the summertime, because judges do not wish to travel around very much in the summer.

Senators may be interested in hearing what I did when I was practicing law. I studied my cases, and I studied the judges. I had a very large practice, in both civil and criminal cases. I would find out which one of the judges would be sitting in the county on a certain day. I would find out what his line of thought was in connection with various cases, what kind of sentences he would mete out, and how he stood on various subjects.

Sometimes, when a certain judge came into town to try cases, I would have an excuse to not try the case, if I had a case that involved certain crimes on which I knew how the judge stood, and if I thought I could not get a fair trial before that judge in a case involving that particular crime. That shows how the human element enters into the matter of judges.

Senators can ask any lawyer practicing in South Carolina, and if he is at all successful, he will say that that is what he does, too. He studies judges, and he studies the juries before he goes to trial.

Under the bill, if it is enacted into law, the Attorney General, if he does not like a particular judge, will not take his case before him, but will go to a "sweet" judge. He does not necessarily have to try the case in the county in which the defendant lives. A criminal case is supposed to be tried in the county in which the crime was committed, unless a change of venue is involved. A lawyer will ask for a change of venue if he thinks he cannot get a fair trial in the county in which the crime was committed. In that case, the trial is moved to another county. That is the only exception that I have ever heard of. The Attorney General would select the county, to make certain that the case would be tried before a judge who could be expected to decide in the Attorney General's favor.

I am not in favor of such a procedure. I believe that a person is entitled to a fair and impartial trial, and that he should not be framed by anyone, even by the Attorney General.

Clause 39 of the Magna Carta provided that no freeman should be imprisoned, dispossessed, or in any way detained except by a fair judgment of his peers and according to the law of the land. Modern scholars are agreed that this did not refer specifically to trial by jury at that time. Rather it was intended to put an end to rapacious King John's habit of taking hostages, levying exorbitant fines, and imprisoning nobles without even consulting his own council of barons. But both in its immediate effect and in its later interpretation, the clause did contribute to the idea that every man was entitled to a legal hearing before any penalty, detention, or dispossession.

The greatest threat to jury trial in the Middle Ages was the decreasing strength of the kings who controlled the royal justice. For whenever a weak king came to the throne, the feudal nobles did not hesitate to bribe or threaten jurors flagrantly. Many kings, often handicapped by the need of noble support for foreign wars, had not the power to check these mighty barons.

The process of attaint, originally devised to provide extra protection to the defendant, constituted one royal weapon against the corruption of justice. It was really an extension of the original concept of the jury as a panel of witnesses rather than judges. When the jury gave a verdict that seemed to contradict the known facts, the jurors themselves could be tried or attained for perjury, convicted, and imprisoned. This practice, although originally intended to remedy abuses, lent itself—as have so many reform measures throughout the pages of history—very easily to further abuse, since the feudal lords were also able to attaint juries who decided against them. The result was that jurors occupied a very precarious position and that litigation often dragged on for as much as half a century.

Actions for attaint were not finally prohibited until the famous Bushell case of 1670 when a judge attempted to imprison a whole jury for a verdict with which he disagreed. By that time, juries were clearly recognized as decision-making rather than evidence-giving bodies, and therefore the charge of perjury was no longer applicable. Actually, with the coming of the strong Tudor and Stuart governments the lengthy process of attaint had fallen into disuse.

The Tudor and Stuart method of insuring fair juries was more direct, but perhaps also more repugnant to our own ideas of justice. The Court of the Star Chamber, which had gradually developed from the king's privy council and was comprised of certain privy councilors, bishops, and judges, was in 1487 given specific jurisdiction to hear and settle in closed session any disputes—legal, judicial, administrative—in which the interest of the king was involved.

Originally the star chamber performed a useful task: settling disputes between and punishing important barons who might otherwise have escaped through common law loopholes, looking into cases of alleged jury corruption, handling many administrative matters equitably and efficiently, and in general reinforcing rather than competing with the other branches of royal justice.

But, as with many other institutions founded in the best of faith and very well equipped to handle certain immediate problems, the star chamber tried to extend its potentially unlimited power into fields where it should never have gone.

If we pass this bill, we will find that it will be only the beginning. This will be only one of the safeguards that will be eaten away by termites. Many others will be coming along to join it, until the right of trial by jury will be entirely taken away from the people of the United States.

"Oh, no," it is said; "that will never happen." But little by little, the right of trial by jury will be taken away.

Under Charles I the bishops on the court undertook to punish religious writers with whom they differed, to try to enforce a censorship on all printed matter, and to mete out cruel and unusual punishments for minor political offenses.

The star chamber had clearly outlived its usefulness as a method of controlling rebellious barons and was becoming an instrument for religious and political persecution. The star chamber with its denial of the trial by jury, which Englishmen had come to feel was their right, constituted one of the main grievances against Charles I, and was an important element in his fall from the throne. One of the first acts of the Parliamentary Party after it had gained the upper hand was to abolish the star chamber in 1641, and to assert the right of every Englishman to a fair and open judgment by his peers.

During and after the French Revolution a panicked fear of revolutionary elements led to repressive censorship and severe curtailment of civil liberties in England. But fortunately there were also men like Charles James Fox who continued to place faith in the people and who eventually won several important victories for the principle of trial by jury.

America had only recently been discovered and was beginning to be settled. People were coming over from the old countries, where they had really suffered from this injustice. That is the reason why they provided for jury trial. They had suffered the ill effects of not having the right of jury trial.

In 1793 Parliament passed an act suspending habeas corpus for a year in certain cases. This act, renewed several times, abrogated the ancient privilege conferred by the writ, and therefore in effect denied the accused the right to a jury trial before detainment. Although most of the upper classes accepted this as necessary protection against revolutionaries, Charles James Fox never ceased to protest this invasion of civil liberties and the denial of trial by jury. Fox himself was expelled from the Privy Council in 1798 for proposing the toast, "Our sovereign—the people." But within a decade, the crisis abated, his words were heeded, and habeas corpus and the right to trial by jury were restored, never again to be suspended in England.

Fox himself was responsible for the extension of the scope of jury trials in libel cases. Since the libel laws represented the principal restriction upon freedom of speech in England, it had been customary for the judge in a libel case to decide himself whether a given publication was a libel and leave to the jury only the question of whether the accused had actually been responsible for its publication. Juries resented their inability to answer what usually was the most controversial question of the case, and in the case of the dean of St. Asaph the jurors deliberately declared a man innocent of publication simply because they did not consider the material libelous. In 1792 Fox was responsible for a new libel law which extended the power of juries to decide the whole question, as to law as well as fact. In principle, it was a victory for democracy and trial by jury—although in practice the juries tended to be less tolerant in their interpretations of libel than the judges had been.

> Since the beginning of the 19th century, and until recently in the United States, there has been very little threat to the right of trial by jury in criminal cases. The grand or indicting jury was eliminated in some instances by the 1873 Judicature Act and almost entirely abolished by the 1933 Administration of Justice Act. In civil cases jury trial was no longer considered necessary as a rule, so that today less than 10 percent of civil cases in England are tried by jury. These changes, which came about during the 19th and 20th century judicial reforms, were made in the interests of economy, efficiency, and equity for all. On the whole, they have accomplished their purpose and have not been criticized. But the growth of so-called administrative law, that is, of legal decisions made by various boards or commissions upon disputes to which they themselves are a party, like income tax, community planning, and education, has led to widespread demands for a comprehensive administrative code, with more provision for appeals, and perhaps even some juries. Although nothing has yet been done, it is clear that the absence of jury trials in this ever-increasing area poses many threats to property, if not actually to life and liberty.

Madam President, let me repeat or emphasize that particular point. First, I state that this particular quotation is not my own, but comes from a history of trial by jury as we know it today, as assembled by the American Law Division of the Library of Congress. This is not an opinion, but is an affirmation of conditions resulting from cold facts.

> It is clear that the absence of jury trials in this ever increasing area poses many threats to property, if not actually life and liberty.

Madam President, this is an example of what is to come in this country. This is what has happened in England. Is it not evident to the Members of this Senate that after that denial of trial by jury in England, it will be a hard and toilsome uphill fight to restore this liberty? I ask you, how long would it be before the Supreme Court of the United States, as a result of such legislation removing trial by jury, would hand down some order extending this condition on the basis of "intent shown by Congress."

Madam President, I can see it now: Congress would become nothing but a rubber stamp to approve Presidential budgets, while the Supreme Court would assume the role of legislating by Court order, using the district courts as instruments of enforcement. We are truly treading on a razor's edge. We are at a point in history where the U.S. Senate can act as representatives of independence and can preserve forever our jury and trial system or, if we slip the slightest, we can set a precedent that will set us on the road back to dark ages; of despotic, and, yes, despicable, high judges and lords who would rule over our people in such manner that our laws would be meaningless except as they provided power to those on the bench. There would be no protection for the people.

Senators do not have to take my word for it. They need only to listen to what David F. Maxwell, of Philadelphia, Pa., president of the American Bar Association, said on this subject.

The American Bar Association Journal of June 1957, carried a very enlightening article written by Mr. Maxwell, which points out the insidious process that is gradually tearing down the right to jury trial in America in civil cases, as has been happening in England.

I feel that it is most important that we all understand that what is happening in civil cases, as pointed out by President Maxwell, in his article, is likely to occur in the criminal field, as we can vividly see in the pending civil rights bill.

I quote Mr. Maxwell's article:

> For some time I have been deeply concerned by the insidious process which has been gradually eroding our right to trial by jury in civil cases. The right to trial by jury is firmly imbedded in the American system of jurisprudence and is as old as the country itself. Reference to it is found in the Declaration of Independence, which deplores the abuses and usurpation by George III "depriving us in many cases of the benefits of trial by jury." Article VII of the Bill of Rights guarantees trial by jury "in suits at common law, where the value in controversy shall exceed $20."
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> Yet, during the past half century, bit by bit, there has been a whittling away of jury jurisdiction. Arbitration has replaced the

not done in the State of South Carolina. Colored or white, once a person is registered he is allowed to vote for 10 years with that registration certificate. That is how simple it is to vote in South Carolina. One can see citizens lined up at the various county seats, getting ready to be registered to vote, white and colored in the same line, giving the name of the precinct in which they live, and receiving their registration certificate. They are all registered together, black and white. That process has been going on for many years throughout my State.

Devotion to the principle of trial by jury was so deeply imbedded in the minds of the colonists that even when the panic over the French Revolution hit America and the alien and sedition laws were passed, trial by jury was guaranteed to any citizen accused of seditious activity. Aliens, however, were subject to deportation without trial if the President judged them dangerous to the country, even as in some instances they are today.

But even though the letter of jury trial was maintained, and even though Claiborne of Tennessee insisted that the jury be allowed a general verdict, as in Fox's libel law, in effect the spirit of jury trial was consistently violated. For example, in the trial of the Democrat James T. Callender, a critic of the Federalist administration, Supreme Court Justice Samuel Chase was patently unfair, and permitted a jury to sit in which there was not one single member who was not an ardent Federalist. There were also attempts to discredit Congressmen who criticized the Government, like Matthew Lyon, of Vermont. His triumphant reelection showed the unpopularity of the law. The defeat and ultimate failure of the Federalist Party in the following elections was a further indication that Americans had come to repudiate all partisan or political abuses of the principle of trial by jury.

Madam President, there we have an example of an attempt to abuse trial by jury back during our colonial days when the spirit of the Revolution was still hotly aflame in the minds of all Americans. But did the colonists rush up to Congress and steamroll through the House and Senate some bill to destroy trial by jury? They did not. They took care of the matter as I outlined previously. They left the trial by jury system intact as it should be today and forever more.

The greatest pressures upon trial by jury in America have, with one exception, come in periods of wartime. It is clear, however, that on the whole, trial by jury has come to be more respected with time, and perhaps, also, with the fact that the more recent wars have been far removed from the American scene.

During the Revolutionary War, when there was real fighting over most of the Colonies, it is undeniable that many Loyalists were tarred and feathered, ridden out of town on rails, deprived of property, and even of life with no semblance of jury trials. Tories were usually first regulated by local groups, then by the military power, and finally by the State legislatures and Congress. Even after the war they often had to give proofs of loyalty and might still be arbitrarily banished or dispossessed. In general, however, although formal jury trial was ignored, the opinion of the majority prevailed, and once satisfied that the Loyalists had repented and that independence was achieved, the majority was not especially cruel or bloodthirsty.

During the War of 1812, the issue of trial by jury could be said to have arisen in that the British Navy seized American sailors for use on their own ships, allowing no trial or jury verdict of any sort. Although in accordance with British nationality laws, these acts, which were responsible in no small measure for the Anglo-American war, were in effect a violation of the rights of an American citizen to trial by jury or at least the benefit of habeas corpus, before detention. After the fall of Napoleon and the end of the war, the practice was stopped.

During the War Between the States, Lincoln unhesitatingly adopted the view that military necessity overrode civil liberties and pressed Congress to pass acts permitting the suspension of habeas corpus and permitting arbitrary arrests for suspicion of seditious activity. But despite his insistence that in theory military courts could sit and that suspects could be detained at will, in practice these measures, largely preventive, were leniently enforced. A total of perhaps 25,000 persons were arrested, briefly detained, and then released without charges. In February 1862, a wholesale pardon of political prisoners was issued. In the celebrated case of Vallandigham, a Democrat opposing the continuation of the war who was denied habeas corpus and tried by military tribunal, the Supreme Court refused to take cognizance of the military records—in theory, a great check to civil justice—but in practice Vallandigham's punishment was only a banishment to the Confederacy. When he did return to the north, despite the sentence, to rail Lincoln, he was not further molested.

The equally well known case, ex parte Milligan, is the only instance in which the Supreme Court actually denied the jurisdiction of the military to try a man suspected of plotting a hostile military expedition. As Judge David Davis wrote:

> Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration—martial law can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction.

Milligan was released and won a suit for damages. On the whole, then, although the precedent established for martial law in wartime was dangerous, the actual administration of the emergency legislation was moderate. No one met death or even served out a full sentence of imprisonment and fine under these treason laws.

Madam President, I think it is again necessary to point out the tremendous victory for the civil rights of Americans as herein contained. In simple language it was written into precedent that so long as the doors of the courts were open and the courts could function in this land, that citizens would be guaranteed trial by jury, regardless of threats and even regardless of treason laws. Think of that. In time of civil war, the right of trial by jury was upheld and guaranteed, and yet some here in the U.S. Senate today wish to remove that right arbitrarily in a time of peace and in a time when there was never less need for such legislation—if there ever was or has been such a need. No, at every turn in history, the lessons stand out before us like neon signs—"Preserve trial by jury at all cost."

Madam President, I ask Members of the Senate, What price to preserve trial by jury could possibly be greater than the price paid to obtain it in the first instance?

**Mr. LONG of Louisiana.** Madam President, will the Senator yield for a question?

**Mr. JOHNSTON.** I yield for a question.

**Mr. LONG of Louisiana.** Is there any evidence that a U.S. district judge, having civil contempt power, which would be available to him anyway, would have any difficulty in carrying out or enforcing any order that he might find it necessary to issue under the terms of the bill?

**Mr. JOHNSTON.** The bill provides sweeping powers. A judge could do almost anything.

**Mr. LONG of Louisiana.** But if a judge felt that his order was not being carried out, and a jury failed to convict, the judge could still order the defendant to come before the court and order him to do whatever the judge had in mind ordering him to do?

**Mr. JOHNSTON.** Oh, yes; he could call a defendant before him and tell him what he must do.

**Mr. LONG of Louisiana.** Is there any evidence that southern juries could not be expected to be as honorable and as correct and as proper in the execution of their sworn duty as jurors in other parts of the country?

**Mr. JOHNSTON.** As was brought out today, southerners are Christian-like, God-fearing people. I believe it was the Senator from New York [Mr. JAVITS] who made that statement. I believe that Christian-like, God-fearing people would fulfill their oaths.

**Mr. LONG of Louisiana.** Has not the Senator from South Carolina found, in his experience as a Governor and a Senator, and as a man who has had responsibilities at the Nation's Capital as well as in his own State, that the people of the Nation are pretty much the same everywhere? If they are confronted with the same problems and the same facts, will they not do what is the decent thing, be they westerners, northerners, easterners, or southerners?

**Mr. JOHNSTON.** That is true. Whether we are from the North, South, East, or West, we are all human beings. We are not perfect. I believe it will be found that, on the average, the people of the South are just as Christian-like as can be found anywhere in the United States.

Mr. LONG of Louisiana. Would it not be fair to say that had the average person in the North been born in the South, and had he been confronted with the same facts and the same experiences with which the average southerner is confronted, he would arrive at precisely the same conclusion that the average southerner would arrive at?

Mr. JOHNSTON. The Senator is absolutely correct. If a man from the North had been born in the South, he would take the same position that the Senator has just stated.

I have found from my experience that few persons who come from the North to the South and remain there any length of time do not have the same opinions that we have.

Mr. LONG of Louisiana. Does it not really boil down to the fact that those who have no trust and no respect for southerners serving on juries are taking a different view of the problem because they have not been exposed to the same problem, over the same period of time that southerners have been exposed to it?

Mr. JOHNSTON. There is no question about that; the Senator is entirely correct.

Mr. LONG of Louisiana. Is it not more or less true that people who hear eloquent speeches and beautiful statements made outside the South tend to take the attitude, "Do not confuse us with the facts. We have heard all about the situation, have made up our minds, and have arrived at the conclusion that this is what we ought to do"?

Mr. JOHNSTON. The Senator is correct. The great trouble with many people who do not live in the South and do not understand the South is that they jump to conclusions and make up their minds from a few scattered facts, without understanding that they have been misled.

It will be found that white persons in some places are mistreated at times, and that colored persons in some places are mistreated at times.

I heard some growling and complaining about some activities in the North recently. I heard something about fighting taking place at some kind of World's Fair. I read that there was a little trouble up there. I have also heard of trouble occurring in certain stores in the North. But we do not think of that as something that is taking place all over the North.

Yet people from the North pick out a few sore spots in the South and treat them as though the same situation existed all over the South.

### AMENDMENT NO. 553

Mr. STENNIS. Madam President, I ask unanimous consent that the Senator from South Carolina may yield to me to submit an amendment.

Mr. JOHNSTON. Madam President, I yield for that purpose, with the understanding that I shall not lose the floor, and that my resumption will not count as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Senator from South Carolina.

Madam President, I send to the desk, and ask that it be considered as read, an amendment to title II of H.R. 7152.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed, and will lie on the table.

Without objection, the amendment will be considered as having been read.

(The amendment is as follows:)

On page 11, between lines 17 and 18, insert the following new section:

"SEC. 206. Whenever, as a result of compliance with the provisions of this title by the owner or operator of any business covered by this title, such business suffers financial loss, the owner or operator of such business may bring a civil action for damages against the United States in the United States district court for the district in which such business is located or in the district in which the owner or operator has his principal office. If the court finds that the business involved has suffered financial loss as a result of the compliance by the owner or operator of such business with the provisions of this title, the court shall ascertain the amount which would be just compensation for the same and shall enter a judgment in favor of such owner or operator in such an amount."

Mr. STENNIS. Madam President, this amendment would authorize a civil action against the United States by the owner of any establishment covered by said title II in the event such an owner suffers financial loss as the result of being forced to comply with the provisions of this act.

The enactment of this bill, and particularly title II, will result in a flood of litigation. The patrons of hotels, motels, restaurants, lunch counters, and all other covered establishments which for generations have been accustomed to separate facilities being provided for the white and colored races are not suddenly going to accept integrated facilities. Likewise, the owners of these establishments are not going to voluntarily open their doors on an integrated basis.

Litigation is bound to follow. If the owner of a covered establishment is forced to comply with the provisions of title II, his established clientele and business will discontinue patronizing that establishment. We all know what happens when customers stop trading with a business: The business suffers financial loss and possibly bankruptcy. It is an economic fact of life that without trade, private enterprise ceases to exist.

We have already seen what can happen to a business which is forced to offer its services to all the public on an integrated basis. In Winona, Miss., Mrs. Marjorie Staley, who owned and operated a restaurant located in the depot of the Continental Trailways Bus Terminal, was forced by the Government to discontinue segregating her customers. Whereas she formerly had a prosperous business, employing seven or eight people and serving both white and Negro customers, she now has no business. Both the Negro and white patrons stopped coming into the restaurant. They did not want to be served in an integrated facility, so they took their trade elsewhere. That restaurant was forced out of business by a Government edict which was contrary to the desires of the overwhelming majority of all concerned. There can be no other conclusion, and there can be no doubt that the same thing will happen in case after case if the proposed legislation is passed.

I therefore believe it is only proper and just that the U.S. Government be liable for any losses incurred by the owner of a facility covered by title II as the result of compliance with that title. The amendment which I now submit provides that the owner or operator of such a business may bring a civil action for damages against the United States in the appropriate district court. The court shall determine issues of fact as to whether the business involved has suffered financial loss as the result of complying with the provisions of title II. In the event that such a loss is established, the court shall enter a judgment in favor of the owner for damages in the amount of the loss. Only in this manner can a business be compensated for complying with an unjust, unreasonable, and, in my opinion, unconstitutional law.

Mr. JOHNSTON. Madam President, there is nothing more important than the preservation of trial by jury—not even isolated and questionable allegations of disenfranchisement and segregation.

During the First World War, there was no suspension of habeas corpus or military trials without juries. Espionage and sedition laws were passed, covering a wide field of activities and potentially limiting freedom of speech and of the press very seriously. But these cases were all tried by juries. In fact, there was perhaps an undue emphasis upon leaving all settlements to popular feeling. There were no efforts of any sort to influence and mitigate the full force of indignation against offenders. As a result, the principle of trial by jury was reinforced, although the contrast between Debs' 10-year sentence for pacifism and Vallandigham's brief banishment for real sedition may indicate that popular juries are often more severe in periods of crisis than is an apparently arbitrary executive.

During the Second World War, the most conspicuous violation of the right to trial by jury was the deportation of the American citizens of Japanese origin from the west coast. A preventive measure devised in good faith by the President as a military necessity in case of Japanese invasion, the deportation was upheld as constitutional by the Supreme Court. In ex parte Endo, however, the Court held that a Japanese-American citizen whose loyalty had been proven could not be detained. The Supreme Court did not, however, uphold the lengthy imposition of martial law in Hawaii. There has been criticism of these opinions from both sides. In the difficult cases where a line must be drawn between individual right and military necessity, perhaps the best words are those of Justice Jackson:

> The chief restraint upon those who command the physical forces of the country, in the future, as in the past, must be their responsibility to the political judgments of their contemporaries and to the moral judgments of history.

With the exception of the Reconstruction era, trial by jury has been a cherished right in the United States in peacetime. Occasionally it has been neglected or abused in moments of political, religious, economic, or racial stress, but more moderate elements have always reappeared, to affirm its spirit as well as its letter.

The Reconstruction era provides the most flagrant example in our history of a peacetime suspension of the right to trial by jury through the establishment of military government in areas where fighting had clearly ended.

Madam President, I believe that experience is having some effect on the attitude in the South at the present time. Those who are aware of the experience during the Reconstruction period, when the right of trial by jury was suspended in the South, can really appreciate the value of the right of trial by jury; and that realization may be one of the reasons why the South has constantly had a keen awareness of the importance of the right of trial by jury.

The excesses of the military governors, and of the carpetbaggers and scalawags who surrounded them, are well known. Deliberate repudiation of all the principles upon which the Constitution was conceived, the Reconstruction acts are today condemned, and rightly so, by all men. Indeed, within a quarter of a century, the men who were responsible for this transgression upon trial by jury and upon almost every other civil right had been repudiated by the whole Nation.

Mob violence has been the main source of peacetime violations of the right to trial by jury. Examples of this may be found from all parts of the country and almost all periods of its history: anti-Masonic riots in New York and Pennsylvania, in the late 1820's; know-nothing riots in the whole Catholic belt between Boston and New Orleans, in the middle of the 19th century; Mormon massacres and deportation from Missouri, in the 1830's; the enforcement of the Algerine laws in Rhode Island, in the 1840's; lynchings in the South and elsewhere; mobbing or abolitionists in the North; race riots in Illinois and Washington, D.C., as well as elsewhere; labor-management violence throughout the country; persecutions of blasphemers, anarchists, radical social reformers, birth control advocates, suffragettes, Asiatics; and innumerable other cases where mere unpopularity has given rise to a deprivation of the constitutional right of every citizen to trial by jury.

Mr. President (Mr. BAYH in the chair), I emphasize that in all cases where trial by jury was obstructed or eliminated or bypassed, it resulted in transgressions upon the civil rights of people. In the name of any movement or any thing, can any U.S. Senator advocate the abolition of trial by jury? I repeat, there is no greater right than that of trial by jury. The iniquitous bill now before us, H.R. 7152, would destroy that right.

Movements such as this do not stop dead at the end of any legislative or administrative road, but, like creeping ivy, go on growing, until the whole is enveloped, and the people suddenly find themselves the slaves of their own creation. All tyrants and dictators assumed the throne of power through such beginnings. If we ever open the door, Mr. President, there will be no end, except an end to trial by jury and an end to freedom.

Trial by jury, although originating in England as a means of extending royal knowledge and power, was adopted in America as a means of insuring local protection from a remote and tyrannical administration. Deeply rooted in the American concept of government, it has withstood the attacks of the executive in wartime and of the mob in peacetime. The right to trial by jury has occasionally been ignored, from time to time denied, but never seriously attacked as a principle, as is being done today in connection with civil rights bills.

In the words of Alexis de Tocqueville, 1805–59, French legislator and the author of the two-volume work, "Democracy in America":

> It [the jury] imbues all classes with a respect for the thing judged and with the notion of right. If these two elements be removed, the love of independence becomes a mere destructive passion. It teaches men to practice equity: every man learns to judge his neighbor as he himself would be judged * * *. The jury teaches every man not to recoil before the responsibility of his own actions and impresses him with that manly confidence without which no political virtue can exist. It vests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge toward society and the part which they take in its government. By obliging men to turn their attention to other affairs than their own, it rubs off that private selfishness which is the rust of society * * * thus the jury, which is the most energetic means of making the people rule, is also the most efficacious means of teaching it how to rule well.

I charge, without hesitation or reservation, that the civil rights bill of 1963 before us today is a misnomer, and that it is, in truth, a subterfuge attack against the rights—yes, the civil rights—of every American, be he white, black, red, or yellow, Christian, Jew, Mormon, Protestant, or Catholic.

The idea of dismantling the traditional right of trial by jury has been smelted into highfalutin, do-good-sounding language in an attempt to fool the people. It is an insult to the intelligence of the American people. Anyone who is being taken in by such propaganda should now take time to study this bill, H.R. 7152. I doubt if anyone here would then vote to destroy trial by jury for any reason.

Mr. President, we have looked at the story of the trial by jury system as written throughout our English history. It is very plainly evident, to my way of thinking, that it took practically 900 years for people of the English-speaking world to evolve from sadistic tyranny into a world of freedom wherein men are guaranteed a trial by a jury of their peers.

And we have seen that after 900 years of struggling for this greatest of all human rights, how this great human right is once again being threatened with extinction. Gradually, men of expediency are succeeding in eliminating trial by jury. As President Maxwell of the American Bar Association pointed out, it is being done by an erosive practice in the field of civil cases. This is but the prelude of worse to come in all fields.

As we have seen in reports from England, the right of trial by jury is being abolished by means of a complicated maze of rulings, fines, directives, and so forth, being issued and directed by bureaucrats and departmental officials. "Give us regulatory authority," they cry, "and we will rule by omission without the troublesome system of trial by jury."

At the present day and time we are getting into such a rush that everything must be done immediately. In the courts the desire is to do everything immediately. Therefore, we are told that a case could be tried without a jury, and that the court would get through with it much more quickly.

I believe that we should take a little time to preserve the rights of the individual in the United States and not take away from our citizens the right of trial by jury.

I warn the Senate of the United States of America here and now that if we pass this civil rights legislation it will result in the crushing of free Americans imbued with the dignity of man into cringing subservient masses of statistics. Our people will be cast down beneath a vast shadow of darkness that will certainly result in either final subjugation and an end of freedom in this country, or in open revolt by the people against the leaders whom they will accuse of having stolen their rights—yes, their civil rights if you please.

As I think about the right of trial by jury, and as I study history and observe how, over the years, in America we have been gradually giving up little rights, I see that we have given up a little more right, and then a little more right, until today a great many of our rights have gone into the hands of bureaucrats, boards, commissions and, in the field of the military, into the hands of courts martial, which do not provide the right of a trial by jury. Our country is gradually drifting away from an observance of the right of trial by jury. The result will be that people will not retain confidence in their Government.

As never before, today I hear many people criticizing our Government, the Supreme Court, and people in authority, such as those who are dealing out rulings and decisions against the rights of people. Why should we wonder that the people are so much against some of those in authority? For example, consider the courts. Senators will find that many people are dissatisfied with the courts. How many people have Senators heard speak disrespectfully of the Supreme Court? On the other hand, how many people have Senators heard speak something good about the Supreme Court? There is a reason for such a situation. I dislike to say it, but gradually confidence in our Government and in our way of life in America is being eaten away. If the bill is passed, the day may come when we shall find the measure eating into our system of jurisprudence.

Mr. President, I should like to read the dissenting opinion of Mr. Justice Black. Senators will notice that there were two dissenting opinions in the Supreme Court. If those concurring in the dissenting opinions were added together, the result might have been a 5-to-4 decision in the Supreme Court in favor of the right of trial by jury. But the Court went off at different angles, and some of the dissenters joined in the majority opinion. Our Supreme Court is rather mixed up on the question of jury trial. I should like to refer to the ruling that was decreed by the Court.

We find that in the case of the United States against Ross R. Barnett, Mr. Justice Black was joined by Mr. Justice Douglas in writing a dissenting opinion. That opinion reads, in part:

> In the first place, Congress has never expressly given the Federal courts of appeals jurisdiction to try and punish people for criminal contempt of court, and I am unwilling to hold that such a power exists in these courts in the absence of a clear and unequivocal congressional grant.

That is the trouble. If Congress gives a grant, it will go further than the Court said the Constitution went. But when Congress enacts a law, and it goes to the Supreme Court, we know what the ruling will be. Now is the time to act to save the right to jury trial in America.

I read further from the dissenting opinion:

> The business of trial courts is to try cases. That of appellate courts is to review the records of cases coming from trial courts below. In my judgment it is bad for appellate courts to be compelled to interrupt and delay their pressing appellate duties in order to hear and adjudicate cases which trial courts have been specially created to handle as a part of their daily work.

Two judges of the Supreme Court were speaking then.

Let me call attention to something else that fits in at this point. It might be well at this time to criticize the bill on the ground that the Attorney General would have a right to appear before three-judge courts. Most of the circuits have three or four judges. If three-judge courts are to be convened, the whole circuit will be tied up.

Mr. ERVIN. Mr. President, will the Senator from South Carolina yield for a single question, based upon the argument he is now making?

Mr. JOHNSTON. I yield for that purpose, with the understanding that I will not lose the floor, and that the resumption of my speech will not be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that there is no basis in commonsense whatever for the argument that the work of the Federal courts can be expedited by the provisions of title I of the bill, which would require three judges to do the work which one judge is capable of doing under existing law?

Mr. JOHNSTON. The Senator is entirely correct. The Senator from North Carolina has been on the Supreme Court of North Carolina. He knows the workings of the Federal courts. He knows that when it is necessary to get three judges, who ordinarily do not live in the same town, and in many instances do not live in the same State, those judges must leave the States where they live and travel in order to meet in a three-judge court.

Mr. ERVIN. Does not the Senator from South Carolina know that in the circuit next to the circuit which embraces his State and mine it might be necessary to go all the way to west Texas in order to find a judge to complete a three-judge court, under this provision, to sit in a district court in Savannah, Ga.?

Mr. JOHNSTON. Would that be expensive or not? Their traveling expenses would have to be paid for.

Mr. ERVIN. In addition to their salaries.

Mr. JOHNSTON. When it could be done with one judge. Is that not true?

Mr. ERVIN. That is true.

Mr. JOHNSTON. I continue to read from the dissenting opinion:

> And in particular, I believe that it is highly disruptive and downright injurious to appellate courts for them to attempt to take over and try criminal contempt cases, surcharged as these cases almost always are with highly emotion quarrels.

That is a good argument against the bill.

> Compare, e.g., cases cited in *Green* v. *United States*, 356 U.S. 165, 199, n. 8 (dissenting opinion). Appellate courts are too useful a part of our judicial system to be subjected to such unnecessary ordeals. I say unnecessary because trial courts are as qualified and capable to try criminal contempt cases as they are to try others.

It sounds as if they are arguing against the bill.

Quoting further:

> Assuming, however, that a U.S. Court of Appeals does have jurisdiction to try criminal contempt cases, I agree for the reasons set out in part A of my brother Goldberg's dissenting opinion that Congress has commanded that defendants in those cases be accorded a right to trial by jury.

The judge is going on the side of Judge Goldberg on this point:

> His powerful arguments on this point stand unanswered by the Court. Even in construing statutes governing civil cases we have taken pains to resolve all doubts in favor of trial by jury as guaranteed by the seventh amendment. We should certainly be equally alert to construe statutes governing trials for criminal contempt so as to protect the right of jury trial guaranteed for the "trial of all crimes" by section 3 of article III of the original Constitution and for "all criminal prosecutions" by the sixth amendment.
>
> I think that in denying a jury trial here the Court flies in the face of these two constitutional commands. My reasons for this belief were stated in *Green* v. *United States*, 356 U.S. 165, 193 (dissenting opinion), and in other opinions cited in the margin which I have written or to which I have agreed. No provisions of the Constitution and the Bill of Rights were more widely approved throughout the new nation than those guaranteeing a right to trial by jury in all criminal prosecutions. Subsequent experience has confirmed the wisdom of their approval. They were adopted in part, I think, because many people knew about and disapproved of the type of colonial happenings which the Court sets out in its appendix—cases in which, as reported by the Court, people had been sentenced to be fined, thrown in jail, humiliated in stocks, whipped, and even nailed by the ear to a pillory, all punishments imposed by judges without jury trials. Unfortunately, as the Court's opinion points out, judges in the past despite these constitutional safeguards have claimed for themselves "inherent" power, acting without a jury and without other Bill of Rights safeguards, to punish for criminal contempt of court people whose conduct they find offensive.

I wish it were possible to have the judge make that argument on the floor of the Senate. He cannot come on the floor, so the only thing I can do is read what he has to say, and let the people read it. I think it is a good argument. Many people might say, "That is only Senator JOHNSTON of South Carolina speaking. We know he is against civil rights." But here we have a Supreme Court Judge writing an opinion for the Supreme Court, telling what he thinks about the issue.

Mr. ERVIN. Mr. President, will the Senator from South Carolina yield for a question relating to the matter he is now discussing?

Mr. JOHNSTON. I am glad to yield to the Senator from North Carolina with the same stipulation as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask the Senator if he does not agree with me that all Senators who are fighting for the right to a trial by jury for all men, under the provisions of the Talmadge amendment, are fighting to preserve for all Americans one of the most precious civil rights that any people can have.

Mr. JOHNSTON. I believe it is one of the greatest protections written into the Constitution to safeguard the liberties and rights of the people.

> This means that one person has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty.

The judge could have gone a step further and said that he enacted the law, because that is what it amounts to when he issues the order. He then has the defendant brought before him under the law he has passed, and prosecutes him, conducts the trial, and finds the man guilty.

I continue to read from the opinion in the Barnett case:

> I do not agree that any such inherent power exists. Certainly no language in the Constitution permits it; in fact, it is expressly forbidden by the two constitutional commands for trial by jury. And, of course, the idea that persons charged with criminal offenses such as criminal contempt are not charged with crimes is a judicial fiction. As I said in Green, I think that this doctrine that a judge has inherent power to make himself prosecutor, judge, and jury seriously encroaches upon the constitutional right to trial by jury and should be repudiated.
>
> In Green the Court affirmed a 3-year sentence imposed for criminal contempt. But now in note 11 of its opinion in the present case the Court has inserted an ambiguous statement which intimates that if a sentence

> of sufficient severity had already been imposed on these defendants, a majority of the Court would now overrule Green in part, by holding that if a criminal contempt charge is tried without allowing the defendant a jury trial, punishment is constitutionally limited to that customarily meted out for petty offenses. I welcome this as a halting but hopeful step in the direction of ultimate judicial obedience to the doubly proclaimed constitutional command that all people charged with a crime, including those charged with criminal contempt must be given a trial with all the safeguards of the Bill of Rights, including indictment by grand jury and trial by jury.

I believe that every person should have the right to know what is in an indictment issued against him. A person should know what he is being tried for. Many times, a poor defendant has no money and pleads guilty to what has been considered a crime, and he finds out a few days later that he was not guilty.

I well remember one case. I was defending a colored man. He was tried in court when I was unable to be present. He pleaded guilty to receiving stolen property of more than $20 in value. He received a sentence of 2 years. Two days later, I appeared in court and asked the judge where my client was. The judge said that he was on the chain gang and had been sentenced to 2 years, and that this had been done without a trial by jury because he had pleaded guilty. The man had a right to do that, but I said, "May it please the court, this defendant did not know the nature of the charge to which he was pleading guilty." He received a suit of clothes worth about $6 or $8 secondhand, which had been purchased at a cheap clothing store where at that time suits were sold for $16.50.

When I explained the situation to the judge, he set the verdict aside. When the man returned I had him reverted to the magistrates court and he got off with a fine of $15.

I continue to read:

> Whatever is included within the scope of "petty offenses," certainly if the present defendants committed the acts with which they are charged, their crimes cannot be classified as "petty," but are grave indeed.

The reason I mention this is that the judge acted in good faith in the case I illustrated a moment ago; so under one decision the crime was a felony, and in the other a minor offense, a petty offense, or as we often speak of it in the courts, a misdemeanor.

I continue to read from the opinion in the Barnett case:

> These defendants nevertheless, like others charged with crimes, should have their cases heard according to constitutional due process, including indictment and trial by jury. Nothing less can measure up to the kind of trials which article III of our Bill of Rights guarantee. It is high time, in my judgment, to wipe out, root and branch, the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury. It will be a fine day for the constitutional liberty of individuals in this country when that at last is done.

That is the Supreme Court Justice speaking in regard to having these cases trial before a jury.

I should like to say something about the nature of criminal contempt in relation to trial by jury. This is Justice Goldberg's statement. I was quoting him earlier in the day:

> ### 5. THE NATURE OF CRIMINAL CONTEMPTS AND THE POLICY OF TRIAL BY JURY
>
> I wish to make it clear that I am not here concerned with, nor do I question, the power of the courts to compel compliance with their lawful orders by the imposition of conditional punishment—commonly referred to as civil contempt. In such cases, it may be said that "the defendant carries the keys to freedom in his willingness to comply with the court's directives. * * *"[1] Nor am I here concerned with the imposition of the trivial punishments traditionally deemed sufficient for maintaining order in the courtroom. Cf. *Ungar* v. *Sarafite*, 376 U.S. —. I am concerned solely with the imposition, without trial by jury, of fixed nontrivial punishments after compliance with the court's order has been secured.
>
> Thus limited, criminal contempts are not essentially different from other "crimes" or "criminal prosecutions."

In the pending substitute amendment an attempt is made to distinguish between whether it is a big offense or a small offense, whether it is a felony or a misdemeanor.

I continue to quote from Mr. Justice Goldberg:

> In each case punishment is imposed for a past violation of a mandate of a coordinate organ of government:[2] criminal contempt involves punishment for violation of an order of a court; "crime" involves punishment for violation of a statute enacted by a legislature.[3]

He is making a distinction between a court order and a law passed by Congress or a State legislature.

> I can see no greater need for certain and prompt punishment of the former than of the latter.[4]
>
> It may be true that a judge can dispose of a charge of criminal contempt, or any other criminal charge, more expeditiously and more cheaply than a jury.
>
> "But such trifling economies as may result have not generally been thought sufficient reason for abandoning our great constitutional safeguards aimed at protecting freedom and other basic human rights of incalculable value. Cheap, easy convictions were not the primary concern of those who adopted the Constitution and the Bill of Rights. Every procedural safeguard they established purposely made it more difficult for the Government to convict those it accused of crimes. On their scale of values justice occupied at least as high a position as economy." *Green* v. *United States, supra*, at 216.
>
> Nor are criminal contempts substantially different from other crimes when measured by the "tests traditionally applied to determine whether [a given sanction] is penal or regulatory in character * * *." *Kennedy* v. *Mendoza-Martinez*, 372 U.S. 144, 168. In the Mendoza-Martinez case, the tests were enumerated in the following terms: "Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of scienter, whether its operation will promote the traditional aims of punishment-retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned." Idem, at 168–169.
>
> Criminal contempt, when punished by a nontrivial penalty, certainly "involves an affirmative disability or restraint" under any reasonable definition of these terms. The sanction imposed for criminal contempt has always been "regarded as a punishment" designed to deter future defiances of the court's authority and to vindicate its dignity. No "alternative purpose" has been suggested to justify its existence. Scienter is generally required to support a charge of criminal contempt. And the behavior to which a charge of criminal contempt applies is generally "already a crime."
>
> In my view, therefore, there is no justification, either in the history or policy of criminal contempt or in the history or policy of the Constitution, for treating criminal contempt differently from other "crimes" or "criminal prosecutions." If a criminal contempt (or any other violation of law) is punishable only by a trivial penalty, then the Constitution does not require trial by jury. If a violation of law is punishable by a nontrivial penalty, then the Constitution does require trial by jury whether the violation is labeled criminal contempt or anything else.

The Court had under consideration the case of the Governor of Mississippi. I see in the Chamber the senior Senator from Mississippi [Mr. EASTLAND], who perhaps has kept up more closely than other Senators with the decision in this case, and knows the full facts and circumstances connected with it.

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[1] "Such coercion, where the defendant carries the keys to freedom in his willingness to comply with the court's directive, is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees. See *United States* v. *United Mine Workers of America*, 330 U.S. 258, 330–332 (dissenting and concurring opinion). Instead, at stake here is the validity of a criminal conviction for disobedience of a court order punished by a long, fixed term of imprisonment. In my judgment the distinction between conditional confinement to compel future performance and unconditional imprisonment designed to punish past transgressions is crucial, analytically as well as historically, in determining the permissible mode of trial under the Constitution." *Green* v. *United States, supra*, at 197–198 (dissenting opinion of Mr. Justice Black). But see Goldfarb, "The Contempt Power" (1963), 49–67.

[2] "Under the Constitution courts are merely one of the coordinate agencies which hold and exercise governmental power. Their decrees are simply another form of sovereign directive aimed at guiding the citizen's activity. I can perceive nothing which places these decrees on any higher or different plane than the laws of Congress or the regulations of the Executive insofar as punishment for their violation is concerned * * *. Unfortunately judges and lawyers have told each other the contrary so often that they have come to accept it as the gospel truth." *Green* v. *United States, supra*, at 218–219 (dissenting opinion of Mr. Justice Black).

[3] In this case defendants' conduct is alleged to be a violation of both a court order and a legislative enactment.

[4] "I would go as far as any man in favor of the sharpest and most summary enforcement of order in Court and obedience to decrees, but when there is no need for immediate action contempts are like any other breach of law and should be dealt with as the law deals with other illegal acts." *Toledo Newspaper Co.* v. *United States*, 247 U.S. 402, 425–426 (dissenting opinion of Justice Holmes, concurred in by Justice Brandeis).

Mr. President, I am sending to the desk two amendments to the civil rights bill which I feel are of vital importance.

The first amendment is concerned with one of the many things that has been overlooked by the drafters of H.R. 7152 in their zealous effort to cover every facet of American life.

This is the fact that notwithstanding the varying views on civil rights, there are many instances where virtually every American feels racial criteria are justified.

One such instance which would be covered by title VI of H.R. 7152 that should be left alone is the placing of infants and little children for adoption or in foster homes, and this is what my first amendment deals with.

Mr. President, there is not a State in the Union, ranging from the most liberal to the most conservative, that does not use racial criteria in determining in which home it should place little children for adoption or to be raised and cared for.

One of the most vocal groups pushing for enactment of this legislation has been social workers, but I doubt very sincerely whether a search for a rational social worker who would favor dropping racial criteria in this field would be fruitful. The very enacting legislation setting up the program under our Social Security Act has included under section 1101(d) the provision that:

> Nothing in this act shall be construed as authorizing any Federal officer, agent, or representative, in carrying out any of the provisions of this act, to take charge of any child over the objections of either of the parents of such child, or of the person standing in loco parentis of such child.

Mr. President, that is a good positive statement precluding Federal authority from taking over control of children from parents or guardians. But if title VI of this bill should become law, we need a good negative statement preventing Federal authority from cutting off the funds which in a large part underwrites these programs; otherwise the positive statement protecting the child welfare program would be of no use.

Already this program has authorized under the Public Welfare Amendments of 1962—Public Law 87–543—appropriations for child welfare grants of $30 million for fiscal 1963, which would be increased to $50 million by 1969 in order to provide a wider range of constructive welfare services for children.

Mr. President, that is a large club to place in the hands of a Federal bureaucrat who decides contrary to the commonsense of the vast majority of our people and the practices of our 50 States and 4 territories covered under this program that racial criteria used in the placing of children for adoption or in foster homes is a discriminatory practice.

Mr. President, this is a serious question, involving not only the States of the South which have been constantly castigated over the years over the civil rights issue, but virtually every State in the Union, as well as the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Again, this is not a southern problem. It is a problem which reaches into every corner of this country and even into the placement practices of our territories. Under title VI, a Federal bureaucrat could reach a decision that separate lists by color or race constitute discrimination and thereby would cripple a program established for the benefit of orphans, deprived children, and poor parents that is only now getting underway. I do not believe the proponents of this legislation could bring in one Negro family who would want their child or children raised in a white home in the event some catastrophe left them orphans.

I would like to point out, however, that my amendment has nothing whatsoever to do with whatever policies, practices, and procedures the States' welfare agencies wish to follow. If New York wishes to place Negro children in white homes, or white children in Negro homes, my amendment would have no bearing on that. Under my amendment the States would be free to follow whatever practice they desire. If the overwhelming majority of them continue the practice now in force, they will continue to use racial criteria in the placement of children. However, if, as I suppose, the good sense and the human nature of those involved with this problem whose sole interest is the welfare of children, inspires them to continue in their old practice, they will be free to use racial criteria without being threatened with a loss of a large portion of the funds they have available to assist these unfortunate children.

Mr. President, it should go without saying that I am opposed to every title of H.R. 7152, and I intend to fight this bill with every power at my command; however, if this iniquitous legislation should be passed, I certainly do not want a bill emanating from Congress while I am a Member to force the various welfare agencies and children's bureaus in our 50 States to abandon a well-founded program that has worked so successfully down the years.

Consequently, I ask every Senator to search his soul to see if he does not agree with me that no $50 million club should be wielded over the heads of our States' adoption agencies to force integration of helpless orphans.

Mr. President, my second amendment to the bill is concerned with the application of identical standards against funds sent under aid programs to foreign nations as are going to be applied by the civil rights bill against funds being used by our own people at home. This amendment is being offered to section VI of the bill which contains the authority for the withholding of funds by the Federal Government from any State agency which practices discrimination.

Actually the United States distributes billions of dollars in foreign aid giveaway and loan programs to nations all over the earth. Some of these countries are constantly warring among themselves, both internally and externally, over racial and religious prejudices. Currently we see the Greeks and the Turks in Cyprus, the Jews and Arabs in the Middle East, the Pakistanis and Indians in India, and the whites, blacks, Indians and Asiatics at each others' throats in Africa. The list is almost endless of religious and racial squabbling among nations receiving our foreign aid.

It is because of such discrimination abroad that I introduce this amendment to the so-called civil rights bill. This amendment would prohibit the U.S. Government from giving any funds to any nation that practices racial or religious discrimination in any form.

Mr. President, I think the U.S. Congress should certainly apply the same standards to foreigners spending our money as it intends to apply against our own American citizens who are footing the bills.

If a ban against discrimination is going to follow the Federal dollar anywhere, then the ban should follow the American dollar when it goes overseas to benefit those who had nothing to do with contributing these funds.

Mr. President, now that I have explained these two amendments, which I shall send to the desk at the conclusion of my remarks, I wish to discuss at this point some remarks made by the distinguished Senator from Missouri on April 17, 1964, when he was addressing the Senate on S. 2627, a bill he has introduced to prohibit the use of "mail covers." He described the mail cover as a surveillance technique used by the Post Office to record the name and address of the sender, the place and date of postmarking, the class of mail and any other data on mail going to a particular addressee. The purpose of the mail cover is to discover who is corresponding with the addressee.

As Chairman of the Post Office and Civil Service Committee, to which S. 2627 has been referred, I assure the Senator from Missouri that the committee is taking a careful look into the matter of mail covers. It is my hope that the hearing which he urges can be held at an early date. I share his strong concern over the use of mail covers, and I concur in his view that this is an example of an attempt by the Government to obtain information which is none of its business.

There are many areas in which the Federal Government should act—should take steps to do for the citizen what he cannot do for himself. Nevertheless, I agree heartily with the Senator from Missouri that we must be eternally vigilant against unwarranted intrusions into the rights of privacy of all citizens. We must not allow our constitutional guarantees to be whittled away by a nearsighted bureaucracy more interested in furthering its own limited ends than in safeguarding those rights which have been constitutionally assured us all. The apprehension of criminals is one thing. Suspected wrongdoers must be vigorously investigated, but the rights of the ordinary citizen are quite another. Should his privacy be stripped away so that suspected criminals can be more easily entrapped? Certainly not. I agree with the conclusion expressed by the Senator from Missouri.

I turn now to the so-called Civil Rights Act, and I say to the Senate that the same principle must be observed in our deliberations on that measure. The Senator from Missouri states with regard to S. 2627 that we all have a right to be let alone. I say that this right applies not only to mail covers but also to the Civil Rights Act, under which the long arm of the Federal Government would be extended into the private lives of all our citizens, both colored and white, effectively depriving them of inalienable rights, toppling down the customs and practices of generations of Americans, especially doing away with our right of trial by jury.

The Senator from Missouri cites in his speech on mail covers the dissenting opinion of Justice Brandeis in the Olmstead case. I should like to quote briefly from this opinion and to ask Members to consider the applicability of Justice Brandeis' views to the civil Rights Act:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment.
>
> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repeal invasion of their liberty by evilminded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding.

### AMENDMENTS NOS. 554 AND 555

Mr. President, I send to the desk the two amendments to which I referred and ask unanimous consent that they, together with the five amendments which I previously submitted—namely, amendments Nos. 492, 493, 494, 495, and 496—be considered as read.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments submitted by Mr. JOHNSTON today are as follows:

### AMENDMENT NO. 554

On page 25, line 21, strike out "in the United States".

On page 25, line 25, immediately before the period insert the following: ", including any such program or activity under part I of the Foreign Assistance Act of 1961, as amended, or any other Act under which foreign economic assistance is furnished".

On page 26, line 3, immediately after "activity," insert the following: "including any program or activity under part I of the Foreign Assistance Act of 1961, as amended, or any other Act under which foreign economic assistance is furnished,".

### AMENDMENT NO. 555

On page 27, between lines 20 and 21, insert the following new section:

"SEC. 604. Nothing contained in this title shall apply to any agency or organization providing child welfare, foster home, or adoption services with respect to the function of such agency or organization in placing children in homes, foster family care, group care, or institutional care."

The amendments previously submitted by Mr. JOHNSTON are as follows:

### AMENDMENT NO. 492

On page 4, line 16, beginning with "the Attorney General", strike out all through "such proceeding" in line 11, page 5.

### AMENDMENT NO. 493

On page 2, line 6, beginning with "as follows:", strike out all through line 14, on page 4, and in lieu thereof insert "by adding at the end thereof the following new subsection:".

On page 4, line 15, strike out "(h)" and insert "(g)".

### AMENDMENT NO. 494

On page 4, line 10, strike out "or in part".

### AMENDMENT NO. 495

On page 5, lines 2 and 3, strike out "a district judge of the court in which the proceeding was instituted" and insert "the district judge before whom the proceeding was instituted (or if the proceeding was not instituted before any one district judge, a district judge of the court in which the proceeding was instituted)".

### AMENDMENT NO. 496

On page 3, line 7, after "individual" insert the following: "(but in the case of an oral test, only if the individual requested that such test and his answers thereto be reduced to writing)".

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 179 Leg.]

Aiken
Allott
Bayh
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Ellender
Fong
Fulbright
Gruening
Hart
Hartke
Hayden
Hickenlooper
Holland
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Neuberger
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

## EXECUTIVE SESSION

Mr. FULBRIGHT. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

## EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. JOHNSTON, from the Committee on the Judiciary:

Ray McNichols, of Idaho, to be U.S. district judge for the district of Idaho;

Sidney L. Christie, of West Virginia, to be U.S. district judge for the northern and southern districts of West Virginia;

Charles E. Simons, Jr., of South Carolina, to be U.S. district judge for the eastern district of South Carolina; and

Robert W. Hemphill, of South Carolina, to be U.S. district judge for the eastern and western districts of South Carolina.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Pauline Tompkins, of Maine, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs;

Taylor G. Belcher, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Cyprus; and

Covey T. Oliver, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to Colombia.

The PRESIDING OFFICER. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

## DEPARTMENT OF STATE

The legislative clerk read the nomination of Taylor G. Belcher, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Pauline Tompkins, of Maine, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs for the remainder of the term expiring May 11, 1966, and until her successor is appointed and has qualified, vice James R. Fleming, term expired.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Covey T. Oliver, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Mr. MILLER. Mr. President, I should like to say a word in support of the excellent nomination of Mr. Oliver.

It was my privilege to become acquainted with Mr. Oliver in 1941, when we both attended law school at Columbia University in New York City.

Since that time, Mr. Oliver has had a distinguished career of public service with the Federal Government, in the State Department, and with the old Board of Economic Warfare, interspersed with distinguished service on the faculties of some of the leading law schools in the United States.

I believe that his appointment will help our prestige in the country to which he will be assigned, and I wholeheartedly support the nomination.

I wish Mr. Oliver the very best of success.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to this nomination?

The nomination was confirmed.

Mr. FULBRIGHT. Mr President, I wish to join the Senator from Iowa in his remarks about Mr. Oliver. We heard him the day before yesterday in the committee, and he made a favorable impression upon us.

I believe it is an excellent appointment. I am very much pleased that the Senate has seen fit to confirm his nomination.

Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

**The PRESIDING OFFICER.** Without objection, the President will be notified forthwith.

## LEGISLATIVE SESSION

On motion of Mr. FULBRIGHT, the Senate resumed the consideration of legislative business.

## IMMIGRATION AND DISCRIMINATION

**Mr. HART.** Mr. President, the American Friends Service Committee recently issued a statement by one of its leaders, Richard Ferree Smith, on the subject of immigration and discrimination. The statement invites attention to the racist provisions of the national origins quota system, and the great need of putting on the books an immigration statute which treats the people of all nations with equality and fairplay.

S. 1932 would accomplish this objective. The bill was introduced several months ago, on behalf of myself and 26 other Senators, to carry out the legislative recommendations of President Kennedy and President Johnson.

I hope all Senators will read Mr. Smith's statement, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### IMMIGRATION AND DISCRIMINATION

(By Richard Ferree Smith)

HELP—in bold letters was scrawled across an appeal sent to the Calgary Friends Meeting in Alberta by a young Canadian, Wayson Choy. He was appealing for assistance in protesting racial discrimination by the U.S. Government. Wayson Choy, recent winner of the MacMillan Short Story Prize, had just been told by a U.S. Counsul that he would not be issued an immigration visa because he was more than 50 percent oriental. Unlike other Canadians born in Canada who are eligible for nonquota visas, Wayson would be placed on the minuscule quota of 105 reserved for Chinese persons.

Wayson Choy and the Calgary Friends Meeting were understandably upset that the United States maintained such racists' provisions in its laws. Many Americans would share this feeling of shock and disbelief. Unfortunately, however, it is a well-known fact throughout Asia that the United States excludes certain races of people. The national origins quota system of the Immigration and Nationality Act of 1952 (McCarran-Walter Act) spells out this policy in no uncertain terms.

This provides for each country outside the Western Hemisphere a specific number, a quota, of immigrants to be admitted each year to the United States. The approximately 156,000 quota numbers are allocated to countries in relation to the proportion of people of that nationality or descent supposedly in our white population in 1920. All told, countries in northwestern Europe receive about 82 percent of the total quotas, southeastern Europe, 16 percent, and the rest of the world, only 2 percent.

Basically the quota system is set up to regulate European immigration, prevent entry of Asians, and in the case of the West Indies, Negroes. Before becoming self-governing, Jamaicans were British citizens, Barbadians, Bahamians, and other citizens of the British West Indies were not eligible for the large annual British quota of 65,000. In spite of the fact that less than half the British quota is used, the Jamaicans were assigned a subquota of only 100. Even now as citizens of an independent Western Hemisphere country they receive a quota of 100.

The racist provisions in our immigration policy are so clear that Adolf Hitler wrote:

"That the American Union itself feels itself to be a Nordic-German state and in no way an international mishmash of peoples further emerges from the manner in which it allots immigration quotas to European nations. Scandinavians, that is, Swedes, Norwegians, further Danes, than Englishmen, and finally Germans, are allotted the greatest contingents. Rumanians and Slavs very little, Japanese and Chinese they would prefer to exclude altogether."

Why have Americans, who have become increasingly sensitive to human rights, who have a tradition of helping people throughout the world, and are descendants of immigrants, allow this anachronism to exist in our national policy? The answer is not simply apathy and ignorale but a backward form of hypocrisy. Our principle, as imbedded in the law, is appalling, but our actual practice has been quite creditable. By various devices—special legislation, administrative directories, private bills, marriage, and a host of others—we have managed to bypass the national origins quota system, and build up a reasonably good immigration record in the past 10 years.

Wayson Choy was turned down because of his Chinese ancestry, yet between 1953–62, 4,000 Chinese annually were admitted to the United States. During the past year and a half alone some 7,000 Chinese refugees from Hong Kong arrived—under the authority of a Presidential directive. Japan with a total of 1850 quota numbers for the past 10 years has furnished 50,000 immigrants. Some 17,000 Dutch-Indonesian refugees, a Eurasian group, were admitted to the United States via Holland under special legislation. In 1952, 600 Kalmuks from Central Asia, direct decendants of the once powerful Mongolian Khans, were accepted as immigrants after their case was reviewed by Government authorities. Altogether, the United States has accepted over 700,000 refugees since World War II, and unlike other receiving countries, the majority were sponsored by individuals and local community groups—some 8,000 by Friends meetings. Millions of average Americans have welcomed and tangibly assisted these refugees begin a new life without regard to their nationality, race or religion.

Of the more than 2,900,000 immigrants since 1952, some 1,863,000 persons—over 60 percent of the total admissions—entered nonquota. Of the more than 1,820,000 quota immigrants authorized during the same period, little more than 1 million persons—less than 40 percent of the total admissions—actually entered the United States. In spite of these facts Congress, until now, has been reluctant to even seriously consider replacing the outmoded and circumvented Walter-McCarran Act.

Recently there have been encouraging signs that this anomaly is being critically looked at by Congress. Some 35 Senators sponsored an administration bill (S. 1932, H.R. 7700) which would eliminate the national origins principle by substituting an immigration system of pooling of quota numbers as a first come, first served based basis.

Until this, or similar legislation is passed, Wayson Choy may have a long wait, while his Caucasian fellow Canadians are free to immigrate. Choy feels this an affront to his citizenship and "holds in immediate jeopardy the right of Canadian citizens just to be citizens." The use of a national origins systems according to President Kennedy "is without basis in either logic or reason. It neither satisfies a national need nor accomplishes an international purpose. In an age of interdependence among nations, such a system is an anachronism."

## REFORM OF IMMIGRATION QUOTA SYSTEM

**Mr. HART.** Mr. President, at the Washington Conference of the American Immigration and Citizenship Conference, several Members of Congress were invited to give a progress report on the immigration proposal submitted to Congress by President Kennedy and warmly endorsed by President Johnson.

It is my belief, Mr. President, that the 88th Congress can make an outstanding record on the long overdue reform of our immigration quota system. Some hearings have already been held in the Senate. Hopefully, it will be possible to have Administration witnesses before the subcommittee. With a record thus made, together with available studies of the importance of this one aspect of our immigration laws, I believe a majority of the Congress will approve action in 1964.

I ask unanimous consent that my remarks to the American Immigration and Citizenship Conference on April 16 may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### REMARKS BY SENATOR PHILIP A. HART TO AMERICAN CONFERENCE ON IMMIGRATION AND CITIZENSHIP, SHERATON PARK HOTEL, WASHINGTON, D.C., APRIL 16, 1964

There are those who would say the question of immigration policy no longer reaches the consciences or the consciousness of America. This conference is an explicit rebuttal of that falsehood.

Today the Senate of the United States is engrossed in debate on the greatest public issue of our times. Stripped of rhetoric, it is the moral question of how man is to treat man—how citizen is to treat citizen. Are we to judge the man coming for a night's lodging or to the employment office when he is yet 50 feet away? Or are we to judge him as we would have ourselves judged? This is surely the issue.

The Congress will take its stand on this great question this year—a stand alongside the Supreme Court and the Presidency. The urgency is great and many of you here also are engaged in this effort. But there is no less a moral issue for America in the question of whether or not a man coming to our Nation's doorstep is to be judged when he is 5,000 miles away. Not as you and I would want to be judged, as an individual who is worthy or unworthy, but is judged by his parentage and accident of the place of his birth.

With your leadership, very substantial progress toward our mutual goal of legislative reform is being made. You have found a consensus on terms of legislation among many organizations and groups with vast divergent interests. This is a major step forward.

President Kennedy was the first President to call for complete abolition of the national origins quota system. His message was one of courage that gave hope America will soon judge a man for what he is as he knocks at our door.

In one of his first legislative moves, President Johnson called in the leaders of Congress and the national organizations to give his full support to this proposal.

Senate hearings were started.

Now we are at a critical point in the final months of the 88th Congress.

I, for one, do not want to see these gains lost. I believe it may be still possible to achieve legislative action this session.

Hopefully, a way can be found, despite the Senate debate, to complete a hearing record in the Senate.

Hopefully, hearings will be held in the House. This is the orderly approach.

Even if it is not possible to have as complete a hearing record as we would like, I believe the sponsors of immigration reform—sponsors of President Kennedy's and President Johnson's program—have a clear mandate from the American people to move ahead. This conference is itself that mandate.

So, I would propose that if orderly procedure is blocked, we in Congress must move on this issue with some extraordinary procedure. The sponsors should give full consideration for moving the immigration reform bill as an amendment directly on the floor of the two Houses.

I intend to seek the counsel and support of my Senate colleagues—36 of them who sponsor these bills—for such a move. The time is near when this issue can wait no longer.

The proposal for a floor enactment of this change in the immigration quota system by floor amendment should have your full support. This effort will be difficult, but no more difficult than the efforts you have already made. It may be sound tactics to propose reform in the quota system be tried on a 2- or 3-year basis in order to let Congress see, in fact, how well it will work.

Our goals are modest and right:

We seek a fair and modest immigration policy.

We do not seek great increases in the number of immigrants.

We are not proposing the abandonment of health, security, or the vast other individual checks on those who would come.

We seek an immigration law that will stand alongside the Civil Rights Act of 1964—the Immigration Act of 1964—that will mark 1964 in the history of the American people as the year when the conscience of the American people was manifest throughout the land: a year when the representatives of the people were moved to act in the name of brotherhood and humanity for those at home as well as those who seek home in this land.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

**Mr. FULBRIGHT.** Mr. President, a recognition of the usefulness of the rather lengthy debate on the pending legislation is beginning to be evident. It is manifested in journals published outside the South in which comments are beginning to appear on the specific deficiencies of this bill if not upon the broader fallacy on which it rests.

In Tuesday's New York Times Arthur Krock, who is certainly not subject to criticism as a southern partisan, made this comment:

> Without rules which indisputably long delay Senate voting on legislation a majority desires, and compel it to resort to cloture to end determined filibusters, the American people would not be aware of still another grave issue raised by the House bill. That is (a) whether the hard-won Anglo-Saxon privilege of trial by jury should be denied to citizens found in criminal contempt by the very judges who have made the finding in enforcing compulsions of a revolutionary change in the American social structure; and (b) whether the privilege of trial by jury in these circumstances is to be withheld when the judge limits the sentence to that imposed on petty offenders.
>
> As Senator McCLELLAN pointed out today, even when the sentence pronounced by the offending court exceeds that limit, the jury to which the accused is then entitled conceivably will be loath to reverse the judge who has already tried the case.
>
> That issue would not have been projected into the public consciousness if the Senate rules had permitted the measure to have been rammed through that body as it was through the House. The bipartisan Senate leadership would not have been compelled to offer to modify the absolute denial of trial by jury to any person adjudged in criminal contempt of court on a charge of violating a law which makes no clear definition of illegal bias.

Mr. President, the debate of the past week on the amendments offered to provide a statutory right of trial by jury for those held in criminal contempt of court orders issued under the authority proposed in H.R. 7152 has, I believe, made plain one injustice which would be perpetrated if this bill were passed as sent to us by the House with every period and comma in place. I spoke at some length last week on the amendment offered by the junior Senator from Georgia, and I continue to support it. The so-called compromise amendment produced by the majority and minority leaders is a step in the right direction, but it does not go far enough. Rights of individuals called before the bar of justice are not to be measured quantitatively. The Talmadge amendment giving the right of trial by jury to all persons charged with criminal contempt of Federal court orders should be enacted. Even a 30-day sentence imposed by a judge on his own initiative is severe punishment, and any person so incarcerated will draw little satisfaction from the fact that his counterpart in another jurisdiction is likely to enjoy the right of a jury trial because of the imposition of a more severe sentence in a similar contempt proceeding.

I shall not labor the point, except to cite the jury trial amendment as one deficiency on which public attention has been focused because of the lengthy debate on this proposed legislation.

It is to be hoped that other matters of equal importance will receive the unprejudiced attention of the Senate as this debate progresses. If such attention is forthcoming, there is no doubt in my mind that substantial changes can be made in this bill even if those of us in opposition to it cannot convince our colleagues of an opposite persuasion of the basic fallacy on which this legislation is predicated.

With this admonition I ask my colleagues' indulgence to make a few observations on title VIII of H.R. 7152. For those of us who have had the privilege of serving in this body for a goodly number of years the reappearance of an FEPC bill is something like being haunted by an old and familiar ghost. The Senate considered this approach to the problem of Negro unemployment nearly 20 years ago and found it wanting. In 1946 it was debated at some length and was so again in 1950. On both occasions the Senate rejected the use of an administrative body with coercive powers to compel the hiring of Negroes. Today this approach is suggested at a time when unemployment is greater and the transitions in our economy more acute.

Mr. President, title VII of this bill would create an Equal Employment Opportunities Commission regulating not only firms doing business with the Government or under Government auspices, but extending its authority over all forms and, potentially over all sizes, of enterprise in our economy. It has been said that there is ample precedent for this type of legislation which is purported to be of the same species as other Federal legislation protecting the economy. The Fair Labor Standards Act, the National Labor Relations Act, the Communications Act, et cetera, are cited as other Federal adventures in economic regulation from which this bill cannot be distinguished in concept. I believe this analysis to be erroneous. For if enacted as now drawn title VII would not govern simply the rate of compensation which an employee would receive or his working conditions or any other facet of business which in the absence of regulations would be detrimental to the public welfare. It would, in fact, regiment American industry from General Motors to small retailers, subjecting each and every employer in between these extremes to regulations promulgated at the whim of a Commission, without definitive statutory guidelines.

Mr. President, Thomas Jefferson once said "delay is preferable to error." I know of no better application of that wise statement than in regard to the Senate's consideration of this bill, and particularly title VII. It should be examined carefully and completely and I believe careful scrutiny will reveal very grave deficiencies in it.

Our democracy is manifested at two levels. As representatives of the people the Congress has the authority and purpose to dot the i's and cross the t's in the statute books and thereby to create the network of laws which lift us above anarchy.

But democracy does not stop with the election of Representatives and Senators as all of us who serve in these public offices are well aware. Ultimately major decisions of public policy must be grounded in a popular consensus which sanctions the works of the legislative branch of the Government. If sharp conflict arises between the decisions of the Congress and the will of the people, Members of this body may find themselves recalled by their constituents. If the conflict is sufficiently strong laws passed by the Congress may be disregarded. Where legislative decisions affect only a small segment of the population or are concerned with matters of nominal concern to the public these conflicts are not serious. However, where law runs counter to the dominant popular will, the law is likely to give way to the consensus. When this takes place the result is turmoil and anarchy.

The most outstanding example of this disparity between popular sentiment and legislative action is the horrendous history of the era of prohibition. The law gave way and in doing so prompted a general decay of respect for public authority and the institutions of popular government. Title 7 of H.R. 7152, which would establish FEPC with broad powers over industry, commerce and labor, is, I fear, destined for an equally ignominious fate if enacted. Its terms would affect all segments of American industry and yet it is evident that there is no popular consensus in favor of it. There are many legal and political objections to title 7. I will attempt to set forth some of them.

It is unfortunate that this title has not been studied by a committee of the Senate. It was not a part of the bill originally submitted by the President and was a last minute addition to the bill prior to consideration on the floor of the House. I have heard it said that this title is similar to the equal employment opportunity bill reported by the Committee on Labor and Public Welfare of the Senate. Of course, it differs in several respects, but to give the proponents of this measure their due, the testimony taken by the Senate Subcommittee on Employment and Manpower deals with the concept involved. However, a careful examination of the hearings conducted by the subcommittee, chaired by the senior Senator from Pennsylvania, casts some doubt on their usefulness in evaluating this type of legislation. No witnesses appeared or submitted statements to the subcommittee on opposition to the bills before the subcommittee while a parade of witnesses extolled the virtues of this type of legislation. It is hard for me to believe that employers, unions, employment offices, and others vitally effected by this legislation are so totally in accord with it. If American industry and commerce are to be subjected to the scrutiny and control which the Equal Employment Opportunities Commission would have under this bill, testimony should be solicited from those in opposition to it rather than simply recording an unswerving phalanx of support with little regard for the merits of the bill.

Mr. President, the great lawgiver, Blackstone, recorded this observation in his commentaries on the laws of England:

> There is nothing which so generally strikes the imagination, and engages the affection of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.

In these few words Blackstone captured one essential element of the hard-won freedom which came to Englishmen through years of struggle and which devolved to our Nation and its citizens upon our independence. Truly the freedom of man must extend to encompass the right to use his property in any way he deems appropriate unless his actions endanger the public. The common law, developed through centuries of judicial decisions, recognizes this right and has defined its limits. This is a heritage which we, as beneficiaries of the common law system, should cherish. Yet, Mr. President, it is proposed in this bill to do great violence to the heretofore clearly recognized privilege of employers to choose their employees who are to husband the employers' property in the form of his enterprise. Perhaps more than any other title in this far reaching and complex bill the proposal to create an Equal Employment Opportunities Commission is the most fraught with danger and that which does greatest violence to our traditions and the economic structure which has brought this country to a level of prosperity unprecedented in history.

Mr. President, in 1950 the Senate carefully considered this type of legislation and rejected it. At that time the late Senator Robert A. Taft, of Ohio, dissented from the committee report on the bill and made this observation, which I believe is highly appropriate:

> In my opinion any such compulsory measure will create more bad racial and religious feeling than any other method which can be pursued. I think it will do the colored race much more harm than good. Progress against discrimination must be made gradually and must be made by voluntary cooperation and education with encouragement from a Federal Board, like that I propose, and State governments and boards, and not by inviting thousands of lawsuits which will get beyond the control even of the Fair Employment Practices Commission itself.

While Senator Taft and I were not of the same political party, I, like many others in the Senate, respected his views very highly and I had the privilege of joining him in cosponsorship of Federal aid to education bills which he and I felt would make a great contribution to the solution of racial problems and their economic manifestations.

I hope his words will be heeded by the members of his party who now feel some compulsion to support the proposed legislation.

Mr. President, I cannot refrain from once again pointing out to the Senate that the same Senator Taft, of Ohio, with whom I had the privilege of serving on the Committee on Banking and Currency when I first came to the Senate, himself sponsored a bill for this purpose—I believe it was in 1948—and that the Senate passed such bill with by an almost 2-to-1 majority.

Since that time, on four different occasions, the Senate passed bills which were designed to accomplish the purpose I have just described, bills which I thought were far more pertinent and far more likely to result in a genuine solution of a difficult racial problem in the field of employment than anything else that could have been done.

I regard it as a great tragedy for the country and for the Senate that the legislation introduced by Senator Taft at that time, and later introduced by other Senators, was not enacted.

Mr. President, I am afraid that during the debate on the bill one vital point has been lost, at least so far as the public's attention is concerned. Its several titles affect many facets of our social and legal order, but they are basically of two types. The first is those provisions which deal with equality before the law and involve the difficult accommodations inherent in the transformation of longstanding legal precepts. Within this category fall the provisions pertaining to voting, education, public facilities, et cetera.

On the other hand, the bill would impose Federal controls on relationships previously considered totally beyond the reach of Federal legislation. I refer to titles II and VII, which deal not with the actions of State or local governments but rather with the enterprises of private businessmen who are no more associated with State authority than any other citizen whose person and property are protected by a State's police power.

This distinction, while perhaps superfluous in the eyes of those intent on purging the world of its sins in one document, is nonetheless real. It is very real. While no Member of this body is satisfied with our present rate of unemployment there is no constitutional right to a job. The right to earn a living is one which must be earned anew by each American through the full development of his personal potential, through the exercise of his initiative, and through hard work. It is not a right or even a privilege. It is a goal to be actively sought by each member of our society and success or failure must depend on personal industry rather than law.

When violence is done to this concept the roots of our economic system are loosened in the fertile soil of freedom and initiative which has produced the great abundance our Nation and its people enjoy.

In the fervor of the civil rights movement this truth has been obscured until a movement for legal equality has become a crusade for economic success.

We all want full employment. We all want maximum achievement by each American, but legislation which tampers with the right of employers to hire those who will best serve their business not only detracts from the liberty which is the essence of our system, but imposes an artificial and cumbersome burden on the commercial and industrial enterprises which are the foundation of our economy.

Early last summer when the emotional fervor of the civil rights movement was at its highest pitch Walter Lippmann in his incisive and cogent style commented on the confusion of legal rights and socially desirable goals inherent in the movement. After describing what he believed to be the real grievances of Negroes in America, Mr. Lippmann went on to say:

> But, close at hand, there are already manifest the beginnings of a demand not only for legal equality and for equality of status in public places but for the substance of equality. The National Urban League, which is an old and respected organization, has just spoken out powerfully on this subject. What the Negroes are now demanding are better schools, better housing, and better jobs.
>
> Few will say them nay. But the hard truth is that while the Negroes are making these demands, the country is in fact short of good schools, good housing, and good jobs. This makes the Negro problem part of a generalized national problem. By law and with good will, segregation can be wiped out in airports, bus depots, lunch counters, movie theaters, public parks, and the like, without substantial difficulties. But it is not possible to desegregate all the schools and universities and provide equal educational opportunity for Negroes and whites. There are not enough good schools. The same is true of housing and of jobs. The basic fact is that the pie, which is supposed to be divided equally, is too small.

How true it is that the pie is too small and it grows even smaller in relation to the demands of our population. Unemployment increases as a percentage of the work force with each passing year, being now recorded by the manpower report of the President at 5.7 percent. The educational deficiencies of our society grow increasingly apparent as one reads page after page of want ads which reveal a seemingly insatiable demand for technicians, engineers, and trained personnel of all types while the unskilled and uneducated walk the streets in search of a day's work. Complementary to Mr. Lippmann's comment is one made by George H. Ellison, president of the Arkansas State AFL–CIO. Following a meeting of 300 labor leaders with President Kennedy last June 13, the Arkansas Gazette carried this report on Mr. Ellison's participation:

> "Arkansas unions have no discrimination," he said. "The last color discrimination clauses were abolished in Arkansas about 1951 or 1952," he said.
>
> Ellison said that he did not know of a single labor contract with an Arkansas employer that called for racial discrimination.
>
> "Negro union members draw the same pay as white members," he said.
>
> Ellison acknowledged that the building trade unions in Arkansas, as elsewhere, have few Negro members. He said that was not because of color. "The big reason is a shortage of jobs and that won't be helped until the economy gets a shot in the arm to create more jobs," he said.
>
> "The only way to get into a building trade is through an apprenticeship program and those already in naturally make room for their relatives and friends before turning to others, he said. That's one reason that Negroes have not been accepted," he said.
>
> "It stands to reason that a man who has been in the trade 30 years, if he has a son or a nephew or the son of a good friend, he's going to recommend that person and push him quicker than he will a stranger," Ellison said.
>
> "As long as there are not enough jobs for all the people, that's going to happen.
>
> "Before we can find the answer to upgrading the skills of the nonwhite, we are going to have to create jobs for him to get.
>
> "We've already got two men for every job now in the building trades. The unions are not to take new members until they need them."

Mr. President, the problem of Negro unemployment is but a facet of the overall problem of unemployment. Until our economy adjusts to the shifts from rural to urban living, from agriculture to industry, and from small enterprise to large, some Americans will continue to be displaced persons in the economy. The only solution to this dilemma is through the creation of more jobs and the training of people in the right skills to fill them.

The essence of the challenge which confronts us was set forth by the Secretary of Labor in testimony before the Subcommittee on Manpower and Employment last year. I quote from his statement:

> The past decade and a half has seen an acceleration of the long-term trend of increase in professional, managerial, clerical, and sales occupations at the expense of manual occupations. Employment of blue-collar or manual workers in 1962 was only slightly above (by 3 percent) the level of 15 years earlier, while the number of white-collar jobs has increased by almost 50 percent.
>
> But, most significant, among both blue- and white-collar occupations, has been the shift away from unskilled jobs caused by rapid technological change. Among white-collar workers the fastest growing occupational group has been the most highly trained—professional, technical and kindred workers, whose number has more than doubled since 1947. Among blue-collar workers, almost all the increase in employment in the past decade occurred among skilled craftsmen, while the numbers of unskilled and semiskilled workers have shown little or no increase.
>
> Thus, virtually all of the occupations providing expanding employment opportunities in recent years have been those requiring long periods of education and formal training. Our projections indicate that these are the occupations that will also be expanding in the future; little or no increase is expected among the semiskilled and unskilled occupations.
>
> Many of the jobs requiring little or no training which were available in past decades to new workers and to unskilled or semiskilled workers who were disemployed in contracting areas of the economy are disappearing. As a result, technological change and the dynamics of economic growth are tending to result in longer periods of unemployment and higher unemployment rates for workers who do not have the education and skills required by modern industry.
>
> The picture of unemployment trends in recent years mirrors this situation dramatically. Among all groups with high unemployment rates, including young workers, older workers, and nonwhite workers, the absence of required occupational skills looms large in their employment difficulties. The highest unemployment rates among major nonfarm occupation groups are recorded by nonfarm laborers (12 percent); operatives, largely semiskilled production workers (7 percent); and service workers (6 percent)—all relatively unskilled groups.
>
> At the other end of the scale, unemployment rates are extremely low (under 2 percent) among professional and technical workers and among managers, officials, and proprietors.
>
> Thus, at the same time that large numbers of workers are unemployed, job openings have remained unfilled for lack of workers trained in required skills. Requirements for personnel have been strongest in professional and technical fields, but shortages exist in many occupations in other white-collar and inservice and skilled production categories. And, within each of these broad occupational groups, the trend has been toward employment of workers at the top of the skill range of the occupation and less opportunity for workers with minimum qualifications.
>
> This situation underlines the great need for additional emphasis on adequate education and vocational training. At the same time, programs are also needed to assist workers in making the necessary transitions—from decling to expanding industries, from contracting to growing occupations, and from labor market areas in which job openings are being reduced to those of rising job opportunities.

Mr. President, the FEPC approach is predicated on a fallacious assumption. An Equal Employment Opportunities Commission, like its granddaddy the FEPC, would not create employment. No matter how many complaints were received, investigations conducted, or orders issued, the number of jobs in the economy would not be affected. With an unemployment rate of 5.7 and a nonwhite unemployment rate of 10.9, we have cause for concern; but this bill would not change these statistics at all, except perhaps to shift the unemployed from one column to the other. In fact, the coercion of employers to employ persons unacceptable to them might very well have a detrimental effect, not only on their incentive and desire to invest, but also on the morale of their employees, which is most important to the success of a commercial or industrial enterprise. We could very well end up with fewer jobs, rather than more; and the loss would undoubtedly be in sections of the country and the economy where the employment is at a premium.

If the Senate is concerned about unemployment—and under the Employment Act of 1946 it is national policy to be so concerned—our attentions could more profitably be directed to educational deficiencies of our people, to the fiscal and economic facts of life, and to the real factors which underlie the ever-increasing rate of unemployment we have experienced since World War II.

Instead the proposal now is to gloss over human deficiencies which are actually being accentuated by the rapid pace of automation.

Unless means can be found to stimulate economic growth and at the same time give people the skills which our economy demands, unemployment will become a permanent fixture in our society. A Fair Employment Practices Commission will not change that.

The manpower report of the President submitted to the Congress earlier this month contains this statement:

> The number of semiskilled jobs is projected to increase at two-thirds the rate of growth of total employment and the number of unskilled jobs will remain about the same, continuing a long-term relative decline in their proportion of total employment.

Mr. President, farm employment over the next decade is projected by the report to actually decline by almost 2 million jobs and we may anticipate an acceleration of the migration from the farms to urban areas of people whose background offers little promise of their meaningful participation in the industrial segment of our economy. No equal employment legislation can be truly meaningful or other than counterproductive if it fails to cope with the real deficiencies of the group to be benefited.

William Graham Sumner, in 1925, wrote:

> The United States is the great country for the unskilled laborer. The economic conditions all favor that class. There is a great continent to be subdued and there is a fertile soil available to labor, with scarcely any need of capital. Hence the people who have strong arms have what is most needed.

Even when Sumner wrote these words the process of rapid industrialization was underway which was to create the diametrically opposite situation of our own time. The American economy of the 1960's is fueled by capital and technology, and by scientists and technicians and highly skilled workers. Unskilled labor is rapidly becoming superfluous as a factor of production and the untrained and uneducated worker, of whom there are still some millions in the United States, finds himself increasingly relegated to a life of unemployment and underemployment, a life of diminishing rewards, diminishing hopes, and growing disillusion with our society.

While we continue to neglect public education, the correlation between unemployment and lack of education continues to mount. Of the 4.1 million Americans who were unemployed in March 1959, 1 million or about one-fourth of the total, had less than an elementary school education and 2.8 million, or more than two-thirds, had less than a high school education. In 1963 the unemployment rate among professional and technical workers was 1.8 percent; among clerical workers, 4 percent; farmworkers, 5.3 percent; service workers, 6.2 percent; and laborers 12.1 percent.

Under these conditions, the prospects are bleak indeed for the 42 percent of all American teenagers who fail to complete high school. There is no longer a western frontier to which they can migrate. There is no need for more farmers, and even if there were, the dropouts could not qualify because modern American farming requires highly developed skills. Nor are very many of the dropouts likely to be absorbed by industrial expansion, even rapid expansion if it should occur, because industrial productivity expands primarily by the use of automated machines which reduce the need for unskilled labor. Between 1956 and 1961, for example, the productive capacity of the steel industry increased by 20 percent, but the number of workers required to operate the industry's plants at full capacity dropped by 17,000. In the same period the increasingly automated chemical industry expanded by 27 percent while the number of production jobs fell by 3 percent.

The period discussed was a period prior to the widespread use of computers. The other day I noticed an article in a newspaper, following a convention of people who are employed in the management of the computer industry. The article stated that prophecies had been made as to the enormous impact of computers upon employment, particularly in large industrial operations. Much to my surprise, the artice stated that computers were only in their infancy. I had assumed from other articles that I had read that development of computers was well along and had already reached a high degree of proficiency, but according to men in the computer industry, the machines now in use are primitive. We have seen the machines in use, particularly in industries in which many clerical workers have been employed. For example, in the utility industry and insurance companies, a mass of data must be correlated, innumerable checks signed, and calculations made. In those industries computers are already displacing people at an astounding rate.

Mr. ELLENDER. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield for a question.

Mr. ELLENDER. Can the Senator give us an idea of the extent to which unemployment has been increased because of the development in the fields of computer programing and automation?

Mr. FULBRIGHT. As I have said, I was relying on the statements in the article to which I referred. What struck me was the statement that the computer industry is in its infancy. I had read stories of the magnificent accomplishments of the great IBM machines. The Senator from Louisiana probably has seen, as I have also, some of those machines in banks and insurance companies.

I was told by a friend in the insurance business in Little Rock that a computer installation in his company supplanted about 100 people out of about 125. That statement pertained to only one operation dealing with the clerical phase of that business.

There are certain operations that the machines do not perform. I believe I saw a statement in the article to the effect that approximately 40,000 people a month are being displaced by automation. Those figures applied to the steel industry, and covered a period in which computers as such had not developed to the highest degree. As I have stated, in the steel industry there has been an increase of 20 percent in production with a drop of 17,000 men. Obviously automation is having a great impact on industry.

Mr. ELLENDER. Mr. President, will the Senator permit me to make a statement? I ask unanimous consent that he may yield for that purpose.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ELLENDER. The Senator from Arkansas, of course, is familiar with the progress we have made in farm production.

Mr. FULBRIGHT. Oh, yes.

Mr. ELLENDER. When I came to the Senate in early 1937, about 23 percent of our population lived on the farm, producing crops and commodities for themselves and the rest of the Nation. Today, only 7½ percent of our population is engaged in farming. Yet, as the Senator knows, production is much greater now than it was 28 years ago.

Mr. FULBRIGHT. Yes.

Mr. ELLENDER. In the case of cotton, with which the Senator from Arkansas is familiar, it required as many as 42 million acres of cotton to produce the baleage that can now be grown on only 16 million acres of land.

In line with what the Senator from Arkansas has been saying, the same situation can be found in agriculture.

There are one-third of the farmers now working the fields, as compared with 28 years ago, but that one-third produces as much as the 23 percent of the population produced 28 years ago.

Mr. FULBRIGHT. Even on the decreased acreage, there is not nearly the demand for manual labor which was then required. So, in addition to the reduction of labor, there has been a great increase in mechanization.

Mr. ELLENDER. That is correct. As the Senator stated a while ago, in order for an unskilled laborer to be able to obtain work on a farm, he must know how to operate and do simple maintenance on a tractor. He must be able to do things never thought of 28 years ago.

Mr. FULBRIGHT. He has to be a mechanic, and quite a skilled one.

Mr. ELLENDER. Yes. I can remember that on the farm my father managed for himself and his brothers 35 years ago, he hired as many as 150 laborers to produce the same amount of sugarcane that my brother now can produce on the same farm with 7 laborers. The laborers whom my brother employs have been taught how to operate tractors and canecutters. Of course, they had some amount of skill in operating other machines. It required a little time to teach them. Yet, those 7 or 8 employees produce as much as 150 workers did only 30 years ago.

The same situation can be duplicated in almost any industry. Everywhere we find much greater production with fewer employees.

From what the Senator from Arkansas has been pointing out, it would seem that, even though there are well-trained workers available to take jobs, automation is crowding them out. Even though the people are educated, there will still be unemployment. The question is: What can be done about it? Manpower retraining is part of the answer, but this bill is not.

Mr. FULBRIGHT. I agree with the Senator. I was citing this as an aspect of the problem that only accentuates the difficulty. The people must be educated. Automation will make the problem more difficult. However, I point out that a great many things remain to be done. For example, the Senator from Louisiana has been a leader in this body for many years in proposing projects to control our rivers. He has done as much as any other member of the Appropriations Committee to foster such projects. There is much to be done in that field. There is much to be done in road construction. There is much to be done in the education field. There is much to be done for the cities which have attracted great numbers of persons from the farms. Those areas are now becoming slum areas. Many will have to be razed and rebuilt. New areas will have to be built, because many of them are becoming real slums that are disgraceful.

There are many jobs to be done that we have too long neglected. The program must be planned on a large scale.

I completely agree with the Senator's reference to manpower training. This program has been started in Arkansas. It is on a small scale. That is one of the programs that must be developed. Automation and the computerizing of our country are only adding to the difficulty.

The pertinent point is that the proposed law and the FEPC provision ignore this aspect of the problem. The sponsors of the legislation think that by enacting a law, jobs will be created for the people. This is a cruel misrepresentation of the facts, because many of the people who now have jobs will be losing them. Jobs cannot be created by the type of law proposed.

Mr. ELLENDER. I do not see how discrimination can be practiced if there are no jobs available for people who are qualified.

Mr. FULBRIGHT. That is correct.

I have referred to the need for training and undertaking improvements which have long been neglected, for reasons which perhaps were good, but which have long been neglected, just the same. One reason has been our preoccupation with international problems. We have kept the peace. But we spent more money in World War II than has been spent on any of the internal problems I have mentioned. We have, at least, made progress toward peace in the world. Now it is time to turn our attention to problems at home, and to educate and train our people.

The Senator has agreed that what is proposed is not the proper approach. It is a poor way to do it. It is starting at the wrong end of the problem that faces the country.

Mr. ELLENDER. I do not know whether the Senator was in the Chamber some time ago when we discussed the unemployment situation in many States of the Union that have FEPC laws. The table that was presented indicated that the rate of nonwhite unemployment was much greater in States that had FEPC laws than in the South, where the States do not have FEPC laws.

Mr. FULBRIGHT. That fact does not surprise me too much, because the States that have FEPC laws tend to be industrial States; and relatively fewer numbers of unskilled workers are required. Arkansas is an agricultural State. So is Louisiana, although it is more industrialized than my State is. So, on the basis of population, there are more employment opportunities for untrained people in our States. In some industries in our States there is less inclination to discriminate than there is in States that have FEPC laws. That is not something I can prove, but that is my impression.

Mr. ELLENDER. Does not the Senator believe that States which have an FEPC law should make an effort to make the law work and to find jobs for the unemployed Negroes?

Mr. FULBRIGHT. The Senator is correct.

Mr. ELLENDER. Does the Senator know of any of those States making an effort, through vocational training, to train them for jobs?

Mr. FULBRIGHT. I believe they are doing something, but it is not enough. A relatively small effort has been made in this field, both in vocational training and general public education.

Mr. ELLENDER. I am glad to state that in my own State there are many vocational schools. Almost every parish has vocational schools; and Negroes as well as whites attend them. I do not believe the same pattern can be found in many Northern States. As the Senator has pointed out, the FEPC section of the bill would not create jobs, but in my opinion, would mislead many of those who are now saying that if the bill should pass, everything would be all right. The Senator knows that to be the impression of some who advocate passage of the bill. In my judgment, if it is enacted as written, it will cause more strife, more conflict, more resentment, and do far more harm than it does good. Does the Senator agree with that contention?

Mr. FULBRIGHT. Absolutely.

The Senator is entirely correct. The Senator took part in FEPC debates in the past. This is one section of the bill which has been thoroughly discussed, considered, and rejected by Congress in the past. It is one of those provisions which have proved to be unacceptable and unwise. As I stated earlier, it was not even recommended by the President when he sent his bill down. It is one section that should be eliminated from the bill, if any section should be eliminated.

Mr. ELLENDER. Is the Senator familiar with what happened with past Presidents, and even with the present occupant of the White House while he was Vice President? Because Congress failed to enact an FEPC law, they sought to deal with the problem through Executive orders.

Mr. FULBRIGHT. The Senator is correct.

Mr. ELLENDER. Of course, that policy applied only to employees of employers fulfilling Government contracts.

Mr. FULBRIGHT. The Senator is correct.

Mr. ELLENDER. Even under executive orders, I am informed, FEPC does not work. Is the Senator familiar with that situation?

Mr. FULBRIGHT. The Senator is quite correct. It does not work because it is contrary to the basic necessities incident to operating a business. It can work in certain kinds of government employment, I suppose; but it does not work particularly well. That is the heart of the American economy. There are certain kinds of activities in which efficiency is not the primary objective and I suppose it can be made to work then.

Mr. ELLENDER. The Senator has made a valuable contribution to this debate. I am very much interested in his remarks.

Mr. FULBRIGHT. I appreciate the Senator's questions. I believe this is the very heart of the particular section. I was quite surprised that the House of Representatives should pick up this hoary and ancient proposal on FEPC and put it into this bill and send it over here, especially when it had not been recommended by the Executive.

Mr. President, inadequate education represents a reckless squandering of the Nation's human resources. Studies of high school dropouts show that 70 percent of these young people have at least average intelligence and could complete high school, and 6 to 13 percent are of superior intelligence and fully capable of doing college work. Were these young people educated to their fullest capacity, they would have every chance of becoming responsible and productive citizens. The failure to educate them involves a major loss of economic productivity, incalculable personal and social problems, and, in consequence, a heavy drain on the overall strength of the Nation.

These are real problems facing almost 6 million Americans today, whites and Negroes alike.

I repeat that this is the area in which there is hope for some solution, or certainly an amelioration of the problem with which this bill attempts to deal in the wrong manner.

We must produce economic growth, and we must train our people to man an expanding and complex economy. And in relation to the problem to which our attention is now drawn, we must minimize the possibility of racial friction which detracts from the Nation's overall economic potential.

If we must assume a situation of less than complete employment, and we have little promise of any other, it becomes apparent that the imposition of Federal regulation to achieve the hiring of Negroes will almost automatically mean the denial of jobs to others. It should also be recognized that this burden will be placed at an economic level where it is least likely to be borne with grace by the white community. If the intensity of racial animosities is to be abated, situations should not be created, particularly by Federal legislation, which will foster greater tension between whites and Negroes.

To be realistic, a higher percentage of Negroes than whites lack those skills demanded by our economy. The manpower report of the President contains this very valid statement:

> A more rapid rate of growth in the economy and a general increase in employment opportunities would undoubtedly reduce unemployment among Negroes. However, as the chapter on Negro workers later in this report makes clear, it is unlikely that any real solution to the problem can be anticipated unless there is an increase in the educational levels of Negroes, unless training and retraining programs are expanded and are oriented, especially toward the problems of deficient education and lack of skill, and above all, unless there is a general acceptance of the doctrine of equality of opportunity.

I concur fully, Mr. President, in the need for better education, vocational training, and opportunity, but I believe these fundamental problems will only be accentuated by a Federal agency which supervises employment practices to obtain preferential treatment for a particular group.

For years I have pled for greater national attention to these problems. During my 20 years in the Senate I have introduced and supported numerous Federal aid to education bills, bills to aid higher education and vocational training legislation. We have taken some positive steps in these areas in recent years but the country, as a whole, and the Congress, which reflects national inertia, seem satisfied with less than a total effort.

I applaud the present administration's efforts to get at the roots of poverty in America and I hope the spirit in which these efforts are undertaken will prove to be infectious. As a nation we have too long been complacent about the plight of the poor, the illiterate and the unemployed. But, Mr. President, let us not accept superficial remedies such as that envisioned in title VII. Rather let us get busy in a campaign to upgrade educational opportunities in the public schools, to train workers and to produce a full-employment economy.

Economists' charts and graphs very often obscure the realities of unemployment and its patterns. The Secretary of Labor talks of high unemployment among unskilled and semiskilled workers. The Manpower Report of the President reports high unemployment rates and low-average income among rural nonfarm workers, older workers, and young people entering the labor force. Each of these groups has an unemployment rate substantially above the national average and in some cases considerably above the nonwhite unemployment rate. The fact of the matter is, Mr. President, that these classifications encompass Negro unemployment and are, in fact, a more realistic appraisal of it. If the Senate is to consider effective measures to deal with this very real problem, it must face up to the fact that the creation of an FEPC is a superficial approach which ignores the very real human deficiencies involved.

Rather than seeking a means to shift the available jobs from whites to Negroes, we should be considering legislation to strike at the roots of unemployment and the poverty it produces.

The economic report of the President, transmitted to the Congress in January of this year, contains this statement:

> The maintenance of high employment—a labor market in which the demand for workers is strong relative to the supply—is a powerful force for the reduction of poverty. In a strong labor market there are new and better opportunities for the unemployed, the partially employed, and the low paid. Employers have greater incentive to seek and to train workers when their own markets are large and growing. For these reasons, tax reduction is the first requisite in 1964 of a concerted attack on poverty. To fight poverty in a slack economy with excess unemployment is to tie one hand behind our backs. We need not do so.

I concur with this view and I believe the Congress acted wisely in its passage of the tax bill. The additional demand for goods and services which is now being generated by the reduction in Federal income tax rates will do far more for Negro employment than an FEPC.

Mr. President, employers are not static qualities in an economic equation. They are rather businessmen risking their time, talents, and capital in the hope that a profit will be returned to them. It should not be the purpose of Government to handicap them, but rather to aid and abet their efforts by providing those services and such regulation as is necessary. Businessmen are already encumbered with a multitude of Federal statutes and regulations requiring all manner of reports and subjecting them to inspections by State and Federal authorities. The imposition of yet another set of requirements for detailed reports on personnel policies, hiring practices, and other facets of their enterprises will not serve to stimulate economic growth. There is great potential harassment encompassed in section 709(c) of this bill. There is no limit to the records and reports which could be required by the Equal Employment Opportunities Commission if this bill is enacted. Employers would be required to "make and keep records relevant to the determinations of whether unlawful employment practices have been or are being committed." It will lie within the discretion of the Commission to determine relevancy and it is obvious that a tremendous amount of statistical information not presently computed by employers could be required under this authority. In addition, the Commission would be given authority to require employers to make such reports evidently without limitation as the Commission may require by regulation.

Mr. President, the regulatory devices now employed to produce order and fair competition in our economy have grown increasingly complex in recent years. I often feel that at a minimum one should have formal training as an accountant, a lawyer, and an economist just to get along these days. I strenuously object to the creation of a whole new set of ill-defined requirements to be met by businessmen on penalty of Federal criminal sanctions. It may be, Mr. President, that the proponents of this bill plan to solve our unemployment problems by this section of the bill for it will certainly expand the clerical staff of every covered enterprise.

Mr. President, in addition to overall measures to stimulate the economy, such as changes in the tax structure and public expenditures like the accelerated public works program, we must face up to the very real truth that unemployment and underemployment have geographical identity. My State and the other Southern States to which this legislation is directed are trying earnestly to bring about fundamental changes in their economies. In the Ozarks, in Appalachia, and throughout the South, State, and local development groups, with Federal assistance, are trying hard to stimulate and attract new industry. An FEPC will be of no help to these efforts and, in fact, of no help to anyone where jobs do not exist. It is tragically paradoxical to me that Members of the minority party, particularly in the House of Representatives, have given strong support to this proposal while opposing the extension of the Area Redevelopment Program. ARA has helped to create almost 5,000 jobs in Arkansas in the last 3 years. This is employment which means dollars in the bank, shoes for the kids and a better way of life for many people of my State, both white and Negro. But, this program is now labeled wasteful while the radical legislation before the Senate which will create no jobs, will subject businessmen to harassment and intimidation, and will breed hostility between men of different races is proposed as a solution to Negro unemployment. This, Mr. President, at its best is illogical and at its worst rank hypocrisy.

Mr. President, in doing some research on this type of legislation, I came upon a thoughtful and honest statement made to a special subcommittee of the House Committee on Education and Labor in 1949 by Hon. Brooks Hays, who at that time was a Representative from Arkansas, and who is well known throughout the country.

I was in school with Representative Hays. We were in the same fraternity and attended the University of Arkansas together some 40 years ago. He is well known for his progressive views.

I was very much gratified when, some 2 weeks ago, about a thousand leading citizens of my State gathered at a dinner at Little Rock to pay tribute to Brooks Hays and his public service.

I believe that his statement on the Fair Employment Practice Act is extremely pertinent and would be useful to my colleagues in the Senate and to the public if it were put in the RECORD at this point.

I shall read a part of his statement to the subcommittee at that time:

> Mr. Chairman, I know that emphasis is often given to things we oppose. I would prefer that emphasis be given to things I favor. It is inevitable in any issue as controversial as this that the negative attitude will receive the highlights, but I would much prefer the committee remember the things I favor rather than the things I object to, and I should also like to add at that point that it has given me some pain to find myself in opposition to the efforts of a minority group—a racial group with whom I have worked in the South—in a matter that is of such importance to them. I have not enjoyed that position. I have spoken frankly and sincerely, but I have spoken with some sensibilities, and I feel, if I could make some contribution to the clearing of the atmosphere, I would make a contribution more important than any technical advice or counsel I might offer. I think it is more important at this stage that we all create an atmosphere in which the right solution might be sought than if we came up with the perfectly correct answer on some of these specific questions.
>
> While opposing the pending bills, I have in mind certain alternative proposals which I trust will receive consideration of the committee. It is my opinion this committee has an opportunity to render a great public service by rejecting coercive measures which will result in aggravating the problem and to recommend, on the other hand, a constructive approach carefully defining that limited Federal aspect of this general problem.

> Congress cannot give adequate consideration to the proposed remedies without taking into account the relationship of the following specific proposals: (1) Regional variations in social and economic problems; (2) the controversy growing out of the President's message on civil rights; and (3) current economic trends relating to employment.
>
> I should like the privilege of making a brief statement of my keen personal interest in the problem of securing for minority groups their full rights in our political and economic system. I have some pride in my efforts in past years to secure for all groups, particularly the southern Negro farm population, the highest opportunities for advancement. My record in the United States Department of Agriculture evidences this interest. I think the chairman knows perhaps that I was a member of the staff of the Farm Security Administration for many years.
>
> I know that it is difficult for members of the majority group to understand fully how a denial of a right affects the thoughts and feelings of one who has reason to think such denial is attributable to race or religion. Feeling this difficulty, some of the spokesmen of the minority have gone so far as to suggest that it is impossible for a member of the majority racial group to divest himself of the last vestige of prejudice against the minority. I do not agree with them, but I understand how the impression originates. I make only the claim for myself, and those who have expressed approval of these views, that we have tried sincerely and diligently to rise above prejudices. I think this may be settled by compromise. I mean by that we would damage the minority substantially if we set in force, as a result of the passage of questionable laws, reactions on the part of the employers and fellow workers that would cancel out any theoretical gains from a Federal law.
>
> I am limiting my remarks largely to the southern situation where almost 10 million Negroes, or 70 percent of America's total, make their residence. What the white people of the Southern States think about Federal authority being extended to this field is of tremendous importance. To disregard their thinking and the pattern of life to which the races are conditioned, would be a tragic mistake. No one familiar with the situation in the South will question the statement that legal penalties against southern employers and labor organizations for failure to conform to regulations prescribed in Washington will retard the whole trend toward nondiscrimination and improved race relations in the region.
>
> The opposition to this legislation is often identified with the resistance generally evidenced in our section to President Truman's so-called civil rights program. It is impossible to disassociate the plan from the issues revolving around the President's recommendations.
>
> I will not undertake here to distinguish between the criticisms of the message which I regard as meritorious and those which are questionable. I do concede that there is merit in some of the President's recommendations. I insist, just as vigorously, that the passage of this particular proposal would be disastrous. It is a step toward "stateism" which our people have every right to ask us to oppose. Neither can this view of the problem be regarded as sectional. The strongest indictment I have seen of the FEPC came from Mr. Donald Richberg, of Illinois, who said of the penalty aspects of FEPC:
>
> "Unless the Government is to destroy economic system of competitive freedom and social system of free association, it cannot undertake to interfere with the selection of one's associates in work or play."
>
> Finally, Mr. Chairman, the answer to the employment problem of the national minorities is in advanced educational methods in the public school system, in industry, and Government, and, most important of all, in maintaining a flexible and stable economic system.
>
> There is no power in Government that will create adequate opportunities for employment in industry and agriculture unless the economy itself is thriving. Consider the practical angles. Put a law of this kind upon the books with the threat of Federal court action against the violation and 9 out of 10 employers will find legal ways not to employ Negroes for the reason that they will thereby be relieved of having to explain the discharge of Negroes in slack times. Every employer will conclude that if he does not hire them he will not have to account for firing them. It will defeat its own purpose.
>
> My own opposition is directed primarily toward the coercive and penalty features of this proposal. I do not oppose the use of Federal service in counseling for nondiscrimination and in pursuing educational methods in the Department of Labor or some other Federal agency that might be invoked for the economic aid of Negroes and other groups.
>
> The success or failure of FEPC laws in the 10 States that are experimenting with them does not help us much in this problem. Those States have authority to deal with such problems. The authority of the Federal Government is constitutionally limited and, in my judgment, should not be extended beyond a coordinating and educational service as an auxiliary function of established agencies.

Representative Hays summed up and clearly expressed one of the principal objections to the present law, as well as to the FEPC law, which he was discussing at that time. The fact that the Senate committee has held no hearings on the bill seems to me to be all the more reason why the Senate should pay attention to and take into consideration what was said by the competent, respected, honorable men who in the past were discussing similar measures in the committee hearings.

Mr. President, having discussed some of the fallacies inherent in the concept of a FEPC as a solution to unemployment among disadvantaged groups in our society and specifically to Negro unemployment, I turn for a moment to some of the technical deficiencies in this title of H.R. 7152. I have criticized, and I believe with some justification, the broad discretion which would be given to the Equal Employment Opportunities Commission to promulgate regulations requiring reports and the maintenance of records by employers. I believe this unbridled authority is potentially the source of great harassment to be used as a sword over the heads of businessmen, to compel compliance with the dictates of the Commission.

Section 707(a) of the bill would permit the filing of complaints alleging "unlawful employment practices." Such complaints could be filed not only by the aggrieved parties, but also by any other person, or by a member of the Commission.

I believe it would be useful at this point to consider the language of the bill as it was passed by the House of Representatives.

> PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES
>
> SEC. 707. (a) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

Mr. ERVIN. Mr. President, when the Senator from Arkansas finishes his discussion of subsection (a) of section 707, I wonder whether he will yield to me, to permit me to ask some questions in relation to that part of the bill.

The ACTING PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from North Carolina for a question?

Mr. FULBRIGHT. I yield to the Senator from North Carolina for a question.

Mr. ERVIN. Does not the Senator from Arkansas believe that the provision of this subsection, which, in substance, provides that a written charge may be filed by a member of the Commission, are in conflict with the principle that the same person should not act as accuser, prosecutor, and judge, in a proceeding affecting the rights of litigants?

Mr. FULBRIGHT. The Senator from North Carolina is entirely correct. That situation reminds me of a question we were discussing in the course of my previous speech; namely, the proposed power of a court in connection with criminal contempt, if the same person brought the charge and then prosecuted. The Senator from North Carolina is absolutely correct.

Mr. ERVIN. Would not the provision of the subsection which appears in lines 6, 7, and 8, on page 40, and which specifies, in substance, that two or more members of the Commission would determine the validity of a complaint, permit the Commissioner who preferred the original charge to sit as one of the two members of the Commission to pass on his own charge?

Mr. FULBRIGHT. It is clear that it would.

Mr. ERVIN. Was the Senator from Arkansas a Member of either the Senate or the House at the time of the passage of the Administrative Procedure Act?

Mr. FULBRIGHT. Yes. I believe that was in 1946.

Mr. ERVIN. Does not the Senator from Arkansas know that the motive behind the enactment of the Administrative Procedure Act was to remove the objectionable practices to which many of the departments and agencies resorted in quasi-judicial proceedings, whereby they had the same Government official act as investigator, and then as accuser, and then as trial examiner, in proceedings before those quasi-judicial bodies?

Mr. FULBRIGHT. The Senator from North Carolina is absolutely correct. This has been a difficult problem throughout our history; but the bill would only make it worse. The Senator from North Carolina is absolutely correct. That was one of the principal motives for enactment of the Administrative Procedure Act.

Mr. ERVIN. I do not know whether the Senator from Arkansas is familiar with the case; but will he accept my assurance that the Supreme Court of the United States, in passing upon a proceeding for the deportation of an alien, quoted at great length from a committee report on the administrative procedure bill, to the effect that it was incompatible with the proper administration of justice to unite in one man the roles of accuser, investigator, and judge?

Mr. FULBRIGHT. Yes. That has been one of the fundamental principles of our judicial system from the very beginning.

Mr. ERVIN. Is it not true that under the common law there was a rule which was epitomized in the maxim "No man should be the judge of his own cause"?

Mr. FULBRIGHT. Yes.

Mr. ERVIN. Does not the Senator from Arkansas believe that if a member of the Commission were empowered to make such a charge, and if subsequently he could be one of the Commissioners to pass upon his own charge, that system would be an exceedingly difficult one under which to have an impartial hearing by the Commission?

Mr. FULBRIGHT. The Senator from North Carolina is absolutely correct—particularly in the class of cases which are so greatly affected by emotions, and so forth. It would be bad enough to have such a provision in connection with tax cases, for example; but in dealing with a highly emotional area, I believe such an arrangement would be even more objectionable than in dealing with any other.

Mr. ERVIN. Does not the Senator from Arkansas apprehend that when the membership of the Commission are selected, there will be great danger that the persons who will be selected for membership on the Commission would be some of those who had been more or less crusaders in this field?

Mr. FULBRIGHT. They would be prominent applicants for appointment to such positions.

Mr. ERVIN. Does not the Senator from Arkansas believe that the work of the Commission would be likely to be very substantially affected by the fact that a commissioner would be empowered both to make the charge, while serving in the role of prosecutor, and thereafter to pass on the charge, while serving in the role of judge and jury?

Mr. FULBRIGHT. The Senator from North Carolina is correct. I am sure that would be the result.

Mr. ERVIN. Has the Senator from Arkansas heard, from time to time, a great deal of criticism of even such agencies as the National Labor Relations Board, from persons of varying viewpoints, about the effect of the attitudes of individual members of the National Labor Relations Board, first on one side, and then on another, in influencing the Board's decisions?

Mr. FULBRIGHT. Indeed so; and I have had personal experience with such charges growing out of difficulties in my own State.

Mr. ERVIN. I wish to ask the opinion of the Senator from Arkansas about the wisdom of the provision of the bill to be found in lines 11, 12, 13, and 14, on page 40, which indicates that the Commission would undertake to require the persons against whom the charges were made to make confessions in respect to their conduct?

Mr. FULBRIGHT. I agree with the Senator. The situation is most incongruous. The Commission could require the answer of the respondent. As I understand, in some cases the power would not be used. But that is a very ineffective qualification, it seems to me.

Mr. ERVIN. Is it not rather ridiculous to provide that the Commissioners could make an inquiry of the accused as to his conduct for the purpose of making a decision, and then say that the results of the inquiry would not subsequently be used by the Commissioners in making a decision?

Mr. FULBRIGHT. Such a provision is ridiculous. It could not possibly be effective.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that such a contradictory provision, authorizing the Commissioners to go to the accused and ask him to furnish the evidence for the investigation, saying that they would not use, in any subsequent proceedings in the case, the evidence that they elicited from the accused, indicate, like so many other provisions of the bill, that the bill was drawn by those who were in a great hurry and did not take the necessary time to find the proper phraseology to express what they intended the bill to do?

Mr. FULBRIGHT. The Senator is absolutely correct. Obviously, they did not.

Mr. ERVIN. Does the Senator from Arkansas agree with the Senator from North Carolina that it would be rather poor procedure, and out of harmony with the spirit of the legal system which prevails in our country, for a court to rely, either in whole or in part, upon testimony from the accused to determine whether or not there is any truth to the allegation which is made against the accused?

Mr. FULBRIGHT. Absolutely.

Mr. ERVIN. Does not the Senator from Arkansas remember that one of the great grievances against the court of star chamber was that the court of star chamber tried men in secret and then made them supply evidence to establish their guilt?

Mr. FULBRIGHT. Yes. They developed a very efficient system of torture to make them furnish the evidence. That became a part of the star chamber practice.

Mr. ERVIN. The system was operated purely for the benefit of the prosecution, and not for the purpose of administering justice, was it not?

Mr. FULBRIGHT. It was largely an arm of the Executive to enforce its will.

Mr. ERVIN. Did not the great provision of our Constitution that is embodied in the fifth amendment; namely, that no person should be compelled to be his own accuser or to give evidence against himself result from the activities of the court of star chamber, which called upon the defendant to furnish evidence to establish the truth of the charge against himself?

Mr. FULBRIGHT. The Senator is correct. That is the history of that amendment, which we still respect.

Mr. ERVIN. Does not the Senator believe that if we are to have any such thing as the proposed Employment Opportunities Commission, the Commission ought to be restricted to act in the capacity of judges, and should not be permitted to act in the capacity of accusers, and then, after they have made the accusation, to act in the capacity of investigators?

Mr. FULBRIGHT. The Senator is absolutely correct. It seems to me that the provision is fantastic.

Mr. ERVIN. Under that one section, the Commissioner could be the accuser; he could be the investigator, digging up the evidence in support of his accusation; and then he would sit as a judge to pass upon not only the truthfulness of his accusation, but also upon the credibility, the weight, and the value of the testimony and other aspects of the investigation that he was conducting.

Mr. FULBRIGHT. Yes. A peculiar overtone to that kind of provision is the argument that the question is not a serious one or would not affect the real interests of the people, and is a sort of plaything. It would be utterly unrealistic as applied to the actual facts of business life.

Mr. ERVIN. Would not title VII of the bill, the employment practices title, create a most serious threat to the free enterprise system in America, in that the long arm of Federal regulation, through the agency of the Commission and its subordinates, would be thrust into virtually every business enterprise and every manufacturing plant within the borders of the United States?

Mr. FULBRIGHT. It would affect every one of any significance. That is what particularly disturbs me in relation to a State like my own. Perhaps a company as large as General Motors, which is so large that none of us comprehends its full operation, could, because of its size, accommodate itself to the provisions of the bill. The company has unlimited resources. But the kind of businesses that make up the economic life of my State would find the provisions of the bill an intolerable burden.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that one of the chief characteristics of the free enterprise system in America is the fact that those who invest their money in commercial enterprises have been permitted, in times past, to select their own employees and to determine which of their employees have so conducted themselves in the performance of their duties as to merit promotion, and which of their employees have so conducted themselves in the performance of the tasks required of them as to have so conducted themselves in the performance of their duties as to merit being retained or be laid off in times of financial adversity?

Mr. FULBRIGHT. That is the very heart of the system, as contrasted, say, to the system, of State control which we have seen in other countries.

Mr. ERVIN. Does not the Senator agree with me that the effect of title VII is to take the power ultimately away from the employer and those who have invested their money to form a business venture, and to vest that power in the hands of the Government?

Mr. FULBRIGHT. The Senator is quite correct. The Commission would be vested with very unusual powers.

Mr. ERVIN. Does not the Senator think that such a provision would endanger the success of every business enterprise, and particularly those small business enterprises which are just starting?

Mr. FULBRIGHT. Yes. It would bear particularly upon the smaller industries which are only starting. It would affect even the older ones. The matter of the selection of employees goes to the very heart of the success of a small business as it does to the success of our own offices.

Mr. ERVIN. In my State, especially my home community, there is a large production of furniture. Does not the Senator from Arkansas agree with the Senator from North Carolina that the manufacture of furniture, and especially the finer grades of furniture, requires a high degree of skill in woodworking?

Mr. FULBRIGHT. It does. Furniture making is a very highly skilled industry.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that those who manage those plants and who have spent their lives in the vocation of manufacturing furniture are best qualified to determine the skills which are essential to the proper manufacture of furniture?

Mr. FULBRIGHT. Absolutely. They must be or they would not survive. The companies would not be in business if the employees were not well qualified.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that one of the great reasons for the success of industry in the United States is that manufacturing firms have been under the management of men who knew the skills required for the manufacture of the particular goods they were manufacturing?

Mr. FULBRIGHT. Absolutely. One can cite example after example of when businesses have succeeded for exactly that reason.

Mr. ERVIN. Is not knowledge of the requisite skills in the various categories of manufacturing one of the prime reasons for the success of an undertaking?

Mr. FULBRIGHT. I do not know of anything more important. Such knowledge is an absolute essential. That is what we mean when we talk about managerial capacity. To a great extent it is dependent on the judgment of men and women who are employed to operate the business.

Mr. ERVIN. In most cases does not the judgment of such men determine whether the business will fail or succeed?

Mr. FULBRIGHT. It most certainly does.

Mr. ERVIN. Has the Senator from Arkansas any reason to apprehend that the Commission to be established by the proposed act would be able to supply, either through the members of the Commission or through their employees, the capacity to determine the degree of skill that is necessary in scores of businesses and manufacturing plants throughout the United States?

Mr. FULBRIGHT. It is obvious that they could not possibly have such a judgment. They could have no acquaintance with the kind of businesses in which such skills would be required.

Mr. ERVIN. Does not the Senator from Arkansas join the Senator from North Carolina in the fear that Government employees, operating as agents of the Commission, could order, under the power to be vested in the Commission under this title, that men be hired to operate various kinds of machines in plants, when they would have absolutely no capacity to determine what skills would be essential to operate such machines?

Mr. FULBRIGHT. If it were done, it would be purely a matter of chance, because there would be no valid basis on which it could be done.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that it is a flagrant violation of the spirit of free enterprise for the Federal Government to compel people who have invested their money in business ventures to suffer the disadvantage of having Federal bureaucrats to decide what skills are essential to the success of their business ventures?

Mr. FULBRIGHT. The Senator is correct. If the Federal Government is to go this far, it should go all the way, and should be responsible for the results. Under the proposal, the Government would only go part of the way, but would not bear responsibility for the results.

Mr. ERVIN. Has the Senator from Arkansas noticed the figures for unemployment among nonwhites in States in which there are FEP commissions similar to that which would be established on a national level by this title and the unemployment figures for nonwhites in the States which do not have FEP commissions?

Mr. FULBRIGHT. I do not believe I have seen the figures.

Mr. ERVIN. Will the Senator from Arkansas accept the assurance of the Senator from North Carolina that the figures from the Department of Labor which were presented to the Senate by the able and distinguished Senator from Louisiana show that, particularly in Southern States, the percentage of unemployment among nonwhites is drastically lower than the percentage of unemployment for nonwhites in Northern States having FEP State commissions?

Mr. FULBRIGHT. That fact in itself should be sufficient warning against including this provision in the bill.

Mr. ERVIN. Assuming the figures collected by the Department of Labor to be true, does not the Senator from Arkansas believe it is rather strange that Congress should insist on imposing upon States in which unemployment figures for nonwhites are relatively low a system of compulsory employment under Government supervision, which has proved ineffective in States which have practiced it?

Mr. FULBRIGHT. The word "strange" is an understatement. It would be utterly senseless and self-defeating to do it. I hope the provision will not be adopted.

I appreciate very much the questions by the Senator from North Carolina. He has raised some of the central points involved in this whole matter, particularly the point of interference with the efficiency of American business.

Since the question has been raised in this way, I am reminded of the contrast we have been noting recently between the efficiency of the state system operated in the Soviet Union and that of our own system. There is a great difference in productivity. In recent weeks, the leader of the Soviet Union has made some very interesting statements indicating that he is far from satisfied with the system which dictates decisions involving such matters as employment.

It strikes me that any businessman, or even anyone who is not in business, who would consider the effect of injecting a commission such as is proposed into our industrial system, forcing those responsible for management to abide by the will of such a commission, without the commission having to take responsibility for the results of the operation of the business, could not fail to recognize and understand the contradiction it involves. He would realize how contradictory such a proposal would be to the system which has served this country so well. I am sure he would, therefore, reject this section.

If this section should remain in the bill, I hope Senators would be influenced to reject the whole bill, even though they might approve other sections of the bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield for a question.

Mr. JAVITS. Does the Senator from Arkansas wish us to understand that he believes title VII of the bill would give the Commission provided for under it the power to dictate whom an employer shall employ?

Mr. FULBRIGHT. To a very great degree, it would do just that.

Mr. JAVITS. Does the Senator believe that we do pretty well in the State of New York industrially and commercially?

Mr. FULBRIGHT. Yes.

Mr. JAVITS. Is the Senator from Arkansas aware of the fact that there is a law in New York State which goes much beyond what is provided in title VII, which law has been in effect since 1945, and which we believe has been effectively administered?

**Mr. FULBRIGHT.** I do not know how it is administered, but the State of New York was doing very well before 1945. It has been doing very well since the beginning of the country, and for reasons unrelated to the Fair Employment Practices Act of the State. That law is utterly irrelevant to the fact that New York is doing quite well. I give the State credit for it.

One reason New York is doing so well is that the people of the State have the good sense to send to Washington Senators who promote and protect the interests of the State and persuade the Federal Government to support the World's Fair, for example. I congratulate the people of New York for being discriminating in the Senators they send to Washington. That fact has much more significance in how well New York is doing than does the Fair Employment Practices Act.

**Mr. JAVITS.** Is the Senator from Arkansas aware of how New York has been affected industrially and commercially since 1945 by virtue of having on its books an FEPC law stronger than the one proposed in the pending bill?

**Mr. FULBRIGHT.** No; I confess that I do not know how the law has affected New York. I do not know whether it has helped or hurt New York.

I am reminded that the figures from the Department of Labor show that employment among the nonwhite population was higher in many States with FEPC laws than it was in Southern States.

My answer was based on the assumption that those figures were correct. I believe the Senator from Louisiana used those figures a few days ago. I did not have them for my State.

**Mr. JAVITS.** The Senator has answered the question. He is aware of the fact that New York is doing well industrially and commercially.

**Mr. FULBRIGHT.** It is, and it has done well for a long time.

**Mr. JAVITS.** It was not spoiled by the Fair Employment Practices Act of New York, now in effect for 19 years.

**Mr. FULBRIGHT.** It certainly has not been spoiled economically. The State of New York has great resources; but more than its resources it has vast influence, and for many, many years, since the beginning of our country, it has had an influence upon the policies of the country. I state with all respect that the State of New York has used that influence to its own advantage.

**Mr. JAVITS.** Some of us believe other States have also used their influence rather advantageously.

**Mr. FULBRIGHT.** All States may have done so. I do not say that to be critical. I congratulate the people of the State of New York on having such an able Senator to look after their interests.

**Mr. JAVITS.** Will the Senator from Arkansas explain why he considers that the economic effect upon the United States would be disastrous if title VII were enacted; whereas there has been no such disastrous effect in New York?

**Mr. FULBRIGHT.** New York, the Senator will agree, has been one of the most powerful industrial States in the Union since the beginning of our country. In my State, the opposite is true. It is still an underdeveloped State—as the Senator knows very well. However, we have begun to make some progress.

**Mr. ERVIN.** Mr. President, will the Senator from Arkansas yield for a question?

**Mr. FULBRIGHT.** I am glad to yield to the Senator from North Carolina.

**Mr. ERVIN.** I ask the Senator from Arkansas whether, during the past months, he has not seen television demonstrations in New York by people seeking employment on construction sites, in which they lay down in the streets to obstruct the work going on, while others chained themselves together, in order to prevent the operation of construction projects?

**Mr. FULBRIGHT.** The Senator is quite correct.

**Mr. ERVIN.** I ask the Senator from Arkansas whether he has not read a number of accounts of demonstrations in New York by nonwhites demanding employment.

**Mr. FULBRIGHT.** The Senator is quite correct.

**Mr. ERVIN.** I ask the Senator from Arkansas whether he has seen any telecasts or read any articles revealing demonstrations of that nature occurring anywhere in the States where there are no FEPC commissions?

**Mr. FULBRIGHT.** The only other State I can think of was Ohio, where a most tragic incident occurred recently when a bulldozer on a construction site inadvertently backed over a man.

**Mr. ERVIN.** I ask the Senator from Arkansas whether he has not seen telecasts and read newspaper articles which revealed most forcefully demonstrations of a like character in the City of Brotherly Love—Philadelphia?

**Mr. FULBRIGHT.** The Senator is correct.

**Mr. ERVIN.** Philadelphia, of course, has an FEPC commission.

**Mr. FULBRIGHT.** The Senator is correct.

**Mr. ERVIN.** Does the Senator from Arkansas infer, as does the Senator from North Carolina, from these demonstrations in New York, Philadelphia, and Ohio, and the fact that those who participate in them are nonwhites, that the FEPC law is not a panacea which brings heaven on earth to employment conditions for nonwhites?

**Mr. FULBRIGHT.** It certainly has not proved to be a panacea; the Senator is quite correct.

**Mr. ERVIN.** Does not the Senator from Arkansas infer, as does the Senator from North Carolina, that the Senator from New York [Mr. JAVITS], in his patriotic zeal for the welfare of his State, is perhaps painting a rosy picture which is not altogether consistent with all the conditions which have been brought about in New York, allegedly, by the FEPC laws there?

**Mr. FULBRIGHT.** I agree. I believe that the rosy condition is irrelevant to this bill. I have never seen any proof that the provisions of the bill had anything to do with the prosperity of the State of New York.

**Mr. ERVIN.** Does the Senator from Arkansas agree with the Senator from North Carolina that the Senator from New York deserves great credit for trying to present conditions in his own State in a most rosy fashion?

**Mr. FULBRIGHT.** That would be natural and normal for him to do, he being an able representative of his State. He does it in a most forceful manner.

**Mr. JAVITS.** Mr. President, will the Senator from Arkansas answer one or two questions for me?

**Mr. FULBRIGHT.** I shall be glad to do so.

**Mr. JAVITS.** Did I understand the Senator correctly when he said that his argument against title VII of the bill was that it would destroy the capability of management to choose its own workers?

**Mr. FULBRIGHT.** I believe it would have a great influence exactly to that effect. Before the Senator came into the Chamber, I quoted a statement and made a few comments about one example that would happen which would be counterproductive to the objectives of the proponents of the bill.

Former Representative Brooks Hays testified before a House committee in 1949 on an FEPC bill. The Senator will agree with me that Brooks Hays is a very intelligent and honorable gentleman who was a "moderate" in this field. He was so "moderate" that he is no longer in the House, as the Senator is aware.

**Mr. JAVITS.** That may be the key to this whole debate.

**Mr. FULBRIGHT.** Brooks Hays is an old friend of mine—we went to school together. But to get back to the point. I intended to point out that an issue of this kind holds the sword of Damocles hanging over a businessman. In the first place, he would probably go further under it in refusing to hire a Negro than he would if left alone; because he then would be faced with the probability that if a slack in business came along, and he had to let someone go, he could be hauled up before the judge if it happened to be a Negro. The difficulty lies in the guidelines which the bill fails to provide and the element of judgment involved. If we put a particularly small business group under the threat of interference every time a businessman finds it necessary to fire or hire anyone it will certainly be counterproductive. It would have a tremendous effect upon the exercise of the judgment of management. These judgments which must be made in business are not subject to definition in concrete terms.

A case of this kind came before the Finance Committee recently, when stock options for the management of the Chrysler Corp. came up. This corporation, in 2 years, turned around from being a big loser, losing millions of dollars—the Senator is familiar with the situation as is everyone who reads the New York Times or any other newspaper. The company changed its management, and within 2 years its stock became one of the most dramatic performers on the New York Stock Exchange—all because of a change in management.

This kind of bill, which interferes with the judgment of boards of directors and others operating a business, as to whom they should hire and whom they should fire, would be a serious interference with the efficiency of a business.

This is true not only in business, but in one's own office. Sometimes we do not know the exact reason why someone who we believed would be mutually beneficial to the office became exactly that; yet another who looked just as good, and, who had, perhaps, a better education did not work out very well. These problems are not subject to evaluation by a commission, or anyone outside management. I do not believe one can delegate this sort of judgment to a court or a commission. It is a difficult business to judge who can "best work and best agree."

What is there about a man that enables one to work with him in harmony? I have known many cases in which a man was a failure in business A because of personality conflicts. He was fired or he left to go over to business B, and became a success because of the human relationships involved in the kind of operation of that particular business. It does not necessarily mean that the man was unfit in business A. It only means that he did not fit into its particular operation. That is what is wrong with the approach in this bill. In effect we would be coercing management to keep or to hire people which it felt did not fit into its organization.

This is a rather vague element. I do not know why some people who have worked in my office and I have not been able to get along. It did not work out. It was not because of the color of their skin or their religion. It was something that I could not put my finger on. I cannot tell the Senator just why it was. That is what I am talking about. I believe the Senator and the other proponents of the bill are attempting to interfere with an extremely important part of our business sector.

Mr. JAVITS. Is the Senator aware of the fact that exactly the same arguments that he is making were made in New York? I shall not go into the details of the bill, because I am sure the Senator is well aware of them, as I am. I do not believe it would compel anyone to hire any particular person. It would only prohibit certain individuals from refusing to hire anyone because of his color. However, laying that aside for the moment——

Mr. FULBRIGHT. No; we cannot lay that aside. It is far too important. However, I did not mean to interrupt the Senator. I wish he would proceed.

Mr. JAVITS. I ask the Senator whether he is aware of the fact that the very arguments which he makes were made in New York; that much more violent and drastic results were predicted if the State adopted an FEPC law, and that such results have not materialized over a long period of years?

Mr. FULBRIGHT. I am sure the Senator does not deny that his State has experienced some very serious troubles in the racial field recently. The attention of the entire Nation has been directed to them. Of course, that situation is only in a minor way related to what we are discussing. It is not an easy problem.

The fallacy in the argument of the Senator from New York is the relevancy of the FEPC law to economic conditions in New York, because New York has a tremendous economy. It is the most powerful State in the Union. It transacts more business than is transacted in all the Southern States combined.

We have no objection to New York having its FEPC law. Why are not the Senator's State and other States which have FEPC laws content to have those laws and, having them, prove to us with incontrovertible evidence that such a law has been of great benefit to them?

If the Senator could produce that kind of persuasive proof, it might convince us. We are not as reasonable, perhaps, as the Senator would like us to be, but I think we are quite reasonable. If I believed such a bill would benefit my State, I would be in favor of it. I do not believe it would benefit my State. I believe the Senator must give credence to that belief.

One of the virtues of our so-called Federal system is that the States are allowed to be laboratories for the testing of novel social and economic theories. We have no objection to New York having an FEPC law. I do not object to it at all. I do object to the Senator's demand that we have one in Arkansas, too.

On the international scene, we note a diversity among the nations of the world. We are not trying to make every nation adopt our system. That is why we object to the tactics of the Communists. We tell the Communists to leave other countries alone. That is all we are asking of New York—to be left alone. We do not ask New York to leave us alone in every particular.

Mr. JAVITS. Does the Senator wish us to leave him alone in the matter of contributing tax money for purposes of financing State programs?

Mr. FULBRIGHT. That is a very interesting subject. I have often discussed it in the past. Where did New York get its many dollars? It did not take the money out of the ground, out of a gold mine. Did it not exploit every other State in the Union because it controlled the Federal Government for many years? It controlled the interest rate. It collected money from the great insurance companies. It payed 2 percent for money and lent it at 6 percent.

I did not wish to bring this up. I do not believe New York became rich during the past 300 years because New Yorkers were fine gentlemen. New York became rich because the early settlers in New York were capable and shrewd businessmen, and they took full advantage of their political power as well as their business acumen.

For many years Mr. Joseph Eastman dominated the Interstate Commerce Commission. The Interstate Commerce Commission set up freight rates so that we in the South could not start an industry. The Senator knows that. It required World War II to break down the barriers in the South. At last the South is now beginning to make a living. There were such discriminatory freight rates that we could not even think of starting an industry.

I am not complaining about New York. I do not wish to cast any reflections on the Senator, because he had nothing to do with it. That is past history. That condition no longer exists.

We are now beginning barely to raise our heads above a subsistence level in my State and in several other States in that area. Since World War II we have made more progress than we made in the preceding 80 years.

This is a long story. However, I do not see how imposing such laws on us would benefit New York, or benefit the Nation.

Why does not the Senator from New York demonstrate that doing all that is proposed would be one of the principal ways of solving the racial problem and difficulty? It is a difficult problem. I only say that this proposal is not a reasonable contribution to a solution of the problem.

Mr. JAVITS. I disagree most wholeheartedly with the Senator's comments on this matter of exploitation. However, I would like to ask, Is there any Federal civil rights law which the Senator can think of that the Senator believes would make a contribution to the solution of the racial problem?

Mr. FULBRIGHT. Let us take voting rights. I did not vote for the 1957 and 1960 acts, but I do not feel very strongly about them, because Negroes in my State vote freely. I have no objection to the voting part. I am glad to have them vote. They voted very intelligently, so far as I can see.

There are a great many things in these bills on which we do not disagree with the Senator. It is the means and the methods which the Senator and his associates seek to achieve better relations to which we object. Our real criticism goes to the way the proponents think they will bring about better race relations.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Arkansas yield; if so, to whom?

Mr. FULBRIGHT. I shall yield again to the Senator from New York; then I shall yield to the Senator from North Carolina.

Mr. JAVITS. What does the Senator think about the title of the bill which relates to the use of Federal funds in State programs; for example, with reference to schools in impacted areas, when a State segregates its children on the basis of color?

Mr. FULBRIGHT. Title VI?

Mr. JAVITS. Yes.

Mr. FULBRIGHT. I believe it should be stricken.

Mr. JAVITS. Why?

Mr. FULBRIGHT. I do not believe in this kind of coercion of the States. Let us consider my State. In my State there is located the Little Rock Airbase, which is an impacted area. It is one of the few such areas in my State. The schools are integrated there as they are near Federal installations in Blytheville, Pine Bluff, and Fort Smith. The schools in my hometown are integrated. We are making progress in this difficult area and this is good. However, the Federal Government should not, in this sort of meat-ax fashion, seek to solve the problem by coercion. I believe the Senator from North Carolina agrees with me when I say that our principal objection is to the methods that are being pursued in the effort to achieve an ultimate objective, which is a good one, but which cannot be achieved by these means. In many respects this approach makes the situation worse. This is not the first time that I have said it, as the Senator from New York knows.

Mr. JAVITS. I should like to ask the Senator one more question. With respect to voting, does the Senator contend that there are fewer or more Negroes registering to vote now than registered before the 1957 and 1960 laws were passed?

Mr. FULBRIGHT. Mr. President, will the Senator repeat that question?

Mr. JAVITS. Does the Senator contend that fewer or more Negroes are registering to vote now than before the 1957 and 1960 acts were passed?

Mr. FULBRIGHT. In my State, or generally?

Mr. JAVITS. I am talking about the South generally. I do not know the figures for the Senator's State.

Mr. FULBRIGHT. In my State the registration of Negroes has been going up for the last 10 years, according to my figures. We had one of the mildest of poll tax laws. It was noncumulative. It was only $1. Therefore, there was no serious problem in that respect. Perhaps a certain kind of cumulative poll tax would restrain registration.

Anyway, that is past and gone. My State now has a registration system. No doubt registrations will increase. I do not believe that is due to the Civil Rights Act. It is due, if to anything, to the constitutional amendment and above all to more education and the interest it produces.

Mr. JAVITS. Does not the Senator agree that there was a point at which a Federal law had to be enacted in order to bring about reforms in racial relations in the South?

Mr. FULBRIGHT. I believe its significance has been exaggerated out of all proportion to its importance. I do not believe the bill made nearly the difference the Senator from New York and others have asserted it did.

Mr. ERVIN. Mr. President, does not the Senator from Arkansas agree with the Senator from North Carolina that there are already seven statutes on the books that are well designed to procure for any American his right to vote if he is qualified to do so?

Mr. FULBRIGHT. The Senator is quite correct.

Mr. ERVIN. Is not the Senator from Arkansas apprised of the fact that the present Attorney General and his predecessors have admitted before congressional committees that they have not resorted to any of the statutes that provide for criminal prosecutions?

Mr. FULBRIGHT. That is my information.

Mr. ERVIN. Does not the Senator from Arkansas know that under the Civil Rights Act of 1960, the Federal courts, on a showing that any person has been denied the right to vote on account of his race, pursuant to a pattern for a registration district, can pass upon the qualifications to vote of all persons of the same race in the same district?

Mr. FULBRIGHT. I do not know what more than that is needed.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that those statutes, in the hands of any competent lawyer who is willing to perform his duty and take the requisite action, could enforce the registration of every qualified person, of any race, anywhere in the United States?

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. Does not the Senator from Arkansas believe there is absolutely no necessity whatever for additional laws relating to voting rights?

Mr. FULBRIGHT. I agree with the Senator absolutely. There are on the books all the laws that could possibly be needed.

Mr. ERVIN. Is not the civil rights bill, in essence, a thought-control bill?

Mr. FULBRIGHT. With respect to the particular provision about which we have been speaking, the Senator from North Carolina heard what I said about the judgment of management as to who may serve in a business. In that sense, the bill is a thought-control bill: it enters into an area in which judgment must to some degree be subjective.

Mr. ERVIN. Does not the Senator from Arkansas agree that every judgment that has to be made by any Federal agency on the basis of the bill must be based not upon an external act of the person accused of wrongdoing, but upon the contents of his mind at the time he committed the external act?

Mr. FULBRIGHT. To a very great extent, the judgment must be subjective of what the Commissioner himself thinks.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that at one time the Government, under the Volstead Act, tried to regulate what the people could drink, that is, regulate the contents of their stomachs, and that regulation failed?

Mr. FULBRIGHT. It certainly did fail.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that if the Federal Government does not have the capacity to regulate the contents of people's stomachs, it cannot possibly regulate the contents of their minds?

Mr. FULBRIGHT. That is quite true.

Mr. ERVIN. Therefore, is it not fundamental that the bill is an attempt to act by law in a field which law cannot possibly regulate or control?

Mr. FULBRIGHT. The Senator is absolutely correct. That has been the theme of my song for 20 years. This is not the way to achieve a legitimate purpose.

Mr. ERVIN. Will the Senator from Arkansas accept my assurance that a few days ago I received a letter from a minister of the gospel, asking me if I could not devise some method by which a law could be passed to settle all racial difficulties in the United States?

Mr. FULBRIGHT. When I receive a question like that, I often wonder why the questioner does not suggest the enactment of the Ten Commandments.

Mr. ERVIN. Will the Senator from Arkansas accept my assurance that I replied to the minister by saying that I had spent most of my life in the law, and that one of the things I had discovered was that there are many areas of human activities that the law cannot deal with?

Mr. FULBRIGHT. There are many, indeed.

Mr. ERVIN. Will the Senator from Arkansas accept the assurance of the Senator from North Carolina that he also suggested to the minister that he was asking a great deal if he was expecting Congress to cure, by a single act, in one session of Congress, an imperfect aspect of human nature that the Gospel had not been able to cure entirely in 2,000 years?

Mr. FULBRIGHT. The questioner was asking a lot.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the only way in which problems of this nature can be solved is through mutual good will and cooperation on the local level, where people live and move and have their being?

Mr. FULBRIGHT. The Senator from North Carolina is quite correct.

Mr. ERVIN. Will the Senator from Arkansas permit the Senator from North Carolina to say that an outstanding Negro in North Carolina, who was one of the founders of the largest Negro insurance company on the face of the earth, stated that no man has a right to demand equality; that equality is something which one can obtain only by earning it by his own endeavors and his own achievements and skill; and that if a man wanted to drink water from a cool spring at the top of a mountain, he would have to climb to the top of the mountain?

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that no man can law his way to a more abundant life; but that, on the contrary, he must earn an abundant life by his own achievement?

Mr. FULBRIGHT. That is exactly true.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina in his suspicion that when any person asserts that men of any race can law their way to a more abundant life, he is either fooling himself or trying to fool somebody else?

Mr. FULBRIGHT. That is the kind of thinking that will be tragic in its consequences.

I thank the Senator from North Carolina for his questions.

Mr. President, section 707(a) of the bill permits the filing of complaints alleging "unlawful employment practices" not only by the aggrieved party but also by any other person or by a member of the Commission.

I believe it would be useful at this point to consider the language of the bill as it passed the House. I quote section 707(a):

> Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

Thus on its own motion the Commission could proceed to investigate any and all employers covered by the statute. An employer of 25 persons or of a hundred or of 500 is limited in his resources and is no match for the resources of the Federal Government. Placed in a position of litigating his cause at considerable expense or acquiescing in the demands of the Commission in a "written agreement describing particular practices which the respondent agrees to refrain from committing" I have no doubt that many employers will choose the line of least resistance.

In its first year of existence the Commission would have $2½ million to establish its machinery and $10 million in subsequent years. Pitted against such resources I doubt that many businesses other than the corporate giants of the country will be able to withstand its demands.

The touchstone of this title is section 704 which declares it an unlawful employment practice for an employer—

> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
>
> (b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.
>
> (c) It shall be an unlawful employment practice for a labor organization—
>
> (1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;
>
> (2) to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.
>
> (d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.
>
> (e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees of a particular religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Now I come to subsection (f):

> (f) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.

It would not be easy to arrive at a determination in connection with such a concept. How could it be determined whether one was or was not an atheist? Who would determine that? Would the determination be based on someone's thoughts or beliefs? That determination would be about as difficult to make as the determination of who is a "fellow traveler." Some persons are in the habit of calling any persons with whom they disagree "Communists" or "atheists." This provision would bring the Government into a field in which Government administration would be virtually impossible; and certainly it would be perfectly silly to include such a provision about atheism in a bill of this sort, and then have Government administrators say, "It is all right to fire a man who is an atheist; but even if he is entirely objectionable, he must be hired." In short, the bill would get the Government into fields which would be utterly unworkable.

Now I come to subsection (g):

> (g) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

About 10 years ago there was a very dismal period in which the question of who was a Communist came up. I think there was much evidence to show that the real Communists never registered and never became members of the "front" organizations. Usually, 99 out of 100 of the members of those organizations were innocent bystanders who were not in any way Communists, but who were suckered into certain organizations. At some of the hearings it turned out that some of the Members of this very body were listed as members of some of those organizations, although they had no knowledge of activities which later caused the Attorney General or the Department of Justice or some other agency to determine that the organizations were subversive. So such provisions in a bill of this sort would be highly unjust.

We spend more than one-quarter of a billion dollars a year for the FBI, to enable it to try to control activities of that kind. So it would be perfectly ridiculous to inject into a bill of this nature such a concept, which could not properly be controlled by a commission of five members, who probably would not know a real Communist if they saw one. A real Communist would be much too clever to be caught by such a process. Therefore, Mr. President, such a provision would merely provide an out for some persons who might wish to take advantage of the law.

I believe it is patently obvious that the failure to hire or otherwise discriminate against an individual may be motivated by many factors other than race, color, religion, sex, or national origin. It should be understood, in analyzing this language, however, that those charged with enforcement of this mechanism would surely begin with an assumption that any member of a minority group who was not granted employment or advanced at a sufficiently rapid pace had been abused because of race.

I believe it is quite obvious that that would be the assumption that such a commission would make.

Indeed, this presumption seems to have been high in the minds of those who drafted the bill, for it does not prohibit discrimination in hiring, in that nowhere does it proscribe the hiring of an individual because of his race, color, religion, sex, or national origin. Thus, if subjected to demonstrations, boycott, or other pressure, an employer could discriminate in favor of members of a minority group with no affront to the requirements of the bill. If title VII is to be law—and I fervently hope it will not be—thought should be given to making it the sole means of redress for those who allege discrimination in hiring. If its provisions were available, employers would alternately be subjected to its sanctions and the direct-action methods of Negro groups such as I have described. From recent events, it is evident that there is a radical element in the civil rights movement that is willing to go far beyond what even the most avid proponents of the bill would endorse. I noted with interest the recent comments of the Senators from New York in opposition to the demonstrations scheduled for that city. If the Federal Government is to provide machinery for the airing of grievances against private employers, it should certainly take a hand in the restriction of such wanton and malicious activities.

One further provision of section 704 has caught my attention. I refer to section 704(f) which provides:

> Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.

A moment ago, I referred to this provision; and I wish to deal further with it.

It is my understanding that this provision was added on the House floor and was not contained in the bill reported by the House Judiciary Committee, and certainly was not included in the bill when it was sent to Congress by the President.

It seems strange to me, Mr. President, that in a bill which purports to abolish even personal preferences and prejudices, this flagrant disregard of religious freedom should be included. I hope those in support of the bill, who purport to be champions of freedom of thought and conscience, will reconsider their preference for every comma and period of the bill, in considering the discrimination inherent in this provision. The prejudices, both positive and negative, involved in section 704 remind me of an incident which took place some 20 years ago, when I was a Member of the other body.

In the spring of 1943 I had been a Member of the U.S. House of Representatives for only a few months, and the famous Pickens case arose. One William Pickens was on the Federal payroll, and because it had been alleged that he was inclined toward communism, upon the recommendation of the Dies committee an attempt was made to remove him from the Federal payroll.

I did not know Mr. Pickens, and, moreover, I knew nothing about him. However, I thought it to be improper to pick out an individual and treat him in the way it was being proposed to treat Pickens, and I voted against his removal. A day or two later some of the newspapers revealed the fact that Mr. Pickens was a colored man, and that he was working in the Treasury and promoting the sale of war bonds to members of his race. Upon that discovery a majority—primarily members of the minority party—who had voted for Pickens removal, reversed their former opposition to him, asked for a reconsideration of the vote, and subsequently voted not to remove Mr. Pickens. In both cases I voted not to remove him on grounds of his beliefs or race. I believe at first there were less than 100 Members of the House who voted not to remove him. Because they discovered to what race he belonged they decided not to remove him from the Federal payroll. When they first voted upon the question they believed him to be a Communist. It is very curious what such considerations will do to ordinary, rational people. Of course, it may have been that politics was involved in the case, as I believe politics is involved in the present effort to foist upon us the pending bill.

An antirevolution law is another example of the absurdity to which legislative bodies will go when they attempt to legislate in connection with matters of belief and opinion, such as are involved in the pending measure.

Many years ago, particularly in Spain, the Inquisition was another example of the use of force in opposing a man's beliefs or tastes. I believe that the situation there involved opinions very similar to those which are involved in the present measure.

Human society is indeed imperfect and passions based on racial distinctions are to be abhorred. The Congress of the United States will not, however, eliminate such personal preferences by statute and to attempt to do so is a mistake.

It has been said by those in support of this legislation that it will not result in a quota system of hiring. There are, however, a number of facets of this legislation which, when taken together, strongly question this conclusion. Section 706(g)(5) empowers the Commission:

> To make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies.

While admittedly vague this language conveys to me the impression that studies will be made of the composition of various work forces and I have no doubt that these statistics will be considered germane by the Commission in determining whether an employer is in violation of the act. Moreover, such information could be made available to "nongovernmental agencies" including groups intent on the use of imprudent and malicious methods to force employers to hire Negroes. In recent months we have seen disturbances in such cities as San Francisco, New York, Philadelphia, and Cleveland designed to compel employers to hire members of a particular race. The availability of Government-prepared statistics on hiring practices would be grist for these mills.

I have spoken of the presumption against employers inherent in this legislation. We need not theorize about this prospect for a case in point has been provided for the Senate by the case of Myart against Motorola now pending before the Illinois State Fair Employment Practices Commission. Some reference has been made to this case and I believe the Senate should give its careful attention to it for it provides a good example of the dangerous potential of the pending bill.

Mr. Myart, a Negro, applied to Motorola, Inc. for a job. He was given a general ability test which he failed and was not hired. Mr. Myart then filed a charge of unfair employment practice with the Illinois FEPC claiming he was not employed because of his race. The FEPC investigated and filed a complaint against the company.

A number of issues developed at the public hearing which was ordered, including the fact that the applicant omitted some of his educational and work experience on his application and that he had failed the general ability test given by the company to all hourly applicants.

Nonetheless, the hearing officer ordered Motorola to hire Myart and, in addition, to cease using its general ability test which had been devised by the head of the Department of Psychology at the Illinois Institute of Technology. It was concluded by the hearing examiner that the test was discriminatory to disadvantaged and culturally deprived groups.

The company contends its test is free from any racial bias and in view of its general policy to hire Negroes including recruiting in Negro engineering colleges, business administration schools, trade schools, et cetera, I think it fair to conclude there is no company policy of discrimination in hiring.

Nonetheless, if the hearing examiner's recommendation is allowed to stand by the full Commission the company will be left with no objective means of testing applicants and indeed will be pushed away from an objective hiring system. The March 20 issue of the St. Louis Globe Democrat carried a very appropriate editorial on this case which I would like to read to the Senate:

> MOTOROLA RULING IN ILLINOIS
>
> If absolute equality in employment opportunity is to be the goal of the Nation, it need but adopt the "Motorola ruling" made by an examiner for the Illinois Fair Employment Practices Commission—and we will have given communism a far way to go to catch up with an economic absurdity.
>
> In this case, when a Negro complained that he had been denied employment by Motorola, Inc., after taking the ability tests the company gave to all prospective employees, the FEPC examiner took decisive action to make sure that such "discrimination," if any, could never be practiced again.
>
> Himself a Negro, he ordered the Motorola company to cease and desist from giving ability tests to anybody as a condition of employment. From now on, presumably, the ability to do a job is not to be taken into consideration in hiring anybody for it.
>
> Needless to say, the Motorola decision has stirred up quite a bit of controversy in the State.
>
> Charles H. Percy, who led the fight for passing the FEPC legislation in 1961, says "we never could or should pass a law against such tests." Representative Albert W. Hachmeister says he will demand a legislative inquiry, because such a policy would discourage any companies from building new plants in Illinois.
>
> If the Motorola ruling is adopted universally, mankind will be effectively reduced to the lowest common denominator.
>
> These are but a few defects of the bill.

The Motorola case reminds me that several of the most successful companies in my own State have long used aptitude tests. They have done so without any ulterior motives with regard to race. Such tests are particularly valuable in the field of management. If a company intends to employ a new person who may enter into the management phase of that business, such tests may become very important. Why should they not be used? The universities conduct such tests. Colleges and universities have long conducted such tests. It is almost incredible to me that any State would approve any such action as was taken in the Motorola case in Illinois. It goes against all commonsense.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield for a question.

Mr. ELLENDER. Under the provisions of title VII, then, few, if any, companies would be able to establish ways and means of obtaining employees who would fit into their pattern of employment.

Mr. FULBRIGHT. The Senator is quite correct. If I ever heard of an objective test, it was certainly the one which was prepared by a psychologist of an accredited educational institution.

Mr. ELLENDER. Mr. President, will the Senator permit me to make a statement, without his losing his right to the floor?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

Mr. ELLENDER. Two years ago I happened to be in the Republic of South Africa, and saw aptitude tests being given by employers to Negroes coming to civilization from the jungle. They were seeking work in the gold mines, and I watched the testing process for quite some time. Most of the applicants had never seen a bolt or a machine.

The employer provided little cartons filled with bolts and nuts of all sizes and the applicants were first shown how to match the different sizes. Then they were put on their own. The ones who could put the right nut on the right bolt would be graded thus and so, depending on how many they could match within a certain period of time.

Many such tests were given. Building blocks were passed out, and the natives asked to construct simple huts. Education was not required. It was a question of trying to learn by doing.

The testing took place over a period of 2 or 3 weeks. Grades were kept. The ones who showed the best aptitude were selected for particular jobs in the mining industry, and the applicants were given work according to their ability.

If the case the Senator from Arkansas is now talking about were applied, there would be no way by which the employer could have determined the qualifications of employees. Am I not correct?

Mr. FULBRIGHT. The Senator is quite correct. As the Senator knows, in the field of education, the best schools of this country have been experimenting with aptitude tests for years, trying to find objective ways to place students for employment even while they were still going to school.

I cannot imagine anything more idiotic than to say that an aptitude test is not a legitimate way for a company to determine those who are fitted for employment in that company.

It is bad enough for it to happen in one State, but suppose such a finding were applicable to the whole United States. Where would we end up? This is something that would delight Mr. Khrushchev. He is moving the other way. The Soviets are making movements toward what we would call the free enterprise system.

As the Senator from Louisiana well knows, since he was there, at the end of the first 10 grades in the Soviet educational system, an aptitude test is given the students. Certain students are chosen for vocational schools. Only those with the highest aptitudes are allowed to continue on to college. This is not something to be deplored. It is something we should consider very seriously in this country.

We cannot do it that way. I am not recommending that we do it precisely that way. But I know that in my hometown school district there are what are called advanced courses. They are not adopted because of the race question. They have been adopted in an attempt to fit the courses and the nature of the curriculum to the ability of the students. It makes all the sense in the world. In the same way, Motorola Co. was trying to fit the employees to its own needs.

Mr. ELLENDER. The Senator from Arkansas knows that colleges have recently changed their methods of selecting students. Certain grades are required and certain aptitude tests are given. The best students are selected to pursue the courses.

The same thing is applicable in almost every line of endeavor.

I am glad the Senator has brought this matter to the attention of the Senate, because it shows clearly what could happen if such a procedure were applied in the 50 States of the Union.

Mr. FULBRIGHT. The Motorola case shows, too, to any reasonable person what a disastrous thing it would be if companies were prohibited from applying aptitude tests or any other kind of tests of that nature which are intended to test the capacity or ability of an applicant for a particular job. It is a very clear warning of what we could expect if this section of the bill were adopted.

The matters which I have just referred to are but a few of the defects in the bill.

The distinguished minority leader has offered a number of curative amendments, and while I disagree totally with the philosophy of this title, I applaud his efforts to produce some order in its present chaotic condition.

The whole title should be stricken; nevertheless, his efforts show that he has grave reservations about it.

It has been said by the proponents of this bill that it would not result in the establishment of employment quotas, assigning a number of jobs to a minority group in any establishment, subject to the jurisdiction of the Equal Employment Opportunities Commission. It is alleged that to require a written charge to be filed with the Commission charging an unfair employment practice will insure that cases are handled on an individual basis without overall examination of the composition of an employer's work force. However, the threat of litigation which must inevitably weigh heavily on the mind of any employer subject to this bill will surely prompt many to accept consent decrees in preference to expensive legal proceedings and to therefore be subject to capricious intimidation by any job applicant or discharged employee who happens to be of a racial minority.

That aspect of the problem disturbs me, because obviously the smaller companies, the companies that are just getting underway that have no great backlog of accumulated orders or a great amount of capital to lean on, would be intimidated by the prospects of legal action against them by the Federal Government.

General Motors, General Electric, and Du Pont, can hold their own with the Government, and sometimes even override the Government. I am not so worried about what would happen to them if they should contest with the Government. But, for the small companies, which predominate in my State and throughout the South, the prospect of legal action under this section would so intimidate them that they would either not fight it at all, and be completely subservient, or in many instances, cease to exist. There would have to be confidence in superhuman judgment if a company had to turn to the Commission for the selection of its employees without any reference to their capacity or aptitude.

If we were to follow the Motorola case, this would not be allowed to apply to any kind of objective test as to aptitude.

Mr. President, on the question of preferential hiring based on race, I should like to risk a charge of heresy by quoting Dr. Gunnar Myrdal, who was relied upon by the Supreme Court in the Brown case.

In appearing before the Senate Subcommittee on Employment and Manpower, he was asked by the senior Senator from New York to comment on whether we can help Negroes in employment by passing laws, in view of the need for jobs after laws are passed; whether Negroes should have priority in training; and whether we should have job quotas to guarantee them a catchup by allocating a certain amount of new jobs to them. Dr. Myrdal replied:

> It is a tremendously big problem you are putting up to me, Senator, but I am prepared to answer as good as I can.
>
> First, I believe that everything should be done to put the Negroes on the basis of equality, so far as the law is concerned. I would do that quite independently of anything. I am optimistic enough to believe that within a period of 10 years' time everything in laws, in regulations of a State character which interferes with equal rights will be gone in America.
>
> However, you will still have many of the problems left. There will continue to be discrimination against Negroes in a society where you do not have full employment.

> So full employment comes in a very important precondition for giving reality to legal equality. When there is a fight for scarce jobs, the old prejudices will continue, even if the institutional basis for it is eradicated by you in Congress, which I hope you will do.
>
> There is also the fact that, because of the history of the Negro he is less efficient in many ways. Perhaps half of the grownup Negroes are for all practical purposes illiterate. I am just taking this as a blank truth. There are from the employment point of view a great number of them that are less valuable as workers but you just cannot throw them away. Yet you may be doing so if you do not change the whole educational system.
>
> I am, however, not for preferential treatment of Negroes. And I will try to explain why.
>
> First, because I do not think it is politically wise. Nobody sitting in this room feels responsible for having brought Negroes as slaves to America. You know that argument that we have a guilt does not work politically. We are responsible for our society as it is now, and not for the whole history. None of us are responsible, individually and collectively.
>
> But quite aside from that, I think it is wrong, because Negroes are, it is true, perhaps the largest portion of what I would call the underclass in America, but they are by far from being alone. You have the poor whites all over the place. You have the Puerto Ricans, you have the Mexicans, you have the workers in agriculture in many places.
>
> I think it will be absolutely wrong to give a priority to one group, even if it is the biggest group, before the others. What you have to do is to try to make life decent and productive for all these poor people in the underclass.
>
> When I was visiting Bloomington, I think it is a beautiful university town, but they have what they call the Kentuckians, who live in shacks, with prostitution, gambling, boys dropping out of school.
>
> I think it is very unfair and absolutely against American principles to discriminate in favor of any group because of color. It is almost as bad as doing the opposite.
>
> You have the bigger task of really helping all these poor devils who are stuck because of various circumstances in the social environment. For that reason I oppose preferential treatment.
>
> I have also a comparison to make, if you will excuse me for speaking so long.
>
> You know, professors are horrible people, even if they have been Senators. I suppose you have a few.

I do not know what he meant by that comment. [Laughter.]

> In India they have taken the untouchables, a much bigger part of the Indian population than your Negro population, and given them, you know, certain preferential treatment, in getting into schools and being employed in civil service and so on. It does not work very well.
>
> First, it is helping just a little margin of them. Secondly, it is working to continue this racial business.
>
> For instance, if you are trying to solve the Negro housing problem by just building houses for Negroes, you are just continuing segregation, and they will be slums very soon. The real thing is to have a housing policy directed to certain underprivileged groups, among whom are the Negroes.

Discrimination is an amorphous concept at best, and when subject to statutory prohibition imposes an almost impossible burden of proof. I fear, Mr. President, that an employer so charged will be himself called upon to prove his innocence and that a presumption of discrimination may well come into being against him. As drafted, the bill would simply require a disgruntled jobseeker to charge in writing that he has been the victim of discrimination due to his race, color, religion, sex, or national origin, and from that point on his case would be in the hands of the Commission. Our experience with the Civil Rights Commission has prompted the inevitable conclusion that those to be appointed to any similar body will be of a particular persuasion and given to assumptions of wrongdoing on the part of those charged.

If "discrimination" is difficult to prove, it is doubly difficult to disprove. Small employers could easily be intimidated by Federal officers having access to the Federal Treasury for the maintenance of counsel and the conduct of investigations. It would be far easier for an employer to acquiesce in the demands of the complainant, or to those of the Commission when charges are generated administratively, than to pursue his remedies through the administrative and judicial labyrinth created by title VII. Not only would hiring policies be called into question but also employers could be called to answer for each individual promotion. The result may well be anticipated to be either constant conflict or favoritism to those intended to be benefited by this legislation.

What I have said of employers is also true for labor unions and employment agencies.

Not only could each of these elements in our economic machinery be harassed by individual complaints but they may also be subjected to arbitrary requirements for the maintenance of records, and may be called upon to report on their activities at the whim of the Commission. I should like to quote section 709(c):

> (c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship it may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the U.S. district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment service, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

Under this broad authority the Commission could require an employer, large or small, to go to great expense and to devote personnel needed elsewhere to the maintenance of records containing minute details relating to the applications for employment it receives, the exact status of its labor force at that point in time, the circumstances surrounding each and every promotion and countless other matters which easily come to mind. Moreover, employers may be required by Commission regulation to submit reports digested from such records again at the expense of time and money.

The system contemplated by title VII is basically one sided. Unfair employment practices are defined as "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." Other descriptions are given which relate to internal business practices and to unions and employment agencies. Having accorded those who may allege grievances the means of redress afforded by the Commission the scheme does nothing to protect employers from extrajudicial coercion in the form of sit-in demonstrations and various other means of intimidation—all outside the legal machinery which would be created by this bill. These are intricate and extensive controls to be imposed on employers, but no restraints for those who, according to the proponents of this bill, must be given Federal rights to employment. The employers' hands are tied, but no sanctions are provided for those who may harass or intimidate hiring. This thin sort of "heads I win—tails you lose" system is contrary to Anglo-Saxon jurisprudence and to the basic tenets of our economic system.

It has been encouraging to me that in the turmoil which has beset the country in recent months a number of Senators and other officials outside the South have spoken out for sanity on the issue of race relations. One very fine appeal for reason was made last summer by the junior Senator from Connecticut, who I am sure is counted as a stanch proponent of what has come to be known as civil rights legislation. While we may differ in some respects on specific legislative proposals, I have the highest regard for Senator Ribicoff and I believe his experience as a former Secretary of Health, Education, and Welfare lends additional credence to his remarks. In discussing the real deficiencies among Negroes in the United States he said:

> The Negro must have the right to equality but it is just as important that he be able to take advantage of the opportunity for equality. Discrimination in hiring can and must be ended, but there must also be trained Negroes to apply for jobs. Barriers to promotion can and must be ended, but there

> must be Negroes with skills to merit increased positions of responsibility. Racial restrictions at colleges and graduate schools can and must be ended, but there must be Negroes in sufficient number who have completed high school and have the preparation to succeed in higher education.

With particular relevance to the creation of an Equal Employment Opportunity Commission and the dangers I have described of the discriminations in reverse, he said:

> There is a responsibility on those who seek equality of opportunity to fight to remove discriminations—all discrimination—not to make discrimination a weapon to be used in their favor.
>
> Denying a man a job because he is a Negro is indefensible. Granting him a job if he is not qualified just because he is a Negro cannot be justified either. Those who claim that X number of jobs or Y percent of jobs must be set aside for Negroes are not favoring equality of opportunity. They are saying that opportunity does not matter, that merit does not matter, that only arbitrary numbers and percentages matter. That point of view will undermine the whole effort to achieve equality in this country.
>
> Discrimination is wrong whether it works against a man or for him. Unless the test is ability, someone will always be the victim of discrimination. But if the test of ability is to be meaningful, each person must have the full opportunity to be educated, to learn skills and to qualify for the position he seeks. White and Negro leadership must recognize that only when a person qualifies for a job can he expect to receive a job. This is what responsible Negro leaders have been pointing out for years. This is the concern they have expressed fully two decades before the current claimants to leadership appeared on the scene. And it would be a great tragedy if these responsible leaders who have been urging education and training for their own people should be ground under by those who, in their own bid for leadership, ignore the need to qualify for a job and seek only the job itself. In the long run, only after a person participates, proves his merit, will he be accepted on worth irrespective of race, color, or religion. We must continuously strive in this country to give every person this chance.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. JAVITS. Is the Senator in favor of the title of the bill which would assure equal educational opportunities to Negro children?

Mr. FULBRIGHT. Assure equal opportunity?

Mr. JAVITS. Or endeavor to assure it to them. There is a title in the bill for that purpose. Is the Senator for or against it?

Mr. FULBRIGHT. As I told the Senator earlier, one of the first bills that I ever sponsored and voted for, and the kind that I have spoken for and testified for and voted for on every opportunity since is a Federal aid to education bill. The principal reason for it was to provide adequate education for both colored and white students in the less affluent States of the Union.

As I previously told the Senator, the proper way to go about it is to make available schools which are adequate. In my State there are not adequate schools for either white or Negro children, if one wishes to put it that way. They are very inadequate to the needs of the present day although in recent years the people of my State have made a tremendous effort in improving our schools relative to their means.

It is quite unrealistic to think that by fiat of Congress we can achieve the desired goal. We are making very good progress in my State, and I believe that is true in most States. I cannot speak about conditions in all States.

I said earlier, as the Senator knows, when we were talking about impacted areas, that there are four such major areas in my State. They are already integrated. I believe that the Senator and I do not disagree that every Negro child, like every white child, should have a good school to attend. However, this bill is not the way to do it.

Mr. JAVITS. Does the Senator believe it is in the American spirit to maintain separate schools for Negro children and for white children, and not admit Negro children to white schools or white children to Negro schools?

Mr. FULBRIGHT. It depends on local conditions. It takes time to change longstanding practices.

Mr. JAVITS. Even if local conditions point that way, does the Senator feel it is the American way to do it in that way? If the local condition is separation and segregation, does the Senator think it is in the American spirit to do it that way?

Mr. FULBRIGHT. The transition to a community which the Senator envisages, in which we shall all be more brotherly and more kindly in our attitude, will come very slowly. We have done well in my hometown on education. The percentage of the minority race in the community is relatively small. They have already completely integrated their high school and junior high school. They voted, within the past few weeks, to integrate the students in the single elementary school into the white school. This was not done under a court order. Integration was started in this city's schools in 1954.

The University of Arkansas, which is in my hometown, accepted qualified colored students as long ago as 1948. It did so peaceably and without any trouble. It has never had any trouble. That is the right way to go about it.

But seek to enforce such a law with Federal troops, and we will see action such as occurred in Mississippi, with very bad aftereffects, such as the Medgar Evers case.

The Senator from New York is seeking to force the situation by a coercion which does not meet with a good response. What the Senator from New York proposes would create more ill feeling than progress.

I do not believe a young child can get a good education in an atmosphere of tension, such as is created by coercion. I do not care what his color. A condition is created in the school which is certainly contrary to almost any kind of educational inspiration. Does the Senator from New York believe that Mr. Meredith learned much at the University of Mississippi?

Mr. JAVITS. Does not the Senator from Arkansas believe that desegregation must be ended sometime and that, therefore, those who insist on perpetuating it are responsible for the tension?

Mr. FULBRIGHT. As I said before, the Senator and I differ with respect to the means. None of us takes the position that segregation will last forever, or that there will never be a change in these conditions. I have never thought so. Perhaps some of my colleagues believe that these conditions are handed down by the providence of the Lord. I do not believe so. Much can be done, and has been done in many communities. As much has been done in the Southern States as has been done in Northern States. But I do not wish to criticize anyone. This is the most difficult problem that many nations have.

I mentioned the other day, by a slip of the tongue, that even the Norwegians have a slight problem with the gypsies. I received a letter including an article which said that I was mistaken; it was not the gypsies; it was the Lapps. It is true that I do not know much about that situation, but I had been told it by a friend. Although the racial problem of Norway is the least complicated of any country of any size, even Norway has its problems. If a stranger comes into a community, apprehension is aroused within that community.

So it is an ancient tradition or an ancient trait or instinct of the human race to be suspicious of anything whatever, whether it be for better or worse, merely because it is different.

I might cite the case of the Japanese. I did not know the Japanese had a problem until I went to Japan and heard a leading citizen of a community speak about the Eta. I have never heard of the Eta. He said that they were the people who used to butcher animals for food and leather and became outcasts. They were legally nonpersons until about 1870.

I do not believe the Senator from New York and I really disagree so much about the ultimate objectives; we disagree vigorously about the way to achieve the objectives.

Mr. JAVITS. One thing on which we disagree is the timetable. A century is long enough to bring to the Southern States some degree of parity in respect to enforcing the Constitution.

Mr. FULBRIGHT. The Senator from New York tempts me to say things I do not particularly like to say; but what happened in that century was not altogether the fault of the South.

The Senator referred to the capacity of my State. Due to the exploitation of my State by such people as those who inhabited Boston, Philadelphia, and New York, my State had a per capita annual income of $255 in 1940. That is not so long ago—only 24 years ago. We had been bled white by the great managers of the economy of this country. There was little possibility of getting a decent education in Arkansas. A handful of people, most of them employees of the big corporations that owned all the natural resources, sent their children—perhaps 1 out of 100,000—to Harvard, or even to Columbia. As I have said we have made progress in education in Arkansas both at the public school and college level—with very nominal means.

The Senator from New York says "100 years." I say we have had about 10 or 15 years to begin to provide even the bare essentials for any of our children, not only the young colored children, but also the white children, or any others. There has not been much opportunity for either in too many areas of my State.

It might be said that my State was unique; it was next to the poorest of the poor. But that was not the situation everywhere. Texas, perhaps, had some money. Perhaps Texas did not know what to do with it. I would not want to comment on what Texas did with its money. In any case, the South generally was impoverished. The Senator from New York knows that.

We are all aware of the Reconstruction era. I am not trying to wave the bloody shirt. I do not care to go into that. I think the South ought to be judged on its merits, not upon the assumption that the people of the South are still rebels.

I go back to the principle I stated earlier. Why does not New York set such an example that we will all rush to copy her methods? The Senator's State of New York ought to make conditions so obviously successful that all of us would seek to have FEPC laws. That might impel my constituents to try to throw me out of office if I did not try to get such a law for Arkansas. But the people of Arkansas are not convinced of the need for FEPC. Neither are the people of Illinois convinced that FEPC is successful.

Mr. JAVITS. Mr. President, will the Senator yield? He asked me a question.

Mr. FULBRIGHT. I do not know that I did.

Mr. JAVITS. I thought the Senator did. He said that if I could tell him why if New York had such a successful FEPC law, the people of his State do not rush up to copy New York's methods.

The fact is that the constitutional rights of an individual must be observed wherever he may be, whether in New York or in Arkansas. In New York we are ready to face the issue; but apparently our friends in Arkansas are not. That, I think, is one difference between us. We are willing to take the demonstrations, and we are willing to have the law apply across the board. We want it to apply across the country.

Mr. FULBRIGHT. Is it a constitutional right for an individual to have a job?

Mr. JAVITS. It is not, but he should not be denied a job because his skin is black. The basis of the 14th amendment is that every person similarly situated shall have the equal protection of the law.

Mr. FULBRIGHT. The Senator is carrying that proposition pretty far. I did not know that the 14th amendment applied to private employment by a company. The Senator from New York is a lawyer. I dislike to get into a legal argument with him. He is a constitutional lawyer, and a former attorney general of the State of New York. I do not wish to get into a constitutional argument with the Senator from New York, but I would be interested to know how he can say that a man has a constitutional right to a job.

Mr. JAVITS. The Senator from New York did not mean that the right to a job is a constitutional right. He says that Congress has the right to legislate in a field where a job is being denied because the Congress has the power to regulate interstate and foreign commerce.

Mr. FULBRIGHT. The Senator says that Congress has the right to legislate. That is different from the wisdom of legislating. The Senator means that Congress has the right to legislate.

I argue that it would be unwise and contrary to the basic instincts of the human race, to try to achieve any purpose by any such means. Whether it is constitutional for Congress to legislate is quite a different question. I have been arguing that it would be unwise even if it were constitutional.

Mr. JAVITS. The Senator from New York has been saying that 26 States now have FEPC laws, and that in those 26 States the FEPC laws have been working well; and we have demonstrated, we believe, in our affirmative case, and by all the facts, the existence of this type of denial in States which do not have such laws. Therefore, we maintain that there is a national purpose to be served by preventing such a denial.

We answer the argument that it is impractical and will not work and that employers will be dictated to, and so forth, by pointing out that such legislation is working satisfactorily in a number of the major States of the United States, in terms of the reaction of employers among others. That is really the essence of the argument.

Mr. FULBRIGHT. It seems to me this involves a question of fact. I cannot believe that it would not be wiser for the Senator from New York to rely upon the available communications media—particularly those in New York; and we realize that all of the major networks and all of the national magazines, with one or two exceptions, emanate from New York City, which directly or indirectly controls practically all the communications of the country, and New York has available the necessary funds—to spread to the rest of the country sufficient word of the satisfactory experience in New York to be convincing to all our people. So, with all those available means of communication, why New York cannot convince all the other States of the soundness of the position it advocates is beyond my comprehension. I do not know the conditions which exist in New York; I rarely go there—perhaps once or twice a year, to make a speech, or something of the sort.

Mr. JAVITS. The Senator should come to New York more often; we would be glad to see him there.

Mr. FULBRIGHT. But I cannot do so; I am so bedeviled down here that I cannot get away. [Laughter.]

I have not yet even been to the fair, although I participated, as a Member of this body, in helping the fair get underway. I hope the Senator from New York will not forget that.

Mr. JAVITS. No; I shall not forget it.

Mr. FULBRIGHT. My point is that if the FEPC law is working so well in New York, certainly New York, with such an overwhelming array of communications media at its disposal, should be able to persuade the remaining States of the Union that they, too, would find an FEPC law entirely workable—with the result that then all the other States would voluntarily adopt such a law, rather than be confronted with an attempt by the Federal Government to force such a law upon them.

Even though the Senator from New York says things in New York are going very well, I cannot say, of my own knowledge, that that is because of the New York FEPC law. There may be other reasons. I cannot state the facts in that connection, although I am aware that there have been considerable troubles in New York. Those troubles possibly may be due to the plain orneriness of human nature—a characteristic not confined to the people in New York, but, to the contrary, to be found among people all over the world.

In short, I do not believe the problem can be solved by means of a statute. I do not believe such a statute would be successful, any more than the prohibition statute was successful, even though this problem is a greater one, and probably affects more persons than alcoholism does—although I have not made a special inquiry as to that.

Nevertheless, it is true that suspicion of the motives of others is to be found among people in all areas. Such suspicions often are based on outward appearances, regardless of the real character of the persons involved. Such suspicions are especially difficult to reconcile.

In the case of the Japanese Eta, they were engaged in certain occupations or activities because their ancestors had been butchers. They were regarded as nonpeople, as things; they were not even made "people" until a few years ago; and today they are still segregated and kept apart, insofar as living conditions are concerned. The Senator from New York probably knows about that situation.

I am only saying that it is a common fault to take such an attitude. I do not argue with the Senator from New York as to the ultimate objective; I only disagree as to the best way to proceed toward it and as to the rapidity with which changes can be made—especially by means of a statute.

Mr. JAVITS. Mr. President, will the Senator from Arkansas yield again to me?

Mr. FULBRIGHT. I yield.

Mr. JAVITS. I think the point is that we conceive of the country, in certain of its essentials, as a country; and notwithstanding the human prejudices which exist, we are trying to extend the ambit of the purpose and intention of the Constitution to all our citizens. We feel that, as a nation, we are sufficiently enlightened to do that now, and that the other social order, which insists on perpetuating these prejudices, must, somehow or other, be helped to see this.

I would rather expect, if I may say so to the Senator, in all sincerity, that the enlightenment he shows in connection with so many matters would result in his being on our side, rather than on the side of those who say nothing can be done about the problem, and that we must let it run its course.

Mr. FULBRIGHT. I have not said nothing could be done about it. I have said, time and again, that I believe one of the major answers is that we should do much more in the field of education and health; and I do not think the Senator from New York can show, to the contrary, that it is not better to proceed by education, rather than by edict.

The hour is growing late. However, let me point out that even insofar as the situation of Negroes is concerned, while it is inferior in many respects as a group, as the Senator from New York knows, yet I know of many fine Negroes. Many Negroes have made great financial and cultural advancements, and today occupy positions of great responsibility. I am proud that they can, and no one begrudges them the progress they have made. This is one observation.

Another is that some of the more advanced and more mature nations of the earth have not—to my knowledge—attempted to solve the problem in the way the Senator from New York advocates. New York has proceeded by means of an FEPC law; but I do not recall that Britain has followed a similar course. Of course, Britain has quite a long history as a civilized society; and in terms of what the people of Great Britain had to deal with, they have not done too badly, even though today Britain is not the great empire she formerly was. But I do not believe Great Britain has attempted to solve this problem in the way New York has.

Have the British enacted an FEPC law similar to the one in New York?

Mr. JAVITS. So far as I know, the British Parliament has not had a problem of this character to deal with.

Mr. FULBRIGHT. But Britain does have such a problem. Does not the Senator from New York remember the riots in Britain in the last several years?

Mr. JAVITS. But the numbers involved there are small.

Mr. FULBRIGHT. But the numbers involved there are, in proportion, as great as the numbers involved in some of the States of our country. Does not the Senator from New York agree as to that?

Mr. JAVITS. But Britain has never had such a built-in problem, similar to that in the South, which is based on social segregation. That has been stated time and time again.

The British did—and I say it without apologizing for that attempt, although I think it was sad, and regrettable in that they had to pass, some centuries ago, the toleration laws with respect to Jews; and, in that respect, Britain acted by law.

I believe that one of the great marks of genius of our Constitution is that citizens of the United States are citizens by right, regardless of their color or their faith. This is the principle we are seeking to assert here, in its manifold applications.

Mr. FULBRIGHT. Since the Senator from New York has referred to the Acts of Toleration, was there not a period when the British expropriated all the property of those people?

Mr. JAVITS. Yes.

Mr. FULBRIGHT. Yet British society was a civilized, organized society before our land was even discovered by white men. I need not give the Senator from New York a lesson in history.

But from the point of view of the length of time we have dealt with the problem, I do not believe we have done too badly. Of course we are not perfect, and we are not likely to be perfect soon.

However, I could name older countries which, so far as I know, have not dealt with such problems in the way New York has. For example, I do not recall hearing that Denmark—which is noted for its progressive government and its progressive social system—has proceeded by means of such a statute; and I do not believe that France—although certainly France is one of the least racially conscious of any country—has proceeded by means of such a statute. France may have passed a law with regard to the Algerians, although I do not know about that. Perhaps the Senator from New York may know about it. At any rate, such countries have much longer histories of civilization than our country has. There again we find no precedent. We used to be attached to precedents as, at least, examples of how other people have solved their problems. We do not find a precedent of some other country enacting an FEPC law that worked beautifully and solved the problems that confronted the people of that country. Though the operation of the law might be very good in New York, we are not convinced. I recommend that the Senator bring to bear all the communications of New York, which are many, to convince the American people that it would be the thing to do.

Mr. JAVITS. It seems to me that, in its thrust and ideology, the Constitution requires us, when the moment has come, to act in this particular field. I believe the real concept is that, for certain purposes that suit people who believe in States rights, they are eager to have the United States remain a unity, and to have the advantage of all that is done by the Nation as a whole. But when they feel that a proposed action would disturb what they like to accept as the social order for them, and say, "Let us alone," I say that unfortunately a people cannot have it in both ways.

Mr. FULBRIGHT. I do not know that the Senator was present at the time. I had the impression that the Senator from New York felt that he did not like the first education bill that was offered in the Senate because he thought it would involve too big a tax on New York.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. FULBRIGHT. I yield.

Mr. JAVITS. The two Senators from New York split on that big education bill. I voted for it. I said that we would be very glad to see the responsibility maintained to give the children of our Nation an optimum education, and that in my judgment, we would gladly pay our share of the bill.

Mr. FULBRIGHT. Did not one of the Senators from New York vote against the measure?

Mr. JAVITS. That is correct.

Mr. FULBRIGHT. On the ground I have stated?

Mr. JAVITS. I believe so, but do not wish to speculate as to a colleagues vote.

Mr. FULBRIGHT. That is the point that stuck in my mind. However, as I have already said, the Senate as a whole passed the bill 2 to 1. It was not the fault of the Senate. It was a terrible tragedy that it did not go through.

Mr. JAVITS. I agree.

Mr. FULBRIGHT. In my opinion we would be much further along in the solution of our problems if that bill had become law. I was a cosponsor of the measure. I spoke for it. I testified for it. I believe that the measure represented the right way.

Mr. President, no one wishes to perpetuate poverty. No one wishes to stay opportunity or achievement. The question before the Senate is how Negroes are to share more fully in the affluence of our Nation. It is my belief that progress must be made through a general expansion of the economy and through the provision of additional opportunities which will enable disadvantaged individuals to compete on merit in the labor market. The imposition of a system to compel the hiring of Negroes or any other minority group is foreign to our economic system and totally out of keeping with the concepts of ordered liberty and free enterprise which have underwritten the political and economic growth of America. At some point in this debate the Senate must face up to this fact.

Mr. President, we must draw the line somewhere in protection of the liberties which are the essence of our political system.

Title 7 goes far beyond reasonable regulation of the economy and, in fact, infringes on the traditional rights of employers to choose their employees guided by the profit motive, or for that matter any other criteria which may seem appropriate to the man whose enterprise and capital are at stake.

It will not create jobs and it will not help to lay to rest the fears and suspicions which breed racial hostility. I hope that it will be rejected by the Senate.

Mr. President, the hour is late. I yield the floor.

## RECESS TO 10 A.M. THURSDAY

Mr. McGOVERN. Mr. President, if there is no further business to come before the Senate this evening, I move that, in accordance with the order previously entered, the Senate stand in recess until 10 o'clock on Thursday morning.

The motion was agreed to; and (at 9 o'clock and 13 minutes p.m.) the Senate took a recess, under the order previously entered, until Thursday, April 30, 1964, at 10 o'clock a.m.

## NOMINATION

Executive nomination received by the Senate April 29 (legislative day of March 30), 1964:

U.S. ATTORNEY

John H. Kamlowsky, of West Virginia, to be U.S. attorney for the northern district of West Virginia for the term of 4 years, vice Robert E. Maxwell, resigned.

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 29 (legislative day of March 30), 1964:

DEPARTMENT OF STATE

DIPLOMATIC AND FOREIGN SERVICE

Covey T. Oliver, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Taylor G. Belcher, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Pauline Tompkins, of Maine, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs for the remainder of the term expiring May 11, 1966, and until her successor is appointed and has qualified, vice James R. Fleming, term expired.

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# EXTENSIONS OF REMARKS

## Tariff Commission Acts

EXTENSION OF REMARKS
OF

### HON. JOHN S. MONAGAN

OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. MONAGAN. Mr. Speaker, I am pleased to find that the Tariff Commission has recommended the removal of common pins from the list for upcoming negotiations under the upcoming GATT discussions. This action represents a recognition of the serious inroads which low-wage imports have made in the domestic market and gives reasonable protection to this important American industry, while still permitting a substantial flow of imports.

For the record, I append herewith a letter which I recently wrote to the Honorable Christian A. Herter, Special Representative for Trade Negotiations, in connection with this problem. Prior to this time, I appeared before the Tariff Commission and I am gratified at the action that has been taken.

The letter follows:

WASHINGTON, D.C., *April 13, 1964*.

Hon. CHRISTIAN A. HERTER,
*Special Representative for Trade Negotiations, Executive Office of the President, Washington, D.C.*

DEAR MR. HERTER: I have already communicated with you with reference to industries in my district whose management are concerned that their protection may be bargained away in the coming GATT negotiations.

I do want to call particular attention to one of these industries which stands in a peculiar position in this matter. I refer to the pin industry which has already been found by the Tariff Commission on February 28, 1962, to qualify for relief under the escape clause and would have received relief but for the action of the President on April 28, 1962.

We, in western Connecticut, have already lost some of this industry to other parts of the country and under present circumstances this trend will continue with the increase of products from foreign sources.

Since Waterbury and the western Connecticut area constitute the major manufacing center of this industry, and presently qualify as areas of labor surplus, the urgency of reasonable protection is apparent.

For your information, I am enclosing herewith a copy of a communication which I sent to President Kennedy subsequent to the action of the Tariff Commission. I request that you give thorough consideration to the removal of this industry from the list of those whose products will be negotiated upon at the coming session of the GATT conference.

Sincerely yours,
JOHN S. MONAGAN,
*Member of Congress.*

## Soil Conservation and Natural Resources

EXTENSION OF REMARKS
OF

### HON. PHILIP J. PHILBIN

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. PHILBIN. Mr. Speaker, I was very glad today to learn from the distinguished Secretary of Agriculture, the Honorable Orville L. Freeman, that a revised memorandum of understanding with the soil conservation district, with headquarters at Barre, Mass., in my district, has been approved.

The purpose of this revised memorandum is to reflect the concepts of the sixties as an initial step in more effectively helping private landowners to press forward with their soil and water conservation efforts.

Under this memorandum, the Department of Agriculture, through its various agencies, will continue to cooperate with and assist this district in carrying out its longtime soil and water conservation and resource-use program, which has been updated and modernized.

The areas where the cooperation and assistance by agencies of the Department of Agriculture include programs involving soil and water conservation, watershed protection, flood prevention, farm forestry, and rural area development and encompassing research, education, technical assistance, cost-sharing and credit for conserving and improving soil, water, plant, woodland, and wildlife resources and reducing damage by floods and sedimentation, from which our district has suffered in the past, is a distinct contribution to the well-being and progress of many of the fine communities I have the honor to represent in the Congress and I am indeed very grateful for it.

I am advised that the Soil Conservation Service, which has outstanding leadership in my State and district, will continue to provide technical assistance within the limits of its resources to assist the local farmer cooperators in developing, applying, and maintaining conservation plans to protect and improve their land.

Soil conservation and general conservation of our precious natural resources are of great moment to this Nation as we face the crucial problems of the present and move forward hopefully and with high resolve into the future.

Much progress has been made in conservation efforts in recent years but the pace is not fast enough. We must intensify our work in this field to insure that nothing shall be left undone that can be done to conserve all our natural resources, to banish waste and spoilage and to preserve them as vital accompaniments and invaluable instruments of the public safety, the public health and the public interests.

The population of our great country is growing at a rapid rate and we have special reasons for channeling this growth into constructive lines of happy, comfortable living, constructive endeavors and wholesome, sound progress in promoting the true welfare of the American people.

## Tribute to President Truman

EXTENSION OF REMARKS
OF

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. MOORHEAD. Mr. Speaker, today I sent the following letter to President Truman on the occasion of his 80th birthday:

APRIL 28, 1964.

Hon. HARRY S. TRUMAN,
*Independence, Mo.*

DEAR MR. PRESIDENT: It is a privilege to be among those who salute you on your 80th birthday.

Those of us who serve under the banner of the Democratic Party look upon you as one of the all-time great leaders of the party of Jefferson, Jackson, Wilson, Roosevelt, and Kennedy.

We who are in the Congress recall with pride your record of distinction in the Senate.

We who today bear the grave responsibility of formulating the legislation necessary to the safety of the free world recall with pride that it was in the Truman administration that the Truman doctrine, point IV, the Marshall plan, and the North Atlantic Treaty Organization all became the shield of the West.

Today there is no higher honor the Republic can bestow than the accolade the American people have already given you—their love and esteem.

Sincerely yours,

William S. Moorhead,
*Member of Congress.*

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## Dr. Leonard Herzog Honored

EXTENSION OF REMARKS
OF

### HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. SCHNEEBELI. Mr. Speaker, on April 15, in New York City, Dr. Leonard Herzog was a recipient of the 12th annual American Success Story Award, presented by the Free Enterprise Awards Association. He is the youngest person to receive the FEAA Award.

The story of Dr. Herzog's success is an inspiration to young Americans. He served in World War II; worked his way through some of the top colleges in the United States; received his Ph. D. in nuclear geophysics at MIT, with additional education at Harvard; and presently is a part-time professor in geophysics and geochemistry at the Pennsylvania State University. He is the president and founder of the Nuclide Corp., established in 1954 as Nuclide Analysis Associates to provide a talent pool of professors consulting in mass spectroscopy. Nuclide undertook its first manufacturing contract in 1957, when it designed and built a mass spectrometer for the Oak Ridge National Laboratory.

Dr. Herzog and his associates have built Nuclide from a one-room laboratory to three buildings, located at State College, Pa., where 125 scientists and technicians develop and manufacture mass spectrometers, spectrographs and other technical apparatus for the analysis of isotopes, gases, liquids and solids. In 5 years the company, under the guidance of Dr. Herzog, has had a 700-percent growth. Today, Nuclide products and services are used in worldwide research and process control by industry, university and Government laboratories.

In 1963 the Nuclide Corp. received the coveted President's "E" Award for "outstanding contribution to the export expansion program of the United States of America." This year's FEAA Award is another fitting recognition of Dr. Herzog's genius and the contribution the Nuclide Corp. which he founded is making in the scientific world. The FEAA citation reads in part:

> Won an enduring place in the history of American endeavor by achieving success despite adversity, through industry, sacrifice, and ethics, symbolizing the success possible to all under our free enterprise system.

The 17th Pennsylvania Congressional District is proud of this distinguished citizen.

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## Constituents Oppose So-Called Quality Stabilization Bill

EXTENSION OF REMARKS
OF

### HON. JOHN D. DINGELL

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. DINGELL. Mr. Speaker, pursuant to permission granted, I insert into the Congressional Record correspondence between Mr. Ira Schoenfeld, of the Braddock White Cross in Pennsylvania, and the Honorable Joseph S. Clark in opposition to the iniquitous quality stabilization bill.

As you know, it was the White Cross stores who were responsible for having the nonsigner provision of the Pennsylvania State Fair Trade Act invalidated by the courts. It is evident from Mr. Schoenfeld's letter to Senator Clark that they are continuing their work to maintain our free enterprise system by actively opposing the so-called quality stabilization bill.

Senator Clark is to be commended for his admirable and courageous response to Mr. Schoenfeld. The Senator's position against quality stabilization and for the consumer stands as a courageous example to all. I urge my colleagues to follow his lead by working to defeat this invidious legislation.

The correspondence follows:

White Cross Retail Drug,
Health, and Beauty Aid Centers,
*Monroeville, Pa., March 20, 1964.*

Hon. Joseph Clark,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Clark: I manage a retail store selling drug preparations, cosmetics and health and beauty aid products. I am writing to you about a bill known as quality stabilization now before Congress.

You will note from the enclosed petitions that my customers are opposed to this legislation. There are 2,746 signatures on these petitions, illustrating the overwhelming opposition to this bill by your constituents.

My customers and I urge you to use your influence to defeat this legislation.

Respectfully,

Ira Schoenfeld,
*Braddock White Cross.*

April 1, 1964.

Mr. Ira Schoenfeld,
*Braddock White Cross,*
*Braddock, Pa.*

Dear Mr. Schoenfeld: Thank you very much for your recent letter on the quality stabilization bill and the enclosed petitions signed by your customers.

Please assure your customers that I will not support this proposal. This bill would allow manufacturers to set the prices for wholesalers as well as higher prices for consumers. This bill is an unnecessary intrusion into our competitive system of free enterprise.

I am in agreement with President Lyndon Johnson's insistence that "freedom of choice for consumers from our storehouse of goods, at the lowest possible prices, is the very cornerstone of American consumer policy."

I appreciate your bringing the opinions of your customers to my attention. Please feel free to convey my position on this important question to them.

Sincerely yours,

Joseph S. Clark.

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## Mental Health Week, 1964: Let Us Carry On

EXTENSION OF REMARKS
OF

### HON. CHARLES S. JOELSON

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. JOELSON. Mr. Speaker, this week, April 26 to May 2, the Nation is observing Mental Health Week. During this week State and local mental health organizations throughout the country will be holding conferences, sponsoring lectures, and giving annual banquets. Many mental hospitals and clinics will hold open houses or other special events. Meanwhile, in New York City the National Association for Mental Health will officially launch the 1964 Mental Health fundraising campaign from the World's Fair grounds (Thursday, April 30) with a special program in tribute to our late President Kennedy whose interest and leadership in the attack on this major health problem marked the beginning of a new era in the treatment of the mentally ill. This morning I would like to add my own word of tribute to President Kennedy and pledge my support to the National Association of Mental Health and its member groups in their work to educate all citizens about the problem of mental illness and to raise funds for better care and treatment of the mentally ill.

As a result of President Kennedy's special message to the Congress last year on mental illness and retardation, the entire Nation was made vividly aware of the scope of these conditions and the tragic plight of their victims. We learned, for example, that mental illness leads all other public health problems in cost, prevalence, and distribution with an estimated 17 to 18 million people in the Nation today suffering from mental illness severe enough to warrant psychiatric treatment. We also learned that 70 percent of our public mental institutions are too large, too old and hazardous, too crowded, or too poorly equipped and staffed to be approved by the Joint Commission on Accreditation of Hospitals. With such poor facilities and an acute shortage of trained personnel, many States are able to provide little more than custodial care for their patients.

As a result, although we now have the medical knowledge, the drugs, and the therapeutic techniques to cure many of these individuals in a relatively short time, approximately half of the 515,000 patients in our public institutions in 1962 had been confined for 5 years or longer. As we are belatedly learning, many patients, once they adapt to hospital life, become chronic inhabitants. Public Law 88-164, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, will help prevent this needless waste of human resources since it will provide for community centers where mental illness can be diagnosed and treated promptly and where the patient will be able to get help while at the same time maintaining the vital contacts with his family and friends and perhaps even retaining his job.

President Kennedy's Joint Commission on Mental Illness and Health estimated that at least 50 percent of the patients now under custodial care can be rehabilitated so that they can live at home without hardship to themselves or their families. This would be a truly tremendous achievement and one of which we, as a nation, could be very proud.

The legislation providing the necessary programs has been enacted; now it remains for us all to work for public support of these services. We heeded President Kennedy's admonition, "We have long neglected the mentally ill. This neglect must end," by adopting the Mental Retardation Facilities and Community Mental Health Centers Construction Act in 1963. Now let us carry on.

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## Congressman Vaughan Gary

EXTENSION OF REMARKS
OF

### HON. PHILIP J. PHILBIN

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. PHILBIN. Mr. Speaker, it is with a great deal of regret that I learned of the decision of the able and distinguished gentleman from Virginia and my dear friend and valued colleague, the Honorable J. VAUGHAN GARY, to retire from Congress.

I have served with him and listened to him for many years in this great House and heard him deliver some very able, comprehensive remarks on various measures.

The gentleman from Virginia is one of the ablest Members of this body—dedicated in the very highest degree, conscientious, tireless, painstaking, and admirable in every way. He is of great mind and great heart—devoted to God and country and to the best interests of his district.

VAUGHAN GARY is a fine, sterling public servant. The gleaming record he has made here will remain with us for many years to come. I am sincerely sorry that he is leaving the House. We will all miss him. His gracious ways, his generous heart, his inspiring Americanism, his many fine contributions will long be remembered here.

I wish for my esteemed and dear friend, VAUGHAN GARY, and his lovely family, all choicest blessings of good health, success, and happiness for many years to come.

He will leave a great void in our midst, among his very many warm friends and admirers, but we will carry him affectionately in our hearts always. His name will remain honored and distinguished here for unexcelled, outstanding service in this House—to his district, his great State, and our beloved country.

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## The Polish Constitution of 1791—Witness to the Polish Tradition of Democracy

EXTENSION OF REMARKS
OF

### HON. CLAUDE PEPPER

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. PEPPER. Mr. Speaker, it is indeed an honor to participate in the commemoration of the 173d anniversary of Poland's Constitution, and I join with my other colleagues in a salute to this brave and freedom-loving nation.

Poland is a nation with a tragic yet inspiring history. "Truth crushed to earth shall rise again," says the poet, and so it has been with Poland. From her zenith as a great state in the 16th and 17th centuries, when her troops saved Europe from Turkish domination, Poland went into a slow but steady decline, culminating in the three partitions of 1772, 1793, and 1795. But again and again Poles revolted, and asserted their national identity. In the slow workings of history a revived Poland was to take its place in the family of nations, only to encounter the supreme irony of Communist domination.

Even at the height of its power, Poland was no simple military autocracy. It was a state with constitutional traditions dating back to the Middle Ages. The Polish Constitution of 1791, which we memorialize today, was heir to those traditions. It is one of the historic landmarks on man's long road to freedom. Under it Poland became a hereditary limited monarchy, with biennial parliaments and ministerial responsibility. It abolished the unfortunate "liberum veto" by which the negative vote of one man might block the adoption of any legislative measure, a system which had rendered effective government in Poland all but impossible. The free election of kings, which had opened Poland to external intrigue and pressure was abolished. The executive was strengthened, and old class distinctions were swept aside as the right to land ownership and civil and ecclesiastical office were opened to the middle class as well as to the aristocracy. The groundwork was laid for the abolition of serfdom, and absolute religious toleration was established. Truly the Polish Constitution of 1791 was a model for its time and for the future. If only history had permitted its continued operation Poland would surely have been a shining beacon of light in 19th century Europe.

But the beacon was snuffed out before it really had a chance to burn. Poland disappeared from the political map of Europe, not to be revived until the end of the First World War. The unhappy story which followed is familiar to us all.

Once again today, however, Poland manifests her will to live. Communist she may be in form, but who can doubt that the hearts of the Polish people are with the West? It is Western models that Poland follows in art, in literature, even in recreation. Outspoken criticism of the government is by no means uncommon. In short, whatever the outward form of the Polish Government, the Polish people are demonstrating every day that their democratic instincts, manifested in the Constitution of 1791, are strong and steady, and that democracy in Poland will yet prevail.

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## Schick Electric, of Lancaster, Pa.

EXTENSION OF REMARKS
OF

### HON. PAUL B. DAGUE

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. DAGUE. Mr. Speaker, for the next 2 years the New York World's Fair will play host to millions of visitors. Among the many intriguing exhibits they will see will be one that shows the history of an ancient ritual that is still practiced each day by more than 55 million American men—shaving.

The display will show the various shaving implements men have used since the first razor was fashioned from flint over 4,000 years ago. It also will show some even more primitive whisker removal devices such as clamshells which were used to pluck whiskers out, and pumice stone which sandpapered them off. However, the theme of the exhibit—and of the fair—is progress. In the history of shaving, progress has been largely the result of American ingenuity.

Shaving is often taken for granted as a normal prerequisite for the business day. But ease of shaving has enormous significance for the average American male. During his life, he will spend 3,350 hours—or more than a year's worth of 8-hour workdays—just shaving. Starting at the age of 15, he can expect to spend up to 15 minutes a day removing his daily quota of roughly 30,000 unwanted whiskers. A 19th century poet once calculated that man spends enough time shaving to learn seven languages.

The highlight of the history of shaving as displayed at the Fair is the development of the most modern means of shaving now available, the rechargeable, cordless electric shaver. This is a point of particular pride to those of us who live in the Pennsylvania Dutch country because a neighbor of ours, Schick Electric

Inc., of Lancaster, Pa., was founded by the inventor of the electric shaver, Col. Jacob Schick.

The electric shaver represented the first totally new and practical concept of shaving since man decided to place a knife edge to his face to hack off his whiskers. It was introduced in 1930 by Schick, an American soldier and inventor. He conceived the idea for dry shaving while on duty with the Army in Alaska. The cold climate did not lend itself to shaving with blade and lather. This spurred the colonel to find a more comfortable method.

It was not until years later, it is reported, while immobilized with an ankle sprained during a moose hunt, that Colonel Schick was able to work out the basic principles of electric shaving. He experimented for many years and finally patented his invention in 1928.

One of his many problems was the development of an electric motor small enough to fit into a shaver. The motor which he created for his specific purpose was the most powerful of its size yet devised. It was considered a significant electromechanical achievement.

Recently, in another technological breakthrough—the result of an intensive research and development program—Schick Electric achieved another first. It became the first major American manufacturer of shaving products to introduce stainless steel shaving to the public.

Stainless steel, as those familiar with it can attest, gives a better shave over a longer period than carbon steel. Although its superior qualities have long been known in the industry, complex production problems prevented its adoption. After several years of research, Schick finally solved the problem of producing stainless steel heads at a reasonable cost. Such shaver heads are an exclusive feature of the Schick line.

One of the developments which evolved from the Schick research into uses of stainless steel was a special vacuum furnace. The furnace, which took more than a year to build, treats the metal at temperatures ranging from 2,000 degrees Fahrenheit to 100 degrees below zero. The heating and quick-cooling process alters the steel's atomic structure to produce a sharper, more uniform cutting edge. The furnace is part of a production system that has enabled the company to offer stainless steel heads without raising the price of its shavers.

However, the electric shaver is only one end of the shaving spectrum. On the other is the clam shell. In between, men have used a staggering amount of strange utensils in their efforts to appear clean-shaven to the world.

Throughout history, men have shaved with copper knives, bronze blades, and even a razor made from volcanic glass. Steel was discovered by the Greeks in 300 B.C. From that point until the hollow-ground blade was discovered in the early 18th century, there was virtually no progress in shaving instruments. The first safety razor was invented in Brooklyn, N.Y., in 1876. Shortly thereafter, the replaceable blade was introduced, and blade-and-lather shaving as we know it today was born.

It remained for Colonel Schick and his invention of the electric shaver to furnish an alternative to the routine of lather, blade, and styptic.

For 32 years since the company was founded in 1930, Schick produced only electric shavers. In July 1962, the firm began an intensive product expansion program which has seen it diversify into the manufacture and marketing of a wide range of electrical grooming aids.

Reflecting this change, and to emphasize its long-recognized competence in electro-mechanical engineering, the firm has just changed its corporate name from Schick, Inc. to Shick Electric, Inc. Under this banner, it now produces a broad line of home hair dryers, electric shoe polishers, and cordless electric toothbrushes—all this in addition to its men's and ladies' electric shavers.

Also new to the company is its president, Jack J. Culberg, who was named "Man of the Year" by the housewares industry in 1960.

With a new name, a new president, and a growing list of new products, Schick Electric continues in the pioneering footsteps of Col. Jacob Schick—searching for new quality products to fill consumer wants and needs.

I would like to take this opportunity to congratulate Schick Electric and wish the company and its dynamic new president continued success.

## Student Presidential Poll

EXTENSION OF REMARKS
OF
### HON. GEORGE M. RHODES
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. RHODES of Pennsylvania. Mr. Speaker, the national student poll on presidential candidates may be of considerable interest because the results of this student vote in the past have reflected the thinking of parents on the selection of a President.

The vote taken recently in the Conrad Weiser High School at Robesonia. Pa.—near Reading—in my congressional district showed the following votes for candidates whose names were printed on the presidential ballot:

| | |
|---|---|
| Johnson | 481 |
| Nixon | 118 |
| Lodge | 115 |
| Goldwater | 61 |
| Rockefeller | 24 |
| Smith | 20 |
| Scranton | 18 |
| Wallace | 5 |
| Romney | 1 |
| Stassen | 0 |

There was also a scattering of write-in votes. Robert Kennedy, whose name was not printed on the ballot, received 37 write-ins.

In 1956 the student poll came within 1.3 percent of the final national results. The 1960 poll was as follows: Democrat, 53.4 percent; Republican, 46.4 percent. Actual results were Democrat, 49.7 percent; Republican, 49.5 percent.

The Conrad Weiser teachers whose students participated in this poll were: Grade 7, Mr. Thomas Golden; grade 8, Mr. Elwood Himmelberger; grade 9, Mr. Wayne Seifarth; grade 10, Mrs. Howard Suhr; grade 11, Mr. Gordan Jones; grade 12, Mr. Donald Seltzer.

## Remarks of Congressman Richard Bolling Before Senior Citizens Dinner at Kansas City, Mo.

EXTENSION OF REMARKS
OF
### HON. RICHARD BOLLING
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, April 29, 1964*

Mr. BOLLING. Mr. Speaker, it was my pleasure on Monday evening to address nearly 500 retired workers in Kansas City. These people are very naturally concerned with the fate of medicare legislation. In my remarks I suggested that the techniques that are being used to bring pressure against such legislation might very well be utilized by those who support the bill.

My remarks follow:

REMARKS OF CONGRESSMAN RICHARD BOLLING BEFORE UAW SENIOR CITIZENS DINNER AT THE WORLD WAR II BUILDING, KANSAS CITY, MO., APRIL 27, 1964

On a recent Sunday afternoon in Washington more than 1 million people lined up in the rain for a little cube of sugar. Young people and old, the healthy and the halt, bankers and bellhops stood shoulder to shoulder waiting their turn. The sugar cube received looked just like the one you put in your coffee. The one difference was that each of these had been impregnated with Sabin oral vaccine. In the next 6 weeks, this performance will be repeated twice. When it is over, more than half the population of the Nation's Capital will be protected against paralytic polio.

As I watched these lines, I couldn't help thinking that less than a decade ago infantile paralysis roamed unchecked, crippling our children, and killing our young people. Now, to all intents and purposes it has been conquered. Just a few generations ago, tuberculosis and diabetes were certain death. Now, we know how to control them. Even as I speak here tonight, around this country lights are burning in laboratories where dedicated doctors may be on the very threshold of discovering a cure for cancer.

We owe a great deal to our men of medicine. They have provided us with the means to a healthier and a longer life. Largely through the efforts of the medical profession, the American life expectancy is growing longer.

What a cruel paradox it is, therefore, to find that the very men who have created the means by which we can hope to live longer are at the same time almost entirely united in a bitter attempt to keep those very means from the people for whom they were meant.

Now, if that seems like a strong statement, let's take a look at some cold truths.

Truth No. 1 is that as a person grows older his medical needs increase.

Truth No. 2 is that a person past retirement age suffers a sharp decrease in his income.

Truth No. 3 is that the combination results in a situation where the aging must borrow from the bread money to buy medicine—or do without.

Now, taking all these facts into consideration, it has become clear that some means must be devised to provide our senior citizens with the possibility of adequate medical care. The best possible answer, so far, can be found in the King-Anderson bill now pending in the Congress.

This bill would provide health insurance for the aged through social security. In other words, during a person's working years he would increase his social security payments by a few pennies a month and when he reached 65 he would be entitled to hospital and nursing home care as well as home visits by a doctor when he needed them.

This would not be charity. This would simply be the application of insurance that the citizen paid for during the years of his employment. It is not a Government handout.

It seems to me that this plan contains a certain beauty in its simplicity. It would appear almost impossible to argue against it. But I am here to tell you that the very mention of medicare is enough to make many of our citizens apoplectic.

The principal, and by far the most influential opponent of this bill, is the American Medical Association. When this bill was introduced 2 years ago, it was defeated in the Senate by the narrow margin of two votes. It is pretty generally conceded that the mammoth propaganda campaign waged against the bill by the AMA was the main factor in its defeat. The Brookings Institution in Washington, a nonpartisan, nonprofit research group with an international reputation, has estimated the cost of the campaign to the AMA was $12 million.

Now that the bill is again being brought up for action, the campaign is starting again. There is no indication that the AMA will give up their fight against this bill. On the contrary, there is every sign that they will spend whatever is needed to defeat it.

You can expect that in the next months ads will appear in your newspapers, calling the bill a step toward socialism; it will be said that it is too expensive, that private insurance companies can do it better and cheaper. None of these things is true. And, I might add, none of them is very original, either.

The same arguments were advanced 30 years ago when social security itself was proposed. And, of course, we can remember how desperately the American Medical Association fought against Blue Cross and other medical plans.

Now the AMA tells us that they favored such plans all along. The American Hospital Association, a group that is in a position to know, says that this just isn't so. In their journal they commented editorially: "It is a sad fact that through the 1930's and early 1940's the American Medical Association did not believe in voluntary sickness insurance, did almost everything possible to prevent its development."

And Medical Economics reported that "to Blue Cross executives, among others, the doctrinaire view crediting the American Medical Association with early sponsorship of experimental voluntary prepayment programs emerges as a simple untruth."

Now, as in the past, the American Medical Association has taken a stand four-square in the path of progress and security. The question is, What can be done about it?

In the months ahead, you are going to be asked by the AMA and its local affiliates to write to your Congressman and tell him you are opposed to medicare. If you like, you can also write your Congressman and tell him you favor medicare. I think I can promise you that he will read your letters. But we can really do more than that.

I suggest that we have the responsibility of informing the American Medical Association that most of our people do support medicare. I urge, therefore, that each of you write to your family doctor and tell him just how you feel about this program. Let us adopt the techniques that are being used against us.

Here, I might point out that a program of medical care for the aged is not a matter for our senior citizens themselves. It effects not only their families, but the entire community. After all, if mother or dad falls ill and cannot afford treatment, then their sons and daughters are expected to take on the financial burden of hospitalization. If they cannot, then the load falls upon the community.

If all of us, our friends and neighbors, our children were to let the medical community know just how we feel about medical care for the aged, we might cause our local doctors to wonder just what the American Medical Association is doing in their name. And you might tell them they will not be alone when they lend their support to an adequate health program for the aged. Many prominent physicians have long indicated their support. Among them, Dr. Paul Dudley White, the famous heart specialist who treated President Eisenhower, and Dr. Benjamin Spock, the eminent child specialist.

I feel certain that no matter how heavy the propaganda barrage, we will be able to get a medicare bill out of Congress this year. We must. As long as one man or woman lacks the means to ease their suffering then we are obligated to provide those means.

We would welcome the help of the medical professions in providing those means.

I urge the doctors of this Nation to take the mid-Victorian social concepts of the American Medical Association and put them on the shelf alongside the nostrums and superstitions that they abandoned long ago.

In 1964, let our path lead down the road of progress and security—not over the hill to the poorhouse.

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## Commemoration of Horace Mann

EXTENSION OF REMARKS

OF

## HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 29, 1964*

Mr. PHILBIN. Mr. Speaker, on May 4, the people of Franklin, Mass., whom I have the great honor and privilege of representing in the Congress, are commemorating the birth of a man who was not only a distinguished citizen of their town and State, but one of the most influential educators this country has produced.

This is the day set aside by Franklin to honor its distinguished son, the famous Horace Mann, who did so much for our Nation, our schools, and our children. It is most fitting that the townspeople of Franklin should pay well-deserved tribute to this outstanding native son whose memorable contributions will long inspire and guide us and whose great influence in preparing the forward march of American education will continue to be felt for years to come.

Franklin and the Commonwealth of Massachusetts are indeed proud of Horace Mann, who is known as the father of the common school. The story of his life is one of devoted, unceasing service to his country and fellow man. As legislator, he not only served in the Massachusetts General Court from 1827 to 1837, but also in the Congress from 1848 to 1852. He resigned as secretary to the Massachusetts State Board of Education (1837–48) to serve in Congress and after two terms, he took up the presidency in 1853 of Antioch College.

Both as legislator and as educator, Mann gave of himself unflinchingly in the face of financial hardship and hostility from the general public and some of his colleagues in the educational world.

His career contains for us elements of prophecy.

During his service in the Massachusetts Legislature, Mann championed what were for his day the most progressive of humanitarian reforms—issues which even to this day comprise some of the great public questions coming before the Congress for debate and review.

He advocated the principle of religious freedom. He tried to improve the lot of the mentally ill. He saw in the prison system an opportunity for enlightened rehabilitation rather than vengeful punishment. He even anticipated the present war on poverty with his own campaign to eliminate pauperism from his State.

His greatest energies, however, were in the field of education and for these accomplishments he is best known today. At a time when schools were generally exclusive, sectarian, and costly, he worked to achieve free, secular education for all Americans.

His was an overwhelming task, as historians point out. While Massachusetts was the most advanced of the States in education in his day, there was much room for improvement. The public schools were virtually without financial support. Textbooks and teaching methods were antiquated. Public school buildings were few and inadequate.

To these and many other problems, Horace Mann proposed and implemented solutions. His 12 annual reports, as secretary of the State board of education, are considered landmarks in American educational history.

Perhaps his most compelling argument in favor of the expenditure of public funds for schools was that education has a market value. He contended that "the aim of industry is served, and the wealth of the country is augmented, in proportion to the diffusion of knowledge."

He set out to convince Massachusetts' industrialists that educated labor far excelled ignorant labor in productivity and by 1848 the annual State appropriations for education had doubled and local taxation mushroomed.

In updating the curriculum, Mann insisted that education must have a practical value. He studied the problems of laborers, artisans, and machinists, then saw to it that courses of vocational study were offered which would prepare the people for their respective occupations.

Not only did he propose to educate youth for the problems of his own time—

> The history of the future—

He predicted—

> is to be widely different from that of the past. The stream of time is changing its direction. * * * We must prepare ourselves to move with safety through the new realms we are now entering.

This wise statement might well be made today.

He attacked the problem of obtaining qualified teachers from two directions. First, he demanded higher pay and better working conditions for teachers. Second, he demanded that teachers be more thoroughly prepared for their profession, and to this end he sought the establishment of the first State normal school in Massachusetts in 1839.

He promoted conventions and institutes to help teachers to improve themselves professionally. He founded the Common School Journal both for the benefit of teachers and as a means of presenting his programs to the public. No group is more indebted for its professional standing and financial security than are the members of the teaching profession to Horace Mann.

In his baccalaureate address in 1859 a few weeks before his death, Mann told his Antioch students:

> Be ashamed to die until you have won some victory for humanity.

Horace Mann was among those foresighted individuals of the last century who saw in a strong system of free public education a nation's priceless resource. This was his legacy, and as we look back on the achievements and dreams of this great educator, we do well to recall his wise admonition, as timely for our day as for his:

> In our country and in our times no man is worthy of the honored name of statesman, who does not include the highest, practicable education of the people in all of his plans of administration.

I am proud indeed to join with the people of Franklin in commemorating the contributions of this great educator to Massachusetts and to the Nation. Horace Mann was one of our greatest Americans. He has brought enduring luster to Franklin and to all of us.

## Cigarette Advertising Code

EXTENSION OF REMARKS

OF

### HON. ALTON LENNON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 29, 1964*

Mr. LENNON. Mr. Speaker, I believe most knowledgeable and fairminded Americans will applaud the action of the Nation's nine major cigarette manufacturers in establishing a cigarette advertising code.

The code provides for an administrator who shall be a person of recognized independence, integrity, and intellectual achievement to the end that decisions by him shall command public confidence and respect.

No advertising for cigarettes may be used unless it has first been "submitted to the administrator and determined by him to be in compliance with the standards" of the code. The administrator is given complete and final authority to make this decision.

I have read and considered this code. In my judgment, it is the answer to the proposals of the Federal Trade Commission respecting cigarette advertising and labeling.

## A "Success" in the Foreign Aid Program: Costa Rican Credit

EXTENSION OF REMARKS

OF

### HON. ROBERT R. BARRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 29, 1964*

Mr. BARRY. Mr. Speaker, in considering our foreign aid program it must be realized that the economies of the countries which are receiving U.S. assistance are primarily agricultural. To achieve higher living standards for an entire population dependent upon farming requires modernization of agricultural methods and stimulation of industry to achieve a diversified economy.

Traditions arising out of subsistence farming and outdated agricultural practices naturally impede the progress of the country as much as outmoded commercial practices. The Alliance for Progress has established in cooperation with private and public investment two credit facilities in Costa Rica for the purpose of stimulating and modernizing both agriculture and industry.

Costa Rica is a relatively advanced Central American republic of 19,600 square miles whose tropical lowlands and temperate highlands and plateaus lie between the Caribbean and the Pacific Ocean. Like most underdeveloped countries, Costa Rica's 1,275,000 inhabitants, with an average per capita income of $272, depend heavily for their livelihood on agriculture—coffee, bananas, cocoa. Primarily a land of small farms, the Government is trying to increase their productivity through agricultural education, and research, as well as making available medium and long-term loans to start new or expand existing enterprises.

The Alliance for Progress last year agreed to make a loan to help finance a credit corporation for business and industry if private Costa Rican investors would agree to raise $1 million privately to back the corporation. The $1 million subscription was completed when 75 investors—coffeegrowers, industrialists, merchants, professional men, students, and housewives—subscribed and thus assured the establishment of the industrial credit corporation in their country.

The availability of new development capital on attractive terms is expected to diversify Costa Rica's economy and decrease the reliance on coffee as the principal foreign exchange earner. It is also expected to stimulate industrial production with a corresponding increase in tax revenue.

One of the most impressing aspects of this subscription was the participation of the National Federation of University Students indicating their confidence in the future of their country. Rodrigo Madrigal Nieto, chairman of the board of the credit corporation, noting this, stated that the subscription is "a symbol of unity between the present and the future and the best demonstration of confidence from youth about what the Alliance for Progress can realize with private initiative."

Realizing that modern technology leading to a diversified, sound economy requires progress in agriculture also, the Alliance participates in a credit board for farmers. Where agricultural production may be way below capacity because of insufficient agricultural credit, it is expected that the rural credit board will spark improvements in the life of the farm population and, thus, the country. However, sometimes the transfer to modern technology is more time-consuming than we in our rapidly moving world may be willing to believe. And through such programs as the rural credit board the educational process of changing old attitudes into new has a beginning.

An illustrative case in which this transformation recently occurred involved a small Costa Rican farmer. This small farmer had always planted corn with a stick and harvested with a knife. He had worked for a short while on the Inter-American Highway and, amazed at the machinery he saw, he returned to his farm to ponder these startling innovations. The secret, he concluded, was power which would enable him to grow more corn; but his area had only one ox. Finally, last year, this farmer approached the Rural Credit Board in his nearest village for a loan to buy an ox. Armed with an Alliance-for-Progress-backed loan of $75, which he borrowed for 3 years at 6 percent, he bought his precious ox. Soon, he had trebled his corn acreage. With added earnings he bought his wife a sewing machine, which has enabled her to sew for her neighbors who in exchange provide services for her. Thanks to their augmented income, this family now boasts a galvanized iron roof and a transistor radio.

In our terms, this farmer's progress can hardly be termed to have reached the plateau in modern agricultural methods and high living standards. But fortunately this farmer and others like him have a start. This small loan through wise use has revolutionized the thinking and life of one Costa Rican family who, no doubt, have set a sterling example to their neighbors. Subsistence farming traditions impeding progress are on their way out—evidence that long-range strategy for achieving higher living standards for the total population pays off.

# SENATE

## Thursday, April 30, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Lord God Almighty, who, amidst the shifting sands of time, standest sure: Like men who turn from dusty toil to crystal streams of cleansing and refreshment, so we lift our soiled faces to Thee, from the perplexities and imperfections which crowd the common days.

As we pause now in reverent silence, may this high place of governance become the audience chamber of Thy presence. Because there is no final solution of the world's ills, save as it springs from the hearts of men, we pray for ourselves: Create in us clean hearts, O God, and renew a right spirit within us.

To our Nation and to ourselves, grant inner steadfastness that the rage of men may not shake. We pray for the undergirding with spiritual might of the institutions that seek the growth of character—our families, our schools, and our churches.

So strengthen the foundations of our interior resources that we may be among those who stand in the evil day, and, having done all, still stand.

In the Redeemer's name we ask it. Amen.

### THE JOURNAL

On request by Mr. **Mansfield**, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, April 29, 1964, was dispensed with.

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 1605) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes, and it was signed by the Acting President pro tempore.

### ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after a quorum call has been completed, there be a morning hour, under the usual conditions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I also ask unanimous consent that during the morning hour, statements be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### ORDER FOR RECESS UNTIL 10 A.M., TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of today's business, the Senate stand in recess until 10 o'clock, tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar, under the heading "New Reports."

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nominations on the Executive Calendar, under the heading "New Reports," will be stated.

### U.S. DISTRICT JUDGES

The Chief Clerk proceeded to read sundry nominations of U.S. district judges.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, the nominations are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

### LEGISLATIVE SESSION

On motion by Mr. **Mansfield**, the Senate resumed the consideration of legislative business.

### CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 180 Leg.]

Aiken
Allott
Anderson
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Ellender
Fong
Goldwater
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McClellan
McGee
McGovern
McNamara
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pell
Prouty
Proxmire
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Walters
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. Bartlett], the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Louisiana [Mr. Long], the Senator from Washington [Mr. Magnuson], the Senator from Oregon [Mr. Morse], and the Senator from Rhode Island [Mr. Pastore] are absent on official business.

I also announce that the Senator from Maryland [Mr. Brewster], the Senator from West Virginia [Mr. Byrd], the Senator from Oklahoma [Mr. Edmondson], the Senator from North Carolina [Mr. Ervin], the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Jordan], the Senator from New Hampshire [Mr. McIntyre], the Senator from Florida [Mr. Smathers], the Senator from South Carolina [Mr. Thurmond], the Senator from New Jersey [Mr. Williams], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] is absent during convalescence from an illness.

Mr. KUCHEL. I announce that the Senator from New Mexico [Mr. Mechem] is necessarily absent.

The Senator from Kansas [Mr. Pearson] and the Senator from Texas [Mr. Tower] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

### EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

#### Report on Construction of Activation Analysis Research Laboratory, Agricultural & Mechanical College of Texas

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the construction of an activation analysis research laboratory at the Agricultural & Mechanical College of Texas, College Station, Tex.; to the Committee on Aeronautical and Space Sciences.

#### Report on Cost Allocation Resulting in Increased Federal Contribution to State of California for Flood Control

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on cost allocation resulting in increased Federal contribution to the State of California for flood control, Oroville project, Feather River, Calif., Corps of Engineers (Civil Functions), Department of the Army, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

#### Report on Unnecessary Costs to the Government in Leasing of an Electronic Data Processing System

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on unnecessary costs to the

Government in the leasing of an electronic data processing system by the Continental Aviation and Engineering Corp., Research Division, Detroit, Mich., Department of Defense, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### RESTRICTION OF CERTAIN AREAS IN OUTER CONTINENTAL SHELF FOR DEFENSE PURPOSES

A letter from the Assistant Secretary of the Air Force (Installations and Logistics), transmitting a draft of proposed legislation to provide for the restriction of certain areas in the outer Continental Shelf (known as the Atlantic Missile Range) for defense purposes, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

### VALIDATION OF CERTAIN PAYMENTS TO MEMBERS OF THE COAST GUARD

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to validate certain payments of per diem allowances made to members of the Coast Guard (with an accompanying paper); to the Committee on the Judiciary.

### REPORT ON CERTAIN RESEARCH AND DEVELOPMENT FUNDS BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the grant to the University of Maryland of $1,500,000 for research and development; to the Committee on Aeronautical and Space Sciences.

### REPORT OF AMERICAN ACADEMY OF ARTS AND LETTERS

A letter from the assistant to the president of the American Academy of Arts and Letters, transmitting, pursuant to law, a report of that academy for the year 1963 (with an accompanying report); to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A letter in the nature of a petition from the Rock Creek East Neighborhood League, Inc., of Washington, D.C., signed by Charles I. Cassell, president, praying for the enactment of H.R. 7152, the civil rights bill, without modifying amendments; ordered to lie on the table.

A resolution adopted by the faculty of the College of Law of the University of Toledo, Toledo, Ohio, favoring the enactment of H.R. 7152, the civil rights bill; ordered to lie on the table.

## REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. FONG, from the Committee on the Judiciary, with amendments:

H.R. 1179. An act for the relief of Basilio King, his wife, and their children (Rept. No. 1013).

## REPORT ENTITLED "TRADING WITH THE ENEMY ACT"—INDIVIDUAL VIEWS (S. REPT. NO. 1014)

Mr. JOHNSTON. Mr. President, from the Committee on the Judiciary I submit a report entitled "Trading With the Enemy Act," pursuant to Senate Resolution 68, 88th Congress, 1st session, as extended, together with individual views of the Senator from New York [Mr. KEATING].

Therefore, I ask unanimous consent that the report, together with the individual views, may be printed.

The ACTING PRESIDENT pro tempore. Without objection, the report will be received and printed, as requested by the Senator from South Carolina.

## REPORT ENTITLED "THE FEDERAL JUDICIAL SYSTEM" (S. REPT. NO. 1015)

Mr. JOHNSTON. Mr. President, from the Committee on the Judiciary I submit a report entitled "The Federal Judicial System," pursuant to Senate Resolution 61, 88th Congress, 1st session, as extended, and ask that it be printed.

The ACTING PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from South Carolina.

## REPORT ENTITLED "CONSTITUTIONAL RIGHTS"—ADDITIONAL VIEWS (S. REPT. NO. 1016)

Mr. ERVIN. Mr. President, from the Committee on the Judiciary, I submit a report entitled "Constitutional Rights," pursuant to Senate Resolution 58, 88th Congress, 1st session, as extended, together with individual views of the Senator from New York [Mr. KEATING] and myself.

I ask unanimous consent that the report, together with the individual views, may be printed.

The ACTING PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from North Carolina.

## REPORT ENTITLED "CONSTITUTIONAL AMENDMENTS"—INDIVIDUAL VIEWS (S. REPT. NO. 1017)

Mr. BAYH. Mr. President, from the Committee on the Judiciary I submit a report entitled "Constitutional Amendments," pursuant to Senate Resolution No. 57, 88th Congress, 1st session, as extended, together with the individual views of the Senator from New York [Mr. KEATING].

I ask unanimous consent that the report, together with the individual views, be printed.

The ACTING PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from Indiana.

## BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of North Dakota:

S. 2788. A bill to waive the statute of limitations in a certain case; to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 2789. A bill for the relief of Nikolai Artamonov; to the Committee on the Judiciary.

By Mr. HARTKE:

S. 2790. A bill for the relief of Charles Chung Chi Lee and Julia Lee; and

S. 2791. A bill for the relief of Panagiotis Spirakis; to the Committee on the Judiciary.

By Mr. RIBICOFF (for himself, Mr. NELSON, and Mr. PELL):

S. 2792. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act in order to provide for more effective regulation under such act, and to provide for certain control of waste disposal in connection with the manufacture, formulation, or other processing of economic poisons; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. RIBICOFF when he introduced the above bill, which appear under a separate heading.)

By Mr. MAGNUSON (by request):

S. 2793. A bill to simplify the admeasurement of small vessels; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under a separate heading.)

## CONCURRENT RESOLUTION

## TO PROVIDE A FITTING MEMORIAL TO THE MEMORY OF SAKAKAWEA

Mr. BURDICK submitted a concurrent resolution (S. Con. Res 81) to provide a fitting memorial to the memory of Sakakawea, which, under the rule, was referred to the Committee on Rules and Administration.

(See the above concurrent resolution printed in full when submitted by Mr. BURDICK, which appears under a separate heading.)

## FEDERAL PESTICIDE CONTROL ACT OF 1964

Mr. RIBICOFF. Mr. President, on behalf of myself and Senators NELSON and PELL, I introduce, for appropriate reference, the Federal Pesticide Control Act of 1964. I ask unanimous consent that the text of the bill be printed following my remarks, and that it remain at the desk for 1 week in order that other Senators who wish to cosponsor it may do so.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk for 1 week, as requested by the Senator from Connecticut, and the bill will be printed in the RECORD.

The bill (S. 2792) to amend the Federal Insecticide, Fungicide, and Rodenticide Act in order to provide for more effective regulation under such act, and to provide for certain control of waste disposal in connection with the manufacture, formulation, or other processing of economic poisons, introduced by Mr. RIBICOFF (for himself and Senators NELSON and PELL), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Pesticide Control Act of 1964".

### MANUFACTURER REGISTRATION

SEC. 2. (a) Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 167; 7 U.S.C. 135b) is amended by adding a new subsection to read as follows:

"f. On or before December 31 of each year beginning with the calendar year 1964 and thereafter, every person who owns or operates any establishment in any State, Territory, or the District of Columbia, engaged in the manufacture, preparation, propagation, compounding, or processing of an economic poison shall register with the Secretary his name, places of business and all such establishments. Every person upon first engaging in the manufacture, preparation, propagation, compounding, or processing of an economic poison in any establishment which he owns or operates in any State, Territory or the District of Columbia, shall immediately register with the Secretary his name, place of business, and such establishment. Every person duly registered in accordance with the foregoing shall immediately register with the Secretary an additional establishment which he owns or operates in any State, Territory, or the District of Columbia, and in which he begins the manufacture, preparation, propagation, compounding, or processing of economic poisons. As used in this section, the term 'manufacture, preparation, propagation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of the package of any economic poison in furtherance of the distribution of said economic poison from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the place of incorporation."

(b) Section 2 of said Act (61 Stat. 163; 7 U.S.C. 135) is amended by changing the period at the end of subsection z. to a semicolon and adding thereafter the word "or" and a new paragraph to read as follows:

"(i) if it is manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 4(f) of this Act."

### FACTORY INSPECTION

SEC. 3. (a) Section 6 of said Act (61 Stat. 168; 7 U.S.C. 135d) is amended by inserting after the first sentence therein the following: "For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or other establishment in which any economic poison or device is manufactured, processed, packed, or held for distribution or sale in any Territory or in the District of Columbia or in interstate or foreign commerce or is held after such distribution or sale, or to enter any means of conveyance being used to transport or hold any economic poison or device in any Territory or the District of Columbia or in interstate or foreign commerce; (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such establishment or means of conveyance and all pertinent data and equipment, finished and unfinished materials, and labeling therein; and (3) to obtain samples of such materials or packages thereof, or of such labeling. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge, a receipt describing the samples obtained. If an analysis is made of any such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge."

(b) Section 3 of said Act (61 Stat. 166; 7 U.S.C. 135a) is amended by inserting before the semicolon at the end of subsection (c)(2) a comma and the following: "or to refuse to permit entry or inspection as authorized by section 6 of this Act".

### QUALITY CONTROLS

SEC. 4. (a) Subsection y. of section 2 of said Act (7 U.S.C. 135y) is amended by inserting before the period at the end thereof a comma and the following: "or if the methods used in, or the facilities or controls used for the manufacture, processing, packaging, or holding of said economic poison do not conform to or are not operated or administered in conformity with good manufacturing practice to assure that such economic poison meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess".

(b) The amendment made by this section shall be effective after ninety days following the date of enactment of this Act.

### INJUNCTIVE AUTHORITY

SEC. 5. Section 6 of said Act (61 Stat. 168; 7 U.S.C. 135d) is further amended by redesignating subsections d. and e. as subsections e. and f. and by adding after subsection c. a new subsection d. as follows:

"d. The United States district courts and, in any area not served by a United States district court, any other court of comparable authority created by an Act of Congress, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act."

### CRIMINAL SANCTIONS

SEC. 6. Section 8 of said Act (61 Stat. 170; 7 U.S.C. 135f) is amended by inserting in subsections a. and b., after the word "person", the following: "who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts"; and by changing the word "violating" in said subsections to "violates".

### CIVIL SANCTIONS

SEC. 7. Section 8 of said Act (61 Stat. 170; 7 U.S.C. 135f) is further amended by redesignating subsections c. and d. as subsections d. and e. and by adding after subsection b. a new subsection c. as follows:

"c. Any person who violates any provision of this Act shall forfeit to the United States a sum, not more than $1,000, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

### WASTE DISPOSAL PERMITS

SEC. 8. (a) For the purpose of controlling air, water, and any other environmental pollution which endangers the public health and welfare, no economic poison, as defined in section 2a of the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163; 7 U.S.C. 135(a)), shall be manufactured, formulated, or otherwise processed, at any time after one year following the date of enactment of this section, without a valid waste disposal permit obtained in accordance with the provisions of this section.

(b) Permits required under subsection (a) may be obtained upon application to the Secretary of Health, Education, and Welfare in such form, containing such information, and subject to such conditions, including inspections at reasonable times, as may be prescribed by the Secretary as necessary to carry out his functions under the provisions of this section.

(c) Permits applied for under subsection (b) shall be granted by the Secretary for such period as may be established in regulations prescribed under the provisions of this section, upon determining that the manufacturing, formulating, or other processing for which the permit is sought will, if carried on in accordance with the provisions of such permit, not result in any air, water, or other environmental pollution which will endanger the public health and welfare. Such permits shall be subject to such terms and conditions, including inspections at reasonable times, as may be prescribed by the Secretary as necessary to carry out his functions under the provisions of this section.

(d) The Secretary of Health, Education, and Welfare shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) Any person who knowingly and willfully violates the provisions of subsection (a) of this section, or any provision of a permit issued under this section, shall be guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(f) The United States district courts and, in any area not served by a United States district court, any other court of comparable authority created by an Act of Congress, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, subsection (a) of this section, or any provision of a permit issued under this section.

Mr. RIBICOFF. Mr. President, on April 6, the U.S. Public Health Service issued a report on its "Investigation of Fish Kills in Lower Mississippi River, Atchafalaya River, and Gulf of Mexico." This report tells of "massive kills of fish" since 1960 in the lower Mississippi River basin. It eliminates "various possible causative factors," including bacterial or viral diseases such as fish dropsy, and names the pesticide endrin as the "most likely cause of the fish kills."

This charge has been vigorously denied by the manufacturers of the pesticide involved. The Department of Agriculture has held hearings the past 3 weeks on the subject. The Department of Health, Education, and Welfare will hold a hearing on May 5 in New Orleans. The main points at issue are:

First, is endrin, in fact, the sole or major cause of the fish kills?

Second, if it is, where did it come from?

The fish kill has raised many such questions, some of them still unanswered.

At the same time, and while the issues are being finally and fairly decided, on the basis of fact, not fancy, Congress has a duty to keep abreast of the situation and take legislative action when it is called for. When we came upon the loophole of "protest registration" we moved promptly to prepare a bill to close this loophole. That bill—S. 1605—cleared the House yesterday and is ready for the President's approval.

Our hearings have uncovered other matters which require legislative remedies. Our 3 weeks of current hearings have established that our Nation's pesticide control laws are not so rigid or foolproof as some would have us believe. Specifically, we have found these three glaring shortcomings in the present law:

First. There is no authority to inspect pesticide plants.

Second. There is no authority to prevent faulty disposal of pesticide wastes.

Third. There is no authority to prevent dangerously adulterated and mislabeled pesticides from reaching the market.

My bill is designed to close these loopholes.

For instance, no Federal agency has specific authority to enter and inspect a pesticide manufacturing or formulating plant.

The Federal Government, under various laws, can and does inspect various factories and business enterprises in the interests of consumer protection. If one manufactures a tube of lipstick or any food product, he is subject to Federal inspection. But if one chooses to make a deadly poison, first developed as a weapon of war, which actually is used in the production of that food, he is not subject to inspection. This loophole in the scheme of pesticide regulation creates two serious situations.

First, the faulty waste disposal problem. Let me quote from an interim report furnished me by the U.S. Department of Agriculture on its investigation of industrial plant facilities in the Mississippi Delta:

> The survey revealed that the following operations practices were common to most plants:
>
> "Burning of used fiber chemical cartons adjacent to the plant or at municipal dumps which were located near a stream;
>
> "Except in one case, no attempt was being made to neutralize plant effluent which might contain pesticides;
>
> "Disposal of used metal drums, each containing a small amount of chemical, to cooperage companies where they are cleaned of chemical substances and sold for use in building floats, houseboats, and for other purposes in the delta."
>
> In addition, it was discovered that many drums were sold by the formulating plants to individuals for various uses; that drainage from waste dumps emptied into nearby streams; that many of the dumps were on the Mississippi River side of the levee; and that a basic pesticide manufacturing company emptied waste containing endrin into an industrial sewer system which flowed into a river leading to the Mississippi; wash water or solution from drum-cleaning operations entered into a city sewer.

These practices could have been easily observed and stopped if proper inspection authority was vested with the U.S. Department of Agriculture in the past. As it is, the U.S. Department of Agriculture did not even know of the existence of one of the major plants involved until some time after it was in operation.

Second, there is the problem of adequate quality control over the production of pesticides. The "read the label" philosophy is basic to the proper use of pesticides. This means that the directions for use and precautionary statements contained on pesticide labels are adequate to assure that illegal residues on food will not result, nor will any other harmful results occur if the user observes these directions carefully. We should be able to protect the farmer from the hazard of mislabeled pesticides. It is vitally important that we do this, because if the farmer is misled by the label he will innocently risk injury to the public through the misuse of a product that may be more dangerous than he can possibly know. The proper use of pesticides must begin with precise control of the composition and labeling of the pesticide formulation.

How is this done today? Basically, through a 10-man surveillance team that has to keep its eye on the more than 56,000 formulations now on the market. What they catch adulterated on the market should not have reached the market in the first place, had proper quality control standards been in operation at the point of manufacture.

Products labeled as containing 0.5 percent rotenone, a relatively innocuous plant derivative insecticide, have been found on the market actually containing 13 percent endrin, the highly toxic chlorinated hydrocarbon involved in the Mississippi fish kill case. Dairy cattle dust has been found with an ingredient statement claiming 5 percent methoxychlor but which actually contained an appreciable amount of technical benzene hexachloride. Two separate products from the same manufacturer have been found claiming to contain rotenone but which in fact contained aldrin and DDT—two chlorinated hydrocarbons. These cases are typical of those that result in injuries to the farmer—both to his person and pocketbook—with attendant potential hazard to the public.

These cases of adulterated products result from lax methods of production such as batching errors, labeling errors, cleaning of mixing equipment, and improper control of the manufacturing process for the technical grade chemical.

Regular inspection or even the likelihood of inspection will improve quality control in the plants and will spot faulty waste disposal practices before they get out of hand.

The bill I introduce today follows in many respects the regulatory pattern already established to assure safety and high quality in the field of drugs.

First, it requires every pesticide manufacturer and packager to register annually with the Department of Agriculture his name and places of business.

Second, it permits inspection of establishments in which pesticides are made, processed, packed, or held.

Third, it provides that a pesticide shall be deemed adulterated—and thus subject to seizure or injunction against shipment—if the facilities or methods used in production do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the pesticide meets requirements of safety, identity, strength, quality, and priority.

Fourth, it empowers Federal courts to issue injunctions to enforce the act and to restrain violations of it.

Fifth, it amends the penalty provisions of existing law by adding civil remedies and establishing willfulness as an element of existing criminal violations.

Sixth, it requires every pesticide manufacturer and packager to obtain a Federal waste disposal permit, to make sure that waste disposal in the manufacturing process will not cause air or water pollution that endangers public health or welfare.

Mr. President, this bill is needed in the public interest. I urge its speedy enactment.

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## MEMORIAL TO SAKAKAWEA

Mr. BURDICK. Mr. President, I submit, for appropriate reference, a concurrent resolution to honor the name and memory of Sakakawea, who led the Lewis and Clark Expedition from North Dakota to the Pacific Ocean to open up the West.

Mr. President, I believe it is most fitting that a Girl Scout council, bearing her name, at Bismarck, N. Dak., has requested that we honor this "first Girl Scout."

One hundred and sixty years ago, this Shoshone Indian girl, then living with the Mandans, joined the Lewis and Clark Expedition at a point north of the present city of Bismarck, N. Dak., to spend the next 20 months leading the expedition over uncharted areas. That she performed this great service to the Nation with a new baby upon her back is all the more remarkable.

Yes, Mr. President, the Sakakawea Council of Girl Scouts is right. We should, as a nation, honor and salute this great Indian woman, and perpetuate her memory in a fitting and lasting manner. Let her devotion to duty be an inspiration not only to the Girl Scouts of America, but to everyone.

Mr. President, I ask unanimous consent that the text of the resolution be included at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be received and appropriately referred; and, under unanimous consent, the concurrent resolution will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 81) was referred to the Committee on Rules and Administration, as follows:

> Whereas the Sakakawea Council of the Girl Scouts of America, on the seventeenth day of April, 1964, at Bismarck, N. Dak., adopted the following resolution:
>
> "Whereas, we the Sakakawea Council of the Girl Scouts of America, residing in Bismarck, the capital city of North Dakota, recognize, appreciate, and honor the name and the memory of Sakakawea and her works, and salute her as the Nation's first Girl Scout; and
>
> "Whereas this Shoshone Indian girl became the guide and scout for the greatest land exploration in our Nation's history, the Lewis and Clark Expedition; and
>
> "Whereas Sakakawea joined the expedition in 1804 at a point near Bismarck, N. Dak., to spend twenty months traveling over rugged terrain extending from the Missouri River to the Pacific Ocean; and
>
> "Whereas this intrepid girl, with a newborn baby strapped to her back, facing hunger, danger, and the adversities of weather, led the expedition through Indian territory and uncharted areas; and
>
> "Whereas Sakakawea is a symbol of devotion to duty and country and an inspiration to the Girl Scouts of America: Now, therefore, be it
>
> "*Resolved*, That the Sakakawea Council of the Girl Scouts of America, consider and determine that proper respect, honor, and appreciation be symbolized through the erection of a fitting monument to her to be located in or near Bismarck, North Dakota, the place where she joined the history-making expedition; and it is further
>
> "*Resolved*, That the city of Bismarck, county of Burleigh, State of North Dakota, and the United States of America be and are hereby memorialized to assist in the perpetuation of the memory of Sakakawea.
>
> "This resolution was adopted on the seventeenth day of April, 1964, by the Sakakawea Council of the Girl Scouts of America, in the City of Bismarck, North Dakota"; and
>
> Whereas recognition of Sakakawea, the first Girl Scout of America, as requested by the Sakakawea Chapter of the Girl Scouts

of America, should be extended by the Congress of the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the Congress of the United States hereby recognize the part played by Sakakawea in the expansion of the United States westward, and hereby commends and encourages all efforts of the people of the United States to build a fitting memorial to the memory of Sakakawea, at an appropriate site near the place where she joined the Lewis and Clark Expedition.

## CIVIL RIGHTS—AMENDMENT (AMENDMENT NO. 556)

Mr. STENNIS. I submit an amendment to House bill 7152, the Civil Rights Act of 1963. The amendment is to provide for the employment of counsel, at the request of the defendant, in certain actions instituted under authority of the bill.

I ask unanimous consent that the amendment be considered as read in accordance with all the requirements of the provisions of the Senate rules.

The ACTING PRESIDENT pro tempore. Without objection, the amendment will be so considered; and the amendment will be received and printed.

Mr. STENNIS. Mr. President, numerous provisions of the so-called civil rights bill authorize the Attorney General to institute and prosecute, for and in behalf of the United States, legal proceedings against defendants accused of violating the provisions of H.R. 7152. In such cases, the entire resources of the Federal Government would be arrayed against the defendant; and it is only right and just that in such cases the defendant be assured of an opportunity to properly make a defense.

I therefore submit this amendment to provide that in any proceeding instituted under the provisions of title I and in any proceeding commenced by the Attorney General under the provisions of titles II, III, IV, and VII, the court shall, upon request of the defendant, appoint counsel learned in the law to represent the defendant. Upon the appointment of such counsel, the defendant shall be entitled to receive a reasonable attorney's fee. Only by providing this protection can all the defendants who may be haled into court under the many provisions of this bill be guaranteed an opportunity to present a proper defense, especially in view of the fact that the Attorney General would be arrayed against the defendant, in each case, as the principal moving complainant or plaintiff.

There being no objection, the amendment (No. 556), submitted by Mr. STENNIS, was received, ordered to be printed and lie on the table, and to be printed in the RECORD, as follows:

On page 3, line 19, immediately after "(b)" insert "(1)".

On page 4, between lines 5 and 6, insert the following new paragraph:

"(2) Insert at the end of subsection (c) the following new sentence: 'In any proceeding instituted under this subsection, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant.'."

On page 9, line 24, immediately after "(b)", insert "(1)".

On page 10, between lines 3 and 4, insert the following:

"(2) In any action commenced pursuant to this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant.

On page 13, line 11, immediately after "SEC. 303.", insert "(1)".

On page 13, between lines 13 and 14, insert the following new paragraph:

(2) In any action or proceeding instituted under this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant.

On page 18, line 17, immediately after "SEC. 408." insert "(1)".

On page 18, between lines 19 and 20, insert the following new paragraph:

"(2) In any action or proceeding instituted under this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

On page 43, line 8, immediately after "(h)" insert "(1)".

On page 43, between lines 10 and 11, insert the following new paragraph:

"(2) In any action or proceeding commenced under this title by the Commission, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

## AMENDMENT TO PROTECT CIVIL AND CITIZENSHIP RIGHTS OF THE AMERICAN INDIAN (AMENDMENT NO. 557)

Mr. MUNDT. Mr. President, in the civil rights bill as presently before us, it has been brought to my attention that one aspect of the legislation which has not been adequately defined, could, in fact, cause this bill to work a new hardship and economic discrimination against our American Indians.

Thus, unless this phase of the legislation is corrected, the segment of our American economy now meriting the most assistance and having the greatest needs will receive another setback instead of receiving favorable consideration.

We may very well be working a direct hardship, in fact, on the oldest and the longest-suffering minority group in America—the American Indian—from whom, after all, we took this great country. The American Indian is beginning to make some progress in employment and education thus bringing the Indian into the white man's civilization with full equality of citizenship, opportunity, education, and employment. But, Mr. President, in many areas that happy day has not yet arrived.

Part of this program of progress is to provide the Indians with special employment on Indian reservations for the purpose of giving him training and skills required in fully becoming acclimated to the ways and customs of civilization in America off the Indian reservation and so that he may learn the means and methods of self-employment and self-support. This program can succeed only by giving our Indians a special employment status and opportunity on these on-reservation economic ventures.

Therefore, Mr. President, I have prepared an amendment to allay the danger that we will be working a direct new hardship on the minority group in this country which has suffered the greatest hardships and handicaps of any minority—the American Indian.

The amendment contains just one sentence:

> Nothing contained in this title shall apply to any business or enterprise on an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian.

Mr. President, I submit and send to the desk the amendment and ask that it be unanimously considered as read.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

The amendment (No. 557) is as follows:

On page 35, between lines 20 and 21, insert the following:

"(h) Nothing contained in this title shall apply to any business or enterprise on an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian."

## DEDUCTION FROM GROSS INCOME OF CERTAIN EXPENSES BY TEACHERS—ADDITIONAL COSPONSOR OF BILL

Mr. HARTKE. Mr. President, I am pleased to have continuing expressions of support from other Senators for my bill, S. 2609, to provide for the deduction from gross income by teachers for the expenses of continuing education incurred in their profession. Senators LONG, BREWSTER, and BURDICK have previously joined me as sponsors of the bill, and I now ask unanimous consent that the name of Senator MCCARTHY may be added also at the next printing.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PRINTING OF PUBLICATION ENTITLED "SMOKING AND HEALTH"—ADDITIONAL COSPONSOR OF JOINT RESOLUTION

Under authority of the order of the Senate of April 22, 1964, the name of Mr. LONG of Louisiana was added as an additional cosponsor of the joint resolution (S.J. Res. 173) to authorize printing of publication entitled "Smoking and Health," introduced by Mr. METCALF (for himself and Mrs. NEUBERGER) on April 22, 1964.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 30, 1964, he presented to the President of the United States the enrolled bill (S. 1605) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes.

## ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Record, as follows:

By Mr. SMATHERS:

Address by Representative Bob Sikes, of Florida, at Florida Chamber of Commerce Washington meeting, April 28, 1964.

## GREETINGS TO THE SENATE FROM THE VICE PRESIDENT OF ARGENTINA

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record a cordial letter of greetings to the Senate from the Honorable Carlos Perette, Vice President of the Republic of Argentina. The letter, which is written in Spanish, has been translated by the Legislative Reference Service of the Library of Congress. I ask unanimous consent that both the original letter and the translation be printed in the Congressional Record.

There being no objection, the letter and the translation were ordered to be printed in the Record, as follows:

Vicepresidente de la Nación,
*Buenos Aires, abril 12 de 1964.*

A S.E. el Señor Presidente del Honorable Senado Federal de los Estados Unidos de América, Carl Hayden,
*Washington, D.C.*

Distinguido Señor Presidente: Los Senadores de mi país que visitan los Estados Unidos de América, por cordial invitación del Gobierno de esa Nación, que es expresión pujante de la democracia universal, son portadores de mi saludo y de mi recuerdo para los ciudadanos americanos que integran le Cámara hermana de la que tengo el honor de presidir en mi Patria. Los comunes ideales de ambos pueblos, consolidados a través de duras jornadas de decisión, han quedado plasmados en instituciones similar es que, integradas para prestigiar el Gobierno del pueblo, vienen prestando valiosos servicios a neustras repúblicas. Es que la institución Parlamentaria requiere ser, para tener real vigencia, genuina expresión de los anhelos de los pueblos que en forma soberana designa sus representantes para integrarla.

Argentina ha retomado el camino de la ley y del derecho y con franca decisión de consolidar la democracia social, dentro de la libertad, postula ante el mundo y ante América la urgente necesidad de escuchar los reclamos, que son frutos de la miseria, del hambre y de la desesperanza de tantos hombres y mujeres de nuestro Continente. Esta es la obra que debemos concretar, porque lo exige esta neuva instancia que vive la humanidad.

Solamente consolidaremos el Gobierno del pueblo mediante esquemas más justos que sirvan a la democracia. Y estoy seguro de que nuestros Parlamentos sabrán cumplir, con sabiduría, la misión que le han encomendado nuestras Constituciones, instrumentos jurídicos de avanzada y de liberación.

Deseo vivamente que la presencia de los señores Legisladores de mi país, en esa República, contribuya al fortalecimiento de los indestructibles lazos yue unen a neustros pueblos, sobre la base inconmovible de comunes ideales de progreso. Y formalmente invito e ese H. Senado a fin de que designe una delegación de sus integrantes para que visiten Buenos Aires en el próximo mes de Junio.

Honorán, con su presencia, a nuestro Parlamento, abocado a una intensa labor que tiene por objeto la estructuración de esquemas jurídicos que sirvan al país y resguarden a la democracia, como sistema irrenunciable de convivencia para las Américas, basado en la dignidad de los hombres y los pueblos, que quieren vivir en el ámbito de la civilización, la justicia y el derecho.

Con fraternales expresiones de solidaridad democrática y de fe en el imperio de la libertad, salud al digna Presidente y a los honorables integrantes del Senado Federal de esa rectora Nación de América.

Carlos Perette.

[Translation by Lynne Matusow]

Vice President of the Nation,
*Buenos Aires, April 12, 1964.*

To His Excellency the President of the Honorable Federal Senate of the United States of America,
Carl Hayden,
*Washington, D.C.*

Distinguished Mr. President: The Senators of my country who are visiting the United States of America, on the cordial invitation of the Government of that Nation, which is a strong expression of universal democracy, are the bearers of my greeting and recognition for the American citizens who make up the sister chamber of which I have the honor of presiding in my country. The common ideals of both countries, consolidated through hard days of decisions, have remained shaped in similar institutions which, integrated to give prestige to the Government of the people, are loaning valuable services to our republics. It is that the Parliamentary institution must be, in order to have a real state of being in force, a genuine expression of the desires of the peoples who in a sovereign manner designate their representatives who make up the Parliament.

Argentina has again taken the road of law and with a sincere decision of consolidating social democracy, within freedom, is postulating before the world and before America the urgent need of listening to the calls which are the fruits of misery, hunger, and the despair of so many men and women of our continent. This is the task which we must reduce to the simplest form, because it is demanded by this new petition that humanity live.

We will only consolidate the Government of the people through more just plans which serve democracy. And I am sure that our Parliaments will know how to carry out, with wiseness, the mission that our Constitutions, juridical instruments of progress and freedom, have entrusted them with.

I sincerely hope that the presence of the Legislators of my country, in that Republic, will contribute to the strengthening of the indestructible ties which unite our peoples, on the immovable base of common ideals of progress. And I am formally inviting that Honorable Senate to send a delegation of its members to visit Buenos Aires next June.

They will honor, with their presence, our Parliament [which is] beginning an intense task whose object is the structurization of juridical plans which will serve the country and defend democracy as an irrenuncible system of living together for the Americas, based on the dignity of men and peoples who want to live in the atmosphere of civilization, justice, and law.

With brotherly expresssions of democratic solidarity and faith in the empire of liberty I am greeting the worthy President and the honorable integrants of the Federal Senate of that principal Nation of America.

Carlos Perette

## PRO CIVIL RIGHTS MAIL HITS NEW HIGH

Mr. JAVITS. Mr. President, this being the end of April and the 44th day of debate on the civil rights bill, I would like to report to the Senate on the mail I have received on this issue from New York State. We are not "mail comptometers" here, and our job is to serve the national interest on this bill as we see it, but the mail question has been invoked to allege a "white backlash" to the bill in the North, and when the facts refute this, they must be brought out.

The mail coming into my office has never been heavier than it was during the past month. Much has been made recently of the fact that many people in the North have been writing in opposition to the civil rights bill. I am glad to report that that trend appears to have shifted dramatically. The count of New York State mail during the month of April—as of this morning—was 8,250 letters for the bill and 2,527 letters opposed. That indicates overwhelmingly $3\frac{1}{2}$-to-1 support from my State for the enactment of the pending civil rights bill.

I believe this is new evidence against the so-called white backlash in the North which is said to be having an adverse effect on support for the pending civil rights bill.

It is interesting to me to note that many of those writing in support of the bill say that they did not write to me previously because they were aware of my commitment to the passage of this legislation. But they have decided to write now to give me assurance of their support, and because they had read about letterwriting campaigns inspired by segregationists and other elements.

It is most noteworthy that most of the letterwriting in opposition to the legislation continue to contain incredible misinformation. In the hope that some of these letterwriters will take the time to learn the facts about this legislation, I am sending every one of them a copy of a booklet, "Some Questions and Answers on the Civil Rights Bill," produced by the Leadership Conference on Civil Rights. This excellent 24-page booklet explains the key provisions of the bill, answers the main questions that have arisen in regard to it, and sets forth the reasons this legislation should be enacted. I believe it will be helpful in bringing some enlightenment to many who have been misled by false fears and inaccurate information.

Mr. President, in order to show the drastic change in the mail since last February, when the mail from those against civil rights was for the first time running slightly in excess of those for it, to the present time when it is $3\frac{1}{2}$ to 1 in support of the bill, I ask unanimous consent to have printed at this point in the RECORD a chart showing the ratio of pro and con civil rights mail from September 1963, to April 1964, from New York State.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

| | *Pro* | *Con* |
|---|---|---|
| September 1963 | 2,189 | 197 |
| October 1963 | 1,644 | 179 |
| November 1963 | 1,473 | 209 |
| December 1963 | 803 | 50 |
| January 1964 | 1,635 | 368 |
| February 1964 | 2,594 | 2,712 |
| March 1964 | 4,802 | 3,290 |
| April 1964 | 8,250 | 2,527 |

## CIVIL RIGHTS BILL—ANSWER TO AN UNJUSTIFIED ATTACK ON SECTION 302

Mr. JAVITS. Mr. President, one of the unjustified attacks on the pending civil rights bill which has recently been circulated, is directed against section 302 of the bill. On behalf of the Senator from Oregon [Mr. MORSE] and myself, as the designated bipartisan "floor captain" of title III, I would like to point out the invalidity of that argument.

Section 302 authorizes the Attorney General to intervene in actions instituted in the Federal courts seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin. This would permit the Federal Government to become a party to privately brought suits to enforce the equal protection clause of the 14th amendment. It is considerably narrower than the traditional part III proposal, which would have authorized the filing of such suits by the Attorney General, not only intervention, and would have authorized redress of all rights, privileges, and immunities guaranteed by the 14th amendment, not only equal protection of the laws.

The 14th amendment extends only to State action, so that governmental officials of the States and their subdivisions would be the defendants in suits in which the Attorney General would be authorized to intervene, not private individuals. Thus the specter of the "financial and governmental might of the United States" pitted against an individual is in no way raised by section 302. At present the financial and governmental might of various States is often pitted against individuals, claiming deprivations of constitutional rights on account of race, who are least able to maintain expensive litigation themselves. This is the major reason for section 302, which is a narrowly limited attempt to even up the balance by permitting the Federal Government to appear before the courts on the side of the individual claiming a constitutional right, against State officials and State governments which seek to deny him that right.

Nor is there anything in section 302 which conceivably justifies the statement that it would give the Attorney General power to intervene in suits against public officials "for the purpose of making them conform to his desires." Section 302 does not in any way enlarge the relief obtainable now by an individual capable of litigating by himself for redress of a breach of equal protection; it adds not a single substantive right or cause of action to what the courts have repeatedly said constitutes such a deprivation on account of race, color, religion, or national origin. It simply permits the Attorney General to become a party to such a suit so that he can represent the national interest in protecting that existing constitutional right. It seems to us the only objection anyone can really mount against this is that they do not wish to see the equal protection clause enforced.

## AMERICA'S INTERNAL THREAT

Mr. WALTERS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial entitled "America's Internal Threat," from the Nashville Banner of April 28, 1964.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### THE CRISIS IS HERE: AMERICA'S INTERNAL THREAT

Those abetting America's hour of crisis, with statements of open threat and appeals to conflict—with or without pious protestations of nonviolent intent—are tugging at pillars whose collapse would demolish the house. Ignorance of that fact, or willful indifference to it in pursuit of personal, partisan, or ethnic aims, does not excuse the offense, nor abate the catastrophe they are inviting.

That is the danger within, exploited by demagogs playing on racial emotions, and preaching lawlessness to achieve their own ends. Intolerant of reason, their ultimatum is cracked like a whip—not for concessions within the scope of uniform justice, but for unconditional surrender.

The crisis is here; not an ocean's breadth away. The exercise of responsibility by men of good will, irrespective of race, and answerable both to conscience and the authority of law, can resolve it.

America certainly does not oppose equality of justice under a government of law. That is its structure, its format, its intent.

The so-called civil rights bill, now at issue before Congress, does not enhance these. It would emasculate them where the majority is concerned.

When the unconstitutionalities, other illegalities and proposed injustices to businesses and individuals are removed, Congress should provide all the just protection of the rights of Negroes, as well as those of every other citizen of the United States, regardless of race, religion, color or country of origin.

This is what the Negroes are entitled to; no more, no less.

Anything else will continue the divisive struggle which is destroying reason, understanding, good will, and mutual respect among Americans who must live in amity and concord, if this Republic is to endure.

This is the time for politicians to stop their despicable exploitation of the Negro for his vote. It is the time for the white citizens to recognize the legitimate rights of the Negro under the law and provide them within established constitutional boundaries.

It is also time for the Negro to rid himself of hysterical, fanatical leadership defiant of law and order, provoking civil disobedience to the point of anarchy seriously damaging, if not permanently destroying the interest, the sincere sympathy and the support of millions of Americans of good will, now being alienated by the extreme folly of the ADAM CLAYTON POWELLS, the Black Muslims and their fellow travelers preaching anarchy, sedition and open revolution.

It's time to get back to sanity, respect for law, respect for the flag and the country for which it stands, and, above all, respect for one another as human beings and as American citizens with equal responsibilities imposed by equal rights under the law. Anything else is the sheerest folly which, if not soon checked, is certain to lead to the destruction of all law, all rights, even this Government of freedom which is the last best hope on earth

## CONDITIONS IN LAOS DESCRIBED IN LETTER FROM FATHER MENGER

Mr. DODD. Mr. President, when I was in Laos in May of 1962, I met an American Oblate missionary by the name of Father Matt J. Menger, who told me some things about the situation in the country that I did not get from my Embassy briefing.

In his several years in Laos, Father Menger had learned to speak the language fluently and had traveled thousands of miles on foot in the country, even in territory that was supposed to be under firm Communist control.

Recently I received a letter from Father Menger which I consider significant because it answers a question that I have heard asked with increased infrequency, especially during the past several months.

On a trip from Saigon to Vientiane by plane, Father Menger sat down beside an American businessman. The American businessman said to him, "Father, I know you are a priest and your job is to save souls. But frankly, why in the hell are you missionaries staying in Laos? Your churches and schools have been sacked and burned by the Reds, your priests have been killed; why don't you get smart and go where you will have a chance to build and grow? Laos is gone, so is Vietnam; why don't you get out while you still have the chance?"

Father Menger in his letter tells the story of Agnes, a member of the Meo tribe of northern Laos, by way of replying to the businessman, yes, and to all those who have asked similar questions.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, the answer from Father Menger.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDOCHINA MISSION CRUSADE,
*March 5, 1964.*

DEAR CRUSADER: I visited Saigon a few weeks ago which, at the time, was "between coup d'etats." The flight from Vientiane to Saigon is a beautiful one with the plane following the muddy Mekong and crossing over the checkered rice paddies of the lush Vietnamese delta.

Saigon, the "Paris of the Orient," was as beautiful as ever. My Vietnamese friends cordial and friendly as always, outwardly happy, living their normal everyday lives, but something had changed. Walking the streets of Saigon, seeing the tanks, heavy artillery, the soldiers patroling with their rifles and submachine guns, one realizes that this is more than just the civil war of a tiny Asian country. In my friends I could see an anxiety that had never existed before, an inner tension resulting from the nightly bombings and the terror of not knowing who the enemy was.

During the 6-hour C-47 flight home to Vientiane, I became involved in a conversation with the man sitting next to me, an American businessman who had spent many years traveling and working in Asia. I had the feeling there was something he wanted to ask me. Finally he found the courage, for he suddenly blurted out, "Father, I know you're a priest and your job is to save souls. But frankly, why in the hell are you missionaries staying in Laos? Your churches and schools have been sacked and burned by the Reds, your priests have beeen killed * * * why don't you get smart and go where you'll have a chance to build and grow? Laos is gone, so is Vietnam. Why don't you get out while you still have the chance?" For a moment, I was taken aback, as much by his frankness as by the challenging question. And then I thought of Agnes.

It was late one afternoon, just a few days before Christmas. I was sitting in my office in the rectory when I saw, walking past the window, a ragged, tired, hollow-eyed woman. A baby was strapped to her back. Stumbling along beside her were three exhausted little children, the eldest not more than 5 years old.

We took Agnes, her husband, and the children into the rectory, gave them something to eat and a chance to rest. That night I heard one of the most incredible stories of courage and determination in all of my career as a missionary.

Agnes is a Meo, a member of that hardy tribe which emigrated from Mongolia through southern China into Laos a hundred years ago. She was born and raised in the village of Sam Neua, 115 miles north of Vientiane. When she was 18, she married one of the boys from her village. For their honeymoon, they set out on a walking trip to Paksane in southern Laos. During the trip, they were accosted by robbers. The young bridegroom, in trying to defend his wife and their meager possessions, was slashed with machetes and seriously wounded. A few days later he died. Agnes was alone in a strange village with no money, no home, nothing but a still shining wedding ring. Agnes came to the seminary, appealed to the fathers for help, and was given a job as a cook. For 10 years she worked at the seminary in Paksane until she married again. She and her new husband decided to return to the mountainous villages the Meos love, and so they moved back to Sam Neua. During the next 5 years, four children were born and Agnes and her family lived the normal life of our Catholic Meo families, attending mass and regularly receiving the sacraments in the village church, until the Communists came, bringing with them their experts in fear, torture, and persecution.

Twice her husband was arrested. Twice he escaped, the last time fleeing 40 miles to an anti-Communist guerrilla outpost. Agnes and the children waited for word from him, nightly attending the mandatory indoctrination lectures of the Reds. One day, while shopping in the marketplace, a woman came to Agnes and whispered, "your husband is safe. If you are to escape, it must be tonight."

The family's bamboo hut was on the main path of the village. Communist sentinels regularly patrolled the street. At dusk, Agnes put the children to bed, then proceeded to bore two tiny peepholes knee-high through the wall of her hut. Clutching her rosary, she knelt down, put her eyes to the peepholes, and began her long vigil of waiting and praying.

The beads slipped through her fingers, decade after decade the heavy boots paced up and down in front of the hut. "Hail Mary, pray for us sinners, now and at the hour of our." Back and forth—back and forth. At midnight, the footsteps stopped; 12:30, still no sentinel; 1 o'clock, Agnes decided this was the time to go. She wakened the three older children and whispered to them, "If you make a sound, your father will have no wife, and no children."

Strapping the still sleeping baby to her back, she breathed a silent prayer and crept out into the night. It was a moonless night, a pitch-black night. Agnes and the children got down on their hands and knees feeling their way along the narrow path. On and on they crawled, perhaps several hundred yards. Suddenly Agnes and the children stopped abruptly. They heard a sound. Was it a patrol of sentinels coming toward them? Agnes listened. It was quiet, deathly quiet. Then she began crawling again, quietly, the slightest sound meant capture and death. One false move and they would tumble to their death down the steep cliff of the jagged mountain. Finally they were out of the village. Agnes recalled, "I don't know how long we crawled, it seemed forever. Suddenly two men jumped out of the thick brush and grabbed my babies. Frightened, I looked up and recognized the two faces in the dim light of their torch. We all started to run."

Down the narrow, rocky path they ran, through a small jungle-covered valley, then up a steep, craggy path. Soon the first red rays of the sunrise began to steal over the tall mountains. A quick breakfast of rice and water in a village, then off again. They walked all that day, well into the following night before they reached the village of an anti-Communist guerrilla post where Agnes' husband was waiting. Once again the family was united. The following morning, a small single-engined plane set down on the dirt runway of the village and, minutes later, Agnes, her husband, and four children were on their way to Vietiane, to freedom and safety.

Why does a missionary stay in Laos to fight what so many consider a losing battle? Why does a missionary stay when the odds are stacked against him? It is a life of hardship, privation, danger, death. Recently we were reminded of this.

Communist guerrillas in the Congo raided the oblate mission stations. They captured three priests, tortured them, and hacked their bodies with machetes, leaving the pieces to be buried by the nuns. Last Sunday night, and again on Thursday, our priests at Tha Ngon, which is only 15 miles north of Vientiane, were visited by Communist guerrillas.

Today even though we are a hundred missionaries in Laos, at least 75 percent of the natives have never even seen a missionary, or heard of Jesus Christ. These people are primitive and illiterate, but they are children of God. They have a right to know their Creator and their Redeemer. They have a right to Heaven. It is for them that we missionaries have left our homes and our families. It is for them that we stay on to fight against tremendous odds, constant danger, and even possible martyrdom. Perhaps our accomplishments in the book of time will seem few and, to some, our attempts, ridiculous. Who but Almighty God would dare to put into the battlefield a tiny army of men against the maniacal savagery of communism?

Yes, we've lost some of our churches, our schools, our rectories; 10 percent of all of our priests have been murdered, but souls are never lost. And if our accomplishments are minute in this world of magnificent victories, perhaps martyrdom at the final moment of our lives, will be the display of faith and courage needed to convert one more soul. For the sake of that one soul, if for no other reason, we have our justification for being here, and for staying.

As you kneel in the comfortable, magnificent churches of America, please pray for us. Whisper a prayer for the missionaries and the Agneses of Laos. Rest assured that I, and all of the other oblate missionaries scattered throughout the mountains and jungles of this tiny Communist-infested kingdom, will be offering our Easter masses in a special manner for you and your loved ones.

With my blessing,

Fr. Matt J. Mencer,
*San Francisco, Calif.*

## FEES PAYABLE TO COMMISSIONER OF PATENTS

Mr. DODD. Mr. President, on February 25, I introduced S. 2547, as an alternative to H.R. 8190, which was approved by the House earlier this year, to fix certain fees payable to the Commissioner of Patents.

The bills will produce slightly over $22 million a year in revenue, making the Patent Office more nearly self-sustaining than it is at present.

At the time I introduced it, I stated that my bill had been endorsed by the Connecticut Bar Association, as well as by individual patent attorneys and businessmen.

I learned a few days ago that the Manufacturing Chemists' Association, Inc., which represents 186 member companies with 90 percent of the productive capacity of the U.S. chemical industry, has also endorsed my bill.

The association did this in a letter which it filed with the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights commenting on both S. 2547 and H.R. 8190.

This endorsement is of particular interest, I think, since the chemical industry spends more of its own money on research than any other single industry in the United States. These research efforts are reflected in the patent activity of the industry. For example, in 1960 approximately 20 percent of all the patents issued were chemical patents.

I ask unanimous consent to have this letter, which is an expert and able argument in support of my bill in preference to the House proposal, printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Manufacturing Chemist's
Association, Inc.,
*Washington, D.C., March 20, 1964.*

Hon. John L. McClellan,
*Chairman, Subcommittee on Patents, Trademarks and Copyrights, Committee on the Judiciary, U.S. Senate,*
*Washington, D.C.*

Dear Mr. Chairman: The Manufacturing Chemists' Association, Inc., would like to take this means of submitting its views on H.R. 8190 and S. 2547 for consideration by your subcommittee and inclusion in the record of the hearings held on these bills on February 27 and 28, 1964. With certain differences, both bills have for their purpose the increase of fees payable to the Patent Office.

In this connection, it may be of interest that the Manufacturing Chemists' Association, Inc., founded in 1872, is the country's oldest national chemical trade association, with 186 U.S. members, and represents more than 90 percent of the productive capacity of the U.S. chemical industry. The chemical industry spends more of its own money on research than any other single industry in the Nation. In 1960 some 10,200 chemical patents were issued, representing about 20 percent of all patents issued during the year. Thus, the chemical industry has a vital concern in any legislation affecting patents.

Our association realizes that over 30 years have passed since the fees for filing applications and issuing patents were last revised. Since that time, salaries and other costs have increased substantially. Inventors and their assignees should pay a fair share of the Patent Office costs and it is for this reason that our association in the past has supported a reasonable increase in Patent Office fees. In our letter of September 4, 1963 to the House Judiciary Committee we so stated our position. We were, therefore, quite pleased to see the introduction of S. 2547 by Senator DODD, the provisions of which would increase Patent Office fees, making it more nearly self-sustaining. According to Senator DODD, when he introduced his bill S. 2547 the proposed schedule of fees would produce slightly over $22 million in revenue each year. This is about the same amount which would be produced by H.R. 8190 after scheduled maintenance fees become fully effective.

By far the most objectionable feature of H.R. 8190, and the one to which we most strongly object, is the provision authorizing the imposition of maintenance fees for patents. The imposition of maintenance fees would, in our opinion, also have the undesirable effect of lessening the protection and encouragement now given to inventive efforts by our patent system. The Acting Commissioner of Patents, in his testimony, indicated that the Patent Office expected that at the end of the 5th, 9th, and 13th year a large number of patents would become invalid for failure to pay the maintenance fees. It was estimated that on the 13th anniversary date of the issuance of the patent only 15 percent of the patents would be continued in force. Thus, it appears to us that maintenance fees will have the effect of reducing the life of patents, thereby seriously weakening our patent system.

The philosophy behind the attempts to reduce the life of the patent seems to be that the patents then will go into the public domain and will be utilized fully by a large number of manufacturers. We do not believe this would be the case. Let us consider a situation where a patent is allowed to lapse by failure to pay maintenance fees and later it is discovered that the item covered could be utilized. There are very few manufacturers who would expend the considerable amount usually involved in the commercial development and marketing of a new product without patent protection. The public, thus, would be deprived of the benefits of many new developments.

In the House floor discussion on H.R. 8190, the assertion was frequently made that maintenance fees would save the Patent Office money by cutting out so-called deadwood, a term apparently used to indicate patents not being utilized commercially. The lapsing of a patent does not eliminate it as a reference by the Patent Office. In its consideration of new patent applications, such a lapsed patent is treated by the Patent Office in the same manner as is an article in a journal, or as is a foreign patent. Being a disclosure, it forms part of the art which has to be searched to determine if a later applicant has a "new" invention. The issued patent has to be searched, whether it is used or unused, valid or invalid, still alive or expired.

Another reason why we strongly object to the imposition of maintenance fees is because of the administrative burdens which will be placed on both industry and the Patent Office. To impose the maintenance fees provided by H.R. 8190, it will be necessary for the Patent Office to keep accurate records of the status of many thousands of issued patents, to send out many thousands of notices of maintenance fees due (sec. 6e), process requests for deferment (sec. 6f), and publish lists of patents expired for nonpayment of maintenance fees.

The imposition of maintenance fees also seems to be an effort to eliminate so-called defensive patents. There are very few actually defensive patent applications filed. To call a large number of patent applications "defensive" indicates a lack of understanding of the way research is conducted and products often developed, especially in the chemical industry. Many times new chemical compounds are discovered for which no immediate use is apparent. With additional experiments, sometimes taking many years, a use for the compound is discovered. Thus, if the attempt is being made by the use of maintenance fees to eliminate the filing of patent applications of this type, the result will only be greater secrecy.

There are several other provisions in H.R. 8190 which we view with concern and strongly oppose. Sections 1, 2, 3, and 4 of H.R. 8190 provide for increased fees for filing, prosecuting, issuing, and reissuing patents, and for recording assignments. We are somewhat apprehensive that the extra filing fee in H.R. 8190 for each independent claim beyond one may deter inventors from adequately claiming their inventions, and that the fees for printing the patents and drawings may deter inventors from fully disclosing their inventions.

As a matter of fact, Assistant Secretary of Commerce Hollomon and Acting Commissioner of Patents Reynolds emphasized in their testimony before your subcommittee on H.R. 8190 that the bill was drafted with provision for only one claim for the filing fee of $50 to encourage the submission of "dependent" claims, rather than a large number of independent claims. Patent attorneys today, in general, believe that for most inventions a series of independent claims are necessary to adequately spell out the area of discovery. The reason for this is that in case one claim in a patent is declared invalid by the courts, other claims will still be valid, protecting the invention.

The fee schedule of H.R. 8190 would be especially heavy on independent inventors. The independent inventor makes very important contributions to our society. The impact of this bill on the independent inventor would be considerably softened if he could present several independent claims for his filing fee instead of just one, and if for his issue fee he could have several pages printed without additional printing fees.

Today an inventor may file 20 or less independent claims for a filing fee of $30. H.R. 8190 would provide for a filing fee of $50 and $10 for each independent claim in excess of one and $2 for each claim (independent or dependent) in excess of 10. It has been estimated that the average patent application today contains about 15 or 16 independent claims. Thus, the filing fee, rather than being increased from $30 to $50, would be increased from $30 to about $200. It would appear to us to be better to provide, as Senator DODD has in S. 2547, a filing fee of $70 and $5 for each claim in excess of 10.

The Manufacturing Chemists' Association, Inc., appreciates this opportunity of presenting our views on S. 2547 and H.R. 8190. In summary, it is apparent that S. 2547 does not contain the objectionable features which are found in H.R. 8190. Also, S. 2547 would produce some $22 million in annual revenue making the Patent Office more nearly self-sustaining. We would, therefore, like to go on record formally as endorsing S. 2547 and we respectfully urge that this bill be reported favorably and that H.R. 8190 be rejected.

Sincerely,

G. H. DECKER.

## FATHER HOA, THE FIGHTING PRIEST OF SOUTH VIETNAM

**Mr. DODD.** Mr. President, I am deeply distressed by the report in Tuesday's press that Father Hoa, the "fighting priest of South Vietnam" who has made this region in the Camau Peninsula a bastion of popular resistance to communism, may be relieved of his command and perhaps obliged to leave the country.

The report in the New York Times implied that there was some reason for doubting that the initiative for this action had come from General Khanh himself, and, some reason for believing that it originated at a lower level in the Vietnamese Government. The report further stated that American military sources fear that the area will fall to the Vietcong in 6 months if Father Hoa is obliged to leave. It said that the embassy was prepared to intercede at the highest level if it turns out that the new military commander appointed to the area attempts to dispel the influence of Father Hoa.

I earnestly hope that General Khanh and the other Vietnamese leaders will give this matter the closest attention.

The destruction of Father Hoa's influence must inevitably undermine the effectiveness of the peasant resistance movement that he has built up around him. This would be a tragedy for the people of the area. But much more than this, it would have a disastrous influence on Vietnamese-American relations and would play into the hands of those who have been urging American withdrawal from Vietnam.

Father Hoa, who came to South Vietnam in 1959 with a group of Chinese refugees, has succeeded in setting up what is generally considered to be the most effectively organized regional popular defense against communism to be found anywhere in Vietnam. With a force of 1,200 men, he is defending a population of some 18,000 villagers, and his influence has extended far beyond the region he himself commands. His achievement is all the more remarkable because the Camau Peninsula is perhaps the most heavily Communist-infested area in South Vietnam, and the territory he now holds had to be freed from Communist control by hard fighting.

Every American military man and every correspondent who has seen the operation has been tremendously impressed by it. President Kennedy himself, when he read his first report on Father Hoa, wrote a memorandum to the Saturday Evening Post urging that they print the story. The story was, in fact, printed in the May 20, 1961, issue of the Post under the caption "The Report the President Wanted Published." Subsequently, there were many more articles about Father Hoa, including another article in the Saturday Evening Post and an article in Reader's Digest.

I was one of the first to urge that we give unconditional support to General Khanh. But General Khanh inherited an exceedingly difficult situation. The war is still not going well for our side in South Vietnam; and each fresh report of

Communist victories or of disorganization on the Government side is made the excuse for renewed demands that we get out of Vietnam.

Against this background, I do not think the Vietnamese Government can afford the luxury of removing Father Hoa and risking the loss of the Hai Yen area. Their enemies, I am sure, will welcome this move. Their friends will all be dismayed by it.

I hope that the Vietnamese Government will not delay too long before confirming to the public that the appointment of a military commander for the Hai Yen sector does not mean that Father Hoa is being removed or that he is being deprived of his authority.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, the New York Times article of April 28, 1964, entitled "Saigon Replaces 'Fighting Priest' "; the Saturday Evening Post article of May 20, 1961, entitled "The Report the President Wanted Published"; and the Reader's Digest article of July 1963, entitled "The Fighting Priest of South Vietnam."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 28, 1964]

### SAIGON REPLACES FIGHTING PRIEST—FATHER HOA'S PRIVATE ARMY PUT UNDER NEW COMMAND

(By Peter Grose)

SAIGON, South Vietnam, April 27.—A Roman Catholic priest whose irregular military methods have carved out a safe haven for his followers in the Communist-dominated Camau Peninsula, has been deprived of the command of his private army.

A major of the South Vietnamese Army has been named commander of Father Hoa's area, called the Hai Yen or Sea Swallows sector.

The sector, near the Gulf of Siam, has long been a showplace, an example of what highly motivated counterinsurgent operations could accomplish against the Communist guerrillas.

The appointment of the commander, Maj. Chuong Chinh Quay, came quietly about 10 days ago. Father Hoa confirmed today that he had in effect been supplanted and might have to leave Vietnam.

American officials who have strongly supported the priest's antiguerrilla activities expressed deep concern at what might happen if his army was broken up.

Father Hoa has made two trips to Saigon to try to clarify the Government's intentions. He said in an interview that he planned to return to Hai Yen this week in hope of reaching a working agreement with the new commander.

Father Augustin Nguyen lac-Hoa holds no formal military title or position at Hai Yen. But in the absence of a regular army commander, he has been military leader as well as parish priest. His hope now is that, even though an official commander is to be on the spot, his unusual counterguerrilla tactics and the strong loyalties he has established will not be lost.

The influence of Father Hoa extends beyond his small sector. Hai Yen, 15 miles square, has 1,200 men under arms to defend a population of 18,000. Most of the troops are Chinese of the Nung tribe of North Vietnam, but two companies are completely Vietnamese.

American military sources fear Hai Yen would fall to the Vietcong in 6 months if Father Hoa left.

#### FLED CHINA IN 1951

The husky 56-year-old priest has become a symbol to Roman Catholics in Vietnam and abroad. He fled Communist China with several hundred followers in 1951, establishing a home first in North Vietnam, then in Cambodia and finally in 1959 in South Vietnam.

Poorly armed and led only by the priest, who had commanded a battalion in the Chinese Army, the immigrants cleared the Vietcong from the sector and gradually won the support of Vietnamese villagers.

With increasing publicity, the priest became a controversial figure. There were many who questioned his military skill—he follows few traditional practices in fighting the guerrillas. He also was supported and admired by Ngo Dinh Diem when he was President, which made him suspect by the forces that opposed the Diem regime.

With the downfall and death of President Diem last November, the priest's position became shaky outside Hai Yen although the people of the sector remained almost fanatically loyal. In November, one of his fighting companies was taken from his control and in February, a second. Father Hoa retained command of five companies.

#### UNCLEAR ON MOTIVES

Father Hoa is unclear about the reason for and the intent of the new government directive. It conflicts with all organized groups across the country.

Father Hoa saw Premier Khanh 2 weeks ago and was reported to have received full assurance of support. Then came the appointment of an army major as battalion commander, which Father Hoa had favored, but with it a second appointment—the naming of another major as sector commander, the post the priest had held in practice.

Some Americans believe the order originated well below Premier Khanh, perhaps with army commanders who have been hostile.

American diplomats have been following the situation closely and are said to be ready to intercede at the highest level with the Vietnamese Government if the new commander attempts dispel the influence Father Hoa wields in Hai Yen.

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[From the Saturday Evening Post, May 20, 1961]

### THE REPORT THE PRESIDENT WANTED PUBLISHED

(By an American officer)

(A few weeks after President Kennedy took office, a report from an American Air Force officer in Vietnam crossed his White House desk. It was one of the dozens of official documents the President reads every day. The President picked it up, intending to glance through it hurriedly—and found himself reading with absorbed attention.

(The officer—whose name, for professional reasons, cannot be used—had visited a little village in South Vietnam. The region he visited has for years been controlled by Communist guerrillas. Yet the people of the village, determined to live their own lives in their own way, had held out against the Communists despite heavy and continual casualties.

(When it came to the President's desk, the report was classified. But behind the official language of the report, the President saw a story of human valor and dedication to freedom, a reminder that communism is not the wave of the future. It was a story, he felt, that many people ought to read, and he wrote a memorandum suggesting that the report would make "an excellent article for a magazine like the Saturday Evening Post. I would like to see this type of material have good distribution, as it shows what can be done." The substance of the report is published herewith.—THE EDITORS.)

The adage, "Eternal vigilance is the price of liberty," is just practical realism to the free people of Binh Hung village. These 1,200 settlers, most of them expatriates from Communist China who have wandered for years through southeast Asia in search of a haven, are in daily combat with Communist Vietcong guerrillas. It is a deadly little war.

Last January, President Ngo Dinh Diem of South Vietnam arranged for me to visit the village. When I arrived, members of the small self-defense corps, which protects Binh Hung from the guerrilla raiders, were drawn up smartly in military formation. I was startled and deeply touched. Many of them raised their hands in a familiar three-fingered salute. They were former Boy Scouts, and it was the only military gesture they knew. Something else about them was far more impressive. These volunteer soldiers were cheerful, despite the certain knowledge that before another year is out two-thirds of them probably will be killed in action.

The leader of Binh Hung village is the Rev. Nguyen Loc Hoa, a stocky, bespectacled Cathloic priest who was once a lieutenant colonel in the Chinese Nationalist Army. He led the group—originally 375 settlers—out of South China, into Cambodia and finally to the mud flats and mangrove swamps of South Vietnam, where their settlement has more than tripled in size. When I asked Father Hoa why his self-defense soldiers volunteered for so bleak a life and almost certain death, he smiled warmly and replied, "Man was born to do something."

While this is only a tiny facet of the fight of free men against communism, perhaps some of the things I heard and saw at Binh Hung will interest other men who may someday face Communist guerrillas in combat.

The village is located near the southern tip of Vietnam on the Camau Peninsula. This area, nominally governed by the pro-Western, democratic government of South Vietnam, has been dominated by Communist guerrillas for more than 15 years. When Vietnam was divided under the Geneva agreement of 1954, the Communist Viet Minh forces in the south chose the Camau region as their regroupment and departure area. Reportedly they left behind large arms caches and a forceful guerrilla organization. Vietnamese authorities recently estimated that 500 loyal villagers are killed every month in the fight against these guerrillas. But they say guerrilla casualties are even higher. If other villages are as resourceful as Binh Hung, this is probably true.

Binh Hung is not an old village. After leading his flock of Christian refugees out of China and spending 7 difficult years fighting off jungle pirates and Communist guerrillas in Cambodia, Father Hoa got permission from the Vietnamese Government to settle on the Camau Peninsula in 1959. When the refugees arrived with their household goods, pigs, ducks, and seedlings, they wept at what they saw. "It is like a visit to the moon," one of them said. In a rainy season the Camau area is a vast mud swamp tangled with mangrove and laced by a complex of rivers, streams, and canals. In the dry season the swamp becomes parched, and cracked clay makes the whole area look like a dried-up mud puddle. But the waterways teem with fish, and rice grows profusely. So the refugees erected Binh Hung village.

They wanted to build their houses in a long, thin line strung out along a canal. But the battle-wise Father Hoa, with an eye on the threat of guerrilla attack from strongholds in the surrounding mangrove forests, planned the settlement in a compact, defendable square, bisected by the canal. Around it he put a low mud wall dotted with lookout points which are manned night and day. Beside each lookout post hangs a decativated artillery shell to be hammered as an alarm signal when the Vietcong attack.

For 3 months in 1959 Binh Hung was peaceful. Then the Vietcong guerrillas attacked. Lacking weapons, the settlers fought back with Boy Scout staves and knives. It seems almost incredible, but when the Vietcong struck, the weapon-poor villagers promptly counterattacked. They had to close with the enemy quickly to make their knives and staves effective. The Binh Hung villagers lost a few men, but they captured several American-made M-1 rifles and a Browning automatic rifle from the guerrillas.

From that time on, the attacks were incessant. Father Hoa knew that knives and staves supplemented by a few rifles and a BAR were no match for guerrilla firepower. He appealed to President Ngo Dinh Diem and got funds—$12 per month per man—and a scattering of weapons for a 300-man self-defense force. The weapons, some of them predating World War I and as varied as the armies of the world, were left over from stockpiles taken from the Binh Xuyen, a private army of racketeers and adventurers which the government disarmed in 1955. Father Hoa would have liked American weapons, but U.S. military aid cannot be given legally to such an irregular force.

Father Hoa searched throughout free Vietnam for experienced guerrilla fighters. He promised them a life of hardship with frequent combat, little pay and probable death. Gradually he recruited 300. Officers and men received the same pay. When I visited Binh Hung, the force had grown to 340 "regulars" and 80 recruits in training. Father Hoa pays the extra 40 "regulars" out of his own pocket. The 80 recruits get nothing, only food from the village.

Friends of Father Hoa told me he is deeply in debt for the pay and supplies he gives the self-defense corps.

Although they get virtually nothing in return for defending Binh Hung, the corpsmen are tough and canny fighters. And they make the most of their limited weapons. The heaviest of these are 2 mortars, a 60-millimeter and an 81-millimeter, which have been calibrated to zero-in all the approaches an attacker can use against the village.

Last Christmas Eve the Binh Hung villagers received intelligence reports predicting a Vietcong attack that would catch the village by surprise during midnight mass in the town's small church. Quietly the self-defense corps prepared a lure. They set up generators and extra lights to illuminate the church. Meanwhile, scouts moved out along the approaches to watch for the dreaded Vietcong.

While Father Hoa sang the mass in the brightly lighted church, scouts scurried in with reports of the approaching guerrillas. Father Hoa paused to give the firing order. Mortar fire commenced. It was right on target. The Vietcong fled with their wounded. A prisoner later said the guerrillas believed the accuracy of the midnight mortar fire achieved by sorcery.

The villagers rarely wait so patiently to be attacked. Self-defense soldiers move out into the surrounding area to strike the guerrillas when Vietcong troop concentrations are discovered. Patrols push out daily in search of the Communist forces.

While watching one patrol move out from the village into the surrounding mud, I was struck by their strange shuffling gait. Instead of walking they moved forward with a sliding motion, as if they were ice-skating. A villager explained. The men were literally feeling with their toes for a simple but effective weapon—the common nail—planted in the mud by the Vietcong. Most of the self-defense corps casualties are foot wounds caused by these barbed, 6-inch iron nails, clustered in flat boards and buried, point up, beneath the surface of the mud. They are a modern version of the sharpened bamboo stakes used for centuries in Asia to trap unwary enemy soldiers. Thousands of these nail boards are planted as crude "mine fields" around Vietcong positions. When attacked, the guerrillas try to direct their fire in such a way as to force their attackers into the nail fields. A favorite guerrilla trick is to make footprints in molds of mud, dry them and plant them in the nail fields to make attackers think they have found a safe pathway.

Lucky members of the self-defense corps have rubber-soled sneakers which they equip with inner soles of thin iron sheeting to guard against nail wounds. But with constant wear in the sometimes waist-deep mud, the canvas and rubber shoes last only about a month. Most of the troops go barefoot.

Not long ago the self-defense corps of Binh Hung village attacked a Vietcong village in the mangrove forest 4 miles to the south. There they captured kegs containing some 30,000 nails. Now they have their own "nail fields" around Binh Hung. Some of the nail boards are boobytrapped. The villagers leave a corner of the board sticking up, as if it were buried too hastily. When a thoughtless guerrilla picks it up, he pulls the pin of an attached hand grenade.

The nails played a part in another Christmas Eve battle. Binh Hung soldiers had gone out to intercept 100 Vietcong guerrillas reported to be in a nearby village. As they approached the enemy group, eight of of the Binh Hung men stepped on nails. Out of action, they passed all weapons except knives to their comrades, then lay down in the swamp to wait until the fighting ended. The battle surged back and forth across the area. Finally some Vietcong guerrillas came across the eight men lying in the swamp. Since the eight were dressed in black like local peasants, the guerrillas mistook them for some of their own wounded and approached closely. The eight jumped the mistaken Vietcong and killed them all, capturing their weapons.

As they recounted this story to me later, the Binh Hung men showed pride. "In a war," one of them said, "you don't get many stories like this."

Both sides use an odd assortment of weapons in this smoldering guerrilla war. The most prized gun on either side is the American BAR, and the next best is the U.S. M-1 rifle. The guerrillas apparently get theirs by ambushing regular South Vietnam Army troops equipped under the U.S. military-aid program. The irregular defense forces, such as that at Binh Hung village, get their American weapons by ambushing the Vietcong guerrillas. In addition, both sides have old French Lebel rifles, homemade rifles and pistols, hand-forged long knives and crude grenades.

Jungle arsenals turn out some of these homemade weapons for the Vietcong. They are tiny gun shops, usually only a hut equipped with anvil and forge, run by a blacksmith and two helpers who produce about five weapons a day. Cast-iron mines are made in earth molds, then fitted with homemade detonators. Some of the weapons are ingenious. I saw one landmine made of three mortar shells. A .50-caliber rifle was made of a bamboo tube which had been salt-hardened. In one rifle the firing pin was activated by rubber bands, like the zip gun of a young gangster. The barrel of one normally useless flare pistol had been stuffed with iron filings, then rebored to fire a .38-caliber bullet. The long knives used on both sides are two-handed machetes, like Japanese samurai swords fashioned out of old automobile or truck springs. They are kept razor sharp. Vietcong guerrillas, armed with these vicious knives, usually carry two hand grenades as well. In an attack they throw the grenades, then close in quickly with the knives for hand-to-hand combat. The guerrillas also make dummy weapons, such as imitation U.S. carbines, with which to frighten villagers or give an illusion of greater strength in combat.

In battle the Vietcong have the traditional aggressor's advantage. They know the terrain of the Camau Peninsula intimately and cleverly use it for their favorite tactic, the ambush. Father Hoa told me that when ambushed his soldiers have been taught never to take defensive positions. By doing so they would only be playing the enemy's game. The Vietcong choose their ambush ground so carefully that any retreat or defensive stance inevitably puts you in a poor position. An immediate counterattack on the ambushers is the smartest tactic. Father Hoa says he got the idea from Japanese operations against Chinese guerrillas in Canton in 1943. The Japanese sent cavalry along with their infantry units. When the infantry was ambushed, the cavalry immediately attacked.

A favorite ambush technique of the Communists is to permit a Binh Hung patrol to go through their territory and then, when the patrol turns back relaxed and confident, jump them. The self-defense soldiers were fresh from one such ambush on January 3. They drew a map to diagram it for me.

A company of Binh Hung men had fanned out along both sides of the river to escort a boat taking Father Hoa to the village of Camau so that he could catch a bus for Saigon. After dropping Father Hoa, the homeward-bound boat sailed straight into an ambush. Guerrillas, concealed in mud and swampland on either side of the river north of Binh Hung, opened fire with three machineguns. Everyone aboard was killed But the Communists had failed to notice the nearby escort company of self-defense troops. As soon as the machinegun firing began, the Binh Hung men attacked the ambushers. The surprised enemy fled, leaving behind 60 dead, including an officer who wore a U.S. steel helmet and carried an American carbine and a Red flag. The Binh Hung force lost 17 killed and 7 wounded.

To keep track of the elusive guerrillas in the dense mangrove forests, the Binh Hung villagers have set up a small but first-rate intelligence system. Four self-defense corps agents have managed to slip into the forest and feed back a steady stream of fairly accurate information on locations of Communist movements. One agent even managed a complete tour of the Vietcong area and can pinpoint locations of Vietcong bases and armories. Daily intelligence reports are passed along by the Binh Hung villagers to the Vietnamese Government's Fifth Military Region in Cantho. All such communications are transmitted in Morse code over crude, homemade radio sets. The villagers think voice radio sets are foolish in guerrilla warfare. One of them demonstrated for my benefit by imitating a soldier shouting " 'allo, 'allo" into a microphone, then getting shot by the Vietcong because his voice gave away his position.

The radio reports sometimes help regular Vietnamese military forces to coordinate attacks against the guerrillas. Not long ago when a Vietcong base was spotted, the Vietnamese air force was called in to coordinate an air-ground attack with the Binh Hung village defense force. Lacking ground-to-air radios, the villagers fired a signal flare to tell the air force planes when they were ready to launch the attack. As the planes swooped in to bomb and strafe the guerrilla base, the Binh Hung ground soldiers struck hard and successfully. This was the raid in which they captured the hoard of 30,000 nails. The coordinated attack made them feel like part of a big team. It was a tremendous morale booster.

Not all of the Binh Hung defense force's intelligence comes from planted agents in the forest. Like big-game hunters, they sometimes stake out bait as a lure to the Vietcong guerrillas, who must rely on what they capture and on occasional visits by Communist smugglers for their supplies. Penicillin, aureomycin and kerosene are in constant demand among guerrilla units. Knowing this, the Binh Hung self-defense corps recently "staked out" a supply of aureomycin with a friendly storekeeper in a nearby village. Vietcong troops, posing as innocent peasants, came out of the forests to buy it. When they returned to their secret bases, Binh Hung men trailed them.

Although it seems incongruous for a village of 1,200 people to have its own army, Binh Hung is in the process of stretching the incongruity still further by creating its own navy and marine corps. The villagers worried for some months over the unguarded coast of the Gulf of Siam nearby. With typical resourcefulness Father Hoa got the financial backing of patriotic merchants in Cholon and acquired two 55-ton fishing trawlers. Former Chinese marines and sailors who are now Vietnamese citizens have been recruited to serve without pay on the two boats, which will be armed for coastal patrol. When the boats are not patrolling, they will fish commercially. The volunteer sailors and marines will get their pay by sharing in the profits from the fish they catch.

The extraordinary spirit which shapes such ventures is reflected in the morale of the Binh Hung self-defense troops. It is extremely high. And although one thinks of remote villagers in a primitive land as dwelling behind a natural curtain of ignorance, the self-defense troopers are remarkably well informed. They like to see USIA films, although when I visited them they were disappointed because the village movie projector was broken. A steadier flow of information comes to them from daily Voice of America broadcasts and from the Free Pacific Press, which beams Vietnamese-language broadcasts and publishes newspapers and magazines in English, Chinese and Vietnamese from Cholon. The troops spend 2 hours every day discussing the meaning of the news. Afterward there is a lively discussion of a single political subject.

Two months before my visit the troops started talking about "What Freedom Means to Me." They were still going strong on the subject when I left. The light in their eyes when they talked about freedom showed that it was not mere oratory. Freedom is precious to them, a personal thing. This apparently is what gives them confidence that they will defeat the Vietcong guerrillas, and a greater confidence that free men everywhere will win out against communism. Repeatedly they asked me for assurance that the United States would stand firm in its policy in Asia, and particularly in Laos.

In an attempt to combat this spirit, the Vietcong aim a steady drumfire of Communist propaganda at Binh Hung village. Barges carrying portable loudspeakers are floated close to the village to broadcast that communism is the "wave of the future" and that the "corrupt" government of Ngo Dinh Diem will soon be overthrown. A few months ago the Binh Hung villagers captured one of these floating propaganda barges. Much to the consternation of the Vietcong, they reindoctrinated the captive propagandist, put him back on his barge and now have him broadcasting anti-Communist messages to the Vietcong guerrillas.

The villagers have turned another Communist propaganda trick back upon the guerrillas with the same forcefulness. One of the Vietcong's favorite calling cards is a propaganda poster affixed to a stick and propped up in the mudflat near the village. To underscore their message, the guerrillas frequently boobytrap these propaganda posters by planting explosives in the mud beneath the stick. The Binh Hung people clear out the propaganda posters occasionally, but never do the dangerous job themselves.

Instead, they march the 60 Communist guerrillas they have captured out of the central stockade in which they are imprisoned. After a lecture on the evil minds of the Vietcong leaders, the prisoners are warned about the particularly vicious habit of boobytrapping propaganda posters. Then they are sent out to the mudflats to clear away the possibly lethal posters. The lesson is sometimes cruel, but it has a noticeable effect on the political outlook of some of the prisoners.

The maximum-security compound where the male prisoners are kept—two women prisoners are held separately—is surrounded by part of the self-defense corps' bivouac. This provides the Binh Hung soldiers with another occasion for getting political lessons across to their captives. Each day when the soldiers have their daily news discussions they speak in loud voices so the prisoners can hear, too. The soldiers grin and say this "brainwashing" is good for their captives.

When I was preparing to leave Binh Hung, these same grinning soldiers clustered around the village helicopter landing pad to say goodby. They predicted that with the dry season starting, the Vietcong guerrillas would be able to move about more freely. "It will really be war now," one of them said. Another hoped the Vietcong would need help and would send for Chinese Communist cadres to bolster the guerrilla forces. "It would be good to get them in our sights," he said. We shook hands in parting. "Next year," said one of the smiling troopers, "you will see somebody else here. Two hundred of us will be dead then."

They drew up in a smart military formation as the helicopter's blades started rotating. Then they saluted. It was the three-fingered Boy Scout salute again.

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[From Reader's Digest, July 1963]

### THE FIGHTING PRIEST OF SOUTH VIETNAM

(By Dickey Chapelle)

(Reporter-photographer Dickey Chapelle has been covering the world's hottest trouble spots since World War II. In 1962 she received the Overseas Press Club's George Polk Memorial Award, "for her coverage of the fighting in Vietnam, during which she made several parachute jumps into enemy territory.")

It was from a handful of American professional fighting men that I first heard the priest's name. On that night in 1961, a dying campfire deep in a South Vietnam jungle flickered on their sunburned faces as they discussed a subject that interested all of them: toughness. Who was the toughest man they had ever known? Names were suggested and discussed. Finally, a veteran paratrooper said, "Nobody is tougher than Father Hoa."

They all nodded. I was puzzled. A man of the cloth, spoken of in this way? Later, when I came to know this soldier-priest of South Vietnam, I could only agree.

My first glimpse of Father Augustin Nguyen lac-Hoa was from a Vietnamese air force helicopter. We were on our way to the village of Binh Hung, at the southernmost tip of South Vietnam, and we had been lost in monsoon clouds for an hour. The ricefields below offered a landing, but this area, we knew, was a stronghold of Vietcong (Communist) terrorists. At last a shred of mist slipped away, and there in the distance was a wall-enclosed village. On the brown-earth patch beside it we saw a tall figure energetically waving a white wind sock. Behind him green-clad soldiers stood motionless in straight ranks.

As soon as we touched down, the tall man ran toward us. This was Father Hoa. He was almost 6 feet tall, and his shoulders reached two eye-jumps across. His wide smooth face with gently slanted gray eyes beamed.

"Where did you think you were going?" he shouted in French to the pilot. As the flier climbed down, the tall priest embraced him and pounded delightedly on his back. Grinning, he wrung the arm of another passenger, to whom he spoke in Vietnamese. Then as I was introduced he tucked both my hands into one of his and boomed in English, "Welcome, my daughter. It is good that you come to see our army."

At twilight the helicopter took off for Saigon, some 530 miles north. But I did not go with it. Father Hoa had given me permission to stay for a time. In the next 5 weeks I got to know Binh Hung and its people, the vigilante army, the enemy, and Father Hoa, the soldier-priest.

Father Hoa—the name is pronounced Wah and means "to make happy"—was born in China, the eldest son of a Cantonese fisherman. Handling little boats in the turbulent East China Sea was the first skill he acquired. But he also earned the rare chance to finish the provincial high school, and decided to become a Catholic priest.

In the fall of 1937, when he was 29, he was given a parish in the district ruled by Wong Lo Dai, most infamous river pirate in south China. No priest lasted long there. Father Hoa's first act was to present himself boldly at Wong's stronghold and offer to teach his five sons. The pirate's reply was to order his henchmen to guarantee the priest's safety. In time he extended protection to three new village schools founded and run by Father Hoa.

Like many other Chinese clergymen who had to move unarmed through countryside alive with cutthroats, Father Hoa had learned certain jujitsu tricks of self-defense. He taught these to the sons of the bandit chief to gain their confidence, and went on to teach them other things—while gaining from them some knowledge of weapons and informal military tactics.

In 1939 China drafted all the eldest sons in the province of Canton to fight Japan. Since the Chinese Army had no chaplain system, priests went into uniform as combat soldiers, Father Hoa among them. It was 10 years before he took off his uniform—then it bore the lotus-blossom insignia of a colonel. He put on his cassock again, but he wasn't given much time to preach in peace.

In 1949 the Red tide overran Canton. Priests were a special target, and the local Communist commander sent an ultimatum to Father Hoa: flee or die. From this arose a crisis of character in the priest's life. He tasted cowardice, and fled. Taking the train to Haiphong, nearest city in French Indochina, he presented himself to his ecclesiastical superior.

"What are you doing here?" the bishop asked. "Why are you not among your people?"

"I would hardly be useful to my people dead," the priest said.

"Nor are you useful to them here," came the answer. "And they have never needed you more than in this hour. Your place is with them."

Shame scalded Father Hoa. He could not raise his eyes, until he felt the bishop's hand on his shoulder. "My son, never fear death. Since man has lived, who has not died?"

It was a different Father Hoa who returned to his parish—a man ready to die. But the Communist commander did not kill him; he arrested and confined him. From that year's imprisonment was born the man who today captures the imagination of all who know him.

In prison Father Hoa developed a plan for his people. Then he escaped, making his way in a small fishing craft to Indochina. There he set to work on his plan. To assure that he remained among his parishioners as the bishop had ordered, he would help them escape out of Red China to him. By 1951 more than 200 families from his old parish had been ferried in junks across the China Sea to non-Communist soil.

But now, as the cloud of war against France shadowed this new land, Father Hoa led his parishioners down the length of the Indochinese peninsula—the distance from New York to Miami—into Cambodia, where he found work for them tapping rubber trees. Still, peace eluded them. After Dien Bien Phu fell, Communists began to infiltrate Cambodia. When the local government recognized Red China, in late 1956, the legal position of these escapees grew precarious.

Searching desperately for a place to settle his people, Father Hoa appealed to Saigon, where the fledgling anti-Red government of South Vietnam was in the throes of a nationwide land reform. President Ngo Dinh Diem asked the priest if his people would clear and work unused land in a remote area. And so, on March 17, 1959, the wanderers reached the site of Binh Hung.

The land lay under a foot of water, and hordes of mosquitoes swarmed over its fetid surface. The next morning Father Hoa sent the young men to the village of Tan Hung Tay, 6 miles distant, to find out how habitations could be built in this trackless swamp. Just after sundown the young men returned with this message: To raise a plot above water level, a block of the clay beneath the water must be cut out, lifted up and set in place where the worker had stood to dig. Then a second block is cut and piled on the first, and so on.

It was backbreaking labor; but in a dozen weeks, with each man, woman, and child working in water almost every hour of daylight, Binh Hung village was raised from the mud. Two hundred houses of bamboo and jungle reed stood in four parallel rows; a canal spanned by a wooden bridge served as the central thoroughfare. One festive twilight a great gold banner, the flag of South Vietnam, was unfurled from the bridge to signalize the end of the trek. After 8 years of statelessness, these peasants again had a place of their own, beyond the reach of the organized Chinese communism they had fled.

The proud people of Binh Hung planned to seal their new allegiance by voting for the anti-Communist government. Balloting in the national election was to be held the next day in Tan Hung Tay. Vietcong agents warned them not to make the journey, but they could not believe that these local Reds were as evil as those in Canton—and in any case wasn't it the duty of free people to vote?

In the morning every adult of Binh Hung set out for the polls with Father Hoa at their head. The older children were left to look after the younger ones. A few hours later, as the villagers gathered at Tan Hung Tay, a man came running, shouting, "The Communists have murdered a child in Binh Hung."

Father Hoa's people started in a rush for home, but the priest's voice thundered: "Stop. Whatever has happened has happened. The Communists have done their evil. Now let us not do their bidding. Each of you will return only after you have cast your vote." As a woman sobbed, he added, "It is the fear of death in our hearts that gives the enemy his strength. Never fear death. Since man has lived, who has not died?"

His people voted, then made their way back to their village. The body of Ah Fong, an 11-year-old boy, hung from a bamboo cross in front of his home. A placard on it read: "This can happen to all your children." It was in this way that Father Hoa's people learned that their new land, too, was infested with Red terrorists.

The men of Binh Hung set up their first defenses, with logs for obstacles and fishing knives for weapons. The Vietnamese county chief, Capt. Nguyen Khue, "lent" them six old French rifles; later he agreed to serve as tactical commander. President Diem acknowledged the little vigilante army and gave it a name: the Army of the Sea Swallow, after a black heron of the delta. The force was supplied with old rifles confiscated from disbanded pirate gangs.

Outwardly, the Sea Swallows are no different from hundreds of other vigilante forces fighting the Vietcong. But there is something in the spirit of this little band which has made it a legend in embattled South Vietnam. The thing that sets the Sea Swallows apart is that they are fully on the offensive. They are through with running, and their new spirit and new tactics are giving them the taste of victory. Father Hoa has taught them that no one can hope to win by standing still. He drills into them the necessity for foraying out, always out, night and day in any weather, waylaying and counterambushing Red raiders in field and jungle. By the time I arrived in Binh Hung, every man in the village had become a full-time aggressive fighting man.

The original few hundred Chinese-born Sea Swallows are constantly being augmented by Vietnamese from all over the country—mountaineers from the central highlands, rice farmers from other delta provinces, escapees from Red-ruled North Vietnam. One day I heard Father Hoa address 74 newly enlisted fighters. "You have joined us, my sons, and you will not live 3 years. But your death will be a hallowed thing, unlike the death of cowards, for it will be for the freedom of all peoples. And before it comes, you will have the chance to kill many of the enemy."

Next morning, Sea Swallows who had just finished their 8-week training were ordered out on their first operation. I went with them. Eventually, I accompanied nine Sea Swallow operations. One moonlit night I was with a unit which surprised a Vietcong raiding party. The Communists fled in a hail of bullets, carrying four dead. Another night it was an around-the-clock ambush to cut off Vietcong "tax collectors" coming to loot a coastal hamlet. Often there were casualties, but always there were more enemy dead, wounded or taken prisoner than we lost. And always the safe area around the village was a little bigger than before.

This is what Father Hoa and his Sea Swallows are doing. They have tasted slavery and found it bitter. Now they are enlarging the area of freedom in the world. Who can serve a greater cause?

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## ACTIVITY IN THIS COUNTRY BY CLERGYMEN FROM IRON CURTAIN COUNTRIES

Mr. DODD. Mr. President, as my colleagues will recall, I took the floor in July 1963 to announce that I had asked the Senate Subcommittee on Internal Security to look into the increasing rash of activity in this country by clergymen from the Iron Curtain countries. Among other things, I said that there was reason for concern over the obvious efforts that were being made by the Orthodox Church authorities in the Soviet Union, Rumania, Bulgaria, Albania, and Yugoslavia, to enhance the degree of hierarchical control that they exercise at present over the corresponding national communities of the Orthodox faith in this country.

The preliminary staff investigation has already uncovered evidence which I consider to be most significant, and it is my earnest expectation and my earnest hope that the subcommittee would shortly be able to embark on hearings so that this evidence may be made public.

In the case of the Serbian Orthodox Church, a split has developed between those who favor accepting the hierarchical jurisdiction of the Belgrade Synod and those who believe that the Serbian Orthodox Church communities in the free world should not be under the hierarchical control of the Belgrade Synod. Certain of those who favor retaining relations with the Belgrade Synod have issued statements to the effect that I have been unfair to them or that I have prejudged them. I felt that some of the statements that have been circulated so seriously misrepresent my own position and are so far from the facts that an answer was warranted.

Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks, the text of a reply I have recently written to Mr. Robert Stone of Pittsburgh, and the text of the long letter which Mr. Stone had circulated in many thousands of copies around the country, which I felt seriously misrepresented my position on a number of points.

There being no objection, the letters were ordered to be printed in the Record, as follows:

March 24, 1964.

Mr. Robert R. Stone,
*509 Plaza Building,*
*Pittsburgh, Pa.*

Dear Mr. Stone: I wish to acknowledge receipt of your letter of January 28, to which you attached a memorandum dated January 24, commenting on my remarks re the situation in the Serbian Orthodox Church. I understand that this memorandum had been reproduced and circulated throughout the country before it reached my office. The pressure of Senate activities has prevented me from replying before this, but there are several statements contained in your communication which I feel should not be permitted to stand unchallenged.

A large part of your memorandum is concerned with the legal and constitutional intricacies of the conflict between the two Serbian Orthodox groups in this country. Another portion of your memorandum is devoted to attacks on certain personalities belonging to the side which you oppose. With these matters, I do not intend to concern myself for I believe that they are not the concern of the Senate subcommittee.

The purpose of this letter is limited to setting the record straight on my conversation with the three bishops and with you.

(1) To avoid the possibility of any misunderstanding, I had prepared a written reply to the communication I had received from the three bishops This reply I gave to them in your presence. In doing so, I made it emphatically clear that this was the only statement I was authorizing for publication. You may correct me on this point if my information is inaccurate but I have been informed from a number of sources that, to this day, those associated with you have nowhere reprinted the entire text of my reply to the three bishops, but have confined themselves to quoting a few passages that they considered favorable to their own point of view.

(2) Your letter again repeats the assertion that our investigation appears to be directed in the first instance against the Serbian Orthodox Church. Not only is this statement false, but it flies in the face of my written reply to the three bishops and of my oral reaffirmation in the course of our conference, that our investigation would not be limited to the Serbian Orthodox Church, but will delve deeply into the entire question of church and state in the Communist countries and into the accumulating evidence, that the Communists have been seeking to use the ties that exist between religious denominations in their own countries and the corresponding religious denominations in the United States as an instrument for influencing American public opinion or, more crudely, as an instrument of propaganda.

Let me quote what I said in reply to the three bishops:

"The contemplated investigation will not be confined to the Serbian Orthodox community. There is a larger problem here that involves the entire relationship between church and state in the Soviet Union and in the Communist bloc countries. Preliminary documentation and evidence strongly suggests that these churches function to a very large degree under the control of their Communist governments; and it establishes beyond any doubt that many ranking clergymen of these countries have taken political positions on Cuba, on the peace movement, etc. that can only be construed as supporting Moscow. One of the matters that we shall endeavor to assess is how pervasive this control is. We are also interested in determining the significance for America, from a security standpoint, when religious authorities who themselves must function under the control or partial control of Communist governments, in turn exercise direct hierarchical control over church communities in this country."

I know that all religions are persecuted in Communist countries, including the Orthodox religion. I know that within each religion there are marytrs and collaborators, and a much larger body of religious faithful who have been obliged to make compromise that are distasteful to them in a desperate effort to keep their religion alive.

I do not presume to judge those who have felt obliged to make such compromises. But I question whether the best interests of the United States are served when clerical authorities who must somehow accommodate themselves to the Communist state as a condition of survival, tour the United States, systematically visiting all the parishes of their respective national religious communities.

I question whether the best interests of the United States are served when a Czechoslovak cleric informs an ecumenical conference in the United States that "The essence of communism is to build up the classless society to where people are all equal. The Christian should agree with this, Thus we Christians greatly support communism."

I also have serious doubts whether hierarchical control of American church communities exercised from any Communist country does not contain an element of risk—and I say this without in any way, reflecting on the patriotism of the many Americans of the orthodox faith who still accept the hierarchial jurisdiction of their traditional patriarchates in Moscow or Bucharest or Sofia or Tirana or Belgrade.

Not only will the Serbian Orthodox Church not be the sole object of our investigation, but, because of the status of our preliminary research, the chances are at this juncture that the first investigation will relate to the churches of another Communist-controlled nation.

(3) Your letter states: "All three bishops without reservation were prepared at that moment to be questioned by Senator Dodd or his staff. This was not done." The clear implication of this statement is that I refused to give the bishops a hearing.

The fact is, on the contrary, that I assured the bishops in my letter to them that they "will be given every opportunity to present their point of view to the Senate Subcommittee on Internal Security." The fact is, further, that I assured them that Mr. David Martin, investigations analyst for the Senate Subcommittee on Internal Security would, in the early future, meet them in Chicago or elsewhere, to receive preliminary depositions from them and such documents as they might wish to submit for the consideration of the Senate Subcommittee on Internal Security.

Mr. Martin has thus far been unable to make the trip because of other duties but it is my expectation that he will be able to visit Chicago and the West Coast within the coming 2 weeks.

(4) Your letter strongly implies that I have instigated an investigation of the Serbian Orthodox Church because I am a Catholic and prejudiced against the orthodox faith. I resent this implication particularly. I believe this groundless insinuation is completely negated by my entire record of public life and by my consistent opposition to all forms of bigotry whether racial, national or religious.

You seek to draw a parallel between the hierarchical jurisdiction exercised by religious authorities in Communist countries over religious communities in the disapora and the hierarchical control exercised by the Vatican over Catholic cardinals and bishops. I believe that any reasonable person, irrespective of their religious beliefs, should immediately see the difference between these two situations. The hierarchical control exercised by the Greek Patriarch over the Greek Orthodox community in this country, for example, poses absolutely no problem from a security standpoint because Greece is a free country, free of Communist control. Conversely, although such a supposition is completely hypothetical, if the Yugoslav Catholic Church were organized in such a manner that it retained hierarchical control over Yugoslav Catholic communities in this country, I would have precisely the same reservations about such a setup as I have expressed in the case of the various Orthodox Church communities.

(5) Your letter ostensibly quoting Senator Hugh Scott's office states that "the Subcommittee on Internal Security has never voted to investigate any church, let alone the Serbian Orthodox Church."

The implication is that the investigation for which I have asked has been undertaken without proper authorization. Let me set the record straight on the operations of the Senate Subcommittee on Internal Security.

My action, in calling for this investigation was taken with the full knowledge of the subcommittee. On July 8, I took the floor of the Senate to announce that I had asked for such an investigation, and copies of my speech on that occasion went to all members of the subcommittee. Simultaneously, I wrote to Chairman Eastland asking that certain members of the committee staff be assigned to this investigation. Subsequently, I received communications from several members of the subcommittee indicating that they agreed with the need for such an investigation, and stating that they were glad I had initiated it.

The subcommittee has in general followed the rule that the continuation or extension of investigations already undertaken by it do not require new authorization. Thus, the subcommittee has repeatedly come back, without new authorization, to subjects like State Department security procedures, the Communist use of passports, Communist activities in the United States, etc., without new authorization, because these are matters of standing interest to the subcommittee. The investigations are therefore viewed as continuing ones, to be pursued in accordance with instructions from the chairman. The subcommittee has in several past investigations gone into the matter of the Communist exploitation of religion, so that the investigation I have now requested can properly be considered an extension of these earlier investigations.

(6) In closing, I want to once again assure you, and the three bishops through you, that you will be given every opportunity to present your case fully before the Subcommittee on Internal Security.

Sincerely yours,

Thomas J. Dodd.

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Pittsburgh, Pa.,
*January 24, 1964.*

To: Serbian Eastern Orthodox Christians United States of America and Canada.

In re: Comments and answers to remarks and charges of Senator Thomas J. Dodd, Democrat, of Connecticut, released December 20, 1963.

Dear Serbian Orthodox Christians: Relative to our present church struggle in our Serbian Orthodox Church of the United States of America and Canada, Senator Thomas J. Dodd, Democrat, of Connecticut, issued a press release, dated December 20, 1963.

The pro-Bishop Dionisije followers have been photostating this release and have "flooded" our Serbian communities in America and Canada with it.

Having read Senator Dodd's press release, having spoken to him personally, and having handled one of the church law cases in our present church struggle I feel that Senator Dodd has only heard one side, if any, of our church dispute; and has released only portions of the testimony of Rev. Mladen Mladenovich, secretary of the Holy Bishop's Synod. In the interest of fairness and justice, I therefore, must comment upon the remarks and answer the charges of Senator Dodd.

Let us look, together, at the record:

Dodd says, "The efforts to subject the Serbian Orthodox Church community in this country to the direct control of the Belgrade Synod has produced an open split in the Serbian Orthodox community."

This is incorrect.

First of all, the Belgrade Synod has exerted no greater control of the Serbian Orthodox Church in America than it previously had since 1927, when the Serbian people in the United States of America and Canada, at its church assemblies (sabors) enacted their Diocesan Constitution, and gave the Holy Bishop's Assembly and the Holy Bishop's Synod, the control over them. Article I of Our Diocesan Constitution for the United States of America and Canada states as follows:

"The Serbian Orthodox Diocese in the Northern States of America and Canada is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia and enjoys all the benefits which originate therefrom."

Second, the present conflict revolves itself around Bishop Dionisije whether or not he should be suspended for transgressions brought to the attention of the Holy Bishop's Council by American accusers in America. It is noteworthy to mention that he was suspended, pending the investigation of these charges. Innocent or guilty, there is a procedure under the constitution that must be followed, by Bishop Dionisije or any other bishop, past, present, or future. I might mention at this time that even President Andrew Johnson, President of the United States of America (1865–69), had to "follow the procedure" laid out by the United States of America Constitution, he had to submit to impeachment proceedings by the U.S

Senate, even though it was known, in advance, that the U.S. Senators had "convicted" him before "trial." Fortunately, he was saved by a last minute stroke of conscience.

Third, Bishop Dionisije, although he testified in Pittsburgh, Pa., under oath, that Tito was the patriarch of our church since 1958 (from the time Patriarch German became the presiding patriarch) nevertheless declared on numerous occasions, since 1958, his respect, duty, rights, and obligations toward the Holy Bishop's Council, the Holy Bishop's Synod, and Patriarch German:

(a) May 25, 1962, in Bishop Dionisije's letter, No. 127 to Patriarch German and the Holy Bishop's Assembly, he suggested a plan for the improvement of our church in America and Canada. That the diocese be elevated to the rank of metropolia and the election of two or three additional bishops.

(b) April 19, 1963, by his letter, D. Prot. No. 180, Bishop Dionisije participated in the Holy Bishop's Council Assembly by entrusting his proxy to the Most Reverend Metropolitan Nektarije (this proxy vote was for the same Holy Bishop's Council Sabor that suspended him).

(c) In Lorain, Ohio, on May 9, 1963, Bishop Dionisije along with all of the clergy in attendance, at the Clergy Association meeting, signed a resolution. Paragraph 9 of that resolution reads as follows:

"In regard to the alleged faults and transgressions of our bishop, Mr. Dionisije, about which we hear and read, the clergy association stands implicitly in accordance with the decision of the diocesan executive board, dated April 17, 1963, which states: 'That only the Holy Bishop's Synod and the Holy Bishop's Council of our Holy Church in Belgrade is competent for this matter and that they will bring their decision and decrees by reason of all setforth'."

Fourth, neither the Council of Bishops, nor the Holy Bishop's Synod, have any control over our church-school property in the United States of America and Canada. This is also laid out in paragraph 147 of our American-Canadian constitution which reads as follows: "The property of the church-school congregation in individual colonies belongs exclusively to the said congregation without diocesan rights to the same."

Dodd says, "That the majority of the Americans of the Serbian Orthodox faith had voted a resolution calling for * * * independence from its (mother church) hierarchial control."

This is incorrect.

The majority of the Serbian churches in the United States of America and Canada have voted for continued relations with the mother church. The present church lineup is as follows: 43 churches are for continued relations with the mother church; 21 churches are pro-Dionisije; and 5 churches have not decided the issue. The present clergy lineup is as follows: 47 clergymen and 3 bishops for a total of 50 are for continued relations with the mother church; 21 clergymen, 1 bishop, and 1 "bishop pretender" for a total of 23 are pro-Dionisije; and 3 clergymen are undecided. It is noteworthy to mention at this time that although the group favoring continued relationships with the mother church has the majority of churches it has even a greater majority of the members of the Serbian Orthodox Church in view of the fact that the larger church-school congregations such as Milwaukee, Detroit, Aliquippa, Midland, Steubenville, Pittsburgh, Wilmerding, and South Chicago (to mention a few) are for continued relations with our mother church.

Incidentally South Chicago had a vote of 742 for continued relations with the mother church and 168 against. Further, speaking in general terms, the American-born Serbian Orthodox and the long-time American Serbian Orthodox immigrants, favor continued relationships with the mother church and the new arrivals tend to be pro-Dionisije. It should be mentioned that Waukegan, Ill., church makeup of new arrivals, former members of the Libertyville church, and people who should know Bishop Dionisje best are 100 percent anti-Bishop Dionisije.

Dodd's release states, "That the Belgrade Synod is not free since it must make its decisions in collaboration and with the approval of the so-called Federal Commission for Religious Questions of the Federal Socialistic Republic of Yugoslavia."

Let us look at this more closely.

What decisions have been made by the Holy Bishop's Council, or the Holy Bishop's Synod, as to our church in America? The only change or decisions made recently are the appointment of three bishops (incidentally, it is necessary to create a diocese, in order to create a bishop). This idea and decision was suggested by Bishop Dionisije in May of 1962. This he cannot deny, his letter speaks for itself. Remember also that Bishop Dionisije recommended the same three bishops, which the Council of Bishop's, per article 9 of our Diocesan Constitution had the right to appoint, and did appoint. Is Bishop Dionisije therefore a member of the so-called Federal Commission for Religious Questions? Certainly not. At transcript page 101 of the deposition of Rev. Mladen Mladenovich, secretary of the Holy Bishop's Synod, he was asked:

Question. What other churches are there in Yugoslavia than the Serbian Eastern Orthodox Church?

Answer. Roman Catholic, Mussalman, Evangelistic, Jewish, among those who have a considerable percentage. There are some smaller ones, minor.

Question. Does the Federal Religious Commission have anything to do with the Roman Catholic Church in Yugoslavia?

Answer. Yes, the Federal law relating to religions is obligatory to all religions in Yugoslavia.

In view of these statements, then why doesn't Senator Dodd investigate the other faiths—the Roman Catholic, the Mussalman, the Evangelistic, and the Jewish? Why just the Serbian Orthodox Church? After all, from this testimony, they are all similarily situated. Why must our church alone be singled out for abuse?

Dodd's release states "In addition to consecrating the bishops who had been appointed by the Belgrade Synod, they used their presence in this country to endeavor to seize control of the real estate and assets belonging to the Serbian dioceses and affiliated organizations."

This is incorrect.

First of all, the bishops are not appointed by the Belgrade Synod. Per article 9 of our Diocesan Constitution the bishops were appointed by the Holy Assembly of Bishops of the Serbian Patriarchate. Further, aside from doing those things, which Bishop Dionisije suggested and requested, they have done nothing else. It is important to remember that the three bishops with the American-Canadian Orthodox Church members had, and have, a right to take over the control of the diocesan properties. Remember further, the three bishops were in the American-Canadian diocese, that Bishop Dionisije suggested their names to the Holy Bishop's Council, that they collectively have in excess of 38 years of service (Bishop Firmilian, 24 years; Bishop Gregory, 12 years; and Bishop Stefan, 4 years) to this American-Canadian diocese and this was under Bishop Dionisije. If they were bad people, why didn't Bishop Dionisije condemn them before his suspension, and before he found out that he wasn't going to be a Metropolitan and before he knew that they were to be his successor-replacement rather than subordinates, and at the time that they entered our American-Canadian diocese when he was the presiding bishop? Is Senator Dodd aware that at the illegal church assemblies (sabors) there was as many, if not more, "advisory members" in attendance as there were clergy and church-school congregations representatives? Article 16, paragraph 6 of our Diocesan Constitution gives "representatives of the people at large and distinguished educators and friends of orthodoxy and of our people's welfare, the privilege to attend * * * in the capacity of advisory members, but without the right to vote." Dr. Uros Seferovic, for one, was "privileged" to attend the sabor as a representative of the Serb national defense—in the capacity of an "advisory member," without the right to vote. It has always puzzled this writer as to how anyone, including or excluding Dr. Seferovic, who could not vote, and who was not a delegate from a church-school congregation, or a clergyman, could serve on the diocesan council. In spite of this he occupies the highest lay position in the diocese—vice president of the diocesan council. Should we fear the takeover of our diocesan properties by nonclergy and non-church-school congregation representatives? Incidentally, two of the greatest contributing organizations to the Serbian church and to the American Serbian youth, the Serb National Federation and the Serbian Singing Federation of America, did not send delegates to either of the illegal church assemblies (sabors).

Dodd says in his release, "Since the visit of the Serbian orthodox clergymen to this country and especially since the visit of Marshal Tito to this country during the month of August, the rupture in the * * * church * * * has resulted in a series of violent encounters."

Let us look at this more closely.

Is this purely a myth of a clever writer, the association of the clergymen's visit with Tito's visit? If we must wage our battle, wage it we must, truthfully and fairly. Do we now call one another Titoites and Communists, because we are feuding, when we know that the American Serbian Orthodox Christians have always been in the past, are presently, and shall in the future, always be 100 percent anticommunistic and anti-Tito. We don't change just because we now have differences of opinion. When this battle subsides, will you be able to face your brother orthodox Serb, knowing that you called him a Communist or a Titoite, when you knew him all your life and knew he wasn't?

Dodd says: "The pro-Belgrade faction will send a group of stalwarts along to a church meeting and attempt to break it up by shouting, hooting, and stamping, even when the priest is delivering a benediction."

This is incorrect.

It is amazing when the group that does something wrong, attempts to blame the other side. Oddly enough, however, there is some hope, they at least now realize that what they have done is wrong. Let's hope they stop. A closer look of the picture will reveal that not one of the so-called pro-Belgrade followers was ever arrested for picketing or disturbing a church service. This the pro-Dionisije forces cannot lay claim to.

Dodd says, "There has been incidents of violence over the past 2 months * * * in Pittsburgh."

This is incorrect.

There has never been any violence in Pittsburgh let alone in the past 2 months. After hearing the entire case of the opposition group (belated pro-Dionisije supporters) the Honorable Robert VanDer Voort of the common pleas court of Allegheny County, Pa., granted a compulsory nonsuit (threw their case out). It should be mentioned here that Judge VanDer Voort did so after he refused to permit the testimony of Bishop Dionisije into evidence, because Bishop Dionisije refused to permit cross-examination on (1) whether or not he was suspended, and (2) whether or not the sabors of August and November were legally constituted. Why did Bishop Dionisije refuse to tell these matters under oath?

Dodd says, "It is a fact that litigation has been initiated or is anticipated involving two rival groups of the Serbian Orthodox Communities * * * on the other hand, the American Serbs who have voted to break with Belgrade must finance this costly litigation out of their own hard-won earnings; on the other hand, the pro-Belgrade faction apparently suffers from no shortage of funds."

Let us look at this more closely.

Has there been any litigation started by the so-called Belgrade faction? No. In fact, up until recently, the pro-Dionisije faction have publicly stated that the three bishops started the first lawsuit in the Waukegan, Ill., courts, even though, it is of public record that this is not so. As for funds for the pro-Belgrade faction's legal battle, this writer, awaits any proof that there is any so-called Belgrade money behind the three bishops in these lawsuits. I, who have handled one of these legal lawsuits, am proud to say that I have done so—free of charge, and I am further proud to say that there are many other Serbian and non-Serbian lawyers who have done likewise; and I am even more proud to say that where there are no lawyers working free, the good church members have paid the bills out of their own pockets, so that the churches would be spared the loss. Can the pro-Dionisije faction claim this distinction? I am not pro-Tito, nor am I a Communist, nor am I a sympathizer, but as a lawyer in private practice and as an assistant district attorney of Allegheny County, Pa., for over 7 years, I have sworn to uphold and defend the laws of the Commonwealth of Pennsylvania, and the laws of the United States of America. This I have done.

Dodd says, "Finally the committee staff is currently studying the transcript of a deposition by the Very Reverend Mladen Mladenovich, secretary of the Belgrade Synod in the Circuit Court of Lake County, Ill., on November 29, 1963. Dodd goes on to say, 'Let me quote you a brief exchange that took place between the examining counsel and Reverend Mladenovich.' Dodd then quotes:

"'Question: Did the patriarch ever talk to him? (Tito).'

"'Answer: yes.'"

This testimony appears on page 63 of the transcript. Why didn't Senator Dodd quote page 75 of that same transcript?

"Question. Do you know how often?

"Answer. Not often.

"Question. How often?

"Answer. If there is a head of state making an official visit to Belgrade, then the Government invites to that reception all the heads of all the churches in Yugoslavia.

"Answer. I remember only one private visit.

"Question. What year?

"Answer. That was about 2 or 3 years ago."

Why did not Senator Dodd quote page 55 of the same transcript when Reverend Mladenovich was asked:

"Question. Are you a Communist?"

And he responded:

"Answer. That insults me.

"Question. You can answer yes or no.

"Answer. No. The answer is no."

Dodd says, "Reverend Mladenovich is obliged to admit that the Orthodox Church in Yugoslavia received a very large part of its income directly from the Communist Government in Yugoslavia."

Let us look more closely at that record transcript.

At transcript page 55, Reverend Mladenovich was asked:

"Question. Where does your church get the money?

"Answer. It has its income from the sale of candles, from the sale of tax stamps, various funds, and income from the various persons who send that to the patriarch, through their diocese, those that can do that.

"Question. Does your church get any money from the Communist Government of Yugoslavia?

"Answer. Yes, the church gets compensation for the seizure of its properties, houses, and so forth."

Again on page 56 of that transcript Rev. Mladenovich answered:

"Answer. Yes, they do; and that is again the compensation from the seized properties."

Why didn't Senator Dodd point out, in his release, why the church was receiving moneys, that the money was compensation from the seizure of its property?

Incidentally, Rev. Mladenovich was asked at page 57 of that transcript:

"Question. What properties were appropriated?

"Answer. All church properties, beyond a certain maximum area which was allowed them * * * about 10 acres of arable land and about 10 acres of forest and grazing lands, about. Not only to the church, but to all other holders of land, and institutions that had arable land."

Again, why didn't Senator Dodd say this seizure of land applied to all people who owned land in Yugoslavia, not only the Orthodox Church.

Dodd says, Rev. Mladenovich was obliged to admit that the Orthodox Church in Yugoslavia * * * functions under the direct supervision of the Federal Committee for Religious Affairs.

Let us look closer at the record of the transcript.

At page 68 of that transcript it reads as follows:

"Answer. (Federal Religious Commission.) It's an organ which is appointed by the Government, to coordinate with all the religious communities in the country, and relating to the legal connections and rights of all the religious organizations in Yugoslavia * * * all religious communities in the country, including ours, the Orthodox, are bound to keep in contact with that set organ."

The following Senator Dodd also omits. At page 101:

"Question. Does the Federal Religious Commission have anything to do with the Roman Catholic Church in Yugoslavia?

"Answer. Yes, the federal law relating to religions is obligatory to all religions in Yugoslavia.

"Question. Do the members of the Roman Catholic Church in Yugoslavia ever meet with the Federal Religious Commission to your knowledge?"

Mr. Snyder (counsel for the pro-Dionisije forces). Objected to, unless there is a showing of knowledge on his part, and a proper foundation is laid.

"Answer. Yes, the bishops of the Roman Catholic Church meet with members of the Religious Commission."

By this testimony, the Roman Catholic, the Mussalman, the Evangelistic, and the Jewish are under the same controls as our Serbian Orthodox Church in Yugoslavia. Why, then, does Senator Dodd single out only our Serbian Orthodox Church? I seek not to impugn the Roman Catholic Church or any other church, but should we American Serbian Orthodox sit back and let our church be condemned when it is similarly situated with other churches, which are not condemned? Rise up, American Serbian Orthodox Christians. Have your differences, but permit not an outsider to blast our church, when he would not blast his own. We owe a duty to one another to be united in this issue, if not on all other issues.

Dodd says, "Rev. Mr. Mladenovich also confirmed that when he arrived in New York in June 1963 he and his party were met either by the Yugoslav consul or a representative of the Yugoslav consul."

Let us look into the record transcript in this case.

At page 85 of the transcript the testimony went as follows:

"Question. In June 1963, when you arrived in New York City, were you met by the Yugoslav consul, or a representative?

"Answer. Yes; there was someone at the airdrome when we arrived. We don't know whether it was the consul or some representative.

"Question. Was that a representative of the consul, or the consul that was there?

"Answer. I cannot state exactly. He says, I can't, because I don't know the man. There was somebody there, and asked us if we needed anything, and we said 'No,' and he left, and we separated."

Why didn't Senator Dodd, in his release, state accurately that Rev. Mr. Mladenovich stated that he did not know the man?

Incidentally, Senator Dodd forgot also to quote Rev. Mr. Mladenovich about his remarks when he was asked who paid for his trip, at page 84 of that transcript:

"Question. Who paid for these trips?

"Answer. He who sends me, and that is my church.

"Question. How much of these funds were furnished by the religious committee?

"Answer. No, nothing * * * my church lay down our money, and secured the foreign exchange."

Dodd quotes from page 87 of the record transcript when Rev. Mr. Mladenovich was asked:

"Question. To whom are the three bishops that are plaintiffs in this case responsible for their actions in the United States?

"Answer. They are not responsible to anyone in America. They are responsible to the Holy Bishops Assembly, which elected them, for the performance of their duties. No one else has a right to judge the bishop, except the Holy Bishops Council and the Holy Bishops Synod.

Let us look more closely at this point.

Senator Dodd appears to be surprised by this statement. To whom, Senator Dodd, are the Roman Catholic bishops and cardinals in America, responsible for their actions, in the United States? When we consider to whom one is responsible, do we not look at our constitution, our bylaws, our rules and regulations, and accept them as they are, unless amended, and amended in the manner and the way prescribed by our constitution, and our bylaws, and our rules and regulations? Certainly, this is basic. What about this problem? At page 73 of the record transcript Reverend Mladenovich was asked:

"Question. Who is responsible for the removal of a bishop?

"Answer. According to our constitution, in the first step the holy bishops synod is the competent body to remove a bishop. And in the second step, if there exists an appeal, then the holy bishops assembly or council, which is then final."

"Once again our diocesan constitution for the United States and Canada, in force since 1927, says in article 9, that the bishop of the Serbian Orthodox Diocese in the United States of America and Canada is appointed by the holy assembly of bishops of the Serbian patriarchate. He who has the right to appoint, has the right to remove. I do not know why Senator Dodd should be surprised since the individual most concerned and most affected by this profound statement, Bishop Dionisije, admits this. In his letter of June

30, 1962, to the clergy, the congregation, and all orthodox Serbs of the diocese, paragraph 3 states:

"My personal relation toward the holy bishops council of the Serbian Church and toward his holiness the patriarch, in connection with my episcopal oath, is regulated by the holy canons of the Orthodox Church, and the church statutes of our provincial Serbian Church which remain unchanged."

In the Pittsburgh lawsuit, Bishop Dionisije, under oath, when questioned, personally, by the Honorable Robert Van Der Voort as to who could remove him, replied: "The Council of Bishops Assembly." As stated earlier in the May 9, 1963, clergy association resolution, upon which Bishop Dionisije was the first signer, in paragraph 9, he mentioned that relative to his transgressions, this was a matter for the council of bishops.

I believe that it should be emphasized at this point, that the bishops in America are responsible to the holy bishops council, the holy bishops synod under whom it falls ecclesiastically and canonically.

Senator Dodd says, "The overwhelming majority of those Serbs who have refused to break with the mother church are not in any sense pro-Communist. On the contrary, they are anti-Communist."

I shall go further. We have no Communist, nor Tito followers, on either side of our present church fight. This is why it is most regrettable that strife exists among us. This I can say because the history of the Serbian Orthodox in America and abroad has shown this unquestionably, without any reminder from Senator Dodd. I might add that Senator Dodd's remarks have probably caused us more problems than any Tito or Communist threat might have ever hoped to accomplish in our Serbian Orthodox Church for the United States of America and Canada.

Senator Dodd, while "attacking" the American Serbian Orthodox who refused to break with our mother church, tries to lay claim to being their friend. Senator Dodd, during a "face to face" meeting with Bishop Firmilian, Bishop Stefan, and Bishop Gregory, on Thursday, January 9, 1964, at or about 3:30 p.m., in the office of Congressman Elmer J. Holland, Democrat of Pennsylvania was asked a very pointed question by Bishop Firmilian. "Am I a Communist?" Senator Dodd answered "No. I have heard only good things about you and good things about the other two bishops as well." Although all three bishops, without reservation, were prepared at that moment to be questioned by Senator Dodd or his staff, this was not done. Although he regretted that his remarks had caused our church problems, nevertheless, he refused to "clear the air." Has not Senator Dodd, really, already, found the pro-Belgrade (promother church) faction guilty without a trial, and without the facts? Should not a writer or speaker and especially a U.S. Senator, holding such a responsible position and responsible to all American citizens, at least have talked to the three bishops before he made his release, especially since he admits the three bishops are not Communists?

Incidentally, Senator Dodd should be informed that after we left Congressman Holland's office, we went to the office of the Senate minority leader, Senator Everett Dirksen, Republican of Illinois, who expressed surprise about any investigation of any church, let alone the Serbian Orthodox Church. Senator Dodd should also be informed that Senator Hugh Scott's office was contacted and it was reported that the Subcommittee on Internal Security has never voted to investigate any church, let alone the Serbian Orthodox Church. To those of you who do not know it, Senator Dirksen and Senator Scott are members of the Subcommittee on Internal Security.

In closing, permit me to say that these remarks are not intended in any way to defend or to justify Tito, Yugoslavia, its leaders, Communists, or anyone else, nor to sway anyone to my way of thinking; but they are designed to make it possible for each American Serbian Orthodox Christian to make up his or her own mind, free from half-disclosures, or half-truths, whether they be made by a U.S. Senator or anyone else; or whether they be by a Serbian Orthodox, a Roman Catholic, a Mussalman, an Evangelistic, or anyone else.

In closing, there are two Serbian sayings that the Senator might not understand but we American Serbian Orthodox shall understand:

"Za krst casni i slobodu zlatnu" and "Samo sloga srbina spasava"; I remain a continued servant of our "mother church," the church of St. Sava.

Sincerely yours,

Robert Rade Stone.

P.S.—A copy of this letter is being forwarded to Senator Thomas J. Dodd, Democrat of Connecticut.

## TRIBUTE TO DAVID S. TEEPLE

Mr. BEALL. Mr. President, I am one of the numerous Members of this body who were saddened at the news of the passing of David S. Teeple, who has been serving as chief of staff of the Republican policy committee. David Teeple proved himself to be most efficient and capable. He was a credit to the party for which he played a very important role.

My feelings for David Teeple are of a personal nature. He not only was most helpful to me in my duties, but he was a friend—a kind hearted, sincere friend. I shall miss him.

The Senate of the United States and the Republican Party have lost a valued worker—and I have lost a friend.

David Teeple's favorite piece of literature was Rudyard Kipling's poem, "Recessional." The words of that poem are most appropriate at this time.

Mr. President, I ask unanimous consent to have printed at this point in the Record, Rudyard Kipling's poem, "Recessional."

There being no objection, the poem was ordered to be printed in the Record, as follows:

RECESSIONAL

God of our fathers, known of old—
  Lord of our far-flung battle line—
Beneath whose awful hand we hold
  Dominion over palm and pine—
Lord God of Hosts, be with us yet,
  Lest we forget—lest we forget.

The tumult and the shouting dies—
  The captains and the kings depart—
Still stands Thine ancient sacrifice,
  An humble and a contrite heart.
Lord God of Hosts, be with us yet,
  Lest we forget—lest we forget.

Far-called, our navies melt away—
  On dune and headland sinks the fire—
Lo, all our pomp of yesterday
  Is one with Nineveh and Tyre.
Judge of the nations, spare us yet,
  Lest we forget—lest we forget.

If, drunk with sight of power, we loose
  Wild tongue that have not Thee in awe—
Such boasting as the Gentiles use,
  Or lesser breeds without the law—
Lord God of Hosts, be with us yet,
  Lest we forget—lest we forget.

For heathen heart that puts her trust
  In reeking tube and iron shard—
All valiant dust that builds on dust,
  And guarding calls not Thee to guard—
For frantic boast and foolish word,
  Thy mercy on Thy people, Lord. Amen.

## PREFERENTIAL EMPLOYMENT OPPORTUNITIES FOR SPECIAL CLASSES OF PEOPLE

Mr. TALMADGE. Mr. President, there has come to my attention a matter which demonstrates very clearly that the Federal Government, in seeking the enactment of title VII of the so-called civil rights bill, is not nearly so interested in equal employment opportunities, as it is in preferential employment opportunities for special classes of people.

Nothing illustrates this better than a Treasury Department memorandum for the mid-Atlantic region of the Internal Revenue Service.

According to this edict, Federal employees are said to be equal, but in reality some would be more equal than others.

The memorandum states the worthwhile policy that all qualified persons in Federal employment will be afforded equal opportunity without regard to race, creed, color, or national origin.

Then the directive reverses itself by calling for "an active program" to guarantee the recruitment, training, and advancement of minority group employees.

The program apparently is to be conducted especially for minority group employees and provides for preferential treatment for them.

Presumably, those employees who do not belong to a minority group must do as they always have done, and get by on their own initiative and diligence, without special help from their superiors.

For instance, if a minority group worker in a job training program is not progressing, his supervisors are to give him special counseling to find out why, and then to chart a program to move him upward at a faster rate.

Is special counseling available to all employees who may be slow in their training programs? Do all employees get special treatment of this kind?

We might ask the same questions in connection with another provision of the memorandum.

It requires that a minority group employee who holds a college degree but who is not in a high-ranking job be given special counseling for placement in a higher position.

The same questions as to whether all employees are to be afforded the same opportunities for advancement might be asked regarding the requirement that minority group employees be assigned to varied duties in order to "broaden their experience," and qualify them for higher level work.

It would appear that instead of moving all employees along together on the basis of their performance and qualifications, minority group employees are to be given special assistance to advance more rapidly.

Supervisors also apparently are to become publicists and propagandists, and social workers as well, for they are instructed to issue news releases on their accomplishments in this social promotion scheme and also to maintain close ties with minority pressure groups, such as the NAACP.

In my judgment, Mr. President, this directive, and I am sure there are others like them, provides for a calculated program of so-called discrimination in reverse.

I ask unanimous consent that the directive be printed at this point in the RECORD.

There being no objection, the directive was ordered to be printed in the RECORD, as follows:

U.S. TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
*Philadelphia, Pa., March 27, 1964.*

RC-MA-Memorandum No. 19-53.

### EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

### *Section 1. Purpose*

The purpose of this memorandum is to promulgate those actions that should be taken toward the accomplishment of the full implementation of the equal employment opportunity program in the Mid-Atlantic region.

### *Section 2. Policy*

It is the policy of the U.S. Government that consistent with law, equal opportunity for employment in the Federal service will be afforded all qualified persons without regard to race, creed, color or national origin. We cannot assume that "balanced ratios" or the existence of minority group members in various categories or levels reflects compliance with this policy. Only by an active program to insure the recruitment, development, and training of minority group employees at all levels can we say that the program is being properly executed.

Paramount in the implementation of this policy is the concept of selection and promotion on the basis of merit and fitness.

### *Section 3. Responsibility*

.01. Management officials and supervisory personnel at all levels are responsible for adhering to the principles of the merit system and for supporting the equal employment opportunity program through word and action.

.02. Directors and regional office officials are responsible for implementation of an affirmative equal employment opportunity program, by insuring that programs outlined in section 4 below are diligently and effectively carried out. Periodically they shall review their progress and take any additional steps necessary to insure compliance with this program.

### *Section 4. Programs*

Specific programs should be set up with controls and followups that will lend themselves to objective analysis. Outlined in paragraphs .01 through .10 below are the desired areas to be covered in these programs.

.01. Maintain close ties with community leaders, youth leaders, religious leaders and leaders of such organizations as the NAACP, the Urban League, and the Biracial Council, and other minority group organizations to identify each other's problems and methods of mutual assistance. Personal contact by the directors and regional officials with the various leaders and officials of minority organizations will be necessary to convince them of the sincerity of our efforts and to solicit their aid and assistance in referring the quality of personnel we are seeking for employment with our service. The action outlined in paragraph .09 below illustrates one specific way of accomplishing these objectives.

.02. Work actively with colleges and high schools having a substantial or total minority group enrollment to encourage students to prepare themselves for careers with the service. Contacts should be made with counselors, teachers, and placement officials to alert them to the opportunities the service provides for careers and pointing out to educators how their curriculum might be best planned to prepare persons for our work.

.03. Encourage minority member employees to develop their skills and aptitudes and to seek more responsible assignments. This can be accomplished by various means, some of which are:

1. Counseling with minority member employees in an effort to encourage them to further pursue higher education and otherwise develop themselves so that they are more adequately equipped for assignment to higher level positions.

2. Seek out and encourage qualified minority member employees to apply for higher level professional positions and key supervisory and staff positions at the district, regional, and national office (for national office opportunities, refer to Deputy Commissioner Harding's September 27, 1963, memorandum transmitted with memorandum of October 14, 1963, from Assistant Regional Commissioner (administration)). Directors and regional officials should insure that well-qualified minority member employees are properly counseled regarding the bona fide opportunities available to them in these type positions so that there is no reluctance on their part in applying. Also directors and regional officials should insure that supervisors under their jurisdiction who have responsibility for evaluating personnel, furnish fair impartial evaluations in all instances.

.04. Consider minority member employees who possess the appropriate education and qualifications for more responsible work. As a supplement to the survey of minority group skills, as referred to in the Acting Commissioner's memorandum of November 27, 1962, the regional office, districts, and the service center will take the following actions:

1. For each minority group employees who has a college education but is not in a professional career-type position:

(a) Review their education, work experience, supervisory evaluations and other personnel data.

(b) If the employee is considered to have the qualities and meets the requirements for advancement, he should be counseled regarding his qualifications for the various career positions in the service, his advancement interests, and promotional opportunities and procedures. Specific action consistent with rules and regulations, staffing authorizations, and availability and interests of employee, should then be taken to place him in a professional career-type position.

2. For each minority employee who has entered a training program, but has never advanced to the full journeyman level of his position, a member of the personnel office will interview the minority employee's immediate supervisor; determine the reasons for the employee failing to attain the journeyman level; and discuss the planned action to overcome any deficiencies.

3. Written records are to be maintained regarding each minority member who falls into one of the categories mentioned above in paragraphs 1 and 2. Such records should contain information concerning the employee's education, work experience, dates and results of interviews, etc

.05. Meet with officials of other Government agencies to recruit minority group clerical employees who are being underutilized but have passed the Federal Service entrance examination and possess the educational background and qualities for positions such as revenue officer, tax technician, etc.

Illustrative of this action is the program being inaugurated by the Philadelphia Federal Executive Board. The board is establishing and will maintain a transfer list of career Federal employees in the Philadelphia area whose special skills, training, or knowledge are being underutilized in their present agencies. These employees, upon meeting certain standards and being recommended by an official of their agency may be entered on this list. Use of this list will be available to Federal agencies on an informal and noncompetitive basis.

.06. Give full and complete consideration to detail of minority group employees to other assignments in an effort to broaden their experience, qualify them for more responsible positions, and determine their potential for assuming higher level work. (This should, of course, be accomplished through the promotion plan where such details may eventually lead to promotion.)

.07. Utilize various hiring techniques; i.e., 700-hour appointments, WAE, faculty summer consultants, and selective certification as a means of hiring qualified minority members.

.08. Appoint minority members to represent the service as recruiters and/or panel interviewers, as members of the teaching-taxes program on TV and radio and at professional meetings. Minority members given these assignments should reflect the proper image of the service and demonstrate the reality of our equal employment opportunity program.

.09. Issue publicity releases to minority publications whenever minority members are appointed, promoted, complete training programs, receive awards, etc. In this way we can reach most of the members of the minority community more directly with examples of our activities and an indication of the positive environment of the service.

.10. Include minority group employees who occupy positions at appropriate levels on promotion-ranking committees. This will demonstrate the sincerity of our efforts to insure equal treatment of all candidates in promotion actions.

### *Section 5. Reports*

.01. Directors will submit reports in triplicate to this office by the 10th day after the close of each quarter; that is April 10, July 10, October 10, and January 10, describing the specific programs and actions taken during the previous 3 months with regard to the areas outlined in section 4 above, and any other significant developments of a specific nature in the area of equal employment opportunities. In reporting on the program covered in section 4.04, include the following information:

1. List of minority group employees having a college education but not serving in positions for which their education prepared them. Include name, position title, grade, type of degree and major field of study, and the results of FSEE if it has been taken. Also indicate what, if any, action is planned for the employee's further development or reassignment. If no action is planned, explain.

2. List of minority employees who have completed a training program, but have not advanced to the full journeyman level of the position. Include the employee's name, position title, grade, length of time in nonjourneyman grade, reasons precluding his advancement to this level, and any action contemplated to overcome these deficiencies.

NOTE.—After the initial reports required by sections 5.011 and 5.012 are submitted, subsequent reports should only cover those employees who became eligible for inclusion in the report since the previous submission. The report should also explain the disposition or status of cases previously reported.

.02. Directors will also submit to the regional office on a semiannual basis by July 15 covering the first 6 calendar months and by January 15 covering the last 6 calendar months a status report on form PHI-1242 (copy attached) reflecting the number of minority group employees on the rolls in relation to total employment. This report will be submitted in duplicate.

*Section 6. Effect on other documents*

RC-PHI-Memorandum No. 1(11)-11 dated June 14, 1962, is hereby canceled.

DEAN J. BARRON,
*Regional Commissioner.*

## TRIBUTE TO RILEY H. ALLEN, EDITOR EMERITUS, HONOLULU STAR-BULLETIN

Mr. FONG. Mr. President, today an elder statesman of journalism in Hawaii is observing his 80th birthday. The anniversary of Riley H. Allen, editor emeritus of the Honolulu Star-Bulletin, is an appropriate occasion to pay tribute to a newspaper editor who has been identified with the fourth estate in Hawaii longer and more prominently than any other individual.

Notable as his newspaper career has been, his contributions extend far beyond journalism, to innumerable civic, business, humanitarian, and cultural activities. He gave his dynamic energies and keen understanding to more worthy causes than can be enumerated here. For the fact is that Riley Allen not only wrote about Hawaii's history during the past half century, he often made history himself. He not only chronicled the events, he was often an integral part of those events.

If any one quality of his life stands out more conspicuously than others, it is his unbounded faith in the people of his beloved Hawaii—a faith which he expressed so eloquently in the editorial columns, whether he was championing the cause of Hawaiian statehood, defending the loyalty of an unjustly suspected minority group, or broadening the educational horizons of Hawaii's youths.

As a personal friend and admirer of Riley Allen since my high school years, I am happy to offer this tribute and to join the people of Hawaii in extending congratulations on this anniversary and to wish him many happy returns. It is a pleasure to recall highlights of his active, productive, and eminently successful career.

Riley Harris Allen was editor of the Honolulu Star-Bulletin from the day it was founded July 1, 1912, until his retirement in 1960, a period of about 50 years. He was only 28 years old when he was named editor.

He has seen both the newspaper and the community grow larger and stronger, and his role in the growth of both has been a substantial one.

Riley was born April 30, 1884, in Colorado City, Tex. He began college at the University of Washington, where he wrote the lyrics to the alma mater that Washington students still sing today. He went on to the University of Chicago where he did his first newspaper work as campus reporter for the University of Chicago Daily Mirror.

He was graduated from Chicago in 1905. Before the year was out, he sailed to Hawaii and spent 8 months there as a reporter for the Honolulu Evening Bulletin. He then joined the Seattle Post-Intelligencer.

On September 6, 1910, he married Suzanne McArdle, of Seattle, and they went to Hawaii on their honeymoon.

Riley returned to the Evening Bulletin as city editor and saw its merger less than 2 years later with the Hawaiian Star, which resulted in the formation of the Honolulu Star-Bulletin in 1912.

His editorial service with the Star-Bulletin was broken only once, during the period from 1916 until 1921, when he served with the American Red Cross in Siberia. He worked under fire to care for the wounded during the revolutions at Vladivostok. In 1920, he was in charge of the memorable assignment of transporting 775 Russian children from Siberia by ship across the Pacific, through the Panama Canal, and back to homes in Petrograd—now Leningrad—and several European countries from which the children had fled during the revolution. The job of locating their parents took many months.

Considerably more than just an editor, Riley from the start played an active role in the community his paper served. He concerned himself with the problem of welding people from Asian countries into the body of a harmonious American community. He has taken an active interest in school programs—school garden development, oratorical contests, and awards for outstanding students in various fields of endeavor. He has been a consistent champion of public education and has also won recognition from many private schools.

The Quill and Scroll Society for journalism students named its Farrington High School chapter the "Riley H. Allen Chapter" in his honor. The Hawaii Young Farmers Association and similar groups received his active encouragement.

His faith in the loyalty of Hawaii's citizens of oriental ancestry never wavered either before or during World War II and it was vindicated in the test of war.

He was an early and earnest supporter of statehood for Hawaii, marching with the Star-Bulletin's publisher and late Governor of Hawaii, Wallace Rider Farrington, and his son, the late Delegate to Congress, Joseph Rider Farrington, in the forefront of the long statehood battle, never flagging despite years of slow progress and discouraging setbacks.

He was president of the Honolulu Chamber of Commerce in 1929 and a leading figure in the formation of the Honolulu Junior Chamber of Commerce, now one of the strongest organizations in the islands which awarded him a "Certificate of Appreciation" this year.

For several years during and after World War II, he was chairman in Hawaii for the National Foundation for Infantile Paralysis.

He has also served on the Hawaii Visitors Bureau, the Hawaii Equal Rights Commission which fought for statehood, and the first Pacific Memorial Foundation to select a World War II memorial.

He covered the national political conventions of both Democrats and Republicans in 1940, 1944, 1948, 1952, 1956 and 1960, and was regarded as an unofficial member of the Hawaii delegations of both political parties, because of his wide knowledge of the conventions.

Where statehood was concerned, the parties made common cause and he lent his hand toward fighting to get statehood planks into the national platforms of both parties, until Congress finally passed the statehood bill and President Eisenhower signed it into law in 1959.

Among other honors, the Veterans of Foreign Wars presented him with its Silver Distinguished Citizenship Medal in 1950.

Hawaii's diverse racial groups also honored him. He was made an honorary member of the Hawaii Chinese Civil Association after being its only non-Chinese active member for many years. He is an honorary member of the Korean University Club and the Puerto Rican Athletic Association, and is the first male honorary member of the Filipino Women's Civic Club. He was cited in 1953 by the Filipino community in Hawaii for his "wise thinking, unbiased writings, and sincere personal dealings," in helping to cement friendship between the Filipinos and the rest of the community. He has served as an international director of the American-Korean Foundation.

Other activities included services as a director of the Advertising Club, an incorporator of the Maunalani Convalescent and Nursing Home, and long-time membership in the Honolulu Automobile Club.

In 1960, he received from the Aloha Council, Boy Scouts of America, the Silver Beaver award for "distinguished and outstanding service to boyhood." He was cited for 23 years of work with the Hawaii Boy Scouts.

His philanthropies are numerous—and unrecorded. He has made generous gifts to community and civic groups, and given aid to many in need, including college support for a student he met in the Philippines.

In 1955, he was honored along with the late Raymond S. Coll, former editor of the Honolulu Advertiser, at a testimonial dinner sponsored by the Hawaii Public Relations Society in honor of their long service to the community.

In 1958, the University of Washington designated him "Alumnus Summa Laude Dignatus" as a leader in the field of journalism in Hawaii.

In 1959, he accepted for the Star-Bulletin an award for distinguished service from the University of Missouri.

In 1962, he received the first honorary degree awarded by Chaminade College of Honolulu.

Last month, he was selected as the first honorary member of the newly formed Hawaii Newspaper Publishers Association.

These honors are in recognition of a long and full career during which Riley Allen often imposed upon himself workweeks of 7 days of 12 hours or more. On major stories, he managed to keep going and seem fresh with almost no sleep for days. Men considerably younger than he could not match his pace.

This is the record of an editor whose 80th birthday anniversary is being observed today. This is the man to whom

I am privileged to pay the highest tribute today.

The Nation, and especially Hawaii, is indebted to Riley Allen for his many years of outstanding leadership. He gave friendly and wise counsel and advice; he exhorted his readers to aspire to loftier goals; he imbued the young people with the true spirit of patriotic Americanism; he opened the way for wider opportunities for those with ambition to succeed; he set the example for hard work and perseverance. When the occasion demanded, he prodded the indolent, upbraided the selfish, and helped the needy. Yet, at all times, he was fair, firm and friendly, for his heart was and is always with the people to whom he offered guidance and inspiration through the thousands of editorials he wrote and the hundreds of worthy causes he espoused.

We express our gratitude to him with the full realization that there is no way in which we can adequately acknowledge his countless good deeds. He can be assured, however, of the warmest thanks and fondest aloha of his many, many friends in Hawaii and in the Nation.

Riley Allen has enriched the lives of all with whom he has associated. He has spread goodwill, wisdom, and inspiration to young and old, to rich and poor.

For all his contributions, we extend our grateful appreciation and take this occasion to wish him many more years of good health and happiness.

## CIVIL RIGHTS BILL—PARLIAMENTARY SITUATION IN THE HOUSE

Mr. DOUGLAS. Mr. President, I ask unanimous consent that I may be permitted to ask certain questions of the Senator from Minnesota [Mr. HUMPHREY], that he may be privileged to respond, and that the time to be allotted be 3 minutes for myself and 3 minutes for the Senator from Minnesota, a total of 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOUGLAS. I should like to ask the Senator from Minnesota a question about parliamentary procedure in the House. We are dealing now with amendments. I favor the substance of the Mansfield-Dirksen amendment, but I am concerned about the question of what parliamentary effect it would have on the bill itself. Therefore I should like to clear up some parliamentary points.

Do I correctly understand that if the Senate should amend the House bill, the bill with the Senate amendments would go to the House and lie on the Speaker's desk?

Mr. HUMPHREY. The Senator from Illinois informed me of the nature of some of his questions, and I have attempted to prepare myself to respond appropriately. The answer to his first question is "Yes."

Mr. DOUGLAS. Am I correct that once the bill lies on the Speaker's desk——

Mr. SALTONSTALL. Mr. President, will the Senator repeat his first question?

Mr. DOUGLAS. Of course, but my time is limited. However, my question was, If the Senate amends the House bill, does the bill with the Senate amendments go to the House and lie on the Speaker's desk?

Mr. HUMPHREY. My answer was "Yes."

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STENNIS. Are these answers considered to be the ruling of the Chair?

Mr. HUMPHREY. The Senator from Illinois is asking the Senator from Minnesota some questions.

Mr. STENNIS. I thank the Senator.

Mr. DOUGLAS. Once the bill lies on the Speaker's desk, am I correct in my understanding that unanimous consent must be obtained for the House to concur in the Senate amendments?

Mr. HUMPHREY. It is my understanding—and this is not a ruling on the part of the Chair here or in the other body—that it requires unanimous consent to take from the Speaker's desk a bill with any Senate amendment of any importance. In the absence of unanimous consent, a rule is required for the consideration of the amendment. In addition, it is my understanding that there is a procedure under the House rules which permits suspension of the requirement for a rule by a two-thirds vote of the House on certain Mondays of the month.

Mr. DOUGLAS. I understand that the Senator refers to the first and third Mondays, but in practice this is a procedure which is seldom used.

Mr. HUMPHREY. Yes; but it is within the rules.

Mr. DOUGLAS. Unless unanimous consent has been given, the Senate amendments or the bill as amended would go to the Rules Committee. Is that correct?

Mr. HUMPHREY. The Senator is correct.

Mr. DOUGLAS. Am I correct in understanding that in practice the Rules Committee meets solely at the call of the chairman of the Rules Committee?

Mr. HUMPHREY. The answer to that question is that, in practice, that is correct, but there is, however, a procedure under which a majority of the Rules Committee can petition and obtain a special meeting of the committee.

Mr. DOUGLAS. When the Rules Committee considers a bill as it has been amended by the Senate, does it not have the authority to send the bill back to the House floor with a rule stating the conditions under which the bill may be debated?

Mr. HUMPHREY. The answer is "Yes." That is my opinion.

Mr. DOUGLAS. It would also have the authority to send the bill to conference. Is that correct?

Mr. HUMPHREY. The Rules Committee by its rule could prescribe under what conditions the House would or would not agree to the Senate amendments. The rule could also prescribe that the House upon adoption of the resolution would disagree to the Senate amendments, and ask for a conference. Of course, the House has the authority to act contrary to the Rules Committee's recommendations by rejecting the previous question and amending the rule. This is rather an unusual procedure, but the authority does exist.

Mr. DOUGLAS. I thank the Senator from Minnesota. I should like to have the privilege, later, to make some comments on the parliamentary situation.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. DOUGLAS. Have the 6 minutes expired?

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. RUSSELL. So far as the conference between the Senator from Illinois and the Senator from Minnesota is concerned, is it binding on the other body, the House of Representatives? Is the House bound by the pronouncements in their colloquy?

The ACTING PRESIDENT pro tempore. The Senator from Illinois had obtained unanimous consent to submit some inquiries to the Senator from Minnesota, which the Senator from Minnesota answered. The Senator from Minnesota answered from his own knowledge. Obvously he was not speaking for the other body.

Mr. RUSSELL. I thank the Chair.

Mr. HUMPHREY. Have I any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Minnesota has 3 minutes.

Mr. HUMPHREY. I felt that I had made clear what the purpose of the colloquy was. Apparently some Senators have had a little difficulty in understanding what I thought was the clarity of my message: namely, that the responses were the responses of the Senator from Minnesota. They are worth just about as much as the responses of any other Senator. They are not necessarily binding, but they are at least the view of one U.S. Senator. I hope there will be no doubt about it. I thank the Senator from Illinois for his questions. They were relevant. I believe the answers were to the point. I do not consider them binding on anyone, much less upon those who do not want to have anything binding upon them.

Mr. RUSSELL. Mr. President——

Mr. HUMPHREY. I yield to the Senator from Georgia.

Mr. RUSSELL. I may say that that sounds to me suspiciously like the description of what some people would call a filibuster.

Mr. HUMPHREY. If anyone can make a filibuster out of a 3-minute speech, he can get gold out of dross.

Mr. RUSSELL and Mr. DOUGLAS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. RUSSELL. I am glad to defer to the Senator from Illinois, if he wishes to speak. I merely wish to make an insertion in the RECORD. I shall be glad to let the Senator make his remarks now.

Mr. DOUGLAS. I merely wished to say that later in the day, or perhaps tomorrow, I shall try to comment on the parliamentary significance of what the situation in the House apparently would be if the Senate were to amend the bill.

Mr. RUSSELL. Mr. President, I ask unanimous consent to have printed in the body of the Record some very penetrating articles dealing with what some people euphemistically call the civil rights bill. The first one is entitled "Rights Bill Called Political Travesty," and was written by Henry J. Taylor, and published in the Savannah Morning News of April 13, 1964.

Another deals with the civil disobedience in New York, and was published in the Fulton County Daily Report of Friday, April 17, 1964. This, too, was written by Mr. Henry J. Taylor.

A third article, also by Mr. Taylor, entitled "Civil Rights Bill: Unenforcible?" was published in the Augusta Chronicle of April 24, 1964.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Savannah Morning News, April 13, 1964]

### Shades of Prohibition Disaster: Rights Bill Called Political Travesty

(By Henry J. Taylor)

It's dollars to doughnuts not one person in 10,000 even remembers Minnesota Congressman Andrew J. Volstead. Who recalls the debates—and honest hopes—that fueled his Federal Prohibition Act?

President Wilson vetoed the Federal Prohibition Act. But the House had passed the bill, with its vast Federal machinery for enforcement, 287 to 100. Then both the House and Senate overrode President Wilson's warnings on the same day he vetoed the bill.

Wilson foresaw what our country was to learn—that the difference between the fine objective and the bill was the difference between day and night. For all people everywhere did not feel the same and the collar of Federal control became admittedly America's darkest chapter in loss of respect for laws.

Within a few months our police agencies and courts alike were plunged into a tragic chaos that lasted 14 years; utterly unable to cope with violations, definitions, judications—and human nature.

The initial idealism was snowed under. Ultimately political fixers who could wipe out penalties for violations, gangsters who got too rich to touch, inside henchmen, bureaucrats, smugglers, vested interests and even large parts of the legal profession became the chief supporters of the "noble experiment."

Thirty-six State legislatures debated and ratified this law and it entered our Constitution as the 18th amendment, until finally booted out. The gigantic civil rights bill enjoys no such reassuring background, such study and debate.

There was little politics in the Federal prohibition idea. Yet present civil rights contentions are admittedly loaded with personal politics—and no little coercion as well. Idealism is widely present, but it is also widely absent. So is clear-headedness and courage in both parties and in both branches of Congress.

Passage of the bill by the House was really passing the buck to the Senate. How many Congressmen or Senators have even read carefully the 55-page fine-print document? At least this writer has done that; a document already debated as utterly bewildering. It's like reading the fine print in 55 insurance policies all tossed into one lump. Yet, whether they've read the bill or not, many in Congress will tell you they're not going to vote against "civil rights" in this election year. Is that the way to run a railroad?

Senate Members' bad attendance reflects equal irresponsibility, even though some Senators of principle are being heard on each side of the argument. Our Congress has just finished one shabby demonstration. This occurred when House Members intended to boost their own salaries $10,000 by voice vote, but fearfully backed away and didn't do so when a rollcall of their votes was demanded.

Senate pro-and-con attendance in the civil rights affair has been so slim that sponsor Hubert H. Humphrey suggests he may even invoke the little known rule compelling Members to attend by ordering the sergeant-at-arms to arrest and bring them in.

Meanwhile, grass-roots resistances—especially in politically decisive cities like Detroit, Chicago, New York—reportedly grow against enactment. Many legislators are marking time until they can decipher the voices from back home. This makes them, in effect, merely agents of whatever groups are most indispensable in the November election.

Such a travesty on government may be good for the politician on the make, but it is disastrous for the public welfare.

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[From the Fulton County Daily Report, Apr. 17, 1964]

### Taylor's Column

(By Henry J. Taylor)

Planning a mammoth traffic jam with 2,000 stalled cars, Congress of Racial Equality Brooklyn Chapter Chairman Isiah Brunson announced, "The World's Fair will be closed April 22." CORE's national director suspended the chapter. But can CORE suspend the cars? And would the civil rights bill, if passed as presented, suspend the cars? There is nothing in the bill dealing with such a subject at all.

This bill in its 55 pages of fine type, already debated as utterly bewildering, faces old and fundamental problems of enforcement. Its objectives are eulogized, as were the objectives of the Federal Prohibition Act, although many militant civil rights organizations already protest that these do not go far enough.

Its theory is likewise eulogized, but vision is indispensable to progress. Until somebody steps up and gives a solid answer as to how this vast, complex legislation can be enforced, the bill can actually do much more harm than good. For nothing is so damaging to the public welfare and national justice as disrespect for laws—a terrible casualty suffered during the 14-year period of our unenforceable Federal Prohibition Act.

We have a natural tendency to think that if we have a name for a thing we understand it. "Civil rights" is an appealing name, and this title expresses our deepest natural feelings. But it is not these that are at issue and slogans are never a substitute for facts. The problem is the specific legislation itself: the 55 pages of fine print we'll have to live with, and enforce, in the face of sectional feelings, and a mass of legal inconsistencies. "I can't understand this bill," one of the Nation's most prominent and able Senators told this writer. "I can't even understand the people who can understand it." No wonder much of the country stands dazed and uncomprehending.

In the tragic, vital civil rights issue we want and need the best arrangements within human power. Our country must be made a yet greater blessing to the sons of men, regardless of race, color or creed. But much of the approach to this question is so emotional as to be impervious to argument or, indeed, to the fact. Thus, a rule expressed by Justice Oliver Wendell Holmes is persistently ignored: "Above all rights rise duty to the community."

Do even the best men of good will need to be told that national welfare cannot be achieved by enacting a vast, unenforceable law? Or, in fact, that little is ever achieved by a mere abundance of laws?

Promptly before it fell, Babylon built a veritable ziggurat of laws. So did Mussolini's prewar Italy and Hitler's new Third Reich. And by 1944 the Nuremberg laws even included the death penalty for any German found with a foreign bank balance.

In ancient Egypt the seven deadly sins were disobedience to parents, murder, temple destruction, desertion during an expedition against infidels, usury, falsely accusing a woman of adultery and the wasting of the property of orphans. A law of Ptolemy I, "the Mathematician," encompassed them all in one fell swoop. And in the Congo today, as in most backward countries, there are laws and regulations covering everything. Universally and always, this has been a sure sign of stupidity, fright, political greed or tyranny—never a sign of wisdom, true justice, statesmanship and freedom.

Complexities and unenforceableness go hand in hand with the many limitations inherent in law itself. Human society is an organism, not a system. As de Tocqueville said years ago, law is never able to catch more than a part of life; an equally important and vital part usually defies and escapes legal definition. To pass unenforceable laws and try to stretch them across areas of human nature that defy legal definition is dangerous enough at a State level. But at the Federal level—all 50 States, all 185 million people—it can be catastrophic. This, again, was the lesson of Federal prohibition.

The civil rights bill makes the Department of Justice the biggest police and law bureau in the history of the Nation and the Attorney General the most powerful man in America. But where do we go from there?

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[From the Augusta (Ga.) Chronicle, Apr. 24, 1964]

### Civil Rights Bills Unenforceable?

(By Henry J. Taylor)

A few thousand letters to Senator Hubert H. Humphrey might convince sponsors of the civil rights bill that at least a part of the public is demanding the right to read it.

The House, when drafting this act, never held a single public hearing on it. And passage by the House was really passing the buck to the Senate.

How many Congressmen or Senators have even read carefully this document? At least this writer has done that; 55 full pages of fine print already debated as utterly bewildering. And if the public ever gets so much as a glance at the spaghettilike maze that hits the eye the political gears could go into reverse.

Advertising analysts state that the average American is now subjected to 10,000 TV commercials a year and about 1,600 various ads a day. We've grown slogan-minded, title-minded—a people nourished on one oversimplification after another.

The title—civil rights—relates this gigantic legislation to our deepest natural feelings. But our Nation is not faced by a title, or even by a good intent. We are faced by those 55 fine-print pages of a specific piece of legislation that rivals Gracie Fields' "biggest aspidistra in the world."

There are Senators of principle on each side of this debate and in both parties. But political venality is on the march, too. Whether they've read the bill or not, many in Congress will tell you they're not going to vote against "civil rights" in this election year. That's not good government. And we can hope it may turn out to be not even good politics.

Militant minorities play their part in carrying us toward this legal Waterloo. But so do others, including some of our clergy, who suffer acutely from what the French call "a deformation," meaning a distortion of perspective by people whose good intentions make them see only what they want to find.

In their emphasis on the objectives they seldom refer to the unenforceableness of H.R. 7152. They are repeating the same mistake that carried our Nation to tragedy in passing the well-intended but utterly unenforceable spaghettilike maze known as the Federal Prohibition Act.

In H.R. 7152 discrimination is a crime. But the bill does not define the crime of discrimination. That's a poor start for the 55 pages of fine print. A Federal civil rights inspector decides who is a criminal under this act. Then the Justice Department, and then a court, and then one court after another decides. Will there ever be enough inspectors, lawyers, courts and courts and courts to work all this out in our Nation of 185 million people—and all enforced at the Federal level?

In title II, in the public accommodations section, "bona fide" clubs are exempt from the criminal penalties. But H.R. 7152 doesn't define what a club is. A Federal civil rights inspector decides which clubs are exempt and which are not—a political fixer's paradise.

Sponsors publicize opinions obtained from eminent legal authorities stating they think the bill is constitutional, but not a single one of the cited authorities says where he believes the giant act is enforceable.

Yet enforceableness is the fundamental requirement for good government, justice and the respect for law—without which all words about the public welfare are a tragic mockery.

Mr. RUSSELL. Mr. President, I also ask unanimous consent that there may be printed in the Record at this point an article entitled "Religious Bias Bans Lacking," written by David Lawrence and published in the New York Herald Tribune of April 28, 1964.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Religious Bias Bans Lacking

(By David Lawrence)

Washington.—Hidden away in the civil rights bill pending in the Senate are two provisions which would permit discrimination.

One section would forbid an employer or trade union from discriminating against anyone on the ground of race, color, religion, or national origin, but the U.S. Government and all State and local governments are specifically excepted, as well as any corporation wholly owned by the Federal Government. There are about 2,500,000 civilian jobs in the Federal service alone.

A second provision doesn't prohibit discrimination by reason of religion in any program in which Federal financial assistance is given.

In 14 separate places in the pending bill, the proposed legislation forbids discrimination on the basis of "race, color, religion, or national origin." But the section which deals with Federal assistance programs omits the word "religion." It reads:

"Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Many Members of Congress have wondered at this exclusion of discrimination in religion. There has been no official explanation, except that the Department of Justice in a memorandum told the committee of the House of Representatives that "religious discrimination does not appear to have been a significant problem in connection with Federal-aid programs."

Two Democratic Senators the other day, however, raised an issue about it and thought it was significant that there had been an omission. Senator Albert Gore of Tennessee, for instance, said "it might be very significant to a citizen who is discriminated against because of religion." Referring further to any ban on religion in connection with federally assisted programs, he added:

"No construction is possible, it seems to me, other than that if this bill should be passed in its present form this Congress will, insofar as this act is concerned, have sanctioned religious discrimination in the expenditure of tax funds. Does this really mean that it would be legally possible to exclude citizens, perhaps children, with certain religious affiliations, from participation in any Federal program?"

The school lunch program financed by the Federal Government also came into the debate. It was suggested that perhaps the word "religion" was omitted in the pending bill for fear it might complicate the school-lunch or bus programs.

There are some 3,000 private schools for which individual States do not provide the lunch program, and the Federal Government steps in and handles it directly. This applies mostly to schools operated by religious groups. These schools are not obliged to open their doors to students of other religions. It is precisely this form of discrimination which can continue under the civil rights bill being debated in the Senate. But, on the other hand, if the civil rights bill is amended to ban religious discrimination, these religious schools which cannot obtain State government funds for school lunches or bus transportation for their students, and which rely now on Federal aid, may be able to argue that, unless they are given these facilities by the States, they will not be getting the benefit of the 14th amendment, which declares that citizens are entitled to the "equal protection of the laws."

There are other phases of the welfare program which may be affected. Senator Sam Ervin, of North Carolina, pointed out that the Department of Health, Education, and Welfare annually makes grants to encourage medical research in schools "belonging to religious institutions which exercise preference in the selection of their students from members of the religious denomination which operates the schools." The North Carolina Senator also declared that, under the National Defense Act, Congress "makes grants to persons who spend those grants to pay tuition to schools conducted by religious denominations," and that Congress has passed a bill providing loans and grants to institutions of higher learning, including some that are operated by religious institutions.

Mr. Ervin said, moreover, that the proposed provision in the pending bill "would permit the Government to continue to make grants and loans for such purposes even to institutions which practice discrimination on the basis of religion, either by preferring persons of one religion, or by excluding persons of another religion."

Some of the Senators supporting the civil rights bill revealed in the debate in the Senate an awareness of the complications that may ensue, and some of them indicated that they might be willing to accept an amendment that would ban any religious discrimination in federally-assisted programs.

Mr. SALTONSTALL. Mr. President, as one who listened to the discussion between the Senator from Minnesota and the Senator from Illinois, and considering any inferences that may be drawn from that colloquy, I merely wish to say that I am one of those who are in favor of a civil rights bill, but that I am in favor of a bill that will be in the best form and will be most realistic in terms of accomplishing the results that we believe should be accomplished. The Senate has the responsible duty to amend the bill if it believes it should be amended, and not merely say "me too" to anything the House of Representatives may have sent to us, because there may be some discussion and some difficulty in obtaining a conference. We should pass the best, most realistic bill that can be passed. In my opinion, that requires amendment. I say that advisedly, because I have submitted an amendment with relation to title II of the bill, which I believe would improve the bill. Another amendment has been submitted by the Senator from Illinois and the Senator from Montana, which they believe—and I have reason to believe—would improve the bill.

We should do the best we can to pass a realistic and helpful civil rights bill.

Mr. AIKEN. Mr. President, will the Senator from Massachusetts yield?

Mr. SALTONSTALL. I have finished.

The PRESIDING OFFICER (Mr. Moss in the chair). The Senator from Vermont is recognized.

Mr. AIKEN. If I am recognized in my own right for 3 minutes, that will be helpful.

I was delighted to hear the Senator from Minnesota, who is in charge of the bill, quoted as saying, after conferring with the President, that the President would not object to certain modifications in the bill. I understand, too, that the President conferred yesterday with the minority leader [Mr. Dirksen]. I believe that if this course is followed, with conferences between the Senate leadership and the White House, greater progress will be made

As the Senator from Massachusetts indicates, we should finally agree upon a good, workable bill, one which will correct injustices without carrying in the bill any discriminations, as the present bill does.

I again commend the President for taking the position which he has taken. It might not have been too easy for him to take this position, but it certainly lends itself to getting a much better bill than would otherwise have been the case.

Mr. SALTONSTALL. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. SALTONSTALL. The Senator agrees with me, does he not, that the Senate should not merely rubberstamp a bill that has been sent over by the House of Representatives, even though we may agree as to the objectives of the bill?

Mr. AIKEN. I made that statement on Monday. My information was that the President was not too happy with the statement; but I suggested at that time that he have the bipartisan leadership of the Senate in charge of the bill confer with him. Apparently he has done so; and we seem to be making progress toward a worthwhile piece of legislation.

Mr. SALTONSTALL. Mr. President, will the Senator further yield?

Mr. AIKEN. I yield.

Mr. SALTONSTALL. I should like to ask a question of the Senator from Minnesota, who is the leader of the majority group of the proponents of the bill: Is it not his opinion also that the Senate should act wisely in considering the bill? It is my understanding that the Senator from Minnesota has publicly said that he believes some of the amendments proposed might be helpful.

The PRESIDING OFFICER. Does the Senator from Vermont yield to the Senator from Minnesota?

Mr. AIKEN. I yield; but first, I wish to commend the Senator from Minnesota for his wise handling of the bill, particularly for reaching some workable conclusions with the executive branch of the Government.

Now that the Senator from Minnesota is about to be recognized, I am glad to yield the floor.

## PRESIDENT JOHNSON'S MESSAGE TO THE RELIGIOUS LEADERS

Mr. HUMPHREY. Mr. President, first I invite the attention of the Senate to the remarks of President Lyndon Johnson to the group of religious leaders who met with him yesterday in the East Room of the White House to discuss the need for civil rights legislation. The President was visited by the leaders of the National Interreligious Convocation on Civil Rights, Tuesday, April 28. They were: Most Rev. Archbishop Patrick A. O'Boyle, Rev. Dr. Eugene Carson Blake, Rabbi Uri Miller, and Bishop B. Julian Smith. A number of other eminent church leaders also were present.

I ask unanimous consent that the remarks of President Johnson to this distinguished group of citizens and spiritual leaders be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Remarks of the President to a Group of Civil Rights Leaders in the East Room of the White House

Archbishop O'Boyle, Reverend Blake, Rabbi Miller, and Bishop Smith, we are delighted to welcome you to this, your house, the first house in the first land of the world, because from the time of the ancient Hebrew prophets and the dispersal of the money changers, men of God have taught us that social problems are moral problems on a huge scale. They have demonstrated that a religion which did not struggle to remove oppression from the world of men would not be able to create the world of spirit. They have preached that the church should be the first to awake to individual suffering and the church should be the bravest in opposing all social wrongs.

This tradition is deeply imbedded in America's history. During the middle of the 19th century, men of God, men of all faiths, men of the North, men of the South, took to pulpits, to press, yes, even out into the public squares to demand an end to the moral evil of slavery. As a consequence, we took the chains off the slaves.

Many who followed this path suffered for it. Many were then condemned by their congregation. Many were deprived of their positions. Churches were burned and physical violence was often the reward of those who in that time spoke freely and provided leadership. But long ago their efforts were a significant force in not only ending slavery in this country, but in reshaping our society. By their actions they not only restored dignity and hope to millions of Americans, they immeasurably elevated and strengthened the churches which they served.

Today, as we meet here a century later, we are faced with and we are given another great opportunity. Today, as we meet here, again the problem of racial wrongs and racial hatreds is the central moral problem of this Republic. Today, as we meet here in the first house of the land, again hostility and misunderstanding and even violence awaits the man who attempts to translate the meaning of God's love into the actions and thoughts of this world and this time. Today, again the hope for happiness of millions of Negro Americans is going to be profoundly affected by your efforts. And today, again, religion has one of those rare, historical opportunities to renew its own purpose, to enhance the dignity of its own social role, to strengthen its institutions, and its heritage.

Our most immediate need is to pass the civil rights bill now before the Congress. A hundred years ago Lincoln freed the slaves of their chains, but he did not free the country of its bigotry. A hundred years ago Lincoln signed the Emancipation Proclamation, but until education is unaware of race, until employment is blind to color, emancipation will be a proclamation, but it will not be a fact.

This bill is intended to help our communities find peaceful solutions to problems of human relations. Many of these communities have asked for the provisions in this bill so that the same standards can be applied to all businesses serving the public, and so the taxpayers can be given assurance that public funds will be administered equitably. None of these provisions in this bill would create preferential treatment for one race or another. This would be a direct violation of the bill itself.

None of these provisions would interfere with the rights of businessmen to set up their own standards for the dress, for the conduct, and for the qualifications of their patrons and their employees. Thirty States and numerous cities already have varying public accommodation statutes and ordinances. These cover nearly two-thirds of the country's population, and business establishments in these States are still flourishing.

All that this bill will do is to see to it that service and employment will not be refused to individuals because of their race or their religion or where their ancestors were born. This bill is going to pass if it takes us all summer, and this bill is going to be signed and enacted into law because justice and morality demand it.

But laws and government are, at best, coarse instruments for remolding social institutions for illuminating the dark places of the human heart. They can deal only with the broadest and most obvious problems constantly guarding against segregation in schools, but not against the thousands of incidents of discrimination and hatred which give the lie to what is learned there in the schoolroom. They can call for the highest standards of moral conduct, but those standards are only tortuously imposed on a community which does not accept them, for laws do not create moral convictions. Those convictions must come from within the people themselves, and it is your job, as men of God, to reawaken the conscience of your beloved land, the United States of America.

It is your job as prophets in our time to direct the immense power of religion in shaping the conduct and thoughts of men toward their brothers in a manner consistent with compassion and love. So help us in this hour. Help us to see and do what must be done. Inspire us with renewed faith. Stir our consciences. Strengthen our will. Inspire and challenge us to put our principles into action.

For the future of our faith is at stake, and the future of this Nation is at stake.

As the Old Testament pleads: "Let there be no strife, I pray, between you and me, and between my herdman and your herdmen, because we are brothers." So do we plead today.

Yes, we are all brothers, and brothers together must build this great Nation into a great family, so that a hundred years from now in this house every man and woman present today will have their name pointed to with pride because in the hour of our greatest trial, we were willing to answer the roll and to stand up and be counted for morality and right.

Thank you very much.

Mr. HUMPHREY. Mr. President, it has been the view of the Senator from Minnesota that the Senate has a responsibility to act in its own right on the proposed legislation.

The reason why I responded to the questions asked by the Senator from Illinois [Mr. Douglas] was to probe with him and to discuss with him the ways and means by which we might be able effectively to pass legislation, and not merely to pass bills, one in the House and one in the Senate.

The President has made it manifestly clear that he expects the Senate to do its work. I do not wish to put the President in any position on this subject that he himself does not state. I have always found the President to be a reasonable man. He understands the processes of legislation. I believe I am correct in saying that the President wants a civil rights bill with the coverage and enforceability that are included in the House bill. He supports and recommends the House bill. The Senate has to work its will, and that does not preclude amendments.

I have said previously to Senators, and I say it now publicly, that there may be amendments. I believe a jury trial amendment will be adopted. I mean the Dirksen-Mansfield amendment.

I am sure the President will do his best, through whatever means he has as the leader of our country, to obtain an effective, workable civil rights law. If there is a need for some technical revision, as has been pointed out, or for amendments that would improve or clarify the provisions of the bill—and that is surely a matter of judgment—and if they would not violate the standards of a workable, effective, acceptable bill, such amendments may be adopted. It is my desire to have effective legislation, not merely to have an argument.

I said to the distinguished Senator from Massachusetts [Mr. Saltonstall] that I thought his proposal was constructive.

I have spoken privately with the Senator from Vermont [Mr. Aiken], who has always been a source of great help in the Senate on all matters of legislation, and said that I felt that his address the other day was constructive and helpful. It is my hope that out of our discussions on the bill it will be possible to perfect legislation and have not merely a bill of the Senate, but one that is acceptable also to the other body, acceptable to the President, and acceptable to the Nation. That will be the purpose that will guide the Senator from Minnesota. It is the only purpose I have.

## PRESIDENT JOHNSON BRINGS NEW HOPE TO APPALACHIA

Mr. HUMPHREY. Mr. President, President Lyndon B. Johnson brought a new sense of hope and faith to the people of Appalachia during his recent inspection tour of the region. He provided firsthand evidence that the Government of the United States and the people of the United States are not going to tolerate indefinitely the depressed economic situation which afflicts these States and certain related areas, such as northern Minnesota, Wisconsin, and Michigan. Such visual evidence of concern can have a most profound impact on the outlook which Americans living in these depressed areas hold for the future. A recent editorial in the New York Post commented most eloquently on precisely this point.

Also a recent column by Michael O'Neill of the New York Daily News discussed how the tremendous vitality of the President and his compassion for people are being used in behalf of this Nation. One sentence from this column should be singled out for special emphasis:

> What is unique about Johnson is the way he combines a restless, turbulent energy with an evangelical spirit and an intuitive grasp of the essential forces in American life and how they should be united and mobilized.

Surely this is the operating principle which characterizes the labors of the remarkable man who is President of the United States.

I ask unanimous consent that the editorial from the New York Post and the column from the New York Daily News be printed at this point in the Record.

There being no objection, the editorial and column were ordered to be printed in the Record, as follows:

[From the New York Post, Apr. 27, 1964]

### President Johnson in Appalachia

"Night Comes to the Cumberlands" was the title of a book published last year. With harrowing eloquence it depicted the distress and deprivation of Appalachia.

It looks now as if the next, more cheerful chapter in that story will be "Lyndon Johnson Comes to the Cumberlands."

The President's 14-hour tour of the five States gave the region hope that a better day may be dawning. It effectively aroused the country to an awareness of Appalachia's problems.

Great as was the impact of the President upon Appalachia, it had a reciprocal effect upon him. Congressional action to help the region could not be delayed, he said upon his return to Washington. "It is 'must' legislation."

With a formidable thrust of energy and concentration, the President and his aids "worked all through the night and the morning" in order to get a bill ready for Congress today.

It calls for a $220 million outlay. Surely the Nation can afford it. As the President noted in a followup to his Appalachia statement, after-tax profits in manufacturing for the January to March period are 23 percent above a year ago. He did not have to spell out the moral.

If Members of Congress who questioned his antipoverty program were to take the trip he did, they would speedily drop their opposition, the President said.

Indeed, does any Member of Congress have a right to vote against the program without making the tour of Appalachia?

Let the Congressman who plans to vote "no" first explain that vote to Tom Fletcher and his family in their tarpaper shack in the Cumberlands.

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[From the New York Daily News, Apr. 25, 1964]

### Capitol Stuff

(By Michael O'Neill)

Washington, April 24.—It is now becoming apparent to Americans as well as Texans that the new man in the White House is not just another President. He's a kind of vast national resource like Niagara Falls or the atomic plant at Oak Ridge.

Although there are some vague similarities to Jackson, or even to Lincoln, Johnson really stands apart from all his predecessors. And it isn't just his freewheeling western style which has attracted so much attention. This is only the frosting on the cake.

What is unique about Johnson is the way he combines a restless, turbulent energy with an evangelical spirit and an intuitive grasp of the essential forces in American life and how they should be united and mobilized.

These are the real sources of his political strength—and of the Republican Party's challenge. For it can be said on good authority that Johnson feels that his chief mission is to be a healer of differences, a uniter of conflicting human forces. He wants to achieve a national consensus of viewpoint and policy.

In a different way and at a different time, former President Eisenhower also produced a kind of national unity. But for all his notable accomplishments the late President Kennedy could not perform the same feat. By the time of his death, the South was in near revolt, the business community was hostile, and Congress was frustrating his legislative program.

#### THE RAIL ACCORD, FOR EXAMPLE

Johnson, on the other hand, has instinctively plunged in to bridge the major gaps. And this is nowhere better illustrated than in his handling of the marathon railroad dispute which had balked the efforts of two previous Presidents.

Insiders say Johnson never once threatened to hit the unions with harsh antistrike legislation if they didn't settle. And they insist that he never offered the railroads any kind of deals, or tax breaks. He simply hammered relentlessly on one theme—both sides must prove that collective bargaining and free enterprise can work and that differences can be submerged in the national interest.

In constantly preaching free enterprise and in demanding a crackdown in Government spending, Johnson feels that he has already virtually wiped out the former hostility of big business. And, as an extra dividend, he has nearly wrecked one of the campaign planks of the Republicans.

Friends insist that Johnson isn't just dancing to political tunes, even though it's an election year. As arguments they cite such actions as his closing of obsolete military bases, his emotional plugs for the unpopular foreign aid program and his championship of Government pay raises.

Even the economy bloc in Congress has been squawking about the base closings, which are throwing thousands of workers—and voters—out of work. But Johnson hasn't flinched. Only today Defense Secretary Robert McNamara warned the Nation that still more closings are in the works.

No President has ever won a vote by appealing for foreign aid. But Johnson went out of his way this week to make an impassioned appeal to several hundred newspaper editors and broadcasters to get behind the program. And this, incidentally, revealed the real essence of his operating technique.

Kennedy, in his pleas for foreign aid, always analyzed the pros and cons with cold statistics and finely structured logic. He sought to convince, rather than persuade. But Johnson seeks to persuade by mobilizing emotions—by stirring deep-rooted American instincts for what is right, what is humane, what is patriotic, and what is Christian. And no one in his presence—even Kennedy admirers—can doubt the effectiveness of his method.

#### THAT LOOK OF AN AFRICAN MOTHER

In explaining the Christian need to help aid other struggling nations, Johnson broke away from his prepared text to say that he recalled seeing a mother in an African hut, with a baby on her breast, one in her stomach, and one on her back and eight on the floor."

"I thought of my own mother and the trials that she had raising her family," he said on a rising wave of emotion. "As I looked into this African mother's eyes, I saw the same look in that mother's eyes that I saw in my own mother's eyes when she was determined that her children would have food, clothes, and education."

He called for a poverty program for the underprivileged people of the world as one of the most Christian acts a great, rich country can perform and as an act of necessity to preserve America's image and leadership and society.

This was not a standard argument for foreign aid. It was uniquely Johnson's; it dug down deeply into the basic urges of ordinary people.

## THE PARADOX OF THE SCHOOL DECISION

Mr. CURTIS. Mr. President, the decisions of the Supreme Court, referred to as the "prayer decisions," have aroused much discussion. Many questions have arisen by reason of the opinions of the Justices in those cases, including the question whether the two Houses of Congress may have chaplains; whether the armed services may have military chaplains; whether, following the reasoning of those opinions, the President may issue a proclamation of Thanksgiving; and the question concerning the constitutional right to an income tax deduction for contributions to a religious body.

This subject has been discussed in an article entitled "The Paradox of the School Decision," written by Elton Trueblood, and published in the magazine Presbyterian Life for May 1, 1964.

It seems to me that Mr. Trueblood's discussion of the subject points out some angles of which Congress and the people of the United States should take note. Therefore, I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Paradox of the School Decision

Many months ago I promised to give the baccalaureate address at a State college next summer. Now comes a letter with the disturbing news that the college is awaiting word from the attorney general of the State advising whether State institutions may continue to hold baccalaureate services. At this point it looks as though this will be one address I shall never give. The key sentence of the letter is, "Our administration feels that, with the recent Supreme Court decision outlawing the reading of the Bible in the public schools, our baccalaureate service will now no longer be possible."

This concrete experience may now be matched by similar ones on other fronts. For example, in one county of Ohio the superintendent of schools has ruled out the salute to the flag in any of the schools under his supervision because the salute includes the famous Lincoln words "under God"; and this he takes to be forbidden by the Supreme Court ruling of June 17, 1963. In other areas during the past Christmas season, misgivings were felt about singing carols or having a decorated tree. It is no wonder that this bizarre situation has led to numerous jokes. There have been a few communities in which people have gone on boldly, regardless of possible consequences to themselves, but for the most part there has been a mood of acquiescence or one of extreme caution. The hesitance of the State college authorities is one vivid example of such caution.

The decision of the Supreme Court of the United States which has given rise to such misgivings and searchings of heart must be sharply distinguished from that which refers to a school prayer prepared by the regent of the State of New York. Though the two decisions are so different that they have very little in common, they seem to be identified in the public mind. Many acquiesce in the second decision because they approve the first in which the issues were far less paradoxical. The New York decision caused relatively little perturbation because the writing of an official prayer was a reasonably clear break with the culture of our country and could be claimed, without distortion, as some kind of "establishment" which the first amendment specifically forbids. In the earlier decision the Court held that "it is no part of the business of Government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the Government."

The more recent, vastly more paradoxical, decision came as an answer to two legal problems, one arising in Abington Township outside of Philadelphia, the other in the city of Baltimore. The Abington problem arose because the law of the Commonwealth of Pennsylvania required that "at least 10 verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." The law adds: "Any shall be excused from such Bible reading or attending such Bible reading, upon the written request of his parent or guardian." It was claimed by Edward L. Schempp and his children that such reading was "contrary to the religious beliefs which they held."

The Baltimore problem arose because of a rule pursuant to article 77, paragraph 202 of the Annotated Code of Maryland, which provided for the "reading, without comment, of a chapter of the Holy Bible and/or the use of the Lord's Prayer." The petitioners, Mrs. Madalyn Murray and her son, William J. Murray III, both professed atheists, objected. The Court, by an 8-to-1 decision, Justice Stewart dissenting, ruled that the practices long followed in both Pennsylvania and Maryland are forbidden by the clear intent of the first amendment to the Constitution, which declares that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Though this is a ruling which affects deeply the whole of American life and represents a radical change in the cultural pattern in many parts of the Nation, the evidence available seems to show that most citizens do not yet recognize the serious nature of the change. The people, I believe, would be deeply aroused if they would consider carefully the logical consequences of the decision.

The vast importance of the Pennsylvania-Maryland school decision is primarily philosophical. Indeed, decisions bearing on such important matters as religion and civil rights are not merely matters of law, but go far beyond questions of legal analysis. We make a profound mistake if we think these matters are outside the competence of laymen in the law, for the ultimate decisions are made on the basis of commonly appreciated values. There is no legal blueprint to which we can appeal. Instead, we must engage in careful thinking.

What is disturbing is not the decision made so much as the reason given for the decision. The ultimate reason is a doctrine of neutrality. The words "neutral" and "neutrality" appear on various pages of the printed opinion. The final argument given is that, "in the relationship between men and religion, the State is firmly committed to a position of neutrality."

Since the concept of neutrality is made to bear so much weight in the reasons for the decision, we ought to examine it carefully. What does it mean to be neutral? The word, far from being unequivocal, is one of the most ambiguous in our language, and in some contexts has no meaning at all. Usually, it implies refusal to take a position, but it is common knowledge that this act is often self-defeating. In many human situations, failure to decide actually involves a particular decision. Failure to decide about marriage, for example, means that a decision has been made, at least temporarily, against marriage. No man can be neutral about justice, for refusal to witness may help the other side. Sometimes neutrality aims at moral fairness, as in a situation in which we are waiting for evidence; but, in other situations, it means moral paralysis. Often it means cowardice or indifference. A conception so ambiguous and so doubtful is a strange pivotal point for a practical philosophy of human conduct.

It is important to note that the majority stated the decision unconditionally. Therefore, it is expected that the neutral stand should be taken seriously. The Court admitted, of course, that "the application of the rule requires interpretation of a delicate sort," but no limitation is provided. This is why our people have justifiably been frightened and, on the whole, unwilling to make test cases with their attendant risks to personal careers.

As a citizen not employed by the public schools, I want to make clear that my interest in the decision arises from the statement of principle, rather than from any particular concern for the former practices in Pennsylvania and Maryland. It is the grounds of the decision which are so eminently debatable. It is quite possible that the schools ought not to read Bible verses and recite the Lord's Prayer. I can well believe that these activities may have become formal and empty in some areas. But that is not the point. The point at issue is a doctrine, the doctrine of neutrality. Whatever the Court may have intended, this doctrine, if taken seriously, creates a new establishment, a secular establishment. Instead of taking a neutral stand as between various religions, the Court rules, in the Baltimore problem, in favor of an atheist claim.

If, as a matter of fact, the professors and students of a tax-supported college can no longer have a baccalaureate service, with volunteer attendance on the part of the graduating seniors, we are experiencing a flagrant disregard of human rights. Perhaps the strangest thing about the decision is the fact that the majority were so much more exercised about "establishment" than they were about "free exercise." If the vast majority of parents of Baltimore are denied the right to pursue a practice which they prize, why is this not a prohibition of free-exercise?

What we face, and what many citizens have failed to recognize, is actually the tyranny of a minority. We have been concerned, and rightly so, with the protection of minorities, especially when they are unpopular. But justice is not done if we allow such minorities to deny freedom to the bulk of the citizens. In protecting the few, we must also protect the many.

I am well aware that the decision handed down on June 17, 1963, was one of great difficulty. There is no simple answer. I am as opposed as anyone could be to any religious establishment, but I doubt seriously if that is the clear and present danger on our contemporary scene. The danger is a far more subtle one and is likely to come with the appearance of high principle, particularly the principle of protecting a minority. If the Government prohibits Bible reading on the grounds that it must be neutral, then it follows that those who are opposed to Bible reading have won. Since we either have it or do not have it, neutrality is, in practice, fictitious.

It is not intellectually honest to affirm a position unless we are also willing to accept what that position entails. Let us see what absolute or unqualified neutrality must involve.

1. It must forbid governmental recognition of Christmas. Christmas is a religious and not merely a secular holiday. Though it is totally unlike Independence Day or Labor Day, it is a holiday as far as the Government is concerned, for Government offices are closed, whatever the day of the week may be. Christmas celebrations are held south of the White House on Government property. Why, in view of what the Court has ruled, is this not unconstitutional?

2. It must forbid Thanksgiving. Thanksgiving Day has been proclaimed each year by the President in office since the first proclamation by Abraham Lincoln in 1863. Because it is consciously religious, the action of our Chief Executive is by no means neutral. Why may not atheists object, and why may they not succeed in stopping the practice of a century? In this, as in school cases, it is possible for one to put a million to flight. President Kennedy made his Thanksgiving Proclamation for 1963 shortly before he was murdered and after the Supreme Court dictum announcing unqualified neutrality, the position to which they are "firmly committed." Was the late President in error?

3. It must forbid opening legislature with prayer. I have just received a beautiful volume of Assembly Prayers from the California Legislature. Will they feel free to publish any later volumes? Not if they take the ruling seriously, for prayer is never neutral. It is true the opinion mentions that "each House of the Congress provides through its Chaplain an opening prayer," but, unfortunately, this practice is not defended and is, in fact, undermined by the final paragraph of the opinion.

4. It must forbid the Governmental appointment of military chaplains. Like many others citizens, I have been happy to be part of a country which could provide the men and women of our Armed Forces with the

excellent help centered in the post chapels. I appreciate this work the more because I have participated in it at first hand, both in this country and in Europe. But to use tax money to provide post chapels is not neutral; it is taking sides. It is providing something which the militant atheist abhors. The majority opinion includes a footnote about the problem, but does not take a stand either way. "We are not," they say, "presented with and therefore do not pass upon a situation such as military service." What will the Court do when it is presented with this ticklish situation? It cannot be avoided neatly by reference to the fact that men are inducted against their will, and forcibly removed from their homes. If the Government can't take sides in Washington, then it can't in Greenland, either.

The implications of unconditional neutrality are so numerous that it is hard to know where to begin or where to stop, for our life is deeply influenced by our spiritual heritage, as the Justices themselves admit. What shall we say of oaths of office, of the salute to the flag, of income-tax deduction for contributions to religious societies, of recognition of conscientious objection to war on the basis of religious conviction, of inscriptions on coins, of legal marriages in the church, etc.? The list can be completed by any thoughtful reader. How can anyone doubt the truth to which Justice Stewart points when he says, "We err in the first place if we do not recognize, as a matter of history and as a matter of the free imperatives of our free society, that religion and Government must necessarily interact in countless ways"? If that is true, neutrality is impossible.

Perhaps neutrality is what we as a people want, but we had better make up our minds. Are we conscious of the paradox of filling the air with requests for prayer, after the death of the President, when the state is neither for nor against the love of God? Do we recognize the logical absurdity of doing in practice what we deny in theory?

It is true that the Justices who gave us the majority opinion, based on the principle of neutrality, say good things about religion. They are, in fact, in favor of religion, but they are in favor of religion in its place. They are glad for the people to be religious in churches and in homes. They speak of "a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind." In short, they propose a form of segregation, something really novel as far as American civilization is concerned. But no vital faith has ever been willing to settle for such segregation. The purpose of any faith which understands itself is to penetrate all of life. To retire to a position of emphasis on 1 day a week or one kind of structure would be to accept defeat, even though the defeat might be disguised by complimentary phrases. All real religion expresses itself in common life. It is not something separate from the way we govern and the way we earn, and it is certainly not separate from the way we learn.

In any serious effort to make valid decisions in regard to human actions, there are many principles, not merely one. Every decision is complex, and that concerning religion and the state is fantastically so. Any one principle, taken alone, leads to error, because it necessarily fails to recognize equally important considerations. The separation of church and state is important, but it is not the only conception that is important. The danger now is the substitution of a doctrine for a sense of history and for a sense of values.

## CHANGE OF HEART BY PROPONENTS OF CIVIL RIGHTS BILL

**Mr. ELLENDER.** Mr. President, I am glad to observe that apparently there has been a change of heart by the President, as well as by the majority whip [Mr. Humphrey], who is in charge of the bill in the Senate, in respect to amendments to the misnamed "civil rights" bill.

We from the South have been blamed for delaying the passage of this pernicious bill by an overabundance of speeches. We have been accused of filibustering. We have not reached that stage as of now. Our speeches have been pertinent and directed at the bill in the hope of educating Senators and others of the implications involved should the bill be enacted. I have no doubt—judging from the change of heart of many of the most ardent supporters of the bill, including, I repeat, the President and the majority whip [Mr. Humphrey]—that they are learning something from the debates which have been going on for the past 8 weeks.

I do hope we shall have further opportunity to carry on our program of education, to the end of exposing the evil effects the bill will have on our American way of life, if enacted.

The bill has not been considered by a standing committee of either legislative body of the Congress and I feel that it is up to us from the South, who oppose the bill, to inform the American people of the bad effects the bill would have if—although such a development would be a tragedy for the Nation—the bill were to be enacted into law.

I am disappointed to note that many ministers and churchmen are more or less blindly advocating the passage of the bill, on supposedly moral grounds. They do not seem to take into consideration the adverse impact that the measure will have on our Constitution. They overlook the fact that in their zeal to assist a small segment of our society they are willing to curtail and take away the liberty of most of our people. The clergy should stick to their own knitting. If they are sincerely concerned with this issue, they should use their influence to bring about a better understanding between the whites and the Negroes.

This cannot be done by the use of the strong arm of the Federal Government. I predict that the passage of the bill will bring on more strife than now prevails in our country. It will widen the gulf of misunderstanding that now exists and further blunt the good relations that have existed in the South between the whites and Negroes over the years.

## COLUMNIST CALLS SOCIAL SECURITY BEST HOSPITAL INSURANCE METHOD

**Mr. HARTKE.** Mr. President, recently I noted in my hometown paper, the Evansville Courier, a column of comment by Andrew Tully, of the Scripps-Howard organization. Mr. Tully discussed there the fact that, in his words:

> Something must be done for those aged who can't pay for medical and hospital care.

He noted correctly that the question is not one of help for the elderly, but of how best to give that help for a tenth of our people, about 18 million persons, who are now over 65. Half of the aged couples in this group have total incomes of less than $2,600 per year; yet they face the high probability of hospitalization at costs 65 percent greater than those in 1948.

As one who believes, with Mr. Tully, that the fairest method of providing hospital insurance for the elderly is through the social security system, and as a cosponsor of the King-Anderson bill, S. 880, I believe his comments deserve attention. Therefore, Mr. President, I ask unanimous consent for publication in the Congressional Record of the column to which I have referred.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Medicare Termed Only Fair Method

(By Andrew Tully)

Washington.—I will go along with those opponents of Government-sponsored hospital insurance for the aged who worry about the tendency of Big Brother in Washington to intrude in areas they believe are best handled by the individual citizen. This is the kind of thing a citizen should worry about every day, lest he wake up some morning and find he's suddenly become just a number.

But in the matter of medicare such thinking happens to be wrong. Leaving the problem up to the individual just won't solve it. The individual concerned—the man or woman over 65—doesn't have the money to solve it.

By now it should be clear even to the more fatheaded spokesmen for the American Medical Association that something has to be done for those aged who can't pay for medical and hospital care. We can't just ignore them and hope they'll go away; already nearly 10 percent of all Americans—about 18 million persons—are over 65.

In one way or another, the more prosperous Americans are going to continue to help older and poorer people to pay their medical bills. The question now is how this can be done efficiently and fairly—and with consideration for the dignity of the citizen.

It is not in the progressive tradition of the country to do it through welfare or assistance payment. Such a dole requires use of a means test by which an oldster is made to prove he's destitute. It also discriminates against those who have the money to pay their own way but who by so doing will exhaust their life savings and become a drain on their children. The man who has saved a small nest egg should not be forced to dissipate it by taking on an expense the law of economics says he shouldn't.

Clearly, the answer is a contributory plan linked with the social security system such as is proposed in the King-Anderson bill now before Congress. The program would be financed through contributions by both employee and employer to the social security fund. The citizen therefore is enabled to pay for protection at a time when he can best afford it—while he is working—and benefits are paid on the same basis in every case.

Those who say such a plan is not needed just aren't facing the facts. Cold statistics show that 1 out of every 6 persons over 65 is hospitalized every year, that 9 out of 10 are hospitalized at least once after age 65, that the cost of medical care has risen 65 percent since 1948, that half of aged couples have total incomes of less than $2,600 a year.

Unfortunately, nonprofit hospitalization plans and commercial insurance programs haven't been able to meet this problem. Only half of the aged have some form of health insurance, but because of their low incomes they can't afford the plans that provide adequate benefits. The rest, presumably, are expected to creep off somewhere and die quietly.

Big Brother or no, the social security plan is the most authentically American way of handling the problem. It would help prevent poverty, instead of trying to deal with it after it occurs. And because the citizen would contribute to his protection, he would be entitled to benefits. This spells something rather wonderful, called democracy.

The PRESIDING OFFICER (Mr. Moss in the chair). Is there further morning business?

If not, morning business is closed.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 181 Leg.]

Aiken
Allott
Anderson
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Ellender
Fong
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McGovern
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Stennis
Symington
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. CHURCH obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Idaho yield to me, without impairing any of his rights to the floor?

Mr. CHURCH. I am glad to yield, with the customary safeguards.

## THE KENNEDY LIBRARY AND INSTITUTE

Mr. MANSFIELD. There is currently in progress a nationwide fund-raising campaign to help build a library and institute on the banks of the Charles River in Boston as a memorial to the late President John F. Kennedy.

The members of the Kennedy family have chosen this as their memorial because of the fact that the late President, himself, chose the site for this library and participated in its initial planning.

The library will contain in addition to a memorial to President Kennedy, a museum, an archive, and an institute. It's purpose will be not only to keep the memory of our late leader alive but also to enlist young people in the principles of democracy and the practices of public service.

During the period of May 15 to June 15, volunteers have organized a program in which all employees of the Federal Government will have an opportunity to contribute to the library if they so desire. The family of the late President and the trustees of the library are anxious that this program be totally voluntary in every aspect. I am sure that they are correct in believing that large numbers of citizens in the Federal establishment will want to be a part of this memorial effort. President Johnson, as honorary chairman of the library, has indicated his interest and support of the library. I know that the Congress is also anxious to see this library become a reality. Many of us will contribute as individuals and hope that thousands of our countrymen will join with us.

## LET'S HAVE A SECOND LOOK

Mr. MANSFIELD. Mr. President, I have received from an old and dear friend of mine, Father Robert J. McCarthy, of Carroll College, Helena, Mont., an editorial written by Charles McIntire of Butte, Mont., for the Prospector, a newspaper published by and for the students of Carroll College, at Helena, Mont.

I believe the editorial, entitled "Let's Have a Second Look," is worth the consideration of the Members of the Senate.

I ask unanimous consent that the editorial, sent to me by Father Bob McCarthy, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### LET'S HAVE A SECOND LOOK

(By Charles McIntire)

With the approach of graduation, some of the members of the class of 1964 will be faced with the perennial problem of graduates who are planning their advanced study career. Many of these seniors who are not fortunate enough to receive a graduate award, or whose financial situation is presently inadequate to enable them to continue their studies next fall without having to interrupt their education to work, will undoubtedly be confronted with the draft law. There is no formal provision as such in the draft law to protect those students who find it necessary to work until they can earn enough money to return to school, although in some areas it is possible for those pursuing a teaching career to be granted a temporary dispensation from the draft obligation to teach for a short time. The rest must take their chances.

The Government exempts married men from their military obligation, except in the case of a national emergency, but offers no substantial protection for students who are not presently in school. In this modern age there appears to be much protest raised against early marriage while these same protestants cry out for more college and advanced education for today's youth. In the days when wars were won primarily through the strength of armed forces, the phrase "provide for the common defense" implied the obligation to serve your country by taking an active part in the actual warfare. But today that situation has changed. Education has become the key to military superiority with the birth of modern nuclear technology. Maybe now is the time to take a second look at where the emphasis on national defense should be placed. The increasing role that education plays in national security cannot be overexaggerated. There is a growing need for men of a high educational caliber to compete in the modern warfare of justification and misconception of ideas and principles. The first step in any approach to peace is a basic understanding among the American citizenry of the threat to our freedom as a democratic nation and the challenge it entails.

This fundamental knowledge of the challenge to our national security can best be gained by the fullest possible encouragement of higher education which may require a special educational exemption provision for college and graduate students. Although it is not yet practical to advocate a complete abolition of the draft law and the military obligation (since modern military strategy is in a period of transition), a proposal may be in order to add a "working clause" as an amendment to the present draft law to enable those students to work long enough to make the necessary money to continue their higher education. Or it might be proposed that once a student has earned his college degree, he, like the married man, be exempt from the military obligation. This would encourage the student to continue on to pursue his degree rather than, as many do, resort to the marriage clause if they feel that they must at all costs avoid the draft.

There is of course the possibility that this special provision might be misused by ill-intentioned students, but this is the chance we must take if we are to meet the challenge of education. It is worth taking this chance since it can only lead to a more educated, more informed nation as a whole.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from Idaho [Mr. CHURCH] for yielding.

Mr. CHURCH. Mr. President, I yield now to the distinguished Senator from Missouri [Mr. SYMINGTON], under the same conditions.

## THE OBLIGATIONS OF LAW IN A TIME OF MORTAL REVOLUTION

Mr. SYMINGTON. Mr. President, it is universally recognized that the Honorable William H. Becker, United States District Judge for the western district of Missouri, has one of our finest legal minds.

Judge Becker's knowledge and understanding extend far beyond the courtroom, however, as evidenced by an extraordinary and farsighted address he made last Friday on Law Day at his alma mater, the University of Missouri, entitled "The Obligation of Law in a Time of Mortal Revolution."

In this talk Judge Becker states:

On the domestic front, I have no doubt that we have the will, the capacity and the spirit to solve our problems, if we are given the time to do so. We will solve the acute social, racial, financial, labor, criminal, and judicial problems by hard work, education, deliberation, and the inventive genius possessed by the best educated people of all time, if we can manage to survive.

This is the great overriding question. Can we manage to survive?

Survival can come only by establishing a system of world law sufficient to prevent major international violence. There is no other practical alternative to a system of law.

No longer does anyone contend that the United States can control and police the world alone. The loss of our atomic monopoly ended that unworthy dream of a Pax Americana administered by a command of an all powerful United States. Only a deluded few now contend that the 19th century notion of balance-of-power politics can provide the answer.

Power politics has always ultimately failed to prevent war. We cannot rely on this discredited system.

Mutual terror provides no security. It is bound to fail to deter. Meanwhile, a life of terror is not worth living.

The leaders in the field of law and government must secure international acceptance of the rule of law, the only effective substitute for the arbitrament of violence. Law is the only hope of continued existence. The legal scientist, and none other, have the skills necessary to the realization of this hope. But they will need the help of the leaders in every other field of endeavor, and of all other men and women of good will.

After some quarter of a century of direct and indirect involvement with the policies and programs designed to maintain the security and freedom of the United States, I believe no truer words about the future of this country in the world of today have ever been expressed.

The Senate will be interested in this penetrating analysis of our current position. Therefore, I ask unanimous consent that this address by Judge Becker may be printed at this point in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

### The Obligations of Law in a Time of Mortal Revolution

Tonight I wish to discuss with you briefly, the obligations of law in the unprecedented mortally dangerous period of revolutions in which we live.

For the living generations of today are confronted with revolutionary challenges of a magnitude and deadliness, not known or imagined in the past. The power to destroy all life in the short span of a few hours has been created, placed in launching position, and irrevocably aimed at the centers of human life, by two competing systems, ours and that of the Russian Communist. Other national and regional powers have the determination and power to add similar lethal systems to those already deliberately directed at the heart of mankind, and incidentally directed at extinction of all forms of life.

Because of the swiftness with which these weapons will accomplish the destruction of all living things in the continent toward which they are preaimed, all traditional processes of communication, consultation, negotiation, and reason to avoid war have been deliberately abandoned by the governments possessing the weapons. The power to launch these weapons has been committed, not to the people, whose lives are at stake, but to two small groups of civilian and military officers. Life on this planet may end any day, not only as a result of a premeditated adventure of a few men, but by an irrational act of madness, by unwanted escalation of minor hostilities, or by simple mistake.

These are uncomfortable thoughts, which we would like to avoid by pretending the facts are otherwise. But the realities are too much with us, to permit the mental escapism of this pretense. As long as we live, none of us should ever forget the grisly days of beautiful weather in this bountiful land, when we bravely, but helplessly awaited the very real prospect of immediate destruction by nuclear holocaust, as our Navy sped to intercept the Russian ships carrying deadly missiles to hostile Cuba. At the last minute, not morals, not ethics, not reason, not good will, not international law, not the United Nations, but mutual terror at the moment of confrontation stayed the destruction of life on this earth.

But the missiles still exist, and are growing in size, range, and numbers. Too soon other governments will add their deadly threats to the world. In these circumstances are found the unprecedented revolution of the powers of destruction with which we are faced. Is it any wonder that serious men and women of good will are asking: Is modern man obsolete? Will he become extinct as did the giant reptiles of the past, whose brains and bodies were unable to cope with a new environment?

This terrible prospect of imminent death is not by any means the only revolutionary danger in which we are involved.

On the world scene the spectacular and sudden decline of colonialism, has resulted in an inordinate growth of nationalism in the former colonies with explosive racial overtones. The preponderant billions of nonwhite people, are claiming the rights of man and are establishing nations and governments, whether ready or unready. In their state of retarded civilization, many of them seem to insist on making again all the mistakes of nations in the past. By their very numbers their votes in the General Assembly have become decisive, creating unanticipated problems for those of us who created the United Nations.

As if these almost insoluble international problems of revolutionary stature were not enough, as we face them, we find our domestic civilization threatened by new revolutionary forces. Shortly after we emerged triumphant from two world wars and temporarily averted cataclysmic nuclear disaster, we had at hand for the first time the means to master, in the United States, the old enemies of mankind, hunger, disease, and want of shelter and clothing. Our technological advances had been so stimulated by the needs of warfare that we developed the capacity to give to every person in our Nation the necessities of life and some luxuries, and also to give substantially of these things to other nations. As a byproduct of establishing a missile deterrence we brought the moon (and from our limited viewpoint) much of space within reach.

These sudden achievements came at a high price. Other unique revolutionary upheavals accompanied them.

The technological revolution destroyed the traditional rural way of life. The villages, small towns and family farms which had served as a source of human talent for the industrial age and as strongholds of independent thought and action, have become depopulated as the urbanization of the Nation progressed. The concentration of people in metropolitan areas has resulted in new strains on old institutions.

The conquest of disease and hunger has accelerated the birth and survival rates until we now must deal with a population explosion. The technological advances in the field of automation and in other fields is reducing the number of jobs as the population grows.

A persistent upward spiral of wages and prices reduces real wages, produces strains on collective bargaining and has set off an ominous speculative fever.

Mass production and distribution techniques and electronic transmission of news has produced a situation in which it is almost impossible to secure a fair trial in spectacular cases.

Mass distribution of goods, mass air travel, and the gigantic size of corporate enterprise has resulted in mass multiple litigation in products liability cases, air disaster cases, and antitrust cases, threatening to engulf and paralyze the courts.

New concepts of Federal justice add to the load of the Federal courts in the field of school integration, civil rights of minorities, and in unending review of criminal convictions.

At the same time the number of trial lawyers—so necessary in our adversary system, coming to the bar is alarmingly small. Judicial processes adequate in less demanding times are inadequate for today's task. The existence of our courts is threatened. The movement to transfer judicial functions to administrative agencies continues, sacrificing the quality of justice for the speed and economy claimed for the administrative process, and not always existing.

These are some of the challenges of this revolutionary age. Our civilization, our lives, our fortunes, our freedoms depend on the quality of our responses. And I believe that today, as always in the past, the law must provide the leadership in the response. The law must evolve new techniques, new systems, and new controls which will prevent nuclear destruction. The law must create new instruments of international justice, without destroying the individual freedoms essential to the expression of the higher spirit of man, and without which life would not be worth living.

To say that the law must provide the leadership does not mean that the bar alone should or could do so. The creators, the improvers, and the guardians of law include the legal scholars, law teachers, the bar, the bench, legislators, executive officers, political scientists, and knowledgeable laymen interested in the rule of law.

What are the prospects of adequate responses to these challenges of wholesale revolution?

On the domestic front, I have no doubt that we have the will, the capacity and the spirit to solve our problems, if we are given the time to do so. We will solve the acute social, racial, financial, labor, criminal, and judicial problems by hard work, education, deliberation, and the inventive genius possessed by the best educated people of all time—if we can manage to survive.

This is the great overriding question. Can we manage to survive?

Survival can come only by establishing a system of world law sufficient to prevent major international violence. There is no other practical alternative to a system of law.

No longer does anyone contend that the United States can control and police the world alone. The loss of our atomic monopoly ended that unworthy dream of a Pax Americana administered by command of an all-powerful United States. Only a deluded few now contend that the 19th century notion of balance-of-power politics can provide the answer. Power politics has always ultimately failed to prevent war. We cannot rely on this discredited system.

Mutual terror provides no security. It is bound to fail to deter. Meanwhile, a life of terror is not worth living.

The leaders in the field of law and government must secure international acceptance of the rule of law, the only effective substitute for the arbitrament of violence. Law is the only hope of continued existence. The legal scientists, and none other, have the skills necessary to the realization of this hope. But they will need the help of the leaders in every other field of endeavor, and of all other men and women of good will.

Every imaginable route to a legal system adequate for the occasion, must be explored. Perfection of the United Nations organization is a possibility. We should continue to work at this. But the ultimate solution of this problem may come in a way not yet foreseen.

The basic force may be provided by ethical, educational or religious groups, by a world political movement, by a spontaneous peoples' movement, or by a combination of all of them. But, however, a tolerable system comes, the legal scientist must provide the leadership and devise and apply the proven and improved techniques of law and justice to the international field.

Just as law has provided a moral equivalent to violence for the settlement of domestic disputes, law must provide a moral equivalent to nuclear war.

The people of the world hunger for peace. But we must realize that peace is more than the absence of hostilities. Peace is the presence of substantial justice and freedom, with the practical means to control the imminently dangerous instrumentalities and to control the outlaw. There can be no justice without law. Therefore, there can be no peace and no security without law.

Here in the heart of America and in every civilized section of this shrinking and fear ridden world the men of the law and their auxiliaries must respond to this terrible challenge—or all is lost. This subject is not too large for the students, scholars, and lawyers of Missouri, or of any other State or nation.

I believe that man is not obsolete. I believe that the powers of the mind and the higher spirit of man are greater than the powers of ignorance and hostility in man; that man shall indeed endure; that the living generations of today will write the brightest page of human history under the leadership of the law; that these generations will make an adequate response to the most terrible challenge of nuclear destruction; that mankind shall, with resolution, wisdom, and bravery, nobly save what President Lincoln, 100 years ago, called this the last best hope of earth.

I believe that in time mankind will achieve the vision of peace described by Tennyson long ago in these words:

> "Far along the worldwide whisper of the southwind rushing warm
> With the standards of the peoples plunging through the thunderstorm
> Till the war drum throbbed no longer, and the battleflags were furled
> In the parliament of man, the federation of the world.
> There the common sense of most shall hold a fretful realm in awe
> And the kindly earth shall slumber, lapt in universal law."

Mr. SYMINGTON. Mr. President, I thank my able and distinguished friend, the senior Senator from Idaho [Mr. CHURCH], for yielding to me at this time.

Mr. CHURCH. I have listened with great interest to the Senator's statement. I commend him for it. I desire to be associated with it. It is an excellent statement, based on reality, concerning the need to create and extend the institution of law in the world at large, if we are ever to substitute for the rule of force the rule of reason.

Mr. SYMINGTON. I thank my friend, the Senator from Idaho, for those remarks. He is a member of the Foreign Relations Committee of the Senate, an outstanding lawyer, and one of the wisest Members in this field in the Senate. I know that Judge Becker would greatly appreciate, as I do, the remarks which the Senator has made.

Mr. CHURCH. I thank the Senator.

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## THE WAR ON POVERTY AND THE RACE TO THE MOON

Mr. SCOTT. Mr. President, will the distinguished Senator from Idaho yield to me, with the understanding that he will not lose the floor?

The PRESIDING OFFICER (Mr. INOUYE in the chair). Does the Senator from Idaho yield to the Senator from Pennsylvania?

Mr. CHURCH. I am glad to yield to the Senator from Pennsylvania, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I rise for the purpose of discussing two topics. First of all, I have just read the new and recent speech on foreign and military policy entitled "The Cold War in American Life," made by the distinguished Senator from Arkansas [Mr. FULBRIGHT] at the University of North Carolina on April 5. I find in it much that is interesting and provocative, and a good deal that is persuasive, in this excellently prepared document.

Among other things, the Senator from Arkansas makes the point that the preoccupation—almost a fixation—in which the American people seem to be entangled, with regard to the dangers of the cold war, is reflected in the willingness of the Senate and the House of Representatives to approve military budgets in a few minutes or within a few hours, without any real, careful examination, and with practically no debate.

The Senator points out, too, that although we are readily appropriating billions of dollars—perhaps, eventually we may appropriate $40 billion for the race to the moon—there is a great deal more that might be done on behalf of the human race with the same amount of money or even with a substantial part of it, which could be released by taking the "crash" out of the "crash program."

I have felt from the beginning that the crash program of the race to the moon, without knowing whether the Russians are actually trying to get there first or not, has turned the attention of the American people away from the many areas where more should be done for the betterment of the United States.

The poverty program of the President is, in many ways, perhaps, a "magpie's nest" of a great many old programs, and a few new ones; but if I criticize the poverty program, it is not on the basis that it goes too far, not on the basis that it is overly conservative in an attempt to revive problems of 30 years ago and to put new labels on them, but because it does not go far enough. It does not go far enough to do something reasonably effective about raising the standard of living of the American people, to do something to really remove urban blight and really relieve rural misery, to do something to stop the dreadful distortion of the face of our cities, such as the horrible crackerboxes which are being built in Washington by a Government and a people who seem to be so diverted by their cold-war fears that they do not seem to care any more about how their cities look, or how miserable or unfortunate so many of their people may be.

Mr. President, I am not arguing that we should scrap our defenses, or that the building of more attractive buildings or the preservation of our ancient heritage and the beauties of what used to be America are more important than the defense of the national security. Far from it. I am not arguing that we should all go back to the 18th century in our thinking or in our living. It was an easier time, it was a more handsome time, and it was a more leisurely time. However, all those experiences are behind us, for good or ill.

What I am saying is that when Senators debate, as they sometimes do for days, an issue involving perhaps $5 or $10 million then, in an hour or so, whip through measures involving $40 billion, when uncritically we join in a madman's race to reach another planet, irrespective of the cost and regardless of the goals, or their relationship to the other goals of American life, I am arguing—and supporting what the Senator from Arkansas said—that we are somehow failing in our sense of proportion, in not turning more of our attention to those values which should be among the present aspects of America's pride; that is, to examine more carefully every angle of the defense appropriations that come before us for consideration, to find out whether every one is justified, or whether some of the things we are doing can give way, in part, to some other things we ought to be doing.

Are we buying too much defense in some respects and yet using too little of the strength we bought in other areas?

For example, I should like to see America doing something in Vietnam which would send its most up-to-date planes out there. I should like to know, for example, why our pilots die in B–26's, an antiquated fighter aircraft, when handsome planes of the latest model and design are being exhibited at air shows, and still our pilots die in Vietnam; yet our prospects are painted as those of a nation which cannot be overtaken because it possesses the most modern equipment and facilities of every kind.

In that area, I should like to have a closer examination made of the defense budget, of the Department of Defense, and of the views of the Secretary of Defense; because we wonder why the Pentagon is ruling out sending its best and most modern equipment to South Vietnam.

I would also wonder, on the other side of the shield, why it is that we are wasting so much money in areas where we have some sacred cows.

However, my general point, though I may be speaking somewhat diffusively, is that we should examine our space effort, as the Senator from Arkansas has said. Let us examine our military effort, to determine whether or not we are really required to spend all this money, and to ascertain whether or not we are wise in proceeding with so much speed and so little reflection along ways that are justified overall as to securing our defenses, but may not be justified in detail. While, as the Bible enjoins us, "to follow after the ways that lead to peace." Are we intelligently, or with any consistency, pursuing ways that may lie open to us in easing the enormous and devastating burden of armaments from which we suffer and from which our adversaries suffer also? Are there imaginative ways to ease unconscionable burdens without, of course, resort to appeasement?

Is new thinking worth trying? Is anybody trying it?

I would rather see less money spent for the moon and more money to find what we can do, for example, about cancer, rheumatoid arthritis, cystic fibrosis, muscular dystrophy, the isolation of viruses, the very sources of life itself. We should search for the cause and cure of diseases, the means of extension of life, the avoidance of plagues, as we have examined into the cause of tuberculosis, and as we have eradicated so many deadly killers in our lives.

Mr. President, I rose without preparation and without advance intention to do so, to agree with the Senator from Arkansas, with whom I at times disagree. We are impelled by a common desire for a stronger and better, and at the same time more beautiful, America. I wonder whether we can again focus the eyes of America onto certain fundamentals other than the mere struggle to exist securely, while dominated by fear, and by the overhanging pall which makes us give so much attention to the threat of our extinction.

Perhaps we can have all the security we want by paying more attention to the details of the defense budget, and by savings which will not impair security. Perhaps we can have more pride in America and in a better America by spending fewer billions of dollars for the moon and more for humanity. Shakespeare has a phrase for it, as he always does. As I remember, he said, "How sad sweet music is when time is broke, and no proportion kept." I am wondering if we may not have lost the rhythm of American life, whether we are not losing our sense of destiny and our realization that there is more to forward movement than the speed of the fastest plane or the power of the greatest explosion.

Only time will tell, but we ought to be helping time along, and we ought to be helping our country along. I am willing to start thinking some troublesome thoughts, however much it may disconcert me. We reflect often, how good it would be to live as once we did. The Greek poet Menander said, "We live not as we would, but as we must."

I have come to the realization that that is not good enough. It is not enough to live as we must, but we must try to live in the sort of world wherein our thinking and rethinking will perhaps make it a better place for those now here and those to come in the long generations of the future. A better place, if rethinking leads us to live more wisely with our problems. In my judgment we will not eradicate man's inhumanity to man, we will not annihilate fear nor come to live in utter trust, the lion and the lamb together, but we will somehow survive.

If we keep our thinking right we shall be the better for it.

I thank the Senator from Idaho.

I now ask the Senator to yield to me briefly on the matter for which I rose originally. I would appreciate it very much if the Senator would yield me about 2 minutes.

Mr. CHURCH. I am glad to yield to the Senator from Pennsylvania.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

### SECTION 1101—STATE LAW AND FEDERAL CIVIL RIGHTS LEGISLATION

Mr. SCOTT. Mr. President, section 1102 is in the bill because of the efforts of a number of Members of the House Representatives, led by Representative MATHIAS, of Maryland, who proposed the substitute, providing:

> Nothing contained in any title of this act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of any act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this act, or any provision thereof.

This salutary amendment was adopted, and then the amendment of the gentleman from Michigan, Mr. MEADER, was amended accordingly. This was approved by the Republican managers of the bill, and proposed by one of them, and concurred in by the Democratic leadership.

In my judgment it has improved the bill, in that it would lessen the fears of those who felt that the rights of the States had been overlooked in the consideration of the very necessary obligation of the Federal Government to enact a bill which would provide equal justice under law, and to establish a certain function for the Federal Government. Protection of the States is in the bill. It is important. I am glad it is there. I hope it will remain in the bill.

Again I thank the Senator from Idaho for his indulgence. I hope he will forgive me for taking more than I had indicated I would take.

Mr. CHURCH. I am glad to have yielded to the Senator from Pennsylvania.

Mr. President, I depart from the loquacious custom of the Senate, and abide by the germaneness rule to discuss the pending Dirksen-Mansfield jury trial amendment.

In the debate over the various jury trial amendments, two facts about our legal system emerge quite clearly: first, there is not, under the precedents, a right to a trial by jury in proceedings for contempt of the injunction or restraining order of a Federal court. Second, the use of injunctions, together with judge-imposed penalties for their violation, has increased to the point where some statutory limitation is needed, to avoid the widespread imposition of severe punishments without a jury trial.

Behind these facts lies a clash between two fundamental propositions of sound public policy: the right of a court to enforce its orders by punishing for contempt, and the right of those accused of a serious offense, bearing heavy penalties, to have their guilt or innocence determined by a jury of their peers. Somehow, these two important propositions must be reconciled, so that judges will have reasonable power to uphold and enforce court orders, while defendants shall be protected against excessive punishment without the benefit of a jury trial.

Before discussing a statutory formula for effecting this reconciliation, I think we would do well to consider the merits of each contending interest, in the light of legal history and modern practice. Only then will we be able to judge the rightness of the statutory balance we are attempting to forge.

There can be no doubt that neither the Constitution, nor the time-honored traditions of the law, require trial by jury in cases of criminal contempt. Obviously, the Constitution is not entirely explicit, else all debate would be muted, but we can draw an interpretive inference from the legal practices of colonial times. In nearly all of the Thirteen Original Colonies, courts could punish contempt of their decrees without a jury. In the Judiciary Act of 1789, the first Congress gave Federal courts the power:

> To punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same.

In 1831, Congress enacted a statute, which is today section 401 of the 18th volume of the United States Code which gives courts the power to:

> Punish by fine or imprisonment, at its discretion, such contempt of its authority and none other, as * * * disobedience or resistance to its lawful writ, process, order, rule, decree or command.

In the latest important case on the subject, United States against Barnett, the Supreme Court could still say:

> The statements of this Court in a long and unbroken line of decisions involving contempts ranging from misbehavior in court to disobedience of court orders establish beyond peradventure that criminal contempts are not subject to jury trial as a matter of constitutional right. (*Green* v. *U.S.*, 356 U.S. 165 (1958).)

Nor can it be said that the Constitution, by construction, or the State and Federal courts, by precedent, have limited the power of a judge to convict for contempt, without a jury, to those cases where the offense is trivial or the punishment relatively light. This debate has revealed that no Federal case has so held, although there are many to the contrary. This is also true in most of the States, including the Southern States, which have left this power with the judges in their own courts. Some States, however, have adopted the course that I shall later discuss.

It seems clear, then, that if trial by jury is to be furnished to a person accused of criminal contempt, it will not be because he is being accorded an established constitutional right, or even a customary right, because Congress has decided to extend this right to him by statute.

The need for trial by jury in criminal contempt actions is becoming more pronounced. Up until 1957, only two Federal cases had resulted in punishment for criminal contempt in excess of 6 months. Since then, both in Federal and State courts, and particularly in labor relations, the injunction continues to be expanded as a weapon of the court, and questionable use of it has occurred. Since 1957, at least six cases have been upheld by the Supreme Court involving judge-imposed penalties in excess of 6 months. *Nilva* v. *U.S.*, 352 U.S. 385—1 year and 1 day; *Yates* v. *U.S.*, 355 U.S. 66—1 year; *Green* v. *U.S.*, 356 U.S. 165—3 years; *Brown* v. *U.S.*, 359 U.S. 41—15 months; *Levine* v. *U.S.*, 362 U.S. 507—1 year; *Piemonte* v. *U.S.*, 367 U.S. 556—18 months.

In State courts and in industrial relations cases, the use of injunctions, violation of which constitutes criminal contempt, is also increasing.

The distinguished senior Senator from North Carolina [Mr. ERVIN] told us last week of one case he had uncovered in which the penalty was 4 years, and another in which it was 3. Obviously, such sentences compare with those given for felonies and other serious crimes, where the defendant may claim the right to a jury trial.

As we have seen, it is well established that when the Constitution states that, "In all criminal prosecutions the accused shall enjoy the right to a trial, by an impartial jury" summary punishment for criminal contempt was not intended to be included. Yet, can we allow so important a question of public policy to be decided on such a technical basis—by what the framers of the Constitution considered as crimes, when contempts are now being treated the same as crimes, resulting in punishment of as much as 3 or 4 years in jail?

Certainly the fine legal distinction means nothing to the man in jail. It is a cause for legitimate concern when criminal contempt is punished more severely, in some cases, than many felonies for which the accused is entitled to a trial by jury.

In earlier years this was not so. There is much evidence that, while the Original Thirteen Colonies did not allow for a jury trial in contempt cases, this was because the punishments were relatively restricted. When the Bill of Rights was ratified, at least 5 of the 13 States limited by statute the punishments which a judge could impose summarily.

DeTouqueville once observed that:

> In the United States nearly every significant national issue is eventually exposed before the bar of the Supreme Court.

This has been all the more true in recent years. When the legislative and executive branches of the Government fail to respond adequately to the changing needs of the times, increased pressure for social change is exerted upon the judiciary. The scope of jurisdiction for the Federal courts continues to expand. A corollary development is the growing tendency of Federal judges to substitute injunctions, enforceable by judge-imposed punishments for contempt, for normal criminal prosecutions in which the accused may demand a jury trial. This practice has spread to the point where there is a basis for serious concern lest the traditional safeguards be circumvented and the laws enforced through the abusive use of judicial power.

Congress is now on the threshold of passing the most comprehensive civil rights bill in history. It is essential that we do this, for we must implement the realization of those fundamental rights which the Constitution guarantees to all our citizens, regardless of race or color. But we must not let this bill, which seeks to protect civil rights, become the vehicle for arbitrary or abusive extension of judicial power.

The pending jury trial amendment balances the right of a court to enforce its orders, with the right of a defendant to obtain a trial by jury, if faced with a heavy fine or prolonged imprisonment. The amendment directs that, when an action for criminal contempt is brought under any provision of the bill, a trial by jury shall be furnished the accused in every case in which the penalty exceeds 30 days in jail or a $300 fine. It also sets a maximum penalty of 6 months in jail and a thousand dollar fine for those cases which are tried before a jury.

I have noted that while jury trial protection is not required by our Constitution or legal tradition, it has become justified, because penalties as severe as those now inflicted for criminal contempt are of recent origin, and should be restrained as a matter of sound public policy. In awareness of this, the Supreme Court has already indicated its own concern in its decision in the now-celebrated case of United States against Barnett. It is worth reviewing the much-discussed footnote No. 12 of the opinion, which reads:

> However, our cases have indicated that, irrespective of the severity of the offense, the severity of the penalty imposed, a matter not raised in this certification, might entitle a defendant to the benefit of a jury trial. See *District of Columbia* v. *Clawans*, 300 U.S. 617 (1937). There Mr. Justice Stone, later Chief Justice, citing many cases, said that "commonly accepted views of the severity of punishment by imprisonment may become so modified that a penalty once thought to be mild may come to be regarded as so harsh as to call for the jury trial, which the Constitution prescribes, in some cases which were triable without a jury when the Constitution was adopted." At 627. In view of the impending contempt hearing, effective administration of justice requires that this dictum be added: Some members of the Court are of the view that, without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

The Court is thus making a distinction between an offense, where there has been no traditional right to a trial by jury, and the severity of the penalty, which might raise such a right.

Since the penalty should suit the offense, this is but a backhanded way of recognizing the danger which abides in the trend toward heavier penalties for criminal contempt, without furnishing a jury trial.

We should also note, for the sake of perspective, how the distinction between different treatment for petty and major offenses is familiar in our State systems. In many States, there is no automatic right for trial by jury for misdemeanors. Lower courts, such as police courts and municipal courts, regularly punish petty crimes without benefit of a jury. Yet a jury trial for major offenses—that is to say, offenses which carry heavy penalties—has long been a keystone of our system of justice.

Interestingly enough, the pending amendment is almost identical to a New York statute passed in 1829, which illustrates that a practice which has prevailed in some of the States is different from the Federal practice. The New York statute permitted a maximum fine of $250 and imprisonment for 30 days in summary proceedings for a criminal contempt, and greater punishments upon indictment and trial by jury. In a number of other States, this distinction between petty and major offenses is also carried over from crimes to contempts.

When I supported the jury-trial amendment to the civil rights bill of 1957, I thought the right to a jury trial ought to be extended to all cases of criminal contempt, regardless of how limited the penalty might be. But with reference to the bill now before us, I believe such an amendment would go too far. The scope of this bill is as broad as the Constitution itself. All civil rights to which it extends must be upheld and enforced through the courts. Accordingly, the integrity of the courts must be safeguarded by permitting the judges to retain sufficient power, within reasonable limits, to directly uphold their own decrees. Otherwise, in communities which are hostile to particular rights, our courts could be defied with impunity, and a mockery could be made of the law. Such a travesty is as much to be reasonably avoided as the interests of the accused are to be reasonably upheld. The pending amendment strikes a sensible balance between these two considerations. It is consonant with the traditions of Anglo-Saxon law.

Within proper limits, it extends the right of trial by jury, under the bill, into the field of criminal contempt, without denying judges necessary power to enforce their own court orders.

The amendment improves the bill. It should be adopted.

Mr. EASTLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WALTERS in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 182 Leg.]

Allott
Anderson
Beall
Bennett
Bible
Cannon
Carlson
Case
Church
Clark
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Gruening
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Jordan, Idaho
Kuchel

Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pell
Prouty
Proxmire
Ribicoff
Robertson
Saltonstall
Scott
Simpson
Smith
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. EASTLAND obtained the floor.

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Ohio [Mr. LAUSCHE] with the understanding that I do not lose my right to the floor, and with the further understanding that any subsequent remarks which I make will not constitute an additional speech on the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONTROVERSY BETWEEN THE FEDERAL AND STATE OF OHIO EMPLOYMENT SERVICE OFFICES

Mr. LAUSCHE. Mr. President, for the last several months there has been a controversy waging between the State Employment Service of Ohio and the similar agency of the Federal Government concerning the inadequacy of the allocation of funds made by the Federal Government for the administration of the State Employment Service in Ohio.

Recently, at the Ohio State University, in the College of Commerce and Administration, a study was made of the problem by James C. Yocum, a professor in that department.

He wrote a paper setting forth the findings which he made on the facts, and also the glaring inequities which are occurring in the allocation of funds, inasmuch as there is no firm and fixed direction in the law dealing with the formula under which the allocation should be made.

In it, he says:

> Inadequacies in the Federal allocations of funds to administer State employment security programs at standards equivalent to that of other large industrial States is a problem of long standing in Ohio and some other States.

He further states:

> The other four Great Lakes industrial States have ranked at the very bottom among all the 51 States (including the District of Columbia) in allocations of the Federal Unemployment Tax Act collections from employers in the respective States. That is, in the fiscal years 1936 through 1963, when the average State got back for administration, 80.7 percent of its Federal unemployment taxes paid, and California had returned 96.6 percent of its taxes, and New York got 86.7 percent, Ohio was allocated only 56.8 percent of the unemployment taxes collected from Ohio employers. Ohio was 48th among the States in the ratio of allocation to taxes collected. The only States worse off than Ohio were three Great Lake States—Wisconsin 49th, Illinois 50th, and Indiana 51st.

Inquiry might be made as to why Indiana was 51st when there are only 50 States in the Union. We must keep in mind that the District of Columbia and some of the territories are covered.

Wisconsin had returned about 36 percent of the moneys which it paid into the Federal Government.

I read further:

> By fiscal 1963, Michigan—which was below Ohio—had risen to 33d among the States in its ratio of allocations/collections. However, Ohio and the other Great Lakes States had no significant improvement in 1963—Ohio was 47th, Wisconsin was still 49th, Illinois was 48th, and Indiana was still 51st. In 1963, Ohio was 46th in allocations per covered worker, and 36 in allocation per person in the population.

Mr. President, to illustrate how inequitably these moneys are being allocated by the officials in the Department of Labor, I have already stated that California and New York had returned to them more than they sent in.

Ohio paid $27,531,000 and will get back $17,368,000.

Wisconsin paid in $10,160,000, and will get back $5,995,000.

Illinois paid in $32,307,000, and gets back $19,580,000.

Indiana paid in $13,260,000 and gets back $6,636,000.

It might be asked, How does this inequity come about? How is it that some States get back more than they paid in, while other States get back little more than 50 percent?

The explanation might be made as to why the less industrial States get back more than the highly industrial States, but no explanation can be given why New York and California—industrial States in a large degree—are paid back more by the Federal Government than they pay into the Federal Government.

The weakness and the inequities in the allocation of funds are the consequence of the law as written.

Whenever we give discretion, practically unlimited, to an individual to apply his judgment as to how money shall be distributed without firm direction by congressional act, we inevitably encounter a situation in which some are treated with great bounty, while others are treated with extraordinary frugality.

The law as now written in section 302(a) of title III of the Federal Social Security Act, requires that the Secretary of Labor determine the amount necessary for the proper administration of the State's law.

The factors that the Secretary of Labor is directed to consider are:

First. The population of the States.

Second. An estimate of the number of persons covered by the State law and the cost of proper and efficient administration of such law.

And, this is the amazing part—

Third. Such other factors as the Secretary of Labor finds relevant.

Under that last provision, allocations are frequently made to suit the whims and caprices of the individual.

I cannot, and neither can the professor, James C. Yocum, reconcile on the basis of rationality these rather shocking disparities.

Professor Yocum, of Ohio State University, made this statement:

> One must conclude that in the two high-allocation-industrial States either the services rendered are extraordinarily superlative or the operation is inefficient. Neither situation is one justifying subsidy by other States.

The Secretary of Labor considers what the salaries are that are paid in the respective States, and he reimburses on the basis of the salaries paid. Thus, the higher the salaries paid in a State the greater the allocation. In my judgment that rule places a premium on spending.

I shall not attempt to point out that the States which are receiving more from the Federal Government than they paid to it have proportionately far more employees in the Bureau of Unemployment Services than the Midwestern States.

Thus, again, we have the same situation: the greater the number of employees, the more they get.

I believe that common sense will quickly illustrate that that type of justice is not in conformity with what we understand justice to be in the United States.

I repeat: "The Secretary of Labor, in making the allocation, shall consider such other factors as the Secretary of Labor finds relevant."

That language, in my judgment, is so broad that it permits the Secretary of Labor to be generous with certain States and penurious with others. How can we rationalize the proposition that some industrial States get more than they pay in, while other industrial States get about 52 or 54 or 55 percent?

No reasonable explanation can be given for this disparity.

A reading of the figures will demonstrate clearly that something is wrong. Apparently the employment service in Ohio found some irregularities in the Cleveland office. The irregularities were in the development of a program. They brought up the amount that the State would receive by calling into the office more applicants. The officials of the employment service in Ohio felt that it was wrong. The newspapers carried the story rather extensively. Odium fell upon the Federal Government's participation in what was being done.

I do not like to say it, but the fact is that obedience of the most slavish type is exacted from the States when individuals in the Federal Government are given the broad powers contained in this employment service law.

The Congress in effect has said to the Secretary of Labor, "You use your judgment of what factors are relevant; then give out the money."

If the framers of our Constitution had one principle in mind, it was that if our Nation was to survive, it had to be built on a system of laws, not on the caprice and whim of the individuals assigned, or their judgment as to what should be done.

I do not know what the Secretary of Labor will do in this matter. I will send him a copy of the study made by Dr. Yocum and ask him to examine the figures, and ask him to explain how he can justify the fact that New York and California will get back more than they pay in, while Wisconsin, Illinois, Indiana, and Ohio will get back only 52 to 56 percent.

**Mr. HILL.** Mr. President, will the Senator yield?

**Mr. LAUSCHE.** I yield.

**Mr. HILL.** Will the Senator place in the Record the table to which he has referred, so that it may be available to us?

**Mr. LAUSCHE.** I intend to do so. I have been in the Senate for 7½ years. With each succeeding day I become more and more convinced that the declarations that were made 170 years or so ago are still valid. They are, in effect, that we must not trust individuals to formulate laws on their own.

I ask unanimous consent that the study made by Dr. James C. Yocum, of Ohio State University, on the distribution of employment service funds by the Federal Government, pointing out the relationship that the justifications bear to the contributions made by the respective States, be placed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Inequities in Fund Allocations for State Employment Security Administration

Inadequacy in the Federal allocations[1] of funds to administer State employment security programs at standards equivalent to that of other large industrial States is a problem of long standing in Ohio and some other States.

#### THE SITUATION IN 1936–63

Over all the period since the beginning of the unemployment compensation system in 1936, as the data in the table on page 8 conclusively show, Ohio—and curiously, the other four Great Lakes industrial States—have ranked at the very bottom among all the 51 States (including the District of Columbia) in allocations of the Federal Unemployment Tax Act collections from employers in the respective States. That is, in the fiscal years 1936 through 1963, when the average State got back for administration 80.7 percent of its Federal unemployment taxes collected, and California got back 96.6 percent of its taxes and New York got 86.7 percent, Ohio was allocated only 56.8 percent of the unemployment taxes collected from Ohio employers. Ohio was 48th among the States in the ratio of allocation to taxes collected. The only States worse off than Ohio were 3 other Great Lakes States—Wisconsin, 49th; Illinois, 50th; and Indiana, 51st; with only 56 to 52.4 percent of their taxes allocated for their State use. Michigan was 41st among all the States.

#### THE SITUATION IN 1963

By fiscal 1963 Michigan had risen to 33d among the States in its ratio of allocations/collections. However, Ohio and the other Great Lakes States had no significant improvement in 1963—Ohio was 47th, Wisconsin was still 49th, Illinois was 48th, and Indiana was still 51st. In 1963 Ohio was 46th in allocations per covered worker * * * 32d in allocations per person in the population * * * 47th in allocations per claimant for unemployment compensation * * * 43d in the number of employment security (BUC) personnel per 1,000 workers covered by the State unemployment compensation law * * * 41st in size of average annual earnings of employment security personnel.

In 1963 the situation for Ohio and the five Great Lakes States (even with Michigan included) was as follows:

| Item | Percent of United States | |
|---|---|---|
| | 5 Great Lakes States | Ohio |
| Population | 19.7 | 5.4 |
| Covered workers | 21.3 | 5.8 |
| Unemployment compensation claimants | 17.9 | 5.5 |
| Federal unemployment taxes collected | 22.1 | 5.8 |
| Allocation for State administration of employment security | 16.2 | 4.2 |

#### ALLOCATION INEQUITIES

This situation means, in effect, that Federal unemployment taxes from Ohio and the other Great Lakes States, instead of being used mainly to strengthen and improve the administration of employment security services in those States, are going in large part to subsidize and elaborate such operations, not just in the weaker States, but in other large industrial States, especially California and New York.

In 1963, 21 States were allocated more for the operation of their unemployment compensation and employment service activities than their employers paid in Federal unemployment taxes. Most of these are smaller Western States.

The principle of interstate exchange and assistance, the equalization of parts to strengthen the whole, is well established in our Federal system and is not challenged here. But two of the States that had more allocated than their employers paid in Federal unemployment taxes—California 103.4 percent, and New York 105.2 percent—were the largest industrial States in the Nation. That Federal unemployment taxes from other States—in particular the Great Lakes States—should, in effect, go to support employment security operations in these two great States is inexplicable.

Of course, both States have wage levels for employment security personnel well above the U.S. average. However, these States were well at the top in numbers of employment security personnel per 1,000 covered workers—1.54 per thousand in California, 1.57 in New York—compared with an all-State average of 1.41, and 1.15 in Ohio, 1.05 in Illinois, 0.97 in Indiana, and 0.93 in Wisconsin.

One must conclude that in the two high-allocation-industrial States either the services rendered are extraordinarily superlative or the operation is inefficient. Neither situation is one justifying subsidy by other States.

The disparities in the funds available to the various States for administration of their employment security programs have their origins in the Federal-State employment security system, which provides for State differences in laws and State administration of those laws, but within a framework of Federal criteria, standards, and controls.

Section 302(a) of title III of the Federal Social Security Act requires that the Secretary of Labor determine the amount necessary for the proper administration of the State's law, and make State allocations, on the basis of "(1) the population of the State; (2) an estimate of the number of persons covered by the State law and the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant."

The Federal Department of Labor thus has wide discretionary authority to set the State allocations not only by data which measure objectively the needs of the various States, but by subjective assessment of various considerations which it may deem relevant.

The data in the table below may be used as measures of the equity of past allocations. The disparities in the allocations among the 15 largest industrial States suggest that subjective considerations apparently have played a substantial role in allocation decisions. In 1963 New York and California, for example, were allocated $12.11 and $12.40 per covered worker, compared with the all-State average of $9.88, and allocations of only $6.02 to $7.41 for four of the five Great Lakes industrial States. Similarly, Texas received $325 per unemployment claimant, compared with an all-State average of $231, and only $166 per claimant in Pennsylvania and $180 in Ohio.

#### TOWARD MORE EQUITABLE ALLOCATIONS

Allocation of administrative funds cannot be an exact science. Provision must be made for reasonable modification of any formula to take account of unusual differences in State laws, and in geography, living costs, and statutory workloads.

Nevertheless, more adherence to objective measures and bases of allocations would produce more equitable distribution of funds. The application, with strict uniformity, of one such formula[2] to the 15 largest industrial States is illustrated in the last four columns of the table.

The application of this simple formula, it is apparent, would significantly reduce the inequities of the past, and bring the 15 largest States more nearly on a par with respect to the allocations per claimant, as the final column of the table indicates. It is recognized that the pattern of allocation produced by this formula is still not ideal: it overadjusts in some cases and gives some States more than would appear required—for example, Wisconsin, North Carolina; cuts other States too much—for example, New York. Subjective modifications still must be made. Moreover, the calculations were made retrospectively after the claimants load was known.

Other and better formulas can be devised. Some objective method, however, that, like the present formula, produces greater equity among the 15 largest industrial States, and that raises the Great Lakes States to a level appropriate to their size and unemployment tax contributions is urgently imperative. Ohio and other Great Lakes States have too long been the doormat of the 50 States in employment security allocation.

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[1] Under the Federal-State system for employment security, the costs of administering the separate State acts come entirely from taxes employers pay to the Federal Government under the Federal Unemployment Tax Act. This act requires that employers of four or more persons in covered industries pay a tax of 3.1 percent on the first $3,000 of wages of their employees; against the Federal tax employers may credit the State unemployment taxes they pay under State laws, up to 2.7 percent. The 0.4 percent difference provides the Federal funds which are allocated to the States for administration. (All unemployment taxes collected under the Ohio law must be used exclusively for the payment of unemployment benefits.)

[2] See table footnote 4. The number of claimants is considered an index both of unemployment compensation case load and of placement service case load and thus is given double weight. The wage differential adjustment is not for 100 percent of the State-from-national deviation because this would only fix and perpetuate differences which in some cases appear to have been generated, in part at least, by largesse in allocations in the past.

*Federal unemployment tax collections and Federal allocations to States for employment security administration, fiscal year 1963 (and 1936–63), 15 largest industrial States*

| State | (Rank, ratio of allocations to tax collection 1936–63) | Federal unemployment tax collections 1963 [1] | Actual allocations to States | | | | | | | "Equitable" allocations (by uniform formula), 1963 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Amount 1963 [1] | As a percent of collections | | | Per covered worker 1963 [3] | Per person in population 1963 [3] | Per unemployed claimant 1963 [3] | Average 3 bases [4] | Adjusted for wage difference [4] | Percent from actual [5] | Per unemployed claimant [5] |
| | | | | 1936–63 [2] | 1963 [1] | Rank 1963 | | | | | | | |
| | | *Thousands* | *Thousands* | *Percent* | *Percent* | | | | | *Thousands* | *Thousands* | *Percent* | *Percent* |
| Total, 51 States [6] | | $474,695 | $411,725 | 80.7 | 86.7 | | $9.88 | $2.17 | $231 | $411,725 | $411,725 | 0 | $231 |
| California | (21) | 48,839 | 50,513 | 96.6 | 103.4 | (21) | 12.40 | 2.87 | 242 | 43,825 | 47,200 | −6.6 | 226 |
| New York | (27) | 58,607 | 61,626 | 86.7 | 105.2 | (20) | 12.11 | 3.48 | 255 | 50,077 | 51,830 | −15.9 | 215 |
| Florida | (28) | 10,896 | 7,761 | 85.9 | 71.2 | (41) | 8.18 | 1.37 | 223 | 9,428 | 9,004 | +16.0 | 257 |
| Massachusetts | (30) | 17,176 | 14,417 | 84.0 | 83.9 | (30) | 9.38 | 2.76 | 194 | 15,208 | 14,524 | +.7 | 196 |
| North Carolina | (34) | 10,320 | 7,091 | 81.2 | 68.7 | (43) | 7.49 | 1.49 | 203 | 8,964 | 8,704 | +22.7 | 249 |
| Texas | (36) | 21,000 | 16,231 | 80.0 | 77.3 | (35) | 8.82 | 1.57 | 325 | 15,926 | 15,544 | −4.2 | 311 |
| Pennsylvania | (37) | 32,095 | 29,992 | 78.6 | 93.4 | (23) | 10.29 | 2.63 | 166 | 31,345 | 32,490 | +8.3 | 180 |
| New Jersey | (38) | 19,584 | 15,998 | 76.7 | 81.7 | (32) | 9.97 | 2.47 | 199 | 16,760 | 16,408 | +2.6 | 205 |
| *Michigan | (41) | 21,420 | 17,280 | 71.4 | 80.7 | (33) | 9.79 | 2.13 | 226 | 17,595 | 18,739 | +8.4 | 247 |
| Connecticut | (45) | 8,800 | 6,311 | 65.1 | 71.7 | (39) | 8.02 | 2.37 | 236 | 6,481 | 6,325 | +.2 | 234 |
| Missouri | (46) | 11,236 | 7,295 | 63.9 | 64.9 | (44) | 7.56 | 1.69 | 192 | 9,118 | 8,708 | +19.4 | 229 |
| *Ohio | (48) | 27,531 | 17,368 | 56.8 | 63.1 | (47) | 7.29 | 1.71 | 180 | 22,585 | 21,524 | +23.9 | 222 |
| *Wisconsin | (49) | 10,160 | 5,995 | 56.0 | 59.0 | (49) | 6.53 | 1.48 | 224 | 7,574 | 7,824 | +30.5 | 290 |
| *Illinois | (50) | 32,307 | 19,580 | 53.8 | 60.6 | (48) | 7.41 | 1.92 | 236 | 21,648 | 21,951 | +12.1 | 264 |
| *Indiana | (51) | 13,260 | 6,636 | 52.4 | 50.0 | (51) | 6.02 | 1.41 | 197 | 9,153 | 8,586 | +29.4 | 253 |
| Total, 15 largest industrial States | | 343,231 | 284,094 | 75.1 | 82.8 | | 9.62 | 2.30 | 221 | 288,687 | 289,360 | +1.9 | 225 |
| Percent of United States | | 72.3 | 69.0 | | | | | | | 70.1 | 70.3 | | |
| Total, 5* Great Lakes States | | $104,678 | $66,859 | 58.5 | 63.9 | | 7.59 | 1.80 | 211 | $78,555 | $78,624 | +17.6 | 248 |
| Percent of United States | | 22.1 | 16.2 | | | | | | | 19.1 | 19.1 | | |

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[1] U.S. Department of Labor, Bureau of Employment Security, Attachment to UIPL No. 733, Oct. 31, 1963.

[2] Computed from data of U.S. Bureau of Employment Security.

[3] Computed by Division of Research and Statistics, Ohio Bureau of Unemployment Compensation, from State data of U.S. Bureau of Employment Security and of U.S. Bureau of the Census.

[4] Calculations by Bureau of Business Research, Ohio State University, based on U.S. average allocations per covered worker (weight of 1), per person in population (weight of 1), and per unemployment compensation claimant (weight of 2). Adjustment for wage differential is made at 50 percent of the deviation of the State average earnings of State employment security personnel from the U.S. average.

[5] Computed by the Bureau of Business Research, the Ohio State University.

[6] 51 States, including District of Columbia. Includes allocations to Puerto Rico, Virgin Islands, and Guam (total of $3,108,000,000).

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Mr. LAUSCHE. I am grateful to the Senator from Mississippi for yielding to me.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. EASTLAND. Mr. President, to characterize the Mansfield-Dirksen substitute to the Talmadge jury trial amendment as a compromise is a gross misnomer. The American people should not be fooled or deluded. Far from being an instrument that would permit or grant jury trials in criminal contempt cases, the substitute is nothing but a device to prevent trial by jury in cases of criminal contempt.

Above all other forms of law, criminal law should be consistent and provide for evenhanded justice and the same type of procedures and punishments to govern similar types of alleged offenses. I think it is basically unconstitutional for Congress to enact one statute that would grant a trial by jury in certain classes of criminal contempt cases and deny this right in other statutes involving other classes of citizens. Basically, this is a denial of equal protection of the laws. It is illustrated by the provisions of the Norris-La Guardia Act and the Landrum-Griffin Act, which assure to those in the labor movement an absolute right to a trial by jury in all cases of criminal contempt arising out of labor disputes. If those citizens who are interested and involved in labor disputes are entitled to a trial by jury as a matter of right and congressional declaration, then all other citizens in all other classes of disputes should be entitled to the same privilege.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that in the Landrum-Griffin Act, title I is captioned "Bill of Rights of Members of Labor Organizations"?

Mr. EASTLAND. That is correct.

Mr. HILL. Is it not true that section 608 of that act, captioned "Criminal Contempt," provides as follows:

> CRIMINAL CONTEMPT
>
> SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

Mr. EASTLAND. The distinguished Senator is exactly right. In the judgment of the Senator from Mississippi, under our system of government, and under the intent of the Constitution, if a man is to be locked up and serve a sentence, it should be as a result of a decision by a jury.

It is also passing strange, Mr. President, that those who would now deny the right of trial by jury to the types of violations that would arise under the terms of the pending legislation would be the first to assert that this right should be granted to those who might be involved in labor disputes and subjected to criminal contempt proceedings. I ask my liberal friends why they cannot at least dish out even-handed justice.

On August 1, 1957, a great number of the present membership of this Senate were in this chamber to vote on an amendment to what became the Civil Rights Act of 1957 that was framed in the identical language as the Talmadge amendment is framed. Fifty-one Senators voted to give an absolute right to a trial by a jury in cases that might arise under the 1957 act. I respectfully submit that there has been no intervening factors that should change the mind of a single individual who voted for unlimited trial by jury in 1957 to now vote to deny a trial by jury in cases of criminal contempt. Consistency is a virtue that should be practiced at all times. How much more important is it to practice consistency when the basic question involved is primarily one of constitutional rather than statutory import, and the decision should always be on the basis of fundamental liberty and freedom, rather than judge-made and man-made laws and the restriction of liberty and freedom by congressional fiat.

Mr. President, in 1957 the present language of the Civil Rights Act of that year regarding criminal contempt cases was presented to this Senate only in the conference report of the two Houses on the bill. It was never debated and examined in the traditional sense.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. McCLELLAN. As I recall, the Senate rejected the bill as originally drafted and adopted an amendment to require a jury trial, did it not?

Mr. EASTLAND. In 1957.

Mr. McCLELLAN. Was that what the Senator referred to when he said that 51 Senators voted for an unlimited jury trial provision?

Mr. EASTLAND. That is correct.

Mr. McCLELLAN. When the bill went to conference, was not that amendment stricken, and was not some modification or adjustment made in conference which is the present law?

Mr. EASTLAND. That is correct.

Mr. McCLELLAN. But it was not the sentiment of the Senate at that time on a straight-out vote on the issue. On a straight-out vote on the issue, did not 51 Senators vote for a provision for jury trial?

Mr. EASTLAND. That is correct.

Mr. McCLELLAN. As the Senator has said, there is nothing that we can see, and I do not believe anyone else can see, in the nature of a change now that would justify a reversal of the position the Senate took in 1957 on that issue, is there?

Mr. EASTLAND. I have listened to the proponents of the bill, and I have yet to hear the first reason assigned for a change in the position they took, except that the senior Senator from Idaho [Mr. CHURCH] today pronounced a strange doctrine, to the effect that if the bill become law, this provision would be enforced by judges; that a judge should have the power to enforce his own decree, and that the right of trial by jury should not be permitted because in certain localities juries might take a position different from that of the judge. In my judgment, that is a strange doctrine.

Mr. McCLELLAN. Is not that position a direct attack upon the jury system in the jurisprudence of our country?

Mr. EASTLAND. I size it up as a direct attack on the jury system. Furthermore, it is designed as an attack on a basic freedom; that is, the right of trial by jury in the locality where the act is alleged to have occurred.

Mr. McCLELLAN. I presume that the Founding Fathers had in mind when they wrote the Constitution and included a provision guaranteeing the right of trial by jury that a jury might often render a verdict different from what the trial judge might render in the same case, on the same evidence.

Mr. EASTLAND. The Senator is exactly correct. In article VII of the Constitution, the Founding Fathers provided that when an amount in excess of $20 was at issue, a person was entitled to a trial by jury. What else could the Founding Fathers have meant when they said that when more than $20 was at stake, a person was entitled to a trial by jury, but that if one is not entitled to that right, he must go to jail?

Mr. McCLELLAN. It would be tantamount to saying that $20.01 was more sacred as a matter of principle with respect to a trial in which justice between parties or between society and an individual was involved; that the amount of $20.01, which would entitle a person to a jury trial, was more sacred than is the freedom of an individual who might be sentenced to 45 days in jail and a $300 fine.

Mr. EASTLAND. Yes; but it could be worse than that. If this amendment were adopted, it would limit the jail sentence. But it is claimed that the amount of $20.01 is more sacred than a year in jail, because the power is now claimed in criminal contempt cases to sentence a person to a year in jail.

Mr. McCLELLAN. On the basis of the substitute amendment, provision would be made for only 30 days in jail. But is $20.01 more sacred and of more concern to the basic fundamentals of our freedom than is the time of an individual sentenced to 30 days in jail and a $300 fine? That is the theory and premise upon which we would proceed if we denied jury trial, and thus gave a judge the authority to impose a 45-day jail sentence and a $300 fine—or, under the substitute amendment, a 30-day jail sentence and a $300 fine.

Mr. EASTLAND. Does not the Senator from Arkansas agree that this proposal would result in a whittling away of the basic rights of citizens, time after time? Are not those rights being eroded and our system of government changed in order to placate a minority group and appeal to the minority vote, so as to get 10 votes here and 5 votes there? Is it not an attempt to destroy the great system that has been established and has been the hope of mankind for more than a century?

Mr. McCLELLAN. Is not the whole concept of the bill, including the jury trial provision we are now discussing, or the denial of a trial by jury, which is what is intended, a retreat from the basic fundamental, individual liberty that our forefathers undertook to preserve and guarantee to the citizens of the country?

Mr. EASTLAND. It is necessary to maintain those rights in order that we may be a free people.

Mr. McCLELLAN. That is what I contend. What is proposed is a retreat from the guarantees of freedom and personal liberty that the Founding Fathers undertook to establish and to perpetuate in the basic law of the land. We are retreating from them, and the retreat involves a process of erosion. It does not mean that our form of government will be destroyed all at one time.

Does not the bill weaken one aspect of our freedom and personal liberty by yielding to the demand that a judge may try and sentence, rather than a jury of one's peers? Does not the Senator agree that that is a weakening of one of our basic liberties, and that there are many others that could be weakened in like manner?

Mr. EASTLAND. Certainly there is a weakening in that instance. Also, under the bill, the Government could take over the whole employment process. Our system of enterprise is built on a free economy—a capitalistic system and a free enterprise system, in which a man can operate his own business and hire competent persons without interference from outside.

The Government is invading that field. It will mean eventually the destruction of the form of government we have known in the past. What is being done is to placate agitators and different groups that think they have grievances, when in fact they have none.

Like so many compromises that have been hammered out between conflicting parties without careful and thorough examination, it is a monstrosity that makes little sense, either as a practical device or as a rule of law. The system of criminal justice that has prevailed in this country since the days of the first colonial settlers has provided for the indictment of crime by a grand jury, and the trial and determination of guilt before a petit jury. Then the court or judge enters the picture for the first time as an active participant and metes out the sentence. For anyone to argue that the Founding Fathers ever contemplated that judges alone should bring the indictment, conduct the prosecution, determine the guilt or innocence, fix the punishment, and act as the executioner, shocks credulity. Yet, under the Mansfield-Dirksen substitute, the man-made appointed judge performs every one of the functions that I have just described.

Even when it is his judgment that a defendant should be given a trial by jury, a travesty on law and justice would exist because the judge, without a trial, in effect would tell the jury, in advance: "This man is guilty, and when you try him you must return such a verdict so I can give a sentence that will be in excess of 30 days in jail and a fine in excess of $300." No judge should want to exercise this character of power and influence; yet, regardless of what the judge might or might not want to do, he would be forced by the language of this proposed statute and the language of the Civil Rights Act of 1957 to make a prejudgment in matters involving criminal contempt.

On the basis of doing what is right, fair, and reasonable, Congress should by statute declare that every citizen of the United States is entitled to a trial by jury in criminal contempt cases because, mind you, Mr. President, there cannot be a case for criminal contempt unless the individual has committed what is alleged to be a crime; and all criminal conduct should be subjected to the proper constitutional safeguards. But before I go further into the constitutional features of jury trials in cases of criminal contempt, I wish to point out another anomaly where there is gross discrimination in the laws involving criminal contempt. This is the matter of granting a jury trial to individuals in cases of criminal contempt where the party to the suit or case is an individual citizen of the United States, and denying this right of a trial by jury to an individual in a suit or case where the United States of America is a party. If this Government is to survive, Mr. President, I do not believe it is necessary to place the sovereign in a privileged position that is not enjoyed by the people. The U.S. Government should not be in a position different from that of anybody else; and certainly it is even more important to protect the individual against the Government by granting a trial by jury where the august State, represented by the Attorney General and the United States attorneys, is the party. Let us examine in more detail the existing law on criminal contempt and the reasons why the denial of a trial by jury is basically unconstitutional.

The existing law comprises four statutes and one rule:

Title 18, United States Code, section 401 defines the power of the U.S. courts to punish contempts of their authority. Punishment by fine or imprisonment at the court's discretion is permitted in three classes of cases: First, misbehavior in the court's presence or so near thereto as to obstruct the administration of justice; second, misbehavior of the courts' own offices; or, third, disobedience of lawful writs.

Title 18, United States Code, section 402 provides penalties for criminal contempts. Any person who willfully disobeys a writ, if the act of disobedience also constitutes a crime under a State or Federal law, shall be punished by a fine or imprisonment. The fine may be paid to the United States or to the complainant or prorated amongst complainants. The fine cannot exceed $1,000, nor may the jail sentence exceed 6 months. To this there are two exceptions, namely, first, contempt in the face of the court or so near thereto as to obstruct justice; and, second, the section does not apply where the suit is brought in the name of the United States or on its behalf.

Title 18, United States Code, section 3691 provides for jury trial in criminal contempts. If the contempt is a willful disobedience of a writ, and if the act of disobedience also constitutes a crime under Federal or State law, the accused is entitled to a jury trial with the same two exceptions as in section 402 of the same code title—namely, first, where the contempt takes place in the face of the court or so near thereto as to obstruct justice; or second, where the suit is brought in the name of the United States or on its behalf.

**Mr. McCLELLAN.** Mr. President, will the Senator from Mississippi yield for a question?

**Mr. EASTLAND.** I yield for a question.

**Mr. McCLELLAN.** Is it not true that nothing in the Talmadge amendment would in any way prevent or interfere with a court's enforcement of its orders or with a court's enforcement of proper conduct in its presence or with a court's orders forbidding action which would be calculated to obstruct its processes?

**Mr. EASTLAND.** That is correct.

**Mr. McCLELLAN.** In other words, would not the court have complete command of the proceedings in the courtroom and the conduct of all persons there, including the conduct of the defendant; and could not the court summarily impose a fine or jail sentence on a person who undertook, in the face of the court, or in close proximity to the courtroom, to obstruct the proceedings of the court?

**Mr. EASTLAND.** That is correct.

**Mr. McCLELLAN.** In other words, the Talmadge amendment in no way would interfere with proper proceedings in the courts, would it?

**Mr. EASTLAND.** That is true; it would not interfere.

Criminal contempt occurs when a person commits an act inherently criminal and a crime. In such cases—if I correctly understand the traditions of the law and the Anglo-Saxon system—the person is entitled to be tried by a jury of his peers of the jurisdiction in which he has committed the offense. That is in accordance with the American system of jurisprudence.

**Mr. McCLELLAN.** After the court issued an order in connection with a proceeding before it, if thereafter someone at a distance from the court, and in circumstances which did not obstruct the proceedings of the court while it was in session, violated that order, would not such action be tantamount to the commission of a crime, just as if the person had violated a statute?

**Mr. EASTLAND.** That is correct.

**Mr. McCLELLAN.** When we speak of criminal contempt, is not criminal contempt an action which violates a court order or a failure to comply with a court order?

**Mr. EASTLAND.** Yes. As I recall, there is a statute which makes a violation of a court order—such as the Senator from Arkansas has described—a crime.

**Mr. McCLELLAN.** In my State there are many criminal statutes under which the fine is nominal—from $1 to perhaps $100—for example, a simple assault, for which the maximum penalty which could be imposed would be a fine of $200 or perhaps 4 or 5 days in jail. On the other hand, under our Constitution and our system, one charged with violation of one of those minimum-penalty statutes is entitled to a jury trial; and no Member of the Senate has ever attempted to controvert that fact; is not that true?

**Mr. EASTLAND.** That is true.

**Mr. McCLELLAN.** In effect, the bill would ratify the usurpation of power that judges have exercised with respect to the provisions of the Constitution by imposing penalties without affording a jury trial in criminal contempt proceedings.

**Mr. EASTLAND.** We have given to an individual; namely, a judge who is appointed for life, and whom the people cannot reach except by impeachment, the power which the Senator has suggested. Thomas Jefferson said that judges had been given power that should be possessed by no person in a free country or in a free society.

**Mr. McCLELLAN.** In a criminal contempt proceeding, one could be subjected to a jail sentence and be deprived of his liberty as punishment for an act committed in violation of a court order.

**Mr. EASTLAND.** What does the word "criminal" in the expression "criminal contempt" mean?

**Mr. McCLELLAN.** The word "criminal" implies a violation of the law which has an adverse impact upon society or upon the security of the country, and therefore he who has committed the act has in effect committed a crime for which he should be punished.

**Mr. EASTLAND.** Does the Senator realize that the only way in which a person could be legally proceeded against in our country, if it is a free country, is through indictment by a grand jury?

**Mr. McCLELLAN.** That is the procedure established by the Constitution, but the bill would illegally circumvent the constitutional process. The term "due process of law" is defined in the Constitution. I ask the Senator if he does not agree with me that the bill, as written, would circumvent the due process guaranteed in the provision of the Constitution relating to trial by jury in criminal cases?

**Mr. EASTLAND.** I do not believe the bill would circumvent the provision to which the Senator has referred. I believe that it flies in the face of the due process provision of the Constitution. We would take away a man's liberty.

**Mr. McCLELLAN.** I was endeavoring to be charitable in my view. I should say that the bill flouts the guarantee of the Constitution, and that the practical effect of the bill would be to circumvent the Constitution.

**Mr. EASTLAND.** Title 18, United States Code, section 3692, provides for jury trial in contempt cases involving labor disputes. By this provision, labor receives a jury trial in all cases except where the contempt takes place in the face of the court or so near thereto as to obstruct justice. Thus, in those cases where the suit is brought in the name of the United States or on its behalf, a contemptuous laborer receives a jury trial preferentially over other contemners.

Rule 42 of the rules of procedure applies to criminal contempts. There are two avenues of procedure—one involving summary disposition, and a second involving disposition upon notice and hearing. As to the first, a judge may punish a criminal contempt summarily if he certifies that he heard it or that it took place in the presence of the court.

As to the second, all other criminal contempts are prosecuted upon notice and defendant receives a jury trial in those places provided by statute. The usual bail provisions are allowed and the judge must disqualify himself if the contempt involves disrespect to him personally.

And now, Mr. President, we come to the amendment which is before us.

At the outset, I think it would be important to establish precisely what the jury trial amendment would do.

First, it would restore the traditional distinction between civil and criminal contempts by eliminating language in the Federal statutes implying that contempts were criminal only in those instances in which the act committed also constituted a crime under Federal or State law.

Second, the jury trial amendment unduly provides for a trial by jury in all criminal contempt cases except those involving direct criminal contempts.

Third, it would limit the punishment for contempt in actions involving the United States to the same extent that punishments are limited in actions where the United States is not a party.

Fourth, it would preserve the authority of the courts to secure compliance with their mandates in accordance with prevailing usages of law and equity.

The distinction between civil and criminal contempt is certainly not an innovation so far as the law is concerned. It is specifically recognized in the Federal Rules of Procedure. The Federal Rules of Civil Procedure, which cover civil contempt proceedings, appear in rules 37(b), 45(f), 53(d)(2), 56(g), and 70. Rule 42 of the Federal Rules of Criminal Procedure governs criminal contempts.

Rule 42 is divided into two parts. The first part relates to direct contempts. It provides that such contempts may be summarily punished if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. Nothing in the jury trial amendment would interfere with the application of this part of the rule, for the amendment specifically exempts contempts committed in the presence of the court or so near thereto as to obstruct justice.

Thus, under the Federal Rules of Criminal Procedure, and under the jury trial amendment as well, most cases of direct contempt would be punished summarily.

The second part of rule 42, however, dealing with indirect criminal contempts provides that notice must be given, which notice must state the time and place of the hearing, must allow a reasonable time for the preparation of the defense, must state the essential facts constituting the criminal contempt charged, and must describe it as such.

I have emphasized the requirement that the judge must describe the criminal contempt as such for it shows that the judge must determine, even under existing law, whether the contempt is civil or criminal at the outset of the proceedings, so that jury trial amendment imposes no new obligation on the judiciary by requiring a distinction between civil and criminal contempt cases.

Mr. President, later in my discussion I intend to read from the decision in the case of *Matusow* v. *United States*, 229 Fed. 2d 335.

Rule 42 of the Federal Rules of Criminal Procedure further provides that notice shall be given orally by the judge, in open court, in the presence of the defendant or his attorney, by an order to show cause or by an order of arrest. It likewise provides that the defendant is entitled to a jury trial in any case which the act of Congress provides. Further, if the contempt charge involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearings, except with the defendant's consent. Upon a verdict or finding of guilt the court is required to enter an order fixing the punishment.

It is impossible to read rule 42 of the Federal Rules of Criminal Procedure without arriving at the inescapable conclusion that what we are concerned with in the jury trial amendment is, in fact, a criminal proceeding.

In reciting the provisions of rule 42 it is obvious that the requirements are those more associated with a criminal proceeding than a civil proceeding, and while each of the protections afforded by the rule is important, I want to especially emphasize that the Federal Rules of Criminal Procedure in this rule specifically recognizes that the Congress has the authority to provide for a trial by jury in criminal contempt proceedings.

Despite the fact that under these rules the determination as to whether a violation of an injunction or an order of the court constitutes a civil or criminal contempt is a matter for the court to decide, I think it might assist in understanding the jury trial amendment, and the reasonableness of it, if I were to set out with particularity some of the differences between civil and criminal contempt.

The foremost difference, to be pointed out is that the disobedience, in order to constitute criminal contempt, must be willful, while in civil contempt the disobedience need not be willful. In addition, criminal contempts ordinarily arise as a result of failure on the part of someone to refrain from doing an act while a civil contempt usually arises as a result of an attempt by the court to force the commission of an act. Historically, too, criminal contempts have always been separate proceedings, while civil contempts are normally tried as a part of the main cause. The U.S. Supreme Court in the *Gompers* case, 221 U.S. 418, pointed out that one factor in determining whether an action involved criminal or civil contempt was to examine the name of the case, that is, whether it shows participation by the Government or whether it shows an action between private individuals. In cases of criminal contempt the punishment inflicted is punitive, that is, it involves a definite stated fine or imprisonment. In civil contempt cases the punishment inflicted is remedial. Imprisonment may be imposed until compliance with the order. All or part of the fine imposed may be conditional upon compliance. In addition, a criminal contempt proceeding includes many constitutional protections normally associated with criminal proceedings such as the privilege against self-incrimination, the right to counsel, and the requirement of proof beyond a reasonable doubt. In cases of civil contempt, on the other hand, the protections associated with a criminal proceeding do not obtain. For instance, proof is by a preponderance of the evidence.

**Mr. McCLELLAN.** Mr. President, will the Senator yield to me for a statement at this point?

**Mr. EASTLAND.** Mr. President, I ask unanimous consent that I may yield to the Senator from Arkansas for a statement, with the understanding that I do not lose my rights to the floor, and with the further understanding that when I resume my remarks, they will not constitute an additional speech on the pending matter.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. McCLELLAN.** Mr. President, I have listened to the Senator from Mississippi discuss this issue with much interest.

Several days ago I spoke on the same subject. I was not able at that time to conclude even the prepared text that I had for that occasion. I do not know whether I shall have an opportunity to complete my remarks. I do not know whether a parliamentary situation will develop to prevent me from finishing that address and from making further comment that I hope to make before any action commences on the pending amendment.

I made some further study of the subject since I spoke a few days ago. The more consideration I give to this issue, the more disturbed I become over what we are doing to our country. Some folks have been swept off of the throne of reason in the extremes to which they are willing to go in order to accommodate or placate some elements in the country that are clamoring not merely for equality, but for preferred rights.

It is a sad commentary on our system of justice for both the character and integrity of American citizens who are eligible to serve and who do serve on juries, if we have reached a point where Congress under pressure, coercion, and intimidation from certain organized elements in the country is now ready to abandon the basic traditions of liberty, and the constitutional guarantees that have afforded protection to the citizens of the country since our Government was instituted.

It is a sad commentary because it involves not merely some kind of yielding for today. It is not merely doing something to avoid the issue for the moment. What we are doing is writing an act that will become the law of the land. I am not sure how the courts will hold on this question. I have not always agreed with the court holdings on constitutional issues. Congress is asked to say, in the face of the Constitution: "We will write a law that contravenes the Constitution. Hereafter, a jury trial is something that we will grant you if we think you ought to have it. In some instances, we will withdraw a jury trial from those who may be accused of criminal contempt."

If Congress has the power under the Constitution to say in this bill, "You cannot have a jury trial unless and until a court finds you guilty and is disposed to assess a fine in excess of $300, and to imprison you for more than 45 days," or 30 days, if the substitute is accepted. If it can be done constitutionally, in the next bill which is brought up we can say: "You cannot have a jury trial for a number of criminal offenses with which a citizen might be charged."

We could name any of the offenses. If Congress could do it constitutionally in this instance, it could do it in any other instance. Are we moving toward the abolition of the jury system? I do not know how much further we will go. I never thought we would be confronted with an issue like this when I came to the Senate a little more than two decades ago. I did not know there was any element in the country—and there was not then—clamoring for abolition of the jury trial on an issue like this.

These elements will not be satisfied if the right to a jury trial is denied in this instance. Almost every day the press carries stories about someone on the other side of the issue who declares that it will not stop demonstrations, or satisfy the demonstrators if the bill should be enacted; and that the bill is to weak and does not go far enough to appease or placate.

What else can be expected, with such an extreme bill as the one before the Senate? We shall have to go to further extremes.

Mr. President, we are not destined to satisfy those who clamor for the complete surrender of the liberties of one group of people and their transfer over to another.

This is a serious problem. I wish that every citizen throughout the country could acquire a proper concept of the implications of the issue the Senate is today debating. I do not believe the American people are ready to abolish in any degree, to the extent provided in the bill or to any other extent, the right to trial by jury in a system of justice which has proved to be the best ever devised by man.

If the people of America are ready to abolish the right to a trial by jury, there is little hope left that America can remain free, that its political institutions can remain free, or that personal liberty can survive in this country.

America is headed for a terrible destiny if it is ready to start whittling away from the Constitution the basic protection of man's rights, as is proposed in this bill, by stating that a man shall not be granted the right to a jury trial, that the judge will accuse him, the judge will prosecute him, the judge will pass judgment upon him, and the judge will inflict the punishment upon him; that he cannot have a jury to determine his guilt or innocence, or to assess the penalty.

Mr. President, I sincerely hope that somehow, some influence from some source will arrest the attention and interest of the great men serving in the Senate today and bring them to their senses as to what they are about to do, as to what they would be treading on should this bill be enacted.

What they might accomplish would not be worth it.

I thank the Senator from Mississippi for yielding to me.

Mr. EASTLAND. Mr. President, also, in criminal contempt proceedings the costs of litigation are not usually imposed in addition to imprisonment, whereas in civil contempt cases the successful complainant is entitled to costs. Further, criminal contempts are appealable when punishment is imposed, while punishment inflicted for civil contempt is interlocutory and appealable only when the final decree is entered in the main cause.

These are some of the essential differences for Senators to bear in mind in the consideration of this legislation.

I should reiterate, Mr. President, that in the jury trial amendment we are not dealing with civil contempts. We are not even dealing with direct criminal contempts. We are only dealing with indirect criminal contempts and we are expanding the law relating to such contempts, only by adding trial by jury to the list of the essential protections now afforded under law. In doing so, we are removing the discrimination which exists under the present law by which trial by jury is afforded in criminal contempt actions arising where private parties are involved, and extending it to cases where the U.S. Government is involved. There is precedent in the law already, Mr. President, for this particular proposal, for under the provisions of the Norris-La Guardia Act, jury trials for indirect criminal contempts were permitted even though the United States was a party.

Now, I know that it has been contended that serious inroads were made upon this extension by the Taft-Hartley Act but those who assert such contention fail to observe that the provisions of 3692 of title 18, of the United States Code, were reenacted into positive law after the enactment of the Taft-Hartley law. Because of its peculiar applicability to this proposal, Mr. President, I think I should again read to the Members of the Senate the provisions of that section:

> § 3692. Jury trial for contempt in labor dispute cases
>
> In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed.
>
> This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

Please notice, Mr. President, that there is no exception in those instances in which the United States is a party to the labor dispute. The applicability of this provision may have been narrowly construed in other respects, but there can be no doubt that no exemption is given from the requirement of a jury trial if the United States is a party.

It has been suggested that there is something shocking about the desire to impose a requirement of trial by jury in all indirect criminal contempt cases.

I think it only fair to point out that the proposal for trial by jury in contempt cases is not without support from the judiciary itself. In 1952, in a case involving a direct criminal contempt, *Sacher* v. *United States*, 343 U.S. 1, two Justices of the Supreme Court in dissenting opinions took the position that the defendant was constitutionally entitled to a trial by jury. Justice Black, at page 20 of that opinion, wrote:

> But I would reverse on the further ground that petitioners are entitled to all the constitutional safeguards provided to protect persons charged with crime, including trial by jury.

Justice Douglas wrote at page 89:

> I also agree with Mr. Justice Black that petitioners were entitled by the Constitution to a trial by jury.

Later, in 1954, in the case of *Offutt* v. *U.S.*, 348 U.S. 11, in a case which also charged a direct criminal contempt, the same two Justices, in a concurring opinion, reasserted their belief that the defendant was entitled to a jury trial—page 18.

If members of the bench believe that in the most flagrant instances of contempt, those which involve direct criminal contempt, a jury trial is not only warranted, but constitutionally essential, how much more readily should Congress be willing to grant such a right in the less flagrant cases involving charges of indirect criminal contempt?

In addition, in view of the holding in the *Michaelson* case, 266 U.S. 42, 1924, I doubt if anyone could successfully contend that this proposal is in anywise unconstitutional. At one point in that decision the Court stated:

> The statutory extension of this constitutional right (the right of trial by jury) to a class of contempts which are properly described as "criminal offenses" does not, in our opinion, invade the powers of the courts as intended by the Constitution or violate that instrument in any other way—page 67.

Mr. President, as I see it, all the Senator from Georgia [Mr. TALMADGE] is attempting to do is to extend the protection which he deems advisable in this bill to all cases of indirect criminal contempt arising under the Federal statutes.

Mr. President, it is most important to realize that the amendment proposed by the Senator from North Carolina [Mr. ERVIN] operates not to give a new right, but rather to guarantee that an existing right will not be abridged.

There is a misconception that the Ervin amendment creates something new which never existed. This is simply not so.

Under existing law violations of voting rights as declared in 42 U.S.C. 1971 are punishable by existing statutes in the criminal code. In these criminal proceedings the defendant presently enjoys all the constitutional safeguards, including the right to a jury trial.

H.R. 7152, however, creates a new approach, the end result of which would be to punish, for the same act, a defendant, now known as a contemnor, without a jury trial. It is an outright circumvention of a basic right, a right at least as basic as the right it claims to protect. Even worse is the fact that in indirect criminal contempts, the proceeding is still essentially a criminal proceeding but under the bill before us, a jury trial is denied.

The jury trial amendment permits the new procedural device to remain but requires a jury trial in criminal cases of indirect contempt. Thus, this amendment merely maintains the status quo. It, in effect, prevents the proposed legislation from taking away an existing right.

In this connection—and because I think it has some pertinency—I call the attention of the Senate to the report of the Committee on the Bill of Rights of the Association of the Bar of the City of New York on the proposal to include a jury trial amendment in the 1957 civil rights bill. This report contained several interesting statements. First of all, it pointed out:

> If there is justification for the exception to the right to jury trial where the United States is a party it would seem that the exception should apply in civil rights cases as well as in other cases.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. McCLELLAN. What is the Senator reading?

Mr. EASTLAND. I am reading from the report of the Committee on the Bill of Rights of the Association of the Bar of the City of New York.

Mr. McCLELLAN. Is that a recent report?

Mr. EASTLAND. It was written after the jury trial amendment was adopted in 1957. The report justifies what the Senate did.

But then the report went on to state as follows:

> Apparently it was felt that if the United States were a party the public interest must be involved and therefore the risk of a court order being disobeyed with impunity should not be run; in other words, the basis of the exception appears to be the principle of "the sovereign." To the extent that legal thinking is now coming more and more to believe that the United States, when a litigant, should be treated by the courts as an ordinary litigant, the exception may no longer be justifiable.

And then, Mr. President, followed this significant statement:

> However, if this is so, the remedy is to amend section 3691 to provide for a jury trial in criminal contempt cases generally whether or not the United States is a party. There appears to be no justification for treating civil rights cases any differently than any other cases in this regard.

The jury trial amendment would do no more than what the report of the committee on the Bill of Rights of the Association of the Bar of the City of New York has suggested should be done.

Mr. President, the Senate has improved this bill, but it remains to be perfected. The imperfections are all too apparent to those who are willing to see. We cannot, simply by inserting a jury trial amendment, correct all the remaining imperfections, but we can avoid what many of us believe is a reversal of the lessons of history.

As a nation we started without the protections of trial by jury in contempt actions only because the equity jurisprudence of that day did not seek to enjoin the commission of crimes against the person. Had the citizens of that day suspected that the injunctive processes of equity would be used to avoid the trial by jury afforded in criminal prosecutions, they undoubtedly would have insisted on imposing such a protection in equity cases. This is amply supported by the commentary of Alexander Hamilton which appears in the Federalist as essay No. 80.

As experience taught us the danger of this conference of power, the Congress began to frame exceptions and to institute safeguards, not the least of which was trial by jury. This has been a long and laborious process in our history. The gains of today in this field were bought at the expense of many victims of the exercise of tyrannical power. We who are from the South should not be expected to forget the tribulations suffered by the early colonists and by early members of the labor movement, when it is now obvious that the same yoke of oppression is sought to be impressed on our necks. If we anticipate the worst, it is only because the lessons of history have taught us to expect the worst. We do not cherish the thought of granting to a single judge the power to frame an injunction, to determine to whom it shall be applicable, to decide which persons are in disobedience, and to decide the term of incarceration of anyone whom he judges to be in violation of his order, all at the behest of a political officer, the Attorney General. It is small comfort, Mr. President, to offer the good intentions of the sponsors of this legislation to those at whom it is directed. Unfortunately, the good intentions which have been manifested in this debate are not written in this proposed statute, nor can we be certain that the proposed statute will be administered by persons of equal good will. As I study this legislation, I always recur to the statement of the Senator from North Carolina [Mr. ERVIN] that this bill confers power which no good man ought to want, and no bad man ought to have.

Mr. President, we have an alternative. We can follow the lessons of history and adopt the jury trial amendment, or we can follow the dictates of expediency and reject it. The Senate stands at the crossroads. I believe that with the guidelines of history before us we can do no other than to follow the path of liberty and freedom by including a jury trial provision in this legislation.

Mr. President, my great and good friends, the present Governor of Mississippi, Paul B. Johnson, Jr., and the immediate past Governor, Ross R. Barnett, were represented in the action brought against them for criminal contempt by as an illustrious group of lawyers as has ever been assembled in the South. They are: Joe T. Patterson, attorney general of the State of Mississippi; Dugas Shands, assistant attorney general of the State of Mississippi; Garner W. Green, Joshua Green, M. M. Roberts, Fred B. Smith, Malcolm B. Montgomery, and Charles Clerk, special assistant attorneys general of the State of Mississippi.

In my judgment, the brief that they submitted to the Supreme Court on the question of the right of trial by jury in matters of criminal contempt and the oral arguments that they made thereon to the court constitute one of the most erudite and brilliant legal arguments as was ever presented to the U.S. Supreme Court. There is no better way to present the issue of the constitutional right to a trial by jury than to read the pertinent portions of the arguments as they are contained in this brief. I start at page 7:

> The Constitution of the United States guarantees the right to trial by jury in all cases of criminal contempt.
>
> In the case of *Gilbert Green et al.* v. *United States*[1] this Court very thoroughly considered this proposition, and Defendants do not propose in this brief to "haul coals to Newcastle". With the utmost deference, we are convinced that the dissent of Mr. Justice Black, in which the Chief Justice of the United States and Mr. Justice Douglas concurred, is the better reasoned opinion and should now be adopted by this Court as the controlling rule.
>
> For the Court's convenience, we have here attempted to paraphrase and condense this opinion, without including its copious authority and precedent:
>
> Criminal contempts provide a striking example of how the great procedural safeguards erected by the Bill of Rights are now easily evaded by the ever-ready and boundless expedients of a judicial decree and a summary contempt proceeding.
>
> Previous cases denying the right to trial by jury are wrong—wholly wrong. Courts are not omniscient. They too can profit from trial and error. This Court has a special responsibility to review its decisions in the field of constitutional law and to refuse to follow erroneous precedents. Early precedents have now been proven to be based on unfounded assumptions. Later cases merely cite the earlier ones. In this area there is no excuse for the perpetuation of past errors.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. McCLELLAN. Do I correctly understand that the Senator is reading from the dissenting opinion?

Mr. EASTLAND. No; I am reading from the brief that was filed by the attorneys for the former Governor and the present Governor of Mississippi.

Mr. McCLELLAN. The Senator is reading from the brief. I thought I heard the Senator refer to Justice Black's dissenting opinion. What other justices concurred with Justice Black in that opinion?

Mr. EASTLAND. As I recall, the Chief Justice and Justice Douglas.

Mr. McCLELLAN. And Justice Goldberg?

Mr. EASTLAND. Mr. Justice Goldberg wrote the dissenting opinion in the recent decision; but I was speaking of an earlier case when those justices wrote a dissenting opinion which the attorneys for Governor Johnson and former Governor Barnett said was a better-reasoned opinion.

Mr. McCLELLAN. I thank the Senator.

Mr. EASTLAND. I continue to read from the brief:

> The majority's requirements that punishment for contempt be "reasonable" is a trifling amelioration.
>
> The Courts have failed to make the proper distinction between conditional confinement to compel future performance and unconditional imprisonment designed to punish past acts.
>
> Summary trial of criminal contempt allow a single functionary of the State, a judge, to lay down the law, to prosecute, to sit in judgment, and then within the broadest kind of bounds to punish as he sees fit. This is inconsistent with the most rudimentary principles of our system of criminal justice and vests such functionaries with autocratic omnipotence.
>
> The Constitution obviously resulted from a determination to fragment power along

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[1] 356 U.S. 165.

different departments and institutions of government so that each would tend to operate as a check on excesses of any other. The Founding Fathers should have known that when they put the responsibilities of lawmaker, prosecutor, judge, jury and disciplinarian on a single man, he would be incapable of holding the scales of justice perfectly fair and true.

Mr. President, the bill places on the Federal court the responsibility of lawmaker, process server, prosecutor, judge, jury, and of disciplining the defendant. If that is not a clear case of dictatorship, I do not know how a man could be given any more complete power to make laws, to prosecute, to be the jury, to be the judge, and to inflict punishment.

I read further from the brief:

> Any defendant before him would be denied an objective, scrupulously impartial tribunal. Our system of laws has always endeavored to prevent even the possibility of unfairness.
>
> The offense of criminal contempt has the most ill-defined and elastic contours in our law, yet it is punished by the harshest procedures known to that law. Appellate review cannot begin to take the place of a proper trial. The only limits on punishment are now whatever remote restrictions exist in the Eighth Amendment's prohibition against cruel and unusual punishments or in the nebulous requirements of reasonableness. This is precisely the kind of arbitrary and dangerous power which our forefathers fought to stamp out. It is a paradox that it finds perpetuation in the courts.
>
> Criminal contempt is manifestly a crime by every relevant test of reason or history.
>
> The myth that criminal contempts have been summarily tried since time immemorial has been exploded by recent scholarship.
>
> In the beginning arbitrary summary contempt was a petty, insignificant part of our law involving the use of trivial penalties to preserve order in the courtroom. But it has undergone an incredible transformation and growth. It is no longer the same comparatively innocuous power. It now finds important and far-reaching authorization for use in many fields of law through special statutory enactments. This power is utterly irreconcilable with the first principles of our system of government.
>
> In the colonies trial by a jury of twelve laymen and no less was regarded as the birthright of free men. The simplest and most obvious interpretation of a constitution, if in itself sensible, is the most likely to be that meant by the people in its adoption. It is beyond comprehension how a layman could see any appreciable difference between the crime of contempt and other major crimes. Blackstone openly classified contempt as a crime, but regardless of proof of colonial thinking, our courts and Bill of Rights were not designed to perpetuate every arbitrary and oppressive governmental practice then tolerated in England.
>
> Stark necessity is an impressive and often compelling thing, but is too often claimed loosely and without warrant in the law, as elsewhere, to justify that which in truth is unjustifiable. Closely examined the "necessity" argument states that trials conducted in accordance with the Bill of Rights will not result in conviction and punishment of a fair share of those charged. It is undoubtedly true that a judge can dispose of charges of criminal contempt faster and cheaper than a jury, but cheap, easy convictions were not the primary concern of those who adopted the Constitution and Bill of Rights.

Mr. HILL. Mr. President, will the Senator from Mississippi yield for a question?

The PRESIDING OFFICER (Mr. PELL in the chair). Does the Senator from Mississippi yield to the Senator from Alabama?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that to avoid that very thing—namely, the exercise of autocratic, tyrannical power—the Founding Fathers wrote into the Constitution the provisions for the right of trial by jury; and is it not also true that one of the reasons why they wrote the Declaration of Independence was their determination to get away from the abuses that had been heaped upon them by the British Government?

Mr. EASTLAND. The Senator from Alabama is entirely correct. One of the provisions of the Constitution guarantees the right of trial by jury in cases in which the amount involved is more than $20. Therefore, if a man could be sentenced to jail for 1 year or 2 years, why would not he, too, be entitled to a trial by jury, if we are to follow the purpose of the Founding Fathers? They did not leave in the Constitution a single loophole which would permit dictatorship and tyranny in the United States.

The seventh amendment to the Constitution provides as follows:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

If the amount in controversy is $20.01, with the result that the defendant is thus entitled to a jury trial, what is the meaning of that provision of the Constitution? Did the Founding Fathers mean to permit a judge to try a man on a charge of criminal contempt—which in itself is a crime—and then sentence the defendant to a year or 2 years in jail, without giving him the benefit of trial by jury? Of course not. The right of trial by jury is an integral part of the Constitution of the United States.

Mr. HILL. Mr. President, will the Senator from Mississippi yield for another question?

Mr. EASTLAND. I yield.

Mr. HILL. Is it not true that article III of the U.S. Constitution provides in part in section 2 that:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Is not that a part of the original Constitution, as adopted at the Philadelphia convention?

Mr. EASTLAND. Yes. As I recall—and I speak now from memory—disobedience of a court order is a violation of a Federal statute, and thus becomes a crime.

Mr. HILL. Yes.

Is it not true that the Founding Fathers wrote into the Constitution, in article III, the provision I have just read; and is it not also true that they went further, and provided in the sixth amendment to the Constitution as follows:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Mr. EASTLAND. Yes; and all of those provisions are great guarantees of human liberty. However, the pending bill would take them away.

Mr. HILL. Yes. All of them would be taken away by the bill; and, in particular, the bill would deny the right of trial by jury.

Furthermore, in addition to the provision in article III which I have quoted and the sixth amendment to the Constitution, both of which provide for trial by jury, is it not also true that the seventh amendment provides:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Mr. EASTLAND. Of course that is true. Do not those provisions throw light on the meaning of the other parts of the Constitution?

Mr. HILL. Of course they do; they give great emphasis to the meaning of the other provisions of the Constitution.

Mr. EASTLAND. Thus the Constitution clearly provides that one cannot be convicted of the commission of a crime except on indictment by a grand jury and trial by a jury of his peers in the area or locality in which the crime is alleged to have been committed.

Mr. HILL. They go further and say that they should have the right of confrontation of the accuser, to bring witnesses into court, and to examine them.

Mr. EASTLAND. And to provide a public trial.

Mr. HILL. And to provide a public trial.

Mr. EASTLAND. The defendant must be sentenced in public.

Mr. HILL. He also has a right to the assistance of counsel.

Mr. EASTLAND. The Senator is correct. But under the bill all the judge would be required to do would be to enter an order against the defendant.

Mr. HILL. The judges would do what was done under the old star chamber procedure and under the tyrants of Rome and other ancient countries, would they not?

Mr. EASTLAND. Yes. The liberties of our people would be destroyed. The liberties of people, not only in the South, including Alabama and Mississippi, but all over the country, would be destroyed. In the long run due respect for the courts and their mandates would be much more likely if they faithfully observed the procedures laid down.

I continue to read from the brief:

> In the long run due respect for the courts and their mandates would be much more

> likely if they faithfully observed the procedures laid down by our nationally acclaimed charter of liberty, the Bill of Rights. The classic example of this is the use and abuse of the injunction and summary contempt power in the labor field.
>
> Crimes of contempt ought to be required to be punished under the Constitution just as all other crimes. Unfortunately judges and lawyers have told each other the contrary so often that they have come to accept it as the gospel truth.
>
> There are some areas of the discussion had there which we believe our additional research may illumine. There is also a fundamental difference in factual context between this case and the Green case. That difference is that on May 6, 1960, the Congress enacted a statute defining obstruction of court orders as a crime. The acts which caused Green's convictions were not, at the time committed, proscribed by criminal statute.
>
> A. HISTORICAL DATA
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> History teaches that juries were originated by William the Conqueror. They were not originally instruments of freedom, but tools of oppression used to assure the Monarch that the "dooms" which these jurors pronounced on their neighbors in each manor would include all of that man's taxable land and property. They were the source of the Doomsday Book of 1086.

Mr. HILL. Mr. President, will the distinguished Senator yield for a question?

Mr. EASTLAND. I yield.

Mr. HILL. The distinguished Senator from Mississippi is chairman of the Judiciary Committee of the Senate, which is one of the most important committees of the Senate. I wonder if he would agree with Mr. Roland L. Goldfarb, author of the paper entitled "The Contempt Power," published by the Columbia University Press. Mr. Goldfarb is now with the Department of Justice. In the article by Mr. Goldfarb, of the Department of Justice, appears the following statement:

> It could well be suggested that, most peculiarly, in contempt cases the jury has a valuable role. First, it brings the public's attention and interest to a dispute which is usually an official, governmental one. Public enlightenment, even if only through jury representation, has been characterized as an "indispensable element in the popular vindication of the criminal law." This participation hopefully encourages popular understanding and acceptance of the administration of justice. Second, the jury may serve as an insulation between the alleged offender and the offended party, who is sometimes the judge and sentencer.
>
> This conservative deliberation in an otherwise unlimited, uncontrolled situation allows the jury to function as a wall against possible abuses by governmental powerholders upon individuals. The general public may look with skepticism upon a judicial process which allows one man to be judge, prosecutor, victim, and jury, but as Justice Black aptly pointed out there is inclined to be less false martyrdom where a jury convicts.

Does the Senator agree with that statement?

Mr. EASTLAND. Commonsense appears all throughout the statement. It is a very fine statement of the fundamental principles of human liberty. If our country is to remain free, we must adhere to those principles. The bill would take us far afield.

I continue to read from the brief:

> The right to trial by a jury of one's peers is rooted in antiquity. This is borne out by the words of Mr. Justice Harlan in 1898:
>
> "When Magna Carta declared that no freeman should be deprived of life, etc., 'but by the judgment of his peers or by the law of the land,' it referred to a trial by twelve jurors. Those who emigrated to this country from England brought with them this great privilege 'as their birthright and inheritance, as a part of that admirable common law' which had fenced around and interposed barriers on every side against the approaches of arbitrary power. '2 Story, Const. § 1779. In Bac. Abr. tit. "Juries" it is said: The trial per pais, or by a jury of one's country, is justly esteemed one of the principal excellencies of our Constitution; for what greater security can any person have in his life, liberty, or estate than to be sure of not being divested of nor injured in any of these without the sense and verdict of twelve honest and impartial men of his neighborhood? And hence we find the common law herein confirmed by Magna Charta.' So, in 1 Hale, P.C. 33: 'The law of England hath afforded the best method of trial that is possible of this and all other matters of fact, namely, by a jury of twelve men all concurring in the same judgment.'" (*Thompson* v. *Utah*, 170 U.S. 343.)
>
> One of the greatest victories in the struggle to preserve the jury system occurred in 1670 when the Quaker, William Penn, was acquitted of a charge of disturbing the peace by a jury, the members of which found themselves immediately fined and imprisoned by a judge who did not want the Crown to be denied the conviction it demanded. On appeal to the Court of Common Pleas the stalwart judges of that court unanimously voted to free the jurors. ("Concise History of the Common Law," 5th ed., Plucknett, p. 134; "Almanac of Liberty," Douglas, p. 86–88, 149.)
>
> In the time of the Stuart kings when most of the colonies were established, jury panels were used, but they were hand picked to bring in the verdict desired by those in power. ("Almanac of Liberty," supra, p. 195.)
>
> As encouragement to settle the new colonies, stipulations were made by the Crown that among the liberties the colonists would enjoy was the right to trial by jury. Later King George III, to increase the revenue potential of the colonies, commenced a program of vigorous taxation including the odious Stamp Act of 1765. The King's Ministers entertained the same fear that has led to burgeoning use of criminal contempt in this country that a jury system would not result in "adequate" enforcement of unpopular laws. Hence, enforcement of the Stamp Taxes was placed in the hands of the Admiralty Courts and right of trial by jury was denied. This action was, in large part, the leaven which raised the colonists to the War of the Revolution.
>
> Long before this revolution, this principal excellency, the right to trial by jury, was embodied in the Declaration of Rights in 9 of the 13 colonies in these words:
>
> "That trial by jury is the inherent and invaluable right of every British subject of these colonies."
>
> When, "in the course of human events" it became necessary for them to dissolve their bonds connecting them with England, they specifically listed in that great document of July 4, 1776, the grievance: "For depriving us in many cases of the benefits of trial by jury."
>
> Within a month after the Declaration of Independence most of the new states adopted constitutions guaranteeing jury trials in criminal and civil cases.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield.

Mr. LONG of Louisiana. Considering how fundamental the right of trial by jury has been to the freedom of all Anglo-Saxon countries and all English-speaking countries, it having been one of the reasons why this Nation fought a war of independence, can the Senator give me any logical reason why anyone should have to go to the Supreme Court to plead for the right to be tried by a jury?

Mr. EASTLAND. I cannot. I have listened to the debate, and I have not heard one of the proponents state any reason against the right of trial by jury.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. EASTLAND. I yield.

Mr. LONG of Louisiana. Has the Senator heard the suggestion made that southern people are a different kind of animal from other Americans, and that there is something about southerners which keeps them from being honorable, decent, and patriotic American citizens?

Mr. EASTLAND. I have not heard that argument. The argument I have heard is at variance with any principle of justice that I know anything about. That is the argument that the judge should himself have the power to enforce his decree. That is at variance with anything I know about. Certainly a judge should not be legislator, prosecutor, jury, and imposer of sentence. The judge should not be the one to bring the indictment; but he would take the place of an indictment; the Senator from Alabama [Mr. HILL] is correct.

Mr. LONG of Louisiana. During the time the Senator from Mississippi has been Chairman of the Committee on the Judiciary, has he had opportunity to examine the views and the general philosophy of persons who have been nominated by the President to serve as judges on the Federal courts?

Mr. EASTLAND. I have.

Mr. LONG of Louisiana. Has the Senator found any of those who have come before him, seeking to have their nominations confirmed by the Senate to be judges in Federal courts, to be persons who would insist upon the right to be the arrester, prosecutor, jury, judge, and sentencer of a citizen who might be required to defend himself?

Mr. EASTLAND. If he took such a position, he would not get one vote from the committee.

Mr. LONG of Louisiana. If that is a power that no judge is seeking and no judge would expect or insist upon, can the Senator tell me why anyone should insist upon reposing such arbitrary power in a judge?

Mr. EASTLAND. It is a power bill. It is an attempt to pick up a few votes from this group and a few votes from that group, and to influence religious groups that are pouring into Washington, demanding the passage of the bill, but who know nothing about our system of government and know nothing about the issues at stake in the bill.

Mr. LONG of Louisiana. Are the religious groups to which the Senator refers apprised of the legal fine points of the problem of the man who would have to defend himself against the exercise of governmental power?

Mr. EASTLAND. The representatives with whom I have talked do not know anything about it. They are totally ignorant of the subject.

Mr. LONG of Louisiana. Would it not be fair to say that those who are demanding and insisting that the Senate vote for the bill do not know what they are talking about, so far as this provision is concerned?

Mr. EASTLAND. They do not know what they are talking about. They do not know what is in the bill. They have been told to come here, and they swarm here like locusts.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield.

Mr. HILL. The more people in the States find out about what is in the bill, the more they will recognize that they are against the bill; is that not true?

Mr. EASTLAND. I have not seen the article, but I am told that an article appeared in the New York Herald-Tribune, in which the Attorney General is alleged to have said that the bill would not affect the North, but would bring about a profound change in the South. I understand that the Herald-Tribune quoted him as making a statement to that effect.

This is sectional legislation. It is an attempt to bring about social change in the South and to leave the rest of the country alone.

I continue reading the brief:

In the making of the Constitution and the birth of the Bill of Rights, the right of trial by jury was the only procedural right which received a triple guarantee. (Art. III, sec. 2, cl. 3, sixth amendment, seventh amendment; not to mention the right of grand jury indictment established by the fifth amendment.)

With only the Constitution in hand, if one were asked if those who wrote the Constitution had a high regard for the institution of trial by jury, the questioner need only be asked to look around him. With deference, we submit that with the light of history illuminating these eternal principles of rational freedom, there can be no doubt that the blood, sweat, and tears of our forefathers was shed in abundant measure to secure to themselves and their posterity the right of trial by jury.

### B. SUBSTANTIVE DUE PROCESS REQUIRES THAT 18 U.S.C. 1509 BE INTERPRETED TO TRANSPOSE CRIMINAL CONTEMPT JURISDICTION INCLUDED THEREIN INTO FEDERAL CRIMINAL LAW

Obviously, if the conduct charged in this criminal contempt proceeding were proven, these acts would be a precise violation of the obstruction of the court order statute. The legislative history of this statute makes it clear that one principal reason for its enactment was to deal with the precise situation claimed to exist here. (60 U.S. Code Cong. and Adm. News, p. 1942 (Cf. p. 1961) and Hearings before Subcommittee on Constitutional Rights of the Judiciary Committee of U.S. Senate, 86th Congress, 1st Session 1959, pp. 186–189.)

It is a firmly entrenched ruling of this Court that courts of the United States possess no common law criminal jurisdiction. They have only the power to punish such crimes as are defined by Congress. (*U.S.* v. *Hudson and Goodwin*, 7 Cranch 32; *U.S.* v. *Hall*, 98 U.S. 343.) Defendants stand accused of a contempt of court by an alleged act which is now clearly defined as a crime by the Congress and is punishable by indictment by a constitutional Grand Jury and trial by a constitutional Petit Jury in accord with all of the normal constitutional safeguards surrounding Federal Criminal procedure. The right of trial by jury is one such safeguard that has never been lightly regarded. (Blackstone called it "The glory of the English Law". 3 Comm. 379. In *Van Horne's Lessee* v. *Dorrance*, 2 Dallas 304, 309, decided 4 years after the Federal Bill of Rights was ratified, the U.S. Circuit Court of the District of Pennsylvania, referring to § 9 of the Pennsylvania Bill of Rights, which is thought to have influenced Madison's draft of the 6th Amendment, said: "If the Legislature had passed an act declaring, that, in future, there should be no trial by Jury, would it have been obligatory? No. It woud have been void for want of jurisdiction, or constitutional extent of power. The right of trial by Jury is a fundamental law, made sacred by the Constitution, and cannot be legislated away." Compare this Court's language in *Ex parte Milligan*, 4 Wall. 2, 123 (1886): "The sixth amendment affirms that 'in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury,' language broad enough to embrace all persons and cases"; and the words of Justice Story: "When our more immediate ancestors removed to America, they brought this great privilege (trial by jury in criminal cases) with them, as their birthright and inheritance, as a part of that admirable common law which had fenced round and interposed barriers on every side against the approaches of arbitrary power. It is now incorporated into all our state constitutions as a fundamental right, and the Constitution of the United States would have been justly obnoxious to the most conclusive objection if it had not recognized and confirmed it in the most solemn terms." (2 Story, Const., Sec. 11779.)

The right of these defendants to have the full benefit of this safeguard cannot constitutionally be abridged by the mere choice of courts or proceedings by the prosecution or by an "offended" Court's choice to have these defendants summarily tried before it without these safeguards. Such an optional and uneven method of proceeding would clearly violate the due process clause of the 5th Amendment. In *Griffin* v. *People of the State of Illinois*, (351 U.S. 12, 16), this Court speaking through Mr. Justice Black, the Chief Justice and Justices Douglas and Clark, said:

"Providing equal justice for poor and rich, weak and powerful alike is an age-old problem. People have never ceased to hope and strive to move closer to that goal. This hope, at least in part, brought about in 1215 the royal concessions of Magna Charta: 'To no one will we sell, to no one will we refuse, or delay, right or justice. * * * No free man shall be taken or imprisoned, or disseised, or outlawed, or exiled, or anywise destroyed; nor shall we go upon him nor send upon him, but by the lawful judgment of his peers or by the law of the land.' These pledges were unquestionably steps toward a fairer and more nearly equal application of criminal justice. In this tradition, our own constitutional guaranties of due process and equal protection both call for procedures in criminal trials which allow no invidious discriminations between persons and different groups of persons. Both equal protection and due process emphasize the central aim of our entire judicial system—all people charged with crime must, so far as the law is concerned, 'stand on an equality before the bar of justice in every American court.' (*Chambers* v. *Florida*, 309 U.S. 227, 241, 60 S. Ct. 472, 479, 84 L. Ed. 716.)"

If, for precisely the same act, one man can be tried by a jury under the statute only after indictment while another may be attached to appear for summary trial before the court whose order he allegedly disobeyed, the obvious result is a critical lack of equality before the bar of justice which is a violation of due process.

This erroneous result can only be avoided by recognizing that Congress intended to preempt the action described in the criminal statute from the field of contempt and to require courts to process such actions in the regular constitutional manner in which all crimes are tried.

Under the aegis of "Due Process," this court has gradually built for itself a set of acceptable limitations on the exercise of criminal contempt power in cases of the category here presented. These required procedural devices are:

1. The accused is presumed innocent, proof of guilt beyond a reasonable doubt is required, and the accused cannot be compelled to testify against himself.
2. The accused is entitled to advice as to the charges against him, a reasonable opportunity to prepare a defense, the benefit of compulsory process, and the assistance of counsel.
3. The accused is entitled to an impartial arbiter of fact.
4. The accused is entitled to a public trial.
5. The accused is entitled to the benefit of a statute of limitations governing crimes.
6. The sentence imposed must be "reasonable."
7. A person convicted of criminal contempt is entitled to be admitted to bail.
8. A person convicted of criminal contempt may be pardoned by the President under the President's constitutional authority to pardon "criminal offenses."

The only constitutional procedural guarantees still omitted are indictment by a grand jury, the right to a speedy trial by an impartial jury, and the prohibition against double jeopardy. No question has yet been raised in this court as to venue, which may become an issue in this case. The Court's reasoning is that these restraints are required by the due process clause of the fifth amendment and are commensurate with the exercise of "the least possible power adequate to the end proposed."

While a majority of this Court has held that a proper construction of the Constitution permitted the power to be implied around that document into the Federal courts to summarily deal with crimes of contempt, it has inconsistently but continuously recognized the power of Congress to limit these "inherent" contempt procedures; and in this case the obstruction of court orders statute defines an area which Congress has withdrawn from the exercise of criminal contempt. The result reached by such a holding has been previously urged by respectable authority.

The Court's holding in Ex Parte Savin is not to the contrary. Rather, it supports the position here urged. The statute there considered did not create and define a crime, but rather it contained a definition of permissible areas of contempt jurisdiction, and, of course, it did not contain any provision similar to § 1509, saving out of the statute's ambit only civil relief against the conduct specified as criminal. Neither does Savin give any consideration to the point made in Griffin, supra. The Court may also wish to consider the fact that § 1509 was enacted in full hindsight of Griffin's teaching.

Of course, no one would contend that companion criminal statutes and rules do not preserve to every court the right to summarily deal with contempts committed in its presence.

Mr. HILL. Mr. President, at this point will the Senator from Mississippi yield?

The PRESIDING OFFICER (Mr. McINTYRE in the chair). Does the Senator from Mississippi yield to the Senator from Alabama?

**Mr. EASTLAND.** I yield for a question.

**Mr. HILL.** Is it not true that in the colonial days, in the courts of equity and in equity proceedings, use was made of the injunction, to preserve the status quo?

**Mr. EASTLAND.** That is correct.

**Mr. HILL.** But that was seldom done in cases of criminal contempt, was it?

**Mr. EASTLAND.** That is true.

**Mr. HILL.** Is it not also true that the use of the criminal contempt injunction has expanded enormously, so that today some rather common, everyday acts are involved in connection with the use of criminal contempt?

**Mr. EASTLAND.** That is true; its use has expanded, very greatly, and very rapidly—far beyond the comprehension of the Founding Fathers or the comprehension of any other person who in those days had any learning of the law.

**Mr. HILL.** I know the Senator from Mississippi is an outstanding authority on the Constitution. He is also chairman of the Senate Committee on the Judiciary. He has studied the debates at the Philadelphia Constitutional Convention; and he has also studied the debates at the various State conventions which were called on to ratify the Constitution. Is it not his opinion that if the equity procedures we find today had existed at the time of the writing of the Constitution, the Founding Fathers would have included in the Constitution a specific provision that in contempt cases the accused must have the right of trial by jury?

**Mr. EASTLAND.** Certainly. The Founding Fathers were anything but fools; they were extremely intelligent men.

The Senator from Alabama knows that if the people of this country are deprived of the right of trial by jury or if that right is limited in any way, the result will be the creation of tyranny. Does not the Senator from Alabama agree?

**Mr. HILL.** I certainly do agree.

**Mr. EASTLAND.** Does the Senator from Alabama think that for 1 minute the Founding Fathers would have left in the Constitution a loophole through which dictatorship could be established or tyranny could be established in this country, whereas the very object of the Constitution was to put an end to dictatorship and tyranny?

**Mr. HILL.** Of course, they would not have made such an omission. Putting an end to tyranny was the very purpose of the Constitution, was it not?

**Mr. EASTLAND.** Yes.

**Mr. HILL.** Whereas George III had done many tyrannical and highly objectionable things, including denial of the right of trial by jury.

**Mr. EASTLAND.** That was done under the Stamp Act, immediately preceding the Revolution.

But even in the law which 9 of the 13 Colonies repealed, there was provision of the right of trial by jury in all such cases. So who would attempt to argue now that the people of this country were then willing to surrender that right—a right they already had when the Constitution was written.

**Mr. HILL.** I agree.

Furthermore, in addition to the provision in article III of the Constitution, the sixth amendment and the seventh amendment of the Constitution definitely go further than that; in the sixth amendment and in the seventh amendment, the right of trial by jury is guaranteed in all criminal cases and also in all civil cases "where the value in controversy shall exceed $20."

**Mr. EASTLAND.** That is correct. In fact, the right of trial by jury is the only right which again and again and again is guaranteed in the Constitution.

I read further from the brief:

> Another very important aspect of Constitutional Due Process is embodied in the suggestion of Judge Bell of the Court of Appeals for the Fifth Circuit in which he indicated that the court should have certified an additional question which is, we submit with all due respect, implicit in the question presented; namely, whether or not this court should require these proceedings to be tried before a District Court.
>
> In In re Murchison, this Court said:
>
> "A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered. This Court has said, however, that 'Every procedure which would offer a possible temptation to the average man as a judge * * * not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.' *Tumey* v. *State of Ohio,* 273 U.S. 510, 532, 47 S. Ct. 437, 444, 71 L. Ed. 749. Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.
>
> "It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations."
>
> The Court's attention is further directed to two pertinent provisions of Title 28, United States Code:
>
> Section 144 gives any party the right to file a timely affidavit that the District Judge before whom the matter is pending has a personal bias or prejudice. Upon the filing of this affidavit the Judge must immediately refer the matter to another Judge for hearing. This statute affects only District Courts.
>
> Section 455 of the same title is the only statute applicable to appellate judges. It provides that the judge shall disqualify himself in any case where "in his opinion" he has a "substantial interest".
>
> In *Adams* v. *United States* the Fifth Circuit held that the words "substantial interest" in § 455 meant a pecuniary or beneficial interest or an interest equal to a lawyer pursuing litigation in behalf of his client. They there expressly approved of the conduct of a trial by a judge who had acted as the prosecutor at the time of the indictment.
>
> We submit the disparity between remedies available to question the open-mindedness of the prospective trial judges in a regular trial court as opposed to the appellate tribunal here involved intensifies the lack of procedural due process available to these defendants.
>
> To answer the prophets of doom who say that the "efficiency" and effectiveness of the Court would be impaired if these views be adopted here, we would recall Mr. Justice Black's analytical reminder that the only subject dealt with here is criminal contempt—that species of the contempt power which concerns itself with punishment for a past wrong for the purpose of seeking vindication and preventing similar misdeeds in the future. Every remedial civil power to preserve order and secure rights adjudicated would remain unimpaired; only the defendants' fundamental due of basic constitutional procedural guarantees are here asserted.

**Mr. HILL.** Mr. President, will the Senator yield?

**Mr. EASTLAND.** I yield.

**Mr. HILL.** The Senator has referred to a decision by Mr. Justice Black. Does not the Senator agree with Mr. Justice Black when he makes the following declaration:

> When the responsibilities of lawmaker, prosecutor, judge, jury, and disciplinarian are thrust upon a judge, he is obviously incapable of holding the scales of justice perfectly fair and true and reflecting impartially on the guilt or innocence of the accused.
>
> He—

Meaning the trial judge—

> truly becomes the judge of his own cause.

**Mr. EASTLAND.** That is true.

**Mr. HILL.** Continuing to read Mr. Justice Black's statement:

> The defendant charged with criminal contempt is thus denied what I had always thought to be an indispensable element of due process of law—an objective, scrupulously impartial tribunal to determine whether he is guilty or innocent of the charges filed against him. In the words of this Court: "A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. * * * Fair trials are too important a part of our free society to let prosecuting judges be trial judges of the charges they prefer," In re *Murchison,* 349 U.S. 133, 136–137. Cf. *Chambers* v. *Florida,* 309 U.S. 227, 236–237; *Tumey* v. *Ohio,* 273 U.S. 510; In re *Oliver* 333 U.S. 257.

Does the Senator agree with that declaration?

**Mr. EASTLAND.** I agree. The reasoning is self-evident. It is bound to be correct. It is logical, and there is righteousness in every single line that is stated.

**Mr. HILL.** I ask the Senator whether he also agrees with the statement of Justice Black which I am about to read. I believe that not only would the Senator agree with the statement, but he himself has emphasized it. The statement is as follows:

> In my view the power of courts to punish criminal contempt by summary trial, as now exercised, is precisely the kind of arbitrary and dangerous power which our forefathers both here and abroad fought so long, so bitterly, to stamp out. And the paradox of it all is that the courts were established and are maintained to provide impartial tribunals of strictly disinterested arbiters to resolve charges of wrongdoing between citizen and citizen or citizen and state.

**Mr. EASTLAND.** That is correct.

Mr. HILL. That is exactly what the Senator from Mississippi has been trying so eloquently to emphasize and to bring to the attention of Senators and the people of our country. Is that correct?

Mr. EASTLAND. The people of the country had better catch on to what is happening, because without their knowledge their most precious rights will be swept away.

Mr. HILL. The Senator refers to Anglo-Saxon justice.

Mr. EASTLAND. Anglo-Saxon justice. The next thing that would be denied would be the right to own property. The Senator is the distinguished chairman of the Committee on Labor and Public Welfare. If the bill is enacted, the unions will be taken over lock, stock, and barrel. The U.S. Government will do it. Union members will be deprived of their seniority rights. The Senator knows that when two people of different races would apply for a job, the employer would select one on the basis of race, because if he should hire a white man, he would be required to explain it to the Federal Government. A preference in employment against the white race would be established.

Mr. President, continuing to read from the brief:

> At the outset of this discussion, it seems appropriate to note that no greater compliment to the logic and persuasiveness of the constitutional dissent in the Green case could be tendered then has been paid by the Brief for the United States. It devotes half its argument and the citation of 75 cases to an attempt to persuade the Court not to adopt this position.
>
> The prosecution admits that a consideration of criminal contempt procedures by the Founding Fathers cannot be historically authenticated. The Constitution's only expressed exception to the guarantee of jury trial in criminal cases was "in cases of impeachment", which is certainly a proceeding that is sui generis, and uniquely extra-judicial. If usual rules of interpretation are applied, expressing a single specific exclusion creates a stronger presumption that no other exceptions were intended than would have been present if no exception whatsoever had been made. History assures us that the words of Art. III, Section 2, Clause 3, met with immediate dissatisfaction in the new Union. It also teaches that the Bill of Rights had a purpose of specifically defining the scope and nature of trial by jury. The explicit guarantee of that right was one purpose intended. The people thought so much of it that they wanted the right of trial by jury well defined. Criminal contempts were not in any way excluded from this safeguard and should not be read out by implication.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HILL. The distinguished Senator speaks of history. Is it not true that the entire purpose of the establishment of a jury trial, extending all the way back into history, was to protect the people from autocratic judges?

Mr. EASTLAND. That is correct. It was to protect them from autocratic judges who were appointed by the king. These judges would be autocratic judges, appointed by the President. The Presidency is growing stronger each year at the expense of the States, the Congress, and the people.

Mr. HILL. Is it not true, in contradistinction to the procedure in most of the States, that the tenure of a Federal judge is a life tenure? Once he is placed upon the bench, he is there for life. Is that not true?

Mr. EASTLAND. Unless he is impeached. Thomas Jefferson said that impeachment amounted to nothing.

Mr. HILL. First he must be impeached by the House of Representatives. Then the Senate must have a two-thirds vote to convict him and impeach him.

Mr. EASTLAND. That is true. Thomas Jefferson said it was meaningless, that it did not amount to anything.

Mr. HILL. The Senator and I know that Thomas Jefferson was speaking of life tenure, and he was thinking about these judges when he said:

> Trust no man. Bind all men by the chains of the Constitution.

When he was talking about the chains in the Constitution, he was talking about the three chains the Senator has so well described today—the provision in the original Constitution, and the provisions in the sixth amendment and the seventh amendment to the Constitution, which the Founding Fathers thought guaranteed the right of a trial by jury. Is that correct?

Mr. EASTLAND. The Senator is exactly correct. It is up to us to see that the judges and everyone else are responsible to the people. We cannot continue a system under which a group, such as the present judiciary, who are responsible to no one except their own consciences, and who, as one judge boasted, are the judges of their own power, are given sole discretion as to what they will do.

Mr. HILL. Power feasts on power. Is that correct?

Mr. EASTLAND. That is correct.

Mr. HILL. So the only protection for the people of the United States against this evergrowing power is the right of a trial by jury. Is that correct?

Mr. EASTLAND. That is correct. It is the greatest safeguard of freedom which we have. It is more important than freedom of the press, which is, of course, a great freedom. It is more important than freedom of religion. The right of a jury trial is a basic guarantee of human liberty. It is to protect the rights of the people.

Mr. HILL. We have the same problem before us that the Founding Fathers had when they wrote into the Constitution provisions which they thought would guarantee the right of a trial by jury. King George destroyed the liberty of the Colonies by transferring trials to admiralty courts, which courts contained no provision for a jury trial. Is that correct?

Mr. EASTLAND. That is exactly correct. That was one of the principal reasons for the Revolution.

Mr. HILL. The King declared that all the harbors in the Colonies should come under the jurisdiction of the admiralty courts. Thus the people would be deprived of their right to a jury trial. Then he expanded the territorial limits of the harbors to include cities and the surrounding territory.

Mr. EASTLAND. That is correct.

Mr. HILL. That is what this bill would do. It would include all the surrounding territory, and at the same time it would deny to the people their right of a trial by jury.

Mr. EASTLAND. That is correct. There was tremendous resentment in the country when that was done. It was a resentment which was justified. It caused the Boston Tea Party.

Mr. HILL. If we pass this bill without any right to a trial by jury, we are merely following the example set by King George III, when he had all cases transferred into admiralty court so that there would not be any trial by jury. In this case, there would not be any trial by jury. Is that correct?

Mr. EASTLAND. We now face a similar condition. Previously the right of a jury trial was evaded by the "hocus-pocus" of the admiralty court, by means of extending the boundaries of the harbor. In this case, we are trying to evade a jury trial in criminal contempt procedure in exactly the same manner. The proponents of the substitute amendment offer this "hocus-pocus" that, "You are entitled to a jury trial if the judge is going to sentence you to more than 30 days and fine you more than $300." We are to tell the people that that is a compromise, that we have protected their rights, when nothing has been protected. It would all be swept away.

Continuing to read from the brief:

> It is difficult to comprehend the logic of those who argue that a thoroughly discredited and an uncertain historical background have combined to justify a strained construction of the normal import of words used by those who had so recently passed from under the heel of an oppressive monarch whom they criticized for depriving them of the right to trial by jury in their Declaration of Independence.
>
> Giving even honors to the contentions that history establishes, and on the other hand, fails to establish, the use of summary procedures in criminal contempt in English courts after the abolition of the infamous Star Chamber, we can only find that history proves that the Federal convention was as silent on the precise subject as is the Constitution itself.
>
> The prosecution turns to the stirring words of the Federalist on preserving the benefits of an impartial judiciary, but the Court knows that this very Hamilton struck equally stirring phrases in favor of trial by jury.
>
> The majority opinion in the *Green* case also advances the assurance that the contempt power is subject to judicial review—an assurance which Mr. Justice Black characterizes as a "trifling amelioration" (356 U.S. 197). In the present case even that characterization might be subject to considerable skepticism.
>
> This proceeding is now before a Circuit Court of Appeals. The statutes provide the defendants with no right of appeal. They only have permission to apply to this Court for a Writ of Certiorari (*Bessettee* v. *W. B. Conkey Co.*, 194 U.S. 324; *In re Terry*, 128 U.S. 289; *In re Debs*, 158 U.S. 564). As to the basic issue of guilt or innocence of contempt, the question presented would be one of fact which this Court has consistently refused to review. The only question "review" covers is the amount of the punishment inflicted.
>
> The reasoning is advanced by the majority opinion in *Green* that a summary trial is "necessary." The prosecution devotes the

principal portion of its constitutional argument to this "need power." It speaks of the dangers that a single juror lacking sympathy with the underlying order could render the order "ineffective" (Brief, p. 48). This argument condemns and would abolish the constitutional principle of trial by jury in every case. The assertion ignores the very purpose of criminal contempt, which is not to coerce enforcement but to punish disobedience. The orders alleged to have been violated here have long ago met with full compliance; in fact, the litigant has now graduated. The purpose of these criminal proceedings is to determine the propriety of imposing a purely penal sanction for past action.

The prosecution brief further talks of a jury trial embarrassing and retarding the business of the courts. Which of the guarantees in our Constitution won't embarrass and retard those autocratic acts which make Government by a despot simple and expedient (in the despot's view, at least)? Our prosecutors do not heed de Tocqueville, who admonished against confusing the familiar with the necessary. Compare Mr. Justice Moody's apt words (*Twining et al.* v. *New Jersey*, 211 U.S. 78):

"It does not follow, however, that a procedure settled in English law at the time of the emigration, and brought to this country and practised by our ancestors, is an essential element of due process of law. If that were so, the procedure of the first half of the seventeenth century would be fastened upon the American jurisprudence like a straight jacket, only to be unloosed by constitutional amendment. That, said Mr. Justice Matthews, in the same case, p. 529, 'would be to deny every quality of the law but its age, and to render it incapable of progress or improvement.' *Holden* v. *Hardy*, 169 U.S. 366, 388, 42 L. Ed., 780, 789, 18 Sup. Ct. Rep. 383."

Certainly the most convincing argument against continuing to allow extra-constitutional summary punishments of contempts on the justification of this so-called "need power" is found in Circuit Judge Caldwell's dissenting remarks in *Hopkins* v. *Oxley Stave Co.* (83 Fed. 912) sixty-five years ago:

"But the logical difficulty with this reasoning is that it confers jurisdiction on the mob equally with the Chancellor. Those who justify or excuse mob law do it upon the ground that the administration of criminal justice is slow and expensive, and the results sometimes unsatisfactory. It can make little difference to the victims of short-cut and unconstitutional methods whether it is the mob or the Chancellor that deprives them of their constitutional rights."

If Judge Caldwell's reasoning still be deemed insufficient, we urge the Court to consider its holding in *In re Debs* (158 U.S. 564) before the rationale of that case which terminated by statute (18 U.S.C. 3692). In the early 1890's the railroad barons had acquired an inordinate economic power over their employees. Any man who dared speak out against management practices, work hours, or wages was dismissed and blacklisted. Such unions as there were, were so small and jealous of the individual craft they represented that they were totally ineffective as bargaining agents. Eugene Debs was a principal organizer of the American Railway Union which attempted to band together several of the independent unions to achieve a more workable bargaining position. His union staged one successful strike against one of the larger railroad companies and was fast gaining in popularity. The Pullman Palace Car Company, which in those times was still controlled by its dominating founder, chose to cut the wages of its employees without making any provisions for relief to the employees covering house rents and foodstuffs. (Almost all Pullman employees lived in company-owned houses and purchased their furnishings from company-owned stores). Debs' union called a strike against every railroad operating Pullman cars to force Pullman to make an adjustment to relieve the employees' economic squeeze.

In several areas where the actions of the Pullman Company were the subject of widespread public resentment, great hordes of people joined the striking American Railway Union. Through Pullman's influence on State and national leaders, members of the National Guard and troops of the United States were used for strikebreaking purposes. Property damage and personal injury resulted. When this course was not fully effective the Federal Government secured an injunction from the U.S. District Court against the maintenance of the strike. Debs refused to abandon his position. The Court in a summary proceeding cited, tried, convicted, and imprisoned Debs and his principal lieutenants. The strikers were demoralized, the strike was broken, and Pullman's domination was reinstated.

But for the intervention of Congress, such a practice could have still been continued in labor disputes to this day. It is not hard to imagine that labor's voice in this country would be little heard and less heeded if such practices had been allowed to continue.

*The basis for the Debs decision was necessity and "efficiency"*. (158 U.S. 595.)

In this present case, in the face of a positive statutory enactment making obstruction of court orders a Federal crime, we have the anomalous situation of the prosecution bypassing a court of original jurisdiction (whose then pending injunction was, if their criminal information charges be proven, as threatened with obstruction as was the mandate—"injunction" of the Court of Appeals) and seeking from the appellate court a writ to prohibit conduct which a statute had already criminally proscribed.

"The courts of America, and especially the federal courts, have shown a disposition to extend their powers beyond any limits heretofore recognized. In seeking to restrain acts in their nature purely criminal, and punishing by summary proceedings for contempt persons accused of committing those acts, they have been charged with usurping the functions of the criminal law; in seeking to restrain all persons, whether parties to the suit or not, and whether identified or not, they have been charged with issuing decrees legislative rather than judicial."

"It is not one of the functions of a court of equity to prevent the commission of threatened crimes."

"An injunction against * * * an * * * overt breach of the peace can have no tendency to prevent the act enjoined except by fear of punishment. That sanction the law already attaches to its prohibition of the same act, and whatever will justify punishment for contempt in such a case will equally justify punishment for the criminal act which constitutes the contempt."

These words were not written about the case of *Meredith* v. *Fair*, nor were they written in the year 1963. They are the words of Willam H. Dunbar of Boston, Massachusetts published in October of 1897 in his scholarly comment on the case of *In re Debs* ("Government by Injunction," 18 Law Q. Rev. 347). We respectfully submit they could have been no less apropos had they been written with this case and this day in mind. The Court also knows that one of the great maxims of equity is *equitas sequitus legem*—equity follows the law. Equity does not intrude in matters plainly and fully covered by statute (*Magniac* v. *Thompson*, 56 U.S. 281; *Hedges* v. *Dixon County*, 150 U.S. 182).

Much reliance is placed by the majority opinion in *Green* as to the preciseness with which the terms "crime" and "criminal proceedings" were used in the Constitution (356 U.S. 186).

In considering the weight that is to be assigned to this assumption, without proof, that great attention was given to a precise selection of these words, we respectfully ask the Court to consider its own vagaries in this direction. In *Ex Parte Grossman* (267 U.S. 87) the Court held that conviction of criminal contempt was a criminal "offense" subject to the presidential pardon power. Yet, in *In re Debs* the Court expressly affirms permission for double jeopardy prosecutions for criminal contempts which are also statutory crimes. Thus we find that this Court has thoughtfully and deliberately classified a criminal contempt as an "offense" under one section of the Constitution and "not an offense" under another (Cf. *Gompers* v. *U.S.*, 233 U.S. 604, and *New Orleans* v. *New York Mail Steamship Co.*, 87 U.S. 387, 392).

Mr. Justice Black feels that there are no limits on the punishment a judge can impose in criminal contempt, except for the 8th amendment's vague prohibition against cruel and unusual punishments. If even this is correct, it is difficult to logically understand how this prohibition can be successfully asserted if the court system on which the Constitution was based recognized no right to limit the sentence of a court vindicating its authority by way of criminal contempt. The Star Chamber, where the loss of right to trial by jury occurred and where summary criminal contempts originated, frequently indulged in such methods of contempt punishment as the rack and the screw. Why is one constitutional protection lost and another saved? Or is it saved? (Circuit Judge Vinson (later Chief Justice of the U.S.) observed in *Warring* v. *Huff*, 121 F. 2d 641, "the contempt statute sets no maximum (punishment), not even an indefinite one such as life; the maximum is the non-arbitrary discretion of the trial judge." Previously in these proceedings the Court of Appeals disregarded the statutory limitation of "fine *or* imprisonment" in its civil contempt judgments and ordered that both fine and imprisonment be imposed. Appendix to Petition for Certiorari, Cause No. 661, pp. A38 and A41. This Court refused review. U.S. —, 83 S. Ct. 722, Feb. 18, 1963. Thirty of the fifty States have maximum penalties for criminal contempt fixed by statute. See Appendix B to Brief for Petitioners in *Green* v. *United States*, Cause No. 100, October Term, 1957.)

While this Court has looked with inconclusive results to the practice of the courts of England and the colonies to support a deprivation of the right to trial by jury, it has since time immemorial been wedded to the proposition that a correct interpretation of the Constitution was to be found in the plain and ordinary meaning of the words used by the people themselves (*Gibbons* v. *Ogden*, 9 Wheat. 1). What plain ordinary man of today or yesteryear, given the Constitution to read, would find an exception to constitutional rights to be accorded one accused of criminal action in cases of criminal contempt? It has been said that the men who composed the convention were learned in law and conversant with English history, but it must be remembered that they only proposed the document for ratification by the States. The more pertinent question would be to the extent of eruditeness of those who cast the ballots which brought the document alive. Can anyone accurately characterize their knowledge? The learned discussions in the various State assemblies never broached the subject so far as we can determine.

Mr. Justice Black characterizes summary criminal contempt power thus:

"Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of *not unwilling judges*, until it has become a drastic and pervasive mode of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society."

Lord Chesterfield reflected the knowledge and judgment of many a common man when he said, "There are misers of money but none of power." With deference, Defendants suggest that if "Justice must satisfy the appearance of justice," (*Offut* v. *U.S.*, 348 U.S. 11) our judicial system would be better off if it exercised this "necessity" along lines which more clearly avoid the appearance of injustice, wherever possible, and that indirect contempt such as here alleged, which are the subject statutorily defined crimes, present such a possibility.

Since the date of the *Green* case, several Law Journals have carried articles discussing the status of criminal contempt procedures. The most elaborate of these articles is entitled, "The Constitution and Contempt of Court" by Ronald Goldfarb (61 *Michigan L. Rev.* 283 (Dec. 1962)). Perhaps Mr. Goldfarb's views can be best summarized by this paragraph from his articles:

"When a man is deprived of his property or liberty as punishment for commission or omission of an act which is proscribed by society, for whatever reason, he is treated as a criminal. In contempt cases there are no reasons strong enough to override the long and well-established policies guaranteeing the right to be tried by a jury, after indictment, and in the ordinary course of the law. The Constitution is quite clear in its directives in this respect. The policies involved go to support, at least in comparative value, the Constitution's implications."

The prosecution here urges this court to cleave to "the traditional law of contempt." What a startling position for a government of limited powers to take! How can they forget to insist that this court is bound to follow only the Constitutional law of contempt?

Should a determination to see these defendants punished with "efficiency" and free from the "hazard" of acquittal prevail over constitutional restraints, the words of the Chief Justice of the United States in his dissent in *Brown* v. *United States* (359 U.S. 41, 63) concerning a failure to follow the minimum procedural requirements of Rule 42(b), may become even more prophetic.

"Unfortunately, the failure to adhere to procedural regularity may be glossed over in the investigation of matters of burning public interest, but it should be remembered that the deprivation of the rights of a witness in such an investigation must apply as a precedent to people in all walks of life, both good and bad. I suggest that the full import of the decision in this case will not be recognized until it is applied at some future time in other types of investigations and to other people."

Certainly no better conclusion could be written to this point than in the very words of Mr. Justice Black.

"The power of a judge to inflict punishment for criminal contempt by means of a summary proceeding stands as an anomaly in the law.

"In the last analysis there is no justification in history, in necessity, or more important in the Constitution for trying those charged with violating a court's decree in a manner wholly different from those accused of disobeying any other mandate of the State. It is significant that neither the Court nor the Government makes any serious effort to justify such differentiation except that it has been sanctioned by prior decisions. Under the Constitution courts are merely one of the coordinate agencies which hold and exercise governmental power. Their decrees are simply another form of sovereign directive aimed at guiding the citizen's activity. I can perceive nothing which places these decrees on any higher or different plane than the laws of Congress or the regulations of the Executive insofar as punishment for their violation is concerned. There is not valid reason why they should be singled out for an extraordinary and essentially arbitrary mode of enforcement. Unfortunately judges and lawyers have told each other the contrary so often that they have come to accept it as the gospel truth. In my judgment trial by the same procedures, constitutional and otherwise, which are extended to criminal defendants in all other instances is also wholly sufficient for the crime of contempt."

### D. THE 9TH AND 10TH AMENDMENTS PROHIBIT ANY IMPLIED DELEGATION OF POWER TO FEDERAL COURTS TO PUNISH CRIMINAL CONTEMPT WITHOUT A CONSTITUTIONAL TRIAL BY JURY

This Court has often held that the Union emanated from the people (*McCullough* v. *Maryland*, 4 Wheat. 316, 404, 5. "The government of the Union then is emphatically and truly a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit. This government is acknowledged by all to be one of enumerated powers." *Martin* v. *Hunters Lessee*, 1 Wheat. 304, 324. "The Constitution of the United States was ordained and established, not by the states in their sovereign capacities, but emphatically as the preamble declares, by 'the people of the U.S.' ".)

After the Constitution recited that "the trial of all Crimes, except in cases of Impeachment, shall be by jury," and "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury," the people insisted on stating: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." (9th amendment. The 10th amendment is as express a retention of undelegated powers as the 9th. "The powers not delegated to the United States by the Constitution * * * are reserved * * * to the people." Wherein is to be found a conveyance by the people of power to criminally punish any citizen without a jury trial, except in "Cases of impeachment"?)

### E. THE OBSERVANCE OF CONSTITUTIONAL SAFEGUARDS IN CRIMINAL CONTEMPT IS BECOMING INCREASINGLY IMPORTANT

A former Chief Justice of the United States, Melville Fuller of Illinois, before he became head of the bench, remarked of a reforming member of the Chicago Bar: "Brother B would codify all laws in an act of two sections: 1st, all people must be good; 2nd, Courts of Equity are hereby given full power and authority to enforce the provisions of this act."

Query: Is this ridiculous and implausible?

Answer: There are now at least 29 instances in which Congress has authorized courts of equity to restrain legislatively declared public wrongs.[1]

### F. CONCLUSION

With deference, we submit, the time has come and now is when this Court should make the searching reappraisal of these "boundless expedients" called for by the Constitutional dissent in Green. Constitutional precepts demand observance not temporization. If this is not done, we could one day find, as counsel for Eugene Debs speculated, a court injunction being read to halt an advancing army of irate citizens. Certainly, every man longs to live with a sense of security in a rational freedom, in a nation where laws are dictated by the com-

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[1] Antitrust laws, restraining violation (by U.S. attorney, under direction Attorney General) (15 U.S.C. 4).

Associations engaged in catching and marketing aquatic products restrained from violating order to cease and desist monopolizing trade (by Department of Justice) (15 U.S.C. 522).

Association of producers of agricultural products from restraining trade (by Department of Justice) (7 U.S.C. 292).

Atomic Energy Act, enjoining violation of act or regulation (by Atomic Energy Commission) (by Attorney General) (42 U.S.C. 1816).

Bridges over navigable waters, injunction to enforce removal of bridge violating act as to alteration of bridges (by Attorney General) (33 U.S.C. 519).

Civil Rights Act of 1957 (by Attorney General) (42 U.S.C. 1971).

Clayton Act, violation of enjoined (U.S. attorney, under direction of Attorney General) (15 U.S.C. 25).

Electric utility companies, compliance with law enforced by injunctions (by Federal Power Commission) (16 U.S.C. 825m).

False advertisements, dissemination enjoined (by Federal Trade Commission) (15 U.S.C. 53).

Freight forwarders, enforcement of laws, orders, rules, etc., by injunctions (by Interstate Commerce Commission or Attorney General) (49 U.S.C. 1017).

Fur Products Labeling Act, to enjoin violation (by Federal Trade Commission) (15 U.S.C. 69g).

Enclosure of public lands, enjoining violation (by U.S. attorney) (43 U.S.C. 1062).

Investment advisers, violations of statute, rules and regulations governing, enjoined (by Securities and Exchange Commission) (15 U.S.C. 80b–9).

Gross misconduct or gross abuse of trust by investment companies, enjoined (by Securities and Exchange Commission) (15 U.S.C. 80a–35).

Use of misleading name or title by investment company, enjoined (by Securities and Exchange Commission) (15 U.S.C. 80a–34).

Violation of statute governing, or rules, regulations, or orders of SEC by investment companies, enjoined (by Securities and Exchange Commission) (15 U.S.C. 80a–41).

Fair Labor Standards Act, enjoining of violations (by Administrator, Wage and Hour Division, Department of Labor, under direction of Attorney General, see 29 U.S.C. (204b)) (29 U.S.C. 216(c), 217).

Longshoremen's and Harbor Workers' Compensation Act, enforcement of order by injunction (by United States attorney, see 29 U.S.C. 921a) (33 U.S.G. 921).

Import trade, prevention of restraint by injunction (by United States attorney, under direction of Attorney General) (15 U.S.C. 9).

Wool products, enjoining violation of labeling act (by Federal Trade Commission) (15 U.S.C. 68e).

Securities Act, actions to restrain violations (by Securities and Exchange Commission) (15 U.S.C. 77t).

Securities Exchange Act, restraint of violations (by Securities and Exchange Commission) (15 U.S.C. 78u).

Stockyards, injunction to enforce order of Secretary of Agriculture (by Attorney General) (7 U.S.C. 216).

Submarine cables, to enjoin landing or operation (by the United States) (47 U.S.C. 36).

Sugar quota, to restrain violations (by United States attorney under direction of Attorney General, see 7 U.S.C. 608 (7)) (7 U.S.C. 608a–6).

Water carriers in interstate and foreign commerce, injunctions for violations of orders of ICC (by ICC or Attorney General) (49 U.S.C. 916).

Flammable Fabrics Act, to enjoin violations (by Federal Trade Commission) (15 U.S.C. 1195).

National Housing Act, injunction against violation (by Attorney General) (12 U.S.C. 1731b).

> mon weal and obeyed by common consent. Judicial review has survived because it articulates a decent respect for the opinions of mankind. This is the very essence of the rule of law. History and common sense teach that the public's respect for the Judiciary has never been enhanced by its "efficiency," but only by its Judges knowing Justice, and her blind.

There was also filed amicus curiae in the Supreme Court in the matter of the United States of America v. Ross R. Barnett, a brief by the American Civil Liberties Union. This brief is also a powerful and conclusive voice raised on the side of constitutional liberties as recognized by the right of a trial by jury.

Mr. President, it is now 5 minutes to 4 o'clock. The time in which I had planned to speak is now up. I shall go into a further argument at a later date.

## DOCUMENTATION OF SMALL PLEASURE BOATS

During the delivery of Mr. EASTLAND's speech,

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Washington with the understanding that I do not lose my right to the floor, and provided that the resumption of my speech will not count as a second speech on the question pending before the Senate, and provided that the statement of the distinguished Senator from Washington will not count as a speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I thank my friend from Mississippi. I am not so sure that I would agree to the last part of his unanimous-consent request, because it would be all right with me if my statement should count as a speech. I think I have said about all I intend to say on the pending business. I think too much has been said already.

Mr. President, at the request of the Secretary of the Treasury and the General Counsel, I introduce for appropriate reference a bill. It is a bill in which the Senator from Florida will have a great interest. It has the approval of all the departments, including the Coast Guard. The bill would simplify the admeasurement of small vessels. It would add the following language to the statute:

> Before a vessel is documented under the laws of the United States or issued a certificate of record, it shall be admeasured by the Secretary of the Treasury.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I should like to finish and then I shall yield to the Senator from Florida. The General Counsel of the Treasury Department has stated:

> This bill is identical with one proposed by this Department in May 1961 and similar to proposed legislation submitted by this Department in January 1960. Meanwhile, at the request of the Customs Service the subject matter of the bill was reviewed by a team of experienced admeasurers from the customs field force. That group recommended that the proposal should be limited to pleasure vessels and that depth should be included as a factor for simplified tonnage. The Department considered these recommendations and concluded that it was desirable to accept them. The Department, therefore, recommends that the bill should be changed so that the new admeasurement procedures will apply only to pleasure vessels and that the simplified tonnages be assigned on the basis of the product of length, breadth, and depth, and appropriate coefficients.

In other words, an owner could redocument his boat without going through the entire procedure again of measuring it, and other intricate procedures. I am sure that the Senator from Florida, who comes from a State in which many small boats are operated, will be interested in the bill. The Senator will remember that 3 years ago the Senate passed a bill requiring registration. Then the procedure became involved with a great deal of redtape in measurement and redocumentation. The bill would simplify the procedure.

Mr. SMATHERS. Mr. President, will the Senator yield so that I may ask the Senator a question without prejudicing his rights?

Mr. EASTLAND. Mr. President, I yield to the Senator from Florida with the understanding that I do not lose my rights to the floor, and with the further understanding that when I resume my remarks it shall not constitute an additional speech on the pending matter.

The PRESIDING OFFICER (Mr. McINTYRE in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, will the Senator from Washington explain his proposal further? If the Senator will be so kind as to permit me to be a cosponsor of this amendment I expect to ask consent so to do.

Mr. MAGNUSON. I shall read to the Senator from Florida what the General Counsel of the Treasury Department has to say about this matter. In a letter dated April 10, 1964, he stated:

> In lieu of the present system of intricate tonnage computation based on detailed physical measurement of the hull and of deck structure the bill would establish for small vessels, at the owner's option, a simplified method of assigning tonnages from a table on the basis of the product of the vessel's overall length and breadth.

That should not be difficult. As the Senator from Florida knows, all small boatowners pride themselves on knowing that they have a 20-footer or 32-footer, and that the draft is 3 feet or 2 feet. Small boatowners know that information by heart.

The letter continues:

> This bill is identical with one proposed by this Department in May 1961 and similar to proposed legislation submitted by this Department in January 1960. Meanwhile, at the request of the Customs Service the subject matter of the bill was reviewed by a team of experienced admeasurers from the customs field force. That group recommended that the proposal should be limited to pleasure vessels and that depth should be included as a factor for simplified tonnage. The Department considered these recommendations and concluded that it was desirable to accept them. The Department, therefore, recommends that the bill should be changed so that the new admeasurement procedures will apply only to pleasure vessels and that the simplified tonnages be assigned on the basis of the product of length, breadth, and depth and appropriate coefficients.
>
> Simplifying the measurement of pleasure vessels in the manner recommended will, since the tonnage assignment can be made on the basis of measurements readily obtainable by the ship's builder or owner, speed up yacht documentation, free admeasurement personnel for faster handling of commercial vessels, and save yacht owners the expense of reimbursement of an admeasurer's salary and travel expenses incident to admeasurement outside a customs port or station.

However, small boat owners would have to go to another location and get a customs man to come to where they have their boat docked.

The letter continues:

> The bill would also eliminate the statutory prescription for the form and execution of certificates of admeasurement and give the Secretary of the Treasury authority to prescribe how evidence of admeasurement shall be prepared and to eliminate unnecessary admeasurement data from vessel documents.

I am sure the Senator from Florida would like to cosponsor the bill.

Mr. SMATHERS. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMATHERS. I congratulate the able Senator from Washington on offering this proposal. I am sure the Senator would agree that there is a need for the registration and better registration of all pleasure boats. Four or five years ago, as the general level of the economy rose, the purchase of boats increased. Boating became dangerous. People would spend Saturday and Sunday afternoons on the bay, canal, lake, or even in the ocean in their pleasure boats. Most of those who operate such boats have had no experience in operating boats. Neither the State authorities nor the Coast Guard had jurisdiction over these boats.

The able Senator from Washington introduced the first bill which made it possible for the Coast Guard at least to register and number the boats and to issue certain safety regulations which, as the boatowners have conformed with them, have reduced the number of boat accidents by a large percentage. But it was too complicated.

I understand that this bill would still give authority to the Coast Guard to regulate pleasure-boat traffic without interfering too much with their operations. But it would establish certain safety standards which must be followed. It would allow the establishment of measuring standards in a different manner.

Mr. MAGNUSON. That is correct.

Mr. EASTLAND. Mr. President, how does it apply to the Gulf of Mexico, which would affect my State?

Mr. MAGNUSON. The Gulf of Mexico has a large number of pleasure boats.

Mr. EASTLAND. Why is it limited to pleasure boats?

Mr. MAGNUSON. When we get into commercial boating operations, the boat is usually larger. It requires an expert to make the measurements in order to document the boat. A pleasure boat is in a different category, in that it is not operated for profit or commercial business. Another reason for a commercial boat requiring a great deal of admeasurement, as it is called, to document the boat, is that there are many rules of insurance on the cargo, routes, and rules of the sailings, and all that sort of thing. A pleasure boat is a boat which is taken out by people when they feel like boating on a beautiful day, say, on the Gulf of Mexico.

Mr. EASTLAND. Mr. President, will the Senator explain how the bill would affect the State of Mississippi?

Mr. MAGNUSON. The people in Gulfport and Biloxi—where there is a beautiful bay—can take their boats and go fishing. It means that once the boat was documented, the owner would not have to go back and get a Customs man to go through all the redtape.

Mr. EASTLAND. The Senator mentioned Gulfport. How would the bill affect the rest of Mississippi?

Mr. MAGNUSON. The bill would allow the Coast Guard authorities to register boats. They would then know who the boat belonged to, and what the general capacity of the boat was. The redtape of having the owner go to a Customs station, or getting some expert to come down and make a great many measurements and spending a long time having the boat certificated, would be eliminated.

Mr. EASTLAND. What about Alabama, with its beautiful bay shore and fine developments? How would it affect Alabama?

Mr. MAGNUSON. There are not too many Customs stations on the Alabama coast. The owner would be relieved of that expense.

Mr. SMATHERS. Is it not a fact that commercial fishing boats must be licensed anyway?

Mr. MAGNUSON. That is correct.

Mr. SMATHERS. The reason this bill would not be applicable to commercial fishing boats is that the Treasury Department, through the Coast Guard, require them to be licensed and documented.

Mr. MAGNUSON. Yes.

Mr. EASTLAND. The boats could be used to smuggle goods into the country.

Mr. MAGNUSON. No. It would not be made easier to smuggle goods into the country. The bill has nothing to do with the boats beyond their documentation. No significant amount of smuggling occurs in the Gulf of Mexico.

Mr. EASTLAND. What about the Atlantic or Pacific coast?

Mr. MAGNUSON. It is too far across the Pacific for pleasure boats to engage in smuggling.

Mr. SMATHERS. Certainly the Senator from Washington would not want any smuggling into his State, or any State.

Mr. MAGNUSON. Nothing that would sell in my State could be smuggled in any quantity. We would have no need for this provision.

Mr. EASTLAND. I hear about smuggling in California. That is a very grave problem. What does the Immigration Bureau think of it?

Mr. MAGNUSON. The Treasury is for the bill, and that covers the Immigration Bureau.

Mr. EASTLAND. Have they been consulted?

Mr. MAGNUSON. No. Perhaps the Senator from Mississippi would like me to hold the bill up until I can hear from the Department of Justice on this matter. I shall be glad to do so.

Mr. HILL. Mr. President, will the Senator from Washington yield?

The PRESIDING OFFICER (Mr. PEARSON in the chair). Does the Senator from Washington yield to the Senator from Alabama?

Mr. MAGNUSON. I yield.

Mr. HILL. I should like to ask the distinguished Senator from Washington what effect the bill would have on shrimp boats? There are many boats of that kind in Mobile Bay.

Mr. MAGNUSON. It would not affect commercial boats at all in documentation.

Mr. HILL. It would not affect commercial boats at all?

Mr. MAGNUSON. No.

Mr. EASTLAND. There are many pleasure boats which are also commercial boats, in combination. What about them?

Mr. MAGNUSON. If those boats do any commercial work, their documentation calls for a commercial boat. Someone may use it on a weekend as a pleasure craft.

Mr. SMATHERS. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. SMATHERS. Would not the Senator agree that a pleasure boatowner would look forward to enactment of this law because it would simplify his method of documentation? Boating of all kinds actually contributes to the economy of the areas where they operate.

Mr. MAGNUSON. The Senator is correct. It is a big business now.

Mr. SMATHERS. Hawaii is also represented. I see the Senator from Hawaii [Mr. FONG] in the Chamber, and I know that he would like to——

Mr. MAGNUSON. I shall fully explain the bill and place the information in the RECORD.

Mr. EASTLAND. The Senator from Washington has not explained what documentation means, not to my satisfaction, at least. I am also vitally interested in the question of smuggling aliens into the country. I understand that has been done off the coast of California.

Mr. MAGNUSON. Smuggling what?

Mr. EASTLAND. The smuggling of aliens. Why has not the Senator from Washington taken this matter up with the Bureau of Immigration to see what they think about it?

Mr. MAGNUSON. The Treasury Department submitted the bill. I am sure that the Treasury Department consulted with the Department of Justice at the time the bill was sent up. I am introducing the bill by request for the Treasury Department.

Mr. EASTLAND. The Senator does not believe in it enough to introduce it himself?

Mr. MAGNUSON. I believe in it, after being told the reasons.

Mr. EASTLAND. To introduce a bill by request is certainly a weak introduction.

Mr. MAGNUSON. I do not believe so, because it will come to our committee; and when the chairman of a committee introduces a bill by request, the other committee members take note of the fact.

Mr. HILL. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. HILL. The subject of shrimp boats has been brought up. What about oyster boats throughout the area?

Mr. MAGNUSON. This has nothing to do with commercial boats.

Mr. LONG of Louisiana. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. LONG of Louisiana. There is the problem of licensing boats offshore in Louisiana. How would the bill affect that situation?

Mr. MAGNUSON. Not at all. It would affect only the oil operator. He might wish to take his yacht out to take a look at it, to see how the oil rigs are operating.

Mr. EASTLAND. How would it affect the yacht operator who wished to take his yacht out to the oil rig?

Mr. MAGNUSON. He could have his yacht redocumented without much redtape.

Mr. EASTLAND. To do what?

Mr. MAGNUSON. So that he can operate the yacht.

Mr. SMATHERS. Is it not the Senator's opinion that a particular oil operator who might be so affluent as to own a yacht is not only fortunate to have a yacht but would be fortunate if this particular bill should be passed, because when the yacht is redocumented it will take less time and cost less money to have it redocumented under this proposal. Is that what the Senator is talking about?

Mr. MAGNUSON. The Senator is correct. Today, there are approximately 500,000 pleasure boats in the United States—made up of small fishing boats, sailboats, and small boats using outboard motors running around Lake Pontchartrain, and up and down the canals. Those are the people we are thinking about.

Mr. LONG of Louisiana. Suppose the owner takes his boat out and catches fish which can be sold for commercial purposes. Would he be within or without the Senator's bill?

Mr. MAGNUSON. Without the Senator's bill.

I thank my distinguished friends very much.

Mr. EASTLAND. Will the Senator from Washington inform me as to what this redocument business means? I do not understand what it means.

Mr. MAGNUSON. I will submit a detailed report on it and put it in the RECORD.

Mr. HILL. Does not the Senator from Hawaii, who has been trying to get a question in for the past several minutes, wish to enter into the colloquy at this time?

Mr. FONG. Mr. President, will the Senator from Mississippi yield?

Mr. HILL. The Senator from Hawaii [Mr. FONG] wishes to ask a question of the Senator from Washington.

Mr. MAGNUSON. I have made my statement; and I shall place a detailed report in the RECORD as soon as possible.

Mr. FONG. I shall be glad to support a bill which would facilitate the documentation of pleasure vessels.

Mr. EASTLAND. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Hawaii, provided that in doing so it will not prejudice my rights to the floor, and provided that it will not count as one speech on the pending bill before the Senate; and provided, also that it does not count as a speech for the Senator from Hawaii in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. I thank the Senator from Mississippi for yielding to me.

If the bill should be enacted, it would be easier for owners of vessels in the United States to have them documented. Coming from Hawaii, I should like to subscribe to the bill, and to say that we in Hawaii would look forward to an easier method of documenting our vessels.

Mr. MAGNUSON. It would mean greater simplification of documentation.

Mr. FONG. Hawaii has quite a number of vessels because of the great body of water surrounding the islands. Many citizens own pleasure craft. At the present time, they find it quite inconvenient when their vessels need to be documented. If this bill will facilitate that documentation, I shall be for it.

Mr. MAGNUSON. The bill certainly would simplify documentation and make it easier to redocument a boat.

Mr. EASTLAND. If the Senator from Washington will yield, what is meant by documentation and redocumentation? The Senator from Washington continues to evade the question.

Mr. FONG. As I understand——

Mr. EASTLAND. The Senator from Washington refers to documentation and redocumentation, but does not explain it.

Mr. MAGNUSON. I shall place all the necessary information in the RECORD which will satisfactorily explain it. The Senator from Florida is a cosponsor of the bill. I am sure the Senator from Hawaii will wish to be a cosponsor also.

Mr. President, I ask unanimous consent that the bill may lie on the desk and that other Senators may cosponsor it.

The PRESIDING OFFICER. For how long a time does the Senator from Washington wish the bill to lie on the desk?

Mr. MAGNUSON. For 2 days.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk for 2 days, as requested by the Senator from Washington.

Mr. MAGNUSON. Mr. President, or one legislative day. [Laughter.]

Mr. HILL. That may be a long, long time.

Mr. SMATHERS. I wonder if the Senator from Washington would reconsider that request because, if he asks for one legislative day it is likely to delay the bill for the remainder of the calendar year. It would seem to me that it might be well to leave it at 2 calendar days.

Mr. MAGNUSON. Mr. President, I modify my request to 2 days.

Mr. EASTLAND. Two calendar days?

Mr. MAGNUSON. Until Monday next. I thank my distinguished friends from the Gulf of Mexico and other points.

Mr. EASTLAND. Will the distinguished Senator from Washington please inform me as to what he means by documentation and redocumentation?

Mr. FONG. Mr. President, if I may answer that, as I understand it, the owner of a vessel must register it each year. Quite a lot of documentation goes with that registration, as well as other pertinent facts concerning the vessel. As I understand, the purpose of the bill of the Senator from Washington would be to try to simplify the procedure.

Mr. EASTLAND. Where does one register the vessel?

Mr. FONG. I believe it is with the Coast Guard.

Mr. EASTLAND. With the Coast Guard.

Mr. SMATHERS. I wonder if the Senator would yield so that I may ask the Senator from Hawaii a question?

Mr. EASTLAND. I have already obtained unanimous consent to yield to the Senator from Hawaii.

Mr. SMATHERS. The Senator from Hawaii is fortunate in that his State and mine have a most felicitous climate. There are many boats. I am sure the Senator would agree, however, that two difficulties are involved with respect to pleasure boating.

First, that so many people got into the pleasure boating activity and so suddenly, without any regulations being applied, that for awhile it became quite dangerous. In an effort to eliminate the dangers which beset pleasure boating enthusiasts, the Coast Guard, as sometimes it does—at least I thought so—went too far in making documentation and redocumentation almost impossible for a man with a small pleasure boat, or a sailboat similar to the type the Senator from Hawaii has sailing around the many islands. Many other States have pleasure boats using mostly outboard motors, and some of them travel very fast. The owners have to get their boats redocumented, and each owner must subscribe to certain safety rules and must go through a great deal of paper work. It began to actually impinge on the pleasure boat activity with the result that the Treasury Department has entered the picture and recommended that the law be changed so that simple redocumentation can take place with respect to pleasure boats everywhere.

Does not the Senator from Hawaii agree that certainly in his State, which is comprised of several islands—seven altogether, I believe—where there is so much communication back and forth between the islands, that this is a most desirable and necessary kind of bill?

Mr. FONG. Mr. President, the people of Hawaii are in the same situation in which the people of Florida find themselves. There are a great many boats in the Hawaiian Islands, which must be redocumented year after year. A great many details must be taken care of in filing. They are found to be very inconvenient by boatowners.

I understand that the bill which has been introduced would facilitate the documentation and registration of boats. If that is its purpose, it would be an excellent bill. With the Senator from Florida, I subscribe to its purpose.

Mr. LONG of Louisiana. Will the Senator yield?

Mr. FONG. I yield.

Mr. LONG of Louisiana. In Louisiana we have had a difficult problem with regard to the boats that go out to the offshore rigs which produce oil. I do not know why it is, but when boats go out, their ballast tanks are filled with fresh water, which is left at the rigs, and they return with salt water in their ballast tanks. For some reason, by doing that they violate a Coast Guard regulation.

It was necessary to pass an act of Congress to permit them to take fresh water out to the rigs and come back with salt water in their ballast tanks. Can the Senator offer any hope that the bill would give us some relief from bureaucratic tyranny?

Mr. FONG. I do not know what the bill contains. I have just come to the Chamber. I have heard that the bill deals with facilitating the documentation of vessels. I am quite sure that in the committee hearings the facts will be brought out with respect to easing the requirements.

Mr. LONG of Louisiana. I refer to bureaucratic tyranny.

Mr. FONG. Some would call it that; others say it is the power possessed by certain bureaus in our Government. Still others say it is necessary as a safety measure. I am sure the committee will give full consideration to all the provisions of the bill.

Mr. LONG of Louisiana. Can the Senator tell me what possible difference it would make whether the water is salt water or fresh water so far as the water in the ballast tanks is concerned?

Mr. FONG. I cannot see any reason, except from the standpoint of weight, as salt water is heavier than fresh water.

Mr. LONG of Louisiana. I thank the Senator.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letters referred to will be printed in the RECORD, and the bill will be on the desk, as requested.

The bill (S. 2793) to simplify the admeasurement of small vessels, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letters presented by Mr. MAGNUSON are as follows:

THE GENERAL COUNSEL
OF THE TREASURY,
*Washington, April 16, 1964.*

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In the 86th and 87th Congresses, you introduced at the request of this Department, S. 2916 and S. 1936, respectively, bills to simplify the admeasurement of small vessels.

Since that time, the proposal has been further reviewed in the Department and as a result certain modifications in the proposed legislation are now considered desirable. The matter is explained in more detail in copies of the enclosed report and accompanying memorandum which the Department has submitted to the House Committee on Merchant Marine and Fisheries on H.R. 81, 88th Congress. As you will note, the enclosures recommend a substitute for the bill.

In view of your previous assistance in the matter, this material is being furnished with the hope that you will give consideration to the introduction of the substitute bill in the Senate.

Sincerely yours,
G. D'ANDELOT BELIN,
*General Counsel.*

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THE GENERAL COUNSEL
OF THE TREASURY,
*Washington, April 10, 1964.*

Hon. HERBERT C. BONNER,
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 81, to simplify the admeasurement of small vessels.

In lieu of the present system of intricate tonnage computation based on detailed physical measurement of the hull and of deck structure the bill would establish for small vessels, at the owner's option, a simplified method of assigning tonnages from a table on the basis of the product of the vessel's overall length and breadth.

This bill is identical with one proposed by this Department in May 1961 and similar to proposed legislation submitted by this Department in January 1960. Meanwhile, at the request of the Customs Service the subject matter of the bill was reviewed by a team of experienced admeasurers from the customs field force. That group recommended that the proposal should be limited to pleasure vessels and that depth should be included as a factor for simplified tonnage. The Department considered these recommendations and concluded that it was desirable to accept them. The Department, therefore, recommends that the bill should be changed so that the new admeasurement procedures will apply only to pleasure vessels and that the simplified tonnages be assigned on the basis of the product of length, breadth, and depth and appropriate coefficients.

Simplifying the measurement of pleasure vessels in the manner recommended will, since the tonnage assignment can be made on the basis of measurements readily obtainable by the ship's builder or owner, speed up yacht documentation, free admeasurement personnel for faster handling of commercial vessels, and save yacht owners the expense of reimbursement of an admeasurer's salary and travel expenses incident to admeasurement outside a customs port or station.

The bill would also eliminate the statutory prescription for the form and execution of certificates of admeasurement and give the Secretary of the Treasury authority to prescribe how evidence of admeasurement shall be prepared and to eliminate unnecessary admeasurement data from vessel documents.

The accompanying memorandum sets out the changes in the bill which the Department recommends.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,
G. D'ANDELOT BELIN,
*General Counsel.*

## APPROBATION OF PRESIDENT JOHNSON

Mr. MANSFIELD. Mr. President, in recent days, President Johnson has had occasion to set forth in an address before the newspapermen his grasp of the whole range of foreign policy problems which confront the Nation. And he has had occasion, too, to bring about a settlement of the bitter dispute which has plagued the railroad industry and railroad labor for several years.

His speech to the press group reveals his mastery of the continuity of foreign policy and, at the same time, his willingness to face, with appropriate and sober caution, the need for changes in an ever-changing world. His achievement in the railroad situation, both for the Nation as a whole and for the principle of free collective bargaining was an act of statesmanship of the highest order.

Numerous editorials have extolled Mr. Johnson's comportment in the railroad dispute and his perception in the exposition of foreign policy before the newsmen, particularly as it involved the announcement of a curtailment of an excess of production of nuclear raw materials. I ask unanimous consent that several of these editorials be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From Newsday, Apr. 22, 1964]

### FACING REALITIES

The highlight of President Johnson's first major address on foreign policy, delivered Monday at the annual meeting of the Nation's newspaper publishers, was his announcement that both the United States and Russia had decided independently to cut back on the production of nuclear explosive materials. But more important perhaps than this modest step toward decreasing the dangers of nuclear proliferation was the thread that ran throughout the President's address—a thread based on the reality that we must deal with the world as it is and not as we ideally would like it to be.

Thus the President stressed that "we must be alert to shifting realities, to emerging opportunities, always alert to any fresh dangers." It is in this spirit that he ordered a reduction in the production of fissionable material for a nuclear arsenal that is already capable of destroying any potential enemy many times over. It was in the same spirit of realism that the Chief Executive sensibly reaffirmed our hard line against the despotic Communist regimes that now control Castro's Cuba and Mao's China.

Nothing has been lost and perhaps something (intangible as it may seem) may have been gained by the parallel cutbacks by the United States and Russia of enriched uranium for use in nuclear weapons. Certainly neither the United States nor the Soviet Union would consider such a move if it even remotely threatened their security. Each is convinced that its nuclear overkill capacity is so great that no risk is involved, even without any formal agreement providing for appropriate inspection and control procedures.

Nevertheless, the cutbacks must be considered an encouraging, albeit small, step forward toward a policy of mutual example that can only lessen world tensions and encourage other small steps in other sensitive areas. We only hope that Premier Khrushchev will not delude himself into believing that because we are willing to accept his word in this instance (at no risk to ourselves) we will eventually agree to general disarmament without the ironclad guarantees against cheating on which we have always insisted. Such a delusion would only doom any future disarmament talks to certain failure.

As for Cuba and Red China, Johnson went out of his way to dispel any illusions that we might be prepared to take a more tolerant view toward these Red dictatorships, as suggested recently by Senator WILLIAM FULBRIGHT, Democrat, of Arkansas. What he said of the Peking government could apply as well to Cuba. "So long as the Communist Chinese pursue conflict and preach violence, there can be and will be no easing of relationships." As for the balance of the President's address, there was little in it that was new. It was a well-organized, detailed exposition of a foreign policy that has been shaped over the last 3 years. It bore the brand, however, of LBJ, not JFK, and proved to the world at large that our basic commitments have not changed.

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[From the Chicago Sun-Times, Apr. 24, 1964]

### STRIKE THREAT ENDS

The settlement of the dispute between the railroads and the five on-train unions was something less than a clear-cut victory for the process of collective bargaining. It took immense pressure from the White House to bring the disputants to agreement.

It is because this pressure was applied, skillfully and relentlessly, that President Johnson deserves great credit. The President prevented a railroad strike that threatened to deal the economy a crippling blow. He used his influence to hammer home to both sides the simple fact that they could not, as they have done for decades, throw their troubles upon Government for solution.

The specifics of the agreement are yet to be detailed. Quite obviously the unions have gained some advantages from their stand of complete disapproval of all the recommendations put forth by Federal agencies and Presidential factfinding commissions. The railroads will gain, ultimately, from the fact that a start has been made toward modernizing archaic work rules that cost hundreds of millions of dollars in unnecessary expense.

It is regrettable that the process of collective bargaining had to be reinforced with Presidential pressure. But such pressure was infinitely better for the railroad industry, and the country as a whole, than the alternative of congressional fiat. President Johnson recognized that fact and acted correctly.

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[From the New York Journal-American, Apr. 21, 1964]

### NUCLEAR DECISION

President Johnson's announcement that the United States will substantially reduce its output of nuclear bomb-producing plutonium is striking, even spectacular, news. It has resulted in at least a declaration by Premier Khrushchev that the Soviet Union will do the same.

Khrushchev has, in fact, conceded that his action was based on previously stated intentions by the United States and Britain that their production of military uranium would be reduced.

In other words an important development in easing of cold war tensions has been initiated strictly by our side, with subsequent compliance from the Soviet Union. This fact should be exploited by the Voice of America and other propaganda media to the utmost.

It should be emphasized that the American decision was unilateral, that it was made regardless of possible Soviet reaction. And it can be reasonably speculated that Khrushchev, grasping the immense international implications of such a step, hastened to adopt a "me-too" stand before the eyes of a hopeful world.

The President made his disclosure before the 78th annual meeting of the Associated Press here, and his address hearteningly reaffirmed.

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[From the Sacramento Bee, Apr. 11, 1964]

### L. B. J. Shows Strength in Railroad Crisis

President Lyndon B. Johnson has achieved an impressive victory with a time bomb by eliciting from railroad management and the rail labor brotherhoods an agreement to return to the conference table. It is a bomb with a short fuse, namely 15 days from the time of a Johnson-monitored meeting in the White House of labor and management.

After that 15 days is up labor insists it will be free to strike and management contends it will be free to enforce the bitterly contested new work rules, which would eliminate the jobs of upward of 100,000 rail workers.

As of the moment Johnson appears to have met his first major domestic crisis with high qualities of leadership. Only leadership such as was displayed by President Theodore Roosevelt in the coal strike of 1902 could have mollified both sides enough to induce them to sit down again together in quest of an amicable solution of a controversy which has been festering for 5 years.

Last September at the deadline date for rail stoppage Congress provided legislation for an arbitration panel. The late President John F. Kennedy named the panel which reported last February and recommended weeding out almost 100,000 workers deemed unessential by the most generous count.

After various court injunctions and tests of strength, the unions struck the Illinois Central Railroad last Wednesday. The Nation's rail carriers then announced they would enforce the layoff and work rules, action, certain to trigger a nationwide strike.

Some strikes have been called national emergencies when they did not deserve that designation. But if any strike would be a national emergency it would be a railroad stoppage, especially since the Teamsters Union has said it would not haul the immobilized freight over the highways.

The crisis goes to the heart of a malignancy in the present economic revolution, namely employment made redundant by automation. The Nation now must think through a policy for this crisis which does not stop at the railroad tracks. Rail management has agreed to provide aid for most of the men laid off. The stubborn stance of organized labor is almost as much an organizational one as a humane one. The rail brotherhoods do not want to see their power weakened by a reduction in membership.

Johnson, veteran of many a Senate victory, is as well qualified as any man to find a way to avert the ultimate calamity of a rail strike.

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### Well Spoken, Mr. President

While the tests of a President are never over, Lyndon Johnson passed a big one in his recent New York speech, the first extended, compass-boxing exposition of his foreign policy. This is the subject in which Johnson was supposed to be least at home. It is the subject most Republicans are hoping to campaign on. It has also been the target of criticism by a leading Democrat, Senator Fulbright, who thinks U.S. policy is based on too many old myths instead of current realities. Johnson gave the Republicans little or no ammunition and he put Fulbright in his place.

According to Johnson, U.S. foreign policy rests on tested principles that have "endured under four Presidents because they reflect the realities of our world and the aims of our country." Its qualities are "continuity and change." We continue to resist Soviet aggression everywhere and have increased our arms expenditures for that purpose; but "new realities" enable us to hope that Khrushchev is serious about peace. Accordingly Johnson announced a second cutback in our rate of production of fissionable materials for nuclear weapons, since we already have more than we need. By an agreement with Johnson, reached only 3 days earlier, Khrushchev simultaneously announced a cutback in Russia's nuclear production too. "This is not disarmament," said Johnson. "But it is a hopeful sign." It was welcomed by Fulbright and by his admirer, U Thant.

But that ended Johnson's bow to Fulbright and to the U.N. On the hot issues, notably Cuba and the Far East, the President will continue the policy of isolating Castro and of resisting armed communism in Vietnam. "The presence of guerrillas in Vietnam at this hour is a fact," said Johnson. "And such facts * * * require concrete acts of courage." He added, "It is not we who must reexamine our view of China, it is the Chinese Communists who must reexamine their view of the world."

The Republicans will no doubt find vulnerable spots in Johnson's foreign policy, and they may in time develop better ways to unseat Castro, to save Vietnam, to cement the Atlantic alliance, the hemisphere and the free world. But meanwhile Johnson has laid the basis for a broad measure of bipartisanship so far as the ends of our foreign policy are concerned. Said he: "There is no turning from a course which will require wisdom and much endurance so long as the name of America still sounds in this land and around the world."

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## DEATH OF FRANK TRIPP

Mr. KEATING. Mr. President, it is with profound regret and sorrow that I report to the Senate the death of Frank Tripp, an outstanding New Yorker and one of the original founders of the Gannett group of newspapers. A brilliant and distinguished journalist, he will long be remembered for his sensitivity to the public interest and his dedication to the public good.

Frank Tripp was a giant in his field. He began his career at the age of six as a newspaper carrier and got his first reporter's job 13 years later with the Elmira Advertiser. By 1914, he was publisher of three Elmira newspapers. With the late Frank Gannett, he was a founder of the Gannett Co. of which he was chairman and general manager. He was associated with the Gannett group from 1925 to 1951.

Frank Tripp had a colorful career. In his early years he became involved in theatrical publicity and started his own company called the Royal Comic Opera Co. Although he held top positions in the newspaper field, he loved the job of a reporter and had the distinction of having interviewed Novelist Mark Twain and eight U.S. Presidents. He was active in the U.S. effort during the Second World War, serving as chairman of the U.S. Treasury bond sales for which he received wide praise and recognition. He was the author of "On the Newspaper Front"; his columns were syndicated in as many as 130 newspapers.

A competent newspaperman, a dedicated public servant, a delightful personality and a warm friend, Frank Tripp will be sorely missed by all of us who were privileged to know and associate with him.

My deepest sympathy go to his widow and family in this time of their bereavement.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Pell in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 183 Leg.]

**Allott**
**Anderson**
**Bartlett**
**Bayh**
**Bennett**
**Bible**
**Boggs**
**Burdick**
**Byrd, W. Va.**
**Carlson**
**Case**
**Church**
**Clark**
**Cotton**
**Dirksen**
**Dodd**
**Dominick**
**Douglas**
**Eastland**
**Fong**
**Gruening**
**Hart**
**Hayden**
**Hickenlooper**
**Hill**
**Holland**
**Hruska**
**Humphrey**
**Inouye**
**Johnston**
**Jordan, Idaho**
**Keating**
**Kennedy**
**Kuchel**
**Lausche**
**Long, Mo.**
**Magnuson**
**Mansfield**
**McGovern**
**McIntyre**
**McNamara**
**Metcalf**
**Miller**
**Monroney**
**Morton**
**Mundt**
**Muskie**
**Nelson**
**Pastore**
**Pell**
**Proxmire**
**Ribicoff**
**Saltonstall**
**Scott**
**Simpson**
**Smith**
**Sparkman**
**Symington**
**Walters**
**Williams, N.J.**
**Williams, Del.**
**Young, N. Dak.**
**Young, Ohio**

The PRESIDING OFFICER (Mr. Muskie in the chair). A quorum is present.

Mr. HILL. Mr. President, on a cold, windy March day almost 163 years ago to the day, the third President of the United States, author of the Declaration of Independence, whose guiding genius and inspiring brilliance contributed so greatly to bringing this Nation into being, declared:

> Freedom of religion; freedom of the press; freedom of person under the protection of the habeas corpus; and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith—the text of civil instruction—the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

These were the wise and counseling words of Thomas Jefferson, delivered in his first inaugural address on March 4, 1801.

Mr. Jefferson counseled us:

> They should be the creed of our political faith—the text of our instruction.

Mr. President, in 1957 and again in 1960, we found ourselves wandering "in moments of error" from this creed of faith, with an attempt to deny by legislation the right to trial by jury, which Mr. Jefferson had stated as one of the "principles that form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation." On both occasions, I took the floor of the Senate in opposition to these proposals that would deny the right to trial by jury, and I pleaded that we "hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety."

Earlier in this debate—in this year of 1964—I have sounded the same plea. I have reminded my colleagues of the long and cruel history of the struggles for the right to trial by jury and I have warned of the destructive dangers to our system of government and to our concept of human liberty in completely disregarding this history and the bloodshed with which it was written. Indeed, I warned that to pass legislation denying such basic rights as the right to trial by jury would be to strike a crippling blow to the very foundations upon which this Nation was built. Mr. Jefferson referred to these basic rights, as you will recall, as the "principles [that] form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation."

I have warned of the grave dangers in even considering a proposal that would deny the right to trial by jury, in toto or in part, and I have endeavored to alert the American people to the indispensable meaning of this precious right and of the far-reaching and long-range implications of its denial. In previous discussions of the proposed legislation, I have endeavored to point out to the people of this Nation how each American—North, South, East, and West—would be affected by the denial of their right to trial by jury and by the denial under the legislation of other constitutional rights they now enjoy. I contended then that, as the American people learned more about this so-called civil rights bill, a growing resistance from the North, South, East, and West would form against its enactment.

I am privileged to take the floor again at this time in behalf of the right to trial by jury and in behalf of preserving it for every American in every section of the country, regardless of who the plaintiff or who the defendant may be and regardless of the extent of the fine and/or imprisonment.

Those of us who continue to believe that the principles of freedom of religion, freedom of the press, freedom of person under the protection of the habeas corpus, and trial by juries impartially selected should be the creed of our political faith, as Mr. Jefferson put it, those of us who respect the fact that "the wisdom of our sages and the blood of our heroes have been devoted to their attainment" and those of us who oppose the denial of those principles, those of us who believe in the greatness of democracy as an indispensable weapon in these indeterminable times, have been endeavoring to alert the people of this Nation to the real meaning and the effects of the so-called civil rights legislation. We have been endeavoring to let the people of this Nation know of the graveness of the denial of these basic rights to grant special privileges to a particular group, regardless of who that group may be. This, of course, is the purpose of legislative deliberation of any measure—to make known to the people the purpose, the scope, and the possible effect of the legislation. And, now that the American people are coming to understand the purpose, the scope, and the possible effect of the proposed civil rights legislation—including the denial of their right to trial by jury—as it relates to their daily lives, as well as to the life of the Nation, the resistance I predicted is forming. We see more evidence of this resistance hour by hour and day by day.

There were perhaps some who hoped to rush this far-reaching legislation through to final passage before the American people had the time or the opportunity to become familiar with its terms and their real meaning and implications. Fortunately, this hope has been thwarted. Now some of the proponents and supporters of the legislation, who would have railroaded this measure into law, are heard to complain that "the word" is abroad in the land, and the people are making their opposition known.

It is somewhat short of ridiculous for supporters of the so-called civil rights legislation, armed as they are with the tremendous propaganda resources of press, television, radio, and other media, to accuse opponents of this bill of trying to "brainwash" the American people. Indeed, if any brainwashing has been done, it is the result of the giant propaganda efforts of the so-called civil rights proponents. With limited resources indeed, and fighting overwhelming propaganda odds, the opponents of the civil rights legislation have given the American people the other side of the legislative story. And the American people, shaking off the propaganda haze as created by proponents of the bill, are responding. They are coming to recognize what is at stake in this fight to preserve constitutional safeguards against the destructive provisions of this legislation. They are coming to recognize that, among other rights of which they may be deprived, their right to trial by jury also hangs heavily in the balance. They are coming to recognize, they are responding, they are being heard. And those who would trample and ride roughshod over the Constitution do not find the people's response to this bill to their liking. They do not like what they are hearing from the people any more than the people like what they hear about the bill.

Other authoritative voices are also being raised, not only from the South, but from the North as well, pointing out the serious implications of this measure. These are expert voices which were silenced when committee consideration of the measure in the Senate was sidestepped and denied. These are expert voices which, in effect, would have been slienced had proponents been permitted to slam the door shut on any extended national consideration and debate of the civil rights legislation.

For example, the David Lawrence column of Monday, April 20, cites the authoritative opinion of Alfred Avins, formerly special deputy attorney general of the State of New York and well-known professor of constitutional law, as expressed in the Law Quarterly of Cornell University.

For those who may have missed reading or discussing the Lawrence column, let me here repeat it. No doubt there are those who would just as soon overlook the cogent arguments offered in the Cornell University Law Quarterly in view of the amendment before us, for the proposition submitted by Mr. Avins makes it all the more clear how vicious and repugnant to our American way of life title II is and how much more compelling it makes our efforts and our fight to preserve the right to trial by jury without limitation.

The arguments in Mr. Lawrence's article are by a New York expert, a great authority on law and the Constitution, pointing out the dangers of the proposed legislation.

**Mr. JOHNSTON.** Mr. President, will the Senator yield?

**Mr. HILL.** I yield.

**Mr. JOHNSTON.** I know the Senator has read the recent Supreme Court decision. I know the Senator has also read the dissenting opinion of Justice Black, who was formerly a Senator from the State of Alabama. Does the Senator recall what position Justice Black took in stating his position?

**Mr. HILL.** The Judge not only took the position that every American citizen had the right to a trial by jury in contempt proceedings, but he reiterated, strongly fortified, and reenforced the declaration that he had made in the earlier case, which was the Green case.

**Mr. JOHNSTON.** Has the Senator read or heard a stronger statement made by anyone than was made by Justice Black in his dissenting opinion?

**Mr. HILL.** I have not. It is one of the strongest statements I have ever heard or read on the right of every American citizen to a jury trial.

**Mr. JOHNSTON.** I am sure the Senator has also read Justice Goldberg's dissenting opinion.

**Mr. HILL.** I have.

**Mr. JOHNSTON.** In that opinion, did he not argue forcefully that we should keep the right of trial by jury?

**Mr. HILL.** He did indeed. He argued with great force and great eloquence.

**Mr. JOHNSTON.** Is it not also true that in his dissenting opinion the argument deals particularly with the issue before the Senate at the present time?

**Mr. HILL.** It does indeed. Even as I read the opinions of the five Justices—the majority on the Court—they actually reached the decision that they felt the American citizen should have the right to a trial by jury. The only reason they rendered the opinion they did was that they felt bound by the provisions of the statutes. Section 18 of the United States

Code states that where the U.S. Government initiates proceedings, there shall be no trial by jury. That was the reason, as a matter of principle, and remaining true to the American concept of judicial procedure, the Anglo-Saxon system of justice, that the Court felt every American should have the right to a trial by jury in a contempt proceeding. Only the provisions in the statute, as I read the opinion, caused them to rule as they did. They felt they were bound by the statutes.

Mr. JOHNSTON. Is it not also true that Chief Justice Warren, whom many people look upon as a "tin god" when it comes to civil rights, also joined in that opinion?

Mr. HILL. He did.

Mr. JOHNSTON. Did he not criticize taking away the right to a trial by jury?

Mr. HILL. He joined in the opinion of Justice Black, Justice Goldberg, and Justice Douglas—the fourth Justice was Chief Justice Warren. The Senator is exactly right.

Mr. JOHNSTON. Does not the Senator believe, then, that inasmuch as the issue was before the Senate, the Court knew when it made its decisions that they might have some effect in the Senate?

Mr. HILL. They are bound to have been conscious of the situation in the Senate. The fact that the debate was going on and that the bill was before the Senate, they are bound to have been conscious of the fact that their writings might well have influence and effect in the Senate.

Mr. JOHNSTON. In their opinion, did they not also go back into the history of how the right to trial by jury was being taken away little by little in the United States, and they warned the Nation that this kind of legislation would take away more of that right?

Mr. HILL. The Senator is correct.

Mr. JOHNSTON. It would take away more of that right and endanger the rights of the people in the future and that this would be only the beginning of something worse in the future.

Mr. HILL. The Senator is exactly right.

Mr. JOHNSTON. That is, in taking away the right to a trial by jury.

Mr. HILL. What this would do, as the Senator says, would be to enlarge the denial which has been going on through the years of the right to a trial by jury, and they warned that this would be an enlargement of that denial, which should not take place.

Mr. JOHNSTON. They even went into the cases of the admiralty courts—the different commissions and boards that are now trying cases that used to be tried by a jury but which today have been taken away from them; such as workmen's compensation in the Federal Government and workmen's compensation in the State government, the right to a trial by jury all taken away; did not the court point that out?

Mr. HILL. It certainly did. The Senator mentions the admiralty courts. The Senator well recalls that it was these admiralty courts that George III used in the days of the Revolution, to take from the people of the American Colonies their right to a trial by jury. One of the reasons for the American Revolution as proclaimed in the Declaration of Independence as written by Thomas Jefferson, was the denial of the right to a trial by jury.

Mr. JOHNSTON. To show the difference, is it not true that during the First World War the right to a trial by jury was granted?

Mr. HILL. It was indeed.

Mr. JOHNSTON. Is it not true that during the Second World War that right was taken away?

Mr. HILL. It was indeed. As the Senator has well suggested, statutes were enacted to take away from the American people this fundamental American right of trial by jury which is proposed to be done in the bill before us.

Mr. JOHNSTON. Is it not true that only the Senate can protect the rights of the people to have the right to a trial by jury at the present time?

Mr. HILL. The obligation, the responsibility, falls directly and immediately upon the Senate, to protect the American people in their right to a trial by jury. There is no question about that. The responsibility lies right in this Chamber upon all Senators, to preserve this precious right for the American people.

Mr. JOHNSTON. If the bill is passed in its present form, those who vote for it cannot complain in the future that they have taken away from the American people the right to a trial by jury.

Mr. HILL. It will be self-evident, as we sometimes say, it will be an ipso facto proposition—it will speak for itself, that if this proposed legislation should be enacted without granting the right to a trial by jury, it will be a denial on the part of the Senate to the American people of the right to trial by jury.

Mr. JOHNSTON. The proponents claim that they can do away with it, and that it will not cost so much. I should like to ask the Senator this question: Why do they have three circuit judges holding court, which may be scattered all over the United States, instead of one judge holding it?

Mr. HILL. The Senator knows why that is. If he and I, or any other citizen, went into court before a judge of a particular district where the action is brought or the parties may live, and for some reason the Attorney General, whoever he may be believed that the judge was prejudiced and would not decide the case his way he, the Attorney General, could add these other two judges. That is very evident. I do not believe it takes a very smart person to understand that; does not the Senator agree with me?

Mr. JOHNSTON. I will agree with the Senator from Alabama in his conclusion.

Mr. HILL. Not only would it deny this basic fundamental and most precious right of trial by jury, but it would even go to the extent of seeking to get what one might almost call a "packed court."

Mr. JOHNSTON. Is it not true that in most counties in the United States which grant the right to a trial by jury—that is, of course, in criminal cases—we are speaking of criminal matters here——

Mr. HILL. Yes, indeed.

Mr. JOHNSTON. That criminal acts are granted the right to a trial by jury in the county in which the crime is committed.

Mr. HILL. The jurors are selected from people within that county. The Senator is exactly right, and I thank the Senator for his comments.

Mr. SMATHERS. Mr. President, will the Senator from Alabama yield, that I might ask him a few questions, provided that in doing so the Senator will not lose his right to the floor?

Mr. HILL. I yield to the Senator from Florida, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMATHERS. On the particular point of the trial by jury, which the Senator is so ably and eloquently presenting, the lack of it is actually not supported by the best legal authorities and the best political minds; but in connection with it, is it not a fact that under the Constitution of the United States, in criminal cases, every criminal is guaranteed the right to a trial by jury? If a man is a thief, or a burglar, or is charged with making moonshine whisky, or is charged with any major crime, he is granted the right to a trial by jury.

Mr. HILL. Even if he is a traitor, he is guaranteed the right to a trial by jury.

Mr. SMATHERS. The Senator is correct.

In this particular instance, if there are 5 members on a school board who have volunteered to serve, because they have taken a keen interest in education, and if they are called up before a judge for not having carried out a particular judge's idea as to how fast they should have proceeded with a change in the school pattern, or any other change contained in the pending bill, those people would not be granted the right to a trial by jury.

Mr. HILL. The Senator is correct. The lowest, the vilest, the most damnable criminal in the country is granted the right to a trial by jury; but a splendid, patriotic, public-spirited man or woman serving in the local communities and in the municipalities through a public-spirited desire to serve the community in which he or she lives with little or no, and in many cases no recompense or compensation whatever—are denied this great basic right to a trial by jury.

Mr. SMATHERS. The Senator would agree, would he not, that in the great State of Missouri, for example, a school board could consist of, say, three women and two men, all of whom would be giving of their time, without charge, or any compensation, for the purpose of trying to improve the education of their children and the education of the children of their friends, and they might not believe that they should change the pattern that has been set up in those schools with respect to colored children and white children. Therefore, is it not possible that those citizens, who are public-spirited citizens, giving of their time, could be brought before a judge, who might be rather arbitrary, and who could send those people to jail for 30 days and fine them $300 each, and do it without a jury; whereas the vilest, most wicked, most corrupt criminal in that community would be guaranteed the right of trial by jury?

Mr. HILL. They would be hauled before the judge, who has life tenure, who sits there until he dies, because he is appointed for life, and he would become the accuser and the prosecutor. He would try the case, and then he would fix the punishment. Human nature is so constituted that in some people, at least, there would be the feeling that the accused party in some way had offended the judge, who would be sitting there, without a jury, trying the case, particularly if he had issued a decree. In other words, he could consider it as more or less a personal matter.

Mr. SMATHERS. Yet those people, who would be trying to serve their community, might be among the finest people in that community.

Mr. HILL. That is correct.

Mr. SMATHERS. They would not have the right of trial by jury, whereas the proponents of the bill would continue to allow the right of trial by jury to be guaranteed to the vilest and most corrupt and worst criminals in the community. They would get a trial by jury.

Mr. HILL. Public enemy No. 1 would get a trial by jury, but those fine public servants would be denied that right.

Mr. SMATHERS. Does not the Senator further agree that in appearing before some judges, as the Senator has already suggested, because they have lifetime jobs and sit enshrined in their office as Federal judges, the defendants would be faced with a situation, as suggested by Justice Black in which the judge might have the tendency to become capricious and arbitrary, as is sometimes the case with judges as they grow older? Does not the Senator agree that when a judge sits on the bench with all the might and majesty of the Federal Government behind him, and standing next to him are the bailiff, the U.S. marshal, the U.S. district attorney, and the assistant district attorney, one lone citizen, who might be the registrar of the county, could not look for comfort and justice to 12 jurors, but would be denied the right of a trial by jury? He stands there with the full weight of the majesty of the Government arrayed against him. That certainly does not seem to be a fair way to proceed, does it?

Mr. HILL. It is not only unfair, but it is not American. This right is one of the things for which our forefathers fought the Revolution. It is one of the things they fought for in order to protect the American people; and the right of trial by jury was placed in the Constitution of the United States.

The right of trial by jury was also provided in article III of the Constitution; and in the sixth and seventh amendments to the Constitution this great fundamental right of trial by jury was buttressed and protected.

They were wise men, perhaps the wisest of their time. Gladstone said that the Constitution was the greatest document ever struck off at any time by the hand and genius of man. The Founding Fathers knew all about injustice and tyranny. They were seeking to protect themselves and their descendants and the American people from any such tyranny and any such denial of justice.

Mr. SMATHERS. I thank the able Senator.

Mr. HILL. I thank the Senator.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. JOHNSTON. Along the same line, would not the bill give the judge the right to issue an order, which would have the same effect as a law on the statute books?

Mr. HILL. Certainly.

Mr. JOHNSTON. Would it not give the judge the right to call before him anyone who violated that order?

Mr. HILL. Exactly.

Mr. JOHNSTON. Would not the judge be bringing the accused before him and trying him for violating a law which the judge enacted; and would he not be doing it without a jury?

Mr. HILL. He would be the whole institution.

Mr. JOHNSTON. The whole thing.

Mr. HILL. The accuser, prosecutor, and judge.

Mr. JOHNSTON. And lawmaker?

Mr. HILL. And lawmaker. He is the fixer of the punishment; he is the whole thing.

Mr. JOHNSTON. That is what the bill makes him.

Mr. HILL. That is what the bill makes him. It makes him to judge, and the whole thing. It denies the accused the fundamental right of trial by jury.

Mr. JOHNSTON. I thank the Senator.

Mr. HILL. I thank the Senator.

Mr. President, I repeat, no doubt there are those who would just as soon overlook the arguments, but "the word" is abroad in the land and there is no silencing or overlooking the growing nationwide resistance to the bill.

Wrote Mr. David Lawrence on April 20:

> Strange as it may seem, "involuntary servitude"—as slavery is defined in the 13th amendment of the Constitution—may again be an issue in America, though this time it could mostly concern white persons.
>
> Such is the conclusion reached by Alfred Avins, formerly special deputy attorney general of the State of New York and a well-known professor of constitutional law, who has just presented his argument in a comprehensive article in the Law Quarterly of Cornell University.
>
> If the pending civil rights bill is adopted, serious questions will be raised in the courts as to whether persons working in barbershops or beauty parlors, or even in restaurants, may be forced out of their jobs against their will because they do not choose to serve certain kinds of customers.
>
> Supporters of the civil rights legislation contend that only those barbershops or beauty parlors which are part of a hotel or motel establishment will be effected. Thus, a barbershop in a hotel would be required to serve Negroes, but a barbershop across the street could lawfully refuse to do so. But if there are no jobs available across the street or elsewhere, the worker could argue that he was being deprived of an employment opportunity because of his beliefs. Mr. Avins writes:
>
> "Although there are a number of cases which have held antidiscrimination legislation constitutional under the 14th amendment, no decision has dealt with this matter under the far more specific provisions of the 13th amendment. Yet the 13th amendment would seem to apply far more directly to antidiscrimination legislation in the rendition of personal services.
>
> "Making and serving someone else a hamburger is not work for the Government, for one's family, or for a party one has injured. Nor is cutting another's hair, carrying his luggage, shining his shoes, or performing other personal services for him. The 13th amendment gives every person the right to refrain from working for any other person. It protects barbers, hotel clerks, shoeshine men, sales clerks, waiters, and waitresses, just as much as it protects cottonpickers, field hands, or farm laborers.
>
> "The 13th amendment guarantees the right to refrain from work, from all work, from some work, or from work for some people. To coerce personal service is to impose involuntary servitude."
>
> Mr. Avins discusses also a case in a State court dealing with a barber who declined to serve a Negro, and says:
>
> "An argument may be made that the barber, for example, is free to cease barbering at any time. Hence, it may be contended, that as long as he voluntarily continues to be a barber, he is not subjected to involuntary servitude if he is forced to serve all who apply."
>
> Mr. Avins declares however, that such an argument overlooks the right to work, and he quotes the Supreme Court of the United States as saying that the "liberty" mentioned in the 14th amendment includes the right to "work * * * to earn his livelihood by any lawful calling; to pursue any livelihood or avocation * * * [and] the right to follow any of the common occupations of life is an inalienable right." Mr. Avins adds:
>
> "Even leaving aside the 14th amendment right to work, antidiscrimination laws which provide in effect that a person must serve another on pain of leaving his chosen occupation is involuntary servitude since the alternative to the servitude is punishment."
>
> The Supreme Court has several times pointed out, according to Mr. Avins' article, that exclusion from one's occupation is punishment and has declared that to disqualify a man from the pursuit of a lawful job may also, and often has been, imposed as punishment. The Law Quarterly article continues:
>
> "Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is being punished for refusing service. The exclusion from his calling is a particularly severe sort of punishment. To force him to serve on pain of such exclusion constitutes involuntary servitude.
>
> "Even, however, were the alternative to serving everyone without discrimination of going out of business or leaving one's occupation not deemed, strictly speaking, punishment, nevertheless, this alternative constitutes such a degree of coercion as to make the service involuntary."

Remember, these are the words, the arguments, and the warnings of a distinguished former associate professor of constitutional law at the Chicago Kent College of Law, of a former special deputy attorney general of New York, of a student and scholar of law educated at Hunter College in New York, at the Columbia Law School in New York City, at the New York Law School in New York City, at the University of Chicago Law School in Chicago, Ill. These are not the words, the arguments, and the warnings of one born, reared, and educated in the South. Mr. Avins is a man of the

North, born and educated in the North, who speaks clearly and forcefully in behalf of constitutional government and the preservation of the constitutional rights and guarantees of the American people.

Mr. President, I have previously discussed in great detail the inherent dangers and evils of title II. In my discussions of it, I have strongly criticized and denounced the fact that it denies to the accused a guarantee of right to trial by jury. There are those who will contend that jury trial is provided under title II. They are the same who would support the amendment now before the Senate. In this regard, they refer to the provisions of the compromise amendment to the 1957 Civil Rights Act. Section 205 of title II proposes that this title shall be subject to the provisions of section 151 of that act. Section 151 provides that the accused may be entitled to a trial by jury if the fine exceeds $300 or the imprisonment exceeds 45 days in jail. This is not enough. This is affording the accused, under one of the most vicious and far-reaching titles of the proposed civil rights legislation, half a guarantee to the right to trial by jury and half justice. I might add that the "half justice" to some extent depends on whether the judge himself wants the accused to have even that much. I took the time to cite Professor Avins' commentaries on the involuntary servitude aspects of title II to show how vitally important it is to afford the accused in any action under this title every possible and conceivable safeguard and protection known to man. I say again that a half of a right to trial by jury is not enough protection for any American under title II and the other sections of the civil rights bill.

The philosophy underlying trial by jury is fundamental to our Anglo-Saxon concept of human liberty. We have seen demonstrated the devotion to this concept by the struggles and bloodshed of our people for more than a thousand years to destroy the arbitrary power of kings and judges. On that cold March day in 1801, when President Jefferson referred to trial by juries impartially selected as one of the principles that form the bright constellation which has gone before us, he was well aware and most mindful of the long and cruel struggles by the people of England against tyrannical suppression, intimidation, and punishment that led to the wresting from King John at Runnymede in 1215 the right to trial by jury.

But the history of trial by jury goes back beyond this, and there can be no proper discussion of jury trial unless the question is first put in its proper historical perspective. Jury trial is not a new right or something that has come lately into our jurisprudence. It finds its roots in immemorial usages. We find it in the post days of Christ in the Roman Empire. We find it in the Mosaic Law. We find it in the reign of Alfred the Great.

The Peace of Wedmore concluded between Alfred the Great and Guthram the Dane in 878 A.D. insured that "if a king's thane be charged with the killing of a man, if he dares to clear himself, let it be before 12 king's thanes." Let it be before a jury of 12 men.

That great document of human liberty, the Magna Carta of Great Britain, the bedrock of our freedom, states:

> No freeman shall be taken or imprisoned, disseized or outlawed or banished, or in any ways destroyed, nor will we pass upon him, nor will we send upon him, save by the lawful judgment of his peers or by the law of the land.

And, with further reference to trial by jury, that great document of human liberty recites that—

> If we have disseized or deprived the Welsh of lands, liberties or other things, without legal judgment of their peers, in England or Wales, they shall instantly be restored to them, and if a dispute shall arise thereon the question shall be determined on the Marches by judgment of their peers according to the law of England with regard to English tenements, the law of Wales respecting Welsh tenements, and the law of the Marches as to tenements in the Marches.

When the despotism of James II of England finally forced the British Nation into revolt, the crown was offered to his daughter Mary and her husband, William of Orange, the offer being accompanied by a declaration of rights from the convention that issued the invitation. On the convention becoming a Parliament under the new monarchs, the declaration was converted into a Bill of Rights on December 16, 1689, which gives formal recognition of the liberties established during the long struggle with the divine right claimed by the Stuarts.

The Bill of Rights enunciated by the British Parliament for the protection of the common people and signed by William and Mary upon their ascension to the British throne made illegal the pretended power of the suspending of laws or the execution of laws by regal authority without the consent of the people through their Parliament. In this Bill of Rights, jury trials were again alluded to and a subject of the struggle. A part of the bill provides:

> That jurors ought to be duly impaneled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

Our Declaration of Independence—Mr. Jefferson's Declaration of Independence—proclaims as one of the reasons for the separation of the Colonies from the Mother Country the deprivation in many cases of the right to trial by jury. When we declared our independence from Great Britain, we set forth in that historic document certain complaints, among which were:

> He—

Meaning the British King—

> has erected a multitude of new offices, and sent here swarms of officers to harass our people, and eat out their substance.
>
> For depriving us in many cases, of the benefits of trial by jury.
>
> He has constrained our fellow citizens * * * to bear arms against their country.
>
> He has excited domestic insurrections amongst us.

Mr. President, the American colonists—those from the State of Massachusetts, and all the other colonists, down to and including those in Virginia, the Carolinas, and Georgia—left their homeland, and braved the hazards, the hardships, and the uncertainties of uncharted seas for America—for a new way of life, a way of life that would give them the rights they were denied in the Mother Country.

The colonists' blueprint for this new way of life—for these freedoms and rights—was a written Constitution. And after this blueprint was drawn, the people of the individual States insisted, as a condition precedent to agreement and adoption of it, on a Bill of Rights, which became the first 10 amendments to the Constitution. The people were careful to insist on a Bill of Rights before agreeing to adopt the Constitution, as a means of insuring the guarantee of certain basic rights, including the right to trial by jury. After all, had not they fled England for this? "The wisdom of our sages and the blood of our heroes have been devoted to their attainment," as Mr. Jefferson put it—meaning the attainment of these rights.

The Constitution was framed after 30 years of colonial and national ferment and political experiment, during which every intelligent American had become a student of government. As a result, the Constitutional Convention brought together the best informed group of statesmen that ever was assembled by democratic processes in the world's history. These men were not afraid of drastic change.

They knew so well the efforts of tyrannical kings and subservient parliaments to deny the English people their legal safeguards.

They knew, and many of them were a part of, the history of the long struggle of the English people to secure and preserve such basic legal safeguards as the right to trial by jury, the right of habeas corpus, and the right to confront and cross examine witnesses.

They knew that these basic safeguards were the best security of a people against governmental oppression.

They were familiar with the history of the court of Star Chamber. They knew of Chief Justice Jeffreys, the "Hanging Judge," and of his Bloody Assizes. They knew that tyrants on the bench could be as dangerous as tyrants on the throne.

They were mindful of the British Parliament's enactment of the Sugar Act, the Stamp Act, and other measures, at the instigation of King George II, whereby the American colonists were deprived of the right of trial by jury in cases arising under the revenue and trade laws.

The flagrant abuse of the rights of the colonists under the Sugar Act was described by Edmund Sears Morgan, in his book "The Birth of the Republic," in these words:

> Violations of the Sugar Act were punished by seizure of the offending vessel and cargo. Both would be sold and the proceeds divided; a third to the English Treasury, a third to the governor of the colony, and a third to the customs officers responsible for the seizure. * * * [The new commissioners] had the dubious distinction of exploiting the possibilities to the utmost. * * * Their favorite method was to follow a lax procedure for a time and then, suddenly shifting to a strict one, seize all vessels that were following the practice hitherto allowed.

There was very little risk involved for the officers, because the Sugar Act provided that they were to be free from any damage suits if they could show probable cause for a mistaken seizure, and the juryless admiralty courts in which cases were tried would generally certify such a probable cause.

Mr. President, as I have said, the Constitutional Convention brought together the best informed group of statesmen that ever was assembled by democratic processes in the world's history. Many of them attended the first Continental Congress that adopted the Declaration of October 14, 1774, denouncing this action of the British Parliament on the ground that American colonists were entitled to the Common Law of England and to the privilege of being tried by their peers, according to the course of that law.

They were wise men and knew that what had been done in the past might be attempted in the future. So, among the safeguards they put into the Constitution, they enshrined the guarantee that "the trial of all crimes, except in cases of impeachment, shall be by jury." This became section 2 of article III of the Constitution. I think it well, at this time, to read it in its entirety.

Section 2, of article III of the Constitution reads:

> The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.
>
> In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.
>
> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

But, this was not enough. Before the Constitution would be ratified, further guarantees with reference to trial by jury were insisted upon by the peoples of the individual States, and were had by them.

When the ratification of the Federal Consitution was pending before the Virginia Convention, Virginia was a pivotal State on which mighty events turned. Patrick Henry, who Lord Byron said was "the forest-born Demosthenes who shook the Philip of the seas," was a delegate to the Virginia Convention; and although the proposed Federal Constitution had come forth with the sanction of General Washington, and carried with it the vast prestige which the name of Washington could not fail to attach to any proposition, Patrick Henry did not approve the Constitution, as he considered the document to be threatening to the liberties of his country—among other reasons, because it lacked a bill of rights. Patrick Henry challenged James Madison, the Wythes, the Pendletons, and the Innesses, and the other scholars and statesmen in attendance, and demanded to know why a bill of rights, guaranteeing the privileges and immunities of the citizen, had been omitted from the Federal Constitution. The Virginia State Convention, after a prolonged debate, was able to ratify the Federal Constitution by a majority of only 10 votes so ably did Patrick Henry argue against it because it did not contain the Bill of Rights which English liberty had affirmed for centuries.

James Madison pledged his word that at the earliest opportunity he would use his energy toward placing into the Federal Constitution the requisite amendments guaranteeing the citizens' rights, privileges, and immunities, and as soon as the Virginia Convention had finished the work of ratification, it adopted resolutions expressing its desire for the Bill of Rights, as demanded by Patrick Henry. These resolutions were forwarded to the Governors of the various States and the amendments guaranteeing the citizens' individual rights and his liberties were by common consent agreed to. As far as men could be bound in faith and honor, it was generally understood that these amendments would be proposed to the States by the First Congress.

On July 21, 1789, James Madison, who was a Member of the House, arose and asked the House "to indulge him in further consideration of amendments to the Constitution," and he pointed out that the faith and honor of public men everywhere were pledged to amendments securing to the citizens such guarantees as were comprehended within the first 10 amendments. They passed the Congress.

The Bill of Rights amendments were then proposed to the States, including, of course, the sixth and the seventh having to do with trial by jury, and they were ratified. Thereafter, as far as Americans are concerned, they were and are a part and parcel of the original Constitution as much so as if they were signed on the 17th of September, 1787, when the main instrument itself was signed.

The sixth amendment to the Constitution of the United States provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The seventh amendment to the Constitution provides that:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

So, we see, Mr. President, how conscious those who authored and ratified our Constitution and brought this government of laws into being were of trial by jury. We find it in at least three places in the Constitution with reference to petit juries and we find it elsewhere with reference to grand juries.

Reflecting the language of the Magna Carta, the Northwest Ordinance of 1787 provided:

> All persons shall be bailable unless for capital offences, where the proof shall be evident, or the presumption great; all fines shall be moderate, and no cruel or unusual punishments shall be inflicted; no man shall be deprived of his liberty or property but by the judgment of his Peers, or the law of the land.

During and after the French Revolution a fear of revolutionary elements led to repressive censorship and severe curtailment of civil liberties in England. But fortunately there were also men, such as Charles James Fox, who continued to place faith in the people, and who eventually won several important victories for the principle of trial by jury.

In 1793, Parliament passed an act suspending habeas corpus for a year in certain cases. This act, renewed several times, abrogated the ancient privilege conferred by the writ, and therefore in effect denied the accused the right to a jury trial before retainment.

Although most of the upper classes accepted this as necessary protection against revolutionaries, Charles James Fox never ceased to protest this invasion of civil liberties, and the denial of trial by jury.

Fox himself was expelled from the Privy Council in 1798 for proposing the toast, "Our sovereign—the people." But within a decade, the crisis abated, his words were heeded, and habeas corpus and the right to trial by jury were restored, never again to be suspended in England.

So we see, Mr. President, from our review of the history of the question of trial by jury beginning back in the early days of the Roman Empire on through the French Revolution to the 19th century that this history has been an illustrious and a cherished one. We see its denial to the freedom and liberty of millions of peoples through the centuries and better understand why they struggled, fought, and died for such rights as trial by jury.

To me the foremost man in the world today is Winston Churchill of England. I remember the valiant and inspiring part that he played in World War II. I remember the magnificent leadership that he, side by side with Franklin D. Roosevelt, gave to the British people, to our people, and to all people in the lands of freedom in World War II. I know his wisdom and his great statesmanship. Winston Churchill, in his work entitled "English Speaking Peoples," made a statement which I should like to read to the Senate. I should like my friend the Senator from Missouri [Mr. LONG] to hear the statement. It was at Westminster College in Missouri that Winston

Churchill pulled the mask off the face of the Communist movement.

Mr. LONG of Missouri. I heard him.

Mr. HILL. My distinguished friend from Missouri tells me that he was privileged to be present at Westminster College at the time that Mr. Churchill spoke, and he heard that great historic address.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. HILL. I yield to the Senator from Florida.

Mr. SMATHERS. Would not the Senator agree that throughout Anglo-Saxon history, in England and in the United States, as best we can determine, every great liberal, every person who advocated the protection of the right of the individual citizen, and everyone who spent his lifetime in the service of the people and spoke about his dedication to the people, without exception talked about the importance of preserving individual liberty, and the necessity of having the right of trial by jury for individuals?

Mr. HILL. The Senator is exactly correct. As the Senator has well said, all of them made their pleas, not once but time and time again, for the preservation of that great fundamental right of the people. No right in all the concept of the lovers of liberty or the fighters for freedom has been more defended, more fought for, and more sacrificed for than the right of trial by jury.

Mr. SMATHERS. Does the Senator not agree that since the inception of the Senate, every Senator who has spoken up for the people, who has classified himself and has been classified by the writers and editorialists of his day, as a great liberal, not only talked about preserving the present system of trial by jury, but also talked about extending the right of trial by jury, even in contempt cases such as we are discussing?

Mr. HILL. The Senator is correct. The Senator will recall that one of the greatest liberal Senators was the late George W. Norris, of Nebraska. We recall how he waged the battle for the Norris-LaGuardia Act, to guarantee to organized labor its right of a trial by jury.

Mr. SMATHERS. Will the Senator not agree that it is in a sense somewhat inconsistent that the Senators who call themselves liberals, in promoting this so-called liberal legislation, are leaving the long-established position of the previous liberals, in that they are, in effect, taking away from people the right of a trial by jury rather than extending their philosophy to protect individual citizens?

Mr. HILL. The great liberal Senators in recent years—as well as the great liberal Senators in former years—worked, labored, struggled, and fought for the precious right of a trial by jury. The word "liberal" comes from the same Latin word—liberum—as the word "freedom." They fought for a man's right to be free, to have the right of habeas corpus, the right of a trial by jury, the right of confrontation by the accuser, and the assistance of counsel in the trial of a case.

Those rights have been the most precious rights for which the great liberals in the past have fought. Later in my remarks, I expect to quote from Senator Norris, Senator James A. Reed, of Missouri, Senator Borah, and other great Senators through the years who were ever watchful, fighting, and waging a battle to insure for the American people certain great, precious, fundamental rights.

Mr. SMATHERS. Does the Senator not agree that this bill, rather than reflecting confidence in the people of America to do that which is right and that which is justiciable, places less reliance on the American people? It takes away power from the American people, where previous great liberals placed the power, and places it in the judiciary.

Mr. HILL. This bill is an indictment against the American people which alleges that they will not keep their oaths when they go into the jury box, raise their hands, and take an oath to God Almighty that they will do the right thing and will render the best judgment which God gave them the right to do.

Mr. SMATHERS. I do not wish to interfere with the Senator's speech any further. The Senator is making an excellent presentation. It is beyond my comprehension that Senators who call themselves liberal, and who are always advocating liberal legislation, cannot be persuaded by what the able Senator from Alabama is saying to support the jury trial amendment in toto. That is the way the liberals of the past have always talked, and voted. That is the direction they have always gone. They have always insisted that greater confidence, not less, should be placed in the people. And yet this bill, which the so-called liberal of 1964 is supporting, is apparently based upon distrust of the American people to do the job which needs to be done. It would take authority away from the American people and place it in the hands of the judiciary. It is a reversal of the position and direction in which the previous liberals have gone.

Mr. HILL. It is a complete about-face.

Mr. SMATHERS. I could not agree with the Senator more.

Mr. HILL. The liberals have turned around and gone back, instead of moving forward for the liberty and freedom of the people. In addition, they have drawn this indictment which alleges that the people cannot be trusted.

I thank the Senator for his questions and comments.

At the time the distinguished Senator asked a question, I was speaking of Sir Winston Churchill. There could be no higher authority than Sir Winston Churchill.

The following illustrates what the Senator from Florida has said. Winston Churchill in his work, "English Speaking Peoples," says that:

> Trial by jury of equals, only for offenses known to the law, if maintained, makes the difference between bond and free.

Mr. Churchill said exactly what the distinguished Senator from Florida has said.

Mr. SMATHERS. But, as usual, Mr. Churchill has said it much better and more picturesquely. But that is the point we have been trying to make.

Mr. HILL. When Mr. Churchill says, "Makes the difference between bond and free," that is a powerful declaration. That sums up the whole case in a few words. Does the Senator from Florida agree with me?

Mr. SMATHERS. I cannot help agreeing with the Senator from Alabama. I wish there were more of the 1964 liberals in the Senate Chamber today so that they might hear not only what the Senator from Alabama is saying, but the marvelous quotations which he is making available to us. I am certain that the liberal who really considers himself a liberal, could not, in the face of all that has been said this afternoon, and the quotations of the truly great liberals of the past, turn about on the liberals of the past, reverse their course, and walk in a 180-degree different direction from that taken by the liberals of the past.

Mr. HILL. Some of the greatest statesmen have spoken on this subject. Some of the intellectual giants of our legal history have spoken about the need of the right of a trial by jury. Blackstone, with whom we are all familiar if we were privileged to study any law, in his commentaries states succinctly:

> The trial by jury ever has been, and I think ever will be, looked upon as the glory of the English law.

He is looking down through the centuries to come. That is a very strong statement. Continuing to quote:

> The trial by jury ever has been, and I think ever will be, looked upon as the glory of the English law. And if it has so great an advantage over other in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases.
>
> It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals.

We find that quotation in the case of Reid against Covert, where the court affirms Blackstone's position.

Lord Camden, one of the great English jurists said:

> Trial by jury is the foundation of the British Constitution; take that away and the whole fabric will soon molder into dust.

The eminent French philosopher, De Tocqueville, wrote at pages 282–283 of his treatise, Democracy in America, as follows:

> The institution of the jury * * * places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the government * * *. He who punishes the criminal is * * * the real master of society * * *. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury.

If I may have the attention of the Senator from Florida [Mr. SMATHERS], since he made such a wise and timely and true statement, I should like him to hear what De Tocqueville wrote in his treatise on democracy in America:

> The institution of the jury * * * places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the Government * * *.

> He who punishes the criminal is * * * the real master of society * * *. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury.

Mr. LONG of Louisiana. Mr. President, will the Senator from Alabama yield for a question?

Mr. HILL. I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. I ask the Senator if it is not true that there has never been a case in which any type of tyranny could long exist if the people had a genuine right to be tried—if accused of a crime—by a fair and impartial jury?

Mr. HILL. The Senator is exactly right. I have sought this afternoon to cite many cases to show how correct the Senator from Louisiana is. That is what De Tocqueville had in mind when he wrote:

> The institution of the jury * * * places the real direction of society in the hands of the governed, or a portion of the governed, and not in that of the Government * * *. He who punishes a criminal is * * * the real master of society.

In other words, if we take the "master" out of the hands of the people and place it in the hands of a judge, a king, or a ruler of some sort, then he becomes the master. He becomes the tyrant that we know in history, and he takes away the rights of the people.

Mr. LONG of Louisiana. Mr. President, will the Senator from Alabama yield for a further question?

Mr. HILL. I yield.

Mr. LONG of Louisiana. Is it not correct that the right to a trial by jury was one of the rights for which the Colonies fought to establish American independence?

Mr. HILL. Thomas Jefferson even wrote and proclaimed it in the Declaration of Independence. The Senator is correct.

Mr. LONG of Louisiana. Is it not also true that the right to a trial by jury is perhaps the only right that the Bill of Rights twice declared in favor of?

Mr. HILL. It is not only declared twice in the Bill of Rights, as the Senator so well suggests, but it also appears in section 2 of article III of the Constitution, in the original wording of the Constitution. So today it appears in three different places in the Constitution of the United States.

Mr. LONG of Louisiana. Is not the right to a trial by jury the only right an American citizen has which is protected at three different places in the Constitution of the United States?

Mr. HILL. It is thoroughly spelled out in the Constitution, as the Senator says, in three separate places.

Mr. LONG of Louisiana. Mr. President, will the Senator from Alabama yield for a further question?

Mr. HILL. I yield.

Mr. LONG of Louisiana. Does not that suggest that the framers, the shapers, and the originators of American liberty recognized that the right to a trial by jury was the most fundamental right which must be protected if the people were to have the freedom for which our forebears fought and gained their independence?

Mr. HILL. Sir Winston Churchill expressed it, that instead of being in bondage, the people would be free.

Mr. LONG of Louisiana. Mr. President, will the Senator from Alabama yield for a further question?

Mr. HILL. I yield.

Mr. LONG of Louisiana. Is it not correct to say that the first voting laws which would deny certain people the right to a trial by jury in favor of a judge's power to use Federal contempt powers applied only to perhaps a few thousand people, meaning a few registrars of voters in the 50 States?

Mr. HILL. The Senator is correct.

Mr. LONG of Louisiana. But does not this bill propose to extend that power and deny the right to any American accused of a crime, so that tens of millions of Americans could be tried by a Federal judge, prejudiced though he might be, without benefit of a jury trial?

Mr. HILL. The Senator is correct. It is incomprehensible to appreciate or to determine today how far the bill will reach, and how many millions of Americans would come within the province of the bill and be subject to prosecution under the bill.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a further question?

Mr. HILL. I yield.

Mr. LONG of Louisiana. If it is constitutional, as some urge on the floor of the Senate, to permit a judge to issue an order and find a large category of people in contempt without a jury trial, for failure to abide by a blanket order issued by the judge, would it not be equally constitutional for a Federal judge to issue an order in his court against all crimes—"Thou shalt not steal. Thou shalt not covet. Thou shalt not commit adultery. Thou shalt not commit murder"—and then proceed to haul in any American who was guilty of any violation of the Mosaic code and put him on trial without benefit of a jury?

Mr. HILL. That would be the logic to be derived from the bill.

Mr. LONG of Louisiana. Mr. President, will the Senator from Alabama yield for a further question?

Mr. HILL. I yield.

Mr. LONG of Louisiana. If an American citizen can be denied the right to a trial by jury when accused of a crime, by the procedure suggested in the bill, could not that procedure be applied to an American accused of any crime?

Mr. HILL. Of course it could. Once one takes away from the American people the right to a trial by jury, he opens wide the door to taking it away from those accused of any crime under any other statute.

The Senator is exactly right; and I thank him for his questions.

The tradition and guarantee of the right to trial by jury was enshrined in the immortal words of Jeremiah S. Black before the Supreme Court in the case of ex parte Milligan as follows:

> In the first place, the self-evident truth will not be denied, that the trial and punishment of an offender against the Government is the exercise of judicial authority. That is a kind of authority which would be lost by being diffused among the masses of the people. A judge would be no judge if everybody else were a judge as well as he. Therefore, in every society, however rude or however perfect its organization, the judicial authority is always committed to the hands of particular persons, who are trusted to use it wisely and well; and their authority is exclusive; they cannot share it with others to whom it has not been committed. Where, then, is the judicial power in this country? Who are the depositaries of it here? The Federal Constitution answers that question in very plain words, by declaring that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." Congress has from time to time ordained and established certain inferior courts; and in them, together with the one Supreme Court to which they are subordinate, is vested all the judicial power, properly so called, which the United States can lawfully exercise. That was the compact made with the General Government at the time it was created. The States and the people agreed to bestow upon that Government a certain portion of the judicial power which otherwise would have remained in their own hands, but gave it on a solemn trust, and coupled the grant of it with this express condition: That it should never be used in any way but one; that is, by means of ordained and established courts. Any person, therefore, who undertakes to exercise judicial power in any other way, not only violates the law of the land, but he treacherously tramples upon the most important part of that sacred covenant which holds these States together.
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> May it please your honors: You know, and I know, and everybody else knows, that it was the intention of the men who founded this Republic to put the life, liberty, and property of every person in it under the protection of a regular and permanent judiciary, separate, apart, distinct from all other branches of the government, whose sole and exclusive business it should be to distribute justice among the people according to the wants and merits of each individual. It was to consist of courts, always open to the complaint of the injured, and always ready to hear criminal accusations when founded upon probable cause; surrounded with all the machinery necessary for the investigation of truth, and clothed with sufficient power to carry their decrees into execution. In these courts it was expected that judges would sit who would be upright, honest, and sober men, learned in the laws of their country, and lovers of justice from the habitual practice of that virtue; independent because their salaries could not be reduced, and free from party passion because their tenure of office was for life. Although this would place them above the clamors of the mere mob and beyond the reach of executive influence, it was not intended that they should be wholly irresponsible. For any willful or corrupt violation of their duty, they are liable to be impeached; and they cannot escape the control of an enlightened public opinion, for they must sit with open doors, listen to full discussion, and give satisfactory reasons for the judgments they pronounce. In ordinary tranquil times the citizen might feel himself safe under a judicial system so organized.
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> But our wise forefathers knew that tranquillity was not to be always anticipated in a republic; the spirit of a free people is often turbulent. They expected that strife would rise between classes and sections, and even civil war might come, and they supposed that in such times judges themselves might not be safely trusted in criminal cases, especially in prosecutions for political offenses, where the whole power of the executive is arrayed against the accused party.

That is exactly what we would have here. The whole power of the executive branch of the Government would be arrayed against the accused party.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HILL. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. As a lawyer, is the Senator aware of certain general provisions in State laws which provide that a citizen has recourse against someone who falsely accuses him and requires him to defend himself when there is no basis for prosecuting him in court?

Mr. HILL. He would not have any standing in court unless he had some basis for the prosecution. Under our concept of Anglo-Saxon judicial procedure, he would have to come into court and stand before the whole world, so to speak, and make his accusation, and be subject to examination and cross-examination. Then, if he told a lie, he would be subject to punishment for perjury.

Mr. LONG of Louisiana. Is the Senator aware of any situation in which a citizen would have recourse against anyone who would falsely accuse him of crime.

Mr. HILL. If it constituted slander or libel, he could take some action. After all, if he should go into court, he would have the right to have his case tried before a jury.

Mr. LONG of Louisiana. Is it not correct to say that if a person had been accused of crime, and had been put to great inconvenience, and had had to defend himself, and had been humiliated, he would have the right to sue the man who had accused him?

Mr. HILL. Yes; for slander or libel.

Mr. LONG of Louisiana. He could sue the person who had made false charges against him.

Mr. HILL. Yes.

Mr. LONG of Louisiana. Would that right lie against a judge who might, without probable cause, have hauled the man before him and have sought to punish him?

Mr. HILL. He would have no such right against the judge. I know of no case that would give him the right to do that. Does the Senator from Louisiana know of any such case?

Mr. LONG of Louisiana. So far as I know, the only thing that could be done about it would be to have the judge tried in impeachment proceedings before Congress.

Mr. HILL. Yes. The House of Representatives would have to impeach the judge. It would have to do that by a majority vote. The Senate would then have to find the judge guilty by a two-thirds vote. However, there could not be any other punishment of that judge.

Mr. LONG of Louisiana. Is the Senator aware of the fact that in most States there exists the right of a person, who has been made to defend himself in a prosecution where there was no ground for such prosecution, to sue the person who had wrongfully sued him, without any reasonable basis? In other words, if he had been wrongfully sued, he could sue the man who had sued him.

Mr. HILL. Yes.

Mr. LONG of Louisiana. In my State, I believe the amount would be 10 percent. If a person had been sued for $10,000 and there had been no basis for the suit, the person who had been sued could sue his accuser for $1,000 if his accuser had no basis for suing him.

Mr. HILL. Yes.

Mr. LONG of Louisiana. Is there any parallel provision in the pending bill?

Mr. HILL. There is nothing like that in the bill.

Mr. LONG of Louisiana. In other words, a citizen who had been wrongfully prosecuted would be without recourse against the judge. Is that correct?

Mr. HILL. Yes. He might have been grievously wronged, but he would have no recourse against the judge.

Mr. LONG of Louisiana. Does it not seem somewhat tyrannical to make it possible for such a thing to happen?

Mr. HILL. Yes. Our forefathers had seen what had happened in their days, both in England and in the Colonies, in the equity courts under George III. That is something from which they tried to protect the people.

Mr. LONG of Louisiana. Prior to the American Revolution, colonists who were accused of crime were sometimes hauled to England to be tried there, for fear that American courts would turn them loose.

Mr. HILL. Yes. They hauled them to England. In those days, of course, with sailing ships, it was a matter of a 3-month trip. It was not as fast a trip as is possible today, with jet airplanes. It would require about 3 months to take them over there in sailing ships, and land them in Liverpool or Plymouth, or some other English port. Often there were terrible storms on the way.

Mr. LONG of Louisiana. Would not the Senator say that that was a great inconvenience to a colonist, to be taken to England, even if the accused colonist succeeded in acquitting himself? It would mean spending about 3 months being taken over there in chains, and then, if he were fortunate enough to be acquitted, taking probably the same length of time on the return trip, involving the hazards incident to the frailities of the vessels at the time, and so forth. Even if he were acquitted, would he not have been imposed upon to a considerable extent?

Mr. HILL. Yes; and on his return he might find himself bankrupt in his business. He might very well find that his whole business life had been destroyed.

Mr. LONG of Louisiana. Is the Senator aware of the fact that under the pending bill it is provided that the judge can award legal fees to the lawyer of the man who sues someone on the ground of being discriminated against?

Mr. HILL. Yes.

Mr. LONG of Louisiana. Is the Senator aware of any other situation in which the State will pay the expense of the one who is suing another man?

Mr. HILL. No; I know of no precedent in the law for that kind of provision.

Mr. LONG of Louisiana. Is there any provision in the bill that the man who must defend himself will have his lawyer's fee paid if he is successful in defending himself?

Mr. HILL. Oh, no; he must carry the burden of that expense himself. He must carry the mental strain and the financial burden of defending himself.

Mr. LONG of Louisiana. Is the Senator aware of the possibility that the Congress of Racial Equality could go after a small businessman who is trying to operate a little club for the benefit of white people only, and have the judge finance the suit, in effect, by having CORE's lawyer paid a handsome fee, and having that organization continue to sue the poor defendant until he was bankrupt?

Mr. HILL. That is entirely possible. That is the procedure that is permitted under the bill.

Mr. LONG of Louisiana. I ask unanimous consent that I may be permitted to make a brief observation, without prejudicing the Senator's right to the floor.

Mr. HILL. I ask unanimous consent that I may yield to the Senator from Louisiana without prejudicing my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, I recall that when I was practicing law, as a young man, after I had hung out my shingle as a lawyer, a colored man came to me and said, "Lawyer, can those folks sue me?"

I said, "Of course they can sue you."

"But, lawyer," he said, "I haven't done anything wrong. Why can they sue me if I haven't done anything wrong?"

I said, "I dislike to say it, but anybody can sue you. You do not have to do anything wrong to be sued. If a man wants to sue you, it is his privilege to sue you."

On occasion, as a youngster trying to make a dollar or two, representing an indigent client who had no money, I knew what it meant to file suits in forma pauperis. I am sure the Senator from Alabama is familiar with that procedure which is used in cases when a person wishes to file a suit but does not have any money with which to pay the costs. On occasion, when I sued people for substantial amounts, they would not talk to us about the problem. As a "kid" plaintiff's lawyer, I had the occasion of saying to those people, "You may not want to talk to us now, but wait until you get a judicial summons to talk to us."

That is the kind of thing a "kid" plaintiff's lawyer can do on occasions when he does not have to pay the court costs. I am aware of the harassment that a "kid" lawyer can cause in such cases.

Mr. HILL. He would have his remuneration and court costs paid out of the Treasury of the United States by an order of the judge.

Mr. LONG of Louisiana. Has it ever occurred to the Senator that in situations in which judges hope to curry the favor of the NAACP and be advanced to the court of appeals or perhaps to the Supreme Court, a judge would be delighted to encourage young lawyers to keep up that sort of practice all the time?

Mr. HILL. He could build a record for promotion, so that he might go to the higher court to which he aspired.

Mr. LONG of Louisiana. Did it ever occur to the Senator from Alabama that a young lawyer who might be hard up for business—not one, but hundreds of them—might find it desirable to have colored clients sue people all the time, almost to the extent of blackmail, in the hope that Federal judges who were seeking promotion with the help of the NAACP would favor them?

Mr. HILL. Yes; and the lawyers would know that they would receive their pay from the U.S. Government.

I thank the Senator from Louisiana.

> All history proves that public officers of any government, when they are engaged in a severe struggle to retain their places, become bitter and ferocious, and hate those who oppose them, even in the most legitimate way, with a rancor which they never exhibit towards actual crime. This kind of malignity vents itself in prosecutions for political offenses, sedition, conspiracy, libel, and treason, and the charges are generally founded upon the information of hireling spies and common delators, who make merchandise of their oaths and trade in the blood of their fellow men. During the civil commotions in England, which lasted from the beginning of the reign of Charles I to the revolution of 1688, the best men and the purest patriots that ever lived fell by the hand of the public executioner. Judges were made the instruments for inflicting the most merciless sentences on men, the latchet of whose shoes the ministers that prosecuted them were not worthy to stoop down and unloose. Let me say here that nothing has occurred in the history of this country to justify the doubt of judicial integrity which our forefathers seem to have felt. On the contrary, the highest compliment that has ever been paid to the American bench is embodied in this simple fact; that if the executive officers of this Government have ever desired to take away the life or the liberty of a citizen contrary to law, they have not come into the courts to get it done; they have gone outside the courts, and stepped over the Constitution, and created their own tribunals, composed of men whose gross ignorance and supple subversion could always be relied on for those base uses to which no judge would ever lend himself. But the framers of the Constitution could act only upon the experience of that country whose history they knew most about, and there they saw the brutal ferocity of Jeffreys and Scroggs, the timidity of Guilford, and the base venality of such men as Saunders and Wright. It seemed necessary, therefore, not only to make the judiciary as perfect as possible, but to give the citizen yet another shield against the wrath and malice of his government. To that end they could think of no better provision than a public trial before an impartial jury.

I do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. I only say, that it is the best protection for innocence and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and borne it better, than any other legal institution that ever existed among men. England owes more of her freedom, her grandeur, and her prosperity, to that than to all other causes put together. It has had the approbation not only of those who lived under it, but of great thinkers who looked at it calmly from a distance, and judged it impartially. Montesquieu and De Tocqueville speak of it with an admiration as rapturous as Coke and Blackstone. Within the present century, the most enlightened states of continental Europe have transplanted it into their countries; and no people ever adopted it once and were afterward willing to part with it. It was only in 1830 that an interference with it in Belgium provoked a successful insurrection which permanently divided one kingdom into two. In the same year, the Revolution of the Barricades gave the right of trial by jury to every Frenchman.

Those colonists of this country who came from the British Islands brought this institution with them, and they regarded it as the most precious part of their inheritance. The immigrants from other places where trial by jury did not exist, became equally attached to it as soon as they understood what it was. There was no subject upon which all the inhabitants of the country were more perfectly unanimous than they were in their determination to maintain this great right unimpaired. An attempt was made to set it aside and substitute military trials in its place, by Lord Dunmore, in Virginia, and General Gage, in Massachusetts, accompanied with the excuse which has been repeated so often in late days, namely, that rebellion had made it necessary; but it excited intense popular anger, and every colony from New Hampshire to Georgia made common cause with the two whose rights had been especially invaded. Subsequently, the Continental Congress thundered it into the ear of the world, as an unendurable outrage, sufficient to justify universal insurrection against the authority of the Government which had allowed it to be done.

If the men who fought out our revolutionary contest, when they came to frame a government for themselves and their posterity, had failed to insert a provision making the trial by jury perpetual and universal, they would have covered themselves all over with infamy as with a garment; for they would have proved themselves basely recreant to the principles of that very liberty of which they professed to be the special champions. But they were guilty of no such treachery. They not only took care of the trial by jury, but they regulated every step to be taken in a criminal trial. They knew very well that no people could be free under a government which had the power to punish without restraint. Hamilton expressed in the Federalist the universal sentiment of his time, when he said that the arbitrary power of conviction and punishment for pretended offenses had been the great engine of despotism in all ages and all countries. The existence of such power is utterly incompatible with freedom. The difference between a master and his slave consists only in this: that the master holds the lash in his hands and he may use it without legal restraint, while the naked back of the slave is bound to take whatever is laid on it.

But our fathers were not absurd enough to put unlimited power in the hands of the ruler and take away the protection of law from the rights of individuals. It was not thus that they meant "to secure the blessings of liberty to themselves and their posterity." They determined that not one drop of the blood which had been shed on the other side of the Atlantic, during seven centuries of contest with arbitrary power, should sink into the ground; but the fruits of every popular victory should be garnered up in this new Government. Of all the great rights already won, they threw not an atom away. They went over Magna Charta, the Petition of Right, the Bill of Rights, and the rules of the Common Law, and whatever was found there to favor individual liberty they carefully inserted in their own system, improved by clearer expression, strengthened by heavier sanctions, and extended by a more universal application. They put all those provisions into the organic law, so that neither tyranny in the executive, nor party rage in the legislature could change them without destroying the Government itself.

Mr. President, I continue to quote from the words of Jeremiah S. Black before the Supreme Court of the United States in the case of ex parte Milligan:

> Look for a moment at the particulars and see how carefully everything connected with the administration of punitive justice is guarded.
>
> 1. No ex post facto law shall be passed. No man shall be answerable criminally for any act which was not defined and made punishable as a crime by some law in force at the time when the act was done.
>
> 2. For an act which is criminal he cannot be arrested without a judicial warrant founded on proof of probable cause. He shall not be kidnapped and shut up on the mere report of some base spy who gathers the materials of a false accusation of crawling into his house and listening at the keyhole of his chamber door.
>
> 3. He shall not be compelled to testify against himself. He may be examined before he is committed, and tell his own story if he pleases; but the rack shall be put out of sight, and even his conscience shall not be tortured; nor shall his unpublished papers be used against him, as was done most wrongfully in the case of Algernon Sydney.
>
> 4. He shall be entitled to a speedy trial; not kept in prison for an indefinite time without the opportunity of vindicating his innocence.
>
> 5. He shall be informed of the accusation, its nature, and grounds. The public accuser must put the charge into the form of a legal indictment, so that the party can meet it full in the face.
>
> 6. Even to the indictment he need not answer unless a grand jury, after hearing the evidence, shall say upon their oaths that they believe it to be true.
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> 7. Then comes the trial, and it must be before a regular court of competent jurisdiction, ordained and established for the State and district in which the crime was committed; and this shall not be evaded by a legislative change in the district after the crime is alleged to be done.
>
> 8. His guilt or innocence shall be determined by an impartial jury. These English words are to be understood in their English sense, and they mean that the jurors shall be fairly selected by a sworn officer, from among the peers of the party residing within the local jurisdiction of the court. When they are called into the box, he can purge the panel of all dishonesty, prejudice, personal enmity, and ignorance, by a certain number of peremptory challenges, and as many more challenges as he can sustain by showing reasonable cause.
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> 9. The trial shall be public and open, that no underhand advantage may be taken. The party shall be confronted with the witnesses against him, have compulsory process for his own witnesses, and be entitled to the assistance of counsel in his defense.
>
> 10. After the evidence is heard and discussed, unless the jury shall, upon their oaths, unanimously agree to surrender him up into the hands of the court as a guilty man, not a hair of his head can be touched by way of punishment.
>
> 11. After a verdict of guilty, he is still protected. No cruel or unusual punishment shall be inflicted, nor any punishment at all, except what is annexed by law to his offense. It cannot be doubted for a moment, that if a person convicted of an offense not capital were to be hung on the order of a judge, such judge would be guilty of murder as plainly as if he should come down from the bench, tuck up the sleeves of his gown, and let out the prisoner's blood with his own hand.
>
> 12. After all is over, the law continues to spread its guardianship around him. Whether he is acquitted or condemned he shall never again be molested for that offense.

> No man shall be twice put in jeopardy of life or limb for the same cause.
>
> These rules apply to all criminal prosecutions.
>
> But how am I to prove the existence of these rights? I do not propose to do it by a long chain of legal argumentation, nor by the production of numerous books with the leaves dog-eared and the pages marked. If it depended upon judicial precedents, I think I could produce as many as might be necessary. If I claimed this freedom, under any kind of prescription, I could prove a good long possession in ourselves and those under whom we claim it.
>
> I might begin with Tacitus, and show how the contest arose in the forests of Germany more than 2,000 years ago; how the rough virtues and sound commonsense of that people established the right of trial by jury, and thus started on a career which has made their posterity the foremost race that ever lived in all the tide of time. The Saxons carried it to England, and were ever ready to defend it with their blood. It was crushed out by the Danish invasion; and all that they suffered of tyranny and oppression, during the period of their subjugation, resulted from the want of trial by jury. If that had been conceded to them the reaction would not have taken place which drove back the Danes to their frozen homes in the North. But those ruffian sea kings could not understand that, and the reaction came.
>
> Alfred, the greatest of revolutionary heroes and the wisest monarch that ever sat on a throne, made the first use of his power, after the Saxons restored it, to reestablish their ancient laws. He had promised them that he would, and he was true to them because they had been true to him. But it was not easily done; the courts were opposed to it, for it limited their power—a kind of power that everybody covets—the power to punish without regard to law. He was obliged to hang 44 judges in 1 year for refusing to give his subjects a trial by jury. When the historian says he hung them, it is not meant that he put them to death without a trial. He had them impeached before the grand council of the nation, the Wittenagemote, the parliament of that time.
>
> During the subsequent period of Saxon domination no man on English soil was powerful enough to refuse a legal trial to the meanest peasant. If any minister or any king, in war or in peace, had dared to punish a freeman by a tribunal of his own appointment, he would have roused the wrath of the whole population; all orders of society would have resisted it; lord and vassal, knight and squire, priest and penitent, bocman and socman, master and thrall, copyholder and villain, would have risen in one mass and burnt the offended to death in his castle, or followed him in his flight and torn him to atoms. It was again trampled down by the Norman conquerors; but the evils resulting from the want of it united all classes in the effort which compelled King John to restore it by the Great Charter. Everybody is familiar with the struggles which the English people, during many generations, made for their rights with the Plantagenets, the Tudors, and the Stuarts, and which ended finally in the revolution of 1688, when the liberties of England were placed upon an impregnable basis by the bill of rights.

Under that bill, again there was a guarantee of the right of trial by jury.

Mr. President, in 1957 this question of right to trial by jury came up in connection with so-called civil rights proposed legislation before the Senate. Many strong and cogent arguments were made in behalf of the right to trial by jury. It has never been my privilege, however, to read or study a more masterful document than the committee minority views to that 1957 legislation which came from the brain and the hands of the distinguished Senator from North Carolina [Mr. ERVIN]. It is excellent and scholarly; and in view of the discussions and debate in the Senate at this time, I commend it to everyone, for reading in its entirety. The report is thorough and complete. I shall not endeavor to present it in its entirety at this time, but I should like to read a few paragraphs from it. The minority views state, in part:

> At the time of the adoption of the Constitution, writs of injunction and other equitable remedies were used for the protection of property rights only. As was made clear by the commentary of Alexander Hamilton on the extent of the authority of the Federal judiciary, which has been preserved in The Federalist as Essay No. 80, the founders of our Government contemplated that the equitable jurisdiction of the Federal courts would be exercised within similar limits.
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> When they placed in article III, section 2, the emphatic and unambiguous declaration that "the trial of all crimes * * * shall be by jury," the founders of our Government intended these plain English words to mean exactly what they said. They believed that this constitutional declaration possessed sufficient vigor to thwart the efforts of those who would convert courts of equity into courts of star chambers and rob Americans of their right of trial by jury by the devious device of extending the powers of equity beyond their ancient limits.
>
> History makes this manifest: If they had dreamed that Americans could be constitutionally robbed of their right of trial by jury by perverting injunctions and contempt proceedings from their historical uses to the field of criminal law, the people of the United States would have rejected the Constitution out of hand. If one is tempted to question the validity of this assertion, let him read Judge Story's affirmation that the omission from the original Constitution of the guarantee of jury trial in suits at common law later embodied in the seventh amendment raised an objection to the Constitution which "was pressed with an urgency and zeal * * * well nigh preventing its ratification."
>
> We submit that the constitutional declaration "the trial of all crimes * * * shall be by jury" does possess the vigor attributed to it by the founders of our Government, and that in consequence it necessarily invalidates by implication any proposal to rob Americans of their right of trial by jury by extending the injunction and contempt processes of equity to the criminal field. If this is not true, this solemn constitutional declaration is but an empty pledge expressed in idle and ironic words.
>
> If power can be conferred upon Federal courts to suppress crime in the civil rights field by injunctions and contempt proceedings in trials without juries, there is no sound reason why power cannot also be conferred upon such courts to suppress in like manner any and all crimes in the whole catalog of crimes.
>
> In concluding this phase of our report, we quote from an article by Judge Henry Clay Caldwell, which appeared in the American Federationist in May 1910:
>
> These mandatory provisions of the Constitution are not obsolete, and are not to be evaded or nullified by mustering against them a little horde of equity maximums and obsolete precedents which had their origin in a monarchial government having no written constitution. No reasoning and no precedents can avail to deprive the citizen accused of crime of his right to a jury trial guaranteed to him by the provisions of the Constitution, "except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war, or of public danger." These exceptions serve to emphasize the right and to demonstrate that it is absolute and unqualified both in criminal and civil suits, save in the excepted cases. These constitutional guaranties are not to be swept aside by an equitable invention which turns crime into a contempt and confers on a judge the power to frame an extended criminal code of his own, making innocent acts crimes punishable by fine or imprisonment without limit, at his discretion.

Again, Mr. President, I commend the distinguished Senator from North Carolina on the excellent and brilliant minority report from which I have just summarized. May I say that the Senator from North Carolina's brilliance on the subject of constitutional law has been witnessed many times since the minority report. Again I commend the minority report of 1957 in opposition to S. 83 to reading in its entirety by each Member of this body.

I have endeavored to review the history of the question of trial by jury and to touch upon the highlights of it. I have done so for often I find that memories are short as to yesterday and yesteryear. I am surprised, for example, to see that so many of the very people who for decades were subjected to the tyranny and injustices of government without the right to trial by jury prior to the passage of the Norris-La Guardia Act in 1932 are now among those who come before the Congress and clamor for a return to the dark days of the past.

Samuel Gompers, the pioneer and towering leader in the American labor movement, declared in 1911:

> Modern American courts assume the right to issue injunctions interfering with the personal rights of men in exercising free speech, free press, peaceable assemblage, and in their personal relationship with each other. The rights of free speech, free press, and peaceable assemblage are specifically guaranteed by the Constitution. They are the fundamental safeguards of a free people, which neither court, king, nor cajolery should be permitted to destroy. The personal relationship between man and man comes clearly within the jurisdiction of the law courts and has no place in the courts of equity unless on the assumption of the court that man is property, an assumption repugnant to the sense of all civilized communities and specifically forbidden by the 13th amendment to the Constitution of the United States. Our contention is that when an injunction is issued in a labor dispute, irreparable injury is done to the parties involved and to the cause of labor, which no court can compute and no bond can indemnify.

Mr. Gompers was concerned about the courts acting without a jury. He feared the injunctive process because it deprived him of a jury trial. He had good right to as we shall shortly see.

The lawbooks are literally filled with cases illustrating judiciary abuses and aggressions under the courts' injunctive powers without entitlement to trial by jury. Indeed, the most shameful chapter of our judiciary history was written by judges in labor relation cases prior to the enactment to the Norris-La Guardia Act. The susceptibility to abuse by judges of the injunctive process is clearly illustrated by the example of the years prior to 1932 when judges, acting without juries, in almost an unbroken line of cases, used the injunction to frustrate the efforts of labor to secure fair wages and reasonable working conditions.

The case of *Gompers* v. *United States* (233 U.S. 604) is illustrative of the limits to which courts of equity would go in repressing the individual rights and constitutional liberties of persons who did not share the economic and social predilections of the judges in cases involving labor disputes. In the Gompers case the employees of the Buck Stove & Range Co. were striking for better working conditions. The company made application for and obtained an injunction issued by a Federal court of the District of Columbia, which undertook to repress the demands of the striking employees. Gompers was cited for contempt of court and for disobedience of the injunction because he had truthfully stated orally and in print that no law compelled anyone to buy a stove manufactured by the Buck Stove & Range Co. A Federal judge, sitting without a jury, found Gompers guilty of contempt and sentenced him to jail, thus denying him his constitutional guarantee of freedom of speech, freedom of press, and a trial by jury impartially selected.

Remember Mr. Jefferson's message in his first inaugural address:

> Freedom of religion; freedom of the press; freedom of person under the protection of the habeas corpus; and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation * * * and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

How appropriate are these words today.

The decision of the lower court in the Gompers case was reversed on a technicality—on the grounds that the statute of limitations of 3 years had run before the contempt proceedings were initiated and, therefore, that the lower court had lost jurisdiction. Only by this technicality did Mr. Gompers escape prison.

The almost unrestrained use of the injunctive and contempt processes by the Federal judiciary in cases involving labor disputes led to the enactment in 1914 of a section of the Clayton Act which attempted to extend the right of trial by jury in proceedings to punish violations of injunctions which were indirect contempts of court—that is, contempts committed outside the presence of the court. This section of the Clayton Act was recodified as sections 402 and 3691 of title 18 of the United States Code.

But the provisions of the Clayton Act were limited in the granting of a jury trial in contempt cases to those instances in which private parties were involved in litigation. An exclusion was provided in cases to which the United States was a party. It remained for Congress, some 20 years later, to make an exception in this area where trial by jury was denied in cases of contempt.

When the Clayton Act was being considered, Senator Walsh of Montana, Senator Borah of Idaho, Senator Norris of Nebraska, Senator Reed of Missouri, and other Senators of that day, favored extending the right of trial by jury to all persons charged with indirect contempts arising out of alleged violations of injunctions.

In his argument for the extension, Senator Walsh declared on the floor of this Senate that:

> The most perfect judicial systems ever known are those of which the jury forms an essential party; that trial by jury * * * is the greatest school in self-government ever devised by the ingenuity of man; that Jefferson * * * maintained all his life that cases in chancery should be tried before a jury; that there is not an argument that can be advanced or thought of in opposition to trial by jury in contempt cases that is not equally an argument against the jury as we now know it; and that instead of being an attack on the court, the proposal to submit to trial by jury alleged contempts not committed in the presence of the court is a plan to restore to the Federal courts the confidence and good will which the people ought to bear toward them, but which, unfortunately, by a liberal and sometimes inconsiderate exercise of the power to issue injunctions and to punish as for contempt, has, among certain classes of citizens, been all but forfeited.

Senator Borah strongly disagreed with the provision of the Clayton Act then under consideration which limited jury trials to cases not brought in the name of or on behalf of the United States. He offered an amendment to strike out this provision, and on introducing it, said that:

> The effect of this amendment is to provide for jury trial in contempt cases in actions brought by the Government the same as when actions are brought by private individuals; that every argument * * * in favor of the right of trial by jury upon the part of one citizen of the United States is equally applicable to the right of trial by jury upon the part of every other citizen of the United States; that the right of the citizen to have his guilt or innocence determined by his peers * * * cannot be changed by reason of the fact that a particular party happens to be a plaintiff in one case and another party a plaintiff in another case; and that the provision denying persons charged with indirect contempts trial by jury in case the injunction alleged to have been violated was issued in a suit brought by the United States offends every sense of justice * * * and every principle of free institutions and equal rights.

I am reading from the quotations of men who served in the Senate, men who were giants in the Senate. I was privileged to know these men and to hear them speak—Borah, Norris, Walsh, Reed—all great men, all great students of the Constitution, all great Senators, all great champions of the rights and liberties of the people.

Senator Reed of Missouri, endorsed Borah's amendment and vigorously supported it. He made these remarks on the floor of this Senate in behalf of the amendment to extend the right of trial by jury to all persons charged with indirect contempts arising out of alleged violations of injunctions, regardless of whether or not the charges were brought by an individual or for or in the name of the United States.

Senator Reed, in supporting the Borah amendment—and he supported it vigorously—stated:

> I have for a long time believed that one of the misfortunes or obstacles confronting the courts in the administration of justice is found in the fact that the violation of an order of a court must be tried, or is ordinarily tried, at least, by the judge whose order or mandate has been disobeyed. I think there is great strength in the argument that by submitting the question of fact to a jury we relieve the court from the charge, so frequently made, that the judge who has been offended has sought to punish the man who offended him, and hence cannot be impartial.

Senator Reed makes a point here that we should take note of. Seldom is it considered or spoken in these debates, but what Senator Reed has said is logical and cannot be summarily disregarded in its practical effects and possible applications. He continued:

> We had a striking illustration of that in my own State. The case was referred to by the Senator from Montana, Mr. Walsh, in his very able exposition of the question of the right of trial by jury in contempt cases. I have ever since the decision mentioned been impressed with the fact that courts will not lose their real and proper power by submitting the question of fact in contempt proceedings to an impartial tribunal. In the case I refer to a very offensive and libelous editorial was written of the Supreme Court with reference to a case which was still before the Court on a petition for rehearing. The attack was without justification. Our Supreme Court had always been held in the high respect to which it was justly entitled. A great wave of indignation against this editor followed the publication of his attack.
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> The Supreme Court, feeling that it must protect its dignity, summoned the editor before it for contempt and proceeded to inflict a very moderate penalty. At once the wave of indignation which had been created against the editor immediately changed into one of sympathy for him and against the Court. It was said that a Court that had been attacked was now engaged in using its great power to punish the very man with which it had a personal controversy. If the question of fact could have been submitted to an impartial tribunal, to some court and some jury other than the Court that had been attacked, I have not the slightest doubt but that the editor would have received a very severe punishment and the Court would have been saved from very great criticism.
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> I know of other cases somewhat similar. I am perfectly satisfied that if the questions of fact in all contempt cases, save where the contempt is committed in the immediate presence of the court or so near thereto as to be in effect in its presence, the juries will not fail to uphold the dignity of the court and the majesty of the law.
>
> I believe that if it is right to submit questions involving the right of life to a jury it is not dangerous to submit to a jury a mere question of contempt. If we can safely repose in a jury the power to try all questions of property, all questions affecting the honor of the citizen, all questions affecting the liberty of the citizen—to a jury of 12 men—there is nothing unsafe in submitting to the same kind of a tribunal, summoned in the same way, the simple question of fact, Has this corporation or that individual violated the order of the court? I do not believe that such a procedure will result in lawlessness. I do not believe that it means disrespect for courts. I do not believe that it will drag down our courts. If I did so believe I would certainly not be found advocating the prop-

osition, for I hold to this: The legislative branch of a government may make grievous errors, the executive may even undertake the exercise of tyrannical power, but so long as the temple of justice stands open, as long as courts have the courage to declare the rights of the citizen as they are preserved in the law, and so long as a man has the right to be tried by a jury of his peers, no nation will ever be really enslaved.

So I feel that it is safe, that it is proper, to support the amendment offered by the Senator from Idaho. I believe the dignity and authority of the courts will remain unimpaired. At the same time judges inclined to tyrannical practices or who are influenced by prejudice or passion will find a wholesome check has been placed upon unjust and arbitrary punishments.

Mr. President, the Borah amendment failed to pass by the narrow margin of three votes and the Clayton Act did not suffice to end many of the abuses of the injunctive and contempt processes in labor-management disputes. This was due in large part to the failure of the amendment to extend the benefits of jury trials and limited punishments to persons charged with indirect contempts based on supposed violations of injunctions issued in actions brought in the name of, or on behalf of, the United States, and to persons charged with indirect contempts based on supposed violations of injunctions enjoining acts themselves not illegal under Federal or State laws.

Following enactment of the Clayton Act, there came a series of court decisions which restricted the application of the jury-trial provision in contempt cases involving labor disputes. These cases prompted the late Fiorello H. La Guardia of New York, coauthor of the Norris-La Guardia Act, to charge that the courts were manned by politically appointed judges who had emasculated the Clayton Act.

There followed in the wake of the judicial emasculation of the Clayton Act a concerted demand by labor for enactment of a law guaranteeing the right of trial by jury in cases involving labor disputes. For many years, advocates of the right of trial by jury fought hard to secure the enactment of legislation which would place some limitation on the judicial despotism that had been running rampant for decades, that grievously injured labor, and that had written shameful pages in the annals of the American judiciary.

The clamor arising from the social conscience of the Nation demanded reform and in 1932 the Norris-La Guardia Act was passed giving birth to a new day of dignity to working men and women throughout the land. One of the salient provisions of this act is now embodied in section 3692 of title 18 of the United States Code which reads as follows:

> In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed. This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

In advocating the adoption of the Norris-La Guardia Act, Senator Norris said:

> I agree, that any man charged with contempt in any court of the United States * * * in any case, no matter what it is, ought to have a jury trial. It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits before juries, every man who has ever presided in court and heard jury trials, knows that juries do make mistakes, as all other human beings do, and they sometimes render verdicts which seems almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray, I am confirmed in my opinion that after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender.

Mr. President, in 1959 the Congress passed what we know as the Landrum-Griffin Act, the act which is officially cited as the Labor-Management Reporting and Disclosure Act of 1959. Title I is captioned "Bill of Rights of Members of Labor Organizations," and reads as follows:

> SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary—

That means the Secretary of Labor, of course—

> or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

The Landrum-Griffin Act provides for the right to trial by jury in criminal contempt actions involving labor questions and disputes under the act and was insisted upon by labor at the time of its passage.

Mr. President, today it appears that many national union leaders have lost sight of the injustices they suffered and the liberties they espoused and now are actually advocating the injunctive and contempt processes which they so acrimoniously condemned a quarter of a century ago and have continued to condemn in labor-management relations, disputes, and actions. One, however, did not and in 1957 when the question of jury trials was before the Senate, John L. Lewis, the very able and respected past president of the United Mine Workers, sent a telegram to the majority leader expressing his and his organization's views regarding the proposals. The civil rights bill then before the Senate would have, in effect, denied the accused the benefit of a trial by jury and Senator O'Mahoney had introduced an amendment to the bill to make available to the accused the right to trial by jury in all contempt actions. In his telegram of July 30, 1957, Mr. John L. Lewis' comments on the question in this way:

> The United Mine Workers of America have traditionally, and do now, support appropriate legislation looking to the full enjoyment by all citizens of all civil rights inherent in citizenship including the right to vote. Accordingly, we endorse the basic principles involved in the civil rights bill as it is now pending before the Senate. Equally important, however, and traditionally supported by us is the right of all men to be tried by a jury when charged with violation of a statutory law or court decree, including the right to jury trial in contempt cases, the present statutory provisions and procedural rules governing civil and criminal contempt actions are contradictory, vague, and indefinite. Court decisions attempting to interpret and apply these statutes and rules have added to the general confusion as to the distinction between civil and criminal contempt and the right of jury trial in either or both of such cases. Broad powers will be given by the pending bill to the Attorney General of the United States and to the Federal courts to obtain and enforce injunctions in support of the rights described in the bill. This reemphasizes the necessity of a more definitive classification of the right of an accused to a jury trial in contempt cases generally and particularly as will be involved in part IV of the pending bill. This section, as presently written, would allow to an accused only the dubious benefit of legal counsel and, in effect, allow the Attorney General at his election to deprive an accused of a trial by jury.
>
> We have given careful consideration to the amendment offered by Senators O'Mahoney and Kefauver on Friday last, seeking to add part V to the bill so as to definitively make available to an accused the right of jury trial in all criminal contempt actions. We believe this to be a wise, prudent, and proper amendment, protective to the basic rights of all citizens wheresoever located and which, if adopted, will strengthen the pending bill. The strong and harsh power of injunction has been in the past so often abused and indiscriminately used that enlargement thereof, even for worthy purposes, must carry with it reasonable protection to all citizens who may be charged with violation and thereafter cited and tried for contempt.
>
> We should not and need not endanger one civil right in an endeavor to guard and secure another. Government by injunction is generally to be abhorred and this would be particularly true if enforced by contempt actions without the protective right of trial by jury. Expanding power of a central government must be carefully controlled and is allowable only when contemporaneous safeguards are provided for protection of all citizens alike in all parts of the country as against the inevitable encroaching on the inherent rights of the people which historically follows under the aegis of a law once enacted.

Mr. President, the provisions of the bill we have been considering, which deny jury trials, is a long step down the road to a totalitarian state. The amendment before us is not the answer. Under the civil rights legislation we have been considering, we are asked to place into the hands of politically appointed members of the executive branch almost unlimited authority to exercise the vast powers of the Federal Government over virtually every facet of economic and social life in the United States. We are asked to vest in the U.S. Government and its appointed officials powers far more vast than have ever been vested in any Government official. The bill is so broad in its scope and in its ramifications that it would authorize the Attorney

General of the United States to file suit for or in the name of the United States in virtually any activity in which man is engaged. If we are to clothe certain Federal officials with the vast powers requested by the bill and its proponents—powers heretofore unheard of being placed in the hands of government officials under a democratic form of government—it is all the more incumbent on us to perform to the fullest extent our duty under the Constitution of the United States to uphold and protect the right of trial by jury in matters of this nature. Half justice is not enough. A "piece" of the right to trial by jury is not sufficient. The discretion as to whether these half rights and half justices will be available to the accused being in the hands of a politically appointed Attorney General and a judge, who most likely ruled against the accused in the first instance, is not adequate safeguard and protection against infringement on one's basic rights.

The amendment before us would apply to all sections of the civil rights legislation pending in the Senate dealing with contempt proceedings. Section 151 of the Civil Rights Act of 1957 denies the right of trial by jury to the accused if the fine for the alleged offense is $45 or less and the imprisonment is 300 days or less. In the pending legislation the provisions of the amendment now under consideration apply to title II by specific language reference to section 151 of the Civil Rights Act of 1957, but does not apply to the other titles of the bill out of which contempt proceedings may arise.

Title II and these other titles would authorize the Attorney General to file suit for or in the name of the United States. Heretofore we have denied this extraordinary grant of power to the Attorney General and for good reason. The Attorney General may appear as amicus curiae in certain actions, but under the present law the United States does not become a party to the action. At first glance this may not appear important, but as I have pointed out in my discussions of the Clayton Act and the Norris-La Guardia Act it is of the most vital importance to anyone concerned with the benefit of trial by jury. In fact, it makes the difference as to whether or not the accused shall be entitled to request a trial by jury when charged with criminal disobedience of an injunction brought by the Attorney General for or in the name of the Government of the United States—and that is what the present debate is all about.

The sixth amendment to the Constitution of the United States provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Congress has implemented this provision of the Constitution by the wording of certain statutes now on the books.

Section 242 of title 18, United States Code, provides in part as follows:

> Whoever, under color of any * * * custom, willfully subjects any inhabitant * * * to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, * * * by reason of his color, or race * * * shall be fined not more than $1,000 or imprisoned not more than 1 year or both.

Now, if a person is accused of violating the terms of an injunction what are his rights if he is charged with criminal contempt? Rule 42(b) of the Federal Rules of Criminal Procedure, dealing with criminal contempt, provides in part:

> The defendant is entitled to a trial by jury in any case in which an act of Congress so provides.

Title 18, section 401, United States Code, provides in pertinent part as follows:

> A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—
>
> (3) Disobedience or resistance to its lawful writs, process, order, rule, decree, or command.

Title 18, section 402, United States Code, provides that:

> Any person * * * willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States * * * shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.
>
> Such fine shall be paid to the United States * * * but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.
>
> This section shall not be construed to relate to contempts * * * committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of the United States.

Thus we see that the limitations on fines and imprisonment imposed in suits between private litigants do not obtain in suits where the Federal Government is a party. And it is a party whether it institutes the action or intervenes in it.

Title 18, section 3691, of the United States Code, provides in part:

> Whenever a contempt charged shall consist in willful disobedience of any lawful writs, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to a trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

But, it continues in paragraph 2:

> This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

We will recall that sections 402 and 3691 of title 18, which I have just read, had their origin with the Clayton Act. We will also recall that they did not do the job insofar as guaranteeing the basic right to trial by jury because by the wording of the statute, this right was not available to the accused "in any suit or action brought or prosecuted in the name of or on behalf of the United States." And so in the interest of labor at the time, the Norris-La Guardia Act was passed which specifically provided for a jury trial in labor cases. This became section 3692 of title 18.

For the same reasons that sections 402 and 3691 of title 18 did not afford the protection and safeguards to labor when the injunctive processing was being so harshly used against it, I contend that they do not afford any protection or safeguards to the accused in alleged civil rights cases or in any other kind of cases.

With an understanding of these statutes and their history, I think we can more clearly realize the significance of the language found throughout the proposed civil rights legislation. By giving authority to the Attorney General to institute suits for or in the name of the United States it, in effect, makes it possible for the Attorney General, whoever he may be, to decide whether the accused may or may not have the benefit of trial by jury. For remember the exception to section 3691 affording jury trial in criminal contempt cases; namely, that jury trials are not afforded in actions brought in the name of the United States.

So, Mr. President, we see in truly unmasked form the enforcement provisions of the force bill of 1964. We see in unmasked form the provisions that would directly affect every American, North, South, East, or West, touched in any way by the proposed legislation.

Let me emphatically state again, as I have stated so many times in the past, that I am against denying the right to trial by jury to any American, in any section of the country, in any form, in any language—directly or by subterfuge.

I am against limiting this right to trial by jury to any American in any section of the country.

I am against the pending amendment to the Talmadge amendment because it does just this and denies to every American, in every section of the country, the full protection and guarantee of his basic rights.

I fear, as Mr. Jefferson put it on that memorable and historic March day in 1801, that we are wandering "in moments of error or alarm."

I fear that we are wandering in moments of error to meet the expediency of the day. I fear that we are wondering in moments of alarm to satisfy the clamor of the hour.

As Mr. Jefferson counseled, "let us hasten to retrace our steps" when we wander from the principles that form the bright constellation which has gone before us. Let us retrace them swiftly and "regain the road which alone leads to peace, liberty, and safety."

Mr. Jefferson solemnly declared:

> Freedom of religion; freedom of the press, freedom of person under the protection of the habeas corpus; and trial by juries impartially selected—the wisdom of our sages and the blood of our heroes, have been devoted to their attainment.

Mr. SMATHERS. Mr. President (Mr. Kennedy in the chair) before the Senator from Alabama suggests the absence of a quorum, will he yield to me so that I might make a brief observation?

Mr. HILL. I am happy to yield to the Senator from Florida.

Mr. SMATHERS. I wish to congratulate the very able Senator from Alabama on what I believe is, without question, the finest speech which has been made on the subject of trial by jury since the Senate has been debating it.

It has been artistically, eloquently, and persuasively delivered. I do not believe that any Senator, had he been privileged to sit in the Chamber as I have been, and heard the speech, would have failed to have been moved by it, and would not have arrived at the same conclusion as the Senator from Alabama, that we need a jury trial not only with respect to the particular legislation before us, but we need an extension of the jury trial—as he has so eloquently pointed out—in every area where people are brought into contempt of court, no matter what the charge might be other than contempt.

I congratulate the Senator for the speech he has made, and I wish more Senators had been in the Chamber to hear him.

Mr. HILL. I wish to thank the distinguished Senator from Florida for his kind and generous words, and to say to him that I appreciate them, that I particularly appreciate them because they come from him, who has proved himself time and again on the floor of the Senate to be so able, and who has made so many exceptionally fine, eloquent, and worthwhile speeches on the bill. I am deeply greatful to the Senator from Florida.

During the delivery of Mr. Hill's speech,

Mr. HILL. Mr. President, I ask unanimous consent that I may yield briefly to the distinguished Senator from Pennsylvania with the understanding that I shall not lose my right to the floor, and that I may continue my speech later, with the understanding that the remarks of the Senator from Pennsylvania will appear at the conclusion of my remarks.

Mr. CLARK. I thank the Senator from Alabama for his courtesy.

### THE CIVIL RIGHTS DEBATE AND THE PRESS

Mr. President, on Monday of this week the highly intelligent Senator from Vermont [Mr. Aiken] made a most reasonable speech on the floor of the Senate raising certain questions as to the wording of title VI and title VII of the civil rights bill.

The questions he raised were legitimate. In my opinion, they were satisfactorily answered in the course of the colloquy which followed Senator Aiken's speech by Senators Pastore and Case.

But Tuesday's newspapers blew up Senator Aiken's objections to the bill without covering the convincing answers speech by Senators Pastore and Case.

And, on the same day, a nationally known columnist writing for a newspaper widely read across the country by leaders in the formation of public opinion, so twisted the debate to suit the views of the opponents of the civil rights bill that I feel compelled, as one of the Democratic floor managers of the bill, to make a statement in rebuttal.

I note that there are presently in the Chamber four Senators on the floor and one in the chair. It seems, therefore, to be of little use to read to an empty Chamber the rebuttal I had in mind. I therefore ask unanimous consent that the text of my remarks, which have already been delivered to the Press Gallery, may be printed in full in the Record at this point as though I had delivered them in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, first, neither the news accounts nor the commentator's column made reference to the fact that Senator Aiken expressed his approval of, and satisfaction with, titles I and II of the bill dealing with the important subjects of voting rights and public accommodations.

And the column to which I refer, which I read in the New York Times, confused Senator Aiken's criticism of title VII, the fair employment practices title, with title II, the public accommodations title, which Senator Aiken specifically approved.

If one were to accept the inaccurate account of Senator Aiken's views conveyed in this column, a reader would come to the quite erroneous conclusion that Senator Aiken disapproved not only of that title but also of the favorable treatment given to his friend Mrs. Murphy, the mythical proprietress of a boardinghouse having no more than five rooms for rent. I reiterate that Senator Aiken expressed his approval of title II in its entirety.

Second. Unlike the commentator, Senator Aiken was careful never to make the false suggestion that title II would create "a vast new Federal bureaucracy." This utterly untrue statement has now been repeated so frequently in the press, due largely to a misrepresentation of the bill by the radical right, financed with money of the State of Mississippi, that the falsehood is beginning to be believed by people who should know better.

Anyone who has made even a casual study of title II knows that no new administrative agency to enforce this title is created by the bill.

In case of a violation of the prohibitions against discrimination in title II, an aggrieved person is given the right to sue in the Federal district court in a civil suit for an injunction. The Attorney General can also bring suit whenever he is satisfied that to do so would materially further the purposes of the title.

At the very most, a few additional attorneys and secretaries would be required in various Federal district attorneys' offices, located in areas where violations would be likely to occur. In most districts no additional personnel whatever would be required. The Attorney General, in a letter dated February 6, 1964, to Chairman Emanuel Celler of the House Judiciary Committee, estimated the total number of additional employees required by title II would be 26. Experience in a large number of States having public accommodation laws prohibiting discrimination demonstrates that the number of court actions required to prevent violation of the law is minimal.

Third. Senator Aiken stated that "House consideration of the bill appears to have been quite thorough." But the commentator referred to wrote that the equal rights bill "was rushed through the House." This is an entirely fallacious statement.

Seldom has important legislation received more painstaking consideration than the civil rights bill had in the House of Representatives. Note for example:

A

Exhaustive hearings were held in the House by Subcommittee No. 5 of the Judiciary Committee. Its hearings occupied 22 days during the period from May 8 to August 2, 1963. Many additional days were devoted to marking up the bill after the hearings had been completed.

B

The full Judiciary Committee, after listening to the view of Attorney General Kennedy for 2 days in October of 1963, held long-drawn-out executive sessions which resulted in substantially rewriting, with the assistance of the Attorney General, several titles of the subcommittee bill.

C

The House Rules Committee held 2 weeks of hearings during January and February of 1964 on the Judiciary Committee bill.

D

Debate on the floor of the House ran every day, except Sunday, from January 31 through February 10, 1964. During the debate a number of amendments to the revised committee bill were adopted.

E

The vote in favor of the passage of the bill in the House was 290 to 130, or more than two to one. If this is "rushing the bill through the House" surely everybody is out of step except the commentator.

Fourth. Senator Aiken complains that title VII of the bill "is discriminatory, contains big loopholes and would be difficult to administer even if it should stand the test of the courts." He was particularly critical of—

A

The elimination of employers of 25 persons or less from the coverage of the bill. He stated that this would exempt 75 to 80 percent of all employers and possibly as much as 25 percent of all employees.

B

He criticized the failure to include employees of local, State, and Federal governments and their wholly owned corporations in the coverage of the bill.

c

He objected to the exemption of religious corporations and institutions in the coverage of the bill.

These objections raised valid questions, which I reiterate were completely and satisfactorily answered by Senators CASE and PASTORE, but no mention of their arguments against Senator AIKEN's position appeared in the press or in the column to which I refer.

Since the arguments of Senators CASE and PASTORE are set forth in full in the CONGRESSIONAL RECORD, I shall not undertake to reiterate them, other than to note:

First. With respect to the elimination of employers of less than 25 persons, both administrative difficulties and financial limitations make it unrealistic to attempt, in this first Federal legislative venture in the area of fair employment, to cover the whole field of discrimination. Experience in States having FEP laws demonstrates that if discrimination is barred by large- and middle-sized employers and by labor unions and employment agencies the back of the evil can be broken. To suggest that this commonsense exclusion smacks of "hypocrisy" is, in my judgment, to stray far from both accuracy and fairness.

Second. With respect to the exemption of governmental employees, Federal employees and contractors with the Federal Government are already covered by civil service regulations and an Executive order. The House felt that the State and local governments should not be dictated to by Federal law. Moreover, most of the larger States do prohibit discrimination in the hiring, promotion and dismissal of State and local employees.

Incidentally, the Senate FEP bill, S. 1937, now on the Senate Calendar, does include Federal Government employees and State employment services in its prohibition against discrimination. But because the Senate legislates under the shadow of the filibuster and of the House Rules Committee, due to our ridiculous rules and procedures we supporters of the Senate version which was reported out of committee by a vote of 12–3, do not dare to substitute it for title VII of the House bill. Moreover, the House bill does make a good start in substantially prohibiting the hard core of racial discrimination in employment.

Third. With respect to employees of religious corporations, there is no demonstrable existing discrimination. Moreover, there is no sound reason for forbidding a religious corporation or institution from employing only persons of its own faith if it sees fit to do so.

Fourth. Senator AIKEN referred only in passing to the possibility that title VII or parts thereof might be struck down by the courts. But it is the unanimous view of every lawyer worthy of the name that title VII is clearly covered by the commerce clause of the Federal Constitution and well within the power of the Congress to enact. This view is so very clear that citation of authority is quite unnecessary.

Senator AIKEN also undertook to criticize certain provisions of title VI relating to the withholding of Federal funds from any State where there is discrimination because of a person's race, color or national origin. He asked: "Why should it be considered legal to discriminate against a person because of religion in the application of State-Federal programs, but illegal to discriminate because of race, color, or national origin?"

The answer is clear and was stated on the floor of the Senate by both Senator CASE and me when Senator GORE raised the same argument in his speech of Saturday, April 25—a speech widely reported without any comment on the answers to the Senator's arguments made by proponents of the bill at the time:

Religious discrimination is not a significant problem in connection with Federal aid programs. Inclusion of the prohibition of religious discrimination would have caused unnecessary concern on the part of religiously affiliated institutions which receive school lunches or transportation in State welfare programs assisted by the Social Security Administration.

Senator AIKEN also stated that—

> The theory back of title VI seems to be that if officials of a State or local government commit violations, then the Federal Government, by creating hardships among all the people will force violators to become law-abiding officials or be thrown out of office by the innocent sufferers.

And again:

> I am not in accord with this theory that the way to bring guilty parties to justice is to inflict punishment on the innocent by depriving them of benefits which Congress intended them to have.

In my opinion, Senator AIKEN's views are a quite incorrect summary of the purpose and effect of title VI for three reasons:

First. The theory back of title VI is that Federal funds should not be spent for an unconstitutional purpose, that is, to subsidize institutions which violate the equal protection of the laws provision of the 14th amendment and thus deny to citizens of the United States the privileges and immunities to which they are entitled, without regard to their race or color.

Second. The theory of title VI is that Federal tax moneys raised from all citizens, colored as well as white, shall not be spent on federally subsidized programs from which any citizens of the United States are excluded solely because of their race or color.

Third. The theory of title VI is not to inflict punishment on the innocent. The purpose is to prevent citizens from being deprived of their share of a Federal subsidy by State or private action which, if not prohibited, would deny them that share because of their race or color.

The rest of Senator AIKEN's attack on title VI was so well answered by Senators PASTORE and CASE on Monday last that there is no need for further reply.

I return to the commentator's views which I mentioned earlier. Using the springboard of Senator AIKEN's speech, which made no reference whatever to the rules of the Senate, the commentator made the wholly untenable statement that the public benefits from the filibuster were becoming more and more apparent. He further indulged himself in the extravagant statement that—

> If it had not been for the Senate rules, the paradoxes of politically prudent discrimination that have been woven into the text of the House bill would not stand clearly exposed to the verdict of public opinion.

Nothing could be further from the truth. In the first place, Senator AIKEN exposed nothing significant which proponents of the legislation have not been trumpeting from the treetops for months. In the second place, Senator AIKEN could have made his speech any time since March 9 when the filibuster began. The totally unjustifiable talkathon now disgracing the Senate in the eyes of both the country and the civilized world, contributed not one whit to the Senator's comprehension of the bill nor to his comments upon it.

Even more ridiculous is the contention that the interminable delay in bringing the proposed amendments and, indeed, the bill itself to a prompt vote, has given the American people an awareness they would not otherwise have had of "still another grave issue raised by the House bill" dealing with the so-called "hard-won Anglo-Saxon privilege of trial by jury" as applied to cases of criminal contempt.

This issue was fully debated during the long-drawn-out consideration of the Civil Rights Act of 1957. Everything that could possibly be said on the subject was said then, many times over. Nothing that has been said during the present filibuster has added one iota to the sum of human knowledge or erudition on the subject of criminal contempt.

Nor is there anything grave about the issue. Starting with the early English common law—sometimes confused by laymen with Anglo-Saxon law—and running through the first 168 years of our Federal jurisprudence, there has never been a right in the Federal courts to a jury trial in criminal contempt cases. Aside from a few very minor exceptions, there is no such right now in the State courts of any 1 of the 11 States of the former Confederacy whose Senators are presently so eloquent in demanding a Federal law creating a right to a jury trial denied the citizens of their own States in their own State courts in criminal contempt proceedings.

In order to prevent a renewed filibuster against the Civil Rights Act of 1957, a reluctant conference committee of the two Houses in that year agreed that a jury trial might be had in a criminal contempt case if the judge proposed to impose a sentence of more than 45 days or a fine of more than $300. This was a brandnew right created by that statute.

There is a footnote to the majority opinion in the recent Supreme Court decision in the Barnett case which justifies the inference that that court might impose a similar limitation in a criminal contempt case if the judge attempted to impose on the defendant a fine or imprisonment greater than that provided by statutory law for a petty offense.

The whole controversy, in my judgment, is much ado about nothing. In no case brought since the act of 1957 was passed has it been necessary to impanel a jury. Nor is the issue likely to arise in the future, since the remedy in civil rights cases is practically always civil, not criminal, proceedings where a court order has been violated.

The purpose of civil contempt is to obtain compliance with a court order. The recalcitrant defendant is kept in jail and/or fine until he complies with the court order. In effect, he holds the key to his own cell and the control of his own bank balance. As soon as he does what the judge tells him, he is free of further judicial restraint.

It has never been suggested, so far as I know, that there should be a jury trial in civil contempt cases. In that area, everyone seems content with the procedure historically developed under English common law and the principles of equity.

And so far as the quite unusual case of criminal contempt is concerned, a jury trial is presently called for in both the voting—title I—and public accommodations—title II—provisions of the bill. It could have been obtained for the other titles which provide for injunctions any time our southern friends requested it at any time since the filibuster started on March 9.

There is, accordingly, neither occasion for looking gravely down one's nose and muttering incantations about Anglo-Saxon liberties, nor for the fantastic suggestion that the filibuster is responsible for revealing a grave defect in the bill that nobody knew about until what the commentator calls "the southern oratorical blockade" had gone on for over 6 weeks of interminable boredom, both to Members of the Senate and the general American public—an inexcusable performance which has reacted much to the disadvantage of public respect for the Senate as a useful institution of free government.

A final solemn pronunciamento of the columnist was to second Senator AIKEN's off-the-cuff suggestion that President Johnson confer with the leadership of both parties in order to "make such corrections in the bill as will eliminate discrimination and wipe out the political implications and tinges of hypocrisy which it now contains."

The columnist, perhaps inadvertently, failed to advise his readers that Senator AIKEN, before he yielded the floor, withdrew his own suggestion in the following colloquy with Senator MANSFIELD:

Mr. MANSFIELD. There is one part of the speech with which I would not agree. The Senator suggested that the President should meet with congressional leaders on this subject. I believe the time for that is past.

The President has made his position known. The courts have made their position known. The House has met its responsibility. Now the issue is in the Senate. I think these questions ought to be raised, as they have been. If amendments are to be offered, they should be offered. If speeches are to be delivered, they should be short and to the point, as was the Senator's speech. The Senate should vote on the amendments and on the bill, one way or the other. Again I thank the distinguished Senator for his contribution.

Mr. AIKEN. Mr. President, I yield to the judgment of the Senator from Montana, and I withdraw the invitation to the President.

One of the frustrations to which a Senator must become accustomed is his inability, through the media of the communications available to him, to get through to the public arguments in support of legislation for which he has some responsibility and with which he has familiarized himself when this legislation comes under attack by well-publicized commentators who, in the subjective and perhaps ill-founded judgment of such a Senator, know little or nothing about the subject on which they feel free, with inadequate research, to pontificate to millions of American citizens who sometimes take their word as gospel.

This is one such occasion. I am well aware that, while these words will appear in the CONGRESSIONAL RECORD, they are not likely to see the light of day anywhere else. And whatever else may be said about it—which is a great deal—neither the CONGRESSIONAL RECORD nor, indeed, the floor of the United States Senate are any longer important forums for the molding of public opinion. By our ridiculous procedures we have abdicated our former position as a place where public opinion is molded and made. Instead of 100 Senators, the views of the country on legislation before the Senate are largely formed by individuals responsible for no constituency but widely syndicated in the public press, on radio and television.

Deploring this situation will not bring it to an end. Perhaps all that can be done is to give vent to one's strong views in the only place where these views can, if not listened to for certainly we no longer listen to each other nor does much of anyone else at least appear in print. The end result may be no more than to relieve individual frustration. If more than that results from this speech I shall be both delighted and surprised.

Mr. President, I ask unanimous consent that I may have printed in the RECORD at this point in my remarks the column entitled "The House Bill Under the Senate Microscope," written by Arthur Krock, and published in the New York Times of April 28, 1964.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

### IN THE NATION—THE HOUSE BILL UNDER THE SENATE MICROSCOPE

(By Arthur Krock)

WASHINGTON, April 27.—As the Senate proceeds with the intensive analysis of the equal rights bill that was rushed through the House, the benefits to the public interest of this examination are becoming more and more apparent. Although it has been several days since Senator HUMPHREY, the Democratic floor leader of the legislation, pronounced that the Southern oratorical blockade had reached the status of "filibuster"—a word with a bad name—one of the most constructive analyses of the bill made thus far was delivered today by a northern supporter of its professed principle of invoking Federal compulsions against racial discrimination.

Senator AIKEN, Republican, of Vermont, centered on only one of the two sections which legally exempt the disregard of this principle by very large percentages of the American people. He put the label of "hypocrisy" on the clause in the "equal employment opportunity" section that, in legalizing discrimination by employers of 25 persons or less, exempts what he estimated to be 75 or 80 percent of the employers in this country and possibly as much as 25 percent of the total work force. The Senator did not give an estimate of the number of those owners of certain public accommodation facilities who can legally discriminate under the terms of the House equal rights bill. But, in percentages of citizens—and incidentally voters—this second group also far outnumbers those who fall within the compulsions of the legislation.

This is the section which sanctions racial selection of patrons by the proprietors of boardinghouses who live on the premise and have less than five rooms to let. If the accommodations for patrons do not exceed four rooms, the owner is absolved from compliance. This quantitative standard of "discrimination," moreover in a measure which makes no definition of the term, and leaves that to the ad hoc determination of a vast new Federal bureaucracy, is embodied in what Senator AIKEN himself gave the name of the "Mrs. Murphy" clause. And this, as Senator HUMPHREY with forethought of his own Minnesota constituency reminded AIKEN, is also for the benefit of "Mrs. Olson."

If it had not been for the Senate rules, the paradoxes of politically prudent discrimination that have been woven into the text of the House bill would not stand clearly exposed to the verdict of public opinion. AIKEN would not have had until today, weeks after Senate discussion began, to warn President Johnson and those others who are publicly committed to the enactment of the House bill intact that this position if maintained "will likely result in killing the legislation."

### THE JURY TRIAL ISSUE

Without rules which indisputably long delay Senate voting on legislation a majority desires, and compel it to resort to cloture to end determined filibusters, the American people would not be aware of still another grave issue raised by the House bill. That is (a) whether the hard-won Anglo-Saxon privilege of trial by jury should be denied to citizens found in criminal contempt by the very judges who have made the finding in enforcing compulsions of a revolutionary change in the American social structure; and (b) whether the privilege of trial by jury in these circumstances is to be withheld when the judge limits the sentence to that imposed on petty offenders.

As Senator MCCLELLAN pointed out today, even when the sentence pronounced by the offending court exceeds that limit, the jury to which the accused is then entitled conceivably will be loath to reverse the judge who has already tried the case.

That issue would not have been projected into the public consciousness if the Senate rules had permitted the measure to have been rammed through that body as it was through the House. The bipartisan Senate leadership would not have been compelled to offer to modify the absolute denial of trial by jury to any person adjudged in criminal contempt of court on a charge of violating a law which makes no clear definition of illegal bias. And there would have been much less impact in the following counsel to the President by AIKEN, a supporter of the professed principle of the measure:

"The time has come for him [Mr. Johnson] to confer with the leadership of both parties and make such corrections in the bill as will eliminate discrimination and wipe out the political implications and tinges of hypocrisy which it now contains."

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**Mr. CLARK.** Mr. President, I should now like to turn briefly to some remarks made yesterday on the floor of the Senate by the distinguished chairman of the Committee on Foreign Relations [Mr. Fulbright], which I fear do title VII a grave injustice by perpetuating and giving undue credence to the myths and misconstructions which have been fostered and spread by the enemies of the civil rights bill.

I ask unanimous consent that my comments with respect to Senator Fulbright's speech of last night may be printed in full in the Record at this point in my remarks.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. CLARK.** First, the Senator implied that this bill would create "an administrative body with coercive powers." The fact is that the Equal Employment Opportunity Commission would not have the power to issue orders; it would have to go to the district court and ask the court for an order.

Second. The Senator said that title VII would "regiment American industry from General Motors to small retailers." It would not regiment any segment of American industry; it would only help to enforce each citizen's constitutional right not to be discriminated against. And it would not even have this effect upon employers with less than 25 employees. They would remain outside the scope of the title even after it became fully effective, in the fourth year after the effective date.

Third. The Senator raised questions about the hearings conducted last year in the Senate Employment and Manpower Subcommittee, stating that they elicited nothing more than "an unswerving phalanx of support with little regard for the merits of the bill."

The fact is that testimony was solicited from the opponents of a Federal FEPC, but none was forthcoming. It is true that the testimony received was strongly in favor of a Federal FEPC; but it is an injustice to the distinguished lawyers who testified and submitted statements—among them Dean Erwin Griswold, of the Harvard Law School; Willard Wirtz, the Secretary of Labor; and Nicholas deB. Katzenbach, the Deputy Attorney General of the United States—to deny the sharp legal pertinence and general excellence of the advice they rendered to the committee with regard to the merits of the legislation.

Fourth. The Senator stated that this legislation "tampers with the right of employers to hire those who will best serve their business." I must frankly disagree. There is nothing in title VII—or any reasonable construction of it—which supports this assertion. Its whole purport is simply to say to employers: "Choose any job applicant you want, and set any job qualification you want to use—except race, creed, color, national origin—or—except where it is a bona fide job qualification—sex."

Fifth. The Senator points out, quite rightly, that our present unacceptable level of unemployment—which is twice as high for nonwhites as it is for whites—will become a permanent fixture in our society unless we are able to upgrade the skills of our labor force, and equip our workers to meet the demands of our onrushing manpower revolution. I agree. But education, without equal job opportunity, is meaningless for the Negro. There is no motivation to acquire skills, if there is no expectation of a suitable job. One of the witnesses who testified on FEP legislation in the Employment and Manpower Subcommittee told us:

> If the lad in high school sees his father, who is a high school graduate, pushing a broom in town, then what motivation is there for him to go ahead and finish high school?
>
> He can push a broom without finishing high school and so on; there is a great tendency for him, then to drop out.

Obviously education must be a basic element in our attack on the problem of unemployment. This fact was plainly recognized by the Subcommittee on Employment and Manpower in its report on the manpower revolution. I ask unanimous consent that the subcommittee's findings and recommendations be set forth in the Record at this point in my remarks.

But education and equal employment opportunity are not "either or" propositions. If we are really going to face up to the manpower revolution; if we are really serious about bringing down our present unacceptable level of unemployment, and wiping out the differential which visits joblessness proportionally twice as hard on Negroes as on whites; and if we really believe in the American creed which says that every man is entitled to a fair chance to make his way in the world, solely on his own merits, and without regard to his race or religion; then I believe we must have both a massive Federal program of educational assistance and an effective Federal equal employment opportunity law.

Mr. President, I also ask unanimous consent that the findings and recommendations which appear in the report of the Subcommittee on Employment and Manpower of the Committee on Labor and Public Welfare, a subcommittee of which I am the chairman, entitled "Toward Full Employment: Proposals for a Comprehensive Employment and Manpower Policy in the United States," may be printed in full in the Record at this point in my remarks, since they are pertinent to the speech made by the Senator from Arkansas [Mr. Fulbright]. The findings appear beginning on page 2, and the recommendations run from page 2 through page 6 of the report to which I have referred.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

#### B. FINDINGS

1. The Nation is experiencing a complex manpower revolution engendered by accelerated labor force growth, dramatic shifts in the composition of the labor force, increasingly rapid technological change, rising educational and skill requirements, shifting consumption patterns, geographical relocation of industry, and development of new and substitute products, the depletion of some natural resources, and other forces.

2. Because many of these profound changes occurred in a period of slow growth, the adjustment process has been even more painful than it otherwise might have been. The rate of growth has risen somewhat since 1961 but it is still considerably below that necessary to absorb the combined pressures of labor force growth and productivity increases and bring about full employment.

3. The failure to recognize and meet this manpower revolution forthrightly has wasted human resources through unemployment and underemployment, reduced potential living standards for all, limited the Nation's ability to meet its domestic and international commitments, increased pressures on an already inadequate educational system, denied economic opportunity to millions of our citizens, and increased the difficulty in solving such social ills as delinquency, crime, racial discrimination, and poverty.

4. Substantial progress has been made in recent years in "beefing up" older programs, developing new ones, and improving mechanisms for the formulation of employment and manpower policy. Nevertheless, significant gaps in both policy and programs still exist. Major action is required before the Nation can be said to have an effective and comprehensive policy for full employment and efficient use of its precious manpower.

#### C. RECOMMENDATIONS

To meet the converging forces of the manpower revolution and hasten the development of comprehensive employment and manpower programs and policies, the subcommittee recommends the following:

*Full employment policy*

1. The Employment Act of 1946 should be made effective by establishing standards of minimum economic performance and providing the programs for their attainment. The subcommittee recommends among such standards maximum unemployment of 3 percent by January 1, 1968. Annual and longer range economic goals should be established and programs and policies undertaken or proposed for their accomplishment (pp. 38-41). To accomplish these goals, a more flexible method of varying tax levels must be developed and the coordination between fiscal and monetary policies improved. Alternative methods of fulfilling these policy needs are discussed (pp. 45-47).

*Making employment and manpower policy*

2. Improvements in the mechanisms by which employment and manpower policies are formulated should be made by Executive action. The subcommittee endorses the leadership role of the Secretary of Labor in manpower policy prescribed by title I of the Manpower Development and Training Act. Coordination of manpower efforts within and between departments should be improved. Executive machinery should be developed by the President for better coordinating the manpower activities of all Federal departments and agencies.

The local Manpower Advisory Committee established under the Manpower Development and Training Act should be expanded to every major labor market and broadened to encompass representatives of each public and private agency in the community with substantial manpower interests. Similar committees should be established at the State level with representation from each local council as well as State and Federal manpower officials. Regional manpower councils should be established under the auspices of the Secretary of Labor with representation from Federal manpower agencies and State manpower councils.

Employment policies designed to affect the level of employment and manpower policies concerned with manpower development and placement should be better integrated and coordinated. The mechanism for coordination is an administrative responsibilty but possible alternatives are suggested (pp. 41-45).

### *Job creation*

3. An aggressive expenditure policy should be adopted to marshal idle manpower and other resources in an attack on accumulating unmet public needs. The recent tax cut has given a substantial boost to the private sector of our economy. In addition, Federal expenditures must increase by at least an average of $5 billion a year to provide enough demand to keep pace with labor force growth and productivity improvements (p. 40). Present and potential cuts in defense spending will also release additional funds which can be reallocated to needed public investments. The confluence of idle resources and unmet needs is a rare opportunity for the exercise of imaginative public policies. The public investment programs recommended have high priorities. Manpower and other resources are readily available for their accomplishment without depriving other priority goals, either public or private, and are well within the scope of expenditures needed in order to maintain adequate demand (pp. 47-49).

4. The accelerated public works program should be extended, expanded, and made permanent to alleviate chronic deficiencies in the economic base of distressed areas while increasing employment opportunities everywhere (pp. 49–50). A special program of direct employment should be undertaken in poverty-stricken rural and urban areas which will permit the hard-core unemployed to work on projects which will alleviate the physical deficiencies of their own environments (pp. 58–60). Other expenditure programs should include education, urban renewal, public housing, an improved transportation system, resource conservation, continuing highway construction, elimination of air and water pollution, and similar pressing public needs (pp. 54–58).

5. A consistent philosophy of what area redevelopment is and should accomplish is needed. Rigid adherence to labor market areas and single counties should be modified so that assistance will be more in accord with economic realities in each redevelopment area.

### *Defense expenditures*

6. Impending reductions in the levels of defense expenditures require:

(a) Early warning from the Defense Department of impending contract cancellations and base closures.

(b) Increased community and industrial planning for conversion from defense to civilian enterprise.

(c) Special Federal adjustment assistance to help workers, communities, and industries adjust to abrupt shifts in military contracts.

(d) Dispersion of defense and space research and technology to civilian industry in order to stimulate the creation of new civilian enterprise and employment.

(e) Adequate planning for programs to ease the economic impact of partial or complete disarmament.

In addition, studies should be undertaken of the manpower implications of the defense and space effort. These should include studies of the social and economic impact of selective service, the interrelationships of manpower utilizing Federal programs and the role of armed services skill training as a training resource (pp. 60–66).

### *Unemployment insurance*

7. The unemployment insurance system should be strengthened on a national basis to make it more effective as an automatic stabilizer and to provide greater income protection for the unemployed (pp. 66–67).

### *Special group problems*

8. The youth provisions of the Economic Opportunity Act should be adopted as a substantial attack on the youth unemployment problem. In addition, Federal grants should be available to local governments and private groups for development of work-study programs to aid the school-to-work transition of the high school dropout (pp. 67–69).

9. A special older worker allowance program is recommended to provide early retirement as a last resort for the displaced worker of long labor market attachment who is unable to find a new role in the economy (pp. 69–70).

10. Federal fair employment practices legislation is necessary to remove discrimination from among the many other employment disadvantages of minority groups (pp. 70–72).

11. Programs to rehabilitate the handicapped and public welfare recipients should be expanded (pp. 73–75).

### *Education*

12. A Federal grant program should be undertaken to aid school districts in the most deprived neighborhoods in providing not only equal educational opportunity but superior schools capable of compensating for environmental deficiencies (pp. 79–81).

13. Free public education should be extended to include vocational and technical schools, junior colleges, and the first 2 years of college so that up to 14 years of free public education is universally available. Scholarship and loan programs should be expanded to eliminate financial standing as an obstacle to higher education (pp. 77–79, 81–82).

14. Adult education opportunities should be available in every community to allow adults to make up for past educational deficiencies as well as to guard against future displacement by continual upgrading of their skills and education (pp. 86–87).

15. The manpower development and training program should be encouraged and its funds augmented to better meet its responsibilities. Particular stress should be given to encouragement of on-the-job training. The Appropriations Committees are urged not to further delay appropriating supplemental Manpower Development and Training Act funds promised for this fiscal year, the lack of which is presently restraining this important program.

16. Workers whose skills are inadequate or threatened by obsolescence due to technological change should be retrained prior to unemployment wherever possible. The U.S. Employment Service should be given funds to make tuition grants for vocational and technical education to encourage part-time skill training for those employed but in danger of unemployment. Similar assistance should be available to unemployment insurance recipients. The latter should be encouraged to use periods of temporary idleness to improve their skills and prepare for reemployment. A training incentive should be available as a supplement to unemployment insurance payments to compensate for the added out-of-pocket costs of training and to encourage recipients to use periods of temporary idleness to improve their skills and prepare for reemployment. States should amend any unemployment insurance regulations which impede the retraining of recipients. The Employment Service should also be empowered to require retraining as a condition of receiving unemployment compensation for those whose jobs have permanently disappeared or whose skills are inadequate or obsolete (pp. 91–92).

17. Federal agencies employing the types of skills which can be developed through apprenticeship and on-the-job training should undertake such training. Government contractors employing such skills should be encouraged and, if necessary, required to undertake on-the-job training and, for the crafts, apprentice training to the full extent of the apprentice-journeyman ratios established by labor-management agreement or other appropriate levels established by industry studies. Research efforts in the apprenticeship and on-the-job training fields should be augmented. Alternative methods of providing incentives to employers to increase their on-the-job training efforts should be carefully explored (pp. 84–86).

### *U.S. Employment Service*

18. The U.S. Employment Service should be strenghened and furnished with adequate funds to employ well-trained employment counselors who can concentrate on individual problems of the unemployed and guide and motivate them to useful employment (pp. 92–97).

19. The experience rating provisions of unemployment insurance should be adjusted to reward employers who agree to list all job openings with the public employment service. Listing should be compulsory for Government contractors (pp. 92–97).

20. As soon as the $4 million relocation allowance research and demonstration projects authorized under the 1963 Manpower Development and Training Act amendment produce sufficient experience, the Secretary of Labor should report to Congress with recommendations for an effective permanent program to aid labor mobility (pp. 97–98).

21. A nationwide job information exchange network should be established using the most up-to-date data storage and retrieval methods. The Department of Labor should study the use of such data retrieval systems for the processing and analysis of manpower data as well (pp. 97–99).

### *Commission on Technological Change*

22. A special commission should be appointed to study past, present, and future impacts of technological change upon the economy and upon employment. The precise structure and authority of this commission is now under consideration by the subcommittee and its recommendations will be issued in a separate report.

23. A number of research and statistical needs are listed which should receive the attention of governments and academic manpower researchers (pp. 98–99).

### *Labor-management relations and technological change*

24. Management and labor should increase their efforts to work out equitable measures for adjustment to technological and economic change. Seniority systems should be carefully studied to assure that their impact is equitable and that those least able to adjust do not bear the burden of displacement. Manpower profile studies should be undertaken by management and labor in every major industry to project future labor requirements, determine likely attrition rates, and work out adjustments over time rather than under crisis conditions. Pension fund records offer an untapped data resource for this purpose. Technical assistance could be made available from the Department of Labor but these studies should be made by the parties directly concerned (pp. 101–102).

The body of this report briefly traces the development of manpower policy in the United States, explores in detail the dimensions of the manpower revolution, appraises the adequacy of existing programs, and describes in greater detail the subcommittee's recommendations for a comprehensive employment and manpower policy.

(NOTE.—Page references refer to the committee report.)

**Mr. CLARK.** Mr. President, I thank the Senator from Alabama for his courtesy in yielding to me.

Mr. LONG of Louisiana. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I am happy to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Reserving the right to object—and I shall not object—I hope the Senator proposes to leave in the Record some reference to the fact that he is having the material printed in the Record as though he had read it, so that it will be clear that it was not actually read on the Senate floor, because there might have been something that some of us might have wished to challenge in the event the Senator had read it.

Mr. CLARK. The Senator's remarks are well taken. I incorporate his request in what I have already said.

## CIGARETTE SMOKING

During the delivery of Mr. Hill's speech,

Mr. SMATHERS. Mr. President, we have heard much in recent days about the dangers of cigarette smoking. In more recent weeks we have heard what the Surgeon General of the United States, in a report which he submitted, said with respect to smoking.

In the past few days we have observed with much interest a code of advertising ethics issued by the tobacco industry, in which I believe almost everyone will concur.

I ask unanimous consent to have printed in the Record the announcement made by the cigarette manufacturers of their advertising code and a press release issued by former Florida Governor LeRoy Collins, who is now president of the National Association of Broadcasters, in connection with the issuance by the tobacco industry of its code of ethics.

There being no objection, the announcement and press release were ordered to be printed in the Record, as follows:

### Cigarette Manufacturers Announce Advertising Code

New York.—The Nation's cigarette manufacturing companies announced today that they have agreed upon a cigarette advertising code. An independent administrator will enforce the code.

The companies said the code will apply to all cigarette advertising, including advertising on television and radio and in newspapers and magazines. The code is subject to clearance under the antitrust laws by the Department of Justice.

Under the code, no advertising for cigarettes may be used unless it has first been "submitted to the administrator and determined by him to be in compliance with the standards" of the code. The administrator is given "complete and final authority" to make this decision. Any company which violates the code may be required by the administrator to pay up to $100,000.

The administrator is expected to be named shortly, the companies said. The code provides that the administrator "shall be a person of recognized independence, integrity and intellectual achievement to the end that decisions by him shall command public confidence and respect." Under the code, the administrator cannot be connected with any tobacco manufacturer.

The code establishes "uniform standards for cigarette advertising" and provides a "means whereby compliance with this code can be ascertained promptly and fairly on a consistent basis," the cigarette companies said.

The code provides that "cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction."

Various standards in the code relate to youth, including the following:

Testimonials from athletes or celebrities in the entertainment world, or from other persons who might have special appeal to persons under 21, shall not be used.

Cigarette advertising shall not appear in school, college, or university media, or in comic books or comic supplements to newspapers.

Sample cigarettes shall not be distributed to persons under 21.

Promotional efforts shall not be conducted on school or college campuses or in fraternity or sorority houses.

Cigarette advertising shall not appear on television and radio programs, or in publications, directed primarily to persons under 21.

Persons depicted in advertising as smokers must be at least 25 years of age and must appear to be at least that old.

A number of provisions in the code are addressed to representations concerning health. No such representation may be made unless the Administrator determines that it is "significant in terms of health and is based on adequate, relevant, and valid scientific data."

Scientific advisory panels may be appointed by the Administrator to assist him when necessary. Scientists named to such panels "shall be of independence, integrity, and competence in their particular areas of scientific discipline." In naming persons to these panels, the Administrator will consult with appropriate governmental agencies, medical societies, universities, and similar institutions.

Counsel representing the Tobacco Institute—to which all the companies belong—informed the Federal Trade Commission at a public hearing on March 16, 1964, that the companies had been working for some time on an advertising code, and he then indicated the code would be made public when completed.

The announcement of the code was made in behalf of the American Tobacco Co.; Brown & Williamson Tobacco Corp.; Larus & Br. Co., Inc.; Liggett & Myers Tobacco Co.; P. Lorillard Co.; Philip Morris, Inc.; R. J. Reynolds Tobacco Co.; Stephano Bros., Inc.; and United States Tobacco Co.

### Collins Lauds Tobacco Industry Decision To Establish Cigarette Advertising Code

Washington, April 28.—LeRoy Collins, president of the National Association of Broadcasters, issued this statement today concerning the tobacco industry's decision to set up its own code on cigarette advertising:

"We applaud the action of the U.S. tobacco companies in establishing a cigarette advertising code that can deal responsibly with the issue of cigarette promotion as it affects our youth and as it may involve health claims.

"In moving decisively in this manner, the tobacco companies have demonstrated the will to provide important self-regulation and self-discipline in serving the public interest. In doing so, they are contributing meaningfully to the future of the whole of American free enterprise."

Mr. SMATHERS. I thank the able and distinguished Senator from Alabama for yielding to me.

Mr. HILL. I have been happy to yield. Mr. President, I understand that the remarks of the Senator from Florida will appear in the Record following my remarks.

The PRESIDING OFFICER. That is correct.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 184 Leg.]

Allott
Anderson
Bartlett
Bayh
Bible
Burdick
Cannon
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Keating
Kennedy
Kuchel
Long, Mo.
Long, La.
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Proxmire
Ribicoff
Scott
Smathers
Smith
Sparkman
Symington
Williams, N.J.
Young, Ohio

The PRESIDING OFFICER (Mr. Kennedy in the chair). A quorum is present.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. LONG of Louisiana. Mr. President, in my first address on the subject of the jury-trial amendments, earlier this week, I reiterated my longstanding charge that this bill would do far more to stultify American freedoms than it would to multiply them.

The bill's provisions, in no less than 5 of the 11 titles, crucify the traditional and constitutional rights of all Americans to trials by jury in criminal prosecutions. If this is the way H.R. 7152 dispenses additional "freedom" to the American public, then the proponents and I must surely be thinking in entirely different terms when we speak of freedom. My terminology and my definitions and my standards, I am pleased to say, come directly from the Constitution of the United States of America, which provides for the right to jury trial, not only in one place, but in two different places.

I look first to the language in article III of the Constitution which says:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

This provision makes no exception for the sort of cases to which the provisions of this bill would attach, unless, of course, the proponents are attempting to fit these five titles into the exception for cases of impeachment. Other than for this one very narrow limitation, the provision says that the trial of all crimes shall be by jury.

I look next to the equally concise wording of the 6th amendment, which says:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury.

Once more the language is unequivocal. It says that all criminal prosecutions shall be tried before a jury. It does not make exceptions for criminal contempt prosecutions where the fine does not exceed $300 or where the prison term does not exceed 30 days. It says jury trials shall be the right of the defendant in all criminal prosecutions.

It appears to this Senator that the proponents are attempting to classify courtroom proceedings which can send a man to prison for a month for the violation of a criminal statute as something other than "criminal prosecutions." But how can they really be called anything else? They cannot, because a "criminal prosecution" is what it is. When I spoke on this subject before, I commented that this is analogous to the old saying that "a rose by any other name is still a rose"; and I say now that a criminal contempt proceeding under the terminology of the U.S. Constitution is still a criminal prosecution. Accordingly, calling it anything else appears to me to be an attempt to hoodwink the American public.

By their actions and their words, the proponents are indicating that this procedure we call "criminal contempt" is not a criminal prosecution. They are either saying this or they are saying that the Constitution should be disregarded in this case. These are the only two alternatives I can think of, in attempting to interpret and to analyze their position.

Frankly, Mr. President, I should like to have the proponents choose their alternative, and then stand in defense of it. They should decide on whether to argue first, that criminal contempt proceedings are not "criminal prosecutions" or "crimes" under the constitutional provisions; or second, that criminal contempt proceedings are "criminal prosecutions" under the Constitution, but that an exception must be made in the area of civil rights proposals.

In either case, the proponents would have absolutely no solid ground to stand on. In truth, the problem is that this whole forced integration bill lacks solid ground to stand on; and the American people are day by day finding this out. They are beginning to punch holes through the cleverly conceived smokescreen which has hovered over this bill, concealing its dangers and its threats to the American rights of privacy, property, free enterprise and trial by jury.

Until recently, the fake propaganda had prevailed in most areas outside the South. People had been taught to believe that they must accept these proposals at face value. They had been convinced that here was the perfect piece of legislation. They had been told a one-sided story which denied the need for amendment of any sort. They had been propagandized into believing that here in these 56 pages of legislative gobbledygook was to be found the panacea of the century.

But this Senator is happy to say that this pattern has begun to change. Indeed, the debates of the last few days on the subject of jury trial have done a great deal to open the minds of millions of American citizens, both white and Negro, to some of the false information that has been spoonfed to them over the past few months. They are saying to themselves, "Well, now, the proponents did not bother to explain their views on jury trials when they were convincing us what a great piece of legislation this was. Now that we know what their position is, we do not much approve of it. So, maybe we had better look behind the scenes into some of the other areas to see if maybe there, too, we have been sold a basket full of rotten eggs."

Mr. President, the people of this country cannot be fooled for very long. I knew that sooner or later the tide would change and the public would come around to the realization that all that glitters is not civil rights. Some of it might seem to look like civil rights but often is not as golden and as legitimate as the advertisements might seem to indicate.

The glittering advertisements in favor of this bill have been similar to some of the advertisements about cigarettes. If we were to believe some of them, we would assume that to have any sexual attraction, or any athletic prowess, or any success in business we simply must smoke this or that brand of cigarettes. Similarly, the people have been set upon by public advertisements—not yet curbed by the self-discipline exhibited this week by the cigarette companies—which attempt to sell the people the belief that this bill is really the road to increased civil rights for all.

In truth, Mr. President, H.R. 7152 is about as much a dispenser of civil rights as a cigarette is a dispenser of sex appeal or business success. Each has been grossly oversold to the American public; and at last it seems that each is being branded a bit more accurately for what it really is—one a cancer in our lungs, the other a cancer in our constitutional form of government.

Still the proposals glitter in their captivating and appealing language of "equality," "opportunity," "liberty" and half a dozen other catch phrases. But, I repeat, Mr. President, millions of thinking American citizens who wish to preserve their traditional freedoms no longer see this glitter as the gold they once thought it to be. They are beginning to see the difference between fact and fiction in this matter and are looking below the surface of the slogans and catch phrases to see what is really there.

This problem of public reaction to catchwords in matters such as these was recently referred to by former Justice Whittaker. He warned against our being duped by labels and titles which tend to convey misimpressions to minds which have been trained to think and to react in certain general patterns. He indicates that by the label we see tacked onto a proposal or an item or an idea we often jump to a mistaken conclusion about what the real meat of the matter is beneath the label and beneath the catchword title. Let me quote very briefly one of the examples he gives. He says that:

> Today there is a wide tendency to speak argumentatively through the use of catchwords. Some of those that are commonly heard are terms of fairly definite meaning, such as "segregation," "discrimination," and "integration," but even they are often used with little fidelity to their true meaning. Others are advanced as terms of definite meaning, or of art, when in fact, as often used, they are meaningless.
>
> The term "segregation" is, in legal effect, but another synonym for prohibited "discrimination." The term "desegregation" is a coined one of awkward and dubious meaning.
>
> But the term "integration," though commonly used as a synonym of "antidiscrimination" or "antisegregation," actually has a very different meaning, and embraces the concept of mixing—well-illustrated by the transfer of schoolchildren from their home district to a distant district for the purpose not of avoiding "discrimination" but affirmatively "integrating" the races.
>
> There is, as the Supreme Court has held, a clear basis in the fundamental law of our land, and particularly in the 14th amendment of the U.S. Constitution, for striking down "State acts" of "discrimination" and hence "segregation" in all "public" institutions, including State public schools, as violative of that amendment's guarantee of equal protection of the laws. But, as the law stands today, there is no Federal—distinguished from State—legal basis for compelling "integration."

Along the same lines of reasoning as those used by former Justice Whittaker, this Senator could see how a label such as "civil rights bill" could make—and has made—many good people jump to the conclusion that this proposal does everything to give civil rights and nothing to take them away. But to see how mistaken a presumption this is, we need look no further than the manner in which this bill tramples upon and shreds to pieces the right to a trial by jury.

So it seems to me, Mr. President, we should steer away from the false and misleading headings which are placed on some of these proposals and return to the basic constitutional considerations which make them either good or bad law. With that in mind let us then return to the facts of the case involving the right of jury trial in criminal prosecutions.

Mr. President, I believe we all remember that one of the sponsors of the amendment in 1957 which sought to preserve the right of trial by jury in these cases was Senator O'Mahoney from the State of Wyoming. In this capacity he naturally did a great deal of research on this general subject and delivered several superb speeches in support of his position.

I should like now for Senators' benefit to quote from one of his excellent speeches, concerning the history of jury trial in this country. I have attempted to select those passages which will best complement the remarks of the Senator from South Dakota [Mr. MUNDT], to which I referred earlier in my address. This is a part of what Senator O'Mahoney had to say about the matter in one of his speeches to the Senate.

### CONSTITUTION PROVIDES JURY TRIAL TO PROTECT HUMAN RIGHTS

> The Constitution of the United States was drafted for the protection of human rights. The drafters were thinking of individuals, of living human persons, when they provided for trial by jury. They made an exception in cases of impeachment, because impeachment involves, not crime, but failure of an officer properly to discharge the duties of office. Of course, the officer impeached was to be tried by the Senate—jury enough, perhaps.
>
> The framers of the Constitution were so careful to protect the human person against conviction for crime except by jury that even in providing for the trial of treason they wrote it down that "No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."
>
> It seems to me that this declaration found in the Constitution is very clear evidence of the desire of the great men who wrote that document to make certain that there should be in the United States no government or no official so powerful as to send any citizen of the United States to prison for a crime without a trial by jury.

### CHANGING JURY TRIAL RIGHT WOULD SET DANGEROUS PRECEDENT FOR FUTURE

> Shall we now, under color or a civil action on the equity side of the court, break down this shield which for centuries has been the only protection of living persons against the authority or the pretended authority of government? Everybody knows that whenever we attempt by law to violate the Constitution we imperil free government itself, because we set a precedent which can easily be followed by future Congresses and future administrations.
>
> Once we set foot on the path that strays away from freedom to the arbitrary power of those who sit in the seats of the mighty, then we are straying away from the principles which brought this Government into existence—a Government which must be preserved in all its pristine grandeur as a free Government, if we are to pretend to be leaders of the free world against arbitrary power that is now exerting itself by all sorts of chicanery and deceit and force to overcome the free government that men seek to establish everywhere.

The thing Senator Joseph O'Mahoney was pointing out, Mr. President, is the thing which this bill's opponents have been driving at and stressing for the last week. He is pointing to the fact that the only thing which keeps this Nation free from tyranny from within is that we operate not under the rule of men but under the rule of a "system." This word "system" is vital to the understanding of the matter now under discussion. It is vital to any activity which has legislation as its goal, for, unless legislation preserves or adds strength to the system, it is not bettering the lot of the people but is dragging them down to destruction instead. The "system" under which this country has chosen to live is set forth in the Constitution of the United States, much as the "system" by which the Judeo-Christian world has chosen to live is found in the Ten Commandments of God.

Let me say that it is abundantly evident what moral tragedies have befallen man for generation upon generation because of the exceptions he has made, and continues to make, to the system prescribed for him by God. Let me say also that temporal tragedy awaits us Americans if we are so unwise as to violate the limits of our constitutional system as well.

This constitutional system is specifically designed to protect against one of the oldest evils in the history of mankind, namely, the exercise of arbitrary control by one man who owns governmental power over other men who have no easy recourse to the democratic process for freeing themselves from their tormentor. In the executive and legislative branches of Government, we are protected from tyranny by our magnificent system of governmental checks and balances, by our frequent popular elections, by limitations on presidential succession, and by numerous other safeguards at all levels from the office of dogcatcher to President.

In the judicial branch there are also safeguards to insure our freedom from tyranny. Judges are either elected, usually at the State or local level, or appointed by elected officials at the Federal level. These judges must act in accordance with laws, rules, and regulations prescribed by the peoples' representatives in their legislatures and in their Congress. They must conduct their proceedings in strict accordance with many constitutional safeguards specifically intended by the men who designed our constitutional system to protect the citizen from courtroom tyranny.

These procedural safeguards are normally protected with such fervor and such determination that we often see a man who is obviously guilty of a crime turned free because his procedural safeguards have in some way been violated. It is thought to be safer to let him loose in society than to risk general damage to the delicate system by which all of society is able to protect itself from the subtile growth of tyranny.

If the alleged criminal whose procedural rights have been violated and ignored were punished anyway, then we have paid homage to expediency rather than to the system. Such an occurrence then makes it just that much easier for the next person to ignore the system and to act in the name of "efficiency" or "expediency." As the Dutch, who are familiar with dikes, say, "Let one tiny drop of water penetrate the dike today and tomorrow the whole sea is upon us." One exception leads to another. One violation of the system leads to the next, and soon there is only a bale of ashes where formerly there was a living, vibrant system of government.

As Senator Joseph O'Mahoney so accurately observed in 1957 in relation to the right to trial by jury:

> Once we set foot on the path that strays away from freedom to the arbitrary power of those who sit in the seats of the mighty, then we are straying away from the principles which brought this Government into existence—a government which must be preserved in all its pristine grandeur as a free government, if we are to pretend to be leaders of the free world against arbitrary power that is now exerting itself by all sorts of chicanery and deceit and force to overcome tho free governments that men seek to establish everywhere.

Mr. President, the Senator from Wyoming understood very well the extreme importance of preserving our system of governmental safeguards from even the slightest element of corrosion. At the time, he was fighting a battle to preserve the constitutional right of trial by jury in criminal prosecutions from being eroded. He was trying to prevent that first drop of water from penetrating the protective dike which has been built through centuries of Anglo-American legal tradition to keep us free from judicial tyranny. Unfortunately, that one drop was allowed to seep through in the House and in conference in the form of section 151 of the 1957 act. One drop penetrated the dike yesterday and now the whole sea is upon us, unless, of course, we take this one last opportunity to push back the sea by preserving in the fullest our rights to trial by jury. I beg, I plead, I implore Senators to think long and hard on the matter before they bargain away even the smallest portion of our constitutional rights. These rights are in limited supply, make no mistake about that; and only tragedy will befall our people if we are so unwise as to spend away or bargain away their safeguards in the name of expediency, or efficiency, or political impatience. As indicated by an excellent commentary by a Mr. Robert Bork in the New Republic some months ago:

> If every time an intensely felt moral principle is involved, we spend freedom, we will run short of it.

That is what this bill does in relation to jury trial. That is what the so-called compromise does. They spend away our freedoms from judicial and administrative tyranny. They spend away our procedural safeguards and set the stage for even more expensive invasions of our constitutional rights in the future—perhaps in the near future.

I should like to return now to the remarks of former Senator O'Mahoney relative to the classification of crimes into two general categories known as malum per se, and mala prohibita.

He says that:

> In the former category are the criminal offenses for which no man can be punished unless tried and convicted by a jury. The latter offenses which arise only because some regulatory law prohibits them do not have the same significance as the crimes of force and violence which are evil in themselves and unfortunately are committed by some natural persons. It is precisely because they are evil in themselves that our system of government has always insisted that the person charged shall always be entitled to a

trial by jury. No man can, under the American system of government, be punished for an infamous crime merely by the ipse dixit of an appointed attorney general or an appointed judge. The whole history of the jury trial is the development of the resistance of freemen against arbitrary judicial and executive power.

### SUPREME COURT DISPOSED OF ARGUMENT THAT JUDGES CAN PUNISH IN CRIMINAL CASES WITHOUT JURY

It is said that judges have the power to punish by fine and imprisonment in cases of criminal conduct without the intervention of a jury to find the facts. This argument I think was disposed of rather conclusively by the Supreme Court in *United States* v. *Goldman* (reported in 277 U.S. 229, 235), when in quoting from another Supreme Court decision, *Ex parte Grossman* (267 U.S. 87, 115), it said:

"In *Gompers* v. *United States* this Court said, in language which was quoted with approval in *Ex parte Grossman* (267 U.S. 116): 'It is urged * * * that contempts cannot be crimes, because, although punishable by imprisonment and therefore, if crimes, infamous, they are not within the protection of the Constitution and the amendments giving a right to trial by jury and so forth to persons charged with such crimes. * * * It does not follow that contempts of the class under consideration are not crimes, or rather, in the language of the statute, offenses, because trial by jury as it has been gradually worked out and fought out has been thought not to extend to them as a matter of constitutional right. These contempts are infractions of the law, visited with punishment as such. If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech. So truly are they crimes that it seems to be proved that in the early law they were punished only by the usual criminal procedure * * *, and that at least in England it seems that they still may be and preferably tried in that way. And we think it clear that information brought by the United States for the punishment of criminal contempts constituting offenses against the United States are criminal cases within the meaning of the Criminal Appeals Act, in as real and substantial a sense as ordinary criminal prosecutions for the punishment of crimes' (See *Bessette* v. *Conkey Company* (194 U.S. 324, 335 et seq.)."

That is not the only case I could cite. The books are full of such cases.

I hold in my hand U.S. Reports, volume 266, for the October term of 1924. I shall read from Michaelson against the United States, which begins on page 42. I begin reading at page 64:

"The provision for trial by jury upon demand, as we shall presently show, is mandatory; and the question to be answered is whether it infringes any power of the courts vested by the Constitution and unalterable by congressional legislation. We first inquire whether the proceeding contemplated by the statute is for a civil or a criminal contempt. If it be the latter—since the proceeding for criminal contempt, unlike that for civil contempt, is between the public and the defendant, is an independent proceeding at law, and no part of the original cause, *Gompers* v. *Bucks Stove & Range Co.* (221 U.S. 418, 444-446, 451), we are at once relieved of the doubt which might otherwise arise in respect of the authority of Congress to set aside the settled rule that a suit in equity is to be tried by the chancellor without a jury unless he choose to call one as purely advisory."

We think the statute, reasonably construed, relates exclusively to criminal contempts. The act or thing charged must be of such character as also to constitute a crime. Prosecution must be in conformity with the practice in criminal cases.

### LAW RECOGNIZES DIFFERENCE BETWEEN NATURAL PERSON AND CORPORATION

There can be no doubt what the Supreme Court has thought about this matter in the cases that have been brought before it. I have invited attention, as I have proceeded, to the difference between the living person and the artificial person, the natural person and the corporation, because the opponents of jury trials under the bill have seemed to read into the 28 statutes which have been cited an excuse for eliminating the jury trial.

### GOVERNMENT PRESCRIBES REGULATORY LAWS FOR CORPORATIONS

I invite attention first of all to the fact that since a corporation can exist only by the action at law of some government, then the government of the nation in which it operates has a clear right to prescribe for it regulatory laws, and the U.S. Government has done so.

Among the laws which were passed by the Congress with respect to commercial regulations was the Clayton Act. The provisions of that act appear in title 18, United States Code, Criminal Code and Criminal Procedure, at page 2355, as section 402, entitled "Contempts Constituting Crimes." Let me read from it:

"Any person, corporation, or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both."

There is a clear, mandatory directive in the Clayton Act, one of the regulatory laws cited by our friends who want to have the Attorney General take over proceedings by injunction in civil trials to punish criminal contempt.

### LAW PROVIDES FOR TRIAL BY JURY IF CONTEMPT IS ALSO CRIMINAL OFFENSE

So the law says that if there be such a contempt, if any person, corporation, or association willfully disobeys, and the act or the thing he does is of such a character as to constitute also a criminal offense, he shall be tried in the manner set forth in section 3691. I should like to read what section 3691 says. It will be found in chapter 233 of title 18 of the United States Code, Criminal Code and Criminal Procedure. It appears on page 2519 of title 18, and I read it:

Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any act of Congress, or under the laws of any State in which it was done or omitted, the accused—

Listen to the words of the law, my colleagues—

The accused, upon demand therefore, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

It seems to me that these two sections of the criminal code are the complete answer to any doubters who think that the regulatory laws of the United States which give to the district courts the right to regulate corporations engaged in commerce provide a precedent for denial of the right of jury trial to a living person who becomes involved in a question of criminal contempt.

If regulatory decrees affect natural persons, or a defendant who demands a trial, and if a criminal statute is at issue, then it is clear that under the Constitution and the laws of the United States the right of trial by jury cannot be taken away.

### CONGRESS HAS RECOGNIZED DIFFERENCE BETWEEN NATURAL AND ARTIFICIAL PERSON

I have pointed out that there is a difference between the natural person and the artificial person. Congress has recognized that distinction. I find it in the same section from which I was reading a moment ago, section 402. First, there is the provision saying that the punishment for disobedience of a lawful writ, and so forth, may be a fine or imprisonment, or both—and notice that the amount of the fine is not stated, nor is the length of the imprisonment. Why? Because Congress was thinking that most of these violations would be by corporations and corporate officers hiding behind the shield of the corporate name in performing their acts of resistance to the orders of the court.

But to show that the Congress of the United States wished to make a distinction between the corporate person and the natural person, I read the next paragraph:

Such fine—

That means the fine mentioned in the first paragraph—

shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is damaged, be divided or apportioned among them, as the court may direct. But in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of 6 months.

So the Congress of the United States, in passing each of these statutes which have been recited in resistance to the amendment to preserve jury trials, makes a distinction between the corporate person and the natural person, and reduces the punishment for the natural person, while providing that a defendant, corporate or natural, if it demands a jury trial, can get a jury trial.

Are we to turn back on the road to freedom, and make the individual citizen, the flesh-and-blood citizen, the pawn of the court and corporations on the one hand, and, on the other hand, of the Attorney General and the courts, who may or may not be acting under the misapprehension that corporations are persons, with the same rights and privileges as natural persons? The Constitution and the Bill of Rights, like the Declaration of Independence, were both written by men who were defending natural persons. The regulatory laws providing for injunctive relief in the regulation of trade and commerce deal with corporations.

### JUDICIAL CONTEMPT DEFINED IN 1831

I should like to invite attention to a rather interesting and dramatic situation which developed once in this country back in 1831. I do so because I wish to cite the names of the persons who were involved in drafting the earliest statute defining the powers of a judge to punish for alleged contempt committed beyond the precincts of the court.

I am referring now to section 401 of title 18 of the Criminal Code. This is entitled, "Power of Court." It appears on page 2355 of title 18, Criminal Code and Criminal Procedure:

"A court of the United States shall have power to punish, by fine or imprisonment, at its discretion, such a contempt of its authority, and none other, as (1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice; (2) misbehavior of any of its officers in their official transactions; (3)

disobedience or resistance to its lawful writ, process, order, rule, decree, or command."

The dramatic incident to which I refer took place in the year 1831. A Federal judge by the name of James H. Peck was sitting in the State of Missouri. He tried a case in which his judgment met the dissatisfaction of counsel for one of the litigants. That is a situation which must develop in every case. But after the decision had been rendered, and after the appeal had been taken to the next higher court, the lawyer wrote a public article denouncing the judge.

The judge, affronted by this denunciation, hailed him into court and punished him for contempt. He sent him to prison and ordered his disbarment as a member of the bar.

### JAMES BUCHANAN BROUGHT IMPEACHMENT PROCEEDINGS AGAINST JUDGE

A Member of Congress from the State of Pennsylvania by the name of James Buchanan, afterward to become a President of the United States, acting for the House Judiciary Committee, brought impeachment proceedings against the judge. The poor man was aged and decrepit, and almost blind. His physical condition aroused the sympathy of Members of the Senate, and he was acquitted, although some 21 Members of the Senate voted to convict him because his offense was regarded as so outrageous.

### CONGRESS IMMEDIATELY UNDERTOOK TO MAKE CLEAR LAW OF CONTEMPT

The acquittal took place, as I recall, on January 31, 1831. On the day after that acquittal, both Houses of Congress began to make clear what the law of contempt should be. They wanted to make certain that the acquittal of Judge Peck should not be interpreted by the other judges of the district court as a charter of offenses, or a license to U.S. judges to punish citizens for contempt beyond the confines of the court and the duties of the court.

### DANIEL WEBSTER REPORTED THE BILL TO THE SENATE

Daniel Webster, of Massachusetts, who was then a Member of the Senate, is to be honored, as one of the great Senators in our history, by having his portrait hung in the reception room outside the Senate Chamber. So great a lawyer was he that no one can challenge him. Daniel Webster reported from the Senate Judiciary Committee the bill correcting the decision of acquittal. The bill passed the House on the 28th of February, and on the 2d of March it was reported by Senator Webster to the Senate. It was written into law, and here it is:

> "*Be it enacted, etc.*, That the power of the several courts of the United States to issue attachments and inflict summary punishments for contempts of court, shall not be construed to extend to any cases except the misbehaviour of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehaviour of any of the officers of the said courts in their official transactions, and the disobedience or resistance of any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.
>
> "SEC. 2. *And be it further enacted*, That if any person or persons shall, corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct, or impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons, so offending, shall be liable to prosecution therefor, by indictment, and shall, on conviction thereof, be punished, by fine not exceeding $500, or by imprisonment, not exceeding 3 months, or both, according to the nature and aggravation of the offense."

So, on the authority of Daniel Webster, of the Senate, and James Buchanan, of the House, the Judiciary Committees of both bodies acted; and the act of Congress written into the law in 1831, and embodied, as I have sworn, in the existing law, in title 18 of the United States Code, declared that the power of the judge to punish for contempt was confined to those contempts which interfered with the processes of the court, with the carrying on of the business of the court; and that when an offense was committed outside those boundaries it could be prosecuted only by indictment, and not by any contempt proceeding such as the present Attorney General would like to institute by transferring the matter to the civil branch of the Government.

When I say that, I am not referring to Attorney General Robert F. Kennedy; I am referring to Attorney General Robert Brownell, I believe:

### TRIAL BY JURY IS FUNDAMENTAL RIGHT OF ALL AMERICANS

Clearly we are dealing with a fundamental right of all Americans, regardless of creed, regardless of color, regardless of race, regardless of any contingency, when we are talking about the right of trial by jury and when criminal offenses are involved. To my mind, there is no answer to it; and because the American people know that there is no answer to it, I realize why mail has been coming to Members of the House and Senate day after day demanding trial by jury.

Mr. President, let me be the first to admit that the jury system is not perfect. Indeed no system is really perfect, but over a long period of time, in the settlement of controverted issues affecting the liberty of people, we have won a great, precious right, the right to trial by jury. As one who has practiced law, I say that the jury system may not be perfect. I have felt very often, as have other lawyers, I am sure, that a jury went wild, or that a jury did not do right. I have felt that a jury may have been prejudiced in favor of a woman or a charming girl, or that some passion or prejudice may have played a part in its verdict.

Undoubtedly there are many cases which can be cited in which the jury, in the trial of a case affecting the right of a Negro, has gone wrong, and justice has miscarried. But, on the other hand, in most instances in my State where Negroes and minority groups have been involved, they have been treated fairly, and their rights have been upheld by juries.

If there is any imperfection in the jury system, it will not be corrected by doing away with and surrendering the right to trial by jury. The cure for any imperfection is a better appreciation of the responsibilities of government, of citizenship, and of education. These are the only workable means of correcting the imperfections of the jury system or any other system. Any miscarriage of justice will not be remedied by eliminating the important and hard won right of trial by jury.

Of course, I can very appropriately say at this point, and at almost any point in any address that I make on the floor of this Chamber, that Senators would stand in a much better and more educated and informed position to weigh these matters if the bill had been handled with a bit more procedural orthodoxy. As many of us have forewarned, we face the danger that when we get through we will have a hodgepodge of legislation which may contain many errors and misjudgments; whereas much of it could have been avoided if a committee of able lawyers had been directed to consider all these problems, with the aid of constitutional lawyers advising with them. In that way we would have had a much better result. I am sure that as time goes on, more and more Members of the Senate will realize that the Senator from Oregon was entirely correct in the position he took, and that no time would have been lost had the Senate followed his proposal.

Serving on the Judiciary Committee are a number of the Nation's ablest lawyers. I should say that three-fourths of the members of the Judiciary Committee are in favor of some kind of civil rights bill. Of course, there are some differences of opinion among the members of the committee. But the idea that the committee would not have acted in good faith and conscientiously, in trying to report to the Senate a good bill, is not well founded, in view of the makeup of the committee. Although the chairman of the committee has announced many times that he is opposed to any legislation in this field, yet the motion of the Senator from Oregon, if agreed to, would have been a mandate of the Senate itself to all members of the committee; and they would have had to act in accordance with that mandate; and, as a result, the Senate would have been in a better position to deal with the bill.

This Senator is certain that these great statesmen would have come to grips with this serious matter of trial by jury and would have given us many useful guidelines.

Any Senator can talk as long as he wishes, so far as I am concerned, in an effort to gloss over the importance of what the Senate has done regarding this matter. But the Senate has, in connection with this matter, followed a procedure which denies to the courts in the future the help they should have from a Judiciary Committee report and from whatever Senator would have been designated by the committee as the leader in the handling of the bill on the floor of the Senate.

If Senators will check into the history of the legislative process, they will find that one of the reasons for designating one particular committee member to be the floor leader in connection with the handling of a bill on the floor of the Senate—is that that Senator then has the job of making the legislative history on the bill, for future use by the courts if in subsequent litigation it becomes necessary for the courts to determine what was the congressional intent in regard to a particular provision of the bill.

But, be that as it may, the committee was bypassed; and here we are with a jury trial trapdoor under our feet which can be sprung open on the American public in those five of the titles of the bill where the subject occurs.

In this confused and muddled atmosphere, produced by the unwarranted refusal to grant proper hearings, we are being asked to accept as valid the cynical argument that jury trials are inexpedient, because they are not fast enough and because of a suspected reluctance of juries to convict. Certainly, I shall make it a point to resist such pressures by my avid support of the amendments offered by the distinguished Senator from Georgia.

I had always been under the impression that the tendency in America in criminal trials was to increase the safeguards enjoyed by the alleged criminal. We have certainly seen the extent to which this has been carried in the District of Columbia as regards investigative arrests, under the Mallory ruling. But as soon as someone mentions the golden words "civil rights" a majority of Senators are prepared to abandon trial by jury for persons suspected of the crime of discrimination.

As concerns "discrimination" by an individual, H.R. 7152 reverses the general trend and the general rule which protects Communists, gangsters, and hoodlums suspected of serious crimes, but which is now ruled out as a safeguard for the average American citizen.

It seems possible to me that proponents could rationalize their support for a provision which would do away with jury trial in a civil rights case where the contempt charge is purely civil in nature. But it is beyond my power to understand how so many of my colleagues can consciously support and fight for the denial of jury trial in cases of criminal contempt—which is actually what we have in five titles of this bill. These cases are punitive in nature. They are not directed toward the achievement of any civil right directly but rather toward the punishment of the person accused of violating the court decree, for past acts which can no longer be rectified.

Surely we should all desire to protect the right to jury trials in cases of criminal action. As Senators know, under the bill as worded jury trials could be denied, even in cases where the defendant is to be sentenced criminally. I think this is wrong. In our quest for liberty we have fought too long and too hard for the trial by jury to surrender it easily.

Of course, juries have been criticized. Juries have on occasion been wrong.

All of us who have practiced law before juries have felt from time to time that there have been miscarriages of justice. By and large, however, the jury system is the best that has been devised, particularly for the settlement of matters affecting the liberty of people.

### AMENDMENT NO. 558

Mr. President, I ask unanimous consent that without prejudice to my rights to the floor and without its counting as an additional appearance, I may yield briefly to the Senator from Kentucky to submit an amendment and make explanatory remarks about it.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, it is so ordered.

Mr. COOPER. I thank the Senator from Louisiana for his courtesy.

Mr. President, I submit an amendment to H.R. 7152. It is an amendment to amendment No. 513, offered by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, with reference to jury trial in criminal contempt proceedings.

I wish to submit the amendment so that it may be printed and lie upon the table for consideration of other Senators.

There has been extensive debate in the past few days—in fact, during the entire course of the debate on H.R. 7152—on the subject of jury trials. I can characterize and discuss in a short time what I would like to have considered with reference to the amendment.

My amendment is to the amendment offered by the Senator from Georgia [Mr. TALMADGE], therefore, I believe it would take precedence over the amendment in the nature of a substitute which has been offered by the distinguished Senator from Illinois [Mr. DIRKSEN] and the distinguished Senator from Montana [Mr. MANSFIELD].

My amendment, unlike the amendment of the Senator from Georgia [Mr. TALMADGE], which is quite broad in its scope and does not relate alone to H.R. 7152, but relates to contempt cases arising in any proceeding, would provide an exception to that amendment. It would provide that amendment No. 513, offered by the Senator from Georgia, would not apply to an official of any State or political subdivision thereof who disobeys any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia. It would provide, however, that the court in its discretion may grant a trial by jury to such person, which shall conform as nearly as may be to the practice in criminal cases.

I shall briefly state my reasons for submitting my amendment.

I believe it has been admitted—both by those who favor H.R. 7152 and by most of those who oppose it—and, among those opposed, notably by the able lawyer and Senator from North Carolina [Mr. ERVIN]—that there is no constitutional right of trial by jury in a case of criminal contempt, in connection with the type of proceeding which would arise under House bill 7152; but that Congress may provide for a jury trial in such cases, if it so chooses.

I believe insufficient consideration has been given to this point; namely, the manner in which a district court would assume jurisdiction over a case in equity or a civil proceeding under H.R. 7152, in which the district court would be given not only jurisdiction but also the duty of deciding the case under any one of the various titles of the bill.

I need only mention the cases which arose in Prince Edward County in Virginia, where effort after effort by the Virginia Legislature and Virginia officials was directed toward circumventing the Supreme Court decisions in Brown against Board of Education, the school desegregation cases. Reference has been made to the school desegregation case which arose in a district court in Louisiana, and went to the court of appeals, and then to the Supreme Court, and then back again. I believe that case was in the courts for 6 or 7 years.

We should remember that the type of case which would arise under H.R. 7152 could be very complicated. The court in a suit for injunction would act as if it were a court in equity, and would finally reach a conclusion.

Our friends who want to have a jury trial provided for everyone are really saying that after a court has had jurisdiction to consider one of these complicated issues, and perhaps has spent months or years in deciding it and coming to a conclusion, that all that had been done, the case would then be turned over to a jury, for it to determine whether the officer had obeyed the order of the court.

Mr. LONG of Louisiana. Mr. President, will the Senator from Kentucky yield for a question?

Mr. COOPER. In just a moment, I shall be glad to yield.

The other day, in discussing this matter with the Senator from Arkansas [Mr. FULBRIGHT], when he asked me about my vote on the jury trial amendment to the civil rights bill of 1957, I said I voted against the amendment because I saw no reason why officers who knew the law, and who were denying the constitutional right of citizens to vote, should be given a special privilege of a jury trial.

My amendment would be directed only toward those officials against whom the proceeding is brought in the first instance, and who have full knowledge of their duty under the law and who have every opportunity to present their case in court, but who, once the court has reached a final judgment, refuse to follow the court order. That is the only purpose of my amendment. In such cases, as is apparent throughout the history of such matters, the power of the court to hold persons in criminal contempt is simply an additional process available to the court. This power is provided to make sure that the orders of a court of law are respected and carried out, and is invoked only after a fair trial has taken place. That is the only purpose of my amendment.

My amendment does not relate to a person who might throw a rock or who might shout outside the courtroom or might stand in the way of the entrance to a school building. Such cases would be different. But I do not believe the amendment would give excuse to an official who would know what his duty was, but who disobeyed in the first instance, and then disobeyed in the second instance; and then, after his case had been tried, said, "I want another trial; I want another chance."

Mr. LONG of Louisiana. Mr. President, will the Senator from Kentucky yield?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Kentucky yield to the Senator from Louisiana?

Mr. COOPER. I yield.

Mr. LONG of Louisiana. Would the Senator from Kentucky be disposed to support the Talmadge amendment, in the event the modification he is offering to it were agreed to?

Mr. COOPER. I would then support it, as offered to House bill 7152; I certainly would.

Mr. LONG of Louisiana. I am impressed by the Senator's argument. His amendment seems to me to be in the nature of a fair proposal in the nature of a compromise between the views of those of us who feel that, at all odds, trial by jury should be preserved in criminal contempt cases, and those who feel that substantial exceptions should be made.

But I am a little concerned about one aspect of this matter, although I do not quarrel in the case of the example the Senator from Kentucky has given. However, I do quarrel—and perhaps some modification can be reached, so as to make the Senator's amendment acceptable—as to cases in which orders have been issued similar to the following—and this actually happened: In a certain Louisiana parish, no colored citizens were registered to vote.

Discrimination was charged. The judge ordered, "Hereafter, you will not discriminate." Thereafter, when a colored citizen filled out an application to vote, he made 10 substantial errors in the application. The State law requires that the application be filled out correctly; otherwise, the applicant will not be registered.

In that case, under existing law the registrar would be in a position of acting at his peril; and in a case based on those facts, he could be denied a jury trial, when the question was whether he had "discriminated." If he could not obtain a jury trial, he would then be left entirely at the mercy of the judge.

In a case in which the order of the judge was explicit, "Register John Jones," there would be no problem; and as to such cases, I would not hesitate to agree to the amendment.

But I have some qualms about the application of the amendment to cases in which the judge's order is directed to a State officer, and instructed him as to his general actions—with the result that he could act only at his peril.

Mr. COOPER. I understand. Next week, I shall speak further on the amendment.

I now repeat that, in my judgment, there is a distinction between the case of a private individual who perhaps for the first time is confronted by a law, with which he might not be familiar, and a State or local official who is charged with the duty of carrying out the law, and who has every opportunity to have his case heard—even heard, sometimes by the Supreme Court of the United States—but who later disobeys the final order of the court. The court would be in the position of having been charged with jurisdiction of the matter and having the duty of hearing the evidence, determining the facts, and reaching a decision. Sometimes the court would even clearly specify the procedure for officials to follow—as happened in Brown against Board of Education—only to discover later that, after all this procedure the court had no power or authority to determine the case, but would be obligated to turn the case over to a jury, and permit a jury to hear the substance of the case all over again. In other words, that would almost give the jury the powers of a court in equity—which, as the Senator from Louisiana knows so well, was never favored or even considered under our legal system.

I submit the amendment and next week we shall discuss it further.

Mr. LONG of Louisiana. Mr. President, I appreciate the cooperation of the Senator from Kentucky in connection with the amendment. As one Member of the Senate, I also very much appreciate the effect of the Senator's offering of the amendment, for it is further evidence of what I already knew; namely, that he is fairminded, and does not close his mind to a legitimate argument advanced on the floor of the Senate.

That is why we have the Senate as an institution and a deliberative body—so that in this Chamber, any group or any State, whether large or small, can have its case heard and considered by the open and objective minds of statesmen from all corners of this great country.

I very much appreciate the fact that the Senator has submitted his amendment. I also appreciate the fact that a few days ago the Senator from Kentucky had printed in the RECORD about 15 questions which he had directed to the Attorney General with regard to the meaning of title VI of the bill. As the Senator so well knows, title VI leaves a great number of questions unanswered. The questions do credit to the Senator as a student of legislation and as a Senator who earns his pay in this body. I shall look forward to studying the answers offered to them by the Attorney General. The Senator knows the sincerity of my praise for him, even though the Senator may at times disagree with me on vital issues that come before the Senate.

Mr. COOPER. I thank the Senator from Louisiana. I hope my constituents will read his remarks.

The Senator's kind words have encouraged me to speak a little longer.

At times in discussions about the right of jury trial it has been said that a respondent would be at the mercy of a judge. The respondent might be fined an exorbitant amount. He might be put in jail. He would have no relief.

That statement is not correct. I admit that some expense would be involved. But the aggrieved party could appeal on many grounds. One ground would be the excessive amount of the fine or penalty imposed.

As an example, I would like to cite the case of United States versus United Mine Workers of America and John L. Lewis, which came before the Supreme Court in 1946. The district court assessed a penalty against the Mine Workers of America in the amount of $3 million and assessed a fine of $10,000 against Mr. John L. Lewis. The case was appealed to the Supreme Court of the United States upon several grounds. One ground was the excessive penalty imposed. The Court modified the penalty. However, the penalty was still quite substantial. I believe it was approximately $800,000. Nevertheless, I would point out that the judgment of the Court in assessing a penalty for contempt is not wholly conclusive. An appeal could still be heard.

Mr. LONG of Louisiana. Will the Senator permit an interruption?

Mr. COOPER. Certainly.

Mr. LONG of Louisiana. I appreciate what the Senator from Kentucky has said. He is a fairminded man and one of the great Senators in this body. I should like to ask the Senator the following question: If someone wished to sue the owner of a business on a charge of discrimination, does the Senator believe that it would be fair to provide for the payment of the attorney's fee of the man who might sue the businessman without providing also that the attorney's fee of defendant should be paid in the event the businessman was successful in defending the lawsuit? Does the Senator believe that it would be fair to pay the attorney's fee, thereby encouraging and underwriting the litigation, without also paying the attorney's fee of the businessman? The poor defendant who has been sued unjustly, and against whom no cause of action would lie in the first place should at least be accorded this basic allowance.

Mr. COOPER. I hope the Senator will not think I am avoiding his question. I have not given a great deal of thought or attention to that particular question as yet. The Senator has stated it in a way that would encourage me to look at this question carefully.

Mr. LONG of Louisiana. I understand the Senator's position perfectly and shall look forward to hearing his detailed remarks at a later date.

I practiced law for no more than a year or two. But as a young lawyer I was amazed at the power that a young lawyer, fresh out of law school, has to sue someone. He might file the most ridiculous type of lawsuit or the weakest kind of case.

I recall that at one time—and I am not ashamed of it, for I thought the case should have been brought—someone came to me with a lawsuit which involved an oil company. As I assessed the case, $100 million was involved. I had one chance in a thousand to win. I figured that I had at least a $100,000 suit, since I had a one-in-a-thousand chance in a $100 million case. I believe that the suit was compromised for $250,000.

So far as the company was concerned, the suit was a pure nuisance type of litigation. But after we had had the company in court for a couple of years and had its money tied up, it was eager to settle the case.

I thought we made the mistake of settling too soon. If we had had enough money to continue to finance the court costs, we would have probably done much better.

We could not sue in forma pauperis. The lawyers themselves had to finance the court costs. I am sure that the Senator from Kentucky has seen situations parallel to that in his State. If we could have found enough money to keep that case in the courts, the day would have come when the Supreme Court would be about to decide it one way or the other. Then, the day before the judgment of the Supreme Court, I believe we could have compromised the lawsuit for several million dollars. But unfortunately we ran out of "soap", so to speak. We did not have enough money to finance the court costs. Those whom we were suing knew that if we kept putting up more and more money, sooner or later the law firm would run out of money. That is about what it amounted to.

As the Senator knows, champerty is against the law. It would have been against the law for someone else to finance that lawsuit for the purpose of obtaining a large return on his money. The Senator probably knows that that kind of thing has happened in lawsuits. But I point out that there are young lawyers who have not been invited to join major law firms. They have a shingle hung out, but have very little business. The Senator from Louisiana had that experience at one time.

Young lawyers are encouraged to file lawsuits in large numbers. The Senator from Louisiana did so, even if he was not being paid for it. If I had an interested client, since I was not doing anything anyway, I felt I might as well file a lawsuit. I had no secretary. I typed my own petitions. That was easy enough to do. I would file a lawsuit and see my name in connection with the suit printed in the newspapers and the legal papers. At least people would know that I was working and had some clients.

Under the bill a lawyer would be paid to file lawsuits. Can the Senator imagine the poor defendant who would be confronted with one lawsuit after another? Every time he turned around someone else might be suing him. If he should lose the case, he would be required to pay the court costs and the judgment. On the other hand, even if he should win, after a while he would be bankrupt merely from paying legal expenses for lawyers to defend him.

Does the Senator believe that it would be fair to pay one man's lawyer in a suit without paying the other party's lawyer's fee in case the second man successfully defended himself?

Mr. COOPER. The Senator has asked that question previously. I told him that I would look into it.

Mr. LONG of Louisiana. I thank the Senator.

Mr. COOPER. With regard to the Senator's comments on his experience as a lawyer I would like to take a moment to relate an experience which I had when I first began practicing law. I remember that when I first opened my law office I had several clients almost immediately. I found that they did not have very good cases. I soon discovered that there was a group of potential clients who did not have a very good claim and who would go to every new lawyer and try to induce him to take their case.

I had one unhappy experience when I started. A man whom I had known for a long time came in and said that he had a very good case. He told me all about it. It sounded like the best kind of case I could have. When I thought I was about to be employed, the prospective client said to me, "I have known you for a long time. We went to school together. I trust you. Will you give me some advice? Will you tell me the name of the best lawyer available?"

Mr. President, I ask that the amendment be received, printed, and ordered to lie on the table. I also ask unanimous consent that the amendment, which is amendment No. 558, be printed at this point in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

The amendment (No. 558) was ordered to lie on the table, as follows:

On page 2, between lines 17 and 18, insert double quotes and the following:

"This section shall not apply to any person who in his capacity as an official of any State or political subdivision thereof disobeys any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia."

On page 3, between lines 16 and 17, insert double quotes and the following:

"This section shall not apply to any person who in his capacity as an official of any State or political subdivision thereof disobeys any lawful writ, process, order, rule, decree or command of any court of the United States or any court of the District of Columbia, except that the court, in its discretion, may grant a trial by jury to such person, which shall conform as near as may be to the practice in criminal cases."

Mr. LONG of Louisiana. Mr. President, I remember very well the late Senator Kefauver's quoting Justice Douglas on the subject of jury trials during the 1957 debates. The quotation describes the legal institution that we call trial by jury as well as any definition I have ever seen. It reads as follows:

> A jury reflects the attitudes and mores of the community from which it is drawn. It lives only for the day and does justice according to its lights. The group of 12, who are drawn to hear a case, makes the decision and melts away. It is not present the next day to be criticized. It is the one governmental agency that has no ambition. It is as human as the people who make it up. It is sometimes the victim of passion. But it also takes the sharp edges off a law and uses conscience to ameliorate a hardship. Since it is of and from the community, it gives the law an acceptance which verdicts of judges could not do.

Senator Kefauver commented at that time:

> The most important words of Justice Douglas applied to the specific instances which may arise under the pending bill, are his concluding words: "Since it is of and from the community, it gives the law an acceptance which verdicts of judges could not do."
>
> In that connection, Mr. President, the public reaction to the decision of the jury in the so-called Clinton case is given a great deal more importance than if the decision had been reached and if judgment had been rendered by the judge sitting alone without a jury.
>
> At the same time that I seek to protect this right. I want the legislation which we pass to be meaningful legislation—legislation that will achieve the results which we are led to believe it will achieve.
>
> In order to accomplish that purpose, we must be certain that the judge has the authority to enforce his own orders and to uphold the dignity of his own court. Otherwise, our judicial system would break down.

I had just reached that point in my remarks when the Senator from Kentucky [Mr. COOPER] made his remarks. I submit that what the late Senator Kefauver had to say on that point is closely parallel to what the Senator from Kentucky said a few minutes ago.

Mr. President, it is evident that these views are in no way original with me or with the other supporters of Senator TALMADGE's amendments.

As I indicated previously, these very same sentiments were expressed in the colonial resolutions of 1765 and 1766 and were stated again in the Declaration of Rights of October 14, 1774, which said that the colonists were entitled to "the great and inestimable privilege of being tried by their peers of the vicinage."

These views were reiterated in the Declaration of Independence, written by Thomas Jefferson and adopted by the Continental Congress in 1776, which accused the King of England of trying to establish an absolute tyranny, and included in the list of grievances against him: "depriving us in many cases of the benefits of trial by jury."

And, of course, trial by jury in criminal cases was embodied in and made part and parcel of the Constitution of the United States, which provides in article III:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed.

When the first 10 amendments were adopted, this was reinforced by the fifth amendment, which says:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury.

And the sixth amendment, which says:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

The framers of the Constitution included no provision for jury trials in civil cases, leaving that to determination by the respective States, but this omission led to such sharp and widespread criticism that in the first session of the Congress there was included, among the Bill of Rights amendments, the seventh, which provides:

> In suits at common law, where the value in controversy shall exceed $20, the right to trial by jury shall be preserved. And no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

Former Justice Story commented on the amendment by saying that:

> This is a most important and valuable amendment, and places upon the high ground of constitutional right the inestimable privilege of a jury trial in civil cases—a privilege scarcely inferior to that in criminal cases, which is conceded by all to be essential to political and civil liberty (Story's Commentaries, III, 638).

Mr. President, I want to repeat, for emphasis, the last quotation from one of the great Justices of our Supreme Court and one of our leading authorities on constitutional law. Mr. Justice Story said the privilege of trial by jury in civil cases is scarcely inferior to that in criminal cases, which is conceded by all to be essential to political and civil liberty.

Mr. Justice Story, in his discussion of this subject, also referred to a Supreme Court decision on an appeal in a civil suit in which it is stated:

> The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy. The right to such a trial is, it is believed, incorporated into, and secured in every State constitution of the Union.

Mr. President, I should like to conclude my remarks on this question of trial by jury in criminal proceedings by quoting part of the brief dissenting opinion offered by Justice Black in the recent case of United States against Barnett, in which the Court decided by a vote of 5 to 4 that Governor Barnett did not have a constitutional right to a trial by jury in his appearance for criminal contempt of court. Mr. Justice Black had this to say about the matter in his excellent dissent:

> I think that in denying a jury trial here the Court flies in the face of these two constitutional commands. My reasons for this belief were stated in *Green* v. *United States* (356 U.S. 165, 193 (dissenting opinion)), and in other opinions cited in the margin which I have written or to which I have agreed. No provisions of the Constitution and the Bill of Rights were more widely approved throughout the new Nation than those guaranteeing a right to trial by jury in all criminal prosecutions. Subsequent experience has confirmed the wisdom of their approval. They were adopted in part, I think, because many people knew about and disapproved of the type of colonial happenings which the Court sets out in its appendix—cases in which, as reported by the Court, people had been sentenced to be fined, thrown in jail, humiliated in stocks, whipped, and even nailed by the ear to a pillory, all punishments imposed by judges without jury trials. Unfortunately, as the Court's opinion points out, judges in the past despite these constitutional safeguards have claimed for themselves "inherent" power, acting without a jury and without other Bill of Rights safeguards, to punish for criminal contempt of court people whose conduct they find offensive. This means that one person has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty. I do not agree that any such inherent power exists. Certainly no language in the Constitution permits it; in fact, it is expressly forbidden by the two constitutional commands for trial by jury. And of course the idea that persons charged with criminal offenses such as criminal contempt are not charged with "crimes" is a judicial fiction. As I said in Green, I think that this doctrine that a judge has inherent power to make himself prosecutor, judge and jury seriously encroaches upon the constitutional right to trial by jury and should be repudiated.
>
> In Green the Court affirmed a 3-year sentence imposed for criminal contempt. But now in note 11 of its opinion in the present case the Court has inserted an ambiguous statement which intimates that if a sentence of sufficient "severity" had already been imposed on these defendants, a majority of the Court would now overrule Green in part, by holding that if a criminal contempt charge is tried without allowing the defendant a jury trial, punishment is constitutionally limited to that customarily meted out for "petty offenses." I welcome this as a halting but hopeful step in the direction of ultimate judicial obedience to the doubly proclaimed constitutional command that all people charged with a crime, including those charged with criminal contempt must be given a trial with all the safeguards of the Bill of Rights, including indictment by grand jury and trial by jury.
>
> Whatever is included within the scope of "petty offenses," certainly if the present defendants committed the acts with which they are charged, their crimes cannot be classified as "petty," but are grave indeed. These defendants nevertheless, like others charged with crimes, should have their cases heard according to constitutional due process, including indictment and trial by jury.
>
> Nothing less can measure up to the kind of trials which article III and our Bill of Rights guarantee. It is high time, in my judgment, to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury. It will be a fine day for the constitutional liberty of individuals in this country when that at last is done.

Mr. President, I have not heard on radio or TV, nor have I seen in the press much information about this dissenting opinion, nor has much publicity been given to the dissenting opinions in the Barnett case, including those by Justices Goldberg, Douglas, and Warren.

I wonder how the press would have hailed the same dissenting opinions had they been opinions of four judges courageously speaking out for the rights of a Communist to be tried for treason before a jury. They would have been applauded in headlines from the New York Times down to the Washington Post. They would have been applauded in countless editorials. But so long as they were decisions about some southern Governor, it is felt that they should be hidden away and more or less ignored. But that is the reason why the right of trial by jury should be granted, because they have been the subject of calumny and contempt in northern, eastern, and western newspapers, and on the television networks, in movies, and by people like Otto Preminger, undertaking to portray the South as a group of murderers and corruptionists, ignorant and bigoted people—which we are not.

As long as that sort of hate campaign is waged against the South, we can depend on not often seeing four judges who have the courage to speak out in behalf of a southern Governor to be tried by a jury. The newspapers will not give them much credit for their courage. They will show the judges the courtesy of saying nothing about it when they speak out for the freedoms for which our forebears fought and bled and wrote three times into the Constitution of the United States.

That sort of thing will be hidden away, and the press will print practically nothing about the efforts of those of us who try to defend the fundamental rights of people.

I noticed the other day, after I had spoken on this subject, that the distinguished Senator from Arkansas [Mr. McClellan], a great statesman, spoke on this subject but was ignored by the press. On another subject, for instance a conflict with Mr. Hoffa about what the situation should be under the labor law, the press would have written what he said, but on the subject of civil rights he was completely ignored. When a great constitutional lawyer, a great chairman of the committee, a great Senator, fully qualified to be President of the United States, discussed the subject of civil rights for 5 hours, not one word appeared in our great daily newspapers. There was not one word in the Washington Post about what he said. The Senator from Minnesota [Mr. Humphrey], who talked for about 1 minute, was quoted in almost every word he said.

Another Senator, a proponent and a good friend of mine, spoke for 2 minutes, and he was also quoted in detail but the Senator from Arkansas spoke for 5 hours on the rights of American citizens, and not one word published.

I believe three Senators opposing this forced integration bill spoke for a total of 12 hours, and the press gave us one sentence. I am glad to say that the one sentence that was quoted was mine. That is the kind of hate campaign going on against the South which threatens to undermine and destroy the rights of American citizens.

We are not the kind of people we are pictured as being. I wish everyone would read the book "The Cardinal" and then for the sake of comparison see the motion picture. In the book, one will find an incident in which a white Catholic priest went down South and was confronted with the Ku Klux Klan, who were prejudiced against him because of his Catholicism. There was no question of race. It was his Catholicism that brought about the difficulty. Then go and see the motion picture produced by Otto Preminger, who bought the rights to the book. In the movie, the racial factor is injected in the most vicious manner. It is an attack of the worst kind on the people of the Southern States.

I took my wife and daughter to see the picture. The picture portrays the priest as being sent as a missionary from Rome to a parish in Georgia where a Negro priest was advocating that Negro children should go to school with white children—a factor created by Mr. Preminger for consumption by those who want to believe the very worst about the South.

The Negro was beaten within an inch of his life and left practically for dead on a roadside. The white priest was also beaten within an inch of his life and left for dead.

When I left the theater with my wife and daughter, they indicated that they were under the impression that that kind of thing might possibly have happened in Georgia 20 years ago.

Mr. President, nothing of that sort has happened in Georgia. Nothing of that sort has happened in the United States of America in the entire existence of this Nation. But that does not keep Otto Preminger—wealthy and powerful man that he may be—from buying the rights to that book, and making a motion picture in living color, which will go all over the world portraying the people of the South as hateful, bigoted, and prejudiced.

There is also the picture "To Kill a Mockingbird," purporting to point out that the only decent citizen in a southern community was a lawyer with little or no influence. The impressions given are of the same propagandistic caliber as those thought up by Otto Preminger in "The Cardinal."

Mr. President, the Southern people know something about our colored citizens. According to my family, I am left-handed today because our colored maid, who was the so-called "chief cook and bottle washer" in our house, used to carry me around in her left arm while she did the housework, so I used to put my right hand around her neck and reach for things with my left hand.

Colored people have been in my house since the day I was born. They have been loyal friends to my family. We have been loyal to them. We have been their true friends. I do not believe there is a colored man in the State of Louisiana that would tell anyone that any member of my family ever did him an injury. If anyone tried to do any one of those people any injury, we would defend them to the utmost.

My father was responsible for free schoolbooks, and buses to go to school. This helped them far more than it did the whites.

No mother, white or colored, need have a child outside a State hospital, because we have the finest sanitary facilities in our public hospital system. Some of these State hospitals are better than private hospitals. My father had a great deal to do with that. We have instituted many liberal welfare programs in Louisiana, and the Negroes have received the lion's share of them. My father had something to do with that, too.

When my uncle, Earl Long, was Governor of Louisiana, the number of colored voters was increased by 1,000 percent.

What former Governor in the Senate can make that statement? Just before my uncle had a nervous breakdown, he was in the State legislature fighting for a bill that would make it difficult for people to take decent colored citizens off the registration rolls. He was fighting for something which would have been applauded by every one of the proponents of this bill.

But the press of this Nation ridiculed him and did not say a fair or objective word about him. There was not a word about that in the press.

Yet, some people would have us believe that those who have never known what it was like to live among the colored people understand the race problem better than those who have lived among them, who feel the warmest of kindness toward them, and have worked a lifetime to help them with their problems; but oh, no, we are crucified as being ignorant, prejudiced people who do not even try to understand the problems of the colored people.

Ninety-five percent of the colored people voted for me in Louisiana. In fact, that has been made an issue against me among some white voters in practically every political race I ran. How many other Senators can make that statement?

Yet my remarks are regarded by the press as coming from one who does not understand what the problem is. So we are told that we must obey some laws which will create nothing but turmoil in our part of the country.

This Government is now helping to pay the expenses of Canadians and others going over to Cyprus to try to keep the Greeks off the Turkish minority, to keep them from killing each other. At the same time we are asked to enact a law to force the Ku Klux Klan and the Black Muslims to sit down together in the same barrooms in Louisiana.

Why are not United Nations troops sent down there to separate them, instead of forcing them to be together, to sit together, and to stay together in places where they will tear things up and kill someone? That is what will happen. Some people say we do not understand the problem. I believe we do understand it, Mr. President. Yes; we understand the problem. We know what will happen if we force these people to live together, to be side by side.

It is said that this is a moral issue. Is it? I do not know why some people do not follow the mandate of Jesus to love their neighbors. Some people do not like to have other people forced upon them and do not want to live with other people. I do not believe any law could be enacted that would make a man like someone with whom he simply does not care to associate.

It may be God's word to love one another, but some people are incapable of doing it. We can enact all the laws we want to make two people live together, or be together side by side; but if they do not like each other, and we make them sit down in close company together, someone is going to be hurt.

I cannot understand why people cannot figure these things out. If this bill is passed, we shall do a great deal of harm to the Negro. We shall make for the colored man a great many more enemies than he has today; we shall deny him many of the friends that he has and should have; and he will have much less influence in his government than he should have. One man will be against another, because if the bill is passed we shall be trying to force people to do something that does not come naturally, as the saying goes.

With all the mischief that would be done if the bill were passed, I hope we would be in a position at least to preserve some of the fundamental constitutional rights of the citizens of this country.

It has been my pleasure to speak on this subject this evening. I will conclude at this time, because I believe it has been planned that the Senate should recess at this hour.

## RECESS

Mr. MOSS. Mr. President, pursuant to the order previously entered, I now move that the Senate stand in recess.

The motion was agreed to; and (at 8 o'clock and 40 minutes p.m.) the Senate took a recess, under the previous order, until tomorrow, Friday, May 1, 1964, at 10 o'clock.

## NOMINATIONS

Executive nominations received by the Senate April 30 (legislative day of March 30), 1964:

### U.S. DISTRICT JUDGES

Gerald J. Weber, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice John W. McIlvaine, deceased.

Eugene A. Gordon, of North Carolina, to be U.S. district judge for the middle district of North Carolina, vice L. Richardson Preyer, resigned.

Edmund Port, of New York, to be U.S. district judge for the northern district of New York, vice Stephen W. Brennan, retired.

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 30 (legislative day of March 30), 1964:

### U.S. DISTRICT JUDGES

Ray McNichols, of Idaho, to be U.S. district judge for the district of Idaho.

Sidney L. Christie, of West Virginia, to be U.S. district judge for the northern and southern districts of West Virginia.

Charles E. Simons, Jr., of South Carolina, to be U.S. district judge for the eastern district of South Carolina.

Robert W. Hemphill, of South Carolina, to be U.S. district judge for the eastern and western districts of South Carolina.

# HOUSE OF REPRESENTATIVES

### THURSDAY, APRIL 30, 1964

The House met at 12 o'clock noon.

Dr. W. Paul Ludwig, pastor, Chevy Chase Presbyterian Church, Washington, D.C., offered the following prayer:

Our gracious God, it is Thy clear call to sacred duty which summons Thy servants to this fresh hour. Not for one flashing moment would we presume to fashion the shape of things with our own hands alone; nor would we dare to iron out these wrinkled times by the sheer pressure of our prestige.

Make this, therefore, Almighty God, a fitting moment of surrender. Here quite willingly we affix the signature of our dedication to an act of divine-human partnership. And may that which arises from such alliance this day bring glory to Thy name, strength and honor to our beloved Nation, and abiding satisfaction to these her distinguished leaders, through Jesus Christ, our Lord. Amen.

## THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

## PROGRAM FOR NEXT WEEK

Mr. ARENDS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ARENDS. Mr. Speaker, I take this time in order to ask the majority leader, the gentleman from Oklahoma [Mr. ALBERT], about the program for next week, if the gentleman is prepared to announce it at this time.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, I may advise the Members of the House first that when we finish the legislative program for today we will have finished the legislative business for the week. It will then be my intention to ask that the House go over until Monday next.

Mr. Speaker, the program for next week is as follows:

Monday is Consent Calendar Day. There are also 5 suspensions:

First. H.R. 8078, Muscatine Bridge Commission.

Second. H.R. 7654, designating the lock on the St. Marys River at Sault Ste. Marie, Mich., as the John A. Blatnik lock.

Third. H.R. 10053, to amend section 502 of the Merchant Marine Act, 1936, relating to construction differentials subsidies.

Fourth. S. 627, promoting State commercial fishery research and development projects.

Fifth. Senate Concurrent Resolution 19, designating "bourbon whisky" as a distinctive product of the United States.

Tuesday is Private Calendar Day. Also on Tuesday is scheduled House Resolution 687, authorizing the Speaker to appoint delegates and alternates to attend the International Labor Organization Conference in Geneva.

Wednesday there is scheduled the bill making appropriations for the Departments of State, Justice, Commerce, and the Judiciary for fiscal year 1965.

For Thursday and the balance of the week, H.R. 10945, authorizing appropriations for the Atomic Energy Commission for fiscal year 1965.

This announcement, of course, is made subject to the usual reservation that conference reports may be brought up at any time and any further program may be announced later.

Mr. ARENDS. I thank the gentleman from Oklahoma.

## DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## U.S. ALLIES ARE ALLIED WITH RUSSIA

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, the most practical means for the Communists to supply Castro's island is by ship, and that burden is currently being borne equally by Russia and three of our free world allies.

The three main offenders are Britain, Lebanon, and Greece, in that order. And well over half of that traffic flies the British flag.

Progress has been made recently in getting allies to curb their shipping, however. During 1963, there were 13 free world nations engaged in shipping to Cuba. The figure has been reduced to four nations which shipped during March of this year, one ship being of Italian registry. Yet Britain accounted for nearly 60 percent of the ships sent by our allies, and Lebanon followed with about one-third of the total.

Compare these figures with the number of shipping runs made by the Russians for the first 3 months of this year, which comes to 107. Free world shipping for the period January 1–April 17 comes to 93 runs, of which 48 were British alone.

Ironically, while the British continue to lead the other free world nations aiding Castro and the Russians, British Foreign Secretary Richard A. Butler continues to seek greater U.S. cooperation for British policies in Malaysia, Cyprus, and other areas of British concern.

Let us remind the British as well as other allies that no area in this hemisphere is of greater concern to the United States than Communist Cuba, and the time has come for the British to prove their friendship by halting their shipping to Castro. By so doing, the burden of supplying Cuba would be placed on Russia's already strained merchant fleet.

The economic boycott of Cuba has been effective, but even greater advances can be made to end the Red influence in this hemisphere.

## MRS. AMERICA OF 1964—MRS. DESIREE JENKINS

Mr. WATSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. WATSON. Mr. Speaker, South Carolina has always been renowned for its lovely, gracious and hospitable ladies. In recent years, the Palmetto State contributed a Miss America—1957, Miss Marian McKnight—a Miss Universe—1955, Miss Miriam Stevenson—and a Mrs. America—1946, Mrs. Fredda Acker—to represent the United States as the very loveliest of its lovely, the most gracious of its gracious, and the most hospitable of its hospitable.

Recently, another charming lady from South Carolina was chosen to represent this great Nation as its Mrs. America of 1964. Mrs. Desiree Jenkins, wife of Columbia, S.C., Realtor Joe L. Jenkins, took her place alongside the women of the years who have been recognized as typifying American womanhood.

Mrs. Jenkins, 34 years old, is the mother of two fine children—Barry Lee, 12; Teresa Ann, 11. She is a native of Gaffney, S.C., where she attended school. She moved to Columbia after her marriage.

As a wife, mother, and lady, none can surpass her in beauty, charm, and dedication. And throughout the coming year, as she travels over the Nation and world as our representative, Mrs. Jenkins will remain thoughtful and dedicated to her family, church, and friends, as any conscientious wife and mother would do.

During the next year, Mrs. Jenkins will be the official representative of the United States. She will be looked upon with admiration and pride as typical of South Carolina and American wives and mothers. I feel deeply honored that this fine lady should be chosen from my State and district to represent our Nation, and so I wish to pay tribute to her today and wish her Godspeed in the eventful days to come. I am sure my fellow Members of Congress, Senators and Representatives alike, join me in this wish and in applauding and lauding the excellent choice of such a fine, charming, lovely, yet humble lady to represent us as Mrs. America of 1964.

## ETHICAL STANDARDS FOR MEMBERS OF CONGRESS AND EMPLOYEES OF THE LEGISLATIVE BRANCH

Mr. SIBAL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include the text of a bill I am introducing.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIBAL. Mr. Speaker, I am today introducing legislation to establish ethical standards of conduct for Members of Congress and employees of the legislative branch. The bill also provides for a joint committee with the power to investigate complaints and make recommendations to the Congress.

I ask unanimous consent that the text of this bill be printed following these remarks.

Mr. Speaker, there is no use fooling ourselves; the situation revealed in the Baker investigation in the other body is a mess and we are the only ones who can clear it up. The Baker scandal strikes at the roots of our Government, which has to be based on a firm foundation of mutual trust between the people and their representatives.

Everyone of us and everyone who works for us and for the Congress is affected by the Baker revelations. The President of the United States is closely affected by the unethical behavior of his closest protege in the Senate.

There has been a grave abuse of power and position. It is yet to be established whether there has been a violation of written law, but it is all too clearly proven that there has been a theft of public trust and, this is, in many ways, far worse than a violation of statute.

One breaks a law either deliberately, knowing the consequences if one is caught, or through ignorance.

The tragedy of this situation is that Baker and his friends apparently do not admit they have done anything wrong. It seemed quite all right to them to turn the offices which they held to personal profit.

So, while we prefer to think of each other and those who work for the Congress as men and women of integrity sufficient to police ourselves, the tiny few such as Baker have now made this impossible for us. It is now necessary to sit down and spell it out in clear and simple language.

This we must do if we are to preserve, indeed restore, the image of Congress as the servant of the people. The public is entitled to know that all of us are giving our jobs our full devotion, using the powers they have entrusted to us solely as instruments of the national welfare.

The bill I am introducing today sets standards and procedures that will clearly draw the lines of ethical conduct so that the Congress, the public, and any future would-be Bobby Bakers can be in no doubt whatsoever.

### H.R. 11103

A bill to create a Joint Committee on Congressional Ethics, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Congress hereby declares that the maintenance of strict moral and ethical standards of conduct for Members of the Senate and House of Representatives and for all other officers and employees in the legislative branch is vital to the successful operation of free and representative government. Fundamental to public trust in the personnel and operations of the legislative branch is the knowledge of the people that their duly elected Senators and Representatives in the legislative branch and the personnel who assist them are acting at all times free of improper influence and with great devotion to the public interest.

(b) Further, the Congress hereby reemphasizes and reaffirms the applicability of the Code of Ethics for Government Service passed July 11, 1958 (72 Stat., part 2, page B12; H. Con. Res. 175, Eighty-fifth Congress), to Members of the Senate, Members of the House of Representatives, and other officers and employees in the legislative branch, as well as to other Government officers and employees generally.

(c) In addition, the Congress sets forth in this subsection a restatement and reaffirmation of two basic principles of conduct, adherence to which is crucial to the operation of the legislative branch, as follows:

(1) A Member of the Senate or the House of Representatives and an officer or employee in the legislative branch, should not receive any remuneration, gain, profit, or other personal benefit from any activity related to his duties as such a Member, officer, or employee, or on the basis of knowledge or information acquired as a result of his office or position which is not generally available to the public.

(2) A Member of the Senate or the House of Representatives, and an officer or employee in the legislative branch, should not engage in any activity relating to the Federal Government and arising out of his office or position which will produce monetary gain for himself or the members of his family.

SEC. 2. To assist in effectuating the policy and principles of the first section of this Act, there is hereby created a joint congressional committee to be known as the "Joint Committee on Congressional Ethics" (herein referred to as the "Committee").

SEC. 3. The Committee shall be composed of twelve members, as follows:

(1) three Members of the Senate from the majority party in the Senate, to be appointed by the President pro tempore of the Senate.

(2) three Members of the House of Representatives from the majority party in the House, to be appointed by the Speaker of the House.

(3) three Members of the Senate from the minority party in the Senate, to be appointed by the minority leader of the Senate.

(4) three Members of the House from the minority party in the House, to be appointed by the minority leader of the House.

SEC. 4. (a) A person appointed to membership on the Committee shall not be entitled to serve as a member of the Committee after he has ceased to be a Member of that House of Congress from which he was so appointed; but a member who has been reelected to that House of Congress from which he was so appointed may continue to serve on the Committee notwithstanding the expiration of the Congress.

(b) A vacancy in the Committee shall not affect the power of the remaining members to execute the functions of the Committee and shall be filled in the same manner as the original appointment.

(c) Members of the Committee shall serve without compensation in addition to compensation received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties of the Committee (other than expenses in connection with meetings of the Committee in the District of Columbia when the Congress is in session).

(d) The Committee each year shall elect a chairman from among its members for a term of one year. The respective chairmen shall be elected in rotation from among the persons described in paragraphs (1), (2), (3), and (4) of section 3 of this Act in the numerical order in which such paragraphs appear in such section.

(e) The Committee is authorized to appoint and fix the compensation of such employees and consultants as it deems necessary and advisable.

(f) The expenses of the Committee shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman.

SEC. 5. The Committee, acting as a whole or by subcommittee, is authorized to conduct investigations and studies from time to time, as it deems advisable, with respect to—

(1) the observance in the legislative branch generally of (A) the Code of Ethics for Government Service and (B) the two basic principles of conduct for the legislative branch set forth in subsection (c) of the first section of this Act;

(2) specific instances of violations of such code or principles, or both; and

(3) all other matters related to matters within the purview of paragraphs (1) and (2) of this subsection which would assist the Congress in the enactment of necessary remedial legislation or in any remedial revision of its conduct, practices, and procedures.

SEC. 6. (a) In carrying out its functions under this Act, the Committee is authorized to hold such hearings, to sit and act at such times and places within the United States, its territories and possessions, and the Commonwealth of Puerto Rico, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable.

(b) The Committee is authorized to prescribe such rules with respect to its organization and procedures as it deems necessary.

SEC. 7. The Committee shall report to the Senate and House of Representatives (or to the Clerk of the House or the Secretary of the Senate, as the case may be, if the legislative body concerned is not in session) the results of each of its studies and investigations, together with such recommendations as it deems advisable.

## PAY INCREASE BILL

Mr. GROSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, yesterday afternoon there was delivered to the offices of the members of the Post Office and Civil Service Committee a new pay increase bill for Members of Congress and others. This morning, the Post Office and Civil Service Committee convened, the gavel fell at 10:35, and a motion was promptly made to limit consideration and vote the bill out at 11:20. No hearings were held on the new bill. There have been no hearings on any of the pay increase bills since last October 15. Not a single witness from the administration was permitted to appear in behalf of the new bill that, I say, was made available in the offices of committee members only yesterday afternoon. The new bill, calling for pay increases of more than half a billion dollars a year, was voted out at 11:20 this morning after only 45 minutes of consideration. It was one of the most highhanded operations I have witnessed in my 16 years in Congress.

Mr. Speaker, there were a few of us on the committee who yelped like beagle hounds, and we did not have to have any pulling of the ears by Lyndon Johnson, either.

## POLISH CONSTITUTION DAY

Mr. RIEHLMAN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RIEHLMAN. Mr. Speaker, May 3 will be the anniversary of the adoption of the Polish Constitution. This momentous event occurred in 1791.

Today I want to join with all the other friends of the Polish people to demonstrate to them that we do care about the valiant defense of freedom they have maintained through the years.

The nation of Poland has a heritage of Christianity and participation in the growth of Western culture. It is one of the black spots of history that this noble nation and its courageous people are being ruthlessly suppressed by the Communist system.

The tremendous struggle of the Poles in World War II against Nazi-Communist totalitarianism is an inspiration to all humanity.

We all hope and pray that this country may one day rejoin the community of free nations.

## AUTHORIZING NEVADA TO DIVIDE ITS RETIREMENT SYSTEMS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill—H.R. 287—to amend title II of the Social Security Act to include Nevada among those States which are permitted to divide their retirement systems into two parts for purposes of obtaining social security coverage under Federal-State agreement, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 218(d)(6)(C) of the Social Security Act is amended by inserting "Nevada," after "New Mexico,".

With the following committee amendment:

Page 1, line 5, strike out "after" and insert "before".

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, the purpose of this legislation is to amend title II of the Social Security Act to include the State of Nevada under the provision of present law permitting specified States to divide State or local government retirement systems for social security coverage purposes. Under this provision, 17 specified States—and all interstate instrumentalities—are permitted to divide a State or local government retirement system into two parts for purposes of old-age, survivors', and disability insurance coverage, one part consisting of the positions of members who desire coverage, and the other consisting of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age, survivors', and disability insurance, and, once those services are covered, the services of all persons who in the future become members of the retirement system must also be covered.

H.R. 287, which was introduced by our colleague, the Honorable WALTER S. BARING, would include the State of Nevada in this list of States. The Committee on Ways and Means unanimously recommends its enactment.

Mr. BYRNES of Wisconsin. Mr. Speaker, the bill H.R. 287 amends title II of the Social Security Act to include the State of Nevada under the provision of present law which permits States specified in the law to divide their State or local government retirement system into two parts and provide social security coverage for those current employees who desire such coverage.

As a representative from Wisconsin, the State which has been a leader in the establishment of public retirement systems, I rise in support of this legislation. I need not remind my colleagues that the Wisconsin system was founded prior to the Federal social security system and was the first State to integrate its retirement system with the Federal system. This legislation merely adds the State of Nevada to the list of 17 other States, including Wisconsin, which may divide their retirement system to provide OASDI coverage for those employees desiring such coverage.

The bill was unanimously reported from the Ways and Means Committee and is worthy of your support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### EXTENSION OF REMARKS

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. BYRNES] and I may extend our remarks in explanation of these bills reported from the Committee on Ways and Means and which are passed by the House today, and in addition that the authors of the bills and any other Members desiring to do so may extend their remarks immediately following the passage of the particular bills involved.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## RETIREMENT SYSTEMS IN MAINE: POLICEMEN AND FIREMEN IN TEXAS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3348) to amend section 316 of the Social Security Amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program, which was unanimously reported by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object and I shall not object, is the gentleman going to explain the bills?

Mr. MILLS. I will be glad to give an explanation of any of the bills I am asked to explain.

Mr. GROSS. I think we ought to have a brief explanation of each bill as it is called up and since the gentleman assures us that he will explain each of the bills, I will withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 316 of the Social Security Amendments of 1958 is amended by striking out "July 1, 1961" and inserting in lieu thereof "July 1, 1965".

SEC. 2. The amendment made by the first section of this Act shall be effective as of July 1, 1961.

SEC. 2. Section 218(p) of the Social Security Act is amended by inserting "Texas," after "Tennessee,".

With the following committee amendments:

Page 1, strike out lines 6 and 7.

Page 1, after line 7, insert the following:

"SEC. 2. Section 218(p) of the Social Security Act is amended by inserting 'Texas,' after 'Tennessee,' "

The committee amendments were agreed to.

Mr. MILLS. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, as unanimously reported by the Committee on Ways and Means, H.R. 3348 makes two changes in provisions of law relating to the old-age, survivors' and disability insurance program under the Social Security Act.

First, the bill, which was introduced by our colleague, the Honorable STANLEY R. TUPPER, would reopen temporarily a provision of law permitting the State of Maine to treat teaching and nonteaching employees who are actually in the same retirement system as though they were under separate retirement systems for social security coverage purposes. The original provision, enacted as part of the Social Security Amendments of 1958, expired on June 30, 1960, and was reopened until July 1, 1961. The pending bill would reopen the provision until July 1, 1965, thus permitting the State of Maine to complete the desired extensions of coverage.

The second section of the bill, as reported, amends section 218 of the Social Security Act to include Texas in the list of States which may obtain social security coverage, under State agreement, for State and local policemen and firemen under retirement systems. This provision, which presently includes 18 specified States and all interstate instrumentalities, is completely permissive and makes possible the coverage of groups of policemen and firemen only if the State specifically requests that its coverage agreement with the Secretary of Health, Education, and Welfare be modified to provide such coverage, and further, such coverage must be authorized by State law. The Committee on Ways and Means in considering bills of this nature has always been careful to refrain from moving in this area unless it has seemed clear that it was desired by the State in question.

Mr. **BYRNES** of Wisconsin. Mr. Speaker, H.R. 3348, as amended by the Ways and Means Committee, amends the Social Security Act to extend the time during which the State of Maine may modify its existing agreement under the Social Security Act with respect to OASDI coverage for employees under that State's public retirement system. In addition, the bill adds the State of Texas to the list of some 18 States which may provide social security OASDI coverage to policemen and firemen covered under that State's public retirement system.

The legislation merely allows the States of Maine and Texas to qualify under certain provisions of the Social Security Act in the same manner as certain other specified States. Both sections of the bill require implementation on the part of the respective State governments.

Because these two States requested this legislation, I feel that it merits your strong support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## TITLE II OF SOCIAL SECURITY ACT

Mr. **MILLS**. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9393) to amend title II of the Social Security Act to provide full retroactivity for disability determinations, to extend the period within which ministers may elect coverage, and to validate wages erroneously reported for certain engineering aids employed by soil and water conservation districts in Oklahoma, which was also unanimously reported by the Committee on Ways and Means.

The Clerk read the title of the bill.

The **SPEAKER**. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) section 216(i)(2) of the Social Security Act is amended by striking out the third sentence and inserting in lieu thereof the following: "A period of disability shall (subject to section 223(a)(3)) begin—

"(A) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

"(B) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements."

(b) Section 216(i)(3) of such Act is amended by striking out "of paragraphs (2) and (4)" and inserting in lieu thereof "of paragraph (2)".

(c) Section 216(i)(4) of such Act is repealed.

(d)(1) The amendments made by subsections (a), (b), and (c) shall apply in the case of applications for disability determinations under section 216(i) of the Social Security Act filed after the month following the month in which this Act is enacted.

(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as though such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(i) of the Social Security Act during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted, by an individual who—

(A) has been under a disability (as defined in such section 216(i)) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted or (ii) if earlier, the first day of the month in which he attained the age of 65, and

(B) is living on the day specified in subparagraph (A)(i).

(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act during the period specified in such paragraph—

(A) if such individual was under a disability (as defined in section 223(c) of such Act) throughout such period and was not entitled to disability insurance benefits under such section 23 for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j)(2) and the first sentence of section 223(b), be deemed an effective application, or

(B) if such individual was entitled (without the application of this section (to) disability insurance benefits under section 223 for a continuous period of months immediately preceding—

(i) the second month following the month in which this Act was enacted, or

(ii) if earlier, the month in which he became entitled to benefits under section 202(a),

his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section.

(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted.

(5) In the case of an individual (A) who is entitled under section 202 of the Social Security Act (but without the application of subsection (j)(1) of such section) to a widow's, widower's, or parent's insurance benefit, or to an old-age, wife's, or husband's insurance benefit which is reduced under section 202(q) of such Act, for any month in the period referred to in paragraph (2) of this subsection, (B) who was under a disability (as defined in section 223(c) of the Social Security Act) which began prior to the sixth month before the first month for which the benefits referred to in clause (A) are payable and which continued through the month following the month in which this Act is enacted, and (C) who files an application for disability insurance benefits under section 233(a)(1) of the Social Security Act—

(i) subsection (a)(3) of section 223 of the Social Security Act shall not prevent him from being entitled to such disability insurance benefits;

(ii) the provisions of subsection (a)(1) of such section 223 terminating entitlement to disability insurance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act;

(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

(iv) in case the benefits reduced under subsection (q) of section 202 of such Act are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 and the months for which he received such disability insurance benefits shall be excluded from the "reduction period" and the "adjusted reduction period", as defined in paragraphs (5) and (6), respectively, of such subsection (q) for purposes of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

(6) The entitlement of any individual to benefits under section 202 of the Social Security Act shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act in an amount which (but for this subsection) would have required termination of such benefits under such section 202.

Sec. 2. (a) Clause (B) of section 1402(e)(2) of the Internal Revenue Code of 1954 relating to time for filing waiver certificate by ministers, members of religious orders, and Christian Science practitioners) is amended by striking out "his second taxable year ending after 1959" and inserting in lieu thereof "his second taxable year ending after 1962".

(b) The amendment made by subsection (a) shall be applicable only with respect to certificates filed pursuant to section 1402(e) of the Internal Revenue Code of 1954 after the date of the enactment of this Act; except that no monthly benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month shall be payable or increased by reason of such amendment, and no lump sum death payment under such title shall be payable or increased by reason of such amendment in the case of any individual who died prior to the date of the enactment of this Act.

Sec. 3. For purposes of the agreement under section 218 of the Social Security Act entered into by the State of Oklahoma, remuneration paid to district engineering aides of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aides as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aides for services performed by them in the employ of the State.

With the following committee amendments:

Page 3, line 23, strike out "section (to" and insert "section) to".

Page 7, strike out lines 1 through 11, and insert:

"(b) Section 1402(e)(3) of such Code (relating to effective date of certificate) is amended by adding at the end thereof the following new subparagraph:

"'(C) Notwithstanding the first sentence of subparagraph (A), if an individual files a certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1962, such certificate shall be effective for his first taxable year ending after 1961 and all succeeding years.'

"(c) The amendments made by subsections (a) and (b) shall be applicable only with respect to certificates filed pursuant to section 1402(e) of the Internal Revenue Code of 1954 after the date of the enactment of this Act; except that no monthly benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month shall be payable or increased by reason of such amendments."

The committee amendments were agreed to.

**Mr. MILLS.** Mr. Speaker, as reported by the Committee on Ways and Means, H.R. 9393 contains three provisions affecting the old-age survivors' and disability insurance program.

First, the bill amends title II of the Social Security Act to permit a disabled worker to establish the beginning of his disability, for purposes of social security protection, as of the date he actually became disabled regardless of when he files his application. Under present law with respect to applications filed after June 30, 1962, a period of disability—the period during which a worker's earnings record is "frozen" so that the period does not count against him in determining whether he is insured and in computing his benefit amount—may be established beginning no earlier than 18 months before the application is filed. The requirement of 5 years of covered work in the preceding 10-year period must be met at the point the period of disability begins.

Under the present rules people who have been unable to work for a long time because of total disability but who delay filing application for disability protection may thus fail to qualify for a period of disability and lose all social security benefit rights or have their benefit amounts significantly reduced because they are unable to meet these work requirements in the 18-month period before they file for disability benefits. The Department of Health, Education, and Welfare advises that more than 50,000 people—disabled workers and their dependents—who filed applications during the 12 months following June 30, 1962, have either been denied benefits or had their benefits lowered by reason of delayed filing.

The Committee on Ways and Means believes that the experience over the years with the provision concerning the beginning date of a disability of long standing has shown that the expected problems relating to availability of evidence and proof are not of sufficient magnitude to support the continuation of a provision under which so many people have suffered a loss or diminution of benefits by reason of the date on which they file an application. Section 1 of H.R. 9393, therefore, would permit disabled workers to establish the beginning of a period of disability as of the date of actual disablement regardless of when they file their applications.

Second, the bill amends the Internal Revenue Code of 1954 as it affects the rights of ministers whose eligibility for electing social security coverage has expired. It would extend, generally through April 15, 1965, the time within which such persons—including Christian Science practitioners—can elect to be covered under social security. Ministers who failed to elect social security coverage before the deadline of April 15, 1962, which applied to most of them, would have another opportunity to elect coverage.

Third, the bill validates certain earnings reported under social security of engineering aids working for local soil and water conservation districts in Oklahoma who were reported in good faith, but erroneously, as State employees under the coverage agreement between the State of Oklahoma and the Secretary of Health, Education, and Welfare.

This bill was reported unanimously by the Committee on Ways and Means.

**Mr. BYRNES** of Wisconsin. Mr. Speaker, H.R. 9393 is a bill which deserves the favorable consideration of this body.

The bill contains three provisions. The first provision would eliminate the present 18-month restriction for filing fully retroactive applications to obtain social security disability insurance benefits. The second provision would provide ministers an additional opportunity to obtain coverage under the social security system. The third provision would validate earnings reported for certain engineering aids employed by soil and water conservation districts in the State of Oklahoma.

I would like to confine my discussion primarily to the first provision which I feel is of extreme importance because prior legislation waving the 18-month filing requirement was allowed to lapse on June 30, 1962.

As my colleagues know, workers who become totally and permanently disabled are permitted to receive social security disability benefits if at the time of the disability they had a "currently insured status." A worker is currently insured if he has 5 years of covered employment in the 10-year period preceding the disability. However, although the worker may be totally and permanently disabled and may have been currently insured at the time of the disability, under present law if he fails to file within 18 months he is deemed to be no longer currently insured simply by virtue of the lapse of time. Moreover, even though he files within 18 months, a short delay may result in a reduction in benefits.

I feel that the required filing of the application within an 18-month period works a real hardship on those who are unfortunate enough to became disabled. The disabled worker may not know of his rights and of the filing requirement, or may not know the extent or seriousness of his disability. Moreover, I can think, as I am sure my colleagues can, of other reasons why a prompt application may not be filed. Nonetheless, the fact remains that unless we act and approve this legislation these workers will be denied disability insurance benefits no matter what circumstances caused them to file a late application.

We must remember that the worker must be totally and permanently disabled to qualify for benefits under this particular social security program. In addition, he must meet the requirements of being currently insured. Removal of this 18-month requirement will not in any way amount to a loosening or modification of these requirements. Only those people who paid into the social security disability trust fund for the required period of time and can prove a lasting disability which makes them unsuitable for gainful employment, will be able to qualify for benefits.

The only impediment to these people presently qualifying for benefits is that in failing to file within an 18-month period they lose their eligibility. This does not make them any less disabled or does it in any way reduce the number of quarters they actually paid into the disability insurance trust fund. I urge you to join with me in supporting this provision in the bill.

The second provision of the bill would give ministers additional time within which to obtain coverage under social security. Coverage was originally extended to them under the Social Security Amendments of 1954 and since that time they have been given additional time periods in which to make the election. Despite these extensions, there are still many ministers who have not made the election, and because the last extension expired April 15, 1962, are not able to do so.

I think that it is meritorious to extend the period during which they can elect coverage through April 15, 1965, as the bill would do.

The third and final provision of the bill would validate earnings reported for social security coverage with respect to certain employees of the State of Oklahoma. These employees should have been reported as employees of the local soil and water conservation districts, but instead were reported by the State. There is evidence that the State of Oklahoma acted in good faith in so reporting these employees and under the circumstances I see no reason why their earnings should not be validated so as to allow them proper social security coverage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

**Mr. KUNKEL.** Mr. Speaker, to be eligible for disability insurance protection under social security, a disabled worker must meet the insured-status requirements for such protection that are prescribed in the law, including a requirement that is designed to show that he had substantial recent covered employment before becoming disabled. To satisfy this latter requirement the disabled worker must, in general, have 20 quarters of coverage—about 5 years of covered work—during the period of 40 calendar quarters ending with the quarter in which he becomes disabled. In the case of applications for disability protection that were filed prior to July 1, 1962, the law permitted the beginning date of an individual's disability to be established as far back as the date he actually became disabled—even if the disability had lasted for many years—and the disabled worker could qualify if he met the insured-status requirements as of that date. In the case of applications for disability protection that are filed after June 30, 1962, however, the law provides that the beginning date of a worker's disability cannot be established as being earlier than 18 months before his application is filed. As a result, individuals who actually have been disabled for longer than 18 months—in some instances, for a number of years—cannot qualify unless they had substantial covered work during the 10-year period that ended 18 months before filing of application.

Obviously, a person who has been severely disabled for a number of years finds it difficult or impossible to meet this requirement. Those who cannot meet it are not eligible for disability freeze—a provision which prevents periods of disability from counting against a disabled worker in determining whether he is insured for retirement or survivor protection and in computing benefits amounts. Because of the restriction on disability applications that are filed after June 30, 1962, a number of disabled persons who have not worked for many years before filing applications have lost all social security protection—potential old-age and survivors insurance benefits as well as disability benefits for themselves and their families.

The provision under which disabled workers who file applications after June 30, 1962, must meet the insured-status requirement for disability protection as of a date 18 months before application is filed stems from a provision enacted in 1954. The 1954 provision was designed to avoid possible problems in obtaining the facts on which to make a disability determination where an individual does not file application until long after he becomes disabled. Subsequent experience in making disability determinations has indicated that such problems are somewhat less difficult than anticipated by the Social Security Administration. This consideration and the consideration that many disabled workers do not file timely disability applications led the Congress to postpone the deadline date from June 30, 1957, to June 30, 1958, to June 30, 1961, and most recently to June 30, 1962.

When it became clear that, despite Social Security's effort to inform disabled people of the need to file timely applications, there would continue to be a sizable number of disabled workers who delay filing for relatively long periods of time, the Department of Health, Education, and Welfare recommended that the June 30, 1962, deadline be eliminated.

For the above reasons, I introduced H.R. 4320 which Chairman MILLS has now included in his bill, H.R. 9393.

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## EXPORTATION OF AIRCRAFT ENGINES AS WORKING PARTS OF AIRCRAFT

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1608) to amend section 308 of the Tariff Act of 1930 to provide that aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes, which also was unanimously reported by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 308 of the Tariff Act of 1930 (19 U.S.C. 1308) is amended by adding at the end thereof the following: "In the determination of whether a physical removal of an aircraft engine or propeller or any part or accessory of either from United States constitutes an exportation thereof within the meaning of this section, it shall be irrelevant whether such removal is accomplished by transporting it as cargo or by operating it as part of an aircraft (with or without payload) departing from the United States."

SEC. 2. The amendment made by the first section shall be effective with respect to articles physically removed from the United States on or after the date of enactment of this Act, without regard to when such articles were admitted into the United States.

With the following committee amendments:

Page 1, strike out line 3 and all that follows through line 2 on page 2 and insert: "That headnote 1 for subpart C of part 5 of schedule 8 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., pt. II, p. 422, Aug. 17, 1963) is amended by adding at the end thereof the following: 'For purposes of this headnote, an aircraft engine or propeller, or any part or accessory of either, imported under item 864.05, which is removed physically from the United States as part of an aircraft departing from the United States in international traffic shall be treated as exported.' "

Page 2, line 7, after the period insert: "For the purposes of the amendment made by the first section of this Act, articles imported before August 31, 1963, under section 308(1) of the Tariff Act of 1930 shall be treated as imported under item 864.05 of the Tariff Schedules of the United States."

The committee amendments were agreed to.

Mr. MILLS. Mr. Speaker, the purpose of H.R. 1608, as reported by the Committee on Ways and Means, is to provide that aircraft engines, propellers, and parts and accessories thereof may be imported into the United States for purposes of repair duty free if such articles are subsequently removed as part of an aircraft departing the United States in international air traffic.

Present law contains a number of provisions under which articles may be imported duty free into the United States, under bond for various specified purposes, if they are exported within 1 year—with discretionary extensions of time to 3 years. One such provision permits such temporary free importation in the case of merchandise imported to be repaired. The rationale of this exemption is that an article temporarily imported for repair and subsequently exported—thus not entering the U.S. market—should be exempt from duty because it is not in reality an importation for consumption.

The Committee on Ways and Means has been advised, however, of the inability of firms engaged in the repair of aircraft engines to obtain the benefits of this provision under certain circumstances. It is understood that in some instances the practice is for aircraft engines imported for repair to be retained in this country within the bonded period for replacement of defective engines on aircraft coming into the United States in international air traffic. An aircraft in which a repaired engine is installed then departs the United States and resumes its international operations.

Under rulings of the Bureau of Customs, it is held that the installation of the repaired imported engine as a working part of the aircraft and its subsequent departure as such in international traffic does not constitute an "exportation" within the meaning of the law, and consequently, such replacement parts lose their duty-free status.

The Committee on Ways and Means does not believe that this result is consonant with the purpose of this exemption. Accordingly, the pending bill, which was introduced by our colleague, the Honorable MILTON W. GLENN, makes it clear that it shall be irrelevant for purposes of this exemption whether aircraft engines and propellers and parts and accessories thereof, temporarily admitted duty free under bond for repair are removed from the United States as cargo or as an operating part of an aircraft departing the United States in international traffic, effective with respect to articles physically removed from the United States on or after the date of enactment of the bill.

Favorable departmental reports were received on this legislation from the Departments of State, Treasury, and Commerce, the Department of Commerce having pointed out that:

> There is a sizable volume of business carried on in this country for the overhaul of aircraft brought here from other countries. American overhaul facilities are competing for this business with facilities abroad. One of the important results of this legislation, we feel, will be to facilitate and ease the flow from foreign airlines of repair work to American firms engaged in this type of business. Such a result fits in with the objectives of our export expansion drive.

The Committee on Ways and Means was unanimous in favorably reporting this bill.

Mr. BYRNES of Wisconsin. Mr. Speaker, H.R. 1608 amends the tariff schedules of the United States to provide that aircraft engines, propellers, and other parts and accessories thereof may be imported into the United States for purposes of repairing aircraft if such aircraft, upon being repaired, is returned to international use.

This legislation should be beneficial to international air travel in that it will facilitate speedy and necessary repairs within the United States. It should create employment opportunities in the United States in that there will be no cost differential as to parts because of tariffs whether the aircraft is repaired domestically or removed to some foreign air terminal.

The legislation is sufficiently restricted so as to prohibit these repair parts from entering duty free into the domestic market for general sale. They can only enter duty free if they are to be used in aircraft which will subsequently be returned to international flight.

The bill has the unanimous support of the Ways and Means Committee and I urge its enactment by this body.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

> A bill to amend the Tariff Act of 1930 to provide that certain aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes.

A motion to reconsider was laid on the table.

Mr. GLENN. Mr. Speaker, this bill, H.R. 1608, seeks to amend section 308 of the Tariff Act of 1930 by reason of an interpretation of the Bureau of Customs of the present law which defines engines and engine parts imported into this country to be installed in repair jobs being performed on foreign planes by our industry in this country, as not constituting an "exportation" within the meaning of the law, and consequently such replacement parts lose their duty-free status and have been subject to duty on being brought in. This would not appear to be consonant with the purpose of this exemption in that the free entry of aircraft parts for repair purposes is certainly a special advantage for our American industry in that it gives employment opportunities in the United States which we would not otherwise have and hence enhances both work and jobs.

The Department of Commerce has recommended the enactment of this bill and has stated that an important result of this legislation will be to facilitate and ease the flow from foreign airlines of repair jobs to American firms engaged in this type of business, and that result fits in with the objectives of our present export expansion drive.

In my Second District of New Jersey we have a very fine American firm, the Airwork Corp. of Millville, that is engaged to a great extent in this type of work, and foreign airplanes that come into this country are brought to this firm for repairs. Up to now it has been necessary to pay duty on the parts which are needed in this work, but with this bill being enacted into law these parts will be exempt from duty and will be fitted into the foreign planes and will be considered the same as being "exported" when that plane with a repair part goes back into operation.

It is a clarifying bill and one that is very important to our American firms that are doing this type of work and will enhance their opportunities for increasing their business.

## DUTY-FREE ENTRY OF CERTAIN WOOLS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2652), to amend paragraph 1101(b) of the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts, which also was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) paragraph 1101(b) of the Tariff Act of 1930 (19 U.S.C. 1101, par. 1101(b)) is amended by inserting the first sentence thereof the following new sentence: "Karakul wools, and other wools of whatever blood or origin not finer than 40s may be entered or withdrawn from warehouse without the payment of duty by a manufacturer, processor, or dealer upon the filing of a bond to insure that any wool entered or withdrawn thereunder shall be used only in the manufacture of pressed felt for polishing plate and mirror glass: *Provided,* That a tolerance of not more than 10 per centum of such wools than Karakul not finer than 44s may be allowed in each bale or package of wools imported as not finer that 40s."
>
> (b) The amendment made by subsection (a) shall apply with respect to the Karakul and other wools provided for in that subsection which are entered, or withdrawn from warehouse, on or after November 2, 1962, for the use specified in that subsection.
>
> Amend the title so as to read: "A bill to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts."

With the following committee amendment:

> Strike out all after the enacting clause and insert: "That (a) the article description for item 306.00 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, page 124, Aug. 17, 1963) is amended by adding at the end thereof '; and Karakul wools, and other wools of whatever blood or origin not finer than 40s, entered by a dealer, manufacturer, or processor for use only in the manufacture of pressed felt for polishing plate and mir or glass'.
>
> "(b) Paragraph (a) of headnote 4 to subpart C of part 1 of schedule 3 of such title I (Tariff Schedules of the United States; 28 F.R., part II, page 122, Aug. 17, 1963) is amended to read as follows:
>
> " '(a) a tolerance of not more than 10 percent of wools other than Karakul not finer than 44s may be allowed in each bale or package of wools imported as not finer than 40s, and a tolerance of not more than 10 percent of wools not finer than 48s may be allowed in each bale or package of wools imported as not finer than 46s;'.
>
> "(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act. Upon request therefor filed with the collector of customs concerned on or before the 120th day after the date of the enactment of this Act, entries and withdrawals of articles described in the amendment made by subsection (a) (as modified by the amendment made by subsection (b)) which were made on or after November 2, 1962, and before the date of the enactment of this Act (whether before, on, or after the effective date of the Tariff Schedules of the United States) shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entries and withdrawals had been made on the date of the enactment of this Act."

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, as reported by the Committee on Ways and Means, the purpose of H.R. 2652 is to provide for the duty-free treatment of Karakul wools and certain other coarse wools imported for use in the manufacture of pressed felt for polishing plate and mirror glass.

The existing tariff schedules of the United States provide for the duty-free entry of imports of certain specified wools and hair and "all other wools of whatever blood or origin not finer than 46s" if entered solely for use in the "manufacture of camel hair belting, felt or knit boots, floor coverings, heavy fulled lumberman's socks, press cloth, or papermaker's felts."

This exemption, which stems from a similar provision in the original tariff schedules in the Tariff Act of 1930, has been broadened from time to time since its original enactment. The pending bill, which was introduced by our colleague on the Committee on Ways and Means, the Honorable JAMES A. BURKE, would further extend the exemption to permit the duty-free entry thereunder of certain coarse wools, which are not produced in significant quantity in this country, if the wools so imported are used in the manufacture of pressed felt for polishing plate and mirror glass. This treatment would be limited to Karakul wools and to other wools provided they are not finer than 40s.

The Department of Agriculture has advised that wool imported for the manufacture of polishing cloths is a coarse type of wool not available in significant quantities domestically, and the Committee on Ways and Means is of the opinion that duty-free treatment with respect to the wools provided for in H.R. 2652 will be of significant benefit to domestic manufacturers who use this raw material in the production of felt used in the polishing of plate and mirror glass.

Favorable reports on this legislation. which was reported unanimously by the Committee on Ways and Means, were received from the Departments of State, Treasury, and Labor, as well as an informative report from the U.S. Tariff Commission.

Mr. BYRNES of Wisconsin. Mr. Speaker, this legislation will amend our tariff schedules to provide for the duty-free importation of certain wools used in the manufacture of pressed felt for polishing certain glass.

The Ways and Means Committee has been informed that such wools are not available in sufficient quantities in the United States. We have been further informed that the production of these polishing felts is centered in New England and that the duty-free treatment of the wools used in their manufacture will help the employment picture in this area. The bill was unanimously reported by the Ways and Means Committee and deserves your support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

A bill to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts.

A motion to reconsider was laid on the table.

Mr. BURKE. Mr. Speaker, I introduced the bill just passed by the House, H.R. 2652, early in the first session of this Congress. This legislation provides for the duty-free treatment of certain wools imported for use in the manufacture of pressed felt for polishing plate and mirror glass, and its enactment will represent an important step in strengthening the domestic wool industry, for which I have the deepest concern. As is pointed out in the committee report on the bill, practically all of the domestic production of polishing felts is located in the New England area. The reduction in raw material costs to domestic manufacturers resulting from enactment of the bill could materially assist production and employment within the industry, and I am gratified by the action of the House today in favorably considering the bill.

## PROVIDING FOR THE FREE ENTRY OF ONE MASS SPECTROMETER FOR OREGON STATE UNIVERSITY AND ONE MASS SPECTROMETER FOR WAYNE STATE UNIVERSITY

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4364), to provide for the free entry of one mass spectrometer for the use of Oregon State University, which also was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to admit free of duty one mass spectrometer for the use of Oregon State University.

Amend the title so as to read: "A bill to provide for the free entry of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University."

With the following committee amendment:

Page 1, after line 5, insert:

"Sec. 2. The Secretary of the Treasury is authorized and directed to admit free of duty one mass spectrometer for the use of Wayne State University.

"Sec. 3. If the liquidation of the entry of any article described in this Act has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made."

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, the purpose of this bill, which was introduced by our colleague, the Honorable Walter Norblad, is to permit the free importation of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University.

Oregon State University has ordered from abroad a mass spectrometer—a device used by chemists and chemical engineers to provide chemical analyses, measurements, and other research features—for research and graduate instruction in the scientific departments of the university. The Committee on Ways and Means has been advised that at the time Oregon State University placed its order, no domestic firm was offering to design or custom make an instrument with the specific scientific characteristics required by the university. Funds for acquisition of this equipment were granted to the university through the National Institutes of Health.

Similar circumstances attended the ordering of the spectrometer from abroad for the use of Wayne State University. The Department of Commerce has advised that it is of the opinion that at the time the university determined its requirements and specifications for a mass spectrometer, no equivalent instrument was available from domestic producers.

In these circumstances, the Committee on Ways and Means is of the opinion that this legislation is meritorious and consistent with prior congressional enactments, and unanimously recommends its enactment.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, this subject has been up before, with respect to another institution. Is industry in this country still unable to produce this piece of equipment?

Mr. MILLS. The facts are that we do produce spectrometers in the United States, but there are many, many designs and individual types of spectrometers, and these particular two which are involved in this bill, we were assured by the Department of Commerce and others, were not produced in this specification in the United States when these were ordered.

Mr. GROSS. I thank the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, H.R. 4364, as amended by the Ways and Means Committee, provides for the duty-free entry of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University.

We have been informed that no such instruments are presently available for purchase from any domestic firm. Congress has acted in the past on an item-by-item basis to permit other articles to enter duty free for a specific use where no comparable domestic article has been available. I believe such action to be consistent with our system of tariffs and import regulation. Therefore, I see no reason why this bill should not have your support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

A bill to provide for the free entry of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University.

A motion to reconsider was laid on the table.

## SECTION 512(b) OF INTERNAL REVENUE CODE OF 1954

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 6455), to amend subsection (b) of section 512 of the Internal Revenue Code of 1954—dealing with unrelated business taxable income—which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (b) of section 512 of the Internal Revenue Code of 1954 (dealing with unrelated business taxable income) is amended by adding the following new paragraph at the end thereof:

"(14) In the case of an organization which is exempt under the provisions of section 501(c)(5) or section 501(c)(8), there shall be excluded all income used to establish, maintain, or operate a retirement home, hospital, or other similar facility for the exclusive use and benefit of the aged and infirm members of such an organization, which is derived from agricultural pursuits conducted on ground contiguous to the retirement home, hospital, similar facility and further provided that such income does not provide more than 75 percent of the cost of maintaining the retirement home, hospital, or similar facility; and, there shall be excluded all deductions attributable to such income."

Sec. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. Provisions having the effect of such amendment shall be treated as included in the Internal Revenue Code of 1939 effective with respect to taxable years beginning after December 31, 1950.

With the following committee amendment:

Strike out all after the enacting clause and insert: "That subsection (b) of section 512 of the Internal Revenue Code of 1954 (dealing with unrelated business taxable income) is amended by adding the following new paragraph at the end thereof:

"'(14) In the case of an organization which is described in section 501(c)(5), there shall be excluded all income used to establish, maintain, or operate a retirement home, hospital, or other similar facility for the exclusive use and benefit of the aged and infirm members of such an organization, which is derived from agricultural pursuits conducted on ground contiguous to the retirement home, hospital, or similar facility and further provided that such income does not provide more than 75 percent of the cost of maintaining and operating the retirement home, hospital, or similar facility; and there shall be excluded all deductions directly connected with such income.'

"Sec. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1962."

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, the purpose of this bill is to provide an exemption from the tax on unrelated business taxable income in the case of labor unions and agricultural or horticultural organizations where three conditions are met. First, the income must be used to establish, maintain, or operate a retirement home, hospital, or similar facility for the exclusive use of aged and infirm members of the labor union or agricultural or horticultural organization. Second, the income must be derived from agricultural pursuits conducted on ground contiguous to the home, hospital, et cetera. Third, this income may not represent more than 75 percent of the cost of maintaining and operating the home, et cetera.

Present law provides that certain otherwise tax-exempt organizations, including labor, agricultural, or horticultural organizations, are to be subject to tax on any "unrelated business taxable income," such income being defined as excluding the various forms of passive income such as dividends, interest, and so forth. It includes income from the active conduct of a trade or business which is not substantially related—apart from the organization's need for profits—to the exempt purpose of the organization in question. The tax does not apply in the case of fraternal beneficiary societies, orders, or associations, civic leagues and similar organizations, local life insurance associations, as well as several other categories of exempt organizations.

A situation has been called to the attention of the Committee on Ways and Means where a labor union maintains a retirement home, hospital, and similar facilities for the benefit of the aged or infirm members of the union. A significant portion of the income used to maintain this home is derived from agricultural pursuits on ground immediately adjacent to the union's home for its aged.

Under present law, the income derived from such agricultural pursuits has been held to be unrelated business taxable income and, therefore, subject to tax. The Committee on Ways and Means is of the opinion that this is an undesirable result in cases of this type where the combination of a number of factors indicate that relief from this tax is appropriate. If the income were derived by a fraternal order from the same source and used for a retirement home for its members, under present law, the income would not be taxed. The committee believes that in situations of this type, where the income is derived from property adjacent to the retirement home, and represents income from an agricultural pursuit but at the same time does not account for all of the expenses of maintaining the retirement home—coupled with the similarity of the types of organizations covered to those of fraternal orders—exemption of the income from tax is justified. In addition, there is also the fact that if the union were to enter into a rental arrangement whereby someone else takes the profit risk, the rental income it would derive would be exempt from tax. Exemption in this case, therefore, is denied only because the profit element is retained by the labor union rather than going to a taxable organization.

Accordingly, the pending bill, which was introduced by our colleague on the Committee on Ways and Means, the Honorable JOHN W. BYRNES, provides an exemption from the tax on unrelated business taxable income for this type of case. The exemption applies only in the case of a labor union or agricultural or horticultural organization, and in order for the exemption to be available several requirements—as described above—must be met. Similar legislation was also introduced by our colleague on the committee, the Honorable STEVEN B. DEROUNIAN, as well as by nine other Members of the House, and the committee unanimously recommends enactment of the bill as reported.

Mr. BYRNES of Wisconsin. H.R. 6455 provides an exemption from the tax on unrelated business taxable income in the case of labor unions and agricultural or horticultural organizations. It will alleviate a problem which was brought to our attention as a result of the operation of a retirement home at Lakeland, Fla., by the United Brotherhood of Carpenters and Joiners. This home is situated in the midst of citrus groves, the operation of which supplements the funds needed to maintain the home.

Sections 511–515 of the Internal Revenue Code were adopted in 1950 in order to prevent tax-exempt organizations from serving as a "tax shelter" for the income of so-called unrelated business enterprises. There was unquestionably some abuse of the tax exemption at that time. Therefore, the Congress decided that the so-called unrelated business income of a tax-exempt organization would be taxable.

The Internal Revenue Service has taken the position that the income from the citrus groves of the retirement home is taxable as unrelated business income of the United Brotherhood of Carpenters and Joiners. However, it is not claimed that the retirement home is being used as a "tax shelter" in the manner sought to be precluded by the sections providing for the taxation of unrelated business income of tax-exempt organizations. Therefore, I strongly feel that the situation merits legislative action.

The tax on unrelated business income does not presently apply in the case of fraternal beneficiary societies, orders, or associations, civic leagues and similar organizations, local life insurance associations, as well as several other categories of exempt organizations.

The bill provides a more limited exemption from the tax on unrelated business taxable income in the case of labor unions and agricultural or horticultural organizations. In order to qualify as an exception to the unrelated business income rule, three conditions must be met. First, the income must be used to maintain a retirement home or similar facility for the aged and infirmed members of the exempt organization. Second, the income must be derived from agricultural pursuits conducted on the premises or adjacent to the retirement home. Finally, the income cannot represent more than 75 percent of the cost of the maintenance. The retirement home operated by the Brotherhood of Carpenters and Joiners at Lakeland, Fla., meets these strict standards.

I think that these types of organizations should be encouraged in the establishment and maintenance of retirement homes for their older members. Agricultural pursuits should not be denied to these operations. In fact, the location of the Carpenters' home, in the citrus groves of Florida, is ideally suited for that purpose. The Carpenters' home qualifies for tax exemption under section 501(c)(5) of the Internal Revenue Code. The income from its groves is devoted exclusively to the maintenance of the home. I am certain that we did not intend—when we enacted the unrelated business income rules in 1950—to burden this type of organization and this type of income with a tax. In fact, the 1950 rules clearly would not apply if the organization elected to lease the groves to an independent operator rather than operate the citrus groves itself. Sound policy dictates that the same rule apply to the income derived from the operation of the groves by the home.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HALEY. Mr. Speaker, I rise to express my wholehearted support for H.R. 6455. This legislation is very important to the people I am privileged to represent because it deals directly with the Carpenters Home, the Home for the Aged that the United Brotherhood of Carpenters & Joiners of America have operated in Lakeland, Fla., for more than 36 years. Since I represent Lakeland in the Congress, I have visited the home on many occasions and have had the opportunity to observe directly what this operation means to the retired and aged members of the union.

This situation was first called to my attention in late 1962 and shortly before the 87th Congress adjourned I introduced a similar bill, H.R. 13274. Immediately following the convening of the 88th Congress, I introduced H.R. 887, a bill almost identical to the bill which is before us today. My distinguished colleagues in the Senate, the Honorable SPESSARD L. HOLLAND and the Honorable GEORGE SMATHERS introduced companion legislation.

As you have been advised, H.R. 6455 would amend that section of the Internal Revenue Code of 1954 which deals with unrelated business taxable income. The issue at hand here is the fact that the income this brotherhood has received from its agricultural activities has been used, together with the dues of its members, to support its home for the aged. The continued operation of this home will be jeopardized unless this or similar legislation is passed by the Congress. It is my understanding that unless such legislation is passed the brotherhood will have to close this institution, which has served its aged members well since 1928.

## SUSPENSION OF DUTY ON MANGANESE ORE

**Mr. MILLS.** Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7480), to suspend for a temporary period the import duty on manganese ore—including ferruginous ore—and related products, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That manganese ore (including ferruginous manganese ore) or concentrates, and manganiferous iron ore, containing in excess of 10 per centum of metallic manganese, provided for in paragraph 302(a) of the Tariff Act of 1930, shall be admitted free of duty if entered, or withdrawn from warehouse, for consumption, after the date of the enactment of this Act and before the expiration of the three-year period beginning on the day after such date.

With the following committee amendment:

Strike out all after the enacting clause and insert: "That (a) subpart B of part 1 of the appendix to title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, Aug. 17, 1963) is amended by inserting immediately below item 911.05 the following new item:

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|---|---|---|---|---|
| "911.07 | Manganese ore, including ferruginous manganese ore, and manganiferous iron ore, all the foregoing containing over 10 percent by weight of manganese (provided for in item 601.27, part 1, schedule 6). | Free | 1c per lb. on manganese content | On or before 6/30/67." |

"(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the enactment of this Act."

The committee amendment was agreed to.

**Mr. MILLS.** Mr. Speaker, the purpose of H.R. 7480, as reported by the Committee on Ways and Means, is to suspend temporarily the import duty on certain manganese ore.

The principal use of manganese ore is for metallurgical purposes in the production of steel. Much smaller amounts are consumed in the production of dry-cell batteries and in the manufacture of manganese chemicals. Consumers of manganese ore in the United States are principally producers of manganese ferroalloys, primarily ferromanganese, and to a lesser extent silicomanganese.

During 1962 domestic ore accounted for only about 1 percent of the manganese ore consumed in the United States for metallurgical purposes; only about 12 percent of consumption in the manufacture of dry-cell batteries; and about 4 percent of the ore used in producing chemicals and for miscellaneous applications. The balance of domestic consumption of manganese ore is supplied by imports, principally from Brazil, Ghana, India, Morocco, and the Union of South Africa.

The pending bill, which was introduced by our colleague on the Committee on Ways and Means, the Honorable W. PAT JENNINGS, would suspend, until June 30, 1967, the present reduced rate of duty, established pursuant to trade agreement concessions, on manganese ore, including ferruginous manganese ore, and manganiferous iron ore, containing over 10 percent by weight of manganese. The reduced rate of duty is presently one-fourth cent per pound on the metallic manganese content of the ore. The suspension would not apply to ore importations from Communist or Communist controlled or dominated countries specified in general headnote 3(d) of the Tariff Schedules of the United States. Ore from such countries would still be subject to the full rate of 1 cent per pound on manganese content.

The Committee on Ways and Means is convinced that the temporary suspension of duty provided by this legislation is fully justified and warranted. In addition to the fact that there is little production of manganese ore in the United States, in many respects the characteristics of the ore that is mined domestically render it noncompetitive with imported ore. In addition, suspension of the existing duty on the basic raw materials will reduce costs to domestic producers of ferromanganese and other manganese alloys and should result in enhancement of the competitive position of domestically produced alloys in the market.

The Departments of State, Treasury, Commerce, Interior, Labor, and the Office of Emergency Planning submitted favorable reports on this bill, and the U.S. Tariff Commission an informative report, and the Committee on Ways and Means was unanimous in favorably reporting it to the House.

**Mr. BYRNES of Wisconsin.** Mr. Speaker, H.R. 7480 would temporarily suspend the duty on manganese ore until June 30, 1967.

This is another situation where the domestic supply accounts for a very small percentage of the product consumed by domestic industry. We have suspended duties in similar situations in the past and today are considering a like bill dealing with imports of alimina and bauxite. Continuation of the duty would be of no benefit to the domestic suppliers, but its suspension could help to keep the price of the ore down.

I might point out that the suspension is qualified in that it does not apply to any Communist-controlled or dominated countries.

The bill was unanimously reported by the committee and I urge its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

**Mr. JENNINGS.** Mr. Speaker, I introduced H.R. 7480 in the House last year and it was favorably reported by the Committee on Ways and Means. It is of great economic importance to my district and Virginia. I urge its approval.

This bill amends the tariff schedules of the United States to remove the existing one-fourth-cent-per-pound duty from manganese ore imports from free nations of the world. It does not make any change in the existing duty rates on ores from Communist or Communist-controlled or dominated countries. The full duty rate would still be applicable as in the present tariff schedules.

Consumers of manganese ores in this country are principally producers of manganese ferroalloys—particularly ferromanganese. There is little production of these ores in the United States and this bill would have no significant effects as far as domestic producers are concerned. Removal of the duty on imported ores would, however, enable domestic processors of these ores to compete more equitably with foreign ferromanganese producers.

My interest in this legislation stems from the effects it would have on the use of coke from the coalfields of Virginia. Ferromanganese producers use coke in their blast furnaces; one principal producer in Virginia has closed its blast furnace because of the inability to compete with ferromanganese imports from overseas. With the removal of the duty rate on the raw ore, this firm can reopen its blast furnace and immediately provide additional employment.

Reopening of this furnace would provide a market for approximately 9,000 tons of coke per month from one of my coalfield counties. This would mean more employment in the production of the coal and coke. There would also be favorable economic effects in the increased transportation of ores, coal, coke and the finished alloy product.

The departmental reports on this legislation are favorable. You will note in the committee's report that the Tariff Commission states that suspension of the import duty would have little effect on domestic ore production, which is "minute" compared to the demand. The Departments of Interior, Labor, Commerce, State, and Treasury are generally favorable. The Office of Emergency Planning raises no objections.

The Department of Labor report makes the specific point that no adverse effects on employment in the United States would be felt as the result of this duty suspension. This comment refers to the domestic ore producing industry.

By having the imported manganese ores available to the domestic processors and thus insuring that our furnaces are in operation, we can possibly assist our domestic ore producers in their efforts to find markets for their ores. Certainly our domestic producers cannot hope to sell their ores overseas, and if domestic furnaces are not in operation to make ferromanganese a market here at home will never develop.

The Committee on Ways and Means was unanimous in its action on H.R. 7480, as amended to conform to the tariff schedules published last year.

Mr. Speaker, this is a bill that can offer immediate encouragement to my district and Virginia. It will offer significant incentive to other sections of the Nation. I have had expressions of interest and support from business firms, trade associations, railroads, labor organizations and others.

I have sponsored this bill because it is fully needed and justified. I urge favorable House action today.

Mr. POFF. Mr. Speaker, I do not often support legislation repealing or suspending tariffs on imports of foreign products. I do so only when I am convinced that the tariff constitutes no substantial revenue item, that removal of the tariff would not prejudice American industry and labor and that removal will actually promote the interests of some segment of American industry and labor. On all three counts, H.R. 7480 measures up, and I support it enthusiastically.

The tariff on manganese imports amounts to only one-fourth of 1 cent per pound of metallic manganese, the revenue from which is only minor. Very little high-grade manganese ore is mined in the United States; low-grade domestic ores are practically noncompetitive with high-grade ore imports; and I know of no opposition to this legislation from American manganese miners.

On the other hand, practically all consumers of manganese, including principally producers of manganese ferroalloys such as ferromanganese and silicomanganese, support H.R. 7480. They do so because they consider its passage essential to the economic health of their industry. From personal experience, the people of the district I am privileged to represent can attest to its need. Primarily because foreign producers of ferromanganese, close to ore sources and enjoying low payroll costs, can ship their product to this country and sell it to American buyers at a lower price than American ferromanganese producers, two blast furnaces located in our congressional district were closed in June 1962. If this legislation becomes law and the import duties on this industry's raw material are suspended, it will be possible to reopen both of those furnaces and offer reempolyment to those whose jobs were terminated 2 years ago.

Let me emphasize two things. First, the suspension of duties does not apply to manganese ore originating in Communist or Communist dominated countries. Second, the suspension is temporary only. If different circumstances dictate different action, the Congress always has within its jurisdiction the power to restore duties. Under the bill, suspension will expire and duties will automatically be restored after June 30, 1967. This seems to be an altogether reasonable test period, and I applaud the House for acting favorably today in order that the other body will have ample opportunity to consider the measure before adjournment.

## PREVENTION OF DOUBLE TAXATION—TOBACCO PRODUCTS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8268) to amend the Tariff Act of 1930 to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States and subsequently reprocessed in the manufacturer's bonded factory, which was unanimously reported by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That paragraph 1615(f) of the Tariff Act of 1930 (19 U.S.C. 1201, par. 1615(f)) is amended by inserting "(1)" after "(f)", and by adding at the end thereof the following:

"(2) Notwithstanding the first sentence of subdivision (1), tobacco products and cigarette papers and tubes previously exported and otherwise subject to duty (upon entry, or withdrawal from warehouse, for consumption) may be released from customs custody, without payment under such sentence of the duty equal to the internal revenue tax, for delivery to a manufacturer of such articles in accordance with such regulations and under such bond as the Secretary of the Treasury or his delegate shall prescribe. The tobacco products and cigarette papers and tubes upon such release shall be subject to the internal revenue tax imposed upon like articles not previously exported from the United States."

Sec. 2. The amendments made by the first section of this Act shall apply only with respect to articles entered, or withdrawn from warehouse, for consumption, on or after the date of the enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause, and insert: "That (a) headnote 2 to subpart A of part 1 of schedule 8 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, Aug. 17, 1963) is amended by striking out 'and' at the end of paragraphs (a), by relettering paragraph (b) as paragraph (c), and by inserting after paragraph (a) the following new paragraph:

"'(b) tobacco products and cigarette papers and tubes classifiable under such item may be released from customs custody, without payment of that part of the duty attributable to the internal-revenue tax, for return to internal-revenue bond as provided by section 5704(e) of the Internal Revenue Code of 1954; and'.

"(b) Section 5704 of the Internal Revenue Code of 1954 (relating to exemption from tobacco tax) is amended by adding at the end thereof the following new subsection:

"'(e) Tobacco Products and Cigarette Papers and Tubes Exported and Returned.—Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without payment of that part of the duty attributable to the internal-revenue tax, for delivery to a manufacturer of tobacco products or cigarette papers and tubes, in accordance with such regulations and under such bonds as the Secretary or his delegate shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.'

"Sec. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the enactment of this Act."

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, the purpose of H.R. 8268, as unanimously reported by the Committee on Ways and Means, is to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory.

Under existing law, when tobacco products, which have been exported without payment of internal revenue tax imposed by section 5701 of the Internal Revenue Code of 1954, are returned unchanged to the United States, they are dutiable under item 804.00 of the Tariff Schedules of the United States. In addition to the regular duty, duty equal to the internal revenue tax imposed by section 5701 is collected under item 804.00 when the tobacco products are released to the manufacturer's internal revenue bonded factory. Upon subsequent removal—after reprocessing—of the tobacco products from the internal revenue bonded factory for domestic use or consumption, the manufacturer pays the internal revenue tax imposed by section 5701, and thus a tax is in effect paid twice on the same tobacco products.

The pending bill, which was introduced by our colleague on the Committee on Ways and Means, the Honorable John C. Watts, would eliminate this tax inequity. Under the amendments to headnote 2 to subpart A of part 1 of schedule 8 of the tariff schedules and section 5704 of the Internal Revenue Code of 1954 provided by the bill as reported, tobacco products and cigarette papers and tubes previously exported and otherwise subject to duty may be released, without payment of that part of the duty attributable to the internal revenue tax, for delivery to a manufacturer of such articles in accordance with such regulations and under such bond as the Secretary of the Treasury or his delegate shall prescribe. The effect would be to eliminate the first of the two instances of imposition of tax described above.

Favorable reports were received on this legislation from the Departments of State, Treasury, Agriculture, Commerce, and Labor, as well as an informative report from the U.S. Tariff Commission, and the Committee on Ways and Means unanimously recommends its enactment.

Mr. BYRNES of Wisconsin. Mr. Speaker, the bill H.R. 8268 corrects an inequity in the tariff treatment of certain tobacco products which are exported and then returned unchanged to the United States.

First, under existing law, when the exported tobacco products are returned to the United States unchanged they are dutiable. Second, when these tobacco products are released to the manufacturer's internal revenue bonded factory they are again dutiable under a tariff equal to the internal revenue tax under section 5710 of the Internal Revenue Code.

It does not seem reasonable to impose two tariffs on tobacco products under these circumstances, when other such products are either dutiable or taxed only once. The legislation would prevent this assessment of a double-duty and provide that products entering under such circumstances would be dutiable only when released to the manufacturer's internal revenue bonded factory.

I believe it is only right that we correct this situation and, therefore, urge passage of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory."

A motion to reconsider was laid on the table.

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## TARIFF CLASSIFICATION OF CERTAIN PARTICLEBOARD

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8975) to provide for the tariff classification of certain particleboard.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That wood particleboard which was entered, or withdrawn from warehouse, for consumption after July 11, 1957, and before the effective date of the Tariff Schedules of the United States issued pursuant to the Tariff Classification Act of 1962, Public Law 87-456, May 24, 1962, shall be classified for duty purposes as wallboard under paragraph 1402 of the Tariff Act of 1930, if not excluded from classification under such paragraph by reason of any processing specified therein. The entries involved shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, be liquidated or reliquidated in accordance with the preceding sentence, except that no refunds shall be allowed thereby unless claim therefor is filed with the collector of customs concerned within one hundred and twenty days after date of enactment of this Act.

With the following committee amendments:

Page 1, strike out line 5 and all that follows through "shall" in line 7 and insert "before August 31, 1963, shall".

Page 2, line 1, after "1930" insert "or any other provision of law".

The committee amendments were agreed to.

Mr. MILLS. Mr. Speaker, the purpose of this legislation is to provide for the tariff classification of certain particleboard. Under the tariff schedules in effect prior to August 31, 1963, the effective date of the new tariff schedules of the United States, it was the practice of the Bureau of Customs to classify imports of particleboard in standard wallboard sizes, such as 4 by 8 feet, as wallboard under paragraph 1402 of the Tariff Act of 1930, as modified, at the rate of 5 percent ad valorem, provided such particleboard had not been treated, processed, or finished in any manner described in such paragraph so as to preclude classification thereunder.

Several instances have been called to the attention of the Committee on Ways and Means, however, where classification under paragraph 1402 was denied because, for example, the 4- by 8-foot dimensions had been exceeded by up to, and including, 1 inch. In one such case the importer concerned acted upon advice that the addition of 1 inch to the length and width of the particleboard would not affect classification under paragraph 1402. However, the collector of customs who classified this merchandise deemed such excess to preclude classification under paragraph 1402. The result is that the importer in question must pay duty under another paragraph at a rate, in terms of ad valorem equivalence, of approximately 400 percent. There were also other entries of particleboard where the question of classification centered about the effect of an excess of up to 1 inch in various wallboard dimensions.

Court decisions under the old schedules left the proper classification of particleboard unresolved, and as a consequence, as indicated above, substantial diversity of tariff treatment of particleboard has occurred. It is understood that the addition of up to 1 inch in the particleboard in question is for purposes of protecting the true size in question. If, as often happens, during handling and shipping the edges of the boards are damaged, the extra margin can be trimmed without affecting the basic size. The Committee on Ways and Means is of the opinion that the mere addition of such a small amount of board for such purpose should not affect its classification.

Accordingly, H.R. 8975, as unanimously reported by the Committee on Ways and Means, would provide a uniform treatment for such entries by providing that wood particleboard, which was entered or withdrawn from warehouse for consumption after July 11, 1957, and before August 31, 1963, is dutiable under the provision for wallboard in paragraph 1402 of the Tariff Act of 1930 at the rate of 5 percent ad valorem if not excluded from classification thereunder by reason of any processing specified therein. The inequity sought to be rectified by the bill for entries before August 31, 1963, will not be encountered under the new tariff schedules of the United States since item 245.50 of the new scheduled provides specifically for "wood particleboard, whether or not face finished" at a specified rate of 12 percent ad valorem. It should be understood, of course, that the purpose of this bill, as I have indicated, has to do with the question of shipments of particleboard which were imported prior to August 31, 1963, but this bill does not involve the more basic question of the propriety of the rate of 12 percent ad valorem which under the tariff schedules is at the present time applicable to particleboard. In other words, we are not in this bill legislating or passing judgment on what should be the proper basic rate of duty on particleboard under the tariff schedules of the United States.

I should like to point out that the application of the bill is not limited to any particular size particleboard which was entered during the specified period. At the suggestion of the Treasury Department the provisions of the bill were broadened to encompass particleboard entered during the critical period mentioned regardless of its size. This the committee found was necessary to clear up a maze of confusion and substantial inequities in the classification of entries of this product which occurred prior to the adoption of the new tariff schedules. This bill, of course, is limited to merchandise known in the trade and commerce of the United States as particleboard and does not cover odd sizes and shapes which because of their peculiar contours or otherwise are distinct articles of commerce and not simply particleboard.

Favorable reports on this bill, which was introduced by our colleague on the Committee on Ways and Means, the Honorable VICTOR A. KNOX, were received from the Departments of State, Treasury, Commerce, and Labor, as well as an informative report from the U.S. Tariff Commission.

Mr. BYRNES of Wisconsin. Mr. Speaker, H.R. 8975 would provide a uniform treatment for imported wood particleboard which was entered or withdrawn from a warehouse for consumption after July 11, 1957, and before August 31, 1963, in that such particleboard would be subject to a duty of 5 percent ad valorem.

Certain particleboard heretofore has been imported into the United States at very high rates of duty. In some cases particleboard, because it exceeded the normal 4 by 8 dimensions by 1 inch to protect the board from damage in shipment, was assessed a duty of approximately 400 percent rather than the general 5-percent rate. This bill would correct this situation.

I might point out to my colleagues that it is not necessary to correct it beyond the August 31, 1963, date contained in the bill because the new tariff schedules which went into effect at that time establish a uniform rate for prospective imports.

Since the bill has the unanimous support of the committee, I feel it deserves your support.

Mr. HERLONG. Mr. Speaker, under leave to extend my remarks I wish to explain further my strong support for the adoption of H.R. 8975. This bill as amended in the Committee on Ways and Means has been strongly endorsed by the Treasury Department which is charged with administration of the customs laws.

For some 4 or 5 years prior to August 31, 1963, when the U.S. tariff schedules became effective there had been a great deal of confusion in the Bureau of Customs and in the courts as to the proper classification of particleboard. This was a new product not known at the time of the adoption of the Tariff Act of 1930. By reason of its characteristics and the materials used in its manufacture it developed that it logically could be—and in fact was from time to time—classified under a variety of sections of the Tariff Act of 1930. One of these was paragraph 1539(b) which as applied to this product resulted in an exhorbitant duty of 400 percent or more ad valorem. Under another section which frequently seemed a logical classification for the product when in wallboard sizes, it was subjected to a rate of only 5 percent ad valorem. As things developed, in some instances the product was imported under the assumption that it would be admitted as wallboard at 5 percent ad valorem and some years after the entries were made—and long after the goods had been consumed in the domestic economy—the entry was reclassified at the 400 percent-plus ad valorem rate under paragraph 1539(b). This was due to the confusion which existed as to the applicable paragraph of the Tariff Act and in part to slight variations in sizes which raised some questions in the minds of some collectors as to whether or not the entry could qualify as wallboard.

Substantial litigation ensued but it never really solved the problem for it was inconclusive. As a result of almost unbelievable inequities in duty assessments on importers under paragraph 1539(b) and the great confusion which existed for several years before the tariff schedules of the United States were adopted, the Department of the Treasury strongly recommended that imports of this article for the period July 11, 1957, through August 30, 1963, be reliquidated at 5 percent ad valorem, thereby cleaning the record so to speak for the past without the necessity of expensive and time-consuming litigation which would otherwise have to be undertaken over a number of years.

To point out the inequities which developed I should like to give you one example. A company in Orlando, Fla., in 1959 imported particleboard from Surinam of an invoice value of approximately $24,000 in sizes 4 feet wide and in lengths from 6 feet up to 12 feet plus a 1-inch margin in length and width. The importer paid a 5-percent ad valorem duty upon entry of the goods. Some 2 years later, long after the goods had been consumed in commerce, the importer received a bill from the Customs Bureau for additional duties in excess of $91,000. Payment of such a grossly excessive duty would have bankrupted the company. It has thus far forestalled the Treasury's attempts to collect this excessive duty. Everyone is sympathetic with the importer but only this legislation can solve the problem of this importer and of a number of others who fell into the same trap.

In any event, I want to make it clear that the inequities which arose as to the assessment of this product at times at 400 percent ad valorem long after it was entered related not only to standard wallboard sizes—these are sizes 6 feet to 12 feet in length and in width 16 inches or any multiple thereof—but as well to other sizes of particleboard which entered during the period covered by the act.

Finally, I wish to point out that since the tariff schedules have been adopted, passage of this bill will not in any way affect the future rate applicable to this commodity for the tariff schedules establish the rate at 12 percent.

Thus, I heartily recommend to the House the adoption of this bill to solve the Treasury's problem, the problems of my friends in Orlando who fell into the trap I have described and others who were similarly affected.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## DUTY OF ALUMINA AND BAUXITE

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9311) to continue for 2 years the suspension of duty on certain alumina and to make permanent the suspension of duty on certain bauxite.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That item 907.15 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, page 432, Aug. 17, 1963) is amended by striking out "On or before 7/15/64" and inserting in lieu thereof "On or before 7/15/66".

SEC. 2. (a) Item 521.17 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, page 233, Aug. 17, 1963) is amended to read as follows:

"|521.17| Bauxite, calcined____|Free |Free |"

(b) Item 601.06 of such title (28 F.R., part II, page 256, Aug. 17, 1963) is amended to read as follows:

"|601.06| Bauxite______________|Free |Free |"

(c) Items 909.30 and 911.05 of such title (28 F.R., part II, page 433, Aug. 17, 1963) are repealed.

(d) The amendments and repeals made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after July 15, 1964.

Mr. MILLS. Mr. Speaker, the purpose of H.R. 9311 is to continue for 2 years, until July 16, 1966, the suspension of duty on alumina when imported for use in producing aluminum, and to make bauxite ore and calcined bauxite permanently free of duty.

The duty on alumina, when imported for use in producing aluminum, has been suspended since July 17, 1956, the original 2-year suspension of Public Law 84–725 having been extended for 2-year periods continuously since that time. The duty on crude bauxite and calcined bauxite was suspended by Public Law 84–499, until July 16, 1956, and has been in effect continuously since that time, the provisions relating to the suspension of duty on alumina and bauxite having been consolidated since the extension enacted during the 85th Congress.

Alumina is a product used for the production of aluminum, and the bulk of the alumina consumed in the United States is used for that purpose. Bauxite is a mineral used in the production of alumina—from which aluminum is produced—abrasives, chemicals, refractionary products, and miscellaneous products, and is vital to domestic industries such as the aluminum, steel, and chemical industries.

The production of aluminum involves two main operations: the production of alumina from the crude ore—almost entirely bauxite—and the production of aluminum metal from alumina. A large part of the domestic production of aluminum in recent years has been derived from imported aluminum-bearing material. The Committee on Ways and Means has been advised that domestic reserves of bauxite are quite limited, and that the United States is relying heavily upon foreign bauxite to fulfill the increasing demand for this raw material.

The Department of the Interior advised the committee that:

> Domestic and international consumption of aluminum continues at a high level. Domestic reserves of good quality bauxite are small and insufficient to satisfy domestic demand. Since the domestic aluminum producers already depend heavily on foreign supply sources (a number of which are controlled by U.S. capital), it would be wise, in our view, to do whatever is feasible to lower the cost of the raw material to the producer, and thus to maintain or possibly reduce the present costs of aluminum commodities to the consumer.

The Department of the Interior further stated that:

> We believe that H.R. 9311 might also be of assistance in helping to hold export markets for U.S. aluminum already won and to expand export trade in U.S.-produced aluminum commodities.

Favorable reports on H.R. 9311, which was introduced by our colleague on the Committee on Ways and Means, the Honorable CECIL R. KING, were received from the Departments of State, Defense, Treasury, Labor, and Interior, and from the Office of Emergency Planning, as well as an informative report from the U.S. Tariff Commission.

The Committee on Ways and Means is convinced that, in view of the considerations outlined above and the experience gained under prior and present suspensions, the further 2-year suspension of duty on alumina and the permanent suspension of duty on bauxite as provided by this bill are warranted and fully justified, and it was unanimous in recommending its enactment.

Mr. BYRNES of Wisconsin. Mr. Speaker, the bill H.R. 9311 would continue for another 2-year period the suspension of duty on certain alumina and make permanent the prior suspension of duty on bauxite.

Bauxite, from which alumina is produced, is available in limited quantities in the United States. U.S. manufacturers rely heavily on imports of foreign bauxite. For this reason, duties on bauxite or alumina would be of no benefit to domestic suppliers. To the contrary, suspension of the duties on these two items should help to maintain price stability with respect to aluminum products.

The bill was unanimously reported by the Ways and Means Committee and I believe it deserves your strong support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## "BOURBON WHISKEY" AS A DISTINCTIVE PRODUCT

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (S. Con. Res. 19) to designate "Bourbon whiskey" as a distinctive product of the United States.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. LINDSAY. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from New York.

Mr. LINDSAY. Mr. Speaker, reserving the right to object, I have some questions I would like to ask the chairman of the Committee on Ways and Means.

Mr. Speaker, what is the impact of this resolution with respect to existing imports of bourbon whisky?

Mr. MILLS. If the intention expressed by the committee is carried out by the executive departments, then there could be no whiskies imported into the United States under the trade name of bourbon whisky.

Mr. LINDSAY. I do not see that the resolution is mandatory at all.

Mr. MILLS. It is not. It expresses the sense of Congress that something be done, and if you will read on page 2, beginning at line 2, you will see where we say:

> That is the sense of Congress that the recognition of Bourbon whiskey as a distinctive product of the United States be brought to the attention of the appropriate agencies of the United States Government toward the end that such agencies will take appropriate action to prohibit the importation into the United States of whisky designated as "Bourbon whiskey".

The gentleman from New York, I know, understands that this does not mean that the whisky could not be imported into the United States. It just cannot be imported into the United States with the name bourbon whisky on the label.

Mr. LINDSAY. I take it this resolution would not apply to a tourist bringing in bourbon whisky labeled as such made outside the United States.

Mr. MILLS. It would apply to all imported whisky.

Mr. LINDSAY. I have another question. The resolution says this is the sense of Congress. As one Member, I wish to state here it is not the sense of this Member. I have two constituents, ladies, a mother and daughter living together whose income comes from a very small distillery at Juarez, Mexico. They have been producing a bourbon whisky for years in small amounts which is sold over the border. If this resolution goes through, they will be deeply prejudiced. This comes as a terrible shock to them. Does the gentleman honestly think that is fair?

Mr. MILLS. Yes, I do, and for this reason: In this country the Internal Revenue Service will not permit, as an Illinois distiller tried to, someone to obtain permission to produce what he wanted to describe as Scotch whisky. Our own people are not permitted to produce under the name of Canadian whisky.

They are not permitted to use the name Irish whisky in the production of the product in the United States. All we are proposing to do here is to express the sense of the Congress that the people abroad be treated in their operations abroad and their imports into the United States just as our own American citizens are presently being treated by the Internal Revenue Service through the Alcohol and Tax Division.

Mr. LINDSAY. Would the gentleman agree that it would be wise to express the sense of Congress that this shall not be ex post facto?

Mr. MILLS. I do not understand that; does the gentleman mean that it would not apply to future imports?

Mr. LINDSAY. How about leaving existing situations alone? The impact is tiny, as I understand. It is a mere drop in the bourbon bucket.

Mr. MILLS. It may be in the instance which the gentleman has in mind, of these imports coming from Mexico. But there is no reason why imports could not come from any other country in the world at this time under the existing provisions.

As the gentleman knows, there is an International Federation of Wines and Spirits. They are very anxious to protect those products which are native to all countries in the world. But they cannot do it without all the other countries taking some action. Action has been taken in every country that produces any distinct type of spirit or wine, except here in the United States. If we want to preserve the term "bourbon whisky" which came about initially as I understand it from the fact that this whisky was produced in Bourbon County, Ky., this International Federation will try to protect that term for American producers and prevent its being used abroad as a description of spirits that would be shipped into the United States.

Mr. LINDSAY. Then I understand that the answer to the question that I asked the gentleman is that he sees no reason why existing situations cannot be left alone. I am sure the gentleman would not want to prejudice these two dear ladies in New York.

Mr. MILLS. Certainly we do not like to prejudice the two ladies or anybody else. But there is nothing in this that prevents their continuing to ship into the United States the product of their distillery in Mexico. What we are suggesting is that in the future they use some other term to describe it, than bourbon whisky.

Mr. LINDSAY. Suppose they say "bourbon whisky distilled in Mexico"; would that be all right?

Mr. MILLS. No; that would not be permitted under this expression that we have. Neither would the term "bourbon type" be permitted.

Mr. LINDSAY. I wonder if the author of the resolution, if he is on the floor——

Mr. MILLS. The author of the resolution is the very distinguished Senator from Kentucky [Mr. MORTON].

Mr. LINDSAY. I wonder if the author of the resolution in the House, if there is one, or anyone who is interested in this resolution in the House, would consider, in the event that I ask that the bill be passed over without prejudice, rewriting it in such fashion that this small drop in the bourbon bucket, would not be affected.

Mr. MILLS. There is nothing in the resolution, I might say to my friend from New York, as I read it, that would prevent the Department from taking no action. There is nothing here that would prevent the Department, in the process of carrying out this sense of the Congress, taking action with respect to new imports of bourbon whisky from sources that have not heretofore come to the United States.

Mr. LINDSAY. I take it, then, that this legislation leaves wide latitude in the executive branch of the Government.

Mr. MILLS. Entirely.

Mr. LINDSAY. Latitude to do anything or not to do anything?

Mr. MILLS. That is right. It is an expression of the sense of the Congress. It is not a directive to anyone.

Mr. LINDSAY. Could we agree that it is the sense of our discussion here on the floor of the House today that this existing situation should be left alone?

Mr. MILLS. I would prefer to have the gentleman from Kentucky [Mr. WATTS] who has coauthored this legislation, explain his intent.

Mr. WATTS. Mr. Speaker, will the gentleman yield to me?

Mr. LINDSAY. I yield to the gentleman from Kentucky.

Mr. WATTS. With reference to the existing situation the gentleman is talking about, no; I would not agree to such an amendment and I can very plainly tell the gentleman why.

Mr. LINDSAY. The gentleman from New York was not asking for an amendment. The gentleman was just asking whether we could make some legislative history along that line on the floor of the House here today.

Mr. WATTS. I do not want to make any history that a certain distillery located outside the United States could double, triple or quadruple its production and export the same into the United States labeled "Bourbon."

This resolution is merely in conformity with the type of resolutions that have been adopted all over the world.

Our own Government, as far back as 1941, prohibited American distillers from manufacturing any type whisky called "Scotch" or "Scotch-type" whiskey. Our people in California, for instance, have been prohibited by our own Internal Revenue Service from making cognac or a cognac-type product because that product is protected under the laws of France.

We cannot bring into this country or manufacture in this country any whisky called Irish whisky or called Irish type or Canadian or Canadian type.

Mr. LINDSAY. The gentleman does not like that, I take it?

The gentleman would agree that that is poor policy on the part of the British?

Mr. WATTS. No; I do not think it is poor policy. But if they want to do that, I think we at least owe our own industry here in this country, which has developed in this country, the same type treatment which we have been willing to grant to every other foreign country.

It is not my wish to discommode the two ladies in which the gentleman from New York is interested. However, I do not on the other hand want to leave a gap or loophole in this bill through which one could drive a wagon.

Mr. LINDSAY. I hope the gentleman from Kentucky understands that the gentleman from Texas [Mr. FOREMAN] has an interest in this bill also.

Mr. WATTS. I understand the interest of the gentleman from Texas [Mr. FOREMAN]. I discussed the matter with him. I understand his problem. But we also understand the fact that if we in the United States are going to protect the product of everyone else, the least we can do is to say that it is the sense of Congress that our product ought to be protected and then leave it up to the executive agencies of the Government to enforce this sense of Congress.

Mr. LINDSAY. That represents pretty wide powers to give to the executive agencies. I thought the gentleman would be very suspicious of giving such wide discretionary powers to the executive branch of the Government.

Mr. WATTS. It is not the first resolution which has granted wide discretionary powers to the executive branch which has been passed by the House. I think the gentleman from New York and I have supported many pieces of legislation in the past where wide discretionary powers have been granted to the executive branch.

Mr. LINDSAY. I wonder if the gentleman would not agree, in view of that fact, that we take a look to see how much serious injury is going to be done to some human beings in this country all of a sudden? I think we might take a look at that or agree to take a look at that.

Mr. WATTS. I do not know how we could accurately look at any serious injury that is going to be done, but I would like to call the attention of the gentleman to this fact. Every drop of bourbon whisky that is made in these United States although many contend that any type of whisky is bad, is made under strict Government supervision, under certain rules and regulations of purity, and under certain types of restrictions which are imposed by the Internal Revenue Service. It is impossible for us, if we are going to allow whisky to be shipped into this country called bourbon, to send Revenue people down into Mexico, Panama, Guatemala, or wherever it may be, and inspect the methods by which they produce it. I do not know what the effect would be if no one watched what they are doing in the manufacture of such whisky. They could put dead rats or anything in it and send it up here. I am not saying that they do this.

Mr. LINDSAY. That is not what they do in the gentleman's State of Kentucky?

Mr. WATTS. No. Ours is all manufactured, except that which it is alleged is made in certain sections of our State, under this strict type of supervision.

Mr. MILLS. I would suggest to the gentleman from New York, if I may—I know he needs very few suggestions as to how to proceed on anything—but I would suggest that the gentleman from New York call this particular situation that he has in mind to the attention of the Internal Revenue Service, the Alcohol Tax Division, so that they can in the process take into consideration these very points that the gentleman is making as to retroactivity and so on in the event that they should see fit to act under this expression of the sense of Congress.

Mr. LINDSAY. I am very grateful to the distinguished chairman for that suggestion.

May I ask in that connection whether the gentleman from Texas [Mr. FOREMAN] and I would have the support and backing and cooperation of the distinguished gentleman from Kentucky [Mr. WATTS] and the gentleman from Arkansas [Mr. MILLS]?

Mr. WATTS. You will always have my backing in anything you suggest.

Mr. LINDSAY. That is very charitable of the gentleman. Would the gentleman be willing to join with me in working out an arrangement whereby we will express a further sense to the executive branch—we are giving them wide powers under this bill—that they are not going to drive into despair and ruin existing families?

Mr. WATTS. I am not going to enter into any agreement that one distillery may be given special treatment that another one cannot receive. I certainly would be glad to work with the gentleman to see to it there were no impediments placed in the way. I cannot agree that one distillery may still import whisky into this country, called bourbon. I cannot agree to that.

Mr. LINDSAY. Could it be understood that there will be no increase over the existing rate?

As I understand it, the purpose of this bill is to retaliate against the British and French and a few others.

Mr. MILLS. Oh, no.

Mr. LINDSAY. I do not want to prolong this any more. I believe in letting the House work its will. I do think it would be helpful if we could examine the impact of this legislation to see how bad it is going to be.

Mr. WATTS. I will be glad to join with the gentleman in investigating the impact, and we may have further discussion.

Mr. LINDSAY. Why do we not put the bill over without prejudice?

Mr. WATTS. I would rather the gentleman not do that. This bill has been hanging fire all year long. It was passed last year. I can assure the gentleman I cannot think of any good reason for putting it over, but it is the gentleman's prerogative to do so if he wishes. I think the gentleman would be doing something that is unreasonable on account of the fact the distilleries are asking for the same protection that cognac in France has, Scotch whisky in England, schnapps in Germany, and the Irish producers in Ireland, as well as the Canadian producers in Canada. I will sit down with the gentleman and discuss the matter.

Mr. LINDSAY. I am aware of the fact the gentleman is defending a very important domestic industry and I fully respect his right to do so. All I want to know is whether we can agree to sit down with the gentleman from Texas and work out something with the executive branch.

Mr. WATTS. I am willing to sit down and discuss the matter with the gentleman from New York, and the gentleman from Texas, but I must in all fairness say to the gentleman from New York that I am not in a frame of mind, nor could I get myself in the frame of mind, to go along with the gentleman. I do not think Senator MORTON, who introduced this bill, would permit me to do so. It would have to go back to the Senate if it is changed. It is his bill. We cannot give one single distillery an exception.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. LINDSAY. Mr. Speaker, reserving the right to object, I ask unanimous consent that this bill be passed over.

The SPEAKER. The gentleman will have to object, unless the bill is withdrawn.

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. FOREMAN] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FOREMAN. Mr. Speaker, I am sure there are many good and desirable features of this proposed legislation, particularly insofar as our domestic industry is concerned, however, there are some other considerations worthy of discussion and consideration at this point.

Over the years, we have spent considerable sums of money, had various conferences and meetings, and through other means, endeavored to maintain the best of friendship with our neighbor to the south, Mexico. If this legislation passes, and is later enforced, I believe it would be well, indeed, to carefully consider the effect it might have on our Mexico friends. The distillery business is an important industry, also, to the folks of Juarez, Mexico, and according to the figure available to me, has very little effect, if any, upon our domestic industry. While I do not intend to offer objection to this legislation, we should carefully study its effects on these folks, if it is to pass this House.

In this regard, I want to include for your consideration, and the RECORD, a telegram I have received from a good friend and acquaintance of mine in Mexico, Mr. Rene Mascarenas Miranda, a distinguished civic leader, outstanding citizen and former mayor of the city of Juarez, Mexico.

EL PASO, TEX.

HON. ED FOREMAN,
*House of Representatives,*
*Washington, D.C.:*

In reference our telephone conversation. Total stock both Mexican distilleries not one-hundredths of 1 percent American distilleries. Our total sales per year not two-hundredths of 1 percent American distilleries. We ask where is the good neighbor policy?

Regards,

RENE MASCARENAS MIRANDA.

Mr. Speaker, I do not intend to insert further argument on this reservation. Rather, I would close, and ask the Government to give careful consideration to the enforcement of this legislation should it be passed.

Mr. LINDSAY. Mr. Speaker, I will not object, but I shall rely on the good faith of the two distinguished gentlemen who are standing on the floor at the moment, the gentleman from Kentucky and the gentleman from Arkansas, to see whether we can work out some arrangement for the protection of a very small entity in this whole problem.

Mr. WATTS. I will sit down and discuss the matter with the gentleman, but I am not in a position to make any agreement to allow one distillery to use the name "Bourbon" and that others be excluded.

Mr. LINDSAY. Can the gentleman tell me how much bourbon whisky made outside of the United States was imported into the United States?

Mr. WATTS. I do not have the exact figures. I thought that is what the gentleman and I were going to look into.

Mr. LINDSAY. Let us talk about that the next time the bill comes up.

The SPEAKER. The Chair will state that at this stage the gentleman will have to object to the unanimous-consent request for the consideration of the bill.

Mr. LINDSAY. Then I object, Mr. Speaker.

## IMPORTATION OF ANTIQUES

Mr. MILLS. Mr. Speaker, it had been our intention to ask unanimous consent to consider the bill (H.R. 2330) providing that antiques may be imported free of duty if they exceed 100 years of age, but the gentleman from Missouri [Mr. CURTIS] has advised me that if it were called up he would have to object. Therefore, we are not calling up this bill.

## FREE IMPORTATION OF INSTANT COFFEE

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4198) to amend the Tariff Act of 1930 to provide for the free importation of soluble and instant coffee, which was unanimously reported by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. MATSUNAGA. Reserving the right to object, Mr. Speaker, on page 3 of the committee report it is stated that "the U.S. soluble coffee industry has indicated that it will not object to removal of this duty." Was the Hawaiian coffee industry represented in this group?

Mr. MILLS. We had no objection from anyone in the gentleman's State. I am not in a position to tell the gentleman specifically that those producing the coffee within a particular State participated in this group that advised they had no objection to the bill. But this bill was reported by the committee some time ago. The industry has known of its introduction for some time since our distinguished former colleague from California, Mr. Shelley, introduced it back in February of 1963. I can assure the gentleman that we have received no objection from anyone, either industry or labor, involved in the production of soluble coffees, to this legislation.

Mr. MATSUNAGA. Was any consideration given to the possible effect that passage of this bill would have on the Hawaiian coffee industry specifically?

Mr. MILLS. There was nothing along that line called specifically to our attention for consideration that I recall. We gave consideration to the position of domestic producers of soluble coffee, including those who produce soluble coffee in the gentleman's State.

Mr. MATSUNAGA. The gentleman knows Hawaii is the only State which produces coffee commercially.

Mr. MILLS. This bill relates only to what is called soluble or instant coffee.

Mr. MATSUNAGA. Yes, I know. Hawaii is going into the soluble coffee industry and has gone into it on a rather enthusiastic scale. In view of the fact that the Hawaiian coffee industry has not been consulted on the matter, I shall have to object.

Mr. MILLS. If the gentleman will yield, it is not our practice to go out to any of these industries and check them on legislation. We give them every opportunity to express their views if they are interested in it, and certainly they know about it, because I have not known of any industry in the gentleman's State that does not keep well informed on what transpires here in Washington. We were advised that there is no objection on the part of any of the soluble coffee industry; none has been placed before us. This has the wholehearted support of the departments. It is an item that is produced in the United States in sufficient amount that we are a net exporter. If we do not pass this bill, there will continue to be an increased payment for this commodity by our own consumers in the United States.

There is a 3-cent duty on this coffee that comes in, primarily from some of the Latin American countries like San Salvador, Mexico, Guatemala, and Nicaragua. This is a product which is constantly increasing in consumption here, I see no reason why we should not give the consumer of this coffee some kind of break with regard to the price.

Mr. MATSUNAGA. I would prefer, Mr. Speaker, that this matter be put over without prejudice, but since that cannot be done at this time under the rules of procedure of the House, I am constrained to object.

The SPEAKER. Objection is heard.

## LAW DAY, U.S.A.

Mr. RICH. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. RICH. Mr. Speaker, May 1, 1964, marks the seventh annual observance of Law Day, U.S.A. This is the day set aside for honoring the place of law in American life. The theme for this year is "Observe the Law: Key to Order, Justice, Freedom."

Law Day has three objectives: to make more meaningful to Americans—especially the youth of the Nation—their heritage of individual freedom under law; to foster increased respect for law and the courts which protect the rights of all citizens; and to emphasize the basic values of the rule of law in the United States as contrasted with the rule of force and fear under communism.

While we are observing the law in this country, the Russians are observing it also throughout the Soviet Union and their satellite states. They are parading their tanks, their airplanes, their guns, and their soldiers through the streets of the Communist capitals. They are glorifying force and demonstrating to themselves and, they hope, to the rest of the world the power of their armed might. They are placing their faith in that might making everything right.

We, in this country, have a different faith. We believe in the principles stated in the Declaration of Independence. We have faith in the strength of our Constitution and in the Government founded on the principles stated in the Constitution. We know that in observing the law we will find the answer or the key that will unlock the doors to order, justice, and freedom for all people.

The late Justice Robert Jackson once said:

> The choice is not between order and liberty, it is between liberty with order and anarchy without either.

It was because the founders of our country knew at first hand the sacrifices and struggles involved in earning freedom that they were determined to establish a system where the concepts of order and the rule of law would be forever preserved inviolate from the ambitions of those seeking too much power. They planned and instituted a government of laws which would afford liberty and conform to Immanuel Kant's description of law as "the sum total of the conditions under which the wishes of one man can be reconciled with the personal wishes of another man, in accordance with a general law of freedom."

A general law of freedom which guarantees "equal justice under law" for all men. "Equal justice under law" are the words inscribed on the Supreme Court Building and the words to which our courts in this country are dedicated.

Past and present Justices of the Supreme Court have defined equal justice for us very clearly. Justice Swayne in the early Slaughter-House cases said:

> The equal protection of the law places all upon a footing of legal equality and gives the same protection to all for the preservation of life, liberty and property, and the pursuit of happiness.

Law Day was begun so that all citizens of the country might rededicate themselves to accepting the equality of obligation as well as of privilege. It is not a day for lawyers alone. Not only we who are lawyers but all people of this country should work to promote better understanding and public acceptance of the law. Together we have enjoyed and hope to enjoy forever the blessing of freedom. We have freedom under law—the kind of freedom which allows each man the greatest personal liberty consonant with the well-being of his neighbor.

Our ancestors in this country fought and even died for order, equal justice under law and freedom. We, by observing law, will find the key to keeping our way of life today and for all time.

## A BILL TO PROVIDE FOR COSTS OF INTEREST AND DIVIDEND REPORTING BY BUSINESSES

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. WIDNALL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. WIDNALL. Mr. Speaker, I am introducing today a bill that would correct an inequity in Federal income tax reporting, add speed and efficiency to that process, and be of economic significance to thousands of small businesses and corporations throughout the country. The purpose of this bill is to alleviate the present unfair burden placed on businesses and corporations for performing a purely service function for the Treasury Department. My bill would require the Treasury Department to absorb the cost of postage for the reporting of interest or dividends paid by corporations, financial institutions, and individuals.

The present law requires that every person or corporation paying $10 or more in interest or dividends must report this amount to the Treasury and to the payee. This interest-dividend information is strictly a benefit to the Treasury Department in collecting our taxes. It is, in essence, merely a check on the personal integrity of an individual's tax return. Quite unlike the familiar W-2 form, which contains a statement of tax money withheld by the reporting employer, the interest-dividend report is merely a statement of and by an income source for informational purposes.

It is ironic that the small businessman and corporations of this country, who consistently pay the highest taxes, and who consistently are asked to accept a small margin of profit in the face of rising labor and production costs are forced to pay out a considerable amount of cash to help the Treasury Department keep its books straight. Typing, addressing and mailing this interest-dividend form may run the small businessman or corporation hundreds of dollars a year. I believe it is grossly unfair that they should have to bear the full cost of a process that is merely an informational aid to the Treasury people, not a requisite for the collection of taxes.

I feel that the Treasury Department should, at least, pay the postage cost of the mailing of the forms that is now being carried by the reporting businessman. This little lift to the small businessman, which would cost the Department less that $3 million, would go a long way toward correcting a basic inequity in the law and be of significant economic assistance to a substantial number of our citizens.

## POLISH CONSTITUTION DAY

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. DAGUE] may extend his remarks at this point in the RECORD and include extraneous matter?

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. DAGUE. Mr. Speaker, we are again reminded by our compatriots of Polish descent that May 3 continues to be a rallying day for all people of all faiths and political persuasions who place a superior value on freedom and human dignity.

Poland cherishes a long history of struggle against tyrants and she has never wanted for stalwarts willing to bare their breasts to predatory invaders from beyond their borders. Religious persecution, economic discrimination, and outright military aggression have been the lot of these brave people.

In the Second World War these courageous people contributed mightily to the allied cause and they had every right to expect liberation from German tyranny when the peace was finally concluded. Our part in that final debacle must always remain to stab our conscience, particularly when we recall that General Patton, at the very gates of Warsaw, was called to a halt by the allied high command so that our connivance with Russia could be accomplished. And once more the brave Poles found themselves to be merely pawns between their friends and their enemies, with their hopes of liberation gone aglimmering.

Poland must be freed in order to work out her destiny, so that the rest of the world may have the benefit of her art and culture. This is why this brave country must be encouraged to disentangle herself from the coils of communism and this is why every contribution we may make to a beleaguered Poland is basically in our own self-interest. Indeed, no nation anywhere can hope to remain free so long as the Polish people, and other peoples likewise enslaved, are denied complete autonomy.

## THE 173D ANNIVERSARY OF POLISH CONSTITUTION

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. McLOSKEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. McLOSKEY. Mr. Speaker, on May 3, the 173d anniversary of the Polish Constitution is being celebrated. It is certainly fitting that those of us who live in a free land should pause for a few moments, not only to remind ourselves but to remind the world that we in America join in the hope and wish that the nation of Polish people will again be free.

By paying this tribute today perhaps in some small measure we reaffirm our faith in the future of the Polish people.

It is great when Members of this legislative body, irrespective of politics, race, color, or creed, join together in the observance of one of the most historic days in man's struggle for freedom.

Let us also remind ourselves that other nations are today engaged in a struggle for freedom and that these people, too, are seeking the right of self-government based on the dignity of the individual; that there are other nations in this world who seek equality of opportunity which we almost take for granted here in America.

By honoring the freedom fighters of the past we give added strength to the freedom fighters of today. It is my prayer that the beautiful words of tribute expressed here today in commemoration of the Polish people and their struggle for freedom are not just shallow oratory, but that we may have the courage and wisdom to translate these words into positive action.

## HEALTH PROTECTION

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. FOGARTY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FOGARTY. Mr. Speaker, we have all become aware of the many problems involved in getting a truly effective national program of environmental health protection into operation. This area of health protection has been beset by many difficulties and yet, in my judgment, is one of the most crucial we face as we attempt to cope with the effects of air and water pollution, pesticides, radiation, industrial chemicals and the like in our increasingly urbanized, industrialized society.

Of all the problems, one of the most important is enlisting more physicians in the ranks of environmental health. The program has suffered greatly because physicians, for one reason or another, have not been attracted to the cause of environmental health in sufficient numbers. Whether the reason is lack of training in medical school for careers in environmental health, or lack of professional stimulation, I do not know.

But I do know that physicians must make a more effective contribution to environmental health if the program is to attain the stature commensurate with its importance for the health of the American people.

An article in the April 15 issue of Environmental Health Letter entitled "The Physician in an Effluent Society," sets forth the problem and the challenge to physicians. Under unanimous consent, I include this article at this point in the RECORD:

### THE PHYSICIAN IN AN EFFLUENT SOCIETY

The American Medical Association's Congress on Environmental Health Problems May 1-2 in Chicago, should serve as a take-off point for a national effort to enlist more physicians in research, prevention, and control of hazards to man's health in his environment.

If environmental health is to have substance and direction, more physicians of all kinds—practitioners, researchers, epidemiologists, educators—must be attracted to its ranks.

Can the young physician, oriented in medical school to clinical management of a patient on a 1-for-1 basis, be stimulated to study the effects of a chemical, urban community on that patient? Can a physician, whose training has been in virology and bacteriology, be persuaded to think also of toxicology in studying and diagnosing the diseases he sees in his practice?

Dr. John Parks, dean of George Washington University School of Medicine, put it this way: "With the control of communicable diseases, the patient is not nearly the threat to the community as the community is a threat to the patient."

What is the nature of that threat in an effluent society? It is air pollution and its effects on the cardiopulmonary system; it is water pollution and its relationship to hepatitis; it is the effect of urban noise and auto traffic on the nervous system; it is the body burden of radiation and its widespread effects; it is the chemicals of the work space; it is the great unknown of pesticides. Surely physicians, who for centuries have fought and conquered the great unknowns of science, will join in the common attack on these environmental problems.

Medicine no less than environmental health will suffer if physicians default on these new challenges to the health of their patients or abdicate their responsibilities to other sciences.

As man continues to tamper with the tools of his technology, he will need the guidance of physicians in helping him even to achieve parity with his environment. Physicians can, and must, be identified with that impulse.

GERSHON W. FISHBEIN,
*Publisher.*

## BIRTHDAY OF PRESIDENT TRUMAN

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. RODINO] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. RODINO. Mr. Speaker, tomorrow is the anniversary of the birthday of one of our greatest Presidents, Harry S. Truman.

Since we shall not be in session at that time, I would like now to extend my heartiest congratulations to President Truman and wish him a most happy birthday, tomorrow and many tomorrows.

So often the true greatness of men is not recognized until after they have departed from among their contemporaries. Fortunately, this has not been so in the case of President Truman. Not only in our own Nation, but everywhere in the free world, Harry S. Truman is held in respect and honor by governments and individuals alike.

Leader of the Nation which had led the fight against the tyranny of Hitler and Tojo, President Truman gave to the world his concept of the responsibility of America in his first message to Congress 4 days after acceding to the Presidency:

> The responsibility of the great States is to serve and not to dominate the world.

He never faltered in his drive to insure that America remain the leading nation and that the Red tyranny should not spread. Who can forget his bold action on behalf of Greece and Turkey in March of 1947, and of Berlin in April a year later?

But President Truman was not content to wage individual defensive efforts against specific Red threats. He sought to organize the free world to defend its own institutions and develop its own destiny. He boldly conceived and executed plans to restore the vitality of nations sapped by the 6-year war, and to give vitality to areas of the world which had never known freedom from disease or want.

In June 1947, in a speech at Harvard University, General of the Army George C. Marshall set forth the first plan: to extend financial aid to European countries "willing to assist in the task of recovery."

Then, on January 20, 1949, in his inaugural address, Harry S. Truman set forth his "bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas."

The programs that then came into being became the keystones in rebuilding the old nations and creating the new. So they still are today. And while the impact on the history of civilization of his contributions will not be able to be fully understood and appreciated for scores of years, perhaps even centuries, yet, in Europe, Asia, and Africa free nations already stand as living monuments to the wisdom, courage, and foresight of Harry S. Truman.

## U.S. FOOD SURPLUS BOLSTERS DOLLAR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from North Carolina [Mr. COOLEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COOLEY. Mr. Speaker, my attention has been directed to an article by the Associated Press published in the New York Times under the heading "U.S. Food Surplus Bolsters Dollars." The news story sets forth how the food-for-peace program, under Public Law 480, helps to perform many tasks abroad. It is an excellent presentation of the growing recognition of the value of Public Law 480—generated currencies. I believe the article reflects the development of a better understanding of the broad national interests served by our farmers and our farm programs. With the consent of the House, in the thought that the information therein will be helpful to many Members, I am inserting the article in the Appendix of the RECORD.

The article follows:

WASHINGTON, April 11.—Surplus American food is complementing, and in some cases replacing, the dollar in performing a multitude of jobs abroad.

Those jobs include building bridges, common defense facilities, military and other housing, and schools; financing research, translating books and paying American obligations in some countries.

The extent to which this food is being used in place of dollars is outlined in the Government's recent report on the food-for-peace program.

Under this program, farm surpluses, many accumulated under Government price-support operations, are made available to economically weak countries under concessionary terms. Sometimes the food is donated to help relieve famine and distress growing out of disasters.

Since the program was started in 1954, more than $11.4 billion in farm products has been moved abroad under the program.

In most cases, countries receiving the food pay for it in their own currencies because they do not have the dollars or other currencies that are readily accepted in foreign exchange.

The United States uses these currencies to finance scores of activities designed to help both America and the recipients of the food. It can do this without using its own dollars, and thus hold down its balance-of-payments deficits. The balance of payments measures payments by foreigners to Americans against payments by Americans to foreigners. It includes payments by individuals, businesses and governments.

Without the food, the United States could not have carried on all its activities abroad without running into a serious foreign exchange problem that might have forced a cheapening of the dollar. The United States balance of payments has been in deficit for many years and in recent years this deficit has caused concern over the stability of the dollar.

The foreign currencies the United States receives for its surplus food are loaned back to help them finance economic development. A total of $4.3 billion has been loaned back this way.

The United States expects in time to get this money back, and also to develop better customers for its food and industrial products.

In addition, the United States has made grants totaling $1.8 billion for economic development.

Some projects financed by these loans and grants include rehabilitating deteriorated transportation systems and building vocational schools, sanitary and water systems, and bridges and roads.

So far, the United States has used $1.7 billion in these foreign currencies to pay its obligations, such as the expenses of embassies. This, too, has saved dollars.

It has loaned $179 million to private American concerns to develop new industries in the developing countries. Some $79 million has been used to help develop new markets for American farm products.

A total of $545 million in food has been used to finance common defense facilities in 15 friendly countries. Nearly $94 million has been used to build military housing abroad.

The food-for-peace program will be 10 years old in July. The administration has asked Congress to extend the program 3 more years. No strong opposition is indicated.

## ADJOURNMENT OVER

Mr. ALBERT. Mr. Speaker, now that we have completed the legislative business for this week, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## ADDITIONAL LEGISLATIVE PROGRAM FOR MONDAY NEXT

Mr. ALBERT. Mr. Speaker, after consultation with the Speaker of the House, the gentleman from Arkansas [Mr. MILLS], chairman of the Committee on Ways and Means, has requested, and the distinguished Speaker has agreed, to add to the suspension list for Monday next the Senate concurrent resolution (S. Con. Res. 19), designating bourbon whiskey as a distinctive product of the United States.

## THE 173D ANNIVERSARY OF THE POLISH CONSTITUTION

The SPEAKER. Under previous order of the House, the gentleman from Illinois [Mr. PUCINSKI] is recognized for 60 minutes.

Mr. PUCINSKI. Mr. Speaker, I have taken this special order today in order that my colleagues and I may pay tribute to a great and historic document which was adopted by the people of Poland 173 years ago May 3, this coming Sunday. Yes, Mr. Speaker, this Sunday, May 3, will mark the 173d anniversary of the adoption of Poland's Constitution.

Over the years, May 3 has become known in the United States as Polish Constitution Day, and throughout America there are observances to pay tribute to this great doctrine, not only by Americans of Polish descent who now, including several generations, number an estimated 15 million in this country, but also by all Americans, regardless of ethnic backgrounds, who join because the Polish Constitution of May 3, adopted in 1791, paralleled so closely the principles laid down in the American Constitution, which had been formally adopted 8 years earlier.

The Polish Constitution brought to the European Continent an entirely new concept of human dignity. The Constitution adopted by the Polish Parliament in 1791 provided that—

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

Mr. Speaker, it should come as no great surprise that Poland's despotic neighbors of that era, deeply alarmed by this new concept of human dignity, crushed the Polish nation just a few years after the adoption of this Constitution. Their intentions were clear. The despots of Europe of those days could not permit such revolutionary ideas of human dignity, human freedom, civil rights, and government by the will of the people. These were concepts which were new to nations which had grown up over centuries under tyrannical and despotic rule.

It is rather ironic that today, 173 years after the adoption of this magnificent charter setting down the basis of human dignity, the Polish people, 35 million strong, find themselves again in the hands of a hostile government, cast upon them not by their own will but cast upon them in the same method that Communists always move.

It has been properly stated that the Communists are scavengers of modernization. They prey upon every social unrest, both here and abroad. Every nation that tries to shift from primitive means to more modern concepts, finds the Communists trying to move in during the unrest of transition.

The Polish people today find themselves being ruled by a Communist government which they neither want nor support.

It is significant that the very spirit which prevailed in Poland 173 years ago, when these courageous people carved out a constitution paralleling the principles for personal freedom laid down in the American Constitution, prevails today. That spirit has prevailed in the Polish nation for 1,000 years.

In 1966 the people of Poland will observe the 1,000th anniversary of the birth of Poland. Throughout these 1,000 years, the record is replete with incident after incident of the Polish people standing up against tyranny, standing up to despotism, having the courage and the will to be recognized as freemen.

It is a source of inspiration to all of us as freemen that today that spirit still prevails.

Mr. Speaker, at this point in the CONGRESSIONAL RECORD I should like to insert a brief memorandum upon the freedom manifesto of 34 Polish intellectuals which has been signed and delivered to Joseph Cyrankiewicz, Prime Minister of the Polish Peoples Republic. It reads as follows:

> Restrictions in allocation of paper for printing books and periodicals, as well as tightening of press censorship are creating a situation which is endangering the development of Polish national culture.
>
> The undersigned, recognizing that the existence of public opinion, the right to criticize, the freedom of discussion and access to reliable information are necessary factors to progress, and, being motivated by civic concern, demand that Polish cultural policy be changed to conform to the spirit of the rights guaranteed by the Polish Constitution and to the national good.

I believe the free world should mark with more than just passing interest the courage of these 34 Polish intellectuals who today, in a nation dominated to a great extent by the forces of the Soviet Union, have the courage to stand up and say, "We want freedom." These are men and women who are taking their lives in their own hands. These are Poles who have learned well enough from history that you cannot run from a storm; you cannot cower under dictatorships. Men throughout the history of the world have carved out standards of freedom simply because they had courage. I say these 34 Polish intellectuals who have had the courage today to serve notice on the Communist government of Poland that they indeed demand a recognition of the basic rights for free cultural pursuits—these men must go down in the pages of history, Poland's history of valor, along with all of the other great leaders of Poland who have carved out standards of decency, dignity, and freedom. I say that these 34 Polish intellectuals should give great hope and courage to us in this country, because these gallant and brave men and women are sending a message to the free world. They are saying, "Do not forget us; do not abandon us. We are standing by the principles of dignity and freedom." It takes a great deal of courage under these circumstances. Yes, Mr. Speaker, I say it is easy enough for us as free Americans to postulate upon the dignity and freedom of man; it is easy enough for us as free Americans to make great speeches on the 4th of July and other great holidays of America about the meaning of freedom, but the true mettle of man is tested under the conditions that today prevail in Poland when these 34 intellectuals have the courage to stand up and say, "We want freedom. We want it now."

So, Mr. Speaker, I say 25 years after the invasion of Poland—and this year marks the 25th anniversary of the beginning of World War II—we can look with confidence toward these gallant Poles that freedom will again return to central Europe. Many of us have forgotten the brutal invasion of Poland by Nazi forces, but more important many of us have forgotten that World War II would not have been started if not for the infamy and treachery of two of the greatest despots the world has ever seen, Hitler and Stalin.

In discussing the plight of these 34 Polish intellectuals and in discussing the 173d anniversary of the Polish Constitution, yes, and in discussing the plight of the Polish people themselves as well as all of the people of the captive nations, we Americans on this 25th anniversary, this year of the 25th anniversary of the invasion of Poland and the beginning of the most horrible and the most costly war in civilization, cannot forget that this war would not have been launched by Hitler if he had not had the infamous secret Ribbentrop-Molotov pact in his pocket. The Communists today must take the full blame for World War II along with the Nazis. The world must not ever forget the infamy and the deception of the Soviet Union in making World War II possible by saying to Mr. Hitler in that infamous Ribbentrop-Molotov pact which was signed on the 28th of August 1939, three days before Hitler plunged his Wehrmacht into the Polish borders that Russia would not invade Germany. We must never forget that agreement was the beginning of World War II and therefore even today, the Soviet Union must share the full blame for all the tragedy that followed. The Soviet Union stands today just as guilty as Nazi Germany for launching World War II and no amount of explanations can expunge this indisputable fact from world history.

So, Mr. Speaker, as we observe this 173d anniversary of the Polish Constitution, as we review the great contributions of the Poles not only to the European Continent but to our own country, we, of course, have to reflect upon the situation today. I think that these observances here in the Halls of Congress serve a most useful purpose. I am, indeed, very happy to see the vast number of our colleagues on both sides of the aisle who have joined in this tribute today and who will do so Sunday when, all over America, observances will be held to honor Poland's Constitution. I am impressed by this great participation, because in this manner, we remind ourselves and the world of Poland's great charter of 1791, the Polish Constitution. It serves at once to revive our own faith in the strength of mankind. It rekindles our hope that freedom is an indestructible commodity which burns deep in man's heart.

I become somewhat concerned and weary with the cynics and the skeptics who fail to see and who fail to understand that the basic ingredient of human beings is dignity. Yes, the Polish people today are being suppressed against their will by a Communist conspiracy, a conspiracy that has imposed upon these people restrictions never intended in the great constitution of 1791. But I know this, Mr. Speaker, knowing the Polish people, knowing the people of central Europe, knowing people in general wherever they may be: In their blood and in their heart, flows the great spirit of freedom; and no despot, no dictator, no matter how strong, no matter how powerful, how determined, can suppress the will of the people for freedom very long. This has been demonstrated time and again in history.

It was demonstrated in our own country when the great, gallant American revolutionaries decided that freedom was their cause and their course in this country and they carved out freedom for America in the Revolution. So we have a right to be concerned about what is happening in Poland today. We have a right to be concerned about what is happening all over the world today where freedom is suppressed.

Mr. Speaker, I should like at this point in my remarks to include an editorial from the New York Times of April 19, 1964. The editorial discusses the tension in Poland and it says, in part:

> The increasingly open expression of intellectual and economic discontent in Poland is creating an atmosphere reminiscent of that which exploded in violence against the Communist regime 8 years ago.
>
> The rise in tension indicates that almost a decade of Wladyslaw Gomulka's rule has failed to meet either the spiritual or material demands of the Polish people. The nation's leading intellectuals are in revolt against the steady attrition of the gains in free expression won in 1955–56. The demands for greater freedom voiced in their January letter have been met in some cases by what can only be called Stalinist-type retaliation, and this, in turn, is sparking protests.

I say, Mr. Speaker, this situation in Poland cannot be of only passing and fleeting interest to people of the free world. It is my hope that the intellectual community of America; the intellectual community of the entire free world, will join together in bringing assistance, moral assistance if nothing else, to these brave men of Poland who are today, in 1964, giving living meaning to the spirit of Poland's Constitution of 1791.

These Poles are brave. They need brave people to join them in marshaling the opinion of the world to make sure that these intellectuals have the opportunity of expression. It is for this reason, Mr. Speaker, that I shall include at the conclusion of my remarks, in its entirety, the editorial from the New York Times.

This great anniversary that we are observing today gives us pause to review briefly the many other observances of anniversaries affecting the Polish people which are occurring in America and throughout the world in this year 1964. This year marks the 20th anniversary of the Warsaw uprising. Is there a man in the world today who cannot be inspired by the indomitable spirit of those brave Poles, outnumbered, who staged the magnificent and historic Warsaw uprising in July of 1944, hoping in their own small way to open up a new front to stem the Nazi forces in order to give the allies an opportunity to hit the Nazis from the other end?

The odds were monumental. These helpless Poles fought with their hands, with sticks, with knives against the most modern sinews of war ever developed by the Nazis. They fought gallantly for 64 days. History can never forget; yes, Mr. Speaker, history must never forget that sitting across the Vistula River, the whole Soviet forces were ready and able to come to the defense of these gallant Poles. But, no, Mr. Stalin retained his forces intact. Mr. Stalin's plan for the eventual domination of Poland by the Communists was already being laid in July 1944. All he had to do was give the word. The Soviet forces could have given meaningful help to these brave, determined, and gallant Poles fighting against insurmountable odds. But, no, the Communists already had their plans of carving out Poland for their own use. They wanted to destroy as much of Poland as they could so that after the war, they could step in and bring Poland illegally and by force into the Communist orbit as they did Czechoslovakia, Hungary, Rumania, Estonia, Latvia, and Bulgaria and all of the captive nations which today find themselves under the Communist yoke. They were brought into this situation not by their own will but brought into this tragic situation by the cold and brutal deception of the Communists.

Mr. Speaker, this year marks the 20th anniversary of this great and gallant Warsaw uprising. It is my hope that the free world will mark it with more than just a fleeting and passing remembrance.

This year of 1964, Mr. Speaker, also marks the anniversary of the persecution of the church in Poland. Thank God and thank freedom that we have a gallant man today who is as much an ally of the freedom-loving peoples of the world as any army, the prince of the church in Poland, Cardinal Wyszynski, who has refused to submit to Communist tyranny, standing like a beacon of hope in a sea of Communist despotism.

Mr. Speaker, Cardinal Wyszynski today brings hope of dignity to the people of Poland.

Mr. Speaker, I might tell my colleagues a story because the Communists have tried incessantly to reduce the meaning of the church in Poland. Recently when there was an impressive demonstration by the youth in Poland at the inspiring Shrine of the Virgin Mary in Czestochowa, the Polish church announced that there were more than 1 million people participating in this great expedition. The Communists denied that there were 1 million people, but they had to admit there were 750,000.

Mr. Speaker, this in itself demonstrates how the unceasing spirit of freedom which we are celebrating here on the floor today, the spirit of freedom written into the Polish Constitution, continues to prevail in Poland to this day. Seven hundred and fifty thousand young people of Poland, some of them traveling hundreds of miles, against great risks, against personal danger to themselves, to participate with Cardinal Wyszynski in this great holiday at the Shrine of the Virgin Mary. This is their living answer to the world's cynics who would have you believe Poland has adopted the tenets of communism.

Mr. Speaker, to those skeptics who would say that we should forget the captive nations of Europe and write off Poland and all the other captive nations as hopeless and gone, let me merely cite this great demonstration of the 34 intellectuals and these 750,000 young people who defied the Communist orders to stay away and have said:

> No; we know the spirit of free man and have had the courage to participate in these demonstrations.

Mr. Speaker, this year also marks the 20th anniversary of the great battle at Monte Cassino. Are there students of World War II who do not recall the great and gallant battle by these outnumbered Polish troops who had been deceived by Soviet chicanery; Polish troops who believed in the cause of freedom? And when no one else could break through this very important Nazi strongpoint, this great mountain in Italy, in order to move into Europe, it was the gallant Polish troops which fought their way through in the historic battle of Monte Cassino and destroyed the Nazi forces, opened up the way for American and Allied forces to follow through.

Mr. Speaker, I say that the monumental effort, the great sacrifice, the great heroism of Poland's troops in World War II has been sadly neglected by historians. History overlooks the imposing tribute, the great contribution made by these people.

I want to remind you of one thing, the inspiring battle of Monte Cassino occurred after the Poles had a chance to see the chicanery and the deception of the Soviet Union. They had seen their

General Sikorski murdered by the Communists. But despite all this, these Polish soldiers had a faith and a belief in America, they had a faith and belief in the cause of the Allies, they had a faith and belief in the dignity of freedom and, despite personal disappointments, they carried on the great battle of Monte Cassino and wrote one of the most historic pages of World War II for freedom's triumph.

Finally, this year marks the 20th anniversary of the establishment of the Polish-American Congress. Most of my colleagues have received information from the Polish-American Congress about the May 3 observance. That organization in this country, which was established 20 years ago, united all American organizations of Polish descent all over America in order to continue to bring about light and the truth against communism until that day when Poland is again free.

The Polish-American Congress has worked against great odds. I recall when the Polish-American Congress was organized in 1944, there were those who said there is no need for such an organization. There were those who argued that, after all, the Soviet Union is our gallant ally. I think it is a tribute to the men and women who organized that congress 20 years ago, who saw then the chicanery, the deception and the deceit of the Soviet Union that they refused to be misled by these false impressions. The Polish-American Congress for the last 20 years has served its purpose in helping to marshal American public opinion. The Polish-American Congress stands today as one of the great institutions of America because those who failed to see the light in 1944 have finally been able to see it today. We are united in America today, determined to see that the day when freedom shall again reign in those countries dominated illegally by the Soviet Union shall be hastened. The 20th anniversary of the Polish-American Congress justifies a special tribute to its president, Charles Rozmarek, who, undaunted and fearless, stood like the rock of Gibraltar in unmasking Communist deceit and hypocrisy. Charles Rozmarek refused to be deceived and history has proven how right he was in exposing the Communists back in 1944 when in too many circles it was popular to apologize for the Communists. We as Americans, can be proud that today, our great President, Mr. Johnson, in his determination to see the day when these captive nations will again be free, has pledged to undo the wrongs of World War II.

President Johnson has set down the principle of self-determination. Mr. Johnson is not yielding 1 inch from the fact that we want to work out feasible methods of resolving our differences, which every American holds basic, so that the people of Poland and all the people of the captive nations may again join the world family of free nations, as free people, if indeed the conscience of the free world is to rest again.

So, Mr. Speaker, in joining today in this tribute on the 173d anniversary of the Polish Constitution, I believe we are properly reminding ourselves, reminding the world, and yes, we are reminding Mr. Gomulka that while this country is willing to give Poland our surplus wheat; that we are willing to engage in cultural exchanges; that we are willing to keep the doors slightly ajar by an exchange of ideas, we are as free Americans want to make it crystal clear that these actions in no way constitute any sort of recognition of the illegal seizure by the Communists of the Polish people and their nation.

We Americans know that the Poles will never be Communists. The fact is that less than 1 percent of the population of Poland belongs to the Communist cause. Too deep are the fibers of freedom engrained in the Polish people for anyone to believe that the Poles could ever become Communists willfully. Communism has been imposed on Poland by force and deception as it has been on all the other captive nations.

I say that this holiday today, the great tribute we are paying to this constitution, again reminds us that the day for Poland again to be free, along with all her neighbors, must come if the conscience of the world is again to rest peacefully.

Mr. Speaker, I ask unanimous consent that all of my colleagues may have 5 legislative days in which to extend their remarks in the RECORD on this subject.

The SPEAKER pro tempore (Mr. KLUCZYNSKI). Without objection, it is so ordered.

There was no objection.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, I am proud and honored to join in the observance of Poland's national holiday—the Polish 3d of May Constitution Day.

The free world has always admired the great courage, patriotism, and industry of the Polish people and their deep love for freedom, whether demonstrated in the battle against Russian tyranny in 1863, or German despotism in 1939, when Poland was the first free nation to heroically defend its honor against the Nazis.

The valor of the Polish people is internationally renown, but few people realize that Poland also was one of the first pioneers of liberalism in Europe.

On May 3, 1791, the new constitution encouraged social reforms, with Poland's liberalism formulated in the words:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty, and the good order of society, on an equal scale and on a lasting foundation.

This liberal philosophy is similar to the progressive spirit contained in the American Constitution, which was passed 2 years earlier. The American and Polish people and leaders were inspired by the same great sources: freedom and justice.

Although Poland is presently one of the captive nations subjugated by Russia, 99 percent of the Polish people hate communism and will be in the first line of attack in the battle against totalitarianism.

The American people proudly salute Poland in the observance of the 173d anniversary of its constitution on May 3, confident that freedom, independence, and happiness will flourish again in that great country.

Mr. PUCINSKI. I thank the gentleman for his participation and contribution in this tribute today.

Mr. Speaker, the documents to which I referred earlier in my remarks are as follows:

[From the New York Times, Apr. 19, 1964]

### TENSION IN POLAND

The increasingly open expression of intellectual and economic discontent in Poland is creating an atmosphere reminiscent of that which exploded in violence against the Communist regime 8 years ago.

This rise in tension indicates that almost a decade of Wladyslaw Gomulka's rule has failed to meet either the spiritual or material demands of the Polish people. The nation's leading intellectuals are in revolt against the steady attrition of the gains in free expression won in 1955 and 1956. The demands for greater freedom voiced in their January letter have been met in some cases by what can only be called Stalinist-type retaliation, and this in turn is sparking protests.

The potentially incendiary nature of this ferment among the intellectuals is heightened by the widespread economic discontent among the mass of Poland's workers and farmers. Many workers fear that they may lose their jobs or have their pay cut as the result of the Goverment's current deflationary economic policy. Shortages of fodder have already produced demonstrations—some accompanied by violence—among peasant groups. And in the Polish Communist leadership competing factions are engaging in a bitter fight for position. It is no situation to foster official smugness.

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### FREEDOM MANIFESTO OF 34 POLISH INTELLECTUALS

Thirty-four leading Polish writers and scientists delivered to Joseph Cyrankiewicz, Prime Minister of the Polish Peoples Republic the following letter of protest:

"Restrictions in allocation of paper for printing books and periodicals, as well as tightening of press censorship are creating a situation which is endangering the development of Polish national culture.

"The undersigned, recognizing that the existence of public opinion, the right to criticize, the freedom of discussion and access to reliable information are necessary factors to progress, and, being motivated by civic concern, demand that Polish cultural policy be changed to conform to the spirit of the rights guaranteed by the Polish Constitution and to the national good."

This protest letter unprecedented in countries of so-called peoples democracies was signed by the following persons:

Jerzy Andrzejewski: One of the best Polish novelists. By 1961 8 of his books had been translated into 13 languages, including English, French, German, Swedish, Danish, and even Japanese. His novel "Ashes and Diamonds" (1947) was filmed in 1955 and the film became internationally known. He had been selected as editor in chief of the monthly Europa (1957), but the galley proofs of its first issue were confiscated and the monthly was closed before it ever appeared. Enraged, Andrzejewski resigned from the Communist Party.

Maria Dabrowska: The most prominent living Polish novelist, considered by some to be worthy of the Nobel Prize. Her works have been translated into Czech, Slovak, Croatian, Serbian, Russian (over 200,000 by 1961), French, German, Italian, Danish, and

Hungarian. Dabrowska holds numerous awards and decorations. In 1957 she received an honorary doctor's degree from Warsaw University and in 1959, on the occasion of her 70th birthday, she was decorated with the "Banner of Labor," first class.

Stanisław Dygat: Writer, novelist, and film script writer.

Karol Estreicher: Historian, musicologist.

Marian Falski: Philologist, director of Research Center of Educational Organizations attached to the Academy of Sciences.

Aleksander Gieysztor: Historian.

Konrad Górski: Educationist.

Paweł Hertz: Writer.

Leopold Infeld: A most prominent Polish nuclear scientist, a collaborator of Einstein, included by Bertrand Russell among the 11 greatest atomic scientists of the world. In 1936–38 member of the Institute of Advanced Studies at Princeton, and from 1938 to 1950 at Toronto University. In 1950 he returned to Poland to become professor at the University of Warsaw. In 1954 he was decorated with the order of the Banner of Labor 1st class, and next year received the State Prize 1st class. An ardent Communist since 1944, he was in 1956 among those in the guard of honor at Beirut's bier. He was always most active in the World Peace Council and the Movement for the Peaceful Use of Atomic Energy, and in these two capacities, as well as to attend scientific atomic conferences, he has traveled abroad well over 20 times. He called, during the last Polish discussion on intellectual freedom, for a simultaneous increase of living standards and freedom in Poland.

Pawel Jasienica: Writer, member of the board of the Polish Writers' Union.

Mieczyslaw Jastrun: Poet and writer.

Stefan Kisielewski: Writer, composer, Sejm deputy from the "ZNAK" parliamentary group, columnist for "Tygodnik Powszechny."

Tadeusz Kotarbinski: Leading philosopher of the country, past president of the Academy of Sciences, professor at Warsaw University. In January 1957 he was elected president of the Polish Academy of Sciences (reelected in 1960 and stepped down in 1962). He became a member of the Scholarships and Pedagogical Council, deputy chairman of the Institute for the History of Philosophy (1957) and chairman from 1957; was deputy president of the All-Polish Front of National Unity (1958), chairman of the Committee for the Society of Moral Culture (1958), chairman of the Committee for Reform of Education (1961) and member of the following academies: Bulgarian (1958), Soviet (1958), Mongolian (1961).

Anna Kowalska: Writer; member of the board of the Polish Writers' Union.

Julian Krzyzanowski: Professor at Warsaw University, leading literary historian; member of the Academy of Sciences; spent a number of years in the United States.

Zofia Kossak-Szczucka: Writer, prominent Catholic, well known in prewar Poland, one of her books was selected in the United States by the Book of the Month Club; former inmate of Auschwitz Nazi camp; lived in England for several years after the war, returned to Poland after the October revolution.

Jan Kott: Writer, Shakespeare scholar, literary critic; recent recipient of the Swiss Herder's Prize.

Kazimierz Kumaniecki: Professor of history, correspondent member of the Academy of Sciences, chairman of the Polish Philological Society, board member of the Polish-Brazilian Friendship Society.

Edward Lipinski: Economist, former president of the National Economic Council.

Stanislaw Cat-Mackiewicz: Journalist, former Premier of Polish Government-in-exile in London, redefected to Poland, cooperated with PAX group.

Jan Parandowski: Classicist, chairman of the Polish PEN Club.

Stanislaw Pigon: Professor at Jagellonian University; literary historian, member of the Academy of Sciences.

Maria Ossowska: Professor at Warsaw University, chair of moral theory.

Adolf Rudnicki: Writer, feuilletonist, regular contributor to "Swiat," an illustrated Warsaw weekly.

Antoni Slonimski: Prominent Polish poet, well known in New York, where he spent the war, regular contributor of feuilletons to the satirical weekly "Szpilki."

Artur Sandauer: Writer, literary critic.

Waclaw Sierpinski: Scientist, mathematician of international fame, member of the Academy of Sciences, professor at University of Warsaw, chairman of the Society for the Promotion of Scientific Cooperation with France; doctor honoris causa in many universities in Europe.

Jan Szczepanski: Sociologist.

Wladyslaw Tatarkiewicz: Professor at University of Warsaw, philosopher, lived in the United States.

Jerzy Turowicz: Prominent Catholic activist, editor in chief of the Catholic weekly Tygodnik Powszechny, personal friend of Stefan Cardinal Wyszynski.

Melchior Wankowicz: Writer, spent World War II in Italy with General Anders' army; author of the book "Monte Cassino"; after the war lived for a number of years in the United States (New York).

Adam Wazyk: Poet, author of the famous "Poem for Adults," which signaled the start of the "thaw" in Poland; former outstanding Communist Party member.

Kazimierz Wyka: Professor of literature, prorector of the Jagellonian University, member of the Academy of Sciences.

Jerzy Zagorski: Writer.

### THE GENESIS OF THE PROTEST

The intellectuals were aroused by the shortage of paper which was being used by the regime as an excuse for limiting publication of books, periodicals, and daily newspapers, by a reduction of one-third in the translations from Western European languages, by refusal of passports to writers and artists to travel abroad, etc.

As a first step, the issue of increasing paper control was raised in early March in a meeting with Wincenty Krasko, chief of the department of culture of the central committee. His evasive response and the completely unproductive nature of the meeting, finally led to the decision to protest by letter to Cyrankiewicz.

Since no general meetings were possible, and secrecy was an indispensable condition of success, the collection of so many signatures of the most prominent representatives of Polish culture was in itself a major feat. The letter was delivered to the Prime Minister's office by the senior Polish poet, Antoni Slonimski. The signers were asked to respect the confidential nature of the communication and strictly adhered to this request until Friday, March 27, when Jan Lipski, former member of the Crooked Circle Club, was arrested by the security police. Lipski himself did not sign the petition, but merely helped to collect the signatures. He was released after 24 hours at the request of the public attorney, who could not find any basis for criminal proceedings.

### RETALIATORY MEASURES

The temporary arrest of Jan Jozef Lipski was not the only response which the Polish authorities made.

The signers are being subjected to reprisals, Prof. Jan Kott and writer Artur Sandauer, have had their passports withdrawn. Jan Kott was expected in Paris where he was to have received a literary prize for his essays on Shakespeare. The Polish radio received instructions banning from their programs several people who signed the petition. A program by Antoni Slonimski, previously recorded, was withdrawn at the last moment. Similarly, programs by Prof. Sierpinksi and Melchor Wankowicz, also previously scheduled, were both cancelled. An article by Jan Kott ready for print in the magazine Tworczosc was killed.

Furthermore, the authorities, unable to punish the petitioners on the basis of existing laws, resorted to administrative reprisals beyond those previously noted. The publications of at least three or four writers were banned. Three university professors were forbidden to lecture. Biweekly contributions by Antoni Slonimski disappeared from the satirical weekly Szpilki, and he was refused facilities in a governmental clinic to which he is entitled as a recipient of a state prize. Cat-Mackiewicz has been dismissed from the paper Slowo Powszechne. The Catholic weekly Tygodnik Powszechny, whose editor, Jerzy Turowicz, signed the petition had its print-run cut down from 40,000 to 30,000 copies.

Although the letter was never made public by the Polish press, the fact of its existence is by now well known to the Polish people. One of the most recent manifestations of this was a rally of about 800 students at the Warsaw University in support of the intellectuals' demands.

The American press still does not seem to realize the importance of the courageous step taken by this group of outstanding Polish intellectuals, who did not hesitate to risk their privileged positions for the sake of the national culture.

These facts should be known to the American public, as they once again stress the indomitable spirit of the Polish people, who after 20 years of Communist rule, still crave freedom above everything else.

### POLISH INTELLECTUALS PROTEST

The genesis of the protest of the intellectuals was their genuine concern for the increasingly tense situation in Poland: rising unemployment, particularly among professionals and a gradual decline in the standard of living contrasted sharply with the fanfares of official propaganda eulogizing the achievements of people's Poland over the 20 years of its existence recall in this connection Rosenfeld's interview, Washington Post, March 23, with the deputy head of Poland's central planning agency, Kazimiez Secomski, who revealed that real wages have fallen over the last 2 years so that, in his words, raising the standard of living is now a priority concern of the regime. The intellectuals felt that unless censorship and other severe restrictions placed on free expression were not loosened and mounting pressure released, discontent could lead to serious trouble.

The intellectuals were aroused by the alleged shortage of paper which was being used by the regime as an excuse for limiting publication of books, periodicals, and daily newspapers, by a reduction of one-third in the translations from Western European languages, by refusal of passports to writers and artists to travel abroad, etc.

As a first step, the issue of increasing party control was raised sometime in early March in a meeting with Wincenty Krasko, chief of the Department of Culture of the Central Committee of the Communist Party.

His evasive response and the completely unproductive nature of the meeting finally led to the decision to protest by letter to Cyrankiewicz. Since no general meetings were possible, and secrecy was an indispensable condition of success, the collection of so many signatures of the most prominent representatives of Polish culture was, in itself, a major feat. The letter was delivered to the Prime Minister's office by the senior Polish poet, Antoni Slonimski. The signatories were asked to respect the confidential nature of the communication and strictly adhered to his request until Friday, March 27, when Jan Jozef Lipski, former member of the "crooked circle" club was arrested by the security police. Lipski himself did not sign the petition but merely helped to collect the signatures. He was released after 48 hours at the request of the public attorney who could not find any basis for criminal proceedings.

The temporary arrest of Jan Jozef Lipski was not the only response which the Polish authorities made. The fact that the regime chose this method of responding to the protest and has not yet shown the courage to reply publicly, in any fashion, is suggestive of the state of affairs prevailing in the country. It also indicates that the regime had hoped to handle this affair quietly, probably because of fear or percussions if it became public knowledge.

According to information just received from Poland, the signatories of the petition are under strong pressure from the regime to submit a declaration withdrawing their signatures. So far, none of them has yielded. Only Prof. Jan Szczepanski, of Lódz University and a noted sociologist, and Prof. Kazimierz Wyka have responded to this pressure by declaring that they would not have signed the letter if they had known it would receive publicity. Other signatories are being subjected to reprisals, Prof. Jan Kott and Writer Artur Sandauer, have had their passports withdrawn. Jan Kott was expected in Paris where he was to have received a literary prize for his essay on Shakespeare. The Polish radio received instructions banning from their programs several people who signed the petition. A program by Antoni Slonimski, previously recorded, was withdrawn at the last moment. Similarly, programs by Prof. Sierpinski and Melchior Wankowicz, also previously scheduled, were both cancelled. An article by Jan Kott ready for print in the magazine "Twórczosc" was killed.

Furthermore, according to reliable information received earlier from many sources, the authorities, unable to punish the petitioners on the basis of existing laws, resorted to administrative reprisals beyond those previously noted. The publications of at least three of four writers were banned. Three university professors were forbidden to lecture. Biweekly contributions by Antoni Slonimski disappeared from the satirical weekly Szpilki and he was refused facilities ina governmental clinic to which he is entitled as a recipient of a state prize. Cat-Mackiewicz has been dismissed from the paper Slowo Powszechne. The Catholic weekly "Tygodnik Powszechny," whose editor, Jerzy Turowicz, signed the petition had its print-run cut down from 40,000 to 30,000 copies.

While the regime has been inflicting these retaliatory measures upon the signers of the protest, there has been a discouraging silence on the part of the Western press. It appears not unlikely that the increasingly stringent reaction by the regime inside Poland has been and is being encouraged by this virtual absence of comment and evidence of moral support from sources outside the country.

Following is an incomplete list of the 34 signers who represent the cream of the Polish intellectual elite with brief description of their credentials:

Prof. Dr. Leopold Infeld for many years a close associate of Einstein, former professor at the University of Toronto, nuclear physicist of international fame, laureate of the Polish State Prize in 1955. Prof. Tadeusz Kotarbinski, chairman of the Polish Academy of Sciences, leading philosopher of the country and member of the Soviet Academy of Science.

Zofia Kossak, Polish novelist whose book "Rez oreza" was selected in United States of America by the book-of-the-month club. Jan Parandowski, writer, chairman of the Polish Pen Club. Antoni Slonimski outstanding poet, chairman of the Polish Union of Writers from 1956–59. Prof. Waclaw Sierpinski, professor of the Warsaw University, mathematician of international fame, doctor honoris causa of many Western universities. Adam Wazyk, a poet who won fame in 1956 by his courageous poem "The End of Utopia." Maria Dabrowska, senior of Polish writers, recipient of the Polish state library prize and vice chairman of the Polish Pen Club. Prof. Aleksander Geysztor, professor and former prorector of the Warsaw University, doctor honoris causa of the University of Lyon, France, and historian. Jan Kott, professor of Warsaw University, recent recipient of the Swiss Herder's prize for his essays on Shakespeare, translated into French, English, and German.

Full text of letter follows:

"To: The Prime Minister, Józef Cyrankiewicz, Warsaw:

"Restrictions on the allocation of paper for the publication of books and periodicals and the tightening of press censorship create a situation which threatens the development of our national culture. In recognition of the existence of public opinion, the right to criticize, the right of free discussion and honest information, as the necessary elements of progress, the undersigned, motivated by civil concern demand that Polish cultural policy be altered conforming to the rights guaranteed by the Constitution of the Polish state and conducive to national welfare."

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### TRAGIC SITUATION OF THE CHURCH IN POLAND

Secretary of the Polish Episcopate, Zygmunt Choromanski, auxiliary bishop of Warsaw, said that for the church "the balance of 20 years of people's Poland is very sad, even tragic" and that, therefore, the church would not participate in celebrations of the anniversary. This was contained in a letter to a left-wing Catholic deputy as reported by Reuters on April 2, 1964. The letter constituted a reply to the deputy's query.

The bishop listed in his letter all the well-known grievances of the church, and added that the church, in any case, has been excluded from the start from the organization of the 20th anniversary, obviously because "the authorities of our state did not care about friendly relations."

For the Cardinal Wyszynski and for that matter also for the Polish Communist Party leadership, the struggle goes for higher stakes: whose moral principles and moral authority is supreme in the country.

In the meantime Polish Catholics at large suffered another setback. Paper allowances for "Tygodnik Powszechny" has been cut by one quarter and the journal will be published in 30,000 instead of 40,000 copies, as reported by Reuter on April 4, 1964.

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[From the New York Times, Apr. 18, 1964]

### POLISH WRITERS DENOUNCE CURBS—DEMAND FOR MORE FREEDOM IS MET WITH REPRISALS

WARSAW, April 17.—A quiet letter protesting Communist censorship, signed by 34 of Poland's most prominent intellectuals, has mushroomed into what could prove a major headache for the regime of Wladyslaw Gomulka's Polish United Workers party.

It has already sparked a demonstration by Warsaw University students. Twelve of the country's best-known writers and teachers have been suspended from their posts. Although the regime has never openly admitted the existence of the letter, it has been forced to sponsor a series of articles in the controlled press defending its policies.

The affair has now become an issue in the internal struggle for power that is under way within the party in advance of its national congress in June. Both the progressive and the Stalinist wings are attempting to exploit the situation for their own ends.

#### MAJOR EXPLOSION POSSIBLE

More importantly, in the atmosphere of discontent that envelops the country—compounded of annoyance over rising prices, shortages, a fall in real wages, unemployment and increasing restrictions—such an incident could generate a spark to set off a major explosion.

The regime is well aware that many of the intellectuals who signed the letter were leaders in the 1954–56 revolt against Stalinism that overthrew the old order in Poland.

Taken by itself, the letter represented one more effort by the intellectuals to halt the steady cutting away by the regime of the freedoms won in 1956.

The last 6 years have witnessed increased curbs on expression, sharp cuts in allotments of paper for books, periodicals, and newspapers, and a variety of other restrictions, including the refusal of passports for travel.

#### SIGNERS MAINTAIN SILENCE

None of the signers of the letter will speak at this time to Western newsmen in Warsaw. However, the following details are common knowledge in the Polish capital:

The intellectuals' complaints were voiced at a Writers Association meeting in January. No relief was granted. In March, a group carried the demands to Wincenty Krasko, chief of the cultural department of the central committee.

Finally a decision was made to send the protest letter to Premier Jozef Cyrankiewicz. It said:

"Restrictions on the allocation of paper for the publication of books and periodicals, and the tightening of press censorship, create a situation that threatens the development of our national culture.

"In recognition of the existence of public opinion, the right to criticize, the right of free discussion and honest information as the necessary elements of progress, the undersigned, motivated by civic concern, demand that the Polish cultural policy be altered so as to conform to the rights guaranteed by the constitution of the Polish state and conducive to national welfare."

The signers included such figures as Leopold Infeld, Poland's most noted theoretical physicist, who once was a collaborator of Albert Einstein; Prof. Tadeusz Kotarbinski, one of the country's leading philosophers and until last year head of the Polish Academy of Sciences; Antoni Slonimski, the nation's most noted poet; writers like Adam Wazyk, whose "Poems for Adults" was reprinted around the world during the 1956 events, and Maria Dabrowska, winner of the Polish state literary prize and deputy chairman of the Polish Pen Club.

No publicity was given the letter at the time, and it appeared that the government intended to ignore the matter. This lull lasted until nearly the end of March. Then the security police took into custody a writer named Jan Jozef Lipski, and held him 48 hours before releasing him.

Pressure was put on the signatories to induce them to withdraw their names. Two succumbed, but 32 stood firm.

Reprisals have been reported. Several who had passports have lost them.

Official policy has been reemphasized. In a series of articles the literary weekly Kultura has insisted the government's line is correct and fair. Kultura said:

"We do not see the place for books and plays whose ideological and moral sense is directed against socialism."

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[From the New York Herald Tribune, Apr. 19, 1964]

### AND IN POLAND, 34 INTELLECTUALS DEFY GOMULKA

(By Arnold Beichman)

Wladyslaw Gomulka returns from Moscow this weekend to confront an explosive domestic crisis occasioned by the most momentous revolt of the Polish intelligentsia since 1956.

Poland's First Party Secretary has been challenged by 34 outstanding Polish intellectuals, many of them internationally renowned, who in a 58-word statement have defied Communist ideology and dictation.

The sheet of paper which they signed as a group some 3 weeks ago demanded recognition by the government of "the existence of public opinion, the right to criticize, the right of free discussion and honest information." The manifesto was formally addressed to Premier Jozef Cyrankiewicz.

Little of the dramatic behind-the-scenes story of this significant political event has been made public. In fact, the declaration itself has received little publicity here and in Europe. Polish cultural attachés in Western capitals, it is now known, have urged European editors to "play down" the story because it might compel Gomulka to "act rough" against these defiant intellectuals.

The English text, published here for the first time and somewhat longer than the original Polish, reads:

"Restrictions on the allocation of paper for the printing of books and periodicals, and the tightening of press censorship, have created a situation which threatens the development of national culture. The undersigned, in recognition of the existence of public opinion, the right to criticize, the right of free discussion and honest information as the necessary elements of progress, and being motivated by civic concern, demand that the Polish cultural policy be changed in the spirit of the rights guaranteed by the Constitution of the Polish state and as conducive to national welfare."

### PRESSURES

Despite enormous pressures upon the 34 signatories to repudiate the statement, they have refused to do so. One arrest did take place. Jan Jozef Lipski, former member of the suppressed intellectual organization, the Crooked Circle, was picked up by security police March 27. He was charged, not with having signed the manifesto, since he hadn't, but with gathering the signatures. He was released after 24 hours when the public prosecutor said he was unable to find any basis for criminal proceedings.

Obviously to prosecute a man for merely soliciting signatures to an antiregime statement while ignoring the signatories themselves would have been too stultifying even for a Communist state.

Two of the dissident intellectuals have made a technical recantation. Prof. Jan Szczepanski, of Lodz University, a noted sociologist who was at Leland Stanford University during 1960–61, and Kazimierz Wyka, professor of literature and prorector of Jagellonian University, responded to Government pressure by declaring that had they known that the letter might become public, they would not have signed it.

Actually, the statement has not been published or broadcast in Poland, and what is known of its existence within the country is purely the result of word-of-mouth circulation.

For Gomulka, the revolt of the intellectuals couldn't have come at a more embarrassing moment. Within less than 2 months, June 15, the 4th Congress of the United Polish Worker's Party (or Communist Party) after a year's delay will open the celebration of the 20th anniversary of the Polish Communist state.

The open opposition of the intelligentsia reflects not only its own despair but is part of a nationwide malaise which has infected Polish workers and youth. A wave of work stoppages, which in some cases led to police violence, has been reported in factories in Silesia and along the Baltic coast. Workers from the Cegielski plants in Poznan, who led the 1956 "bread and freedom" marches, demonstrated some months ago for higher wages.

Since the end of the Ecumenical Council in Rome, Cardinal Wysznski, Roman Catholic primate of Poland, and his bishops have been attacking the Gomulka regime with unprecedented openness.

### REPRISALS

During the past 3 weeks, the Government has taken these reprisals against some of the signatories:

Prof. Jan Kott, writer and critic, who was to receive a literary prize in Paris for his essays on Shakespeare, had his passport withdrawn. An article already in type for publication in the magazine Tworczosc was killed.

Artur Sandauer, a well-known writer and critic, had his passport withdrawn.

The Polish radio was ordered to ban previously recorded programs by several of the signatories, including one by Antoni Slonimski. Broadcasts by Prof. Waclaw Sierpinski and Melchior Wankowicz were canceled. Sierpinski, a professor at Warsaw University, is a scientist and mathematician. Wankowicz, who was with General Anders' army in Italy during World War II, is a writer who lived in New York and returned to Poland in 1956.

Stanislaw Mackiewicz-Cat, ex-premier of the Polish Government-in-exile, who returned to Poland after the war, has been dismissed from the newspaper Slowo Powszechne.

Jerzy Turowicz, editor of the Catholic weekly, Tygodnik Powszechny, had his print-run cut from 40,000 to 30,000.

Among the other Polish intellectuals who signed the statement:

Jerzy Andrzejewski, author of "Ashes and Diamonds" which was made into a prize-winning film a few years ago.

Maria Dabrowska, the most prominent of living Polish women writers and vice president of the Polish PEN Club.

Leopold Infeld, nuclear physicist and former pupil of Albert Einstein, who lived in the United States during the war, and a Polish State Prize laureate.

Tadeusz Kotarbinski, philosopher and honorary president of the Academy of Sciences.

Zofia Kossak-Szczucka, a prominent Catholic writer, former inmate of Auschwitz, who returned to Poland after the October 1956, revolution.

Jan Parandowski, writer and chairman of the Polish Pen Club.

Adam Warzyk, who became famous with his poem, "The End of Utopia," in 1956.

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## BIOGRAPHICAL INFORMATION ON SIX OF THE LEADING POLISH INTELLECTUALS WHO SIGNED THE LETTER OF PROTEST TO PREMIER CYRANKIEWICZ

### JERZY ANDRZEJEWSKI

Born 1909 in Warsaw. One of the best Polish novelists. By 1961 8 of his books had been translated into 15 languages, including English, French, German, Swedish, Danish, and even Japanese. His novel, "Ashes and Diamonds," 1947, was filmed in 1955 and the film became internationally known.

Andrzejewski's first published work appeared in 1932. He started to contribute to the right wing weekly, Prosto z Mostu. In fact he was discovered by its editors but soon went over to the group of Wiadomosci Literackie, a liberal weekly. In 1938 he received the Youth Writers' Prize of the Polish Academy of Literature.

During the war he lived in Warsaw, active in underground cultural work. He moved to Cracow in 1947, and was from 1948 in Szczecin, and from 1952 again in Warsaw. He joined the PUWP (Communists) either during the war or immediately thereafter. After the war, apart from "Ashes and Diamonds," and the political discourse, "The Party and the Writers' Creativity," 1952, he wrote several important novels: "Darkness Covers the Earth," 1957; "The Gates of Paradise," 1960; a novel about the children's crusade, and the last one—rather a long short story than a novel—"He Goes Jumping Over the Mountains," 1963. It will be noticed that, except for the early postwar "Ashes and Diamonds," and the, by common consent, ambitious but misfired attempt "Effective War or Description of Battles and Skirmishes with Self-Confident People" volume 1, 1963, no more were published—nothing really important appeared before "The Thaw."

Already active before the war in literary or intellectual journalism, Andrzejewski also continued to be so after the war. He was also active in the Polish Writers' Association, becoming chairman of the local branch wherever he happened to live. Thus he was chairman of the Cracow branch, 1946–47; the Szczecin branch, 1949–52, the Warsaw branch, 1956–60. He was also deputy chairman of the association some time during his stay in Szczecin.

In politics he was active in the Polish-Soviet Friendship Society, in the Polish-German Friendship Society, and in Defenders of Peace movement, all before 1956. He was also Sejm deputy, 1952–56.

He was editor in chief of Przeglad Kulturalny (Cultural Review), 1952–54; member of editorial board of Nowa Kultura (New Culture), weekly; of the monthly Tworczosc. He had been selected as editor in chief of the monthly Europa, 1957; but the galley proofs of its first issue were confiscated, and the monthly was closed before it ever appeared. Enraged, Andrzejewski (with many other members of the editorial board) resigned from the party. He later contributed to the weekly Polityka, and his article on capital punishment enraged the regime justice authorities, who remonstrated with Gomulka, Andrzejewski was sacked, and with him the weekly's editor in chief, M. F. Rakowski. The latter, a good and influential Communist, was shortly thereafter reappointed (1960).

Andrzejewski has traveled a lot. Before 1952 he was in the Soviet Union, in 1952 in East Germany, in 1953 in Czechoslovakia, in 1956 in Italy, 1957 in Yugoslavia, 1959 in France (on a scholarship from the Ford Foundation), 1962 in Great Britain.

In 1949 he was decorated with the order of the Banner of Labor, and in 1953 with the Golden Cross of Merit.

### MARIA DABROWSKI

The most prominent living Polish novelist, considered by some to be worthy of the Nobel Prize.

Born on October 6, 1889, in Russowo near Kalisz, her father was the impoverished landowner Józef Szumski. Studied science at Lausanne and economics and sociology at the Université Nouvelle in Brussels. Holds the degree of candidat es sciences naturelles. In 1911 married Marian Dabrowski, participant in the 1905–07 revolution, a journalist and politician. Abroad until 1914 (in Switzerland, Belgium, France, England, where she studied the cooperative movement). From 1914 in Poland, working with the radical wing of the peasant movement. Worked in various offices, and only from 1924 devoted her time entirely to literature.

She has not written much. Her greatest novel is "Noce i dine" ("Nights and Days"), four volumes (1932–34). After the war she published "Stanislaw i Bogu il" ("Stanislas and Bogumil"), in 1948, and her next book was in 1955, "Gwiazda Zaranna" ("The Morning Star"). She was considered to belong to the inner emigration.

During this emigration she published in her own translation an abridged, two-volume version of Pepys' "Diary" (two editions, 1952 and 1954).

Her books have often been reprinted. "Nights and Days" had 11 editions; "Children of the Motherland" (stories for youth), 6 editions; "Znaki Zycia" ("Signs of Life"), 5 editions; etc. It is estimated that 16 of her books were published between 1956 and 1959. Her works have been translated into Czech, Slovak, Croatian, Serbian, Russian (over 200,000 by 1961), French, German, Italian, Danish, Hungarian.

While not a supporter of the present regime, she gave her name to actions that, though ostensibly nonpolitical, were full of political meaning. Thus, she was a member of the all-Polish electoral committee, delegate to World Peace Congress (1956). She also signed the appeal for Polish exiles to return that was broadcast by the radio station KRAJ (1955).

Much more evident were her activities in writers' organizations. She was a member of the board of the Polish Writers' Association (1954–61). She resigned reportedly as protest because Jerzy Kornacki was arrested. She was also deputy chairman of the Polish Pen Club (elected 1955, reelected 1958).

She has frequently traveled abroad. In 1953 she was in the Soviet Union, 1955 in East Germany, 1956 in Stockholm (World Peace Congress); also in 1956 she was in Great Britain and in 1959 in West Germany, in both cases representing the Pen Club, and in 1960 was in France and Yugoslavia, where she was received by Tito.

In 1952 she celebrated the 40th anniversary of her literary activity, and 10 years later, the 50th was celebrated by a commemorative session of the Polish Academy of Sciences in which also foreign scholars took part. In 1959 her 70th birthday was celebrated, and in 1962 a village club was opened in the village where she was born.

She contributed to many periodicals until 1963. But early that year the publication in installments of her book "Przygody myslacego czlowieka" ("Adventures of a Thinking Man") which had been going on in "Przeglad Kulturalny" since October 1961, was discontinued.

Dabrowski holds numerous awards and decorations. In 1946 she was awarded the Gold Cross of Merit; in 1952 the Officers' Cross of Polonia Restituta (fourth class); in 1954 Commander Cross of Polonia Restituta with Star (or second class); in 1955 the state prize first grade; in 1957 she received an honorary doctor's degree from Warsaw University and in 1959, on the occasion of her 70th birthday, was decorated with the Banner of Labor, first class.

Along with those tokens of official recognition there was also a sign of official displeasure, albeit a mild one. Chief of CC department cited disapprovingly her opinion regarding publication of Marek Hlasko's book: "The problem of publication is beyond discussion; one cannot limit a prominent writer's freedom to write."

### WAZYK ADAM

Born in Warsaw in 1905, and a prewar Communist. A poet who from 1924 has published several volumes of poetry, essays, and novels, and a prominent translator of poetry from Russian. During the last war he was in the Soviet Union, and from 1942 to 1945 in the Polish army.

He was one of the cofounders of the Karinca weekly, and from 1950 to 1954 editor in chief of the major literary monthly Twórczosc.

He changed overnight from a well-known party-line-toeing Communist writer to a celebrity with the publication on August 21, 1955, of "The Poem for Adults." This poem, considered by no less a man than Bertold Brecht to be one of the highest achievements in poetry in the socialist countries in the last 10 years and translated by Brecht into German (it was also translated into Czech), sparked off the revolution in Poland.

In 1957, Wazyk became a member of the editorial board of the monthly Europa, liquidated before its first issue could appear. It is said that Wazyk's poems, though by no means similar to the "Poem for Adults," were responsible for the liquidation. In 1957 Wazyk also gave up his party membership.

Up to the publication of the "Poem for Adults," Wazyk was influential, but especially since he left the party he has been victimized by the regime. He traveled to China in 1952, was in Hungary during the revolution in 1956 and in Yugoslavia in 1957. Since then he has not been permitted to leave the country.

His awards include the Pen Club Prize (1953), State Prize, second grade (1953), and Commander Cross of Polonia Restituta (or third class).

Since 1957 there has never been an official ban on publishing his works, but he also has not been permitted to publish anything important. He was reportedly in strained financial conditions. Only in 1961 was a book of his published by the Ministry of National Defense Publishing House and a poem published by another publisher.

### INFELD LEOPOLD

A most prominent Polish nuclear scientist, a collaborator of Einstein, included by Bertrand Russell among the 11 greatest atomic scientists of the world.

Born in 1898, of Jewish origin, he studied in Cracow and Berlin. In 1930–33 he was lecturer at Lvov University; Rockefeller Foundation fellow. In Cambridge (England), 1933–35, where he studied under Lord Rutherford. In 1936–38, member of the Institute of Advanced Studies at Princeton; and from 1938 to 1950 at Toronto University. In 1950 he returned to Poland to become professor of the University of Warsaw.

In Poland he has been a member of the Presidium of the Polish Academy of Science since 1952, was editor in chief of the quarterly Mysl Filozoficzna (Philosophical Thought), and is active in all nuclear committees and commissions.

Besides purely scholarly works, he has written a novel, autobiographical sketch, and several articles. He was admitted to the Academy of Sciences of the German Democratic Republic (1955) and elected member of the Council of the International Association of University professors and lecturers (1959).

In 1954 he was decorated with the order of the Banner of Labor, first class, and next year received the state prize, first class.

An ardent Communist since 1944, he was in 1956 among those in the guard of honor at Bierut's bier. He was always most active in the World Peace Council and the Movement for Peaceful Use of Atomic Energy, and in these two capacities, as well as to attend scientific atomic conferences, he has traveled abroad well over 20 times.

In spite of all this, he has always been concerned about freedom of thinking on both sides of the Iron Curtain. As far back as 1941, he published an autobiography, "Quest," in which he accused Polish prewar universities of reactionary tendencies, lack of tolerance and racial discrimination. But he was also reportedly the first to attack obscurantism in Polish science as a result of Russian influence and control Stockholm Tidningen April 16, 1959.

He signed the statement of representative of Polish public opinion in connection with the Paris summit conference (1960), but he also stated that he was "disturbed over the Soviet nuclear tests," even though he made this statement simultaneously with a statement fully supporting the Soviet position with regard to West Berlin (1961). Practically at the same time he called, during the last Polish discussion on intellectual freedom, for a simultaneous increase of living standards and freedom in Poland. Only in that way could we gain more supporters for our socialist regime and win in the competition with capitalist countries, he argued.

This was described as the most lucid and realistic formulation of hopes cherished by Polish intellectuals.

### ANTONI SLONIMSKI

Probably the most prominent living Polish poet, the wittiest and most sarcastic writer and the most outspoken protagonist of freedom of speech.

Born in 1895, of Jewish extraction, he was one of the founders of the poetic group Skamander (1920).

Already before the war he distinguished himself as a sharp critic of conditions in Poland, especially of nationalistic tendencies. He also became known as a pacifist. During the war he was in the emigration in England. After the war he returned to Poland. Always as of leftwing convictions, he was gladly received by regime.

In 1953 he became a member of the board of the Polish writers association, and from 1955 was a member of the board of the Polish Pen Club. Active in the broadcasting station KRAJ and Association Polonia, both created in 1955 in order to induce Polish emigration to return to Poland. In 1955 Slonimski wrote a poem calling them to return.

He received the State prize, first grade, in 1955 and Prize of the Warsaw City National Council in 1956.

In 1956 he spoke at the memorable 19th session of the Ministry of Culture's Council for Culture and Art, and his contribution on the restoration of citizen's freedom was published in Przeglad Kulturalny. In the same he was elected chairman of the Polish Writers Association, and he was reelected in 1957 only in 1959 did he leave that position, retaining his seat on the association's board, which he gave up in 1961 in protest against the arrest of the writer Jerzy Kornacki. In 1963 he did not choose to participate in the association's general meeting.

From 1954 to 1960, he traveled abroad almost annually. Then there was an interruption, and only in 1963 did he go abroad again, this time to France and England.

"The Thaw" made him one of the most outspoken champions of freedom of speech. In 1957, while at the Pen Club Congress in Tokyo, he signed the protest against the persecution of Hungarian writers. He also must have said something about Poland's right to critize the Soviet Union, since he was attacked by a Soviet journalist for it. A year later, in 1958, he was again rebuked by Radio Moscow for wrong interpretation of the freedom of writing. Although he improved the bad impression he had made on the Soviet Union by his visit there in 1958 and an interview given to Moscow's Literary Gazette, he soon again fell out of favor. He wrote a poem in which he referred to Pasternak (without naming him directly) and read it at a literary meeting on December 4, 1958.

CC Departmental Chief Andrzej Werblan criticized him in the party daily Trybuna Ludu of March 15, 1959. Toward the end of that year, a volume of his prewar theater reviews, which had already been printed and sent for distribution, was confiscated.

Up to quite recently, a regular contributor to the satirical weekly Szpilki, Slonimski did not hesitate to poke fun at his possibilities and limitations. "I have often been denied talent and good looks, very often, especially recently. I am refused money, but generally speaking, I am allowed to possess courage of convictions. One has got these things. One had them during the nightmarish times of the Pilsudski regime and still a bit later" (Szpilki, July 10, 1960).

Quite recently, in 1962, he wrote the poem "The Trial of Don Quixote," which could not be printed, but is, in manuscript copies known to practically all intellectuals in Poland.

### TADEUSZ KOTARBINSKI

Born March 31, 1886. One of the most prominent living Polish philosophers. Before the war professor of logic at the University of Warsaw, and 1929–30, dean of the Department of Humanities. Already at that time he was known for his fairly radical political convictions, his uncompromising atheism and his liberalism.

After the war he moved to Lodz, and was the rector (president) of the newly organized university there (1945–49).

His attitude to the Communist regime and cooperation with it had, we believe, the following motives: (1) As a Polish patriot he wanted to contribute to reconstruction of the country ruined by the war, under whatever regime might be in power; (2) as an atheist he naturally welcomed the first all-out atheistic regime Poland had ever had; (3) as a man of radical opinions, though not a Communist, he was naturally inclined to cooperate with a still more radical party. It was the liberal strain in him and the uncompromising integrity of the man that put obstacles in his path of cooperation. In the quarterly Mysl Fliozoficzna, No. 12/51, there appeared an article by Bronislaw Baczko called "On the Philosophical and Sociopolitical Opinion of T. Kotarbinski," in which Kotarbinski was accused of harboring idealistic opinions as a scholar. Baczko paid well deserved compliments to Kotarbinski's prewar fight against anti-Semitism and the fascination of Polish schools and scholarships.

But Kotarbinski had tried to fight "from the supraclass position." He treated the class struggle as a manifestation of narrow group-mindedness and he considered its intensification to be the result of obscurantism and blind passion." That was the result of professors "individualism and elitarianism."

Such opinions expressed by a man who even now, more than 10 years later, has still not been appointed professor, enraged the old scholar. The polemics on the following issues ended with editorial condemnation of Kotarbinski's stand.

Between 1952 and 1955, little was heard of him, although he remained a member of the Polish Academy of Sciences and Professor of Lodz University. From time to time an article of his appeared in some highly specialized and little accessible periodical. In 1956, during the "Thaw," came the first mark of recognition: on his 70th birthday he was decorated with the Banner of Labor, first class, for "outstanding achievements in scholarship and teaching."

Also in 1956 he started again writing for general weeklies such as Przeglad Kulturalny.

In January 1957, he was elected president of the Polish Academy of Science (reelected in 1960 and stepped down in 1962). This again put him on the path to a great career. Academic and scholarly appointments were heaped on him: he became a member of the scholarships and pedagogical council; deputy chairman of the Institute for the History of Philosophy (1957), and chairman from 1960; he received an honorary doctoral degree from Lodz University (1957); was deputy chairman of the all-Polish Front of National Unity (1958); chairman of the committee for the celebration of the millenium of Poland (1958); chairman of the Society of Moral Culture (1958); chairman of the Committee for Reform of Education (1961); and member of the following academies: Nulgarian (1958), Soviet (1958), Mongolian (1961).

During these years he represented Polish scholarship abroad. As far as the United States of America and the Soviet Union, Israel, and China, England and Italy, to name just a few countries. He wrote dozens of press articles, essays for learned magazines, and several books.

In 1960 (aged 74) he retired as professor, but remained still chairman of academy till 1962. On March 31, 1963, on his 77th birthday, he was decorated with the Grand Cross Polonia Restituta.

In spite of his advanced age and retirement as professor and president of the academy, Professor Kotarbinski has continued to hold numerous high posts, such as the chairmanship of the committee for the millennial celebrations, and his 78th birthday was remembered by regime information media. His own possibilities of writing and publications were considerable. Yet, even though the times when his own intellectual freedom was restricted belong to the distant past, he was among the signatories of the letter defending intellectual freedom. But, then, Kotarbinski has always been a liberal.

Mr. Speaker, I should like to attach to my remarks the following letter and related material prepared by the Polish American Congress:

POLISH AMERICAN CONGRESS, INC.,
*Washington, D.C., April 17, 1964.*

Hon. ROMAN C. PUCINSKI,
*House Office Building,*
*Washington, D.C.*

DEAR SIR: Since the outbreak of World War II, during which Poland's valiant struggle against Nazi-Communist totalitarianism has become "an inspiration for mankind," the U.S. Congress annually commemorates one of the brightest events in Polish history—the adoption of May 3 Constitution of 1791. These special observances in both Chambers of Congress demonstrate American friendship toward the Polish nation, whose millennial heritage of Christianity, of defense of, and participation in the growth of Western culture is now being ruthlessly suppressed by Communist tyranny.

The Poles, longing for the day of deliverance, do need your words of hope and encouragement to sustain them in psychological resistance to communism and Soviet domination.

The Polish American Congress, representing over seven million Americans of Polish ancestry, sincerely appreciates your past participation in the Congress as impressive and memorable as in the previous years.

This year's May 3 observance coincides with the following significant dates of Polish history—600th anniversary of the founding of University of Krakow, 25th anniversary of German-Soviet attack on Poland, and 20th anniversaries of the Battle of Monte-Casino, of the Warsaw uprising, and of the founding of the Polish American Congress.

I am taking the liberty of enclosing fact-sheets dealing with these events.

With highest regards, I am,

Sincerely yours,

CHARLES BURKE,
*Washington Representative, Polish American Congress.*

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### MAY 3—THE POLISH NATIONAL HOLIDAY

On May 3 Poles everywhere and citizens of Polish origin in many countries celebrate a Polish national holiday—the Polish 3d of May Constitution Day.

In the United States, wherever Americans of Polish descent live, in cities and towns from coast to coast, this holiday is observed with appropriate exercises throughout the month of May to pay tribute to the Polish nation and to remind fellow Americans that Poland was one of the pioneers of liberalism in Europe.

It was on May 3 in 1791, barely 2 years after the adoption of its Constitution by the United States in 1789, that Poland without a bloody revolution or even without a disorder succeeded in reforming her public life and in eradicating her internal decline. But this great rebirth and assertion of democracy came to the Poles too late and did not forestall the third partition of Poland in 1795 by Russia, Prussia, and Austria.

#### POLAND PIONEERED LIBERALISM IN EUROPE

The greatness of the May 3 Polish Constitution consisted in the fact that it eliminated with one stroke the most fundamental weaknesses of the Polish parliamentary and social system. The Poles raised this great moment in their history to the forefront of their tradition rather than any one of their anniversaries of glorious victories or heroic revolutions.

We Americans who have been reared in the principle given us as a birthright by the founders of our great Republic, the principle of the sovereignty of the people in the state, which is the primary postulate in the 1791 Polish Constitution, can see how this truism cut off the Poles and the Polish political tradition completely from both the Germans and the Russians, who have been reared in the principle of state, and not national sovereignty.

The light of liberalism coming from Poland was then, as it has been throughout the years that followed and even unto today, a threat to tyranny and absolutism in Russia and Germany. In 1795 Russian and Prussian soldiers were sent to Poland to partition and rape her. In 1939 Russian and Prussian soldiers met again on Polish soil, as the absolute totalitarianism systems of nazism and communism again felt the danger of true liberalism coming from Poland just as in 1791.

In the Polish 3d of May Constitution, this liberalism was formulated in these words:

"All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society on an equal scale and on a lasting foundation."

#### AMERICAN AND POLISH CONSTITUTIONS SIMILARLY INSPIRED

The philosophy of government discernible throughout the 3d of May Polish Constitution leads one to believe that the American people and the Polish people had each drawn inspiration for their respective constitutions from the same source.

Meditation on the anniversary of May 3 deepens the faith and heightens the courage of every Pole and every American of Polish origin. It reminds all Americans of Poland's destiny in the history of mankind, and prophesies the ultimate triumph of justice even though Poland once more has been deprived of her independence, sovereignty, and her territory by one of our former allies, Soviet Russia, with the consent of other United Nations.

#### THE WARSAW UPRISING

The story of heroic Warsaw uprising and inhuman Soviet treachery goes back to July 1944.

The invasion of the European continent by the Western powers was progressing rapidly. In the East, Soviet Army already occupied large Polish territories won from retreating Germans.

Moscow Radio, through its Kościuszko station began to broadcast appeals to the Poles:

"Warsaw * * * the hour of action has struck. Your houses, parks, bridges, railroad stations, factories, buildings, stores, have to be transformed into centers of resistance. The Germans will attempt to make a stand in Warsaw—to destroy whole city. In Bialystok they were busy for 6 weeks destroying everything and murdering thousands of people. * * * Let us do everything in our power to prevent them from committing same crimes in your city. People of Warsaw, to arms * * *."

These calls were repeated day in and day out, and finally, on July 29, when the Russian offensive ground to a halt on the right bank of the Vistula, in the Warsaw's suburb of Praga, Moscow Radio sent out a more urgent appeal to Warsaw, urging the Poles to "fight against the Germans," for "the hour of action has arrived. Warsaw never surrendered, never ceased to struggle. And now everything will be lost in Hitlerite deluge unless you save it through action. * * * Poles, the time for freedom approaches. Poles, take to arms. * * * There is no second to be lost."

The Polish underground authorities adhered to the instructions given by Polish Government in London, where the Western Powers insisted that the Poles must actively cooperate with Russia. Accordingly, the Polish Government-in-exile issued such orders.

Then, on July 31, 1944, delegate of the Polish Government in London, and Vice Premier of the Polish underground branch of this Government, Jankowski, after having heard opinions of the commander in chief of the home army, General Bor-Komorowski and his chief of staff, General Monter, issued orders to the home army, to start revolt against the Germans the next day, August 1, 1944, at 5 p.m.

Three days later, on August 4, all activities on the German-Russian front ceased, although the Soviet forces already consolidated their positions in Praga. Even their heavy guns were silenced.

Instead of promised and anticipated roar of Soviet artillery, which would herald a new phase of Russian offensives, all was quiet on the eastern front of Warsaw.

There was only one explanation: Warsaw had been betrayed by the Russians.

On August 17, Premier Churchill and President Roosevelt appealed directly to Stalin to help Warsaw. Stalin did not reply.

Anglo-American staff drew up a plan in London for bombing German positions in Warsaw by means of shuttle operations. British and American aircrafts were to bomb German strongholds in Warsaw, then fly for refueling to nearby Luck, already occupied and secured by the Soviet Army.

Stalin not only rejected this plan, but at the same time accused the Poles, fighting and dying in Warsaw, of "betrayal" and "collaboration" with the Germans.

The Poles fought on against all odds, against all hope.

They forced the Germans to send three armored divisions, badly needed on the Western front, to Warsaw. These, with incessant bombings by German planes, finally crushed the uprising.

After 63 days of fighting, Warsaw capitulated.

Over 250,000 Polish men, women, and children died in this struggle, in which even juvenile Scout troops rose to the heights of heroism and sacrifice.

The Germans, with a teutonic fury destroyed, burned, pillaged the remnants of the city.

Warsaw did not die, however.

The indomitable Polish spirit rebuilt the city from desolation and ruins.

Warsaw, rising like Phoenix from the ashes, remembers Nazi brutality and Soviet treachery.

And it longs for the day on which a truly free and independent Poland returns to the Western family of Nations.

### Persecution of the Catholic Church in Poland

In Poland—a favorite example of Western optimists for the "coexistence" of communism and religion—the persecution of the church has increased.

A large number of orphanages and schools run by nuns were closed. The pilgrimages to Czestochowa in August 1963, were banned as an alleged precautionary measure against smallpox epidemic. A new decree of September 1963, abolished the exemption of clerics from military service, many seminaries were conscripted and their studies disrupted. Besides, wayside chapels and crosses were removed, parents who baptize their children are fired from government jobs and exorbitant taxes are levied on churches. There are instances where church equipment such as portable organs and vestments are sold at auctions by tax collectors.

In an Episcopal letter, dated August 28, 1963, the Polish bishops presented a long list of complaints about measures taken by the regime against the church: confiscation of property, including typewriters, watches, and clothing, complete liquidation of lower clerical seminaries, confiscation of parts of the buildings of higher seminaries, callup of clerical trainees, elimination of nuns from hospitals (in only a few hospitals nuns have been left to attend to the patients), liquidation of convents by seizure of buildings.

In his Christmas sermon, delivered in Warsaw, Cardinal Wynszynski denounced restrictions of freedom of worship in Poland as "reactionary, barbarian and obsolete."

### Victory at Monte Cassino

From the dawn of history, Cassino stood as the southern gateway to Rome. On the adjacent mountain known as Monte Cassino, many temples and altars were built to unknown deities by unknown worshippers in dim past.

St. Benedict arrived there in the years of 525–529 and found a complete pagan Acropolis, which he rebuilt, in a Christian pattern, into the abbey of Monte Cassino.

Here, the Poles have tried to grasp the always elusive to them freedom—when the Polish legions under Gen. Henryk Dabrowski was guarding this territory for the armies of Napoleon; then again in 1918, when Polish Army of the West was being organized from Polish-Austrian prisoners of war; and in May, 1944, when the Second Corps of the Polish army-in-exile wrested the mountain from the Germans.

There were four battles of Monte Cassino in 1944 and they belong to epic struggles of World War II. The chain of hills towering above the city of Cassino blocked the northward offensive of the Allied armies, and was transformed by the Germans into a seemingly impregnable fortress.

In the three previous battles, soldiers from seven nations, including the U.S. 2d Corps, tried unsuccessfully to blast the Germans from their mountain stronghold. These battles raged from January until the end of April 1944.

Then, on May 11, 1944, at 11 p.m., the Appenine Peninsula began to tremble from a renewed violence; 2,000 heavy artillery guns opened fire on Monte Cassino.

At 1 a.m., on May 12, main elements of the Polish Second Army Corps—the 3d and the 5th Divisions under the command of Lt. Gen. Wladyslaw Anders, began to attack German positions, capturing under withering enemy fire and in hand-to-hand combat points 593 and 569, and finally the Phantom ridge.

The battle lasted a whole week. The Poles advanced yard by yard, bled, died, and fought, sustained by the indomitable will to win.

During the night of the 17th and 18th of May, the Germans recoursed to flight. With the dawn of May 18, the Polish white and red flag was unfurled above the smokefilled and bloodstained battlefield.

Peace returned to the ruins of Monte Cassino.

The Poles paid a heavy price for this victory: 860 officers and men killed in action; 2,822 wounded.

One year later, in March 1945, a committee was formed for the purpose of rebuilding the Monte Cassino Abbey. It made very little progress, however.

Then on October 10, 1945, the Polish Embassy at the Vatican notified the papal secretary of state that the soldiers of the Polish Second Corps are willing and ready to rebuild the abbey. The Pope accepted this offer with deep gratitude. The British command assigned 200 German prisoners of war, who worked a whole year on the project under Polish officers and men.

Thus the Poles not only conquered the enemy on Monte Cassino, but were the first to start working on the restoration of its former glory.

The gallantry and heroism of the Poles were beyond praise.

On the memorial in their war cemetery at the slopes of Point 593, these poignant words are written:

> "We Polish soldiers,
> For your freedom and ours,
> Have given our souls to God,
> Our bodies to the soil of Italy,
> And our hearts to Poland."

As Fred Majdalany points out in his book, "The Battle of Cassino,"—

"By their selfless immolation the Poles turned that grim mountainside into a memorial to soldiers everywhere."

### Twentieth Anniversary of the Polish-American Congress

"We, the representatives of the united Americans of Polish descent, assembled in convention at Buffalo, N.Y., mindful of our civic duties, solemnly pledge our unqualified service, love and affection to our country, the United States, and our active participation in its life. Desiring to give true expression to our sentiments and aims, we call into existence the Polish-American Congress."

With this declaration a representative body of over 7 million Americans of Polish origin had been founded at organizing convention, held on May 28–30, 1944, with the participation of over 2,000 delegates from Polish-American church organizations, fraternal orders, professional, educational, civic and business groups.

Under wise and skillful leadership of its first President, Mr. Charles Rozmarek, reelected to this high and responsible position at the four succeeding national conventions, the Polish American Congress was the first American organization to speak out against Russian aggrandizement and warn of the folly of any attempt to appease Russia on the grounds of wartime expediency. Since 1944, its leaders have carried this warning to the public, to this country's leaders, and to the governments represented at the United Nations. Events of history, which now reveal the true menace of communism to civilization, have proved the validity of these warnings.

The Polish American Congress has made strong protests against the Yalta agreement, which sacrificed Poland to Soviet domination, and against the rigged elections which were staged in Poland to form the present government. It has emphasized the importance of restoring a free, independent, and integral Poland as the cornerstone of European stability and as the true foundation of world peace and American security.

Numerous and comprehensive memorandums, statements, resolutions, letters, wires, and booklets have been directed to Presidents Roosevelt, Truman, Eisenhower, and Kennedy; Secretaries of State Hull, Stettinius, Byrnes, Marshall, Acheson, Dulles, and Rusk, Members of the U.S. Congress; delegates to the United Nations; the press; the clergy, educators, and the public. In all, the Polish American Congress has called for adherence to the Atlantic Charter and respect for "the right of all peoples to choose the form of government under which they will live."

Headed by Charles Rozmarek, president, delegations have met Presidents Roosevelt, Truman, Eisenhower, and Kennedy to plead the case of a free and democratic Poland and oppose the terms of the Yalta Agreement; presented the cause for an independent and integral Poland of the United Nations Conference in San Francisco; attended the Paris Conference, and made a tour of Polish displaced persons camps in Western Europe.

A delegation of the Polish-American Congress led by Mr. Rozmarek, presented the viewpoint of Americans of Polish origin to numerous leaders and diplomats of democratic countries in personal conferences in Europe.

Mr. Rozmarek, speaking in behalf of the Polish-American Congress, has testified before congressional committees considering legislation to admit displaced persons into this country. The Polish-American Congress has established a committee on displaced persons.

It has established commissions of American affairs, culture and education, civic affairs, economics and management, and information and publications to improve the welfare of Americans of Polish descent through support of their schools, parishes, press, and vocational activities.

The congress has through several of its State districts offered scholarships to young Americans of Polish origin to encourage study in fields such as social work, arts, and journalism.

It has supported the distinguished Polish Institute of Art-Sciences in America, Inc.

It has published a Polish-English newspaper, the Delegates News-Letter, and a digest-size magazine—the Bulletin—containing informative articles on American foreign policy, the Polish situation and related subjects.

Cooperating with the national headquarters at 1520 West Division Street, Chicago, Ill., are 33 State divisions in 26 States. Membership in the congress includes more than 20 fraternal organizations and their local lodges, parishes, several Polish language newspapers, outstanding members of the arts, sciences and professions, and business, industrial, and civic leaders—also thousands of local church, civic, charitable, cultural, business, ideological, political, professional, and other associations, clubs, and societies, in cities and towns from coast to coast.

Mr. McCORMACK. Mr. Speaker, the Constitution of May 1791, is a very significant landmark in Poland's modern history. The drafting and the adoption of that document by the Great Diet—or Parliament—173 years ago, was a real turning point in the history of the Poles. By its liberal and democratic provisions, Polish leaders effected a peaceful revolution in their form of government without resorting to violent and terrifying measures. By such an act they led their countrymen from the feudal ways of the Middle Ages to the broad democratic highways of modern times.

The Constitution of May restrained the authority of the monarch, and introduced ministerial responsibility in government. The intricate and obstructive features of the old system and many class distinctions associated with it were eliminated. A bicameral legislative body with full legislative authority was created. Economic and social barriers between the nobility and the townsmen were broken down. The townsmen recovered their autonomy, and were admitted to many higher offices. Religious toleration was established, and the peasantry was taken under the protection of the law. The Constitution thus abolished the worst abuses from which Poland had been suffering for centuries. As has been justly observed, through the abolition of the most crying political evils of the old regime, and by granting more freedom of action to the middle and lower classes, the Constitution marked a great advance upon previous attempts at reform in Poland.

It was unfortunate both for the Poles and for the forces of liberal democracy that there was no time to carry out the provisions of the Constitution. Its liberal spirit aroused the ire of Poland's enemies, and fearing that through this Constitution, Poland might regain her former strength, they hastened to fight her and bring about her final partition in 1795. Thus before the unhappy Polish people had any time to enjoy the benefits of their new Constitution their country was parceled out among the autocrats of Austria, Prussia, and Russia. Having thus lost their independence and freedom, all Poles became subjects of alien governments in their homeland. Even then, they managed to keep alive the spirit of their national heritage—drawing spiritual sustenance from the principles enunciated in their new Constitution. At the end of the First World War they witnessed the defeat of their oppressors, and naturally they rejoiced at this opportunity to regain their independence.

Today once more the fate of the Polish people is not an enviable one. In their homeland some 25 million of them are not permitted to celebrate this Constitution day. We in this great Republic join all Americans of Polish ancestry in its celebration and heartily express our hope that soon all Poles will again be able to do the same, freely and without fear, in their beloved homeland.

Mr. NEDZI. Mr. Speaker, I am pleased to have the privilege of participating in the House of Representatives observance of a great day in the history of Poland. This is the 173d anniversary of the Polish Constitution.

This is the day for us, who live in freedom, to remind the world and reassure the Polish people that Americans share their aspirations for freedom.

The Constitution of 1791 was a progressive document. It adopted the principle that all power in civil society is derived from the will of the people. Moreover, the men who drafted this Constitution were greatly influenced by liberal movements in America, England, and France. Thus, we see that, in the last decade of the 18th century, Poland raised to positions of influence men of progressive mind who looked with favor to the West.

In the mid-20th century, we see a Poland which, though suppressed, still looks to the West. And, if ever the totalitarian boot is removed from its neck, it will once again raise great men with progressive ideas.

Poland has long been a victim of its geography. It is this unhappy fact which has caused it to relive its history time and again. The spirit of the Constitution of 1791 alarmed the dictatorship of Russia which saw on its doorstep the tempting shadow of democracy. One of the basic designs in Russian foreign policy was to have a weak Poland on its western border. Russia thus moved to destroy the Polish Constitution. And the Russians and Germans partitioned and occupied Poland. Poland's history since 1791 is a history of a quest for freedom in the face of partition and suppression.

The soil of Poland has for centuries been receptive to higher learning. This year, the Constitution Day observance coincided with the 600th anniversary of the founding of the University of Krakow. This is one of the oldest institutions of higher learning in the world. It includes among its illustrious alumni the father of modern astronomy, Nicholas Copernicus. Its professors have given the lead to intellectual development—not only in Poland, but in Europe.

In today's Poland, the intellectuals are again giving the lead and reflecting the mood of the Polish people. The Communist government of Poland is being confronted with potentially the most momentous crisis since 1956, which crisis also had its roots in the revolt of the intelligentsia.

The increasing troubles faced by the government of Wladyslaw Gomulka are the result of Communist failure to meet either the spiritual or material needs of the Polish people. The gains in free expression which were won in 1956 have gradually eroded, and the clock has been turned back more and more toward Stalinist reaction.

Symbolic of the crisis is a very recent statement issued by 34 outstanding Polish intellectuals, many of them internationally famous, who have challenged Communist bureaucracy and ideology. This statement, which the group signed less than a month ago, demands the recognition by the government of "the existence of public opinion, the right to criticize, the right of free discussion and honest information." It was formally addressed to Premier Cyrankiewicz. The statement of the intellectuals is one of courage and, perhaps, of desperation. Despite strong pressures to repudiate their statement, they have refused to do so.

We must remember that it requires considerable courage to issue such a statement in a country where the government bureaucracy is a monopoly owning all the national wealth. Artists are heavily dependent on state approval in order to survive, since there is no private sector of any consequence in which to find refuge.

Where will all this lead? In 1955 and 1956, the intellectuals sparked the so-called October revolution which brought many reforms in Poland. In 1964, we cannot be certain what will come of it. We can only observe that the option of the intelligentsia reflects not only its own despair, but is part of a nationwide malaise. In addition, there is an open criticism emanating from the Roman Catholic Church which has quietly refused to participate in the celebration of the 20th anniversary of the Polish Communist state. What we see in Poland is the abject failure of communism. As a system of economics and government, it has proved an unsuitable doctrine for Poland. Even the activists regard the Communist slogans with cynicism and disdain.

The real dilemma in Poland is that the nation historically and psychologically belongs to the West. Only in the

West can solution be found to its economic and political problems. It is, therefore, a grim irony that at a time when the Communist monolith is cracking, the nation which, in 1956 sparked the reforms in the satellites, now has less intellectual freedom than Hungary.

In calling attention to the situation in Poland, we are doing what is politically as well as morally right. We are speaking for intellectual freedom, and we are supporting the principle that all people should decide for themselves their own form of government. Slogans have not worked. Stalinist repression can no longer work. And an opening to the West "may work."

As unemployment rises and as the standard of living continues to decline or fails to keep pace with the rest of the world, unless the restrictions on free expression are removed, discontent will lead to serious consequences. The options available to the Polish people and to the Polish government are narrow ones. Let us hope that good sense prevails.

**Mr. BYRNE of Pennsylvania.** Mr. Speaker, I am most grateful for the opportunity to help commemorate the 173d anniversary of the Polish Constitution of May 3. We all know of the millions of valuable citizens who have arrived at our shores from Poland. Already imbued with the best of Christian ideals the Polish people have easily fitted into American society. They are well known in every field from construction to politics to acting.

However valuable are our Polish citizens, it is regretful indeed that they were not allowed to find that peace and happiness which they thoroughly deserved and so ably fought for in their homeland. Since 1791 the Polish people have repeatedly resisted aggression. The tragic location of their ancient nation has made it the thoroughfare for imperial designs of both the East and the West. It is fitting that we commemorate the Constitution of 1791 because that enlightening document promised important freedoms to all Poles and engendered the hope for a great future.

It is in light of Poland's tragic history and in pursuit of the promise once carried by the Constitution of May 3 that Polish Americans and their brethren throughout the world today carry on the difficult struggle against the forces of tyranny. Their struggle is in the best traditions of the American people. Let us encourage them, aid them, and hope for their success.

**Mr. DULSKI.** Mr. Speaker, on May 3, 173 years ago, a great historical event took place in Poland when the Polish Constitution was adopted. This was less than 3 years after the ratification of our own Constitution.

This was a very definite step toward the recognition of the basic right of all people to a free and democratic way of life. The Polish Constitution of May 3 abolished restrictions upon the freedom of the individual and gave the Polish nation a democratic form of government.

The history of our Polish people is a noble one. It is a record of valor, and of courage without fear, and of honor without blemish. Over the centuries, Poland has had her great leaders—Pulaski, Sobieski, Kosciusko, and others—all men of tremendous courage, character, and capabilities. All of them—without regard to their spheres of influence or differing fields of endeavor—inherited a number of things in common which gave them their reason for being—their love of God and their religion, their love of country, and a fervent desire for its liberation.

With nearly 1,000 years of national existence, Poland ranks among the oldest of the European nations. At one time she constituted one of the major powers of Europe. She prospered, not through conquest, but through a harmonious relationship with her neighbors. But due to the aggressiveness of three powerful nations, Russia, Germany, and Austria, she was allowed only a short time in which to enjoy the blessings under her May 3 Constitution.

They partitioned Poland and put an end to her freedom and democracy. However, their May 3 Constitution kept the spark of spirit and hope alive in the Polish people. For years, they thought, planned, and plotted for their national independence. Their struggle for independence never ceased. They tried to free themselves many times through insurrections which failed.

In 1918, the people of Poland were restored as a republic. The dreams of Polish patriots for 127 years were realized, and once again they enjoyed the privilege of democratic living. Then came World War II, and this happy, glowing picture of a free and independent Poland again was blotted out. Again, the heroic stand of Poland in 1939, in the face of aggression by a superior force, was an example of undaunted courage. When she offered the first resistance to the overwhelming strength of Hitler and the Nazi war machine, she inspired all freedom-loving nations of the world, and brought home to them the first realization of the Axis threat to civilization. If Poland had compromised instead of resisted aggression, the whole course of history might have been changed.

The 3d of May is no longer official Polish national holiday in Poland by decree of the present regime. But this date remains a Polish national holiday in the hearts of all true Poles, and in centers throughout America where Poles or Americans of Polish extraction live, such as in my own district in Buffalo. It is our fervent hope that there will be a Poland again which, in the spirit of the May 3 Constitution, will be independent once more and free from foreign invaders.

Mr. Speaker, it is fitting and proper that this great body pay tribute to the Polish people on this, their national holiday, even though the principles laid down under their Constitution of May 3 are temporarily in eclipse. Let us pay tribute to their unyielding spirit of independence, their extraordinary courage, and their unquenchable thirst for freedom, as we join thousands and thousands of free Poles everywhere in observing this day.

**Mr. BRAY.** Mr. Speaker, I am happy to join in the commemoration of the 173d anniversary of the Polish Constitution.

The greatness of America lies in the fact that peoples throughout the world have sent their pioneers to our shores—each bringing a bit of their heritage with them. Those who came from Poland brought a religious zeal and a love of individual freedom and dignity that has been exceeded nowhere. I am happy and proud that this tradition of freedom has become a part of our national structure, and it is fitting that in this commemoration of the Polish Constitution, proper tribute be paid to the traditions of the Polish people which have so enriched our Nation.

The Poles brought a desire for economic stability and a culture that is rich in fine arts. The strong physical vigor of the Polish people is the pride of football teams from coast to coast.

They brought a heritage of courage in battle. There is not a combat battalion in the American wars that did not carry Polish names. It was Sgt. Alexander Drabik who earned the Distinguished Service Cross at Remagen Bridge. There were two Polish-Americans on the raft with Capt. Eddie Rickenbacker. Col. Francis Gabryszewski was one of the great aces of World War II.

I do want to point out that heroic Polish blood mixed with the colonial blood in the Revolutionary War. Two great heroes who fought for Polish independence also were outstanding leaders in the fight for American independence. Pulaski and Kosciusko are so revered for their contributions to our national independence that two counties in my native State of Indiana are named for these great Polish heroes.

In speaking of Polish heroes, one can never forget the name of John Sobieski, who defeated the great Turkish wave of invasion at the gates of Vienna and saved central and northern Europe for Christendom. Neither can one forget that it was the heroic leadership of Joseph Pilaudski that defeated the Communist army in 1920 after Poland had obtained their freedom from Russia 2 years earlier, after 143 years of foreign occupation.

Russia's unfortunate proximity to Poland has caused untold suffering and debasement to Poland. Back in 1763 Czarina Catherine of Russia had planned a partitioning of Poland. Following a typical Russian pattern, she interfered as the protector of the Russian Orthodox Church as against the Roman Catholic Church of Poland. Russia also participated in the partitioning of Poland in 1783 and 1795.

Poland revolted against her oppressors many times and despite armed suppression first by the czars and now by the Soviets, has remained dedicated to Polish nationalism and freedom. Poland steadfastly refused to accept communism and prospered far more than her Russian neighbor during her period of freedom in the 1920's and 1930's. Although having been jammed between Germany and Russia by the misfortune of geography, Poland maintained a friendly relation with each

The end of this freedom for Poland came in 1939 when Soviet diplomats encouraged Hitler to wage war against Poland while at the same time encouraging Polish resistance to Germany by promising Russian assistance. Germany attacked Poland on September 1, 1939, with 87 divisions. Seventeen days later, 100 Russian divisions moved across the Polish eastern frontier while Polish troops were fighting the Germans on the other frontier.

Russia never intended that there should be a free Poland. She intended that Poland should remain a controlled, regimented satellite under Russia. Since Teheran it has been apparent that Russia has intended to keep military control of East Germany. To accomplish this it was necessary for her to keep control of Poland—Poland was on Russia's road to the west.

The postwar bitterness of the Polish people has demonstrated that only the presence of Russian armed forces will keep these countries in the Russian orbit. Russian strategy was directed toward only one goal, the enslavement of Poland.

### POLISH PEOPLE RESIST COMMUNISM

While on my visit to Poland in 1961, I was much impressed with the manner in which the farms are being operated. The fence rows are clean; the livestock are well kept. In spite of the constant Government pressure, more than 85 percent of the farms are individually owned and operated. They are producing better than the state-owned farms. The Soviets are attempting to furnish mechanical equipment which would subject the farmer to Russian control and would ultimately mean that the Communists could take over the farms. The Poles stubbornly resist and still use fine horses.

Perhaps the strongest factor in resisting the Communist takeover is the Catholic Chruch. Cathedral and church spires still dominate the skylines of Polish cities and villages; and those churches are not empty or abandoned. They were built by the sacrifices of the people and they are now being repaired and maintained by sacrifices.

If the Polish people were given the opportunity for a truly free election, I am certain that the vote would be 20 to 1 for freedom and against communism. From my observations, I know that all of the Soviet massacres, regimentation, and armed might, have not eliminated the stubborn love of freedom that exists in the Polish people.

In America, the destruction of Polish freedom perhaps has aroused more bitterness than any other single act of Russian tyranny. Our large Polish population and its unrelenting zeal for freedom have gained the respect of the American people.

Here in America we so much need to have Polish understanding of Russia and Russian tactics incorporated into our national thinking. The Polish people have a wealth of such understanding.

I have said before and I say again that we should demand that Russia give to the captive nations a freedom of choice—allow these peoples to vote for the kind of government they want and to elect the officials they want.

When Russia wants to negotiate, let us give her a strong answer. Yes, we will negotiate; let us negotiate as to when she will give freedom to Poland and the other captive nations. When will she allow them the right to vote? When will she allow them the rights guaranteed in the Atlantic Charter and the Yalta Declaration, both of which Russia accepted?

We should demand that Poland and the captive nations have their freedom. The demand that Russia allow her captive peoples the right of free choice will put her on the defensive as nothing else will. This would be a fitting way to commemorate the 173d anniversary of Poland's Constitution.

Mr. POWELL. Mr. Speaker, it is said, "Revolutions are not made; they come. They come out of the past. Their foundations are laid far back."

So it is that we pause this afternoon to commemorate a revolution for freedom which still is continuing 173 years after the adoption of the Polish Constitution.

In the almost two centuries since this great event, the Polish people have had a scant 20 years of freedom and national independence. Yet, to the everlasting glory of man, the Poles continue their fierce will to preserve this Constitution and its guarantees of man's unconquerable rights.

When the document was adopted in 1791, it electrified Europe. There had been nothing to compare with it in previous European history. Its reasonable and liberal provisions became known to people of all classes, and enlightened men everywhere praised its statements pertaining to individual liberty and its recognition of governmental responsibility to the people.

It has been said that our own American Revolution was a source of inspiration for the Polish patriots who helped to frame this great document. But the love of freedom was not solely an American trait. Many of these patriots willingly journeyed across a continent and a great ocean to lend their support to our struggle for independence. Our history is illuminated with accounts of the heroism of men like Pulaski and Kosciuszko who captivated the hearts and imagination of the men they served and the men they led so valiantly into battle.

It was Thaddeus Kosciuszko who entrusted his estate and all his belongings in America to his friend Thomas Jefferson to be used to establish the first educational institution for Negroes in the United States. He believed so strenuously in the freedom of every human spirit that he paused before returning to Europe to leave to each American an enduring example of his faith in our future.

Despite Poland's domination by a long succession of alien political regimes, the people of this great country have managed to preserve their abiding belief in their Constitution. And, through that belief, they give comfort and encouragement to men everywhere who have endured much in their own battles for independence and self-determination.

The struggle will continue in Poland and it will continue in every community and nation where freedom is denied, set aside or obstructed. Men everywhere who are denied the blessings of liberty will go on paying the price of independence, regardless of the cost. And, like the Poles, they will not be denied forever.

"Ideals are like stars; you will not touch them with your hands. But, choose them as your guides and following them you will reach your destiny."

Mr. Speaker, it is with pride that I join in saluting the people of Poland on the occasion of this great milestone in man's quest for freedom.

Mr. PIKE. Mr. Speaker, on Sunday, May 3, in my district on Long Island, N.Y., and everywhere Americans of Polish descent have settled, the Polish 3d of May Constitution Day will be celebrated. The magnificence of the May 3 Polish Constitution lies in the fact that with one undying statement it removed the weakness of the Polish parliamentary and social system at that time, and proclaimed in ringing words which will live forever this one great truth:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

Today, we in the Congress of the United States, who have lived all our lives under the principle of the sovereignty of the citizen over the state, pay tribute to that heroic people, who have fought and endured and been crushed by foreign invaders throughout most of their history, yet still carry in their stalwart hearts the same flaming dedication to the freedom of man which our forefathers wrote into our own Constitution.

On that day, also, freedom-loving people everywhere join in tribute to Poland's glorious struggles against the forces of tyranny—in the 1794 revolt led by Kosciusko, the fight at Ostroleka in 1831, in Galicia in 1846, the rebellions of 1848 and 1863, her resistance to Nazi and Communist forces in 1939, the ill-fated Warsaw uprising of 1944, and her present suffering under the heel of the Communist colossus.

To the great Polish people I send my heartfelt hope that the day will soon come when they will once again be partners in the free world, and repeat the rallying cry that has come down through the ages of Polish history: "Niech zyje wolna i niepodlegla Polska"—Long live a free and independent Poland.

Mr. ROOSEVELT. Mr. Speaker, May 3 this year is being celebrated as the anniversary of the Constitution of May 3, 1791. But also other events which occurred on other dates and are significant to Poles will be commemorated. Among these are: 600th anniversary of the founding of the University of Krakow; 25th anniversary of the Nazi-Soviet attack on Poland on September 1, 1939; and the 20th anniversaries of the Battle of Monte-Casino, May 11, 1944, of the Warsaw Battle, April–May 1944, and the founding of the Polish-American Congress.

The Congress of the United States has taken time to note these special events for many years. In so doing we encourage the continued resistance of Poland to tyranny and its continued progress toward democracy.

The Polish people have suffered much needless sorrow in the last two centuries. All they ask is the chance to self-determination, the right to govern themselves according to their own beliefs, free from interference and subversion from different neighboring nations. This is the dream and the right of all nations.

Polish-Americans have been outstanding citizens and great contributors to American life. They seek still to free their homeland and relieve the sufferings of their kinsmen. They ask our help and encouragement. They should receive it in full measure.

Mr. KLUCZYNSKI. Mr. Speaker, in Poland's history the late 18th century marks a sad turning point, years of tribulations and trials. In these tragic years, after three successive partitions in the hands of its grasping and greedy adversaries, Poland ceased to exist as an independent and sovereign country. During these critical years, early in the last decade of the century, Poland's leaders realized that a drastic action was required to meet the serious external dangers threatening the country's independence. Austria, Prussia, and Russia were readied by their ambitious and aggressive monarchs to attack Poland. All three of these monarchs had their designs on relatively weak and helpless Poland. The Polish leaders, fully conscious of the evil intentions of Poland's foes, resorted to a number of strategems through which they hoped to strengthen their country internally, and also to enhance Poland's prestige externally. With that double purpose in mind, they revamped the Government of Poland by drawing up the Constitution of May 1791.

This historic document was a liberal instrument containing many elements of a bill of rights for the Polish nation. To begin with, the Constitution called for the definite curtailment of the powers of the King, and for the establishment of a government with ministerial responsibility. The electorate of the Diet—or Parliament—was broadened, and many of the privileges formerly enjoyed by the small upper class were made available to others. The peasantry was brought under the protection of the law. Towns were given administrative and judicial autonomy, and were entitled to a certain measure of parliamentary representation. Freedom of conscience was guaranteed and absolute religious toleration was established. All these measures represented genuinely democratic forward steps.

Today, while we celebrate the 173d anniversary of the adoption of that historic document, Poles suffer under a tyrannous system that makes a mockery of the democratic freedoms it professes to uphold. Today Poland is a captive nation; captive of those conspirators who plan to overturn freedom throughout the world and substitute their own aggressive totalitarian tyranny. But fortunately the spirit of freedom is rooted deep in the Polish tradition, and the spirit of the Constitution of May 1791 lives in the hearts of the Polish people. On this day, on the 173d anniversary of the adoption of that Constitution, we are confident that the spirit of that Constitution will again prevail in a free and independent Poland.

Mr. MADDEN. Mr. Speaker, I wish to commend our colleague from Illinois, Congressman PUCINSKI, for reserving this time to commemorate Polish Constitution Day.

The Polish people throughout the world and friends of Poland are happy to join in commemorating this anniversary of May 3, 1791, because it rededicates in the minds of freedom-living people everywhere their love for self-government and liberty. This anniversary is a great milestone in the long history of Poland. It was on this day that Poland established itself as a nation of freemen whose constitution guaranteed the rights of the individual on a plane similar to that great document upon which the freedom in our United States is anchored.

Poland has stood for centuries between western civilization and the primitive tyranny of Moscow despots for centuries of European history. Poland by reason of its geographical position has for generations, been the beachhead of defense for Christian civilization. It has also been the victim of powerful neighbors who have fought to control the Polish people with the hope of adding strength and power to their warlike and aggressive designs. Through all the tyranny and partisanship which Poland has suffered, none has been able to break the Polish nationalist spirit which has kept alive the culture, religion, and aspirations of a great people.

I do not need to recall the great contribution Polish patriots like Gen. Thaddeus Kosciusko, Pulaski, and other Polish heroes have contributed to America's battle for freedom and independence. The spirit of freedom which is inherent in the minds and hearts of every Pole proved to be an invaluable aid in overthrowing British colonialism and establishing American independence which is today enjoyed by all Americans including millions of Poles and their descendants who have helped make this country the No. 1 free nation of the world.

We learned during World War I that a new kind of tyranny was rising from the atheistic dogma of Karl Marx through the teachings of Lenin, Trotsky, and other pioneer leaders of modern communism. It was Poland in 1919 that first took up the cudgel to fight against Communist imperialism as she did against the czars 150 year earlier. After World War I, the Communists had established strongholds in Germany, Rumania, Hungary, and Italy. Poland, at that time, fought and won against the desperate Communist effort to take over a devastated Europe. Polish armies repulsed the Red leaders' onslaught and one of the great decisive battles in world history was won in Warsaw in 1920. Poland again through organization, statesmanship, and its inherent ability to govern, rose from the brink of ruination to reestablish itself as one of the ranking nations on the European Continent.

Up until 1939, Poland ranked sixth among the European nations. Its Constitution guaranteed the same political and civil rights to other nationals as the Poles themselves. Freedom of religion and education was one of the bulwarks of its Constitution. During this short period of time great developments took place in Poland's agriculture, industry, finances, social progress, labor legislation, and other rights which guaranteed freedom and justice.

Beginning in 1939, Poland again became a victim of two powerful tyrants, one on the east and the other on the west. The heroic battle of the Polish home army in their fight against the Nazis will be recorded as one of the outstanding battles for freedom during World War II. While Poland was carrying on the fight against the tyrants from the west, she was also a victim of the duplicity from the Communist tyrants in the other direction. Besides the great battle which Poland fought within its own borders, one of the great highlights of World War II was the sterling contribution made by General Anders and his Polish Army in Italy and the Polish Air Force in Britain and on the western front.

It is needless today to review the recent history of World War II and the gallant battle that the Polish people made to preserve their free government against the Nazi and Soviet tyranny. Recent developments exposing the controversy between the two great Communist powers, China and the Soviets, present an optimistic view for the future of the free world.

Our Nation, along with other free nations, must continue the sacrifice and the leadership to curtail any further Communist aggression and do everything in our power to bring about and again restore freedom to Poland and other enslaved nations throughout the globe.

Mr. BURKE. Mr. Speaker, when I think of Poland, I think of a people historic, a people suffering, a people heroic. Historic Poland.

Historic, indeed, and rich in culture and knowledge; for the Poles are a people with a rich historic cultural past that abounded in the gifts of European culture. Perhaps nothing more symbolizes this fact than reflection upon the great city of Krakow. Here is a city whose beginning dates back to medieval days, a city that is rich in all the greatness that was Poland. Medieval and Renaissance structures abound in this city of memories, memories that reach back to the day of St. Stanislaw, the patron saint of Poles and the Bishop of Krakow.

The martyrdom of this great Polish saint, whose relics lay in a silver coffin in the city's Cathedral of St. Wenceslas, suggest another character of the Polish people, and it is that they are a people suffering. In our own memory we can recall two extraordinary examples that bear out this judgment. In September 1939, World War II began in Poland with the Nazi invasion from the west to be followed within a few weeks by a Soviet invasion from the east. Partitioned and conquered, the Polish people began a long period of unrelieved suffering that seemed to reach a new dimension of pain mixed with terror in the Warsaw uprising near the close of the war. Perhaps only the Katyn massacre of those thousands of innocent Polish soldiers can match this demonstration of Soviet treachery and brutality. The advancing Soviet armies were purposely held in check until the Nazis destroyed what amounted to the flower of the Polish resistance.

Yet, the Polish people suffering were at once a people heroic; for against enormous odds they held out against the Germans at Warsaw, resolute in their determination to make the enemy pay a high price, confident in their overfilled resources of courage and nerve, and tenacious in the persistent fury with which they pursued their goals in battle. Here again was the same people heroic with the same display of courage and will that won the praise of all the free world in the Battle of Monte Cassino. Alongside of their Allied comrades in arms, the Poles distinguished themselves, their country, and their people in that memorable, but deadly, Italian campaign.

Yet for all this capacity for heroism in war, the Polish have a passion for peace and orderly government. The Constitution of May 3, 1791, which we commemorate every year, stands as a model of constitutional reform. A product of the 18th century enlightenment, it gave tangible evidence of the desire in the Polish inner soul to fulfill their national aspirations through internal peace and political order. Washington, himself, hailed the Polish Constitution as a mark of great progress in the history of the country.

And well might Washington have appreciated the value of this demonstration of national progress; for in the conduct of the American Revolution he saw firsthand what a Pole could do in the gallantry of his great captains, Pulaski and Kosciusko.

America will be forever in debt to Poland for giving us these great military leaders at a time of national trial. America will be in even greater debt to Poland for giving so richly and so generously of her sons and daughters; for they have contributed enormously of their talents to the greatness of our Nation today. Through these bonds of human relations, America shall be forever bound in friendship to Poland. And through such patriotic organizations as the Polish-American Congress we see a symbol of this lasting, imperishable friendship.

And so to the Polish people I raise my voice in tribute; for thanks to them we as a nation are more than what we are. And to long-suffering Mother Poland I add my voice to the many who pray for the day when freedom shall be hers.

Mr. MARTIN of Massachusetts. Mr. Speaker, once again it is my privilege to join with my colleagues in honoring the Polish-American citizens of our country.

May 3 is their Polish Constitution Day—as cherished in their memories as our Fourth of July. On that date in 1791, Poland adopted her Constitution, only 2 years after the adoption of our own.

The Polish people of that earlier day wrote into their Constitution many of the guarantees of human freedom which we had pioneered in our own historic document.

"All power in civil society should be derived from the will of the people," declared the early Polish Constitution, a remarkable declaration amid the feudalism of the old Europe of 1791.

Since that time, many Polish people have come to this country. They have helped to strengthen our traditions of freedom; they have contributed greatly to the building of our Nation.

I join with my colleagues in saluting our Polish-American citizens on this Constitution Day and in thanking them for the love of their homeland and for their dedication to the welfare of this, their new land.

Mr. MILLER of New York. Mr. Speaker, another year has spun around and it is time to pause for a fitting commemoration of one of the brightest events in the history of Poland—that of the adoption of its Constitution on May 3, 1791.

We Americans are most happy to join in this observance with the more than 7 million transplanted Poles and their descendants in this country of ours. But by the same token we are deeply conscious of the pitfalls that have befallen Poland's valiant struggle against Nazi-Communist totalitarianism since the outbreak of World War II—a struggle which has truly become an inspiration for all mankind. And we are longing for the day, just as much as our Polish friends are, for their deliverance from this tyranny.

It is noteworthy that Poland was one of the pioneers of liberalism in Europe. In its May 3, 1791, Constitution, adopted barely 2 years after our own U.S. Constitution, this liberalism was formulated in these words:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the State, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

The philosophy thus enunciated leads one to believe that the American people and the Polish people had each drawn inspiration for their respective constitutions from a mutual desire for love of liberty. Coincidentally, this year's observance of the adoption of Poland's Constitution comes at a time when there are other memorable milestones in Polish history. May 12 marks the 600th anniversary of the founding of the Jagiellonian University of Krakow, one of the oldest institutions of higher learning in Europe and the only one of its kind with uninterrupted history in Poland. It has been functioning during the partition of Poland and did so in the underground during the German occupation in World War II.

It is of especial interest to Americans, for due largely to U.S. grants, a children's hospital and research center is being built in Krakow. It will be, upon completion, one of the most modern medical and research centers in Europe. Also of significance is the 25th anniversary this coming September of the German-Soviet attack on Poland. That 1939 onslaught was made possible by the infamous Molotov-Ribbentrop "nonaggression pact," which used words of peace to mask designs for conquest.

Though their land was finally occupied by the partners in crime, the Polish people never bowed to their oppressors. The Poles fought on side by side with the soldiers of France and England and the men of our own armed services. Five million Poles chose to die as freemen rather than to live as slaves.

The Poles also paid a heavy price for the Monte-Cassino victory on May 18, 1944, one of three 20th anniversaries being noted this year. There, 860 officers and men were killed in action, 2,822 wounded. But that was not all. Cassino, the southern gateway to Rome since the dawn of history, had many temples and altars built to unknown deities by unknown worshipers in the dim past. All these became shambles in that battle.

Another 20th anniversary this year is that of the Warsaw uprising on August 1, 1944. That was when the people of Warsaw heard Moscow radio appeals to rise against the Germans and actively cooperate with Russia. They heeded subsequent orders to revolt against the Germans. But the anticipated new Russian offensive failed to materialize and all was quiet on the Russian and German front east of Warsaw while Polish patriots fought and bled in Warsaw for 63 days. There was only one explanation: Warsaw had been betrayed by the Russians.

Our own Memorial Day, May 30, will be the 20th anniversary of the founding of the Polish American Congress, which now represents more than 7 million Americans of Polish origin. It has become recognized as the first American organization to speak out against Russian aggrandizement and warn of the folly of any attempt to appease Russia on the grounds of wartime expediency.

Since 1944, its leaders have carried this warning to the public, to this Nation's leaders, and to the governments represented at the United Nations. Events of history, which now reveal the true menace of communism to civilization, have proved the validity of these warnings.

Meditation at this time on these anniversaries, especially that of the May 3 Constitution Day, deepens the faith and heightens the courage of every Pole and every American of Polish origin.

It reminds all Americans of Poland's destiny in the history of mankind and prophesies the ultimate triumph of justice even though Poland once more has been deprived of her independence, sovereignty and her territory by one of our former allies, Soviet Russia, with the tacit consent of other United Nations.

Mr. BUCKLEY. Mr. Speaker, May 3d coincides with the following significant dates in Polish history: The 600th anniversary of the founding of the University of Cracow; the 25th anniversary of the German-Soviet attack on Poland;

the 20th anniversary of the Battle of Monte Cassino; of the Warsaw uprising; and of the founding of the Polish-American Congress in the United States. It is also, and above all, the commemorative date of one of the great events in Polish history—the adoption of the May 3 Constitution of 1791. This date is dear to the hearts of all Poles whether they be in their homeland of Poland or scattered throughout the world.

On this date and throughout the month of May, Americans of Polish descent from coast to coast celebrate this holiday as a tribute to their ancestors; to the country of their origin; and to the great role that Poles have played throughout the centuries in the development of freedom in Europe and wherever else they may have lived.

Two years after our own American Revolution, after the adoption of our Constitution in 1789, the Poles freely and without bloodshed adopted their own liberal constitution reforming their public life and breathing into the land of Poland the free spirit of mankind. A few short years later, Poland was partitioned for the third time by Russia, Prussia, and Austria. Extending from 1795 and that partition until today, Poland has suffered one form of tyranny after another. Despite the oppression of over 150 years, the freedom-loving spirit of the Poles burns as brightly as ever.

The contribution made to the Nation by the Americans of Polish descent is vast. It extends from the very beginnings of our foundation in the days of the American Revolution up to the present date. The history of America as it moved westward is dotted with the accomplishments of distinguished Americans of Polish descent who have contributed their share to the development of the United States.

There are today in the United States over 7,000 Polish-Americans who are a vital part of the American mainstream. I salute them and all of Polish descent, wherever they may be, on this significant date in their history. I know that the day will once again rise when Poland will be free—when Poland will have moved from under the yoke and tyranny that now controls it and will take its rightful place with the other free nations of this world.

Mr. McDOWELL. Mr. Speaker, I have, as you know, visited Poland several times as a member of the House Committee on Foreign Affairs.

On these trips I have been fortunate in being able to observe the Polish people at firsthand, possibly under the most trying circumstances a proud people can ever endure—bondage under a foreign despotism.

These times are, indeed, for the Polish people—as was said of our own people during the Revolutionary War by Thomas Paine who was serving under Gen. George Washington—times that try men's souls. Yet the Polish people bear up bravely, they endure, they do not meekly submit, and, therefore, they will someday triumph. They will throw off the yoke of foreign despotism, they will liberate themselves, and, in so doing, they will, at the same time, help to liberate other countries and other peoples suffering a similar fate and a similar servitude.

Late in the 18th century Polish leaders tried hard to stave off the imminent threats that were then endangering their independence. One of the most significant moves they made was the drafting and adoption of a democratic and liberal constitution. They firmly believed that by such a bold measure the people's confidence in the Government would be restored, and thus Poland would be strengthened. Liberal leaders in the Diet—Parliament—decided in 1788 to draw up this Constitution. These leaders began their task and early in 1791 they presented their draft to the Diet. On May 3 of that year King Stanislaus swore allegiance to the Constitution, and exhorted the deputies to accept it as the "last means of saving their country" from external dangers and from internal weakness. The Constitution was adopted on that day, thus making May 3 a landmark in Poland's modern history.

This Constitution converted Poland into a limited monarchy, with a government having ministerial responsibility. The old unanimity rule in the Diet and other intricate and obstructive machinery of the previous system were thrown overboard. Class distinctions were practically eliminated. The towns received full administrative and judicial autonomy, as well as a certain measure of parliamentary representation. The personal privileges of the gentry, such as possession of land and access to office in the state and in the church, were thrown open to the townsmen. The peasants were placed under the protection of the law, and their serfdom was considerably mitigated, preparatory to the gradual abolition of serfdom. Full religious toleration was also established. In short, by this Constitution, and by a single act of its leaders, Poland moved from one age to another, from the Middle Ages to the modern times. At the time this Constitution was considered a very liberal and advanced document, one embodying enlightened and progressive ideas of a new age. Its adoption by Poland made that country an advanced post of democratic institutions in Eastern Europe.

Unfortunately before the Constitution was put into full force, Poland's foes were ready to make war on her. The country could not withstand her formidable enemies, and subsequently lost her independence. But the spirit of the Constitution of 1791 lived on, and the Poles once more regained their lost independence in 1918. And today, while we in this great Republic observe the 173d anniversary of the adoption of that Constitution in Poland, it is banned in its birthplace and its spirit lives only in the hearts of some 25 million Poles in their homeland, which is a captive of a foreign despotism.

Mr. CHELF. Mr. Speaker, on May 3, we commemorate the anniversary of Poland's Constitution.

It is fitting that we set aside a few moments in our legislative day to pay tribute to the Polish people and to their early efforts to establish constitutional government.

The fact that the expectations and hopes of the Polish reformers of May 3, 1791, were never achieved in no way detracts from their glory and that of Poland; nor does it deflect from the importance of this document as a milestone in constitutional government.

Now perhaps more than ever before, this May 3 Constitution has a vital function to perform in the lives of the Polish people. Although the existence of this Constitution was only fleeting, the fact of its historic presence in the annals of Poland has never been effaced. So long as Poland continues to be a nation deprived of her freedom, this Constitution will stand as a spiritual symbol of all of the aspirations of a people who desire a genuinely free and independent Poland.

It is with this thought in mind, therefore, that we and all people in the free world pay tribute to Poland on this day of national remembrance.

Mr. DELANEY. Mr. Speaker, on a few rare occasions in the history of man's progress toward liberty, documents have been created which not only expressed the hopes and lofty ideals of their authors, but became landmarks in national history. Our Declaration of Independence and the Constitution of the United States are two such documents.

The Polish Constitution of May 1791 is another. It was a milestone in the development of democracy and a true reflection of Poland's liberal and progressive leadership during the late 18th century.

The new Constitution provided for sweeping governmental reforms based on principles of representative self-government. Under it, Poland was transformed into a hereditary constitutional monarchy, townspeople were given judicial autonomy, the peasantry was brought under the protection of the law, and religious toleration was officially established.

Unfortunately, constitutional government in Poland lasted less than a year. The Poles, deserted by the Prussian allies, were overrun by the Russian armies and Poland, so recently free, was occupied and divided between Austria, Russia, and Prussia.

Despite the brutal end of Polish constitutional government, the principles of that document signed on May 3, 1791, continue to serve as an inspiration to the Polish people. The spirit of resistance to oppression which they have shown so often in the past gives ample proof that liberty and self-government are still foremost in their hearts.

The observance of Polish Constitution Day is, therefore, meaningful to every freeman. While it carries a special meaning for Poles and Americans of Polish descent, all Americans share in the hope which it symbolizes.

Mrs. GRIFFITHS. Mr. Speaker, on this day in Congress commemorating the 173d anniversary of the Polish Constitution, freemen join in paying tribute to the courageous dedication of the people of Poland in their struggle for human freedom. In 1791, barely 2 years after the adoption of the U.S. Constitution, the seed of undying liberty was implanted in these words of Poland's Constitution:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

Today, in behalf of Poland, let us reaffirm our own faith in the principles of Western political thought, and let us reaffirm our responsibility to the people of Poland whose hearts and souls have stood as insurmountable barriers against the oppressions of tyranny. It cannot be forgotten that whatever the course history has taken, the Polish people have maintained their belief in the promise of freedom and the dignity of all mankind.

Mr. ST. ONGE. Mr. Speaker, each year on May 3 the people of Polish descent observe their national holiday known as Constitution Day. It is the traditional observance which marks the anniversary of the adoption of the Constitution of 1791, whereby sovereignty was invested in the people. This event took place only 15 years after the adoption of our own Declaration of Independence. Thus the people of Poland were among the first to accept the ideals and principles of democracy.

This year marks the 173d anniversary of the Polish Constitution, a document which is still held in the highest esteem by freedom-loving Poles everywhere because it contains a promise of freedom and independence for the Polish nation. It serves as a source of inspiration and encouragement to sustain them in their long vigil for the day of deliverance from Communist oppression.

It has become customary for many of us in the U.S. Congress to demonstrate our friendship for the Polish people and to voice our support for their cause of a free Poland. This year I am glad to join with many of my colleagues in pledging our moral support and expressing our profound sympathy to the Polish nation during this tragic era in its history. We hope and pray that the day will come soon when Poland will join the ranks of the free nations of the world.

We have a substantial number of people of Polish origin in Connecticut and they have made a great impact for the good on our State. They are a patriotic element, deeply religious, freedom-loving, and have made many notable contributions to the upbuilding of America over many decades.

On the occasion of their national observance of Constitution Day, I salute our citizens of Polish descent and wish for them the early restoration of their ancestral motherland as a free nation. Unfortunately, their kinsmen in Poland live under a cruel tyranny which respects neither men nor human dignity, neither history nor civilization, neither culture nor religion. Persecution of religion continues in Poland to this day, as is shown by the following brief statement issued recently by the Polish-American Congress:

### PERSECUTION OF THE CATHOLIC CHURCH IN POLAND

> In Poland—a favorite example of Western optimists for the coexistence of communism and religion—the persecution of the church has increased.
>
> A large number of orphanages and schools run by nuns were closed. The pilgrimages to Czestochowa in August 1963, were banned as an alleged precautionary measure against smallpox epidemic. A new decree of September 1963, abolished the exemption of clerics from military service, many seminaries were conscripted and their studies disrupted. Besides wayside chapels and crosses were removed, parents who baptize their children are fired from government jobs and exorbitant taxes are levied on churches. There are instances where church equipment such as portable organs and vestments are sold at auctions by tax collectors.
>
> In an episcopal letter, dated August 28, 1963, the Polish bishops presented a long list of complaints about measures taken by the regime against the church: confiscation of property, including typewriters, watches and clothing, complete liquidation of lower clerical seminaries, confiscation of parts of the buildings of higher seminaries, callup of clerical trainees, elimination of nuns from hospitals (in only a few hospitals nuns have been left to attend to the patients), liquidation of convents by seizure of buildings.
>
> In his Christmas sermon, delivered in Warsaw, Cardinal Wyszynski denounced restrictions of freedom of worship in Poland as "reactionary, barbarian, and obsolete."

Mr. FLOOD. Mr. Speaker, for many years Poland was a feudal country with little representation of the needs of the common people. But the 18th century currents of change which emanated primarily from the American Revolution encouraged the liberal, educated men of Poland to adopt a firm constitution for their own country.

This document, assuring many of the basic rights which our Founding Fathers gave us, was promulgated on May 3, 1791. This year 7 million Americans of Polish ancestry are commemorating that date, and I think freemen everywhere, leaders in the struggle against communism and fascism, should join them.

The May 3 Constitution was a hopeful document, removing many of the evils of feudalism and allowing room for further changes by future representative parliaments.

Indeed its promise was too great, the Poles too united behind its provisions. This threatened to create a united Poland in the heart of Europe for the first time in many decades. Russia had never welcomed an independent, strong Poland. The years of progress in Poland were greatly disturbed by Russian attempts to halt that progress. Finally in 1793 and again in 1795 Russia, in league with the Prussian King, simply conquered Poland and annexed portions of it. The Constitution of May 3 was destroyed and Poland ceased to exist as an independent nation for a century.

Of course, it is well known that in 1939 Stalin cooperated with Hitler in dividing Poland once again, with great cruelty and destruction.

After World War II, the Communists refused to recognize any sort of representative government. In a few brief months the Red Army and traitorous Polish Communists completely crushed even the small hope for democracy which had survived the partition of 1939.

Thus it is sad, but true, that despite the most valiant and enlightened efforts, Poles are today still subject to foreign dominance and absolute control by a privileged minority. Their hapless geographic position has made them victim of predatory neighbors, who have not hesitated at all in taking full advantage of the unavoidable weakness of their fellow men. On the 173d anniversary of the May 3 Constitution, Poles must still look to the future for renewed hope for freedom. There are a few slight breaks in the dismal fabric of Communist oppression, but much needs to be done. It will require as great courage and dedication as the famous leaders of 1791 themselves displayed.

Nineteen hundred and sixty-four is a remarkable year because it also is the anniversary of several other very important dates in Polish history that we should recall. These are all being commemorated on May 3 by Polish-American citizens.

This is the 600th anniversary of the founding of Jagiellonia University, or the University of Cracow, in the city of Cracow, Poland. It was founded in 1364 by Casimis the Great. It is named after Wladyslaw Jagiello, who transferred it to its present site in 1400. The Collegium Maius, dating from the 15th century is one of the few Gothic university buildings surviving in Europe. New buildings were erected in 1883–87. The library with more than 1 million volumes is one of the largest in Poland. The university is known all over Europe as a great center of learning, and for 600 years has been the educational home for Poland's greatest cultural and political leaders.

This year is also the 25th anniversary of a most unhappy day in Polish history, the invasion and partition of Poland by German-Russian forces in 1939. The secret agreements to viciously divide a free nation between them, were put into operation in 1939 by Stalin and Hitler, the signal for the outbreak of World War II. France and Britain were forced to come to the defense of a nation culturally and politically closely allied with liberal countries. This infamous event brought the greatest destruction and sorrow in human history.

May 3 is also being celebrated as the 20th anniversary of the Battle of Monte Cassino in the Italian campaign of World War II. In that battle units of the Polish 2d Army Corps, under the command of Lt. Gen. Wladyslaw Anders, including two infantry divisions, and one armored division, gave much-needed assistance to the stalled Allied offensive by capturing the town of Monte Cassino, which had been a German stronghold, delaying the Allied advance for months. In capturing the town the Poles showed extraordinary courage and ability.

This is also the 20th anniversary of the Warsaw battle. In 1944 German forces were beginning to retreat before Russian offensives throughout Eastern Europe. When the Red army was just outside Warsaw the brave Polish patriots attacked German elements still in the city in a coordinated guerrilla uprising. They had counted on Allied and Russian help and thought they would quickly free their nation's capital. But the Western Allies were prevented from contributing more than a few supplies by airdrop because the Soviet Army would not allow their planes in captured territory. Allied troops were too far away to lend assistance. The Russian Army was in the suburbs, but was ordered to remain there, rather than help the Poles. For 63 terrible days, the people of Warsaw fought for their freedom, with little material, with little food, sometimes with rocks and bottles against heavy tanks. Thousands were killed. Eventually the Germans reduced the city to rubble and wiped out the resistance. Then the Soviet army entered the city, free to impose its will on greatly weakened Germans and Poles alike.

Finally, it should be pointed out that this is the 20th anniversary of the Polish American Congress, which is sponsoring the May 3 observance. When Polish patriots were being betrayed in Warsaw and were valiantly liberating Monte Cassino, Polish Americans were banding together to aid their devastated ancestral homeland. This organization now numbers more than 7 million members, and has the important task of encouraging Polish resistance to the Communist subjection and carrying the message of freedom to all Poles behind the Iron Curtain.

Mr. TAFT. Mr. Speaker, the occasion which we are commemorating today—the 173d anniversary of the adoption of the Polish Constitution in 1791—represents a historical event to perhaps far more consequence than most of us realize. If we would measure the significance of the event by the length of time the Constitution remained in effect, we would far underestimate its importance. The enlightened Government established and guaranteed by the Constitution lasted little more than 2 years, when Poland was once more partitioned between Russia and Prussia in September 1793. But in historical terms, the Constitution of 1791 was a landmark in Polish history and in the development of 18th century liberalism.

Poland's history has been a saga of glory and tragedy, a never dull tale of the rise and fall of an empire, of a constant struggle for freedom and democracy. By the late 16th and early 17th centuries Poland's dominions stretched far into what is present-day Russia and extended south to the Black Sea and the Carpathians. Furthermore, in a period when the continent of Europe was ruled by autocratic kings whose power was unlimited, Poland had a constitutional system which limited the authority of the king and granted representative powers to the autocracy. Poland's constitutional traditions dated to medieval times in a system which defined the role of the church, the clergy, and the gentry. Legislative and executive powers equal to those of the king were vested in a bicameral parliament composed of the gentry and the highest officials of the country.

The representative basis of the Polish governmental system was expanded in 1573 when the king became an elective monarch, chosen for life by the autocracy. His powers were based on a written agreement which he signed before his election. Thus, the contract between ruler and ruled which became the basis of the 18th century liberalism of Locke and Rousseau was in existence in Poland two centuries earlier.

Poland's progression toward democracy was rudely interrupted by the dynastic struggles of the 18th century, however, as every student of European history knows. In 1772 Poland was partitioned by Austria, Prussia, and Russia. Poland was despoiled of one-fifth of her population and one-fourth of her territory.

Yet, it was precisely out of these dark days that the movement for reform culminating in the Constitution of 1791 was born. Poland bided its time, and when Frederick the Great died in 1786, the bonds between Russia and Prussia were loosened. The ensuing rift between Russia and Prussia offered Poland the opportunity it had been waiting for, the chance to assert its national identity. In 1788, when the diplomatic climate seemed propitious, the Polish Diet was convened for the difficult task of revising the Constitution, which by this time was considered archaic.

The Great Four Years Diet met from 1788 to 1792. Revision of the Constitution required much careful work, and maneuvering of the new Constitution through the diet demanded even greater skill. Finally, after the sponsors had waited 2 years for the opportune moment, on May 3, 1791, the document was submitted to the diet. It was adopted by an overwhelming vote. The king rose from his throne to take the oath to the new Constitution, and that evening all Warsaw celebrated.

There was also much rejoicing abroad, in America and in England where Edmund Burke hailed the new Constitution as a "great work." The Constitution in effect established constitutional democracy in Poland. It transformed Poland into an hereditary limited monarchy. It established a cabinet government responsible to a biennial parliament. Towns were given greater administrative and judicial autonomy, and the townspeople were given some parliamentary representation. Privileges of the gentry, such as the right to own land and to hold office in the Government and church hierarchies, were opened to burghers as well. The peasants were placed under the protection of the law; the ground work was laid for the abolition of serfdom. Religious toleration was guaranteed.

The Polish Constitution of 1791 originated from the same current of 18th century liberalism which produced the American Declaration of Independence, the U.S. Constitution, and the French Declaration of the Rights of Man and of the Citizen. It was based on the idea of popular sovereignty: that all authority originates from the will of the nation. It recognized the duty of the Government to respect the rights of the individual. Equally important, it included provision for further constitutional revision by future parliaments to encourage the adaptation of the Constitution to changing times and insure the progressive development of democracy.

In order to understand the enthusiasm which greeted the promulgation of the Polish Constitution, it is perhaps necessary to try to place ourselves in the context of the times. Liberal circles in Europe and America were hopeful that the American Revolution had ushered in a new age in which the guarantee of personal liberties would be a basic requisite of government. The French Declaration of the Rights of Man and of the Citizen had followed on the U.S. Constitution. The Polish Constitution was heralded as a further extension of this philosophy to the practice of government. Additional enthusiasm was generated by the fact that Poland's new constitution had been adopted without bloodshed. America had achieved her independence only after declaring war on the mother country. The French Revolution had ushered in a period of anarchy and murder. But in Poland reform had been brought about by peaceful means.

Unfortunately, the promise of the May 3 Constitution was never fulfilled. The Polish Government was not to the liking of Russia. Russian troops invaded, and although the Polish Army put up a gallant struggle, it was too vastly outnumbered to prevail. In 1793 Poland was once again partitioned between Russia and Prussia, and in 1795 Poland disappeared entirely from the map of Europe, not to return until the end of World War I.

Poland was free for the few short years between the wars, but in 1939 tragedy again struck when Poland was crushed between the Nazi armies and the Soviet troops invading from the east. The rest of Polish history is all too familiar: Communist takeover and transformation of Poland into a satellite.

These successive waves of tragedy have not extinguished the spirit of freedom in Poland, however. If anything, tragedy has served to strengthen the Polish desire for freedom. The Poznan uprising in 1956, when Poles attacked the Communist Party headquarters and the security police and called for an end to Soviet occupation of the country, is positive proof that the Polish people have not forgotten the promise of 1791. It is our sincere hope and belief that someday this promise will be realized.

Mr. SCHADEBERG. Mr. Speaker, I commend and thank the gentleman from Illinois [Mr. PUCINSKI] for reserving this time so that Members from both sides of the aisle might unite in paying purposeful tribute to Poland and its God-fearing people on the occasion of the anniversary observance on May 3 of the adoption of the Constitution of 1791.

On Sunday of this week, at the invitation of the Polish Veterans in Exile, Inc., I had the privilege of delivering a speech on the captive nations over radio station WMIL in Milwaukee. I feel my remarks at that time bear appropriately and significantly on the subject under discussion here today. The speech follows:

> In July of this year President Johnson will have his first opportunity—as Presidents Eisenhower and Kennedy had before him—to unite the country in observance of Captive Nations Week through issuance of a proclamation providing for such observance. Assuming this action will take place,

this year's commemoration will be the sixth since President Eisenhower first established Captive Nations Week in 1959. It is my earnest hope—and I have so indicated in a letter to the President—that the proclamation embody the stronger and more determined language of President Eisenhower's 1959 and 1960 proclamations—reflecting more accurately the sense of the Congress as set forth in congressional resolution.

With chief emphasis these days on peace—and of course we all want peace—the more important goal of universal freedom sometimes tends to become obscure. "Peace, peace," has been the cry of the ages, and it is being sounded more and more today. But there is no peace, that is, not universal peace. And there will not be universal peace until there is universal freedom.

There is no single or simple solution to the many-faceted problem of developing and carrying out a right and sound foreign policy. And such solution will continue to elude us until every effort of the United States at achieving peace becomes inexorably linked with an equal and avowed determination of the United States to do all it can to help the people of all enslaved nations win their freedom. Every step in what we think is the direction of peace, unless it is first a step in the direction of freedom for those in bondage, is a snare and a delusion.

During the past 3 years in Congress I have fought hard for a stronger foreign policy aimed at helping to bring liberation to everyone everywhere in the world who is being denied his freedom. On January 14 of last year I reintroduced a resolution which I had sponsored in the previous 87th Congress to establish a special House Committee on the Captive Nations. The purpose of such a committee would be to conduct inquiry into, and to study, satellite countries and captive non-Russian nations to help them regain their national and individual freedoms. I regard this as among the most important pieces of legislation before the Congress. In my January 14, 1963, statement in support of the resolution, I said:

"The Congress has a special responsibility to provide leadership in this vital freedom movement. It must be more than mere lipservice in the form of resolutions and declarations and observances. It must take the form of action."

Let me point out at this juncture that efforts to bring about a stronger foreign policy—and determination to implement a stronger foreign policy where the captive nations are concerned—are bipartisan. Among the leaders in this crusade are Democratic Congressman DAN FLOOD of Pennsylvania and Republican Congressman ED DERWINSKI of Illinois, and I have been privileged to work side by side with them and several dozen other Representatives. Some 37 resolutions providing for the establishment of a special Committee on the Captive Nations have been sponsored in the 88th Congress. It is to be regretted that since the first of these resolutions was introduced back in January of 1963, no action has been taken, or even scheduled, on any of them. You can be sure the inaction on this particular legislation is not due to inertia or priority for other legislation pending before the Rules Committee. I have discussed this matter with Congressman FLOOD, who said flatly: "You can quote me—it's the State Department that has been holding up this legislation."

There is nothing in my resolution that would in any way imply any incursion of the House of Representatives into the recognized area of jurisdiction of the President, with the aid of his State Department, to set and carry out foreign policy—any more than is the case with the Foreign Affairs Committee of the House or the Foreign Relations Committee of the Senate.

Captive Nations Week resolutions and proclamations and speeches become just so much meaningless verbiage if not implemented. If their purpose is, as claimed, to help liberate the oppressed, then let's get on with the job.

But, you ask, what more can the United States do than it is doing?

First we must never lose sight of the fact that communism is the mortal enemy of the free world. We must destroy the "coexistence" myth. Can we believe Khrushchev won't abandon coexistence with us when it suits his purpose? More than that, can we in conscience accept the kind of coexistence Khurshchev holds out to us while our brothers and sisters in all countries behind the Iron Curtain have forced upon them another kind of coexistence—slavery?

In addition to passing a resolution calling for creation of a Committee on the Captive Nations, there are other concrete measures that could and should be taken—and without delay. Among these are enactment of two other items of legislation which I have sponsored.

One of these—with respect for the many loyal employees of the State Department—is House Resolution 649, providing for a congressional investigation of the State Department. Concern over U.S. foreign policy and the continuing series of setbacks in our relations with enemy and nonfriendly countries is shared by Democrats and Republicans alike. Since the State Department is charged with the responsibility for formulating and carrying out foreign policy, with final responsibility residing, of course, with the President, an investigation of the Department is long overdue. Point of such probe is not to reflect adversely on the present administration. Certainly nothing as trivial as that. These are dangerous times for the free world, and peoples lost behind the various Communist curtains through our own State Department blunders are just as much lost as those whose countries have been overrun by Communist armies. And contemporary history is recording that we have lost some areas to communism through just such U.S. foreign policy mistakes. This trend, I insist, must not only be halted; it must be reversed. I am as determined as one lone individual can be that it shall be reversed, and that freedom for every person in the world shall truly be our quest till that goal is reached.

The other course of action I have recommended, and for which I introduced the bill H.R. 10077, has to do with the absolute necessity for the United States to ready go on the offensive in waging the cold war against totalitarian and godless communism which is out to bury us and enslave the whole world. H.R. 10077 provides for creation of a Freedom Academy for the training and development of leaders in a total political war. This bill was referred to the House Committee on Un-American Activities, on which I have the privilege of serving. Our committee has held 5 days of hearings on this legislation, and more will be scheduled at a later date. Members of Congress, present and former Government officials, and nationally recognized experts on communism presented their views on a number of these bills calling for the establishment of a Freedom Commission and Freedom Academy. Sixteen witnesses testified at the opening series of hearings on February 18, 19, and 20, 1964, and an additional eight witnesses were heard when the hearings resumed April 7 and 8. Training provided by such an academy would be available not only to Government personnel but to individuals in key positions in private life and certain foreign nationals.

At this point I would like to address a few words to the many Americans of Polish heritage, residing here in Wisconsin. One of the brightest events in Polish history will soon be celebrated—the adoption of the May 3 Constitution of 1791. Special observances will take place in both Chambers of Congress—the House of Representatives and the Senate of the United States. I intend to take part in this tribute to the Polish nation, whose valiant struggle against Nazi-Communist totalitarianism has become an inspiration for mankind. This tribute is a demonstration of American friendship for Poland, but even more than that it is a reaffirmation of American support of Poles in their continuing struggle to throw off the shackles so long and so ruthlessly fastened on them by the Communists.

The Poles, longing for the day of deliverance, need our words of hope and encouragement to sustain them in their resistance to communism and Soviet domination. This year's observance provides us with the opportunity to extend those words of hope and encouragement. It coincides with several other significant dates of Polish history—the 600th anniversary of the founding of the University of Krakow; the 25th anniversary of the German-Soviet attack on Poland; and the 20th anniversary of the battle of Monte-Casino and of the Warsaw uprising.

Yes, the Poles do need from us words of hope and encouragement. But more than mere words, and more than hope and encouragement, they need—and deserve—all practical assistance we can give them in their efforts to free themselves.

One thing more, with respect to the plight of all captive peoples, and to me this is most important of all, there is in the world today, as perhaps never so much in the past, the need to keep God ever before us, the need for radical reliance upon God for guidance, courage, strength, and wisdom to successfully meet the challenges of the Goliath of our time—communism. To be sure, home and church very properly remain the chief source of our religious training, worship, and devotion. But when, as determined by the Supreme Court of the United States, prayer and Bible reading, even on a voluntary-participation basis, is declared to be unconstitutional, a victory extremely costly to us has been scored by godless communism. Of course, I recognize that there is more the church and parents can and must do in this area. But this great country of ours was founded on faith in Almighty God, and all that we as a nation have demonstrated by way of material progress is directly attributable to the faith in and devotion to God by the American people throughout the nearly two centuries of our existence as a free and sovereign Republic. We need more, not less, recognition of this unassailable fact.

There is, or at least there should be, a salutary effect from the Supreme Court ban—that of stirring church and home to greater efforts in seeking God's blessing and grace on our endeavors to solve the problems with which we as a nation are confronted. But there is another effect and it's anything but salutary. To more and more take God out of our public life and public activities is to remove further from us, when we need it the most, the recognition of the place God has had—and necessarily must continue always to have—in our national and individual lives. To the atheist Communist the state is the source of all good. To those of the Judeo-Christian faith, God, and God alone, is that source, and if we fail to recognize this great truth, and thus fail to render to God all glory, and honor, and majesty, and gratitude for our manifold blessings, we are in danger of stagnating and ultimately losing all that we hold dear. For as this Nation could not have progressed without God, just as surely do we need God—now and for all time—if we are to continue not alone to progress but just to survive. No nation or society that has abandoned God can survive. The decadence and ultimate destruction may seemingly be a slow process, but it is a sure one, and from earliest recorded history there are proofs positive of this sobering fact. We who have had the benefit of prayer and Bible reading in schools during our early years surely must recognize how much this helped us to know and remember that God in the life of our Nation has been just as indispensable as God in our individual lives. Nothing to me is as essential as having future generations imbued with this truth. The Declaration of Independence, the Constitution of the United States of America, our national anthem, the motto on our coins, the most inspired and enlightened and profound sayings of the great Americans since the birth of our beloved country, all attest to the verity of what I have been setting forth here today. I meditate so often on two statements of the Apostle Paul:

"For the weapons of our warfare are not carnal, but mighty through God to the pulling down of strongholds;

"Casting down imaginations, and every high thing that exalteth itself against the knowledge of God." (II Corinthians 10: 4); and

"Finally, my brethren, be strong in the Lord, and in the power of his might.

"Put on the whole armor of God, that ye may be able to stand against the wiles of the Devil.

"For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.

"Wherefore take unto you the whole armor of God, that ye may be able to withstand in the evil day, and having done all, to stand.

"Stand therefore, having your loins girt about with truth, and having on the breastplate of righteousness;

"And your feet shod with the preparation of the gospel of peace;

"Above all, taking the shield of faith, wherewith ye shall be able to quench all the fiery darts of the wicked.

"And take the helmet of salvation, and the sword of the Spirit, which is the word of God." (Ephesians 6: 10–17).

Thus armed, both spiritually and materially, let us go forward fearlessly, in the certain knowledge that ours is a righteous cause, and, by the grace of God, we shall not fail. Victory shall be ours.

To the Polish Veterans in Exile Association, Inc., and to station WMIL I extend sincere thanks for providing me with this forum from which to address the people of Wisconsin on these matters of deepest import and great moment.

Mr. MORSE. Mr. Speaker, Sunday, May 3, marks the anniversary of the adoption of the Polish Constitution of 1791. The Constitution represented a bulwark of sovereignty and political liberty in Poland; a liberty which has been ground under the heel of the Soviet boot since World War II.

The 1791 Constitution represents a political philosophy which parallels our own. Consider this quotation from the Constitution:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

How close this is to our own ideals of majority rule and minority rights, due process equality and limited government. ment.

The tragedy of communism which has befallen Poland has not dimmed the light of liberty among the Polish people. We must express our gratitude for the countless contributions that have been made to the United States by people of Polish descent by continuing to support the Polish people in their unending struggle for freedom.

Mr. ZABLOCKI. Mr. Speaker, it is a distinct pleasure for me to join with my colleagues in commemorating the 173d anniversary of the Polish Constitution of May 3, 1791.

We are mindful that this historic document represents a milestone in the annals of man's long struggle for freedom. It is, therefore, fitting that we pause to recall the Constitution of 1791 and honor the Polish people who gave it birth.

Modeled after our own Declaration of Independence and the French Proclamation of the Rights of Man, the Constitution of May 3 guaranteed to the people of Poland the rights and freedoms to which men everywhere have aspired.

Based on the principles that all power in civil society is derived from the will of the people, the Constitution granted freedom of thought, freedom of expression, and freedom of religion in a measure far beyond that prevalent in other countries of Europe.

The May 3 Constitution sprang from the progressive, enlightened democratic thinking which has always been an integral part of the Polish heritage. This document is characterized by qualities of mind and spirit nurtured and prized among the Polish people through years of oppression and strife.

In the enlightened and intellectual tradition which gave rise to the May 3 Constitution, a key role was played by the Jagiellonian University of Cracow, which observes the 600th anniversary of its founding on May 12.

Founded in 1364 and one of Europe's oldest institutions of higher learning, the Jagiellonian University has a long and distinguished history of free inquiry, intellectual excellence, and progressive thought.

It was, for example, Paulus Vladimiri, an eminent rector of the Jagiellonian University, who, at the Council of Constance in 1415, promulgated the first Declaration of the Rights of Man, which was adopted after a long conflict.

Another illustrious product of the university was Nicolas Copernicus, the father of modern astronomy and our calendar. The first globe was constructed at the university by Cracow geographers in the 13th century.

The Jagiellonian University is also notable for its uninterrupted history, surviving the many partitions of Poland and even German occupation during World War II.

In this latter period, the university operated underground, enrolling approximately 800 students. Lecturing in hiding, some 162 Polish professors helped keep alive the tradition of Polish learning and allowed a number of students to obtain graduate and postgraduate degrees.

Our own Nation will play a significant part in the observances and activities connected with the 600th anniversary year of the Jagiellonian University. The American Children's Hospital and Research Center, being built in Krakow with funds derived from the sales of surplus U.S. agricultural products, will be completed this summer and its operation turned over to the university's academy of medicine.

This facility—a gesture of friendship from the people of the United States to the people of Poland—will be one of the most modern medical and research centers in Europe. Its dedication, anticipated for August, will be an important event in the long history of the Jagiellonian University.

While we hail the Polish democratic tradition which resulted in the May 3 Constitution and the spirit of free inquiry which has characterized the Jagiellonian University, we recognize that neither democracy nor freedom of thought and expression is fully permitted in Poland today, burdened as it is by a Communist regime.

This fact recently was brought forcefully to the attention of the world by the "Freedom Manifesto" joined in by 34 Polish writers, scholars, and scientists. These intellectuals were aroused by the excuse being used by the regime that a shortage of paper made it necessary to limit publication of books, periodicals and daily newspapers. A reduction in the number of translations available from Western European sources and the refusal of passports to writers and scholars who wished to travel or study abroad further provoked them.

Their protest took the form of a letter sent to Polish Prime Minister Joseph Cyrankiewicz. In just two sentences these courageous men laid an unprecedented challenge to the Communist regime. Their protest read:

> Restrictions in allocation of paper for printing books and periodicals, as well as tightening press censorship, are creating a situation which is endangering the development of Polish national culture.
>
> The undersigned, recognizing that the existence of public opinion, the right to criticize, the freedom of discussion and access to reliable information are necessary factors to progress, and, being motivated by civic concern, demand that Polish cultural policy be changed to conform to the spirit of the rights guaranteed by the Polish Constitution and to the national good.

This manifesto demonstrated once again the indomitable spirit of the Polish people who, above everything, want to live in freedom. Some may say that the fact that the manifesto could be sent is evidence of some freedom of expression. Nevertheless, the cause for the letter gives us pause.

The pronouncement does great credit to the 34 men and women who risked their privileged positions to speak out against the oppressiveness of the Communist regime. Even the collection of the signatures of so many prominent Polish citizens was a fact of no small difficulty, since no general meetings are practical and secrecy was essential.

At this point I should like to include a list of those Polish patriots who signed the manifesto:

Jerzy Andrzejewski: One of the best Polish novelist. By 1961, 8 of his books had been translated into 13 languages, including English, French, German, Swedish, Danish, and even Japanese. His novel "Ashes and Diamonds" (1947) was filmed in 1955 and the film became internationally known. He had been seletced as editor in chief of the monthly "Europa" (1957), but the galley proofs of its first issue were confiscated and the monthly was closed before it ever appeared. Enraged, Andrzejewski resigned from the Communist Party.

Maria Dabrowska: The most prominent living Polish novelist, considered by some to be worthy of the Nobel Prize. Her works have been translated into Czech, Slovak, Croatian, Serbian, Russian (over 200,000 by 1961), French, German, Italian, Danish, and Hungarian. Dabrowska holds numerous awards and decorations. In 1957 she received an honorary doctor's degree from Warsaw University and in 1959, on the occasion of her 70th birthday, she was decorated with the "Banner of Labor" first class.

Stanislaw Dygat: Writer, novelist, and film script writer.

Karol Estreicher: Historian, musicologist.

Marian Falski: Philologist, director of Research Center of Educational Organizations attached to the Academy of Sciences.

Aleksander Gieysztor: Historian.

Konrad Gorski: Educationist.

Pawel Hertz: Writer.

Leopold Infeld: A most prominent Polish nuclear scientist, a collaborator of Einstein, included by Bertrand Russell among the 11 greatest atomic scientists of the world. In 1936–38 member of the Institute of Advanced Studies at Princeton, and from 1938 to 1950 at Toronto University. In 1950 he returned to Poland to become professor at the University of Warsaw. In 1954 he was decorated with the order of the "Banner of Labor" first class, and next year received the State prize first class. An ardent Communist since 1944, he was in 1956 among those in the Guard of Honor at Bierut's bier. He was always most active in the World Peace Council and the Movement for the Peaceful Use of Atomic Energy, and in these two capacities, as well as to attend scientific atomic conferences, he has traveled abroad well over 20 times. He called, during the last Polish discussion on intellectual freedom, for a simultaneous increase of living standards and freedom in Poland.

Pawel Jasienica: Writer, member of the board of the Polish Writers' Union.

Mieczyslaw Jastrun: Poet and writer.

Stefan Kisielewski: Writer, composer, Sejm deputy from the "ZNAK" parliamentary group, columnist for "Tygodnik Powszechny."

Tadeusz Kotarbinski: Leading philosopher of the country, past president of the Academy of Sciences, professor at Warsaw University. In January 1957 he was elected president of the Polish Academy of Sciences (reelected in 1960 and stepped down in 1962). He became a member of the Scholarships and Pedagogical Council, deputy chairman of the Institute for the History of Philosophy (1957) and chairman from (1957); was deputy president of the All-Polish Front of National Unity (1958), chairman of the Committee for the Society of Moral Culture (1958), chairman of the Committee for Reform of Education (1961) and member of the following academies: Bulgarian (1958), Soviet (1958), Mongolian (1961).

Anna Kowalska: Writer; member of the board of the Polish Writers' Union.

Julian Krzyzanowski: Professor at Warsaw University, leading literary historian; member of the Academy of Sciences; spent a number of years in the United States.

Zofia Kossak-Szczucka: Writer, prominent Catholic, well known in prewar Poland, one of her books was selected in the United States by the Book of the Month Club; former inmate of Auschwitz Nazi camp; lived in England for several years after the war, returned to Poland after the October revolution.

Jan Kott: Writer, Shakespeare scholar, literary critic; recent recipient of the Swiss Herder's Prize.

Kazimierz Kumaniecki: Professor of history, correspondent member of the Academy of Sciences, chairman of the Polish Philological Society, board member of the Polish-Brazilian Friendship Society.

Edward Lipinski: Economist, former president of the National Economic Council.

Stanislaw Cat-Mackiewicz: Journalist, former Premier of Polish Government-in-exile in London, redefected to Poland, cooperated with PAX group.

Jan Parandowski: Classicist, chairman of the Polish Pen Club.

Stanislaw Pigon: Professor at Jagiellonian University; literary historian, member of the Academy of Sciences.

Maria Ossowska: Professor at Warsaw University, chair of moral theory.

Adolf Rudnicki: Writer, feuilletonist, regular contributor to Swiat, an illustrated Warsaw weekly.

Antoni Slonimski: Prominent Polish poet, well known in New York, where he spent the war, regular contributor of feuilletons to the satirical weekly Szpilki.

Artur Sandauer: Writer, literary critic.

Waclaw Sierpinski: Scientist, mathematician of international fame, member of the Academy of Sciences, professor at University of Warsaw, chairman of the Society for the Promotion of Scientific Cooperation With France; doctor honoris causa in many universities in Europe.

Jan Szczepanski: Sociologist.

Wladyslaw Tatarkiewicz: Professor at University of Warsaw, philosopher; lived in the United States.

Jerzy Turowicz: Prominent Catholic activist, editor in chief of the Catholic weekly Tygodnik Powszechny; personal friend of Stefan Cardinal Wyszynski.

Melchior Wankowicz: Writer, spent World War II in Italy with General Anders' army, author of the book "Monte Cassino"; after the war, lived for a number of years in the United States (New York).

Adam Wazyk: Poet, author of the famous "Poem for Adults," which signaled the start of the "thaw" in Poland; former outstanding Communist Party member.

Kazimierz Wyka: Professor of literature, prorector of the Jagiellonian University, member of the Academy of Sciences.

Jerzy Zagórski: Writer.

The signers had been asked to keep the letter confidential because of the nature of the protest. An adverse reaction from the Polish Communist regime was expected. These fears were confirmed 48 hours after the protest had been delivered, when Jan Lipski, a Polish writer who had helped circulate the petition but had not signed it, was arrested. Although he was later released, this was only the first of many retaliatory actions taken against the signers.

It is reported that some have had their articles withdrawn from publication, others have had radio programs canceled and banned, and still others have had their passports withdrawn. Three university professors have been forbidden to lecture, one newspaper editor has lost his job. A Catholic weekly whose editor signed the letter had its publication cut by 10,000 copies by state order.

There are indications that other reprisals may still be in offing. Unfortunately, the American press has not given this development much attention. Notable exceptions have been the New York Times and the New York Herald-Tribune, both of which have run articles on the manifesto and his consequences. In addition, the New York Times on April 19 printed an editorial pointing out that "almost a decade of Wladyslaw Gomulka's rule has failed to meet either the spiritual or material needs of the Polish people." I will include these items at the end of my remarks, along with a letter to the editor of the Times from Dr. Ithiel de Sola Pool.

Dr. de Sola Pool points out that the Polish Government by its actions in this case has lost an opportunity to restore a fading image of relatively free discourse within the limits of what is possible in a Communist-held country.

Should these reports be true, it is my sincere hope that the Polish Government will discontinue its reprisals against those who signed the manifesto, and that it will give full and favorable consideration to the requests it contained.

The people of America have been concerned with recent developments in Poland which indicate that the reforms of 1956 are being eroded and that Poland is slipping back into a Stalinist atmosphere. Further deterioration in the situation might require a reassessment of U.S. policy toward Poland.

Lest that become necessary, we urge the Polish leaders to reconsider their policies toward the writers, scholars, and scientists, giving them the freedom required if the Polish heritage of culture, learning, and enlightenment is to be carried forward in the historic tradition of Poland.

[From the New York Times, Apr. 18, 1964]

### Polish Writers Denounce Curbs—Demand for More Freedom Is Met With Reprisals

(By Paul Underwood)

Warsaw, April 17.—A quiet letter protesting Communist censorship, signed by 34 of Poland's most prominent intellectuals, has mushroomed into what could prove a major headache for the regime of Wladyslaw Gomulka's Polish United Workers Party.

It has already sparked a demonstration by Warsaw University students. Twelve of the country's best-known writers and teachers have been suspended from their posts. Although the regime has never openly admitted the existence of the letter, it has been forced to sponsor a series of articles in the controlled press defending its policies.

The affair has now become an issue in the internal struggle for power that is underway within the party in advance of its national congress in June. Both the progressive and the Stalinist wings are attempting to exploit the situation for their own ends.

#### MAJOR EXPLOSION POSSIBLE

More importantly, in the atmosphere of discontent that envelops the country—compounded of annoyance over rising prices, shortages, a fall in real wages, unemployment, and increasing restrictions—such an incident could generate a spark to set off a major explosion.

The regime is well aware that many of the intellectuals who signed the letter were leaders in the 1954–56 revolt against Stalinism that overthrew the old order in Poland.

Taken by itself, the letter represented one more effort by the intellectuals to halt the steady cutting away by the regime of the freedoms won in 1956.

The last 6 years have witnessed increased curbs on expression, sharp cuts in allotments of paper for books, periodicals, and newspapers, and a variety of other restrictions, including the refusal of passports for travel.

### SIGNERS MAINTAIN SILENCE

None of the signers of the letter will speak at this time to Western newsmen in Warsaw. However, the following details are common knowledge in the Polish capital:

The intellectuals' complaints were voiced at a writers association meeting in January. No relief was granted. In March, a group carried the demands to Wincenty Krasko, chief of the cultural department of the central committee.

Finally a decision was made to send the protest letter to Premier Jozef Cyrankiewicz. It said:

"Restrictions on the allocation of paper for the publication of books and periodicals, and the tightening of press censorship, create a situation that threatens the development of our national culture."

### HONEST INFORMATION DEMANDED

"In recognition of the existence of public opinion, the right to criticize, the right of free discussion and honest information as the necessary elements of progress, the undersigned, motivated by civic concern, demand that the Polish cultural policy be altered so as to conform to the rights guaranteed by the Constitution of the Polish state and conducive to national welfare."

The signers included such figures as Leopold Infeld, Poland's most noted theoretical physicist, who once was a collaborator of Albert Einstein; Prof. Tadeusz Kotarbinski, one of the country's leading philosophers and until last year head of the Polish Academy of Sciences; Antoni Slonimski, the nation's most noted poet; writers like Adam Wazyk, whose "Poems for Adults" was reprinted around the world during the 1956 events, and Maria Dabrowska, winner of the Polish state literary prize and deputy chairman of the Polish Pen Club.

No publicity was given the letter at the time, and it appeared that the Government intended to ignore the matter. This lull lasted until nearly the end of March. Then the security police took into custody a writer named Jan Jozef Lipski, and held him 48 hours before releasing him.

Pressure was put on the signatories to induce them to withdraw their names. Two succumbed, but 32 stood firm.

Reprisals have been reported. Several who had passports have lost them. Mr. Slominski's column has disappeared from the humorous weekly Spilki. Radio programs on which some of the signatories were to appear have been withdrawn.

Official policy has been reemphasized. In a series of articles the literary weekly Kultura has insisted the Government's line is correct and fair. Kultura said:

"We do not see the place for books and plays whose ideological and moral sense is directed against socialism."

It would be shortsighted to assume that censorship is the only issue in the struggle.

Traditionally the Polish intellectuals played a major role in the events of 1956 that led to the accession of Mr. Gomulka.

Mr. Gomulka and his aides are career members of the Communist directive machinery, with little if any regard for the eggheads. During the years since 1956 they have succeeded in excluding the intellectuals from any effective role in the leadership of the country.

Thus the present literary protest really means that the intellectuals are fighting for their reinstatement as a leading force in Polish life and thought.

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[From the New York (N.Y.) Herald-Tribune, Apr. 19, 1964]

## AND IN POLAND, 34 INTELLECTUALS DEFY GOMULKA

(By Arnold Beichman)

Wladyslaw Gomulka returns from Moscow this weekend to confront an explosive domestic crisis occasioned by the most momentous revolt of the Polish intelligentsia since 1956.

Poland's First Party Secretary has been challenged by 34 outstanding Polish intellectuals, many of them internationally renowned, who in a 58-word statement have defied Communist ideology and dictation.

The sheet of paper which they signed as a group some 3 weeks ago demanded recognition by the Government of "the existence of public opinion, the right to criticize, the right of free discussion, and honest information." The manifesto was formally addressed to Premier Jozef Cyrankiewicz.

Little of the dramatic behind-the-scenes story of this significant political event has been made public. In fact, the declaration itself has received little publicity here and in Europe. Polish cultural attachés in Western capitals, it is now known, have urged European editors to "play down" the story because it might compel Gomulka to "act rough" against these defiant intellectuals.

The English text, published here for the first time and somewhat longer than the original Polish, reads:

"Restrictions on the allocation of paper for the printing of books and periodicals, and the tightening of press censorship, have created a situation which threatens the development of national culture. The undersigned, in recognition of the existence of public opinion, the right to criticize, the right of free discussion, and honest information as the necessary elements of progress, and being motivated by civic concern, demand that the Polish cultural policy be changed in the spirit of the rights guaranteed by the Constitution of the Polish State and as conducive to national welfare."

### PRESSURES

Despite enormous pressures upon the 34 signatories to repudiate the statement, they have refused to do so. One arrest did take place. Jan Jozef Lipski, former member of the suppressed intellectual organization, The Crooked Circle, was picked up by security police March 27. He was charged, not with having signed the manifesto, since he hadn't, but with gathering the signatures. He was released after 24 hours when the public prosecutor said he was unable to find any basis for criminal proceedings.

Obviously to prosecute a man for merely soliciting signatures to an antiregime statement while ignoring the signatories themselves would have been too stultifying even for a Communist state.

Two of the dissident intellectuals have made a technical recantation. Prof. Jan Szczepanski of Lodz University, a noted sociologist who was at Leland Stanford University during 1960–61, and Kazimierz Wyka, professor of literature and prorector of Jagiellonian University, responded to Government pressure by declaring that had they known that the letter might become public, they would not have signed it.

Actually the statement has not been published or broadcast in Poland, and what is known of its existence within the country is purely the result of word-of-mouth circulation.

For Gomulka the revolt of the intellectuals couldn't have come at a more embarrassing moment. Within less than 2 months, June 15, the Fourth Congress of the United Polish Workers' Party (or Communist Party) after a year's delay will open the celebration of the 20th anniversary of the Polish Communist state.

The open opposition of the intelligentsia reflects not only its own despair but is part of a nationwide malaise which has infected Polish workers and youth. A wave of work stoppages, which in some cases led to police violence, has been reported in factories in Silesia and along the Baltic coast. Workers from the Cegielski plants in Poznan, who led the 1956 "bread and freedom" marches, demonstrated some months ago for higher wages.

Since the end of the Ecumenical Council in Rome, Cardinal Wyszynski, Roman Catholic primate of Poland, and his bishops have been attacking the Gomulka regime with unprecedented openness.

### REPRISALS

During the past 3 weeks, the Government has taken these reprisals against some of the signatories:

Professor Jan Kott, writer and critic, who was to receive a literary prize in Paris for his essays on Shakespeare, had his passport withdrawn. An article already in type for publication in the magazine Tworczosc was killed.

Artur Sandauer, well-known writer and critic, had his passport withdrawn.

The Polish radio was ordered to ban previously recorded programs by several of the signatories, including one by Antoni Slonimski. Broadcasts by Professor Waclaw Sierpinski and Melchior Wankowicz were canceled. Sierpinski, a professor at Warsaw University, is a scientist and mathematician. Wankowicz, who was with General Anders' army in Italy during World War II, is a writer who lived in New York and returned to Poland in 1956.

Stanislaw Mackiewicz-Cat, ex-Premier of the Polish Government-in-exile, who returned to Poland after the war, has been dismissed from the newspaper Slowo Powszechne.

Jerzy Turowicz, editor of the Catholic weekly, Tygodnik Powszechny, had his print run cut from 40,000 to 30,000.

Among the other Polish intellectuals who signed the statement:

Jerzy Andrzejewski, author of "Ashes and Diamonds" which was made into a prize-winning film a few years ago.

Maria Dabrowska, the most prominent of living Polish women writers and vice president of the Polish PEN Club.

Leopold Infeld, nuclear physicist and former pupil of Albert Einstein, who lived in the United States during the war, and a Polish State prize laureate.

Tadeusz Kotarbinski, philosopher and honorary president of the Academy of Sciences.

Zofia Kossak-Szczucka, a prominent Catholic writer, former inmate of Auschwitz, who returned to Poland after the October 1956 revolution.

Jan Parandowski, writer and chairman of the Polish PEN Club.

Adam Wazyk, who became famous with his poem, "The End of Utopia," in 1956.

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[From the New York Times, Apr. 19, 1964]

## TENSION IN POLAND

The increasingly open expression of intellectual and economic discontent in Poland is creating an atmosphere reminiscent of that which exploded in violence against the Communist regime 8 years ago.

This rise in tension indicates that almost a decade of Wladyslaw Gomulka's rule has failed to meet either the spiritual or material demands of the Polish people. The nation's leading intellectuals are in revolt against the steady attrition of the gains in free expression won in 1955 and 1956. The demands for greater freedom voiced in their January letter have been met in some cases by what can only be called Stalinist-type retaliation, and this in turn is sparking protests.

The potentially incendiary nature of this ferment among the intellectuals is heightened by the widespread economic discontent among the mass of Poland's workers and farmers. Many workers fear that they may lose their jobs or have their pay cut as the result of the Government's current deflationary economic policy. Shortages of fodder have already produced demonstrations—some accompanied by violence—among peasant groups. And in the Polish Communist leadership competing factions are engaging in a bitter fight for position. It is no situation to foster official smugness.

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### INTELLECTUALS IN POLAND: GROWING REPRESSION AS AFTERMATH OF ANTICENSORSHIP PETITION SEEN

To the EDITOR:

Commendations on your April 18 editorial "Tension in Poland." Having been in Warsaw in the week following the submission of the anticensorship petition by 34 outstanding writers, professors, and scientists to Premier Cyrankiewicz, I strongly feel that the current crisis in Polish cultural life has not received adequate attention in the United States.

Poland is a country in which, despite the inevitable limitations of the Communist system that external pressure imposes, a valiant attempt has been made by the intelligentsia to retain as much as possible of the Western heritage of free inquiry. At present the trend is against them.

The recent growth of intellectual repression in Poland has been so gradual that it has caused little news in the world press. But the striking ferment that made Warsaw the cultural capital of the Communist world in the late 1950's is being slowly undercut and, as Paul Underwood pointed out, the intellectuals have been more and more isolated from any effective role.

#### CREATIVITY DISCOURAGED

The discouragement of Polish intellectuals today is highlighted by the contrast between Warsaw and Budapest. In Warsaw conditions for creative work become less favorable every day, whereas in Budapest the trend is one of decreasing restraints.

The significance of the petition is that it might have helped stem this decay. The understanding among the signers was that if their petition was properly received as a legitimate expression of views by the government, it would have remained an internal document.

With the 48-hour arrest of Lipski and with the barring of 12 of the signers from further publication of their works in Poland, the Polish Government lost an opportunity to restore a fading image of relatively free discourse within the limits of what is possible in a Communist regime.

In the face of these events, leading cultural officials of the Polish regime tried to contend in the week following the petition that the action of the 34 would only prove that Poland was a country where people could address their government without fear of reprisals. Unfortunately the Polish Government is not letting that be the case.

ITHIEL DE SOLA POOL.

CAMBRIDGE, MASS., *April 20, 1964*.

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Mr. RYAN of New York. Mr. Speaker, I am happy to join the distinguished gentleman from Illinois [Mr. PUCINSKI] in this tribute. May 3 marks the 173d anniversary of Polish Constitution Day. The Polish Constitution emerged about the same time as ours as part of the same liberal, democratic movement in ascendancy at the end of the 18th century. Civil liberties and religious toleration were guaranteed in the document. Poland became a limited monarchy under a cabinet system with powers divided between the executive, judicial, and legislative branches. Townsmen and peasants gained greater rights as the stranglehold of the nobility over the peasant was broken.

After the Polish Diet ratified the Constitution and King Stanislas concurred, Warsaw burst into a night of happy festivities, which were followed by celebrations lasting for weeks all over Poland. But the jubilation of the Poles was shortlived. Unable to tolerate a liberal regime on her very borders, the Czarist Empress Catherine dispatched troops to eastern Poland. For 3 months the gallant Polish Army under the leadership of the American Revolutionary hero, Tadeusz Kosciuszko, held out against insurmountable odds, but in the end they were overwhelmed. Poland found itself partitioned between its two powerful neighbors, Prussia and Russia.

However, these Polish patriots did not give up their dream of national sovereignty. After some attempts failed, Kosciuszko finally seized on a revolt of Polish officers to reproclaim the Constitution and to call the nation to arms. The response was enthusiastic. At first these hardy Poles triumphed over their Russian oppressors, but ultimately their forces were weakened by the superiority of the Russian Army. Warsaw was taken, and Kosciuszko was captured. Once again, Poland was partitioned in 1795 and 1796.

Even though Poland was destined to be under foreign domination until World War I, the flame of liberty and democracy did not die. At the first opportunity the Poles once more proclaimed a constitution.

The consequent history of Poland is well known to all of us. After a brief but courageous fight against the Nazi Germany, Poland was overrun, and following World War II, Poland was brought under the control of the Soviet Union.

Mr. Speaker, as we observe the anniversary of Polish Constitution Day, we salute the countless Polish patriots who believed and fought and died for a dream: that their nation might be free under a democratic Constitution. That dream will be fulfilled.

Mr. DEROUNIAN. Mr. Speaker, our attention has been drawn to the fact that May 3 is the anniversary of the Polish Constitution, adopted on May 3, 1791.

This Constitution was the result of many years of conflict for the Polish people. They were conquered by foreign intervention and divided within. The glories of the 16th century Poland were wasting away. The great universities were decaying. The land was scourged. The Government was chaotic, unable to administer the nation.

Somehow out of these conditions in the enlightened years of the later 18th century Poland developed a most remarkable group of patriots, men like Ignatius Potocki, Tadeusz Kosciuszko, and Stanislas Malachowski. They were the ones who defied imperial Russia and Austria and the Kingdom of Prussia in pursuit of the freedom of their nation.

Their Constitution was the most remarkable document in Polish history. Incorporating most of the basic freedoms and rights of democratic men it promised to bring Poland a new age of stability and progress.

It is saddening indeed that the new age never arrived. Poland still suffers from the same Russian imperialism which crushed its first liberal government. On this 173d anniversary of the May 3 Constitution, let us hope that Poland need not suffer further destruction and sorrow in the years ahead.

Mr. STAEBLER. Mr. Speaker, on Sunday, May 3, citizens of Polish descent throughout the United States will celebrate the Polish 3d of May Constitution Day. I wish to join in paying tribute to them and to their most outstanding constitution, adopted 173 years ago.

Without bloody revolution or even great civil disorder, barely 2 years after the United States adopted its Constitution, Poland, with this one document, established the "will of the people" as the guiding principle of her government and halted internal decline and decay. The ideals that inspired the Polish Constitution were those that inspired the American Constitution. But those ideals, as well America knows, were not the ideals of the rest of Europe—and the new government, the one bright light in Eastern Europe, fell a mere 4 years later, with the third partition of Poland in 1795 by Russia, Prussia, and Austria.

The spirit of liberalism that rose with the May 3 Constitution has risen often since then in Poland. It was this spirit 20 years ago this July that inspired the Warsaw uprising. Heroically fighting the Germans, without the promised aid of the nearby Russian armies, over 250,000 Poles perished. Again, that spirit was vanquished. And it remains vanquished, yet alive, in Poland today. It is so tragically ironic that one place today where May 3 is not celebrated, and where no note is taken of the 1791 Constitution, is Poland.

We can surely expect this spirit to rise once more. We continue to hear reports from Poland, telling of resistance to Communist efforts to change Poland's religious and social heritage. This, some say, is the final effort to permanently eradicate the liberal thought so embarrassing to much of Eastern Europe. I doubt that such a thing is possible. The indomitable spirit of the Poles, I am sure, wil continue to fight such subjugation, and eventually rise with great finality, never to be vanquished again.

But we can be assured that in another way, the liberal spirit of the Constitution of 1791 will not die. The millions of Poles who immigrated to this country brought that spirit with them. Their Constitution has strengthened our Constitution; their heritage of political liberality has joined our spirit of political liberalism. In Polish-American homes across the country the traditions have merged: Two national holidays, the Third of May and the Fourth of July, are celebrated as the same holidays. This, the double heritage of Polish-Americans, from the time of Pulaski to the present, has benefited all America.

The Polish American Congress, one organization exemplifying the double heritage of our Polish-Americans, celebrates its 20th anniversary this year. Composed of Polish-American church organizations, fraternal orders, professional, educational, civic, and business groups, the congress, under the leadership of men such as Mr. Charles Rozmarek, has meant much, and indeed has done much for the Polish Americans. It has kept them politically alert, never forgetful of the past or of the present. It has provided for their welfare, through support of schools, parishes, press, and vocational activities. Some of the Polish-American Congress' most outstanding work has been done in the resettlement of displaced persons. For the great humanitarian work done in this area alone, the organization deserves our thanks.

So I too join in marking the Polish Third of May Constitution Day. We can be thankful that the spirit of Poland is so much the spirit of America. America is the better for it.

Mr. WYMAN. Mr. Speaker, it is with a great deal of honor that I join with my colleagues in commemorating the 173d anniversary of Poland's Constitution. I sincerely hope that before very long a proud people will once again enjoy the freedom they have fought for and died for.

Misery and misfortune have been the unenviable lot of the Polish people since the middle of the 18th century. The rise of Russia in the east and Prussia in the west rendered the political position of Poland precarious. These two neighbors and Austria were eager to rob Poland. And in 1772 Austria, Prussia, and Russia parceled out a third of Poland among themselves. In order to forestall the repetition of another partition Polish leaders were determined to strengthen Poland, and this they hoped to do by modernizing the Government of the country. Late in 1783 a committee of the national assembly began to draft a constitution. This work was completed by early 1791, and on May 3 the Constitution was adopted and promulgated.

The Polish Constitution of that May was a liberal, democratic, and progressive document. It was heartily received by the Poles and hailed by liberals in many lands. By its provisions the old and antiquated governmental system of the country was replaced by a modernized and effective Government. The autocratic powers of the King were reduced and brought under legislative control. A Cabinet type of government was introduced, responsible to the popularly elected lower chamber. The power of landlords over their tenants was drastically reduced, and the peasantry placed under the protection of the law. Freedom of conscience and of speech was guaranteed. For these liberal provisions this Constitution was regarded as a model at the time, marking a great advance over anything yet attempted in all eastern Europe. Unfortunately, for the Poles and for their friends in Europe and America, the Constitution was never given a fair trial. Before it could be put into force, Poland was attacked by her foes and defeated, and then partitioned among her old adversaries. From then on until the end of the First World War Poland ceased to exist as an independent state, but the liberal and democratic spirit embodied in the Polish Constitution of 1791 lived on in the hearts and souls of all patriotic Poles. And today, on the 173d anniversary of its adoption, once again Poles have lost their freedom and do not enjoy the freedom that was provided for them in their historic Constitution of 1791, but we all hope and pray that soon they will attain that goal.

Mr. DERWINSKI. Mr. Speaker, Sunday, the 3d of May, is the traditional Polish holiday, the anniversary of the Polish Constitution, May 3, 1791.

Prior to the military imposition by the Soviet Union of the Communist puppet government in Poland in 1944, the 3d of May was the only great national holiday, but as always was the case in Poland it was combined with religious observances.

My purpose in addressing the House at this time, Mr. Speaker, is to call to the attention of the Members and the American public that present-day Poland remains a huge Communist prison cell, for in defiance of its great national traditions and heritage and the observance of this Constitution Day, political and religious persecution continues to be carried on against the Polish people. At this point in my remarks, I insert a news article from the Sunday, April 19, edition of the New York Times, along with an editorial of the same date from that publication, both reporting on the economic and political oppression of the Polish people.

[From the New York Times, Apr. 19, 1964]

### POLES STRUGGLE FOR PARTY REINS—ECONOMIC TROUBLES BREED RIFTS AMONG COMMUNISTS

(By Paul Underwood)

WARSAW, April 18.—Poland's Communist Party is facing its fifth national congress with its ranks in greater disarray than at any time since 1956.

Even as party organizations are holding widely publicized conferences throughout the country to prepare the political ground for the June meeting, a bitter struggle for position and power continues within the hierarchy.

Ideological differences, personal rivalries and ambitions, along with the economic morass into which the country has fallen, have sharpened the conflicts among shifting party groups that have been a feature of the Polish political scene for the last 8 years.

#### THREE FACTIONS ARE ACTIVE

Left, right, and center factions are belaboring one another in the hope of gaining enough strength to dictate the line the party will follow during the next few years.

Qualified Western analysts expect Wladyslaw Gomulka, First Secretary of the party, to find some way to keep enough of these diverse forces in harness to maintain his rule. It will not be easy.

He has the advantage that almost alone among important party figures he has the prestige with the nation as a whole that is essential for the job. He also is helped by the fact that no one really wants to overturn the boat. Each just wants to rock it enough to throw a few enemies overboard.

#### SITUATION LIKE 1955'S

Polish Communists are acutely aware of the similarities between the situation today and that of the 1955–56 struggle that brought Mr. Gomulka to power.

Then, as now, the party was driven by an internal power struggle. Then, as now, it was under heavy criticism from party members and the general public because of the country's deplorable economic situation.

Then, as now, there was widespread discontent in cities over shortages, rising prices, a drop in real wages and bad housing.

There is one big difference between now and 1956 that makes unlikely the recurrence of an explosion. Then the police and security forces also were divided and uncertain. Today they are firmly under the control of the Stalinist group within the party.

Security vigilance has increased sharply in recent months, and authorities obviously are prepared to move quickly to stamp out any signs of trouble.

#### MEETING TO CHOOSE DELEGATES

The party meetings now taking place throughout the country will choose delegates to the congress, which will open June 15. There will be about 1,500 delegates, 1 for each 1,000 party members.

The congress will elect a new central committee. Then the central committee will elect a new Politburo to rule the country for 4 years.

Western reports of an agreement between Mr. Gomulka and Mieczslaw Mozcar, Deputy Interior Minister, that would give the Stalinists about a third of the seats on the new central committee and two places on the Politboro are generally disbelieved.

On the other hand, informed sources said that a liberal group headed by Ramon Zambrowski, who was removed from the Politboro last July, had failed to induce Mr. Gomulka to cut back the influence of the Stalinists.

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### TENSION IN POLAND

The increasingly open expression of intellectual and economic discontent in Poland is creating an atmosphere reminiscent of that which exploded in violence against the Communist regime 8 years ago.

This rise in tension indicates that almost a decade of Wladyslaw Gomulka's rule has failed to meet either the spiritual or material demands of the Polish people. The nation's leading intellectuals are in revolt against the steady attrition of the gains in free expression won in 1955 and 1956. The demands for greater freedom voiced in their January letter have been met in some cases by what can only be called Stalinist-type retaliation, and this in turn is sparking protests.

The potentially incendiary nature of this ferment among the intellectuals is heightened by the widespread economic discontent among the mass of Poland's workers and farmers. Many workers fear that they may lose their jobs or have their pay cut as the result of the Government's current deflationary economic policy. Shortages of fodder have already produced demonstrations—some accompanied by violence—among peasant groups. And in the Polish Communist leadership competing factions are engaging in a bitter fight for position. It is no situation to foster official smugness.

Mr. Speaker, in addition, I wish to insert into the RECORD at this point an editorial in the April 17 edition of the New World, a publication of the Catholic Archdiocese of Chicago, which reports on religious persecution in Poland.

### ATHEISTS DECRY CHURCHGOING IN POLAND

Two interesting reports on antireligious activity in Poland—one from a small town and the other from a city—have been re-

> ceived in Berlin, according to the NCWC news service.
>
> Argumenty, the weekly publication of the Society of Atheists and Freethinkers in Poland, mourns over a report from a small town of Andrychow where everybody goes to church, even party members.
>
> "The doctor is an unbeliever, yet he attends church," lamented the magazine. "The local notables, regardless of their official declarations, also mostly attend church services." Party members not only go to church, they send their children to religion classes.
>
> Practically all the children go to religion classes in Andrychow. Correspondent Agata Ursynowsky reported that last September "the priest-catechist stated with satisfaction that only three children do not attend religion classes."
>
> The author reports unhappily that Marxism and communist philosophy are given brief treatment in the government school.
>
> In Warsaw, the Communist Party organ Polityka confessed it had received many unfavorable letters after it published a bleak account of the life of a Catholic seminarian. It even published one of the letters.
>
> A young woman wrote: "As a girl student I came across many exseminarians. And I know that if a candidate could not go through the seminary he had no grudge toward anybody.
>
> "No one holds anybody by force in the seminary," she continued. "On the contrary, before ordination the candidate is given the opportunity to withdraw. This is not mentioned in your article because it would be to the advantage of the seminary."
>
> The writer said the regimentation which the magazine considers so evil in seminaries, would be considered good in the army or in school.
>
> Polityka published the letter with little comment.

Mr. Speaker, it is not enough for us to dwell upon the heroic history of the Polish people and their contribution to Western civilization, the contribution that Polish immigrants have made to the United States, or to discuss the great deeds of the Polish armed forces in support of freedom in World War II.

It is necessary for us, Mr. Speaker, to face the future and to urge an affirmative foreign policy that will restore freedom to the people of Poland and the other captive lands of Communism.

For centuries the Polish people suffered under foreign oppression and they have the stamina to overcome present Communist domination. However, we, as leaders of the free world, must develop psychological, economic, and diplomatic offenses that will produce more rapid restoration of freedom and the termination of the Communist threat to world peace.

The people of Poland are militantly pro-Western and anti-Communist. They maintain as best they can under Communist oppression their Christian heritage, Western culture, and devotion to their own freedom and the principle of self-determination of people for all lands.

The fact that here in the United States and other parts of the free world millions of people commemorate this great Polish Constitution Day constitutes a shot in the arm and an inspiration for the people of Poland. Here in Washington, for example, a Chapel to Our Lady of Czestochowa will be dedicated at the Catholic National Shrine of the Immaculate Conception on May 3. In Chicago, the annual Constitution Day parade, the largest of its kind, will be staged. In other cities throughout the country, in Canada, Australia, England, and other lands where citizens of Polish extraction reside, programs and observances will be held. In all of these observances a restatement of the hopes and aspirations for the restoration of freedom to Poland will be forthcoming.

Certainly, we in the Congress have a responsibility and an obligation to see that the foreign policy of our government is intelligently implemented to work toward the end of world Communism, the reestablishment of free governments in Eastern Europe in conformance with the self-determination principle so eloquently expounded by President Wilson many years ago.

**Mr. O'HARA of Illinois.** Mr. Speaker, I commend my able and distinguished colleague from Illinois [Mr. PUCINSKI] in having this hour set aside for tributes to Poland and her people in observance of the 173d anniversary of the Polish Constitution of 1791. Wholeheartedly I associate myself with his remarks and join in the pledge that we in the House of Representatives of the Congress of the United States will stand by and never cease our effort until once again Poland and the other captive nations are free and independent. On that there can never be any compromise nor surrender to expediency. The achievement of full and complete sovereignty for Poland and all the captive nations is an unchangeable objective of the foreign policy of the United States.

The Constitution of 1791 transformed brave Poland into a constitutional monarchy whose powers were divided among executive, judicial, and legislative branches. The will of the nation became the origin of all authority. Civil liberties and religious toleration were guaranteed. The hold of the nobles over the peasants was broken, while the townspeople also gained more rights.

For weeks the Poles celebrated their Constitution's acceptance, but their early hopes for a liberal order were doomed to disappointment. The Russian autocrat Catherine, who would not permit a democratic order so close to her country, sent her army into eastern Poland. For 3 months the Polish hero of our American Revolution, Tadeusz Kosciuszko, led the patriotic Polish Army against the Russian invaders, but in the end they were defeated. Poland's imperial neighbors, Russia and Prussia, partitioned the hapless country between them.

Nevertheless, Polish liberals were not ready to bow humbly to the new order. More than once they rose to arms. Seizing an opportunity presented by a timely revolt by Polish officers, Kosciuszko boldly reinstated the Constitution and summoned the Polish nation to do battle. Once again Polish patriot and Russian invader faced each other in combat. At the beginning, fortune seemed to favor the Poles, but as before, the superior weight of the Russian Army determined the final, pathetic outcome. Over the bodies of dead defenders in the streets of Warsaw, Catherine's forces marched into the Polish capital. Kosciuszko himself was captured. In 1795 Poland was once more partitioned.

For over 100 years, Poland remained under alien rule, but the Polish people never forgot their identity or their former independence. They yearned for the day when they would possess their freedom and determine their own destiny, just as they had in the days when Poland was a great state in Central Europe. Their opportunity came in World War I when the victorious powers put Poland back on the map. Once again the Poles proclaimed a Constitution. Yet once again they lost their freedom after World War II when they came under the Communist system.

On the anniversary day of one of the most enlightened documents in Polish history, we salute the Polish people and commend them on their love of liberty and democracy. Nor can we ever forget the mighty contribution men and women of Polish blood have made to our great American melting pot from the early colonial days at Jamestown, through all our years of war and peace, down to the present.

**Mr. O'HARA of Michigan.** Mr. Speaker, on Sunday, May 3, the 7 million Americans of Polish ancestry and many other Americans who desire a free Poland will celebrate the adoption of Poland's first liberal Constitution on May 3, 1791. This Constitution was the fruition of many years of agitation for Polish independence.

The progressive men who assembled in the parliament brought hope out of despair and light out of darkness. They united Lithuania and Poland in a fair federal State. They assured religious freedom for all. They gave political rights and fair representation before the law to Poland's exploited peasants. They joined with King Stanislaw to form a constitutional monarchy. Perhaps most importantly, they spoke out bravely in spite of dark threats from all sides and stood firm for those rights of representation and freedom which are due all men. In short, they promised Poland its freedom under law, and pledged their lives and honor to achieve it.

They gave of themselves in full measure in the short time that the 1791 constitution survived. Their example and their ideas have continued to inspire Poles and suppressed men everywhere ever since. The names and deeds of Ignatius Potocki, Hugo Kollontaj, and Tadeusz Kosciuszko are well known to other free men.

Repeatedly, despite partition and invasions, the Poles have struggled to recapture the hope and freedom which was theirs under the May 3 constitution.

All Americans can be proud of those Polish citizens who have contributed remarkably to the success and richness of American society, while at the same time carrying the voice of democracy to the Polish homeland. The present condition of Poland brings no happiness to the hearts of free men. As we remember the constitution of 1791, let us hope for a rebirth of the humanitarian spirit of that age and new freedom for Poland.

**Mr. HALPERN.** Mr. Speaker, many celebrations were held this week by Poles in many countries around the world. This special event is in memory of the constitution of May 3, 1791, a most significant occurrence in Polish history.

The latter half of the 18th century was a time for many revolutionary changes in the world, the best known of which were the American and French Revolutions. The liberal ideas sweeping the world touched many places however, including Poland.

The first terrible partition that tore Poland apart in 1772 was a great shock to the nation. It stimulated a new awareness, a national cultural awakening, which had far-reaching effects.

Remarkable new ideas from England and France, philosophy written by Locke, Rousseau, Voltaire, and Montesquieu, found receptive minds in Poland. With the fortunate rise of King Stanislas Augustus, the new ideas found a firm patron.

In 1773 the national education commission brought together the most enlightened men in Poland. The commission sponsored and renovated thousands of schools from colleges to parochial schools. It established the military academy which trained officers for the national army. It rebuilt the ancient university of Krakow and Warsaw. This great expansion in education brought about a glorious development in literature.

The witty, biting Krasicki exposed the faults of public and private life. Naruszewicz, the historian and poet, told his fellow Poles without enlightenment you have "neither a heart for action, nor brains for the council." Their sharp insights urged Poles on to resume the civilizing work of the ages, to bring their nation out of the 15th century into the 18th.

From 1773 to 1788 the Diets of the Polish nation met without producing any accomplishments to equal those of the Polish enlightenment. The Diets were still encumbered by family power struggles and personal feuds. But outside the Diet King and nation were drawing together. A political awakening was sweeping the people. Strong voices speaking out for political reforms arose and soon came to lend the liberal revolution. Great among these were Stanislas Staszic and Hugo Kollontaj.

Stanislas Staszic was born a townsman, without political rights. He was basically a scientist, but also an ardent nationalist and reformer. He became a trusted friend and assistance to Chancellor Andrew Zamoyski, and at the beginning of the long Diet beginning in 1778 he helped codify the Polish laws, a task basic to the modernization of the nation. Within a few years of entering political life, he wrote "Observations on the Life of John Zamoyski," former Chancellor and Grand Hetmand of Poland, in which he called the people to unite for a greater purpose, the salvation of Poland. In his book, "Warnings for Poland," published in 1790, he warned against harmful alliances and trying to buy allies with cessions of Polish land.

Hugo Kollontaj was a very different man. A nobleman by birth, he enjoyed full political rights and made good use of them. A doer, as well as a thinker, he was a towering figure throughout the existing days of the Great Sejm of 1778-92. He showed keen political insight in his suggestions for the Constitution of 1791. The adoption of the Constitution was due in great part to his insistence on finding a modern structure for Polish Government.

Thus the Great Sejm, with such men as these at the helm, and with others such as aged Bishop Kransinski and Stanislas Malachowski, lasted 4 years, the most hopeful, promising years in Polish history.

On December 24, 1789, the Diet published "Principles of the Improvement of the Foundation of Government," containing eight articles. Among these articles were:

> Right and power to make laws, and not to submit to any others except those which the Commonwealth alone enacts; the concluding with foreign powers of treaties of peace and alliance as well as declaring wars; Diets should be always ready during a biennial period.

The chief author of these principles was another famous leader of Poland, Ignatius Potocki, philosopher, statesman, patriot.

The process of national emancipation quickened. In January 1791, the "cardinal rights" assured religious conditions in Poland and reaffirmed the union of Poland and Lithuania. On April 18, 1791, townsmen became free men with full political rights. They immediately found an outstanding spokesman in Joachim Chreptowicz and played an important role in drafting the Constitution.

The powerful social political forces which had been set in motion soon touched King Stanislas II. He was quick to contribute his extensive knowledge of government and history, and collaborated fully with the patriots in writing the new reforms which considerably reduced his own powers. The King played a significant part in the adoption of the constitution of May 3 and was in every way a credit to his high position.

Finally on May 3, 1791, the Constitution of Poland was proclaimed. It established the nation as a constitutional, hereditary monarchy, giving full representation to landowners and townsmen, and promising full protection of the laws to serfs. This was the first substantial continuity ever promised to Poland. The anarchial liberum veto by which any individual in the Diet could prevent governmental action was abolished. And ministerial responsibility, based on the British Cabinet system, was established.

This is the historic document, and the outstanding period in Polish history which is celebrated each year on May 3. The many great men who wrote the Constitution were statesmen and patriots of the highest order. They promised to bring Poland stability, prosperity, and progress, such as it had never known before. They had the learning and ability to lead a dynamic new Poland. It is one of the saddest events in history that only 2 years later this promising experiment was crushed at its very beginning. And in 1795 the most infamous partition of all completely obliterated Poland for 100 years. But the fact that the infant Poland was destroyed before it was strong enough to protect itself, removes none of the luster from the Constitution of 1791 or from the men who established it. In these years when partitions and oppression once again smother the Polish people, it is important to recall the hopefulness of 1791. It can strengthen Polish resistance and give Poland the courage to once again cast off feudalism and foreign rule.

Mr. GILBERT. Mr. Speaker, I am pleased to join with my colleagues on this occasion when we mark the 173d anniversary of Poland's Constitution.

The history of Poland is filled with tragedies, untold sacrifices by her people, loss of freedom, defeat at the hands of her enemies. The Polish Constitution of 1791 was a remarkable document; it reflected the courage of the people to overthrow the shackles of serfdom, to seek true freedom and to govern themselves to the fullest extent possible then. From her status as a powerful nation in the 16th and 17th centuries she was forced into a decline brought about by partitions of the country, until the nation's strength was to be found only in the hearts of the people. Their indomitable courage and strength of will and fundamental beliefs in democratic principles have never faltered; they have refused to bow down to their oppressors.

Millions of Polish immigrants to this country through the years and our Polish American citizens have made tremendous contributions to the United States. They helped to build our great cities and our industries; their splendid talents in the fields of the arts, music, poetry, literature, have brought us much joy and appreciation. We owe them a debt of gratitude for helping us to become a great Nation.

Our hearts go out to the people of Poland on this occasion. We know that they will never relinquish their dream of a true democracy of their own, based upon all the principles they hold dear.

Mr. HOLLAND. Mr. Speaker, today we commemorate the 173d anniversary of Polish Constitution Day. This day marks one of the brightest events in modern Polish history. When this document was ratified by the Polish Diet and approved by the King, Poland became a constitutional monarchy with the rights of its people guaranteed. Upon hearing of its acceptance, Warsaw and then the rest of Poland erupted in a series of celebrations which lasted for weeks.

However, the joy of the Poles did not last long. Soon Russian troops, dispatched by the Empress Catherine, entered eastern Poland to crush the new order. For several months Polish patriots, led by the American Revolutionary War hero, Tadeusz Kosciuszko, valiantly resisted the superior Russian Army, but in the end they were defeated. Poland found itself partitioned between the Prussians and the Russians. Revolutionary attempts in the next few years also failed until hapless Poland found itself carved up between its neighbors for the last time.

We can look back to the Polish Constitution of 1791 as a significant moment in the democratic history of modern Poland at which time the Poles showed the direction in which they wanted their country to go.

On this Polish Constitution Day, I salute the Polish nation and the many patriots who died in the democratic cause there.

**Mr. REUSS.** Mr. Speaker, I take great pleasure in joining our distinguished colleague from Illinois [Mr. PUCINSKI] in this commemoration of Polish Constitution Day.

On this day we celebrate a great event in the history of the Polish people and of freedom—the adoption of the Polish Constitution of May 1791.

This constitution was a truly remarkable achievement of a liberty-loving people. It wrought profound changes in the political structure of the country yet it was adopted without bloodshed or disorder. It established an enclave of liberalism in surroundings of absolutism and tyranny. It took long strides toward democracy and provided freedom of conscience and religious toleration.

Indeed, the creators of the Polish Constitution of May 1791, were moved by the same spirit that had inspired the Founding Fathers of our own constitution two years earlier. This found practical expression in the inclusion in the Polish Constitution of many of the fundamental principles of American Government—separation of powers, a bicameral legislature, an independent judiciary, and the concept of government derived from the will of the people.

This extraordinary document embodied the deep longing of the Polish people for freedom and national independence, a longing that has been so often and so tragically suppressed. Only 4 years after the adoption of the constitution, Poland suffered its third partition among Russia, Prussia, and Austria.

Yet the Poles' desire for freedom and liberty is unquenchable. Americans saw this when Poles such as Kosciusko and Pulaski offered their lives in the struggle for American independence. We have seen it when Poland vanished from the world map yet lived on in the hearts of its people to emerge again. We saw it again in the glorious fights of Poles against Nazi and Soviet invasion in 1939, and the Warsaw uprising in 1944, and in the campaigns of the free Polish forces during World War II.

The many Americans of Polish descent have brought with them their belief in liberty and human dignity and have enriched this country thereby. We recall and honor the many contributions of the Polish people to our society, our Government, and our very independence.

Despite the strong chains that now hold the people of Poland, we can be confident that ultimately their freedom will be restored. We cannot yet see the way but the dedication to freedom shared by us and the Polish people promises final success.

For people of Polish descent, this is a day for pride and for hope.

**Mr. LINDSAY.** Mr. Speaker, this is a day of special significance, and I consider it an honor to join my colleagues in commemorating one of the great events in Polish history—the adoption of May 3 Constitution of 1791.

This Polish national holiday—which is being observed by Poles everywhere and citizens of Polish origin in many countries suggests the great bond that exists between this country and Poland. For Poland, like the United States, is a pioneer in the development of democratic and liberal government. In one stroke, the May 3d Polish Constitution eliminated the fundamental weaknesses of the Polish parliamentary and social system. The principle developed in the constitution was one understood by Americans—the principle of the sovereignty of the people in the state.

Unhappily, the light of liberalism coming from Poland was regarded as a threat to the systems of tyranny and absolutism in Russia and Germany. In 1795 Russian and Prussian soldiers partitioned the country. And again in 1939 Russian and Prussian soldiers, representing the totalitarian systems of nazism and communism, invaded Poland.

Yet, the example of Poland remains a source of inspiration to free men everywhere. In 1791 the world was moved by these words in the Polish 3d of May Constitution:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the State, the civil liberty, and the good order of society, on an equal scale and on a lasting foundation.

And in the summer of 1944 the world was moved by the Warsaw uprising, in which for 63 days the people of Warsaw struggled against a mighty German army before being forced to capitulate. In the struggle, more than 250,000 Polish men, women and children perished under the weight of three German armored divisions and incessant bombings by German planes.

In their heroism and sacrifice the people of Warsaw captured the imagination of the world. Yet, Warsaw was not only the victim of Nazi brutality. Warsaw also became the symbol of Soviet betrayal; for while the German war machine was demolishing the Polish city the nearby Soviet forces stood quiet despite appeals from Premier Churchill and President Roosevelt.

On this occasion, I salute the courageous people of Poland, and I look forward to the day when we will join a free and independent Poland in observing this important event.

**Mr. DADDARIO.** Mr. Speaker, this Nations owes its greatness to the people of many lands who came here to build its strength and its future. Our history rings with the courage and industry of those people whose roots lay in Poland, and whose hard-working dedication to the growth of this country of ours is reflected throughout its length and breadth.

We celebrate today the anniversary of a Constitution whose full rights have often been denied to its people. It is a Constitution which defines all power as derived from the people, as our Declaration of Independence also firmly stated, and which was designed by its own makers to preserve the good order of society.

In the Polish-American Congress, which marks the strong friendship between our peoples, there are divisions in 26 States, emphasizing the wide scale of Polish-American ties. More than 20 fraternal organizations and their local lodges are included in its membership, and outstanding men and women stand in the forefront of our civilization.

We extend our best wishes on this great holiday, and we commend the principles of democracy that the Poles embraced, as we did, more than 150 years ago. We reaffirm our faith in the future of a free and independent Poland.

**Mr. MURPHY of New York.** Mr. Speaker, to the Poles living in the free world, May 3 is a day of national importance; for on this day, 173 years ago, there was promulgated by the Polish Government a Constitution. Although regarded as outdated in our modern age, this Constitution has become a symbol of national heritage, of freedom and democracy for the Polish people.

On that fateful day in May in 1791, the King and the Polish parliament, the Diet, jointly declared in this historic document an end to feudalism and the beginning of democratic processes. Contained in the articles were rights which would permit the peasants to own lands, would permit the common people the right to appeal to the Central Government instead of bowing to the will of the land barons, would give to the Polish people representation in a Central Government.

The major purpose of the Polish leaders in promulgating this Constitution was to unite all Poland against further Russian encroachments. Unfortunately, time proved insufficient. The Empress Catherine, Tsarina of Russia, sent her armies across the borders to stop this revolutionary idea before it reached the Russian frontiers. A valiant defense by the Polish armies, led by Koskiusko, a name so familiar to and revered by the American people, proved incapable of turning back the invading forces. The Polish King, Stanislas Augustus, was compelled to abrogate the newly adopted Constitution and accept Russian suzerainty. Two years later, in 1795, Poland ceased to exist as a nation, its territories divided among the rapacious empires on its flanks.

Although Poland emerged as a sovereign nation once more at the conclusion of World War I, its independence was short lived. Again Russian and German troops, during World War II, reconquered the state and subjected the Polish people to horrendous treatment.

Poland does exist as a nation today, but in name only. Governed by a Communist regime which carries out the dictates emanating from Moscow, the Poles live in a state of drabness, destitution, and despair. The spark of freedom, however, continues to reside in the hearts of all Poles. Let us, therefore, honor the memory of their historic Constitution, since they in the Polish homeland are forbidden to make any reference to this national document. By also extending to them on this day the hope that they, soon, may enjoy democracy and the God-given rights from which they are deprived, we in the United States are thus helping to keep alive the spirit of liberty which is symbolized so uniquely by the Polish Constitution of 1791.

Mr. **KEOGH**. Mr. Speaker, on May 3, 1791, the people of Poland marked the achievement of their independence and freedom by establishing their new Constitution. This Constitution embraced the aspirations of a freedom-loving people and expressed many of their traditions dating back to the Middle Ages. Even then, as today, the road to freedom for the Polish people was an extremely thorny one. Their perseverance and dedication to that cause has for centuries been a guiding light for other persecuted people throughout the entire world.

Today on this important anniversary we join with Poles wherever they may be in a heartfelt prayer that their hopes and aspirations for the restoration of true independence and freedom will soon again become a reality.

One major aspect of freedom is the opportunity for learning and scholarship among a people of a nation. Six hundred years ago the renowned University of Krakow was founded. Polish leaders in many fields received their education at that university. I am confident that under an independent government that university will again assume its place among the outstanding centers of learning of the world.

Mr. Speaker, I could not let this opportunity pass without also paying tribute to a comparatively young but vigorous organization, the Polish-American Congress, representing more than 7 million Americans of Polish descent. Through its activities and publications, the Polish-American Congress has carried on most effectively the cause of freedom for the Polish people. I join my colleagues in wishing its president, Mr. Charles Rozmarek, and all its members continued success in their work. It was less than 2 months after the formation of that Congress that the subjugated people of Warsaw courageously rose up against the German forces, only to be swiftly betrayed by Stalin, who refused to listen to the pleas of President Roosevelt and Prime Minister Churchill on behalf of the people of Warsaw.

The Polish people of all the people in the world know that freedom is not easily obtainable and that even then it is not easily retained. I hope that their struggles may be somewhat lightened by the knowledge that many Americans remember their plight and offer prayers for a happy resolution of their intolerable situation.

Mr. **CUNNINGHAM**. Mr. Speaker, I would like to join with the other Members of the U.S. House of Representatives in commemoration of one of the brightest events in Polish history—the adoption of the May 3d constitution in 1791.

This year's May 3 observance coincides with other significant dates in Polish history: 600th anniversary of the founding of the University of Krakow, the 25th anniversary of German-Soviet attack on Poland, and the 20th anniversaries of the Battle of Monte-Casino, the Warsaw uprising, and the founding of the Polish-American Congress.

But May the 3d is not just an anniversary, it stands as a memorial day for what was once a free Poland. It is a day for Americans to join the Polish people and renew our dedication toward again establishing a free Poland.

May the 3d reminds all Americans of Poland's destiny in the history of mankind, and prophesies the ultimate triumph of justice, even though Poland once more has been deprived of her independence, sovereignty and her territory by one of our former allies, Soviet Russia.

The Polish Constitution, adopted just 2 years after the adoption of our own Constitution, incorporates enduring precepts of public policy and democracy. Its principles were rooted in the Pole's love and attachment to freedom and independence. These principles have remained in the hearts of the Polish people until this day.

The Polish people carried these principles with them when they migrated to our country and in turn contributed so much to our growth. We therefore join the Polish people in their prayers for deliverance from the Soviet oppressor.

It gives me extreme pleasure to join in this tribute today.

Mr. **WEAVER**. Mr. Speaker, it has been said of Poland that "its economy is in chaos, its culture is stagnant, its church is beseiged, and its workers are in a state of sullen discontent." Everywhere is evidence that the Communist regime governing the Polish people is failing in its objectives. Products manufactured in Poland are defective, because of a lack of parts. There are hundreds of half-finished buildings throughout the country, uncompleted through lack of funds and materials. Food has become scarce and rationing is prevalent. These conditions can only create in the Polish people a longing for the "good old days," when Poland was an independent, progressive and productive nation, a respected member of the world community. The anarchist government in power also evokes a memory of democratic institutions, of freely elected governments, and of the beloved Constitution of 1791.

This constitution, proclaimed on the 3d of May, 173 years ago, gave to the Polish people individual rights—protection from feudal despotism, ownership of land, and representation in a national government. Although regarded as obsolete by modern standards, this document inaugurated the change in Poland from feudalism to modernism, from despotism to liberalism. Unfortunately, before the Constitution could take effect, the czarist government of Russia, fearing repercussions from this far-reaching document within their own territories, sent the Russian armies into Poland and forced the Polish king to abrogate this enlightened writ. Poland, itself, ceased to exist in 1795, with the final partitioning among the neighboring states of all Polish lands, not to come into existence again until World War I had caused the downfall of the great central European and Russian Empires.

With the rebirth of Poland as a democratic state, the date of this famed Constitution's promulgation was revered as a national holiday. Today, though, the Communist government has forbidden any celebrations to commemorate so thought-provoking a document. It is our duty, therefore, to honor for the Polish people this symbol of Polish nationalism, to keep alive this spirit of freedom and liberty which the Constitution has engendered in their hearts. At the same time, let us extend our hope and wish that the Polish people may once again enjoy in the near future a democratic government, and freedom from want, fear, and terrorism.

It is my hope and the hope of the people of the 24th Pennsylvania Congressional District that democratic government will be restored to Poland.

Mr. **ROSTENKOWSKI**. Mr. Speaker, this coming Sunday, May 3, 1964, Poles everywhere will celebrate a Polish national holiday. It marks the 173d anniversary of Polish Constitution Day. It was on May 3 in 1791, barely 2 years after the adoption of its Constitution by the United States in 1789, that Poland, without a bloody revolution, or even without a disorder, succeeded in reforming her public life. This day has become the most significant in Poland's history, and it has been revered by the generations of Poles since that historic moment. It is the inspiration to which the Poles cling in their dream that Poland will again, one day, be an independent nation, free of tyranny so that they can enjoy the pleasures and privileges which we enjoy as a free nation.

In spite of present day Poland's domination by the Soviet Union, there is resistance to the Communist form of government that rules their land. In 1954-56 they revolted against Stalinism and gained a measure of independence from the forceful rule of Russian tyranny. Since that victory they have remained vigilant and still resist any attempts to take away the freedoms won in 1956. They are presently engaged in fighting the increased curbs on expression, sharp cuts in allotments of paper for books, periodicals, and newspapers, and a variety of other restrictions, including denial of passports for travel. As long as this resistance movement remains effective, there is great hope that Poland will eventually shake off the shroud of regimentation that cloaks their nation, and see the light of freedom that we continue to enjoy since our independence in 1789.

We, as leaders of the free world, must encourage the Poles behind the Iron Curtain to continue their movement toward this goal. We must reaffirm their faith in this eventuality, so it is fitting that we take this time, today, to voice our support of their convictions. The Poles, longing for the day of deliverance, do need our words of hope and encouragement to sustain them in psychological resistance to communism and Soviet domination.

The success of the Polish resistance to communism is of great value in our struggle against world Communist control. Their movement will inspire other oppressed nations to resist this control and will prevent the Communists from grouping their forces in their desire for world conquest.

Another year has passed in Poland's struggle for independence but it brings them closer to their day of liberation. With the support of the free world their dream will become reality. Let us hope that day is in the not-too-distant future.

Mrs. FRANCES P. BOLTON. Mr. Speaker, each year many of us in the Congress join with millions of Americans of Polish origin in celebrating the adoption of the May 3 constitution of 1791. This year's observance coincides with other significant events in Polish history—the 600th anniversary of the founding of the Universary of Krakow; the 25th anniversary of the German-Soviet attack on Poland; and the 20th anniversaries of the Battle of Monte-Casino; of the Warsaw uprising and of the founding of the Polish-American Congress.

Meditation on this historic occasion deepens the faith and strengthens the courage of every Pole living under Soviet tyranny. It also renews within us who are Americans the duty to keep the torch of liberty aglow for these and all people enslaved by international communism.

As a free people we and our allies have paid a heavy price to preserve and defend free societies. In view of the enormous human and material sacrifies contributed by the free world in the past, is it enough for us to passively defend freedom today? I think not.

If we have blessed the struggle for independence in Africa and Asia, how can we oppose it in Eastern Europe? It is for all these reasons that I join with others in saluting a brave, determined people on this occasion.

Mr. GRABOWSKI. Mr. Speaker, May 3 is the traditional anniversary of Polish Constitution Day. In 1791, just 2 years after the adoption of our own Constitution in the United States, Poland succeeded in reforming her Government and established the May 3d Polish Constitution. This day reminds all Americans of Poland's destiny in the history of mankind and deepens the faith and heightens the courage of every Polish citizen and every American of Polish ancestry.

The 3d of May Constitution reorganized the life of Poland and provided for economic and social reforms which were, unhappily, revoked within just a few short years.

The 173d anniversary of the Constitution lets us reflect on the crusade for freedom which took place in Europe during the 18th century and we find the same spirit of this historic document in our own Declaration of Independence and the French Proclamation of the Rights of Man. Its particular significance is magnified at this time when the Polish people are unable to enjoy the freedom it guaranteed.

Yet, this spirit of 1791 survives, for the Polish people have preserved their sense of nationality and their love of the liberties in that symbolic Constitution now denied them.

This is a very solemn occasion but we must pay tribute to and salute this gallant people, for, Poles and the friends of Poland throughout the world fervently believe that the principles of freedom and indenendence cannot be forever suppressed.

Mr. BOLAND. Mr. Speaker, many times a year the Congress of the United States pauses in its busy schedule to note important celebrations regarding the captive nations behind the Iron Curtain. By doing this we attempt to make known the facts of their history which the Communists all too often distort or completely ignore. And at the same time we contribute to the combined efforts of all the American people to carry the truths of democracy to all oppressed peoples, wherever they may be.

The members of the Polish American Congress have asked many of us to join them in acknowledging May 3, 1964, as the anniversary of the Polish Constitution. Poles are justly proud of this historic contribution to legal and political thought. At the time it was promulgated the May 3 Constitution was the most progressive constitution in East Europe. It was a moderate, but realistic statement of a way out of feudalism for the serf societies of Europe. It might well have formed a model for every East European country if the Polish Commonwealth which it established had survived.

The long-lasting associations between Poland and Western values were evident in the provisions of the Constitution. It provided for a constitutional monarchy and a two-chamber parliament with ministerial responsibility. Religious freedom was assured and the independence and unity of Poland were reaffirmed. It did not expropriate the feudal landowners, and it did not free the serfs, although it put them under protection of the laws. But future parliaments were granted the power to make additional laws dealing with these subjects. No doubt, when the time was right, these changes would have come about. It was important at that time merely to secure the continued existence of the state which was in dire peril.

The Constitution of 1791 was a result of many years of association with liberal thinkers in universities in Britain, France, and Italy. It was a concrete application to Polish problems of those advanced ideas which made the 18th century so great. The Polish patriots who wrote and adopted the Constitution stand in history alongside the many other great men who made up the enlightenment and so often led their nations out of colonialism or discarded the remnants of medieval thinking.

Unhappy, it was not in the nature of things of 1791 for the Polish Commonwealth to survive. It stood in brilliant contrast to the brutal forces which destroyed it. Like many progressive ideas, the Constitution of May 3 was ahead of its time.

We serve our ideals well by remembering May 3 as a significant date in Polish history. Our speeches, brief though they may be, are a source of encouragement to the many Polish refugees and Polish-Americans who must necessarily carry the brunt of the most difficult and saddening struggle against communism in their homeland. And it is important that the Poles living under communism be reminded of the hopefulness of the May 3 Constitution and the bravery of their forefathers, because they must rise against conditions closely resembling those of feudalism. The example of 1791 should spur them on to renewed efforts.

Mr. FORD. Mr. Speaker, today we mark the 173d anniversary of Poland's Constitution. The Constitution of 1791 was made possible by a number of major external factors at that time. Among these were the death of Frederick the Great of Prussia which loosened the alliance between Prussia and Russia and the grasp which these two powers held on Poland.

In addition, the Russians were absorbed in a war against Turkey which kept the Poles free from the normal Russian interference in their domestic affairs. Moreover the French Revolution of 1789 spurred the Poles toward constitutional reform.

Because of the spirit of the times, the Polish were able to continue with their constitutional reforms unmolested from either of their borders.

A student of diplomatic history, Robert Howard Lord, tells us that the Polish Constitution was an adaptation of English and French constitutional principles and practice as well as borrowing from the new American Constitution and applying these ideas to the realities of Polish life.

A commission was formed for the purpose of reforming the Constitution on September 7, 1789, but it was more than 3 years before they took action. However they, then, in the words of Lord, "put through—by revolutionary means, as if in desperation—a great and sweeping act of reform." Lord says that this action produced a Constitution that was in the end a "happy blend of liberalism and conservatism."

One of the main reasons for this 3 years' delay was the difference of principles and interests in the national legislature, the Diet. The forces were the military landowning class which favored the complete suppression of the King. There were other groups that championed the English and French systems of government in addition to a number of extreme reformers who advocated the principles of the French radical revolutionaries. As such they favored "equality" and were directly opposed to the military landowning class. Thus there was good reason for the delay. With this vast difference of opinion, it was a wonder that such a happy blend of liberalism and conservatism was merged in the final document.

In September of 1790 pressure began to intensify for the reforms to take place because Russia was left alone in its war against the Turks by the withdrawal of Austria. This would permit the Russians to interfere in Polish affairs. In December of 1790 a reconciliation was made between the patriot leaders and the King, and intensive meetings were held to work out the draft plan for the new Constitution.

With the Russo-Turkish War coming to a close, the patriots were determined to have a stable and well-organized government when that was over. The reformers knew that it would require years for the Constitution to pass by regular proceedings of the Diet. On the 3d of May the Diet met with only few opposition members present. At the session a number of ominous messages were read from the envoys at various places in Europe pointing out the menacing designs of Russia and the danger of a new partition unless Poland had given herself a strong government before the end of the eastern war. The king was called upon to suggest a means for saving the country, and he rallied support behind the new Constitution. The Constitution passed and was hailed both at home and abroad as being a great document. It was not long before Catherine the Great, ruler of Russia, invaded Poland and defeated her armies, forcing the King to abandon the Constitution to which he had sworn allegiance. On September 23, 1793, Poland was partitioned for a second time and reduced to one-third its original dimensions.

Today, the workers of Poland are still making occasional efforts to regain some of the privileges which they were granted by the Constitution of 1791. However, because they are ruled by a hard core of Communists, they are not even allowed to participate in celebrations of their historic Constitution.

Let us join with the many free Poles and Polish-Americans today in their hope that Poland will be allowed to return to its former greatness and stature.

Mr. CHENOWETH. Mr. Speaker, I wish to join my colleagues in commemorating the 173d anniversary of Poland's Constitution. This was a most important event in the history of the world. I am indeed happy to salute the brave people of Poland on the courageous fight they have made for freedom.

I have the honor of representing many fine Americans of Polish descent. They are good citizens and have made a most substantial contribution to the growth and development of Colorado. We are indebted to these Polish-Americans for the service they have rendered this Nation, both in time of war and peace.

We are hoping that Poland will find a way in the near future to once again become a free nation, and remove the shackles of communism. We admire the fighting spirit and courage of these proud people.

Mr. Speaker, it gives me great pleasure to join in these tributes to a great people. The Constitution adopted in 1791 typifies their desire to be free and independent. The Polish people have suffered a great deal and have made many sacrifices in their effort to achieve freedom. Let us hope and pray that these sacrifices have not been in vain.

Mr. FARBSTEIN. Mr. Speaker, those who believe in a free Poland celebrate May 3 every year as Polish Constitution Day. On May 3, 1791, the Polish people adopted a Constitution which cast off the oppressive bonds of feudalism, and centuries of serfdom and poverty.

For years the aristocrats prevented every attempt at progress in the Sejm, the national parliament. But, in 1791 patriots of great character and courage like Hugo Kollontaj and Ignacy Potocki, arose to demand the freedom and national unity which were the only possible salvation of Poland in the face of increasing imperialist designs by its neighbors. These men led the Poles in a magnificent but terribly brief, national renaissance.

The new Constitution established on May 3, abolished the liberum veto which had given the conservative nobles power to prevent any changes. Feudal privileges were abolished. Towns were given free governments for the first time. Serfs were put under the protection of the laws with the intention to abolish serfdom. The monarchy was limited and ministerial responsibility established.

The Polish people rallied to this Constitution which expressed their devotion to liberty.

Of course Russia, Prussia, and Austria of that day were not happy with a strong, united Poland. They had already seized half of the country in the infamous first partition of 1772. In 1793 Russia and Prussia conspired with traitorous Poles of the threatened aristocracy to overcome the tiny army of 46,000 men which fought all alone against the two strongest empires of the day. They each seized further large areas of Poland and abolished the new Constitution. Soon the dark days of feudalism were once again upon Poland.

But the stirrings of freedom which erupted in 1791 have never again been stilled in Poland. The movement toward individual liberty and democratic institutions symbolized in the Constitution of May 3, have continued to inspire Poles throughout the last century and a half to fight against oppression wherever they find it.

In 1956 the warning was given to Communist oppressors that Poland has not forgotten its love for freedom nor the courage of the patriots of 1791. The long road toward a free and independent Poland has been difficult and laden with sorrow. To continue the journey will require the greatest courage and dedication among all concerned. But with the aid of all Americans of good spirit and the encouragement of freedom-loving Poles in the United States and abroad, the end of that road is surely ahead.

Mr. RHODES of Arizona. Mr. Speaker, May 3 is the anniversary of the Polish Constitution of 1791. It is a date that is honored by all the freedom-loving Polish people throughout the world. The day will not be honored in the Communist state of Poland of today.

Poland's history as a fully sovereign state in the community of nations has been tragically brief and has been spread over the centuries. For example, from 1772 to 1795 Poland was partitioned three times by its traditional enemies—Prussia, Austria, and Russia. The third partition actually removed the nation of Poland from the maps of the world. After World War I a new Poland was brought into existence. The story of World War II is known to all of us; first, German-Russian conquest, and finally Communist domination. Despite all adversity there still remains in the hearts of the Polish people a fierce loyalty to a free Polish nation. The fact that this anniversary has been celebrated for the past 173 years bears testimony that the 1791 Constitution is, indeed, a true symbol of freedom. It is a symbol not just to the Polish people, but to all the peoples of the free world.

This Constitution represents a high point in the history of Poland. It was written during a time when the nation was struggling to maintain its very existence. The Government established by this Constitution frightened the traditional monarchies. For this, among other reasons, they physically overwhelmed Poland and partitioned it out of existence.

The document is a typical example of the 18th-century liberalism and its peaceful implementation was a sharp contrast to the violence of the French Revolution of the same period. The Constitution was based on the philosophy that civil power arose from the people, that sovereignty resided in the people, not the state itself. It separated the powers of government into a judiciary, a bicameral legislature, and an executive. Although the executive was to be a king, he was to be elected. Poland was to have a government of laws and not men.

The desire for freedom in the Polish people is indomitable. We are aware of this daily as we note the Polish people's contributions to the greatness of our free Nation.

I join with my Polish friends, neighbors, and coworkers in honoring this anniversary of the 1791 Polish Constitution—a symbol of freedom.

Mr. CONTE. Mr. Speaker, the Polish people have suffered many needless cruelties throughout the centuries. Invaded first from one direction and then another, they have battled constantly just to survive. Under such conditions it is remarkable that Poland has often in the past demonstrated cultural and political leadership of the first order. One such case was in 1791 when Poland was the first country of East Europe to feel the currents of change which wrought the American Revolution In that year the May 3 Constitution was written, which is celebrated this Sunday, the 173d anniversary.

The May 3 Constitution was not a revolutionary document. But it was the first written Constitution in Poland's history. It gave a firm foundation for effective government. It would have provided elective, continuous government which Poland vitally needed. It no doubt captured the imagination of the Polish people. They were willing to fight long and hard for the survival of the Constitution and the new Polish Commonwealth.

Had Poland been able to depend on the unreserved support of every citizen, the May 3 Constitution, changing with time, might yet be the foundation of modern Poland. If it were, it would be the second longest lived constitution in history. But it is a sad fact that those few traitorous Poles, rich and very powerful, who were threatened by the fresh breath of democracy sweeping the land, turned against their own people and aided Russia in once again invading Poland. In this way the Constitution only lasted 4 years.

This points out how important it is for believers in democracy to support each other with every means. The free Poles must support their compatriots still at home. The citizens of democratic countries must aid democratic Poles. We must speak out in favor of self-determination for the captive nations under the ruthless heel of communism. The currents of cooperation must bring together every freeman, no matter what his race, religion, or nationality, into a united effort to uphold freedom. In this way we preserve our cherished institutions from attack, and we strengthen them, making them able to last through every threat, until they become the way of life for all men.

**Mr. BRADEMAS.** Mr. Speaker, this Sunday, May 3, marks the anniversary of a historic moment in the history of Poland and in the development of constitutional democracy—the adoption of Poland's great Constitution of 1791. The May 3, 1791, Polish Constitution was a model of progressive legislation, embodying the principles of representative self-government and justice for all. It represented an advanced and enlightened system of government at a time when much of Europe, including Poland's powerful neighbors, was still in the grip of autocratic rulers. Unhappily Poland's bold venture into a constitutional system was short-lived; within a year after the Constitution was proclaimed, Russia invaded the country and in 1795 Poland was dismembered and divided between the great powers of Russia, Prussia and Austria.

Poland's history since 1791 has not been a happy one. Despite division, invasion and occupation, however, this brave land and the indomitable Polish people have maintained their belief in, and commitment to, the principles which inspired their Constitution. They have resisted oppressors and fought for the right of national independence and political freedom with a unique determination. Poland today, under Soviet-based control, has yet to reclaim her heritage of freedom and national independence. Polish Constitution Day offers an opportunity for freedom-loving men everywhere to join with the Polish people, and those of Polish descent through the world, in reaffirming their support of Poland's just aspirations as a Nation.

This year marks another important occasion for the Polish people as the renowned University of Krakow celebrates its 600th anniversary. I was fortunate enough to have the privilege of visiting this ancient center of learning during a trip to Poland in 1962. The people of Poland well can take pride in this anniversary: not only does this great university number among its illustrious alumni men who helped shape Western intellectual history, such as Copernicus, but it also can claim an extraordinarily long history as a center of scholarship.

May the day soon come when the people of Poland will have full intellectual and political freedom and no longer be subject to the controls of the Communist state.

**Mrs. DWYER.** Mr. Speaker, on next Sunday, May 3, the free world will join with Polish patriots everywhere to commemorate the 173d anniversary of the Polish Constitution of 1791, a document remarkably similar in spirit and substance to our own Constitution of 4 years earlier.

Because the House will not be meeting on Sunday, Members are making today the occasion for paying tribute to the courage and love of freedom of the Polish people, the qualities which brought their Constitution into being so long ago, and the qualities which today have kept alive the spirit of independence and resistance to the Communist puppet government which was forced upon the people of Poland.

It will be my privilege, however, Mr. Speaker, to speak on Sunday in my hometown of Elizabeth, N.J., in connection with the Polish Constitution Day program being sponsored by the Elizabeth Federation of Polish Organizations. At that time, I shall report to my friends of the Polish-American community on the broad support being shown here today for the ideals of freedom and independence, which we share so strongly, and on the respect and affection and sense of kinship which our colleagues have displayed toward our fellow Americans of Polish descent. The custom we have followed in the House for many years of setting aside a time to commemorate Constitution Day has been a valuable and inspiring one, providing us with a special opportunity to give voice to our deepest convictions and to consider the present conditions of a people with whom we have had so much in common.

The history of Poland, Mr. Speaker, is the history of a people who have never stopped fighting for freedom. For the people of Poland have been forced to fight over and over again for something which so many of us have taken for granted. Situated as it is between Russia and Germany, Poland has often been the victim of the ambition of its more powerful neighbors, the object of attack and oppression and tyranny. Even during the nation's periods of independence, the Polish people learned never to relax. But this long history of suffering and hardship has toughened the Polish spirit and strengthened its single-minded determination to be free once more.

The present situation in Poland is once again testing this determination, and once again we are witnessing the people's brave response to the challenge of communism. Slowly and sometimes subtly, but systematically, the Communist government has in recent months been intensifying its efforts to subjugate the church in Poland and to tighten its control over leading intellectuals. The government's tactics have ranged from false promises of friendship to outright censorship, harassment, and the denial of money and resources. But its aim has always been the same—to silence the voices of the spirit and the mind of Poland. For it is here, in the words and deeds of their priests and poets, scholars and writers, that the people of Poland have found inspiration to continue their opposition to a regime which refuses to make room for the free expression of religious faith or of intellectual activity.

Nevertheless, Cardinal Wyszynski and his fellow bishops refuse to be intimidated and their voices have been heard from pulpits throughout Poland denouncing the injustices of the Government.

In the same spirit, 32 of the nation's leading intellectuals have publicly protested the Government's increasing restrictions. Even though the regime has retaliated in the severe terms reminiscent of the time of Stalin, the protests continue to grow.

Farmers and industrial workers, too, have added their voices to the growing discontent with Communist policies in Poland, in a wave of work stoppages and demonstrations.

Reports from Poland indicate that the tension and resentment among the people have reached proportions similar to those at the time of the Poznan revolt 8 years ago.

Clearly, communism in Poland has failed—economically, culturally, and spiritually. It has failed to satisfy the people, and it has failed to suppress them or to silence their demands for freedom.

At this critical time in Polish history, our concern is for the people. They have earned our highest admiration with their unshrinking courage, and they deserve our wholehearted moral support in their struggle to be free.

**Mr. KARTH.** Mr. Speaker, Polish freedom is as topical this May 3 as it was 173 years ago when the great Polish Constitution of 1791 was proclaimed.

Today, as then, the Polish intellectuals are in the forefront of a struggle to win the democratic rights of free speech, the right to criticize authority, and the access to reliable information.

In recent days 34 prominent Polish intellectuals addressed and sent the Polish Prime Minister Jozef Cyrankiewicz a manifesto demanding "that Polish cultural policy be changed to conform to the spirit of the rights guaranteed by the Polish Constitution and to the national good." The signers of the document have steadfastly reaffirmed their proclamation of protest despite threats of severe punishment by the Polish Communist government.

Since May 12 is the occasion of the 600th anniversary of the founding of the Jagiellonian University of Cracow, that great ornament of Polish learning, it is especially fitting that we Americans pay tribute to the courage and the burning desire for freedom which the Polish intellectuals have traditionally expressed on behalf of the Polish people.

By our expressions of sympathy and support, let us rekindle the spirit of Polish liberty so that it can engulf and destroy Communist oppression and bring forth a new nation dedicated to the ideals of the Polish Constitution of May 3, 1791.

**Mr. FINO.** Mr. Speaker, the United States has many responsibilities. We presently carry the heaviest peacetime burden and are more involved in more places than any other country in history. Most of the time our attention is fixed on the dramatic or the threatening world events—jungle wars, revolutions, international conferences. But we should not overlook the many important cares in the world not so dramatic or so threatening. Americans must have room for all problems and a thought for all people. For this reason we often speak in Congress about the captive nations of Eastern Europe.

They now appear to be securely in Communist control. But occasionally a stirring escape through the Berlin wall, a riot in Budapest, a political refugee, remind us that communism was imposed on these many little countries by force. It is incompatible with liberal, Christian ideals of individual liberty and brotherly love which formed the cultural backbone of Europe, East and West, for centuries.

The small band of insatiable despots who have achieved tyranny out of chaos in Russia, have been assiduously expanding that tyranny for nearly 50 years. But even now they must know that they cannot win. They are themselves being forced to change by confronting the superior virtue of Western thought. But no matter how rapid this process, nor how gratifying its character, the terrible injustices of the days of Communist expansion can never be removed.

May 3 is the anniversary of the Polish Constitution of 1791, one of the hopeful liberal documents of the 18th century which was destroyed in the imperial wars of that age. The occasion brings to our attention one of the long-suffering nations which is too often overlooked because it is not presently seething. But Poland is still not free. Until it is, Americans bear the burden of sending words of encouragement to Poland and transmitting the latest ideas of democracy. We do this through the Voice of America and Radio Free Europe.

As we remember Polish Constitution Day this year, let us resolve not only to think of the dramatic or threatening. Let us also think of the humanitarian, the needs of the captive peoples behind the Iron Curtain.

Mr. FEIGHAN. Mr. Speaker, next Sunday is Polish Constitution Day. This is a day of great importance and significance to the people of Poland. It is a day of special importance to millions of Americans who trace their ancestry to that nation, and their friends throughout the United States.

It is no accident that the first Polish Constitution adopted on May 3, 1791, expresses allegiance for the principles of popular government. This was the first venture in popular, constitutional government in central-east Europe. The Polish Constitution was adopted a short 2 years after we adopted our own Constitution. There is a historic connection between these two great events which binds the peoples of both nations in common cause.

We will never forget the role played by two gallant sons of Poland, General Kosciusko and Colonel Pulaski, in the war for our national independence. They stood with Gen. George Washington, as loyal companions at arms, against tremendous military odds, and helped win victory for the cause of freedom and self-government. At this point in history, when our power as a nation knows no equal, we can do no less than stand up for the people of Poland in their struggle to regain their national independence under a constitutional form of government in keeping with the long traditions of their nation.

Mr. FRIEDEL. Mr. Speaker, we here in the Congress take special note of May 3, it being the anniversary of the Polish Constitution, for two very good reasons: First of all, we Americans are of kindred spirit with the valiant and brave Poles in many ways, such as our mutual love of freedom and liberty, and our veneration of religion. Second, because of the millions of good people who were either born in Poland or are of Polish ancestry and are now American citizens, we have the benefit of their invaluable contributions in helping make the United States the great Nation it is.

We all gratefully remember Casimir Pulaski and Kosciusko for their distinguished service for our country during the American Revolution. The world acknowledges the part that the University of Krakow for 600 years has played in furthering learning. And we are ever mindful of the fact that the Polish Constitution of May 3, 1791, clearly embodies the principal that all power in civil society should be derived from the will of the people.

The world also will never forget the heroic Warsaw uprising and inhuman Soviet treachery during 1944, when the brave Poles fought against all odds and after 63 days of bitter fighting were compelled to capitulate. Over 250,000 Polish people who rose to heights of heroism and sacrifice perished in this struggle. Warsaw did not die, however, but Phoenix-like, rose from the ashes.

Despite 20 years of Russian-imposed rule, the people of Poland are still vigorous in their opposition to atheistic communism and have maintained their national heritage and distinctive traditions of which they can be justly proud. It is indeed unfortunate that these brave people must suffer Red tyranny and persecution.

In commemorating the 173d anniversary of the promulgation and adoption of the Polish Constitution, we not only give the Polish people hope and encouragement, but serve to render notice for all the world to see that we cherish the great ideals of freedom and liberty and commiserate with enslaved peoples everywhere. May these ideals ever burn brightly to illumine the day when all captive nations shall become free and independent of their oppressors.

Mr. COLLIER. Mr. Speaker, Sunday is Polish Constitution Day. Free Poles throughout the world celebrate it in commemoration of the Polish Constitution freely established on May 3, 1791. In their hearts the people of Poland also celebrate, but they cannot do it aloud.

Despite many partitions and great suffering, Poles still honor the Constitution of May 3, because it was established with the overwhelming support of the common people and it was their spontaneous expression of a desire to be free from poverty, exploitation, and foreign domination. Poland would be happy today to have the opportunity to so freely determine its own destiny.

Many of the leaders who formulated the 1791 Constitution were connected with the ancient University of Krakow, which is reaching its 600th anniversary this year. Among many other important events in Polish history which deserve special mention in 1964, are the Nazi-Soviet attack on Poland in 1939, the brilliant campaign of free Polish forces in Italy, 1844, and the heroic Warsaw battle, betrayed by the Communists, in 1944.

These are all significant proof of Poland's 1,000-year history as a vigorous, enlightened freedom-seeking nation. It is proper that we join our fellow citizens in wishing Poland freedom on the 173d anniversary of the Polish Constitution.

Mr. PHILBIN. Mr. Speaker, another year has come and gone, and once again, as we have done for many years now, we pause in our day's work to celebrate Polish Independence Day.

This day and occasion is always hallowed to me, and I am sure to other Members of the House, because it signifies the determined, persevering struggles of the great Polish people to be free, to be liberated from the bondage that encompasses them, from the slavery that binds them, from the tyranny that afflicts and persecutes them.

When will Poland be liberated? is a question that we might well ask ourselves today.

Is it just a vain hope, as some believe, that will not be realized in our lifetime, or is it, as I and many others believe, an ever-present prospect that may come upon us sooner than we think, even with startling suddenness? Many favorable factors are working today on the side of Polish independence and freedom.

First, there is that age-old determination, that indomitable will, that dogged resolve never to give in to Communist oppression, that undimmed obstinacy to fight to the end, to rely on God and His help and on friends of the free world, and the great faith and courage which has been so characteristic of the Polish people throughout their long, eventful, tragic history; for who can excel the Polish in personal gallantry, what nation in this world has made greater sacrifices for freedom, for independence, for self-determination and the right to live their own free lives?

What people has been through more blood baths, massive slaughter, frightful suffering, long-sustained tragedy than the Polish?

What people has persevered so long against the great odds of hideous brutal force, against the armed might of godless, imperial masters, against the wiles and cunning of diabolical, ruthless Communist masters?

Yes, Mr. Speaker, the Poles have given to the world a great, enduring example of gallantry, valor, determination, and loyalty to ideals. Untutored and unsung, unequipped, unarmed for the most part, frequently betrayed and abandoned, often the victims of ruthless treachery so base as not to be duplicated in history, yet nothing could swerve, nothing could block, nothing could prevent the forward march of the Polish people toward their goals, nothing could break their spirit, their will to triumph in the end over their cruel masters.

Our Nation well knows the fine qualities of the Polish people because there are many of them here among us. They have been tested in the fierce crucible of war, they have served and labored in the calm days of peace, but always they have been trustworthy and just and patriotic, always they have come willingly and bravely to the support of the country and its ideals, and its principles, and its free way of life, and they have never given up reliance on prayer and the ultimate redemption of the precious spiritual and human values which the great nation of Poland and the Polish people have so ably fought for, and always represented, through the agonizing bitterness of treachery. Through bitter defeat, bloodshed and incredible suffering the Polish people have stood unafraid—unconquered, and unconquerable.

It is that unyielding spirit that will one day before long free them from their oppressors and bring them once again into the company of the free world.

That is my hope for the great Polish nation and for their brave people today. Let us resolve today, Mr. Speaker, with all our hearts, to stand beside these people, to render them such help and support as we can. Our sympathy, yes, they are entitled to it always, but something more than just bare sympathy—some assurance of real, tangible support, some willingness on our part to take some sustained, affirmative action in the diplomatic councils of the world, to help this small, proud, great nation to regain its cherished freedom and be able once again to say, as many other nations can say: "This is my own, my native land. Its soil is saturated with the blood of my people who have died in the struggle to be free. Once again, the great Poland is free, independent and standing on its own feet, proud and dauntless."

And today, let the message ring out clarion clear to the Polish people and throughout the world—We are with you. We will remain with you speeding the dawn of your freedom. May it soon come, we pray.

Mr. DINGELL. Mr. Speaker, once again this year, 1964, we join hands with Poles all over the world in celebrating Polish Constitution Day, and in so doing, we salute the Polish people for their great contribution to ordered, democratic society.

On May 3, 1791, just 2 years after the United States of America was constitutionally formed, the Polish people, led by their King and their Diet, accepted a new Constitution—a Constitution that would reverberate through history for its dedication to the highest principles and ideals of Western political theory.

This Constitution, like all the constitutions of the Western World, and especially the American Constitution, was designed to establish true constitutional government by which national stability and identity could finally be achieved. Like the American Constitution, this document recognized explicitly the existence of human rights, and set up safeguards for the protection of those rights. By so doing, the Polish people were among the earliest to accept and to try to apply the great principles of the 18th century enlightenment.

More specifically, the Polish Constitution took away the unlimited powers of the throne, and established a constitutional monarchy responsible to a cabinet-type government with a popularly elected lower house. Furthermore, the peasants were taken from under the strong arm of the landed gentry, and placed under the protection of law. Throughout the society, freedoms were guaranteed. No one could ask any nation in the 18th century to have done more.

The document was hailed throughout the world as, in the words of Edmund Burke, "a great work." Our own President, George Washington, praised the document and the nation, and in Warsaw the Polish peoples rejoiced all night.

But alas the promise of the Constitution was never realized; never put to the test; never permitted to usher in a new era of human freedom in Europe. Because of an envious Russia, and dissident Polish nobility, the country was once again torn from within, and by September 1793, partition was started. Final and irrevocable partition took place in 1795.

The events of post World War I and World War II years are yet too clear to us to have to recount here. Instead, let us remind our Polish brothers that even 173 years later we do have a common heritage and a common goal. While the Constitution of May 3, 1791, did not live, neither did its spirit die. The Polish people can see it living here in America every day. And to the end of our salute to the Polish people, we should add that Americans do not think for a moment that communism in Poland will be any more successful in destroying the Poles' desire to live in freedom and human dignity than were earlier Russian-inspired oppressions.

Mr. DORN. Mr. Speaker, Poland will celebrate on May 3 its 173d anniversary of the Constitution of 1791. Although the Constitution was crushed by the infamous third partition of 1795, its short duration should not be allowed to overshadow its importance in Polish history.

The May 3 Constitution has become a focal point for the continued hope of all Poles for peace and independence. It symbolizes the emergence of Poland from the Middle Ages into modern times in which the people have a right to free elections through a democratic system.

We all have the highest respect for the Polish people. Throughout every trial they have shown amazing courage and dedication to their principles. They fought with us in World War II. They revolted against Nazi troops in 1944. They rose against communism in 1956. On this commemorative occasion I join Americans everywhere in sending our assurances to the Polish people that we share their love for freedom, and our encouragement to Polish Americans in their fight for freedom for the Polish homeland.

Mr. RYAN of Michigan. Mr. Speaker, on this May 3, 1964, we are privileged to mark and commemorate Polish Constitution Day. One hundred and seventy-three years ago, shortly after this great Nation gave birth to our present Constitution, Poland adopted a great document granting far-reaching freedom to her people.

The people of our great country are cognizant of the hardships that the Polish people are going through at this time. On this day we express our heartfelt sympathy and, at the same time, convey our sincere sentiments as a brotherly nation.

If you can imagine an America without the right to celebrate our Independence Day on July 4, then you have some idea how the people of Poland feel today. Poland would jubilantly celebrate her May 3 Constitution Day if it were possible for her to do so, but Poland cannot rejoice at this time. Soviet domination will see to that; but even Communist enslavement cannot prevent the Polish people from a silent and hopeful observance of this great day.

Today there is another Poland—a free Poland which exists, lives, and grows outside of her natural boundaries. Yes, outside of this Iron Curtain this free Poland is just as strong, physically, morally, and spiritually, as the one which is known for courage, knighthood, and untiring efforts in their pursuit for freedom, liberty, and independence. We cannot overlook the enormous contribution of the Polish nation in their fight to protect Western civilization from being overrun by evil forces all through the history of mankind.

It is also just and fair to point out the contributions of many sons of Poland to this great Nation of ours, the United States of America. There was Pulaski, whose monuments and statues adorn many of our Nation's parks and public squares. Pulaski made the supreme sacrifice for this country at Savannah, Ga. His contribution was truly symbolic of the Polish desire to fight freedom's battle anywhere on God's earth. Then there was Kosciuszko who, for a time, was an adjutant to George Washington. His recommendations to build fortifications at West Point and further, that a military academy be established there will always be a monument to his memory. The very names of Pulaski and Kosciuszko are always connected with liberty and freedom; their contributions are indelibly written into the glorious record of American independence.

I am sure, Mr. Speaker, that the valiant people of Poland look to this great Nation of ours for encouragement and support in the hope that through the efforts of the United States of America, a future observance of Polish Constitution Day will be one which the people of Poland can join in with all the citizens of this great Nation who wish her well today.

In paying tribute to those sons and daughters of Poland who died for freedom and Christianity, and those who now continue in the noble tradition of the cross held by the White Eagle over Poland's martyred soil, I say: "Have hope you who now suffer and fight. Have hope that Poland will be freed to be a Christian, free, independent, and happy land in a new peaceful world. If there is no hope for you, then there is no hope for the world."

**Mr. RHODES of Pennsylvania.** Mr. Speaker, it is quite fitting to pause occasionally and commemorate some of the memorable dates and events of history that have contributed to the growth of freedom. May 3, the anniversary of the famous Polish Constitution of 1791, is such a date.

It was on that date that, after a century of political disturbance, Poland adopted a liberal and progressive document that has served as a beacon of independence and freedom for the Polish people ever since.

Although Poland's subsequent history has been marked by successive partitions, invasions, and occupations, the freedom-loving people of Poland have retained the creative spirit and longing for freedom which was expressed in that famous document.

Citizens of Polish origin have contributed much to the history and traditions of the United States. One of their major contributions has been the spirit of independence and love for political freedom which still characterizes the homeland of their ancestors.

I am pleased to join in the commemoration of the Polish 3d of May Constitution Day. I am sure that the hope for freedom and the desire for independence still lives in the hearts of the Polish people.

## GENERAL LEAVE TO EXTEND

**Mr. PUCINSKI.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on this subject.

**The SPEAKER.** Is there objection to the request of the gentleman from Illinois?

There was no objection.

## COMMENCEMENT OF CAMPAIGN TO INCREASE LONG-TERM GOVERNMENT INTEREST RATES

**The SPEAKER** pro tempore (Mr. KLUCZYNSKI). Under previous order of the House, the gentleman from Texas [Mr. PATMAN] is recognized for 60 minutes.

**Mr. PATMAN.** Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter, and I further ask unanimous consent that I may be permitted to extend my remarks in the body of the RECORD and include a statement from the gentleman from Wisconsin [Mr. REUSS] made before the Committee on Rules on yesterday, and also to include an editorial of the New York Times this morning in connection therewith.

**The SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

**Mr. PATMAN.** Mr. Speaker, today is the day when the campaign commences to increase long-term interest rates on Government bonds. The Treasury has just offered a new 10-year bond at the highest rate of interest it is allowed to pay—4¼ percent. It will be remembered that this 4¼ percent rate has been the legal maximum and it has remained in effect since the days of Woodrow Wilson, back in 1918. Since that time we have gone through the greatest depression in all history. We have gone through major wars. Notwithstanding these ups and downs in our economy that 4¼ percent ceiling rate has never been raised. There was only one attempt to raise it during the latter part of President Eisenhower's administration. A few of us learned about it one afternoon, and we very quickly organized a group of about 65 Members and we visited the Speaker of the House, the majority leader and the chairman of the Committee on Ways and Means. We protested in such an effective way that that attempt did not materialize.

I am worried that the Federal Reserve will force down the price of this bond issue; it means the interest yield will be above 4¼ percent. If the Federal Reserve does push the yield above 4¼ percent, then we are on our way to another era of tight money and recession.

In the newspapers today it will be noticed that many people in Government, and our monetary managers, are saying that we must hold the line on prices and wages. I think that statement should be clarified to say: we must hold the line on prices, wages and interest rates.

Interest rates are becoming a tremendous factor in our country. I have before me a copy of economic indicators for April 1964, which is prepared by a committee of which I have the honor to be a member, the Joint Economic Committee, composed of Members of the U.S. Senate and the House of Representatives.

On page 4 of this report, a table shows that during the time since 1955 when wage and salary disbursements were $210.9 billion, they have increased year by year until in March of this year such disbursements were at the rate of $325 billion. In other words, that is about a 65-percent increase.

The total personal income of the people increased 50 percent between March 1955 and March 1964.

The increase in farm income from 1955 to March 1964, is less than 10 percent.

Now let us see what the interest rates have done.

Interest income going to persons has increased from $15.8 billion in 1955 to $35 billion in March 1964—a rise of much more than 100 percent. This was caused by the sharp rise in interest rates during that period.

Mr. Speaker, with interest increasing by leaps and bounds in such a way, and involving such enormous sums—several times as much as farm prices, and much more than wages, we should consider an important point: when we mention that wages and prices must be kept down, we must also add that interest rates should be kept down.

I am apprehensive that there may be a quiet campaign on the part of certain monetary managers to force up the increase in our long-term interest rates from 4¼ percent.

If the issue offered today, amounting to more than $10 billion, should go sour, and if it should result in high interest rates being indicated, that would be a perfect platform and springboard for these same money managers to come to Congress and to say that we have to take that lid off of our long-term interest rates. This is a possibility we must consider very seriously.

There is a great responsibility on the part of the Federal Reserve System to see that this bond issue does not fail. If it fails, it will be the fault of the Federal Reserve. It would then appear that they are a party to such a campaign. In other words, the allegation will be corroborated by the facts.

We must, of course, distinguish between, first, high interest rates that are a natural result of increased demand, and second, high interest rates that are pushed up by arbitrary action of the Fed. Action taken in the name of fighting "inflation," which lies ahead only in the minds of those with an "inflation neurosis," as one economist has put it, is a dangerous error. Certainly we must fight inflation, if there is inflation, but we should not fight it until it exists.

The President told business leaders only the night before last that we "will keep these long-term interest rates down so that we can keep the economy up." Remember that. The President of the United States is saying to the Treasury, to the Secretary of the Treasury and to the money managers in the Federal Reserve, that we should keep these long-term interest rates down so that we can keep the economy up.

Notwithstanding that, the Fed and the Treasury have agreed to this bond issue at the limit rate of 4¼ percent. The next jump would be to break the limit or to take the lid off, one or the other. Therefore, it looks to me like our money managers are going against the President of the United States.

As Members will remember, the night before last the President had some nice things to say about the Federal Reserve. Now it looks as if the Federal Reserve is doing something which defies the President's policies, within 48 hours. That is going rather far, but the stakes are pretty high.

High interest rates which result from the Fed tightening up the money supply in an arbitrary manner will not be good for anybody but those who manufacture money on the Government's credit. You know, there are only two financial institutions in our Government which can issue money on the Government's credit and not go to the penitentiary.

Other people who manufacture money are counterfeiters and go to prison for it. But, the Federal Reserve and the commercial banks can manufacture money and not go to prison because they are doing it legally.

So, there is a great responsibility here—a great responsibility, and they should not take advantage of the people and the taxpayers. The volume of money and the rate of interest are crucial factors in the determination of consumer spending on durable goods and housing and on business borrowings and investment. In turn, this spending by consumers on housing, automobiles, refrigerators, television sets, and so forth, and of business on plant and equipment inventories, plays a critical part in determining whether we have a healthy economy, including full employment, stable prices, and a rising standard of living.

It is the Federal Open Market Committee that controls the volume of money and the interest rates in our country.

After hearing testimony for more than 3 months before the Committee on Banking and Currency, I am convinced that the Federal Open Market Committee's name should be changed to the Federal Closed Market Committee, because they operate in a closed market.

Who is this Federal Open Market Committee? Well, first of all, it includes seven members of the Board of Governors appointed by the President of the United States for 14-year terms. The terms are staggered. One term expires every 2 years. That means a President must be in office until the last half year of his second term, assuming he stays there 8 years, in order to be able to appoint a majority of those seven members of the Committee.

In addition, the Open Market Committee also includes presidents of the Federal Reserve Boards. Five of them officially are members of the Open Market Committee, but 12 of them attend the sessions. They are secret sessions. They meet every 3 weeks at the Federal Reserve Board Building on Constitution Avenue here in Washington, D.C. They have these secret meetings and tell nobody what happens, not even the President nor the committees of Congress nor the Speaker of the House nor the Vice President of the United States nor the Speaker pro tempore. They tell no one. It is a secret meeting to determine how much money we will have in our economy, whether we will have good times or hard times, and whether we will have high interest rates or low interest rates. That is done every 3 weeks.

Therefore, we have two Governments in Washington. One Government is an elected Government consisting of Members of the House of Representatives numbering 435 and 100 Members of the U.S. Senate, with the President of the United States elected for 4 years. The elected Members of Congress have less power over running our economy than our money managers, the Federal Open Market Committee, who are in a position to veto anything that the Congress does or anything that the President does where it requires the expenditure of funds, because they control the supply, and therefore the value of money. That does not seem to be the sort of democratic form of government that we set up under our Constitution, but that is the way it is.

So, the Federal Open Market Committee represents our money managers. It is the Open Market Committee that, by controlling the volume of money, controls interest rates. When they want to increase money and lower interest the committee instructs the New York Federal Reserve bank to buy Government securities; when the committee wants to cut the volume of money and raise interest, it instructs the New York bank to sell Government securities. It is as simple as that, because in this way they control the bank reserves. For the past 18 months the Open Market Committee has allowed the money supply to grow at a healthy rate of about 4 percent a year, and our economy is doing well because of this policy. But I am worried that they are getting ready to reverse this policy and push us into another recession. Three times in the last 10 years the Federal Reserve's open market policy caused recessions. Let us look at the record. The recession of 1953–54 began in July 1953. Interest rates on Government securities began to rise early in 1953.

You can see this in the table on yields on long-term Government bonds by months, from 1919 until the present, which is appended to these remarks. The growth of the money supply fell steadily beginning in January 1953, and by July was at an annual rate of less than 1 percent. When money becomes tight to all and unavailable to many, a recession is inevitable and so we had a recession from July 1953 to August 1954.

The next recession began in July 1957 and lasted until April 1958. Interest rates started to rise in the middle of 1956. The yield on long-term Government securities rose from 2.85 percent in February 1956 to 3.73 percent in November 1957. The growth of the money supply fell below 1 percent in the spring of 1956, increased to nearly 2 percent at the end of 1956, then fell again. By the spring of 1957, the money supply was actually decreasing, and it was to continue to decrease until the beginning of 1958. Now you might think the men on the Open Market Committee would have realized we had entered a recession period in July 1957, and therefore stopped the fall in the money supply. But you would be wrong. In August 1957, Chairman Martin told the Senate Finance Committee that we had not yet taken sufficiently rigorous steps to halt inflation. Judging by the fact that the seasonally adjusted money supply fell from $136.5 billion in March 1957 to $135.3 billion in late January 1958, it would seem that the Open Market Committee then took those sufficiently rigorous anti-inflationary steps Martin complained had not been taken. Unfortunately, the Open Market Committee's wind gager was all wrong. The economic trend was down, not up, and what the committee did deepened and lengthened the recession.

The most recent recession began in May 1960 and lasted until February 1961. Once again we find interest rates rising and the growth of the money supply falling just before the downturn. Interest rates began to rise in the spring of 1959 and peaked in the winter months of 1959 and 1960. At that time, yields on long-term Government bonds went over 4¼ percent. As for the money supply, it had increased sharply as we came out of the 1957–58 recession, once the Open Market Committee finally recognized we were in one. But beginning in late 1959, it began to decline once again, falling from $142.8 billion at the end of September 1959 to $139.4 billion in June 1960.

The facts I have set forth here cannot be denied. President Eisenhower was fond of saying that we were interested in "deeds not words." Though no minutes have ever been made public—even those of 10 and 25 years ago—we have had plenty of words from the Federal Reserve about how wonderful their way of running the Nation's money system is. But judged by the results of their deeds, they have done at best a mediocre, and, more accurately, a poor job. Almost everyone will agree the Fed's prewar record and especially its 1929–33 performance was bad. This is not a partisan opinion. President Hoover wrote in his "Memoirs," page 212, that the Federal Reserve "was indeed a weak reed for a nation to lean on in time of trouble." The facts I have called attention to demonstrate that its performance has not been very good these past 12 years either.

### INTEREST AND THE NATIONAL DEBT

The bad effects of the Federal Reserve's periodic high interest and tight money policies also are observed in the cost and size of the national debt. Since 1946, for example, the yield on long-term Government securities has risen from less than 2¼ percent to nearly 4¼ percent. The rise in interest rates has cost the taxpayers billions of dollars in interest charges on the national debt, billions that could have been spent retiring the debt or on other much needed programs. In 1964 alone the Government will pay over $6 billion in interest charges that it would not have had to pay if the Federal Reserve had not caused interest rates to rise above what they were before the Korean war, and if the resulting savings through the years had been used to reduce the debt. If this $6 billion could be applied to this year's budget, we would have a surplus instead of a deficit. Indeed, if the interest on the debt had been held at the 1946 rate, the Federal Government would have saved $40.1 billion from 1947 to 1963.

The total deficit during this time was $40.3 billion. Thus, since 1946, despite the Korean war, the increase in the national debt would have been only $200 million. This is less than one-twentieth of the over $40 billion rise in the debt that actually occurred because of budget deficits in this same period.

If the Fed had permitted lower interest rates instead of forcing them up, we would have had smaller deficits. This would have made it a relatively simple matter to achieve a consistent and noninflationary increase in the money supply during the entire postwar years. With such a policy we would have had full employment and made great strides in eradicating poverty in every part of the country.

Now, what is the heart of the issue? It is the tight-money and high-interest policies. Is this Congress in agreement with those policies? Will it accept a continued and more extreme imposition of those policies on the country without protest?

Surely we have enough evidence now to convince even a sightless man that these policies accomplish no good and that they lead to disaster.

Tight-money and high-interest policies do not check price increases. Interest on the long-term Government bonds is now 4¼ percent. This is the highest yield we have had since the winter of 1959–60.

During the past month Members of the House, the Democratic Members, have been talking about the organization of an unofficial steering committee for the purpose of being ready and on the alert to resist any attempt that should be made to take the ceiling off the 4¼-percent long-term Government interest rate. That time has now arrived. We only organized less than 10 days ago and in less than 10 days the issue comes up dramatically. We have been seeing the earmarks all year; all the signs were there. We could see it coming. That is the reason we have organized this committee. It is our belief that we should have such a committee to stand guard against higher interest rates. More than 50 Members from over 25 States of the Union are ready to meet this challenge about raising interest rates and taking the lid off.

Remember that the high interest rates that winter of 1959 were followed by a recession that started in May 1960 and lasted until February 1961.

I hope that today's high interest rates do not foretell another era of unnecessary tightening of the volume of money.

I hope they are signs of prosperity.

I know that the gentleman from Missouri, Representative CURTIS, thinks so. He is quoted in a Saturday Evening Post article as saying:

> High interest rates are a sign your economy is healthy.

I hope so, but I cannot be as sure and glib about this as the honorable gentleman from Missouri [Mr. CURTIS]. The facts I have cited demonstrate that often high interest rates reflect arbitrary tightening of the volume of the money by the Open Market Committee.

Mr. Speaker, one more statistic should convince anyone of this: In January 1932 the yield on long-term Government bonds was 4.26 percent. The Fed must support this Government bond market. It must not permit this bond issue to fail.

I can make the statement and it can be documented and supported, that during the 50 years of its existence if the Federal Reserve had looked at the people's interest and the taxpayers' interest in the same enthusiastic way that the bankers were served we would not have a $300 billion national debt and its large interest burden today.

Mr. Speaker, under any circumstances, part of the debt should necessarily be in the Federal Reserve. Part of the Federal debt is in the Federal Reserve now, and the taxpayers are paying over a billion dollars a year on the debt owned by the Federal Reserve. But after the Fed spends the money it wants to spend without limitation or restrictions and without audit—Fed has never been audited by a Government auditor or by an independent auditor—after the Fed spends the money it wants to, usually about $200 million a year, the remainder goes over into the Treasury.

So if the Fed owned more bonds all the extra interest would go over into the Treasury. It would save the taxpayers that much money. The Fed has not been saving as much money as it should for the taxpayers and the Government. It has been going the other way.

It is in the interest of the commercial banks to create debt. You know, the money system is geared to debt. If there is no debt, there is no money. Remember that, no debt—no money. If everybody paid their debts we would not have money to do business on. Therefore, we must have debt.

How are those debts created? Through the commercial banks. They create debt, backed by fractional reserves. The Federal Reserve Banks are not in the business of helping the people directly. So the commercial banks create the debt. That underlies our money supply. That money is created on the credit of the Nation, a sovereign legislative power that has been granted absolutely free to the banks—absolutely free. It is a pretty good deal. It explains why it is in their interest to have more debt, more debt, and more debt.

Mark my word, Mr. Speaker, if this trend goes on as indicated and there is an increase in the interest rates, our $300 billion debt will be $600 billion in the foreseeable future, and the interest rate will not be 4.5 percent; it will be 6 percent.

When you consider the possibility of paying 6 percent on a $600 billion debt, the annual interest rate would be $36 billion. Some people in this country are against any social programs of any kind, like social security, veterans' benefits, retirement benefits. If we get to $600 billion and the interest rate is fixed, it will take so much of the budget to finance the service charges to carry the debt that we will not have money to pay any social program of any kind. Then their desires will be fulfilled.

So, I suggest, Mr. Speaker, we should give consideration to the fact that the campaign is commencing this very day, to take the lid off, the 4¼ percent interest rate ceiling on U.S. Government bonds and to try to get it advanced to 6 percent. The banks can manufacture money on the books of the bank by a flick of the pen, and get the interest rate on these bonds. The campaign is on, and we should all get ready to do what we can to stop it, if we can.

*Yields on long-term Government bonds, by months, 1919 to present*

[Percent per annum]

| | January | February | March | April | May | June | July | August | September | October | November | December | Year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1919 | 4.63 | 4.70 | 4.73 | 4.72 | 4.67 | 4.69 | 4.72 | 4.78 | 4.73 | 4.71 | 4.81 | 4.90 | 4.73 |
| 1920 | 4.93 | 5.05 | 5.09 | 5.28 | 5.58 | 5.54 | 5.57 | 5.67 | 5.43 | 5.08 | 5.21 | 5.40 | 5.32 |
| 1921 | 5.23 | 5.28 | 5.27 | 5.24 | 5.25 | 5.27 | 5.26 | 5.22 | 5.12 | 4.83 | 4.64 | 4.47 | 5.09 |
| 1922 | 4.45 | 4.50 | 4.41 | 4.28 | 4.26 | 4.24 | 4.14 | 4.12 | 4.19 | 4.30 | 4.33 | 4.32 | 4.30 |
| 1923 | 4.32 | 4.33 | 4.38 | 4.39 | 4.37 | 4.34 | 4.34 | 4.35 | 4.36 | 4.40 | 4.37 | 4.35 | 4.36 |
| 1924 | 4.30 | 4.28 | 4.28 | 4.23 | 4.15 | 3.98 | 3.94 | 3.91 | 3.92 | 3.87 | 3.90 | 3.96 | 4.06 |
| 1925 | 3.96 | 3.95 | 3.96 | 3.93 | 3.87 | 3.79 | 3.79 | 3.85 | 3.85 | 3.82 | 3.79 | 3.80 | 3.86 |
| 1926 | 3.77 | 3.71 | 3.71 | 3.70 | 3.67 | 3.67 | 3.68 | 3.70 | 3.70 | 3.68 | 3.62 | 3.56 | 3.68 |
| 1927 | 3.51 | 3.48 | 3.37 | 3.35 | 3.31 | 3.34 | 3.36 | 3.32 | 3.30 | 3.29 | 3.23 | 3.17 | 3.34 |
| 1928 | 3.18 | 3.19 | 3.17 | 3.20 | 3.24 | 3.29 | 3.42 | 3.48 | 3.46 | 3.47 | 3.38 | 3.45 | 3.33 |
| 1929 | 3.52 | 3.62 | 3.74 | 3.64 | 3.64 | 3.69 | 3.64 | 3.71 | 3.70 | 3.61 | 3.35 | 3.36 | 3.60 |
| 1930 | 3.43 | 3.41 | 3.29 | 3.37 | 3.31 | 3.25 | 3.25 | 3.26 | 3.24 | 3.21 | 3.19 | 3.22 | 3.29 |
| 1931 | 3.20 | 3.30 | 3.27 | 3.26 | 3.16 | 3.13 | 3.15 | 3.18 | 3.25 | 3.63 | 3.63 | 3.93 | 3.34 |
| 1932 | 4.26 | 4.11 | 3.92 | 3.68 | 3.76 | 3.76 | 3.58 | 3.45 | 3.42 | 3.43 | 3.45 | 3.35 | 3.68 |
| 1933 | 3.22 | 3.31 | 3.42 | 3.42 | 3.30 | 3.21 | 3.20 | 3.21 | 3.19 | 3.22 | 3.46 | 3.53 | 3.31 |
| 1934 | 3.50 | 3.32 | 3.20 | 3.11 | 3.02 | 2.98 | 2.92 | 3.03 | 3.20 | 3.10 | 3.07 | 3.01 | 3.12 |
| 1935 | 2.88 | 2.79 | 2.77 | 2.74 | 2.72 | 2.72 | 2.69 | 2.76 | 2.85 | 2.85 | 2.83 | 2.83 | 2.79 |
| 1936 | 2.80 | 2.77 | 2.71 | 2.68 | 2.66 | 2.66 | 2.65 | 2.61 | 2.60 | 2.62 | 2.53 | 2.51 | 2.65 |
| 1937 | 2.47 | 2.46 | 2.60 | 2.80 | 2.76 | 2.76 | 2.72 | 2.72 | 2.77 | 2.76 | 2.71 | 2.67 | 2.68 |
| 1938 | 2.65 | 2.64 | 2.64 | 2.62 | 2.51 | 2.52 | 2.52 | 2.51 | 2.58 | 2.48 | 2.50 | 2.49 | 2.56 |
| 1939 | 2.47 | 2.44 | 2.34 | 2.30 | 2.17 | 2.13 | 2.16 | 2.21 | 2.65 | 2.60 | 2.46 | 2.35 | 2.36 |
| 1940 | 2.30 | 2.32 | 2.25 | 2.25 | 2.38 | 2.39 | 2.28 | 2.25 | 2.18 | 2.10 | 1.97 | 1.89 | 2.21 |
| 1941 | 1.99 | 2.10 | 2.01 | 1.96 | 1.92 | 1.91 | 1.90 | 1.94 | 1.94 | 1.88 | 1.85 | 1.96 | 1.95 |
| 1942 | 2.48 | 2.48 | 2.46 | 2.44 | 2.45 | 2.43 | 2.46 | 2.47 | 2.46 | 2.45 | 2.47 | 2.49 | 2.46 |
| 1943 | 2.46 | 2.46 | 2.48 | 2.48 | 2.46 | 2.45 | 2.45 | 2.46 | 2.48 | 2.48 | 2.48 | 2.49 | 2.47 |
| 1944 | 2.49 | 2.49 | 2.48 | 2.48 | 2.49 | 2.49 | 2.49 | 2.48 | 2.47 | 2.48 | 2.48 | 2.48 | 2.48 |
| 1945 | 2.44 | 2.38 | 2.40 | 2.39 | 2.39 | 2.35 | 2.34 | 2.36 | 2.37 | 2.35 | 2.33 | 2.33 | 2.37 |
| 1946 | 2.21 | 2.12 | 2.09 | 2.08 | 2.19 | 2.16 | 2.18 | 2.23 | 2.28 | 2.26 | 2.25 | 2.24 | 2.19 |
| 1947 | 2.21 | 2.21 | 2.19 | 2.19 | 2.19 | 2.22 | 2.25 | 2.24 | 2.24 | 2.27 | 2.36 | 2.39 | 2.25 |
| 1948 | 2.45 | 2.45 | 2.44 | 2.44 | 2.42 | 2.41 | 2.44 | 2.45 | 2.45 | 2.45 | 2.44 | 2.44 | 2.44 |
| 1949 | 2.42 | 2.39 | 2.38 | 2.38 | 2.38 | 2.38 | 2.27 | 2.24 | 2.22 | 2.22 | 2.20 | 2.19 | 2.31 |
| 1950 | 2.20 | 2.24 | 2.27 | 2.30 | 2.31 | 2.33 | 2.34 | 2.33 | 2.36 | 2.38 | 2.38 | 2.39 | 2.32 |
| 1951 | 2.39 | 2.40 | 2.47 | 2.56 | 2.63 | 2.65 | 2.63 | 2.57 | 2.56 | 2.61 | 2.66 | 2.70 | 2.57 |
| 1952 | 2.74 | 2.71 | 2.70 | 2.64 | 2.57 | 2.61 | 2.61 | 2.70 | 2.71 | 2.74 | 2.71 | 2.75 | 2.68 |
| 1953 | 2.80 | 2.83 | 2.89 | 2.97 | 3.11 | 3.13 | 3.02 | 3.02 | 2.98 | 2.83 | 2.86 | 2.79 | 2.94 |

***Yields on long-term Government bonds, by months, 1919 to present*—Continued**

[Percent per annum]

| | January | February | March | April | May | June | July | August | September | October | November | December | Year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1954 | 2.69 | 2.62 | 2.53 | 2.48 | 2.54 | 2.55 | 2.47 | 2.48 | 2.52 | 2.54 | 2.57 | 2.59 | 2.56 |
| 1955 | 2.68 | 2.78 | 2.78 | 2.82 | 2.81 | 2.82 | 2.91 | 2.95 | 2.92 | 2.87 | 2.89 | 2.91 | 2.84 |
| 1956 | 2.88 | 2.85 | 2.93 | 3.07 | 2.97 | 2.93 | 3.00 | 3.17 | 3.21 | 3.20 | 3.30 | 3.40 | 3.08 |
| 1957 | 3.34 | 3.22 | 3.26 | 3.32 | 3.40 | 3.58 | 3.60 | 3.63 | 3.66 | 3.73 | 3.57 | 3.30 | 3.47 |
| 1958 | 3.24 | 3.28 | 3.25 | 3.12 | 3.14 | 3.20 | 3.36 | 3.60 | 3.75 | 3.76 | 3.70 | 3.80 | 3.43 |
| 1959 | 3.91 | 3.92 | 3.92 | 4.01 | 4.08 | 4.09 | 4.11 | 4.10 | 4.26 | 4.11 | 4.12 | 4.27 | 4.08 |
| 1960 | 4.37 | 4.22 | 4.08 | 4.18 | 4.16 | 3.98 | 3.86 | 3.79 | 3.84 | 3.91 | 3.93 | 3.88 | 4.02 |
| 1961 | 3.89 | 3.81 | 3.78 | 3.80 | 3.73 | 3.88 | 3.90 | 4.00 | 4.02 | 3.98 | 3.98 | 4.06 | 3.90 |
| 1962 | 4.08 | 4.09 | 4.01 | 3.89 | 3.88 | 3.90 | 4.02 | 3.98 | 3.94 | 3.89 | 3.87 | 3.87 | 3.95 |
| 1963 | 3.89 | 3.92 | 3.93 | 3.97 | 3.97 | 4.00 | 4.01 | 3.99 | 4.04 | 4.07 | 4.11 | 4.14 | 4.00 |
| 1964 | 4.15 | | | | | | | | | | | | |

NOTE.—Long-term Government yields from January 1919 through Oct. 14, 1925, are unweighted averages of yields of all outstanding partially tax-exempt Government bonds, due or callable after 8 years, and those from Oct. 15, 1925, through December 1941 of all such bonds due or callable after 12 years. Averages for the two sets of bonds were identical from Oct. 15, 1925, through July 16, 1928. Beginning January 1942 through Mar. 31, 1952, yields are based on taxable bonds neither due nor callable for 15 years; beginning Apr. 1, 1952, through Mar. 31, 1953, on bonds neither due nor callable for 12 years. From Apr. 1, 1953, to present, series based on bonds maturing in 10 years or more.

Source: Board of Governors of the Federal Reserve System, "Banking and Monetary Statistics," 1953; Annual Report of the Secretary of the Treasury, 1958; and Treasury Bulletins.

## RULE GRANTED ON IDA

Mr. PATMAN. Mr. Speaker, the fact that the Rules Committee has approved S. 2214, for the IDA renewal bill, is gratifying news. We expect the bill to be taken up in the House on May 13.

We must use the help and resources of the other wealthy nations of the world in aiding the underdeveloped countries. IDA is the program that accomplishes this and it has to be extended unless we are to go back to carrying the burden alone.

The need for IDA and its importance in our country's policies, as set forth by President Johnson, was very ably expressed to the Rules Committee on April 28 by Representative HENRY S. REUSS, chairman of the Banking and Currency's Subcommittee on International Finance. His statement follows:

STATEMENT OF REPRESENTATIVE HENRY S. REUSS BEFORE RULES COMMITTEE ON S. 2214, TO AMEND THE INTERNATIONAL DEVELOPMENT ASSOCIATION ACT TO AUTHORIZE THE UNITED STATES TO PARTICIPATE IN AN INCREASE IN THE RESOURCES OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. Chairman, S. 2214, on which a rule is requested, would authorize the U.S. Governor of the International Development Association (IDA) to vote in favor of a resolution to increase its resources by $750 million. The contributions would come from the 17 economically advanced member countries, and the U.S. share would be $312 million. The resolution provides that the subscription become available to IDA in three equal installments during 1966, 1967, and 1968.

The bill is substantially identical to H.R. 9022 which was recommitted on February 25, 1964. S. 2214 is simpler than the House bill in that it does not contain the policy guidelines that were incorporated in the House bill.

After recommittal, the committee held further hearings at which Secretary of the Treasury Dillon—the U.S. Governor of IDA—and Secretary of State Rusk testified on the importance of prompt action to the U.S. position of world leadership. The committee was of the opinion that the assurances provided by the Secretary of the Treasury and the Secretary of State regarding their policies and intentions remove the need for the policy guidelines formerly included in the House bill.

To assure coordinated congressional review of the proposal, the committee issued an invitation to the Foreign Affairs Committee to join in its hearings. While that committee was unable to attend by reason of involvement in its own hearings on the foreign aid programs, a member of that committee did join the Banking and Currency Committee hearings on March 24 and participated in the questioning of Secretary Rusk.

In his March 19 message to the Congress on foreign aid, President Johnson pointed out:

"Under the agreement for replenishing the resources of this (International Development) Association * * * other countries will put up more than $1.40 for every dollar the United States provides to finance on easy terms development projects certified as sound by the World Bank—projects which the developing countries could not afford to pay for on regular commercial terms. This is international sharing in the aid effort at its best."

The President stated in his message that IDA funds which are augmented by the contributions of others reduce the amount required for our own bilateral aid programs; that the $312 million U.S. contribution authorized over a 3-year period would draw from the other 16 countries $438 million which might otherwise be lost if the program were allowed to lapse.

Secretary Rusk stated that failure to provide this contribution would cripple the effectiveness of the IDA as an instrument of aid policy and as a means of sharing on a broad basis the burden of development assistance. He said that the result would be "profoundly contrary to the national interest." The Secretary said further that the need for economic progress in the poorer countries represents the "foremost challenge to our wisdom and to our ability to persevere," that unless we meet it our "hopes for a decent future on the planet cannot be bright." He further stated that in view of the importance of development, if IDA was not able to continue operations in fiscal 1965, if its reserves were not increased, the administration would feel compelled to request additional funds for our bilateral aid program—not only to make up for the U.S. contribution—but also for the $438 million from other countries that would be lost.

The National Advisory Council on International Monetary and Financial Problems, which serves as a Cabinet-level committee to coordinate and advise on U.S. relations with the Bretton Woods institutions, submitted a letter of strong endorsements to the committee signed by its members—Secretary of the Treasury Dillon, Secretary of State Rusk, Secretary of Commerce Hodges, Chairman of the Board of Governors of the Federal Reserve Board Martin, and President of the Export-Import Bank Linder.

Mr. Chairman, the committee explored carefully certain points that were raised in the February 25–26, 1964, floor debate, and we feel that the testimony of Secretary Dillon and Secretary Rusk has effectively answered these points.

### NOT A RECHANNELING OF U.S. AID

It has been charged that the $438 million to be contributed by the other advanced member nations will only be a rechanneling of U.S. aid, and not a real contribution at all. This is not the case. (There have been no new commitments for economic aid to any Part I countries since 1963, and the Church amendment prohibits any new military commitments to these countries after July of this year, with the exception of limited training programs for purchases of U.S. military equipment.) By fiscal 1966, the first year of payments under the proposed increase, there will be no economic aid under previous commitments.

Thus there can be no doubt that the $438 million to be contributed by the other advanced member nations will be a real contribution of these countries' resources, and not merely a rechanneling of U.S. funds.

### EASES U.S. AID BURDEN

Furthermore, the association concentrates its efforts in areas vital to U.S. interests and in which we concentrate our own efforts. It is by channeling the funds which it obtains from other advanced nations to areas of interest to the United States that IDA relieves the demands on our bilateral aid program and realizes a real saving for the United States. The United States is fully aware of all IDA credits and takes these into account in formulating its own aid program. Indeed, in several cases, IDA has acted in consortia with the United States and other countries to insure coordinated and efficient programs.

### BALANCE OF PAYMENTS

Nor will the U.S. balance of payments be adversely affected by IDA's operations. If, as seems reasonable, the future IDA procurement pattern turns out to be approximately the same as the World Bank's—about one-third of the total IDA financial procurement, or 80 percent of the U.S. contribution, would be in the United States. This is the same procurement target as AID's.

### LOANS, NOT GRANTS

Furthermore, IDA credits are loans, not grants. IDA loans are supervised by the staff of the World Bank which has never had a single default. These funds will be repaid to IDA, and there is provision for the eventual dissolution of the Association and repayment of its funds to the contributing nations.

IDA not only relieves our aid burden, but does so in a way which safeguards and promotes U.S. policies and interests.

### NO AID TO COMMUNISTS

No Communist nation will receive IDA funds. IDA only lends to member nations, and only the poorest of these. The only Communist nation that is a member of IDA, or could become a member, is Yugoslavia, and Yugoslavia is too rich to receive IDA funds.

### NO AID TO EXPROPRIATORS

IDA will not lend to nations which expropriate foreign investments without adequate compensation. The Hickenlooper amendment has only been applied to one country—Ceylon—and long before the United States withdrew its aid, IDA and the World Bank had already refused to issue any further credits to Ceylon.

### NO AID TO GOVERNMENT VENTURES

IDA has never made any loans for Government-owned industrial enterprises that would compete with privately owned facilities, and will not in the future. In India, for example, while consistently refusing to finance the Government-owned steel industry, IDA and the World Bank have extended over $150 million to private steel companies.

IDA will not lend to countries which are unwilling to carry out needed reforms. Indeed, several Latin American countries have complained about the World Bank's and IDA's limited activity there, because both have felt that many Latin American countries were not doing enough for themselves.

### TIGHTLY CONTROLLED

Finally, IDA is managed by the staff of the World Bank, which is renowned for its high technical standards. IDA follows the same strict policies as the World Bank in determining priorities, appraising projects, and negotiating credits. No loans are made until the plans are fully approved; all procurement is by public bidding; and the actual procurement, construction, and operation of the project are all carefully supervised by IDA representatives.

IDA's strict supervision includes relending operations. All relending operations are fully approved by IDA and are in each case an integral part of the understanding at the time the credits are made. Indeed, this is the same practice followed by AID and specifically contemplated by Congress in the Foreign Assistance Act.

These policies are long standing, and they are not likely to change in the future. The United States has never been outvoted in IDA in the past and is not apt to be in the future. The part I members of IDA control almost two-thirds of the total votes in the association. Having contributed 43 percent of the initial part I subscription, the United States controls 43 percent of the part I votes, or 26 percent of the total voting power of the association—ample to insure protection of our interests. Furthermore, we share a genuine community of interest with the other part I nations: they own property abroad and do not wish to encourage expropriation; they do not want to divert public resources to areas attractive to private enterprise; they do not want to waste their money on unsound projects or in countries which will not help themselves.

Mr. Chairman, we request that a rule be granted promptly to bring this legislation to the floor.

Mr. Speaker, I am inserting herewith an editorial that appears in today's New York Times:

### Reviving IDA

The House Rules Committee has once again approved a proposal to increase the U.S. appropriation for the International Development Association. This is the offshoot of the World Bank that provides extremely long-range loans on liberal terms for undeveloped countries. The administration's request for $312 million was accepted earlier in the year by the Senate, but the House then refused to go along. We hope the new effort has better success.

The administration has demonstrated that there is no giveaway in IDA grants. Like the World Bank, it lends money only when it is satisfied that a project is economically feasible. But unlike the World Bank, which has access to private capital markets, IDA must depend on governments for its resources. Its present capital is all but depleted, and without the help of the United States it would suffer from pernicious anemia, unable to continue its activities. A curtailment of IDA, moreover, would lead eventually to a decline in the Bank's own operations.

The House can revive IDA by reversing its opposition to a fresh grant. Provision to IDA of the funds it needs is likely to encourage similar grants from other countries. Thus, the future of IDA, and its nonpolitical, multilateral approach to development depends on prompt and affirmative action in the House.

## INTER-AMERICAN DEVELOPMENT BANK CONFERENCE OF 1964

The SPEAKER pro tempore (Mr. Kluczynski). Under previous order of the House, the gentleman from New York [Mr. Halpern] is recognized for 30 minutes.

Mr. HALPERN. Mr. Speaker, I had the distinct privilege along with three of our colleagues to represent the United States at the fifth annual meeting of the Board of Governors of the Inter-American Development Bank which was held in Panama City from April 13 to April 17.

The American delegation was led by the distinguished Secretary of the Treasury, Hon. C. Douglas Dillon, who in his capacity acts as the U.S. Governor of the Bank. Among the official delegates were the able President of the Export-Import Bank, Mr. Harold Linder, and Mr. Thomas Killifer, U.S. Executive Director of the Inter-American Bank.

My association with the Conference and the operations of the Bank leads me to believe that this institution is supplying much of the sound financial and economic tools which ultimately will tell whether we are to be effective and successful in our dealings with Latin America.

We can draw encouragement from the Bank's progress. Since its inception, it has channeled the seed capital toward private initiative enterprises of elementary importance to a country's social and economic fabric. It is practicing sound investment and is providing the self-help measures so effective in guaranteeing the proper growth and improvement.

This is not the kind of operation that is going to make headlines. On the other hand, it is going to mean the difference between stagnation and reasonable progress in Latin America in long-range terms.

In this connection, I might add that the Bank, as a lender of soft loans to enterprises which are necessary and show the promise of growth, is one institution upon which we can depend in counteracting the violent and deceptive influence of Castro Cuba in this hemisphere.

We can defeat Castroism if by our deeds we are able to help in erecting something far more promising as an alternative to Marxism and revolution. We can insure our success by striking out at the deprivation and poverty and disease which lies at the source of Castro's strength and appeal.

I have no doubt that the Inter-American Development Bank provides the kind of assistance which can make that alternative a reality. To be sure, it is only one instrument in what must be a many-sided venture; we must not overestimate its capabilities. But it is an increasingly important contribution, and it is my hope that the American people will become more familiar with the operations of the Bank and what it is accomplishing.

The recent conference of the Bank was an encouraging affirmation of its purposes. The most significant action of the meeting was the adoption of a resolution by the Governors proposing an increase of $900 million in the resources of the Fund for Special Operations. The Fund, in contrast to the ordinary resources of the Bank, is designed to make so-called "soft" loans—loans designed to supplement those made on ordinary banking terms. The resolution adopted by the Governors constituted an endorsement of a proposal made by Secretary Dillon to seek the commitment of the member governments to a 3-year program to enlarge the Fund for Special Operations by an amount equal to $300 million per annum, of which the United States would contribute $250 million, and the other members of the Bank $50 million, all in national currencies. The U.S. contribution, if approved by the Congress, would be approximately equal to the annual contribution made over the past 3 years to the FSO and the Social Progress Trust Fund. The additional contributions would be made in three equal installments payable before the end of 1964, 1965, and 1966, or a later date if so determined by the Board of Executive Directors of the Bank.

The proposed enlarged Fund for Special Operations in the future will include financing for social development purposes, including those heretofore financed through the Social Progress Trust Fund. The net effect of this proposed change in the structure of the bank is to reduce its loan "windows" from 3 to 2. Thus, all lending on "soft" terms will, in the future, be made through the enlarged Fund for Special Operations. The Social Progress Trust Fund, which has been financed by unilateral contributions of the United States, would receive no further appropriations.

The Governors adopted another resolution requesting the Executive Directors of the Bank to study measures necessary to facilitate the provision of resources by nonmembers of the Bank for Latin American economic development. This resolution was clearly pointed at the need to find ways to encourage greater European participation in the provision of capital and technical assistance to Latin America.

The Governors also reviewed the activity of the Bank in 1963, its third full year of operations. Again, the record of the Bank was one of impressive achievement. The Bank last year authorized 56 new loans for a total of $259 million. Its lifetime loan approvals at the end of the year had reached the impressive figure of $875 million. Activity under these loans is proceeding at a sharply accelerated pace. Total disbursements at the end of 1963 were $206 million—more than three times larger than disbursements at the end of 1962. Equally important is the fact that the Bank's lending policies have stimulated the mobilization of large amounts of domestic capital in its member countries. The total cost of projects financed by the $875 million of the Bank's loans amounts to nearly $2.5 billion, most of the additional cost being financed from domestic capital resources.

The confidence of the Governors in the present management of the Bank was demonstrated by the unanimous reelection of President Felipe Herrera, a former Chilean Minister of Finance, to a 5-year term beginning July 1, 1964.

I have great faith that the record of the Bank's achievements thus far will guarantee a continued success in its operations. It represents sound financing to meet important and urgent needs. It should continue to enjoy the full support and confidence of the American people.

## INVESTIGATION NEEDED

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Washington [Mr. PELLY] is recognized for 10 minutes.

Mr. PELLY. Mr. Speaker, to put it mildly, I am disturbed.

Something I read the other day has come to mind. It is related to our whole system of justice. It has to do with wiretapping and phone monitoring by the Government. I read that a detective agency with offices in seven cities in the United States has contracts with various Government agencies, including one with the Department of Justice, to spy on private citizens. I was concerned because I have heard that wiretapping is so prevalent that Government officials, contractors, private businessmen and even Members of Congress and newsmen avoid discussing confidential matters over the telephone.

That is a fine state of affairs in a land where a man's home, a man's office, or a man's hotel room under the Constitution are presumed to be his castle. That is what the Constitution says to me, anyway.

Mr. Speaker, I am unhappy also because of late there have been frequent references in this Chamber and elsewhere to stymied investigations and failure of congressional committees to make facts fully available to the press or to the public.

Certainly I support and applaud the idea of a special committee to conduct an investigation of the recent Chattanooga trial of James Hoffa—provided, of course, hearings as to irregularities are uninhibited. I feel certain they would be because of my respect for members of the subcommittee.

In this connection, Mr. Speaker, I would be less than honest if I did not express the opinion that public respect for Government at the moment is at a low ebb. I would hope the investigation of the Chattanooga proceedings might help restore some of the lost congressional prestige.

Not long ago, in this House during consideration of the legislative appropriations bill, there was heated and lengthy controversy over the Judiciary Committee's failure to review newspaper charges and rumors of payoffs to fix immigration cases and extortion in connection with gangsters and Communists.

Also, there have been frequent protests and almost daily references in our deliberations to cover up facts about Bobby Baker. And, likewise, no one seriously feels that full information about Billie Sol Estes ever came to light.

As a result, public esteem for this Democratic Congress is not high.

In short, Mr. Speaker, let us hope that in this case nothing in the way of facts will be withheld.

I must say that, true or false, there have been some shocking and serious allegations referred to here today. As I see it, the guilt or innocence of any person is not an issue. That should be emphasized. Rather, what is called for is a full and complete congressional airing, under oath, of all circumstances and alleged irregularities surrounding the court trial.

It seems to me in light of statements made here today, including the question of a fair and impartial trial—eavesdropping, mail spying, and so forth, a congressional investigation is fully warranted. The public should have the entire story even though it might involve the administration.

Faith in our courts and in our system of justice is at stake. So is the reputation of the Attorney General and the Department of Justice.

I hope the House subcommittee will do a thorough, orderly, and dispassionate job, regardless of who might be involved.

As a Member of the House, I shall follow this matter with great interest and concern.

## THE INTERNATIONAL PEACE GARDEN

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota [Mr. ANDREWS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. ANDREWS of North Dakota. Mr. Speaker, up on the northern border of our State of North Dakota, where the United States and Canada join hands, is the International Peace Garden, located in the beautiful Turtle Mountains.

This garden is a living memorial to the peaceful international relations that have been in existence between our two countries for more than 140 years. The international boundary line, 3,987 miles long, has been a boundary of peace for all this time, without warships, soldiers, forts, or guns.

The garden consists of a total of 2,300 acres donated by the State of North Dakota and the Province of Manitoba. Since its inception, it has been materially aided in its development by appropriations made by the Legislatures of Manitoba and North Dakota; by the Parliament of Canada and the Congress of the United States; and by innumerable civic and service organizations on local, State, and national levels. At the present time, appropriations by the Congress have been expended, and we are seeking further assistance in maintaining and expanding this singular memorial to peace by amending the original authorization enacted October 25, 1949, to increase the funds by $200,000.

In these days of conflict throughout the world, the International Peace Garden is particularly significant because this beautiful garden on the longest strip of undefended frontier in the world stands as a fitting memorial to the cooperation between two great nations. I am therefore submitting for your consideration a bill to enable the continuance of this small but outstanding memorial to peace.

## MORALITY OF CIVIL RIGHTS BILL

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. REID] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. REID of New York. Mr. Speaker, I had the privilege of attending the National Interreligious Convocation on Civil Rights, along with my colleagues from the Congress including Senator JAVITS and Senator KEATING, Tuesday night at Georgetown University.

It was a moving occasion which highlighted the moral and religious imperatives urging the passage of the civil rights bill. It was a convocation of thousands of Americans demonstrating again that the religious faiths of our country are fully enlisted in and committed to equality of opportunity now for all Americans.

I was particularly happy that many religious leaders from Westchester County could be present at this great gathering.

The Reverend Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church in the United States of America and chairman of the Commission on Religion and Race of the National

Council of Churches, in the final address of the evening, eloquently expressed the clear morality of the civil rights bill.

Dr. Blake said:

> Our unity is threatened, and our will is weakened because we forget the firm basis of morality upon which the cause is based. We who profess faith in the God who spoke through the prophets of Israel, and we who believe that that same God was revealed in Jesus Christ are united that, by creation, all mankind is one family. The prophet, Malachi, speaks for us all as he asks, "Have we not all one father? Has not one God created us? Why then are we faithless to one another?"
>
> The crisis of the Nation is no more severe than the crisis in our churches and synagogues. How can any of us ministers, priests, or rabbis stand safely eloquent behind our pulpits, reflecting the moral confusions of American culture in our tactful balanced prose when God is thundering at His people, calling them to repent and to be saved? Never in the life of the Nation have the churches and synagogues through their best leadership been so fully united intellectually on any moral issue confronting the American people. But such intellectual unity will reveal the weakness and irrelevance of our pulpits unless from them we speak and in the world we act to persuade our people to commit themselves to the new patterns of justice and freedom that must be established.
>
> Let me then remind you now of the unargued, and, I believe, unarguable morality upon which civil rights legislation and civil rights action is based. In our several traditions, the Judeo-Christian convictions about God and man are one in asserting:
>
> 1. That God made man in his image, which is to say that man is not merely an animal of a complicated sort but is, in essence, a spiritual being. His worth is not in his vigor, weight, or cleverness, but in his origin. Because man, every man, is created by God, he must be treated, despite his sin, as a potential son of God, by covenant between God and man.
>
> 2. Right relations among men is based upon a personal concern for each one which we believe is not only our concern but that of God himself.
>
> 3. The most important ethical considerations, and perhaps the only ones, are directly related to the effect of our actions upon the life and well-being of other men—all other men.

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## IDEOLOGICAL OPERATIONS AND FOREIGN POLICY

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. Fascell] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FASCELL. Mr. Speaker, because I believe that it will be of interest to Members of Congress, I would like to call to their attention House Report 1352, 88th Congress, second session, entitled "Ideological Operations and Foreign Policy," issued this week by the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs.

This report, the second of a series, has grown out of a comprehensive study of ideological and psychological operations in support of U.S. foreign policy, initiated by my subcommittee in 1962. In this investigation the subcommittee set out, first, to inventory U.S. oversea information, exchange, community relations, and other nonmilitary, noneconomic programs operating on this plane; second, to determine how well they are managed; third, to ascertain their effectiveness; and finally, to explore ways and means of improving both the management and the impact of these operations.

In House Report 1352, the subcommittee has concentrated on the direction of U.S. ideological effort in the cold war: the approach to the task of meeting the Communist challenge and the organization of the U.S. effort on this plane. A summary of the subcommittee's findings and recommendations is as follows:

### Findings and Recommendations

#### FINDINGS

1. The basic goals of U.S. foreign policy have been expressed clearly and have remained fairly constant. They are designed to advance our national interests and security by encouraging a peaceful world community of free and independent countries whose governments are responsive to the just aspirations of their people, and by combating Communist designs for world domination.

2. The concurrent revolutions of the 20th century—in science, warfare, communications, education, and other aspects of life—have in turn revolutionized the practice of diplomacy. Foreign policy operations have acquired a new dimension: the ideological or psychological. This revolution has been recognized only recently by the United States—much later, in fact, than by many other countries.

3. In the pursuit of its basic objectives in the world, the United States, unlike the Soviet Union, has assigned relatively low priority to the ideological and psychological area of foreign policy operations. The attention and the resources devoted to these operations do not begin to approach those expended on foreign military and economic activities.

4. There exists in the executive branch a broad range of nonmilitary and noneconomic programs which are directed at foreign audiences and can provide support for U.S. foreign policy. These, however, are yet to be orchestrated into an effective instrument of our foreign policy. The concept of an "ideological offensive"—of coordinating these programs and their application—thus far has been only partially implemented by the executive branch.

5. A number of U.S. Government programs which operate in the third dimension of foreign policy suffer from fuzziness of concept. Their purposes and the roles which they are supposed to play in the execution of U.S. foreign policy have not been clearly defined.

6. The coordination of programs operating in a particular field—for instance, information, research, exchanges of persons—is less than fully effective. While considerable progress has been made in recent years to improve coordination, there is evidence that greater effort will be required to complete the job and to eliminate duplication and underutilization of resources.

7. The implementation of the "country team" concept has improved the oversea coordination of U.S. programs. Careful selection and adequate training of personnel placed in charge of U.S. "country teams" is indispensable to the success of U.S. operations abroad.

8. Perhaps the weakest aspect of the U.S. ideological effort in support of foreign policy is the apparent lack of a clearly defined, operational authority. Such direction is necessary, in our opinion, to coordinate programs operating on this plane and thereby maximize the effectiveness of our effort.

9. The fragmentation of congressional supervision over programs comprising the third dimension of U.S. foreign policy presents another problem. At least six major committees and an even larger number of subcommittees exercise jurisdiction over programs in this area of foreign policy operations. From the standpoint of legislative authorizations and appropriations, programs are judged, supported, or criticized, as the case may be, on an individual basis rather than in the context of the total effort in support of U.S. foreign policy.

10. Too little effort has been expended in exploring the contribution of private American citizens and organizations abroad to the advancement of U.S. foreign policy objectives. These private operations have a tremendous potential.

#### RECOMMENDATIONS

1. The need for organizing U.S. Government operations on the ideological and psychological plane and blending them into an effective effort in support of U.S. foreign policy, particularly with respect to the cold war challenge on this plane, should be acknowledged at the highest level in our Government.

2. Operational authority for the management of ideological and psychological activities in support of U.S. foreign policy should be unified and placed at an appropriately high level in the executive branch.

3. A systematic evaluation of all Government programs with a potential for influencing the attitudes of foreign audiences should be undertaken with a view to eliminating duplication, abandoning programs which are no longer related to the requirements of our foreign policy, and providing those which are, with a clearly defined mission.

4. The coordination of programs operating in each of the several fields—exchanges of persons, information, strategic psychological operations, and others—should be greatly improved. The implementation of recommendation No. 2 appears indispensable to the attainment of this objective. In addition, responsibility for coordination at lower levels should be clearly defined and adequate authority provided to make possible effective discharge of such responsibility. The cumbersome structure of interdepartmental coordinating committees should be streamlined by reducing the number of such committees to the minimum required for effective operation.

5. To the extent possible, educational and informational activities should be brought into a single agency or department (as suggested by the U.S. Advisory Commission on Information). Existing division of operations and responsibility between the Department of State, the U.S. Information Agency, and to some extent, the Agency for International Development, is illogical and not conducive to efficiency and economy.

6. Government officials and personnel responsible for the conduct of ideological and psychological operations should be trained in the requirements and techniques of ideological warfare. It is not practical to try to bring all of these activities into a single Government department or agency. It is both feasible and necessary, however, to provide appropriate training to the personnel of Government departments involved in this type of foreign operations.

7. The input of the ideological and psychological dimension of foreign policy—particularly in the field of basic research in behavioral sciences—should be increased.

8. Cooperation with private enterprise should be strengthened. Prompt attention should be given to ways and means of achieving that goal.

## THE HONORABLE JOE L. EVINS

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee [Mr. Fulton] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FULTON of Tennessee. Mr. Speaker, each State is rightly proud of its great men who have served with distinction and dedication in this body.

In Tennessee we have been most fortunate and proud down through the decades to have representing us in the Congress many of the very great men of our Nation. These men, Davy Crockett, Andrew Jackson, Sam Houston, Cordell Hull, Joe Burns, Estes Kefauver among the many, were respected for their integrity, individuality, and concern for duty before self. These fine public servants became great men because they saw the needs of the people and had the fortitude to initiate and pursue these programs.

Today my distinguished colleague, the Honorable Joe L. Evins from Tennessee's Fourth Congressional District, as he reaches full maturity in his service in this body, is being recognized as one of Tennessee's ablest representatives.

As evidence of this recognition I would like to insert into the Record, at this point, two recent editorials which appeared in the Nashville Tennessean.

### TVA, Other River Projects Have Friend in Mr. Evins

The Tennessee Valley Authority has asked Congress for $50,915,000 in new appropriations for the fiscal year beginning July 1.

Compared with the total spending TVA will do—including its own funds—the amount requested from Congress will be a small fraction. But it will be an important fraction, because it includes funds to continue buying land for the between-the-lakes recreation center and money to plan a new $16 million power dispatching center and office building in Chattanooga.

Other funds from the appropriation will go to the Beech River water control system, a new lock at Guntersville Dam and for continuation of work on Nickajack Dam.

In addition to the appropriation, TVA will spend approximately $355 million out of its own revenue and in bonds. The agency plans a 2-year spending program of $413 million for power, navigation and multipurpose projects throughout the region.

In considering appropriations for TVA, many Congressmen are prone to look no further than the ends of their noses in determining the justification of the funds. They are likely to consider TVA's operations alone without weighing the side benefits of the valley development, which often rival the direct benefits in justifying TVA as a national asset.

For instance, TVA reported only last week that investment in private industry in plants and terminals along the Tennessee River alone is nearing the $1 billion mark. Industry invested about $72 million in new and expanded waterfront plants last year, bringing the total to about $976 million in 184 plants and terminals since 1933, when TVA began work on the improved channels for water transportation.

The benefits to the Nation from such side effects as this—in extra employment, investment for capital, and tax production—are incalculable. But they are benefits which Congress, nevertheless, should consider when judging the value of TVA's appropriations to the Nation's economy.

The region is fortunate to have in a powerful position on the House Appropriations Committee a Congressman who is fully aware of these benefits and able and willing to communicate them to other Congressmen.

The Congressman, Representative Joe L. Evins of the Fourth District, presided at an appropriations subcommittee session at which the TVA request received a sympathetic hearing last week.

Mr. Evins is noted—not only in Tennessee but elsewhere—for his progressive viewpoint toward river development. He has long recognized the sound principle of improving depressed areas by this method. He was responsible for including a navigation lock in the Cordell Hull Dam at Carthage so that water transportation could be provided to develop the upper Cumberland areas.

With his seniority in the House, Mr. Evins has established himself in a position of influence on the Appropriations Committee where he is able to fight on even terms for projects that are vital to his district and to the State. There is cause for optimism over the chances for the TVA requests and other such projects as long as Mr. Evins is a ranking member of this important committee.

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### Mr. Evins Has the Right Idea

U.S. Representative Joe L. Evins has advocated continued water-resource development of the Tennessee and Cumberland Rivers and their tributaries as a weapon against poverty in the State.

Since Mr. Evins is a ranking member of the House Appropriations Committee, where all money bills have their beginning, it is encouraging to hear him reiterate this progressive policy.

Mr. Evins has been a solid advocate of water development in the past. Largely through his efforts, a navigation lock was included in the Cordell Hull Dam now going up at Carthage, and many other projects in the Fourth District bear the marks of his handiwork.

The Tennessee Valley Authority, of course, stands as a mighty testimonial to the truth of the view that river development fights poverty. The great dams of the U.S. engineers in this area, with their deep channels of water navigation, are further proof of this.

There is a great deal more water potential to be developed, however, not only in Tennessee but in other States of the Appalachian region which are now racked by poverty.

Full development of the water resources in these areas would perhaps do more than anything else to return the bloom of prosperity to the now desolate mountains and valleys of Appalachia.

Mr. Evins is to be commended for his work in behalf of water development. It is reassuring to know that a Congressman of his favorable disposition toward water development occupies a powerful seat on the Appropriations Committee for the fight toward progress that lies ahead.

## TARIFF REDUCTIONS ENDANGER JOBS IN GLASS CONTAINER INDUSTRY

Mr. PRICE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Speaker, I am concerned about the forthcoming GATT talks starting May 4 in Geneva and what the negotiations may produce under the guise of expanding our international trade program. Further tariff reductions without maintaining adequate safeguards for our domestic industries may well sound the death knell for their continued economic well-being and the communities in which they are located.

I am especially apprehensive of reducing the tariff rates on import items which compete with our domestic glass container industry. Lowering the present duties in this field poses a serious threat to the economic welfare of our domestic glass container manufacturers and employees. This particular industry, with an annual payroll estimated at $400 million, employs over 60,000 people in 109 plants throughout the United States. Two of those plants are in my district and employ approximately 4,000 people.

Without the continued operation of the two companies, the employees would lose their livelihood, purchasing power, and economic security. If the two plants are forced to shut down as a result of a flood of cheaper imports, the effect on the area's economy—where the unemployment rate is already estimated to be 20 percent in the largest community—would be disastrous.

The impact of these imports in this field is already being felt. In our expanding economy, the domestic glass container industry is operating at only 77 percent capacity, and inventories have reached unprecedented high levels. While sales are increasing slightly, earnings have dipped to their lowest level in 8 years. On the basis of these facts, it certainly would not appear to be prudent to further reduce the tariff rates on glass container imports.

The glass container manufacturing industry is keenly aware of its foreign competition, as is evidenced by the fact that it invests approximately $10 million annually in research and development. The investment, however, does not alter the situation that foreign manufacturers' production costs are substantially lower than in this country. For example, Japan, where the standard of living is much lower than here, labor costs are about one-seventh of what they are in this country. Furthermore, the foreign competitors have undertaken extensive modernization programs and are realizing the benefits from them. This $10 million expenditure also demonstrates that our glass container manufacturers are not standing still and relying solely on tariff rates as a means of competing with foreign imports. On the contrary, the rates for these items are already more than 50 percent below the 1930 Tariff Act levels.

Mr. Speaker, I am disturbed over what may happen as a result of the talks in Geneva. The prospect of serious economic dislocations is not encouraging. I earnestly hope that our representatives at the GATT Conference will be mindful of the crucial role our industries and employees play in our Nation's economy.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. HALPERN (at the request of Mr. ELLSWORTH), for 30 minutes, on April 30; and to revise and extend his remarks and to include extraneous matter.

Mr. PELLY (at the request of Mr. ELLSWORTH), for 10 minutes, today; and to revise and extend his remarks and include extraneous matter.

## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. WYDLER.

Mr. CAREY.

Mr. RODINO.

(The following Members (at the request of Mr. ELLSWORTH) and to include extraneous matter:)

Mr. FULTON of Pennsylvania.

Mr. PELLY.

Mr. MCCLORY.

Mr. CHAMBERLAIN.

Mr. ROUDEBUSH.

(The following Members (at the request of Mr. ALBERT) and to include extraneous matter:)

Mr. FASCELL.

Mr. CORMAN in two instances.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1605. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes.

## ADJOURNMENT

Mr. PATTEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, May 4, 1964, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2007. A communication from the President of the United States, transmitting a proposed supplemental appropriation to pay claims and judgments rendered against the United States, as provided by various laws, in the amount of $9,465,489, together with such amounts as may be necessary to pay indefinite interest and costs (H. Doc. 300); to the Committee on Appropriations and ordered to be printed.

2008. A letter from the Comptroller General of the United States, transmitting a report on the review of the unnecessary costs to the Government in the leasing of an electronic data processing system by the Continental Aviation and Engineering Corp., Research Division, Detroit, Mich., Department of Defense; to the Committee on Government Operations.

2009. A letter from the Comptroller General of the United States; transmitting a report on the review of the cost allocation resulting in increased Federal contribution to the State of California for flood control, Oroville project, Feather River, Calif., Corps of Engineers (Civil Functions), Department of the Army, showed that the omission by the Corps of Engineers of recreation as a primary project purpose in the allocation of joint costs resulted in an increase in the Federal contribution of about $9 million; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COOLEY: Committee on Agriculture. H.R. 9938. A bill to amend the Watershed Protection and Flood Prevention Act, as amended; without amendment (Rept. No. 1367). Referred to the Committee of the Whole House on the State of the Union.

Mr. COOLEY: Committee on Agriculture. H.R. 10419. A bill to amend further the Farm Credit Act of 1933, as amended, to provide that part of the patronage refunds paid by a bank for cooperatives shall be in money instead of class C stock after the bank becomes subject to Federal income tax, and for other purposes; without amendment (Rept. No. 1368). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BASS:

H.R. 11095. A bill to amend title VII of the Public Health Service Act so as to extend to qualified schools of optometry and students of optometry those provisions thereof relating to student loan programs; to the Committee on Interstate and Foreign Commerce.

By Mr. BOW:

H.R. 11096. A bill to amend title 38, United States Code, so as to revise the rates of disability and death pension authorized by the Veterans' Pension Act of 1959, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BRADEMAS:

H.R. 11097. A bill to provide for unemployment reinsurance grants to the States, to revise, extend, and improve the unemployment insurance program, and for other purposes; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 11098. A bill to amend the Internal Revenue Code of 1954 to provide that a taxpayer may designate the period over which his property is to be depreciated for purposes of determining the depreciation deduction; to the Committee on Ways and Means.

By Mr. MACDONALD:

H.R. 11099. A bill to amend section 20b of the Interstate Commerce Act, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. RIVERS of South Carolina:

H.R. 11100. A bill to amend the National Labor Relations Act; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 11101. A bill to amend section 2072 of title 28, United States Code, with respect to the scope of the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 11102. A bill to amend the National Labor Relations Act to make it an unfair labor practice for an employer or a labor organization to discriminate against individuals on account of their age; to the Committee on Education and Labor.

By Mr. SIBAL:

H.R. 11103. A bill to create a Joint Committee on Congressional Ethics, and for other purposes; to the Committee on Rules.

By Mr. ANDREWS of North Dakota:

H.R. 11104. A bill to increase the authorization for the appropriation of funds to complete the International Peace Garden, N. Dak.; to the Committee on Interior and Insular Affairs.

By Mr. HANNA:

H.R. 11105. A bill to promote fair competition among subcontractors and to prevent bid peddling on public works contracts by requiring persons submitting bids on those contracts to specify certain subcontractors who will assist in carrying them out; to the Committee on the Judiciary.

By Mr. NELSEN:

H.R. 11106. A bill to protect consumers by requiring that imported meat and meat food products made in whole or in part with imported meat bear a label showing the country of origin of such imported meat; to the Committee on Interstate and Foreign Commerce.

By Mr. WIDNALL:

H.R. 11107. A bill to amend chapter 57 of title 39, United States Code, so as to authorize the free use of the mails in making reports required by law of certain payments to others; to the Committee on Post Office and Civil Service.

H.J. Res. 1017. Joint resolution to provide for the preparation of a long-range plan for the development of buildings and grounds within the area comprising the U.S. Capitol Grounds; to the Committee on Public Works.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MINISH:

H.R. 11108. A bill for the relief of Mrs. Tsang Yenna and her son and daughters, Au Tim Kin, Au Yan Yan, and Au Oi Yu; to the Committee on the Judiciary.

By Mr. HANNA:

H.R. 11109. A bill for the relief of Rafael T. Raad and his wife, Anaisa Alves Raad; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## Tribute to Kirk Douglas in Recognition of the Services He Rendered the United States as Special Ambassador of Good Will for the USIA

EXTENSION OF REMARKS
OF

### HON. JAMES C. CORMAN

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. CORMAN. Mr. Speaker, one of this country's most distinguished actors, Kirk Douglas, earlier this year undertook a 4-week tour of the Far East as special ambassador of good will at the invitation of the U.S. Information Agency.

During this time (Feb. 29 to Mar. 25), he addressed thousands of students and met with government officials and business leaders in India, Thailand, Hong Kong, the Philippines, and Japan.

The extraordinary effect of Mr. Douglas' visits are reflected in the following press comments:

> Kirk Douglas, whose rating as a dashing stage and screen actor is exceedingly high, probably made more friends for the United States in Bombay during his two brief public appearances than many millions of dollar aid * * *. Kirk Douglas was his natural self and answered questions so deftly as to engender not only admiration for Hollywood but also respect for American democracy, for both of which he must be regarded as a supersalesman.—Bombay Sunday Standard.
>
> At the outset, it's his popularity as a movie star that draws the crowds, but when he starts talking, it's no longer that which holds their attention but the words he says and the way he says them. In fact, one realizes that he could have been of any other profession and not a movie actor of renown and he would still be as effective in this role of ambassador of good will for his country. His eloquence and that which holds his audiences spellbound is a quality compounded of warmth, friendliness, lack of histrionics and pedantry (which is unusual and rather disarming in an actor), humility, sense of humor, and a genuine liking for peoples (and I do mean peoples, meaning regardless of race and color).—The Manila Times.
>
> Kirk Douglas comes to Thailand as the Cultural Ambassador from the United States. Both he and Mrs. Douglas were completely suitable for their mission as ambassadors. With great wit and sense of humor they created warmth and friendship among all they met.—Thailand magazine.

The sentiments expressed in the three publications were repeated time and again wherever Mr. Douglas went.

Upon his return to the United States, Mr. Douglas made a special trip to Washington to give a firsthand report on his trip to representatives of the USIA, the State Department, and the White House. Mr. Douglas spent 2½ hours briefing Carl T. Rowan, Director of USIA; Lucius Battle, Assistant Secretary of State for Cultural and Educational Affairs; Thomas C. Sorenson, Deputy Director of the Office of Policy of USIA; Edward Savage, Deputy Director of the Office of Public Information of USIA; Patricia Newcomb, Motion Picture Industry Coordinator for USIA.

During these sessions, Mr. Douglas volunteered his services to the USIA for similar good will tours whenever his professional schedule permits. He urged the continuation of the program to send entertainment personalities abroad and offered extensive suggestions for making the program even more effective.

At the conclusion of his report, the group was unanimous in praising Mr. Douglas for the service he had rendered his country and for the sense of high-civic responsibility he demonstrated in making a complete firsthand report to the various officials.

It is therefore, fitting and proper for us as fellow Americans to pay tribute to Kirk Douglas and commend him for his selfless, patriotic contributions, and for his dedication to developing better international understanding.

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## Polish Constitution Day

EXTENSION OF REMARKS
OF

### HON. DANTE B. FASCELL

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. FASCELL. Mr. Speaker, each year at this time we are privileged to pay tribute to Polish Constitution Day. May 3, 1791, was a great day for the Polish people. It remains as a shining symbol of their centuries-old struggle for liberty, and historically it is one of the earliest and noblest landmarks in the universal movement toward national self-determination and political democracy.

After years of struggle, Polish patriots managed to prevail over internal division and external threat long enough to vote a liberal constitution through the representative assembly. The move was praised by Edmond Burke as a bloodless revolution. The enlightened men who drafted this remarkable document placed limits on the power of the landed aristocracy and provided for a limited monarchy including ministers forming a cabinet.

Austria, Prussia, and Russia had already taken portions of Poland 19 years earlier. Russia and Prussia responded to the Constitution of 1791 by crushing the new government and annexing still more Polish territory. A national revolution led by Kosciuszko followed and was put down ruthlessly by Russian forces. In 1795 the three avaricious neighbors divided up all remaining Polish territory between them and decided never to use the word "Poland" again.

Despots have never understood the irrepressible human urge for liberty and this is nowhere better illustrated than by the absurd attempt to eliminate Poland simply by depriving the Polish people of all their territory and refusing to use the name.

As long as the people survived so would the dream of Polish national freedom persist. The people have demonstrated their love of freedom many times during the 120 years of foreign domination that followed. In 1918 a new Polish nation was created in the aftermath of World War I only to be crushed by the same ancient enemies in 1939. This year is the 25th anniversary of the joint Nazi-Soviet attack on Poland.

Today Russia is again in the ancient role of Polish oppressor. And again, in 1956, the people of Poland rose against foreign domination.

We can only hope that what these deserving people have failed to gain through their valiant struggles will come with the inevitable erosion of Communist totalitarianism. We, for our part, must do all in our power to hasten that process of erosion while keeping alive the vision of liberty for all peoples.

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## Loyalty Day

EXTENSION OF REMARKS
OF

### HON. THOMAS M. PELLY

OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. PELLY. Mr. Speaker, Loyalty Day on May 1 is, as proclaimed by this Congress in 1958, a special day for the reaffirmation of loyalty to the United States of America and for the recognition of the heritage of American freedom.

Initiated in the late 1920's by the Veterans of Foreign Wars, the concept of Loyalty Day has provided the American people with a unique occasion to solemnly consider their stake in democracy and to renew proudly their dedication to the ideals of the freedom and dignity of man. The celebration of Loyalty Day also provides a thrilling contrast to the sterile demonstrations and parades annually produced on May 1 under Communist auspices.

President Theodore Roosevelt remarked that:

> Americanism is a question of principle, of purpose, of idealism, of character.

These qualities describe that intangible passion, loyalty, which has sustained our country during its periods of crisis and growth and it has endeavored to secure the blessings of liberty under law to all its citizens and to extend them to less fortunate peoples.

For the idea of loyalty bespeaks not only of principle and belief, but of action and deed, as well. Commitment to freedom cannot be a sometime passion. It must be total; it requires that we put into practice, day by day, the great principles of free government to which we are dedicated.

Loyalty in its finest sense is a continuing merger of deep belief with purposeful action. Observance of Loyalty Day is an invaluable way by which all Americans can be inspired to devote themselves to the task of rendering into actuality their magnificent ideals.

The depth of our loyalty is best expressed by what we do.

No more meaningful celebration of Loyalty Day can be made than by our reaffirmation of our willingness to sacrifice for the cause of liberty until peace with justice and freedom becomes the accepted rule all over the world.

Perhaps the late, beloved Judge Learned Hand described most eloquently the true meaning of loyalty in action when he said during World War II:

> Therefore, as we now pledge allegiance to our flag, shall we not see it as more than a symbol for those alone over whom it waves? Shall we not believe, that, be we never so prosperous and safe, and contented, we shall have failed to grasp its meaning, and shall have been truant to its promise except as we strive to make it a signal, a beacon, a standard, to which the best hopes of mankind will ever turn?

## Address by Representative Bob Sikes, of Florida, at Florida Chamber of Commerce Washington Meeting

EXTENSION OF REMARKS

OF

### HON. GEORGE A. SMATHERS

OF FLORIDA

IN THE SENATE OF THE UNITED STATES

*Thursday, April 30, 1964*

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the text of a speech delivered last Tuesday night at the annual meeting of the Florida Chamber of Commerce in Washington. The meeting honored Florida's congressional delegation and the ambassadors and ministers of our neighbors to the south.

The dean of the Florida congressional delegation, Representative BOB SIKES, made the principal speech that evening. It was so appropriate and so artistically and eloquently drafted that I asked Representative SIKES to permit me to place it in the RECORD for the edification and pleasure of all.

Mr. President, I ask unanimous consent that the text of Representative SIKES' address be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

STATEMENT BY CONGRESSMAN BOB SIKES, FLORIDA CHAMBER OF COMMERCE WASHINGTON MEETING, APRIL 28, 1964

Florida parties are among the best. By coming here each year, you make the chamber of commerce party one of the best of the Florida parties. My colleagues and I appreciate your presence. It is like a fresh breeze which blows from the sparkling waters off our coasts, or from the stately groves which grace our State, or the clean, green woodlands which stretch mile after mile between Florida's growing cities. Your presence here is the nearest thing we know to being back home.

Our delegation shares your pride in Florida. We are proud of Florida's people and their dynamic progress. We are proud of our State's magnificent picture of growth and the strong economy which accompanies it. Proud we are the bridge between the hemispheres. We are proud that Florida has not submerged its natural beauty in the quest for material things. And I can say to you truthfully that Florida's representation in Washington has never worked more closely together for the enhancement of our State or with greater success.

There have been significant changes since you were here a year ago. There is a new President at the helm of the Ship of State; a strong President who is wise in the ways of government and wise in the ways of Congress. And from what I hear he is wise in the ways of the chamber of commerce too. Because of these facts, there is a closer cooperation between the Congress and the Chief Executive. There is in part a new look—a new flavor in government. I think there is a better balance in government in that the Chief Executive has a more intimate knowledge of the place which business and industry occupy in the American economy.

This has generated a new degree of confidence which offers a reassuring look toward the future, and it would be difficult indeed not to envision a strong economy through the months ahead. Across the water things have brightened a little, or possibly they simply have grown more difficult for the Communists. Brazil is the most notable case for encouragement. Victories should be due in Vietnam where vigorous reorganization of government forces has been in progress. A step has been taken towards disarmament. And it appears that much of the Communist world is orienting itself a little more toward the capitalist viewpoint. However, all is not sweetness and light. There are irritants which continue to defy solution, particularly Cuba and Laos. And on tomorrow there may be another senseless shooting down of an American plane, or the takeover of another bit of territory by the Communists.

For that reason, I can tell you with satisfaction that we continue to have an effective and positive counterforce to communism. We have the strongest peacetime military organization in our history, and we are not the only ones who know it. The Communist dictators know as much about our military power as we do, and I am certain they respect military power more than they respect the arguments and the pleas, as the case sometimes appears to be, which our diplomats advance at the conference table.

In recent days there has been criticism that military costs outweigh civilian appropriations, and that deemphasis of commercial and cultural pursuits have resulted. I would remind you that never have commercial and cultural pursuits flourished as now, and never have appropriations for these activities been higher. It is difficult to see them as being neglected. I see little choice in the world we live in but to continue to maintain the position of military superiority we now enjoy lest we find ourselves without commercial and cultural advantages as well.

It is not the military which is seeking the enactment of police-state bills in Congress, or which is asking that more and more power be delegated to the executive branch of government, or which is usurping the legislative prerogative of Congress through court edicts and decisions. The American people want security in a troubled world. It is like a shotgun behind a farmhouse door. Prowlers respect it. Those who would depend upon logic and the United Nations for our protection are indulging in wishful thinking.

There is an area of international cooperation where the sun nearly always shines brightly, and that is in the relationship between our own country and our neighbors in the Western Hemisphere. There are storm clouds at times, but they are few, and I am convinced they will be temporary. It is more significant to consider that our interests are joint interests, that progress always is being made and that it is progress for the future; progress which will guarantee a continuation of freedom and democracy for that part of the world which always has offered most in opportunity and most in freedom. There will be no "ism" in this hemisphere but Americanism, and our kind of Americanism includes both North Americanism and South Americanism.

## Polish Constitution Day

EXTENSION OF REMARKS

OF

### HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 30, 1964*

Mr. WYDLER. Mr. Speaker, contemporary events always tend to obscure earlier ones and, irrespective of the importance of the latter, these are often relegated to relative insignificance. This happens so frequently that sometimes old happenings of significant importance, and even those of decisive importance, are almost forgotten and buried in our memory. This is particularly true in the case of certain events in modern Polish history. In these days we are so seriously concerned with the fate of the Poles, and so fully preoccupied with current events of crucial importance, we sometimes think of Poland largely in terms of a mere Soviet satellite behind the Iron Curtain, effectively sealed off from the free world. Unfortunately, of course, that is the case. Some 25 million unhappy Poles are virtually imprisoned in their homeland today, and there they enjoy precious few of the freedoms for which they and their ancestors fought so gallantly and fearlessly for centuries.

But there are greater and brighter aspects of modern Polish history that should not be overlooked and forgotten. Great names and lasting achievements abound in Polish history. Their enlightened and imaginative leaders have always fought for human freedoms. This they did sometimes almost alone in Eastern Europe for the preservation of European civilization. In 1683 when the conquering Turks had advanced into the heart of Europe, and were at the gates of Vienna, Poland's great King John Sobieski came to the rescue of the beleaguered city, successfully drove off the Turks, and once and for all eliminated future Turkish threats to Christendom in Europe. The Poles made their signal contributions to our War of Independence in the person of generals Thaddeus Kosciuszko (1746–1817) and Casimir Pulaski (1748–79). Besides being gallant fighters for freedom, Poles have also shown great talents in other walks of life.

including in the field of government. By their Constitution of 1791 they proved to be pioneers of political reform in Eastern Europe. That Constitution became a great landmark in Poland's history, and today is the 173d anniversary of its adoption.

The true significance of that document is sometimes overlooked because before it was put into full force Poland was invaded and soon lost her independence. The real importance of that Constitution, however, lay in the attempt made by its framers to introduce a responsible cabinet type of government in that part of Europe. Monarchical authority was considerably curtailed by that Constitution, and that of the peoples' representatives was greatly enhanced. The Polish peasantry was relieved from the arbitrary authority of local landlords and was placed under the protection of the law. Even more significant than any of these changes was the guaranteeing of religious freedom to all sects. Unfortunately these rights and freedoms have been lost to the Poles since those days, except for the relatively happy period of Polish independence in the two decades following World War I. We are happy to join freedom-loving Poles everywhere in the observance of the anniversary of this truly historic landmark, the 173d anniversary celebration of the Polish Constitution of 1791.

## Polish Constitution Day

EXTENSION OF REMARKS

OF

### HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 30, 1964*

Mr. CAREY. Mr. Speaker, this Sunday marks the 173d anniversary of the Polish Constitution of May 3. I am proud to join my colleagues in honoring our Polish citizens and their sorrowing friends and relatives in Communist Poland.

The Constitution of May 3 promised great hope for the Polish people. Through the 173 years that have followed its enactment, many tragedies have befallen Poland, yet the people have not lost sight of the high ideals which they adopted in 1791.

Many Poles have found their way to America and have enriched this country with their talents. Polish-Americans are well known and respected in many professions. Their Christian principles and firm awareness of Western culture have made them one of America's most valued assets.

We celebrate this important day in Polish history with strong pride in our Polish citizens, but also with deep sorrow at the misfortune of the Polish homeland.

It is most remarkable, but certainly true, that after more than 2 centuries of attack from all sides, Poles still continue their resistance to subjection. They are by nature a proud and independent nation. Let us hope that in the years ahead the smothering bonds of communism will continue to loosen and that the independent Poland which produced the Constitution of May 3 will emerge once again.

## Israel Celebrating 16th Year of Independence

EXTENSION OF REMARKS

OF

### HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 30, 1964*

Mr. FULTON of Pennsylvania. Mr. Speaker, the State of Israel is celebrating the 16th anniversary of its Independence Day.

We friends of the Israeli people are pleased and proud that Israel has made enormous progress on the road toward economic self-sufficiency. Despite a population increase of about 300 percent, the per capita income in Israel has risen from less than $300 in 1950 to almost $800 at the present time. In 1951 Israel's gross national product was $818 million. In 1963 it reached $2,075 million. In the past year alone, the gross national product has risen 10 percent and national income 20.5 percent. This is a phenomenal rise and indicates the hard work of the Israeli people, and their dedication to their country.

Israel still has a balance-of-payments deficit—but exports have expanded at a rapid pace, from $29.7 million in 1948 to $343 million in 1963, thus reducing the deficit nearly $40 million from the 1962 figure.

This year Israel is redeeming its development bonds which have been sold in this and other countries since 1952. Investors have been paid $54 million.

There is Israeli progress in every area—in agricultural and industrial production, in education and housing, in land development, cultural activities and the integration of new immigrants.

Israel has worked hard but our U.S. foreign aid programs have played a significant role—and Israel is grateful for it. Our Government has extended over $1 billion in economic assistance to Israel since 1948. But these funds would not have been put to such good use without the dedication of these hardworking people. Israel is the shining demonstration of what the U.S. aid programs can do when it is properly applied and used.

Recently, AID Administrator David Bell cited Israel as an example of the effectiveness of our U.S. aid program. He said:

> Israel illustrates what can be done with a most unpromising base of natural resources, by intelligence, hard work, sound policies and the sensible application of modern scientific and technological knowledge. Israel has had extensive help from the United States and Europe, but above all it has had the kind of strong and sensible leadership which has been able to make the most out of its own resources, plus those obtained from outside. * * *
>
> Israel was just recently established as an independent nation whose future was very much in doubt. Today the Israelis have achieved a remarkable economic growth, with an annual growth rate for the last 5 years of around 10 percent—one of the highest in the world. U.S. soft loans and grants have helped in this process; they have done their work and have been successful; and the need for them will soon end.

These words are a tribute to Israel's people. I am sure we are proud of what the Israeli people have done to raise their living standards and to put their country so high in the technological progress. But they are concerned about their future. What Israel longs for most—peace with their Arab neighbors—is at this time being denied them. I hope that by next year the eastern Mediterranean people will have achieved a good measure of progress toward peace and understanding as well. I hope that the Arab States will see that the future progress of all peoples at this most important crossroads lies in peace and cooperation, rather than futile war and decide to bring cooperation to the whole region.

## Polish Constitution Day

EXTENSION OF REMARKS

OF

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 30, 1964*

Mr. RODINO. Mr. Speaker, it is always a pleasure to add my personal best wishes on Polish Constitution Day to the words of many other Americans and Polish people around the world. This year, while we were not in session in this Chamber on the anniversary itself of this historic document, it was my special pleasure to join many of my neighbors in my hometown and celebrate with them on this 173d birthday of this great and important document of world history.

The commemorative program was held in the Polish Falcon-Veteran Home, 790 South 20th Street, Newark, under the chairmanship of Stanley Grabowy of Short Hills, New Jersey. More than 500 of us were there for this happy, yet solemn occasion, including our former colleague and present mayor of Newark, Hugh J. Addonizio. The Lutnia Choir of St. Stanislaus Church provided a very moving musical setting for this patriotic gathering. And a most impressive mass tribute was paid our beloved, martyred President, John Fitzgerald Kennedy.

One of the speeches delivered during the course of the day was by Prof. Zbigniew Brzezinski, of Columbia University, who cited the parallel construction of the Polish Constitution with our own and called for all Polish-Americans to be in the forefront of the present civil rights struggle here in America. Professor Brzezinski said that despite our own documents, America cannot truly be great while the Constitution and Declaration of Independence do not apply to 10 percent of our population. Even as the Polish Constitution, our own has absolute commitments to freedom and social justice. And as Dr. Brzezinski stressed, we must strive to achieve these commitments.

Another very thrilling moment came when a young lad, Frank Linski, Jr., who has excelled as a student and athlete at Newark's East Side High School was presented with an American flag. Frank came to America 7 years ago and became an American citizen on February 29 of this year.

I would like at this time to address to this Chamber the remarks that I delivered yesterday, so that the Polish people throughout the world, as well as all Polish-Americans may understand how deeply all freedom-loving people honor the Polish Constitution and pray that the Polish nation may soon again be free to live under its protection.

### GREETING TO THE POLISH FALCON-VETERAN HOME

I am happy to deliver best wishes on the anniversary of this important event in Polish history. Polish leaders like King Stanislaw II, Hugo Kollontaj, and Ignacy Potocki, were brave and dedicated indeed to carry through the adoption of the progressive Constitution of May 3, 1791, in the face of impressive obstacles. But the pursuit of sound constitutional enunciation of the principles of the nation is essential for the survival of the nation. The Poles of 1791 were much like the Americans of 1789 in recognizing this fact. It is a measure of the similar devotion of Poles and Americans to freedom that for the last 175 years they have both been pursuing similar assurances of national unity and individual freedom.

The short life of the Constitution established in 1791 and forcibly abolished in 1795 was surely not due to lack of effort by the Poles. Many people in many lands know the story of Tadeusz Kosciuszko and his tiny army, which almost defeated the combined strength of Russia and Prussia. And the successful defense of Warsaw against the Russians from July 9 to September 6, 1794 is among the most heroic battles of all times. It ranks with the Battle of Warsaw in 1944, when the Soviet Army stood by while the Nazis savagely reduced Warsaw to rubble, as one of the best examples of Polish courage.

It is interesting to remember that the Constitution of 1791 was a part of a national revival in arts, letters, and education which lasted for two decades. Bishop Naruszewics wrote the epic "History of the Polish Nation." Stanislas Staszic composed his progressive political treatises. Hugo Kollontaj undertook the task of reviving the ancient great university at Krakow. Adam Czartoryski wrote the "Polish Bard." And perhaps most importantly King Stanislaw Augustus gathered about him the leading artists, historians, and thinkers of the day, both Polish and foreign. They contributed a great deal to the social renaissance which led to the dramatic adoption of the Constitution of May 3.

All of these things sound familiar to Americans. They are very similar to the events transpiring in the New World in those same exciting years of the 18th century. For this reason the many Poles who have come to the United States seeking the freedom which was denied them in their homeland have been most welcome and beneficial citizens. The liberal inheritance in arts and letters from Poland has done a great deal to enrich American culture. The bravery and physical vigor of Polish immigrants has contributed to the strength of America in both peace and war. It is saddening that today, after so many years of struggle, the Polish people are still denied the right to determine their national course, are still partitioned once again between predatory neighbors. But we can be assured that the strong Polish love for freedom has not diminished, nor the determination to be independent. If anything is sure, it is that so many sacrifices are not in vain, so much courage is not lost. Poland shall be free again.

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## Law Day

EXTENSION OF REMARKS
OF
## HON. JAMES C. CORMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. CORMAN. Mr. Speaker, tomorrow marks the seventh annual observance of Law Day.

Law Day has three main objectives: To foster a deeper respect for law by teaching how laws serve and protect all citizens, to encourage responsible citizenship by demonstrating that individual rights and freedoms involve individual obligations, and to emphasize the contrast between individual liberty under law and the subordination of individual rights under communism which on the same date stages its traditional May Day demonstrations.

The theme of Law Day this year is "Observe the Law: Key to Order, Justice, and Freedom." In his proclamation issued for Law Day, President Johnson called on the American people to "rededicate themselves to the ideals of equality and justice under law in their relations with each other and to cultivate that respect for law that is so vital to the democratic way of life."

The observance of Law Day has special meaning for America this year because we are engaged in a great national struggle to extend the rule of law to our Negro citizens who have long been denied their inalienable rights. For more than a century, they have been deprived of the equal opportunity due them in education, employment, and public accommodations.

The 15th amendment to the Constitution guarantees Negro citizens the right to vote. Yet the evidence is overwhelming that in some places Negroes are denied the right to vote solely because of their race. Our democracy cannot tolerate such a flagrant abuse of one of the fundamental rights of its citizens. Nor can we expect them to contentedly accept second-class citizenship status. There can be no order, justice, and freedom in the United States until each and every citizen can exercise his constitutional rights without fear of force or the threat of reprisal.

In the past decade the executive and judicial branches of Government have taken effective action to remedy the injustices suffered by the Negro population. But until 1963, the Congress had made only a token start toward redressing the just grievances of the Negro community. Now the House has passed an excellent civil rights bill and the Senate is considering it. This legislation is not the complete solution to our racial problems, but it is a moderate, constructive step which will reduce tensions and take civil rights disputes out of the streets and into the courts, where they can be settled according to law. This is the American way.

In 1964, lawyers have a great opportunity to play a vital role in the fight to guarantee equal justice under law to all Americans. Due to their training and standing in their communities, lawyers are uniquely qualified to explain the constitutional principles on which the civil rights bill is based and to counter the false and misleading propaganda which certain individuals and groups are spreading about this legislation. The Nation's lawyers should make themselves the leaders in supporting this bill and in establishing a national consensus in its favor.

On this Law Day, let all lawyers dedicate themselves to this goal. By such action we will be preserving and strengthening the fundamental principles of our democratic society. There is no more noble or worthwhile undertaking for our profession.

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## Fort Sheridan Celebrates 75th Anniversary

EXTENSION OF REMARKS
OF
## HON. ROBERT McCLORY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. McCLORY. Mr. Speaker, Fort Sheridan, which lies in the 12th Congressional District of Illinois, is celebrating this year its 75th anniversary of permanent military construction at this post. Indeed, it was 76 years ago that the Congress appropriated funds for this purpose and Fort Sheridan's destiny as a great bastion of defense and freedom was ordained.

As Representative in Congress for the 12th Congressional District, I am proud to report today to the Members of the House Fort Sheridan's glorious history of service to our country.

In 1887 a group of Chicago citizens, desiring the honor as well as the security of an Army post in close proximity to Chicago, offered a tract of land on the shores of Lake Michigan for a military reservation. By joint resolution of Congress on March 3, 1887, the offer was accepted.

During the first 10 years of its history, Fort Sheridan began to build a firm foundation as a military installation which served the purposes of freedom for the next 77 years.

Following the battleship *Maine* incident in 1898 and our country's subsequent participation in the Spanish-American War, Fort Sheridan's military life changed. From vigilance and intensive training, there was the movement of combat troops and medical personnel enroute to staging areas for embarkation to areas of conflict. This defense activity continued on through the Philippine Insurrection period of 1899–1902. The troop strength of the post fluctuated as soldiers moved in and out of Fort Sheridan—to Cuba, the Philippines, and China.

In 1913 Fort Sheridan responded to the disturbance on our country's southern border. The Mexican campaign served as a prolog for Fort Sheridan's greater role in carrying out a mission in defense of freedom.

In 1915 Fort Sheridan became the Nation's first post other than Plattsburg, N.Y., modeled after the Plattsburg plan of voluntary military training for officers.

With the actual declaration of war with Germany, the War Department assigned Fort Sheridan the responsibility to train officers from Illinois, Wisconsin, and Michigan, thus creating the most active officer training camp in the country.

Another milestone in the history of Fort Sheridan was the operation of its General Hospital No. 28 which became the Army's largest and most efficient hospital during 1918 and 1919. More than 60,000 patients passed through this hospital in those 2 years.

During this period, the impact of Fort Sheridan in the Midwest was felt when the Michigan Avenue Link Bridge was completed sooner than other civilian projects at the close of the war because the War Department ruled that the road from Sheridan to the Loop in Chicago was a military necessity and released the restriction on steel to complete the bridge.

In 1921, the hospital was officially closed and replaced by a garrison of infantry, cavalry, and artillery troops. In the 1930's Fort Sheridan moved forward with developments in a changing U.S. Army wherein the installation's cavalry and field artillery units were replaced by coast artillery units.

As a result of the first peacetime draft on October 29, 1940, Fort Sheridan's Recruit Reception Center was established as one of the earliest of 13 centers in our country.

It was in March 1942 that Fort Sheridan became the center for the training of antiaircraft units, commonly called AAATC. This program was a part of the sweeping reorganization of the War Department to foster unity and celerity of control, a broad decentralization of detail, and a more intimate relation between air and ground fighting.

Toward the end of 1942 the first members of the Women's Army Auxiliary Corps, later renamed the Women's Army Corps, arrived at Fort Sheridan. The WAC unit continued to render outstanding service throughout the years at this post.

Other major projects during the 1940's included: (a) Participation in the nationwide programs of rehabilitation of wounded veterans, (b) reception of a half million inductees through selective service and reenlistment, (c) separation of an average of 1,500 servicemen a day in the postwar progressive demobilization, and (d) administration of 46 branch prisoner of war camps in Illinois, Wisconsin, and Michigan.

In the years since World War II, the post was assigned new missions in the modern U.S. Army and became the hub of logistical support for a network of Nike missile-launching sites directed by the commanding general, 5th Region, U.S. Army Air Defense Command, with headquarters at Fort Sheridan.

The air defense of the great Midwest was centered at Fort Sheridan in the mid-1950's. Antiaircraft units gave way to the highly automatic present-day Nike defense systems to which the major portion of Fort Sheridan's annual budget provides logistical support.

In 1961, with more sophisticated Nike weapons employed, the air defense support lines from Fort Sheridan extended to Minneapolis, Minn.; Milwaukee, Wis.; Chicago, Ill.; and Gary, Ind. In 1962 it was announced that the logistical support of the Detroit area Nike sites was to be assigned to Fort Sheridan by 1965. The Nike sites so supported out of Fort Sheridan will protect over one-fourth of the population and industry of the United States.

Besides Nike mission support, Fort Sheridan was given the responsibility for other support missions to each of the 13 Midwest States which comprise the 5th Army of the United States. This very extensive area support in various technical and administrative fields is being administered through the installation at Fort Sheridan and several satellite subposts in Illinois, Wisconsin, and Minnesota.

The Secretary of Defense recommended recently that the 5th Army Command Headquarters should be transferred from Chicago to Fort Sheridan. In accordance with the recommendation, the House of Representatives has approved an appropriation of funds for construction of the new 5th Army Administration Building. Accordingly, Fort Sheridan which celebrates in 1964 the 75th anniversary of its first permanent military construction accepts its role as the proud administrative center of 5th Army activities.

This Defense Department move toward a more economic and efficient military operation assures a new and greater position in history for Fort Sheridan. As the seat of command in the 13-State area of the 5th Army, Fort Sheridan will continue to promote freedom and security throughout the Nation.

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## The Wabash Valley Association of Indiana

EXTENSION OF REMARKS

OF

## HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 30, 1964*

Mr. ROUDEBUSH. Mr. Speaker, approximately 300 members of the Wabash Valley Association from Indiana and Illinois are visiting Washington, D.C., this week to attend a series of hearings and meetings concerning flood control and water resource projects.

The expense of these annual trips here to meet with Members of Congress and the various agencies, including the Army Corps of Engineers, is borne by the members themselves who are dedicated to the improvement and conservation of their communities.

It is the pleasure of many of us in the Indiana congressional delegation each year to welcome these hard-working and sincere association members and join them in a series of conferences in which we discuss ways to improve and expedite the various projects proposed for our areas in Indiana and Illinois.

One of the highlights of the 3-day round of activities for members of the Wabash Valley Association is their joint appearance before the Public Works Subcommittee of the House Appropriations Committee to present the requests for fiscal 1965 appropriations.

It was my privilege again this year to appear with our association members and by unanimous consent, I include my remarks before the subcommittee in the RECORD.

The remarks are as follows:

REMARKS BY THE HONORABLE RICHARD L. ROUDEBUSH, U.S. HOUSE OF REPRESENTATIVES, SIXTH INDIANA CONGRESSIONAL DISTRICT, BEFORE THE PUBLIC WORKS SUBCOMMITTEE, HOUSE APPROPRIATIONS COMMITTEE, ROOM H-140, U.S. CAPITOL, THURSDAY, APRIL 30, 1964, 2 P.M.

Mr. Chairman, on behalf of the members of the Wabash Valley Association, and members of the Indiana congressional delegation, please allow me to express our sincere thanks for the very generous allotment of time you have granted us to present our requests today.

We are quite aware of the great demands on your time, and we are deeply appreciative.

As proponents and residents of the great Wabash River Valley, we are deeply indebted to this distinguished committee.

If the gratitude of Indiana, Illinois, and other of our neighboring States could be measured in dollars and cents—and that is impossible, of course—it would amount to approximately $290 million—a figure that is nine times more than the total amount requested for flood control projects in Indiana for fiscal 1965.

I didn't pull that figure of $290 million out of thin air. That is the amount of damages prevented by the Corps of Engineers projects during the severe flooding along the Ohio River Basin just last month.

The flood control and water resource projects that this committee has been allocating to our region are paying off in terms of property damage avoided, lives saved, crops conserved, and all the other ravages of floods that have cost our citizens millions and millions of dollars.

Although I support all of the projects requested by the Wabash Valley Association, I will direct my remarks to two areas with which I am vitally interested and are of particular concern in the Sixth Indiana Congressional District.

Of paramount importance to the residents of the Wabash Valley is the completion by 1967 of the comprehensive Wabash River Basin study.

This study will provide us with the knowledge and information necessary for orderly and responsible scheduling of our future projects necessary for the progress of the entire Wabash Valley.

I respectfully request that the amount of $778,000 be allocated for fiscal 1965 to continue this comprehensive study. This amount represents the Corps of Engineers recommended capability for the fiscal year.

The other project for which I want to lend my sincerest recommendation is a $50,000 item for planning work on the proposed Big Pine Creek Reservoir in Warren County, Ind.

This project near the Williamsport-Attica area is another vital link in a series of reservoirs on the Wabash River that are adding immeasurably to our ability to cope with flood threats, relieve drought conditions and provide wholesome and healthy outdoor recreation facilities for our people.

This Big Pine project has been approved by the district, division, and Chief of the Army Corps of Engineers, and I am most pleased to report that this week the final report of the project is scheduled to be transmitted with the signature of approval from the Secretary of the Army to the Bureau of the Budget.

We are anticipating early authorization requests to the Public Works Committee, and approval of our planning request by this committee would insure the earliest possible start on this long-awaited and most justifiable project.

Big Pine will be a 1,390-acre reservoir draining 333 square miles.

The damsite will be 2.5 miles upstream from the juncture of Big Pine Creek and the Wabash River in Warren County. Army Engineers estimate they will need about 8,300 acres for the project.

Late last fall, it was my privilege once again to tour the area selected for this reservoir. Together with members of the Wabash Valley Association—many of whom are here with us today—we walked and drove over this beautiful area which offers one of the most natural and logical reservoir sites we have ever viewed.

Big Pine will supplement previously authorized corps' projects including Cagles Mill Reservoir on Mill Creek, Mansfield Reservoir on Raccoon Creek, and the Mississinewa, Salamonie, and Huntington Reservoirs in the Upper Wabash Basin, agricultural levees, urban protection projects, and projects of other Federal and non-Federal agencies.

I wish to thank the committee again for the time allotted the Wabash Valley Association, and urge your most careful consideration of our requests. We believe our presentation is a frugal and careful assessment of the water resource and flood control needs for the Wabash Valley, and certainly every penny of this money, as in past years, will be a most wise investment in the future growth and progress of this area in the heartland of America.

Thank you.

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## Prayers and Bible Reading

EXTENSION OF REMARKS
OF
## HON. CHARLES E. CHAMBERLAIN
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
*Thursday, April 30, 1964*

Mr. CHAMBERLAIN. Mr. Speaker, I have today presented my statement to the House Judiciary Committee supporting the resolutions proposing an amendment to the Constitution to permit religious exercises in the public schools and the acknowledgment of our religious heritage in our public life. Like many of the Members of this Body who have received a large amount of mail in favor of such proposals, I have been urged to sign the discharge petition which seeks to bring to the floor for immediate consideration the resolution proposed by the gentleman from New York [Mr. BECKER]. And also like many of my colleagues who support the resolution in principle, I have refrained from signing the discharge petition out of concern for another principle, respecting the ordinary functioning of our legislative processes. Soon after I was first elected, in the 85th Congress, I was urged to sign discharge petitions then at the Speaker's desk. However, after reflecting about the matter I concluded that this was a most extraordinary procedure that should be reserved for the most extraordinary situation and that the very existence of such a rule should in itself virtually insure that it would not be necessary to resort to its use. In the CONGRESSIONAL RECORD of May 21st, 1957, I explained my position as follows:

> While I am not opposed to the rules of the House providing for discharge petitions. I do believe the taking of legislation from the consideration of the propertly designated committee disrupts the orderly functioning of the legislative process. For this reason, I am presently of the opinion that I will adhere to a policy of not signing any discharge petitions. Mr. Speaker, I have confidence in the committees of the House. Although they may not always act the way I might wish, nor as rapidly, nevertheless, our committee system has served the legislative branch of the Government well.

While I had hoped that the House Judiciary Committee would have initiated hearings on this subject at a much earlier date I did not believe that the ordinary procedures of the House had been sufficiently exhausted to require my making exception to my general policy. I preferred to join many of my colleagues in sponsoring individual resolutions of similar content as a means to effect the desired result of scheduling such committee hearings. I am gratified that the committee has now undertaken these hearings and am hopeful that they will result in the reporting of a resolution which the full House membership can consider.

Because of the wide interest and importance of this question I extend my remarks in the RECORD to include my statement to the Judiciary Committee so that it may be available to those who may wish to examine it before the committee hearings are printed.

The statement follows:

STATEMENT OF REPRESENTATIVE CHARLES E. CHAMBERLAIN, OF MICHIGAN, IN SUPPORT OF HOUSE JOINT RESOLUTION 802, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO PRAYERS AND BIBLE READING, PRESENTED TO THE COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, APRIL 30, 1964

I have joined in sponsoring a resolution proposing an amendment to the Constitution which reads as follows:

H.J. RES. 802

Joint Resolution proposing an amendment to the Constitution of the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. Nothing in this Constitution shall be deemed to prohibit the offering, reading from, or listening to prayers or Biblical Scriptures, if participation therein is on a voluntary basis, in any governmental or public school, institution, or place.

"SEC. 2. Nothing in this Constitution shall be deemed to prohibit making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place, or upon any coinage, currency, or obligation of the United States.

"SEC. 3. Nothing in this article shall constitute an establishment of religion.

"SEC. 4. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

I have done so in behalf of the great number of people of the Michigan Sixth District who have expressed their interest in such a proposal over the past year and out of the conviction that their case was soundly based.

At the outset, let it be said that the issue before us is not one of being for or against the doctrine of the separation of church and state, nor that those who proposed this amendment would seek to abridge it in any way. This amendment seeks only to restore, not tamper with, the original meaning of that doctrine as it has existed for some 175 years.

### WHY A CONSTITUTIONAL AMENDMENT?

There are those who believe that a constitutional amendment may be too extreme a remedy * * * that it would be best to wait in the hope that the Supreme Court might clarify the confused situation it has precipitated. There is, unfortunately, at present no indication that the Supreme Court is disposed to take such remedial action, and faced with the probability that any law passed by Congress would be summarily interpreted by that Court as a violation of the 1st amendment, there seems no other recourse than the amendment process. It would, of course, not be the first instance in which a position taken by the Supreme Court was overruled through the passing of a constitutional amendment, as was the case with the 11th amendment which nullified the decision reached in *Chisholm* v. *Georgia*, 2 Dallas 419, in 1793.

### THE AIM OF THE AMENDMENT

The criticism has been made that the advocates of this amendment are in reality not taking issue with the majority opinion of the Court in its recent decisions, but with the concurring minority opinions which do not carry the force of law. In a sense this is true, but it is apparent that essentially the same spirit and line of reasoning permeates both the majority and concurring opinions of the Court, even though different conclusions are reached as to specific applications. In any case, it should be noted well by such critics that a major part of the history of the Court is composed of cases wherein an earlier minority opinion has later become the controlling majority view. In addition, it is also to be recalled that the Supreme Court has often sought to justify its assumption of the broad powers of interpretation presumably reserved by the Constitution to the popularly elected legislative branch as being due to some failure of Congress to provide definitive legislation in many areas in which court cases have developed. By initiating this amendment, Congress, therefore, can be seen as fulfilling its proper function.

The essential issue at stake here, I believe, is simply whether the religious heritage of our Republic will be permitted to remain a living part of our Nation; whether in the case of our schoolchildren, they will come to know that heritage from personal experience or, at best, merely abstractly as something dead in our past.

This amendment does not propose that public schools assume the responsibility for the religious education of the child, but only that they be permitted to recognize the spiritual nature of man and to acknowledge the importance of religious knowledge as being of continuing relevance to our public life and not merely something of historical interest. For whether or not the child is permitted to recite, "Man does not live by bread alone," the fact remains that this assertion, which is essentially a religious one, poses a problem which an avowedly secular education cannot avoid. For our society was founded upon a concept of man as a spiritual creature from which is derived his natural rights and freedom. Faced by the problem embedded in that assertion, public education cannot assume the stance of "strict neutrality" which the Supreme Court thinks necessary and possible. It either accepts this concept of the spiritual nature of man and his freedom or it accepts a nonspiritual concept of man.

### OUR RELIGIOUS HERITAGE

Each Member of Congress, I believe, received a letter dated April 9, 1964, from the American Humanist Association, Vashti McCollum, president, urging us to oppose any prayer amendment, which stated in part, "This association is composed of individuals who cannot with integrity look to any supernatural order for the solution of man's problems." Members of this association have been in the forefront of those initiating the cases which have borne fruit in the decisions to which we here raise objection. No one would question their right to hold such a view. But we can properly question the validity of that view and the claim that in effect it be given preference over our traditional religious heritage in the conduct of our public life.

"We are a religious people whose institutions presuppose a Supreme Being," so said Mr. Justice Douglas, speaking for the majority of the Court in *Zorach* v. *Clauson*, 343 U.S. 306, 313, in 1952. There can be little doubt that this statement represents the consensus of opinion of our Founding Fathers, even of such a rigorous advocate of church-state separation as Thomas Jefferson who once posed the question which confronts us today, "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that their liberties are the gift of God?" And he, at another time, observed, the "rights of conscience are inviolate because we are answerable for them only to God."

### THE FIRST AMENDMENT

It seems incredible that a nation, after fostering nearly 200 years of perhaps the most remarkable period of religious liberty in history should all of a sudden be forced to present arguments to justify the foundation upon which that heritage is based. The original meaning of the first amendment phrase * * * "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof" * * * as found in the debates of the First Congress seem to be quite clear. According to James Madison, the Member of Congress who guided the first 10 amendments to passage, "The meaning of the words (is) that Congress should not establish a religion and enforce legal observance of it by law, nor compel men to worship God in any manner contrary to their conscience." To make the meaning even plainer, Madison sought to place the word "national" before "religion," however, anti-Federalist distaste for the word "national" apparently prevented its inclusion. As Madison explained in the House of Representatives on August 15, 1789, he believed "that the people feared one sect might obtain a preeminence, or two combined together and establish a religion to which they would compel others to conform * * * if the word national was introduced, it would point the amendment directly to the object it was intended to prevent." The first amendment, and presumably this understanding of it, was made applicable to State laws, of course, by virtue of the Supreme Court's interpretation of the 14th amendment.

### THE EFFECT OF PRAYER AMENDMENT

As I acknowledged earlier, I believe that the proposed prayer amendment is directed less at the letter of the law as laid down by the Supreme Court than at the questionable reasoning employed by the Justices in reaching these decisions. I believe that the decisions reached in *Engel* v. *Vitale*, 370 U.S. 421 (1962), and in *Abington School District* v. *Schempp*, 374 U.S. 203 (1963), should stand to the extent that I do not believe it is proper that there should be State laws requiring specific types of religious prayers and recitations. Rather, it would be better, I believe, for State governments to follow the example of the President who recommends but does not require the observance of religious days and exercises, such as Thanksgiving. It would then be left to the local school board in each community to determine what form this might take in conformance with the sectarian composition of that community Certainly, such religious activities as provided by the local school board would be on a voluntary basis. Should objection be raised by a scientific humanist or any other believer or nonbeliever, the issue would become a matter for mutual accommodation within that school system. If no accommodation were possible, at the very most it would mean that a particular school board might find it necessary to prohibit such religious exercises in its schools. It has been the great injustice of the Court's decisions that in seeking to redress grievances in one school system, it has struck down blindly religious exercises in all school districts throughout the land, without any regard as to whether such an issue existed in these districts or not. By taking this absolute, unreasoning approach to the doctrine of separation of church and state, the Court has defeated its own claim to remain "strictly neutral" in its interpretation of it.

I do not depreciate the very real difficulties that some school districts have experienced over this issue. The natural tendency has been for the school board to pass the problem on to State officials and legislatures; and it is likewise unsurprising that some of these officials, armed with these Court decisions, would interpret them in the most absolute way in order to avoid having to be responsible for making any distinctions between, for example, the singing of Christmas carols or the national anthem and reciting the Lord's Prayer. However, that many State officials have prohibited such exercises only reveals the barren logic upon which the Court's argument is based. Indeed, the Supreme Court has found it necessary to try to derail the logic of its argument before it reaches its most absurd conclusions, in order to uphold Sunday laws in *McGowan* v. *Maryland*, 366 U.S. 420 (1961), through a quasi-legal distinction between purely religious practices and practices though religiously inspired may be said to have a purely secular purpose. The inference here is that religious practices are unobjectionable so long as they have no significant public meaning or influence. Similarly, Mr. Justice Black in *Engel* v. *Vitale*, *supra*, at 435, suggests that:

There is of course nothing in the decision reached here that is inconsistent with the fact that schoolchildren and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God."

Here again the idea is presented that our religious heritage can be publicly acknowledged only as something of historical interest, something dead in our past.

All of this is not to say, of course, that in some cases, religious exercises in the schools have not been handled in such a way as to give rise to legitimate objections, but such violations in themselves do not necessarily mean that all religious exercises violate the separation of church and state doctrine. Any law may be unconstitutionally enforced or interpreted. It does not follow that the law itself is unconstitutional.

### THE MORAL FOUNDATION OF DEMOCRACY

We do not advance religious freedom by prohibiting public acknowledgment of the source from which all our liberties spring and are nourished. Religious liberty has flourished in America, not because a skeptical attitude toward religion prevented the Founding Fathers from establishing a national religion, but on the contrary, because of the great respect all Americans have publicly and privately held for the spiritual nature of man. The success of the doctrine of the separation of church and state rests upon that respect. American democracy itself rests upon a faith in man as a rational, moral and spiritual creature. The Communist mind denies the spiritual nature of man and erects in place of a transcendent God an imminent, Socialist state which demands the absolute, unquestioning obedience of its subjects. Under it, freedom is replaced by serfdom. The Communist state thus represents the most extreme and perverted instance of the fusion of church and state.

Our Founding Fathers did not consider democracy to be an end in itself. Democracy simply offers the best opportunity for men to achieve their full potentialities. Whether this opportunity is realized cannot be assured simply through a rigid, unreasoning adherence to democratic procedures and techniques. After all, both Hitler in democratic Germany and Peron in democratic Argentina came to power in perfectly legal fashion.

As a noted American theologian Reinhold Niebuhr asserts in his book, "The Children of Light and the Children of Darkness," * * * "Modern democracy requires * * * a religious basis, not only in order to anticipate and understand the perils to which it is exposed, but also to give it a more persuasive justification. Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary."

A professor of political science, John H. Hallowell, of Duke University, in his book, "The Moral Foundation of Democracy," elaborates upon this theme as follows:

"The ideals of democracy never have been and never will be achieved with perfection—they are goals constantly to be striven for but never perfectly realized. In the last analysis, democracy is 'a venture of faith in the moral and spiritual possibilities of man when entrusted with freedom.' Whether that freedom will be used to promote a just social order in which the moral and spiritual potentialities of all men equally will be encouraged to grow or whether it will degenerate into license and anarchy depends upon how each one of us conceives and uses it."

Perhaps no one understood better than Alexis de Tocqueville the moral and spiritual strength which made American democracy achieve what French democracy, torn by the antireligious fervor of the French Revolution, could not. In his classic study of "Democracy in America," based on his observation of the America of the 1830's, De Tocqueville offered the following judgment:

"When the religion of a people is destroyed, doubt gets hold of the higher powers of the intellect, and half paralyzes all the others. Every man accustoms himself to have only confused and changing notions on the subjects most interesting to his fellow-creatures and himself. His opinions are ill-defended and easily abandoned; and, in despair of ever resolving by himself the hard problems respecting the destiny of man, he ignobly submits to think no more about them. Such a condition cannot but enervate the soul, relax the springs of the will, and prepare a people for servitude. Not only does it happen, in such a case, that they allow their freedom to be taken from them; they frequently themselves surrender it. When there is no longer any principle of authority in religion, any more than in politics, men are speedily frightened at the aspect of this unbounded independence. The constant agitation of all surrounding things alarms and exhausts them. As everything is at sea in the sphere of the mind, they determine at least that the mechanism of society shall be firm and fixed; and, as they cannot resume their ancient belief, they assume a master.

"For my own part, I doubt whether man can ever support at the same time complete religious independence and entire political freedom. And I am inclined to think that if faith be wanting in him, he must be subject; and if he be free, he must believe."

### IN CONCLUSION

This amendment seeks in no way to promote any sect or religious institution, nor to inflame religious or antireligious passions. This amendment is meant simply as an affirmation of the traditional American philosophy of government by striving to guarantee in some degree that the concept of man and his freedom upon which this Nation was founded will not pass away as if in a dream. It is not a question of compelling citizens to be religious, but simply of confronting them with the truth of their heritage as a living heritage.

Mr. Justice Black, speaking for the majority of the Court in *Engel* v. *Vitale*, supra, at 436, closed his opinion by acknowledging that the Government endorsement of prayer seems relatively insignificant when compared with the governmental encroachments upon religion in the past, but said, quoting James Madison, "It is proper to take alarm at the first experiment on our liberties." Certainly we must be at least equally concerned with any experiment upon the very source of all our liberties.

For the reasons I have outlined, I have been moved to join many of my colleagues in proposing an amendment to the Constitution. A constitutional amendment is admittedly a most serious undertaking, and I would not claim that the specific wording of the resolution I have joined in introducing necessarily represents the only possible means available to achieve the amendment's purpose. But I would ask that the delicacy with which such an amendment must be handled not be made sufficient reason to prevent the committee from agreeing on language which will restore the traditional meaning of the doctrine of separation of church and state as one which permits the affirmation of our religious heritage in our public life. The apparent need for this amendment far transcends any of the difficulties that may be raised in its path.

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# SENATE

## FRIDAY, MAY 1, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, in reverence we come, while our hearts are saying, "Hallowed be Thy name." In all the tangled relationships of this mortal life, teach us to hallow our own name, keeping our honor bright, our hearts pure, our ideals untarnished, and our devotion to the Nation's weal high and true.

Amid the tests and tensions of these confused days, we seek in Thy presence a saving experience of inner quiet and confidence.

As we touch the lives of our fellow men, teach us to value beauty of heart or of brain in any strand of our common humanity, that we may become workers together with Thee, in binding all peoples and races into the perfect unity that shall yet belt the earth with good will when Thy radiant kingdom comes.

In the dear Redeemer's name we ask it. Amen.

### THE JOURNAL

On request by Mr. HUMPHREY, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 30, 1964, was dispensed with.

### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 287. An act to amend title II of the Social Security Act to include Nevada among those States which are permitted to divide their retirement systems into two parts for purposes of obtaining social security coverage under Federal-State agreement;

H.R. 1608. An act to amend the Tariff Act of 1930 to provide that certain aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes;

H.R. 2652. An act to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts;

H.R. 3348. An act to amend section 316 of the Social Security Amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program;

H.R. 4364. An act to provide for the free entry of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University;

H.R. 6455. An act to amend subsection (b) of section 512 of the Internal Revenue Code of 1954 (dealing with unrelated business taxable income);

H.R. 8268. An act to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory;

H.R. 8975. An act to provide for the tariff classification of certain particleboard;

H.R. 9311. An act to continue for 2 years the suspension of duty on certain alumina and to make permanent the suspension of duty on certain bauxite; and

H.R. 10669. An act to extend the Renegotiation Act of 1951, and for other purposes.

### HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H.R. 287. An act to amend title II of the Social Security Act to include Nevada among those States which are permitted to divide their retirement systems into two parts for purposes of obtaining social security coverage under Federal-State agreement;

H.R. 1608. An act to amend the Tariff Act of 1930 to provide that certain aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes;

H.R. 2652. An act to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts;

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H.R. 8975. An act to provide for the tariff classification of certain particleboard;

H.R. 9311. An act to continue for 2 years the suspension of duty on certain alumina and to make permanent the suspension of duty on certain bauxite; and

H.R. 10669. An act to extend the Renegotiation Act of 1951, and for other purposes.

## ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that following a quorum call, there be a morning hour, such as the Senate had yesterday, with a 3-minute limitation on statements.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CALL OF THE ROLL

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 185 Leg.]

Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Cannon
Case
Church
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Ellender
Fong
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alabama [Mr. HILL], the Senator from Washington [Mr. JACKSON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Louisiana [Mr. LONG], the Senator from Oregon [Mr. MORSE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Virginia [Mr. ROBERTSON], the Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. THURMOND] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from North Carolina [Mr. ERVIN], the Senator from Wyoming [Mr. MCGEE], the Senator from Wisconsin [Mr. NELSON], the Senator from Florida [Mr. SMATHERS], the Senator from Georgia [Mr. TALMADGE], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN] is necessarily absent.

The Senator from Kansas [Mr. CARLSON] is absent on official business to attend the Kennedy round trade agreement negotiations at Geneva.

The Senator from Kentucky [Mr. COOPER] and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from New York [Mr. JAVITS], the Senator from New Mexico [Mr. MECHEM], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

Morning business is in order.

## EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### REPORT ON CONSTRUCTION AT WILLIAM MARSH RICE UNIVERSITY, HOUSTON, TEX.

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the construction of a Space Science and Technology Building at the William Marsh Rice University, Houston, Tex.; to the Committee on Aeronautical and Space Sciences.

### REPORT ON EXCLUSION OF CERTAIN PERSONNEL FROM APPLICATION OF POLICY REQUIRING USE OF LESS THAN FIRST-CLASS AIR ACCOMMODATIONS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the exclusion of certain personnel from application of policy requiring use of less than first-class air accommodations, Canal Zone Government and Panama Canal Company, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### REPORT ON NEED FOR ADEQUATE EMPLOYMENT DATA FOR EVALUATING THE EFFECTIVENESS OF TRAINING UNDER MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for adequate employment data for evaluating the effectiveness of training under the Manpower Development and Training Act of 1962, Departments of Labor, and Health, Education, and Welfare, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### REPORT ON SIGNIFICANT SAVINGS TO BE ATTAINED AS A RESULT OF THE PURCHASE OF A LEASED AUTOMATIC DATA PROCESSING SYSTEM IN USE AT SANDIA LABORATORY

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on significant savings to be attained as a result of the purchase of a leased automatic data processing system in use at Sandia Laboratory, Atomic Energy Commission, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### REPORT ON REVIEW OF PROBLEMS RELATING TO MANAGEMENT AND ADMINISTRATION OF ELECTRONIC DATA PROCESSING SYSTEMS IN THE FEDERAL GOVERNMENT

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of problems relating to management and administration of electronic data processing systems in the Federal Government, dated April 1964 (with an accompanying report); to the Committee on Government Operations.

### AMENDMENT OF BANKRUPTCY ACT

A letter from the Director, Administrative Office of the U.S. Courts, Washington, D.C., transmitting a draft of proposed legislation to amend paragraphs b and c of section 14 of the Bankruptcy Act (with accompanying papers); to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the Simulated U.S. Senate, John Adams High School, South Bend, Ind., favoring the prohibition of predictive machinery or predictions during or before a national election; to the Committee on Rules and Administration.

A resolution adopted by the City Council of the city of Chicago, Ill., favoring the enactment of House bill 7152, the civil rights bill; ordered to lie on the table.

## REPORT ENTITLED "PATENTS, TRADEMARKS, AND COPYRIGHTS"—REPORT OF A COMMITTEE (S. REPT. NO. 1018)

Mr. McCLELLAN. Mr. President, from the Committee on the Judiciary, I ask unanimous consent to submit a report entitled "Patents, Trademarks, and Copyrights" pursuant to Senate Resolution 65, 88th Congress, 1st session, as extended, and I ask that the report be printed.

The PRESIDING OFFICER. The report will be received and printed, as requested by the Senator from Arkansas.

## TEMPORARY USE BY U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS OF CERTAIN DOCUMENTS IN CONTROL OF COMMITTEE ON GOVERNMENT OPERATIONS—REPORT OF A COMMITTEE

Mr. McCLELLAN. Mr. President, from the Committee on Government Operations, I report favorably an original resolution, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Is there objection to the present consideration of the resolution?

Mr. STENNIS. Mr. President, reserving the right to object, will the Senator from Arkansas tell us the nature of the resolution?

Mr. McCLELLAN. The custodian of the records of the Permanent Subcommittee on Investigations of the Committee on Government Operations has been subpenaed to produce certain records of the Permanent Subcommittee on Investigations in connection with the trial, now in progress in Chicago, of the United States against James R. Hoffa, and others. The committee has certain records which the Government wishes to produce at the trial. This resolution would authorize the committee to respond to the subpena. I have cleared the resolution with the leadership on both sides.

Mr. STENNIS. I have no objection.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the subpena duces tecum to which the resolution refers be printed in the Record at this point.

There being no objection, the subpena was ordered to be printed in the Record, as follows:

Subpena Duces Tecum—Case No. 63, C.R. 317—U.S. District Court, Northern District of Illinois

*To the Select Committee on Improper Activities in the Labor or Management Field, 85th Congress (McClellan Committee), Senate Office Building, Washington, D.C., Greeting:*

We command you that all business and excuses being laid aside, you and each of you attend before Hon. Richard B. Austin one of the judges of the U.S. district court for said district, on the 5th day of May A.D. 1964, at 10 o'clock in the ante meridiem in room 237 U.S. court house in Chicago, in said district, to testify and give evidence in a certain cause now pending and undetermined in said court, wherein the United States is plaintiff and Herbert R. Burris, et al., defendants, on the part of said United States. And that you also diligently and carefully search for, examine, and inquire after and bring with you, and produce at the time and place aforesaid, all toll call tickets, travel records, hotel registration cards and charges for the period January 1, 1957, to July 1963, concerning: Herbert R. Burris, S. George Burris, Benjamin Dranow, James R. Hoffa, Samuel Hyman, Calvin Kovens, Zachary A. Strate, Jr., and Abe I. Weinblatt, together with all copies, drafts, and vouchers relating to the said documents, and all other documents, letters, and paper writings whatsoever, that can or may afford any information or evidence in said cause. And this you shall in nowise omit, under the penalty of the law in that case made and provided.

To the marshal of the District of Columbia to execute and return in due form of law.

Elbert A. Wagner, Jr.,
*Clerk.*
[seal] By James T. Balog,
*Deputy Clerk.*

Dated April 24, 1964.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 321) was considered and agreed to, as follows:

Whereas the case of the *United States of America* v. *Herbert R. Burris, et al.*, criminal action No. 63, C.R. 317, is pending in the United States District Court for the Northern District of Illinois; and

Whereas the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations has in its possession, by virtue of Senate Resolution 255, section 5, 86th Congress, the records of the former Senate Select Committee on Improper Activities in the Labor or Management Field; and

Whereas the chief clerk, Ruth Young Watt, has received a subpena duces tecum from the United States Attorney for the Northern District of Illinois for documents of the said former Select Committee on Improper Activities in the Labor or Management Field to be used in connection with the aforementioned criminal proceedings; and

Whereas by the privileges of the Senate of the United States no document under the control and in the possession of the Senate of the United States can, by the mandate of processes of the ordinary courts of justice be taken from such control or possession but by its permission; and

Whereas by the privilege of the Senate and by rule XXX of the Standing Rules of the Senate, no document shall be withdrawn from its files except by the order of the Senate: Therefore be it

*Resolved,* That the chief clerk, Ruth Young Watt, of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, is authorized to comply with the aforementioned subpena duces tecum for documents and shall deliver these documents in the possession of the said subcommittee to the United States District Court for the Northern District of Illinois, and, said documents to be returned to the Senate Permanent Subcommittee on Investigations when the trial has been completed.

The preamble was agreed to.

## BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. INOUYE:

S. 2794. A bill to amend the Tariff Act of 1930 to permit the duty-free entry of certain articles grown, manufactured, or produced in the Ryukyu Islands; to the Committee on Finance.

(See the remarks of Mr. Inouye when he introduced the above bill, which appear under a separate heading.)

By Mr. BEALL:

S. 2795. A bill to amend the Merchant Marine Act, 1936, as amended, by inserting a new title X to authorize aid in developing, constructing, and operating privately owned nuclear-powered merchant ships; to the Committee on Commerce.

(See the remarks of Mr. Beall when he introduced the above bill, which appear under a separate heading.)

## RESOLUTION

## AUTHORIZATION OF TEMPORARY USE OF CERTAIN DOCUMENTS IN CONTROL OF COMMITTEE ON GOVERNMENT OPERATIONS BY U.S. DISTRICT COURT FOR NORTHERN DISTRICT OF ILLINOIS

Mr. McCLELLAN reported an original resolution (S. Res. 321) authorizing the temporary use by the U.S. District Court for the Northern District of Illinois of certain documents in the control of the Committee on Government Operations, which was considered and agreed to.

(See the above resolution printed in full when reported by Mr. McClellan, which appears under a separate heading.)

## AMENDMENT OF TARIFF ACT OF 1930 TO PERMIT DUTY-FREE ENTRY OF CERTAIN ARTICLES GROWN, MANUFACTURED, OR PRODUCED IN THE RYUKYU ISLANDS

Mr. INOUYE. Mr. President, the Ryukyu Islands, lying between Formosa and Japan, have remained under U.S. control ever since the end of World War II—nearly 20 years ago. While the residual sovereignty of these islands has remained with Japan, as long as the Communist threat looms large in Asia the Ryukyu Islands will, in all probability, continue to be one of our key military defense bastions in the Far East. We can all agree to the military significance of these islands for the United States. As a democratic nation, however, we must also be ever mindful of our responsibility for the well-being of the 1 million natives in this lovely chain of islands.

By and large, we can take pride in our record of accomplishments in aiding their civilian economy over the past 20 years. The growth of the economy of the Ryukyu Islands compares favorably with the best in all of Asia. Last year the gross national product—GNP—increased by 17.2 percent. Per capita income reached $292 in 1963—by Asian standards a very high figure.

As we look through the statistics on the Ryukyuan economy, however, one fact stands out as a danger sign and a warning. The balance of trade is so lopsided that unless corrective steps are taken this shaky structure may soon collapse. During 1963 imports amounted to $189 million while exports stood at $70 million. In other words, the Ryukyus exported only a little more than one-third of the value of her imports. Serious efforts are being made to narrow this gap but it still remains over a $100 million a year. Most of this gap is made up from American expenditures in these islands and the pressures for more American aid will continue as long as this balance of trade remains so lopsided.

The bill I am introducing today intends to help narrow this gap. I want to encourage more export of Ryukyuan products to the United States. The more dollars the Okinawans earn from exporting to us the less dependent they will be on American aid. The slogan "Trade Not Aid" is a noble one and appeals to the dignity and self-respect of most people. This is the spirit I am trying to encourage in this bill.

For all practical purposes I think it is fair to state that the United States has had virtually complete political control in Ryukyu Islands over the last 20 years and will continue to exercise it into the indeterminate future. Despite this fact, the people of these islands have received no preferential treatment whatsoever as far as their exports to the United States are concerned. The United States exercises political control over the vast expanses of the Trust Territory in the Pacific—we give the natives there all kinds of trade preferences. We do the same for the natives of Guam and Samoa where we fly the American flag. Unless we are prepared to relinquish control over the Ryukyu Islands within the foreseeable future, I cannot see the justification of continuing to treat imports into this country from the Ryukyus as though these islands were governed by some foreign sovereignty.

This bill that I introduce, for appropriate reference, is not a new creation. It is identical to the provisions we made for the Philippine Islands before they became independent. These provisions are less favorable than those we now provide for Guam, Samoa, Puerto Rico or the Trust Territories. I am hopeful, however, that this bill will not only help to strengthen the economy of the Ryukyu Islands but, even more important, to further cement the good relationship we have enjoyed with the people of the Ryukyu Islands these many years.

I ask unanimous consent that the bill be printed in the Record.

**The PRESIDING OFFICER.** The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 2794) to amend the Tariff Act of 1930 to permit the duty-free entry of certain articles grown, manufactured, or produced in the Ryukyu Islands, introduced by Mr. Inouye, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) general headnote 3 to title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R. part II, Aug. 17, 1963) is amended—

(1) by redesignating subdivisions (e) and (f) as subdivisions (f) and (g), respectively; and

(2) by inserting after subdivision (d) the following new subdivision:

"(e) Products of the Ryukyu Islands.—Articles imported from the Ryukyu Islands are subject to the rates of duty set forth in column numbered 1 of the schedules, except that all articles the growth or product of the Ryukyu Islands, or manufactured or produced in the Ryukyu Islands from materials the growth, product, or manufacture of the Ryukyu Islands or of the customs territory of the United States, or both, which do not contain foreign materials (except materials produced within the customs territory of the United States) to the value of more than 20 percent of their total value, coming to the customs territory of the United States directly from the Ryukyu Islands, are exempt from duty."

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

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## AMENDMENT OF THE MERCHANT MARINE ACT, 1936, AS AMENDED

**Mr. BEALL.** Mr. President, I introduce, for appropriate reference, a bill to amend the Merchant Marine Act, 1936, as amended, by inserting a new title 10 to authorize aid in developing, constructing, and operating privately owned, nuclear-powered merchant ships.

It is no secret that the American merchant marine fleet is in trouble. Our high capital and operating costs have made us noncompetitive with the foreign flags. As a matter of fact, American vessels carry less than 10 percent of U.S. exports and imports. The remaining 90 percent of these cargoes, now carried on foreign vessels, represents a fertile field from which the United States can regain maritime eminence.

In order to do so, however, we must be able to offer a ship with capabilities of greater speed and greater cargo capacity. The answer lies in the development of efficient nuclear powerplants. Our first breakthrough came with the development of the NS *Savannah*. Further technological advancements have been made, and the United States now has a clear lead in the development of nuclear merchant ships.

But other countries are entering the field, and, unless we press our advantage, we may well find ourselves taking a back seat to Germany, England, and Japan.

The initial cost of putting nuclear merchant vessels into operation will be high—and, for this reason, a subsidy will be necessary. But I am convinced that the development of a nuclear merchant fleet will ultimately result in a self-supporting fleet which will not require Federal subsidies. Such a fleet will surpass foreign flags in speed, cargo capacity, and operating costs. Such a fleet can and will bring more cargoes to American vessels.

We have an opportunity, through nuclear energy, to regain the lead in the maritime field. But time is of the essence. Private industry is already investing time and money. But, Federal assistance is necessary to make the initial effort economically feasible. I hope that the Merchant Marine and Fisheries Subcommittee will be able to schedule hearings in the near future. We should not delay in exploiting this opportunity.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record, together with an analysis of the bill.

**The PRESIDING OFFICER** (Mr. Inouye in the chair). The bill will be received and appropriately referred; and, without objection, the bill and the analysis will be printed in the Record.

The bill (S. 2795) to amend the Merchant Marine Act, 1936, as amended, by inserting a new title X to authorize aid in developing, constructing, and operating privately owned nuclear-powered merchant ships, introduced by Mr. Beall, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294), is amended by inserting a new title X to read as follows:

### "TITLE X—AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS

"Sec. 1001. Nuclear Merchant Ship Development.—This title is enacted to further implement the policy declared in section 101 of this Act, by fostering the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.

"Sec. 1002. Applications.—Any citizen of the United States may apply to the Secretary of Commerce for aid in developing and constructing nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States (including trade on the Great Lakes) and for aid in operating the ship in such commerce. Each application shall include (A) a detailed description of (1) the proposed ship or ships, (2) contemplated use in commerce, (3) the proposed development, construction, and operating programs, (4) technical justification and detailed estimate of development, construction, and operating costs, (5) the amount of aid applied for itemized separately for the development, construction, and operating programs, and (B) such other information as the Secretary of Commerce directs.

"Sec. 1003. Authority To Grant Aid.—If (a) the Secretary of Commerce determines that (1) the applicant (though the applicant may have had no experience in the operation of nuclear-powered ships) possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain ships in that area of the domestic or foreign commerce of the United States (including trade on the Great Lakes) in which it proposes to operate the proposed ship or ships, and (2) the proposed ship or ships will be suitable for operation in that area of the domestic or foreign commerce of the United States (including trade on the Great Lakes) in which the applicant proposes to operate the ship, and (b) the Secretary of Commerce, after appropriate consultation with the Atomic Energy Commission, determines that (1) the design of the proposed ship or ships embodies a significant departure from the design of existing nuclear-powered merchant ships which may lead to a significant reduction in the cost of constructing or operating future nuclear-powered merchant ships, and assures continued safe operation, and (2) a reasonably accurate appraisal of the scope and cost of the required research and development and the cost of constructing and operating the completed ship or ships can be made, then (c) the Secretary of Commerce may agree to grant the applicant aid of the kind and amount determined under section 1005 of this title. Significant design departures under this section may include, but are not limited to, the following: (1) reactor systems not yet demonstrated aboard ship which potentially have greater economic efficiency, (2) decreased weight per power output, (3) extension of power range appreciably above, or reduction of power range appreciably below, the power ranges of existing nuclear-powered merchant ships, (4) utilization of multiple reactor systems, (5) major modifications in design, arrangement, fabrication, or operating techniques, and (6) engineering of an existing reactor concept into a new ship type not previously adapted to nuclear power.

"Sec. 1004. Licensing.—(a) Section 101 of the Atomic Energy Act of 1954 (42 U.S.C. 2131) (which provides that it is unlawful 'for any person within the United States' to transfer a utilization or production facility except under a license issued by the Commission) shall apply to the transfer of a utilization or production facility that is part of the propulsion machinery of a merchant ship that is documented under the laws of the United States, and to the transfer of a nuclear-powered merchant ship that is documented under the laws of the United States, by a citizen of the United States in the United States or its territorial waters, or on the high seas, or in any foreign nation or its territorial waters.

"(b) That part of subsection (d) of section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2133) which prohibits the issuance of licenses for 'activities which are not under or within the jurisdiction of the United States' shall not apply to the issuance of licenses to transfer, receive in interstate commerce, manufacture, produce, acquire, or possess a utilization or production facility for use as part of the propulsion machinery of a ship that is documented under the laws of the United States (or, if construction of the ship has not begun or has not been completed, which is required by this Act to be documented under the laws of the United States when completed) is owned by citizens of the United States and operates, or when completed is to operate, in the domestic or foreign commerce of the United States (including trade on the Great Lakes). The operation of a nuclear-powered merchant ship in the domestic or foreign commerce of the United States (including trade on the Great Lakes) is not, with respect to its propulsion machinery, the importation or exportation of a utilization or production facility of the utilization or production facility is not normally intended to be removed from the ship outside the United States for the purpose of sale or transfer of ownership.

"(c) Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) (which provides for advice to the Atomic Energy Commission from the Attorney General whether a proposed license would create a situation inconsistent with the antitrust laws, and authorizes the Commission to suspend or revoke a license if a court finds that the licensee has violated the antitrust laws) shall not apply to activities conducted under an agreement approved by the Federal Maritime Board under section 15 of the Shipping Act, 1916, as amended (46 U.S.C. 814).

"Sec. 1005. Types and Amount of Aid.—(a) If the Secretary of Commerce makes the determinations specified in section 1003 of this title, the Secretary of Commerce may negotiate and enter into a contract with the applicant for the development, construction, and operation of the proposed ship or ships and may grant to the applicant so much of the aid listed below as the Secretary determines is necessary and appropriate to carry out the purposes of this title, in view of the financial risk to the applicant and the contribution which the development, construction, and operation of the proposed ship or ships may make toward carrying out the purposes of this title. The Secretary of Commerce may (1) with the scientific and engineering advice of the Atomic Energy Commission, assist in negotiating and become a party to, (A) contracts between the applicant and others for the development of the proposed nuclear-powered merchant ship or ships and may agree in such contracts to pay the contractor (not the applicant) all of, or part of, the excess of the cost of developing the proposed ship or ships over the estimated fair and reasonable cost of developing a comparable conventional ship, and (B) contracts between the applicant and others for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the contractor (not the applicant) all of, or part of, the excess of the cost of constructing the proposed ship or ships in the United States over the estimated fair and reasonable cost of constructing a comparable conventional ship in the United States, (2) waive or reduce established Atomic Energy Commission charges for the use of source and special nuclear materials in the development of the proposed ship or ships and in the operation of the completed ship or ships or not exceeding the first five years of its operation, (3) assist in training a crew for the ship or ships, (4) conduct studies of and assist in planning and designing appropriate shore facilities to service the ship or ships, (5) make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information, (6) provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the Department or agency which operates the laboratory, and with or without charge to the applicant, (7) provide, without charge, design review services, ship construction inspection services and ship operation advisory services, and (8) if the Atomic Energy Commission consents, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), to the creation of a mortgage or lien on the nuclear-powered merchant ship or ships, insure until title XI of this Act the interest on and the unpaid balance of the principal amount of the loan and mortgage if the loan and mortgage are eligible for insurance under that title; and in determining such eligibility the Secretary is not required to make the finding otherwise required by subsection (c) of section 1104 of this Act, and may make the findings required by subsections (a)(1) and (b)(1) of section 1104 of this Act even though the applicant may not have had experience in the operation of nuclear-powered merchant ships.

"(b) In providing the aid specified in subsection (a) of this section, the Secretary of Commerce may, upon payment of the costs, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.

"Sec. 1006. Inventions.—Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) (which provides that any invention useful in the production or utilization of special nuclear material or atomic energy which is made under a contract or other relationship with the Commission shall be deemed to have been made by the Commission unless the Commission waives its claim) shall apply to contracts, subcontracts, arrangements, or other relationships with the Secretary of Commerce entered into under this title and that section shall be administered by the Atomic Energy Commission as though the Atomic Energy Commission had entered into such contracts, subcontracts, arrangements, or other relationships.

"Sec. 1007. Construction in the United States.—All ships whose development, construction, or operation is aided under section 1005 of this title shall be constructed in a shipyard within the continental limits of the United States, and in such construction, so far as practical, only articles, materials, and supplies of the growth, production, or manufacture of the United States, as defined in paragraph K of section 401 of the Tariff Act of 1930 (19 U.S.C. 1401(K)), shall be used.

"Sec. 1008. Recaptures.—All contracts which the Secretary of Commerce enters into under this title (including section 1010) with a shipbuilder or nuclear reactor builder (hereafter called the contractor) shall provide that the contractor shall (a) upon completion of the contract report under oath to the Secretary of Commerce, in such form as the Secretary prescribes, the total contract price, the total cost of performing the contract, the amount of the contractor's overhead charge to such cost, the net profits and the percentage such net profit bears to the contract price, and such other information as the Secretary prescribes, (b) pay to the Secretary (for coverage into miscellaneous receipts of the Treasury) profit, determined as prescribed by the Secretary, in excess of 10 per centum of the total contract prices of contracts entered into by the Secretary with the contractor under this title which are completed by the contractor within the income taxable year, but the surety under such contracts shall not be liable for the payment of such amount and, if the contractor suffers a net loss on all such contracts completed in any taxable year, such net loss shall be allowed as a credit in determining the excess profit, if any, for the next income taxable year, (c) make no subdivisions of any contract or subcontract for the same article or articles for the purpose of evading the provisions of this Act, and any subdivision of any contract or subcontract involving an amount in excess of $10,000 shall be subject to the conditions herein prescribed, (d) agree that the books, files, and all other records of the contractor, or any holding, subsidiary, affiliated, or associated company, shall at all times be subject to inspection and audit by any person designated by the Secretary, and the premises, including ships and nuclear or other machinery under construction, shall at all reasonable times be subject to inspection by the agents of the Secretary, and (5) make no subcontract unless the subcontractor agrees to the foregoing conditions. The Renegotiation Act of 1951 (50 App. U.S.C. 1211-1224), as amended, shall not apply to contracts covered by this section.

"Sec. 1009. Documentation.—Any ship developed, constructed, or operated with aid under this title shall be documented under the laws of the United States and shall remain so documented for twenty years or so long as it is propelled by nuclear propulsion, whichever is longer.

"Sec. 1010. Construction-Differential Subsidy.—(a) In addition to the aid authorized by section 1005 of this title, the Secretary of Commerce may grant construction-differential subsidy to applicants for aid in constructing a nuclear-powered merchant ship or ships who qualify under title V of this Act (46 U.S.C. 1151–1161). Aid may be granted under title V of this Act even though the applicant has not had experience in the operation of nuclear-powered ships. With respect to nuclear-powered merchant ships, construction-differential subsidy in title V of this Act means the excess of the estimated fair and reasonable cost of building a comparable conventional ship in a shipyard in the continental United States over the estimated fair and reasonable cost of building such comparable conventional ship in a representative foreign shipyard, but not exceeding 55 per centum of the estimated fair and reasonable cost of building such comparable conventional ship in a shipyard in the continental United States.

"(b) The purchase or requisition price under section 802 of this Act (46 U.S.C. 1212) of a nuclear-powered merchant ship with respect to which construction-differential subsidy has been paid is the value of the ship but not exceeding the cost of the ship to the applicant plus the cost of improvements which are capitalized by the owner and allowed for Federal income tax purposes, both depreciated on a schedule accepted or adopted by the Internal Revenue Service, or the scrap value of the ship, whichever is greater.

"Sec. 1011. Operating-Differential Subsidy.—The granting of aid under this title to develop, construct, or operate a nuclear-powered merchant ship does not preclude the granting of operating-differential subsidy under title VI of this Act (46 U.S.C. 1171-1182), if the applicant qualifies under that title except that with respect to such a ship or ships operating-differential subsidy may not be granted with respect to fuel costs for any period with respect to which the Secretary of Commerce has waived or reduced the established price of nuclear fuel under section 1005 of this Act. Operating-differential subsidy may be granted under title VI of this Act even though the applicant has not had experience in the operation of nuclear-powered merchant ships.

"Sec. 1012. Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"Sec. 1013. Expiration.—Sections 1003 (which authorizes the making of determinations which are prerequisite to contracting to give aid to domestic trade and foreign trade operators) and 1010(a) (which redefines the term 'construction-differential subsidy' with respect to nuclear ships) expire at midnight on the last day of the sixtieth month following the month in which this Act is enacted."

The analysis presented by Mr. BEALL is as follows:

### STATEMENT OF PURPOSE AND PROVISIONS OF BILL TO AMEND THE MERCHANT MARINE ACT, 1936, AS AMENDED, TO AUTHORIZE AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS

The purpose of the draft bill is to enlist the participation of private industry in the development of the potentialities of nuclear power for the propulsion of merchant ships.

The nuclear-powered merchant ships which can be built at the present time cannot be built and operated at a cost low enough to be economically competitive with conventional merchant ships. On the other hand, the only way of solving the problems which must be solved before economically competitive nuclear-powered merchant ships can be attained is to gain practical building and operating experience with the best nuclear-powered merchant ships that at present can be developed. These ships would be essentially developmental ships. The draft bill would authorize the Secretary of Commerce to furnish aid to private industry in the development, construction, and operation of these essentially developmental ships, for the purpose of promoting the development of economically competitive nuclear-powered merchant ships.

Under the draft bill, any citizen of the United States could apply to the Secretary of Commerce, or his delegate, for aid in the development, construction, and operation of a nuclear-powered merchant ship. The application would be required to include (1) a detailed description of the proposed ship, (2) its contemplated use in commerce, (3) the proposed development, construction, and operating programs, (4) technical justification, safety analysis, and detailed estimate of development, construction, and operating costs, (5) the amount of aid applied for itemized separately for the development, construction, and operating programs, and (6) such other information as the Secretary of Commerce directs.

The Secretary of Commerce would be authorized to furnish aid if, after appropriate consultation with the Atomic Energy Commission, he makes the following determinations;

1. The applicant is qualified to operate and maintain the ship;
2. The ship is adapted to the proposed use;
3. The proposed ship embodies significant design departures which may lead to a significant reduction in the cost of constructing or operating future nuclear-powered merchant ships, and assures continued safe operation;
4. A reasonable accurate appraisal can be made of the cost of the required research and development and of the cost of constructing and operating the completed ship.

The draft bill prescribes the maximum aid that may be granted. This is divided into development aid, construction aid, and operating aid, so that the Secretary of Commerce will be able to grant the type of aid sought by the applicant in an amount which would be justified on the basis of the financial risk of the proposal to the applicant and the technological advances involved in the proposal. No applicant would receive the maximum amount of all three types of aid.

The aid the Secretary of Commerce would be authorized to furnish under the draft bill is as follows:

1. All, or part of, the excess of the fair and reasonable cost of developing the proposed ship over the estimated fair and reasonable cost of developing a comparable conventional ship. The Secretary of Commerce would furnish this aid by becoming a party to the development contracts and paying such amount to the contractors (not the applicant).
2. All, or part of, the excess of the fair and reasonable cost of constructing the proposed ship in the United States over the estimated fair and reasonable cost of constructing a comparable conventional ship in the United States. The Secretary of Commerce would furnish this aid by becoming a party to the ship construction contract and paying such amount to the contractor (not the applicant).
3. Waiver or reduction of established Atomic Energy Commission charges for the use of source and special nuclear materials in the development of the proposed ship and in the operation of the completed ship during the first 5 years of its operation.
4. Assist in training a crew for the ship.
5. Conduct studies of, and assist in planning and designing, appropriate shore facilities.
6. Make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information.
7. Provide research and development in government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant.
8. Provide, without charge, design review services, ship construction inspection services, and ship operational advisory services.
9. If the Atomic Energy Commission consents, under section 184 of the Atomic Energy Act of 1954, to the creation of a mortgage or lien on the nuclear-powered merchant ship, insure under title XI of the 1936 act the interest on and the unpaid balance of the principal amount of the loan and mortgage on the ship, if the loan and mortgage are eligible for insurance under that title. In determining such eligibility, the Secretary (A) would not be required to make the finding otherwise required by section 1104(c) of the act that the property or project with respect to which the mortgage or loan is executed will, in the Secretary's opinion, be economically sound, and (B) would be permitted, even though the applicant may have no experience in the operation of nuclear-powered ships, to make the findings required by section 1104(a)(1) and (b)(1) that the applicant possesses the experience and other qualifications necessary to the adequate operation and maintenance of the property.

In order to adapt some of the provisions of the Atomic Energy Act of 1954 to nuclear-powered merchant ships, the draft bill would change the coverage of those provisions as applied to merchant ships.

Section 101 of the Atomic Energy Act of 1954 (42 U.S.C. 2131), which provides that it is unlawful "for any person within the United States" to transfer a utilization or production facility except under a license issued by the Commission would be made applicable to the transfer of a utilization or production facility that is part of the propulsion machinery of a ship that is documented under the laws of the United States, and to the ship itself, by a citizen of the United States whether he is in the United States or anywhere else.

That part of section 103(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2133), which prohibits the issuance of licenses "for activities which are not under or within the jurisdiction of the United States," is expressly made inapplicable to the issuance of licenses to transfer, receive in interstate commerce, acquire, or possess a utilization or production facility for use as part of the propulsion machinery of a ship.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135), which provides for advice to the Atomic Energy Commission from the Attorney General whether a proposed license would create a situation inconsistent with the antitrust laws, is made inapplicable to activities conducted under an agreement approved by the Federal Maritime Board under section 15 of the Shipping Act, 1916, as amended.

Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), which provides that any invention useful in the production or utilization of special nuclear material or atomic energy which is made under a contract or other relationship with the Commission shall be deemed to have been made by the Commission unless the Commission waives its claim, is made applicable to contracts, subcontracts, arrangements, and other relationships with the Secretary of Commerce entered into under the draft bill, and provision is made for administration by the Atomic Energy Commission.

The draft bill contains provisions adapted from title V of the 1936 act which require construction of the vessels in United States, documentation under U.S. laws for 20 years or so long as the ship is propelled by nuclear power, whichever is longer, and recapture of shipbuilder's profits. The Renegotiation Act of 1951 is made inapplicable.

In addition to the aid which has been discussed which would be available both to operators in domestic trade and operators in foreign trade, the draft bill would adapt titles V and VI of the Merchant Marine Act, 1936, to furnish construction differential subsidy (as defined in the draft bill) and operating differential subsidy with respect to nuclear-powered merchant vessels of applicants who can qualify under the provisions of titles V and VI.

The construction aid that has been discussed which the draft bill would authorize with respect to nuclear-powered merchant ships, both to operators in domestic trade and operators in the foreign trade, is all or part of the excess of the fair and reasonable cost of constructing the nuclear-powered merchant ship in the United States over the estimated fair and reasonable cost of constructing a comparable conventional ship in the United States. The difference under the bill is between U.S. costs of the nuclear ship and the conventional ship.

Under title V construction differential subsidy is at present authorized in the amount of the excess of the U.S. cost of building the nuclear ship (the bid of the shipbuilder building the ship) over the estimated fair and reasonable foreign cost of building the same nuclear ship, but not exceeding 50 percent of the U.S. cost. This measure of aid is not appropriate with respect to nuclear ships, because the U.S. operator's nuclear ship will not be in competition with foreign-built nuclear ships. It will be in competition with foreign-built conventional ships.

The draft bill, therefore redefines the term "construction-differential subsidy" with respect to nuclear-powered merchant ships to mean the excess of the estimated fair and reasonable U.S. cost of building a comparable conventional ship over the estimated fair and reasonable cost of building such comparable conventional ship in a representative foreign shipyard, but not exceeding 50 percent of the U.S. cost of building such comparable conventional ship.

If the subsidized operator receives all of the construction aid that is available under the draft bill to operators in the domestic trade and operators in the foreign trade, he will receive the excess of the U.S. cost of building the nuclear ship over the U.S. cost of building a comparable conventional ship. If he receives in addition construction-differential subsidy as redefined in the draft bill, he will receive in addition the excess of the U.S. cost of building a comparable conventional ship over the foreign cost of building the same comparable conventional ship. This would give him the nuclear-powered merchant ship at the foreign cost of building the comparable conventional ship.

This is parity under the principles of the Merchant Marine Act, 1936.

To the extent that the subsidized operator receives less than this because he may receive less than the maximum construction aid available to both domestic trade and foreign trade operators, the difference is his contribution to the development of nuclear-powered merchant ships.

The draft bill authorizes operating-differential subsidy under title VI with respect to nuclear ships for those who can qualify under that title, except that for any period with respect to which the United States has waived or reduced established fuel charges under section 1005 of the bill such subsidy cannot be granted with respect to fuel costs. After the expiration of such period, if the U.S. cost of nuclear fuel exceeds the foreign cost of nuclear fuel, and this difference places the U.S. operator at a substantial disadvantage in competition with his foreign competitors, subsidy in the amount of the difference would be authorized.

Since the draft bill contains developmental legislation, it is temporary in nature. The sections of the bill which authorize the making of findings which are prerequisite to contracting to grant aid to domestic trade and foreign trade operators, and the section that redefines "construction-differential subsidy" expire 5 years after enactment of the bill. It could be determined at that time whether and for how long the legislation should be extended. The expiration of the draft bill would leave in effect the now existing provisions of the 1936 act which permit the granting of construction-differential subsidy and operating-differential subsidy with respect to nuclear-powered merchant ships.

## CIVIL RIGHTS ACT OF 1963—AMENDMENTS (AMENDMENT NO. 559)

Mr. DIRKSEN submitted an amendment, intended to be proposed by him to the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. MORTON (for himself and Senators Williams of Delaware, Miller, and Jordan of Idaho) proposed an amendment (No. 560), to the Talmadge amendment (No. 513), which is pending.

## EXTENSION OF TIME FOR COMMITTEE ON JUDICIARY TO FILE CERTAIN REPORTS

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I ask unanimous consent that the time for the filing of reports, pursuant to Senate Resolutions 56, 63, and 66, of the 88th Congress, be extended to June 1, 1964.

This request concerns the annual reports of certain subcommittees of the Committee on the Judiciary; namely, the Antitrust and Monopoly Subcommittee, the Juvenile Delinquency Subcommittee, and the Refugees and Escapees Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL COSPONSOR OF SENATE BILLS 2764 AND 2765

Mr. CANNON. Mr. President, I ask unanimous consent that, at their next printing, the name of the Senator from Arizona [Mr. Goldwater] may be added as an additional cosponsor of Senate bill 2764, with respect to the proof of value necessary in the case of certain mining claims located prior to July 23, 1955, and Senate bill 2765, to amend the act relating to the multiple use of the surface of the same tracts of the public lands in order to provide that certain varieties of sand and gravel shall be considered as valuable mineral deposits under the mining laws of the United States, both of which were introduced by me on April 23, 1964.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT OF LAW RELATING TO MULTIPLE USE OF SURFACE OF CERTAIN TRACTS OF PUBLIC LANDS—ADDITIONAL COSPONSOR OF BILL

Under the authority of the order of the Senate of April 23, 1964, the name of Mr. Mechem was added as a cosponsor of the bill (S. 2765) to amend the act relating to the multiple use of the surface of the same tracts of the public lands in order to provide that certain varieties of sand and gravel shall be considered as valuable mineral deposits under the mining laws of the United States, introduced by Mr. Cannon on April 23, 1964.

## MAY 1—LOYALTY DAY AND LAW DAY, U.S.A.

Mr. DODD. Mr. President, May 1 is a particularly important day to the American people because it marks the annual observance of both Loyalty Day and Law Day in this country.

While these two celebrations are separate and distinct, they have the common purpose of recognizing our heritage of freedom and reaffirming our loyalty to the United States and to the principles of equality and justice under law.

Loyalty Day originated as far back as 1928 or 1929. By the late 1940's, a National Loyalty Day Federation had been established, and Governors were proclaiming May 1 as Loyalty Day in their respective States. In 1955, President Eisenhower issued a national proclamation designating this day as Loyalty Day, and in 1958, a permanent statute was enacted by Congress to make it an annual observance. Loyalty Day is celebrated in many schools, public and private organizations, and government offices throughout the country.

In 1958, May 1 was designated also as Law Day, U.S.A., by Presidential proclamation. This idea first originated and took hold among bar associations and legal groups. In calling for a rededication to the ideals of equality and justice and the rule of law, the observance of Law Day soon gained attention and wide support outside the legal profession.

In 1961, 3 years after the original proclamation, Congress formally designated May 1 as Law Day, U.S.A., to be observed annually. It is estimated that this year there will be more than 100,000 Law Day, U.S.A., programs held throughout the country, including addresses, school assemblies, mock trials, essay contests, and many special shows and exhibits.

Loyalty Day and Law Day are dedicated to those concepts which embody the highest ideals, and at the same time the most basic working principles of the American system. It is these principles which differentiate the free world from the Communist world. It is respect for, dedication to, and observance of these which make freedom, order, and democracy possible.

On the same day that we Americans pay tribute to our heritage of freedom, the Communist world witnesses a display of military might which describes better than words the inherent nature of the totalitarian system—physical force. This juxtaposition of the Communists' May Day and America's Loyalty Day and Law Day celebrations makes the sharp contrast between the ideals, beliefs, and practices of the two systems especially meaningful.

One of the primary objectives of both Law Day and Loyalty Day is the education of our citizenry in the great tradition and meaning of democracy. It is certainly true that one cannot effectively defend or uphold that which he does not understand. It is also true that when one begins to take a blessing or privilege for granted, and begins to ignore the concurrent responsibilities, he is then in danger of losing it.

In this time of acute world problems and deadly cold war, it is most imperative that we and future generations understand what it is that we are seeking to protect and foster in this concept of democracy. To fully understand and appreciate the American system, we cannot turn to the writings of one or two men, as the Communists turn to Marx or Lenin, but we must view centuries of tradition, from Biblical times to the present, and incorporate the many concepts and ideals which have inspired men in their struggle for freedom and justice.

In looking back over the history of the United States, remembering the many events of particular significance and the unforgettable words of great leaders, we see very vividly the difference between democratic government and the totalitarian regime and what each means for the individual. And while we know that our system is certainly not perfect, we can see that it is always receptive to the changes which time necessarily brings and, more important, to the efforts of men to improve it.

On this May 1, I believe we must be doubly aware of the threats to our democratic freedoms, not the least of which is public apathy.

As we rededicate ourselves today to the preservation of this Nation and her traditional freedoms, we must also be willing to accept the great demands which America makes of her people. As President Johnson has said in connection with these May 1 celebrations:

> A viable democracy requires understanding of the nature and basis of our freedoms and recognition of the individual responsibilities which those freedoms impose.

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## INCORRUPTIBLE JOHN WILLIAMS—"THE CONSCIENCE OF THE SENATE"

Mr. BENNETT. Mr. President, the May issue of the Reader's Digest contains a story relating to the life and work of one of our most distinguished colleagues, the senior Senator from Delaware [Mr. WILLIAMS]. It is a factual account of his record; but, perhaps more importantly, the account could well serve as a valuable and thrilling guide and lesson to our young men and women of today—how a young man on a farm worked his way through life with honor and, as the magazine story relates, was termed "the conscience of the Senate" by the majority leader [Mr. MANSFIELD].

I ask unanimous consent that the story from the Reader's Digest, written by Mr. James Daniel, appear in the body of the RECORD at the end of my remarks. Suffice it to say, Mr. President, it is a great experience to be able to work and serve with the senior Senator from Delaware [Mr. WILLIAMS].

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### INCORRUPTIBLE JOHN WILLIAMS—"THE CONSCIENCE OF THE SENATE"

(By James Daniel)

Because so much important legislative action takes place in committees, the Chamber of the U.S. Senate is normally occupied by only a handful of Senators. But let word spread that tall, lanky Senator JOHN JAMES WILLIAMS, of Delaware, is about to make a speech and Members hurry in, while reporters rush into the press gallery.

In almost 18 years in Washington, JOHN WILLIAMS, speaking from the floor of the Senate, has exposed more graft and corruption, more waste and mismanagement in Government operations than any other Member of Congress in memory. He is a Republican, but his efforts to produce clean government are rigidly nonpartisan.

During the Truman administration, it was WILLIAMS who dug out the gamey story of the tax-fixing, shakedown, and influence-peddling "mess in Washington." During the Eisenhower administration, it was WILLIAMS who blasted Sherman Adams out of the White House for his involvement with Bernard Goldfine. And, currently, WILLIAMS is the prime mover behind the Senate Rules Committee's investigation of Robert G. "Bobby" Baker, former secretary to the Democratic majority of the Senate.

With his shy, hesitant smile and deceptive "country" look, JOHN WILLIAMS has so little of the commanding presence of many of his colleagues that even today Capitol elevator operators, under orders to give Members of Congress precedence, have been known to mistake him for a tourist. Nor do his speeches contain the usual rhetorical flourishes. Tightly packed with facts and figures, they are delivered in a voice so soft that you have to lean forward to hear him. A colleague has said, "JOHN's delivery is about as emotional as that of a county librarian reading her annual report to the board of supervisors."

WILLIAMS' speeches are indeed reports to supervisors; in this case the supervisors are the 70 million Americans who pay taxes to their Government. His concern is to see that the taxes are fairly collected, and the proceeds honestly, equitably, and frugally expended.

In the Senate his integrity has become a source of bipartisan pride. "The Implacable Mr. Milquetoast," he has been called. Majority Leader MIKE MANSFIELD, praising WILLIAMS' "constant vigilance," has hailed him as "the conscience of the Senate."

The conscience was fired and hardened in the crucible of experience. Born in 1904, ninth of 11 children, the future Senator grew up on a hardscrabble farm near Bayard, Del., accustomed to manual work, diligent application to studies and church on Sundays. College being financially out of the question, at 18 he joined an older brother in setting up a feedstore and gristmill at Millsboro on $2,000 borrowed capital. The business prospered and expanded to other villages. In 1924 JOHN married Elsie Steele, a Millsboro telephone operator, and they moved into the old-fashioned white clapboard house that is still their home. Mrs. Williams helped out by raising chickens in the backyard.

World War II and meat-rationing boomed the broiler-raising business. But small proprietors like the Williamses found themselves handicapped, not so much by the fixed retail price of chicken and the high cost of price-supported feed grains as by the inefficient and sometimes corrupt bureaucracy administering these controls. After V-J Day, farmers thought the Government would relax the squeeze; instead, Washington officials sought to expand their wartime price-fixing powers.

At this point, in 1946, WILLIAMS decided to run for the Senate. The incumbent, a Democrat, was considered such a shoo-in that none of the Republican regulars would take the nomination. One columnist wrote, "The Republicans must have hired the Pinkerton Detective Agency to find their candidate." Midway in the campaign another reporter wrote: "Chicken farmer WILLIAMS' candidacy, like a bad vaccination, seems not to have taken well." But WILLIAMS emerged the victor by a vote of 62,600 to 51,000.

Assigned to the Senate Civil Service Committee, WILLIAMS, despite his lack of formal education and business experience, turned out to have a phenomenal capacity for finding, analyzing, and applying information. In 1948, Congress passed a mammoth new retirement bill for Government workers and Congress itself. WILLIAMS studied the conflicting proposals, pointed out how they would hand windfalls to certain beneficiaries. (Example: Some Congressmen could have retired at 125 percent of their salaries.) His efforts enabled Congress to pass a reasonable bill. Afterward, Senator HARRY F. BYRD wrote gratefully: "Your fight saved the country hundreds of millions of dollars. I heard quite a few Senators compliment you, although they voted against you."

WILLIAMS resolved to make the fiscal side of Government his principal concern. He also resolved to be scrupulously correct in his handling of information.

"Reporters and Members of Congress can ruin a man," he says. "We have an obligation, beyond the laws of libel or the privilege of congressional immunity, to be right." So careful is WILLIAMS that before making any speech reflecting on an individual or agency he telephones the subject and tells him what he intends to say, so that any explanation or rebuttal can be made immediately.

Toward the middle of President Truman's second term, a man came to WILLIAMS with a grim account of corruption in the Internal Revenue offices of St. Louis, Boston, New York, Brooklyn, and San Francisco. Not only were tax settlements for sale for pennies on the dollar, but also Government loans and contracts. While high officials enriched themselves, lesser lights indulged in extortion.

WILLIAMS spent more than 2 years assembling five file cabinets of documents. When he finally made his first speech on the subject, he had beside him, as he spoke, the evidence that subsequently indicted five regional tax collectors.

At first he was mystified because information he gave to an investigating committee was denied by certain top officials in Washington. "Then I realized that the top officials were in on it, too," he says. Ultimately, the top command of the Internal Revenue Service resigned, and the Assistant Attorney General in charge of tax prosecutions and the White House appointments secretary were indicted. After that, to minimize political chicanery, Congress put the revenue collectors under civil service.

WILLIAMS still thinks that this cancer in the Nation's tax system was the Nation's gravest nonmilitary peril ever. "The economic base of our Nation is a voluntary tax system, with each person reporting his income and making the initial assessment. If the public were to lose confidence in the system, the entire Army could not collect our taxes."

The Senator's pace has never slackened. In 1961 he disclosed that the Department of Agriculture had actually paid farmers $150 million not to plant feed grains on cropland that did not exist. The situation reminded him of the way con men sold the Brooklyn Bridge—"but at least there was a bridge." That year he also exposed the Colorado landowner who bought 6,960 acres and made the taxpayers pay for it, by leasing part of the land to the soil bank for $271,000 over 10 years. (To get around the $5,000-a-year limit on soil-bank payments, the land was subdivided under a trust arrangement with his three children, the oldest of whom was 14.) Says WILLIAMS: "Typical of what you get when you set out to pay men not to work."

One big recent case of bureaucratic wrongdoing involved the Department of Agriculture and Billie Sol Estes, the Texas highflier who, by questionable means, was permitted to get control of some 3,100 acres of valuable cotton-allotment rights. With these, and contracts to store Government surpluses, Estes pyramided a considerable personal fortune. He also managed to sell $22 million worth of mortgages on nonexistent liquid-fertilizer tanks.

Billie Sol Estes' manipulations first began to come to light when Texas' then attorney-general, Will Wilson, charged that three top USDA officials in Washington had accepted gifts of expensive clothing from Estes—the same officials, incidentally, who passed on Estes' allotments and his lucrative storage contracts. Wilson also charged that Estes was appointed to the National Cotton Advisory Committee after it was known in the Agriculture Department that his cotton allotments were suspect. Notwithstanding this and the fact that the three named officials either resigned or were fired, Agriculture Secretary Orville Freeman reacted by saying that the Estes affair had "ballooned all out of proportion." The Government, he said, never lost a dime on Estes, and Estes had received no official favors from Washington. Even so, Freeman said, his Department was investigating.

Williams reacted differently. "I think the conclusions of the Secretary may be somewhat premature," he commented. "Both the Secretary and the Senate Investigations Subcommittee should examine the files in Texas." On Williams' motion, the Senate ordered an investigation. Estes was subsequently convicted of fraud and conspiracy.

When Washington newspapers reported last fall that Senate Majority Secretary Bobby Baker had been sued by a local vending machine operator for using his influence to shift a concession in a nearby space industry plant from the plaintiff to a company in which Baker was a major stockholder, few people in Washington raised an eyebrow. Assuming that the court charges were proved, the worst that seemed likely to happen was that Baker would be allowed to resign quietly. And because Baker had won his high Senate place at a time when his friend and mentor Lyndon B. Johnson, of Texas, was majority leader, Baker might even have ridden out the storm with only a private reprimand. Such matters had been hushed up before.

John Williams, however, decided that the Baker case was too important to shrug off. The day the Baker suit was made public, Williams put a fresh folder in the file where he keeps records of numerous other Federal conflict-of-interest situations in various stages of investigation.

Within a few days, Williams got word that three disaffected former business associates of Bobby Baker were ready to talk. He asked them to come to his office with proof of their charges. One was the vending-machine operator who brought the suit. Another was Mrs. Gertrude C. Novak, a $7,385-a-year Senate committee file clerk, who later reported in Senate hearings that with her late husband she had bought $12,000 worth of stock at promoters' prices in a mortgage-insurance company that Baker was touting. (After the company got a favorable tax ruling, Mrs. Novak and her husband sold their stock for a profit of $75,000, which they split equally with Baker. Documents covered every stage of the transaction.)

The third informer was Insurance Broker Don B. Reynolds, who presented proof that he had paid at least $15,000 to Baker for steering insurance clients to him. Among policies for which Reynolds testified he paid Baker a share of the commissions was a performance bond for one-time Democratic Party Treasurer Matthew McCloskey, construction magnate, later named Ambassador to Ireland, who put in a successful bid for the District of Columbia Stadium, Reynolds also presented records showing that he had written $200,000 in policies on the life of then Senator Lyndon B. Johnson. After one policy was written, Reynolds bought $1,208 worth of television time on Mrs. Johnson's Texas station, which he resold to a pots-and-pans manufacturer for $160. Subsequently, the broker sent a $588 stereo set to the Johnson home by air express and a similar set to Baker's home. The bill of lading, which Williams had photostated, showed the insurance broker as the source of the gift and the then Senate majority leader as the recipient.

Armed with this evidence, Williams went to Senate Majority Leader Mike Mansfield and suggested an investigation. Mansfield promptly suggested that Williams get together with him and Senate Minority Leader Everett Dirksen and Bobby Baker. Williams and Dirksen were awaiting to see Mansfield and Baker when Mansfield reported that Baker had just resigned.

As soon as Baker's resignation was accepted (with a letter from Mansfield commending Baker on the performance of his official duties), Williams introduced a resolution in the Senate calling for a Senate Rules Committee investigation of "any financial or business interests or activities of any officer or employee or former officer or employe of the Senate for the purpose of ascertaining whether any such interests or activities have involved conflicts of interest or other impropriety."

Every newspaper reader is familiar with the subsequent confirmation of Senator Williams' reports and the widening investigation of Bobby Baker's affairs: The questions about call girls and the procuring of abortions; about lush political contributions via Baker; about links with gamblers and Jimmy Hoffa's Teamsters' Union. To more than 100 of these questions, when he was finally brought before the Senate Rules Committee, Baker replied, "On advice of counsel, I invoke the first, fourth, fifth, and sixth amendments, and I specifically invoke the privilege against self-incrimination." How the Baker case will turn out in an election year is anyone's guess, but it has raised echoes of Teapot Dome.

Approaching the end of his third 6-year term in Washington, longer than any other Senator from Delaware has ever served, Williams takes the view that waste and corruption are inherent in the enormous size and cost of our Federal establishment. "Spill a little sugar and you get few flies," he says. "The spillage from a $100 billion national budget is bound to attract quite a lot." So endless are the opportunities for chicanery that Williams despairs of stopping it entirely. But he strongly believes that Government employees, Members of Congress and the public can, and must, keep it in bounds. "Most people in Government are honest and will report wrongdoing even at the risk of their jobs," he says. "It is up to top officials to set the example."

For himself, Williams sets the strictest possible standard. He accepts no campaign contributions. Though he supported legislation whereby the Government pays half the cost of drainage ditches on private farmland, he informed the Senate that he personally would never take a penny of the aid. When a ditching crew gets to Williams' boundaries, he insists on time record and pays the whole cost himself.

For private citizens, Williams believes that the time has come to moderate their demands for Government assumption of private risks and burdens which individuals can bear themselves. "Everybody says he is for free enterprise—but, our Federal budget is the accumulation of all these just this once exceptions. It seems to me that we are sliding into socialism on our but's. If we go on, we can hardly expect to hand on to our descendants the birthright of freedom that was ours."

## VOLUNTEER WORKERS RESPONSIBLE FOR SUCCESS OF SAVINGS BOND PROGRAMS—1964 CAMPAIGN OPENS MAY 1

Mr. RANDOLPH. Mr. President, I utilize the occasion of this May Day, 1964—and the U.S. savings bond campaign that it initiates—to express tribute to the volunteers all over America who make such programs possible.

The savings bond program of the Treasury Department is deeply indebted to the willing work of volunteers for its success. The sale of savings bonds—as is well known by my colleagues in the Congress—is of far-reaching importance to the debt-management operations of the Treasury.

Today, a vast peacetime army of our citizens owns in excess of $47 billion in series E and H bonds. That is a record-breaking total. And that widespread public ownership of a substantial portion of the public debt exerts powerful influence on our economy.

To be sure, that nationwide ownership of individual shares in the future of America gives to each shareholder added personal security and a larger opportunity to enjoy the benefits of better living.

The Savings Bonds Division of the Treasury calls its new 1964 campaign "Operation Security." And today, May 1, is the kickoff date for an intensive 2-month drive which will wind up on another memorable American date, the Fourth of July.

Volunteers were responsible for establishing that day of independence in world history; volunteers will again make Operation Security a historical period for millions of Americans who are endowed with the commonsense trait of saving against the tasks of tomorrow.

No tribute can be sufficient in salutation to the distinguished services of the savings bond volunteers. They are imbued with the spirit of Bunker Hill, the barricades at Chalmette, and the Alamo. They are the citizen-soldiers of public service.

## UNCLE SAM, FOREIGN AND DOMESTIC

Mr. MOSS. Mr. President, our colleague the Senator from Alaska [Mr. Gruening] has often spoken on the floor about foreign aid and the needs of his own State of Alaska. A newspaper from his State, the Anchorage News, of April 29, has printed an editorial about the Senator from Alaska which I think will be of great interest to all of our colleagues, and certainly should appear in the Record.

I ask unanimous consent that the editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Uncle Sam, Foreign and Domestic

To our way of thinking, Senator Ernest Gruening has been scoring some pretty shrewd points in his comparisons of what Uncle Sam does for foreign countries with his largesse at home.

There have been some suggestions in Congress and elsewhere that Alaska relief funds might be amplified through cash siphoned off foreign aid. Understandably, Secretary of State Dean Rusk, on his recent stopover in Anchorage, objected to tying the two together; both foreign aid and Alaska relief, he said, are the duties of the Federal Government and it would shirk neither.

Still there is something rather piquant about the figures presented by Senator Gruening in his most recent newsletter.

He notes he was told that if evidence existed of development loans to the private sector of foreign countries at three-fourths of 1 percent interest and 10 years moratorium on capital payments, then the Small Business Administration might feel it could lower the 3-percent interest rate per year for small business loans in Alaska disaster areas.

Gruening replied that, in the first place, "the foreign governments to which three-fourths of 1 percent loans are made are merely the conduits of those loans to the business and industrial sectors of those countries."

But should "form rather than substance" be the stumbling block, he added, then the SBA might "consider a sizable loan to the State of Alaska or the Alaska Development Corporation—the political equivalent of foreign governments—at three-fourths of 1 percent interest to be loaned to businessmen" in Alaska disaster areas.

But, added the Senator, such a device really wasn't necessary. He listed outright grants totaling more than $12 million to the Governments of Taiwan, Indonesia, Vietnam, Korea, India, Pakistan, Nigeria, Somali, Peru and Ivory Coast for fisheries development.

Further, he listed eight examples of loans to private business in five nations totaling more than $61 million in 1962 and 1963.

These included a loan of $2,625,000 to the Ariana Afghan Airlines; a $13,700,000 loan to Tata Engineering & Locomotive Co. in India; a $3 million loan to a privately owned plant in Egypt; a $4 million loan to a private financial concern in Brazil, and so on.

All these loans were repayable in 40 years with a 10-year moratorium on repayment of principal.

The Senator calls this a double standard. And he argues that "borrowers in the disaster areas of Alaska should at least be treated equally with foreign borrowers under our foreign aid program who have suffered no disaster."

The PRESIDING OFFICER. Is there further morning business?

## VOLUNTARY DESEGREGATION—DOES IT WORK?

Mr. HUMPHREY. Mr. President, some opponents of the civil rights bill tell us that Federal legislation is unnecessary because the problem of discrimination should be handled at the local level through voluntary action. Now this theory of voluntary desegregation might look pretty good to some people. Like a lot of theories, it has some appeal at first glance. But the real question is: How does voluntary desegregation actually work out in practice? We are concerned with facts, not with theories.

This is an obvious question, but the distinguished opponents of the civil rights bill have not given us much help. They talk a lot about voluntary desegregation, but only in generalities, never on specific cases.

I can understand their shyness on this point, for I have discovered a factual account of one city's attempt at voluntary desegregation, and that account is the best possible argument for title II of the pending bill. This factual account was written by James W. Prothro, a nationally famous professor of political science at the University of North Carolina.

Professor Prothro has written a careful, factual, and scholarly account of what happened when the city of Chapel Hill, N.C., tried voluntary desegregation. Chapel Hill is well known for its liberal, enlightened attitude on civil rights. There has been an active campaign promoting integration there since 1954, and every major group in the town has taken a stand against segregation. In spite of this favorable climate of opinion, voluntary action has failed in Chapel Hill and that town is now undergoing a crisis in race relations.

Professor Prothro concludes his very interesting study with this recommendation:

> The principal lesson to be learned from Chapel Hill is that, even with a maximum of good will on all sides, a real solution to the problem of civil rights is possible only with the help of a Federal statute.

Since factual information on this subject is so rare, and Professor Prothro's paper is such an enlightening contribution to the debate, I believe that it should be made widely available.

Mr. President, I ask unanimous consent that his paper, "Chapel Hill (N.C.): A Case Study of a Community's Needs in Relation to H.R. 7152 (the Civil Rights Act)," may be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

### A CASE STUDY OF A COMMUNITY'S NEEDS IN RELATION TO H.R. 7152 (THE CIVIL RIGHTS ACT)

(By James W. Prothro)

Chapel Hill, N.C., is a small, attractive town called the southern part of heaven by its more loyal residents. The home of the University of North Carolina, it has a population of about 27,000 of which 10,000 to 11,000 are university students. About 10 percent of the population is Negro.

Chapel Hill has made strides toward the ideal of an open society, and its residents are justly proud of its accomplishments in the field of race relations. Nevertheless, the town is today in the throes of a painful stalemate—with continuing demonstrations and arrests and continuing segregation in a small minority (no more than 10 percent) of business establishments serving the white public. Everything that can be done to achieve a communitywide policy of nondiscrimination, short of a statute, has been tried: Moral suasion by the Ministerial Association official pronouncements from the mayor and board of aldermen, policy statements from the Merchants Association, mediation committees to achieve voluntary integration, policy statements and boycotts by students and faculty, and mass sit-ins and protest marches. A handful of "holdouts," some of whom say they would desegregate if a law gave them an excuse understandable to white customers, continue to embarrass the local government and business leaders no less than the Negro citizens and the responsible white citizens who share their concern. The principal lesson to be learned from the case of Chapel Hill is that, even with a maximum of good will on all sides, a real solution to the problem of civil rights is possible only with the help of a Federal statute.

While Chapel Hill is probably a more enlightened community than most towns of its size, what has happened here has already happened in larger cities like Atlanta and Savannah, and will happen in all communities of the South. Chapel Hill is thus important not just for itself but also as a preview of what is to come throughout the region.

The first section of this statement is a chronicle of efforts in Chapel Hill to cope with problems of race relations. This case history is followed by a statement of conclusions.

### CHAPEL HILL EFFORTS TO SOLVE PROBLEMS OF RACE RELATIONS

On March 22, 1951, the University of North Carolina became the first previously all-white State school in the South to admit a Negro student voluntarily, that is, without a court order. The student was admitted to the medical school, on the ground that no segregated facilities of this sort were available to Negroes. His admission was followed in the fall of 1951 by the admission of Negroes to the law school, on court order, and by the admission of Negro undergraduates in 1955, also on court order. No difficulties resulted from these admissions; indeed, Negro students have been elected to such offices as editor of the Law Review and, at the undergraduate level, representative of the university at intercollegiate assemblies.

In the spring of 1954, shortly after the Supreme Court ruled State-enforced segregation in the public schools illegal, a group of townspeople (mostly white) organized the "Interracial Fellowship for the Schools." (In 1957, this group changed its name to the "Chapel Hill Fellowship for School Integration.") The school board denied the application of a 10-year-old Negro for transfer to an all-white school in the summer of 1959, an action which led to the immediate resignation of one school board member.

The school board voted unanimously in January 1960, to begin integration at the first grade level. The integration plan has subsequently been extended to all grades, with no difficulties resulting. Negroes now attend such functions as school dances without incident. As a recent chaperone at such a function, one of the authors of this statement noted that the Negro students would not select white dance partners, even when the situation appeared to call for it. The percentage of southern Negroes who take advantage of normal access to public facilities is quite small, and those who do tend to behave more decorously than most whites. The image of massive integration envisaged by white opponents of the Civil Rights Act thus appears unrealistic.

The first Chapel Hill sit-in occurred on February 18, 1960, when two Negro youths who had heard of the first sit-ins in nearby Greensboro ordered sandwiches at a drugstore lunch counter and, in violation of local custom, took seats in a booth to consume their fare. Only intermittently has Chapel Hill been free of demonstrations and protests since that date. The Chapel Hill Council on Racial Equality was organized to coordinate picketing efforts. A few restaurants in Chapel Hill already operated on an integrated basis, and these early demonstrations led to "vertical integration" of several lunch counters, with stools removed and both whites and Negroes served in a standing position. On March 24, 1960, 27 ministers announced their support of "peaceful picketing" in a full-page advertisement in the Chapel Hill weekly. On March 31, 850 townspeople pledged, in another full-page ad, "moral support and patronage to all merchants" who integrated. The town's biracial Human Relations Committee, set up by the board of alderman in 1958, sought a 30-day trial period of equal treatment by lunch counters and restaurants, but this plan fell through because three establishments refused to cooperate. The capacity of a few recalcitrant individuals to frustrate the hopes for racial harmony of responsible citizens, in the absence of statutory power, thus became apparent for the first time. By April 22, however, the Congress of Racial Equality—which was coordinating picketing efforts—announced both a cessation of demonstrations and the integration of five previously segregated eating establishments. Both the success of mass demonstrations and the limited nature of such successes had been demonstrated.

The chief modification in Chapel Hill race relations in 1961 was the integration of the town's two movie theaters. Picketing began on January 9, led by a group later known as the Chapel Hill Citizen's Committee for Open Movies. Picketing continued through the year, with occasional cessations for negotiations. In the spring, one of the theaters began admitting Negroes who were students at the university, and the other theater followed suit in the fall. By late December of 1961, both theaters were completely desegregated, with no unpleasant incidents. As applied to a small number of highly visible establishments in a common field of business, protest activities can achieve voluntary integration if the protests enjoy wide community support.

The year 1962 was relatively inactive on the racial front in Chapel Hill. One noteworthy development was in the field of recreation. Little League baseball was discontinued by segregationists because one of the coaches refused to drop his best pitcher from the team on the ground that he was Negro.

A sandlot league was organized, supported by voluntary contributions and by the Chapel Hill Recreation Commission. The Negro pitcher was allowed to play with the white children, and he was resented only in terms of his impressive strikeout record. Voluntary community action had erased another racial barrier.

In 1963, however, Chapel Hill began to discover the limits of voluntary action toward integration, even when the steps were supported by every leadership group in the community. In April of 1963, students began picketing a segregated restaurant, the College Cafe. On May 3, the Chapel Hill Committee for Open Business was formed to extend the picketing to all segregated restaurants. From that date to the present, the effort to change the policy of the few businesses refusing equal service to Negroes has been unremitting. And every element of the community has participated in favor of equal service for all.

On May 19, 1963, 20 ministers requested the mayor to appoint a committee to work for the elimination of segregation both in local government and in private businesses. The Human Relations Committee endorsed this proposal with the following recommendation:

"The Human Relations Committee calls upon the people of Chapel Hill to recognize a moment of great opportunity for our community. This committee feels that the time is ripe for the free granting of the equality long overdue for all citizens. The wholehearted acceptance and practice of this principle is now feasible as well as urgently necessary. We commend the ministers of the community for bringing this matter and opportunity to the attention of the town.

"The Human Relations Committee endorses the proposal submitted by the ministers of the community to the mayor on May 18, 1963. We call for the appointment of the committee described therein. We recommend that the board of aldermen and mayor exert their authority and leadership in making unequivocally clear that the policy of the town of Chapel Hill in all matters is to assure equality of treatment for all its citizens in every area of community life."

In response to these requests, the Chapel Hill Board of Aldermen unanimously adopted the following resolution on May 27, 1963:

"1. The town of Chapel Hill is vitally concerned with the goal of equal rights and opportunities for all of its citizens. The local government is the creature of and the servant of every citizen of Chapel Hill and as such must serve its citizens on a racially nondiscriminatory basis. In the use of municipal facilities of municipal employees, it has been the policy of the town of Chapel Hill that race is not a factor.

"2. In response to the recommendation of the mayor's committee on human relations that a committee be appointed to consider the matter of racial discrimination on the part of private business firms in Chapel Hill, the board of aldermen hereby requests that the mayor head a committee of his own appointment, composed of citizens representative of the entire community and who are concerned with racial discrimination in private business services.

"3. This committee is to consider methods of bringing about the elimination of racial discrimination in the operation of private business enterprises in Chapel Hill and to work for the achievement of this goal."

In keeping with the resolution, the mayor appointed the mayor's committee for integration. The town of Chapel Hill thus adopted, as official policy, the elimination of racial discrimination in private businesses and the continuation of nondiscrimination in all public affairs.

Street marches to protest discrimination began during this period, and businessmen responded in the same fashion as government leaders. On May 26, 1963, the Chapel Hill-Carrboro Merchants Association announced the following commitment to integration in employment and services:

"The Chapel Hill-Carrboro Merchants Association has never had a policy, written or unwritten, supporting segregation practices among its members in services or employment. Neither has the association undertaken to promote integration practices among its membership. In the past the merchants association has taken the position that a policy of segregation or integration was a decision properly left to the individual merchant.

"However, racial incidents in North Carolina and elsewhere in the South involving public businesses and merchant organizations have now made it necessary, we feel, that the Chapel Hill-Carrboro Merchants Association issue the following statement:

"The members of the board of directors of the Chapel Hill-Carrboro Merchants Association are opposed to any discriminatory practice in public businesses, whether based on race, creed, or color. We subscribe wholeheartedly to the principle of equal treatment of all customers. We subscribe to the principles of Gov. Terry Sanford's good neighbor policy and to those principles recently stated by this community's religious leaders in their efforts to promote good human relations.

"Most of the members of the merchants' association subscribe to these principles. The association is unable to dictate such policy to those who do not, but we herewith urge them to remove without further delay all discriminatory practices if they exist. We also urge those merchants and businesses who are not members of the merchants' association to eliminate any discriminatory practices that now exist.

"The members of the board of directors of the merchants association feel that this community must assure all of its citizens equality of treatment and opportunity in all areas as a matter of human decency and fairness."

The ministers, lay citizens, board of aldermen, mayor, and businessmen of Chapel Hill had thus gone on record, through their official representatives, as supporting integration in employment and service in Chapel Hill. Mass demonstrations supported the position taken by the community's official spokesmen. They were encouraged by an editorial in the Chapel Hill Weekly (June 2, 1963) commenting on a survey of businessmen's attitudes toward race relations in the United States: "the attitudes of the molders of economic well-being have vindicated the Negro's contention that continual pressure is absolutely essential if progress is to come. Time and again they said they would yield only so much as was necessary to avoid violence and serious dislocation of commerce. This fact alone would be enough to convince those now demonstrating, if they needed convincing, that they are on the right road."

If any southern community could solve its problems of racial discrimination through voluntary action, Chapel Hill, with its consensus among all leadership elements, could. But the voluntary approach has not succeeded, despite the impressive support for integration.

On June 11, 1963, the mayor's Committee on Integration recognized the impossibility of achieving an "open city" without a law requiring the few segregated establishments to comply with the generally endorsed policy. It accordingly recommended passage of a public accommodations ordinance by the board of aldermen. The State attorney general issued an advisory opinion, however, that the town probably did not have the authority to enact such an ordinance. Civil rights leaders halted demonstrations to await the action of the board of aldermen, and the Human Relations Committee supported the recommendation. Despite its policy of urging all businesses to adopt nondiscrimination, the Merchants Association opposed the ordinance. Stressing the legal ambiguities so far as their authority was concerned, and emphasizing the prospect that the universal practice of integration could be achieved more rapidly without the delay, caused by a legal battle, the board of aldermen voted (4 to 2) to postpone action on an ordinance. Larger and more frequent protest marches followed this action.

From the date of this failure of the aldermen, by virtue of legal uncertainty, to enact an ordinance requiring the few noncompliers to adopt the community's policy of nondiscrimination, race relations in Chapel Hill have deteriorated. On July 8, 1963, the Committee for Open Business announced a "crash" training program for "massive" nonviolent civil disobedience. Other citizens acted more conventionally: 200 townspeople signed an advertisement-petition in the Chapel Hill Weekly urging adoption of a public accommodations ordinance. The chief of police, whose men had been scrupulously fair in honoring the right to demonstrate, told the aldermen that the wave of picketing and demonstrations had created a heavy strain on the resources of the police department—with no vacations, 777 hours of unpaid overtime, and general exhaustion. The first arrests, later to reach the hundreds, took place on July 29 when 27 protestors were arrested for "sitting-in" at the Merchants Association headquarters.

In view of this increasing tension, the mayor appointed an anonymous committee of leading businessmen to persuade the segregated businesses to drop their color barrier. The effort failed. In an effort to overcome the stalemate, the mayor made a policy statement in early August of 1963 that the city's official policy is to have "no discrimination practiced on the basis of a person's race in the operation of both public and private enterprise." Without the power of law behind it, this statement did not change the situation.

In the fall of 1963, protest activities in favor of civil rights became more militant, with civil disobedience replacing careful adherence to the laws by protestors. Having failed to achieve their goals through the established leadership structure, leaders for civil rights shifted to new and more aggressive organizations. The Citizens United for Racial Equality and Dignity replaced the Committee for Open Business and the Chapel Hill Freedom Committee was formed as a coalition of NAACP, CORE, SNCC, SCLC, and SLEF. The number and frequency of arrests accelerated. The Chapel Hill Weekly, which had earlier said that "continual pressure" by Negroes was the one way for them to obtain their rights, had by now begun to denounce the demonstrators for "gross irresponsibility." Some 137 demonstrators were arrested in 8 days before Christmas, and 52 more arrests followed on December 29, 1963. A locally owned grocery store responded to picketing by agreeing to hire some Negro employees, but the hard core of segregated restaurants and motels would not modify their position.

On January 12, approximately 1,800 townspeople petitioned the board of aldermen to enact a public accommodations ordinance through an advertisement in the Chapel Hill Weekly. The Weekly editorial argued, however, that the alderman level "is not the place to originate law which bears so directly on fundamental freedoms and constitutional rights"; it recommended that the aldermen "direct those seeking redress of racial injustice to a somewhat higher level." At their meeting the next day, the board of aldermen again avoided voting on a public accommodations ordinance, calling instead for the mayor to head a nine-member mediation commission to work for voluntary desegregation.

The commission has made no headway, although one of its members reports that some of the "holdouts" say they would integrate without difficulty if it were required by law—they would not lose white customers, since they could explain that the law gave them no choice. Other holdouts would unwillingly comply with a public accommodations law.

In this condition of stalemate, civil rights leaders began street sitdowns as a final desperate measure. Arrests totaled 436 by February 3, 1964. A Committee of Concerned Citizens, a group of about 200 middle-aged homeowners (white and Negro), was organized out of concern over both the civil disobedience tactics of the youthful demonstrators and the intransigence of the segregated establishments. This group has engaged in picketing and other legal activities to hasten integration, but it feels that the only hope for ultimate success lies in the Federal civil rights bill.

On February 11, 1964, the student legislature adopted "A resolution directed toward the alleviation of tensions in Chapel Hill," resolving in part:

"Although we clearly affirm the constitutional guarantee available to protect civil inequities, we submit that the present form of civil demonstrations in Chapel Hill is not proving rational or successful in the attainment of equal opportunities for all students of this university.

"This body urges those Chapel Hill merchants who maintain segregated establishments to offer equal service to all students without regard to race, creed, religion, or national origin, and this body further urges our constituents to refrain from patronizing those establishments in Chapel Hill which continue to refuse equal service to all students."

This resolution was followed by a declaration of support from the faculty, with about 200 faculty members pledging to withhold patronage from segregated establishments. Eight members of the old Committee for Open Business fasted throughout Holy Week, and a group of private citizens proposed a long-range program for the elimination of racial discrimination. This proposal, which calls for a broad-gaged attack on problems of education, housing, and employment no less than on access to public facilities, received the unanimous approval of the board of aldermen on February 24, 1964. The program will depend on support from Government and private foundations.

### CONCLUSIONS SUGGESTED BY THE CHAPEL HILL STORY

Chapel Hill has done almost everything that could be expected in an effort to solve its own racial problems. Substantial advances have been made toward the elimination of discrimination in education, employment, housing, public facilities, and voting. Only a few privately owned public facilities deny this community a right to claim that it is an open society.

These few establishments are, however, a source of humiliation for both Negro and white citizens. Several are so located that they must be passed by most Negro residents on their way to work everyday. They stand as a continuing testimonial that Negroes do not enjoy the full rights of citizenship.

Two of the six members of the board of aldermen support passage of a public accommodations ordinance to remove this stigma from the community. The other four members profess dedication to the same goals (as indicated by the unanimous resolution urging desegregation of all facilities), but are reluctant to act in view of legal ambiguities as to their authority to enact such an ordinance. In the current gubernatorial campaign, the two leading candidates for Governor have announced that they would enforce the Civil Rights Act if it were passed by Congress.

In this situation, the only solution to Chapel Hill's difficulties lies in the passage of the civil rights bill now before the Senate. Voluntary action can achieve much, as it has in Chapel Hill, but it cannot achieve a communitywide policy in which a Negro can feel certain that he will be treated as an individual rather than as a member of a race. In some respects, the plight of the Negro is worse under partial integration than under complete segregation, because he must constantly wonder when he will be accepted as a customer and when he will be rejected.

Chapel Hill has come a long way on its own. It cannot manage the final step that is so desperately needed without the help of a Civil Rights Act.

## CIVIL RIGHTS ACT OF 1963—EXPLANATION OF SECTION 205(b) OF TITLE II

Mr. HUMPHREY. Mr. President, I should like to include in the Record a statement in explanation of section 205(b) of title II which is the public accommodations title of the pending bill.

This section is very important. A legal description of certain parts of its text, I believe, will be helpful to Senators. I have asked the Justice Department to aid me in the discussion of section 205(b), and I ask unanimous consent to have the explanation printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Explanation of Section 205(b) of Title II

Section 205(b) of title II provides that: "The remedies provided in this title shall be the exclusive means of enforcing the rights hereby created, but nothing in this title shall preclude any individual or any State or local agency from asserting any right created by any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination to public establishments or accommodations, or from pursuing any remedy, civil, or criminal, which may be available for the vindication or enforcement of such right."

This section of the public accommodations title has two objects. The clause which reads that "the remedies provided in this title shall be the exclusive means of enforcing the rights hereby created" is designed to make clear that a violation of sections 201 and 202 cannot result in criminal prosecution of the violator or in a judgment of money damages against him. This language is necessary because otherwise it could be contended that a violation of these provisions would result in criminal liability under 18 U.S.C. 241 or 242, or in civil liability for damages under 42 U.S.C. 1983 or 1985. Thus, the first clause in section 205(b) simply expresses the intention of Congress that the rights created by title II may be enforced only as provided in title II. This would mean, for example, that a proprietor who, in the first instance, legitimately—but erroneously—believes his establishment is not covered by section 201 or 202 need not fear a jail sentence or a damage action if his judgment as to the coverage of title II is wrong. Of course, after a court orders him to comply he must comply and he may be punished for contempt if he fails to do so.

It need hardly be added, however, that nothing in section 205(b) precludes a defendant in a State criminal trespass prosecution arising from a "sit in" at a covered establishment from asserting the nondiscrimination requirements of title II as a defense to the criminal charge. The reference in section 205(b) to "means of enforcing" the right created by title II obviously does not deal at all with the question of whether the right created by that title may be used as a defense in criminal proceedings. Raising a defense in a criminal case is not "enforcing" a right by a "remedy" within the meaning of section 205(b). That section is intended to preclude only direct affirmative action by the Government, or by a person aggrieved acting as a plaintiff, pursuant to Federal laws other than the provisions contained in title II. It is not intended and should not be read as precluding a plea in a criminal prosecution, or an action for damages, against a person availing himself of the Federal right created by title II, that the criminal or civil action against him is not well taken. That this is the proper connotation of the title is made doubly clear by section 203(c) which prohibits the imposition of punishment upon any person "for exercising or attempting to exercise any right or privilege" secured by section 201 or 202. This plainly means that a defendant in a criminal trespass, breach of the peace, or other similar case can assert the rights created by 201 and 202 and that State courts must entertain defenses grounded upon these provisions.

The remaining language in section 205(b) makes clear that by enacting title II the Congress does not intend to preempt State or local nondiscrimination laws which also apply to establishments covered by the title. If discrimination by any establishment covered by title II is also a violation of a State or local law a person aggrieved by such discrimination is free, notwithstanding title II, to seek such administrative, injunctive, or monetary relief as is available under State or local law, and State and local officials are free to prosecute criminally, or to seek administrative or equitable relief, in any case covered by their own laws. Thus, the application of the first clause of section 205(b) limiting enforcement in accordance with the other provisions of title II circumscribes only enforcement of rights created by title II. It does not limit enforcement of rights granted or created by other valid laws, whether State or Federal, even if they cover the same facility.

## CATTLE AND BEEF IMPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record at this point a statement presented by me before the U.S. Tariff Commission on the subject of cattle and beef imports; also a statement presented by Robert Barthelmess, president of the Montana Stock Growers Association, before the Senate Committee on Finance on March 17, 1964; also a letter from Dr. R. W. Gustafson, president of the Montana Veterinary Medical Association, dated April 22, 1964, addressed to the Trades and Tariff Commission, Washington, D.C., and statements presented to the U.S. Tariff Commission by Senator William R. Mackay, of Carbon County, and Carl W. Bell, of Glasgow, in behalf of the Montana Chamber of Commerce.

There being no objection, the statements and letter were ordered to be printed in the Record, as follows:

### Statement of Senator Mike Mansfield, Democrat, of Montana, Before U.S. Tariff Commission, May 1, 1964

### CATTLE AND BEEF IMPORTS

Mr. Chairman, we all know that the livestock industry is confronted with a very difficult economic situation. The price of cattle, beef, veal, mutton, and lamb at the marketplace has been down for some time and despite optimistic predictions there has been no relief. It is a most serious matter and the livestock industry cannot continue to hold up under these depressed conditions. Unfortunately, it is the small operator who is being hit first and the hardest.

There are a number of theories and proposals on how best to help the industry. The time for action is now and the Tariff Commission can be of great service by making a very thorough and expeditious study of the situation and then make its recommendations known to the Congress and the President. Based on information currently available I can see no other result than a recommendation in behalf of some immediate protection for the cattle industry.

I believe that the administration, the Congress, and all concerned are trying their best to aid the domestic industry. The administration has entered into voluntary agreements with the major exporters of beef to the United States. Both the Department of Defense and the Department of Agriculture have announced purchase programs which will remove millions of pounds of beef from the market. The administration announced on April 7 that Australia had voluntarily agreed to reduce its imports by 170 million pounds or 29 percent of 1963, and New Zealand 50 million pounds or 22 percent under its 1963 imports. This comes to a total of 220 million pounds less in 1964 than in 1963, or a 27-percent reduction.

Under the bill I introduced seeking to establish a quota over a 5-year average, which I discussed with officials of the national and Montana cattlemen's groups and met with their approval, the total amount of imported beef by Australia and New Zealand would have amounted to 337 million pounds, or a 33-percent reduction. While the goal I tried for was not achieved, nevertheless, I think substantial progress has been made in the reduction of imports of beef by Australia and New Zealand by 27 percent for 1964 and it is my intention to pursue this so that further reductions are made.

The Secretary of Defense has also placed orders for 36 million pounds of beef for our oversea bases, plus 18 million pounds of beef to be put in cold storage. Furthermore, the Department of Agriculture is spending $20 million for the purchase of beef for school lunch programs and other projects.

In addition to this, Senator Gale McGee, of Wyoming is investigating chainstore practices to find out the reasons for the situation prevailing wherein the cattlemen get lower prices and the consumer receives none of the benefits. Prices paid to producers—since 1947—dropped 13.8 percent and prices paid by consumers rose 26 percent (USDA). Chains can manipulate prices they charge by operating their own feedlots for fattening their cattle. By drawing on their own feedlots until their withdrawal from the market has depressed prices, they can then resume purchasing while prices are down. The power to depress prices to producers and inflate prices to consumers was inherent in the arrangement 44 years ago when the courts required the major meatpackers to get out of the retail business. If it is against the public interest for processors to retail meat, why is it not the same for retailers to process meat?

On April 14, the President notified me that Secretary McNamara had ordered an additional 14 million pounds of beef for use at oversea bases. As of this date, the picture was as follows: The Defense Department, for overseas use, had purchased 50 million pounds of beef plus 18 million pounds to be put in storage; the Department of Agriculture had purchased $20 million worth of beef for school lunch programs and other projects; and Australia and New Zealand had agreed to reduce their imports about a total of 220 million pounds less in 1964 than in 1963 or a 27-percent reduction in 1964 imports under 1963. These are all steps in the right direction, but they are not enough and the cattleman wants, needs, and deserves something on a more permanent basis.

The livestock industry wants import quotas. I have sponsored legislation in the form of an amendment to a House-passed bill which would impose such quotas based on an average of imports over the past 5 years. This approach is now being thoroughly reviewed by the Senate Finance Committee and hearings will be resumed as soon as the pending legislation is disposed of. It is my belief that the Finance Committee will report out favorable legislation and then, if my reasoning is right, it will go—not to the House—but to a conference committee for consideration and then if agreement is reached go to both Houses for final consideration. Import quotas would provide long term protection, a plan under which the industry could plan and develop its own marketing procedures. The voluntary agreements are not restrictive enough and the purchase programs are short term in nature. I believe the imposition of reasonable import quotas is the most realistic and valuable. May I say, incidentally, that the national association on its own initiative did send a delegation to Australia some months ago to try to work out a voluntary agreement but was unsuccessful. What I am saying, in effect, is that before coming to the Congress for assistance, the cattlemen themselves, in line with their longstanding traditions, tried to do something on their own.

In supporting the import quota proposal, I am well aware that this is not the only problem and solution to the domestic industry. There are other issues such as changes in marketing practices and vertical integration of the industry. These are all very important, but relief is needed now and it appears to me that the quickest way of providing long-term protection is through the import quota system.

During recent months there has been a great deal of talk about the Kennedy round of GATT negotiations and the sensitivity over any action that might be harmful to our position. I certainly do not want to recommend anything that might place the United States in a difficult position. However, I am certain that our friends and allies are conscious of their own domestic needs, as we should be, and have taken steps to provide reasonable protection where necessary. I believe that the United States has fewer trade barriers to foreign imports of cattle and beef than any other nation. I do not believe that an import quota based on a high 5-year average is unreasonable

The United States has become the largest importer of beef and veal in the world.

The United States offers higher prices, lower tariffs, and fewer restrictions than any of the major meat importing nations. These factors are being taken advantage of by those who export meats.

I would most respectfully suggest that some method be considered, preferably that of the National American Cattlemen's Association and the Montana Stock Growers Association, which would allow importers to bring in approximately 6 percent rather than in excess of 11 percent of the total, as was the case last year, and to do this, a ratio based on the years 1959 to 1963 be adopted.

I would most respectfully bring to the attention of the Commission that the only protection offered the livestock producers in the country is a flat 3 cents per pound tariff, and, that, you may recall, was reduced from 6 cents per pound in 1948.

The two heaviest exporters of beef to the United States are Australia and New Zealand. I am informed that Australia prohibits imports of cattle and beef, and imports of hogs and hog products from the United States under a health restriction. I would urge that in view of the letter from Dr. R. W. Gustafson of Conrad and statements made to me by Senator John Melcher of Rosaland County, that this matter of health restrictions and health inspection be looked into from this end as far as the imports of meat are concerned.

It is interesting to note that the Australian Government Tariff Board has the authority to impose emergency tariffs or other types of import controls whenever it is deemed necessary to protect domestic producers against competition from imports.

I would suggest that its parallel organization, the U.S. Tariff Commission consider this also.

It is my further understanding that New Zealand, the largest exporter of lamb, and, next to Australia, the largest exporter of beef and veal to the United States, prohibits imports of most meats and packinghouse products.

Other countries have restrictions differing in degree, and I would hope that the Commission would bear all these factors in mind in its recommendations to the Finance Committee, which that committee has requested it receive by June 30, and also, in its recommendations to the White House, which is also vitally interested in this matter.

On Monday, I talked with the Department of Agriculture and the predictions for the cattle market are not good. On Friday of last week, the price for choice steers at Chicago was between $20.50 and $22, as low as it has been since 1957. The feedlot situation has not improved. The number of animals weighing 1,100 pounds is considerably above last year. As of April 1 there was approximately 16 percent more of this class of animal in the feedlots than at the same time a year ago. This means that there will be a considerable impact on the market. I know of no one who can predict that there will be a substantial improvement in the market price until early fall, if then.

Admittedly, it now appears that the import situation will not be as bad this year. The most recent information from the Department of Agriculture indicates that imports from Australia and New Zealand are down and are likely to remain down during the year. These exporters are finding other attractive competitive markets. We have no guarantee that this will continue, however. In view of the domestic market situation, we cannot afford to have imports at these high levels. The combination of imports with heavy domestic production can be disastrous.

Again, I wish to stress the need for early action, and the U.S. Tariff Commission can do a great service for the economy of the Nation by making expeditious recommendations in behalf of relief for the livestock industry.

Mr. Chairman, I ask that several items be incorporated at the conclusion of my remarks: a statement prepared by Robert Barthelmess, president, Montana Stock Growers Association, which states most concisely and explicitly the situation as it exists in the State of Montana and is, in my opinion, an extremely sound exposition on the situation which confronts Montana and the Nation's cattlemen. Bob Barthelmess is a man who depends for his livelihood on his cattle spread and he represents the feelings of the Montana Stock Growers Association with clarity, with a deep understanding, and with a thorough knowledge of the situation. May I say in this respect that my interest is in the stockgrowers who raise cattle for a living, not in the "sideline ranchers," the oil men, doctors and others who invest in cattle ranches as sidelines to their main means of livelihood.

I also ask that the letter from Dr. R. W Gustafson, president, Montana AVMA, to which I previously referred be incorporated at the conclusion of my remarks.

[From the Montana Stockgrower, April 1964]

### YOUR PRESIDENT TESTIFIES ON IMPORTS

(Statement presented to U.S. Senate Finance Committee March 17, 1964, by Robert Barthelmess, MSGA President.)

My name is Bob Barthelmess. I am president of Montana's 5,000-member stockgrowers association. It is comprised mostly of small ranchers and is affiliated with the American National Cattlemen's Association. It is an organization of cowmen who believe in their ability to think clearly and work freely in honoring their obligations to society and country.

This is the fourth time in 5 months that I have carried their cudgel to Washington on the matter of multiquality beef imports. It is an absolute sincerity that I speak for them for it is under conditions of utmost urgency that they be heard. Their business is in a serious state of affairs, their actual living is being jeopardized, and their future destined adversely by this uncontrolled reason. To allow an industry of prideful history, ambitious responsibility, and faithful patriotism to fail due to encouraged, promoted, and limitless imports is an injustice of major proportions.

I am one of six children born to parents who homesteaded near Powder River in southeastern Montana. It was through the grace of a cow that we were raised there. My elementary education was acquired in a one-room rural school. I attended high school but graduated from no college. I operate a ranch that runs 300 cows, am married to a ranch-raised girl, and we have four children. We do our own work, operate within our means, and depend on our neighbors when I am away. We are proud of our way of life, grateful to those who made it, and have a desperate and hopeful will to retain it.

It should not have been necessary for me to come here for the cause should not be. My place is home, being the head of our household, providing for my family. I am here however, here for them, here for our industry, and here for all people whose living depends upon us. I am here for a cause that is proper, just as our freedom is proper, just as our Bill of Rights is proper, and just as our Constitution is proper. I am here to help plead the case of a basic and necessary industry and its rightful status in our free enterprise system. I beg of you to judge our cause on its worth, its worth to those in it, its worth to our economy, but most of all its worth to the United States of America.

Last year, 1963, we imported into this country more beef and veal in live equivalent (3,500,000 head) than all the cattle on all the farms, in all the feed lots, and on all the ranches of my State. These imports, as cattle, would have used more feed and more grass than consumed within the boundaries of Montana, and would have serviced the beef-consuming needs of our entire Nation for one-twelfth of a year, a complete month.

Consider, if you will, that this volume of imports, and it is capable, could completely replace Montana's livestock production. This could mean that our industry's labor force would be unemployed, its machinery and equipment would not be purchased nor used, its insurance and taxes would not be paid, its contribution to our education would fail, its feed requirements would not be raised, and its overall quality and worth to our communities would be rendered useless. The amount of imports, in other words, unloaded in the United States last year could conceivably and completely eliminate Montana from the Nation's livestock industry. This should show certainly and in a revealing sense the impact of the quantity of this product on our business nationally.

Our market last year, largely due to cheaply produced, low quality imports, dropped more than 27 percent. On an average this amounts to a loss of $28 per head, including calves, heifers, steers, bulls, and cows. Montanans sold nearly a million head of cattle last year so consequently received $28 million less than the previous year. Compound this as to its effect on jobs, main street trade, taxes, schools, welfare, and living standards (let alone what it does to the rancher) and the result is devastating. Much of this meat is produced at a ratio of 250 to 1 on overseas land costs against domestic costs. It is produced at less than half the labor costs of ours and is dispatched under much less rigid conditions in processing plants over there than are our packers allowed to slaughter here in this country. Australia has cut per capita consumption 20 pounds to meet export abilities, and Argentina packers have asked their governments to declare two meatless days a week on their consumers to meet shipments to the United States. Foreign suppliers have more liberties than we do on our own market.

The continued level of present imports thrusts a dark future on the sky over the American cattle industry. On February 17, the U.S. Department of State announced the signing of voluntary agreements with our two major suppliers. This agreement without sincere consideration for all concerned guaranteed the same high base which is so injurious to us now. It provided not only for continued access levels but stipulated increased use of our markets for the future. Montanans wonder at the word voluntary. Who does it apply to? The livestock industry was refused in their willingness to furnish council for the negotiating team, and apparently its big trust the Congress, was not extended a warranted view. We are becoming alarmed at the indifference some Government officials hold for our elected representatives in these halls of authority. Congress is the guardian of our people and Nation, if it is bypassed, our greatest arm of Government is not the function it was meant to be.

With significant timing the Department of Agriculture announced its intention to purchase surplus beef to service school lunch and other needs. This is well and good, but to use the program to dull the edge of a "will" by Congress to pass required and constitutional legislation is a blow far below the belt. Our market has been critically low for many months. Why, then was this gesture held until now? It seems unfair and ill-advised that the American taxpayer in such a deal would be required to tail up, it would seem, a foreign industry which is not down but enjoying great prosperity. In reality for our Government to buy beef to make room for imports doesn't seem consistent or sound. It taxes one's intellect to find the reason for such a move without protection.

Great Britain knows what it is to face a loss of food from destroyed import routes. They have been there and gone without. Today they are building a food producing island, protecting it against excessive imports and stabilizing their self-sufficiency. Here, on the other hand, we are on the verge of crippling our domestic meat plant, depending more on foreign supply lines and putting the Nation in such time of an emergency out on a meatless limb.

Serious consideration has been given by our industry to an accelerated promotion program on meat consumption. Tremendous increases were sustained when in 1953 stockmen took the bull by the horns and with assistance began their self-help campaign to get beef as a food of quality before the public. Thanks to a Congress-passed checkoff bill, this selling idea was legally and solidly financed. Today the industry would like to again concentrate on this avenue of retrieve. It cannot, however, reconcile itself to spending $1 out of every $10 used to promote consumption of a foreign competitive product. Irrespective of which way you look the barrier looms large and formidable. Legislation provides the only consistent, substantial, and lasting remedy. Again, as it should be, we turn to Congress.

This legislation on imports is a very graphic step in the democratic function of government. It provides the framework for remedial action which can give stockmen and their families the protection so vitally needed. It does not entail a draft on the taxpayer in undesirable and unwanted subsidy but gives the industry the freedom to operate in some measure of equality with foreign competition. Montanans are consistent with national cattlemen. They approve the 5-year base, they favor inclusion of beef, veal, lamb, and mutton (which includes cured and cooked), they sanction equal quarterly shipments, they need the effective date of December 31, 1964, and they feel the growth should be shared only after a parity price is reached domestically.

Our deepest hope and most urgent want is that our Congress will turn tables on the agreements outside its consideration and approval. We cannot see how an act by a department can commit an industry, Congress, and the entire country to a guarantee when it is not in accord with satisfaction. We look to this body to assert and reclaim its jurisdiction over all the Nation on this matter, place itself in judgeship over its industries and trade, and protect the basis of enterprise which has put the whole country on top in progress, respect, and responsibility. The great historical statements of "a government of, by, and for the people" has real and strong application here.

I have stated Montana's case and its feelings as they are, in fairness I hope to all related to it. All we ask is a fair verdict to our industry, to its people, and to the Nation. In this instance I think our children, too, are entitled to strong and just consideration. You will disclose their destiny.

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CONRAD VETERINARY HOSPITAL,
Conrad, Mont.,
*April 22, 1964.*

TRADES AND TARIFF COMMISSION,
*Washington, D.C.*

MEMBERS: As president of the Montana Veterinary Medical Association, I would like to express my views on the importation of foreign meat and meat products.

Being in daily contact with the cattle producers in the counties of Pondera, Toole, Teton, Glacier, and Liberty in Montana, I find that their economic status is considerably affected by the present prices they receive for their produce. This reflects on the entire economy of the region and I do believe our own citizens should have some protection. I strongly urge your consideration in limiting imports of foreign beef into the United States so as not to jeopardize one of our biggest industries in this area. Furthermore, as a veterinarian, I wish to bring out the fact that all meat involved in interstate transportation is subjected to rigid inspection by the USDA. I strongly urge you to see that foreign meat is subjected to a similar inspection until its final disposition. This should include an inspection of all frozen meat coming in, by inspectors of our own Nation, to see that it is properly handled so as not to hurt its quality.

I believe I speak for the majority of the veterinarians in our State organization in the foregoing statements and I again strongly urge you to consider protecting one of the most important industries in our State.

Sincerely yours,

R. W. GUSTAFSON,
*President, Montana AVMA.*

### Statement of William R. MacKay, Second Vice President of the Montana Stockgrowers Association, to the U.S. Tariff Commission, on Conditions of Competition Between Domestic and Foreign Beef as It Affects the Cattle Industry in the State of Montana

I appear before the Commission as vice president of the Montana Stockgrowers Association on behalf of the more than 5,000 cattle producing members and of the cattle industry in our State. I own and operate a cattle ranch in south-central Montana running 400 head of cows and have served Carbon County as State senator since 1953 and as representative in 1951.

The Commission has the responsibility of advising the Senate Finance Committee concerning the conditions of competition between domestic and imported beef and beef products. On behalf of the members of my organization and of the people of our State I ask the Commission to take into consideration the serious effect that past and present levels of imports have had on values and market prices and the serious implications on a major industry if they continue in the future.

Montana has twice as many cows as people—so anything that affects the values of these cows and their ability to turn grass from the native ranges, which cover two-thirds of our State, into a merchantable product is important to all Montanans.

Imports have grown in the last few years until in 1963 they amounted to enough beef to feed more than 20,570,000 people a year at the going per capita consumption rate—almost 30 times the population of our State. These excessive imports, at a time when our own production is high and our prices at a 7-year low, present a problem that has never existed before. Present prices of fed cattle are below the cost of production and if present conditions continue, prices of feeder cattle and eventually of breeding stock will drop below the cost of production.

The fact that imports continue at high levels and even increase as our domestic prices decrease would indicate that your Commission's investigation will show clearly that the costs of production of those taking over a sizable share of our market are considerably lower than ours. In other words, we cannot compete with imports when our investment and costs are considered.

Montana has increased its efficiency and its productivity as well as the quality of her cattle and beef to meet the needs of our Nation's consumers. Our cow herd alone has doubled since 1948 and yet prices today are lower than they were at that time. This means it will not be possible to continue present operations with present costs and with competition from imports which are permitted to enter at values below our cost of production. To substantiate the large investment in land, machinery, improvements and livestock, we refer you to a special summary of costs and returns to Montana farms and ranches prepared by Clarence W. Jensen, professor, Department of Agricultural Economics, Montana State College, Bozeman, Mont. This demonstrates the close margin on which we are now operating—$20 per 100-pound cost and a national average return of $18.50 per 100 pounds.

We can meet the vagaries of weather and, given time, we can adjust to the ups and downs of a normal domestic market. But we have no way of getting at the competition from excessive imports. There are times when a controlled level of imports can serve a purpose, but when they reach the proportions of the past 2 years—equal to twice or more the total production of our State which ranks 10th in the United States in the number of beef cattle and 7th in beef cows—the effect on our economy is obvious.

By USDA appraisals, the value per head of our cattle dropped 15 percent from January 1, 1963 to January of this year—from an average for all beef cattle of $173 to $146; a drop of $27 per head and our inventory was 2,500,000 head. This would amount to $67,500,000—a severe adjustment as far as tax base and loan values are concerned. A material proportion must be attributed to the competition from excessive imports often selling at a price lower than U.S. prices of comparable meat.

During this same period USDA prices received for all cattle dropped 14 percent from an average of $21.50 per hundred down to $18.50. We market about 1¼ million head a year—about 822 million pounds, which would mean a loss of $27 million.

Since these imports are primarily the kind of beef that competes with the beef from cows and bulls, let us analyze the effect where it is direct. Cow prices dropped about 10 percent nationally—from $15 in 1963 to $13.80 for the United States. In Montana this price drop was to $14.30. We in Montana sell about 200,000 head of cows and bulls each year—a loss of $1,400,000. Even more important is the effect of low prices on cows for slaughter. Instead of two bidders for cows that should be removed from production, there is only one—the farmer with surplus feed or the marginal cattle producer who desperately needs a few more calves to try to break even. This means breeding cattle are added instead of going to slaughter where they belong. Thus production is increased and the problem is compounded—and the distorting influence is the competition from cheap imports. Last year we ended up with one of the largest increases in breeding cattle of any State. This is an unhealthy direction to be moving at such a critical time. If cheap imports were materially reduced, the bulk of our excess production would move into slaughter channels and get our cycle back where it should be.

Ours is not a business you can shut down for a while and then turn on again. Nor is it one that lends itself to moving to foreign countries where costs would be lower, where taxes would be less and investment smaller. In our State and certainly to a large extent in all parts of our country, the cattle producer and feeder is a major customer of many industries. The inroads made by continued importation of cheap overcompetitive products are being felt in the towns and by those who work in other industries. Curtailment of natural resources income that is renewable year after year slows to a halt the creation of new wealth—the wealth that has built our country and made it strong.

I thank you for the opportunity of bringing to your attention the serious effects of the kind of competition that is being encouraged to exploit our domestic market at the expense of our own producers who have built up an efficient plant to provide the beef which is needed to supply our Nation at all times and to keep it strong regardless of outside calamities.

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### Statement of Carl W. Bell, on Behalf of Montana Chamber of Commerce, and Affiliated Local Montana Chambers of Commerce, Before the U.S. Tariff Commission, Washington, D.C., April 28, 1964, With Respect to Beef and Beef Products

Mr. Chairman and members of the Commission, my name is Carl W. Bell, and I reside at 701 Second Avenue South, Glasgow, Mont. I am appearing on behalf of the livestock industry of the State of Montana in my position as vice president of the Montana Chamber of Commerce, which represents a cross section of Montana industry and business and which considers its interests to be in common with the livestock industry insofar as concerns the effects of beef imports on the industry in our State. I also appear before you on behalf of the several Montana local chambers of commerce listed at the end of my statement.

The agricultural committee of the Montana Chamber of Commerce, through its chairman, C. P. Moore, a Great Falls banker, on March 18 this year filed a statement with the Senate Finance Committee in support of meat-beef import legislation proposed by the Honorable Mike Mansfield, U.S. Senator from Montana. What it said at that time has application in this hearing.

The statement pointed out that the beef cattle industry in Montana and the Nation has made an enviable record. Through efficiency and quality improvement, it has provided the maximum per capita supply of beef at a reasonable price to the consumer. Per capita consumption has reached 95 pounds a year for the Nation. More important, an hour's work in our country will buy more beef than anywhere in the world.

This progress has just begun. In a State like ours, the entire business community plays a part. We raise cattle and feed grains in Montana. More than two-thirds of the 90 million acres in the State is rangeland. It has economic value only through the conversion of grass to merchantable beef through the raising of livestock.

All of us in Montana are working hard to build our economy—to build our future. We see primary potentials in livestock operation and utilization of feed grains. Can we be blamed if we are seriously concerned about the recent sharp drop in livestock prices and the reasons that have contributed to this?

While the process is often painful, we are accustomed to working out the hardships of cycles in livestock production. And the shakedowns that come with drouth or adverse prices are felt all along the main streets of our towns. Now we find ourselves faced with an additional influence on our basic economy—the effect of excessive imports of meat from foreign countries, which operate on much lower cost standards than we do. This comes at a time when the U.S. production is more than sufficient to meet demands. We feel certain that record quantities of imports, in addition to high domestic production, are material reasons for the low prices being received by American producers. We feel that it is of utmost importance that your Commission recognize this and give sufficient information to the Senate Finance Committee so that it can take appropriate action.

Montana is a raw material State, and as a producing State for livestock we are more seriously affected and will be even more so in the future. The big increase in imports has been in what is termed "manufacturing beef" and similar meats. This competes directly with the products of our cows and bulls and indirectly with all beef production. The sale of cows and bulls alone constitutes a very important income to our producers in Montana.

Specifically, our ranchers in Montana sell some 200 million pounds of cows and bulls each year. There is no question that the addition of some 2 billion pounds of competitive foreign meat has had a direct and adverse effect on our market. Our total annual sale of all types of cattle is about 1¼ million head. This means we market about 822 million pounds each year. When imports are added to an already heavy national supply, we lose a lot of potential returns. Last year, this loss for Montana was conservatively estimated at $28 million. The loss will be considerably more this year—even if imports remain at about the same level. Our feeder customers are going to pass their recent losses back to us when they purchase replacement cattle for their feed lots.

Artificial conditions have made the law of competitive markets inoperative, so far as imports are concerned. In the past, when prices declined so did imports. But, for 2 years, prices have gone down, while imports continue to increase. So the effect of imports has been more severe and will continue to be.

Losses to Montana cattle producers are of concern to everyone in the State. We cannot progress, cannot even hold our own, with such serious effects from a situation over which we have no control. When cattle producers do not receive fair returns on the heavy investments they have made in land and livestock, the rest of us cannot expect our businesses to prosper. The tax burden to maintain schools and government falls on fewer and fewer people. Every trade area in our State is hit by this situation.

Today, at least half of our cattle are sold at local livestock auction markets throughout the State. It is a good system, and it has been estimated that each $1 million dollars of livestock sold through one of these markets is equal to an industrial plant with a payroll of 160 persons. Ordinarily, our local markets do a business of about $100 million a year. It is easy to figure that our local communities suffer a direct and heavy loss in this one field alone.

Many more examples could be given you of the effects on our business, on our trade and employment. But we are sure that the Commission, with its experience in this field, can accurately determine what has happened, as well as foresee what will happen unless something is done. Thank you for the opportunity of appearing before you today.

Local Montana chambers of commerce endorsing Mr. Bell's statement are: Baker Chamber of Commerce, Beaverhead Chamber of Commerce, Billings Chamber of Commerce, Butte Chamber of Commerce, Glasgow Chamber of Commerce, Glendive Chamber of Commerce, Great Falls Chamber of Commerce, Harlowton Chamber of Commerce, Havre Chamber of Commerce, Helena Chamber of Commerce, Kalispell Chamber of Commerce, Roundup Chamber of Commerce, Shelby Chamber of Commerce, and Sidney Chamber of Commerce.

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## THE NEED FOR TOTAL DISARMAMENT UNDER ENFORCEABLE WORLD LAW

**Mr. CLARK.** Mr. President, to my way of thinking, the most critical problem confronting the world today—and therefore the United States—is how we are to achieve, before the world destroys itself with nuclear weapons, total and permanent disarmament under enforceable world law.

A fine start toward this long-range goal was made in two brilliant speeches by former President Kennedy, one before the United Nations on September 21, 1961, and the other in Washington, at Georgetown University, in May of last year.

To my way of thinking, the reasons for and the principal ingredients of a feasible plan for total disarmament under enforceable world law have been brilliantly stated in an article entitled "The Need for Total Disarmament Under Enforceable World Law," written by Grenville Clark, and to be published this year in "Current History."

I commend the article to all Senators. It is only 10 printed pages in length.

I have asked Mr. Grenville Clark to send me a number of additional copies, which I hope to send to those in the executive branch whose duty it is to see to it that our national policy, as laid down by President Kennedy and affirmed by President Johnson, moves toward accomplishment at the earliest possible moment.

Mr. President, I ask unanimous consent that the article to which I have referred may be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Need for Total Disarmament Under Enforceable World Law

(By Grenville Clark)

By almost universal agreement, the world's paramount problem is the achievement of peace by which I mean genuine peace, as distinguished from the present precarious balance of terror. What we are discussing here is the question of method—that is to say, by what necessary means this objective of genuine peace can be achieved. Such a discussion is all-important since the cause of the world's failure to agree upon any adequate plan for peace is certainly not any lack of desire but rather a lack of sufficient understanding as to the principles upon which genuine peace must be based and as to the nature and structure of the world institutions indispensable to the end in view.

My proposition is a simple one; namely, that world order requires not only total disarmament but also enforceable world law against international violence, necessitating the same kind of legislative, executive, and judicial institutions on a world scale as the experience of centuries has shown to be essential for the maintenance of internal order in local communities and within nations.

By all except the most ignorant, it is taken for granted that law and order in any community depend upon the existence of clearly stated laws against violence, upon reliable courts to interpret and apply these laws, and upon efficient police forces to deter or apprehend violators thereof. Moreover, every orderly community takes it for granted that no armed factions can be permitted. For, while the possession by individual citizens of rifles, shotguns, and pistols for purposes of sport or self-protection may be permitted, who would suppose that the existence within a community of organized and potentially hostile armed bands would be compatible with domestic peace?

In short, we have learned by long experience that the maintenance of domestic order within any organized society up to and including the nation, requires not only disarmament but also legislative, executive, and judicial institutions to enact and enforce definite law against violence. And until the obvious truth is generally accepted that world order requires corresponding world institutions, there is indeed no chance for any reliable peace on our planet.

Assuming acceptance of this concept that enforceable world law is indispensable, what are the specific requirements to that end?

I submit that nothing less is needed than a comprehensive plan including the following elements:

1. Universal and complete disarmament: By this is meant not merely "arms control" or the mere reduction of armaments, but rather the elimination of all national armaments by every country in the world without exception, right down to the level of agreed-upon police forces for internal order only, strictly limited in number and very lightly armed—it being understood that this total national disarmament must be subject at all stages to as effective an inspection system as is reasonably possible and that the accomplishment of each stage must be carefully verified before going further.

2. An adequate world police force, meaning the establishment, parallel with the disarmament process, of a strong and heavily armed force of, say, 300,000 men, composed of individual volunteers and not of national contingents, with careful safeguards against having any undue proportion from any nation or group of nations and in respect of command, disposition and other factors, so as to provide every possible assurance against abuse of power by this force.

3. A world judicial, quasi-judicial and conciliation system, under which impartial world tribunals would be constituted in order to provide fully adequate means for the peaceful settlement of all international disputes, in lieu of force or the threat of it.

4. World legislative and executive agencies, so constituted as to be fair to all nations and also workable in practice, the powers of these agencies to be carefully restricted to the end in view; namely, the prevention of war.

5. A world development authority, adequately financed and staffed, to mitigate the vast and excessive economic disparities between the have and the have-not nations.

6. An effective world revenue system to provide reliable revenues for the maintenance of the world police force and other necessary world institutions, since without such a system the mere establishment of these institutions would be a futility.

I cannot emphasize too strongly that every one of these elements is essential. For example, disarmament alone, no matter how complete or how efficient the inspection system, could not insure peace for the reason that many pressures for change and many international disputes would still continue, with consequent rearming and fighting, unless prevented by a strong world police and trustworthy world tribunals. It is indeed no more sensible to expect world order without all these world institutions than it would be to expect a watch to keep time without all its essential and interrelated parts.

Why is total national disarmament essential, as compared with merely partial disarmament or so-called arms control? To my mind the answer lies in simple arithmetic applied to the vast existing and prospective stockpiles of nuclear weapons and their destructive power. President Johnson told us on January 21, 1964, that the Soviet Union and the United States already have produced enough explosive force to equal 10 tons of TNT for every man, woman, and child on the face of the earth; and, since the world's 1964 population is about 3.2 billion, this means the equivalent of 32 billion tons of TNT. Some other estimates are far higher; but I prefer to take this conservative figure cited by the President.

As to the killing capacity of this almost incredible explosive power, we may well start with the Hiroshima bomb of August 6, 1945. Although strictly accurate figures as to the loss of life from that bomb are lacking, careful inquiry both in Washington and in Japan indicates that there were approximately 80,000 fatalities from this first crude bomb which, according to official announcement, had an explosive power equivalent to about 20,000 tons of TNT. In other words, the killing rate was approximately four deaths per ton of explosive power.

It follows, therefore, that at this Hiroshima rate the killing capacity of the estimated 32 billion tons of nuclear explosive power held by the United States and the Soviet Union would be 128 billion people, or 40 times the 1964 population of the world. Even if one assumes that in a nuclear war the killing rate per ton would be only one-fourth of that of the Hiroshima bomb (i.e., or one person per ton), these 32 billion tons would be sufficient to kill 32 billion people, or 10 times the world's population. And even if one further assumes that at a killing rate of one person per ton only one-tenth of the Soviet-American stockpile was used, or 3.2 billion tons, these would still be enough to kill every inhabitant of the world.

We should remember also that even in an all-out nuclear war a large part of the world's population would in all probability escape direct attack, since there would be no point in the wanton destruction of the people of such countries as India, Indonesia, Nigeria, and Brazil which would presumably stand aside from the struggle of the nuclear powers.

Another important consideration is that the so-called means of delivery of the vast stocks of nuclear weapons are constantly being increased and perfected. The test ban treaty of August 1963 did not prohibit underground testing, which still goes on in the United States and presumably in Russia, so that the yield-to-weight ratio is constantly being improved.

Moreover, the installation of intercontinental missile sites constantly proceeds, so that according to the statement of the American delegate at Geneva in February 1964, the United States will have 750 percent more strategic missiles by 1965 than when the current disarmament conference began in March 1962. And, while it is generally believed that in 1964 the United States has a superiority over the Soviet Union of as much as three to one, both in the quantity of nuclear weapons and in the means of "delivering" them, there is little doubt that these smaller armaments of the Soviet Union would still be amply sufficient to kill at least 200 million people in densely populated Western Europe and Britain and, say, 100 million in the United States and Canada. This latter estimate is supported by President Johnson's statement on March 24, 1964, that while "in a matter of moments" the United States "can wipe out from 50 to 100 million of our adversaries" they, on the other hand, could kill "half of our population in a matter of an hour."

Having all these factors in mind, it seems apparent that even if there were a reduction of as much as 90 percent in the nuclear armaments of 1964, the remaining 10 percent would still be sufficient to constitute a grave threat which would prevent any real feeling of security.

I believe, therefore, that the reason why any serious consideration has been given to the mere reduction of armaments, as compared with "general and complete" national disarmament, is simply that hardly anyone has taken the trouble to apply some simple arithmetic to the question of nuclear disarmament. For it is clear as crystal that even a 90-percent reduction in nuclear armaments would be insufficient to remove the danger inherent in these appalling weapons.

It seems plain, therefore, that nothing less will suffice than total nuclear disarmament, save only for a small quantity of nuclear weapons which would probably need to be held by the world peacekeeping organization as a safeguard against any possible major revolt against its authority. It is clear also that universal and complete nuclear disarmament is out of the question unless "conventional" national armaments are simultaneously eliminated. And hence it follows that the only practical solution is the abolition of all national armaments, without prejudice to the maintenance of strictly limited and lightly armed police forces for internal order only.

Just as the necessity for total, rather than merely partial, national disarmament is apparent, it is equally clear that along with such disarmament there must be an effective alternative system for the settlement of all international disputes without violence or the threat of it. As already noted, everyone takes it for granted that the price of internal peace in local community, state and nation, is a reliable system of enforceable law under which there are legislatures to enact specific laws against violence, police to apprehend and deter violators, and courts to interpret and apply the laws; and until the great majority of people learn the simple truth that in order to preserve peace between nations corresponding world institutions are equally essential, any hopes for genuine peace will indeed be futile. It is for this reason that adequate machinery for the enforcement of world law in the limited field of war prevention must be established simultaneously with the process of total disarmament.

This does not mean that under existing conditions armaments can be summarily dispensed with since, in our present anarchic world, they may well serve a useful purpose in temporarily deterring violence while a true solution is sought. But it does mean that the indefinite maintenance of vast armaments is in itself no solution at all and at best can do no more than provide time to work out the only real remedy, which must consist of the total elimination of national armaments under a system of enforceable world law.

The formidable vested interests and the traditional modes of thought which must be overcome in the effort for genuine peace are only too apparent; and yet two powerful influences are at work to do this. One is, of course, the ever-present risk of catastrophe inherent in the arms race. The other is the interrelationship between success in the "war against poverty" and a termination of the arms race.

In the modern world the gap in living standards between the "have" and "have-not" nations tends to widen rather than to contract—with ominous consequences for all concerned. At last, however, it is beginning to be understood that the immense cost of armaments, at some $120 billion per annum, constitutes an almost insuperable handicap to the relief of world poverty.

Even in our own country we begin to see that the new and badly needed "war against poverty" will be seriously hindered by the immense diversion of materials and energy from productive purposes which is involved in the continued piling up of armaments. As President Johnson said on April 11, 1964, there are still 20 percent of our people (over 38 million) who are "ill fed, ill clad, and ill housed"; and it will become steadily more apparent that adequate provision for their needs is incompatible with our vast military expenditure.

These influences will, I believe, persist and grow as the years pass and will offer encouragement to the workers for genuine peace.

Nevertheless, it must be realized that a truly revolutionary change in the world's thinking is a precondition for the achievement of world order under world law, and that the issue as to whether this change will occur in time to forestall a world holocaust is still in doubt. In his later years even so wise and great a man as Albert Einstein seemed to doubt the outcome when he said: "Our world faces a crisis as yet unperceived by those possessing the power to make great decisions for good or evil. The unleashed power of the atom has changed everything save our modes of thinking, and thus we drift to unparalleled catastrophe."

For my part, I am somewhat more optimistic believing, as I do, that there will be enough intelligence in the younger generation to perceive what is required and to force the governments, tardily indeed and yet just in time, to agree upon the necessary comprehensive plan.

The outcome will mainly depend, I believe, upon the development of careful and systematic education in respect of the essentials for a warless world. This education must relate not only to the reasons why effective world law in the field of war prevention is essential but, equally or more important, to the kind of world institutions—legislative, executive, and judicial—which must be established in order to make enforceable world law a reality. In other words, the peoples must understand not only why the new and radical treatment is required; they must also comprehend the methods and techniques whereby the new system of world order can be administered.

This worldwide process of education must be based upon study and discussion at all levels starting with the high school student, and with the aid of suitable materials and well-equipped teachers. As of 1964, only a good beginning has been made, with a long way to go; and until a much larger proportion of the peoples, the world over, more clearly understand what is needed, the necessary governmental action cannot be expected.

It is significant that despite the obvious need for effective world law, not a single important head of government has emerged in the past decade as the champion of a comprehensive and adequate plan for peace. Many, indeed, have uttered impeccable generalities as to the need for the rule of law in world affairs. But among the world's statesmen, only former Prime Minister Clement Attlee has persistently called for the definite world institutions upon which enforceable world law must be based.

This dearth of leadership is no accident, for it derives from a lack of pressure from the peoples themselves, which in turn derives from insufficient understanding of the requirements. In short, the price of peace is, I believe, nothing less than far more enlightened electorates in many nations, and, to that end, a far greater effort to educate the peoples as to the basic requirements for a disarmed and ordered world.

Adlai E. Stevenson said on March 23, 1964, that since "the sheer arbitrament of force is no longer possible" the world seems to be "groping" for a peace which is "secure in justice and ruled by law." This is doubtless true but it is also true that the world can "grope" indefinitely for such a peace unless there is sufficient knowledge and clarity of mind to recognize the means whereby alone genuine peace can be achieved. As I have tried briefly to demonstrate, the two indispensable means are on the one hand total, rather than partial, national disarmament and, on the other, an effective system of enforceable world law.

Finally, I believe that to achieve this goal is primarily the task of the younger generation, since most older people seem to be too set in their ways to be capable of the new and revolutionary thinking which is required. On this score, Prof. Louis B. Sohn and I recently received a letter from a high school senior which gives me hope. She was good enough to commend our book "World Peace Through World Law," which is based upon the principles set forth in this article. Then she added: "I, and the millions of others my age, have never known peace, except one of terror. * * * It is a fine feeling to know that clear thinking still exists, and that there is hope that peace shall someday reign."

Without the hard study and lucid thought revealed by this letter, the search for peace can go on indefinitely without success. But if there are enough young people with the will and ability to study as hard and think as clearly as this girl, they can have genuine peace in their time.

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## THE ALASKA EARTHQUAKE DISASTER AND WHAT IS BEING DONE ABOUT IT

Mr. GRUENING. Mr. President, our able colleague, CLINTON P. ANDERSON, was appointed by President Johnson to head the Alaska Reconstruction Commission. It is composed of the heads of Federal executive agencies and a corresponding number of executives from the Alaska State government appointed by Alaska's Gov. William A. Egan.

Under Senator ANDERSON's dynamic leadership, the Commission has mobilized the resources of the various executive departments to ascertain the diverse ways in which their services may be expanded or modified to meet the conditions brought about by the unprecedented earthquake and tidal wave disaster that struck Alaska on March 27.

Senator ANDERSON, who is already heavily burdened with his other senatorial commitments, has worked unceasingly since his appointment. He visited Alaska earlier this week to inspect the damage caused by the earthquake, to get at firsthand the reactions of the Alaskans who have been economically impaired by this disaster and to report to them his program for their rehabilitation. He addressed the Anchorage Chamber of Commerce on April 27 and gave a comprehensive and hopeful account of his purposes and of the activities of the Presidential Commission which he heads.

I ask unanimous consent that this speech be printed at this point in my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### REMARKS OF SENATOR CLINTON P. ANDERSON BEFORE ANCHORAGE CHAMBER OF COMMERCE, ANCHORAGE, ALASKA, APRIL 27, 1964

It was 14 years ago this week that I had the privilege of presiding over hearings of the Senate Committee on Interior and Insular Affairs on statehood for Alaska. We had a very fine group of witnesses including ERNEST GRUENING, who was then the territorial Governor, Bob Bartlett, then your Delegate in the House of Representatives, and the then Governor, Earl Warren, of California. And there were many fine citizens from Alaska.

At one point in those hearings, I questioned the language in the bill which provided for payments to your common-school fund from proceeds from the national forests. It was in the bill as it came over to us from the House. I favored statehood, but I certainly would have been derelict in my responsibility as a Member of Congress if I had not raised questions and sought the kind of clarification that is essential to the legislative process. Yet, there seemed to be a feeling that we should just accept the House bill or be guilty of blocking statehood.

When the proposal for the Eklutma project was before us, I read every line of the report and I tried to get the bill reported favorably. That project has been in being for some time now, and it has been of real value to this area. But we did have to ask questions about it.

What I am trying to say is that history has a way of repeating itself. I am again asking questions—and am up here asking more—but inquiry should not be taken for hostility. Nor should the absence of haste in the enactment of unusual new programs be interpreted as a lack of sympathy or as do-nothingness.

I imagine that if this were a road company doing Dickens' "A Christmas Carol," some persons would quickly cast me in the part of Scrooge, in fact I have had letters so classifying me.

Some newspaper reports have portrayed me in that role. But I wish the record to be absolutely clear. My responsibility—as set forth by the President of the United States—is to speed the recovery of your State with the objective of making Alaska an ever better place to live and work than it was before the tragedy of last month. I would not have wanted to come up here if we weren't already well along toward that goal.

Let me say, however, that it would be a sharp break with precedent if the President's Commission would recommend that there be a wholesale assumption by the Federal Government of the full obligations of anyone who suffered loss of a home or a business in the earthquake. I doubt that Congress would be overly receptive to such a proposal.

The Federal Commission fully appreciates the severity of the blow that the economy of Alaska suffered from the earthquake and tides. Alaska was hit at a time when your economy is still not fully developed and is rather narrowly based.

Long before a program of Federal disaster relief was created, American cities were devastated by natural disaster of terrible proportions. The great fire that swept Chicago in 1871 claimed 250 lives and did $196 million damage to property and left 60 insurance companies bankrupt. The earthquake and fire of 1906 snuffed out 450 lives in San Francisco and destroyed about $400 million in property. The 1938 hurricane that swept through New England did $300 million damage and left 660 dead.

All that was before Public Law 875, which established a program of Federal assistance to disaster areas, was enacted.

Then came the 1951 floods which destroyed or left uninhabitable over 8,300 homes in Kansas alone.

The hurricane of 1955 cost nearly 200 lives in six Eastern States and total damages were estimated at $650 million.

I could cite other events in this tragic chronology. My point is that in these disasters the Federal Government moved in and played a vital part in restoration. But there were limits to what it could do. No blank check was written to recoup private losses.

I am sure that you are well acquainted with some of the existing programs which are going to be of major benefit—indeed, already are of aid in recovery. The Small Business Administration, the Veterans' Administration, the Farmers Home Administration, the Housing and Home Finance Agency and the Bureau of Commercial Fisheries are making loans, granting forebearance and making other adjustments because of the disaster.

But that is not enough.

President Johnson, you will recall, asked Congress for a $50 million supplemental appropriation for the disaster fund—primarily for assistance to Alaska. In little more than hours, Congress voted those funds. That is just one measure of the awareness in Washington of what took place here on Good Friday.

On Saturday the President's recommendation for extension of the transitional grants beyond the scheduled expiration this summer was introduced in Congress by Senator JACKSON and I am a cosponsor. I think there will be favorable action on this. The first hearing may be May 4. And the $22,500,000 the bill authorizes will be of marked help to your State and local governments.

Also on the legislative front, the House Committee on Merchant Marine and Fisheries has ordered reported out a bill that will enable Alaskans who lost their fishing boats to charter replacement vessels on very favorable terms. A few phone calls helped speed that bill along and I know that the leadership in the House will call up the bill as soon as possible.

I do not anticipate any problems in the Senate on this measure. The Senate has already passed the basic bill and will, I am hopeful, accept the amendments of the House.

The drydock which the Navy moved to Kodiak from San Diego is ready to take aboard damaged fishing boats for repairs by private builders. There was some question as to whether private boats could be repaired by private boatyards using a Navy vessel. We simply told the Navy to move full steam ahead with getting the drydock to Kodiak and the policy issues would be resolved. They have been.

This is a small—but important—example of how we have been cutting through redtape in behalf of the 49th State.

Also in the legislative area, the full Senate Interior Committee held 2 days of hearings on the bill to provide retroactive earthquake insurance to Alaska. The committee will meet again to hear more witnesses on May 4. Contrary to some views, I believe this proposal represents a substantial new venture for the Federal Government and a unique change in the concept of insurance. Even if there were no long debate in the Senate on civil rights to hobble major legislation, the fate of this measure would be doubtful. There are States which have been hit in recent years by severe floods and hurricanes. The Senators from those States are waiting in the wings to get some kind of retroactive protection for their people.

I am not prejudging the insurance measure. But I want you to understand the basis for my questions.

The Federal Commission has submitted a unanimous recommendation relative to certain stretches of the Alaska Railroad. Next Friday, the Commission will meet and I hope we will be in a position to recommend additional legislation affecting your State, particularly in the area of lending programs.

The President, the Federal Commission and all of us who are deeply concerned with the State and national problem created by the disaster are looking at every avenue that may lead to additional help. I completely understand how—in an hour of acute need—people look around to see what possible sources of funds might be available to assist Alaska. Statements have been made by some persons that one of these sources should be the savings from a sharply reduced foreign aid budget. Those who advocate such action say "charity begins at home." I would not quarrel with that general philosophy. I have not always been pleased with foreign aid, and I did not come to Alaska to defend the oversea assistance program.

Foreign aid, frankly, has been used to prop up shaky governments which might better have fallen and build projects which never should have been built. But foreign aid has also served America's interest by reducing the risk of violence, chaos, and instability in many important areas of the world. If you pitch your whole case on opposition to that, you automatically enlist against your needs those who have a strong attachment to building up a more peaceful world by bolstering free governments.

It is interesting that one of the criticisms of foreign aid is that it is not tightly supervised by the United States and so money is wasted. I wonder if Alaska really wants Federal assistance for the private side of its economy with close Federal supervision as to how the funds would be used? How large a voice should Washington have in the affairs of Juneau? How much should it dictate to the elected officials of Alaska? This, it seems to me, would be a basic question to be resolved.

I have been in Washington long enough to know that the funds cut out of one program do not necessarily get assigned to some other urgent need. So, I do not think your salvation rests on a fight for a reduction in foreign assistance.

I have also heard proposals that the Small Business Administration reduce its interest rates below 3 percent to be in line with foreign aid interest charges. On Thursday, at the last Federal Commission meeting, Mr. Foley, the Administrator of the Small Business Administration—an agency which has been doing a fine job here—spelled this matter out very precisely. I quote Mr. Foley:

"Our authority says that our interest rate shall not exceed 3 percent. There has been some feeling that the interest rate should be three-quarters of 1 percent because that is what foreign aid charges. The foreign aid loans that have carried three-quarters of 1 percent interest rate have been loans from government to government, not to private individuals. Foreign aid loans that have gone to private individuals carry 5½ percent interest," Mr. Foley said. Is that what is being sought for Alaska? And he continued:

"I think that point ought to be cleared up because we have been comparing apples and pears by comparing the 3 percent interest rate with the three-quarters percent rate. I have been in Anchorage and Kodiak with Secretary Carr and feel reasonably confident that bankers and businessmen are quite optimistic and quite appreciative of this type of liberal program for the restoration of the commercial property. That program also applies to working capital expenses, working capital for businessmen."

Nor should you anticipate that certain other sources are susceptible to use in Alaska. I have in mind the suggestions by some persons that the special insurance funds of the Federal Housing Administration can be tapped for disaster relief.

The FHA is strictly limited in the use of its insurance funds by the National Housing Act and by its insurance contracts with mortgage lenders. The National Housing Act specifies that these funds are to be used as revolving funds for carrying out the provisions of the insurance programs. The act further prescribes formulas to be used in calculating insurance payments to lenders.

The basic mortgage insurance program under which the great bulk of home mortgages are insured is a mutual program. This means that the homeowner may participate in any surplus funds realized after the payment of all insurance claims and expenses. Regardless of whether the fund is mutual or nonmutual, the use of the moneys in the fund for relieving disaster victims is not authorized. This is true even though the victims have homes covered by FHA mortgage insurance which have been damaged or destroyed.

The FHA mortgage insurance covers losses occasioned by a lender as a result of a default in mortgage payments by a homeowner. It does not provide any protection to the lender for losses which result from damage to the property by an earthquake. It is for this reason that in settling insurance claims on Alaskan property, the FHA will have to deduct from its payment to the lender an amount representing any damage by the recent earthquake which has not been repaired.

As a Government agency, the FHA can only disburse money for purposes for which it has statutory authority, and its authority is limited to obligations arising out of its mortgage insurance programs. In addition, it is obligated to maintain sound insurance reserves to back up the vast amount of outstanding insurance and to provide funds for paying further insurance claims.

Quite obviously, there is a legal barrier to dipping into these funds to help your situation.

Alaska is already heavily dependent on the Federal Government. According to information supplied to me by the Bureau of the Budget, it was anticipated—before March 27—that nearly 55 percent of the revenue of the State of Alaska is in the form of Federal money. Those Federal receipts, including income from Federal lands and resources—were expected to total $67.4 million. This coupled with the transitional grants which have been made since statehood, makes it appear that the Federal Government is a senior financial partner in Alaska.

Additionally, the Federal Government is the largest single employer in Alaska—and that is a very mixed blessing to be sure. Some 16,700 civilians are employed here by the Federal Government. And Alaska has the highest concentration of military personnel compared with total population of any State—some 32,000 in uniform. Thus, the combined total of Federal employment—in the neighborhood of 46,000—presents a staggering figure in relation to the State population and total employment.

I am sure that I say only what you are aware of—that the economy of this State is going to be effected by changes in the defense policies of our Government. Changes in military technology could well have a significant impact on Alaska—as is the case in many other States.

Coming from a State with large air bases and nuclear weapons installations, this particular problem is not foreign to me. I have been urging my own State to plan for a future in which defense needs are going to be altered considerably.

I think these considerations were part of your thinking some time back when your Governor and congressional delegation proposed a cooperative Federal-State development effort. Your officials sought a device which would hasten economic development of this great State. President Johnson endorsed the proposal and the wheels began turning to implement the recommendation.

For one reason or another, however, actual establishment of the joint agency was delayed. Then came the agony of March 27, and with some changes in the original proposal, a Federal Reconstruction and Development Planning Commission for Alaska was created by order of President Johnson.

It has been working—and working hard—in behalf of Alaska and the best interests of the other 49 States. We have operated in close association with your State people, particularly Governor Egan. We are going to be making headway, I am confident, in assisting you in charting your long-term development.

But while I devote nearly full time to this matter, I am not interested in making it a permanent career. That is why we are moving deliberately to have our final recommendations to the President ready by late summer. In the meantime, while we rightfully must take time to make sound judgments on broad policy questions, the work of reconstruction goes forward.

I invite every Alaskan to join in. There is constructive work to be done and far-reaching plans to be made. You should want—and have—a part in that. You will find me—and the other Commission members—ready to work long and hard for a better and more prosperous Alaska. I welcome you to that endeavor.

Mr. GRUENING. Mr. President, in one respect, I find myself in disagreement with a passage in Senator ANDERSON's speech. That is where he quotes the comments of the Administrator of the Small Business Administration, Mr. Eugene Foley. Mr. Foley, at a meeting of the Commission, countered my proposal that the loans to Alaska businessmen who had suffered economic disaster be made at the same rate of interest, and on the same terms, as the development loans the United States has been making all over the world. The terms of these loans, for foreign borrowers, under our foreign aid program, are for 40 years, at three-quarter of 1 percent, with a 10-year postponement of repayment of capital. Many of these loans have been made to the private sector. They have gone to create or rehabilitate private industries.

Mr. Foley was under the impression that these loans were made to governments and therefore did not provide a precedent for the Alaskan situation.

I believe Mr. Foley was mistaken. While it is true that many loans are made to governments, the recipient foreign government in those cases merely act as a conduit by which the loans are then funneled to private industry. In such cases, the recipient government takes the loan at three-fourths of 1 percent, raising the amount of interest to the local private enterprise. But it is the United States that is making the loan at three-fourths of 1 percent, and the foreign government's take of an intervening 5½ percent or whatever it chooses to exact does not alter the fact that our American tax dollars are being loaned to private industries abroad at three-fourths of 1 percent.

But there are also plenty of examples which I have cited in previous insertions in the RECORD, and which I shall cite again, in which loans at three-fourths of 1 percent were made directly to private industries in foreign countries. I listed a few of them in a letter to the Small Business Administrator, Eugene P. Foley, which I inserted in the CONGRESSIONAL RECORD of April 21.

I can see no reason why such terms should not be afforded the Alaskan economic victims of the earthquake. Otherwise, a permanent double standard would be established, under which we feel that we are unable to do for our own people what we have done and continue to do abroad. As it is now, the Small Business Administration, under its Disaster Loan Act, is lending its money to the economic victims of the earthquake in Alaska at the maximum rate provided by law, namely, 3 percent, although it provides a 1-year moratorium on interest and 5 years on principal repayment, and he can consolidate his existing bank loan at the 3 percent rate. The act is specific in that it establishes that money shall be loaned at a rate not to exceed 3 percent. It sets no minimum rate. The Administrator has informed me that he has a right to set the interest at any lesser rate that he chooses.

For a man who has lost his business, the building that housed it, and the inventory, and still has a loan on either or both at the bank, the difference between 3 percent and three-fourths of 1 percent may well be the difference between recovery and failure.

Finally, there is one further justification for making the foreign rate available to our own American disaster victims. The rehabilitated businessman soon begins to pay taxes to municipality, State, and Nation. No such benefit results from the foreign loan.

To recapitulate, Senator ANDERSON quotes Mr. Foley as saying:

> Foreign aid loans that have gone to private individuals carry 5½ percent interest.

Let me repeat that it is the foreign government which has interposed itself between U.S. generosity and its three-fourths of 1 percent loan to take the difference between three-fourths of 1 and

5½ percent for its own use. The foreign government pockets the difference.

The U.S. Development Loan Agency could doubtless—if it wished—stop that practice, but it leaves this to the discretion of the foreign beneficiary government. The private enterprise abroad is expected to repay its government in soft currency at the rate that government has fixed, but that foreign government is expected to repay the United States at only three-fourths of 1 percent after a 10-year grace period on the principal. Mr. Foley was not fully informed of the facts about our foreign aid program, and I hope that he will now see the justice of treating American disaster victim borrowers no less well than foreign borrowers who have suffered no such disaster.

Otherwise, we shall have officially established what to me is an inexcusable double standard.

## SHOULD THE UNITED STATES IMPORT 8,676,000 CATTLE ANNUALLY?

**Mr. MUNDT.** Mr. President, there recently came to my attention a letter written by Dave Grasmick of radio station KOLT in Scottsbluff, Nebr., which deals with the impact of meat imports on our agricultural economy. I ask unanimous consent to have the letter printed in the RECORD, and I commend it to all Senators as "must" reading.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SCOTTSBLUFF, NEBR., *April 1, 1964.*

Mr. L.B.J. TRAIL BOSS,
*LBJ. Ranch,*
*Johnson City, Tex.*

DEAR TRAIL BOSS: This letter points out what meat imports really mean. Forgetting percentages and vague references to how much meat imports to the United States are up, just what do these imports mean to American cattlemen in terms of lost markets?

Starting with a figure of 1,885,400,000 pounds of beef and veal imported into the United States in 1963, an equivalent of 3,250,000 cattle have been replaced by imported beef.

Let's go back beyond this figure and calculate that also replaced are 4,010,000 cattle in a second herd needed to produce 3.25 million slaughter cattle. We arrive at this figure on the basis of allowing for 3,820,000 breeding cows (figuring an 85-percent calf crop), and 190,000 bulls (figuring 1 bull for each 20 cows).

In addition, we assume, there must be a third herd producing replacements. For this we allowed 450,000 2-year-old cows for replacement, 220,000 2-year-old bulls for replacement; 450,000 yearling heifers to replace the 2-year-olds; 22,000 yearling bulls to replace the 2-year-olds; 450,000 heifer calves to replace the yearlings; 22,000 bull calves to replace the yearlings; all of this adds up to 1,416,000 head of growing cattle to replace the second herd.

To what does all of this add up? Well, 3,250,000 slaughter cattle replaced by the 1963 imports, 4,010,000 breeding cattle to produce the 3.25 million slaughter cattle, and 1,416,000 breeding cattle to replace the second herd, which adds up to a grand total of 8,676,000 head of cattle replaced by the beef and veal being imported at the 1963 rate.

Startling? Yes, but we don't stop there.

How many acres of U.S. land would it take to produce the pasture, hay, and grain to maintain 8,676,000 additional cattle? At 5 acres per head, it would take 43,380,000 acres.

Cattlemen and agribusiness both lose. First, they lose because imported beef and veal replace U.S. production. U.S. producers are losing at the rate of 3,250,000 cattle multiplied by 1,000 pounds multiplied by 25 cents per pound or $812,400,000 annually. And agribusiness loses, too.

Second, U.S. producers are losing because 1,885 million pounds of imported beef and veal helped depress the live value of every cattle in the United States sold for slaughter. How much? Nobody knows. We do know that 28,100,000 cattle slaughtered in 1963 multiplied by $35 per head is another loss of $983,500,000. A total loss of $1,796 million. Agribusiness loses, too.

We concede that part of the reduced income potential which U.S. cattlemen suffered during 1963 probably was caused by too much U.S. beef and other meats, and partly by too many cattle of too-heavy weights. But we question the propriety of blaming overproduction as the basis of the cattleman's low-price troubles through much of 1963 and up to the present time. We point out that the supply buildup in cattle was merely a reflection of desirable increased demand and that moving to meet large demand was a proper move by cattlemen. We explain overholding as a move by individual feeders to protect their investment and a gamble on a better price that did not pay off but did result in too many heavy cattle. Neither of these factors might have operated to cause the price drop without the 11-percent imports piled on top of our production.

Yours truly,
DAVE GRASMICK,
*Farmer, Rancher, and*
*KOLT Radio Farm Director.*

P.S.—Things are critical at our ranch, cattle prices are low—we're out of hay—and it's too early for grass.

## TWENTY-FIFTH ANNIVERSARY OF SERVICE OF FRANCIS CARDINAL SPELLMAN

**Mr. KEATING.** Mr. President, on Monday, May 4, Francis Cardinal Spellman, Archbishop of New York, will celebrate two memorable anniversaries. He will celebrate his own 75th birthday and the 25th anniversary of his appointment as Archbishop of New York by Pope Pius XII.

Mr. President, Cardinal Spellman's three-quarters of a century of devotion to spiritual life and the missions of the church, culminated by his leadership of an archdiocese of 1½ million parishioners have made him a greatly loved and deeply respected figure throughout the country. Born of a humble family, the oldest of five children, he studied at Fordham University and the North American College in Rome. One of the first acts of Pope Pius XII was the appointment of the then Bishop Spellman who had served as the first American in the Vatican Secretariat of State, as Archbishop of New York to succeed Richard Cardinal Hayes. In 1946 Bishop Spellman became Cardinal Spellman in recognition of his strong and meaningful leadership of the Catholic community in our city.

Mr. President, Cardinal Spellman as an administrator has brought new support, and valuable guidance to the operation of thousands of Catholic schools, charities, and church activities under his jurisdiction. Cardinal Spellman as a spiritual leader has brought new strength and inspiration to millions. Special mention must be made of his annual pilgrimage overseas to visit American servicemen during the Christmas season and to bring to all corners of the earth the spiritual joy of Christ's coming.

Mr. President, all the people of New York regardless of religious faith will join in tribute to a great leader and a distinguished American as he celebrates three-quarters of a century of personal service and one-quarter of a century of leadership in New York.

**Mr. PASTORE.** Mr. President, will the Senator yield?

**Mr. KEATING.** I yield.

**Mr. PASTORE.** Mr. President, I am glad to associate myself with the tributes which have just been paid to Cardinal Spellman by the distinguished junior Senator from New York. I add my own personal high regard for Cardinal Spellman.

**Mr. KEATING.** I am grateful to the Senator from Rhode Island.

## SENECA INDIANS

**Mr. KEATING.** Mr. President, yesterday, House and Senate conferees have met to hammer out a bill to compensate the Seneca Indians for reservation land which has been taken for the construction of the Kinzua Dam. They will meet again on Wednesday of next week.

In spite of the fact that the Senecas' land will be flooded in October they have been unable to complete relocation because Federal compensation funds have been held up.

The House passed a generous bill, but the Senate cut the compensation figure in half.

Mr. President, Dick Gale, an able member of Gannett News Service Washington Bureau, lived on the reservation at Salamanca for a week, and wrote three articles which appeared in the Rochester Times-Union about the dilemma of the Senecas. The articles are a graphic presentation of the problems and frustrations of their situation. I ask unanimous consent that the text of these articles be printed at this point in the RECORD, and also that a memorandum prepared by Walter Taylor of the Friends Committee, which analyzes the Senate bill, be printed in the RECORD, together with a resolution adopted by the Cattaraugus County Board of Supervisors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rochester (N.Y.) Times-Union, Apr. 15, 1964]

### SENECAS TRY TO CLING TO INDIAN WAYS

(By Dick Gale)

SALAMANCA.—The cookhouse on the Allegany Reservation, where Seneca Indians sometimes celebrate their religious festivals, has a massive stone fireplace in which hangs a huge iron kettle.

But the cooking is done on a modern stove that uses bottled gas.

Similar contrasts can be found throughout the reservation (one of two held by the Seneca Nation in southwestern New York) as it meanders northeastward from the Pennsylvania border along the Allegheny River.

The Allegany Senecas are an uneven blend of modern Americana and the distinctive echoes of their tribal past.

In less than a year, the Kinzua Dam (Allegheny Reservoir) project threatens to wash away much of their remaining "Indianness" as it forces about 500 of them out of their homes and further into a 20th century way of life.

At the same time, however, it may help them take a stronger grasp on their traditional culture.

No signs tell the stranger when he enters or leaves the narrow (less than 2 miles wide) Allegany Reservation.

The Indian inhabitants give birth in a white man's hospital, read the white man's language, eat his food, wear his clothes, drive his cars, and watch his version of the Indian wars on television.

Most of them go to the white man's high school and work at his jobs. The Seneca Indian is a citizen of the United States, entitled to vote in America's elections and die in her wars.

Yet, there are obvious characteristics, and some not so obvious, that set the Allegany Reservation Indians apart from his white neighbors who are also being dispossessed by the Kinzua project.

The most fundamental difference is the Senecas' attachment to their land and their reservation.

"It is a way of life * * * it afforded us isolation, sanctuary, security," Mrs. Dema Stoffer, chairman of the Senecas' Relocation Committee, told Congressmen. "Now the Senecas are filled with fear and anxieties."

Anthropologists explain:

"To the Indian, the land of the reservation is a material segment of an ancient tradition, and the basis and focus for his identity as an Indian."

To the city dweller's eye, the Allegany Reservation is far from prepossessing: Miles of brush and second-growth timber, interspersed with cleared land largely occupied by unkempt shacks and modest houses.

Harry Watt, one of the religious chiefs, likes the reservation the way it is.

"If I wanted to live where there is no brush, I would go there," he explains. "In this country we have everything. This is what I like and nobody can tell me what I like."

Space is one thing the Senecas enjoy in abundance on their reservation. Their homesites now average 10 to 15 acres, and most of them will be moving to 3-acre plots this fall.

Three acres might be all outdoors to an apartment dweller, but to Deborah Jones, 10, of Red House, it is "going to the city and getting all scrunched up."

The Senecas' attachment to his reservation is partly responsible for the fact that the nation is giving up only flowage easements, not title to the 10,000 acres to be flooded for the reservoir.

"When the water isn't here, I'll be back," promises one elder of the tribe.

To the Seneca, the land is for hunting and fishing, for exploring by children, for savoring the change of seasons, for having firewood at hand.

It is not for the neat landscaping and freshly painted homes of modern suburbia. The typical Seneca home may have tarpaper or unpainted weathered boards outside and no central heat or even running water inside. (But modern kitchen appliances and television sets are commonplace.)

Nor is the Senecas' love of his land comparable to the farmer's bond to the source of his production.

Although dairying flourished on the reservation in the 1920's, only two dairy farms of any size remain. Truck farming is virtually nonexistent. The gravel pits are leased to non-Indians.

Mrs. Mirian Lee, one of the dozen or so Seneca women who still make the delicious native cornbread, had to buy Indian corn from the Tuscaroras near Niagara Falls last year.

The reservation Indian's peculiar credit handicap is partly responsible for the decline of dairying. Since any foreclosed land could be sold only to another Seneca, banks have been unwilling to make mortgage loans.

Legal action against any Indian debtor has been possible only for the past 12 years. While installment credit is now commonly accepted in Salamanca stores, old habits die hard.

Franklin John, an exception to the rule (he borrowed money in the process of becoming the reservation's biggest dairy farmer), put it succinctly:

"The Indian doesn't like investment."

Senecas also dislike working indoors at a machine doing repetitive tasks, concedes George Heron, president of the Seneca Nation and its $6,000-a-year administration.

Only about 15 work for the Fancher Furniture Co., Salamanca's largest industry with 600 employees.

Most Senecas tend to seek outdoor jobs. About 100, like Heron before he became the administrator, work erecting structural steel. Others are employed relocating railroad and utility lines in connection with the reservoir project. Some cut plywood.

Although the white community regards many Senecas as industrious, employers incline to be skeptical about others' reliability. Senecas, on the other hand have some feeling that the white man hires his own first.

Some women earn money making and selling typical Indian articles, but producing handicrafts isn't a major occupation.

Only about 60 Senecas have any skill of that sort. The principal products are baskets woven of ash splits (it takes half a day to weave a basket selling for $5), corn husk dolls, beadwork, water drums, and turtle rattles.

The area as a whole is declining economically. Many Indians used to work for the Erie Railroad, which has closed its shops in Salamanca. The unemployment rate among Senecas runs around 25 to 35 percent.

More than half of the young Senecas now finish high school. Their dropout rate is approximately equal to their white classmates at Salamanca Central High School.

Their record of continuing education beyond high school is not quite as good as Salamanca's white graduates.

The question of integrating into the white community or remaining an Indian is a difficult one for the modern Seneca. One in four has left the reservation.

Mrs. Rovena Abrams, deputy clerk of the nation, wants her twin sons, Bruce and Brian, 17, to go as adults "wherever they will be happy and successful." Their immediate plans are to enter Jamestown Community College and go further if Congress votes a scholarship fund.

At this stage, Mrs. Abrams observes with satisfaction, the boys play with both Indian and DeMolay basketball teams. When both teams play the same night, the Abrams boys stick with the Indian team.

The Senecas, some of whom are descended from a white captive of frontier days, Peter Crouse, have always accepted the white man's association and influence more freely than some tribes.

Discrimination by either side seems slight, if any, in present-day Salamanca. Mixed dating by high school students isn't the general rule. But intermarriage isn't unknown, although it may elicit a few frowns.

A continuing link to the Indian past is the Longhouse religion, the faith of Handsome Lake, a prophet who appeared after the American Revolution. Estimates of the number who follow it range between 100 and 350.

The Longhouse observances center on festivals at planting and harvest dates. The telling of the unwritten religion takes up 4 mornings during the Seneca New Year celebration. Seneca dances are held in the Longhouse throughout the year.

The Allegany Reservation has two Presbyterian churches, one Baptist church, and two churches of evangelical dominations. The Quakers, who have befriended the Senecas for nearly 200 years, aren't represented.

Even for those who have turned to Christianity, Handsome Lake still exerts a pull to the past, his followers claim.

"People respect Indians that are Indians," asserts Handsome Lake Leader Harry Watts.

The Seneca tongue, spoken by an estimated 75 percent of the nation, is a more enduring reminder of the tribal past than religion, handicrafts or eating habits. But the loss of the only Indian elementary school on the Allegany Reservation because of the reservoir may eventually hasten the disappearance of the language.

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[From the Rochester (Minn.) Times Union, Apr. 16, 1964]

### Dispossessed but Uncrushed: Senecas Stoical About U.S. Delay of Funds

(The struggle of a small band of Seneca Indians against a Federal flood control project threatening their reservation—despite a 1794 treaty guaranteeing the lands—has engaged the attention of many Americans for nearly 10 years. Here is the second article in a three-part report on the situation by a reporter who spent a week on the reservation.)

(By Dick Gale)

Salamanca.—A different kind of people, faced with the frustrations confronting the Seneca Indians over the Allegany Reservoir project, might be demonstrating in the streets.

The Senecas have had to cope with broken promises, with the conflicts and cumbersomeness of Federal bureaucracy, with complex legal and engineering problems, and with the political customs and antagonisms of Congress and the Presidency.

The Indians lost their major battle 5 years ago, when the U.S. Supreme Court ruled that Congress had lawfully exercised the right of eminent domain in taking the land despite the guarantees of a 1794 treaty.

Since then, the Senecas have had to combat time in efforts to recoup something. While attention to their problems progressed by fits and starts, construction of the $107 million Kinzua Dam advanced steadily after the groundbreaking early in 1960.

Four years later, with less than 6 months to vacate the homes of about 500 Indians, the Senecas have no access roads to their two relocation sites, no water supply for the new settlements, and almost no money to build more than 100 new homes.

But the Senecas remain reserved and stoical about the imminent crisis. Tension rarely shows.

They employed expert legal and engineering assistance to present their case against the dam. When that proved unavailing, they began to prepare their own alternative plans, with the help of Sidney Carney, the Bureau of Indian Affairs agent at Salamanca, and Walter Taylor, representative of the Philadelphia Quakers.

Although President Kennedy directed Federal agencies in 1961 "to take every action within their authority to assist the Seneca Nation and its members who must be relocated," the Indians have been less than happy with their treatment.

The Corps of Engineers, which is building the dam, is the major target of complaint.

"The corps is only cooperative because they have to be," asserts George D. Heron, president of the Seneca Nation. "We have had to holler all the way to the White House."

The Indians claim that the corps, while paying the Pennsylvania Railroad $20 million for a 30-mile branch line in 1960, has dragged its feet in settling with the Senecas.

The corps says the quick settlement with the railroad was dictated by the necessity of abandoning the branch line before construction could begin.

With the Indians the story has been different.

Last July, Representative JOHN P. SAYLOR, Republican, of Pennsylvania, noted that only 280 of the 450 Seneca tracts had even been appraised by the corps.

The Seneca Nation had its appraisals ready in February 1963, but the corps wasn't ready to negotiate until last fall, the Indians contend.

The Senecas' demand for a rehabilitation funds delayed negotiations, the corps replies.

The complaint of a pressing need for relocation money is unjustified, according to corps' representatives in Washington, because $1.2 million was deposited with the Federal court in Buffalo as condemnation was exercised and that money is available "any time they want it."

The corps' position is not borne out by the experience of several white property owners on the reservation, who are not involved in congressional action.

Mrs. Raymond Costello, operator of a grocery at Red House for 12 years, agreed to the corps' price for her business last October. Promised payment in 90 days, she was still waiting in April. Others reported similar "runarounds."

Even if the $1.2 million were immediately available, the sum would be too little.

The $1 million for housing in the rehabilitation fund is essential to finance a semisocialistic program designed to give every dispossessed Seneca an adequate home.

In essence, the housing plan permits each Seneca homeowner being evicted to put the amount received for his house into a common fund and get in return a house big enough for his family.

The housing subsidies will be based on a sliding scale, so that the Seneca losing a $2,500 house will have somewhat more to put in on a new house than the owner of a $1,000 home, assuming their families are the same size.

The houses will be erected on two sites still lacking roads and water: Jimersontown, about 200 acres off Route 17 near Salamanca; and Steamburg, about 250 acres several miles from the city on the Steamburg-Quaker Bridge road.

Some sort of subsidy is obviously necessary. Of the 138 houses to be taken, more than half are valued at less than $3,000. Fifteen are worth less than $1,000. Replacement at that price is patently impossible.

Aside from its problems with the Corps of Engineers and with internal politics, the Seneca Nation has had its ups and downs with other governmental bodies:

The Bureau of Indian Affairs has provided the capable assistance of Carney, an Oklahoma Indian assigned to Salamanca after the Kinzua crisis developed. But the Bureau's lack of vigor in pushing for extra compensation to the Senecas has drawn some congressional fire.

The Community Facilities Administration authorized $306,000 for public water supply systems but rejected an application for $940,000 to erect community buildings.

The New York State Legislature is providing $625,000 for a new elementary school to replace the Allegany Reservation school.

The Senecas, however, are still battling the State in court over the Southern Tier Expressway, which would replace two-lane Route 17 from Binghamton to the western end of the throughway.

The Indians complain that the expressway will cut the remaining part of the reservation in two, severely limit access by car and block pedestrians crossing from one part to another.

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[From the Rochester (N.Y.) Times-Union, Apr. 17, 1964]

### HAPPY ENDING SOUGHT: SENECAS HOPE FOR TOURISTS, INDUSTRY

(By Dick Gale)

SALAMANCA.—The future of the Seneca Nation of Indians lies in the hands of a Senate-House conference committee.

A "happy ending" to 7 years of uncertainty for the Senecas could be a Williamsburg-type Iroquois restoration and other tourist attractions providing employment for 1,125 and an industrial park creating 3,300 jobs.

The other extreme could lead to an eventual end of the Senecas' reservations, providing little more than relocation funds with recreation and industrial development, if any, on a small scale.

The rosy prospect is advanced by a $20 million authorization bill adopted unanimously by the House of Representatives.

The austere future is mirrored in a $9.1 million measure passed without dissent by the Senate.

The question before the conference committee: Should the Seneca Nation get $20 million and a chance for a better future, or should the Indians get only $9 million and probable continuation on the lower end of the economic scale?

Chances are Congress will produce a compromise in the dollar figure and thus point the Senecas' future course somewhere between those extremes.

In their fight for something better, the Senecas have strong support from their white neighbors.

With few exceptions, Salamanca and Cattaraugus County are solidly in back of the $20 million bill. The Salamanca City Council, the county board of supervisors and the area AFL–CIO Council all endorse the big rehabilitation fund for the Senecas.

This attitude admittedly has a large amount of self-interest. The $20 million would boost the depressed area, and Senecas couldn't fill all the new jobs envisioned.

Yet there are a number of factors that could conceivably lead to white resentment of the "bonus" in prospect for the Senecas.

Some feel, for example, that the Indians haven't made good use of their land and will quite likely dissipate any Government-financed opportunities.

The Senecas pay no school or property taxes on reservation land. They avoid Federal and State income taxes to some extent because of their protected status.

All land in the city of Salamanca and five smaller villages is leased from the Seneca Nation. The cost is low $1 to $2 a year for most parcels—but can rise to 2½ percent of assessed valuation if the property is sold or the rent becomes delinquent.

The maximum is only $20 annually, and the total is only around $11,000 a year. But some residents think (proof isn't offered) that the lease problem may have encouraged some businesses to leave or discouraged others from coming in.

Despite these potential sources of irritation, resentment of the Senecas' privileged position and their possible "windfall" from the Kinzua project is surprisingly slight.

The Salamanca Board of Trade's executive director, Michael McGurn, says:

"I think it's a pity the way those poor people are being treated."

Even those whites who stand to lose relatively more than the average Seneca and to be paid considerably less favor a big rehabilitation fund.

No one in the land of the Senecas originated the idea that their reservations should be dissolved.

A directive that the Senecas submit within 2 years "A plan for the disposition and use of its land and other assets so that the Federal Government may withdraw from supervision of the tribe" was put in the Senate version of the compensation bill by Senator PETER H. DOMINICK, Republican, of Colorado.

The Senecas fear this will lead to the sale of land to non-Indians and thus insure the breakup of their reservations.

Besides broad community support, the Senecas have strong advocates throughout the United States. A recent printing of 50,000 brochures went largely to persons who have written letters sympathetic to the cause.

The plight of the Senecas has had a vast amount of publicity in newspapers and magazines and on television programs.

Little national sympathy, on the other hand, was extended to white residents of Corydon and Kinzua, Pa., whose homes are now being burned and leveled because of the same reservoir project.

Much of the emotion over the uprooting of the Senecas derives from its violation of the Treaty of Canandaigua in 1794 to guarantee the reservations to the Senecas "until they choose to sell the same to the people of the United States." The guarantee was reinforced by a letter from President George Washington.

The Seneca Nation fought a long legal battle to keep the lands until they "choose to sell." But in 1959, the Supreme Court ruled against them.

The answers of the Senate and the House differ by a relatively minor amount in the sums assigned to direct and indirect damages for the actual property taken. The House bill provides $2,322,335; the Senate bill is $209,002 less.

It is in the so-called rehabilitation fund that the significant difference is found.

The Seneca Nation and Indian Bureau worked out a program of future development that admittedly tried to capitalize on the moral wrong in the treaty infringement.

As reduced somewhat by the House, the $16,931,000 program would provide $8 million for a Williamsburg-type Indian village and museum (Virginia's Williamsburg cost $61 million), $4.4 million for an industrial park in the Cattaraugus Reservation, $2.3 million for a 20-year fund to finance higher education for Seneca youth, and $2 million for new houses and community facilities.

The Senate abandoned this approach and chopped the rehabilitation fund to $6.1 million, allowing the Indians to cut the pie the way they want to.

The picture of a $20 million enterprise managed by a people who don't operate as much as a country grocery concerns some observers. So does a 268-acre industrial park in the hands of a people who dislike factory work.

Hughson Case, chairman of the Cattaraugus County Board of Supervisors, and others believe that some U.S. supervision will be needed for awhile. The Senecas don't disagree. Plans call for setting up separate business corporations with the approval of Federal authorities.

The $8 million for tourist development is a substantial cut from the $29 million recommended by the Brill Corp., U.S.-hired consultants, who got advice from the Williamsburg planners.

Brill said the Indian restoration is essential to attract tourists off main-traveled routes to a section that will be largely mudflats during the summer.

But George Heron, President of the Seneca Nation, calls the plan grandiose. The Indians have a more modest plan that can be accomplished for the $8 million in the House bill.

They hope the foundations and private sources may contribute added funds. If private capital will build the motels and restaurants, the end result could approach the Brill vision.

The Indian village and museum would require at least 2 years of research to do properly, in the opinion of experts, and would require an estimated 10 years to develop.

## Some Comments on Senate Report No. 969 To Accompany H.R. 1794, April 17, 1964

H.R. 1794 is a bill to authorize taking Seneca Indian land for the Kinzua Dam project and "to provide for the relocation, rehabilitation, social and economic development of the members of the Seneca Nation."

The bill passed the House of Representatives without dissent February 7, 1964. With major amendments, H.R. 1794 was allowed to pass the Senate March 30, 1964, but many Senators have expressed their hope that the conference committee will correct two serious defects:

(1) By reducing the rehabilitation fund in the House bill 64 percent from $16.9 to $6.1 million the Senate destroyed most of its effectiveness and rejected the whole concept of appropriate reparations by genuine rehabilitation. The total reparations bill was cut 55 percent from $20.2 million down to $9.1 million.

(2) The Senate introduced without consideration in any public hearing a "termination" amendment which could well lead, if enacted, to the dissolution of the entire Seneca Nation of Indians.

The reduced rehabilitation fund will not provide new employment opportunities so desperately needed for Seneca Indians to enter with dignity the new and more expensive life into which they are being pushed, nor will it cover the educational and training scholarships required to prepare for constructive employment. The termination amendment would take away the Federal tax-exempt status of Seneca lands, permit their sale, eliminate hunting and fishing privileges and end annuity payments under the Seneca Treaty.

The report underestimates the damage inflicted by Kinzua Dam by suggesting that large areas of the reservation will still be usable.

On page 3 the report states:

"There will thus be left about 8,500 acres of dry land for permanent and unrestricted use by members of the Seneca Tribe residing on this reservation. According to testimony from the witness for the Corps of Engineers, approximately 5,000 acres of Seneca land within the taking area will be available for use by the Indians for farming, grazing, hunting, and other similar purposes, but not for habitation.

"The taking virtually cuts the reservation in two, leaving little more than hill sites * * * if the pool should reach maximum or close to it, it would be cut into much more than two parts. It would be repeatedly fragmented. Furthermore, when the proposed New York State Southern Tier Expressway comes into being, the reservation will again be cut, thus making four completely separate parts. Moreover, seasonal fluctuations in the pool level will result in extensive mudflats in the upper end of the reservoir and it is in this area that the bulk of the people and the residual lands will be located." Dr. Nash, Commissioner, Bureau of Indian Affairs, House hearings, page 300.

The report underestimates the number of families adversely affected.

On page 7 the report states:

"It should be pointed out that only 127 Seneca families, involving 482 people, are directly affected by the Kinzua Reservoir and only 8 individuals are actually making their living from the lands to be flooded."

Many more than eight individuals depend for a substantial portion of their subsistence on gardens, crafts, hunting, fishing, free water for the carrying, free sewage disposal, wood for the gathering. All that will no longer be possible. In the future, gas and water bills must be paid and food must increasingly be purchased. The new way of life will be a more expensive way for most of the families required to move. An adequate standard of living will be even more expensive, since many Senecas already suffer from unemployment and economic deprivation.

The report ignores the spiritual damage to the Seneca Nation and its members.

When George D. Heron, president of the Seneca Nation, appeared before the Senate subcommittee March 2, 1964, he said:

"Our first experience with congressional committees occurred in 1957 when we appeared before the House Appropriations Committee in opposition to the construction of Kinzua Dam. Since that time we have attended many other hearings * * * there has been a complete disruption in a way of life which we Senecas had so long enjoyed. * * * I am here to tell the members of this committee that a severe mental disturbance has existed on the Allegany Reservation for the past 7 years. * * * We would trade this bill (the House version) for our homeland now. We would still take our homeland and you can take the bill." (Senate hearings, pp. 84, 124.)

### THE REHABILITATION FUND

Opportunity, rather than cash, was the clear purpose of President Kennedy's directives to "the departments and agencies of the Federal Government to take every action within their authority to assist the Seneca Nation and its members who must be relocated in adjusting to the new situation." The President outlined four major rehabilitation objectives and asked that recommendations be prepared for legislation, if required to achieve them. He added, in his letter to the president of the Seneca Nation of Indians on August 9, 1961:

"I hope you will convey to the members of the Seneca Nation the desire of the Federal Government to assist them in every proper way to make the adjustment as fair and orderly as possible. I pledge you our cooperation."

With these directives in mind the Seneca Nation and numerous Federal agencies spent 2 years preparing recommendations for a genuine rehabilitation program designed to permit the Seneca Nation to recover from Kinzua damages and achieve a strong new pattern of life.

The Senecas worked out a plan for recreational and industrial development with the aid of a consulting engineering firm. The Bureau of Indian Affairs worked with the Seneca Nation to develop an educational program for a generation of Seneca children. The Senate cut the total rehabilitation fund by 64 percent and eliminated the educational program on the grounds that the proposed rehabilitation programs were "out of line with previous settlements" or could not be "justified on the basis of the loss the Senecas will sustain as a result of the Kinzua Dam" (p. 7 of the report). The feasibility of the programs was apparently never questioned. In fact the report points out that the facilities suggested would provide "numerous employment opportunities and possibly substantial income to the Nation" (p. 7).

The report's inadequate assessment of the Seneca Nation's loss has already been discussed. The comparisons with previous settlements are largely irrelevant for reasons given below. The report's use of per capita figures has no meaning, since none of the rehabilitation funds can be used for per capita payments. They are for the use of the tribe as a whole. Therefore, the important question is: Would the programs contribute significantly and effectively to the rehabilitation of the Seneca Nation, an objective which is clearly in line with President Kennedy's directives and with the whole concept of reparations by rehabilitation? The report has answered that question in the affirmative. But since comparisons with previous settlements are given such emphasis in the Senate report, the following points should be noted:

The settlement with the Lower Brule and Crow Creek Sioux Tribes was made on the basis of $2,250 for every Indian on or off the reservation, whereas the formula suggested by the Senate for the Senecas differentiates between on-reservation and off-reservation Indians, with $2,250 allocated to the 1,103 Indians residing on the Allegany Reservation; and the equivalent of $1,200 to the other 3,000 Indians living outside the Allegany Reservation.

None of the previous reservations were as seriously fragmented as the Allegany Reservation is being fragmented. The Senecas are losing about 90 percent of their usable land.

Indians covered by the previous settlements have always been, and are still, eligible for the economic, social and educational programs provided through the Bureau of Indian Affairs. The Seneca Indians residing in New York State have not received such assistance for nearly two decades. The Bureau of Indian Affairs closed its New York State Agency about 1949.

The comparisons of living standards of eastern versus western Indians is also largely irrelevant.

On page 8 the report states:

"The committee notes the fact that the per capita income of the Seneca Tribe is substantially higher than that of most Indians residing in the West and that the need for a rehabilitation program in New York is considerably less than in other areas of the country."

But the Senecas do not live in the West. The Allegany Reservation is located in western New York in an area which is economically disadvantaged and yet the household income (median) for Seneca families in the take area is only $3,285 or $2,000 per year below the median family income for the county. The need for rehabilitation in western New York is not less than other areas of the country and the need for improved employment opportunities for the Seneca Nation of Indians is not less than in other tribes which have the benefit of economic development programs available through the Bureau of Indian Affairs, but not available to New York Indians.

The rehabilitation fund in H.R. 1794 should not in any case be considered on the basis of relative poverty of the Seneca Nation in comparison with other Indian tribes. The purpose of the rehabilitation fund in H.R. 1794 is to make appropriate and meaningful reparations for serious intangible damages being done to the Seneca Nation of Indians by the construction of the Kinzua Dam. While the incompensable nature of these damages seems incomprehensible to many Americans, it is nevertheless true that Seneca Indians now living in the area to be condemned would even now prefer their promised land guaranteed by treaty than to receive even twice the rehabilitation fund in the House-passed bill.

The report's assumption that Seneca rehabilitation can be assured through regular Federal programs is not warranted.

On page 7 the report states:

"It has been alleged that the geographical area in which the Senecas reside is a depressed one, but, if this is the case, it should qualify for assistance under the Area Redevelopment Administration or other Federal aid programs. This legislation should not be the vehicle for authorizing Federal grants to improve economic conditions not resulting from the Kinzua Dam and Reservoir project."

The Seneca Nation and those consulting with the Seneca Nation have had ample experience in seeking the assistance of Federal aid programs. In respect to Area Redevelopment Administration in particular, we were advised when seeking ARA assistance for economic development programs that the ARA was not established to meet the particular needs of the Seneca Nation of Indians in its attempt to cope with the disruption of its economic, social and cultural life by the Kinzua Dam. Therefore, the ARA specifically limited its services to the Seneca Nation with the understanding that special needs should be met instead by Congress. Now we find that the Senate proposes to pass the responsibility back to the executive agencies. The Senate does not wish the reassignment of a Bureau of Indian Affairs agency to the Seneca Nation, but at the same time the Senate seems unwilling to provide a rehabilitation fund which would permit the Seneca Nation to achieve once more the economic independence which all Indians once enjoyed so completely.

One of the desirable objectives in Seneca rehabilitation would be to establish cooperative interaction between the Seneca Nation of Indians and its non-Indian neighbors. An inadequate rehabilitation fund may only delay Seneca reconstruction and impose on both Seneca Indians and their non-Indian neighbors an increased dependence upon public assistance for the necessities of the more expensive new way of life into which they are being pushed.

The report justifies a reduced rehabilitation fund on the incorrect assumption that an adequate program would require reestablishment of a Bureau of Indian Affairs agency in New York State.

On page 8 the report states:

"The passage of H.R. 1794 with a rehabilitation program that would require approval of expenditure of funds by the Secretary will necessitate continued supervision through the Bureau of Indian Affairs.

"The committee does not believe the Bureau should return to the Seneca Reservation area on a long-term basis."

It is not true that a Seneca rehabilitation program would require the Bureau of Indian Affairs to "return to the Seneca Reservation area on a long-term basis?" The BIA returned to the Seneca Nation only temporarily as a direct result of the Kinzua Dam disruption of the Seneca Nation of Indians. Completely effective alternatives for the management of new economic and educational programs are available.

The House-Senate Conference Committee on H.R. 1794 now faces a challenging opportunity to support a sound rehabilitation program and thereby demonstrate our national capacity to understand, appreciate and keep faith with our own American Indian citizens.

### TERMINATION

The report reintroduces an old and discredited Federal policy—without consideration in any public hearing.

On page 8 the report states:

"A third substantive amendment recommended by the committee adds a new section 18 to the bill to provide that within 2 years following the date of enactment of H.R. 1794, the tribal council of the Seneca Nation will submit to the Secretary of the Interior proposed legislation providing for the termination of Federal supervision over the property and affairs of the tribe within a reasonable time thereafter."

Termination seems to Seneca Indians and their friends an added injury rather than any kind of reparations for damages resulting from the Kinzua Dam.

The amendment to terminate the Seneca Nation has added confusion and fear as well as amazement to the anxiety which already prevails among Seneca families because of their anticipated eviction within the next 6 months.

Tolerance for such further injury is understandably low since the families to be evicted do not yet have assurance of congressional funds to prepare relocation homes.

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"RESOLUTION 94 MEMORIALIZING REINSTATEMENT OF AMOUNTS ALLOTTED BY THE HOUSE OF REPRESENTATIVES FOR THE SENECA INDIAN REHABILITATION PROGRAM BY THE SENATE SUBCOMMITTEES

"Whereas in connection with the Kinzua Dam project undertaken by the U.S. Army Engineers, huge portions of the Allegany Indian Reservation will be appropriated, requiring a great number of Seneca Indians to remove from the area taken; and

"Whereas the House of Representatives has, after considerable investigation and due deliberation had, recommended an appropriation of $20 million for the rehabilitation program for these unfortunate Indians; and

"Whereas Senate subcommittees have seen fit to make drastic, inhuman and poorly conceived recommendations of reduced appropriations therefor; and

"Whereas it is believed that Senate subcommittees have allowed themselves to be governed by recommendations made in western areas which do not take into consideration numerous substantial differences which exist in connection with the Kinzua Dam property and which, therefore, should not have been given controlling influence, such as the breaking of the sacred treaty and the land values of the lands involved which are in no wise comparable and so complete a disruption of the established reservation lands; and

"Whereas through a succession of ages, the Seneca Indians have been the victims of financial and physical discrimination which more than entitle them to at least fair consideration in the present crisis: Now, therefore, be it

"*Resolved*, That the Cattaraugus County Board of Supervisors does hereby register its opposition to the proposed action of the Senate subcommittees in recommending the reduction of the recommended House of Representatives appropriation; and be it further

"*Resolved*, That the clerk of the board be, and he hereby is, authorized and directed to forward certified copies of this resolution to President Johnson, to Senators Javits and Keating, to Representative Goodell, and to the appropriate Senate subcommittees."

Adopted: April 8, 1964.

I, the undersigned, clerk of the Board of Supervisors of the County of Cattaraugus, N.Y., do hereby certify that I have compared the foregoing copy of Resolution 94 of the Board of Supervisors of said County of Cattaraugus with the original thereof on file in my office and duly adopted by said board at a meeting of said board on the 8th day of April 1964, and that the same is a true and correct copy of such resolution and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county this 15th day of April 1964.

C. W. BAKER,
*Clerk, Board of Supervisors,*
*Cattaraugus County.*

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## ANTI-SEMITISM IN THE SOVIET UNION

**Mr. KEATING.** Mr. President, in a study prepared for the American Jewish Congress by Prof. Nicholas DeWitt of Indiana University, evidence is cited which establishes the fact of Soviet discrimination against members of the Jewish faith in access to higher education. The study points out that whereas in czarist Russia Jewish university students represented from 3 percent to 10 percent of enrollment at universities; under the Soviet regime only 3.22 percent of Soviet university students are Jewish.

Mr. President, Professor DeWitt's study also reveals that the total number of Soviet students has increased almost 250 percent between 1935 and 1960, but the number of Jewish students has declined 39 percent.

Further evidence of the discriminatory practices of the Soviet Government are evident in the preferential quotas established for members of nationality groups throughout the Soviet Union. Jews are not included in the preferential quotas and there can be no question that qualified Jews are excluded as a result of preferences for non-Jews of other national groups.

Mr. President, the protest at the Soviet Embassy in New York today, by the College Organization of United Synagogues, is further evidence of growing American concern over Soviet persecution of members of the Jewish faith. It is a meaningful appeal by students in the United States for the principle of religious freedom which we cherish.

Mr. President, the continuing evidence of deliberate Soviet discrimination against members of the Jewish faith is a matter of grave concern to the citizens of free nations throughout the world. The responsibility for protest and action against Soviet anti-Semitism should not rest alone with members of the Jewish faith, but should be taken up and vigorously supported by representatives of every religious group. Unless other religious groups throughout the world appeal to the Kremlin on its behalf, Russian Jewry's doom is ordained.

Mr. President, I ask unanimous consent to include following my remarks in the RECORD the text of an article in the Christian Century by Dr. S. Andhil Fineberg, community relations consultant to the American Jewish Committee's Institute of Human Relations, further discussing this important moral issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Reprinted from the Christian Century]

### THE PLIGHT OF SOVIET JEWS—UNLESS OTHER RELIGIOUS GROUPS THROUGHOUT THE WORLD APPEAL TO THE KREMLIN ON ITS BEHALF, RUSSIAN JEWRY'S DOOM IS ORDAINED

(By S. Andhil Fineberg)

Whether the calamity that has overtaken the Soviet Union's 3 million Jews should be publicly condemned is a momentous question. Though many Christian clergymen have endorsed appeals to Nikita Khrushchev on behalf of his Jewish subjects, some have declined on the ground that they see no difference between the misfortunes of Russian Jews and those of multitudes of others who suffer from the U.S.S.R.'s antireligious policies. "Why," they ask, "single out Soviet Jews for special concern?"

Many of the protests have been similar to the "message to Khrushchev" sponsored by the American Jewish Committee and signed by 46 leading Protestant, Catholic, Greek Orthodox, and Jewish religious leaders. It listed limitations imposed with greater severity on Jews than on others—for instance, the isolation of Jewish congregations, which are not permitted to cooperate with each other or to make contact with Jewish religious groups in other countries.

The Jews' cultural rights are wholly negated and their leaders are singled out for excessive abuse.

### AN END TO A CULTURE

Everyone born of Jewish parents in the U.S.S.R. is identified throughout life as a Jew on his identification papers—the internal passport which all Soviet citizens must carry. A Jew must become de-Judaized before he can take the first step on the ladder leading to success, even in those fields wherein Jews may ascend to top posts (a few rise very high in medicine, engineering, and the arts). Whatever may be the experience of individual Jews, all are aware that the government frowns on both their religion and their culture. While helping nearly all the U.S.S.R.'s other nationalities to preserve their culture, it has doomed Jewish culture to extinction.

The many hardships and injustices inflicted on Russian Jews in the process of destroying their religious and cultural moorings have been described in many books and articles, notably in the summation by Moshe Decter in the January 1963 issue of Foreign Affairs. Unless a tourist can speak secretly without interpreter to someone who has reason to put confidence in him, he is likely to be as thoroughly hoodwinked about Jewish life in Russia as Catherine the Great was by Potemkin's facade of scenery along the Volga. But the repressions cannot be concealed from those who, speaking Russian, have traveled for many months in the Soviet Union and who have read Russian official documents and newspapers. Well informed writers—John Gunther, Harrison E. Salisbury, Maurice Hindus and others—agree that while anti-Semitism in the Soviet Union is not as open nor as virulent now as it was during Stalin's last years, the Jewish situation has been deteriorating since 1958.

### DEPRIVED OF THEIR SYNAGOGUES

When Kerensky's democratic government overthrew the czarist regime, 3,000 synagogues were flourishing in the U.S.S.R.. But in 1956, according to a report made by the U.S.S.R. to the United Nations, only 450 synagogues were in existence. In 1959 there were 150 and since then the number has been reduced to less than 80. These figures have never been challenged by the Soviet propagandists, nor can they deny that synagogues are the only Jewish institutions left in the nation.

An idea of what is happening to the synagogues can be gained by noting what occurred in Lvov where synagogues had flourished for over 600 years. In November 1962, after viciously anti-Semitic newspaper articles had published attacks on the synagogue as an alleged black market center, the local Communist government closed the last synagogue in the city. In a nation where the government is officially antireligious the temptation to curry political favor by bringing such charges, however false they may be, is great. In June 1963 the building occupied by the synagogue was demolished, leaving the 30,000 Jews of Lvov with no center whatsoever.

Answering a letter from Bertrand Russell, Nikita Khrushchev in February 1962 wrote: "There is not and never has been a policy of anti-Semitism in the Soviet Union, because the very nature of our multinational socialist state excludes the possibility of such a policy"—a statement whose falsity is demonstrated by the actual situation of Jews in the U.S.S.R.

Twenty years after the Communist revolution, in 1937, there were in the Soviet Union hundreds of Yiddish schools and many Yiddish journals, theaters, clubs and other institutions. To these institutions the Jews, as one of the hundred or so "nationalities" within the U.S.S.R., were fully entitled, as they still are, by the laws to which Khrushchev referred. In 1948 Joseph Stalin, by administrative decrees, sudenly began the final destruction of all Yiddish institutions. Among them was the world-renowned Yiddish Art Treater, whose director, Solomon Mikhoels, a faithful Communist, was executed along with hundreds of other Yiddish men of letters. Only anti-Semitism can conceivably explain these crimes against Jews, who were called "cosmopolitans," and the 5 years of persecution and terror Soviet Jewry subsequently endured.

Who was Stalin and who were his accomplices during the "black years" from 1948 through 1953? They were products of Russian communism, its exponents and lawmakers; they were the incarnation of Communist doctrines and occupied perfect positions to put them into practice. In the light of their performance, what could be more preposterous than to deny the possibility of a "policy of anti-Semitism" under Communist rule? Since Stalin's death no new laws have been adopted nor has anything else been done to make anti-Semitism any less possible than it was before.

### THE SCAPEGOAT AT HAND

It was not the strangulation of the religious and cultural existence of Soviet Jews nor the discrimination they must endure that led Bertrand Russell, Eleanor Roosevelt, Francois Mauriac, and others in March 1962 to appeal to Khrushchev on behalf of his Jewish subjects. It was the fact that on May 5, 1961, the Soviet Union had reverted to the criminology of earlier centuries and instituted laws under which the penalty for "taking property" can be death. It was not long before it became apparent that resort was being taken to anti-Semitism in order to discourage "economic crimes." Revoltingly severe measures followed, and a fantastically disproportionate number of Jews—60 to 1—were sentenced to death by shooting.

The far greater severity of sentences meted out to Jews than to others convicted for similar crimes—in some instances for a crime committed by Jewish and non-Jewish accomplices—and the publicity attending some of the trials indicated that the courts were using Jews as scapegoats for the regime's failures. "Analysis of reports of trials reveals an unmistakable pattern of hostility to Jews," reported Roscoe Drummond in the New York Herald Tribune.

It is interesting to note that exploitation of anti-Semitism by the czars had been a favorite theme of the early Communists, who sought to discredit the predecessor regime. In one respect Jews were far better off then in that they were permitted to emigrate to other lands; today's Russian Jews are as captive as other people behind the Communists' Iron Curtain. They cannot live as Jews, nor can they leave.

When the subject was discussed on January 30, 1963, by the United Nations Subcommission on Prevention of Discrimination and Protection of Minority Rights, Morris B. Abram, the U.S. member of the Subcommission, said: "I have readily admitted that American society frequently lapses from the ideal in the practice of good human relations, though I take pride in the progress which is being made here and particularly in the direction of events, which is undeniably forward. My colleague has yet to admit a single departure in practice in the U.S.S.R. from the lofty phrases of its constitution and codes."

### APOLOGISTS FOR THE REGIME

Meanwhile, the Soviet Union has stanch defenders. Aron Vergelis is editor of the only Yiddish journal in the Soviet Union, a bimonthly literary magazine with a circulation of 25,000 in a nation where 472,000 people still name Yiddish as their native tongue. In September 1963 Vergelis wrote: "We who are building communism, Marxists in outlook, atheists and materialists, would never agree with those who would pull the Jewish people back to the ghetto, back to the Middle Ages." Mr. Vergelis qualifies for his job for the same negative reason that the Ministry of Cults, which controls religious matters, is headed by atheists. He spent the period from November 14 to December 4, 1963, on a cultural mission to the United States, not because he speaks for the Jews of the U.S.S.R. but because he defends his government's conduct. He and the others who now find no fault in the Soviet Union's treatment of its Jewish citizens spoke the same way during the last years of the Stalin era; at that time they filled the air with shouts of "liar" when the truth about Stalin's outrages was publicly mentioned.

Long after Stalin's atrocities Hayim Sloves, a Paris attorney who adores the Soviet Union, bemoaned those atrocities before an audience in New York and wailed, "We certainly did not know." He regretted "our silence at a time we should have been crying aloud." He and his conferees, who certainly heard the truth but rejected it, prefer to know nothing now about Jewish suffering in the workers' paradise.

"We did not know," Communists insist when they refer to the past. "We did not know then," cry the Germans when questioned about the Nazis' anti-Jewish outrages. "We did not know that Negroes were being mistreated," say thousands of American whites who are now crusading on behalf of Negroes but who a few years ago were totally unconcerned. Let us give these slow learners the benefit of the doubt; getting people to recognize mistreatment of the oppressed apparently requires a great deal of dramatic telling and retelling.

Persuading the Kremlin to face specific facts about the state of Jews in the Soviet Union will require a great many public appeals and remonstrances. Although they are very sensitive on the subject, the Soviet rulers have evidently not studied the complaints carefully. Otherwise they could not hope to satisfy the critics by fulminating denials, by references to Benjamin Demshitz, the only Jew in high political office, and by proffering a few statistics which when analyzed do not support their argument. One might as well expect those who condemn anti-Negro prejudice in the United States to believe that none exists because Robert C. Weaver is Administrator of the Federal Housing and Home Finance Agency and 11 of the 12 best batters in the National Baseball League in 1963 were Negroes.

The doom of Soviet Jews and their culture will be sealed within a decade unless those who are free to speak on their behalf do so vigorously now. Another chapter will be completed in the martyrdom of a people who ever since their ancestors accepted the covenant at Mount Sinai have celebrated an annual festival of freedom. If the ordeal of Russian Jewry is overlooked now their fate will rest all the more heavily on the conscience of mankind. There are only 10 million Jews outside the Soviet Union; their appeals will be ineffective unless others likewise intercede. The Jews of the Soviet Union desperately need the moral support of the fellowship of all the concerned, the vigilant shepherds of all religious groups.

## THE GROWTH OF THE ECONOMY

**Mr. HUMPHREY.** Mr. President, in this morning's New York Times, on the front page—and I am sure in every other newspaper across the Nation—there appeared a news item which should be very encouraging and heartening to the American people. The headline of the New York Times article reads: "Economy Grows for 38th Month, Setting a Record." The subheads read: "Expansion

Period Longest for Peacetime—No Sign of Recession Is Seen—More Gains Indicated."

This feature article speaks of the incredible record of economic growth and expansion and prosperity which have continued in this country for the last 38 months.

When we consider the many problems this Nation has faced internationally, as well as the grave problems which have beset our country, with the loss of our late beloved President, John F. Kennedy, it is a tribute to the American Government and to the structure of our Government and to our economic system, as well as to the policies of the administration, that the economy continues to grow, and at record-breaking levels.

The first paragraph in the New York Times article reads:

> The U.S. economy quietly set a record today that many observers consider more important than the glowing records reported monthly in the statistics on output, employment, and income.

Later in the article appears this paragraph:

> Every sign indicates that the present expansion aided by the present tax cut, has many more months to go, with both private and Government economists convinced that it will last through the rest of this year, at least.

The article continues:

> One remarkable feature of the current expansion, in the view of most analysts, is that it has proceeded so long without any notable inflation.

Mr. President, I am convinced, because of the attitude of the administration, particularly the President, and because of the policies being pursued, such as the investment tax credit, the accelerated depreciation allowance, and the recent broad tax cut, both on corporate and personal income, that the economic expansion is destined to continue for many more months. It is now literally within our power to see to it that the wild fluctuations between boom and depression no longer affect the American economy.

I ask unanimous consent that the entire article may be printed in the RECORD at this point.

The PRESIDING OFFICER. Is there objection?

Mr. GORE. Reserving the right to object—and I shall not object—I arise to note that the boom conditions and unprecedented profits recorded in the first quarter of 1964 occurred without benefit of or without the effect of the tax cut. The bulk of the economic effect of the tax reduction will largely be felt in the months ahead.

I applaud many of the statements of the distinguished senior Senator from Minnesota. Like the senior Senator from Minnesota, I am proud of the sustained record of economic growth. But I would not want any false claim that this is the result the tax reduction bill to go unchallenged. The tax reduction may have a stimulating effect to our economy generally. Indeed, one of the dangers of the reduction is that it may be too stimulating. The record of expansion thus far cannot be credited to the tax reduction bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ECONOMY GROWS FOR 38TH MONTH, SETTING A RECORD—EXPANSION PERIOD LONGEST FOR PEACETIME—NO SIGN OF RECESSION IS SEEN—MORE GAINS INDICATED—SOME ANALYSTS SKEPTICAL—OTHERS BELIEVE INCREASE WILL CONTINUE INDEFINITELY

(By Edwin L. Dale, Jr.)

WASHINGTON, April 30.—The U.S. economy quietly set a record today that many observers consider more important than the glowing records reported monthly in the statistics on output, employment, and income.

With another month of good business completed in April the economy today established a peacetime record in the duration of a period of expansion without recession. April was the 38th month of the current expansion, which began in March 1961, beating the former record of 37 months in 1945–48.

Some analysts maintain that the expansion from the bottom of the depression in 1933 to the recession in 1937 was longer, but this is generally regarded as a special case. Mass unemployment persisted throughout the period.

#### CONTINUED GROWTH INDICATED

Every sign indicates that the present expansion aided by the recent tax cut, has many more months to go, with both private and Government economists convinced that it will last through the rest of this year, at least.

The record duration for expansion, established before and during World War II, is put at 80 months.

One remarkable feature of the current expansion, in the view of most analysts, is that it has proceeded so long without any notable inflation. Although fears of a revival of inflation exists both in and out of the Government, the record to date shows 6 years of stability in wholesale prices and an unusually small upward movement of consumer prices, averaging about 1.3 percent a year.

The Consumer Price Index rose one-tenth of 1 percent in March, the Labor Department's Bureau of Labor Statistics reported yesterday. But this increase only wiped out the slight decline of the price index that was reported for February.

The economy now has few of the signs that in the past have indicated a recession to come—such things as rising prices, a heavy buildup of inventories, a leveling or decline in corporate profits, or an overrapid buildup of new industrial capacity.

One remarkable feature of the current expansion, in the view of most analysts, is that it has proceeded so long without any notable inflation. Although fears of renewed inflation exist both in and out of the Government, the record to date shows 6 years of stability in wholesale prices and an unusually small rise in consumer prices—about 1.3 percent a year.

While most businessmen and many private analysts are skeptical, some top Government economists have a genuine hope that the present expansion can be kept going more or less indefinitely. They do not predict this, but the latest report of the President's Council of Economic Advisers said there was nothing inevitable about recessions.

#### EUROPE AN EXAMPLE

Depending partly on how various economic indicators are judged, it can be argued that the nations of Western Europe have not had a recession since 1954. The only interruption in 10 years of sustained expansion was a dip in 1958. It was so brief and so mild it could hardly be termed a "recession."

It is with the hope of indefinite continuation of the present American expansion that President Johnson and Walter W. Heller, Chairman of the Council of Economic Advisers, have recently begun to talk about the possibility of another tax cut in a few years.

According to the Council's analysis, the continued expansion of the economy will inevitably generate a large budget surplus, even at the newly reduced tax rates. Such a surplus, in the Council's view, could be a drag on the economy, by reducing potential demand.

Assuming a surplus to be undesirable in the then-existing circumstances of the economy, there are two ways of preventing it. One is a rise in Government spending, which Mr. Heller estimates must run to $5 billion a year to prevent a surplus from developing. The other way is a tax cut.

In any event, if a recession does not generate itself through the normal forces of the business cycle, the administration is committed to policies aimed at making sure that the actions of Government do not exert an independent drag and bring on a recession.

The administration is also convinced, however, that the best hope of averting a recession is the avoidance of excesses as the expansion continues.

The main excesses referred to are a renewal of the spiral of rising wages and prices and an overrapid buildup of inventories.

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## ARKANSAS RIVER MULTIPLE PURPOSE PROJECT

Mr. MONRONEY. Mr. President, our distinguished colleague, the senior Senator from Arkansas [Mr. McCLELLAN] made one of the finest analytical statements on the Arkansas River multiple purpose project before the Appropriations Subcommittee on Public Works that it has been my privilege to hear. This project is so vital to Oklahoma and Arkansas that I ask unanimous consent to have Senator McCLELLAN's statement placed in the RECORD and I ask all Members of the Senate to read it.

Since before the authorization of this project in 1946, our two States have worked together on the job of developing the river.

We have had the support of the entire Congress, which we appreciate very much. We urge you to help us finish the job, which can be accomplished by 1970.

I ask unanimous consent that the statement of the Senator from Arkansas may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF SENATOR JOHN L. McCLELLAN ON THE ARKANSAS RIVER MULTIPLE PURPOSE PROJECT

Mr. Chairman, the budget request for fiscal year 1965 for the Arkansas River multiple purpose project is $84 million. An additional $15 million must be appropriated if navigation is to be provided to Little Rock in fiscal year 1968, to Fort Smith in fiscal year 1969 and to Catoosa, Okla., in fiscal year 1970—the previously announced schedule of completion.

Failure to appropriate an additional $15 million—a total of $99 million for the Arkansas River project in fiscal year 1965—will result in several extremely unfortunate consequences.

It will be impossible to catch up in subsequent years if funds for this project are not increased to $99 million in fiscal year 1965. Completion of the navigation channel will thus be deferred to fiscal year 1971 or later. Each year of delay will result in a direct loss to the Federal Government of between $10 and $11 million in increased project costs. Benefits to the Nation's economy of approximately $60 million a year will be lost during each year of delay. Each year of delay will also result in a loss of $15 million annually in area redevelopment benefits. I should like to incorporate an exhibit setting forth the details of these losses at the end of my testimony. I would also like to include an exhibit setting forth the history, background and current status of the project and the status of local cooperation.

The location of new industries and the expansion of existing plants on the river will be lost or postponed if the project is not completed on schedule. An inventory of planned location of new plants or enlargement of existing plants and a study of the history of other areas following the completion of river development programs show that completion of the Arkansas River program will increase industrial payrolls in Arkansas and Oklahoma by 36,000 jobs in the first few years following completion. Specific plans for the construction of new plants and the enlargement of existing plants are being made in the two States.

A hurried survey by Senator MONRONEY and myself revealed a large number of industries which were making plans on the basis of the availability of navigation on the Arkansas River. In a period of a few days, we learned of at least 60 industries that were in this category, and some of these industries will employ thousands of people. I believe that the industries which we learned about represent only a small portion of those that will locate new plants, expand their operations or make extensive use of river navigation upon completion of the project.

But most of these plans are predicated upon the availability of navigation on the river by 1970. Any postponing of the completion date will probably result in the loss to the two States of many of these plants. Even if the loss of plants can be kept to a minimum, the economic benefits to the two States would be postponed. It is important to realize that the average family income level in depressed counties along the river is even less than that which exists in the depressed counties of Kentucky and West Virginia, the heart of poverty stricken Appalachia. In the absence of the economic benefits of this project, high Federal and State welfare payments will continue unabated, unemployment will remain high, farm income will continue to deteriorate, Federal and State tax income will remain low, and the manifold problems of health, welfare, and education resulting from poverty will remain unabated.

Planning by the communities along the river will be seriously impaired. For example, the city of Little Rock will vote on May 12, 1964, on a bond issue of $4,300,000 for the purpose of providing port facilities and an industrial development district on the river. The bonds will be retired with the proceeds of a tax levy and revenues obtained from the operation of the port facilities. Any delay in the development of the river will delay the date on which the port will be financially self-sufficient. This will result in higher taxes for the citizens of Little Rock. Similar problems will be created in countless other cities along the river because most of these cities are now engaged in efforts designed to provide port facilities in accordance with the present schedule of completion of the project. Problems of financing and constructing port facilities will be made much more difficult if these communities are not able to rely on the previously announced completion dates.

For all of these reasons, Mr. Chairman, I urge the committee to approve an additional $15 million for this project apportioned as follows:

| | Million |
|---|---|
| 1. Locks and dams | $10.0 |
| 2. Ozark lock and dam | .5 |
| 3. Webbers Falls lock and dam | 1.5 |
| 4. Robert S. Kerr lock and dam | 3.0 |
| Total | 15.0 |

### EXHIBIT A

### COST OF DELAY

A realistic effort has been made to determine the additional cost to the Federal Government by delaying the completion of construction from fiscal year 1970 to fiscal year 1971.

*Additional costs, material, and labor*

Engineering News-Record construction cost reports indicate that construction costs are increasing at an average rate of 5 percent per year. If the Engineering News-Record construction cost is projected to the remaining portions of the project to be constructed, a year's delay would amount to an ultimate additional cost of as much as $40 million.

A Corps of Engineers officer indicated that if the project were delayed for 5 years the cost would increase approximately 3 percent annually for materials and labor, with a total increase for the project of about $52,500,000.

At the request of the chairman of the Public Works Appropriations Subcommittee, General Dunn, the Division Engineer of the Corps of Engineers, furnished for the record the following:

"In my judgment the additional construction cost, based on current trends of price increases, that would be incurred for each year of delay would be in the amount of $9 to $10 million per year."

*Increased real estate costs*

The budget justification for the features of the Arkansas River project to be under construction in fiscal year 1965 under the President's budget request of $84 million show requirements for "Lands and damages" in that year totaling $7,577,900 and "After fiscal year 1965 requirements for land and damages" totaling $31,025,200 (including only land for 6 of the 11 locks and dams).

The Department of Agriculture publishes records of the per acre value of farm real estate which show that in Arkansas "Lands and buildings per acre" have increased in value from $25 per acre in 1940 to $137 per acre in 1963, an overall increase in value of about 450 percent, with increases averaging more than 8 percent per year since 1959.

Oklahoma "Lands and buildings per acre" have increased from an average value of $24 in 1940 to $102 in 1963, an overall increase of 325 percent and an increase of better than 6 percent per year since 1959.

The value of Arkansas River bottom lands in Oklahoma has increased from $75 in 1945 to $285 in 1963 with an increase of 9.7 percent per year since 1959. Bottom lands in Arkansas follow a similar pattern.

The Tulsa district of the Corps of Engineers has furnished information on the estimated "increase in cost of lands in the event of delay beyond the scheduled completion date of 1970 on the Arkansas River navigation project" as follows:

| | |
|---|---|
| 1971 | $805,000 |
| 1972 | 1,635,000 |
| 1973 | 1,755,000 |
| 1974 | 2,065,000 |
| 1975 | 2,315,000 |

On the basis of the record, this would seem to be a very conservative figure, especially in light of requirements after fiscal year 1965 for lands and damages of $31 million and the rate of increase in land values in both States.

*Loss of annual benefits if project completion is delayed*

The chairman of the Public Works Appropriations Subcommittee also asked for the effect of delay in the completion of the project on benefits which would accrue to the public after project completion.

The Corps of Engineers inserted in the record a table of estimated average annual benefits as follows:

| | Million |
|---|---|
| Savings to transportation | $40.5 |
| Power | 11.0 |
| Flood control | 6.5 |
| Other benefits | 8.0 |
| Total | 66.0 |

Flood control benefits are already being achieved through the portions of the project already finished, but no benefit can accrue to navigation (estimated at $40 million per year) until the channel is completed or to power (estimated at $11 million per year) until the power facilities are placed in operation. Thus, even though the project is 35 percent funded ($1,201,850,000 total cost, $418,568,000 allocated through fiscal year 1964), most of the benefits from it will not be realized until it is operational.

*Area redevelopment benefits*

All but 4 of the 27 counties which the Arkansas River navigation project touches are eligible for area redevelopment benefits to be considered in project justification. The labor force is chronically underemployed. The median family income in the 23 counties is $2,833, or 47.5 percent of the U.S. median family income of $6,000.

This condition exists in spite of expenditures that have been running about $85 million for construction on the project for the past 4 years. Without the benefits of this and other Federal expenditures, the condition would be critically worse.

An additional $15 million appropriation in these counties for the Arkansas River navigation project would create 750 direct new jobs on the project, in addition to 570 service employment opportunities, making a total of 1,320 new payroll additions. This would also increase annual sales by $9 million and will provide for the purchase of the products of 28,000 acres of cropland. This $15 million would help reduce Federal welfare funds now being poured into the river counties in Oklahoma and Arkansas.

The average median family income in ARA counties in Oklahoma and Arkansas is 17.7 percent less than the average median family income in ARA counties in West Virginia and Kentucky, the heart of the so-called Appalachia hardship area.

If ARA benefits could be credited to the Arkansas navigation project, as permitted in new project justification, the requested $99 million would entitle the project to $15 million benefits. (Credit is based on 1,875 off- and on-site jobs at $8,000 per job.)

### EXHIBIT B

### HISTORY AND BACKGROUND

The Arkansas River multipurpose project has had a long and stormy history. Initiation of the project was deferred for many years after authorization, and the Budget Bureau succeeded in holding up construction for almost 2 years after the Chief of Engineers had made a favorable report on the project and took the almost unprecedented step of withholding an appropriation even after the Congress had appropriated funds to start major features of the project. It would be tragic, indeed, if the hard-won gains were to be sacrificed at a time when the area affected is so badly in need of a "shot in the arm" to bolster its economy.

In 1938 the Congress authorized the Corps of Engineers to make a survey to determine the feasibility of a multiple-purpose plan to develop the Arkansas River, including navigation.

The project was authorized for construction in 1946. In 1948, $1 million was appropriated for emergency bank stabilization at Braden's Bend in Oklahoma. In 1950 the plan was modified by substituting the Keystone Dam for three previously approved projects. In 1960 projects approved in the Flood Control Act of 1938 were consolidated into the multiple-purpose plan, making the present comprehensive multiple-purpose plan of development.

By 1955, only $16 million had been appropriated for emergency bank stabilization. In fiscal year 1956, Congress appropriated $5,550,000: $3,500,000 for emergency bank stabilization and $1 million for Oologah (both budgeted items), $450,000 for Dardanelle, $450,000 for Eufaula, and $150,000 for Keystone. The Eisenhower administration permitted the money for Dardanelle and Eufaula to be used for planning only.

In the budget message for fiscal year 1957, President Eisenhower stated that he was not asking for funds to continue the development of the river for navigation. The 1957 budget contemplated that work on the Arkansas would be limited to emergency bank stabilization ($3 million) and construction of Oologah Dam ($3 million) since these features of the plan could be justified independently, even in the face of the decision not to proceed with the entire authorized plan for Arkansas River improvements. Congress reversed the President's decision and in addition to the $6 million requested for Oologah and bank stabilization appropriated $4,400,000 more to start construction on Keystone, Eufaula, and Dardanelle.

This was followed by an $18 million appropriation in 1958, and an appropriation of $31 million in 1959.

Following the 1957 appropriation, a public hearing was held in Little Rock by the Vicksburg District of the Corps of Engineers to discuss the criteria for the project with local interests. This was, in fact, the first Executive action indicating that construction was on the way. At that time a completion date of 1973 was indicated.

At a meeting of the Arkansas Basin Development Association in January 1961, the Division Engineer of the Corps of Engineers, Gen. Robert Fleming, announced that under the schedule contemplated in the fiscal year 1962 budget, it was possible to complete the project, extending navigation to Catoosa, by 1970.

By letter dated September 26, 1961, to the late Senator Bob Kerr, Maj. Gen. William F. Cassidy, Director of Civil Works, Office of the Chief of Engineers, said in part:

"Current plans contemplate that navigation will be provided to Little Rock in fiscal year 1968, to Fort Smith in fiscal year 1969, and to Catoosa in fiscal year 1970. However, this schedule is dependent upon the availability of funds.

"The status of funding to date and the estimated cost and completion date of the features of the Arkansas River project are shown in the enclosed tabulation."

### CURRENT STATUS

To and including fiscal year 1964, the fiscal year 1970 schedule has been maintained, and today construction in place totals $418 million.

To maintain the navigation completion schedule outlined in General Cassidy's letter would, according to the Corps of Engineers, require $99 million in fiscal year 1965, or $15 million more than the President's budget request. To keep the entire project (including hydroelectric power and other features) on schedule would require an appropriation of $102,550,000 in fiscal year 1965.

The features necessary to complete the navigation facilities in fiscal year 1970 and minimum additional amounts for each needed in the fiscal year 1965 appropriations are as follows:

| | *Million* |
|---|---|
| 1. Locks and dams | $10.0 |
| 2. Ozark lock and dam | .5 |
| 3. Webbers Falls lock and dam | 1.5 |
| 4. Robert S. Kerr lock and dam | 3.0 |
| Total | 15.0 |

The project is now 34.8 percent funded ($1,201,850,000 total cost, $418,568,000 allocated through fiscal year 1964). Flood damages are already being alleviated, but no benefit can accrue to navigation (estimated at $40 million per year) or to power (estimated at $11 million) until those features of the project are completed.

The Arkansas River multiple-purpose project was conceived and authorized as an overall plan made up of a group of interrelated elements consisting of reservoirs, multiple-purpose structures, navigation structures, and bank-stabilization works, all designed on a coordinated basis to provide for development of optimum benefits. Construction of the project must follow this coordinated plan if full benefits are to be realized.

Construction of Eufaula, Keystone, and Oologah Reservoirs in eastern Oklahoma is underway, as is the construction of the Dardanelle lock and dam project in central Arkansas and bank stabilization and channel rectification between the Robert S. Kerr Damsite in Oklahoma and the mouth of the river. Construction of these units of the comprehensive plan has accentuated the desirability of construction of the navigation locks and dams and the remaining units of the comprehensive plan. Completion of the navigation route to Pine Bluff and Little Rock, Ark., by fiscal year 1968 will significantly benefit the economy of the surrounding area, where existing industrial facilities have been considerably expanded and new industrial plants constructed in the past few years. Plants in the Tulsa area have acquired land for new and expanded operation keyed to the achievement of navigation to Catoosa by fiscal year 1970.

### STATUS OF LOCAL COOPERATION

Local interests are required to provide adequate terminal and transfer facilities for navigation and to bear the increased cost of maintenance and operation of all altered rail and highway routes, including bridges and appurtenances, and utilities and other existing improvements, other than federally owned.

Prior to authorization of the project, local interests furnished written assurances that they would construct suitable public terminals. Current assurances relative to providing port facilities have been received from the Governors of Arkansas and Oklahoma; the cities of Conway, Pine Bluff, Bigelow, Dardanelle, Perryville, Little Rock, and North Little Rock; and presidents of the chambers of commerce at Little Rock and Fort Smith.

Laws enacted in 1959 by the States of Arkansas and Oklahoma authorized the organization and operation of port authorities and permitted political subdivisions to engage in port activities. Port authorities have been organized to develop facilities for Rulsa and Rogers County, and Muskogee, Oklahoma; and Van Buren, Dardanelle, Little Rock, North Little Rock, Pine Bluff, and Jefferson County, and Gillett, Ark. The Tulsa and Muskogee port authorities have contracted with engineering firms for development of master plans. An engineering firm engaged by the Little Rock Port Authority has completed a master plan for development of port and harbor facilities. The Pine Bluff Port Authority has completed an engineering study and drawn up plans for development of port and harbor facilities.

## SECURITY THROUGH SAVINGS BONDS

**Mr. JOHNSTON.** Mr. President, I invite the attention of the Senate to the fact that today is not only May Day but has been designed as Bond Day.

There's an old saying that goes something like this—"You can't get all your squirrels up one tree." And the old sage who put those wise words together would certainly find them true today, especially in the matter of personal finances.

But I would remind those who are concerned about saving for a rainy day that today, May 1, is in itself a great reminder of a sound investment—U.S. savings bonds.

Savings bonds are a sound investment that have endured for 23 years, having begun their important service to the economy with the issuance of the first series E bond on May 1, 1941. So, today we celebrate an anniversary of great and lasting advantage to the people of America.

May 1 also marks the advent of the new $75 series E bond, which bears the likeness of our beloved late President John F. Kennedy. It also carries his immortal words: "Ask not what your country can do for you; ask what you can do for your country."

What better theme could the Treasury have chosen for its new 1964 savings bond campaign than operation security? What better way is there for our citizens, in all walks of life, to assure their personal stake in the Nation's security? What better testimony can they give to our faith in the future of the United States?

So, I would encourage Americans everywhere—not only in my own great State of South Carolina—to buy bonds now, today, and to buy them often hereafter, during the campaign period of May 1 to July 4. They will not only honor the memory of a great American and the glorious gifts of citizenship which he symbolized so well, but also they will observe our national personal policy of thrift—a basic component of the American tradition.

**The PRESIDING OFFICER.** Is there further morning business? If not, morning business is closed.

The Chair lays before the Senate the unfinished business.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

**Mr. STENNIS.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 186 Leg.]

Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Cannon
Case
Church
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gore
Hart
Hartke
Hruska
Humphrey
Inouye
Johnston
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morton
Moss
Mundt
Muskie
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Robertson
Russell
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to amendment No. 516, proposed by the Senator from Illinois [Mr. DIRKSEN], for himself and the Senator from Montana [Mr. MANSFIELD], as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, relating to jury trials in criminal contempt cases.

Mr. SPARKMAN obtained the floor.

### QUORUM CALLS

Mr. COTTON. Mr. President, will the Senator yield?

Mr. SPARKMAN. Mr. President, I shall be glad to yield to the Senator from New Hampshire with the understanding that my yielding to him will not in any way prejudice my rights to the floor. I ask unanimous consent that I may do so under that condition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. I yield.

Mr. COTTON. Mr. President, I thank the Senator. Ordinarily I do not attempt to interrupt a Senator in his discourse. I do not know how most Senators feel about the subject which I shall discuss; but as one who tries to be responsive to his duties, I have reached a point at which I should like at least to make an inquiry of the leadership of the Senate on both sides of the aisle in this particular controversy. I can understand the necessity for keeping a quorum available in the Senate. I can understand why the country should be assured of the fact that Senators are taking their duties seriously enough, and taking the particular controversy now before the Senate seriously enough, and recognizing its gravity sufficiently so that they are faithful in their attendance and ready at all times to respond.

But, Mr. President, I cannot understand how it is of any assistance either to Senators who are seeking to expedite consideration of the pending question, or to Senators who prefer more deliberation and a longer course, to have two or three quorum calls in the morning or during the day within 20 or 30 minutes of each other.

Advocates on both sides of the controversy have—and quite justifiably—appealed to the people of our country and encouraged them to write to Senators and make their desires known. We are all flooded with correspondence, and our correspondence cannot be entirely handled by form letters. Nor do we wish to do so. Many letters require careful, courteous, and respectful replies.

The situation is now becoming such that, in the hours of the day when a Senator's staff is on duty, and when the Senator is trying desperately to do some of the work that has been piled upon him because of the very natural and justifiably intense feeling on the questions now before the Senate, that he no sooner returns to his office and tries to resume work when he is immediately called upon to retrace his steps to respond to another quorum call.

Why there should be a quorum call when the Senate convenes, and another quorum call within 20 minutes after the morning hour I cannot understand. How such a procedure would benefit anyone is beyond my comprehension.

Mr. President, I have missed very few quorum calls. I am willing to be available in the evenings and to meet my full responsibilities as a Senator. But I appeal to the leaders on both sides of the aisle who are planning and executing the program of the Senate in these days not to have utterly unnecessary quorum calls, when obviously there are many Senators in the Capitol who are ready to respond to a quorum call and when it is known that a quorum can be mustered. At times there may be some special reason for frequent quorum calls.

Perhaps I am unjust and unthinking in my comments. But as one Senator who is trying to be responsive to calls to be present on the floor of the Senate, and at the same time trying to perform necessary tasks in his office, I express the hope that there will continue to be quorum calls, but that they will be spaced in such a manner that they will do some constructive good. I hope that they will not follow each other more frequently than necessary, requiring Senators to run back and forth from their offices to the Capitol.

Senators are not children. Certainly all of us are old enough to vote, and most of us are in at least fairly mature years. Some of us are growing a little tired of being treated as schoolchildren. If there is some reason for frequent quorum calls, fine. If the quorum calls are merely for the purpose of harassment, I think they are unnecessary and not in keeping with the dignity of the Senate or the consideration that Senators owe to each other.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield with the understanding previously agreed to.

Mr. STENNIS. I am not one of the leaders to whom the Senator has referred, but I have a special duty today. I was the one who asked for the most recent quorum call. So, to that extent, I suppose, I am the one who should reply to the Senator from New Hampshire. I appreciate the basis of his plea and his question, too.

Mr. COTTON. I interrupt the Senator from Mississippi to say that I did not know who suggested the absence of a quorum most recently. I was not referring particularly to the last quorum call. What I referred to has been the custom each morning. Nothing that I said was intended as a reflection on the Senator from Mississippi or on any other individual Senator.

Mr. STENNIS. I am sure that what the Senator has said is true. That is one reason I feel so free to reply. The Senator from Mississippi has been a Member of the Senate for a goodly number of years. When I first came to the Senate the custom was—and it has been an unbroken custom so far as I can remember—to have a quorum call at the end of the morning hour. The purpose of the quorum call is to let Senators know that the Senate is proceeding with consideration of its unfinished business.

I believe that the only difference between the present procedure and the procedure heretofore is that the quorums that are now called are so-called live quorums. Under the general ground rules of the present debate the quorum calls are so-called live quorums. Ordinarily there is an order for a quorum call, and later the order is rescinded. The purpose of the call is to advise Senators that the Senate is about to proceed to consider its unfinished business. The quorum call order is then usually rescinded before the call is completed.

So there is nothing unusual about the call for the quorum that has just been completed.

Generally I believe that procedure is sound. For that reason I suggested the absence of a quorum.

Furthermore, I point out that during the debate there have been relatively few quorum calls. We have consistently refrained from suggesting the absence of a quorum at odd hours of the day, and we have made special effort to arrange the schedule of speeches so that Senators should attend functions to which the constituents of Senators have invited them. I refer to special dinners and that sort of event. There might have been one or two exceptions to that general procedure. I thank the Senator for yielding.

Mr. COTTON. Mr. President, I recognize the correctness of what the distinguished Senator has said. The leaders on both sides—both those who are representing, as the Senator does, what could be said to be the southern point of view, and the proponents of the bill—have been most considerate.

They have been most considerate of Senators who have had important engagements and functions to attend at night. A new call has just been advised. I heard it in my office today. There was a number of rings—I have forgotten the number——

Mr. KEATING. Six.

Mr. COTTON. Six, to indicate the morning hour was over.

Again, I am referring to what happened this morning only as a matter of general policy. I still cannot see what is to be gained by having a quorum call after one has just been completed, and indicating the end of the morning hour, by a new signal that Senators can comprehend. If any Senator cannot understand it, he can ask his staff, and he will be told that the morning hour is over.

If I were sitting where some Senators are sitting, I could understand compelling Senators atendance into the evening. The leaders have been most lenient and considerate in their demands in that respect. If I were sitting where some pro civil righters most anxious to bring this matter to a head are sitting, I could understand their attitude. It is our duty to maintain a quorum in the city, ready to respond. But I cannot understand useless quorum calls that benefit neither side, and that make it impossible for Senators to treat their constituents with the respect that they deserve, by answering their mail.

**Mr. PASTORE.** Mr. President, will the Senator yield?

**Mr. COTTON.** I yield.

**Mr. PASTORE.** First, I am prone to agree with the Senator from New Hampshire. There is no question that we all feel the same frustrations he feels. But after having been in the Senate 14 years, one learns to face realism. The realism is that Senators are engaged in a filibuster on the civil rights bill. One of the devices employed by Senators to prolong the debate, whether one calls it a filibuster or calls it by any other name, is a "live" quorum call. Senators will have to learn to live with it, I fear until they reach the point where they will stand up and assert their right, under the rule, to vote for cloture.

**Mr. COTTON.** One further word. I do not wish to engage in a filibuster on this point, in respect to what my beloved and distinguished colleague from Rhode Island has said. The Senator from New Hampshire understands that that is something which must be faced. The Senator from New Hampshire went through two prolonged debates, one in 1957 and one in 1960, and spent nights in his office and in the Capitol, prepared to respond to quorum calls. The Senator from New Hampshire expects that before the Senate is through, it will undoubtedly be faced with that situation again, and he is ready to cope with it. The only question the Senator from New Hampshire has raised—and I am sorry it has lengthened into a prolonged colloquy—is that a quorum call that comes 20 minutes after the previous one, at a time when Senators are available but are trying to do their work, seems to the Senator from New Hampshire not to be of beneficial use to anybody.

The Senator from New Hampshire can understand having a quorum call at night. He can understand having one at 6, 7, or 8 o'clock. He can understand having quorum calls spaced through the day. But if anything is to be gained other than merely harassing Senators by having one quorum call follow another one by 20 minutes, it is beyond the comprehension of the Senator from New Hampshire. All the Senator from New Hampshire is asking is that the powers that be consider that question.

The Senator from New Hampshire asks one further question: Why was the new signal devised to inform Senators of the completion of the morning hour, if it is to be followed by a live quorum call? Let us not befuddle our confused minds further with new, lengthy signal bells that we have to interpret, if they do not mean anything, and we have to come into the Chamber anyway.

I hope this policy will be administered with commonsense. The Senator from New Hampshire stands ready to answer to his name when called, and be available at all times, even if he must respond late in the evening.

## DISCLOSURE OF FINANCE CHARGES IN CONNECTION WITH CREDIT SALES

**Mr. ROBERTSON.** Mr. President, will the Senator from Alabama [Mr. SPARKMAN] yield to me without losing the floor?

**Mr. SPARKMAN.** I yield with that understanding.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. ROBERTSON.** Mr. President, on April 10 I obtained unanimous consent to have printed in the RECORD a number of suggested amendments to S. 750 as reported to the full Committee on Banking and Currency by the Subcommittee on Production and Stabilization. I stated then that I had asked the Federal Reserve Board for comments on a proposal by the Senator from New York [Mr. JAVITS] that the Board administer the bill insofar as it applied to banks and other financial institutions.

I have today received a letter from the Board of Governors of the Federal Reserve System expressing its opposition to the suggested division of jurisdiction over S. 750 between the Federal Trade Commission and the Board, and reiterating its opposition to the suggestion that the Board administer S. 750 and explaining in detail why it felt that it would not have any responsibility under the bill, either for business generally or for banks and other financial institutions.

For the benefit of the members of the Banking and Currency Committee, the Members of the Senate, and all those who would be affected by the bill, I ask unanimous consent to have printed in the RECORD at this point the letter from the Board of Governors of the Federal Reserve System dated April 30, 1964.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
*Washington, April 30, 1964.*

HON. A. WILLIS ROBERTSON,
*Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In your letter of April 10, 1964, you asked for the Board's views on certain matters that have been raised by Senator JAVITS concerning the recommendations for transfer from the Board to the Federal Trade Commission of the responsibility for administration of S. 750, the truth-in-lending bill. You enclosed copies of a letter of April 8, 1964, and its enclosure, to you from the Federal Trade Commission supporting the recommendation for such transfer in the Presidential message of May 15, 1962, and submitting proposed amendments to the bill to effectuate the transfer.

Your letter also referred to the Board's reply on March 31, 1964, to you concerning S. 750 which, as reported to your committee on March 16, 1964, by the Subcommittee on Production and Stabilization, continued to designate the Board as the agency to administer the bill. In that reply, the Board strongly urged, in line with earlier reports by the Board on the legislation, that the bill be revised to place responsibility for its administration in the Federal Trade Commission (and advised that the Board would not favor enactment of the bill in the form reported by the subcommittee).

As you related, the first matter raised by Senator JAVITS was his request that the Board reconsider the position stated in its reply on March 31, 1964, and accept the responsibility for administering S. 750. You explained that Senator JAVITS' request is based on his beliefs that the Board would be familiar with the kinds of problems that would arise under the bill because of its experiences during emergency periods of the 1940's and the early 1950's in administering regulation W, and that the Board already has jurisdiction in one way or another over many of the institutions that would be subject to S. 750.

One of the main reasons for the Board's position that administration of S. 750 would be inappropriate for the Board is that, since the bill is a measure for the regulation of trade practices, such a function would be foreign to the Board's present responsibilities, which are principally in the field of regulating money and credit through the banking system to meet the varying needs of the economy. In marked contrast to S. 750, regulation W was a measure for the control of consumer credit. This was brought out during my testimony on April 5, 1960, and July 19, 1961, at the hearings of the subcommittee on S. 2755 and S. 1740, predecessors to S. 750. As explained at those hearings, in administering regulation W the Board was very careful to avoid involvement in the trade practice aspects of consumer credit. The Board, therefore, cannot agree that its temporary experiences with regulation W—which has not been in effect since May of 1952 and authority for which was repealed in June of that year—would provide any special competence in dealing with the many problems of essentially different kinds that would arise under S. 750.

The Board wishes to emphasize that such jurisdiction as it has over some of the institutions that, as mentioned by Senator JAVITS, would be subject, also, to S. 750, is not for the purpose of regulating trade practices. Accordingly, the Board disagrees that the nature or scope of its activities provides any significant reason for singling out the Board as particularly qualified to administer S. 750. At the hearings of the subcommittee on April 5, 1960, mentioned above, my statement in behalf of the Board stressed, among other things, that "Even if business loans were exempted, the proposed regulation [contemplated by the bill] would apply to hundreds of millions of individual transactions, carried out by over 50,000 financial institutions and hundreds of thousands of retail outlets * * * [The bill] * * * would require the Federal Reserve to police the trade practices of hundreds of thousands of credit grantors over which it now has no supervisory authority. The major activities of most of these are far removed from basic Federal Reserve responsibilities, and their operations entail practices and problems with which the Federal Reserve is totally unfamiliar."

Considerations such as the foregoing clearly support the transfer of administrative responsibility for S. 750 recommended in the Presidential message of May 15, 1962. That message expressly recognizes that the bill would not control prices or charges, but is aimed specifically at activities closely related to and often combined with other types of misleading trade practices which the Federal Trade Commission is already regulating.

Since the legislation in question was first introduced as S. 2755 in 1960, the Board, as you know, has had several opportunities to consider whether it would be appropriate to place the responsibility for administering the bill in the Board. On each occasion the decision has been that such responsibility should not be vested in the Board. As indicated herein, the matters raised by Senator JAVITS have previously been among the various points that have been taken into consideration.

The Board has again reviewed its position and the various considerations that have been involved, including those mentioned by Senator JAVITS. The Board has concluded that it would not be warranted in departing from the position of which you were advised by its reply of March 31, 1964, noted above.

Your letter of April 10, 1964, related also that if S. 750 is amended to give the Federal Trade Commission responsibility for administering the legislation, Senator JAVITS would propose an amendment to "require the Board to take jurisdiction over banks and other financial institutions."

Such an amendment, of course, would bring under the jurisdiction of the Board many institutions which are not regulated by the Board. Difficulties that would arise if this were done have been mentioned previously in this letter. There are, however, other objections as well.

The best means of assuring comparable information concerning finance charges as a basis for intelligent decisions by users of credit is for all extenders of credit to be subject to the same laws and regulations administered by the same agency. Diffusion of administrative or regulatory power, especially in an area such as that covered by S. 750, would give rise to the probability of divergent interpretations and requirements in the disclosure of information to the public which would make comparison of costs among various sources of credit more difficult. Certainly such a division of authority clearly would be inefficient and more costly than would be the case if the law were to be administered by a single agency already having broad regulatory experience in the area of trade practices. Obviously the considerations which prompted the recommendation in the 1962 Presidential message, previously mentioned, also apply against the suggested division of responsibility for administration of the bill.

Furthermore, the Board feels that it should underscore the fact that both the Board and its relatively small staff are fully occupied by a heavy workload arising from present statutory responsibilities, which have increased substantially in recent years. Assigning to the Board either full or partial responsibility for the essentially unrelated, untested, and highly complex regulatory task under S. 750 clearly would not be consistent with the demands on time and energy for the effective performance of either the Board's present functions or for the new program envisaged by the bill.

Accordingly, in addition to the foregoing reaffirmance of the position stated in its reply of March 31, 1964, the Board would recommend against the proposed division of responsibility for administration of S. 750 and would not favor enactment of the bill if it were to be amended to incorporate such proposal.

Sincerely yours,

WM. MCC. MARTIN, Jr.

## JAPANESE ADMITTED TO ECONOMIC GROUP

**Mr. FONG.** Mr. President, will the Senator from Alabama yield to me without losing his rights to the floor?

**Mr. SPARKMAN.** Mr. President, I yield under the conditions previously mentioned.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. FONG.** Mr. President, in June 1963, I brought to the attention of the Senate three noteworthy studies which mirrored the excitement of modern Japan's pace of progress, economically, socially, and politically.

I pointed out at that time that Japan was an outstanding example of successful economic development and rapid growth within the framework of a free economy.

A highly industrialized economy that is moving ahead rapidly, Japan is separated both by geography and history and is the only major free world industrial country outside the North Atlantic Community.

Japan is therefore admirably suited to be, and, indeed wants to be, a bridge between the industrialized nations of the West and the underdeveloped countries of Asia and Africa.

While the Nation plays a significant role in world trade and in the defense of the free world, and although its aid to underdeveloped countries is eagerly sought by the Development Assistance Committee of the Organization for Economic Cooperation and Development, it is not a member of the OECD—the world's most important economic council.

When I spoke on this subject last June, Japan's application for membership in the OECD was pending before that organization, and I urged that Japan be admitted without the slightest hesitation.

I am very pleased and happy to note that on April 28, 1964, Japan at long last was admitted to membership in the OECD—the first Asian nation to assume full status.

By achieving full representation in the West's highest level economic council, Japan may now pursue its economic aspirations and coordinate her economic policies in close association with the free nations of the world. She may now also play a larger and more significant role in international economic affairs.

Mr. President, I ask unanimous consent that an article appearing in the April 29, 1964, edition of the New York Times, "Japanese Admitted to Economic Group," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### JAPANESE ADMITTED TO ECONOMIC GROUP

(By Emerson Chapin)

TOKYO, Wednesday, April 29.—Japan was admitted to membership yesterday in the Organization for Economic Cooperation and Development—the 21st nation and the first Asian country to assume full status.

The organization, formed in Paris in 1960, promotes policies designed to maintain financial stability and thus to contribute to the development of the world economy.

Japan said her standing as a full member would enable her "to contribute further to the economy." She pledged to live up to her obligations fully.

The statements were issued by Foreign Minister Masayoshi Ohira and the chief Cabinet Secretary, Jasumi Kurogane, a few hours before Japan's instruments of ratification were formally submitted to the organization in Paris.

Here acceptance represents an important accomplishment for this nation, which in recent years has had a higher rate of economic growth and development than any other major country.

By gaining full representation in the West's highest-level economic councils, Japan expects to coordinate her policies with the advanced countries more effectively and play a larger role in international economic affairs. This entails greater responsibilities, and the Government and private industry have been busy seeking to cushion the shock attendant on the exposure of many elements of the domestic economy to stiffer competition.

In his statement, Mr. Ohira voiced Japan's gratitude to the United States, Britain, and the other major countries that supported her admission. He declared that Japan "will fully live up to her obligations, refraining from any conduct that would betray the good will of our friends."

Mr. Kurogane declared that "Japan will have a full-fledged open economy as a result of her recent shift to the status of an article 8 member of the International Monetary Fund agreement, and this has now been followed by her entry into OECD."

#### FLEXIBLE POLICIES SEEN

"Through joining OECD, Japan will be able to contribute further to the progress of the world economy, thereby raising her position in the international economic society."

He noted also that the Government would carry out flexible policies best suited to the requirements of her new "open economy."

Japan was invited to become a full member of the economic group last July 26 after 2 months of negotiations. Approval of the step was voted by the lower house of the Diet (Parliament) on April 9 and by the upper house on Monday.

Upon assuming full membership, Japan was required to remove controls on invisible trade payments and capital transactions and accept a wide range of other liberalization stipulations. She must prepare as speedily as possible, to meet full international competition in 17 items—out of 82 in the group's liberalization code—in which she has been granted temporary reservations.

These permit Japan, among other things, to maintain restrictions on international shipchartering transactions and limit to $500 the amount of foreign currency that a Japanese tourist can take abroad.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

**Mr. SPARKMAN.** Mr. President, once again, this body has before it a bill which would deny to defendants the fundamental right to trial by jury. Once again, some of us are fighting to preserve this basic right. Today, I intend to present a strong case for the amendments offered by the junior Senator from Georgia [Mr. TALMADGE].

In debating this great issue, we would do well to remember the history of the jury as a legal concept and as an instrument of justice. Its growth parallels the rise of the law from a morass of medieval superstition and physical torture.

On the other hand, we must remember the history of the injunction, backed by the power of the court to make findings of fact and to convict without the benefit of a jury. This device, I shall demonstrate, made its appearance in modern form as a legal weapon of despotic English kings, frustrated in their attempts to secure unjust convictions of their political enemies in the regular courts.

The injunction was hammered out by the infamous Court of Star Chamber, and about 1720 it began to creep into the usage of the common law courts.

It was part of the monumental struggle between the 18th-century English kings and Parliament. The kings dreamed of the sway and prerogative enjoyed by their Stuart predecessors; Parliament fought to retain the rights won from the throne in the glorious Revolution of 1688.

The jury, according to modern historians, stems from the medieval idea of trial by compurgators.

A defendant could be subjected to trial by mortal combat. Or he could be forced to undergo trial by ordeal.

Or he could take a third choice. He could recruit as many of his friends and neighbors as possible to come into court to swear to his virtue and character. The court's decision depended on who had the most character witnesses, the defendant or the plaintiff.

Because of this curious custom, in the early days there was confusion between what we now call the jury and what we now call the witnesses. In many cases, in medieval trials, these were the same people.

But gradually, as England began to develop the foundations of its mighty traditions of justice, the concept of an independent accusing body, not a part of the court, began to take hold.

The accusing jury became the forerunner of the grand jury of our law. It was instituted by King Henry II in 1166.

Henry II required that in every county "12 men of every hundred, and 4 men of every township had to swear to make true answer to the question whether any man is reputed to have been guilty of murder, robbery, larceny, or of harboring criminals since the king's coronation. Those who were thus accused must go through the ordeal; that is, trial by the ordeal of fire or water—and even if successful there, that is to say, though the judgment of God is in their favor, they must abjure the realm."

This accusing jury preceded by nearly two centuries the petit jury, according to the historian, Walter Clark. Clark frowns upon the old tradition that jury trial comes from Magna Carta. Through an extensive reading of early records, he concludes that the grand jury is, as we have said, almost a century older than the rights given in Magna Carta, and the petit jury a century or so more recent.

Sir James Stevens, in his "History of the Criminal Law," says this:

> The steps by which the jury ceased to be witnesses and became judges of the evidence given by others, cannot now be traced without an amount of labor out of proportion to the value of the result. * * * Trial by jury as we know it now was well established, at least so far as civil cases were concerned, in all its essential features, in the middle of the 15th century.

The institution had acquired its essential features, then, before the end of the Middle Ages.

Another legal historian, Macclachlan, uses these words:

> Introduced originally as a matter of favor and indulgence, the jury thus gained growth with advancing civilization, gradually superseded the more ancient and barbarous customs of trial by battle ordeal and wager of law, until it became both in civil and criminal cases, the ordinary mode of determining facts for judicial purposes.

Although it is difficult to give precise dates to the evolutionary stages of any concept so involved as this, it is nonetheless clear that the jury system in the modern sense was well established by the 17th century. The first colonists to America brought this institution with them, and made it the cornerstone of their legal systems.

In the following century, when German kings appeared on the English throne, bringing German ideas with them, a new phase in the ancient struggle between Crown and Parliament ensued.

The kings began to use, through their courts, a weapon developed with great effect by the star chamber of the Stuarts. Star chamber, hated and feared by the people of England, had been abolished in 1641, but the memory of its ruthlessness remained.

It is only after 1720 that we find examples of summary trial in which the judge himself convicted on grounds that his own order had been disobeyed or that his own dignity had been violated.

If this change in usage had a sharp effect in Britain, it was doubly sharp in the American Colonies, which had been developing its own parallel institutions for generations.

Suddenly to be served with notice that the King's judges would and could avoid juries in cases of political necessity had an electric effect upon the Colonies. The motive was all too clear. In cases touching political issues, let alone the ordinary run of court cases, the uncertainties of the juries' disposition was manifest. It represented an undependable element in the efficient and centralized system of rule that George I, George II, and George III envisioned.

There is no need to recite the history of the American Revolution in this Chamber, but I shall note that the unrestrained use of injunctions and summary trials became one of the most powerful issues that impelled the colonists toward revolt.

We can summarize the matter in this way:

The jury was one of the fundamental institutions in the eight centuries during which our concept of justice evolved. The jury became a symbol of the emergence of law from medieval brutality and superstition.

On the other hand, the injunction began its modern career as the instrument of an ambitious and despotic throne, and in English history it has a fatal association with star chamber procedures. It was revived when later English kings began looking for the means to tighten their rules.

The injunction and summary trial, as much as any other course, led to the American Revolution. It is not by accident that the word "jury" appears through all the fundamental documents of our Nation.

The Declaration of Independence sets out reasons for the American revolt. Among these reasons, it charged:

The King "has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws, giving his assent to their acts of pretended legislation."

The specific acts of false legislation are listed, and among them we see these:

Depriving us, in many cases, of the benefits of trial by jury.

Abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies.

Taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments.

This ringing accusation was the summation of a whole catalog of wrongs; one of the chief wrongs there represented was the use of the King's courts to solve the King's political problems through indiscriminate orders and summary trials.

When the Revolution was won at last, the men who drafted the Constitution remembered the jury issue.

Let me remind Senators of article III, section 2 of the Constitution, which reads in part:

> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

The Bill of Rights has something to say on this matter.

The Bill of Rights seems to be largely neglected in the debate. Nevertheless, the Bill of Rights, in the Constitution, really sets forth the true civil rights of American citizens. I read from the Bill of Rights:

> Article V: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;
>
> Article VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of

the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Article VII: In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Alabama will let me ask him two or three questions, with the understanding that he will not lose the floor.

Mr. SPARKMAN. I am glad to yield to the Senator for questions.

Mr. JOHNSTON. The Senator is talking about $20. The bill before us deals with the criminal field also, does it not?

Mr. SPARKMAN. Yes.

Mr. JOHNSTON. It takes away the right of trial by jury in certain cases involving matters of civil rights, is that not correct?

Mr. SPARKMAN. The Senator is correct.

Mr. JOHNSTON. I ask the Senator from Alabama whether he thinks it is discrimination to put into a law a provision taking away from the people the right of trial by jury in civil rights cases, and then to provide for them a trial by jury in other cases.

Mr. SPARKMAN. Speaking of discrimination, as I have said many times, the bill is full of discrimination. The point made by the able Senator from South Carolina is merely one instance in which there is discrimination.

Mr. JOHNSTON. The Senator is bringing out, in an excellent way, what the bill would accomplish. I am glad that the Senator is doing so. Does he believe that it is absolutely necessary for the Senate, in a bill which covers such a wide field, to have considerable discussion on it in order to bring it to the attention of the people, who will be so vitally affected by it?

Mr. SPARKMAN. The Senator is correct. The bill has been made to appear as being merely a bill to insure fair treatment for all Americans. As I have pointed out in other discussions on the floor, it is not a simple bill. It is an omnibus bill. It is really 11 bills combined into one. There are many features in it which do not provide for equal treatment to all people.

Many provisions in it are actually dangerous. The one I am discussing is the most dangerous of all. It sets a dangerous trend toward reversing the age-old guarantee which people of Anglo-Saxon descent have, as well as those who have settled with us. That concept has spread to other parts of the world. It is the right of trial by jury. The reason we claim it as the special property of people of Anglo-Saxon descent is that the first direct and complete expression and guarantee of the right was the Magna Carta, which was wrested from King John at Runnymede in 1215 by the barons of England. It has come down through all the years.

I realize that even before that time people had a kind of jury system. At first, as I have described it a few minutes ago, there was a system of witnesses. Witnesses were brought in to decide the issue. At one time the decision depended entirely upon who had more witnesses.

That system was soon abandoned. Out of it developed the grand jury. The grand jury made its findings, in the form of a presentment or indictment.

Perhaps a century later there grew out of it what we know today as the petit jury.

In the meantime, on the Plains of Runnymede, the barons forced King John to guarantee forever in the Magna Carta the right of people to be tried by a jury of their peers.

Mr. JOHNSTON. I note the senior Senator from Massachusetts in the Chamber. I believe the Senator is from Boston. Did not much of the opposition to the British start in Boston? Was not the desire of the people for the right of a trial by jury one of the main things that brought about American independence?

Mr. SPARKMAN. The Senator is correct. I especially invite the attention of the Senator from Massachusetts—and that was the point the Senator from South Carolina made—to the fact that the Revolution was born in the area where the distinguished Senator from Massachusetts lives, and where his ancestors have lived ever since the *Mayflower* came over. When I speak of the descent of the Anglo-Saxon line, I know of no one to whom I can better refer than the distinguished senior Senator from Massachusetts. He and his people were here ahead of everyone else—except those who settled in Virginia and gave their blood to the South.

Mr. SALTONSTALL. I entered the Chamber as the Senator was so eloquently discussing the part that Anglo-Saxons had to play in the administration of justice.

Mr. SPARKMAN. The point made by the Senator from South Carolina was that the Revolution was hatched in the Boston area. I believe the Senator will agree to that.

Mr. SALTONSTALL. I believe we threw some tea into Boston Harbor.

Mr. SPARKMAN. That was merely a protest meeting. That was a demonstration. But when the Declaration of Independence was put on paper, one of the principal reasons assigned for the revolt was the fact that the King of England had withdrawn the right of a trial by jury and had sought to take unto himself the right of a trial by jury. The King took upon himself the issuance of writs under which people would be imprisoned or put under hardship without the right of a trial by jury. So, the Revolution was based on the fundamental guarantee of a trial by jury.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I yield.

Mr. SALTONSTALL. Does the Senator realize that the Declaration of Independence, about which he is speaking, and the Massachusetts constitution, under which the State is operating today, are 10 years older than the Constitution of the United States?

Mr. SPARKMAN. I did not know the exact dates. But I would have presumed that to be the case. I am sure that the constitution of Virginia is likewise older than the Constitution of the United States. As we know, the Bill of Rights was written into the constitution of the State of Virginia before it was written into the Constitution of the United States.

Mr. JOHNSTON. South Carolina would have had one of the oldest constitutions in the United States. But in 1868, in the Reconstruction days, a new constitution was adopted in South Carolina. The constitution that is in effect in South Carolina today was adopted in 1895. It contains practically the same things that were in the original constitution of South Carolina. It guarantees the right of a trial by jury, as all other constitutions do.

Mr. SPARKMAN. I am happy to have that comment from the Senator from South Carolina. We are all proud of our respective heritages. We are proud of our constitutions. And while I have not examined every single constitution, I am sure that every single State constitution in the United States guarantees the right of a trial by jury, to its people in all criminal cases, as the Constitution of the United States does. In civil cases, in the Federal court the limitation is $20 or more. Different States may set different limits. But they are along the same general line.

Mr. JOHNSTON. I am familiar with about 48 State constitutions. I have not looked into the constitutions of the last two States to be admitted to the Union. But I daresay the last two States likewise have the provision for jury trial in their constitutions.

Mr. SPARKMAN. I am sure that the States of Hawaii and Alaska have provisions in their State constitutions for the right of a trial by jury. However, I have not had the opportunity to examine their respective constitutions.

Mr. JOHNSTON. Does that not show that the people of the United States as a whole, taken State by State, believe in the right of a trial by jury?

Mr. SPARKMAN. The Senator is eminently correct.

Mr. President, I ask unanimous consent that I may yield to the senior Senator from Massachusetts for a brief statement, without my rights being prejudiced in any way whatsoever.

The PRESIDING OFFICER. Without objection, it is so ordered.

### FEDERAL-STATE RELATIONSHIP PROVIDED IN H.R. 7152

Mr. SALTONSTALL. Mr. President, I thank the Senator from Alabama for his courtesy. I am very much interested in the remarks the Senator has been making on the jury system of administering justice.

Mr. President, during the course of debate on the pending civil rights bill, a considerable amount of discussion both in the Congress and throughout the country has centered on the Federal-State relationship which this bill proposes for insuring the civil rights guaranteed to all U.S. citizens by the Constitution.

In this connection, I wish to call attention to section 1102 of title XI of H.R. 7152 which states:

> Nothing contained in any title of this act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matters, nor shall any provision of this act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this act, or any provision thereof.

It seems to me that a growing concern has been expressed by many people that the object of this bill is to impose total Federal regulation and control in the area of civil rights at the expense of State and local government action. I do not believe that this is the intent of Congress nor of the people who are genuinely concerned with insuring these basic rights for all of our citizens.

As a former Governor of Massachusetts, I have had some experience with the problem of maintaining equal rights and opportunities for all citizens. I firmly believe that we should try to solve these problems at the local level wherever possible. Massachusetts has enacted civil rights legislation considerably stronger and broader in scope than what is proposed in the pending bill. Our State laws have worked well, and complaints brought under them have been resolved largely by voluntary compliance with the law.

The language of section 1102 in the pending bill was offered as an amendment in the House of Representatives by Congressman CHARLES MATHIAS, of Maryland, and was accepted by both the Republican and Democratic House managers of the bill. There was unanimous agreement to the Mathias amendment by the House of Representatives.

Section 1102, which applies to all titles of the bill, states clearly that Congress does not intend to prevent the States from enacting or enforcing civil rights statutes similar to what is proposed here, nor does it intend that this bill should invalidate any provision of a State or local law unless those laws are inconsistent with the purposes of the Federal legislation. The Mathias amendment preserves in this bill one of the fundamental principles of our constitutional system of government. It preserves the prerogatives of any State or local government to enact civil rights legislation which will effectively protect the rights of those citizens for whom they are directly responsible. It assures those States which have enacted effective civil rights statutes that the Federal Government does not intend to preempt their authority or obligation in this important field.

Section 1102 of H.R. 7152 encourages all States to enact legislation which will provide effective civil rights guarantees at the local level. This section specifically expresses the intent of Congress, and I hope that all States and local governments will take the steps necessary to insure these rights for their citizens.

Mr. STENNIS. Mr. President, will the Senator from Massachusetts yield for some brief questions on a matter in which I am interested?

Mr. SALTONSTALL. I yield.

Mr. STENNIS. I regret that I did not hear all of the Senator's remarks.

In the opinion of the Senator from Massachusetts, would Massachusetts come under the terms of the bill, insofar as the proposed FEPC is concerned?

Mr. SALTONSTALL. Yes.

Mr. STENNIS. Would those provisions of the bill apply to Massachusetts?

Mr. SALTONSTALL. Yes. The Massachusetts fair employment law goes further, in some ways, than would the FEPC provisions of the pending bill.

Mr. STENNIS. Under the circumstances, I judge that the answer of the Senator from Massachusetts is that the State of Massachusetts would not be subject to the main provisions of the FEPC title of the bill.

Mr. SALTONSTALL. I shall put it this way: I hope the question of fair employment practices in Massachusetts would be left, insofar as possible, to the Commonwealth of Massachusetts, without direction from Washington.

Mr. STENNIS. I think the Senator's answer is very clear. So the Senator from Massachusetts would not be willing, then, to offer to title VII of the bill, the FEPC title, an amendment providing that the State of Massachusetts should be subject to the Federal law and that the Massachusetts law on the subject should be abandoned?

Mr. SALTONSTALL. No.

Mr. STENNIS. The Senator from Massachusetts would not be willing to do that?

Mr. SALTONSTALL. No. I understand that the amendment of the Senator from Illinois [Mr. DIRKSEN] specifically covers the subject of the Federal-State relationships in title VII. I agree with him on that point, and I support that part of his amendment.

Mr. STENNIS. So the Senator from Massachusetts would not be willing to have the proposed Federal law passed in such a way as to make the State of Massachusetts subject to the Federal law?

Mr. SALTONSTALL. Where the Massachusetts law might be inconsistent with the Federal law, I believe the Federal law would apply—as in the case of all Federal laws. But where the Massachusetts law is not inconsistent with the Federal law or is stronger than the Federal law, and where the local administration of that law has been effective particularly in and resolving disputes by voluntary means, I hope we can continue in that way.

Mr. STENNIS. In other words, as I understand the statement of the Senator from Massachusetts, he hopes the Federal law, if enacted, would not apply in Massachusetts, except to a minimum extent; and he hopes the Massachusetts law will continue to control; is that correct?

Mr. SALTONSTALL. I would hope so.

Mr. STENNIS. I wish to ask another question: If the Senator from Massachusetts is not willing to have Massachusetts put under the provisions of the proposed Federal law, why does the Senator from Massachusetts believe that other States should be put under the proposed Federal law?

Mr. SALTONSTALL. The statement of the Senator from Mississippi goes further than I would go. I would say that Massachusetts should comply with the Federal law. I did not mean to say that Massachusetts would not be subject to the Federal law; I did not mean to imply that.

I do not think that the amendment of the Senator from Illinois—and I do not mean to involve him in this discussion—would mean that Massachusetts or any other State should be left out of the Federal law. But I think the Massachusetts law should be applied as far as it possibly could be.

Mr. STENNIS. But how can the Senator from Massachusetts be willing to have the proposed Federal law applied to all the other States, but not have it apply to the State of Massachusetts, his own State? In other words, if there is to be a Federal FEPC law, why should not it apply, alike, to all the States of the Union?

Mr. SALTONSTALL. I think it will.

Mr. STENNIS. Would the proposed law do that?

Mr. SALTONSTALL. Which law?

Mr. STENNIS. The proposed law—the civil rights bill.

Mr. SALTONSTALL. The civil rights bill will apply to all the States, of course.

But I have been trying to make as clear as I can that we have a local law which has worked well. That local law should have an opportunity to be applied so far as it can be.

Mr. STENNIS. But if employment under these conditions is a right, why not have a uniform law which will apply across the board, to all the States of the Nation, so as to have the same law control in the same way in all parts of the Nation? What is the objection of the Senator from Massachusetts to that?

Mr. SALTONSTALL. My objection to it is that this is a very large country, and conditions may differ in various sections of the country; and where we have local laws which have worked well, we should give them an opportunity to be applied.

Mr. STENNIS. The people of Massachusetts want to be controlled by their own law in this field of legislation—their own law, passed by their own State legislature, and executed and enforced by their own Governor; and the people of Massachusetts want their own legislature and their own Governor to be directly responsible to them, in that connection, do they not?

Mr. SALTONSTALL. Yes; so far as possible.

Mr. STENNIS. Yes; and the Senator from Massachusetts thinks, does he not, that is a sound principle of government?

Mr. SALTONSTALL. I thoroughly believe in local government and in keeping government as close to home as possible. That is one of the principles I have tried to carry out in my years of service in Congress; and I believe that should be done.

Mr. STENNIS. Then, in effect, the Senator from Massachusetts is proposing the enactment of a Federal law—and he proposes to vote for its passage—which would place other States under

Federal control, although he is not willing to have his own State come under it; is that correct?

Mr. SALTONSTALL. Oh, no; the Senator from Mississippi keeps implying things that I do not say.

I say that all of us are part of the United States; but where we have certain local laws which are applicable, I believe they should be applied as far as they can be.

Mr. STENNIS. Mr. President, will the Senator from Massachusetts yield for a further question?

The PRESIDING OFFICER (Mr. HART in the chair). Does the Senator from Massachusetts yield further to the Senator from Mississippi?

Mr. SALTONSTALL. I yield.

**Mr. STENNIS.** Let me refer now to the figures for nonwhite unemployment in Massachusetts and, in particular, the percentage of unemployment there for nonwhites. Does the Senator from Massachusetts know that figure for Massachusetts?

Mr. SALTONSTALL. I hesitate to attempt to state the exact figure, but I believe the unemployment figure for nonwhites is higher than the unemployment figure for whites.

Mr. STENNIS. Does the Senator from Massachusetts know whether the figure for unemployment among nonwhites in Massachusetts is higher than the figure for the national average?

Mr. SALTONSTALL. I cannot say.

Mr. STENNIS. Let me say to the Senator from Massachusetts that the State of Mississippi does not have an FEPC law; nevertheless, unemployment among nonwhites in Mississippi—and Mississippi has the largest percentage of colored people among all the States in the Nation—is below the national average. The unemployment among nonwhites in Mississippi is below the national average, and is below that of virtually all the States which do have State FEPC laws. Those statistics come from the U.S. Department of Labor.

Mr. SALTONSTALL. I think the Senator from Mississippi is to be congratulated on that.

Mr. STENNIS. Yes; I am very proud of it.

Mr. SALTONSTALL. I hope unemployment throughout the country will decrease. Certainly I want it to decrease in Massachusetts, because we have some so-called disaster areas.

Mr. STENNIS. That certainly establishes very definitely the fact that the proposed FEPC law is not necessary and will not cure the evil which its authors think it will cure.

I thank the Senator from Massachusetts for yielding.

Mr. SPARKMAN. Mr. President——

Mr. JOHNSTON. Mr. President, I wish to ask a few questions of the Senator from Massachusetts.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that I may yield to the Senator from South Carolina, without prejudice in any way to my rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I wish to ask the Senator from Massachusetts this question: Until recent years, it was the custom that the States could enact laws on various matters, and that the Federal Government also could enact laws on the same subjects; is that not true?

Mr. SALTONSTALL. Yes; but when the Federal law applied on a national basis, I understand that the State law had to conform.

Mr. JOHNSTON. In a case which in recent years went up from Pennsylvania, it was ruled that when a Federal law comes into a field and when it preempts the field and precludes the State from enforcing its own law, the law of the State is dead.

But the Senator from Massachusetts is trying to have Massachusetts given the right to be exempt from the Federal law, so as to permit Massachusetts to pass its own law; and at that time the court ruled that could be done by having such a provision included in the act. Is that correct?

Mr. SALTONSTALL. In reply, it is my understanding that if a State wishes to use an antidiscrimination law which is compatible with or stronger than the Federal law—in this case, title VII of the pending bill—the State has a right to do so.

The Senator from Mississippi asked some very pertinent questions; I tried to state that in no instance should Massachusetts be exempt from the Federal law; but I say that when Massachusetts has a local law that is working well, Massachusetts should be allowed to proceed under its local law, when it is not inconsistent with the Federal law.

Mr. JOHNSTON. I should like to ask the Senator a further question.

Mr. SALTONSTALL. I believe that is what is provided in section 1102 of title XI.

Mr. JOHNSTON. As I understand, the Senator would not object to any State being exempt from the proposed legislation along the lines that he is now advocating, but if the bill were passed, the Senator would certainly wish his State to be exempt. Am I correct?

Mr. SALTONSTALL. Oh, no. The State of Massachusetts would not be exempt from the Federal law.

Mr. JOHNSTON. It would not be exempt from the Federal law?

Mr. SALTONSTALL. No. It is my understanding that amendment No. 511 submitted by the Senator from Illinois, would allow the local FEPC, or whatever it is called—in Massachusetts it is called the commission against discrimination—to have an opportunity to deal with cases before they come before the Equal Employment Opportunity Commission. I agree with the purpose of that amendment.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. SALTONSTALL. I yield.

Mr. DIRKSEN. I fear that the confusion of the Senator from South Carolina arises from the imprecise terms that are being used. There is no effort whatsoever, and no intention of absolving any State from the application of the proposed Federal legislation. What would happen is that, for administrative purposes, primary exclusive jurisdiction would be given to a State commission, because the cases would be local cases. Only a week or 2 weeks would be required to dispose of them. But the aggrieved person would have an unqualified right in any case, whether there is a State law or no State law, to go to the proposed Equal Employment Opportunities Commission with his grievance. So no State would be absolved. The point is that administratively it would appear to be good administration to start with the procedure under a State's law for the first 90 days, and then if the question were not satisfactorily adjudicated in the State, the aggrieved person could go to the Equal Employment Opportunities Commission.

Mr. JOHNSTON. The question that arises in my mind is that the bill would, in effect, say to a State that does not now have an FEPC law, "If you do not have an FEPC law, the Federal law will take effect."

Mr. DIRKSEN. That is correct.

Mr. JOHNSTON. And in effect the proposed legislation would say to a State that has such a law, "Since your State has an FEPC law, then your law will be in effect."

Mr. DIRKSEN. Oh, no. The law would be in effect administratively only. The Federal law would apply no less; and whether the aggrieved person would obtain satisfaction before the State commission or not, he could go to the Federal Commission with his grievance. So the proposed legislation would apply accross the board to every State.

Mr. JOHNSTON. The Senator from Illinois is an attorney; I am also. We are members of the Committee on the Judiciary. Does not the Senator believe that should the proposed legislation be passed, there would be a great deal of confusion with regard to the point at which a State law would no longer be effective, and the Federal Government would take up the question?

Mr. DIRKSEN. No; I believe the amendment that we drafted, which I think is generally quite satisfactory, would resolve all that confusion. The steps of procedure would be so simple and so complete that, instead of confusion and a waste of time, the result would be time economy and the expeditious handling of cases.

Mr. JOHNSTON. I ask the Senator from Illinois the following question: If a client came to the Senator, and the proposed legislation were law and were being enforced by the Federal Government, would not the Senator naturally try to find some way in which the case would come under the State law and the Senator would go into court under that law?

Mr. DIRKSEN. I should not say so because, in the first place, in the State of Illinois there is a law on the subject. Under the amendment which I have proposed the commission in Illinois would have primary and exclusive jurisdiction for the first 90 days, or until the case were disposed of. The average time in which cases are disposed of in Illinois is 2 weeks. After 2 weeks, even though there seems to be satisfactory adjustment, if the aggrieved party were not satisfied, he could apply under the proposed Federal legislation, which would apply to my State, as it would to a State that had no law pertaining to the question.

Mr. JOHNSTON. The Senator from Illinois will admit that practically every State that has an FEPC law at the present time has a law that is a little different from similar laws in every other State?

Mr. DIRKSEN. Obviously there are differences.

Mr. JOHNSTON. Would not the proposed Federal commission then have the tedious undertaking of seeing what would happen in each State and determining where one jurisdiction would divide from the other?

Mr. DIRKSEN. That point would offer no difficulty whatsoever, because the first adjudication would come under the State law, and it would not make any difference what the Federal Commission might say. It would depend upon the aggrieved person who would be the complainant in the case. If he should say, "I do not like what you are doing under your law," there is not the slightest inhibition upon his going to the Federal Commission forthwith and saying, "I prefer to see justice done under the act administered by the Federal Commission." That procedure would offer no difficulty.

Mr. SALTONSTALL. I do not know what the figures for settlement of complaints are in Illinois, but I do know the figures for Massachusetts. In the past 18 years, 4,684 complaints have been brought before the Massachusetts Commission Against Discrimination. Every one of those 4,684 cases was settled or dismissed for lack of probable cause, with two exceptions. One case went to the superior court and was decided by the court in favor of the commission. Another case is still pending in that court. So out of more than 4,600 cases filed before the commission against discrimination, only 2 were not settled satisfactorily at the local level through conciliation and persuasion.

Mr. JOHNSTON. The Senator has convinced me, then, that the commission in the State of Massachusetts does not have much to do, in view of the number of cases which the Senator has stated have been decided in that manner. Is that not true?

Mr. DIRKSEN. Yes; but in 20 States there are no commissions. How would an aggrieved person find a forum in which to file a complaint? The Federal law would apply to a State if the State had no commission under State law. But that would not stop the legislature of the Senator's State from getting busy at once to set up a good State law and a good State commission.

Mr. JOHNSTON. I believe we are working toward the point where we would attempt to give employment to people. Is that correct?

Mr. DIRKSEN. Employment is not particularly involved as the primary purpose of the proposed legislation.

Mr. JOHNSTON. That is one of the purposes.

Mr. DIRKSEN. The real purpose is to prevent discrimination because of race, color, ancestry, and so forth. That is the primary purpose.

Mr. SALTONSTALL. The purpose is to give everyone a fair break.

Mr. DIRKSEN. Yes.

Mr. JOHNSTON. The Senator will find unemployment among the colored people in South Carolina to be lower than similar unemployment in any other State that has an FEPC law.

Mr. DIRKSEN. The measure before the Senate is not designed to cure the unemployment problem. The bill is directed to the entire question of discrimination.

### AMENDMENT NO. 559

Mr. President, will the Senator yield, that I may submit an amendment?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that I may yield under the same conditions as heretofore.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I submit an amendment, intended to be proposed by me to H.R. 7152, the civil rights bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. STENNIS. Mr. President, I do not intend to prolong the debate, but will the Senator from Alabama permit me to propound one or two additional questions to the Senator from Massachusetts in order to bring out the record on the subject which he was discussing?

Mr. SPARKMAN. Mr. President, under the same understanding, I yield to the Senator from Mississippi.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I now have before me a table that I did not have a moment ago. To make certain that it is clear that the Senator from Mississippi was not casting any shadow on the great State of Massachusetts, or attempting to do so, I can now point out to the Senator from Massachusetts that, according to the table of unemployment among nonwhites by States in April 1960, as prepared by the U.S. Bureau of the Census, the State of Massachusetts has a nonwhite unemployment percentage of 7.8 percent, which is neither high nor low in contrast with the national average. It is a little below the national average. But the unemployment percentage of nonwhites in Mississippi is even below that in Massachusetts.

Mr. SALTONSTALL. But it is a little higher than the white unemployment percentage.

Mr. STENNIS. That is true.

Mr. SALTONSTALL. That is the statement which I made.

Mr. STENNIS. That is true. The unemployment percentage in Massachusetts for whites is 4.1 percent.

Mr. SPARKMAN. Mr. President, will the Senator permit me to ask a question at that point?

Mr. STENNIS. Yes.

Mr. SPARKMAN. It would be most interesting to see what the white unemployment is, as contrasted with the nonwhite unemployment, in each area, because it is a contrast that really brings out the point. As I recall, the percentages run about the same as the nonwhite unemployment figures.

Mr. STENNIS. I do not have that part of the table.

Mr. SPARKMAN. I am sorry.

Mr. STENNIS. I wish to ask the Senator from Massachusetts one additional question. This refers to the question of how the FEPC provision in the Civil Rights Act would affect the States that already have FEPC laws of their own. I maintain that as to many of them it would not affect them very much; but they will agree with the national Commission to go along in their own way with their own laws. The rest of us would feel the effect of the enforcement of the Federal law.

I have before me a quotation from Robert Kennedy, as it appeared in the New York Herald-Tribune of Tuesday, April 28, 1964, written from Washington by Mr. Andrew J. Glass. Mr. Glass wrote:

> But as I talked with Bobby Kennedy recently—

So I judge this was a conversation he had with Mr. Kennedy; this does not pertain directly to the FEPC title alone, but Mr. Glass quotes Mr. Kennedy in this way. Mr. Glass says:

> Faith is all the pending civil rights bill promises Northern Negroes. "Northern communities aren't going to be affected by its provisions," Mr. Kennedy observed, "although in the South they will have immediate practical consequences."

The Attorney General is one of the major architects of important parts of the bill, although the late President Kennedy did not recommend including the FEPC provision in it. If quoted correctly by Mr. Glass, the Attorney General is saying that northern communities would not be affected by the provisions, but that it is in the South that the enforcement would come. That is exactly what I and others have been maintaining on the floor of the Senate; namely, that it is a provision written to apply to one area of the country only.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. SALTONSTALL. I would hope there would not be many cases in Massachusetts in which it would be applied, because, as I have stated, such disputes have been settled voluntarily in Massachusetts. Personaly, I am proud of that fact. But this provision would apply to a Massachusetts citizen if he were not satisfied with a decision by the State commission. Under the proposed law, he could come to Washington. Under the amendment to be offered by the Senator from Illinois [Mr. DIRKSEN] he could come to Washington, after an effort had been made to settle the dispute in the State. So the Federal law would apply if a person were dissatisfied with the decision in his State.

Mr. STENNIS. I agree with the statement of the Senator from Massachusetts about his State law and the rights under that law. I commend him for what has been done there. My point, however, is that he is willing to put this oppressive measure into effect as to those outside Massachusetts, but, naturally, he would want his own State law to apply in his State. I do not attack him for that, but——

**Mr. SALTONSTALL.** I do not quite agree with what the Senator has said. It would apply to Massachusetts. We do want Massachusetts to be under the Federal law, but I would want the cases settled at the local level under State law to as great an extent as possible.

**Mr. PASTORE.** Mr. President, will the Senator yield to me for a comment at that point?

**Mr. SPARKMAN.** Mr. President, I yield under the same conditions.

**Mr. PASTORE.** I merely wish to make the observation that what the Senator from Mississippi has said in quoting Robert Kennedy is true. Not only what Robert Kennedy is saying, but what the Senator is saying, is true. As I have said many times before, there is no purpose in contending that the North is pure lily white and that the South is pure black on the question. That is not so at all.

What Mr. Kennedy was saying was that we in the North have many such laws. But in spite of the laws, sometimes there is a personal reaction on the part of people that prevents proper enforcement. For example, in the North there are no segregation statutes. There are no "equal but separate" facilities, such as exist in the South. It is true, as Mr. Kennedy said, that the immediate practical effects of the law would be upon the South, because the South does not have FEPC laws, or because there are laws in the South that are inconsistent with the provisons of the pending civil rights bill.

On the other hand, in the North, theoretically speaking, there are many such laws. There are many States in the North with public accommodations laws. Yet I would suppose there are many instances in which Negroes apply for lodgings, and they are not told, "We do not take you because you are colored." They are told, "We do not have any room for the night." So there is prejudice in the South, in the North, in the East, and in the West.

What Mr. Kennedy was saying was that, insofar as the law was concerned, there would not be too much repercussion in the North, because there are many State laws on the same subject, but in the South there would be a more immediate effect because there are no such laws, and this will be a new experience to the South.

We are not saying that the Senator from Mississippi has any disrespect for or any lack of love for our brethren of the colored race. He is a man of great moral fiber. I know that. All we are saying is that if a State has an FEPC law that is not inconsistent with the provisions of the bill before the Senate, or has a law that is even stronger than the pending bill, that State will be left alone to conduct its own affairs under its own laws. But if it does not have a law with the provisions embodied in the bill, or does not have an FEPC law at all, the provisions of the bill will apply. That is all it amounts to. It is as simple as that.

There is nothing in the bill that actually violates or repudiates any State provision that is equally strong or stronger; but when there is no such provision of law in a State, or when there is a law that is inconsistent with the provisions of the bill, or that is weaker than the provisions of the bill, the stronger provision takes effect, whether it be on the State level or the national level.

I realize that my colleagues have been debating the issue that States rights should not be violated. I know that is their position. We disagree with them. I know we are in disagreement on that question.

However, the record should be clarified as to what Mr. Kennedy was saying. He was not saying that we are seeking to punish the South. I do not think he is that kind of individual. I do not think there is anything vindictive about Mr. Kennedy. All he said was that, so far as the North is concerned, there are many laws and regulations in effect. That does not mean there are no instances of bigotry or prejudice in the North. Of course not. We are willing to admit that fact. All the Attorney General said, insofar as the South is concerned, is that in those States which have laws which are inconsistent with these provisions the impact on the South will be stronger. I think the record should be clear on that point. I do not think Mr. Kennedy is out to "get" anybody.

**Mr. SPARKMAN.** Mr. President, I have enjoyed the colloquy engaged in by my colleagues.

**Mr. STENNIS.** Mr. President, will the Senator yield so that I may reply to the Senator from Rhode Island?

**Mr. SPARKMAN.** I yield with the same understanding.

**Mr. STENNIS.** Mr. President, I believe the opposition has been greatly strengthened by reason of the fact that the Senator from Rhode Island stands side by side with the Attorney General with reference to the application of the proposed Federal law. There was no implication in what the Senator from Mississippi said about the Attorney General that he was appearing to prod the South. I was quoting him as proof that the proposed statute would not apply to a certain section. He said it would not apply elsewhere, which was broader than I had thought was true.

I appreciate very much the remarks of the Senator from Rhode Island. I think he understands the issue on those points. However, as a practical matter, most of the States which have FEPC laws will get a clean bill of health and will be absolved from having the Federal enforcement features applied to them. It is true, as the Senator from Massachusetts says, that if anyone should appeal, the appeal would be heard.

I should like to quote briefly from a newsletter written by the Senator in charge of the bill to his constituents. I refer with great respect to the Senator from Minnesota [Mr. HUMPHREY]. In a message to his own people, a newsletter dated April 1964, a special issue on civil rights at the bottom of page 1, he gives his constituents in Minnesota this assurance:

> In short, Minnesota's entire discrimination practices would not be changed by the pending Federal civil rights legislation.

That is a frank statement. It is a good statement, too. I do not know whether the Senator received much mail from his constituents on the subject, but it is fine to be in Washington seeking to put all the penalties which the pending bill carries onto someone else, and guaranteeing his constituents at home that whatever is in the pending bill will not affect them.

This tends further to prove our contention that the bill was written to be applied to the South. I believe we are making headway in proving our case.

**Mr. PASTORE.** Mr. President, will the Senator from Mississippi yield at that point?

**Mr. STENNIS.** I am glad to yield.

**Mr. PASTORE.** When I was Governor of the State of Rhode Island in 1949, I was the father of the FEPC law in my own State. I can make the same allegation as to Rhode Island that the Senator from Minnesota can make as to Minnesota, for the simple reason that we already have the law. That is what we are trying to explain. In Rhode Island we already have the law. We already have a law which is much stronger than the one in the pending bill. Therefore, how could it possibly affect Rhode Island? Of course it will not. It will not do so for the simple reason that we are already practicing the principle. We do not wish to force a law of this kind on someone else, to our exclusion. We are merely saying that by a Federal law we should make the law uniform throughout the 50 States. Naturally, any State which already has such a law—and stronger than the one proposed in the pending bill—is not and cannot be affected, because it is already being applied. That is all the Senator from Minnesota is saying.

I can say the same thing about Rhode Island. We have an FEPC law in Rhode Island which has worked well. There was some objection to it when I first suggested it in 1949, and many of the arguments I heard at that time I am now hearing on the floor of the Senate.

After the law was enacted, there were some incidents, but we learned to comply on a voluntary basis, and we began to learn to live with it. If title VII of the pending bill were enacted, it would not have any effect in Rhode Island, only for the reason that we already have such a law. I believe that is what the Senator from Minnesota [Mr. HUMPHREY] was trying to say to his constituents.

**Mr. STENNIS.** Mr. President, will the Senator from Rhode Island yield for a question?

**Mr. PASTORE.** I am glad to yield.

**Mr. STENNIS.** I admire the argument of the Senator from Rhode Island, but would the Senator be willing to put an amendment in the pending bill that the Federal law, and not the State law, shall apply in Rhode Island?

Would he want to come out from under his own State law and rest his cause with the Federal law?

Mr. PASTORE. I will go so far as to say that where the Rhode Island statute is weaker than the one proposed in the pending bill, the one in the pending bill should apply and Rhode Island should be made to apply it. I cannot make it any stronger than that.

Mr. SPARKMAN. Will the Senator from Rhode Island yield to me for a question at that point?

Mr. PASTORE. I yield.

Mr. SPARKMAN. Who should make the decision as to whether a State law is properly working? One great trouble with this law would be that the decision would not be made by any standards or guidelines laid down. It would not be made in district court or a court where a defendant might appear. It would be made by the Fair Employment Practices Commission.

I have spoken on the floor of the Senate before, of one of the dangers in the bill, the trend to move the country toward a government of men rather than a government of laws. We have always boasted of the fact that ours was a government of laws, but this omnibus bill, with its 11 titles all thrown together, would be the greatest threat toward changing America from a government of laws to a government of men in its history.

Mr. PASTORE. Will the Senator yield on that point?

Mr. SPARKMAN. I am glad to yield.

Mr. PASTORE. The philosophical argument the Senator from Alabama is making could apply to any law passed in the Congress.

Mr. SPARKMAN. Not where Congress lays down the standards and the guidelines, which would not be done in this bill.

Mr. PASTORE. I believe it would be done in title VII. There may be some argument about the ambiguity of title VI, which should be reviewed carefully. I subscribe to the argument being made. Let Congress be cautious and careful to lay down the guidelines that will maintain this democracy of ours as an institution of laws and not the wills of men. I go that far. No one can challenge that statement. I do not wish to challenge that statement because it is unchallengeable.

However, we should make sure that what we do is the right thing; and once done, it is the Congress that speaks. If Congress lays down the guidelines which tell what its authority is, and makes the law explicit enough, I believe we shall be doing what we would do in the case of any law.

There are many commissions, including the FCC, the ICC, the FAA, and the CAB. Those commissions have to operate within the purview of law. If they violate the law, a person aggrieved can bring the case to court because of that violation. I would hope that we would do the same thing with respect to civil rights. I would hope that we would create something unique, as compared with the general concept of legislative fiats. I would hope that we would adhere to the fundamental concept that our laws must be made clear, that they must be unambiguous, and that they must be absolutely fair to all.

Mr. SPARKMAN. I certainly hope so, too. But I do not feel that this bill would accomplish that aim.

I do not believe the Senator from Mississippi finished his statement.

Mr. PASTORE. That is where we disagree. That is where we part company. The Senator believes that the bill would not, and I believe that it would. All we are trying to do is to get a vote on the bill. The way to find who is right and who is wrong is to vote on the bill.

Mr. STENNIS. Mr. President, I should like to have the attention of the Senator from Rhode Island, for whose ability I have a high regard. He is a fine Senator. I know that he was a really great Governor of his home State. The Senate is indebted to him for his many contributions to legislation and otherwise. I speak with the greatest deference to him and his State. As to the unemployment figures, as of 1960, which is the latest year for which I have official figures, in spite of the fine law his State has, the nonwhite unemployment figure there was 10 percent for 1960; whereas, in Mississippi, with our larger percentage of population of nonwhites, 42 percent of the population, it was only 7.1 percent. This, Mr. President, with great deference, I submit, is proof that the bill is not the remedy. The bill has not cured the situation in Rhode Island. We are already better off in the State of Mississippi without it.

On this point, does the State of Rhode Island, according to these official figures from the U.S. Census, the actual tables——

Mr. PASTORE. If the Senator from Mississippi will yield further——

Mr. STENNIS. I yield.

Mr. PASTORE. Let me say with all due deference that the Senator is employing the wrong predicate. There is a misunderstanding as to what the FEPC law is intended to accomplish. Title VII cannot find jobs that do not exist. We in Rhode Island have lost a great deal of our textile industry, which has caused widespread unemployment in the State. We have other problems in Rhode Island which sometimes mean that our level of unemployment is much higher than we should like it to be, insofar as white and colored workers are concerned. The FEPC law is not intended to find jobs. If someone wishes to build a house of brick, the law commands the bricklayers union, in hiring its bricklayers, not to discriminate against the colored worker, or against anyone because of national origin. It does not create new jobs, but merely provides that where the jobs are available, where the job opportunities exist, insofar as those jobs are concerned, there must be no discrimination.

If we forget that predicate, of course, we go off on all kinds of statistical tangents. This is not an antipoverty bill. This is not a bill to find new job opportunities. That will come later, once we are through with the civil rights bill. I hope we shall then begin to take up President Johnson's antipoverty legislation.

However, all that the bill is intended to do is to provide that when there is a job opening—whether it be in Alabama or Mississippi or Rhode Island—we want the colored bricklayer to work alongside the white bricklayer, if the colored bricklayer is qualified to do the job, because we say he is just as much a human being as the other man, and he should not be discriminated against either by the employer or by the union. We include the union, too. A union cannot say to a colored man, "You cannot come into the union, because of the color of your skin. We will not send you to build a house or to lay bricks, because you are colored."

That is what we are trying to avoid. We say that, insofar as job opportunities are concerned, they shall be available to all Americans regardless of racial origin, nationality, or color. That is all it does. It does not try to correct the unemployment situation. Of course not.

Mr. STENNIS. If the Senator from Alabama will yield to me one more time, I have listened closely to the fine argument of the Senator from Rhode Island.

The fact remains that the percentage of unemployment of nonwhites in his State is 10 percent, and the unemployment of whites is 5.2 percent. That means that the unemployment among nonwhites is almost twice that of whites.

Mr. PASTORE. That is correct.

Mr. STENNIS. That is true in spite of the application of the law which he has so eloquently defended. My point is, if I may make it, that the passage of the law is not the remedy. It does not bring results, even in the Senator's fine State. Mississippi is running ahead of his State, according to these figures.

So far as the Senator's argument about the colored bricklayer is concerned, some of the earliest recollections I have are of playing among workmen who were building houses. Many colored bricklayers worked on those houses. That was true even in those days. They worked alongside the white bricklayers.

I know the Senator did not mean to say that we had been discriminating.

Mr. PASTORE. Mr. President, I did not mean to leave the impression that all virtue reposed in the State of Rhode Island. There is discrimination in our State. We ought to do better. The crusade is continuing. Of course, there have been instances in Rhode Island in which a colored man could not get a job. We have been trying to do something about it, since 1949. That is what we are trying to do now. I am not saying that we are pure and lily white in Rhode Island. I have said that a hundred times. All I am saying is that the purpose of the proposed law is to give to every American an equal opportunity at the same job, because the bill provides that there shall be no discrimination because of color or national origin. That is all we are trying to do.

In all probability, if the bill is passed, it will make no difference in Mississippi. It may, and it may not. I do not know. I am not prepared to say. But I think a fundamental policy ought to be stated because of the situation that now prevails in this Nation, with instances of the colored demonstrating against the whites, and all the fracas that is going on.

I believe we have reached the moment in our national history when Congress, with the endorsement of the President of the United States, must stand up and say we believe in the fundamental truth that all men are created equal and that in the United States all men have an equal opportunity. That is all we are trying to do.

All we are trying to do, whether it works out or not, is to say that as a concept of law, as a concept of philosophy, we are saying to America and to the rest of the world that here in America we cannot discriminate against a man because of the color of his skin, whether it be in the schools, in hospitals, in public accommodations, or in jobs.

That is how simple the issue is. If we are not violating the law, we have nothing to lose. Let us pass the bill. Let us stop this nonsense of debate, which has been going on for 43 days. Let us have a vote on it next week. Let us find out who is for what. Let us resolve the issue once and for all, and then let us go home and embrace our families and have a good vacation until the next election. [Manifestations of applause in the galleries.]

The PRESIDING OFFICER (Mr. HART in the chair). Our guests in the galleries are cautioned to refrain from demonstrations.

Mr. STENNIS. I agree with the Chair. Perhaps the guests in the gallery should not be blamed too much this time, because of our friend's fine presentation of his views.

I believe he could strengthen the bill and help close the debate if he would sponsor an amendment to provide that there shall be no difference of any kind whatever in the bill, in connection with the FEPC title, in all the 50 States, and that we shall wipe out everything and start even with a Federal law, which he himself could write. I believe that would strengthen his position.

I thank the Senator from Alabama for yielding to me. I have some further figures that I shall use later.

Mr. SPARKMAN. I would appreciate it if the Senator would withhold his figures for the time being.

I always appreciate the arguments of the distinguished Senator from Rhode Island. He is one of the most forceful speakers in the Senate.

I am sure Senators remember, back in Greek mythology, reading of the journey of Ulysses. Before he came to a certain place, he had been warned of the songs of the sirens. He had all of his sailors fill their ears with beeswax, so they could not hear, but had himself left free so far as his hearing was concerned, but had himself lashed to the mast, so he could not possibly get loose.

We have been told how powerful was the song of the sirens. The tale goes on to describe how terribly tortured he was by the sweet songs of the sirens. He wanted so badly to be loosed.

I could not help recall that story as the Senator from Rhode Island was speaking.

That is one of the dangers of this bill. It is presented in the terms in which the Senator presented it. Hearing it described that way, anyone would say, "That is fine. That is fair." It sounds fair to everybody.

However, I believe that the majority of Senators know that it does not have all the sweetness and fairness about it that is pictured by the proponents. That is what we have been trying to point out. The proponents have recognized the rightness of our position to some extent by offering modifications in order to make the bill fair to everyone.

If it had all the sweetness and fairness about it that is pictured by the Senator from Rhode Island, there would be no debate and we could say to the country, "This is the way it is." However, we contend it is not that way.

The Senator from Rhode Island speaks about bricklayers and stonemasons, and says that a Negro who can lay bricks should be permitted to lay bricks alongside white bricklayers. I can remember that in my hometown there were Negro bricklayers and Negro stonemasons. They were among the finest in our community.

At one time the Kiwanis Club in my hometown entered into a big program for helping the underprivileged children of the area. We bought a tract of land on a beautiful stream, and on it we built a house and some very fine camping facilities. We wanted to have some stonework done on it. We also wanted an outdoor barbeque pit, as well as a furnace of some kind, and things of that nature.

In our hometown there was a Negro stonemason—and who, by the way, used to be a councilman in our town. That is something some people are surprised to hear. We hired him to do the stone work. When the work was completed, we asked him for his bill. He said, "You people have done all of this for the underprivileged children of our city. Certainly I can do this much." Discrimination? Unfairness? Misunderstanding? Not at all.

That accounts for the difference in the figures. We let Negroes share the work in our areas. There is no discrimination. Fair employment practices are for the purpose of giving nonwhite people—perhaps I should put it the other way—giving everyone fair employment opportunities. After all, that is the important thing. Everyone should have an opportunity to work, to earn a living for one's family. That is the principal object, as we have been told through the years. The FEPC is nothing new. It has been advocated for more than a quarter of a century. There was advocacy of the FEPC when I first entered Congress 28 years ago. We have seen it off and on ever since.

We have always been told that the purpose of the FEPC was to make it possible for the nonwhites, particularly the Negro, to obtain employment. States which have FEPC laws parade them out and claim, "We already have such laws. Therefore, the Federal law will not apply to us." The Bureau of Census figures show that in the State with the heaviest nonwhite population in the Union—Mississippi—there is a much better employment record so far as the Negro is concerned, not only as to the percentage of Negroes hired, but also when contrasted with the number of employed whites in the same State, than there is in any State which has an FEPC law.

Yet there is talk about making the law apply to Mississippi, but not to the FEPC States throughout the Union. Is that fair employment? Is that discrimination?

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I refer to a statement that I made in the RECORD on a previous day. I assume it is based on the table. Is the Senator surprised to learn that 24 States which now have FEPC laws had a higher percentage of unemployment among nonwhites in 1960 than did the State of Mississippi? In other words, 24 out of 25 of the FEPC States had a larger unemployment rate for nonwhites than did the State of Mississippi. But at the same time, Mississippi has a larger percentage of nonwhite population than any other State of the Union.

We hear speeches that arouse passion and are applauded by people who are uninformed on this subject. But no one has answered these figures. They are not contested. Senators discuss other things. Does the Senator from Alabama have an explanation as to why that is true?

Mr. SPARKMAN. I have an explanation as to why they do not answer. They do not answer because the figures are unanswerable.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. I am glad the Senator from Mississippi referred to that statement. I stand corrected. I said that Mississippi had a better record than any of the other States. I learn now that there is one FEPC State that may have a shade better record. But 24 different States which have FEPC laws have less favorable working conditions for the nonwhite than does the State of Mississippi, which has no such law.

Mr. STENNIS. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I did not mean particularly to point out Rhode Island. Pennsylvania had an 11.3 percent rate of unemployment among the nonwhites. Pennsylvania is an FEPC State. In California, which is another FEPC State, there was a 10 percent rate of unemployment among the nonwhites. In Minnesota, the unemployment rate for nonwhites was 12.8 percent.

Mr. SPARKMAN. That is a State which has a very low Negro population.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. The Senator from Mississippi has been using Mississippi figures, and properly so. Mississippi has one of the best records of any State so far as the employment rate of nonwhites is concerned. But the State of Alabama has comparable figures. If I remember correctly, Alabama has almost the same percentage.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. Alabama has an 8.4 percent unemployment rate among the nonwhites. That is slightly higher than Mississippi. Mississippi had 7.1 percent. Mississippi had a much better record.

Mr. President, I did not intend to get off on this subject. Since something was said about discrimination in the bill—and there is discrimination in practically every substantive title in it—I am sure both the Senator from Mississippi [Mr. STENNIS] and the Senator from Rhode Island [Mr. PASTORE] recall the provision in the bill which relates to desegregation of schools. That provision guarantees to Chicago, and to the worst segregated areas in the United States—and it was the Civil Rights Commission that said that Chicago was the worst segregated city in the whole United States—that segregation would not be disturbed in those areas. We all know the conditions in Harlem, so far as segregation is concerned.

We know about the troubles in Cleveland a few days ago, where five fine Negro high schools were being built in heavily segregated Negro areas. There has been trouble in Chicago. Yet, when the bill was written, a certain provision was placed in it by someone in the House of Representatives. This provision was not in the bill that was sent to Congress.

That provision would insure, as to the segregated ghetto areas of the northern cities, that nothing should happen to disturb the segregation in those areas. The provision did not use those words. But it provided for what we call nonbusing. It prohibited busing of students from one district to another in order to make up for the racial imbalance in the schools.

That means that in great city of Detroit, the segregated schools will not be disturbed. In the ghettos of Harlem, there will be no change. In Cleveland, the Negroes can continue to protest and demonstrate as much as they desire. But in those heavily segregated areas, there will still be segregated Negro schools.

I pointed out a few days ago that in the District of Columbia, the first schools to follow the Supreme Court decision have changed from segregated white schools almost to the point of being totally segregated Negro schools.

Mr. PASTORE. Mr. President, on that point will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. PASTORE. The difficulty with that argument is that it overlooks the nobility of man. Our Government and our great Nation are founded upon the nobility of the individual. We refer to it when we contrast conditions in our country with those in Moscow, under communism.

The fact that there happens to be a concentration of colored people in Harlem and that, as a result, the neighborhood schools there are attended chiefly by Negro pupils is not the question. Neither are we talking about situations in the North in neighborhoods in which only only a few Negroes live, with the result that the neighborhood schools are practically all white. We are not talking about such situations.

We are talking about the nobility of man and his right to free choice and his right to exercise equality of rights under the U.S. Constitution.

We say that if for any reason there happens to be a little colored girl or little colored boy who wishes to go to the school on the corner, the officials of that school cannot say to that little colored girl or little colored boy, "You cannot come here, because of the color of your skin." That is what the Brown case, decided in 1954, was about.

Therefore, despite the concentration of population in Harlem or Detroit or other parts of the country, we are talking about denial to a child of the right to attend his neighborhood school, because of the color of his skin.

In civil rights legislation we deal with the nobility of man, not with whatever the practical situation happens to be.

We are only saying that if a little colored girl lives on the same street where I live, she has as much right to go to the neighborhood school as my own little girl does, because that little colored girl is just as precious to her parents as my little girl is precious to my wife and me, and there should not be any distinction between them.

But that has not been the case. There are parts of the country where a schoolchild is told, "You cannot come to this school. Your daddy can pay taxes and can vote, but you cannot come to this school." He is also told, "You cannot sit in the front of the bus; you must go to the back."

So we are talking about the nobility of man; and I am glad that much of it has come to pass. It has come to pass, however, because of the crusade that has been conducted by the people of our great country.

I realize that these arguments can be stretched, and I realize that cases of injustice can be shown. But we are saying that if a man is born in the image of his God, he should be treated like any other man is treated; and never should it be said to a little girl or a colored boy in the United States, "We say, 'No' to you, because you are black," but "We say, 'Yes' to you, because you are white." That is what we are talking about.

Mr. SPARKMAN. Mr. President, I always enjoy the eloquence of the Senator from Rhode Island; and I enjoy as much as he does ascending to the heights and the clouds and the mountains, far removed from the toils and tribulations of everyday life. The Senator from Rhode Island can talk about the nobility of man; but that does not touch those who are in the deep, dark ghettos of the northern cities, and who would be kept there by the provisions of this bill. That is what I am talking about.

The Senator from Rhode Island talks about what we ought to do, and he makes it sound plausible. But that is not what the pending bill would do to little black girls or little black boys or to Puerto Ricans or to the members of any other minority race who live in those segregated areas, which the Civil Rights Commission itself has pointed out as being the worst segregated areas in the United States. They would be condemned to stay there, by the terms of this bill. They would be unable to move away.

In fact, I started to say something about the development of segregation in the District of Columbia schools. In that connection, it is only necessary to quote from a statement made by the Superintendent of Schools of the District of Columbia. He spoke at Nashville, Tenn., if I correctly recall, about a year ago; and in that speech he pointed out that in 1954 the District of Columbia schools were segregated; but that immediately following the Supreme Court's decision, the school officials in the District of Columbia established a plan of desegregation, and the District of Columbia became the first metropolitan area in the United States to proceed with a plan of school desegregation. But in his speech he said, "We are fast becoming segregated again—this time, all-Negro."

And a few days ago, I placed in the CONGRESSIONAL RECORD some figures which show that there had been almost a complete change in that period of time. So such ghettos are being established in the District of Columbia.

Let us also remember that there are hundreds and thousands and even millions in those areas in the northern, segregated cities of America, who never will be able to leave them; they are tied there. Most of them are not able, financially, to leave; many of them are poverty stricken.

This bill does not hold out any hope for them. In fact, the bill condemns them to stay right there.

What would the bill do for the southern areas? It is a well known fact that in the cities in the South, the Negroes and the whites live in the same neighborhoods; the southern cities do not have the densely populated ghettos that the northern cities have. The pending bill would desegregate the schools in the southern cities, but would leave dark Harlem and deeply segregated Chicago, Cleveland, Philadelphia, Pittsburgh, Detroit, and many other northern areas that could be named, just as they are. Not only would the bill leave them in the condition they are in now, but the bill would even write into the law a prohibition of transfers from one area to another.

That is what I am talking about, Mr. President; I am referring to the practical, down-to-earth situation as it actually exists—not as the Senator from Rhode Island and I would like it to exist. We would like to see a world and a time where the nobility of man prevails. But I am speaking of the world, not as we might wish to see it from the Olympian Heights, but as it exists right now, right here on earth, where man lives, suffers, and dies.

Mr. PASTORE. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. PASTORE. I say to the Senator, amen.

Mr. SPARKMAN. Amen and amen—Selah.

Mr. President, if I may return to the subject I was discussing—the matter of trial by jury—I had something to say about our forefathers who framed the Constitution.

Mr. STENNIS. Mr. President, before the Senator from Alabama takes up that point, will he yield for a question about the busing of schoolchildren?

Mr. SPARKMAN. I yield.

Mr. STENNIS. As the bill came to the Senate, it contained a provision prohibiting the busing of children from one part of a city to another, in an attempt to achieve racial balance in the schools. Was not that amendment agreed to by Representative CELLER, of New York, the manager of the bill in the House? Did not he agree to it, on the floor of the House, rather than make a fight to keep the other provision in the bill? Is not that true?

Mr. SPARKMAN. Yes. I do not know what motivated the Representative from New York; but he is from New York, and undoubtedly he had received many protests. In fact, probably he read in the New York Times, as we did, about 15,000 white mothers who protested against the busing of their children. Does the Senator from Mississippi remember that incident?

Mr. STENNIS. Oh, yes.

Mr. SPARKMAN. At one time the busing of schoolchildren was done; and 15,000 mothers in New York—in Westchester County and the adjoining areas—vigorously protested against it. I do not know whether their protests had any influence on Representative CELLER. He is a very able man. He was a Member of Congress when I first came to Congress, and I served with him in the House of Representatives. Certainly he is very able. I do not know what motivated him to do that; but, at any rate, when the bill was brought up in the House, a provision was written into it by someone who wished to make certain that the ghettos, as I have referred to them, remain just as they are; and Representative CELLER accepted the amendment. The Senator is correct. By the way, the administration did not ask for that provision.

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. The provision was placed in the bill on the floor of the House and was accepted by Judge CELLER, the Representative from New York, and chairman of the Judiciary Committee, as the manager of the bill.

Mr. President, the Founding Fathers, who wrote the fundamental instrument of government under which we live today, took pains to point out that they were rebelling against the King because he had sought to change the system of the courts. He had sought to impose his will upon the people through insisting on the rights of the King, through the changing of the judges, through the changing of the established courts, and by denying the right of trial by jury. The latter was one of the great causes which justified the Colonies in resorting to war.

It was so stated in the Declaration of Independence. I read that provision a little while ago.

When the Constitution was drafted there was written into it article III, section 2, which guaranteed the right of trial by jury in the case of crimes except in the case of impeachment. But the people were not satisfied. They said that the right was not expressed strongly enough. So an agreement was made to submit 10 amendments to the first session of Congress. Those 10 amendments were adopted before the people accepted the Constitution. They were agreed to before the people would agree to accept the present charter of our Government, the Constitution.

Mr. President, a significant point is that of the 10 amendments which we call the Bill of Rights, and which constitute the real Bill of Rights to the Constitution of the United States, three of the amendments had to do with trial by jury. Three of them guaranteed the right of trial by jury in all cases of crimes. I emphasize that statement. There were no exceptions. And in all civil actions, any time a defendant is brought into Federal court, he has the right to ask for a jury trial, except where the amount of damages or the amount of money that is sued for is less than $20.

As I said previously, while I have not checked the constitutions of each of the 50 States in the Union, I have checked many of them, and I venture the assertion that every single State constitution contains similar guarantees of the right of trial by jury. In all criminal cases—and that is what we are discussing here—in which a person would be subjected to the payment of a criminal penalty, State constitutions provide for a jury trial. The fact that 3 of the 10 amendments in the Bill of Rights were given over to guarantees of the right of trial by jury shows the extent to which the writers of the Constitution went to make certain that the right of trial by jury would be preserved in our Constitution.

I have been interested in checking some of the things that were said in the constitutional convention of 1787 regarding jury trials.

I have been interested in the references to jury trials in the Constitution. I believe that the origin of those references strengthens our position at this time in favor of the Talmadge amendment to the bill. Very briefly, the so-called Talmadge amendment merely provides that in criminal contempt cases there should be a jury trial. Criminal cases as such are already covered. Criminal contempts have been built up, as I said earlier in my remarks, by the courts. A little later, if I have the time, I should like to discuss one or two of the court decisions that have been concerned with the question. One of the cases is the Green case. Another is the case decided by the Supreme Court of the United States a couple of weeks ago. It was the case against former Governor Barnett and the present Governor Johnson, of Mississippi.

The case came before the Circuit Court of Appeals for the Fifth Judicial Circuit, which is the circuit in which my State is placed. I know most of the judges on that circuit court bench. When the case went to a hearing on the question of the defendant's entitlement to a jury trial, there were eight judges sitting. The ninth one was sick or, for some reason, did not participate. The decision was a 4-and-4 decision. The court split evenly on the question. Therefore, it became necessary to certify the question to the Supreme Court. The case came up on certification.

The Supreme Court handed down its decision a couple of weeks ago. The decision of the Court was 5 to 4, which means that out of a total of 17 different judges—distinguished judges and justices of the highest courts in the United States—the decision rested on a 9-to-8 margin.

When the Supreme Court handed down its decision, the majority opinion gave fair notice to the circuit court of appeals, to which the case was being returned with its negative answer to the question as to whether the defendants were entitled to a jury trial. But the majority opinion said in effect that if any penalty should be assessed in excess of that which ordinarily would be assessed in trivial cases, the Supreme Court would not sustain it. That is about the narrowest margin that any of us could conceive of in deciding a case. Mr. Justice Black wrote the dissenting opinion in the Green case, and he wrote one of the leading dissenting opinions in the Barnett case. In both decisions he pointed out that the system of criminal contempt, without the right of trial by jury, was a judge-invented procedure in which one man did the accusing, the trying, the prosecuting, sat as judge, and as jury in assessing the penalty. In other words, the judge had the whole process in his hands, including the imposition of the penalty. The Talmadge amendment would give to a man in a situation of that kind, in a criminal contempt case, the right of trial by jury.

I submit that it is fair. It was offered in 1957, and the Senate voted for it. Many Senators who are prepared today to vote against the Talmadge amendment, and for a milk-and-water substitute, voted for this amendment in 1957. It was adopted by the Senate in the Civil Rights Act of 1957. When the bill went to the House we were in a rush season when it was time to adjourn and get out of town. The House agreed to several Senate amendments to the bill. It would not agree to certain amendments. But with respect to the jury trial amendment, the House provided that a person should be entitled to a jury trial in any case in which the penalty was more than $300 fine or 45 days in jail.

The milk-and-water substitute I referred to a moment ago was the same amendment that was written into the bill by the House and finally accepted on a rollcall of the Senate. I do not remember what the vote was. The substitute is the same as that amendment, with the single exception that, instead of the reference to the 45 days, it is 30 days.

It still contains a weakness which I cannot understand any lawyer proposing or defending. The man who is to determine whether or not there is to be a jury trial is the judge who will decide that somebody should be punished. He will have to make up his mind ahead of time as to what the penalty will be. If the penalty is to be more than 30 days or a fine of more than $300, he will have to give a jury trial. Without hearing any witnesses for the defense, he will have to decide whether he will penalize the man more than $300 or put him in jail for more than 30 days. It seems to me that the tendency of any judge, if he were out to "get" somebody, would be to make up his mind ahead of time, and not send a weak case to a jury which might turn the defendant loose. He would say, "I will make certain that this man will not be turned loose by making up my own mind. I will fine him $295, or $298.98, and set the punishment at 29½ days in jail." The judge could do it, and not have to call a jury.

I say, with all due deference to Senators who are offering the amendment and those who are supporting it, that I cannot understand how anyone who has studied law or has practiced law, or even has engaged in lawmaking, as we are doing here, could possibly agree to such an amendment.

Mr. President, I previously read from the Bill of Rights, our basic definition of justice. Those words have largely been a legal mechanism to enforce the administration's policy.

Those words were born in a revolution. Let us never forget why they were put into the Constitution.

As American law has developed, the concept of jury trial has collided more than once with the arbitrary use of injunction proceedings. This is a history of great complexity that I shall go into later.

It suffices for now that I have outlined the sources of the jury and the sources of the injunction. As we talk about these things, let us remember what their ancestry has been, and what each has represented throughout the history of our legal tradition. One has stood for justice under the law; the other for tyrannical evasion of the common law. One has representative government by law; the other, government by men. Ours from the very beginning has been a government by law. Certainly we should avoid most carefully every effort tending to make it a government by men.

The Founding Fathers, who wrote the fundamental instrument of government under which we live today, took pains to point out that they were rebelling against the King because he had sought to change the system of the courts. He had sought to impose his will upon the people through insisting on the rights of the King, through the changing of the judges, through the changing of the established courts, and by denying the right of trial by jury. The latter was one of the great causes which justified the colonists in resorting to war. They said so in the Declaration of Independence.

When the Constitution was drafted there was written into it article III, section 2, guaranteeing the right of trial by jury in the case of all crimes except in cases of impeachment. But the people were not satisfied. They said the right was not stressed strongly enough. So an agreement was made to submit 10 amendments to the first session of Congress. Those 10 amendments were adopted before the people accepted the present charter of our Government, the Constitution.

Of the 10 amendments, 3 guarantee the right of trial by jury in all cases of crime, and in civil actions except where the amount of money involved is less than $20. That is the extent to which the writers of the Constitution want to make certain that the right of trial by jury would be preserved in our Government.

### THE 1787 CONVENTION ON JURY TRIALS

I have been interested in the references to jury trials in the Constitution, and I believe that the origin of these references strengthen our position at this time in favor of the Talmadge amendment.

The right to trial by jury in criminal cases is protected directly by the Constitution in article III, section 2, and again in the sixth amendment, whereas the right to trial by jury in civil cases is protected in the seventh amendment.

References to the proceedings of the Constitutional Convention of 1787 as they relate to criminal jury trials are very scant, which leaves us with the impression that it was more or less assumed that where criminal trials were involved juries would be the accepted procedure.

That was the English law that was handed down to us. It had come down from ancient days, certainly as far back as 1215, when, under the Magna Charta, King John guaranteed it to all his subjects.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. JORDAN of North Carolina. Would not the Senator suppose that the men framing the Constitution knew why they were framing the Constitution, and, having had the benefit of English law, did not think anybody would be foolish enough to throw away a right of that kind and not accept a trial by jury? That is what they came to this country for and why they fought against the mother country.

Mr. SPARKMAN. The Senator is correct.

I intend to point out a little later that in Madison's notes of the convention he discussed the writing of the provision that was in the Constitution itself, which pertained primarily to suits in cases that might be brought in an area outside any State. There are not many such areas that would be outside a State, but it could relate to coastal waters, for example. A provision was written in, assuring protection in cases of that kind.

Mr. JORDAN of North Carolina. It would relate to territories for example.

Mr. SPARKMAN. Yes; territories and island possessions.

Mr. JORDAN of North Carolina. Even a person living in an island possession, who was not a citizen, would have the right of trial by jury.

Mr. SPARKMAN. That is correct. Those who wrote the Constitution took pains to make sure that that right was contained in the Constitution.

Mr. JORDAN of North Carolina. In other words, they thought that if the United States was going to be responsible for those people and protect them, they ought to have a right of trial by jury.

Mr. SPARKMAN. The Senator is correct.

Mr. JORDAN of North Carolina. Would the Senator want to live in a State that did not provide for such legal proceedings?

Mr. SPARKMAN. I do not want to live in any State that tends toward tyranny.

Mr. JORDAN of North Carolina. I thank the Senator for yielding to me.

Mr. SPARKMAN. It is interesting to note that at the July 24–26 session of the 1787 Convention jury trial rights appeared in a draft of the Committee of Detail when it was decided to establish a "supreme judiciary." This accounts for the reference to jury rights in article III of the Constitution.

In that regard we find the following important reference in "The Records of the Federal Convention of 1787" as edited by Max Farrand, volume II, page 144:

> Insert in 11 Article (ARTICLE 11):
>
> "(All laws of a particular state, repugnant hereto, shall be void, and in the decision thereon, which shall be vested in the supreme judiciary, all incidents without which the general principles cannot be satisfied shall be considered, as involved in the general principle).
>
> "(That trials for criminal offenses be in the State where the offense was committed—by Jury—and a right to make all laws necessary to carry the foregoing Powers into Execution.)"

That language was included in the proceedings of July 25, 26, and 27, 1787, in the course of the Constitutional Convention. It was not at the full Convention; it was in the Committee of Detail.

At the same meeting of the Committee of Detail, and obviously at a time later than the reference made above, another draft was drawn somewhat in line with article III of the present Constitution except that it established a Supreme Court to be selected by the Senate by secret ballot.

Mr. President, that might not be a bad system.

The jury trial clause mentioned above was transferred to this draft and the language "except in cases of impeachment" was added—page 173 Farrand's edition—and the impeachment exception remained and stands today for the obvious reason that the Senate tries impeachment cases.

The next reference to jury trials was on August 6, 1787, in open convention in a draft of the Constitution prepared by James Madison, in which article XI was somewhat similar to the present article III in its fundamental provisions as to the Supreme Court. The jury provision at that time was as follows:

> SEC. 4. The trial of all criminal offenses (except in cases of impeachments) shall be in the State where they shall be committed; and shall be by jury.

It is quite interesting to note that an August 27, 1787, draft of this article was found among the papers of George Mason, of Virginia, but not in his own handwriting.

As all Senators know, George Mason was one of the great movers, both in the State of Virginia and in connection with the Constitution, of the first 10 amendments. He was one of the great movers and interested parties in connection with the Bill of Rights. His was a great mind—one of the great minds of that day.

The provision referred to appears in the papers of George Mason, not in his own handwriting, but indicating that he had been studying it:

> The trial of all crimes, except in case of impeachment shall be in the superior court of that State where the offense shall have been committed in such manner as the Congress shall by law direct except that the trial shall be by a jury. But when the crime shall not have been committed within any one of the United States the trial shall be at such place and in such manner as Congress shall by law direct, except that such trial shall also be by a jury.

It will be noticed that so far as the place, the drafting, the conditions, the rules, and so forth, are concerned, the thought was that Congress should be the one responsible for setting them, but there was one rule which Congress could not tinker with, and that was that the trial shall be by a jury.

There is no record of this draft being presented to the Convention, but its substance relating to crimes committed outside any State was adopted the next day by the Convention and, therefore, in view of this and of his forceful support of jury trials, we should credit George Mason with some of the special glory of being a founding sponsor of jury trial rights.

The so-called Mason draft shows two important things; namely, that the Convention was thinking about having all crimes tried in State courts under rules laid down by Congress, and that the only limitation on Congress in establishing trial procedures was that it could not abolish the right to trial by jury.

The next day, August 28, both the Journal of the Convention and Madison's notes record that the following jury clause was adopted:

> The trial of all crimes (except in cases of impeachment) shall be by jury—and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State then the trial shall be at such place or places as the legislature may direct.

No dissenting votes were recorded. Madison's notes contain the following explanation:

> The object of this amendment was to provide for trial by jury of offenses committed out of any State.

That is the provision to which I made reference a few moments ago.

The above statement by Madison indicates what was obviously the prevailing attitude at that time; namely, that the jury system in criminal cases was so much a part of the laws and customs of the several States that the concern of the Convention was to assure jury trials for crimes committed out of any State.

The jury clause as stated above remained intact through the meeting of the Committee of Style on September 10.

At a meeting of the Convention on September 12, no further mention was made of the clause pertaining to juries in criminal cases, which remained in the article establishing the Supreme Court and the judiciary. There was a discussion, however, on that date of the fact that the pending draft of the Constitution contained no provision for juries in civil cases and that the people were clamoring for such a provision. Col. George Mason stated that such a provision "would give great quiet to the people." There was a discussion of a committee to form a bill of rights to handle this question, but the official appointment of such a committee was voted down on the basis that matters in both law and equity were involved and that the States and Congress could handle these questions. Therefore, it was not until the seventh amendment was adopted later as a part of the Bill of Rights—the first 10 amendments—that jury trial rights in civil cases became a part of the Constitution.

The Committee of Style met also on September 12 and changed the word "legislature" in the jury clause to "Congress" which placed the clause in its present language. The committee also changed the numbering of the articles of the draft to their present status so that the jury clause became article III, section 2, paragraph 3.

On September 15, an unsuccessful attempt was made to preserve jury trials in civil cases by adding language at the end of the criminal jury clause. On this we find the following interesting record in Madison's notes—page 628, volume II, Ferrand, "The Records of the Federal Convention of 1787":

> Article II, sect. 2, paragraph 3. Mr. Pinkney and Mr. Gerry moved to annex to the end. "And a trial by jury shall be preserved as usual in civil cases."
>
> Mr. GORHAM. The Constitution of Juries is different in different States and the trial itself is usual in different cases in different States.
>
> Mr. King urged the same objections.
>
> General Pinkney also. He thought such a clause in the Constitution would be pregnant with embarrassments.
>
> The motion was disagreed to

On September 17, 1787, the final draft of the Constitution containing the jury clause for criminal cases as a part of article II passed the Convention, and a letter forwarding the same to Congress was signed by George Washington, President of the Convention.

When the Constitution was submitted to the States for ratification, a considerable amount of debate about jury trials ensued, most of which centered around the fact that the basic document made no reference to civil jury trials. The people themselves were involved in this ratification because the resolution of the Convention as transmitted by letter to Congress suggested such procedure. Congress therefore directed that the Constitution be transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the Convention.

Farrand's 3-volume collection of records lists 11 speeches given before various State conventions defending the Constitution in which jury trials were mentioned. The fact is, it is quite apparent that the foes of the Constitution attacked it in part on the grounds that it did not afford a sufficient guarantee of jury trial rights. It appears also that it was rather difficult for the Convention delegates and others who spoke in favor of ratification to explain the omission of jury trial rights in civil cases, especially when they attempted to explain to the people the technical and legal differences in civil actions at law where juries were used and in admiralty and chancery or equity proceedings where juries were not used as a matter of custom.

The remarks of the speakers in defense of the Constitution indicate also that they wanted to assure the people that jury trial rights in criminal cases would be preserved.

For example, James Wilson, speaking in Philadelphia on October 6, 1787, on why the Convention left out civil jury rights, stated:

> The Convention found the task too difficult for them; and they left the business as it stands—in the fullest confidence, that no danger could possibly ensue, since the proceedings of the Supreme Court are to be regulated by the Congress which is a faithful representation of the people: and the oppression of government is effectually barred, by declaring that in all criminal cases, the trial by jury shall be preserved.

It is highly significant that James Wilson left no doubt about the fact that the participants in the Constitutional Convention intended and fully expected Congress to regulate the proceedings of the Supreme Court and other Federal courts. This leaves no doubt about the fact that it would have been shocking and perhaps beyond their comprehension if someone back in 1787 had suggested that the Supreme Court itself would someday hold that a crime committed out of the presence of a judge in violation of judge-made law would not as a criminal contempt be tried before a jury unless the defendant under advice of counsel waived a jury.

I point out the fact that even this dubious decision was decided on the basis of 9 to 8.

It points up also that the Founding Fathers intended for Congress, and not the courts themselves, to write the rules of procedure in the courts and that above all it is a bounden and cardinal duty of Congress to protect the right to trial by jury if our system of government should ever go so far astray from its original concepts as to permit the judiciary to usurp from the people jury trial rights which the Founding Fathers clearly intended to give them.

Let us read again James Wilson's famous words on jury trial rights:

> The oppression of government is effectually barred, by declaring that in all criminal cases, the trial by jury shall be preserved.

The Talmadge amendment is designed to make these words come true after the Supreme Court has declared that they are not true. The oppression of government has been felt because jury trial rights have not been preserved.

On November 29, 1787, James McHenry spoke before the Maryland House of Delegates—Farrand, volume II, page 150. He stated:

> The judicial power of the United States underwent a full investigation—it is impossible for me to detail the observations that were delivered on that subject—the right to trial by jury was left open and undefined from the difficulty attending any limitation to so valuable a privilege, and from the persuasion that Congress might hereafter make

> provision more suitable to each respective State.

At that point Mr. McHenry might have been talking about criminal jury trials as well as civil. Civil jury rights were left open because they were not mentioned. Criminal jury rights were undefined because article III, section 2, clause 3 merely stated that the trial of all crimes "shall be by jury." No extra definitions such as the right to counsel, the right to a speedy trial, the right to information as to the charges, the right to be confronted with opposing witnesses, and the right to summons favorable witnesses were mentioned. All of these rights were later defined and set forth specifically by Congress when it promulgated the sixth amendment as part of the Bill of Rights in 1789 for ratification as a part of the Constitution.

On November 29, 1787, Luther Martin, attorney general of the State of Maryland, delivered his famous and lengthy address entitled "Genuine Information" to the Legislature of the State of Maryland, in which he criticized the proposed Constitution. He attacked the provision regarding jury trials in criminal cases on the ground that the appellate jurisdiction of the Supreme Court vitiated the guarantee of jury trials in the lower courts. After doing this, he criticized the lack of proper attention in the proposed Constitution to both criminal and civil jury trial rights in the following language:

> Thus, Sir, jury trials, which have ever been the boast of the English Constitution, which have been by our several State constitutions so cautiously secured to us—in jury trials, which have so long been considered the surest barrier against arbitrary power and the palladium of liberty, with the loss of which the loss of our freedom may be dated, are taken away, by the proposed form of government, not only in a great variety of questions between individual and individual, but in every case, whether civil or criminal, arising under the laws of the United States or the execution of those laws. (Farrand, vol. III, pp. 220–221.)

The sixth and seventh amendments as well as various acts of Congress touch upon some of Attorney General Martin's criticisms. Nevertheless, insofar as the right of trial by jury in criminal contempt cases is concerned, his remarks are pertinent and should be taken at the present time as an encouragement to support the Talmadge amendment.

George Washington wrote to Lafayette on April 28, 1788, concerning the absence of jury rights in civil cases in the Constitution prior to the Bill of Rights—see "Documentary History of the Constitution IV," pages 599–602, also Farrand, volume III, pages 297–298. He wrote:

> It was only the difficulty of establishing a mode which should not interfere with the fixed modes of any of the States, that induced the Convention to leave it, as a matter of future adjustment.

Edmund Randolph spoke in favor of ratifying the Constitution in the Virginia Convention on June 6, 1788. He stated:

> The trial by jury in criminal cases is secured—the civil cases it is not so expressly secured, as I could wish it; but it does not follow that Congress has the power of taking away this privilege which is secured by the Constitution of each State, and not given away by this Constitution—I have no fear on this subject—Congress must regulate it so as to suit every State.

The Senator from North Carolina was asking me about this provision. We were discussing the provision that James Madison tells us about in his notes on the Convention, whereby jury trials were provided in cases which arose in the territories, outside the boundaries of any State. There was a large territorial area within our boundaries in those days.

Our forefathers saw the necessity of making provision for a jury trial in areas where no State had control. They assumed, as stated by Edmund Randolph, that it was secured in every State. The reason it was not written into the Constitution originally was that it was felt that every State already had that provision. It was believed that it was a power which could not be taken away from the States. It was believed to be a power which could not necessarily be made to conform State by State, so far as the power of Congress was concerned. Therefore Congress left it out.

Yet the insistence of the people was so great that when the Constitution was proposed to them it was insisted that the guarantee of the right to a jury trial both in criminal and civil cases be set forth in the Constitution. It was agreed that it would be a part of the Bill of Rights. It was agreed that the Bill of Rights would be written into the Constitution in the very first session of Congress. The Bill of Rights consists of the first 10 amendments. I invite the attention to the distinguished Senator and lawyer from Colorado [Mr. ALLOTT], to the fact that 3 of the 10 amendments in the Bill of Rights of our Constitution dealt with guaranteeing completely that no citizen would ever be deprived of his life, liberty, or property beyond $20, without a trial by jury.

The Talmadge amendment is designed to amend this bill so as to remove the vicious provisions that would subject a citizen to a fine and imprisonment without the right of a trial by jury.

The amendment offered as a substitute—which I am sorry to see many of my good friends support—would not cure the defect. It still would allow a judge to fine a person as much as $300, and sentence him to prison for as long as 30 days. As was stated by Justice Black in the dissenting opinion a couple of weeks ago, it would give to one man the right to make the charge, the right to accuse, the right to prosecute, the right to conduct the trial, and the right to sentence the defendant.

It would go even further than that. It would give him the right to make the determination ahead of time. He would have to decide ahead of time whether he would sentence the accused to prison for over 30 days, and whether he would fine him over $300—either or both. He would have to make that decision before he could decide whether to grant a jury trial. The chances are that if he felt he had a rather weak case, he would give him less time than 30 days so as to make certain that a jury could not be called in the case.

Needless to say, Mr. Randolph would agree that if trial by jury in criminal cases is not exactly secured, as is the case in criminal contempt cases, Congress has every right, as well as a duty, to pass legislation making the right secure.

With the obvious pubic clamor over jury trial rights that arose over ratification of the original Constitution, it was only natural that the Bill of Rights, promulgated by the first Congress in 1789, for ratification by the States, contained further assurances of the guarantee of jury trials. The sixth amendment made a further direct assurance of trial by jury in criminal cases, although the same assurance had been made in article III, section 2, clause 3. The sixth amendment, however, went into detail, and provided for a speedy trial, with counsel present, and with power to subpena witnesses and with the right to be confronted by the accusing witnesses, in the district in which the crime was committed.

The seventh amendment dealt with the more difficult question of jury trials in civil cases, and provided the right of trial by jury in common law actions involving more than $20.

The fifth amendment also dealt with rights in criminal prosecutions, and assured all individuals the right to be indicted by a grand jury before being prosecuted. It also provided that no one shall be deprived of life, liberty, or property without due process of law, nor be twice placed in jeopardy, nor be compelled to be a witness against himself.

With this unquestionable and historic background of the intent of the Founding Fathers and of the people of this great Nation to place guarantees of jury trial rights in our Constitution, it seems a strange turn of events that now it becomes incumbent upon Congress to enact legislation to assure jury trial rights in criminal contempt cases, which are, despite peculiar or twisted arguments to the contrary, criminal cases.

This review of the proceedings of the Convention of 1787 indicates that jury trial rights in criminal cases were thought of by the delegates at the same time that the first mention was made of a superior or supreme court. In the first draft wherein the Supreme Court was mentioned, jury trial rights in criminal cases were provided. Therefore, it is all the more ironic that the Supreme Court took it upon itself to cast aside, not recognize, or at least jeopardize, rights that have just as strong and just as early a claim of being founded in the Constitution as the Supreme Court itself.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from Alabama yield for a question?

The ACTING PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from North Carolina?

Mr. SPARKMAN. I am glad to yield to the Senator from North Carolina for a question.

Mr. JORDAN of North Carolina. When the Founding Fathers were writing the Constitution and when the several States were trying to draft a Bill of Rights which would satisfy their desires and wishes, and would provide the protections they wanted, and which they knew all the people of the States wanted, they had in mind, did they not, the conditions under which they or their forebears had lived, in England, under a king who had absolute control of the destinies of the people, and could decide whether they should live or die?

Mr. SPARKMAN. That is true.

Mr. JORDAN of North Carolina. They wanted to be sure that no such situation would develop in the new Nation they were trying to establish. So they made certain that those protections were spelled out, in no uncertain terms, in the basic law of the new Nation; and it was impossible, was it not, to secure ratification of the Constitution by the various States until they were satisfied that it would include the Bill of Rights, with which each of the States had had a great deal to do?

Mr. SPARKMAN. That is correct.

Mr. JORDAN of North Carolina. Is not that the reason why the provision was included, in the Bill of Rights, that a man charged with a crime would have to be tried by a jury of his peers, and also would have to be tried in the locality in which he lived?

Mr. SPARKMAN. Yes.

Mr. JORDAN of North Carolina. They insisted on the inclusion of those provisions because they were aware of the development of far different conditions, in part as a result of jealousy between various areas, with the result that one who was accused of crime might be transported to a distant spot, where he was not known, and where a jury, if one was used, might be prejudiced, because of the difference in locality. So did not the Founding Fathers insist on the inclusion of the provision that such a trial must be held in the district in which the crime had been committed; and did not that provision also contain, in effect, a prohibition of a change in venue, unless there were clear reasons for making such a change?

Mr. SPARKMAN. That is correct. The Senator from North Carolina will recall that I have already quoted from the Declaration of Independence; and one of the chief causes of the Revolution was the fact that the people of the Colonies had been deprived by the English King of the right of trial by jury—a right which the people of England had had ever since the year 1215 and Magna Carta.

Mr. JORDAN of North Carolina. That is correct.

Mr. SPARKMAN. That was one of the principal complaints made by the colonists against the English King—namely, that he had engaged in various types of oppression, including the practice of having persons accused of crime tried in localities different from the ones in which the crimes were alleged to have been committed—localities where the accused would not be able to call witnesses in their own behalf, and also where, in many cases, they would be deprived of the right of trial by jury. Certainly that was one of the principal causes of the Revolution.

The Senator is eminently correct. The problem was fresh in the minds of those people. Remember that most of them were living in brandnew States, and had previously lived under conditions of which they complained.

Mr. JORDAN of North Carolina. Some of the parents of those people had come here from England to get away from those very conditions.

Mr. SPARKMAN. Yes. The problem was fresh in their minds, and, as I read from the notes of the Convention the comments made by various participants in that Convention, even though they felt that the system of guarantee of jury trials in the several States amply protected them so far as criminal cases were concerned, and so far as any crime or incident that would happen inside a State was concerned, the writers of the Constitution thought that that gave ample protection. When they got back home—to what we speak of as the grassroots—and heard from the grassroots, they said, "We are not willing to rely altogether on that provision. Before we surrender any part of our sovereignty to the Federal Government, we want it recorded in black and white that every person, before being penalized, or even becoming civilly liable for more than $20, shall have a right to trial by a jury of his peers." The Senator is correct.

Mr. JORDAN of North Carolina. I thank the Senator.

Mr. SPARKMAN. Before discussing the proceedings in the Convention, I was talking about the question of jury trials. I had something to say about the time the 1957 Civil Rights Act was being considered on the floor. I should like at this time to read a colloquy from the 1957 debate on the question of jury trial.

The senior Senator from North Carolina [Mr. ERVIN] asked this question of me:

> Mr. ERVIN. I ask the able and distinguished Senator from Alabama if the patron saint of the party to which he and our beloved friend from Illinois and I belong; namely, Thomas Jefferson, did not always advocate that cases of all kinds should be tried by juries, regardless of whether they originated at the common law or in equity.
>
> Mr. SPARKMAN. I think the Senator is correct. I have just read three provisions of the Bill of Rights. First, the guarantee of the right of trial by jury is contained in the Constitution itself. Then I read three different instances in the Bill of Rights where the guarantee of the right of trial by jury in all cases involving $20 and more is repeated over and over and over again. I suppose it was felt there would be a lot of small cases that would involve less than $20, and those cases were exempted from the right of trial by jury; but the Constitution, not once, not twice, not three times, but four times, states that every person shall have the right of trial by jury, and the only exceptions are military offenses and cases where the amount involved is less than $20.

I state that again, because I believe it is pertinent. The people were so insistent that the right to a trial by jury be secured to them and their posterity forever that they wrote it into the Constitution four different times. They did not except any criminal acts except military cases involving personnel who were actually on duty in the service. The only civil cases that were exempted—and the exemptions were made clear and free from ambiguity—were cases in which the amount involved was not more than $20. I do not see how it could be made more positive.

Continuing the quotation:

> Mr. ERVIN. Mr. President, will the Senator yield further?
>
> Mr. SPARKMAN. I should like to say one word more before I get away from that subject. Let us always remember, too, that the Constitution of the United States would never have been adopted if it had not contained the provisions of the first 10 amendments. That was a foregone conclusion. It was agreed to. We know that Jefferson, Madison, and many of the other great statesmen of that day waged a vigorous campaign in order to convince the people of the several States that the Bill of Rights would be agreed to and would perfect the Constitution. The Constitution was imperfect because it did not contain such guarantees.
>
> Another noticeable thing, which I do not believe is true about any other provision in the Bill of Rights, is that the right of trial by jury is stressed three different times in three different articles. I do not think that is true of any other single provision in the Bill of Rights.

I have pointed out before that of the 10 amendments which constitute the Bill of Rights, 3 are devoted to the right of trial by jury. It was nailed down to convince the people that they would be adequately protected against the kind of tyranny about which the Senator from North Carolina was asking me a few moments ago. The Founding Fathers wished to be certain. This is not true of any other provision in the Bill of Rights.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senator from Alabama [Mr. SPARKMAN] may be permitted to yield to me for the purpose of making a brief statement, provided that in doing so he shall not lose his right to the floor. The Senator from Alabama concurs in that request.

The ACTING PRESIDENT pro tempore. With that understanding, without objection, it is so ordered.

Mr. STENNIS. I thank the Chair and I thank the Senator from Alabama.

Mr. President, during a recent statement on the floor of the Senate, I discussed several provisions of the civil rights bill, H.R. 7152. I pointed out that although title VII purports to cover employers engaged in industries affecting commerce among the several States, the provisions of the title have been so cleverly drawn as to practically eliminate employers in all sections of the country except the South.

I undertake now, in a brief way, to give some estimate of the figures as they apply. I have not been able to obtain any better figures than these. I have not seen any which purport to be more accurate. I am fully satisfied with the integrity of the figures, as far as they go, but many of them are estimates.

I obtained the assistance of Mr. John F. Forsythe, general counsel of the subcommittee of the Committee on Labor and Public Welfare, whom I expressly asked to assist me in trying to get together some figures which would estimate the number of workers to which the bill would apply and how many would be excluded.

First of all, section 702(b) provides that during the first year after enactment, no employer with less than 100 employees will be affected. My figures are based upon the years in which those with less than 25 employees will be affected, and all those 25 and above who will be covered.

In addition to the overall exclusion, title VII specifically excludes several categories of employers; namely, the United States, a corporation wholly owned by the United States, or a State or political subdivision thereof; also bona fide private membership clubs whose employees are excluded; and any religious corporation, association or society, whose employees are also excluded.

Applying these exclusions to the number of employees only a fraction of the labor force is covered by the provisions of title VII.

I had the following figures prepared, which very vividly illustrate the following:

I point out that the total labor force, as of September 1963, is estimated to have been 72,200,000 persons.

The numbers not covered by title VII—government employees, Federal, State, and subdivisions—are estimated at 9,600,000.

Self-employed workers, who would not be covered, 8,600,000.

Unpaid family workers, 1,400,000.

Domestic workers, 2,500,000.

Employees of employers employing less than 25 employees, 17 million—estimated.

Unemployed workers, estimated, 4,100,000.

That is a total of 43,200,000, which would leave employees left to be covered or not covered by title VII, an estimated 29 million persons; that is, left to be covered or affected in one way or another by title VII, as found in all 50 States.

As to the employees of two States, Hawaii and Wisconsin, they have an almost identical bill, so we will subtract those employees numbering 800,000, leaving 28,200,000.

There are a number of employees in States which have enforcible FEPC laws of general application, and this estimate is based upon that number, regardless of the scope or the effectiveness of the coverage by State law.

I point out, however, that these figures are purely estimates, and that the laws vary too much from State to State. It is therefore impossible to give an accurate estimate of any particular State, much less an overall figure. Nevertheless, I have attempted to obtain some figures on the situation. There are 20,200,000 employees in the States which have FEPC laws who could be excluded from the operation of title VII in the pending bill. If those States obtain a certificate, or come to an agreement with the proposed Federal Commission, that category will be establish. That is a loose figure which must be broad and general, but it represents an honest effort on the part of those familiar with these problems to make an accurate estimate of how many workers may be involved. As the laws in the States vary so much, so will the figure of 20,200,000 vary.

I do not present it as being an accurate figure. No one could present it as being definite or accurate. I emphasize it as an argument and as an estimate. It is an effort to gain some idea as to the numbers that are involved. Some of them will be excluded, of course. As was pointed out by the Senator from Massachusetts and the Senator from Rhode Island, their States have FEPC laws with which they are very much pleased, and they do not want to come under the operation of the Federal law.

If all the States meet the compliance and take themselves out from under the application of the Federal law, to that extent it would mean that there would be left only 8 million people, or employees, under the standards that are to be established for the operation of the FEPC law, if the bill is passed.

Probably more than 8 million would be involved, because not all of the 20,200,000 would be excluded.

All the States which have an FEPC law now, which they do not want to give up, and which do not want to come under the operation of the Federal law, and the States which have a skeleton law to that effect, will try to bring about such a situation in their States that the Federal law will not apply to them.

That brings us down to where it has been agreed on the floor of the Senate, for the first time today, that title VII will apply only to the Southern States, in a large measure.

Mr. President, I have been surprised by the extent to which Senators who are sponsoring the bill have been replying to letters from their constituents. They have been telling their constituents that they can rest at ease, that regardless of what is contained in the bill, it will not apply to them. The esteemed Senator from Minnesota [Mr. HUMPHREY], the floor leader for the proponents of the bill, has assured his constituents in a letter dated April 18, 1964:

> In short, Minnesota antidiscrimination practices would not be changed by the pending civil rights legislation.

That is assurance by the Senator to his constituents that, regardless of what we might do here, Minnesota would not come under the Federal law. He tells his constituents that practices in Minnesota would not be changed. They would be changed as to certain other States, but not as to Minnesota.

I find statements by other esteemed Senators assuring their constituents in the same way.

I have before me an article published in the Wall Street Journal of April 30, 1964. It was written by Jerry Landauer, and is entitled "Civil Rights Confusion." The article states in part:

> Republican Representative McCULLOCH, of Ohio, who helped draft the bill, notes that Ohioans are living under a tougher State code than the one facing a filibuster in the Senate. In neighboring Indiana, where segregationist Governor Wallace, of Alabama, is trying to capitalize on white unrest, Senator BAYH asserts that the Federal statute will have little or no effect on Hoosiers. Senator NELSON told voters in a recent newsletter that "none of the 11 titles in the bill would change any of Wisconsin's civil rights practices."

This is all a part of our contention, which we have been making all along, that the proposed legislation is sponsored by Senators who are assuring their constituents that they will not be affected by it, or that the practices in their States will not be changed, and that anything harsh in the bill will not affect them.

I should like to quote from the Attorney General, as reported in an article written by Andrew J. Glass and published in the New York Herald Tribune of April 28, 1964. I am citing this merely as factual material. I am not contending that the Attorney General is trying to attack the South, or anything else. Mr. Glass writes:

> But as I talked with Bobby Kennedy recently he indicated that he has no fears over how this struggle will end.

I judge from that statement that it was based on an interview with Mr. Kennedy. Mr. Glass continues:

> Faith is all the pending civil rights bill promises northern Negroes. "Northern communities aren't going to be affected by its provisions," Mr. Kennedy observed, "although in the South it will have immediate practical consequences."

As I say, this is the very point that we have been making, that the bill is written in such a way that it takes our friends from the East and North and most of the rest of the country out from under its operation, and puts the fire into other areas of the country.

The Attorney General gives a summary to that effect in this article, and frankly comes out and says it. We can argue back and forth all we wish, but the fact is that the FEPC title permits States to come into agreement with the Federal Commission as to how far it will go. Their own Senators have said that the law would not apply to various States. The proponents wish to maintain their systems in their States, and propose that the measure be passed, not for general application throughout the 50 States, but for application to any area where things are not going the way they think they should go.

I submit that this is a sectional bill. The proponents are not willing to apply it across the board, and therefore, it can be nothing but a penalty bill.

The bill would have nothing but sectional application. A great many people say that this is a great moral issue. Moral issues are not set up on the basis on which this bill is set up.

At one time there were some general application provisions in the bill. However, they were objected to by areas outside the South. I am not looking at the issue only from that viewpoint. Originally the bill contained provisions to provide for busing children from one area of a city across town to another area. The schools were already integrated, but it was desired to bring about a racial balance. Strong opposition developed in

New England, New York, and New Jersey, as well as in other areas of the country. When that happened, the sponsors of the bill ran out on that provision. In the House, the Representative handling the bill, a very fine Representative from New York, Mr. CELLER, did not fight an amendment to prohibit the busing of children to balance the schools, but readily agreed to the amendment, and it was adopted, according to the RECORD, by a voice vote. It all depends on whose ox is gored.

I shall develop the figures further, but on my own time. This is the first opportunity I have had to assemble them. I am glad to have had the opportunity to present them, even though briefly.

I should like to say one further word, if the Senator from Alabama will yield to me. I have some figures, which have already been put in the RECORD, but which I should like to develop further. The States against which this bill is directed have a lower unemployment figure for nonwhites than have other areas of the Nation.

The figures from the U.S. Census Bureau show that as of 1960—which are the latest figures available—24 out of the 25 States which have FEPC laws had a larger nonwhite unemployment rate than the State of Mississippi. Mississippi has a larger percentage of colored people than any State in the Union—42 percent of our citizens being nonwhite. I have certain tables before me, and I shall develop them later.

Mississippi has a much smaller rate of nonwhite unemployment than does the fine State of Rhode Island. Ten percent of the nonwhite citizens in Rhode Island were unemployed in 1960. I mention that because it was discussed in the Chamber earlier when the Senator from Rhode Island [Mr. PASTORE] was present.

In the State of Massachusetts, I believe there is an FEPC law which is supposed to remedy these matters. However, in the State of Massachusetts there is a higher rate of unemployment for nonwhite eligible employees than there is in the State of Mississippi. In some States, the rate of unemployment for the nonwhite citizens runs as high as 20 percent, whereas the national average is something like 7.8 percent. For Mississippi it is 7.1 percent.

The figures certainly prove that where such laws exist, they do not work. The nonwhite employment situation in those States is worse than it is in the States which do not have such laws. The bill is not designed or directed toward improving the situation in States other than in the area from which I come.

I especially appreciate the indulgence of the Senator from Alabama in yielding to me.

Mr. SPARKMAN. I thank the Senator from Mississippi. The facts and figures which he has given have been most interesting and informative.

Mr. STENNIS. I thank the Senator.

Mr. SPARKMAN. Mr. President, the time has come for documented answer to an argument that courts have an inherent right to inflict punishment through summary trials, wherever disobedience to an injunction may be involved.

The argument explains to us that Congress cannot limit the court's power to issue injunctions or to enforce them without benefit of juries.

This argument sets before us the constitutional doctrine of separation of powers. Congress, it declares, cannot invade the powers of the courts. It cannot limit in any way the powers of the courts.

This argument goes so far as to say that Congress cannot limit the court's powers to legislate through injunctions.

The civil rights bill would expand beyond all historical bounds the authority of courts to issue injunctions and to enforce them. Yet, ironically, its supporters tell us that any opposition to this intention would be a violation of the Constitution. Here the argument reaches absurdity indeed. It is time, according to this theory, that Congress, under the Constitution, cannot in any way amend or abridge the summary powers of the courts to enforce their own orders—in effect, to enforce their own legislation.

A very scholarly and forceful answer to this question was given 40 years ago. This answer was so sound and definitive that it has itself become a recognized part of American law.

This answer, written by two Harvard scholars who then were relatively unknown, was published in the Harvard Law Review in 1924. Since that time both of these men have attained great eminence in the public life of this Nation. One of them, Felix Frankfurter, has since found his way to the Supreme Court. The other was James M. Landis, who, if I recall correctly, served as dean of the Harvard Law School, and occupied several governmental positions.

This is a northern answer, published by a northern law school, and at least one of the authors must be accepted by the civil rights proponents as authoritative. I did not compose this answer. It is a northern answer, and one of its authors also collaborated in the Supreme Court's decision of May 17, 1954.

These authors wrote their answer during the controversy over the constitutionality of the Clayton Act of 1914. This great act gave the right of jury trial to defendants in labor-injunction cases. There were those who bitterly opposed the rising labor unions, and who charged that Congress, in the Clayton Act, had violated the separation of powers and the inherent powers of the courts and the immemorial usage of the common law.

Frankfurter and Landis, in a heavily documented article, showed how little substance this argument contained.

While some of our opponents now have a limited jury trial amendment of their own, we may again hear the old argument that Congress cannot constitutionally guarantee jury trial in contempt cases.

The answer, as written by Mr. Frankfurter and Mr. Landis, is found in the Harvard Law Review.

I wish to read an excerpt from the article which comments on the matter of contempt and contempt proceedings, and the abuse of the power of a judge to impose punishment for contempt. I wish to read the section which I think is of historic importance, and one which has a direct bearing on the subject before us. I read from page 1024 of the Harvard Law Review of June 1924:

> There was abuse. A succession of grievances against the exercise of arbitrary judicial power culminated in the proceedings of impeachment against James H. Peck, a judge of the Federal District Court for the District of Missouri. The dramatic outlines of the story are well known. But the significance of the case to the subsequent Federal law of contempt lies in the details of its history—the circumstances of the impeachment proceedings, the consideration given to the law of contempt in the course of the arguments at the trial, its repercussion upon the legislation of the country. Judge Peck imprisoned and disbarred a lawyer for publishing a detailed criticism of an opinion while an appeal from him was pending. After the fullest consideration, articles of impeachment were presented by the House of Representatives, and Judge Peck was put to trial before the Senate. Peck's conduct was defended chiefly upon his good faith in following what purported to be the stanch precedents of the common law. These were decisions which Lord Coleridge 15 years later thus characterized: "There are many cases in the older digests and abridgments on this subject, undoubtedly of a severe and stringent nature, and such as would ill bear to be applied in the present day." This defense, doubtless considerably reinforced by humane considerations, accentuated in this instance by the judge's age and blindness, saved the day for the judge. He was acquitted, but 21 out of 43 Senators pronounced him guilty.

Mr. President, I quote from an article written by Justice Felix Frankfurter and Mr. James M. Landis and published in the Harvard Law Review of 1924. Still later, Justice Frankfurter was on the bench of the Supreme Court and participated in the Green case.

Mr. Justice Frankfurter wrote a separate, concurring opinion; and in it he said:

> Decisionmaking is not a mechanical process, but neither is this Court an originating lawmaker. The admonition of Mr. Justice Brandeis that we are not a third branch of the Legislature should never be disregarded. Congress has seen fit from time to time to qualify the power of summary punishment for contempt that it gave the Federal courts in 1789 by requiring in explicitly defined situations that a jury be associated with the court in determining whether there has been a contempt. See, e.g., 18 U.S.C. 3691; *Civil Rights Act of 1957*, 71 Stat. 634, 638, 42 U.S.C.A. 1995. It is for Congress to extend this participation of the jury, whenever it sees fit to do so, to other instances of the exercise of the power to punish for contempt.

In that opinion, he adhered to his original view that it was a congressional matter, and that Congress can certainly act constitutionally in regard to it.

I read further from the article which was published in the Harvard Law Review:

> In his closing argument Peck's chief counsel, the great William Wirt, told the Senate that "if the law (of contempt) as it stands be disapproved, it is in the power of Congress to change it." Peck was acquitted on January 31, 1831. The very next day, February 1, 1831, Congress set in motion the process to change it. On that day the House, without a division, directed its Committee on the Judiciary "to inquire into the expediency of defining, by statute, all offenses which

> may be punishable as contempts of the courts of the United States, and also to limit the punishment of the same." In compliance with this resolution the Committee on the Judiciary, through James Buchanan—who had had charge of the prosecution against Peck, promptly, on February 10, brought in a bill, "declaratory of the law concerning contempts of court." On February 28 the bill passed the House. On March 2 it was reported by Webster from the Senate Committee on the Judiciary. On the same day the measure received its final form in both Houses, was approved by the President, and became law. The powerful legislative influence generated by Peck's trial did not exhaust itself in Congress. So deeply did the Peck case stir the country that State after State copied the new Federal law.

I shall not read all of the statute, but I wish to read the pertinent part at this time. It reads:

> That the power of the several courts of the United States to issue attachments and inflict summary punishments for contempts of court, shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance of any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

In other words, what Congress was doing by formal action was to confine the exercise of punishment by the Federal courts of the United States for contempt to the small group of cases where the offenses were committed in the presence of the court or so near to it as to obstruct the administration of justice, and to misbehavior of an officer of the court, or disobedience on the part of an officer, party, juror, or witness in an action pending before the court.

I submit that is a good rule. If we have departed from it, it is bad; and certainly we ought not to depart further.

The article from which I have read is, in my opinion, the answer to the argument that Congress has no power to regulate the contempt powers of the courts. This argument was demolished when the Clayton Act of 1914 was held to be constitutional.

As we discuss the legal implications of this proposal, let us remember five clear truths:

First. The bill—and now I speak of the composite bill, which in the past I have referred to as an ominous omnibus bill—is an attempt to evade trial by jury.

The injunction has a long and honorable history as a means of enforcement, and we have written injunctive powers into many kinds of law.

The injunction is a useful tool in certain closely defined circumstances. But it has never before been used to insure convictions—to insure that Americans will go to prison—because juries seemed undependable.

If we are to say by the bill that juries are not going to enforce the law, must we not conclude that juries will refuse to do their duty in any case? Is this not, in essence, a fundamental attack on the jury system?

If we have reached a point at which juries will not observe their oaths, then the whole concept of trial by jury is under question. Some of the Senators here seem to be persuaded that juries cannot always be relied upon to provide justice to our citizens in voting cases. I ask them: Whose justice?

In this country, our definition of justice itself is firmly founded upon the concept of a sworn jury with full discretion to convict or acquit, to hold liable or not liable for damages. If we are to say that justice does not reside in the jury, where then does it reside? In the Attorney General? In the President himself? This would seem a dangerous reversion to very old and evil ideas that one person can tell the rest of his countrymen what is best for them, and what is right for them.

Whose justice shall we enforce? The justice that may be manufactured in haste in the House Judiciary Committee? Are we going to encourage some sections of our country to produce justice for export—to develop law suitable to their own conditions, and then to force the application of that law elsewhere?

If we wander from the jury trial, upon which all our system of prosecution is based, then we shall have done basic damage to our common inheritance of civil justice.

Let me ask Senators to consider another point. If juries will not enforce the law in civil rights cases, what reason is there to think that juries will support the law in any case? To be consistent, should we not introduce the fiction of civil proceedings and injunctions into the law of assault and murder?

In my State, and I am sure the same is true in other States, it sometimes happens that a crime is committed. In my State, some of the citizens are white and some of the citizens are colored. Consequently, sometimes there are crimes which involve both races. These crimes are then prosecuted before a jury.

Has our enforcement of the law been so weak, have our juries been so biased, in these cases, that Senators have concluded that we in Alabama do not keep the law? We know that this cannot be said.

The logical extension of the bill is to extend this fiction of civil action, with its injunctions based on the suspected intentions of the person enjoined, to all manner of crimes, so that no case need be brought before a jury.

If we begin to deprive the citizen of responsibility and duty in one area of criminal enforcement, we will hardly improve his ability to uphold his responsibility and duty in other areas. The law is all of a piece, and it cannot be damaged here without unwittingly damaging it there.

It took us and our English forebears many centuries to wring the right of jury trial out of a succession of despots. Now we are actually considering the enactment of a law to demolish a part of this right, merely because history is not moving in a manner which suits the advocates of the bill.

My second point has to do with the long and bitter history of the injunction in our American law.

I intend to go into this history at some length, for it is sowed with incidents and with legal cases which seem to have been forgotten here. Before I begin this review, I wish to point out some of the lessons contained within it.

There has always been an area of overlap between acts punishable summarily as contempts, and acts indictable as crimes.

No one doubts that an American court has a right to punish contempts committed in the face of the court, where they interrupt the work of the court, as I have repeatedly said. Nor do I doubt that the court has a right to punish contempts committed outside the immediate vicinity of the court, where they constitute a threat—a clear and urgent threat, the courts have held—to the administration of justice.

But Congress, the courts, even the Supreme Court itself, has repeatedly condemned the practice of using injunctions to punish acts otherwise punishable through the regular processes of the criminal law.

When Congress first began writing laws, the danger of the "overlap" was not foreseen. Over the years, however, we have grown wiser. This wisdom, which sees injustice in any attempt to replace normal prosecutions with summary trials, has brought into being the contempt laws now in effect. It has caused the writing of many decisions in which the courts themselves have narrowly restricted the right of a judge to inflict summary punishment.

Here again, for the second time in 7 years, the second time in the history of Congress, we are actually proposing to expand the area of "overlap." We are actually proposing to require the courts to punish summarily acts which, traditionally, have been criminal offenses in which the defendant has full access to his rights.

If a foreigner were to listen to all the oratory which has been produced in support of this bill, he would think that the United States had no laws to prevent tampering with voting lists.

Yet anyone who hears or reads what I say, knows that there is already great power at the disposal of the Attorney General to enforce justice at the polls. There are criminal statutes providing severe penalties for tampering with voting records, miscounting votes, and for unlawfully depriving citizens of their right to vote. These statutes are firmly founded upon the Constitution itself.

If our law already provides such powerful remedies for the alleged wrongs, why then is it necessary to introduce this peculiar injunction procedure?

Part of the reason, it seems, is that some who favor the bill appear to be more interested in effecting great change for political purposes, rather than in the long-term prospect for mollification of our great nationwide race problem. This greedy impatience will do only damage to the legal limitations carefully built up around injunction proceedings, for here Congress will be running counter to its historic position. Congress, in the past, as I pointed out a few minutes ago, has always opposed the use of summary proceedings where the law provides jury trials. To break this tradition now might throw into great question the applications of these limitations against other misuses of the court's summary powers.

In the past, Congress and the courts together have increasingly narrowed the area within which a judge may punish for contempt. They have steadily reduced the types of indictable crime which may be punished as contempt with none of the safeguards imposed in normal prosecutions.

The bill before us, if passed, would reverse this progress and would confuse principles which now are clear to court and defendant alike.

My third point also reflects a historic trend in the law of contempt in the United States. This trend was accentuated, rather than reversed by the April 6 Supreme Court decision in United States against Barnett. In his dissenting opinion, Justice Black pointed out that the opinion of the majority, while denying a jury trial in the particular case, contained language that provided a "hopeful step" toward jury trials for those charged with criminal contempt.

Justice Black said:

> In *Green* (*Green* v. *U.S.* 365 U.S. 165) the Court affirmed a 3-year sentence imposed for criminal contempt. But now in note 12 of its opinion in the present case, the Court has inserted an ambiguous statement which intimates that if a sentence of sufficient "severity" had already been imposed on these defendants, a majority of the Court would now overrule *Green* in part, by holding that if a criminal contempt charge is tried without allowing the defendant a jury trial, punishment is constitutionally limited to that customarily meted out for "petty offenses." I welcome this as a halting but hopeful step in the direction of ultimate judicial obedience to the doubly proclaimed constitutional command that all people charged with a crime, including those charged with criminal contempt must be given a trial with all the safeguards of the Bill of Rights, including indictment by grand jury and trial by jury.

The best scholars in this very complicated field have increasingly urged jury trials in some types of contempt, especially in those types loosely known as criminal contempts. The law upon this point is still unclear, but we can see this idea growing if we go back through the cases and the law review articles of the last several decades.

Throughout the history of American law, it has been the liberals in Congress who have led the way in restricting narrowly the court's powers to punish for contempt through summary trial. More recently, these liberals have led the battle toward requiring jury trials in certain kinds of contempt cases.

Now, at last, the scholars and indeed the courts themselves are beginning to question the wisdom of trying any criminal contempt cases without a jury.

I should have thought the libertarians among us would greet this new trend with great gratification.

But a rule of jury trials in contempt cases would threaten the legal steamroller which would be constructed under the bill to enforce a system of injunctions directed from Washington.

It is tragic to see our liberal friends in the position of supporting a bill which would contradict the traditional liberal position on summary handling of injunction cases. It is tragic that these legal doctrines, supported by the great liberals of our history, now are imperiled by the bill which is proposed.

Do Senators not see the perilous confusion into which the bill would lead them?

In order to force one region of the Nation into conformity with their ideas of justice, they are attacking principles of Federal law which were developed only with great difficulty over a period of many years.

Increasingly, we find judges and legal scholars referring to a need for a stated right of jury trial in criminal-contempt cases. Yet here, in this one careless bill, we would clearly express a congressional intention that this right never be achieved.

We would demonstrate the will of Congress that the law of contempt be carried into fields where it was never designed to go, and that summary trial become the established weapon through which to punish those who do not agree with the racial views of whatever administration might be in power.

This leads me to a fourth point. Much of the law of contempt as it now stands, and most of the meaningful limitations on summary trial, come directly from two areas: labor strife and the publication of writings held to be in contempt of court.

Much contempt law also comes from fields like domestic relations, where alimony payments are involved, and much of it comes from liquor cases. I do not think that I need persuade very hard to show the Senate that this kind of case is very far afield from the bill now under debate.

It should be equally clear that the injunction in an antitrust case is not a precedent for an injunction in a civil rights case. There has been a certain amount of argument that, because injunctions have proved useful in certain kinds of commercial regulation, they will solve all our most profound and emotional political issues.

Surely, every Senator understands that it is specious reasoning to compare an antitrust case with the kind of action now being proposed.

To find a historical analogy for the kind of action contemplated here, we must go back to the labor cases of the late 19th and early 20th centuries. Only by remembering the bitterness and violence of labor strife in those years, and the fierce public resentment of the Federal courts and their injunctions and their summary trials, can we truly foresee the results of this bill.

It is strange to think that many Senators who stand up stoutly for the rights of labor, and who take great pride in the accomplishments of the labor movement, should take the other side in this situation which is legally so close a parallel.

It is strange to think that many Senators who stand up stoutly for the rights of free speech and a free press have had so little to say here. Surely those who are lawyers know how many cases of contempt by publication are on the books.

The contempt power of the judge in publication cases has been sharply reduced in the last two decades. Now he must find a clear and present danger to the administration of justice before he hails the offending editor or speaker into his courtroom. Yet there continue to be such cases; and in such a deep social question as the race issue, it will be easier for a judge to see such danger, perhaps, than in the ordinary run of equity suits.

When court injunctions get involved in the local registration of voters, the judge himself is going to get involved in local politics. The injunction will become an issue in our political campaign, and so will the purpose to which the injunction is put.

Yet, if a candidate criticizes that injunction, or the manner in which its author uses it, does not that candidate stand in contempt of court? If the criticism seems calculated to interfere with fulfillment of the injunction, could not the critic be committed to prison?

Politics is public policy, and there is no issue of public policy more important than that which some now propose to solve with Federal injunctions. Should this area of politics then be above criticism, because the dignity of a Federal judge lies behind the injunction?

The shadow of these injunctions will spread over all the processes of our local and State political systems.

The threats to free speech, and to the right of a free press are so obvious that I am filled with wonder that my northern friends, ordinarily such jealous guardians of these rights, have not had anything to say on this matter.

Suppose the editor of any newspaper, however small or large, wishes to comment upon the way an injunction is being used in his city and county. I do not have to confine my comment to the editor of a newspaper; suppose a columnist or a newspaper reporter comments in his news item on the manner in which some matter has been handled by a judge, and suppose the comment is one which the judge does not like. Can the editor or columnist or reporter comment freely, as, according to our political ideals, he has the right and even duty to comment? Or must he walk warily, so as not to disturb the temper of the Federal judge of the district? I expect that the judge would not be in a very good temper to begin with, upon finding that Congress had passed a law promoting him to the high rank of precinct captain general for every precinct in his district.

If public debate is to become a matter of walking softly around a legal device, then a great change will necessarily take place in our political system; and that change will not be for the better.

There will also be a great change in the nature of Federal justice and the place occupied by our Federal judges.

My fifth point deals with this. It has been our custom in the United States, and a very good custom indeed, to let the law be the crystallization of the American consensus. Law is the formal expression, traditionally, of the social beliefs of our people.

Politics differs from law in that politics is the arena within which we hammer out the issues. Where we have reached consensus, we can enact laws that will stand. Where we enact laws that are not the result of consensus, then inevitably we draw the judges into politics.

This has happened occasionally in the history of our country, and in every case it has damaged the effectiveness and dignity of the courts. Is there anyone who does not think that will happen should the present bill be enacted?

This bill does not represent the American consensus. It represents the efforts of one part of the Nation to enforce upon another a superficial view of justice, despite earnest warnings that it will work disastrous damage to the progress currently being made.

If the Federal judges are to be made the agents of this disruptive policy, the first result will be grievous damage to the judges' prestige as objective and disinterested arbiters. If Senators think I exaggerate, let them look again at the history of the great labor unions. Look at the effects of their struggles with Federal courts too deeply concerned with property rights and insufficiently concerned with any other kind of rights.

Many Senators will recall the long discussion of the subject of jury trials in the debate on the civil rights bill of 1957. During one of my speeches then, a colleague serving at that time pointed out that southern judges would try cases under this bill and that, of course, an Attorney General could be impeached if he abused his discretion.

I responded then:

> I hope the Senator from Colorado will never arrive at such a point that, regardless of what he thinks of the judges, he is willing to place in their hands the trial of facts in any case. Our forebears were not willing to do that.
>
> I know Federal judges who are my close personal friends. I would risk anything with them, but, at the same time, the time-honored tradition of our system of justice is that a man who is accused of some criminal act is entitled to have a jury of his peers pass upon it. It is not referred to one man, but there must be a composite of the whole jury. There is a tremendous difference there.
>
> By the way, because so much of my time has been taken, I am not going to read today, but I hope sometime in the course of this debate perhaps to speak again and to read at that time, an article which quotes a great many of our very finest people, the leaders back in the early days of our Government, great judges themselves, who expressed their implicit confidence in the jury system as being a superior system to any other system ever evolved.

I continued:

> I hope the Senator will keep in mind that I have been trying to point out the grave danger of the tendency to get away from jury trials. It is not important only in regard to this case.
>
> As a matter of fact, the president of the American Bar Association, who spoke in Texas a few days ago, felt called upon to make some comment on the matter. I am sorry I do not have the clipping here, but perhaps the Senator observed the article in the newspaper. The distinguished Senator from North Carolina, I believe, made reference to it on Monday. It can be found in the CONGRESSIONAL RECORD.
>
> The president of the American Bar Association, who comes from a Northern State—Pennsylvania, I believe—called attention to an apparent concerted drive in this country to lessen the utilization of the jury system, and he condemned it strongly. He gave good reasons why the jury system should be sustained.
>
> I remember that old saying we were taught in the law school, dating back, I guess, to the days of Coke:
>
> "It were better than 99 guilty should go free than that 1 innocent should be punished."
>
> The jury system sometimes will make mistakes, undoubtedly, we believe, but it is the best system that has been found yet.
>
> By the way, I should like to say also that while people talk about civil rights, the No. 1 civil right in this country today is the right of trial by jury. When one loses that right one has lost the keystone of his civil rights.
>
> I, for one, am not going to participate in an assault on any part of that right. I believe in it. I believe we ought to maintain it. I do not believe we ought to be flirting with any such provision as is carried in this bill.

Subsequently, I engaged in a colloquy with my colleague, the senior Senator from Alabama. The exchange is most appropriate to the present debate; and I quote it:

> Mr. HILL. Under the bill, could there not be a situation in which the judge himself would make the law, so to speak, and then he would prosecute, and then he would construe and interpret the law, and then he would render the decision as to the guilt or innocence of the person involved, and then the judge would proceed to fix the punishment of the person whom he had found guilty?
>
> Mr. SPARKMAN. The Senator is absolutely correct. No matter how able a judge may be, after all, he is human. My argument is that it is better to rely on our system of trial by jury.
>
> Mr. HILL. Under the system of trial by jury, the judge has the benefit of the wisdom, experience, and sense of justice and fairplay of the 12 members of the jury; is that not correct?
>
> Mr. SPARKMAN. The Senator is absolutely correct; and I think he will agree with me, from his long experience and his long observation of court procedures that the average judge would prefer to have a jury determine the facts. The judge discharges his responsibility by interpreting and applying the law; but the normal juge would want a jury in every case in which a question of fact was involved.
>
> Mr. HILL. A jury which would determine the facts, and then would take the law as the judge would give it to them. Then the jury would make the application of the law to the facts, as the jury had found the facts to be.
>
> Mr. SPARKMAN. Of course the Senator is correct.
>
> Mr. ERVIN. Mr. President, will the Senator from Alabama yield to me?
>
> Mr. SPARKMAN. I yield.
>
> Mr. ERVIN. I wish to ask a question along the same line. In our law there is a fundamental rule that no man shall be the judge in his own case. I should like to point out that a procedure such as the one proposed by the bill would make the judge in a sense—as the senior Senator from Alabama has pointed out—the writer of the injunction, the interpreter of the injunction, the prosecutor, the jury, and the punisher of the person charged with disobeying the order issued by him. So I ask the Senator whether the bill does not, in spirit, at least, violate the fundamental rule that no man shall be the judge in his own case?
>
> Mr. SPARKMAN. The Senator from North Carolina is absolutely correct.
>
> The bill, with all its implications, violates the very fundamentals of our system of justice, which has as its keystone—as I stated a little while ago—the right of trial by jury; and that is bolstered by two other rights; namely, the presumption of innocence until found guilty, beyond a reasonable doubt, by a jury of one's peers; and the right to be confronted by the witnesses who testify against the accused. I judge them to be the foundation stones of our judicial system. But this bill would do grave injury to all of them.
>
> Mr. HILL. Mr. President, will my colleague yield further to me?
>
> Mr. SPARKMAN. I yield.
>
> Mr. HILL. Of course in the ordinary criminal case, under our judicial system, as we have known it, and as that system has been bought and paid for by the blood, struggles, and sacrifices of freemen through the centuries, there is also the right first to be indicted by a grand jury and to have a grand jury consider the case.
>
> Mr. SPARKMAN. Yes. As a matter of fact, I have made the point that the use of the grand jury predated the use of the petit jury by about a century before Runnymede.
>
> Mr. HILL. The Senator has brought out that point very effectively in his remarks today. The grand jury came first.
>
> Mr. SPARKMAN. Yes.
>
> Mr. HILL. It was followed by the petit jury. First, a person is charged by a grand jury, and then he is tried by a petit jury.
>
> Mr. SPARKMAN. That is correct.
>
> The proponents of the bill are trying to base it upon equity proceedings. However, equity did not develop until long afterward; and it developed to apply only to cases where no relief was to be found in law. But in the present case, every single one of the supposed offenses can find relief in law. There is a writ that goes to every one of them.

Mr. President, in order to appreciate the seriousness with which the framers of our Constitution approached the requirement for jury trials, we have the opportunity to consult Madison's notes. From the debates in the Federal Convention of 1787, as reported by James Madison in the "Volume of Documents Illustrative of the Formation of the Union of the American States, 69th Congress, 1st Session, House Document No. 398," page 716:

> Mr. Williamson observed to the House that no provision was yet made for juries in civil cases and suggested the necessity of it.
>
> Mr. Gorham (Massachusetts). It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.
>
> Mr. Gerry (Massachusetts) urged the necessity of juries to guard against corrupt judges. He proposed that the committee last appointed should be directed to provide a clause for securing the trial by juries.
>
> Colonel Mason (George Mason of Virginia) perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, and would second motion if made for the purpose. It would give great quiet to the people; and with the aid of State declarations a bill might be prepared in a few hours.

The above notes of James Madison give a background to what later became the seventh amendment providing the right to trial by jury in civil cases. The notes point out that the people were clamoring for jury trial rights. They also point out that the right to trial by jury in our Federal Constitution originated in part as a safeguard against corrupt judges.

Through more than a century, our Nation has generally been blessed with Federal judges of a high caliber. However, we should never forget the admonitions and the concern of the founders of our Nation who were concerned that all judges might not always be honorable or prudent men. In order to prevent any possibility of abuses by judges in these matters, we should honor the wishes and directions of the Founding Fathers and establish clearly that there should be a jury trial on all contempt citations that might grow from any act containing the vast powers which would be given under the pending bill, H.R. 7152.

Mr. President, these, then, are my five reasons for opposing the injunction provisions of this bill; let me summarize them:

First, the bill represents an attempt to evade the defenses provided to defendants under our law, and subverts the concept of responsible juries.

Second, the bill attacks the doctrine that acts otherwise indictable as crimes ought not be punished by summary proceedings.

Third, the bill runs counter to the growing body of authoritative opinion that jury trial should be available to defendants in criminal contempt cases.

Fourth, the bill would have among its indirect effects a threat to free speech and a free press.

Fifth, the bill would, in its enforcement, do great damage to the Federal judicial system.

Mr. TALMADGE. Mr. President, at this point, will the able Senator from Alabama yield?

Mr. SPARKMAN. I am glad to yield to the Senator from Georgia.

Mr. TALMADGE. I desire to express my appreciation and what I believe should be the appreciation of the entire country for the able, learned, scholarly, logical, eloquent, and forceful speech the Senator from Alabama has delivered, in favor of what, in my opinion, is the greatest civil right Americans have—namely, the right of trial by jury.

I wish to ask this question: Is not the most dangerous and most significant provision of the entire bill, in any of its 11 titles, the one which would deprive American citizens of the right of trial by jury?

Mr. SPARKMAN. That is correct.

Mr. TALMADGE. Does the Senator from Alabama think the civil rights of any of our citizens would be enlarged by denying the greatest right which Americans possess—namely, the right of trial by jury—to all our citizens?

Mr. SPARKMAN. Certainly not. As the Senator from Georgia knows, I have already dealt at length with the Bill of Rights—the first 10 amendments to the Constitution; and I have said they are really the basic charter of the civil rights of all Americans. I have pointed out—and it cannot be emphasized too much—that of the first 10 amendments to the Constitution, which constitute the Bill of Rights, 3 of them deal with the right of trial by jury, and secure to the people of the United States something the people of all the original States insisted upon before they would even think of ratifying the Constitution.

Mr. TALMADGE. The real civil rights in the first 10 amendments to the Constitution are really prohibitions of Federal power, are they not?

Mr. SPARKMAN. That is correct.

Furthermore, in referring to the right of trial by jury, I wish to read briefly from article III of the Constitution itself.

> The Trial of all Crimes—

Not a single crime or a single criminal proceeding of any kind is there omitted or exempted; that provision is set forth in the body of the Constitution itself, and it states:

> The Trial of all Crimes—

Not "all criminal proceedings except criminal contempt cases;" but it states:

> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury.

Mr. TALMADGE. Criminal contempt is a judge-made crime, is it not?

Mr. SPARKMAN. Yes. Although I do not recall that I ever looked in Webster's dictionary to find the definition of the word "crime"—I may have done so when I started to study at law school, although I doubt that I did, because the word "crime" is one in common usage—I would be willing to state that one definition of the word "crime" is "an offense which would invoke a criminal penalty."

Mr. TALMADGE. There could not be a better definition of the word, because that is really what it is.

Mr. SPARKMAN. In my opinion, that is also the meaning of the words "criminal case:" and article III of the Constitution states:

> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury.

And the sixth amendment provides—and we recall that a similar provision is to be found in three different amendments of the Bill of Rights; 3 of those 10 amendments deal with the right of trial by jury:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

In my opinion, the use of the word "all" in each of those amendments is most significant. It means that there shall be no exception; it means that there shall be the right of trial by jury in connection with the prosecution for any offense which would call for a penalty of imprisonment or the imposition of a fine.

Mr. TALMADGE. In fact, our forefathers valued so highly the right of trial by jury that in the Constitution they even provided for it in civil cases, if the value in controversy was in excess of $20, did they not?

Mr. SPARKMAN. Yes; that is provided in the seventh amendment to the Constitution.

Earlier today, I read a considerable part of the Constitutional Convention proceedings, including the notes kept by Randolph, and others—some of whom favored the Constitution, and some of whom were opposed to it; and I showed that they were very much concerned about the trial of civil cases. As a result, they insisted that the Constitution provide that in every civil case where the value in controversy exceeded $20, the defendant would be entitled to a trial by jury; and that provision was written into the seventh amendment to the Constitution.

Mr. TALMADGE. I thank the Senator from Alabama. He has made a great contribution to the defense of the rights of all Americans.

Mr. SPARKMAN. I thank the Senator from Georgia.

Mr. President, I have enjoyed making this presentation.

In summation, I wish to state that I believe—as was so well stated by the Senator from Georgia—that the right of trial by jury is perhaps the greatest civil right that American citizens are guaranteed.

I meant to state a while ago, in replying to the questions the Senator from Georgia asked, that the people of the Original States believed so strongly in the right of trial by jury that its denial by the English King was made a large part of the justification for the Revolutionary War.

The Declaration of Independence pointed out in effect, that "the King has denied to us the right of trial by jury. He has not allowed us to be tried in our own localities. He has moved us to other places. We have not been able to be confronted by our accusing witnesses."

Mr. TALMADGE. That Declaration was written by Thomas Jefferson, who is the patron saint of the Democratic Party, was it not?

Mr. SPARKMAN. Absolutely. I am a Democrat, and I like to believe that we still retain those beliefs.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. I yield.

Mr. STENNIS. I commend the Senator for the very fine manner in which he discussed the important pending question.

Mr. SPARKMAN. I thank the Senator from Mississippi. He has been helpful throughout.

I yield the floor.

## GOVERNMENT'S OIL-SHALE INSTALLATION LEASED FOR INDUSTRY RESEARCH

During the delivery of Mr. SPARKMAN's speech,

Mr. ALLOTT. Mr. President, will the distinguished Senator yield to me for the purpose of making a short statement, with the provision that the statement be inserted at the conclusion of his remarks, or some other appropriate place in the RECORD, and with the further understanding that the Senator not lose his rights to the floor, and that any remarks he may subsequently make shall not constitute an additional speech?

**Mr. SPARKMAN.** Mr. President, how long will the statement take?

**Mr. ALLOTT.** Not to exceed 5 minutes.

**Mr. SPARKMAN.** It is understood that in yielding such time to the Senator from Colorado, as he may need to complete his statement, I yield with freedom of motion on my part, that I may leave the Chamber and still be entitled to the floor.

The **ACTING PRESIDENT** pro tempore. With that understanding, without objection, the Senator from Colorado is recognized.

**Mr. ALLOTT.** I thank the Senator from Alabama, who is always genial, courteous, helpful, and anxious to accommodate his friends.

Mr. President, an event of great importance to the economic future of the United States occurred this morning. On April 29, the President of the United States sent a letter to the Secretary of the Interior, authorizing him to sign and approving a proposed lease agreement between the United States of America and the Colorado School of Mines Research Foundation for the leasing of the Anvil Points experimental and demonstration facilities near Rifle, Colo.

These facilities are leased primarily for the purpose of conducting research to develop a commercial and economical process for extracting oil from the great shale deposits of Colorado, Wyoming, and Utah.

My distinguished colleague, the Senator from Colorado [Mr. Dominick], has also been interested in this matter for a long time; and together with the senior Senator from Colorado, and the Representative in Congress from the Fourth District of Colorado [Mr. Wayne Aspinall], we have followed this matter on literally a day-by-day basis for many months.

This means that at least two companies—Socony Mobil Oil Co., and Humble Oil Co.—will finance the research which will be conducted by the School of Mines Research Institute. In order to belay any question of unfair opportunities or any similar question, any person in the United States may join in this research venture at any time within the next 6 months on an equal participating basis. This being so, no question of any kind of individual preference for anyone should ever arise.

In terms of national importance, this announcement means that if a more economical method than now exists can be developed—and we are pretty close to its development now—we shall be able to unlock from the high-grade reserves of Colorado alone more than 800 billion barrels of oil. When we compare 800 billion barrels of oil with the some 70 billion barrels of oil from liquid petroleum deposits which have been discovered and used in this country to date, we begin to obtain some idea of the magnitude and importance of this development.

This is an objective toward which the entire Colorado delegation, as well as the Utah delegation, and the Wyoming delegation have worked for many years.

Mr. President, I ask unanimous consent to have printed at this point in the Record a copy of a letter from the President of the United States to the Secretary of the Interior.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 29, 1964.

Dear Mr. Secretary: Pursuant to the provisions of the act of October 11, 1962, Public Law 87–796 (76 Stat. 904), I hereby approve the proposed lease agreement between the United States of America and the Colorado School of Mines Research Foundation, Inc., for leasing of the Anvil points experimental and demonstration facilities near Rifle, Colo. Nothing contained in the lease agreement as approved, nor in my approval of it, shall be considered as relieving any person, including the parties to the lease agreement or any related contract or agreement, from the operation of the antitrust laws in connection with any act or omission to act pursuant thereto.

It is my understanding that the Research Foundation and the companies associated with it in this research program will make every effort to assure the widest possible participation by others in the conduct and benefits of this program. Any party who can demonstrate that it has sufficient financial resources and ability to discharge its obligations under the research agreement, may join in the initial program within 6 months. To help carry out this intent, I hope the parties will inform the Secretary of the Interior of all applications made for participation in the initial program. This will insure that all persons have an equal opportunity to participate on an equitable basis in the conduct of the program.

In addition, it is my understanding that patents involved in or growing out of this research program will be made available to eligible persons on payment of a reasonable royalty.

Sincerely,

Lyndon B. Johnson.

**Mr. ALLOTT.** Mr. President, I also ask unanimous consent to have printed in the Record a release by the Secretary of the Interior. In it, he specifically points out that the 5-year lease is with the Colorado School of Mines Research Foundation, Inc., and that other parties who may wish to participate in the research may do so if they wish.

There being no objection, the release was ordered to be printed in the Record, as follows:

### Government's Oil-Shale Installation Leased for Industry Research

Secretary of the Interior Stewart L. Udall said today that the Government's experimental oil-shale mine and retorts at Anvil Points near Rifle, Colo., soon will be reactivated for intensive research by private industry to perfect the technology needed in producing oil commercially from the Nation's vast western shale deposits.

Secretary Udall announced his signing of an agreement under which the Colorado School of Mines Research Foundation, Inc., acquires a 5-year lease to the Anvil Points installation, which has been maintained in standby condition by the Department of the Interior's Bureau of Mines since 1956 when Federal oil-shale research there was recessed.

The foundation, in turn, has contracted with Socony Mobil Oil Co., Inc., to perform research at Anvil Points for Socony, Humble Oil & Refining Co., and other parties that may wish to enter a cooperative research agreement just concluded by Socony and Humble. Both firms announced that they will welcome additional participants in the program, which is planned to include studies in mining and crushing oil shale, as well as pilot and large-scale experiments in retorting.

Under the leasing agreement, just approved, the foundation will have the use of an experimental oil-shale mine, crusher, retorts, and related facilities, as well as housing for employees.

Scheduled at the outset is an investigation to be concluded in two stages, each of 18 months' duration. Stage 1, estimated to cost $2 million, will comprise relatively small-scale studies with 6-ton and 25-ton retorts used by the Bureau in its earlier research. This work will be done to establish process variables and to define as precisely as possible several potential operating problems. Stage 2, with an estimated cost of $3 million, would be undertaken only if an evaluation of stage 1 indicates that it is warranted.

The second stage would encompass large-scale experiments in retorting and possibly some mining research. Although work has not been programed for the last 2 years of the initial 5-year lease, the foundation would be able to contract for additional studies with the same firms or with others, provided such contracts were in accord with the terms of the leasing agreement.

The leasing agreement also contains an option for a 5-year extension, with the approval of the Secretary of the Interior. It also stipulates that the Government can have observers on the site of all times and will be given access to all data developed under the agreement. In addition, the Government receives the right to use—and to disclose 3 years after termination of the research program—any patentable developments in oil-shale mining, crushing, and retorting. The parties also agree to grant licenses on such patents to responsible applicants at reasonable fees.

Comprising what is known as the Green River Formation in parts of Colorado, Utah, and Wyoming, the western oil-shale deposits are estimated to represent more than a trillion barrels of recoverable oil. Pioneering research on producing oil from shale was performed at Anvil Points by the Bureau of Mines between 1944 and 1956. Since the installation was placed in standby status, the Bureau has carried on a program of laboratory research on oil shale at its Laramie, Wyo., Research Center.

Secretary Udall explained that his leasing of the Anvil Points installation is in accordance with the provisions of Public Law 87–796, approved by the Congress late in 1962. That law authorizes the Secretary of the Interior, subject to the approval of the President of the United States, to use the Anvil Points facility or to arrange for its use through leases, contracts, or otherwise with public or private groups or persons. The law provides only for scientific investigations at Anvil Points, not for commercial production of shale oil.

**Mr. ALLOTT.** Mr. President, a part of the release states:

> Both firms announced that they will welcome additional participants in the program, which is planned to include studies in mining and crushing oil shale, as well as pilot- and large-scale experiments in retorting.
>
> Under the leasing agreement just approved, the foundation will have the use of an experimental oil-shale mine, crusher, retorts, and related facilities, as well as housing for employees.

I believe it is important to emphasize that this is not a production contract. It is a research contract.

I read further from the release:

> Scheduled at the outset is an investigation to be conducted in two stages, each of 18 months duration. Stage 1, estimated to cost

$2 million, will comprise relatively small-scale studies with 6-ton and 25-ton retorts used by the Bureau in its earlier research. This work will be done to establish process variables and to define as precisely as possible several potential operating problems. Stage 2, with an estimated cost of $3 million, would be undertaken only if an evaluation of stage 1 indicates that it is warranted.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a statement on this matter which I have issued.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF SENATOR GORDON ALLOTT ON THE SIGNING OF CONTRACTS FOR REACTIVATION OF RIFLE OIL SHALE PLANT, RIFLE, COLO., BY THE DEPARTMENT OF INTERIOR, COLORADO SCHOOL OF MINES, HUMBLE OIL CO. AND SOCONY-MOBIL

Without detracting from the importance of the contract signed today for the reactivation of the oil shale plant at Rifle, let me emphasize that this is just one step along the way. There are other critical matters still to be resolved before we can expect to see the full economic impact of this major new industry.

The reactivation of the Rifle plant simply opens the way for the necessary research to find the most practical and economic means of extracting the oil from the sale in commercial quantities. It is expected that such research might take as long as 2 to 3 years.

In the meantime, the issue of the existing land patents in the area of these deposits must be settled. This may require legislation in light of a recent decision by the Solicitor of the Department of Interior. So, this could take some time also.

And then, there must be a clarification of what the Federal Government's policy on the leasing of public lands must be in order to assure that all interests, the Government's and the lessees, are protected in every possible way. This also could take some time.

Hence, I think we can expect at least a 3- to 5-year period or even longer before Colorado can even start to see a real economic impact * * * but, when it comes, that impact can be dramatic. For * * * in the history of this Nation we have produced and marketed a total of about 70 billion barrels of oil through drilling * * * and, in Colorado alone, reserves in the oil shale lands are estimated at over 1 trillion barrels.

Mr. ALLOTT. Mr. President, truly this is a great forward step in the economy, not only of the West, but of the entire Nation. It offers us an opportunity to provide a petroleum reserve of a size which actually staggers the imagination.

My colleague [Mr. DOMINICK] had to leave the floor for a few moments. I ask unanimous consent that he may have a statement printed at an appropriate place in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, I thank the distinguished Senator from Alabama for his courtesy in yielding.

Mr. SPARKMAN. I thank the Senator from Colorado.

Mr. DOMINICK subsequently said: Mr. President, earlier today, my distinguished senior colleague [Mr. ALLOTT] discussed on the floor of the Senate the new contract which has been entered into by some industrial companies and the Colorado School of Mines Research Foundation and the Bureau of Mines in the Interior Department. He requested and obtained unanimous consent at that time that any remarks I might care to make on this subject might follow his earlier remarks in the RECORD.

I ask unanimous consent that my remarks may follow his.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. The contract which has been entered into is the culmination of an extraordinarily detailed amount of work by the entire Colorado congressional delegation, led by my senior colleague [Mr. ALLOTT], and in conjunction with Representative ASPINALL, in whose district this project is centered.

There has been no activity in the Rifle oil shale plant since 1956. A bill was finally passed, in the closing days of Congress in 1962, under which the Bureau of Mines was given jurisdiction over the plant and the Navy was given jurisdiction over the oil shale reserves that are now at the naval oil shale reserves.

In that bill we provided that every effort should be made by the Bureau of Mines to continue research on the very important oil shale deposits in Utah, Wyoming, and Colorado. The Bureau of Mines started the work and obtained proposals from a number of companies. Delay resulted by reason of the interpretation in the Solicitor General's Office of the Interior Department as to what provisions were to be written in the bill in connection with patents that might be developed in the research.

An extended period was required to produce results. At all times we have had the full cooperation of the Bureau of Mines. I specifically want to thank them for their cooperation in this endeavor. This is one of the most important events that has occurred in the oil shale industry in a long time. If there is success in developing proper techniques for retorting oil which is in the oil shale in such quantities, we shall have taken the first step in developing one of the greatest natural resources in this country.

I am hopeful that the move which was announced this morning by the Secretary of the Interior will constitute a step in the right direction. The second step is making a determination, which can finally be determined by a court, in connection with pending applications for patents on oil shale lands, about which I spoke yesterday or the day before. The other step is the development of a program under which there can be leased portions of the public land to do further work in determining whether or not improvements in development can be made by retorting in place.

This is an extremely valuable resource. More than 1 trillion barrels of oil are estimated to be contained in the enormous oil shale deposits.

Immediately after the announcement of the signing of the contract I issued a release. I ask unanimous consent that the release be placed in the RECORD at this point.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

### STATEMENT BY SENATOR PETER H. DOMINICK ON OIL SHALE AGREEMENT, MAY 1, 1964

I am delighted with the news that at long last an agreement has been reached and signed to reactivate the oil shale plant at Rifle. This culminates a lengthy series of discussions between the Department of Interior and several private industries and will ultimately have a marked effect upon the economy of Colorado. Oil shale deposits in the western region of Colorado are estimated to hold more than 1 trillion barrels of oil. This is the largest known oil reserve in the United States and probably in the entire world. While this agreement is only the first step in developing this fantastic natural resource in Colorado, I am hopeful it will set a precedent which will enable us to more quickly achieve our full economic potential.

Mr. RANDOLPH. Mr. President, I have been intensely interested in the comments of the Senator from Colorado in reference to the further efforts to develop oil shale into gasoline and synthetic liquid fuel uses.

It was my privilege in the 1940's, when a Member of the U.S. House of Representatives, to coauthor with the late and great Senator O'Mahoney, of Wyoming, the Synthetic Liquid Fuels Act.

The oil shale development encompassed in that program was carried forward for a period of many years. The shale deposits yielded oil, but at that time the Department of the Interior was unable to bring into a competitive position the production of synthetic liquid fuels from oil shale to the point where there might be a market commensurate with the market for gasoline produced from oil itself. But tremendous strides were made.

It was my privilege to visit the oil-shale operations in Colorado. It is most important that the development go forward at the present time.

My esteemed colleague from West Virginia [Mr. BYRD] has been very vigorous in his support of the research programs so that coal might be utilized in the production of synthetic liquid fuels.

There are many processes. There are many challenges. I feel that today, by commending the junior Senator from Colorado [Mr. DOMINICK], we shall have been brought once again to the realization that in the State which he represents, along with the senior Senator from Colorado [Mr. ALLOTT], there are deposits which hold great future promise of an industry manufacturing synthetic liquid fuels from the earth.

## VISIT TO THE SENATE BY DISTINGUISHED GOVERNORS OF THE JAPANESE PREFECTURES

Mr. BOGGS. Mr. President, it is my privilege to announce that there are present as our guests today in the Senate galleries a distinguished delegation of Governors of Japanese Prefectures. They are here as they near the completion of an exchange visit with American Governors. Last evening they were received at the White House.

Our guests include: Gov. Ryotaro Azuma of the Tokyo Metropolis Prefecture—coleader; president of the National Governors' Association of Japan; Gov. Yoshio Miura of the Miyagi Prefecture—coleader; Gov. Kingo Machimura of the Hokkaido Prefecture; Gov. Tadashi Chida of the Iwate Prefecture; Gov. Nobuo Yokokawa of the Tochigi Prefecture; Gov. Gon-Ichiro Nishizawa of the Nagano Prefecture; Gov. Yukiyasu Matsuno of the Gifu Prefecture; Gov. Motohiko Kanai of the Hyogo Prefecture; Gov. Jiro Ishiba of the Tottori Prefecture; Gov. Kosaku Teramoto of the Kumamoto Prefecture; and Gov. Hiroshi Kuroki of the Miyazaki Prefecture.

Since arriving in Honolulu April 19, the Japanese Governors have also visited Seattle, Wash.; Boise, Idaho; Salt Lake City, Utah; Kansas City, Mo.; Wichita and Topeka, Kans.; Tallahassee, Cape Kennedy, Sarasota, Fort Lauderdale, and Miami Beach, Fla. Upon their leaving Washington, they will visit Wilmington, Del.; Philadelphia, Pa.; and New York City.

Certain of the Governors will leave New York to go to South America; others will be returning directly to Japan.

This is the second visit of Japanese Governors to the United States and follows the second visit in 1963 of American Governors to Japan. These visitations are in line with a resolution adopted by the Governors' conference at its annual meeting in Honolulu in 1961. That resolution read in part:

> First. The Governors' conference should help to solidify relations between the United States and Japan;
>
> Second. Japan, as the stronghold of democracy in Asia and a great industrial nation, has contributed substantially to the cause of the free world by virtue of its economic growth, stability, and prosperity;
>
> Third. Exchange visits will serve to stimulate the interchange of ideas and the resolution of common problems, and to promote trade, travel, and culture between the various States, possessions, and territories of the United States and the Prefectures of Japan, thus greatly fostering the cause of peace and democracy in the free world.

Mr. President, this is also the second time that I have had the privilege of assisting in extending the hospitality of the Senate to a distinguished group of Governors from Japan. As a former chairman of the National Governors' Conference of the United States, I am pleased to have these opportunities. I should add that the Department of State has been most cooperative in making these exchange visits possible. In conclusion, Mr. President, I should like to say again, as I said on a similar occasion in 1962, that I am convinced that the visits of American Governors to Japan and the visits of Japanese Governors to the United States will greatly increase international cooperation and understanding between our two great countries.

Mr. FONG. Mr. President, will the distinguished and able Senator yield to me?

Mr. BOGGS. I am happy to yield to the senior Senator from Hawaii.

Mr. FONG. I thank the distinguished Senator from Delaware.

Mr. President, I wish to join my able colleague, the able Senator from Delaware, the first State of the Union, in welcoming our distinguished visitors from Japan—our great and growing ally in Asia. It is a particular pleasure for me as the senior Senator from Hawaii, the 50th State, to extend these greetings because the people of Hawaii have had the closest association with the people of Japan. I think it is correct to say that the State of Hawaii has had a longer and closer relationship with Japan than has any other State of the Union.

As the gateway to the United States, Hawaii has been host to visitors from Japan for many, many years. We have extended them the hospitality of our islands, whether the Japanese visitors came as official representatives of their country, as the present group is, or whether they came as tourists, as many of their countrymen are now doing with the recent relaxation on foreign travel by their Government.

In turn, Japan has welcomed with open arms visitors from America. The Japanese people have been most gracious in doing everything they can to demonstrate their friendship for the American people. I myself have been a guest in Japan on several occasions and I can personally attest to the wonderful reception I received.

May I also express my greatest admiration at this time for the tremendous economic recovery that has taken place in Japan.

Only this morning I made a statement for insertion in the CONGRESSIONAL RECORD pointing to Japan as an outstanding example of successful economic development and rapid growth within the framework of a free economy. The occasion for my remarks was the fact that Japan was admitted this week to membership in the Organization for Economic Cooperation and Development, OECD, the first Asian nation to assume this full status.

Japan is the only country in the world where real income per capita has doubled since 1955. It is the only nation which has achieved the highest sustained real growth rate, for a number of years, of any industrialized society.

It is also significant that Japan recently became the 25th of the 103-member nations of the International Monetary Fund to achieve article 8 status, meaning that it will no longer restrict foreign exchange for balance-of-payments reasons.

What is most significant, however, is that Japan has made these strides through free enterprise and under modern democratic institutions.

So it is with a great deal of pleasure that I mention these facts in welcoming our distinguished visitors from Japan today. I wish them a most pleasant and worthwhile stay in our country and, when their visit here has ended, they will return to Japan carrying the warm friendship and respect of Americans everywhere, from Hawaii to Washington, D.C.

I thank the distinguished Senator from Delaware for yielding to me.

Mr. INOUYE. Mr. President, will the distinguished Senator from Delaware yield?

Mr. BOGGS. I am happy to yield to the distinguished junior Senator from Hawaii.

Mr. INOUYE. I thank my colleague. I wish to associate myself with the remarks of the Senator from Delaware and my senior colleague, and to wish our distinguished visitors from Japan welcome to our shores. I say to them "Aloha"—a very sacred word in Hawaii, which means, "hello," "goodby," and "I love you." To our visitors, Aloha.

Mr. BOGGS. I thank the Senator from Hawaii for his comments.

Mr. KEATING. Mr. President, will the Senator from Delaware yield?

Mr. BOGGS. I am happy to yield to the Senator from New York.

Mr. KEATING. Mr. President, I join the Senator from Delaware in welcoming our Japanese friends. Japan has made great strides in free government and economic development. We are proud of the achievements of Japan. We have had our differences with Japan from time to time, as we have had differences with our other free world allies, but we admire what they have accomplished. Their economic and political success should be an inspiring example to other nations around the globe.

We welcome them as our friends in the most gracious way we can and offer them our hospitality.

Mr. SPARKMAN. Mr. President, will the Senator yield to me?

Mr. BOGGS. It is a pleasure to yield to the distinguished Senator from Alabama, who is a ranking member of the Foreign Relations Committee.

Mr. SPARKMAN. Mr. President, I am pleased that we are honored today by the visit from these distinguished gentlemen from Japan. I have particularly enjoyed the remarks made by several of my colleagues. I have been particularly pleased with the remarks regarding the great advance and progress that has been made by Japan in recent years.

I made my first visit to Japan in 1951, when I went there with Mr. John Foster Dulles, who at that time was working on the Japanese peace treaty, under the Truman administration, and with Senator Alexander Smith, who was a distinguished Senator from New Jersey. I was chairman of the Far Eastern Affairs Subcommittee of the Committee on Foreign Relations. Senator Smith was the ranking Republican member of that committee. Mr. Dulles had been entrusted with the job of formulating the Japanese peace treaty.

After attending the peace conference in San Francisco, the three of us went to Japan and spent several weeks there, meeting with different officials and groups with reference to various phases of the peace treaty.

Even though at that time Japan was still suffering from the results of the war, I was pleased to see the vigor and vitality of the people, and, through the people, of the nation.

It has been my privilege to revisit Japan about half a dozen times since then. Each time I have been impressed with the growth, the expansion, the tremendous pace that her industry is setting, and the way her people are progressing.

I join the distinguished Senator from Delaware, a former Governor, and my other colleagues who have spoken in welcoming to the United States this distinguished group of dignitaries from Japan.

As one Senator stated, Japan has become a part of our monetary fund. Moreover, Japan is a part of our OECD. Japan was one of the first nations to extend foreign aid to countries in her particular trade area. She has been most helpful. Japan has been a bulwark for peace ever since the end of World War II. She is a real friend of America.

I have often pointed out that Japan is the second best customer of the United States, exceeded only by Canada, I believe. That would not be true if Latin America were counted as one country; but, so far as individual nations are concerned, I believe Japan is our second best customer.

So far as a product in which I am particularly interested is concerned, cotton, she is America's best customer. I believe that is true of our agricultural products generally.

Japan has become, and I am confident will continue throughout the years ahead to be, a bulwark for peace, progress, and prosperity throughout the free world.

I am pleased that our visitors, who genuinely represent the people of Japan, are here today.

I thank the Senator for yielding to me.

Mr. BOGGS. I thank the Senator for his remarks, particularly since they come from one who has had vast experience, who has traveled widely, who has had much service on the Foreign Relations Committee, and who speaks from firsthand knowledge. [Applause, Senators rising.]

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. MANSFIELD. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the so-called Mansfield-Dirksen amendment, amendment No. 516, as a substitute for the amendment offered by the Senator from Georgia [Mr. TALMADGE] for himself and other Senators, amendment No. 513, with reference to the right of jury trial.

### ANNOUNCEMENT OF POSSIBLE VOTE ON WEDNESDAY, MAY 6

Mr. MANSFIELD. Mr. President, for the information of Senators, and on behalf of the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN] and myself, I express the hope—and we feel that the hope is a valid one—that it will be possible for the Senate to vote on the pending question on Wednesday next. The purpose of making the announcement is to give notice to Senators that such is our intention. We feel very much encouraged that the vote will take place on Wednesday next; and we wanted the RECORD to show that an announcement had been made.

Mr. DIRKSEN. Mr. President, I concur in the hope expressed by the distinguished majority leader. Probably the only other question that ought to be explored would be the hour on Wednesday that we might use as a target for the purpose of reaching a vote. I gather that it should come late in the afternoon of that day.

Mr. MANSFIELD. That would be my assumption at the moment. While we have no way of pinpointing the time, it would be my guess that the vote would be late in the afternoon.

Mr. RUSSELL. Mr. President, I understand the desire of the distinguished majority leader and the distinguished minority leader to have some votes on the pending bill. I perhaps do not share their anxiety to the same degree. But I am sure that we can find some way whereby the Senate can vote, even though this vitally important amendment has not been discussed at the length which its importance would justify.

I wish to say, however, that if there is a question of timing involved, if we have a vote, it may be necessary to call upon the leadership to arrange pairs for one or two Senators who have engagements that will take them out of the city. I should like to have an understanding that if a vote can be reached then, pairs will be arranged for at least the two Senators whom I have in mind who may be compelled to be out of the city.

Mr. DIRKSEN. Mr. President, I assure the distinguished Senator from Georgia that, so far as the minority leader is concerned, I shall be more than glad, since I believe almost everyone knows my views, to provide a pair for whomever the Senator has in mind.

Mr. MANSFIELD. Mr. President, I give the same assurance.

Mr. RUSSELL. I thank the Senators. With that statement, I think the Senate may look forward, unless something unforeseen happens, to an opportunity to express itself on some phases of the pending business in relation to the jury trial amendment. Of course, other amendments may be offered that will require additional votes.

Mr. MANSFIELD. We understand.

The ACTING PRESIDENT pro tempore. What is the desire of the Senate?

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 187 Leg.]

Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Byrd, W. Va.
Cannon
Case
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGovern
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Neuberger
Pastore
Pearson
Proxmire
Russell
Saltonstall
Scott
Smith
Sparkman
Stennis
Talmadge
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

The Senator from Kentucky [Mr. MORTON] is recognized.

## REPORT OF REPUBLICAN NATIONAL CITIZENS COMMITTEE

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. Mr. President, under the same conditions, I yield to the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the Senator from New York is recognized.

Mr. JAVITS. Mr. President, I have made it a practice of introducing into the RECORD various reports issued by the Critical Issues Council of the Republican National Citizens Committee, headed by Dr. Milton S. Eisenhower, and I ask unanimous consent that its report of today on the situation in Cuba be printed in the RECORD, for the information of the Senate.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### NEWS RELEASE FROM THE REPUBLICAN CITIZENS COMMITTEE—NO. 5

The Republican Citizens Committee's Critical Issues Council, headed by Dr. Milton S. Eisenhower, today stated that the administration's Cuban policy has not succeeded and suggested a seven-point program designed to purge international communism from this hemisphere.

"Cuba: An Effective Policy" is the fifth in a series of "critical issues papers" being prepared by the Council to help thoughtful citizens sharpen their judgment on how best to deal with the important foreign and domestic issues facing the United States.

Referring to the October, 1962 missile crisis which has been widely hailed as a U.S. triumph in the cold war, the Council declares: "It is now clear that such optimism was unjustified, that the victory was incomplete."

To document this statement, the Council notes that Cuba is solidly in the Soviet camp, that Castro's bristling military machine is second only to that of the United States in this hemisphere, that agents trained in Cuba are undermining other Latin American governments with subversion and sabotage. The Council also points out that there is no "hard evidence" to prove that offensive missiles have actually been removed from the island or that a strategic buildup has not followed the crisis.

Quoting administration officials to the effect that communism must be removed from Cuba, the Council agrees. But it believes that effective action is not being taken; the administration's economic boycott is not being fully enforced and is not receiving the full support of our allies; the administration has failed to win full support from the Organization of American States; the policy of thwarting Cuban patriot raids on Cuba is helping Castro.

Acknowledging that the Cuban problem cannot be easily solved, the council suggests several essential elements of an "effective policy" toward Cuba:

1. The principal objective of the United States must be the ultimate removal of international communism from Cuba. "So long as the Soviet Union maintains a base for subversion and military operations in this hemisphere neither the United States nor its Latin American neighbors will be safe."

2. The United States must make clear that it is prepared, as a last resort, to use military force to remove communism from Cuba, just as it has long been prepared to use military force in Korea, Berlin, and the Formosa Straits if necessary. "The possible use of force is the foundation of NATO, SEATO, and the OAS," and the very willingness to use force is the best guarantee that it won't be needed.

3. The United States and the free world should help to establish a Cuban Government-in-exile based in a Latin American country and should give it necessary financial and military aid. Representatives of this free Government should travel to all Latin American countries, tell the truth about Castro's atrocities, and enlist support for their cause.

4. The policy of preventing Cuban patriots from raiding Cuba and harassing Castro should be discontinued.

5. The United States must prevail upon the free world to bring its combined economic, military, moral, and intellectual resources to bear in the fight against communism. And if other free world nations continue to put national interests above the common good, the United States should reassess its cold war strategy and reallocate its power in ways that will most directly help achieve its highest priority goals.

6. The United States should take the initiative within the Organization of American States to strengthen the policy of collective action and to isolate Cuba completely from the rest of Latin America. This includes an effective economic boycott of Cuba by Latin American and all other free world countries.

7. Finally, the United States must seek new ways to make the Alliance for Progress more effective.

The council's paper concludes with the warning that nothing is more dangerous "than a policy of inaction." Soviet penetration of this hemisphere has begun in Cuba, the council states, and in Cuba it must be reversed.

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[From the Critical Issues Council, May 1, 1964]

### Critical Issues Paper No. 5—Cuba: An Effective Policy

The Critical Issues Council, sponsored by the Republican Citizens Committee, is deeply convinced that the presence of Soviet communism in this hemisphere is intolerable, and that the United States and its allies must act in ways that will prevent it from spreading to other countries in the hemisphere and will result in its ultimate removal from the island of Cuba. This can, in our opinion, be accomplished without plunging the United States or other American Republics into war. But it cannot be accomplished unless the United States, in harmony with its allies, formulates a consistent policy towards Cuba and acts with courage and determination to implement that policy.

#### I. THE AFTERMATH OF THE MISSILE CRISIS

On October 14, 1962, a routine U.S. aerial reconnaissance flight over Cuba revealed that sites were being constructed for strategic Soviet missiles. Eight days later, the United States presented evidence of this missile buildup to the world, ordered a Naval quarantine against Cuba, and demanded that the Soviet Union remove the offensive missiles.

Premier Khrushchev refused, and mankind watched tensely as the world's two greatest powers moved steadily toward each other on history's first nuclear collision course. In underground silos, beneath the seas, and in the skies above, the combined atomic might of the United States and the Soviet Union was aimed and ready.

Then Premier Khrushchev relented and agreed to remove the offensive missiles from the island of Cuba. The free world applauded the United States for its boldness and its "victory," and pundits and politicians spoke of a "turning point in the cold war."

It is clear now that such optimism was unjustified, that the victory was incomplete. The tide may, in fact, have turned in Cuba, but evidence would now suggest that it might well have turned against the United States. Consider these facts:

The Castro regime is more closely bound to international communism and more deeply entrenched than it was in 1962. The spirit of resistance among the Cuban people has been suppressed. In the schools of Cuba, a new generation is being indoctrinated in communism.

Save for the United States, Cuba has the most powerful military force in this hemisphere. Intelligence sources estimate that on the island are some 150 coastal defense missiles, 12 missile launching torpedo boats, 500 surface-to-air missiles, 100 migs, 200 modern radar stations, 75,000 regular troops, and another 200,000 militia and home guardsmen. And the Cuban Army is fully equipped with modern Soviet weapons, including thousands of tanks, field artillery pieces, and antitank weapons. Clearly, if there were at this time a full-scale invasion of Cuba, the toll of lives would be high.

Estimates of the number of Soviet troops and technicians now in Cuba vary widely. Although a subcommittee of the Senate Armed Services Committee placed the number at 17,500 last year, there is reason to believe that the number is now closer to 5,000. There is also evidence to suggest that as the number of Soviet troops declines, the number of Soviet technicians increases. In any case enough remain to tutor their captive hosts in the skills of modern warfare and the craft of subversion.

Because the United States did not insist and act upon its demand for on-site inspection of Cuban missile bases in October 1962, there is only negative evidence that the offensive missiles were actually removed. Aerial photographs revealed the dismantling of missile bases and the movement out of Cuba on Soviet ships of shrouded cylindrical objects which may or may not have been missiles. But the U.S. intelligence community has been unable to prove or disprove reports from Cuban refugees and others that the strategic missiles were not removed—that they are concealed in caves and elsewhere on the island. (Significantly, our intelligence agencies received clear evidence of the presence of what the President called defensive missiles and some reports of long-range missile activity in Cuba during the months preceding the confrontation, but could not prove or disprove these latter reports.)

Cuba remains an outpost of Soviet penetration into Latin America, acting as a source of supply and inspiration to bands of rebels, saboteurs, and subversives throughout Latin America. A five-nation committee of the Organization of American States has indicted Cuba for organizing and instigating violent assaults on the Government of Venzuela. An OAS committee on security also has reported that at least 1,500 persons from other Latin American nations traveled to Cuba for training in subversion and guerrilla warfare. Castro agents helped to incite Panamanians to riot and attack U.S. soldiers in the Canal Zone in January of this year.

Cuba also serves as an advance intelligence base for the Soviet Union and can be used for electronic surveillance of U.S. military activities in southeast United States and the Caribbean.

Communist bloc ships move freely into Cuban ports, making it possible for the U.S.S.R. to reestablish or strengthen a strategic missile capability only 3 minutes from U.S. cities.

And the very existence of Castro's Communist Cuba undermines the influence, leadership, and prestige of the United States in Latin America and the rest of the world, and jeopardizes the success of the Alliance for Progress.

#### II. INTERNATIONAL COMMUNISM MUST BE EXPELLED

Considering these facts, one must wonder what was accomplished by the perilous showdown of October 1962. Castro remains and is stronger nationally and internationally. Communism flourishes. Strategic missiles may well remain. Subversion continues. And the threat to the United States and Latin America is clear and present.

One must also wonder how the United States, after standing momentarily so firmly in the fall of 1962, now finds itself faced with so serious a problem in Cuba. How is it that the Cuban situation has deteriorated so steadily since October 1962? How and why has the United States allowed the Soviet penetration to proceed in Latin America?

Until recently, there has been no lack of agreement among U.S. leaders that the hemisphere must be purged of international communism.

Secretary of State Dean Rusk declared in April 1963: "The present Marxist-Leninist regime [in Cuba] is incompatible with the inter-American system * * * our object must be to welcome a free Cuban people back into the inter-American community." He added: "A Soviet military presence in this hemisphere is not to be accepted as a normal state of affairs."

The then Vice President, now President Johnson, underscored the Secretary's statement by saying: "Our mutual objective is to end that Communist regime in Cuba. We cannot be really content until communism is gone from Cuba and gone from this hemisphere."

In February 1963 Secretary of Defense McNamara put it even more bluntly, describing our policy objective in Cuba as "the eventual change in government. I think it is quite clear that we continue to work for the overthrow of the Castro government and the elimination of the Communist control of Cuba."

Senators SMATHERS, DODD, and KEATING, among others, have spoken frequently in the past 2 years about the threat of communism and the absolute necessity to remove it from this hemisphere. In both Houses of Congress bipartisan resolutions have been introduced calling for the removal of communism from Cuba.

Only the chairman of the Senate Foreign Relations Committee, Senator FULBRIGHT, has seen satellite Cuba as a nuisance rather than a continuing threat.

Along with its expressed intention to purge international communism from Cuba, the United States has had sufficient provocation to act against Castro. Cuban planes have fired on U.S. ships in international waters. Cuban subversives have instigated terror and riots throughout Latin America, and most recently in the Panama Canal Zone. Cuban gunboats kidnaped 19 hapless Cubans from an island in the British Bahamas while U.S. Navy jet fighters hovered helpless overhead. In violation of treaty agreements, Castro halted the supply of water to Guantanamo. Finally, Castro has waged a vicious propaganda war against the United States.

Unfortunately, the agreement of administration officials to expel international communism from Cuba was largely hindsight and was not forthcoming before or during the missile crisis when decisive action could have been taken. And Communist provocations have become more flagrant because they did not bring immediate, firm U.S. responses. Now the alternatives for U.S. action are more limited, for the bond between Castro and Khrushchev and the presence of Soviet troops and technicians in Cuba have greatly complicated the situation on the island.

### III. THE ADMINISTRATION'S CUBAN POLICY

It has become increasingly clear that the situation in Cuba has worsened because the United States has no clear and firm policy toward Cuba. The administration has been improvising. It improvised throughout the ill-fated Bay of Pigs disaster; planning and executing the invasion on a day-to-day basis. Had the invasion been an integral part of a clearly conceived policy, it would have claimed a full commitment to success on the part of the United States. Failure at the Bay of Pigs was indeed calamitous. It brought ridicule upon the United States from the Soviet Union, Latin America, and the free world. But worst of all, it resulted directly in the stationing of Soviet troops in Cuba and paved the way for the missile crisis. And again the United States improvised—more adeptly and more successfully to be sure, but still in the absence of any overall policy and with no clear long-range objectives or plans to reach those objectives. The terrible consequence is that the United States has lost the initiative that it grasped in October 1962, at such great risk, and it is once more in the position of reacting instead of acting.

Let it be clearly understood that our problems in Cuba did not begin with these recent failures; they result from a long period of lost opportunities on the part of the United States and Cuba.

Let it also be clearly recognized that there are no simple answers to the problem of Cuba. Unfortunately the hallmark of presidential election campaigns is oversimplification. In the discussions that are sure to come between now and next November, Americans should hold fast to the realization that any effective Cuban policy must begin with the understanding that the problems are complex and the pitfalls plentiful. But complexity cannot be an excuse for an inadequate policy; indeed it makes more urgent the need for a carefully conceived long-range policy.

A brief review of the present policy toward Cuba, therefore, is in order. It has four elements: An economic boycott of Cuba that has fallen short of its objective, the prevention of attacks on Cuba by Cuban refugee groups, an inter-American approach to the problem of Cuba, and the Alliance for Progress. Consider them one by one:

1. An economic embargo against Cuba: Unquestionably this must be a central part of any policy toward Cuba, for the island depends heavily on trade. Economic restrictions were enacted against Cuba in mid-1960. The Eisenhower administration canceled U.S. imports of sugar from Cuba and ended all U.S. exports to Cuba, save for food and medicine. In 1961, the two-way trade between the United States and Cuba was a billion dollars below the level of 1958. This action resulted in a marked deterioration of the Cuban economy.

In 1962, the present administration halted the import of Cuban tobacco products, thus closing the most important remaining loophole in the United States-Cuban trade.

The economic boycott has had a significant impact on Cuba. Free world exports to Cuba dropped from $391 million in 1960 to $106 million in 1962. To be wholly effective, however, economic sanctions against Cuba must be supported and maintained by the entire free world. To this end, the administration announced, in September 1962, a four-point program of restrictions on free world ships involved in Cuban trade. At the time of the announcement, two-thirds of the ships going to Cuba were free world ships.

The U.S. restrictions have not been fully enforced. Trade continues between Cuba and the free world and in some cases seems to be increasing. U.S. sale of wheat to Russia provides, at the least, a plausible excuse to our allies for continuing their trade with Cuba. Recently the French Government underwrote the $10 million sale of trucks and tractors to Castro by two French firms, thus restoring its exports to Cuba to a nearly normal level. A British company has contracted to sell buses to Castro. Probably more than half of the goods for the civilian economy of Cuba are transported by free world ships. During the first 6 months of 1963, British vessels made 60 trips to Cuba, Greek ships made 44 trips, Lebanese ships made 22 trips, and Italian and Norwegian ships each made 9 trips. Other free world nations are trading with Cuba, supplying it with badly needed building materials, chemicals, and consumer and industrial goods. Indeed, in 1963, 66 nations of the free world had vessels involved in Cuban trade and 54 of these nations receive U.S. foreign aid.

The trade-restriction policy of the administration has not succeeded—partly because the United States has not used the power it has available to assure success. The Foreign Aid Appropriations Act of 1963 flatly banned any U.S. aid to a "country which * * * permits any ships under its registry to carry to Cuba * * * petroleum" and other goods of a military or strategic nature. And the act prohibits economic aid to any country "which sells, furnishes, or permits any ships under its registry to carry items of economic assistance to Cuba * * * unless the President determines that the withholding of such assistance would be contrary to the national interest * * *." The Executive, therefore, has the weapon, the mandate, and the flexibility. Except for the ineffectual gestures to reduce minimal aid to a few allies, this administration has not seen fit to accept the mandate or to use the weapon to enforce its trade-restriction policy.

2. The prevention of attacks on Cuba by Cuban patriots: In this respect, the administration has been reasonably successful. But the question is: "Why should the United States thwart the efforts of Cuban patriots to harass the Castro regime?"

The Attorney General said in April 1961: "The neutrality laws were never designed to prevent individuals from leaving the United States to fight for a cause in which they believe." But since then, the Justice Department has taken action to prevent raiding parties from using Florida as an embarkation point.

One can understand the legal reasons for preventing refugees from organizing in and departing from the U.S. mainland. But why should the United States, in collaboration with the United Kingdom, patrol the Caribbean to protect Cuba from the hit-and-run attacks of the Cuban patriots?

Cuba's economy is shaky; shortages of food, petroleum, and manufactured goods are severe. In such a situation, the sabotage and harassment of exile raiding parties can create painful economic problems for Castro, foster unrest among the Cuban people, make them aware that their own countrymen in exile are earnestly working for the freedom of the country, and contribute to Castro's ultimate downfall.

3. An inter-American approach to the Cuban problem: This is an essential element in any policy toward Cuba. Unfortunately, the United States has not exerted the kind of leadership necessary to bring about concerted and tough OAS action against Cuba. Even at the conference of Punta del Este in 1962, where strong support for sanctions against Cuba was evident, the United States fell short of its goal. Six nations failed to support the ouster of Cuba from the OAS, including Argentina, Brazil, and Mexico. Indeed, the Central American delegates to the conference, as the former President of Guatemala has written, had to threaten to walk out in order to persuade the United States to take a harder line against Cuba.

Last summer, the administration abandoned plans to organize an OAS economic boycott of Cuba. The reason given for the decision was that certain Latin American countries opposed such a plan. In short, the United States has failed to work out an inter-American approach to the Cuban problem that will effectively isolate Castro-communism.

4. The Alliance for Progress: Dramatic improvement of the conditions which foster discontent and revolution in Latin America would certainly strengthen the United States in its struggle against Castro-communism. Unfortunately such dramatic improvement has not been forthcoming. And it is no secret that the Alliance for Progress is in difficulty.

A successful aid program to Latin America must be a central part of any overall U.S. policy toward Cuba. But one can criticize the apparent belief in official circles that the Cuban problem can be solved only through the alleviation of the conditions which permitted the dictators, Batista and Castro, to come to power. The acceptance of this theory would freeze the United States into a policy of virtual inaction. Indeed, one can argue conversely that the Alliance for Progress cannot succeed so long as Castro-communism flourishes in this hemisphere.

It is, of course, easy to criticize this policy as an ineffectual response to one of the most serious assaults on the United States since the beginning of the cold war. But Cuba is not a problem of one political party or the other and criticism is not an end in itself. For the first time in the long and wearying cold war the wolf is truly at our door; Berlin, Laos, South Vietnam, Korea, the Congo—these have been the distant frontiers of our struggle with international communism. But Cuba is only 3 minutes from our coast and there can be little satisfaction for any Americans in crying, "We told you so."

It is incumbent upon all critics of the present Cuban policy to be constructive. This is not easy, for Cuba is no isolated problem. It must be viewed in the total context of U.S. foreign policy. Like a single strand in a giant spider web, Cuba cannot be woved without moving the entire web. The United States has commitments throughout the world. We must consider the innumerable relations, anticipate the countless reactions, plan reactions to reactions. The United States must consider its allies and its enemies; it must be mindful of its commitments to the OAS, the U.N. SEATO, and NATO.

Even so, this Nation cannot be frozen into inactivity because the problems are complex and dangerous. And this Nation cannot—especially in the case of Cuba—permit its actions to be governed primarily by its allies or its enemies, or even by its other commitments. We must define our objectives, plan our strategy, assess the risks and implications, and act in the best interest of the United States.

### IV. RECOMMENDATIONS FOR AN EFFECTIVE POLICY

The need for a well-understood, firmly executed policy toward Cuba is urgent, and the time for action is long overdue. The theory that "if we give Castro enough rope he will hang himself" is naive. Instead, he is using that rope in his effort to bind Cuba and the rest of Latin America inextricably to international communism. Castro must go.

John Foster Dulles warned in 1954: "If the world of communism captures any American state, however small, a new and perilous front is established which will increase the danger to the entire free world and require even greater sacrifices from the American people." Communism has captured an American state. And each day that passes makes the task of freeing Cuba more difficult and increases the danger to Latin America and the United States. When Castro clearly revealed himself as a Communist in December 1961, the United States should have dealt with him decisively. Earlier, had the United States committed itself at the Bay of Pigs in April 1961, Castro could have been toppled. In October 1962, the United States should have driven the U.S.S.R. completely from the Island of Cuba and should have quarantined the island until Castro fell. In each situation there were serious risks, but the risks became increasingly greater with each lost opportunity to act. And the greatest risk of all, as the late President pointed out, is the "risk of doing nothing" when freedom is under assault. The task would never have been easy, but it becomes increasingly difficult. It will be more perilous and more difficult to deal with Castro next month than it is today. Time is on Castro's side.

What, then, should be the U.S. policy toward Cuba? Only those with access to current classified information on the world situation can define the details of a policy toward Cuba and determine the timing of execution. But enough is known to produce an outline of policy and action:

The ultimate aim of an effective policy toward Cuba must be the complete removal of international communism from this hemisphere. Anything short of this would constitute a serious defeat for freedom. So long as the Soviet Union maintains a base for subversion and military operations in this hemisphere neither the United States nor its Latin American neighbors will be safe. Furthermore, grand plans to rid this hemisphere of poverty, illiteracy, tyranny, and violence are seriously endangered while Cuba remains a captive outpost of international communism, and a well-financed center of Communist subversion.

It must be clearly understood by the world that the United States is prepared, as a last resort, to use military force to remove international communism from Cuba, just as it has long been prepared to use military force in Korea, Berlin, Lebanon, the Formosa Straits, and elsewhere. The possible use of force is the foundation of NATO, SEATO, the OAS, and other compacts to which the United States is a signatory. We are not advocating hasty and improper military action against Cuba. Indeed, a known willingness to use force is probably the greatest assurance that it won't be needed. We are simply saying that without recognizing the possible need for final recourse to military action all other policy implementations are gravely weakened. And it should be kept in mind that the greatest U.S. victories of the cold war have come when the United States has determined to stand and fight if necessary rather than to yield another inch.

The United States and all other free nations should no longer accept the Castro regime as the legitimate Government of Cuba but instead should help form a Cuban Government-in-exile and recognize and support it as the only true representative of the Cuban people. President Eisenhower severed diplomatic relations with Cuba. The time has come for the next logical step. A Cuban Government-in-exile should be formed and have the resources to rally the nearly 300,000 Cuban refugees who have fled Castro's tyranny and are now residing in the United States and many Latin American and Caribbean countries. It should call on all free governments for financial, moral, and political support, organize and equip an army, and work openly for the liberation of Cuba. Cubans should be working for the liberation of Cubans.

The Government-in-exile should send its best representatives to every nation of Latin America to plead their cause and that of the submerged masses on the island of Cuba. It should effectively spread the truth of what has happened in Cuba and counter Castro's subversive activities in the other Latin American countries, for Communist agents, financed by more than $100 million annually from the Kremlin, are cleverly convincing many labor leaders, students, and ordinary citizens that only through bloody revolt and the creation of Communist regimes can the present unhappy lot of the Latin American peoples be alleviated. U.S. counterpropaganda is only partly effective. The truth, spread by free Cubans, might be decisive in turning the tide against Castro throughout Latin America. This in turn would help assure the success of the other recommendations herein which depend upon collective hemispheric action.

The center of the Government-in-exile should be in a Latin American country. Several which have been attacked by Castro or to which Castro has shipped arms for use by trained subversives might welcome the presence of such a government. The United States should begin immediately to work for the unification of exile patriot groups and should give substantial support to the provisional government, either directly or indirectly.

If the several steps suggested in this paper succeed in bringing about the fall of Castro, it will be imperative to have in being a well-organized, disciplined, democratically oriented force which can immediately assume full governmental authority in Cuba, to be followed later by free constitutional elections. Otherwise out of the turmoil caused by the collapse of Castroism, another dictatorship might readily be established.

The Government-in-exile should have at its command powerful radio transmitters to reach regularly all the people of Cuba, keeping them informed of the activities and progress of the free government. As Radio Free Europe does on the Continent, it should keep alive in the controlled population of the island the hope that freedom and justice will be restored. It should assure the population of the island that amnesty will be extended to all when the new government assumes power—that there will be no repetition of Castro's brutal murders following his assumption of power in 1959.

There may be several reasons, legal and strategic, for not permitting the Cuban exiles to use this country as the base for their raids against Castro. But there is no reason for U.S. immigration and border patrol officials to thwart refugee raiding parties leaving other nations. The United States should at once end its program of halting refugee attacks on Cuba and should prevail upon Great Britain to do likewise. And the Cuban Government-in-exile should increase the number and effectiveness of such raids.

The United States must do everything in its power to persuade the free world to stop trading with Communist Cuba. The recently announced policy of denying U.S. commercial facilities to all vessels of all fleets engaged in trade with Cuba is a step in the right direction. But such a policy must be enforced, and more must be done. The administration must mobilize our allies into a unified and effective economic quarantine of Cuba. The Prime Minister of Great Britain during his February visit to Washington denounced the economic embargo against Cuba, calling it economic warfare in a time of peace. This is no ordinary time of peace and the British Prime Minister should be one of the last persons to think it is. The Communists are in a deadly struggle with the free world, and it is one they are likely to win unless the United States can convince its allies to fight with all the tools short of physical war that they possess.

It is absurd for the United States to give aid to governments which in turn underwrite trade with Castro. It makes no sense for the United States to end its own trade with Cuba, then support other nations as they move in to capture the market. It is unwise for the United States—long facing a dangerous imbalance-of-payments situation—to jeopardize its own economic health to aid nations which are strengthening communism in this hemisphere.

Foreign aid is a central part of U.S. foreign policy, and it must not be stopped indiscriminately. But what good is foreign aid as an instrument of foreign policy if we do not use it to accomplish primary policy objectives? Under the Foreign Aid Act of 1963, the United States can (and must, or show cause otherwise) withhold aid from nations which trade with Cuba. The time to use this power is now.

The free world is far superior to the Communst world in its natural, military, financial, intellectual, and moral resources. Acting in concert, there is not a single problem, nor a single threat that could not be met and solved by the free world nations. But unity is lacking. The United States is the only free world power that is prepared to move into any critical situation anywhere in the world in defense of freedom, and this is so because of our conviction that a threat to freedom anywhere is to some degree a threat to our own. Other free nations, however, participate as a rule only when their immediate self-interest is involved; they have not acknowledged the broad global responsibility which characterizes our policy. As a result, the United States has been compelled to spread itself so thin that its energies and resources are less effective than they should be, and we find ourselves fighting an up hill, sometimes a losing, battle. This burden is made more onerous by the fact that many free world nations are benefiting from U.S. support and prospering but will not accept a fair share of the responsibility for meeting the total threat of communism.

If this situation continues, the United States would be justified in selectively withdrawing its aid and power now committed to the protection of certain other areas so that it could concentrate its energies in protecting its own highest-priority interests, thus demonstrating that if other free world nations insist on placing their own interests ahead of the common good, the United States would do the same. This might be the only way to awaken the free world to the need for dependable cooperation in the struggle with communism.

We believe the time is here for the President of the United States to take the lead in calling a diplomatic conference of the leading free nations of the world for the purpose of reaching a common agreement to work together constantly and persistently in meeting successfully each serious Communist probe. On our list of priorities, Cuba must rank high. Also on the list will be other crisis situations—such as the Congo, Cyprus, Berlin, Vietnam—which, while important to us, are of even greater importance to certain other States of the free world. While many will contend that an effort to get agreement for cooperative action by the free nations will fail, we believe the effort must be made; we would rather the United States risk failure trying to do what is right than risk success by not doing what should be done. In the unhappy event of failure to achieve agreement for cooperation, including a cooperative attack on the Cuban problem, we propose that our entire strategy in the cold war be reexamined with a view to concentrating our economic and military power where it most directly serves our highest priority goals. To this extent we agree with Senator FULBRIGHT's recent proposal for a reexamination of our world strategy.

The United States should take the initiative within the Organization of American States to strengthen the policy of collective action, to isolate Cuba completely from the remainder of Latin America, to restrict all travel between Cuba and the remainder of the hemisphere, to persuade the other American Republics to withdraw recognition from Castro, and to recognize and aid a government-in-exile. In all this we should have the assistance of the Cuban Government-in-exile.

The United States—preferably with the cooperation of the OAS and especially with the Cuban Government-in-exile—should greatly intensify its counterpropaganda in Latin America. In typical Communist fashion, Castro beams lies and vituperations throughout the hemisphere. The United States must recognize the imperative need of combating this type of psychological warfare.

Finally, the United States must reassess the Alliance for Progress and seek new ways to make it effective. This is not the place for a detailed discussion of the Alliance. Suffice it to say that the Latin American nations accepted at Bogotá in 1960 and Punta del Este in 1961 far-reaching obligations under the Alliance. As their contribution to the program, they pledged tax and land reform, improved education and health facilities, and greater justice for the masses of their peoples—social reforms which will eliminate the beds of discontent in which Castroism breeds. In too many cases, the Latin American nations are not meeting their responsibilities. In too many cases, U.S. aid has been used to meet recurrent financial emergencies, rather than to help carry forward logical steps toward more effective democracy and rising levels of well-being for all. The Alliance for Progress cannot succeed unless it is a cooperative program among the nations of Latin America and the United States. U.S. aid should be given liberally to those nations which live up to their part of the bargain, and withheld from those which do not.

### V. SOME MAIN POINTS

The cardinal concepts in this analysis merit repetition: (a) The free world possesses far greater power than does international communism, so much so that free nations acting together can solve any threat to their future; (b) the greatest task facing the President of the United States is to weld the free world into a dependable, cooperating, fighting force, in which event the Cuban problem along with others would be solved; (c) if we fail to achieve united action, the United States should decide which world situations, including Cuba, are most important to its future and concentrate our power there, if necessary withdrawing support from areas less critical to us; (d) we should withdraw all impediments to the creation of a free Cuban Government-in-exile and to free Cuban raids against Castro, use every means at our disposal to make the economic boycott of Castro-Cuba effective, and insist that the Alliance for Progress meet its announced goals of social reform and economic development, thus destroying the conditions which cause Castro communism to flourish in many areas throughout Latin America.

Nothing is more dangerous than a policy of inaction. In 1923, Lenin boasted: "First we will take Eastern Europe, then the masses of Asia, then we will encircle the United States, which will be the last bastion of capitalism. We will not have to attack. It will fall like an overripe fruit into our hands." A moment's reflection lends an ominous air of prophesy to this boast. Much of Eastern Europe and much of Asia are enslaved, and the battle rages on. In Cuba, the "encirclement" has begun. In Cuba, it must also be reversed.

Mr. MORTON. Mr. President, I am glad that the Senator from New York has inserted in the RECORD the report of the Republican Citizens' Committee in regard to Cuba.

I saw an advance copy of this report. I read it again this morning in its final form, and it is an excellent report.

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. JAVITS. I believe these reports, taken together, will constitute a most indispensable part of Republican doctrine for our party.

I thank the Senator from Kentucky.

Mr. MORTON. My remarks of commendation were confined only to this specific report.

## MAY 3 OBSERVANCE OF HISTORIC EVENTS IN POLISH HISTORY

Mr. HRUSKA. Mr. President, with all the talk these days about "myths" in our attitudes and policies toward the 123 countries of the world, it is a sobering reality to look to the unequivocal, nonmythological history of some of those countries. I speak particularly of the history of Poland.

On May 3, the Poles celebrate the adoption of their Constitution of 1791. Coinciding with this date are the 600th anniversary of the founding of the University of Krakow; the 25th anniversary of the German-Soviet attack on Poland; the 20th anniversary of the Battle of Monte-Casino, the Warsaw uprising and the founding of the Polish American Congress.

The continued suppression of the Polish people serves as a grim reminder for us and all the peoples of the world of the kind of tyranny that is no myth to those who are daily subject to its shackles. The events recalled by the May 3 observance are vivid indications that a valiant people are not immune from the grips of tyranny.

The ties of the people of Poland and Americans have been restricted but not severed. The founding of the Polish-American Congress has served to perpetuate these ties with their representation of the over 7 million Americans of Polish origin. Their account of the Warsaw uprising brings us again to the realities of history which illustrate the bravery of the Poles and the treachery of their enemies.

Mr. President, I ask unanimous consent that the account of the Warsaw uprising be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### THE WARSAW UPRISING

The story of heroic Warsaw uprising and inhuman Soviet treachery goes back to July 1944.

The invasion of the European Continent by the Western Powers was progressing rapidly. In the East, Soviet Army already occupied large Polish territories won from retreating Germans.

Moscow radio, through its "Kosciuszko" station began to broadcast appeals to the Poles:

"Warsaw * * * the hour of action has struck. Your houses, parks, bridges, railroad stations, factories, buildings, stores, have to be transformed into centers of resistance. The Germans will attempt to make a stand in Warsaw—to destroy whole city. In Bialystok they were busy for 6 weeks destroying everything and murdering thousands of people. Let us do everything in our power to prevent them from committing same crimes in your city. People of Warsaw, to arms."

These calls were repeated day in and day out, and finally, on July 29, when the Russian offensive ground to a halt on the right bank of the Vistula, in the Warsaw suburb of Praga, Moscow radio sent out a more "urgent appeal to Warsaw," urging the Poles to "fight against the Germans," for "the hour of action has arrived. Warsaw never surrendered, never ceased to struggle. And now everything will be lost in Hitlerite deluge unless you save it through action * * * Poles, the time for freedom approaches. Poles, take to arms. There is no second to be lost."

The Polish underground authorities adhered to the instructions given by Polish Government in London, where the Western Powers insisted that the Poles must actively cooperate with Russia. Accordingly, the Polish Government in exile issued such orders.

Then, on July 31, 1944, delegates of the Polish Government in London, and Vice Premier of the Polish underground branch of this Government, Jankowski, after having heard opinions of the commander in chief of the home army, General Bor-Komorowski and his chief of staff, General Monter, issued orders to the home army to start revolt against the Germans the next day, August 1, 1944, at 5 p.m.

Three days later, on August 4, all activities on German-Russian front ceased, although the Soviet forces already consolidated their positions in Praga. Even their heavy guns were silenced.

Instead of promised and anticipated roar of Soviet artillery, which would herald new phase of Russian offensive, all was quiet on the eastern front of Warsaw.

There was only one explanation: Warsaw had been betrayed by the Russians.

On August 17, Premier Churchill and President Roosevelt appealed directly to Stalin to help Warsaw. Stalin did not reply.

Anglo-American staff drew up a plan in London for bombing German positions in Warsaw by means of shuttle operations. British and American aircraft were to bomb German strongholds in Warsaw, then fly for refueling to nearby Luck, already occupied and secured by the Soviet Army.

Stalin not only rejected this plan, but at the same time accused the Poles, fighting and dying in Warsaw, of "betrayal" and "collaboration" with the Germans.

The Poles fought on against all odds, against all hope.

They forced the Germans to send three armored divisions, badly needed on the western front, to Warsaw. These, with incessant bombings by German planes, finally crushed the uprising.

After 63 days of fighting, Warsaw capitulated.

Over 250,000 Polish men, women, and children died in this struggle, in which even juvenile Scout troops rose to the heights of heroism and sacrifice.

The Germans, with a Teutonic fury, destroyed, burned, pillaged the remnants of the city. Warsaw did not die, however.

The indomitable Polish spirit rebuilt the city from desolation and ruins.

Warshaw, rising like Phoenix from the ashes, remembers Nazi brutality and Soviet treachery.

And it longs for the day on which a truly free and independent Poland returns to the Western family of nations.

## CITIES ATTACK THEIR OWN PROBLEMS

**Mr. MUNDT.** Mr. President, an article published in the April 1964 issue of Nation's Business points out that a record volume of urban laws have been approved by State legislatures during the past year. And this, as the article states, "is striking evidence of what experts see as a growing trend toward more effective State cooperation with the metropolitan areas within their boundaries."

The argument has frequently been made in pointing up the need for a Department of Urban Affairs and Community Development and now, in support of a Department of Housing and Community Development—the same bill by another name—that State legislatures have been too rurally oriented and local government too limited financially to permit much State concern for urban problems.

This article is another eloquent statement showing the falsity of that position taken by the proponents of the new Department, and my fear is that if the Department were established, it could well reverse the favorable trend. I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Cities Attack Problems With New Powers: Record Volume of Urban Laws Approved by State Legislatures

A record volume of laws aimed at helping cities solve their own problems was approved by State legislatures during the past year.

This is striking evidence of what experts see as a growing trend toward more effective State cooperation with the metropolitan areas within their boundaries.

"With increasing local initiative, we may be witnessing the start of a change from the longtime trend toward greater centralization of Government in Washington," says Robert C. Wood, professor of political science at the Massachusetts Institute of Technology. "This reinvigoration at the local and State levels is very heartening."

This trend is of vital importance to businessmen, for our country's economic frontiers are in the urban areas, where nearly 80 percent of the population lives. Major decisions of public policy are being made here that will affect future opportunities for economic growth. Regulation of land use, highway construction, rehabilitation of downtown areas, expansion of school systems, mass transportation, extension of water and sewer services are some of the areas in which local planning is underway to accommodate urban growth.

It is also significant in the light of proposals for additional spending on Federal programs for urban areas. The administration has asked Congress for several billion dollars for such programs as housing and urban renewal and for setting up a program to help finance mass transit systems.

The President has urged that Congress establish a Department of Housing and Community Development, which would give Cabinet status to the present Housing and Home Finance Agency. The current proposal, except for the name, is similar to the one advanced unsuccessfully by the Kennedy administration.

"The upward movement in local solution of local problems will lead to a more critical examination in Congress to determine whether proposed legislation will tend to further centralize or decentralize our system of government," predicts James K. Pollock, professor of political science at the University of Michigan. "There seems to be a temper in Congress now against centralizing in Washington any more functions than are absolutely necessary."

More than 400 major laws designed to help their cities were passed by the legislatures of 45 States last year, the Advisory Commission on Intergovernmental Relations reports. A number of the laws grew directly out of recommendations made by the Commission, a national agency set up by Congress to study and advise on the relationship between Federal, State, and local governments.

"The legislative activity of most of the States in 1963 in dealing with urban problems represents a significant and lasting shift in the balance of responsibilities among the different levels of government in this country," says William G. Colman, executive director of the Commission. "It is not a flash in the pan."

The reasons behind the shift, Mr. Colman explains, are these:

"First, many State legislators are getting a message—that citizens will no longer accept delay and inattention on the part of State governments toward pressing urban problems. The political implications of court decisions on reapportionment and redistricting and the defeat at the polls of inequitable apportionment plans are not lost on our State legislators.

"Secondly, the urbanization of the countryside proceeds apace. Many of the urban area problems have become so pervasive and complex that city officials are finding it out of the question to rely entirely on their own resources and those of the Federal Government. Some of these officials find they can get action in the State capitals as fast as in Washington—and this is a change."

#### TREND REFUTES CRITICS

Senator Karl E. Mundt of South Dakota, a member of the Commission, sees additional significance in the trend:

"This record volume of urban legislation by States is an answer to those who contend that urban areas cannot get State legislatures interested in their problems and that such attention can only be obtained in Washington. States are not looking as generally to the Federal Government to solve their problems as a lot of political propagandists would have you believe."

Senator Mundt says that the growing vigor of State and city governments strengthens his belief that a Federal Department of Housing and Community Development is unnecessary. He adds:

"Setting up such a department would just invite more programs and expenditures that should be handled by the States and cities themselves. Every passing month that the Federal Government does not assume additional paternalistic authority over urban affairs, more and more communities turn to solving their own problems."

Professor Pollock, former vice chairman of the Commission, agrees. "It would be creating a department for a set of functions now adequately handled in the existing departments," he says. "It does not make administrative sense, though it does make political sense for the Democrats. It would cause an imbalance in our governmental structure by raising the influence of the big cities out of proportion."

The Commission itself has taken no position on the proposed establishment of an urban affairs department.

The State legislative actions which are of prime significance in strengthening city and county governments fall into three general categories:

Legislation which makes available to local government an arsenal of permissive powers in meeting public service needs and in cooperating with neighboring jurisdictions.

Legislation which removes undesirable restrictions from local government.

Legislation which exercises State leadership, assistance and control.

The problems of intergovernmental relations are probably more varied in metropolitan areas than in any other part of our governmental system. All levels of government are in close proximity and friction points are many.

"In most metropolitan areas consolidation into an areawide government is neither politically feasible nor necessary to meet areawide problems," says Norman Beckman, the Commission's assistant director for metropolitan areas.

For this reason, city governments can be helped to work out their problems if the State grants them a variety of powers which they may use to fit their particular needs.

Authorization by the State for metropolitan cities and counties to join in creating areawide planning agencies, for example, can be a vital factor in coordinating urban growth. One of the States granting this power last year was Maryland, which established a regional planning council for the city of Baltimore and the six counties in Baltimore's metropolitan area.

"The total problems, total opportunities, and total growth of an urban area must be planned together," emphasizes James W. Rouse of Baltimore, president of the mortgage banking firm which carries his name. "All highways, schools, parks, utility and transit systems have to take their place as parts of a component plan."

Mr. Rouse was one of a number of Baltimore businessmen who spearheaded the drive which led to the planning council's establishment. He says:

"We found that we were wasting a tremendous amount of money in the Metropolitan Baltimore area by piecemeal action on problems of mutual concern.

"The planning council will draw up an areawide plan for orderly growth in which all elements of business—public utilities, retail, and industrial—can make their own plans in an orderly way. It will also make possible substantial economies by coordinating all factors in our urban growth."

A number of State legislatures took action to liberalize annexation laws in the past year. Others made it possible for local governments, particularly in urban areas, to contract with one another for government functions. Two States authorized the formal transfer of functions between cities and counties.

The lid on local revenue resources was lifted by some legislatures, giving cities a better opportunity to pay their own way. In Tennessee, for instance, each city and county is now permitted to levy a 1-percent sales tax, if approved by the voters.

Mayor C. Beverly Briley of the Nashville-Davidson County metropolitan government, estimates that the new tax will bring more than $7 million a year into his city's treasury, if the referendum passes. This would be a 10-percent boost in revenue and would help pay for anticipated increases in school costs and local road construction.

"The real estate tax is no longer an adequate means of supporting local government," Mayor Briley says.

Several State legislatures took action to submit constitutional amendments to the voters which would broaden home rule powers. The Massachusetts General Court, as the legislature is called, took the first step toward amending the State constitution to allow cities and towns to "exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court."

Nine States enacted laws intended to help cities solve their mass transportation problems by providing for establishment of transit authorities, preparation of transit studies or tax rebates to aid transit systems.

In spite of the growing acceptance of local responsibility to solve local problems, experts see little chance of a reduction of Federal spending on urban matters.

Professor Wood predicts a greater decentralization of control in Federal programs, with States and cities allowed more latitude in fitting them to particular needs.

"People are beginning to realize that Federal programs are running into major administrative difficulties because of quantity," he says. "They're choking up in Washington. More administrative authority had best be passed back to the localities."

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

### AMENDMENT NO. 560

Mr. MORTON. Mr. President, I offer at this time a perfecting amendment to amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE] to H.R. 7152. I offer it in behalf of myself, the Senator from Delaware [Mr. WILLIAMS], the Senator from Iowa [Mr. MILLER], and the Senator from Idaho [Mr. JORDAN].

I should like to have the clerk read the amendment at this time.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 2, beginning with line 1, strike out all through line 8 on page 3.

On page 3 strike out all of line 9 and insert in lieu thereof: "Title XI—Jury Trials of Criminal Contempts."

On page 3, line 10, immediately before "In", strike out the single quote and insert in lieu thereof "SEC. 1101.".

On page 3, line 10, beginning with "for willful", strike out all through "District of Columbia" on line 13, and insert in lieu thereof: "arising under any title of this Act".

On page 3, line 17, strike out the single quote before "This".

On page 3, line 22, strike out the single quote before "Nor".

On page 3, lines 22 and 23, strike out "or in any other provision of law".

On page 4, line 4, strike out the single quote.

On page 4, line 5, strike out "1103." and insert in lieu thereof "1102.".

On page 4, line 7, strike out "repealed." and insert in lieu thereof the following: "amended by striking out the second and third provisos to the first paragraph thereof, and inserting in lieu thereof the following: '*Provided further*, That in any such proceeding for criminal contempt, the accused, upon demand therefor, shall be entitled to a trial before a jury, which shall conform as near as may be to the practice in other criminal cases.' "

Mr. MORTON. I ask that the amendment be made the pending question.

Mr. HICKENLOOPER. Mr. President, will the Senator yield for a question?

Mr. MORTON. I yield.

Mr. HICKENLOOPER. Is the Senator offering the amendment to the bill or to an amendment?

Mr. MORTON. I am offering it as a perfecting amendment to the Talmadge amendment.

Mr. HICKENLOOPER. I understood the clerk to state that the amendment was offered at a certain page in the bill.

Mr. MORTON. In offering the amendment, I said that I should like to offer at this time a perfecting amendment to amendment No. 513 proposed by the Senator from Georgia [Mr. TALMADGE].

Mr. HICKENLOOPER. I thank the Senator.

Mr. KUCHEL. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MORTON. I yield.

Mr. HICKENLOOPER. I make a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. KUCHEL. In order that Senators may understand, relying on my recollection, the Senator from Georgia offered an amendment, and the distinguished leaders of the Democratic and Republican Parties, the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN] offered what I believe to be an amendment in the nature of a substitute for the Talmadge amendment. Then the senior Senator from Kentucky [Mr. COOPER] submitted an amendment. Now the able junior Senator from Kentucky [Mr. MORTON] offers an amendment. In what sequence would the Senate consider the pending amendments if they were taken up, and what would happen if any further amendments were sought to be offered?

Mr. MORTON. I should like to be heard on that point. I spoke to the senior Senator from Kentucky [Mr. COOPER]. He submitted an amendment; he did not offer his amendment. He asked that his amendment be printed and lie on the table. I make the parliamentary inquiry: Is not my amendment the pending question before the Senate?

The ACTING PRESIDENT pro tempore. The Chair would like to respond to both parliamentary inquiries. Prior to the offering of the amendment by the junior Senator from Kentucky [Mr. MORTON], the question was on agreeing to amendment No. 516.

Mr. KUCHEL. Offered by whom?

The ACTING PRESIDENT pro tempore. It was offered by the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN]. It was proposed as a substitute amendment for amendment No. 513, offered by the Senator from Georgia [Mr. TALMADGE]. The amendment offered by the Senator from Kentucky [Mr. COOPER] was merely submitted to lie on the table. It is not the pending business. It will not be the pending business until called up. The junior Senator from Kentucky [Mr. MORTON] has now offered an amendment. The Chair understands that he has called up the amendment. It is a perfecting amendment.

Mr. KUCHEL. Is any other Senator permitted to offer an amendment to set aside the amendment of the Senator from Kentucky [Mr. MORTON], or will his amendment be the pending business on next Wednesday?

The ACTING PRESIDENT pro tempore. The amendment offered by the distinguished Senator from Kentucky [Mr. MORTON] is in the second degree, and under the rules of the Senate is the last amendment that can be offered. No further amendment can be offered until the amendment is disposed of.

Mr. KUCHEL. Mr. President, if the Senate approves the pending proposal of the Senator from Kentucky [Mr. MORTON], what will the next question be?

The ACTING PRESIDENT pro tempore. Other perfecting amendments to the Talmadge amendment may be offered after the Morton amendment is disposed of.

Mr. KUCHEL. When would the Senate vote on the Mansfield-Dirksen substitute?

The ACTING PRESIDENT pro tempore. The Senate would vote on the Mansfield-Dirksen substitute after all perfecting amendments had been offered and disposed of.

Mr. KUCHEL. I thank the Chair.

Mr. JAVITS. Mr. President, will the Senator yield so that I may propound a parliamentary inquiry?

Mr. MORTON. Will the Senator delay his request until I have requested the yeas and nays?

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. MORTON. I yield to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Chair would like to direct an inquiry to the Senator from Kentucky. The Senator from Kentucky directs amendments to various parts of the bill. Is it his intention to submit his amendments as one amendment, en bloc?

Mr. MORTON. I ask unanimous consent that the amendments may be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendments will be considered en bloc.

Mr. JAVITS. Mr. President, at what point may the Mansfield-Dirksen substitute amendment be itself amended?

The ACTING PRESIDENT pro tempore. It cannot be amended. It is not subject to amendment. It is in the second degree.

Mr. JAVITS. It must be voted up or down, notwithstanding the fact that it is a complete substitute? It cannot be amended, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RUSSELL. It could be amended if the order for the yeas and nays were withdrawn by unanimous consent. If the yeas and nays were withdrawn by unanimous consent, the authors of the amendment could change their amendment.

The ACTING PRESIDENT pro tempore. If the yeas and nays were withdrawn by unanimous consent, the authors of the amendment could modify their amendment.

Mr. RUSSELL. The authors of the amendment could modify their amendment if the yeas and nays were withdrawn by unanimous consent.

The ACTING PRESIDENT pro tempore. Yes.

Mr. MORTON. Mr. President, I ask unanimous consent that there may be printed at this point in the Record the text of the Talmadge amendment as it would be amended by my perfecting amendment. I ask that this be done for the benefit of all Senators.

There being no objection, the text was ordered to be printed in the Record, as follows:

On page 54, between lines 7 and 8, insert the following new title:

"TITLE XI—JURY TRIALS OF CRIMINAL CONTEMPTS

"Sec. 1101. In any proceeding for criminal contempt arising under any title of this act, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in criminal cases.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

"Sec. 1102. Section 151 of part V of the Civil Rights Act of 1957 (71 Stat. 638; 42 U.S.C. 1995) is hereby amended by striking out the second and third provisos to the first paragraph thereof, and inserting in lieu thereof the following: '*Provided further*, That in any such proceeding for criminal contempt, the accused, upon demand therefor, shall be entitled to a trial before a jury, which shall conform as near as may be to the practice in other criminal cases.'"

On lines 15, 16, and 17 of page 11, strike out subsection (c) of section 205.

On line 8 of page 54, change the designation of title XI to title XII.

On lines 9, 14, 22, and 24 of page 54, change the designations of sections 1101, 1102, 1103, and 1104, to sections 1201, 1202, 1203, and 1204, respectively.

Mr. MORTON. Mr. President, the purpose of my amendment is to limit the application of the Talmadge amendment to criminal contempt cases arising under this bill alone. This change should accomplish two things. First, by limiting the jury trial provisions to the provisions of H.R. 7152, the Senate could expedite consideration of the business at hand. Should Senators continue to discuss the original Talmadge amendment, granting jury trial to all criminal contempts, they would be drawn unnecessarily into other fields of debate at a time when the Senate should be directing its attention to the complex problems posed by the proposed legislation.

Mr. HRUSKA. Mr. President, may we have order in the Chamber?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. MORTON. Secondly, this amendment should eliminate the confusion surrounding the meaning and application of the Dirksen-Mansfield amendment which proposes to limit the fine and sentence in cases under this bill and under the 1957 act, when they are tried by a judge without a jury.

This alteration would amend the jury trial provision of the 1957 act by repealing the requirement that a defendant in a criminal contempt case must first be convicted and receive a fine in excess of $300 or a sentence of 45 days imprisonment before he can request a jury trial. This amendment leaves untouched the traditional distinction between criminal and civil contempt contained in the original amendment. Thus, a judge still has power to deal with contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice, and with misbehavior, misconduct, or disobedience of any officer of the court. Courts are not deprived of their power under the Talmadge amendment to use civil contempt proceedings without a jury, "to secure compliance with or to prevent obstruction of any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity."

My perfecting amendment should satisfy the requirements of the proponents of the Talmadge amendment in that it would provide for jury trials of all criminal contempts arising under any title of H.R. 7152. At the same time, I feel that it also should satisfy the demands of the opponents to the Talmadge amendment by the very reason that it would be circumscribed to that bill alone.

Mr. President, last night the senior Senator from Kentucky [Mr. Cooper] submitted an amendment which would deny jury trials to those who are officers or officials of any State government or any political subdivision thereof. His amendment would be fit and appropriate to follow this amendment should this amendment be adopted.

Senator Cooper is necessarily absent. I have talked with him. He recognizes this fact, and is perfectly agreeable for the first vote to come on my amendment.

The pending amendment takes the basic Talmadge amendment, which crosses the board—the entire United States Code—and confines it, so far as jury trials for criminal contempt are concerned, to the titles of this bill.

If this amendment should be adopted, Senator Cooper's amendment, which takes it out of that category—for his amendment prohibits a jury trial for those who are officers or officials of any State government or political subdivision thereof—would logically follow, and the argument which he made in the Record last night would stand. The Senator from Kentucky [Mr. Cooper] will return next week, and at that time he will develop those points.

I point out that I think we are going far afield in the Talmadge amendment as presented. That is amendment No. 513. The Talmadge amendment is not confined to this bill, and I am trying to get it back into that context. I am proposing an amendment similar to the so-called O'Mahoney-Church-Kefauver amendment of 1957. I voted against that amendment. But I have had a change of heart. The Senator from Idaho [Mr. Church] voted for it, and he has had a change of heart. He now wants to support the Dirksen-Mansfield amendment. We can all change our minds.

This is a very important piece of legislation, a far-reaching piece of legislation, much more far reaching than was the bill which was before the Senate in 1957.

For these reasons, I have come to the conclusion that this limitation on the application of the jury trial to criminal contempt proceedings is proper. We are dealing with a specific bill. It will have 8, 9, 10, 11, or 12 titles before it is disposed of. So, why can we not confine the jury trial provision to the titles of this bill, without getting into all the ramifications of antitrust cases, patent cases, and this, that, or the other which might conceivably be involved, and which might cause our deliberations to last much longer than we now anticipate? Frankly, Senators can anticipate a very long day before the Senate finally reaches some sort of solution to this measure.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. MILLER. Is it not also true that those of us who have offered this amendment have made it clear that we are preserving that portion of the Talmadge amendment which would permit incarceration by a judge for civil contempt?

Mr. MORTON. That is correct.

Mr. MILLER. In other words, if a person were in violation of a court order, the judge could theoretically, at least, confine him in jail and keep him in jail until he carried out the order of the court. Is that correct?

Mr. MORTON. That is correct. In civil contempt cases, the defendant has the key to the jail. If he complies with the court order, he can walk out.

Mr. MILLER. So to be really effective, if we make use of detention, punishment for criminal contempt is not necessary. We can have an effective remedy in the jail sentence through civil contempt. Is that not true?

Mr. MORTON. Yes. As I say, in civil contempt, the defendant has the keys to the jail.

Mr. MILLER. I want to see adequate and effective remedies so that the rights covered by the bill will be protected. But in this connection, I think we ought to make sure that we do not violate some of the basic rights of our people—namely, to have a trial by jury in the event of a criminal prosecution.

I recognize that this is a so-called fuzzy area of law, as to how long a period of time a defendant can be sentenced to jail before he must be given a jury trial, to satisfy his constitutional privilege or right to a trial by jury.

We are merely providing that any time there is a decision by a judge to criminally punish someone for contempt of court, whether he incarcerates him for 1 day, 30 days, 45 days, or 10 years, he will have the right to a trial by jury. We are also making it clear by preserving a portion of the Talmadge amendment that if the judge wants to put him in jail and say to him, "Stay there until you comply with my order," he can keep him there all his life. That is also true under civil contempt proceedings.

I think the amendment is a good amendment. It is calculated to remove the right of a trial by jury for criminal contempt from any question. At the same time, it insures an adequate, decent—and I assure Senators—a most effective remedy in civil contempt proceedings.

I thank the Senator.

Mr. MORTON. There is certain language contained in the Talmadge amendment which has not been changed by my proposal. It is brief, and I shall read it. It reads as follows:

> Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. JAVITS. Mr. President, I would like to ask the Senator to comment on a point concerning his amendment.

There are a number of titles in the bill in which the injury inflicted upon the person who is injured, should the bill become law, is irremediable by civil contempt proceedings, in which the penalty is suspended once the order has been complied with. For example, if a man is prevented from voting because of race, that is the end of that. He does not vote. His vote is not counted. He is deprived of his vote, and that can never be recreated, even if the voting official subsequently says he is then willing to obey the court's order.

The same is true of the provision relating to public accommodations. If a man were subjected to the indignity of being barred because of race from a place of public accommodation, within the language of title II, that would be the end of that; no one could, by being punished by being fined or by being put in jail, provide a remedy for that wrong; the wrong would have been done.

Under section 302, the intervention section, of title III, for example, once a person has been deprived of the right to exercise his first amendment right to express his views, nothing could be done to give him that opportunity for free speech over again.

Similarly, if a person were barred from a public park or playground, that particular wrong would then have been done.

Therefore, it seems to me that the answer that civil contempt remains for the court to adjudicate, which perhaps would be understandable in connection with some of the titles of the bill which deal with continuing wrongs, would not be applicable in cases in which the loss of civil rights would be irremediable. In such cases the power of criminal contempt proceedings is necessary for the court to have, as has been uniformly the rule throughout the country, including the Southern States.

Will the Senator from Kentucky state why he believes such cases would be dealt with properly by making such a change in the bill as he proposes?

Mr. MORTON. As I said when I submitted the amendment, my colleague from Kentucky [Mr. Cooper] has an amendment; and I assume that if this amendment is adopted, the Senator from New York will favor that one.

I believe we are trying to make adequate provision for those who unknowingly violate one part of the bill, if it becomes a statute. We are trying to provide that they will have the right of trial by jury, and therefore will not be at the mercy or the caprice of a judge who might, even in his best judgment, make a mistake.

I feel that we can properly go further. I do not say this amendment is the answer to every problem. I wish to see the Senate pass a bill in this field; and I believe that if this provision were to be omitted, and if the Senate should then proceed to deal with antitrust cases and various other cases, perhaps we would have to be here until Shrove Tuesday, before the bill could be passed; or perhaps we never would succeed in passing the bill.

I want the Senate to pass the bill. So I offer the amendment in entire sincerity. I admit that I am not a lawyer and I am not an expert in this field; but the amendment is a genuine and conscientious effort by me to try to expedite the passage of a bill along this line.

As for the pending substitute, many of us would vote for it if it were the only choice. But, first, I wish to ascertain whether there is another choice; and I think what I am attempting to do is in the interest of having a meaningful bill passed by the Senate; and I am sure the Senator from New York wants that to be done.

Mr. JAVITS. Of course I do; and of course I do not question for a moment the Senator's sincere desire. Nor do I have any doubt whatever about the fact that the fundamental thrust of this amendment is to serve that purpose.

Personally, I feel that the limitation on the authority of a judge to punish and to impose sentence for criminal contempt—as provided in the 1957 Civil Rights Act and in the Dirksen-Mansfield amendment—is fairly well indicated by the Supreme Court's recent dicta. Can the Senator from Kentucky tell us why he believes the application of that standard—in other words, either a provision setting the nonjury limit at 45 days and $300, as in the 1957 act, or at 30 days and $300, as in the Dirksen-Mansfield amendment—is not a fair way to settle the issue, by giving the judge that limited deterrent power, which he would have to use in dealing with situations in which irremedial wrongs had been committed; does the Senator feel that the judge should not have any power to try such cases, except with a jury?

Mr. MORTON. First of all, it will be recalled that the 1957 act was worked out in conference, and there was not a clear vote on it, on its merits, before it went to conference, in either body.

By means of this amendment, I have attempted to return to the O'Mahoney-Church-Kefauver amendment, which was adopted by a vote of approximately 52 to 41, in 1957. As I have said, at that time I voted against it; but since then I have had a second thought.

I notice that the then Senator Johnson, now President Johnson, voted for it; and the late President Kennedy, then Senator Kennedy, voted for it; and I believe the majority leader, the Senator from Montana [Mr. Mansfield] voted for it.

This bill is in the nature of a compromise; and this amendment is in the nature of a compromise. The amendment of my colleague [Mr. Cooper] is also in the nature of a compromise; and I shall support it if he brings it up—and I am sure he will.

I believe that any legislation in this area will have to be somewhat in the nature of a compromise. I have talked with many Members of the other body, and I believe an amendment of this kind would be acceptable to them, and therefore would not necessarily require the holding of a conference between the House and the Senate.

Mr. JAVITS. I say to the Senator from Kentucky that at this point I believe I shall support the Dirksen-Mansfield substitute over other efforts to deal with this issue, because I believe the Dirksen-Mansfield substitute would be a fair compromise in this situation, will deal with both sides of the coin and will apply to the entire bill.

I believe that a judge has to have some modest deterrent power to use in such situations, if this bill is really to be an effective act; and our experience in the last 7 years would bear out the fact that although, as the Senator has said, the compromise was arrived at in conference, and was not submitted to a direct vote by both Houses, nevertheless it is entitled to credence, because, after all.

both Houses agreed to the conference report. So I believe that is, after all, a fair way to settle this issue.

Therefore, I shall not be able to support the Senator's amendment.

Mr. MORTON. I thank the Senator from New York.

Mr. RUSSELL. Mr. President, will the Senator from Kentucky yield to me?

Mr. MORTON. I yield.

Mr. RUSSELL. First, let me say that I hope the Senator from New York will not leave the floor immediately.

Mr. President, I do not share the desire of the Senator from Kentucky that the Senate pass such a bill—meaningful or otherwise—dealing with this subject. I also prefer the amendment proposed by my colleague [Mr. TALMADGE], for himself and other Senators, in regard to the jury trial provision.

But the Senator from New York is much too good a lawyer to have made the argument he made a moment ago in discussing the amendment of the Senator from Kentucky. The Senator from New York well knows that three of the instances to which he referred would involve civil contempts, and that if they were continued, those who were guilty would have to stay in jail if they persisted in the denials to which the Senator from New York has referred, until they purged themselves.

In addition, the Senator from New York knows that criminal penalties are involved—in fact, approximately nine criminal penalties, I believe, in connection with the voting provision.

Not only that, but the Senator from New York said he supports the Dirksen-Mansfield substitute; and I point out that every case embraced as a criminal contempt under this amendment would be covered by the Dirksen-Mansfield substitute.

So the only question is whether the Senate is to put a dollar label on a man's substantive rights, and thus is to say, "We will put these cases in one category; and after the judge has found him guilty or has held an ex parte, in-chambers hearing to determine the degree of his guilt, the judge will then submit the case to a jury."

In that event, every member of the jury would know that the judge had already determined that the man was guilty, and had also determined that he should be punished by the imposition of a fine of more than $300 or a sentence of more than 30 days in jail. So the jury would be prejudiced.

There is no precedent in our law—other than the provision of the 1957 act which deals with this subject—to justify the placing of a dollar sign on the substantive rights of one who might be charged with such an act or offense.

The Senator from Kentucky has gone back to fundamentals. One of those fundamentals is that, without regard to the money or value that might be involved—and the Founding Fathers in respect to civil cases said that if a case should involve more than $20, the parties would be entitled to a jury trial—in all cases of criminal contempt the defendant should have the right to trial by a jury of his peers to determine his guilt or innocence. There is really no difference in the fundamental proposition advanced by the Senator from New York, because a defendant would be tried for criminal contempt in any event, whether it would be under the Dirksen-Mansfield substitute, under the amendment proposed by my colleague [Mr. TALMADGE] and others, or under the perfecting amendment proposed by the Senator from Kentucky [Mr. MORTON].

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield to me so that I may answer?

Mr. MORTON. I yield.

Mr. JAVITS. Mr. President, I speak about the deterrent power in the judge. We are not legislating in a vacuum. We know very well that in certain parts of the country a person subject to punishment for criminal contempt knows very well that once he gets a jury, he will probably be let out.

Mr. RUSSELL. Mr. President, I challenge the Senator to prove that statement by reference to any single trial for criminal contempt that has been held. I say that the juries in the South are just as responsible in their duties as are juries in New York City.

Mr. JAVITS. Mr. President, the Senator from Kentucky yielded to me.

Mr. MORTON. I yielded to the Senator from New York.

Mr. JAVITS. Mr. President, though we venerate and respect the Senator, I do respectfully submit that when the Senator yields to me, the rules of the Senate should obtain for everyone—both for me and for the Senator from Georgia—and I will thank the Senator from Georgia to allow me to finish.

Mr. RUSSELL. Mr. President, I take——

Mr. JAVITS. Mr. President, I demand the regular order.

The PRESIDING OFFICER (Mr. LONG of Missouri). The regular order has been called for.

Mr. MORTON. Mr. President, I do not like the job of referee, but I will yield to the Senator from New York.

Mr. JAVITS. Mr. President, the Senator from Georgia knows all the rules. We are constantly reminded of the parliamentary situation by the Senator from Georgia. He is an expert in the rules. I would greatly appreciate his applying them to himself. I have never interrupted the Senator from Georgia, and I never would, and I hope that he will show me the same courtesy.

Mr. President, I said—and that is all I said—that the judge ought to have some deterrent power himself. And that was the essence of the compromise which was made with respect to this problem in the first instance in the 1957 act. I said—and I repeat—that in the South a defendant may very well feel—and that is why we did what we did—that if he can get a jury in a criminal contempt case, he may very well do much better than he would do with a judge. Nonetheless, I respect—and we all respect as lawyers and as laymen—the great traditions of the common law for jury trials, though there has been constant confusion between jury trials for crimes and jury trials in criminal contempt cases, because the universal rule in our country is that in criminal contempt cases the court and not a jury adjudges the punishment.

That is deeply imbedded in the rules regarding criminal contempt. For example, a section of the Federal criminal code, section 402 of title 18, United States Code, provides that if the act which constitutes criminal contempt is also either a crime at State law, in the State in which it takes place, or a crime under Federal law, the defendant is entitled to a jury trial. In short, if it were both a crime and contempt of court, the defendant would have a jury trial, as of right, under existing law. We would not have to write any provision in the bill on that score.

I pointed out that some of the acts which would violate this bill, if enacted, would be irremediable. The one I pointed to particularly was the question of voting. Therefore, the judge ought to have some minimal deterrent power. That is all I am arguing for: some minimal deterrent power in the judge on his own, remembering that even the Dirksen-Mansfield amendment would be a diminution of the power which judges now have in criminal contempt cases throughout the Nation.

Furthermore, the distinguished Senator from Kentucky [Mr. MORTON]—and I am very grateful to him for his courtesy and tolerance in yielding as he has—has pointed out that he wishes to be sure that there is no punishment for criminal contempt except where willfulness or intent is proved. Of course, that is inherent in what the judge must find in order to punish for criminal contempt under existing law. The doctrine of intent or willfulness is included in nonjury contempt already. And, of course, the court's finding on that point is always subject to review by the appellate courts.

The Supreme Court of the United States, our highest authority, very recently decided in the Barnett case that it is entirely constitutional, proper, and in accordance with traditional practice for courts to punish for criminal contempt without a jury, even if we grant the validity of the footnote in the decision suggesting a limit on the kind of punishment which a judge may impose in such a case, such as is contemplated by the Dirksen-Mansfield substitute. That is the essence of my point with respect to the Senator's amendment. I submitted it to him because I deeply feel that the Senator, like myself, is trying in his own way—I do not have to agree with him to pay tribute to his sincerity—to bring to a conclusion a very important phase of the bill.

Mr. MORTON. I thank the Senator.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MORTON. I yield to the Senator from Georgia.

Mr. RUSSELL. Mr. President, if I have violated the rules or offended any Senator, I apologize to all Senators.

I have become a bit weary of having the Senator from New York, every time he takes the floor to discuss any phase of the question, asperse the character of the people who live in the southern part of the United States. He has not at any time talked more than 10 minutes on the bill that he has not said that, "We all know that in the South," or "We all know that in certain sections, the law will not be applied." Juries will not do their duties. Officials will violate their sworn oaths joyfully and cheerfully.

Mr. President, I am a bit fed up with it. I assert that the people who live in the section of the country from which I come will compare favorably with any of those who are represented by the Senator from New York. They will compare favorably in morals, in the administration of justice, and in the discharge of their duties as public officials.

A man who will come here and insinuate from day to day that there is something fundamentally evil and sinful about people who happen to live in the southern part of the United States ought to have something more substantial to prove it than a little sneer on his face when he makes a statement. He should make a clear case and prove that the people of this section are unworthy. The people of the South have been in the forefront of every battle of every war in which our country has ever been engaged. The percentage of the losses of the white people of the South who died on the battlefields is greater than the percentage in any other section of the country.

The records of the Adjutant General's office will prove that. They were active in the beginning of our country to win the liberties that we enjoy today. They do not have to apologize to anyone. And they deserve better treatment on the floor of the Senate than to have the Senator from New York insinuate from day to day that they are vile and lowly people who are not entitled to live in the same country with other citizens of these United States.

Mr. President, I do not know of a town in the Southern States where the people would be afraid to venture from their homes at night if over a period of 30 minutes a poor girl might be screaming for help as a fiend stabs her from time to time, pursues her for 2 or 3 blocks, with more than 100 people reporting that they had heard this and seen it from their windows. The crime rate was so great in that area that they were afraid to venture forth and offer her a helping hand or to save her. I say that could not happen in a city in the South, demean it though one may. I say that no city that I know of in the South bears the title of a modern Sodom or Gomorrah because of the great amount of crime that is committed there.

We are not a perfect people, but we have done our share in shouldering the load of establishing a country on its first foundations and defending it in every war in which it has ever been engaged and against great difficulties, starting again in 1865 from the ashes of a once flourishing civilization and making our full contribution in rounding out our great Republic in which we live today.

If I was hasty in interrupting, it was because I had reached the point where I could no longer remain quiet when the Senator from New York, who has on innumerable occasions aspersed the people of the section from which I hail, say again that we all know that in the South one cannot expect to get any justice in a case in which a white man and a Negro are involved. Mr. President, that simply is not so. The jurors in the Southern States respect their oaths and have as high an appreciation of it as do jurors in any other area of our country. They have as high ideals of citizenship as any other citizens. They may not be quite so sophisticated as some. They may not be able to understand all the nuances of art or opera; but when it comes to fundamental Americanism, when it comes to elemental justice in relationships between man and man, when we consider love of country I have no apology to make for the State or section from which I come. They are the peers of any.

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. Mr. President, I yield the floor to the Senator.

Mr. JAVITS. Mr. President, I will not allow the Senator from Georgia, distinguished as he is, to put words in my mouth which I have not uttered and have never said on the floor of the Senate. I invite him the search the RECORD and prove it. I have not uttered on the floor of the Senate words with respect to demeaning the people of the South.

On the contrary, I have said time and again, and I say it de novo so there will be no question about it, because I have no desire to get into a hassle on this with the Senator from Georgia, that I have great respect for the people of the South, for their Americanism, for their bravery, for their courage, for their dignity, and for their contributions to the country. I am not going to allow to stand any imputation that the people of New York have died in fewer numbers in the interest of the security of our Nation. Nor would I stand for the imputation that they died in greater numbers. They have served and they have sacrificed like other Americans. They ask for no special credit and no greater credit than any other Americans.

So I fully respect and admire the people of the South. If anything I have said has been taken as an expression of derogation of their dignity or their standing as Americans, I hereby apologize to them, because I had no such intention or design.

The only thing we are trying to do here is to hold the scales of justice as evenly as we can.

If there has been any intimation in what I have said to the effect that southern jurors would not do their duty, I withdraw it. I remember a colloquy with one of our distinguished colleagues from the South—I believe it was the Senator from North Carolina [Mr. ERVIN]—in which I was most certain in stating that a lawyer could not impute that there is a difference in different kinds of juries and different judicial systems, or the fact that certain jurors would not do their duty. The courts of the country could never be operated on such a basis.

I would like to restate my views, so that they will be clearly understood. All I say is that if a person were to violate a court order under the provisions of the bill, in my judgment, the court should have a right to look forward, within the judicial system, to a remedy, as in the case of civil contempt cases, but he should have a minimum equity power to send someone to jail, because, I point out, in some cases there is the grave problem of the commission of an irremediable wrong. That is all I have said.

As I said before, I assure the Senator I shall do my utmost to do those things which are necessary in my deepest convictions. I do not in the slightest derogate the fidelity of the people of the South to high standards of justice. I deprecate the social order, which has been spoken of time and time again, which includes the concept of segregation. I pray and shall work for the day when there will be no such feeling on the part of the people of the United States.

This is a different thing from imputing motives or having a desire to impute motives of lack of justice on the part of certain people. I reject this argument, so that there may be no question about it whatsoever. I am not conscious of any time when I have said that or thought it.

As I have said, if unwittingly or unconsciously I gave such an impression, I wish to make the record clear. I withdraw it, and make the record certain that I desire to do no such thing. This would be demeaning a part of America, and I want to be no party to it. I wish to stick to the merits and the justice and the need of a deterrent power in a Federal judge over and above the normal civil contempt power.

Mr. RUSSELL subsequently said: Mr. President, in my colloquy with the Senator from New York [Mr. JAVITS] a few moments ago, the Senator challenged me to bring forward any proof that he had ever referred to the South in drawing a parallel as to the administration of justice. I have had the remarks of which I complained transcribed. I ask unanimous consent that the reporters' transcript bearing their folio Nos. S418, S419, S420, and S421 be printed in the RECORD to show that the Senator from New York not only stated:

> We know very well that in certain parts of the country a person subject to punishment for criminal contempt knows very well that once he gets a jury, he will probably be let out.

And at that point I rose and challenged the statement without securing recognition of the Chair, which was not proper under the rules. But after that the Senator is quoted in the RECORD as saying, as he said here, and I heard him:

> I said, and I repeat—that in the South a defendant may very well feel—and that is why we did what we did—that if he can get a jury in a criminal contempt case, he may very well do a lot better than he will do with a judge.

There being no objection, the transcript folios were ordered to be printed in the RECORD, as follows:

> Mr. MORTON. I yield.
>
> Mr. JAVITS. Mr. President, I speak about the deterrent power in the judge. We are not legislating in a vacuum. We know very well that in certain parts of the country a person subject to punishment for criminal

contempt knows very well that once he gets a jury, he will probably be let out.

Mr. Russell. Mr. President, I challenge the Senator to prove that statement by reference to any single trial for criminal contempt that has been held. I say that the juries in the South are just as responsible in their duties as are juries in New York City.

Mr. Javits. Mr. President, the Senator from Kentucky yielded to me.

Mr. Morton. I yielded to the Senator from New York.

Mr. Javits. Mr. President, though we venerate and respect the Senator, I do respectfully submit that when the Senator yields to me, the rules of the Senate should obtain for everyone—me and the Senator from Georgia—and I will thank the Senator from Georgia to allow me to finish.

Mr. Russell. Mr. President, I take——

Mr. Javits. Mr. President, I demand the regular order.

The Presiding Officer. The regular order has been called for.

Mr. Morton. Mr. President, I do not like the job of referee, but I will yield to the Senator from New York.

Mr. Javits. Mr. President, this is not funny. This is not funny at all. The Senator from Georgia knows all the rules. We are constantly reminded of the parliamentary situation by the Senator from Georgia. He is an expert in the rules. I would greatly appreciate his applying them to himself. I have never interrupted the Senator from Georgia, and I never would, Mr. President, and I hope that he will show me the same courtesy.

Mr. President, I said—and that is all I said—that the judge ought to have some deterrent power himself. And that was the essence of the compromise which was made with respect to this bill in the first instance. I said—and I repeat—that in the South a defendant may very well feel—and that is why we did what we did—that if he can get a jury in a criminal contempt case, he may very well do much better than he would do with a judge. Nonetheless, I respect—and we all respect as lawyers and as laymen—the great traditions of the common law for jury trials, though there has been constant confusion between jury trials for crimes and jury trials in criminal contempt cases, because the universal rule in our country is that in criminal contempt cases the court and not a jury—unless the judge wishes to impanel one—judges the punishment.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MILLER. I should like to ask the Senator about the power of deterrence to which the Senator refers. I do so recognizing the great amount of experience the Senator from New York has had. Why does he feel that civil contempt, which can involve unlimited incarceration, would not satisfy the problem of deterrence?

Mr. JAVITS. I thought I had explained that, but I shall be glad to restate it. I point out that some of the matters which would be subject to a court order under the bill would be irremediable once the wrong had been committed. The most striking example is the right to vote in elections. Once a man has been deprived of the right to vote, there is no way of correcting it in time to permit him to vote. The only way that right could be protected would perhaps be by providing a penalty for the person who was preventing someone from voting.

Mr. MILLER. The Senator from Iowa was present when the Senator from New York made his comments. I am trying to follow him. Let us assume that a person who is properly registered goes to vote and finds that he will not be permitted to vote. Is it not feasible for the court to let the person vote by saying to the person who is trying to prevent a vote, "You will stay in jail until the man votes"? If that is so, there is no irremediable situation; is there?

Mr. JAVITS. First, the court tries to afford the remedy by civil rather than criminal procedures. The court would rather get compliance than send people to jail. Second, in a case of blocking of a man's registration, the time for registration under the law could pass before the court could act. I give that as an illustration. The question of timing is important. Relief might not be obtained until the voting time had passed. That is the reason for providing punishment under criminal contempt.

My feeling was that the deterrent was necessary; that the punishment would be relatively small under the proposed compromise provision; and that this modicum of power should remain in the hands of the court.

Mr. MILLER. I appreciate that rather extensive response. I am wondering whether the Senator from New York would not believe it would be an adequate deterrent if we provided only for monetary punishment rather than imprisonment for criminal contempt.

Mr. JAVITS. I believe that the Dirksen-Mansfield amendment is about the minimum which could really be an effective deterrent.

Mr. MILLER. I thank the Senator from New York. I know that he must be excused from the Chamber to take a plane, but I should like to state that when we talk about an irremediable wrong, we may be in danger of begging the question. Perhaps it is not irremediable, as I pointed out in the case of a violation of the privilege of voting, because if there is prompt action, it seems to me there could well be a deterrent in the form of a civil contempt procedure to preserve the privilege of voting. Similarly, in the case of registration, if a person aggrieved went to the registrar and the registrar refused to register him, it seems to me that a Federal judge should let the registrar know that the registrar will be placed in jail until he permits the person to register.

It seems to me that if it were proper to go down to the registrar's office 5 minutes before the registration deadline, indeed we could possibly have an irremediable wrong; but I believe we must be practical and recognize that this probably would not happen. We must weigh the possibilities of irremediable wrongs. I suggest that these are only possibilities against the fundamental right of a trial by jury.

It may be that the Federal judge should have some kind of power of punishment. I am not sure that such power of punishment should go to the extent of putting a person in jail, whether for 5 minutes, for 5 days, or for 30 days. The point made by the Senator from Georgia, of placing a monetary value on rights, is well taken; although I should prefer not to base it on terms of monetary value, but the number of hours in jail. I find it difficult to draw the line between 30 days, 45 days, or 1 day, so far as the right to a trial by jury is concerned. That is why I would hope that the Senator from New York would reconsider his position and realize that the monetary fine probably would satisfy the irremediable wrong to which he referred. It is possible that we might provide something in another protective amendment to permit a criminal contempt fine of $400 or $500. I am much less concerned about the monetary amount than I am about the duration of time in prison, and turning the power over to a judge to be the prosecutor, the judge, the jury, and the enforcer of the criminal contempt procedure.

I believe that the Supreme Court decision on this point is by no means clear. I recognize that in its present state the law seems to indicate that possibly a 45-day imprisonment term might get by without a trial by jury; but that is by no means absolutely clear. In any event, I find it difficult to draw the line, as the bill does, between 45 and 30 days, as the Mansfield-Dirksen amendment does, or 1 day. That is why I am a cosponsor of the amendment submitted by the Senator from Kentucky [Mr. Morton]. I wish to make it clear that I believe that the irremediable wrong to which the Senator from New York referred could be minimized, if not eliminated, by prompt execution of civil court proceedings.

Mr. MORTON. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I am about to yield the floor, but I am glad to yield to the Senator from Kentucky, of course.

Mr. MORTON. I appreciate the courtesy of the Senator from Iowa in yielding to me. I also appreciate his remarks.

Mr. President, speaking from memory, I inadvertently misstated the contents of the O'Mahoney amendment of 1957. It was in conformity with the present Talmadge amendment. It went further than the Talmadge amendment as we attempt to change it with my amendment; and I wish to make that point clear.

Mr. RUSSELL. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. RUSSELL. The Senator's amendment is restrictive. It places a definite limitation on the range of the original O'Mahoney amendment. That applied to all cases of criminal contempt, whereas the Senator has confined it to criminal contempt arising under any title of this bill.

Mr. MORTON. I thank the Senator from Georgia. That is what I wished to make clear, because I spoke from memory, without looking it up. I thought the 1957 O'Mahoney amendment applied to the title of that bill. But I say it applies to all criminal contempts, and I wish to make that point clear.

Mr. MILLER. I believe it is well to have that point made, but I wish to repeat that I believe that the purpose behind our amendment, in confining it to the scope of civil rights legislation, is to avoid countless arguments that might arise over the application of such an amendment to other types of situations.

Further, the purpose behind the amendment, by eliminating most of the side controversies, is to enable us to try to reach some workable agreement on the floor of the Senate among those who perhaps do not feel so strongly about incarceration by a judge for criminal contempt as others do.

I believe that one of the most difficult things about this problem is the failure of well-meaning people, and the failure of members of the press, many of whom do not have a legal education, to distinguish between criminal contempt and civil contempt.

I repeat that if I did not believe a judge could put an individual in jail until that individual carried out the orders of the court under civil contempt, and could keep him in jail as long as he persisted in his contempt, I would not be a sponsor of the amendment. However, I am afraid there will possibly be some who will believe that we must have imprisonment for 30 days, or 45 days, for criminal contempt, in order to meet the situation under the terms of the bill. I believe that is an erroneous position. The way this legislation will really work will be that if people do not agreeably carry out the orders of the court, it will be accomplished through civil contempt procedures and not through criminal contempt procedures.

Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, Wednesday's New York Times carried a story concerning the interfaith rally which took place on Tuesday evening in Washington in support of the civil rights bill presently being debated in the Senate. The story, by Ben A. Franklin, said:

> American religious leaders demanded tonight that the Senate pass the civil rights bill—immediately and intact—as a matter of primary morality.

The story continued:

> They invoked the name of God in urging enactment of the measure.
>
> More than 4,000 clerical and lay representatives of Protestantism, Roman Catholicism, and Judaism overflowed the 3,800-seat McDonough Memorial Gymnasium at Georgetown University for the rally.
>
> They said there was "no precedent" for the scale and unity of the social action program begun here tonight.

Speaking for Protestant denominations, the Reverend Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church, was quoted as saying:

> We will win this contest. New Federal legislation must and will be enacted and the time is now.

According to the news story, church leaders are supposed to have said that the 2-hour convocation was only the beginning of a concerted drive by religious groups for passage of the bill and of increasing efforts to "further the Negro revolution after the legislation is passed."

The churchmen went on to say, according to the New York Times story, that "churches and synagogues are going to continue pushing until—and even after—the bill is passed."

We are told that the Protestant denominations were to begin a daily morning prayer service at the Lutheran Church of the Reformation on Capitol Hill and that the service is planned as an assembly point for the hundreds of clergymen which the National Council of Churches said would come to Washington in the next few weeks to "frankly lobby" for the civil rights bill.

Dr. Blake was supposed to have stated that demonstrations against de facto school segregation, such as those in Chester, Pa., and Cleveland, Ohio, must be manned and pressed until the school boards listen or are replaced by aroused electorate.

> Our task as churchmen is not to be expert in legislation or to tell the Congress how to legislate—

Dr. Blake said.

> But it is our task and it is our competence to cut through the fog of morality that threatens every American home and every church and synagogue.

Dr. Blake is also said to have declared:

> We have allowed ourselves to be divided about such questions as the legality of demonstrations.

Mr. President, I think that it is the right of every American, churchman and nonchurchman, to express his views when those expressions are kept within the framework of orderly processes. These 4,000 clerical and lay representatives of Protestant, Catholic, and Jewish religions exercised their right to assemble, their right to speak their views, and they are now going to exercise their freedom to petition the Congress in behalf of the bill which is being debated by the U.S. Senate. I find no fault with this. These eminent personages have the same right to express a viewpoint about legislation as does any other group in American society. I cannot agree with them, however, that the bill should be passed immediately and intact. Nor can I agree that it should be passed as a matter of primary morality.

In the first place, I say—and I say it most respectfully of the group to which the Times story referred—that I do not believe that the statement attributed to them represents the considered judgment of the millions of church lay people in this country, nor do I believe that these purported statements represent a true and carefully considered judgment of the majority of church leaders, church officers, pastors, and lay leaders throughout the Nation.

I do not know whether these church representatives who met in Washington actually "demanded" that the Senate pass the civil rights bill, although I have no reason to doubt the story as it appeared in this great newspaper—the New York Times. If these religious leaders did demand that the Senate pass the bill, and that the bill be enacted immediately, and that the bill be enacted intact, they did what many other persons and groups have done from time to time. I get letters every day demanding that I do this or do that or do something else. I accede to the demand if, in my judgment, it is meritorious; I do not accede to the demand if, in my judgment, it is not feasible, proper, or justified.

So, I trust that what I have to say today will not be interpreted as any attack upon these eminent churchmen. I do not question their motives. I do not even question their methods. I do question the wisdom and the soundness of their position, if indeed it is their position, that the Senate must pass this bill, or that it must pass the bill immediately, or that the Senate must pass the bill intact as it was sent to us by the House of Representatives.

One hundred Senators have been elected by the millions of American voters to represent the 50 States of the Union. I am one of those 100 Senators. Millions of church men and women, leaders and laypeople alike, make up our constituencies, and those millions expect us, as Senators, to uphold the oath which we have all taken, under article VI of the Constitution, to support the Constitution of the United States.

Article VI provides:

> The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

So, the faith of the people who elected us to serve in this unique body is a faith that we will live up to the solemn oath we have taken, and it is a faith that we will exercise our best judgment in an attempt to represent the best interests of our Nation and our Nation's future. The millions of people, church members and nonchurch members alike, who went to the polls and signified their trust in us by electing us to office do not expect us to bow to pressures from any group if in so doing we would enact measures violative of the Constitution which we have sworn to uphold or measures which, in our most conscientious and considered judgment, would not really be in the best interests of our country and of the people, white and Negro alike.

It is our duty to carefully consider any measure that is before us, to amend that measure if in our judgment it should be amended; it is our duty to pass that measure if in our judgment it should be passed. It is our duty to reject that measure if in our judgment it should be rejected. If it appears that under the pressures and emotional upheavals of the moment, an iniquitous measure would pass this body if a vote were taken, it is our duty to alert the people as to the dangers involved. We should see that the measure is shorn of its fancy trappings, even if it does take all summer—as some would say—or all winter, for that matter. This is our duty. It is not our duty to run from responsibility when that responsibility is clear. We are not to cower in the face of demands by leaders of any group. We are not to be herded, like dumb, driven cattle, and stampeded in any direction, simply because the leaders of this group or that group demand that we do as they say. Such conduct is not my concept of responsible government. Such conduct is not my concept of responsible representation in this body of the States.

Mr. President, the Congress has been importuned, not only by these eminent churchmen, but also by various other groups, by some of our colleagues, and by some high officials in the Government, to pass this bill immediately and to enact it as it is written.

Let us pause for a moment to think about this. What is so pressing about this matter, that the bill must be passed immediately?

Injury is often more likely to result from hasty action than from delay. Why cannot those who are urging haste let orderly legislative processes take their course? Is it because this bill cannot endure the application of careful scrutiny? Is it because the efficacy of this measure is so questionable that it cannot withstand the careful and consistent study and evaluation to which it is being subjected? If it is, indeed, a good measure now, I submit that careful and painstaking study will not impair its beneficence. If it has real merit, debate will not deprive it of its value. Why, then, should there be such a demand for immediacy in its enactment? Could it be that these people fear any prolonged and meticulous examination of its contents?

Perhaps the real reason lies in the fact that so much emotion is involved in the whole subject of civil rights. When men, at a given moment, let themselves be guided too much by their emotions, they are apt later to repent.

Some of those who tell us that we must act immediately, consistently refer to the "great national crisis." If there is not a crisis—and I am convinced that this is really the case—some of our friends appear to be bent upon creating one. Crises often demand immediate action; but if this is a crisis, it is a crisis which more properly demands that we make haste slowly, that we think with our heads, and that we not be guided alone by emotional impulses.

It must be remembered that the Senate is debating a proposed congressional statute. In some quarters, it is said that what is really going on in the Senate is a full-fledged filibuster; and to many citizens, the word "filibuster" carries unwholesome connotations. In this regard, however, we should remember that if this bill, as it is now written, were to be enacted into law, the changes which would be brought to bear upon our society—if, indeed, such a bill were enforcible—would be profound and long lasting. In one entire geographical section of this mighty country, customs generations old would be uprooted. Many Senators are gravely concerned about the constitutionality of several provisions of the bill. Some Senators do not believe the bill could be enforced if it were enacted, and that attempts to enforce it would produce violence. Some Senators believe the passage of the bill would infringe upon the property rights and other constitutional rights of employers and owners of business establishments. Some Senators fear that passage of the bill would commit us to further regimention, further Government controls, and further governmental dictation in the private affairs of all our citizens. Some Senators question the wisdom of the enactment of any bill dealing with civil rights, at this time, and under existing conditions, and considering the circumstances under which the measure was conceived and brought to its present stage of development. So our church people and all citizens should exercise their independent judgments on this bill before acceding to exhortations that they exert presure in behalf of its passage. Passage of this bill will constitute the taking of a long step, and it could very well be a step backward. Should a future Congress attempt to repeal this law, if the bill is enacted into law, a future President can veto the action of that future Congress, and it would require a two-thirds vote to override that veto. So, if we make a mistake now, it will not be as easy to erase that error as it was easy to commit it.

The mail from my constituents does not, on the whole, reflect the urgency that these church leaders, to which the Times story referred, apparently believe is involved in this issue. And the overwhelming majority of the people who have written to me are church members, and they are members of various faiths. There are some well-meaning people in my State who, of course, do believe that this bill should be passed, that it should be passed immediately, and that it should be passed intact, but in carefully checking over my mail this morning, I find that that mail has been heavy, and I find that it has been preponderantly against the passage of this bill. I also find that many of my West Virginia ministers do not support the bill. Whereas a few of my ministers have espoused the passage of this bill and have sought to encourage interracial activities in their churches, letters from men and women in their congregations have expressed disappointment in the stand taken by those ministers.

Now, Mr. President, let us examine the position of those who would have us pass this bill intact. I have spent many hours in studying the bill, the House debate at the time the bill was passed by that body, and the House committee report and minority report. I am constrained to believe that most of those people who urge that the Senate should pass this bill without any amendments whatever really do so without full knowledge of the contents of the bill. As a matter of fact, a mere first reading of the bill will not expose its glaring pitfalls. These become apparent only after several readings of the bill and upon deep reflection. Even more so are they made apparent when one reads the debate which occurred in the House of Representatives at the time of the bill's consideration there. A reading of the House minority report would be most enlightening for our people who have not had access thereto.

Yet, Senators are asked daily to put their stamp of approval upon the bill exactly as it emerged from the few hours of study given to it by the other body.

Let us pause to examine precisely what we are asked to do by those who urge that we pass the bill immediately and that we pass the bill intact.

Initially, they would virtually have us believe that the other body—and I say this with the utmost respect for that body—constitutes the alpha and omega of wisdom, and that the bill when passed by the House represented the ultimate in legislative perfection. Moreover, they would have us enact, in brazen disregard of the Federal Constitution, provisions which, in the honest judgment of many of us, would be indubitably unconstitutional. For example, let us take section 704(f). What does that section provide? It provides that it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of that person's "atheistic practices and beliefs."

I am not an atheist, and I carry no brief for atheists. During my 46 years, I can recall having met only two men who have professed to be atheists. I did not value the acquaintance of either, nor did I attempt or desire, in either case, to develop what was only a mere acquaintance into a friendship. I doubt that I could ever bring myself to the point of admiring, or even having very much respect for, an atheist. Yet the atheist, under our form of republican government, has his constitutional rights. He has a right to work and earn a living, and, if he lives long enough, who knows but that he might not, at some future time, see the error of his ways and the stupidity of his views?

I doubt that there is a Member among the 100 Senators elected to this body who would seriously argue that section 704(f) is not unconstitutional.

No man of sound reason can reconcile this gross inhibition with that part of our democratic institutions which fosters true freedom of worship. On the one hand, we are asked to vote in favor of the fundamental principle of insuring what this bill calls "the full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States."

On the other hand, we are asked to vote denial of the same rights, privileges, and immunities.

In my judgment, the Constitution unquestionably respects the right of the individual to believe in whatever he chooses to believe with respect to the Deity, as well as the right to believe in nothing, if he so chooses. This portion of the bill thus severely impinges on a basic freedom of the individual.

I find it difficult to understand why there is such an inconsistency in this bill, a bill which on the one hand decries job restrictions against a man because of his race, and on the other hand permits job restrictions against a man because of his convictions regarding religion.

I seriously doubt that any competent lawyer or any average student of constitutional law in this country would argue, in good conscience, that section 704(f), if enacted into law, would not be unconstitutional on its face. This being the case, how can anyone or any group take the position that this bill should be enacted intact?

If it is immoral, as we are told, to discriminate against an individual because of his race or color or religious belief, why is it not immoral to discriminate against an individual because of his religious unbeliefs? If discrimination per se is immoral, as most of the supporters of the bill maintain, then where is the line of demarcation at which point immorality becomes morality and at which point one can discriminate?

And if the Congress can enact a law which will cause one to be punished because of religious unbelief, then it is only a step further to the enactment of a statute which may work punishment upon a particular faith. And it would be but an additional step to incur the wrath of an all-powerful government against any and all religion.

Here in this measure, which some people would have us enact intact, is a provision which is patently violative of first amendment freedoms.

This is just one example. But is it not enough to make us wary of those who demand that we pass the bill immediately and that we pass it intact as it came to us from the House of Representatives? If we can be asked to accept without question one thoroughly exposed legal and constitutional landmine, such as we find in section 704(f), how much more diligent should we be in our attempts to uncover the myriad of other boobytraps which may be and are encompassed within the 55 pages of this extremely controversial measure?

We are told that morality requires the enactment of this legislation. As a matter of fact, it seems to be in vogue in some circles these days, to impute that the opponents of the civil rights bill are un-Christian in their thinking. My first reaction to this is that the very maliciousness of this implication is, in itself, quite obviously contrary to the concept of Christian charity. One might be well advised to dismiss these implied charges as the unpremeditated emotional outbursts of the self-righteous who confuse myth with reality and passion with reason.

I can find no brief for the argument; I can find no justification for the argument; I can find no support for the argument that the bill under present consideration should be supported for Christian reasons. On page 21 of the New York Times of Thursday April 30, I found nine interesting lines. These nine lines were in a location where they might escape the attention of the average reader. The subject matter of the nine lines was not given the liberal coverage given ordinarily to stories concerning the civil rights bill. The nine lines read thusly:

> JACKSON, MISS., April 29.—The American Council of Christian Churches, representing 15 denominational groups with a total of more than 20 million members—

I repeat, "a total of more than 20 million members"—

> wired President Johnson today protesting the civil rights bill.
>
> The council is holding its annual spring conference here.

Here, Mr. President, is a church group, representing a sizable number of American church members. Twenty million members constitute a not insignificant segment of our population. Should this church group have chosen to wire the President in support of the civil rights bill, I think one might properly assume that the story would not have been confined to nine lines, and it would not have been relegated to a little spot on page 21. It would have been on the front page just as was the story the day before concerning the meeting of eminent churchmen here in Washington who support the bill. In any event, I am constrained to doubt that the item would have been limited to nine puny little lines regardless of its location as to page. But that is perhaps beside the point which I wish to make here. The fact remains that there cannot be much validity to the argument that the bill should be supported for Christian reasons, when a council representing 15 denominational groups with a total of more than 20 million members of American Christians protest, in a wire to the President, the passage of this bill.

It is appalling that there are those who even dare to employ such an argument. It is significant that those who make such claims artfully avoid explaining what they mean by "Christian reasons" which would justify, or even recommend the passage of this bill. There are profound constitutional issues embodied in the legislation presently under consideration. I have already referred to section 704(f), the passage of which could very well augur restrictions on the freedom of religion. If we were to pass this provision of this bill, the "chickens might someday come home to roost." Governmental tyranny—and this bill is one step in the direction of governmental tyranny—might some day throttle the religious liberty of some of the same fine, upstanding, religious people who today would have us infringe, by this bill's enactment, upon the constitutional liberty of property owners, employers, and other citizens. If this bill is passed, a clear and dangerous precedent will exist for the Federal Government to step into spheres of activity wherein it should not trespass.

It would not seem necessary to directly address oneself to the argument that this legislation should be passed for Christian reasons, because this is not the central issue. In reality, it is not an issue at all. We should all realize that the civil rights bill is a political measure. It is politically motivated. It is not a measure which is concerned with our inner religious convictions.

Yet, our fine religious leaders and our religious lay people are constantly being exhorted to exert pressure upon the Senate to pass this bill " because morality demands it." In view of the fact that we read and hear this hackneyed expression day after day, it has become the big cliché. We have heard the expression "the big lie"; now we have heard the big cliché. We are told that the Nation's "conscience" should be aroused in support of the bill. I have conscientious convictions about this bill which run deep. My conscience directs me to act to the contrary of what we are being exhorted to do by some of those who speak in the name of conscience. If what some of these people say is true, where has the Nation's conscience been through all of the generations that have preceded the present hour? Has American morality and conscience been in mothballs through all these many generations? Ministers are asked to preach morality in support of this bill. What have they been preaching all of these years? Were yesteryear's men of the cloth unconscious of morality when they looked about them and saw places of public accommodation closed to some who would enter? Was the Nation's conscience asleep in the days of the great Billy Sunday? Why have the customs, practices, and actions of employers and the owners of business establishments—actions which were considered not immoral or unmoral yesterday—suddenly become immoral today? Is the King James version of the Bible any different today than it was in the year 1619? Have the great clergymen of the past missed Heaven because of a lack of courage to speak out against immorality? Are Christians in the 20th century any more enlightened as to the divine will, expressed through the Scriptures, than were their counterparts in the 19th century? Are people any more religious today than they have been in the past?

I would not presume to judge, but I doubt whether those who stand in northern pulpits are any nearer heaven than are their brethren in southern climes.

The force of the church in America could probably be the greatest and most irresistible force on earth. I trust that the church people of our country will not let themselves become the instrument, to be used by any political party, to secure the enactment of a bill which is a bad bill. It should be readily apparent to all that morality cannot be legislated. And contrary to the hopes and dreams of our Negro citizens, equality can never be legislated.

Equality—that is the battle cry now, and it seems to have intoxicated American society for the moment. People who implore us to pass this bill in the name of morality, should stop to think just how immoral it is for them to raise false hopes in the hearts of some of our Negro citizens, who are being led to believe that this bill's enactment would automatically give them "status" or equality. If the bill is passed, politicians may reap votes, but our Negro friends will reap disappointment. But the hue and cry for equality continues.

If one watches television or reads the newspapers, one gathers the impression that the whole country seems to be in a pep rally mood, as the songs, chants, and shouts of the participants become louder and more fervent and as group after group is exhorted to pressure the Senate into voting for this bill.

If one listens, he frequently hears the words, "all men are created equal." Sometimes the words end there, and sometimes they do not. But whether they do or do not, the implication is that it is the responsibility of Government to make all men equal and to maintain equality among all men.

The Constitution of the United States does not say that all men are created equal, and the authors of the Declaration of Independence certainly did not intend that these words should be taken literally to be true. Men are not created equal today, and they were not created equal in 1776, when the Declaration of Independence was written. Men and races of men differ in appearance, ways, physical power, mental capacity, creativity, and vision. One man is born blind. Another is born lame. Geniuses are not made; they are born. Between two individuals, as between two races, there are broad differences. Equality is not a characteristic in nature, nor is it a characteristic among human beings.

All men are born equally helpless. All men are born equally sin touched. The law and constitutional rights in this Republic should know no color line. But men do not begin life in America or anywhere else with an even start for all. I have only to look at my own two daughters to see this. They have different temperaments, different talents, different abilities, different drives, different desires, different strengths, different weaknesses. I love one as I love the other. But they were not created equal, and no manmade law can ever make them equal.

In any school classroom, only a few pupils can qualify as A students. Below these leaders of the class are the B students, then the C students, then the D students, and then the F students. The majority of these students can never earn the letter A because they are not inherently capable of competing equally with their superior companions.

Life is the gift of God, but equality is not. If this were not so, Christ would not have had to heal the lame, give sight to the blind, cleanse the lepers, or cast out evil spirits which dwelled in the minds of some of His contemporaries with whom He came in contact.

As I say, life is the gift of God, but being born is never enough. Getting here alive is only the beginning. As to liberty, it is not something that comes with birth in every land. Liberty is God-blessed and God-sanctioned, but it is man actieved, and man maintained. Liberty in America is not to be equated with equality. Liberty enables men to maintain their inequalities. Unequal people have made America possible. They have always led men in the upward climb. They are the real benefactors of the human race. The men who have struggled to succeed were never interested in equality, but in superiority. Their goal was never the level of the masses; it was a level above the masses.

Liberty provides a favorable, congenial, and conducive atmosphere for men in which to think, plan, sweat, work, create, and achieve according to their talents and their abilities and their desires. Men and women who possess superior talents do not gear themselves to the speed of the mediocre. Their pace is the speed of the best. They exercise their ability, their drive, and their willingness to fully prepare for success, not in order that they might be equal, but in order that they might be unequal, in order that they might excel, and in order that they might get ahead. The ambitious person is not interested in equality. He is interested in inequality. Because he is unequal in ability and drive, he soon becomes unequal in recognition and advancement. His rewards for work done and services rendered are unequal to the rewards for mediocrity.

The great Booker T. Washington—he was not only a great Negro, but also a great American; he was not only a great Negro; he was also a great leader—said this, in his book "Up From Slavery":

> I have always been made sad when I have heard members of any race claiming rights and privileges or certain badges of distinction on the ground simply that they are members of this or that race, regardless of their individual worth or attainments. Mere connection with what is known as a superior race will not permanently carry an individual forward, unless he has individual worth.

In his Atlanta Exposition address, Booker T. Washington said:

> No race can prosper 'til it learns that there is as much dignity in tilling a field as in writing a poem. It is at the bottom of life that we must begin, and not at the top.

In the same address, Booker T. Washington went on to say:

> No race that has anything to contribute to the markets of the world is long in any degree ostracized. It is important and right that all privileges of the law be ours, but it is vastly more important that we be prepared for the exercise of those privileges.

Mr. President, were I to say those words, I would be immediately attacked. But those are not my words; they are the words of a man who set before men of all races an eternal example of patience, resourcefulness, vision, courage, strength, and industry.

Mr. President, this bill can never give status to any man or to any race. Men must earn status. Men must earn the respect of their fellows. Fellowship coerced by Federal statute will never become real comaraderie. Forced equality cannot become real equality. Educational policy which forces all children, whether they are white or Negro, into the same classroom, with the same curriculum, will not result in equal status, equal attainments, or an equal education.

The Jews preached concern for the poor; but they did not preach equality. The Greeks extolled the virtues of democracy; but they did not preach equality. The Romans preached justice under law; but they did not preach equality. The Middle Ages in Europe preached Christ, but not equality. Government is God-ordained, but equality is not. Law and order are God-ordained, but equality is not.

We are a Nation among unequal nations; and because of this, America is the object of the respect, as well as of the envy, of other nations.

As citizens of this Nation, our people are men and women who are unequal. Some of us are among the "haves," and some of us are among the "have-nots." Some of us succeed, and some of us fail. So it has always been, and so it will ever be.

Churchmen, whether lay or clerical—and I consider myself to be a humble layman, one who is a sinner, one who is imperfect, as all men today are imperfect—but I say that churchmen, whether laymen or clerical who seek to solve the problems of our society through processes of regimentation, governmental interference, and legislated morality, are headed down a road that leads toward darkness. Whenever we as a church, whenever we as Senators, whenever we as elected officials, whenever we as a Supreme Court, encourage people to use force wrongfully, to commit acts of civil disobedience, to flout law and order, we depart from logic and we depart from Christianity.

And when we would break the backs of those who resist efforts—politically motivated, in large part—to enact laws which contravene the Constitution today, we pave the way for destruction of constitutional liberty tomorrow, for—as a Supreme Court Justice once said:

> Once let the barriers of the Constitution be removed, and the march of abuse will be onward and without bounds.

Mr. STENNIS. Mr. President, will the Senator from West Virginia yield briefly to me?

Mr. BYRD of West Virginia. I yield to the Senator from Mississippi.

Mr. STENNIS. I commend the Senator from West Virginia for his very fine analysis of some of the points involved in the proposed legislation.

There are many other points; and I express the strong hope that the Senator from West Virginia will analyze other features of the bill. It is certainly the broadest piece of proposed legislation that has been brought to this floor in my time.

I particularly liked the Senator's presentation here, this evening, of the meaning of liberty, as well as his presentation of what liberty does not mean. Certainly, that lesson must be learned over and over by all of us, of every generation. Otherwise, many of the individuals in every generation would be lost.

The Senator's explanation and comments have been made with great clarity and great force. He has set before us the lesson to which we must return if we are to preserve our constitutional rights for all our people, regardless of their color or national origin or any other factor.

I appreciate very much indeed the Senator's contribution to the debate and his great interest in this matter.

I hope that before the debate is concluded, the Senator from West Virginia will speak of the very major transfer of power which the bill would make from the local level, or the States rights level, or however, else one may wish to designate it, to Washington, there to be taken over—and I do not speak with disrespect—by persons or groups who want to serve their own ends. Sometimes we refer to them as "bureaucrats." In some ways, that term has sinister connotations. Anyone who is vested with power does not wish to give it up. The departments do not wish to give it up. It becomes a Federal question. It enters into the presidential campaigns. It becomes involved in the campaigns for election of Members of the House and Members of the Senate. Once the power becomes a Federal power, the question arises every time the Senate is asked to confirm the nomination of a Supreme Court Justice or the nomination of some other Federal official. I hope the Senator will expound his learning and knowledge on that subject.

I thank him again for his interest, his work, and his presentation of the bill.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished Senator from Mississippi for his kind remarks. I assure him that although I do not represent a southern State, I am constrained to believe that the issue is not a sectional issue. I have spent many hours, as I have already indicated, in a study of the bill, the House debates, and the committee reports. I am prepared, as the Senator will see, to speak at quite some length on the bill. My study is continuing; and I desire the opportunity to express some additional views, before the debate is completed.

Mr. STENNIS. Mr. President, will the Senator from West Virginia yield further to me?

Mr. BYRD of West Virginia. I yield.

Mr. STENNIS. I am certain that the Senator will have an influence on the debate. He will influence the thinking of Senators; and conclusions which will be reached will result partly through his reasoning. Again I commend him most heartily.

Mr. BYRD of West Virginia. I thank the Senator from Mississippi.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from West Virginia yield to me?

Mr. BYRD of West Virginia. I yield to the Senator from North Carolina.

Mr. JORDAN of North Carolina. First, I wish to say that my great friend and colleague, the distinguished Senator from West Virginia, has made a very fine analysis of the bill. He has dwelt upon a phase of the bill which has greatly impressed me. I have been concerned with and have thought a great deal about the attempt to create equality by law.

The greatest of all teachers, the Teacher of Galilee, in the parable of the talents, which the Senator knows as well as I do, taught that some people had one talent, some two, and some five. He recognized that men are not born equal. Men are not born with the same ability, the same vigor, or the same vitality, as the Senator has so well pointed out. No laws that the Congress could pass would ever create equality from the standpoint the Senator has pointed out. I commend him for the fine speech he has made today on the floor of the Senate.

Mr. BYRD of West Virginia. The Teacher of Galilee also taught, in the parable of the 10 virgins, that 5 of the virgins were wise, and 5 were foolish.

Mr. JORDAN of North Carolina. If the Senator will yield again to me, I should like to point out that the parable of the 10 virgins was a 50–50 situation; but the parable of the talents was based on a 1-to-5 situation.

Mr. BYRD of West Virginia. Mr. President, I yield the floor.

During the delivery of the remarks of Mr. Byrd of West Virginia,

Mr. CASE. Mr. President, for some weeks now the opponents of civil rights legislation have been making much of the so-called white backlash on civil rights. These statements have puzzled me, because in my own State of New Jersey I have seen no evidence of strong resentment against the bill. On the contrary, my mail over a long period of time has consistently shown a majority of writers in favor of the bill.

While a few weeks ago there was an increase in the mail opposing the bill, it has been easily surpassed by the increase in the mail favoring such legislation. This mail has been of particular interest to me, because it is "individual" mail—letters from individuals who feel strongly enough to set out their support in their own words.

My experience is apparently not unique. Various other Senators have indicated a substantial increase in the number of their constituents who express support for the bill. The preponderant feeling in behalf of passage of the civil rights bill has now been confirmed by a poll which was released earlier this week. It was taken by the Louis Harris organization; and the poll reported that:

By nearly 3 to 1, people in all regions, including the South, favor a Senate rule of cloture to end the civil rights filibuster.

By well over 2 to 1, the Nation favors the administration bill on civil rights.

The public accommodations section of the civil rights measure is favored by an even wider margin than the bill as a whole.

The white South favors a curb on filibusters.

Mr. President, I ask unanimous consent that the entire article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 27, 1964]

### The Harris Survey—Rights Bill Still Favored 2 to 1 Despite "Backlash"

(By Louis Harris)

Despite mounting concern over a northern white backlash on civil rights and signs of new extremism in Negro demonstrations, dominant public opinion remains overwhelmingly in favor of passage of the Johnson-Kennedy civil rights bill now before the Senate.

The key facts about civil rights legislation from a survey of a cross section of the American people:

By nearly 3 to 1, people in all regions, including the South, favor a Senate rule of cloture to end the civil rights filibuster.

By well over 2 to 1, the Nation favors the administration bill on civil rights.

The public accommodations section of the civil rights measure is favored by an even wider margin than the bill as a whole.

While the white South favors a curb on filibusters, opposition to the overall bill, and specifically to the public accommodations section, runs nearly 2 to 1 below the Mason-Dixon line.

It is apparent that the long drawn-out filibuster on civil rights has not impressed the American public with the usefulness of such legislative tactics:

*Limit Senate debate on civil rights*

[Percent]

| | *Nationwide* | *White South* |
|---|---|---|
| Favor | 63 | 44 |
| Oppose | 24 | 43 |
| Not sure | 13 | 13 |

Traditionally, of course, a minority of southern Senators has been able to tie up civil rights legislation until some kind of compromise.

As the debate on civil rights has taken place over the past several months, public support for the Johnson-Kennedy measure has actually risen:

*Administration civil rights bill*

[Percent]

| | *Favorable* |
|---|---|
| April 1964 | 70 |
| February 1964 | 68 |
| November 1963 | 63 |

The South's stand in opposition to the civil rights bill is nowhere more graphic than to the key section outlawing segregation in public accommodations:

*Outlawing segregation in public accommodations*

[Percent]

| | *Total Nation* | *White South* |
|---|---|---|
| Favor | 62 | 24 |
| Oppose | 27 | 69 |
| Not sure | 11 | 7 |

Despite rather fierce southern white opposition to the civil rights legislation, President Johnson is not yet in trouble politically in the South over this issue. This is evident in the fact that against his strongest GOP opponent, Henry Cabot Lodge, Mr. Johnson holds a 68 to 32 percent lead today below the Mason-Dixon line.

It is also apparent when people are asked to rate the job the President is doing in working to get the civil rights legislation passed by Congress:

*On Johnson handling of civil rights bill*

[Percent]

| | *Positive* | *Negative* |
|---|---|---|
| Nationwide | 67 | 33 |
| White South | 61 | 39 |
| Negroes | 77 | 23 |

Mr. CASE. Mr. President, on April 27 the Republican Citizens Committee's Critical Issues Council released a comprehensive statement on civil rights.

The Critical Issues Council endeavors to sharpen public awareness of current issues and to contribute to their resolution in affirmative ways. The membership of the council is distinguished. Dr. Milton S. Eisenhower is chairman. Other members are: Elliott V. Bell; Adm. Arleigh A. Burke, U.S. Navy, retired; Arthur F. Burns; Albert L. Cole; James H. Douglas; Marion B. Folsom; Thomas S. Gates; T. Keith Glennan; Oveta Culp Hobby; Walter H. Judd; Mary P. Lord; Claire Boothe Luce; Deane W. Malott; James P. Mitchell; Gen. Lauris Norstad, U.S. Air Force, retired; Don Paarlberg; C. Wrede Petersmeyer; Samuel R. Pierce, Jr.; Charles S. Rhyne; Raymond J. Saulnier; Lewis L. Strauss; Walter N. Thayer; and Henry C. Wallich.

I wish to direct particular attention to the section of the report which urges Federal fair employment legislation. I quote from the report:

> Unquestionably, artificial barriers of discrimination stifle initiative, waste talent, and corrupt the private enterprise system. The cost in economic loss, welfare expense, and social disorder has been staggering.
>
> For this reason Republicans have taken the lead in establishing fair employment practices commissions in the large urban States. Gov. Thomas Dewey and the late Senator Irving Ives guided the Nation's first enforceable FEPC law through the New York Legislature in 1945. In the next 2 years,

> Republican lawmakers in New Jersey, Wisconsin, Massachusetts, and Connecticut kept alive the momentum that has produced similar laws in a total of 25 States. But much work still remains. Many of the State laws are inadequate; several are poorly enforced. Because many laws do not deal effectively with union discrimination or apprenticeship programs, numerous job markets are still restricted. Still the greatest problem is that most Negroes live in States with no fair employment laws at all. Moreover, the national character of a highly mobile labor market makes any State enforcement difficult.
>
> To break this formal pattern of job discrimination, most Republicans in Congress favor Federal fair employment legislation. It should be made unlawful for employers, labor organizations, or employment agencies to discriminate on the basis of race, religion, or national origin. The law should cover both unions and employers, both hiring mechanisms and training programs. Exemptions should be clearly provided for religious groups or other employees for whom ethnic or religious considerations are genuine occupational qualifications. The law must be clearly drawn and carefully administered so as to equalize opportunities for all qualified applicants. It must not be used to encourage discrimination in reverse, through quota systems or other devices which would unduly favor less qualified workers.
>
> Administration of the law should be centered in an Equal Opportunity Employment Commission with bipartisan membership. The law should expressly require extensive utilization of existing and effective State machinery. It is imperative that Federal officials cooperate closely with existing State FEPC's. Conciliation and persuasion should be emphasized; only when these methods fail should compulsory relief be sought. State experience shows that the overwhelming majority of cases can be settled on a voluntary basis.

Mr. President, title VII of the civil rights bill embodies just such provisions. Patterned after the Griffith-Frelinghuysen bill in the House, the title was made part of H.R. 7152, largely through the efforts of Republican Members of the House. It is a moderate provision, which puts primary emphasis on conciliation, and contains many safeguards to prevent harassment of either employers or unions. It does not preempt State jurisdiction. Rather, in recognition of the fact that many of the existing State FEP laws are broader in scope and coverage, it expressly directs the Federal Commission to work out with the States agreements whereby the Federal Commission would cede jurisdiction.

Many misleading statements have been made about title VII. To me, a workable, enforceable fair employment practices title is an essential part of meaningful civil rights legislation.

I thank the Senator from West Virginia for his courtesy.

## THE IMPORTANCE OF POLISH CONSTITUTION DAY

Mr. SCOTT. Mr. President, 2 years after the Constitution of the United States went into effect, Poland brought forth its own great declaration of principles.

On May 3, 1791, the Polish Constitution was adopted. Its creed was freedom, independence, and liberty under law. Its foundation was based on the precept that the state derives its power from the people. In fact, the Polish Constitution said in part:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

This joyous occasion in Polish history, however, was soon to be overshadowed by other events. Czarist Russia invaded the new nation, and in 1795 Poland was dismembered by Prussia, Austria, and Russia.

It was not until 1918 that Poland was again an independent nation. But the new freedom was short lived—the Nazis and the Communists had made a pact.

On September 1, 1939, Hitler's hoardes plunged into Poland. Two weeks later, it was Stalin's turn to invade and the spoils were divided. Soon, the Nazis began to march further east, and Stalin was forced to flee. When the Red leader returned, he brought treachery.

On July 29, 1944, Russian troops were on the outskirts of Warsaw, and Moscow radio encouraged the city to revolt. Finally, Polish authorities on July 31 complied, and orders were issued to the populace to overthrow the Nazis on August 1.

The uprising began. For 63 days the Polish fought German troops and planes while Russian guns remained silent. It was a deliberate massacre. The death toll came to over 250,000 Polish men, women, and children.

Today, Poland is still not free. It is under the heel of Communist tyranny. Communist authorities have confiscated church property, liquidated clerical seminaries, seized convents, and ordered seminarians into military service. Parents have lost their government jobs for baptizing their children. Still, the spirit of the May 3 Constitution exists in the hearts and minds of every Pole.

In Pennsylvania we have many Americans of Polish extraction. They have a fierce dedication to liberty, freedom, and independence. They have a spirit which cannot be squelched.

On this, the 173d anniversary of the Polish Constitution, I commend a great country and a great people.

Mr. President, I would like to insert at this point in the RECORD a copy of message I sent to the eastern Pennsylvania district of the Polish American Congress for use on May 3.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

> I deeply regret that a longtime previous commitment prevents my joining with you in observance of Poland's most solemn national holiday—commemoration of the Polish Constitution of 1791. That Constitution was one of history's great documents of freedom and self-government. It graces the company of Magna Carta, the French Declaration of the Rights of Man, and our own Declaration of Independence and Constitution. But it is not documents alone which undergird a great people such as that of Poland. Though Poland today is once again suffering the shackles of foreign domination, her indomitable will for freedom which has carried her through countless partitions and plunderings is stronger, and tougher, than ever. Her vibrant voice has not been silenced. Her heroic people have not been vanquished. Their fierce belief in liberty still burns bright and clear. And the day will come when we can join hands with our brothers in Poland in celebrating not only the triumphant tradition of Constitution Day, but the living reality of constitutional government in 20th century Poland.

## RECESS

Mr. JORDAN of Idaho. Mr. President, pursuant to the order previously entered, I now move that the Senate stand in recess.

The motion was agreed to; and (at 6 o'clock and 12 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Saturday, May 2, 1964, at 10 o'colck a.m.

## NOMINATIONS

Executive nominations received by the Senate, May 1 (legislative day of March 30), 1964:

### IN THE AIR FORCE

Gen. William F. McKee, 467A (major general, Regular Air Force) U.S. Air Force, to be placed on the retired list in the grade of general, under the provisions of section 8962, title 10, of the United States Code.

Lt. Gen. Hunter Harris, Jr., 624A (major general, Regular Air Force), U.S. Air Force, to be assigned to positions of importance and responsibility designated by the President in the rank of general, under the provisions of section 8066, title 10, of the United States Code.

### IN THE ARMY

The following-named officers to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 3962.

*To be lieutenant general*

Lt. Gen. Andrew Thomas McNamara, O17324, Army of the United States (major general, U.S. Army).

Lt. Gen. John Southworth Upham, Jr., O17178, Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

Maj. Gen. William Frew Train, O18415, U.S. Army, in the grade of lieutenant general.

Maj. Gen. Charles Wythe Gleaves Rich, O19910, U.S. Army, in the grade of lieutenant general.

### POSTMASTERS

#### ALABAMA

Samuel W. Whitehead, Rogersville, Ala., in place of O. O. Goode, retired.

Janet F. Blackburn, Russellville, Ala., in place of G. G. Duke, deceased.

William H. Davis, Vina, Ala., in place of E. D. Reid, retired.

#### ARIZONA

C. P. Tupper Jones, Wenden, Ariz., in place of J. R. Wood, retired.

#### ARKANSAS

Edward T. Billingsley, Melbourne, Ark., in place of R. O. Tomlinson, retired.

Buddy E. Hughey, Ratcliff, Ark., in place of G. F. Nixon, retired.

#### CALIFORNIA

William M. Robinson, Rio Vista, Calif., in place of H. H. Lauritzen, retired.

Elmer F. Porini, Smithflat, Calif., in place of C. L. Buckley, retired.

Merlyn R. Smith, Tahoe Valley, Calif., in place of Johannes Philipsen, retired.

Thomas H. Theobald, Tujunga, Calif., in place of H. R. Ellison, retired.

Eugene W. Hammack, Windsor, Calif., in place of H. S. Burger, resigned.

John L. Woods, Yuba City, Calif., in place of M. E. Underhill, retired.

### CONNECTICUT

William J. O'Brien, Taftville, Conn., in place of J. O. White, retired.

### FLORIDA

Donald J. Stroup, Reddick, Fla., in place of J. A. Hopkins, retired.

### GEORGIA

George W. Camp, Atlanta, Ga., in place of B. F. Sanders, retired.

Pearl O. Hester, Conley, Ga., in place of E. M. Holmes, resigned.

Calvin A. Barfield, Jr., Douglasville, Ga., in place of Horace Wright, retired.

Michael S. Dowling, Hoboken, Ga., in place of H. L. Crews, transferred.

Jack W. Winn, McRae, Ga., in place of O. H. Barrett, retired.

James L. Cline, Waleska, Ga., in place of P. A. Cline, retired.

### IDAHO

D. Dale Davis, Downey, Idaho, in place of S. W. Christensen, deceased.

Marcella G. McFadden, Plummer, Idaho, in place of M. E. McCarty, retired.

Robert L. Willer, Sandpoint, Idaho, in place of D. P. Woodard, retired.

### ILLINOIS

Eva E. Hall, Butler, Ill., in place of J. B. Thacker, retired.

Vincent C. Reinema, Chana, Ill., in place of Mabelle Dailey, retired.

Raymond A. Mylcraine, Piper City, Ill., in place of S. W. Lane, deceased.

Walter W. Brown, Preemption, Ill., in place of G. E. Connelly, retired.

J. Donald Roche, Raritan, Ill., in place of F. E. Overstreet, declined.

Henry Vonck, St. Charles, Ill., in place of A. L. Erickson, resigned.

### INDIANA

Gerald N. Wilhems, Hartford City, Ind., in place of O. D. Hendicks, retired.

### IOWA

Rollis G. Jensen, Denver, Iowa, in place of C. A. Brause, retired.

James M. Kennedy, Le Mars, Iowa, in place of J. V. Conway, retired.

Eugene K. Hamilton, Morning Sun, Iowa, in place of C. E. Pittman, deceased.

### KANSAS

Marjorie M. Niedens, Bazine, Kans., in place of R. J. Wilhelm, transferred.

Bernice L. Zirkle, Berryton, Kans., in place of G. G. Flohrschutz, retired.

Clois R. Coyan, Fort Scott, Kans., in place of B. B. Moore, retired.

### KENTUCKY

Anna F. Farris, Clermont, Ky., in place of C. B. Riley, retired.

### MARYLAND

John S. Parsons, Pittsville, Md., in place of M. T. Truitt, retired.

### MASSACHUSETTS

John E. Wilk, Adams, Mass., in place of P. J. McAndrews, retired.

Theodore O. Hyora, Chatham, Mass., in place of P. W. Karr, retired.

Martin H. Walsh, Gardner, Mass., in place of O. R. Anderholm, retired.

Nicholas J. Putzo, Richmond, Mass., G. N. Wheeler, deceased.

### MICHIGAN

Otto A. Hausler, Boyne Falls, Mich., in place of J. H. Hausler, retired.

Lawrence J. Hunt, Howard City, Mich., in place of C. F. Goerner, deceased.

George E. Smith, Sand Lake Mich., in place of I. L. Groner, removed.

Jack L. Pontius, Twin Lake, Mich., in place of J. J. McLaughlin, retired.

John A. Liberacki, Unionville, Mich., in place of M. J. Hageman, retired.

Harry J. Herman, Weidman, Mich., in place of L. M. Neubecker, retired.

### MINNESOTA

James J. Root, Donnelly, Minn., in place of F. A. Gerber, retired.

Jeanette M. Lindeman, Stanchfield, Minn., in place of C. M. Peterson, retired.

Ward K. Anderson, Wahkon, Minn., in place of F. G. Casper, retired

### MISSISSIPPI

E. Broughton Henderson, Jr., Greenville, Miss., in place of H. S. Polk, deceased.

### MISSOURI

Charles A. Bagby, Arbyrd, Mo., in place of E. P. Petty, retired.

John G. Schieber, Conception, Mo., in place of M. T. Peters, retired.

Donald A. Downing, Edina, Mo., in place of E. R. Sinnott, retired.

Robert E. Hahn, Flat River, Mo., in place of R. V. Coffman, retired.

Kenneth J. Thuli, Morrison, Mo., in place of E. H. Mertens, retired.

Russell L. Joiner, Trenton, Mo., in place of F. E. Lafferty, retired.

### MONTANA

Clayton R. Miars, Forsyth, Mont., in place of W. E. Conn, deceased.

Mabel C. Beers, Judith Gap, Mont., in place of C. L. Beers, deceased.

### NEVADA

Myra A. Dinius, Gabbs, Nev., in place of T. Y. Klinkner, resigned.

Georgia E. Dunham, Mina, Nev., in place of J. A. Fortune, deceased.

### NEW JERSEY

John T. Murphy, Keansburg, N.J., in place of G. M. Beaman, deceased.

Robert N. Bailey, Mays Landing, N.J., in place of E. J. Turpin, retired.

Leon J. Madden, Millington, N.J., in place of Charles Mertz, deceased.

### NEW YORK

Robert J. Piper, Herkimer, N.Y., in place of M. S. Western, retired.

Thomas A. Napier, Lewiston, N.Y., in place of H. D. Hickey, retired.

Thomas D. Cloonan, Pittsford, N.Y., in place of G. A. Lortscher, retired.

John J. Streppone, Sparkill, N.Y., in place of Americo Masucci, retired.

Florence P. Harrad, Van Hornesville, N.Y., in place of C. A. Pierce, retired.

### NORTH CAROLINA

Madeline S. Forrester, Bear Creek, N.C., in place of Stella Emerson, retired.

Jasper G. Douglas, Knightdale, N.C., in place of M. U. Wall, removed.

Roy B. Tucker, Marshville, N.C., in place of E. B. McBride, retired.

Jacob M. Nifong, Pfafftown, N.C., in place of C. C. Mock, deceased.

### NORTH DAKOTA

Everett R. DeMars, Bathgate, N. Dak., in place of E. M. Nevin, retired.

Thelma A. Hovet, Buxton, N. Dak., in place of M. A. Ellingrud, transferred.

Leif M. Forde, Landa, N. Dak., in place of L. R. Storvestre, retired.

Gerald E. Vallier, Oberon, N. Dak., in place of H. E. Moyes, retired.

### OHIO

William T. Duke, Akron, Ohio, in place of C. B. Webb, retired.

James P. Hanacek, Northfield, Ohio, in place of F. H. Bonker, transferred.

Russell H. White, St. Clairsville, Ohio, in place of R. D. Hall, deceased.

### OKLAHOMA

Helen W. Armstrong, Bowlegs, Okla., in place of B. A. Cox, deceased.

Basil D. Tedlock, Chouteau, Okla., in place of Mae Tedlock, deceased.

### OREGON

Norman D. Baker, Port Orford, Oreg., in place of E. M. Jamieson, retired.

Jesse C. Edgington, Sisters, Oreg., in place of N. A. Kindell, resigned.

### PENNSYLVANIA

Robert R. Himmelberger, Myerstown, Pa., in place of E. H. Helms, retired.

John J. Laurito, Turtle Creek, Pa., in place of Robert Montgomery, retired.

Robert L. Cross, Wyano, Pa., in place of E. M. Dwyer, resigned.

### SOUTH DAKOTA

Orval J. Lambertz, Canistota, S. Dak., in place of A. E. Kostboth, transferred.

### TENNESSEE

Mary K. Roberts, Counce, Tenn., in place of M. M. Gillock, retired.

Ralph Lewis, Erwin, Tenn., in place of R. R. Elliott, retired.

William A. Barger, Huntingdon, Tenn., in place of E. E. Ward, retired.

James E. Steadman, Mascot, Tenn. Office reestablished October 2, 1961.

S. Jesse Simpson, Jr., Sweetwater, Tenn., in place of E. T. Browder, retired.

### TEXAS

Milton L. Routt, Chappell Hill, Tex., in place of M. W. Smith, retired.

Craft Harrison, Copperas Cove, Tex., in place of E. I. Pratt, retired.

Jack P. Humphries, Edinburg, Tex., in place of E. M. McAskill, retired.

Robert E. M. Gilbert, Harlingen, Tex., in place of C. H. Hamilton, retired.

Clairene R. Dunn, Highlands, Tex., in place of W. A. Lynch, resigned.

Charles E. Rutter, McQueeney, Tex., in place of O. E. Laechelin, retired.

Nicholas V. Jebbia, Stafford, Tex., in place of T. G. Bonano, deceased.

Glenn H. Williams, Stephenville, Tex., in place of E. R. Moon, retired.

Virgie M. Holmes, Tolar, Tex., in place of N. O. Jackson, transferred.

### UTAH

Wesley M. Farrer, Beaver, Utah, in place of J. A. Manzione, retired.

Joseph L. Larsen, Huntington, Utah, in place of L. R. Strong, retired.

### VERMONT

Donald J. Willcox, Peacham, Vt., in place of B. P. Somers, retired.

### VIRGINIA

LeRoy Davis, Hallwood, Va., in place of Addie Northam, retired.

Conway F. Allen, Norge, Va., in place of E. A. Huckstep, retired.

Mary S. Thaxton, Roseland, Va., in place of O. G. Kidd, transferred.

Myrtle V. MacGregor, Stafford, Va., in place of V. M. Dent, retired.

Warner R. Hargis, Jr., Tasley, Va., in place of J. E. West, retired.

### VIRGIN ISLANDS

Rupert A. Williams, Kingshill, V.I., in place of I. A. Hansen, retired.

### WASHINGTON

Bryce R. McNeely, Kelso, Wash., in place of S. M. Lord, retired.

Clyde M. Brown, Orcas, Wash., in place of H. P. Swarthout, retired.

Corrine J. Wilcox, Tokeland, Wash., in place of E. M. Mann, resigned.

### WEST VIRGINIA

A. Alvin Farmer, Bolt, W. Va., in place of A. A. Farmer, retired.

Phillip B. Jordan, Keyser, W. Va., in place of H. O. Rogers, deceased.

William E. White, Newell, W. Va., in place of C. E. Mills, retired.

Harry F. Weaver, Paw Paw, W. Va., in place of J. H. Rouzee, retired.

Ralph L. DePollo, Jr., Thomas, W. Va., in place of D. C. Stemple, retired.

Lois E. Skaggs, Victor, W. Va., in place of L. H. Coleman, retired.

Carl B. Miller, Winfield, W. Va., in place of C. L. Kirtley, deceased.

WISCONSIN

Jack E. Brown, Hager City, Wis., in place of M. A. Mischke, retired.

Louis W. DeMark, Racine, Wis., in place of J. D. Costello, retired.

Joseph F. Strahan, Saukville, Wis., in place of E. C. Schroeder, deceased.

# SENATE

## SATURDAY, MAY 2, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Eternal Spirit, everywhere present, but often seeming unreal or far off to us, because we willfully block the channels of our being by which Thou wouldst reach us, open our hearts now to one another—and to Thee—as together we bow at this altar which the fathers builded.

We pray for all public servants, those whom the people have called to lead, and for the citizens of this dear land, that genuine fraternity may increase among us, and that bigotry, intolerance, mutual suspicions of class and race hatred may not imperil our democracy in this day of world whirlwind.

In this solemn day of our responsibility and opportunity, guide our Nation to such use of its vast power as may cause all the aspiring peoples of the earth to rise up and call us blessed.

We pray in the spirit of our Lord and Master. **Amen.**

### THE JOURNAL

On request by Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 1, 1964, was dispensed with.

### CALL OF THE ROLL

**Mr. MANSFIELD.** Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 188 Leg.]

Allott
Anderson
Bartlett
Bennett
Bible
Brewster
Cannon
Case
Clark
Cotton
Curtis
Dodd
Dominick
Douglas
Ellender
Fong
Hart
Hartke
Hayden
Holland
Hruska
Humphrey
Inouye
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGovern
McIntyre
Metcalf
Miller
Monroney
Morton
Mundt
Neuberger
Pearson
Proxmire
Randolph
Robertson
Saltonstall
Sparkman
Talmadge
Walters
Williams, Del.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. BAYH], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Washington [Mr. JACKSON], the Senator from North Carolina [Mr. JORDAN], the Senator from Louisiana [Mr. LONG], the Senator from Michigan [Mr. MCNAMARA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Georgia [Mr. Russell], the Senator from Mississippi [Mr. STENNIS], and the Senator from South Carolina [Mr. THURMOND] are absent on official business.

I also announce that the Senator from West Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from North Carolina [Mr. ERVIN], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Alabama [Mr. HILL], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Wyoming [Mr. MCGEE], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], the Senator from Florida [Mr. SMATHERS], the Senator from Missouri [Mr. SYMINGTON], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Maryland [Mr. BEALL], the Senator from Delaware [Mr. BOGGS], the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from New York [Mr. JAVITS], the Senator from New Mexico [Mr. MECHEM], the Senator from Wyoming [Mr. SIMPSON], the Senator from Maine [Mrs. SMITH], the Senator from Texas [Mr. TOWER], and the Senator from North Dakota [Mr. YOUNG] are necessarily absent.

The Senator from Kansas [Mr. CARLSON] is absent on official business to attend the Kennedy round trade agreement negotiations in Geneva.

The Senator from Kentucky [Mr. COOPER], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Vermont [Mr. PROUTY], and the Senator from Pennsylvania [Mr. SCOTT] are absent on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

### ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, under the usual stipulations, there be a morning hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### LIMITATION OF DEBATE DURING TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in connection with the morning hour be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### PETITION

The ACTING PRESIDENT pro tempore laid before the Senate a resolution adopted by the faculty of the Washington University School of Law, favoring the enactment of House bill 7152, the civil rights bill, which was ordered to lie on the table.

### BILL INTRODUCED

A bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MAGNUSON (for himself and Mr. COTTON):

S. 2796. A bill to provide for strengthening and improving the national transportation system and for other purposes; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under a separate heading.)

### TRANSPORTATION ACT OF 1964

Mr. MAGNUSON. Mr. President, on behalf of myself and the distinguished senior Senator from New Hampshire [Mr. COTTON], I introduce, for appropriate referral, a bill to provide for strengthening and improving the national transportation system and for other purposes.

This bill contains provisions to assist in controlling illegal interstate motor carrier transportation, and to require motor carriers and freight forwarders to pay reparations to shippers charged unlawfully high rates.

While House action on measures to deregulate the transportation of certain commodities has stalled in growing controversy, there would appear to be general agreement that legislation to combat illegal carriage and require reparations should be enacted now. The House committee has done an excellent job in perfecting these so-called enforcement provisions and they should now be considered independently because of the contribution they will make to improving our national transportation system. These vitally needed measures should not await what appears to be the long-term resolution of controversial issues.

For the most part, the subject matter of this bill was the subject of extensive hearings in the 87th Congress. As a result of these hearings, S. 2560 was passed by the Senate. If the House had been able to give it consideration, S. 2560 could surely have been enacted during the 87th Congress. The proposal introduced today is a refinement of S. 2560 that results from the extensive consideration by the House committee under the leadership of Mr. OREN HARRIS, of Arkansas.

In this Congress, extensive hearings were held on S. 1062, which contained provisions pertaining to the same subject matter as the bill now introduced.

Section 1 of the present bill provides that it may be cited as the Transportation Act of 1964.

Section 2 of the present bill authorizes the Interstate Commerce Commission to enter into cooperative agreements with the States to enforce State and Federal economic and safety laws and regulations relating to highway transportation. This section is identical to section 5 of S. 1062 and section 5 of H.R. 4701.

Section 3 of the present bill would provide for uniform State registration of Interstate Commerce Commission motor carrier certificates. The purpose of this section is to provide for the issuance of standards under which the several States could require any motor carrier operating in interstate commerce within their borders to register with the various States the motor carrier's ICC certificate or permit. The present language is in accord with the general thinking recently expressed in the House.

Section 4 of the present bill would provide for an increase in civil penalties. The Interstate Commerce Act would be amended by this section to extend the civil forfeiture provisions to cover unlawful operations by motor carriers and certain violations of the Commission's motor carrier regulations. The maximum amount of the forfeiture would be increased to not to exceed $500 for any such offense, and, in case of a continuing violation not to exceed $250 for each additional day. The present language of this provision varies from that contained in S. 2560 of the 87th Congress and also from that contained in section 6 of S. 1062, to reflect considerations brought out in recent House discussions.

Section 5 of the present bill would permit the Commission in enforcement proceedings, regardless of where a carrier or other party was served, to obtain service of process and to join any other necessary party. This section would also permit any injured person to apply to the courts for enforcement against illegal carriers operating in clear and patent violation of the Interstate Commerce certificate or permit law, rules, and regulations. The language of this section also varies slightly from legislation previously heard by our Senate committee.

Sections 6 and 7 of the present bill would amend parts II and IV of the act, to permit shippers to recover reparations from motor carriers and freight forwarders. These two sections would carry out the recommendation in the President's transportation message of 1962 that it was in the public interest that these common carriers be required to pay reparations to shippers charged unlawfully high rates. Somewhat similar provisions are now in effect in part I of the act, relating to railroads, and in part III of the act, relating to carriers by water.

The distinguished ranking minority member and I hope that the Commerce Committee will be able to give consideration to this important measure at its earliest convenience.

This bill will be a significant step forward in the development of a coordinated, cooperative effort against illegal carriage by the Commission, private industry, and the States.

I ask unanimous consent that the measure lie on the table for 7 calendar days for additional cosponsors.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from Washington.

The bill (S. 2796) to provide for strengthening and improving the national transportation system, and for other purposes, introduced by Mr. MAGNUSON (for himself and Mr. COTTON), was received, read twice by its title, and referred to the Committee on Commerce.

## CIVIL RIGHTS—AMENDMENTS

Mr. ERVIN submitted two amendments (Nos. 561 and 562), intended to be proposed by him, to the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commisison on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, which were ordered to lie on the table and to be printed.

Mr. HOLLAND submitted three amendments (Nos. 563, 564, and 565) intended to be proposed by him to House bill 7152, supra, which were ordered to lie on the table and to be printed.

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 938, S. 2088, and that all the bills following be considered in sequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, may I suggest that an explanation of each bill be placed in the RECORD?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that immediately following the consideration of each bill a brief explanation be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TOMOE ISHIKAWA WESTLEY

The bill (S. 2088) for the relief of Tomoe Ishikawa Westley was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provisions of paragraph (23) of section 212(a) of the Immigration and Nationality Act, Tomoe Ishikawa Westley may be issued an immigrant visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of such Act. This section shall apply only to grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 988), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to a conviction for the possession of narcotics in behalf of the wife of a U.S. citizen member of the U.S. Air Force.

STATEMENT OF FACTS

The beneficiary of the bill is a 35-year-old native and citizen of Japan, who was married in Japan on September 12, 1962, to a U.S. citizen while he was stationed there with the Air Force. She has been denied a visa because of a conviction in 1951 for the possession of narcotics. Her citizen husband is 24 years old and is a career member of the Air Force. Without the waiver provided for in the bill, the beneficiary will be unable to enter the United States to join her husband.

## MARTIN MORALES SALVADOR

The bill (S. 2105) for the relief of Martin Morales Salvador was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purposes of the Immigration and Nationality Act, Martin Morales Salvador shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 989), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United

States to Martin Morales Salvador. The bill provides for an appropriate quota deduction and for the payment of the required visa fee.

STATEMENT OF FACTS

The beneficiary of the bill is a 32-year-old native and citizen of the Philippines, who enlisted in the U.S. Navy in the Philippines on November 10, 1954, and entered the United States as a member of the Navy on December 1, 1954. He has since made numerous trips to foreign ports and reentered the United States. He reenlisted in the Navy in Naples on August 11, 1960, and plans to make the Navy his career. He is presently stationed at the U.S. Navy Recruiting Station, Milwaukee, Wis., where he resides with his alien wife and three children, one of whom is a U.S. citizen. He is a graduate of the U.S. Naval Submarine School in New London, Conn., but his duty is limited, since he cannot perform classified work because of his alienage.

## CHRISTIANE ANTOINE BRONAS

The bill (S. 2225) for the relief of Christiane Antoine Bronas was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provision of section 212 (A)(4) of the Immigration and Nationality Act, Christiane Antoine Bronas may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act: *And provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 990), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who is afflicted with epilepsy in behalf of the wife of a U.S. citizen veteran of the Army. The bill provides for the posting of a bond as a guarantee that the beneficiary will not become a public charge.

STATEMENT OF FACTS

The beneficiary of the bill is a 20-year-old native and citizen of France who is the wife of a U.S. citizen and honorably discharged veteran of the U.S. Army. They met while he was serving in the Army in France and they presently reside there with their U.S. citizen child. The beneficiary has been found ineligible to receive a visa because she is afflicted with epilepsy. Without the waiver provided for in the bill, she will be unable to enter the United States with her family.

## MARGARET ROSE OWEN

The bill (S. 2233) for the relief of Margaret Rose Owen was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Margaret Rose Owen may be naturalized upon compliance with all of the requirements of title III of the Immigration and Nationality Act, except that no period of residence or physical presence within the United States or any State shall be required in addition to her residence and physical presence within the United States since May 10, 1957.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 991), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 28-year-old native and citizen of England, who is the wife of a U.S. citizen of the Army. They were married in England in 1953, and she was first admitted to the United States for permanent residence on August 6, 1954. She has been unable to meet the residence and physical presence requirements for naturalization because of absences from the United States at times when her husband was assigned to duty at foreign posts. She has resided in the United States more than 6 years. Her husband has served in the U.S. Army since 1951 and plans to make it his career. He is presently assigned to the Redstone Arsenal at Huntsville, Ala. He is unable to obtain security clearance for classified work while his wife is a noncitizen.

## JOHN RICHARD DOLBY

The bill (S. 2336) for the relief of John Richard Dolby was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provision of section 212(a)(4) of the Immigration and Nationality Act, John Richard Dolby may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act: *Provided,* That unless the beneficiary is entitled to care under chapter 55, title 10, United States Code, a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act: *Provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 992), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OR THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who is afflicted with epilepsy in behalf of the adopted son of a U.S. citizen member of the U.S. Air Force. The bill provides for the posting of a bond as a guaranty that the beneficiary will not become a public charge in the event he is not eligible for medical care under the Dependents' Medical Care Act.

STATEMENT OF FACTS

The beneficiary of the bill is a 6-year-old native and citizen of Great Britain, who presently resides in England with his stepfather, mother, and infant sister. His stepfather is a U.S. citizen member of the U.S. Air Force who has been stationed in England since 1959. The beneficiary was adopted by his stepfather on November 15, 1962. He has been refused a visa as one afflicted with epilepsy. His stepfather is due to be rotated to the United States in October 1964 and without the waiver provided for in the bill, the beneficiary will not be able to accompany him and the other members of his family.

## KALLIOPE KOSTIDES

The bill (S. 2338) for the relief of Kalliope Kostides was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purposes of section 25(a) of the Act entitled "An Act to amend the Immigration and Nationality Act; and for other purposes", approved September 26, 1961 (75 Stat. 650), Kalliope Kostides shall be held and considered to be an alien eligible for a quota immigrant status under the provisions of section 203(a)(3) of the Immigration and Nationality Act on the basis of a petition filed with the Attorney General prior to July 1, 1961.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 993), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable Kalliope Kostides to qualify for nonquota immigrant status under the provisions of section 25(a) of Public Law 87-301 as an alien whose third preference petition was filed prior to July 1, 1961.

STATEMENT OF FACTS

The beneficiary of the bill is a 16-year-old native and citizen of Greece, who presently resides in Greece with an older sister. She is supported by her parents who were lawfully admitted to the United States for permanent residence on April 8, 1963. Two of her brothers are U.S. citizens. A third preference petition filed by her father was approved on May 28, 1963. She is registered on the Greek quota waiting list under a priority date of January 21, 1957. Information is to the effect that the beneficiary's mother has been seriously injured in an accident.

## ERICH HOFFINGER

The bill (S. 2410) for the relief of Erich Hoffinger was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of*

*America in Congress assembled,* That notwithstanding the provisions of sections 212 (a) (1) and (4) of the Immigration and Nationality Act, Erich Hoffinger may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this Act shall apply only to grounds for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this Act: *And provided further,* That if the said Erich Hoffinger is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 994), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provisions of existing law relating to one who is feebleminded and who has a mental defect in behalf of the stepson of a U.S. citizen serviceman. The bill provides for the posting of a bond as a guarantee that the beneficiary will not become a public charge if he is not eligible for medical care under the Dependents' Medical Care Act.

STATEMENT OF FACTS

The beneficiary of the bill is a 27-year-old native and citizen of Germany, who presently resides in that country with maternal relatives. The beneficiary and his mother were lawfully admitted to the United States for permanent residence on April 20, 1953, when he was 17 years of age. His mother married a U.S. citizen serviceman on April 27, 1953. In 1956, the beneficiary accompanied his mother and stepfather abroad for a tour of duty. On April 4, 1960, the beneficiary was refused a visa on the grounds that he was feebleminded and suffering from a mental defect. The beneficiary's mother and stepfather returned to the United States in June 1962. The beneficiary's mother now resides at Fort Stewart, Ga., while his stepfather is serving a 6-month tour of duty in Ecuador. The beneficiary is supported in part by working as a laborer. His stepfather sends money to supplement the earnings. Without the waiver provided for in the bill, the beneficiary will be unable to join his family in the United States.

## LEOBARDO L. GONZALEZ

The bill (S. 2499) for the relief of Leobardo L. Gonzalez was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Leobardo L. Gonzalez may be naturalized upon compliance with all the requirements of title III of the Immigration and Nationality Act, except that no period of residence or physical presence within the United States or any State shall be required in addition to his residence and physical presence within the United States since September 2, 1961.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 995), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 71-year-old native and citizen of Cuba who last entered the United States for permanent residence on September 2, 1961. He completed elementary school and high school in the United States and obtained a law degree from Tulane University. He was employed in the American Embassy in Havana from 1921 to January 1961 as legal adviser, translator, and librarian. He presently resides in Miami with his wife and married daughter.

## MILADIN KLJAJIN

The Senate proceeded to consider the bill (S. 858) for the relief of Miladin Kljajin which had been reported from the Committee on the Judiciary, with an amendment, to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Miladin Kljajin may be classified as an eligible orphan within the meaning of section 101(b)(1)(F) of the said Act and a petition may be filed by Mr. and Mrs. Vasa Kljajin, citizens of the United States, in behalf of the said Miladin Kljajin pursuant to section 205(b) of the Immigration and Nationality Act subject to all the conditions in that section relating to eligible orphans.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 996), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States in a nonquota status of an alien child adopted by citizens of the United States. The bill has been amended to bring the case within the procedures applicable to the admission of adopted alien orphans under the general law.

The beneficiary of the bill is a 12-year-old native and citizen of Yugoslavia who is presently residing in Hamburg, Germany, with friends of his adoptive parents, both U.S. citizens. His adoptive parents went to Germany in the fall of 1962 to arrange for his adoption in Yugoslavia with the consent of his natural parents. While the adoption was being worked out, they proceeded to Yugoslavia and took the beneficiary to Germany. After the adoption became final, it was discovered that the beneficiary was unable to obtain a visa as an adopted alien child. Information is to the effect that the adoptive parents are financially able to care for the beneficiary.

## HELEN MARGHITSA GEORGALAS

The Senate proceeded to consider the bill (S. 2219) for the relief of Helen Marghitsa Georgalas, which had been reported from the Committee on the Judiciary, with an amendment on page 2, line 3, after the word "loss," to insert a colon and "*Provided,* That the beneficiary returns to the United States for permanent residence within one year following the effective date of this Act."; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Helen Marghitsa Georgalas, who lost United States citizenship under the provisions of paragraph (5), subsection (a) of section 349 of the Immigration and Nationality Act, may be naturalized by taking, prior to one year after the date of the enactment of this Act, before any court referred to in subsection (a) of section 310 of the Immigration and Nationality Act or before any diplomatic or consular officer of the United States abroad, an oath as prescribed by section 337 of such Act. From and after naturalization under this Act, the said Helen Marghitsa Georgalas shall have the same citizenship status as that which existed immediately prior to its loss: *Provided,* That the beneficiary returns to the United States for permanent residence within one year following the effective date of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 997), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to provide for the restoration of U.S. citizenship to Helen Marghitsa Georgalas, which was lost by voting in a foreign political election. The bill has been amended to require the beneficiary to return to the United States for permanent residence within 1 year following the effective date of this act.

STATEMENT OF FACTS

The beneficiary of the bill is an unmarried 24-year-old native and citizen of Greece, who lives there with her parents. Her father is a naturalized U.S. citizen and she has two brothers who are U.S. citizens and residents of the United States. The beneficiary acquired U.S. citizenship at birth through her father and also acquired Greek citizenship. She lost her U.S. citizenship through voting in Greek parliamentary elections on October 29, 1961. Information is to the effect that she would have been subject to sanctions under local law if she had not voted.

## MR. AND MRS. TOROS TOROSIAN

The Senate proceeded to consider the bill (S. 2342) for the relief of Mr. and Mrs. Toros Torosian, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That, for the purposes of the Act of July 14, 1960 (74 Stat. 504), Mr. and Mrs. Toros Torosian shall be held and considered to have been paroled into the United States on the date of the enactment of this Act, as provided for in the said Act of July 14, 1960.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 998), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to provide that Mr. and Mrs. Toros Torosian shall be considered to have been paroled into the United States as refugees on the date of the enactment of this act under the provisions of Public Law 86–648.

#### STATEMENT OF FACTS

The beneficiaries of the bill are a 75-year-old husband and his 58-year-old wife, both natives of Turkey and citizens of Syria whose only entry into the United States was on May 26, 1962, when they were admitted as visitors. They presently reside in Yonkers, N.Y., with a citizen son who supports them. They also have a U.S. citizen daughter as well as another son and daughter who are permanent residents of the United States. In addition, there are eight grandchildren in the United States. Both beneficiaries fled from Turkey in 1915 at the time of the Armenian massacre and went to Syria where they were married and where they resided until 1957 when they immigrated to Venezuela.

### MIHAJLO RADOSAVLJEVIC

The Senate proceeded to consider the bill (S. 2436) for the relief of Mihajlo Radosavljevic which had been reported from the Committee on the Judiciary, with amendments, in line 5, after the word "refugees", to strike out "Mihajlo" and insert "Mihailo", and in line 7, after "refugee-escapee", to strike out "pursuant to the first section of such Act in August of 1960" and insert "on September 28, 1962"; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in the administration of the Act of July 14, 1960 (74 Stat. 504), to provide for the resettlement of certain refugees, Mihailo Radosavljevic shall be held and considered to be an alien who was paroled into the United States as a refugee-escapee on September 28, 1962.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill for the relief of Mihailo Radosavljevic."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 999), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable Mihailo Radosavljevic to enjoy the status of one who was paroled into the United States as a refugee on September 28, 1962, under the provisions of Public Law 86–648. The bill has been amended to correct the spelling of the beneficiary's first name and has been amended further to reflect a parole date of September 28, 1962, the date upon which the beneficiary was granted a stay of deportation under the provisions of section 243(h) of the Immigration and Nationality Act.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 40-year-old native and citizen of Yugoslavia, who first entered the United States on April 13, 1959, as a visitor. He presently resides in Chicago, Ill., where he is employed as an electrician. His wife and two children reside in Yugoslavia and his wife is the beneficiary of a fourth preference visa petition filed by her father which was approved on December 6, 1963. The beneficiary has been granted a stay of deportation under the provisions of section 243(h) of the Immigration and Nationality Act as one who would be subject to physical persecution were he required to return to Yugoslavia.

### DOROTHY EYRE

The Senate proceeded to consider the bill (S. 2449) for the relief of Dorothy Eyre, which had been reported from the Committee on the Judiciary, with amendments, in line 4, after "Great Britain", to strike out "within five (5) years after the date of enactment of this Act" and insert "between November 19, 1961, and November 19, 1966,", and in line 8, after the word "section", to strike out "201(b) of the Nationality Act of 1940, as amended" and insert "301(b) of the Immigration and Nationality Act, as amended"; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any period of time during which Dorothy Eyre may visit in Great Britain between November 19, 1961, and November 19, 1966, shall not be deemed to interrupt the period of continuous physical presence in the United States of said Dorothy Eyre within the meaning of section 301(b) of the Immigration and Nationality Act, as amended.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1000), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### AMENDMENTS

1. In line 4 and 5 strike the following language: "within five years after the date of enactment of this act" and insert in lieu thereof the following: "between November 19, 1961 and November 19, 1966."
2. Strike all of line 8 and insert in lieu thereof the following: "301(b) of the Immigration and Nationality Act, as amended."

#### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to retain her U.S. citizenship, notwithstanding the interruptions of continuous physical presence in the United States occurring between November 19, 1961, and November 19, 1966. The bill has been amended in accordance with the suggestion of the Commissioner of Immigration and Naturalization.

### BOZENA GUTOWSKA

The bill (H.R. 1252) for the relief of Bozena Gutowska was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1001), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States of the minor child to be adopted by a citizen of the United States and his lawful resident alien wife.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 23-month-old native and citizen of Poland, presently residing in that country with her natural parents. She is coming to the United States for adoption by her aunt and uncle, a lawful resident alien and U.S. citizen, respectively. The adoptive parents have no natural children and are financially able to care for the beneficiary.

### JOHN KISH

The bill (H.R. 1266) for the relief of John Kish (alias John Mihai) was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1002), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to John Kish (alias John Mihai). The bill provides for deduction of an appropriate quota number and for the payment of the required visa fee.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 34-year-old native and citizen of Rumania, who entered the United States on November 13, 1950, claiming to be the son of a U.S. citizen. The beneficiary now admits that this claim was for the purpose of obtaining a U.S. passport with which to enter the United States. The beneficiary served honorably in the U.S. Army from March 1953 to February 1955. He is now employed as a laboratory technician. The beneficiary is divorced from his U.S. citizen wife and contributes to the support of their daughter.

### LEON LLANOS

The bill (H.R. 1435) for the relief of Leon Llanos was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1003), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to transmit U.S. citizenship to his son.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 25-year-old native-born citizen of the United States, who resided in this country until January 31, 1953, when he accompanied his father, a member of the U.S. Army, overseas. The beneficiary thereafter resided in this country from May 1955 until his enlistment in the U.S. Army and departure from the United States in April 1957 for service abroad. In 1959, the beneficiary married a citizen of the Netherlands and the couple's son was born in 1960. The beneficiary could not transmit U.S. citizenship to his son because he was 25 days short of the required 5 years' residence in the United States after age 14.

## IOANNA GANAS

The bill (H.R. 1439) for the relief of Ioanna Ganas was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1004), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States in a nonquota status of an alien child adopted by a U.S. citizen.

### STATEMENT OF FACTS

The beneficiary of the bill is a 12-year-old native and citizen of Greece, who presently resides in that country with her widowed mother and her sister. The beneficiary was adopted in Greece by proxy on March 30, 1959, by Mr. and Mrs. George A. Ganas, citizens of the United States. The adoptive parents thereafter traveled to Greece so that arrangements could be made to bring their daughter to the United States under the provisions of section 4 of the act of September 11, 1957. However, the adoptive father died before the beneficiary was admitted to the United States. The adoptive mother has sufficient assets to care properly for the beneficiary.

## PAOLO ARMANO

The bill (H.R. 3654) for the relief of Paolo Armano was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1005), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to provide for restoration of U.S. citizenship to Paolo Armano, which was lost by voting in a foreign election.

### STATEMENT OF FACTS

The beneficiary of the bill is a 53-year-old native of the United States who expatriated himself by voting in an Italian election in March 1946. The beneficiary was taken to Italy in 1912, and resided in that country until June 4, 1962, when he and his wife were lawfully admitted to the United States on the basis of a second preference petition filed by one of their two U.S. citizen sons. The beneficiary desires to have his U.S. citizenship restored so that he may confer nonquota status upon his 14-year-old alien son, who resides in Italy.

## JOHN STEWART MURPHY

The bill (H.R. 5083) for the relief of John Stewart Murphy was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1006), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who is mentally retarded in behalf of the son of a U.S. citizen. The bill provides for the posting of a bond as a guaranty that the benficiary will not become a public charge.

### STATEMENT OF FACTS

The beneficiary of the bill is a 19-year-old native and citizen of Ireland, who resides in that country, where he is cared for by a Catholic charitable institution. The beneficiary's parents, two brothers, and a sister were admitted to the United States for permanent residence, the father on February 2, 1957, and the remainder of the family on June 18, 1958. The beneficiary was unable to accompany the family inasmuch as he was found to be mentally retarded. A visa was denied him on June 18, 1958. The beneficiary suffered birth defects and also suffers from hemiplegia. It is stated that the beneficiary will need close care for the remainder of his life. The beneficiary's father is now a U.S. citizen, and is employed as a plumber.

## MISS CARMEN RIOJA AND CHILD

The bill (H.R. 6133) for the relief of Miss Carmen Rioja and child, Paloma Menchaca Rioja was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1007), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to enable the fiance and child of a U.S. citizen to enter the United States, so that the adult beneficiary may marry her citizen fiance, and thereafter reside in the United States with her child.

### STATEMENT OF FACTS

The beneficiaries of the bill are a 34-year-old mother and her 18-month-old child who are natives and citizens of Spain. They are the fiance and child of a U.S. citizen serviceman, who is presently stationed in the United States. He met the adult beneficiary while serving in the U.S. Air Force in Spain. He was unable to complete arrangements to marry the adult beneficiary before he returned to the United States.

## FRANCES SPERILLI

The bill (H.R. 6568) for the relief of Frances Sperilli was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1008), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States in a nonquota status of an alien child adopted by citizens of the United States.

### STATEMENT OF FACTS

The beneficiary of the bill is a 5-year-old native and citizen of Italy, who presently resides in that country with her natural parents. She has been adopted by citizens of the United States who previously met her during a visit to Italy in 1962. The adoptive mother is a cousin of the beneficiary. The adoptive parents have sufficient assets to care properly for the beneficiary.

## MRS. ELEONORA VASCONI

The bill (H.R. 6837) for the relief of Mrs. Eleonora Vasconi (nee Trentanove) was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1009), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has suffered a prior attack of insanity in behalf of the wife of a U.S. citizen. The bill provides for the posting of a bond as a guarantee that the beneficiary will not become a public charge if she is not eligible for care under the Dependents' Medical Care Act.

### STATEMENT OF FACTS

The beneficiary of the bill is a 52-year-old native and citizen of Italy, who presently resides in that country, and supported by her U.S. citizen husband, whom she married in the United States on December 15, 1959. The beneficiary was admitted to the United States as a visitor in 1957, and again in 1959. Following her marriage, the beneficiary's status was adjusted to that of a lawful resident alien. This status was rescinded on the ground that the beneficiary had been a patient in a State hospital, where she was treated for a mental illness. The beneficiary and her husband departed from the United States on July 2, 1960. Because of business affairs, the beneficiary's husband has returned to the United States. The prognosis for the beneficiary is favorable, and without the waiver provided for in the bill, the beneficiary will be unable to join her husband in this country.

## DR. SALIM AKYOL

The bill (H.R. 8469) for the relief of Dr. Salim Akyol was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1010), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United

States to Dr. Salim Akyol as of June 26, 1954, and to provide that he shall have complied with the provisions of section 316 of the Immigration and Nationality Act relating to residence and physical presence for naturalization purposes. The bill does not provide for the deduction of a quota number or for the payment of the required visa fee inasmuch as the beneficiary has been lawfully admitted for permanent residence.

STATEMENT OF FACTS

The beneficiary of the bill is a 40-year-old native and citizen of Turkey, who last entered the United States for permanent residence on January 26, 1963, accompanied by his wife and three U.S. citizen children. The beneficiary first entered the United States as an exchange visitor on June 25, 1954. He married a U.S. citizen on March 2, 1957. The family departed from the United States in August 1960, for Turkey, where they remained until the time of their last entry into the United States. The beneficiary is a medical doctor and desires to obtain U.S. citizenship expeditiously so that he may practice medicine in the State of Missouri.

## WOLFGANG STRESEMANN

The bill (H.R. 9573) for the relief of Wolfgang Stresemann was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1011), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable a naturalized U.S. citizen to reside abroad without losing his U.S. citizenship provided that he returns to this country on or before March 1, 1967.

STATEMENT OF FACTS

The beneficiary of the bill is a 59-year-old native of Germany and citizen of the United States. He presently resides in Germany with his U.S. citizen wife and children, where he is employed as general manager of the Berlin Philharmonic Orchestra. The beneficiary was the subject of two previous private laws—85-616 and 87-190. It is stated that the beneficiary's continuing services with the Berlin Philharmonic Orchestra are to the great advantage of the United States.

## JOHN GATZOPI OVERBECK AND MARY GATZOPOULOS OVERBECK

The Senate proceeded to consider the bill (H.R. 1382) for the relief of John Gatzopi Overbeck and Mary Gatzopoulos Overbeck, which had been reported from the Committee on the Judiciary, with an amendment, in line 8, after the word "Act", to insert "may be approved".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1012), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States in a nonquota status of two alien children adopted by a U.S. citizen. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiaries of the bill are brother and sister and they are 17- and 19-year-old natives and citizens of Greece, respectively. They were adopted in Greece on September 20, 1962, by M. Sgt. Alvin Overbeck, a U.S. citizen. The children reside in Athens, Greece, with their adoptive father. Their younger brother will be eligible for nonquota status in August 1964. The adoptive father plans to retire from the U.S. Army and return to the United States, where he will teach at the University of Mississippi.

## BASILIO KING, HIS WIFE, AND CHILDREN

The Senate proceeded to consider the bill (H.R. 1179) for the relief of Basilio King, his wife, and children, which had been reported from the Committee on the Judiciary with amendments, in line 3, after "section 101(a)", to strike out "(7)" and insert "(27)", and in line 5, after the word "children", to strike out "Henry Alexander Victor King,".

The amendments were agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1013), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to deem Basilio King, his wife, and their five children to be returning resident aliens. The bill has been amended to correct a technical error and to delete the name of one beneficiary who is eligible to apply for an adjustment of status to that of an alien lawfully admitted to the United States for permanent residence.

STATEMENT OF FACTS

The adult male beneficiary of the bill is a 43-year-old native of the Philippines and citizen of China, who has made several entries into the United States as a nonimmigrant. He is engaged in a business enterprise in the Philippine Islands. During World War II, he served in the Philippine Commonwealth Army, which was in the service of the U.S. Army. In July 1945, this beneficiary was transferred to the Regular Philippine Armed Forces from which he received an honorable discharge. It is stated that this beneficiary rendered valuable services in behalf of the United States. In addition to the five children who are beneficiaries of this bill, the adult beneficiaries have one child who was born in the United States. Their oldest son is married to a U.S. citizen and is presently serving in the U.S. Army and his name was, therefore, deleted from the instant bill.

## ORDER FOR RECESS UNTIL 10 A.M. MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock in the morning, Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEAVE OF ABSENCE

Mr. HOLLAND. Mr. President, in view of the fact that the primaries in Florida take place next Tuesday, I ask unanimous consent that I may be excused from attendance in the Senate on Monday and Tuesday of next week.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

## POEMS BY JIM LATHROP

Mr. MANSFIELD. Mr. President, I have received a warm letter from an old friend, a Montana poet, Jim Lathrop by name, who now spends much of his time with young people, encouraging through his poetry an appreciation of the beauty and deeper meaning of the Nation.

He has sent me a selection of some of his latest works which include a memorial to the late President Kennedy and a delightful poem on Montana which, in a few lines, captures a fragment of the State's character and brings it vividly to life.

Mr. President, I ask unanimous consent that the poems be included at this point in the RECORD.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

JOHN FITZGERALD KENNEDY—IN MEMORIAM

A voice resounded throughout the Nation,
  And with the enthusiasm of youth
It echoed the wisdom of the ages,
  Denouncing error and proclaiming truth.
A voice rang out and the Nation listened,
  The people heard—and empty hearts were filled
With hope for peace with justice in our days.
  A shot rang out, the youthful voice was stilled.

A flame burns brightly on a martyr's grave.
  It sheds its light the darkness to dispell.
Inspiring all hearts to beat as one
  In this great Nation that he loved so well.
It challenges all those who would deceive,
  Reminds us that true effort shall not fail.
We ask our God to bless his land and ours,
  That freedom, truth, and justice may prevail.

—JIM LATHROP.

FENCES

Last week I volunteered to fix
The cemetery fence.
The winter snow drifts caved it in,
And it's been that way since.
I had the job about half done
When old Luke hobbled by.
He stopped to chat or rest his feet,
And rub his aching thigh.
"You're doin' a nice job on that fence,"
Says he, "As fences go,
But fences ruined this here State,
That's why I hate 'em so.
You should have been here back before
They fenced the country in.

With cattle roamin' everywhere,
And cowboys wild as sin.
Then squatters came and claimed the land,
Brought wire by the bale.
They cluttered up the open range,
And blocked off every trail.
Montana's never been the same
Since those dirt farmers lit,
And plowed up all the grazin' land,
Or as much as they could git.
That ended up my cowpoke days,
Ain't got much left but dreams.
Where cattle fattened on bunchgrass,
There's irrigatin' streams.
I never pushed a blamed old plow—
Ain't fixin' to begin.
Yep—they sure brought ruination
When they fenced Montana in.
What good's that fence your fixin' bub?
There's one to think about.
There ain't no one outside wants in,
Nor them inside want out."

—Jim Lathrop.

Visions are for the young, and memories are for the old. Yet, in the hearts of old and young alike, hope seldom dies. Hope is an ember of faith, and although disappointment and discouragement have left their scars on the soul—there is always that small spark of hope waiting to be fanned by encouragement, and ready to flare up again.

Encourage the young in their visions, and let the old ones dream, and in memory live over the "good old days."

When in a moment of weakness, I let myself think that I am better than other men, I stop and ponder on the vastness of the universe, and of the greatness and goodness of the Creator. It is then that I realize my smallness, my imperfection and my weakness for I know that I am but a small unit among millions of other units in the overall plan of life.

## SENATOR GORE'S STATEMENTS ON THE FEPC SECTION OF THE CIVIL RIGHTS BILL

Mr. WALTERS. Mr. President, I ask unanimous consent to have printed in the Record an excellent editorial from the Nashville Banner, Nashville's oldest newspaper, calling attention to my esteemed colleague Senator Gore's timely and interpretive statements on the FEPC section of the civil rights bill. Tennessee and the Nation derive benefits from such an earnest and thoughtful approach to a very difficult and perplexing problem. I am encouraged and heartened by the knowledge that men of Senator Gore's caliber are pointing out the dangers and pitfalls of precipitous action on the civil rights measure as it is presently written.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Gore Underscores Warning on FEPC Straitjacket

It is good to see both Tennessee Senators on record concerning obnoxious and perilous features of the administration's House-passed civil rights bill and sharing the battle to eliminate them on solid constitutional grounds protective of the public interest and justice they would breach.

Whether or not they see eye to eye on all particulars of the disruptive package measure, Herbert S. Walters and Albert Gore have taken their stand on reason's side against the far-reaching FEPC encroachment and the penalizing provision canceling Federal funds for States which do not come to heel at every cracking of the compulsory integration whip.

Senator Gore has pointed fresh warning on both attempted invasions and put in words of accurate interpretation the colossal threat of this Federal straitjacket. It is a politically contrived boobytrap that would jeopardize the millions of jobs that thus would be made subject to capricious hiring rules by a federally appointed agency writing and enforcing its own ukase of discrimination.

With that foot in the door, it would be hardly a step removed from the commissar concept, with every contractual right and private labor-management relationship scuttled by political decree.

Unquestionably the Senate has heard—and is hearing—from home. The undercurrent of protest has broken to the surface, State by State and region by region. For the facts now are out, beyond concealment.

Senator Gore does not oppose the so-called "rights" bill in details addressed to valid grievances, nor does America at large, conceding adjustments to correct barriers that can, in justice, be removed. Within the domain of public accommodations, these already are giving way. They are the area, as both Tennessee Senators have recognized, of greatest inconvenience and humiliation as enforced by racial boundaries; but in fairness to all concerned, as Senator Gore again has emphasized, this section of the overall measure needs official clarification as to what actually constitutes interstate commerce.

On that, too, the clarification would have to be by action of Congress, not by the agency of enforcement.

Senator Gore is right, as Senator Walters was right, in a stand on the side of justice and the Constitution.

Nobody on that side is opposing civil rights as such. They are opposing civil wrongs, whose enactment into law under the whip of a bid for minority votes would inflict injury on the majority as reason and equity forbid.

## THE 173D ANNIVERSARY OF POLISH CONSTITUTION DAY

Mr. CURTIS. Mr. President, we join the Polish people and friends of Poland around the world in commemorating the 173d anniversary of their Constitution Day on May 3.

The Constitution of 1791 stands as a landmark in the history of Poland, and indeed represents a pioneering effort in the constitutional development of that whole section of Europe.

The historic document abolished the old monarchial abuses and expanded parliamentary representation, placing all Poles under protection of the law. Unfortunately, international complications prevented full implementation of all the constitution's provisions.

The Polish people are noted as skilled artisans, and are as well universally recognized as accomplished in the arts and sciences. They have contributed importantly to world affairs in many fields. They are a gallant and courageous people in their pursuit of freedom, and despite the tragic events of the summer of 1944—which saw both Nazi brutality and Soviet treachery—the desire for independence still glows brightly. Today's Soviet domination cannot extinguish that spark.

We salute our friends in Poland on this memorable occasion.

## JOY IN APPALACHIA

Mr. CURTIS. Mr. President, the Omaha World-Herald of April 27, 1964, published a very provocative editorial entitled "Joy in Appalachia." I think it merits consideration of the Congress and the country, and I ask unanimous consent that the editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Joy in Appalachia

"We must get rid of poverty. I need your help. A little house with a picture on the wall and a rug on the floor and music in the home."

So said Lyndon Johnson on his whirlwind tour of Appalachian poverty areas, and the screaming crowds mobbed him with their enthusiasm. It was a masterful performance by a man who knows how to handle an audience and who is not averse to using an electronic bullhorn to help fan the excitement.

But substance?

The swift-moving President did not seem to get time to talk about the contents of his war-on-poverty package.

When the customers are tumbling over themselves in their efforts to buy political snake oil, who wants to take time out to read the list of ingredients on the bottle?

Who, that is, except the Members of Congress who will have to deal with Mr. Johnson's pet campaign issue and think about the hundreds of millions of dollars which would have to be raised to pay for it?

Who, except the millions who would have to do the paying and who have serious doubts that the revitalization of America's distressed people and distressed areas can be brought about by pushing the spending button in Washington?

The sad part about this whoop and hurrah over poverty in the Appalachian country is that the problem does indeed exist, and the circumstances of many of those who live in the area are indeed tragic. But whether a program to subsidize and entrench the unfortunates who live in the ravaged hills, beside worked-out mines, offers a proper solution to the problem—that is a very grave question indeed.

America's success story is based in large part on the willingness of Americans to pull up stakes and go where opportunity beckons.

But reformers from Franklin Roosevelt to Lyndon Johnson have insisted upon keeping people where they are—on uneconomic-size "family farms," in decaying mining towns—and using the resources of the Federal Government to keep them going with doles and promises of a brighter tomorrow.

Perhaps it is too much to expect that modern politicians will tell people the harsh truth that some spirit of git-up-and-go is expected of them. Barry Goldwater did it, and the outraged liberal establishment is trying to nail his hide to the barn door. Lyndon Johnson does not do it, and is greeted by hysterical joy and scenes of pathetic trust.

The President returned to Washington to press his billion-dollar campaign to elect Lyndon Johnson and to eliminate poverty. Quite possibly his efforts may accomplish the former, but we doubt exceedingly that they will achieve success in the latter.

## PROFESSOR ZAWACKI'S OPEN CITIES FOR PEACE PROPOSAL

Mr. PROXMIRE. Mr. President, Prof. Edmund Zawacki, of the University of Wisconsin, has for many years been championing what he calls an "open cities" program between the United States and the U.S.S.R.

Zawacki's idea involves a people-to-people exchange between the 20,000 cities and villages of the United States and the 20,000 cities and villages of the Soviet Union.

The idea has won impressive support from a number of Midwestern municipal officials in Wisconsin, Iowa, Minnesota, and North Dakota.

Last August Zawacki cabled Premier Khrushchev about the idea, and in March word came from Europe that Khrushchev had mentioned the Zawacki idea to Hugh Moffett of Life magazine.

In March Professor Zawacki discussed the idea briefly with Secretary of State Dean Rusk when Mr. Rusk came to Madison.

This big and significant proposal to work toward peace by broader popular understanding has won the recommendation by the Wisconsin State Journal of Madison, Wis., while this proposal may not be advisable at this time, it is time for full discussion by the White House.

I ask unanimous consent that an editorial and several brief articles on the "open cities" proposal from the April 24, 1964, edition of the Wisconsin State Journal be printed in the body of the RECORD at this point.

There being no objection, the editorial and articles were ordered to be printed in the RECORD, as follows:

### A PRESIDENTIAL MATTER: A DECISION ON OPEN CITIES

Nikita Khrushchev knows about the "open cities" idea; paradoxically Lyndon Johnson probably doesn't.

And Secretary of State Dean Rusk didn't either until he came to Madison in early March of this year to deliver a foreign policy statement. It was then that the originator of the proposal, Prof. Edmund Zawacki, handed him background material after the Secretary of State said that it hadn't been discussed at the Cabinet level.

It was back in August of last year that Zawacki received a reply from David Klein of the White House staff which prompted him to send a cablegram to Russian Premier Khrushchev.

Not many people expected the cablegram to go any place but into a Kremlin file cabinet at best. But last month came word from Europe that Khrushchev was not only aware of it but that it made such an impression that he mentioned it to Hugh Moffett of Life magazine. This does not mean that the Soviets would agree to it, but it does indicate that Khrushchev recognized it as a big idea with great potential impact. Khrushchev is no fool in the war of ideas and he took the cablegram seriously.

It is paradoxical, of course, because Zawacki has attempted since 1958 to get the "open cities" idea considered by U.S. policymakers. It has been discussed, at Zawacki's persistence, by some members of the State Department and the Executive Office but never has it been directed to the Nation's top policymakers.

The Wisconsin State Journal, which has endorsed the "open cities" idea since its conception, feels it is time now for President Johnson to analyze the proposal with Zawacki and make a decision as to its value as an instrument of U.S. foreign policy.

The U.S. Government needs new ideas for a foreign policy based on moral force in a nuclear age. The U.S. policy toward the Communist bloc does not lack for military power or economic strength but it does lack the moral force of a big idea.

The "open cities" concept allows the United States to take the moral offensive in a new way. It could be a powerful force on both sides of the Iron Curtain. It is a challenge of the "closed society" concept of communism by the American principle of freedom at the grassroots.

The proposal is not dependent upon Soviet agreement to participate. On the contrary, the United States would win world opinion as long as the Soviet Government displayed reluctance to a new idea for peace. This point and highlights of the proposal are discussed in other articles on this page.

This is a grassroots idea which has won endorsement of a sufficiently impressive number of people and units of Government to merit consideration at the top. Perhaps this proposal is not advisable as U.S. policy at this time, but we feel that it is time for full discussion by the White House.

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### POWER POLITICS WITH MORAL FORCE: WHAT IS THE OPEN CITIES IDEA?

What is the philosophy and purpose of the "open cities" idea?:

Power politics with moral force with every prospect of success and victory in the cold war. It can lead to peace between the American and Russian people at the grassroots.

But what is the "open cities" idea?:

There are in the United States some 20,000 cities and villages. It so happens that there are about 20,000 cities and villages in the Soviet Union of comparable size and regional distribution.

The 20,000 U.S. communities can be matched city by city and village by village with the 20,000 in the U.S.S.R. (Step 1.)

Then the U.S. Government makes a specific proposal to the Soviet Government to open these communities of each nation to the people of the other country at the grassroot level. (Step 2.)

The U.S. proposes an annual exchange for a 10-day "plain social" visit by representative grassroot delegations from all 20,000 communities, from the United States to Russia and from the U.S.S.R. to America. The delegations vary from 5 to 25 members each, depending on the size of the paired communities.

All expenses, including travel and per diem outside the native country, are paid not by the reciprocating communities nor by the individual citizen-delegates but by the host governments. This makes the exchange a real "guest" arrangement at the local level.

The U.S. Congress enacts enabling legislation to accomplish the anual exchange program with an appropriation for $250 million in order to demonstrate the sincere desire of the United States to promote world peace.

The final stage would be the actual exchange of people on a national scale. (Step 3.) The exchange of people means an exchange of ideas. The potential impact of opening up new worlds of ideas is limitless.

Very importantly, the Soviet Government's present reluctance to accept the "open cities" idea does not weaken the proposal, it strengthens it as a forceful instrument of U.S. foreign policy.

The world would watch as the United States seriously negotiates to break down the barriers of its two most powerful nations.

It would be a peaceful, systematic, sustained, morally forceful confrontation of the Iron Curtain principle of closed society with the American "open cities" proposal.

In view of the whole world including the people of the U.S.S.R. and the European satellites, it would discredit the Iron Curtain concept of closed society. An "open cities" proposal would also be made directly to the Red satellite nations of Europe and there is evidence that the people of Poland, Hungary, and other nations are anxious for it.

This proposal of grassroots hospitality would identify U.S. victory in the cold war with nuclear peace between the American and Russian peoples.

### KHRUSHCHEV RECOGNIZES POWER OF THE IDEA

(By Prof. Edmund Zawacki)

The most common criticism of the open cities idea is that it is fine and idealistic, but that the Soviet Government will never accept it and, therefore, it is impractical.

I doubt that Premier Khrushchev thinks in such shallow terms now that my cablegram has come to his eyes.

He knows the power of a big idea, how it can give coherence, direction, and sound achievable purpose to a great nation's diplomacy. Ours is a great nation; so is his. And nuclear peace, defined as I have in my cable, is an idea as tremendous as it is simple. All big ideas usually are.

Khrushchev can belittle this one only at the total peril of his countrymen, even as President Johnson can underestimate it only at the total peril of every man, woman, and child in our country. Such is the new dimension of diplomacy in nuclear times.

There are, however, certain necessary preconditions for the actual swaps of delegations.

One is peaceful and relatively swift disintegration of the Communist monoparty totalitarian organization of power in the U.S.S.R. and the European satellites. How Khrushchev will accomplish it is his problem, not mine or my Government's. I am baffled how the fault of impracticality can be found with this precondition by any truly thoughtful American or Russian. After all, it is not a United States sine qua non (indispensable condition) for the actual swaps; it is a natural consequence of the present Soviet Government's vulnerability to the very idea of such swaps.

What is impractical for nuclear times is the present organization of power in Communist-dominated countries. What is impractical is the idea of coexistence—peaceful, hopeful, wishful, etc.—between big ideologically hostile blocs of nuclear-armed nations from now to eternity. Eternity is another new dimension in diplomacy which becomes terribly real in nuclear times.

I think it is reasonable to believe that the present Soviet Government would be powerless to discredit at home or abroad the imminent prospect of massive United States-Soviet exchanges of grassroot hospitality on a city-to-city and village-to-village basis, which a serious and morally authoritative U.S. policy move of the nature and magnitude of the "open cities" proposal would swiftly establish in the minds of people everywhere, including the U.S.S.R. and the satellites.

For one thing, it would be beyond Khrushchev's or anybody else's power to conceal it from the Russian people for any length of time if it became a topic of conversation everywhere else—which is within the power of our own Government to accomplish.

This, plus its identification with nuclear peace in the tremendously simple and familiar terms of ordinary human hospitality, would cumulatively generate a pressure-cooker situation inside the U.S.S.R. and the European satellites. It would mean serious political consequences for any monoparty regime ruling a travel-starved but hospitable and peace-hungry people—which the Russian, Polish, Hungarian, and other Communist-dominated peoples are.

In human relations, hospitality is the fundamental law of civilization. When the first caveman invited his neighbor to his cave, that was the beginning of civilized life. It is not for Khrushchev or anybody else to decree its end by excluding Russians or any other people from civilized international intercourse.

#### MORAL PRESSURE

Formal announcement by the U.S. Government that the open cities idea has become U.S. policy for nuclear times, is, of course, also a precondition for any translation of it into what I, for one, regard as its minimum logistic terms.

I emphasize "minimum" because this is primarily a major policy move designed to exert tremendous moral pressure, not a pilot project of any kind. We have been operating a pilot project for the past 5 years in the current visitor-exchange program.

Naturally, diplomatic haggling with the present Soviet Government is foreseeable, too. But the difference between an active and dynamically stable peace among peoples and a jittery and tensely peaceful coexistence among big blocs of nuclear-armed nations. is a proper subject for governments to haggle over in nuclear times.

In the process, the whole direction of the cold war could be reversed.

### PUBLIC OPINION

There will perhaps be both sly and sincere but misguided attempts to discredit the "open cities" idea in the minds of the American people. Communist (as opposed to Russian) hopes will lie that way. But I don't think they will be successful. The identification of peace with hospitality in international relations is too plain, deep, and humane to be discredited. Attacks will only stimulate a sustained nationwide discussion of the open cities—which is, after all, the first purpose of my cable to Khrushchev.

An informed public opinion is needed, for no administration may outrun public opinion too far on a matter like this. Nor may it lag too far behind.

My own experience with the Wisconsin Legislature and with city councils and village boards in Wisconsin, Iowa, Massachusetts, Minnesota, and North Dakota indicates that a favorable public opinion across party lines can be expected. And to my mind this is far more relevant to the ultimate success of the "open cities" policy than the attitude toward it, favorable or unfavorable, to be taken by the present Soviet Government.

### GRASSROOT SUPPORT

The "open cities" idea is truly a grassroots movement.

Conceived in Madison the proposal gains supporters as people learn of it and gain understanding. It has grown although it has no promotional organization. Here is some of the local and State government support:

The City Council of Madison, Wis., adopted a resolution supporting the proposal and urging Federal action in May 1955.

Other Wisconsin cities which followed Madison's lead are Appleton, Belleville, Birnamwood, Jefferson, Perry, Shorewood (Milwaukee County) and Verona.

Iowa cities are Waverly and Tripoli.

Massachusetts cities are Easthampton and Northampton.

Minnesota includes Moorhead.

The North Dakota League of Municipalities, which includes 374 communities, passed an "open cities" resolution following the lead of the city of Fargo in October 1963.

The Wisconsin Legislature adopted a bipartisan resolution urging Federal action in May 1963.

Lt. Jack Olson sent "open cities" information to the Governors of the other States.

News stories of the proposal have been carried nationwide by the Associated Press and United Press-International and other stories have been published by newspapers across the country.

It has reached the policymaking level in Washington.

### ARE YOU INTERESTED?

If you are interested in backing the "open cities" idea, here is what you as a private citizen can do:

Write a letter stating your support to: Mr. Walt Rostow, Chairman of Policy Planning Board, U.S. State Department, Washington, D.C.

Write a letter of support to your congressional representatives, adding that you wrote to Rostow.

Petition your local government (village board, city council, county board) or any private organization to pass a resolution endorsing the "open cities" proposal.

Write to Prof. Edmund Zawacki, Department of Slavic Languages, University of Wisconsin, Madison, Wis., for information and materials for action.

## NEWSPAPER TRIBUTES TO PRESIDENT JOHNSON

Mr. DODD. Mr. President, I have never seen the like of the editorial praise for a President that I have seen in the last few weeks concerning President Johnson.

I believe the Nation has been somewhat astonished at the tremendous vigor, the limitless energy, and the effectiveness of President Johnson. Some of the editorials and columns I have seen, from normally Republican sources actually reflect a feeling of awe.

It is clear that the President is establishing himself in the public mind and particularly in the mind of newspapermen and commentators, in the words of Thomas Vail, as "a man of strength and action."

I ask unanimous consent to have printed in the RECORD an editorial published in the April 30 edition of the Washington Evening Star, a humorous column written by Russell Baker, published in the April 30 issue of the New York Times, and a column written by Thomas Vail, published in the April 26 issue of the Cleveland Plain Dealer.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Evening Star, Apr. 30, 1964]

### THE CHARMER

St. Francis, according to usually reliable legends, used to chat with the ravenous wolves of his neighborhood, whereat they stopped being lupine and became groupine instead, happy, all the time singing, and helping the saint in his endeavors.

Something like that happened the other day when the Democratic President of the United States reasoned together with the chamber of commerce, that traditional pack of wolves to men of his party. There were no howls. There were no growls. No teeth were gnashed. No fangs were bared. Instead, the gentlemen of the chamber laughed and cheered, became happy, all the time singing, and seemed to accept the President's invitation to join him in the one big party—neither Democratic nor Republican but Johnsonian—that he seems increasingly determined to found.

How explain this? The Johnsonian policies, as advertised, are the continuation of the Kennedy policies, yet group after group that opposed the New Frontier takes kindly to L.B.J. How come? Have we arrived at the era of good feeling all over again, with an emergent national interest universally apparent and universally more important than the group interests of our history?

If the question becomes public, as it is bound to soon, organized punditry may be counted on to go mystical and decide that the murder of President Kennedy has unified the country, with L.B.J. as the rallying point.

You can't prove mysticism one way or the other. For ourselves, we take a homelier view of the phenomenon. The chamber of commerce cheered Lyndon as if he were a visiting chamber dignitary from another branch. And indeed he is. He kidded and joshed the members and they loved it, knowing their own on sight. The style is the easy affability of the owner of the biggest auto agency in the county.

Johnsonian reporters in 1960 christened their train the Cornball Express. It's still highballing down the track.

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[From the New York Times, Apr. 30, 1964]

### OBSERVER

WASHINGTON, April 29.—The great question facing America this spring is not, "How does Lyndon Johnson keep it up?" but, "How long can the rest of us stand it?"

The problem is poignantly expressed in a letter from a Washington woman who writes, "All my husband and I can do in the evenings nowadays is sit around talking about Lyndon Johnson." Others report similar problems.

### THE L. B. J. GLUT

Some people are so alarmed about the amount of time the President occupies in their minds that they shut themselves in padded rooms and concentrate on not thinking about Lyndon Johnson. They usually come out of seclusion screaming for the latest papers to see what he has done between editions.

There is always something. He has stretched a beagle's ears, pioneered a new teleprompter, jollied a king, broken the speed limit, done the fox trot, inspired the poor, made the trains run, charmed the businessmen, shown the Rose Garden, flown to Chicago, written to Khrushchev, thrown a light switch, granted boons to a 6-year-old, tossed out the first ball, lobbied a Senator, greeted the tourists.

For the first time in anyone's memory, we have a President who does everything. There is something to be said for such a President, but there are also drawbacks. In the past, it was customary for the burdens of the office to wear out our Presidents; now we have a President who threatens to wear out the country.

The question President Johnson should ask himself is whether it is altogether healthy for everybody to have to think about a President all the time. A President is admittedly an important man, but when all is said and done he is still only a President.

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[From the Cleveland (Ohio) Plain Dealer, Apr. 26, 1964]

### INTERVIEW WITH THE PRESIDENT

(By Thomas Vail)

WASHINGTON.—Looking trim and tan, the tall Texan welcomed me warmly in his office. As no one else was present, he asked me to sit near the fireplace so we could talk more intimately.

The only thing unusual about all this was that my host was the President of the United States, and we were together in that famous white oval office in the White House.

"Before we get started on some important matters, you just have to see the tulips," the President said, and out we both went into the White House garden, which certainly is lovely at this time of year.

The President's private photographer snapped a few pictures and we went back to the simple, uncluttered, rather small office where so many great decisions are being made.

Looking as fit and healthy as a man can look, the President began to range over a whole series of problems in his informal, practical way.

As if summing up his whole philosophy of government in a few words, he ended almost every subject with: "People want action. They want results."

If there ever was an action man, L. B. J. is it. Just back from a whirlwind trip into depressed poverty areas in Pennsylvania and West Virginia, the President seemed impatient to get on with the legislation he hopes will alleviate the poverty he had just seen.

The President made several calls to aids and other important Government figures while we chatted. Every call was aimed at getting things done as quickly as possible.

While the Washington press corps is having a field day speculating about five Vice Presidential possibilities, the President says he is giving no thought to it until the convention this summer.

"I haven't even talked to my wife about it," he said.

Although he has said much of this publicly, the President added an intimate afterthought: "My only thought when I do make up my mind on the Vice President will be who will make the best President, because I know something about what can happen to a man in this job."

Obviously concerned over civil rights legislation now being debated in the Senate, the President reflected some optimism, asked me about the situation in Cleveland, and went on to say that the problems and the solutions in this field are only just beginning.

It had been a long, hard week for the President, a week which included settlement of the railroad dispute, something he feels was the toughest job he has had to handle as President so far.

But in spite of it, the President showed no signs of tiredness.

Of the Presidents I have met, this is the real "pro" of all. He leaves theories and intellectual abstractions to others. President Johnson is a product of the soil, of Texas, and of his life career in politics. His manners are simple and homey. He is an assured President and politician rolled into one.

One other characteristic I would add is that he is impatient, impatient to get things done.

President Johnson knows there will be a lot to do on civil rights even if a Senate bill is passed.

I got the feeling American policy toward Communist China is not likely to change until the Chinese change some of their tactics.

After several momentous months, President Johnson has clearly learned to pace himself as he has taken hold of the reins securely. As I got up to go, after a long and interesting discussion, he said: "Call me any time. I am always anxious to help."

I left by a small private entrance to the White House, feeling that the President is a man of strength and action. The public image and my personal observations are the same.

## BRAVE AND GENEROUS: HELP COMES TO ALASKA

Mr. BARTLETT. Mr. President, tales of courage and acts of bravery, reports of generous contributions and hard work continue to come from Alaska.

I have several clippings and reports which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Alaska? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, for a firsthand account of what the earthquake was like, Senators will wish to read the article entitled "The Saga of Trooper Murphy." Murphy is a man who lived through World War II in England and jungle warfare in Malaya. Even this did not prepare him for the horror of the earthquake. "I saw a lot of things I never want to see again in my lifetime," said he.

When the quake began, Trooper Murphy was driving. When his car began to bounce over the highway he was under the impression that a strong wind was blowing. At one point the whole side of a mountain came down and then shot up across the ravine into a snow plume a thousand feet high. Said Murphy, "Boy this must be one heck of a wind." It was more than a wind.

Among the first organizations to provide emergency relief was the American Legion. This should come as no surprise to anyone who knows the record of this organization. I have just received two reports on the activities of the Jack Henry Legion Post No. 1 in Anchorage, and the Legion Post No. 27 at Glennallen, as well as a letter from Governor Egan commending the Legion boys' work. Legionnaires across America can be proud of the work done by the Legion in Alaska after the quake.

Equally impressive has been the generosity of the Veterans of Foreign Wars. Already this national organization has raised over $50,000 for Alaska relief. The VFW post in Okinawa alone contributed $10,000. Okinawa, with its history of disastrous typhoons, knows the horrors which follow nature on a rampage.

Recently, I spoke of the work of the Red Cross and the Salvation Army in providing food and shelter for the earthquake victims. The YMCA also did remarkable work in Anchorage, serving over 6,000 meals to the hungry and bedding down over 2,000 people in their building.

Many Alaskans were impressed with the devotion and quiet heroism of the State's postal workers. Electric wires might be down, and utilities destroyed, but the mail was delivered. The maintenance of efficient and reliable communications played an important part in Alaska's immediate recovery from the emergency.

Also impressive was the work done by the amateur radio operators across America. Many thousands of messages were relayed from Alaska by these radio hams at a time when regular communication channels were out of commission. It has been estimated that over 40,000 messages were relayed from loved ones in Alaska to their families in the lower 48. This is a remarkable achievement.

I have always known Americans were a generous people. Not until now have I had cause to know just how generous they are. Help continues to pour into Alaska. The city of Valdez has received a gift of $51,000 from the employees and management of the International Telephone & Telegraph Corp. The citizens of Allentown, Pa., have donated a truckload of furniture, linens, and household goods which is being driven across the country by volunteers of the International Teamsters Union. The fishermen of Japan have donated $5,000 for Alaska relief. And 7-year-old John Loeb Beaty of Port Jefferson, N.Y., has written George Sharrock, mayor of Anchorage:

> I wanted to send you my Easter basket but my daddy said the eggs would not last. I am sending you $1 instead.

Everywhere across Alaska, without exception, it was the same story. People worked together. Neighbor helped neighbor. Stranger helped stranger. As the Anchorage News said in its editorial, the real story of the earthquake are the countless thousands of people who rushed forward to help. The News says, "Anchorage cannot quit now. People are so wonderful." I would agree and add not only Anchorage but Alaska cannot quit now. The State legislature gave unanimous approval April 13 to a resolution—made a part of exhibit 1—giving official commendation to the groups and organizations which did so much to help in the aftermath of the Good Friday earthquake.

### EXHIBIT 1

### HOUSE RESOLUTION 18

Resolution expressing the gratitude of the house for disaster services rendered the State

*Be it resolved by the house of representatives:*

Whereas the individual and community efforts to meet the immediate needs of the earthquake disaster areas on Good Friday have now bloomed into the spirit and action of rebirth and renewal which characterizes Easter; and

Whereas this movement from the hour of darkness to the morning of hope was made possible through the dedication to duty, alertness, generosity, courage, and charity of many groups, organizations, and persons deserving of the commendation and gratitude of the people and communities directly affected by the recent disaster and the people of the State in general;

*Be it resolved*, That the house of representatives does hereby extend, on behalf of the people of Alaska, the gratitude and commendation of the State to the officers and men of the Armed Forces of the United States, the U.S. Coast Guard, the Alaska Army and Air National Guard, the radio ham operators, Red Cross, Salvation Army, Spenard Rotary Club, Alaska Chapter of the Associated General Contractors, organized labor, staff and volunteer workers of the division of civil defense, the Civil Air Patrol, and the members of the business community, all of whom labored with vigor and devotion to ease the impact of the disaster and immediately proceeded to do more than their part in rebuilding a better Alaska.

[From the Anchorage Daily News, Apr. 8, 1964]

### THE SAGA OF TROOPER MURPHY

(By John Ratterman)

Mike Murphy saw his duty and he did it.

Murphy is an Alaska State trooper who on Good Friday afternoon suddenly found himself literally in the middle of an earthquake disaster—about midway between Anchorage and Seward.

Murphy's duty, as he saw it, was to go to Seward; this in spite of his concern for his wife and three children (one of them a week old at the time) in Anchorage, in spite of oncoming darkness and freezing cold, and in spite of numerous landslides and shattered bridges which meant he would have to walk.

"The chief of civil defense in Anchorage gave a direct order to get somebody into Seward," Murphy said, "because they had no contact there and they didn't know what had happened. I decided Seward was my post and it was my duty to get there."

The Alaska trooper was wearing his uniform and parka, but had only his low shoes to walk the great distance, in many places through deep snowslides.

"Boy, those shoes were killing me," Murphy recalled. "My feet began freezing and I was wet up to the shins."

Murphy's earthquake began shortly before the violent tremors here as shock waves traveled outward from the quake's center in Prince William Sound. But nothing in Murphy's past could quite have prepared him for that moment.

The 36-year-old trooper was born in Cork City, Ireland. He was a London bobby, served in the Royal Air Force Police from 1945 to 1948, was a lieutenant in the Malayan police from 1951 to 1952, was employed by the Malayan Government to train special forces in the use of small arms and in jungle warfare, came to the United States in 1955 and decided in 1961 to make his home in Alaska. Murphy joined the State police in 1962.

His former training and his time with the Alaska police fortified him for the disaster duties he would be called upon to perform, but the long seconds of the Good Friday earthquake held a unique lesson.

"I was just 6 miles down the Hope Road," Murphy said. "That is the only point where I can contact Anchorage by radio. I had spoken with them and was headed back toward the Seward Highway.

"It seemed like the front end of the car was coming apart. I had no control. One minute it would swerve to one side of the road; then it would swerve back.

"I was under the impression we were having a strong wind. I could see the trees swaying. I held out my hand and there was an awful wind blowing.

"It would just pick up the car and throw it back down again."

Murphy continued to drive throughout the quake, still unaware that one of the greatest earth disturbances in history was in progress beneath his vehicle.

"I came around a curve," he said, "about 3½ miles from the Hope Cutoff, and the whole side of a mountain came down and then shot up in a snow plume about 1,000 feet high.

" 'Boy,' I said, 'This must be one heck of a wind.' "

Fortunately for Murphy the snowslide was across a canyon from his car.

"I was almost to the cutoff," the trooper continued, "when I heard Silvertip trying to reach Anchorage."

Silvertip is a highway department station in Johnson Pass near the Hope Cutoff.

"They were calling, 'Anchorage, Anchorage, we've just had an earthquake and snowslide.' "

Murphy found two gigantic snowslides near Silvertip, about 2 miles from the cutoff.

"There were trees and everything right in the road," he said.

"I walked over those to Silvertip. It was about a half-mile walk. I told them of the slides, but they didn't have a grader. They started using axes.

"There were quite a few people stranded there who had come up the road from Portage. And a lot of people were stranded on the other side of the slides.

"I already had sent some people down toward Summit Lake to check that area. I got the word that the road was open to the lake.

"I arranged for some people to stay at Silvertip. Those on the other side of the slides headed back to Summit Lake to get accommodations there.

"Then I heard from Hope that there was no great damage and nobody hurt. The road was open all the way to Hope."

Murphy went to Summit Lake Lodge, to check reports of slides in the area.

"I found Tom McCahill (he's a fine gentleman) running around and working like mad getting a place for people to sit down and getting snacks and stuff like that."

About 9:15 p.m. the order came to get somebody to Seward—"even if they have to walk." By 9:30 p.m. Murphy decided nobody else was available for the task. He parked his patrol car at a snowslide and began walking from mile 46½.

"I crossed five slides, and then ran 4 miles to Byron Beard's log house, about 4 miles down from Summit Lake. The house was a shambles. Crockery was broken."

Beard drove Murphy to the next slide, at mile 39. The trooper walked over the roadblock, and another slide about half mile further along the road. He then caught a ride to Moose Pass.

He was given still another ride to the 18 mile bridge, which he said "was a complete shambles. There was a 200-foot drop. It looked like a bomb had hit it."

Murphy circled the shattered bridge on tracks of the Alaska Railroad. He walked 4 miles on the tracks to mile 13.

"It was about 10 above zero, and some snow was falling," he said.

Then Murphy began to learn the story of Seward.

"I stopped at the Pit," he said, "at mile 3, and asked Erwin Corbin what the situation was. He told me tanks and the whole waterfront were on fire."

Murphy crossed three bridges near Seward by jumping over huge cracks, and caught a ride to the Lagoon Road. For the first time he saw the devastation heaped upon the port city of Seward by the earthquake and two tidal waves.

"I never saw anything like it in my life. I could see across Resurrection Bay. I could see the tanks on fire. The lagoon was high and water was lapping across the road. There were torn houses, piling from the small boat harbor, and even railroad ties on the road."

Murphy met Dale Pickett, Seward policeman, who was halting all traffic on the Lagoon Road. A bypass road had been cut by bulldozer, but the rough surface was open only to four-wheel-drive vehicles or travelers on foot.

"It would have taken me about an extra three-quarters of an hour," the trooper said, "and my feet were already about gone.

"I told him I was going across the lagoon and I went across the lagoon and that was that."

Murphy made his way to the Seward Hospital, where communications finally were established with Fairbanks, and the awful news was relayed to civil defense headquarters in Anchorage.

Murphy got very little rest in Seward. Others recalled that the trooper was invaluable in organizing survival efforts. He even made a return trip to Hope, utilizing railroad handcars and other modes of transportation, to bring dynamite for demolition work.

He returned here Monday.

"I knew Anchorage had been hit bad," he said, recalling his decision to go to Seward. "They informed me they had no knowledge of my family. But what could I do? I had a job to do.

"I saw a lot of things I never want to see again in my lifetime, and I don't want anybody who belongs to me to ever go through that again.

"But my main concern was for my little daughter. She was just a week old. She was so small and it would be so easy to hurt her.

"It was 36 hours before I found out they were all right."

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The American Legion,
Western District,
*April 14, 1964.*

Joseph Briones,
*Department Adjutant,*
*The American Legion,*
*Juneau, Alaska.*

Dear Joe: For the specific people who should be individually commended for their outstanding effort the list below is the group who really manned the hall:

LEGION

Harry Heintz, Clarence Beichner, Wilbur Munson, Wallace Hill, Russell Forson, Dwight Pease, Archie Tibbitts, Edward Knobel, Robert Martin, Francis Brown, Edwin Klopp, Robert Blackburn, Arnold Engebretson, Paul Weir, Robert Minton, Normal Polivka, George Shaeffer, Fred Wells, Harry Spearstra, Jay Fletcher, and Robert Marshall.

AUXILIARY

Gladys Heintz, Wanda Beichner, Viola Munson, Betty Forson, Kay Pease, Jenny Tibbitts, Vera Martin, Bradley Ann Brown, Martha Blackburn, Susan Engebretson (daughter), Sumiko Weir, Lucille Brenwick, Joan Polivka, Shirley Hendricks, Zellma Hall, Sarah Luebke, and Phyllis Marshall.

That's it for now, Joe.

Respectfully yours,

William E. Millard,
*Zone 3 Deputy Commander,*
*Western District, American Legion.*

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### The American Way

When the earth quit shaking, crumbling and washing after the Good Friday earthquake in south-central Alaska, one small American Legion Post in the interior of Alaska at Glennallen once more met a challenge with outstanding results. Typical of American Legion Post and Auxiliary Unit No. 27, their small group figured in one of the historical programs of care and comfort to go on record from the disastrous holocaust.

Glennallen's neighboring seacoast city of Valdez was devastated by the earthquake and tidal waves which followed. By midnight of Friday March 27, the residents of Valdez had all been ordered to evacuate toward the Glennallen community, some 115 miles inland. Valdez homes, businesses, power and utility systems had been rendered helpless and further damage from tides was feared. People, singly and by families, began arriving in Glennallen early on Saturday morning, carrying only personal items that could be hastily put into their cars. They were met by an open hearted American Legion Post 27 membership. Post 27 men and women quickly forgot their own severe damages caused by the quake and began assisting the victims from Valdez. The American Legion hall was opened to all. The ladies of the auxiliary manned their kitchen first with sandwiches and hot coffee. Legionnaires and auxiliary members spent the night giving assurance and comfort to those evacuees who were yet in a state of shock. By noon on Saturday, March 28, Post 27 was feeding hot meals regularly. Military troops flown into the Glennallen area were housed and fed at Glennallen Post 27 while awaiting transportation into Valdez to begin emergency assistance. Post 27 membership and auxiliary worked closely with civil defense registering the Valdez population and providing transportation and housing. From the date of the earthquake Post 27 has kept the Legion hall open on a 24-hour basis to assist Valdez victims and others who come and go from Glennallen on assistance missions. They intend to remain open for care and comfort until all families and individuals are either safely housed in Glennallen or start returning to their homes. In the first 2 weeks some 4,500 hot meals were served, assistance was given to civil defense in traffic handling and housing for almost 900 people who entered the area. Clothing was received from Jack Henry Post No. 1 in Anchorage and distributed where needed.

To respond to such emergencies requires organization akin to the way today's veterans were organized to respond to wartime emergencies. Glennallen American Legion Post and Auxiliary take these emergencies in stride. They are a young post of 10 years with a current membership of 64, but with a record of Americanism and community service that is the envy of American Legion posts many times their size and age. Post 27 walls are lined with recognition awards for American Legion activities. Part of their outstanding record includes the Department of Alaska 300 percenter membership award, and the national special award for outstanding child welfare programs.

What makes their action in this earthquake emergency so outstanding requires a review of Post 27's past year. To begin with they were honored to have in their membership the American Legion western district commander. This required heavier responsibilities, all of which were completed in an outstanding manner. Knowing that at the end of the commander's year the annual convention would be hosted at Post 27's tiny hall, they undertook to enlarge their skimpy log cabin. They built by themselves a new addition which included a kitchen, bathrooms, furnace heat, and a pressure water system (without a well). The saying goes that where there is a will there is a way. So it was that on the eve of the convention they opened their new post home to arriving delegates. Post 27 and auxiliary conducted an outstanding convention agenda and 45th American Legion birthday banquet on March 13-15 at which Alaska's Gov. William Egan attended as main banquet speaker. When the earthquake hit on March 27 Post 27 and auxiliary memberships were worn and tired, but they responded as if all the work of the year had been in training and preparation for just such an emergency. The Good Friday quake brought the Legionnaires and auxiliary of Post 27 to the peak of their historical record—that of freely giving a helping hand.

Post 27 veterans are scattered in key positions in community businesses and agencies who suffered damage requiring immediate restorals. Communications men worked continuously restoring the broken link between Glennallen and other parts of the Nation and handled hundreds of emergency messages in and out of the area for officials, relatives and friends on a 24-hour basis; power utility men restored community electricity in 3 hours and worked around the clock making emergency repairs to insure continued power; State highway maintenance personnel worked so that evacuation traffic could proceed, which required 24-hour-per-day restoral of highway breaks and landslides; airport control people were swamped with air arrivals and departures into the Valdez area; roadhouse and business operators worked continuously to restore facilities to handle the Valdez population; hospital personnel received and cared for the injured and the local radio station devoted full time to emergency announcement broadcasts. Most important of all, there was by some miracle, enough Legionnaires and auxiliary members left over to open and operate the American Legion hall on a 24-hour daily basis. It was, and will be, a continuing 3-shift schedule since the kitchen must be manned at all hours, transportation must be available around the clock, water must be hauled to the basement stock tank reservoir every few hours, and other innumerable tasks will continue to face post and auxiliary members. Post 27 is determined that their neighbors from Valdez and their own community shall not suffer for lack of care, comfort, and thoughtfulness. Department of Alaska Adjutant and Finance Officer Joseph Briones spent a day with Post 27 on his trip to the earthquake areas as representative of the American Legion Alaskan Relief Committee. He remarked that Post 27 Legionnaires and auxiliary were always hard at work on important activities of this nature and that he didn't know how the post was always able to get the job done. Joe—we at Post 27 know how. We are all Americans. We all believe the American way. We live the American way. We work the American way. Joe, that's how we get the job done.

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### Jack Henry Post No. 1 Reporting

(By Ken Schank, public relations officer, American Legion Jack Henry Post No. 1)

On the 27th day of March 1964, Jack Henry Post No. 1, Anchorage, Alaska, one of the oldest posts in the American Legion and the first post of Alaska, chartered in February 1919 received one of its most trying experiences.

On this date at 5:37 p.m. pandemonium broke loose at the time normal preparations were being made for the bi-monthly meetings of its members. This grand old building squirmed and groaned in the twisting actions of what was to be one of the world's greatest earthquakes. Within seconds God had stopped the progress of man as electricity, water, telephones, and gas were dormant, the contour of land and buildings were changed. Many personal tragedies and deaths were soon to be known to the world. After an inspection of the building, it was determined safe for use as a shelter and the commander issued a call over the only radio station in operation for all members to meet at the post. In the meantime, several Legionnaires and their families had arrived at the post, forgetting their own personal losses and problems, to be of assistance to the community. Soon many more Legionnaires and auxiliary members, who had heard the appeal for help, arrived.

Immediately the shelter was organized; candles and fireplace were lit, the propane stove in the kitchen served well to make coffee, crews were dispatched for water from nearby wells, snow was also melted and sandwiches were made from the well-stocked kitchen.

The civil defense chairman went immediately to civil defense headquarters, which was not destroyed and began working with the officials.

Two members located a powerplant for auxiliary power, as candles and gas lights were too dangerous in a crowded building. A fire guard was put into action immediately to prevent a loss by fire.

The transportation chairman went into action providing drivers and vehicles for communications between the post, civil defense headquarters, and radio stations (three of which were now on the air).

Registration was set up at the door by the ladies auxiliary to list all people entering or leaving the building, when they left, and where they went; we found this was very beneficial later in locating missing persons—1,482 people entered the post the first night with approximately 375 persons remaining all night in the building for the shelter the post offered. Many had no homes and in many cases had no knowledge of the whereabouts of their families. Some were in tears, others in shock, and in three cases the woman was pregnant and one lady was having labor pains. The post was fortunate in having a doctor and one or two nurses on duty at all times throughout the week. At times as high as five nurses were on duty. Three corpsmen and an ambulance were also dispatched to us as standby from a nearby Air Guard base for the first 48 hours. We also had offers of psychiatric treatment if we needed it for any of the refugees or workers. None was required but several times it was marginal with some of the workers who had been on their feet continuously for 6 days and nights with some having no more than 6 to 8 hours of sleep the whole time. The original idea was to fill the gap for civil defense from the time of emergency until the wheels could be set in motion and the larger organizations could take over. It was never intended to duplicate the work of the Red Cross and Salvation Army, although the coordination was wonderful between these units. By the time the post had filled its mission it had served 5,200 sandwiches, 320 gallons of coffee, and well over 6,000 hot meals, consisting of sausage and eggs, moose, bear, caribou, salads, soup, hot rolls, chicken, salmon, chile, hot dogs, hamburgers, airline flight dinners, cookies, stew, and many other varieties. Three radio station crews received hot meals around the clock, which totaled 99 meals daily. They were delivered by our transportation committee, as well as many meals to the employees of the airport who were unable to get food because the only cafe in that area had collapsed. A lunch wagon was also dispatched from the post to the downtown disaster area serving hot meals, sandwiches, and coffee to the rescue workers.

As people filled Jack Henry Post No. 1, many problems arose. One problem was drinking water and water for dishes. This was overcome by 3 a.m. Saturday morning when Legionnaires went to the civil defense headquarters and arranged for an Army water tanker to be dispatched to the post. A driver and helper were stationed there until city water was approved for use on Saturday morning. The two GI's on duty with the water truck made themselves extremely helpful, not only for the water distribution, but also for details such as garbage removal, washing dishes, unloading food, and many other chores.

Another critical problem was sanitation. When the water system was ruptured a need for toilet facilities was of utmost importance. This was quickly overcome by several Legionnaires acquiring large metal pails with lids in which holes were cut to the required size with a hunting knife and plastic bag inserts were secured from a nearby supermarket. This type of container is usually referred to in Alaska as a honeybucket and a honeybucket brigade was set up in both toilets to keep them clean and see the waste was disposed of by a honeybucket wagon. At the same time there were 80 children in the building and a need for diapers was quickly overcome by placing disposable diapers in the ladies restroom. These were also given to the babies' mothers when they left the post to their new homes. The sanitation problem was well under control by Saturday afternoon as the water service was restored to the building; however, it was not tested and considered safe to drink until Friday noon of the following week.

With the area water situation as it was, an immediate need for typhoid vaccine was noted and steps were taken to give typhoid shots at the post. The big problem was where to acquire the vaccine. This was temporarily overcome by calling a druggist whose store was in the middle of the disaster area and getting permission to remove it for use. This furnished vaccine for 400 people Saturday afternoon. Many were turned away. Saturday night one Legion member was leaving by plane for Seattle and was told to contact the Legion post in Seattle early Sunday morning to arrange for shipment by air of 1,000 cc.'s of typhoid vaccine. This arrived Sunday noon and immediately calls were sent out over radio stations that shots would be given that afternoon. Sunday afternoon the citizens of Anchorage were lined up for a city block awaiting their shots. Easter eggs and cookies were given to the children after they received their shots. Clothes and food were distributed as well as many gallons of water to people with containers. Baby food was also passed out as required. One thousand sixty-nine shots were given in 3 hours. Many foodhandlers, doctors and nurses, firemen, and other busy people were placed in the line, as they arrived, in order that they might get back to their work. By Friday evening, 1 week after the disaster struck, a total of 3,020 typhoid shots had been administered, many sedatives, and treatment of small children for minor illnesses.

All of the food, clothing, coffeemakers, blankets, sleepingbags, disposable diapers, cigarettes, Easter eggs, movie projectors, film, music, clothing, and many other items were donated by the citizens of Anchorage. The response of our wonderful radio station calls was overwhelming; many times we had to cancel the appeal for certain items within 30 minutes after they reached the air.

Saturday evening the organ that is normally used at the post for fun and play had a serious part to play in this great task of rendering service to our community. It was played by a Legion member for several hours soothing the tired, weary, and shocked. The music did much for the morale of all that heard it. Many dozed off in their blankets and sleeping bags to start a new day and a brighter look at the world.

As Easter Sunday came to light, hot food was served and later in the morning projectors and films to last all day were set up in our back room and the children spent most of the day viewing comedy and serious films. While the children were occupied, babies were being cared for by the junior auxiliary girls so their parents could move about. The sons of the Legionnaires were detailed to remove the bedding and sleeping bags from the building and air them out. When evening fell and many of the good citizens had felt the sting of the needle, a deluxe Easter basket was issued to every child in the shelter; after all it was still Easter. The surplus baskets were delivered to the Alaska Native Hospital for distribution to the native children.

By now the whole country was aware that Jack Henry Post No. 1 was fulfilling its purpose in the community. Many testimonies had been given the post as to meritorious service in time of need. One wonderful talk given by a prominent newscaster gave 15 minutes of his time to praise Jack Henry Post No. 1 and what it had accomplished; although it was given at 2:30 a.m. Sunday morning, many ears were tuned to it. One person in particular was tuned in, a longtime member of our post. The next day he was at the post with his wife helping direct traffic in the building and when he registered he told the receptionist "many times he had been proud to be a Legionnaire, but never had he been so proud to be a member of Jack Henry Post No. 1." This good member will never be able to say those words again. Life Member Robert Kaufman passed away Tuesday morning of a heart attack. This post is certainly going to miss this wonderful man.

To our knowledge at this time there have been two members of this post listed as casualties, Robert Kaufman and Lee Styer, Jr., son of Lee Styer, Sr.

Due to poor communications up to this time, we have not been able to contact the other posts and receive full details of casualties or losses in the quake area. When this information is received, Jack Henry Post No. 1 will be standing by to help.

One truckload of clothes, food, and sleeping bags were taken to Glennallen Post No. 27, Monday evening by a volunteer and given to the post to distribute. At the time he arrived the evacuees of Valdez and town people were reported to be eating the rations issued to the military on duty there. They were very grateful but their first question was what could they do for us in Anchorage.

As the clothing drive started, it created another monster, approximately 8,000 pounds of clothing started to arrive at the post. This was sorted by the clothing committee and junior auxiliary. Soon another 65 boxes of clothing arrived on MATS military plane from Anacortes, Wash. As the building bulged with clothes, the Legion Post No. 28 offered their fireproof building as storage and distribution center and the VFW auxiliary offered their help to dispense and sort the clothes. The Red Cross and Salvation Army sent many people out to us with referral slips but many people were given clothes as they took their shots or came in for a hot meal. We had records of supplying 67 families with clothing, and many others that received clothing and food were not listed. The clothing, food, and toy situation is now under control and probably more than actually needed:

We of Jack Henry Post No. 1 of Anchorage, Alaska, can now walk with our heads erect and proud to have the little No. 1 on the side of our cap. Our mission of supplying meals, shelter, coffee, clothes, guard duty, and many other duties for the community were well performed by many persons by many long hours and sleepless nights until the job was finished.

Jack Henry Post No. 1 is ready for tomorrow, next week or next year, and will always be available if help is needed in the community. However, none of this could have been accomplished without the help of all the businessmen, citizens, and children of the community; to these wonderful people, Jack Henry Post No. 1 extends their heartfelt thanks.

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STATE OF ALASKA,
*Juneau, April 22, 1964.*

Mr. JOSEPH M. BRIONES,
*Department Adjutant,*
*American Legion,*
*Juneau, Alaska*

DEAR JOE: Having just had the opportunity to give your April "Alaska Legionnaire" the once over, I want to congratulate you and Earle Costello for turning in an excellent job of journalism, from the very striking and effective cover to the last page.

I think it is also appropriate for me to express my sincere appreciation for the splendid and unselfish work the Legionnaires and auxiliary members did in the quake-struck areas. Their efforts did much to alleviate the suffering which must inevitably follow such a major disaster.

Kindest personal regards.

Sincerely,

WILLIAM A. EGAN,
*Governor.*

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## WORLD STRUGGLE FOR OCEAN SUPREMACY—ADDRESS BY SENATOR MAGNUSON OF WASHINGTON

Mr. BARTLETT. Mr. President, my friend and colleague, the distinguished senior Senator from Washington [Mr. MAGNUSON], on Monday, April 27, addressed the 19th annual convention of the National Fisheries Institute which this year was held in his home city, Seattle.

The subject and title of this outstanding address was "The World Struggle for Ocean Supremacy," in the course of which he not only reviewed the work in behalf of America's fisheries of the Senate Committee on Commerce, of which he is chairman, but offered a number of well-considered proposals for developing the living resources of the seas and strengthening our fishery industries.

Chairman MAGNUSON's colleagues in the Senate will be gratified to hear that at the conclusion of this address and much to his surprise President Robert J. Gruber of the NFI presented the speaker with a handsome plaque, honoring him as the institute's "Man of the Year" in recognition, as the plaque states, "Of your outstanding service to the National Fisheries Institute and its members."

Senator MAGNUSON is the second distinguished Member of our body to be so honored during the 19 years the National Fisheries Institute has flourished. In 1956, our able, distinguished colleague, the senior Senator from Massachusetts [Mr. SALTONSTALL], was designated the man of the year for his notable legislative accomplishments benefiting fisheries.

Senator MAGNUSON and Senator SALTONSTALL cooperate closely on fishery legislation. During the present session of the Congress they have cosponsored two fishery bills, S. 744 and S. 1006, in which the industry has shown great interest. The latter bill has passed the Senate and is now pending in the House of Representatives.

Another meritorious recipient of the National Fisheries Institute "Man of the Year" award was the late beloved Congressman from Virginia's First District, the Honorable Schuyler Otis Bland, who for more than 30 years championed American fisheries in the House of Representatives, many of those years as chairman of the House Committee on Merchant Marine and Fisheries.

During the past decade many new problems have risen to plague our fisheries industry, among them the massive penetration of foreign fishing fleets into our richest fishing waters, the construction by foreign nations of huge, automated stern trawlers, refrigerated ships and floating factory vessels; the development of new gear and techniques, and the obvious depletion of some favored food species through overfishing.

Chairman MAGNUSON in his address before the National Fisheries Institute prior to the award discussed these problems, steps being taken in the effort to meet and overcome them, and a number of programs which have been proposed to strengthen the industry and to develop and maintain the fisheries of the United States on an optimum sustained-yield basis.

I ask unanimous consent, Mr. President, that the address "The World Struggle for Ocean Supremacy" delivered by Senator WARREN G. MAGNUSON before the National Fisheries Institute at its 19th annual national convention, held in Seattle, Wash., may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### THE WORLD STRUGGLE FOR OCEAN SUPREMACY

(Address of Senator WARREN G. MAGNUSON, of Washington, at the 19th annual convention, National Fisheries Institute, Inc., Seattle, Wash., April 27, 1964)

Mr. President, friends, leaders of America's first and most historic industry. I congratulate you on your convention program. It is a go-ahead program for all segments of the industry. I like the emphasis you are placing in your committee sessions on fishery economics, products quality, preservation, marketing, and consumer appeal.

The fact that you are holding your convention in Seattle does honor to this fishery-minded area, State, and city in which you are meeting for the first time.

What you will accomplish in your Seattle sessions will serve as impressive guidelines to our committees in Congress and to our administration for years to come.

Let me assure you that we in Government so fortunate as to be able to attend your convention are learning far more from you than you can gain from our presence, for we are learning firsthand the problems and needs of your embattled industry.

We know that you and your industry are waging a ceaseless battle to survive; that America's fishery industry is going through its Valley Forge, buffeted and beleaguered.

Survive you will, of that I am confident. Not only will you survive but you will grow and prosper. Later in my remarks I will state my basis for this conviction.

But now let us look at some of the facts that today confront the industry.

First, you are locked in a struggle for the living resources of the seas, facing overwhelming and sometimes ruthless competition in the vast no man's area spread over seven-tenths of the earth's surface.

The seas and oceans, as we all know, are the world's one vast remaining common pasture; the one great treasure trove, unreserved and open to all seekers.

Many nations are grasping for this treasure, pouring wealth, material, and manpower into a worldwide contest for the resources of the oceans, and at a time when our own fishery industry is lacking in ships and funds and economic defenses.

You have a product unexcelled, superior in taste and savor, superior in proteins, amino acids, minerals, and vitamins essential not only to health but to life itself. But you must battle for a foothold in markets bulging with other foods, products of the soil backed by enormous budgets, both private and Federal, by artful packaging and advanced sales methods.

You are competing on the high seas against huge, modern fleets constructed and operated by foreign governments and by other foreign fleets heavily subsidized by their governments—and you are competing in the Nation's kitchens with the products these fleets take, and to a considerable extent take in our own waters.

You are challenged, too, by domestic deterrents such as the misguided position taken by one Government department that to date has refused to approve pure and chemically-processed high-protein concentrate for home consumption, a denial of our boasted ideals of free choice, free enterprise, and free competition. This is an intolerable discrimination against your industry and the products of the sea.

The woefully small agency created to advance America's fisheries must each year contest powerful Government rivals for funds to maintain such services as they now provide. Funds for the Department of Agriculture this year were 220 times those for the Bureau of Commercial Fisheries.

Your friends in Congress must fight each year for every legislative item designed to give some measure of assistance to fisheries. Every success that we have had has involved a long and determined struggle, one in which industry has been our strongest ally.

These efforts in Congress are not solely or even primarily in industry's behalf. They are undertaken because we in the forefront of this struggle know that our fisheries must be strengthened in the interest of the Nation's health, the national economy, and, above all, America's security.

It is for these reasons that your leaders and leaders in Congress and the administration in consultation with each other are dedicated to the development of a strong, sound, national fisheries program.

I would be the first to admit that this program is belated, that it is not firming as rapidly as you and I would wish, that it is not yet as broadly conceived or as extensive as you and I know it must be. But the development of this program, I think you will agree, is beginning to gain momentum, and the program will be expedited by this convention.

The first gleam of a fisheries program—of any national program to develop, utilize, and conserve the resources of the sea—came 10 years ago with passage of the Saltonstall-Kennedy Act which we are proud to have helped champion.

Two years later, with your support, we introduced the Fish and Wildlife Act of 1956, which for the first time created, in the Department of the Interior, an agency to service exclusively the commercial fisheries industry; established in the State Department a Special Assistant for Fisheries, and for the first time declared by statute an official national fisheries policy.

You are familiar with the basic tenets of this policy, but I doubt if they can be repeated too often. They are:

1. To increase and maintain forever, for the people of the United States, a fishery resource capable of yielding the maximum annual product.

2. To strengthen and maintain forever, a vigorous fishery industry by assuring full and fair access to its raw material and full and fair access to the American market.

3. To do these things in partnership with the States and in full accordance with our national obligation, and without sacrificing the system of free enterprise.

All of the fishery bills Congress has passed while I have been chairman of the Commerce Committee, and all of the fishery bills now pending have the design and purpose of carrying forward this policy and giving life to its important concepts.

Fishery proposals to the committee or made to myself as chairman, which are still tentative or tenuous, will be considered from the viewpoint of their conformity with our national fisheries policy, that I assure you.

These proposals, several of them extensive, will be touched on before the conclusion of my remarks, and your advice and counsels will be elicited.

The 85th Congress also enacted my bill to provide funds for repair, replacement, and equipment loans to the fishery industry, although in an amount much less than I had asked.

Another bill I introduced directed, for the first time, the Fish and Wildlife Service to investigate the effects of pesticides on life in our seas, lakes, and streams. This is a continuing investigation which today, as you know, is receiving wide public attention.

We were less fortunate in obtaining favorable action in the 86th Congress on major legislation—I will not burden you with details—but we did score what I consider several important successes in the 87th.

One of these was Senate Resolution 392 calling for an international conference on the conservation of fishery resources, which your good friend Ben Smith, as Senator from Massachusetts, joined me in sponsoring.

Another accomplishment was the amendment to the Trade Expansion Act providing that when such a conference as that contemplated above is held curbs may be placed on nations that ignore, evade, or violate the conservation principles that are adopted.

Both of these measures have great potential significance to the industry, to the Nation, and to the world.

An international conference on conservation of fishery resources such as that called for in the Senate resolution must, in due time, be held.

This conference is imperative if nations are to prevent ruthless plunder of the ocean's treasures, eventual extinction of major food species, congestion and chaos in all high seas fisheries, mounting tensions between great powers striving for dominion over vital fishing grounds and, ultimately, hunger and starvation among the teeming millions in underdeveloped areas who even today are suffering debilitating afflictions from a deficiency of proteins.

Even now, according to the World Health and Food and Agriculture Organizations, many thousands of mothers and children die from protein deficiency diseases such as kwashiorkor and maramus, victims whose lives would be saved by a daily pinch of high protein concentrate added to their starchy diets.

Today's world population is estimated at 3 billion. By 1994 it will virtually have doubled. Seventy years or two generations from now, scientists predict population will have risen to 12 billion, and within a century it will touch 25 billion.

Who and what will feed these multitudes crowding the limited land surface of the earth, only one-ninth of which is arable? From what source will their food come?

Only the sea, I submit, can assure that the increased protein needs of exploding populations will be met. Tomorrow, survival of the fishing industry and survival of the human race will be synonymous.

This we know. If the nations of the world are to make provisions for the protein needs of their future generations they must join and join soon in agreements for worldwide conservation of the oceans' living resources.

Pending a world conservation conference neither you in industry nor we in Congress can afford to mark time. We must move forward and we are moving forward.

During this Congress I and a number of my distinguished colleagues have introduced, my committee has approved, and the Senate has passed, four bills to strengthen our fishing industry, bills which are now pending before the House of Representatives.

All are in keeping with our national fisheries policy as established by law 8 years ago.

S. 627 would allocate substantial funds to States on a cooperative basis and for a period of 5 years for commercial fishery research and development projects. No State or island possession would be ignored.

S. 978 would restore to self-employed U.S. fishermen eligibility for medical care in hospitals, outpatient clinics, and other facilities of the Public Health Service in the event of illness or injury incurred in their hazardous occupation; medical services that were extended to them for 156 years—from 1798 to 1954.

S. 1006 would make available $10 million annually for 5 years to assist the industry in construction of ships with advanced design and gear, and would repeal restrictive provisions of a previous act which was inadequate also in both funds and in percentage of Government participation in private fishing vessel construction.

Our fishing fleets today in the Atlantic, the Gulf of Mexico, and in the North Pacific are old, small and obsolete, and only a segment of the tuna fleet has ships suitable to compete with those of other nations in the area in which it operates—and this fleet is small in numbers.

Soviet Russia has more than 100 huge stern trawlers which she describes as floating factories and her ocean fishing fleet in the past

10 years has tripled while that of the United States has declined.

Russia's 1962 catch on Grand and Georges Bank was second only to that of Canada, while that of the United States, according to records of the International Commission for the Northwest Atlantic Fisheries ranked even below that of Portugal and Spain.

Japan has announced her Bering Sea fleet this year will include 14 motherships accompanied by 228 catcher vessels. Eleven of the motherships are over 2,500 tons; 5 of them over 10,000 tons. In addition to this fleet Japan will operate two independent large stern trawlers and a mothership-type king crab fleet in Bristol Bay.

If America is to compete with the fleets of 10 oversea nations, among them Russia, Poland, and East Germany, that are crowding Grand and Georges Bank; with the 12 nations, again including Russia, fishing the Gulf of Mexico and the Caribbean; with the 17 nations, 3 overseas, operating along the coasts of South America; with the 28 nations fishing West African waters the Russians already dominate, or with the massive Japanese and Russian fleets in the Gulf of Alaska and Bering Sea, the United States must have more and better ships, better gear, and more advanced technology. Enactment of S. 1006 would be a small but definite step toward this objective.

S. 1988 would prohibit foreign ships and crews from fishing in territorial waters of the United States, and would impose penalties for violations. Width of our territorial seas would be subject to further determination on the basis of our national interest.

The last three bills have passed the Senate and are before the House Committee on Merchant Marine and Fisheries. If singly or collectively you favor or oppose these bills you may wish to advise that committee of your position.

One other action which I and other members of the Commerce Committee, notably Senator BARTLETT of Alaska, took this year could prove a boon to the fishing industry, provide an outlet for surplus stocks which could clog or depress domestic markets, and relieve hunger in overpopulated, undernourished areas abroad.

This is the amendment to the Foreign Assistance Act which we offered and which Congress approved authorizing the inclusion of surplus fishery products in our "food for peace" program. Major benefits become effective January 1, and the Bureau of Commercial Fisheries has requested supervising agencies to designate Maine sardines, mackerel, alewives and pink salmon as available for distribution by that date.

The actions I have discussed above are not solutions to the problems of the fishery industry or to the recovery of America's stature on the high seas. They are approaches to solutions, constructive approaches in my opinion, but far from answering all of the needs either of the industry or the Nation relating to the living resources of the seas.

There are needs which require international approaches, and there are needs requiring well-advised solutions here at home.

There is need for an international fisheries organization if we are to seek conservation of ocean resources, need, I would say, for both an official intergovernmental fisheries organization and for one consisting of leaders of the fishery sciences and independent of governments but with the knowledge and the practical experience to offer constructive guidance to their government.

Neither exists now. Although fisheries are worldwide and of world importance they have no specialized agency in the United Nations or separate world organization as do cotton, sugar, wheat, rubber, coffee, lead and zinc, civil aviation, meteorology and telecommunications.

As Dr. John L. Kast, one of the most eminent fishery scientists on this continent, has said: "There is not a single United Nations agency that takes more than a passing interest or responsibility for the study, development, or exploitation of our ocean resources."

And although the world's future food supply will depend in great measure on fisheries, fisheries industries, and fishery scientists, there is no nongovernmental organization representing your industry, and none of fishery biologists as there is in 14 other scientific fields.

A world fisheries organization within or without the United Nations could implement my resolution of the 87th Congress calling for an international conference on conservation of fishery resources, and such a conference could make effective the safeguarding amendment to the trade expansion act which I referred to earlier.

A world fisheries organization could inaugurate an international fisheries year such as proposed by some of our leading scientists and fisheries economists at a recent symposium in Boston. and which could be as rewarding to the nations of the world as was the international geophysical year.

A world fisheries organization could sponsor a worldwide survey of fishery resources that could be of incalculable benefit to science, to industry, and to the peoples of the world, and a world fisheries organization could resolve many of the present conflicts and tensions between the 131 nations that are now drawing food from the seas in sufficient quantities to export some of the product to the United States.

If industry wants such an organization and works for it with the vigor and effort you have shown in other efforts I think it can be achieved.

Here at home there is also work that we can do, or that others can do in the national interest, that will help your industry and help the country. I will list briefly some of the proposals that have come to me or have been made to me by others.

One that is not new with me but which I have persistently urged and advocated is to upgrade the status of fisheries in the Federal Government. Fisheries departments rank high in the governmental structure of many of the nations with which we are now in almost constant negotiation—in some the minister of fisheries has cabinet status.

A step in the right direction was made by President Kennedy when he appointed Ben Smith, with the rank of Ambassador, to head the U.S. delegation in fisheries negotiations. There should be, in my opinion, a permanent Assistant Secretary of State for Fisheries.

In the past, I regret to say, no major food or fiber industry in the United States has received less Government recognition, support, or protection.

Second, in keeping with our national fisheries policy of Federal-State partnership in developing and maintaining our fishery resources, I would urge a joint conference of Federal and State fishery authorities such as that held recently in Canada, where Dominion and Provincial ministers of fisheries, meeting in Ottawa, mapped a strong cooperative program.

Third, just before I left the National Capitol to attend your convention, I introduced legislation somewhat similar to Senate Joint Resolution 112 of the 78th Congress which, in 1944, authorized a broad survey of the marine and fresh water resources of the United States to determine how we may best insure the fullest permanent development, utilization, and conservation of our fisheries, both on the high seas and in our lakes and streams.

Fourth, we must explore together the proposal made by Dr. Athelstan Spilhaus that the Government sponsor and assist in financing sea-grant colleges that would have the same role in advancing fisheries and marine sciences as did the land-grant colleges established during Abraham Lincoln's administration in promoting agriculture.

The sea-grant college proposal, in my opinion, might be carried out by allocating to fisheries a larger share of the duties collected on imports than are now received under the Saltonstall-Kennedy Act. This method of financing would place no new or added burden on taxpayers.

There are other proposals also, such as one that the National Academy of Sciences be asked to set up a committee on fisheries as it did a committee on oceanography a few years back, but I have had conflicting views on this idea.

You will, I am sure, weigh all of these proposals, critically and thoroughly. It is my earnest hope that you will favor my committee with your views.

There is one other matter that I will touch on, not a proposal but a project, and one which I think has great potential.

Dr. Sidney Galler, chief biologist with the Office of Naval Research, is presenting to the Navy Department a plan to use certain commercial fishing craft in marine biological research required by the Navy in its antisubmarine warfare program.

The operation, Dr. Galler informs me, would in no way interfere with normal fishing operations or require added personnel, and the data collected would be of value to both the fisheries industry and to national defense.

As Dr. Galler explains it, very small instrument packages would be placed aboard the fishing craft, the instruments automatic and self-operating. Payment would be made by the Navy to the vessel operators for the use of their craft as mobile ocean platforms.

I will not burden you with details but I can see merit to this plan. It costs $1,500 to $2,500 a day for the Navy to operate one of its research ships. Yet much of the data this vessel collects could be obtained from a properly instrumented fishing vessel, the Navy, of course, supplying the instruments.

Perhaps there will develop a closer relationship between the Navy and our fishing industry, a closer partnership, a greater recognition on the part of the Navy that fishing vessels on the high seas are the advance outposts of our national defense. I hope so.

Soviet trawlers, ranging the wide seas, are engaged in many activities other than catching fish, carry many instruments of observation and communication that have no bearing on fishery technology.

We know the important role Japanese fishermen had in their nation's war preparations before Pearl Harbor and even later during enemy occupation of Kiska and Attu in the Aleutians.

We know, too, that in that war our Navy took 289 of your best fishing vessels to serve as auxiliaries to our fleet.

The Navy, and our Government, should also recognize that in peacetime as well as in time of war, our fisheries, if they be strong, can fulfill a vital mission in our national security.

A strong U.S. fishery and a strong U.S. Navy on the high seas can together safeguard our Nation from any attack from the sea.

Mr. Chairman, friends, exactly 1 month to a day before he was assassinated, our late President John F. Kennedy sounded the keynote for the future of American fisheries and for expanded marine research when he addressed the National Academy of Sciences in Washington. He said in part, and I quote:

> "We want to know what is under the sea, and we need to consider its bearings on our security, and on the world's social and economic needs.
>
> "It has been estimated, for example, that the yield of food from the seas could be increased 5 and 10 times through better knowledge of marine biology, and some day we will seed, and weed, and harvest the ocean * * * international cooperation is indispensable if human knowledge of the ocean is to keep pace with human needs."

This is the spirit of searching for knowledge—searching for solutions—in cooperation and partnership with men of good will here at home and throughout the world that the present administration adheres to—and the spirit that I, and I am sure you also, believe in. I thank you.

## FARMER'S COST-PRICE PARITY RATIO LOWEST IN 24 YEARS

Mr. MUNDT. Mr. President, yesterday, the New York Times and many other metropolitan newspapers headlined Government reports stating that this country was enjoying a longtime period of increasing prosperity and that public policies had helped achieve this salutary record.

In the same newspapers, however, carefully tucked away in the inside pages, were other Government reports which convey a far less satisfying and encouraging status of economic affairs insofar as America's basic industry—agriculture—is concerned. For example, yesterday, both the New York Times and the Wall Street Journal carried triple-column headlines on their inside pages announcing that the buying power of the American farmer had reached a 24-year low, and that our ranchers and farmers confront serious economic problems as we fail to develop public policies and tariff measures to upgrade American farm income.

Mr. President, there is no cause to expect permanency or stability from economic conditions which reflect prosperity to those who use stock market averages as their criterion, or who take encouragement from the fact that industrial activity is at a high level, until and unless ways can be found and laws enacted which will assure the producers of America's raw materials and farm products equitable economic treatment.

Farm and ranch products together with our mines, forests, and fisheries, produce the all-important "raw materials dollar" which pyramids on the average of seven times to comprise our total National income. Unfortunately, these basic raw materials industries—including farming and ranching—are in the doldrums, receiving far less than a parity price for their products and paying inflated rates for what they have to buy. We dare not become complacent and should not become boastful about so-called prosperity indexes which reflect such a serious disparity in our American economy.

The news stories from yesterday's papers report another 2 percent decline in farm prices between mid-March and mid-April of this year. The present depressed farm price level is down to 75 percent of the parity standard. The level was 77 percent in March and 78 percent in April, of a year ago.

The lowest price level to which farm products dropped during the Eisenhower administration was 80 percent of parity in 1960. They averaged 84 percent of parity during President Eisenhower's 8 years in the White House.

No wonder, Mr. President, so many farmers and ranchers along with other producers of basic materials and products are registering over to the Republican Party to protest the continued neglect of their plight and the increasing favoritism being shown to labor unions and eastern corporations as together they pyramid the costs of everything that rural Americans must purchase to enjoy life. The three-eyed demons of imports—inflation, and indifference are plaguing American agriculture and our entire raw materials economy.

Since this is a presidential year, it might be well to point out that in the 1960 presidential campaign, both parties promised action to raise returns from crops and livestock to full parity—the standard fixed by law as fair to farmers. What happened? The Democrat candidate won the presidential race. The Democratic Party has virtually a 2-to-1 majority in and control of Congress. The Democratic Party has repudiated its pledge to rural America. The Democratic Party has notably shifted its allegiance and affection to the vast urban and metropolitan areas of America.

Farmers and ranchers are not long and easily hoodwinked. They will register their resentment and their objectives at the polls this year since their cause will be wholly and totally lost, of course, if they embrace and endorse an administration and a Congress which has steadily cut down their parity ratio of income.

For example, even the so-called wheat-cotton bill, passed a month ago by this Congress, which was described as "the best the White House will let us have," is estimated by its most enthusiastic and ardent supporters to produce—if it operates as its maximum effectiveness—only 72 percent of parity price supports for wheat producers. I doubt that the results will be any better for the cotton farmers. This will be an even further reduction in the income of the Wheat Belt farmers as compared to their income in 1963 and an even lower parity ratio than the new 24-year low record of 75 percent announced yesterday.

I voted for the so-called wheat-cotton bill in the hope that when it got to the House it would be improved and because it is better than nothing. Unfortunately the House invoked a gag rule on the bill so it could not be improved. The sad fact is that as enacted it will reduce wheat income from what it has been the past few years.

Mr. President, Congress should not—must not—adjourn until legislation is enacted to restore the earning power and the income-purchase ratio of our American farmers to at least the levels of the Eisenhower administration; and I would hope we can do better than that. Instead, we are now running nearly 10 percent behind the Eisenhower years in providing equity and parity for the American farmer.

No wonder the high Wall Street stock averages and the industrial statistics from our great cities make such dismal reading for America's farmers, ranchers, miners, foresters, and our fishery industry. The time is here, right now, when Congress should be protecting the future of American economy by making certain our raw materials receive what they are worth and that we do not start a total collapse of our so-called prosperity cycles, by robbing the producers in our basic industries of a fair return for their labor and capital, thus generating a slowdown and a cutback in our entire economy. Even our tax cuts cannot counteract such acute economic distress in our raw materials economy.

We cannot protect even this present lopsided prosperity picture by concentrating all our efforts on creating high income returns and pleasant living for the city dwellers, the industrial giants, and the great labor unions, while continuing to neglect those who toil with their hands and who labor in the fields to produce the goods and fabrics of America. It is likewise unwise to ignore the economic needs of other such producers of raw materials as our miners, our fishery industry, and the lumber industry of this great country, into which vast amounts of competitive imports are dumped from abroad at ruinous prices but which have, thus far, failed to protect the jobs and the profits of American producers of so many of our essential basic products. We need corrective action now before this Congress adjourns.

I ask unanimous consent to have printed in the RECORD two articles published in yesterday's New York Times and Wall Street Journal, including the accompanying tables:

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### FARMERS' BUYING POWER FELL IN MID-APRIL TO 24-YEAR LOW, PARITY RATIO INDICATES

WASHINGTON.—Farmers' purchasing power shrank in the month ended April 15 to its lowest level since mid-August 1939, according to Government measurements.

The Federal yardstick, the farm parity ratio, fell to 75 in mid-April from 77 on March 15 and 78 in mid-April last year. The ratio was 74 on August 15, 1939; the record low is 53 in June 1932.

The ratio is the relationship between what farmers receive for goods they sell and pay for goods they buy. A ratio of 100 would mean farmers were receiving "fair" prices for their products. The last time the parity ratio reached or exceeded that level was in September 1952, when it was 101. The record high is 123 in October 1946.

The mid-April squeeze this year resulted mainly from rising farm-wage rates and a drop in prices received for milk, cattle, and lettuce. Higher prices received for wheat, potatoes, and oranges were only partly offsetting.

*Cash prices, Thursday, Apr. 30, 1964*

[Quotations as of 4 p.m. eastern time]

FOODS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Flour, hard winter NY cwt | $6.62 | $6.62 | $6.97 |
| Coffee, Santos 4s NY lb | [1] .47½ | .47½ | .33¼ |
| Cocoa, Accra NY lb | [1] .22¼ | .22¼ | .28¾ |
| Sugar, refined NY lb | .1115 | .1115 | .1200 |
| Sugar, raw NY lb | .0725 | .0725 | .0978 |
| Butter, fresh A-92 sc NY lb | .58½ | .58½ | .58½ |
| Eggs, lge-mix ext, Chgo., doz | .28½ | .28½ | .29½ |
| Broilers, 3 lb and under DelMV lb | .14 | .13⅞ | .15 |
| Hogs, Chicago top cwt | 15.25 | 15.50 | 14.50 |
| Steers, Chicago choice cwt | [1] 22.00 | 22.50 | 23.75 |
| Pepper, black NY lb | [2] .39½ | .39½ | .33½ |

GRAINS AND FEEDS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Wheat, No. 2 ord hard KC bu | $2.23 | $2.24⅛ | $2.30¾ |
| Corn, No. 2 yel Chicago bu | [1] 1.28½ | 1.28½ | 1.22 |
| Oats, No. 1 wh heavy, Chgo., bu | [1] .65¾ | .66¼ | .73 |
| Rye, No. 2 Minneapolis bu | 1.32½ | 1.31½ | 1.21½ |
| Barley, malting NY bu | [1] 1.66 | 1.66 | 1.70 |
| Soybeans, No. 1 yel Chicago bu | [1] 2.59¾ | 2.60½ | 2.62¾ |
| Flaxseed, Minneapolis bu | 3.15 | 3.15 | 3.07 |
| Bran, Buffalo ton | [1] 38.50 | 41.00 | 37.50 |
| Linseed Meal, Minneapolis ton | [1] 54.00 | 54.00 | 60.00 |
| Cottonseed Meal, Memphis ton | [1] 55.51 | 55.50 | 61.00 |
| Soybean Meal, Decatur, Ill. ton | [1] 67.00 | 67.50 | 68.00 |

FATS AND OILS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Cottonseed Oil, crd Miss Vly lb | [3] $0.10⅛ | $0.10⅛ | $0.10½ |
| Corn Oil, crude Chicago lb | .10½ | .10½ | .12 |
| Soybean Oil, crd Decatur, Ill. lb | [1] .08⅛ | .08¼ | .09¾ |
| Peanut Oil, crd Southeast lb | [3] .11¾ | .11¾ | .11½ |
| Coconut Oil, crd Pac Cst lb | [1] .13¼ | .13⅛ | .11¾ |
| Copra, Pacific Coast ton | [1] 180.00 | 180.00 | 170.00 |
| Lard, Chicago lb | [1] .09⅛ | .09⅛ | .07¼ |
| Tallow, bleachable, NY lb | .06⅜ | .06⅜ | .05½ |
| Linseed Oil, raw NY lb | [2] .1438 | .1438 | .1378 |

TEXTILES AND FIBERS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Cotton, one in. mid Memphis lb | $0.3325 | $0.3325 | $0.3400 |
| Print Cloth, 64x60 38½ in. NY yd | .14¼ | .14¼ | .14 |
| Print Cloth, 80x80 39 in. NY yd | .18 | .18 | .18¼ |
| Sheetings, 56x60 40 in. NY yd | .19¾ | .19¾ | .19 |
| Burlap, 10 oz. 40 in. NY yd | [2] .1145 | .1145 | .1185 |
| Wool, fine staple terr. Bstn, lb | 1.43 | 1.43 | 1.30 |
| Wool Tops, NY lb | [1] 1.675 | 1.680 | 1.680 |
| Rayon, Satin Acetate NY yd | [1] .32 | .32 | .25 |

METALS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Steel Scrap, 1 hvy melt Pgh ton | $30.00 | $30.00 | $30.00 |
| Copper, Conn Valley lb | .32 | .32 | .32 |
| Copper Scrap, No. 2 wire NY lb | [3] .29¼ | .29¼ | .25¼ |
| Lead, NY lb | .13 | .13 | .10½ |
| Zinc, East St. Louis lb | .13½ | .13½ | .11½ |
| Tin, NY lb | 1.35½ | 1.35½ | 1.16½ |
| Aluminum, ingot, NY lb | .23½ | .23½ | .22½ |
| Quicksilver, NY 76 lb flask | 272.00 | 265.00 | 188.00 |
| Silver, (H&H) NY oz | 1.293 | 1.293 | 1.27 |

MISCELLANEOUS

| | Thursday | Wednesday | Year ago |
|---|---|---|---|
| Rubber, smoked sheets NY lb | [1] $0.26 | $0.26 | $0.27 |
| Hides, light native cows Chgo lb | [1] .16½ | .16½ | .15 |
| Gasoline, 91 Oct. Mid-cont gal | .11¼ | .11¼ | .12¾ |
| Fuel Oil, No. 2 Mid-cont gal | .08 | .08 | .09 |

[1] Nominal.
[2] Asked.
[3] Bid.

**The index of prices farmers paid for goods and services, including wages, rose to 314 percent of the 1910–14 base from the previous high of 313 percent a month earlier and 312 percent in mid-April 1963. The index was also 313 percent in January and February this year.**

**The index of prices farmers received for their products fell to 236 percent of the 1910–14 base from 240 percent in mid-March and from 242 percent on April 15 last year. Officials said this is the lowest prices-received index since mid-July 1961, when it was also 236 percent, and the lowest mid-April index since 1957's 232 percent.**

The Department reports April 15 parity prices of principal farm crops compare as follows:

| | Apr. 15, 1964 | Mar. 15, 1964 | Apr. 15, 1963 |
|---|---|---|---|
| Wheat, per bu | $2.53 | $2.52 | $2.49 |
| Cotton, per lb | .4091 | .4078 | .4031 |
| Rice, per cwt | 6.37 | 6.35 | 6.44 |
| Corn, per bu | 1.56 | 1.56 | 1.59 |
| Peanuts, per lb | .142 | .141 | .140 |
| Tobacco, per lb | .744 | .742 | .728 |
| Potatoes, per cwt | 2.35 | 2.34 | 2.29 |
| Butterfat, per lb | .779 | .773 | .778 |
| Milk, per cwt | 5.40 | 5.38 | 5.35 |
| Wool, per lb | .798 | .795 | .778 |
| Barley, per bu | 1.23 | 1.23 | 1.25 |
| Cottonseed, per ton | 63.10 | 62.90 | 62.50 |
| Flaxseed, per bu | 3.83 | 3.82 | 3.89 |
| Oats, per bu | .845 | .842 | .849 |
| Rye, per bu | 1.38 | 1.38 | 1.42 |
| Soybeans, per bu | 3.04 | 3.03 | 3.01 |
| Cattle, per cwt | 24.70 | 24.70 | 24.00 |
| Calves, per cwt | 28.10 | 28.20 | 27.00 |
| Chickens, live, per lb | .227 | .226 | .238 |
| Eggs, per doz | .471 | .470 | .482 |
| Hogs, per cwt | 21.80 | 21.70 | 22.40 |
| Lambs, per cwt | 24.70 | 24.70 | 24.50 |
| Sheep, per cwt | 7.82 | 7.79 | 7.84 |
| Turkeys, per lb | .327 | .326 | .336 |

Prices received by farmers for their principal crops compare as follows:

| | Apr. 15, 1964 | Mar. 15, 1964 | Apr. 15, 1963 |
|---|---|---|---|
| Wheat, per bu | $1.94 | $1.85 | $2.09 |
| Rye, per bu | 1.04 | 1.07 | .958 |
| Rice, rough, per cwt | 5.27 | 5.17 | 5.18 |
| Corn, per bu | 1.14 | 1.11 | 1.08 |
| Oats, per bu | .632 | .631 | .650 |
| Barley, per bu | .906 | .902 | .887 |
| Sorghums grain, per cwt | 1.74 | 1.75 | 1.71 |
| Hay, baled, per ton | 23.50 | 24.00 | 22.50 |
| Cotton, per lb | .3167 | .3068 | .3306 |
| Cottonseed, per ton | n.a. | 46.30 | n.a. |
| Soybeans, per bu | 2.45 | 2.55 | 2.45 |
| Peanuts, per lb | .112 | .114 | .111 |
| Flaxseed, per bu | 2.81 | 2.85 | 2.79 |
| Potatoes, per cwt | 2.08 | 1.74 | 1.48 |
| Tobacco, per lb | .345 | n.a. | .580 |
| Hogs, per cwt | 14.00 | 14.10 | 13.50 |
| Beef cattle, per cwt | 18.10 | 18.60 | 20.50 |
| Calves, per cwt | 13.40 | 13.60 | 14.30 |
| Sheep, per cwt | 6.13 | 6.40 | 6.45 |
| Lambs, per cwt | 20.10 | 19.80 | 18.20 |
| Butterfat, per lb | .587 | .587 | .584 |
| Milk, wholesale, per cwt | 3.93 | 4.12 | 3.88 |
| Chickens, live, per lb | .134 | .140 | .149 |
| Turkeys, live, per lb | .209 | .215 | .218 |
| Eggs, per doz | .316 | .341 | .326 |
| Wool, per lb | .536 | .525 | .496 |

### FARMERS' COST-PRICE RATIO IS LOWEST SINCE 1939: AMOUNT PAID FOR CROPS DIPS 2 PERCENT, WHILE EXPENDITURES ADVANCE TO A NEW HIGH

**WASHINGTON, April 30.—Farm product prices bobbed up today as a potentially important issue in this year's presidential campaign and in races for Democratic-held congressional seats in farm States.**

**The Department of Agriculture reported that prices received by farmers in mid-April were at the lowest level since August 1939, when measured against the parity price goal of Federal farm programs.**

**In the 1960 presidential campaign, both parties promised action to raise returns from crops and livestock up to full parity—the standard fixed by law as fair to farmers.**

**A 2 percent decline in farm prices between mid-March and mid-April depressed the farm price level to 75 percent of the parity standard. The level was at 77 percent in March and 78 percent in April 1963.**

**The lowest level to which farm prices dropped during the Eisenhower administration was 80 percent of parity in 1960. They averaged 84 percent of parity during President Eisenhower's 8 years in the White House.**

**Not only did farm prices dip during April to the lowest parity level since late 1939, but prices paid by farmers for goods and services used in production and family living climbed to a new high, thereby tightening the cost-price squeeze on farmers.**

**The sorest price spots—from the farmer's standpoint—are cattle, hogs, chickens, eggs, and turkeys—all good income producers**

when prices are favorable. The prices of all these products were below 75 percent of parity in mid-April. Only cattle prices were down 12 percent from a year earlier.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

The Chair lays before the Senate the unfinished business.

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HOLLAND obtained the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendments (No. 560) proposed by the Senator from Kentucky [Mr. MORTON], for himself and certain other Senators, to the amendments (No. 513), proposed by the Senator from Georgia [Mr. TALMADGE], for himself and certain other Senators, relating to jury trials in criminal contempt cases.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the rule of germaneness may be waived at this time for today's proceedings.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, I understand that the distinguished Senator from Illinois [Mr. DOUGLAS] has a statement he wishes to make at this time, and I am very happy to yield to him, provided that in doing so I shall not lose my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. I thank the Senator from Florida for his courteous and friendly action.

### POSSIBLE PARLIAMENTARY PITFALLS IN THE PATH OF THE CIVIL RIGHTS BILL IF IT IS AMENDED IN THE SENATE

Mr. DOUGLAS. Mr. President, I should like to discuss the parliamentary pitfalls which will occur if the civil rights bill is amended.

On Thursday I addressed to the distinguished majority whip a series of questions relating to the parliamentary situation in the House—and by implication in the Senate—as it would affect the civil rights bill if this body were to adopt amendments to the House bill. As I stated, I favor the substance of the Mansfield-Dirksen amendment as it was announced last week, but I am seriously concerned about the effect which the adoption of amendments by the Senate would have on the possibility of obtaining final action on the bill itself.

After having tried to study the parliamentary situation which amendments would create, and trying to reconstruct the history of past civil rights legislation, I fear very much that the adoption of amendments would compel the the bill to run an obstacle course which would be full of pitfalls, high hurdles, artful detours, blind alleys, sand traps, water jumps, boobytraps, and land mines.

I have more than a suspicion that we might even lose the substance of the bill or lose the bill itself by these obstacles and pitfalls, which may indeed prevent the enactment of any bill at all or, if we do enact a bill, may so cripple it as to make it of little use.

The simplest thing for the Senate to do would be to pass the House bill as it is, in order to avoid the obstacle course, the pitfalls, the hurdles, the detours, the blind alleys, the boobytraps, the water jumps, and the land mines.

In the colloquy last Thursday, the majority whip stated his understanding of the likely parliamentary situation; of course, he did not attempt to speak for the House, nor to interpret definitely the House rules, nor to commit the House in any way to his understanding of the House rules.

I have been conducting an independent inquiry of the parliamentary situation. This inquiry led me to the precise conclusions to which the majority whip, the distinguished Senator from Minnesota [Mr. HUMPHREY], himself arrived.

The Senate may gain additional clarification of the possible parliamentary situation in the House by examination of the case, similar to that which we may face, which occurred in August 1957, in connection with the Civil Rights Act of 1957, H.R. 6127. The Senate finally passed the bill, after a long filibuster, on August 7. The bill then was sent to the House and remained at the Speaker's desk for some days while discussions were carried out on compromise versions of the jury trial amendment adopted in the Senate.

I cite from the CONGRESSIONAL RECORD, volume 103, part 11, page 14568. Representative KEATING, now the distinguished junior Senator from New York, addressed the Speaker with a parliamentary inquiry. He stated it as follows:

> Specifically with regard to the bill H.R. 6127, which is now on the Speaker's desk, I wish the Speaker would advise whether a unanimous-consent request is necessary from some Member to dispose of it in some manner as a preliminary to its being sent to the Committee on Rules?

Speaker Rayburn replied:

> It requires unanimous consent to take it up for consideration, send it to conference, or to agree to the amendments of the Senate.

Mr. President, this statement of the Speaker can be taken as an authoritative interpretation of the House rules. Unanimous consent is required with respect to a House bill, which the Senate amends and passes, "to take it up for consideration, send it to conference, or to agree to the amendments of the Senate."

Mr. KEATING then asked unanimous consent to take the bill from the Speaker's desk, with Senate amendments thereto, disagree to the amendments of the Senate, and ask for a conference.

The Clerk read the title of the bill.

The Speaker asked if there was objection.

Mr. WALTERS objected.

Mr. CELLER then asked unanimous consent that the House recede and concur in the Senate amendments to the bill.

The Clerk read the title of the bill, the Speaker asked if there was objection, and Mr. KEATING objected.

Mr. KEATING then addressed an additional parliamentary inquiry to the Speaker. He asked:

> Would the Speaker recognize me to move to send the bill to the Rules Committee?

The Speaker replied:

> The Chair would not. It is not necessary to do that.

Mr. KEATING then asked:

> Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

The Speaker answered:

> Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

Mr. KEATING then asked:

> If that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

Now comes a very significant statement.

> The SPEAKER. It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

Mr. President, that concluded the discussion of the parliamentary status of the civil rights bill for that day, August 13. We know that, subsequently, on August 14, Mr. CELLER and Mr. KEATING introduced resolutions calling for action similar to that proposed in their unanimous consent motions, and that the resolutions were sent to the Rules Committee. On August 26, by a vote of 10 to 2, the Rules Committee approved a resolution (H. Res. 410) providing that the House take H.R. 6127 from the Speaker's desk and concur in the Senate amendments with the substitution of a new compromise jury trial amendment. The House, after voting to end debate, approved the bill on August 27. The Senate agreed to the compromise on August 29.

We all remember the very long speech which was then delivered by the Senator from South Carolina [Mr. THURMOND], which broke all records and which lasted, I believe, 25 hours.

Now Mr. President, I cite this explanation of the rules of the House from the RECORD of August 13, 1957, because it may be exactly or nearly applicable to the situation we may face this year with respect to the pending civil rights bill.

### THE PITFALL OF THE RULES COMMITTEE

This explanation discloses the edge of the first pitfall which may occur in the path of the civil rights bill. Unanimous consent is required of the House—with respect to a House bill, amended and passed by the Senate—to take it up for direct consideration, send it to conference, or to agree to the amendments of the Senate.

It is fairly obvious that such unanimous consent will not be granted with respect to the pending bill if we amend it and cause it to be returned to the House.

There are approximately 100 Members of the House of Representatives from the Southern States, virtually all of whom are sincerely and strongly opposed to the bill. It is impossible to believe that unanimous consent would be given either to take it up directly for consideration or to send it to conference, or to directly agree to the amendments of the Senate.

The bill must, instead, get a rule from the Rules Committee. And it is to be noted that according to this colloquy it is not even in order for the House to direct the Rules Committee to consider terms of action on the bill. On the contrary, the Rules Committee action is entirely at the discretion of the committee.

Further, while it is true that there is a procedure under the House rules which permits suspension of the requirement for a rule by a two-thirds vote of the House on the first and third Mondays, I think we can reasonably conclude that any effective use of this rule is highly unlikely. The history of the House shows that this rule seldom has been used successfully. The House did, by its vote of 290 to 130, approve the bill before us by more than a two-thirds majority, but that division would only have to be changed by 11 votes to forestall action under this little-used rule.

Therefore, if the bill is amended by us, it will first have to run the gauntlet of the Rules Committee.

And, most likely, it would be in large part in the hands of the chairman of that committee, who is an avowed opponent of the legislation and who held up action on the 1957 bill for many days by putting on a disappearing act. In practice, the Rules Committee meets almost solely at the call of the Chair.

Again, there is an unusual procedure under which a majority of the Rules Committee can petition and obtain a special meeting of the committee. But it would require great faith, let us say, to depend on the successful invoking of this procedure. The gentleman from Virginia, the chairman of the Rules Committee, a man who, I am told, is scrupulous in keeping his word, has been known to refuse to schedule a meeting of the committee when the calls of his district or his farm become faintly audible. It might well happen for example that at a crucial moment the rolling hills of Albemarle County—the beautiful country of Thomas Jefferson—would prove more attractive to him than the marble corridors of the Capitol.

And even if the committee could be called with dispatch to consider whether and in what manner the House is to consider the bill, there are still the questions if agreement can be reached by a majority of the committee and what agreement can be reached.

I will not attempt to predict what action might be taken by the committee, but we all know that the majority party members alone cannot provide a majority of the committee in support of the bill. The committee consists, as we all know, of five northern Democrats, five southern Democrats, and five Republicans. We will need at least three steady and sturdy Republican votes to get the Senate bill recommended favorably.

So the first pitfall—perhaps I should say water jump, combined with a detour—is the uncertainty, if the Senate amends the House bill, whether the Rules Committee will meet, and if it will report a favorable rule.

That is not all.

### THE PITFALL OF THE RETURN OF THE BILL TO THE SENATE

The second possible pitfall, which may be placed in the path of the bill if the Senate amends it, is the possible return of the bill to the Senate, which was done in 1957. The Rules Committee may permit the House to act only under circumstances which will assure attachment to the bill of an additional amendment by the House. The House may want to insist on an amendment to the Senate amendments even without the encouragement of the Rules Committee. If the House does add an amendment, even if there is no conference, then the amended bill must be returned to the Senate for debate. This, in fact, happened in 1957. Opponents can then revive the filibuster, prevent the majority from acting, and cause further delay.

Moreover, a House amendment will be subject to further amendment in the Senate. So even though all other aspects of the bill are in common agreement, amendments can be offered to House amendments. Thus, halting a filibuster by enforcing the "two-speech" rule could, therefore, be impossible.

Under these conditions agreement to permit a vote may be reached only through cloture or further concessions to opponents of the bill. We know that cloture or obtaining a two-thirds vote to limit debate would be difficult, with the present temper of the Senate.

Senate amendment of the bill now may therefore cause the return of the bill from the House under conditions very favorable to a filibuster.

### THE PERILS IN AMENDING THE BILL

Mr. President, I am merely raising these questions about the pitfalls of further obstruction and delay which could be the direct result of Senate amendment of this bill. I do not say that ideally the bill should not be amended; in truth, there are many features by which the bill could be improved. But I would like to have the best bill possible. But the choices we have in the real world—of parliamentary procedure or perhaps I should say in the Alice in Wonderland world of parliamentary procedure on Capitol Hill—are sometimes cruel. I merely point out these difficulties so that we know the risks we take, so that we can know the costs and come to an informed conclusion as to whether the costs can be paid and if the benefits are worth the costs.

### THE PITFALL OF THE CONFERENCE

There is a third very threatening pitfall which may result from Senate amendment of the bill. The House Rules Committee may not agree to the Senate amendments and may report a rule asking for a conference. What would happen if the House agreed? If the Senate had not already appointed conferees, the request of the House for a conference would come to the Senate and the motion would be made, presumably, "that the Senate agree to a conference and the Chair appoint the conferees." I understand that this motion is debatable. Hence, extended discussion and, in my judgment, a further filibuster would result.

But possibly even more important than the opportunity provided for delay is the question of which Senators are appointed as conferees. It is my understanding that no Senate rule governs this matter directly. The practice as I have observed it is that the manager of the bill submits the list of conferees to the Chair and the Chair, if there is no objection, reads the names submitted. The practice further holds, as we know, that the chairman and the senior members of the committee chiefly responsible for the legislation concerned are named conferees.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. I speak from memory, and I should have to check the RECORD for explicit detail, but I invite the Senator's attention to the action of the late beloved Vice President Barkley on the occasion when a housing bill was passed by the Senate. The Chair, under the rule, exercised his prerogative of appointing conferees. It is true, of course, that the recitation given by the Senator from Illinois is factual and relevant according to tradition. But it is within the power of the Chair to appoint conferees of his own volition and on his own decision.

In this instance, there is an unusual situation, because the bill contains several titles, and those titles would fall under the jurisdiction of several committees of the Senate. Therefore, there would have to be consideration, I would trust, by the Presiding Officer as to the committees involved and the membership of those committees. I merely mention this as one of the precedents that would violate general tradition.

Mr. DOUGLAS. The Senator from Minnesota is quite correct. In addition to the precedent which he cites, I can remember that in the case of an immigration bill which was opposed by the then chairman of the Committee on the Judiciary the conferees who were appointed by the Chair differed from the list submitted by the chairman. I am merely stating what is the general practice.

I do not ask anyone to speculate with me as to the likely appointees, but it might be worth considering some of the alternatives. If the usual practice is followed and the senior members of the Judiciary Committee, the committee most intimately concerned with the subject of this bill, are appointed conferees, say four majority members and two minority members in keeping with the division in the whole committee of 10 to 5, then the conferees would be Senators EASTLAND, JOHNSTON, MCCLELLAN, ERVIN, DIRKSEN, and HRUSKA. The majority members of such a conference for the Senate, without in any way criticizing the character of my colleagues—and I value them all highly—are announced and determined foes of this legislation. Would it be fair to the Senate, or to the majority in support of the bill, or to the majority conferees themselves, to burden these opponents of the bill with the defense of the Senate position?

I shall not extend this speculation. There are a variety of possibilities in this case, as the Senator from Minnesota has indicated. The rules do not require that the senior members of committees be designated as conferees and, in any case, this bill was considered in part by other committees, notably, the Committee on Foreign and Interstate Commerce and the Committee on Labor and Public Welfare. The Judiciary Committee, in fact, refused to act on civil rights legislation. In the end, the appointment of the conferees is the responsibility of the Senate and if there is disagreement the matter would be decided through debate and majority vote—if—and I emphasize "if" no filibuster occurs to prevent a vote.

But are not the outlines of the pitfall—or the boobytrap—clear—at worst a conference committee controlled by opponents of the bill; at minimum a prolonged discussion, further delay and further obstruction of the decision of the majority even before the Senate goes to conference?

Given a substantial number of conferees, not necessarily, but perhaps, a majority of conferees, opposed to this legislation, what is to occur in the conference? Will agreement be reached as to a time of meeting? To a place of meeting? Or may the conferees spend a month or two, or a season or two, debating whether the meeting is to occur on the House side, on the Senate side, or in the rotunda? Will the chairman be selected with dispatch? Prolonged delay over these matters may not be so farfetched, as I think Senators who endured the long, hot summer concerning procedures on appropriations conferences last year will recall. What happens when the conference finally meets? I know of no rule which forbids extended talk—even a filibuster—in conference. Let us hope the chairman of the conference has his heart in the bill and the heart to move with speed against dilatory tactics. But let us be aware that at this moment we can only hope for such fortuitous assistance in the conference.

### THE PITFALL OF A FURTHER FILIBUSTER IN THE SENATE ON ANY CONFERENCE REPORT

Suppose, however then, the conference did agree upon a bill. It would then be sent to the House and Senate. The House could act upon it because of the limitation upon debate there, but the Senate would be exposed to still another filibuster—possibly the fourth or fifth filibuster that had occurred. We would again have to go through the process through which we are now going. The example of the 25-hour filibuster of the Senator from South Carolina in 1957 would not be an isolated example in 1964.

I do not wish to cast any reflections upon the character of our southern friends who are opposed to the bill. They are sincerely opposed to the bill. They are using, as the rules of the Senate permit, every parliamentary device possible to prevent the bill from being acted upon; they have spoken for 45 days and have enough speeches stockpiled to last for months. They are protected by rule XXII, which the Senate, again and again, has refused to amend, although many of us have tried to soften the iron bands of a two-thirds vote which it imposes upon us.

Mr. HUMPHREY. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. I hesitate to ask the Senator to yield, but it appears to me, in light of the discussion of the matter of the conference and conferees, that certain information which is available to us from the book entitled "Senate Procedure," prepared by Charles L. Watkins, Parliamentarian, and Floyd M. Riddick, Assistant Parliamentarian, would be helpful.

I note that on page 172 of "Senate Procedure," under the section entitled "Conferences and Conference Reports," and a subsection entitled "Authority of Appointment in Senate—Not in Chair," the following language pertains:

> The Presiding Officer unless authorized by the Senate has no power to appoint conferees.
>
> Under rules XXIV, "The Senate may elect its conferees, if it sees fit to do so. The Senate has a right to elect its own conferees. A motion to elect certain conferees is amendable by substituting other conferees."

The next paragraph is entitled "Conferees Represent Senate and Not Committee Only." That section reads as follows:

> CONFEREES REPRESENT SENATE AND NOT COMMITTEE ONLY
>
> "It is also almost the invariable practice to select managers from the members of the committee which considered the bill. * * * But sometimes in order to give representation to a strong or prevailing sentiment in the House the Speaker goes outside the ranks of the committee. * * *"
>
> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate, and with consideration for the usual party ratio. And the Senate, on motion, may elect its conferees as it sees fit.

Appropriate footnotes document in detail each of those statements.

Mr. DOUGLAS. Is not a motion to appoint conferees or a motion to designate specific conferees debatable?

Mr. HUMPHREY. It is subject to amendment.

Mr. DOUGLAS. Is it not also debatable?

Mr. HUMPHREY. Perhaps it would be appropriate for us to ask the Presiding Officer that question. It is my view that it would be debatable, but I should like to be more accurately informed.

Mr. DOUGLAS. Mr. President, I ask unanimous consent that the Senator from Minnesota may be privileged to address that question to the Chair.

Mr. HOLLAND. I have no objection; but I hope both Senators will bring their discussion to an end as quickly as possible.

Mr. DOUGLAS. Of course. We shall do so.

Mr. HUMPHREY. Mr. President, is such a motion debatable?

The PRESIDING OFFICER. Such a motion is debatable.

Mr. HUMPHREY. And is a motion to designate specific conferees debatable?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that such a motion would be debatable.

Mr. DOUGLAS. Then, Mr. President, this would indicate the possibility of still another filibuster—and possibly two filibusters, if the motions were separated; and even if the conferees agreed, the conference report would be debatable, and could be subjected to a filibuster which could be broken only by a two-thirds vote.

Mr. HUMPHREY. Mr. President, will the Senator permit another question?

Mr. DOUGLAS. Yes, indeed.

Mr. HUMPHREY. I merely observe that all the points the Senator from Illinois raises are possibilities and he is performing a distinct service for us by pointing out these possibilities and pitfalls.

But it seems to me that when the Senate works its will on the bill—and, in my judgment, it will most likely have to apply cloture, in order to obtain a decision, once that is done, it will be within the power of the Senate, by vote, to effect cloture again, in connection with any procedural action which, in a real sense, could violate the will of the Senate, once it had passed the bill and had sought a conference with the other body, or once the conference report had been returned to the Senate and when the Senate was looking forward to an opportunity to take final action on the measure.

I do not underestimate the possibility of parliamentary difficulties; in fact, I believe they are so real that they are frightening.

But there is a procedure——

Mr. DOUGLAS. Does the Senator from Minnesota refer to cloture?

Mr. HUMPHREY. Yes; and once that procedure was followed, there would be an opportunity to take final action.

Mr. DOUGLAS. Yes; but I point out the real difficulties involved, so Senators may know what we possibly may be getting into—and so that we can weigh the risks of what may happen—if the Senate chooses to amend the bill.

To vary the metaphor, perhaps the leaders in connection with the proposed legislation have assurances that the scale will not be out of balance. Perhaps they have assurances that there will be no difficulty in getting the House Rules Committee to meet and to act favorably on Senate amendments to the bill, and that a conference will not be necessary—for a conference would be about the worst thing that could happen, under the circumstances—or that if it were found that a conference report was necessary, it would be acted upon without delay.

But such pitfalls, artful detours, boobytraps, and landmines may possibly be in the path, and we should be aware of that possibility.

It may be said that I appear to be advocating a strange restriction on the Senate—namely, that the Senate must not make any change, however desirable a change might be or however justified a change might be, but that, instead, the Senate must make no change whatever that has not first been approved by the controlling forces in the House.

Mr. HUMPHREY. Mr. President, will the Senator from Illinois permit a further statement by me?

Mr. DOUGLAS. Yes.

Mr. HUMPHREY. I wish to make clear that I know of no understanding that has been had by Senators with Members of the House; and I speak now of the members of the House Rules Committee or the Speaker of the House or the ranking Members who handled the bill in the House of Representatives. In other words, there is every reason to be deeply concerned about any action the Senate might take by way of amending the bill, because there is no such understanding with the House.

That is why I have said that as we consider the possibility of the making of amendments by the Senate and the possibility of delay in that connection, we must consider the making of such amendments only if they do not affect the effectiveness of the measure, the enforceability of the measure, and the acceptability of the measure; and "acceptability," as used in that connection, means acceptability in the other body and also in the White House.

Possibly that is why the President of the United States—and when he was majority leader of the Senate, he was as experienced a tactician and parliamentarian as any other Member of this body—has said the Senate should pass the House version of the bill. That advice was based, not only on his knowledge of the House version of the bill, but also on his knowledge of the boobytraps and pitfalls that such a measure with Senate amendments would face. So I believe we have reason to take that advice with great seriousness, except perhaps in the case of an amendment which would meet with general approval, such as the jury-trial amendment. But I am not sure that other amendments would fall in the category in which the jury-trial amendment falls, for the jury-trial amendment—I speak of the Dirksen-Mansfield amendment—has a rather substantial basis of support in both bodies.

Mr. DOUGLAS. Mr. President, the statement of the Senator from Minnesota that he has no assurance that the House would agree to the Dirksen-Mansfield amendment or that it would be approved by the House makes me feel, I must say, extremely squeamish when I consider the possibility of a favorable vote by the Senate on that amendment. I believe that amendment to be good in substance; but, just as the good is the worst enemy of the best, so sometimes the best is the worst enemy of the attainable good.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. DOUGLAS. I am glad to yield.

Mr. HOLLAND. Mr. President, inasmuch as I have the floor, I ask unanimous consent that I may yield to the distinguished Senator from North Carolina, without jeopardizing my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Oh, yes; I beg the pardon of the Senator from Florida.

Mr. ERVIN. I wish to ask the Senator from Illinois whether he can reveal to me the identity of the controlling element in the House, so I may know whether I should give support to the Senator's suggestion that the Senate should abdicate to the controlling elements in the House its responsibilities and functions under the Constitution.

Mr. DOUGLAS. I think they are fairly well known. I think they would be the leaders of the Democratic Members of the House, the leaders of the Republican Members of the House, and the controlling elements on the House Rules Committee.

Mr. ERVIN. I am compelled to say that my conviction of my personal responsibility for the discharge of my duties as a Senator of the United States makes me unwilling to abdicate the exercise of my responsibilities to those gentlemen, notwithstanding the high respect I have for them.

Mr. DOUGLAS. I do not wish to make an improper suggestion to the Senator from North Carolina; but I would say this seems to me to indicate that he does not want to give up the possibility of utilizing, in order to defeat or delay the civil rights bill, the obstacle course composed of pitfalls, high hurdles, artful detours, boobytraps, water jumps, landmines, and blind alleys.

Mr. ERVIN. Will the Senator from Illinois accept my assurance that I honestly believe that instead of giving up my responsibilities as a U.S. Senator, because of the threat of the things he has mentioned, I should continue my fight for the preservation of constitutional government in the United States and for the preservation of some of the most precious rights of the 185 million American people. I thank the Senator from Illinois.

Mr. DOUGLAS. Our constitutional responsibility, to my mind, is to place a good Civil Rights Act on the statute books, and not necessarily to refuse to pass a good bill because we strive for a perfect bill. The House bill is a good bill.

We can amend that bill at a later date. But let us not endanger the whole life of the bill by amendments which may create this obstacle course of pitfalls, waterjumps, high hurdles, boobytraps, landmines, artful detours, and blind alleys.

Mr. HUMPHREY. Mr. President, will the Senator add "hot-air pockets" to that list?

Mr. DOUGLAS. Yes, and hot-air pockets.

Mr. ERVIN. Mr. President, will the Senator from Illinois yield, with the consent of the Senator from Florida, with the understanding that neither Senator will lose his right to the floor?

Mr. DOUGLAS. I have no rights to the floor; the Senator from Florida has yielded to me.

Mr. ERVIN. Will the Senator from Illinois accept the assurance of the Senator from North Carolina that the Senator from North Carolina is totally incapable of giving assent to the proposition that the best way to enact good legislation is for the Senate to abdicate the exercise of its power and the performance of its duties, and delegate all of its functions to the House of Representatives?

Mr. DOUGLAS. That is humiliating to me. I regret it, but it is necessitated by rule XXII, which the Senator from North Carolina has defended through the years, and which his confreres have defended. They have resisted every effort to permit, even after full and lengthy discussion, the limitation of debate, either by a majority vote or a 60 percent vote. That is what prevents us from amending the bill without placing the life of the bill in jeopardy.

If the Senator from North Carolina wishes the Senate to be a deliberative body and proceed to deal with amendments on their merits, he should join us and change rule XXII.

Mr. ERVIN. Mr. President, permit me to give the Senator from Illinois my assurance that I think, in this day when we are preaching economy, if the Senate does not fulfill its functions under the Constitution, it should be abolished and thus save money for the taxpayer.

Mr. DOUGLAS. If the filibuster continues, and if rule XXII is not changed, there will be a demand for the elimination of the Senate—which I hope will not prevail. I hope we may change our procedure so that the Senate is allowed to act instead of being crippled and prevented from acting by this rule.

I do not wish to delay the Senator from Florida any longer. I am nearing the end of my speech.

### SUMMARY

Mr. President, let me summarize the pitfalls and the perils which may block the progress of the civil rights bill if the Senate amends it.

First, the pitfall of mandatory clearance by the Rules Committee.

In the absence of unanimous consent, the House can consent to the Senate bill only in a resolution from the Rules Committee. Delay may result.

The Rules Committee, in practice, meets only at the call of its chairman, a determined foe of this legisation. Delay may result.

A majority of the Rules Committee, if the committee is permitted to meet, may refuse, because of the Senate amendments, to permit the House to act or may insist on further amendment. Delay and weakening of the bill may result.

Second, the pitfall of the return of the bill to the Senate.

If the House amends the Senate amendments or adds additional amendments the bill is returned to the Senate for debate. The filibuster can then be renewed, thus preventing the majority from action. Delay may result.

A House amendment is subject to amendment in the Senate. Halting a filibuster by enforcing the two-speech rule is therefore likely to be impossible. Delay may result.

Agreement to permit a vote may be reached only through cloture or further concessions to the opponents of the bill. Delay and weakening of the bill may result.

Third, the pitfall of the conference.

The Rules Committee and the House may disagree with the Senate amendments and insist on a conference. Delay may result.

The motion to go to conference in the Senate is debatable. Delay may result.

Conferees selected in the customary manner, that is, the senior members of the major committee responsible for the legislation concerned, may be opponents to-the-death of the bill. Delay and weakening of the bill may result.

Designation of conferees is debatable and opponents may filibuster a motion to name conferees if friends of the bill are nominated. Delay and weakening of the bill may result.

The conference itself can be subjected to a filibuster and obstructive tactics. Delay may result.

Fourth is the pitfall of further filibusters on a conference report. Sending this bill to conference would permit a third, fourth, or even fifth filibuster.

### THE SENATE SHOULD THINK TWICE BEFORE MAKING ANY AMENDMENTS TO THE CIVIL RIGHTS BILL UNLESS THOSE IN CONTROL IN THE HOUSE GIVE IRONCLAD ASSURANCES ANY SENATE AMENDMENT WILL BE AGREED TO BY THE HOUSE

Mr. President, all this adds up to the strong possibility—if the Senate amends the bill—of delay heaped upon delay combined with emasculation of key parts of the bill. In contrast, adoption of the House bill intact will send the bill directly to the President.

These pitfalls are not mere theoretical possibilities. They are real and some of them block every path open to the bill if the Senate amends it without strong assurances beforehand.

The Senate should think twice before making any amendments to the civil rights bill unless those in control in the House give ironclad assurances any Senate amendment will be agreed to by the House.

Maybe this is too delicate a matter to discuss in public. But a grave responsibility rests with the leadership in this body.

We are moving rapidly toward the time of the approaching convention of one of the great parties, when the Senate will suspend its sessions. There is a stockpile of accumulated, hoped-for legislation piling up. The iron tongue of parliamentary midnight is tolling upon us. We are now in the 46th day of this filibuster. The prospect is open for addition of months of filibustering if we amend this bill.

So I urge that Senators think a long time before accepting these amendments.

I thank the Senator from Florida.

**Mr. HART.** Mr. President, will the Senator from Florida yield?

**Mr. HOLLAND.** I yield with the understanding that I do not lose my rights to the floor.

**Mr. HART.** Mr. President, I ask unanimous consent that my short statement follow immediately upon the conclusion of the speech of the Senator from Florida.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. HART.** Mr. President, I realize the demands of time on the Senator from Florida. I appreciate very much his courtesy in permitting even this brief talk. It would be much longer except that the time limitation serves as a curb.

I could not permit the speech of the Senator from Illinois to pass without thanking him for it. It is a sobering prospect, and those of us who feel deeply the necessity, not that the Senate pass a bill, but that the Nation have an effective civil rights bill, must reread this speech with very sober attention. The Senator has served a very useful purpose this morning in alerting us to this prospect.

I cannot engage in a discussion with the Senator from North Carolina about our constitutional responsibility. But I think as citizens first, and as Senators second, it behooves each of us to be sure that there is on the law books of the United States, before too many days pass, a good civil rights law—perfectionists notwithstanding.

I thank the Senator from Florida.

**Mr. HOLLAND.** First I wish to make a brief comment, if I may, about the able speech made by the distinguished Senator from Illinois, which speech has just been approved so heartily by the distinguished Senator from Michigan.

I remind both of the Senators that their apprehensions about the adoption of amendments seem to arise from a fear that amendments may be adopted by a majority vote of the Senate. I thought during all my years of friendly association with the distinguished Senators that what they wanted was a majority vote, and that a majority vote should prevail.

Are the Senators taking the position now that they fear the expression of the majority vote on the adoption of amendments to this admittedly imperfect bill? It seems to me that the Senators have gotten so perturbed about the possibility of losing one of their dear objectives—or perhaps several of their objectives—that they have forgotten that they have been leading advocates for all of the years of their presence in the Senate—unless I am mistaken—of the principle of majority rule. There cannot be a single amendment adopted unless the majority of the Senate so votes.

I remind the Senators that they are running in both directions at the same time. I do not want them to get so perturbed about this situation that they forget their longtime position that they want a majority to prevail.

Now they are saying, in effect, that they hope the majority will not prevail, and that they fear the majority will prevail. I hope my friends will bear that point in mind as they evidence their perturbation at the prospect—and I think it is a very real prospect—of the adoption of amendments.

**Mr. HART.** Mr. President, will the Senator yield?

**Mr. HOLLAND.** I yield.

**Mr. HART.** During the last 40 days the galleries have been filled; but the galleries will never be sufficiently filled until what is known as rule XXII is put outside this Chamber. So long as it fills every crook and cranny of this Chamber, Senators understand the problem that confronts them with respect to such a bill as this. The Senator from Illinois would welcome the opportunity of the majority to decide, with reasonable promptness, every question that confronts the Senate. But until rule XXII is put outside this Chamber, Senators from Michigan, Minnesota, Illinois, and other States share the concern which has been expressed so well by the Senator from Illinois.

**Mr. HOLLAND.** I think I understand the feelings of my friend from Michigan. I remind him that rule XXII does not come from the Constitution. Nor does it come to us from some far-off source which nobody knows. It comes to us as a result of Senate rule, Senate action, and tradition throughout the years. What the Senator from Michigan is saying is that he does not like the result of Senate action based upon longstanding tradition during all the years. He is trying to change it; and he is regretting the fact that he has not been able to change it.

I hope what he has said does not becloud the issue I have mentioned. The Senator is apprehensive over the prospect that a majority—and he has been a leader, and has been leading that majority with trumpet sound—is about to make some amendments to the bill. The Senator is apprehensive. I hope he will not be unduly so when he remembers his long and impassioned efforts to have the majority prevail.

**Mr. HART.** Mr. President, will the Senator yield for one question?

**Mr. HOLLAND.** I yield.

**Mr. HART.** How many votes are required to change the tradition which the Senator and I describe as rule XXII?

**Mr. HOLLAND.** It requires two-thirds of the Senators present and voting.

**Mr. HART.** That is the problem Senators are facing.

**Mr. HOLLAND.** Similarly, a two-thirds vote is required for adoption by the Senate of about five, or perhaps seven, other matters. So that is not an unknown thing, even in the Constitution, to have the Senate do. The Senate has decided, over the years, that the procedure engrafted into the Constitution as to other issues is a sound one to engraft into the rules of the Senate with reference to limitation of debate. The Senator is crying out as loudly as he can—and he has done so for a long while—against the express wisdom of the Senate as it has been followed without change over the years. I hope its procedure will not be changed.

The Senator is in the position of pleading in one breath, "Let us act by majority rule," and pleading in another breath, "Let us not allow majority rule to prevail." I want him to realize that his positions are somewhat contrasting. Perhaps he has realized that by this time.

Mr. HART. If the Senator will yield, there could never be a clearer example of consistency than the fact that, with all our available power, rule XXII affects adversely the exercise of majority rule in the Senate. We are confronted with amendments upon which the Senate is unable to vote because of rule XXII, thus jeopardizing the enactment of an effective civil rights bill.

We again insist, as has the Senator from Illinois, that overriding all our concerns and actions is rule XXII, engrafted on the procedures of this body, not by the Constitution, and not removable by a majority. The overriding rule XXII has given Senators real concern.

Mr. HOLLAND. I believe I understand the position of my distinguished friend, but again I invite his attention to the fact that, in effect, what he is saying is, "Majority rule is fine under some conditions. We want to use it with reference to closing debate. Majority rule in respect of adoption of amendments to the pending bill is not so fine because it may interfere with the carrying out of my own objectives with reference to the bill." The Senator cannot have it both ways.

The Senator must realize that with reference to this matter, he is taking a position contrary to his own fully and earnestly stated position with respect to majority rule.

Mr. DOUGLAS. Mr. President, in view of the fact that my name has been mentioned, I wonder if the Senator from Florida will permit me to make a comment.

Mr. HOLLAND. I shall be very happy to yield, provided my rights to the floor will not be affected in any way.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. The Senator from Florida has charged the Senator from Michigan and the Senator from Illinois with being inconsistent because, he has said, we do not want majority rule. We are perfectly willing and indeed desire to have a majority vote on the pending amendment, but we want the majority to be informed about the boobytraps that are involved, because of the rules which inhibit majority government in this body. It is the Senator from Florida who is inconsistent. He is saying that he is for majority rule on amendments which he favors and for which he thinks he can obtain a majority. If he can obtain a majority, that is fine. We will not filibuster this amendment. But he is opposed to majority rule on the bill itself, because he knows that if the majority were allowed to vote, there would be a majority in favor of the bill; and that is what he does not want. So he falls back on rule XXII, which would permit 34 Senators out of 100, or one-third of the Senators present and voting, to prevent 66 Senators from passing the bill as a whole.

"Heads I win, tails you lose," is the parliamentary procedure of my good friend from Florida. He wants a majority of the Senate to be able to vote on amendments to the bill, and we join him in that. But I say that we are privileged to warn the majority of what is likely to happen.

If the Senator is for majority rule on amendments, why is he not for majority rule on the bill itself? Why does he cling to rule XXII? Why all this talk for 45 days? It is to prevent action. As I have said, the iron tongue of parliamentary midnight is tolling; legislation is piling up. Let us not get entrapped in endless debate and parliamentary subterfuge.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield to the acting majority leader under the same conditions under which I have previously yielded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank the Senator from Florida. This discussion has been of considerable assistance. The Senator from Illinois has pointed out some of the pitfalls that face us in the present parliamentary situation.

I assure the Senator from Illinois that every effort will be made, if amendments should be adopted, to have some meeting of the minds with the responsible leaders in the respective bodies. This is no assurance that action will be forthcoming, because there are parliamentary problems, which have been outlined in some detail, that may well not be overcome even by the closest cooperation between the Democrats and Republicans, and even between friend and foe, on this particular measure.

The Senator from Florida noted that the Constitution makes provision for a two-thirds vote. This matter has been discussed on other occasions.

The Founding Fathers who set up the Republic did not have rule XXII, but the Republic was able to operate under the previous question and under majority rule. The Founding Fathers explicitly provided in the Constitution when the principal majority rule would be altered or changed, to save the two-thirds vote for such important matters—under our Federal system and under our separation of powers—as, for example, to override a Presidential veto where a two-thirds vote is required; for the ratification of a treaty, the treatymaking process being a relationship between the Senate and the executive branch; confirmation of Presidential appointments of certain categories; impeachment proceedings, in which officers of the Government who may be impeached would require a two-thirds vote; and for constitutional amendments.

It seems to me that these are vital matters, and that our Founding Fathers, the constitutional writers, knew exactly what they were doing. They did not provide for the two-thirds rule in the Senate, because it would violate the principle of majority rule. But, be that as it may, rule XXII is in effect in the Senate today, even though we fought against it.

I should like to strike a bargain with the Senator from Florida, the Senator from North Carolina, or any other Senator. We can set a date to vote on the bill weeks ahead from now. We can set a date for the first week in June, the first week in July, the first week in August—whatever week Senators would like, so long as it will give an opportunity to get some action, and then decide on the bill, with all amendments pertaining thereto, by a majority vote.

I happen to believe in majority vote. I am not particularly worried about any majority. If the majority casts its vote for the bill or against the bill, that will be the will of the Senate. If a majority casts its vote for or against an amendment, that will be the will of the Senate.

As I have been trying to point out directly and incisively, a majority vote is a meaningless vote if it can be negated or abrogated by a two-thirds vote which is required to bring the bill to a conclusion.

I close on this note, that even if a cloture motion were to be filed—and I am sure we shall have to seek it before we are through with this debate—even after cloture were voted, there would be a potential 100 hours of debate available on the amendments which have been read and presented. That 100 hours of debate would give the Senate plenty of time to settle most of the issues. Then the issues can be settled by majority vote. So I say that so far as one Senator is concerned, I am prepared for majority vote on any amendment, at any time of the day, any day of the week, any week of the month.

To Senators who now feel that we who have so strongly supported majority vote have tried to have it both ways, let me make it crystal clear that there is but one way for the United States to act, and that is as a representative government, under which the majority speaks, but acting with respect for minority rights. The minority of today may become the majority of tomorrow. But, the majority should have the opportunity to exercise its will on this bill.

I would not like to feel that Senators had to receive a two-thirds vote from their constituents in order to be elected, because in that event the Senate would be a very, very small assembly. A caucus could be held in a telephone booth.

Mr. HOLLAND. Before I proceed with my speech, I wish to thank the distinguished Senators from Minnesota and Illinois for the real contributions they have made.

First, as to the acting majority leader, the Senator from Minnesota [Mr. HUMPHREY], he has made the principal contribution to support my feeling—and the feeling of many other Senators—that unlimited debate, limited only by rule XXII, which is a rule which prevails over unlimited debate, which was the rule for many years prior thereto, still is a good rule.

The Senator supports my feeling in this matter by his statement which, as I understood it, is that at last, after 45 days of debate, he has come to the conclusion that as to the jury trial provisions, an amendment is desirable, advisable, and perhaps necessary.

We need nothing further than that, I am sure, to justify the rule of extended debate in the Senate, which is so necessary on matters of this kind. It shows clearly that one of the most brilliant men in the Senate, and I believe one of the most brilliant citizens of this country, after having entered into the debate with the idea of passing the House bill as it came over, has been convinced, by his own study, by the debate which has taken place, or by both, that at least one change is desirable. Accordingly, I am for that concession at this time although this does not necessarily mean I approve of whatever amendment shall be acted upon until I know what that amendment shall be, and have had the opportunity to study it.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield.

Mr. HUMPHREY. With such flattery, based upon what I know to be the sincere and honest judgment of the Senator from Florida, I can only say, "Thou hast persuaded me."

Mr. ERVIN. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. Let me say to the Senator from Minnesota that I am deeply obligated to him for his concession.

Now, Mr. President, I ask unanimous consent to yield to the Senator from North Carolina [Mr. ERVIN] on the same basis as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I thank the Senator.

Mr. HUMPHREY. Here we go now.

Mr. ERVIN. I ask the Senator from Florida if he does not agree with the Senator from North Carolina that we should be slow to agree to vote, when it requires 45 days to convince the most brilliant Member of the Senate of the fact that the bill should be amended at least in one little particular, in order to give people the right under the bill to claim the same rights which the Constitution already gives to all the people, even to those who occupy the status which was formerly occupied by the late but not lamented Al Capone?

Mr. HOLLAND. I agree with my distinguished friend the Senator from North Carolina. I believe that the educational features of lengthy debate were never better demonstrated than in connection with the conversion—if I may use that word—of our distinguished friend, the Senator from Minnesota [Mr. HUMPHREY], on a point which seemed so evident to so many of us when we began debate, and which at last has become—to use the Senator's own words—crystal clear to the Senator from Minnesota.

Now with reference to the Senator from Illinois [Mr. DOUGLAS], I am obligated to him in several respects. In the first place he has made the best argument for cloture that I have heard advanced on the floor of the Senate in the nearly 18 years I have been a Senator.

He has pointed out possibilities for unlimited debate which never occurred to me. I wish to express my appreciation to him for that. He has made a real contribution to the education of the Senate. He has embellished the records of Senate debate by specifying many particulars in which Senators who are completely opposed to legislation would be given the right to debate under the rules of the Senate. I thank my distinguished friend, the Senator from Illinois [Mr. DOUGLAS], for his research in this matter. He always comes to the floor of the Senate after long study of any proposed legislation in which he is interested. I do not know where he finds the hours to devote to a study of the problems of the Senate, to which he has been so manifestly devoted. I believe he has made a real contribution in this respect.

Mr. DOUGLAS. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield for a question to the Senator from Illinois, under the same conditions as before.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. I appreciate the Senator's comments. I am sure the able parliamentarians from south of the Mason-Dixon line have known all these methods for many, many years. I only thought that we should reveal the full possibilities of which they are already in full possession, and which they are contemplating and are likely to carry out. I hope I have not offended my good friend the Senator from Florida by revealing to the public the full potentialities for mischief which can be generated by adroit persons in manipulating the rules of the House and Senate to defeat the will of the people in respect to the moral mandates of our time.

Mr. HOLLAND. I have not been offended. On the contrary, I am very much beholden to the distinguished Senator for having pointed out so many directions in which legitimate debate can proceed.

I remind the Senator again that his fear about the adoption of amendments indicates a lack of faith in the majority process which I had thought all these years he had espoused and embraced so completely. He does not need to worry about the amendments which evidently he is afraid will be adopted from the great many hours he no doubt has devoted to a study of the bill. No doubt he has been contemplating what to him is a horrible possibility and prospect; namely, that amendments will be adopted to the bill. I believe he has come to a sound conclusion. I believe they will be adopted.

Certain amendments may be adopted—this is the main point I make—by majority vote of the Senate, for which the Senator has pleaded on the floor of the Senate. With impassioned oratory and with intellectual skill possessed by few Members of the Senate, if any, he has argued for majority control. Majority control will prevail in the adoption of amendments that may be considered and adopted.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. DOUGLAS. Would the Senator from Florida permit majority control on the bill as a whole, or does he insist on rule XXII, which requires a two-thirds vote?

Mr. HOLLAND. I do not understand that rule XXII requires a two-thirds vote on any bill. I believe it requires a two-thirds vote——

Mr. DOUGLAS. To stop the talk and permit a majority vote.

Mr. HOLLAND. To close the debate. Inasmuch as the Senate has proceeded for 45 days with one outstanding result, to which I have already adverted, so long as we have the prospect of making other progress, and so long as we now have apparently converted the distinguished Senator from Minnesota to the fact that there are provisions in the bill which a majority of the Senate will propose to correct by the adoption of amendments, I believe we are making headway. This is most encouraging. Today's session has been one of the most encouraging experiences that we have had during the progress of the debate. I refer particularly to the apparent concession made by the distinguished Senator from Illinois, the distinguished Senator from Minnesota, and the distinguished Senator from Michigan, who, I regret to say, has left the Chamber. We are very much encouraged. We have new faith in the desirability of lengthy debate—educational debate—and I am sure all Senators will agree that there has not been one word spoken in all the debate that has not been completely germane. I have new faith in the judgment of the majority, because evidently my distinguished friends believe that amendments will be adopted. I believe certain of them may be adopted.

I now wish to get to the next point, if I may. Perhaps the Senator from Minnesota wishes me to yield to him.

Mr. HUMPHREY. I would appreciate it if the Senator would yield to me.

Mr. HOLLAND. I yield.

Mr. HUMPHREY. The Senator has emphasized very strongly his faith in voting on the amendments, and that the majority should exercise its will. Again I wish to say, in the spirit of comity and mutual respect, that I, too, believe that should be brought to a vote. I may very well propose a unanimous-consent agreement in that respect, so that consideration may be expedited.

If we are to vote on the twigs, we might also wish to vote on the trunk of the tree; namely, on the bill, when once amended.

The Senator from Minnesota is a reasonable man. At least he tries to be reasonable. I should like to put a proposal before my colleagues from the South and other Senators who are among the opponents of the bill. I realize that not all the opponents of the bill are from the South. I should like to leave Senators with this thought, for some consideration over the Sabbath. Senators should take some time to meditate on the situation, and to pray over it, with the thought that perhaps some agreement could be arrived at, so that the Senate could work its will on the amendments, and vote on the bill by majority vote. A reasonable time for that vote could be set.

I know that spring has been late in coming, but there is every reason to believe that spring may be here now. With spring's arrival we see mother nature blossoming forth, with tidings of spring and birth everywhere evident. I suggest to my good friends who are the opponents of the bill that the Senate might like to give birth to a civil rights bill without undue delay. It has been going through long pains. I wonder if Senators would like to consider a proposal. For example, I propose that by Memorial Day the Senate vote on all amendments and on the bill.

Perhaps our friends have a special day that they would like to honor. I have no particular holiday in mind, other than the Fourth of July, to which I should like to show some reverence. However, if they have a particular day in mind that they wish to honor with a vote, I am sure favorable consideration would be given to such a proposal.

Mr. ELLENDER. How about next Christmas?

Mr. HUMPHREY. Possibly by Monday I shall wish to propose a unanimous-consent request that the Senate vote on the bill and all amendments thereto by a particular day.

Such an agreement would not only relieve the problems of Congress, and permit it to go ahead with the consideration of other legislation, but would also do much to promote domestic tranquillity, for example, and would give our colleagues from the North, East, South, and West an opportunity to enjoy life both at home and in the Nation's Capital.

The Senator from Minnesota is being convinced by certain developments and certain proposals. I am fully convinced that the majority ought to exercise its will on the bill.

I thank the Senator from Florida. He is a great teacher. I am pleased that I have been able to make him happy this day by being able to give testimony to the fact that there has been a conversion, as the Senator calls it, to majority rule. I am so filled with the love of the majority that I would like to have it apply to all amendments and to the bill. I would like to have it applied today, tomorrow, Monday, Tuesday, or Wednesday, or at any time the opposition will permit us to do it. The word should go out from this Chamber: "Vote. Vote on the amendments. Vote on the text of the bill." The American people should be told that the Senate of the United States is not conducting its own "stall-in."

Mr. HOLLAND. Mr. President, I appreciate the eloquent remarks of my friend from Minnesota. I am perfectly willing to have the Senate vote whenever it reaches the stage at which it feels it should vote and it has an opportunity to do so under its own rules. I am perfectly willing to have the Senate vote on any amendment when the Senate has been educated with reference to it. I am sorry it has taken so many days to convert our distinguished friend from Minnesota on the merits of the amendment with reference to jury trials. I hope that he will be converted with respect to the other amendments after we have had an opportunity to discuss them.

With reference to my distinguished friend from Illinois, I have already thanked him for giving us perhaps the most comprehensive blueprint of cloture which I have had the pleasure of hearing.

I thank him for disclosing his evident apprehension that amendments will be adopted. I congratulate him on his perspicacity. I hope he will follow the educational path which has been trod by our friend from Minnesota. With respect to the jury trial proposal, the Senator from Minnesota feels that an amendment should be adopted.

Before I proceed with my prepared remarks, let me say that there could not have been a greater demonstration than we have seen today of the great mistake which the Senate made in not referring the bill, at least for limited consideration and requirement for report, to the Judiciary Committee. I am sure that such matters as the jury trial proposal could have been handled by Senators who have knowledge of the law.

I am sure that such matters as the question of when the Civil Rights Commission is scheduled to go out of existence under the House bill—and there is no certainty at this time as to when it would—could have been covered by a report of the committee.

Other matters, particularly important technical points, could have been covered.

I believe the Senate would have saved itself a great deal of debate if it had followed that course, as I previously pointed out, and as was suggested at one time by the distinguished majority leader, the Senator from Montana [Mr. MANSFIELD]. I regret that later he apparently reconsidered his position in that regard. I believe that time would have been saved, and that Senators would have received suggestions from the committee looking toward the drafting of a sounder bill if it had been referred to the committee for a limited time.

Mr. President, before I begin my remarks, I ask unanimous consent that I may yield, without losing the floor, to the distinguished Senator from North Carolina [Mr. ERVIN], who, I understand, wishes to submit certain amendments which are to follow the appropriate procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENTS NOS. 561 AND 562

Mr. ERVIN. Mr. President, I ask unanimous consent that I may be permitted to submit two amendments to the pending bill, and that they may be printed in the RECORD preceding the speech of the Senator from Florida. I further ask unanimous consent that the reading of the amendments be waived under the provisions of rule XXII, and that they may be deemed to have been read for the purpose of satisfying the rule.

The PRESIDING OFFICER. Is there objection? The Chair hear none, and it is so ordered.

The amendments are as follows:

#### AMENDMENT NO. 561

On page 25, line 22, insert the following: After the word "color", insert the word "religion",

#### AMENDMENT NO. 562

On page 27, beginning with line 21, strike out all through line 25 on page 50 (Title VII of the Act).

Mr. ERVIN. I thank the distinguished Senator from Florida.

Mr. HOLLAND. It is a pleasure to yield to my distinguished friend from North Carolina.

Mr. President, in my remarks today, I shall discuss the provision of title V of the pending civil rights bill, H.R. 7152, which proposes to extend the time of existence of the so-called Civil Rights Commission and also to give added powers to the Commission. I shall confine myself to the question of whether the Civil Rights Commission should be extended at all beyond the date of termination fixed by existing law, which is not later than 60 days after September 30, 1964. The pending legislation apparently seeks to extend the operations of the Commission through January 31, 1968, and possibly to 60 days after that date, though there is no clear provision in the bill to that effect. The applicable part of the bill is subsection (b) of section 104, which reads as follows:

> The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968.

Subsection (c) of section 104 of existing law would terminate the life of the Commission 60 days after its final report.

There is a question as to whether subsection (c) of section 104 would be continued or discontinued by the pending bill.

Other portions of the bill would eliminate the provisions of existing law which fixed an earlier termination date with the expectation, as stated in the report of the House committee, that the Civil Rights Commission would be extended to become a permanent body. This intention was defeated on the floor by an amendment which placed in the bill that portion of the provision quoted above which requires the Commission to "submit to the President and to Congress the final report of its activities, findings, and recommendations not later than January 31, 1968." During this debate various Senators have given notice of their intention to try to amend the bill as it passed the House so as to again provide that the Civil Rights Commission shall be a permanent body. The purpose of my remarks today will be to oppose any action to extend the life of the Civil Rights Commission, either to January 31, 1968, or to any fixed date in the future or to make it a permanent body.

Mr. President, both the Civil Rights Commission, as functioning in 1963, and the Civil Rights Division of the Department of Justice as now existing, have been unfair to my State and to five counties therein which have been referred to adversely in several ways as follows:

In its 1963 report, the Civil Rights Commission, page 16, said:

> An examination of the 100 counties where denials of voting rights were indicated in the 1961 voting report compels the conclusion that racial discrimination persists and the policy of the Civil Rights Acts has been frustrated.

On page 17, the Civil Rights Commission continued as to Florida, as follows:

> Florida contained 5 of the 100 counties. No litigation has occurred in the State. Registration has increased in two counties and remained virtually unchanged in the other three. Though the number of voters in these counties has increased from 76 in 1956 to 512 in 1962, fewer than 5 percent of the voting-age Negroes are registered.

In its summary on page 26, the Civil Rights Commission said as follows:

> In seven States, the right to vote—the abridgment of which is clearly forbidden by the 15th amendment to the Constitution of the United States—is still denied to many citizens solely because of their race.

One of the seven States which was included in the blanket indictment of the Civil Rights Commission that "the right to vote is still denied to many citizens solely because of their race" was the State of Florida. That statement is simply untrue as to Florida.

Continuing, the Civil Rights Commission, on page 28, included its recommendation to Congress, which was followed by three specific recommendations, the third of which on page 29 reads as follows:

> That, if the steps previously recommended prove ineffective, Congress further act to assure the attainment of uniform suffrage qualifications as contemplated by section 2 of the 14th amendment, through enactment of legislation proportionately reducing the representation in the House of Representatives in those cases in which voter qualifications continue to be used as a device for denying the franchise to citizens on the grounds of race, color, or national origin.

In its listing of the 100 counties referred to by the Commission, the Civil Rights Commission includes the listings of 5 Florida counties.

Mr. President, I ask unanimous consent to have printed, at this point in the RECORD, table A, entitled "Voter Registration Statistics."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A.—*Voter registration statistics*

| County | 1956 registration |  |  |  | 1962 registration |  |  |  |
|---|---|---|---|---|---|---|---|---|
|  | White |  | Negro |  | White |  | Negro |  |
|  | Number | Percent of voting age | Number | Percent of voting age | Number | Percent of voting age | Number | Percent of voting age |
| FLORIDA |  |  |  |  |  |  |  |  |
| Flagler | 1,529 | 115 | 64 | 7.5 | 1,718 | 96 | 133 | 15.8 |
| Gadsden | 6,391 | 57 | 5 | .04 | 7,235 | 62 | 373 | 3.0 |
| Lafayette | 1,755 | 103 | 0 | 0 | 2,000 | 130 | 0 | 0 |
| Liberty | 1,593 | 107 | 1 | .4 | 1,968 | 129 | 0 | 0 |
| Union | 2,501 | 66 | 6 | .4 | 1,978 | 69 | 6 | .6 |
| Total | 13,769 | 70 | 76 | 0.5 | 14,899 | 77 | 512 | 3.5 |

Mr. HOLLAND. Mr. President, I shall comment upon the salient points of the table just placed in the RECORD.

Flagler County, which had a registration of Negroes, in 1956, of 64 out of 1,529 persons of voting age, increased its 1962 Negro registration to 133, or 15.8 percent.

Gadsden County, which had only 5 Negroes registered in 1956, increased its Negro registration in 1962 to 373.

Lafayette and Liberty Counties, which had, respectively, no Negroes and one Negro registered in 1956, had none registered in 1962.

Union County, which had 6 Negroes registered in 1956 still had 6 registered in 1962.

The total number of Negroes registered in those 5 counties in 1956 was 76; but by 1962 the total registration of Negroes in those 5 counties had risen to 512.

But the Civil Rights Commission, in its 1963 report, specifically listed the five mentioned counties in Florida as being among those where "racial discrimination persists" and where "the right to vote is still denied to many citizens solely because of their race."

The report of the Civil Rights Commission contains no statement such as is included for the State of Tennessee to the effect that—"the State has no restrictive registration laws, the only requirements being age, residency, U.S. citizenship, and nonconviction of a felony"—though it is true in Florida there are no restrictive registration laws, no literacy tests, no poll tax requirements, and no other legislation of any sort which should hamper the registration of qualified Negro citizens to vote if they desire to do so.

I wonder why the Civil Rights Commission did not make any such fair statement about the Florida election laws as it did about the laws of Tennessee.

The vicious nature of such a list appears clearly in the statement of Assistant Attorney General Burke Marshall before the House Subcommittee on Appropriations in January 1964, in which statement the Assistant Attorney General included the following words:

> Included in the 100 counties and parishes listed in table A of the report of the Civil Rights Commission, Civil Rights 1963, in which the denials of voting rights were found.

I recently requested from Assistant Attorney General Marshall a written statement as to the reasons why the five Florida counties already mentioned were listed in his statement before the House subcommittee and in reply I received a lengthy letter from Mr. Marshall dated April 30, 1964, which I now ask unanimous consent to have included in the RECORD as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
*Washington, D.C., April 30, 1964.*

Hon. SPESSARD L. HOLLAND,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: This responds to your letter of April 25, 1964, and your recent inquiry as to the reasons five Florida counties were listed in my statement to the House Subcommittee on Appropriations last January.

There are two factors which have prompted the inclusion of these counties in the list given to the committee. The first was statistical. The following were the most recent registration statistics available to us at the time the list was compiled. The registration statistics are as of October 5, 1963, by the Florida Secretary of State and the population statistics are from the 1960 census report:

|  | Persons of voting age | Persons registered [1] | Percentage |
|---|---|---|---|
| Flagler: |  |  |  |
| White | 1,789 | 1,718 | 96.0 |
| Negro | 846 | 182 | 21.5 |
| Gadsden: |  |  |  |
| White | 11,713 | 6,964 | 59.5 |
| Negro | 12,261 | 450 | 3.6 |
| Lafayette: |  |  |  |
| White | 1,536 | 1,751 | [2] 114.0 |
| Negro | 152 | 0 | 0 |
| Liberty: |  |  |  |
| White | 1,525 | 1,979 | [2] 129.8 |
| Negro | 240 | 0 | 0 |
| Union: |  |  |  |
| White | 2,880 | 1,901 | 66.0 |
| Negro | 1,082 | 5 | .004 |

[1] Additional persons registered whose race is not designated: Flagler, 5; Gadsden, 30; Lafayette, 3; Liberty, 2.

[2] One possible explanation of this discrepancy is that the census statistics are 1960 figures and the registration statistics are 1963 figures.

In two of these counties no Negroes are registered to vote. The letter which you transmitted to me from officials in Flagler County indicated that the statistical picture there has substantially improved, with an additional 112 Negroes registered.

The second reason that the counties were included in my report to the committee was that the U.S. Commission on Civil Rights listed all 5 counties as among the 100 counties in which the Commission found voting denials.

For these reasons these five counties were included in my report. I am glad to be informed of the substantial increase in Negro registration in Flagler County, but I regret that the officials of that county did not have the benefit of reading the full statement which I gave the House Subcommittee on Appropriations. I believe the explanatory portions of that statement clear up the matter. This statement reads as follows:

"COUNTIES ALLEGED TO DENY VOTING RIGHTS TO NEGROES

"Statistical and other information available to this Division indicated that there was reason to believe that in the counties and parishes listed below, Negroes may have been denied their voting rights because of discrimination by private individuals or public officials. In some of the counties listed, no investigation has yet been made by the Department to determine whether this is so, or whether, if so, the discriminatory practices have ceased. In others, action has been taken, either by investigation, records analysis, negotiation, or litigation. Included are the 100 counties and parishes listed in table A of the report of the Civil Rights

Commission, 1963, in which denials of voting rights were found."

While the Department of Justice has made no formal investigation in any of these five counties, with the exception of a preliminary records inspection in Union County, the information which we had at the time the report was compiled suggested that investigation might be needed. With the exception of Flagler County, the statistics still indicate that, in the absence of some other explanation for the very low Negro registration, some inquiry into its causes may be appropriate and necessary in the future.

Sincerely,

BURKE MARSHALL,
*Assistant Attorney General,*
*Civil Rights Division.*

Mr. HOLLAND. It will be noted that in the final paragraph of his letter, Mr. Marshall is frank enough to state:

> While the Department of Justice has made no formal investigation in any of these five counties, with the exception of a preliminary records inspection in Union County, the information which we had at the time the report was compiled suggested that investigation might be needed. With the exception of Flagler County, the statistics will indicate that, in the absence of some other explanation for the very low Negro registration, some inquiry into its causes may be appropriate and necessary in the future.

In other words, Mr. Marshall's letter makes very clear that his adverse reference to the five counties in Florida was made because he was relying upon the list by the Civil Rights Commission, in table A of its 1963 report, of counties "in which denials of voting rights were found," and because he thought the investigation by the Department of Justice "might be needed" in said five counties. Senators will note that in his letter, Mr. Marshall indicates that he now excepts Flagler County from the list of five counties where he feels an investigation may be needed, but still feels that "in the absence of some other explanation for the very low Negro registration, some inquiry into its causes may be appropriate and necessary in the future." Mr. Marshall's exception of Flagler County is based, of course, upon a strong statement made by all of the elected courthouse officials of Flagler County, which was made to me in a letter dated April 23, 1964, which I had forwarded to Mr. Marshall, for his information. I think this letter is so important, as indicating the careless methods being followed by the Civil Rights Commission and the Department of Justice, that I shall read it into the RECORD in full, as follows:

BUNNELL, FLA.,
*April 23, 1964.*

Hon. SPESSARD L. HOLLAND,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HOLLAND: I am enclosing photostatic copy of a front page report which appeared in the Daytona Beach Evening News on April 22, 1964.

This report came as a complete surprise to the officials and citizens of Flagler County, particularly as there seems to be no basis of facts to substantiate it.

Our supervisor of registration, who has held that office for over 20 years, is ready to state under oath that no FBI or other Federal agents have investigated the voter lists in her custody during that period of time, or taken photographs of any of the voting records. Her statement is corroborated by other Flagler County officials who are equally ignorant of any such investigation. It is further substantiated by the fact that in September 1962 Flagler County had 140 registered Negro voters, and as of April 5, 1964, their number had increased to 294, out of a total of 2,157 registered voters in the entire county. In view of these figures, how can anyone assert that the colored citizens of Flagler County have been denied the right to vote?

It is unfortunate indeed that the head of the Justice Department's Civil Rights Division considered it unnecessary to give Flagler County an opportunity to present its side before releasing such an accusation to the press. It is particularly unfortunate as Flagler County, in contrast to some of its neighboring counties, has been singularly free of racial unrest up to now. If this state of affairs should change for the worse in the near future, as it very well may, I am sure that the citizens of Flagler County will "thank" Mr. Marshall for this blessing.

In view of the facts as presented above, the citizens of Flagler County feel that they have a right to know how and through whom Mr. Marshall received his information, and that he retract his statement publicly if he cannot substantiate it with irrefutable evidence.

Any help you can give us to this end will be greatly appreciated.

Sincerely yours,

E. A. SMYTHE,
*Clerk, Circuit Court,*
*Flagler County.*
T. K. MCKNIGHT,
*County Judge.*
DALE B. BROWN, *Jr.,*
*Tax Collector,*
*Flagler County.*
D. D. MOODY,
*Tax Assessor,*
*Flagler County.*
HOMER BROOKS,
*Sheriff,*
*Flagler County.*

It thus appears that because of the careless methods followed by the Civil Rights Commission and by the Department of Justice, Flagler County has been subjected to the adverse press reactions shown by the article from the Daytona Beach Evening News of April 22, 1964, which I ask to have included in the RECORD in full at this time.

The PRESIDING OFFICER (Mr. McGOVERN in the chair). Is there objection?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Daytona Beach (Fla.) Evening News, Apr. 22, 1964]

VOTER RIGHTS DENIED IN FLAGLER?

Flagler County has been cited by a top U.S. Justice Department official as one of 189 counties in 8 Southern States where "the right to vote is denied to thousands of Negroes."

Flagler officials, however, said they knew of no investigation by any Federal agency of the county's voting list.

The list of counties where voter discrimination allegedly is practiced was submitted to a U.S. House Appropriations Subcommittee by Assistant Attorney General Burke Marshall, head of the Justice Department's Civil Rights Division.

In testimony given January 28 to the subcommittee and released yesterday, Marshall said the FBI photographed 250,000 pages of voting records in southern counties last year in connection with Federal voting discrimination cases.

According to the Associated Press in Washington, Marshall said 58 cases were pending under the 1957 Civil Rights Act, which bars denial of voting rights for racial reasons.

Marshall said FBI agents photograph the records, which are obtained from local voter registrars, sometimes by court order. The records then are analyzed by the Civil Rights Division.

Flagler County Supervisor of Registration, Mrs. Gladys Dean, said she knew nothing of any such probe in Flagler. Similar denials came from Emil Smythe, county clerk, Julia Harvey, deputy clerk, and Sheriff Homer Brooks.

Brooks said he had checked with the district FBI agent, who told him there had been no investigation. The agent was not available for comment.

There were 126 Negroes on Flagler voter rolls in 1962. No current figures could be obtained today.

Other Florida counties charged with violating Negro voting rights were Gadsden, Lafayette, Liberty, and Union. Counties in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee also were cited.

Mr. HOLLAND. Mr. President, it is quite clear, from the statement by the courthouse officials, that the Negro citizens in Flagler County have overcome their inertia and the previous indisposition to register as voters; and the number of those who have registered have increased by April 5, 1964, from the 140 who were registered in September 1962 to 294. I hardly think any additional comment is necessary, except to say again that I think that such careless practices as those disclosed on the part of the Civil Rights Commission and on the part of the Civil Rights Division of the Department of Justice are inexcusable, and that it is wholly inappropriate to continue the existence and functioning of agencies which are so unfair to organized units of Government which are implicitly following the voters registration law, and are welcoming the registration of qualified Negro citizens who ask to be registered. It will be noted, from the correspondence and from the statement of Mr. Marshall, that no check of any kind had been made—prior to the finding of the Civil Rights Commission and prior to the appearance and statement by Assistant Attorney General Marshall before the House subcommittee—to determine the facts as to registration of Negroes in Flagler County or as to the truth or falsity of any of the adverse statements made by both the Civil Rights Commission and the Assistant Attorney General.

I call attention to the fact that in his letter, the learned Assistant Attorney General, Mr. Marshall, drops Flagler County from the list of counties which he says need to be investigated. I am only sorry that he did not advise himself in time to prevent him from making such false and unfair accusations against a county which is trying to make available to the members of the Negro race the provisions of Florida's most generous registration law, which, as I have said, does not impose any restriction of any kind on a citizen who has had an adequate length of residence, has attained an adequate age, and has shown that he has not been convicted of a serious offense, and is otherwise qualified as required by law.

Mr. Marshall's letter reached me the day before yesterday; and I have been unable to check with the remaining four Florida counties which were included within the list of the Civil Rights Commission and of the Assistant Attorney General as being counties in which "the right to vote is still denied to many citizens solely because of their race." I have, however, checked with Gadsden County, which is the largest of the four counties still remaining on the list after the name of Flagler has been stricken therefrom; and I find that, just as in the case of Flagler County, the long, continuing inertia of the Negro citizens to register for voting has apparently been discontinued, and the number of Negro registrants this year in Gadsden County has increased to 1425, from the 355 listed by the Civil Rights Commission report as of October 8, 1960, and from the 373 listed in its 1963 report as of October 5, 1963.

I am informed by officials in the courthouse in Gadsden County, that no inquiry has been made, either by the Department of Justice or by the Civil Rights Commission, or by any agent of either of them, of the voting situation in Gadsden County. No photographs have been taken by FBI agents, and no investigation of any sort has been made by them in that county. So it is peculiarly unfortunate that the Civil Rights Division of the Department of Justice and the Civil Rights Commission have made such accusations, without having first informed themselves of all of the facts in the case of those particular counties.

Mr. DOUGLAS. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. DOUGLAS. Does the Senator from Florida say that the statements by the Civil Rights Commission were incorrect as of the dates cited by the Commission?

Mr. HOLLAND. I certainly do. The statement as to the number of registrants was correct, but the statement by the Assistant Attorney General that registration was being denied on the ground of race or color was completely incorrect and was not based on any investigation by either of the agencies referred to. It was not based on anything except perhaps the inertia of the colored citizens of that county—most of whom are agricultural workers, and most of whom own their own homes—and their indisposition to register as voters—until recently.

Mr. DOUGLAS. But of course there is always the possibility that there will exist a tacit unwillingness to register to vote, for fear of reprisals.

Mr. HOLLAND. I realize that that is a question. But I realize also that the Civil Rights Commission is a public agency and a public body. In making its written report, it had no right to include a conclusion in its report that the registration of citizens was being denied in a certain county because of race, when all that it relied upon was the number of registrants in the county, and when it had made no investigation. More particularly, it was not right for the Assistant Attorney General to testify—this year, mind you—upon those statements made in 1961 and 1963 by the Civil Rights Commission, and include the statement that registration was being denied on account of race, when it is not true.

Mr. DOUGLAS. May not the increase in registration, since the dates on which the Civil Rights Commission reported, have been due in part, and perhaps entirely, to the publicity which was given to the very low percentage of Negro registrants in certain counties?

Mr. HOLLAND. The Senator is correct in that there may be some such effect. The Senator from Florida thinks it would be very slight, if it exists at all, because the number of Negro registrants in the State of Florida has increased year after year somewhat in a regular curve. It began following my State's adoption of the poll tax ban in 1937. It has increased to the point where last year the total number of registrants was 213,000. This year the number of registrants has increased to 240,000, as I shall show in a later part of my statement. The statement will also show that there is a complete disparity in various parts of our State from other parts of the State as to the speed with which the Negro citizens have availed themselves of this privilege, or this duty—and I am inclined to regard it as a duty, rather than a privilege. The disparity between their inertia in some places and this aggressiveness in others is something that I do not think anyone could explain by examining the figures.

It probably results from greater aggressiveness on the part of Negro leadership in some places than in others. It may result from other causes, with which I am not familiar.

But the fact remains that the increase in registration has continued on a somewhat level basis. If the Senator will examine the figures, he will find that the number of registrants has been increasing in recent years—something like 20,000 a year. This year, it has gone up 27,000. There is not very much difference in the speed with which our Negro citizens qualified.

So far as the Senator from Florida is concerned—and the Senator from Illinois knows this—the Senator from Florida supported the repeal of the poll tax requirement in 1937, and has gone much further than that since that time in trying to repeal it on a national basis, and shed a considerable amount of legislative blood in doing so. The Senator from Florida has never done anything other than to encourage Negro citizens to register and to vote. That has been the prevailing sentiment in an increasing number of our counties beginning in 1937 with a large number of counties, but increasing year after year until now I think it is correct to say that there is hardly a spot in the State of Florida where that is not the sentiment.

That is the sentiment in the two counties of Flagler and Gadsden. It is shown by the registration figures in Flagler County over the past 4 or 5 years, and by the registration figures in Gadsden County over the past 3 years.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. DOUGLAS. I remind the distinguished Senator from Florida that Congress enacted a voting rights bill in 1957. The Civil Rights Commission has been at work on this problem for some years. The Negro community is becoming more conscious of this matter. I do not think it is quite "cricket" or just for the Senator from Florida to attack the Civil Rights Commission, which has been responsible for a large part of the improvement.

Mr. HOLLAND. I do not think the Commission has been responsible for much of the improvement in our State—if any. It is very clear from the statement of the Attorney General that it has not made any investigation. It is also clear that no suits have been brought. The Commission has checked and has made a perfunctory inspection of a part of the records in one county alone—Union County.

I remind the Senator from Illinois that this stepping up of registrations has happened since a time long before the Civil Rights Commission was established. The Commission was established in 1957. The increase in registration began immediately after 1937. I have already stated twice in my remarks that the increase in the number of registrations of Negro people has been rather constant over that period of time.

I shall now continue with my prepared statement. I think this will be enlightening to the Senator from Illinois. Incidentally, this advice came from one of the leading lawyers of the particular county. He checked the entire matter of registration for me and reported to me by telegraph and telephone.

I am advised that a very active campaign for the registration of Negro citizens was carried on this year by some of the aggressive Negro civil rights groups and that as a result of same the substantial increase in the Negro registrants has occurred without any untoward incident or demonstration and without any semblance of denial to any Negro citizen to his right to register which brings the number of registrants in Gadsden County up to nearly 12 percent now as compared with just under 3 percent in 1960.

In spite of the freedom to register, in spite of efforts made by the aggressive civil rights leaders—and it is my understanding that the president of CORE went to Gadsden County and made an effort to persuade the Negro citizens to register—as of now, only 12 percent of the Negro citizens of qualified age have registered.

So the Senator must recognize that there is a resistance to registration, and an inertia which has been most difficult to overcome in agricultural, naval stores or forestry counties—as I shall indicate in a later part of my remarks—and which has been more quickly overcome in our urban communities, with the distinction that it has been more quickly overcome in the old, southern urban communities, and slower to yield in the urban counties populated by people from other parts of the Nation.

Mr. DOUGLAS. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. DOUGLAS. I do not wish to engage in a prolonged discussion with the Senator from Florida. But surely the Senator must know that a very large proportion of the low registration of Negroes is due to the fear of Negroes as to what would happen if they did try to register. One should not cite the low percentage of Negro registrants in an effort to prove that only the percentage indicated wanted to register and vote. I am sure the Senator recognizes that in his own heart. I think that fact should be noted on the RECORD.

Mr. HOLLAND. Mr. President, I have suggested in the Senate before that the willingness of the whole community to follow strictly our new law banning the poll tax and giving the registration right to everyone—without any literacy test, by the way—has not come with equal speed to every part of our State. I call the attention of the distinguished Senator to the fact that in such areas as Duval County—Jacksonville—where the Negro registration has consisted of nearly 50 percent of their number for many years, even in this year, their total registration is up to only 50-odd percent of the total. Not only is there no restraint, but many of the local candidates for office go over and campaign in the Negro portion of the city. There are about 100,000 Negroes in Jacksonville. Many of them are fine people. There still seems to exist a feeling of inertia or unwillingness to register, which I do not explain as anything other than a feeling that has followed a long period of inexperience and nonparticipation in this field.

I regret that that has occurred, but I do not think it is fair for the Civil Rights Commission or the Attorney General to say what I know to be not true; namely, that Negroes are being denied the right to register in Florida counties because of their color. I think it is clearly shown that, with respect to the two counties mentioned, Flagler and Gadsden, that statement is not true, and does not apply to the present situation. The learned Attorney General withdrew his statement as to Flagler County, and retains it only as to four others.

Apparently the only limit which has existed in Gadsden County with reference to the registration of qualified Negro citizens has been of their own inertia, because they have been strongly urged by militant civil rights groups to register, and yet only 1,425 out of the total of 12,261 Negroes of voting age who are shown to be in Gadsden County by the 1960 census have seen fit to register. It is too bad that the Civil Rights Commission and the Civil Rights Division of the Department of Justice have both seen fit to castigate Gadsden County in the way that they have when the facts are as I have just stated, and when their statements are not based upon investigation of the records and checking in the field. Undoubtedly in future years the Negro citizens of Gadsden County will register in greater and greater numbers until they catch up with the registration of Negroes in many other Florida counties, which has been continuing since we eliminated the poll tax requirement in 1937, just 27 years ago, but has not existed on a uniform rate and probably will never exist uniformly among the many counties any more than the registration of qualified white voters has been uniform in all parts of our State.

I refer at this time to the tabulation of voting age population and registration statistics for Florida as placed in the CONGRESSIONAL RECORD on April 6, 1964, pages 7024–7025, by the distinguished Senator from New Hampshire [Mr. MCINTYRE], and I ask that said statistical list be republished in the CONGRESSIONAL RECORD at this time as a part of my remarks.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

*Voting age population and registration statistics, State of Florida*

| County | Persons of voting age [1] | Persons registered [2] | Percent registered | Not designated [3] |
|---|---|---|---|---|
| Alachua: | | | | |
| White | 30,555 | 28,845 | 94.4 | 359 |
| Negro | 9,898 | 3,678 | 37.2 | |
| Baker: | | | | |
| White | 3,203 | 3,148 | 98.3 | ---------- |
| Negro | 807 | 461 | 57.1 | ---------- |
| Bay: | | | | |
| White | 31,940 | 23,031 | 72.1 | 74 |
| Negro | 4,964 | 3,246 | 65.4 | |
| Bradford: | | | | |
| White | 5,580 | 4,578 | 82.0 | ---------- |
| Negro | 1,345 | 885 | 65.8 | ---------- |
| Brevard: | | | | |
| White | 58,433 | 42,725 | 73.1 | 1,042 |
| Negro | 6,494 | 2,335 | 36.0 | |
| Broward: | | | | |
| White | 189,517 | 143,799 | 75.9 | 4,159 |
| Negro | 27,009 | 12,413 | 46.0 | |
| Calhoun: | | | | |
| White | 3,434 | 4,241 | 124.0 | 10 |
| Negro | 582 | 403 | 69.2 | |
| Charlotte: | | | | |
| White | 8,659 | 8,496 | 98.1 | 150 |
| Negro | 427 | 297 | 69.6 | |
| Citrus: | | | | |
| White | 5,174 | 4,989 | 96.4 | 63 |
| Negro | 829 | 470 | 56.7 | |
| Clay: | | | | |
| White | 9,508 | 7,188 | 75.6 | 18 |
| Negro | 1,276 | 899 | 70.5 | |
| Collier: | | | | |
| White | 8,163 | 6,650 | 81.5 | 42 |
| Negro | 1,364 | 352 | 25.8 | |
| Columbia: | | | | |
| White | 8,092 | 7,385 | 91.3 | 30 |
| Negro | 3,122 | 1,702 | 54.5 | |
| Dade: | | | | |
| White | 537,448 | 376,246 | 70.0 | 4,044 |
| Negro | 75,573 | 38,810 | 51.4 | |
| De Soto: | | | | |
| White | 6,339 | 4,034 | 63.6 | ---------- |
| Negro | 1,343 | 748 | 55.7 | ---------- |
| Dixie: | | | | |
| White | 2,138 | 2,539 | 118.8 | 6 |
| Negro | 363 | 293 | 80.7 | |
| Duval: | | | | |
| White | 203,804 | 125,994 | 61.8 | 1,139 |
| Negro | 58,430 | 30,792 | 52.7 | |
| Escambia: | | | | |
| White | 76,688 | 55,153 | 71.9 | 322 |
| Negro | 18,041 | 10,827 | 60.0 | |
| Flagler: | | | | |
| White | 1,789 | 1,718 | 96.0 | 5 |
| Negro | 846 | 182 | 21.5 | |
| Franklin: | | | | |
| White | 3,186 | 3,323 | 104.3 | 5 |
| Negro | 779 | 531 | 68.2 | |
| Gadsden: | | | | |
| White | 11,711 | 6,964 | 59.5 | 30 |
| Negro | 12,261 | 450 | 3.6 | |
| Gilchrist: | | | | |
| White | 1,513 | 1,454 | 96.1 | 2 |
| Negro | 154 | 66 | 42.9 | |
| Glades: | | | | |
| White | 1,061 | 916 | 86.3 | ---------- |
| Negro | 741 | 239 | 32.3 | ---------- |
| Gulf: | | | | |
| White | 4,196 | 3,686 | 87.8 | ---------- |
| Negro | 1,138 | 622 | 54.7 | ---------- |
| Hamilton: | | | | |
| White | 2,486 | 2,591 | 104.2 | 5 |
| Negro | 1,621 | 716 | 44.2 | |
| Hardee: | | | | |
| White | 6,734 | 5,201 | 77.0 | 13 |
| Negro | 552 | 302 | 54.7 | |
| Hendry: | | | | |
| White | 3,430 | 2,856 | 83.3 | 2 |
| Negro | 1,180 | 709 | 60.1 | |
| Hernando: | | | | |
| White | 5,689 | 5,122 | 90.0 | 30 |
| Negro | 1,151 | 621 | 54.0 | |
| Highlands: | | | | |
| White | 10,997 | 9,685 | 88.1 | 60 |
| Negro | 2,251 | 1,235 | 54.9 | |
| Hillsborough: | | | | |
| White | 213,950 | 135,960 | 63.5 | 840 |
| Negro | 31,114 | 17,585 | 56.5 | |
| Holmes: | | | | |
| White | 6,131 | 6,709 | 109.4 | 5 |
| Negro | 249 | 163 | 65.5 | |
| Indian River: | | | | |
| White | 13,182 | 10,364 | 78.6 | 248 |
| Negro | 2,637 | 1,116 | 42.3 | |
| Jackson: | | | | |
| White | 14,087 | 11,984 | 85.1 | 28 |
| Negro | 5,390 | 3,602 | 66.8 | |
| Jefferson: | | | | |
| White | 2,383 | 2,282 | 95.8 | 4 |
| Negro | 2,600 | 443 | 17.0 | |
| Lafayette: | | | | |
| White | 1,536 | 1,751 | 114.0 | 3 |
| Negro | 152 | 0 | 0 | |
| Lake: | | | | |
| White | 30,535 | 21,989 | 72.0 | 153 |
| Negro | 6,438 | 1,543 | 24.0 | |
| Lee: | | | | |
| White | 30,363 | 27,729 | 91.3 | 158 |
| Negro | 4,677 | 1,805 | 38.6 | |
| Leon: | | | | |
| White | 28,241 | 20,319 | 71.9 | 117 |
| Negro | 12,322 | 5,572 | 45.2 | |
| Levy: | | | | |
| White | 4,483 | 3,843 | 85.7 | 14 |
| Negro | 1,568 | 423 | 27.0 | |

See footnotes at end of table.

*Voting age population and registration statistics, State of Florida*—Continued

| County | Persons of voting age [1] | Persons registered [2] | Percent registered | Not designated [3] |
|---|---|---|---|---|
| Liberty: | | | | |
| White | 1,525 | 1,979 | 129.8 | 2 |
| Negro | 240 | 0 | 0 | |
| Madison: | | | | |
| White | 4,380 | 4,323 | 98.7 | ---------- |
| Negro | 3,067 | 1,147 | 37.4 | ---------- |
| Manatee: | | | | |
| White | 42,291 | 32,920 | 77.8 | 566 |
| Negro | 5,278 | 1,729 | 32.8 | |
| Marion: | | | | |
| White | 21,001 | 17,201 | 81.9 | 112 |
| Negro | 9,283 | 6,116 | 65.9 | |
| Martin: | | | | |
| White | 9,291 | 8,000 | 86 1 | 25 |
| Negro | 1,753 | 950 | 54.2 | |
| Monroe: | | | | |
| White | 25,512 | 17,036 | 66.8 | 149 |
| Negro | 2,919 | 2,378 | 81.5 | |
| Nassau: | | | | |
| White | 7,054 | 5,433 | 77.0 | 4 |
| Negro | 2,076 | 1,232 | 59.3 | |
| Okaloosa: | | | | |
| White | 30,816 | 21,040 | 68.3 | 175 |
| Negro | 2,097 | 899 | 42.9 | |
| Okeechobee: | | | | |
| White | 2,870 | 2,588 | 90.2 | 3 |
| Negro | 533 | 328 | 61.5 | |
| Orange: | | | | |
| White | 137,780 | 87,430 | 63.5 | 1,052 |
| Negro | 21,771 | 7,716 | 35.4 | |
| Osceola: | | | | |
| White | 11,697 | 9,380 | 80.2 | 132 |
| Negro | 1,122 | 454 | 40.5 | |
| Palm Beach: | | | | |
| White | 119,342 | 91,788 | 76.9 | 1,793 |
| Negro | 29,541 | 8,516 | 28.8 | |
| Pasco: | | | | |
| White | 22,329 | 18,456 | 82.7 | 183 |
| Negro | 2,391 | 942 | 39.4 | |
| Pinellas: | | | | |
| White | 255,369 | 194,580 | 76.2 | 5,212 |
| Negro | 18,121 | 7,933 | 43.8 | |
| Polk: | | | | |
| White | 97,314 | 69,728 | 71.7 | 651 |
| Negro | 19,224 | 6,701 | 34.9 | |
| Putnam: | | | | |
| White | 13,095 | 8,880 | 67.8 | 19 |
| Negro | 5,089 | 1,708 | 33.6 | |
| St. Johns: | | | | |
| White | 13,771 | 10,422 | 75.7 | 50 |
| Negro | 4,331 | 1,395 | 32.2 | |
| St. Lucie: | | | | |
| White | 17,238 | 14,713 | 85.4 | 181 |
| Negro | 6,527 | 2,318 | 35.5 | |
| Santa Rosa: | | | | |
| White | 14,710 | 11,593 | 78.8 | 114 |
| Negro | 1,082 | 660 | 61.0 | |
| Sarasota: | | | | |
| White | 49,533 | 36,646 | 74.0 | 724 |
| Negro | 4,125 | 1,230 | 29.8 | |
| Seminole: | | | | |
| White | 24,372 | 14,317 | 58.7 | 233 |
| Negro | 7,050 | 2,058 | 29.2 | |
| Sumter: | | | | |
| White | 5,396 | 4,890 | 90.6 | 15 |
| Negro | 1,523 | 807 | 53.0 | |
| Suwanee: | | | | |
| White | 6,409 | 6,626 | 103.4 | 14 |
| Negro | 2,149 | 610 | 28.4 | |
| Taylor: | | | | |
| White | 5,454 | 5,353 | 98.1 | 2 |
| Negro | 1,724 | 781 | 45.3 | |
| Union: | | | | |
| White | 2,880 | 1,901 | 66.0 | ---------- |
| Negro | 1,082 | 5 | .004 | ---------- |
| Volusia: | | | | |
| White | 74,209 | 56,655 | 76.3 | 627 |
| Negro | 11,615 | 6,964 | 51.3 | |
| Wakulla: | | | | |
| White | 2,120 | 2,239 | 105.6 | 5 |
| Negro | 753 | 487 | 64.7 | |
| Walton: | | | | |
| White | 7,958 | 7,579 | 95.2 | 10 |
| Negro | 1,086 | 825 | 76.0 | |
| Washington: | | | | |
| White | 5,364 | 5,250 | 97.9 | 7 |
| Negro | 1,021 | 707 | 69.2 | |
| Total: | | | | |
| White | 2,617,438 | 1,899,433 | 72.5 | ---------- |
| Negro | 470,261 | 213,128 | 45.3 | ---------- |

[1] Official Bureau of Census figures, 1960 census, table 27.

[2] Those registration statistics are taken from a report of the secretary of state of the State of Florida dated Oct. 24, 1963. The statistics related to Oct. 5, 1963. A copy of the report of the secretary of state is attached.

[3] The report of the secretary of state of the State of Florida has a column designated "Others" which refers to registered voters who are neither Democrats nor Republicans. This column is not separated according to race. It is therefore not possible to include this group of persons in the percent registered.

Mr. HOLLAND. Mr. President, I am sorry that there are not available sufficient copies of the table to circulate, but I am furnishing my own copy to the distinguished Senator from Illinois [Mr. DOUGLAS] so that he may follow my statements.

It would appear from this list that, in spite of the fact that registration of qualified Negro citizens has been as free as air in our State for 27 years, out of the 470,261 Negro citizens of voting age in 1960, only 213,128—or 45.3 percent—had availed themselves of the privilege of registration up to October 5, 1963, the date covered by the table of statistics furnished by the Secretary of State.

It is quite apparent, Mr. President, that it has taken years to overcome the inertia which existed in 1937 and that the registration of Negroes in the 67 counties has by no means been uniform. Registration of Negroes began at once in some counties and proceeded at a rapid rate. In others, for unexplained reasons, it began slowly and proceeded ever more slowly. Neither I nor any other person can give a clear explanation as to why this nonuniformity occurred, but that it did occur and is still present among the several counties, without any indication whatever of any obstruction by officials, or others, of Negroes in their efforts to register, is shown clearly when we contrast the conditions existing as of October 5, 1963, in some of the counties in Florida.

For instance, on that date in Duval County—Jacksonville—which is primarily an "Old South" county——

Mr. DOUGLAS. Mr. President, if the Senator will yield, that is Miami; is it not?

Mr. HOLLAND. It is Jacksonville—52.7 percent of the Negroes shown to be of qualified age by the 1960 census had registered to vote, whereas in Sarasota County, which is decidedly not an "Old South" county, only 29.8 percent had registered.

I cannot explain the difference, and I do not think anybody else can, by any rule of logic.

Contrasting again, in Jackson County in west Florida—probably about as 100 percent an "Old South" county as we have—66.8 percent of their Negro citizens of qualified age had registered; whereas in Manatee County only 32.8 percent had registered, or less than half as many, proportionately, in that fast-growing south Florida county. In Hillsborough County—Tampa—56.5 percent of the Negroes had registered, whereas in Palm Beach County only 28.8 percent had registered.

These figures show clearly the nonuniformity of registration of our Negro citizens of qualified age and also show rather clearly that in the "Old South" part of our State there has certainly been no obstinate resistance of any kind to Negro registration.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. DOUGLAS. Is it not true that the percentage of Negro registrants is low in counties where the ratio of Negroes to whites is high? For example, in the case of Gadsden, which county we have been discussing, the number of white persons of voting age was approximately 11,700, while the number of Negro registrants was 12,200.

In Union County, the number of whites of voting age was 2,880, and the number of Negroes was virtually 1,100.

Is it not true that the difficulty lies largely in the counties of northern Florida, running across the northern part of Florida, south of Georgia, which form a part of the "black belt"?

As I understand, the "black belt" starts in Prince Edward County, Va., runs down the Atlantic seaboard three or four counties deep in the east, cuts across northern Florida to the Mississippi, and goes up the Mississippi as far as Cairo in my State. It is in those counties, at least 200 in number, that the greatest difficulty arises; and some of that occurs in the State of Florida. Is that not true?

Mr. HOLLAND. No. It is true that there is great difficulty in some of the counties. It is not true that that situation prevails in my State.

If the Senator will look at the table which I handed him, he will see that in the two counties on two sides of Gadsden County, Leon and Jackson, which I have already mentioned, and which is one of the most "Old South" counties we have, the percentage of Negro registrants is high. It is 66.8 percent in Jackson. That is a large number.

The Senator has the table in front of him; I would appreciate it if the Senator would give us the number of qualified voters.

Mr. DOUGLAS. Approximately 14,100 white and 5,400 Negroes—about 3 to 1. That is a very high registration of Negroes.

Mr. HOLLAND. It is 66.8 percent, I believe.

Mr. DOUGLAS. Yes.

Mr. HOLLAND. If the Senator will look at the figures for Leon County, which is the capital county, and which is not an agricultural county like Gadsden and Jackson, he will find a high percentage of Negro registrants.

Mr. DOUGLAS. The number of white persons of voting age is approximately 28,200, and 12,300 Negroes—71.9 percent of the whites are registered, and 45.2 percent of the colored are registered.

Mr. HOLLAND. If the Senator will look at the figures for Jefferson County, which is the only county, other than Gadsden, in our State where there is an excess of Negroes over whites, he will find a very different picture from Gadsden, indicating that there is no pattern anybody can follow in this matter. I do not remember the figures, but I remember that in Jefferson County, which is an agricultural county like Gadsden, there is an excess of the Negro population over the white population, and I remember that many more colored people are qualified to vote there than is the case in Gadsden County.

Mr. DOUGLAS. May I read the figures?

Mr. HOLLAND. Yes.

Mr. DOUGLAS. In Jefferson County the number of white persons of voting age is approximately 2,400 and there are 2,600 Negroes of voting age—95.8 percent of the whites are registered and 17 percent of the Negroes are registered.

Mr. HOLLAND. The fact remains that there is no obstructionism. They are just emerging from the inertia which I have already described. Apparently, they are 2 or 3 years ahead of Gadsden County. If the Senator will look at the north Florida counties, he will find that his remarks are much too general. He spoke of counties along the Georgia and Alabama line. His remarks apply, after all, only to Gadsden County, because it so happens that the other counties on the list of the smallest percentage of registrants are, in two cases, not border counties. They are the counties of Liberty and Lafayette—and Flagler, which has been stricken off the list, due to my recent correspondence with the Attorney General and the facts which have developed in the last 2 or 3 years.

Mr. DOUGLAS. The Liberty County figures are interesting.

Mr. HOLLAND. There are none, as I recall.

Mr. DOUGLAS. It is indicated that in 1960 white persons of voting age numbered 1,525. The whites who were registered numbered 1,979. Thirty percent more people were registered than lived there in 1960. The Negroes on the other hand, numbered 240—not a large number—but none was registered. So the difference between 130 percent and zero percent is very interesting. I do not believe that the Senator from Florida has any right to complain about alleged voting practices in my own State of Illinois when in one county of his State there are 30 percent more people registered than the number of voting age.

Mr. HOLLAND. The Senator from Illinois makes a good case without having seen the situation on the ground. He has made the same error which our learned friends on the Civil Rights Commission and in the Department of Justice have made. That county is a very small forestry county, with 240 Negroes scattered over a large area. They live mostly in the woods. There are a relatively small number of whites. My recollection is 1,500.

Mr. DOUGLAS. It is 1,525, but about 2,000 were registered.

Mr. HOLLAND. I was about to state the situation there. In the small counties, registration books are permanent registration books. Unfortunately, in several forestry counties—if the Senator will listen to me, because I wish him to have his mind open on this subject—the registration books are purged in the large counties every 2 years. There are special lists in the county in which I live, for example, where the registration lists are purged and brought up to a current basis every 2 years. In most of the small counties this does not happen. Unfortunately, in the large forestry counties, the population has been diminishing for the past 20 to 30 years, and the registration books have not been purged or brought up to date. That accounts for the discrepancy. Liberty is a very small county, depending entirely upon pulpwood, naval stores, and lumber, with a very small population scattered over a large area.

If the Senator is interested, Liberty is one of the few counties in which the State fish and game department opens a season for hunting bear ever year. A good many bear are killed. It is an undeveloped county.

Mr. DOUGLAS. I would be afraid to go down there. I might be mistaken for a bear.

Mr. HOLLAND. I assure my distinguished friend, the Senator from Illinois, that he would not be mistaken for a bear. I am sure that he would be treated cordially. I believe that he has already been treated cordially in my State. I know that he has been invited to some of our institutions of learning, to speak, and I have been told that he made a wonderful impression on the people of my State. I hope that he will visit there again. Perhaps we need education down there. I hope that the distinguished Senator will not be so persuasive as he is on the floor of the Senate, because I am afraid some of his policies might not be so acceptable in the State of Florida to our conditions as they are perhaps to his own State.

Mr. DOUGLAS. May I cite the figures for Union County?

Mr. HOLLAND. Yes. I have already placed them in the RECORD, however.

Mr. DOUGLAS. I know. The figures for Union County show 1,082 Negroes of voting age in 1960, but only 5, or 0.004 percent were registered in 1963. Is that pure inertia?

Mr. HOLLAND. Yes. Whether pure or not, the Senator from Illinois will have to be the judge.

Mr. DOUGLAS. Is the situation due entirely to inertia?

Mr. HOLLAND. There are woods people living in Union County. There are three counties that would remain on the list—Union, Liberty, and Lafayette. They are all counties with diminishing populations. They produce principally timber for pulpmills. Their population is scattered. In the case of the Negro people, unfortunately it is true that they have not had anything like the educational opportunities of the Negroes in other counties of the State.

I do not find it difficult to understand the reason why these woods workers, living in tiny cabins hidden in the forests of three counties, would not be particularly interested in registering to vote. All I can say is that if the Senator will add up the number of qualified Negroes in those three counties, compared with any three remaining on the list, he will find the figure to be less than one-third of 1 percent of the Negro population of our State. We have something like over 900,000 Negroes in Florida. My feeling is that we have done an excellent job in opening the doors of opportunity to their part in government. My feeling is that in the main they have accepted it on an increasing scale; and I am glad that they have. I am only sorry that they have not proceeded with equal speed.

The figures I have already given the Senator from Illinois indicate, beyond question, that the "Old South" part of our State has been more ready to accept participation by Negroes than has the new part. I contrast Duval County with Palm Beach and Sarasota. The last two counties are composed of nearly all new people. They are not lifelong inhabitants of our State. My recollection is that the figures showed only 29.8 percent of qualified Negroes of voting age who had registered. So, if one compares Hillsborough and Palm Beach as I did, you have an interesting comparison; Palm Beach is largely made up of new people. I do not have to tell the Senator about Palm Beach or about that area generally.

Mr. DOUGLAS. It is too expensive for me.

Mr. CASE. The "nouveau riche."

Mr. HOLLAND. The Senator has been a guest there on many occasions. I hope that he will continue to be. Hobe Sound is in Martin County just above Palm Beach, but a part of that same general Gold Coast development. I am glad that the Senator from New Jersey [Mr. CASE] is familiar with the attractions and the entrancements offered there. It is a beautiful place to visit.

However, the point I wish to make is that the number of Negroes in proportion to residents of qualified voting age who have qualified to vote in Palm Beach is about half that in some of our "Old South" counties.

What the explanation is, I cannot say. That does not indicate that anyone in Palm Beach has been trying to obstruct them. Quite to the contrary, it merely indicates a difference in community approach. The point I am trying to get over to the Senator from Illinois is that the Civil Rights Commission has been hopelessly wrong, that the Civil Rights Division of the Department of Justice has also been hopelessly wrong, in drawing their own conclusions that people are being denied the right to register to vote because of race, merely because in some counties the percentage of those qualified to vote is less than in other counties, because in five counties, up to a few years ago, they had not begun to qualify at all. Now, according to the figures which I have placed in the RECORD, nearly 1,500 have qualified in Gadsden County. CORE has been trying to get them to qualify to vote. There now are some 1,500 on the rolls out of more than 12,000 Negroes of qualified age.

There has been no disturbance, and there has been no interference. It has not been possible to interest more of them. I am sorry that that is so. I do not wish my distinguished friend to come to any false conclusion—and it is a false conclusion—that some hindrance or obstruction has been presented, when the State has been vigorous in trying to get our qualified Negro citizens to register, and when it has been trying to encourage them to qualify and register.

Mr. DOUGLAS. Is it not correct to state that in the relatively large cities a high proportion of the Negroes are registered because the white light of publicity beats upon the situation, whereas in the thinly settled agricultural counties, where a relatively large proportion of the population consists of Negroes, the percentage of Negroes who are registered is relatively small? I notice that in Dade County, which includes Miami, 51 percent of the Negroes are registered. In Duval County, which includes Jacksonville, the percentage is 52.7. In Hillsborough—does that include Tampa?

Mr. HOLLAND. Yes.

Mr. DOUGLAS. It is 56.5 percent.

In other words, in cities more than half of the qualified Negro voters are registered, whereas in isolated rural counties, where pressures—legal, social, economic, and physical—can operate, a relatively small percentage of Negroes is registered.

This is characteristic in the South, as a whole. A large percentage of Negroes is registered in Atlanta, and a relatively small percentage in the "black belt"; a large percentage in Memphis, and a small percentage in the farming counties of west Tennessee.

I believe that to be the general rule.

Mr. HOLLAND. There is some evidence that that is the rule in some cases; yet there are cases to the contrary. I referred to Sarasota County, which is a small county. It is a very thriving and prosperous county. The city takes up a large part of the county. In that county, the percentage of Negro citizens who have registered to vote is 29.8 percent.

Mr. CASE. Are there many Negroes in that county?

Mr. HOLLAND. There are 4,125 Negroes of voting age in that county, and 1,230 of them were registered on the date covered by this list. No logical pattern appears.

In the case of Palm Beach County, for example, there is a large agricultural area in that county, but the principal population is in the cities of Palm Beach, Lake Worth, and Delray Beach. There are a great many Negroes in that county. Of the 29,541 Negroes who are qualified to register and vote, 8,516 have registered. That is 28.8 percent. Therefore, the Senator will see that that does not apply in that case, and that it does not prove to be the general rule.

The same is true in various other counties, primarily with respect to urban counties.

The Senator pointed to the fact, which I have already stated, that there is no rule indicated by these figures. In some communities there has been more aggressive leadership in this regard than in others. Apparently in some counties there have been issues which have interested Negroes more than in other counties, and they have qualified in larger measure, whereas in other counties they have not done so.

There has been a great disparity between Pinellas County and Hillsborough County. Hillsborough County lies on one side of the bay, and Pinellas County on the other. In Pinellas County the percentage is 43.8 percent.

Mr. DOUGLAS. Does that include St. Petersburg?

Mr. HOLLAND. Yes; and Clearwater. In our list 2 years ago, my recollection is, the percentage was 30-percent registered. In Hillsborough County, which is across the bay, and includes Tampa, but not exclusively Tampa, because Plant City is in that county also, and there are numerous agricultural areas there too, 56.5 percent of the Negroes have registered.

There is no rhyme or reason or pattern which can explain this situation. I have already referred to the forestry counties, which have greatly diminished populations. The population in those counties has greatly diminished from the 1930, 1940, and 1950 censuses.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. ERVIN. Will the Senator from Florida accept the assurance of the Senator from North Carolina that one county which has been paraded before the country as a county which practices the greatest discrimination in voting rights against Negroes is Graham County in North Carolina, and that Graham County does not have a single Negro of voting age residing in it? Will the Senator accept my assurance that that is the fact?

Mr. HOLLAND. I accept the Senator's word for that. I am particularly glad that he has made that statement. Perhaps that explains the reason why the Civil Rights Commission found fault with it.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. ELLENDER. Mr. President, is it not a matter, mostly, of supposition? The Commission goes into a county and alleges that there are so many Negroes and so many whites in that county. Then, because it finds only a few Negroes registered, it concludes that the Negroes are being hampered and interfered with.

Mr. HOLLAND. The Senator is correct.

Mr. ELLENDER. Is the Senator familiar with the fact that during this week the Civil Rights Commission has been picketed by Negroes who claim that the Civil Rights Commission was not doing its duty in not having the voting registration examined in Mississippi?

Mr. HOLLAND. I am sure that is the case; but I am speaking about my own State because I know something about it. I participated in the successful effort to eliminate the poll tax in our State. I participated actively in the effort to eliminate the poll tax as a prerequisite for voting in Federal elections. I was delighted to read the statement of the secretary of state of Texas a few weeks ago to the effect that more than 100,000 people in that State, largely Negroes and Mexicans, will be qualified to vote for Federal offices—Senators, Members of the House of Representatives, and presidential and vice presidential electors—this year, who would have been banned under the State's poll tax requirements, and who cannot vote in State elections.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that a great many people in the South, as well as in other areas of the country, are apathetic with respect to registering and voting?

Mr. HOLLAND. I agree. The list, which I have shown to the Senator from Illinois, shows that in the case of Florida many people do not qualify as quickly as they would if they had been a resident in the State for a longer period of time. Only 72.5 percent of our total white population of 2,617,000, qualified by age to register, have registered. I regret that fact. It is explained largely by the peculiar situation in our State, in which we have so many new people. Our State was 27th in population when I served as its Governor, from 1941 to 1945. It is ninth now.

The new residents do not become interested in their local government or State government or display their interest in the Federal Government as quickly while they are getting settled and acclimated to the State which they have chosen.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. HOLLAND. I will yield in a moment. The point the Senator made was true, because it shows that 27.5 percent of the qualified white people in Florida had not registered, as shown by the statement of the secretary of state of Florida dated October 5, 1963. Now I yield to the Senator from North Carolina.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that in most of the rural counties in the Southern States, especially in the Deep Southern States, normally only one political party has candidates in the field?

Mr. HOLLAND. That is correct.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that any politician who has no opposition for the office for which he is running will not spend much time, money, or energy in trying to haul people to the polls to vote, when he does not need to do so?

Mr. HOLLAND. That is correct.

Mr. ERVIN. Would not the Senator agree that in 1960 the Democratic candidate for President of the United States and the Republican candidate for Vice President of the United States were both residents of the State of Massachusetts, where no southerners were in charge of the election machinery?

Mr. HOLLAND. The Senator from Florida would agree with that statement.

Mr. ERVIN. I ask the Senator from Florida if he believes that any discrimination in Massachusetts was responsible for the 25 and 30 percent of its citizens not taking the trouble to vote either for or against the Democratic candidate for President or for or against the Republican candidate for Vice President in 1960.

Mr. HOLLAND. The Senator from Florida regrets that such was the case, but that is a part of the apathy which prevails in too many quarters of our Nation in governmental matters, and which has laid hold of too many of our citizens. I regret it; I know the Senator from North Carolina regrets it; I know the Senator from Illinois [Mr. DOUGLAS] and the Senator from New Jersey [Mr. CASE], regret it. Today, neither white nor colored show the passionate interest in casting their votes to express their views concerning the kind of government they want that we used to see in days long ago. I regret that. I am sure we all regret it. I am sure all of us want to do everything we can to repair that situation.

Mr. ERVIN. Does not the Senator from Florida recall that in 1960 the Republican candidate for President of the United States, Richard M. Nixon, was a resident of the State of California, as well as being a native son of that State?

Mr. HOLLAND. I remember that well.

Mr. ERVIN. Can the Senator from Florida give an explanation as to why 30 percent of the people of the great State of California did not take the trouble to vote in that election either for or against Richard M. Nixon?

Mr. HOLLAND. I cannot explain it; but I regret that fact, not only for California, but for the whole Nation, because the tendency prevails in too many parts of the Nation.

Mr. ERVIN. Does not the Senator from Florida know that because it had the largest electoral vote of any State in the Union all the political parties made an especially strong effort in expending money, in purchasing advertising, and in agitation of one kind or another to get the electoral vote of the State of New York in 1960, and to encourage as many people in the State of New York to vote as was humanly possible?

Mr. HOLLAND. I am sure that was done.

Mr. ERVIN. Can the Senator from Florida explain why approximately 30 percent of the people of the great enlightened State of New York failed to vote either for or against the Republican or Democratic candidates for President and Vice President?

Mr. HOLLAND. I cannot explain that, but I am sure there is no racial answer for it. It was merely a matter of apathy on the part of too many people. That apathy prevails, to an even greater degree, regardless of race. Too many people have become accustomed not to participating in government. It explains in large part the slow progress that has been made, at least in my State.

At this time I invite the attention of the Senator from Illinois—because it brings up to date the list he has been looking at—to a telegram I received yesterday from the secretary of state of Florida, showing an increase in registration in my State. I think I have mentioned it, but perhaps I have not. I shall read the telegram:

TALLAHASSEE, FLA.,
*May 1, 1964.*

Hon. SPESSARD L. HOLLAND,
*Senate Office Building,*
*Washington, D.C.:*

Total number white registered voters 1,958,499. Total number of colored registered voters 246,616. These are the figures compiled when the books closed April 4, 1964, for the May primaries to be held in Florida.

TOM ADAMS,
*Secretary of State.*

The primaries will take place next Tuesday. Under Florida law, the books close, as I recall, 4 weeks before the primary election. This is a report from the official charged by law with the duty of compiling such figures and keeping such records.

The list at which the Senator from Illinois and I were looking a few minutes ago showed that 227,000 Negroes were registered to vote as of last year. That number has now risen to 240,616. I am not trying to break that down among counties. I do not know where the increase is greater. I do not have that information.

But I do have the figure for Gadsden County, and have placed it in the RECORD. It shows an increase from 373 to 1,425.

I have also placed in the RECORD figures that show an increase in Negro registration in Flagler County which was sufficient for the Assistant Attorney General to state that the case should not have been made against Flagler County and that he was withdrawing his statement against Flagler.

Mr. DOUGLAS. May we keep the record clear? Was not the statement of the Civil Rights Commission or the Attorney General correct as of the dates designated?

Mr. HOLLAND. No; it was not correct in its conclusion. It may have been correct in its figures, but its conclusion, which showed that people had been prevented from voting because of their race, was not correct in its application to the five Florida counties I have mentioned, and certainly was not correct with reference to the counties as to which I have shown facts that have been developed and as shown by the latest records on this subject.

In the case of two of the five counties listed by the Civil Rights Commission and by the Department of Justice as denying registration rights to Negro citizens—Flagler and Gadsden—it is clearly apparent by the facts which I have shown that these statements were untrue and were made upon insufficient evidence or no evidence at all.

That is what I am complaining about. These two official agencies have made far-reaching statements without having evidence, without having made a check that they were authorized to make, and without having a factual background for the unfair and untrue conclusions which they have stated. The statements were made without the realization on the part of the Federal officials involved that the acceptance by Negro citizens of their opportunity and responsibility to register and vote is different in various parts of the State for reasons which cannot be explained. Perhaps the leadership of the Negroes has been more aggressive in some places than in others. Perhaps the cooperation of the white people has been more helpful in some places than in others. Perhaps the level of intelligence of the Negro citizens in some places has been much higher than it has in others. Lack of education is probably the reason for the slow acceptance of registration in the three small counties of Union, Lafayette, and Liberty, which remain on the list of five counties after seeing the clear facts with reference to Flagler and Gadsden Counties.

It happens that all three of these counties are small counties in which the principal economy has to do with forestry, naval stores, lumber and allied industries and where the population is small and widely scattered. For instance, in Union County, the list furnished by the secretary of state of Florida as of October 5, 1963, shows a total Negro population of voting age of only 1,082; in Lafayette County of only 152; and Liberty County 240—for a total adult Negro population in these three counties of only 1,474, whose average education and intelligence are probably well below those of the adult Negroes in most other counties in the State.

At any rate, this blast at my State, which has been one of the foremost Southern States to knock out all handicaps for Negro participation in voting, boils down to the claim that in these three counties where no surveys have been made or facts compiled, they are accused of having denied to their Negro citizens their right to vote "solely because of their race." Under the 1963 compilation, these Negroes comprise less than one-third of 1 percent of the total adult Negro population of Florida; and, as already stated, they probably contain many of the most disadvantaged Negro citizens among our total population of around 900,000 Negroes. It is completely unfair and unjust to have supposedly reputable agencies of the Federal Government make unsupported charges of this kind; and many citizens of my State deeply resent the fact that such unsupported charges have been made.

For the record, Mr. President, I call attention again to the fact that Florida terminated the poll-tax requirement for all voting in 1937, 27 years ago, and has had no literacy test, grandfather clause, or any other preferential provision as to white citizens, as compared with Negroes, in these 27 years. Both Florida Senators strongly supported the 24th amendment to the Constitution to ban the poll-tax requirement in all Federal elections; and our State legislature ratified that amendment by the vote of 105 to 3 in the house and 36 to 6 in the senate. But still these two agencies of the Federal Government have adopted the punitive and unfair policy which I have mentioned in some detail, and which makes it very clear that they proceed as zealots, always ready to suspect the worst when any showing is made, unwilling to delve into situations so as to discover what the real facts are, and completely willing to file reports and make charges and statements which show very slight comprehension of the facts, and are shown clearly to be unfair, intemperate, prejudicial, and beneath the dignity of any investigational or law-enforcement agency of the Federal Government.

Mr. President, the situation which I have discussed at some length presents one of the strong reasons why I am unwilling to continue the Civil Rights Commission as it is now set up and staffed and why I feel that it is manifestly not in the interests of peaceful solution of our racial difficulties to have the Commission continued in its demonstrated prejudiced and unfair course of action.

Particularly do I object to recommendation 3 of the Civil Rights Commission, which, by its reference to action by Congress to "assure the attainment of uniform suffrage qualifications," shows that it has little understanding of, and gives less consideration to, the provisions of section 2 of the 14th amendment, to which it refers, or to the provisions of section 2 of article I of the original Constitution, under which the subject of suffrage qualifications for the election of Members of the House of Representatives is left to the States by the provision that:

> The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

I am strongly opposed to extension of the life of the Civil Rights Commission, because of some of its recommendations on other subjects which are included within its 1963 report.

Mr. President, because of the lateness of the hour, and also because of the fact that Senators were so kind as to be willing to waive the requirement of germaneness in connection with my speech today, because it deals with title V and the objections thereto, although title V is not the pending question, and inasmuch as the speech intended to be made by the Senator from Louisiana [Mr. ELLENDER] will deal with that subject, I ask unanimous consent that I may be allowed to yield the floor at this time, and to resume my speech on title V when that particular subject is before the Senate.

**The PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

### AMENDMENTS 563, 564, AND 565

**Mr. HOLLAND.** Mr. President, because the remainder of my speech deals with subject matters which I wish to have before the Senate, and because I have already discussed the subject matter with the Senator from Minnesota [Mr. HUMPHREY], I now send forward three amendments which relate to title V of the bill. The Senator from Minnesota is having this subject carefully studied, just as I have had it studied; and these amendments deal with certain questions which at present are left indefinite by the existing wording of that title of the bill.

I ask unanimous consent that the amendments be received and printed at this time, be considered as having been read, and lie on the table.

**The PRESIDING OFFICER.** The amendments will be received and printed, and will be considered as having been read, and will lie on the table.

Mr. HOLLAND'S amendments are as follows:

#### AMENDMENT NO. 563

On page 19, beginning with line 1, strike out all through line 17 on page 25 (title V).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

#### AMENDMENT NO. 564

On page 24, between lines 11 and 12, insert the following material in double quotes:

"(c) The Commission shall cease to exist upon the submission of its final report and recommendations."

#### AMENDMENT NO. 565

On page 24, between lines 11 and 12, insert the following material in double quotes:

"(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist."

### TRIAL BY JURY

**Mr. ELLENDER.** Mr. President, much of the difficulty in making clear the intent and scope of the pending amendment was set out by Senator Joseph O'Mahoney, of Wyoming, when he submitted a similar amendment to the Civil Rights Act of 1957. In his presentation Senator O'Mahoney pointed out that the term "contempt of court" does not have a single definite meaning. It is a term used in Federal jurisprudence to cover four completely different situations. Each of these situations poses its own problem and requires its own solution.

In its most publicized or accepted meaning, contempt of court has reference to unbecoming conduct in the courtroom or so near thereto as to amount to an obstruction of the administration of justice. This is the contempt of court that the public is aware of through the TV presentation of Perry Mason. There is no doubt that this form of contempt is well understood, appreciated, and agreed with by America's TV fans. It is always evident that the type of flagrant conduct which leads to the judge's saying, "I find you in contempt of court" or some similar exhortation, would threaten the very existence of the court and judicial system if allowed to proceed unchecked. To overcome the effects of this type of action, the court must move swiftly and its punishment must be certain. The malconduct must be corrected the instant it occurs if the dignity and integrity of the court is to be maintained.

The second form of contempt of court can mean the misconduct of an officer of the court in failing to carry out court orders. This form of contempt can be considered as administrative punishment to maintain discipline among the court's attachés. It is beyond argument that the court must have immediate and complete obedience from its marshals, clerks, and other employees. In this instance, corrective action must be swiftly taken if the court is to maintain its prestige and efficiency and the respect of the people.

A third category of contempt of court is known as "civil contempt." A civil contempt proceeding is a method of obtaining compliance with an injunction or mandate issued by a court of equity. I shall return to the question of civil contempt in a moment in order to show the great and important differences between it and criminal contempt.

Criminal contempt makes up the fourth category of contempt of court, and is applied by the court as punishment for willful disobedience of an injunction or mandate of a court of equity. The crux of this matter and the essential difference between civil and criminal contempt is to be found in the word "punishment."

Both of these proceedings can be directed against a person who has been told by the court to do an act or to refrain from doing an act, and in both of them the only question open for a decision in such proceeding is: "Has the mandate or injunction of the court been obeyed?"

But—and this is an important difference between the two, Mr. President—if a civil injunction or mandate has not been obeyed, the reason or motive for the disobedience is of no account. This is reflected in the fact that, while in a proceeding for civil contempt the court may impose imprisonment and a fine upon one found in contempt, such imprisonment or fine is not given by way of punishment. It is a coercive action designed only to compel compliance and the contempt factor disappears once compliance is obtained.

In other words, the accused in a civil contempt proceeding retains at all times the key to his release from prison and to the lifting of his fine. Even after sentence has been imposed and is in effect, if the accused complies or gives his assurance of compliance to the court, his contempt is purged. His fine is lifted, and if imprisoned, he must be released. Since in cases of civil contempt the freedom of the accused depends upon the action of the accused, the need for a jury trial to safeguard his rights may not be necessary.

But this differs radically from the fourth category of contempt known as criminal contempt, which, as I said, is a proceeding to punish someone for willfully disobeying a court order. This is completely different from a proceeding in civil contempt. Its purpose is not to compel compliance with a court order or to obtain for the plaintiff the benefits prescribed by the court through mandate or injunction. A criminal contempt proceeding may be invoked even though full compliance has been obtained before the trial. Its purpose is supposedly a public purpose, dating back to the English Crown, to vindicate the dignity of the court—or the Crown—which has been flouted by the defendant. Criminal contempt need not be brought against a named individual, as I shall point out in a moment, but can be brought against unnamed persons who may aid, counsel, abet, or conspire to disobey the order.

And here is perhaps the most important point, Mr. President. In a proceeding for criminal contempt, the determining issue is the state of mind or the intent of the defendant in the proceeding. I said as much earlier when I used the word "willfully" as a necessary part of the criminal contempt definition. When we speak of something being willful, we are looking more at a man's motives than at his actions.

This issue of motivation or intent or willfulness is one which our system of law regards as being necessary for a jury to determine. And the purpose of the criminal contempt proceeding is punishment, which is even more important.

Punishment is an element and end of the criminal law. While a criminal contempt proceeding may not be accepted as a true criminal proceeding, at the very least it is quasi-criminal in nature. The act which constitutes the criminal contempt may be in fact a crime under either Federal or State law, or both. In Federal cases, the spirit, if not the letter of our Constitution, requires a jury trial in these circumstances.

As the late and learned Senator from Wyoming said in 1957, and I quote:

> Providing a jury trial for criminal contempt will in no way hinder the court from using every available means to effect compliance. It will only mean that the court may not punish until a jury of the defendant's peers have adjudged him deserving of punishment.

I continue:

> From our studies and discussions we have become convinced that the principles we have been discussing are not limited in their application to criminal contempts in proceedings which may arise under the provisions of the bill now being considered. They are principles of universal application, and should govern all criminal contempt proceedings in equity.

As we all know, the Senate voted overwhelming in favor of the O'Mahoney amendment to the 1957 Civil Rights Act. But in conference it was seriously weakened—an action which I strenuously objected to at that time. I did not see then, and do not see now, how the Congress could in effect attach a price tag to the basic right of trial by jury.

Now, Mr. President, I have often heard it said on the floor of the Senate that the history of jury trial in our system of criminal law goes back to the fields of Runnymede, when the English barons wrested the Magna Carta from the despotic King John in 1215. This is only partly true, at best, as it stands alone. The institution of trial by jury goes back at least to ancient Greece where it will be recalled that a jury of 400 filled the cup of Socrates with hemlock. The institution was well known to the Romans who brought it westward to the Normans in France and ultimately to the Britons. The tribunals of ancient Germany showed the early development of the jury system and while the institutions of the emerging Britons, coupled with the system developed by the Saxons and Anglo-Saxons, show some concern with various forms of jury trial, many scholars say that this most important principle of jurisprudence did not take real root in the British Isles until after the advent of William the Conqueror in 1066. But, as the identity of those to be credited as the true purveyors of the institution of trial by jury is lost in history, it can be truly said, as M. A. Lesser does in his volume, "History of the Jury System," that—

> The jury trial is a matter of growth, the result of the needs of the community in which it originated; and an institution which "does not owe its existence to any positive law; it is not the creature of an act of parliament establishing the form and defining the functions of the new tribunal. It arose * * * silently and gradually out of the usages of a state of society which has forever passed away."

In any event, and whether rightly or wrongly, Anglo-Saxons have long looked on the institution of the jury trial as an Anglo-Saxon development and our writers have taken pride in pointing out that wherever the Anglo-Saxons have migrated, they have carried with them and implanted the freeman's institution of trial by jury.

In the course of researching this question, I ran across several unusual features of trial proceedings as developed over the years. For instance, in the early days of English law the judges themselves, as well as the accused, were punishable for errors in law. This feature was a modified survival of the old Saxon practice of requiring judges to defend their judgment by duel. This practice was in vogue in the early 1200's where many references are found to judges' erring, making a false judgment, and therefore being punished. To my mind, and in the present circumstances, this system had much to recommend it.

And, of course, it is well known that it was once the practice to fine an imprisoned jury if they handed down evictions or acquittals thought to be perversed by the court. As late as 1666 an English judge fined a jury 5 pounds each for bringing in a verdict of manslaughter when he had directed them to find murder. A year later the same judge went to the extreme of fining 11 grand jurors the equivalent of $200 each for refusing to bring an indictment for murder. The defendant in this last case brought the question before the House of Commons, which, after hearing the Chief Justice, in his own defense, condemned the finding and imprisonment of jurors as illegal by resolution. Of course, the most famous and important case of this sort occurred in 1670 with a juror named Bushell, one of the men who had been fined and imprisoned for acquitting William Penn on the charge of taking part in an unlawful assembly. In this memorable case, Chief Justice Vaughan ordered Bushell's discharge from custody and handed down an opinion which ended the fining of jurors for their verdicts and "vindicated their character as judges of fact."

It is generally considered that the Anglo-Saxons' criminal or trial jury grew out of the accusatory tribunal, which was first found to be present during the term of the Saxon King Ethelred III, who ordained:

> Let an assembly be held in every (township) and the XII senior thanes go out * * * and swear on the relic that is given them in hand that they will accuse no innocent man nor conceal any crime.

There is little to be found in history concerning the introduction to the trial of criminal cases of two juries. As one legal historian has said, "While it is undoubtedly one of the most important, yet it is certainly one of the most obscure and inexplicable points of the law of England." A German legal historian quoted by Lesser in his "History of the Jury System," says:

> The criminal jury—i.e., the body deciding the question of guilt or innocence of an accused—"consisted originally doubtless of the same persons who formed the accusing (now termed the grand) jury. Later, however, a jury was specially summoned and impaneled for rendering a verdict, and the custom arose to reject for this purpose all persons who had already officiated as members of the accusing jury in the case—which principle of rejection received (in 1352) legislative confirmation under Edward III."

During this early period this assembly of 12 was to act the part of public prosecutors, and the accused had to clear himself by the usual method of compurgation or else had to submit to trial by ordeal. By compurgation is meant that the accused had to find public witnesses to swear before the court as to the character and innocence of the accused.

There slowly evolved over the years the recognition that the trial of an accused person by a grand jury, that is to say, by the jury making the accusation, was seriously lacking in objectivity, but this system was no doubt far superior to the trial by ordeal, which was common during the last quarter of the 12th and in the first quarter of the 13th century. The abolition of trial by ordeal was accomplished in 1215, the year of Magna Carta. And because of the great difficulty of securing perfect justice by the grand jury method I have just referred to, a second or trial jury was developed to pass on the actual guilt or innocence of the accused.

It was during the reign of King John that we first begin to trace the use of criminal juries to pass on the actual guilt or innocence of persons accused of crime. At first it seemed to have been procured by the accused as a special favor from the Crown. A fine or some gift of consideration was paid in order to purchase the privilege of a trial by jury. Thus we see, Mr. President, that even in the dawn of Anglo-Saxon jurisprudence, trial by jury was much sought after, at least by persons who could afford to pay the price.

Its many advantages to the public at large were well recognized, and Englishmen were quick to insure that the jury trial should not remain listed as a privilege of the rich. Article 36 of Magna Carta declared that such writs of trial by jury "shall no longer be sold but be of right." By the end of the 13th century the trial by jury in criminal cases had become usual and many historical references are found as to the form of the proceedings.

From these records we gain many glimpses of early justice and its evils. It goes without saying, of course, that the evidences of these evils gave rise to much of the body of law that we have today. Included in this is necessarily a great deal of our Constitution.

For instance, the fifth amendment prohibition against self-incrimination is at least partially rooted in the following circumstances: In 1217, the Statute of Westminister provided that "notorious felons who will not put themselves on inquest for felonies shall be put in strong and hard imprisonment as refusing the common law of the land."

In other words, the felon might refuse to be tried by jury or would decline to plead guilty or innocent. This was known as standing mute to the charge, but the penalty of imprisonment was one of the least vindictive of those employed against persons who did not choose to incriminate themselves.

Another penalty is as follows:

> That the prisoner be remanded to the prison from whence he came; and put in a low, dark chamber; and there be laid on his back, on the bare floor, naked, unless where decency forbids; that there be placed upon his body as great a weight of iron as he could bear, and more; that he have no sustenance, save (on alternate days) * * * three morsels of the worst bread, and * * * three draughts of standing water * * *; and in this situation remain "till he died or till he answered." This penalty was to be imposed "without any distinction of sex or degree."

These barbaric practices were endured by many prisoners, often innocent, but who were apprehensive of a miscarriage of justice. In view of the fact that one not formerly adjudged guilty did not forfeit his lands to the crown, many persons chose this way of death to provide for their heirs. Senators will recall that instances of this exact practice were recorded during the Salem witchcraft trials in our own early history.

Since these trials are relevant to our discussion, not only because they show the need for the fifth amendment as it grew out of English history, but also because those trials were conducted under conditions very similar to the outrageous star chamber, I should like to mention a few of their aspects. It will be recalled that those witchcraft trials, as well as the perfidious star chamber as it came to be conducted, indicate very clearly both the need for an everlasting protection of the right of trial by jury, and the danger inherent in allowing one judge, or group of judges, too much power to mete out criminal punishments.

The beginnings of these witch trials, which history shows stretched over a period of about a year, seem to have been begun by a Salem minister, educated at Harvard, and a former West Indies trader. Salem had had trouble keeping preachers, principally because of a feud between the leading families of the town and the church. When Samuel Parris took over the church, he evidently decided to take local minds off petty affairs, and turn them to witchcraft.

His was not the first such action. Apparently the first trials for witchcraft in New England took place in Connecticut, where in 1647 a citizen was hanged for "infernal practices." In Boston, a washerwoman was executed in 1688.

Cotton Mather, the eminent New England preacher, had published his "Memorable Providences" which stated:

> Go tell mankind that there are devils and witches; and that though these nightbirds least appear where the daylight of gospel comes, yet New England has had examples of their existence and operation.

Later, Mather told of a "horrible plot against the country by witchcraft which, if it were not seasonably discovered, would probably blow up and pull down all the churches in the country."

Interest was quickly generated in Parris' undertaking. Prompted by testimony of several Salem children—one of whom was Parris' daughter—the search for witches began in earnest.

Beggars, old women, even prominent citizens were denounced. Petty enmities began to have diabolic aftermaths. Dying cattle, perishing harvests, physical ills were charged to the presence of nearby witches. Ancient grudges revived, and happenings of 10, 20, and 30 years back were recalled with new and dire significance.

The jails overflowed with prisoners, awaiting the arrival of the new Governor of Massachusetts, William Phips, from England. Salem prison was filled; cartloads of the accused were sent to neighboring jails in Ipswich and Boston. Essex county was divided into three parties—the accused, the accusers, and the judges.

Finally the Governor arrived, and advised by Cotton Mather and his father, Increase, a commission was appointed. Among those named to this board was a "Major Nathaniel Saltonstall"—by the way, Nathaniel Saltonstall was a relative of our own distinguished Senator from Massachusetts, Mr. LEVERETT SALTONSTALL—who resigned after the first session because he did not agree with the way the proceedings were being conducted.

The first case came to trial on June 2, 1692.

Bridget Bishop was accused of witchcraft. Indictments were read, testimony taken, and Bridget Bishop was condemned to death by hanging.

From Francis Winmar's "Puritan City," we learn that the whole town turned out to see the execution. No prayers were said for the condemned woman:

> She was a witch, and she must die. In a shallow hole among the rocks, her poor body was thrown like so much offal.

But the countryside was still plagued by witches, and the trials continued. On July 19, five women were executed at the same time. One of the victims, Rebecca Nurse, had been found not guilty by the jury. Justice William Stoughton, however, reversed the verdict and the Governor refused to grant a reprieve.

On August 6, 1692, six more were tried for witchcraft and by the night of August 19 all were dead except one. A Mrs. Proctor had her sentence remanded because she pleaded pregnancy.

Among the group was a Rev. George Burroughs. After the execution, his body "was cut down and dragged by the halter to a hole among the rocks. His shirt and breeches were pulled off and replaced by an old pair of trousers belonging to another one of the victims. In the grave all the bodies were thrown and all so hastily covered that one of Burrough's hands, his chin, and a foot of one of the others showed through the soil."

No compassion or respect was dared in these deaths. The delusion had become a mass frenzy.

On September 6, six more were tried and sentenced to death; on the 17th, nine others were condemned with them. But on the 15th, only nine were executed. But for the fact that a citizen, Giles Cory, refused to plead, there might have been 10. His wife was one of those hanged.

> Giles Corey had not escaped, however—

According to Mr. Winmar—

> 6 days before his wife came to trial, he had been subjected to the piene forte et dure provided by English law for those who refused to plead. Blackstone is explicit on the method of procedure. The victim must be brought to a dark chamber of the prison "and there be laid on his back on the bare floor naked." The law further provides that "there be placed upon his body as great a weight as he could bear, and more, that he hath no sustenance, save only on the first day three draughts of standing water * * *." The treatment continues until the sufferer either pleads or dies.
>
> Corey did not yield. As he was dying and his tongue protruded from his mouth, the sheriff forced it in with his cane. Robert Calef in his "More Wonders of the Invisible World," gives the date of Corey's death as September 16. It had taken the victim 3 days to die.

The situation grew worse instead of better. Although 20 had paid with their lives and there were still about 150 waiting in prison for trial, with some 200 others suspected, more and more citizens were being arrested. John Alden, an Indian fighter, naval commander, and a son of the famous John and Priscilla, had already been examined in Salem and committed to Boston prison. Philip English, the wealthiest shipowner of Salem, had been charged. His property had been confiscated. They escaped death only by fleeing to New York—of all places.

Mr. CASE. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. CASE. The Senator's comment, I am sure, will be excised, because it is probably a violation of the rule of the Senate which prohibits derogatory reference to a State.

Mr. ELLENDER. I did not mean any derogation. It is a fact. The truth may hurt, but it is a fact. The probable reason why the culprit did not go to New Jersey was that New Jersey practiced the same thing. I believe New Jersey had the first hanging of a witch.

Mr. CASE. The Senator from New Jersey always listens attentively to the remarks of the Senator from Louisiana, but he will do so particularly to the Senator's instruction on the history of New Jersey.

Mr. ELLENDER. At last the wife of Governor Phips was accused, and a popular reaction began to set in. Before the end of October 1692, the Governor had dismissed the court.

But later, with the Governor's permission, a special court was seated in Salem. Increase Mather was ex officio supervisor, and the court was reminded that it was possible for the Devil to carry out his work in the shape of an innocent person.

Fifty-two persons were tried by this special court. Only three were condemned. But the people cried out against this, asking that the three be released. The chief magistrate, however, signed a warrant for a quick execution. Governor Phips ordered a warrant for their reprieve. This, for all purposes, ended the Salem witchcraft trials of 1692. Twenty persons had been executed in less than a year.

Of the many ministers and scholars of New England, none raised his voice to condemn the past actions of the special courts. There was one man, however, who protested in writing. Robert Calef, an English-born merchant, answered Cotton Mather's "Memorable Providences" in 1700. Yet it had to be published in England. There was not an American willing to make the print. Mather rose up and cried for vengeance, but later satisfied himself with burning the book on the grounds of Harvard College.

New England tried to wipe out the blot. Days of humiliation and prayer were held; the records of the trials were secretly destroyed. In 1703 the general court voted indemnities to the heirs of all those executed and condemned.

From volume III of the "History of Salem, Mass.," by Sidney Perley, an interesting sidelight is thrown on those troubled times. A superstition prevailed in England in ancient times that a baby or young child would be immune from witchcraft if he were passed through a hole in a rock or something else where the symbolism would be similar. A tree stood some time after the witchcraft episode—in New England—between the crevice—a local landmark—and what is now Proctor Street, which had a pecularity of having the trunk divided just above the ground. About 2 or 3 feet higher the two parts grew together again, and became apparently a single body. How prevalent this ancient practice was in New England was uncertain, but babies were passed through this tree for that purpose for a long time, the last child being Henry Safford, who was born in 1793 at 69 Boston Street, in Salem.

I remind Senators that this was in our own country, in Massachusetts, in Boston, near where the great Harvard University now stands.

The practice of punishing for standing mute was done away with in England in 1772. But, in its place it was provided that all who refused to answer to the offense charged would be held convicted as if by verdict or confession and should be punished accordingly.

Thus, Mr. President, we know that the advent of the jury trial itself did not do a great deal to assure the accused justice, for in the early days it was just as subject to political pressures as it is now. I will indicate this by reading a short passage from Lesser's "History of the Jury System":

> According to Hargrave anciently, and especially in the reign of Henry VIII—Carlyle's "Hateful Harry"—when the influence of the Crown was at its zenith, "to be accused of a crime against the state and to be convicted, were almost the same thing."
>
> A conspicuous exception to this rule was the case of Sir Nicholas Throckmorton tried in 1554 for high treason, and who conducted his own defense with consummate skill, energy, and presence of mind; for the common law right of a party to appear by counsel did originally not extend to treason or felony—on the singular assumption that the judges (the creatures of the Crown) would amply advise and protect the prisoner, and the curious reasoning that if he were guilty he ought not, and if innocent need not, have professional advice.
>
> As a matter of fact, in this case, as was the rule in those days, court and prosecution combined to contrive the conviction of the prisoner "by persuasions, enforcements, presumptions, applying, implying, inferring, conjecturing, deducing of arguments, wresting and exceeding the law, the circumstances, the depositions and confessions."
>
> But the jury was made of sterner stuff than usual, and after deliberating 2 hours, acquitted the prisoner. Bromley, Lord Chief Justice, then descended to the level of remonstrating with them, but in vain; and (whereas Griffin, Attorney General, had asked that each juror be bound in the sum of £500 "to answer to such matters as they shall be charged with in the Queen's behalf") the court went to the extreme of emphasizing its dissatisfaction with the verdict by committing the jury to prison.
>
> Finally "eight of them (four having submitted and apologized) were brought before the Star Chamber in October (6 months and more after the trial) and discharged on the payment by way of fine of £220 apiece, and three, who were not worth so much, of £60 apiece." (Stephen, History Criminal Law, c. XI.) The fine of the foreman and another juror had at first been fixed at £2,000.
>
> It is worthy of note that the reverse of this procedure sometimes occurred. Thus Sir Thomas Smith (temp. Elizabeth) mentions a jury whose members were both imprisoned and heavily fined for convicting a defendant of treason. Another notable acquittal was that of the Seven Bishops in 1688, the verdict wherein finally vindicated the independence of the Church of England from pontifical supremacy.

But there is no question that it far outweighed the earlier methods of ascertaining guilt or innocence in the accused, especially the trial by ordeal. The same volume also includes a section on this form of trial, which I should like to read:

> Where the compurgators coincided in a favorable declaration, there was a complete acquittal. But if the accused was unable to present a sufficient number of these purgers; or, "if the party had been before accused of larceny or perjury, or had otherwise been rendered infamous and was thought not worthy of credit—he was driven to make out his innocence by an appeal to heaven, in the trial by ordeal," which was practiced either by the boiling water or the red-hot iron; the former being supplied to the common people, while the latter was reserved for the nobility. The nature of this institution is so curious and interesting, and its peculiarities throw so much light on the character of that age, as to warrant a fuller consideration of this primitive predecessor and sometime competitor of our criminal jury.
>
> If the accused was sentenced to undergo the ordeal by hot water, "he was to put his head into it or his whole arm, according to the degree of the offense: if it was by cold water, his thumbs were tied to his toes, and in this posture he was thrown into it. If he escaped unhurt by the boiling water (which might easily be contrived by the art of the priests), or if he sunk in the cold water, which would certainly happen, he was declared innocent. If he was hurt by the boiling water or swum in the cold, he was considered as guilty."
>
> Where a noble was called upon to subject himself to the ordeal by the hot iron, the hand of the accused—to quote the same authority—"was first sprinkled with holy water; then taking the iron in his hand he walked 9 feet. The method of taking his steps was particularly and curiously appointed. At the end of the stated distance he threw down the iron and hastened to the altar; then his hand was bound up for 3 days, at the end of which time it was to be opened, and from the appearance of any hurt or not he was declared, in the former case, guilty, and in the latter, acquitted."
>
> Another instance may be quoted from the history of Hume. "When any controversy about a fact became too intricate for those ignorant judges to unravel, they had recourse to fortune; their methods of consulting this oracle were various. One of them was the decision by the cross. * * * When a person was accused of any crime, he first cleared himself by his oath, and he was attended by 11 compurgators. He next took two pieces of wood, one of which was marked with the sign of the cross, and, wrapping both up in wool, he placed them on the altar or on some celebrated relic. After some prayers for the success of the experiment, a priest, or in his stead some inexperienced youth, took up one of the pieces of wood, and if he happened upon that which was marked with the figure of the cross, the person was pronounced innocent; if otherwise, guilty."
>
> It will be observed that it was the priests who had charge of administering these tests of innocence, and they doubtless reaped a rich harvest from the monopoly of this privilege, commensurate with the wealth and the guilt of the accused. And there was still another species of this form of trial, which, as least likely to cause any harm, was generally employed by the clergy to purge themselves when one of their own members was accused of a crime, and which was called "The Corsnaed, or ordeal of the accursed morsel. This consisted in making the accused person swallow a piece of bread," placed

> on the altar with great ceremony and preparation, and "accompanied with a prayer that it might choke him if he was guilty. Godwin, the powerful Earl of Kent and father of Harold, was currently believed to have died in the act."

This test of innocence was confirmed almost exclusively to members of the clergy, who seem to have taken the attitude that the church was above the law. Today, Mr. President, I daresay we see much of the same attitude in regard to the civil rights bill. Some churchmen say there is a great moral issue involved and God demands equal justice be meted out to all. Of course, I agree that everyone should receive equal justice. However, the passage of the pending bill is being advocated by churchmen, irrespective of the consequences that its enactment will have on our Constitution.

Mr. President, I hope that I will not appear sacrilegious in making this remark, but it occurs to me that to the average citizen of our country the Constitution is comparable in legal context to the Bible in its spiritual and religious context. In other words, our citizens look to the Constitution for the protection of their cherished rights of personal liberty in much the same manner as they look to the Bible for their spiritual guidance and protection.

As I have indicated, Mr. President, although some scholars believe that the English jury was introduced originally as a "matter of favor and indulgence," there is no doubt that the jury system gained ground with advancing civilization and gradually superseded the more ancient and barbaric custom of battle, ordeal, and wager of law until at length it became both in civil and criminal cases the ordinary mode of determining the facts for judicial purposes. And this lesson of the ages, Mr. President, is trying to be unlearned or forgotten by some of the proponents of this so-called civil rights bill, who will at one fell stroke abridge almost a thousand years of English history.

Do they realize what they are attempting to have done by the terms of this bill? Do they realize the issues involved? I cannot believe so, Mr. President. I cannot, I will not believe that those seeking to expand this dangerous inequity of criminal contempt proceedings under the guise of civil rights legislation would pursue their ends further if they could only be made to bring their objectives into sharp and clear focus. The objectives are now blurred by emotion, and, yea, by fear of continued strife and lawlessness.

I cannot believe that they really desire to expand to the utmost the power and responsibilities of our Federal judges when history so clearly points out the danger and fallacy of such a course.

I cannot believe that in the course of their training the proponents ever read the memorable speech delivered by Lord Henry Brougham before the House of Commons in February of the year 1828. Lord Brougham was a famous statesman, scholar, and author, and one of the founders of the Edinburgh Review.

They must have never read that speech; or if they have, then no attention was given and the words were forgotten. But Lord Brougham's "Speech on the Present State of the Law," is a powerful document, and the words it contains do not deserve to be forgotten. I quote several passages from it here:

> Speaking from experience, and experience alone, as a practical lawyer, I must aver that I consider the method of juries a most wholesome, wise, and almost perfect invention, for the purposes of judicial inquiry. In the first place, it controls the judge, who might, not only in political cases, have a prejudice against one party or a leaning toward another * * * or, what is as detrimental to justice, their counsel or attorneys. In the second place, it supplies that knowledge of the world, and that sympathy with its tastes and feelings, which judges seldom possess and which, from their habits and station in society, it is not decent that they should possess, in a large measure, upon all subjects.
>
> In the third place, what individual can so well weigh conflicting evidence, as 12 men indifferently chosen from the middle classes of the community, of various habits, characters, prejudices, and ability? The number and variety of the persons is eminently calculated to secure a sound conclusion upon the opposing evidence of witnesses or of circumstances.
>
> "The system is above all praise—it looks well in theory and works well in practice * * *. I would have all matter of fact, wheresoever disputed, tried by a jury. * * *
>
> "In my mind, he was guilty of no error—he was chargeable with no exaggeration—he was betrayed by his fancy into no metaphor, who once said that all we see about us, king, lords, and commons, the whole machinery of the state, all the apparatus of the system and its varied workings, end in simply bringing 12 good men into a [jury] box. Such—the administration of justice—is the cause of the establishment of government—such is the use of government; it is this purpose which can alone justify restraints on natural liberty—it is this only which can excuse constant interference with the rights and the property of man."

Mr. President, I have often heard the term "star chamber" used on the floor of the Senate in recent days. I myself have used it in the course of this address. I think it is important that Senators realize just what is meant by the term and indeed the terrors it once held for the people of England. This is important because the contempt of court proceedings which would be so drastically expanded under the terms of this bill as written are very similar to the old and dreaded star chamber proceedings.

The star chamber flourished in England between 1500 and 1641, although there is some doubt as to its actual beginning. It is generally considered that a committee of the King's council was established to sit in judgment of matters outside the common law, by a statute of Henry VIII. The council became identified with the starred chamber at Westminster, where it sat. It is thought that the council took the name of star chamber from its location, but scholars have disagreed on this point.

Under the original statute of Henry VIII, the Lord Chancellor and two judges would constitute the law enforcement committee.

As I shall point out in a moment, the original purpose of the star chamber was far different from that purpose with which our legal historians have come to know it. It was only during the last years of its existence that star chamber proceedings earned the disregard which we have come to attach to it. It was established to extend the King's justice as a "protector of the weak against the strong, of the commonalty against aristocratic oppressors." As I mentioned earlier, the King's council was to handle cases not remedied by the common law, and the council operated outside the rules of common law procedure. This, as might have been foreseen, led to many abuses. I can foresee the same chain of events being formed today.

The jurisdiction of the court of star chamber was defined by Pendleton Howard in "Criminal Justice in England," as follows:

> The star chamber took notice of such offenses as riot, forgery, maintenance, perjury, fraud, slander, and conspiracy, crimes which were for the most part unknown to the early common law.

As I said, because its procedure lay outside the common law, it was only a matter of time before extremely abusive practices became evident, especially to its victims. Juries were dispensed with; torture and terrible punishments—except death—were applied. Even as the Federal judiciary, working through criminal contempt procedure without benefit of jury, the star chamber became the weapon of royal displeasure against political opponents. I wish to point out here that the star chamber was originally established to further the "public policy," just as we are being told today that the criminal contempt and injunctive powers now proposed to be vested in the Federal judges and Attorney General are also necessary to further the "public policy."

During the last century of its existence, ruthless severity began more and more to accompany the star chamber proceedings. And as it was thrown more and more into politics, it began to exercise jurisdiction far outside the bonds of legality.

The records of one William Hudson, who was a practicing lawyer of the times, and who studied the star chamber and its procedure, tell us as follows:

> The person accused or suspected was immediately apprehended, and privately examined. If he confessed any offense, or if the cunning of his examiners drew from him, or his own simplicity let fall, any expressions which suited their purpose, he was at once brought to the bar, his confession or examination was read, he was convicted, ex oro suo, and judgment was finally pronounced against him. Imagination can scarcely conceive a more terrible judicature.

From other records we know that to obtain the little evidence it felt necessary for its judgments, the Court of Star Chamber would send out various and sundry commissions to collect hearsay reports from the countryside or to obtain witnesses. I point out, Mr. President, that we already have a very good parallel of this procedure in our present-day government. If the examination of a party was held by the commissioners while roving the countryside, restrictions were supposedly placed on the methods of examination which could be used. But the witnesses could be imprisoned for refusing to testify, even before the commissions. I am glad to say that we have not yet gone this far; but the pending bill would carry us a great distance along the way.

In order that Senators may know more fully the procedure followed inside the star chamber itself, I shall read a few excerpts from a treatise entitled "Court of Star Chamber," written by Cora L. Schofield.

> A prosecution in the Court of Star Chamber usually began with a bill of complaint entered by the plaintiff. Hudson says: "All bills in this court are to be directed to the King's majesty." This was the ancient usage in causes brought before the Council, but sta. 3 Hen. VII, c. 1, had directed that the bill be put to the Chancellor, and the Star Chamber bills of the reign of Henry VIII are addressed indifferently to the King or to the Lord Chancellor—in some cases they are even addressed to the Lords of the Council. In the bill the plaintiff set forth his grievances (he must be careful that his bill did not charge the defendant with crimes not punishable in the Star Chamber, for in that case he was liable to indictment for slander) and asked that a writ of subpœna be issued calling the offender or offenders before the Court on a day to be named in the writ. If the defendant did not appear within a certain number of days, a writ of attachment then issued to the sheriff of the county in which the delinquent dwelt, to bring him to the Court, and, if this failed, there followed a proclamation of rebellion, directing that the defendant be apprehended if found, and this in turn was followed, if it proved insufficient, by a commission of rebellion directed to six commissioners named by the plaintiff for the apprehension of the defendant. The commission of rebellion failing, the last resource of the Court was to send forth a serjeant at arms with powers of search.
>
> The defendant, unless specially excused, was required to appear in person at every session of the Court until he was discharged. He had eight days from the day of his appearance, inclusive, to bring in his answer, but if he "cannot answeare without sight of Writings remayning in the Countrie upon Affidavit thereof he shall have the beginning of the next terme to appeare againe and make answeare so that he make his affidavit before Attachment be awarded for not appearing." If the defendant refused to answer, and imprisonment did not bring him to see his error, the plaintiff then moved to have the bill taken pro confesso. The defendant having put in his answer, the plaintiff had four days in which to draw up interrogatories for the examination of the defendant, at the end of which time, if the interrogatories had not been exhibited, the defendant was admitted to attorney and licensed to depart. The answer put in and the examination made, the plaintiff had all the next term to put in his replication, to which the defendant then rejoined. * * * The parties next produced their witnesses, to be examined by the examiner of the Court or joined in commission for the examination of witnesses. When this work had been completed, the depositions were published, and the plaintiff went to the clerk to have the cause entered in the general book of hearing, to await there the Lord Chancellor's appointment of the day of hearing.
>
> If the plaintiff found that in the answer and examination the defendant had confessed "matter sufficient for the Court to ground sentence upon," he could waive all further proceedings and bring the cause to hearing upon the defendant's own confessions. At this hearing nothing was read against the defendant except his own confessions, and he was allowed counsel for his defence. If the defendant refused to answer the plaintiff's bill, he was committed, and the Court gave him a certain time to answer or be taken pro confesso. If he continued obstinate, the Court held him to be guilty and at the hearing at once meted out his punishment.

Mr. President, I cite these instances just to show the extent to which some of the judges of the court of star chamber went in order to find persons guilty. If the pending bill were to be enacted in the form in which it is now before the Senate, there is no question that many innocent persons who would not have a chance to defend themselves before a court, could be enjoined, with others, without even knowing that a charge had been lodged against them. The judge could send them to jail, if he so desired.

So, Mr. President, I hope the Senate will adopt the Talmadge amendments. But if the Talmadge amendments, as presented, are not adopted, I hope the amendments proposed by the distinguished Senator from Kentucky [Mr. Morton] will be adopted. If that is done, any person accused of criminal contempt will at least have a chance to be tried by a jury of his peers.

Mr. President, as I have already pointed out, it was not long before the first, elaborate form of procedure in connection with the court of star chamber was replaced by a much more summary form of treatment of the accused.

A suspected person was on many occasions, and in direct violation of the King's law, apprehended without the form of a bill and examined in secret under torture or threat of torture. When the accused confessed and was brought to the bar after such examinations, the attorney general then set forth the charge. The defendant made what excuses for himself he could. The court then proceeded at once to hand down the sentence and charged the victim only on his confession. I continue to read from the treatise by Cora L. Schofield:

> The usual punishments inflicted by the court were fine and imprisonment, accompanied, in many instances, with some corporal punishment, such as the pillory, nailing, or cutting of the ears, branding, whipping, slitting the nose, wearing in public places papers indicating the offense committed, riding around Westminster Hall with face to the horse's tail, etc. The infliction of such corporal punishment was not peculiar to the Stuart days of the star chamber. The victims of the court even in the reign of Henry VIII knew what it was to sit in the pillory, to be branded, to lose an ear, to wear papers, and to ride a horse in ignominious fashion. The famous sentences pronounced by the court during the frenzy of the reign of Charles I were not much more severe than some which were pronounced by it in Elizabeth's reign.

Mr. President, I have attempted to point out how closely the court of the star chamber and the contempt of court procedure as envisioned in this bill parallel one another. Suits brought before the star chamber were outside the common law, just as will be, in fact, suits brought under the supposedly "civil suit" provisions of the pending measure. Justice dispensed by the court of star chamber was meted out in the name of the King or the Crown; punishments handed down for criminal contempt violations will be for the satisfaction of the National Government.

The star chamber was created for the beneficial purpose of "furthering the public policy," just as we are told that the injunctive and contempt power of the Federal judiciary must be greatly increased for the same purpose. I have also shown how this beneficial purpose was not long in deteriorating to serve ends that were blatantly political. The worship of justice turned to the worship of mammon.

I point out that, while there is always a slim chance of this happening under the jury system, that chance is very greatly reduced.

The state that I have been describing came about because too much power—the power to convict and inflict terrible punishment on men in the name of judicial punishment—was concentrated in a very few individuals. It was concentrated and the jury box of "12 honest peers" was not allowed to check its exercise.

Before I leave the subject of the court of the star chamber, I would like to indulge in one final passage from the Schofield work. This short excerpt sums up very succinctly the conditions which brought the star chamber about, the condition to which the star chamber sank, and the reasons therefor. I quote as follows:

> The Crown did not cease to find the court of star chamber useful even after Henry VII had got his kingdom well in hand. On the contrary, its usefulness was developed as time went on, until it became so important and so infamous a tool of the state that there is a tendency to forget that the star chamber was anything but a powerful instrument of tyranny used to crush those who had fallen, justly or unjustly, under the suspicion of the Crown. Yet this court probably exercised at first a really beneficial influence, and the numerous suits brought before it at all times by private individuals no doubt received an impartial hearing. The same impartiality, however, was not to be expected in the case of suits which bore upon affairs of state, when the judges themselves were in reality party to suit. That the star chamber fell into ill repute, and that its name still remains a synonym for tyranny, is due to the political and financial ends which it was made to serve.

Do Senators think I am indulging in this effort for idle purposes? Are Senators saying to themselves that he is going far back into antiquity to find arguments against this bill and in favor of the jury trial amendment, that the data which I am presenting is no longer relevant? If such is the case, Mr. President, they are sadly mistaken.

I am seeking merely to sketch this outline to put this matter in its proper context, to show that the question with which we are dealing today has been dealt with time and time again over the centuries and always the outcome is the same. The conclusion is always reached that, while other systems seem to have a glossy finish of easy justice and while in the beginnings these systems may function as intended, it is just a matter of time before they become corrupt and begin to decay. And usually they take the lives and fortunes of a thousand victims with them.

If I have delved into history too deeply in order to prove this point, let us bring the story forward; let us move it out of England to our shores here at home. Senators will recall that we have made the trip once before by showing the parallel between the star chamber and the witchcraft trials at Salem. We have seen how, out of such happenings as occurred at Salem, grew the fifth amendment that is a part of our Bill of Rights today. But let us come forward in history; let us come forward from the days of English King Charles to the days when economic kings ruled the courts of our own Nation's history. Let us stop for a moment in the year 1883.

Senators may think I am choosing this year to point out the enlightened action of the Supreme Court in striking as unconstitutional the public accommodations law of 1875. But such is not the case.

The year of 1883 was the year Jay Gould and his cohorts were busily milking the country under the doctrine of laissez faire. It was a day which we do not generally think of as giving cause for alarm over a corrupt judiciary.

There was, however, a judge in New York who held a session of court in his private office at an unusual hour without benefit of jury. The case was, I presume, a civil action, but that is of no matter here because the principle is the same. The decision of that judge, sitting alone in his parlors, just as Federal judges all over the country will soon be sitting if this bill is enacted as written, passed down a sentence which created a storm of controversy. I remind Senators that the case involving Mr. Gould and his manipulations was one of business and gold, not of men's reputations or freedom.

Commenting on the outcome of the case, the New York Times of June 23, 1883, wrote as follows:

> Does anybody think that, because there have been these failures (on the part of juries to render correct verdicts), the administration of justice would be more secure in the hands of selected judges? Consider the bench as it has been constituted in this city.

And "this city" refers to the city of New York.

> It is not long since judges, sworn to hold the scales of justice with an even hand gave decisions in the interest of public robbers, and for the distinct purpose of facilitating the schemes of sharpers engaged in plundering corporations.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD the entire editorial which appeared in the New York Times of Saturday, June 23, 1883, entitled "Trial by Jury." That editorial comments very forcefully on trial by jury and the necessity for it.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### TRIAL BY JURY

In some aspects of the matter, it is, perhaps, a good thing that there is deeply fixed in the Anglo-Saxon mind an almost unshakable reverence for trial by jury. The verdict of a jury is popularly supposed to be well-nigh a divine utterance, incapable of modification or criticism—infallible. Nevertheless, it must be admitted that this superstitious belief sometimes receives a severe shock. In San Francisco, a few years since, a married man whose wife and family were temporarily sojourning in one of the Eastern States, and who was living with a women who was not his wife, virtuously resolved to shake off this degrading alliance. He sent for the family from whom he had been so long separated, told his paramour that he had arranged for her future comfort, and that she should applaud his determination to care for his wedded wife. The woman had always known of his marriage, but she was resolved that he should not leave her. She bought a pistol, practiced at shooting at a mark, and when her former paramour arrived with his wife and children, she met him on the ferryboat and shot him dead in the presence of his family. The facts as here narrated were established beyond a peradventure during the trial. The slayer was acquitted by the jury. So far as is known, no man ever attempted to justify what was conceded to be a coldblooded and wicked murder. No man ever explained the action of the jury.

The Dukes case was a more recent instance of the inexplicable mystery of a jury's verdict. In the San Francisco case just cited the defendant was a woman whose fancied wrongs may have possibly aroused a feeling of sympathy in the too susceptible bosoms of the jurymen. In the Dukes case the prisoner at the bar was, by his own account, a rake, a debaucher of women, and was believed to be guilty of the foulest slander that can be leveled at the good name of a woman. If there was a spark of chivalry in that jury, it should have kindled a flame of resentment against the defendant, who had not only aspersed the fair fame of a young woman, but had killed her father and protector, almost without warning or provocation. Yet the jury fully acquitted Dukes who walked out of the court without a taint of guilt upon him, if the verdict of a jury is the sacred thing which it is popularly believed to be. The people who refused to acquiesce in the verdict, who burned the jurors in effigy, and who drove Dukes out of their city, were wicked malcontents, who defied infallible justice. They were blasphemers against the law which they stigmatized as "a sort of hocus-pocus."

Does any man think that trial by jury is without its imperfections and its failures? Let him scan the cases just mentioned, to say nothing of others less conspicuous that have come to his notice before now. Does anybody think that, because there have been these failures, the administration of justice would be more secure in the hands of selected judges? Consider the bench as it has been constituted in this city. It is not so long since but what even young men can remember when judges sworn to hold the scales of justice with an even hand gave decisions in the interests of public robbers, and for the distinct purpose of facilitating the schemes of sharpers engaged in plundering corporations. If trial by jury fails us, to what shall we fly? It is discouraging, to be sure, to look on while rogues escape punishment by the sheer stupidity or the venality of a jury. It is exasperating to hear bombastic and gushing counsel claim that their clients, who drip with corruption, are shriven, sanctified, and purified as by fire by the verdict of a jury which has a crank for its head and hides a delirious inebriate in its bosom. These are among the imperfections of the administration of human law. With all right-minded and thinking men the thief is yet a thief, although he may have escaped conviction. No verdict can wipe out the damning facts. There they are, and there they will remain, whatever men may think of trial by jury.

**Mr. ELLENDER.** Mr. President, it is no secret that judges are corruptible. I hesitate to mention it, because certainly it is not true of the vast majority of our judges, on either the State or Federal level. But it is not the majority about which we must here be concerned. It is the minority. It is the minority who seek to curry political favor. It is the minority who have one eye on the accused and the other on the next higher bench in the Federal system. It is the minority who would misuse the great amount of power which the pending bill would place in their hands. And it is the minority who are most in need of the check of trial by jury.

For myself, I cannot see that the judiciary would wish this great amount of power to be made suddenly available to them, to be shared only with the Attorney General. It seems to me that its very existence, coupled with the political or other injudicious elements involved in the decisions that they would be called upon to make would certainly leave them open to a great amount of criticism from many quarters. Irrespective of this, the idea that the power of judges should be expanded while the use of juries should be at the same time contracted has popped up every so often in our legal history.

Therefore, it was with a great deal of interest that I read Mr. Lesser's comments beginning on page 177 of his "History of the Jury System." He first discusses the advantages some profess to see in doing away with the jury trial system and presents certain arguments on that side of the question. Then he goes on to say—

> As against this contention, it is urged that such a change would necessarily add greatly to the labors of the court, tending to cause inaccuracy in and hostile criticism of its decisions of fact, and would expose the judiciary to attempts at bribery or charges of corruption, which (however unfounded) must lower its standing in popular estimation; and that, with the jury, a potent factor in educating the citizens and widening their ideas of law and right would disappear.
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> It is the judiciary which, in the eloquent language of Mr. Washburn, is "to stand an impartial umpire between the State and its citizens, and the arbiter of private rights. To it the citizen looks for protection when his rights are invaded; and men in all conditions of life yield homage to its judgment. * * * Nor can there be a deeper wound inflicted on a free government than that which a venal and corrupt court can inflict by its unjust judgments."
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> And in another place: "The people have no safeguard or protection on which they can so confidently rely for life or property, as upon an enlighted and independent judiciary. But when men talk gravely of substituting the learning and experience of the court for the good sense, practical experience and unbiased instincts of an impartial jury, they do violence to history, and injustice to the cause of personal liberty and right. And while I would not let a jury trench a hair's breadth upon the province of the court. I have no hesitation in saying that, for trying and settling disputed questions of fact, through the instrumentality of human testimony, where men and their motives are to be weighed and scrutinized, and balances are to be struck between conflicting witnesses, I

had rather trust to the verdict of 12 fairminded men of average shrewdness and intelligence in a jury box, than the judgment of any one man trained to the habits of judicial investigation and accustomed to measure his conclusions by the scale and standard of the law. I had rather trust to the honest instincts of a juror, than the learning of a judge. Nor do I believe that * * * there are more instances of mistaken verdicts than of mistaken rulings of law. The most we can expect from either jurors or judge, is an approximation to accuracy in the respective spheres in which they act."

Nor does the judiciary in general favor such a transfer of functions. Thus, in the course of his charge to the jury, in the case of *The People* v. *Cleary* (Superior Court, New York City, March 1887) Mr. Justice Barrett forcibly observed: "There never can be too many safeguards thrown around a citizen. I am the last one in the world to modify those safeguards. I would amplify them to the verge of the possibility of conviction, because I am of the opinion that, no matter how many safeguards of a proper character the law throws around the accused, if we can only get 12 fairminded, honest, impartial men, no amount of sophistry or of dust thrown into their eyes can change them from arriving at a really just result. They get at the heart and bottom of things far better than we judges do. I hope the judges never will be the judges of facts, but will have a jury to lean upon, and when a jury says that they believe in the innocence or the guilt of a man, I never set up my opinion against them."

And while this was said at a criminal trial, it inferentially reflects the opinion of the bench on the question generally.

Some comment of Mr. Stephen relevant hereto (Hist. Crim. Law, c. XV.) is of interest: "It is hardly necessary to say that to judges in general the maintenance of trial by jury is of more importance than to any other members of the community. It saves judges from the responsibility of deciding simply on their own opinion upon the guilt or innocence of the prisoner. * * * The institution does place the judge in the position of a guide or adviser to those who are ultimately to decide, and a moderator in the struggle on the result of which they are to give their decision."

Mr. President, we have been hearing many comments to the effect that southern juries are not reliable for the purposes of this bill. I should like to emphasize, in the strongest possible manner, the sentiments of the editorial writer of the New York Times and the beliefs set forth by Mr. Lesser both indicate the everlasting virtues of the jury system as opposed to the transitory value of trial by judge alone. And, of course, we need not go either back in history or as far away as England or even New York City to find this truth recognized again and again. I refer to an editorial in the Washington Evening Star of April 26, 1964, entitled "Contempt," which reads:

[From the Washington Evening Star, Apr. 26, 1964]

### CONTEMPT

The Senate is beginning to talk in terms of "compromise" in the matter of a jury trial for anyone accused of criminal contempt of court under the pending civil rights bill. The suggested compromise is at least an improvement over the comparable provision in the bill which passed the House. Nevertheless, we are against it.

We are against it because the issue, or the right, involved here is too fundamental to our liberties to be the victim of a political deal, which is what this compromise really comes down to. Once a man has been accused of a crime—and a charge of criminal contempt is a criminal charge—his constitutional right to a jury trial ought not to be traded off by politicians for the sake of votes in the Senate, or to avoid a filibuster, or to dodge a tough decision on invoking cloture, or for any other reason.

The proposed Senate compromise is a compromise only in the sense that it quibbles with the House penalties for criminal contempt. Under the House bill there could be a jury trial if the penalty exceeded a $300 fine or 45 days in jail. Under the Senate compromise the fine remains the same, but the maximum jail sentence drops to 30 days. What nonsense.

The civil righters argue that southern juries (why only southern juries?) would not convict a white man of criminal contempt. Possibly this is true. But it is also true of other crimes. What about the two hung juries in the Medgar Evers murder case? Do these failures to convict justify a third trial of Byron De La Beckwith without a jury? We don't think so.

This argument is one which overlooks a very important point. It is a point which cannot be stressed too strongly—the difference between civil contempt and criminal contempt.

If anyone refuses to obey a lawful court order, issued pursuant to the civil rights bill, which we hope will be passed, he can be sent to jail for civil contempt by a judge without a jury. And he can be kept in jail until he complies with the order. It might be 30 days or 45 days, or it might be 10 years. The justification for this is that judges must have the means to obtain obedience to their lawful orders. There is no question here of juries. And we think there is little doubt that a civil rights bill can and will be enforced through civil contempt proceedings. For the only way a man in a civil proceeding can get out of jail, if he refuses to obey an order, is to do what the judge told him to do. This will be a very effective sanction.

Criminal contempt is something else. It is a fiction which judges have invented to enable them, without a jury, to punish someone for what they consider to be a past violation of one of their orders. Unless this country wants to invite judicial tyranny, no judge should have such power.

Justice Black, in the recent criminal contempt case against Governor Barnett, said the denial of a jury trial means that a judge "has concentrated in himself the power to charge a man with a crime, prosecute him for it, conduct his trial, and then find him guilty." He added, and we wholeheartedly agree: "It is high time * * * to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury."

No one could put it better. We hope the Senate, instead of winding up with a cheap "compromise" because it is afraid of some voters, will insist upon jury trials in all cases of criminal—as distinguished from civil—contempt.

Mr. President, I fully agree with that editorial. I am hopeful that Senators will consider the problem carefully because under the pending bill, many people would no doubt be subjected to criminal prosecution and criminal contempt. Under no conditions should we permit those people to go to jail merely by order of a judge. They should have their day in court, and the fundamental right to trial by jury should be respected and granted.

Mr. President, I yield the floor.

## BIPARTISAN CIVIL RIGHTS NEWSLETTERS 40 THROUGH 45

During the delivery of Mr. Ellender's speech,

Mr. CASE. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I am glad to yield to the Senator from New Jersey, provided in doing so I shall not lose my right to the floor, and that his remarks will follow mine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, the bipartisan floor leaders of the civil rights bill make a practice of inserting each week's newsletters in the Record on Saturday. I ask unanimous consent to have numbers 40 through 45 of the bipartisan civil rights newsletter printed in the Record.

There being no objection, the newsletters were ordered to be printed in the Record, as follows:

### BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 40, APRIL 27, 1964

(The 24th day of debate on H.R. 7152; 41st day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: Senate supporters of the civil rights bill had no trouble making the one quorum on Saturday within 20 minutes.

2. Schedule for Monday: The Senate will convene at 10 a.m. today and remain in session until late in the evening. Floor captains for Monday:

Democrats: Pastore, 10 a.m. to 1 p.m.; Magnuson, 1 to 4 p.m.; Dodd, 4 to 7 p.m.; Church, 7 p.m. to recess.

Republicans: Allott, all day; Bennett, all day.

3. "Pick and choose" police powers. The following article is reprinted in its entirety from the New York Times of April 23.

### "MISSISSIPPI SENATE VOTES BILL TO WIDEN POLICE POWERS

"Jackson, Miss., April 22.—The Mississippi Senate passed an amended bill today giving the Governor new police powers to deal with racial unrest in the State.

"The amendments, tacked on by administration leaders, specify that the Governor's police powers were extended primarily for dealing with racial disorders, and that they were not to be used for other purposes.

"The bill passed by a 36 to 13 vote. It will be returned to the house for concurrence in the senate amendments."

4. Court action under the 1957 Civil Rights Act: Opponents of the civil rights bill claim that the Justice Department has at hand all the legal tools needed to enforce voting rights of all Americans, and that no amendment of the 1957 act is needed to expedite these cases in the Federal courts. Gladstone said "Justice delayed, is justice denied." This then is the state of justice in the parts of this Nation where voting cases have been filed: Since 1958, the Justice Department has filed 44 suits under the 1957 act. Injunctions have been obtained in 15 cases, 8 appeals have been taken (5 by the Justice Department) and 21 cases are pending. Title I of the civil rights bill would give voting cases preference on court dockets,

and speed the process of appeal by authorizing three judge courts with direct appeal to the U.S. Supreme Court.

5. Latest anti-civil-rights lobbying figures: According to reports filed with the Congress, the Coordinating Committee for Fundamental American Freedoms spent $192,500 during the first 3 months of 1964 to lobby against the civil rights bill. Of this amount, $142,500 was contributed by the Mississippi State Sovereignty Commission, an agency of the State government.

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### Bipartisan Civil Rights Newsletter No. 41, April 28, 1964

(The 25th day of debate on H.R. 7152; 42d day of debate on civil rights)

1. Quorum scoreboard: Civil rights Senators easily made three quorums yesterday in an average time of just under 20 minutes.

2. Schedule for Tuesday: The Senate will convene at 10 this morning and will stay in session until at least 10 p.m. The pending business will be the Mansfield-Dirksen substitute to the Talmadge jury trial amendment. The bill's opponents are expected to speak at some length. Tuesday's floor captains:

Democrats: Hart, 10 a.m. to 1 p.m.; Bayh, 1 to 4 p.m.; Kennedy, 4 to 7 p.m.; Ribicoff, 7 p.m. to close.

Republicans: Cooper, 10 a.m. to 6 p.m.; Boggs, 10 a.m. to 6 p.m.; Cotton, 6 p.m. to close.

3. From the UPI ticker: "The southerners also said they would not permit a vote on the jury trial provision this week, which Senate leaders had hoped would be possible."

4. At 8 p.m. tonight the three major American religious faiths will present the national interreligious convocation on civil rights in the fieldhouse of Georgetown University. Dr. Eugene Carson Blake, Rabbi Yuri Miller, and Archbishop Shehan of Baltimore will address the audience. The convocation will be attended by more than 1,000 clergymen of all faiths. The overflow crowd will be composed of delegations from all parts of the country who have come to Washington to give witness to the moral imperative for civil rights.

5. Fake public opinion: Some weeks ago a Senator from a large northeastern State, a vigorous supporter of the civil rights bill, reported that his mail included a very large number of form letters expressing both intense opposition to the bill and incorrect ideas about the bill's provisions. Senate opponents of the bill seized on the Senator's honest description of his mail and repeatedly used it as an example of how northern public opinion was turning against the bill in response to their educational debate.

Last Thursday this Senator told the second chapter of this story. Being disturbed by the misinformation expressed in so much of this mail, he wrote back to these misinformed correspondents, giving them an accurate summary of what was actually in the bill. His letters brought a strange response. Many of the people to whom they were addressed replied that they had never written to the Senator in the first place. For instance, one gentleman, the father of a young girl, wrote as follows:

"I have not and will not sign any petition against civil rights. Further, I have never given permission to anyone to use my name, or my 11-year-old daughter's name."

This young lady's name had been signed to one of these fake petitions.

In other words, the educational debate has been so successful that it has produced public opinion where none existed before.

Another explanation might be that conditions in Mississippi are so perfect that there is nothing better to do with official State funds than use them to buy northern telephone books.

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### Bipartisan Civil Rights Newsletter No. 42, April 29, 1964

(The 26th day of debate on H.R. 7152; 43d day of debate on civil rights)

1. Quorum scoreboard: We extended our current winning streak, making four quorums in an average time of 22 minutes.

2. Wednesday's schedule: The Senate will convene at 10 a.m. and will continue in session until a somewhat later time than on Tuesday. Floor captains for Wednesday:

Democrats: Long of Missouri, 10 a.m. to 1 p.m.; McCarthy, 1 to 4 p.m.; Brewster, 4 to 7 p.m.; McGovern, 7 p.m. to close.

Republicans: Javits, all day; Fong, all day.

3. The National Council of Churches will sponsor civil rights prayer services at 9 a.m. each day at the Lutheran Church of the Redemption, 212 East Capitol Street, NE. Prominent clergymen from around the country will conduct these services, which will be held daily until the civil rights bill is passed.

4. Public opinion and the civil rights bill: For some weeks now the opponents of the civil rights bill have been announcing that the public opinion in the North is turning against the bill. According to these Senators, there is a great "backlash" against civil rights. Credit for this alleged shift in opinion is divided between the current "educational debate" and the notorious "$100 Billion Blackjack" advertisement circulated by a Mississippi front group.

Now no one can deny that these two activities represent a tremendous effort. The current filibuster has broken all records for obstructing majority rule on civil rights; and the Coordinating Committee for Fundamental American Freedoms is just about the richest lobby in Washington. Nor can there be any doubt that this organization, financed largely by official State agencies in the South, has spread the misleading and abusive advertisement in every State in the Union.

But what have been the results of all this activity? What evidence is there of its impact, beyond the kind of forged letters received by one supporter of the bill?

On Monday there was an authoritative answer to this question. The well-known Louis Harris organization has conducted a series of nationwide polls to find out American opinion on civil rights. Fully 70 percent of the American public are in favor of the civil rights bill. Even more important, however, is the trend over time. This 70 percent approval rate reflects a 2 percent increase since February, when the educational debate and the Mississippi-based advertising campaign began.

In other words, the filibustering and distorted advertising have backfired; they have created a more favorable attitude than before. If the "educational debate" continues long enough, perhaps so many people will be educated that there will be unanimous support for the civil rights bill. As for the Coordinating Committee, we can only suggest that the people of Mississippi ask for a refund.

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### Bipartisan Civil Rights Newsletter No. 43, April 30, 1964

(The 27th day of debate on H.R. 7152; 44th day of debate on civil rights)

1. Quorum scoreboard: We made three quorums on Wednesday in an average of 19 minutes.

2. Thursday's schedule: The Senate will convene at 10 a.m. and will continue in session until at least 9:30 p.m. The bill's opponents will continue to hold the floor. Floor captains for Thursday:

Democrats: Metcalf, 10 a.m. to 1 p.m.; Pell, 1 to 4 p.m.; Long of Missouri; Moss, 7 p.m. to close.

Republicans: Scott, all day; Dominick, all day.

3. From the John Birch Society bulletin: "Our members are responsible for pouring more than half a million messages [against the civil rights bill] into Washington during the last month and will pour in many more before the fight is over."

Since the Birch Society takes pride in its unscrupulous tactics, perhaps it is responsible for the forged anti-civil-rights material we discussed yesterday. But whatever organization produced this forgery, Senate supporters of civil rights should take some comfort from the knowledge that much of the hostile mail that supposedly represents public opinion in reality reflects nothing more than the active extremism of the John Birch Society.

4. A selection from the educational debate: "Under this provision (title VI), if a contractor were carrying out a contract with a hospital, under the Hill-Burton Act, and if a lady of one race came to work, and the administrator tipped his hat to her; and if thereafter, when a lady of another race came to work, he did not tip his hat to her, the second lady could charge that he was treating them differently; and then, under this provision, the Hill-Burton contract with the hospital could be canceled." (Congressional Record, Apr. 28, 1964, p. 9274.)

5. Signs of the times: The General Assembly of the Southern Presbyterian Church voted to disband all-Negro presbyteries and integrate them with existing white presbyteries. It also approved a recommendation to adopt a rule explicitly forbidding the exclusion of any person from participation in public worship in the Lord's house on the grounds of race, color, or class.

The New York Times, which reported this news in a story in its April 28 issue, described the reaction of one rural preacher who opposed the general assembly's actions. A rural preacher "slumped against a wall outside the auditorium after the vote today and stared at the floor. 'They just don't seem to care about us any more,' he said."

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### Bipartisan Civil Rights Newsletter No. 44, May 1, 1964

(The 28th day of debate on H.R. 7152; 45th day of debate on civil rights)

1. Quorum scoreboard: Five for twenty-one on Thursday.

2. Friday's schedule: The Senate will convene at 10 a.m. and will stay in session until at least 9 p.m. The bill's opponents will hold the floor again. Floor captains for Friday:

Democrats: Pastore, 10 a.m. to 1 p.m.; Magnuson, 1 to 4 p.m.; Long of Missouri, 4 to 7 p.m.; Clark, 7 p.m. to close.

Republicans: Kuchel, all day; Jordan of Idaho; all day.

3. Selections from the educational debate: "The Senator has given a fine illustration. If I were to set out to communize America, I would first pass a Federal FEPC law and enforce it." (Congressional Record, Apr. 28, 1964, p. 9283.)

"I do not know of a more effective step which could be taken to socialize this country and bring about what the Communists call equality, than what the bill would bring about." (Ibid.)

4. A case of mistaken identity: "All any friend of the great Moses Cone Hospital in Greensboro can hope is that the institution, in refusing to give emergency treatment to a student from India because he was thought to be a Negro, suffered from a momentary lapse of judgment and was not officially guilty of inhumanity and hypocrisy.

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"Yet the Associated Press reports that the director of the hospital says that nurses in this case 'were following directions and did not know' that this student who came with a broken and bleeding nose was an Indian and not a Negro. Such an excuse is worse than the refusal to treat the injured man. Not only America Negroes but American whites should resent the idea that a dark-skinned stranger should receive emergency care which is refused a dark-skinned native." (Raleigh (N.C.) News and Observer, Apr. 4, 1964, p. 4.)

5. From the UPI ticker: "Senator JACOB K. JAVITS, Republican, of New York, today reported a dramatic turnabout in his civil rights mail.

"He said most of mail recently has been opposed to the measure pending before the Senate.

" 'I am glad to report today that this trend appears to be shifted dramatically,' he said.

" 'The count of New York State mail during the month of April—as of this morning—was 8,250 letters for the bill and 2,527 letters opposed.'

"He said this was new evidence countering claims that there is a so-called white backlash in the North that was supposed to be having an adverse effect on support of the pending legislation."

6. More visitors: Civic, business, and religious leaders from Arizona, Colorado, and New Mexico will be in Washington today to express support for the civil rights bill to their Senators.

### BIPARTISAN CIVIL RIGHTS NEWSLETTER NO 45, MAY 2, 1964

(The 29th day of debate on H.R. 7152; 46th day of debate on civil rights)

1. Quorum scoreboard: Three for twenty on Friday.

2. Saturday's schedule: The Senate will convene at 10 a.m. and will stay in session until the latter part of the afternoon. There will be a quorum call when the session begins. The bill's opponents will speak at length again. Floor captains for Saturday:

Democrats. BREWSTER, 10 a.m. to 1 p.m.; HART, 1 to 4 p.m.

Republicans: CASE, all day; CURTIS, all day.

3. The outlook for next week: It is likely that the Mansfield-Dirksen substitute for the Talmadge jury trial amendment will come to a vote late Wednesday afternoon. Prior to this vote there will be other votes on perfecting amendments to the Talmadge amendment.

4. Regulations of private property: Opponents of the civil rights bill have often said that title II, on public accommodations, and title VII, on equal employment opportunity, are interferences with a businessman's right to make his own decisions about how he will use his private property. As a matter of fact, of course, all regulatory legislation imposes such restrictions on private property. Zoning laws, sanitation laws, wages and hours legislation, and literally hundreds of other laws limit the individual's right to use his property as he wants.

The Supreme Court has been very specific on this point: "The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases." (See *Nebbia* v. *New York*, 291 U.S. 502, 527, 528 (1934).) Since this opinion was stated 30 years ago, it should have extra authority for those persons who disregard all modern constitutional law.

5. Quote without comment: "The public debate over the civil rights bill, coinciding with the debate in the U.S. Senate, is being considerably distorted by exaggerated claims and charges. But much of the confusion arises because few people have actually read the bill itself.

"A good example of the pitfalls of making claims without reading the bill was the situation in which the Appleton and Neenah-Menasha boards of realtors found themselves last week. Their criticism of the bill, in an advertisement in this newspaper, was based on the measure as it was originally proposed in the House.

"Senator NELSON wired this newspaper pointing out that the advertisement was absolutely false. He released a letter from Attorney General Robert Kennedy stating that the bill in its present form 'would in no way affect or limit the freedom of anyone to sell or rent his home as he chooses' and that 'no right to trial by jury is diminished in any way by any provision of this bill.'

"The two realtor boards responded with a letter to the People's Forum of this newspaper retracting the charges published in the ad." (Appleton (Wis.) Post-Crescent, Apr. 7, 1964.)

## RECESS UNTIL 10 O'CLOCK A.M., MAY 4, 1964

Mr. HART. Mr. President, if there is no further business to come before the Senate, I move, pursuant to the order previously entered, that the Senate stand in recess until 10 o'clock a.m. on Monday.

The motion was agreed to; and (at 2 o'clock and 37 minutes p.m.) the Senate, under the order previously entered, took a recess until Monday, May 4, 1964, at 10 o'clock a.m.